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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHEN: November 29; at 9:00 a.m.
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Presidential Documents

Title 3—

The President

Proclamation 6054 of October 25, 1989

Polish American Heritage Month, 1989

By the President of the United States of America

A Proclamation

This month, we Americans honor the millions of men and women of Polish descent who have helped build our Nation and keep it strong and prosperous. Many important chapters in American history—and even the story of hope now unfolding in their ancestral homeland—provide moving testimony to the faith, courage, and hard work of Polish Americans.

During the Revolutionary War, courageous Poles such as General Casimir Pulaski and Tadeusz Kosciuszko helped to win the American struggle for independence. These two men clearly understood that liberty is the God-given right of all men, and the cause of freedom is universal. Like many of their contemporaries, they knew that the hopes of freedom-loving peoples around the world were invested in our Nation's great experiment in self-government.

Today, we pay tribute to the millions of Polish immigrants who—even though they arrived in this country with little more than the clothes on their backs—have built strong families and thriving communities across the United States. With great faith in God and in America's promise of freedom and opportunity for all, they have worked with pride and diligence. All of us have been enriched by their success.

Polish Americans have not only prospered, they have also become responsible citizens and true patriots. Many Polish Americans were among the thousands of men and women who served our Nation with distinction during World Wars I and II. As we gratefully remember their courage and selflessness, we also recall the contributions of our Polish allies in the defeat of Nazi Germany.

Throughout our Nation's history, the people of the United States and Poland have been united not only by cultural and familial ties, but also by our common love for freedom and representative government. Poland's history chronicles the struggles of a people who would not be deterred in their fight for liberty and the right to self-determination. The Polish Constitution of May 3, 1791, drafted only a few years after our Nation's own, was one of the first written national constitutions in the world. Its creation vividly demonstrated the Poles' determination to secure a free and just system of government.

Despite years of repression by ruling officials, military invasion by Nazi Germany and the Soviet Union in 1939, and the declaration of martial law in 1981, that resolve has remained unshaken. Indeed, after years of struggle and sacrifice, the persistence of the Polish people is finally being rewarded. For the first time since World War II, Poland is being led by a non-Communist government.

Today, all Americans join their friends and neighbors of Polish descent in celebrating recent political reforms in Poland, for these changes represent even more than a great victory for the Polish people—they also bear witness to the power of faith and the triumph of democratic ideals.

The Congress, by Public Law 101-84, has designated October 1989 as "Polish American Heritage Month" and has authorized and requested the President to issue a proclamation in observance of this event.

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NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1989 as Polish American Heritage Month. I urge all Americans to join their fellow citizens of Polish descent in observance of this month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-25536
Filed 10-25-89; 4:27 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 90-1 of October 5, 1989

Determination Pursuant to Section 620E(e) of the Foreign Assistance Act of 1961, as Amended

Memorandum for the Secretary of State

Pursuant to Section 620E(e) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2375(e), I hereby certify that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

You are authorized and directed to publish this determination and certification in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, October 5, 1989.

[FR Doc. 89-25509
Filed 10-25-89; 2:46 pm]
Billing Code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 689]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 689 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 310,160 cartons during the period October 29 through November 4, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 689 (7 CFR part 910) is effective for the period October 29 through November 4, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose average gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989-90. The Committee met publicly on October 24, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declare purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C 601-674.

§ 910.989 [Amended]

2. Section 910.989 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.989 Lemon Regulation 689.

The quantity of lemons grown in California and Arizona which may be handled during the period October 29, 1989, through November 4, 1989, is established at 310,160 cartons.

Dated: October 25, 1989.

William J. Doyle,
Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-25498 Filed 10-26-89; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-94-AD; Amendment 39-6374]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

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ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Model A300, A310, and A300–600 series airplanes, which requires repetitive inspections of the nose landing gear (NLG) barrel for cracks, and repair, if necessary; and requires eventual modification of the NLG barrel, which terminates the need for the repetitive inspections. This amendment is prompted by results of the manufacturer's fatigue testing, which revealed cracks in the lower area of the NLG barrel. This condition, if not corrected, could lead to collapse of the nose landing gear.

EFFECTIVE DATE: December 4, 1989.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 431–1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A300, A310 and A300–600 series airplanes, which requires repetitive inspections of the nose landing gear (NLG) for cracks, and repair, if necessary; and requires eventual modification of the NLG barrel, which terminates the need for the repetitive inspections; was published in the **Federal Register** on July 13, 1989 (54 FR 29577).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received in response to the proposal.

One commenter questioned the need for the rule since the referenced service bulletins will become a part of the Significant Structural Inspection Program (SSIP). The FAA acknowledges that the service bulletins may be part of the SSIP; however, the SSIP document is under preparation and its date of issuance is not known. Once the SSIP is finalized and issued, the FAA may consider further, separate rulemaking to address it. Since some operators may currently have airplanes which are approaching the specified number of cycles where the actions described in the service bulletins are necessary, the FAA has determined that it is appropriate to proceed with this rulemaking to require those actions.

One commenter requested that Airbus Service Bulletin A300–32–385, Revision 1, be reflected in the rule, since it describes procedures for the installation of a reinforced nose landing gear and does not require repetitive inspections of the lower section. The FAA agrees that the procedures specified in that service bulletin should be made mandatory, but does not concur that they need to be a part of this AD. That service bulletin, along with Service Bulletins A300–32–6022 and A310–32–2039, is addressed in French Airworthiness Directive 88–185–090, and the FAA has issued a separate proposed AD, Docket Number 89–NM–118–AD, which was published in the **Federal Register** on July 26, 1989 (54 FR 31047), addressing these service bulletins. After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 90 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required inspections, and that the average labor cost will be $40 per manhour. It will require approximately 11 manhours to accomplish the modification at an average labor charge of $40 per manhour and $2,500 parts cost per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $282,600.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300, A310, and A300–600 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent collapse of the nose landing gear, accomplish the following:

A. Perform an ultrasonic inspection of the nose landing gear barrel, in accordance with Airbus Industrie Service Bulletin A300–32–388, Revision 1, dated January 24, 1989 (for Model A300 series airplanes); A310–32–2040, dated July 15, 1988 (for Model A310 series airplanes); or A300–32–6023, dated July 15, 1988 (for Model A300–600 series airplanes); as follows:

1. For airplanes with nose landing gears having less than 11,500 cycles accumulated as of the effective date of this AD, perform the inspection prior to the accumulation of 12,000 cycles.

2. For airplanes with nose landing gears with 11,500 or more cycles accumulated as of the effective date of this AD, perform the inspection within 500 cycles or 3 months after the effective date of this AD, whichever occurs first.

B. If no ultrasonic echo is observed, or the echo amplitude is lower than or equal to ten percent (10%) of ultrasonic generator screen height, repeat the inspection required by paragraph A., above, at intervals not to exceed 1,250 cycles.

C. If an echo amplitude higher than ten percent (10%) and below eighty percent (80%) of ultrasonic generator screen height is observed during the inspection required by paragraphs A. and B., above, prior to further flight, perform a visual inspection to determine if the crack is visible, in accordance with Airbus Industrie Service Bulletin A300–32–388, A310–32–2040, or A300–32–6023, as appropriate.

Note: The above-listed service bulletins reference Messier-Hispano-Bugatti (MHB) Service Bulletin No. 470–32–641 for additional inspection instructions.

1. If no crack is visible from the outside of the barrel, repeat the visual inspection prior to each flight. Replace the nose landing gear barrel within 100 cycles after discovery of first echo, in accordance with Airbus Industrie Service Bulletin A300–32–389 (for Model A300 series airplanes), A310–32–2041 (for Model A310 series airplanes), or A300–32–6024 (for Model A300–600 series airplanes), each dated October 15, 1988, as appropriate. (Reference: MHB Service Bulletin 470–32–642.)

2. If a crack is visible from the outside of the barrel, replace the nose landing gear barrel prior to further flight, in accordance with Airbus Industrie Service Bulletin A300–32–389, A310–32–2041, or A300–32–6024, as appropriate. (Reference: MHB Service Bulletin 470–32–642.)

3. After replacement is accomplished, the repetitive inspections required by paragraphs A. and B., above, may be discontinued.

D. If an echo amplitude equal to or higher than eighty percent (80%) of ultrasonic generator screen height is observed during the inspections required by paragraphs A. and B., above, prior to further flight, perform a visual inspection to determine if the crack is visible, in accordance with Airbus Industrie Service Bulletin A300–32–388, A300–32–2040, or A310–32–6023, as appropriate. (Reference: MHB Service Bulletin 470–32–641).

1. If no crack is visible from the outside of the barrel, one ferry flight for return to the main base is allowed before the barrel must be replaced.

2. If a crack is visible from the outside of the barrel, the barrel must be replaced prior to further flight, in accordance with Airbus Industrie Service Bulletin A300–32–389, A310–32–2041, or A300–32–6024, as appropriate. (Reference: MHB Service Bulletin 470–32–642).

3. After replacement is accomplished, the repetitive inspections required by paragraphs A. and B., above, may be discontinued.

E. Within 18 months after the initial inspection for cracks, modify the nose landing gear barrel, in accordance with Airbus Industrie Bulletin A300–32–389, A310–32–2041 or A300–32–6024, as appropriate. (Reference: MHB Service Bulletin 470–32–642.)

F. The inspections required by paragraphs A. and B., above may be terminated following modification of the nose landing gear barrel, in accordance with Airbus Industrie Bulletin A300–32–389, A310–32–2041 or A300–32–6024, as appropriate. (Reference: MHB Service Bulletin 470–32–642.)

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM–113.

H. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 4, 1989.

Issued in Seattle, Washington, on October 18, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–25332 Filed 10–26–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–NM–63–AD; Amendment 39–6376]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires visual inspection of certain H–11 steel bolts for cracks or fracture, and replacement, if necessary; and eventual replacement of H–11 steel bolts with bolts made of Inconel 718 material. This amendment is prompted by reports of fracture or cracking of H–11 steel bolts at several critical locations. This condition, if not corrected, could result in severe structural damage.

EFFECTIVE DATES: December 4, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM–120S; telephone (206) 431–1919. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 747 series airplanes, which would require visual inspection of certain H–11 steel bolts for cracks or fracture, and replacement, if necessary; and eventual replacement of H–11 steel bolts with bolts made of Inconel 718 material; was published in the **Federal Register** on June 6, 1989 (54 FR 24187).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The commenters requested that the proposed compliance period for bolt replacement be extended from 36 months to 48 or 60 months after the effective date of the final rule. One commenter noted that 60 months is recommended in the referenced Boeing service bulletin. Another commenter pointed out that 240 to 260 manhours per airplane are actually required for bolt replacement and a program of this magnitude should, therefore, only be scheduled during a heavy maintenance check (a period which would be beyond the proposed compliance time). The FAA agrees that the compliance period can be extended somewhat. Taking into account the 14 months that have elapsed since the release date of the service bulletin, the FAA has determined that the compliance period for bolt replacement may be extended to 48 months after the effective date of the AD, and that such an extension will not have a derogatory effect on safety as long as the repetitive inspections are continued. The final rule has been revised accordingly. Additionally, the economic impact information, below, has been revised to reflect 240 manhours as the number of manhours required to accomplish the actions required by this AD. The manufacturer has verified this figure.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the

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adoption of the rule with the change previously described. This change will neither increase the economic burden on any operator, nor will it increase the scope of the rule.

There are approximately 648 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 165 airplanes of U.S. registry will be affected by this AD, that it will take approximately 240 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Parts are estimated at $7,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,739,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-51-2043, dated June 30, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural damage caused by cracked or fractured H-11 steel bolts, accomplish the following:

A. Prior to the accumulation of 4 years total time-in-service, or within the next 15 months after the effective date of this AD, whichever occurs later, visually inspect H-11 steel bolts for cracks or fractures, in accordance with Boeing Service Bulletin 747-51-2043, dated June 30, 1988, at the following locations:

1. Body landing gear inboard and outboard trunnion vertical support.
2. Wing landing gear beam upper chord to longeron attachment.
3. Wing landing gear beam lower chord to crease beam attachment.
4. Body station (BS) 2598 horizontal stabilizer hinge attachment.
5. BS 2598 longeron splice fitting attachment at stringers 11 and 23.
6. Fin to body attachment.
7. The horizontal stabilizer front spar jack screw attachment.

B. If a cracked or fractured bolt is found, replace with an Inconel 718 bolt, prior to further flight, in accordance with Boeing Service Bulletin 747-51-2043, dated June 30, 1988.

C. If a cracked or fractured bolt is found and if Inconel 718 bolts are unavailable, replace the cracked or fractured bolt with an H-11 steel bolt, prior to further flight, in accordance with Boeing Service Bulletin 747-51-2043, dated June 30, 1988. Repeat the visual inspection required by paragraph A., above, at intervals not to exceed 18 months.

D. If no cracking or fracture is found, repeat the visual inspection required by paragraph A., above, at intervals not to exceed 18 months.

E. Within the next 48 months after the effective date of this AD, replace all affected H-11 steel bolts with Inconel 718 bolts, in accordance with Boeing Service Bulletin 747-51-2043, dated June 30, 1988.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 4, 1989.

Issued in Seattle, Washington, on October 18, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25331 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-212-AD; Amendment 39-6375]

Airworthiness Directives; Boeing Model 737-300 and -400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 737-300 and -400 series airplanes, which requires revision of the engine operation procedures in icing conditions. This amendment is prompted by reports of an ice ingestion incident involving a Model 737-300 that resulted in a marked increase in the vibration levels of both engines. This condition, if not corrected, could jeopardize continued safe flight and landing.

EFFECTIVE DATES: December 4, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Simonson, Propulsion Branch, ANM-140S; telephone (206) 431-1965. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 737-300 and -400 series airplanes, which requires incorporation

of Boeing Operations Manual Bulletin 737-300-89-1 or 737-400-89-1, as appropriate, into the Airplane Operations Manual, was published in the Federal Register on April 12, 1989 (54 FR 14857).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter questioned the appropriateness of revising the Airplane Operations Manual by AD action, and stated that it would be more appropriate to withdraw the proposed rule and to issue an FAA Action Notice to the various principal operations inspectors (POI). The FAA disagrees. The mechanism that exists to rectify a finding by the FAA that an unsafe condition exists, is an amendment to Federal Aviation Regulations (FAR) part 39. In addition, under existing bilateral airworthiness agreements, the FAA is obligated to advise foreign airworthiness authorities of unsafe conditions relating to products produced in the United States, and the means of doing this is an amendment to FAR part 39. The effect of this AD is to ensure that flightcrews are advised of the potential hazard and of the procedures to address it.

One commenter stated that some of the information about damage to the engine due to ice ingestion in the DISCUSSION portion of the Notice was incorrect and should be revised prior to the issuance of a final rule. The FAA disagrees. A careful review of the preamble to the Notice confirms that the finding of the existence of an unsafe condition was related to a dual engine event which jeopardized continued safe flight and landing within the scope of FAR 25.901(c). The preamble also presented concerns in support of this finding, which remain valid even though they may not have played a part in the incident cited.

The same commenter stated that the wording of the purpose of the proposed AD should be revised to read: "To reduce the risk of jeopardizing continued safe flight and landing due to high indicated engine vibration while operating in icing conditions, or due to engine ice ingestion, accomplish the following." The FAA disagrees in that consideration must be given to the possibility that high engine vibration may not be the only threat to continued safe flight and landing associated with ice ingestion.

One commenter stated that test stand data show that blade shingling and ice accretion do not pose a threat to the engine, and that the statement in the preamble to the Notice which read, "the engines were not exposed to the maximum icing anticipated in service and that such exposure could cause extensive engine damage that would result in power loss in both engines," was not technically correct. The FAA disagrees. The fact that a given engine exhibits acceptable performance on a test stand does not imply that there is not a flight condition that is more severe than the test stand conditions. Whether the engine performance deteriorates or the flightcrew is inhibited from using that performance due to engine/airframe vibration, etc., is immaterial in terms of continued safe flight and landing. The possibility of an ice ingestion incident that results in extensive engine damage and performance deterioration must be considered by the FAA; this AD action accomplishes that.

One commenter noted that revisions to Boeing Operational Bulletins 737-300-89-1 and 737-400-89-1 were being prepared and should be specified in the final rule. As of this date, the FAA has neither received nor approved revisions to the above operations bulletins. If at some future date, revisions to these operations bulletins are generated, the FAA may consider them under the alternate means of compliance provision of paragraph B. of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA is currently considering further rulemaking to incorporate the warnings and procedures of Operations Manual Bulletin 737-300-89-1 and 737-400-89-1 into the Airplane Flight Manual (AFM) in order to make these procedures mandatory.

There are approximately 600 Model 737-300 and -400 series airplanes of the affected design in the worldwide fleet. It is estimated that 175 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 737-300 and -400 series airplanes, certificated in any category. Compliance required within 10 days after the effective date of this AD, unless previously accomplished.

To reduce the risk of jeopardizing continued safe flight and landing due to engine ice ingestion, accomplish the following:

A. Incorporate Boeing Operations Manual Bulletin 737-300-89-1 or 737-400-89-1, both dated February 14, 1989, as appropriate, into the Airplane Operations Manual.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Operations Inspector (POI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle,

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Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 4, 1989.

Issued in Seattle, Washington, on October 18, 1989.

Darrell M. Pederson

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25333 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ANE-20; Amendment 39-6345]

Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation, Allison Model 250-C28 Series Engines.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modification of the second stage turbine nozzle, P/N 6898852, on certain Allison Model 250-C28 series engines. The AD is needed to prevent failure of the nozzle which causes rubbing contact with the second stage turbine wheel which could result in an uncontained turbine wheel failure.

DATES: *Effective* October 29, 1989.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of October 29, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable Commercial Engine Bulletin (CEB) may be obtained from Allison Gas Turbine Division, General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01830.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7032.

SUPPLEMENTARY INFORMATION: The FAA has determined that the second stage turbine nozzle, Part Number (P/N) 6898852, used on certain Allison Model 250-C28 series engines can fail at a brazed joint between the nozzle casting and the periphery of the nozzle diaphragm. Failure of the nozzle at this joint has led to instances of rubbing contact between the diaphragm and the second stage turbine wheel resulting in an uncontained failure of the wheel. Allison Commercial Engine Alert Bulletin CEB-A-72-2044 which corrects this problem by modifying the second stage turbine nozzle was issued as a standard CEB in 1980. A 1988 incident highlighted the fact that some unmodified turbine nozzles are still in service. It also showed that the life limit is not always adhered to. This may be partially attributable to the fact that life limits are somewhat uncommon for non-rotating engine parts.

Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires modification and reidentification of the second stage turbine nozzle on certain Allison Model 250-C28 series engines. This AD does not address Allison Model 250-C30 series engines with the same design because the affected second stage turbine nozzles in those engines have already been removed from service in connection with other AD actions.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the rules docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the rules docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39 [AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Allison Gas Turbine Division, General Motors Corporation (Allison, formerly Detroit Diesel Allison): Applies to Allison Model 250-C28B and -C28C engines, with P/N 6898952 second stage turbine nozzle assembly, installed in aircraft certificated in any category except those with the following turbine assembly serial numbers:

Engine model	Turbine serial number
250-C28B	CAT 70498, CAT 70499, CAT 70502, CAT 70513 and subsequent
250-C28C	CAT 28010 and subsequent

Compliance is required as indicated, unless already accomplished.

To prevent failure of the second stage turbine nozzle which can lead to rubbing contact between the nozzle diaphragm and the second stage turbine wheel possibly resulting in an uncontained turbine wheel failure, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD, or at the next turbine repair or overhaul, whichever occurs first, but not later than November 30, 1989, perform the following:

Modify and reidentify second stage turbine nozzle, P/N 6898852, into P/N 23001942, in accordance with Allison Commercial Engine Alert Bulletin CEB-A-72-2044, Revision 4, dated May 1, 1989.

Note.—Existing Model 250-C28B and -C28C engines which have incorporated Allison Commercial Engine Alert Bulletin CEB-A-72-2044, Revision 4, dated May 1, 1989, or prior issues of CEB-72-2044, or engines which have incorporated P/N 23001942 are already in compliance with this AD.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The second stage turbine nozzle modification shall be done in accordance with Allison Commercial Engine Alert Bulletin CEB-A-72-2044, Revision 4, dated May 1, 1989. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Allison Gas Turbine Division, General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the **Federal Register**, 1100 L Street, NW., Room 8301, Washington, DC 20591.

This amendment becomes effective on October 29, 1989.

Issued in Burlington, Massachusetts, on September 18, 1989.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-25506 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-89-AD; Amdt. 39-6372]

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to EMBRAER Model EMB-120 series airplanes, which requires the modification of the landing gear aural warning system in order to alert the crew on approach that the landing gear is not down. This amendment is prompted by two recent inadvertent gear-up landings, wherein the aural warning device did not sound. This condition, if not corrected, could result in an inadvertent gear-up landing.

EFFECTIVE DATE: December 1, 1989.

ADDRESSES: The applicable service information may be obtained from EMBRAER, 276 SW. 34th Street, Fort Lauderdale, Florida 33315. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Trammell, Aerospace Engineer, ACE-130A, FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; telephone (404) 991-3020.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to EMBRAER Model EMB-120 series airplanes, which requires modification of the landing gear aural warning system, was published in the **Federal Register** on June 23, 1989 (54 FR 26388).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter fully supported the rule.

One commenter requested that the compliance time be extended from the proposed 50 days to one year because of a parts availability problem. The FAA concurs that the compliance time may be extended somewhat. Upon further investigation, the FAA has determined that modification kits for Service Bulletin 120-032-00-55 are available, but there is a 16-week delivery time for the modification kits for Service Bulletin 120-032-0052. In view of the fact that the accidents that led to this action occurred over two years ago and were training flights involving simulation of aircraft emergencies, the FAA has determined that the compliance time may be extended to 180 days without adversely affecting safety. The final rule has been revised accordingly.

One commenter suggested that Service Bulletin 120-032-0052, which would inhibit warning above 1500 feet above ground level (AGL) may degrade the safety level of the current warning system and may not comply with Federal Aviation Regulations (FAR) 25.729(e)(2). The FAA does not concur, since inhibiting warning above 1,500 AGL is intended to remove nuisance warnings above a flight level which would permit ample time to lower the landing gear. This feature is currently approved on most large transport aircraft.

The manufacturer commented that the modification to the landing gear warning system described in EMBRAER Service Bulletin 120-032-0052 is essentially the same modification described in EMBRAER Service Bulletin 120-032-0055, but was offered as a production enhancement to operators who desire a radio altimeter feature capability. The commenter suggested that the rule be revised to require installation of the modification in accordance with Service Bulletin 120-032-0055, and that the modification in accordance with Service Bulletin 120-032-0052 be considered an equivalent means of compliance at the operators' discretion. After further review, the FAA concurs that both modifications are comparable as far as addressing the unsafe condition. Accordingly, paragraph A of the final rule has been revised to permit operators to modify the landing gear warning system in accordance with either service bulletin.

The manufacturer also noted that the cost for the modification specified in Service Bulletin 120-032-0052 is considerably more than the estimated cost stated in the economic analysis. After further review, the FAA concurs that a revision of the economic impact of this rule, as related to parts and labor costs, is warranted. Since the final rule has been revised to provide operators the option of modifying their airplanes in accordance with one of two different service bulletins, the costs related to each modification have been specified in the economic analysis paragraph, below.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above. The FAA has determined that this change will neither increase the scope of the AD nor impose an additional economic burden on any operator.

It is estimated that 60 airplanes of U.S. registry will be affected by this AD. Accomplishing the modification in accordance with EMBRAER Service Bulletin 120-032-0055 will require approximately 24 manhours at an average labor cost of $40 per manhour, and $480 for required parts. Based on these figures, the total cost impact of the

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AD on U.S. operators selecting this modification is estimated to be $1,440 per airplane. Accomplishing the modification in accordance with EMBRAER Service Bulletin 120–032–0052 will require approximately 50 manhours at an average labor cost of $40 per manhour, and $4,200 for required parts. Based on these figures, the total cost impact of the AD on U.S. operators selecting this modification is estimated to be $6,200 per airplane.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Applies to Model EMB–120 series airplanes; Serial numbers 120004, 120008 through 120070, 120072 through 120080, and 120082 through 120099; certificated in any category. Compliance is required within 180 days after the effective date of this AD, unless previously accomplished.

To prevent a gear-up landing due to malfunction of the landing gear aural warning system, accomplish the following:

A. Modify the landing gear aural warning system and calibrate new switches, in accordance with either EMBRAER Service Bulletin No. 120–032–0055 dated March 16, 1989, or EMBRAER Service Bulletin No. 120–032–0052, dated March 15, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

Note: The request for an alternate means of compliance or an adjustment of compliance time should be forwarded through an FAA Maintenance Inspector, who will either concur or comment and then send it to the Atlanta Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to EMBRAER, 276 S.W. 34th Street, Fort Lauderdale, Florida 33315. These documents may be examined at the FAA Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

This amendment becomes effective December 1, 1989.

Issued in Seattle, Washington, on October 17, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–25330 Filed 10–26–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 90803–9203]

Editorial Corrections to the Commodity Control List: GFW Eligibility Paragraphs

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: A number of recent revisions to the Export Administration Regulations amended certain entries in the Commodity Control List (CCL) by revising or eliminating the Advisory Notes for Country Groups QWY (the Soviet Bloc). These Advisory Notes describe items that are more likely to be approved for export to destinations in the Soviet Bloc. This final rule makes conforming changes related to the eligibility of such items for export to certain free world destinations under General License GFW.

Section 771.23 of the Export Administration Regulations permits exports, under General License GFW, of certain low level commodities to destinations listed in supplement Nos. 2 and 3 to part 773, except Ethiopia, Lebanon, and Nicaragua. Items eligible for export under General License GFW are described in certain Advisory Notes for Country Groups QWY. When a CCL entry contains items that are eligible for export under General License GFW, the "Controls for ECCN" section in that entry will include a "GFW Eligibility" paragraph identifying the Advisory Notes that describe the eligible items.

This rule does not amend any of the Advisory Notes that describe items eligible for export under General License GFW—it merely revises or eliminates a number of "GFW Eligibility" paragraphs to conform with recent revisions to the Advisory Notes. Accordingly, the "GFW Eligibility" paragraphs for Export Control Commodity Numbers (ECCNs) 1501A, 1510A, 1531A, 1533A, 1537A, 1555A, 1558A, 1565A, and 1567A are revised and the "GFW Eligibility" paragraphs for ECCNs 1091A, 1519A, 1548A, 1549A, and 1754A are removed.

EFFECTIVE DATE: This rule is effective October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Regulations Branch, Bureau of Export Administration, Telephone: (202) 377–3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule does not involve a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and

604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is being issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730 through 799) is amended as follows:

1. The authority citation for 15 CFR part 799 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 99–64 of July 12, 1985, and by Pub. L. 100–418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

2. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group O (Metal-Working Machinery), ECCN 1091A is amended by removing the *GFW Eligibility* paragraph.

Supplement No. 1 to § 799.1 [Amended]

3. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1501A is amended by revising the *GFW Eligibility* paragraph, as follows:

1501A Navigation, direction finding, radar and airborne communication equipment.

* * * * *

Controls for ECCN 1501A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in paragraphs (a) and (b) of the Advisory Note under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

4. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1510A is amended by revising the *GFW Eligibility* paragraph, as follows:

1510A Marine or terrestrial acoustic or ultrasonic systems or equipment specially designed for positioning surface vessels or underwater vehicles, or for detecting or locating underwater or subterranean objects or features, and specially designed components of such systems or equipment, including but not limited to hydrophones, transducers, beacons, towed hydrophone arrays, beamformers and geophones (except moving coil or moving magnet electro-magnetic geophones), except those systems or equipment listed below.

* * * * *

Controls for ECCN 1519A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Note 8 under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

5. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1519A is amended by removing the *GFW Eligibility* paragraph.

Supplement No. 1 to § 799.1 [Amended]

6. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1531A is amended by revising the *GFW Eligibility* paragraph, as follows:

1531A "Frequency synthesizers" (and equipment containing such "frequency synthesizers").

Controls for ECCN 1531A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Note 2 under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

7. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1533A is amended by revising the *GFW Eligibility* paragraph, and by redesignating note 3 at the end of the ECCN entry as (Advisory) Note 3, as follows:

1533A Signal analyzers (including spectrum analyzers), with any of the following characteristics, and specially designed components, and accessories therefore.

Controls for ECCN 1533A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Note 3 under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

8. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1537A is amended by revising the *GFW Eligibility* paragraph, as follows:

1537A Microwave, including millimetric wave, equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz (other than microwave equipment controlled for export by ECCNs 1501A, 1517A, 1520A, or 1529A).

Controls for ECCN 1537A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Note 1 under this entry, regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

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Supplement No. 1 to § 799.1 [Amended]

9. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1548A is amended by removing the *GFW Eligibility* paragraph.

Supplement No. 1 to § 799.1 [Amended]

10. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1549A is amended by removing the *GFW Eligibility* paragraph.

Supplement No. 1 to § 799.1 [Amended]

11. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1555A is amended by revising the *GFW Eligibility* paragraph, as follows:

1555A Electron tubes and specially designed components therefor.

Controls for ECCN 1555A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Note 2 under this entry, regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

12. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1558A is amended by revising the *GFW Eligibility* paragraph, as follows:

1558A Electronic vacuum tubes (valves) and cathodes and other components specially designed for those tubes.

Controls for ECCN 1558A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Note 3 under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

13. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1565A is amended by revising the *GFW Eligibility* paragraph and the *Special G–COM Note for Advisory Note 9* that follows Advisory Note 8, as follows:

1565A Electronic computers, "related equipment", equipment or systems containing electronic computers; and specially designed components and accessories therefor.

Controls for ECCN 1565A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Notes 5, 7, or 9 under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c). With regard to Advisory Note 9, the limitations imposed by paragraphs (a)(3), (b)(5)(i) and (b)(5)(iii), (b)(6)(iii), (b)(7)(iv), (b)(7)(v), and (b)(7)(vi), (b)(8)(i), (b)(9), and (c) are waived. However, Winchester disk drives exceeding a capacity of 130 Mbytes ARE EXCLUDED from GFW eligibility.

* * * * *

[Special G–COM Note for Advisory Note 9: For the purposes of General License G–COM, the limitations imposed in Advisory Note 9 by paragraphs (a)(3), (b)(5)(i) and (b)(5)(iii), (b)(6)(iii), (b)(7)(iv), (b)(7)(v), and (b)(7)(vi), (b)(8)(i), (b)(9), and (c) are waived.]

* * * * *

Supplement No. 1 to § 799.1 [Amended]

14. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended by revising the *GFW Eligibility* paragraph, as follows:

1567A Stored program controlled communication switching equipment or systems, and specially designed components therefor the use of these equipment or systems.

* * * * *

Controls for ECCN 1567A

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Notes 2 or 4 under this entry regardless of end-use, subject to the prohibitions contained in § 771.2(c).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

15. In supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1754A is amended by removing the *GFW Eligibility* paragraph.

Dated: October 23, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89–25314 Filed 10–26–89; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–89–40]

Temporary Drawbridge Operation Regulations; Okeechobee Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the Sanibel Causeway drawbridge at Punta Rassa, Florida, by changing the hours of the existing regulation to provide draw openings on 15-minute intervals. This temporary change is being made to ease severe traffic congestion caused by back to back openings and to further evaluate proposed permanent regulations.

DATES: These temporary regulations become effective October 14, 1989 and terminate on December 13, 1989. Comments are solicited during this 60-day temporary regulation period.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, 909 SE. 1st Avenue, Miami, Florida 33131–3050. The comments and other materials referenced in this notice will be available for inspection and copying on the 8th Floor, of the Brickell Plaza Federal Building, 909 SE. 1st Ave, Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Ian Mac Cartney (305) 536–4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this evaluation by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Prompt implementation is necessary to alleviate a severe vehicular traffic problem and to evaluate a proposed permanent rule. The Commander, Seventh Coast Guard District, will evaluate all communications received, the overall effect of this temporary regulation change, and determine if a permanent regulation change is necessary. Because this is a temporary change to normal operations, this amendment will not appear in the Code of Federal Regulations.

Drafting Information

The drafters of this notice are Mr. Ian Mac Cartney, Bridge Administration Specialist, project officer, and Lieutenant Commander D.G. Dickman, project attorney.

Discussion of Temporary Regulations

The Sanibel Causeway drawbridge presently opens on signal, except that, from 3:45 p.m. to 5:15 p.m., Monday through Friday, except Federal holidays, the draw need open only at 4:15 p.m. and 4:45 p.m. On Saturdays, Sundays and federal holidays from 3:45 p.m. to 5:15 p.m., the draw need open only at 4 p.m., 4:30 p.m., 4:45 p.m. and 5 p.m. Exempt vessels shall be passed at any time.

This change to 15 minute scheduled openings from 11 a.m. to 6 p.m., daily, is intended to space draw openings and virtually eliminate "back to back" openings which can contribute significantly to vehicular traffic delays during these periods.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. For the period October 14, 1989 through December 13, 1989, § 117.317 is amended by revising paragraph (k) to read as follows:

§ 117.317 Okeechobee Waterway.

* * * * *

(k) *Sanibel Causeway bridge, mile 151 at Punta Rassa.* The draw shall open on signal; except that, from 11 a.m. to 6 p.m., daily, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour. Exempt vessels shall be passed at any time.

Dated: October 17, 1989.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 89–25301 Filed 10–26–89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Southeast Alaska Reg. 89–05]

Safety Zone Regulation; Cape Decision Light, Sumner Straits, Alaska

AGENCY: U.S. Coast Guard, Department of Transportation.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone 500 yards in radius centered on Cape Decision Light, Kuiu Island, Alaska. The safety zone is required to protect the public from a safety hazard posed by possible hazardous chemical contamination (polychorinated biphenyl(PCB)/dioxin) in the immediate area of Cape Decision light. Entry into this zone is prohibited unless authorized by the Captain of the Port, Southeast Alaska.

EFFECTIVE DATE: This regulation becomes effective on October 15, 1989. It terminates on November 30, 1989, unless sooner terminated by the Captain of the Port, Southeast Alaska.

FOR FURTHER INFORMATION CONTACT: Lt. Rick Janelle at (907)586–7288, 7:30 a.m. to 4:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest due to the limited duration of this safety zone, the limited effect on commerce, and the need to take immediate action to prevent injury to personnel transiting the area.

Drafting Information

The drafters of this regulation are ENS Joan McQueeney, project officer for the Captain of the Port, and Lt. Hollis, project attorney for the Seventeenth Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation resulted from a fire which destroyed the boathouse at Cape Decision Light. Stored inside the boathouse were a number of capacitors possibly containing PCB contaminated oil. Some of this oil may have burned in the fire, possible releasing dioxin, a carcinogenic by-product from the burning of PCB. If PCB/dioxin was released, the surrounding area may be contaminated, posing a substantial health hazard. A safety zone around the area is, therefore, necessary pending assessment and removal of any contamination.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, and Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

2. A new section is added to read as follows:

§ 165. T 1705 Safety Zone: Cape Decision Light, Sumner Straits, Alaska.

(a) *Location.* The safety zone is an area 500 yards in radius centered on the Cape Decision Light, located at Cape Decision, Kuiu Island in Sumner Straits, Alaska.

(b) *Effective Date.* This regulation became effective on October 15, 1989. It terminates on November 30, 1989, unless sooner terminated by the Captain of the Port, Southeast Alaska.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Southeast Alaska.

Dated: October 15, 1989.

R.J. Morris,

Lieutenant Commander, U. S. Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 89–25302 Filed 10–26–89; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Phila., Pa Reg. 89-08]

Safety Zone Regulations: Marcus Hook Anchorage, Mantua Creek Anchorage, and Deepwater Point Anchorage

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Delaware River to include the Marcus Hook Anchorage (Anchorage 7), Mantua Creek Anchorage (Anchorage 9), and Deepwater Point Anchorage (Anchorage 6). The safety zone is needed to protect vessels from safety hazards associated with the laying of dredge pipeline in Marcus Hook Anchorage and to minimize temporary port congestion.

The Marcus Hook Anchorage north of Buoy "C" is closed from 8:00 a.m., October 21, 1989 to 8:00 a.m., October 28, 1989, or until completion of the pipelaying. Anchorage restrictions will apply to the Marcus Hook Anchorage south of Buoy "C", Mantua Creek Anchorage, and Deepwater Point Anchorage.

EFFECTIVE DATES: This regulation is effective from 8:00 a.m., October 21, 1989 to 8:00 a.m., October 28, 1989, unless sooner terminated by the Captain of the Port, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Lt. P. A. Jensen, at the Captain of the Port, Philadelphia, (215) 271-4892.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication.

Publishing an NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to respond to potential hazards to vessel traffic.

Drafting Information

The drafters of this regulation are Lt. P. A. Jensen, project officer for the Captain of the Port, Philadelphia, and Capt. M. K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of the Regulation

The hazards requiring this regulation result from preparations for maintenance dredging of the Marcus Hook Range ship channel. The Marcus Hook Anchorage must be closed north of Buoy "C" to facilitate the laying of dredge pipeline. The pipeline will be used in dredging operations in Marcus Hook Range ship channel, which is scheduled to commence on or about October 21, 1989. Anchorage restrictions in Mantua Creek Anchorage and Deepwater Point Anchorage are being imposed to accommodate those vessels that may be prevented from anchoring in Marcus Hook Anchorage due to the partial closure.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

PART 165—[AMENDED]

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5, 49 CFR 1.46.

2. A new § 165.T5100 is added to read as follows:

§ 165.T5100 Safety Zone: Marcus Hook Anchorage (Anchorage 7), Mantua Creek Anchorage (Anchorage 9), Deepwater Point Anchorage (Anchorage 6), Delaware River.

(a) *Location.* The following areas are a safety zone: The Marcus Hook Anchorage (Anchorage 7), Mantua Creek Anchorage (Anchorage 9), and Deepwater Point Anchorage (Anchorage 6), located in the Delaware River, as described in § 110.157 of this title.

(b) *Regulations:* (1) With the exception of vessels operated by Norfolk Dredging Company, no person may enter, remain in, or anchor in the Marcus Hook Anchorage north of Anchorage Buoy "C" unless authorized by the Captain of the Port, Philadelphia, or his designated representative.

(2) Before anchoring in the Marcus Hook Anchorage south of Anchorage Buoy "C" a vessel shall obtain permission to anchor from the Captain of the Port, Philadelphia at least 24 hours in advance.

(3) The Captain of the Port will permit only one vessel to anchor at a time. Permission to anchor will be given on a "first come-first served" basis. Permission to anchor will be for a 12 hour period, with consideration given for six hour extensions, depending on the number of vessels waiting to anchor.

(4) In addition to the general regulations contained in § 110.157(b) of this title, before anchoring in the Mantua Creek and Deepwater Point Anchorages (Anchorages 9 and 6) a vessel shall:

(i) If over 700 feet in length, obtain permission to anchor from the Captain of the Port, Philadelphia.

(ii) If 700-750 feet in length, have one tug alongside at all times while in the anchorage.

(iii) If greater than 750 feet in length, have two tugs alongside at all times while in the anchorage.

(5) Each tug required by paragraph (b)(4) of this section shall have a minimum rating of 1000 shaft horsepower.

(6) Any vessel operating within this zone shall comply with the directions of the Captain of the Port, Philadelphia, or his designated representative.

(c) *Effective date.* This regulation is effective from 8:00 a.m., October 21, 1989 to 8:00 a.m., October 28, 1989, unless sooner terminated by the Captain of the Port, Philadelphia.

Dated: October 16, 1989.

L. A. Murdock,

Captain, U.S. Coast Guard, Captain of the Port, Philadelphia.

[FR Doc. 89-25803 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Phila., PA Reg. 89-09]

Safety Zone Regulations: Marcus Hook Range Ship Channel, Marcus Hook Anchorage Mantua Creek Anchorage and Deepwater Point Anchorage

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Delaware River that includes the Marcus Hook Range ship channel, Marcus Hook Anchorage (Anchorage 7), Mantua Creek Anchorage (Anchorage 9), and Deepwater Point Anchorage (Anchorage 6). The safety zone is needed to protect vessels from safety hazards associated with dredging operations in Marcus Hook Range ship channel and to minimize temporary port congestion while the dredging operations are ongoing.

The Marcus Hook Range ship channel in the vicinity of the dredging operation is closed to vessel traffic. Marcus Hook Anchorage (Anchorage 7) is closed to anchoring to permit vessel traffic to transit the anchorage in lieu of using the Marcus Hook Range ship channel. Vessels over 700 feet in length are subject to anchorage restrictions in Deepwater Point and Mantua Creek Anchorages (Anchorages 6 and 9).

EFFECTIVE DATES: This regulation is effective from 8:00 a.m., October 23, 1989 or upon termination of the safety zone described in the § 165.T5100 of this part, whichever occurs later. This regulation terminates at 8:00 a.m., January 31, 1990, unless sooner terminated by the Captain of the Port, Philadelphia.

FOR FURTHER INFORMATION CONTACT: Lt. P. A. Jensen, at the Captain of the Port, Philadelphia, (215) 271-4892.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The Coast Guard was not officially informed of the date dredging operations would commence until early October, 1989. Publishing an NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to respond to potential hazards to vessel traffic caused by the presence of the dredge in the ship channel.

Drafting Information

The drafters of this regulation are Lt. P.A. Jensen, project officer for the Captain of the Port, Philadelphia, and Capt. M.K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of the Regulation

The hazards requiring this regulation result from maintenance dredging of the Marcus Hook Range ship channel. The Marcus Hook Range ship channel must be closed and traffic diverted through Marcus Hook Anchorage (Anchorage 7) to reduce the hazards associated with dredging of the channel. Anchorage restrictions in Mantua Creek Anchorage and Deepwater Point Anchorage are being imposed to accommodate those vessels that will be prevented from anchoring in Marcus Hook Anchorage. This regulation takes effect at 8:00 a.m., October 23, 1989 or upon completion of the preliminary pipelaying operation, whichever occurs later.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5, 49 CFR 1.46.

2. A new § 165.T5101 is added to read as follows:

§ 165.T5101 Safety Zone: Marcus Hook Range ship channel, Marcus Hook Anchorage (Anchorage 7), Mantua Creek Anchorage (Anchorage 9), Deepwater Point Anchorage (Anchorage 6), Delaware River.

(a) *Location.* The following areas are a safety zone: The Marcus Hook Range ship channel, as delineated on National Ocean Survey Chart 12312, within 150 yards of dredging operations, Marcus Hook Anchorage (Anchorage 7), Mantua Creek Anchorage (Anchorage 9), and Deepwater Point Anchorage (Anchorage 6), located in the Delaware River, as described in § 110.157 of this title.

(b) *Regulations.* (1) No vessel may enter or remain in the Marcus Hook Range ship channel within 150 yards of dredging operations. Vessels transiting the area shall pass through the Marcus Hook Anchorage (Anchorage 7).

(2) No vessel may anchor in Marcus Hook Anchorage (Anchorage 7).

(3) In addition to the general regulations contained in § 110.157(b) of this title, before anchoring in the Mantua Creek or Deepwater Point Anchorage (Anchorage 9 and 6):

(i) Vessels over 700 feet in length shall obtain permission from the Captain of the Port to anchor in Deepwater Point or Mantua Creek Anchorage (Anchorage 6 or 9).

(ii) Vessels between 700 and 750 feet long shall have one tug alongside while anchored in either Deepwater Point or Mantua Creek Anchorage (Anchorage 6 or 9).

(iii) Vessels greater than 750 feet long shall have two tugs alongside while anchored in either Deepwater Point Mantua Creek Anchorage (Anchorage 6 or 9).

(4) Each tug alongside a vessel meeting the restrictions in either paragraph (b)(3) (ii) or (iii) of this section must have a minimum rating of 1000 shaft horsepower.

(5) Any vessel operating within this zone shall comply with the directions of the Captain of the Port, Philadelphia, or his designated representative.

(c) *Effective Date.* This regulation is effective from 8:00 a.m., October 23, 1989 or upon termination of the safety zone described in § 165.T5100 of this part, whichever occurs later. This regulation terminates on 8:00 a.m., January 31, 1990, unless sooner terminated by the Captain of the Port, Philadelphia.

Dated: October 16, 1989.

L.A. Murdock,

Captain, U.S. Coast Guard, Captain of the Port, Philadelphia.

[FR Doc. 89-25304 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Parts 668 and 682

Student Assistant General Provisions and Guaranteed Student Loan and PLUS Programs; Correction

AGENCY: Department of Education.

ACTION: Final regulation; correction.

SUMMARY: This document corrects final regulations for the Student Assistance General Provisions and Guaranteed Student Loan and PLUS Programs, published in the **Federal Register** on June 5, 1989 (54 FR 24114).

FOR FURTHER INFORMATION CONTACT: Patricia Newcombe or Pamela A. Moran, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education (room 4310, ROB-3), 400 Maryland Avenue, SW., Washington, DC 20202, telephone 202-732-4242.

SUPPLEMENTARY INFORMATION: The following corrections are made in the final regulations published in the June 5, 1989 issue of the **Federal Register:**

§ 682.606 [Corrected]

1. On page 24121, in the third column, in the last line under § 682.606(b)(2), the phrase "withdrawal date" is corrected to read "last recorded day of attendance".

§ 682.607 [Corrected]

2. On page 24122, in the first column, under § 682.607(c)(1)(i), "detreminded" is corrected to read "determined".

Authority: 20 U.S.C. 1071 to 1087-2, unless otherwise noted.

Dated: October 16, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89-25369 Filed 10-26-89; 8:45 am]

BILLING CODE 4000-01-M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3672-3]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency gives notice that the final rule approving certain Kansas new source permitting regulations published on July 17, 1989 (54 FR 29693) is being removed. This action is required by the direct-final rulemaking procedures when adverse comments are received during the comment period.

DATE: This action will become effective on October 27, 1989.

ADDRESSES: Documents relevant to this submittal are available for public inspection during normal business hours at: the Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 236–2893 (FTS 757–2893).

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Sulfur dioxide.

Dated: September 18, 1989.

Morris Kay,

Regional Administrator.

40 CFR part 52, subpart R, is amended as follows:

PART 52—[AMENDED]

Subpart R—Kansas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

§ 52.870 [Amended]

2. Section 52.870 is amended by removing paragraph (c)(25).

[FR Doc. 89–25146 Filed 10–26–89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3675-5]

Approval and Promulgation of Air Quality Implementation Plans, Louisiana; Disapproval of Exemption to Louisiana Air Quality Regulation 22.8 for Sid Richardson & Carbon Gasoline Co., Carbon Black Plant in Addis, LA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice disapproves a request to revise the Louisiana State Implementation Plan (SIP) that would exempt the Sid Richardson Carbon and Gasoline Company (Sid Richardson), Addis, West Baton Rouge Parish, Louisiana, carbon black plant from further control of its acetylene emissions as is now required by Louisiana Air Quality Regulation (LAQR) 22.8.[1] EPA disapproves this request for the following reasons:

1. The revision involves a major source of volatile organic compounds (VOC) that must be controlled to meet the standard of reasonably available control technology (RACT), because the source is located in an urban ozone nonattainment area;

2. The request did not adequately support the contention that the emission limitation now in the Louisiana SIP for this source are *not* RACT;

3. The Agency's review of Sid Richardson's RACT analysis report showed that alternative controls are economically and technically feasible; and,

4. EPA considers acetylene to be a reactive compound that has not been excluded from SIP demonstrations and thus, must be controlled.

EFFECTIVE DATE: This final rule becomes effective November 27, 1989.

ADDRESSES: Copies of documents related to today's notice are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733;

Louisiana Department of Environmental Quality, 625 N. 4th Street, 8th Floor, Baton Rouge, Louisiana 70804–4096; and,

Please contact the person named below to arrange a time to inspect the documents.

FOR FURTHER INFORMATION CONTACT: Barbara Durso, (214) 655–7214 or FTS 255–7214.

SUPPLEMENTARY INFORMATION: On December 5, 1988, at 53 FR 48939, EPA proposed to disapprove a revision to the Louisiana SIP that would exempt the Sid Richardson carbon black plant at Addis, West Baton Rouge Parish, Louisiana, from further control of its acetylene emissions as is now required under LAQR 22.8. That notice discusses at length the background for today's rule.

To briefly recount the history of this notice, one must note that EPA requires Reasonably Available Control Technology (RACT) for all major sources of VOCs [2] in urban ozone nonattainment areas as part of its policy to reduce ground level ozone formation. The State of Louisiana adopted LAQR 22.8 as RACT for major VOC sources, such as Sid Richardson's carbon black facility in West Baton Rouge Parish, that were not covered by other control methods. In 1986, Sid Richardson requested that the State exempt its West Baton Rouge facility from the requirements of LAQR 22.8 based on its claim that compliance was economically and technically infeasible. The State granted Sid Richardson's request and then in May 1987, the State requested that EPA approve a revision to the Louisiana SIP to exempt Sid Richardson from the requirements of LAQR 22.8.

A. Response to Public Comment

Since the publication of that notice, EPA has received one letter commenting on the issue. This letter, from Sid Richardson, criticized EPA's proposed disapproval on a number of points, and the Agency will respond to those remarks today. The letter also incorporated comments made in regard to the effect on Sid Richardson of another proposed rulemaking, published on September 2, 1987, at 52 FR 33250.

Comment: In both letters, Sid Richardson objects to EPA's not combining the State of Louisiana's request to exempt four other carbon black plants from further control of acetylene emissions with its request to exempt Sid Richardson. Furthermore, Sid Richardson contends that separating the action on its facility from that on the other plant gives the impression that the actions are unrelated.

[1] The State of Louisiana recodified its air quality regulations and 22.8 is now found at LAC:33:III:2115; however, this new codification is not yet approved as part of the SIP. Therefore, this notice will reference LAQR 22.8 rather than LAC:33:III:2115.

[2] Sources that emit 100 tons or more of VOCs per year.

Response: In EPA's opinion, the dissimilarity between Sid Richardson and the other four Louisiana carbon black plants is of greater consequence than the similarities. Although both actions concern carbon black plants seeking exemptions from further control of acetylene emissions under LAQR 22.8, EPA stands by its decision to address Sid Richardson separately because Sid Richardson is in an *urban* ozone nonattainment area and the other four plants are in either a *rural* ozone nonattainment area or a *rural* ozone attainment/unclassified area. As explained in the proposed notice of disapproval, EPA policy [3] requires that a major source of VOCs (i.e., one that has the potential to emit at least 100 tons of VOCs per year) for which the Agency has not issued a Control Techniques Guideline (CTG) document implement Reasonably Available Control Technology (RACT), if that source is located in an *urban* ozone nonattainment area. If the same source were located in a rural area, whether nonattainment or attainment/unclassified, it would not have to implement RACT under EPA policy, since it is not covered by a CTG document. Thus, the Sid Richardson facility in West Baton Rouge Parish, an urban ozone nonattainment area, is required to implement RACT, while the other four plants, located in rural St. Mary and Evangeline parishes, are not required to implement RACT. Given the two sets of requirements, EPA believes it justifiably considered Sid Richardson apart from the other four carbon black plants seeking the same type of exemption.

Comment: Sid Richardson asserts that by not ruling on all five carbon black plants in one notice, EPA fails to provide the public with a critical comparison of Sid Richardson's acetylene emissions to the other four plants' acetylene emissions. Sid Richardson made a similar comment in its other letter that EPA did not give enough consideration to the difference in the volume of emissions among the five carbon black plants and that EPA did not give consideration to the impact of the emissions on air quality in St. Mary.

Response: Below is a table listing all five Louisiana carbon black plants' acetylene emissions:

Facility	Parish	Total acetylene emissions (tons/year)
Cabot	Evangeline	2,151
Cabot	St. Mary	5,481
Columbian	St. Mary	9,139
Ashland	St. Mary	3,900
Sid Richardson	W. Baton Rouge	1,514

This table, based on information provided by the State of Louisiana in its May 1987 amended request to exempt Sid Richardson shows that the acetylene emissions from the four rural plants total 20,070 tons per year (tpy), while the acetylene emissions from Sid Richardson total 1,514 tpy.

What such a simple comparison fails to show is that the air quality in West Baton Rouge Parish does not attain the national ambient air quality standard (NAAQS) for ozone, while the air quality in Evangeline Parish attains that standard and the most recent monitoring data seem to indicate that air quality in St. Mary has improved since it was designated nonattainment in 1978. At the time EPA approved the exemption of the rural carbon black plants, the Agency recognized that the status of attainment was unclear in St. Mary Parish, because the last time the State monitored there was in the summer of 1984. At that time, the State found no violations of the ozone NAAQS. In response to Sid Richardson's earlier comment the Agency decided that it needed to better evaluate the impact of an exemption on the three carbon black plants in St. Mary. At EPA's request, the State of Louisiana resumed monitoring ozone levels there in October 1988. At this time there is not enough data to indicate a trend.

Comment: Sid Richardson complains that the public was further prohibited from comparing the emissions from the four rural plants with the emissions from its Addis facility, because EPA published the two proposed rulemakings "months apart."

Response: The Agency and Congress recognize that there have been unacceptable delays in processing SIP actions in the past, and EPA has initiated reforms to aid the timely processing of such actions.[4] EPA did not deliberately publish the two rulemaking notices months apart; regrettably, personnel turnover caused delays in processing this particular action.

Comment: In both its letters, Sid Richardson implies that EPA improperly applied its rural ozone policy in regard to the carbon black plants. Sid Richardson asserts that the rural ozone policy does not apply to Evangeline and St. Mary parishes, because these parishes do not, in Sid Richardson's opinion, have "negligible hydrocarbon emissions." Furthermore, Sid Richardson hypothesizes that the emissions from these two parishes "probably [contribute] to the ozone nonattainment of the *Baton Rouge area*" (emphasis Sid Richardson's).

Response: EPA counters Sid Richardson's allegation that the Agency is improperly applying the rural ozone policy to the four rural carbon black plants by noting that, although each of these four plants individually emits more acetylene than Sid Richardson, the total amount of VOC emissions in the two affected rural parishes is a fraction of the total amount of VOC emissions in the Baton Rouge area. Again, a simple comparison of the emissions from each of the four plants fails to show the complete picture. According to the inventory conducted in 1985 for the National Acid Precipitation Assessment Program, an extensive and intensive survey of emission sources in the U.S., the total amount of VOC emissions in Evangeline Parish at that time was about one-tenth (11%) of the total amount of VOC emissions in the Baton Rouge Metropolitan Statistical Area (MSA). The total amount of VOC emissions in St. Mary was less than half (45.8%) of the total amount of VOC emissions in the Baton Rouge MSA.

As for Sid Richardson's conjecture that the emissions from St. Mary and Evangeline parishes are responsible for the ozone violations in the Baton Rouge area through the phenomenon of ozone transport, EPA notes that the company offers no evidence or research to support its hypothesis. Furthermore, EPA notes that the State of Louisiana has never offered this hypothesis as a reason for the continuing ozone violations in the Baton Rouge area. This is not to say that EPA does not believe that emissions points from outside the Baton Rouge MSA may affect air quality in the MSA. In fact, in an effort to deal with the problem of ozone transport, EPA's most recently proposed policy [5] for nonattainment areas requires the State to inventory major sources of VOCs, carbon monoxide and nitrogen oxides up to 25 miles from the MSA and to control major sources in nonattainment parishes adjacent to the

[3] See 44 FR 20372 (April 4, 1979), 46 FR 7182 (January 22, 1981), and EPA Guidance Document for Post-1982 SIPs (January 27, 1984).

[4] See 54 FR 2138 and 54 FR 2214 (January 19, 1989).

[5] See 52 FR 45044, November 24, 1987.

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MSA. Neither the carbon black plant in Evangeline Parish nor the three plants in St. Mary Parish are within 25 miles of the Baton Rouge MSA nor are these parishes adjacent to the MSA.

Comment: In its earlier letter, Sid Richardson restated its belief that the State's air quality modeling demonstrated that its emissions "have no adverse impact on reasonable further progress toward attainment of the ozone standard in the Baton Rouge urban area by December 31, 1987."

Response: As stated in the December 5, 1988, proposed rulemaking, EPA was not surprised by the results of the State's efforts, because the State used an EKMA model that is not sufficiently sensitive to small changes in emissions and will not produce significant changes in ambient ozone levels for the resulting control target (i.e., Sid Richardson). EPA notes that Sid Richardson did not reassert its confidence in the modeling results in its second letter, which was written after the December 5, 1988, notice. It is also worthwhile to note that the State never submitted the modeling to support its action; thus it is not part of the official record before EPA.

B. Bases for Action

Neither Sid Richardson nor the State of Louisiana commented on EPA's analysis of the EKMA model used by the State as being insufficiently sensitive to small changes in emissions and thus, not able to produce significant changes in ambient ozone levels for the resulting control target. It is EPA's determination that even if the modeling were before EPA as part of the record, the modeling could not be used to support a position that acetylene emissions from Sid Richardson would have no adverse effect upon attainment of the ozone standard in the Baton Rouge area.

The proposal notice discusses in depth Sid Richardson's RACT analysis and EPA's evaluation of it. The RACT analysis addresses three methods for controlling the waste gases. While Sid Richardson rejected all three methods on economic, social, safety, and environmental grounds, EPA finds no support for technical infeasibility or adverse economic impact. In fact, the cost of control is reasonable and is lower than for many other regulated sources. Furthermore, each of the options for control of acetylene is economically viable and one control option, cogeneration, would result in a net savings. Sid Richardson did not contest EPA's review nor did it submit any new information during the comment period.

EPA finds that the installation of flares will burn more waste gas than what is being combusted now and that flares can be designed and located in such a way as to prevent a safety hazard to plant personnel and process equipment. EPA also finds that the installation of a thermal combustor is technically feasible with proper engineering safeguards and that cogeneration is economically and technically feasible. Cogeneration does not consume as much energey as a combustor and can produce electricity useful to the local power company (given a rate increase) or for the plant itself. There are no potential hazards to plant personnel or process equipment from cogeneration.

Finally, neither Sid Richardson nor the State protested EPA's finding in the proposed notice that acetylene is not an agent exempt from VOC control under current EPA policy. Acetylene is a VOC subject to regulation, and EPA has never exempted it nor proposed to exempt it. Recent studies show acetylene to be more photochemically reactive than originally thought. Neither the company nor the State presented any new or contradictory studies.

Final Action

EPA disapproves the request from the State of Louisiana to revise the Louisiana SIP to exempt Sid Richardson Carbon and Gasoline Company, Addis, West Baton Rouge Parish, Louisiana, from further control of its acetylene emissions as required under LAQR 22.8. The request is denied because major sources in urban ozone nonattainment areas must meet RACT for nonexempt VOC emissions; Sid Richardson is a major source in an urban ozone nonattainment area; the existing SIP requirement for Sid Richardson was determined to be RACT upon approval of the 1979 part D SIP; EPA does not find RACT to be 41% combustion in pellet dryers for the carbon black industry; acetylene is a nonexempt VOC that must be controlled pursuant to the 1979 SIP; and there are economically and technically feasible alternative RACT controls available to Sid Richardson.

Under Executive Order 12291, this action is not "Major." This rule was submitted to the Office of Management and Budget for review pursuant to the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbon, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: October 20, 1989.

William K. Reilly,

Administrator.

[FR Doc. 89–25383 Filed 10–26–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3675–6]

Approval and Promulgation of Air Quality Implementation Plans; Arizona Public Service Variance From New Mexico Regulation 603 for Nitrogen Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a revision to the New Mexico State Implementation Plan (SIP). The revision grants Arizona Public Service (APS) a variance from Regulation 603 (*Coal Burning Equipment—Nitrogen Dioxide*) for three electric generating units. A variance is granted through September 30, 1989 for Unit 4, September 30, 1990 for Unit 3, and September 30, 1991 for Unit 5. This revision is approved on the basis that it will not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) in New Mexico.

DATES: This action will be effective on December 26, 1989, unless notice is received on or before November 27, 1989 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Those interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Dallas, Texas 75202–2733

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460

New Mexico Environmental Improvement Division, Air Quality Bureau, 1190 St. Francis Drive, Harold Runnels Building, Sante Fe, New Mexico 87504–0968.

Comments: Submit comments to Mr. Thomas Diggs, Chief (6T–AN), SIP/NSR Section, Air Programs Branch, U.S. Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, on or before November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Winkler, SIP/NSR Section, Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, Telephone: (214) 655–7214 or (FTS) 255–7214, Reference Docket File Number NM–88.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1988, the U.S. EPA received documentation from the Governor of New Mexico which completed a SIP revision submittal that would grant APS a variance from New Mexico Air Quality Control Regulation (NMAQCR) 603.B, *Coal Burning Equipment—Nitrogen Dioxide*, for Units 3, 4 and 5 of the Four Corners Power Plant. NMAQCR 603 is currently an approved regulation of the New Mexico SIP. The variance would expire on September 30, 1989 for Unit 4, September 30, 1990 for Unit 3, and September 30, 1991 for Unit 5. NMAQCR 603.B deals with coal burning equipment which was fully constructed and operational or under construction before September 1, 1971. The emission limitation in NMAQCR 603.B of 0.7 pounds of NO_x per million BTU of heat input is required for coal burning equipment having the power generating capacity/heat input in the size range of the APS units. APS's Four Corners Power Plant is located in an area where air quality is classified as better than the NAAQS for nitrogen dioxide under Section 107 of the Clean Air Act (CAA).

On February 18, 1988, APS filed a petition with the New Mexico Environmental Improvement Division (NMEID) requesting a variance through May 31, 1987, to allow operation of Units 3, 4 and 5 at NO_x emission rates above the level required at NMAQCR 603.B. At the conclusion of a public hearing held before the New Mexico Environmental Improvement Board (NMEIB) on August 7, 1986, the NMEIB granted APS the variance through May 31, 1987 based on its findings which called into question the technical feasibility of controlling these pre-1971 units within the AQCR 603.B limit. The variance was based on an air quality impact analysis submitted by the NMEID which assessed NO_x emissions from the Four Corners Power Plant. As a condition of the variance, APS was required to evaluate technical feasibility by conducting a burner test program.

The Governor of New Mexico formally submitted the NMEIB's variance order to EPA as a revision to New Mexico's SIP on February 4, 1987. Due to delays which were incidental to the burner test program, on March 31, 1987, APS requested an extension to the variance term through October 15, 1987. The extension was granted by the NMEIB at its public meeting on April 10, 1987. The Governor of New Mexico formally submitted the extension to EPA as an amended SIP revision on October 26, 1987.

On October 15, 1987, APS informed the NMEID that burner test program had been completed. Based on the results of the program, APS concluded that a retrofit of Units 3, 4 and 5 with low NO_x burners would achieve compliance with NMAQCR 603.B. On December 18, 1987, the NMEIB approved a variance term for completion of installation of the low NO_x burners extending to September 30, 1991. Specifically, a variance was granted by the NMEIB through September 30, 1989 for Unit 4, September 30, 1990 for Unit 3 and September 30, 1991 for Unit 5. The Governor of New Mexico formally submitted the variance order to EPA as a revision to New Mexico's SIP on February 16, 1988. A retrofit schedule over this variance term was found to be acceptable to the NMEIB because (1) the extent of the modifications required for the retrofit is substantial (2) moving from pilot-scale to full-scale is most effectively accomplished by building on the experience gained in a phased approach, and (3) air quality analysis results showed that neither the NAAQS nor the State ambient air quality standards for NO_x would be threatened in the Four Corners area.

The air quality impact analysis originally submitted to EPA in support of the NMEIB's variance order received by EPA on February 4, 1987, did not satisfy the requirements in EPA's Guideline on Air Quality Models (EPA–450/2–78–027R). Because alternative modeling approaches were applied without the level of evaluation required by EPA's modeling guideline, the air quality impact analysis of February 4, 1987, was considered inadequate. On November 16, 1988, the Governor of New Mexico submitted an air quality impact analysis consisting of an initial screen assuming total conversion of NO_x to NO_2. The modeling demonstrated that the variance would not interfere with attainment or maintenance of the NO_2 NAAQS.

The State also submitted an air quality impact analysis using the ozone limiting method which demonstrated compliance with New Mexico's 24-hour NO_2 ambient air quality standard. There is no 24-hour NO_2 NAAQS.

Final Action

EPA has reviewed this SIP revision and supporting documentation and has determined that no violations of the National Ambient Air Quality Standard for NO_2 will result from this revision. Based on this finding, EPA is today approving the revision to Regulation 603 of the New Mexico SIP.

EPA's review of the materials submitted has shown that they are noncontroversial, nonmajor SIP revisions. Because EPA does not anticipate that this rulemaking will generate adverse public comments, the revisions are being approved today without a prior proposed rulemaking. The public should be advised that these actions will be effective December 26, 1989. However, if notice is received on or before November 27, 1989 that someone wishes to submit adverse or critical comments on this action, it will be withdrawn before the effective date and a new notice of rulemaking announcing a proposal of the action and establishing a comment period will be published in the **Federal Register**.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that this SIP revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of October 27, 1989. Under section 307(b)(2) of the Clean Air Act the requirements which are the subject of today's action may not be

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challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Nitrogen dioxide, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of New Mexico was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 29, 1989.

Robert E. Layton Jr.,
Regional Administrator.

PART 52—[AMENDED]

40 CFR part 52, subpart GG, is amended as follows:

Subpart GG—New Mexico

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1620 is amended by adding new paragraph (c)(38) to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(38) Revisions to the New Mexico SIP for the Arizona Public Service Units 3, 4 and 5 at the Four Corners Generating Station were submitted by the Governor on February 4, 1987, October 28, 1987, and February 16, 1988.

(i) Incorporation by Reference.

(A) An Order dated and effective August 7, 1986, issued by the Chairman of the New Mexico Environmental Improvement Board in the matter of Arizona Public Service Company, Fruitland, New Mexico for Units 3, 4 and 5 of the Four Corners Power Plant granting a variance through May 31, 1987, from Air Quality Control Regulation 603.B.

(B) A Memorandum and Order dated and effective April 10, 1987, issued by the Chairman of the New Mexico Environmental Improvement Board in the matter of Arizona Public Service Company, Fruitland, New Mexico for Units 3, 4 and 5 of the Four Corners Power Plant extending the term of the variance from May 31, 1987 through October 15, 1987.

(C) An Order dated and effective December 16, 1987, issued by the Chairman of the New Mexico Environmental Improvement board in the matter of Arizona Public Service Company, Fruitland, New Mexico for Units 3, 4 and 5 of the Four Corners Power Plant extending the term of the variance through September 30, 1989 for Unit 4, September 30, 1990 for Unit 3, and September 30, 1991 for Unit 5.

(ii) *Additional material.* (A) Modeling Protocol, The Four Corners Power Plant, prepared by Bruce Nicholson of the New Mexico Environmental Improvement Division, November 6, 1987.

(B) Amendment to Modeling Protocol, letter of August 17, 1988, from Bruce Nicholson of the New Mexico Environmental Improvement Division to Gerald Fontenot of EPA Region 6.

(C) Modeling Report, letter of October 27, 1988 to C. V. Mathai (Arizona Public Service Company) and Bruce Nicholson (New Mexico Environmental Improvement Division) from Mark Yocke of Systems Applications Inc.

(D) An air quality impact analysis dated November 16, 1988, submitted by the Governor of New Mexico which demonstrated that the variance would not interfere with attainment or maintenance of the NO_2 NAAQS.

[FR Doc. 89-25403 Filed 10-26-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[SC-0126; FRL-3652-7]

Approval and Promulgation of Implementation Plans for South Carolina; Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency.

ACTION: Disapproval of State plans.

SUMMARY: EPA is disapproving the May 24, 1985, submittal of revisions made by South Carolina in its Air Pollution Control Regulations and Standards and submitted to EPA on June 5, 1985. These revisions contained deficiencies within the State's Volatile Organic Compound (VOC) regulations. EPA is disapproving the following regulations that have been identified as being deficient: regulation 62.1, section I, 39., regulation 62.5, standard No. 5, section I, parts A.9., A.22., A.39., A.51. and A.75., section II, parts A. through H. and parts N. through T. and section I, parts F. and E. The deficiencies identified within each regulation are discussed in detail in the proposed disapproval notice (54 FR 25592, June 16, 1989). Upon further review, regulation 62.5, standard No. 5, section I, parts A.1. and A.38. do not contain deficiencies and are not a part of this final disapproval notice. These regulations will be approved in a separate notice. Today's disapproval action provides the basis for correcting the deficiencies identified within South Carolina's State Implementation Plan (SIP) as stated in a September 9, 1988, letter from EPA to the State of South Carolina.

DATE: This disapproval is effective on November 27, 1989.

ADDRESSES: Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courland Street NE., Atlanta, Georgia 30365

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201

FOR FURTHER INFORMATION CONTACT: Brenda Johnson, EPA Region IV, Air Programs Branch, at the Atlanta address above or call 404/347–2864 or FTS/ 257–2864.

SUPPLEMENTARY INFORMATION: On June 5, 1985, the South Carolina Department of Health and Environmental Control submitted to EPA for approval revisions to the volatile organic compound (VOC) provisions of the South Carolina Air Pollution Control Regulations and Standards. These revisions were adopted by the South Carolina Board of Health and Environmental Control on December 20, 1984, and were forwarded to the State Legislature for approval. The revisions became State-effective on May 24, 1985.

Based on the information submitted, EPA disapproved the revisions without prior proposal (54 FR 15161, April 17, 1989) in a direct final notice. In this notice, EPA advised the public that the effective date of the action was deferred for 60 days (until June 16, 1989) so that comments, if any, could be submitted. EPA announced that the final action would be withdrawn if adverse or critical comments were received and a new rulemaking would be proposed with a 30-day comment period. On September 4, 1981 (46 FR 44477), EPA published a general notice explaining this special procedure.

Adverse comments were received on the 54 FR 15161 notice (April 17, 1989). Accordingly, EPA withdrew the direct-final notice (54 FR 25582, June 16, 1989) and simultaneously proposed disapproval of the South Carolina regulations (54 FR 25592, June 16, 1989). This notice represents EPA's final disapproval action and is based on the following considerations. On May 3, 1988, EPA released data on the ozone attainment status of areas throughout

the nation. On May 26, 1988, a letter notified the Honorable Carroll A. Campbell that the South Carolina SIP needed revising to achieve the ozone NAAQS, pursuant to section 110(a)(2)(H) of the Clean Air Act, 42 U.S.C. 7410(a)(2)(H). This SIP call in part required South Carolina to prepare an updated emission inventory and correct regulatory deficiencies and deviations between EPA's federal requirements and the State's SIP or pending SIP submittal. The correction of deviations is necessary for the State to continue progress in achieving attainment for ozone.

On September 9, 1988, EPA requested that South Carolina correct the identified deviations within their SIP. On October 12, 1988, South Carolina notified EPA that regulatory revisions within the SIP could only be accomplished under a State initiative or to comply with federal requirements.

Adverse comments were received on the disapproval notice (54 FR 25592, June 16, 1989). The comments and responses are given below.

Comment: Objections were raised by the South Carolina Chamber of Commerce Technical Committee concerning the proposed regulation disapproval on the basis that EPA is attempting to regulate by policy and guideline, rather than through a rulemaking procedure. They state that most of the cited deficiencies are not deviations from federal laws or regulations but are deviations from federal guidelines and policy.

Response: The proposed disapproval of the May 24, 1985 version of the South Carolina VOC regulations is consistent with section 110(a)(2)(H) of the Clean Air Act since the Administrator may call for such revision when, based on the information available to him, he finds that the SIP is substantially inadequate to achieve the NAAQS or to otherwise comply with any additional requirements established under the Clean Air Act Amendments of 1977. Adequate regulations governing VOC emissions are necessary for the South Carolina SIP since such regulations help assure that the SIP will be adequate to achieve and maintain the NAAQS for ozone in South Carolina. Therefore, the deficient regulations are proposed for disapproval to maintain compliance with federal law.

A May 25, 1988, document ("Issues Relating to VOC Regulation Cutpoints, Deficiences, and Deviations") cited in the proposed disapproval notice (54 FR 25592) is one of the commenter's concerns. This document provides specific information for correcting deficiencies and inconsistencies in VOC regulations. It is an interpretive rule which does not have to be promulgated pursuant to a rulemaking proceeding. *See* Administrative Procedure Act (APA), 5 U.S.C. 553(b). Interpretive rules need not be published in the **Federal Register**. For purposes of the APA, interpretive rules like general statements of policy and rules of organizations, procedures, or practice, are excluded from notice and comment procedures.

Comment: Changes in the VOC definition were questioned, especially, EPA's objection to the use of a 0.1 millimeter of Mercury (mm Hg) vapor pressure cutoff to define a VOC. The commenters state that just because an organic chemical can be volatilized under certain conditions does not mean that it will participate in atmospheric photochemical reactions, even if it possesses a high reactivity index.

Response: The definition of a volatile organic compound (VOC) as given in the May 25, 1988, document includes "any organic compound which participates in atmospheric photochemical reactions" and omits the 0.1 mm Hg vapor pressure cutoff. This has caused concern among some States which previously had incorporated a 0.1 mm Hg vapor pressure cutoff in their definition of VOC. A memorandum ("Definition of VOC: Rationale" by G.T. Helms, June 8, 1989) explains the rationale for revising the VOC definition to make all VOC definitions consistent with EPA's reactivity rationale. This memo is briefly summarized in this notice. For more information, please refer to the Technical Support Document.

The Volume II Control Technique Guideline (CTG), "Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles and Light-Duty Trucks" published in May 1977, uses 0.1 mm in the definition of VOC given in appendix C, "Regulatory guidance." Within a year of the CTG publication, it was recognized that inclusion of any restriction based on vapor pressure presupposed either of two things: (1) That because the vapor pressure of a compound is low the compound can never become airborne to participate in a photochemical reaction or, (2) even if it is airborne, the compound remains a liquid (does not evaporate), or if it does become vaporized it quickly condenses. These two suppositions are not necessarily true at the 0.1 mm Hg vapor pressure level. Vapor pressure would provide some indication of the rate of evaporation of material sitting at room temperature, but would have less meaning if the high boiling material is emitted as part of exhaust stack gases, especially at elevated temperature.

Organic compounds may be volatilized in a variety of industrial processes and emitted with stack gas exhausts. If these compounds remain in the vapor state they will be available to participate in photochemical reactions. Organic compounds with high carbon numbers and low vapor pressure can volatilize under certain conditions and even compounds with very low vapor pressure can have enough molecules in the gas phase to form appreciable quantities of ozone.

The conditions under which an organic material is actually used must be looked at to determine if it is, in fact, emitted to the atmosphere in any appreciable quantity. This will usually be done by applying the test method which is used to determine compliance with the regulation for a particular source category. Recognizing that EPA is attempting to control all VOC that eventually contributes to ozone formation, the test method is the ultimate arbiter of what is or is not a VOC for a particular industrial process.

Final Action: EPA is disapproving regulation 62.1, section I, 39., regulaton 62.5, standard No. 5, section I, parts A.9, A.22, A.39., A.51. and A.75., section II, parts A. through H. and parts N. through T. and section I, parts F. and E.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects In 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: September 18, 1989.

Lee A. DeHihns, III,
Acting Regional Administrator.

[FR Doc. 89-25024 Filed 10-26-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3675-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for specified waste generated by Mason Chamberlain, Incorporated, Bay St. Louis, Mississippi. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. in room M2427, Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–MCEF–FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 475–9828.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of this Rulemaking

Mason Chamberlain, Incorporated (Mason), located in Bay St. Louis, Mississippi, petitioned the Agency to exclude from hazardous waste control a specific waste that it generates. After evaluating the petition, EPA proposed, on December 13, 1988, to exclude Mason's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32. See 53 FR 50040.

This rulemaking addresses public comments received on the proposal and finalizes the proposed exclusion.

II. Disposition of Petition

Mason Chamberlain, Incorporated, Bay St. Louis, Mississippi

1. Proposed Exclusion

Mason petitioned the Agency for an exclusion of its wastewater treatment sludge filter cake, presently listed as EPA Hazardous Waste No. F019. Mason based its petition on the claim that the constituents of concern, although present in the waste, were in an essentially immobile form. To support its claim that both the non-listed and listed constituents of concern are not present in the wastewater treatment sludge filter cake above health-based levels of concern, Mason submitted results from total constituent, EP toxicity analyses, and Oily Waste EP (OWEP) toxicity analyes for all the EP toxic metals, nickel and cyanide. Mason also submitted results from priority pollutant analyses. All of the analyses were performed on representative samples of Mason's wastewater treatment sludge filter cake.

The Agency evaluated the information and analytical data provided by Mason in support of its petition and determined that the hazardous constituents found in the petitioned waste would not pose a threat to human health and the environment. Specifically, the Agency used its Vertical and Horizontal Spread (VHS) model and Organic-Leachate Model (OLM) to predict the potential mobility of the hazardous constituents found in the petitioned waste. Based on this evaluation, the Agency determined that the constituents in Mason's waste would not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 53 FR 50040, December 13, 1988, for a more detailed explanation of why EPA proposed to grant Mason's petition for its wastewater treatment sludge filter cake.

2. Agency Response to Public Comments

The Agency received comments on the proposed rule from one interested party. The commenter opposed the Agency's proposed decision for the reasons discussed below.

Petition-Specific Comments. The commenter stated that the wastewater treatment sludge filter cake still exhibits one of the criteria for which it was listed—the presence of total chromium in excess of the 1,000 ppm level considered significant justification for listing F019 wastes as hazardous. The commenter, therefore, believed that the petition should be denied because Mason did not meet the regulatory requirements of 40 CFR 260.20(d) and 261.11(a)(3)–(iii). Specifically, the commenter asserted that because the waste contains a listed constituent (*i.e.*, chromium), the petitioner must make a demonstration showing that the petitioned waste, under all plausible types of mismanagement scenarios, is non-hazardous.

First, the Agency considered in its analysis of the petitioned waste all of the factors listed in 40 CFR 261.11(a)(3), including all plausible mismanagement scenarios (see 53 FR 50043, December 13, 1988). EPA, therefore, disagrees with the commenter's assertion that granting this petition would be inconsistent with the regulations.

In regards to the presence of a listed constituent in the petitioned waste, the Agency agrees that the presence in F019 wastes of significant concentrations of the inorganic constituents of concern (including total chromium) was one of the reasons for listing F019 wastes as "T" (toxic) waste. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, Section 3001, Identification and Listing of Hazardous Waste—Electroplating and Metal Finishing Operations," 1980. The Agency also believes that the data presented in the Background Document broadly characterize the physical/chemical nature of conversion coating wastes (hydroxide sludges). EPA, therefore, used elevated concentrations of constituents as an indicator of potential hazard as it is reasonable to expect that, as the concentration of an unbound or loosely bound metal present in a waste increases, the potential for the metal to leach from the waste also increases. (Generally, the higher the total concentration of an unbound or loosely bound metal, the higher the potential EP leachate concentration.) Thus, wastes having significant concentrations of unbound or loosely bound metals are more likely to impact the underlying ground water than wastes having lower concentrations of unbound or loosely bound metals. However, in this specific case, the metals in Mason's waste are tightly bound within the waste matrix. The Agency's conclusion that chromium is bound in the waste matrix and thus is not available for leaching is supported by the results of the OWEP leachate analyses, which showed that only 0.13 mg/l of chromium would leach from Mason's waste under conditions similar to those found in municipal waste landfills. See 53 FR 50043, December 13, 1988. As a result, the Agency believes that the level of chromium present in Mason's waste, in this specific case, is not an appropriate indicator of hazard to human health and the environment.

Furthermore, EPA evaluated the waste's potential impact on human health using the maximum EP leachate concentration and the vertical and horizontal spread (VHS) model. For the volume of waste generated by Mason (1,262 cubic yards/year), the VHS model predicts a dilution factor of approximately 12.8. The VHS model analysis provides a conservative and reasonable worst-case evaluation of the behavior of the leachate from the waste in an underlying aquifer. The predicted compliance-point concentrations resulting from this conservative analysis were below the levels of concern used for delisting purposes. See 53 FR 50043, December 13, 1988, for a description of the modeling analysis of Mason's waste.

As indicated above, the commenter believed that the Agency failed to consider all plausible mismanagement scenarios in its evaluation of the petitioned waste. Specifically, the commenter asserted that because the Agency based its evaluation exclusively on the "worst-case scenario" of land disposal, the proposed rule provides no basis for determining if the waste would be hazardous under other plausible mismanagement scenarios. The commenter, therefore, believed that EPA only considered the leachable levels of hazardous constituents and did not consider the waterborne dispersal, airborne dispersal, or direct dermal contact with the waste potentially occurring through other plausible mismanagement scenarios.

The Agency does not believe that it is likely for other mismanagement scenarios to occur. Nonetheless, with regard to possible airborne dispersal, the Agency believes that direct contact from airborne exposure to hazardous contaminants from Mason's filter cake is not probable because the waste exhibits an average moisture content of 60 percent. The Agency, therefore, believes that the waste's moisture content is sufficient to prevent dust formation and dispersion.

With regard to waterborne dispersal of the waste, it is important to note that the VHS model analysis described in the proposal shows that leachate from the waste that travels through ground water will not exceed health-based levels. The Agency acknowledges that it may also be possible for surface water runoff to transport contaminants from the waste to a nearby surface water body. However, the Agency does not believe that analysis of such overland transport of contaminants as a reasonable exposure route for the petitioned waste would compel a different result for this petition. As described in the proposed rule, the Agency believes that landfill disposal is a reasonable worst-case management scenario for Mason's waste. Contamination of surface water might occur, therefore, through runoff from the petitioned waste. However, EPA believes that the concentrations of any hazardous constituents in that runoff will tend to be lower than the levels in the EP leachate analyses reported in the proposal, due to the acidic medium of the EP test. Furthermore, any transported constituents would be further diluted in the surface water body.

Finally, the Agency believes that, in general, the leachate derived from this waste will not directly enter a surface water body without first travelling through the saturated (subsurface) zone where dilution and attenuation of hazardous constituents may occur. The VHS model takes this saturated zone into account as it predicts the ultimate fate and transport of hazardous constituents.

EPA's Modeling Approach. The commenter objected to EPA's use of the VHS model in analyzing Mason's wastewater treatment sludge filter cake. The commenter believed that the VHS model could not be assumed to predict a reasonable worst-case when applied to Mason's waste and may result in significant underestimation of actual ground-water concentrations for the reasons discussed below.

The commenter believed that the VHS model cannot accurately predict the behavior of waste volumes in excess of 2,000 cubic yards because the VHS model, above approximately 2,000 cubic yards, predicts virtually no further reduction in the expected dilution. The commenter noted that EPA has previously stated: "Since the quantity of leachate from a larger quantity of waste will be greater, the [VHS] model predicts that a large waste volume will tend to have a greater impact on an underlying aquifer" and "waste in excess of 2,000 cubic yards probably would have a greater than predicted impact at the compliance point." See 50 FR 48886 and 48899, November 27, 1985.

The initial version of the VHS model, presented on February 26, 1985, calculated dilution factors ranging from 10 to 50, with the minimum dilution factor (*i.e.*, 10) resulting at a waste volume approaching approximately 2,000 cubic yards. See 50 FR 7896. On November 27, 1985, the Agency both modified the values used for several of the VHS model variables and responded to public comments regarding the February 26, 1985 model. See 50 FR 48896. The November 27, 1985 version (present version) of the VHS model calculates dilution factors ranging from 6.3 to 32.3. In the present version, the calculated dilution factor steadily falls as the waste volume increases from 475 cubic yards, with the minimum dilution factor resulting at waste volumes equal to or exceeding 8,000 cubic yards.

Unfortunately, the Agency's November 27, 1985, response (cited by the commenter) failed to consistently reflect both the technical modifications made to the VHS model computer code and the resulting change in the range of calculated dilution factors. Due to the technical modifications incorporated into the final version that is now being used, the statement noted by the commenter, that the VHS model predicts virtually no further dilution above a waste volume of 2,000 cubic yards, was an inadvertent error in the text and is not accurate. Specifically, the present version of the model predicts a dilution factor of approximately 8.9 for 2,000 cubic yards and a dilution factor of approximately 6.3 for 8,000 cubic yards. The Agency continues to believe that the VHS model performs a reasonable, worst-case analysis and provides dilution factors that are fully protective of human health and the environment.

The commenter also believed that the VHS model, as applied, considered the impact of only one year of waste disposal, rather than the cumulative impact of continuing disposal of Mason's waste. The commenter noted that after a decade of such generation, the total amount of waste would exceed the VHS model's upper limit by more than six-fold. The commenter also stated that nowhere in the development of the VHS model does EPA justify the use of an annual, rather than cumulative, waste quantity as the appropriate input into the VHS model.

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Nor did the commenter see any possible justification for such an application of the model.

First, the Agency believes that the commenter is incorrect in concluding that a decade of waste generation would yield a waste volume that exceeds the VHS model upper limit by six-fold because the VHS model does not have an "upper limit". Rather, the VHS model incorporates a sliding-scale which allows the Agency to take into account the different impact that various waste volumes would have on ground water. As stated above, the VHS model calculates the maximum and minimum dilution factors at waste volumes of less than or equal to 475 cubic yards, and equal to or greater than 8,000 cubic yards, respectively. Thus, as the waste volume increases above 8,000 cubic yards or even 12,620 cubic yards (*i.e.*, 10 years × Mason's maximum annual waste generation rate of 1,262 cubic yards/year), the dilution factor calculated by the VHS model would be 6.3. The reason that the dilution factor remains constant after the waste volume exceeds 8,000 cubic yards is a function of the assumptions made in the disposal unit dimensions for the VHS model. (For a discussion of the assumptions made in the disposal unit dimensions for the VHS model, see 53 FR 48900, November 27, 1985.) Due to the effects of unit construction/dimensions on dilution/attenuation of the leachable constituents occurring in the underlying aquifer, the dilution factor calculated for 8,000 cubic yards is appropriate for waste volumes exceeding 8,000 cubic yards (*i.e.*, at a specific volume, the length of the disposal trench is sufficiently large that the resultant contaminant plume is not completely intercepted by a downgradient ground-water well). Lastly, the Agency notes that the commenter has not provided any evidence to support its claim that the dilution factor calculated for 8,000 cubic yards is not appropriate for waste volumes in excess of 8,000 cubic yards.

The commenter is also incorrect in stating that the Agency has not justified the use of annual waste volumes, instead of cumulative waste volumes. The Agency considers the use of annual or one-time waste volumes to be sufficiently conservative since it is a reasonable worst-case for a petitioner to dispose of one year's accumulated volume of waste in a single landfill cell at one time. Based on routine landfill management practice, EPA believes that it is unreasonable to assume, even in a worst-case scenario, one-time disposal of waste continuously generated over ten years in the same landfill cell. Specifically, wastes continuously generated are not disposed of in the same landfill cell. Rather, continuously generated wastes (if disposed of at the same landfill) are periodically distributed throughout the entire landfill, as the landfill is filled. See 50 FR 7899, February 26, 1985.

The Agency believes that periodic disposal of a continuously generated waste over the course of time (*e.g.*, ten years) would likely increase mixing (*i.e.*, dilution) of the petitioned waste with other non-hazardous materials and fill materials (*e.g.*, native soils) at the subtitle D landfill, and the waste's effect on the underlying aquifer would be reduced. The Agency, therefore, believes the assumption that the annual waste volume is disposed in the same landfill cell is a reasonable worst-case and is protective of human health and the environment.

The commenter also stated that the Agency did not restrict the coverage of the exclusion to a specific amount of waste. The commenter noted that, although the preamble specified that the proposed exclusion would apply only to the processes covered by the original demonstration, Mason is not prevented from increasing its waste generation. See 53 FR 50044, December 13, 1988.

As stated in the proposal, the Agency believes that it is unlikely for Mason to significantly increase its waste generation without modifying its production processes and thereby trigger a re-evaluation of the exclusion. For this reason, specific volume limitations had not been formally incorporated into the proposed exclusion provision. In consideration of the concerns raised by the commenter, EPA has included an explicit volume limitation in today's final rule. This limitation further clarifies that the exclusion promulgated today is specific to the wastes covered in the petition which included an accurate estimation of its maximum annual waste generation rate.

The commenter further asserted that Mason's waste alone contributes amounts of phenol, bis(2-ethylhexyl)phthalate, chromium, lead, nickel, and silver that are substantial percentages of the regulatory levels of concern (*i.e.*, the predicted compliance-point concentrations for phenol, bis(2-ethylhexyl)phthalate, chromium, lead, nickel, and silver are close to their respective regulatory levels of concern). The commenter, therefore, stated that disposing of this waste with any other contaminant source within the same landfill could readily cause exceedences of the regulatory levels of concern.

The Agency believes that the commenter is implying that wastes should not be delisted unless the predicted at-the-well concentrations of the contaminants are significantly less than their respective regulatory levels of concern (*i.e.*, some unspecified percentage reduction of the regulatory level of concern) in order to safeguard against the impact of other potential contamination sources. Unfortunately, the Agency is not currently able to modify the VHS model to assess the effects of additional contaminant sources on the underlying aquifer within the same disposal site. The Agency, therefore, does not have any technical basis to support a determination of an appropriate percentage reduction and believes that some stipulated percentage reduction would be arbitrary. In light of the conservative nature of the VHS model (*e.g.*, no degradation, infinite source), EPA will continue to allow wastes to exhibit compliance-point concentrations up to 100 percent of the regulatory levels of concern.

Lastly, the commenter was concerned with the compliance-point concentration for lead since EPA is considering lowering the drinking water standard for lead to 0.005 mg/1. The commenter believes that the waste should be considered hazardous since, if the 0.005 mg/1 standard is adopted, the calculated compliance-point concentration would exceed the standard by a factor of four.

In making delisting decisions, the Agency uses the existing health-based levels cited in "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1989 (located in the RCRA public docket). The Agency has no way of predicting the final drinking water standard until it is actually promulgated (the standard could be less than or greater than the proposed level or the 0.005 mg/1 level cited by the commenter). Neither can the Agency be certain exactly when a new standard might be promulgated. Without a new final drinking water standard, the Agency does not believe it is fair to the petitioner to postpone a final delisting decision until a new drinking water standard for lead is promulgated.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Mason's wastewater treatment sludge filter cake should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Mason Chamberlain, Incorporated, located in Bay St. Louis, Mississippi, for its wastewater treatment sludge filter cake, described in its petition as EPA Hazardous Waste No. F019. The exclusion only applies to 1,262 cubic yards of wastewater treatment sludge filter cake generated annually by the processes covered by the original demonstration. The facility would require a new exclusion if its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated either in excess of 1,262 cubic yards per year or from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: October 17, 1989.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6922.

2. In Table 1 of Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
• • •	• • •	• • •
Mason Chamberlain, Incorporated.	Bay St. Louis, Mississippi.	Wastewater treatment sludge filter cake (EPA Hazardous Waste No. F019) generated (at a maximum annual rate of 1,262 cubic yards) from the chemical conversion coating of aluminum. This exclusion was published on October 27, 1989.
• • •	• • •	• • •

[FR Doc. 89–25353 Filed 10–26–89; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 90367–9165]

Foreign Fishing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final notice to reassess fishery specifications.

SUMMARY: NOAA issues this final notice of reassessment of fishery specifications

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and joint venture processing (JVP) amounts in the foreign fishing regulations for the Preliminary Fishery Management Plan for the Hake Fisheries of the Northwestern Atlantic (PMP). This notice addresses new scientific information in the fishery and recent developments that have occurred in the fishery. The intended effect of the new specifications is to allow continued development of the hake fisheries of the Northwestern Atlantic that will be conducted to support joint ventures (JV) involving U.S. hake fishermen to produce net benefit to the United States.

EFFECTIVE DATE: November 27, 1989.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, (Resource Management Specialist), 508–281–9272.

SUPPLEMENTARY INFORMATION: NOAA published a proposed rule to amend fishery specifications on April 5, 1989, to present the optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), JVP, reserve, and the total allowable level of foreign fishing (TALFF) for the hake fisheries (54 FR 13704) with request for public comment.

A foreign fishing application for a silver hake JV with vessels of the Soviet Union was received after publication of the proposed rule. NOAA published a notice of extension of the comment period on May 2, 1989, (54 FR 18683) extending the comment period through May 15, 1989, to allow sufficient time for comments from industry and the public to address the recent interest in JVP.

The JV application involves silver hake in the N. Georges/Gulf of Maine (GOM) area.

The NMFS reassessment affirms that the DAP for the N. Georges/GOM silver hake is appropriate to satisfy the domestic processing sector and that sufficient U.S. harvest is available to approve a JV. Based on this review, NMFS specifies an appropriate amount of JVP for N. Georges/GOM by transferring 3,000 metric tons of silver hake from reserve. While this specification increases the DAH by 3,000 metric tons, it does not modify the DAP.

The specifications for hake fisheries in the Northeast Region, Northwestern Atlantic Ocean, are revised to read as follows:

NORTHWESTERN ATLANTIC HAKE FISHERIES

[In metric tons (mt)]

Species	Species code	Area	OY	DAH	DAP	JVP	Reserve	TALFF
Hake, Silver	104	S. Georges/MAtl	14,000	12,000	12,000	0	1,750	250
		N. Georges/GOM	13,000	10,000	7,000	3,000	2,750	[1] 250
Hake, Red	105	S. Georges/MAtl	1,000	600	600	0	300	100
		N. Georges/GOM	1,500	800	800	0	600	100

[1] This table is amended to show the change in silver hake in the reserve amount from 5,750 to 2,750 mt in the JVP amount and from 0 to 3,000 mt that was not included in the proposed rule published April 5, 1989, 54 FR 13704.

Comments and Responses

Written comments were submitted by Mayflower International, Ltd., Cape Ann Vessel Association, and the Gloucester Fisheries Association. A group representing Gloucester, MA processors also commented in a meeting with the NMFS Northeast Regional Director. The Gloucester Fisheries Association and the group representing the local processors (the processors) oppose the JV while Mayflower International, Ltd. and the Cape Ann Vessel Association support it.

Comment: The processors asked if the silver hake purchased by the foreign JV partner would be sold in the United States.

Response: The vessels of the Soviet Union expect to process the fish into fillets and fishmeal. The application for JV states that the expected market is the Soviet Union and that the products are not expected to enter the United States.

Comment: The processors asked what will happen to the by-catch.

Response: Their application for JV states that the foreign fishing vessels will not exceed the incidental harvest limits established by the regulations. They further agreed to return any by-catch to the U.S. harvesting vessels if requested.

Comment: The processors and the Gloucester Fisheries Association expressed their concern with the possibility of the JV taking groundfish. The processors were concerned with effects of the JV on groundfishing in 1989, and the Gloucester Fisheries Association asked if there would be a JV next year for groundfish.

Response: As stated in 50 CFR 611.11(c), all species of fish which a foreign fishing vessel has not been allocated or authorized to retain, including fish caught or received in excess of any allocation or authorization, are prohibited species which must be returned promptly to the ocean. Further, it is unlikely that the foreign fishing vessels will encounter groundfish (e.g., cod or haddock) because of the known low concentration of multi-species groundfish in that portion of N. Georges Bank/GOM known as Cultivator Shoals. Also, there is no JVP for groundfish, nor is one expected given the capacity of the domestic processing sector. Thus, a JV for groundfish is not possible.

Comment: Some small boat fishermen fear that U.S. vessels participating in the JV will sell boxed whiting in the New York market.

Response: The Cape Ann Vessel Association and Mayflower, Ltd. have conditioned participation of interested vessels in the JV upon their agreement to refrain from boxing their catch and selling into the New York market.

Classification

The Assistant Administrator for Fisheries, NOAA, determined that this action appears to be necessary for the conservation and management of the hake fisheries governed by the PMP prepared by the Secretary and that it is consistent with the Magnuson Fishery Conservation and Management Act (Magnuson Act) and other applicable law.

This action does not result in a significant change in the original environmental action and is categorically excluded from the requirement to prepare an environmental assessment pursuant to NOAA Directive 02–10.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291 because it would not have an annual effect on the economy of $100 million or more; would not result in an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The General Counsel of the Department of Commerce certified to the Small Business Administration that this will not have a significant economic impact on a substantial number of small entities because it does not regulate domestic fishing interests. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This rule will be implemented in a manner that does not directly affect the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina and South Carolina.

Management measures in the PMP are not likely to affect endangered species or marine mammals.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 20, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89–25326 Filed 10–26–89; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 81131–9019]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the Bering Sea and Aleutian Islands subareas to retention of Greenland turbot under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This action is necessary to prevent the total allowable catch (TAC) for Greenland turbot in the Bering Sea and Aleutian Islands subareas from being exceeded before the end of the fishing year. The intent of this action is to assure optimum use of groundfish while conserving Greenland turbot stocks.

DATES: Effective from noon, Alaska Daylight Time (ADT), October 25, 1989, through December 31, 1989. Comments will be accepted through November 8, 1989.

ADDRESS: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett, Resource Management Specialist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council (Council) and implemented by rules appearing at 50 CFR 611.93 and part 675.

The current TAC for Greenland turbot is set at 6,000 metric tons (mt). Current apportionments of TAC to domestic annual processing (DAP) and joint venture processing (JVP) are 7,800 mt and 200 mt, respectively.

In the Bering Sea and Aleutian Islands subareas, the estimated catch through October 7, 1989, of Greenland turbot for DAP is 7,089 mt, and for JVP is 41 mt, for a total of 7,120 mt. Current daily catch rates are approximately 50 mt. When the Bering Sea and Aleutian Islands subareas Greenland turbot TAC is taken, current regulations require that all domestic vessels operating in those subareas discard Greenland turbot in the same manner as prohibited species, and that all foreign processors in those subareas are prohibited from receiving Greenland turbot. The Regional Director estimates that at current and anticipated catch rates the entire Bering Sea and Aleutian Islands subareas Greenland turbot TAC (6,000 mt) will be taken by DAP and JVP fisheries by October 25, 1989.

Notice of Closure to Retention

Under § 675.20(a)(7), when the Regional Director determines that the entire TAC of any target species is taken, the Secretary will publish a notice in the **Federal Register** prohibiting retention of that species for the remainder of the fishing year. Therefore, in order to prevent exceeding the TAC for Greenland turbot, all retention of Greenland turbot in the Bering Sea and Aleutian Islands subareas must cease effective noon, ADT, October 25, 1989.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to prevent the TAC for Greenland turbot from being exceeded. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

This action is taken under the authority of 50 CFR 675.20(b) and 675.20(a)(7) and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 1989.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–25325 Filed 10–24–89; 9:04 am]

BILLING CODE 3510–22–M

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Proposed Rules

Federal Register
Vol. 54, No. 207
Friday, October 27, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-195-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require modification of the body station 1241 bulkhead and the wing rear spar kick fitting joint, and repair of the bulkhead splice strap, if necessary. This proposal is prompted by a report of a cracked splice strap at the kick fitting location on one airplane. This condition, if not corrected, could lead to bulkhead forging cracks and result in the inability of the remaining structure to withstand fail-safe loads.

DATE: Comments must be received no later than December 18, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-195-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Satish Pahuja, Airframe Branch, ANM-120S; telephone (206) 431-1997. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-195-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The manufacturer of Boeing Model 747 series airplanes recently reported that during production a bearing plate was not installed on the splice strap at the kick fitting location on airplanes, line numbers 676, 679, 685, and 690-699. This bearing plate is required to prevent fretting and corrosion, and subsequent splice strap cracking at the kick fitting location. This condition, if not corrected, could lead to bulkhead forging cracks and result in the inability of the remaining structure to withstand fail-safe loads

The FAA has reviewed and approved Boeing Service Bulletin 747-53-2299, Revision 1, dated June 29, 1989, which describes procedures for an interim modification to minimize fretting by reducing kick fitting fastener clamp up torque, and procedures for a permanent modification by installing a bearing plate between the strap and sliding joint bushings.

Since this condition is likely to exist or develop on other airplanes of this same type design an AD is proposed which would require an interim modification of the body station 1241 bulkhead, and an eddy current inspection for cracks of the bulkhead splice strap. If no cracking is found, a permanent modification would be required; if cracking is found repair would be required prior to further flight. Procedures for accomplishing these action would be in accordance with the service bulletin previously described.

There are approximately 13 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 1 airplane of U.S. registry would be affected by this AD, that it would take approximately 91 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,640.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line position 676, 679, 685, and 690 through 699, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent cracking of the bulkhead splice strap, accomplish the following:

A. Within the next 1,000 flight cycles after the effective date of this AD, perform an interim modification of the body station 1241 bulkhead in accordance with Boeing Service Bulletin 747-53-2299, Revision 1, dated June 29, 1989.

B. Within the next 5,000 flight cycles after the effective date of this AD, perform an eddy current inspection for cracks of the splice strap in accordance with Boeing Service Bulletin 747-53-2299, Revision 1, dated June 29, 1989.

1. If no cracking is found, prior to further flight, perform a permanent modification in accordance with Boeing Service Bulletin 747-53-2299, Revision 1, dated June 29, 1989.

2. If cracking is found, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 18, 1989.

Darrell M. Pederson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25334 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-179-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A320 series airplanes, which would require replacement of the existing standby transformer/rectifier (TR) with a TR identical to the main TR, and its installation in a different location with improved ventilation. This proposal is prompted by reports of false transitory electronic centralized aircraft monitor (ECAM) warnings occurring during cases of Auxiliary Power Unit (APU) shutdown. This condition, if not corrected, could result in unnecessary emergency action, such as an aborted takeoff.

DATE: Comments must be received no later than December 18, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-179-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-179-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A320 series airplanes. There have been reports of false electronic centralized aircraft monitor (ECAM) warnings at Auxiliary Power Unit (APU) shutdown due to the susceptibility of the standby transformer/rectifier (TR) to transitory electronic conditions. This condition, if not corrected, could result in unnecessary emergency action, such as an aborted takeoff.

Airbus Industrie has issued Service Bulletin A320-24-1028, dated July 7, 1989, which describes procedures to replace the standby TR with a TR identical to the main TR which is not susceptible to these conditions, and to relocate it to a position with improved ventilation. The relocation of the standby TR is to provide the best

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environment for the proper operation of the standby TR. The DGAC has classified this service bulletin as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require replacement and relocation of the TR in accordance with the service bulletin previously described.

It is estimated that 8 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required parts will be supplied by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,760.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A320 series airplanes, Serial Numbers 005 through 039, and 042 through 049, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished.

To prevent possible false ECAM messages on APU shutdown, accomplish the following:

A. Replace the standby transformer/rectifier (TR) with one identical to the main TR, and relocate it to a position with improved ventilation, in accordance with Airbus Industrie Service Bulletin No. A320-24-1028, dated July 7, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 17, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25335 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

The Definition of Switchblade Knives; Extension of Time for Comments

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule; extension of time for comments.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments concerning the proposed amendment to the Customs Regulations relating to the definition of switchblade knives. A notice inviting the public to comment on the proposal was published in the **Federal Register** on August 18, 1989 (54 FR 34186), and comments were to have been received on or before October 17, 1989. A request has been received to extend the period of time for comments for an additional 60 days. The request points out that many individuals who might wish to comment on the proposal are not regular readers of the **Federal Register**. They are members of organizations and would only receive notice of the proposal through membership mailings from the organizations which cannot be accomplished within the original time period allowed for comments. In view of the arguments presented, the request is granted.

DATE: Comments will now be accepted if received on or before December 17, 1989.

ADDRESSES: Comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Samuel Orandle, Value, Special Programs and Admissability Branch, Commercial Rulings Division, (202) 566-5765.

Dated: October 20, 1989.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 89-25282 Filed 10-26-89; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3674-2]

Approval and Promulgation of State Implementation Plans; PM-10 Plan for Group II and Group III Areas, Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the PM-10 State Implementation Plan (SIP) for the Wyoming Group III areas and the PM-10 Committal SIP for the Lander, Wyoming Group II area which were submitted by the State on March 14, 1989. The State has adequately incorporated the federal Group III and Group II area PM-10 requirements into Wyoming's air pollution control program, which merits EPA's proposed approval of these SIP revisions. The Group III SIP makes numerous revisions related to PM-10 to the existing SIP, and the Group II Committal SIP commits the State to continue ambient air monitoring for PM-10 and to submit to EPA a full SIP if, through monitoring, violations of the PM-10 National Ambient Air Quality Standards (NAAQS) are detected. EPA's proposed approval of these SIPs is also based on Wyoming's commitment to adequately address deficiencies in the State's New Source Review (NSR) and Prevention of Significant Deterioration (PSD) regulations so that attainment and maintenance of the PM-10 NAAQS can be assured.

DATE: Comments must be received on or before November 27, 1989.

ADDRESSES: Written comments on this action should be addressed to: Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

Copies of the applicable documentation are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

Wyoming Department of Environmental Quality, Air Quality Division, Herschler Building, 4th Floor, 122 West 25th Street, Cheyenne, Wyoming 82002.

FOR FURTHER INFORMATION CONTACT: Michael Silverstein, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1768, FTS 564-1768.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Clean Air Act require EPA to review periodically and, if appropriate, revise the criteria on which the NAAQS for each air pollutant are based, as well as review and revise the NAAQS themselves. In response to these requirements, EPA published a notice to promulgate revised NAAQS for particulate matter under ten microns in size (known as PM-10) on July 1, 1987 (52 FR 24634). As a result, states must revise their SIPs to attain and maintain the new NAAQS.

To implement the new SIP requirements, all areas in the country were divided into three groups, based on the probability that each of these areas would violate the PM-10 NAAQS. Group I areas have violated the PM-10 NAAQS or have air quality data showing high (greater than 95%) probabilities of violating the NAAQS. These areas must submit to EPA for approval full SIPs including control strategies and attainment demonstrations. Group II areas are estimated to have a moderate (20%-95%) probability of violating the PM-10 NAAQS, and must commit to monitor for PM-10 and submit a full SIP if a violation occurs. Group III areas are estimated to have a low (less than 20%) probability of violating the PM-10 NAAQS, and no new control strategy requirements apply.

Group III Areas

Most of the State of Wyoming has been classified as Group III for PM-10. On March 14, 1989, the State submitted a Group III SIP for these areas. The requirements for Group III SIPs and the State's response to these requirements are described below.

EPA Requirements for PM-10 Group III SIPs

The following SIP requirements apply to all PM-10 Group III areas, and are also applicable to Group II and Group I areas:

A. All SIPs should provide for the attainment and maintenance of the PM-10 standards, and PM-10 should be regulated as a criteria pollutant.

B. Since the SIP must protect both the PM-10 standard and the total suspended particulates (TSP) increment for PSD, it must trigger preconstruction review for a new or modified source which would emit significant (as defined at 40 part CFR 51.166(b)(23)) amounts of either TSP or PM-10.

C. The significant harm level for particulate matter was revised in 40 CFR 51.151 to 600 ug/m³ measured as PM-10, and the combined sulfur dioxide-particulate matter significant harm level was deleted. In addition, the example alert, warning, and emergency levels of particulate matter in Appendix L of Part 51 were also revised to reflect PM-10 concentrations. Therefore, State emergency episode plans must be revised to reflect these changes.

D. Revisions to 40 CFR part 58 set forth the requirements for design of national, state and local PM-10 air monitoring networks. The revised monitoring networks must be submitted for EPA approval. The required monitoring frequency varies with area grouping; Group I areas are required to monitor daily for at least one site in the area of expected maximum concentration, Group II areas are required to monitor every other day at such a site, and Group III areas are required to monitor every sixth day at such a site. Monitoring frequency in Group I and Group II areas can be reduced if the reduction is supported by at least one year of data.

Wyoming PM-10 Group III Submittal

The State has made revisions to section 2, Definitions, section 3, Ambient Particulate Standards, section 20, Air Pollution Emergency Episodes, section 21, Permit Requirements, and section 24, Prevention of Significant Deterioration of the Wyoming Air Quality Standards and Regulations (WAQSR) for PM-10 which satisfy the requirements of "A.", "B.", and "C.", above. In addition, the State submittal contains the following:

1. The State has adopted the "Wyoming Implementation Plan for PM-10 Ambient Air Quality Standards" which: (1) Outlines Group III requirements, (2) indicates standards and regulation revisions, (3) describes monitoring plans, (4) describes PM-10 monitoring activities in the Trona TSP nonattainment area (the Trona Industrial area was designated a nonattainment area for EPA's former TSP secondary 24-hour standard but was designated as a PM-10 Group III area by EPA), and (5) commits the resources necessary to implement the plan.

2. The State has adopted "The State of Wyoming State Implementation Plan on Air Quality Surveillance for Inhalable Particulate Matter (PM-10)" which describes, in detail, Wyoming's plan for adhering to EPA's requirements (found in 40 CFR part 58) for the monitoring of PM-10 particulate matter. The State-wide PM-10 monitoring network design and coverage have been reviewed, and were approved by EPA Region VIII's Environmental Services Division on

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March 30, 1989. This plan satisfies the requirements of "D." above.

3. The State administers a NSR program for all stationary sources and modifications, including PSD sources. By adopting ambient air quality standards for PM–10, the State has triggered the requirement for preconstruction review of all PSD sources of PM–10.

EPA believes that the existing EPA-approved SIP along with the revisions identified above and the commitment to correct deficiencies in the NSR and PSD regulation (discussed below) are adequate to demonstrate and maintain compliance with the PM–10 NAAQS. However, EPA will request that the State re-identify, in detail, any other plans and regulations that are being relied upon by the PM–10 SIP to ensure continued compliance with the PM–10 NAAQS.

Group II Areas

The Lander, Wyoming area has been classified as a Group II area for PM–10. On March 14, 1989, the State submitted a Committal SIP for this area. The requirements for Group II Committal SIPs and the State's response to these requirements are described below.

FPA Requirements for PM–10 Group II Committal SIPs

Committal SIPs for Group II areas must contain enforceable commitments to:

A. Gather ambient PM–10 data, at least to an extent consistent with minimum EPA requirements and guidance.

B. Analyze and verify the ambient PM–10 data and report 24-hour PM–10 NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

C. When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available or when an annual arithmetic mean above the level of the annual PM–10 NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the appropriate Regional Office.

D. Within 30 days of the notification referred to in "C.", above, or within 37 months of promulgation of the PM–10 NAAQS, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM–10 standards, and immediately notify the appropriate Regional Office. The following factors should be considered in determining the adequacy of the existing SIP: (1) Air quality data, (2) emissions data, and (3) the present control strategy.

E. Within six months of the notification referred to in "D.", above, adopt and submit to EPA a PM–10 control strategy that assures attainment as expeditiously as practicable but no later than three years from approval of the Committal SIP.

Wyoming's PM–10 Group II Submittal for Lander

The State submittal addresses EPA's requirements by committing Wyoming to the following actions:

A. Gather ambient PM–10 data, at least to an extent consistent with minimum EPA requirements and guidance. The State began to monitor for PM–10 in January 1985, and has committed to continue monitoring in the Committal SIP. There are two PM–10 monitoring sites and one TSP monitoring site operating in Lander. One of the PM–10 monitors is operated on an every-other-day schedule while the other PM–10 monitor is operated every sixth day. The TSP site is operated on an every sixth day schedule. The Lander PM–10 monitoring network design and coverage have been reviewed, and were approved by the Region VIII Environmental Services Division on March 30, 1989.

B. Analyze and verify the ambient PM–10 data and report 24-hour PM–10 NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

C. When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available or when an annual arithmetic mean above the level of the annual PM–10 NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the EPA Regional Office.

D. Within 30 days of the notification referred to in "C." above, or by September 1, 1990, whichever comes first, detemine whether the existing SIP will assure timely attainment and maintenance of PM–10 standards, and immediately notify the EPA Regional Office.

E. Within six months of the notification referred to in "D." above (if necessary), adopt and submit to EPA a PM–10 control strategy that assures timely attainment and maintenance within a period of three years from approval of this committal SIP.

EPA Required Revisions to the Wyoming NSR and PSD Regulations

On August 3, 1988, EPA provided Wyoming with comments, for the public record, on the State's proposed PM–10 SIP revisions. Included were comments concerning the State's NSR and PSD programs found in sections 21 and 24 of the WAQSR. EPA had reviewed the Wyoming NSR and PSD programs in their entirety in order to ensure that the program would adequately protect the PM–10 NAAQS.

The State subsequently submitted to EPA the March 14, 1989, SIP submittal which adequately addressed and incorporated many of EPA's August 3, 1988, comments. However, numerous comments concerning the State's PSD regulations were not addressed in the subject SIP submittal.

On June 20, 1989, EPA informed Wyoming that the State must begin to rectify the PSD deficiencies noted in sections 21 and 24 in order for EPA to fully approve the PM–10 SIP revision. As a minimum, EPA sought a commitment from the State that revisions would be made to these sections which adequately address EPA's concerns. If a commitment were not provided by the State, EPA could not proceed to approve that portion of the PM–10 SIP revision pertaining to PSD. If necessary, EPA would call for a SIP revision, requiring the State to revise sections 21 and 24 to make them consistent with the federal PSD requirements of 40 CFR part 51.

Wyoming responded to EPA on July 27, 1989, stating that the State would commit to revising the PSD regulations in conformance with EPA's comments, with the exception of a few provisions. (The State estimated that it would take approximately nine months for the State to revise the PSD regulations and submit the changes to EPA as a SIP revision.) The State and EPA proceeded to rectify the differences in opinion as to which provisions in sections 21 and 24 must be revised, and on September 20, 1989, Wyoming provided EPA with a commitment to begin the process of revising sections 21 and 24.

Proposed action

EPA is proposing to approve the PM–10 SIP for the Wyoming Group III areas and the PM–10 Committal SIP for the Lander, Wyoming Group II area because these SIPs meet the appropriate EPA requirements. EPA's proposed approval of these SIPs is also based on Wyoming's commitment to adequately address deficiencies in the State's NSR and PSD regulations so that attainment and maintenance of the PM–10 NAAQS can be assured.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to any state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Sulfur oxides.

Authority: 42 U.S.C. 7401–7642.

Dated: September 27, 1989.

James J. Scherer,

Regional Administrator.

[FR Doc. 89–25354 Filed 10–26–89; 8:45 am]

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40 CFR Part 81

[FRL 3675–3]

Designation of Areas for Air Quality Planning Purposes; Oklahoma; Tulsa County Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment deadline.

SUMMARY: On September 7, 1989, at 54 FR 37132, EPA solicited public comment on its proposal to disapprove a request from the Oklahoma State Department of Health (OSDH) to revise the attainment status designation for Tulsa County from nonattainment to attainment for the Ozone National Ambient Air Quality Standard (NAAQS). At the request of the OSDH, McDonnell Douglas-Tulsa, and American Airlines, EPA is extending the deadline from October 10, 1989, to December 11, 1989, for receiving written comments on the Agency's proposed disapproval of the request. The above parties have requested the extension to allow sufficient time to prepare written comments. Interested parties are invited to submit written comments on all aspects of that proposal.

DATE: Written comments must be received on or before December 11, 1989.

ADDRESS: Written comments should be addressed to Mr. Thomas H. Diggs, Air Programs Branch (6T–AN), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Gregg Guthrie, Air Programs Branch, Telephone (214) 655–7214 or (FTS) 255–7214.

Dated: October 16, 1989.

Joe D. Winkle,

Deputy Regional Administrator (6).

[FR Doc. 89–25236 Filed 10–26–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW-FRL-3675-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by Philway Products, Incorporated, Ashland, Ohio, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and § 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of a fate and transport model and its application in evaluating the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed of.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until December 11, 1989. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this proposed decision and/or the model used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by November 13, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS–305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F–89–PHEP–FFFFF".

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS–340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street SW. (Room M2427), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Chichang Chen, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4671.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (i.e., ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or (a)(3).

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Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes are also considered hazardous wastes. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3(c) and (d)(2). The substantive standards for "delisting" a treatment residue or a mixture are the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

This petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, the Agency evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). Based on this review, the Agency agreed with the petitioner that the waste is non-hazardous with respect to the original listing criteria. (If the Agency found, based on this review, that the waste remains hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.) EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

For this delisting determination, the Agency used this information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use a particular fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Philway's petitioned waste on human health and the environment. Specifically, the model was used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constituents.

EPA believes that this fate and transport model represents a reasonable worst-case waste disposal scenario for the petitioned waste, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, the Agency determined that it would be inappropriate to request ground-water monitoring data because Philway sends the petitioned waste off site for disposal. For petitioners using off-site management, the Agency believes that, in most cases, the ground-water monitoring data collected would not be meaningful. Most commercial land disposal facilities accept wastes from numerous generators. Any ground-water contamination or leachate would be characteristic of the total volume of waste disposed of at the site. In most cases, the Agency believes that it would be impossible to isolate ground-water impacts associated with any one waste disposed of in a commercial landfill. Therefore, the Agency did not request ground-water monitoring data.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

A. Philway Products, Incorporated, Ashland, Ohio

1. Petition for Exclusion

Philway Products, Incorporated (Philway) located in Ashland, Ohio manufactures printed circuit (PC) boards. Philway petitioned the Agency to exclude its filter press sludge, presently listed as EPA Hazardous Waste No. F006—"Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5)

cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum". The listed constituents for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and complexed cyanide (see 40 CFR part 261, appendix VII).

Philway petitioned to exclude its waste because it does not believe that the waste meets the criteria of the listing. Philway also believes that the waste does not contain appreciable amounts of the listed constituents. Philway further asserts that no other constituents are present or, if present, are in essentially immobile forms. Philway further believes that the waste is not hazardous for any other reason (*i.e.*, there are no additional hazardous constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d) (2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of Philway's petition.

2. Background

Philway petitioned the Agency to exclude its filter press sludge on November 12, 1985 and subsequently provided additional information to complete its petition. In support of its petition, Philway submitted (1) a detailed description of the manufacturing and treatment processes used in the fabrication of printed circuit boards; (2) a list of raw materials and material safety data sheets (MSDSs) for tradename materials used in its manufacturing and treatment processes; (3) results from total constituent and EP leachate analyses for the EP toxic metals and nickel on representative samples of the waste; (4) results from total constituent analyses for cyanide on representative samples of the waste; (5) results from total constituent analyses for acetone, acrylamide, formaldehyde, methylene chloride, thiourea, toluene, 1,1,1-trichloroethane, trichloroethylene, and xylene on representative samples of the waste; (6) results from total oil and grease analyses; and (7) test data and explanations regarding the characteristics of ignitability, corrosivity, and reactivity.

Philway manufactures PC boards. Philway's manufacturing procedure includes a number of electroplating and related process steps. Initially, the unilayer PC boards are sheared to proper size, sanded, and deburred. The boards then sequentially undergo electroless copper plating, dry film application, copper and tin/lead plating, photo resist strip application, copper etching, tin/lead fusing, tin/lead strip application, and nickel and gold plating. The boards are degreased and cleaned in the last step. For multilayer circuit boards, an additional oxide treatment sequence follows the shearing step in the manufacturing schematic. All except four process baths and rinses from these steps are discharged to the wastewater treatment system on a routine basis; minor bath dumps occur daily and major bath dumps occur every 7 days. The remaining four process baths (*i.e.*, baths utilizing Dynachem Electroless Copper 835, Dynachem Alkastrip SQ, Electrochemical 808A, and Electrochemical 808B) are treated prior to discharge to the wastewater treatment system. Solids generated from the treatment of these four baths are disposed of in an off-site solid waste landfill.

The water rinses and spent process fluids resulting from the manufacturing processes flow into two polypropylene-lined, concrete holding containers, referred to as pit 1 and pit 2. Wastewaters from these pits are combined in a 2,500 gallon neutralization tank and maintained at a pH between 8.2 and 9.0 using lime, sodium hydroxide, and ferric chloride. Metal hydroxides are formed during this neutralization stage.

From the neutralization tank, the wastewater flows into a clarifier where a polymer and flocculant are added to aid in precipitating the metal hydroxides. Sludge from the clarifier is pumped to a holding tank; the clarifier supernatant is dispensed to a publicly-owned treatment works (POTW). Twice a day the sludge is pumped from the holding tank to a filter press for dewatering. This generates a filter press sludge that is temporarily stored in a 12 cubic yard hopper prior to off-site disposal in a hazardous waste landfill. The wastewater treatment filter press sludge is the subject of today's proposed exclusion.

To collect representative samples from filter presses like Philway's, petitioners are normally requested to collect a minimum of four composite samples composed of independent grab samples collected over time (*e.g.*, grab samples collected every hour and composited by shift). See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530–SW–85–003), April 1985.

Philway presented analytical data on 17 samples collected from the filter press over four sampling events: September 1985, September 1986, June 1987, and August/September 1988. The samples collected during the September 1985 and 1986 sampling events were collected on four separate days during two separate seven-day periods. The samples collected during the June 1987 and August/September 1988 sampling events were collected on four separate days during an 18-day and a 22-day period, respectively. Each of the daily samples were composites composed of surface grabs from three sections of the filter press. Philway claims that the sampling events were designed such that samples collected represent filter press sludge generated during times when both minor and major bath dumps were impacting the wastewater treatment system (*i.e.*, pits 1 and 2 and subsequent treatment steps). Philway also claims that all samples collected are representative of any variation of the listed and non-listed constituent concentrations in the waste. Philway further claims that the manufacturing processes used at the facility are operated in a consistent manner and that the use of raw materials does not vary significantly over time.

The four 1985 filter press sludge samples were analyzed for total constituent concentrations (*i.e.*, mass of a particular constituent per mass of waste) of arsenic, cadmium, chromium, lead, mercury, nickel, selenium, and cyanide. In addition, these four samples were analyzed for the extraction procedure (EP) leachate concentrations (*i.e.*, mass of particular constituent per unit volume of extract) of the EP toxic metals and nickel; total oil and grease; and pH.

The four 1986 filter press sludge samples were analyzed for total concentrations of barium and silver; whereas, the five 1987 samples were analyzed for total concentrations of acrylamide, formaldehyde, and thiourea. The four 1988 filter press sludge samples were analyzed for total constituent concentrations of acetone, methylene chloride, toluene, 1,1,1-trichloroethane, trichloroethylene, and xylene.

3. Agency Analysis

Philway used EPA Publication SW–846 Methods 7061, 7080, 7130, 7190, 7420, 7471, 7520, 7741, and 7760, respectively, to quantify the total constituent

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concentrations of arsenic, barium, cadmium, total chromium, lead, mercury, nickel, selenium, and silver. Philway used "Standard Methods for the Examination of Water and Wastewater" ("Standard Methods") Method 412D to quantify the total constituent concentration of total cyanide. SW–846 Method 1310 was used to determine the leachable concentrations of the EP toxic metals and nickel. "Standard Methods" Method 423 was used to obtain pH values of the filter sludge samples.

Philway utilized SW–846 Methods 8010 and 8015 to quantify total levels of acetone, methylene chloride, toluene, 1,1,1-trichloroethane, trichloroethylene, and xylene. Philway used SW–846 Method 8630 to quantify total acrylamide and formaldehyde levels. For total thiourea concentrations, SW–846 Method 8330 was employed.

Total constituent and EP leachate analyses for the EP toxic metals, nickel, and cyanide in the filter press sludge revealed the maximum concentrations reported in Table 1. The maximum total constituent concentrations for the hazardous organic compounds potentially (or suspected to be) present in the petitioned waste are presented in Table 2.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND EP LEACHATE CONCENTRATIONS (PPM) FILTER PRESS SLUDGE

Constituents	Total constituent concentrations	EP Leachate concentrations
Arsenic	0.05	<0.01
Barium	105	0.72
Cadmium	0.24	0.03
Chromium	36.8	0.04
Lead	3,200	0.20
Mercury	<1	<0.002
Nickel	240	0.15
Selenium	<2	<0.01
Silver	4.9	0.01
Cyanide	4.44	[1]0.22

<: Denotes that the constituent was not detected at the detection limit specified in the table.
[1] Calculated by assuming a dilution factor of twenty times (based on 100 grams of sample and dilution with 2 liters of water) and a theoretical worst-case leaching of 100 percent.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS OF HAZARDOUS ORGANICS (PPM) FILTER PRESS SLUDGE

Constituents	Total constituent concentrations
Acetone	<0.1
Acrylamide	<1.0
Formaldehyde	<1.0
Methylene chloride	<0.1
Thiourea	<1.0
Toluene	<0.1
1,1,1-Trichloroethane	<0.1
Trichloroethylene	<0.1
Xylene	<0.1

<: Denotes that the constituent was not detected at the detection limit specified in the table.

The detection limits in Tables l and 2 represent the lowest concentrations quantifiable by Philway, when using the appropriate analytical methods to analyze the petitioned waste. (Detection limits may vary according to the waste and waste matrix being analyzed, i.e., the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.)

Using SW–846 Method 9070, Philway determined that its waste had a maximum oil and grease content of 0.096 percent; therefore, the EP analysis did not have to be modified in accordance with the Oily Waste EP methodology (i.e., wastes having more than one percent total oil and grease may either have significant concentrations of constituents of concern in the oil phase, which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample).

While the Agency requires petitioners to quantify concentrations of the EP toxic metals, nickel, and cyanide in the petitioned waste using analytical procedures, the Agency allows facilities to demonstrate that other hazardous constituents (*e.g.*, those listed in 40 CFR part 261, appendix VIII) are not present in the petitioned waste at hazardous levels through a variety of mechanisms. Philway made its demonstration regarding the presence of other hazardous constituents by reviewing the Material Safety Data Sheets (MSDSs) for all of the raw materials used in their process which could enter the petitioned waste. In addition, Philway contacted the material suppliers to determine whether any appendix VIII constituents are present in the raw materials but not identified on the MSDSs. Through this review of their processes and in conjunction with guidance from the Agency, Philway identified nine hazardous organic constituents that are potentially present in the petitioned waste. Philway subsequently provided analytical data for these nine hazardous organic constituents (see Table 2).

Philway provided test data indicating that the petitioned waste is not corrosive. The waste also was determined not to be ignitable or reactive. Philway substantiated its determination that the petitioned waste is not ignitable or reactive by explaining that the waste is composed of lime, metal hydroxides, and water. Furthermore, information presented in the petition indicates that sulfides are not used in the manufacturing or treatment processes generating the petitioned filter press sludge. See 40 CFR 261.21, 261.22, and 261.33.

Philway submitted a signed certification stating that, based on current annual waste generation, their maximum annual generation rate of filter press sludge is 96 cubic yards. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts Philway's certified estimate of 96 cubic yards of filter press sludge.

The Agency conducts a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions. As part of this program, the Agency conducted a spot-check sampling visit to Philway. The results of this visit are discussed later in this notice.

4. Agency Evaluation

The Agency considered the appropriateness of alternative disposal scenarios for filter press sludges and decided that disposal in a landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The Agency, therefore, evaluated the petitioned waste using its vertical and horizontal spread (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for these notices for a detailed description of the VHS model and its parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters to predict reasonable worst-case contaminant levels in ground water at a hypothetical receptor well or compliance point (*i.e.*, the model estimates the dilution of a toxicant within the aquifer for a specific volume of waste). The Agency requests comments on the use of the VHS model as applied to the evaluation of Philway's waste.

Specifically, the Agency used the VHS model to evaluate the mobility of the hazardous inorganic constituents detected in the EP extract of Philway's filter press sludge. The Agency's evaluation, using Philway's estimate of 96 cubic yards per year and the maximum reported EP leachate concentrations, generated the compliance-point concentrations shown in Table 3. The Agency did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, arsenic, mercury, and selenium) from Philway's waste because they were not detected in the EP extract using the appropriate SW–846 analytical test methods (see Table 1). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—VHS MODEL COMPLIANCE-POINT CONCENTRATIONS (PPM) FILTER PRESS SLUDGE

Constituents	Compliance-point concentrations	Levels of regulatory concern[1]
Barium	0.022	1.0
Cadmium	.0009	0.01
Chromium	.0012	.05
Lead	.0062	.05
Nickel	.0046	.7
Silver	.0003	.05
Cyanide	.0069	.7

[1] See "Docket Report on Health-based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 6, 1988, located in the RCRA public docket.

As seen in Table 3, the petitioned waste exhibited barium, cadmium, chromium, lead, nickel, silver, and cyanide levels at the compliance-point below the health-based levels used in delisting decision-making. As reported in Table 1, the maximum concentration of total cyanide in Philway's waste is 4.44 ppm. Because reactive cyanide is a specific subcategory of the general class of cyanide compounds, the Agency believes that the maximum level of reactive cyanide in the petitioned waste also will not exceed 4.4 ppm. Thus, the Agency concludes that the concentration of reactive cyanide will be below the Agency's interim standard of 250 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, Internal Agency Memorandum in the RCRA public docket.

The Agency did not evaluate the mobility of the hazardous organic constituents listed in Table 2 because they were not detected in samples analyzed using appropriate analytical test methods. As discussed above in conjunction with Table 3, the Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

The Agency concluded, after reviewing Philway's processes and raw materials list, that no other hazardous constituents of concern other than those tested for are being used by Philway, and that no other constituents of concern are likely to be present or formed as reaction products or by-products in Philway's waste. On the basis of test results and information submitted by the petitioner, pursuant to 40 CFR 260.22, the Agency concludes that the filter press sludge does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

On March 9, 1987, staff under contract to the Agency conducted a site visit to Philway as part of the Agency's spot-check sampling and analysis program. On October 14, 1987, Philway notified the Agency that their chemist had instituted a process change without direction or approval from the management personnel in charge of Philway's delisting efforts. (The process change entailed the substitution of caustic soda for lime as a neutralizing agent and precipitant. The filter press sludge generated using caustic soda proved to be two-thirds lower in volume than the lime-treated waste.) Philway has since resumed the use of lime during wastewater treatment because it did not wish to modify its process. Philway further noted in the October 14, 1987 letter that the samples collected during the Agency's spot-check visit were samples of the caustic-treated waste. Thus, because neither Philway management nor EPA personnel were aware of the change at the time of the spot-check visit, the Agency chose to invalidate the spot-check data and the results of the Agency's site visit were not used in the evaluation of Philway's waste. The Agency believes that Philway's management was unaware of the process change until its discovery and that Philway has taken sufficient action to return the process operations to those described in the petition. As such, the Agency believes that Philway acted in good faith even though the spot-check data had to be disregarded. To ensure there is no misunderstanding however, the proposed exclusion has been written to specify that the delisting refers only to the lime treated wastewaters. (See the RCRA public docket for today's notice for a copy of the Agency's draft report on the spot-check visit.)

5. Conclusion

The Agency believes that Philway has successfully demonstrated that its filter press sludge is not hazardous. Philway's manufacturing and waste treatment processes are believed to be consistent because the facility does not perform as a job shop or have seasonal product variations. Furthermore, the Agency believes that the samples collected by Philway over three years adequately reflect the temporal variations in manufacturing and treatment processes intended to be used thereafter. The Agency, therefore, is proposing that Philway's waste be considered non-hazardous, as it should not present a hazard to either human health or the environment. The Agency proposes to grant an exclusion to Philway Products, Incorporated, located in Ashland, Ohio, for its wastewater treatment filter press sludge described in its petition as EPA Hazardous Waste No. F006. If the proposed rule becomes effective, the filter press sludge would no longer be subject to regulation under 40 CFR Parts 262 through 268 and the permitting standards of 40 CFR Part 270.

If made final, the exclusion will apply only to the processes and waste volume covered by the original demonstration. The exclusion is only valid for lime treated waste and does not cover any wastes produced by the substitution of caustic soda for lime as a neutralizing agent and precipitant. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition or increase in waste volume occurred. The facility would need to file a new petition

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for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if finally promulgated, will become effective immediately upon such final promulgation. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 USC §§ 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511, 44 USC § 3501 *et. seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: October 6, 1989.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Table 1 of Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
•	•	•
Philway Products, Incorporated.	Ashland, Ohio.	Filter press sludge generated (at a maximum annual rate of 96 cubic yards) during the treatment of electroplating wastewaters using lime (EPA Hazardous Waste No. F006). This exclusion was published on [insert date of final rule's publication in the Federal Register.]
•	•	•

[FR Doc. 89–25355 Filed 10–26–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580 and 581

[Docket No. 89–20]

Definition of Shipper and Availability of Mixed Commodity Rates

AGENCY: Federal Maritime Commission.

ACTION: Availability of finding of no significant impact.

SUMMARY: The Commission has completed an environmental assessment of a proposed rule in Docket No. 89–20 and found that its resolution of this proceeding will not have a significant impact on the quality of the human environment.

DATE: Petitions for review are due November 6, 1989.

ADDRESS: Petitions for review (Original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001.

FOR FURTHER INFORMATION CONTACT: Edward R. Meyer, Office of Special Studies, 1100 L Street, NW., Washington, DC 20573–0001.

SUPPLEMENTARY INFORMATION: Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Special Studies has determined that Docket No. 89–20 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and that preparation of an environmental impact statement is not required.

In Docket No. 89–20, 54 FR 40891 (October 4, 1989), the Commission proposes to amend its tariff and service contract rules in 46 CFR parts 580 and 581 to: (1) Amend the definition of "shipper" to clarify the scope of the term, and (2) require that mixed commodity rates be made available only to a "shipper," as proposed, and to "shippers' associations" as presently defined in the Commission rules. A shipper using a mixed commodity rate would be required to furnish the ocean common carrier a listing of commodities. If the shipper is a non-vessel-operating common carrier ("NVOCC"), it would also have to indicate its FMC tariff number on the ocean carrier's bill of lading and on any service contracts to which it is a party. The proposed rule is intended to preclude untariffed NVOCC operations and to otherwise ensure that persons acting as shippers pursuant to the 1984 Act qualify to do so.

This Finding of No Significant Impact ("FONSI") will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 504.6 (b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, room 11101, Federal Maritime Commission, Washington, DC 20573–0001, telephone (202) 523–5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89–25351 Filed 10–26–89; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[OST Docket No. 64; Notice 89–21]

RIN Number 2105–AA03

Minority Business Enterprise Program

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: This notice withdraws a regulatory proposal concerning direct Department of Transportation (DOT) contracting in regard to programs for minority business enterprises (MBEs). The rulemaking proposal has become unnecessary in view of other programs to assist small and disadvantaged firms in Federal procurement.

EFFECTIVE DATE: October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–9306.

SUPPLEMENTARY INFORMATION: On May 17, 1979, the Office of the Secretary of the Department of Trasnportation (DOT) published a Notice of Proposed Rulemaking (44 FR 28928) proposing to establish a uniform Departmental program for participation by firms owned and controlled by minorities and women (MBEs) in contracts and programs funded by the Department. The proposal would have applied to any direct or DOT-assisted contract or program where funds are made available for accomplishing the mission of DOT. "Direct contract" meant a contract or any modification thereof between the Department and a contractor or lessee.

The final rule resulting from this proposal (49 CFR part 23) covers only financial assistance programs. When the final rule became effective in 1980, the Department contemplated the addition of a direct contracts subpart (subpart B) to the rule at a later date. This subpart was to implement amendments to the Small Business Act, as amended (Pub. L. 95–507). This subpart was not implemented and this final rule does not address direct DOT procurement activities.

The Department has decided that an MBE program based on the 1979 proposal for direct contracting is not necessary in view of the developments in the small and disadvantaged business programs during the interim period. Some examples of DOT programs that help minority-owned, women-owned and disadvantaged enterprises are the Short Term Lending Program, the Bonding Assistance Program, the Women-Owned Business Enterprise Program, and the Public Information Program. These are in addition to provisions in Federal government and DOT procurement rules and procedures that carry out small and disadvantaged business subcontracting plan requirements of Public Law 95–507.

For these reasons, those portions of the 1979 proposal relating to direct contracts are withdrawn.

Issued this 17th day of October 1989, at Washington, DC.

Samuel K. Skinner,

Secretary.

[FR Doc. 89–25322 Filed 10–26–89; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB36

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Inflated Heelsplitter, Potamilus inflatus

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes the inflated heelsplitter mussel, *Potamilus inflatus*, to be a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). This freshwater mussel is currently known from only the Amite River, Louisiana, and the Tombigbee and Black Warrior Rivers, Alabama. Habitat modification by gravel dredging and for flood control and navigation represent major threats to this species. This proposal, if made final, would implement the protection of the Act for the inflated heelsplitter. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by December 26, 1989. Public hearing requests must be received by December 11, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to Complex Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Avenue, Suite 316, Jackson, MS 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James H. Stewart at the above address, (telephone 601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

The inflated heelsplitter was first described as *Symphynota inflata* by Lea in 1831. While the taxonomic status of this species has not been questioned in the literature, there has been considerable discussion of the genus. It has been placed in *Unio, Lampsilis, Metaptera, Margarita, Margaron,* and *Proptera,* in addition to the other names discussed here (Simpson 1914, Clarke 1986, Hartfield 1988). *Potamilus* is accepted as the correct generic name by numerous authors (Morrison 1969,

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Valentine and Stansbery 1971, Clark 1986, Tergeon *et al.* 1988). The common name in general usage for this species has been the Alabama heelsplitter. This rule follows the common names as used in Turgeon *et al.* (1988) in support of the effort to standardize nomenclature of mussels.

The inflated heelsplitter was known historically from the Amite and Tangipahoa Rivers, Louisiana; the Pearl River, Mississippi; and the Tombigbee, Black Warrior, Alabama, and Coosa Rivers, Alabama (Hurd 1974, Stern 1976, Hartfield 1988). The presently known distribution is limited to the Amite River, Louisiana, and the Tombigbee and Black Warrior Rivers, Alabama (Stern 1976, Hartfield 1988). The collection of this species from the Pearl River by Hinckley was reported by Frierson (1911) and a single valve collected by Parker is curated in the National Museum of Natural History (Dr. James Williams, U.S. Fish and Wildlife Service, pers. comm. 1988). There are no other reported collections from the Pearl River (Hartfield 1988). A single specimen was collected from the Tangipahoa River, Louisiana, in 1964 by Stein and Stansbery (Dr. David Stansbery, Ohio State University, pers. comm. 1985). Hartfield (1988) did not find the species in the Tangipahoa River during his survey. Hurd (1974) doubted the occurrence of this species in the Coosa River based upon the single lot available in museums. The species has not been reported from the Coosa or Alabama Rivers in over 20 years (Hurd 1974, Hartfield 1988).

The inflated heelsplitter has an oval, compressed to moderately inflated, thin shell. The valves may gape anteriorly, the umbos are low, and there is a prominent posterior wing that may extend anterior to the beaks in young individuals. The shell is brown to black and may have green rays in young individuals. The umbonal cavity is very shallow and the nacre is pink to purple. Shell length reaches 140 millimeters (5½ inches) in adults (Stern 1976). It is most similar to the pink papershell (*Potamilus ohioensis*), yet is easily distinguished by shell morphology (Hartfield 1988). The shell and teeth of the inflated heelsplitter are more delicate, and the shell is darker and has a pointed posterior, whereas the pink papershell has a rounded posterior. The inflated heelsplitter appears more inflated due to a more developed and rounded posterior ridge. The posterior wing of the inflated heelsplitter is more pronounced and abruptly rounded over the dorsum. The pink papershell may lack much of a wing, and when pronounced, it may be only slightly rounded and extend scarcely above the dorsum (Hartfield 1988). Lending further taxonomic strength to this species distinction is the occurrence of the pink papershell in lakes and sloughs, while the inflated heelsplitter has not been found in this habitat.

The preferred habitat of this species is soft, stable substrates in slow to moderate currents (Stern 1976). It has been found in sand, mud, silt and sandy-gravel, but not in large gravel or armored gravel (Hartfield 1988). It is usually collected on the protected side of bars and may occur in depths over 20 feet. The occurrence of this species in silt may not indicate that the life cycle can be successful in that substrate (Hartfield 1988). Adult mussels may survive limited amounts of silt where juveniles would suffocate. The occurrence of this species in silt may be because it was established prior to deposition of the silt.

The inflated heelsplitter, *Potamilus inflatus*, was listed as a category 2 candidate (a taxon for which data in the Service's possession indicate listing is possibly appropriate) in the notice of review published in the **Federal Register** on May 22, 1984 (49 FR 21664) and January 6, 1989 (54 FR 554).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the inflated heelsplitter (*Potamilus inflatus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The inflated heelsplitter historically occurred in the Amite and Tangipahoa Rivers, Louisiana; the Pearl River, Mississippi; and the Tombigbee, Black Warrior, Alabama, and Coosa Rivers, Alabama (Hurd 1974, Stern 1976, Hartfield 1988, 1989). It is currently known from only the Amite, Tombigbee and Black Warriors Rivers. Only one specimen has been collected from the Tangipahoa River, and in a recent survey by Hartfield (1988) no additional specimens were found. Hartfield found the upper Tangipahoa River to be much smaller than areas where this species occurs in other rivers. The stretch of the Tangipahoa River where the one specimen was collected has been severely eroded in recent years, presumably by gravel mining (Hartfield 1988).

The inflated heelsplitter has been reported from two areas on the Pearl River, Mississippi. One site was in the lower Pearl downstream of Bogalusa, Louisiana (Williams pers. comm. 1988) and the other site was near Jackson, Mississippi (Frierson 1911). The exact collecting site is unknown for both of these records. The Pearl River near Jackson has been impacted by pollution, channelization, and flood control levees and by an impoundment for recreation and a municipal water supply. The lower Pearl River near Bogalusa has been impacted by channel erosion, habitat modification for navigation, and industrial and urban pollution (Hartfield 1988). Based upon the scarcity of records from the Coosa River, Hurd (1974) doubted the historic occurrence of this species in that system. It has not been reported from that system since the construction of impoundments for flood control and hydropower.

The type specimen was reported from the Alabama River by Lea (1831) and has been reported from this same river by others (Conrad 1834, Simpson 1914). However, it has not been collected from the Alabama River in many years, presumably due to the impoundment of that system for navigation, flood control, and hydropower (Hartfield 1989).

The only known site for this species in the Black Warrior River is below Warrior Dam near Eutaw, Alabama. A single specimen was collected by Grace in the mid-1970's (Williams, pers. comm. 1985). A survey by Service divers in 1989 found two fresh dead shells but no live individuals. The species undoubtedly continues to survive in the Black Warrior River below Warrior Dam. The remainder of the Black Warrior River has been impacted by impoundment for navigation sedimentation from surface mining.

The species continues to survive in the Tombigbee River in at least two localities, Gainesville Bendway and downstream of Jackson Dam. Most of the Tombigbee River was modified by construction of the Tennessee-Tombigbee Waterway. This resulted in the loss of riverine habitat by impoundment, channelization, and flow diversion. Habitat that was originally believed would continue to support mussel populations has been destroyed by heavy accumulations of sediment. The only known population of the inflated heelsplitter in the Waterway is below Gainesville Spillway where the normal river flow, with the exception of navigation lockages, is released from this impoundment (Paul Hartfield, Mississippi Department of Wildlife Conservation, pers. comm. 1989). This has maintained a relatively clean and stable habitat suitable to this species.

The only other known population in the Tombigbee River occurs downstream of Jackson Dam. In this stretch, the species has been collected by Service and Mississippi Department of Wildlife Conservation biologists at four sites over a 12-river-mile area. Below the lowermost of these collection sites, no mussels were found by surveys in 1985 and 1986 by Service and Department biologists, possibly due to impacts from industrial effluents. The entire Tombigbee River has been modified for navigation by impoundment and channelization, and frequent dredging is required to maintain the navigation channel. Navigation dredging threatens this population by the deposition of spoil on bars along the sides of the river channel (Hartfield 1988). This material washes onto mussel habitat below the bars and may suffocate mussels and make conditions unfavorable for recruitment.

This species continues to exist in the Amite River with major threats being gravel mining and proposed channel modification for flood control. Hartfield (1989) concluded that 30 percent of the range of this species in the Amite River had been lost since 1976, primarily due to gravel mining. Without protection, this loss is expected to continue with the intensive gravel mining and resulting headcutting that is ongoing. The Corps of Engineers and Louisiana Department of Transportation and Development are studying methods of flood control on the Amite River. The proposed Darlington Reservoir would be constructed upstream of existing inflated heelsplitter habitat, and the actual impoundment of the stream may not impact this population of the species. The impact of this reservoir will likely be determined by the type and method of water releases incorporated. A deep water release would result in colder water temperatures, which may interrupt the life cycle of this mussel. The control of water flows, especially during low water levels, could strand mussels on dry bars and may reduce the capacity of the river to flush sediments from mussel habitat. An alternative flood control measure under consideration is the widening and channelization of the Amite River. This potential action would likely eliminate the inflated heelsplitter from the Amite River, leaving the only population in the Tombigbee and Black Warrior system.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The species is not of commercial value at this time and any collecting is likely to be for scientific purposes. Over collection is not considered a threat.

C. *Disease or predation.* Diseases are not known for mussels, although unexplained dieoffs have occurred. Predation may exist to a limited extent when muskrats and raccoons prey on mussels. This would have a minimal effect since this species seems to prefer deeper water.

D. *The inadequacy of existing regulatory mechanisms.* Existing laws are inadequate to protect this species. It is not recognized by Alabama or Louisiana as needing any special protection, although both States require a scientific collector's permit. Collection, however, is likely to go undetected due to the limited enforcement personnel available and higher priority demands on their time. The species is not given any special consideration under other environmental laws when project impacts are reviewed.

E. *Other natural or manmade factors affecting its continued existence.* The known populations are isolated from each other and apparently are limited in extent. This could result in low genetic variation and make these populations more susceptible to environmental disturbance due to loss of adaptability.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the inflated heelsplitter as threatened. Threatened status was chosen because the species still exists in three rivers, and the range within two of these rivers consists of reproducing populations that are widely distributed and not subject to single event impacts.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species due to the lack of benefit from such designation. All Federal and State agencies likely to be involved have been notified of the location and importance of protecting this species' habitat. No additional benefits would accrue from a critical habitat designation that would not accrue from the listing. Precise locality data are available to appropriate agencies through the Service office described in the ADDRESSES section. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for the inflated heelsplitter.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species, or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency in consideration of the Clean Water Act, pesticide registration, and waste management actions. The Corps of Engineers will include this species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of bridge and road

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construction at points where known habitat is crossed. Continuing urban development within the drainage basins may involve the Farmers Home Administration and their loan programs.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to Complex Field Supervisor (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is James H. Stewart (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) for animals by adding the following, in alphabetical order under "CLAMS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Clams:							
Heelsplitter, inflated (=Alabama)	*Potamilus inflatus*	U.S.A. (AL, LA, MS)	NA	T	NA	NA	

Dated: October 3, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89–25369 Filed 10–26–89; 8:45 am]

BILLING CODE 4310–55–M

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Notices

Federal Register
Vol. 54, No. 207
Friday, October 27, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Limitation to the Redelegation of Authority To Approve Debt Settlements and Releases of Liability in Connection With Voluntary Liquidations

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of redelegation of authority.

SUMMARY: On October 6, 1988, The Farmers Home Administration (FmHA) Administrator redelegated certain authorities to all State Directors dealing with the settlement of and/or release of liability on FmHA debts, owed by borrowers, who made application to settle their FmHA debts or request release of liability. Notice of this redelegation was published in 53 FR 40247 (October 14, 1988). The redelegation authority granted on October 6, 1988, expires on September 30, 1989, and the Acting Administrator now gives notice to extend that redelegation through September 30, 1990, but reduces the State Directors approval authority not to exceed $1,000,000 (including principal, interest and other charges). All debt settlements/release of liability cases in excess of $1,000,000 must be submitted to the National Office for approval by the Administrator. This action is taken to expedite the processing of debt settlement applications/requests, of borrowers who are unable to repay all of their FmHA debts. The effect of the extension of the redelegation of the Administrator's authority is the continued expediting of the administrative review process for debt settlements and releases of liability permitting more timely debt relief to FmHA borrowers, and to correspondingly reduce the Agency's portfolio of inactive uncollectable accounts.

EFFECTIVE DATES: October 1, 1989, through September 30, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas B. Baden, Senior Loan Officer, Farmer Programs Loan Servicing Division, Farmers Home Administration, USDA, Room 5437, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone 202–475–4008.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance programs affected by this notice are:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Very Low and Low Income Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.428 Economic Emergency Loans

Notice

The notice of the delegation of authority for approving debt settlement/release of liability cases reads as follows:

This extends the authority given under the unnumbered memorandum dated October 6, 1988, entitled "Delegation of Authority for Approving Debt Settlement/Release of Liability Cases" but reduces the approval authority not to exceed $1,000,000 (including principal, interest and other charges). All debt settlement/release of liability cases in excess of $1,000,000 must be submitted to the National Office for approval by the Administrator.

Pursuant to authority delegated to me as Acting Administrator, Farmers Home Administration, I hereby redelegate to State Directors approval authority not to exceed $1,000,000 (including principal, interest and other charges) for the following:

1. Debt settlement cases in accordance with section 1956.58(a) of FmHA Instruction 1956–B, "Debt Settlement—Farmer Programs and Single Family Housing," (Revised 7–29–87, PN 59).

2. Release of liability cases in accordance with sections 1955.10(f)(2), and 1955.20(b)(2) of FmHA Instruction 1955–A, "Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property."

3. Release of liability cases in accordance with section 1962.34(h) of FmHA Instruction 1962–A, "Servicing and Liquidation of Chattel Security," and sections 1965.26(f)(5)(ii) and 1965.27(f) of FmHA Instruction 1965–A, "Servicing of Real Estate Security for Farmer Programs Loans and Certain Note-Only Cases."

This authority does not extend to debt settlement of Non-Program loans, Economic Opportunity loans, and claims against third party converters.

This extension of the redelegation shall be effective through September 30, 1990, unless revoked or otherwise modified, in writing. The authority delegated to the State Director cannot be further delegated.

Dated: October 20, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–25299 Filed 10–26–89; 8:45 am]

BILLING CODE 3410–07–M

Food and Nutrition Service

State Processing Program Meeting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: A meeting to discuss proposed changes to the State Processing Program regulations is scheduled for Wednesday, December 13, 1989. The meeting will serve as an open forum to solicit recommendations from the general public for changes to be proposed in the State processing regulations.

DATE: The meeting will take place on Wednesday, December 13 from 9:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will be held in the Park Office Center, 3101 Park Center Drive, Alexandria, Virginia 22302 in the fourth floor conference room.

FOR FURTHER INFORMATION CONTACT: Susan E. Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, (703) 756–3660.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to give the U.S. Department of Agriculture the opportunity to seek the advice of State, local and industry representatives as well as the general public prior to formulating proposed regulations to amend the current State processing regulations found at 7 CFR 250.30. The National Association of State Agencies for Food Distribution and the National Advisory Council on Commodity Distribution have recommended that the Food and Nutrition Service (FNS), through a joint "partnership" effort, discuss potential improvements to the regulations prior to issuing proposed regulations. Although this is not always possible, FNS agrees that in this case public involvement would be very helpful. Topics to be discussed during the meeting include: (1) Timeframes for processors to pay refunds; (2) The requirement that distributors be required to state the amount of the rebate due on sales invoices to recipient agencies; (3) Clarification of the definition of a Food Service Management Company; (4) Fee-for-Service processing policy; (5) Agreement renewal versus annual approval; (6) Use of alternative value return systems; and (7) Additional substitution for donated foods.

The agenda will be available 15 days prior to the meeting. Requests for the agenda should be sent to Susan E. Proden, Chief, Program Administration Branch, Food Distribution Division, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302. Comments may be sent to Susan E. Proden before or within 30 days after the meeting.

Dated: October 17, 1989.

G. Scott Dunn,

Acting Administrator.

[FR Doc. 89–25294 Filed 10–26–89; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Revision of Black Hills National Forest Land and Resource Management Plan (Forest Plan); Black Hills National Forest; Custer, Fall River, Meade, Lawrence, Pennington Counties, SD; Crook and Weston Counties, WY

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: Pursuant to 36 CFR 219.10(g), the Forest Supervisor of the Black Hills National Forest gives notice of the agency's intent to prepare an environmental impact statement for the revision of the Black Hills National Forest Land and Resource Management Plan (Forest Plan).

DATE: Comments concerning the scope of the analysis should be in writing and received by February 15, 1990.

ADDRESS: Send written comments to Forest Supervisor, Black Hills National Forest, RR 2, Box 200, Custer, SD 57730.

FOR FURTHER INFORMATION CONTACT: John Rupe, Forest Plan Interdisciplinary Team Leader, 605–673–2251.

SUPPLEMENTARY INFORMATION: According to 36 CFR 219.10(g), Forest Plans are ordinarily revised on a 10-year cycle. The current Black Hills National Forest Land and Resource Management Plan was approved on August 19, 1983. The Black Hills National Forest is scheduled to issue its revised Forest Plan and FEIS in August, 1993.

The Forest Plan revision will focus on changed conditions or demands in the area covered by the Plan. Those sections of the Forest Plan which continue to be responsive to issues and demands, and which meet requirements for resource protection, will not be revised.

Through monitoring and evaluation of the Forest Plan, the Forest Supervisor of the Black Hills National Forest has determined that the following topics should be reexamined during Forest Plan revision:

1. The mix of vegetation types and ages and the management practices needed to achieve the desired mix.

2. The demand for increased water yield.

3. Management requirements for mineral exploration and mining.

4. Management and protection of caves in coordination with other agencies.

5. Determination of lands not suitable for timber production and the allowable sale quantity of timber.

6. Management of the approximately 5,000 acre Beaver Park area located south of Sturgis, South Dakota.

7. Management of National Forest land near private land.

Federal, state, and local agencies, Native American tribes, individuals and organizations are invited to submit comments on these and other topics which are relevant to management of the Black Hills National Forest. Comments should be sent in writing to the address above by February 15, 1990.

Public involvement in the Plan revision process will be sought by: (1) Sending newsletters and requests for comment to agencies, organizations and individuals, and (2) holding open houses in Black Hills communities. Dates, locations, and times for the open houses will be announced in local news media and in newsletters.

The responsible official for approving the Forest Plan revision is the Regional Forester, Rocky Mountain Region, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, CO 80225. The Forest Supervisor, Black Hills National Forest, is delegated responsibility for preparing the revision.

Revision of the Forest Plan is expected to take 3 years; the draft environmental impact statement and proposed Forest Plan revision should be available for public review in August 1992. The final environmental impact statement, Record of Decision, and Forest Plan revision are scheduled to be completed by August 1993.

The comment period on the draft environmental impact statement will be a minimum of 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

Two recent court rulings related to public participation in the environmental review process are pertinent to those interested in participating in the revision of the Black Hills National Forest Land and Resource Management Plan. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts *Wisconsin Heritages, Inc.* v. *Harris*, 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period on the draft environmental impact statement so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the

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procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Dated: October 16, 1989.

Darrel L. Keaope,

Forest Supervisor.

[FR Doc. 89-25306 Filed 10-26-89; 8:45 am]

BILLING CODE 3410-11-M

Bagdad Mine; Lolo National Forest; Granite County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; cancellation of notice of intent to prepare an environmental impact statement.

SUMMARY: On March 31, 1988, notice was published in the **Federal Register** (53 FR 10413) that an environmental impact statement would be prepared to identify the specific operating stipulations under which the Bagdad Mine would be developed. That notice is hereby cancelled.

Mark V. Mines, owner, has suspended its plan to develop the Bagdad Mine, located in Williams Gulch, a tributary of Rock Creek and located in Granite County, Montana.

EFFECTIVE DATE: This action is effective October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Dave Stack, District Ranger, Missoula Ranger District, Lolo National Forest, Building 24–A, Fort Missoula, Missoula, MT 59801; telephone (406) 329–3814 or (406) 329–3948.

Dated: October 16, 1989.

Orville L. Daniels,

Forest Supervisor.

[FR Doc. 89-25317 Filed 10-26-89; 8:45 am]

BILLING CODE 3410-11-M

Bender/ReTie Timber Sale

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of a proposal to harvest and regenerate timber stands, reconstruct existing roads and construct new roads in portions of the Bender, Johnson and Tie Creek drainages on the Wisdom Ranger District, Beaverhead National Forest, Beaverhead County, Montana. The proposed action is located within portions of the Beaver Lake Roadless Area 1–003B and the North Big Hole Roadless Areas A1–001 and C1–001. This EIS will tier to the Beaverhead National Forest Land and Resource Management Plan EIS of April 1986, which provides overall guidance in achieving the desired future condition for the area. The purpose and goal of the proposed action is to help satisfy the short-term demands for timber, maintain a continuous supply of timber for the future, and produce a distribution of size and age classes of timber stands that more fully realize site potential, are healthier, and are more resistant to disease and insect infestations. The Forest Service is seeking additional information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in and or affected by the proposed action. This input will be used in preparing the Draft Environmental Impact Statement (DEIS). This process will include:

1. Identification of Potential Issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.

The agency invites written comments and suggestions on the issues and management opportunities in the area being analyzed.

DATE: Comments should be received by December 1, 1989 to receive timely consideration in preparation of the Draft EIS.

ADDRESS: Submit written comments to the District Ranger, Wisdom Ranger District, Box 238, Wisdom, Montana 59761.

FOR FURTHER INFORMATION CONTACT: Dennis Havig, District Ranger, Wisdom Ranger District, Beaverhead National Forest, telephone (406) 869–3243.

SUPPLEMENTARY INFORMATION: The proposed action is designed to fulfill the goals and objectives of the Land and Resource Management Plan for the Beaverhead National Forest which provides the overall guidance for management activities in the potentially affected area.

The areas of proposed timber harvest, regeneration, and associated road reconstruction and construction activities within the Bender, Johnson and Tie Creek drainages are located in Forest Plan Management Areas, 13, 16, 19, 20 and 21.

Management Area Descriptions

Management Area 13: Areas suitable for timber management on moist sites characterized by springs, seeps and wet areas. Usually requires selection systems and cable yarding.

Management Area 16: Areas that are available and suitable for timber management.

Management Area 18: Areas with high wildlife values such as summer range, security cover, elk calving areas, or limited winter range; generally on slopes less than 45 percent on existing livestock grazing allotments. Classified as suitable for timber management at low intensity levels with no planned cultural treatments.

Management Area 20: Same as Management Area 19 except that timber management will be at moderate levels permitting cultural treatments.

Management Area 21: A variety of forested lands with high wildlife values such as summer range, elk calving areas, security cover or limited winter range; outside of existing range allotments; classified as suitable for timber management.

The analysis will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed harvest, regeneration, road reconstruction and road construction activities would be implemented. Other alternatives will examine varying levels and locations for the proposal in response to issues and objectives.

Three RARE II roadless areas are located within the Bender, Johnson, and Tie Creek area and could be affected by the proposed timber harvest, regeneration, and road construction. The Beaver Lake Roadless Area 1–003B totals 5548 acres. The North Big Hole Roadless Area is comprised of several parcels of which two, A1–001 and C1–001 could be affected. Parcel A1–001 totals 24,332 acres and parcel C1–001 totals 1521 acres.

The EIS will analyze and document the direct, indirect and cumulative environmental effects of the alternatives. Past, present and projected activities on both private and National Forest Lands will be considered. In addition, the EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by February 1, 1990. At that time, the EPA will publish a Notice of Availability of the DEIS in the **Federal Register**. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in the Final Environmental Impact Statement (FEIS). The FEIS is scheduled to be completed by June 1, 1990. The Forest Service will respond in the FEIS to the comments received on the DEIS.

Public participation will be important in the analysis and in the review of the DEIS. People are invited and encouraged to contract and or visit with Forest Service officials at any time during the analysis and prior to the decision.

The Forest Supervisor for the Beaverhead National Forest, Ronald Prichard, who is the responsible official for the EIS, will make a decision regarding this proposal considering the comments, responses, environmental consequcnes discussed in the FEIS and applicable laws, regulations and policies. The decision and reasons for the decision will be documented in a Record of Decision.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency published the notice of availability in the **Federal Register**. The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of the draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that administrative comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: October 19, 1989.

Ronald Prichard,

Forest Supervisor, Beaverhead National Forest.

[FR Doc. 89-25291 Filed 10-26-89; 8:45 am]

BILLING CODE 3410-11-M

Snowbasin Land Exchange/Snowbasin Ski Area Master Plan, Wasatch-Cache National Forest, Weber County Utah

AGENCY: Forest Service, USDA.

ACTION: Amendment to the notice of intent to prepare an environmental impact statment.

SUMMARY: A notice of Intent to prepare an environmental impact statement for a proposal to exchange acquired private land for 1320 acres of National Forest land adjacent to the Snowbasin Ski Area was published in the **Federal Register** July 21, 1989 (54 FR 30583).

The scoping process and the environmental analysis have progressed to the point where it was determined that the proper decision is the approval of the Master Plan for the ski area development. The Master Plan approval will determine if, and how much, National Forest lands should be made available for exchange. A subsequent analysis and decision will be made on any site specific land exchange proposal.

The responsible official is changed from Stan Tixier, Regional Forester, Intermountain Region to Dale N. Bosworth, Forest Supervisor, Wasatch-Cache National Forest.

Dated: October 18, 1989.

Susan Giannettino,

Deputy Forest Supervisor.

[FR Doc. 89-25289 Filed 10-26-89; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Honey Creek Watershed, Indiana

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Honey Creek Watershed, Vigo and Clay Counties, Indiana.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, 6013 Lakeside Boulevard, Indianapolis, Indiana 46278, telephone 317–290–3200.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood protection. The planned works of improvement include 12.0 miles of dikes, a storage basin, and relocation of the outlet (1,000 feet) of a small (370 acre drainage area) intermittent tributary.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert L. Eddleman. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: October 18, 1989.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 89-25292 Filed 10-26-89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by José R. Pérez-Villamil from Objections by the Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

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ACTION: Notice of appeal and request for comments.

On August 16, 1989, the Secretary of Commerce received a notice of appeal from José R. Pérez-Vllamil (Villamil). Villamil is appealing to the Secretary under section 307(c)(3)(B) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the Puerto Rico Planning Board (PRPB) to Villamil's consistency certification for a U.S. Army Corps of Engineers permit to construct in Tamarindo Bay on Culebra Island, Puerto Rico, a 125-foot-long and 6-foot-wide wooden pier with a "T" end that is 25 feet long and 6 feet wide.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3)(B). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

Villamil requests that the Secretary override the PRPB's consistency objections based on Ground I. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that (1) the proposed activity furthers one or more of the national objectives or purposes contained in sections 302 or 303 of the CZMA; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest; (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act; and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with Puerto Rico's coastal management program. *See* 15 CFR 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within thirty days of the publication of this notice and should be sent to Susan K. Auer, Attorney-Advisor, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington DC 20235. Copies of comments should also be sent to Linda M. Dueño, Puerto Rico Planning Board, Minillas Governmental Center, North Building, De Diego Ave., Stop 22, P.O. Box 41119, San Juan, P.R. 000940–9985.

All nonconfidential documents submitted or received in this appeal are available for public inspection during business hours at the offices of the PRPB and the Office of the Assistant General Counsel for Ocean Services. NOAA.

FOR ADDITIONAL INFORMATION CONTACT: Susan K. Auer, Attorney-Advisor, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673–5200.

Dated: October 19, 1989.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 89–25340 Filed 10–26–89; 8:45 am]

BILLING CODE 3510-08-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Plan Monitoring Teams (PMTS) for the Bottomfish/Seamount Groundfish, Crustaceans, and Pelagic fisheries, will hold separate public meetings on November 1, 2, and 3, 1989, at the National Marine Fisheries Service, Honolulu Laboratory, conference room, 2570 Dole Street, Honolulu, HI.

The *Bottomfish and Seamount Groundfish fisheries PMT* will meet at 8:30 a.m., on November 2 to discuss development of a fishery management plan (FMP) which complies with the new 50 CFR part 602 guidelines on National Standards 1 and 2.

The *Crustaceans PMT* will meet at 10 a.m., on November 1 to discuss compliance of the FMP with the new 50 CFR part 602 guidelines.

The *Pelagic PMT* will meet on November 3 at 9 a.m., to: (1) Approve the May 31, 1989, PMT meeting minutes; (2) finalize the second annual report; (3) redefine the FMP monitoring process as to: (a) overfishing (apply for exemption or rewrite the FMP), (b) fishery interaction and managing the fishery, and (c) the Stock Assessment and Fishery Evaluation (SAFE) requirement and the third annual report; and (4) discuss pelagic fishery data.

For more information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (803) 523–1368.

Dated: October 23, 1989.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–25401 Filed 10–26–89; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Center for Coastal Studies (P444)

On March 27, 1989, notice was published in the **Federal Register** (54 FR 12470) that an application had been filed by Center for Coastal Studies, Box 826, Provincetown, MA 02657, for a permit to take three hundred (300) humpback whales (*Megaptera novaeangliae*), eighty (80) fin whales (*Balaenoptera physalus*), and fifty (50) right whales (*Eubalaena glacialis*) for scientific purposes.

Notice is hereby given that on October 19, 1989, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220–222 of the National Marine Fisheries Service regulations governing endangered fish and wildlife permits.

Documents submitted in connection with this permit are available in the following offices:

Office of Protected Resources, Permits Division, National Marine Fisheries Service, 1335 East West Highway, Suite 7324, Silver Spring, Maryland 20910; and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930.

Dated: October 19, 1989.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 89–25327 Filed 10–26–89; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; The Cetacean Research Unit P418

On April 5, 1988, notice was published in the **Federal Register** (53 FR 11110) that an application had been filed by The Cetacean Research Unit, P.O. Box 159, Gloucester, Massachusetts 01930, to take humpback whales (*Megaptera novaeangliae*), fin whales (*Balaenoptera physalus*), right whales (*Eubalaena glacialis*), and sei whales (*Balaenoptera borealis*), for scientific research.

Notice is hereby given that on October 19, 1989 as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit; (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Suite 7324, Silver Spring, Maryland 20910; and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts, 01930.

Dated: October 19, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89–25328 Filed 10–26–89; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION OF FINE ARTS

Meeting; Washington, DC

The Commission of Fine Arts' next scheduled meeting is Wednesday, November 15, 1989, at 10 a.m. at the Commission's offices at 708 Jackson Place NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the Government. Handicapped persons should call the office at 566–1066 for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, October 20, 1989.

Charles H. Atherton,

Secretary.

[FR Doc. 89–25387 Filed 10–26–89; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1989 commodities and a military resale commodity to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 27, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 28, August 11, September 1 and 8, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 31357, 33051, 36369 and 37356) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018).

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and military resale commodity and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities, military resale commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities, military resale commodity and services listed.

c. The actions will result in authorizing small entities to produce the commodities, military resale commodity and provide the services procured by the Government.

Accordingly, the following commodities, military resale commodity and services are hereby added to Procurement List 1989:

Commodities

Cap, Utility, Camouflage
8405–01–246–4176
8405–01–246–4177
8405–01–246–4178
8405–01–246–4179
8405–01–246–4180
(50 percent of Government's Requirement)

Military Resale Item No. and Name

M.R. 929 Mop, Stick, Foam/Nonwoven

Services

Janitorial/Custodial, Naval Air-Facility, El Centro, California
Janitorial/Custodial, Kirkwood U.S. Army Reserve Center, Wilmington, Delaware
New Castle U.S. Army Reserve Center, New Castle, Delaware
Janitorial/Custodial, 910 Tactical Airlift Group (AFRES), Except Building 540, Youngstown Municipal Airport, Vienna, Ohio
Packaging of Solicitations, Little Rock District, U.S. Army Corps of Engineers, Little Rock, Arkansas.

Beverly L. Milkman,

Executive Director.

[FR Doc. 89–25397 Filed 10–26–89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1989; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1989 a service to be provided by workshops for the blind or other severely handicapped.

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DATE: Comments must be received on or before November 27, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Janitorial/Custodial, Boston National Historical Park Building, 15 State Street, Boston, Massachusetts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 89–25398 Filed 10–26–89; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on CFTC–State Cooperation; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a), that the Commodity Futures Trading Commission's Advisory Committee on CFTC–State Cooperation will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, DC, headquarters located at Room 532, 2033 K Street, NW., Washington, DC 20581, November 14, 1989, beginning at 9:30 a.m. and lasting until 3:00 p.m. The agenda will consist of:

Agenda

1. Opening remarks—Wendy L. Gramm, Chairman, CFTC; Fowler C. West, Commissioner, CFTC and Chairman, Advisory Committee on CFTC–State Cooperation;
2. Discussion about potentially misleading investment advertising carried by broadcast media;
3. Discussion of ways to enhance the education of public school children on the dangers of securities and commodities fraud, and the possibility of a joint education effort with other organizations;
4. Report from the CFTC Division of Enforcement regarding cooperative enforcement activities and the exchange of information between state and federal enforcement entities;
5. Report on the current activities of the Department of Justice's Securities and Commodities Fraud Working Group; and
6. Discussion of other questions of concern to Advisory Committee members.

The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on matters of joint concern to the States and the Commission arising under the Commodity Exchange Act, as amended. The purposes and objectives of the Advisory Committee on CFTC–State Cooperation are more fully set forth in the March 31, 1988 Sixth Renewal Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Fowler C. West, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Advisory Committee on CFTC–State Cooperation c/o Commission Fowler C. West, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Commissioner West in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC, on October 23, 1989.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–25295 Filed 10–26–89; 8:45 am]

BILLING CODE 6351-01-M

Chicago Mercantile Exchange Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Availability of the Terms and Conditions of Proposed Commodity Option Contract.

SUMMARY: The Chicago Mercantile Exchange ("CME" or "Exchange") has applied for designation as a contract market in options on physical gold, with a European exercise provision. The Director of the Division of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 27, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CME physical gold option.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed option contract, or with respect to other materials submitted by the CME in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on October 23, 1989.

Steven Manaster,

Director, Division of Economic Analysis.

[FR Doc. 89–25296 Filed 10–26–89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement on Relocation, Upgrade and Operation of Certain Electromagnetic Pulse Simulators (EMP), Woodbridge Research Facility, Woodbridge, VA, and Construction and Operation of New EMP Simulator, Vertical Electromagnetic Pulse Simulator (VEMPS) II

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent to prepare an environmental impact statement to relocate, upgrade and operate certain electromagnetic pulse simulators now located at the Woodbridge Research Facility, Woodbridge, VA, and the construction and operation of a new EMP simulator, VEMPS II.

1. The U.S. Army Laboratory Command, Harry Diamond Laboratories intends to prepare an Environmental Impact Statement (EIS) for the relocation, upgrade and operation of certain electromagnetic pulse (EMP) simulators from the Woodbridge Research Facility, Woodbridge, VA, and the construction and operation of a new EMP simulator, VEMPS II. The U.S. Army Laboratory Command has terminated EMP simulator operations at the Woodbridge Research Facility, Woodbridge, VA. This notice supercedes the Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the operation of Electromagnetic Pulse Simulators (EMP) at the Harry Diamond Laboratories, Woodbridge Research Facility, Woodbridge, VA, published by the Department of the Army on January 12, 1989, in 54 FR 994.

The U.S. Army Laboratory Command, Department of the Army, is responsible for research, test, and evaluation of the effects of EMP on Army equipment. EMP is generated by the employment of nuclear weapons at high altitude and can render equipment inoperative because of its effect on electrical circuits and electronic components. EMP simulators produce only the EMP portion of a nuclear detonation without the use of any nuclear weapons, nuclear material, or nuclear radiation. Possible alternatives include:

a. Cease this type of testing, or

b. Conduct such testing by other means of simulation, or

c. Have other military, Federal departments or contractors conduct such testing, or

d. Relocate and operate those simulators at a number of undetermined, reasonable sites.

It is anticipated that the Army's EIS effort will be augmented by the services of contractors, consultants, and advisors with demonstrated expertise and experience to accumulate the necessary information to make the appropriate analysis.

2. The environmental impact analysis process will be in accordance with the National Environmental Policy Act of 1969, Army Regulation 220–2, 32 CFR part 651 and the regulations of the Council on Environmental Quality, 40 CFR part 1500. The purpose of this analysis is to determine the extent of any significant impacts, and in the event significant impacts exist, to analyze those impacts under the terms of the National Environmental Policy Act of 1969 and to explore mitigation for any significant impacts.

3. The Army will initiate a scoping process to discuss reasonable siting alternatives and to determine the significant issues related to the proposed action. Following the development of a list of alternate sites, the EIS process will begin with public scoping meetings, which will be announced in the **FEDERAL REGISTER** at least two weeks in advance of the meetings. Public as well as Federal, State, and local agency participation and input are desired. To provide an opportunity for public input to the scoping process, interested individuals, governmental agencies and private organizations are invited to submit information and comments for consideration by the Army and possible incorporation into the EIS. Particularly solicited is information on other environmental studies, issues and alternatives which the EIS should consider, major impacts and recommended mitigating measures associated with the proposed action.

4. Individuals or agencies may offer information relevant to the environmental impacts or aspects of the environment that should be considered by writing to or participating in public scoping meetings which will be held in January 1990. Notice will also be mailed to groups and individuals, agencies and anyone responding to this Notice of Intent desiring to be informed on the details of the upcoming public participating meetings. Questions and comments regarding the scope of the environmental analysis and documentation should be submitted to the Harry Diamond Laboratories Public Affairs Officer: Director, U.S. Army Laboratory Command, Harry Diamond Laboratories, ATTN: Public Affairs Officer, 2800 Powder Mill Road, Adelphi, MD 20783–1145; Area Code (202) 39402208.

Comments and suggestions should be received no later than 15 days following the public scoping meetings to be considered in the Draft EIS (DEIS).

Dated: October 24, 1989.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&L).

[FR Doc. 89–25402 Filed 10–26–89; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for the Western Long Island Sound Dredged Material Disposal Site

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In 1982 the New England Division (NED) of the U.S. Army Corps of Engineers prepared a Final Environmental Impact Statement (FEIS) and Record of Decision for a dredged material disposal site in Western Long Island Sound named WLIS III. Disposal began at the site in 1982. Pursuant to the lawsuit Town of Huntington, et al. v. Marsh, the United States District Court, Eastern District of New York found the 1982 FEIS deficient in its discussion of the nature, quantities, and cumulative effects of disposal from site use. The Court also found that in accordance with a 1980 amendment (33 U.S.C. Sec. 1416(f)) to the Ocean Dumping Act (ODA) the FEIS should have specifically applied the site selection criteria of the ODA (33 U.S.C. Sec. 1412) and Ocean Dumping Regulations (40 CFR part 228) to this Clean Water Act site selection. the Court has ordered NED to Supplement the 1982 FEIS to remedy these deficiencies.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Fredette, Regulatory Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo

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Road, Waltham, MA 02254–9149. Telephone: 617/647–8563.

SUPPLEMENTARY INFORMATION: The DSEIS will address the deficiencies identified by the Court by analyzing (1) sediment testing and volume data from permitted and Federally managed disposal projects that have used the site since 1982 and (2) results from over six years of environmental monitoring conducted by NED in and around the site. The Final Environmental Impact Statement for Western Long Island Sound was published in February 1982 and a Notice of Availability was published in the **Federal Register** in Vol. 47, No. 30, page 6483.

Copies of the DSEIS will be sent to recipients listed on the mailing list for the FEIS and any other interested parties providing requests.

The Draft Supplemental Environmental Impact Statement will be available on or after 16 October 1989.

Dated: October 6, 1989.

Daniel M. Wilson,

Colonel, Corps of Engineers, Division Engineer.

[FR Doc. 89–25290 Filed 10–26–89; 8:45 am]

BILLING CODE 3710-24-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement With Australia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the agreement for Cooperation between the Government of the United States of America and the Government of Australia concerning Peaceful Uses of Nuclear Energy, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/EU(AU)–7, for the return of a damaged unirradiated fuel element to the United Kingdom from Australia for repair and eventual return to Australia. The element contains 280.32 grams of uranium enriched to approximately 60 percent in the isotope uranium-235.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 24, 1989.

Richard H. Williamson,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 89–25391 Filed 10–26–89; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement With Taiwan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" to be carried out in Taiwan under the Agreement for Cooperation Concerning Civil Uses of Atomic Energy, signed April 4, 1972, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves the joint determination that safeguards may be effectively applied to the Hot Laboratory at the Institute of Nuclear Energy Research in Taiwan and approval of the alteration in form or content of irradiated fuel elements from the Chinshan, Kuosheng, and Maanshan reactors. The aforementioned determination will be made, and the approval for the post-irradiation examination for the agreed upon program from the Chinshan, Kuosheng, and Maanshan reactors will be granted, for the period ending December 31, 1992.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 24, 1989.

Richard H. Williamson,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 89–25392 Filed 10–26–89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF90–4–000, et al.]

The City and County of Honolulu, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 20, 1989.

Take notice that the following filings have been made with the Commission:

1. The City and County of Honolulu

[Docket No. QF90–4–000]

On October 5, 1989, The City and County of Honolulu (Applicant), of 650 South King Street, Honolulu, Hawaii 96285, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Oahu, Hawaii and will consist of two traveling grate waterwall boilers and a steam turbine generator. the net electric power production capacity of the facility will be 50 MW. The primary source of energy will be biomass in the form of municipal solid waste.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Cogeneration Partners, L.P.

[Docket No. QF90–10–000]

On October 12, 1989, Commonwealth Cogeneration Partners, L.P. (applicant), of 2800 Post Oak Blvd., P.O. Box 1396, Houston, Texas 77251–1396, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Hurt, Virginia. The facility will consist of two units each consisting of a boiler and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be utilized by the Klopman Fabrics Divsion plant of the Burlington Industries, Inc. for process use such as fabric preparation, dying and cleaning, and for space heating and humidifcation. The maximum net electric power production capacity of the facility will be 123.6 MW. The primary source of energy will be coal.

Construction of the facility is scheduled to begin during the last quarter of 1990.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25308 Filed 10–26–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89–86–000]

Chandeleur Pipe Line Co.; Informal Settlement Conference

October 23, 1989.

Take notice that an informal settlement conference will be convened in the above-proceeding on Tuesday, November 7, 1989, at 10:00 a.m. in a hearing room of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, DC 20426.

Any party, as defined by 18 CFR 285.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact John J. Keating (202) 357–5762.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25309 Filed 10–26–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90–14–000]

National Fuel Gas Supply Corp.; Proposed Tariff Changes

October 20, 1989.

Take notice that on October 19, 1989, National Fuel Gas Supply Corporation (National) tendered for filing Twenty-Third Revised sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of November 1, 1989, subject to refund.

National states that the purpose of its filing is to revise National's FERC Gas Tariff, to the limited extent necessary, to reflect in National's base rates the costs which result from converting firm sales service provided by its pipeline-suppliers to firm transportation service.

Further, National tendered for filing this rate change and requested that this proceeding be consolidated with Docket No. RP89–49–000, since the test period in Docket No. RP89–49–000 closed on July 1, 1989, and these costs will commence on November 1, 1989.

National states that copies of this filing were served on National's jurisdictional customers and on interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motions to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25313 Filed 10–26–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90–76–000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

October 23, 1989.

Take notice that on October 18, 1989, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP90–76–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas on an interruptible basis for Transco Energy Marketing Company (TEMCO). United explains that service commenced September 5, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–4859. United explains that the peak day quantity would be 360,500 MMBtu, the average daily quantity would be 360,500 MMBtu, and that the annual quantity would be 131,582,500 MMBtu. United explains that it would receive natural gas for TEMCO's account at various receipt points located in Offshore Texas. United states that it would redeliver the gas at existing interconnections in Offshore Texas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25310 Filed 10–26–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90–71–000, et al]

Southern Natural Gas Co., et al.; Natural Gas Certificate Filings

October 20, 1989.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP90–71–000]

Take notice that on October 17, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP90–71–000 a request pursuant to §§ 157.205 and 284.223(b) of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Texican Natural Gas Company (Texican), a marketer, under its blanket certificate issued in Docket No. CP88–316–000 pursuant to section 7

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of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that the maximum daily, average daily and annual quantities that it would transport for Texican would be 1,000 MMBtu equivalent of natural gas, 100 MMBtu equivalent of natural gas and 36,500 MMBtu equivalent of natural gas, respectively.

Southern states that it would transport natural gas for Texican from various receipt points in Louisiana, offshore Louisiana, Texas, offshore Texas, Mississippi and Alabama to various delivery points in Mississippi.

Southern indicates that in a filing made with the Commission in Docket ST89-4742, it reported that transportation service for Texican commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Company

[Docket No. CP90-74-000]

Take notice that on October 18, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-74-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Phoenix Gas Pipeline Company (Phoenix), an intrastate pipeline company, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated December 6, 1988, as amended on July 20, 1989, under its Rate Schedule ITS, it proposes to transport up to 103,000 MMBtu per day equivalent of natural gas for Phoenix. United states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas to multiple delivery points shown in Exhibit "B" of the agreement.

United advises that service under § 284.223(a) commenced August 14, 1989, as reported in Docket No. ST90-32-000 (filed October 3, 1989). United further advises that it would transport 103,000 MMBtu on an average day and 37,595,000 MMBtu annually.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90-54-000]

Take notice that on October 13, 1989, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-54-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide transportation service for South Energy Company (Shipper) under the blanket certificate issued in Docket No. CP88-328-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transco states that it proposes to transport up to 200,000 dekatherms (dt) per day equivalent of natural gas for Shipper. Transco states that it would transport the gas from receipt points located offshore and onshore Louisiana, onshore and offshore Texas, and onshore Mississippi and would deliver the gas at a delivery point in New Jersey.

Transco advises that service under § 284.223(a) commenced September 8, 1989, as reported in Docket No. ST90-25. Transco further advises that it would transport 50,000 dt on an average day and 18,250,000 dt annually.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP90-77-000]

Take notice that on October 18, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-77-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to provide interruptible transportation service on behalf of Texaco Inc., a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that the interruptible gas transportation agreement, dated May 11, 1988, as amended on July 26, 1989, proposes to transport a maximum daily quantity of 51,500 MMBtu, an average day quantity of 51,500, and an annual quantity of 18,797,500, and that service commenced on August 22, 1989, as reported in Docket No. ST89-4839-000, pursuant to section 284.223(a) of the Commission's Regulations. United would receive gas from various points of receipt in Texas, and redeliver at various points of delivery in Texas. United further states that existing facilities would be used to provide this transportation service.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP90-75-000]

Take notice that on October 18, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-75-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and Natural Gas Policy Act (18 CFR 284.223) for authorization to provide a transportation service for Ames Financial Incorporated (Ames), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 2,060 MMBtu of natural gas equivalent per day for Ames pursuant to a transportation agreement dated July 14, 1989, between United and Ames. United would receive natural gas at an existing receipt point in Louisiana and redeliver equivalent volumes of gas at an existing delivery point in Louisiana.

United further states that the estimated average daily and annual quantities would be 2,060 MMBtu and 751,900 MMBtu respectively. Service under § 284.223(a) commenced August 25, 1989, as reported in Docket No. ST90-90-000, it is stated.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Columbia Gas Transmission Corporation

[Docket No. CP90-60-000]

Take notice that on October 16, 1989, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP90-60-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon sales service to Pendelton County Water District (Pendelton) Kentucky, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gas states that Pendelton, a wholesale customer, has been acquired by Union Light Heat and Power Company (Union) also an existing customer of Columbia Gas. It is indicated by Columbia Gas that Pendelton and Union requested that Columbia Gas abandon the existing sales service of 1,600 Dth of gas per day being rendered to Pendelton under Columbia Gas' Rate Schedule SGS.

Upon receipt of the requested abandonment authorization, Columbia Gas proposes to terminate its existing service agreement with Pendelton and add to Union's service agreement the Wesley Chapel delivery point at which gas service is presently being rendered by Columbia Gas to Pendelton. The application states that Columbia Gas has entered into an agreement dated May 14, 1987, with Pendelton and Union whereby Pendelton's existing service will be absorbed under Union's existing service agreement with no increase in volumes under Columbia Gas' Rate Schedule CDS.

Comment date: November 13, 1989, in accordance with Standard Paragraph F at the end of this notice.

7. Great Lakes Gas Transmission Company

[Docket No. CP89-55-000]

Take notice that on October 13, 1989, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, file in Docket No. CP90-55-000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval authority to abandon natural gas transportation service for Michigan Consolidated Gas Company (MichCon), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that by order issued May 6, 1967 in Docket No. CP66-696-000, 39 FERC ¶62,147 (1987), the Commission authorized Great Lakes to provide firm transportation service under Rate Schedule T-15 for MichCon from the Emerson Interconnection to the following measuring stations located within Michigan on Great Lakes' system: Crystal Falls, Rapid River, Rudyard, Sault Ste. Marie, Mackinaw City, Pellston, Boyne City/Petoskey, Gaylord, and Belle River Mills. Great Lakes states that this transportation service replaced prior sales service authorized in Dockets Nos. CP66-110, 37 FPC 1070 (1976), and CP70-19, 43 FPC 635 (1970).

Great Lakes states that the underlying Transportation Service Agreement provides for up to 59,576 Mcf per day of firm transportation until October 31, 1990, and for up to 57,000 Mcf of firm transportation from November 1, 1990 through November 1, 1991. Great Lakes states that by its terms, the Transportation Service Agreement terminates on November 1, 1991, and that the agreement does not provide for continuation after the termination date.

Great Lakes states that the daily volumes transported by MichCon vary from extensive overrun interruptible volumes to daily usage of less than 1,000 Mcf, and that MichCon's contracted Rate Schedule T-15 volumes represent only four percent of Great Lakes' total firm contracted system volumes. Further, Great Lakes states that Great Lakes-transported volumes represent only 1.6% of the projected system-supply mix included within MichCon's 1990 Gas Cost Recovery Plan filed with the Michigan Public Service Commission, Docket No. U-9434, and that MichCon's projected utilization of Great Lakes' system during the period of 1990 through 1994 reflects less than 15% of MichCon's contracted capacity on Great Lakes' system.

Great Lakes states that in two Commission proceedings, Docket Nos. CP89-892-000 and CP89-1898-000, it is presently proposing to expand its system to permit the movement of Western Canadian natural gas to serve the Northeast United States markets; and that MichCon has intervened in and protested those proceedings, arguing that incremental costs should be used to set rates. Great Lakes states that, in its intervention in Docket No. CP89-892-000, MichCon requested the Commission to permit it to reduce its Rate Schedule T-15 contract entitlements because of Great Lakes' expansion proposals. In MichCon's view, any relinquished capacity could be used to reduce the proposed expansion.

Given MichCon's stated desire to reduce or to eliminate its firm contracted capacity on Great Lakes' system and the small percentage of MichCon's system supply that the Great Lakes-transported volumes represent, Great Lakes states that it is hereby offering to abandon MichCon's firm transportation service prior to the existing Transportation Service Agreement's November 1, 1991 termination date.

Great Lakes agrees with MichCon that any relinquished firm capacity may be used to reduce the planned system expansion. Further, Great Lakes states that the public convenience and necessity will be served by releasing existing capacity that will permit either a reduction in planned system capacity additions, or increased firm capacity availability under Great Lakes' recently-filed open access tariff, Docket No. CP89-2198-000, for those shippers needing firm transportation service through Great Lakes' system. Great Lakes request that the Commission grant it authority to abandon Rate Schedule T-15 firm transportation service for MichCon effective November 1, 1990. Great Lakes request the Commission to issue its order authorizing the abandonment on or before May 1, 1990 to provide MichCon, if necessary, the opportunity to arrange for alternatives, and to also allow Great Lakes some lead time to determine an appropriate utilization of the released capacity. Great Lakes states that, if MichCon desires, it will establish a new maximum daily contract level to provide service to certain small communities served by MichCon that physically rely upon Great Lakes for transportation of a natural gas supply. Great Lakes states that only a transportation service obligation will be abandoned and that facilities will not be abandoned.

Comment date: November 13, 1989 in accordance with Standard Paragraph F at the end of the notice.

8. ANR Pipeline Company

[Docket No. CP90-58-000]

Take notice that on October 13, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-58-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Entrade Corporation, under the blanket certificate issued in Docket No. CP88-532-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

ANR states that pursuant to a Transportation Agreement dated October 21, 1988, it proposes to transport, on an interruptible basis, up to a maximum of 10,000 dth of natural gas for Entrade under Rate Schedule ITS. ANR states that it would receive the gas at ANR's existing points of receipt located in Oklahoma, Texas, Louisiana, Kansas, Kentucky, Ohio, Wisconsin, Michigan, and Illinois and offshore Louisiana and Texas gathering areas and redeliver the gas for the account of Entrade at existing interconnections located in Ohio.

ANR states that it will transport approximately 100,000 dth on an average

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day and approximately 36,500,000 dth on an annual basis.

ANR further states it commenced this service on August 19, 1989, as reported in Docket No. ST90-46-000.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Southern Natural Gas Company

[Docket No. CP90-72-000]

Take notice that on October 17, 1989, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35303-2563, filed in Docket No. CP90-72-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Centran Corporation (Centran) under the authorization issued in Docket No. CP88-316-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern would perform the proposed transportation service for Centran, a marketer of natural gas, pursuant to a service agreement dated August 25, 1989, under Southern's Rate Schedule IT (Service Agreement No. 851960). It is stated that the term of the service agreement is effective from August 25, 1989, and shall be in full force and effect for a primary term of one month and shall continue and remain in force and effect for successive terms of one month thereafter until cancelled by either party giving five days written notice to the other party. Southern proposes to transport on a peak day up to 1,500 MMBtu; on an average day 1,000 MMBtu; and on an annual basis 365,000 MMBtu of natural gas for Centran. Southern proposes to receive the gas at various receipt points in offshore Texas, offshore Louisiana, Texas, Louisiana, Mississippi, and Alabama for delivery to various points in Alabama. Southern asserts that no new facilities are required to implement the proposed service.

Southern states that it would perform such transportation service for Centran pursuant to its Rate Schedule IT. It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Regulations. Southern commenced such self-implementing service on September 1, 1989, as reported in Docket No. ST89-4743-000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. United Gas Pipeline Company

[Docket No. CP90-64-000]

Take notice that on October 10, 1989, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-64-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for American Central Gas Companies, Inc. (American) a marketer of natural gas, under United's blanket transportation certificate which was issued by Commission order on January 15, 1988, in Docket No. CP88-6-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United indicates that it will receive the gas from American at various existing interconnections in the States of Louisiana, Texas and Mississippi and deliver the gas for the account of American at various interconnections in the States of Louisiana, Texas, Mississippi and Alabama. United will transport the gas pursuant to its Rate Schedule ITS.

United proposes to transport up to 185,000 MMBtu of gas per peak and average day and approximately 67,671,000 MMBtu of gas annually. United indicates that the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on September 5, 1989, pursuant to a transportation agreement dated November 9, 1988. United notified the Commission of the commencement of the transporation service in Docket No. ST89-4861-000 on September 29, 1989.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25311 Filed 10-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-7-000]

South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 20, 1989.

Take notice that South Georgia Natural Gas Company (South Georgia) on October 13, 1989, tendered for filing Thirteenth Revised Sheet Nos. 76 and 106 to the First Revised Volume No. 2 of its FERC Gas Tariff. The proposed revised tariff sheets would flow through to South Georgia's two gas storage customers reduced storage transportation charges billed to South Georgia by Southern Natural Gas Company (Southern).

South Georgia states that the Commission's August 22, 1980 order in the captioned proceeding permits South Georgia to flow through to its two storage customers any changes in the amounts which the Commission authorizes Southern to charge South Georgia for storage transportation services. South Georgia further states that the Commission recently accepted for filing to be effective September 1, 1989, subject to refund, revised tariff sheets filed by Southern which reduced Southern's storage transportation charges to South Georgia.

South Georgia requests waivers of § 154.51 of the Commission's Regulations and any other waivers necessary to make the revised tariff sheets effective as of September 1, 1989, the date of the decrease in Southern's charges to South Georgia.

Copies of this filing were served on the two jurisdictional customers affected by the filing, interested state commissions and all parties in the captioned proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 30, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25314 Filed 10-26-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[ERA Docket No. 81-04-NG]

Boundary Gas, Inc.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of final order to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a final order to Boundary Gas, Inc. (Boundary) removing a condition imposed on Boundary's authorization to import natural gas from Canada. On August 9, 1982, Boundary was conditionally authorized in DOE/ERA Opinion and Order No. 45 (Order 45), 1 ERA Para. 70,539, to import up to 185,000 Mcf of Canadian natural gas per day. The authorization was conditioned upon completion of an environmental review of Boundary's import arrangements. Boundary subsequently reduced the scope of its import project and divided it into two phases. The first phase, Boundary Phase I, involved importing 40,000 Mcf per day commencing November 1, 1984, and continuing until facilities were available for Phase II, at which time 92,500 Mcf per day would be imported. The DOE, after reviewing the environmental impact of Phase I, reaffirmed its decision in Order 45 and removed the condition for the Phase I volumes on February 8, 1984, in DOE/ERA Opinion and Order No. 45-B, 1 ERA Para. 70,560. After reviewing the entire record of the Boundary proceedings, including an environmental analysis of the Phase II project, the DOE determined that the Boundary Phase II import arrangement is not inconsistent with the public interest and, therefore, removed the condition from Order 45 for the Phase II volumes.

A copy of the order is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 19, 1989.

Clifford P. Tomaszewski,

Acting Director, Natural Gas Office, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-25382 Filed 10-26-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-51-NG]

Harbert Energy Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada and Mexico, and to export natural gas to Mexico and Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Harbert Energy Corporation (Harbert) blanket authorization in FE Docket No. 89-51-NG to import up to 100 Bcf of Canadian and Mexican natural gas and to export to Canada and Mexico up to 100 Bcf of domestically-produced natural gas for a term of two-years beginning on the dates of first deliveries.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 13, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-25383 Filed 10-26-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-53-NG]

Valero Industrial Gas, L.P.; Order Amending and Extending Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order amending and extending blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order amending and extending Valero Industrial Gas, L.P.'s (Vigas) existing blanket authorization to export natural gas to Mexico. The order authorizes Vigas to export up to 150 Bcf of natural gas for a two-year period beginning November 1, 1989, through November 1, 1991.

A copy of this order is available for inspection and copying in the Office of Fuels Programs' Docket Room, 3F-056,

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Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 23, 1989.

Constance L. Buckley,

Deputy Assistan: Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25394 Filed 10–26–89; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 90–02; Certification Notice—50]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311 (a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Two owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Megan-Racine Associates Inc., Tampa, FL	10–11–89	Combined cycle	49	Canton, NY
Lee Mass Cogeneration Co., Omaha, NE	10–16–89	Combined cycle	108	Lee, MA.

Amendments to the FUA on May 21, 1987, (Pub. L. 100–42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, phone number (202) 586–6769.

Issued in Washington, DC, on October 23, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25395 Filed 10–26–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders, Week of June 26 Through June 30, 1989

During the week of June 26 through June 30, 1989, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Benedetto Enterprises, Inc., 06/30/89, KFA–0288

Benedetto Enterprises, Inc., (Benedetto) filed an Appeal from a determination issued by the Manager of the Chicago Operations Office of the Department of Energy (DOE). The determination denied, in part, a Request for Information which Benedetto had filed with the DOE's Brookhaven National Laboratory (BNL) under the Freedom of Information Act. Benedetto requested from the BNL the reasons why a solicitation for proposals for the operation of an on-site gas station at BNL was cancelled copies of the submitted proposals and copies of documents relating to the decision to cancel the solicitation. In considering the Appeal, the DOE found that the Director had properly applied Exemption 5 to the majority of the documents in question, because they were predecisional. However, the DOE released redacted copies of two documents that contained non-deliberative and segregable factual material.

Request for Exception

North Georgia Petroleum, Company, 06/29/89, KEE–0172

The North Georgia Petroleum Company (NGPC) filed an Application for Exception from the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA–782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was not adversely affected by the reporting burden in a way that is significantly different from the burden borne by similar reporting firms. Accordingly, exception relief was denied.

Motion for Discovery

Southwestern Refining Co., Inc., the Crude Company Economic Regulatory Administration, 06/30/89, KRD–0490, KRD–0491, KRZ–0490

The Economic Regulatory Administration (ERA) filed a motion to amend the Proposed Remedial Order (PRO) issued to the Southwestern Refining Co., Inc. (SRCI) and The Crude Company (TCC) on December 15, 1986. The DOE granted the ERA's motion to add the legal finding that TCC was liable for the alleged overcharges on the basis of its tortuous conduct as an animating force in the alleged regulatory violations. Both SRCI and TCC filed Motions for Discovery in connection with their Statements of Objections to the PRO. The DOE denied SRCI's and TCC's requests for contemporaneous construction discovery of Section 211.67(e), finding that the firms had not demonstrated that the regulation was ambiguous with respect to prohibiting the receipt of Smaller Refiner Bias (SRB) Entitlements for crude oil refined pursuant to certain types of processing agreements. Similarly, the DOE denied TCC's requests for contemporaneous construction discovery of key terms in the processing agreement definition and concerning the application of 10 CFR 205.202 to entitlements violations. The DOE also denied TCC discovery regading the ERA's legal positions that small refiners must direct the flow of crude oil in order to have been eligible for SRB benefits, (ii) TCC was liable as an animating force in the entitlements violations of SRCI, and (iii) certain amounts of interest should be added to the firms' refund obligation. Accordingly, the SRCI and TCC discovery requests were denied.

Interlocatory Order

Economic Regulatory Administration/ Kern Oil & Refining Company, 06/30/89, KRZ–0527

The Office of Hearings and Appeals considered a Motion filed by the Economic Regulatory Administration to formally amend a Proposed Remedial Order (PRO) issued to Kern Oil & Refining Company to include an additional theory of liability. The OHA found first that it had authority to consider additional theories irrespective of whether the PRO is formally amended to include them. It is also rejected the firm's arguments that the proposed amendment was prejudicial and barred by the statute of limitations contained in the Petroleum Overcharge Distribution and Restitution Act of 1986. Accordingly, the ERA's Motion was granted.

Refund Applications

Andalex Resources et al., 06/29/89, RF272–32550, et al.

The DOE issued a Decision and Order granting refunds from crude oil coverage funds to five applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant was an end-user of the products involved and was therefore presumed injured by the alleged crude oil overcharge. The sum of the refunds granted in this Decision is $18,231.

Atlantic Richfield Company/Hassel Oil Company, Inc. et al., 06/29/89, RF304–993 et al.

The DOE issued a Decision and Order concerning eight Applications for Refund filed in the Atlantic Richfield Company special refund proceeding. Each of the applications was a reseller that requested a refund in excess of $5,000. Rather than attempt to demonstrate injury, each applicant elected to limit its refund to the 41% mid-range injury presumption. The refunds granted in this Decision totaled $131,839 including interest.

Atlantic Richfield Company/Stem Mar Arco et al., 06/27/89, RF304–693 et al.

The DOE issued a Decision and Order concerning twelve applications for refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding. All of the applicants were reseller/retailers requesting refunds of less than $5,000. Therefore, each applicant was presumed injured. The refunds granted in this Decision totaled $7,283 including interest.

City of Seattle, 06/28/89, RF272–14539

The DOE issued a Decision and Order determining that the City of Seattle was ineligible for a Subpart V crude oil refund because it waived its rights and those of its affiliates to such a refund by participating in the Stripper Well agreement, as a claimant in the Refiners' Escrow.

Crown Central Petroleum Corporation/ Adams Resources & Energy, Inc., 06/27/89, RF313–147

The DOE issued a Decision and Order containing an Application for Refund filed in the Crown Central Petroleum Corporation special refund proceeding by Adams Resources & Energy, Inc. (Adams), a purchaser of Crown refined petroleum products. The DOE found that Adams experienced a competitive disadvantage in all of its purchases of Crown gasoline during the refund period and granted Adams a refund of $93,247 including interest.

Crown Central Petroleum Corporation/ Davis Oil Company, Inc. et al., 06/29/89, RF313–6 et al.

The DOE issued a Decision and Order considering six Applications for Refund filed in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on a presumption of injury. The total refund approved in this Decision was $48,651, including interest.

Crown Central Petroleum Corporation/ North Georgia Petroleum Co. et al., 06/28/89, RF313–22 et al.

The DOE issued a Decision and Order considering six Applications for Refund filed in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the applicable presumption of injury. The total refund approved in this Decision was $48,416, representing $41,100 in principal plus $7,316 in accrued interest.

Davis & Davis Farms et al., 06/27/89, RF272–27030 et al.

The DOE issued a Decision and Order granting 10 Applications for Refund filed in the crude oil overcharge refund processing. The applicants were found to be end-users of the refined petroleum products upon which their claims were based. They were therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $41,836.

Dorchester Gas Company/National Coop. Refinery Assoc., 06/26/89, RF253–62

The DOE considered an Application for Refund in the Dorchester Gas Corporation refund proceeding. The applicant, National Cooperative Refinery Association (National) is an agricultural cooperative which purchased Dorchester butane through Liquid Petroleum Corporation (Liquid). Since Liquid apparently absorbed 44% of the alleged Dorchester overcharges, Liquid's downstream customer, National, was eligible to receive 56% of its allocable share. National certified that it would pass through, on a dollar-for-dollar, basis any refund received. The total refund granted in this Decision is $71,691 including interest.

Exxon Corporation/Carter & Hensley Oil Co., Herman J. Hensley, 06/27/89, RF307–2781, RF307–9980

The DOE issued a Decision and Order concerning an Application for Refund filed in the Exxon Corporation special refund proceeding by Carter & Carter Petro., Inc. (Carter), a successor to Carter & Hensley Oil Co. (C & H). C & H, a partnership owned by Arnold Carter and Herman J. Hensley during the Exxon consent order period, purchased directly from Exxon and was a reseller of Exxon products whose allocable share is less than $5,000. Carter, a corporation formed in 1982 and owned by Arnold Carter and Charles A. Carter, submitted an Application based on purchases made by C & H during the entire Exxon consent order period, although Carter did not purchase Mr. Hensley's 50 percent partnership interest in C & H until after the end of that period. Because the contract transferring Mr. Hensley's 50 percent partnership interest in C & H to Carter did not specify potential refunds as an asset being transferred, the DOE determined that partners Arnold Carter and Herman J. Hensley, were each entitled to receive a refund equal to half of the total volumetric amount.

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Therefore, each refund recipient received a refund of $1,201, half of the total refund of $2,402.

Exxon Corporation/Thoro Service Center et al., 06/29/89, RF307–4625 et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the Applicants was either an Exxon reseller whose allocable share is less that $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $7,090 ($5,912 in principal plus $1,178 in interest).

Getty Oil Company/Smallwood Gas Company, 06/27/89, RR285–2

The DOE issued a Decision and Order granting a supplemental refund to Smallwood Gas Company in the Getty Oil Company refund proceeding. Based on documentation of further purchases of Getty propane, the DOE approved an additional $4,403 in principal plus accrued interest of $4,697 for Smallwood.

Gulf Oil Corporation/Butler's Gulf Service et al., 06/26/89, RF300–58 et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in Gulf Oil Corporation special refund proceeding. Each applicant established that it purchased some or all of its Gulf products indirectly from a Gulf jobber. The jobbers that supplied these five applicants either have not applied in the Gulf proceeding, have not attempted to prove injury, or have already received a refund in the Gulf proceeding under an injury presumption. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued in interest, is $11,765.

Gulf Oil Corporation/Francis Ryan, Inc., Bob Yeiser Gulf, 06/29/89, RF300–4271, RF300–4572

The DOE issued a Decision and Order concerning two Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. The Applications were approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $13,282.

Gulf Oil Corporation/Riverfront Gulf Service, Inc. et al., 06/30/89, RF300–10638 et al.

The DOE issued a Supplemental Order correcting the appendix to Gulf Oil Corporation/Riverfront Gulf Service, Inc., *et al.*, 19 DOE ¶ 85,088, (1989). The total correct volume approved in that Decision and Order was 16,639,953 gallons and the correct total refund approved was $14,145.

Gulf Oil Corporation/L.C. Livingston et al., 06/28/89, RF300 et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. The Applications were approved using a presumption of injury. The sum of the refunds granted in this Decision including accrued interest is $8,476.

H. Keith Crook et al., 06/27/89, RF272–22212 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to nine claimants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant demonstrated the volume of its claim either by consulting actual records or by using a reasonable estimate of its purchases. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $34,399.

J. H. Alexander et al., 06/27/89, RF272–4642 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to four applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used actual records and/or estimates to report its gallonage claim. Each applicant was an end-user of the products it claimed and was therefore presumed to be injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $1,079.

Joe's Exxon Service et al., 06/28/89, RF272–54188 et al.

The DOE issued a Decision and Order, denying forty Applications for Refund filed in the Subpart V crude oil refund proceeding. Each applicant was either a reseller or a retailer during the period August 19, 1973 through January 27, 1981. Because none of the applicants demonstrated that it was injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Key Oil Company/Gallatin Oil Company, Allen Oil Company, Inc., 06/29/89, RF282–01, RF282–02

The DOE issued a Decision and Order concerning two Applications for Refund filed by resellers of diesel fuel covered by a Consent Order that the DOE entered into with Key Oil Company, Inc. Each of the applicants submitted a statement indicating that it purchased diesel fuel from Key during the Consent Order period and that it was willing to accept the portion of the Key settlement fund which was assigned to it during the audit of Key's records by the Economic Regulatory Administration. Each applicant was eligible for a refund below the $5,000 small claims threshold and was therefore not required to prove injury. The total refund approved in this Decision is $4,511, representing $3,014 in principal and $1,497 in accrued interest.

Mobil Oil Corporation/M. L. & D. C. Murray, Vernon H. Gauthier, 06/30/89, RF225–7421, RF225–9812, RF225–9813

The DOE issued a Decision and Order concerning refund applications filed by two consignee agents in the Mobil Oil Corporation special refund proceeding. The DOE found that both applicants had experienced a decline in their market shares as a result of Mobil's alleged overcharges. The DOE further determined that each was therefore injured by the amount of its lost sales volume of motor gasoline times the Mobil volumetric amount. Accordingly, M.L. & D.C. Murray was granted a refund of $216 ($171 in principal plus $45 in interest), and Vernon H. Gauthier was granted a refund of $1,195 ($948 in principal plus $247 in interest).

Mobil Oil Corporation/Noco Energy Corporation, 06/26/89, RF225–4188, RF225–4189, RF225–4190

The DOE issued a Decision and Order granting an Application for Refund filed by Noco Energy Corporation, a purchaser of motor gasoline, middle distillates and residual fuel oil from Mobil Oil Corporation. After examining the firm's cost banks for each product and applying a three-part competitive disadvantage test to each product, the DOE granted Noco a full volumetric refund of $57,789, including interest.

Murphy Oil Corporation/BP Oil Inc., 06/28/89, RF309–624

The DOE issued a Decision and Order concerning an Application for Refund filed by BP Oil Inc. in the Murphy Oil Corporation special refund proceeding. The DOE determined that BP was not eligible to receive a refund from the Murphy Consent Order fund because it was a spot pruchaser and did not rebut the spot purchaser presumption of no injury. Accordingly, BP's application was denied.

Murphy Oil Corporation/Mrs. Marvin Tindall & Lawrence McMillian et al., 06/28/89, RF309–705 et al.

The DOE issued a Decision and Order granting Applications for Refund filed by four purchasers of refined petroleum products sold by Murphy Oil Corporation. Each applicant was found to be eligible for refund of $5,000 or 40% of its full allocable share, whichever was greater. The total refund approved in this Decision was $57,122 including interest.

O'Connell Oil Company/Denny's Service Station, Bill's Auto Sales, 06/27/89, RF280–01, RF280–02

The DOE issued a Decision and Order concerning two Applications for Refund filed by retailers of motor gasoline covered by a consent Order that the DOE entered into with O'Connell Oil Compnay. The applicants submitted information indicating the volumes of their O'Connell motor gasoline purchases and were eligible for a refund below the $5,000 small claims threshold. The total refund approved in this Decision is $3,647 including interest.

Pine Bluff Sand & Gravel Co. et al., 06/27/89, RF272–14906 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to twenty-one applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $50,031.

Plaquemines Oil Sales Corp./Delta Marina, 06/30/89, RR305–1

The DOE issued a Decision and Order ganting in part a Motion for Reconsideration filed by Delta Marina (Delta) from a Decision partially granting the firm's Application for Refund in the Plaquemines Oil Sales Corp. (POSC) special refund proceeding. Using new data obtained from the firm, the DOE computed a larger cost bank for Delta and thus found that it was entitled to a principal refund of $19,689 based on those unrecouped product costs. The DOE also found merit in Delta's position that the prepayment interest on the POSC settlement fund could not be correlated to any overcharges incurred by Delta and that the firm should receive a pro rata share of that interest without being required to establish banked costs in that amount. Accordingly, the DOE determined that Delta was entitled to a total additional refund of $35,250 ($23,314 principal and $11,936 in accrued interest).

Standard Oil Co. (Indiana)/Indiana, 06/27/89, RM251–153

The DOE issued a Decision and Order approving a Motion for Modification filed by the State of Indiana in the Standard Oil Co. (Indiana) (Amoco II) refund proceeding. Indiana sought to transfer $77,928 in Amoco II refund proceeding. Indiana sought to transfer $77,928 in Amoco II monies from a previously approved program to its Fuel Saver Van Program. The program involves the outfitting of a van with a computer that, when attached to a car's engine, prints a list of adjustments needed to make the engine more efficient. The van travels to public places throughout the State, providing free car engine analyses to Indiana residents. The OHA determined that the program was restitutionary in nature and approved the State's motion.

Standard Oil Co. (Indiana)/Wisconsin, 06/27/89, RQ251–514

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Wisconsin in the *Standard Oil Co. (Indiana)* special refund proceeding on behalf of nine Wisconsin native American tribal organizations. The State proposed to use these funds for the weatherization of tribal homes. The OHA determined that this program would provide restitution to injured native American consumers of petroleum products and approval the State's plan.

Total Petroleum/Crawford Oil Company, 06/29/89, RF310–224

The DOE issued a Decision and Order concerning an Application for Refund filed in the Total Petroleum special refund preceeding by Crawford Oil Company, a retailer of Total motor gasoline. Using the small claims injury presumption, the DOE granted Crawford a refund of $5,914 ($5,000 principal and $914 interest).

Walker-Williams Lumber Co. Inc., 06/30/89, RF272–14529, RD272–14529

The DOE issued a Decision and Order concerning an Application for Refund filed in the Subpart V crude oil refund proceeding by Walker-Williams Lumber Co., Inc. (Walker), a manufacturer of pressure-treated lumber. A group of States and Territories (the States) objected to Walker's application on the ground that certain studies suggested that the lumber and forest products industry in general was able to pass through increased petroleum costs to consumers during the petroleum price controls period. In rejecting that argument and the States' Motion for Discovery, the DOE determined that the States had failed to show that Walker itself has passed through increased fuel costs. Accordingly, Walker's application was approved and the firm was granted a refund of $5,632.

Weyerhauser Company, Champion International Corporation, Federal Paper Board Company, Inc., 06/27/89, RF272–279, RF272–280, RF272–281, RF272–279, RF272–280, RF272–281

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to Weyerhauser Company (Weyerhauser), Champion International Corporation (Champion), and Federal Paper Board Company, Inc. (Federal), three pulp, paper and lumber manufacturers. In reaching its determination, the DOE rejected the objections to the applicants' claims submitted by a group of States and denied the States' Motions for Discovery. Specifically, the DOE stated that industry-wide data in general is insufficient to rebut the presumption that end-users outside of the petroleum industry were injured by crude oil overcharges. The DOE also determined that the States' showing of sustained growth and profitability of a particular industry or firm does not rebut the end-user presumption. The total refund granted to Weyerhauser was $1,330,335, the refund granted to Champion was $1,031,329 and the refund granted to Federal was $574,941.

The Office of Hearings and Appeals granted crude oil overcharge refunds to end-user applicants in the following Decisions and Orders:

CRUDE OIL END-USERS

Name	Case No.	Date	No. of applicants	Total refund
Bill Stone *et al*	FR272-70000	06/30/89	133	$16,658
Concrete Enterprises *et al*	FR272-61001	06/30/89	98	11,750

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CRUDE OIL END-USERS—Continued

Name	Case No.	Date	No. of applicants	Total refund
Crescant Brick Co. *et al*	FR272-65809	06/26/89	26	3,886
Hazelton Lab. America *et al*	FR272-67000	06/28/89	85	11,077
Iowa Park C.I.S.D *et al*	FR272-62401	06/26/89	63	8,304
Joseph W. Moore *et al*	FR272-69400	06/28/89	94	14,174
Max Hawkins *et al*	FR272-62800	06/30/89	114	17,977
Medi Ride Inc. *et al*	FR272-64600	06/28/89	144	15,733
R&F Coal Co. *et al*	FR272-67218	06/28/89	35	4,300
Ray Dave Trucking *et al*	FR272-69002	06/30/89	53	6,389
Richard A. Sherry *et al*	FR272-59600	06/37/89	135	15,913
St. Michael's Ev. Lutheran Church *et al*	FR272-68200	06/26/89	133	15,543
St. Peter Chuch, Corp. *et al*	FR272-67402	06/27/89	119	14,039

The following submissions were dismissed:

DISMISSALS

Name	Case No.
Addison & Laramie Shell	RF315-116
Aiea Shell, Inc.	RF315-1314
Al Bailey	RF315-1587
Amar Oil Co., Inc.	RF315-3400
Carmen Shell Service	RF315-1441
Cash Service Station	RF315-120
Cesare's Shell Station	RF315-62
Charles Skyway Shell	RF315-1254
Cumberland Lake Shell, Inc.	RF315-2111, RF315-2300
Dan's Shell Newg., Inc.	RF315-377
Dan's Shell Services	RF315-57
Deefield Shell	RF315-2343
Don's Shell	RF315-68
Downtown Shell	RF315-1212, RF315-1442
E. T. Webb	RF315-109
Edward R. Pascoe	RF315-1320
Ericson Oil Corp.	RF315-3120
Fort Schuyler Service Center	RF315-3385
Griffin's Shell Service	RF315-299
H & S Garage	RF315-1627
Harmen's Service	RF315-1437
Harry J. Walter	RF315-344
Jeffrey J. Lynn	RF315-331
John T. Taylor	RF315-355
Kim's Shell Service	RF315-359
Kofford Shell Service	RF315-301
Lake Oswego Shell	RF315-1962
Leo's Shell Service Station	RF315-256
Les Candee Ent., Inc.	RF315-258
Lieu's Shell	RF315-261
Marieville Towing & Service	RF315-340
Mondo Shell	RF315-1225, RF315-1226
Napoleon O. Paul	RF315-2668
Nick Diliddo Shell	RF315-284
Rex & Paul Shell Service	RF315-951
Robert W. Messer	RF315-1200
Roko Shell Service	RF315-5657
Shell Car Wash	RF315-130
Southland Shell	RF315-966
Terry's Shell	RF315-1406
Terry's Super Shell	RF315-990
Tom's Shell Inc.	RF315-985
Tony's Shell Service	RF315-1439
Twin Rivers Shell Inc.	RF315-981
Vandyke Shell	RF315-976
12 Miles & Crooks Shell	RF315-2602

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 17, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-25396 Filed 10-26-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3675-7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5076 or (202) 382-5073. Availability of Environmental Impact Statements Filed October 16, 1989 Through October 20, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890284, Final, FHW, AK, North Douglas Highway Extension, Outer Point to Point Hilda, Funding, section 404 Permit and Right-of-Way Acquisition, City and Borough of Juneau, AK, Due: November 27, 1989, Contact: Thomas C. Neunaber (907) 586-7428.

EIS No. 890285, Draft, FHW, CA, West Los Angeles Veloway Project, connecting UCLA Campus with a portion of West Los Angeles, Construction, Los Angeles County, CA, Due: December 22, 1989, Contact: Michael A. Cook (916) 551-1310.

EIS No. 890286, DSuppl, COE, AK, Chignik Small Boat Harbor, Quarry Site Selection and Construction, Anchorage Bay, AK, Due: December 11, 1989, Contact: William Lloyd (907) 753-2640.

EIS No. 890287, Draft, FHW, CA, CA-267 Bypass Construction, between I-80 and Truckee Area Bypass, Funding, section 404 Permits, Nevada County, CA, Due: December 22, 1989, Contact: John Schultz (916) 551-1140.

EIS No. 890288, Final, DOE, ND, Charlies Creek-Belfield 345 kV Transmission Line Project, Construction, Operation and Maintenance, Implementation, Billings, Stark, McKenzie and Dunn Counties, ND, Due: November 27, 1989, Contact: James D. Davies (406) 657-6525.

EIS No. 890289, Draft, UAF, IL, Chanute Air Force Base Closure and Realignment, Implementation, Village of Rantoul, IL, Due: December 11, 1989, Contact: Catherine Hitchins (512) 652-3240.

EIS No. 890290, Draft, BLM, UT, Dixie Resource Area, Resource Management Plan, Implementation, Washington County, UT, Due: January 24, 1990, Contact: David Brine (801) 673-4654.

EIS No. 890291, DSuppl, FHW, NY, Elmira North-South Arterial Construction, South Section, NY-14/328 to Clements Center Parkway at Pennsylvania Avenue, Funding, City of Elmira and Town of Southport, Chemung County, NY, Due: December 11, 1989, Contact: Harold J. Brown (518) 472-3616.

Dated: October 24, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-25404 Filed 10-26-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3675-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 9, 1989 through October 13, 1989 pursuant to the Environmental Review Process (ERP).

under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D-AFS-D61034-PA, Rating LO, Allegheny Reservoir Motel-Restaurant Complex, Site Selection and Construction, Allegheny National Forest, Warren County, PA.

Summary: EPA has no objections to the proposed project.

ERP No. DS-AFS-J65105-CO, Rating EC1, Grand Mesa, Uncompahgre and Gunnison National Forests, Land and Resource Management Plan, Timber Management Amendment, Implementation, Delta, Garfield, Gunnison, Hinsdale, Mesa, Montrose, Ouray, Saguache, San Juan and San Miguel Counties, CO.

Summary: EPA's main issues concerning this project is the treatment of water as a "product" of vegetative management and the failure of the document to consider and incorporate impacts to this plan resulting from global climate change.

ERP NO. DS-COE-A30030-FL, Rating LO, Brevard County Beach Erosion Control Project, Updated Information, Implementation, Brevard County, FL.

Summary: EPA has no environmental objections to this project as described.

Final EISs

ERP No. F-BLM-J65149-UT, San Rafael Resource Area, Sevier River Resource Area, Forest Planning Unit and Henry Mountain Resource Area, Management Plan, Implementation, Emery, Sevier and Wayne Counties, UT.

Summary: EPA has no environmental concerns with the final EIS.

ERP No. F-BPO-J81006-CO, Florence Federal Correctional Institution Complex, Construction and Operation, Fremont County, CO.

Summary: EPA has environmental concerns that the waste generated by this facility not overtax the local capacity. EPA encourages BPO to reflect water conservation and waste management in the final design of this facility.

Dated: October 24, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-25405 Filed 10-26-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59279B; FRL 3663-4]

Certain Chemical Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-89-25. The test marketing conditions are described below.

EFFECTIVE DATE: October 18, 1989.

FOR FURTHER INFORMATION CONTACT: Heidi A. Siegelbaum, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, DC 20460, (202) 475-8262.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-89-25. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-89-25. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-89-25

Date of Receipt: August 25, 1989.

Notice of Receipt: September 25, 1989 (54 FR 39230).

Applicant: Confidential.

Chemical: (G) Substituted heterocycle.

Use: (G) Resin additive.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential.

Risk Assessment: EPA identified concerns for kidney, liver, developmental toxicity, and mild eye and skin irritation. However, no significant inhalation exposure is expected during manufacturing, processing, or use, and the substance is not expected to be dermally absorbed. EPA identified no significant environmental concerns for, or releases of, the test market substance. Therefore, the test market substance will not present an unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 16, 1989.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 89-25366 Filed 10-26-89; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board Members

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the SES Performance Review Board of EEOC.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Henry, Director, Personnel

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Management Services, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC, 20507, 202/663-4306.

SUPPLEMENTARY INFORMATION: Pursuant to the requirement of section 4314(c)(1), chapter 43 title 5 U.S.C., membership of the SES Performance Review Board is as follows: Elizabeth Thornton, Associate Legal Counsel, Equal Employment Opportunity Commission (Chairperson); Mr. Ernest Russell, Director of Administration, National Labor Relations Board; Mr. Louis Enoff, Deputy Commissioner for Programs, Social Security Administration; Evangeline Swift (Alternate), Director, Office of Policy and Evaluation, Merit Systems Protection Board. Signed at Washington, DC on this 20th day of October, 1989.

For the Commission.

Clarence Thomas,

Chairman.

[FR Doc. 89-25260 Filed 10-26-89; 8:45 am]

BILLING CODE 6575-35-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested Parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-009238-021.
Title: Greece Westbound Conference.
Parties:
Farrell Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would reduce from $50,000 to $15,000 the amount of the financial guarantee each party is required to furnish and maintain as a condition of conference membership.

Agreement No.: 203-010999-004
Title: Ecuador Discussion Agreement.
Parties:
United States Atlantic and Gulf/Ecuador Freight Association
Transportes Navieros Equatorianos
Compania Chilena de Navigacion
Gran Golfo Express

Synopsis: The proposed modification would add Empresa Naviera Santa, S.A. as an independent carrier party, and delete Transportes Navieros Equatorianos, now a member of the United States Atlantic and Gulf/Ecuador Freight Association, as an independent carrier party. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: October 23, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25297 Filed 10-26-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Daniel De Lange; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 89-16287) published at page 29387 of the issue for Wednesday, July 12, 1989.

Under the Federal Reserve Bank of Atlanta, the entry for Daniel De Lange is amended to read as follows:

1. Daniel De Lange, Miami, Florida; to retain 24.38 percent and to acquire an additional 15.94 percent of the voting shares of Imperial Bank, Coral Gables, Florida, for a total of 40.32 percent.

Comments on this application must be received by November 10, 1989.

Board of Governors of the Federal Reserve System, October 23, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25341 Filed 10-26-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Reestablishment of the Injury Research Grant Review Committee

ACTION: Notice of Reestablishment of the Injury Research Grant Review Committee.

Pursuant to Federal Advisory Committee Act, 5 U.S.C. appendix 2, the Centers the Disease Control announces the reestablishment of the following Federal advisory committee by the Secretary of Health and Human Services:

Designation: Injury Research Grant Review Committee.

Purpose: This committee will provide advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director, CDC, concerning the scientific merit of grant applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research and demonstrations that focus on prevention and control and to support injury prevention research centers. The members of this review committee shall survey, as scientific leaders, the status of research in their field.

Authority for this committee will expire August 20, 1991, unless the Secretary for Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated October 23, 1989.

Elvin Hilyer,

Associate Director for Policy Coodination Centers for Disease Control.

[FR Doc. 89-25338 Filed 10-26-89; 8:45 am]

BILLING CODE 4160-18-M

National Institute for Occupational Safety and Health; Request for Comments and Secondary Data on Silica Flour Exposures and Use

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of request for comments and secondary data.

SUMMARY: NIOSH is requesting comments and secondary data from all interested parties concerning silica flour exposures, including production levels at specific plants, usage levels within specific plants and industries, numbers of workers associated with specific plants and industries which produce or use silica flour, and levels of exposure to free silica at worksites where silica flour is present. Interested parties may submit data related to any industry in which silica flour is produced or used. These data will be used by NIOSH to identify populations potentially at risk and determine whether adequate environmental monitoring has been performed for those populations.

DATE: Comments and secondary data concerning this notice should be submitted by December 26, 1989.

ADDRESS: Any information, comments, suggestions, or recommendations should be submitted in writing to: Dr. Richard W. Niemeier, Acting Director, Division of Standards Development and Technology Transfer, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

FOR FURTHER INFORMATION CONTACT: Mr. Alwin L. Dieffenbach, Environmental Investigations Branch, Division of Respiratory Disease Studies, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, (304) 291-4496 or FTS 923-4496.

SUPPLEMENTARY INFORMATION: Under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 957 et seq.), NIOSH is directed to gather information for improving occupational safety and health. NIOSH has found in past studies that overexposure to silica flour (also known as ground silica) can lead to acute silicosis, with ". . . irreversible harm and shortened life expectancy" (Current Intelligence Bulletin #36, *Silica Flour: Silicosis,* June 30, 1981). Exposures to free silica at silica flour producing facilities have been documented by the Mine Safety and Health Administration, (MSHA) but NIOSH has not, as yet, identified all populations of workers involved in the use of silica flour.

NIOSH, through data gathered by MSHA, has been able to identify producers of silica flour. However, Occupational Safety and Health Administration (OSHA) data have not enabled NIOSH to identify significant numbers of specific users of silica flour.

Therefore, NIOSH is interested in obtaining existing and available information, e.g., industrial hygiene sampling data, production levels, usage levels, and employment levels for specific facilities and industries which use silica flour, excluding the data gathered by federal MSHA and OSHA inspectors.

All information received in response to this notice, except that designated as trade secret and protected by section 15 of the Occupational Safety and Health Act or exempt from disclosure under the Freedom of Information Act, will be available for public examination and copying at the above address.

Dated: October 23, 1989.

Larry W. Sparks,

Acting Director National Institute for Occupational Safety and Health.

[FR Doc. 89-25339 Filed 10-26-89; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 89F-0410]

Betz Laboratories, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of a petition (FAP 4H2995) proposing that the food additive regulations be amended to provide for the safe use of *N*-(2-nitrobutyl) morpholine as a slimicide in the manufacture of paper and paperboard that contact food.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 1975 (40 FR 5553), FDA published a notice that it had filed a petition (FAP 4H2995) from Life and Materials Science Division, Syracuse University Research Corp., Merrill Lane, University Heights, Syracuse, NY 13210, on behalf of Betz Laboratories, Inc., Somerton Rd., Trevose, PA 19047, that proposed to amend the food additive regulations to provide for the safe use of *N*-(2-nitrobutyl) morpholine as a slimicide in the manufacture of paper and paperboard that contact food. Betz Laboratories, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: October 19, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-25347 Filed 10-26-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85F-0394]

Edwards-Councilor Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Edwards-Councilor, Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a sanitizing solution containing *n*-alkyl (C_{12}-C_{16}) benzyl-dimethylammonium chloride, calcium stearate, sodium bicarbonate, starch and/or dextrine, and for use of methylene blue as a colorant on food-processing equipment, utensils, and other food-contact articles.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4159) has been filed by Edwards-Councilor Co., Inc., 427 Baker Rd., Airport Industrial Park, Virginia Beach, VA 23455, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) of the food additive regulations be amended to provide for the safe use of a sanitizing solution containing *n*-alky (C_{12}-C_{16}) benzyl-dimethylammonium chloride, calcium stearate, sodium bicarbonate, starch and/or dextrine, and methylene blue as a colorant for use on food-processing equipment, utensils, and other food-contact articles.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 18, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-25348 Filed 10-26-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89G-0393]

SPA-Societa Prodotti Antibiotici S.P.A.; Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that SPA-Societa Prodotti Antibiotici S.P.A. has filed a petition (GRASP 9G0355), proposing to affirm that lysozyme used to inhibit *Clostridium tyrobutyricum* to prevent late blowing

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in cheese production is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by December 26, 1989.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carl L. Giannetta, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 201(s), 409 (21 U.S.C. 321(s), 348)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that SPA-Societa Prodotti Antibiotici S.p.A. Milan, Italy, has filed a petition (GRASP 9G0355) proposing that lysozyme used to inhibit *Clostridium tyrobutyricum* to prevent late blowing in cheese production be affirmed as GRAS for use as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before December 26, 1989, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 17, 1989.

Richard J. Ronk

Acting Director, Center for Food Safety and applied Nutrition.

[FR Doc. 89–25349 Filed 10–26–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86N–0499]

Advisory List of Critical Devices—1988; Update

AGENCY: Food and Drug Administration.

ACTION: Notice; update.

SUMMARY: The Food and Drug Administration (FDA) is updating its "Advisory List of Critical Devices—1988" prepared by FDA's Center for Devices and Radiological Health (CDRH) that published in the **Federal Register** of March 17, 1988 (53 FR 8854). In the "Advisory List of Critical Devices—1988," the agency inadvertently omitted the high permeability hemodialysis system. This document is updating the list to include that device.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sharon Kalokerinos, Center for Devices and Radiological Health (HFZ–332), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1131.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 21, 1978 (43 FR 31508), FDA published the current good manufacturing practices regulation (CGMP) for devices. The preamble to the CGMP regulations provided a "Guideline List of Critical Devices" (43 FR 31508 at 31511). This was an illustrative list of 75 devices provided to give examples of devices that FDA concluded met the definition of critical device as found in the final CGMP regulations (21 CFR 820.3(f)). The definition reads "a device that is intended for surgical implant into the body or to support or sustain life and whose failure to perform when properly used in accordance with instructions for use provided in the labeling can be reasonably expected to result in a significant injury to the user." In developing this list, FDA used the recommendations received from the Device Good Manufacturing Practices Advisory Committee (21 CFR 14.100(d)(2)) and the device advisory panels (21 CFR 14.100(d)(1)). The agency announced that the list was not exhaustive and that it was based on the most current information available to FDA. The agency also stated that the list would be updated periodically as additional information became available and after consultation with the committee (43 FR 31508 at 31511).

In the **Federal Register** of March 17, 1988 (53 FR 8854), FDA published an updated and expanded "Advisory List of Critical Devices—1988" prepared by CDRH. In the 1988 list, FDA listed (No. 70) § 876.5820 *Hemodialysis system and accessories.* The agency should have also included § 876.5820 *High permeability hemodialysis system* in the list. This device was included in the 1978 list (No. 36).

Interested persons may submit comments to the Dockets Management Branch (address above). Comments will be considered in determining if further changes to the "Advisory List of Critical Devices—1988" are warranted. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The list and any comments received may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 19, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–25350 Filed 10–26–89; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[OACT–025–N]

Medicare Program; Monthly Actuarial Rates, Supplementary Medical Insurance Premium Rate, and Catastrophic Coverage Premium Beginning January 1, 1990

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare supplementary medical insurance (SMI) program for calendar year 1990, and the monthly SMI premium rate based on these actuarial rates to be paid by all enrollees during calendar year 1990. The 1990 monthly SMI premium will be increased from $27.90 to $29.00.

This notice also announces the catastrophic coverage monthly premium for 1990 imposed by the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360).

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (301) 966–6396.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare supplementary medical insurance (SMI) program is the voluntary Medicare part B program that pays all or part of the costs for physician services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (Medicare part A). The SMI program is available to individuals who are entitled to hospital insurance and to U.S. residents who have attained age 65 and are citizens or aliens who were lawfully admitted for permanent residence and have resided in the United States for five consecutive years. This program requires enrollment and payment of monthly premiums as provided in 42 CFR part 405, subpart B, and part 408, respectively. (Part 408 was published at 52 FR 46112, December 17, 1987, and redesignated regulations formerly at subpart I of 42 CFR part 405.) The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

The Secretary of Health and Human Services is required by section 1839 of the Social Security Act (the Act) (42 U.S.C. 1395r) to issue annual notices relating to the SMI program. These notices contain monthly actuarial rates, the monthly SMI premium rate paid by enrollees, and adjustments in the premium to insure against catastrophic expenses.

As required by section 1839 of the Act, we have determined the amounts contained in this notice based on the law in effect at the time we were required to make the determinations, September of each year. We recognize that Congress is considering amendments to the Medicare provisions and that, if enacted, some of these may affect the estimated costs or other amounts on which the determinations were made.

II. Monthly Actuarial Rates

One notice required by section 1839 of the Act announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost (excluding costs relating to the amendments made by the Medicare Catastrophic Coverage Act of 1988, Public Law 100–360) of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost (excluding catastrophic costs) of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates."

As required by sections 1839(a) (1) and (4) of the Act (42 U.S.C. 139r(a) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for calendar year 1990 are $57.20 for enrollees age 65 and over and $44.10 for disabled enrollees under age 65. The accompanying statement (section V.) gives the actuarial assumptions and bases from which these rates are derived.

III. Monthly SMI Premium Rates

The second notice required by section 1839 of the Act announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are different than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Public Law 92–603, (the Social Security Amendments of 1972) and until the passage of section 124 of Public Law 97–248 (the Tax Equity and Fiscal Responsibility Act of 1982), the premium rate was limited by section 1839 of the Act to the lesser of the monthly actuarial rate for aged enrollees, or the current monthly premium rate increased by the same pecentage as the most recent general increase in monthly title II (cash payments) social security benefits.

Section 124 of Public Law 97–248 changed the premium basis to 25 percent of program costs. Section 606 of Public Law 98–21, section 2302 of Public Law 98–369, section 9313 of Public Law 99–272 and section 4080 of Public Law 100–203 extended through 1989 the provision that the premium be based on 25 percent of program costs. This extension will expire at the end of 1989.

Beginning with calendar year 1990, the premium rate will once again be limited by section 1839 of the Act to the lesser of the monthly actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II (cash payments) social security benefits.

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988. Section 1839(f) now provides that if an individual is entitled to benefits under sectin 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums (including the part B catastrophic and prescription drug premiums) deducted from these benefit payments, the total premium increase will be reduced to avoid causing a decrease in the individual's net monthly payment. This occurs if the increase in the individual's social security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits.[1] (This change in effect perpetuates former amendments that prohibited SMI premium increases from reducing an individual's benefits in years in which the dollar amount of the individual's cost-of-living increase in benefits was not at least as great as the dollar amount of the individual's SMI premium increase.)

Generally, if a beneficiary qualifies for this protection (in order to qualify, a beneficiary must have been in a current payment status for November and December of the previous year), the reduced premium for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium (including the catastrophic Part B premium) for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the SMI premium for December; or

(2) The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an

[1] Note:—A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December and has December's SMI premium deducted from it.

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individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f) of the Act, it will not be changed during the calendar year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in the SMI program late or have reenrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. That increase is a precentage of the premium and would be based on the new premium rate before any reductions under section 1839(f) are made or any rounding off under section 1839(g)(6) of the Act are made (See section IV. of this notice concerning additions to premiums for catastrophic coverage.)

As required by section 1839(a)(3), (e)(1) and (f) of the Act as amended (42 U.S.C. 1395(a)(3), (e)(1) and (f)), I have determined that the standard monthly premium amount will be $29.00 during calendar year 1990. However, for individuals whose monthly premium is deducted from his or her monthly social security benefit under sections 1840(a)(1) or 1840(b)(1) of the Act, the premium will remain at $27.90 if monthly Social Security benefits are not increased for 1990. Also, if an individual's cost-of-living increase for 1990 to his or her monthly Social Security benefit is not as much as his or her increase in Part B premiums, including the catastrophic Part B premium, the individual's Social Security benefits will not be decreased below his or her level of benefits for December 1989.

A new enrollee and any individual who does not have the monthly premium deducted from his or her monthly Social Security benefit under section 1840(a)(1) or 1840(b)(1) of the Act will be required to pay the new premium amount regardless of whether monthly Social Security benefits are increased, or the individual's cost-of-living increase for 1990 is less than his or her increase in Part B premiums.

The accompanying statement in section V. of this notice shows how the standard premium amount was derived.

IV. Catastrophic Coverage Premium

On July 1, 1988, Congress enacted Public Law 100-360, the Medicare Catastrophic Coverage Act of 1988. It provides protection to Medicare beneficiaries whose SMI expenses exceed certain limits. It also adds certain services not previously covered under SMI, including payment of mammograms, respite care, and home IV drug therapy. To pay for this additional coverage for Part B, the law provides for new premiums beneficiaries will pay in addition to the SMI premium. This section of this notice addresses only the catastrophic coverage monthly premium for 1990.

As required by section 1839(g)(1)(A) of the Act, the catastrophic coverage premium for calendar year 1990 is $4.90. There are two exceptions to this amount, as required by section 1839(g)(4) and (5), respectively:

1. The monthly catastrophic coverage premium for calendar year 1990 is $3.56 for residents of Puerto Rico and $5.78 for residents of other U.S. territories and commonwealths; and

2. The monthly catastrophic coverage premium for calendar year 1990 for other individuals enrolled in part B only is $8.75.

V. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1990

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

Under the law, the starting point for determining the monthly premium is the amount that would be necessary to finance the SMI program for non-catastrophic expenses on an incurred basis; i.e., the amount of income that would be sufficient to pay for non-catastrophic services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the calendar year is added to the trust fund and used when needed.

The rates are established prospectively and are therefore subject to projection error. Additionally, legislation enacted after the financing has been established, but effective for the period for which the financing has been set, my affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of variation between actual and projected costs in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 1988 through 1989.

TABLE 1.—ESTIMATED ACTUARIAL STATUS OF THE SMI TRUST FUND AS OF THE END OF THE FINANCING PERIODS, JAN. 1, 1988–DEC. 31, 1989

[In millions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
Dec. 31, 1988	$8,990	$4,905	$4,085
Dec. 31, 1989	12,401	6,045	6,356

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half of the monthly projected non-catastrophic cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on non-catastrophic assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of variation between actual and projected costs and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1990 was determined by projecting per-enrollee non-catastrophic cost for the 12-month periods ending June 30, 1990 and June 30, 1991 by type of service. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July 1 annual fee screen update used for benefits before the passage of section 2306(b) of Public Law 98-369. The values for the 12-month period ending June 30, 1987 were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1987, through December 31, 1990, are shown in Table 3.

TABLE 2.—PROJECTION FACTORS [1] 12-MONTH PERIODS ENDING JUNE 30 OF 1987–91

[In percent]

12-month period ending June 30	Physicians' services		Outpatient hospital services	Home health agency services [4]	Group practice prepayment plans	Independent lab services
	Fees [2]	Residual [3]				
Aged:						
1987	4.4	7.0	22.2	−17.6	34.0	20.4
1988	3.7	6.6	12.8	65.4	44.4	18.9
1989	2.5	4.7	10.2	15.0	17.1	10.5
1990	3.2	6.2	16.2	15.0	20.7	24.1
1991	4.1	6.9	19.6	16.0	21.5	25.0
Disabled:						
1987	4.4	5.0	10.8	0	26.7	19.0
1988	3.7	5.9	17.2	0	44.9	15.3
1989	2.5	4.2	6.0	0	22.9	5.9
1990	3.2	5.9	15.5	0	20.1	22.4
1991	4.1	6.8	17.1	0	21.0	23.7

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Since July 1, 1981, home health agency services have been almost exclusively provided by the Medicare hospital insurance (HI) program. However, for those SMI enrollees not entitled to HI, the coverage of these services is provided by the SMI program. Since all SMI disabled enrollees are entitled to HI, their coverage of these services is provided by the HI program.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FINANCING PERIODS ENDING DECEMBER 31, 1987 THROUGH DECEMBER 31, 1990

	Financing periods (calendar year)			
	1987	1988	1989	1990
Covered services (at level recognized):				
Physicians' reasonable charges	$36.35	$41.74	$45.32	$50.10
Outpatient hospital and other institutions	9.81	10.93	12.51	14.66
Home health agencies	0.05	0.07	0.08	0.10
Group practice prepayment plans	2.85	3.66	4.36	5.26
Independent lab	1.20	1.37	1.61	2.01
Total services	52.26	57.77	63.88	72.37
Cost-sharing:				
Deductible	−2.70	−2.71	−2.72	−2.73
Coinsurance	−9.13	−10.12	−11.22	−12.75
Total benefits	40.43	44.94	49.94	56.89
Administrative expenses	1.32	1.36	1.41	1.47
Incurred expenditures	41.75	46.30	51.35	58.36
Value of interest	−0.42	−0.54	−0.98	−1.32
Contingency margin for projection error and to amortize the surplus or deficit	−5.53	3.84	5.43	.16
Monthly actuarial rate	35.80	49.60	55.80	57.20

The projected monthly rate required to pay for one-half of the total of non-catastrophic benefits and administrative costs for enrollees age 65 and over for calendar year 1990 is $58.36. The monthly actuarial rate of $57.20 provides an adjustment of −$1.32 for interest earnings and $0.16 for a contingency margin. Based on current estimates, it appears that with respect to enrollees age 65 and over the assets are sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, only a small positive contingency margin is needed to maintain assets at an appropriate level.

An appropriate level for assets depends on numerous factors. The most important of these factors are: (1) The difference from prior years in the actual performance of the program and estimates made at the time financing was established and (2) the expected relationship between incurred and cash expenditures. Ongoing analysis is made of the former as the trends in the differences vary over time.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement (before age 65) to disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly non-catastrophic costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projection for the aged, using appropriate actuarial assumptions (see Table 2). Non-catastrophic costs for the end-stage renal disease program are projected differently because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

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TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FINANCING PERIODS ENDING DECEMBER 31, 1987 THROUGH DECEMBER 31, 1990

	Financing periods (calendar year)			
	1987	1988	1989	1990
Covered services (at level recognized):				
Physicians' reasonable charges	$41.12	$44.71	48.26	$53.00
Outpatient hospital and other institutions	22.93	24.81	26.07	28.07
Home health agencies	0	0	0	0
Total services	1.05	1.39	1.69	2.03
Independent lab	1.24	1.37	1.56	1.87
Total services	86.34	72.28	77.56	84.97
Cost-sharing:				
Deductible	−2.42	−2.43	−2.44	−2.45
Coinsurance	−12.09	−13.19	−14.15	−15.59
Total benefits	51.83	56.66	60.99	67.03
Administrative expenses	1.69	1.72	1.73	1.73
Incurred expenditures	53.52	58.38	62.72	68.76
Value of interest	−6.84	−7.09	−6.19	−3.43
Contigency margin for projection error and to amortize the surplus or deficit	6.32	−2.69	−22.23	−21.23
Monthly actuarial rate	53.00	48.60	34.30	44.10

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar year 1990 is $68.76. The monthly actuarial rate of $44.10 provides an adjustment of −$3.43 for interest earnings and −$21.23 for a contingency margin. Based on current estimates, it appears that the disabled assets are more than sufficient to cover the amount of disabled incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce disabled assets to more appropriate levels.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined from a study on the average historical variation between actual and projected increases in the respective increase factors. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of non-catastrophic assets over liabilities of $4,922 million by the end of December 1990. This amounts to 9.1 percent of the estimated total incurred non-catastrophic expenditures for the following year. Assumptions which are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) produce a non-catastrophic deficit of $7,277 million by the end of December 1990, which amounts to 11.6 percent of the estimated total non-catastrophic incurred expenditures for the following year. Under these more pessimistic assumptions, assets will be insufficient to cover outstanding liabilities. However, the cash balances in the Trust Fund should remain positive, allowing claims to be paid. Under fairly optimistic assumptions, the monthly actuarial rates will result in a non-catastrophic surplus of $15,997 million by the end of December, 1990, which amounts to 33.9 percent of the estimated total incurred non-catastrophic expenditures for the following year.

TABLE 5.—ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1990

	This projection			Low cost projection			High cost projection		
	1989	1990	1991	1989	1990	1991	1989	1990	1991
12-Month period ending June 30:									
Projection factors (in percent):									
Physician fees [1]:									
Aged	2.5	3.2	4.1	1.7	2.1	2.9	3.3	4.4	5.2
Disabled	2.5	3.2	4.1	1.7	2.1	2.9	3.3	4.4	5.2
Utilization of physician services [2]:									
Aged	4.7	6.2	6.9	3.0	3.1	3.7	6.3	9.4	10.0
Disabled	4.2	5.9	5.8	−0.3	1.0	1.8	8.8	10.9	11.7
Outpatient hospital services per enrollee									
Aged	10.2	18.2	19.6	1.8	10.9	12.2	16.7	25.6	27.0
Disabled	6.0	15.5	17.1	−6.5	1.3	2.9	18.5	29.6	31.2

TABLE 5.—ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1990—Continued

	This projection			Low cost projection			High cost projection		
	1989	1990	1991	1989	1990	1991	1989	1990	1991
	1988	1989	1990	1988	1989	1990	1988	1989	1990
As of December 31:									
Actuarial status (in millions):									
Assets	$8,990	$12,401	$11,558	$8,990	$15,334	$20,109	$8,990	$9,250	$2,016
Liabilities	4,905	6,045	6,636	3,004	3,863	4,132	6,854	8,308	9,293
Assets less liabilities	$4,085	$6,356	$4,922	$5,986	$11,471	$15,997	$2,136	$942	$−7,277
Ratio of assets less liabilities to expenditures (in percent) [3]	10.0	13.5	9.1	15.9	27.6	33.9	4.8	1.8	−11.6

[1] As recognized for payment under the program.
[2] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[3] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

E. Standard Premium Rate

Beginning with calendar year 1990, section 1839(a)(3) of the Act provides that the standard monthly premium rate, for both aged and disabled enrollees, is the lesser of:

1. The actuarial rate for enrollees aged 65 and older; or

2. The current standard monthly premium, increased by the same percentage that the level of old-age, survivors, and disability insurance (OASDI) benefits has been increased since the November preceding the promulgation (and rounded to the nearer multiple of ten cents).

The standard monthly premium rate for calendar year 1989 is $27.90. The OASDI benefit table increased 4.0 percent in December 1988. The $27.90 rate, increased by 4.0 percent and rounded to the nearer ten-cent multiple, is $29.00. Since this is less than the aged actuarial rate, the standard premium rate is $29.00 for calendar year 1990.

VI. Regulatory Impact Statement

The standard monthly SMI premium rate of $29.00 for all enrollees during calendar year 1990 is 3.9 percent higher than the $27.90 monthly premium amount for the previous financing period. The estimated cost of this increase over the current premium to the approximately 33.0 million SMI enrollees will be about $435 million for calendar year 1990. The catastrophic coverage premium, which affects most Part B beneficiaries, is $4.90 ($3.56 for residents of Puerto Rico, $5.78 for residents of other territories and commonwealths, and $8.57 for Part B-only enrollees). The estimated cost of this increase to Medicare beneficiaries will be about $458 million for calendar year 1990.

This notice merely announces amounts required by section 1839 of the Act. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612) or section 1102(b) of the Act.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r) (Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: September 21, 1989.

Louis B. Hays,
Acting Administrator, Health Care Financing Administration.

Approved: October 23, 1989.

Louis W. Sullivan,
Secretary.

[FR Doc. 89-25508 Filed 10-25-89; 2:50 pm]
BILLING CODE 4120-01-M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HC (Centers for Disease Control) of the Statement of Organizations, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 54 FR 40911–13, October 4, 1989) is amended to reflect the transfer of the travel policy functions from the Management Analysis and Services Office to the Financial Management Office within the Office of Program Support.

Section HC-B, Organization and Functions, is hereby amended as follows:

Under the heading *Financial Management Office (HCA53),* insert the following as item (10): "(10) serves as the focal point for domestic and international travel policy, procedures, and interpretation;" and renumber items (10) and (11) as (11) and (12) respectively.

Under the heading *Management Analysis and Services Office (HCA59),* delete the statement in its entirety and substitute the following:

(1) Plans, coordinates, and provides CDC-wide administrative, technical, management, and information services in the following areas: studies and surveys, delegations of authorities, organization and functions, Privacy Act, policy and procedures, records management, printing procurement and reproduction, correspondence, forms design, publications distribution, issuances, mail services, public inquiries, Freedom of Information Act Index, and reports management; (2) develops and implements policies and procedures in these areas; (3) maintains liaison with HHS, PHS, General Services Administration, the Government Printing Office, and other government and private agencies.

Effective date: October 18, 1989.

Wilford J. Forbush,
Director, Office of Management, PHS.

[FR Doc. 89-25281 Filed 10-26-89; 8:45 am]
BILLING CODE 4160-18-M

The Health Omnibus Programs Extension of 1988, Public Law, 100-607; Delegation of Authority, Centers for Disease Control

Notice is hereby given that in furtherance of the January 27, 1989, delegation to the Assistant Secretary for Health of authorities under the Health Omnibus Programs Extension of 1988 (Pub. L. 100-607) by the Secretary of

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Health and Human Services (54 FR 5679), the Assistant Secretary for Health has delegated to the Director, Centers for Disease Control, with authority to redelegate, these authorities, insofar as the autorities pertain to the functions assigned to the Centers for Disease Control.

1. Under Title XXIII of the Public Health Service Act, "Research With Respect to Acquired Immune Deficiency Syndrome" (42 U.S.C. 300cc *et seq.*), as amended hereafter (section 201 of Pub. L. 100-607), the following authorities:

Section 2315, Support of International Efforts.
Section 2317, Information Services.
Section 2320, Additional Authority with Respect to Research.
Section 2341, Fellowships and Training.

2. Under Title XXIV of the Public Health Service Act, "Health Services With Respect to Acquired Immune Deficiency Syndrome" (42 U.S.C. 300dd *et seq.*), as amended hereafter (section 211 of Pub. L. 100-607), the following authorities:

Section 2431, Grants for Anonymous Testing.
Section 2432, Requirement of Provision of Certain Counseling Services.
Section 2433. Funding.

3. Under Title XXV of the Public Health Service Act, "Prevention of Acquired Immune Deficiency Syndrome" (42 U.S.C. 300ee *et seq.*), as amended hereafter (section 221 of Pub. L. 100-607), the following authorities:

Section 2501-2511, Formula Grants.
Section 2521, Availability of Information to the General Public.
Section 2522, Public Information Campaigns.
Section 2523, Provision of Information to Underserved Populations.

4. Under Title II, "Programs With Respect to Acquired Immune Deficiency Syndrome," of Pub. L. 100-607 (42 U.S.C. 300cc note), as amended hereafter, the following authority:

Section 203(a), Requirement of Certain Research Studies.

5. Under Subtitle E of Title II, "Programs With Respect to Acquired Immune Deficiency Syndrome," of Pub. L. 100-607 (42 U.S.C. 300cc-1-4), as amended hereafter, the following authorities:

Section 252, Establishment of Office With Respect to Minority Health and AIDS.
Section 253, Information for Health and Public Safety Workers.
Section 255, Technical Assistance.

The delegation excluded the authorities to promulgate regulations, to submit reports to the Congress, to establish advisory committees or national commissions, and to appoint members to such committees or commissions.

These delegations became effective on October 11, 1989.

James O. Mason,
Assistant Secretary for Health.
[FR Doc. 89-25286 Filed 10-26-89; 8:45 am]
BILLING CODE 4160-16-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on September 15, 1989.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. Statement of Marriage—0960-0017—The information collected on the form SSA-753 is used by the Social Security Administration to make determinations regarding entitlement to spouse's benefits when a common law marriage is alleged. The affected public is comprised of third parties who can supply evidence concerning the existence of a common-law marriage.
Number of Respondents: 40,000
Frequency of Response: 1
Average Burden Per Response: 9 minutes
Estimated Annual Burden: 6,000 hours

2. SSA initiated Personal Earnings and Benefit Estimate Statement Questionnaire and Interview Guides (Project 2)—0960-xxxx—The information collected on the form SSA-7006 will be used by the Social Security Administration to determine the value and best procedure of providing unsolicited Social Security information to the public. The affected public is comprised of non-beneficiaries age 19 through 64 selected to participate in this survey.
Number of Respondents: 5,450
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 906 hours

3. Employee Work Activity Questionnaire—00960-xxxx—The information collected on the form SSA-3033 is used by the Social Security Administration to determine if a disability claimant has or has not either engaged in substantial gainful activity or received a nonspecific subsidy. Such a determination is necessary in evaluating claimant's eligibility for disability benefits.
Number of Respondents: 12,500
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 2,083 hours

4. Request for Workers' Compensation/Public Disability Benefit Information—0960-0098—The information collected on the form SSA-1709 is used by the Social Security Administration to verify information about workers' compensation or other disability benefits made to Social Security disability insurance beneficiaries so that appropriate adjustments are made to their monthly Social Security benefits.
Number of Respondents: 32,500
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 8,125 hours

OMB Desk Officer: Justin Kopca.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: October 20, 1989.
Ron Compston,
Social Security Administration, Reports Clearance Officer.
[FR Doc. 89-25225 Filed 10-26-89; 8:45 am]
BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-89-1917; FR-2606-N-43]

Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: October 27, 1989.

ADDRESS: For further information, contact James Forsberg, Department of Housing and Urban Development, Room 7228, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 755-6300; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: October 20, 1989.
Stephen A. Glaude,
Deputy Assistant, Secretary for Program Management.
[FR Doc. 89-25320 Filed 10-26-89; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[9-00152-ILM; UT-047-4410-06]

Draft Resource Management Plan/ Environmental Impact Statement; Cedar City, UT

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of draft resource management plan/ environmental impact statement and proposed areas of critical environmental concern for the Dixie Resource Area, Cedar City District, Utah.

SUMMARY: The Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) for the Dixie Resource Area, Cedar City District, Washington County, Utah, is available for review and comment. The RMP/EIS presents three alternative land use plans for management of approximately 628,000 acres of public land in Washington County, Utah. These alternatives present an array of land disposals, acquisitions, Areas of Critical Environmental Concern (ACECs), Special Recreation Management Areas (SRMAs), and other resource management decisions designed to guide management of the public lands within the Dixie Resource Area.

An open house will be held on November 15, 1989, at the Dixie Resource Area office, 225 North Bluff Street, St. George, Utah, from 3:00 to 8:00 p.m. The public is invited to present written comments and questions concerning the draft RMP/EIS. To be considered in the final RMP/EIS, comments must be received in the Dixie Resource Area office within 90 days after publication of EPA's notice in the **Federal Register**.

This action is announced pursuant to section 102(2)(c) of the National Environmental Policy Act of 1970, section 202(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR part 1610.

FOR FURTHER INFORMATION CONTACT: David Brine, RMP Team Leader, Bureau of Land Management, 225 North Bluff Street, St. George, Utah 84770: (801) 673-4654.

SUPPLEMENTARY INFORMATION: The Dixie Draft RMP/EIS analyzes three alternative multiple-use management plans. Each plan provides management guidance for all relevant resource management programs administered by the Bureau of Land Management in the planning area. Various combinations of special designations are analyzed under the alternatives.

Alternatives Analyzed

1. Alternative A (no action) presents the continuation of current management under the Virgin River Management Framework Plan (MFP) completed in 1981. Nonconforming actions would continue to be dealt with through plan amendments. MFP decisions would be analyzed for NEPA compliance.

2. Alternative B emphasizes land tenure adjustment to maximize opportunities for exchanging tracts of public land (identified as desired by State and local planning interests) for State and private lands (which would be resource enhancing for public purposes).

3. Alternative C (the preferred alternative) emphasizes the long-term retention, protection, and special management of public lands identified as having important resource values. It also directs priority in land tenure changes toward acquisition of identified lands to benefit public resource management program.

Proposed ACECs

Ten areas of critical environmental concern (ACEC) are proposed for designation. The acreage of these units varies among alternatives and is displayed in the following table.

Dated: September 26, 1989.
James M. Parker,
State Director.

TABLE 1.—NOMINATED AREAS OF CRITICAL ENVIRONMENTAL CONCERN DESIGNATION, BY ALTERNATIVE

Area name	Critical concerns	Acres by alternative		
		A	B	C
Red Bluff	Endangered plant species (dwarf bearclaw poppy); Colorado River Salinity control (saline soils).	0	4,750	6,010
Warner Ridge	Endangered plant species (dwarf bearclaw poppy, siler cactus) Colorado River salinity control (saline soils); riparian system; sensitive wildlife habitat (spotted bat, gila monster).	0	3,690	3,690
Santa Clara River Gunlock Section	Riparian system; cultural resources (Virgin Anasazi and Paiute riverine sites); wildlife habitat; sensitive fish species (Virgin River spinedace).	0	1,790	1,790
Santa Clara River Landhill Section	Riparian system; cultural resources (Virgin Anasazi and Paiute riverine sites); wildlife habitat; sensitive fish species (Virgin River spinedace); petroglyphs.	0	1,550	1,770
Lower Virgin River	Riparian systems; endangered fish (woundfin minnow); sensitive fish (Virgin River chub); cultural resources (Virgin Anasazi riverine sites); wildlife habitat.	0	965	1,460
Little Creek Mountain	Cultural resources (Virgin Anasazi upland sites)	0	15,455	15,455
Canaan Mountain	National Scenic Resource (geologic)	0	3,390	31,870
Red Mountain	National Scenic Resource (geologic)	0	5,480	5,480

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TABLE 1.—NOMINATED AREAS OF CRITICAL ENVIRONMENTAL CONCERN DESIGNATION, BY ALTERNATIVE—Continued

Area name	Critical concerns	Acres by alternative		
		A	B	C
Desert Woodbury (Joshua Tree N.N.L.)	Threatened animal species (desert tortoise); National Natural Landmark (Northeast Mojave Desert).	0	3,230	
Beaver Dam Slope (includes Joshua Tree N.N.L. and Desert Woodbury).	Threatened animal species (desert tortoise); Northeast Mojave Desert system.	0	0	26,950
City Creek	Endangered animal species (desert tortoise); important community watershed.	0	2,595	2,595

[FR Doc. 89-25315 Filed 10-26-89; 8:45 am]
BILLING CODE 4310-DQ-M

[AZ-010-90-4322-02; 1784-0100]

Arizona Strip District Grazing Advisory Board; Field Tour Date Change

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of Field Tour—Date Change.

SUMMARY: The Arizona Strip District Grazing Advisory Board will tour the Eastern portion of the Vermillion Resource Area to view and discuss grazing management practices.

DATE: Tuesday, November 28, 1989 leaving from the district office at 8 a.m. and returning about 5 p.m.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 390 North 3050 East, St. George, UT 84770 (Phone 801/673-3545).

SUPPLEMENTARY INFORMATION: Interested publics may accompany the tour; however, they must provide their own transportation and food. The Board will consider written and oral statements anytime during the tour. Arrangements to comment or attend should be made at least 5 days in advance.

Dated: October 19, 1989.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 89-25316 Filed 10-26-89; 8:45 am]
BILLING CODE 4310-32-M

[WY-030-00-4351-02]

Meeting; Rawlins District Advisory Council

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting of the Rawlins District Advisory Council.

SUMMARY: Notice is hereby given of a meeting of the Rawlins District Advisory Council, in accordance with Public Law 94-597.

DATE: November 30, 1989.

ADDRESS: Bureau of Land Management, 1300 Third Street, Rawlins, WY 82301.

FOR FURTHER INFORMATION CONTACT: Grant Petersen, Public Affairs Specialist, or Richard Bastin, District Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, WY 82301, (307) 324-7171.

SUPPLEMENTARY INFORMATION: The meeting will be held at 1 p.m. at the Bel Air Inn, 23rd and Spruce Street, Rawlins, WY. A public comment period will be held at 1 p.m. The agenda items include: Welcome, Public Session; Rawlins District Programs/Summary of FY 89 Accomplishments and FY 90 Goals; Black-footed Ferret Reintroductions; North Platte National Recreation Area Proposal Status; Volunteer Programs; and Advisory Council Resolutions and Adjournment.

Dated: October 20, 1989.

Leslie A. Oiver,

Associate District Manager.

[FR Doc. 89-25312 Filed 10-26-89; 8:45 am]
BILLING CODE 4310-22-M

[NV-930-90-4212-22]

Filing of Plats of Survey; Nevada

October 17, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing was effective at 10:00 a.m. on October 11, 1989.

FOR FURTHER INFORMATION CONTACT: James R. Munson, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, 702-328-6345.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, NV, on October 11, 1989.

Mount Diablo Meridian, Nevada

T. 19 N., R. 30 E.—Dependent Resurvey and Tract Surveys
T. 14 N., R. 25 E.—Dependent Resurvey and Subdivision of Sections
T. 14 N., R. 27 E.—Dependent Resurvey and Subdivision of Section 5
T. 15 N., R. 27 E.—Dependent Resurvey
T. 13 N., R. 28 E.—Dependent Resurvey and Subdivision of Sections
T. 12 N., R. 29 E.—Dependent Resurvey and Subdivision of Section 26

All the surveys were accepted on September 27, 1989 and were executed to meet certain administrative needs of the Bureau of Indian Affairs. All of the above-listed surveys are now the basic record for describing the lands for all authorized purposes. The surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fee.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 89-25388 Filed 10-26-89; 8:45 am]
BILLING CODE 4310-HC-M

Bureau of Reclamation

Analysis of the Operating Criteria and Alternatives of Glen Canyon Dam, AZ, Colorado River Storage Project

AGENCY: Bureau of Reclamation (USBR).

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (DEIS) to analyze the existing operating criteria of Glen Canyon Dam, Arizona, Colorado River Storage Project, and to develop a set of environmental criteria that will be used by the Department of the Interior during the development of the Annual Operating Plan for the operation of Glen Canyon Dam. This information is necessary to determine specific options to the operation of Glen Canyon Dam that could be enacted to minimize, consistent with law, the impact of operation on the natural resources of the Grand Canyon. The statement will discuss: the requirements of the Colorado River Compact, Colorado River Storage Project Act, Endangered Species Act, National Park Service mandates, recreation issues, and requirements of the Department of Energy.

The DEIS will present an analysis of the impacts of various alternative management practices, including existing ones, as affected by changes in the operating criteria for Glen Canyon Dam.

Reclamation will conduct scoping meetings in several locations to obtain information on which to base management options to be analyzed in the NEPA process. Reclamation will be the lead agency in the development of the DEIS. The U.S. Fish and Wildlife Service, the National Park Service, and Western Area Power Administration of the Department of Energy will be cooperating agencies.

DATE: The formal public involvement process and scoping efforts will begin in January 1990.

ADDRESSES: The scoping meetings will be held in several locations and will be published when the specific locations are selected.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Robinson, Director, Colorado River Studies and Initiatives Office, U.S. Bureau of Reclamation, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147, telephone: (801) 524-3595.

SUPPLEMENTARY INFORMATION: Glen Canyon Dam was authorized and constructed prior to the enactment of NEPA. Consequently, no NEPA documentation on the overall operations of the facility has ever been completed. Reclamation completed an Environmental Assessment/Finding of No Significant Impact on the uprating and the rewinding of the generators at Glen Canyon Dam in 1982. The Department of the Interior initiated the Glen Canyon Environmental Studies in 1982 with the objective of collecting the technical information required to assess the impact of operations on the natural and recreation resources in Glen Canyon and Grand Canyon. The Glen Canyon Environmental Studies have produced multiple technical reports on the impacts of high and steady flow operations, and studies have recently been initiated on the impacts of fluctuating and minimum flows.

Anyone interested in more information concerning the studies or who has suggestions as to significant environmental issues should contact Mr. Robinson at the above address.

The DEIS is expected to be completed and available for review and comment by the end of 1991.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 89-25337 Filed 10-26-89; 8:45 am]
BILLING CODE 4310-09-M

Proposed City of Santa Rosa Public Law 84-984 Loan Project, Santa Rosa, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement/environmental impact report (EIS/EIR).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality Guidelines (40 CFR Part 1500), section 21002 of the California Environmental Quality Act, the Bureau of Reclamation (Reclamation), and the City of Santa Rosa intend to prepare a joint EIS/EIR. The city is in the process of applying for a Public Law 84-984 loan from Reclamation to finance construction of a reservoir as part of a multipurpose wastewater reclamation and reuse project. A grant for wildlife enhancement is also being considered.

The purposes of the project are to provide: Increased capacity for the city's tertiary sewage treatment plant, enhancement of wildlife resources, and irrigation of 7,500 acres of presently unirrigated land. Its major features would include: Expansion of the city's existing tertiary wastewater treatment plant, installation of 6 miles of buried pipeline, construction of a 15,000 acre-foot reservoir, installation of a pipeline irrigation distribution system, and provision of tertiary treated water for enhancement of wildlife habitats.

A meeting has been scheduled to solicit public input, determine alternatives to the proposed project to determine the scope of the EIS/EIR, and identify significant issues related to the proposes action.

DATE: The meeting will be held on November 16, 1989, at 7:00 p.m., in Santa Rosa, California.

ADDRESS: The meeting will be held at the following location. Dohn Room, Santa Rosa Recreation Center, 415 Steele Lane, Santa Rosa, California 95401.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Bruss, Environmental Specialist, Bureau of Reclamation (Code: MP-750), Mid-Pacific Region, 2800 Cottage Way, Sacramento, California 95825-1898; Telephone: (916) 978-5130; or Ms. Marie Meredith, Associate Planner, Department of Community Development, City of Santa Rosa, 100 Santa Rosa Avenue, Santa Rosa, California 95402-1678; Telephone: (707) 576-5295.

SUPPLEMENTARY INFORMATION: The proposed project is located south and east of Santa Rosa, California, in the Americano Creek and Stemple Creek watersheds. The primary land use in these areas is dairy farming.

Tertiary treated waste water would be pumped to the reservoir and stored for use in irrigating 7,500 acres of land and for wetland development and riparian habitat enhancement. These improvements would be done in cooperation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

Anyone interested in more information concerning the proposed exchange or who has suggestions about significant environmental, issues should contact with the people listed above.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 89-25336 Filed 10-26-89; 8:45 am]
BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Public Hearing

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Board of Directors of the Overseas Private Investment Corporation (OPIC) on November 28, 1989. This hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATE: The hearing will be held on November 28, 1989, and will begin promptly at 1 p.m. Prospective participants must submit to OPIC on or

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before November 7, 1989, notice of their intent to participate.

ADDRESS: The location of the hearing will be: Interstate Commerce Commission, Hearing Room A, 12th Street and Constitution Avenue NW., Washington, DC.

Notices and prepared statements should be sent to James R. Offutt, Office of General Counsel, Overseas Private Investment Corporation, 1615 M Street, NW., Washington, DC 20527.

(1) Procedure

(a) *Attendance; Participation.* The hearing will be open to the public. However, a person wishing to present his or her views at the hearing must provide OPIC with advance notice on or before November 7, 1989. The notice must include the name, address and telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) *Prepared Statements.* Any participant wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5:00 p.m. on November 17, 1989. Prepared statements must be typewriten, double spaced and may not exceed twenty-five (25) pages.

(c) *Duration of Presentations.* Oral presentations will in no event exceed ten (10) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) *Agenda.* Upon receipt of the required notices, OPIC will draw up an agenda for the hearing setting forth the subject or subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) *Publication of Proceedings.* A verbatim transcript of the hearing will be compiled and published. The transcript will be available to members of the public at the cost of reproduction.

(2) Supplementary Information: OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries for projects which confer positive developmental benefits upon the project country while avoiding negative effects on the U.S. economy. OPIC's Board of Directors is required by section 231A(b) of the Foreign Assistance Act of 1961, as amended ("the Act") to hold at least one public hearing each year.

Among other issues, OPIC's annual public hearing has, in previous years, provided a forum for testimony concerning section 231A(a) of the Act. This section provides that OPIC may operate its programs only in those countries that are determined to be "taking steps to adopt and implement laws that extend internationally recognized worker rights to workers in that country (including any designated zone in that country)."

By prior agreement with Congress, OPIC complies with annual determinations made by the Exceutive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences (GSP). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognzied worker rights is subject concurrently to the suspension of OPIC programs.

For non-GSP countries in which OPIC operates its programs, OPIC has agreed to provide a report to the Congress for any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the woker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation (Pub. L. 99-204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

FOR FURTHER INFORMATION ABOUT THE PUBLIC HEARING CONTACT: James R. Offutt, Office of General Counsel, Overseas Private Investment Corporation, 1615 M Street, NW., Washington, DC 20527 (202) 457-7038.

Dated: October 23, 1989.

Margaret A. Kole,

Corporate Secretary.

[FR Doc. 89-25382 Filed 10-26-89; 8:45 am]

BILLING CODE 3210-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31485]

Indiana Rail Road Co.; Trackage Rights Exemption; Illinois Central Railroad Co. and Indiana Hi-Rail Corp.

Illinois Central Railroad Company (IC) has agreed to grant overhead trackage rights to Indiana Rail Road Company (IRRC) between milepost X-155 at Newton, IL and the Wye connecting tracks to the Central Illinois Public Service Company facility at milepost X-100 at Lis, IL, a distance of 5 miles. IC has also agreed to assign to IRRC its existing trackage rights over a line owned by Indiana Hi-Rail Corporation (IHR) between milepost B-204.3 at Browns, IL and milepost B-215.5 at Grayville, IL, a distance of 11.2 miles.[1] These trackage rights will become effective on the date the transaction proposed for exemption is consummated. The trackage rights in this proceeding connect with two lines that are the subject of a related proceeding, F.D. 31472, *Indiana Rail Road Company—Acquisition and Operation Exemption-Illinois Central Railroad Company*, filed concurrently with this notice.[2]

This notice is filed under CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Comments must be filed with the Commission and served on: John H. Broadley (IRRC), Jenner & Block, 21 Dupont Circle, NW., Washington, DC 20036; and William C. Sippel (IC), Oppenheimer, Wolff & Donnelly, Two Illinois Center, 233 N. Michigan Avenue, Suite 2400, Chicago, IL 60601.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978). *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 18, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-25117 Filed 10-26-89; 8:45 am]

BILLING CODE 7035-01-M

[1] The acquisition of trackage rights by IRRC through assignment from IC falls within the class exemption which applies to trackage rights "over lines owned or operated" by other rail carriers. 49 CFR 1180.2(d)(7). There is no representation that IHR agrees to the assignments. It is assumed the IHR agrees or that its agreement is not required.

[2] In that proceeding, IRRC seeks exemption authority under 49 U.S.C. 10505 from the provisions of 49 U.S.C. 11343 to acquire IC's 99.3-mile line: (1) between milepost X-109 at Sullivan, IN, and milepost X-155 at Newton, IL; and (2) between milepost B-109 at Newton, IL, and milepost B-204.3 near Browns, IL.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Gardner Asphalt Corp.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Gardner Asphalt Corporation*, Civil Action No. 89-2946-S, was filed in the United States District Court for the District of Kansas on October 5, 1989, and, simultaneously, a consent decree was lodged with the Court in settlement of the allegations in the complaint. This consent decree settles the government's claims in the complaint pursuant to sections 112 and 113 of the Clean Air Act, 42 U.S.C. 7412 and 7413, for civil penalties and for injunctive relief to require compliance with all provisions of the Clean Air Act and with the National Emission Standard for Hazardous Air Pollutant (NESHAP) for Asbestos, codified at 40 CFR part 61, subpart M, by Gardner Asphalt Corporation of Kansas City, Kansas. The complaint alleged, among other things, that the defendant's Kansas City facility is subject to the NESHAP for asbestos, 40 CFR part 61, subpart M. The complaint further alleged that defendant failed to obtain written approval from the Administrator of EPA prior to commencing construction of its Kansas City, Kansas, facility, and failed to notify the Administrator of EPA prior to and after start up of its Kansas City, Kansas, facility.

Under the terms of the proposed consent decree, the defendants agree to pay civil penalties of thirteen thousand seven hundred fifty dollars ($13,750.00) and to comply with all provisions of the Clean Air Act, 42 U.S.C. 7401 *et seq.* and with the National Emission Standard for Hazardous Air Pollutant for Asbestos, codified at 40 CFR part 61, subpart M. The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530. All comments should refer to *United States* v. *Gardner Asphalt Corporation*, D.J. Ref. 90-5-2-1-1254. The proposed consent decree may be examined at the following offices of the Unites States Attorney and the Environmental Protection Agency ("EPA"):

United States Attorney's Office

Contact: Chief, Civil Division, Office of the United States Attorney, 412 Federal Building, 812 North Seventh Street, Kansas City, Kansas 66101; (913) 236-3730.

EPA Region VII

Contact: Becky Ingrum Dolph, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101; (913) 236-2853.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $7.10 payable to Treasurer of the United States.

Richard B. Steward,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-25305 Filed 10-26-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 16th day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/Workers/Firm	Location	Date received	Date of petition	Petition No.	Articles produced
AT&T Communication & Computer Products (IBEW).	Little Rock, AR	10/16/89	10/6/89	23,481	Computers.
Alexander Well Services (Workers)	Nowata, OK	10/16/89	9/30/89	23,482	Oilfield Services.
Anown Shoe, Co. (Workers)	East Port, ME	10/16/89	9/22/89	23,483	Shoes.
Bilen Shoe, Co. (Workers)	Lewiston, ME	10/16/89	10/2/89	23,484	Shoes.
Berry Plastics (Company)	New Brunswick, NJ	10/16/89	10/6/89	23,485	Aerosol Caps & Cans Plastic.
Certainteed Corp. (UGCW)	Winslow Township, NJ	10/16/89	10/5/89	23,486	Insulations for Homes.
Duckhead Apparel (Formerly O'Bryan Bros., Inc.) (Workers).	McLemoresville, TN	10/16/89	10/3/89	23,487	Pants & Shorts.
France Rental Tool, Inc. (Workers)	LaFayette, LA	10/16/89	10/5/89	23,488	Machines for Oil Industry.
General Motors (CPC)(UAW)	Van Nuys, CA	10/16/89	10/11/89	23,489	Automobiles.

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APPENDIX—Continued

Petitioner: Union/Workers/Firm	Location	Date received	Date of petition	Petition No.	Articles produced
Goldfeder, Inc. (UE)	Yalesville, CT	10/16/89	10/6/89	23,490	Silverplated Articles.
Howard Mfg. Co., Inc. (Company)	Nashville, AR	10/16/89	10/5/89	23,491	Ladies' Robes & Loungewear.
Lordship Incorp. (Company)	Stratford, CT	10/16/89	9/25/89	23,492	Retreaded Tires.
Marlite Division U.S.G. (UPW)	Dover, OH	10/16/89	10/5/89	23,493	Doors & Toilet Partitions.
Monk Fur Co., Inc. (Workers)	Jim Thorpe, PA	10/16/89	10/2/89	23,494	Rabbit Fur.
Ohio River Pipeline, Inc. (Workers)	Marnetta, OH	10/16/89	10/1/89	23,495	Oil and Gas.
Ohio River Pipeline, Inc. (Workers)	E. Sparta, OH	10/16/89	10/1/89	23,496	Oil and Gas.
Ohio River Pipeline, Inc. (Workers)	Moreland, OH	10/16/89	10/1/89	23,497	Oil and Gas.
Ohio River Pipeline, Inc. (Workers)	Mt. Gilead, OH	10/16/89	10/1/89	23,498	Oil and Gas.
Ohio River Pipeline, Inc. (Workers)	Lexington, OH	10/16/89	10/1/89	23,499	Oil and Gas.
Olin-Hunt Specialty Products, Inc.	Palisades Park, NJ	10/16/89	10/3/89	23,500	Etching Chemicals (Developer & Toner).
Oxy USA Incorporated (Company)	Tulsa, OK	10/16/89	10/6/89	23,501	Oil and Gas.
Oxy USA Incorporated (Company)	Oklahoma City OK	10/16/89	10/6/89	23,502	Oil and Gas.
Oxy USA Incorporated (Company)	Houston, TX	10/16/89	10/6/89	23,503	Oil and Gas.
Oxy USA Incorporated (Company)	Midland, TX	10/16/89	10/6/89	23,504	Oil and Gas.
Oxy USA Incorporated (Company)	Jackson, MS	10/16/89	10/6/89	23,505	Oil and Gas.
Oxy USA Incorporated (Company)	Bakersfield, CA	10/16/89	10/6/89	23,506	Oil and Gas.
Plaskon Electronic Material, Inc. (UAW)	Toledo, OH	10/16/89	9/26/89	23,507	Epoxy Moulding Compounds.
Robertshaw Controls Co. (Workers)	Lebanon, TN	10/16/89	10/2/89	23,508	Auto Sensors & Thermostats.
Square D Co. (IBEW)	Lexington, KY	10/16/89	10/6/89	23,509	Electrical Equip.
Superior/Ideal, Inc. (Workers)	Oskaloosa, IA	10/16/89	10/2/89	23,510	Vehicle & Trailer Accessories.
U.S. Pipe and Foundry Co., Industrial Products Div.	Burlington, NJ	10/16/89	10/6/89	23,511	Tubular Ferrous.
Vassarette (Workers)	Guin, AL	10/16/89	10/2/89	23,512	Ladies' Apparel.
Western Art Mfg., Co. (Workers)	Colorado Springs, CO	10/16/89	10/5/89	23,513	Children's Wear.
Lorch Electronic Div. of Vernitron Corp. (Company)	Englewood, NJ	10/16/89	10/3/89	23,514	Electronic Components.

[FR Doc. 89-25374 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

Cactus Drilling Co; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA-W-21,807, Midland, Texas; TA-W-21,807A, All Other Locations in Texas; TA-W-21,807B, All Locations in Louisiana; TA-W-21,807C, All Locations in New Mexico; TA-W-21,807D, All Locations in Oklahoma; TA-W-21,807E, All Locations in Michigan.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 9, 1989 applicable to all workers of Cactus Drilling Company.

Based on new information from the company, additional workers were layed off at other locations in the State of Texas and in the States of Louisiana, New Mexico, Oklahoma and Michigan. The amended notice applicable to TA-W-21,807 is hereby issued as follows:

All workers of Cactus Drilling Company, Midland, Texas and in other locations in the State of Texas and in all locations in the States of Louisiana, New Mexico, Michigan and Oklahoma who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 16th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25375 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

Core Laboratories, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA-W-21,406, Dallas, Texas; TA-W-21,406A, Magnolia, Arkansas; TA-W-21,406B, Irving, Texas; TA-W-21,406C, All Other Locations in Texas; TA-W-21,406D, All Other Locations in Arkansas.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 19, 1988 applicable to all workers of Core Laboratories, Dallas, Texas and Magnolia, Arkansas. The certification notice was amended on August 31, 1989 to include all workers of Core Laboratories in Irving, Texas. The amended notice was published in the Federal Register on September 13, 1989 (54 FR 37841).

Based on new information from the company additional workers of Core Laboratories, a subsidiary of Western Atlas International, were separated at other locations in Texas and Arkansas. The amended notice applicable to TA-W-21,406 is hereby issued as follows:

All workers of Core Laboratories, Inc., Dallas, Texas; Irving, Texas; Magnolia, Arkansas and all other locations in Texas and Arkansas who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 16th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25376 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-23, 176]

Eaton Corporation-Controls Division, Fremont, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 15, 1989 applicable to all workers of Eaton Corporation-Controls Division, Fremont, Ohio.

Based on new information from the company, additional workers engaged in employment related to the production of automotive switches were retained beyond the September 15, 1989 termination date. All production of automotive switches is scheduled to be transferred to Mexico by mid-1990. Therefore, the Department is deleting the termination date. The amended notice applicable to TA-W-23,176 is hereby issued as follows:

All workers engaged in employment related to the production of automotive switches at Eaton Corporation, Controls Division, Fremont, Ohio who became totally or partially separated from employment on or after June 29, 1988 are eligible to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

I further determine that all workers engaged in employment related to the production of appliance switches at Eaton Corporation, Controls, Division, Fremont, Ohio are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 16th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25377 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-22, 535 and 536]

Levi Straus & Co., Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 26, 1989 applicable to all workers of Levi Straus and Company, Inc., McArthur Road and Jackson Avenue, Maryville, Tennessee. The notice was published in the Federal Register on May 23, 1989 (54 FR 22381).

Based on new information from the company, a few workers whose separations were affected by the closing of the plant were retained beyond the November 30, 1988 termination date. Accordingly, the Department is changing the termination date to December 15, 1988. The amended notice applicable to TA-W-22,535 and TA-W-22,536 is hereby issued as follows:

All workers of Levi Straus and Company, Inc., McArthur Road and Jackson Avenue, Maryville, Tennessee who became totally or partially separated from employment on or after February 2, 1988 and before December 15, 1988 are eligible to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 16th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25378 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-23,041]

Meriden-Steinhour Press, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 10, 1989 applicable to all workers of Meriden-Steinhour Press, Inc. in Meriden, Connecticut. The notice was published in the Federal Register on September 6, 1989 (54 FR 37033).

Based on new information from the company, a few workers were retained for close down operations beyond the July 1, 1989 termination date. The amended notice applicable to TA-W-23,041 is hereby issued as follows:

All workers of Meriden-Steinhour Press, Inc., Meriden, Connecticut who became totally or partially separated from employment on or after January 1, 1989 and before October 1, 1989 are eligible to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 16th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25379 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-22,163]

Micro Energy International, Inc.; Affirmed Termination of Investigation on Remand

Pursuant to a summons and complaint at the U.S. Court of International Trade, in *Former Employees of Micro Energy International Inc.* v. *Secretary of Labor* (USCIT 89-05-00279) the Department requested a remand to support its termination of investigation for workers at Micro Energy International, Inc., Roswell, New Mexico.

The Department terminated the investigation because the findings show that MEI never produced a marketable product or service in the short time it was in operation. MEI was incorporated in August 1985 to engage in the business of manufacturing an uninterruptable power source. The company was dissolved in November 1985. MEI was a start-up corporation that experienced a 4-month research and development period before ceasing operations for lack of capital.

Further, the retroactive provisions of the 1988 amendments contained in the Omnibus Trade and Competitiveness Act do not apply to workers engaged in the production of an article if such workers were eligible to be certified for benefits under the Trade Act prior to the implementation of the retroactive provisions.

Other findings show that all workers were separated from MEI more than one year prior to the date of the petition. Section 223 of the Trade Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose and the investigation was terminated.

Conclusion

After review of the investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the notice of termination of investigation is affirmed.

Signed at Washington, DC, this 16th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25381 Filed 10-26-89; 8:45 am]
BILLING CODE 4510-30-M

TA-W-22,513

Wearever Proctor Silex; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 3, 1989 applicable to all workers of Wearever Proctor Silex, Altoona, Pennsylvania. The notice was published in the Federal Register on June 23, 1989 (54 FR 26447).

Based on new information from the company, additional workers were retained for close down operations

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beyond the February 1, 1989 termination date. Therefore, the certification is amended by deleting the February 1, 1989 termination date. The amended notice applicable to TA–W–22,513 is hereby issued as follows:

All workers of Wearever Proctor Silex, Altoona, Pennsylvania who became totally or partially separated from employment on or after January 26, 1988 are eligible to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of October 1989.

Robert O. Deslongchamps,
Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–25380 Filed 10–26–89; 8:45 am]
BILLING CODE 4510–30–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3504, Washington, DC 20210.

New General Wage Determinations Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume State and page number(s).

Volume II

Texas:
TX89–51 ..... p.1136c, p.1136d–1136f.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Maryland:
MD89–1 (Oct. 20, 1989)... p. 411, pp. 411.

Volume II:

Illinois:
IL89–1 (Jan. 6, 1989) ..... p. 69, pp. 70–79.
IL89–2 (Jan. 6, 1989) ..... p. 97, pp. 98–103, 113.
IL89–3 (Jan. 6, 1989) ..... p. 115, pp. 116–117.
IL89–4 (Jan. 6, 1989) ..... p. 121, pp. 122-pp. 123, 125.
IL89–5 (Jan. 6, 1989) ..... p. 127, pp. 128–129.
IL89–6 (Jan. 6, 1989) ..... p. 133, p. 134.
IL89–7 (Jan. 6, 1989) ..... p. 137, pp. 138–140, p. 143.
IL89–8 (Jan. 6, 1989) ..... p. 145, pp. 146–150b.
IL89–9 (Jan. 6, 1989) ..... p. 151, pp. 152–153.
IL89–11 (Jan. 6, 1989) ..... p. 161, pp. 162–164.
IL89–12 (Jan. 6, 1989) ..... p. 167, pp. 168–170.
IL89–13 (Jan. 6, 1989) ..... p. 179, pp. 180–182.
IL89–14 (Jan. 6, 1989) ..... p. 191, pp. 192–194.
IL89–15 (Jan. 6, 1989) ..... p. 201, pp. 202–204.
IL89–16 (Jan. 6, 1989) ..... p. 211, pp. 212–214, p. 220.
IL89–17 (Jan. 6, 1989) ..... p. 221, pp. 222–229, p. 233.

Missouri:
MO89–1 (Jan. 6, 1989)..... p. 627, p.629.
MO89–2 (Jan. 6, 1989)..... p. 647, pp. 649, 654.

Ohio:
OH89–2 (Jan. 6, 1989) ..... p. 787, pp. 787–807.

Texas:
TX89–2 (Jan. 6, 1989) ..... p. 981, pp. 981–982.

Volume III

California:
CA89–2 (Jan. 6, 1989)..... p. 43, pp. 47–49, 55-p. 64d.

Colorado:
CO89–1 (Jan. 6, 1989)..... p. 105, p. 106.

Montana:
MT89–1 (Jan. 6, 1989)..... p. 171, pp. 173, 175-p. 180.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 20th day of October 1989.

Ethel P. Miller,
Acting Director, Division of Wage Determinations.

[FR Doc. 89–25157 Filed 10–26–89; 8:45 am]
BILLING CODE 4510–27–M

Mine Safety and Health Administration

[Docket No. M–89–19–M]

Bunker Hill Mining Co. (U.S.) Inc.; Petition for Modification of Application of Mandatory Safety Standard

Bunker Hill Mining Company (U.S.) Inc., P.O. Box 29, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 49.8(b) (training for mine rescue teams) to its Bunker Hill Mine (I.D. No. 10–00083) and its Crescent Mine (I.D. No. 10–00085) both located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that upon completion of the initial training, all team members are required to receive at least 40 hours of refresher training annually. This training is required to be given at least 4 hours each month, or for a period of 8 hours every two months.

2. Petitioner states that requiring at least 4 hours of refresher training each month or 8 hours every two months would result in a diminution of safety for the underground personnel because most of the experienced mine rescue personnel would resign.

3. In support of this request, petitioner states that—

(a) Most of the rescue team personnel are veterans; and

(b) Adequacy of training cannot be measured in hours spent in training. Performance and knowledge are the only valid criteria.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 27, 1989. Copies of the petition are available for inspection at that address.

Dated: October 18, 1989.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–25370 Filed 10–26–89; 8:45 am]
BILLING CODE 4510–43–M

[Docket No. M–89–20–M]

Fausett International, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Fausett International, Inc., P.O. Box 968, Osburn, Idaho 83849 has filed a petition to modify the application of 30 CFR 49.8(b) (training for mine rescue teams) to the Bunker Hill Mine (I.D. No. 10–00083) located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that upon completion of the initial training, all team members are required to receive at least 40 hours of refresher training annually. This training is required to be given at least 4 hours each month, or for a period of 8 hours every two months.

2. Petitioner states that requiring at least 4 hours of refresher training each month or 8 hours every two months would result in a diminution of safety for the underground personnel because most of the experienced mine rescue personnel would resign.

3. In support of this request, petitioner states that—

(a) Most of the rescue team personnel are veterans; and

(b) Adequacy of training cannot be measured in hours spent in training. Performance and knowledge are the only valid criteria.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 27, 1989. Copies of the petition are available for inspection at that address.

Dated: October 18, 1989.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–25371 Filed 10–26–89; 8:45 am]
BILLING CODE 4510–43–M

[Docket No. M–89–155–C]

Sea "B" Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sea "B" Mining Company, P.O. Box 26, Jewell Ridge, Virginia 24622 has filed a petition to modify the application of 30 CFR 75.305 to its Seaboard No. 1 Mine (I.D. No. 44–02253) located in Tazewell County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the main return be examined in its entirety on a weekly basis.

2. Due to several roof falls, and an extremely weak roof certain areas of the return cannot be safety traveled.

3. As an alternate method, petitioner proposes to establish checkpoints in specific areas where air readings and gas checks would be made and a date board would be signed in lieu of traveling the affected areas.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 27, 1989. Copies of the petition are avilable for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-25372 Filed 10-26-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-154-C]

Southern Light Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Light Coal Co., P.O. Box 1185, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15-15872) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous mining machines, longwall face equipment and loading machines. The monitor is required to be properly maintained and frequently tested.

2. No methane has been detected in the mine.

3. The three-wheel tractors are permissible DC-powered machines, without hydraulics. Approximately 30-40% of the coal is hand loaded into a drag-type bucket. Approximately 20% of the time that the tractor is in use, it is used as a mantrip and supply vehicle.

4. As an alternate method, petitioner proposes to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors. In further support of this request, petitioner states that:

(a) Each three-wheel tractor would be equipped with a hand-held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips;

(c) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent;

(d) A spare continuous monitor would be available to assure that all coal hauling tractors would be equipped with a continuous monitor;

(e) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly; and

(f) No alterations or modifications would be made in addition to the manufacturer's specifications.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 27, 1989. Copies of the petition are available for inspection at that address.

Dated: October 10, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-25373 Filed 10-26-89; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of selected subject categories and staff member files from the Nixon White House Central Files (WHCF).

Notice is hereby given that, in accordance with section 104 of title I of the Presidential Recordings and Materials Preservation Act (88 Stat. 1695; 44 U.S.C. 2111 note) and § 1275.42(b) of the Public Access Regulations implementing the Act (36 CFR part 1275), the agency has identified, inventoried, and prepared for public access integral file segments of materials among the Nixon Presidential materials.

DATES: The National Archives intends to make the integral file segments described in this notice available to the public beginning December 15, 1989. Any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before December 6, 1989.

ADDRESSES: The materials will be made available to the public at the National Archives' facility located at 845 South Pickett Street, Alexandria, Virginia.

Petitions concerning access must be sent to the Archivist of the United States, National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Clarence F. Lyons, Jr., Acting Director, Nixon Presidential Materials Staff, 703-756-6498.

SUPPLEMENTARY INFORMATION: The integral file segments of textual materials to be opened consist of 120.9 cubic feet. This is the fifth of a series of openings of Central Files; the previous openings were on December 1, 1986; March 22, 1988; December 9, 1988; and July 17, 1989.

The White House Central Files Unit is a permanent organization within the White House complex that maintains a central filing and retrieval system for the records of the President and his staff. Some of the materials designated for opening on December 15, 1989, were selected from the Subject Files of the Central Files. The Subject Files are based on an alphanumeric file scheme of 61 primary subject categories. Listed below are the primary subject categories of the Subject Files that will be made available to the public on December 15, 1989.

Subject Category	Volume (cubic feet)
Federal Government (FG):	
Council for Urban Affairs (FG 6-12)	1.3
The Judicial Branch (FG 50)	0.2
United States Courts of Appeals (FG 52)	0.5

Subject Category	Volume (cubic feet)
American Revolution Bicentennial Commission (FG 75)	0.9
Civil Aeronautics Board (FG 88)	0.8
Commission on Obscenity and Pornography (FG 95)	0.3
Federal Communications Commission (FG 118)	0.5
Interdepartmental Committee on the Status of Women (FG 147)	0.1
Smithsonian Institution (FG 218)	0.8
Cabinet Committee on the Environment/Citizens Advisory Committee on Environmental Quality (FG 251)	0.3
National Industrial Pollution Control Council (FG 278)	0.2
Environmental Protection Agency (FG 298)	0.7
Publications (PU)	9.6
Social Affairs (SO)	10.0

In addition to the subject categories, four file groups from the Staff Member and Office Files will be made available to the public. These consist of materials that were transferred to Central Files but were not incorporated into the Subject Files. Listed below are the Staff Member and Office Files that will be made available to the public on December 15, 1989.

File group	Volume (cubic feet)
Nils A. Boe	15.0
James H. Cavanaugh	18.3
Paul W. McCracken	44.6
White House Gift Unit	17.0

Public access to some of the items in the file segments will be restricted as outlined in 36 CFR 1275.50 or 1275.52 (Public Access Regulations).

Dated: October 23, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89-25346 Filed 10-26-89; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Meeting of Museum Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Care of Collections Section) to the National Council on the Arts will be held on November 14-16, 1989, from 9:15 a.m.-5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: October 23, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25389 Filed 10-26-89; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 29, 1989. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 17, 1989.

The applications received are as follows:

1. Applicant

Stephen L. Burns, National Geographic Society, 1600 M Street, NW., Washington, DC 20036.

Activity for Which Permit Requested

Enter Specially Protected Area. Enter Sites of Special Scientific Interest. The applicant is working on a television special about the Antarctic Peninsula and requests permission to enter protected areas to record scientists collecting data.

Location

Antarctic Peninsula. Specially protected area #17, Litchfield Island. Sites of Special Scientific Interest #6, Byers Peninsula; #8 western shore of Admiralty Bay.

Dates

December 1989—February 1990.

Charles E. Myers,

Permit Office.

[FR Doc. 89-25406 Filed 10-26-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-443-OL-1 & 50-444-OL-1]

Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for that portion of this operating license proceeding concerned with the motions

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to reopen for consideration of low-power testing contentions. As reconstituted, this Appeal Board will consist of the following members:

Thomas S. Moore, Chairman,
Howard A. Wilber,
G. Paul Bollwerk, III.

Dated: *October 23, 1989.*

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 89-25305 Filed 10-26-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-49]

Termination of Section 302 Investigation: Policies and Practices of the Government of Brazil With Respect to Informatics

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of termination of investigation under section 302 of the Trade Act of 1974, as amended.

SUMMARY: The United States Trade Representative (USTR) has decided to terminate and investigation initiated under section 302 of the Trade Act of 1974, as amended (Trade Act) with respect to acts, policies, and practices of the Government of Brazil with respect to informatics (computer and other electronics hardware and software) products.

DATE: This investigation is terminated effective October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Jon Huenemann, Director, Brazil and Southern Cone Affairs, USTR, (202) 395-5190.

SUPPLEMENTARY INFORMATION: On September 16, 1985, pursuant to his authority under section 302(c) of the Trade Act, the USTR initiated an investigation into Brazil's informatics policy [Docket No. 301-49, 50 FR 37606].

On October 6, 1986, President Reagan determined pursuant to section 301 of the Trade Act of 1974, as amended, that the Government of Brazil had engaged in acts, policies and practices with respect to informatics products that were unreasonable and burdened or restricted U.S. Commerce. The President directed the USTR to pursue negotiations to address U.S. concerns regarding barriers to U.S. trade and investment and the lack of adequate and effective intellectual property protection [51 FR 35993].

While a number of restrictions to foreign access remain, significant progress has been achieved since the October 1986 determination. Brazil has extended explicit copyright protection to computer software, provided increased market access for foreign computer software following implementation of the software law, and improved the responsiveness and clarity of its administrative functions regarding the implementation of its informatics policies that affect foreign trade. In addition, in September 1989, Brazil lifted restrictions on remittances from sales of foreign software, and the government of Brazil indicated its willingness to work constructively with the U.S. on informatics investment issues.

In response to this progress, the following steps were taken over the course of this investigation: on December 30, 1986, President Reagan determined to suspend that part of the investigation dealing with Brazilian administrative procedures (52 FR 1619); on June 30, 1987, President Reagan determined to suspend the intellectual property portion of the investigation (52 FR 24971); and on October 5, 1989, the USTR determined that the investigation of Brazil's acts, policies and practices with respect to informatics would be terminated.

Joshua B. Bolten,

General Counsel.

[FR Doc. 89-25321 Filed 10-26-89; 8:45 am]

BILLING CODE 3190-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Financial Disclosure Statement.

(2) *Form(s) submitted:* G-423.

(3) *OMB Number:* 3220-0127.

(4) *Expiration date of current OMB clearance:* 12-31-89.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Frequency of response:* ON occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 1,550.

(9) *Total annual responses:* 1,550.

(10) *Average time per response:* 1.3335 hours.

(11) *Total annual reporting hours:* 2,067.

(12) *Collection description:* Under the Railroad Retirement and Railroad Unemployment and Insurance Acts, the Railroad Retirement Board has authority to secure from an overpaid beneficiary a statement of the indivdual's assets and liabilities if waiver of the overpayment is requested.

Additional Information or Comments: Copies of the proposed forms and supporting documents can be obtained from Ronald J. Hodapp, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Justin Kopca (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Ronald J. Hodapp,

Director of Information Resources Management.

[FR Doc. 89-25318 Filed 10-26-89; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549-1002.

Extension

Form BDW, File No. 270-17
Rule 17a-7, File No. 270-147
Rule 17a-5, File No. 270-199
Rule 17a-2, File No. 270-189
Rule 19d-3, File No. 270-245
Rule 17a-1, File No. 270-244
Rule 19h-1, File No. 270-247
Rule 17f-1(g), File No. 270-30

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), that the Securities and Exchange Commission (Commission) has submitted for extension of OMB approval the following forms/rules under the Securities Exchange Act of 1934 (1934 Act):

3235-0018 Form BDW [Rule 15b-6(a)]—Notice of withdrawal from registration as a broker-dealer; 847 broker-dealers incur an estimated average of one-half burden hour to comply with this requirement.

3235-0131 Rule 17a-7—Records of non-resident brokers and dealers; three broker-dealers incur an estimated average of one burden hour to comply with this requirement.

3235-0199 Rule 17a-5—Customer statements re financial condition of broker-dealer; 1,500 broker-dealers incur an estimated average of one minute to comply with this requirement.

3235-0201 Rule 17a-2—Recordkeeping requirements relating to stabilizing activities; 500 underwriting managers incur an estimated average of seven and one-half minutes to comply with this requirement.

3235-0204 Rule 19d-3—Application for review of final disciplinary sanctions, denials of membership participation or limitations of access to services imposed by self-regulatory organizations; thirteen members incur an estimated average of 18 burden hours to comply with this requirement.

3235-0206 Rule 17a-1—Recordkeeping rule for national securities exchanges and national securities association; thirty recordkeepers incur an estimated average of 50 burden hours to comply with this requirement.

3235-0259 Rule 19(h)-1—Notice by self-regulatory organizations of proposed admissions to or continuance in membership or participation or association with a member of any person subject to a statutory disqualification and applications to the relief therefrom; three organizations incur an estimated average of four and one-half burden hours to comply with this requirement.

3235-0290 Rule 17f-1(g)—Recordkeeping requirements for the lost and stolen securities program; 19,602 recordkeepers incur an estimated average of thirty-five minutes to comply with this requirement.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

General comments regarding the estimated burden hours should be directed to Gary Waxman at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Kenneth A. Kogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-6004 and Gary Waxman, Clearance Officer, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25304 Filed 10-26-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27370; File Nos. SR-PHLX-89-47; SR-NYSE-89-31; SR-Amex-89-24; SR-BSE-89-7; SR-NASD-89-46; and SR-MSE-89-9]

Self-Regulatory Organization; Philadelphia Stock Exchange, Inc., et al.; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes Relating to Market Circuit Breaker Proposals

In the matter of Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; New York Stock Exchange, Inc.; American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Midwest Stock Exchange Inc.; and National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder[2] the New York Stock Exchange Inc., ("NYSE"); the Philadelphia Stock Exchange Inc., ("PHLX"); the American Stock Exchange, Inc. ("Amex"); the Boston Stock Exchange, Inc. ("BSE"); the Midwest Stock Exchange, Inc. ("Midwest") and the National Association of Securities Dealers ("NASD") [collectively, the self-regulatory organizations ("SROs")] have filed with the Securities and Exchange Commission ("Commission") proposed rule changes to extend rule changes that implement certain procedures that will be activated during volatile market conditions.

The Commission approved in 1988 circuit breaker proposals by the SROs. In general, the circuit breaker proposals provide that trading in all markets would halt for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 or more points from its previous day's closing level; once trading has been reopened, trading would halt for an additional two hours if the DJIA declines 400 points from the previous day's close. Such circuit breaker proposals were an important part of the measures adopted by the SROs to address volatility concerns in wake of the October 1987 Market Break.

The Commission approved the NYSE, the Amex, the BSE, the MSE, the PHLX, and the NASD circuit breaker proposals on a pilot program basis and these SROs have filed with the Commission proposals to extend their respective pilot programs.[3] The circuit breaker proposals of the Chicago Board Options, Inc. ("CBOE"),[4] the Pacific Stock Exchange, Inc. ("PSE");[5] and the Cincinnati Stock Exchange, Inc. ("CSE")[6] were proposed by these exchanges, and approved by the Commission, on a permanent basis rather than as a pilot program.

I. Description of the Proposals

A. NYSE

The NYSE circuit breaker proposal was approved by the Commission in October 1988 for a one year pilot program,[7] the NYSE proposes to extend

[1] 15 U.S.C. 78s(b) (1982)

[2] 17 CFR 240.19b-4 (1989).

[3] The NYSE proposal (SR-NYSE-89-31) was filed with the Commission on October 6, 1989. The Amex proposal (SR-Amex-89-24) was filed with the Commission on October 16, 1989. The NASD proposal (SR-NASD-89-46) was filed with the Commission on October 12, 1989. The PHLX proposal (SR-PHLX-89-47) was filed with the Commission on September 28, 1989. The MSE proposal (SR-MSE-89-9) was filed with the Commission on October 17, 1989. The BSE proposal (SR-BSE-89-7) was filed with the Commission on October 19, 1989.

[4] CBOE Rule 6.3A provides that the CBOE would halt trading in all stock options and stock index options when trading in all stocks on the NYSE has been halted as a result of activation of circuit breakers pursuant to NYSE Rule 80B. CBOE Rule 6.3A also provides procedures for reopening options after such a halt. Additionally, the CBOE amended its Rule 24.7 to establish procedures for the opening, halting, and reopening of the trading in stock index options linked to the halting and reopening of futures on the same or a related index. See Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637.

[5] The PSE, similar to the NASD, filed a rule in the form of an official policy that stated it would cooperate with a request from the SEC to halt trading in all equity and equity-related products traded at the PSE in conjunction with halted trading at other U.S. markets. See Securities Exchange Act Release No. 26366 (December 10, 1988) 53 FR 51942. The Commission, in approving the PSE's proposed rule change, requested that the PSE implement its policy statement by imposing a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading.

[6] The CSE adopted a policy statement, similar to the NASD and PSE proposals, that requires the CSE to participate in a uniform trading halt by all exchanges. The CSE policy was approved by the Commission on a permanent basis rather than as a pilot program. See Securities Exchange Act Release No. 26440 (January 10, 1989) 54 FR 1630.

[7] See Securities Exchange Act Release No. 26198, supra note four. The NYSE circuit breaker proposal also included (1) special procedures (so-called "sidecar" procedures) if the Standard and Poor's 500 index futures declined 12 points, see NYSE Rule

Continued

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its circuit breaker rule, NYSE Rule 80B, for an additional year. NYSE Rule 80B provides for a temporary halt in the trading of all stocks, stock options, and stock index options on the NYSE if the DJIA reaches certain trigger values. Specifically, trading would halt for one hour if the DJIA declines 250 or more points from its previous day's closing level; once trading has been reopened, trading would halt for an additional two hours if the DJIA declines 400 points from the previous day's close. Trading would resume following a halt pursuant to procedures similar to those used by the NYSE to open trading on "Expiration Fridays", the days that stock options, stock index options, and stock index futures expire simultaneously.[8]

B. Amex

The Amex's circuit breaker rule is substantially identical to the NYSE's Rule 80B.[9] The Amex proposes to extend its circuit breaker provision for an additional year. Under the Amex's pilot program, trading in all stocks and options will halt for one hour if the DJIA declines 250 or more points from its previous day's closing level; once trading has been reopened, trading will halt for an additional two hours if the DJIA declines 400 points from the previous day's close. The Amex proposal contains provisions for halting trading for the remainder of the day and using abbreviated reopening procedures that are substantially identical to the NYSE procedures.

The Amex pilot program also provides that index options are subject to a trading halt within ten minutes of a determination that the primary Standard and Poor's 500 Index futures contract traded on the Chicago Mercantile Exchange has reached a price limit due to a decline of 30 index points from the closing value of the previous day.

C. PHLX, BSE, and MSE

The PHLX, BSE, and MSE circuit breaker rules are substantially identical to the NYSE's circuit breaker rule. The PHLX and MSE propose to extend their pilot periods to correspond with the NYSE's proposed extended pilot and the BSE proposes to extend its pilot until October 31, 1991.[10]

D. NASD

The NASD filed with the Commission a Policy Statement on Market Closing ("Policy Statement"), that states that at times when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, the NASD will, upon request from the Commission, act to halt domestic trading in all securities quoted on the National Association of Securities Dealers Automatic Quotation ("NASDAQ") system and domestic trading in equity or equity-related securities in the over-the-counter ("OTC") market.[11] The NASD's Policy Statement is effective until December 31, 1989, and the NASD proposes to extend the Policy Statement until December 31, 1990 unless modified or extended prior to that date.

II. Discussion

The circuit breaker mechanisms were enacted in the wake of the October 1987 Market Break. Both the *Report of the Presidential Task Force on Market Mechanisms* ("Brady Report") and the Working Group's Interim Report recommended that coordinated trading halts and reopening procedures be developed that would be implemented in all U.S. markets for equity and equity related products during large rapid market declines.[12] In response, the SROs submitted proposals to implement circuit breaker procedures that are designed to substitute planned trading halts for unplanned and destabilizing market closings. In addition, the stock index futures exchanges have parallel circuit breakers that have been approved by the Commodity Futures Trading Commission on a permanent basis.[13]

Since the Commission approved these proposals in October 1988, the DJIA has not experienced a one day 250 point decline that would trigger a market halt.[14] The Commission continues to believe that circuit breaker procedures are desirable to deal with potential strains that may develop during periods of extreme market volatility, and, accordingly, the Commission believes that the pilot programs should be extended. The Commission also believes that circuit breakers represent a reasonable means to retard rapid market declines that can have a destabilizing effect on the nation's financial markets and participants.[15]

Accordingly, the Commission finds that the proposed rule changes filed by the NYSE, the PHLX, the Amex, the BSE, the Midwest and the NASD are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and/or to a national securities association, and, in particular, the requirements of section 6 [16] and section 15A [17] and the rules and regulations thereunder.[18]

The Commission finds good cause for approving the SRO proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the **Federal Register** because there are no changes being made to the current provisions and accelerated approval would enable the pilots to continue on an uninterrupted basis.

Interested persons are invited to submit written data, views, and

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80A, and (2) special routing of certain small orders from public investors over the Designated Order Turnaround system if the DJIA moves 25 points from the previous day's close (so-called Individual Investor Express Delivery System). These were approved on a permanent basis.

[8] See Securities Exchange Act Release No. 25804 (June 15, 1988), 58 FR 23474.

[9] The Amex circuit breaker proposal was approved by the Commission in Securities Exchange Act Release No. 26198, supra note four. Subsequently the proposal was amended, among other things, to clarify its application to options transactions. See Securities Exchange Act Release No. 26382 (December 21, 1988), 53 FR 52539

[10] See Securities Exchange Act Release No. 26386 (December 22, 1988), 53 FR 52804; Securities Exchange Act Release No. 26357 (December 14, 1988), 53 FR 51182; and Securities Exchange Act Release No. 26218 (October 26, 1988) 53 FR 44137.

[11] See Securities Exchange Act Release No. 26198, *supra* note four. In approving the NASD proposal, the Commission requested that the NASD implement its Policy Statement by imposing a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading (*i.e.*, whenever the DJIA declines 250 or 400 points).

[12] In particular, the Working Group recommended a one-hour trading halt if the DJIA declined 250 points from its previous day's closing level, and a subsequent two-hour trading halt if the DJIA declined 400 points below its previous day's closing level. The Working Group also recommended that the NYSE use reopening procedures, similar to those used on Expiration Fridays, that are designed to enhance the information made public about market conditions.

[13] For example, the Chicago Mercantile Exchange's circuit breaker provides for a downward price limit of 30 points from the previous day's settlement price for its Standard & Poor's 500 future. When trading halts on the NYSE due to a drop in the DJIA of 250 points and the 30 point price limit has been reached, then trading in the future halts on the Chicago Mercantile Exchange.

[14] The sidecar procedures were triggered once, during the last hour of trading on October 13, 1989, as was the 30 point price limit on the Standard & Poor's stock index future. Preliminary indications are that the procedures worked operationally well that day. Finally, the Individual Investor Express Delivery Service has been triggered over 20 times since implementation without operational problems.

[15] The Commission, of course, will review the operation of these procedures during October 1989 and consider modifications to these procedures, if necessary, in light of that experience. During the interim, however, the Commission believes that market continuity and stability warrants extension of the pilot procedures.

[16] 15 U.S.C. 78f (1982).

[17] 15 U.S.C. 78o-3 (1982).

[18] The Commission reaffirms its request that the NASD and PSE implement their policy statements by imposing a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading.

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE, Amex, PHLX, BSE, Midwest, or NASD. All submission should refer to file number SR–NYSE–89–31, SR–PHLX–89–47, SR–NASD–89–40, SR–MSE–89–8, SR–BSE–89–7, or SR–Amex–89–24, and should be submitted by November 17, 1989.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[19] that the proposed rule changes are approved until October 31, 1990 for the NYSE, PHLX, Amex, and MSE, until October 31, 1991 for the BSE, and until December 31, 1990 for the NASD.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Dated: October 23, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25385 Filed 10–26–89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–17190; 812–7411]

Dean Witter American Value Fund, et al.; Temporary Order

October 23, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Temporary order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Dean Witter American Value Fund, Dean Witter California Tax-Free Income Fund, Dean Witter Convertible Securities Trust, Dean Witter Developing Growth Securities Trust, Dean Witter Dividend Growth Securities Inc., Dean Witter Government Securities Plus, Dean Witter High Yield Securities Inc., Dean Witter Intermediate Income Securities, Dean Witter Managed Assets Trust, Dean Witter Natural Resource Development Securities, Inc., Dean Witter New York Tax-Free Income Fund, Dean Witter Option Income Trust, Dean Witter Strategist Fund, Dean Witter Tax Exempt Securities Trust, Dean Witter U.S. Government Securities Trust, Dean Witter Utilities Fund, Dean Witter World Wide Income Trust, Dean Witter World Wide Investment Trust, Dean Witter Value -Added Market Series, Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust and Dean Witter/Sears U.S. Government Money Market Trust ("Applicant Funds") and Dean Witter Reynolds Inc. ("DWR") (DWR and Applicant Funds are collectively referred to as "Applicants").

Relevant 1940 Act Section: Order requested pursuant to section 11(a) of the 1940 Act.

SUMMARY: Applicants (1) have requested an order, pursuant to section 11(a) of the 1940 Act, permitting Applicants and any other registered, open-end management investment company as to which DWR may subsequently serve as investment adviser (collectively, with Applicant Funds, the "DWR Funds") to make certain offers of exchange, until April 23, 1990, without complying with the provisions of paragraph (b)(5) of rule 11a–3 under the 1940 Act; and (2) have requested that such order be made effective on a temporary basis upon the approval, by the SEC, of the issuance of this notice of application.

FILING DATE: The application was filed on October 13, 1989.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicans, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Stuart Horwich, Staff Attorney (202) 272–3035 or Karen L. Skidmore, Branch Chief, (202) 272–3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant Funds are registered under the 1940 Act as open-end, management investment companies. DWR is a registered broker-dealer and, through its InterCapital Division, provides services to Applicant Funds. It is an investment adviser registered under the Investment Advisers Act of 1940. DWR is the principal underwriter for shares of Applicant Funds other than Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust and Dean Witter/Sears U.S. Government Money Market Trust. Those funds are self-distributed.

2. Certain of the DWR Funds may impose a contingent deferred sales charge ("CDSL") on shares redeemed within six years of purchase (the "CDSL Funds"). The rate of the applicable CDSL declines over time, with a 5% CDSL applicable for redemptions within the first year of purchase, and 1% for shares redeemed during the sixth year. DWR receives the proceeds of the CDSL and also receives payments pursuant to plans of distribution adopted by the CDSL Funds pursuant to rule 12b–1 under the 1940 Act ("12–1 plans"). The DWR Funds received orders of the Commission granting certain exemptions with respect to the imposition of the CDSL.

3. Shares of other DWR Funds sold with a front-end sales load (the "FESL Funds"). In addition, shares of other DWR Funds are sold without a sales load; however, those which are money market funds (the "Money Market Funds") have adopted 12b–1 plans under which they may bear distribution expenses in amounts up to a maximum of .15% per annum of their respective average net assets. Currently, DWR collects a 12b–1 fee of .10%W per annum from the Money Market Funds.

4. In 1984, the Commission issued an order pursuant to section 11(a) of the 1940 Act, permitting exchanges of shares between the CDSL Funds and the Money Market Funds (the "Prior Order"). As described in the application that requested the Prior Order, when shares of a CDSL Fund are exchanged for shares of one of the Money Market Funds, and during the period the Money Market Fund shares so acquired are held, there is a tolling of the holding period used in determining the CDSL to be applied upon redemption of those shares. The Prior Order was amended upon an application in 1987 to expand the types of permitted offers of exchange so as to enable exchanges of shares between the CDSL Funds and the FESL Funds. Under a condition agreed to in obtaining the 1987 amendment to the Prior Order, the DWR Funds agreed to comply with rule 11a–3 under the 1940 Act "when and if adopted".

5. The Commission's release adopting rule 11a–3 under the 1940 Act (Investment Company Act Release No.

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[19] 15 U.S.C. 78s(b) (2) (1982).

[20] 17 CFR 200.30–3(a) (12) (1988).

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17097) (August 3, 1989) provided that holders of orders pursuant to section 11(a) of the 1940 Act that were conditioned specifically upon compliance with rule 11a–3, if and when adopted, have until 60 days after the date of the rule's publication in the **Federal Register** (October 23, 1989) to conform fees and sales loads to the requirements set forth in the rule. Accordingly, the DWR Funds must comply with all provisions of rule 11a–3 by October 23, 1989. Other holders of orders pursuant to section 11(a) that were not so conditioned need not conform their fees and sales loads to rule 11a–3 until October 23, 1990.

6. In connection with offers of exchanges between the CDSL Funds and the Money Market Funds, paragraph (b)(5) of rule 11a–3 requires that the holding period used to determine the CDSL percentage rate applicable upon a redemption of shares include any period of time during which the shares (or the shares exchanged to acquire the redeemed shares) were held as Money Market Fund shares, unless, upon a redemption of shares which result in a CDSL being imposed, a credit is given in an amount equal to the Money Market Fund 12b–1 fees attributable to such shares (or attributable to Money Market Fund shares previously exchanged to acquire the redeemed shares) (the "12b–1 Credit"). Applicant Funds wish to continue to toll the holding period used in determining the applicable CDSL when shares of a CDSL Fund are exchanged for shares of a Money Market Fund. However, to do so under the terms of paragraph (b)(5) of rule 11a–3, it is necessary to provide the 12b–1 Credit because the Money Market Funds bear distribution expenses pursuant to 12b–1 plans. The decision to provide the credit rather than to cease tolling is based on the view of Applicants that use of the 12b–1 Credit is fairer to shareholders of CDSL Funds who have not exchanged shares than is "tacking" of holding periods which paragraph (b)(5) of rule 11a–3 otherwise requires.

7. Applicants assert that implementation of the 12b–1 Credit requires Applicant Funds' transfer agent to develop a variety of new systems. Those systems cannot be written, tested and implemented prior to the October 23, 1989 effective date of rule 11a–3. Thus, absent additional time to comply, Applicant Funds would be forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds on October 23, 1989 in order not to be in violation of rule 11a–3. In addition, any newly organized DWR Funds which are CDSL Funds, and DWR Funds which are now FESL Funds but which become CDSL Funds, would not be able to offer exchanges for shares of Money Market Funds until the systems necessary to provide the 12b–1 Credit are implemented. A suspension of exchange privileges between the CDSL Funds and the Money Market Funds would be disadvantageous to shareholders of the DWR Funds.

8. Based upon the foregoing, Applicants (1) seek an order of the Commission, pursuant to section 11(a) of the 1940 Act, permitting the DWR Funds and DWR to make certain offers of exchange, until April 23, 1990, without complying with the provisions of paragraphs (b)(5) of rule 11a–3 under the 1940 Act; and (2) have requested that an order be issued pursuant to section 11(a) on a temporary basis effective upon the Commission's approval of the issuance of this notice. In making the application, Applicants acknowledge, understand and agree that any order granting the application on a temporary basis shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, further consideration by the Commission of and action upon the application.

Applicants' Justification For Requested Order

1. Applicants assert that extensive systems modifications are needed to implement the 12b–1 Credit. In essence, the transfer agent systems used for the DWR Funds must be enhanced to permit a calculation of, and to retain information regarding, 12b–1 fees of the Money Market Funds attributable to the account of each investor who exchanges a CDSL Fund's shares for shares of a Money Market Fund. The system must track this information as to each investor's account through subsequent exchanges, if any, and apply the 12b–1 Credit in the event that a CDSL is determined to be applicable upon redemption of the shares.

2. The system changes involved in implementing the 12b–1 Credit require modification of over 60 separate computer programs. This means that numerous programs must each be written and tested. Although the Applicant Funds' transfer agent has committed to make available substantial personnel resources to design and to implement the new systems, it is nevertheless estimated that the scope of required systems modifications is so extensive that it may take a number of months before the systems are operational.

3. Applicants note that by postponing the date by which the DWR Funds become subject to paragraph (b)(5) of rule 11a–3, investors exchanging shares of the CDSL Funds for shares of the Money Market Funds on or after October 23, 1989, but before April 23, 1990, will not be eligible for the 12b–1 Credit. To provide such a credit would require the development of extensive systems to enable retroactive computation of the 12b–1 Credit. Applicants do not believe it cost-effective to their shareholders to develop such systems. In the estimate of DWR, the cost to Applicant Funds of developing these systems could exceed the aggregate benefits that shareholders could reasonably be expected to receive.

4. Applicants submit that the requested orders under section 11(a) are appropriate and in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. They submit that the granting of the requested temporary order is appropriate and justified because, although Applicants began the process of developing the necessary systems modifications required to comply with paragraph (b)(5) of rule 11a–3 promptly upon the publication of the rule, implementation of those modifications by October 23, 1989 is not possible. Absent the requested temporary order being issued prior to that date and the granting of the other requested order, Applicants will be forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds; a result which Applicants believe would be disadvantageous to shareholders of the DWR Funds.

Applicants' Undertakings

Applicants have agreed that the following may be imposed as conditions to the requested order:

1. Except to the extent as may otherwise be permitted under the terms of the requested orderss, the DWR Funds will comply with all requirements of rule 11a–3 as of October 23, 1989.

2. Applicants will monitor and supervise the efforts of their transfer agfent in developing the required systems modifications in an effort to enable implementation of those modifications, if possible, on or before April 23, 1990.

3. The Money Market Funds will not increase the current levels of their 12b–1 payments during the period they are relying upon the order.

Temporary Order

Based on the foregoing, the Commission has considered the matter and pursuant to section 11(a) of the 1940 Act, has approved for a 14-day period Applicants' request to continue making offers of exchange offers that do not comply with paragraph (b)(5) of Rule 11a–3.

Accordingly, *it is ordered*, Pursuant to section 11(a) of the 1940 Act and subject to the conditions set forth in the application, that the DWR Funds and DWR are hereby permitted to make offers of exchange between CDSL Funds and Money Market Funds without complying with paragraph (b)(5) of rule 11a–3 under the 1940 Act for 14 days from the date of this order.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25386 Filed 10–26–89; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2387]

California; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 18, 1989, I find that the City and County of San Francisco, and the Counties of Alameda, Monterey, San Benito, San Mateo, Santa Clara, and Santa Cruz, in the State of California, constitute a disaster area as a result of damages caused by an earthquake and aftershocks which began on October 17, 1989. Applications for loans for physical damage may be filed until the close of business on December 18, 1989, and for economic injury until the close of business on July 18, 1990, at the address listed below:

Disaster Area 4 Office, Small Business Administration, 1825 Bell Street, Suite 208, Sacramento, California 95825,

or other locally announced locations. In addition, applications for economic injury from small businesses located in the contiguous counties of Contra Costa, Fresno, Kern, Kings, Marin, Merced, San Luis Obispo, San Joaquin and Stanislaus in the State of California may be filed until the specified date at the above location.

The interest rates are:

For physical Damage	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	9.250
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage for the State of California is 238702, and for economic injury the number is 666700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 20, 1989.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89–25342 Filed 10–26–89; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–5363]

Surrender of License; Princeton Finance Co.

Notice is hereby given that Princeton Finance Company, 2231 Colby Avenue, Los Angeles, California 90064, has surrendered its license to operate a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Princeton Finance Company was licensed by the Small Business Administration on June 8, 1987.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on May 8, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59011. Small Business Investment Companies)

Dated: October 19, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89–25343 Filed 10–26–89; 8:45am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP89–03; Notice 2]

Volvo Cars of North America; Mootness of Petition for Determination of Inconsequential Noncompliance

Earlier this year, Volvo Cars of North America of Rockleigh, New Jersey, petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 30, 1989, and an opportunity afforded for comment (54 FR 23009).

Paragraphs S4.3 (c) and (d) of Standard No. 110, require that:

A placard be permanently affixed to the glove compartment door or an equally accessible location which displays the vehicle manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight and subject to the limitations of S4.3.1, for any other manufacturer specified vehicle loading condition; and the vehicle manufacturer's recommended tire size designation.

Volvo stated that the tire placards on the Volvo 764 (Sedan) and 765 (Wagon) specified the cold tire inflation pressure as 40 PSI for a "Special Spare" tire, which comes on a 4.5"x15" size wheel. However, due to equipment availability difficulties, the spare tires used in 285 of these vehicles were normal road tires that come on 6"x15" alloy road wheels. The cold inflation pressure specified for these tires is 36 PSI. Therefore, Volvo is in noncompliance with Standard No. 110 because the cold inflation pressure and the tire size designation specified for the special spare tires on the tire placards does not correspond with the spare tires used in the 285 Volvos.

Subsequent to publication of its petition notice, Volvo agreed to notify owners of vehicles concerned of the noncompliance, and to provide them with labels that could be placed over the erroneous placards containing the correct inflation pressure for the spare tires. It has informed the agency that this corrective action should be completed by October 20, 1989. It further informed the agency that the number of vehicles covered had been determined

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to be 475, not the 285 previously reported.

Inasmuch as Volvo has conducted a notification and remedial campaign as required by the National Traffic and Motor Vehicle Safety Act, its petition for an inconsequential determination, discussed above, is moot, and no further action will be taken on it.

No comments were received on Volvo's petition.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 501.8)

Issued: October 23, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-25300 Filed 10-26-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 23, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2409, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505-0104
Form Number: None
Type of Review: Reinstatement
Title: Amendment to the Bank Secrecy Act Regarding Disclosure of Bank Secrecy Act Data
Description: Treasury needs reports of currency transactions exceeding $10,000 at financial institutions to identify persons who may be involved in drug trafficking, tax evasion, or other illegal activity. The information will be made available to Treasury law enforcement agencies, other Federal, State, and local law enforcement agencies, and Congressional committees
Respondents: State or local governments, Federal agencies or employees
Estimated Number of Respondents: 450
Estimated Burden Hours Per Response: 12 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 90 hours
Clearance Officer: Dale A. Morgan, (202) 566-2693, Departmental Offices, Room 2409, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-25366 Filed 10-26-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: October 23, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pensylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 990EZ
Type of Review: New Collection
Title: Short Form Return of Organization Exempt From Income Tax Under section 501(c) (except black lung benefit trust or private foundation) of the Internal Revenue Code or section 4947(a)(1) trust
Description: Form 99EZ is needed to determine that Internal Revenue Code section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. IRS uses the information from this form to determine if the filers are operating within the rules of their exemption.
Respondents: Non-profit institutions
Estimated Number of Respondents: 100,000
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping: 26 hours, 4 minutes
Learning about the law or the form: 4 hours, 20 minutes
Preparing the form; copying, assembling, and sending the form to IRS: 5 hours, 53 minutes 16 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 3,657,000 hours
OMB Number: 1545-0044
Form Number: 973
Type of Review: Extension
Title: Corporation Claim for Deduction for Consent Dividends
Description: Form 973 is filed by corporations to claim a deduction for dividends paid. If shareholders consent and IRS approves, the corporation may claim a deduction for dividends paid, which reduces the corporation's tax liability. IRS uses Form 973 to determine if the shareholders of the corporation have included the dividends in gross income
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 500
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping: 4 hours, 4 minutes
Learning about the law or the form: 24 minutes
Preparing, copying, assembling, and sending the form to IRS: 29 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 2,475 hours
OMB Number: 1545-0119
Form Number: 1099-R
Type of Review: Revision
Title: Statement for Recipients of Total Distributions From Profit-Sharing, Retirement Plans, Individual Retirement Arrangements, Insurance Contracts, Etc.
Description: Form 1099-R is used to report total distributions from profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by IRS to verify that income has been properly reported by the recipient.
Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 216,311
Estimated Burden Hours Per Response: 18 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 3,512,106 hours
OMB Number: 1545-0143
Form Number: 2290
Type of Review: Extension
Title: Heavy Vehicle Use Tax Return
Description: Form 2290 is used to compute and report the tax imposed by section 4481 on the highway use of certain motor vehicles. The information is used to determine whether the taxpayer has paid the correct amount of tax.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 488,000
Estimated Burden Hours Per Response Recordkeeping:
Recordkeeping: 35 hours, 10 minutes
Learning about the law or the form: 12 minutes
Preparing, copying, and sending the form to IRS: 47 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 17,559,180 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-25367 Filed 10-26-89; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Tax on Certain Imported Substances; Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89-61, 1989-21 I.R.B. 25, of petitions requesting that *perchloroethylene, methyl chloroform,* and *trichloroethylene* be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATE: Written comments and requests for a public hearing relating to these petitions must be delivered or mailed by December 26, 1989.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, Attention: CC:CORP:T:R (Petition), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). Telephone 202-566-4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on August 28, 1989. The petitioner is Vulcan Chemicals, a manufacturer who exports perchloroethylene and methyl chloroform and imports trichloroethylene. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Perchloroethylene

Harmonized Tariff System number: 2903.23.0000
Schedule B number: 2903.23.0000
Chemical Abstract Service number: 127-18-4

This substance is derived from the taxable chemicals *ethylene* and *chlorine*. Perchloroethylene is produced by the high temperature chlorination of ethylene.

The stoichiometric material consumption formula for this substance is:

C_2H_4 ethylene + Cl_2 chlorine ▶ C_2Cl_4 perchloroethylene + 4 HCl hydrogen chloride

According to the petition, taxable chemicals constitute 100 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.44 per ton. This is based upon a conversion factor for ethylene of 0.17 and a conversion factor for chlorine of 1.71.

Methyl Chloroform

Harmonized Tariff System number: 2903.19.5010
Schedule B number: 2903.19.5010
Chemical Abstract Service number: 71-55-6

This substance is derived from the taxable chemicals *ethylene* and *chlorine*. Methyl chloroform is produced from vinyl chloride. Vinyl chloride is produced from ethylene dichloride. Ethylene dichloride is produced by the chlorination of ethylene.

The stoichiometric material consumption formula for this substance is

C_2H_4 ethylene + 1.5 Cl_2 chlorine + 0.25 O_2 oxygen ▶ CH_3CCl_3 methyl chloroform + 0.5 H_2O water

According to the petition, taxable chemicals constitute 94.4 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.18 per ton. This is based upon a conversion factor for ethylene of 0.21 and a conversion factor for chlorine of 0.60.

Trichloroethylene

Harmonized Tariff System number: 2903.22.0000
Schedule B number: 2903.22.0000
Chemical Abstract Service number: 79-01-6

This substance is derived from the taxable chemicals *ethylene* and *chlorine*. Trichloroethylene is produced by the oxychlorination of ethylene dichloride. Ethylene dichloride is produced by the chlorination of ethylene.

The stoichiometric material consumption formula for this substance is:

C_2H_4 + 1.5 Cl_2 chlorine + 0.75 O_2 oxygen ▶ C_2HCl_3 trichloroethylene + 1.5 H_2O water

According to the petition, taxable chemicals constitute 84.67 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.16 per ton. This is based upon a conversion factor for ethylene of 0.21 and a conversion factor for chlorine of 0.60.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-25286 Filed 10-26-89; 8:45 am]

BILLING CODE 4830-01-M

Office of Thrift Supervision

Columbia Federal Homestead Association, Metairie, LA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Columbia Federal Homestead Association, Metairie, Louisiana ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on October 13, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25356 Filed 10-26-89; 8:45 am]

BILLING CODE 6725-01-M

BEST COPY AVAILABLE

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Columbia Homestead Association, Metairie, LA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(c) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Columbia Homestead Association, Metairie, Louisiana ("Association") on October 13, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25357 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

Mid Kansas Federal Savings & Loan Association of Wichita, Wichita, KS; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(a) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Mid Kansas Federal Savings and Loan Association of Wichita, Wichita, Kansas ("Association") on October 19, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25358 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

Mid Kansas Savings & Loan Association, F.A., Wichita, KS; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Mid Kansas Savings and Loan Association, F.A., Wichita, Kansas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on October 19, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25359 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

People's Homestead Federal Bank for Savings, Monroe, LA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(a) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for People's Homestead Federal Bank for Savings, Monroe, Louisiana ("Association") on October 19, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25360 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

People's Homestead Savings Bank, F.S.B., Monroe, LA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for People's Homestead Savings Bank, F.S.B., Monroe, Louisiana ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on October 19, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25361 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

Seasons Federal Savings Bank, Richmond, VA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Seasons Federal Savings Bank, Richmond, Virginia ("Savings Bank") with the Resolution Trust Corporation as sole Receiver for the Association on October 19, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25362 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

Seasons Savings Bank, F.S.B., Richmond, VA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(a) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Seasons Savings Bank, F.S.B., Richmond, Virginia ("Savings Bank") on October 19, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25363 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

University Federal Savings Association, Houston, TS; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(a) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for University Federal Savings Association, Houston, Texas ("Association") on October 13, 1989.

Dated: October 20, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-25364 Filed 10-26-89; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 207
Friday, October 27, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

PAROLE COMMISSION

Record of Vote of Meeting Closure

Pub. L. 94-409; 5 U.S.C. 552b)

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine o'clock a.m. on Tuesday, October 24, 1989 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 12:30 p.m. The purpose of the meeting was to decide approximately 11 appeals from National Commissioners' decisions pursuant to 28 C.F.R. Sec. 2.27. Eight Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Cameron M. Batjer, Jasper Clay, Jr., Vincent Fechtel, Jr., Carol Pavilack Getty, Victor M.F. Reyes, Daniel R. Lopez, and G. MacKenzie Rust.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: October 24, 1989.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 89-25507 Filed 10-25-89; 2:41 pm]

BILLING CODE 4410-01-M

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Corrections

Federal Register
Vol. 54, No. 207
Friday, October 27, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Temp. Reg. G-53]

Submission of Paid Freight Bills/Invoices, Commercial Bills of Lading, Government Transportation Requests, Passenger Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts

Correction

In rule document 89-9418 beginning on page 15942 in the issue of Thursday, April 20, 1989, make the following correction:

1. On page 15942, in the second column, under **Federal Property Management Regulations, Temporary Regulation G-53**, paragraph 3. should read: "3. *Expiration date.* This regulation expires on (Insert date not to exceed 6 months after effective date (October 20, 1989))."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

45 CFR Part 60

RIN 0905-AC51

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners

Correction

In rule document 89-24425 beginning on page 42722 in the issue of Tuesday, October 17, 1989, make the following corrections:

1. On page 42722, in the first column, under **FOR FURTHER INFORMATION CONTACT**, in the first line, "M.S." should read "M.D.".

2. On page 42723, in the 3rd column, in the 1st complete paragraph, in the 22nd line, "allows" should read "allow".

3. On page 42728, in the third column, in the third complete paragraph, in the last line, insert a period after "§ 60.12".

§ 60.3 [Corrected]

4. On page 42731, in the first column, in the first complete paragraph, in the first line, "*Health care practitioners*" should read "*Health care practitioner*".

§ 60.11 [Corrected]

5. On page 42733, in the third column, in § 60.11(a)(4), in the fifth line, after "practitioner" insert ", or to which the physician, dentist or other health care practitioner"; and in § 60.11(b), in the last line, insert a period after "§ 60.12".

§ 60.14 [Corrected]

6. On page 42734, in the second column, in § 60.14, the first paragraph should be designated "(a)".

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13 89-03]

Security Zones; Puget Sound, WA

Correction

In proposed rule document 89-22972 beginning on page 40127 in the issue of Friday, September 29, 1989, make the following corrections:

§ 165.1304 [Corrected]

1. On page 40129, in the second column, in the first line, "47°43'17"" should read "47°42'17"".

2. On the same page, in the same column, in the fifth line, "122°36'39" W" should read "122°36'29" W".

3. On the same page, in the same column, in § 165.1304(a)(2), in the third line, "undersea" should read "Undersea".

4. On the same page, in the same column, in § 165.1304(a)(2), in the fourth line, "Detachment" was misspelled.

5. On the same page, in the same column, in § 165.1304(a)(2), in the ninth line, "122°33'53" W" should read "122°44'53" W".

6. On the same page, in the same column, in § 165.1304(a)(3)(i), in the fifth line, "122°42'09" W" should read "122°40'09" W".

7. On the same page, in the same column, in § 165.1304(a)(3)(ii), in the fifth line, "122°40'09" W" should read "122°33'03" W".

8. On the same page in the same column, in § 165.1304(a)(4), in the first line, "water" should read "waters".

9. On the same page in the third column, in § 165.1304(b)(2), in the second line, after "do" insert "not".

10. On the same page in the same column, in § 165.1304(b)(2)(ii), in the third line "that" should read "their".

11. On the same page in the same column, in § 165.1304(b)(2)(iii), in the fifth line from the bottom, "certificates" should read "certificate".

BILLING CODE 1505-01-D

federal register

Friday
October 27, 1989

Part II

Department of Defense

Department of the Army

32 CFR Part 536

Claims Against the United States; Final Rule

VOL 54 ISS 207 OCT 27 1989 UMI

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 536

Claims Against the United States

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army announces a change of the regulatory provisions controlling the processing and settlement of administrative claims filed against the Army. This change will inform third parties of the procedures currently controlling the processing and settlement of these administrative claims by the Army.

EFFECTIVE DATE: November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Mounts, Jr., Deputy Director, U.S. Army Claims Service, Office of The Judge Advocate General, Fort Meade, Maryland 20755–5360, (301) 677–7822.

SUPPLEMENTARY INFORMATION: This change implements a statutory change concerning advance payments for claims arising under the Military Claims Act, National Guard Claims Act, and Foreign Claims Act. It clarifies documentation required and the measure of damages for personal injury and wrongful death claims arising overseas. The change adds guidance concerning the need for claimants to cooperate in substantiating a claim under the Military Claims Act.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as non-major. The effect of the final rule on the economy will be less than $100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 536

Claims, Foreign claims, Tort claims.

Dated: October 11, 1989.

Jack F. Lane, Jr.,

Commanding, United States Army Claims Service, Office of The Judge Advocate General, Department of Defense.

32 CFR part 536 is revised as follows:

PART 536—CLAIMS AGAINST THE UNITED STATES

Subpart A—General Provisions

Sec.
536.1 Purpose and scope.
536.2 Information and assistance.
536.3 Definitions and explanations.
536.4 Treaties and international agreements.
536.5 Claims.
536.6 Determination of liability.
536.7 Incident to service exclusionary rule.
536.8 Use of appraisers and independent medical examinations.
536.9 Effect on award of other payments to claimant.
536.10 Settlement agreement.
536.11 Appeals and notification to claimant as to denial of claims.
536.12 Effect of payment.
536.13 Advance payments.

Subpart B—Claims Arising From Activities of Military or Civilian Personnel or Incident to Noncombat Activities

536.20 Statutory authority.
536.21 Definitions.
536.22 Scope.
536.23 Claims payable.
536.24 Claims not payable.
536.25 Claims also cognizable under other statutes.
536.26 Presentation of claims.
536.27 Procedures.
536.28 Law applicable.
536.29 Compensation for property damage, personal injury, or death.
536.30 Structured settlements.
536.31 Claims over $100,000.
536.32 Settlement procedures.
536.33 Attorney fees.
536.34 Payment of costs, settlements, and judgments related to certain medical and legal malpractice claims.
536.40 Claims under Article 139, Uniform Code of Military Justice.
536.50 Claims based on negligence of military personnel or civilian employees under the Federal Tort Claims Act.
536.60 Maritime claims.

Subpart C—Claims Arising From Activities of National Guard Personnel While Engaged in Duty or Training

536.70 Statutory authority.
536.71 Definitions.
536.72 Scope.
536.73 Claims payable.
536.74 Claims not payable.
536.75 Notification of incident.
536.76 Claims in which there is a State source of recovery.
536.77 Claims against the ARNG tortfeasor individually.
536.78 When claim must be presented.
536.79 Where claim must be presented.
536.80 Procedures.
536.81 Settlement agreement.

Subpart D—Claims Incident to Use of Government Vehicles and Other Property of the United States not Cognizable Under Other Law

536.90 Statutory authority.
536.91 Scope.
536.92 Claims payable.
536.93 Claims not payable.
536.94 When claim must be presented.
536.95 Procedures.
536.96 Settlement agreement.
536.97 Reconsideration.

Authority: 10 U.S.C. 939, 2733, 2734, 2734a, 2736, 2737, 3012, 4801 through 4804, and 4806; 28 U.S.C. 1346(b), 2401(b), 2402, 2671 through 2680; and 32 U.S.C. 715.

Subpart A—General Provisions

§ 536.1 Purpose and scope.

(a) *Purpose.* Part 536 prescribes policies and procedures to be followed in the filing, investigation, processing and administrative settlement of Department of Army (DA) generated noncontractual claims. Sections 536.1 through 536.13 contain general instructions and guidance for the investigation and processing of claims and apply to all claims unless other laws or regulations specify other procedures. They are intended to ensure that incidents that may result in claims are promptly and efficiently investigated under supervision adequate to ensure a sound basis for official action and that all claims resulting from such incidents are expeditiously settled. The Secretary of the Army has delegated authority to The Judge Advocate General (TJAG) to assign areas of responsibility and designate functional responsibility for claims purposes. TJAG has delegated authority to the Commander, U.S. Army Claims Service (USARCS) to carry out these responsibilities. USARCS is the agency through which the Secretary of the Army and TJAG discharge their responsibilities for claims administration. The proper mailing address of USARCS is Commander, U.S. Army Claims Service, Office of The Judge Advocate General, Fort George G. Meade, Maryland 20755–5360.

(b) *Scope*—(1) *Applicability.* (i) Sections 536.20 through 536.35 apply in the settlement of claims under the Military Claims Act (MCA) (10 U.S.C. 2733) for personal injury, death or property damage that was either caused by members or employees of the DA acting within the scope of their employment or otherwise incident to noncombat activities of the DA.

(ii) Section 536.40 sets forth the procedures to be followed and the standards to be applied in the processing of claims cognizable under Article 139, Uniform Code of Military Justice (UCMJ) (10 U.S.C. 939) for property willfully damaged or wrongfully taken or withheld by members of the DA.

(iii) Section 536.50 governs the administrative settlement of claims under the Federal Tort Claims Act (FTCA) (28 U.S.C. 1346(b), 2671–2680) for personal injury, death or property damage caused by the negligent act or omissions of members or employees of the DA while acting within the scope of their employment.

(iv) Section 536.60 provides the procedures to be followed in the settlement of claims under the Army Maritime Claims Settlement Act (10 U.S.C. 4801–4804, 4806) for damage caused by a vessel of or in the service of the Army.

(v) Sections 536.70 through 536.81 provide instructions for settlement of claims under the National Guard Claims Act (NGCA) (32 U.S.C. 715) for personal injury, death or property damage that was either caused by a member or employee of the Army National Guard (ARNG) while in training or duty under Federal law, and acting within the scope of their employment; or otherwise incident to noncombat activities of the ARNG not in active Federal service.

(vi) Sections 536.90 through 536.97 provide instructions for settlement of claims under 10 U.S.C. 2737 for personal injury, death or property damage (not cognizable under any other law) incident to the use of Government property by members or employees of the DA.

(2) *Nonappropriated fund activities.* Claims arising from acts or omissions of employees of nonappropriated fund activities within the United States, its Territories, and possessions, are processed in the manner prescribed by applicable regulations. In oversea areas, such claims will be processed in accordance with treaties or agreements between the United States and foreign countries with respect to the settlement of claims arising from acts or omissions of military and civilian personnel of the United States in such countries, or in accordance with applicable regulations as appropriate.

(3) *Nonapplicability.* Sections 536.1 through 536.13 do not apply to:

(i) Contractual claims which are under the provisions of Public Law 85–804, 28 August 1958 (72 Stat. 972) and AR 37–103, AR 37–103 and other Army Regulations referenced herein are available thru: National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, or other regulations including acquisition regulations.

(ii) Maritime claims (§ 536.60).

§ 536.2 Information and assistance.

(a) Government personnel may not represent any claimant or receive any payment or gratuity for services rendered. They may not accept any share or interest in a claim or assist in its presentation, under penalty of Federal criminal law (18 U.S.C. 203, 205). They are prohibited from disclosing information which may be the basis of a claim, or any evidence of record in any claims matter, except as prescribed in §§ 518.1 through 518.4 of this chapter or other pertinent regulations. A person lacking authority to approve or disapprove a claim may not advise a claimant or his representative as to the disposition recommended.

(b) The prohibitions against furnishing information and assistance do not apply to the performance of official duty. Any person who indicates a desire to file a claim against the United States will be instructed concerning the procedure to follow. He will be furnished claim forms, and, when necessary, will be assisted in completing the forms and assembling evidence. He will not be assisted in determining what amount to claim. In the vicinity of a field exercise, maneuver, or disaster, information may be disseminated concerning the right to present claims, the procedure to be followed, and the names and locations of claims officers, and engineer repair teams. When the government of a foreign country in which the U.S. Armed Forces are stationed has assumed responsibility for the settlement of certain claims against the United States, officials of that country will be furnished pertinent information and evidence so far as security considerations permit.

§ 536.3 Definitions and explanations.

The following terms as used in §§ 536.1 through 536.13 and the matters referred to in § 536.1(b) will have the meanings here indicated:

(a) *Affirmative Claims.* The government's statutory right to recover money, property, or repayment in kind incurred as a result of property loss, damage, or destruction by any individual, partnership, association or other legal entity, foreign or domestic, except an instrumentality of the United States. Also, the Government's statutory right to recover the reasonable medical costs expended for hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) incurred under circumstances creating tort liability upon some third person.

(b) *Civilian Employees.* Civilian employee means a person whose activities the Government has the right to direct and control, not only as to the result to be accomplished but also as to the means used; this includes, but is not limited to, full-time Federal civilian officers and employees. The term should be distinguished from the term "independent contractor" for whose actions the Government generally is not liable. The determination of who is a civilian employee is a Federal question determined under Federal law and not under local law.

(c) *Claim.* A demand for payment of a specified sum of money (other than the ordinary obligations incurred for services, supplies or equipment) and, unless otherwise specified in this regulation, in writing and signed by the claimant or a properly designated representative.

(d) *Claim file.* The claim, report of the claims officer or other report of investigation, supporting documentation, and pertinent correspondence.

(e) *Claim approval authority.* Except for claims under 10 U.S.C. 939, 31 U.S.C. 3721, and treaties or international agreements such as the North Atlantic Treaty Organization (NATO), Status of Forces Agreement (SOFA), and subject to any limitations found in specific provisions of these regulations, the authority to approve and pay a claim in the amount presented or in a lesser amount upon the execution of a settlement agreement by the claimant. A person with approval authority may not disapprove a claim in its entirety nor make a final offer, subject to any limitations found in specific provisions of this regulation.

(f) *Claim settlement authority.* The authority to approve a claim, to deny a claim in its entirety, or to make a final offer subject to any limitations found in specific provisions of this regulation.

(g) *Claims attorney.* DA or DOD civilian attorney assigned to a judge advocate or legal office, who has been designated by the Commander, USARCS.

(h) *Claims judge advocate.* An officer of the Judge Advocate General's Corps designated by a command or staff judge advocate (SJA) to be in immediate charge of claims activities of the command.

(i) *Claims Officer.* A commissioned officer, warrant officer, or qualified civilian employee detailed by the commander of an installation or unit who is trained or experienced in the investigation of claims.

(j) *Claimant.* An individual, partnership, association, corporation,

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country, state, territory, or other political subdivision of such country; does not include the U.S. Government or any of its instrumentalities, except as prescribed by statute. Indian tribes are not proper party claimants but individual Indians can be claimants.

(k) *Combat activities.* Activities resulting directly or indirectly from action by the enemy, or by U.S. Armed Forces engaged in, or in immediate preparation for, impending armed conflict.

(l) *Disaster.* A sudden and extraordinary calamity occasioned by activities of the Army, other than combat, resulting in extensive civilian property damage or personal injuries and creating a large number of potential claims.

(m) *Federal agency.* A federal agency includes the executive departments and independent establishments of the United States and corporations acting as instrumentalities or agencies of the United States but does not include any contractor with the United States.

(n) *Final offer.* An offer of payment by a settlement authority in full and final settlement of a claim which, if not accepted, constitutes a final action for purposes of filing suit under § 536.50 or filing an appeal under §§ 536.30 through 536.35 and 536.70 through 536.81, provided such offer is made in writing and meets the other requirements of a final action as set forth in this regulation.

(o) *Government vehicle.* A vehicle owned or on loan to any agency of the Government of the United States or privately owned, and operated by members or civilian employees of the DA in the scope of their office or employment with the Government of the United States including vehicles being operated on joint operations of the U.S. Armed Forces.

(p) *Medical claims judge advocate.* A judge advocate (JA) assigned to an Army Medical Center, under an agreement between TJAG and The Surgeon General, to perform the primary duty of investigating and processing medical malpractice claims.

(q) *Medical claims investigator.* A senior legal specialist or qualified civilian assigned to assist a medical claims JA on a full-time basis. A medical claims investigator is authorized to administer oaths under the provisions of Article 136(b)(6), UCMJ, 10 U.S.C. 936(b)(6) when performing investigative duties.

(r) *Medical malpractice claim.* A claim arising out of substandard or inadequate care of an Army patient.

(s) *Military personnel.* Military personnel means members of the DA on active duty for training, or inactive duty training as defined in AR 310–25 and 10 U.S.C. 101(22), 101(23), and 101(30). This includes members of the District of Columbia ARNG while performing active duty or training under 32 U.S.C. 316, 502, 503, 504 or 505.

(t) *Noncombat activities.* A noncombat activity arises from authorized activities essentially military in nature, having little parallel in civilian pursuits and which historically have been considered as furnishing a proper basis for payment of claims, such as practice firing of missiles and weapons, training and field exercises, and maneuvers, including, in connection therewith, the operation of aircraft and vehicles, and use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances, are excluded.

(u) *Personal property.* Property consisting solely of corporeal personal property, that is, tangible things. Personal property does not consist of the loss or forfeiture of a security deposit or a contingent financial benefit.

§ 536.4 Treaties and international agreements.

(a) The governments of some foreign countries have by treaty or agreement waived or assumed, or may hereafter waive or assume, certain claims against the United States. In such instances claims will not be settled under laws or regulations of the United States.

(b) The prohibition stated in paragraph (a) of this section is not applicable to claims within the purview of Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty or similar type agreements which normally will be investigated and settled as therein provided.

§ 536.5 Claims.

(a) *Who may present.* (1) A claim may be presented by the owner of the property, or in his name by a duly authorized agent or legal representative. As used in this regulation an owner includes the following:

(i) *For real property.* The mortgagor, or the mortgagee, if he or she can maintain a cause of action in the local courts involving a tort to that specific property. When notice of divided interests in real property is received, the claim should, if feasible, be treated as a single claim or a release from all interests must be obtained.

(ii) *For personal property.* A bailee, leasee, mortgagee, and conditional vendor, or others having title for purposes of security only, are not proper claimants unless specifically authorized by the statute and implementing regulations in question. If more than one party has a real interest in the property, all must join in the claim or a release from all interests must be obtained.

(2) A claim for personal injury may be presented by the injured person or duly authorized agent or legal representative.

(3) A claim based on death may be presented by the executor or administrator of the deceased's estate, or by any person determined to be legally or beneficially entitled. The amount allowed will, to the extent practicable, be apportioned among the beneficiaries in accordance with the law applicable to the incident.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has in fact incurred the expenses for which the claim is made. However, for claims cognizable under the provisions of the FTCA, see § 536.50, and for claims cognizable under the provisions of the Nonscope of Employment Claims Act, see §§ 536.90 through 536.97.

(5) A claim presented by an agent or legal representative will be made in the name of the claimant and signed by the agent or legal representative showing the title or capacity. Written evidence of the authority of such person to act is mandatory except when controlling law does not require such evidence.

(6) A claim normally will include all damages that accrue by reason of the incident. Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, each of the foregoing or any combination of them ordinarily represent only an integral part or parts of a single claim or cause of action. Under §§ 536.20 through 536.35 and the Foreign Claims Act (FCA) (10 U.S.C. 2734), a single claimant is entitled to be compensated only one time for all damages or injuries arising out of an incident.

(b) *Subrogation.* A claim may be presented by a subrogee in his own name if authorized by the law of the place where the incident giving rise to the claim occurred, provided subrogation is not barred by the regulation applicable to the type of claim involved.

(1) The claims of the subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute separate claims, and it is permissible for the aggregate of such claims to exceed the monetary jurisdiction of the approving or settlement authority.

(2) A subrogor and a subrogee may file a claim jointly or individually. A fully subrogated claim will be paid only to the subrogee. Whether a claim is fully subrogated is a matter to be determined by local law. Some jurisdictions permit the property owner to file for property damage even though the owner has been compensated for the repairs by an insurer. In such instances a release should be obtained from both parties in interest or be released by both of them. The approved payment in a joint claim will be by joint check which will be sent to the subrogee unless both parties specify otherwise. If separate claims are filed, payment will be by check issued to each claimant to the extent of his undisputed interest.

(3) Where a claimant has made an election and accepted workmen's compensation benefits, both statutory and case law of the jurisdiction should be scrutinized to determine to what extent the claim of the injured party against third parties has been extinguished by acceptance of compensation benefits. While it is infrequent that the claim is fully extinguished, it is true in some jurisdictions, and the only proper party claimant is the workmen's compensation carrier. Even where the injured party's claim has not been fully extinguished, most jurisdictions provide that the compensation insurance carrier has a lien on any recovery from the third party, and no settlement should be reached without approval by the carrier where required by local law. Additionally, claims from the workmen's compensation carrier as subrogee or otherwise will not be considered payable where the United States has paid the premiums, directly or indirectly, for the workmen's compensation insurance. Applicable contract provisions holding the United States harmless should be utilized.

(4) Whether medical payments paid by an insurer to its insured can be subrogated depends on local law. Some jurisdictions prohibit these claims to be submitted by the insurer notwithstanding a contractual provision providing for subrogation. Therefore, local law should be researched prior to deciding the issue, and claims forwarded to higher headquarters for adjudication should contain the results of said research. Such claims, where prohibited by state law, will also be barred by the Antiassignment Act.

(5) Care will be exercised to require insurance disclosure consistent with the type of incident generating the claim. Every claimant will, as a part of his claim, make a written disclosure concerning insurance coverage as to:

(i) The name and address of every insurer;

(ii) The kind and amount of insurance;

(iii) Policy number;

(iv) Whether a claim has been or will be presented to an insurer, and, if so, the amount of such claims; and

(v) Whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(6) Each subrogee must substantiate his interest or right to file a claim by appropriate documentary evidence and should support the claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subroger does not constitute evidence either of liability of the Government or of the amount of damages. Approving and settlement authorities will make independent determinations upon the evidence of record and the law.

(7) Subrogated claims are not cognizable under §§ 536.90 through 536.97 and the FCA (10 U.S.C. 2734).

(c) *Transfer and assignments.* (1) Except as they occur by operation of law or after a voucher for the payment has been issued, unless within the exceptions set forth by statute (see 31 U.S.C. 3727 and AR 37–107), the following are null and void—

(i) Every purported transfer or assignment of a claim against the United States, or of any part of or interest in a claim, whether absolute or conditional.

(ii) Every power of attorney or other purported authority to receive payment of all or part of any such claim.

(2) The purposes of the Antiassignment Act are to eliminate multiple payment of claims, to cause the United States to deal only with original parties, and to prevent persons of influence from purchasing claims against the United States.

(3) In general, this statute prohibits voluntary assignments of claims with the exception of transfers or assignments made by operation of law. The operation of law exception has been held to apply to claims passing to assignees because of bankruptcy proceedings, assignments for the benefit of creditors, corporate liquidations, consolidations or reorganizations, and where title passes by operation of law to heirs or legatees. Subrogated claims which arise under a statute are not barred by the Antiassignment Act. For example, subrogated worker's compensation claims are cognizable when presented by the insurer.

(4) Subrogated claims which arise pursuant to contractual provisions may be paid to the subrogee if the subrogated claim is recognized by state statute or decision. For example, an insurer under an automobile insurance policy becomes subrogated to the rights of a claimant upon payment of a property damage claim. Generally, such subrogated claims are authorized by state law and are therefore not barred by the Antiassignment Act.

(5) Before claims are paid, it is necessary to determine whether there may be a valid subrogated claim under Federal or State statute or subrogation contract held valid by State law. If there may be a valid subrogated claim forthcoming, payment should be withheld for this portion of the claim. If it is determined that claimant is the only proper party, full settlement is authorized.

(d) *Action by claimant—*(1) *Form of claim.* The claimant will submit his claim using authorized official forms whenever practicable. A claim is filed only when the elements indicated in § 536.3(c) have been supplied in writing by a person authorized to present a claim, unless the claim is cognizable under a regulation that specifies otherwise. A claim may be amended by the claimant at any time prior to final agency action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a).

(2) *Signatures.* (i) The claim and all other papers will be signed in ink by the claimant or by his duly authorized agent. Such signature will include the first name, middle initial, and surname. A married woman must sign her claim in her given name, for example, "Mary A. Doe," rather than "Mrs. John Doe."

(ii) Where the claimant is represented, the supporting evidence required by paragraph (a)(5) of this section will be required only if the claim is signed by the agent or legal representative. However, in all cases in which a claimant is represented, the name and address of the representative will be included in the file together with copies of all correspondence and records of conversations and other contacts maintained and included in the file. Frequently, these records are determinative as to whether the statute of limitations has been tolled.

(3) *Presentation.* The claim should be presented to the commanding officer of the unit involved, or to the legal office of the nearest Army post, camp, or station, or other military establishment

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convenient to the claimant. In a foreign country where no appropriate commander is stationed, the claim should be submitted to any attache of the U.S. Armed Forces. Claims cognizable under Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty, Article XVIII of the Treaty of Mutual Cooperation and Security between the United States and Japan regarding facilities and areas and the Status of United States Armed Forces in Japan (Japan SOFA) or other similar treaty or agreement are filed with designated claims officials of the receiving State.

(e) *Evidence to be submitted by claimant.* The claimant should submit the evidence necessary to substantiate his claim. It is essential that independent evidence be submitted which will substantiate the correctness of the amount claimed.

(f) *Statute of limitations*—(1) *General.* Each statute available to the Department of the Army for the administrative settlement of claims, except the Maritime Claims Settlement Act (10 U.S.C. 4802), specifies the time during which the right to file a claim must be exercised. These statutes of limitations, which are jurisdictional in nature, are not subject to waiver unless the statute expressly provides for waiver. Specific information concerning the period for filing under each statute is contained in the appropriate implementing sections of this regulation.

(2) *When a claim accrues.* A claim accrues on the date on which the alleged wrongful act or omission results in an actionable injury or damage to the claimant or his decedent. Exceptions to this general rule may exist where the claimant does not know the cause of injury or death; that is, the claim accrues when the injured party, or someone acting on his or her behalf, knows both the existence and the cause of his or her injury. However, this exception does not apply when, at a later time, he or she discovers that the acts inflicting the injury may constitute medical malpractice. (See *United States* v. *Kubrick*, 444 U.S. 111, 100 S. Ct. 352 (1979).) The discovery rule is not limited to medical malpractice claims; it has been applied to diverse situations involving violent death, chemical and atomic testing, and erosion and hazardous work environment. In claims for indemnity or contribution against the United States, the accrual date is the time of the payment for which indemnity is sought or on which contribution is based.

(3) *Effect of infancy, incompetency or the filing of suit.* The statute of limitations for administrative claims is not tolled by infancy or incompetency. Likewise, the statute of limitations is not tolled for purposes of filing an administrative claim by the filing of a suit based upon the same incident in a Federal, State, or local court against the United States or other parties.

(4) *Amendment of Claims.* A claim may be amended by the claimant at any time prior to final agency action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a). A claim may be amended by changing the amount, the bases of liability, or elements of damages concerning the same incident. Parties may be added only if the additional party could have filed a joint claim initially. If the additional party had a separate cause of action, his claim may not be treated as an amendment but only as a separate claim and is thus barred if the statute of limitations has run. For example, if a claim is timely filed on behalf of a minor for personal injuries, a subsequent claim by a parent for loss of services is considered a separate claim and is barred if it is not filed prior to the running of the statute of limitations. Another example is where a separate claim is filed for loss of services or consortium by a spouse arising out of injuries to the husband or wife of the claimant. On the other hand, if a claim is timely filed by an insured for the deductible portion of the property damage, a subsequent claim by the insurer based on payment of property damage to its insured may be filed as an amendment even though the statute of limitations has run, unless final action has been taken on the insured's claim.

(5) *Date of receipt stops the running of the statute.* In computing the time to determine whether the period of limitations has expired, exclude the first day and include the last day, except when it falls on a nonworkday such as Saturday, Sunday, or a legal holiday, in which case it is to be extended to the next workday.

(g) *By the command concerned*—(1) *General.* If the claim is of a type and amount within the jurisdiction of the claims office of the command concerned and the claim is meritorious in the amount claimed, it will be approved and paid. If a claim in an amount in excess of the monetary jurisdiction of the claims office is meritorious in a lesser amount within its jurisdiction, the claim may be approved for payment provided the amount offered is accepted by the claimant in settlement of the claim. If the claim is not of a type within the jurisdiction of the claims office, or if the claimant will not accept an amount within its jurisdiction, the claim with supporting papers and a recommendation for appropriate action will be forwarded to the next higher claims authority. If the claim is determined to be not meritorious, it will be disapproved provided the claims office has settlement authority for claims of the type and amount involved. Prior to the disapproval of a claim under a particular statute, a careful review should be made to ensure that the claim is not properly payable under a different statute or on another basis.

(2) *Claims within settlement authority of USARCS or the Attorney General.* A copy of each of the following types of claims will be forwarded immediately to the Commander, USARCS:

(i) One that appears to be of a type that must be brought to the attention of the Attorney General in accordance with his or her regulations;

(ii) One in which the demand exceeds $15,000; or

(iii) One which is a claim under the FTCA (§ 536.50) where the total of all claims, arising from a single incident, actual or potential, exceeds $25,000. USARCS is responsible for the monitoring and settlement of such claims and will be kept informed on the status of the investigation and processing thereof. Direct liaison and correspondence between the USARCS and the field claims authority or investigator is authorized on all claims matters, and assistance will be furnished as required. The field claims office will provide USARCS duplicates of all documentation as it is added to the field file. This will include all correspondence, memoranda, medical reports, reports, evaluations, and any other material relevant to the investigation and processing of the claim.

(3) *Claims involving privately owned vehicles.* In areas where the FTCA (§ 536.50) is applicable, any claim except those under 31 U.S.C. 3721, arising out of an accident involving a privately owned vehicle driven by a member of the DA, or by ARNG personnel as defined in § 536.71, based on an allegation that the privately owned vehicle travel was within the scope of employment, should be forwarded without adjudication directly to the Commander, USARCS. Additional information is provided in §§ 536.20 through 536.35, 536.90 through 536.97.

(4) *Claims within the exclusive jurisdiction of USARCS.* Authority to settle the following claims has been delegated to the Commander, USARCS, only:

(i) Claims of under Article VIII of the Agreement Regarding the Status of Forces Parties to the North Atlantic Treaty and other treaties or international agreements where the United States is the Receiving State;

(ii) Claims under § 536.60 (Maritime claims not arising out of civil works activities) except as delegated to overseas command claims services;

(iii) Industrial security claims, DoD Directive 5220.6, 12 August 1985; and

(iv) Claims of the U.S. Postal Service. Files of these claims will be forwarded directly to the Commander, USARCS, with the report of investigation and supporting papers, including a memorandum of opinion.

(5) *Maritime claims.* (i) A copy of a claim arising out of damage, loss, injury, or death which originates on navigable waters and is not considered cognizable under the Army Maritime Claims Settlement Act (10 U.S.C. 4802–4804) will be forwarded immediately to the Commander, USARCS or appropriate overseas command claims service. A determination will be made as to whether the claim must be processed under the Suits in Admiralty Act or the Public Vessels Act or may be considered administratively.

(ii) If a maritime claim cannot be settled administratively, the claimant will be advised that he must file a suit.

(iii) If it is determined that both administrative and judicial remedies are available, the claim may be processed administratively and the claimant advised of the need to file a suit within 2 years of the date of occurrence if he chooses his judicial remedy.

(iv) If the claim is for damage to property, or injury to person, consummated on land, a claimant who makes an oral inquiry or demand will be advised that no suit can be filed until a period of six months has expired after a claim in writing is submitted.

(v) If it is determined by the Commander, USARCS, that a claim, apparently maritime in nature, is not within the maritime jurisdiction, the claimant will be so advised, and the claim will be returned for processing under the appropriate section of this regulation.

(h) *By district or division engineer.* The district or division engineer area claims office will take the action of an initial claims authority. Files of unpaid claims should be forwarded directly to USARCS. An information copy will be sent to the next higher engineer authority unless such requirement is waived.

(i) *By higher settlement authority.* A higher claims settlement authority may take action with respect to a claim in the same manner as the initial claims office. However, if it is determined that any further attempt to settle the claim would be unwarranted, the claim will be forwarded to the Commander, USARCS, with recommendations.

§ 536.5 Determination of liability.

(a) In the adjudication of tort claims, the liability of the United States generally is determined in accordance with the law of the State or country where the act or omission occurred, except that any conflict between local law and the applicable United States statute will be resolved in favor of the latter. However, in claims by inhabitants of the United States arising in foreign countries, liability is determined in accordance with general principles of tort law common to the majority of American jurisdictions as evidenced by Federal case law and standard legal publications, except as it applies to absolute liability. Where liability is not clear or other issues exist, settlements should truly reflect the uncertainties in the adjudication of such issues. Compromise settlements are encouraged provided agreement can be reached that reflects the reduced value of the damages as measured against the full value or range of value if such uncertainties or issues did not exist and were it possible for the claimant to successfully litigate the claim.

(b) *Quantum exclusion.* The costs of filing a claim and similar costs, for example, court costs, bail, interest, inconvenience expenses, or costs of long distance telephone calls or transportation in connection with the preparation of a claim, are not proper quantum elements and will not be allowed.

§ 536.7 Incident to service exclusionary rule.

(a) *General.* A claim for personal injury or death of a member of the Armed Forces of the United States or a civilian employee of the United States that accrued incident to his service is not payable under this regulation. A claim for property damage that accrued incident to the service of a member of the Armed Forces may be payable under 31 U.S.C. 3721 or §§ 536.20 through 536.35 depending on the facts.

(b) *Property damage claims.* A claim for damage to or loss of personal property of a claimant who is within one of the categories of proper party claimants under 31 U.S.C. 3721, which is otherwise cognizable under 31 U.S.C. 3721, must first be considered thereunder. If a claim is not clearly compensable under 31 U.S.C. 3721, and it arises incident to a noncombat activity of the DA or was caused by a negligent or wrongful act or omission of military personnel or civilian employees of the Department of Defense (DOD), it may be cognizable under either §§ 536.20 through 536.35 or § 536.50. The claim, if meritorious in fact, will probably be payable under one authorization or another regardless of whether the claim accrued incident to the service of the claimant.

(c) *Personal injury and death claims.* (1) Only after the death or personal injury (which is the subject of the claim) has been determined to have not been incurred incident to the member's service should §§ 536.20 through 536.35 and § 536.50 be studied to determine which, if either, provides a proper basis for settlement of the claim. In any event, the rule in *U.S.* v. *Brooks*, 176 F.2d 482 (4th Cir. 1949) requiring setoff of amounts obtained through military or veterans' compensation systems against amounts otherwise recoverable will be followed. Other Government benefits, funded by general treasury revenues and not by the claimant's contributions, may also be used as a setoff against the settlement. (See, *Overton* v. *United States*, 619 F.2d 1299 (8th Cir. 1980)).

(2) As the incident to service issue is determinative as to whether this type of claim may be processed administratively at all, the applicable law and facts should be carefully considered before deciding that injury or death was not incident to service. Such claims also are often difficult to settle on the issue of quantum and thus more likely to end in litigation. Moreover, the United States may well elect to defend the lawsuit on the basis of the incident to service exclusion, and this defense could be prejudiced by a contrary administrative determination that a service member's personal injuries or death were not incident to service. Doubtful cases will be forwarded to the Commander, USARCS without action along with sufficient factual information to permit a determination of the incident to service question.

§ 536.8 Use of Appraisers and Independent Medical Examinations.

(a) *Appraisers.* Appraisers should be used in all claims where an appraisal is reasonably necessary and useful in effectuating the administrative settlement of the claims. The decision to use an appraiser is at the discretion of DA.

(b) *Independent medical examinations.* In claims involving serious personal injuries, for example, normally those cases in which there is an allegation of temporary or permanent disability, the claimant should be examined by an independent physician,

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or other medical specialist, depending upon the nature and extent of the injuries. The decision to conduct an independent medical examination is at the discretion of DA.

§ 536.9 Effect on Award of Other Payments to Claimant.

The total award to which the claimant (and subrogee) may be entitled normally will be computed as follows:

(a) Determine the total of the loss or damage suffered.

(b) Deduct from the total loss or damage suffered any payment, compensation, or benefit the claimant has received from the following sources:

(1) The U.S. or ARNG employee/member who caused the damage.

(2) The U.S. or ARNG employee's/member's insurer.

(3) Any person or agency in a surety relationship with the U.S. employee; or

(4) Any joint tortfeasor or insurer, to include Government contractors under contracts or in jurisdictions where it is permissible to obtain contribution or indemnity from the contractor in settlement of claims by contractor employees and third parties.

(5) Any advance payment made pursuant to § 536.13.

(6) Any benefit or compensation based directly or indirectly on an employer-employee relationship with the United States or Government contractor and received at the expense of the United States including but not limited to medical or hospital services, burial expenses, death gratuities, disability payment, or pensions.

(7) The State (Commonwealth, etc.) whose employee or ARNG member caused or generated an incident that was a proximate cause of the resulting damages.

(8) Value of Federal medical care.

(9) Benefits paid by the Veterans Administration (VA) that are intended to compensate the same elements of damage. When the claimant is receiving money benefits from the VA under 38 U.S.C. 351 for a non-service connected disability or death based on the injury that is the subject of the claim, acceptance of a settlement or an award under the FTCA (§ 536.50) will discontinue the VA monetary benefits until the amount that would have otherwise been received in VA monetary benefits is equal to the total amount of the agreement or award including attorney fees. While monetary benefits received under 38 U.S.C. 351 must be discontinued as above, medical benefits, that is, VA medical care may continue provided the settlement or award expressly provides for such continuance and the appropriate VA official is informed of such continuance.

(10) When the claimant is receiving money benefits under 38 U.S.C. 410(b) for non-service connected death, arising from the injury that is the subject of the claim, acceptance of a settlement or award under the FTCA (§ 536.50) or under any other tort procedure will discontinue the VA benefits until the amount that would have otherwise been received in VA benefits is equal to the amount of the total settlement or award including attorney fees. The discontinuation of monetary benefits under 38 U.S.C. 410(b) has no effect on the receipt of other VA benefits. The claimant should be informed of the foregoing prior to the conclusion of any settlement and thus afforded an opportunity to make appropriate adjustment in the amount being negotiated.

(11) Value of other Federal benefits to which the claimant did not contribute, or at least to the extent they are funded from general revenue appropriation.

(12) Collateral sources where permitted by State law (for example, State or Federal workers' compensation, social security, private health, accident, and disability benefits paid as a result of injuries caused by a health care provider).

(c) No deduction will be made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

(d) Where a payment has been made to the claimant by his insurer or other subrogee, or under workmen's compensation insurance coverage, as to which subrogated interests are allowable, the award based on total damages will be apportioned as their separate interests are indicated (see § 536.5(b)).

(e) After deduction of permissible collateral and non-collateral sources, also deduct that portion of the loss or damage believed to have been caused by the negligence of the claimant, third parties whose negligence can be imputed to the claimant, or joint tortfeasors who are liable for their share of the negligence (for example, where some form of the Uniform Contribution Among Joint Tortfeasors Act has been passed).

(f) Claims with more than one potential source of recovery. (1) The Government seeks to avoid multiple recovery, that is, claimants seeking recovery from more than one potential source, and to minimize the award it must make. The claims investigation should therefore identify other parties potentially liable to the claimant and/or their insurance carriers; indicate the status of any claims made or include a statement that none has been made so that it can be assured there is only one recovery and the Government does not pay a disproportionate share. Where no claim has been made by the claimant against others potentially liable, if applicable State law grants the Government the right to indemnity or contribution, and it is felt the Government may be entitled to either under the facts developed by the claims investigation, the claims officer or attorney should formally notify the other parties of their potential liability, the Government's willingness to share information, and its expectation of shared responsibility for any settlement. Furthermore, the claimant may be receiving or entitled to receive benefits from collateral and non-collateral sources, which can be deducted from the total loss or damage. Accordingly, a careful review must be made of applicable State laws regarding joint and several liability, indemnity, contribution, comparative negligence, and the collateral source doctrine.

(2) If a demand by a claimant or an inquiry by a potential claimant is directed solely to the Army, in a situation where it appears that the responsible Army employee may have applicable insurance coverage, inquiry should be made of the employee as to whether he has liability insurance.

(i) If so, determine if the insurer has made or will make any payment to claimant. Under applicable State law, the United States may be an additional named insured entitled to coverage under the employee's liability policy. (See 16 ALR3d 1411; *United States* v. *State Farm Mutual Ins. Co.*, 245 F. Supp. 58 (D. Ore. 1965.)) Therefore, where there may be applicable insurance coverage, there should be a review of the policy language together with the rules and regulations of the State insurance regulatory body to determine whether the United States comes within the definition of "insured," and whether the exclusion of the United States from policy coverage conforms with state law and policy.

(ii) If the employee refuses to cooperate in providing this information, he or she should be advised to comply with the notice requirements of the insurance policy and to request the insurance carrier contact the claims officer or attorney. In addition, other sources of information, such as vehicle registration records, will be checked to ascertain the employee's insurer. The case should be followed to ascertain whether the employee's insurer has made or will make any payment to the

claimant before deciding whether to settle the claim against the Government. Normally, the award, if any, to the claimant will be reduced by the amount of the payment of the employee's insurance carrier.

(3) If the employee is the sole target of the claim and Army claims authorities arrange to have the claim made against the Government, the member or employee should be required to notify his or her insurance carrier according to the policy and inform DA claims authorities as to the details of the insurance coverage, including the name of the insurance carrier. Except when the "Drivers Act" is applicable, the insurance carrier is expected to participate in the negotiation of the claims settlement and to pay its fair share of any award to the claimant.

(4) Where the responsible Army employee is "on loan" to another employer other than the United States, for example, civilian institution for ROTC instructor, or performing duties for a foreign government, inquiry should be made to determine whether there is applicable statutory or insurance coverage concerning the acts of the responsible employee and contribution or indemnification sought, as appropriate. In the case of foreign governments, applicable treaties or agreements are considered controlling.

(5) A great many claims cognizable under the FTCA (§ 536.50) are now settled on a compromise basis. A major consideration in many such settlements is the identification of other sources of recovery. This is true in a variety of factual situations where there is a potential joint tortfeasor; for example, multi-vehicle accidents with multiple drivers and guest passengers, State or local government involvement, contractors performing non-routine tasks for the Government, medical treatment rendered to a claimant by non-Government employees, or incidents caused by a member or employee of the military department of a State or Commonwealth with whom the DA does not have a cost-sharing agreement. The law of the jurisdiction regarding joint and several liability, indemnity and contribution may permit shared financial responsibility, but even in jurisdictions which do not permit contribution, a compromise settlement can often be reached with the other tortfeasor's insurance company paying a portion of the total amount of the claim against the Government. For these reasons, every effort should be made to identify the insurance of all potential tortfeasors involved and the status of any claims made, and to demand contribution or indemnity where there is a substantial reason to believe that liability for the loss or damage should be shared.

(6) Whenever a claim is filed against the Government under a statute which does not permit the payment of a subrogated interest, it is important to ensure that full information is obtained from the claimant regarding insurance coverage, if any, since it is the clear legislative intent of such statutes that insurance coverage be fully utilized before using appropriated funds to pay the claims.

§ 536.10 Settlement agreement.

(a) *General.* Except under 31 U.S.C. 3721, if a claim is determined to be meritorious in an amount less than claimed, or if a claim involving personal injuries or death is approved in full, a settlement agreement will be obtained prior to payment. Acceptance by a claimant of an award constitutes a full and final settlement and release of any and all claims against the United States and against the military or civilian personnel whose act or omission gave rise to the claim.

(b) *Claims involving workmen's compensation carriers.* The settlement of a claim involving a claimant who has elected to receive workmen's compensation benefits under local law may require the consent of the workmen's compensation carrier and in certain jurisdictions the State agency with authority over workmen's compensation awards. Accordingly, claims approval and settlement authorities should be aware of local requirements.

§ 536.11 Appeals and notification to claimant as to denial of claims.

(a) *General.* The nature and extent of the written notification to the claimant as to the denial of his claim should be based on whether the claimant has a judicial remedy following denial or whether he has an administrative recourse to appeal.

(b) *Final Actions under the Federal Tort Claims Act (28 U.S.C. 2671–2680) § 536.50.* If the settlement authority has information available which could possibly be a persuasive factor in the decision of the claimant as to whether to resort to litigation, such information may be orally transmitted to the claimant and, in appropriate cases, released under normal procedures in accordance with AR 340–17. However, the written notification of the denial should be general in nature; for example, denial on the weaker ground of contributory negligence should be avoided, and the inclination should be to deny on the basis that the claimant was solely responsible for the incident. The claimant will be informed in writing of his right to bring an action in the appropriate United States District Court not later than 6 months after the date of mailing of the notification.

(c) *Denials under the MCA (10 U.S.C. 2733) §§ 536.20 through 536.35 and the NGCA (32 U.S.C. 715) §§ 536.70 through 536.81.* Claims disapproved under these statutes are subject to appeal and the claimant will be so informed. Also, the notice of disapproval will be sufficiently detailed to provide the claimant with an opportunity to know and attempt to overcome the basis for the disapproval. The claimant should not be afforded a valid basis for claiming surprise when an issue adverse to him is asserted as a basis for denying his appeal.

(d) *Denials on jurisdictional grounds.* Regardless of the nature of the claim presented or the statute under which it may be considered, claims denied on jurisdictional grounds which are valid, certain, and not easily overcome and in which for this reason no detailed investigation as to the merits of the claim is conducted, should contain in the denial letter a general statement to the effect that the denial on such grounds is not to be construed as an expression of opinion on the merits of the claim or an admission of liability. If sufficient factual information is available to make a tentative ruling on the merits of the claim, liability may be expressly denied.

(e) *Where claim may be considered under more than one statute.* In cases in which it is doubtful as to whether the MCA (§§ 536.20 through 536.35) or the NGCA (§§ 536.70 through 536.81) or the FTCA (§ 536.50) is the appropriate statute under which to consider the claim, the claimant will be advised of the alternatives, for example, the right to sue or the right to appeal. Similarly, a claimant may be advised of his alternative remedies when the claimant is a military member and the issue of "incident to service" is not clear.

§ 536.12 Effect of payment.

Acceptance of an award by the claimant, except for an advance payment, constitutes for the United States, and for the military member or civilian employee whose act or omission gave rise to the claim, a release from all liability to the claimant based on the act or omission.

§ 536.13 Advance payments.

(a) *Purpose.* This section implements the Act of 8 September 1961 (75 Stat. 488, 10 U.S.C. 2736), as amended by

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Public Law 93-521 (52 Stat. 874), Public Law 98-564 (98 Stat. 2918) and Public Law 100-456. No new liability is created by 10 U.S.C. 2736, which merely permits partial advance payments on meritorious claims as specified in this section.

(b) *Conditions for advance payment.* An advance payment not in excess of $100,000 is authorized in the limited category of claims resulting in immediate hardship arising from incidents that are payable under the provisions of §§ 536.20 through 536.35, 536.70 through 536.81, or the FCA (10 U.S.C. 2734). An advance payment is authorized only under the following circumstances:

(1) The claim must be determined to be cognizable and meritorious under the provisions of either §§ 536.20 through 536.35, and 536.70 through 536.81, or the FCA (10 U.S.C. 2734).

(2) There exists an immediate need of the person who suffered the injury, damage, or loss, or of the family of a person who was killed, for food, clothing, shelter, medical or burial expenses, or other necessities, and other resources for such expenses are not reasonably available.

(3) The payee, so far as can be determined, would be a proper claimant, as is the spouse or next of kin of a claimant who is incapacitated.

(4) The total damage sustained must exceed the amount of the advance payment.

(5) A properly executed advance payment acceptance agreement has been obtained.

Subpart B—Claims Arising From Activities of Military or Civilian Personnel or Incident to Noncombat Activities

§ 536.20 Statutory authority.

The statutory authority for §§ 536.20 through 536.35 is contained in the Act of 10 August 1956 (70A Stat. 153, 10 U.S.C. 2733) commonly referred to as the Military Claims Act (MCA), as amended by Public Law 90-522, 26 September 1968 (82 Stat. 875), Public Law 90-525, 26 September 1968 (82 Stat. 877), Public Law 91-312, 8 July 1970 (84 Stat. 412) and Public Law 93-336, 8 July 1974 (88 Stat. 291); and the Act of 8 September 1961 (75 Stat. 488, 10 U.S.C. 2736), as amended by Public Law 90-521, 26 September 1968 (82 Stat. 874) and Public Law 98-564, 30 October 1984 (98 Stat. 2916).

§ 536.21 Definitions.

The definitions of terms set forth in § 536.3 are applicable to §§ 536.20 through 536.35.

§ 536.22 Scope.

Sections 536.20 through 536.35 are applicable in all places and prescribe the substantive bases and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage to or loss or destruction of property caused by military personnel or civilian employees of the DA acting within the scope of their employment, or otherwise incident to the noncombat activities of the DA, provided such claim is not for personal injury or death of a member of the Armed Forces or Coast Guard or a civilian officer or employee whose injury or death is incident to service.

§ 536.23 Claims payable.

(a) *General.* Unless otherwise prescribed, a claim for personal injury, death, or damage to or loss of real or personal property is payable under §§ 536.20 through 536.35 when—

(1) Caused by an act or omission determined to be negligent, wrongful, or otherwise involving fault of military personnel or civilian officers or employees of the Army acting within the scope of their employment, or

(2) Incident to the noncombat activities of the Army.

(b) *Property.* The loss or damage to property which may be the subject of claims under §§ 536.20 through 536.35 includes—

(1) Real property used and occupied under a lease, express or implied, or otherwise (for example, in connection with training, field exercises, or maneuvers). An allowance may be made for the use and occupancy of real property arising out of trespass or other tort, even though claimed as rent.

(2) Personal property bailed to the Government under an agreement, express or implied, unless the owner has expressly assumed the risk of damage or loss. Some losses may be payable using Operations and Maintenance, Army funds. Clothing damage or loss claims arising out of the operation of an Army Quartermaster laundry are considered to be incident to service and are payable only if claimant is not a proper claimant under 31 U.S.C. 3721.

(3) Registered or insured mail in the possession of the Army, even though the loss was caused by a criminal act.

(c) *Effect of FTCA.* A claim arising in the United States may be settled under §§ 536.20 through 536.35 only if the FTCA (28 U.S.C. 2671–2680), § 536.50, has been judicially determined not to be applicable to claims of this nature, or if the claim arose incident to noncombat activities.

(d) *Advance payments.* Advance payments under 10 U.S.C. 2736, as amended, in partial payment of meritorious claims to alleviate immediate hardship are authorized.

§ 536.24 Claims not payable.

A claim is not payable under §§ 536.20 through 536.35 which—

(a) Results wholly from the negligent or wrongful act of the claimant or agent.

(b) Is for reimbursement for medical, hospital, or burial expenses furnished at the expense of the United States.

(c) Is purely contractual in nature.

(d) Arises from private as distinguished from Government transactions.

(e) Is based solely on compassionate grounds.

(f) Is for war trophies or articles intended directly or indirectly for persons other than the claimant or members of his or her immediate family, such as articles acquired to be disposed of as gifts or for sale to another, voluntarily bailed to the Army, or is for precious jewels or other articles of extraordinary value voluntarily bailed to the Army. The preceding sentence is not applicable to claims involving registered or insured mail. No allowances will be made for any item when the evidence indicates that the acquisition, possession, or transportation thereof was in violation of DA directives.

(g) Is for rent, damage, or other payments involving the acquisition, use, possession, or disposition of real property or interests therein by and for the DA, except as authorized by § 536.23(b)(1). Real estate claims founded upon contract are generally processed under AR 405-15.

(h) Is not in the best interests of the United States, is contrary to public policy, or is otherwise contrary to the basic intent of the governing statute (10 U.S.C. 2733); for example, claims by inhabitants of unfriendly foreign countries or by or based on injury or death of individuals considered to be unfriendly to the United States. When a claim is considered to be not payable for the reasons stated in this paragraph, it will be forwarded for appropriate action to the Commander, USARCS, together with the recommendations of the responsible claims office.

(i) If presented by a national, or a corporation controlled by a national, or a country at war or engaged in armed conflict with the United States, or of any country allied with such enemy country unless the settlement authority having jurisdiction over the claim determines that the claimant is and, at the time of the incident, was friendly to the United States. A prisoner of war or an interned enemy alien is not excluded as to a claim for damage, loss, or destruction of personal property in the custody of the Government otherwise payable.

(j) Is for personal injury or death of a member of the Armed Forces or Coast Guard or a civilian employee thereof which is incident to his or her service (10 U.S.C. 2733(b)(3)).

(k) The types of claims not payable under the FTCA (see § 536.50(j)) are also not payable under §§ 536.20 through 536.35 with the following exceptions:

(1) The foreign country exclusion in 28 U.S.C. 2680(k) does not apply to claims under §§ 536.20 through 536.35.

(2) The *Feres* bar in § 536.50(j)(1) does not apply to claims under §§ 536.20 through 536.35, but see the exclusion in paragraph (j) of this section.

§ 536.25 Claims also cognizable under other statutes.

(a) *General.* Claims based upon a single act or incident cognizable under §§ 536.20 through 536.35, which are also cognizable under the FTCA (28 U.S.C. 2671–2680) § 536.50, the Army Maritime Claims Settlement Act (10 U.S.C. 4801–04, 4806) § 536.60, the FCA (10 U.S.C. 2734), or title 31, U.S.C. section 3721 (Personnel Claims), will be considered first under the latter statutes. If not payable under any of those latter statutes, the claim will be considered under §§ 536.20 through 536.35.

(b) *Claims in litigation.* Disposition under §§ 536.20 through 536.35 of any claim of the type covered by this section that goes into litigation in any State or Federal court under any State or Federal statute or ordinance will be suspended pending disposition of such litigation and the claim file will be forwarded to the Commander, USARCS. The Commander, USARCS, in coordination with the U.S. Department of Justice, may determine that final disposition under §§ 536.20 through 536.35 during pendency of the litigation is in the best interests of the United States. This section will also apply to any litigation brought against any agent of the United States in his or her individual capacity which is based upon the same acts or incidents upon which a claim under §§ 536.20 through 536.35 is based.

§ 536.26 Presentation of claims.

(a) *When claim must be presented.* A claim may be settled under §§ 536.20 through 536.35 only if presented in writing within 2 years after it accrues, except that if it accrues in time of war or armed conflict, or if war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after war or armed conflict is terminated. As used in this section, a war or armed conflict is one in which any Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict must be as established by concurrent resolution of Congress or by determination of the President.

(b) *Where claim must be presented.* A claim must be presented to an agency or instrumentality of the DA. However, the statute of limitations is tolled if a claim is filed with another agency of the Government and is forwarded to the DA within 6 months, or if the claimant makes inquiry of the DA concerning his or her claim within 6 months after it was filed with another agency of the Government. If a claim is received by an official of the DA who is not a claims approval or settlement authority under §§ 536.20 through 536.35, the claim will be transmitted without delay to the nearest claims office or JA office for delivery to such an authority.

§ 536.27 Procedures.

So far as not inconsistent with §§ 536.20 through 536.35, the procedures set forth in §§ 536.1 through 536.13 will be followed. Subrogated claims will be processed as prescribed in § 536.5(b).

§ 536.28 Law applicable.

(a) As to claims arising in the United States, its territories, commonwealths, and possessions, the law of the place where the act or omission occurred will be applied in determining liability and the effect of contributory negligence on claimant's right to recover damages.

(b) In claims arising in a foreign country, liability of the United States will be assessed by reference to general principles of tort law common to the majority of United States jurisdictions. Absolute liability and similar theories are not a basis for liability under this section. Damages will be determined under § 536.29. If the negligence of the claimant was a partial cause of the injury, loss or damage, recovery will be barred if the negligence of the claimant is greater than that of the United States. In traffic accident cases, questions of negligence, and the degree of the claimant's comparative negligence, will be evaluated based on the traffic and vehicle safety laws and regulations of the country in which the accident occurred, but only to the extent they are not specifically superseded or preempted by the United States military traffic regulations.

§ 536.29 Compensation for property damage, personal injury, or death.

(a) *Measure of damages for property claims*—(1) *General.* The measure of damages in property claims arising in the United States or its possessions will be determined in accordance with the law of the place where the incident occurred. The measure of damages in property claims arising overseas will be determined in accordance with general principles of United States tort law.

(2) *Proof of damage.* The information listed below (similar to that required by 28 CFR 14.4(c)) will be submitted by a claimant to substantiate a claim.

(i) Proof of ownership.

(ii) Detailed statement of amount claimed for each item of property.

(iii) Itemized receipt of estimate for all repairs.

(iv) Statement giving date of purchase, price and, where not economically repairable, the salvage value.

(3) *Appraisals.* The assistance of appraisers should be used in all claims where, in the opinion of the claims officer, an appraisal is reasonably necessary and useful in reaching an administrative settlement of claims.

(b) *Measure of damages in injury or death claims arising in the United States or its possessions.* Where an injury or an injury resulting in death arises within the United States or its possessions, the measure of damages will be determined in accordance with the law of the State or possession wherein the injury arises.

(1) The information listed below (similar to that required by 28 CFR 14.4(a)) will be submitted by a claimant to substantiate a wrongful death claim.

(i) Authenticated death certificate or other competent evidence showing date and cause of death and age of decedent.

(ii) Decedent's employment and occupation at time of death, including salary or earnings and duration of last employment or occupation.

(iii) Names, addresses, birthdates, kinship and marital status of survivors.

(iv) Identification of persons dependent on decedent for support at time of death and the degree of support provided.

(v) Decedent's general physical and mental condition at time of death.

(vi) Itemized bills or receipt for medical and burial expenses.

(vii) If damages for pain and suffering are claimed, a physician's statement specifying the injuries suffered, duration of pain and suffering, drugs administered and decedent's physical condition between time of injury and time of death.

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(2) The information listed below (similar to that required by 28 CFR 14.4(b)) will be submitted by a claimant to substantiate a personal injury claim.

(i) Written report by attending the physician or dentist setting forth the:

(A) Nature and extent of injury;

(B) Nature and extent of treatment;

(C) Degree of temporary or permanent disability;

(D) Prognosis;

(E) Period of hospitalization; and

(F) Diminished earning capacity.

(ii) Itemized bills or receipts for medical, dental and hospital expenses.

(iii) If the prognosis includes future treatment, a statement of expected expenses for such treatment.

(iv) If the claim includes lost time from employment, a statement by the employer showing the actual time lost and wages and/or salary lost.

(v) If the claim includes lost income by a self-employed claimant, documentary evidence of such loss.

(c) *Measure of damages in injury or death claims arising in foreign countries.* (1) Subject to the limitations in § 536.29e, where an injury, or injury resulting in death arises in a foreign country, the measure of damages will be determined in accordance with established principles of general maritime law (see generally, Moragne v. United States Lines, Inc., 398 U.S. 375 (1970), as interpreted by Federal Court decisions). Where general maritime law provides no interpretation of allowable damages under a particular theory of liability (e.g., wrongful birth), damages will be determined in accordance with general principles of United States tort law.

(2) The information listed in § 536.29(b) (1) and (2), as appropriate, will be submitted by the claimant to substantiate a claim.

(3) A claimant who suffers serious personal injury, resulting in temporary or permanent disability should be examined by an independent physician or other medical specialist (See § 536.8(b)).

(d) *Failure to substantiate a claim.* (1) The government is not obligated to take final action on a claim until it has been supported by the claimant with specific facts substantiated by appropriate documentary evidence, reports of investigation, medical records or witness statements. Upon request, the claimant must:

(i) Provide the documentation required by paragraphs (a), (b) and (c) of this section;

(ii) Undergo necessary medical examinations;

(iii) Permit questioning of the claimant, his or her witness, and treating medical personnel;

(iv) Submit an expert opinion in a professional negligence action.

(2) Failure to comply with these requirements may provide a basis for denial of a claim, in full or in part.

(e) *Damages not payable.* The following damages are not payable in any claim arising under the Military Claims Act:

(1) Punitive or exemplary damages, including damages punitive in nature under 28 U.S.C. 2674.

(2) Interest on any claim settlement.

§ 536.30 Structured settlements.

(a) The use of the structured settlement device by approval and settlement authorities is encouraged in all appropriate cases. A structured settlement should not be used when contrary to the desires of the claimant.

(b) Notwithstanding the above, the Commander, USARCS may require or recommend to higher authority that an acceptable structured settlement be made a condition of award notwithstanding objection by the claimant or his or her representative where—

(1) Necessary to ensure adequate and secure care and compensation to a minor or otherwise incompetent claimant over a period of years;

(2) Where a trust device is necessary to ensure the long-term availability of funds for anticipated further medical care;

(3) Where the injured party's life expectancy cannot be reasonably determined.

§ 536.31 Claims over $100,000.

Claims cognizable under 10 U.S.C. 2733 and §§ 536.20 through 536.35, which are meritorious in amounts in excess of $100,000, will be forwarded to the Commander, USARCS who will negotiate a settlement subject to approval by the Secretary of the Army or designee, or require the claimant to state the lowest amount that will be acceptable and provide appropriate justification. Tender of a final offer by the Commander, USARCS constitutes an action subject to appeal. The Commander, USARCS will prepare a memorandum of law with recommendations and forward the claim to the Secretary of the Army, or designee, for final action. The Secretary or designee will either disapprove the claim or approve it in whole or in part.

§ 536.32 Settlement procedures.

(a) *Procedures.* Approval and settlement authorities will follow the procedures set forth in §§ 536.1 through 536.13 in paying, denying or making final offers on claims. A copy of the notification will be forwarded to Commander, USARCS. The settlement authority will notify the claimant by certified mail (return receipt registered) of a denial or final action and the reason therefore. The letter of notification will inform the claimant of the following:

(1) He or she may appeal, and that no form is prescribed for the appeal.

(2) The title of the authority who will act on the appeal and that the appeal will be addressed to the settlement authority who last acted on the claim.

(3) The claimant must fully set forth the grounds for appeal, or state that he or she appeals on the basis of the record as it exists at the time of denial or final offer.

(4) The appeal must be postmarked not later than 60 days after receipt of notice of action on the claim. If the 60th day falls on a day on which the post office is closed, the next day on which it is open for business will be considered the final day of the appeal period. The 60 day appeal period starts on the day following claimant's receipt of the letter from the settlement authority informing the claimant of the action taken and of the appellant rights. For good cause shown, the Commander, USARCS, or designee, or the chief of a command claims service (if the appellate authority), may extend the time for appeal, but normally such extension will not exceed 90 days.

(5) Where a claim for the same injury has been filed under the FTCA and the denial or final offer applies equally to such claim, the letter of notification must advise the claimant that any suit brought as to any portion of the claim under the FTCA must be brought not later than 6 months from the date of mailing of the notice of denial or final offer. Further, the claimant must be advised that if suit is brought, action on any appeal will be held in abeyance pending final determination of such suit.

(b) *Action on appeal.* (1) The appeal will be examined by the settlement authority who last acted on the claim, or his or her successor, to determine if the appeal complies with the requirements of this section. The settlement authority will also examine the claims investigative file and decide whether additional investigation is required; ensure all allegations or evidence presented by the claimant, agent or attorney are documented in the file; and that all pertinent evidence is included in the file. If the claimant states that he or she appeals but does not submit supporting materials within the 60 day

appeal period or an approved extension thereof, the appeal will be treated as being on the record as it existed at the time of denial or final offer. Unless action under paragraph (b)(2) of this section is taken; the claim with complete investigative file including any additional investigation required and a memorandum of opinion will be forwarded to the appropriate appellate authority for necessary action on the appeal.

(2) If the evidence in the file, including information submitted by the claimant with the appeal and any necessary additional investigation, indicates that the appeal should be granted, in whole or in part, the settlement authority who last acted on the claim or his or her successor will attempt to settle the claim. If settlement cannot be reached, the appeal will be forwarded in accordance with paragraph (b)(1) of this section.

(3) As to an appeal that requires action by TJAG, The Assistant Judge Advocate General (TAJAG), or the Secretary of the Army, or designee, the Commander, USARCS may take the action in paragraph (b)(2) of this section or forward the claim together with a recommendation for action. All matters submitted by the claimant will be forwarded and considered.

(4) Since an appeal under this authority is not an adversary proceeding, no form of hearing is authorized. A request by the claimant for access to documentary evidence in the claims file to be used in considering the appeal should be granted unless access is not permitted by law or regulation.

§ 536.33 Attorney fees.

In the settlement of any claim under §§ 536.20 through 536.35, attorney fees shall not exceed 20 percent of the final cost to the United States of the award.

§ 536.34 Payment of costs, settlements, and judgments related to certain medical and legal malpractice claims.

(a) Costs, settlements, or judgments cognizable under 10 U.S.C. 1089(f) for personal injury or death caused by any physician, dentist, nurse, pharmacist, or paramedical, or other supporting personnel (including medical and dental technicians, nurse assistants, and therapists) of DA should be forwarded to Commander, USARCS, for action and will be paid, provided:

(1) The alleged negligent or wrongful actions or omissions arose in performance of medical, dental or related health care functions (including clinical studies and investigations) within the scope of employment; and

(2) Such personnel provide prompt notification and delivery of all process served or received, provide such other documents, information, and assistance as requested, and cooperate in the defense of the action on the merits. (See DoD Directive 6000.8.)

(b) Costs, settlements, and judgments cognizable under 10 U.S.C. 1054(f) for damages for injury of loss of property caused by any attorney, paralegal, or other member of a legal staff within the DA should be forwarded to Commander, USARCS, for action and will be paid, provided:

(1) The alleged negligent or wrongful actions or omissions arose in connection with providing legal services while acting within the scope of the person's duties or employment, and

(2) Such personnel provide prompt notification and delivery of all process served or received, provide such other documents, information and assistance as requested, and cooperate in the defense of the action on the merits. (See DoD Directive 6000.8.)

§ 536.40 Claims under Article 139, Uniform Code of Military Justice.

(a) *Statutory authority.* The authority for this section is Article 139, Uniform Code of Military Justice (10 U.S.C. 939) which provides for redress of damage to property willfully damaged or destroyed, or wrongfully taken, by members of the armed forces of the United States.

(b) *Purpose.* This section sets forth the standards to be applied and the procedures to be followed in the processing of claims for damage, loss or destruction of property owned by or in the lawful possession of an individual, whether civilian or military, a business, a charity, or a State or local government, where the property was wrongfully taken or willfully damaged by military members of DA. Claims cognizable under other claims statutes may be processed under this section.

(c) *Effect of disciplinary action.* Administrative action under Article 139 and this section is entirely separate and distinct from disciplinary action taken under other articles of the UCMJ or other administrative actions. Because action under Article 139 and this section requires independent findings on issues other than guilt or innocence, the mere fact that a soldier was convicted or acquitted of charges is not dispositive of a claim under Article 139.

(d) *Claims cognizable.* Claims cognizable under Article 139, UCMJ are limited to—

(1) *Claims for property willfully damaged.* Willful damage is damage which is inflicted intentionally, knowingly, and purposefully without justifiable excuse, as distinguished from damage caused inadvertently or thoughtlessly through simple or gross negligence. Damage, loss, or destruction of property caused by riotous, violent, or disorderly acts, or by acts of depredation, or through conduct showing reckless or wanton disregard of the property rights of others may be considered willful damage.

(2) *Claims for property wrongfully taken.* A wrongful taking is any unauthorized taking or withholding of property, not involving the breach of a fiduciary or contractual relationship, with the intent to temporarily or permanently deprive the owner or person lawfully in possession of the property. Damage, loss, or destruction of property through larceny, forgery, embezzlement, fraud, misappropriation, or similar offense may be considered wrongful taking.

(e) *Claims not cognizable.* Claims not cognizable under this section and Article 139 include—

(1) Claims resulting from negligent acts.

(2) Claims for personal injury or death.

(3) Claims resulting from acts or omissions of military personnel acting within the scope of their employment.

(4) Claims resulting from the conduct of reserve component personnel who are not subject to the UCMJ at the time of the offense.

(5) Subrogated claims, including claims by insurers.

(f) *Limitations on assessments*—(1) *Time Limitations.* To be considered, a claim must be submitted within 90 days of the incident out of which the claim arose, unless the special court-martial convening authority (SPCMCA) acting on the claim determines that good cause has been shown for the delay.

(2) *Limitations on amount.* No soldier's pay may be assessed more than $5,000 on a single claim without the approval of the Commander, USARCS, or designee. If the commander acting on the claim determines that an assessment against a soldier in excess of $5,000 is meritorious, he or she will assess the pay of that soldier in the amount of $5,000 and forward the claim to the Commander, USARCS, with his or her recommendation as to the additional amount which should be assessed.

(3) *Direct damages.* Assessments are limited to direct damages for the loss of or damage to property. Indirect, remote, or consequential damages may not be considered under this section.

(g) *Procedure.* Area claims offices and claims processing offices with approval

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authority are responsible for publicizing the Article 139 program and maintaining a log for Article 139 claims presented in their areas (see Personnel Claims Adjudication appendix G, Claims Manual). Area claims offices and claims processing offices with approval authority are required to monitor action taken on Article 139 claims and ensure that time requirements are met. If assessment action on a particular claim will be unduly delayed, the office may consider the claim under 31 USC 3721 and chapter 11 of this regulation if it is otherwise cognizable under the authority. The office will counsel the claimant to repay any overpayment if the Article 139 claim is later successful (see para 11–2e).

(1) *Form of a claim and presentment.* A claim must be presented by the claimant or his or her authorized agent orally or in writing. The claim must be reduced to writing, signed, and for a definite sum in U.S. dollars within 10 days after oral presentment.

(2) *Action upon receipt of a claim.* Any officer receiving a claim will forward it within 2 working days to the SPCMCA over the soldier or soldiers against whom the claim is made. If the claim is made against soldiers under the jurisdiction of more than one such convening authority who are under the same general court-martial convening authority, the claim will be forwarded to that general court-martial convening authority, who will designate one SPCMCA to investigate and act on the claim as to all soldiers involved. If the claim is made against soldiers under the jurisdiction of more than one SPCMCA at different locations and not under the same general court-martial convening authority, the claim will be forwarded to the SPCMCA whose headquarters is closest to the situs of the incident, who will investigate and act on the claim as to all soldiers involved. If a claim is made against a member of one of the other military Services, the claim will be forwarded to the commander of the nearest major Army command (MACOM) of that Service.

(3) *Action by the SPCMCA.* Within 4 working days of receipt of a claim, the SPCMCA will appoint an investigating officer to investigate the claim, using the procedures of this section supplemented by the procedures of AR 15–6. The claims officer of a command, if he or she is a commissioned officer, may be appointed as the investigating officer.

(4) *Action by the investigating officer.* The investigating officer will provide notification to the soldier against whom the claim is made.

(i) If the soldier indicates a desire to make voluntary restitution, the investigating officer may, with the convening authority's concurrence, delay proceedings until the end of the next pay period to accomplish this. If the soldier makes payment to the claimant's full satisfaction, the claim will be dismissed.

(ii) In the absence of full restitution, the investigating officer will determine whether the claim is cognizable and meritorious under the provisions of Article 139 and this chapter and the amount to be assessed each offender. This amount will be reduced by any restitution accepted by the claimant from an offender in partial satisfaction. Within 10 working days or such time as the SPCMCA may provide, the investigating officer will make findings and recommendations and submit these to the SPCMCA. The investigating officer will also provide a copy of his or her findings and recommendations to any soldier against whom an assessment is recommended.

(iii) If the soldier is absent without leave so that he or she cannot be provided with notification, the Article 139 claim may be processed in the soldier's absence. If an assessment is approved, a copy of the claim and SPCMCA approval will be forwarded by transmittal letter to the servicing finance and accounting office (FAO) for offset input against the soldier's pay account. In the event the soldier is dropped from the rolls, the servicing FAO will forward the assessment documents to Commander, U.S. Army Finance and Accounting Center, attn: Department 40, Indianapolis, Indiana 46249.

(5) *Legal review.* After completion of the investigating officer's report, the SPCMCA will refer the claim to the area claims office or claims processing office servicing his or her command to review for legal sufficiency and advice. That office will furnish within 5 working days or such time as the SPCMCA will provide a written opinion as to—

(i) Whether the claim is cognizable under the provisions of Article 139 and this chapter.

(ii) Whether the findings and recommendations are supported by evidence.

(iii) Whether there has been substantial compliance with the procedural requirements of Article 139, this chapter, and AR 15–6.

(6) *Final action.* After considering the advice of the claims office, the SPCMCA will disapprove the claim or approve the claim in an amount equal to or less than the amount recommended by the investigating officer. The SPCMCA will notify the claimant, and any soldier subject to his or her jurisdiction, of the determination and the right to request reconsideration. The SPCMCA will then suspend action on the claim for 10 working days pending receipt of a request for reconsideration unless he or she determines that this delay will result in substantial injustice. The SPCMCA will direct the servicing finance officer for the soldier or soldiers against whom assessments are approved to withhold such amount from the soldier or soldiers up to $5000. For any soldier not subject to the SPCMCA's jurisdiction, the SPCMCA will forward the claim to that commander who does exercise special court-martial jurisdiction over the soldier for collection action.

(7) *Assessment.* Subject to any limitations provided in appropriate regulations, the servicing finance officer will withhold the amount directed by the SPCMCA and pay it to the claimant. The SPCMCA's assessment is not subject to appeal and is conclusive on any finance officer. If the servicing finance officer finds that the required amount cannot be withheld because he or she does not have custody of the soldier's pay record or because the soldier is in a no pay due status, the servicing finance officer will promptly notify the SPCMCA of this in writing.

(8) *Post settlement action.* After action on the claim is completed, the claims office servicing the command which took final action will forward one copy of the claim together with a cover sheet and all attachments, to include information that money has or has not been withheld and paid to the claimant by the servicing finance officer, through any command claims service, to the Commander, USARCS.

(9) *Remission of indebtedness.* Title 10, United States Code, section 4837(d), which authorizes the remission and cancellation of indebtedness of an enlisted person to the United States or its instrumentalities, is not applicable and may not be used to remit and cancel indebtedness determined as a result of action under Article 139.

(h) *Reconsideration*—(1) *General.* Although Article 139 does not provide for a right of appeal, either the claimant or a soldier whose pay is assessed may request the SPCMCA or a successor in command to reconsider the action. A request for reconsideration will be submitted in writing and will clearly state the factual or legal basis for the relief requested. The SPCMCA may direct that the matter be reinvestigated.

(2) *Reconsideration by the original SPCMCA.* The original SPCMCA may reconsider the action so long as he occupies that position, regardless of whether a soldier whose pay was assessed has been transferred. If the original SPCMCA determines that the action was incorrect, he or she may modify it subject to paragraph (h)(4) of this section. If a request for reconsideration is submitted more than 15 days after notification was provided, however, the SPCMCA should only modify the action on the basis of fraud, substantial new evidence, errors in calculation, or mistake of law.

(3) *Reconsideration by a successor in command.* Subject to paragraph (h)(4) of this section, a successor in command may only modify an action on the basis of fraud, substantial new evidence, errors in calculation or mistake of law apparent on the face of the record.

(4) *Legal review and action.* Prior to modifying the original action, the SPCMCA will have the claims office render a legal opinion and fully explain his or her basis for modification as part of the file. If a return of assessed pay is deemed appropriate, the SPCMCA should request the claimant to return the money, setting forth the basis for the request. There is no authority for repayment from appropriated funds.

(5) *Disposition of files.* After completing action on reconsideration, the SPCMCA will forward a copy of the reconsideration action to the Commander, USARCS, and retain one or more additional copies with the claim file.

§ 536.50 Claims based on negligence of military personnel or civilian employees under the Federal Tort Claims Act.

(a) *Authority.* The statutory authority for this chapter is the FTCA (60 Stat. 842, 28 U.S.C. 2671–2680), as amended by the Act of 18 July 1966 (Pub. L. 89–506; 80 Stat. 306), the Act of 16 March 1974 (Pub. L. 93–253; 88 Stat. 50), and the Act of 29 December 1981 (Pub. L. 97–124), and as implemented by the Attorney General's Regulations (28 CFR 14.1–14.11).

(b) *Scope.* This section prescribes the substantive basis and special procedural requirements for the administrative settlement of claims against the United States under the FTCA and the implementing Attorney General's Regulations based on death, personal injury, or damage to or loss of property which accrue on or after 18 January 1967. If a conflict exists between the provisions of this section and the provisions of the Attorney General's Regulations, the latter govern.

(c) *Claims payable.* Unless otherwise prescribed, claims for death, personal injury, or damage to or loss of property (real or personal) are payable under this section when the injury or damage is caused by negligent or wrongful acts or omissions of military personnel or civilian employees of the DA or the DoD while acting within the scope of their employment under circumstances in which the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The FTCA is a limited consent to liability without which the United States is immune. Similarly, there is no Federal cause of action created by the Constitution which would permit a damage recovery because of the Fifth Amendment or any other constitutional provision. Immunity must be expressly waived, as by the FTCA.

(d) "Employee of the Government" (28 U.S.C. 2671) includes the following categories of tortfeasors for which the DA is responsible:

(1) Military personnel (members of the Army), including but not limited to:

(i) Members on full-time active duty in a pay status, including—

(A) Members assigned to units performing active service.

(B) Members serving as ROTC instructors. (Does not include Junior ROTC instructors unless on active duty.)

(C) Members serving as National Guard instructors or advisors.

(D) Members on duty or in training with other Federal agencies, for example, Nuclear Regulatory Commission, National Aeronautics and Space Administration, Departments of Defense, State, Navy, or Air Force.

(E) Members assigned as students or ordered into training at a non-Federal civilian educational institution, hospital, factory, or other industry. This does not include members on excess leave.

(F) Members on full-time duty at nonappropriated fund activities.

(G) Members of the ARNG of the United States on active duty.

(ii) Members of reserve units during periods of inactive duty training and active duty training, including ROTC cadets who are reservists while they are at summer camp.

(iii) Members of the ARNG while engaged in training or duty under 32 U.S.C. 316, 502, 503, 504, or 505 for claims arising on or after 29 December 1981.

(2) Civilian officials and employees of both the DOD and the DA (there is no practical significance to the distinction between the terms "official" and "employee") including but not limited to—

(i) Civil Service and other full-time employees of both DOD and DA paid from appropriated funds.

(ii) Contract surgeons (10 U.S.C. 1091, 4022) and consultants (10 U.S.C. 1091) where "control" is exercised over physician's day to day practice.

(iii) Employees of nonappropriated funds if the particular fund is an instrumentality of the United States and thus a Federal agency. In determining whether or not a particular fund is a "Federal agency," consider whether the fund is an integral part of the DA charged with an essential DA operational function and the degree of control and supervision exercised by DA personnel. Members or users, as distinguished from employees of nonappropriated funds, are not considered Government employees. The same is true of family child care providers. However, claims arising out of the use of certain nonappropriated fund property or the acts or omissions of family child care providers, may be payable from such funds under chapter 12, AR 27–20, as a matter of policy, even when the user is not within the scope of employment and the claim is not otherwise cognizable under any other claims authorization.

(iv) Prisoners of war and interned enemy aliens.

(v) Civilian employees of the District of Columbia National Guard, including those paid under "service contracts" from District of Columbia funds.

(vi) Civilians serving as ROTC instructors paid from Federal funds.

(vii) National Guard technicians employed under 32 U.S.C. 709(a) for claims accruing on or after 1 January 1969 (Pub. L. 90–486, 13 August 1968; 82 Stat. 755).

(3) Persons acting in an official capacity for the DOD or the DA whether temporarily or permanently in the service of the United States with or without compensation including but not limited to—

(i) "Dollar a year" personnel.

(ii) Members of advisory committees, commissions, boards or the like.

(iii) Volunteer workers in an official capacity acting in furtherance of the business of the United States. The general rule with respect to volunteers is set forth in 31 U.S.C. 665(b), which provides that, "No officer or employee of the United States shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property." (5 U.S.C. 3111(c) specifically provides that student volunteers employed thereunder shall be considered Federal employees for purposes of claims under the FTCA. The same classification is applied by 10 U.S.C. 1588 to museum and family support program volunteers.) The DA is permitted to accept and use certain

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volunteer services in Army family support programs. (10 U.S.C. 1588).

(iv) *Loaned servants.* Employees who are permitted to serve another employer may be considered "loaned servants," provided the borrowing employer has the power to discharge the employee, to control and direct the employee, and to decide how he will perform his tasks. Whoever has retained those powers is liable for the employee's torts under the principle of respondeat superior. Where those elements of direction and control have been found, the United States has been liable, for example, for the torts of Government employees loaned for medical training and emergency assistance, and county and state employees discharging Federal programs.

(e) "Scope of employment" means acting in "line of [military] duty" (28 U.S.C. 2671) and is determined in accordance with principles of respondeat superior under the law of the jurisdiction in which the act or omission occurred. Determination as to whether a person is within a category listed in paragraph (d)(3) of this section will usually be made together with the scope determination. Local law should always be researched, but the novel aspects of the military relationship should be kept in mind in making a scope determination.

(f) "Line of duty" determinations under AR 600–8–1 are not determinative of scope of employment. "Joint venture" situations are likely to be frequent where the Federal employee is performing federally assigned duties but is under actual direction and control of a non-Federal entity, for example, a Federal employee in training at a non-Federal entity or ROTC instructors at civilian institutions. This could also occur where the employee is working for another Federal agency. Furthermore, dual purpose situations are commonplace where benefits to the Government and the member or employee may or may not be concurrent, for example, use of privately owned vehicles at or away from assigned duty station, or permanent change of station with delay en route. (See §§ 536.90 through 536.97 for the handling of certain claims arising out of nonscope activities of members of the Army.)

(g) *Law applicable.* The whole law of the place where the act or omission occurred, including choice of law rules, will be applied in the determination of liability and quantum. Where there is a conflict between the local law and an express provision of the FTCA, the latter governs.

(h) *Subrogation.* Claims involving subrogation will be processed as prescribed in § 536.5(b), except where inconsistent with the provisions of this section or the Attorney General's regulations.

(i) *Indemnity or contribution*— (1) *Sought by the United States.* If the claim arises under circumstances in which the Government is entitled to contribution or indemnity under a contract of insurance or the applicable law governing joint tortfeasors, the third party will be notified of the claim, and will be requested to honor its obligation to the United States or to accept its share of joint liability. If the issue of indemnity or contribution is not satisfactorily adjusted, the claim will be compromised or settled only after consultation with the Department of Justice as provided in 28 CFR 14.6.

(2) *Claims for indemnity or contribution.* Claims for indemnity or contribution from the United States will be compromised or settled under this section, if liability exists under the applicable law, provided the incident giving rise to such claim is otherwise cognizable under this section. As to such claims where the exclusivity of the FECA may be applicable, see 5 U.S.C. 8101–8150.

(3) *ARNG vehicular claims.* When a vehicle used by the ARNG, or a privately owned vehicle operated by a member or employee of the ARNG, is involved in an incident under circumstances which make this section applicable to the disposition of administrative claims against the United States and results in personal injury, death, or property damage, and a remedy against the State or its insurer is indicated, the responsible area claims authority will monitor the action against the State or its insurer and encourage direct settlement between the claimant and the State or its insurer. Where the State is insured, direct contact with State or ARNG officials rather than the insurer is desirable. Regular procedures will be established and followed wherever possible. Such procedures should be agreed on by both local authorities and the appropriate claims authorities subject to concurrence by Commander, USARCS. Such procedures will be designed to ensure that local authorities and United States authorities do not issue conflicting instructions for processing claims and that whenever possible and in accordance with governing local and Federal law, a mutual arrangement for disposition of such claims as in paragraph (i)(4) of this section is worked out. Amounts recovered or recoverable by claimant from any insurer (other than claimant's insurer who has obtained no subrogated interest against the United States) will be deducted from the amount otherwise payable.

(4) *Claims arising out of training activities of ARNG personnel.* Contribution may be sought from the state involved where it has waived sovereign immunity or has private insurance which would cover the incident giving rise to the particular claim. Where the state involved rejects the request for contribution, the file will be forwarded to the Commander, USARCS. The Commander, USARCS, is authorized to enter into an agreement with a State, territory, or commonwealth to share settlement costs of claims generated by the ARNG personnel or activities of that political entity.

(j) *Claims not payable.* The exclusions contained in 28 U.S.C. 2680 are applicable to claims herein. Other types of claims are excluded by statute or court decisions, including, but not limited to, the following:

(1) Claims for the personal injury or death of a member of the Armed Forces of the United States incurred incident to service, or for damage to a member's property incurred incident to service. *Feres* v. *United States*, 340 U.S. 135 (1950). Currently the most significant justification for the incident to service doctrine is the availability of alternative compensation systems, and the fear of disrupting the military command relationship. Other supportive factors often cited by the courts are the service member's duty status, location, and receipt of military benefits at the time of the incident.

(i) The exception applies to members of the Army, Navy, Air Force, Marine Corps, and Coast Guard, including the Reserve Components of the Armed Forces. (See 10 U.S.C. 261.) The exception also applies to service members on the Temporary Disability Retired List, and on convalescent leave, to service academy cadets, to members of visiting forces in the United States under the SOFA between the parties to the North Atlantic Treaty Organization or similar international agreements, and to service members on the extended enlistment program.

(ii) The incident to service doctrine has been extended to derivative claims where the directly injured party is a service member. Third party indemnity claims are barred.

(2) Claims for the personal injury or death of a Government employee for whom benefits are provided by the Federal Employees Compensation Act (5 U.S.C. 8101–8150). Who is a government employee under the Act is defined in the Act itself (5 U.S.C. 8101), but is not limited to Federal Civil Service employees. The term "government employee" can include certain ROTC cadets (5 U.S.C. 8140) and state or local law enforcement officers engaged in apprehending a person for committing a crime against the United States (5 U.S.C. 8191), certain nurses, interns or other health care personnel, e.g., student nurses, etc. (5 U.S.C. 5351, 8144) and certain Army Community Service Volunteers (10 U.S.C. 1588). This Act provides that benefits paid under the Act are exclusive and instead of all other liability of the United States, including that under a Federal tort liability statute (5 U.S.C. 8116(c)). It extends to derivative claims, to subsequent malpractice for treatment of a covered injury, to injuries for which there is no scheduled compensation, and to employee harassment claims for which other remedies are available (42 U.S.C. 2000e). The exception does not bar third party indemnity claims. When there is doubt as to whether or not this exception applies, the claim should be forwarded through claims channels to the Commander, USARCS, for an opinion.

(3) Claims for the personal injury or death of an employee, including nonappropriated fund employees, for whom benefits are provided by the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901–950). An employee of a nonappropriated fund instrumentality is covered by that Act (5 U.S.C. 8171). This is the exclusive remedy for covered employees, similar to the exclusivity of the FECA.

(4) Claims for the personal injury or death of any employee for whom benefits are provided under any workmen's compensation law, if the premiums of the workmen's compensation insurance are retrospectively rated and charged as an allowable, allocable expense to a cost-type contract. If, in the opinion of an approval or settlement authority, the claim should be considered payable, for example, the injuries did not result from a normal risk of employment or adequate compensation is not payable under workmen's compensation laws, the file will be forwarded with recommendations through claims channels to the Commander, USARCS, who may authorize payment of an appropriate award.

(5) Claims for damage from or by flood or flood waters at any place. 33 U.S.C. 702c. This exception is broadly construed and includes multi-purpose projects and all phases of construction and operation.

(6) Claims based solely upon a theory of absolute liability or liability without fault. Either a "negligent" or "wrongful" act is required by the FTCA, and some type of malfeasance or nonfeasance is required. *Dalehite* v. *United States*, 346 U.S. 15 (1953); *Laird* v. *Nelms*, 406 U.S. 797 (1972). Thus, liability does not arise by virtue either of United States ownership of an inherently dangerous commodity or of engaging in extra-hazardous activity.

(k) *Procedures*—(1) *General.* Unless inconsistent with the provisions of this section, the procedures for the investigation and processing of claims set forth in §§ 536.1 through 536.13 will be followed.

(2) *Claims arising out of tortious conduct by ARNG personnel as defined in paragraph (d)(1)(iii) of this section*— (i) *Notification.* The procedures prescribed in § 536.75, will be followed in ARNG claims arising under the FTCA.

(ii) Claims against the U.S. Government received by agencies of the State. These claims will be expeditiously forwarded through the State adjutant general to the appropriate U.S. Army area claims office in whose geographic area the incident occurred.

(3) *Statute of Limitations.* (i) To be settled under this section, a claim against the United States must be presented in writing to the appropriate Federal agency within 2 years of its accrual.

(ii) For statute of limitations purposes, a claim will be deemed to have been presented when the appropriate Federal agency as defined in § 536.3(m) receives from a claimant, his or her duly authorized agent, or legal representative an executed SF 95 or written notification of an incident, together with a claim for money damages, in a sum certain, for damage to or loss of property or personal injury or death. For Federal tort claims arising out of activities of the ARNG, receipt of a written claim by any fulltime officer or employee of the ARNG will be considered proper receipt.

(iii) A claim received by an official of the DOD will be transmitted without delay to the nearest Army claims processing office or area claims office. Inquiries concerning applicability of the statute of limitations to claims filed with the wrong Federal agency will be referred to USARCS for resolution.

(4) *Claims within settlement authority of USARCS or the Attorney General.* A copy of each claim which must be brought to the attention of the Attorney General in accordance with his or her regulations (28 CFR 14.6), or one in which the demand exceeds $15,000 or the total amount of all claims, actual or potential, from a single incident exceeds $25,000, will be forwarded immediately to the Commander, USARCS. Subsequent documents should be forwarded or added in accordance with § 536.5(h)(2). USARCS is responsible for the monitoring and settlement of such claims and will be kept informed of the status of the investigation and processing thereof. Direct liaison and correspondence between USARCS and the field claims authority or investigator is authorized on all claims matters, and assistance will be furnished as required.

(5) *Non-Army claims.* Claims based on acts or omissions of employees of the United States, other than military and civilian personnel of the DA, civilian personnel of the DOD, and employees of nonappropriated fund activities of the DA, will be transmitted forthwith to the nearest official of the employing agency, and the claimant will be advised of the referral.

(6) *Acknowledgment of claim.* (i) The claimant and his or her attorney will be kept informed by personal contact, telephonic contact, or mail of the receipt of his or her claim and the status of the claim. Formal acknowledgment of the claim in writing is required only where the claim is likely to result in litigation or is presented in an amount exceeding $15,000. In this event, the letter of acknowledgment will state the date of receipt of the claim by the first agency of the Army receiving the claim.

(ii) If it is reasonably clear to the office acknowledging receipt that a claim filed under the FTCA is not cognizable thereunder; for example, it is a maritime claim under § 536.60, or it falls under §§ 536.20 through 536.35 or 536.70 through 536.81, the acknowledgment will contain a statement advising the claimant of the statute under which his or her claim will be processed. If it is not clear which statute applies, a statement to that effect will be made, and the claimant will be promptly advised on his or her remedy when a decision is made. However, all potential maritime claims will be handled in accordance with § 536.5(h)(5).

(iii) When a claim has been amended as set forth in § 536.5(f)(4), the amendment will be acknowledged in all cases. Additionally, the claimant will be informed that the amendment constitutes a new claim insofar as concerns the 6 months in which the DA is granted the authority to make a final disposition under 28 U.S.C. 2675(a) and the claimant's option thereunder will not accrue until 6 months after the filing of the amendment.

(iv) When a claim is improperly presented, is incomplete or otherwise does not meet the requirements set forth in § 536.5(d), the claimant or his or her

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representative will be promptly informed in writing of the deficiencies and advised that a proper claim must be filed within the 2 year statute of limitations.

(7) *Investigation.* Claims cognizable under this section will be investigated and processed on a priority basis in order that settlement if indicated may be accomplished within the 6 months prescribed by statute.

(8) *Advice to claimant.* (i) A full explanation of claims procedures and of the rights of the claimant will be made to the extent necessitated by the amount and nature of the claim.

(ii) In a case where litigation is likely, or where this course of action is preferred by the claimant, and it appears to be a proper case for administrative settlement, the claimant will be advised as to the advantages of administrative settlement. If the claim is within the jurisdiction of a higher settlement authority, the claim will be discussed with such authority prior to the furnishing of such advice. The claimant should be familiarized with all aspects of administrative settlement procedures including the administrative channels through which his claim must be processed for approval. He or she may be advised that administrative processing can result in more expeditious processing, whereas litigation may take considerable time, particularly in jurisdictions with crowded dockets.

(iii) If appropriate, he or she may be informed that a tentative settlement can be reached for any amount above $25,000, subject to approval by the Attorney General. He or she should be advised that administrative filing of the claim protects him under the statute of limitations for purpose of litigation; suit can be filed within 6 months after the date of mailing of notice of final denial by the DA, thus potentially allowing negotiations to continue indefinitely. An attorney representing a claimant should be advised of the limitations on fees for purposes of administrative settlement (20 percent) and litigation (25 percent). The attorney may also be advised that there is no jury trial under the FTCA.

(9) *Notification to claimant of action on claim.* (i) The filing of an administrative claim and its denial are prerequisite to filing suit. Any suit must be filed not later than 6 months after notification by certified or registered mail of the denial of the administrative claim. Failure of a settlement authority to take final action on a properly filed claim within 6 months may be treated by the claimant as a final denial for the purposes of filing suit. If the claimant has provided insufficient documentation to permit evaluation of the claim, written notice should be given to this effect. Since administrative settlements are a voluntary process, the preferred method of negotiating is to attempt to exchange information on an open basis.

(ii) Upon final denial of a claim, or upon rejection by the claimant of a partial allowance, and further efforts to reach a settlement are not considered feasible (§ 536.5(h)(1)), the settlement authority will inform the claimant of the action on his claim by certified or registered mail. Notification will be made as set forth in § 536.11(b).

(iii) If a claim has been presented to the DA and, also, to other Federal agencies, without any notification to the DA of this fact, final action taken by the DA prior to that of any other agency is conclusive on a claim presented to other agencies, unless another agency decides to take further action to settle the claim. Such agency may treat the matter as a reconsideration under 28 CFR 14.9(b), unless suit has been filed. The foregoing applies likewise to DA claims in which another Federal Agency has already taken final action.

(iv) If, after final denial by another agency, a claim is filed with the DA, the new submission will not toll the 6 months limitation for filing suit, unless the DA treats the second submission as a request for reconsideration under paragraph (k)(9)(iv)(A) of this section.

(A) *Reconsideration.* (*1*) While there is no appeal from the action of an approving or settlement authority under the FTCA and this section, an approving or settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. Even in the absence of such a request, an approving or settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even where a settlement agreement has been executed) when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental payment. The basis for a change in action will be stated in a memorandum included in the file.

(*2*) A successor approving or settlement authority may also reconsider the original action on a claim but only on the basis of fraud, substantial new evidence, errors in calculation or mistake (misinterpretation) of law.

(*3*) A request for reconsideration must be submitted prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b). Upon timely filing, the appropriate authority shall have 6 months from the date of filing in which to make a final disposition of the request, and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of the request.

(*4*) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the approving or settlement authority will reconsider the claim and attempt to settle it by granting such relief as may appear warranted. When further settlement efforts appear unwarranted, the entire file with a memorandum of opinion will be referred through claims channels to the Commander, USARCS, and the claimant informed of such referral.

§ 536.60 Maritime claims.

(a) *Statutory authority.* Administrative settlement or compromise of admiralty and maritime claims in favor of and against the United States by the Secretary of the Army or his designee is authorized by the Army Maritime Claims Settlement Act (10 U.S.C. 4801–04, 4806, as amended).

(b) *Related statutes.* The Army Maritime Claims Settlement Act is supplemented by the following statutes under which suits in admiralty may be brought: the Suits in Admiralty Act of 1920 (41 Stat. 525, 46 U.S.C. 741–752); the Public Vessels Act of 1925 (43 Stat. 1112, 46 U.S.C. 781–790); the Act of 1948 Extending the Admiralty and Maritime Jurisdiction (62 Stat. 496, 46 U.S.C. 740). Similar maritime claims settlement authority is exercised by the Department of the Navy under 10 U.S.C. 7365, 7621–23 and by the Department of the Air Force under 10 U.S.C. 9801–9804, 9806.

(c) *Scope.* 10 U.S.C. 4802 provides for the settlement or compromise of claims for—

(1) Damage caused by a vessel of, or in the service of, the DA or by other property under the jurisdiction of the DA;

(2) Compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the DA or to other property under the jurisdiction of the DA; or

(3) Damage caused by a maritime tort committed by any agent or employee of the DA or by property under the jurisdiction of the DA.

(d) *Claims exceeding $500,000.* Claims against the United States settled or compromised in a net amount exceeding $500,000 are not payable hereunder, but will be investigated and processed under this section, and, if approved by the Secretary of the Army, will be certified by him to Congress.

(e) *Claims not payable.* A claim is not allowable under this section which:

(1) Is for damage to, or loss or destruction of, property, or for personal injury or death, resulting directly or indirectly from action by the enemy, or by U.S. Armed Forces engaged in armed combat, or in immediate preparation for impending armed combat.

(2) Is for personal injury or death of a member of the Armed Forces of the United States or a civilian employee incurred incident to his service.

(3) Is for personal injury or death of a Government employee for whom benefits are provided by the FECA (5 U.S.C. 8101–8150).

(4) Is for personal injury or death of an employee, including nonappropriated fund employees, for whom benefits are provided by the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901).

(5) Has been made the subject of a suit by or against the United States, except as provided in subparagraph (h)(2) of this section.

(6) Arises in a foreign country and was considered by the authorities of a foreign country and final action taken thereon under Article VIII of the NATO Status of Forces Agreement, Article XVIII of the Treaty of Mutual Cooperation and Security between the United States and Japan regarding facilities and areas and the Status of United States Armed Forces in Japan, or other similar treaty or agreement, if reasonable disposition was made of the claim.

(f) *Claims under other laws and regulations.* (1) Claims of military personnel and civilian employees of the DOD and the Army, including military and civilian officers and crews of Army vessels, for damage to or loss of personal property occurring incident to their service will be processed under the provisions of the Military Personnel and Civilian Employees' Claims Act (31 U.S.C. 3721).

(2) Claims which are within the scope of this section and also within the scope of the FCA (10 U.S.C. 2734) may be processed under that statute when specific authority to do so has been obtained from the Commander, USARCS. The request for such authority should be accompanied by a copy of the report of the incident by the Marine Casualty Investigating Officer, or other claims investigator.

(g) *Subrogation.* (1) An assurer will be recognized as a claimant under this section to the extent that it has become subrogated by payment to, or on behalf of, its assured, pursuant to a contract of insurance in force at the time of the incident from which the claim arose. An assurer and its assured may file a claim either jointly or separately. Joint claims must be asserted in the names of, and must be signed by, or on behalf of, all parties; payment then will be made jointly. If separate claims are filed, payment to each party will be limited to the extent of such party's undisputed interest.

(2) For the purpose of determining authority to settle or compromise a claim, the payable interests of an assurer (or assurers) and the assured represent merely separable interests, which interests in the aggregate must not exceed the amount authorized for administrative settlement or compromise.

(3) The policies set forth in paragraphs (g) (1) and (2) of this section with respect to subrogation arising from insurance contracts are applicable to all other types of subrogation.

(h) *Limitation of settlement.* (1) The period for effecting an administrative settlement under the Army Maritime Claims Settlement Act is subject to the same limitation as that for beginning an action under the Suits in Admiralty Act; that is, a 2-year period from the date of the origin of the cause of action. The claimant must have agreed to accept the settlement, and it must be approved for payment by the Secretary of the Army or his designee prior to the end of such period; otherwise, thereafter the cause of action ceases to exist, except under the circumstances set forth in paragraph (h)(2) of this section. The presentation of a claim, or its consideration by the DA, neither waives nor extends the 2-year limitation period.

(2) In the event that an action has been filed in a U.S. district court before the end of the 2-year statutory period, an administrative settlement may be negotiated by the Commander, USARCS, with the claimant, even though the 2-year period has elapsed since the cause of action accrued, provided the claimant obtains the written consent of the appropriate office of the Department of Justice charged with the defense of the complaint. Payment may be made upon dismissal of the complaint.

(3) When a claim under this section, notice of damage, invitation to a damage survey, or other written notice of an intention to hold the United States liable is received, the receiving installation, office, or person immediately will forward such document to the Commander, USARCS. USARCS will promptly advise the claimant or potential claimant in writing of the comprehensive application of the time limit.

(4) When a claim under this section for less than $10,000 is presented to a Corps of Engineers office and thus may be appropriate for action by the Corps of Engineers pursuant to the delegation of authority set forth in paragraph (i)(2) of this section, the receiving Corps of Engineers office will promptly advise the claimant in writing of the comprehensive application of the time limit (unless such has already been done by USARCS).

(i) *Delegation of authority.* (1) Where the amount to be paid is not more than $10,000, claims under this section may be settled or compromised by the Commander, USARCS, chief of overseas command claims service, or his designee.

(2) When a claim under this section arises from a civil works activity of the Corps of Engineers, engineer area claims offices are delegated authority to approve and pay in full, or in part, subject to the execution of an appropriate settlement agreement, claims presented for $10,000 or less, and compromise and pay claims regardless of the amount claimed, provided an award of $10,000 or less is accepted by the claimant in full satisfaction and final settlement of the claim, subject to such limitations as may be imposed by the Chief of Engineers. Meritorious claims arising from civil works activities of the Corps of Engineers will be paid from Corps of Engineers funds.

Subpart C—Claims Arising From Activities of National Guard Personnel While Engaged in Duty or Training

§ 536.70 Statutory authority.

The statutory authority for this chapter is contained in the Act of 13 September 1960 (74 Stat. 878, 32 U.S.C. 715), commonly referred to as the National Guard Claims Act (NGCA), as amended by Public Law 90–486, 13 August 1968 (82 Stat. 756), Public Law 90–525, 26 September 1968 (82 Stat. 877), Public Law 91–312, 8 July 1970 (84 Stat. 412), and Public Law 93–336, 8 July 1974, (88 Stat. 291); and the Act of 8 September 1961 (75 Stat. 488, 10 U.S.C. 2738) as amended by Public Law 90–521, 26 September 1968 (82 Stat. 874), Public Law 97–124, 29 December 1981 (95 Stat.

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1666), and Public Law 98–564, 30 October 1984 (98 Stat. 2918).

§ 536.71 Definitions.

For purposes of §§ 536.70 to 536.81 the following terminology applies:

(a) *ARNG personnel.* A member of the ARNG engaged in training or duty under 32 U.S.C. 316, 502, 503, 504, 505, or 709.

(b) *Claimant.* An individual, partnership, association, corporation, country, State, Commonwealth, territory or a political subdivision thereof, or the District of Columbia, presenting a claim and meeting the conditions set forth in § 536.5. The term does not include the U.S. Government, any of its instrumentalities, except as prescribed by statute, or a State, commonwealth, territory or the District of Columbia which maintains the unit to which the ARNG personnel causing the injury or damage are assigned. This exclusion does not ordinarily apply to a unit of local government which does not control the ARNG organization involved. As a general rule, a claim by a unit of local government other than a State, commonwealth or territory will be entertained unless the item claimed to be damaged or lost was procured or maintained by State, commonwealth, or territorial funds.

§ 536.72 Scope.

(a) Sections 536.70 through 536.81 apply in all places and set forth the procedures to be followed in the settlement and payment of claims for death, personal injury, or damage to or loss or destruction of property caused by members or employees of the ARNG, or arising out of the noncombat activities of the ARNG when engaged in training or duty under 32 U.S.C. 316, 502, 503, 504, 505, or 709, provided such claim is not for personal injury or death of a member of the Armed Forces or Coast Guard, or a civilian officer or employee whose injury or death is incident to service.

(b) A claimant dissatisfied with an administrative settlement under §§ 536.70 through 536.81 as the result of activities of the ARNG of a State, Commonwealth, or territory is not entitled to judicial relief in an action against the United States. Whether he or she has a legal cause of action or may file an administrative claim against such a political entity depends upon controlling local law.

(c) Claims arising out of activities of the ARNG when performing duties at the call of the governor of a State maintaining the unit are not cognizable under §§ 536.70 through 536.81 or any other law, regulation or appropriation available to the Army for the payment of claims. Such claims should be returned or referred to the authorities of the State for whatever action they choose to take, and claimants should be informed of the return or referral. Care should be taken to determine the status of the unit and members at the time the claims incident occurred, particularly in civil emergencies as units called by the governor are sometimes "federalized" during the call-up. If the unit was "federalized" at the time the claim incident occurred, the claim will be cognizable under §§ 536.20 through 536.35, 536.50, or 536.90 through 536.97 or other sections pertaining to the Active Army.

§ 536.73 Claims payable.

(a) *Tort claims.* All claims for personal injuries, death, or damage to or loss of real or personal property, arising out of incidents occurring on or after 29 December 1981, based on negligent or wrongful acts or omissions of ARNG personnel acting within the scope of employment, within the United States while engaged in training or duty under 32 U.S.C. 316, 502, 503, 504, 505, or 709 will be processed under the FTCA, § 536.50. Such claims arising before 29 December 1981 will, except as modified herein, be processed and settled in accordance with the provisions of §§ 536.20 through 536.35.

(b) *Noncombat activities.* A claim incident to the noncombat activities of the ARNG while engaged in duty or training under 32 U.S.C. 316, 502, 503, 504, 505, or 709 may be settled under §§ 536.70 through 536.81. "Noncombat activities" are defined in § 536.3.

(c) *Subrogated claims.* Subrogated claims will be processed as prescribed in § 536.5(b).

(d) *Advance payments.* Advance payments in partial settlement of meritorious claims to alleviate immediate hardship are authorized as provided in § 536.13.

§ 536.74 Claims not payable.

The type of claims listed in § 536.24 as not payable are also not payable under §§ 536.70 through 536.81.

§ 536.75 Notification of incident.

Except where claims are regularly paid from State sources, for example, insurance, court of claims, legislative committee, etc., the appropriate adjutant general will ensure that each incident which may give rise to a claim cognizable under §§ 536.70 through 536.81 is reported immediately by the most expeditious means to the area claims office in whose geographic area the incident occurs or to a claims processing office designated by the area claims office. The report will contain the following information:

(a) Date of incident.

(b) Place of incident.

(c) Nature of incident.

(d) Names and organizations of ARNG personnel involved.

(e) Names of potential claimant(s).

(f) A brief description of any damage, loss, or destruction of private property, and any injuries or death of potential claimants.

§ 536.76 Claims in which there is a State source of recovery.

Where there is a remedy against the State, as a result of either waiver of sovereign immunity or where there is liability insurance coverage, the following procedures apply:

(a) Where the State is insured, direct contact with State or ARNG officials rather than the insurer is desirable. Regular procedures will be established and followed wherever possible. Such procedures should be agreed on by both local authorities and the appropriate claims authorities subject to concurrence by the Commander, USARCS. Such procedures will be designed to ensure that local authorities and U.S. authorities do not issue conflicting instructions for processing claims, and whenever possible and in accordance with governing local and Federal law, a mutual arrangement for disposition of such claims as in paragraph (c) of this section is worked out. Amounts recovered or recoverable by claimant from any insurer (other than claimant's insurer who has obtained no subrogated interest against the United States) will be deducted from the amount otherwise payable.

(b) If there is a remedy against the State or its insurer, the claimant may be advised of that remedy. If the payment by the State or its insurer does not fully compensate claimant, an additional payment may be made under §§ 536.70 through 536.81. If liability is clear and claimant settles with the State or its insurer for less than the maximum amount recoverable, the difference between the maximum amount recoverable from the State or its insurer and the settlement normally will be also deducted from the payment by the United States.

(c) If the State or its insurer desires to pay less than their maximum jurisdiction or policy limit on a basis of 50 percent or more of the actual value of the entire claim, any payment made by the United States must be made directly to the claimant. This can be accomplished by either having the United States pay the entire claim and have the State or its insurer reimburse its portion to the United States, or by having each party pay its agreed share directly to the claimant. If the State or its insurer desires to pay less than 50 percent of the actual value of the claim, the procedure set forth in paragraph (d) of this section will be followed.

(d) If there is a remedy against the State and the State refuses to make payment, or there is insurance coverage and the claimant has filed an administrative claim against the United States, forward file with a memorandum of opinion to the Commander, USARCS, including information as to the status of any judicial or administrative action the claimant has taken against the State or its insurer. The Commander, USARCS, will determine whether the claimant will be required to exhaust his remedy against the State or its insurer, or whether the claim against the United States can be settled without such requirement. If the Commander, USARCS, determines to follow the latter course of action, he will also determine whether an assignment of the claim against the State or its insurer will be obtained and whether recovery action will be taken. The State or its insurer will be given appropriate notification in accordance with State law necessary to obtain contribution of indemnification.

§ 536.77 Claims against the ARNG tortfeasor individually.

The procedures set forth in § 536.9(f) are applicable. With respect to claims arising before 29 December 1981, an ARNG driver acting pursuant to the authorities cited in § 536.73(a) is not protected by the provisions of the Drivers Act (28 U.S.C. 2670(b)) and the driver may be sued individually in State court. When this situation occurs, it should be monitored closely by ARNG authorities. If possible an early determination will be made as to whether any private insurance of the ARNG tortfeasor is applicable. Where such insurance is applicable and the claim against the United States is of doubtful validity, final actions will be withheld pending resolution of the demand against the ARNG tortfeasor. If, in the opinion of the claims approving or settlement authority, such insurance is applicable and the claim against the United States is payable in full or in a reduced amount, settlement efforts will be made either together with the insurer or singly by the United States. Any settlement will not include amounts recovered or recoverable as in § 536.9. If the insurance is not applicable, settlement or disapproval action will proceed without further delay.

§ 536.78 When claim must be presented.

A claim may be settled under §§ 536.70 through 536.81 only if presented in writing within 2 years after it accrues, except that if it accrues in time of war or armed conflict, or if war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after war or armed conflict is terminated. As used in this section, a war or armed conflict is one in which any Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict must be established by concurrent resolution of Congress or by determination of the President.

§ 536.79 Where claim must be presented.

A claim must be presented to the appropriate Federal agency. Receipt of a written claim by any full time officer or employee of the National Guard will be considered receipt. However, the statute of limitations is tolled if a claim is filed with a State agency, the claim purports to be under the NGCA and it is forwarded to the Army within 6 months, or the claimant makes inquiry of the Army concerning the claim within 6 months. If a claim is received by a DA official who is not a claims approval or settlement authority, the claim will be transmitted without delay to the nearest approval or settlement authority.

§ 536.80 Procedures.

(a) The form of a claim under §§ 536.70 through 536.81 will be as described in § 536.5 (d) and (e).

(b) So far as they are not inconsistent with §§ 536.70 through 536.81, the guidance set forth in §§ 536.10 through 536.12 will be followed in processing a claim under §§ 536.70 through 536.81.

(c) The following provisions are applicable to claims under §§ 536.70 through 536.81 and are hereby incorporated by reference:

(1) § 536.28 (applicable law);

(2) § 536.29 (determination of quantum);

(3) § 536.31 (claims over $100,000);

(4) § 536.32 (settlement procedures);

(5) § 536.33 (attorney fees).

§ 536.81 Settlement agreement.

Procedures concerning settlement agreements will be in accordance with § 536.10, except that the agreement will be modified to include a State and its National Guard in most cases. A copy of the agreement will be furnished to State authorities and the individual tortfeasor.

Subpart D—Claims Incident to Use of Government Vehicles and Other Property of the United States Not Cognizable Under Other Law

§ 536.90 Statutory authority.

The statutory authority for §§ 536.90 through 536.97 is contained in the act of 9 October 1962 (76 Stat. 767, 10 U.S.C. 2737). This statute is commonly called the "Nonscope Claims Act." For the purposes of §§ 536.90 through 536.97, a Government installation is a facility having fixed boundaries owned or controlled by the Government, and a vehicle includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land (1 U.S.C. 4).

§ 536.91 Scope.

(a) Sections 536.90 through 536.97 prescribe the substantive bases and special procedural requirements for the administrative settlement and payment, in an amount not more than $1,000, of any claim against the United States not cognizable under any other provision of law for damage to or loss of property, or for personal injury or death, caused by military personnel or civilian employees of the DA or by civilian employees of the DoD incident to the use of a United States vehicle at any place or incident to the use of other United States property on a Government installation.

(b) Any claim in which there appears to be a disputed issue relating to whether the employee was acting within the scope of employment will be considered under §§ 536.20 through 536.35, 536.50, or 536.70 through 536.81 as applicable. Only when all parties, to include an insurer, agree that there is no "in scope" issue will §§ 536.90 through 536.97 be used.

§ 536.92 Claims payable.

(a) *General.* A claim for personal injury, death, or damage to or loss of property, real or personal, is payable under §§ 536.90 through 536.97 when

(1) Caused by the act or omission, negligent, wrongful, or otherwise involving fault, of military personnel of the DA or the ARNG, or civilian employees of the DA or the ARNG—

(i) Incident to the use of a vehicle of the United States at any place.

(ii) Incident to the use of any other property of the United States on a Government installation.

(2) The claim may not be settled under any other claims statute and claims regulation available to the DA for the administrative settlement of claims.

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(a) The claim has been determined to be meritorious, and the approval or settlement authority has obtained a settlement agreement in an amount not in excess of $1,000 in full satisfaction of the claim prior to approval of the claim for payment.

(b) *Personal injury or death.* A claim for personal injury or death is allowable only for the cost of reasonable medical, hospital, or burial expenses actually incurred and not otherwise furnished or paid by the United States.

(c) *Property loss or damage.* A claim for damage to or loss of property is allowable only for the cost of reasonable repairs or value at time of loss, whichever is less.

§ 536.93 Claims not payable.

A claim is not allowable under §§ 536.90 through 536.97 that—

(a) Results wholly or partly from the negligent or wrongful act of the claimant, his or her agent or employee. The doctrine of comparative negligence is not applicable.

(b) Is for medical, hospital, and burial expenses furnished or paid by the United States.

(c) Is for any element of damage pertaining to personal injuries or death other than provided in § 536.92(b). All other items of damage, for example, compensation for loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering, are not payable.

(d) Is for loss of use of property or for the cost of a substitute property, for example, a rental.

(e) Is legally recoverable by the claimant under an indemnifying law or indemnity contract. If the claim is legally recoverable in part, that part recoverable by the claimant is not payable.

(f) Is a subrogated claim.

§ 536.94 When claim must be presented.

A claim may be settled under §§ 536.90 through 536.97 only if it is presented in writing within 2 years after it accrues.

§ 536.95 Procedures.

So far as not inconsistent with §§ 536.90 through 536.97, the procedures for the investigation and processing of claims contained in §§ 536.1 through 536.13 will be followed.

§ 536.96 Settlement agreement.

A claim may not be paid under §§ 536.90 through 536.97 unless the amount tendered is accepted by the claimant in full satisfaction. A settlement agreement (§ 536.10) is required before payment.

§ 536.97 Reconsideration.

(a) An approval or settlement authority may reconsider the quantum of a claim upon request of the claimant or someone acting in his behalf. In the absence of such a request, an approval or settlement authority may on his own initiative reconsider the quantum of a claim. Reconsideration may occur even in a claim which was previously disapproved in whole or in part (even though a settlement agreement has been executed) when it appears that his or her original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he or she determines that the original action was incorrect, he or she will modify the action and, if appropriate, make a supplemental payment. If the original action is determined correct, the claimant will be so notified. The basis for either action will be stated in a memorandum included in the file.

(b) An approval or settlement authority may reconsider the applicability of §§ 536.90 through 536.97 to a claim upon request of the claimant or someone acting in his behalf, or on his own initiative. Such reconsideration may occur even though all parties had previously agreed per § 536.91(b) when it appears that this agreement was incorrect in law or fact based on the evidence of record at the time of the agreement or subsequently received. If he or she determines the agreement to be incorrect, the claim will be reprocessed under the applicable sections of this regulation. If he or she determines the agreement to have been correct, that is, that §§ 536.90 through 536.97 are applicable, he or she will so advise the claimant. This advice will include reference to any appeal or judicial remedies available under the section which the claimant alleges the claim should be processed under.

(c) A successor or higher approval or settlement authority may also reconsider the original action on a claim as in paragraph (a) or (b) of this section, but only on the basis of fraud substantial new evidence, errors in calculation or mistake (misinterpretation) of law.

(d) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief.

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Friday
October 27, 1989

Part III

Department of Defense

Department of the Army

32 CFR Part 537

Claims on Behalf of the United States; Final Rule

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 537

Claims on Behalf of the United States

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army announces a change of the regulatory provisions controlling the processing and settlement of administrative claims filed in behalf of the Army. This change will inform third parties of the procedures controlling the processing and settlement of these administrative claims by the Army.

EFFECTIVE DATE: November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Mounts, Jr., Deputy Director, U.S. Army Claims Service, Office of The Judge Advocate General, Fort Meade, Maryland 20755–5360, (301) 677–7622.

SUPPLEMENTARY INFORMATION: The change to Part 537 reflects some procedural changes in the management of affirmative claims.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as non-major. The effect of the final rule on the economy will be less than $100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 537

Claims, Foreign claims, Tort claims.

Dated: October 11, 1989.

Jack F. Lane, Jr.,

Commanding, United States Army Claims Service, Office of The Judge Advocate General.

Part 537 is revised to read as follows:

PART 537—CLAIMS ON BEHALF OF THE UNITED STATES

Subpart A—Claims for Damage to or Loss or Destruction of Army (DA) Property

Sec.

537.1 General.
537.2 Recovery of property unlawfully detained by civilians.
537.6 Maritime casualties; claims in favor of the United States.
537.7 Maritime claims.

Subpart B—Claims for the Reasonable Value of Medical Care Furnished by the Army

537.21 General.
537.22 Basic considerations.
537.23 Predemand procedures.
537.24 Post demand procedures.

Authority: 10 U.S.C. 3012; sections 537.21 through 537.24 issued under 42 U.S.C. 2651–2653;

Subpart A—Claims for Damage to or Loss or Destruction of Army (DA) Property

§ 537.1 General.

(a) *Purpose.* This section prescribes, within the limitations indicated in AR 27–20 (AR 27–20 and other Army Regulations referenced herein are available thru: National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161), and in paragraph (b) of this section, the procedures for the investigation, determination, assertion, and collection, including compromise and termination of collection action, of claims in favor of the United States for damage to or loss or destruction of Department of the Army (DA) property.

(b) *Applicability and scope.* (1) Other regulations establish systems of property accountability and responsibility; prescribe procedures for the investigation of loss, damage, or destruction by causes other than fair wear and tear in the service; and provide for the administrative collection of charges against military and civilian personnel of the United States, contractors and common carriers, and other individuals and legal entities from whom collection may be made without litigation. When the investigation so prescribed results in preliminary indication of pecuniary liability, and no other method of collection is provided, the matter is referred for action under this section. This relationship exists with regard to—

(i) Property under the control of the DA.

(ii) Property of the Defense Logistics Agency in the custody of the DA.

(iii) Property of nonappropriated funds of the DA (except Army and Air Force Exchange Service property unless a special agreement exists). See AR 215–1 and AR 215–2.

(iv) Federal property made available to the Army National Guard (ARNG).

(2) This section does not apply to—

(i) Claims arising from marine casualties.

(ii) Claims for damage to property funded by civil functions appropriations.

(iii) Claims for damage to property of the DA and Air Force Exchange Service.

(iv) Reimbursements from agencies and instrumentalities of the United States for damage to property.

(v) Collection for damage to property by offset against the pay of employees of the United States, or against amounts owed by the United States to common carriers, contractors, and States.

(vi) Claims by the United States against carriers, warehousemen, insurers, and other third parties for amounts paid in settlement of claims by members and employees of the Army, or the Department of Defense (DOD), for loss, damage, or destruction of personal property while in transit or storage at Government expense.

(3) The commander of a major overseas command, as defined in paragraph (c)(5) of this section, is authorized to establish procedures for the processing of claims in favor of the United States for loss, damage, or destruction of property which may, to the extent deemed necessary, modify the procedures prescribed herein. Two copies of all implementing directives will be furnished Commander, U.S. Army Claims Service (USARCS). Procedures will be prescribed—

(i) To carry out the provisions of DOD Directive No. 5515.8, assigning single service claims responsibility.

(ii) To carry out provisions of treaties and other international agreements which limit or provide special methods for the recovery of claims in favor of the United States.

(c) *Definitions.* For the purpose of this section only, the following terms have the meaning indicated:

(1) *Claim.* The Government's right to compensation for damage caused to Army property.

(2) *Prospective defendant.* An individual, partnership, association, corporation, governmental body, or other legal entity, foreign or domestic, except an instrumentality of the United States, against whom the United States has a claim.

(3) *Damage.* A comprehensive term, including not only damage to, but also loss or destruction of Army property.

(4) *DA property.* Real or personal property of the United States or its instrumentalities and, if the United States is responsible therefor, real or personal property of a foreign government, which is in the possession or under the control of the DA, one of its instrumentalities, or the ARNG, including that property of an activity for which the Army has been designated the administrative agency, and that property located in an area in which the Army has been assigned single service claims responsibility by appropriate DOD directive.

(5) *Major overseas command.* U.S. Army Europe; U.S. Army Forces Southern Command; Eighth U.S. Army, Korea; Western Command; and any command outside the continental limits of the contiguous States specially designated by The Judge Advocate General (TJAG) under the provisions of AR 27–20.

(6) *Area Claims Office.* The principal office for the investigation, assertion, adjudication and settlement of claims, staffed with qualified legal personnel under the supervision of a Staff Judge Advocate (SJA) or Command Judge Advocate or Corps of Engineers district or Command Legal Counsel under provisions of AR 27–20.

(7) *Recovery judge advocate (RJA).* A JAGC officer or legal adviser responsible for assertion and collection of claims in favor of the United States for medical expenses and property damage.

(d) *Limitation of time.* The Act of July 18, 1966 (80 Stat. 304, 28 U.S.C. 2415) established a 3-year statute of limitations, effective July 19, 1966, upon actions in favor of the United States for money damages founded upon a tort. In computing periods of time excluded under 28 U.S.C. 2416, the RJA concerned shall be deemed the official charged with responsibility and will ensure that action may be brought in the name of the United States within the limitation period.

(e) *Foreign prospective defendants.* Except as indicated below, claims within the scope of this section against foreign prospective defendants will be investigated, processed, and asserted without regard to the nationality of the prospective defendant. Claims against an international organization, a foreign government or a political subdivision, agency, or instrumentality thereof, or against a member of the armed forces or an official or civilian employee of such international organization or foreign government, will not be asserted without prior approval of TJAG. Investigation and report thereof, together with recommendations regarding assertion and enforcement, will be forwarded through command channels to Commander, USARCS, unless the provisions of applicable agreements, or regulations in implementation thereof, negate the requirement for such investigation and report.

(f) *Standards of liability.* (1) The Government's right to compensation for damage caused to Army property will be determined in accordance with the law of the place in which the damage occurred, unless other law may properly be applied under conflict of law rules.

(2) To the extent that the prospective defendant's liability is covered by insurance, liability will be determined without regard to standards of pecuniary liability set forth in other regulations. If no insurance is available, claims will be asserted under this section against military and civilian employees of the United States and of host foreign governments only where necessary to complete the collection of charges imposed upon such persons under the standards established by other regulations.

(g) *Concurrent claims under other regulations.* (1) Claims for damage to DA property and claims for medical care cognizable under §§ 537.21 through 537.24 arising from the same incident will be processed under the sections applicable to each.

(2) If the incident giving rise to a claim in favor of the United States also gives rise to a potential claim or suit against the United States, the claim in favor of the Government will be asserted and otherwise processed only by an RJA who has apparent authority to take final action on the claim against the Government.

(h) *Repayment in kind.* The RJA who asserts a claim under this section may accept, in lieu of full payment of the claim, the restoration of the property to its condition prior to the incident causing the damage, or the replacement thereof. Acceptability of these methods of repayment is conditioned upon the certification of the appropriate staff officer responsible for maintenance, such as is described for motor vehicles in AR 735–5, before a release may be executed. The authority conferred by this paragraph is not limited to incidents involving motor vehicles.

(i) *Delegation of authority.* Subject to the provisions of paragraph (k) of this section, the authority conferred by AR 27–20, to compromise claims and to terminate collection action, with respect to claims that do not exceed $20,000, exclusive of interest, penalties and administrative fees, is further delegated as follows:

(1) An Area Claims Office, as defined in paragraph (c)(6) of this section, is authorized to:

(i) Compromise claims, provided the compromise does not reduce the claim by more than $10,000.

(ii) Terminate collection action, provided the uncollected amount of claim does not exceed $10,000.

(2) The SJA, or if so designated, the chief of the Command Claims Service of a major overseas command, as defined in paragraph (c)(5) of this section, is authorized to:

(i) Compromise claims, not over $20,000 without monetary limitations.

(ii) Terminate collection action, provided the uncollected amount of the claim does not exceed $20,000.

(j) *Compromise and termination of collection action.* (1) The authority delegated in paragraph (j) of this section to compromise claims will be exercised in accordance with the standards set forth in 4 CFR part 104.

(2) The authority delegated in paragraph (j) of this section to terminate collection action will be exercised in accordance with the standards set forth in 4 CFR part 104.

(3) A debtor's liability to the United States arising from a particular incident shall be considered as a single claim in determining whether the claim is not more than $20,000, exclusive of interest, penalties and administrative fees for the purpose of compromise, or termination of collection action.

(4) Only the Department of Justice may approve claims involving:

(i) Compromise or waiver of a claim asserted for more than $20,000 exclusive of interest, penalties and administrative fees.

(ii) Settlement actions previously referred to the Department.

(iii) Settlement where a third party files suit against the United States or the individual federal tortfeaser arising but of the same incident.

(k) *Releases.* The RJA who receives payment of the claim in full, or who receives full satisfaction of an approved compromise settlement, is authorized to execute a release. A standard form furnished by the prospective defendant or his insurer may be executed, provided no indemnity agreement is included.

(1) *Receipts.* The RJA may execute and deliver to a prospective defendant a receipt for payment in full, installment payment or an offered compromise payment, subject to approval of the SJA. DA Form 2135–R (Receipt for Payment for Damage to or Loss of Government Property) be used.

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§ 537.2 Recovery of property unlawfully detained by civilians.

Whenever information is received that any property belonging to the military service of the United States is unlawfully in the possession of any person not in the military service, the procedures contained in AR 735–11, Para. 3–15, Unit Supply UPDATE 10, should be followed.

§ 537.6 Maritime casualties; claims in favor of the United States.

See 32 CFR 536.60, which covers claims on behalf of the United States as well as claims against the United States.

§ 537.7 Maritime claims.

(a) *Statutory authority.* Administrative settlement or compromise of admiralty and maritime claims in favor of and against the United States by the Secretary of the Army or his designee, under the direction of the Secretary of Defense, is authorized by Army Maritime Claims Settlement Act of 1956 (70A Stat. 270), as amended (10 U.S.C. 4801–4804, 4806).

(b) *Related statutes.* This statute authorizes the administrative settlement or compromise of maritime claims and supplements the following statutes under which suits in admiralty may be brought; the Suits in Admiralty Act of 1920 (41 Stat. 525, 46 U.S.C. 741–752); the Public Vessels Act of 1925 (43 Stat. 1112, 46 U.S.C. 781–790); the Extention of the Admiralty Act of 1948 (62 Stat. 496, 46 U.S.C. 740). Similar maritime claims settlement authority is exercised by the Department of the Navy under title 10, United States Code (U.S.C.), sections 7365, 7621–7623, and by the Department of the Air Force under 10 U.S.C. 9801 through 9804, 9806.

(c) *Scope.* (1) Section 4803 of title 10, U.S.C., provides for the settlement or compromise of claims of a kind that are within the admiralty jurisdiction of a district court of the United States and of claims for damage caused by a vessel or floating object to property under the jurisdiction of the DA or property for which the Department has assumed an obligation to respond in damages, where the net amount payable to the United States does not exceed $500,000.

(2) Section 4804 of title 10, U.S.C., for the settlement or compromise of claims in any amount for salvage services (including contract salvage and towage) performed by the DA for any vessel. The amounts of claims for salvage services are based upon per diem rates for the use of salvage vessels and other equipment; and materials and equipment damaged or lost during the salvage operation. The sum claimed is intended to compensate the United States for operational costs only, reserving, however, the right of the Government to assert a claim on a salvage bonus basis, in accordance with commercial practice, in an appropriate case.

(d) *Amounts exceeding $500,000.* Maritime claims in favor of the United States, except claims for salvage services, may not be settled or compromised under this section at a net amount exceeding $500,000 payable to the United States. However, all such claims otherwise within the scope of this section will be investigated and reported to the Commander, USARCS.

(e) *Civil works activities.* Rights of the United States to fines, penalties, forfeitures, or other special remedies in connection with the protection of navigable waters, the control and improvement of rivers and harbors, flood control, and other functions of the Corps of Engineers involving civil works activities, are not dealt with in this section. However, claims for money damages which are civil in nature, arising out of civil works activities of the Corps of Engineers and otherwise under this section, for which an adequate remedy is not available to the Chief of Engineers, may be processed under this section.

(f) *Delegation of authority.* Where the amount to be received by the United States is not more than $10,000, claims under this section, except claims for salvage services, paragraph (c)(2) of this section, may be settled or compromised by the Commander, USARCS, or designee, subject to such limitations as may be imposed by the Commander, USARCS and by engineer area claims offices, subject to such limitations as may be imposed by the Chief of Engineers.

(g) *Demands.* Demand for the payment of claims in favor of the United States under this section may be made by the Commander, USARCS, or designee.

Subpart B—Claims for the Reasonable Value of Medical Care Furnished by the Army

§ 537.21 General.

(a) *Authority.* The regulations in §§ 537.21 through 537.24 are in implementation of the Act of September 25, 1962 (76 Stat. 593, 42 U.S.C. 2651–3), Executive Order Number 11060 (27 FR 10925), and Attorney General's Order Number 289–62, as amended (28 CFR part 43), providing for the recovery of the reasonable value of medical care furnished or to be furnished by the United States to a person on account of injury or disease incurred after December 31, 1962, under circumstances creating a tort liability upon some third person.

(b) *Applicability and scope.* (1) Sections 537.21 through 537.24 apply to all claims for the reasonable value of medical services furnished by or at the expense of the Army which result from incidents occurring on or after March 1, 1969. Cases which arise from incidents occurring prior to that date:

(i) And which are the responsibility of an SJA or JA who is designated an RJA will be processed under §§ 537.21 through 537.24;

(ii) And which are the responsibility of an SJA or JA not so designated will be processed under the predecessor regulation until either completed or transferred.

(2) The procedures prescribed herein are to be employed within the DA for the investigation, determination, assertion, and collection, including compromise and waiver, in whole or in part, of claims in favor of the United States for the reasonable value of medical services furnished by or at the expense of DA. TJAG provides general supervision and control of the investigation and assertion of claims arising under the Federal Medical Care Recovery Act.

(3) In Continental U.S., Army SJA's and RJA's will be assigned responsibility under §§ 537.21 through 537.24 on a geographical area basis.

(4) The commander of any major overseas command specified in paragraph (c)(5) of this section is authorized to modify the procedures prescribed herein to accommodate any special circumstances which may exist in the command.

(5) Claims for medical care furnished by the DA on a reimbursable basis (see table 1, AR 40–3) ordinarily will be forwarded for processing directly to the Federal department or agency responsible for reimbursement.

(c) *Definitions.* For the purpose of §§ 537.21 through 537.24 only, the following terms have the meaning indicated.

(1) *Claim.* The Government's right to recover from a prospective defendant the reasonable value of medical care furnished to each injured party.

(2) *Medical care.* Includes hospitalization, out-patient treatment, dental care, nursing service, drugs, and other adjuncts such as prostheses and medical appliances furnished by or at the expense of the United States.

(3) *Injured party.* The person who received an injury or contracted a disease which resulted in the medical care. Such person may be an active duty or retired member, a dependent, or any other person who is eligible for medical care at DA expense. See section III, AR 40–3, and §§ 577.60 through 577.71 of this chapter.

(4) *Prospective defendant.* A person other than the injured party. An individual partnership, association, corporation, governmental body, or other legal entity, foreign or domestic, against whom the United States has a claim.

(5) *Major overseas command.* U.S. Army Forces Southern Command; the U.S. Army, Europe; Eighth U.S. Army, Korea; Western Command; and any command outside the continental limits of the contiguous states specially designated by TJAG under the provisions of AR 27–20.

(6) *Recovery judge advocate.* A JAGC officer or legal adviser responsible for assertion and collection of claims in favor of the United States for medical expenses.

§ 537.22 Basic considerations.

(a) *The right of recovery—(1) Applicable law.* The right of the United States to recover the reasonable value of medical care furnished or to be furnished an injured party is based on the Federal Medical Care Recovery Act. It accrues simultaneously with the accrual of the injured party's right to recover damages from the prospective defendant but is independent of any claim which the injured person may have against the prospective defendant. Recovery is allowed only if the injury or diseases resulted from circumstances creating a tort liability under the law of the place where the injury occurred.

(2) *Time limitation.* The Act of 18 July 1966 (28 U.S.C. 2415 et seq.) establishes a 3-year statute of limitation upon actions in favor of the United States for money damages founded upon a tort. The RJA will take appropriate steps within the limitation period to assure that necessary legal action is not barred by the statute.

(3) *Amount.* The Government's right of recovery is limited to amounts expended or to be expended by the United States for medical care from other than Federal sources, and to amounts determined by the rates established by the Office of Management and Budget for medical care from Federal sources, less any amounts reimbursed by the injured party.

(b) *Certain prospective defendants—(1) U.S. Government agencies.* No claim will be asserted against any department, agency, or instrumentality of the United States.

(2) *U.S. personnel.* Claims against a member of the uniformed services; or an employee of the United States, its agencies or instrumentalities; or a dependent of a service member or an employee will not be asserted unless the prospective defendant has the benefit of liability insurance coverage or was guilty of gross negligence or willful misconduct. If simple negligence occurring in the scope of a member's or employee's employment is the basis of the claim, no claim will be asserted if such claim is excluded from the coverage of the liability insurance policy involved. No claim, in the absence of specific statutory authorization, will be made directly against a member or employee, or his or her dependents for injuries sustained to himself or herself through acts of simple negligence, gross negligence, or willful misconduct.

(3) *Government contractors.* Claims, the cost or expense of which may be reimbursable by the United States under the terms of a contract, will not be asserted against a contractor without the prior approval of USARCS. Such claims will be investigated and the report thereof, which will include citation to the specific contract clauses involved and recommendations regarding assertion will be forwarded through command channels to Commander, USARCS.

(4) *Foreign persons.* Claims within the scope of §§ 537.21 through 537.24 against foreign prospective defendants will be investigated, processed, and asserted without regard to the nationality of the prospective defendant, unless such action is precluded by treaty or international agreement. Claims against an international organization, or foreign government, will be investigated and reports thereof, together with recommendations regarding assertion and enforcement, will be forwarded through command channels to Commander, USARCS.

(5) *National Guard Members.* Claims arising from the tortious conduct of NG members will be investigated and if assertion appears appropriate, a recommendation shall be made to Commander, USARCS.

(c) *Concurrent claims under other regulations—(1) Section 537.1.* Claims for medical care and claims for damage to DA property arising from the same incident will be processed by the RJA in accordance with § 537.1(g). If an RJA lacks settlement authority sufficient to settle a concurrent claim under § 537.1, he may request additional authority under that section from the appropriate major overseas command SJA or area claims authority, who may delegate such additional authority in an amount not exceeding his own settlement authority. Where time is of the essence, telephonic delegations of authority are encouraged, provided they are confirmed in a writing which will be made a part of the case file.

(2) *Counterclaims.* Claims for medical care and claims against the United States which arise from the same incident will be processed by the RJA in accordance with § 537.1(g)(2). If an RJA lacks authority sufficient to settle the claim against the Government, he will coordinate his action with that claims echelon which has the necessary authority to settle the particular claim against the United States.

§ 537.23 Predemand procedures.

(a) *Relations with the injured party—(1) Advice.* The injured party, or, in appropriate cases, his guardian, next-of-kin, personal representative, or the executor or administrator of his estate, will be advised of the following:

(i) That under the Act of September 25, 1962 (76 Stat. 593, 42 U.S.C. 2651–3, the United States may be entitled to recover the reasonable value of medical care furnished or to be furnished him in the future from the person or persons who injured him, or who were otherwise responsible for his injury or disease; and

(ii) That if he is otherwise entitled to legal assistance under AR 27–3, he should seek guidance from a legal assistance officer regarding any claim he may have for personal injury; and

(iii) That he is required to cooperate in the prosecution of all actions of the United States against the person or persons who injured him; and

(iv) That he is required to furnish a complete statement regarding the facts and circumstances surrounding the incident which resulted in the injury or disease; and

(v) That he is required to furnish information concerning any legal action brought or to be brought by or against the prospective defendant, or to furnish the name and address of the attorney representing him; and

(vi) That he should not execute a release or settle any claim which he may have as a result of his injury without first notifying the RJA.

(2) *Statement.* A written statement will be obtained from the injured party, or his representative, in which he acknowledges receipt of the advice in paragraph (a)(1) of this section, and provides the information required by paragraphs (a)(1) (iv) and (v) of this section. If the injured party or representative fails or refuses to furnish necessary information or cooperation, the originator of the notification of potential claims may be requested to withhold records as to medical history, diagnoses, findings, and treatment, from

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the injured party or anyone acting on his behalf pending compliance with the requirements in paragraph (a)(1) of this section. Mere refusal by the injured party or his representative to include the Government's claim in his claim is not sufficient basis, by itself, for this action.

(b) *Determination and assertion*—(1) *Liability.* The RJA will review all the evidence including any claims officer's report of investigation and, after assuring completeness of the file, will make a written determination as to the liability of the prospective defendant and note his reasons for such determination.

(2) *Value.* If the RJA determines that the prospective defendant is liable, he will also ascertain the reasonable value of medical care furnished or to be furnished to the injured party, in accordance with § 537.22(a)(3) and rates established by the Office of Management and Budget. When a military member has been retained in a military hospital for administrative reasons, or where the patient was absent from the hospital or was in a purely convalescent status, the amount of the claim will be recomputed to apply the outpatient rate, if under circumstances warranting only outpatient treatment in a civilian hospital or eliminate such periods altogether if the injured party received no treatment during those periods. In making these determinations the RJA will coordinate with the registrar or other responsible official of the hospital or medical unit in his area of responsibility.

(3) *Amount.* In the event of doubt concerning the extent of medical care furnished or to be furnished an injured party, the RJA will assert the claim in an indefinite amount. Demand will be made in a definite amount at the earliest possible date, based on an estimate of a reasonable value of medical care to be furnished, if appropriate. The RJA will assure that the file contains complete statements of the value of medical care furnished, including all charges by civilian physicians, medical technicians and civilian hospitals.

§ 537.24 Post demand procedures.

(a) *Coordination with the injured party's claim.* (1) Every effort will be made to coordinate action to collect the claim of the United States with the injured party's action to collect his own claim for damages, in order that the injured party's recovery for his damages, other than the reasonable value of medical care furnished or to be furnished by the United States, is not prejudiced by the Government's claim.

(2) Attorneys representing an injured party may be authorized to assert the claim on behalf of the government as an item of special damages with the injured party's claim or suit except where prohibited by law. Any agreement to this effect will be in writing, and the agreement should expressly recognize the fact that counsel fees may be neither paid by the Government (5 U.S.C. 3106) nor computed on the basis of the Government's portion of the recovery. The agreement must also require the Government's permission to settle its claim.

(3) If the injured party, denies or his attorney or legal representative, fails or refuses to cooperate in the prosecution of the claim of the United States, independent collection action will be vigorously pursued.

(b) *Independent collection action.* Unless suit between the injured party and the prospective defendant is pending, all available administrative collection procedures will be followed prior to reference of the claim to the Department of Justice under paragraph (e) of this section. Direct contact with the prospective defendant's insurer, if known, is desirable. If the prospective defendant is an uninsured motorist, timely and appropriate action will be taken to collect the claim, or to request suspension of driving and registration privileges under the applicable uninsured motorist fund statute, or to seek compensation from the victim's insurer, or otherwise under financial responsibility laws.

(c) *Delegation of authority.* Subject to the provisions of paragraphs (d) and (e) of this section, authority to compromise or waive, in whole or in part, claims of the United States not in excess of $40,000 exclusive of interest penalties and administrative fees is delegated as follows. The Area Claims Office as defined in paragraph (c)(6) of section 537.1 is authorized to:

(1) Compromise claims, provided the compromise does not reduce the claim by more than $15,000 in any claim not asserted for more than $25,000; and

(2) Waive claims for the convenience of the Government (but not on account of undue hardship upon the injured party) provided the uncollected amount of the claim does not exceed $15,000 in any claim not asserted for more than $25,000; and

(3) Redelegation in an amount not to exceed $5,000 compromise authority to any claim processing office with approval authority is permitted.

(d) *Compromise and waiver of claims*—(1) *General.* A debtor's liability to the United States arising from a particular incident will be considered as a single claim in determining whether the claim is not more than $40,000, for the purpose of compromise or waiver. Claims not resolved within the delegation of authority stated in this section or referred to the Department of Justice, will be forwarded to Commander, USARCS. A claim file forwarded to higher authority will contain a memorandum of opinion supported by necessary exhibits.

(2) *Compromise.* (i) The authority delegated in paragraph (c) of this section to compromise claims will be exercised in accordance with standards set forth in 4 CFR 103. When available funds are insufficient to satisfy both the claim of the United States and that of the injured party, the claim of the United States will be compromised to the extent required to achieve an equitable apportionment of the available funds.

(ii) If appropriate, a request by the injured party or his attorney for waiver on the ground of undue hardship may be treated initially as a suggestion for compromise with the tortfeasor, and the compromised amount of the claim of the United States will be determined. In such cases, RJA's may make offers of compromise within their delegated authority. RJA's may also make counteroffers within their delegated authority to offers of compromise beyond their delegated authority. If settlement within the limits of delegated authority is not achieved, the claim will be referred to higher authority.

(iii) When time is a factor, SJA or major overseas command staff JA's may make telephonic delegation within their compromise authority on a case by case basis. When such verbal delegations are made, they will be confirmed in writing and the writing included in the case file.

(3) *Waiver.* (i) The authority delegated in paragraph (c) of this section to waive claims for the convenience of the Government will be exercised in accordance with standards set forth in 4 CFR part 103.

(ii) If the injured party or his attorney requests waiver of the full or any compromised amount of the claim on the ground of undue hardship, and the request may not be appropriately treated under paragraph (d)(2)(ii) of this section, the file will be forwarded to appropriate major overseas command claims authority or Commander, USARCS. For the purpose of evaluation of the request for waiver, the file will include detailed information concerning the reasonable value of the injured party's claim for permanent injury, pain and suffering, decreasing earning power, and other items of special damages,

pension rights, and other Government benefits accruing to the injured party; and the present and prospective assets, income, and obligations of the injured party, and those dependent on him.

(iii) In the event an affirmative determination is made by TJAG that, as a result of the collection of the Government's claim the injured party has suffered an undue hardship, the RJA will be authorized to direct issuance of the amount waived to the injured party.

(4) A file forwarded to higher authority for waiver of compromise consideration will contain a memorandum by the RJA giving his assessment of the case and his recommendation with regard to the approval or denial of the requested compromise or waiver.

(e) *Only the Department of Justice may approve claims involving.* (1) compromise or waiver of a claim asserted for more than $40,000 exclusive of interest, penalties or administrative fees,

(2) Settlement actions previously referred to the Department,

(3) Settlement where a third party files suit against the United States on the injured party arising out of the same incident.

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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25, 121, and 135

Independent Power Source for Public Address System in Transport Category Airplanes; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121 and 135

[Docket No. 24995; Amdt. Nos. 25-70, 121-209, 135-34]

RIN 2120-AB77

Independent Power Source for Public Address System in Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments to the airworthiness standards for transport category airplanes and the operating rules for air carrier and air taxi operators of such airplanes ensure the availability of the public address (PA) system during emergency conditions by requiring an independent PA system power source. They are intended to increase airplane safety by facilitating the rapid evacuation of passengers under such conditions. These amendments are applicable to airplanes that are required to have a PA system for use in air carrier, air taxi, or commercial service and that are manufactured on or after a specified date, regardless of the date of application for type certificate. These amendments do not apply to airplanes operated by persons other than air carriers, air taxis, and commercial operators.

EFFECTIVE DATE: November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Robert F. Hall, FAA, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 17900 Pacific Highway South, C-68966, Seattle, WA. 98168; telephone: (206) 431-2143.

SUPPLEMENTARY INFORMATION:

Background

These amendments are based on Notice of Proposed Rulemaking (NPRM) No. 86-5 (51 FR 19140; May 27, 1986), and a correction notice published June 13, 1986 (51 FR 21563). Notice 86-5 proposed, in part, an amendment to part 25 to specify that any public address (PA) system which is required for use in air carrier or air taxi service must be powered by a source that is: (1) Independent of engine and auxiliary power unit (APU) operation, the forward motion of the airplane, and all normal means used by the flightcrew for power source disconnection; and (2) capable of powering the PA system for at least 10 minutes, including an aggregate time duration of at least 5 minutes of announcements made by flight and cabin crewmembers. In determining this capability, all loads which may remain powered by the same source when all other power sources become inoperative would have to be considered. In addition, if the same source is required for emergency power for loads essential to safety of flight or required during emergency conditions, it would also have to be capable of powering the added PA system load for an additional time duration that is appropriate or required for those essential or emergency loads. The proposed rule provided that in all cases the PA system load would be considered as that which exists during its standby state, except for an aggregate time duration of at least 5 minutes of announcements.

Notice 86-5 also proposed to amend § 25.1411(a)(2) to clarify that the PA system microphone accessibility requirement is applicable only when a PA system is required by this chapter.

In addition, Notice 86-5 proposed an amendment to § 121.318 which would incorporate the provisions of the proposed amendment to part 25 by reference and thereby require certain airplanes used in air carrier service to comply with the new standards of part 25 if they are manufactured a year or more after the effective date of the amendment. Because § 135.149(d) incorporates the provisions of § 121.318 by reference, the proposed new standards would be applicable to certain airplanes used in air taxi service as well, if they are manufactured on or after the same date.

The proposed new § 25.1423, in which the new standards would be contained, would allow innovation in providing an acceptable power source; however, as a matter of practicality, the normal airplane battery or another battery would most likely be used.

In regard to the new § 25.1423, as proposed, the notice explained that: (1) The expression "all normal means used by the flightcrew for power source disconnection" means all switches or like devices provided for that purpose, including, but not necessarily limited to, the generator, APU, and battery switches; (2) the use of this expression does not establish any requirements pertaining to the disconnection or connection of loads, however accomplished; (3) the deactivation of circuit breakers is not considered to be a normal means used for power source disconnection; and (4) the expression "standby state" means that condition during which power for making announcements is provided to the PA system but announcements are not being made.

The notice further explained that: (1) Power dependent on engine or APU operation would not be acceptable because the engines and APU would not be operating on the ground during many emergency conditions; (2) power dependent on the forward motion of the airplane, which might be provided by a ram air turbine, would not be acceptable because it would not be available on the ground during either normal or emergency conditions; (3) the proposal would not affect the capability of the flightcrew to disconnect the PA system by using its electrical switch or circuit breaker(s) either to clear electrical faults and protect the airplane and occupants against smoke or fires in the PA system (or its wiring) or to conserve the PA system's power source capacity for other loads powered by the same source that are essential to safety of flight or of higher priority during emergency conditions; and (4) the megaphones presently required by § 121.309(f) could not serve as an adequate means of communication. Sections 121.318(b)(1) and 135.149(d), by reference, require the means of communication to be accessible for immediate use from each of two flight crewmember stations in the pilot compartment. As further explained in the notice, such use of the megaphones by the flightcrew is not considered feasible in view of the high workload during emergency conditions, the directionality of megaphone output relative to the flightcrew's forward location and forward-facing position, and the fact that the flight compartment door is normally locked.

The notice expressly requested comments on the proposed time duration for announcements of at least 5 minutes, and on the possible need for operational procedures or flight or cabin crew training to prevent undisciplined use of the PA system during emergency conditions which could result in a hazardous, premature depletion of its power source capacity.

Discussion of Comments

One commenter states that these proposed amendments should be considered as part of a total package of proposals involving crashworthiness that the FAA has under study, which includes a proposal to require "push-to-talk" switches for PA system handset microphones and a possible draft advisory circular pertaining to PA system training and the use of megaphones. The FAA disagrees. Because those other proposals are wholly or largely unrelated to the PA

system power source, there would be no significant cost advantage in complying with those proposed standards, should they be adopted, at the same time. Furthermore, combining these proposed amendments with other proposals currently under consideration would unduly delay the safety benefits expected to result from this proposal.

Several commenters question whether or not the proposed amendments would actually result in an increase in emergency cabin evacuation safety. One commenter states that the FAA had provided no quantitative measure of safety improvement, based on demonstrated service experience showing that fatalities or injuries had occurred specifically because a required PA system was not operable during an emergency condition, and that the qualitative justification "lacks persuasiveness." In contrast, other commenters, including the National Transportation Safety Board (NTSB), support the FAA's position that an operable PA system would provide a definite increase in safety. The FAA concurs that the available quantitative data are limited; however, none of the commenters provided convincing reasons as to why this increase in safety would not be realized.

Several commenters state that the portable megaphones required by § 121.309(f) are the primary means for directing emergency evacuations in airplanes operated in air carrier service, and that the proposed amendments are, therefore, unnecessary. The FAA does not concur that megaphones are the primary means for directing evacuations nor that, for reasons stated above in the Background Section, they could serve as adequate means of communication in the event the PA system is disabled. The FAA also notes that portable megaphones may not even be aboard some airplanes operated in air taxi service, because they are not required for those airplanes.

Several commenters express a desire for this proposal to be applied retroactively to existing airplanes. Conversely, other commenters express their concern that the adoption of the proposed amendments would lead to later proposals to apply them retroactively. While a retroactive requirement would be beyond the scope of Notice 86-5 and could not be considered at this time, it must be noted that the FAA did propose a retroactive requirement in Notice 61-1 (46 FR 5457; January 19, 1961). That proposal was later withdrawn because comments showed that it would not be cost-effective. In the absence of any recent information to the contrary, the FAA currently has no plans to again propose a retroactive requirement.

Several commenters object to the proposed amendments, stating that their adoption would result in a mixed fleet, with some airplanes having an independent PA system power source and some not, and that this would cause confusion among flight and cabin crewmembers. They further state that such confusion could cause a hazard if crewmembers were to assume that their announcements would be heard by the passengers, in the mistaken belief that the airplane had an independent power source when, in fact, it did not. The FAA does not concur that such confusion would occur. It is noted that operation with a mixed fleet began around 1965 when a major manufacturer began providing battery power capability to the PA systems in all its large transport airplanes in production at that time, and continued providing it in all such airplanes produced later under amended or new type certificates. The FAA is not aware that any problems occurred during or after the introduction of airplanes with independent power sources for the PA systems.

Several commenters state that if a battery required for emergency power for loads essential to safety of flight or required during emergency conditions were also used as the PA system power source, then discipline must be ensured over the use of the PA system by including appropriate information in the crew operations manual and providing appropriate training to crewmembers. The FAA concurs that such information and training are necessary; however, each operator is required under §§ 121.135(a)(1), 121.417, 135.63(a)(2), and 135.331 to ensure that the crew operations manuals or checklists do include necessary information on the PA system power source, and that flight and cabin crewmembers are adequately trained in emergency procedures. Furthermore, FAA personnel ensure that all affected air carrier and air taxi operators provide all the necessary crew information and training.

In the situation where a battery required for emergency power for loads essential to safety of flight or required during emergency conditions would also be used as the PA system power source, one commenter states that the likelihood that a larger battery capacity would be needed for certain airplanes would be reduced by flight and cabin crew operational procedures and training on disciplined use of the PA system. The FAA concurs; however, the FAA estimates that the proposed amendment would result in a relatively small increase in battery "energy" depletion of approximately 3 ampere-hours. Therefore, the FAA considers that batteries of larger capacity would be required for few, if any, airplanes.

Several commenters state that if a battery required for emergency power for loads essential to safety of flight or required during emergency conditions were also used as the PA system power source, the PA system should not be required to remain operative after disconnecting the battery with its switch, because this design could result in partial or complete battery discharge while the airplane is parked and possibly at other times. According to the commenters, this would be a hazard in itself and would cause unnecessary and expensive battery maintenance. Two commenters state that one possible means to prevent such discharge, an additional switch connecting the PA system to the unswitched or "hot" battery bus, would increase system complexity and therefore decrease reliability, and also add to crew workload. Another commenter states that there must be a means to disconnect power from the PA system during emergency conditions such as electrically caused smoke, but that the proposed rule does not ensure it. The FAA agrees with these comments. After further consideration, the FAA has determined that the regulation should not require the PA system to have a higher priority for power than loads essential to safety of flight or other loads required during emergency conditions, and that it should not, in effect, prohibit providing the flightcrew with a ready means to disconnect the PA system concurrently with other loads after, or in anticipation of, the occurrence of electrical faults or electrically caused smoke or fires. For these reasons, § 25.1423, as adopted, specifies that a required PA system must be powerable, in flight or stopped on the ground, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation. This language does not preclude loss of power to the PA system as a consequence of disconnecting the battery with its switch. The final rule will not result in unnecessary battery discharges and associated hazards, and will not increase battery maintenance costs above present levels.

One commenter states that the proposed new § 25.1423 is ambiguous as to whether it would require automatic switching. Another commenter states that any switching required to connect

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the PA system to the independent power source should be automatic, so as not to increase crew workload. The notice was very specific in stating that the proposed § 25.1423 would not establish any requirements pertaining to the disconnection or connection of loads, however accomplished. Furthermore, although not stated in the notice, the proposed new § 25.1423 was not intended to establish any requirements pertaining to the connection of power sources, such as by using emergency power switches. Because these comments go beyond the scope of the notice, they cannot be considered at this time. In addition, the FAA considers that the capability to restore power to the PA system by a manual switching operation is a considerable improvement over having no means at all to restore it. Furthermore, requiring automatic switching for the PA system would be inconsistent with other emergency operations, such as loadshedding, which are not required to be automatic.

One commenter asks whether the amendments would apply only to airplanes that are newly manufactured after the specified date, or if they would also apply to earlier airplanes that are modified or remanufactured after that date to seat more than 19 passengers. Airplanes manufactured prior to the specified date and later modified to seat more than 19 passengers would not have to comply, regardless of when they are modified. It must be noted, however, that airplanes manufactured after the specified date with 19 or fewer passenger seats would have to comply if they are modified later to seat more than 19 passengers.

One commenter suggests that the language in § 135.149(d), "* * * a passenger seating configuration * * * of more than 19 * * *" be changed to read identically to that in § 121.318(a), "* * * a passenger seating capacity of more than 19 * * *" so as to base the requirements for air taxi operators, as well as for air carrier operators, on the capacity for installing seats, rather than on the actual seating configuration as required by § 135.149(d). The suggested change would have to be the subject of future rulemaking because it goes beyond the scope of Notice 86–5.

One commenter states that certain language in the proposed amendment to § 25.1411(a)(2) would differ from the corresponding language in the proposed amendment to § 121.318(b)(2). The commenter appears to suggest that the language should be identical. Actually, there are minor editorial differences which existed previously between those sections and are not part of the proposed amendments. Nevertheless, it has been brought to the attention of the FAA that both sections are ambiguous in regard to the number of microphones required for adjacent exits. Since there has been considerable confusion as to the number of microphones intended by those sections, editorial changes have been made to each section to clarify that one microphone may serve two adjacent exits. These are nonsubstantive changes which place no additional burden on any person because they reflect the actual intent and are consistent with past FAA interpretation of the two sections.

In regard to the proposed compliance time of 1 year for newly manufactured airplanes, one commenter states that additional time might be needed in order for the Airlines Electronic Engineering Committee (AEEC) to revise PA system equipment characteristics. The FAA disagrees that compliance is dependent on such a revision because a large part of the present fleet has already been equipped with PA system installations that would comply with § 25.1423 without benefit of the revision.

Comments are divided on the proposed requirement for a time duration of at least 10 minutes of PA system operation (which includes at least 5 minutes of announcements). In this regard, one commenter suggests that 30 minutes should be required. The FAA considers that 10 minutes would be sufficient for most emergency conditions. Additional duration would, in most cases, be provided inherently because the same source that provides emergency power to instrument displays and other equipment essential to safety of flight during instrument meteorological conditions would also usually be used to power the PA system. Accepted design practice for compliance with §§ 25.1333(b) and 25.1309(b) for these instruments and equipment would usually ensure at least 30 minutes of PA system power availability, including at least 5 minutes of announcements.

In regard to the proposed requirement for a time duration of at least 5 minutes of announcements made by flight and cabin crewmembers, two commenters state that they do not consider this amount of time to be adequate. Since the two commenters did not provide compelling reasons as to why 5 minutes would not be sufficient, the FAA concurs with the other commenters who believe that 5 minutes is sufficient.

As noted above, the requirements of § 121.318 are presently incorporated by reference in § 135.149. Since the time Notice 86–5 was prepared, it has come to the attention of the FAA that the practice of incorporating certain provisions of part 121 in part 135 by reference may cause confusion. In order to preclude any confusion in this regard, part 135 is amended to include the requirements of § 121.318 and related § 121.319 explicitly rather than by reference. This is a nonsubstantive editorial change that places no additional burden on any person.

Except as discussed above, the amendments are adopted as proposed in Notice 86–5.

Regulatory Evaluation

This document summarizes the final cost-benefit assessment of a rule requiring an independent power source for the public address (PA) system in newly manufactured transport category airplanes that are required to have such systems by existing operating rules. The objective of this rulemaking is to ensure that the PA system is available to initiate and direct emergency evacuations and provide instructions to passengers during emergency conditions.

In response to several public comments solicited by the FAA in the Notice of Proposed Rulemaking (NPRM), the FAA has revised this final rule to ensure that disconnection of the airplane battery with its switch would not preclude shutting off power to the PA system. This revision is intended to allow the PA system to be shut off as the battery is disconnected with its switch, in order to prevent the possibility of battery discharges while the airplane is parked. The revised rule also responds to concerns in several of the comments about potential additional costs, by effectively eliminating the need for additional maintenance checks and costs resulting from depleted batteries.

The FAA has updated the economic analysis of this rule from the analysis performed for the NPRM issued in May 1986, based on new information and data received since then. On the basis of the information that is currently available, the FAA concludes that this rule is cost-effective.

Costs

This amendment should have some cost impact on one of the two major U.S. manufacturers of transport category airplanes with more than 19 seats. The airplanes produced by the other manufacturer already meet the new standards. The other manufacturer will therefore not incur any additional costs.

The manufacturer not currently in compliance had indicated that the most cost-effective method of complying with this rule would be to change the type design to locate the PA system circuit breaker at the battery bus. For the affected airplanes, the existing battery system would be sufficient to provide an independent power source for the PA system.

After consultation with industry and other sources, the FAA has determined that approximately 400 design and engineering hours would be necessary for such a redesign. The FAA has adopted the conservative assumption that all of the design and engineering costs will be incurred in the year after this rule is issued, rather than spread out over future years; design and engineering costs therefore are not discounted in this analysis. The estimate of required engineering time has been adjusted upward to 437 hours to account for leave and other absences.

An appropriate rate for valuing engineering hours is $54.58 per hour, after overhead multipliers and fringe benefit factors have been applied to the current average hourly salary figure for aerospace engineers. Total cost for design and engineering is therefore $23,850, incurred in the first year after issuance of this rule.

The FAA estimates that the redesign of the circuit connecting the public address system to the airplane's main battery would add at most $500 in wiring and additional equipment to the production cost of each airplane. Additional labor required for installation is expected to be negligible.

The present value of the total cost of compliance with this regulation between 1988 and the year 2000 is expected to be $192,744, based on a 1987 production forecast of the affected types of airplanes.

Benefits

There have been several accidents over the last two decades in which injuries or fatalities may have resulted from a malfunction or disconnection of the public address system on U.S.-operated transport category airplanes. The National Transportation Safety Board recommended in 1974, 1979, and 1981 that the FAA mandate an independent power source for the public address system in such airplanes, stressing that the availability of the PA system is vital for directing emergency evacuations and providing pre-impact instruction.

The extent to which the safety of passengers would be enhanced by compliance with this rule cannot be quantified. Nonetheless, the $192,744 total cost of this regulation would be more than offset if as few as 16 minor injuries, each valued at $21,000, 7 serious injuries, each valued at $54,000, or one fatality, valued at $1 million, were prevented between the date of enactment of this rule and the year 2000. Potential benefits, as well as costs, have been discounted over time in this determination.

It is reasonable to conclude that such a small number of injuries or fatalities could be prevented in a single accident, particularly if the circumstances involve the possibility of fire on the ground. In such emergency situations, the ability of the flight and cabin crew to brief the passengers on emergency procedures just before and once the airplane has landed could well save lives and prevent injuries, if the time required for egress from the airplane were consequently reduced.

Trade Impact Assessment and Regulatory Flexibility Analysis

This rule will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. Furthermore, this rulemaking is expected to cause no significant impact on small entities, since the manufacturer of the transport category airplanes affected by this regulation is a large manufacturer according to the FAA's size threshold criterion.

Federalism Implications

The regulations adopted herein do not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, it is determined that such a regulation does not have sufficient federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291. In addition, the amendment will have little or no impact on trade opportunities for U.S. firms doing business overseas and foreign firms doing business in the U.S. Since the amendment concerns a matter on which there is substantial public interest, the FAA has determined that this action is significant under Department of Transportation Regulatory Policies and Procedures. In addition, the FAA certifies that under the criteria of the Regulatory Flexibility Act, this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. A regulatory evaluation of this action, including a Regulatory Flexibility Determination and a Trade Impact Assessment, has been placed in the regulatory docket. A copy of this evaluation may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects:

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 121

Air carriers, Air transportation, Aircraft, Airplanes, Aviation safety, Common carriers, Safety, Transportation.

14 CFR Part 135

Air carriers, Air taxi, Air transportation, Aircraft, Airplanes, Aviation safety, Safety, Transportation.

Adoption of the Amendments

Accordingly, parts 25, 121 and 135 of the Federal Aviation Regulations (FAR), 14 CFR parts 25, 121, and 135, are amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 49 CFR 1.47(a).

2. By amending § 25.1411 by revising the paragraph heading for (a) and paragraph (a)(3) to read as follows:

§ 25.1411 General.

(a) *Accessibility requirements.* * * *

(2) If a public address system is required by this chapter—

(i) For each required floor-level passenger emergency exit which has an adjacent flight attendant seat, there must be a public address system microphone which is readily accessible to the seated flight attendant, except that—

(ii) One microphone may serve more than one exit, provided the proximity of the exits allows unassisted verbal communication between seated flight attendants.

* * * * *

3. By adding a new § 25.1423 to read as follows:

§ 25.1423 Public address system.

A public address system required by this chapter must be powerable, in flight

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or stopped on the ground, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for—

(a) A time duration of at least 10 minutes, including an aggregate time duration of at least 5 minutes of announcements made by flight and cabin crewmembers, considering all other loads which may remain powered by the same source when all other power sources are inoperative; and

(b) An additional time duration in its standby state appropriate or required for any other loads that are powered by the same source and that are essential to safety of flight or required during emergency conditions.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

4. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 49 CFR 1.47(a).

5. By revising § 121.318 to read as follows:

§ 121.318 Public address system.

No person may operate an airplane with a seating capacity of more than 19 passengers unless it is equipped with a public address system which—

(a) Is capable of operation independent of the crewmember interphone system required by § 121.319, except for handsets, headsets, microphones, selector switches, and signaling devices;

(b) Is approved in accordance with § 21.305 of this chapter;

(c) Is accessible for immediate use from each of two flight crewmember stations in the pilot compartment;

(d) For each required floor-level passenger emergency exit which has an adjacent flight attendant seat, has a microphone which is readily accessible to the seated flight attendant, except that one microphone may serve more than one exit, provided the proximity of the exits allows unassisted verbal communication between seated flight attendants;

(e) Is capable of operation within 10 seconds by a flight attendant at each of those stations in the passenger compartment from which its use is accessible;

(f) Is audible at all passenger seats, lavatories, and flight attendant seats and work stations; and

(g) For transport category airplanes manufactured on or after November 27, 1990, meets the requirements of § 25.1423 of this chapter.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

6. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 49 CFR 1.47(a).

7. By amending § 135.149 by removing paragraph (d) and marking it [Reserved].

§ 135.149 Equipment requirements: General.

* * * * *

(d) [Reserved]

* * * * *

8. By adding a new § 135.150 to read as follows:

§ 135.150 Public address and crewmember interphone systems.

No person may operate an aircraft having a passenger seating configuration, excluding any pilot seat, of more than 19 unless it is equipped with—

(a) A public address system which—

(1) Is capable of operation independent of the the crewmember interphone system required by paragraph (b) of this section, except for handsets, headsets, microphones, selector switches, and signaling devices;

(2) Is approved in accordance with § 21.305 of this chapter;

(3) Is accessible for immediate use from each of two flight crewmember stations in the pilot compartment;

(4) For each required floor-level passenger emergency exit which has an adjacent flight attendant seat, has a microphone which is readily accessible to the seated flight attendant, except that one microphone may serve more than one exit, provided the proximity of the exits allows unassisted verbal communication between seated flight attendants;

(5) Is capable of operation within 10 seconds by a flight attendant at each of those stations in the passenger compartment from which its use is accessible;

(6) Is audible at all passenger seats, lavatories, and flight attendant seats and work stations; and

(7) For transport category airplanes manufactured on or after [insert a date one year after the effective date of this amendment], meets the requirements of § 25.1423 of this chapter.

(b) A crewmember interphone system which—

(1) Is capable of operation independent of the public address system required by paragraph (a) of this section, except for handsets, headsets, microphones, selector switches, and signaling devices;

(2) Is approved in accordance with § 21.305 of this chapter;

(3) Provides a means of two-way communication between the pilot compartment and—

(i) Each passenger compartment; and

(ii) Each galley located on other than the main passenger deck level;

(4) Is accessible for immediate use from each of two flight crewmember stations in the pilot compartment;

(5) Is accessible for use from at least one normal flight attendant station in each passenger compartment;

(6) Is capable of operation within 10 seconds by a flight attendant at each of those stations in each passenger compartment from which its use is accessible; and

(7) For large turbojet-powered airplanes—

(i) Is accessible for use at enough flight attendant stations so that all floor-level emergency exits (or entryways to those exits in the case of exits located within galleys) in each passenger compartment are observable from one or more of those stations so equipped;

(ii) Has an alerting system incorporating aural or visual signals for use by flight crewmembers to alert flight attendants and for use by flight attendants to alert flight crewmembers;

(iii) For the alerting system required by paragraph (b)(7)(ii) of this section, has a means for the recipient of a call to determine whether it is a normal call or an emergency call; and

(iv) When the airplane is on the ground, provides a means of two-way communication between ground personnel and either of at least two flight crewmembers in the pilot compartment. The interphone system station for use by ground personnel must be so located that personnel using the system may avoid visible detection from within the airplane.

Issued in Washington DC, on October 20, 1989.

James B. Busey,

Administrator.

[FR Doc. 89–25329 Filed 10–26–89; 8:45 am]

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federal register

Friday
October 27, 1989

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 29

Airworthiness Standards; Transport Category Rotorcraft Structural Fatigue Evaluation; Final Rule

BEST COPY AVAILABLE

DEPARTMENT OF TRANSPORTATION

14 CFR Part 29

[Docket No. 23485; Amdt. 29-28]

RIN 2120-AA84

Airworthiness Standards; Transport Category Rotorcraft Structural Fatigue Evaluation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The rule amends the type certification standards for transport category rotorcraft by adding flaw tolerance requirements to the requirements for fatigue evaluation of structures. The amendment also extends the requirements for fatigue evaluations from flight structures only to all critical structures, including landing gear, and requires consideration of operations having a high number of power cycles per hour. This amendment is intended to avoid or reduce catastrophic fatigue failures in transport category rotorcraft.

EFFECTIVE DATE: November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Robert T. Weaver, Manager, Regulations Group (ASW-111), Aircraft Certification Service, Rotorcraft Directorate, Federal Aviation Administration, Forth Worth, Texas 76193-0111, telephone (817) 624-5111.

SUPPLEMENTARY INFORMATION:

Background

Flaw tolerance is the capability of rotorcraft structure to continue functioning without catastrophic failure after being subjected to intrinsic/discrete flaws, environmental effects, and accidental damage expected during fabrication and operation of the rotorcraft. The term "flaw tolerance" is used rather than the term "damage tolerance" which appeared in the NPRM since flaw tolerance more clearly describes the factors to be considered (such as intrinsic/discrete flaws during manufacture). This change in terms introduces no substantive change.

The addition of flaw tolerance to the fatigue evaluation of transport category rotorcraft regulations results from an assessment of the potential for preventing crashes and saving lives by the use of redundant structure and other flaw tolerant design features. The addition of the requirements to evaluate other critical structures, including landing gear, and to consider operations having a high number of power cycles per hour in the fatigue evaluation results from the ongoing Rotorcraft Regulatory Review Program. These additions are based on two proposals submitted for consideration at the Rotorcraft Regulatory Review Conference held in New Orleans, Louisiana, in December 1979. Since landing gear requirements are being added to the evaluation in § 29.571, the section title is revised to read "Fatigue evaluation of structure."

As a result of these proposals, the FAA issued Advance Notice of Proposed Rulemaking (ANPRM) No. 83-1 on December 16, 1982 (48 FR 772; January 6, 1983), and Notice of Proposed Rulemaking (NPRM) No. 86-13 on September 12, 1986 (51 FR 33704; September 22, 1986). The comment period for Notice No. 86-13 was reopened until May 4, 1987 (52 FR 11997; April 14, 1987). Public meetings were held in Fort Worth, Texas, on February 8, 1983 (48 FR 772; January 6, 1983), and March 5, 1987 (51 FR 45343; December 18, 1986). All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented.

A few changes of an editorial and clarifying nature have been made to the proposals based upon relevant comments received and upon further review by the FAA. Except for the editorial and clarifying changes discussed below, the proposals contained in Notice No. 86-13 are adopted without change.

Discussions of Comments

Although all commenters basically support the proposals to amend § 29.571 to add a requirement for flaw tolerance, several recommend editorial and clarifying changes.

One commenter recommends that in paragraph (a) the phrase "considering the effects of" be added between the words "fatigue" and "environmental." This change clarifies that paragraph (a) concerns fatigue and avoiding catastrophic failure due to fatigue and not to the environment. The FAA agrees, and this change has been made.

A commenter recommends that the phrase "and detail design points" be removed from paragraph (a)(1)(i). The commenter points out that the evaluation of detail design points is already required by the first sentence in paragraph (a), and it is unnecessary in paragraph (a)(1)(i). The FAA agrees, and the phrase has been removed.

Two commenters recommend that the words "temperature effects" be added to paragraph (a)(1)(ii) after "altitude effects." The FAA disagrees since temperature effects are already included in paragraph (a) under the general term "effects of environment."

A commenter recommends that the word "prevent" in paragraph (a)(2) be changed to "avoid" to be consistent with the wording of paragraph (a). The FAA agrees, and the change has been made.

One commenter recommends that the words "replacement times, or combination thereof" be inserted after "These inspections" in the last sentence of paragraph (a)(2) for a more complete listing of airworthiness limitations section items. The FAA agrees, and for internal consistency the change also has been made to the first sentence.

Two commenters recommend changes to paragraph (b) to clarify the use of crack initiation techniques (safe-life or flaw tolerant safe-life) in conjunction with flaw growth techniques (fail-safe or residual strength evaluation after flaw growth). Another commenter recommends a reorganization of paragraph (b) to list the three fatigue tolerance evaluation methods more explicitly. The FAA agrees with these comments, and paragraph (b) has been reorganized to list: (1) Flaw tolerant safe-life evaluation; (2) fail-safe (residual strength after flaw growth) evaluation; and (3) safe-life evaluation.

A commenter recommends that the clause "unless the applicant establishes that damage tolerance design for a particular structure is impractical" in paragraph (b)(2)(v) be changed to "unless the applicant establishes that these fatigue (flaw) tolerant methods for a particular structure cannot be achieved within the limitations of geometry, inspectability, or good design practice." The commenter emphasizes that the word "impractical" is subject to wide interpretations and more explicit limitations are necessary. The FAA agrees, and the more explicit wording is used in the reorganized paragraph (b). In addition, the heading of paragraph (b), "Fatigue tolerance evaluation (safe-life supplemented by damage tolerance)," has been changed to "Fatigue tolerance evaluation (including tolerance to flaws)" for clarity and imposes no additional burden. The use of the word "flaws" is considered more appropriate than the word "damage" in the heading of paragraph (b) since this amendment requires fatigue tolerance to intrinsic/discrete flaws resulting from manufacturing as well as damage accidentally resulting from manufacturing, maintenance, or operational activities.

One commenter recommends the addition of "wear" to the damage to be included in the fatigue tolerance evaluation of paragraph (b)(2)(i) of the proposal. The commenter also recommends that information on wear limits be included in advisory circular material. The FAA agrees that information on wear limits is appropriate for advisory circular material but does not agree that mandating consideration of wear effects in the rule is appropriate given state-of-the-art technology. Design practice has been to prevent wear in airframe structure and to prevent or minimize it in mechanisms. This recommended change is, therefore, not adopted.

Another commenter recommends that proposed paragraph (b)(2)(i) be changed by adding the words "including the possibility of concurrent damage at multiple sites" to be more in accord with the requirements of § 25.571(b) for airplanes. This requirement as applied to airplanes basically addresses small concurrent cracks in stiffened shell construction such as in adjacent fastener holes in sheet metal joints. The critical structural elements in helicopters tend to be complex forgings or other shapes which may have fewer fastener holes. The application of multiple site damage to typical helicopter structure needs additional evaluation before it is mandated by rulemaking action. This additional evaluation should also determine the necessity for, as well as feasibility of, multiple site damage assessment and is beyond the scope of this rulemaking action. This recommended change is, therefore, not adopted.

One commenter recommends that the clause "An inspection interval and method should be established" be added to paragraph (b)(2)(iii) of the proposal. The FAA agrees, and the substance of this change has been incorporated as a requirement in new paragraph (b)(2)(ii).

Regulatory Evaluation Summary

The following is a summary of the final industry cost impact and benefit assessment of a proposed rulemaking to amend Federal Aviation Regulations (FAR) Part 29—Airworthiness Standards: Transport Category Rotorcraft. The primary objective of the proposal is to avoid or reduce catastrophic fatigue failures in transport category helicopters.

The rule adopts a new airworthiness standard to add flaw tolerance to the fatigue evaluation of rotorcraft structures; extends fatigue evaluation from flight structure to all critical structures, including landing gear; and explicitly requires the consideration of operations having a high number of ground-air-ground or power cycles per hours.

Of special note is the use in the rule of the terminology "flaws" rather than the term "damage" used in the notice stage of rulemaking. The objective of this change is to enhance understanding by adopting a more generic term that includes intrinsic "flaws" as well as service or other damage.

The decision to add flaw tolerance requirements to the fatigue evaluation of rotorcraft structure results from an assessment of the potential for avoiding crashes and saving lives by use of redundant structure and other flaw tolerant design features and from an assessment of the current rotorcraft design "state-of-the-art." The decision to add landing gear and increased frequency of ground-air-ground and other power cycles to the fatigue evaluation is based on proposals submitted for consideration at the Rotorcraft Regulatory Review Conference held in New Orleans, Louisiana, in 1979.

The estimates of economic impacts for the amendment to § 29.571 are based on the best information currently available to the FAA. The estimates of the cost of compliance with the additional requirements of § 29.571 rely to a considerable extent on a report prepared for the FAA by Logical Technical Services Corporation entitled "Estimates of the Cost Difference Resulting from the Introduction of Damage Tolerance to Rotorcraft Structural Fatigue Requirements" (herein referred to as the LTS study). A report on the LTS study is available in the docket of this rulemaking. Information for analysis of benefit was obtained from the safety records of the NTSB and the FAA. The conclusions regarding economic consequences, however, reflect the final judgment of FAA personnel.

Comments on the proposal were submitted by domestic and foreign trade associations representing manufacturers and operators. Although all commenters basically support the proposals to add requirements for flaw tolerance, several recommended editorial changes and clarifications. The FAA has evaluated the public comments and made final determinations regarding their impact. The FAA finds that the costs and benefits estimates for the proposals at the NPRM stage of rulemaking have not significantly changed, but they have been updated to reflect recent accident data and current prices.

At present, the FAA has not determined whether flaw tolerant components will typically experience a longer service life than safe-life components. To allow for the uncertainty inherent in predicting future flaw tolerant component service life, the potential life cycle cost increases or decreases of replacing safe-life components with flaw tolerant components for a fleet of 600 typical transport rotorcraft were analyzed for 3 different service life scenarios: Where flaw tolerant components have the same life as safe-life components, twice the lifetime of safe-life components, and an indefinite lifetime. For any service life scenario, the economic benefit of the proposal is the sum of the safety benefit (i.e., the net present value of the preventable loss, consisting of the costs of mortality, morbidity, hull damage, and investigation) and the life cycle cost impact. Table 1 illustrates the relationship between life cycle costs and various accident prevention scenarios for a fleet of 600 typical transport category rotorcraft. As shown in this table, if the flaw tolerant components can be made to have a lifetime that is twice the life of safe-life components and four accidents per year are avoided, the total net present value of the benefit resulting from the change will be approximately $31 million. In the extreme end, if flaw tolerant components can be made with indefinite life and if ten accidents per year can be avoided by the use of these flaw tolerant parts, the present value of the net benefit is estimated to be about $98 million.

TABLE 1.—THE RELATIONSHIP BETWEEN LIFE CYCLE COSTS AND SAFETY BENEFIT FOR A FLEET OF 600 S-76 CLASS ROTORCRAFT (1987)

Service life scenario	Present value of life cycle costs savings	Annual number of accidents avoided	Present value of expected value of preventable loss	Present value of net benefits
Same as Safe Life	($25,939,750)	1	$4,893,063	($22,046,687)
	(26,939,750)	4	19,572,273	(7,367,477)

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TABLE 1.—THE RELATIONSHIP BETWEEN LIFE CYCLE COSTS AND SAFETY BENEFIT FOR A FLEET OF 600 S-76 CLASS ROTORCRAFT (1987)—Continued

Service life scenario	Present value of life cycle costs savings	Annual number of accidents avoided	Present value of expected value of preventable loss	Present value of net benefits
Twice Safe Life	(26,939,750)	10	48,930,684	21,990,934
	11,117,228	1	4,893,063	16,010,291
	11,117,228	4	19,572,273	30,689,501
	11,117,228	10	48,930,684	60,047,912
Indefinite Life	49,508,970	1	4,893,063	54,402,033
	49,508,970	4	19,572,273	69,081,243
	49,508,970	10	48,930,684	98,439,654

The FAA believes that in most cases the service life of flaw tolerant components will be at least a factor of two or three times greater than current safe-life components as a result of advances in the use of new high strength-to-weight materials and improved design data. Similarly, the number of accidents that will be avoided annually will exceed the average of four accidents per year experienced in the period between 1971 through 1986 because of the increasing size of the transport category rotorcraft fleet. On the basis of the above, the FAA calculates that the midrange of benefits associated with the introduction of flaw tolerance criteria will exceed costs by approximately $18.0 to $60.0 million over the 10-year period following promulgation of this regulation.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act (RFA) of 1980, this amendment will not have a significant economic impact on a substantial number of small entities. The RFA requires agencies to specifically review rules which may have a "significant economic impact on a substantial number of small entities." The FAA has developed guidance for conducting regulatory flexibility analyses and reviews, including criteria and guidelines for determining if a proposed or existing rule has a significant economic impact on a substantial number of small entities. The FAA small entity size standards criteria define a small helicopter manufacturer as an independently owned and managed firm having fewer than 75 emloyees. Presently, no manufacturer subject to the changes to § 29.571 has fewer than 75 employees. Accordingly, this amendment to § 29.571 will not have an economic impact on a substantial number of small entities.

International Trade Impact Analysis

The FAA believes that the certification cost which may be imposed by this amendment will not result in a competitive trade disadvantage or advantage for American manufacturers in domestic or foreign markets. This assumption is based on the fact that foreign manufacturers must comply with the certification standards of Federal Aviation Regulations, Part 29, as a condition to entry into U.S. markets. Considering the size of the U.S. market, foreign manufacturers are likely to comply with U.S. certification standards which is the largest segment of their export market. Further, foreign and American manufacturers are expected to pass the new certification costs on to consumers in their respective domestic and foreign markets.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

In the context of these analyses, the FAA has determined that the benefits of this amendment, in providing an increased level of safety to passengers traveling in rotorcraft while at the same time recognizing and providing for the unique qualities and capabilities of rotorcraft, far outweigh the burdens. This action: (1) Involves a regulation that is not a major rule under Executive Order 12291; and (2) is a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons discussed above, I certify that under the criteria of the Regulatory Flexibility Act these amendments will not have a significant economic impact on a substantial number of small entities. Also, these amendments would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. A final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Rotorcraft.

Adoption of the Amendment

Accordingly, part 29 of the Federal Aviation Regulations (14 CFR Part 29) is amended as follows:

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

1. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By revising § 29.571 to read as follows:

§ 29.571 Fatigue evaluation of structure.

(a) *General.* An evaluation of the strength of principal elements, detail design points, and fabrication techniques must show that catastrophic failure due to fatigue, considering the effects of environment, intrinsic/discrete flaws, or accidental damage will be avoided. Parts to be evaluated include, but are not limited to, rotors, rotor drive systems between the engines and rotor hubs, controls, fuselage, fixed and movable control surfaces, engine and transmission mountings, landing gear, and their related primary attachments. In addition, the following apply:

(1) Each evaluation required by this section must include—

(i) The identification of principal structural elements, the failure of which could result in catastrophic failure of the rotorcraft;

(ii) In-flight measurement in determining the loads or stresses for items in paragraph (a)(1)(i) of this section in all critical conditions throughout the range of limitations in § 29.309 (including altitude effects), except that maneuvering load factors need not exceed the maximum values expected in operations; and

(iii) Loading spectra as severe as those expected in operation based on loads or stresses determined under paragraph (a)(1)(ii) of this section, including external load operations, if applicable, and other high frequency power cycle operations.

(2) Based on the evaluations required by this section, inspections, replacement times, combinations thereof, or other procedures must be established as necessary to avoid catastrophic failure. These inspections, replacement times, combinations thereof, or other procedures must be included in the airworthiness limitations section of the Instructions for Continued Airworthiness required by § 29.1529 and section A29.4 of Appendix A of this part.

(b) *Fatigue tolerance evaluation (including tolerance to flaws).* The structure must be shown by analysis supported by test evidence and, if available, service experience to be of fatigue tolerant design. The fatigue tolerance evaluation must include the requirements of either paragraph (b) (1), (2), or (3) of this section, or a combination thereof, and also must include a determination of the probable locations and modes of damage caused by fatigue, considering environmental effects, intrinsic/discrete flaws, or accidental damage. Compliance with the flaw tolerance requirements of paragraph (b) (1) or (2) of this section is required unless the applicant establishes that these fatigue flaw tolerant methods for a particular structure cannot be achieved within the limitations of geometry, inspectability, or good design practice. Under these circumstances, the safe-life evaluation of paragraph (b)(3) of this section is required.

(1) *Flaw tolerant safe-life evaluation.* It must be shown that the structure, with flaws present, is able to withstand repeated loads of variable magnitude without detectable flaw growth for the following time intervals—

(i) Life of the rotorcraft; or

(ii) Within a replacement time furnished under section A29.4 of appendix A to this part.

(2) *Fail-safe (residual strength after flaw growth) evaluation.* It must be shown that the structure remaining after a partial failure is able to withstand design limit loads without failure within an inspection period furnished under section A29.4 of appendix A to this part. Limit loads are defined in § 29.301(a).

(i) The residual strength evaluation must show that the remaining structure after flaw growth is able to withstand design limit loads without failure within its operational life.

(ii) Inspection intervals and methods must be established as necessary to ensure that failures are detected prior to residual strength conditions being reached.

(iii) If significant changes in structural stiffness or geometry, or both, follow from a structural failure or partial failure, the effect on flaw tolerance must be further investigated.

(3) *Safe-life evaluation.* It must be shown that the structure is able to withstand repeated loads of variable magnitude without detectable cracks for the following time intervals—

(i) Life of the rotorcraft; or

(ii) Within a replacement time furnished under section A29.4 of appendix A to this part.

Issued in Washington DC on October 23, 1989.

James B. Busey,

Administrator.

[FR Doc. 89-25352 Filed 10-26-89; 8:45 am]

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Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 43, 65 and 145
Repair Station and Repairmen Certification Rules; Regulatory Review; Meetings; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 43, 65, and 145

[Docket No. 25965]

RIN 2120-AC36

Repair Station and Repairmen Certification Rules; Regulatory Review; Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings.

SUMMARY: By notice of July 14, 1989 (54 FR 30866; July 24, 1989), the Federal Aviation Administration (FAA) announced four public meetings in which the FAA will solicit information from the public concerning revision of the repair station rules, repairmen certification rules, and sections of the maintenance, preventive maintenance, rebuilding, and alteration rules as applicable to repair stations.

DATES: The public meetings will be held on October 24 and 25, 1989, in Washington, DC; on November 7 and 8, 1989, in Fort Lauderdale, Florida; on November 28 and 29, 1989, in Dallas, Texas; and on December 12 and 13, 1989, in San Francisco, California.

ADDRESSES: The public meetings will be held at the following locations:

(1) On October 24 and 25, 1989, at the Federal Aviation Administration Building, Third Floor Auditorium, 800 Independence Avenue SW., Washington, DC.

(2) On November 7 and 8, 1989, at Fort Lauderdale Airport Hilton, 1870 Griffin Road, Dania, Florida.

(3) On November 28 and 29, 1989, at Holiday Inn D/FW Airport North, 4441 Highway 114 and Esters Boulevard, Irving, Texas.

(4) On December 12 and 13, 1989, at Amfac Hotel, San Francisco International Airport, 1380 Old Bayshore Highway, Burlingame, California. Due to earthquake damage, this location may be changed. In such event, a further notice will be issued.

FOR FURTHER INFORMATION CONTACT: Questions concerning the logistics of the meeting should be directed to Barbara Crawford, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3780. For questions concerning the subject matter of the meetings, contact Leo Weston, Aircraft Maintenance Division (AFS-320), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8283.

SUPPLEMENTARY INFORMATION: To enhance the effectiveness of public rulemaking hearings and meetings, the FAA is modifying its public hearing and meeting procedures by providing time before the formal opening of the hearing or meeting for informal discussion of proposed rules or issues by FAA representatives and the participating public. This time period will be an opportunity for the participants to clarify and discuss their understanding of pertinent issues before oral statements are presented. Accordingly, although the public meetings on repair station issues will formally commence each day at 9:00 a.m., FAA members of the panel on repair stations will be available each day at the meeting location at 8:00 a.m. for such informal discussions.

Issued in Washington, DC on October 24, 1989.

Daniel C. Beaudette,

Acting Director, Flight Standards Service.

[FR Doc. 89-25440 Filed 10-25-89; 8:45 am]

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S.J. Res. 213/Pub. L. 101–124
To designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America". (Oct. 24, 1989; 103 Stat. 761; 2 pages) Price: $1.00

H.R. 2067/Pub. L. 101–125
To name the Department of Veterans Affairs medical center in Leavenworth, Kansas, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center". (Oct. 24, 1989; 103 Stat. 763; 1 page) Price: $1.00

H.R. 2087/Pub. L. 101–126
Child Abuse Prevention Challenge Grants Reauthorization Act of 1989. (Oct. 25, 1989; 103 Stat. 764; 6 pages) Price: $1.00

H.R. 2068/Pub. L. 101–127
Children With Disabilities Temporary Care Reauthorization Act of 1989. (Oct. 25, 1989; 103 Stat. 770; 3 pages) Price: $1.00

In the list of Public Laws printed in the **Federal Register** on October 25, 1989, Public Laws 101–120 through 101–122 were inadvertently omitted. They are as follows:

H.R. 1300/Pub. L. 101–120
Head Start Supplemental Authorization Act of 1989. (Oct. 23, 1989; 103 Stat. 700; 1 page) Price: $1.00

H.R. 2788/Pub. L. 101–121
Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes. (Oct. 23, 1989; 103 Stat. 701; 56 pages) Price: $1.50

H.J. Res. 400/Pub. L. 101–122
Designating October 27, 1989, as "National Hostage Awareness Day". (Oct. 23, 1989; 103 Stat. 757; 2 pages) Price: $1.00

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Title 3—

The President

Proclamation 6055 of October 25, 1989

Country Music Month, 1989

By the President of the United States of America

A Proclamation

With its origins in the folk songs of immigrants and workers, country music boasts a rich heritage as well as a wide audience. During Country Music Month, as we celebrate this uniquely American art form and salute the musicians and audiences who give it life, we recall a proud portion of our history and culture.

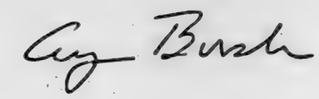
Over the years, country music has given eloquent expression to the American spirit. In its simple strains, we hear the voices of a people united by their faith, their love of freedom, and their appreciation for honesty and hard work. Yet, as varied as each of the men and women who compose it, country music also captures our Nation's ethnic and cultural diversity.

Today, country music is thriving not only in the United States, but around the world as well. Its popularity is a tribute to the generations of Americans who have graced it with their talent and vision.

The Congress, by House Joint Resolution 401, has designated October 1989 as "Country Music Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1989 as Country Music Month. I call on all the people of the United States to observe the month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



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Presidential Documents

Proclamation 6056 of October 25, 1989

National Arab-American Day, 1989

By the President of the United States of America

A Proclamation

For decades, Arab-Americans have made valuable contributions to virtually every aspect of American life: in science, medicine, education, business, culture and government. The works of many talented Arab-American artists and writers grace our museums and libraries throughout the United States. Since the first Arab immigrant came to these shores more than a century ago, men and women of Arab descent have shared with us the rich history and traditions of Arab culture.

With pride in their ethnic heritage and with great faith in the principles upon which this country was founded, Arab-Americans have added to the strength and diversity of American society. Arab-Americans occupy positions of leadership and responsibility throughout our system of government, setting a fine example of public service at the local, State, and national level.

Arab-Americans have also enriched our Nation with the quiet power of strong families and close-knit communities. Many have come to the United States in search of the blessings of peace and freedom. They have quickly seized the opportunities life in this free and democratic country affords, yet they have not forgotten their ancestral homelands. They join all Americans in the desire to bring peace and security to that troubled region. Industrious and determined, they have helped give us a more profound understanding of the rights and responsibilities we have as citizens of a free and prosperous Nation.

In recognition of the contributions of Arab-Americans, the Congress, by House Joint Resolution 241, has designated October 25, 1989, as "National Arab-American Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 25, 1989, as National Arab-American Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

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Rules and Regulations

Federal Register
Vol. 54, No. 208
Monday, October 30, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Debarments, Civil Monetary Penalties and Assessments Imposed on Health Care Practitioners and Providers of Services or Supplies for Cited Offenses

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments requested.

SUMMARY: The Office of Personnel Management (OPM) is publishing interim regulations to implement title I of Pub. L. 100–654, the "Federal Employees Health Benefits Amendments Act of 1988." Title I of Pub. L. 100–654 permits OPM to exclude from further participation in the Federal Employees Health Benefits (FEHB) Program any health care provider (1) convicted of fraud or various other cited examples of unethical professional conduct, or (2) determined by OPM to have committed various cited offenses against the FEHB Program, including the submission of false claims or excessive charges. In addition to debarment sanctions, OPM may also impose civil monetary penalties and assessments it deems appropriate for offenses under item (2). OPM has the responsibility to impose the sanctions noted above for offenses committed on or after January 1, 1989.

DATES: *Effective Date:* January 1, 1989.
Comment Date: November 29, 1989.

ADDRESSES: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director, Office of Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Ray, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Title I of Pub. L. 100–654, enacted on November 14, 1988, permits OPM to bar a "provider of health care services or supplies," defined as a physician, hospital, or other individual or entity which furnishes health care services or supplies, from further participation in the FEHB Program if that provider has been convicted under Federal or State law:

(1) Of a criminal offense relating to fraud, corruption, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care service or supply;

(2) Of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care service or supply;

(3) In connection with the interference with or obstruction of an investigation or prosecution of a criminal offense described in (1) or (2) above; or

(4) Of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

OPM may also bar a provider from further participation in the FEHB Program:

(1) Whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating to the provider's professional competence, professional performance, or financial integrity; or

(2) That surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

OPM may also bar a provider for "FEHB Program-related offenses" when OPM determines that the provider:

(1) Charged for health care services or supplies that the provider knew or should have known were not provided as claimed;

(2) Charged for health care services or supplies in an amount substantially in excess of such provider's customary charge for such services or supplies, or charged for health care services or supplies which were substantially in excess of the needs of the covered individual or which were of a quality that failed to meet professionally recognized standards for such services or supplies;

(3) Knowingly made, or caused to be made, any false statement or misrepresentation of a material fact which was reflected in a claim; or

(4) Knowingly failed to provide any information required by a carrier or by OPM to determine whether a payment or reimbursement should be made or the correct amount of the payment or reimbursement.

In addition to a period of debarment for "FEHB Program-related offenses", OPM may also impose a civil monetary penalty of not more than $10,000 for any item or service involved and/or an assessment in lieu of damages of not more than twice the amount claimed for each such item or service. However, no debarment, civil monetary penalty, or assessment may be imposed based on any criminal or other conduct occurring before January 1, 1989.

In analyzing the various provisions of title I of Pub. L. 100–654, we recognized the need for a new Subpart to be added to Part 890, Federal Employees Health Benefits Program, to fully address such administrative matters as the manner in which debarred providers might apply to OPM after the expiration of the minimum period of debarment required by Pub. L. 100–654, the exceptions that might be made to the general rule that individuals covered by the FEHB Program can not use the services of debarred providers, the mechanics of the hearing process, etc. However, of necessity, we have concentrated our initial efforts on those areas of administration that needed to be formalized and in place at the earliest date possible. These appear to encompass (1) those relatively subjective areas of OPM determinations to impose sanctions for FEHB-related offenses and (2) the severity of the sanctions in general, i.e., debarments, civil monetary penalties, or assessments, be they imposed for criminal offenses or for FEHB-related offenses.

We do not believe it is necessary to publish the equivalent of standards for taking debarment actions against providers convicted of the numerous offenses cited in Pub. L. 100–654 or for those providers who have suffered the loss of their professional licenses. Nor do we believe it is necessary for us to elaborate on the language found in Pub.

L. 100-654 concerning the submission of fraudulent claims and the resultant debarment for these FEHB-related offenses. However, we do deem it appropriate to establish in our regulations the equivalent of standards that OPM will use in the more subjective areas of debarments, civil monetary penalties, and assessments for FEHB Program-related offenses related to excessive charges, over-prescribing, and the poor quality of care. In the following interim regulations we will also address the criteria for establishing the length(s) of debarment, the amount of civil monetary penalties and assessments in lieu of damages.

Waiver of Notice of Proposed Rulemaking

Under 5 U.S.C. 553 (b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. Publication of proposed rulemaking would be impractical. The authority to debar and/or impose civil monetary penalties and assessments is granted OPM by recently enacted legislation and is tied to infractions committed on or after January 1, 1989. These regulations are needed immediately in order to effectively administer and enforce the new legislation.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, these regulations will not have a significant economic impact on a substantial number of small entities. These regulations merely conform to the standards already in place for providers under the health care programs administered by the Department of Health and Human Services, such as Medicare and Medicaid.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health benefits, Retirees, Worker's compensation.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending part 890 of title 5 of the Code of Federal Regulations as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.102 also issued under 5 U.S.C. 1104 and Pub. L. 100-654; § 890.803 also issued under sec. 303 of Pub. L. 99-569, 100 Stat. 3190, sec. 188 of Pub. L. 100-204, 101 Stat. 1331, and sec. 204 of Pub. L. 100-238, 101 Stat. 1744; Subpart J also issued under title I of Pub. L. 100-654.

2. Subpart J is added to part 890 to read as follows:

Subpart J—Debarments, Civil Monetary Penalties and Assessments Imposed Against Providers

Sec.

890.1001 [Reserved]
890.1002 Definitions
890.1003 Standards for OPM determinations of excessive charges, overprescribing, and services or supplies of a poor quality in connection with claims presented under this chapter.
890.1004 Standards for determining either the period of debarment or the amount of civil monetary penalties or assessments.
890.1005 Effective dates and notices
890.1006-890.1009 [Reserved]

Subpart J—Debarments, Civil Monetary Penalties and Assessments Imposed Against Providers

§ 890.1001 [Reserved]

§ 890.1002 Definitions.

(a) For the purposes of this subpart, the terms *convicted* and *provider* have the meanings set forth in section 8902a of title 5, United States Code.

(b) *Debarment* means that services or supplies furnished by a specific provider will no longer be reimbursed by the various carriers or health plans under title 5, United States Code, or this Part.

(c) *Sanction* means any of the three penalties provided by section 8902a of title 5, United States Code, for the offenses cited therein. The three penalties are debarment, civil monetary penalties of not more than $10,000 for any item or service involved, and assessments of not more than twice the amount claimed for each such item or service.

§ 890.1003 Standards for OPM determinations of excessive charges, overprescribing, and services or supplies of a poor quality in connection with claims presented under this chapter.

(a) *Basis for sanctions.* Section 8902a(c) of title 5, United States Code, provides OPM the authority to impose sanctions against health care providers for cited offenses against the FEHB Program.

(b) *Standards.* (1) In making a determination that a provider has charged for health care services or supplies in an amount substantially in excess of such provider's customary charges for such services or supplies, OPM may rely, in part, upon a statistical sampling of previous claims and requests for payment filed by that provider and obtained either from FEHB carrier files, other Government programs, private sector insurance sources or from the provider's own records. OPM shall take into consideration whether such charges deemed to be excessive are justified by unusual circumstances or medical complications requiring additional time, effort, or expense in localities in which it is acceptable medical practice to make an extra charge in such case.

(2) In making a determination that a provider has charged for health care services or supplies which are substantially in excess of the needs of the insured or which are of a quality that fails to meet professionally recognized standards for such services or supplies, OPM may rely, in part, upon reports, including sanction reports, from the following sources:

(i) The Professional Standards Review Organization or the Peer Review Organization for the area served by the provider;

(ii) State or local licensing or certification authorities;

(iii) Peer review committees of health plan carriers;

(iv) State or local professional societies; or

(v) Other sources deemed appropriate by OPM.

§ 890.1004 Standards for determining either the period of debarment or the amount of civil monetary penalties or assessments.

(a) In determining either the period of debarment or the amount of any civil monetary penalty or assessment, OPM shall take into account the specifics of section 8902a(e) of title 5, United States Code; i.e., the nature of any claims involved and the circumstances under which they were presented; the degree of culpability, history of prior offenses or improper conduct of the provider involved, and such other matters as justice may require.

(b) The following standards will be used when taking into account the factors listed in paragraph (a) of this section:

(1) *Criminal convictions.* The nature of the offense, the severity and magnitude of the crime, the extent of the provider's involvement and the provider's previous record, if any, will be of paramount importance in determining the period of debarment under 8902a(b) of title 5, United States Code.

(2) *Nature and circumstances of claims.* It shall be considered a mitigating circumstance if all the items or services subject to a determination under 8902a(c) of title 5, United States Code, included in the action brought under this part were of the same type and occurred within a short period of time, or were few in number and the total amount claimed was less than $1,000. It shall be considered an aggravating circumstance if such items or services were of several types, occurred over a lengthy period of time, were numerous (or the nature and circumstances indicate a pattern of claims for such items or services), or the amount claimed for such items or services was substantial.

(3) *Degree of culpability.* It shall be considered a mitigating circumstance if the claim was the result of an unintentional and unrecognized error in the process the provider followed in presenting claims, and corrective steps were taken promptly after the error was discovered. It shall be considered an aggravating circumstance if, for example, the provider knew or should have known he or she had previously been suspended from participation and such suspension was still in effect.

(4) *Prior offenses.* It shall be considered an aggravating circumstance if at any time prior to the presentation of the claim at issue in the debarment deliberations the provider was held liable for criminal, civil, or administrative sanctions in connection with the program covered by this part or any other public or private program of reimbursement for medical services.

(5) If there are substantial or several mitigating circumstances, OPM shall set any period of debarment at a minimum period of at least two years. If there are substantial or several mitigating circumstances, OPM shall set the aggregate amount of any civil monetary penalty and assessment at an amount equivalent to at least 25% of the maximums allowed by 8902a(c) of title 5, United States Code. However, unless there are extraordinary mitigating circumstances, the aggregate amount of the civil monetary penalty and assessment must be at least double the estimated amount of damages sustained by the FEHB Program as a result of the claim(s) in question.

(6) If there are substantial or several aggravating circumstances, OPM shall set a period of debarment at a minimum period of at least 4 years. If there are substantial or several aggravating circumstances, OPM shall set the aggregate amount of any civil monetary penalty and assessment at an amount equivalent to at least 75% of the maximum allowed by 8902a(c) of title 5, United States Code.

§ 890.1005 Effective dates and notices.

(a) If OPM proposes to invoke any sanctions under section 8902a (b) or (c) of title 5, United States Code, OPM will send written notice of its intent, including the reasons for the proposed sanction(s), the proposed duration of the debarment, if any, and the proposed amount of any civil monetary penalty or assessment to the provider and advise the provider of the right to a reconsideration within OPM.

(b) Within 30 days of the date of the notice, the provider may submit:

(1) Documentary evidence and written argument against the proposed sanction; or

(2) A written request to present evidence or argument orally to an OPM official.

(c) For good cause shown by the provider, OPM may extend the 30-day period.

(d) If, after the provider has exhausted the reconsideration rights within OPM or failed to exercise his or her right to reconsideration within OPM, OPM decides to invoke any sanctions, it will send written notice of its decision to the provider at least 30 days before the proposed effective date of the sanction(s). The written notice will set forth:

(1) The basis for the sanction;

(2) The duration of the debarment, if any, and the factors used in determining the duration;

(3) The requirements and procedures for reinstatement, if applicable;

(4) The amount of the civil monetary penalty or assessment, if any, and how such penalty and/or assessment was determined;

(5) The right to a hearing.

(e) If the right to a hearing is waived, OPM will implement the effective date of the sanction(s) as provided in the notice required by paragraph (d) of this section. If the right to a hearing is exhausted and OPM is upheld by the hearing officer, OPM shall set the date of the sanction(s) to become effective within 31 days of the final decision of the hearing officer.

§§ 890.1006-890.1009 [Reserved]

[FR Doc. 89-25460 Filed 10-27-89; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1475

Emergency Livestock Assistance

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: An interim rule was published in the **Federal Register** on October 14, 1988 (53 FR 40206), which amended the regulations at 7 CFR part 1475, to implement the livestock emergency programs authorized by the Agricultural Act of 1949 (the 1949 Act) as amended by the Disaster Assistance Act of 1988, Public Law 100-387 (the 1988 Act). The interim rule provided that under these programs the Commodity Credit Corporation (CCC) may make assistance available to eligible owners of livestock who do not have adequate supplies of feed due to certain natural disasters.

The interim rule also deleted the then current regulations set forth at this part. This final rule adopts the interim rule with certain changes which will enhance the effectiveness of these programs. The final rule also amends 7 CFR part 1475 to set forth the regulations which relate to the use of price support loan collateral as assistance under title VI of the 1949 Act as amended by the Disaster Assistance Act of 1988.

EFFECTIVE DATE: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 475-3605.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Department of Agriculture (USDA) procedures established in accordance with provisions of Departmental Regulations 1512-1 and Executive Order 12291 and has been classified "major." It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Commodity Loans and Purchases; Number 10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC is not required by 5 U.S.C. 553 or

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any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Environmental Evaluation with respect to the livestock feed programs has been completed. It has been determined that this action is not expected to have any significant impact on the quality of human environment. In addition, it has been determined that this action will not adversely effect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environment Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Comments Received

There were 23 letters submitted to CCC pertaining to the interim rule, with a total of 33 comments. These comments were submitted by farm associations, members of Congress, State departments of agriculture, farm bureaus, producer councils, and individuals.

1. There were a total of 5 comments expressing concern that producers who purchased Federal Crop Insurance Corporation (FCIC) crop insurance as a risk management tool are ineligible for full disaster assistance. The comments expressed concern that this would discourage the purchase of crop insurance and perpetuate government assistance to farmers in emergency situations. One of the comments suggested that provisions be made to reduce the livestock assistance to a producer only by the amount by which the sum of assistance and the net crop insurance indemnity payment exceeds 100 percent of the expected proceeds had there not been a disaster. These suggestions have been adopted in part.

In order to assure that sufficient assistance is provided to all livestock producers, it has been determined that beginning with the 1989 crop disaster, if a producer purchases crop insurance, the indemnity payment which is made to the producer will not be converted to feed grain equivalent (FGE) and considered as feed on hand or reduce the amount of loss suffered by the producer provided that the producer elects to take the appropriate option as provided in this part. Thus, the producer who purchases FCIC crop insurance for 1989 and subsequent years may also be eligible for full livestock feed assistance.

2. There were a total of 8 comments expressing concern that certain game birds, such as pheasants and other game birds, were not included in the definition of poultry. The 1949 Act defines livestock to mean cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary of Agriculture (at the Secretary's sole discretion). Pheasants and other game birds are not normally kept in a domestic environment. These avian animals, unlike other eligible livestock species, are normally released for hunting and gaming purposes or otherwise kept for sporting or other purposes. Therefore, it has been determined that pheasants and other gaming birds will not be included as eligible livestock or poultry.

3. There were a total of 2 comments expressing concern about the daily feed allowance which was established by CCC for use in determining whether a producer has suffered a loss of production. One comment stated that the feed allowance should be adjusted according to weather conditions and submitted data showing that beef cattle need more total digestive nutrients for maintenance in colder climates than in warmer climates. Under the provisions of the interim rule, no adjustments in daily feed allowances are permitted relative to the section of the country or climatic conditions applicable to the producer.

While it is not feasible to base feed allowance adjustments according to weather conditions in certain parts of the country, it has been determined that there should be an upward adjustment made in the daily allowance per animal unit. Previous studies and evaluations done by USDA personnel concluded that 10 pounds of feed per day per animal unit was sufficient to maintain livestock through a disaster period, taking into consideration that the purpose of the livestock feed program is to maintain the affected livestock and not provide a tool for the livestock to be prepared for market by the producer through benefits derived from this program. However, because of improved techniques developed by industry and farmers in breeding, animal husbandry, identification of daily nutritional requirements, better analysis of energy contained in feeds, and related matters it has been determined that the 10 pounds feed grain equivalent FGE per day per animal unit shall be increased to 12.5 pounds (FGE) per day per animal unit or such lesser amount as determined by the State or county Agricultural Stabilization and Conservation (ASC) committee effective beginning with the 1989 crop disaster provided the producer elects to take the appropriate option provided in this part.

Another comment stated that livestock producers with both swine and cattle should not be put in the position where surplus hay restricts eligibility for emergency assistance for swine. Under the provisions of the interim rule, CCC reduces a swine producer's total feed allowance by taking into consideration any hay or pasture on hand if the producer has one or more animals that will consume the type of feed available. However, it has been determined that beginning with the 1989 crop disaster the producer with swine and/or poultry and grazing livestock will be given the option to designate whether the grazing livestock shall be included on the application for assistance in accordance with this part.

4. There were 2 comments expressing concern that transportation charges are not included as part of cost share when the charge is shown as a separate item on the producer's bill presented to the county Agricultural Stabilization and Conservation Service (ASCS) office for cost-share assistance. Under the provisions of the interim rule, the transportation cost is included as a cost-share item based on the point of delivery of the eligible feed. If the transportation cost is included as part of the bill submitted for cost share, then transportation is included. If the transportation cost is listed separately, it is not a cost-share item. Under the provisions of the 1949 Act, a producer is not reimbursed for the cost of the transportation of grain under the cost-share provisions, hence, it has been determined that it would not be consistent to provide for transportation cost to be included as a cost-share item as requested by these two commentors. For these reasons, it has been determined not to change these provisions of the interim rule.

5. There were 2 comments expressing concern that the transportation of livestock should be included as part of the livestock feed programs. Under the provisions of the 1949 Act, the Secretary of Agriculture determined not to implement this discretionary livestock transportation program. The 1949 Act provides in part that the Secretary of Agriculture may make available a livestock transportation program to producers not to exceed 50 percent of the cost of transporting livestock to and from grazing locations. It has been determined that with the present emergency livestock assistance programs, implementation of such a transportation program is not needed. Therefore, it has been determined not to include a livestock transportation program as a part of this final rule at this time but, rather, CCC will develop regulations which set forth the terms and conditions of such a program at such time as it is determined a livestock emergency exists which would warrant the implementation of such a program.

6. There were 3 comments expressing concerns that water projects were not included as part of the emergency livestock feed assistance programs. The comments stated that a program should be implemented because the current cost-share program on water projects have limited funding and time constraints. The comments include the statement that current water cost-share projects must be approved before construction can take place. They also stated that without cost share for water projects, water availability will be a much greater threat to next year's growing season. Under the provisions of the 1949 Act, the Secretary of Agriculture determined not to implement this discretionary provisions.

As noted above with respect to the implementation of the cattle transportation assistance provision of the 1949 Act, regulations regarding this special water project provision will be published at such time as it is determined that a livestock emergency exists which necessitates the implementation of such a program. The current emergency conservation program provides assistance to the producer for livestock water projects.

7. There were 5 comments stating that bees should be included as eligible livestock. These comments express concern that clover, alfalfa, and sunflower that normally produce the major honey crop were severely drought affected, and that there is an average number of pounds of honey per hive that would provide the basis for loss determination related to a bee producer's eligibility. They also stated that bees are a vital part of many facets of agriculture and without pollination by bees many crops would be nonexistent. The 1949 Act defines livestock to mean cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary of Agriculture (at the Secretary's sole discretion). Bees are not considered as eligible livestock. In addition, generally beekespers do not produce feed on their farms for their bees. Therefore, they do not have the qualifying losses of production required for eligibility under the 1949 Act. For this reason, it has been determined not to include bees as eligible livestock.

8. There was 1 comment expressing concern that the definition of "premix" and "supplemental feed" as defined in the interim rule should be expanded. The comment stated that the current definition of "premix" limits the scope of the term and excludes certain practical, recognized uses of premix feed products. The comment suggested that the term "premix" be defined as a specialized mixture of vitamins, minerals, and other nutrients (which can be) included in complete feeds and dry and liquid supplemental feeds. The comment suggested that the term "supplemental feed" be defined as a feed used with another to improve the nutritive balance of performance of the total and intended to be: (1) Fed undiluted as a supplement to other feeds; (2) offered free choice with other parts of the ration separately available; or (3) further diluted and mixed to produce a complete feed. These comments have been adopted in part.

This final rule amends the interim rule to change the current definition of "premix" to be a formulation of one or more microingredients, such as vitamins, minerals, drugs, or other ingredients when one type of ingredient is evenly mixed with one or more other ingredients or a carrier. This final rule also amends the interim rule to change the definition of dry supplemental feed to be a dry feed ingredient, or combination of dry feed ingredients, derived as by-products from processing food and feed grains, oil seeds, meat, fish, citrus, sugar beets, and dairy products that are needed to balance or improve performance of the total feed ration.

Certain antibiotics, emulsifiers, hormones, minerals, and vitamins may be included. As a result of these changes producers can receive cost share on the kinds and types of feeds that best suit the producer's needs.

9. There were 2 comments expressing concern about the gross revenue limitation in the livestock feed programs. One comment strongly opposed this provision and believes it should not serve as the precedent for program eligibility for any program. Another comment, while not opposing a gross income threshold, suggested that the cost of purchased livestock should be subtracted from gross income before applying the $2.5 million test. Secondly, this person suggested that many farmers, feeders, and cattlemen made sound business and management decisions during the early summer of 1988 by enrolling in the existing feed assistance programs. At that time, the law did not provide for the limitation. The comment asked that these persons not be subject to the limitation. The 1949 Act provides that a person that has qualifying gross revenues in excess of $2,500,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any livestock feed program benefits. The 1949 Act also provides that the term "qualifying gross revenues" means: (1) If a majority of the person's annual income is received from farming and ranching operations, the gross revenue from the farming and ranching operations; and (2) if less than a majority of the person's annual gross revenue is received from all sources. It has been determined that there is no discretion in adopting this provision, accordingly the recommendation of these commentors cannot be adopted. This provision of the interim rule is amended, however, to clarify the manner in which 7 CFR parts 795 and 1497 are applicable to the provisions of 7 CFR part 1475 when the gross income determination is made for a person.

Since CCC has determined to make changes in these regulations, for the 1989 and subsequent crop disasters, CCC has determined to allow producers the option to receive assistance under one of two options. The first option is the program set forth in the interim rule, while the second option sets forth the program which contains the changes made in response to comments to the interim rule. These provisions, generally, are set forth at 7 CFR 1475.6(c), accordingly, the two options are as follows:

Option 1

A. Any loss of production otherwise computed will be reduced and feed on hand increased due to the receipt of other government benefits, including FCIC crop insurance indemnity payments with respect to feed normally grown by the owner.

B. The daily feed allowance will be 10 pounds of FGE per day per animal unit.

C. The cost-share rate will be 50 percent of the cost of purchased eligible feed not to exceed five cents per pound FGE.

D. All eligible livestock of the producer shall be taken into consideration in the application for assistance under this part.

Option 2

A. Any loss of production otherwise computed will be reduced and feed on hand increased due to the receipt of other government benefits, except FCIC

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crop insurance indemnity payments with respect to feed normally grown by the owner.

B. The daily feed allowance will be 12.5 pounds of FGE per day per animal unit.

C. The cost-share rate will be 42.5 percent of the cost of purchased eligible feed not to exceed five cents per pound FGE. If the producer elects to purchase CCC-owned grain the remaining allowance will be reduced by the result of multiplying the pounds of feed grain purchased times 1.176.

D. With respect to the producers with grazing livestock and any one or more of the following types of animals: Swine, poultry or fish, eligible livestock that do not normally graze or use forage will be considered separately in the application for assistance under this part.

Those producers electing this option will qualify for an increase in daily allowance per eligible animal unit from 10 pounds FGE to 12.5 pounds FGE at a reduced cost-share rate. This increase in daily allowance will increase the number of producers who are eligible for assistance and may increase the amount of assistance for those producers who are already eligible to receive assistance under this part. If the producer elects to use this option, reducing the cost share percentage to 42.5 percent, not to exceed 5 cents per pound, should not substantially affect the payments received by producers for purchased feed if the producer's assistance is based on feed needs.

This final rule provides at 7 CFR 1475.6(c) that for all applications filed for 1988 livestock crop year losses, the livestock producer's application must be computed using the criteria as originally set forth in this part.

This final rule provides at 7 CFR 1475.6(c) that for new and existing applications filed for the livestock feed programs for 1989 and subsequent years' livestock feed crop losses, the livestock producer shall have the option to select one, and only one, of the two options made available under this part.

This final rule also incorporates the provisions in the 1949 Act, as amended by the Disaster Assistance Act of 1989, which provide, at the option of the livestock producer, that a producer who is eligible to receive donated CCC-owned grain or to purchase CCC-owned grain may receive this assistance through the use of feed grain stored on the farm of the livestock producer that has been pledged as collateral for a price support loan made under the provisions of the 1949 Act. Accordingly, 7 CFR 1475.103 and 1475.202 are amended to reflect this change.

Based upon a review of the comments received and other changes, it has been determined that the interim rule should be adopted as a final rule with these changes. In addition, other changes are also made for clarity.

The information collection requirements of this subpart has been approved by the Office of Management and Budget (OMB) for the purposes of the Paperwork Reduction Act and OMB Number 0560-0029 has been assigned to 7 CFR part 1475.

Final Rule

Accordingly, the interim rule published on October 14, 1988, is adopted as a final rule with the following changes:

PART 7—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for 7 CFR part 1475 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1427 and 1471–1471j; 15 U.S.C. 714b and 714c.

2. Section 1475.1 amended by revising the third sentence to read as follows:

§ 1475.1 General statement.

* * * These programs also provide feed assistance to eligible livestock owners for the preservation and maintenance of livestock in any county contiguous to a county that has implemented the livestock feed programs until the last day of the eighth month following the month that the livestock feed programs were implemented in the other county. * * *

3. Section 1475.3 Definitions is amended as follows:

a "Animal unit" is amended by revising paragraphs (3), (4), (6), (7), and (9);

b. "Dairy cow" is revised;

c. "Daily allowance" is revised;

d. "Dry supplemental feed" is added;

e. "Eligible livestock" is revised;

f. "Equine animals" is amended by revising paragraph (1);

g. "Feeding period" is revised;

h. "Liquid supplemental feed" is added;

i. "Owner" is amended by revising the first three sentences;

j. "Premix" is revised;

k. "Substantial loss of production" is amended by revising paragraph (2);

§ 1474.3 Definitions.

* * * * *

Animal unit * * *

(3) 1.00 unit-cattle, beefalo, buffalo, horses, or mules 1 year old or older;

(4) .50 unit-cattle, beefalo, buffalo, horses, or mules, six months old to 1 year old, donkeys 6 months old or older, and swine 1 year old or older;

* * * * *

(6) .20 unit-swine less than 6 months old and sheep and goats 1 year old or older;

(7) .14 unit-lambs or kids under 1 year old;

* * * * *

(9) .02 unit-turkeys, geese, chickens and ducks weighing less than 6 pounds.

Dairy Cow means a bovine animal which is owned or leased for the purpose of producing milk and has produced at least 1 calf.

* * * * *

Daily allowance means for all livestock, except fish for food, 10 pounds or 12.5 pounds of FGE per day per animal unit as provided in § 1475.6 of this subpart, or lesser amount as determined by the State or county ASC committee, except that for the 1989 and subsequent years' livestock feed crop losses due to a natural disaster, the producer may elect to take one and only one of the options available.

* * * * *

Dry supplemental feed means a dry feed ingredient, or combination or dry feed ingredients, derived as by-products from processing feed and feed grains, oil seeds, meat, fish, citrus, sugar beets, and dairy products that are added to other dry feed materials to improve the nutritional balance or performance or the total feed ration. Antibiotics, emulsifiers, hormones, minerals, and vitamins, as determined and announced by CCC are also included.

* * * * *

Eligible livestock means beef and dairy cattle, sheep, goats, swine, poultry (including egg producing poultry), equine animals used for food or in the production of food, and fish used for food. * * *

* * * * *

Equine animals * * *

(1) Used commercially for human food, or

* * * * *

Feeding Period Means

(1) For all livestock, except fish for food, the period beginning on the later of the date of application for assistance or the authorization of the implementation of the program and ending on the earlier date of when feed becomes available, or the end of the livestock feed program crop year, or the end of the grazing period if pasture (including wheat pasture) is the only crop produced.

(2) For fish for food the feeding period means beginning on the later of the date of the application for assistance, or the authorization for implementation of the program and ending on the earlier of the estimated date the producer intends to harvest the fish, or the anticipated date when water temperature in the pond is expected to be 54 degrees Fahrenheit or less, and or the current feeding period established for other eligible livestock if other livestock are included on the application, or the end of the livestock program crop year.

* * * * *

Liquid supplemental feed means that which contains protein urea or other non-protein nitrogen, minerals, and vitamins that are added to molasses or other liquids resulting in a product that is mixed, handled, and fed in a liquid form. They may also include such products as emulsifiers for fat, certain antibiotics, and hormones.

* * * * *

Owner means the person who is actively engaged in farming as determined in accordance with part 1497 of this chapter, who receives 10 percent or more of the owner's total gross income from the production of grain or livestock or the person who jointly owns the eligible livestock to be fed with the eligible feed which is to be purchased or acquired through donation in accordance with this part or with respect to which cost-share assistance is provided in accordance with this part. A person who pledges livestock as security for a loan shall be considered as the owner for the purpose of this part if all other requirements of this part are met. Notwithstanding any other provisions of this section, livestock leased under a contractual agreement which has been in effect at least three months for poultry or fish and six months for other livestock on the date of application for assistance under this part requires the lessee to furnish the feed for such livestock and provides for a beneficial interest in such livestock such as the right to market a share of the increase shall be considered as being owned by the lessee. * * *

* * * * *

Premix means a formulation of one or more microingredients, such as vitamins, minerals, drugs, or other ingredients when one type of ingredient is evenly mixed with one or more other types of ingredients or with a carrier. One vitamin mixed together solely with another kind of vitamin, or one mineral mixed together solely with another kind of mineral is not considered a premix.

* * * * *

Substantial Loss of Production * * *

(2) Farming practices not recognized as being normal in the area shall not be included in determining a substantial loss of production. Loss of feed production on crop land leased by the producer, under a new lease, after the beginning of the livestock feed program crop year shall not be included in determining a substantial loss of production unless otherwise allowed by CCC. Loss of feed production on pasture land leased by the producer, under a new lease, less than 90 days before filing of the CCC–642 by the producer shall not be included in determining a substantial loss of production unless otherwise allowed by CCC.

* * * * *

4. Section 1475.4 is amended by revising the introductory text of paragraph (a) and revising paragraphs (a)(4) and (d) to read as follows:

§ 1475.4 Program availability.

(a) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in a State, or an area of the State, or a County ASC committee determines that such an emergency exists in the county or area within the county the Governor or the county ASC committee may submit a request for a determination by the Secretary of Agriculture, of a livestock emergency in the State, county, or area thereof and for emergency livestock feed assistance under this part. A determination that a livestock emergency exists due to natural disaster may also be made for a State, county, or area thereof by the Secretary of Agriculture whether or not a request for assistance is submitted. The request of a Governor or county ASC committee for a livestock emergency determination and for emergency livestock feed assistance may include recommendations to the Secretary of Agriculture those options that will fully use feed available through local sources. The request submitted by the county committee for a livestock emergency determination must be submitted to the State committee and must contain:

* * * * *

(4) A report by the county committee and a State committee representative stating existing production conditions;

* * * * *

(d) Owners in any county contiguous to a county that has been designated as a livestock emergency county and has implemented the livestock feed programs shall have until the last day of the eighth month following the month that the other county implemented the livestock feed programs to be eligible to apply for emergency livestock assistance under this part.

5. Section 1475.6 is amended by revising paragraphs (c)(2) and (3)(i); adding paragraph (c)(3)(iii), revising paragraph (d)(5); revising paragraphs (e)(12) and (14); revising paragraphs (g)(1)(i)(A) and (ii); revising paragraphs (g)(2)(i) and (ii); revising paragraph (h)(4) to read as follows:

§ 1475.6 Application and approval.

* * * * *

(c) * * *

(2) All applications for assistance due to production losses because of a livestock emergency determined to exist prior to January 1, 1989, shall be filed for payment or benefit on or before March 31, 1989. Any determination of eligibility and assistance for applications filed for 1988 crop year production losses because of a livestock emergency shall be based on the following:

(i) Any loss of production computed shall be reduced and feed on hand increased due to the receipt of other government benefits, including FCIC crop insurance indemnity payments less premiums with respect to feed normally grown by the owner;

(ii) A daily feed allowance of 10 pounds of FGE per day per animal unit;

(iii) A cost-share rate of 50 percent of the cost of purchased eligible feed not to exceed five cents per pound FGE;

(iv) All eligible livestock in the application for assistance under this part.

(3) * * *

(i) Applications must be filed prior to January 1, of the calendar year following the year in which the livestock emergency occurred; and

* * * * *

(iii) All 1989 and subsequent crop years' applications may be computed at the producer's option by using the provision in paragraph (c)(2) of this section or the following provisions:

(A) Any loss of production otherwise computed shall be reduced and feed on hand increased due to the receipt of other government benefits, except FCIC crop insurance indemnity payments with respect to feed normally grown by the owner;

(B) A daily feed allowance of 12.5 pounds of FGE per day per animal unit;

(C) A cost-share rate of 42.5 percent of the cost of purchased eligible feed not to exceed five cents per pound FGE;

(D) The producer with swine, poultry or fish and grazing livestock shall have the option to include only eligible livestock that do not normally graze or

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use forage, in the application for assistance under this part; and

(E) A producer who elects to purchase CCC-owned feed grain will have the remaining allowance on the application reduced by the result of multiplying the amount of CCC-owned grain purchased times 1.176.

(d) * * *

(5) Any loss of production otherwise computed shall be reduced due to the receipt of other government benefits, except as provided in paragraph (c)(3)(iii)(A)–(E) of this section for FCIC crop insurance indemnity payments and 1988 and 1989 crop disaster payments which are paid the owner with respect to livestock feed normally grown by the owner provided.

(e) * * *

(12) Any prior or current year feed sold or delivered for sale during the current crop year including any current year grain pledged as collateral for a CCC price support loan;

* * * * *

(14) Except as otherwise provided in this section, any other feed that may be determined by approving officials in accordance with instructions issued by DASCO including adjustments based upon other government benefits such as crop disaster payments except for 1988 and 1989 crop years which are paid to the owner.

(i) FCIC indemnity payments less the premium, if applicable in accordance with the election made by the producer under paragraph (c) of this section; and

(ii) Crop disaster payments which are paid to the owner except for 1988 and 1989 crop years, if applicable in accordance with the election made by the producer under paragraph (c) of this section; and paragraph (c)(3)(iii)(A)–(E) of this section.

* * * * *

(g)(1)(i) * * *

(A) The smaller of 12.5 or 10 pounds per day per animal unit, as applicable in accordance with paragraph (c) of this section, or a lesser quantity determined to be adequate by the State or county committee, times

* * * * *

(ii) The net feed allowance determined with respect to an owner shall be the gross feed allowance less the total quantity of feed available including feed grain, hay, silage, pasture and range converted to FGE and any other source of feed determined by the appproving official to be available to the owner for feeding eligible livestock during the feeding period.

* * * * *

(2) * * *

(i) Determining the estimated average weight of the fish at the time of application;

(ii) Determining the estimated average weight of the fish on the ending date of the feeding period.

* * * * *

(h) * * *

(4) All applications forwarded to a higher authority for consideration shall be accomplished by county and State committee recommendations, as may be applicable. No application shall be approved unless the owner meets all eligibility requirements. Information furnished by the applicant and any other information, including knowledge of the county and State committee members concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If information furnished by the owner is incomplete or ambiguous and sufficient information is not otherwise available with respect to the owner's farming operations in order to make a determination as to the owner's eligibility, the owner's application shall not be approved until sufficient additional information is provided by the owner.

* * * * *

6. Section 1475.7 is amended by revising paragraphs (a)(2) and (3) to read as follows:

§ 1475.7 Adjustment of total allowance.

(a) * * *

(2) If there is an increase or a reduction in the number of the owner's eligible livestock, this fact shall be promptly reported to the approving official and such official shall make an adjustment in the owner's net allowance. This increase or reduction shall be made by revising the net allowance on the application by the result of multiplying the amount of the change in animal units, times the number of days remaining in the feeding period, times the daily allowance. This adjusted net allowance may be further adjusted by the approving official in order to establish a total allowance which the approving official determines to be adequate. After adjusting the net allowance and recomputing the total allowance, the county ASCS office shall notify the owner of the current total allowance.

(3) If, due to a change in total allowance, an excess amount of assistance was provided to the owner, the owner must refund such excess including applicable interest as determined in accordance with § 1475.16 of this subpart.

* * * * *

7. Section 1475.8 is amended by revising (d)(1)(i) to read as follows:

§ 1475.8 Disposition of feed.

* * * * *

(d)(1) * * *

(i) With respect to purchased CCC-owned feed grain, the difference between the price paid for such feed grain and the posted county price thereof, on the date the payment was received, or such other value as determined by CCC, based on the price of such type of feed grain sold in the county where the application was made; and

* * * * *

8. Section 1475.9 is revised to read as follows:

§ 1475.9 Termination and suspension of program.

The county committee may at any time during the operation of the program recommend suspension or termination of the program. The State committee may at any time during the operation of the program suspend or terminate the program with the concurrence of DASCO. DASCO may suspend or terminate the program at any time. The suspension or termination of the program in a county shall not apply to any assistance approved prior to the effective date of the suspension or termination of the program. Producers who filed an initial application prior to the termination of the program shall be eligible to file subsequent applications.

§§ 1475.12 through 1475.20 [Redesignated]

9a. Sections 1475.12 through 1475.20 are redesignated as follows:

Old section	New section
1475.12	1475.13
1475.13	1475.14
1475.14	1475.15
1475.15	1475.17
1475.16	1475.18
1475.17	1475.19
1475.18	1475.20
1475.19	1475.21
1475.20	1475.22

9b. New § 1475.12 is added to read as follows:

§ 1475.12 Assignments of payments

Payments which are earned by a producer under the livestock feed programs may be assigned in accordance with the provisions of 7 CFR part 709.

10. New § 1475.16 is added to read as follows:

§ 1475.16 Refunds to CCC.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this part, and if any refund of a payment of CCC shall otherwise become due in connection with this part, all payments made under this part to any person shall be refunded to CCC, together with interest and late payment charges as provided for in this paragraph.

(b) Any person who receives benefits in accordance with this part, who has been determined to be ineligible to receive such payments shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under the terms and conditions of this part.

(c) Interest shall be charged with respect to any refund which is determined to be due CCC because of actions on the part of the producer as provided in part 1403 of this chapter, at the interest rate applicable to CCC Commodity loans on the date the payment or benefit was received until such time as late-payment charges become applicable, shall accrue from the date of the disbursement by CCC or with respect to benefits made in accordance with this part, the date payment was received for the grain shall accrue from the date of such disbursement or payment was received. Late-payment charges shall be assessed in accordance with the provisions of part 1403 of this chapter.

11. Newly designated § 1475.20(b) is revised to read as follows:

§ 1475.20 Benefits limitation.

* * * * *

(b) (1) Notwithstanding paragraph (a) of this section, for the 1988 calendar year only, the amount of assistance received by a person, as defined in part 1497 of this title, shall be determined based on the date of sale as shown on the sales receipt for such assistance.

(2) For persons who applied for assistance under this part prior to August 26, 1988:

(i) All receipts with a date of sale between August 26, 1988, and January 1, 1989, which is paid during calendar year 1988 shall be subject to the $50,000 limitation for calendar year 1988;

(ii) All receipts with a date of sale on or after August 26, 1988, which is paid after January 1, 1989, shall be subject to the $50,000 payment limitation for the calendar year in which the payment is made; and

(iii) All receipts with a date of sale prior to August 26, 1988, shall not be subject to payment limitation regardless of when the payment is made.

(3) For persons who applied for assistance under this part on or after August 26, 1988, for the purposes of applying the maximum payment limitation provision for a calendar year, all assistance made on the basis of submitted sales receipts shall be deemed to have been paid in the calendar year in which the cost-share payment is processed.

* * * * *

12. Newly designated § 1475.22 is revised to read as follows:

§ 1475.22 Paperwork Reduction Act assign numbers.

The information collection requirements contained in these regulations (7 CFR part 1475) have been approved by OMB under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560–0029.

Subpart—Livestock Preservation Donation Program

13. Section 1475.101 is amended by revising paragraph (b) to read as follows:

§ 1475.101 General statement.

* * * * *

(b) In order to be eligible to participate in the program, an owner of livestock must have suffered a substantial loss of current year production of feed and of any purchased feed. The objective of the program is to provide CCC-owned feed grains to livestock owners who are financially unable to purchase feed, or to otherwise participate in any other program authorized under this part. The owner must establish to the satisfaction of the approving official that:

(1) Without assistance the owner's livestock would perish or be sold at distress prices; and

(2) The owner has insufficient cash or credit to buy feed for eligible livestock.

14. Section 1475.102 is amended by renumbering paragraphs (a)(1) through (a)(5), as (a)(2) through (a)(6), respectively and adding a new paragraph (a)(1) to read as follows:

§ 1475.102 Eligibility.

(a) * * *

(1) The livestock owners whose need for replacing and repairing losses of buildings, equipment, supplies, and other related matters will leave insufficient cash or credit to buy feed for livestock.

* * * * *

15. Section 1475.103 amended by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 1475.103 Assistance.

(a) The livestock owner shall establish that the livestock operation and the owner's operation have been so damaged by the disaster that sufficient cash or credit does not exist which may be used to purchase necessary feed grain at present market prices. The owner shall not sell or dispose of in any way, except for feed for the owner's livestock, CCC-donated feed grain. If all donated grain has not been fed by the owner by the end of the emergency period, the owner shall reimburse CCC at a rate equal to the value of the feed grain, as determined by CCC, on the date the feed grain was made available to the livestock owner for any CCC-donated grain which is on hand after the end of the emergency period that exceeds a 10-day supply.

* * * * *

(e) An owner may elect to receive eligible feed grain under the provisions of this subpart from feed grain stored on the livestock owner's farm if such grain has been pledged as collateral for a price support loan. Payment for such feed grain shall be made at the county ASCS office where the loan application was filed. Feed grain purchased by the owner shall not be exchanged for any ingredient, service, cash, credit, or any other thing of value.

Subpart—Emergency Feed Assistance Program

16. Section 1475.202 is amended by renumbering paragraphs (e)(1) and (e)(2) as (e)(2) and (e)(3), respectively; adding a new paragraph (e)(1); revising the third sentence in paragraph (g) and; revising paragraph (h) to read as follows:

§ 1475.202 Sale of CCC-owned grain.

* * * * *

(e)(1) An owner may elect to receive eligible feed grain under the provisions of this subpart from feed grain stored on the livestock owner's farm if such grain has been pledged as collateral for a price support loan. Payment for such feed grain shall be made at the county ASCS office where the loan application was filed. Feed grain purchased by the owner shall not be exchanged for any ingredient, service, cash, credit, or any other thing of value.

* * * * *

(g) * * * With respect to such assistance provided for any livestock emergency determined to occur on or

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after January 1, 1989, the sales price of eligible feed grain shall be 50 percent of the posted county price determined by CCC in the county in which the feed grain is stored.

(h) The quantity of feed grain delivered to an owner shall not exceed the total quantity approved for sale by CCC by more than 5 percent. Differences in quantity between the grain delivered to the owner and the quantity of grain described in the delivery order issued to the warehouseman or handler that was removed from the delivery point in excess of 105 percent shall be considered open stocks and shall be settled between the livestock owner and the warehouseman. For any livestock emergency determined to exist prior to January 1, 1989, any excess in quantity of grain delivered to the livestock owner over the quantity of feed grain described in the delivery order issued to the warehouseman or handler between 100 and 105 percent shall be paid by the owner to CCC at 75 percent of the current basic county loan rate established for the commodity in the county in which the feed grain was stored on the date the DF–17 was issued. For any livestock emergency determined to occur on or after January 1, 1989, the differences in quantity between the grain delivered by the livestock owner and the quantity of feed grain described in the delivery order issued to the warehouseman or handler between 100 and 105 percent should be paid by the owner to CCC at 50 percent of the posted county price determined by CCC for the commodity in the county in which the feed grain was stored.

* * * * *

Subpart—Emergency Feed Program

17. Section 1475.302 is amended by revising the first sentence of paragraph (b); revising paragraph (d) (3)(i) and (4)(i) to read as follows:

§ 1475.302 Cost-share assistance.

* * * * *

(b) The rate of cost-share assistance shall be 50 percent or, if applicable, 42.5 percent of the cost of eligible feed not to exceed five cents per pound FGE dependent upon the appropriate option elected by the producer that best suits his livestock operation as provided in § 1475.6(c)(3) of this part. * * *

* * * * *

(d) * * *

(3) * * *

(i) 50 percent or, if applicable, 42.5 percent of the cost of grazing per eligible animal unit per day dependent upon the appropriate option elected by the producer that best suits his livestock operation as provided in § 1475.6 (c)(3) of this part, or

* * * * *

(4) * * *

(i) 50 percent or, if applicable, 42.5 percent of the cost per eligible animal unit per day dependent upon the appropriate option elected by the producer that best suits his livestock operation as provided in § 1475.6 (c)(3) of this part, or

* * * * *

Subpart—Prickly Pear Cactus Burning Program

18. Section 1475.501 is revised to read as follows:

§ 1475.501 General statement.

This subpart sets forth the terms and conditions of the Prickly Pear Cactus Burning Program. This program shall be in effect only upon a determination that a livestock emergency exists in a State, county, or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State, and county ASCS offices. The objective of the program is to provide cost-share assistance not to exceed 50 percent of the cost of propane, butane, or kerosene used to burn the spines from prickly pear cactus to make it suitable for livestock feed.

19. Section 1475.502 is amended by adding the definition "Kerosene".

§ 1475.502 Definitions.

* * * * *

Kerosene means a flammable hydrocarbon oil obtained by distillation of petroleum and used as a fuel.

* * * * *

20. Section 1475.503 is revised to read as follows:

§ 1475.503 Eligibility

A livestock owner may be approved to participate in the program if the livestock owner has prickly pear cactus on his or her normal holdings, eligible livestock to use the burned prickly pear cactus and executes the certification contained in form CCC–640.

21. Section 1475.504 is amended by revising paragraph (a) to read as follows:

§ 1475.504 Assistance.

(a) The maximum amount of cost-share assistance under this program shall be limited to 50 percent of the cost of butane, propane, or kerosene used to burn the prickly pear not to exceed 14 cents per day per animal unit.

* * * * *

Signed at Washington, DC on October 24, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–25522 Filed 10–27–89; 8:45 am]

BILLING CODE 3410–05–M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 88–011F]

RIN 0583–AA52

Requirements for Imported Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements the provisions of the Food Security Act of 1985, Public Law 99–198, that amended the Poultry Products Inspection Act (PPIA). The rule amends the poultry products inspection regulations to specifically require foreign countries to implement a residue sampling and testing program at the point of slaughter for poultry and poultry products offered for importation into the United States. The rule also amends the regulations to make clear that all inspection, sanitation, quality, species verification, and residue standards that are applied to imported poultry products must meet the same standards as those applied to poultry and poultry products produced in the United States.

EFFECTIVE DATE: November 29, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Lawrence Skinner, Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–8933.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have a significant effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The rule affects countries

eligible to export poultry or poultry products to the United States. Currently, only Canada, France, Hong Kong, Great Britain, and Israel are eligible to export poultry or poultry products to the United States. Each of the five eligible countries has implemented the requirements for residue control and species identity programs for poultry products. On-going review activities by Agency technical experts have confirmed that these programs are in place and operating. Since the requirements are already in place and operating, no economic impacts are contemplated for exporting countries, domestic producers, or importers.

Effect on Small Entities

The Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601), because the requirements have already been implemented by the affected foreign entities.

Background

Section 17 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibits the importation into the United States of slaughtered poultry, or parts thereof, unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food, and unless they also comply with rules and regulations made by the Secretary to assure that imported poultry and poultry products comply with the standards provided for in the Act. The regulations addressing imported poultry or poultry products are contained in 9 CFR part 381, subpart T (9 CFR part 381 *et seq*). In these regulations the Administrator has established procedures by which foreign countries desiring to export poultry or poultry products to the United States may become eligible to do so.

Section 381.196 of the poultry products inspection regulations (9 CFR 381.196) provides that a poultry inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, must ensure compliance of such establishments and their poultry products with requirements at least equal to all of the provisions of the PPIA and the regulations that are applied to official establishments in the United States and their poultry products. In addition, these regulations provide for certain other system requirements as a means for FSIS to assure that eligible foreign countries are complying with on-going conditions of eligibility. FSIS has also implemented internal Agency programs to assure that products being offered for importation into this country meet the same standards as products produced and marketed domestically. These programs are described under the section entitled "Continuing Oversight of Eligible Countries."

Export Eligibility Requirements

The Foreign Programs Division, International Programs, of FSIS has primary responsibility for determining that countries producing poultry or poultry products for export to the United States have inspection programs that are designed to assure that all such exports are safe, wholesome, unadulterated and not misbranded and comply with all other provisions of the PPIA and regulations thereunder (9 CFR part 381 *et seq*.).

To determine eligibility, FSIS conducts a complete evaluation of the country's inspection system. The evaluation consists of two major parts: A review of foreign system documents, and an on-site review of the country's inspection system operations. As part of the document review process, a country's laws are evaluated to assure, among other things, that they provide for inspection and certification of the wholesomeness of products intended for export to the United States; that there are adequate controls over ineligible product to prevent its export; and that the country has adequate controls to prevent a person convicted of wrongdoing from being connected with a firm exporting product to the United States. Documents describing the country's poultry inspection program are also reviewed to ensure that it has the legal authority to impose requirements at least equal to those of the United States with respect to the following: (1) Ante-mortem inspection of poultry for slaughter; (2) post-mortem inspection of poultry carcasses and parts thereof at the time of slaughter; (3) official controls by the national government over establishment construction, facilities, and equipment; (4) direct and continuous supervision of slaughter activities and product preparation by the assignment of inspectors to establishments to assure that adulterated or misbranded poultry products are not processed for export to the United States; (5) maintenance of a single standard of inspection and sanitation throughout all certified establishments and complete separation of certified and non-certified establishments; (6) official controls over condemned product; and (7) other matters for which requirements are contained in the Act or regulations thereunder.

If the document review is satisfactory, an on-site review is conducted using a multi-disciplinary team composed, typically, of a review team leader, veterinarian, chemist, engineer and food technologist, to evaluate all aspects of the country's program. The review is designed to fully explore areas determined to require more detailed evaluation and also to allow FSIS to observe the inspection system in its daily operation.

Continuing Oversight of Eligible Countries

Once the poultry inspection system of a foreign country has been certified by the Agency as eligible to export products to the United States, the individual establishments operating within that country desiring to export products to the United States must apply to their national inspection authorities for certification. The chief inspection official of the foreign country must in turn certify to FSIS that each establishment authorized to export products to the United States meets all the applicable standards. This certification is valid for a period of 1 year or less if standards are not maintained. At the beginning of each year, a responsible official of the foreign country must recertify each establishment (9 CFR 381.196(a)(3)).

The daily operation of a certified foreign establishment is similar to the operation of a U.S. domestic establishment. There is routine daily inspection conducted by inspectors authorized by the foreign inspection program. These inspectors conduct inspection of the operations at the foreign establishment including slaughter, sanitation, processing, labeling, and the disposition of inedible and condemned products.

FSIS personnel conduct periodic on-site reviews of foreign inspection systems. The reviews focus on the full spectrum of risks to the production and processing of acceptable poultry products and how the foreign inspection system controls these risks. The on-site system review provides FSIS with continued assurance that the foreign country is maintaining an inspection system that is at least equal to the inspection system of the United States.

The system review includes visits to certified processing and slaughter establishments, and the foreign inspection system's analytical laboratories. Reviewers observe the operations at each site and document

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findings regarding the degree of risk of product wholesomeness associated with the activities and practices observed. All poultry and poultry products being exported to the United States are certified by a responsible official of the exporting country's inspection program as safe, wholesome, unadulterated, and properly labeled. The certification is an additional assurance that the products have been prepared under a system that is at least equal to the U.S. domestic system.

FSIS import inspectors reinspect shipments of poultry and poultry products on a sample basis on arrival in the United States to assure that the poultry or poultry products meet the same standards applied to domestic poultry and poultry products. Reinspection of product is directed by FSIS's computerized Automated Import Information System (AIIS) which stores daily reinspection results from all FSIS port of entry (POE) inspection locations, residue and species laboratory sampling histories for each exporting country, and product compliance histories for each exporting plant. The AIIS uses this information to determine the amount of poultry or poultry products to be examined and the specific reinspection procedures to be applied to a particular shipment. POE reinspection can include testing or examination for any combination of the following: species verification, residue levels, mishandling of product, condition of product, appropriate labeling, and compliance with USDA standards of identity or composition.

The POE reinspection is an additional means to assure that the inspection system of a foreign country exporting poultry or poultry products to the United States is functioning properly. Any shipment of poultry or poultry products found unacceptable is refused entry and must be reexported within a prescribed time period or destroyed for human food purposes.

The Food Security Act of 1985

On December 23, 1985, Public Law 99-198, The Food Security Act of 1985, was enacted (hereinafter referred to as the 1985 Farm Bill). Section 1701 of Public Law 99-198 amended section 17 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) to require residue testing and species verification of imported poultry or parts or products. This legislation is comparable to an amendment to the Federal Meat Inspection Act (FMIA) provided by the Agriculture and Food Act of 1981 (Pub. L. 97-98) that mandated residue and species verification for imported meat products.

Section 1701 of the 1985 Farm Bill adds a new subparagraph (d) to section 17 of the PPIA as follows:

(d) (1) Notwithstanding any other provision of law, all poultry, or parts or products thereof, capable of use as human food offered for importation into the United States shall:

(A) be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States; and

(B) have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States.

(2) Any such imported poultry article that does not meet such standards shall not be permitted entry into the United States.

(3) The Secretary shall enforce this subsection through:

(A) random inspection for such species verification and for residues; and

(B) random sampling and testing of internal organs and fat of carcasses for residues at the point of slaughter by the exporting country, in accordance with methods approved by the Secretary.

The primary purpose of the legislation was to add a provision to the PPIA that would require foreign countries currently exporting or desiring to export poultry or poultry products to the United States to develop and implement a program for the sampling and testing of residues. This new requirement would apply the requirements for residue testing that were specified in the Food and Agriculture Act of 1981 for imported meat products to imported poultry products.

Comments on the Proposed Rule

Therefore, on May 1, 1987, FSIS published a proposed rule (52 FR 15060) to implement the provisions of the 1985 Farm Bill with regard to requirements for poultry products intended for export to the United States. FSIS received 31 comments in response to the proposed rule: 7 in favor and 24 not in favor. Those commenters in support of the proposed rule included 2 industry members, 3 trade associations, 1 government agency and 1 foreign government agency. Those commmenters not in support of the proposed rule included 14 industry members, 8 Members of Congress, on behalf of one or more of the 14 industry members, and 2 trade associations. The following are the issues raised by the commenters and FSIS's response to each.

Comment: All of the opposing commenters objected to FSIS's interpretation of the language in the Farm Bill which states that a foreign inspection system be "the same as" the United States inspection system before product can be imported. These commenters felt that the phrase should be distinguished from "at least equal to" because the latter phrase would allow for subjective evaluation of foreign country requirements, would permit standards less than those of the United States, would create an unfair competitive advantage for foreign poultry products and would result in inferior products entering the United States.

Response: As a result of the legislation, the PPIA does provide that imported poultry and poultry products must comply with certain standards which are "the same as" those applicable to products produced in the United States. However, this does not mean that all the regulations of a foreign country must be precisely, word for word, "the same as" those in the United States. In our view, the Act does not prohibit a foreign country from having requirements more stringent than those applicable to products produced in the United States. If a requirement is narrow and specific (e.g., a product standard, maximum water intake level), it can be relatively easy to determine whether the foreign country's requirement is "the same as" ours. However, if our requirement is general and is applied on a case-by-case basis (e.g., facility requirements to preclude adulteration), the requirement can be met by a similarly general requirement. A general requirement permits variations within an established framework. FSIS applies "the same as" requirement by assessing whether the alternative procedures, even if they employ different inspectional techniques, are at least equal to the requirements applicable to domestically produced product. That is, the means of achieving products the same as ours in a foreign country will, in some respects, vary from the means employed in the United States. Interpretation of the law in this way provides the only reasonable basis for comparing inspection systems, since literal application of the term "the same as" would prohibit all imports of poultry products from foreign countries and would be nothing more than a non-tariff trade barrier. The USDA presently recognizes the poultry inspection systems in five countries (Canada, France, Israel, Great Britain and Hong Kong). Again, literal application of the term "the same as" would require the USDA to withdraw its recognition of those countries' eligibility to ship poultry and poultry products to the United States. USDA does not believe it was the intent of Congress that such action be taken.

These foreign inspection systems have evolved in widely varying cultural and political environments under various animal health, public health and food production circumstances. This has resulted in a variety of specific procedures and processes used in maintaining national inspection controls. The quality of the finished product is what is important and decisive. Nonetheless, there are certain features that any system must have to be considered "the same as" ours. These basic requirements are currently in FSIS regulations (9 CFR 381.196).

Comment: One commenter stated that the language in the proposed § 381.196(a)(2)(iv)(*c*) was not as comprehensive as the wording contained in the preamble. As such, the commenter felt that foreign countries could choose not to "identify" substances for testing in their annual residue testing plan.

Response: Each country is required to provide comprehensive details of its poultry production practices, including the drugs and compounds used. FSIS technical experts review this information and each country's annual residue testing plan. If FSIS identifies a compound that should be included in the testing plan, but is not, FSIS will request that the country include the compound in its residue testing plan.

Final Rule

For the reasons discussed in the preamble, FSIS is amending § 381.196 of the poultry products inspection regulations (9 CFR part 381) to clarify that the inspection, sanitation, quality, species verification, and residue standards applied to foreign poultry or parts or products offered for importation into the United States must meet the same standards applied to domestic poultry products. Section 381.196 is further amended to require each foreign country desiring to establish or maintain eligibility for the importation of poultry or poultry products into the United States to implement a residue program. Such program must provide for the point-of-slaughter random sampling of carcasses, including the internal organs and fat, of poultry intended to be offered for importation into the United States and the testing of such carcasses, internal organs, and fat, for the presence of residues of substances known to be in use in the production of poultry and poultry products in the particular exporting country or otherwise known to be present in the environment of such country. Identification of such substances is the responsibility primarily of the authorities of the exporting country. However, FSIS, as part of its obligation to assure that imported poultry and poultry products meet the same standards applied to such domestic products, may request testing for residues of additional specific substances. Residue testing would be conducted in accordance with methods approved by the Administrator.

FSIS currently has regulations which prohibit the importation of product that is adulterated, misbranded, or does not comply with the require ents applicable to domestically produced products (9 CFR 381.195 and 381.196). Further, as stated earlier, FSIS has established programs to assure that poultry or poultry products being offered for importation meet the same standards as such products produced and marketed domestically. These programs now include the random sampling of imported poultry and poultry products at the point of entry to check for species identity and residue tolerance levels. Authority to take samples for laboratory examinations from poultry or poultry products offered for importation is provided in 9 CFR 381.199(b).

FSIS did not propose additional regulations under the 1985 Farm Bill concerning the provisions of the Act that would: prohibit imported poultry or poultry products not meeting U.S. standards from entering the United States; and impose mandatory random inspection for species verification on products offered for importation, because any such additional regulations would be a duplication of existing provisions.

List of Subjects in 9 CFR Part 381

Food labeling, Imports, Poultry and poultry products.

Accordingly, FSIS is amending the poultry products inspection regulations in 9 CFR chapter III as set forth below:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended (21 U.S.C. 451 *et seq.*), 76 Stat. 663 (7 U.S.C. 450 *et seq.*), 99 Stat. 1633, unless otherwise noted.

2. Section 381.196(a)(2)(i) is amended by redesignating the present paragraph (a)(2)(i)(*f*) as paragraph (a)(2)(i)(*g*) and by adding a new paragraph (a)(2)(i)(*f*) to read as follows:

§ 381.196 Eligibility of foreign countries for importation of poultry products into the United States.

(a) * * *
(2) * * *
(i) * * *

(*f*) The inspection, sanitation, quality, species verification, and residue standards applied to products produced in the United States.

* * * * *

3. Section 381.196 is amended, for the sake of clarity, by revising paragraph (a)(2)(iv) to read as follows:

§ 381.196 Eligibility of foreign countries for importation of products into the United States.

(a) * * *
(2) * * *

(iv) The foreign inspection system must maintain a program to assure that the requirements referred to in this section, at least equal to those applicable to the Federal system in the United States, are being met. The program as implemented must provide for the following:

(*a*) Periodic supervisory visits by a representative of the foreign inspection system not less frequently than one such visit per month to each establishment certified in accordance with paragraph (a)(3) of this section to assure that requirements referred to in paragraphs (a)(2)(ii)(*a*) through (a)(2)(ii)(*h*) of this section are being met: *Provided,* that such visits are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States;

(*b*) Written reports prepared by the representative of the foreign inspection system who has conducted a supervisory visit, documenting his or her findings with respect to the requirements referred to in paragraphs (a)(2)(ii)(*a*) through (a)(2)(ii)(*h*) of this section, copies of which shall be made available to the representative of the Department at the time of the representative's review upon request by that representative to a responsible foreign inspection official: *Provided,* that such reports are not required during a period when the establishment is not operating or not engaged in producing products for exportation to the United States.

(*c*) Random sampling and testing at the point of slaughter of carcasses, including internal organs and fat, for residues identified by the exporting country's inspection authorities or by this Agency as potential contaminants, in accordance with sampling and analytical techniques approved by the Administrator: *Provided,* that such testing is required only on samples taken of carcasses from which poultry or poultry products intended for

importation into the United States are produced.

* * * * *

Done at Washington, DC, on October 25, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 89-25473 Filed 10-27-89; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable Over-the-Counter Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published four times a year by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List which was effective August 14, 1989, and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202)452-2781. For the hearing impaired only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202)452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. This supersedes the last List which was effective August 14, 1989. Additions and deletions for that List were published on August 1, 1989 (54 FR 31646). A copy of the complete List incorporating these additions and deletions is available from the Federal Reserve Banks.

The List of Marginable OTC Stocks includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The List also includes any stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly List.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17(a) and (b), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a 2-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(s) and 220.17(c) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the Board's List of Marginable OTC Stocks:

Deletions From the List of Marginable OTC Stocks

Stocks Removed For Failing Continued Listing Requirements

Advanced Computer Techniques Corporation
$.10 par common
American Capacity Group, Inc.
$1.00 par common
Andover Controls Corporation
$.01 par common
Bayly Corporation
$1.00 par common
Bishop, Incorporated
$.10 par common
Brown Transport Company, Inc.
$.10 par common
Challenger International, Ltd.
$.01 par common
Colorocs Corporation
Class C, warrants (expire 08-18-89)
Comstock Group, Inc.
$.25 par common
Crazy Eddie, Inc.
$.01 par common
Cronus Industries, Inc.
Warrants (expire 02-01-90)
Cytrx Corporation
$.001 par common Warrants (expire 11-09-91)
Datavision, Inc.
$.01 par common
Diversified Foods, Inc.
$.003 par common
Domain Technology, Incorporated
$.01 par common
Edgcomb Corporation
$1.50 par common
El Pollo Asado, Inc.
No par common
Equity Bank, The
No par common
Falconbridge Limited
No par common
First Capitol Financial Corp.
$.01 par common
Forum Re Group (Bermuda) Ltd.
$.40 par capital
George Washington Corporation
$1.00 par common

GMI Group, Inc.
$.01 par common
Great American Corporation
$2.50 par common
Hi-Port Industries, Inc.
$.05 par common
Higby's, J., Inc.
$.01 par common
Home Savings Association of Penna.
$1.00 par common
Interferon Sciences, Inc.
$.01 par common
International Mobile Machines Corporation
Warrants (expire 08-05-89)
Landmark American Corporation
$.01 par common
LDDS Communications, Inc.
Warrants (expire 10-13-89)
Machine Technology, Inc.
No par common
Maione Companies, Inc.
No par common
Max & Erma's Restaurants, Inc.
Warrants (expire 10-07-89)
Meridian Bancorp, Inc.
$25.00 par cumulative convertible preferred
Metropolitan Financial Savings & Loan Association (Texas)
$1.00 par common
Mischer Corporation, The
$1.00 par common
National Industrial Bancorp, Inc.
$.01 par common
Ocilla Industries, Inc.
$.01 par common
Pioneer Financial Corp.
Series A, $1.00 par cumulative convertible preferred
Prime Capital Corporation
$.05 par common
QMAX Technology Group, Inc.
$.01 par common
Rabbit Software Corporation
$.01 par common
Rodime PLC
American Depositary Shares for ordinary shares (par value 5 pence)
Sooner Federal Savings and Loan Association
$.01 par common
Stan West Mining Corporation
$.01 par common
Tele-Optics, Inc.
Warrants (expire 08-11-89)
Telecast, Inc.
$.01 par common
Texcel International, Inc.
Warrants (expire 12-15-89)
Twistee Treat Corporation
$.001 par common
United Bankers, Inc.
No par common
Ward White Group, PLC
American Depository Receipts
Wholesale Club, Inc., The
No par convertible preferred
Writer Corporation, The
$.10 par common

Stocks Removed For Listing On A National Securities Exchange Or Being Involved In An Acquisition

A.M.E., Inc.
No par common
Actmedia, Inc.
$.01 par common
Aim Telephones, Inc.
$.01 par common
Beecham Group, PLC.
American Depositary Receipts
Bradley Real Estate Trust
$1.00 par shares of beneficial interest
Cambridge Analytical Associates, Inc.
$.01 par common
CB & T Bancshares, Inc.
$1.00 par common
Centel Cable Television Company
Class A, $.01 par common
Chili's, Inc.
$.10 par common
International, Inc.
$.01 par common
Fisher Scientific Group, Inc.
$.01 par common
Fountain Powerboat Industries, Inc.
$.01 par common
Harken Energy Corporation
$1.00 par common
Harlyn Products, Inc.
$.10 par common
Healthsouth Rehabilitation Corporation
$.01 par common
Hemotec, Inc.
Voting, $.01 par common
Imperial Holly Corporation
No par common
Integrated Genetics, Inc.
$.01 par common
Judy's Inc.
$.50 par common
Keane, Inc.
$.10 par common
Local Federal Savings & Loan Association (Oklahoma)
$.01 par common
LSI Logic Corporation
$.01 par common
Micro Mask, Inc.
$1.00 par common
Minnetonka Corp.
$1.00 par common
Monitor Technologies, Inc. CUC
$.01 par common
Nichols-Homeshield, Inc.
$.01 par common
Nodaway Valley Co.
$2.00 par common
Ogilvy Group, Inc.
$1.00 par common
Old Spaghetti Warehouse, Inc.
$.01 par common
Pancretec, Inc.
No par common
Peoples Bancorporation (North Carolina)
No par common
Phonemate, Inc.
$.10 par common
Preferred Risk Life Insurance Company
$1.00 par common
Rockingham Bancorp (New Hampshire)
$1.00 par common
Satellite Music Network, Inc.
$.10 par common
Scherer, R.P. Corporation
$.33⅓ par common
Southlife Holding Company
$.05 par common
Sterner Lighting Systems Incorporated
$.10 par common
Super Rite Foods, Inc.
$.05 par common
Tylan Corporation
No par common
Ultra Bancorporation
$5.00 par common
View-Master Ideal Group, Inc.
$.01 par common
Wheelabrator Group Inc., The
$.01 par common
Wheelabrator Technologies, Inc.
$.01 par common

Additions to the List of Marginable OTC Stocks

50-Off Stores, Inc.
$.01 par common
Acclaim Entertainment, Inc.
$.02 par common
Class B, warrants (expire 01-30-00)
Allstate Financial Corporation
No par common
Applebee's International, Inc.
$.01 par common
Archer Communications, Inc.
No par common
BEI Electronics, Inc.
$.001 par common
Bizmart, Inc.
$.10 par common
Brite Voice Systems, Inc.
No par common
Calgene, Inc.
$.001 par convertible exchangeable preferred
Cellcom Corp.
$.001 par common
Coca Mines, Inc.
Warrants (expire 05-15-90)
Cognex Corporation
$.002 par common
Crown Resources Corporation
$.05 par common
Digi International, Inc.
$.01 par common
Eagle Food Centers, Inc.
$.01 par common
EFI Electronics Corporation
$.0001 par common
Electronic Arts
No par common
Employee Benefit Plans, Inc.
$01 par common

Enclean, Inc.
$.01 par common
Excalibur Technologies Corporation
$.01 par common
First City Bancorp, Inc.
No par common
First Executive Corporation
Warrants (expire 10-09-92)
Depository Preference Shares (representing one-hundreth of a share Series H preferred)
Genetics Institute, Inc.
$1.00 par convertible exchangeable preferred
Giddings & Lewis, Inc.
$.10 par common
GZA Geoenvironmental Technologies, Inc.
$.01 par common
Heritage Bankcorp, Inc.
$.01 par common
Hotelecopy, Inc.
$.01 par common
Image Bank, Inc., The
$.01 par common
Inbancshares
No par common
International Broadcast Systems, Inc.
Class A, $.10 par common
International Lease Finance Corporation
Warrants (expire 1994)
Lechters, Inc.
No par common
Marine Drilling Company
$.10 par common
New England Realty Associates Limited Partnership
Depository Receipts evidencing units of limited partnership
New Image Industries, Inc.
$.001 par common
Newbridge Networks Corporation
No par common
Novell, Inc.
7¼% convertible subordinated debentures
Nucorp, Inc.
Paired warrants (expire 10-31-90)
Parlux Fragrances, Inc.
$.01 par common
Pioneer Financial Services, Inc.
No par cumulative convertible exchangeable preferred
Pioneer-Standard Electronics, Inc.
9% subordinated convertible debentures
Prime Bancshares, Inc.
$.01 par common
Rally's Inc.
$.10 par common
Security Federal Savings and Loan Association of Cleveland
$.01 par common
Serv-Tech, Inc.
$.50 par common
Southeastern Savings Institutions Fund, Inc., The
$.001 par common
Surgical Laser Technologies, Inc.
$.01 par common
Valley West Bancorp
$2.00 par common
Vanguard Real Estate Fund I, A Sales Commission-Free Income Properties Fund
Shares of beneficial interest
Vencor, Incorporated
$.25 par common
Washington Mutual Savings Bank
$1.00 par preferred stock

By order of the Board of Governors of the Federal Reserve System, acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), October 27, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-25453 Filed 10-27-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-ANE-18; Amdt. 39-6359]

Airworthiness Directives; Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, and -17 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Airworthiness Directive (AD) 87-14-01, which requires repetitive ultrasonic inspections of second stage fan blades. The amendment requires an additional inspection of the second stage fan blade root attachment straps to detect cracks which have been found by operators in areas of the strap not covered by ultrasonic inspections. The AD is needed to detect cracks in the second stage fan blade root attachment straps which could result in fracture of the blade and subsequent cowl penetration, fire, and aircraft damage.

DATE: Effective—December 11, 1989.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 11, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable alert service bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7121.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (FAR) to include an AD which amends AD 87-14-01 to require an additional inspection of the second stage fan blade root attachment straps on certain PW JT8D turbofan engines was published in the Federal Register on April 12, 1989, (54 FR 14660).

The proposal was prompted after the FAA received reports of fan blade root attachment strap cracks at the six o'clock (inboard) position on the inside diameter (ID) of the pin hole. These cracks were detected by using a fluorescent penetrant inspection (FPI) and certain eddy current inspection techniques which are not required by AD 87-14-01. The immersion ultrasonic inspection method as required by the AD was not designed to detect cracks at the six o'clock ID pin hole location. Undetected root attachment strap cracks can lead to fan blade fracture and subsequent cowl penetration, fire, and aircraft damage.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Five comments were received concerning the proposed rule.

One commenter has requested the AD state that PW Service Process Operation Procedure (SPOP) 84 is an acceptable FPI alternative to SPOP 82. The FPI procedure stated in PW ASB 5729, Revision 2, dated July 8, 1988, is SPOP 82 and, consequently, is the only FPI procedure allowed by the notice of proposed rulemaking (NPRM).

The FAA disagrees and will not include a provision in the AD to allow SPOP 84 to be used as an alternative to SPOP 82 in the FPI of the ID pin hole surfaces. It has been determined that SPOP 82 is the appropriate FPI procedure. The more sensitive procedure of SPOP 84 would require special surface treatments, such as removal of the antigalling coating. The FAA will review, as stated in paragraph (f) of this AD, any individual request to use SPOP 84. The substantiating data provided must assure that actual crack indications will not be overlooked as false indications.

Two commenters stated an eddy current inspection of the ID pin hole surfaces should be included in the AD as an alternative inspection to the FPI. Both commenters referenced eddy current inspection techniques which have been approved by the FAA as an alternate method of compliance with AD 87-14-01.

The FAA disagrees since PW ASB 5729, Revision 2, dated July 8, 1988, does not contain accomplishment instructions to perform an acceptable eddy current inspection. The FAA cannot reference a detailed inspection procedure in an AD without providing the necessary data to perform the inspection procedure. Therefore, until the necessary data to perform an eddy current inspection becomes available to the FAA for publication in an AD, operators who desire to use an eddy current inspection must obtain specific FAA approval as stated in paragraph (f) of this AD.

One comment was received stating six o'clock inner surface cracking is not expected to result in fracture. The commenter further stated that this is a low stressed area and the crack should not propagate through the root strap.

The FAA disagrees. Data has not been submitted which substantiates that six o'clock inner surface cracking will not result in root fracture. Two reports have been submitted showing crack propagation through the root strap at the 6 o'clock position.

Accordingly, the proposal is adopted without change.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves approximately 4,100 engines (domestic fleet) with a maximum annual cost increase of three hundred thousand dollars beyond the current AD 87-14-01 inspection cost. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only operators using aircraft in which JT8D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39-5641 (52 FR 24138; June 29, 1987), Airworthiness Directive (AD) 87-14-01.

The AD is restated in its entirety for clarity as follows:

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, and -17 turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent uncontained second stage fan blade failure, ultrasonically inspect and fluorescent penetrant inspect (FPI) for cracks, and remove as required, second stage fan blades, Part Numbers (P/N) 433802, 645902, 759902, 695932, 678102, and 746402, in accordance with PW Alert Service Bulletin (ASB) 5729, Revision 2, dated July 8, 1988, as follows:

(a) Inspect at the first engine shop visit after July 27, 1987.

(b) Reinspect at each second stage fan rotor disassembly from the low pressure compressor (LPC) after accumulation of 3,000 cycles in service (CIS) since last inspection (SLI), but not to exceed 10,000 CIS SLI.

(c) Remove from service, prior to further flight, second stage fan blades that exhibit crack indications as defined in the requirements of PW ASB 5729, Revision 2, dated July 8, 1988, and replace with serviceable blades.

(d) Report the following information in writing, if a blade is found to be cracked, within 30 days of the inspection to the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; Telex Number 949301 FAANE BURL:

(1) Engine serial number (S/N)
(2) Inspection date
(3) Blade P/N and S/N
(4) Blade total time and cycles (if estimate, so note)
(5) Blade time and cycles SLI
(6) Crack location and size

Information collection requirements contained in this regulation (Section 39.13) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

Notes: (1) Shop visit is defined as the input of an engine to a repair shop with LPC rotor overhaul capability where the subsequent engine maintenance entails the following:

(a) Separation of a major engine flange (lettered or numbered) other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit."

(b) Removal of a disk, hub, or spool.

(2) The ultrasonic inspections accomplished in accordance with AD 87-14-01 and PW ASB 5729, dated January 29, 1987, at the last inspection prior to the effective date of this AD, are considered to be in compliance with the dual inspection requirements of this AD. However, after the effective date of this AD, an FPI must be performed in addition to the ultrasonic inspection, unless otherwise approved by the FAA as stated below.

(e) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(f) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The inspection procedures shall be done in accordance with PW ASB 5729, Revision 2, dated July 8, 1988. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552 (a) and 1 CFR Part 51. Copies may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC 20591.

This amendment becomes effective on December 11, 1989.

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This amendment amends Amendment 39-5641 (52 FR 24138; June 29, 1987), AD 87-14-01.

Issued in Burlington, Massachusetts, on September 29, 1989.

Ronald L. Vavruska,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-25441 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AWP-16]

Revision of Transition Area; Santa Rosa, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises and extends the Santa Rosa, California Transition Area. This action provides controlled airspace for the conduct of instrument approach and departure procedures at Lampson Airport.

EFFECTIVE DATE: 0901 u.t.c, December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Daniel K. Martin, System Management Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0166.

SUPPLEMENTARY INFORMATION:

History

On July 24, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations to revise the Santa Rosa, California Transition Area to provide controlled airspace for the conduct of instrument approach procedures (54 FR 30760).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Santa Rosa, California Transition Area to provide controlled airspace for the conduct of instrument approach procedures to Lampson Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition Areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Santa Rosa, California [Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 38°51'30" N/longitude 123°02'00" W; to latitude 39°15'00" N/ longitude 123°02'00" W; to latitude 39°15'00" N/longitude 122°39'00" W; to latitude 38°47'30" N/ longitude 122°39'00"; to latitude 38°27'00" N/longitude 122°39'05" W; to latitude 38°22'45" N/longitude 122°52'22" W; to latitude 38°49'30" N/longitude 123°08'28" W; thence to the point of beginning.

Issued in Los Angeles, California on October 11, 1989.

Robert G. Brekke,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 89-25446 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASW-18]

Removal of Transition Area; Farmerville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will remove the transition area located at Farmerville, LA. The cancellation of the VOR/DME-A standard instrument approach procedure (SIAP) to the Farmerville Airport, which utilized the Monroe Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this amendment necessary. The intended effect of this amendment is to return that controlled airspace no longer required due to the cancellation of the VOR/DME-A SIAP. Coincident with this action is the changing of the status of the Farmerville Airport from instrument flight rules (IFR) to visual flight rules (VFR).

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by removing the transition area located at Farmerville, LA (54 FR 29058).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations will remove the transition area located at Farmerville, LA. The cancellation of the VOR/DME-A SIAP to the Farmerville Airport, which utilized the Monroe VORTAC, has necessitated this amendment. The VOR/DME-A SIAP was the only instrument approach serving the Farmerville Airport. The intended effect of this amendment is to return that controlled airspace no longer required due to the cancellation of the VOR/DME-A SIAP. Coincident with this action is the changing of the status of the Farmerville Airport from instrument flight rules (IFR) to visual flight rules (VFR).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Farmerville, LA [Removed]

Issued in Fort Worth, TX, on October 17, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-25444 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AEA-15]

Proposed Establishment of Transition Area; Farmington, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice establishes a new transition area for the Nemacolin Airport, Farmington, PA. This area is necessary to accommodate a new Runway 23 Standard Instrument Approach Procedure (SIAP) to the airport. This action establishes a 700 foot transition area which consists of controlled airspace which will be reflected on appropriate aeronautical charts.

EFFECTIVE DATE: 0901 u.t.c. January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On July 18, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 700 foot transition area for the Nemacolin Airport, Farmington, PA (54 FR 31701). The proposed action would separate aircraft executing the SIAP under instrument meteorological conditions on an instrument flight plan from aircraft operating under visual flight rules (VFR). The SIAP was the subject of a separate study with no objections to the proposal received. In addition, the area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes a 700 feet transition area at Farmington, PA for the Nemacolin Airport to accommodate a new Runway 23 SIAP for the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Farmington, PA [New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Nemacolin Airport, Farmington, PA (lat. 39°48'20" N., long. 79°32'57" W.) and within 4.5 miles each side of the Indian Head VORTAC 221° radial extending from the 7-mile radius area to the VORTAC.

Issued in Jamaica, New York, on October 4, 1989.

Billy E. Commander,

Acting Manager, Air Traffic Division.

[FR Doc. 89-25446 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AEA-11]

Proposed Alteration of Transition Area; Winchester, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the Winchester, VA 700 foot Transition Area. This action reflects the amount of controlled airspace needed to contain instrument operations when aircraft are executing operations during instrument meteorological conditions.

EFFECTIVE DATE: 0901 u.t.c. January 11, 1990.

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FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On August 3, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the 700 foot Transition Area at Winchester, VA (54 FR 35198). The proposed action was due to the decommissioning of the Shawnee, Virginia VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) aid to navigation. The associated Standard Instrument Approach Procedures, which were based on this VORTAC, have been cancelled.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the 700 foot Transition Area to reflect that amount of controlled airspace which is needed to accommodate arriving and departing aircraft during instrument meteorological conditions.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Winchester, VA [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 39°08'30" N., long. 78°08'30" W., of Winchester Municipal Airport; within a 9.5-mile radius of the center of the airport extending clockwise from a 187° bearing to a 008° bearing from the airport; within 4 miles either side of the 043° bearing extending from the 6.5-mile radius to 10 miles northeast of the airport; within 5 miles each side of a 134° bearing from a point at lat. 39°08'17" N., long. 78°06'16" W., extending from said point to 14 miles southeast of said point.

Issued in Jamaica, New York, on September 30, 1989.

Billy E. Commander,

Acting Manager, Air Traffic Division.

[FR Doc. 89-25547 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASW-25]

Revision of Transition Area; Lake Charles, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area located at Lake Charles, LA. The development of a new standard instrument approach procedure (SIAP) to the Southland Field Airport, Sulphur, LA, utilizing the Lake Charles Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this amendment necessary. The intended effect of this amendment is to provide adequate controlled airspace for aircraft executing this new SIAP to the Southland Field Airport. Coincident with this amendment will be the changing of the status of the Southland Field Airport from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On July 11, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the transition area located at Lake Charles, LA (54 FR 31346).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations will revise the transition area located at Lake Charles, LA. The development of a new SIAP to the Southland Field Airport, Sulphur, LA, utilizing the Lake Charles VORTAC, has made this amendment necessary. This amendment will expand the existing Lake Charles, LA, Transition Area to include the Southland Field Airport, Sulphur, LA. The intended effect of this amendment is to provide adequate controlled airspace for aircraft executing this new SIAP to the Southland Field Airport. Coincident with this amendment will be the changing of the status of the Southland Field Airport from visual flight rules VFR to instrument flight rules IFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Lake Charles, LA [Amended]

By adding to the end of the legal description: and within a 7-mile radius of the Sulphur Southland Field Airport (latitude 30°07'53" N., longitude 93°22'34" W.).

Issued in Fort Worth, TX, on October 16, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-25442 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AEA-13]

Proposed Alteration of Control Zone; Trenton, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the control zone for the Mercer County Airport, Trenton, NJ. In addition, editorial changes have been made in the description of the control zone to simplify charting and other requirements. The editorial changes have not changed the intent of the original proposal. This action amends the amount of controlled airspace at the Mercer County Airport, Trenton, NJ, by removing all references to an airport which has been closed, and for which an exclusion zone (cutout) has been provided.

EFFECTIVE DATE: 0001 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On July 7, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the control zone for the Mercer County Airport, Trenton, NJ (54 FR 31698). The proposed action would eliminate the cutout provided for the Morrisville, PA, airport. That airport has been closed and all charted references to it have been deleted.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the Trenton, NJ, Control Zone by removing the cutout provided for the Morrisville, PA, airport. This airport has been closed and is no longer a charted reference.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Trenton, NJ [Amended]

Change "within 2.5 miles N and 2 miles S of the Yardley, PA, VOR 071° and 085° radials". to read "within 2.5 miles N. of the Yardley, PA VOR 085° radial and 2 miles S. of the Yardley 071° radial".

Delete that portion of the description which reads as follows:

"excluding the portion within a 1-mile radius of the Morrisville, PA, Airport (lat. 40°12'00" N., long. 74°48'55" W.)"

Issued in Jamaica, New York, on October 4, 1989.

Billy E. Commander,

Acting Manager, Air Traffic Division.

[FR Doc. 89-25445 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASW-15]

Revision of Control Zone; Midland, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the control zone located at Midland, TX. The current legal description contains the old name of the airport, that being the Midland Regional Air Terminal. The correct name is the Midland International Airport. Additionally, the coordinates of the airport have been slightly revised. The need to correct the name of the airport, as well as revise its coordinates, has made this amendment necessary. The current layout of the Midland, TX, Control Zone will not be altered. The intended effect of this amendment is to only change the legal description of the Midland, TX, Control Zone by correcting the name of the primary airport and revising its coordinates.

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division,

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Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the control zone located at Midland, TX (54 FR 29057).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations will revise the control zone located at Midland, TX. The correct legal description of the Midland, TX, Control Zone states that the primary airport of the control zone is the Midland Regional Air Terminal. The name of the primary airport has been changed to the Midland International Airport, and the legal description is being changed to reflect this. Also, the coordinates of the airport have been slightly revised, and this is also being changed. Both of these required corrections have necessitated this amendment. The present layout of the control zone is not being altered. The intended effect of this amendment is to revise the legal description of the Midland, TX, Control Zone to reflect the correct name of the primary airport and its coordinates, not to change or alter the control zone itself.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Midland, TX [Revised]

Within a 5-mile radius of the Midland and International Airport (latitude 31°56'33" N., longitude 102°12'06" W.), and within 2 miles each side of the Midland ILS localizer NW course, extending from the 5-mile radius area to 7 miles northwest of the airport.

Issued in Fort Worth, TX, on October 16, 1989.

Larry L. Craig,

Manager, Air Traffic Division Southwest Region.

[FR Doc. 89–25443 Filed 10–27–89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PART 5

Delegations of Authority and Organization; Center for Biologics Evaluation and Research

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to certification of true copies and use of the department seal in order to delegate authority to additional Center for Biologics Evaluation and Research (CBER) officials in the Office of Compliance and to remove such authority where it is no longer applicable. In addition, an amendment to 21 CFR 5.22(a)(7) (iv) is being made to revise "The Chiefs" to read "The Directors".

EFFECTIVE DATE: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority under § 5.22 Certification of true copies and use of Department seal (21 CFR 5.22) by revising paragraph (a)(7) (iv) and (v) in order to delegate authority to additional CBER officials in the Office of Compliance and remove such authority from officials in the Office of Compliance where it is no longer applicable. The revisions are in conformance with organizational changes within CBER in which the Biologics Information Staff was moved from the Office of Biological Product Review to the Office of Compliance. The amendment deletes from the list the Chief, Biologics Information Staff, Office of Biological Product Review, and adds to the list the Director, the Special Projects Officer, the Chief of the Freedom of Information Section, and Freedom of Information Officers, of the Congressional and Public Affairs Staff, Office of Compliance. Also, FDA is amending 21 CFR 5.22(a)(7)(iv) by revising the words "The Chiefs" to read "The Directors".

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–902 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–392); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.22 is amended by revising paragraphs (a)(7) (iv) and (v) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(7)(iv) The Directors of the Case Management Staff, the Inspections and Surveillance Staff, Regulations and Bioresearch Monitoring Staff, and the Congressional and Public Affairs Staff, Office of Compliance, CBER.

(v) The Special Projects Officer, Chief of the Freedom of Information Section, and Freedom of Information Officers, Congressional and Public Affairs Staff, Office of Compliance, CBER.

* * * * *

Dated: October 23, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–25467 Filed 10–27–89; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listings of FD&C Red No. 3 in Cosmetics and Externally Applied Drugs and of its Lakes in Food, Drugs, and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listings of FD&C Red No. 3 for use in coloring cosmetics and externally applied drugs and of the lakes of this color additive for use in coloring food, drugs, and cosmetics. The new closing date for the provisional listings of this color additive will be January 29, 1990. This postponement will permit the uninterrupted use of this color additive and its lakes while FDA continues to evaluate the results of the agency's review of the FD&C Red No. 3 data and prepares appropriate Federal Register documents to announce the agency's decision on the regulatory status of this color additive and its lakes.

DATES: Effective October 30, 1989. The new closing date for FD&C Red No. 3 and its lakes will be January 29, 1990.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5876.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 30, 1989, for the provisional listing of FD&C Red No. 3 for use in cosmetics and externally applied drugs and for the provisional listing of the lakes of the color additive for all uses by a rule published in the Federal Register of August 29, 1989 (54 FR 35860). This extension was necessitated by the complexity of the issues to be addressed by the agency in resolving the regulatory status of the provisionally listed uses of FD&C Red No. 3 and its lakes.

Title II of the Color Additive Amendments of 1960 (the transitional provisions) (Pub. L. 86–618, section 203 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 376 note)) authorizes FDA from time to time to postpone the closing date of the provisional listing for a color additive. "Such postponements must be consistent with the public health, and the Commissioner must judge that the scientific investigations are going forward in good faith and will be completed as soon as reasonably practicable." *McIlwain* v. *Hayes*, 690 F.2d 1041, 1047 (D.C. Cir. 1982) and *Public Citizen* v. *Young*, 831 F.2d 1108, 1122 (D.C. Cir. 1987).

FDA is continuing to evaluate the results of its review of the data submitted by the various proponents of FD&C Red No. 3, and is preparing the Federal Register documents necessary to announce the agency's decision on the regulatory status of the provisionally listed uses of FD&C Red No. 3 and its lakes. Due to the complexity of the issues in this matter, the volume of data and information to be evaluated, and the length of the Federal Register documents, FDA needs additional time to complete its task. Accordingly, FDA is now postponing the closing date for the provisionally listed uses of FD&C Red No. 3 to January 29, 1990.

The agency believes that this postponement of the closing date for the provisionally listed uses of FD&C Red No. 3 and its lakes is consistent with the standard for issuing such postponements. In particular, FDA believes that the continued use of these color additives for an additional period not to exceed 90 days will not pose a hazard to the public health. To the extent that there are risks from the continued use of FD&C Red No. 3 and its lakes, these risks result from chronic exposure to the color additive. Thus, the agency concludes that the continued use of FD&C Red No. 3 in cosmetics and externally applied drugs and of the lakes of this color additive for an additional period of only 90 days will not have any significant effect on the public health. Further, this extension is being granted to allow the agency to evaluate the existing data and to prepare the necessary Federal Register documents. The Court in *Public Citizen* recognized that the statutory scheme for regulating color additives "allows for the time necessary * * * for careful review of data" and expressly stated that it is permissible to extend a closing date to allow further evaluation of completed tests. 831 F.2d at n.19 and 1123. FDA will complete this process as soon as is reasonably practicable. Accordingly, FDA concludes that a brief postponement is consistent with the standard for extensions articulated in *McIlwain* and *Public Citizen, supra.*

Because of the shortness of time until the closing date of October 30, 1989, FDA concludes that notice and public comment on this regulation are impracticable, and that good cause exists for issuing the postponement as a final rule and for an effective date of October 30, 1989. This regulation will permit the uninterrupted use of this color additive until further action is taken. In accordance with 5 U.S.C. 553(b), (d)(1) and (3), this postponement is issued as a final regulation, effective October 30, 1989.

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has determined that extending the provisional listing of these color additives requires no change in the current industry practice concerning the manufacture or use of these ingredients.

Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities would derive from this action. Further, the economic effects of this final rule have been analyzed and it has been determined that it is not a major rule as defined in Executive Order 12291.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR part 81 continues to read as follows:

Authority: Secs. 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371, 376, 376 note).

§ 81.1 [Amended]

2. Section 81.1 *Provisional lists of color additives* is amended in the table of paragraph (a) by removing the closing date "October 30, 1989", both places it appears, for the entry "FD&C Red No. 3" and inserting in its place "January 29, 1990".

§ 81.27 [Amended]

3. Section 81.27 *Conditions of provisional listing* is amended in the table, appearing in the introductory text of paragraph (d), by removing the closing date "October 30, 1989" for the entry "FD&C Red No. 3" and inserting in its place "January 29, 1990".

Dated: October 24, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-25406 Filed 10-25-89; 10:57 am]

BILLING CODE 4160-01-M

PANAMA CANAL COMMISSION

35 CFR Parts 103 and 133

RIN 3207-AA24

Requirements of Transiting Vessels and Their Measurement

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: The Panama Canal Commission is today amending its regulations in title 35, Code of Federal Regulations, parts 103 "General Provisions Governing Vessels" and 133 "Tolls for Use of Canal": (1) To more accurately reflect treaty-mandated changes concerning authority over transiting vessels; (2) to require new pilot shelter platforms; and (3) to clearly identify those officials who are authorized to measure and certify the tonnage of vessels. These latter two changes are being made to provide shelter from weather for pilots aboard transiting vessels and for clarification.

EFFECTIVE DATE: November 29, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4996, Telephone: (202) 643-6441, or John L. Haines, Jr., General Counsel, Panama Canal Commission, telephone in Balboa Heights, Republic of Panama, (011)-507-52-7511.

SUPPLEMENTARY INFORMATION: On July 13, 1989, a notice of proposed rulemaking was published in the **Federal Register** (54 FR 29584), setting forth the revised rules amending §§ 103.7, 103.19, and 133.32. Interested parties were given the opportunity to submit comments by August 14, 1989. Comments were received by the agency regarding § 103.19 and 133.32. As regards §§ 103.19, the writer expressed the view that the proposed shelters were not warranted as practicable, suggesting a raincoat to be sufficient to protect the pilot and his radio during rain squalls. The Panama Canal Commission responded that pilots are required to remain on the bridge wing during the critical locks entries and departures and that raincoats are not sufficient to provide adequate protection for the pilot or his radios during Panama's frequent torrential rains. Further, bridge wing shelters also serve to insure the pilots' visibility during rain storms and to protect them against the tropical sun.

Comment was also received from the United States Coast Guard requesting that an additional clause be added to § 133.32, which identifies that the United States Coast Guard will assign some of it measurement tasks to delegates identified in 46 CFR 69.15. The requested change is included in the final rule.

Section 103.7 concerns the temporary holding of vessels for the purpose of investigation into a marine accident. Inasmuch as the agency's legal authority to hold vessels was abolished by the Panama Canal Treaty of 1977 and its related agreements, reference to holding a vessel is being removed; however, a vessel may still be denied transit until its tenderness, trim, list, draft, cargo, hull, machinery and equipment have been put into such condition as to make the vessel safe for its transit through the Panama Canal.

Second, § 103.19 is changed by revising paragraphs (a) and (d) and adding two new paragraphs to require vessels whose extreme beam is 24.40 meters (80 feet) or more to provide shelters for pilots on the bridge wings of these medium-size and large vessels. The purpose of the shelters is to provide pilots protection from the elements and enhance safety. The shelters shall be in place and ready for use no later than six months from the effective date of publication of this rule in the **Federal Register**.

The last change corrects § 133.32 to specify that measurements of Canal tonnage may be taken and associated certificates may be issued by the United States Coast Guard or its delegate, as well as Canal admeasurers and certain properly designated officials abroad.

These rules are not major rules for the purposes of Executive Order 12291 of February 17, 1981. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is hereby certified that these proposed rules will not have a significant impact on small business entities.

Lists of Subjects

35 CFR Part 103

Vessels, General provisions.

35 CFR Part 133

Tolls for use of Canal.

For the reasons set forth in the preamble, the Panama Canal Commission amends 35 CFR parts 103 and 133 as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

1. The authority citation for part 103 continues to read as follows:

Authority: 22 U.S.C. 3811, E.O. 12215, 45 FR 36043, and 44 U.S.C. 3501.

2. Section 103.7 is revised to read as follows:

§ 103.7 Authority to deny transit.

A vessel's transit may be denied until, in the opinion of the Canal authorities, its tenderness, trim, list, draft, cargo, hull, machinery, and equipment have been put into such condition as will make the vessel safe for her passage through the Canal. No claim shall be allowed or considered because of any such delay.

3. Section 103.19 is amended by revising the heading and paragraphs (a) and (d) and by adding new paragraphs (e) and (f) to read as follows:

§ 103.19 Requirement for pilot shelter platforms.

(a) Any vessel that, in accordance with Panama Canal operation standards, is required to have three or more pilots aboard, shall provide suitable pilot shelter platforms for the assisting pilots. The purpose for the pilot platforms is to provide shelters from sun and rain for pilots working near the bow or the stern of a vessel and to provide adequate visibility around the locks in order to reduce the danger of damage. In general, this bow/stern pilot shelter platforms are required on ships of 190.5 meters (625 feet) or more in length and a beam of 30.5 meters (100 feet) or greater.

They may also be required on certain smaller ships that the Marine Director or his designated representative determine require three or more pilots. Those vessels requiring shelters shall provide them for use no later than six months from the effective date of the final rule.

* * * * *

(d) In addition to the pilot shelter platforms required by paragraph (a) of this section for assisting pilots, all vessels whose extreme beam is 24.4 meters (80 feet) or more, are required to provide bridge wing shelters for the protection of control pilots. The following is a sketch of a bridge wing shelter that is acceptable to the Panama Canal Commission. Alternate arrangements, including portable shelters, which provide equivalent or better protection and visibility may be acceptable.

BILLING CODE 3640-04-M

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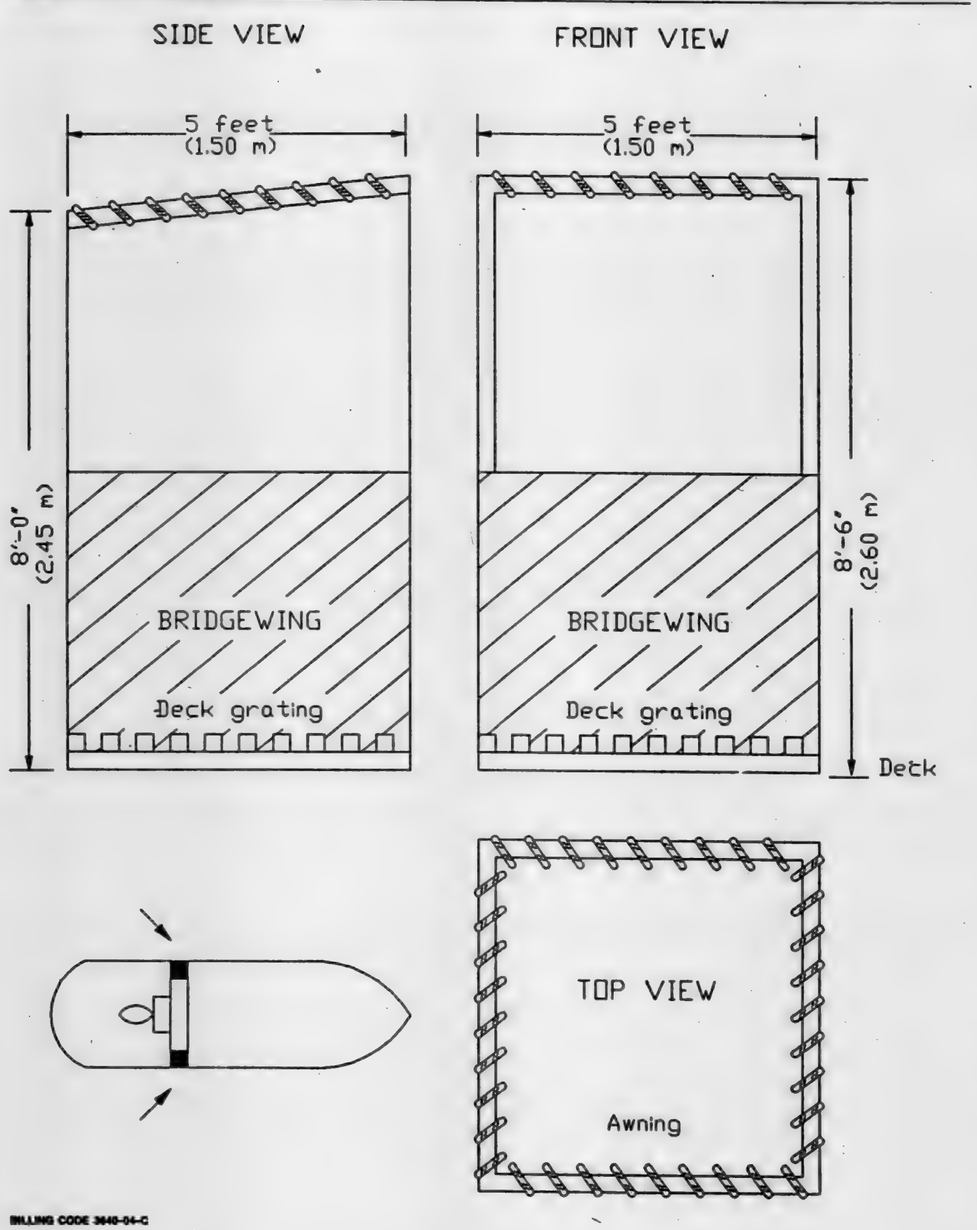

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(e) The purpose of the bridge wing shelter is to provide protection for pilots from sun and rain, while allowing maximum visibility around the locks. On vessels that have a raised conning station at the edge of the bridge wing more than 30 centimeters (1 foot) above the deck level, the height of the awning should be raised accordingly. Awnings are to extend at least 1.52 meters (5 feet) inboard from the outboard edge of the bridge wing. Similarly, their fore-and-aft dimension is to be at least 1.52 meters (5 feet), extending aft from the forward part of the bridge wing. If ship control equipment (engine, rudder or thruster controls, etc.) are located on the bridge wings, these shelters must also extend at least one foot beyond such equipment but must not extend beyond the outboard edge of the bridge wing.

(f) The awnings indicated in the sketches in paragraphs (b) and (d) of this section are to be made of suitable material to provide shelter from sun and rain. The decks of the pilot shelter platforms are to be made of wood or other material with a non-skid surface.

PART 133—TOLLS FOR USE OF CANAL

4. The authority citation for part 133 continues to read as follows:

Authority: Issued under authority of the President by 22 U.S.C. 3791; E.O. 12215, 45 FR 36043.

5. Section 133.32 is revised to read as follows:

§ 133.32 Measurement of vessels; making and correction of measurement; plans and copies.

Measurement may be made and the required certificate issued by the admeasurers of the Canal, by the United States Coast Guard or by its delegates as identified in 46 CFR 69.15, and by certain other officials worldwide as designated by the Director of Admeasurement of the Panama Canal Commission. Each transiting vessel should be provided with a full set of plans and a copy of the measurements which were made at the time of issue of its national tonnage certificate, as well as the tonnage certificate itself. The Canal authorities shall have the right to check and correct any measurement made or certificate issued elsewhere.

Dated: September 28, 1989.

Fernando Manfredo, Jr.,

Acting Administrator, Panama Canal Commission.

[FR Doc. 89-25437 Filed 10-27-89; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 302, 304, 309, 315, 332, 342, and 352

Acquisition Regulation; Miscellaneous Amendments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (HHSAR), title 48 Code of Federal Regulations chapter 3, to make several administrative changes.

EFFECTIVE DATE: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Senior Procurement Analyst, Division of Acquisition Policy, telephone (202) 245-6890.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation to make several administrative changes in parts 309, 315, and 332 as a result of recent changes made in corresponding parts of the Federal Acquisition Regulation, title 48 Code of Federal Regulations chapter 1.

The amendments being made in parts 302, 304, 342, and 352 reflect administrative and procedural changes determined necessary by the Department.

The Department of Health and Human Services adheres to the policy that the public, or certain elements comprising it, should have the opportunity to provide comments on regulations which may have an impact on them. The Department has determined, however, that this rule contains no amendments that would have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Department. As a result, the Department is not requesting comments on these acquisition regulations and is publishing them as a final rule.

The Department of Health and Human Services certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*); therefore, no regulatory flexibility statement has been prepared. This document does not contain information collection requirements needing approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 302, 304, 309, 315, 332, 342, and 352

Government procurement.

Accordingly, the Department amends 48 CFR chapter 3 as set forth below.

Dated: October 18, 1989.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

As indicated in the preamble, chapter 3 of title 48 Code of Federal Regulations is amended as shown.

1. The authority citation for parts 302, 304, 309, 315, 332, 342, and 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 302—[AMENDED]

302.100 [Amended]

2. The term "Principal official responsible for acquisition" in § 302.100 is amended by replacing the title following the designation "IHS" with "Director, Division of Acquisition and Grant Operations, Office of Administration and Management."

PART 304—[AMENDED]

304.870 [Amended]

3. Paragraph (c)(5) of § 304.870 is amended by removing, in the third sentence, the wording "or Form HHS 646, Financial Report of Individual Project/Contract," and by correcting the reference to the Standard Form number to read "1034".

PART 309—[AMENDED]

309.403 [Amended]

4. Section 309.403 is amended as follows:

a. Add, in alphabetical order, the following definition:

Acquiring agency's head or a designee, as used in the FAR, shall mean, unless otherwise stated in this subpart, the head of the contracting activity. Acting in the capacity of the acquiring agency's head, the head of the contracting activity may make the required justifications or determinations, and take the necessary actions, specified in FAR §§ 9.405, 9.406, and 9.407 for his or her respective activity, but only after obtaining the approval of the debarring or suspending official, as the case may be.

b. In the definition of the term "Debarring official", add "his/her" after the word "or" and before the word "designee."

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c. In the definition of the term "Initiating official", add the word "either" after the word "means" and before the word "the", remove the "or" after the word "officer," and before the word "the", and remove the "or" after the word "activity," and before the word "the".

d. In the definition of the term "Suspending official", add "his/her" after the word "or" and before the word "designee".

309.404 [Amended]

5. Section 309.404 is amended by revising the title to read "Parties excluded from procurement programs.", and by revising the FAR reference in paragraph (c) to read "FAR 9.404(c)."

PART 315—[AMENDED]

315.406–5 [Amended]

6. Paragraph (a)(2) of § 315.406–5 is amended by adding the following FAR provisions in numerical order, and by renumbering the existing list of FAR references: "FAR 52.209–5, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters;", "FAR 52.223–5, Certification Regarding a Drug-Free Workplace;", and "FAR 52.225–12, Notice of Restrictions on Contracting With Sanctioned Persons;".

315.407 [Amended]

7. Section 315.407 is amended by adding a new paragraph (i) to read as follows:

(i) The contracting officer shall insert the provision at FAR § 52.233–2, Service of Protest, in solicitations as required by FAR 33.106(a).

PART 332—[AMENDED]

8. Section 332.905 is revised to read as follows:

332.905 Invoice payments.

(a)(1)(ii), (b)(4), (c)(5). In most instances, the contracting officer will use the seven (7) day constructive acceptance period (specified in paragraph (a)(6)(i) of the Prompt Payment clause at FAR 52.232–25, paragraph (a)(5)(i) of the Prompt Payment clause at FAR 52.232–26, and paragraph (a)(4)(i) of the Prompt Payment clause at FAR 52.232–27) for solicitations and resultant contracts as the basis for the fiscal office's computation of interest penalties. However, where the contracting officer extends the constructive acceptance period, under the conditions described in FAR 32.905, the extension shall be coordinated with the fiscal office. A constructive acceptance period of less than seven (7) days is not authorized.

(j) When the contracting officer mistakenly receives an invoice first, or is specified in the contract as the first recipient of the invoice, and the contract requires payment with thirty (30) days from receipt of a "proper invoice" (as defined by FAR 32.902), the contracting officer shall review the invoice to determine whether or not it is proper; and, if so, shall approve the invoice and submit it to the fiscal office within sixteen (16) days from the date of receipt. When the contracting officer is the first recipient of the invoice and the contract establishes a payment due date of more than thirty (30) days after receipt, the contracting officer shall review, approve, and submit the "proper invoice" to the fiscal office at least fourteen (14) days prior to the payment due date (unless the contracting officer and fiscal office agree, prior to contract award, to a longer period).

PART 342—[AMENDED]

342.7002 [Amended]

9. Section 342.7002 is amended by adding the following as paragraph (e):

(e) Contract cost and manpower reporting shall be required on all cost-reimbursement type contracts financed under letter of credit or Departmental Federal Assistance financing System (DFAFS) methods of payment regardless of dollar value, and on all other cost-reimbursement type contracts of $100,000 or more. Financial reporting may be required on cost-reimbursement contracts under $100,000, when financed by other than the letter of credit of DFAFS methods, but only if it is necessary for effective contract administration. Financial and manpower information may be submitted either as a separate contract financial report or as an addendum to a public voucher, as prescribed by the contracting officer. Frequency, format (including instructions), extent, structure (including cost elements and labor categories), and distribution of reporting fall within the discretion of the contracting officer. The contracting officer shall set forth financial reporting requirements in all applicable RFPs and contracts, shall limit the requirements to those necessary for effectual cost and manpower management of the contract, and shall avoid the use of reporting requirements that are unduly burdensome on the contractor.

PART 352—[AMENDED]

352.242–80 [Removed]

10. Section 352.242–80 is removed.

[FR Doc. 89–25427 Filed 10–27–89; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB26

Endangered and Threatened Wildlife and Plants; Determination of Experimental Population Status for an Introduced Population of Guam Rails on Rota in the Commonwealth of the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines that the Rota population of the Guam rail (*Rallus owstoni*), an endangered species endemic to Guam, be designated a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973, as amended (Act). The introduction is being made on the island of Rota, which is outside the probable historical range of the species, because its primary habitat on Guam has been "indefinitely altered" through establishment of the introduced, predatory brown tree snake (*Boiga irregularis*). Extirpation of virtually the entire avifauna of Guam has been attributed to predation by the brown tree snake. No effective control methods have been developed as yet; none are anticipated in the foreseeable future. "Indefinitely altered" is thus tantamount to the "unsuitable and irreversible alteration or destruction" of the primary habitat of the Guam rail. The releases on Rota will be made in suitable habitat types identical to that formerly occupied by the rail on Guam. Since captive-held rails are known to become tame over time and lose their ability to survive in the wild, establishment and maintenance of a free-roaming, self-sustaining population on Rota can be expected to provide a source of "wild" rails for future re-establishment on Guam. Analysis of experimental release programs indicates that the most successful examples used "wild" (wild-caught) birds rather than animals propagated in captivity specifically for release purposes. There is no alternative to the establishment of the proposed experimental population on Rota which would be as effective for promoting conservation of the Guam rail. This population would be treated as a threatened species, rather than an endangered species for the purposes of sections 4(d) and 9 of the Act. The species is currently protected at 13 different captive propagation facilities, and release of progeny excess to the needs of the captive flock would not be detrimental to the long term survival of this species. The nonessential status will provide flexibility in managing the Rota population.

EFFECTIVE DATE: October 30, 1989.

ADDRESSES: The complete file for this final rule is available for inspection, by appointment, during normal business hours at the Pacific Islands Office (Environmental Services), U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 6307, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Ernest Kosaka, Field Office Supervisor, at the above address. Telephone: (808) 541–2749 or FTS 551–2749.

SUPPLEMENTARY INFORMATION:

Background

Guam, with an area of approximately 550 square km (212 square miles), is the largest and most developed island in Micronesia. It is generally divided into a northern, fairly level limestone plateau, and a southern, mountainous area of volcanic origin. Vegetation on the island has been vastly altered by humans and much of the original forest has been removed.

The endemic flightless Guam rail was formerly abundant and occurred island-wide. The population declined drastically between 1963 and 1973, and by the mid-1970's had disappeared from southern Guam. A 1981 survey indicated that about 2,000 rails still persisted in northern Guam. By 1986, however, the species was considered virtually extirpated from the wild.

Although several inimical factors were believed to have caused the demise of the Guam rail, the most important was predation on eggs and young by the introduced brown tree snake. This exotic predator has caused virtual extinction of the entire avifauna of Guam. Individual rails and kingfishers were all that remained by the early to mid-1980's.

When it was evident that the rail faced imminent extinction, a consortium of zoos under the auspices of the American Association of Zoological Parks and Aquariums (AAZPA) in cooperation with the Guam Division of Aquatic and Wildlife Resources (GDAWR) embarked on a captive propagation program by capturing as many rails as possible. Agreements were entered into whereby cooperating zoos agreed to develop techniques for propagating the rail in captivity as well as maintaining a viable population with maximum genetic diversity. In fact, the rail has demonstrated extraordinary fecundity in captivity, making it necessary to curtail breeding to avoid production of excessive progeny. The cooperating agencies proposing this project have been assured by knowledgeable geneticists and breeders of the AAZPA that it is possible to attempt to establish a nonessential experimental population of the Guam rail with progeny excess to the needs of the captive propagation program, and without harm to the captive flock.

Because existing habitat on Guam had been rendered unsuitable by the presence of the brown tree snake, it was necessary to look at alternative sites for establishing an experimental population of this species. After evaluating habitats on Guam and other islands in the Marianas Archipelago, and consulting with knowledgeable scientists and individuals, analysis of all the data available indicated that the island of Rota, Commonwealth of the Northern Mariana Islands (Commonwealth) was the best alternative release site. Although Rota is outside the known historical range of the Guam rail, it has suitable habitat identical to that formerly occupied by the rail. Most important, the brown tree snake is not known to occur on Rota.

Prior to the establishment of an experimental population outside of its probable historic range, the Service must determine that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed. Although the basic habitat components required by the rail on Guam have not been "irreversibly" altered or destroyed in the strict sense, they have essentially been made unavailable to the rail for the indefinite future due to the pervasive threat of the brown tree snake. There is hope that it will eventually be possible to control or eradicate the brown tree snake on Guam, but there is no assurance that this will be possible in the foreseeable future. This indefinite alteration of the rail's primary habitat is tantamount to the unsuitable and irreversible alteration or destruction of its primary habitat.

There are reasons to believe that an experimental population of the Guam rail will become established on Rota in the foreseeable future. Rails will be released in habitats similar or identical to that in which the species thrived on Guam before introduction and establishment of the brown tree snake. Birds destined for release comprise individuals with maximum genetic diversity. There is a comprehensive release and follow-up plan to be implemented by personnel from the University of Tennessee and also monitored by biologists from cooperating agencies. The Commonwealth has indicated that it will utilize its resources (Conservation Officer, Wildlife Technician, and Wildlife Biologists) to enhance protection for the rails released. The Mayor of Rota has also given his assurances that he will use the municipality's resources to promote protection of the experimental population.

Establishment of Guam rails on Rota should provide a source of "wild" rails for reestablishment on Guam when the brown tree snake can be eliminated or controlled. For this reason the Service finds that the release and establishment of an experimental population of Guam rails on Rota will further the conservation of this species. (See section 10(j)(2)(A) of the Act; 50 CFR 17.81(b). Analysis of release programs by scientists from the University of Idaho has shown that those releases using "wild" (wild-caught) birds have been significantly more successful in establishing a population than releases comprised of captive propagated birds. This difference has been attributed to a loss of ability to survive in the wild over time by captive-held birds. Their managed environment diminishes their ability to survive the rigors of the wild. This project is believed to be the most effective means for promoting long-term conservation and recovery of the rail.

The introduced population is not expected to be affected by existing or anticipated Federal, Commonwealth, or private actions within or adjacent to the experimental population area. Scrubby, second-growth habitats away from urban development and human activities have been selected as release sites.

The Service has consulted extensively with appropriate Commonwealth, Territorial, and Municipal (Rota) agencies in developing and implementing the experimental population project and rules. Local public participation was conducted by the Mayor of Rota, the Commonwealth, and Guam in their respective jurisdictions. A Memorandum of Agreement was developed and executed among the Service, the Commonwealth, and Guam to enhance this project.

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Designating the Rota population as a nonessential experimental population will enable the Service to promulgate a special rule that will authorize considerable discretion in managing the population. The protective regulations are necessary and advisable to provide for the conservation of the rail, particularly during the initial stages of the translocation program. The special rule will stipulate that agents of the Commonwealth Division of Fish and Wildlife, the Guam Division, and the Service will be authorized to take animals that need special care or that are causing depredation problems. No taking of "problem" rails would be countenanced except as a last resort. Live capture and release into other suitable, remote habitats will be the preferred course of action whenever possible.

The special rule also has a provision to allow for special take by private individuals if the nonessential experimental population becomes well established on Rota. This special take would be allowed under regulations promulgated by the Commonwealth of the Northern Mariana Islands once the Service has determined that the rail has become well established and occupies all suitable habitat on Rota. These flexible rules will help gain and maintain public support for the project.

The nonessential status is appropriate for the following reasons: (1) Although the Guam rail is virtually extinct in the wild, robust captive propagation flocks have been established on Guam and in twelve cooperating zoos and aviaries on the mainland (this captive flock presently consists of some 112 rails); (2) care and maintenance of the captive flocks are of the highest order (consequently, the Service does not believe that disease or any other natural phenomenon is likely to eliminate this flock and threaten the survival of the species); and (3) the Guam rail breeds readily in captivity, resulting in the availability of rails that can be made available for release and that are excess to the needs of the captive flock. The taking of approximately 500 rails over the 5-year duration of this project from these sources of captive propagated progeny would not threaten the survival of this species even if all of the animals released into the wild were to succumb to natural or man-caused mortality.

The Commonwealth Division has the statutory authority to protect and conserve listed species. It has agreed to protect the Guam rails proposed for establishment on Rota by promulgating its own regulations to prohibit the taking of rails in the Commonwealth. It also has two staff members, a Conservation Officer and a Wildlife Technician, residing on Rota who can enforce those regulations. The Service is satisfied that the Commonwealth's regulatory mechanisms and staff presence are sufficient to provide for conservation of the rail.

Since the Service proposes that the Rota population of Guam rails be designated as a nonessential experimental population, no critical habitat will be proposed or designated.

Pursuant to 5 U.S.C. 553(d)(3), the Service finds that good cause exists to have this rule take effect upon publication. It is essential to the success of this year's translocation that it commence during the rainy season, when habitat conditions are most favorable for survival of the rails that are released.

Summary of Comments and Recommendations

The proposed rule was published in the **Federal Register** on June 19, 1989 (54 FR 25744), at which time all interested parties were invited to comment on the proposal during the comment period, which extended through July 19, 1989. Many newspaper articles were published in the Pacific Daily News, the newspaper of general circulation in the Mariana Islands, immediately after the proposed rule was published. Publication of the proposed rule for this translocation project was a long-awaited event by many residents of Guam and the Commonwealth.

Written comments were received from a total of 41 persons representing a wide gamut of interests ranging from local governments (2), private organizations (23), universities (8), companies (3), and individuals (5). A partial listing of commenters includes: GDAWR, Commonwealth Division of Fish and Wildlife, Marianas Audubon Society, International Crane Foundation, Los Angeles Zoo, Houston Zoological Society, Zoological Society of Philadelphia, International Council for Bird Preservation—U.S. Section, National Zoological Park, University of Minnesota, Edison Electric Institute, Peregrine Fund, Inc., and the Guam Board of Realtors. All commenters supported the translocation project.

While supporting the establishment of an experimental population, several commenters also made recommendations concerning various aspects of the undertaking. Service response to these recommendations are presented below.

Comment 1: Expeditious implementation of the release program is needed.

Response: The Service concurs with the 14 commenters who expressed this opinion. The two primary reasons given for this comment were: (1) To prevent abundance of the captive rail flock from becoming a hindrance to propagation efforts (14 commenters), and (2) to alleviate the problem of limited space in captive propagation facilities due to the unique requirements of the Guam rail (11 comments). Service concurrence is also based on the necessity of releasing rails on Rota during the rainy season, when environmental conditions are most favorable for survival of the birds.

Comment 2: While supporting introduction of the rail to Rota, one person expressed concern that the introduced rails may adversely affect relict native reptile, arthropod, and snail populations on Rota. Notwithstanding the surveys conducted by entomologists from the University of Guam, this commenter believed it likely that there are relict native arthropods on Rota that may be affected by an aggressive predator like the rail. This commenter recommended continuing assessment of the effects of the experimental population on native fauna. Another expressed the opinion that the rail would not be a serious competitor or problem on Rota. Two commenters noted that the fauna and flora of Rota have been extensively altered and thought that the release of rails would not pose a problem.

Response: The Service recognizes the potential threats to native species posed by the introduction of Guam rails to Rota, but believes the potential negative consequences in this instance to be minimal and greatly outweighed by the probable benefits to conservation of the rail. Nevertheless, due attention will be paid to any evidence of adverse effects on native species, and the project will be re-evaluated if such evidence arises.

Comment 3: Rigorous disease screening of all birds to be released on Rota is essential.

Response: The Service agrees and shares the concern expressed by 12 commenters. Veterinarians have been consulted on this matter and the release plan provides for—(1) screening for hematozoans and viral diseases, (2) screening of birds shipped from mainland zoos to Guam; and (3) disease screening of all birds prior to their shipment to Rota. In consideration of the strict disease surveillance at all participating captive propagation facilities, and the disease screening of all birds before they are released on Rota, the Service believes that this concern will not become a problem.

Comment 4: While supporting the establishment of an experimental population, two commenters noted that translocation of Guam rails to Rota would be a falsification of the fauna on that island.

Response: The Service concurs with the 2 commenters who expressed this sentiment. It should be noted, however, that one commenter expressed the opinion that there was most likely a species of Rallidae on Rota in the past, citing fossil evidence from other tropical islands. He also stated that translocations outside a species' historical range may be essential to prevent extinction. The other commenter favored introduction of the rail, in spite of falsification of the fauna, because many other domesticated and wild species have already been introduced on Rota and he thought it would probably have little additional negative impact.

National Environmental Policy Act

A Final Environmental Assessment and a Finding of No Significant Impact pertaining to this proposal have been prepared and are available for inspection at the Office of Environmental Services (see **ADDRESSES** above). It has been determined that this is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 1022) of the National Environmental Policy Act of 1969.

Author

The primary author of this final rule is Ernest Kosaka, Office of Environmental Services (see **ADDRESSES**, above).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Final Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the existing entry for "Rail, Guam," under BIRDS as shown below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species			Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name							
BIRDS								
Rail, Guam	*Rallus owstoni*	Western (Guam).	Pacific Ocean, USA	Entire, except Rota	E	146E, 156	NA	NA
Do	do	do	do	Rota	XN	146E, 156, 371.	NA	§ 17.84(f)

3. 50 CFR 17.84 is amended by adding new paragraph (f) as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(f) Guam Rail (*Rallus owstoni*).

(1) The Guam rail population identified in paragraph (f)(7) of this section is a nonessential experimental population.

(2) No person shall take this species, except:

(i) In accordance with a valid permit issued by the Service under § 17.32 for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act; or

(ii) As authorized by the laws and regulations of the Commonwealth of the Northern Mariana Islands, after the Service has made the determination that the experimental population has become well established and occupies all suitable habitat island-wide.

(3) Any employee of the Service, the Commonwealth of the Northern Mariana Islands Division of Fish and Wildlife, or the Guam Division of Aquatic and Wildlife Resources who is designated for such purposes, may, when acting in the course of official duties, take a Guam rail without a permit if such action is necessary to:

(i) Aid a sick, injured, or orphaned specimen;

(ii) Dispose of a dead specimen;

(iii) Salvage a dead specimen that may be useful for scientific study; or

(iv) Take an animal that is responsible for depredations to personal property if it has not been possible to otherwise eliminate such depredations and/or loss of personal property, provided that such taking must be done in a humane manner and may involve injuring or killing the bird only if it has not been possible to eliminate depredations by live capturing and releasing the specimen unharmed in other suitable habitats.

(4) Any violation of applicable commonwealth of the Northern Mariana Islands fish and wildlife conservation laws or regulations with respect to the taking of this species (other than taking as described in paragraph (f)(2)(ii) of this section) will also be a violation of the Endangered Species Act.

(5) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable Commonwealth of the Northern Mariana Islands fish and wildlife laws or regulations or the Endangered Species Act.

(6) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (f) (2) through (5) of this section.

(7) The sites for introduction of Guam rails on Rota, Commonwealth of the Northern Mariana Islands, are on an island separated from Guam by 50 kilometers of ocean. The last known observation of an individual of this species occurred near the northern tip of Guam, which is closest to the island of Rota. No intermingling of these populations will occur since this species has been extirpated in the wild on Guam. The Rota release sites are of necessity outside the historic range of the Guam rail, as described in this regulation, because its primary range has been unsuitably and irreversibly destroyed by the brown tree snake.

(8) The nonessential experimental population on Rota will be checked

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periodically by staff of the Commonwealth of the Northern Mariana Islands Division of Fish and Wildlife and cooperating staff from the University of Tennessee to determine dispersal patterns, mortality, and reproductive success. The overall success of the releases and general health of the population will also be assessed.

* * * * *

Dated: October 16, 1989.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 89-25439 Filed 10-27-89; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 90637-9166]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the Exclusive Economic Zone for king mackerel from the western zone of the Gulf migratory group. The Secretary has determined that the commercial quota for Gulf group king mackerel from the western zone was reached on October 24, 1989. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: Closure is effective at 12:01 a.m., local time, October 25, 1989, until 12:00 p.m. (midnight) local time, June 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources for the Gulf of Mexico and the South Atlantic, as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, and is implemented by regulations at 50 CFR part 642. Regulations effective July 1, 1989, through June 30, 1990. Those regulations set the commercial allocation at 1.36 million pounds divided into quotas of 0.94 million pounds for the eastern zone and 0.42 million pounds for the western zone (54 FR 30554, July 21, 1989). The boundary between the eastern and western zones is a line directly south from the Florida/Alabama boundary (87°31'06" W. longitude) to the outer limit of the Exclusive Economic Zone.

Under § 642.22(a), the Secretary is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the **Federal Register**. The Secretary has determined that the commercial quota of 0.42 million pounds for the western zone of the Gulf migratory group king mackerel was reached on October 24, 1989. Hence, the commercial fishery of Gulf group king mackerel form the western zone is closed effective 12:01 a.m., October 25, 1989, through June 30, 1990, the end of the fishing year.

Except for a person on a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the Exclusive Economic Zone king mackerel from the western zone. A person aboard a charter vessel may continue to fish for king mackerel in the western zone under the bag limit set forth in § 642.28(a)(1), provided the vessel is under charter, i.e., there are more than three persons aboard, including captain and crew. During the closure, king mackerel from the western zone taken in the Exclusive Economic Zone, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(2) and complies with Executive Order 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 24, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-25438 Filed 10-24-89; 4:51 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 208
Monday, October 30, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-ASW-38]

Proposed Revision of Transition Area; Clovis, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to revise the transition area located at Clovis, NM. The development of a new standard instrument approach procedure (SIAP) to the new Portales Municipal Airport, utilizing the relocated Portales Nondirectional Radio Beacon (NDB), has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new SIAP to the new Portales Municipal Airport. Coincident with this proposal would be the changing of the status of the new Portales Municipal Airport from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before December 22, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 89-ASW-38, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administraton, 4400 Blue Mound Road, Forth Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASW-38." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area located at Clovis, NM. The old Portales Airport has been closed and the existing Portales NDB relocated. The development of a new NDB RWY 1 SIAP to the new Portales Municipal Airport, utilizing the Portales NDB in its new location, has necessitated this proposal. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the NDB RWY 1 SIAP to the new Portales Municipal Airport. Coincident with this proposal would be the changing of the status of the new Portales Municipal Airport from VFR to IFR. Secton 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

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§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Clovis, NM [Revised]

That airspace extended upward from 700 feet above the surface within a 23-mile radius of Cannon Air Force Base, Clovis, NM (latitude 34°23'01" N., longitude 103°18'58" W.); within 75 miles north and 2 miles south of the Texico VORTAC (latitude 34°29'42" N. longitude 102°50'21" W.) 254° and 074° radials, extending from the 23-mile radius area to 1.5 miles east of the Texico VORTAC; and within an 8-mile radius of the Portales Municipal Airport (latitude 34°08'44" N., longitude 103°24'36" W.), and within 3.5 miles each side of the 210° bearing of the Portales NDB (latitude 34°09'04" N., longitude 103°24'21" W.), extending from the 8-mile radius area to 11.5 miles southwest of the Portales Municipal Airport.

Issued in Fort Worth, TX on October 16, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-25451 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-13-M

Notices

Federal Register

Vol. 54, No. 208

Monday, October 30, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Docket No. 7574S]

Closing Date for Applications for the Federal Crop Insurance Advisory Committee

The Federal Crop Insurance Corporation (FCIC) hereby serves notice to all interested parties of the closing date for accepting applications for membership on the Federal Crop Insurance Corporation Advisory Committee.

On Friday, September 22, 1989, FCIC published a notice in the **Federal Register**, at 54 FR 39024, of its intention to establish an Advisory Committee. FCIC herewith re-publishes the notice and provides that December 1, 1989, is the closing date for accepting applications.

The Committee will provide a forum for discussion of a wide variety of issues concerning the development and promotion of crop insurance protection offered by FCIC.

Under the authority contained in the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*) (the Act), FCIC offers crop insurance protection to agricultural producers through a dual delivery system: direct delivery to the insured through private insurance company contractors under an Agency Sales and Service Contract and by reinsuring crop insurance policies sold by private insurance companies reinsured by the FCIC under the provisions of a Reinsurance Agreement.

The function of the Committee will be to bring together parties affected by, or interested in, issues concerning marketing, actuarial determinations, and claims associated with the crop insurance program.

The Committee will discuss new technologies, the upgrading of product design, marketing strategies, processing systems procedures, education, and actuarial determinations.

The Committee will not exceed 25 members, including a limited number of Department of Agriculture employees, with the remainder representing the insurance and agricultural industries. The Committee will meet four (4) times yearly.

Applications for membership consideration are being solicited by the FCIC until the close of business on December 1, 1989. Interested parties will be required to submit a background inforation Form AD-755 (OMB Approval No. 050-0001). Copies of an AD-755 may be secured by contacting the following individual: David W. Gabriel, Acting Deputy Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 447-6795.

The Department of Agriculture's programs are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, or marital status.

Further, it is the Secretary of Agriculture's policy that membership on USDA Boards and committee's reflect, to the extent practicable, the diversity of individuals served by the programs.

Done in Washington, DC, on October 23, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-25493 Filed 10-27-89; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1990 Coverage Followup Form
Form Number: D-1018A, D-1018B
Agency Approval Number: None
Type of Request: New collection
Burden: 32,248 hours
Number of Respondents: 193,490
Avg Hours per Response: 10 minutes
Needs and Uses: This survey is part of a research program that focuses on the use of sampling to improve coverage in a decennial census. During the 1990 census, interviewers will use this form in followup activities at a sample of nonrespondent households to ask a set of supplemental questions. Similarly, interviewers will ask these questions during telephone followup activities for a sample of respondents. Census Bureau analysis will focus on the feasibility of sampling in future censuses, in the event that a sample census is allowed by law
Affected Public: Individuals or households
Frequency: One time only
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-25457 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Plant Capacity Utilization
Form Number: MQ-C1
Agency Approval Number: 0607-0175
Type of Request: Revision of a currently approved collection
Burden: 11,295 hours
Number of Respondents: 9,045

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Avg Hours per Response: 1 hour and 15 minutes
Needs and Uses: This survey provides information on use of industrial capacity by Standard Industrial Classification (SIC) for manufactured products and is the only statistical series that provides 4-digit SIC data for use in other Government economic series. Data are used by Government agencies, business firms, trade associations, and research organizations to measure inflationary pressures and capital flows, to understand productivity determinants, and to analyze and forecast economic and industrial trends
Affected Public: Businesses or other for-profit organizations
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-25456 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Census
Title: Motor Freight Transportation and Warehousing Survey (WATS)
Form Number: B-514, B-515, B-524, B-525
Agency Approval Number: 0607-0510
Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
Burden: 2,100 hours
Number of Respondents: 1,491
Avg Hours per Response: 1 hour and 25 minutes
Needs and Uses: The Census Bureau conducts the WATS annually to obtain financial information for for-hire trucking and warehousing services. This survey is part of a broad-based multi-year program to expand coverage and improve statistics for service-related industries and is the only annual source of data for the universe of employer firms providing for-hire trucking and warehousing services. Federal government agencies use the data for computations of the national accounts. The private sector uses the data for market analysis
Affected Public: Businesses and other for-profit organizations and small businesses or organizations
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-25459 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Census
Title: 1991 Residential Finance Survey
Form Number: D-2900, D-2901, D-2902, D-2903(L)
Agency Approval Number: None
Type of Request: New collection
Burden: 43,200
Number of Respondents: 324,000
Avg Hours per Response: 8 minutes
Needs and Uses: The Residential Finance Survey (RFS) is a mail-out survey with personal visit follow-up to be conducted as part of the 1990 census of housing. It provides detailed data concerning the financial of non-farm, privately-owned residential properties. Federal agencies use RFS data in conjunction with statistics from other sources in assessing public policies affecting real estate, mortgage banking, economic policy, social welfare, and related areas of concern
Affected Public: Individuals of households and businesses and other for-profit institutions
Frequency: One time only
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-25458 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

[Docket Nos. 9103-01 and 9103-02]

Ruben Sanchez and Oficina Tecnica Ruben Sanchez CA, Respondents; Clarification of Order

On September 14, 1989, the Acting Under Secretary for Export Administration issued the Agency's Final Decision and Order in the above-captioned proceedings. In the Matter of Ruben Sanchez, individually and doing business as Oficina Tecnica Ruben Sanchez CA, 54 FR 39026 (Sept. 22, 1989). Because of an ambiguity in the Administrative Law Judge's Recommended Decision and Order, which the Acting Under Secretary affirmed, the Agency's Final Decision and Order must be clarified. The following clarifying statements are hereby added to that Final Decision and Order:

Delete from the second sentence of the section entitled "Summary" in the Agency's Final Decision and Order "Commencing one year from this date" and insert in lieu thereof: "While it is clear that the Administrative Law Judge intended that respondents' one-year denial period be suspended for one year beginning on the date of the entry of the Final Order, the ALJ's Recommended Order is unclear in that regard. To the extent that the ALJ's Recommended Order indicates that the denial period is not suspended until one year from the date of this Final Order, the language of that Recommended Order is hereby modified to comply with the ALJ's intent. Beginning on the date of this Final Order * * *."

Delete the period after the acronym "ALJ" in the third sentence in the first section entitled "Order" in the Agency's Final Decision and Order, and insert in lieu thereof: "except for the language of Paragraph II in the section of the ALJ's recommended Order entitled '*ORDER*' which indicates that the denial of respondents' export privileges will not be suspended until one year from the date of this Final Decision and Order. I order that respondents' denial period be suspended for a period of one year from the date of this Final Decision and Order, as was actually intended by the ALJ. All other terms concerning the conditions of that suspension and the termination of the denial period set forth in the ALJ's recommended Order are affirmed."

Dated: October 20, 1989.

Dennis E. Kloske,

Under Secretary for Export Administration.

Amendment of Decision and Order

This Amendment corrects an editorial error in the September 14, 1989 Order issued in this matter (54 FR 39026, Sept. 22, 1989). The purpose of that Order was to impose on Respondents a suspended one-year denial of U.S. export privileges. Because of two excess words in Paragraph II of the August 24, 1989 Order signed by the undersigned and affirmed by that September 14, 1989 Order, however, the period of suspension was scheduled to begin only after the end of the one-year denial period. This Amendment corrects that scheduling by providing that the one-year suspension shall begin simultaneously with the one year of denial, so that the denial is suspended from its outset.

Order

Paragraph II of the undersigned's August 24, 1989 Order, as affirmed by the Order of September 14, 1989, is amended by deleting from the first sentence its second and third words—"one year"—so that the sentence shall read as follows.

Commencing from the date of the final Agency action, the denial of export privileges set forth in Paragraph I above shall be suspended, in accordance with § 788.16 of the Regulations, for one year, and shall be terminated at the end of such year, provided that Respondents have committed no further violation of the Act, the Regulations, or the final Order entered in this proceeding.

All other terms and conditions of the August 24, 1989 Order, as affirmed by the Order of September 14, 1989, shall remain in full force and effect as originaly issued.

Dated: October 17, 1989.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 89-25435 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 1613-01, 02, 03]

Action Affecting Export Privileges; Spawr Optical Research, Inc.

In the matter of: Walter J. Spawr, Frances A. Spawr, Spawr Optical Research, Inc. Respondents.

Summary

On August 29, 1989, the Administrative Law Judge (ALJ) entered a Recommended Decision and Order of Modification of the ALJ's Order of January 27, 1986, as affirmed by Secretarial Order on February 26, 1986 (51 FR 7477 *et seq.*, March 4, 1986). The Order of Modification was referred to me pursuant to the Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 as amended, for final action. I concur with the Recommended Decision and affirm the Order of Modification. The Order of January 27, 1986, is hereby modified to suspend the last two years of the denial of export privileges of respondents Walter J. Spawr, Francis A. Spawr and Spawr Optical Research, Incorporated for six years. The respondents shall be on probation until their export privileges are restored on February 27, 1992.

Order

On August 29, 1989, the Administrative Law Judge entered his Recommended Decision and Order of Modification, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record in this case, I hereby affirm the Recommended Decision and Order of Modification of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: October 20, 1989.

Dennis E. Kloske,

Under Secretary for Export Administration.

ORDER ON MOTION

In the matter of: Walter J. Spawr, Frances A. Spawr, Spawr Optical Research, Inc., Respondents.

Appearance for Respondent: Steven R. Perles, Esq., Scot C. Whitney, Esq., 1629 K Street, NW., Suite 601, Washington, DC 20006.

Appearance for Agency: Thomas C. Barbour, Esq., Office of the Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3329, 14th & Constitution Ave., NW., Washington, DC 20230.

Preliminary Statement

On October 4, 1988, Respondent's filed a Motion to Amend Order Denying Export Privileges. The case has a long history which is detailed in the appended Decision and Order issued January 27, 1986, and confirmatory action of February 26, 1986 (51 FR 7477 et seq., March 4, 1986). The motion requests that the denial order be amended to terminate effective November 10, 1988.

Following the exchange of written submissions the matter was assigned to Administrative Law Judge Thomas W. Hoya on March 22, 1989. In response to a request that he disqualify himself, an Order of recusal was issued by Judge Hoya on April 10, 1989.

Discussion

In his filings Counsel represents that since Respondents have satisfied the criminal sanctions of the Federal District Court; have completed their probation and have been absolved from payment of the balance of the criminal penalty, favorable consideration should be given to remitting the balance of the period of the administrative denial of export privileges.

Agency Counsel opposes any mitigation arguing that the fulfillment or disposition of the federal criminal proceedings is not a grounds for modification of the denial order. He also contends that the action requested is a reopening of the proceedings, prohibited by § 788.18, footnote 2 of the Regulations, and that a document submitted with the request has not been shown to be relevant to the Motion.

Requests to modify, grant exceptions to, and/or render interpretations of, Denial Orders in Export compliance cases were commonplace and a substantial part of the practice before the Hearing Commissioner a decade ago and earlier. Since 1985, Exceptions, that is, requests to conduct a specified transaction or transactions by or with a denied party are subject to a reporting requirement to Congress under § 11.(c)(3) of the Export Adminstration Act. This office is not aware of any recent practice in that area. The procedure outlined in § 787.12 of the Regulations (15 CFR 787.12) may provide such mechanism. Interpretations, appear to be in a limbo status and without a system or method of promulgation. The third category, Modifications, which are

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at issue here, are involved when it is contemplated that the terms of a denial order published in the **Federal Register** will be altered. These warrant publication of the change to give notice to those in the public sector who are charged with the knowledge of, and adherence to the provisions of such orders. These too were frequent over a decade ago, but this process also appears to have fallen into disuse.

The objections and requests will be discussed seriatim.

A. Agency Counsel's Objection to Exhibit C and D—Operation Committee Document #5853 and Referral Form

These are very obviously documents from the Agency records made in 1976, at or about the time the license application was denied. It is my view that they have little bearing on the question for consideration here. The fact that some of those who participated in the license application consideration process viewed the request favorably, loses much significance, for the record reflects that the application was denied and this was conveyed to Respondents. Nevertheless, the items were exported without a license.

B. Authority to Modify Denial Orders

Agency Counsel's argument that the Secretary and his delegee lack authority to modify denial orders, misconstrues the nature of the relief requested and is erroneous. This is not a reopening as contemplated under § 788.18. So long as a denial continues to be published in the Table of Denial Orders (Supp. 1 to Part 788), the Secretarial delegee may act with respect to it. While it may be appropriate to establish a time, after which new evidence or a retrying of the case in chief will be barred, the Secretary through his delegee should and does retain the power to act with respect to outstanding sanctions. This is demonstrated by the recent action in Kubicek 54 FR 13716 et seq., April 5, 1989 where, almost 3 years after the initial action the final Agency action was unilaterally changed.

C. Satisfaction of the Federal Criminal Sanctions

Agency Counsel's representation is that the expiration or completion of the criminal sentence does not constitute a sufficient basis for reconsideration. On behalf of the Respondent's it is argued that the expiration of the 5-year probation period, the correspondence reflecting the good conduct and therefore the rehabilitation of Respondent's and the act of mitigating $18,800 of the criminal fine, in combination, reflect that Respondents have been restored and that favorable consideration should be given to remission of the remainder of the civil administrative sanctions as well.

The disposition of this request is a matter within the authority and sound discretion of the Secretarial delegee responsible for Administration of the Export Administration Act.

The background recited above, as well as the criminal conviction and administrative adjudication, attest to the seriousness of the violations. The export of controlled commodities to the Soviet Union after denial of license applications was and is a very serious matter. (See Findings pp 6 & 7 Decision and Order of January 27, 1986).

Nevertheless, the request for clemency following the termination of the opprobrious effect of the federal criminal sanctions is understandable and may be considered as an appropriate approach to restore this business and its owners to fully productive citizenship.

These compliance proceedings are not penal in nature. The criminal process, which included confinement, probation and a fine, addressed that aspect of the matter. In reviewing the available historic records relating to the purpose of these administrative proceedings it is repeatedly asserted that they are remedial not penal. The following notes, quoted from the Hearing Commissioners desk handbook, bear review and consideration.

SANCTIONS—Nature of

This is not a penal proceeding but rather it is a remedial proceeding to bring about effective enforcement or adherence to the law. A primary means for attaining that objective is the educational value which the denial of export privileges has on persons concerned with exportation of goods from the U.S.

Corrective and deterrent, normal objectives of remedial action.

The cases referenced under that note include the following:

The action finally taken in these compliance cases is not intended primarily to inflict a penalty. True, it may result in some financial impact. However, this has corrective and deterrent values, normal objectives of remedial action. In these cases the Bureau of Foreign Commerce carries out the mandate of the Congress, which is to effectuate the policies set forth in the Act and make regulations governing the participation in exports by any person "to the extent necessary to achieve effective enforcement of this Act." Bertling No. 261 Order of July 16, 1959.

and,

* * * this is not a penal proceeding, but rather a remedial proceeding intended to achieve more effective enforcement of the law. (See Country Garden Market vs. Bowles 1944, U.S.C.A.D.C., 78 U.S. App. D.C. 381, 141 F.2d 540, Cert. den. 322 U.S. 752; Di Melia vs. Bowles, 1945, C.C.A. Mass., 148 F.2d 725, Cert. den. 325 U.S. 866; Steuart & Bro. vs. Bowles, 1944, 78 U.S. App. D.C. 350, 140 F.2d 703).

Stemmler, Imex et al No. 1991 Order of Oct. 27, 1955.

Certainly when considered with the actions in other cases the period of actual administrative denial for over 8 years, since February 24, 1981, when the Temporary Denial Order issued, is substantial. In any event these respondents export privileges will be restored in February 1992 upon the expiration of the present denial order. A period of probation in preparation for that expiration and in recognition of the rehabilitation which has been acknowledged in the judicial process appears to be in order.

I believe that a suspension of the last two years of the current denial, starting February 27, 1990, would be appropriate and would aid in the patterned rehabilitation of these Respondent's.

The Motion to Amend is granted in part.

Order of Modification

The Order of January 27, 1986 as affirmed by Secretarial Order on February 26, 1986 (51 FR 7477 et seq., March 4, 1986) is hereby Modified to insert the following as Paragraph III:

III. Commencing four years from the date of the final Agency action, taken on February 26, 1986, the denial of export privileges set forth in Paragraph II above shall be suspended, in accordance with Section 788.16 of the Regulations, for the remaining two years of the six-year period set forth in Paragraph II above, and shall be terminated at the end of such six year period, provided that Respondents have committed no further violations of the Act, the Regulations, or the final Orders entered in this proceeding. During the two-year suspension period, Respondents may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of Paragraphs IV and V of this Order as amended shall also be suspended during such two-year period.

Paragraphs's III through V of the Order of January 27, 1986 as affirmed are hereby renumbered as IV through VI.

So ordered.

Dated: August 29, 1989.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 89-25636 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[C-333-401]

Cotton Shop Towels From Peru; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on cotton shop towels from Peru.

EFFECTIVE DATE: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Megan Pilaroscia or Linda Ludwig, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 38262) its intent to terminate the suspended countervailing duty investigation on cotton shop towels from Peru (September 12, 1984, 49 FR 35835). The Department may terminate a suspended investigation if the Secretary concludes that the agreement is no longer of interest to interested parties. The Department has not received a request to conduct an administrative review of the agreement suspending the countervailing duty investigation on cotton shop towels from Peru for four consecutive annual anniversary months.

On September 11, 1989, the petitioner, Milliken & Company, objected to the Department's intent to terminate this suspended investigation. Therefore, we no longer intend to terminate the suspended investigation.

This notice is in accordance with § 355.25(d)(4) of the Commerce Department's revised regulations published in the **Federal Register** of December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.25)(d)(4).

Dated: October 20, 1989.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-25415 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DS-M

(C-421-601)

Standard Chrysanthemums From the Netherlands; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands. We preliminarily determine the net subsidy to be 0.66 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.57 percent *ad valorem* for the period January 1, 1987 through December 31, 1987. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 7646) a countervailing duty order on standard chrysanthemums from the Netherlands. On March 25, 1988, the respondent, the Association of Dutch Flower Auctions, requested that we conduct an administrative review of the order. We published the initiation on April 27, 1988 (53 FR 15083). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Dutch standard chrysanthemums. During the review period, such merchandise was classifiable under item 192.2120 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 0603.10.70. The written description remains dispositive.

The review covers the period October 27, 1986 through December 31, 1987 and eight programs.

Analysis of Programs

(1) Natural Gas Provided at Preferential Rates

Natural gas in the Netherlands is sold directly to major customers by the N.V. Nederlandse Gasunie (Gasunie). The Agricultural Industrial Board, or "Landbouwschap," is a quasi-governmental body that negotiates with Gasunie to determine prices and general terms of gas delivery for Dutch greenhouse growers. Gasunie is 40 percent owned by DSM Aardgas (a company wholly-owned by the Government of the Netherlands), 10 percent by the Government of the Netherlands, 25 percent by Shell Nederland, and 25 percent by Esso Nederland N.V. While the Government of the Netherlands does not own a controlling interest in Gasunie, it plays a significant role in the setting of natural gas prices. The Minister of Economic Affairs reserves the right to approve selling prices and terms of delivery for supplies to public distributors in the Netherlands, large export contracts, and contracts between Gasunie and the Landbouwschap. In this respect, the Minister's approval is an important part of the system of controls normally applied to negotiated prices.

The Landbouwschap is a statutory trade organization created under the Industrial Organizations Act. Its chairman is approved by the Government of the Netherlands, and its purpose is to represent the economic and political interests of the agricultural sector in the Netherlands.

Natural gas prices are based on consumption levels which are broken down into five categories or "zones"—zones "a" through "e". Zone "a" users

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are small gas consumers, such as homeowners or small businesses, which use less than 170,000 cubic meters (m^3) of gas per year; zone "e" users are the largest consumers, such as industries, which use more than 50 million m^3 of gas per year. Zone "a" users pay the highest price per m^3; zone "e" the lowest.

Greenhouse growers, through the Landbouwschap, negotiated a contract in October 1984 with Gasunie for their natural gas. Under the contract, which was in effect from October 1, 1984 through October 1, 1985, greenhouse growers pay the zone "d" rate plus 0.5 guilder cents per m^3 of gas. Absent the contract, most greenhouse growers, given their individual consumption levels, would fall in zone "a" or zone "b", with a few falling in zone "c".

In the October 1984 contract negotiated with Gasunie by the Landbouwschap on behalf of greenhouse growers, a maximum ceiling price was established. In the Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers From the Netherlands (52 FR 3301, February 3, 1987) ("Netherlands Flowers"), we determined that the contract with the provision of a price ceiling constitutes preferential treatment because: (a) comparable users of natural gas enjoy no such price ceiling; (b) the contract constituted governmental provision of natural gas—the Dutch government owns 50 percent of Gasunie, the Minister of Economic Affairs must approve the contract between Gasunie and the Landbouwschap, and the Landbouwschap itself is a quasi-governmental organization; and (c) the contract involves the provision of natural gas to a specific industry (*i.e.*, greenhouse growers). Accordingly, in "Netherlands Flowers," we calculated the benefit to greenhouse growers based on the difference between the price of gas actually paid by greenhouse growers in 1985 and the zone "d" plus 0.5 guilder cents price they would have had to pay under the contract absent the ceiling price.

In June 1985, a contract was signed between the Landbouwschap and Gasunie that superseded the October 1984 contract. The June 1985 contract maintained the same zone "d" rate per m^3 of natural gas, but it established a higher ceiling price for the month of June 1985, 45 guilder cents per m^3, after which the ceiling reverted to the original 42.5 guilder cents per m^3. This contract was in effect from June 4, 1985 through October 1, 1987.

In September 1985, Gasunie informed the Landbouwschap that it was withdrawing the ceiling price from the contract. In its letter, Gasunie explained that it took this action to comply with the EC Commission's decision of January 13, 1985, which found the ceiling price in violation of Community statute. In "Netherlands Flowers", we stated that since the withdrawal of the ceiling price was a unilateral action contested by the Landbouwschap, and because no new contract had been signed between the parties agreeing to the withdrawal by the time of our final determination, the June 1985 contract technically still included the ceiling price. Therefore, we did not consider the unilateral withdrawal of the ceiling price as a verified program-wide change for purposes of calculating a separate deposit rate. In August 1987, a new contract was negotiated between the Landbouwschap and Gasunie for the period October 1, 1987 through October 1, 1989. The price of gas to greenhouse growers remained the zone "d" rate plus 0.5 guilder cents per m^3, but the contract contained no provision for a ceiling price.

Because we verified that the price of natural gas supplied to greenhouse growers for the period October 27, 1986 through September 30, 1987 was lower than the ceiling price, we preliminarily determine the net subsidy for this same period to be zero.

For the period October 1, 1987 through December 31, 1987, the contract in effect between Gasunie and the Landbouwschap contained no provision for a ceiling price. Therefore, we preliminarily determine that this contract does not confer a countervailable benefit.

(2) Aids for the Creation of Cooperative Organizations

Under European Community (EC) Regulation 355/77, the EC has provided grants to Dutch auction houses, which are flower grower cooperatives. These funds are provided by the EC through the Agricultural Guidance and Guarantee Fund with matching grant contributions from EC member states. The purpose of the program is to improve the processing, marketing and distribution of agricultural products in member states.

The Government of the Netherlands submitted a program proposal to the EC in 1979 for flower auctions. In 1980, the EC approved the program for a four-year duration. This program terminated at the end of 1984; however, project applications submitted to the EC by December 1984 were eligible for, and received, grant approval through June 1985. In February 1985, the Government of the Netherlands requested an extension of the flower auction program, but withdrew this request in March 1986. We verified that grants are still being disbursed under the flower auction program for investment projects approved through June 1985.

Because the Government of the Netherlands selects only certain activities and/or products within the agricultural sector for which it proposes a program to the EC for funding, and because we saw no evidence of standard criteria applied in the approval of programs by the EC, we determine that this grant program is administered in such a way as to be limited to a specific enterprise or industry, or group of enterprises or industries in the Netherlands and is, therefore, countervailable.

To calculate the benefit from this program, we used a declining balance grant methodology. We took the total value, in guilders, of grants given in each year to flower auction houses under this program and allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector as determined under the U.S. Internal Revenue Service's Asset Depreciation Range System. We used as the discount rate the average interest rate for long-term commercial loans published by the Netherlands Bank (the Central Bank), for each year in which grants were provided. We took the total of the benefits from these grants allocated to each year and divided the benefits by the f.o.b. value of total auction sales in that year. On this basis, we preliminarily determine the net subsidy to be 0.15 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.13 percent *ad valorem* for calendar year 1987.

(3) Glasshouse Enterprises Program

Under the Glasshouse Enterprises Program, the Ministry of Agriculture and Fisheries provided grants to greenhouse growers in order to stimulate private investment in energy saving methods in the horticulture industry. The program was scheduled to terminate in 1984; however, the fund was not fully used, and was extended for one year to June 1985. Grants for energy saving investment plans approved prior to the termination of the program were still being disbursed in 1986 and 1987.

Because this program was available only to greenhouses, we determine that it was limited to a specific enterprise or industry or group of enterprises or industries and provides a countervailable domestic subsidy.

To calculate the benefit from this program, we used a declining balance grant methodology. For each of the years 1982 to 1987, we took the total amount of grants provided to all Dutch greenhouse growers under this program and allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector. We used as the discount rate the average interest rate for long-term commercial loans published by the Netherlands Bank (the Central Bank), for each year in which grants were provided. We took the total of the benefits from these grants allocated to each year and divided the benefits by the f.o.b. value of total greenhouse sales in that year. On this basis, we preliminarily determine the net subsidy to be 0.50 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.44 percent *ad valorem* for calendar year 1987.

(4) Aids for the Reduction of Glass Surface

Under the Aids for the Reduction of Glass Surface program, the Ministry of Agriculture and Fisheries provided grants to greenhouse growers for the purpose of increasing the energy efficiency of greenhouses by dismantling existing glass and replacing it with modern energy-saving glass. The program was established in October 1982 and terminated in November 1984. However, grants approved prior to the termination of the program were still being disbursed in 1985.

Because this program was available only to greenhouses, we determine that it was limited to a specific enterprise or industry or group of enterprises or industries and provides a countervailable domestic subsidy.

To calculate the benefit from this program, we used a declining balance grant methodology. For each of the years 1983 to 1985, we took the total amount of grants provided to all Dutch greenhouse growers under this program and allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector. We used as the discount rate the average interest rate for long-term commercial loans published by the Netherlands Bank (the Central Bank), for each year in which grants were provided. We took the total of the benefits from these grants allocated to each year and divided the benefits by the f.o.b. value of total greenhouse sales in that year. On this basis, we preliminarily determine the net subsidy to be 0.006 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.005 percent *ad valorem* for calendar year 1987.

(5) Steam Drainage Systems

In January 1981, the Government of the Netherlands banned the use of methylbromide as a means of soil disinfection due to the potential health hazards caused by the chemical. In December 1981, the Ministry of Agriculture and Fisheries established a program making available cash grants to encourage the use of steam drainage as an alternative method of soil disinfection for greenhouses. The program was terminated in September 1984. However, some grants were disbursed in 1985 because of lags in processing the applications.

Because this program was only available to greenhouse growers, we determine it was limited to a specific enterprise or industry, or group of enterprises or industries and provides a countervailable domestic subsidy.

To calculate the benefit from this program, we used a declining balance grant methodology. For each of the years 1982 to 1985, we took the total amount of grants provided to all Dutch greenhouse growers under this program and allocated these amounts over ten years, which is the average useful life of renewable physical assets in the agricultural sector. We used as the discount rate the average interest rate for long-term commercial loans published by the Netherlands Bank (the Central Bank), for each year in which grants were provided. We took the total of the benefits from these grants allocated to each year and divided the benefits by the f.o.b. value of total greenhouse sales in that year. On this basis, we preliminarily determine the net subsidy to be 0.005 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.007 percent *ad valorem* for calendar year 1987.

(6) Guarantee Fund for Agriculture

The Stichting Borgstellingsfonds voor de Landbouw (Foundation Security Fund for Agriculture, or "the Fund") is used to guarantee the servicing and repayment of loans made by banks to farmers. The Fund acts as an institutional guarantor, not as a lender itself, providing guarantees only when the security offered by the farmer in question is inadequate for the total amount of the loan. Not until all of the farmer's own securities or collateral have been provided for the loan can an application be made to the Fund. If an application to the Fund is approved, the guarantee applies only to the portion of the loan not originally approved by the bank.

In "Netherlands Flowers", we found that horticulture received a disproportionate share of loan guarantees under this program. Our determination was based on a comparison of the relative shares of horticulture in total loan guarantees in each year from 1982 to 1984, and total agricultural production for 1985.

In addition, in "Netherlands Flowers," because we found that there are no commercial loan guarantees available in the Netherlands, we calculated the benefit from this program using the best information available at that time; *inter alia*, we multiplied the total outstanding value of guaranteed loans to horticulture in 1985 by the difference between the interest rate on the guaranteed loans and on loans secured by equipment and/or accounts receivable, as reported by the Rabobank Nederland.

In this review, however, we verified that all of the borrowing by greenhouse growers in 1986 and 1987, including the portions of the loans guaranteed by the Fund, was contracted at commercial interest rates. The greenhouse grower secured the greater portion of the loan with his own collateral. The interest rate was negotiated based on a normal credit analysis consistent with commercial considerations. In every case, the Fund guaranteed a small portion of the loan at the interest rate that was contracted between the greenhouse grower and a private bank before application to guarantee an incremental amount was made to the Fund. Therefore, because we find no difference between the commercial interest rate in the Netherlands and the rate charged by the Fund for its guarantees, we preliminarily determine the benefit from this program to be zero.

(7) Other Programs

We preliminarily determine that exporters or producers of standard chrysanthemums did not use the following programs during the review period:

a. Investment Incentive (WIR)—Regional Program; and

b. Loans at preferential interest rates.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 0.66 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.57 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

In accordance with section 705(a)(1) of the Tariff Act, the final determination

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in this case was extended to coincide with the antidumping final determination on several cut flowers investigations. Because we cannot impose suspension of liquidation for more than 120 days without the issuance of a countervailing duty order, we terminated the suspension of liquidation for entries or withdrawals made on or after February 25, 1987 and before March 12, 1987, the date of publication of the countervailing duty order.

Therefore, the Department intends to instruct the Customs Service to assess countervailing duties of 0.66 percent of the f.o.b. invoice price on all shipments of Dutch standard chrysanthemums entered, or withdrawn from warehouse, for consumption on or after October 27, 1986 and exported on or before December 31, 1986. The Department also intends to instruct the Customs Service to assess countervailing duties of 0.57 percent of the f.o.b. invoice price on all shipments exported on or after January 1, 1987 and entered or withdrawn from warehouse, for consumption on or before February 24, 1987, and entered or withdrawn from warehouse, for consumption on or after March 12, 1987, and exported on or after December 31, 1987.

The Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.57 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. Any hearing, if requested, will be held 44 days from the date of publication or the first workday thereafter. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.22 of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22).

Dated: October 20, 1989.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-25416 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application for an amendment to an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether the Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1223H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 85-2A018."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 85-00018, which was issued on June 3, 1986 (51 FR 20873, June 9, 1986).

Summary of Application

Applicant: U.S. Shippers Association ("USSA"), 1209 Orange Street, Wilmington, Delaware 19801, Contact: Richard G. Slattery, Legal Counsel, Telephone: 202/662/6000.

Application No.: 85-2A018.

Date Deemed Submitted: October 18, 1989.

Request For Amended Conduct: USSA seeks to amend its Certificate to:

1. Add each of the following companies as a "Member" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2 (1)): Air Products and Chemicals Inc., Allentown, Pennsylvania (no controlling entity); and Akzo Chemicals Inc., Chicago, Illinois (controlling entity: Akzo N.V., Arnhem, The Netherlands.)

2. Change the name of an existing "Member," "Stauffer Chemical Company," to "Rhone-Poulenc Basic Chemicals Co."

3. Amend the definition of "Products" in the Certificate to make the Certificate applicable to the export of all products.

4. Extend the protection of the Certificate to subsidiaries of Members, and the officers, directors and employees of such subsidiaries.

Dated: October 20, 1989.

Douglas J. Aller,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 89-25417 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an Export Trade Certificate of Review, application No. 89-00012.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Kentucky World Trade Center, Lexington, Inc. ("KWTCL"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Members (in addition to the applicant): None.

Export Trade:

1. *Products*
All products.
2. *Services*
All services.
3. *Export Trade Facilitation Services (as they relate to the export of Products and/or Services):* All Export Trade Facilitation Services, including, but not limited to, market research, financing (including joint funding on research, technical, and administrative costs), licensing, advertising, export documentation, transportation (including consolidation of shipments), and distribution services.

Export Markets:

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation:

1. On behalf of Suppliers and/or its Members, KWTCL may:

a. Provide and/or arrange for the provision of Export Trade Facilitation Services;

b. Enter into exclusive or nonexclusive distributorship agreements with Export Intermediaries to supply Products and Services to Export Markets; and

c. Determine and set the price of Products and Services for sale in Export Markets.

2. KWTCL may assist Suppliers and/or its Members, on an individual or joint basis, with the development of export plans to meet foreign buyer needs in Export Markets.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: October 18, 1989.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-25418 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, application No. 89-A0005.

SUMMARY: The Department of Commerce has issued an amended Export Trade Certificate of Review to the CherreX Corporation on October 18, 1989. The original Certificate was issued on May 26, 1989. Notice of issuance of the Certificate was published in the **Federal Register** on June 12, 1989 (54 FR 24928).

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 89-00005 was issued to the CherreX Corporation on May 26, 1989. Notice of issuance of the Certificate was published in the **Federal Register** on June 12, 1989 (54 FR 24928).

The listing of "Members" named in CherreX's Export Trade Certificate of Review has been amended to incorporate the following changes:

1. Each of the following companies has been added as a "Member" of the Certificate: Chase Farms, Inc., Walkerville, MI; Larson-Seaquist Processing, Inc., Sister Bay, WI; Muir-Roberts Co., Inc., Salt Lake City, UT; Smeltzer Orchard Co., Frankfort, MI; and Utah Finer Fruits, Santaquin, UT.

2. Each of the following companies has been deleted as a "Member" of the Certificate: Comstock/Michigan Fruit Division, a division of Curtice Burns Foods, and Great Lakes International Trading, Inc.

Pursuant to section 304(a)(2) of the ETC Act, 15 U.S.C. section 4014(a)(2), and 15 CFR 325.7, the amended Certificate is effective from July 24, 1989, the date on which the application for an amendment was deemed submitted.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: October 20, 1989.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-25419 Filed 10-27-89; 8:45 am]

BILLING CODE 3510-DR-M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF90-8-000]

Pinellas County Board of County Commissioners; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 23, 1989.

On October 12, 1989, Pinella County, Board of County Commissioners (Applicant), of 315 Court Street, Clearwater, Florida 34616, submitted fer filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located at 3001 110th Avenue North, St. Petersburg, Florida. The facility will consist of four waste fired boilers and two steam turbine generator sets. Applicant states that the primary energy source for the facility will be biomass in the form of municipal solid waste. The net electric power production capacity of the facility will be 70 MW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25432 Filed 10-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CS71-625-001 et al.]

UMC Petroleum Corp. et al.; Applications for Small Producer Certificates[1]

October 23, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 9, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No.	Date filed	Applicant
CS71-625-001	[1] 9-29-89	UMC Petroleum Corporation, 1201 Louisiana, Suite 1000, Houston, TX 77002.
CS88-98-001	[2] 9-19-89	Universal Drilling Co., Inc., 200 Carondelet Street, 1500 American Bank Building, New Orleans, LA 70130.
CS89-48-000	[4] 10-3-89	Redwine Resources, Inc., 8214 Westchester Drive, Suite 505, Dallas, TX 75225.
CS89-50-000	[5] 10-5-89	Peregrine Petroleum Corporation, 827 N.W. 63rd Street, Suite 203, Oklahoma City, OK 73116.
CS89-51-000	9-22-89	DMS Oil Company, 3000 Wilcrest #250, Houston, TX 77042.
CS89-52-000	9-26-89	Texacan Energy, Inc., P.O. Box 820167, Houston, TX 77282.
CS90-1-000	10-5-89	Point Farm Inc., P.O. Box 70457, Ft. Lauderdale, FL 33307.
CS90-2-000	10-12-89	Geodyne Nominee Corporation, 320 South Boston Avenue (Mezzanine), Tulsa, OK 74103.

[1] By letter dated September 26, 1989, Applicant states than on December 20, 1988, General Producing Company, changed its name to UMC Petroleum Corporation. Applicant states that effective September 14, 1989, UMC Petroleum Resources Corporation (formerly MCOR Oil and Gas Company), MCO Resources (Integrated) Corporation and General LP Acquesitons, Inc. (limited partner to General Producng Company) merged into UMC Petroleum Corporation.

[2] By letter dated September 18, 1989, Applicant requests that the small producer certificate in Docket No. CS88-98-000 be amended to include Universal Drilling Co., Inc.

[3] The application was received on September 14, 1989. The filing date is the date of receipt of the filing fee.

[4] The application was received on September 5, 1989. The filing date is the date of receipt of the filing fee.

[5] The application was received on September 18, 1989. The filing date is the date of receipt of the filing fee.

[FR Doc. 89-25433 Filed 10-27-89; 8:45 am]

BILLING CODE 6717-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket Nos. CP90-74-000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP90-74-000]

October 20, 1989.

Take notice that on October 18, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-74-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Phoenix Gas Pipeline Company (Phoenix), an intrastate pipeline company, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated December 6, 1988, as amended on July 20, 1989, under its Rate Schedule ITS, it proposes to transport up to 103,000 MMBtu per day equivalent of natural gas for Phoenix. United states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas to multiple delivery points shown in Exhibit "B" of the agreement.

United advises that service under § 284.223(a) commenced August 14, 1989, as reported in Docket No. ST90-32-000 (filed October 3, 1989). United further advises that it would transport 103,000 MMBtu on an average day and 37,595,000 MMBtu annually.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Wyoming-California Pipeline Company

[Docket No. CP90-41-000]

October 23, 1989.

Take notice that on October 10, 1989, Wyoming-California Pipeline Company ("WyCal"), P.O. Box 1087, Colorado Springs, Colorado 80944, pursuant to section 7(c) of the Natural Gas Act, as amended, and subpart E of part 157 of the Regulations of the Federal Energy Regulatory Commission ("Commission"), filed in Docket No. CP90-41-000 an application for an optional expedited certificate of public convenience and necessity authorizing the acquisition, construction, and operation of facilities for the transportation of natural gas in interstate commerce for others. The proposed interstate pipeline system commences in southwestern Wyoming at Hams Fork and extends southwestward through a portion of Wyoming, Utah, and Nevada to a terminus near Bakersfield, California, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WyCal states in its application that it has signed a settlement with Pacific Gas and Electric Company ("PG&E") that calls for offering transportation services utilizing capacity acquired by WyCal on certain PG&E facilities. In addition, WyCal states that it has executed a settlement agreement with Southern California Gas Company (SoCalGas) wherein SoCalGas agrees to facilitate downstream transportation of volumes of gas on behalf of WyCal shippers.

WyCal states that it has a certificate of public convenience and necessity issued in Docket No. CP87-480-000 pursuant to 18 CFR 284.221 authorizing blanket self-implementing transportation for others which it accepted by letter dated May 4, 1989.

WyCal states that because of certain developments in the market, and as a result of negotiations with potential shippers, it has determined that the market requires a range of configuration choices, in addition to and including the configuration approved by the optional expedited certificate issued in Docket No. CP87-479-000, from which to choose. WyCal states that it will retain its existing authorization in Docket No. CP87-479-000 as one of the configuration choices available to the market. WyCal states that the subject application seeks additional authorization and does not supplant, amend or otherwise modify WyCal's existing authorization granted in Docket No. CP87-479-000. WyCal filed in the subject application a Base Case, Alternative 1 and Alternative 2. WyCal states that the configurations will provide flexibility to all shippers who require transportation service, including heavy oil producers in Kern County, California.

WyCal states that the Base Case, Alternatives 1 and Alternative 2 configurations proposed provide for the transportation of 600 MMcf per day with 100 MMcf per day delivered to the Las Vegas, Nevada area (Southwest Gas Corporation) and 500 MMcf per day delivered into California. The pipeline route from Hams Fork, Wyoming to the California-Nevada border is the same for the three configurations.

WyCal's proposed route would essentially follow the route of its existing certificated configuration from the Rocky Mountain producing region to the Nevada-California border, according to WyCal. This includes the Wasatch Variation and the North Las Vegas Variation that was required by the Commission, as part of its certificate orders. However, although the configuration remains the same, the pipeline capacity of this segment up to the vicinity of Las Vegas, Nevada has been increased to 600 MMcf per day, WyCal states. As a result, WyCal would be required to construct three additional compressor stations, and to install additional compression at its previously authorized station locations.

WyCal's proposed configurations differ from WyCal's existing certificate authorizations in the following manner:

(1) The configurations are downsized to reflect a reduced level of demand for new capacity into southern California. Specifically, WyCal's design capacity under its existing authorization is set at 700 MMcf per day of transportation capacity into California; whereas, the proposed filing requests authorization for transportation of 500 MMcf per day into California.

(2) The route followed by the proposed configurations is a more direct route from Las Vegas, Nevada to Kramer Junction near Barstow, California.

(3) Under two of the proposed configurations deliveries in California may be effectuated through the faclities of local distribution companies.

The Base Case provides for an interconnection with PG&E's Line 300 near Kramer Junction, San Bernardino County, California and an approximately 18.2 mile lateral pipeline interconnecting with the facilities of SoCalGas near Newberry Springs, San Bernardino County, California ("Newberry Springs Lateral"). WyCal states that it will have an undivided interest in capacity on the PG&E pipeline system sufficient to provide firm transportation of 280 MMcf per day of natural gas from Kramer Junction to the Kern County area, and that the Newberry Springs Lateral can deliver 220 MMcf per day to SoCalGas.

Alternative 1 provides for the same interconnections with PG&E and SoCalGas; however, additional PG&E facilities would have sufficient capacity to provide up to 500 MMcf per day of firm transportation deliveries to the Kern County area. WyCal states that it

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will have an undivided interest in capacity on the PG&E pipeline system. Alternative 2 provides for WyCal only facilities sufficient to provide up to 500 MMcf per day to the Kern County area and 220 MMcf per day to SoCalGas.

The configurations for the Base Case, Alternative 1 and Alternative 2 are as follows, with all mileage being approximate:

The Base Case: (1) 5.9 miles of 24-inch outside diameter (O.D.) pipeline beginning at Hams Fork, Wyoming to the Round Mountain Compressor Station near Opal, Wyoming; (2) 730.2 miles of 30-inch O.D. pipeline from the Round Mountain Compressor Station and extending southwestward through Wyoming, Utah, and Nevada using the "Wasatch Variation" and the "North Las Vegas Variation" to a point near Kramer Junction, California, to interconnect with the facilities of PG&E; (3) the Newberry Springs Lateral; (4) 57.7 miles of 24-inch O.D. pipeline from the facilities of PG&E's Kern River Station to a point near Belridge, California to be known as the "Modified Taft Lateral"; and (5) capacity on PG&E facilities, including a new 30-inch O.D. pipeline loop 60.0 miles from Kramer Junction west along PG&E's Line 300, a new 11.0 miles of 30-inch O.D. pipeline loop west of Arvin in Kern County, and a new 4.4 miles of 16-inch O.D.pipeline loop along PG&E's Line 142N in Kern County. Other facilities include approximately 90,100 horsepower of compression at the six WyCal compressor stations and taps, valves, metering and other appurtenant facilities.

Alternative 1 has the same pipelines and compression facilities at the Base Case from Hams Fork, Wyoming to the interconnection with PG&E's facilities near Kramer Junction, California. From that point, the configuration includes: (1) The Newberry Springa Lateral; (2) the Modified Taft Lateral; (3) tap, valves, metering, and other appurtenant facilities; and (4) capacity on PG&E facilities comprising a new 102.7 miles of 30-inch O.D. pipeline along PG&E's Line 300 from Kramer Junction to Kern River Station and a new 4.4 miles of 16-inch O.D. pipeline loop on PG&E's Line 142N in Kern County, California.

Alternative 2 has the same pipeline and compression facilities as the Base Case and Alternative 1 from Hams Fork, Wyoming to Kramer Junction, California. From that point, the configuration includes: (1) 78.2 miles of 30-inch O.D. pipeline from Kramer Junction to a point near Arvin, California; (2) 27.9 miles of 20-inch O.D. pipeline from Arvin to a point near Bakersfield; (3) 73.1 miles of 24-inch O.D. pipeline from Arvin to a point near Belridge, California; (4) taps, valves, metering, and other appurtenant facilities, and (5) the Newberry Springs Lateral.

WyCal proposes transportation service only. WyCal proposes to transport gas for third party shippers, up to the full capacity of its proposed system, which is designed to be appoximately 600 MMcf per day to the Las Vegas, Nevada, area and 500 MMcf per day into California.

WyCal's proposed tariff incorporates two rate schedules which include a firm transportation service with a two-part rate, including a maximum reservation rate, and a one-part volumetric rate for interruptible service. All rates will be discountable between a maximum and minimum level.

The total direct and indirect capital cost of each of WyCal's configurations, including any additional PG&E facilities and line pack, is: (1) Base Case—$664,438,000; (2) Alternative 1—$686,212,000; and (3) Alternative 2—$686,994,000. The estimate is in 1991 dollars. WyCal proposes an initial capitalization ratio of 70 percent debt and 30 percent equity.

WyCal states that its proposed rates have been designed, and its proposed *pro forma* Tariff has been drafted, using the principles which the Commission established in its orders approving WyCal's certificated system. WyCal states that it is proposing firm and interruptible rates for each system configuration with separate zones for service within California and for service east of California. Such zoning for deliveries within California and for service east of California, WyCal states, is consistent with the Commission's recent Policy Statement in Docket No. PL89–2–000. WyCal states that the rates for the within California zone reflect an allocation of 500/600's of all the costs incurred from Wyoming to the Nevada-California border plus all of the costs in California, and the rates for the east of California zone reflect an allocation of 100/600's of all the costs incurred from Wyoming to the Nevada-California border. WyCal lists other significant factors as follows:

(1) WyCal has utilized a capitalization ratio of 70 percent debt and 30 percent equity, a 14 percent rate of return on equity and a 10.75 percent long term debt cost.

(2) WyCal has designed its rates using a throughput of 95 percent of design capacity.

(3) WyCal proposes to recover the cost of all of its facilities including its undivided interest in capacity on PG&E's facilities over a 25-year life. WyCal proposes to use a levelized rate concept whereby the cost of service remains essentially constant over the first 15 years of service.

(4) WyCal proposes a one-part volumetric rate for interruptible service, discountable between stated maximum and minimum levels. The maximum interruptible rate would be equivalent to the maximum commodity rate for firm service. WyCal proposes a two-part rate for firm service. WyCal states that its proposed Maximum Reservation Rate components recover all costs, other than variable O&M costs, return on equity and related taxes.

(5) WyCal states that it has modified its original open season in Article 3 of its General Terms and Conditions of its proposed Tariff to provide that its open season would commence 45 days after the effective date of the Commission's certificate order. Such open season, WyCal states, would apply only to capacity, if any, that remains uncommitted on WyCal's proposed system upon the commencement date of such open season.

With the exception of the three additional compressor stations proposed in the application and some additional compression at previously authorized stations, the configuration from Hams Fork, Wyoming, to Kramer Junction, California, has already been found by the Commission to be environmentally acceptable in the proceedings in Docket No. CP87–479–000, *et al.* The additional compressor stations, however, lie within the studied corridor. WyCal submitted an environmental report in its application to include facilities that will be constructed by PG&E as well as the limited WyCal facilities in California that have not previously been studied.

Comment date: November 13, 1989, in accordance with Standard Paragraph F at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP90–85–000]

October 23, 1989.

Take notice that on October 20, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP90–85–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Graham Energy Marketing Corp. (Graham), a marketer, under the blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated November 9, 1988, as amended on August 25, 1989, under its Rate Schedule ITS, it proposes to transport up to 123,600 MMBtu per day equivalent of natural gas for Graham. United states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas to multiple delivery points shown in Exhibit "B" of the agreement.

United advises that service under § 284.223(a) commenced September 14, 1989, as reported in Docket No. ST90–111 (filed October 11, 1989). United further advises that it would transport 123,600 MMBtu on an average day and 45,114,000 MMBtu annually.

Comment date: December 7, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25428 Filed 10–27–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–13–000]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

October 23, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 17, 1989, tendered for filing, to its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheet Fourth Revised Sheet No. 629.

Algonquin states that it is filing Fourth Revised Sheet No. 629 for the purpose of incorporating standby charges from its upstream pipelines into its Purchased Gas Adjustment Provision. Algonquin states that it is not proposing to change any of the procedures it has historically used in the tracking of purchased gas cost but is adding language for the sole purpose of including standby charges as a PGA trackable item. All the changes proposed by Algonquin are fully set forth in Algonquin's filing.

Algonquin notes that a copy of this filing was served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed or or before October 30, 1989.

Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25429 Filed 10–27–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–11–000]

Seagull Interstate Corp.; Proposed Changes in FERC Gas Tariff

October 23, 1989.

Take notice that on October 16, 1989, Seagull Interstate Corporation ("Seagull"), 1001 Fannin, Suite 1700, Houston, Texas 77002, filed pursuant to § 284.305(e) of the Federal Energy Regulatory Commission's ("Commission") Regulations (18 CFR 284.305(e)), tariff sheets to Original Volume No. 1 of its FERC Gas Tariff. The tariff sheets filed by Seagull are:

To Be Effective April 1, 1989

Second Revised Sheet No. 5
Second Revised Sheet No. 11
Second Revised Sheet No. 54A
Second Revised Sheet No. 54B
Second Revised Sheet No. 54C
Original Sheet No. 54D

Seagull states that these tariff sheets are filed, as required by Order No. 509 issued December 9, 1988, as amended by Order No. 509–A issued February 21, 1989, to set forth the manner in which firm transportation capacity will be reallocated pursuant to § 284.304(c) of the Commission's Regulations (18 CFR 284.304(c)) in the event that more than one shipper requests firm transportation capacity. Seagull requests that the Commission grant any and all waivers necessary to permit tariff sheets to become effective April 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before October 30, 1989, and in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person desiring to become a party must petition to intervene. Copies of this filing are on file

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with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25430 Filed 10-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-114-004]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

October 23, 1989.

Take notice that Trunkline Gas Company (Trunkline), on October 17, 1989 tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

To Be Effective May 1, 1989

Revised Second Substitute Eleventh Revised Sheet No. 3-A.1
Second Substitute Original Sheet No. 9-JA
Revised Second Substitute Original Sheet No. 9-JC

To Be Effective October 1, 1989

First Substitute Twelfth Revised Sheet No. 3-A.1

Trunkline states that it is submitting these revised tariff sheets in compliance with the Letter Order issued September 26, 1989 in Docket No. RP89-114-003 to remove the Annual Charge Adjustment (ACA) Provision from its Stand Alone Storage Service Rate Schedule SAS.

Trunkline states that copies of this filing have been sent to its jurisdictional customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 30, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25431 Filed 10-27-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3676-2]

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected costs and burdens; where appropriate, they include the actual data collection instruments.

DATE: Comments must be submitted on or before November 29, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Investigations into Possible Noncompliance of Motor Vehicles with Federal Emission Standards. (EPA ICR # 0222; OMB # 2060-0086). This is a renewal of a previously approved collection

Abstract: Owners of vehicles are asked to provide EPA with their name, address, telephone number, their vehicle make and model year, and the data needed to determine if the vehicle meets certain maintenance and use criteria. Based upon these responses, EPA selects vehicles for testing to ascertain manufacturers' compliance with federal emission standards. EPA needs these test results for its recall program

Burden Statement: The public reporting burden for this collection of information is estimated to average 0.2 hours per response. This estimate includes the time needed to review instructions, answer questions and complete forms

Respondents: Individual vehicle owners

Estimated No. of Respondents: 9850

Estimated Total Annual Burden on Respondents: 2060

Frequency of Collection: On occasion

Title: Pre-certification Exemption, Testing Exemption. (EPA ICR # 0095.03; OMB # 2060-0007). This is a renewal of a previously approved collection.

Abstract: To apply for pre-certification or testing exemptions, manufacturers of vehicles, engines, or parts must provide EPA with information demonstrating that the exempted items will be used primarily in product development, method assessment, market promotion, or research. EPA uses the information to guarantee that uncertified or untested vehicles, engines, or parts are not used commercially

Burden Statement: The public reporting burden for this collection of information is estimated to average 2.25 hours per response. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and complete and review the collection of information

Respondents: Manufacturers of new motor vehicles, engines, or engine parts; importers of vehicles, and fuel refiners

Estimated No. of Respondents: 85

Estimated Total Annual Burden on Respondents: 191 hours for reporting and 375 hours for recordkeeping

Frequency of collection: Annually and on occasion

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460, and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: October 23, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-25484 Filed 10-27-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180821; FRL-3662-9]

Receipt of Application for Emergency Exemption to Use Metalaxyl; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") for use of the pesticide metalaxyl (CAS 57837-19-1) to control downy mildew, *Peronospora sparsa*, on 400 acres of caneberries in California. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATE: Comments must be received on or before November 14, 1989.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180821," should be submitted by mail to:

Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

Susan Stanton, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-4360)

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, metalaxyl, available as Ridomil 2E (EPA Registration No. 100-607) from Ciba Geigy Corporation, to control downy mildew, caused by *Peronospora sparsa*, on 400 acres of caneberries in California.

Information in accordance with 40 CFR part 166 was submitted as part of this request. The Applicant indicates that this pathogen infects the plants during wet weather in the fall and overwinters in the roots. In the spring, the overwintering spores germinate and infect the growing canes and developing fruit. Warm, wet weather conditions are ideal for disease development. According to the Applicant, there are no pesticides currently registered for the control of downy mildew on caneberries, and without effective control, significant economic losses of thirty to fifty percent could result if mildew outbreaks occur this season. The potential dollar loss without metalaxyl for the 1989-1990 season is estimated to be over one half of a million dollars.

Metalaxyl will be applied at a maximum rate of 0.25 pounds of active ingredient per 1000 linear feet of plant row of 1.38 pounds of active ingredient per acre. Up to two applications may be made. A maximum of 1,104 pounds of active ingredient may be needed to treat a maximum of 400 acres. Applications will be completed by April 30, 1990.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption that has been requested or granted for that use in any three previous years and a complete application for registration of the use and/or a petition for a tolerance for residues in or on the commodity has not been submitted to the Agency. Use of metalaxyl on caneberries was denied in 1983 and 1984 for lack of an adequate toxicological data base and was subsequently granted in 1987, 1988, and 1989. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Department of Food and Agriculture.

Dated: October 5, 1989.

Frank T. Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-25489 Filed 10-27-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3676-3]

Proposed Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act; Somersworth Sanitary Landfill Superfund Site; Somersworth, NH

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement is intended to address the liabilities of 32 parties for costs incurred by EPA in conducting response actions at the Somersworth Sanitary Landfill Superfund Site in Somersworth, New Hampshire.

DATE: Comments must be provided on or before November 29, 1989.

ADDRESSES: Comments should be addressed to the Regional Administrator's Office, U.S. Environmental Protection Agency, Region I, J.F.K. Federal Building, Boston, Massachusetts 02203, and should refer to: In the Matter of Somersworth Sanitary Landfill Superfund Site, Somersworth, New Hampshire, U.S. EPA Docket No. I-89-1021.

FOR FURTHER INFORMATION CONTACT: M. Gretchen Muench, U.S. Environmental Protection Agency, Office of Regional Counsel, RRC-2203, J.F.K. Federal Building, Room 2203, Boston, Massachusetts 02203, (617) 565-3455.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Somersworth Sanitary Landfill Superfund Site in Somersworth, New Hampshire. Section 122(h) of CERCLA provides EPA with authority to consider, compromise and settle a claim for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice. The U.S. Department of Justice approved this settlement in writing on July 11, 1989. Below are the listed parties who have executed signature pages committing them to participate in this settlement.

A & G Tire Co.
Airex Corporation

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Amoco Service Station
Boston and Maine Corporation
Breton's Cleaners
City of Somersworth
Facemate PL/GF, Inc.
Gagnon's Auto Body, Inc.
General Electric Company
General Linen Services Co., Inc.
Getty Oil Company
Gregoire's Hardware, Inc.
Chevron U.S.A. Inc.
Hanson Corner Station
House of Photography
Lemay's Transportation
Main Street Garage
New Hampshire Printers, Inc.
Profile Garage
J.A. Prince & Son, Inc.
Shell Oil Company
Public Service of New Hampshire
Right on Target
Robbins Auto Parts Inc.
Roberts Shoe Co., Inc.
R.M. Rowleau, Inc.
Somersworth Free Press, Inc.
Somersworth Nissan Inc.
Somersworth Shoe Inc.
Somersworth Woodheel, Inc.
Star Lumber Co., Inc.
Val's Getty Station

Under this agreement, these Settling Parties will jointly and severally pay $462,412.63 to the Hazardous Substances Superfund, and $74,902.83 to the State of New Hampshire. EPA believes that the settlement is fair and in the public interest. EPA will receive written comments relating to this agreement for thirty (30) days from the date of publication of this notice.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from EPA's Region I Office of Regional Counsel, J.F.K. Federal Building, Boston, Massachusetts 02203.

Paul Keough,
Acting Regional Administrator.
[FR Doc. 89-25485 Filed 10-27-89; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3675-9]

Proposed Revision of Washington's National Pollutant Discharge Elimination System (NPDES) Program Memorandum of Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice of modification, public comment period.

SUMMARY: On November 21, 1988, the State of Washington submitted to EPA a request for modification of their National Pollutant Discharge Elimination System (NPDES) Program Memorandum of Agreement (MOA). The MOA serves to outline respective program responsibilities of EPA and the state. Document revision is necessary to ensure the continuing validity of EPA's approval of Washington's NPDES program.

Washington's submittal is complete and is now available for inspection and copying. EPA requests public comments and will hold a public hearing if sufficient public interest exists.

DATE: EPA must receive comments and requests for a public hearing on or before November 29, 1989.

ADDRESS: Address comments and requests for further information to Cecil Carroll, Washington Operations Office, Environmental Protection Agency, c/o Washington Department of Ecology, PV-11, Olympia, Washington 98504.

SUPPLEMENTARY INFORMATION: The original MOA for the National Pollutant Discharge Elimination System was entered into by EPA and Ecology on November 9, 1973. Ecology has been carrying out the NPDES program as a delegated State for the past 16 years.

Washington's MOA has been updated to reflect recent changes in the Federal Clean Water Act (CWA) and 40 CFR parts 122-125. This MOA includes a new section (Section XIV) which addresses Indian issues. This section makes clear that EPA is not delegating authority over Indian lands to the State of Washington. Additionally, the NPDES Program Description for the State of Washington was updated to reflect the revised MOA. Day to day operations under this MOA are delineated in a compliance assurance agreement.

After the close of the comment period, the Regional Administrator of EPA, with the concurrence of EPA Headquarters, will approve or disapprove this proposed modification. This decision will be based upon the contents of the submittal, all written comments received during the comment period and presented at the public hearing, if one is held, and upon meeting the requirements of 40 CFR part 123. If the modification is approved, the Regional Administrator will notify the state. Notice will be published in the Federal Register. If the Regional Administrator disapproves Washington's request for modification of the MOA, he will notify the state of the reasons for disapproval and of any revisions or modifications which are necessary to obtain approval.

The public may review Washington's application from 9 a.m. to 4 p.m., Monday through Friday, at the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, 10th floor Library, Seattle, Washington 98101, or at the Washington Operations Office, St. Martins Campus on College and Sixth Street, Olympia, Washington 98504. Copies of the submission may also be obtained by contacting Ms. Andi Manzo at the Seattle address listed or at (206) 442-6399.

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this rule from the review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Revision of Washington's MOA would establish no new substantive requiremetns, nor would it alter the regulatory control over any municipal or industrial category. Because this notice does not have a significant impact on a substantial number of small entities, a Regulatory Flexibility Analysis is not necessary.

Dated: October 12, 1989.
Robie G. Russell,
Regional Administrator, EPA Region 10.
[FR Doc. 89-25425 Filed 10-27-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Winston R. Lauder; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C.. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 8, 1989.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. Winston R. Lauder, Ketchum, Idaho; to acquire up to 100 percent of the voting shares of Idaho State Bank, Glenns Ferry, Idaho.

Board of Governors of the Federal Reserve System, October 26, 1989.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 89-25627 Filed 10-26-89; 1:54 pm]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89P-0402]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Meadow Gold Dairies, Inc., to market test a product designated as "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0119.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Meadow Gold Dairies, Inc., 180 East Broad St., Columbus, OH 43215.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to no more than 9 percent, and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon serving (30 grams) provides 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to sour cream, but contains fewer calories and less fat.

For the purposes of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "half the fat of regular sour cream." The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is 50 percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of 750,000 quarts of the test product. The test product will be manufactured at Meadow Gold Dairies, Inc., Greeley, CO 80631; Champaign, IL 61820; New Bremen, OH 45869; Tulsa, OK 74101; and Salt Lake City, UT 84110. The product will be distributed in the States of Alabama, Arizona, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Utah, Virginia, West Virginia, and Wisconsin.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

Dated: October 19, 1989.
Richard J. Ronk,
Acting Director, Center for Food Safety and Applied Nutrition.
[FR Doc. 89-25410 Filed 10-27-89; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 89P-0403]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Crowley Foods, Inc., to market test a product designated as "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0119.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Crowley Foods, Inc., Metro Center, 49 Court St., P.O. Box 549, Binghamton, NY 13902.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 9 percent, and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon (1-ounce) serving of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of this variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calorie" and "reduced fat" following the name. In addition, the label must bear the comparative statements "40 percent fewer calories" and "50 percent less fat than sour cream."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 1,700,000 quarts of the test product. The test product will

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be distributed in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The test product is to be manufactured at Crowley Foods, Inc., Theresa Rd., La Fargeville, NY 13656.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

Dated: October 19, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-25411 Filed 10-27-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89P-0404]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Marigold Foods, Inc., to market test a product designated "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0324.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Marigold Foods, Inc., 2929 University Ave. SE., Minneapolis, MN 55415.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 7 percent and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon serving contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent to sour cream, but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat." In addition, the label must bear the comparative statements "50 percent less calories" and "60 percent less fat than regular sour cream."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 800,000 quarts of the test product. The test product will be manufactured at Marigold Foods, Inc., 15 Fourth St., Farmington, MN 55074, and distributed in Illinois, Iowa, Michigan, Minnesota, and Wisconsin.

Each of the ingredients used in the food is stated on the label as require by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

Dated: October 19, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-25412 Filed 10-27-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89P-0405]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Borden, Inc., to market test a product designated as "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0119.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Borden, Inc., 180 East Broad St., Columbus, OH 43215.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to not more than 9 percent; and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon serving (30 grams) of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purposes of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "half the fat of regular sour cream."

The food complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is a 50 percent or more reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 750,000 quarts of the test product. The product will be distributed in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, South Carolina, Texas, Virginia, West Virginia, and Wisconsin.

The test product is to be manufactured at the Borden plants in Albuquerque, NM 87103; Detroit, MI 48068; Jackson, MS 39204; Milwaukee, WI 53214; New Bremen, OH 45869; Sulphur Springs, TX 75482; Tampa, FL 33630; Watertown, NY 13601; and Youngstown, OH 44512.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced into interstate commerce, but not later than January 29, 1990.

Dated: October 19, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-25413 Filed 10-27-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89P-0406]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Friendship Dairies, Inc., to market test a product designated as "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0119.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Friendship Dairies, Inc., 4900 Maspeth Ave., Maspeth, NY 11378.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 8 percent; and (2) sufficient vitamin A palmitate is added to ensure that a 2-tablespoon (1-ounce) serving of the product provides 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "35 percent fewer calories" and "less than half the fat of sour cream."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is a 50 percent or more reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9

This permit provides for the temporary marketing of 43,000 cases of 12 1-pound containers of the test product. The test product will be manufactured at Friendship Dairies, Inc., Friendship, NY 14739, and distributed in California, Connecticut, Florida, Georgia, Illinois, Maryland, New Jersey, New York, Pennsylvania, Texas, Virginia, and in the District of Columbia.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 29, 1990.

Dated: October 19, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-25414 Filed 10-27-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0425]

Medtronic Blood Systems, Inc.; Premarket Approval of the Hancock® Porcine Bioprosthesis, Models 242, 342, 342R, and 342C

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic Blood Systems, Inc., Minneapolis, MN, for premarket approval, under the Medical Device Amendments of 1976, of the HANCOCK® Porcine Bioprosthesis, Models 242, 342, 342R, and 342C. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 28, 1989, of the approval of the application.

DATES: Petitions for administrative review by November 29, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lisa M. Kennell, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1200.

SUPPLEMENTARY INFORMATION: On December 8, 1987, Medtronic Blood Systems, Inc., Minneapolis, MN 55432, submitted to CDRH an application for premarket approval of the HANCOCK® Porcine Bioprosthesis in response to the final rule of May 13, 1987 (52 FR 18162), requiring the submission of premarket approval applications for prosthetic heart valves in commercial distribution before May 28, 1976, or those found substantially equivalent and marketed after May 28, 1976. The HANCOCK® Porcine Bioprosthesis is a replacement heart valve (21 CFR 870.3925) for use in patients with diseased, damaged or malfunctioning aortic or mitral heart valves. It is a porcine bioprosthesis fixed in glutaraldehyde with a flexible polypropylene stent and a Stellite alloy ring in the stent for added support and radiopacity. The stent is covered with Dacron® cloth. The aortic Model 242 is available in sizes 19 millimeters (mm), 21mm, 23mm, 25mm, 27mm, 29mm, and 31mm. The mitral Models 342, 342R, and 342C are available in sizes 27mm, 29mm, 31mm, and 35mm, and Model 342 is also available in size 25mm.

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On September 15, 1988, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 28, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Lisa M. Kennell (HFZ–450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 28, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 19, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89–25468 Filed 10–27–89; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress: Maternal and Child Health Research Grants Review Committee.

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G–400, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245–6791. Copies may be obtained from: Gontran Lamberty, Dr.Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Dated: October 24, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–25469 Filed 10–27–89; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

Agency Information Collection Under Office of Management and Budget Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection for the Administration for Children, Youth and Families' Quarterly Report of Expenditures and Estimates for Foster Care and Adoption Assistance.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245–6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Justin Kopca, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, Room 3208, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Quarterly Report of Expenditures and Estimates for Foster Care and Adoption Assistance

OMB No.: 0980–0130/1

Description: The report is used for Federal monitoring of state budget estimate payments, funding at the maximum authorized level and determining the Federal share of program expenditures. The report also fulfills budget requirements for advancing Federal matching funds to states to meet their entitlements' payment obligations.

Annual Number of Respondents	51
Annual Frequency	4
Average Burden Hours Per Response	25
Total Burden Hours	5,100

Dated: October 20, 1989.

Donna N. Givens,

Deputy Assistant Secretary for Human Development Services.

[FR Doc. 89–25423 Filed 10–27–89; 8:45 am]

BILLING CODE 4130–01–M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 54 FR 25907–25908, June 20, 1989) is amended to change the title of the Division of Sexually Transmitted Diseases, Center for Prevention Services, to Division of STD/HIV Prevention, and to revise the functional statement.

Section HC–B, Organization and Functions, is hereby amended as follows:

Under the Center for Prevention Services (HCM), delete in its entirety the functional statement for the Division of Sexually Transmitted Diseases (HCM4) and substitute the following:

Division of STD/HIV Prevention (HCM4). (1) In cooperation with other CDC components, administers operational programs for the prevention and control of sexually transmitted diseases (STD), including human immunodeficiency virus (HIV) infection; (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist State and local health departments in the planning, development, implementation, and overall improvement of STD/HIV prevention programs; (3) supports a nationwide framework for effective surveillance of sexually transmitted diseases other than HIV; (4) conducts clinical, behavioral, etiologic, and operational research into factors affecting the prevention and control of STD; (5) provides technical supervision for CPS State and local assignees working on HIV or other STD control activities.

Effective Date: October 19, 1989.

Wilford J. Forbush,

Director, Office of Management/PHS.

[FR Doc. 89–25422 Filed 10–27–89; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–89–2074]

Performance Review Board, Appointments

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of Alfred A. DelliBovi as Chairperson, Claire E. Freeman as Vice-Chairperson, Elmer C. Binford, David M. Cohen, John J. Connors, Lawrence Goldberger, Carolyn B. Lieberman, and Scott W. Reed as members, and Thomas M. Humbert and Laurence D. Pearl as alternate members to the Departmental Performance Review Board. Their address is: Department of Housing and Urban Development, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Gail L. Lively, Director, Office of Personnel and Training, Department of Housing and Urban Development, Washington, DC 20410, telephone (202) 755–5500. (This is not a toll free number.).

Dated: October 20, 1989.

Jack Kemp,

Secretary, Department of Housing and Urban Development.

[FR Doc. 89–25471 Filed 10–27–89; 8:45 am]

BILLING CODE 4210–32–M

Office of Environment and Energy

[Docket No. I–89–153]

Intended Environmental Impact Statement: Marina Redevelopment Project, Port Chester, NY

The Department of Housing and Urban Development gives notice that the Village of Port Chester, New York intends to prepare an Environmental Impact Statement (EIS) for the Marina Redevelopment Project located at Port Chester, New York as described in the appendix to this notice. This notice is in accordance with regulations of the Council on Environmental Quality under its rule (40 CFR part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This notice shall be effective for one year. If one year after the publication of the notice in the **Federal Register** a Draft EIS has not been filed on a project, then the notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the notice in the **Federal Register** then a new and updated notice of intent will be published.

Dated: October 24, 1989.

Richard H. Broun,

Director, Office of Environment and Energy.

Appendix—EIS on Marina Redevelopment Project, Port Chester, NY

The Village of Port Chester, New York intends to prepare an Environmental Impact Statement (EIS) on the subject project and hereby solicits comments and information for consideration in this EIS.

Description

The site proposed for the project is located in the Port Chester central business district in an area bordered generally by North Main Street to the west, the Byram river to the east, Westchester Avenue to the South and Willett Avenue to the north. The project area encompasses approximately 17 acres.

The project as currently planned involves the construction of 165,000 sq. ft. of general retail space, 60,000 sq. ft. of office space, 30,000 sq. ft. of executive park, a 40,000 sq. ft. multiscreen cinema, 660 apartments, and parking for 1900 vehicles.

An Urban Development Action Grant (UDAG) of $4.7 million will help finance the project's infrastructures including a new bulkhead and public boat docks, riverfront promenade and public open space as well as drainage and sanitary sewer improvements.

This project will constitute an action with the potential of significantly affecting the environment.

Need

The principal benefits of the project are the strengthening of the economic and commercial potential of the area, the creation and retention of jobs through the expansion of existing facilities, the provision of new public open space and recreation facilities, and the generation of new tax revenues for the Village. The project involves a cooperative effort between the Village of Port Chester and the Robert Martin Company.

Alternatives

At this point the relevant alternatives may include: (1) Development of the project as preliminarily approved for an Urban Development Action Grant; (2) Development of the project with modification and mitigation measures; and (3) No action.

Scoping

This notice is part of the process of determining the scope of the issues to be addressed in the draft EIS, for identifying data and significant environmental issues related to the Project, and for identifying cooperating agencies. A public scoping meeting will be held at the court room, 10 Pearl Street, Port Chester, NY at 3:00 p.m. on November 9, 1989.

Comment

To assist in the preparation of the Environmental Impact Statement, Federal, State, and local agencies, and other interested persons and organizations are invited to participate in the scoping process by submitting comments on the project and its potential impacts. All comments received within 30 days of this invitation will be

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considered in the Environmental Impact Statement. Please submit all comments to: Village of Port Chester, c/o Office of Planning and Development, 125 North Main Street, Port Chester, NY 10573, Thomas J. Farrell, Director, 914-937-6425.

[FR Doc. 89-25472 Filed 10-27-89; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Cancellation of the Pacific Regional Technical Working Group Meeting

This notice is issued to cancel the Pacific Regional Technical Working Group meeting scheduled for November 2, 1989, at the Travelodge Hotel at Fisherman's Wharf in San Francisco, California. The meeting had previously been announced in the **Federal Register** of October 6, 1989.

Due to the recent earthquake and subsequent recovery efforts in San Francisco, the meeting has been canceled.

For more information, contact Public Affairs Officer Lorraine H. Lawrence at 213-894-3389.

Dated: October 24, 1989.

Robert G. Paul,

Acting Regional Director, Pacific OCS Region.

[FR Doc. 89-25452 Filed 10-27-89; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of proposed contractual actions pending through December 1989.

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the **Federal Register** dated December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of water for irrigation or other uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of repayment and water service contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary of the Interior or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** dated February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the five Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November, or December of 1989. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer, and other information pertaining to a specific contract proposal, may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notices of intent to negotiate, and other appropriate announcements, are made in the **Federal Register** for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein

(FR) **Federal Register**
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(BCP) Boulder Canyon Project

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, Idaho 83724-0043, telephone (208) 334-1894.

1. *Cascade Reservoir water users, Boise Project, Idaho:* Repayment contracts for irrigation and M&I water; 29,221 acre-feet of stored water in Cascade Reservoir.

2. *Brewster Flat ID, Chief Joseph Dam Project, Washington:* Amendatory repayment contract; land reclassification of approximately 360 acres to irrigable; repayment obligation to increase accordingly.

3. *Individual irrigators, M&I, and miscellaneous water users, Pacific Northwest Region, Idaho, Oregon, and Washington:* Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

4. *Rogue River Basin water users, Rogue River Basin Project, Oregon:* Water service contracts; $5 per acre-foot or $50 minimum per annum, terms up to 40 years.

5. *Willamette Basin water users, Willamette Basin Project, Oregon:* Water service contracts; $1.50 per acre-foot or $50 minimum per annum, terms up to 40 years.

6. *Irrigation districts and similar water user entities:* Amendatory repayment and water service contracts; purpose is to confirm to the Reclamation Reform act of 1982 (Pub. L. 97-293).

7. *Sixty Palisades Reservoir spaceholders, Minidoka Project, Idaho-Wyoming:* Contract amendments to extend term for which contract water may be subleased to other parties.

8. *City of Cle Elum, Yakima Project, Washington:* Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for a term of up to 40 years.

9. *Three IDs, Flathead Indian Irrigation Project, Montana:* Repayment of costs associated with rehabilitation of irrigation facilities

10. *Baker Valley ID, Baker Project, Oregon:* Irrigation water service contract on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for a term of up to 40 years.

11. *Individual irrigators and the North Unit ID, Crooked River Project, Oregon:* Repayment or water service contracts for up to 25,000 acre-feet of storage space in Prineville Reservoir.

12. *Various Projects, Pacific Northwest Region:* R&B contracts for replacement of needle valves at storage dams.

13. *Palisades Water Users, Inc., Minidoka-Palisades Project, Idaho:* Repayment contract for an additional 500 acre-feet of storage in Palisades Reservoir.

14. *Individual irrigators, Willow Creek Project, Oregon:* Repayment or water service contracts for up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

15. *Roza ID, Yakima Project, Washington:* Proposed supplementary deferment contract. Defer 1 year (2 installments) of construction payments because of cost incurred by the district to obtain additional water supplies in anticipation of drought.

16. *Vale Oregon ID, Vale Project, Oregon:* Supplementary deferment contract to defer the 1988 construction installment under authority of the Act of September 21, 1959. The district has experienced a significant reduction in water supply for the 1988 season.

17. *Five Project Spaceholders, Minidoka-Palisades Project, Idaho-Wyoming:* Contract amendments to provide for rental of water to other parties.

18. *Bridgeport ID, Chief Joseph Project, Washington:* Interim and long-term Warren Act contracts for the use of an irrigation outlet in Chief Joseph Dam.

19. *Five Irrigation Districts, Arrowrock Division, Boise Project, Idaho:* Repayment contract for Safety-of-Dams repair to Deer Flat Dam.

20. *State of Wyoming, Palisades Project, Idaho:* Repayment contract for the sale of 33,000 acre-feet of uncontracted space in Palisades Reservoir.

21. *Hermiston ID, Umatilla Project, Oregon:* Repayment contract for Safety-of-Dams repair to Cold Springs Dam.

22. *Ochoco ID and various individual spaceholders, Crooked River Project, Oregon:* Repayment contract for Safety-of-Dams repair to Arthur Bowman Dam.

23. *The Dalles ID, SRPA, Oregon:* Loan repayment contract for $2,000,000.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825-1898, telephone (916) 978-5030.

1. *Tuolumne Regional Water District, CVP, California:* Water service contract; up to 9,000 acre-feet from New Melones Reservoir.

2. *Calaveras County Water District, CVP, California:* Water service contract; up to 2,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

3. *Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada:* Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; Temporary Warren Act contracts for use of project facilities for terms up to 1 year; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

Note: Copies of the standard form of temporary water service contracts for the various types of service are available, upon written request, from the Regional Director at the address shown above.

4. *Friant Unit Contractors, CVP, California:* Renewal of existing long-term water service contracts with numerous contractors on the Friant-Kern Canal whose contracts expire 1990-1995. Water quantities in existing conrtracts range from 1,200 to 175,440 acre-feet.

5. *San Luis Water District, CVP, California:* Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

6. *ID's and similar water user entities:* Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97-293).

7. *State of California, CVP, California:* Contract(s) for (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the Coordinated Operation Agreement.

8. *Madera ID, Madera Canal, CVP, California:* Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

9. *County of Tulare, CVP, California:* Amendatory water service contract, to provide an additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

10. *Shasta Dam Area Public Utilities District, CVP, California:* Renewal of M&I water supply contract. Less than 6,000 acre-feet.

11. *U.S. Fish and Wildlife Service, CVP, California:* Long-term contract for water supply for Federal refuge in Grasslands area of California.

12. *City of Redding, CVP, California:* Amendatory M&I water supply contract.

13. *North Kern Water Storage District, Buena Vista Water Storage District, Tulare Lake Basin Water Storage District, and Hacienda Water District, Kern River Project, California:* Amendatory contract to provide storage space for M&I water.

14. *Contra Costa Water District, CVP, California:* Amendatory water service contract to add an additional point of delivery to accommodate the district's proposed Los Vaqueros Project. Amendment will also conform contract to current water ratesetting policies.

15. *San Juan Suburban Water District, CVP, California:* Amend Contract No. 14-06-200-152A to provide for the current CVP water rates to conform the contract with the provisions of sections 105 and 106 of Pub. L. 99-546.

16. *Centerville Community Services District, CVP, California:* Water service contract for up to 1,580 acre-feet of M&I water annually.

17. *Shasta County Water Agency, CVP, California:* Amendatory water service contract to provide for reduction in annual entitlement.

18. *Central Valley Project, California:* Amendatory contract to include the provision of the Act of July 2, 1956 (70 Stat. 483) in existing water service contracts.

19. *California Department of Corrections, CVP, California:* Water service for up to 1,000 acre-feet of water annually to serve the Sierra Conservation Center (a State prison) near Jamestown, California.

20. *Beneficiaries of Link River Dam, Klamath Project, California/Oregon:* Contract to provide for repayment of reimbursable costs associated with Safety-of-Dam expenditures.

21. *Redwood Valley Water District, SRPA, California:* Amendatory SRPA loan repayment contract.

22. *Placer County Water Agency, CVP, California:* Amendatory Contract No. 14-06-200-5082A to provide for the current CVP water rates.

Lower Colorado Region

Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, Nevada 89005, telephone (702) 293-8536.

1. *U.S. Army Yuma Proving Grounds, Yuma Project, Arizona:* Amendatory contract to increase the maximum amount of water delivered from 55 acre-feet to 975 acre-feet, pursuant to the recommendation of the Arizona Department of Water Resources.

2. *Agricultural and M&I water users, CAP, Arizona:* Water service subcontracts; a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

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3. *Southern Arizona Water Rights Settlement Act:* Sale of up to 28,200 acre-feet per year of municipal effluent to the city of Tucson, Arizona.

4. *Contracts with five agricultural entities located near the Colorado River, BCP, Arizona:* Water service contracts for up to 1,920 acre-feet per year total.

5. *Gila River Indian Community, CAP, Arizona:* Water service contract for delivery of up to 173,000 acre-feet per year.

6. *ID's and similar water user entities:* Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

7. *Indian and non-Indian agricultural and M&I water users, CAP, Arizona:* Contracts for repayment of Federal expenditures for construction of distribution systems.

8. *State of Arizona, BCP, Arizona:* Contract for an undetermined amount of Colorado River water for M&I use on State-owned land.

9. *State of Arizona, BCP, Arizona:* Contract for an undetermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

10. Contract with four individual holders of miscellaneous present perfected rights to Colorado River water totalling 4.5 acre-feet, pursuant to the January 9, 1979, Supplemental Decree of the United States Supreme Court in *Arizona* v. *California* (439 U.S. 419).

11. Contracts for delivery of surplus water from the Colorado River, when available, with Emilio Soto and Sons, for 1,836 acre-feet per year; Kennedy Livestock, for 480 acre-feet per year.

12. *Imperial ID and/or the Coachella Valley Water District, BCP, California:* Contract providing for exchange of up to 10,000 acre-feet of water per year from a well field to be constructed adjacent to the All-American Canal (AAC) for an equivalent amount of Colorado River water and for O&M of the well field, Lower Colorado Water Supply Project, California.

13. *Lower Colorado Water Supply Project, California:* Water service and repayment contracts with nonagricultural users in California for consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the AAC from a well field to be constructed adjacent to the canal.

14. Hutchison present perfected rights contract amendment to reflect the transfer of part of the right to Winterhaven, California, Supreme Court Decree in *Arizona* v. *California* and BCP.

15. Winterhaven present perfected rights contract for a portion of Hutchison Present Perfected Rights transfer to Winterhaven, Supreme Court Decree in *Arizona* v. *California* and BCP.

16. *County of San Bernardino, SRPA, California:* Repayment contract for a $28.6 million loan.

17. *Wellton-Mohawk IDD and Gold Dome Mining Corporation (Corporation), Gila Project, Arizona:* Contract for delivery of 6.14 acre-feet of water per year to the Corporation through Wellton-Mohawk Division facilities.

18. *Wellton-Mohawk IDD, Gila Project, Arizona:* Exchange agreement providing for a reduction in Wellton-Mohawk IDD's contractual right to consumptively use 22,000 acre-feet of Colorado River water per year, providing for discharge of the IDD's repayment obligation and exemption from the full-cost pricing and acreage limitation provisions of Federal Reclamation law; Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

19. Water delivery contracts with seven Phoenix area cities providing for the delivery of up to 27,000 acre-feet per year through the CAP; Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

20. Agreements with seven Phoenix area cities providing for the lease of the Salt River Pima-Maricopa Indian Community's CAP entitlement of 13,300 acre-feet per year to the cities; Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

21. *Salt River Pima-Maricopa Indian Community, CAP, Arizona:* Amendatory CAP water delivery contract providing for extension of the contract term and authorizing the Community to lease its CAP water to the Phoenix area cities; Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

22. *Salt River Pima-Maricopa Indian Community, Salt River Project, Arizona:* Amendatory agreement to increase the Community's allotment of Bartlett Dam water from the Salt River Project; Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

23. *Roosevelt Water Conservation District, Salt River Project, Arizona:* Agreement assigning a portion of the District's CAP agricultural water to seven Phoenix area cities; Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

24. *Roosevelt Water Conservation District, Salt River Project, Arizona:* Agreement to extend the term of the District's water salvage contract; Salt River Pima-Maricopa Indian Water Rights Settlement Act of 1988.

25. *Tohono O'odham Nation, SRPA, Tucson, Arizona:* Repayment contract for an $8.2 millon loan to the Schuk Toak District.

26. *San Carlos IDD, San Carlos Project, Arizona:* Repayment contract for District's share of the Safety-of-Dams repair to Coolidge Dam.

27. *Gila River Indian Community, San Carlos Project, Arizona:* Repayment contract for Community's share of the Safety-of-Dams repair to Coolidge Dam.

28. *Sturges Trust, Gila Project, Arizona:* Contract for delivery of 6,500 acre-feet of Colorado River water per year for agricultural use as recommended by the State of Arizona and to recognize the present perfected right to the use of Colorado River water.

29. *Phoenix Area Cities, CAP, Arizona:* Amendment to the CAP Plan 6 Funding Agreement to extend the deadline to demand the return of funds contributed for the Cliff Dam alternative water supply.

30. *Fort Mohave Indian Reservation, BCP, Arizona/Nevada/California:* Contract for delivery of Colorado River water for their federal establishment present perfected right.

Upper Colorado Region

Bureau of Reclamation, P.O. Box 11568, 125 South State Street, Salt Lake City, Utah 84147, telephone (801) 524–5435.

1. *Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico:* Temporary (interim) water service contracts for surplus project water to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) *The Benevolent and Protective Order of the Elks, Lodge No. 1747, Navajo Reservoir, CRSP, New Mexico:* Water service contract; 20 acre-feet per year for municipal use; contract term for 40 years from execution.

(b) *Mt. Crested Butte Water and Sanitation District, Blue Mesa Reservoir, CRSP, Colorado:* Water service contract; 25 acre-feet per year to support present diversion rights for municipal use; contract term for 40 years from execution.

2. *San Juan Water Commission, Animas-La Plata Project, New Mexico:* Repayment contract; 30,800 acre-feet per year for M&I, terms consistent with binding cost-sharing agreement, dated June 30, 1986.

3. *Southern Ute Indian Tribe, Animas-La Plata Project, Colorado:* Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 3,300 acre-feet in Phase Two. Contract terms to be consistent with binding cost-sharing agreement and water rights settlement agreement, in principle.

4. *Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico:* Repayment contract for 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; and 900 acre-feet per year for irrigation use in New Mexico. Contract terms to be consistent with binding cost-sharing agreement and water rights settlement agreement.

5. *Navajo Indian Tribe, Animas-La Plata Project, New Mexico:* Repayment contract; 7,600 acre-feet per year for M&I use.

6. *State of Colorado, Animas-La Plata Project, Colorado:* Escrow Account Agreement.

7. *Uintah Water Conservancy District, Jensen Unit, CUP, Utah:* Amendatory repayment contract to reduce M&I water supply and repayment obligation.

8. *Vermejo Conservancy District, Vermejo Project, New Mexico:* Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 96–550.

9. *Conejos Water Conservancy District, San Luis Valley Project, Colorado:* Contract to place operation, maintenance, and replacement costs on a variable basis commensurate with the availability of project water.

10. *Weber Basin Water Conservancy District, Weber Basin Project, Utah:* Repayment contract for R&B of the A.V. Watkins Dike.

11. *Ogden River Water Users Association, Ogden River Project, Utah:* Repayment contract for R&B of portions of the Pineview Dam, Ogden Canyon Conduit, Ogden-Brigham Canal and South Ogden Highline Canal.

12. *South Cache Water User's Association, Hyrum Project, Utah:* Repayment contract for R&B of portion of Hyrum Dam, Hyrum/Mendon Canal, Hyrum Feeder Canal, Wellsville Canal, and other miscellaneous work.

13. *Miscellaneous M&I and irrigation water users in New Mexico, San Juan-Chama Project, New Mexico-Colorado:* Repayment contracts for remaining project water allocated in 1975 or before. Contract amounts vary from 60 to 3,000 acre-feet.

14. *Individual irrigators, M&I users, and miscellaneous water users, Dallas Creek Project, Wayne N. Aspinall Unit, CRSP, Colorado:* Drought relief pursuant to Disaster Assistance Act of 1988 for temporary water service contracts for surplus project water up to 10,000 acre-feet through 1989.

Great Plains Region

Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone (406) 657–6413.

1. *Individual irrigators, M&I, and miscellaneous water users, Great Plains Region, Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, Nebraska, Oklahoma, and Texas:* Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. *Fort Shaw ID, Sun River Project, Montana:* R&B loan repayment contract.

3. Execution of loan contracts pursuant to the Disaster Assistance Act of 1988, to mitigate the effect of the 1988–1989 drought (Pub. L. 100–387).

4. *Owl Creek ID, Owl Creek Unit, P–SMBP, Wyoming:* Amendatory water service contract to reflect reduced water supply benefits being received from Anchor Reservoir.

5. *Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado:* Water service contracts for the marketable yield to water users within the Colorado River Basin of Western Colorado.

6. *Colorado Water Conservation Board, Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado:* Second round negotiations of a water service contract for sale of the regulatory capacity of Ruedi Reservoir up to 10,000 acre-feet of water annually for the protection of threatened and endangered fishes in the Upper Colorado River Basin.

7. *East Slope Storage System, Pueblo Reservoir, Twin Lakes, and Turquoise Reservoir, Fryingpan-Arkansas Project, Colorado:* Contract for temporary and long-term storage and exchange contracts.

8. *Cedar Bluff ID No. 6, Cedar Bluff Unit, P–SMBP, Kansas:* Amendatory repayment contract to relieve all contract obligations. The reservoir storage capacity has been sold to the State of Kansas for fish, wildlife, recreation, and other purposes.

9. *Mirage Flats ID and the Nebraska Game and Parks Commission, Mirage Flats Project, Nebraska:* Agreement to retain storage in Box Butts Reservoir for fish, wildlife and recreation purposes.

10. *Frenchman Valley Irrigation District, Frenchman Unit, P–SMBP, Nebraska:* Pending passage of legislation, renegotiate District's existing contract to reduce payments based on payment ability and reduced water supply.

11. *Northern Colorado Water Conservancy District and the Municipal Subdistrict, Colorado-Big Thompson Project, Colorado:* Contract for storage and conveyance of water for the Windy Gap Project: Amendatory contract to make administrative and technical revisions to conform the contract terms and conditions to the Windy Gap Project as actually constructed and operated.

12. *Department of Natural Resources and Conservation, SRPA, Montana:* Grant and loan contract for rehabilitation of Middle Creek Dam to meet required safety criteria and to increase reservoir storage capacity by 1,917 acre-feet which will be utilized for irrigation and municipal purposes.

13. *Garrison Diversion Conservancy District, Garrison Diversion Unit, P–SMBP, North Dakota:* Renegotiation of the master repayment contract to bring the terms in line with the Garrison Diversion Unit Reformulation Act of 1986. Negotiation of repayment contracts with irrigators and M&I users.

14. *Gray Goose ID, Gray Goose Unit, P–SMBP, South Dakota:* Contract negotiations to integrate Gray Goose ID into the P–SMBP as authorized pursuant to section 1120 of the Water Resource Development Act of January 21, 1986 (Pub. L. 99–662).

15. *Hilltop ID, Hilltop Unit, P–SMBP, South Dakota:* Contract negotiations to integrate Hilltop ID into the P–SMBP as authorized pursuant to section 1120 of the Water Resource Development Act of January 21, 1986 (Pub. L. 99–662).

16. *PacifiCorp, formerly Pacific Power and Light Company, Glendo Unit, P–SMBP, Wyoming:* Contract negotiations for renewal of water storage contract for 2,000 acre-feet of nonproject industrial water.

17. *Corn Creek ID, Glendo Unit, P–SMBP, Wyoming:* Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir.

18. *Hidalgo County ID No. 1, Lower Rio Grande Valley, Texas:* Supplemental SRPA loan contract for approximately $13,017,000 plus reimbursable interest.

19. *Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma:* Amendatory repayment contract for remedial work.

20. *Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma:* Contract for the repayment of costs incurred by the United States for the

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construction of the Sulphur, Oklahoma, pipeline and pumping plant.

21. *Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma:* Amendatory contract for revised repayment schedule to reflect credit for project lands transferred to National Park Service under Public Law 94–235 for the Chickasaw National Recreation Area.

22. *Highland-Hanover ID, Boysen Unit, P–SMBP, Wyoming:* R&B loan repayment.

23. *Upper Bluff ID, Boysen Unit, P–SMBP, Wyoming:* R&B loan repayment.

24. *Board of Water Commissioners of the City and County of Denver,* the Colorado River Water Conservation District, and the Northern Colorado Water Conservancy District, Colorado-Big Thompson Project, Colorado: Operating agreement for substitution of water in the proposed Muddy Creek or Rock Creek Reservoir for Green Mountain Reservoir water.

25. *City of Dickinson, Heart River Unit, P–SMBP, North Dakota:* Renegotiate a M&I water service contract which expired September 24, 1980.

26. *Malta ID, Milk River Project, Montana:* R&B loan repayment.

27. *Glasgow ID, Milk River Project, Montana:* R&B loan repayment.

28. *Twin Loups ID, North Loup Project, P–SMBP, Nebraska:* Amendatory D&MC contract to increase ceiling from $500,000 to $2.5 million.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within the time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of a proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impact(s) of the modification, and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Dated: October 20, 1989.

Joseph H. Hunter,

Acting Commissioner of Reclamation.

[FR Doc. 89–25470 Filed 10–27–89; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–299 (Final)]

Aluminum Sulfate From Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–299 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of aluminum sulfate, provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 417.16 of the Tariff Schedules of the United States), that have been found by the Department of Commerce, in its final determination, to be subsidized by the Government of Venezuela. The Commission will make its final injury determination within 75 days after receipt of Commerce's notification of its final determination (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended, 53 FR 33034 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–252–1180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of a final affirmative determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate. This investigation was requested in a petition filed on March 29, 1989 by General Chemical de Puerto Rico, Inc., Dorado, Puerto Rico. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports on the subject merchandise (54 FR 22632, May 25, 1989).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and Business Proprietary Information Service List

Pursuant to section 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff Report

A prehearing staff report applicable to this investigation was placed in the nonpublic record on October 13, 1989, and a public version was issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing on a related antidumping investigation, Aluminum Sulfate from Venezuela, inv. No. 731–TA–431 (Final), beginning at 9:30 a.m. on October 26, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. At that hearing, the Commission will hear testimony and receive evidence regarding the countervailing duty investigation instituted herein. (Requests for a separate hearing in separate hearing in this investigation for the limited purpose of supplementing the October 26, 1989, hearing record with testimony and evidence solely related to the countervailing duty investigation, should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 3, 1989. If such a hearing is requested, parties will be contacted regarding dates for the hearing and for the filing of briefs.)

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submission

Post hearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 2, 1989. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 2, 1989.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than November 7, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: October 25, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–25538 Filed 10–27–89; 8:45 am]

BILLING CODE 7020–02–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under Office of Management and Budget Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) a proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 35).

DATE: Comments on this information collection must be submitted on or before November 29, 1989.

ADDRESSES: Send comments to Ms. Carol Gordon-Berry, Director, Office of Equal Opportunity, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 419, Washington, DC 20506 (202–786–0410) (TDD:786–0282) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Carol Gordon-Berry, Director, Office of Equal Opportunity, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 419, Washington, DC 20506 (202–786–0410) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entities are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if

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applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h). Recipients of National Endowment for the Humanities grants are required to complete an evaluation of their policies and practices with respect to the handicapped. This self-evaluation is retained by the grantee, made available for public inspection and provided to the Endowment upon request. The self-evaluation is required at 45 CFR 1170.53(c) pursuant to 29 U.S.C. 794.

Category: Extension

Title: Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities.
Form Number: Not applicable.
Frequency of Collection: Once.
Respondents: Grantees of the National Endowment for the Humanities with fifteen or more employees.
Use: Evaluation of grantee programs and policies with respect to the handicapped.
Estimated Number of Respondents: 750.
Frequency of Response: Once.
Estimated Hours of Respondents to Provide Information: 8 per respondent.
Estimated Total Annual Reporting and Recording Burden: 6,000 hours.

Thomas S. Kingston,
Assistant Chairman for Operations.

[FR Doc. 89-25407 Filed 10-27-89; 8:45 am]
BILLING CODE 7536-01-M

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Grants to Dance Presenters Section) to the National Council on the Arts will be held on November 15-16, 1989, from 9:00 a.m.—10:00 p.m. and on November 17, 1989, from 9:00 a.m.—6:00 p.m. in Room M14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506

A portion of this meeting will be open to the public on November 17, 1989, from 4:00 p.m.—6:00 p.m., time permitting. The topic for discussion will be policy issues.

The remaining portions of this meeting on November 15-16, 1989, from 9:00 a.m.—10:00 p.m. and November 17, 1989, from 9:00 a.m.—4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Dated: October 23, 1989.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25494 Filed 10-27-89; 8:45 am]
BILLING CODE 7537-01-M

Opera-Musical Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Overview Section) to the National Council on the Arts will be held on December 4-5, 1989, from 9:00 a.m.—5:30 p.m. in room M07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be guidelines.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: October 23, 1989.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25495 Filed 10-27-89; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Meeting; Advisory Panel for Cell Biology Program

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cell Biology Program.
Date and Time: November 15-17, 1989, 8:30 a.m. to 5:00 p.m.
Place: Ambassador Room, State Plaza Hotel, 2116 F Street NW., Washington, DC 20550.
Type of Meeting: Part Open—Closed 11/15-8:30 a.m. to 5:00 p.m.; Open 11/16—12:00 p.m. to 1:30 p.m.; Closed 11/17—8:30 a.m. to 5:00 p.m.
All other times the meeting is closed
Contact Person: Dr. Maryanna P. Henkart, Program Director, Cell Biology Program, Room 321, National Science Foundation, Washington, DC 20550 Telephone 202/357-7474.
Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.
Agenda: Open—General discussion of the current status and future plans of the Cell Biology Program.
Closed—To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 89-25454 Filed 10-27-89; 8:45 am]
BILLING CODE 7555-01-M

Meeting; Geography and Regional Science Advisory Panel

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Geography and Regional Science.
Date/Time: November 20, 1989: 8:00 a.m. to 6:00 p.m.; November 21, 1989: 8:00 a.m. to 4:30 p.m.
Place: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Room 1242.
Type of Meeting: Part Open—November 21, 1989, 2:00-3:00 p.m. Remainder of meeting is closed.
Contact Person: Dr. Thomas J. Baerwald, Program Director, Geography and Regional Science, National Science Foundation, Washington, DC 20550, Room 336, (202) 357-7326.
Minutes: May be obtained from the contact person at the above address.
Purpose of Meeting: To provide advice and recommendations concerning research in geography and regional science.
Agenda: Open—general discussion of trends and opportunities in geography and regional science research.
Closed—to review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 89-25455 Filed 10-27-89; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on General Electric Reactor Plants; Meeting

The ACRS Subcommittee on General Electric Reactor Plants will hold a meeting on November 14, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, November 14, 1989—8:30 a.m. until the conclusion of business:

The Subcommittee will review the restart of Nine Mile Point Unit 1.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 301/492-7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 23, 1989.

Gary R. Quittschreiber,
Chief, Project Review Branch No. 2

[FR Doc. 89-25462 Filed 10-27-89; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Policies and Practices; Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on November 15, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 15, 1989—9:30 a.m. until the conclusion of business:

The Subcommittee will continue to discuss integration of the regulatory process.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hold discussions with representatives of the NRC and industry regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Gary Quittschreiber (telephone 301/492-9518) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 23, 1989.

Richard Savio,
Assistant Executive Director for Project Review.

[FR Doc 89-25463 Filed 10-27-89; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Forms for Office of Management and Budget Clearance

AGENCY: Office of Personnel Management.
ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, (Title 44, U.S. Code, chapter 35), this notice announces a proposed extension of forms that collect information from the public. Executive Order 10450 requires that investigations be conducted on all persons entering the Federal Service. Optional Form 49 is a voucher sent to references and former employer/supervisors. The Optional Form 50 is a voucher form sent to educational

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institutions; and the Optional Form 51 is a voucher form sent to local law enforcement agencies in conducting National Agency Checks and Inquiries (NACI) in non-sensitive and noncritical-sensitive positions as prescribed in section 3(a) of Executive Order 10450. These checks are a part of the investigation conducted for determining suitability for Federal employment/security clearance. Approximately 172,097 individuals complete the OF 49 annually with reporting hours of 14,336; 15,735 individuals complete the OF 50 with reporting hours of 1,311 and 39,636 individuals complete the OF 51 with reporting hours of 3,302. Each of these forms takes approximately 5 minutes to complete. For copies of this proposal call Lawrence Dambrose, on (202) 632–0199.

DATES: Comments on this proposal should be received November 29, 1989.

ADDRESS: Send or deliver comments to: Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Peter Garcia, (202) 376–3800.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89–25461 Filed 10–27–89; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for Office of Management and Budget Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget (OMB) for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application for Survivor Insurance Annuities.

(2) *Form(s) submitted:* AA–17, AA–17b, AA–18, AA–19, AA–19a, AA–19s, AA–20 and G–476c.

(3) *OMB Number:* 3220–0030.

(4) *Expiration date of current OMB clearance:* 11–30–89.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 18,410.

(9) *Total annual responses:* 18,410.

(10) *Average time per response:* .3304 hours.

(11) *Total annual reporting hours:* 6,083.

(12) *Collection description:* Under section 2(d) of the RRA, monthly survivor annuities are payable to surviving widow(er)s, parents, unmarried children and, in certain cases, divorced wives (husbands), mothers (fathers), remarried wido(er)s and grandchildren of deceased railroad employees. The collection obtains information needed by the Railroad Retirement Board for determining entitlement to and amount of annuity applied for.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Ronald J. Hodapp, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Justin Kopca (202–395–7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Ronald J. Hodapp,

Director of Information Resources Management.

[FR Doc. 89–25464 Filed 10–27–89; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 20, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No.: 46556.

Date filed: October 19, 1989.

Due date for answers, conforming applications, or motion to modify scope: November 16, 1989.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity to authorize nonstop air service between Miami, Florida, and Guayaquil, Ecuador.

Docket No.: 46558.

Date filed: October 19, 1989.

Due date for answers, conforming applications, or motion to modify scope: November 16, 1989.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity so as to authorize nonstop air service between Miami, Florida, and Buenos Aires, Argentina.

Docket No.: 46560.

Date filed: October 19, 1989.

Due date for answers, conforming applications, or motion to modify scope: November 16, 1989.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity so as to authorize nonstop air service between Miami, Florida, and the co-terminal points Rio de Janeiro and Sao Paulo Brazil.

Docket No.: 46562.

Date filed: October 20, 1989.

Due date for answers, conforming applications, or motion to modify scope: November 17, 1989.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity so as to authorize nonstop air service between Miami, Florida, and Madrid, Spain.

Docket No.: 46564.

Date filed: October 20, 1989.

Due date for answers, conforming applications, or motion to modify scope: November 17, 1989.

Description: Application of Ryan International Airlines, Inc., pursuant to sections 418 and 401(d)(3) of the Act and Subpart Q of the Regulations, for amendment of its certificate authority to permit Ryan to provide (1) subservice for Orion and Air Train and (2) direct service for Emery.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89–25434 Filed 10–27–89; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–89–41]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before:

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 24, 1989.

Deborah Swantk,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 23921.

Petitioner: FlightSafety International.

Regulations Affected: 14 CFR 61.57(a)(1), (c) and (d); 61.58(c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); Part 61, Appendix A; Part 121, Appendix H.

Description of Relief Sought: To extend Exemption No. 4058D that allows petitioner to use the FAA-approved simulators to meet certain training and testing requirements of the FAR. Exemption No. 4058D will expire on February 28, 1990.

Docket No.: 24770.

Petitioner: FlightSafety International.

Sections of the FAR Affected: 14 CFR 61.57(a)(1) and 61.58(c).

Description of Relief Sought: To extend Exemption No. 4609B that allows petitioner to substitute an FAA-approved helicopter training program using petitioner's facilities for the S–76 and Bell 222 aircraft.

Docket No.: 25336.

Petitioner: United Airlines.

Regulations Affected: 14 CFR 121.697(a)(3) and 121.709(b)(3).

Description of Relief Sought/Disposition: To allow United to use a computer-printed name of a qualified person in lieu of their physical signature on the Maintenance Release portion of the aircraft Flight Log Book.

Docket No.: 25984.

Petitioner: United Express.

Sections of the FAR Affected: 14 CFR 135.181(a)(2).

Description of Relief Sought: To allow petitioner to use drift down performance on certain specified routes using the Jetstream 3100 and Jetstream 3200 series aircraaft.

Docket No.: 26006.

Petitioner: Beech Aircraft Corporation.

Sections of the FAR Affected: 14 CFR 47.69(b).

Description of Relief Sought: To allow use of a dealer's certificate outside the United States.

Docket No.: 25739.

Petitioner: Dorothy S. Blevins.

Regulations Affected: 14 CFR 141.35(e).

Description of Disposition: To allow petitioner to serve as a chief ground instructor in the Pro Business Services' Part 141 pilot ground school courses. Granted October 17, 1989. Exemption No. 5107.

[FR Doc. 89–25450 Filed 10–27–89; 8:45 am]

BILLING CODE 4910–13–M

Flight Services Station at Greater Rockford Airport; Rockford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of closing.

SUMMARY: Notice is hereby given that on October 3, 1989, the Flight Service Station (FSS) at Rockford, Illinois was closed. Services to the aviation public in the Rockford flight plan area, formerly provided by Rockford FSS, are being provided by the automated flight service station (AFSS) at Kankakee, Illinois. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313 (a), 72 Stat. 752; 49 U.S.C. 1354.)

Teddy W. Burcham,

Acting Regional Administrator, Great Lakes Region.

[FR Doc. 89–25449 Filed 10–27–89; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Guilford County, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Guilford County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Robert L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone: (919) 790–2856.

SUPPLEMENTARY INFORMATION: The FHWA, in corporation with the North Carolina Department of Transportation (NCDOT) and the City of Greensboro, will prepare an Environmental Impact Statement (EIS) on a proposed Greensboro Western Urban Loop in Guilford County. The proposed action would be the construction of a new 15-mile multi-lane divided facility from I–85 in the south, between Groometown Road (SR 1129) and Holden Road (SR 1117) to Lawndale Drive (SR 2303) in the north, between Lake Jeannette Road (SR 2352) and Lake Brandt Road (SR 2347).

The proposed project is needed to serve the existing and anticipated future traffic demand and to relieve congestion, delay, and inconvenience to motorists during crosstown trips.

Alternatives under consideration include the "no-build" and alternate corridors for construction of a new facility.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A meeting with local officials and public meetings are planned in the study area as a part of the early studies.

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Public hearings will also be held. Information on the time and place of the public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To assure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA to the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consolidation on Federal programs and activities apply to this program)

Robert L. Lee,

District Engineer, Raleigh, North Carolina.

[FR Doc. 89-25405 Filed 10-27-89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 89-93]

Extension of Analyses for Which Atlantic Petroleum Services, Inc., an Accredited Customs Laboratory, has been Accredited to Perform

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of an additional analysis for which Atlantic Petroleum Services, Inc., a Customs accredited commercial laboratory, has been accredited to perform.

SUMMARY: Atlantic Petroleum Services, Inc., of Staten Island, New York, a Customs accredited commercial laboratory under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of their commerical laboratory accreditation to include the following analysis: distillation characteristics.

SUPPLEMENTARY INFORMATION: Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses from Customs-accredited commercial laboratories for certain products. Atlantic Petroleum Services, Inc., which holds Customs accreditation in certain laboratory analyses has applied to Customs to extend its accreditation to the performance of an additional analysis. Review of Atlantic Petroleum Services, Incorporated, qualifications shows that the extension is warranted and accordingly, has been granted.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Donald A. Cousins, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2446).

Dated: October 24, 1989.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 89-25409 Filed 10-27-89; 8:45 am]

BILLING CODE 4820-86-M

[T.D. 89-92]

Approval of Tucker Inspections, Inc. as a Commercial Gauger

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of Approval of Tucker Inspections, Incorporated, as a Commercial Gauger.

SUMMARY: Tucker Inspections, Incorporated, of Channelview, Texas, 77530, recently applied to Customs for approval to gauge imported petroleum, petroleum products, organic chemicals, and vegetable and animal oils under § 151.13 of the Customs Regulations (19 CFR 151.13). Customs has determined that Tucker Inspections, Inc., meets the requirements for approval.

Therefore, in accordance with § 151.13(c), Tucker Inspections, Incorporated, 519 Sheldon Road, Suite E, Channelview, Texas, 77530, is approved to gauge the products named above in all Customs districts.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Donald A. Cousins, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2446).

Dated: October 13, 1989.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 89-25408 Filed 10-27-89; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 208
Monday, October 30, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 41503, October 10, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, October 31, 1989.

CHANGE IN THE MEETING: The Commission has postponed the open meeting to discuss the application submitted by the Chicago Mercantile Exchange to trade One-Month LIBOR (London Interbank Offered Rate) futures until 10:00 a.m., Thursday, November 2, 1989.

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, Deputy Secretary of the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89-25534 Filed 10-25-89; 4:11 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 41503, October 10, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, October 31, 1989.

CHANGE IN THE MEETING: The Commission has postponed the closed meeting to discuss enforcement matters until 10:30 a.m., Thursday, November 2, 1989.

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, Deputy Secretary of the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89-25535 Filed 10-25-89; 4:11 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 43519, October 25, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., Tuesday, October 31, 1989.

CHANGE IN THE MEETING: The Commission has postponed the closed meeting to discuss a rule enforcement review until 11:00 a.m., Thursday, November 2, 1989.

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, Deputy Secretary of the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89-25553 Filed 10-26-89; 10:53 am]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552(b), notice is hereby given that at 2:12 p.m. on Tuesday, October 24, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to: (1) The possible closing of an insured bank; and (2) an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director M. Danny Wall (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street NW., Washington, DC.

Dated: October 25, 1989.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 89-25540 Filed 10-25-89; 5:06 pm]

BILLING CODE 6714-01-M

NATIONAL COUNCIL ON THE HANDICAPPED

National Council on Disability; Quarterly Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Council on Disability. This notice also describes the functions of the Council. Notice of this meeting is required under section 522 (b) (10) of the "Government in Sunshine Act" (Pub. L. 94-409).

DATES: Oct 30, 1989, 9:00 a.m. to 5:00 p.m., Oct. 31, 1989, 9:00 a.m. to 5:00 p.m., Nov. 1, 1989, 9:00 a.m. to 1:00 p.m.

LOCATION: Hyatt Regency-Austin, Austin, Texas.

FOR FURTHER INFORMATION CONTACT: National Council on Disability, 800 Independence Avenue, SW., Suite 814, Washington, DC 20591, (202) 267-3846, TDD: (202) 267-3232.

The National Council on Disability is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Public Law No. 95-602 in 1978), the Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Public Law No. 98-221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR).

The meeting of the Council shall be open to the Public. The proposed agenda includes:

Report from the Chairperson and Executive Committee
Update on Prevention
Update on IOM Study
Update on NIDRR
Discussion of PCEPD Workplans
NCD Planning Session
Committee Meetings
Health Insurance
Personal Assistance
Employment

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NIDRR
Discussion of NCD Awards Program
Committee Reports
Open Forum on Social Security
Unfinished Business
New Business
Announcements

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, DC, on July 31, 1989.

Ethel D. Briggs,

Deputy Director.

[FR Doc. 89-25017 Filed 10-26-89; 1:22 pm]

BILLING CODE 6820-BS-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Public Law 94-409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 09:00 a.m., Friday, November 17th, 1989.

STATUS: Open.

ADDRESS: The Old Post Office Pavilion, 1100 Pennsylvania Avenue, NW., Main Floor, Room M07, Washington, DC 20506, (202) 786-0536.

FOR FURTHER INFORMATION CONTACT: William Laney, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786-0536.

SUPPLEMENTARY INFORMATION:

The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94-462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of November 17th, 1989 will be open to the public.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, Room 510—1100 Pennsylvania Avenue, NW., Washington, D.C. 20506, (202) 786-0536, TDD (202) 786-0136 at least seven (7) days prior to the meeting.

Agenda

I. NMSB Chairman's Report and Approval of Minutes of July 21, 1989 Meeting
II. IMS Director's Report, NMSB Lunch Break
III. IMS Program Report
IV. General Board Discussion

Dated: October 25, 1989.

Daphne Wood Murray,

Director, Institute of Museum Services.

[FR Doc. 89-25626 Filed 10-26-89; 1:30 pm]

BILLING CODE 7036-01-M

RESOLUTION TRUST CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:20 p.m. on Tuesday, October 24, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to delegations of authority.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director M. Danny Wall (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: October 25, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89-25541 Filed 10-25-89; 5:07 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 54, No. 208
Monday, October 30, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN AND SERVICES

Food and Drug Administration

[Docket No. 89N-0432]

Par Pharmaceutical, Inc.; Proposal to Withdraw Approval of Three Abbreviated New Drug Applications; Opportunity for a Hearing

Correction

In notice document 89-24327 beginning on page 42367 in the issue of Monday, October 16, 1989, make the following corrections:

1. On page 42368, in the first column, in the italized heading, in the first line, "Trimameterene" should read "Triamterene".

2. On the same page, in the third column, in the second paragraph, in the second line from the bottom, "231" should read "21", and "not" should read "do not".

BILLING CODE 1505-01-D

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Designation of Anchorage (AK) Equal Rights Commission

Correction

In rule document 89-23219 appearing on page 40657 in the issue of Tuesday, October 3, 1989, make the following corrections:

§ 1601.80 [Corrected]

1. On page 40657, in the third column, the heading **§ 1601.60 [AMENDED]** should read as set forth above.

2. On the same page, in the same column, in amendatory instruction 2., in the first line, "1601.60" should read "1601.80".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 442

[Docket No. 89N-0326]

Antibiotic Drugs; Cefuroxime Sodium Injection

Correction

In rule document 89-23214 beginning on page 40653 in the issue of Tuesday, October 3, 1989, make the following correction:

§ 442.218b [Corrected]

On page 40654, in § 442.218b, in the second column, in the eighth line, "confirms" should read "conforms".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 453

[Docket No. 89N-0324]

Antibiotic Drugs; Clindamycin Phosphate Lotion

Correction

In rule document 89-23213 beginning on page 40654 in the issue of Tuesday, October 3, 1989, make the following corrections:

1. On page 40654, in the third column, under **ADDRESSES:**, in the fifth line, the zip code should read "20857".

§ 453.522 [Corrected]

2. On page 40655, in the third column, in § 453.522(b), in the 12th line, "silicia" should read "silica".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0416]

Vitarine Pharmaceuticals, Inc.; Proposal to Withdraw Approval of Abbreviated Antibiotic Drug Applications and Abbreviated New Drug Applications; Opportunity for a Hearing

Correction

In notice document 89-23374 beginning on page 40740 in the issue of Tuesday, October 3, 1989, make the following corrections:

1. On page 40743, in the third column, in the last complete paragraph, beginning in the sixth line, remove "however, the batch of Cephalexin for Oral Suspension made at St. Croix;".

2. On page 40744, in the second column, in the first heading, **ANDA 71-656** should read **ANDA 71-565.**

3. On page 40746, in the 1st column, in the second complete paragraph, in the 16th line, after "absence" insert "of reliable data demonstrating stability and bioequivalence".

4. On page 40747, in the third column, in the fourth complete paragraph, in the second line, "502" should read "505".

BILLING CODE 1505-01-D

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

Correction

In notice document 89-23815 beginning on page 41527 in the issue of Tuesday, October 10, 1989, make the following correction:

On page 41527, in the first column, in the third paragraph, in the fifth line, "November 6-9" should read "November 6-7".

BILLING CODE 1505-01-D

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 88-031]

RIN 2115-AC96

Documentation of Vessels; Controlling Interest

Correction

In proposed rule document 89-24251 beginning on page 41992 in the issue of Friday, October 13, 1989, make the following corrections:

1. On page 41993, in the first column, under **Discussion of Comments**, in paragraph "a", in the eighth line from the bottom "there" was misspelled.

2. On page 41994, in the first column, in the first incomplete paragraph, in the last line, the first "it" should read "if".

3. On page 41995, in the first column, in the next to the last paragraph, in the third line from the bottom, "notice" was misspelled.

4. On the same page, in the third column, under **Discussion of the Proposed Rule**, in the second paragraph, in the second line, "67.01" should read "67.03".

5. On page 41996, in the third column, in the first complete paragraph, in the ninth line, "not" should read "now".

6. On the same page, in the same paragraph, in the second line from the bottom "§ 67.03-8" should read "§ 67.03-9".

7. On page 41997, in the first column, in the first incomplete paragraph, in the second line from the bottom "in" should read "is".

8. On the same page, in the same column, in the first complete paragraph, in the second line from the bottom "is" should read "in".

9. On the same page, in the same column, in the last incomplete paragraph, in the 19th line "of" should read "or".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AD96

Independent Medical Opinions

Correction

In proposed rule document 89-25098 beginning on page 43436 in the issue of Wednesday, October 25, 1989, make the following correction:

On page 43436, in the second column, under **ADDRESSES**, in the last sentence, "December 24, 1989" should read "December 4, 1989".

BILLING CODE 1505-01-D

Reader Aids

Federal Register
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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

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H.J. Res. 392/Pub. L. 101–126

Designating October 1989 as "Italian-American Heritage and Culture Month". (Oct. 25, 1989; 103 Stat. 773; 1 page) Price: $1.00

H.J. Res. 401/Pub. L. 101–129

To designate the month of October 1989 as "Country Music Month". (Oct. 25, 1989; 103 Stat. 774; 1 page) Price: $1.00

H.J. Res. 423/Pub. L. 101–130

Making further continuing appropriations for the fiscal year 1990, and for other purposes. (Oct. 26, 1989; 103 Stat. 775; 2 pages) Price: $1.00

CFR CHECKLIST

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1000–3999	26.00	Oct. 1, 1988
4000–End	11.00	Oct. 1, 1988
44	20.00	Oct. 1, 1988
45 Parts:		
1–199	17.00	Oct. 1, 1988
200–499	9.00	Oct. 1, 1988
500–1199	24.00	Oct. 1, 1988
1200–End	17.00	Oct. 1, 1988
46 Parts:		
1–40	14.00	Oct. 1, 1988
41–69	14.00	Oct. 1, 1988
70–89	7.50	Oct. 1, 1988
90–139	12.00	Oct. 1, 1988
140–155	12.00	Oct. 1, 1988
156–165	13.00	Oct. 1, 1988
166–199	14.00	Oct. 1, 1988
200–499	20.00	Oct. 1, 1988
500–End	10.00	Oct. 1, 1988
47 Parts:		
0–19	18.00	Oct. 1, 1988
20–39	18.00	Oct. 1, 1988
40–69	9.00	Oct. 1, 1988
70–79	18.00	Oct. 1, 1988
80–End	19.00	Oct. 1, 1988
48 Chapters:		
1 (Parts 1–51)	28.00	Oct. 1, 1988
1 (Parts 52–99)	18.00	Oct. 1, 1988
2 (Parts 201–251)	18.00	Oct. 1, 1988
2 (Parts 252–299)	18.00	Oct. 1, 1988
3–6	20.00	Oct. 1, 1988
7–14	25.00	Oct. 1, 1988
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49 Parts:		
1–99	13.00	Oct. 1, 1988
100–177	24.00	Oct. 1, 1988
178–199	20.00	Oct. 1, 1988
200–399	19.00	Oct. 1, 1988
400–999	24.00	Oct. 1, 1988
1000–1199	18.00	Oct. 1, 1988
1200–End	18.00	Oct. 1, 1988
50 Parts:		
1–199	17.00	Oct. 1, 1988
200–599	13.00	Oct. 1, 1988
600–End	13.00	Oct. 1, 1988
CFR Index and Findings Aids	29.00	Jan. 1, 1989
Complete 1989 CFR set	620.00	1989
Microfiche CFR Edition:		
Complete set (one-time mailing)	125.00	1984
Complete set (one-time mailing)	115.00	1985
Subscription (mailed as issued)	185.00	1987
Subscription (mailed as issued)	185.00	1988
Subscription (mailed as issued)	188.00	1989
Individual copies	2.00	1989

[3] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[4] No amendments to this volume were promulgated during the period Jan.1, 1988 to Dec.31, 1988. The CFR volume issued January 1, 1988, should be retained.

[5] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1988. The CFR volume issued January 1, 1987, should be retained.

[6] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[7] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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federal register

Monday
October 30, 1989

Book 2 of 3 Books

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44480 Part IV—Department of Commerce
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44566 Part VI—Department of Education
44584 Part VII—Department of Energy
44604 Part VIII—Department of Health and Human Services
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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulations

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REGULATORY INFORMATION SERVICE CENTER

Unified Agenda of Federal Regulations

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12291 and OMB Bulletins implementing section 5 of the Executive order establish minimum standards for executive agencies' agendas, including specific types of information for each entry and publication in a uniform format. In addition, the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 402) require the development and semiannual publication of a report on procurement regulations. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this **Unified Agenda of Federal Regulations.**

The following separate parts in this issue of the **Federal Register** are the agency agendas, which together comprise the October 1989 edition of the semiannual **Unified Agenda of Federal Regulations.**

ADDRESS: Regulatory Information Service Center, Room 5216, New Executive Office Building, 725 Seventeenth Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry. To provide comment on or to obtain further information about the **Unified Agenda of Federal Regulations**, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, Room 5216, New Executive Office Building, 725 Seventeenth Street NW., Washington, DC 20503; (202) 395-6993.

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INTRODUCTION TO THE UNIFIED AGENDA OF FEDERAL REGULATIONS

About the Unified Agenda

The Regulatory Information Service Center (the Center) compiles the **Unified Agenda of Federal Regulations** for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information-management activities and for implementing Executive Orders 12291 "Federal Regulation" (46 FR 13193; 3 CFR 1981 Comp., p. 127) and 12498 "Regulatory Planning Process" (50 FR 1036; 3 CFR 1985 Comp., p. 323). Under E.O. 12498, OMB publishes the **Regulatory Program of the United States Government** each year.

The Regulatory Program is a policy document and a management tool that sets forth the priorities of the agency head and of the President regarding the Significant Regulatory Actions (SRAs) that will be conducted during the program year to which it pertains.

The Regulatory Program and the Unified Agenda differ in several ways. The Unified Agenda includes more regulatory actions because it covers all Federal agencies that issue regulations and includes almost all the rulemakings they have under development. The 1989 Regulatory Program covers only 25 of the major Federal regulatory agencies and includes only the most significant of all the regulatory actions that each agency plans to undertake. The Regulatory Program, however, describes each entry more thoroughly than the Unified Agenda.

The regulatory actions described in the **Regulatory Program of the United States Government** are included in this Agenda. In general, the Regulation Identifier Number (RIN) for the action is the same for both publications; however, occasionally, several Agenda entries are combined into one Program entry, and a new RIN is assigned to that entry in the Program.

The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 56 regulatory agendas from all Federal departments, agencies, and commissions that publish agendas. Agencies of the United States Congress are not included.

Beginning with this edition, the Agenda helps fulfill the statutory requirement that the Office of Federal Procurement Policy (OFPP) publish a **Procurement Regulatory Activity Report** as required by the Office of Federal Procurement Policy Act Amendments of 1988 (102 Stat. 4055; 41 U.S.C. 402). In their agendas, agencies indicate which regulatory actions are procurement-related, as well as whether or not there is a statutory requirement or a paperwork burden associated with the procurement-related actions. Many of the procurement-related actions are included in the Unified Agenda for the first time. This procurement information will be used by OFPP to produce its report.

The Unified Agenda is produced through a computer system designed and maintained by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their agendas in a uniform format and to make the Agenda easier to use. In order to further facilitate producing the Agenda, many agencies currently use computer terminals at their offices to enter agenda information into the Center's computer system.

The Agenda contains a Subject Index to help readers locate entries from various agencies that may affect a particular area of interest. The numbers in the index refer to the sequence numbers that appear before the title of each entry in the Agenda. All entries are numbered sequentially from the beginning to the end of the Agenda.

For those agencies that requested it, the Center provided a computer-produced Table of Contents that appears after the preamble of the agency's agenda. The agency Tables of Contents help readers locate quickly those entries within an agency that may be of most interest to them.

All agendas contain uniform data elements -- regulation title, significance, legal authority, CFR citation, legal deadline, abstract, timetable, small entities affected, government levels affected, agency contact, and Regulation Identifier Number. Agencies also include any additional information they consider important. If any of the data elements is not included, the agency either did not report the information or may provide an explanation in its preamble. For further information, please contact the individual agency.

The **Unified Agenda of Federal Regulations** is published in April and October of each year. We welcome comments on this edition and suggestions for improving future ones.

Dated: October 1, 1989.

Mark G. Schoenberg,

Executive Director.

How to Use the Unified Agenda

Each agency agenda appears as a separate part in this edition of the **Federal Register.** The parts are organized alphabetically in four groups: Cabinet departments, other executive agencies, joint authorities, and independent agencies. Departments are divided into agencies, which may in turn be divided into subagencies.

Each agency begins its agenda with a preamble providing information specific to its agenda. Each agency lists its rules in four groups:

1. Prerule Stage -- actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking and may include Advance Notices of Proposed Rulemaking and reviews of existing regulations.

2. Proposed Rule Stage -- actions for which agencies plan to publish a Notice of Proposed Rulemaking (NPRM) as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage -- actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. Completed Actions -- actions or reviews the agency completed or withdrew since publishing its last agenda. This section also includes items that were begun and completed between issues of the Unified Agenda.

An agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (●) preceding an entry indicates that the entry appears in the Agenda for the first time.

The Agenda Sequence Number preceding the title of each entry identifies the location of the entry in this edition of the Agenda. The same number is used in the index to enable readers to find entries on specific subjects. Those agencies that chose to provide a Table of Contents at the beginning of their agendas also use the sequence number in their Table of Contents. Sequence numbers should help readers easily locate items of most interest to them, either by agency or by subject.

The regulatory activities included in the agency agendas are those currently planned for the next 12 months. The agendas do not include regulations excluded from review under E.O. 12291, such as those concerning military or foreign affairs functions and regulations related to internal agency management.

Entries describing regulations in the Agenda should contain, at a minimum, the following information:

- Title of the regulation.
- Significance -- an indication of the significance of the entry that appears when:

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a. The action is included in the Regulatory Program of the United States Government for the 1989 program year, or
b. the agency otherwise considers the action a priority.

The Significance heading appears only if the entry is a significant action.

- Legal Authority -- the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action (agencies may provide common name references to laws in addition to U.S.C. or P.L. references).
- CFR Citation -- the section(s) of the Code of Federal Regulations that affects or will be affected by the action.
- Legal Deadline -- an indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some "Other" action.
- Abstract -- a description of the problem the regulation will address; the need for a Federal solution; and, to the extent available, the alternatives that the agency is considering to address the problem and the potential costs and benefits of the action.
- Timetable -- the dates and citations (if available) for all past stages and at least the next future stage of rulemaking. If a date appears in this section as 00/00/00, it means the date of the action is presently undetermined. Similarly, 04/00/89 means the agency can predict the month and year the action will take place but not the day it will occur.
- Small Entities Affected -- indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601) and, if so, whether the small entities are businesses, governmental jurisdictions, and/or organizations.
- Government Levels Affected -- indicates whether the rule is expected to affect levels of government and, if so, whether the governments are local, State, and/or Federal.
- Agency Contact -- the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation.
- Procurement-Related Actions -- in the Additional Information section, a statement identifying procurement-related actions and indicating whether there is a statutory requirement for the action and whether or not there is a paperwork burden associated with the action.

Some agencies have provided other optional information at their discretion.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in it. The information in this edition is accurate as of August 25, 1989, in the judgment of the submitting agencies, except as otherwise noted in individual agency preambles. Where applicable, individual actions will be subject to review for compliance with Executive Order 12291, the Regulatory Flexibility Act, the OFPP Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

List of Abbreviations

The following abbreviations appear throughout this edition of the Agenda:

ANPRM -- An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR -- The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the Federal Register by the departments and agencies of the Federal Government. The Code is divided into 50 titles and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up-to-date by the daily issues of the Federal Register.

EO -- An Executive order is a directive from the President to an executive agency, issued under constitutional or statutory authority. Executive orders are published in the Federal Register and in title 3 of the Code of Federal Regulations.

FR -- The Federal Register is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY -- The Federal fiscal year runs from October 1 to September 30.

NPRM -- A Notice of Proposed Rulemaking is the document an agency issues and publishes in the Federal Register that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL -- A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the two-year life of each Congress; for example, P.L. 97-17 would be the 17th public law of the 97th Congress.

RFA -- A Regulatory Flexibility Analysis (RFA) describes the impact of a proposed rule on small entities, as required by the Regulatory Flexibility Act (5 U.S.C. 601). An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM, and a final RFA accompanies a final rule.

RIA -- A Regulatory Impact Analysis is required by E.O. 12291 for all major rules and other regulations designated by the Office of Management and Budget. An RIA is prepared to determine whether a proposed regulatory action meets the requirements of section 2 of E.O. 12291, namely that it:

- Be based on adequate information concerning the need for and consequences of the action;
- not be undertaken unless the potential benefits outweigh the potential costs to society;
- maximize net benefits to society;
- entail the least net cost to society of the alternatives considered; and
- take into account the condition of particular affected industries, the national economy, and contemplated future regulatory actions.

RIN -- The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Agenda.

USC -- The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the Federal Register are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; (202) 783-3238.

Copies of individual agency agendas may be available directly from the agency. Please contact the particular agency for further information.

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Part III

Department of Agriculture

Semiannual Regulatory Agenda

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DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda; Fall 1989.

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major and nonmajor regulations being developed in agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291 "Federal Regulation." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Pub. L. 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication, except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action.

ADDRESSES: Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 147-E, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 382-1272.

Dated: September 13, 1989.

Jacquelyn C. Patterson,

Chief, Regulatory & Legislative Staff.

Agricultural Marketing Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1	Voluntary Inspection and Grading of Egg Products	0581-AA33
2	Grading of Shell Eggs	0581-AA34
3	Mandatory Inspection of Eggs and Egg Products	0581-AA35
4	Voluntary Grading of Poultry Products and Rabbit Products	0581-AA36

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
5	Fees for Service for Voluntary and Mandatory Programs	0581-AA19
6	Proposed New Milk Marketing Order for North Carolina and South Caroline	0581-AA28
7	Proposed New Marketing Agreement and Order for Seedless European Cucumbers	0581-AA30

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
8	Proposed Marketing Order for Vidalia Onions Grown in Georgia	0581-AA29

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
9	Proposed New Marketing Agreement and Order TX-NM (High Plains) Potatoes	0581-AA31
10	Proposed New National Watermelon Research and Promotion Plan	0581-AA32

USDA

Agricultural Stabilization and Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
11	1990 Extra Long Staple (ELS) Cotton Program	0560-AB43
12	1990 Rice Program	0560-AB45
13	1990 Wool and Mohair program	0560-AB49
14	1990-Crop Honey Price Support Program	0560-AB60
15	1990 Price Support Levels for Five Kinds of Tobacco	0560-AB64

Agricultural Stabilization and Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
16	Commodity Credit Corporation (CCC) Claims Regulations	0560-AA38
17	Price Support Loan Program for 1986 Through 1990-Crops Sugar Beets and Sugarcane	0560-AA74
18	Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops (Amendment 1)	0560-AB47
19	1989 Soybean Program	0560-AB48
20	1990-Crop Peanuts National Poundage Quota	0560-AB54
21	1990 Upland Cotton Program	0560-AB55
22	1990 Feed Grain Program	0560-AB56
23	1990 Milk Price Support Program	0560-AB59
24	1990-Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB61
25	1990-Crop Flue-Cured Tobacco Marketing Quota and Price Support Level	0560-AB62
26	1990-Crop National Average Loan Rates for Quota and Additional Peanuts and Minimum CCC Export Edible Sales Price for Additional Peanuts	0560-AB63
27	1990-Crop Marketing Quotas and Acreage Allotments for Five Kinds of Tobacco	0560-AB65
28	1991-Crop Peanuts National Poundage Quota	0560-AB66
29	1990 Soybean Program	0560-AB67
30	1990-Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AB68
31	1990 CCC Cotton Loan Program Regulations--Bale Packaging Materials	0560-AB69
32	1990 Marketing Year Penalty Rates for all Kinds of Tobacco Subject to Quotas (Except Puerto-Rican Cigar Filler)	0560-AB70
33	1989 Marketing Year Penalty Rate for Puerto-Rican Cigar-Filler Tobacco	0560-AB71
34	Crop Years 1989 and 1990 Shrink Adjustment for Additional Peanuts	0560-AB72

Agricultural Stabilization and Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
35	1989-Crop Peanuts National Poundage Quota	0560-AB12
36	1989 Wool and Mohair Program	0560-AB20
37	CCC Cotton Loan Program Regulations--Settlement, Fraud, and Conversion Provisions	0560-AB22
38	Dairy Indemnity Payment Program--January 1, 1988 - September 30, 1990	0560-AB30
39	1989-Crop Peanut Price Support Program Differentials	0560-AB31
40	1989 Price Support Levels for Six Kinds of Tobacco	0560-AB32
41	1989-Crop National Average Loan Rate and Minimum CCC Export Edible Sales Price for Additional Peanuts	0560-AB33
42	1989-Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB34
43	1989-Crop Flue-cured Tobacco Marketing Quota and Price Support Level	0560-AB35
44	1989-Crop National Average Price Support Level for Quota Peanuts	0560-AB36
45	1989-Crop Honey Price Support Program	0560-AB37
46	Common Program Provisions for the 1990 Wheat, Feed Grain, Cotton and Rice Programs	0560-AB38
47	1989 Rice Program	0560-AB39
48	1990 Wheat Program	0560-AB41
49	1989 CCC Cotton Loan Program Regulations -- Bale Packaging Materials	0560-AB44
50	Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops (Amendment 3)	0560-AB46
51	1989-Crop Marketing Quotas and Acreage Allotments for Five Kinds of Tobacco	0560-AB51
52	1989-90 Marketing Year Penalty Rates for All Kinds of Tobacco Subject to Quotas	0560-AB52
53	1989 - Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AB53
54	1989 Milk Price Support Program, July 1, Mandatory Price Support Decrease	0560-AB58

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Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
55	Animals Destroyed Because of Scrapie	0579-AA24

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
56	Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products	0579-AA21
57	Revision of 9 CFR 82, Exotic Newcastle Disease in All Birds and Poultry; Psittacosis and Ornithosis in Poultry	0579-AA22
58	Revision of 7 CFR 319.56, Importation of Fruits and Vegetables	0579-AA23
59	Imported Fire Ant	0579-AA25
60	Procedures for Importing Animals Through the Harry S Truman Animal Import Center; Approval of Embarkation Quarantine Facilities	0579-AA26
61	Swine Identification	0579-AA27

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
62	Animal Welfare Regulations; Standards	0579-AA20

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
63	Animal Welfare; Definition of Terms and Regulations	0579-AA18

Cooperative State Research Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
64	Agricultural Research Involving Outdoor Field Testing of Biotechnology - Modified Organisms	0524-AA00

Farmers Home Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
65	Recapture of Section 502 Rural Housing Subsidy	0575-AA29
66	Changes to Farmers Home Administration (FmHA) Guaranteed Loan Making and Servicing Regulations as a Result of a Study of the Program Requested by OMB	0575-AA66
67	Community Programs Guaranteed Loans	0575-AA72

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Farmers Home Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
68	Property Management	0575-AA03
69	Housing Preservation Grants	0575-AA18
70	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA35
71	Security Servicing for Multiple Housing Loans	0575-AA36
72	Management and Collection of Nonprogram (NP) Loans	0575-AA39
73	Complaints and Compensation for Construction Defects	0575-AA41
74	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA42
75	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	0575-AA49
76	Security Servicing for Multiple Housing Loans	0575-AA51
77	Real Property Insurance	0575-AA53
78	Security Servicing for Single Family Rural Housing Loans	0575-AA54
79	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA55
80	Secondary Market for Farmer Program Loans	0575-AA59
81	Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations	0575-AA60
82	Processing and Servicing FmHA Assistance to Employees, Relatives and Associates	0575-AA64
83	Rural Rental Housing Loan Policies, Procedures and Authorizations - Processing Preapplications	0575-AA67
84	Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received - Multiple Family Housing	0575-AA69
85	Appraisal of Rural Rental Housing Properties	0575-AA71

Farmers Home Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
86	Management and Supervision of Multiple Family Housing Borrowers	0575-AA20
87	Self-Help Technical Assistance Grants	0575-AA34
88	Rural Housing Program Loans	0575-AA48
89	Changes to the Farmers Home Administration (FmHA) Farmer Program Loan Making, Supervision and Servicing Regulations to Implement Applicable Provisions of "The Agricultural Credit Act of 1987"	0575-AA56
90	Rural Rental Housing Loan Policies, Procedures and Authorizations – Congregate Housing and Group Homes	0575-AA58
91	Farm Labor Loan and Grant Policies, Procedures, and Authorization	0575-AA62
92	Rural Rental Housing Loan Policies, Procedures, and Authorizations – Cooperative Housing Loans	0575-AA63
93	Drought and Disaster Guaranteed Loans	0575-AA65
94	Adverse Decisions and Administrative Appeals	0575-AA68
95	Adverse Decisions and Administrative Appeals FmHA Instruction 1900-B	0575-AA70

Farmers Home Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
96	Section 504 Rural Housing Loans and Grants	0575-AA37
97	Predetermined Amortization Schedule System (PASS) Account Servicing	0575-AA52
98	Rural Rental Housing Loan Policies, Procedures and Authorities – Letters of Credit	0575-AA57
99	Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received – Single Family Housing	0575-AA61

Federal Grain Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
100	Regulations Under the United States Grain Standards Act; Reg. Review	0580-AA06
101	United States Standards for Sorghum	0580-AA10
102	United States Standards for Rice	0580-AA11
103	Canola/Rapeseed Standards	0580-AA12

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Federal Grain Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
104	Shiplot Inspection Plan - Cu-Sum	0580-AA09

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
105	Emergency Food Assistance for Victims of Disasters	0584-AA24
106	Rules of Procedure	0584-AA75
107	Miscellaneous QC Provisions of Hunger Prevention Act of 1988	0584-AA76
108	Special Supplemental Food Program for Women, Infants and Children (WIC): Food Delivery Systems	0584-AA80

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
109	Food Distribution Program - Part 250	0584-AA07
110	Conformance with Aid to Families with Dependent Children (AFDC) Rules: Food Stamp Program	0584-AA52
111	Administration/ Management: Food Stamp Program	0584-AA63
112	Employment and Training Requirements Technical Corrections Proposed Rule	0584-AA72
113	Systematic Alien Verification for Entitlements	0584-AA73
114	Child Care Food Program - Adult Day Care Provision	0584-AA74
115	Employment and Training Requirements - Nondiscretionary Provisions from the Hunger Prevention Act of 1988	0584-AA79
116	Automated Data Processing Equipment and Services: Conditions for Federal Financial Participation	0584-AA81

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
117	Food Distribution Program on Indian Reservations	0584-AA09

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
118	Eligibility of Foreign Countries for Importation of Products into the United States	0583-AA55
119	Production of Certain Minimally Processed, Uncured, Perishable Products Packed in Sealed Containers	0583-AB14

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
120	Requirements for Partially Defatted Meat Products	0583-AA27
121	Control of Salmonella and Other Enteric Bacteria in Meat and Poultry Processing	0583-AA28
122	Voluntary Residue Control Program	0583-AA29
123	Sulfonamide Residues in Swine	0583-AA31

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Food Safety and Inspection Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
124	Use of Lactic Acid and Acetic Acid as Anti-Microbial Agents on Meat and Poultry Carcasses	0583-AA43
125	Use and Protection of Approved Water Systems	0583-AA54
126	Certain Products with Meat Ingredients -- Exemptions From Definition of a "Meat Food Product"	0583-AA62
127	Additional Trichina Detection Methods	0583-AA67
128	Use of Sodium Lactate and Potassium Lactate as Flavor Enhancers in Meat and Poultry Products	0583-AA75
129	Increase in Use Levels of Sodium Citrate as an Anticoagulant	0583-AA76
130	Requirements for the Production of Fermented Sausage	0583-AA77
131	Use of Various Binders in Cured Pork Products	0583-AA78
132	Use of Sorbitol as a Flavoring Agent in Specific Meat Products	0583-AA79
133	Sodium/Potassium Lactate as Antimicrobial Agents in Specific Meat and Poultry Products	0583-AA83
134	Lactic Acid Starters	0583-AA86
135	Automatic Expiration System for Approved Labels	0583-AA87
136	Cross-Contamination Prevention for All Heat Processed Meat and Poultry Products	0583-AA88
137	Use of Tocopherols, Ascorbyl Palmitate and Citric Acid as Antioxidants in Additional Products	0583-AA89
138	Labeling of Frankfurters and Similar Products Containing Binders	0583-AA92
139	Substances Approved for Use in Meat Products -- Revision of Listings	0583-AA93
140	Imported Product; Movement Prior to Reinspection	0583-AA94
141	Revision of Requirements for Finished Product Inspection	0583-AA95
142	Review of Retail Store Inspection Exemptions	0583-AA96
143	Processing Requirements for Dried Ready-to-Eat Meat and Poultry Products	0583-AA97
144	Ante-Mortem Inspection of Disabled Animals on Transport Vehicles	0583-AA98
145	Jar Closure Requirements	0583-AB00
146	Exemption From "Equal To" Requirements	0583-AB01
147	Food Additives and GRAS Substances Used as Ingredients in Meat Food and Poultry Products	0583-AB02
148	Streamlined Inspection Systems with Carcass and Giblet Finished Product Standards (Poultry)	0583-AB03
149	Export Certification Procedures	0583-AB04
150	Additional Substances for Use in the Preparation of Meat and/or Poultry Products	0583-AB07
151	Pest Control in Official Establishments	0583-AB08
152	Use of Tricalcium Phosphate as a Sequestrant in Mechanically Deboned Chicken	0583-AB09
153	Procedures for Notice of Detention	0583-AB10
154	Undenuded Beef Stomachs; Finished Product Standards, and Manufacturing and Inspection Procedures	0583-AB11
155	Labeling Requirements for Packaged Products Which Require Special Handling to Maintain Their Wholesome Condition	0583-AB12
156	Use of Compressed Air in Boning Operations	0583-AB13
157	Use of Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Citrate, and Sodium Ascorbate in Fresh Beef and Lamb	0583-AB15
158	Imported Product; Withdrawal of Panama From the List of Countries Eligible for Importation of Meat Products	0583-AB16

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
159	Determination of Added Water in Cooked Sausages	0583-AA30
160	Cattle Post-Mortem Inspection Procedures and Staffing Procedures	0583-AA32
161	Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid, and Calcium Lactate	0583-AA34
162	Ingredients that may be Identified as Flavors or Natural Flavors when used in Meat and Poultry Products	0583-AA44
163	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
164	Trichina Control Requirements for Dry-Cured Ham	0583-AA49
165	Requirements For Imported Poultry Products	0583-AA52
166	Sulfonamide and Antibiotic Residues in Young Veal Calves; Certification Requirements	0583-AA58
167	Use of Certain Binders in Meat and Poultry Products and Transfer of Binders in Text to the Tables of Approved Substances	0583-AA64
168	Immersion Cured and Dry Cured Bacon	0583-AA65
169	Sulfonamide and Antibiotic Residues in Young Veal Calves; Reduced Testing	0583-AA66
170	Net Weight	0583-AA69
171	Labeling of Meat Food Products That Contain Mechanically Separated (Species) Under Certain Circumstances	0583-AA71
172	Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid and Calcium Lactate in Ground and Formed Poultry Products	0583-AA73
173	Processing Procedures and Cooking Instructions for Cooked, Uncured Meat Patties	0583-AA81
174	Partially Cooked, Cured and Smoked Poultry Breakfast Strips	0583-AA82
175	PFF for Turkey Ham	0583-AA84

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Food Safety and Inspection Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
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177	Importation of Meat and Poultry Products; Refused Entry Product	0583-AA90
178	Definition of Terms – "Importation" and "Entry"	0583-AA91
179	Imported Canadian Product; Provision for "Streamlined" Inspection Procedures; Exemption From Official Mark of Inspection	0583-AA99

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
180	Use of Air During Slaughter Operations	0583-AA48
181	Implementation of Improved Processing System	0583-AA72

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
182	Determination of the Market Stabilization Price for Sugar for FY 1989	0551-AA20
183	Determination of Import Quotas on Sugar for Fiscal Year 1989	0551-AA21
184	Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949 for Each Fiscal Year	0551-AA23

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
185	Part 219 Planning	0596-AA50
186	36 CFR 271 - Use of "Smokey Bear" Symbol	0596-AA66
187	Whiskeytown-Shasta-Trinity National Recreation Area	0596-AA68
188	36 CFR 241 Wildlife: Cooperation in Wildlife Protection, Wildlife Management and Federal Refuge Regulations	0596-AA81
189	Isolated Cabin Policy	0596-AA85
190	36 CFR 223 Sale and Disposal of National Forest Timber, Subpart A - General Provisions	0596-AA89
191	36 CFR 223 Sale and Disposal of National Forest Timber, Subpart B - Timber Sale Contracts	0596-AA90
192	Special Areas	0596-AA91
193	Recreation Residence Authorization Policy	0596-AB06

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
194	Suspension and Debarment of Timber Purchasers, 36 CFR 223, Subpart C	0596-AA09
195	Financial Security of National Forest System Timber Sale Contracts	0596-AA33
196	Grazing and Livestock Use and Management of Wild, Free-Roaming Horses and Burros	0596-AA35
197	Special-Use Applications and Administration of Special-Use Authorizations	0596-AA36
198	Prohibition on mechanical transport and other activities in wilderness	0596-AA39
199	Land Exchanges	0596-AA42
200	Small Business Timber Sale Set Aside Program	0596-AA43
201	Revision of Timber Sale Contract Forms FS-2400-6 and FS-2400-6T	0596-AA45
202	Leasable Minerals Other than Oil and Gas	0596-AA46

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Forest Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
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204	Locatable Minerals	0596-AA49
205	Law Enforcement Support Activities	0596-AA65
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207	Revise Small Tracts Act Regulations	0596-AA79
208	Revise Rules Governing Special Uses of National Forest System Lands and Resources at 36 CFR 251 to Remove Ambiguities Regarding First Amendment Rights	0596-AA80
209	Hell's Canyon National Recreation Area - Private Lands	0596-AA88
210	Solid Waste Disposal Policy	0596-AA92
211	Irrevocable Letter of Credit	0596-AA93
212	Reserved and Outstanding Mineral Rights	0596-AA99
213	Douglas-Fir Lumber Price Index Review	0596-AB00
214	Disposal of Quartz Mineral on the Ouachita National Forest	0596-AB01
215	Federal Cave Resources Protection	0596-AB02
216	Pre-Award Information Requirements	0596-AB03
217	Forest Service Wilderness Management Policy	0596-AB04
218	National Environmental Policy Act Revised Implementing Policy and Procedures	0596-AB05
219	Fee Policy for Reservoirs	0596-AB07
220	Implementation of National Forest Land and Resource Management Plans	0596-AB09

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
221	Land Status and Title Records	0596-AA24
222	Access to Non-Federal Lands	0596-AA31
223	Modify the General Prohibition Against Use of Vehicles in Excess of 40 Inches in Width on Trails	0596-AA38
224	Conservation of Fish, Wildlife, and their Habitats Chugach National Forest, Alaska	0596-AA41
225	Definition of Common Variety Mineral Materials	0596-AA44
226	Indian Allotments on National Forest System Lands	0596-AA52
227	Grazing Fees; Eastern and Southern Regions	0596-AA55
228	Prohibitions; Fossil Collecting	0596-AA56
229	Oil and Gas Resources	0596-AA82
230	Surety Bond Form Revision	0596-AA84
231	Hells Canyon National Recreation Area-Use of National Forest Lands	0596-AB08
232	Giving Notice of Decisions Subject to Appeal	0596-AB10

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
233	Ski Area Term Permits	0596-AA57
234	Increase in Minimum Rates Charged for Timber	0596-AA73
235	Deferral of Payments on High-Priced Timber Sales	0596-AA97

Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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Rural Electrification Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
237	Procedures for Securing Rural Electrification Administration Approval of Consolidating/Merger Electric Borrowers	0572-AA25
238	Financial Management and Forecasting for Electric Distribution Borrowers	0572-AA26
239	Criteria for Securing REA Approval of Asset Sales by Electric Borrowers	0572-AA33

Rural Electrification Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
240	List of Standard Forms of Telecommunications Contracts	0572-AA20
241	Telephone System Construction Contract	0572-AA21
242	Accounting Requirements for REA Electric Borrowers	0572-AA23
243	Loan Security Documents - Telephone Program	0572-AA30
244	Telephone Materials, Equipment, and Construction - Telephone Program	0572-AA31
245	List of Standard Forms of Electric Contracts - REA Form 830 Electric System Construction Contract and REA Form 831 Electric Transmission Construction Contract	0572-AA34
246	REA Policy on Audits of Electric and Telephone Borrowers	0572-AA36

Rural Electrification Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
247	Prepayment of REA Guaranteed Federal Financing Bank Loans	0572-AA29
248	REA Bulletin 50-6 (D-806), Specification and Drawings for Underground Electric Distribution	0572-AA35

Rural Electrification Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
249	Loan Account Computations, Procedures and Policies	0572-AA19
250	Cushion of Credit Account Computations and Procedures	0572-AA22
251	General Policies, Types of Loans, Loan Requirements - Telephone Program Preloan Procedures and Requirements - Telephone Program	0572-AA28
252	Advance and Disbursement of Funds; Telephone Loan Program	0572-AA32

Soil Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
253	Relocation Assistance	0578-AA12

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Soil Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
254	Soil Surveys	0578-AA00
255	Snow Surveys and Water Supply Forecasts	0578-AA01
256	Farmland Protection Policy Act	0578-AA14

Office of Operations—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
257	Agriculture Acquisition Regulation	0599-AA00

DEPARTMENT OF AGRICULTURE (USDA)

Prerule Stage

Agricultural Marketing Service (AMS)

1. ● VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 55

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of voluntary inspection and grading services for egg products.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/89	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington DC 20090-6456, 202 447-3506

RIN: 0581-AA33

2. ● GRADING OF SHELL EGGS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the service for grading shell eggs and U.S. standards, grades, and weight classes.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/89	
End Review	11/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, 202 447-3506

RIN: 0581-AA34

3. ● MANDATORY INSPECTION OF EGGS AND EGG PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 1031 to 1056 Egg Products Inspection Act

CFR Citation: 7 CFR 59

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the mandatory inspection program for eggs and egg products.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/89	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, 202 447-3506

RIN: 0581-AA35

4. ● VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 70

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the voluntary grading service for poultry and rabbit products and U.S. classes, standards and grades.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/89	
End Review	11/01/90	

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USDA—AMS — **Prerule Stage**

Small Entities Affected: None
Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington DC 20090-6456, 202 447-3506

RIN: 0581-AA36

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Proposed Rule Stage**

5. FEES FOR SERVICE FOR VOLUNTARY AND MANDATORY PROGRAMS

Legal Authority: 7 USC 1621 to 1627; Agricultural Marketing Act of 1946; 21 USC 1031 to 1056; Egg Products Inspection Act; 7 USC 51 et seq Cotton Standards Act; 7 USC 511 to 511q; Tobacco Inspection Act; 7 USC 499a to 499s; Perishable Agricultural Commodities Act; 7 USC 471 to 476; Cotton Statistics and Estimates Act of 1927; 7 USC 511r; Tobacco Adjustment Act of 1983; 7 USC 15b; US Cotton Futures Act

CFR Citation: 7 CFR 27 to 209

Legal Deadline: None

Abstract: Fees for the voluntary inspection, grading and classing of agricultural commodities and certain mandatory inspection rates are reviewed periodically and changes are made to reflect cost of providing the service. (AMS 84-008)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Wyatt, Regulatory Review Officer, Department of Agriculture, Agricultural Marketing Service, Room 3516-S, Washington, DC 20250, 202 447-3785

RIN: 0581-AA19

6. PROPOSED NEW MILK MARKETING ORDER FOR NORTH CAROLINA AND SOUTH CAROLINA

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674 Agricultural Marketing Agreement Act

CFR Citation: 7 CFR 1005 (New)

Legal Deadline: None

Abstract: To establish minimum uniform classified use prices to processors for raw milk received from producers and marketed in the current of interstate commerce. The States do not have authority to price the milk originating from out-of-State sources. The producer grouped in the Carolinas request that a Federal order be established to provide minimum prices to all dairy farmers whose milk is marketed in the Carolinas.

Timetable:

Action	Date	FR Cite
NPRM Public Hearing	04/17/89	54 FR 11206

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clayton Plumb, Chief, Order Formulation Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Bldg., Washington, DC 20250, 202 447-6273

RIN: 0581-AA28

7. PROPOSED NEW MARKETING AGREEMENT AND ORDER FOR SEEDLESS EUROPEAN CUCUMBERS

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674, Agricultural Marketing Agreement Act of 1937

CFR Citation: 7 CFR 968 (New)

Legal Deadline: None

Abstract: To establish minimum quality standards, container requirements and market promotion. The proposal was submitted by the Greenhouse Vegetable Growers Association. The proposed agreement and order would promote the quality and pack of seedless European cucumbers in the marketplace. In addition, it would enable the establishment of production research and marketing research and development activities to improve production practices and increase the consumption of seedless European cucumbers. The program would be financed by assessments levied on seedless European cucumber handlers. The assessment rate would be recommended by the committee and approved by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	52 FR 24070
NPRM Public hearing	06/22/88	52 FR 24070
NPRM Recommended Decision	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581-AA30

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Final Rule Stage**

8. PROPOSED MARKETING ORDER FOR VIDALIA ONIONS GROWN IN GEORGIA

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674, Agricultural Marketing Agreement Act of 1937

CFR Citation: 7 CFR 955 (New)

Legal Deadline: None

Abstract: To authorize production and marketing research and promotion projects including paid advertising for Vidalia onions. The primary objective of this program would be to improve grower returns by strengthening consumer demand through various promotion activities and by reducing costs through production and marketing research. The program would be financed by assessments on handlers.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	52 FR 32054
NPRM Public Hearing	06/23/88	53 FR 32054
Tentative Decision and Referendum Order	02/24/89	54 FR 8160
Interim Final Rule	03/16/89	54 FR 10972
Comment period end	06/30/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581-AA29

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Completed Actions**

9. PROPOSED NEW MARKETING AGREEMENT AND ORDER TX-NM (HIGH PLAINS) POTATOES

Significance: Agency Priority

CFR Citation: 7 CFR 949 (New)

Completed:

Reason	Date	FR Cite
Final Action	06/02/89	54 FR 23634
Final Action Effective	06/02/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jay Guerber 202 447-2491

RIN: 0581-AA31

10. PROPOSED NEW NATIONAL WATERMELON RESEARCH AND PROMOTION PLAN

Significance: Agency Priority

CFR Citation: 7 CFR 1210 (New)

Completed:

Reason	Date	FR Cite
Final Action	06/06/89	54 FR 24543
Final Action Effective	06/06/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jay Guerber 202 447-2491

RIN: 0581-AA32

BILLING CODE 3410-02-T

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Stabilization and Conservation Service (ASCS) — **Proposed Rule Stage**

11. 1990 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Legal Authority: 7 USC 1444(h); Agricultural Act of 1949, as amended, Sec 103(h)

CFR Citation: 7 CFR 1427

Legal Deadline: Final, Statutory, December 1, 1989.

Abstract: To assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income, combat inflation, conserve natural resources, hold down Federal costs, and comply with statutory requirements. Primary determinations to be made are (1) loan rate--not less than 85% of average market price over previous 5 years excluding the high and low prices, (2) target price--120% of the loan level, and (3) acreage reduction--to be set at such a level as to assure that total supplies will not be excessive. Decisions also to be made on whether or not to implement paid land diversion or advance deficiency payments. The cost to USDA will likely range from $0 to $1.0 million.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	54 FR 40470
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4836

RIN: 0560-AB43

12. 1990 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1441; The Agricultural Act of 1949, as amended, Sec 101

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719 to 720; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Final, Statutory, January 31, 1990.

Abstract: To assure sufficient supplies of rice for domestic and export use,

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USDA—ASCS — **Proposed Rule Stage**

support farm income, combat inflation, hold down Government costs, conserve natural resources, and comply with statutory requirements. Primary determinations to be made are (1) loan and purchase rates—85 percent of the previous 5-year average, excluding the high and low years, but cannot be reduced more than 5 percent from previous year's level nor be lower than $6.50/cwt, (2) target price—no lower than $10.71/cwt, (3) acreage limitation—no more than 35 percent, with a target carryover level of 30 million cwt. Determinations are also to be made on (1) a land diversion program, (2) advance deficiency/diversion payments, (3) purchase of marketing certificates under marketing loan, (4) loan deficiency payments, (5) inventory reduction program (half-ARP), and (6) loan rate adjustments (loan differentials). The expected cost to USDA will likely range from $0.6 to $1.1 billion.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB45

13. 1990 WOOL AND MOHAIR PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1782 et seq; National Wool Act of 1954, as amended, Sec 201

CFR Citation: 7 CFR 1466; 7 CFR 1472

Legal Deadline: None

Abstract: To encourage the continued domestic production of wool at prices fair to both producers and consumers, in a manner which will ensure a viable domestic wool industry in the future, by supporting the price of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is set by statutory formula. Determination is to be made on the support level for mohair, which may not be more than 15 percent above or below the comparable percentage of parity at which shorn wool is supported. The cost to USDA will likely range from $0.1 to $0.2 billion.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB69

14. 1990-CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446(b); The Agricultural Act of 1949, as amended, Sec 201(b)

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27.

Legal Deadline: None

Abstract: Legislation requires that 1990-crop honey be supported at 95 percent of the 1989 level, or $0.5402 per pound. This price support level must be further reduced by $0.0025 per pound under the provisions of the Omnibus Budget Reconciliation Act of 1987. Legislation also provides the Secretary with the discretion to allow loan repayment at a rate below the support level. The objective of a lower repayment rate is to (1) minimize loan forfeitures, (2) avoid excessive stocks, (3) reduce Federal storage costs, and (4) maintain the competitiveness of U.S. honey in domestic and export markets. Determinations to be made are (1) the type of support to offer (loans, purchases, or loans and purchases), and (2) implementation of the lower repayment provision. Federal outlays are expected to be less than $60 million if the lower repayment provision is adopted.

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	
Final Action	03/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB60

15. 1990 PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1445; The Agricultural Act of 1949, Sec 106, as amended

CFR Citation: None

Legal Deadline: None

Abstract: To stabilize prices for five kinds of tobacco and comply with statutory requirements, price support levels are set by statutory formula, based on a prices paid index. The Secretary may lower the price support level at the request of producer associations. Increases may be limited to 65 percent of the formula increase. This price support program is expected to result in net Federal receipts of approximately $16 million in FY 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	
Final Action	08/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB64

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Agricultural Stabilization and Conservation Service (ASCS)

16. COMMODITY CREDIT CORPORATION (CCC) CLAIMS REGULATIONS

Legal Authority: 15 USC 714(k) Commodity Credit Corporation Charter Act

CFR Citation: 7 CFR 1403

Legal Deadline: None

Abstract: Regulations will revise policy, authorities, procedures, and responsibilities for settling claims by and against CCC. (ASCS 84-034)

Timetable:

Action	Date	FR Cite
NPRM	06/19/89	54 FR 25718
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA38

17. PRICE SUPPORT LOAN PROGRAM FOR 1986 THROUGH 1990-CROPS SUGAR BEETS AND SUGARCANE

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1435

Legal Deadline: Final, Statutory, October 1, 1986.

Abstract: The 1949 Act, as amended by the Food Security Act of 1985, requires the Secretary to support the price of domestically grown sugarcane and sugar beets through a nonrecourse loan program effective for the 1986 through 1990 crops. The object of this action is to develop program and operation provisions for administering a sugar price support program. (ASCS 86-048)

Timetable:

Action	Date	FR Cite
Announcement	10/01/86	
Interim Final Rule	10/29/86	51 FR 39507
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA74

18. PEANUT WAREHOUSE STORAGE LOANS AND HANDLER OPERATIONS FOR THE 1986 THROUGH 1990 CROPS (AMENDMENT 1)

Legal Authority: 15 USC 714b and 714c; 7 USC 1441 et seq; 7 USC 1358; 7 USC 1375

CFR Citation: 7 CFR 1446

Legal Deadline: None

Abstract: This action would amend the regulations to allow export credits for crushing sound mature kernels (SMK) and sound split (SS) kernels. This action is needed because current regulations do not provide non-physically supervised handlers an alternative market for SMK and SS kernels other than the export market. An alternative market is needed when the export market is lost or when the peanuts become ineligible for export due to aflatoxin contamination.

Alternatives considered are: (1) Permit a one-time switch to physically supervised crushing of SMK and SS peanuts, regardless of quality, (2) permit prorated credit (based on ratio of contract additional peanuts purchased to total peanuts purchased) for peanuts crushed due to aflatoxin contamination, (3) permit a one-time switch to physically supervised crushing of peanuts that meet edible export standards. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB47

19. 1989 SOYBEAN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1421.365 to 1421.374

Legal Deadline: Final, Statutory, October 1, 1989.

Abstract: To assure sufficient supplies of soybeans for domestic and export use, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements. Determinations to be made are (1) loan and purchase rates--with a probable range of $4.50-$4.53/bu., and (2) whether to implement a marketing loan program. The cost to USDA will likely range from $0.1 to $0.2 billion.

Timetable:

Action	Date	FR Cite
Announcement	08/24/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB48

20. 1990-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Adjustment Act of 1938, Sec 358, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1989.

Abstract: The objective of this action is to balance supply with demand at levels that assure stable supplies for domestic use and assure producers a stable income. This action is required by legislation, which provides a formula for computing the national quota. The quota must equal the amount estimated to be devoted to domestic edible, seed, and related uses, and may not be less than 1.1 million tons. A net cost of $1 million is expected.

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Timetable:

Action	Date	FR Cite
Final Action	12/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB54

21. 1990 UPLAND COTTON PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444-1; The Agricultural Act of 1949, as amended, Sec 103A

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: To assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income, combat inflation, hold down Federal costs and comply with statutory requirements. Determinations to be made are (1) loan rate--not less than 50.00 cents/lb., (2) target price--not less than 72.90 cents/lb., (3) loan repayment rate--if world price is below loan rate, repayment rate may be set by 1 of 2 options: (Plan A or Plan B, Sec. 103A(a(5))), (4) acreage reduction--no greater than 25%, and (5) other provisions: whether or not to implement voluntary paid land diversion, half-compliance program, advance deficiency or diversion payments and PIK payments. The cost to USDA will likely range from $1.0 to $3.0 billion.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33744
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB55

22. 1990 FEED GRAIN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444e; 7 USC 1421; The Agricultural Act of 1949, as amended, Sec 105c and 110

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718; 7 CFR 719; 7 CFR 792; 7 CFR 794; 7 CFR 795; 7 CFR 796; 7 CFR 1421.734

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: To provide an adequate feed grain supply for domestic and foreign utilization, support farm income, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. Primary determinations to be made are (1) loan and purchase rates--probable range of $1.57-$1.96/bu for corn, with rates for other feed grains set in relation to that for corn, (2) target prices--not less than $2.75/bu for corn, with rates for other feed grains set in relation to that for corn, and (3) acreage adjustment--not less than 12.5% nor more than 20%, if corn carryin is projected to exceed 2 billion bu. Decisions also to be made on whether to implement (1) a paid land diversion, (2) a marketing loan, (3) a half-compliance program, (4) incentives for farmers to participate in the FOR, and (5) price support for corn silage. The cost to USDA will likely range from $6.0-$8.0 billion.

Timetable:

Action	Date	FR Cite
NPRM	07/05/89	54 FR 28078
Announcement	09/29/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB56

23. 1990 MILK PRICE SUPPORT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1430; The Agricultural Act of 1949, Sec 201, as amended

CFR Citation: 7 CFR 1430

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: The objective of this action is to support farm income and stabilize prices. Legislation requires that if estimated price support purchases of dairy products for 1990 exceed 5 billion pounds (milk equivalent), the Secretary of Agriculture shall reduce the milk support price by 50 cents per hundredweight on January 1, 1990, and, if estimated purchases for 1990 are less than 2.5 billion pounds (milk equivalent), the Secretary shall increase the support price by 50 cents per hundredweight. Federal outlays for the 1990 Milk Price Support Program are expected to be approximately $600 million in FY 1990.

Timetable:

Action	Date	FR Cite
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB59

24. 1990-CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1314; The Agricultural Act of 1938, as amended, Sec 314; 7 USC 1445; The Agricultural Adjustment Act of 1949, as amended, Sec 106

CFR Citation: None

Legal Deadline: Final, Statutory, February 1, 1990.

Abstract: Burley marketing quotas and price support are required by legislation. The purpose of quotas and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are fair to producers. The national quota is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that weighs average market prices (2/3) and a cost index (1/3), with discretion to limit any increase to 65 percent of the formula increase. The 1990-crop flue-cured tobacco program is expected to result in net Federal receipts of approximately $80 million in FY 1990.

Timetable:

Action	Date	FR Cite
Final Action	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB61

25. 1990-CROP FLUE-CURED TOBACCO MARKETING QUOTA AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1314; Agricultural Adjustment Act of 1938, Sec 314, as amended; 7 USC 1445; Agricultural Act of 1949, Sec 106, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1989.

Abstract: Flue-cured tobacco marketing quotas and price support are required by legislation. The purpose of quotas and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are fair to producers. The national quota is based on manufacturers' intentions, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that weighs average market prices (2/3) and a cost index (1/3), with discretion to limit any increase to 65 percent of the formula increase. Federal net outlays for the 1990-crop burley tobacco program are expected to be approximately $95 million in FY 1990. These outlays will be offset by receipts in FY 1991.

Timetable:

Action	Date	FR Cite
Final Action	12/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB62

26. 1990-CROP NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS AND MINIMUM CCC EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

Legal Authority: 7 USC 1445c-2; Agricultural Act of 1949, Sec 108.13, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, February 15, 1990.

Abstract: The objective of this action is to support farm income and stabilize prices. The action is required by legislation. It provides a formula for calculating the loan rate for quota peanuts and guidelines for establishing the loan rate for additional peanuts. A determination must also be made on the sales price for export edible additional peanuts.

Timetable:

Action	Date	FR Cite
Final Action	02/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB63

27. 1990-CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1312(a) et seq; The Agricultural Adjustment Act of 1938, Sec 312, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, March 1, 1990.

Abstract: Marketing quotas and acreage allotments are required by legislation for these five kinds of tobacco. The purpose of quotas and allotments is to balance supply with demand at levels that assure stable supplies for domestic and export use at prices that are fair to producers. Marketing quota and acreage allotment determinations are based on 10-year average marketings adjusted for trends to yield optimal supplies.

The marketing quota and allotment program is expected to result in net Federal receipts of approximately $15 million in FY 1990.

Timetable:

Action	Date	FR Cite
Final Action	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB65

28. ● 1991-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Adjustment Act of 1938, Sec. 358, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1990.

Abstract: The objective of this action is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by legislation, which provides a formula for computing the national quota. The quota must equal the amount estimated to be devoted to domestic edible, seed,

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and related uses, and may not be less than 1.1 million tons. A net cost of $1 million is expected.

Timetable:

Action	Date	FR Cite
Final Action	12/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, D.C. 20013, 202 475-4636

RIN: 0560–AB66

29. ● 1990 SOYBEAN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949 as amended, Sec.201

CFR Citation: 7 CFR 1421.365-374

Legal Deadline: Final, Statutory, October 1, 1990.

Abstract: To assure sufficient supplies of soybeans for domestic and export use, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements. Determinations to be made are (1) loan and purchase rate, and (2) whether to implement a marketing loan program. The cost to USDA will likely range from $0.1 to $0.2 billion.

Timetable:

Action	Date	FR Cite
Final Action	09/28/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, D.C. 20013, 202 475-4636

RIN: 0560–AB67

30. ● 1990-CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Regulatory Program

Legal Authority: 7 USC 1421; 7 USC 1446; The Agricultural Act of 1949, as amended, Sec.201 and 401

CFR Citation: 7 CFR 1435

Legal Deadline: None

Abstract: To set forth (1) loan rates applicable to 1990-crop sugar beets and sugarcane, and (2) the 1990-crop minimum price support levels processors are required to pay growers. The minimum national average loan rate is set by statue at $0.18/lb. for sugarcane with the rate for sugar beets set at such level as the Secretary determines is fair and reasonable in relation to that for sugarcane. No impact on Government outlays is expected. However, the cost to consumers and other users of sugar will likely exceed $2 billion.

Timetable:

Action	Date	FR Cite
Final Action	09/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, D.C. 20013, 202 475-4636

RIN: 0560–AB68

31. ● 1990 CCC COTTON LOAN PROGRAM REGULATIONS—BALE PACKAGING MATERIALS

Legal Authority: 15 USC 714b and c; Commodity Credit Corporation Charter Act, Sec. 4 and 5

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: This action will incorporate by reference the specifications for bale packaging materials used in wrapping cotton for 1990 that are approved by the Joint Cotton Industry Bale Packaging Committee and that are acceptable to CCC. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	07/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, D.C. 20013, 202 475-4636

RIN: 0560–AB69

32. ● 1990 MARKETING YEAR PENALTY RATES FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS (EXCEPT PUERTO-RICAN CIGAR FILLER)

Legal Authority: 7 USC 1314; The Agricultural Act of 1938, as amended, Sec. 314

CFR Citation: None

Legal Deadline: None

Abstract: This action announces the penalty rates for all kinds of tobacco subject to quotas (except Puerto-Rican Cigar Filler) for the 1990 marketing year. Legislation provides that the penalty shall be 75 percent of the previous year's average marketing price. Tobacco producers, warehousemen, and dealers need to be advised of the penalty rates prior to the beginning of the marketing year (July 1, 1990 for flue-cured).

Timetable:

Action	Date	FR Cite
Final Action	06/29/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington D.C. 20013, 202 475-3646

RIN: 0560–AB70

33. ● 1989 MARKETING YEAR PENALTY RATE FOR PUERTO-RICAN CIGAR-FILLER TOBACCO

Legal Authority: 7 USC 1314; The Agricultural Act of 1938, as amended, Sec.314

CFR Citation: None

Legal Deadline: None

Abstract: This action announces the penalty rate for Puerto-Rican Cigar-Filler Tobacco for the 1989 marketing year. Legislation provides that the penalty shall be 75 pecent of the previous year's average market price. Tobacco producers and dealers need to be advised of the penalty rate prior to the beginning of the marketing year (October 1, 1989).

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, D.C. 20013, 202 475-4636

RIN: 0560–AB71

USDA—ASCS — **Final Rule Stage**

34. ● CROP YEARS 1989 AND 1990 SHRINK ADJUSTMENT FOR ADDITIONAL PEANUTS

Legal Authority: 7 USC 1359; The Agricultural Act of 1938, as amended, Sec. 359

CFR Citation: 7 CFR 1446

Legal Deadline: None

Abstract: This action is needed to provide a fair and equitable shrink adjustment for use in determining export obligations for contract additional peanuts purchased by peanut handlers who have chosen to operate under nonphysical supervision. Shrink adjustments less than actual shrinkage can result in handlers being required to purchase quota peanuts to make up the differences, while adjustments in excess of actual shrinkage can result in higher Government outlays through increased quantities of peanuts being placed under loan.

Timetable:

Action	Date	FR Cite
NPRM	07/20/89	54 FR 30095
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, D.C. 20013, 202 475-4636

RIN: 0560–AB72

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions

Agricultural Stabilization and Conservation Service (ASCS)

35. 1989-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/10/89	54 FR 28826

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB13

36. 1989 WOOL AND MOHAIR PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1468; 7 CFR 1472

Completed:

Reason	Date	FR Cite
Final Action	06/23/89	54 FR 26401

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB20

37. CCC COTTON LOAN PROGRAM REGULATIONS—SETTLEMENT, FRAUD, AND CONVERSION PROVISIONS

CFR Citation: 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	06/15/89	54 FR 25444

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB22

38. DAIRY INDEMNITY PAYMENT PROGRAM—JANUARY 1, 1988 - SEPTEMBER 30, 1990

CFR Citation: 7 CFR 760.1 to 760.34

Completed:

Reason	Date	FR Cite
Final Action	03/22/89	54 FR 11693

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB30

39. 1989-CROP PEANUT PRICE SUPPORT PROGRAM DIFFERENTIALS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Announcement	04/09/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB31

40. 1989 PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	09/11/89	54 FR 37491

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB32

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41. 1989-CROP NATIONAL AVERAGE LOAN RATE AND MINIMUM CCC EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26059

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB33

42. 1989-CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

CFR Citation: 7 CFR 724

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26059

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB34

43. 1989-CROP FLUE-CURED TOBACCO MARKETING QUOTA AND PRICE SUPPORT LEVEL

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26059

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB35

44. 1989-CROP NATIONAL AVERAGE PRICE SUPPORT LEVEL FOR QUOTA PEANUTS

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/10/89	54 FR 28827

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB36

45. 1989-CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Completed:

Reason	Date	FR Cite
Final Action	06/07/89	54 FR 24368

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB37

46. COMMON PROGRAM PROVISIONS FOR THE 1990 WHEAT, FEED GRAIN, COTTON AND RICE PROGRAMS

Significance: Regulatory Program

CFR Citation: 7 CFR 713; 7 CFR 1421; 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	09/02/89	54 FR 36699

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB38

47. 1989 RICE PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 720; 7 CFR 794 to 796; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	04/24/89	54 FR 16381

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB39

48. 1990 WHEAT PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796

Completed:

Reason	Date	FR Cite
Final Action	09/02/89	54 FR 36699

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB41

49. 1989 CCC COTTON LOAN PROGRAM REGULATIONS – BALE PACKAGING MATERIALS

CFR Citation: 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	03/20/89	54 FR 11493

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB44

50. PEANUT WAREHOUSE STORAGE LOANS AND HANDLER OPERATIONS FOR THE 1986 THROUGH 1990 CROPS (AMENDMENT 3)

CFR Citation: 7 CFR 1446

Completed:

Reason	Date	FR Cite
Final Action	07/20/89	54 FR 30366

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB46

51. 1989-CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR FIVE KINDS OF TOBACCO

CFR Citation: None

USDA—ASCS — Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26061

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB51

52. 1989-90 MARKETING YEAR PENALTY RATES FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/12/89	54 FR 29360

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB52

53. 1989 - CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Regulatory Program

CFR Citation: 7 CFR 1435

Completed:

Reason	Date	FR Cite
Final Action	09/29/89	54 FR 40149

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB53

54. 1989 MILK PRICE SUPPORT PROGRAM, JULY 1, MANDATORY PRICE SUPPORT DECREASE

Significance: Regulatory Program

CFR Citation: 7 CFR 1430

Completed:

Reason	Date	FR Cite
Final Action	07/06/89	54 FR 28450

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB58

BILLING CODE 3410-05-T

DEPARTMENT OF AGRICULTURE (USDA) — Prerule Stage

Animal and Plant Health Inspection Service (APHIS)

55. ● ANIMALS DESTROYED BECAUSE OF SCRAPIE

Significance: Agency Priority

Legal Authority: 21 USC 111; 21 USC 114; 21 USC 114a; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134e; 21 USC 134f; 21 USC 134g; 21 USC 134h

CFR Citation: 9 CFR 54

Legal Deadline: None

Abstract: Under the Scrapie Eradication Program and the regulations in 9 CFR Part 54, indemnity for an animal destroyed because of scrapie, a highly transmissible and fatal disease of the central nervous system of sheep and goats, is paid to its owner at fair market value, not to exceed $300 per head. Under the present program, indemnities are paid for affected and bloodline animals only. There is no diagnostic test for the disease and no treatment. The existing Scrapie Eradication Program is not federally mandated and depends upon state efforts and funds, industry cooperation, and reporting by flock owners. APHIS is considering the regulatory option of negotiated rulemaking in order to develop a program which will satisfy animal health needs, industry needs, and State and Federal governmental needs.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/88	53 FR 44200
ANPRM Comment Period End	03/06/89	
NPRM	07/13/89	54 FR 29576
Notice-Intent to Form Advisory Committee Negotiated Rulemaking	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Chester A. Gipson, Senior Staff Veterinarian, Veterinary Services, Department of Agriculture, Animal and Plant Health Inspection Service, Room 770, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7679

RIN: 0579–AA24

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage

Animal and Plant Health Inspection Service (APHIS)

56. IMPORTATION OF NURSERY STOCK, PLANTS, ROOTS, BULBS, SEEDS, AND OTHER PLANT PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167

CFR Citation: 7 CFR 319.37

Legal Deadline: None

Abstract: To prevent the introduction of plant pests and diseases, Plant Protection and Quarantine (PPQ) prohibits or restricts the importation of living plants, roots, bulbs, seeds, and related articles. PPQ is updating the lists of prohibited and restricted articles and is revising the regulatory requirements for importation of various articles. These revisions will allow the importation of certain living plants and related articles under appropriate regulatory controls, and will prohibit

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the importation of other living plants and related articles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Public Hearing	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper, Senior Operations Officer, Port Operations Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 637, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8248

RIN: 0579–AA21

57. ● REVISION OF 9 CFR 82, EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSCITTACOSIS AND ORNITHOSIS IN POULTRY

Significance: Agency Priority

Legal Authority: 21 USC 111 to 113; 21 USC 115; 21 USC 117; 21 USC 120; 21 USC 123 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 82; 7 CFR 2.17; 7 CFR 2.51; 7 CFR 371.2(d)

Legal Deadline: None

Abstract: Exotic Newcastle Disease (also known as viscerotropic velogenic Newcastle disease and as VVND) and pscittacosis or ornithosis (now generally referred to as chlamydiosis) are communicable diseases of birds and poultry. The spread of these diseases in the United States could have serious consequences for the United States poultry industry. A review of the Department's regulations to prevent the interstate spread of these diseases indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	
NPRM Comment Period End	04/28/90	
Final Action	10/28/90	
Final Action Effective	11/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. M. A. Mixson, Chief Staff Veterinarian, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 747, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8073

RIN: 0579–AA22

58. ● REVISION OF 7 CFR 319.56, IMPORTATION OF FRUITS AND VEGETABLES

Significance: Regulatory Program

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167

CFR Citation: 7 CFR 319.56; 7 CFR 2.17; 7 CFR 2.51; 7 CFR 371.2(c)

Legal Deadline: None

Abstract: An increased number of exotic pests have been introduced recently into the United States. Some of these pests may have arrived on importations of fruits and vegetables. Since these pests are capable of causing extensive economic damage, APHIS is considering the development of an improved system for determining the entry status of agricultural products, particularly fruits and vegetables.

Timetable:

Action	Date	FR Cite
NPRM	10/30/90	
Public Hearing Discussing Issues raised in NPRM	11/14/90	
NPRM Comment Period End	12/30/90	
Final Action	06/30/91	
Final Action Effective	07/30/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper, Senior Operations Officer, Plant Protection and Quarantine, Department of Agriculture, Animal and Plant Health Inspection Service, Room 632 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8383

RIN: 0579–AA23

59. ● IMPORTED FIRE ANT

Significance: Agency Priority

Legal Authority: 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 161 to 162; 7 USC 164 to 167; 7 USC 2.17; 7 USC 2.51; 7 USC 371.2(c)

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: The Department is proposing to revise "Subpart–Imported Fire Ant," which contains quarantine and interstate movement regulations for the containment and control of this destructive plant pest. Executive Order 12291 and Department Regulation 1512-1 require that agencies initiate reviews of currently effective rules to bring about the goal of reduction of regulatory burdens and to minimize impacts on small entities. The proposed rule is part of the scheduled review of "Subpart–Imported Fire Ant" to meet regulatory review requirements. Revising the regulations would make them easier to understand, thereby increasing compliance and the effectiveness of the regulations in preventing the interstate spread of the imported fire ant.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Helene R. Wright, Chief, Regulatory Analysis, Policy and Program Development, Department of Agriculture, Animal and Plant Health Inspection Service, Room 866 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA25

60. ● PROCEDURES FOR IMPORTING ANIMALS THROUGH THE HARRY S TRUMAN ANIMAL IMPORT CENTER; APPROVAL OF EMBARKATION QUARANTINE FACILITIES

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1396; 21 USC 102 to 105; 21 USC 111; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92; 7 CFR 2.17; 7 CFR 2.51; 7 CFR 371.2(d)

Legal Deadline: None

Abstract: 1. Animals imported from countries know or believed to be affected with certain exotic diseases must be quarantined in the Harry S Truman Animal Import Center (HSTAIC). This facility cannot accommodate all requested importations per calendar year. The Department is proposing to establish a lottery system whereby importers would be selected to be granted exclusive use of HSTAIC. This lottery system would establish an equitable and orderly means of allotting space at HSTAIC. 2. Animals imported through HSTAIC must first be quarantined in an embarkation quarantine facility (EQF) in the country of origin. Currently the Department approves only one EQF per continent. The Department is proposing to provide for approval of a separate EQF per importation, and to establish standards for approval of EQF's. This change would reduce the logistical complexities of exporting animals from their country of origin.

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36806
NPRM Comment Period End	10/05/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Helene R. Wright, Chief, Regulatory Analysis, Policy and Program Development, Department of Agriculture, Animal and Plant Health Inspection Service, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA26

61. ● SWINE IDENTIFICATION

Significance: Agency Priority

Legal Authority: 21 USC 111 to 113; 21 USC 114a; 21 USC 114a-1; 21 USC 114g; 21 USC 115 to 117; 21 USC 120 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 71; 9 CFR 78; 7 CFR 2.17; 7 CFR 2.51; 7 CFR 371.2(d)

Legal Deadline: None

Abstract: Swine moving in interstate commerce may be adulterated with drug and other chemical residue levels higher than the allowed tolerance and may be spreading diseases. Mandatory identification of swine allows APHIS to locate sources of infection in order to eradicate and contain disease and allows the Food Safety Inspection Service (FSIS) to more easily determine the source of adulterated meat and prevent its consumption. The current regulations require identification of swine when entered into interstate commerce. The Department is proposing to amend the regulations to allow this identification to be carried out at various specified points in marketing channels. This amendment would allow for effective traceback of diseased or contaminated swine without unnecessarily disrupting standard marketing procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Helene R. Wright, Chief, Regulatory Analysis, Policy and Program Development, Department of Agriculture, Animal and Plant Health Inspection Service, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA27

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Animal and Plant Health Inspection Service (APHIS)

62. ANIMAL WELFARE REGULATIONS; STANDARDS

Significance: Regulatory Program

Legal Authority: 7 USC 2131; 7 USC 2132; 7 USC 2133; 7 USC 2134; 7 USC 2135; 7 USC 2136; 7 USC 2137; 7 USC 2138; 7 USC 2139; 7 USC 2140; 7 USC 2141; 7 USC 2142; 7 USC 2143; 7 USC 2144; 7 USC 2145; ...

CFR Citation: 9 CFR 3.1 to 3.17, (Revision); 9 CFR 3.25 to 3.41, (Revision); 9 CFR 3.75 to 3.91, (Revision)

Legal Deadline: None

Abstract: In 1985 Congress amended the Animal Welfare Act, 7 USC 2131 et seq., and required the Secretary of Agriculture to promulgate regulations and standards governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, operators of auction sales, carriers, and intermediate handlers. The standards and regulations will provide minimum requirements with respect to handling, housing, feeding, sanitation, veterinary care, and other related matters. APHIS is proposing to amend, revise, and expand the "Standards" relating to dogs and cats, guinea pigs and hamsters, and nonhuman primates, and will include provisions for exercise of dogs and for promoting the psychological well-being of primates.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10897
NPRM Comment Period End	07/13/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Dale F. Schwindaman, Asst. Deputy Administrator, Regulatory Enforcement and Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 206, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8490

RIN: 0579–AA20

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DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**
Animal and Plant Health Inspection Service (APHIS)

63. ANIMAL WELFARE; DEFINITION OF TERMS AND REGULATIONS

Significance: Regulatory Program

CFR Citation: 9 CFR 1, (Revision); 9 CFR 2, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	08/31/89	54 FR 36112
Final Action Effective	10/30/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Dale F. Schwindaman 301 436-8490

RIN: 0579–AA18

BILLING CODE 3410-34-T

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**
Cooperative State Research Service (CSRS)

64. AGRICULTURAL RESEARCH INVOLVING OUTDOOR FIELD TESTING OF BIOTECHNOLOGY - MODIFIED ORGANISMS

Significance: Regulatory Program

Legal Authority: PL 99-198 Food Security Act of 1985; 7 USC 450(h); 7 USC 3121(12); National Agr. Research Ext. and Teaching Policy Act of 1977; Sec 1405(12) as amended

CFR Citation: 7 CFR 3015.205; 7 CFR 3200.4(d)(7); 7 CFR 3400.4(c)(12)

Legal Deadline: None

Abstract: USDA/CSRS plans to publish advisory guidance for the safe performance of USDA-funded research involving outdoor field testing of biotechnology modified organisms.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/86	51 FR 23367
ANPRM Comment Period End	09/26/86	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL ABSTRACT: The research guidance will be published as a notice in the Federal Register rather than as a proposed rule. The notice will contain research guidance consisting of general guideline principles for field testing biotechnology-modified organisms.

USDA research agencies plan to promote adherence to the biotechnology research guidelines by announcing that it is their policy that researchers employed or funded by USDA adhere to the guidelines.

Agricultural field tests of biotechnology modified organisms may have potential impacts on the environment. Therefore, USDA plans to prepare an Environmental Impact Statement (EIS) for the guidelines. Public hearings and document availabilities related to the EIS will be announced in the Federal Register.

Agency Contact: William S. Smith, Regulatory Coordinator, Department of Agriculture, Cooperative State Research Service, Room 310-C, Aerospace Building, 901 D St, SW, Washington, DC 20250, 202 475-4964

RIN: 0524–AA00

BILLING CODE 3410-90-T

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**
Farmers Home Administration (FmHA)

65. RECAPTURE OF SECTION 502 RURAL HOUSING SUBSIDY

Significance: Agency Priority

Legal Authority: 42 USC 1490; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: The Farmers Home Administration (FmHA) proposes to revise the regulation for the recapture of subsidy granted on Section 502 Rural Housing Loans. This action is necessary because of an accounting system change resulting from the September 1987 congressionally mandated rural housing asset sale. The intended effect of this action is to adjust the formula to coincide with the revised method of applying monthly subsidy to interest credit accounts. In addition, this action will also shorten and simplify the recapture process.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/89	
ANPRM Comment Period End	01/01/90	
NPRM	06/12/90	
NPRM Comment Period End	07/14/90	
Final Action	12/29/90	
Final Action Effective	01/29/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA29

66. CHANGES TO FARMERS HOME ADMINISTRATION (FMHA) GUARANTEED LOAN MAKING AND SERVICING REGULATIONS AS A RESULT OF A STUDY OF THE PROGRAM REQUESTED BY OMB

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1980

Legal Deadline: None

USDA—FmHA — **Prerule Stage**

Abstract: This revision will propose changes as deemed appropriate as a result of the study to be made which was recommended by OMB recently. Potential costs and benefits will not be known until the recommendations have been made and a criterion of changes established.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA08

67. ◉ COMMUNITY PROGRAMS GUARANTEED LOANS

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; EO 12291

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: Proposed legislation H.R. 2883 relating to Rural Development, Agriculture, and Related Agencies Appropriations Bill 1990 provides for guaranteed community facilities and water and waste disposal loan authorities for fiscal year 1990. Farmers Home Administration proposes to develop and implement a new Community Guaranteed Loan Program regulation utilizing guidelines established by community programs for loanmaking and loan servicing.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	12/00/89	
NPRM	04/01/90	
NPRM Comment Period End	06/01/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-South Building, Washington DC 20250, 202 382-9744

RIN: 0575–AA72

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**
Farmers Home Administration (FmHA)

68. PROPERTY MANAGEMENT

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1955

Legal Deadline: None

Abstract: Create a new Subpart D to cover liquidation of Single Family Housing (SFH) loans, and management and sale of SFH inventory property; and revise existing Subparts A, B, and C to have them apply to all programs other than SFH. Costs to create new subpart and revise and/or amend existing ones is minimal and would enhance all programs' ability to revise and/or amend the regulations with reduced clearances and provide personnel with clearer and simpler regulations to follow and implement. Will avoid "tie-up" of the regulations for one program subject to changes mandated by legislation or court order for another program, such as SFH changes being held up subject to Farmer Program changes being completed as has frequently been the case.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	
NPRM Comment Period End	05/01/90	
Final Action	09/01/90	
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Action on this project was effectively paralyzed during calendar year 1988 by extensive changes by Farmer Programs pursuant to the Agriculture Act of 1987.

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA03

69. HOUSING PRESERVATION GRANTS

Legal Authority: 42 USC 1490 (m)

CFR Citation: 7 CFR 1944, Subpart N

Legal Deadline: None

Abstract: Expansion of HPG program to include residential rental properties (single and multi-unit) and cooperative housing. Maintain availability of adequate and decent, safe, and sanitary rental housing for very low and low income individuals and families in the rural areas. Compliance with the Housing and Urban Recovery Act of 1983 and Community Development Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	
NPRM Comment Period End	02/01/90	
Final Action	06/01/90	
Final Action Effective	07/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA18

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70. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1944-A

Legal Deadline: None

Abstract: Address and clarify items to improve program (child support, unemployment compensation, etc.). Revise cost containment.

Timetable:

Action	Date	FR Cite
NPRM	03/31/90	
NPRM Comment Period End	05/31/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA35

71. SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930; 7 CFR 1944; 7 CFR 1965

Legal Deadline: None

Abstract: This regulation is being revised to provide clarification on the processing differences between membership changes and transfers, to broaden the ability to consolidate and reamortize loans, to clarify actions to be taken during a bankruptcy, and to clarify and discuss the classification of problem loans and their resolution, along with other minor revisions. These revisions are needed so as to provide more complete guidance to field staff and borrowers on the topics discussed above. Potential costs consist of administrative time involved with Agency personnel drafting and completing regulation. No alternatives were identified as being appropriate to address the several problems being corrected with this regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA38

72. MANAGEMENT AND COLLECTION OF NONPROGRAM (NP) LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: A new instruction to provide policy and guidance for FmHA field office personnel to make, manage, collect and liquidate nonprogram (NP) loans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA39

73. COMPLAINTS AND COMPENSATION FOR CONSTRUCTION DEFECTS

Legal Authority: 42 USC 1479

CFR Citation: 7 CFR 1924 F

Legal Deadline: None

Abstract: Clarify handling of construction defect complaints on newly constructed homes and provide for handling of construction defect complaints on manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	
NPRM Comment Period End	02/28/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA41

74. BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for change in definition of delinquent account and certain other changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA42

75. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930, Subpart C; 7 CFR 1944, Subpart E

Legal Deadline: None

Abstract: General revision to keep the regulations current with policy clarification and incorporate changes to comply with recent legislative changes.

Alternatives were to not revise or only incorporate some changes.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA49

76. SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1965, Subpart B

Legal Deadline: None

Abstract: This revision implements Subtitle C, "Rural Rental Housing Displacement Prevention," of the Housing and Community Development Act of 1987. Since this revision is mandated by legislation, alternatives were limited.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA51

77. REAL PROPERTY INSURANCE

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for the continuation of insurance for borrowers on escrow.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA53

78. SECURITY SERVICING FOR SINGLE FAMILY RURAL HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for the implementation of escrow services for SFH loan accounts.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA54

79. BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Significance: Agency Priority

Legal Authority: PL 100-71

CFR Citation: 7 CFR 1951, Subpart G

Legal Deadline: None

Abstract: Provide for escrowing and the application of payments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA55

80. SECONDARY MARKET FOR FARMER PROGRAM LOANS

Significance: Regulatory Program

Legal Authority: 7 USC 1988 Consolidated Farm and Rural Devel. Act (amendment); PL 100-233, Sec 711 Agricultural Credit Act of 1987

CFR Citation: 7 CFR 1980

Legal Deadline: Final, Statutory, July 6, 1988.
PL 100-233, Sec 711, states: "Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section (cont)

Abstract: Legislation mandates that the Secretary develop procedures to facilitate, administrate and promote secondary market operations for FmHA guaranteed farm loans. It is suggested that the Secretary, directly or through a market maker, provide for the pooling of guaranteed loans and the issuance and sale of certificates backed by those loan pools. Through this procedure, secondary market activities could be promoted and expanded, thereby increasing the supply of loan money in rural areas – allowing rural banks to increase their lending activity to farmers, rural businessmen and residents. Obtaining the services of a private agent to act as a central registry and fiscal agent – coordinating fund flows from lenders to pool investors; handling pool formations and executions, issuance and ownership of pool shares, and monitoring of loan payments – is the favored alternative expected to successfully meet the legislative mandate. FmHA would act as the facilitator, arranging for the creation of this private market activity, (cont)

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USDA—FmHA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: ABSTRACT CONT: funding the agent. Another alternative considered is establishing an in-house capability to track the sale of guaranteed loans and transfer payments as required, but this option would require substantial personnel and other Agency resources and would prove extremely expensive.

LEGAL DEADLINE CONT: and the Amendment made by this section."

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA59

81. FARM LABOR HOUSING LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATIONS

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1950 Subpart C

Legal Deadline: None

Abstract: The Farmers Home Administration (FmHA) proposes to amend its Farm Labor Housing regulations. This action is in response to the general public and FmHA staff requests for clarification of the Farm Labor Housing regulations. The intended effect is to provide more comprehensive guidance to applicants when applying for farm labor housing loans and grants: (1) make certain paragraphs consistent with other related parts and other housing regulations; (2) redefine terminology to ensure appropriate implementation of program eligibility standards; (3) incorporate provision of the Housing and Urban Recovery Act of 1983; housing amendments of 1984, 85 and 86; and (4) provide direction to FmHA State and District Office personnel through separate processing instructions.

Timetable:

Action	Date	FR Cite
NPRM	01/01/90	
NPRM Comment Period End	03/01/90	
Final Action	07/01/90	
Final Action Effective	08/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA60

82. PROCESSING AND SERVICING FMHA ASSISTANCE TO EMPLOYEES, RELATIVES AND ASSOCIATES

Legal Authority: 7 USC 1988, Sec 336b

CFR Citation: 7 CFR 1900 Subpart D

Legal Deadline: None

Abstract: FmHA Instruction 2045-BB, Employee Responsibilities and Conduct (available in any FmHA office), requires the maintenance of high standards of honesty, integrity, and impartiality by employees. Within the limitations of that instruction and specific program restrictions, FmHA employees, family members, close relatives and other associates are eligible to receive certain types of FmHA loan and grant assistance. To assure that employee conduct is above reproach, any processing, approval, servicing or review activity is conducted only by authorized FmHA employees who (1) are not themselves the recipient; (2) are not family members or close relatives of the recipient; (3) do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity; or (4) do have a business or close personal relationship with the recipient, the employee related to the recipient or the employee who would normally conduct the activity. Nothing in this instruction takes precedence over individual program requirements or restrictions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	
NPRM Comment Period End	11/01/89	
Final Action	02/01/90	
Final Action Effective	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA64

83. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS - PROCESSING PREAPPLICATIONS

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E

Legal Deadline: None

Abstract: Revise and simplify the manner in which Multifamily Housing preapplications are rated, ranked, and funded.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA67

USDA—FmHA — Proposed Rule Stage

84. ● SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED - MULTIPLE FAMILY HOUSING

Legal Authority: 42 USC 1480; 42 USC 2.942

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: General revision to keep the regulation current with the clarification of policy and incorporation of changes regarding automated processing of payments. The alternative was to not make the revision.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, USDA, Room 6348 South Building, Washington, D.C. 20250, 202 382-9725

RIN: 0575–AA69

85. ● APPRAISAL OF RURAL RENTAL HOUSING PROPERTIES

Significance: Agency Priority

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1922

Legal Deadline: None

Abstract: Revise regulations on appraising Rural Rental Housing Property.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	
NPRM Comment Period End	04/01/90	
Final Action	10/01/90	
Final Action Effective	11/01/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, USDA, Room 6348 South Building, Washington, D.C. 20250, 202 382-9725

RIN: 0575–AA71

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage

Farmers Home Administration (FmHA)

86. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930, Subpart C

Legal Deadline: None

Abstract: Revision required by the Office of Inspector General (OIG) to change standards for multiple housing project audits to Generally Accepted Government Auditing Standards (GAGAS) in order to minimize potential for fraud, waste and abuse of Government lending. OIG used State audits of the multiple family housing program to document their concerns so alternatives to regulation change were limited.

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 824
NPRM Comment Period End	03/13/89	54 FR 824
Final Action	06/30/89	
Final Action Effective	10/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA20

87. SELF-HELP TECHNICAL ASSISTANCE GRANTS

Legal Authority: 7 USC 1989; 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1944-I

Legal Deadline: None

Abstract: Complete revision to improve grantee's accounting responsibilities. No costs associated with action. Benefits reduce possibility of program fraud and abuse. Increase borrower's labor contribution.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17751
NPRM Comment Period End	06/26/89	54 FR 17751
Final Action	12/08/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA34

88. RURAL HOUSING PROGRAM LOANS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1980, Subpart A; 7 CFR 1980, Subpart D

Legal Deadline: Other, Statutory, March 6, 1989.
Amendments to Stewart B. McKinney Homeless Assistance Act requires regulation to be published within 120 days of 11/06/88.

Abstract: Update and revise existing Guaranteed Loan Regulations to incorporate revisions made to existing Rural Housing 502 Insured Loan Regulations and to remove obstacles in loan making for lenders. This action is being done to carry out the objectives of the Housing Act of 1967.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 12873
Effective Date	03/29/89	
Comment Period End	05/30/89	
Final Action	10/31/89	

Small Entities Affected: None

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USDA—FmHA — Final Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA48

89. CHANGES TO THE FARMERS HOME ADMINISTRATION (FMHA) FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS TO IMPLEMENT APPLICABLE PROVISIONS OF "THE AGRICULTURAL CREDIT ACT OF 1987"

Significance: Regulatory Program

Legal Authority: PL 100-233, Sec 601

CFR Citation: 7 CFR 1910, Subpart A; 7 CFR 1924, Subpart A; 7 CFR 1924, Subpart B; 7 CFR 1941, Subpart A; 7 CFR 1941, Subpart B; 7 CFR 1943, Subpart A; 7 CFR 1943, Subpart B; 7 CFR 1945, Subpart A; 7 CFR 1945, Subpart C; 7 CFR 1945, Subpart D; 7 CFR 1951, Subpart A; 7 CFR 1951, Subpart S (New)

Legal Deadline: Final, Statutory, June 3, 1988.

Abstract: Final revisions of the provisions to the Agriculture Credit Act of 1987 which was implemented 10/14/88.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
Interim final rule public comment period end	11/14/88	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, 14th & Independence Avenue, Washington, DC 20250, 202 382-9744

RIN: 0575–AA56

90. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS – CONGREGATE HOUSING AND GROUP HOMES

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C

Legal Deadline: None

Abstract: To expand the existing authority for congregate housing and group homes in FmHA Instruction 1944-E.

Timetable:

Action	Date	FR Cite
NPRM	07/17/89	54 FR 29901
NPRM Comment Period End	09/15/89	54 FR 29901
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA58

91. FARM LABOR LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATION

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1930 Subpart C; 7 CFR 1944 Subpart D

Legal Deadline: None

Abstract: Revision to incorporate provisions of Housing and Community Development Act of 1987 (PL 100-242) regarding the definition of "Domestic Farmworker," that determine the eligibility of such farmworkers to occupy housing financed under the Farm Labor Housing Program. Revisions also incorporate provisions of Omnibus McKinney Homeless Assistance Act of 1988 (PL 100-628) to permit other than farmworker occupancy when no demand by such persons.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	54 FR 14822
NPRM Comment Period End	06/12/89	54 FR 14822
Final Action	10/01/89	
Final Action Effective	11/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA62

92. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS – COOPERATIVE HOUSING LOANS

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C; 7 CFR 1965 Subpart B; 7 CFR 1924 Subpart A

Legal Deadline: None

Abstract: To include provisions for Cooperative Housing Loans in the Rental Housing Regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/18/89	54 FR 21530
NPRM Comment Period End	07/18/89	54 FR 21530
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA63

93. DROUGHT AND DISASTER GUARANTEED LOANS

Significance: Agency Priority

Legal Authority: 7 USC 1988 Consolidated Farm and Rural Development Act; PL 100-387 Disaster Assistance Act of 1988, Sec 331

USDA—FmHA — Final Rule Stage

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: Sec. 331 of the Disaster Assistance Act of 1988 mandated that the Secretary of Agriculture guarantee loans made by private sector lenders to rural business entities which experienced losses or financial distress as the direct or indirect result of drought, hail, excessive moisture or related condition in 1988. The refinancing of existing loans is specified as an eligible purpose of such guaranteed loans. Farmers Home Administration modified its existing Business and Industrial (B&I) guaranteed loan program to implement the program mandated by the Disaster Assistance Act of 1988, using B&I rules as to eligibility, application, loan making, and loan servicing except where the statute requires otherwise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/89	54 FR 2
Final Action	06/09/90	
Final Action Effective	06/09/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA65

94. ADVERSE DECISIONS AND ADMINISTRATIVE APPEALS

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 270

CFR Citation: 7 CFR 1900 Subpart B

Legal Deadline: None

Abstract: The Agency proposes to amend FmHA Instruction 1900-B, "Adverse Decisions and Administrative Appeals," to allow State Directors and Assistant Administrators to request a review of a hearing officer's decision when that decision is based on a clear misinterpretation or error of law or regulations. No other alternatives are considered since this issue was surfaced in an earlier proposed rule but not implemented at that time, pending comments received from this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/11/89	54 FR 20395
NPRM Comment Period End	07/10/89	54 FR 20395
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: Reviewing comments received, as a result of the proposed. Discussing comments with Senior Agency Managers to determine if rule will be implemented or withdrawn.

Agency Contact: Chris Goettlemann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA68

95. ● ADVERSE DECISIONS AND ADMINISTRATIVE APPEALS FMHA INSTRUCTION 1900-B

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 270

CFR Citation: 7 CFR 1900 Subpart B

Legal Deadline: Final, Statutory, July 1, 1987.
The Agency was required to implement the Act within 150 days of f its enactment on January 6, 1988.

Abstract: The Agency proposes to amend FmHA Instruction 1900-B, "Adverse Decisions and Administrative Appeals" to provide for multi-party appeal hearings for denials of leaseback/ buyback and homestead protection rights and the sale of suitable farmland to eligible applicants. No other alternatives are available since this action is necessary as a result of Section 611 of the Agricultural Credit Act of 1987, and will be published as an interim rule with comment period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Chris Goettleman, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Department of Agriculture, Farmers Home Administration Room 6348-S, Washington, D.C. 20250, 202 382-9744

RIN: 0575–AA70

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions

Farmers Home Administration (FmHA)

96. SECTION 504 RURAL HOUSING LOANS AND GRANTS

CFR Citation: 7 CFR 1944, Subpart J (Revision)

Completed:

Reason	Date	FR Cite
Final Action	04/12/89	54 FR 14630
Final Action Effective	05/12/89	54 FR 14631

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA37

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USDA—FmHA — Completed Actions

97. PREDETERMINED AMORTIZATION SCHEDULE SYSTEM (PASS) ACCOUNT SERVICING

CFR Citation: 7 CFR 1951, Subpart K; 7 CFR 1951, Subpart A; 7 CFR 1930, Subpart C; 7 CFR 1944, Subpart E

Completed:

Reason	Date	FR Cite
Withdrawn Internal Administrative change; will not be published	08/15/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA52

98. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORITIES – LETTERS OF CREDIT

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C

Completed:

Reason	Date	FR Cite
Final Action	04/11/89	54 FR 14334
Final Action Effective	05/11/89	54 FR 14334

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA57

99. SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED – SINGLE FAMILY HOUSING

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Final Action	07/06/89	54 FR 28411
Final Action Effective	08/07/89	54 FR 28412

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA61

BILLING CODE 3410-07-T

DEPARTMENT OF AGRICULTURE (USDA)

Federal Grain Inspection Service (FGIS) — Proposed Rule Stage

100. ● REGULATIONS UNDER THE UNITED STATES GRAIN STANDARDS ACT; REG. REVIEW

Legal Authority: 7 USC 71 to 87

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: Under the requirements of Executive Order 12291 to periodically review all existing regulations, and USDA Departmental Regulation 1512-1 to conduct each such review within a five year timeframe, the Federal Grain Inspection Service will review its General Regulations under the United States Grain Standards Act. To simplify and promote a better understanding of policies and procedures, FGIS will be proposing changes to the regulations. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	05/00/90	
Final Action	11/00/90	
Final Action Effective	12/00/90	
Begin Review	06/00/95	
End Review	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis Lebakken, Jr., Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA08

101. ● UNITED STATES STANDARDS FOR SORGHUM

Legal Authority: 7 USC 75a and 76

CFR Citation: 7 CFR 810.1401; 7 CFR 810.1402; 7 CFR 810.1403; 7 CFR 810.1404; 7 CFR 810.1405

Legal Deadline: None

Abstract: Based upon recommendations of the Grain Quality Workshops (which includes representatives from different segments of the industry, government, and academia), and from the National Grain Sorghum Producers Association as well other sources of information, FGIS will propose changes to the sorghum standards. Changes will be proposed to offer end-users the best possible information from which to determine end-product yield and quality, and facilitate the marketing of sorghum. Alternatives will be considered after evaluation of public comments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	06/00/90	
Final Action Effective	08/00/91	
Begin Review	12/00/92	
End Review	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis Lebakken, Jr., Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA10

102. ● UNITED STATES STANDARDS FOR RICE

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 68.201 to 68.316

Legal Deadline: None

Abstract: Waxy varieties of rice being grown in the United States are being downgraded under current rice standards because of their chalky characteristic. In the current market for this rice, the chalky characteristic is not a detriment. The Federal Grain Inspection Service will propose establishment of a subclass for this short grain rice to facilitate its marketing. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	05/00/90	
Final Action Effective	06/00/90	
Begin Review	01/00/94	
End Review	03/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis Lebakken, Jr., Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA11

USDA—FGIS — Proposed Rule Stage

103. ● CANOLA/RAPESEED STANDARDS

Legal Authority: 7 USC 71 to 87; 7 USC 1621 to 1627

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Rapeseed is increasing in importance as an oilseed crop in the United States. The Federal Grain Inspection Service is considering proposing Official United States Standards for Rapeseed. Standards would be to facilitate domestic and international marketing. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	
Begin Review	00/00/00	
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis Lebakken, Jr., Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA12

DEPARTMENT OF AGRICULTURE (USDA)

Federal Grain Inspection Service (FGIS) — Final Rule Stage

104. ● SHIPLOT INSPECTION PLAN - CU-SUM

Legal Authority: 7 USC 71 to 87

CFR Citation: 7 CFR 800.66; 7 CFR 800.129; 7 CFR 800.135; 7 CFR 800.139

Legal Deadline: None

Abstract: This final rule of the Federal Grain Inspection Service will amend the regulations under the United States Grain Standards Act to include a revised shiplot inspection plan (Cu-sum) for determining grain quality.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3050
NPRM Comment Period End	05/23/89	54 FR 9054
Final Action	12/00/89	
Final Action Effective	01/00/90	
Begin Review	06/00/95	
End Review	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis Lebakken, Jr., Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA09

BILLING CODE 3410-EN-T

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS) — Proposed Rule Stage

105. EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

Legal Authority: 7 USC 2013(b); 7 USC 2014(h)

CFR Citation: 7 CFR 273; 7 CFR 280

Legal Deadline: None

Abstract: This rule would define special eligibility and issuance procedures during declared disasters. (FNS 88-029)

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	
NPRM Comment Period End	03/01/90	
Final Action	02/01/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3664

RIN: 0584-AA24

106. RULES OF PROCEDURE

Legal Authority: PL 100-435, Sec 603

CFR Citation: 7 CFR 275

Legal Deadline: NPRM, Statutory, October 1, 1988.

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Retroactive for Fiscal Year 1985 Quality Control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) revised the Food Stamp Act of 1977, as amended, specifying that Food Stamp Program quality control (QC) payment error rate (PER) liability appeals by State agencies be conducted by Administrative Law Judges. The use of Administrative Law Judges replaces the current appeal process which is conducted by the State Food Stamp Appeals Board. This regulation will delineate the procedures to be followed in these QC appeals. (88-011)

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	
NPRM Comment Period End	12/31/89	
Final Action	04/30/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA75

107. MISCELLANEOUS QC PROVISIONS OF HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: PL 100-435, Sec 602; PL 100-435, Sec 604(1)

CFR Citation: 7 CFR 275

Legal Deadline: NPRM, Statutory, October 1, 1985.
Most of the changes are retroactive for Fiscal Year 1985 Quality Control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) modified the Food Stamp Program quality control (QC) system provisions of the Food Stamp Act of 1977, as amended. Section 602 requires that State agencies be charged interest on unpaid QC payment error rate (PER) liability claims from the date the billing is received by the State agency, unless the State agency appeals the billing. If the State agency appeals, interest will begin to accrue from the date of the appeal decision or 2 years from the date the billing is received by the State agency, whichever is earlier. Section 604 revised the provisions for paying State agencies enhanced administrative funds for low PERs. It also revises the threshold for State agencies' liabilities for excessive payment error rates. Finally, it provides that PER liability claims will be assessed based on a State agency's total allotments issued, rather than as a percentage of administrative costs. (89-001)

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	
NPRM Comment Period End	12/31/89	
Final Action	04/30/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA76

108. ● SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Significance: Agency Priority

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: The proposed food delivery regulations will strengthen and improve vendor management and food instrument accountability. Vendor management areas addressed include: selection,training, high-risk identification and monitoring, sanctions, and appeals. Among the additional areas covered are: dual participation, food instrument reconciliation, and food instrument security. The proposed changes are being made in response to a recent audit by the Office of the Inspector General, and program deficiencies identified through management evaluations and ongoing contact with State agencies. This regulation will control potential program vendor and participant abuse and result in more efficient use of program funds.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	
NPRM Comment Period End	12/31/89	
Final Action Effective	02/28/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: None

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA80

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Final Rule Stage

109. FOOD DISTRIBUTION PROGRAM - PART 250

Significance: Agency Priority

Legal Authority: 7 USC 612c; 15 USC 713c; 42 USC 1755; 42 USC 1758; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446a-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a; 42 USC 1766

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule outlines the responsibilities of the Food and

Nutrition Service and State agencies concerning the distribution of USDA-donated foods acquired under various legislative authorities. The rule prescribes the terms and conditions under which donated foods may be obtained through distributing agencies for use in schools, child care institutions, nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, and otherwise in the assistance of needy persons. A number of provisions to strengthen and improve the State Processing Program were separated and published in a final rule July 1, 1986. (51 FR 23719) (FNS 84-513)

Timetable:

Action	Date	FR Cite
NPRM	08/19/85	50 FR 33470
Interim Final Rule	06/03/88	53 FR 20416
Final Action	06/30/90	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 7 USC 612c Note; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e; 42 USC 1779

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA07

110. CONFORMANCE WITH AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) RULES: FOOD STAMP PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 2014(f)

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This rule reviews Food Stamp and Aid to Families with Dependent Children regulations for inconsistencies and proposes conformance by altering either or both programs' rules. (FNS 85-002)

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
NPRM	09/29/87	52 FR 36548
NPRM Comment Period End	11/30/87	
Final Action	09/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA52

111. ADMINISTRATION/ MANAGEMENT: FOOD STAMP PROGRAM

Legal Authority: PL 99-198, Secs 1524, 1530, 1526, 1535, 1539

CFR Citation: 7 CFR 272.1; 7 CFR 272.2; 7 CFR 272.4; 7 CFR 272.5; 7 CFR 272.10; 7 CFR 272.12; 7 CFR 273.9; 7 CFR 273.18; 7 CFR 275.15

Legal Deadline: NPRM, Statutory, April 1, 1987.

Abstract: This regulation implements the following provisions of the Food Security Act of 1985: (1) periodic review of food stamp office hours of operation; (2) establishment and operation of fraud detection units in project areas with 5,000 or more participating households; (3) use of other means of collecting fraud claims unless those means are not cost effective; (4) collection of fraud claims from unemployment compensation benefits; (5) use of Quality Control data to identify project areas where excessive error rates impair program integrity; and (6) distribution of Expanded Food and Nutrition Education Program information and materials to food stamp recipients.

Timetable:

Action	Date	FR Cite
NPRM	03/09/87	52 FR 7158
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA63

112. EMPLOYMENT AND TRAINING REQUIREMENTS TECHNICAL CORRECTIONS PROPOSED RULE

Significance: Regulatory Program

Legal Authority: The Food Stamp Act of 1977, as amended; 7 USC 2011 to 2029

CFR Citation: 7 CFR 273.1; 7 CFR 273.7

Legal Deadline: None

Abstract: The proposed rule will clarify several aspects of the Food Stamp Program Employment and Training Rule published December 31, 1986, and will accomplish minor corrections in other portions of this rule. The clarifications and corrections are the result of program experience gained through the initial operations of a program component entirely new to the Food Stamp Program as a whole.

The Department is concerned that current regulations may be inequitable to State by mandating that they use the full October 1988 count of mandatory E&T participants in computing the base on which the Fiscal Year 1989 first reporting period 35 percent E&T placement standard will be applied. This procedure inflates State placement obligations for this period and makes it difficult for them to meet these obligations. The Department is also concerned that current regulations permit States agencies some latitude in counting individuals as "placed" in E&T programs for performance measurement purposes. This results in individuals being counted as "placed" in E&T programs more than once and inflates State placement success rates. This proposed rule implements (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23638
NPRM Comment Period End	08/22/88	
Final Action	10/01/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

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Additional Information: ABSTRACT CONT: Departmental action to correct these inequities together with other minor alterations and clarifications. (87-012)

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Park Office Center, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA72

113. SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS

Significance: Regulatory Program

Legal Authority: PL 99-603; Immigration Reform and Control Act (IRCA) of 1986 (Section 121)

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 275; 7 CFR 277

Legal Deadline: Other, Statutory, October 1, 1988.
Deadline for interim final rule

Abstract: This rule establishes procedures for State agencies to use to participate in the Systematic Alien Verification for Entitlements (SAVE) system. As required by IRCA, the Immigration and Naturalization Service (INS) implemented this system. IRCA requires the Food Stamp Program (FSP) and certain other entitlement programs to use SAVE to verify the immigration status of aliens applying for benefits. Such use is mandatory by October 1, 1988, and this addresses use during that period. The rule also provides guidelines for Federal reimbursement of administrative costs. In addition the rule implements nondiscretionary provisions of IRCA requiring all household members to attest to their citizenship or alien statusand certain requirements relating to documentation of alien status. (87-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/07/88	53 FR 39433
Final Action	10/01/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Alexandria, Virginia 22302, 703 756-3064

RIN: 0584–AA73

114. CHILD CARE FOOD PROGRAM - ADULT DAY CARE PROVISION

Significance: Agency Priority

Legal Authority: 42 USC 1758; 42 USC 1759a; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: The rule amends the Child Care Food Program (CCFP) regulations by providing Program eligibility for certain adult day care centers. It implements a provision of the Older Americans Act (OAA) Amendments of 1987, which allows these centers to receive cash and commodity assistance available unde- the CCFP for meals served to eligible enrolled individuals and a provision of the Rural Development, Agriculture and Related Agencies Appropriations Act of 1988, which provides categorical eligibility for free meals for participants of these centers who receive assistance under Title XVI or XIX in the Social Security Act or are members of a household receiving assistance under the Food Stamp Act and defines the income to be included in determining eligibility for free and reduced-price meal benefits. (FNS 88-502)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/88	53 FR 52584
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA74

115. ● EMPLOYMENT AND TRAINING REQUIREMENTS - NONDISCRETIONARY PROVISIONS FROM THE HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: PL 100-435

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: Other, Statutory. Sec. 404(c) of PL 100-435 is effective July 1, 1989. The Remaining provisions are effective October 1, 1988.

Abstract: This interim rule amends Food Stamp Program regulations to implement certain provisions of the Hunger Prevention Act of 1988, Public Law 100-435, 102 Stat.1645 (1988). These provisions are intended to improve the operation of the Food Stamp Employment and Training (E&T) Program by: (1) a clarification that educational programs or activities to improve basic skills or employability are allowable food stamp E&T activities; (2) the establishment of a conciliation procedure to resolve disputes involving participation in the E&T Program; (3) increasing the reimbursement for dependent care costs under the E&T Program to up to $160 per dependent per month; (4) the exclusion of any payment made to and E&T participant for work related expenses or for dependent care from consideration as income under the Food Stamp Program; (5) a clarification that Federal funds made available to a State agency for an educational component cannot be used to supplant non-Federal funds for existing services and activities that promote the purposes of that component;(cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/10/89	
Final Action	10/01/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: and (6) the extension of the current performance standards for the placement of E&T participants beyond Fiscal Year 1990 until new performance standards can be developed and issued in accordance with the provisions of Public Law 100-435.

USDA—FNS — **Final Rule Stage**

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA79

116. ● AUTOMATED DATA PROCESSING EQUIPMENT AND SERVICES: CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION

Significance: Agency Priority

Legal Authority: PL 96-249, Sec 129; PL 99-198, Sec 11

CFR Citation: 7 CFR 227.16; 7 CFR 227 Appendix A

Legal Deadline: None

Abstract: This action amends the Food Stamp Program (FSP) regulations by changing the requirements and conditions under which State and local governments may request and claim Federal funds for the costs associated with the planning, design, development acquisition or installation of automated data processing (ADP) equipment and services in FSP administration.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29858
NPRM Comment Period End	10/07/88	53 FR 29858
Final Action	12/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Sarah H. Ide, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Alexandria, VA 22302, 703 756-3064

RIN: 0584–AA81

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)
Completed Actions

117. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 253

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Irene Lankford 703 756-3064

RIN: 0584–AA09

BILLING CODE 3410-30-T

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)
Prerule Stage

118. ELIGIBILITY OF FOREIGN COUNTRIES FOR IMPORTATION OF PRODUCTS INTO THE UNITED STATES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: FSIS will review the import eligibility provisions of regulations promulgated under the Federal Meat Inspection Act and Poultry Products Inspection Act.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Charles Danner, Jr., Director, Planning Office, PP, Department of Agriculture, Food Safety and Inspection Service, Room 105-Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583–AA55

119. ● PRODUCTION OF CERTAIN MINIMALLY PROCESSED, UNCURED, PERISHABLE PRODUCTS PACKED IN SEALED CONTAINERS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline: None

Abstract: This advanced notice of proposed rulemaking would request information, scientific data and comments from the public regarding the need for new requirements governing the production of certain minimally processed, uncured, perishable meat and poultry products that are packed in sealed containers bearing a "Perishable, Keep Refrigerated," or similar label statement. Examples of such products include, but are not limited to, soups, sauces, pastas, salads, and entrees.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, TS, Department of Agriculture, Food Safety and Inspection Service, Room 2158, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3840

RIN: 0583–AB14

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DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

120. REQUIREMENTS FOR PARTIALLY DEFATTED MEAT PRODUCTS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 319

Legal Deadline: None

Abstract: Would establish a standard of identity and composition, and would provide temperature and handling requirements for partially defatted meat products. Would also allow for use of these products in a greater number of meat food products at higher use levels.

Current regulation is not adequate to assure accurate labeling or to prevent commercial misrepresentation of such products.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/85	50 FR 34157
Extension of Comment Period	11/21/85	50 FR 4897
ANPRM Comment Period End	01/21/86	
Comment Period End	01/26/86	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA27

121. CONTROL OF SALMONELLA AND OTHER ENTERIC BACTERIA IN MEAT AND POULTRY PROCESSING

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: Would permit an official meat or poultry establishment that has voluntarily developed effective microbiological controls for fresh packaged meat or poultry products to submit plans and records of such control systems to FSIS for approval. If the Administrator determines a control system to be adequate for the purpose of minimizing naturally occurring microbiological contaminations, he will approve the system, and the establishment will be permitted to use special labeling that acknowledges the use of an approved control system.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	
NPRM Comment Period End	12/05/89	
Final Action	04/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: W. H. Dubbert, Assistant Deputy Administrator, Science Program, FSIS, Department of Agriculture, Food Safety and Inspection Service, Room 401-Cotton Annex, Washington, DC 20250, 202 447-2326

RIN: 0583–AA28

122. VOLUNTARY RESIDUE CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 323; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to aid in the control and reduction of residues of drugs, pesticides and other chemicals in meat and poultry products, and permit label claims to appear on meat and poultry products subject to USDA's ability to verify such claims concerning how an animal was raised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Science Division, Department of Agriculture, Food Safety and Inspection Service, Room 603-Cotton Annex, Washington, DC 20250, 202 447-2326

RIN: 0583–AA29

123. SULFONAMIDE RESIDUES IN SWINE

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: Would establish an in-plant testing program to monitor violative levels of sulfonamide residues in swine. Such program would be designed to encourage producers to market and packers to purchase only healthy animals that will produce safe and wholesome meat.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/85	50 FR 20796
ANPRM Comment Period End	08/30/85	
NPRM	06/00/90	
NPRM Comment Period End	08/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard A. Carnevale, Assistant Deputy Administrator Science, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-2807

RIN: 0583–AA31

124. USE OF LACTIC ACID AND ACETIC ACID AS ANTI-MICROBIAL AGENTS ON MEAT AND POULTRY CARCASSES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend Federal meat and poultry products inspection regulations by allowing lactic acid and acetic acid to be applied to meat and poultry carcasses for the purpose of reducing microbial contamination.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

USDA—FSIS

Proposed Rule Stage

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA43

125. USE AND PROTECTION OF APPROVED WATER SYSTEMS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 42 USC 3007 et seq

CFR Citation: 9 CFR 308; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would prescribe acceptable conditions for the reuse of water in official establishments. This rule would outline methods protecting the potable water supply and describe conditions of use of fresh water. In addition, the rule would also consolidate and make uniform pre-existing policies for the use and reuse of water and brine.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen Wesson, Director, Facilities, Equipment, and Sanitation Div., Department of Agriculture, Food Safety and Inspection Service, Room 1175 South Bldg., Washington, DC 20250, 202 447-5627

RIN: 0583–AA54

126. CERTAIN PRODUCTS WITH MEAT INGREDIENTS – EXEMPTIONS FROM DEFINITION OF A "MEAT FOOD PRODUCT"

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 301; 9 CFR 303

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to exclude specific products and classes of products containing meat, meat byproducts, and/or meat food products from the definition "meat food product" and thereby would exempt these products from Federal inspection. The proposal identifies two broad conditions for exemption: (1) products containing 3 percent or less of raw meat or other portion of any carcass, or less than 2 percent of cooked meat or other portion of any carcass, and (2) products that historically have not been considered by consumers as products of the meat food industry. This proposal would replace current informal standards for exemptions with formal, codified exemptions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA62

127. ADDITIONAL TRICHINA DETECTION METHODS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the regulations to permit use of an approved method for examining swine for evidence of trichinosis. The Food Safety and Inspection Service (FSIS) has been petitioned by a manufacturer of serological tests to amend the Federal meat inspection regulations to approve the use of immunoassays for the examination of swine for evidence of trichinosis infection. FSIS has reviewed the performance of the petitioner's assay in a laboratory where sera prepared by the Agency were tested by a precisely defined procedure and has concluded that immunoassays can effectively detect evidence of trichinosis in swine.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Room 311 - Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA67

128. USE OF SODIUM LACTATE AND POTASSIUM LACTATE AS FLAVOR ENHANCERS IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 316; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as flavoring agents and flavor enhancers in various meat and poultry products. FSIS has been petitioned by Oscar Mayer Foods Corporation, Madison, Wisconsin, and Shenandoah Products, Inc., Bridgewater, Virginia, to allow the use of these substances at a 2.0 percent level for use in preparation of meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA75

129. INCREASE IN USE LEVELS OF SODIUM CITRATE AS AN ANTICOAGULANT

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to increase the level of sodium citrate allowed to be used as an anticoagulant in blood from 0.2 percent to 0.5 percent. FSIS has been petitioned by American Meat Protein Corporation, Ames, Iowa, to approve an increased use level of this substance as an

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anticoagulant in blood to 0.5 percent to facilitate the cleaning of equipment and the separation of red blood cells from plasma, as well as to improve sanitation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA76

130. REQUIREMENTS FOR THE PRODUCTION OF FERMENTED SAUSAGE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to establish specific requirements concerning processing procedures used in the production of semi-dry and dry fermented sausages. Currently, the Agency has only general requirements concerning the processing procedures for these products. This proposal will provide that a manufacturer of semi-dry and/or dry fermented sausages use either a model good manufacturing practice (GMP) procedure with specified or described critical control points, process control limits, and monitoring activities; or an approved processing procedure from a processing authority who would define the critical control points, process control limits, and monitoring activities for each processing procedure. In addition, the proposal requires that all processes for semi-dry and/or dry fermented sausages comply with a set of validation criteria to assure the product is not adulterated. The proposed rule provides the necessary processing requirements to assure that the production of fermented meat food products does not result in adulterated products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AA77

131. USE OF VARIOUS BINDERS IN CURED PORK PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 319

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of food starch modified and other binders as water retention agents in cured pork products. FSIS has been petitioned by the Corn Refiners Association, Inc., Washington, DC, for the approval of food starch modified at a rate not to exceed 2 percent to enable ham processors to formulate products which will better meet the needs of consumers and food service operators. FSIS is amending the regulations to add this binder to the table of approved substances as requested by the petitioner. FSIS is also amending the regulations to add several other binders for use as water retention agents in cured pork products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA78

132. USE OF SORBITOL AS A FLAVORING AGENT IN SPECIFIC MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of sorbitol to reduce charring in pizza toppings and other cured meat products subject to severe heat treatment. FSIS has been petitioned by Quality Sausage Company, Inc., Dallas, Texas, to approve the use of sorbitol at a level of 2.0 percent of the product formula.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA79

133. SODIUM/POTASSIUM LACTATE AS ANTIMICROBIAL AGENTS IN SPECIFIC MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as antimicrobial agents in cooked meat and poultry products, and would provide for additional protection against the growth and toxin development of Clostridia botulinum in these products. FSIS has received a petition from Oscar Mayer Foods Corporation, Madison, Wisconsin, to use these substances in various cooked meat and poultry products at levels not to exceed 4.8 percent of the formulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Divison, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA83

134. LACTIC ACID STARTERS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of lactic acid producing bacteria as a temperature abuse indicator in hermetically sealed meat food and poultry products that are sold refrigerated or frozen. The use of lactic acid producing bacteria in these products would inhibit the growth and toxin production by Clostridia botulinum, as well as impart flavors to the product in the event of temperature abuse during distribution and storage of the product.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	
NPRM Comment Period End	02/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA86

135. AUTOMATIC EXPIRATION SYSTEM FOR APPROVED LABELS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to define a system whereby industry labels will have an automatic expiration date upon approval. The purpose of this action will be to prevent approved labels that are no longer in use from remaining in the data base unnecessarily. This will benefit both the public and the agency by improving our responsiveness to label inquiries and enforcement of changes in labeling regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA87

136. CROSS-CONTAMINATION PREVENTION FOR ALL HEAT PROCESSED MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to extend the current cross-contamination preventive requirements for cooked beef, roast beef and cooked corned beef, to all types of heat processed meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	
NPRM Comment Period End	02/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark T. Mina, Acting Asst. Deputy Admin., Regional Operations, MPIO, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-4565

RIN: 0583–AA88

137. USE OF TOCOPHEROLS, ASCORBYL PALMITATE AND CITRIC ACID AS ANTIOXIDANTS IN ADDITIONAL PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of tocopherols, ascorbyl palmitate and citric acid as antioxidants in various products. FSIS has been petitioned by the Diamond Crystal Salt Company, Inc., St. Clair, Michigan, to approve the use of these substances in meat and poultry products at higher levels than 0.02 percent.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Acting Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA89

138. LABELING OF FRANKFURTERS AND SIMILAR PRODUCTS CONTAINING BINDERS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to remove labeling requirements and use limitations required for certain binders in sausage, breakfast sausage, frankfurters, cheesefurters, bockwurst, similar products, and poultry rolls. This

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proposed rule would also request information from interested persons as to whether granting the petition would result in false or misleading labeling or permit the use of binders in excess of what is needed to "bind" the products.

Timetable:

Action	Date	FR Cite
ANPRM	08/24/88	53 FR 32247
ANPRM Comment Period End	09/23/88	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA92

139. SUBSTANCES APPROVED FOR USE IN MEAT PRODUCTS – REVISION OF LISTINGS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to reorganize the table of approved substances in an alphabetical order by the substance name rather than by class of substance, to include substance approvals not listed as well as amend individual product standards, and separate those substances approved for use as processing aids into a second chart. This proposed rule will assist the user in locating a substance more quickly and provide more consistency in using the table, update the regulations to reflect existing policies and current industry practices, and provide clarity to the chart of substances.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA93

140. IMPORTED PRODUCT; MOVEMENT PRIOR TO REINSPECTION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations by restricting the movement of imported product to within one of five geographical port areas where the product is unloaded. FSIS is also proposing to amend the regulations to require that such imported product be transported directly to an import inspection establishment from the place that the product is unloaded and that such product be reinspected within 30 days of its arrival in the United States. These actions are expected to increase FSIS's ability to gain and maintain control over imported meat and poultry products prior to their reinspection by FSIS.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-2952

RIN: 0583–AA94

141. REVISION OF REQUIREMENTS FOR FINISHED PRODUCT INSPECTION

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit early shipment of shelf-stable products subject to incubation and to reduce the sampling frequency for product processed in continuous-type processing systems. There actions are a result of petitions submitted by the National Food Processors Association, Washington, DC.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3840

RIN: 0583–AA95

142. REVIEW OF RETAIL STORE INSPECTION EXEMPTIONS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 303; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to remove all provisions relating to sales of retail-prepared products to hotels, restaurants, and institutions, but allow unlimited resale of federally inspected product that has not undergone further processing; redefine "consumer" as a household consumer only; limit retail store operations to specific processes and products associated with minimal health risks; remove restrictions on the quantity of sales to consumers; allow unlimited product distribution by a retail store to other retail stores of the same ownership; require that distribution of products be made by employees of the retail store without any intervening transfer or storage of such products; and require that an exempted retail area be physically separated from an official establishment or, if within the confines of an official establishment, the retail area shall be separated completely from the official establishment by full height floor-to-ceiling walls. A task force reviewed the exemption provisions of the Federal Meat and Poultry Products Inspection Acts as a result of a District Court (cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/21/88	53 FR 27525
ANPRM Comment Period End	09/19/88	
Extension of Comment Period	09/19/88	53 FR 36334
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: decision and as requested by certain members of the industry. This review also included examination of longstanding "two-stores" policy which allows an exemption from Federal inspection requirements for any retail operator that owns only two retail stores and prepares meat and/or poultry products at one of its retail stores for sale to consumers in normal retail quantities at both stores.

Agency Contact: Robert Gonter, Assistant Deputy Administrator, Compliance Program, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-4293

RIN: 0583–AA96

143. PROCESSING REQUIREMENTS FOR DRIED READY-TO-EAT MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to require establishments to treat certain dried, ready-to-eat meat and poultry products to eliminate microbial contamination. Past food-poisoning outbreaks from dried meat products confirm that present processing requirements do not assure that the finished product is free from contamination by salmonellae. Treatment would assure the destruction of infectious disease bacteria, such as Salmonella, often present on the raw ingredients. The proposed rule would cover all dried ready-to-eat meat and poultry products except fermented sausages and dry cured hams and pork shoulders treated by one of the processing methods in section 318.10(c)(3) (ii), (iii), or (iv) of the Federal meat inspection regulations. The required treatment would either be a lethal heating step, a combination curing and heating process, or an alternate processing method which establishments have shown to be effective. The proposed rule would also contain provisions to prevent contamination of treated product by direct or indirect contact with untreated product.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AA97

144. ANTE-MORTEM INSPECTION OF DISABLED ANIMALS ON TRANSPORT VEHICLES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit an alternate method of ante-mortem inspection of disabled animals. This method would allow a transport vehicle to be an extension of an official establishment's premises for purposes of ante-mortem inspection of disabled animal(s) that are within the vehicle. FSIS received a request from the Western States Meat Association, Oakland, California, to allow ante-mortem inspection of disabled animals to be performed on a transport vehicle. This proposed rule would (1) specify establishment responsibilities for maintaining control over the transport vehicle, for providing proper ante-mortem inspection facilities, for complying with the veterinary disposition, and for providing assistance to the veterinary Medical Officer when performing the ante-mortem inspection; (2) prescribe the facility requirements needed for safe ante-mortem inspection of disabled animals; and (3) provide the requirements for the written request for this inspection.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standards and Procedures Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3219

RIN: 0583–AA98

145. JAR CLOSURE REQUIREMENTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to revoke the requirements for vacuum packaged meat and poultry products in glass containers. FSIS was petitioned by the National Food Processors Association, Washington, DC, to revoke jar closure regulations that are no longer necessary to prevent contamination of products packed in glass containers. This action would be consistent with the requirements of the Food and Drug Administration for nonmeat products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue,

SW, Washington, DC 20250, 202 447-3846

RIN: 0583–AB00

146. EXEMPTION FROM "EQUAL TO" REQUIREMENTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide administrative procedures whereby a foreign country may petition FSIS to be exempted from certain specified inspection requirements. FSIS has received several requests for exemption from specific regulations and procedures to assure that the foreign inspection program will maintain its eligibility to export product to the United States. Present meat and poultry products inspection regulations do not contain a procedure that advises how such requests should be made. Exemption requests are received in various forms and with a variety of information included, and as a result unnecessary time and effort is expended to develop an exemption request in the proper form for consideration. This action will provide a procedure for the submission of exemption requests from countries exporting product to the United States and to permit a timely Agency response.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3473

RIN: 0583–AB01

147. FOOD ADDITIVES AND GRAS SUBSTANCES USED AS INGREDIENTS IN MEAT FOOD AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe (GRAS) substances to be used as ingredients in meat food products and poultry products. The proposed rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judith A. Segal, Director, Policy and Planning, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-6525

RIN: 0583–AB02

148. STREAMLINED INSPECTION SYSTEMS WITH CARCASS AND GIBLET FINISHED PRODUCT STANDARDS (POULTRY)

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to merge the requirements for the new turkey inspection system, new line speed inspection system, streamlined inspection system and traditional inspection into two mandatory methods to be known as streamlined inspection system-poultry and streamlined inspection system/partial quality control-poultry. The finished product standards for carcasses and giblets would be amended to include all classes of poultry. This proposal would describe the facility requirements necessary to implement this new system nationally, and would establish national presentation standards and line speeds for each class of poultry.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Seymour, Deputy Administrator, Technical Services, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW, Washington, DC 20250, 202 447-3521

RIN: 0583–AB03

149. EXPORT CERTIFICATION PROCEDURES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 322

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to provide export certification of all meat and poultry products exported to foreign countries. Domestic inspectors certify that the product is USDA inspected and passed, and that all foreign requirements have been met. In 1988, the Agency conducted a pilot test to determine the feasibility of streamlining export certification procedures by centralizing control; utilizing contemporary communications technology; establishing plant review criteria; and modifying stamping requirements. The export certification project, of which the pilot was a part, will continue in 1989. FSIS will review the current regulations and determine what, if any, changes should be considered from the outcome of this project.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Fetzner, Director, Export Coordination Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-9051

RIN: 0583–AB04

150. ● ADDITIONAL SUBSTANCES FOR USE IN THE PREPARATION OF MEAT AND/OR POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium octyl sulfate, potassium hydroxide, sodium 2-ethylhexyl sulfate, sodium acid pyrophosphate, urea, carboxylmethylcellulose, sodium metasilicate, and triethanolamine dodecylbenzene sulfate in the preparation of meat and/or poultry products. FSIS received petitions from Packer's Chemical Company, Jefferson City, MO; Unytex Research Corporation, Rochester, NY; Birko Corporation, Westminister, CO; and Middle East/African Press (Chemica Industriale, Italy), to allow the use of those substances not presently covered for use during hog scalding, poultry scalding, or in tripe processing operations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marvin A. Norcross, Deputy Administrator, Science, Department of Agriculture, Food Safety and Inspection Service, Room 402, Annex Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-8495

RIN: 0583–AB07

151. ● PEST CONTROL IN OFFICIAL ESTABLISHMENTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide consistency of existing provisions and ensure enforceability of the requirements for controlling pests such as flies, rodents, insects, and vermin in official establishments. In the past, establishments used pesticides as the primary means of controlling pests. Presently, establishments rely on the use of primary controls to prevent pests from entering an establishment; that is, they use such techniques as preventive construction, maintenance and sanitation. This action would also provide uniform requirements for both meat and poultry products regarding the use of the words "pesticides" and "poison," and the use of other chemical compounds as a means for eliminating or controlling pests in official establishments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Karen Wesson, Director, Facilities, Equipment and Sanitation Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, Room 1175, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-5627

RIN: 0583–AB08

152. ● USE OF TRICALCIUM PHOSPHATE AS A SEQUESTRANT IN MECHANICALLY DEBONED CHICKEN

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to allow the use of tricalcium phosphate as a sequestrant in the preparation of mechanically deboned poultry. This action is the result of a petition FSIS received from Henningsen Foods, Inc., Omaha, NE, to permit the use of tricalcium phosphate to sequester the iron in hemoglobin in mechanically deboned poultry.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Room 311, Annex Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-6042

RIN: 0583–AB09

153. ● PROCEDURES FOR NOTICE OF DETENTION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 329; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to issue new procedures for preparing and processing the Agency's "Preliminary Notice of Detention" Form MP-479 and to revise the form numbers for the detention tags and reports. Currently, upon detention of any article, FSIS provides oral notification and a Preliminary Notice to the owner of the detained article. Preliminary notice would be eliminated but, if the detention is to continue after 48 hours, written notification would be furnished to the owner in the form of a completed "Notice of Detention," FSIS Form 8080-1 (MP-484).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Gonter, Assistant Deputy Administrator, Compliance Program, MPIO, Department of Agriculture, Food Safety and Inspection Service, Room 2925, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-4293

RIN: 0583–AB10

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USDA—FSIS — Proposed Rule Stage

154. ● UNDENUDED BEEF STOMACHS; FINISHED PRODUCT STANDARDS, AND MANUFACTURING AND INSPECTION PROCEDURES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to include finished product standards and manufacturing and inspection procedures for unscalded beef stomachs. This action responds to several requests by meat processing companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Jill Hollingsworth, Director, Slaughter Inspection, Standards and Procedures Division, TS, Department of Agriculture, Food Safety and Inspection Service, Room 4442, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3219

RIN: 0583–AB11

155. ● LABELING REQUIREMENTS FOR PACKAGED PRODUCTS WHICH REQUIRE SPECIAL HANDLING TO MAINTAIN THEIR WHOLESOME CONDITION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to promote consistent labeling requirements within the meat and poultry industry. This action would establish a uniform, standardized label statement and logo system for packaged products that could pose a safety hazard if subjected to temperature abuse.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards & Labeling Division, Technical Services, Department of Agriculture, Food Safety and Inspection Service, Room 311, Annex Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-6042

RIN: 0583–AB12

156. ● USE OF COMPRESSED AIR IN BONING OPERATIONS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310; 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of compressed air or other gases such as nitrogen and carbon dioxide in boning operations as requested by several establishments. Tests indicate that this would facilitate the separation of muscle tissue from the fat tissue and bone of carcasses and parts without affecting the wholesomeness of the product.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Seymour, Deputy Administrator, Technical Services, Department of Agriculture, Food Safety and Inspection Service, Room 350-E, Administration Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3521

RIN: 0583–AB13

157. ● USE OF ASCORBIC ACID, ERYTHORBIC ACID, CITRIC ACID, SODIUM CITRATE, AND SODIUM ASCORBATE IN FRESH BEEF AND LAMB

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of ascorbic acid, erythorbic acid, citric acid, sodium citrate, and sodium ascorbate, to maintain the color in fresh beef and lamb. FSIS received a petition from Wilson Foods Corporation, Oklahoma City, OK, to allow the use of these substances in all red meat.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Room 311, Annex Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-6042

RIN: 0583–AB15

158. ● IMPORTED PRODUCT; WITHDRAWAL OF PANAMA FROM THE LIST OF COUNTRIES ELIGIBLE FOR IMPORTATION OF MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 327

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to withdraw the country of Panama from the list of countries eligible to import meat products such as cattle, sheep, swine, and goats into the United States. This action is necessary since Panama did not certify that any plants met U.S. standards in 1988; it has not conducted any residue testing and therefore did not receive residue certification in 1988, and reliance cannot be placed upon the certifications required of Panamanian authorities under the Federal Meat Inspection Act. Therefore, Panama's inspection system cannot be considered "equal to" the U.S. inspection system and FSIS is obliged to withdraw the country of Panama from the list of countries eligible for importation of its products into the United States.

Timetable:

Action	Date	FR Cite
NPRM	08/29/89	54 FR 35685
NPRM Comment Period End	10/30/89	
Final Action	04/30/90	

Small Entities Affected: Undetermined

USDA—FSIS — Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Dr. Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 0038, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-6933

RIN: 0583–AB10

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

159. DETERMINATION OF ADDED WATER IN COOKED SAUSAGES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318

Legal Deadline: None

Abstract: Would publish protocols for determining compliance of meat food products with current added water standards. Would differentiate in such products protein derived from meat and meat byproducts from protein derived from other sources. Would ensure that similar, competing ingredients for cooked sausages are treated consistently.

Timetable:

Action	Date	FR Cite
NPRM	08/18/87	52 FR 39659
NPRM Comment Period End	12/22/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA30

160. CATTLE POST-MORTEM INSPECTION PROCEDURES AND STAFFING PROCEDURES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 307; 9 CFR 310

Legal Deadline: None

Abstract: This rule will improve post-mortem inspection procedures for cattle which will result in maximum inspection efficiency and increased productivity. By modernizing cattle inspection procedures, FSIS would increase its inspection productivity while assuring that only wholesome meat enters domestic commerce.

It is anticipated that the meat industry will experience a net gain if this system of inspection is implemented in spite of the initial costs of facility modifications which may be necessary in some establishments. Savings to the industry as a whole should occur because of increased productivity and reduced overtime.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48262
NPRM Comment Period End	01/30/89	
Reopening of Comment Period	02/14/89	54 FR 6684
Comment Period End	05/15/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures, Department of Agriculture, Food Safety and Inspection Service, Room 4444 South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583–AA32

161. BINDER CONSISTING OF SODIUM ALGINATE, CALCIUM CARBONATE, LACTIC ACID, AND CALCIUM LACTATE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This final rule will permit the use of a binder complex approved for use in restructured meat products to be used in restructured poultry products in which binders are permitted, and will result in superior binding of chopped/ground/sectioned and formed poultry products.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1377
NPRM Comment Period End	02/13/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA34

162. INGREDIENTS THAT MAY BE IDENTIFIED AS FLAVORS OR NATURAL FLAVORS WHEN USED IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to better define which substances should be permitted to be labeled as "flavors," "natural flavors," or "spices" on packages of meat and poultry products. This rule addresses the use of substances which are often added to products for the purpose of serving as flavor enhancers, emulsifiers, stabilizers, binders, extenders, and as nutrients. Most of the substances that would be affected by the proposed rule are proteinaceous materials, having nutritional value, and which may be considered foods, in their own right. This rule will require that these substances be identified by their common or usual names, thereby informing consumers of the origin of these materials including the species and specific animal tissues from which they are derived, if animal in origin. The rule is designed in part to address the personal, cultural, and religious

concerns of consumers, as well as the allergies or sensitivities some consumers may have to some of the substances.

Timetable:

Action	Date	FR Cite
NPRM	06/18/87	52 FR 30922
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583–AA44

163. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments made to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27998
NPRM Comment Period End	09/20/88	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 0038, South Building, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6883

RIN: 0583–AA47

164. TRICHINA CONTROL REQUIREMENTS FOR DRY-CURED HAM

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations by incorporating the dry-cured ham research study findings. This study evaluated the efficiency of present procedures in the commercial production of dry-cured hams and determined the combinations of curing time, temperature, salt concentration, and water activity necessary to inactivate t. spiralis.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 15946
NPRM Comment Period End	06/19/89	
Extension of Comment Period	06/19/89	54 FR 25726
Comment Period End	08/16/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 2158-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583–AA49

165. ● REQUIREMENTS FOR IMPORTED POULTRY PRODUCTS

Significance: Agency Priority

Legal Authority: PL 99-198

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to an amendment made to the Poultry Products Inspection Act by Food Security Act of 1985. Amendment requires that all poultry or poultry products intended for export to the United States be subject to the same standards as domestic poultry products; it also requires that foreign countries implement species and residue testing programs at the point of slaughter for poultry and poultry products intended for export to the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/01/87	52 FR 15960
NPRM Comment Period End	06/30/87	
Final Action	11/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Havlik, Assistant Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, Rm. 341-E Administration Bldg., 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3644

RIN: 0583–AA52

166. SULFONAMIDE AND ANTIBIOTIC RESIDUES IN YOUNG VEAL CALVES; CERTIFICATION REQUIREMENTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This rule will require specific certification language, advise certifying parties of the consequences of false statements, and include custodians as well as producers as parties to certification. These changes will improve the effectiveness of the voluntary certifications by providing uniformity to certifications and warnings about false statements. Because of increasing high levels of antibiotic and sulfonamide residues found in young veal calves, the Food Safety and Inspection Service in 1984 initiated intensified inplant testing procedures to prevent adulterated meat from entering consumer channels. These procedures provide for a voluntary written certification program that allows for less intense testing of calves certified as not having been treated with drugs, or if so, that prescribed label directions were followed. More recently the Office of the Inspector General recommended that the Agency develop a standard form for the certified calf program.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52177
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-2807

RIN: 0583–AA58

167. USE OF CERTAIN BINDERS IN MEAT AND POULTRY PRODUCTS AND TRANSFER OF BINDERS IN TEXT TO THE TABLES OF APPROVED SUBSTANCES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This rule will permit the use of wheat gluten, tapioca dextrin, whey protein concentrate, and sodium caseinate as binders in various meat and poultry products. This action responds to petitions submitted by several companies requesting that the Food Safety and Inspection Service permit these substances in various meat and poultry products to improve the texture of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/06/88	53 FR 39307
NPRM Comment Period End	11/07/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-6042

RIN: 0583–AA64

168. IMMERSION CURED AND DRY CURED BACON

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This rule will limit nitrate to 120 parts per million (ppm) going into immersion cured bacon bellies and to 200 ppm going into dry cured bacon bellies. The principal effect of this rule would be to reduce the formation of nitrosamines in bacon by prohibiting the use of nitrate in the production of immersion cured and dry cured bacon.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1371
NPRM Comment Period End	03/14/89	
Final Action	11/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, Department of Agriculture, Food Safety and Inspection Service, Rm. 2158 South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583–AA65

169. SULFONAMIDE AND ANTIBIOTIC RESIDUES IN YOUNG VEAL CALVES; REDUCED TESTING

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to modify the testing frequency of young veal calves under certain conditions for residues of sulfonamides and antibiotics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/87	52 FR 2101
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-2807

RIN: 0583–AA68

170. NET WEIGHT

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will make Federal and State weights and measures procedures and techniques more consistent, objective and equitable. USDA will adopt the National Bureau of Standards Handbooks 133 and 44 as its standards. This amendment will recognize a fixed amount of acceptable moisture loss by product. This will replace the term "reasonable variation." Moreover the amendment will grant concurrent jurisdiction to State and local authorities to enforce net weight labeling of federally inspected meat and poultry products within their geographic area. The amendment will promote uniform treatment of moisture loss and weights and measures standards as well as encourage and enable greater State and local participation.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9370
NPRM Comment Period End	05/05/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carol Seymour, Deputy Administrator, Meat & Poultry Inspection Technical Services, Department of Agriculture, Food Safety and Inspection Service, Rm. 350-E, Administration Bldg., Washington, DC 20250, 202 447-3521

RIN: 0583–AA69

171. LABELING OF MEAT FOOD PRODUCTS THAT CONTAIN MECHANICALLY SEPARATED (SPECIES) UNDER CERTAIN CIRCUMSTANCES

Significance: Agency Priority

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USDA—FSIS

Final Rule Stage

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317

Legal Deadline: None

Abstract: This rule will add a new exception to the requirement that the list of ingredients on the labels of meat food products shall show the common or usual names of the ingredients. The exception would apply to the use of Mechanically Separated (Species) (MS(S)), at levels no greater than ten percent of the livestock and poultry product portion of a meat food product, providing that the labeling of such product bear a calcium content declaration in accordance with section 317.2(j)(13)(ii) of the Federal meat inspection regulations (9 CFR 317.2(j)(13) (ii)). This action is the result of a petition submitted to the Food Safety and Inspection Service by several members of the meat industry to amend the labeling requirements for meat food products containing MS(S).

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35089
NPRM Comment Period End	11/08/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-6042

RIN: 0583–AA71

172. BINDER CONSISTING OF SODIUM ALGINATE, CALCIUM CARBONATE, LACTIC ACID AND CALCIUM LACTATE IN GROUND AND FORMED POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This final rule will amend the poultry products inspection regulations to permit the use of a binder matrix in ground and formed poultry products. The matrix consists of a dry mixture of sodium alginate, calcium carbonate, calcium lactate and lactic acid and has been previously approved for use in meat products. FSIS has been petitioned by the Colorado State University Research Foundation, Fort Collins, Colorado, to approve these substances as ingredients which, in combination at specific ratios, have the technical effect of binding ground poultry pieces together to produce formed poultry products. FSIS is amending the regulations to add these substances to the table of approved substances as requested by the petitioner.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1377
NPRM Comment Period End	02/13/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA73

173. PROCESSING PROCEDURES AND COOKING INSTRUCTIONS FOR COOKED, UNCURED MEAT PATTIES

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will provide processors of fully and partially cooked, and char-marked, uncured meat patties with specific manufacturing, handling, and labeling requirements for these products to reduce the potential for incidents of food-borne, pathogen-caused illness from consumption of inadequately cooked, uncured meat patties. This rule will also establish (1) holding temperature and time requirements for raw meat used for cooked, uncured meat patties; (2) internal temperature and time combination processing requirements for fully and partially-cooked, uncured meat patties which are char-marked with heat but remain raw; (3) a requirement that a cooking instruction be placed on the label of partially-cooked and char-marked, uncured patties, instructing the final preparer to cook the patties to a well done state (a minimum internal meat temperature of 160 degrees Fahrenheit); and (4) requirements to assure that fully-cooked, uncured meat patties are not contaminated after cooking. This action will prevent instances of illness from the consumption of such patties.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52179
NPRM Comment Period End	01/26/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3840

RIN: 0583–AA81

174. PARTIALLY COOKED, CURED AND SMOKED POULTRY BREAKFAST STRIPS

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit preparation of partially cooked, cured and smoked poultry breakfast strip products which are intended to be cooked further before consumption. This action is in response to a petition submitted by Swift Eckrich, Inc., Oak Brook, Illinois, for a change in the requirements for cooked poultry products. FSIS will amend the regulations to require that the products be labeled with cooking instructions which will inform the consumer that the products are not suitable for consumption until thoroughly cooked.

Timetable:

Action	Date	FR Cite
NPRM	03/24/89	54 FR 12219
NPRM Comment Period End	05/23/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling

USDA—FSIS

Final Rule Stage

Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA82

175. PFF FOR TURKEY HAM

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit the use of added water in turkey ham. The new standard provides for several categories of products that are delineated according to the protein content on a fat-free basis. FSIS was petitioned by the National Turkey Federation, Reston, Virginia, to establish protein fat-free values for turkey ham to promote product standardization and permit producers of turkey ham to compete more equitably with pork producers. This rule will replace the current provision which limits the amount of added water and other substances contained in turkey ham products by requiring the weight of the finished product to be no more than the original weight of the turkey thigh meat used prior to curing.

Timetable:

Action	Date	FR Cite
NPRM	02/21/89	54 FR 7434
NPRM Comment Period End	04/18/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland Clemons, Director, Standards and Labeling Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-6042

RIN: 0583–AA84

176. IMPORTATION OF LIVESTOCK CARCASSES WITH TISSUES REMOVED

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 327

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to remove the requirements prohibiting the importation into the United States of carcasses or parts of carcasses of livestock from which the pleura, peritoneum, body or portal lymph nodes are removed. These carcasses or parts would be imported based on the eligibility of the exporting countries, and whether they are wholesome, not adulterated and properly marked and/or labeled. This action is in response to a petition submitted by Cloverdale Foods Company, Minot, North Dakota.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1724
NPRM Comment Period End	02/16/89	
Final Action	11/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth, Director, Slaughter Inspection Standards and Procedures Division, TS, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-3219

RIN: 0583–AA85

177. IMPORTATION OF MEAT AND POULTRY PRODUCTS; REFUSED ENTRY PRODUCT

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule would amend the Federal meat and poultry products inspection regulations to clarify what actions the agency will take when refused entry product exported to another country is returned to the U.S. This rule will add a proviso that any such products exported to another country and returned to the U.S. would be subject to seizure and condemnation in accordance with the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1375
NPRM Comment Period End	03/14/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Patrick Clerkin, Director, Field Operations Division, CD, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-5694

RIN: 0583–AA90

178. DEFINITION OF TERMS — "IMPORTATION" AND "ENTRY"

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to define the terms "importation" and "entry" to clarify when imported product becomes subject to U.S. requirements. Once product offered for importation has been reinspected by FSIS inspectors and the official mark of inspection has been applied, FSIS considers that such product has been entered into the U.S. and is the regulatory equivalent of domestic product. This action is a result of recent litigation which indicated the need for clarification of terms with respect to USDA's interpretation of provisions of the Federal Meat Inspection Act and the regulations thereunder concerning at what point FSIS considers imported products to be domestic products.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24181
NPRM Comment Period End	07/06/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Washington, DC 20250, 202 447-2952

RIN: 0583–AA91

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USDA—FSIS — **Final Rule Stage**

179. IMPORTED CANADIAN PRODUCT; PROVISION FOR "STREAMLINED" INSPECTION PROCEDURES; EXEMPTION FROM OFFICIAL MARK OF INSPECTION

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to provide "streamlined" inspection procedures for the reinspection of Canadian meat and poultry products and by exempting Canadian meat and poultry products offered for importation from the requirement that such product and/or containers of product be marked with the official mark of inspection once they are passed for entry into the United States. These actions stemmed from the Canada-United States Free Trade Agreement Implementation Act of 1988, Pub. L. 100-449. These actions specifically responded to one goal of the Agreement whereby both countries are charged with liberalizing agriculture trade practices by seeking ways to eliminate technical or procedural requirements which now may serve to impede trade in agricultural products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/89	54 FR 273
Reopening of Comment Period	03/16/89	54 FR 10621
Comment Period End	04/12/89	
Correction Notice	06/22/89	54 FR 26189
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark ManiStolfa, Director, Import Inspection Division, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-2952

RIN: 0583-AA99

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Completed Actions**

180. USE OF AIR DURING SLAUGHTER OPERATIONS

CFR Citation: 9 CFR 310

Completed:

Reason	Date	FR Cite
Final Action	09/05/89	54 FR 36755
Final Action Effective	10/05/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jill Hollingsworth 202 447-3219

RIN: 0583-AA48

181. IMPLEMENTATION OF IMPROVED PROCESSING SYSTEM

Significance: Agency Priority

CFR Citation: 9 CFR 301; 9 CFR 302; 9 CFR 303; 9 CFR 305; 9 CFR 306; 9 CFR 307; 9 CFR 308; 9 CFR 312; 9 CFR 314; 9 CFR 316; 9 CFR 317; 9 CFR 318; 9 CFR 320; 9 CFR 322; 9 CFR 325

Completed:

Reason	Date	FR Cite
Withdrawn	05/23/89	54 FR 22300

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Judith A. Segal 202 447-6525

RIN: 0583-AA72

BILLING CODE3410-DM-T

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS) — **Proposed Rule Stage**

182. DETERMINATION OF THE MARKET STABILIZATION PRICE FOR SUGAR FOR FY 1989

Legal Authority: Presidential Proclamation 5002; dated November 30, 1982

CFR Citation: 7 CFR 6.300 to 6.302

Legal Deadline: None

Abstract: This notice sets forth the market stabilization price for sugar for the period October 1, 1989 - September 30, 1990. The Market Stabilization Price is used to determine bond requirements and maximum liabilities under certain programs authorized by Presidential Proclamation No. 5002 of November 30, 1982 (47 FR 54289). The calculation of the Market Stabilization Price is provided for in 7 CFR 6.300-6.302 (50 FR 36040). (FAS 86-003)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551-AA20

183. DETERMINATION OF IMPORT QUOTAS ON SUGAR FOR FISCAL YEAR 1989

Legal Authority: Presidential Proclamation 4941; dated May 5, 1982

CFR Citation: Not applicable

Legal Deadline: Other, Statutory. Import quotas on sugar for FY 1990 must be announced (filed in FR) no later than 15th day of month immediately preceding calendar quarter during which such determination shall be (cont)

Abstract: Presidential Proclamation 4941 dated May 5, 1982 amended headnote 3 of the Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (TSUS) (Headnote 3) to establish a system of quotas for U.S. sugar imports. (FAS 86-004)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: in effect.

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551-AA21

USDA—FAS — **Proposed Rule Stage**

184. TYPES AND QUANTITIES OF AGRICULTURAL COMMODITIES AVAILABLE FOR DONATION OVERSEAS UNDER SECTION 416(B) OF THE AGRICULTURAL ACT OF 1949 FOR EACH FISCAL YEAR

Legal Authority: For future FY's: Food Security Act of 1985

CFR Citation: Not applicable

Legal Deadline: None

Abstract: For FY 1986: The "Food Security Improvements Act of 1986" amended the Food Security Act of 1985, as amended, to require an estimate of Commodity Credit Corporation stocks to be made available under Section 416(b) in FY 1986 by kind of commodity and quantity of each kind of commodity. The Food Security Act, as amended, requires that this estimate be published in the Federal Register.

For future FY's: The Food Security Act of 1985, as amended, requires the above estimate be made and published in the Federal Register before the beginning of each fiscal year. (FAS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551-AA23

BILLING CODE 3410-10-T

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — **Prerule Stage**

185. PART 219 PLANNING

Significance: Agency Priority

Legal Authority: 16 USC 1604; 16 USC 1613; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: The rules at 36 CFR 219 set forth the procedures and resource standards that guide development and approval of National Forest land and resource management plans as required by the National Forest Management Act of 1976.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/90	
End Review	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Review of these planning regulations has been rescheduled to allow completion of all forest plans and to allow for a review of first-generation plans and associated planning issues.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA50

186. 36 CFR 271 - USE OF "SMOKEY BEAR" SYMBOL

Legal Authority: 18 USC 711

CFR Citation: 36 CFR 271

Legal Deadline: None

Abstract: The regulations govern how the name or image of "Smokey Bear" may be used, who may authorize the use of "Smokey Bear," and the use of official campaign materials, commercial licensing, and the association with the State Foresters and the Advertising Council. This review will focus on licensing and especially exclusive licenses and will consider counterpart regulations in Part 272-Use of "Woodsy Owl" Symbol as a possible approach.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/88	
End Review	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA66

187. WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 292, Subpart B

Legal Deadline: None

Abstract: The rules at 36 CFR 292, Subpart B govern joint administration of the Shasta and Clair Engle-Lewiston units of the National Recreation Area by the Forest Service and the Bureau of Reclamation. The rules also set forth standards for defining compatible private land uses within the National Recreation Area to govern decisions by local zoning authorities, or in the absence of such authorities, decisions on land uses by the Secretary of Agriculture. The review will focus on experience under the rules and whether they still serve the public interest in ensuring that development and management of the NRA meet Congressional intent.

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USDA—FS

Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	03/00/88	
End Review	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA66

188. 36 CFR 241 WILDLIFE: COOPERATION IN WILDLIFE PROTECTION, WILDLIFE MANAGEMENT AND FEDERAL REFUGE REGULATIONS

Legal Authority: Sec 1, 30 Stat 35; Sec 1, 33 Stat 628; Sec 1, 39 Stat 476; 16 USC 472, 551, 683

CFR Citation: 36 CFR 241

Legal Deadline: None

Abstract: This rule is being reviewed as required by USDA Departmental Regulation 1512-1.

36 CFR 241.1 describes Forest Service cooperation with State, County and Federal officials in the enforcement of all laws and regulations for the protection of wildlife. Forest Service employees may be appointed as deputy game wardens with full power to enforce State laws and regulations.

36 CFR 241.2 describes how Forest Service cooperates with States in developing plans for securing and maintaining desirable populations of wildlife species including entry into cooperative agreements for such purposes.

36 CFR 241.3 regulates hunting of game or non-game animals on Forest Service lands not managed cooperatively with States. Persons desiring to hunt on this land must procure a permit. The Forest Service will cooperate with persons, firms, corporations and county and State officials in the management of animals on national forest lands not having cooperative agreements for wildlife management with States. The Forest Service may sell or exchange or accept donations of animals in (cont)

Timetable:

Action	Date	FR Cite
Begin Review	02/01/88	
End Review	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: promoting conservation of wildlife.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA81

189. ISOLATED CABIN POLICY

Significance: Agency Priority

Legal Authority: 16 USC 551; 16 USC 497

CFR Citation: None

Legal Deadline: None

Abstract: Agency policy is to terminate isolated cabin authorizations on National Forest System land that were constructed without advance authorization and subsequently authorized by special use permit. These cabins are used for part- or full-time occupancy. These cabins differ from recreation residences which were established in tracts specific for this purpose and built with Agency approval and supervision. Isolated cabins originated in several ways, including encroachment and mining claims. They restrict management of the surrounding National Forest land and deprive the public from the use and enjoyment of the land actually occupied and the surrounding area. The action proposed is to seek input from the public as to whether the present policy should be continued, or whether it should be revised so as to examine each isolated occupancy and determine whether, in the interests of fairness and equity, the cabin should be converted to a recreation residence. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/00/89	
ANPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This proposal to revise current policy was originally included in proposed policy on recreation residences (52 FR 206-208). Public comments and continuing discussions with recreation residence permittees on that policy revealed widely divergent views on the Agency's policy, strongly suggesting that isolated cabins be treated separately from recreation residences. Therefore, so as not to delay implementation of final policy on recreation residences, a decision was made to seek additional public comment on the isolated cabin policy before a decision is made to revise the policy.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA85

190. 36 CFR 223 SALE AND DISPOSAL OF NATIONAL FOREST TIMBER, SUBPART A - GENERAL PROVISIONS

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223, Subpart A

Legal Deadline: None

Abstract: This is a five year review of 36 CFR 223, Subpart A. Subpart A primarily authorizes the conditions for free use of National Forest timber.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/90	
End Review	05/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA89

191. 36 CFR 223 SALE AND DISPOSAL OF NATIONAL FOREST TIMBER, SUBPART B - TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223, Subpart B

Legal Deadline: None

USDA—FS

Prerule Stage

Abstract: This is a five year review of 36 CFR 223, Subpart B. Subpart B provides for the sale and disposal of National Forest timber, including contract conditions and provisions, advertisement and bids, award of contracts, and contract administration.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/90	
End Review	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA90

192. SPECIAL AREAS

Legal Authority: Sec. 1, 30 Stat 35, as amended; 62 Stat 100; Sec. 1, 33 Stat 628; 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 294.1

Legal Deadline: None

Abstract: The agency will undertake a review of its existing regulations at 36 CFR 294.1 that provide for the setting aside of areas of National Forests, other than Wilderness or wild areas, which should be managed principally for recreation. The rule establishes size classes for areas that may or may not be designated by the Chief of the Forest Service and the Secretary of Agriculture; describes examples of the types of areas that might be set aside, and provides for clearly marking these areas on the ground. Areas classified under this section are set apart and reserved for public recreation use and such classification constitutes a formal closing of the area to any use or occupancy inconsistent with the classification.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/88	
End Review	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA91

193. ● RECREATION RESIDENCE AUTHORIZATION POLICY

Significance: Agency Priority

Legal Authority: 16 USC 497

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The policy for administering recreation residences on National Forest lands was adopted August 16, 1988 (53 FR 30924) and subsequently appealed under the administrative appeal process (36 CFR 211.18). In rendering his decision on the appeal the Assistant Secretary of Agriculture for Natural Resources and Environment suspended certain provisions related to tenure and the offering of in-lieu sites; designated the remaining features interim policy; and directed the Chief of the Forest Service to review and reconsider the entire policy (54 FR 23499: June 1, 1989). The policy is being reconsidered and alternatives are being developed. The purpose of the policy is to improve the administration of recreation residence permits and implement a revised fee schedule that obtains fair market value for the use. The policy affects about 15,600 permittees.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/89	54 FR 38700
ANPRM Comment Period End	11/20/89	
NPRM	02/00/90	
NPRM Comment Period End	06/00/90	
Final Action	08/00/90	
Final Action Effective	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB06

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Forest Service (FS)

194. SUSPENSION AND DEBARMENT OF TIMBER PURCHASERS, 36 CFR 223, SUBPART C

Significance: Agency Priority

Legal Authority: PL 94-588, Sec 14; 16 USC 472a

CFR Citation: 36 CFR 223, Subpart C

Legal Deadline: None

Abstract: Currently, suspension and debarment of timber purchasers means the debarred entity is prevented from bidding or being awarded Forest Service timber sale contracts. Recently, suspended and/or debarred purchasers have been serving as subcontractors on Forest Service timber sale contracts, or acting as purchaser's representatives to receive notices and to take action on contracts. This has the effect of negating the suspension/debarment action, which is to protect the Government. The rule will be revised to prevent suspended and/or debarred purchasers from serving as subcontractors or purchaser representatives.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	05/00/90	
Final Action Effective	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA09

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195. FINANCIAL SECURITY OF NATIONAL FOREST SYSTEM TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 616

CFR Citation: 36 CFR 223.52; 36 CFR 223.50

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make down payments and periodic payments on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. A rule published 10/11/85 at 50 FR 41496 requires cash down payments and a midpoint payment. However, to fully comply with the Act, additional rules are required. This rule will identify the requirements for down payments, periodic payments, and market-related contract term additions. This rule will eliminate discounting and the requirement to hold a down payment until the last timber is removed. Based on comments received the agency has decided to issue a new proposed rule. In addition, the Government's position with respect to performance bonds will be strengthened by elimination of the $500,000 ceiling; providing for two-track bonding procedures, i.e. 20 percent upfront bond with reduction in amount as purchaser harvests; increasing the bid guarantee to 10 percent of the advertised value; assessing damages in the amount of bid guarantee or the difference between bid (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/17/86	50 FR 2591
NPRM	11/06/87	52 FR 43020
NPRM Comment Period End	02/19/88	53 FR 544
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: value and resale value; establishing the guidelines for determining purchaser's financial ability to operate a sale; specifying shorter contract periods; and modifying the basis for determination of default damages. This action combines entry RIN 0596-AA87, as listed in the April 1989 Agenda to avoid unnecessary fragmentation of effort, to facilitate systematic implementation and to combine all considerations of financial security into one rule.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA33

196. GRAZING AND LIVESTOCK USE AND MANAGEMENT OF WILD, FREE-ROAMING HORSES AND BURROS

Legal Authority: 7 USC 1011; 16 USC 472; 16 USC 551; 16 USC 572; 16 USC 580g; 16 USC 580h; 16 USC 580l; 16 USC 1600 et seq; 31 USC 9701; 43 USC 1901 to 1908; 43 USC 1751; 43 USC 1752

CFR Citation: 36 CFR 222, Subpart A

Legal Deadline: None

Abstract: Minor amendments to 36 CFR 222, Subpart A are under consideration to eliminate unnecessary sections, include currently used policies and procedures, and revise the remaining regulations making them clearer and easier for the public and Agency personnel to use. The proposed regulations (1) clarify the definitions of excess livestock and unauthorized use rate; (2) remove the rule for grazing advisory boards; (3) establish requirements or procedures for minimum permit size, eligibility related to compliance with permit terms, permits for livestock use in vegetation management, valuing range improvements when livestock grazing is eliminated, charging a fee for processing actions initiated or caused by a permittee or applicant, and association meeting frequency of a least 1 every 12 months; (4) authorize, in the Eastern States, crediting permittees for specified range improvements when determining grazing fees and a waiver of base property and livestock ownership requirements on developing ranges; (5) incorporate currently used policies and procedures for escrow waivers, association member grievances, permit cancellation or (cont)

Timetable:

Action	Date	FR Cite
Review of Subpart B - notice of completion of review; no change in rules required	08/14/87	52 FR 30350
NPRM	08/16/88	53 FR 30954
NPRM Comment Period End	10/17/88	53 FR 30954
NPRM - Second	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: suspension for excess use, charges for excess use, requests for information for evaluating grazing applications and action on apparent violations of permit terms.

On August 16, 1988, a proposed rule was published in 53 FR 30954. In response to comments received a second proposed rule is being issued. The dates projected are for proposed and final rules revising 36 CFR 222, Subpart A-grazing and livestock use. No further rulemaking activity is planned on Subpart B. The review of Subpart B pursuant to EO 12291 concluded that there was no need to revise these rules (See Timetable).

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA35

197. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Significance: Regulatory Program

Legal Authority: 43 USC 1764; 31 USC 483a; 30 USC 181 Mineral Leasing Act; 16 USC 551

CFR Citation: 36 CFR 251, Subpart B

Legal Deadline: None

Abstract: The objective of this rulemaking is to conform the rule to the requirements of 3 laws approved since the regulation was revised in 1980. These laws include special provisions for authorizing irrigation and livestock watering facilities constructed prior to

1976, electrical and telephone facilities financed pursuant to the Rural Electrification Act of 1936, and special uses in Alaska. In addition, the proposed rulemaking will clarify applicant responsibilities for providing data and studies needed to process a special use application and will provide for the advanced payment of land use rental fees for longer time periods, including the life of the special use authorization. That portion of this action relating to collection of reimbursable costs for processing special use applications is being deferred and will be addressed as a new action in a future agenda. For other changes affecting special use applications and authorization of special uses, see Agenda entry # (RIN 0596-AA20).

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA36

198. PROHIBITION ON MECHANICAL TRANSPORT AND OTHER ACTIVITIES IN WILDERNESS

Legal Authority: 16 USC 113 to 136; 16 USC 528 to 531; 16 USC 577 to 577c; 16 USC 1133

CFR Citation: 36 CFR 293.6(a); 36 CFR 261

Legal Deadline: None

Abstract: Except where specifically provided for, the Wilderness Act (16 USC 1133) prohibits both motorized equipment and mechanical transport. Mechanical transport includes devices such as bicycles, hang gliders, wheeled carts, and other items designed to carry people or supplies and powered by either "non living" or "living" power sources. The objective of this action is to clarify the definition of mechanical transport in 36 CFR 293.6(a) and to make corollary revisions in the prohibitions applicable to wilderness use, including prohibiting competitive events and expanding the definition of aircraft to include hang gliders, parachutes and parasail (FS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA39

199. LAND EXCHANGES

Significance: Agency Priority

Legal Authority: 16 USC 485; 16 USC 486; 16 USC 516; 7 USC 1011; 16 USC 555a; 43 USC 1715; 43 USC 1716; 102 Stat 1086

CFR Citation: 36 CFR 254, Subpart A

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: Changes in existing regulations are needed to implement provisions of the Federal Land Exchange Facilitation Act of August 20, 1988, as well as to correct errors, delete obsolete portions, update to reflect current authorities, and clarify ambiguities.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	54 FR 34368
NPRM Comment Period End	10/02/89	
Final Action	01/15/90	
Final Action Effective	02/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA42

200. SMALL BUSINESS TIMBER SALE SET ASIDE PROGRAM

Significance: Regulatory Program

Legal Authority: 15 USC 631

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The policy is designed to ensure that small business purchasers have the opportunity to purchase a fair proportion of National Forest Timber. Based on comments received in response to the 9/25/87 proposal, review of market data and Congressional direction, the agency is withdrawing its 1987 proposal and offering a new proposal.

The proposed policy will be consistent with the current standards and establish procedures for determining what share of timber volume small business will have the opportunity to bid on without competition from large business.

Timetable:

Action	Date	FR Cite
NPRM	11/21/84	49 FR 45869
NPRM Comment Period End	01/22/85	
Final Policy	06/13/85	50 FR 24788
Request Comments on Final Policy	02/03/86	51 FR 4264
Revised Proposed Policy	09/25/87	52 FR 36075
Proposed Policy Comment Period End	11/09/87	
New Proposed Policy	11/00/89	
Proposed Policy Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA43

201. REVISION OF TIMBER SALE CONTRACT FORMS FS-2400-6 AND FS-2400-6T

Significance: Regulatory Program

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Legal Authority: 16 USC 535; 16 USC 551; 16 USC 472a; 16 USC 607A; 16 USC 618; 42 USC 4461

CFR Citation: None

Legal Deadline: None

Abstract: The present timber sale contract Form FS-2400-6 was developed in September 1973, and the Form FS-2400-6T was developed in October 1973. Since these dates several Acts, Laws, and policy changes have necessitated deletion of existing provisions and inserting supplemental provisions. The need to revise these documents has been recognized since the late 1970's. The revision will provide for clarification of provisions to reduce the potential for disputes between purchasers and the Forest Service. There will be no changes in the basic contract concepts except those dictated by law, regulation, and related policy. Comments from interested individuals and organizations will be utilized, as appropriate, in the formulation of the provision language.

Timetable:

Action	Date	FR Cite
Notice of availability; request for comment	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA45

202. LEASABLE MINERALS OTHER THAN OIL AND GAS

Significance: Regulatory Program

Legal Authority: 16 USC 473 to 475; 16 USC 477 to 482; 16 USC 551; 16 USC 528 to 531; 90 Stat. 2949 as amended

CFR Citation: 36 CFR 228, Subparts F to H (New)

Legal Deadline: None

Abstract: These subparts will set forth the rules by which the Forest Service will process and respond to proposals received from the Department of the Interior (DOI) for the issuance of mineral licenses, prospecting permits and leases, and for the approval of operating plans. The Forest Service has no regulations at this time which have resulted in inconsistent and untimely responses to the DOI. The only other alternative considered is not to promulgate regulations. Public costs are insignificant but public benefits could be substantial in that proposals should be processed more efficiently.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	06/00/90	
Final Action Effective	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA46

203. APPLICATION PROCEDURES AND FEES FOR HYDROELECTRIC USES ON NATIONAL FOREST SYSTEM LANDS

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None

Abstract: Regulations are needed to reduce confusion regarding the role of the Forest Service in permitting hydroelectric uses on National Forest System lands. The objective of the rules will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC) for obtaining various approvals and involvement of the Forest Service in a timely manner.

In addition, the rules will establish a fee system for hydroelectric uses as required by Title V, Section 501 of the Federal Land Policy and Management Act of 1976. A Notice of Proposed Policy was published 6/8/84 and comments were received. The proposed rule will take those comments into account.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	
NPRM Comment Period End	12/15/89	
Final Action	03/01/90	
Final Action Effective	04/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $2,033,000; Base Year for Dollar Estimates: 1986

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA47

204. LOCATABLE MINERALS

Significance: Agency Priority

Legal Authority: 16 USC 478; 16 USC 551; 43 USC 1701 et seq; 94 Stat 2400

CFR Citation: 36 CFR 228, Subpart A

Legal Deadline: None

Abstract: To facilitate the orderly development of locatable minerals on the National Forest System public domain in an environmentally sound manner. Since the regulations were promulgated in 1974, certain legal requirements have changed due to the provisions of the Wilderness Act and recent court decisions; some sections of the regulations no longer apply and revisions and updating are necessary. Major changes proposed will specifically address the requirements for wilderness operations and, secondly, will clarify the mechanism for administering locatable mineral activities not conducted on mining claims but which are nevertheless authorized by the 1872 mining law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	08/00/90	
Final Action Effective	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA49

205. LAW ENFORCEMENT SUPPORT ACTIVITIES

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to (d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: These rules describe awards the Forest Service is authorized to make for information leading to arrest and convictions of persons who start fires or otherwise destroy property on National Forests. Subpart B sets forth rules governing impoundment or removal of unauthorized personal property from National Forest System lands.

Review has focused on the adequacy of the rules for administration of the National Forests and has revealed the need for minor revisions. The agency is now developing a proposed rule in response to the review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	06/00/90	
NPRM Comment Period End	08/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA75

206. 36 CFR 261 PROHIBITIONS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to (d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: These rules declare the range of unacceptable public behavior when visiting or using National Forest System lands. Among topics covered are prohibitions on setting campfires in certain areas, unlawful cutting of trees, and other unlawful uses of resources and property of the National Forest System. Violations of these prohibitions carry legal penalties.

Review has examined the adequacy of the rules for administration of the National Forest System and whether changes in conditions, laws, or other factors require revision. The agency has completed its review and is now preparing a proposed rule to revise the prohibitions.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	06/00/90	
NPRM Comment Period End	08/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA65

207. REVISE SMALL TRACTS ACT REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 521c-i

CFR Citation: 36 CFR 254, "Subpart C"

Legal Deadline: None

Abstract: Implementation of the agency's Small Tracts regulations has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA79

208. REVISE RULES GOVERNING SPECIAL USES OF NATIONAL FOREST SYSTEM LANDS AND RESOURCES AT 36 CFR 251 TO REMOVE AMBIGUITIES REGARDING FIRST AMENDMENT RIGHTS

Significance: Agency Priority

Legal Authority: 16 USC 472, 551, 1134, 3210; 30 USC 185; 43 USC 1740, 1761 to 1771

CFR Citation: 36 CFR 251 Subpart A; 36 CFR 251 Subpart B; 36 CFR 251 Subpart E (New); 36 CFR 251 Subpart F (New)

Legal Deadline: None

Abstract: A Federal District Court has ruled that existing regulations discriminate against groups who wish to gather on National Forests to exercise their first amendment rights of assembly and free speech. The proposed rule will seek to remove ambiguities regarding these first amendment rights.

The agency is reviewing the rules of other Federal land managing agencies for possible approaches and is considering establishing separate rules for authorizing short-term, noncommercial uses of National Forests.

There will be no additional costs as a result of the proposed rule change. The benefit will be that the Forest Service will be able to adequately regulate large group use on the National Forests in a manner that ensures protection of the public health and safety and National Forest resources.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/88	53 FR 16548
Interim Rule Effective	05/10/88	53 FR 16548
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA80

209. HELL'S CANYON NATIONAL RECREATION AREA - PRIVATE LANDS

Legal Authority: PL 94-199, sec 10a

CFR Citation: 36 CFR 292, Subpart E (New)

Legal Deadline: None

Abstract: The Forest Service proposes to issue regulations concerning use of private lands in the Hell's Canyon National Recreation Area (HCNRA) on the Oregon - Idaho border, as required in PL 94-199. The intended effect of this action is to establish standards for use and development of privately owned lands within the HCNRA.

The standards are intended to achieve the following management objectives for the Recreation Area: (1) The conservation and continuance of forest land for forest uses and farm land for farm uses; (2) The maintenance and protection of the free flowing nature of rivers within the HCNRA; (3) Conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit; (4) Preservation, especially in the area generally known as Hell's Canyon, of all features and peculiarities believed to be biologically unique; (5) Protection and maintenance of fish and wildlife habitat; (6) Protection of archaeological and paleontological sites; (7) Preservation of historic sites associated with and typifying the economic and social history of the region (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
NPRM Comment Period End	08/00/90	
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: ABSTRACT CONT: and the American West; and (8) Continuation of traditional uses.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA88

210. SOLID WASTE DISPOSAL POLICY

Significance: Agency Priority

Legal Authority: 16 USC 497; 43 USC 931c

CFR Citation: None

Legal Deadline: None

Abstract: Solid waste disposal sites (sanitary landfills) on National Forest System lands present the potential for resource degradation, hazardous waste dumping, and future liability. A proposal for solid waste disposal is being developed to reflect changes which have occurred as a result of the Resource and Conservation Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and an increased knowledge of solid waste disposal. The proposal would prohibit the authorization of new sites and provide for the phase out of existing sites. During the phase out period, authorizations would be amended to provide resource protection and limit the Government's potential liability. In situations where National Forest System lands provide the best location for solid waste disposal, land exchange and/or purchase will be considered. Adoption of this policy would reduce administrative costs associated with administration of solid waste disposal sites, limit future liability, and protect the resources on National Forest System lands. The proposal would impact 110 sites currently authorized.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA92

211. IRREVOCABLE LETTER OF CREDIT

Significance: Agency Priority

Legal Authority: 16 USC 472a; 16 USC 528 to 531; 16 USC 1600 et seq; 12 USC 1 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In a 1987 court decision, a letter of credit issued in lieu of surety bond was found to be unenforceable because the person who signed the letter of credit did not have authority to do so and because the bank had violated State law in regard to limits of liability. Others were invalid because they exceeded the expiration date. To remedy this problem, the Forest Service is proposing to issue Handbook directions that will require the bank president to certify as to the authority of the person signing the letter of credit and the conformance with State and Federal statutes. An automatic extension of the expiration date would also be required.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box

USDA—FS

Proposed Rule Stage

96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA93

212. RESERVED AND OUTSTANDING MINERAL RIGHTS

Significance: Regulatory Program

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 228, Subpart B

Legal Deadline: None

Abstract: Substantial acreage of National Forest System land is underlain by privately owned mineral deposits. During extraction of the mineral resources, the mineral owner is required to take measures to protect Federal surface resource values. The Forest Service must analyze the effects of the proposed mineral extraction and determine what mitigation measures should be specified. Currently, there are no regulations describing the process to be followed by the Forest Service or the private mineral owner.

The regulatory approach has not yet been determined. A working group will be formed in February 1989 to determine the scope, form, and details to be included in a proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Forest Service, USDA, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA89

213. DOUGLAS-FIR LUMBER PRICE INDEX REVIEW

Legal Authority: 16 USC 528 to 531; 16 USC 1600 to 1614

CFR Citation: 36 CFR 223.60

Legal Deadline: None

Abstract: The Agency will review the Douglas-fir lumber price indexes used to appraise public timber offered for sale and to adjust prices billed for timber already under contract in Northwestern California and the Pacific Northwest Coastal Regions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB00

214. DISPOSAL OF QUARTZ MINERAL ON THE OUACHITA NATIONAL FOREST

Legal Authority: PL 100-446, Sec 323; 30 USC 601, 603

CFR Citation: 36 CFR 228 Subparts C to D

Legal Deadline: None

Abstract: This regulation is a direct response to the direction in Section 323 of Public Law 100-446 which classified quartz mineral on the Ouachita National Forest in Arkansas as no longer subject to location under the General Mining Law of 1872. These materials are now to be managed in the same manner as common varieties of mineral materials under regulations prescribed by the Secretary of Agriculture.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB01

215. FEDERAL CAVE RESOURCES PROTECTION

Significance: Agency Priority

Legal Authority: PL 100-691

CFR Citation: 36 CFR 290 Subpart A (New)

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: These regulations will implement the Federal Cave Resources Protection Act of 1988, which requires that the rules define what is a significant cave for purposes of this Act. The Act also requires that the rules address an inventory of cave resources, provide for confidentiality of information concerning the nature and location of caves on Federal land, and permits for collection and removal of cave resources. The regulations are being developed in concert with agencies of the U.S. Department of the Interior as required by the act.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/89	54 FR 9068
ANPRM Comment Period End	04/03/89	54 FR 9068
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AB02

216. PRE-AWARD INFORMATION REQUIREMENTS

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.101

Legal Deadline: None

Abstract: Recently, as the number of timber sale defaults have increased, the number of debarred purchasers have increased, and the Government has initiated a policy of only doing business with responsible parties, it is becoming commonplace for bidders to form new

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affiliates in order to continue to be awarded Forest Service timber sale contracts. Unless the bidder voluntarily identifies affiliates, the Agency must make the determination through a time consuming process prior to award, prior to determining if double downpayment rules apply, and prior to taking debarment action. This rule would require bidders to disclose, prior to award of sales, all affiliates, and to certify that none are suspended or debarred. Filing false claims would be cause for contract cancellation and debarment action.

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	
NPRM Comment Period End	02/15/90	
Final Action	06/00/90	
Final Action Effective	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, WAshington, DC 20090-6090, 202 235-1488

RIN: 0596–AB03

217. ● FOREST SERVICE WILDERNESS MANAGEMENT POLICY

Significance: Agency Priority

Legal Authority: 16 USC 1121(note); 16 USC 1131 to 1136 (Wilderness Act)

CFR Citation: None

Legal Deadline: None

Abstract: Revisions to Chapter 2320, Forest Service Manual (FSM), are proposed to remove barriers to implementation of the National Recreation Strategy. Also includes revisions needed to be consistent with 36 CFR 261, 293 (see RIN 0596-1139). Changes will include guidance on access by people with disabilities, expanded policy on controlling insect and disease outbreaks, amending prohibited activities to include competitive events and use of hang gliders, parachutes and parasails as aircraft. The policy will include text of Congressional Grazing Guidelines and more specific direction for wildlife and fish management and will also include guidance on structures, cultural resources, research and law enforcement.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	04/15/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB04

218. ● NATIONAL ENVIRONMENTAL POLICY ACT REVISED IMPLEMENTING POLICY AND PROCEDURES

Significance: Agency Priority

Legal Authority: PL 91-190; PL 91-224

CFR Citation: 40 CFR 1500; 40 CFR 1501; 40 CFR 1502; 40 CFR 1503; 40 CFR 1504; 40 CFR 1505; 40 CFR 1506; 40 CFR 1507; 40 CFR 1508

Legal Deadline: None

Abstract: This action is an update and revision of National Environmental Policy Act compliance policy and procedures to address changes caused by changing conditions and recent case law. It includes establishment of categories of actions excluded from documentation in EA or EIS.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
NPRM Comment Period End	11/30/89	
Final Action	01/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regualtory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB05

219. ● FEE POLICY FOR RESERVOIRS

Significance: Agency Priority

Legal Authority: 43 USC 1764 Federal Land Policy and Management Act

CFR Citation: 36 CFR 251.57

Legal Deadline: None

Abstract: The Forest Service proposes to change the policy and procedure for determining the land use rental fees for dams and reservoirs located on National Forests lands that are authorized by special use authorizations. This would eliminate the need for individual appraisals of reservoir areas and would reduce the cost of administering the special use permits. The fees would be comparable to the fees charged by the Federal Energy Regulatory Commission for reservoirs on Federal lands. There would be no change in the fee waiver policy for reservoirs. Reservoirs that are currently exempt by law from payment of land use rental fees would not be affected by the proposed change in policy.

Timetable:

Action	Date	FR Cite
NPRM	11/15/89	
NPRM Comment Period End	01/14/90	
Final Action	06/01/90	
Final Action Effective	07/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB07

220. ● IMPLEMENTATION OF NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLANS

Significance: Agency Priority

Legal Authority: 16 USC 1604; 16 USC 1613

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: The agency's current rules governing implementation of forest plans (36 CFR 219) are not very precise and the relationship of plan implementation to National Environmental Policy Act compliance is not well understood by the public. Additionally appeal decisions made by the Chief of the Forest Service and recent Court decisions indicate that more site specificity is needed in project-level plans. The objective of this rule is to establish through rulemaking a precise and coherent policy about the relationship of the forest plan implementation process to NEPA documentation, so that forest planners, decision makers, and the public will know and understand the nature of decisions being made as forest plans are implemented through on-the-ground projects. This rulemaking is potentially being considered as a negotiated rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	
NPRM Comment Period End	01/30/90	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, D.C. 20013-6090, 202 235-1488

RIN: 0596–AB09

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Final Rule Stage

221. LAND STATUS AND TITLE RECORDS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603

CFR Citation: 36 CFR 200.12, (New)

Legal Deadline: None

Abstract: The objective is to establish the Land Status Record as the official record of title for National Forest System lands and to set forth the authorities, policies, and procedures for recording, custody, maintenance, and use of title documents and title status reports.Because this rule is limited to agency organization and administration, it is exempt from notice and comment and thus will be published as a final rule. (FS 85-012)

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA24

222. ACCESS TO NON-FEDERAL LANDS

Legal Authority: PL 96-487, Sec 1323(a); 16 USC 3210(a)

CFR Citation: 36 CFR 251.53; 36 CFR 251.80

Legal Deadline: None

Abstract: The regulation will tie the granting of special-use authorizations for ingress and egress under the Alaska National Interest Lands and Conservation Act (ANILCA) to the existing authorities for granting authorizations to use or occupy National Forest lands and remove the discretionary aspects of those laws and regulations when applied to parties qualifying for access under ANILCA. (FS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37795
NPRM Comment Period End	11/28/88	
Extension of Comment Period	11/30/88	53 FR 48278
Comment Period End	01/30/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA31

223. MODIFY THE GENERAL PROHIBITION AGAINST USE OF VEHICLES IN EXCESS OF 40 INCHES IN WIDTH ON TRAILS

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261.12(e)

Legal Deadline: None

Abstract: The objective of this action is to permit Forest officers more discretion for controlling off-road vehicle use. Three factors have created the need to modify this regulation: (1) the general prohibition at 36 CFR 261.12(e) controls trail use by width of vehicle. Originally developed to control four-wheel-drive vehicles on trails, this method uses a fairly arbitrary device (width) to control use; (2) off-road vehicle plans (36 CFR 295) use vehicle types to prescribe the vehicles that are permitted to use forest trails; (3) some recent models of trail vehicles (all terrain vehicles and snowmobiles) exceed the forty inch rule by one to five inches. The combination of the two methods of control with the larger model sizes has created confusion among users about ORV plan direction and created law enforcement difficulties. The proposed action would clarify the regulations and still maintain the tools necessary to control off-road vehicle use. (FS 86-007)

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35526
NPRM Comment Period End	11/14/88	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA38

224. CONSERVATION OF FISH, WILDLIFE, AND THEIR HABITATS CHUGACH NATIONAL FOREST, ALASKA

Legal Authority: PL 96-487, Title V

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Final Rule Stage

CFR Citation: 36 CFR 241, Subpart B (New)

Legal Deadline: None

Abstract: December 2, 1980, the Alaska National Interest Lands Conservation Act was signed into law. Section 501 (b) of the law requires that the Secretary of Agriculture promulgate regulations for the conservation of fish and wildlife and their habitats on the Chugach National Forest. The general National Forest System regulations and other existing laws governing management of National Forest System lands are applicable except as supplemented by these regulations or amended by the ANILCA, August 17, 1984. The new Chugach National Forest land management plan was appealed by 17 appellants. The settlement agreement specifies that subject to valid existing rights, the Forest Service will not allow timber harvest, road construction, surface occupancy for mineral leasing prior to publication of final regulations or completion of management area analysis for the Copper River Management Area. There are no alternatives to development of these regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/31/89	54 FR 13199
NPRM Comment Period End	06/29/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA41

225. DEFINITION OF COMMON VARIETY MINERAL MATERIALS

Legal Authority: 30 USC 601 to 604; 16 USC 477; 16 USC 520; 7 USC 1010; 30 USC 192c; 16 USC 508b; 66 Stat. 285; 16 USC 521a; 75 Stat. 206; 23 USC 101 et seq; 16 USC 539a; Sec 502

CFR Citation: 36 CFR 228, Subpart C

Legal Deadline: None

Abstract: Whether a mineral deposit is a "common variety" determines whether or not it can be disposed of or sold by the Government under the 1947 Mineral Materials Act. Judicial and administrative interpretations defining common variety characterization determinations can only be made in court. Rulings in common variety cases are generally unpredictable, and the costs to both the Government and miner are high.

After a review of the legislative history of the 1955 Surface Resources Act, which defined common varieties, we believe that Congress did not intend for certain minerals to be locatable under the Mining Laws; however, a failure to explicitly define the "common variety" term has led to misinterpretation and actions contrary to the original intent of the law. It is proposed that 36 CFR 228 Subpart C be amended to clarify this confusing classification situation. We believe PL 167 expressly provides for this action as it allows the Secretary of Agriculture to dispose of mineral materials "under such rules and regulations as he may prescribe."

Timetable:

Action	Date	FR Cite
NPRM	04/26/88	53 FR 15236
NPRM Comment Period End	06/27/88	53 FR 15236
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA44

226. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1609; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, Subpart D (New)

Legal Deadline: None

Abstract: Objectives are to set forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act of 2/8/87, as amended by Section 31, Act of 6/25/10 authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Recent litigation and a decision by the Interior Board of Land Appeals indicate the need for the Forest Service to set forth its own regulations when the Forest Service determines that lands are not chiefly valuable for agricultural and grazing purposes. The only alternative is not to issue regulations. This is unacceptable since it leaves the Agency vulnerable to future IBLA appeals cases as well as future litigation.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	52 FR 23473
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA52

227. GRAZING FEES; EASTERN AND SOUTHERN REGIONS

Significance: Regulatory Program

Legal Authority: 16 USC 551; 31 USC 483a; 43 USC 1901

CFR Citation: 36 CFR 222.53, 222.54

Legal Deadline: None

Abstract: Different grazing fee systems are used in the Eastern and Southern Regions of the Forest Service. The current system in the Eastern Region is market driven. The system in the Southern Region is based on a cost-of-livestock-production/ability-to-pay methodology which currently results in below market fees.

This rulemaking seeks to improve uniformity of grazing fee systems on National Forest System Lands in the East, update fees to current market values, and provide incentives to achieve needed range improvements.

Timetable:

Action	Date	FR Cite
NPRM	02/10/89	54 FR 6425
NPRM Comment Period End	04/11/89	
Final Action	12/00/89	
Final Action Effective	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA55

228. PROHIBITIONS; FOSSIL COLLECTING

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: In response to comments from the scientific and academic communities and in keeping with the recommendations of the National Academy of Sciences "Report on Guidelines for Paleontological Collecting," the Forest Service is clarifying its regulations concerning fossil collecting on National Forest System lands. The language on "paleontological resources" is being moved to a separate paragraph and the requirement for permits is being limited specifically to quarrying for fossils and for commercial activities. The no-action alternative would be to leave the regulation of paleontological resources the same as for archeological resources, with permits needed for all activities. Since there is no evidence of widespread problems, the permit process imposes unnecessary burdens on the casual collector and creates added paperwork for the Forest officer to manage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/86	51 FR 30355
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule has been delayed in order to receive and consider a final report from the National Academy of Sciences on "Guidelines for Paleontological Collecting."

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA56

229. OIL AND GAS RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 478; 16 USC 551; 30 USC 226, 352

CFR Citation: 36 CFR 228, Subpart E

Legal Deadline: None

Abstract: This final rule will set forth the procedures by which the Forest Service would carry out its statutory responsibilities for management of oil and gas leasing and attendant surface disturbing activities conducted on leaseholds on National Forest System lands. In the past, the Forest Service has relied on Bureau of Land Management procedures and regulations. However, the Federal courts have ruled that the Forest Service must promulgate its own procedures and regulations. Additionally, the Federal Onshore Oil and Gas Leasing Reform Act of 1987 expanded the authority of the Secretary of Agriculture in the management of oil and gas resources on National Forest System lands and directed the Secretary to issue rules on bonding and reclamation standards. The intent of these rules is to satisfy both judicial direction and the new statute; to coordinate Forest Service oil and gas resource management procedures with those of the Bureau of Land Management, and to promote cooperation among the Agency, the oil and gas industry, and other publics interested in the management of oil and gas resources of National Forest (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3326
NPRM Comment Period End	03/24/89	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: System lands.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA82

230. SURETY BOND FORM REVISION

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309; 31 USC 223 to 225

CFR Citation: None

Legal Deadline: None

Abstract: Following a period of high-priced timber sales bid prior to 1982, the Forest Service experienced a number of contract defaults on these sales. Subsequently, the Forest Service has had difficulty collecting from some sureties on the bonds guaranteeing performance on these sales. As part of a financial security initiative affecting future sales, the Forest Service is proposing to revise the payment and performance bonds to clarify surety's obligation in regard to what is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security, reducing surety guarantee to mid-point and periodic payment and retention of current bond forms. Upon adoption the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers for future timber sale contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Final Action	09/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

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USDA—FS — **Final Rule Stage**

Additional Information: Final action on this entry will be delayed to obtain advice of the Comptroller General.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA94

231. ● HELLS CANYON NATIONAL RECREATION AREA-USE OF NATIONAL FOREST LANDS

Significance: Agency Priority

Legal Authority: 16 USC 460gg Hells Canyon National Recreation Area

CFR Citation: 36 CFR 292 F (New)

Legal Deadline: None

Abstract: In Oregon Natural Resource Council v Lyng, the 9th Circuit Court of Appeals ruled that the Secretary must promulgate regulations as required by the Hells Canyon National Recreation Act (HCNRA) governing federal and private land uses in the HCNRA. The Department had argued that such rules were discretionary and the agency's comprehensive management plan for the NRA, which was prepared as required by the Act, was sufficient to guide management of the area. As a result of the court's ruling, the risk of litigation to halt ongoing activities, particularly timber sales, is high. Accordingly, there is an urgent need to promulgate an interim rule governing management of the federal lands in the HCNRA. While many existing regulations governing National Forest System lands, remain applicable to the Hell's Canyon NRA, pending projects and plans are vulnerable to continued litigation until final rules are effective. An interim rule is the most expeditious way to effect rules. Public comment will be invited on the interim rule and will be considered in development of the final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/89	54 FR 41089
Interim Final Rule Comment Period End	12/04/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The only alternative to the court ruling to promulgate rules is to publish a proposed rule rather then interim rules. This is unacceptable because of the potential for disruption to management of the area and the regulatory void that would be created by the longer time frames involved in going through a Notice of Proposed Rulemaking.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB08

232. ● GIVING NOTICE OF DECISIONS SUBJECT TO APPEAL

Significance: Agency Priority

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 217

Legal Deadline: None

Abstract: The current appeal rule at 36 CFR Part 217 requires the Deciding Officer to mail a plan or project decision to those who have, in writing, requested it and to those known to have participated in the decisionmaking process. In addition, the rule prohibits extension of the time period for filing an appeal. The administrative process of producing letters notifying the public of decisions delays notice and is shortening the period available to appeal a decision. This interim rule would require Deciding Officers to give notice of decisions in newspapers of general circulation or, in some cases, the Federal Register. The appeal filing period would begin the day after the notice is published. Because of infrequency frequency of appeals over filing periods, it is necessary to make the rule effective upon publication to bring order and consistency to the agency's appeal process. The rulemaking would also clarify grounds for dismissal of an appeal without a decision on the merits, make clear that dismissal decisions are subject to discretionary review at a higher level, and require appellants to submit 2 copies of a notice of appeal when the notice is 10 pages or longer.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, D.C. 20013-6090, 202 235-1488

RIN: 0596-AB10

DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**

Forest Service (FS)

233. SKI AREA TERM PERMITS

Significance: Agency Priority

CFR Citation: 36 CFR 251.51; 36 CFR 251.53; 36 CFR 251.56; 36 CFR 251.57

Completed:

Reason	Date	FR Cite
Final Action	05/26/89	54 FR 22588
Final Action Effective	06/26/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA57

234. INCREASE IN MINIMUM RATES CHARGED FOR TIMBER

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn as a result of improved markets	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

USDA—FS — **Completed Actions**

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA73

235. DEFERRAL OF PAYMENTS ON HIGH-PRICED TIMBER SALES

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	04/12/89	54 FR 20750
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA97

BILLING CODE 3410-11-T

DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**

Packers and Stockyards Administration (P&SA)

236. ANNUAL REPORTS

Significance: Agency Priority

CFR Citation: 9 CFR 201.97; 9 CFR 201.43; 9 CFR 201.48; 9 CFR 201.53; 9 CFR 201.71; 9 CFR 201.72; 9 CFR 201.73; 9 CFR 201.76; 9 CFR 201.82; 9 CFR 201.94; 9 CFR 201.95; 9 CFR 201.96; 9 CFR 201.100; 9 CFR 203.4; 9 CFR 203.15

Completed:

Reason	Date	FR Cite
Final Action	04/24/89	54 FR 16356
Final Action Effective	05/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Calvin W. Watkins 202 447-7063

RIN: 0590-AA04

BILLING CODE 3410-90-T

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**

Rural Electrification Administration (REA)

237. PROCEDURES FOR SECURING RURAL ELECTRIFICATION ADMINISTRATION APPROVAL OF CONSOLIDATING/MERGER ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: PL 100-203

CFR Citation: 7 CFR 1710.95 to 1710.99; 7 CFR 1710.100 to 1710.104

Legal Deadline: None

Abstract: The proposed rule will codify REA policy currently found in REA Bulletin 115-2, Merger and Consolidation of Electric Distribution Borrowers.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572-AA25

238. FINANCIAL MANAGEMENT AND FORECASTING FOR ELECTRIC DISTRIBUTION BORROWERS

Significance: Agency Priority

Legal Authority: PL 100-203

CFR Citation: 7 CFR 1716

Legal Deadline: None

Abstract: The proposed rule will codify REA policy relating to financial forecasting currently found in REA Bulletin 105-5, Financial Forecast - Electric Distribution Systems and Bulletin 105.1, Annual Work Programs and Budgets for Rural Distribution Systems.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572-AA26

239. ● CRITERIA FOR SECURING REA APPROVAL OF ASSET SALES BY ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1715.00 to 1715.79 Subpart B

Legal Deadline: None

Abstract: Codify REA Bulletin 115-1, Sales of Capital Assets by Electric Borrowers.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D, Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence

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USDA—REA — Prerule Stage

Ave., SW, Room 4063-South,
Washington, DC 20250, 202 382-9552
RIN: 0572–AA33

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)

Proposed Rule Stage

240. LIST OF STANDARD FORMS OF TELECOMMUNICATIONS CONTRACTS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1762.1

Legal Deadline: None

Abstract: The purpose of revising 7 CFR Part 1762 is to announce a general revision of REA Contract Form 525, Central Office Equipment Contract (Including Installation).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA20

241. TELEPHONE SYSTEM CONSTRUCTION CONTRACT

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1762

Legal Deadline: None

Abstract: The purpose of revising 7 CFR Part 1762 is to announce a general revision of REA Contract Form 515, Telephone System Construction Contract, Labor and Materials.

Timetable:

Action	Date	FR Cite
NPRM	07/03/89	54 FR 27883
NPRM Comment Period End	07/03/89	54 FR 27883

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA21

242. ACCOUNTING REQUIREMENTS FOR REA ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1718

Legal Deadline: None

Abstract: To codify the policy and procedures currently set forth in REA Bulletin 181-1, Uniform System of Accounts Prescribed for Electric Borrowers of the Rural Electrification Administration and REA Bulletin 181-3, Accounting Interpretation for REA Electric Borrowers. In addition to codifying, revisions are being proposed to the existing policy that will update REA's accounting guidelines.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Room 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA23

243. LOAN SECURITY DOCUMENTS - TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1758

Legal Deadline: None

Abstract: This new part provides information on the loan security documents borrowers are required to execute and includes as appendixes REA's standard forms of loan contract, note, and mortgage.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA30

244. TELEPHONE MATERIALS, EQUIPMENT, AND CONSTRUCTION - TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1765

Legal Deadline: None

Abstract: The primary objectives of the addition of Subparts E, G, and H to Part 1765 are to update, clarify, and simplify REA policies and procedures; to lessen the burden on borrowers involved in planning and construction of telecommunications facilities; and to decrease the processing time of related documents by REA.

Timetable:

Action	Date	FR Cite
NPRM	09/25/89	54 FR 39281
NPRM Comment Period End	11/24/89	

USDA—REA — Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA31

245. ● LIST OF STANDARD FORMS OF ELECTRIC CONTRACTS - REA FORM 630 ELECTRIC SYSTEM CONSTRUCTION CONTRACT AND REA FORM 631 ELECTRIC TRANSMISSION CONSTRUCTION CONTRACT

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1735.1

Legal Deadline: None

Abstract: These contract forms contain REA's contracts for distribution line and transmission line construction. REA proposes to revise these contract forms by increasing the liability insurance limits to meet limits set forth by REA in 7 CFR 1788 at SIFR25855 on July 17, 1988. The other major change proposed by REA to these contract forms is to replace the fixed interest rate of seven percent (7%) per annum, to be paid on unpaid balances, with a blank to allow borrowers to specify an interest rate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Room 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA34

246. ● REA POLICY ON AUDITS OF ELECTRIC AND TELEPHONE BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1789

Legal Deadline: None

Abstract: As a result of an audit of REA's Oversight of Program Operations Through the Use of CPA's performed by the Department of Agriculture's Office of Inspector General, REA must revise its current regulations to require the independent certified public accountant to perform the annual audit of an REA borrower in accordance with generally accepted government auditing standards, thereby expanding the scope of the financial audit previously submitted in accordance with 7 CFR 1789 to include a determination of whether the borrower has complied with the applicable laws and regulations for those transactions and events reported in the financial statements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA36

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)

Final Rule Stage

247. PREPAYMENT OF REA GUARANTEED FEDERAL FINANCING BANK LOANS

Significance: Agency Priority

Legal Authority: 7 USC 901 to 950b; PL 99-509; PL 100-202; PL 100-203; PL 100-460

CFR Citation: 7 CFR 1786

Legal Deadline: None

Abstract: The revised part will establish policies and procedures to implement the provisions of the RE Act, (7 USC 901 et seq), PL 99-509, PL 100-202, PL 100-203, and PL 100-460.

Timetable:

Action	Date	FR Cite
NPRM	05/23/89	54 FR 22290
NPRM Comment Period End	06/22/89	54 FR 22290
Final Action	10/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-9552

RIN: 0572–AA29

248. ● REA BULLETIN 50-6 (D-806), SPECIFICATION AND DRAWINGS FOR UNDERGROUND ELECTRIC DISTRIBUTION

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1736.97

Legal Deadline: None

Abstract: REA Bulletin 50-6 (D-806), Specifications and Drawings for Underground Electric Distribution, provides standard underground electric system construction drawings and specifications that REA Electric borrowers may use without REA review of each specific project. Bulletin 50-6 (D-806) was last revised in 1975. In the intervening years, many dramatic changes have been made in the material, equipment, and construction methods used in the underground electric distribution industry. The proposed changes in the bulletin would be accomplished by adding several new construction drawings, revising some drawings included in the present edition of the bulletin, and deleting some present drawings. The resulting bulletin would be a complete

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specification with which REA electric borrowers could construct their underground rural electric distribution systems using state-of-the-art materials, equipment, and construction methods.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	52 FR 49417
NPRM Comment Period End	02/29/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave,. SW., Rm. 4063-S, Washington, DC 20250, 202 382-8552

RIN: 0572–AA35

DEPARTMENT OF AGRICULTURE (USDA)
Rural Electrification Administration (REA)

Completed Actions

249. LOAN ACCOUNT COMPUTATIONS, PROCEDURES AND POLICIES

Significance: Agency Priority

CFR Citation: 7 CFR 1785.64 to 1785.65

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr. 202 382-8552

RIN: 0572–AA19

250. CUSHION OF CREDIT ACCOUNT COMPUTATIONS AND PROCEDURES

Significance: Agency Priority

CFR Citation: 7 CFR 1785.66 to 1785.70

Completed:

Reason	Date	FR Cite
Final Action	04/05/89	54 FR 12184
Final Action Effective	04/05/89	54 FR 12184

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr. 202 382-8552

RIN: 0572–AA22

251. GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS - TELEPHONE PROGRAM PRELOAN PROCEDURES AND REQUIREMENTS - TELEPHONE PROGRAM

Significance: Agency Priority

CFR Citation: 7 CFR 1745; 7 CFR 1749

Completed:

Reason	Date	FR Cite
Final Action	04/03/89	54 FR 13345
Final Action Effective	04/03/89	54 FR 13345

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr. 202 382-8552

RIN: 0572–AA28

252. ADVANCE AND DISBURSEMENT OF FUNDS; TELEPHONE LOAN PROGRAM

Significance: Agency Priority

CFR Citation: 7 CFR 1754.9

Completed:

Reason	Date	FR Cite
Final Action	03/24/89	54 FR 12184
Final Action Effective	09/00/89	54 FR 12184

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr. 202 382-8552

RIN: 0572–AA32

BILLING CODE 3410-15-T

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)

Proposed Rule Stage

253. RELOCATION ASSISTANCE

Legal Authority: 42 USC 4601 et seq; PL 91-646

CFR Citation: 7 CFR 652

Legal Deadline: None
No action required. A governmentwide regulation has been issued.

Abstract: Prescribes the policies and procedures for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) pertaining to the treatment of persons displaced from their homes, businesses, or farms because of Federal financially assisted projects. (SCS 85-001)

Timetable:

Action	Date	FR Cite
End Review	01/31/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578–AA12

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)

Final Rule Stage

254. SOIL SURVEYS

Legal Authority: Part of Agriculture Appropriation Act of 1896; PL 74-46 The Soil Conservation and Domestic Allotment Act; PL 89-560 Soil Surveys for Resource Planning and Development; 42 USC 3271; 42 USC 3274

CFR Citation: 7 CFR 611

Legal Deadline: None

Abstract: Prescribes the policy on soil survey operations including cooperative relationships with State agencies, standards, guidelines and plans on survey operations, distribution of soil survey information, and cartographic operations services furnished. (SCS 83-006)

Timetable:

Action	Date	FR Cite
End Review	12/31/86	
Final Action	10/01/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578–AA00

255. SNOW SURVEYS AND WATER SUPPLY FORECASTS

Legal Authority: 28 Stat. 653, Sec 8; Reorg. No. IV of 1940

CFR Citation: 7 CFR 612.1 to 612.7

Legal Deadline: None

Abstract: Sets forth policy and procedures for the administration of a cooperative snow survey and water supply forecast program, including the steps involved in carrying out the program. Sets out data collected and forecasts made, and eligible users of the data. (SCS 83-005)

Timetable:

Action	Date	FR Cite
Final Action	09/30/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578–AA01

256. FARMLAND PROTECTION POLICY ACT

Significance: Agency Priority

Legal Authority: 7 USC 4201

CFR Citation: 7 CFR 658

Legal Deadline: None

Abstract: The United States Department of Agriculture amends its rule for implementing the Farmland Protection Policy Act to require progress reports, enable governors to bring action to enforce the requirements of the Act, include a section omitted by clerical error, revise how Federal agencies apply the Act, and revise the definition of farmland. These amendments are necessary in order to comply with amendments to the Farmland Protection Policy Act (FPPA) made by Title XII of the Food Security Act of 1985, PL 99-198, December 23, 1985, and to clarify several provisions of the existing rule. This rule will revise Part 658 of Title 7 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Sectors Affected: None

Agency Contact: Wayne F. Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, PO Box 2890, Washington, DC 20013, 202 447-4811

RIN: 0578–AA14

BILLING CODE 3410-90-T

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO)

Proposed Rule Stage

257. AGRICULTURE ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401 to 453, (Revision)

Legal Deadline: None

Abstract: This rule anticipates miscellaneous changes to the Department of Agriculture Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Don F. Manns, Chief, Procurement Division, Department of Agriculture, Office of Operations, Procurement Division, 1550-South, Washington, DC 20250, 202 447-3037

RIN: 0599–AA00

BILLING CODE 3410-90-T

[FR Doc. 89-22480 Filed 10-27-89; 8:45 am]

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federal register

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Part IV

Department of Commerce

Semiannual Regulatory Agenda

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DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, III, IV, VII, VIII, IX

19 CFR Ch. III

37 CFR Chs. I, IV

48 CFR Ch. 13

50 CFR Chs. II, VI

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: October 1989 regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12291, entitled "Federal Regulation," and the Regulatory Flexibility Act (Public Law 96-354), the Department of Commerce in April and October of each year publishes in the **Federal Register** an agenda of the rulemaking actions covered by section 1 of E.O. 12291 that the Department plans to conduct or review over the next twelve months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, and rulemaking actions completed since the April 1989 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 1989 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1989, through September 30, 1990.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8843.

SUPPLEMENTARY INFORMATION: Executive Order 12291 requires all executive agencies to publish semiannually an agenda of those regulations that are under consideration pursuant to this Order. Office of Management and Budget (OMB) Bulletin No. 89-12, issued July 5, 1989, establishes guidelines and procedures for the preparation and publication of the October 1989 Unified Agenda of Federal Regulations for all Federal departments and agencies. E.O. 12291 and the OMB Bulletin require that each agenda report the following information on non-exempt regulatory activities being conducted or planned to be conducted by the agency during the twelve-month period succeeding publication: The title of the regulation; the name, title, address, and phone number of an agency person who is knowledgeable about the regulation; whether the action is expected to have a significant economic impact on a substantial number of small entities and whether it will affect levels of government; the section(s) of the Code of Federal Regulations which will affect or be affected by the action; the section of the United States Code, Public Law, or Executive order that authorizes the action; an indication of whether or not the entry is a significant regulatory action included in the Administration's Regulatory Program and if the agency considers it a priority action; an abstract describing the problem the regulation addresses, alternatives to the regulation being considered, and potential costs and benefits of the action; legal deadline, if any; and a timetable of dates and, if available, **Federal Register** citations for past stages of the action. In addition, the Bulletin requires that procurement-related regulatory actions include additional information on all actions that are covered by section 22 of the Office of Federal Procurement Policy Act Amendments of 1988 and all other actions that will result in a change or addition to the Federal Acquisition Regulation System. This procurement-related information is listed under Additional Information and will be used by the Office of Federal Procurement Policy in preparing the "Procurement Regulatory Activity Report."

The Regulatory Flexibility Act requires agencies to prepare a regulatory flexibility analysis where there is a positive finding that a rule will have a significant economic impact on a substantial number of small entities. E.O. 12291 requires agencies to prepare a regulatory impact analysis for any regulation considered to be a "major rule" as defined in the Order.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units such as the Economic Development Administration, the Bureau of Export Administration, the International Trade Administration, the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda are proposed or final Federal Information Processing Standards (FIPS) issued by NIST under Public Law 100-235. FIPS consist of standards and guidelines to improve Federal Government use and management of computers and information technology. The standards, while often of great use to industry and the public, apply only to the Federal Government. In developing the standards and guidelines and in providing technical guidance and coordination to Federal agencies, NIST works closely with private industry standard-setting organizations.

Another large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act of 1976 (Act) (16 U.S.C. 1801 *et seq.*) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance of some regulatory actions under consideration at the time the semiannual regulatory agenda is published. Frequently, NMFS does not have specific plan objectives or alternatives for management since the Councils may not have approved or submitted plans to the Secretary of Commerce for review, adoption, and implementation.

The DOC October 1989 regulatory agenda follows.

Dated: August 28, 1989.

Michael A. Levitt,

Acting General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
258	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08
259	Source Evaluation Procedures and Miscellaneous Revisions to the Commerce Acquisition Regulation	0690-AA13

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
260	Program Fraud Civil Remedies	0690-AA14

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
261	Benchmark Survey of U.S. Direct Investment Abroad - 1989	0691-AA15
262	Increase in Exemption Level of the BE-11, Annual Survey of U.S. Direct Investment Abroad	0691-AA16

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
263	Change in Reporting Requirements of the BE-15, Annual Survey of Foreign Direct Investment in the United States	0691-AA14

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
264	Foreign Trade Statistics Regulations	0607-AA10
265	Foreign Trade Statistics Regulations (FTSR)	0607-AA12

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Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
266	General Requirements for Financial Assistance -- Design, Construction of Buildings to Accommodate the Physically Handicapped	0610-AA05
267	Economic Development Administration: Property Management Standards	0610-AA07
268	General Requirements for Financial Assistance: Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA18
269	Overall Economic Development Program Public Works and Development Facilities Program	0610-AA19
270	Sale of Loans and Loan Guarantees to the Private Sector	0610-AA31
271	General Requirements for Financial Assistance -- Nonrelocation	0610-AA32
272	Protection of EDA's Interest in Facilities Acquired, Built, or Improved with EDA Grant Funds	0610-AA35
273	Liability for Hazardous Substances Associated with EDA Loans and Loan Guarantees	0610-AA36
274	Adjustment Grants -- Revolving Loan Funds	0610-AA37
275	Economic Development Districts, District Organization; Civil Rights Requirements	0610-AA38
276	Area Designation - Special Impact Areas	0610-AA39
277	Public Works - Industrial Parks and Sites	0610-AA40
278	Direct and Supplementary Grants for Public Works and Development Facilities - Supplementary Grant Rates	0610-AA41
279	Public Works and Development Facilities Programs - Grant Disbursements	0610-AA42
280	General Requirements for Financial Assistance - Electric and Gas Facilities	0610-AA43
281	Overall Economic Development Program - Progress Report	0610-AA44

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
282	Nonprocurement Debarment and Suspension	0605-AA02

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
283	Uniform Administrative Requirements for Grants and Cooperative Agreements	0605-AA04
284	Nonprocurement Debarment and Suspension and Government Requirements for Drug-Free Workplace (Grants)	0605-AA05

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
285	General Regulations Governing Foreign Trade Zones in the United States, with Rules of Procedures	0625-AA04
286	Antidumping Duties	0625-AA29
287	Allocation of Apparel Tariff-Rate Quota Under the U.S.-Canada Free Trade Agreement	0625-AA30
288	Antidumping Duties; Countervailing Duties	0625-AA32

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
289	Adjustment Assistance for Firms and Industries	0625-AA05
290	Countervailing Duties	0625-AA31
291	Procedures and Rules for Implementing Article 1904 of the United States-Canada Free Trade Agreement	0625-AA33

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Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
292	Defense Priorities and Allocations System (DPAS)	0694-AA02
293	Definition of Supercomputer	0694-AA03
294	General License GFW	0694-AA07
295	Decontrol of Medical Equipment and Goods Containing Controlled Parts and Components	0694-AA09
296	Revision of Foreign Availability Regulations	0694-AA10
297	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
298	General License G-TEMP; Temporary Export	0694-AA12

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
299	Revisions to Short Supply Regulations	0694-AA01
300	Amendment of Validated License Controls on Magnetically Enhanced Sputtering Equipment	0694-AA05
301	Exports from Abroad of Foreign Products Incorporating U.S. Origin Parts and Components	0694-AA06
302	Reexports from CoCom Countries	0694-AA13
303	Shipper's Export Declaration: Removal of Requirement that Separate Declarations Must Be Filed for General License and Validated License Commodities in the Same Shipment	0694-AA14
304	Revisions to the Export Administration Regulations Based on CoCom Review	0694-AA16
305	General License GTDA: Technical Data Available to All Destinations	0694-AA17
306	Revision of General License GIFT	0694-AA26

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
307	Decontrol of Certain Personal Computers	0694-AA04
308	Hong Kong Import Certificate; Replacing Hong Kong Import License as Required Support Document	0694-AA15
309	Removal of "Advice of the Manufacturer" Provision	0694-AA18
310	Export Licenses; Revision to Instructions for Form BXA-622P	0694-AA19
311	General License GATS	0694-AA20
312	General License G-COCOM	0694-AA21
313	Reexports into CoCom Participating Countries	0694-AA22
314	Export Administration Regulations: Technical Corrections	0694-AA23
315	Import Certificate/Delivery Verification Procedure for Australia; Termination of Grace Period	0694-AA24
316	Carbon Thermal Insulating Material ECCN 1734A; Decontrol to Country Groups T and V	0694-AA25

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
317	FIPS for C Programming Language	0693-AA48
318	FIPS for Recorded Formats for One- and Two-Sided 5.25 Inch (130 mm) and 3.5 Inch (90 mm) Flexible Disk Cartridges	0693-AA54
319	FIPS for Recorded Magnetic Tape and Cartridge for Information Interchange; 18 Track, Parallel, 12.65 mm (1/2 in), 1491 cpmm (37871 cpi) Group-Coded Recording	0693-AA55
320	Revisions to FIPS 60, 61, 62, 63, 97, and 111, Computer System Input/Output (I/O) Interface Standards	0693-AA59
321	FIPS for Electronic Business Data Exchange	0693-AA62
322	FIPS for Applications Portability Profile	0693-AA65
323	FIPS for Conformance Testing Policy and Procedures	0693-AA66
324	Revision of FIPS 140, General Security Requirements for Equipment Using the Data Encryption Standard	0693-AA68
325	Revision of FIPS 146, Government Open Systems Interconnection Profile (GOSIP)	0693-AA69
326	FIPS for POSIX System Administration	0693-AA71

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National Institute of Standards & Technology—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
327	FIPS for Digital Cartographic Data	0693-AA73
328	FIPS for Fiber Distributed Data Interface (FDDI)	0693-AA74
329	FIPS for Open Systems Interconnection (OSI) Transport Layer Security Protocol (SP4)	0693-AA75
330	FIPS for IRDS Export/Import File Format	0693-AA76
331	FIPS for IRDS Services Interface	0693-AA77

National Institute of Standards & Technology—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
332	Revision to FIPS 100, Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Networks	0693-AA39
333	Revision of FIPS 151, POSIX: Portable Operating System Interface for Computer Environments	0693-AA49
334	Extensions to FIPS 127, Database Language SQL	0693-AA63
335	FIPS for Document Application Profile (DAP) for the Office Document Architecture (ODA) and Interchange Format Standard	0693-AA67
336	FIPS for POSIX Shell and Tools	0693-AA70
337	FIPS for User Interface Component of the Applications Portability Profile	0693-AA72
338	Revision of FIPS 21-2, COBOL	0693-AA78

National Institute of Standards & Technology—Completed Actions

Sequence Number	Title	Regulation Identifier Number
339	FIPS Pub 156, Information Resource Dictionary System (IRDS)	0693-AA36

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
340	Marine Fishery User Fees	0648-AB87
341	Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AC19
342	Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan	0648-AC43
343	Amendment 3 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AC79
344	Blue Mussel Fishery Management Plan	0648-AC84
345	Amendment 4 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AC88
346	Depletion of the Coastal-Migratory Stock of Bottlenose Dolphins in the U.S. Mid-Atlantic	0648-AD02
347	Federal Consistency with Approved Coastal Zone Management Programs	0648-AA34

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
348	Processed Fishery Products, Processed Products Thereof & Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks & Products Made Therefrom etc.	0648-AA46
349	U.S. General Standards for Grades of Shrimp	0648-AA47
350	Regulations on Striped Bass in Exclusive Economic Zone Off North East Atlantic Coast	0648-AB25
351	Endangered Fish or Wildlife; Permits for the Incidental Taking of Endangered Marine Species	0648-AB47
352	Groundfish of the Gulf of Alaska and High Seas Salmon Fishery Off Alaska; Regulatory Amendment	0648-AB51

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National Oceanic and Atmospheric Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
353	Amendment 1 to the Swordfish FMP	0648-AB92
354	Amendment 3 to the High Seas Salmon Fishery Off the Coast of Alaska East of 175 E. Longitude	0648-AC00
355	Amendment 1 Gulf of Mexico Reef Fish Fishery Management Plan	0648-AC16
356	Amendment 3 to the American Lobster Fishery Management Plan	0648-AC28
357	Amendment 2 to the Spiny Lobster Fishery Management Plan of the Gulf of Mexico and South Atlantic	0648-AC29
358	Reporting Requirements Governing Salmon Taken Off Alaska and Delivered or Landed Outside Alaska	0648-AC39
359	Regulatory Amendment to the Fishery Management Plan for the Atlantic Swordfish Fishery	0648-AC41
360	Policy to Require Observers to be Carried on Domestic Fishing Vessels	0648-AC45
361	Bluefish Fishery Management Plan	0648-AC51
362	Scientific Research - Domestic and Foreign Fishing	0648-AC61
363	Regulation to Control Illegal Fishing in the Exclusive Economic Zone (EEZ) and Overfishing Outside the EEZ	0648-AC66
364	Regulatory Amendment for Interaction Between Summer Flounder Fishery and Endangered Species	0648-AC67
365	Regulatory Amendment to the Groundfish of the Bering Sea/ Aleutian Islands Area and Groundfish of the Gulf of Alaska Fishery Management Plans - Definition of Fishery	0648-AC68
366	Regulations Governing the Taking of Small Numbers of Marine Mammals Incidentally to Oil and Gas Exploration in the Beaufort and Chukchi Seas	0648-AC69
367	Foreign Fishing Poundage and Permit Fees, 1990	0648-AC70
368	Interim Fishing Vessel Capital Construction Fund Procedures	0648-AC71
369	Amendment 18 to the FMP for Groundfish of the Gulf of Alaska and Amendment 13 to the FMP for Groundfish of the Bering Sea/ Aleutian Islands	0648-AC72
370	Resubmitted Part of Amendment 4 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AC75
371	Amendment 5 to the Fishery Management Plan for Coastal Migratory Pelagic Resources	0648-AC77
372	Amendment 19 to the FMP for Groundfish of the Gulf of Alaska and Amendment 14 to the FMP for Groundfish of the Bering Sea and Aleutian Islands	0648-AC80
373	Amendment 1 to the Fishery Management Plan for the Summer Flounder Fishery	0648-AC83
374	Amendment 10 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California Commencing in 1978 (FMP)	0648-AC85
375	Regulatory Amendment to the Fishery Management Plan for the Gulf of Mexico and South Atlantic Spiny Lobster Fishery	0648-AC86
376	Regulatory Amendment to the Fishery Management Plan for Atlantic Billfish	0648-AC87
377	Resubmitted Part of Amendment 3 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AC89
378	Amendment 6 to the Northern Anchovy Fishery Management Plan	0648-AC95
379	Amendment 2 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AC96
380	Regulatory Amendment To Establish a Special Management Zone (SMZ) in Dade County, Florida	0648-AC97
381	Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands: Regulatory Amendment	0648-AC98
382	Amendment 4 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AC99
383	Amendment 3 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AD00
384	Atlantic Bluefin Tuna Fishery	0648-AD01
385	Proposed Regulations for the Key Largo National Marine Sanctuary	0648-AA33
386	Fagatele Bay National Marine Sanctuary	0648-AA74
387	Proposed Regulations for the Looe Key National Marine Sanctuary	0648-AB64
388	Proposed Regulations for the Channel Islands National Marine Sanctuary	0648-AC03
389	Proposed Regulations for the Gulf of the Farallones National Marine Sanctuary	0648-AC05
390	Proposed Regulations for the Monterey Bay National Marine Sanctuary	0648-AC63
391	The Monitor National Marine Sanctuary	0648-AC78
392	Regulations Implementing 1990 Amendments to the Coastal Zone Management Act	0648-AC90
393	Proposed Regulations for the Northern Puget Sound National Marine Sanctuary	0648-AC91
394	Proposed Regulations for the Norfolk Canyon National Marine Sanctuary	0648-AC92
395	Proposed Regulations for the Western Washington Outer Coast National Marine Sanctuary	0648-AC93
396	Proposed Regulations for the Stellwagen Bank National Marine Sanctuary	0648-AC94
397	National Sea Grant Program Funding Regulations	0648-AC54
398	Licensing of Private Remote Sensing Space Systems	0648-AC84

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
399	Fishery Conservation and Management: Confidentiality of Statistics	0648-AA38
400	Regulations Governing the Taking and Importing of Marine Mammals; Importation of Yellowfin Tuna	0648-AB46

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National Oceanic and Atmospheric Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
401	Endangered Fish and Wildlife; Approaching Humpback Whales in Hawaiian Waters	0648-AB79
402	U.S. Standards for Grades of Fish Fillets	0648-AC12
403	Implementation of Conditionally Approved Measures Under Amendment 1 to the Spiny and Slipper Lobster FMP in the Gulf of Mexico and South Atlantic - Permits and Bag Limits	0648-AC25
404	Fish and Seafood Promotion	0648-AC27
405	Atlantic Tuna Fisheries - Regulatory Amendment	0648-AC40
406	Interim Exemption Governing the Incidental Taking of Marine Mammals During Commercial Fishing Operations	0648-AC65
407	Fishermen's Protective Act	0648-AC73
408	Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area	0648-AC81
409	Pacific Coast Groundfish Fishery - Regulatory Amendment to Facilitate Enforcement	0648-AC82
410	Draft Regulations for the Proposed Flower Garden Banks National Marine Sanctuary	0648-AB49
411	Draft Regulations for the Proposed Cordell Bank National Marine Sanctuary	0648-AB50
412	Proposed Regulations for the National Estuarine Reserve Research Program	0648-AB68

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
413	Safety of United States Observers Aboard Foreign Fishing Vessels	0648-AB94
414	Partial Approval of Amendment 3 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AC15
415	Amendment 12 to the FMP for Groundfish of the Bering Sea and Aleutian Islands Area	0648-AC32
416	Fishery Management Plan for King and Tanner Crab in the Bering Sea and Aleutian Islands	0648-AC34
417	Amendment 17 to the FMP for Groundfish of the Gulf of Alaska	0648-AC42
418	Amendment 3 to the Fishery Management Plan for Atlantic Sea Scallops	0648-AC44
419	Amendment 9 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California	0648-AC49
420	Amendment 4 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources	0648-AC55
421	Regulatory Amendment to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico - The Tortugas Sanctuary	0648-AC56
422	Fishery Management Plan for the High Seas Salmon Fishery Off the Coast of Alaska East of 175 East Longitude - Regulatory Amendment	0648-AC57
423	Regulatory Amendment To Clarify Trip Limit Regulations for the Pacific Coast Groundfish and Salmon Fisheries	0648-AC59
424	Guidelines for Fishery Management Plans	0648-AC62
425	Amendment 12a to the Groundfish of the Bering Sea and Aleutian Islands Area FMP - Incidental Catch Limits of Crabs and Halibut	0648-AC74
426	Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AC76
427	Rulemaking to Implement 1985 Reauthorization of the Coastal Zone Management Act (CZMA)	0648-AC02
428	Proposed Regulations for the National Marine Sanctuary Program	0648-AC53

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
429	Foreign Filing License Requirements	0651-AA09
430	Miscellaneous Changes in Patent Practice	0651-AA34

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
431	Variety Denomination Requirements for Plant Patent Applications	0651-AA12
432	Duty of Disclosure - Information Disclosure Statement	0651-AA27

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Patent and Trademark Office—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
433	Requirements for Patent Applications Containing DNA/RNA and Protein Sequence Disclosures	0651-AA37
434	Patent and Trademark Automated Search System Fees	0651-AA40

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
435	Deposit of Biological Materials for Patent Purposes	0651-AA13
436	Requests for Reconsideration in Patent and Trademark Office Disciplinary Proceedings	0651-AA33
437	Amendments of Patent and Trademark Rules Concerning Judicial Review of Decisions	0651-AA35
438	Amendments of Trademark Rules Governing Inter Partes Proceedings; Miscellaneous Amendments of Other Trademark Rules	0651-AA36
439	Amendments of the Trademark Rules to Implement the Trademark Law Revision Act and the "Crocker" Decision and Miscellaneous Trademark Rule Amendments	0651-AA38
440	Exhaustion of Administrative Remedies in Patent and Trademark Office Disciplinary Proceedings	0651-AA41
441	Patent Term Extension for Animal Drug Products	0651-AA42

Technology Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
442	Administration of a Uniform Patent Policy with Respect to Domestic Rights in Inventions Made by Government Employees	0692-AA05

Technology Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
443	Licensing of Government-Owned Inventions	0692-AA04
444	Metric Conversion Policy for Federal Agencies	0692-AA07

United States Travel and Tourism Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
445	Travel Promotion Fee	0644-AA00

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DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Proposed Rule Stage

258. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce is currently reviewing standardized contract clauses and solicitation provisions for inclusion in a planned Departmentwide automated solicitation system. A proposed amendment to the Commerce Acquisition Regulation (CAR) would illustrate and incorporate these standardized clauses and provisions. This should ultimately be less burdensome to Department contractors and potential contractors, since the clauses and provisions would be used uniformly throughout the Department.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joyce A. Cavallini, Director of Procurement Management, Department of Commerce, Office of the Secretary, Office of Procurement and Administrative Ser, 14th Street & Constitution Avenue, NW, Washington, DC 20230, 202 377-5750

RIN: 0690-AA08

259. SOURCE EVALUATION PROCEDURES AND MISCELLANEOUS REVISIONS TO THE COMMERCE ACQUISITION REGULATION

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce has no formal uniform source evaluation procedures applicable to its procurement activities. Standardization of source evaluation procedures will alleviate potential inconsistencies among procurement professionals as well as potential Department contractors relative to evaluation of proposals.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joyce A. Cavallini, Director of Procurement Management, Department of Commerce, Office of the Secretary, Office of Procurement and Administrative Ser, 14th Street and Constitution Ave., NW, Washington, DC 20230, 202 377-5750

RIN: 0690-AA13

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Final Rule Stage

260. PROGRAM FRAUD CIVIL REMEDIES

Legal Authority: 31 USC 3809

CFR Citation: 15 CFR 25

Legal Deadline: None

Abstract: This rule, if promulgated, would implement the Program Fraud Civil Remedies Act of 1986 which authorizes the Department of Commerce (and certain other Federal agencies) to impose through administrative adjudication civil penalties and assessments against persons making false claims or statements to it.

Timetable:

Action	Date	FR Cite
NPRM	07/06/89	54 FR 28430
NPRM Comment Period End	08/07/89	54 FR 28430
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Walz, Chief, Contract Law Division, Room 5893, Department of Commerce, Office of the Secretary, Washington, DC 20230, 202 377-1122

RIN: 0690-AA14

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Proposed Rule Stage

261. BENCHMARK SURVEY OF U.S. DIRECT INVESTMENT ABROAD - 1989

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will replace the existing rule 15 CFR 806.16 with a new rule to provide for the conduct of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad--1989, as required by the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially Sec. 4(b) of the Act). The existing rule covers a similar survey for 1982, which has been completed and which the 1989 survey will update.

DOC—BEA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 1008, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA15

262. ● INCREASE IN EXEMPTION LEVEL OF THE BE-11, ANNUAL SURVEY OF U.S. DIRECT INVESTMENT ABROAD

Legal Authority: 22 USC 3101 to 3108; Int'l Investment & Trade in Svcs. Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will raise the overall exemption level for the BE-11 Annual Survey of U.S. Direct Investment Abroad, and for reporting individual foreign affiliates on Forms BE-11B and BE-11C in that survey, from $10 million to $15 million. The purpose of the action is to bring the exemption level into conformance with that for Form BE-10B(LF) for reporting foreign affiliates in the Benchmark Survey of U.S. Direct Investment Abroad--1989. In addition, the action will require filing, in one or more annual surveys between benchmark surveys, Form BE-11C for nonbank foreign affiliates owned at least 10 percent, but less than 20 percent, by the U.S. reporter and for which total assets, sales, or net income exceeds $100 million. Some reporting between benchmark surveys by large, 10-20 percent-owned foreign affiliates is needed to support reliable estimates for the universe of all foreign affiliates.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
NPRM Comment Period End	10/00/90	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW., Room 1008, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA16

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Completed Actions

263. CHANGE IN REPORTING REQUIREMENTS OF THE BE-15, ANNUAL SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action institutes a short form in the BE-15, Annual Survey of Foreign Direct Investment in the United States, for reporting by U.S. affiliates with assets, sales, or net income greater than the $10 million exemption level but with no one of the three items greater than $20 million. In its notice of proposed rulemaking of September 20, 1988, BEA proposed raising the BE-15 exemption level from $10 to $20 million. After careful consideration of public comments received, however, BEA decided to leave the exemption level at $10 million to maintain the quality of the data in those few country, industry, and State cells in which small investments account for a significant share of the total. The short form is instituted in an effort to keep the reporting burden to a minimum.

Timetable:

Action	Date	FR Cite
NPRM	09/20/88	53 FR 36468
NPRM Comment Period End	11/21/88	
Final Action	01/13/89	54 FR 1351
Final Action Effective	02/13/89	54 FR 1351

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA14

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Proposed Rule Stage

264. FOREIGN TRADE STATISTICS REGULATIONS

Significance: Regulatory Program

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.92

Legal Deadline: None

Abstract: Review of 15 CFR 30 for changes to conform with the new statistical classification (harmonized) system for imports and exports. This review will combine elements of housekeeping changes, updating obsolete information, clarification, bringing the system into line with harmonization (including metric measurements) and conformance of reporting with current practices. There should be no added burden or cost placed on the public because no

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additional information is required, nor new reporting requirements.

The benefits of these changes will be: allowing direct comparisons between U.S. imports and exports, enabling comparisons between trade balances of the United States and of our major trading partners.

With the passage of the Omnibus Trade and Competitiveness Act of 1988 there is no alternative to making these changes in order to conform to the legislation.

Additionally, Section 30.24 will be revised to be consistent with Customs Regulations by eliminating the "four-day rule" regarding submission of "Shipper Export Declarations."

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Interim Final Rule	04/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: All

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607–AA10

265. ● FOREIGN TRADE STATISTICS REGULATIONS (FTSR)

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.58

Legal Deadline: None

Abstract: We propose to amend the Foreign Trade Statistics Regulations (FTSR) to raise the present exemption for filing Shipper's Export Declarations (SEDs) (except for shipments requiring a validated export license) from $1500 to $2500. The exemption for shipments through the U.S. Postal Service will remain at $500. Raising the value exemption for filing SEDs to $2500 will relieve the burden of documentation. The benefits accruing to both the public and the Census Bureau by the reduction in the number of SEDs required to be filed and processed outweigh the anticipated loss in statistical detail.

We propose also to amend the FTSR to eliminate the requirements for SEDs for direct exports (except for shipments requiring a validated export license) where the country of ultimate destination is Canada. This change will cause a significant reduction in paperwork and costs to U.S. exporters Federal Government. The Assistant Commissioner for Commercial for Commercial Operations, U.S. Customs Service, concurs with this proposal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: All

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Foreign Trade Division, Washington, DC 20233, 301 763-5342

RIN: 0607–AA12

DEPARTMENT OF COMMERCE (DOC)

Economic Development Administration (EDA)

Final Rule Stage

266. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE – DESIGN, CONSTRUCTION OF BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Legal Authority: 42 USC 4151 to 4150; 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.14

Legal Deadline: None

Abstract: Existing regulations will be amended if necessary to reflect the most recent (1980) standards of the American National Standards Institute (ANSI) for handicap accessibility as well as the "Minimum Guidelines and Requirements for Accessible Design" published by the Architectural and Transportation Barriers Compliance Board (47 FR 33862, August 14, 1982) and the proposed "Uniform Federal Accessibility Standards" published by GSA (comments due by August 22, 1983).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610–AA05

267. ECONOMIC DEVELOPMENT ADMINISTRATION: PROPERTY MANAGEMENT STANDARDS

Legal Authority: 40 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA's regulations regarding the use and disposition of real property acquired or improved with Federal funds are being revised to clarify EDA policy regarding the authorized use and disposition of grant property (real property) and in particular requirements regarding the lease and/or sale of such property. As revised the change will clarify present requirements for property determining the appropriate amount of compensation due the Federal Government upon the sale of real property acquired or improved with grant funds.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

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Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610–AA07

268. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE: EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: This rule amends EDA's general requirements regulation – employment of expediters or administrative employees – concerning EDA positions involving discretion, to conform to the reorganization of EDA pursuant to Department of Commerce Organization Order 45-1. Old positions which are no longer in existence are deleted. New comparable positions are listed in the amended regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	12/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. & Const. Ave., NW, Washington, DC 20230, 202 377-5441

RIN: 0610–AA18

269. OVERALL ECONOMIC DEVELOPMENT PROGRAM PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 302; 13 CFR 304; 13 CFR 305

Legal Deadline: None

Abstract: This rule amends EDA's rules by updating provisions concerning Public Works Impact Areas and Special Impact Areas, specifically as to Designation Requirements; Overall Economic Development Program Requirements; and Supplementary Grant Rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/86	51 FR 24512
Final Action	01/00/90	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610–AA19

270. SALE OF LOANS AND LOAN GUARANTEES TO THE PRIVATE SECTOR

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None

Abstract: EDA seeks to repeal the limitation in the Commerce Appropriation Act ("McDade Amendment") whereby funds cannot be used to sell any loan to private interests, except with the consent of the borrower.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA31

271. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE – NONRELOCATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.3

Legal Deadline: None

Abstract: This rule will amend EDA's nonrelocation rule by changing the rate of interest to be charged when failure to abide by the nonrelocation rule results in termination of financial assistance provided by EDA. Interest will be at the rate used in Federal debt collection and discount evaluation under the Debt Collection Act. The rule will also state that the 48-month period for compliance by covered grantees is retroactive if the violation occurs after September 15, 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/87	52 FR 21932
Final Action	02/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610–AA32

272. PROTECTION OF EDA'S INTEREST IN FACILITIES ACQUIRED, BUILT, OR IMPROVED WITH EDA GRANT FUNDS

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

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Legal Deadline: None

Abstract: EDA intends to initiate regulatory action to protect its interests by enabling EDA to expend funds to care for property acquired by virtue of its lien interest in property purchased or improved with EDA grant funds, including liquidation, litigation, or any other necessary action. The proposed regulatory action is contingent upon legislation being enacted which authorizes EDA to expend funds and take other actions to protect its ownership rights in property purchased or improved with EDA grant funds.

Timetable:

Action	Date	FR Cite
Final Action	04/00/90	
Final Action Effective	04/00/90	
Proposed Legislation	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA35

273. LIABILITY FOR HAZARDOUS SUBSTANCES ASSOCIATED WITH EDA LOANS AND LOAN GUARANTEES

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None

Abstract: EDA will undertake some action to enable it to minimize financial losses resulting from hazardous substances on property it has acquired as a result of defaulted business loans and loan guarantees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA36

274. ADJUSTMENT GRANTS – REVOLVING LOAN FUNDS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 308

Legal Deadline: None

Abstract: This would amend EDA's rule on adjustment grants to provide that revolving loan fund (RLF) grants are held in trust by the grantee as trustee for the benefit of borrowers and potential borrowers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/88	53 FR 12510
Final Action	12/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA37

275. ECONOMIC DEVELOPMENT DISTRICTS, DISTRICT ORGANIZATION; CIVIL RIGHTS REQUIREMENTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 303; 13 CFR 311

Legal Deadline: None

Abstract: At the request of the Department of Justice, the Economic Development Administration (EDA) is revising our Civil Rights Regulations at 13 CFR 303 and 311. The specific changes involve minority representation on District Boards funded by EDA and Affirmative Action requirements, as well as a few minor changes in terminology.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/90	
Final Action	03/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert Hoover Bldg., 14th St. Between Penn. and Const. Aves., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA38

276. AREA DESIGNATION - SPECIAL IMPACT AREAS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None

Abstract: EDA is deleting its 12-month annual average unemployment rate based upon the calendar year, for Special Impact Area (SIA) designation. Under the current calendar year qualifier, it would be possible that an area's qualifying calendar 1987 average rate could be used in support of its SIA designation as late as February 1989 regardless of a subsequently available, non-qualifying 12-month (non-calendar) rate. This could happen since 1988 calendar year average rates for areas will not be computed by state employment security agencies until February 1989, and EDA will not receive such data until March 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/14/88	53 FR 50206
Final Action	01/00/90	
Final Action Effective	01/00/90	

Small Entities Affected: None

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Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Aves., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA39

277. PUBLIC WORKS - INDUSTRIAL PARKS AND SITES

Legal Authority: 42 USC 3211; Department of Commerce - Organization Order 10-4, as amended

CFR Citation: 13 CFR 305

Legal Deadline: None

Abstract: The requirement for a property value agreement from the owner of a private industrial park or site will be less restrictive, so that such an agreement will only be required where there is an apparent or actual incidence of the private owner's failure to deal at arm's length, or if the Assistant Secretary chooses for any other reason to impose the requirements for such an agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/90	
Final Action	04/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Aves., NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA40

278. ● DIRECT AND SUPPLEMENTARY GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES - SUPPLEMENTARY GRANT RATES

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 301.2; 13 CFR 305.5

Legal Deadline: None

Abstract: EDA will amend its supplementary grant rate regulations at 13 CFR 301.2 and 305.5 by changing the citation from "The Disaster Relief Act of 1974 (Pub. L. 93-288)" to "The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 100-707)." The Stafford Act amends and recodifies the Disaster Relief Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	
Final Action	01/00/90	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA41

279. ● PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAMS - GRANT DISBURSEMENTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 305.89

Legal Deadline: None

Abstract: EDA will amend its rule on disbursements under grants at 13 CFR 305.89 to change the title to refer only to grants, since public works loans are no longer made; and at 305.89(b) to omit any reference to increasing the maximum amount allowable, since EDA's grant rate/amount maximum as stated in the grant award cannot subsequently be increased after the project has been completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	
Final Action	02/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA42

280. ● GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - ELECTRIC AND GAS FACILITIES

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.4

Legal Deadline: None

Abstract: EDA will amend its rule on financing gas or electrical facilities to omit references to primary or secondary functions, to be consistent with PWEDA (42 USC 3214(e)).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	
Final Action	02/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA43

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DOC—EDA — **Final Rule Stage**

281. ● OVERALL ECONOMIC DEVELOPMENT PROGRAM - PROGRESS REPORT

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 304.8

Legal Deadline: None

Abstract: EDA will amend its reporting requirements for Overall Economic Development Program (OEDP) periodic revisions to coincide with the previous project's final report, and the time of submission of the next grant period work program and application. This change applies to EDA's planning grant recipients.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	
Final Action	01/00/90	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610–AA44

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN) — **Proposed Rule Stage**

282. NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: EO 12549, Debarment and Suspension

CFR Citation: 15 CFR 26

Legal Deadline: None

Abstract: The proposed amendment to the existing rule will identify Department of Commerce programs which are exempted from coverage by the rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605–AA02

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN) — **Final Rule Stage**

283. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 24

Legal Deadline: None

Abstract: This action states the administrative requirements governing grants to governments and nongovernmental entities. It is intended to simplify and standardize the Federal grant process and eliminate redundant and inconsistent administrative requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert M. McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, Office of Administration, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605–AA04

284. NONPROCUREMENT DEBARMENT AND SUSPENSION AND GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: EO 12549; PL 100-690, Sec 5151 to 5160, Drug-Free Workplace Act of 1988

CFR Citation: 15 CFR 28

Legal Deadline: Final, Statutory, February 16, 1989.

Abstract: This interim final rule requires grantees of Federal agencies to certify that they will provide drug-free workplaces and imposes sanctions on those who fail to comply with provisions of the rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 04947
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, 14th & Constitution Avenue, Washington, DC 20230, 202 377-5817

RIN: 0605–AA05

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA) — **Proposed Rule Stage**

285. GENERAL REGULATIONS GOVERNING FOREIGN TRADE ZONES IN THE UNITED STATES, WITH RULES OF PROCEDURES

Legal Authority: 19 USC 81a et seq Foreign-Trade Zones Act of 1934

CFR Citation: 15 CFR 400

Legal Deadline: None

Abstract: Revision of the regulation is needed to administer the Foreign-Trade Zones Act of 1934, as amended, to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States. At the time the ANPRM was published the emphasis was on changing the rules to provide improved guidance to the public on procedures and criteria followed in making decisions concerning special-purpose subzones and operations detrimental to the public interest. Since that time, it has been decided to propose revisions to the entire 15 CFR 400 in order to update the language and conform it to current CFR format.

Timetable:

Action	Date	FR Cite
ANPRM	10/14/80	45 FR 67661
ANPRM Comment Period End	12/15/80	
NPRM	02/16/83	48 FR 7151
NPRM Comment Period End	04/19/83	48 FR 7188

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, Pennsylvania Ave. and 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA04

286. ANTIDUMPING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1673 et seq

CFR Citation: 19 CFR 353

Legal Deadline: None

Abstract: Revisions will codify existing administrative practice with respect to the identification and measurement of dumping. Revisions also will account for statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and make the antidumping law more accessible to the public.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/89	54 FR 05092
ANPRM Comment Period End	03/20/89	
NPRM	10/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA29

287. ALLOCATION OF APPAREL TARIFF-RATE QUOTA UNDER THE U.S.-CANADA FREE TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: PL 100-449, Section 202(g); U.S.-Canada Free Trade Agreement Implementation Act of 1988

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The U.S.-Canada FTA reduces tariffs on textile and apparel products considered to be of U.S. or Canadian origin under the "rules of origin" established by the Agreement. Generally, apparel made in the U.S. or Canada from fabric sourced in a third country will not be considered to be of U.S. or Canadian origin for FTA purposes. Goods which do not qualify for the FTA rate will be subject to the regular most-favored-nation (MFN) rate. However, the FTA also establishes an annual tariff-rate quota (TRQ) under which a limited quantity of apparel products that do not meet the FTA's rules of origin will still be entitled to the FTA duty. As Canadian tariffs on U.S. apparel exports decline, U.S. apparel firms should have a growing incentive to export to Canada, but will need some predictability as to which duty their goods will be subject to. Unless the Department implements an allocation system, we may find that U.S. firms will either face the chaos of an annual rush to the border to ensure their share of the TRQ or will ignore a lucrative export market to avoid the uncertainties of the TRQ.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	
NPRM Comment Period End	12/31/89	
Final Action	06/30/90	
Final Action Effective	01/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ronald I. Levin, Director, Office of Textiles and Apparel, Department of Commerce, International Trade Administration, Room 3100, U.S. Department of Commerce, Washington, DC 20230, 202 377-5078

RIN: 0625–AA30

288. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq

CFR Citation: 19 CFR 300 to 399

Legal Deadline: None

Abstract: Revisions to the current antidumping duty and countervailing duty regulations are needed on an expedited basis in order to conform those regulations to certain statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. Those amendments deal with (1) downstream product monitoring; (2) consultations with the International Trade Commission on certain scope rulings; (3) procedures for administrative protective orders; (4) correction of ministerial errors; and (5) effective dates. The revisions will enable the Department to apply the new statutory provisions in an orderly and efficient basis.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

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DOC—ITA

Proposed Rule Stage

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA32

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

289. ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES

Legal Authority: 19 USC 2341 et seq

CFR Citation: 15 CFR 320

Legal Deadline: None

Abstract: This regulation will implement the responsibilities transferred from EDA to ITA concerning the provision of adjustment assistance to firms and industries adversely affected by imports. The proposed rule will reflect amendments to the authorizing legislation and make procedural changes required because of the transfer of the program to ITA. Proposed rules were published in the Federal Register (November 1984).

Timetable:

Action	Date	FR Cite
NPRM	11/13/84	49 FR 44903
NPRM Comment Period End	12/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Additional Information: Further action on this regulation is under study by the Department.

Agency Contact: Michael W. Rubinoff, Deputy Assistant Secretary, Department of Commerce, International Trade Administration, Office of Trade Adjustment Assistance, Washington, DC 20230, 202 377-0150

RIN: 0625–AA05

290. COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 355

Legal Deadline: None

Abstract: Current countervailing duty regulations will be revised to codify existing administrative practice with respect to the identification and measurement of subsidies. Revisions also will take into account statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and will make the countervailing duty law more accessible to the public.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23366
NPRM Comment Period End	07/31/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Council for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA31

291. PROCEDURES AND RULES FOR IMPLEMENTING ARTICLE 1904 OF THE UNITED STATES-CANADA FREE TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: 19 USC 1516a; 19 USC 1677f(d); PL 100-449, Title IV

CFR Citation: 19 CFR 356

Legal Deadline: None

Abstract: Chapter 19 of the U.S.-Canada Free Trade Agreement established a system under which final antidumping and countervailing duty determinations of both the United States and Canada are subject to review by independent binational panels. The legislation implementing the Agreement authorized the Department to issue regulations necessary to implement Chapter 19. Regulations are necessary to establish procedures concerning notice of intent to seek judicial review, requests for panel review, notice of receipt by Canada of class or kind determinations, continued suspension of liquidation pending panel review, release of business proprietary and privileged information under protective order during a panel review, and sanctions for violations of such protective orders. The interim rule became effective January 1, 1989, the date the Agreement entered into force.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53232
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-1411

RIN: 0625–AA33

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Proposed Rule Stage

292. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Legal Authority: 50 USC 2061 et seq; EO 10480

CFR Citation: 15 CFR 350

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of Title I of the Defense Production Act of 1950, as amended. The DPAS was published as a final rule on July 30, 1984. Based on the findings and recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, and would result in cost savings for defense contractors.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Office of Industrial Resources Admin., National Security Preparedness Div., Room 3878, Washington, DC 20230, 202 377-3634

RIN: 0694–AA02

293. ● DEFINITION OF SUPERCOMPUTER

Legal Authority: 50 USC app 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; EO 12525

CFR Citation: 15 CFR 776

Legal Deadline: NPRM, Statutory, November 21, 1989.

Abstract: This proposed rule amends the EAR to provide a definition for the term "supercomputer." Section 5(a)(6) of the Export Administration Act, as amended by the 1988 Trade Act, requires that a definition be included in the EAR. An earlier proposed rule on this subject was published in the Federal Register on 12/5/88. Due to the variety of comments received on the definition, BXA developed a revised definition and is reissuing the rule in proposed form with request for comments. The revised definition contains two significant features. First, a supercomputer is defined as any computer having a theoretical peak performance capability equal to or greater than 100 MFLOPS (million floating point operations per second). Second, the revised definition establishes two threshold levels - 150 MFLOPS and 200 MFLOPS - for the imposition of security safeguards. The level to be applied will depend on the country of destination (e.g., CoCom/5(k) countries).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA03

294. ● GENERAL LICENSE GFW

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; EO 12525; EO 12532

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: Section 5(b)(3)(A) of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) requires the removal of all Administrative Exception (AEN) level national security based licensing requirements on all exports to Free World countries. However, there are nuclear, missile technology, and foreign policy concerns involved with the implementation of these revisions, making it necessary to exclude specific items and countries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA07

295. ● DECONTROL OF MEDICAL EQUIPMENT AND GOODS CONTAINING CONTROLLED PARTS AND COMPONENTS

Significance: Regulatory Program

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 100-418; PL 99-64; EO 12525

CFR Citation: 15 CFR 776

Legal Deadline: None

Abstract: Section 5(c)(5)(A)(ii) of the OTCA requires the decontrol of medical equipment consistent with section 5(m) of the Export Administration Act (EAA). Section 5(m) was amended by the OTCA to prohibit national security controls under the EAA or any other law on goods solely because they contain controlled parts and components. This regulation will implement this provision of the OTCA. The Bureau of Export Administration is currently preparing a draft of this regulation that will encompass the congressional intent, while protecting our national security interests, and abiding by our CoCom agreements.

Timetable:

Action	Date	FR Cite
NPRM	10/10/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl Opacinch, Director, Regulations Branch, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4150

RIN: 0694–AA09

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296. ● REVISION OF FOREIGN AVAILABILITY REGULATIONS

Significance: Regulatory Program

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 791

Legal Deadline: None

Abstract: Part 791 of the Export Administration Regulations (EAR) establishes the procedures and criteria for initiating and reviewing claims of foreign availability on items controlled for national security purposes. With this notice the Department is proposing to revise Part 791 of the EAR. The revision of the foreign availability regulations is necessary because of legislative changes to the program by the "Trade Act" of 1988, and OFA's own experiences with the program. It is expected that this revision will improve the Foreign Availability process and the effectiveness of the program thereby enhancing national security and improving U.S. competitiveness.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan Roberts, Director of Special Projects, Department of Commerce, Bureau of Export Administration, Office of Foreign Availability, Room SB-701, Washington, DC 20230, 202 377-8074

RIN: 0694–AA10

297. ● REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 97-145; PL 99-64; PL 100-418; EO 12525

CFR Citation: 15 CFR 769

Legal Deadline: None

Abstract: The Department proposes to revise the foreign boycott provisions of the Export Administration Regulations. The revisions would clarify the application of: (1) the intent provision to the reporting requirement; (2) the jurisdictional requirements relating to the implementation of letters of credit; (3) the furnishing information prohibitions to information about the nationality of directors and about blacklisted persons; (4) the shipping requirement exception to refusals to use blacklisted vessels; and (5) the import and shipping document exception to information about the nationality of carriers and residence of manufacturers or suppliers. The revisions are intended to clarify areas of confusion. In addition, the proposal would remove many references and provisions dealing with effective dates and grace periods that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon Paugh, Director, Compliance Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 377-4550

RIN: 0694–AA11

298. ● GENERAL LICENSE G-TEMP; TEMPORARY EXPORT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571; EO 12543

CFR Citation: 15 CFR 771; 15 CFR 772; 15 CFR 773; 15 CFR 774; 15 CFR 786; 15 CFR 790; 15 CFR 799

Legal Deadline: None

Abstract: General License GTE authorizes temporary exports for certain purposes such as exhibition, demonstration, inspection and testing, and requires prompt return to the country of export. This proposed rule would redesignate that license as General License G-TEMP and amend it by removing the registration requirement and by establishing guidelines for the use of the general license. One effect of removing the registration requirement would be that parties abroad who were not eligible to register under the former General License GTE would be able to use G-TEMP as authorization for a permissive reexport in accordance with the appropriate provisions of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, OTPA, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA12

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

299. REVISIONS TO SHORT SUPPLY REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 99-64; 42 USC app 2401 et seq; 10 USC 7420 et seq; 43 USC 1354; 30 USC 185; EO 11912; EO 12214; EO 12002; PL 100-418; EO effective December 28, 1988

CFR Citation: 15 CFR 771; 15 CFR 777; 15 CFR 799

Legal Deadline: None

Abstract: On July 12, 1985, the Export Administration Amendments Act of 1985 (PL 99-64) extended and amended the Export Administration Act of 1979 (50 USC app 2401, et seq.)(EAA).

Certain changes were made to the Short Supply provisions of Section 7 of the EAA. Accordingly, revision of the Short Supply provisions (15 CFR 377) and related licensing requirements (15 CFR 371 and 399) of the Export Administration Regulations (15 CFR 368-399) is necessary. An interim final rule was issued which included (1)

elimination of the validated licensing requirement for exports of refined petroleum products so as to permit their export with certain restrictions under a general license; (2) a new definition of "crude oil" for purposes of the regulation; and (3) certain technical and housekeeping changes. There are no costs associated with this action which would promote the export of decontrolled products. The Export Administration was made a Bureau in October 1987. The Export Administration Regulations were thereby transferred from 15 CFR 368-399 to 15 CFR 768-799. Furthermore, the Export Administration Act of 1979 was amended on August 23, 1988 by the Omnibus Trade and Competitiveness (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/85	50 FR 41131
Final Action	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Act of 1988 (P.L. 100-418, 102 Stat. 1107). Section 2424 of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) amends section 7 of the EAA but will not require regulatory measures.

Agency Contact: Cheryl Opacinch, Director, Regulations Branch, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4531

RIN: 0694–AA01

300. ● AMENDMENT OF VALIDATED LICENSE CONTROLS ON MAGNETICALLY ENHANCED SPUTTERING EQUIPMENT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 100-418; PL 99-64; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: On June 24, 1987 the President issued a national security override for a finding of foreign availability for certain types of sputtering equipment controlled under ECCN 1355A of the Commodity Control List. As a result of this override, export controls on the equipment were maintained pending the conclusion of negotiations with the source country to eliminate the foreign availability. The statutorily authorized 18-month negotiating period expired on December 24, 1988, with the source country agreeing to eliminate foreign availability for sputtering equipment until May 31, 1990. The source country has since agreed to eliminate foreign availability for certain types of sputtering equipment for an additional period. This rule amends ECCN 1355A by decontrolling to free world destinations that sputtering equipment that the source country has not agreed to control, and by maintaining controls on that equipment for which foreign availability has been eliminated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/89	54 FR 24168
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Pastore, Department of Commerce, Bureau of Export Administration, Office of Foreign Availability, Room SB701, Washington, DC 20230, 202 377-5953

RIN: 0694–AA05

301. ● EXPORTS FROM ABROAD OF FOREIGN PRODUCTS INCORPORATING U.S. ORIGIN PARTS AND COMPONENTS

Significance: Regulatory Program

Legal Authority: 50 USC app 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; EO 12525

CFR Citation: 15 CFR 776

Legal Deadline: None

Abstract: In accordance with section 5(a) (A) of the EAA, as amended by the 1988 Trade Act, this rule revises section 776.12 of the EAR to reduce export and reexport controls on U.S.-origin parts and components incorporated in foreign-made products. Under section 776.12 prior authorization is not required when U.S.-origin content comprises 25 percent or less and the foreign-made product is exported to a country listed in Supplements 2 and 3 to Part 773, i.e., countries cooperating in nuclear non-proliferation policy. This interim rule revises section 776.12 to apply the 25 percent exemption to all destinations, except the embargoed countries. The 10 percent exemption, but not the dollar value limitation, is continued for these proscribed destinations. The rule also exempts from control foreign-made products incorporating U.S.-origin content consisting of low level technology specifically designated on the Commodity Control list.

Timetable:

Action	Date	FR Cite
NPRM	12/07/88	53 FR 49327
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-3440

RIN: 0694–AA06

302. ● REEXPORTS FROM COCOM COUNTRIES

Legal Authority: 50 USC app. 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 774

Legal Deadline: None

Abstract: Section 774.3(e) of the Export Administration Regulations provides that "separate specific reexport authorization by the Office of Export Licensing is not required" for reexports of U.S.-origin goods from CoCom countries to the Soviet Bloc if certain conditions are met. One of these conditions is that the "reexport receive unanimous approval from CoCom." Section 774.3(e) allows reexports of General-Exception level U.S. commodities from CoCom countries to the Soviet Bloc without a separate U.S. reexport authorization because the U.S. has an opportunity to review (and object to) these transactions in CoCom. Reexports of U.S. goods eligible for Administrative Exception treatment require a separate U.S. reexport authorization because the U.S. does not have an opportunity to review these cases in CoCom. Consistent with streamlining this regulation the agency

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may propose a regulation that will eliminate reexport authorization requirements for Administrative-Exception-Level U.S. commodities from CoCom countries to Q, W, Y countries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl Opacinch, Director, Regulations Branch, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4159

RIN: 0694–AA13

303. ● SHIPPER'S EXPORT DECLARATION: REMOVAL OF REQUIREMENT THAT SEPARATE DECLARATIONS MUST BE FILED FOR GENERAL LICENSE AND VALIDATED LICENSE COMMODITIES IN THE SAME SHIPMENT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 786

Legal Deadline: None

Abstract: Section 786.3(h) of the Export Administration Regulations contains certain requirements for listing commodities on the Shipper's Export Declaration (SED). Previously, section 786.3(h)(1) contained a general prohibition against combining general license commodities with validated license commodities on the same SED. This interim rule will amend section 786.3(h) to permit general license commodities and validated license commodities to be listed on the SED. The rule also will revise section 786.3(h) to clarify that the commodities that may be listed on the same SED must be included in one shipment on board a single carrier and must be from the same exporter to the same consignee.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA14

304. ● REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS BASED ON COCOM REVIEW

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 773; 15 CFR 799

Legal Deadline: None

Abstract: The Bureau of Export Administration maintains the Commodity Control List (CCL) which identifies those items subject to Department of Commerce export controls. This rule amends a number of List entries in the categories of general industrial equipment and electronics and precision instruments. Amendments to the multilaterally controlled entries on the CCL (specifically, those Export Control Commodity Numbers (ECCNs) that end with "A") have resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (CoCom). Such multilateral controls restrict the availability of strategic items to controlled countries. With the concurrence of the Department of Defense, the Department of Commerce has determined that these revisions to the CCL are necessary to protect U.S. national security interests. In addition, this rule amends a listing (in Supplement No. 1 to Part 773 of the Export Administration Regulations) of commodities excluded from special export licensing procedures. These amendments reflect commodity decontrols based on previous reviews of (cont)

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: strategic controls maintained by CoCom.

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA16

305. ● GENERAL LICENSE GTDA: TECHNICAL DATA AVAILABLE TO ALL DESTINATIONS

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 779

Legal Deadline: None

Abstract: On Friday, May 16, 1986, a notice of proposed rulemaking was published in the Federal Register (51 FR 17986). It sought to provide clarified guidelines for the use of Export Administration Regulation section 779.3, General License GTDA, and invited comments from the public. This final rule will include some of the suggestions made in the public comments on that proposed rule, that generally recognized that the guidelines clarified certain ambiguities in the regulations, and yet will conform with existing Commerce Department interpretations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Seevaratnum, Industrial Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 377-5695

RIN: 0694–AA17

306. ● REVISION OF GENERAL LICENSE GIFT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-145; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: The Bureau of Export Administration is revising section 771.18 of the Export Administration Regulations (15 CFR Parts Section 768-799), which contains provisions on the applicability of General License GIFT

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for exports from the United States. General License GIFT authorizes export of parcels from U.S. individuals or charitable organizations overseas. General License GIFT is modified to allow no more than one gift parcel from the same donor to the same donee in any one month. Currently, one parcel may be shipped each week. This change is intended to assure that the license is utilized in conformity with its intended purpose, namely the donative provision of gifts between individuals. Specific authorization to exceed this limit may be granted on a case-by-case basis to meet compelling humanitarian concerns (e.g., gifts of medicine to relatives). The Bureau of Export Administration will grant case-by-case exemptions through issuance of a validated license. For clarity, new text is added on appropriateness of items as gifts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/89	54 FR 19683

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA26

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

307. ● DECONTROL OF CERTAIN PERSONAL COMPUTERS

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: The interim rule removed the validated license requirement for exports of certain personal computers to Free World destinations, for reasons of foreign availability. The subject computers required a validated license to all destinations under ECCN 1565A of the Commodity Control List. The D.A.S. for Export Administration's determination that foreign availability exists for the subject computers was published concurrently with the rule at 54 FR 30103. The final rule removed national security-based validated licensing requirements on exports of certain personal computers to all destinations and supersedes the interim rule published July 18, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/89	54 FR 30011
Final Action	08/15/89	54 FR 33662
Final Action Effective	08/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raj Dheer, Department of Commerce, Bureau of Export Administration, Computer Systems Technical Center, Office of Technology and Policy Analysis, Washington, DC 20230, 202 377-2279

RIN: 0694–AA04

308. ● HONG KONG IMPORT CERTIFICATE; REPLACING HONG KONG IMPORT LICENSE AS REQUIRED SUPPORT DOCUMENT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 99-64; PL 100-418; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 775; 15 CFR 773

Legal Deadline: None

Abstract: Section 775.3 of the Export Administration Regulations (EAR) currently requires that applicants obtain the official duplicate copy of Form 3, Hong Kong Import License, in support of an individual validated license application (Form BXA-622P) for the export to Hong Kong of commodities identified by the code letter "A" following the Export Control Commodity Number. This final rule changes that requirement by instructing exporters to obtain the Hong Kong Import Certificate instead of the Hong Kong Import License. This rule also changes the name and address of the Hong Kong authorities responsible for administering the Hong Kong Import Certificate/Delivery Verification procedure.

Consistent with the grace period provided in section 775.9(b)(2) of the EAR, applicants for export licenses to Hong Kong may continue to use the Hong Kong Import License in support of their applications through July 27, 1989. (54 FR 24888)

Timetable:

Action	Date	FR Cite
Final Action	06/12/89	54 FR 24888
Final Action Effective	06/12/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA15

309. ● REMOVAL OF "ADVICE OF THE MANUFACTURER" PROVISION

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 778

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by removing reserving section 778.6, "Advice of the Manufacturer." This section had required exporters of goods capable of sensitive nuclear uses to request a written statement from the manufacturer specifying whether a validated license is required for export. The Department has determined that the practical utility of the letter of inquiry and the manufacturer's advice was minimal because section 778.6 stated that "notwithstanding the advice provided by the manufacturer, the exporter remains responsible for filing

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an export license application for any export subject to section 778.3." Section 778.3 contains provisions on licensing requirements for export of commodities and technical data with sensitive end-uses.

Timetable:

Action	Date	FR Cite
Final Action	06/01/89	54 FR 23471
Final Action Effective	06/01/89	54 FR 23471

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl Opacinch, Chief, Department of Commerce, Bureau of Export Administration, Regulations Branch, Washington, DC 20230, 202 377-4159

RIN: 0694–AA18

310. ● EXPORT LICENSES; REVISION TO INSTRUCTIONS FOR FORM BXA-622P

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 99-64; PL 100-418; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 773

Legal Deadline: None

Abstract: On February 14, 1989 (54 FR 6643), the Bureau of Export Administration published a final rule that revised the forms necessary to apply for export licenses (BXA-622P, BXA-622P-A, BXA-622P-B, formerly ITA-622P). The new forms allow use of Optical Character Recognition (OCR) for direct recording of export license information into the Commerce Department computer data base, thus eliminating the need for manual entry.

This rule amends Supplement No. 5 to Part 773, establishing new instructions for Distribution License applicants when completing the new Form BXA-622P (54 FR 31812).

Timetable:

Action	Date	FR Cite
Final Action	08/02/89	54 FR 31812
Final Action Effective	08/02/89	54 FR 31812

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA19

311. ● GENERAL LICENSE GATS

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: General License GATS authorizes the departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. registry civil aircraft for temporary sojourn abroad. The Bureau of Export Administration (BXA) is amending this General License by replacing the requirement for a letter requesting export authorization for non-returned U.S. registry aircraft, equipment, parts, accessories or components with a Form BXA-699P, request to Dispose of Commodities or Technical Data Previously Exported (54 FR 27159).

Timetable:

Action	Date	FR Cite
Final Action	06/28/89	54 FR 27159
Final Action Effective	06/28/89	54 FR 27159

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA20

312. ● GENERAL LICENSE G-COCOM

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 771; 15 CFR 774; 15 CFR 786

Legal Deadline: None

Abstract: The Omnibus Trade and Competitiveness Act (OTCA) Amended section 5(b)(2) of the Export Administration Act of 1979 (EAA) to allow commodities described in the Advisory Notes for the People's Republic of China to be exported without a license to CoCom participating countries and countries determined to be CoCom comparable. This final rule creates a new general license designated G-COCOM designed for exports to CoCom countries and countries determined to have sufficient export control systems to warrant this benefit under section 5(k) of the EAA. Commodities that may be exported under General License G-COCOM are those described in Supplement No. 2 to Part 771, and those commodities eligible for General License G-COM or GFW. Supplement No. 2 to Part 771 lists commodities that could have been exported to the People's Republic of China with only notification to other CoCom governments as of the date of enactment of the Trade Act.

Some commodities are ineligible for General License G-COCOM because they are controlled for other than national security reasons or because their export requires more than mere (cont)

Timetable:

Action	Date	FR Cite
Final Action	07/11/89	54 FR 29011
Final Action Effective	07/11/89	54 FR 29011

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: notification to CoCom.

A Swiss Blue Import Certificate will be required for exports to Switzerland under this General License G-COCOM. (54 FR 29011)

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA21

313. ● REEXPORTS INTO COCOM PARTICIPATING COUNTRIES

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 774

Legal Deadline: None

Abstract: The Omnibus Trade and Competitiveness Act (OTCA), signed by the President on August 23, 1988, amended section 5(a)(4) of the Export Administration Act of 1979 (EAA) to require the removal of controls on most reexports to CoCom and countries qualifying for full benefits under section 5(k) of the EAA. This final rule expands the permissive reexport provisions of 774.2 of the Export Administration Regulations (EAR) (15 CFR 774.2) to allow reexports of U.S. commodities to and among CoCom participating countries, Finland, and Switzerland, without prior U.S. authorization. Certain limited exceptions, e.g., supercomputers, are specified (54 FR 28665).

Timetable:

Action	Date	FR Cite
Final Action	07/07/89	54 FR 28665
Final Action Effective	07/07/89	54 FR 28665

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA22

314. ● EXPORT ADMINISTRATION REGULATIONS: TECHNICAL CORRECTIONS

Legal Authority: 50 USC app. 2401 et seq

CFR Citation: 15 CFR 773; 15 CFR 779; 15 CFR 799

Legal Deadline: None

Abstract: This final rule makes several technical corrections to the Export Administration Regulations (EAR). These corrections address inconsistencies contained in the amendatory instructions of certain amendments to the EAR that were published since the 1988 revision of 15 CFR Parts 768-799. These changes, which neither expand nor limit the provisions of the EAR, affect 773.(d)(2)(iv), Supplement No. 4 to Part 779 (Additional Specifications for Certain Technical Data Requiring a Validated License to all Destinations Except Canada), and Supplement No. 1 to 799.1 (the Commodity Control List) (54 FR 26954).

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/89	54 FR 26954
Final Action	06/27/89	54 FR 26954

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA23

315. ● IMPORT CERTIFICATE/DELIVERY VERIFICATION PROCEDURE FOR AUSTRALIA; TERMINATION OF GRACE PERIOD

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; EO 12525; EO 12532; PL 99-440; EO 12571

CFR Citation: 15 CFR 775

Legal Deadline: None

Abstract: On July 5, 1988 (53 FR 25144) the Bureau of Export Administration published a final rule establishing new documentation requirements for exports to Australia under the Import Certificate/Delivery Verification (IC/DV) procedure. This rule amends the previous rule by establishing the date of June 15, 1989, whereby only the Australian Import Certificate will be accepted to support an export license application for "A" level commodities.

Timetable:

Action	Date	FR Cite
Final Action	05/16/89	54 FR 21050
Final Action Effective	06/15/89	54 FR 21050

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA24

316. ● CARBON THERMAL INSULATING MATERIAL ECCN 1734A; DECONTROL TO COUNTRY GROUPS T AND V

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; EO 12525; EO 12532; PL 99-440; EO 12571

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: This rule amends the validated license controls on exports of carbon thermal insulating materials controlled under ECCN 1734A on the CCL. Exports of such material no longer require a validated license for exports to Country Groups T and V, except the People's Republic of China and Afghanistan. Previously, these items could be exported under General License GFW to all countries listed in Supplement Nos. 2 and 3 to Part 773 of the Export Administration Regulations. This rule allows exports of these items to all Free World countries under General License G-DEST. This action is intended to streamline U.S. export control requirements without injuring national security interests and make U.S. controls more comparable to those of other suppliers.

Timetable:

Action	Date	FR Cite
Final Action	05/15/89	54 FR 20783
Final Action Effective	05/15/89	54 FR 20783

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl Opacinch, Director, Regulations Branch, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4159

RIN: 0694–AA25

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DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Proposed Rule Stage

317. FIPS FOR C PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) which defines the syntax of the C programming language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language-processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 851
NPRM Comment Period End	04/09/87	52 FR 851

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA48

318. FIPS FOR RECORDED FORMATS FOR ONE- AND TWO-SIDED 5.25 INCH (130 MM) AND 3.5 INCH (90 MM) FLEXIBLE DISK CARTRIDGES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that specifies the track layout, track format, and other characteristics of the recorded signal. This is one part of a set of functional specifications needed to ensure interchangeability of data between information processing systems by use of a physically removable medium.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA54

319. FIPS FOR RECORDED MAGNETIC TAPE AND CARTRIDGE FOR INFORMATION INTERCHANGE; 18 TRACK, PARALLEL, 12.65 MM (1/2 IN), 1491 CPMM (37871 CPI) GROUP-CODED RECORDING

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides requirements for a tape cartridge to be used for information interchange among information processing systems, communications systems, and associated equipment. Used with associated standards for unrecorded media, tape labels and file structures, this standard will support data interchange between different systems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA55

320. REVISIONS TO FIPS 60, 61, 62, 63, 97, AND 111, COMPUTER SYSTEM INPUT/OUTPUT (I/O) INTERFACE STANDARDS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: Revisions to the family of input/output (I/O) interface standards will be proposed to reflect changes in computer technology and to facilitate the interconnection of peripherals to personal and minicomputers. New applicability, implementation and waiver provisions will be proposed to existing interface standards to be effective after January 1, 1990. A transition plan to cover the period from January 1988 to January 1990 will also be proposed.

Timetable:

Action	Date	FR Cite
NPRM	11/19/87	52 FR 44462
NPRM Comment Period End	02/17/88	52 FR 44462

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA59

321. FIPS FOR ELECTRONIC BUSINESS DATA EXCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: A group of voluntary industry standards that will facilitate computer-to-computer interchange of procurement data will be adopted as FIPS. Developed by Accredited Standards Committee X12, the standards will provide standard data elements, formats, and contents of electronic messages containing procurement-related information. These standards will reduce paperwork, improve productivity, and enable more effective information and inventory management.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA62

DOC—NIST

Proposed Rule Stage

322. FIPS FOR APPLICATIONS PORTABILITY PROFILE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will provide an architectural approach to applications portability, and will include standard elements that can be used to develop and maintain portable applications. Components of the profile will include database management, data interchange, network services, user interfaces, and programming languages.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA65

323. FIPS FOR CONFORMANCE TESTING POLICY AND PROCEDURES

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will specify the policy and procedures for conformance test methods, for conformance testing of implementations of FIPS, and for certifying those implementations that comply with the FIPS requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20249
NPRM Comment Period End	11/01/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA68

324. REVISION OF FIPS 140, GENERAL SECURITY REQUIREMENTS FOR EQUIPMENT USING THE DATA ENCRYPTION STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will bring the standard up to date to cover new encryption applications, and new policies for testing for conformance to the standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/88	53 FR 49722
ANPRM Comment Period End	03/09/89	53 FR 49722
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA69

325. REVISION OF FIPS 146, GOVERNMENT OPEN SYSTEMS INTERCONNECTION PROFILE (GOSIP)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision of FIPS 146 will add new protocols to the Government OSI Profile for virtual terminal, end-system to intermediate-system, connection-oriented network service, office document architecture, connectionless transport, and Integrated Services Digital Network (ISDN) technology. The specification addresses needs to acquire multivendor systems using available or soon-to-be-available standard products.

Timetable:

Action	Date	FR Cite
NPRM	07/13/89	54 FR 29597
NPRM Comment Period End	10/11/89	54 FR 29597
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA69

326. FIPS FOR POSIX SYSTEM ADMINISTRATION

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt a set of specifications on an interim basis to provide functional system administration requirements for POSIX operating system implementations. Actual utility names and options for system administration will be specified in a future revision to this FIPS. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA71

327. FIPS FOR DIGITAL CARTOGRAPHIC DATA

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt specifications developed by the Department of the Interior for representing data used in mapping applications. The standard will improve interchange of information among agencies analyzing land use, demographics, and other geographic information.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA73

328. ● FIPS FOR FIBER DISTRIBUTED DATA INTERFACE (FDDI)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will adopt five voluntary industry standards that are nearing final approval by ANSI. FDDI is a layered standard for a 100 Mbits fiber optic token ring Local Area Network (LAN).

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA74

329. ● FIPS FOR OPEN SYSTEMS INTERCONNECTION (OSI) TRANSPORT LAYER SECURITY PROTOCOL (SP4)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will provide for confidentiality and integrity services at the Transport Layer of OSI Systems. The standard will be based on specifications and technical agreements reached through cooperative government and industry efforts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA75

330. ● FIPS FOR IRDS EXPORT/IMPORT FILE FORMAT

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard being developed by standards committee X3H4. The Standard will specify the precise format of files used to exchange information between IRDSs. The specification will complete the IRD-IRD Interface, the functionality of which is specified in FIPS PUB 156.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA76

331. ● FIPS FOR IRDS SERVICES INTERFACE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt a draft proposed American National Standard for an Information Resource Dictionary System Services Interface. The standard is an extension of FIPS PUB 156, which adopts ANSI X3.138-1988. The Services Interface addresses the additional need for a programmatic interface through which software external to the IRDS can populate, access, and maintain the contents of an IRDS dictionary and its schema.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA77

DEPARTMENT OF COMMERCE (DOC)

National Institute of Standards & Technology (NIST)

Final Rule Stage

332. REVISION TO FIPS 100, INTERFACE BETWEEN DATA TERMINAL EQUIPMENT (DTE) AND DATA CIRCUIT-TERMINATING EQUIPMENT (DCE) FOR OPERATION WITH PACKET-SWITCHED DATA COMMUNICATIONS NETWORKS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This revision will make the standard consistent with minor changes that were made to Recommendation X.25 by the Consultative Committee for International Telegraph and Telephone in 1984. This is an international standard for data processing equipment, services and telecommunications equipment using public packet-switched data communications networks.

Timetable:

Action	Date	FR Cite
NPRM	07/10/86	51 FR 25068
NPRM Comment Period End	10/08/86	51 FR 25068
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA39

333. REVISION OF FIPS 151, POSIX: PORTABLE OPERATING SYSTEM INTERFACE FOR COMPUTER ENVIRONMENTS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will revise FIPS 151, which was based on interim specifications, to adopt the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System Interface for Computer Environments (IEEE 1003.1-1988). The standard will adopt completed industry specifications and will facilitate the interchange of computer application programs between different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	54 FR 14829
NPRM Comment Period End	07/12/89	54 FR 14829
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA49

334. EXTENSIONS TO FIPS 127, DATABASE LANGUAGE SQL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: The proposed extensions will adopt American National Standards (both currently draft standards) to the SQL language for relational databases. One proposal (Draft Addendum ISO 9075/DAD 1) provides features for assuring the correctness of data that is organized in SQL databases. The other proposal specifies interfaces between SQL and other programming languages including Ada, C, COBOL, FORTRAN, PASCAL, and PL/I. Use of these extensions will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8225
NPRM Comment Period End	05/30/89	54 FR 8225
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA63

335. FIPS FOR DOCUMENT APPLICATION PROFILE (DAP) FOR THE OFFICE DOCUMENT ARCHITECTURE (ODA) AND INTERCHANGE FORMAT STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will be based on international standards for office document architecture and office document interchange formats. The profile will provide necessary functionality to enable documents developed on different manufacturers' equipment to be interchanged between systems.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4054
NPRM Comment Period End	04/27/89	54 FR 4054
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA67

336. FIPS FOR POSIX SHELL AND TOOLS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt, on an interim basis, Draft 8.0 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Shell and Application Utility Interface for Computer Operating Systems Environments (IEEE 1003.2/POSIX Shell and Tools). This standard will extend the functionality of the POSIX standard by providing an interactive interface for users to control processing.

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Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 24375
NPRM Comment Period End	09/05/89	54 FR 24375
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA70

337. FIPS FOR USER INTERFACE COMPONENT OF THE APPLICATIONS PORTABILITY PROFILE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt the X Protocol, Xlib Interface, Xt Intrinsics and Bitmap Distribution Format specifications developed by the Massachusetts Institute of Technology (MIT) for the X Window System. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 24372
NPRM Comment Period End	09/05/89	54 FR 24372
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA72

338. ● REVISION OF FIPS 21-2, COBOL

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will adopt the forthcoming addendum (X3.23A-198X) to American National Standard for COBOL which adds an Intrinsic Function facility to the language. The proposed addendum is upwardly compatible with the standard except for the reserved word FUNCTION. This revision will supersede FIPS 21-2, COBOL, which adopts ANSI X3.23-1985.

Timetable:

Action	Date	FR Cite
NPRM	12/15/88	53 FR 50435
NPRM Comment Period End	03/15/89	53 FR 50435
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA76

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST) — **Completed Actions**

339. FIPS PUB 156, INFORMATION RESOURCE DICTIONARY SYSTEM (IRDS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: None

Legal Deadline: None

Abstract: This standard adopts ANSI X3.138-1988 which will promote portability of information resources. The Information Resource Dictionary System is a software system for recording, storing, and processing descriptions of an organization's significant data. Use of the standard will improve identification of data that can be shared within an organization, reduce unnecessary development of computer programs, and increase portability of staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	08/13/85	50 FR 32610
NPRM Comment Period End	11/12/85	50 FR 32610
Final Action	04/05/89	54 FR 13729
Final Action Effective	09/25/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA38

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA) — **Prerule Stage**

NATIONAL MARINE FISHERIES SERVICE

340. MARINE FISHERY USER FEES

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A marine fishery user fee system will provide a substantial and stable source of revenue to partially offset Federal fishery expenditures and information needed for effective fishery management. Fees would be collected from the sale of marine fish conservation emblems and licenses, and from an assessment on landing or delivery of fish for commercial purposes. Administration costs are estimated to be $6 million annually, with net Federal revenues of approximately $80 million. A bill entitled "The Exclusive Economic Zone Revenue Raising Act of 1988" (HR 5580) was introduced on October 21, 1988. The Administration has not taken any action to have the bill reintroduced in the current session of Congress.

Timetable:

Action	Date	FR Cite
Next steps depend on Congressional action if the bill is introduced	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $6,000,000; Yearly Recurring Cost: $6,000,000; Base Year for Dollar Estimates: 1988

Sectors Affected: 203 Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties

Agency Contact: Robert A. Siegal, Department of Commerce, National Oceanic and Atmospheric Administration, National Economics Staff, 1335 East West Highway, Silver Spring, MD 20910, 301 427-2253

RIN: 0648–AB87

341. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 652

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Mid-Atlantic Fishery Management Council.

Abstract: Amendment 8 would address current regulatory restraints on industry designed to conserve the resource. The FMP objectives would be modified to promote economic stability, simplify regulations, and to allow more operational flexibility for the industry. Long-term management alternatives to be considered include an Individual Transferable Quota System and other limited effort vessel allocation schemes.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/89	
NPRM	11/15/89	
NPRM Comment Period End	01/01/90	
Final Action	02/20/90	
Final Action Effective	03/20/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC19

342. AMENDMENT 4 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663; 50 CFR 611.70

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Amendment 4 will restructure and update the Pacific Coast Groundfish FMP to make it a more useful and timely document. It also will consider providing the flexibility to address a wider range of problems. The major issues in Amendment 4 will examine quota management, the application of "optimum yield," the ability to impose management measures for social and economic reasons (as long as the resource will not be jeopardized), deletion of the 30 percent lid on annual inseason increases to ABC and OY, ways to expedite the experimental fishing permit process, and the review and adoption of state regulations.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/90	
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC43

343. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 651

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 3 will address biological objectives of the FMP by establishing a "Flexible Area Action

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Prerule Stage

System" to enable the New England Fishery Management Council, its Multispecies Committee, and NMFS to respond in a timely manner to protect large concentrations of juvenile, sublegal, and spawning fish. Under this system, measures ranging from mesh size restrictions to limited closed areas could be implemented. This system is needed to: (1) enhance age-at-entry controls; (2) eliminate the need for certain emergency actions; and (3) respond to requests from the fishing industry for timely action in a way that improves the climate for cooperation and progress between the Council and the fishing industry.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/89	54 FR 35908
ANPRM Comment Period End	10/23/89	
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC79

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344. ● BLUE MUSSEL FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 30 days and final action within such time as the Secretary deems appropriate.

Abstract: Secretarial Fishery Management Plan on blue mussels to address the problem of periodic contamination of blue mussels with paralytic shellfish poisoning (PSP), particularly in the Nantucket Shoals area of the EEZ. Monitoring had been provided by the National Shellfish Sanitation Program whose jurisdiction does not extend to the EEZ. Because of cost this effort has become too burdensome and has been discontinued. Factors to be considered are: definition of the management unit, interrelationship of the stock with other managed shellfish stocks in the EEZ and PSP monitoring procedures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC84

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345. ● AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Legal Authority: 16 USC 1801 et seq. Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 651

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 4 will: (1) define overfishing in the northeast multispecies fishery; (2) include silver hake, red hake and ocean pout as regulated species with the appropriate management measures; (3) incorporate ASMFC's northern shrimp recommendations entailing gear and season limits; (4) modify the exempted fishery; and (5) incorporate an experimental fishery for whiting into the FMP.

Timetable:

Action	Date	FR Cite
ANPRM	12/21/89	
NPRM	01/05/90	
NPRM Comment Period End	02/20/90	
Final Action	04/09/90	
Final Action Effective	05/09/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Gloucester, MA 01930-3799, 508 281-3600

RIN: 0648–AC88

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346. ● DEPLETION OF THE COASTAL-MIGRATORY STOCK OF BOTTLENOSE DOLPHINS IN THE U.S. MID-ATLANTIC

Significance: Agency Priority

Legal Authority: 16 USC 1361 et seq. Marine Mammal Protection Act; 16 USC 1383b

CFR Citation: 50 CFR 216.15

Legal Deadline: None

Abstract: Based on a review of the best available information on the status to the coastal-migratory stock of bottlenose dolphins in the U.S. mid-Atlantic, the National Marine Fisheries Service (NOAA Fisheries) is considering the publication of a proposed rule designating this population stock as depleted under the Marine Mammal Protection Act (MMPA). This action is required by the MMPA when a species or population stock falls below its optimum sustainable population (OSP). If this population stock is designated as depleted, the MMPA requires the application of certain additional restrictions on taking and importation, and the preparation and implementation of a conservation plan to restore the stock to OSP. NOAA Fisheries is also requesting any additional scientific information on this action that may be available from interested parties, as required by the MMPA Amendments of 1988.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	
ANPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Georgia Cranmore, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Hwy, Silver Spring, MD 90210, 301 427-2289

RIN: 0648–AD02

DOC—NOAA

Prerule Stage

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

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347. FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 16 USC 1456 Coastal Zone Management Act of 1972

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: On January 11, 1984, the U.S. Supreme Court issued its decision in Secretary of the Interior et al. v. California et al. No. 82-1326. The Court held that the sale of Outer Continental Shelf (OCS) oil and gas leases is not an activity "directly affecting" the Coastal Zone Management Act of 1972, as amended (CZMA), and therefore, that a consistency determination is not required under that section before such sales may be made. Section 307(c)(1) required that Federal agencies conducting or supporting activities "directly affecting the coastal zone" must conduct or support those activities in a manner which is consistent to the maximum extent practicable with federally approved state coastal zone management programs. NOAA engaged in rulemaking to revise certain CZMA regulations as a result of the Supreme Court decision. NOAA removed those references which identify OCS lease sales as activities covered by the Section 307(c)(1) requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/84	49 FR 22825
ANPRM Comment Period End	08/31/84	49 FR 22825
NPRM	01/29/85	50 FR 3796
NPRM Comment Period End	03/01/85	50 FR 3796
Final Action	08/30/85	50 FR 35210
Decision Whether To Proceed With Rulemaking	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: NOAA issued a final rule August 31, 1985 making the changes required by the Supreme Court decision, and decided to undertake a comprehensive study of the Federal consistency process. The Draft Study issued April 1986 will assist NOAA in evaluating the need for and consequences of further revision of the Federal consistency regulations. Further revision has been deferred pending review of public comment on the April study, and amendments to the CZMA enacted in 1986. In addition, the CZMA will be reauthorized soon, and amendments to the CZMA may result which would require further regulatory revision. Based on this review, NOAA will evaluate the need for, and consequences of further revision of the regulations.

Agency Contact: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean & Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5100

RIN: 0648–AA34

DEPARTMENT OF COMMERCE (DOC)

Proposed Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

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348. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM ETC

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A

Legal Deadline: None

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38881
NPRM Comment Period End	11/06/89	
Interim Final Rule	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AA46

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349. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 265A

Legal Deadline: None

Abstract: The final rule will establish general quality grading standards for all non-breaded forms of fresh or frozen shrimp. These grading standards will provide for the systematic differentiation of the quality of shrimp into categories – U.S. Grades A, B and Substandard. The proposed standards will be applied to all commercial species of fresh or frozen shrimp in raw or cooked states in all non-breaded market forms. The adoption of grading standards is expected to facilitate trade in shrimp of all commercial species, as

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consumers will be able to select shrimp on the basis of identified quality. Industry has shown great interest in and support for the standards.

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	06/18/82	47 FR 21840
NPRM	09/21/89	54 FR 38885
NPRM Comment Period End	11/06/89	
Interim Final Rule	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AA47

350. REGULATIONS ON STRIPED BASS IN EXCLUSIVE ECONOMIC ZONE OFF NORTH EAST ATLANTIC COAST

Legal Authority: PL 100-589; 16 USC 1801 et seq; 16 USC 1851

CFR Citation: 50 CFR 656

Legal Deadline: None

Abstract: The Secretary of Commerce, after consultation with other Federal agencies, state agencies, and interested persons will implement regulations to prohibit catching and retaining striped bass in the Exclusive Economic Zone off North Carolina through Maine. This is being done in response to a Congressional directive contained in the Atlantic Striped Bass Conservation Act, and is consistent with the National Standards of the Magnuson Act. These regulations conform to and complement the Atlantic Striped Bass Plan developed by the Atlantic States Marine Fisheries Commission and approved by its member states. Alternatives considered are no action, requiring those fisheries in the EEZ to conform to state regulations, and establishing a Federal Bag limit on catching striped bass in the EEZ. The cost of the preferred alternative is nominal, and appreciable benefits accrue to the migratory striped bass stocks.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
Final Action	11/15/89	
Final Action Effective	12/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: David G. Deuel, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East West Highway, Silver Spring, MD 20910, 301 427-2347

RIN: 0648–AB25

351. ENDANGERED FISH OR WILDLIFE; PERMITS FOR THE INCIDENTAL TAKING OF ENDANGERED MARINE SPECIES

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: The proposed regulations implement Section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA). The proposal provides, under limited circumstances, for issuance of permits allowing the incidental taking of endangered species. The proposal applies to certain Federal permit or license holders and to private entities or State or local governments whose actions are not otherwise subject to Federal involvement or control. Prior to the 1982 amendments to the ESA, the taking of endangered species was prohibited except for scientific research or to enhance the propagation or survival of the species. Permits issued under the proposed regulations would allow permit holders to conduct their activities without risk of prosecution for the incidental take of species authorized by such permits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Sectors Affected: 091 Commercial Fishing

Additional Information: Potential cost to applicants is estimated at $420. Cost per applicant is estimated at $210. Each applicant will be required to submit a conservation plan as part of the permit process. NEPA, EO 12291 and RFA determinations have not been undertaken.

Agency Contact: Charles Karnella, Chief, Protected Species Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources and Habitat Programs, NMFS, Silver Spring, MD 20910, 301 427-2323

RIN: 0648–AB47

352. GROUNDFISH OF THE GULF OF ALASKA AND HIGH SEAS SALMON FISHERY OFF ALASKA; REGULATORY AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 674; 50 CFR 611.92

Legal Deadline: None

Abstract: As required under PL 98-623, NOAA issues a regulatory amendment to codify the fishery management boundaries of southeastern Alaska established by that law.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Jonathan Pollard, Attorney-Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA Office of General Counsel-GCAK, P.O. Box 21668, Juneau, AK 99801, 907 586-7414

RIN: 0648–AB51

353. AMENDMENT 1 TO THE SWORDFISH FMP

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 1 will reflect concern for status of swordfish stocks based on recent stock assessments. The U.S. longline fishery now targets tunas and small swordfish in nearshore waters and seeks larger, more valuable swordfish in more distant waters. In an attempt to reduce the fishing mortality of small billfish in the exclusive economic zone, the South Atlantic Council's Amendment 1 would adopt an objective of achieving a specific and reduced fishing mortality rate for swordfish by establishing an overall harvest quota for the entire stock. North-South sub-quotas, vessel permit restrictions, minimum fish sizes and limitations on swordfish incidental catch in the tuna fishery are being considered by the Council.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Regional Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AB92

354. AMENDMENT 3 TO THE HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175 E. LONGITUDE

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 674

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will (1) provide for setting annual salmon catch levels based upon Pacific Salmon Commission recommendations; (2) enhance the framework aspect of annual and in season rulemaking in part to achieve compatibility with the State of Alaska's regulations; and (3) update sections containing biological information and catch statistics.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC00

355. AMENDMENT 1 GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 1 will attempt to rebuild declining reef fish stocks, especially red snapper. A primary objective of the amendment will be to reduce red snapper harvest by 24 percent the first year through the use of a commercial quota of 3.1 million pounds, by the establishment of a 13-inch minimum fish for commercial and recreational fisheries taking red snapper, and by establishing a 7-fish red snapper bag limit per person in the recreational sector. The amendment will also protect other species of reef fish, as well as red snapper by proposing to (1) reduce use of fish traps from 200 to 100 per vessel and expand the stressed area off Texas and Louisiana; (2) prohibit the use of bottom long lines shoreward of the 50-fathom curve; and (3) prohibit use of entanglement nets west of Cape San Blas, Florida, and shoreward of the 20-fathom curve east of Cape San Blas, Florida. Several additional species will be included in the management unit, and additional conservation measures will be forthcoming.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/89	54 FR 35707
NPRM	10/00/89	
Final Action	12/04/89	
Final Action Effective	01/03/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC16

356. AMENDMENT 3 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 649

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

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Proposed Rule Stage

Abstract: This action will change the date from 1990 to 1992 to establish the new minimum vent size at 1 15/16 inches by 6 inches for rectangular vents or 2 7/16 inches diameter for circular vents; and implement a requirement that each trap shall have an escape panel or equivalent mechanism to keep a trap from ghost fishing after it has been abandoned or lost for 12 months or more.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 37138
NPRM Comment Period End	10/16/89	
Final Action	12/06/89	
Final Action Effective	12/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC28

357. AMENDMENT 2 TO THE SPINY LOBSTER FISHERY MANAGEMENT PLAN OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: NPRM, Statutory. Final, Statutory.
110 days after receipt from the fishery management council.

Abstract: This rule would establish a regulatory amendment procedure for future implementation of gear and harvest restrictions to regulate the fishery in the Exclusive Economic Zone.

Timetable:

Action	Date	FR Cite
NPRM	08/24/89	54 FR 35212
NPRM Comment Period End	10/10/89	
Final Action	11/13/89	
Final Action Effective	12/11/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC28

358. REPORTING REQUIREMENTS GOVERNING SALMON TAKEN OFF ALASKA AND DELIVERED OR LANDED OUTSIDE ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 674

Legal Deadline: Final, Statutory.
110 days after receipt from the fishery management council.

Abstract: A mandatory reporting requirement for fishing vessel operators who harvest salmon in the EEZ off Alaska and who sell, transport, or deliver salmon in the EEZ or to a U.S. port outside Alaska. The operator must submit a fish ticket to the Alaska Department of Fish and Game after each sale, transfer or delivery. Receipt of this ticket is necessary to obtain timely data on salmon catches.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
NPRM Comment Period End	08/00/90	
Final Action	09/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC39

359. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SWORDFISH FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This regulatory amendment will modify the present data collection system to require 100 percent mandatory dealer reporting of landings and value, for swordfish and incidental species caught in the domestic swordfish fishery. This information is required to determine total fishery landings, fishing effort, and biological data (e.g., size of population, age classes) for stock assessment purposes. The regulatory amendment also will (1) clarify the scope of the regulations; (2) modify the requirements and procedures for obtaining a vessel permit; and (3) modify procedures for submitting daily fishing records. The amendment is intended to (1) obtain more timely and accurate data on swordfish (and incidentally caught species) landings, value and size composition of the catch; (2) improve stock assessment capabilities; (3) ensure accountability for information submitted on permit applications; and (4) ensure timeliness of information submitted on fishing records.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric

DOC—NOAA

Proposed Rule Stage

Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC41

360. POLICY TO REQUIRE OBSERVERS TO BE CARRIED ON DOMESTIC FISHING VESSELS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: The policy would establish guidelines for the use of observers in the domestic fisheries managed under the Magnuson Act. The observers collect catch and effort data on fishing operations, and biological information on fish stocks and the marine ecosystem.

Timetable:

Action	Date	FR Cite
ANPRM	06/06/88	53 FR 20661
ANPRM Comment Period End	07/18/88	
NPRM	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Additional Information: Following consultation with Regional Fishery Management Councils and industry representatives, the action was put on hold in February 1989, by the Assistant Administrator for Fisheries, NOAA, to await the outcome of voluntary observer programs planned by the fishing industry in Alaska waters for the 1989 and 1990 fishing seasons.

Agency Contact: Peter H. Fricke, Sociologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Fisheries Cons. & Mgt., 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2334

RIN: 0648–AC45

361. BLUEFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 628

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The FMP would control the growth of the recreational and commercial fisheries in the EEZ through bag limits and possible gear restrictions. The Atlantic States Marine Fisheries Commission has developed the FMP along with the Mid-Atlantic Fishery Management Council.

Timetable:

Action	Date	FR Cite
ANPRM	07/12/89	54 FR 29363
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930-3799, 508 837-9300

RIN: 0648–AC51

362. SCIENTIFIC RESEARCH - DOMESTIC AND FOREIGN FISHING

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 611; 50 CFR 620

Legal Deadline: None

Abstract: The rule would define scientific research under the Magnuson Act and would add several prohibitions to the general regulations governing domestic fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Margaret Frailey, Assistant General Counsel for Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2231

RIN: 0648–AC61

363. REGULATION TO CONTROL ILLEGAL FISHING IN THE EXCLUSIVE ECONOMIC ZONE (EEZ) AND OVERFISHING OUTSIDE THE EEZ

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 22 USC 1971 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 611.7; 50 CFR 611.93

Legal Deadline: None

Abstract: Foreign fishing on the high seas of the central Bering Sea take excessive amounts of stocks of Alaska pollock which may be shared in the economic zones of the United States and the Soviet Union. The foreign fleets also use such fishing for illegal fishing incursions in the U.S. EEZ under cloud cover and cover of darkness.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/88	53 FR 13422
ANPRM Comment Period End	05/25/88	
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, F/CM1, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2339

RIN: 0648–AC66

364. REGULATORY AMENDMENT FOR INTERACTION BETWEEN SUMMER FLOUNDER FISHERY AND ENDANGERED SPECIES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

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Proposed Rule Stage

CFR Citation: 50 CFR 625

Legal Deadline: None

Abstract: Regulatory amendment to establish monitoring and reporting in the summer flounder winter trawl fishery and its interaction with endangered species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC67

365. REGULATORY AMENDMENT TO THE GROUNDFISH OF THE BERING SEA/ ALEUTIAN ISLANDS AREA AND GROUNDFISH OF THE GULF OF ALASKA FISHERY MANAGEMENT PLANS - DEFINITION OF FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: None

Abstract: The action redefines directed fishing in the Bering Sea/Aleutian Islands Area and Gulf of Alaska so that fishermen could sort their catches at sea and discard inadvertent catches of species so as to avoid violations. The action provides authority for the reopening of fisheries, if subsequent information shows that the closure was premature.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/01/89	
Final Action Effective	01/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC68

366. REGULATIONS GOVERNING THE TAKING OF SMALL NUMBERS OF MARINE MAMMALS INCIDENTALLY TO OIL AND GAS EXPLORATION IN THE BEAUFORT AND CHUKCHI SEAS

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 238.3

Legal Deadline: None

Abstract: Section 101(a)(5) of the Marine Mammal Protection Act directs the Secretary to allow, on request by U.S. citizens who engage in a specified activity (other than commercial fishing) in a specified geographical region, the incidental take of small numbers of marine mammals. The agency must find that the taking will have a negligible impact on the species or stocks, and will not have an unmitigable adverse impact on the availability of the species for subsistence uses. The Service received a request from 6 oil companies for a take of marine mammals incidental to oil exploration in the Beaufort and Chukchi Seas. These regulations allow a take if certain conditions are met including requirements for monitoring and reporting and a prohibition on taking in the spring lead system used by bowhead whales in the Chukchi Sea. These regulations allow the oil companies to proceed with energy exploration while protecting marine mammals.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/88	53 FR 12169
ANPRM Comment Period End	07/13/88	
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, NMFS/1335 East-West Highway, Silver Spring, MD 20910, 301 427-2323

RIN: 0648–AC69

367. FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1990

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 611.22

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for foreign fishing in 1990.

Timetable:

Action	Date	FR Cite
NPRM	09/30/89	
NPRM Comment Period End	10/30/89	
Final Action	12/15/89	
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2339

RIN: 0648–AC70

368. INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES

Legal Authority: 46 USC 1177, sec 607, Merchant Marine Act, 1936, as amended

CFR Citation: 50 CFR 259

Legal Deadline: None

Abstract:

(A) Incorporate into existing regulations for the part of the Capital Construction Fund administered for fishermen new requirements imposed by the Tax Reform Act of 1986.

(B) Incorporate into existing regulations, clarification of existing restraints on the use of the Capital Construction Fund by fishermen.

(C) Incorporate into existing regulations, assessment of user fees for Capital Construction Fund benefits provided fishermen.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: (A) Under existing regulations, at 50 CFR, Part 259, the acquisition of a qualified vessel is not interpreted to include the lease of a qualified vessel. The legislative history of the Tax Reform Act, 1986, indicates Congressional intent to consider lease hire payments from the CCF to be considered qualified withdrawals, if such payments are used for the acquisition of a qualified vessel through lease for a period of five years or more. The proposed rules would allow for payments from the CCF for such purpose. (B) Under existing conditions at 50 CFR Part 259, CCF benefits for fishermen are restricted in accordance with Part 251 of 50 CFR. The proposed rule would allow for either the moderation or lifting of these restrictions. (C) The proposed rules would add to 59 CFR Part 3 provisions for the assessment of user fee charges to fund operating costs for that portion of the CCF administered for fishermen.

Agency Contact: John A. Kelly, Jr., Program Leader, Capital Construction Fund Program, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2393

RIN: 0648–AC71

369. AMENDMENT 18 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA AND AMENDMENT 13 TO THE FMP FOR GROUNDFISH OF THE BERING SEA/ ALEUTIAN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final action 110 days after receipt from the fishery management council.

Abstract: The rule provides for a reporting system for groundfish catch and production; observer program; allocation of sablefish; area closures to protect king crab and walrus; establishment of Shelik of strait as a management area for Pollock; and flexibility for setting fishing seasons.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	54 FR 36333
NPRM Comment Period End	10/12/89	
Final Action	12/01/89	
Final Action Effective	01/01/90	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC72

370. RESUBMITTED PART OF AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final rule 110 days after receipt from the fishery management council.

Abstract: This amendment will require that white shrimp taken in the Exclusive Economic Zone conform to the minimum size, landing, and possession limits of the State in which they are landed.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	
NPRM Comment Period End	10/12/89	
Final Action	12/11/89	
Final Action Effective	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC75

371. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final action 110 days after receipt from the fishery management council.

Abstract: Actions which may be considered for inclusion in amendment are: (1) subdivide the recreational allocation for king and Spanish mackerel by area and time; (2) prohibit sale of king mackerel taken under a bag limit; (3) establish subquotas for king mackerel by gear type in the commercial fishery; and (4) adjust qualifications for commercial permits to require that fishermen who seek commercial permits must have derived 50 percent of their earned income from the sale of one's catch or for-hire chartering activities.

Timetable:

Action	Date	FR Cite
NPRM	12/13/89	
NPRM Comment Period End	01/22/90	
Final Action	03/14/90	
Final Action Effective	04/12/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric

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Proposed Rule Stage

Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC77

372. AMENDMENT 19 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA AND AMENDMENT 14 TO THE FMP FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The NPFMC combined its Gulf of Alaska and Bering Sea/Aleutian Islands groundfish plans to provide for one final rule governing these fisheries. The action makes adjustments in the regulatory system to account for inconsistencies in management approach. The result is a uniform regulation applicable to an increasingly large and mobile fleet that operates in both areas.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC80

373. ● AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days of receipt of the amendment from the fishery management council.

Abstract: Amendment 1 to fishery management plan is expected to broaden the management unit to include sea bass and scup.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01906, 508 281-9300

RIN: 0648–AC83

374. ● AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COAST OF WASHINGTON, OREGON, AND CALIFORNIA COMMENCING IN 1978 (FMP)

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 10 will address a number of fishery management issues including: (1) modified spawning escapement goal for Klamath River fall chinook; (2) revised criteria for deviating from non-treaty harvest allocations north of Cape Falcon, Oregon; (3) additional flexibility in closing the recreational fishery between Cape Falcon and Orford Reef Red Buoy following in season reallocations to the commercial fishery; (4) additional flexibility in fishery opening and closing times and changes in the duration of reopened fisheries; (5) possible mid-April commercial fishery opening off California, and (6) event and date changes in the preseason process for establishing season measures.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Analysis: Regulatory Flexibility Analysis

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sandpoint Way NE, Building 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC85

375. ● REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE GULF OF MEXICO AND SOUTH ATLANTIC SPINY LOBSTER FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: Require licenses for spiny lobster recreational fishermen.

Timetable:

Action	Date	FR Cite
NPRM	11/29/89	
NPRM Comment Period End	01/15/90	
Final Action	03/14/90	
Final Action Effective	04/12/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger

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Proposed Rule Stage

Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC86

376. ● REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 644

Legal Deadline: None

Abstract: This regulatory amendment will change the regulations implementing the Fishery Management Plan for Atlantic Billfish (FMP) to: (1) broaden the definitions of "dealer" and "billfish" for the limited purposes of ascertaining the eligibility for sale of a billfish possessed by a dealer or processor; (2) clarify the scope of the regulations; and (3) prohibit the removal at sea of the head, fins or bill from a billfish. Purposes of the regulatory amendment are to: (1) ensure that a billfish from its management unit is not purchased, bartered, traded or sold in any state; (2) express clearly the FMP's intent; and (3) enhance enforceability of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Interim Final Rule	01/00/90	
Final Action	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC87

377. ● RESUBMITTED PART OF AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 75 days of receipt from the fishery management council.

Abstract: This amendment will prohibit the use of purse seines and run-around gillnets for the Atlantic Migratory group of king mackerel and drift gillnets for all of the Managed Coastal Migratory Pelagic Species.

Timetable:

Action	Date	FR Cite
NPRM	09/29/89	
NPRM Comment Period End	11/09/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702-9450, 813 893-3141

RIN: 0648–AC89

378. ● AMENDMENT 6 TO THE NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 801 et seq

CFR Citation: 50 CFR 662

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Fishery Management Council.

Abstract: The Pacific Fishery Management Council will amend the Fishery Management Plan for Northern Anchovy to modify establishment of quotas from a spawning stock biomass basis to a total standing stock biomass basis. Because unusual environmental conditions can result in large standing stocks with low recruitment/spawning, the reduction fishery can be shut down in the midst of abundant standing stocks. In order to account for such situations, the Council will amend the procedures for determination of harvest allocations

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 514-6194

RIN: 0648–AC85

379. ● AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 after receipt of amendment from the South Atlantic Fishery Management Council.

Abstract: This amendment will attempt to address growth over fishing in the fishery for several species of reef fish of the South Atlantic EEZ. Additional species, such as wreckfish, may be added to the management unit. Closed areas to serve as sanctuaries for reef fish may be established.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
NPRM Comment Period End	06/00/90	
Final Action	08/00/90	
Final Action Effective	09/00/90	

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Proposed Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, Florida 33702, 813 893-3141

RIN: 0648–AC96

380. ● REGULATORY AMENDMENT TO ESTABLISH A SPECIAL MANAGEMENT ZONE (SMZ) IN DADE COUNTY, FLORIDA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: None

Abstract: This regulatory Amendment would establish a Special Management Zone (SMZ) as allowed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic. The SMZ would likely preclude use of certain gear types in a zone surrounding an artificial reef(s) in Dade County, Florida, to maintain reef fish populations for recreational or other purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	05/00/90	
Final Action Effective	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, Florida 33702, 813 893-3141

RIN: 0648–AC97

381. ● GROUNDFISH OF THE GULF OF ALASKA AND GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS: REGULATORY AMENDMENT

Significance: Agency Priority

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: NOAA would require modifications to fish pot gear to minimize the incidental catch of Pacific halibut.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	02/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Regional Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC98

382. ● AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt of the amendment from the fishery management council.

Abstract: The amendment to the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP) is expected to address effort and/or vessel standards. In addition, the current meat count/shell height standards may be abolished or modified.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
NPRM Comment Period End	06/00/90	
Final Action	09/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01906, 508 281-9300

RIN: 0648–AC99

383. ● AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt of amendment

Abstract: Amendment 3 to the Fishery Management Plan is expected to address enforcement problems in the fishery by requiring landing of scallops during landing windows. Offloading from a sea scallop dredge vessel, or from a vessel landing sea scallops in the shell may be prohibited other than during a 12-hour offloading window. More flexible offloading windows are expected for other vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01906, 508 281-9300

RIN: 0648–AD00

DOC—NOAA

Proposed Rule Stage

384. ● ATLANTIC BLUEFIN TUNA FISHERY

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: Proposed rule to address the bycatch of Atlantic bluefin tuna in the South Atlantic and Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Federal Building, Gloucester, MA 01930, 508 281-3600

RIN: 0648–AD01

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

385. PROPOSED REGULATIONS FOR THE KEY LARGO NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 929

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	07/00/90	
Final Action Effective	08/00/90	
Begin Review	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AA33

386. FAGATELE BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 941

Legal Deadline: None

Abstract: These regulations are being revised to update on-site management provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Interim Final Rule	07/00/90	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5122

RIN: 0648–AA74

387. PROPOSED REGULATIONS FOR THE LOOE KEY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 937

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	07/00/90	
Final Action Effective	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC03

389. PROPOSED REGULATIONS FOR THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 936

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Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	07/00/90	
Final Action Effective	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC05

390. PROPOSED REGULATIONS FOR THE MONTEREY BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Monterey Bay, if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Final Action	04/00/90	
Final Action Effective	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, NOS, Universal Bldg., Rm. 714, 1825 Conn. Ave., NW, Washington, DC 20235, 202 673-5126

RIN: 0648–AC63

391. THE MONITOR NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 924

Legal Deadline: None

Abstract: These regulations are being revised to update site management provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	07/00/90	
Final Action Effective	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5122

RIN: 0648–AC78

392. ● REGULATIONS IMPLEMENTING 1990 AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: This action will incorporate any amendments resulting from the planned 1990 reauthorization of section 315 of the Coastal Zone Management Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	08/00/91	
Final Action Effective	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine & Estuarine Mgmt. Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Conn. Ave., NW., Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC90

393. ● PROPOSED REGULATIONS FOR THE NORTHERN PUGET SOUND NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Northern Puget Sound if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	08/00/91	
Final Action Effective	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Conn. Avenue, NW., Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC91

394. ● PROPOSED REGULATIONS FOR THE NORFOLK CANYON NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Norfolk Canyon if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	07/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Conn. Avenue, NW, Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC92

395. ● PROPOSED REGULATIONS FOR THE WESTERN WASHINGTON OUTER COAST NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding the Washington Pacific Coast if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	04/00/90	
Final Action Effective	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Conn. Avenue, NW, Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC93

396. ● PROPOSED REGULATIONS FOR THE STELLWAGEN BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Stellwagen Bank if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	09/30/90	
NPRM Comment Period End	11/00/90	
Final Action	06/00/91	
Final Action Effective	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Conn. Ave., NW, Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC94

OFFICE OF THE ADMINISTRATOR

397. NATIONAL SEA GRANT PROGRAM FUNDING REGULATIONS

Legal Authority: 33 USC 1123 (d)(7); 33 USC 1125; 33 USC 1127

CFR Citation: 15 CFR 917.2 (Revision); 15 CFR 917.11 (Revision); 15 CFR 917.20 (Revision); 15 CFR 917.21 (Revision); 15 CFR 917.22 (Revision); 15 CFR 917.30 (Revision)

Legal Deadline: Final, Statutory, December 28, 1988.
Applies only to revision of 15 CFR 917.20 - 917.22.

Abstract: Amendments to the Sea Grant Act require updating of implementing regulations to include:

Replace the "National Needs" program with a "strategic research program," essentially to focus on a more limited number of priority research areas;

Include two types of fellowships not previously recognized by statute and set forth selection procedures;

To update the international program in view of the broader geographic areas and activities authorized;

To provide more specific support for graduate education and interdisciplinary research in marine affairs.

There are no alternatives. Statutory amendments explicitly or implicitly require conforming amendments to the funding regulations. There are no costs involved.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	
NPRM Comment Period End	01/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John Milholland, Senior Counselor, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Universal South Bldg., Rm. 603, Washington, DC 20230, 202 673-5200

RIN: 0648–AC54

398. LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

Significance: Regulatory Program

Legal Authority: 15 USC 4244

CFR Citation: 15 CFR 960

Legal Deadline: None

Abstract: NOAA has agreed to amend its regulations for licensing private remote sensing space systems in response to a petition by news organizations. Petitioners seek clearer definition of when a license might be restricted because of national security. NOAA will consider ways to provide clarity to reassure potential applicants but will not consider the specific standard proposed by the media, which was rejected during the original rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	01/18/89	54 FR 01945
NPRM	11/30/89	
NPRM Comment Period End	01/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John A. Milholland, Senior Counsellor/Satellite, Department of Commerce, National Oceanic and Atmospheric Administration, Room 603,

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DOC—NOAA

Proposed Rule Stage

1825 Connecticut Avenue, NW,
Washington, DC 20235, 202 673-5200
RIN: 0648-AC84

DEPARTMENT OF COMMERCE (DOC)

Final Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

399. FISHERY CONSERVATION AND MANAGEMENT: CONFIDENTIALITY OF STATISTICS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 603

Legal Deadline: None

Abstract: The regulations provide internal procedures to protect statistics collected from the public under the Magnuson Fishery Conservation and Management Act from disclosure.

Timetable:

Action	Date	FR Cite
NPRM	01/09/76	43 FR 1460
Interim Final Rule	12/07/79	44 FR 237
Interim Final Rule	07/16/87	52 FR 26685
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared. The Regulatory Flexibility Act does not apply because the regulations affect only internal operations of an agency.

Agency Contact: Mark Holliday, Acting Chief, Fisheries Statistics Division, Department of Commerce, National Oceanic and Atmospheric Administration, Off. of Research and Environmental Informat., NMFS, Washington, DC 20235, 202 673-5335

RIN: 0648-AA38

400. REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS; IMPORTATION OF YELLOWFIN TUNA

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: U.S. tuna purse seine fishermen operating in the eastern tropical Pacific have been subject to certain restrictions relating to the take of marine mammals, whereas other nations fishing in a similar manner that export tuna to the U.S. often do not impose similar constraints on their own industry. Therefore, the Marine Mammal Protection Act of 1972 was amended to require all such nations, prior to being allowed to import tuna, to provide documentary evidence that they have adopted a program governing the incidental taking of marine mammals that is comparable to that of the U.S. and that the average rate of incidental take in the fishery is comparable to the U.S. These regulations will implement this requirement.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/84	49 FR 46921
NPRM	08/13/86	51 FR 28963
NPRM Comment Period End	11/14/86	51 FR 36568
Interim Final Rule	03/16/88	53 FR 8910
Interim Final Rule	03/07/89	54 FR 9438
Comment Period End	06/07/89	54 FR 18519
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $9,825; Yearly Recurring Cost: $9,825; Base Year for Dollar Estimates: 1985

Sectors Affected: 091 Commercial Fishing

Additional Information: This action will require restrictions on foreign nations that export tuna to the U.S. similar to those imposed on U.S. tuna fishermen. These regulations will have no impact domestically in terms of bringing more U.S. nationals under Federal regulations.

Agency Contact: Kenneth R. Hollingshead, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources & Habitat Programs, NMFS, Silver Spring, MD 20910, 301 427-2289

RIN: 0648-AB46

401. ENDANGERED FISH AND WILDLIFE; APPROACHING HUMPBACK WHALES IN HAWAIIAN WATERS

Legal Authority: 16 USC 1382(a); 16 USC 1540(f)

CFR Citation: 50 CFR 222.31

Legal Deadline: None

Abstract: This rule will establish as regulation a previously published Notice of Interpretation regarding minimum distances that should be maintained in the presence of humpback whales in Hawaii. Establishing a 100 yard perimeter around any of the whales while in the Hawaiian Exclusive Zone as a regulation is considered necessary given a large increase in vessel traffic and other water use activities in areas where this species historically occurs. In response to comments received in the public record, NOAA is defining two specific sites as cow/calf areas in which an approach closer than 300 yds is prohibited. This addition creates a new subsection to the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/24/86	51 FR 42271
NPRM Comment Period End	12/24/86	51 FR 42271

DOC—NOAA

Final Rule Stage

Action	Date	FR Cite
Interim Final Rule	11/23/87	52 FR 44912
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 South Ferry Street, Terminal Island, CA 90731, 213 514-5201

RIN: 0648-AB79

402. U.S. STANDARDS FOR GRADES OF FISH FILLETS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 263A; 50 CFR 263B; 50 CFR 263C; 50 CFR 263D; 50 CFR 263E; 50 CFR 267

Legal Deadline: None

Abstract: This revised rule will expand the coverage of established voluntary standards for grades of fish fillets to include a new market form or style of fillet whereby bones are not removed. This style of fillet has become more familiar in the marketplace, resulting in the industry requesting the amendment. Responses to a previous request for comments indicate a national interest in this style of presentation. The amendment will allow this market form, bearing FDA's recommended labeling, to be inspected and reflect the U.S. Grade A mark.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23235
NPRM Comment Period End	09/06/89	54 FR 32362
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648-AC12

403. IMPLEMENTATION OF CONDITIONALLY APPROVED MEASURES UNDER AMENDMENT 1 TO THE SPINY AND SLIPPER LOBSTER FMP IN THE GULF OF MEXICO AND SOUTH ATLANTIC - PERMITS AND BAG LIMITS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: This rule will require commercial and tail separation permits and establish a recreational bag limit during the regular season.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8485
NPRM Comment Period End	04/18/87	52 FR 8485
Final Action	12/04/89	
Final Action Effective	12/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC25

404. FISH AND SEAFOOD PROMOTION

Significance: Regulatory Program

Legal Authority: 16 USC 4001 to 4017 Fish & Seafood Promotion Act of 1986 (FSPA)

CFR Citation: 50 CFR 270, (new)

Legal Deadline: None

Abstract: The proposed rule describes the conditions under which seafood marketing councils for one or more species of fish or fish products authorized under the FSPA may be established and operated. The councils will be funded through self-assessment by segments of the industry represented on the council and are established through (1) application of particular sector(s) of industry to the Secretary of Commerce; (2) favorable Secretarial review of the application and (3) passage of a referendum conducted by the Secretary among sector participants. The Secretary appoints members to the councils from lists of nominees supplied by the industry. Councils will submit annual plans and budgets for species-specific marketing and promotion, including consumer education, research, and other activities. Costs to the Federal Government are estimated to range from $100,000 to $200,000 for program start-up and other initial costs to establish one council. Annual costs will vary and depend upon the number of applications received and the number of referenda conducted. Benefits to the industry may be substantial.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51294
NPRM Comment Period End	02/21/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: Multiple

Additional Information: The date for publication of the final rule to implement the FSPA regulations as they pertain to species-specific seafood marketing councils was not met. The issues raised as a result of public comments received on the proposed rule were complex, requiring further research and program and legal consultations.

Agency Contact: Thomas J. Billy, Acting Director, Office of Trade and Industry Services, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, NOAA, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2351

RIN: 0648-AC27

405. ATLANTIC TUNA FISHERIES - REGULATORY AMENDMENT

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

DOC—NOAA

Final Rule Stage

Abstract: Proposed rule to change the time frame during which the daily catch rate for giant Atlantic bluefin tuna in the General category may be adjusted and to prohibit the use of spotter aircraft as an aid to fisheries for Atlantic bluefin tuna in all but the purse seine category.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/88	53 FR 10415
NPRM	07/07/89	54 FR 29916
NPRM Comment Period End	08/07/89	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Federal Bldg., Gloucester, MA 01930, 508 281-3600

RIN: 0648–AC40

406. INTERIM EXEMPTION GOVERNING THE INCIDENTAL TAKING OF MARINE MAMMALS DURING COMMERCIAL FISHING OPERATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: NPRM, Statutory, March 23, 1989. Final, Statutory, July 21, 1989. Other, Statutory, January 20, 1989. ANPRM legal deadline was January 20, 1989.

Abstract: 1988 Amendments to Marine Mammal Protection Act direct Secretary of Commerce to establish within 240 days, a 5-year program for exempting commercial fishing operations within the U.S. exclusive economic zone from the Act's prohibition on taking marine mammals. The exemption will require registration of vessels with the National Marine Fisheries Service, reports on interactions with marine mammals and taking Government observers if required.

Timetable:

Action	Date	FR Cite
ANPRM	01/27/89	54 FR 04154
ANPRM Comment Period End	02/27/89	
NPRM	03/23/89	
NPRM Comment Period End	05/08/89	
Interim Final Rule	05/19/89	54 FR 21910
Final Action	06/00/90	
Final Action Effective	07/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Foster, Director, Off. of Protected Resources and Habitat Prog, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2332

RIN: 0648–AC65

407. FISHERMEN'S PROTECTIVE ACT

Legal Authority: 22 USC 1980

CFR Citation: 50 CFR 258

Legal Deadline: None

Abstract: Reinstating regulations inadvertently dropped when Fishermen's Guarantee Program (whose regulations were also included in Part 258) was transferred to State Department.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2396

RIN: 0648–AC73

408. ● GROUNDFISH OF THE GULF OF ALASKA; GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Authorizes the Secretary to (1) regulate directed fishing in the Gulf of Alaska to accommodate incidental harvest requirements; (2) reopen a prematurely closed fishery; (3) require fishermen to mark buoys used in the pot and hook-and-line fisheries; and (4) specify 12:00 noon Alaska local time as the starting and ending time for ground fish fishing seasons.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33737
NPRM Comment Period End	09/14/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7230

RIN: 0648–AC81

409. ● PACIFIC COAST GROUNDFISH FISHERY - REGULATORY AMENDMENT TO FACILITATE ENFORCEMENT

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Two changes to the regulations implementing the fishery management plan for Pacific coast groundfish fisheries in the exclusive economic zone off the coasts of Washington, Oregon, and California are proposed. The first change would require certain commercially caught groundfish species to be sorted prior to the first weighing after offloading. The second change would prohibit possession of unauthorized fixed gear on a fishing vessel. These changes would improve efficiency in enforcing fishing restrictions.

Timetable:

Action	Date	FR Cite
NPRM	08/30/89	54 FR 35900
NPRM Comment Period End	09/29/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

DOC—NOAA

Final Rule Stage

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sandpoint Way NE, Building 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC82

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

410. DRAFT REGULATIONS FOR THE PROPOSED FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 943

Legal Deadline: None

Abstract: These regulations will protect the ecological and biological reef communities of the East and West Flower Garden Banks offshore Texas and Louisiana, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	02/24/89	54 FR 7953
NPRM Comment Period End	04/25/89	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB49

411. DRAFT REGULATIONS FOR THE PROPOSED CORDELL BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 942

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Cordell Bank, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32563
Interim Final Rule	05/19/89	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB50

412. PROPOSED REGULATIONS FOR THE NATIONAL ESTUARINE RESERVE RESEARCH PROGRAM

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: When the Coastal Zone Management Reauthorization Act of 1985 becomes effective, the existing regulations for the National Estuarine Sanctuary Program will need to be updated to reflect the changes that will occur in the program—(1) a stronger emphasis for conducting, promoting and coordinating research within the system; (2) changes the name of the program to "National Estuarine Reserve Research System"; (3) the amount of Federal financial assistance is increased to $4,000,000 per site; and (4) submission of an annual report to Congress beginning with fiscal year 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 43616
NPRM Comment Period End	12/30/88	
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB68

DEPARTMENT OF COMMERCE (DOC)

Completed Actions

National Oceanic and Atmospheric Administration (NOAA)

413. SAFETY OF UNITED STATES OBSERVERS ABOARD FOREIGN FISHING VESSELS

Significance: Regulatory Program

Legal Authority: PL 99-659

CFR Citation: 50 CFR 611.8

Legal Deadline: None

Abstract: United States observers are required aboard foreign vessels permitted to fish in the U.S. Exclusive Economic Zone (EEZ). Conditions aboard these vessels can be hazardous to the safety of observers. To prevent injury to observers, the Department of Commerce intends to publish minimum safety standards that must be maintained aboard foreign fishing vessels before they will be permitted to fish in the U.S. EEZ.

The alternative to establishing U.S. standards is to accept flag-state standards as adequate. This solution will probably not be feasible because there is a wide variation in foreign safety standards and differing degrees of compliance with standards. In some cases, foreign fishing vessels meeting existing flag-state standards would not be suitable for U.S. observers.

Costs of this action will be borne by the owners of foreign fishing vessels. This action is beneficial in that it may prevent serious injury, including death, to observers during the performance of their duty.

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Timetable:

Action	Date	FR Cite
NPRM	07/25/88	53 FR 27887
NPRM Comment Period End	09/08/88	
Final Action	04/24/89	54 FR 16369
Final Action Effective	07/24/89	54 FR 16369

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary A. Wood, Special Agent, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 301 427-2300

RIN: 0648–AB94

414. PARTIAL APPROVAL OF AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The approved portion of the amendment prohibits the use of driftgill nets in the Gulf migratory group king mackerel fishery and the Gulf and Atlantic migratory groups of Spanish mackerel.

Timetable:

Action	Date	FR Cite
NPRM	04/10/89	54 FR 14256
NPRM Comment Period End	05/22/89	
Final Action	07/13/89	54 FR 29561
Final Action Effective	08/14/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC15

415. AMENDMENT 12 TO THE FMP FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 675; 50 CFR 611

Legal Deadline: Final, Statutory.
110 days after receipt from the fishery management council.

Abstract: The amendment would provide for requiring all floating processors receiving fish caught in Federal waters to hold a Federal permit and make weekly reports on catch.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34322
NPRM Comment Period End	10/21/88	53 FR 34322
Final Action	05/01/89	54 FR 18519
Final Action Effective	05/26/89	54 FR 18519

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC32

416. FISHERY MANAGEMENT PLAN FOR KING AND TANNER CRAB IN THE BERING SEA AND ALEUTIAN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 671

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The FMP would govern fishing for king and tanner crab in the EEZ by minimum sizes, annual guideline harvest levels, definition of legal gear, restriction on harvest of female crabs, registration areas, fishing seasons, and provisions for inseason adjustments. The State of Alaska would adopt measures for reporting requirements, gear placement, gear storage, gear restrictions, and vessel tank inspections. A person may appeal to the Secretary if he believes a State action does not comply with the FMP, the Magnuson Act, or other applicable law.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	
Final Action Effective	06/02/89	54 FR 29080
NPRM Comment Period End	06/30/89	
Final Action Notice of Approval	07/11/89	54 FR 29080

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC34

417. AMENDMENT 17 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The amendment would require floating processors receiving fish caught in Federal waters to hold a Federal permit, and make weekly reports on catch.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34322
NPRM Comment Period End	10/21/88	53 FR 34322
Final Action	05/01/89	54 FR 18519

Action	Date	FR Cite
Final Action Effective	05/26/89	54 FR 18519

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC42

418. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC SEA SCALLOPS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 650

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will involve a major revision of the management plan with the purpose of replacing a management program based on a meat count standard measure with some other management approach of equal or greater effectiveness in meeting the plan's objectives. The Council is considering optional means of effort control, which would have industry support, as a basis for a new management program.

Timetable:

Action	Date	FR Cite
NPRM	05/19/89	54 FR 21640
NPRM Comment Period End	05/20/89	54 FR 21640
Withdrawn Fishery Mngt. Council withdrew proposed rule; may resubmit.	06/30/89	54 FR 27656

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC44

419. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 661

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment (1) replaces the long-term spawning escapement goal and rebuilding schedule for Klamath River fall chinook salmon with fixed annual spawning escapement and harvest rates and a minimum escapement floor for naturally spawning adults, (2) modifies the ocean harvest allocation of coho and chinook salmon between non-Indian fisheries north of Cape Falcon, Oregon, (3) revises coastwide notice procedures for inseason management action, (4) conforms Federal and State regulations regarding the incidental harvest of steelhead by recreational fishermen, (5) authorizes inseason reporting requirements for commercial fishermen to provide timely accounting of catches from any regulatory area subject to quota management, and (6) removes the limitations on commercial and recreational season beginning and ending dates.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 2177
NPRM Comment Period End	03/03/89	
Final Action Effective	05/01/89	54 FR 19165
Final Action	05/04/89	54 FR 19158

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE, Building 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC49

420. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will reallocate the Spanish mackerel quota in the South Atlantic and Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	54 FR 25593
NPRM Comment Period End	07/31/89	
Final Action	09/19/89	54 FR 38526
Final Action Effective	09/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC55

421. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO - THE TORTUGAS SANCTUARY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: None

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DOC—NOAA

Completed Actions

Abstract: This amendment will reopen a portion of the Tortugas Sanctuary that has been closed to shrimp fishing.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 02175
NPRM Comment Period End	02/21/89	
Final Action	04/21/89	54 FR 16123
Final Action Effective	11/03/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC56

422. FISHERY MANAGEMENT PLAN FOR THE HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175 EAST LONGITUDE - REGULATORY AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 653

Legal Deadline: None

Abstract: This regulatory amendment would modify the regulations implementing the FMP in order to bring them into conformity with the FMP measures concerning the Secretary's authority to open and close fishing areas.

Timetable:

Action	Date	FR Cite
Deleted Not developed by Council	07/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: James W. Brooks, Acting Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99801, 907 586-7221

RIN: 0648–AC57

423. REGULATORY AMENDMENT TO CLARIFY TRIP LIMIT REGULATIONS FOR THE PACIFIC COAST GROUNDFISH AND SALMON FISHERIES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663; 50 CFR 661

Legal Deadline: None

Abstract: The regulatory amendment would clarify trip limit restrictions in the groundfish and salmon fisheries off the coasts of Washington, Oregon, and California. The definitions of "land or landing" and "fishing trip" are modified to clarify trip limit restrictions, to provide consistent regulations in the two fisheries, and to facilitate enforcement.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41214
NPRM Comment Period End	11/18/88	53 FR 41214
Final Action	05/12/89	54 FR 20603
Final Action Effective	06/12/89	54 FR 20603

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/NWR, 7600 Sand Point Way, NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC59

424. GUIDELINES FOR FISHERY MANAGEMENT PLANS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 602

Legal Deadline: None

Abstract: Revision of regulatory guidance with regard to establishing a conservation standard for defining overfishing for each managed fishery. This conforms with recommendations and administration policy.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 3031
NPRM Comment Period End	02/28/89	
Final Action	07/24/89	54 FR 30826
Final Action Effective	07/24/89	54 FR 30826

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, 301 427-2334

RIN: 0648–AC62

425. AMENDMENT 12A TO THE GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA FMP - INCIDENTAL CATCH LIMITS OF CRABS AND HALIBUT

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672; 50 CFR 611

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Limits on the incidental catch of tanner crab, king crab, and halibut are established for the groundfish fishery. Closure by specified area or subarea must occur when a limitation is reached.

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19199
NPRM Comment Period End	05/12/89	54 FR 21343
Final Action	08/09/89	54 FR 32642
Final Action Effective	09/03/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

DOC—NOAA

Completed Actions

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802, 907 586-7221

RIN: 0648–AC74

426. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will establish a multi-year management regime in which the fishery will remain seasonally closed to 200 miles in years of good recruitment and opened in years of poor recruitment.

Timetable:

Action	Date	FR Cite
Deleted- could not discriminate between good and poor recruitment in advance	07/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Joseph W. Angelovic, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC76

427. RULEMAKING TO IMPLEMENT 1985 REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT (CZMA)

Legal Authority: 16 USC 1456; PL 99-272, Subtitle D

CFR Citation: 15 CFR 923

Legal Deadline: None

Abstract: PL 99-272, the Coastal Zone Management Reauthorization Act of 1985, amended Sec 306(g) of the Coastal Zone Management Act (16 USC 1456) dealing with submission and approval of changes to federally approved State coastal zone management programs. NOAA determined that the 1985 Reauthorization Act does not require rulemaking. The CZMA will be up for reauthorization again September 30, 1990.

Timetable:

Action	Date	FR Cite
Issue paper distributed	09/12/86	
Withdrawn	08/25/89	

Small Entities Affected: None

Government Levels Affected: State

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Mark Stanga, Associate Director, OCRM, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Room 701, Washington, DC 20235, 202 673-5100

RIN: 0648–AC02

428. PROPOSED REGULATIONS FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922

Legal Deadline: NPRM, Statutory. Final, Statutory, November 7, 1988. Within 12 months of enactment.

Abstract: As a result of the Marine Protection Research and Sanctuaries Act reauthorization in 1988, the regulations were revised to incorporate modifications from the new legislation.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21369
NPRM Comment Period End	08/11/86	
Final Action	10/26/88	53 FR 43802
Final Action Effective	11/26/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, NOS Universal Bldg., Rm. 714, 1825 Conn. Ave., NW, Washington, DC 20235, 202 673-5126

RIN: 0648–AC53

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

429. FOREIGN FILING LICENSE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 35 USC 6; PL 100-418, Sec 9101(c)

CFR Citation: 37 CFR 5.14; 37 CFR 5.15; 37 CFR 5.25

Legal Deadline: None

Abstract: Amends regulations to conform with changes made in Trade Bill (Public Law 100-418) Section 9101 which amended Title 35, United States Code sections 184, 185 and 186. The legislation deleted "inadvertently" in view of narrow interpretation by the Courts. "Inadvertently" was replaced with "through error and without deceptive intent." The change would permit additional subject matter in foreign applications if it does not change the nature of the invention or disclose national security information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Final Action	04/01/90	
Final Action Effective	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

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DOC—PTO

Proposed Rule Stage

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Kenneth Cage, Director, Group 220, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-2877

RIN: 0651-AA09

Legal Deadline: None

Abstract: Clarifications to requirements for patent application drawings. Revisions for addressing mail to the Patent and Trademark Office. Inclusion of security agreement recording in trademark records of ownership (assignments).

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	
NPRM Comment Period End	12/01/89	
Final Action	04/01/90	
Final Action Effective	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theresa A. Brelsford, Assistant Commissioner for Administration, Department of Commerce, Patent and Trademark Office, 2121 Crystal Drive, PK2 908, Arlington, VA 20231, 703 557-2290

RIN: 0651-AA34

430. MISCELLANEOUS CHANGES IN PATENT PRACTICE

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.1; 37 CFR 1.12; 37 CFR 1.84; 37 CFR 1.88

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

431. VARIETY DENOMINATION REQUIREMENTS FOR PLANT PATENT APPLICATIONS

Legal Authority: 35 USC 41; 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.72; 37 CFR 1.166

Legal Deadline: None

Abstract: PTO will propose amendment of its rules of practice in patent cases to implement the International Convention for the Protection of New Varieties of Plants. The International Convention requires registration of a plant variety name at the time a patent on a plant variety is issued. Compliance with the registration requirements of the Convention would be determined in the process of examining plant patent applications.

Timetable:

Action	Date	FR Cite
Notice	12/27/85	50 FR 52963
NPRM	11/02/87	52 FR 42016
Final Action	01/01/90	
Final Action Effective	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Michael K. Kirk, Assistant Commissioner for External Affairs, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3065

RIN: 0651-AA12

432. DUTY OF DISCLOSURE - INFORMATION DISCLOSURE STATEMENT

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.56; 37 CFR 1.97; 37 CFR 1.98; 37 CFR 1.99

Legal Deadline: None

Abstract: 37 CFR 1.56 and 1.97-1.99, which relate to the duty of patent applicants and owners to disclose information material to the examination of patent applications or to reexaminations, will be amended to specify more clearly the requirements to be met in making disclosures.

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11334
NPRM Comment Period End	06/20/89	54 FR 11334
Final Action	11/01/89	
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: R. Franklin Burnett, Special Assistant, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3054

RIN: 0651-AA27

433. REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING DNA/RNA AND PROTEIN SEQUENCE DISCLOSURES

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.221, (New); 37 CFR 1.222, (New); 37 CFR 1.223, (New); 37 CFR 1.224, (New); 37 CFR 1.225, (New)

Legal Deadline: None

Abstract: The rules would require the submission of DNA/RNA and protein sequences to be in a standard format in patent applications, to be in a separate part and also be submitted in electronic form such as diskette or tape. The submissions would simplify search, examination and publication and would facilitate the establishment of a searchable data base.

Timetable:

Action	Date	FR Cite
NPRM	05/20/89	54 FR 18671
NPRM Comment Period End	07/12/89	54 FR 18671
Final Action	10/01/89	
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

DOC—PTO

Final Rule Stage

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John Kittle, Director, Group 180, Department of Commerce, Patent and Trademark Office, CP2-9A09, Washington, DC 20231, 703 557-3637

RIN: 0651-AA37

Legal Deadline: None

Abstract: PTO proposes to establish a reasonable user fee for access to its automated full-text patent search system and automated trademark search system in its public facilities in Arlington, Virginia.

Timetable:

Action	Date	FR Cite
NPRM	05/03/89	54 FR 18907
NPRM Comment Period End	06/30/89	54 FR 18907
Final Action	10/01/89	
Final Action Effective	12/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Frances Michalkewicz, Director, Office of Long Range Planning and Evaluation, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-1610

RIN: 0651-AA40

434. PATENT AND TRADEMARK AUTOMATED SEARCH SYSTEM FEES

Significance: Regulatory Program

Legal Authority: 35 USC 6; 35 USC 41; 15 USC 1113; PL 100-703

CFR Citation: 37 CFR 1.21; 37 CFR 2.6

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

435. DEPOSIT OF BIOLOGICAL MATERIALS FOR PATENT PURPOSES

Significance: Regulatory Program

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.200 (New); 37 CFR 1.201 (New); 37 CFR 1.202 (New); 37 CFR 1.203 (New); 37 CFR 1.204 (New); 37 CFR 1.205 (New); 37 CFR 1.206 (New); 37 CFR 1.207 (New); 37 CFR 1.208 (New)

Legal Deadline: None

Abstract: PTO will propose amendment of its rules of practice in patent cases to govern the deposit of biological materials for patent purposes.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/87	52 FR 34080
ANPRM Comment Period End	11/30/87	
NPRM	10/06/88	53 FR 39420
NPRM Comment Period End	01/09/89	
Final Action	08/22/89	54 FR 34864
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Charles E. Van Horn, Deputy Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-4035

RIN: 0651-AA13

436. REQUESTS FOR RECONSIDERATION IN PATENT AND TRADEMARK OFFICE DISCIPLINARY PROCEEDINGS

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 32; 35 USC 34; 35 USC 41

CFR Citation: 37 CFR 10.156

Legal Deadline: None

Abstract: The proposed rule change will prescribe the date on which the decision of the Commissioner of Patents and Trademarks in a PTO disciplinary proceeding becomes final agency action for purposes of judicial review. It will also provide for one request for reconsideration or modification of such decision by a party.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38740
NPRM Comment Period End	12/01/88	
Final Action	02/14/89	54 FR 6659
Final Action Effective	04/01/89	54 FR 6659

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris A. Pitlick, Associate Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-4035

RIN: 0651-AA33

437. AMENDMENTS OF PATENT AND TRADEMARK RULES CONCERNING JUDICIAL REVIEW OF DECISIONS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.136; 37 CFR 1.191; 37 CFR 1.196; 37 CFR 1.197; 37 CFR 1.304; 37 CFR 1.550; 37 CFR 1.645; 37 CFR 1.658; 37 CFR 2.129; 37 CFR 2.144; 37 CFR 2.145

Legal Deadline: None

Abstract: PTO proposes to amend its rules to clarify when a decision of the Board of Patent Appeals and Interferences becomes final for purposes of judicial review. The proposed rule changes will eliminate any confusion as to when judicial review must be sought and standardizes the manner of obtaining extensions of time to seek judicial review of decisions of the Board of Appeals and Interferences and Trademark Trial and Appeal Board.

Timetable:

Action	Date	FR Cite
NPRM	03/16/89	54 FR 11009
NPRM Comment Period End	05/24/89	54 FR 11009
Final Action	07/13/89	54 FR 29546
Final Action Effective	08/20/89	54 FR 29548

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Richard E. Schafer, Associate Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231, 703 557-4035

RIN: 0651–AA35

438. AMENDMENTS OF TRADEMARK RULES GOVERNING INTER PARTES PROCEEDINGS; MISCELLANEOUS AMENDMENTS OF OTHER TRADEMARK RULES

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.92; 37 CFR 2.102(c); 37 CFR 2.119(d), (New); 37 CFR 2.119(e), (New); 37 CFR 2.120(d); 37 CFR 2.120(g); 37 CFR 2.120(j)(3); 37 CFR 2.120(j)(5); 37 CFR 2.120(j)(8); 37 CFR 2.123(c); 37 CFR 2.123(e)(2); 37 CFR 2.127(e)(1), (New); 37 CFR 2.127(e)(2), (New); 37 CFR 2.128(b); 37 CFR 2.186; ...

Legal Deadline: None

Abstract: The rules of practice in trademark cases are proposed to be amended to revise, simplify, clarify, or delete existing rules or to codify in rules certain practices which are currently in effect. The rules involved are those relating to the requirements for concurrent use applications; abandonment of trademark applications; appeals to the TTAB from the final refusal of registration in ex parte cases; the institution and conduct of interference, concurrent use, opposition, and cancellation proceedings before the TTAB; review by civil action of a decision of the TTAB; and allowing an assignee to take action with respect to the assigned application or registration. The proposed amendments will assist the orderly and prompt resolution of issues in proceedings before the TTAB.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9514
NPRM Comment Period End	05/01/89	54 FR 9514
Final Action	08/22/89	54 FR 34886
Final Action Effective	11/16/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Janet E. Rice, Member, Trademark Trial and Appeal Board, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Box 5, Trademark Trial and Appeal Board, Washington, DC 20231, 703 557-3551

RIN: 0651–AA36

439. AMENDMENTS OF THE TRADEMARK RULES TO IMPLEMENT THE TRADEMARK LAW REVISION ACT AND THE "CROCKER" DECISION AND MISCELLANEOUS TRADEMARK RULE AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1123; PL 100-667

CFR Citation: 37 CFR 2.21; 37 CFR 2.33; 37 CFR 2.51; 37 CFR 2.61; 37 CFR 2.64; 37 CFR 2.71; 37 CFR 2.76, (New); 37 CFR 2.77, (New); 37 CFR 2.81, (New); 37 CFR 2.87; 37 CFR 2.88, (New); 37 CFR 2.89, (New); 37 CFR 2.129; 37 CFR 2.133; 37 CFR 2.161; ...

Legal Deadline: Final, Statutory, November 16, 1989.
The effective date of the Trademark Revision Act of 1988 (P.L. 100-667) is November 16, 1989, by which date implementing rules must be final.

Abstract: The rules of practice in trademark cases are proposed to be amended to implement the provisions of the Trademark Law Revision Act of 1988 (P.L. 100-667), to codify changes in practice resulting from a certain Trademark Trial and Appeal Board decision commonly known as the "Crocker" decision (relating to requirements for foreign applicants seeking to register trademarks in the United States), and to otherwise clarify and revise procedures for the examination of applications. The rules involved are those relating to applications for registration of trademarks based on (1) use of a mark in commerce, (2) a bona fide intention to use a mark in commerce, and (3) ownership of a foreign registration. The rules involved relate also to post-registration procedures and to ex parte appeals and inter partes proceedings before the Trademark Trial and Appeal Board.

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19286
NPRM Comment Period End	06/16/89	54 FR 19286
Final Action	09/11/89	54 FR 37562
Final Action Effective	11/16/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Carlisle E. Walters, Legal Administrator, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Box 5, Washington, DC 20231, 703 557-3061

RIN: 0651–AA38

440. EXHAUSTION OF ADMINISTRATIVE REMEDIES IN PATENT AND TRADEMARK OFFICE DISCIPLINARY PROCEEDINGS

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 31; 35 USC 32; 35 USC 41

CFR Citation: 37 CFR 10.155; 37 CFR 10.157

Legal Deadline: None

Abstract: Proposed amendments will clarify that a respondent dissatisfied with the initial decision by the administrative law judge in a PTO disciplinary proceeding must exhaust administrative remedies before seeking judicial review under 35 USC 32.

Timetable:

Action	Date	FR Cite
NPRM	12/28/88	53 FR 52436
NPRM Comment Period End	02/27/89	
Final Action	06/21/89	54 FR 26205
Final Action Effective	08/01/89	54 FR 26205

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris A. Pitlick, Department of Commerce, Patent and Trademark Office, Box 8, Washington, DC 20231, 703 557-4035

RIN: 0651–AA41

441. PATENT TERM EXTENSION FOR ANIMAL DRUG PRODUCTS

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 156; PL 100-670

CFR Citation: 37 CFR 1.710; 37 CFR 1.720; 37 CFR 1.740; 37 CFR 1.741; 37 CFR 1.765; 37 CFR 1.775; 37 CFR 1.778,(New); 37 CFR 1.779,(New); 37 CFR 1.785

Legal Deadline: None

Abstract: Changes are proposed to existing rules relating to patent term extension to implement the Generic Animal Drug and Patent Term Restoration Act, Pub. L. 100-670 (November 16, 1988).

Existing procedures and requirements will be applied to applications for patent term extension based on regulatory approval of new animal drugs or veterinary biological products.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9507
NPRM Comment Period End	05/01/89	
Final Action	07/20/89	54 FR 30375
Final Action Effective	08/22/89	54 FR 30375

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Van Horn, Deputy Solicitor, Department of Commerce, Patent and Trademark Office, Box 8, Washington, DC 20231, 703 557-2317

RIN: 0651–AA42

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Prerule Stage

442. ADMINISTRATION OF A UNIFORM PATENT POLICY WITH RESPECT TO DOMESTIC RIGHTS IN INVENTIONS MADE BY GOVERNMENT EMPLOYEES

Significance: Agency Priority

Legal Authority: EO 10096; EO 10930; 35 USC 207 to 208; 15 USC 3701 et seq

CFR Citation: 37 CFR 100

Legal Deadline: None

Abstract: PL 99-502 amended the Stevenson-Wydler Innovation Act of 1980 by establishing a number of procedures to encourage the development of technologies by laboratories owned or operated by the Federal Government, to facilitate the transfer of such technologies to the public, and to promote cooperation between these laboratories and the private sector.

Executive Order 10096 would be amended with regard to the government's rights to ownership of inventions created in laboratories owned or operated by the Federal Government. A revised version of the Executive order might be prepared and regulations would be developed to implement the amendments effected by PL 99-502.

This action will not increase Federal costs. In the short run it will encourage private sector collaboration to assist work done in Federal laboratories by appropriated funds, and in the long run increased commercialization of patents and inventions will increase tax revenues.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Joseph P. Allen, Deputy Director, Office of Technology, Commercialization, Department of Commerce, Technology Administration, Room H 4204, Washington, DC 20230, 202 377-8101

RIN: 0692–AA05

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Proposed Rule Stage

443. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 35 USC 208

CFR Citation: 37 CFR 404

Legal Deadline: None

Abstract: This action will revise 37 CFR 404 to simplify the process by which U.S. industry can obtain license to patented inventions owned by the Government. PL 99-502 is expected to increase industry interest in licensing inventions from Federal laboratories. The existing regulation was written by GSA on the basis of 1980 legislation. It may be possible to remove some of the difficulties that potential licensees must overcome.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Joseph P. Allen, Deputy Director, Office of Technology, Commercialization, Department of Commerce, Technology Administration, Room H 4204, Washington, DC 20230, 202 377-8101

RIN: 0692–AA04

444. METRIC CONVERSION POLICY FOR FEDERAL AGENCIES

Significance: Regulatory Program

Legal Authority: 15 USC 205a et seq Metric Conversion Act

CFR Citation: 15 CFR 19 Subpart B (Revised)

Legal Deadline: Other, Statutory, September 30, 1992.
15 USC 205(1) (as amended by sec. 5164 of PL 100-418) calls for the Comptroller General to review the implementation of the amended policy and report his finding to Congress along (cont)

Abstract: The CFR must be updated to reflect the new Federal policy, as amended by the 1988 Trade Act (PL 100-48), regarding Federal use of the metric system in its procurements,

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DOC—TA — Proposed Rule Stage

grants and other business-related activities, and the impact on State and local governments and the private sector of this transition. No alternatives are being considered.

The costs to the Federal Government cannot be accurately estimated, but will include the cost of redoing some regulations and publications, costs associated with orienting employees and contractors to use of the metric system and some share of contractor costs for converting. The benefits will be the greater marketability of U.S. products which will improve our competitive posture in world markets and thereby improve U.S. trade balances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

LEGAL DEADLINE DESCRIPTION CONT: with any legislative recommendation.

Agency Contact: Don Johnson, Director, Office of Technology Assessment and Project Development, Department of Commerce, Technology Administration, Rm 4841, Washington, DC 20230, 202 377-3036

RIN: 0692-AA07

DEPARTMENT OF COMMERCE (DOC)
United States Travel and Tourism Administration (USTTA)

Completed Actions

445. TRAVEL PROMOTION FEE

Significance: Regulatory Program

Legal Authority: Not yet enacted

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: USTTA has primary Federal responsibility for stimulating U.S. export earnings through trade in tourism. Trade development coordination and other related services are currently provided without charge; however, various public and private sector partners do support USTTA cooperative programs at a level nearly equal the funding provided the agency by Congress. The Administration has directed USTTA to undertake efforts to replace funding it receives from general Treasury revenue with monies raised by assessing a facilitation fee derived from the economic activities of the American travel industry and its consumers. Upon enactment of this legislation USTTA will issue implementing regulations.

Timetable:

Action	Date	FR Cite
Withdrawn	08/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Wylie Whisonant, Dpty. Under Secretary for Travel and Tourism, Department of Commerce, United States Travel and Tourism Administration, Room 1865, Washington, DC 20230, 202 377-0140

RIN: 0644-AA00

[FR Doc. 89-21718 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part V

Department of Defense

Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, DoD.

ACTION: Publication of the consolidated semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense is publishing this consolidated semiannual agenda of regulatory documents, including those that are procurement-related for public information and comments under E.O. 12291 "Federal Regulation" and the Office of Federal Procurement Policy Act of 1988 (102 Stat. 4055; 41 U.S.C. 402). This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12291, the Federal Procurement Policy Act, and other regulatory programs. It contains DoD issuances initiated by DoD Components that may have economic and environmental impact on state, local, public, or private interests under the criteria of E.O. 12291. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This agenda updates the report published on April 24, 1989, and includes regulations expected to be issued and under review over the next 12 months. The procurement-related agenda items, included in this publication, will also be used by the Office of Federal Procurement Policy to publish a "Procurement Regulatory Activity Report" as required by the Office of Federal Procurement Policy Act Amendments of 1988.

The next agenda is scheduled to be published in April 1990. In addition to this agenda, DoD Components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mrs. Pearl Rascoe-Harrison, telephone 202-746-0933, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, contact the Office of the General Counsel, DoD, Washington, DC 20301, or call 202-697-2714.

For general information on Office of the Secretary regulations, contact Mrs. Patricia H. Means, Directives Division, Correspondence and Directives, Directorate, Washington Headquarters Services, telephone 202-697-4111. For general information on the procurement-related agenda items, contact Mr. Owen L. Green III, telephone 202-697-7266, or write to the Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062.

For general information on Department of the Army regulations, contact Mr. Kenneth L. Denton, telephone 202-325-6297, or write to Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-SPP, Room 1420, Hoffman I, Alexandria, Virginia 22331-0302.

For general information on Department of the Navy regulations, contact Ms. Alcinda P. Wenberg, telephone 202-697-7216, or write to Department of the Navy, Information Resources Management, IRM(C), Washington, DC 20350-1000.

For general information on Department of the Air Force regulations, contact Ms. Patsy J. Conner, telephone 202-694-3527, or write to Department of the Air Force, SAF/AADA, Pentagon, Washington, DC 20330-1000.

For specific agenda items, contact the appropriate individual indicated in each DoD Component report.

SUPPLEMENTARY INFORMATION: This consolidated agenda is composed of the regulatory status reports, including procurement-related regulatory status reports from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Included also in this agenda is the regulatory report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12291. Their agenda will reflect these requirements, with follow-on reporting actions taken, as necessary.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD Components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes Component level of authority and type of issuance in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12291, will continue to be the DoD single source reporting vehicle, which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, when applicable, DoD Components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act;

c. GATT International Trade Agreement; and

d. Office of Federal Procurement Policy Act Amendments of 1988.

These DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions.

Although not a regulatory agency, the Department of Defense will continue to participate in regulatory initiatives designed to reduce the economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD Component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, the Department of Defense reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission.

DOD

Note: The publishing of this agenda does not waive the applicability of the military affairs exemption in title 5, section 553 and section 1 of E.O. 12291.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
446	Claims, Equitable Adjustment (DAR Case 87-128D)	0790-AB46
447	Technical Data, Sec. 806, 1988 Authorization Act (DAR Case 87-303)	0790-AB48

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
448	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AA48
449	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Implementation of Section 504 of PL 93-112, the Rehabilitation Act of 1973 (DoD 6010.8-R)	0790-AA71
450	Commercial Activities Program; Procedures (DoD Instruction 4100.33)	0790-AA73
451	Defense Industrial Personnel Security Clearance Review Program (DoD Directive 5220.6)	0790-AA84
452	Equal Opportunity in Off-Base Housing (DoD Directive 1100.16)	0790-AB30
453	Military Whistleblower Protection (DoD Directive 7050.xx)	0790-AB31
454	Total Quality Management (DoD Directive 5000.51)	0790-AB33
455	Review of Subcontractor's Proposed Contract Costs (DAR Case 84-096D)	0790-AB36
456	Commerce Patent Regulations, PL 98-620 (DAR Case 85-056D)	0790-AB38
457	Cargo Preference Act (DAR Case 88-047)	0790-AB50
458	Intermediate-Range Nuclear Force Reduction Treaty (DAR Case 88-054)	0790-AB55
459	Drug-Free Workforce (DAR Case 88-083)	0790-AB58
460	Space Defense Initiative Organization - Research, Development, Testing, and Evaluation (Glenn Amendment), Sec. 222 (DAR Case 88-119)	0790-AB62
461	Foreign Selling Costs, Sec. 826, 1989 Authorization Act (DAR Case 88-300D)	0790-AB66
462	Competitive Threshold, PL 100-656, Sec. 303(B)8(A) (DAR Case 88-325D)	0790-AB74
463	False Representation-Small Business, PL 100-656, Sec. 405 (DAR Case 88-331)	0790-AB75
464	False Representation-Small Business, PL 100-656, Sec. 405 (DAR Case 88-331D)	0790-AB76
465	Contract Air Fares, Sec. 833, PL 100-456 (DAR Case 88-336)	0790-AB79
466	Rural Area Business Development, Sec. 129, PL 100-590 (DAR Case 88-341)	0790-AB80
467	Indian Owned Enterprise, Additional 5 Percent (DAR Case 88-342)	0790-AB81
468	Threshold, Price Reasonableness (DAR Case 88-400D)	0790-AB82
469	Small Disadvantaged Business; Historically Black Colleges and Universities - 5 Percent Goal - PL 100-180, Sec. 806 (DAR Case 89-023A)	0790-AB84
470	Computer-Aided Acquisition and Logistics Support (CALS) (DAR Case 89-061)	0790-AB89
471	Warranties (DAR Case 89-062)	0790-AC00
472	Support and Privileges for Contractor Personnel in Europe (DAR Case 89-069)	0790-AC01
473	Acquisition Plans/Justification and Acceptance; Supporting Documentation (DAR Case 89-072)	0790-AC02
474	Threshold, Part 5 (DAR Case 89-403D)	0790-AC03
475	Contractor Procurement System Reviews; Reduction of Separate Reviews (DAR Case 89-434)	0790-AC04

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
476	Financial Institutions on DoD Installations (DoD Directive 1000.11)	0790-AA51
477	Procedures Governing Banking Offices on DoD Installations (DoD Instruction 1000.12)	0790-AA52
478	Procedures Governing Credit Unions on DoD Installations (DoD Instruction 1000.10)	0790-AA53

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Office of the Secretary—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
479	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Per Diem Based Payment Method for Mental Health Services (DoD 6010.8-R)	0790-AB06
480	Child Development Programs (DoD Instruction 6060.2)	0790-AB28
481	Placement of Reserve Component Units in Local Communities (DoD Directive 1200.1)	0790-AB29
482	Certificate of Release or Discharge From Active Duty (DD Form 214/5 Series)(DoD Instruction 1336.1)	0790-AB32
483	Commercial Activities Program (DoD Directive 4100.15)	0790-AB34
484	Bonds to Guarantees (DAR Case 84-149D)	0790-AB35
485	Short Form Research Contractor - Competition in Contracting Act (DAR Case 85-014)	0790-AB37
486	Arms, Ammo and Explosives at Contractor Facilities (DAR Case 85-102)	0790-AB39
487	Safety and Occupational Health (DAR Case 86-002D)	0790-AB40
488	Recovery of Nonrecurring Costs on Commercial Sales (DAR 86-017)	0790-AB41
489	Estimating System Reviews (DAR Case 86-109)	0790-AB42
490	Bills of Lading/Domestic Route Order/Export Traffic Release, Application for U.S. Government, DD Form 1659 (DAR Case 87-086)	0790-AB43
491	Adequate Price Competition (DAR Case 87-097)	0790-AB44
492	Work Measurement Systems (DAR Case 87-123)	0790-AB45
493	English Translation of Contracts and Gas Cylinders (DAR Case 87-129D)	0790-AB47
494	Restrictions on Employment, Sec. 8046, Fiscal Year 1988 (Alaska/Hawaii) (DAR Case 87-321)	0790-AB49
495	Form DD250, Unit Prices (DAR Case 88-012)	0790-AB50
496	Certification of Necessity for Government-Furnished Property (DAR Case 88-028D)	0790-AB51
497	Antifriction Bearings (DAR Case 88-035)	0790-AB52
498	Master Solicitation and Award Fees (DAR Case 88-050D)	0790-AB54
499	DFARS 22.4-Construction Labor Standards (DAR Case 88-055)	0790-AB56
500	Interim Contract Completion Procedures (DAR Case 88-072)	0790-AB57
501	DD 1630, Research and Development Bidders Mailing List (DAR Case 88-090)	0790-AB59
502	Military Interdepartment Purchase Requests (MIPRs) (DAR Case 88-104)	0790-AB60
503	Progress Payment Rates, Increase (DAR Case 88-111)	0790-AB61
504	Contingency Contracting Overseas (DAR Case 88-129)	0790-AB63
505	Negotiated Settlements, Armed Services Board of Contract Appeals (DAR Case 88-190)	0790-AB64
506	Automated Purchasing Systems and Contractor Procurement System Reviews (CPSRs) (DAR Case 88-152)	0790-AB65
507	Incentives for Innovation, Sec. 806, 1989 Authorization Act (DAR Case 88-305)	0790-AB67
508	Valve and Machine Tools, Sec. 822, 1989 Authorization Act (DAR Case 88-307)	0790-AB68
509	Prohibit Employment of Felons, Sec. 831, 1989 Authorization Act (DAR Case 88-309)	0790-AB69
510	Material Requirements Planning, Sec. 834, 1989 Authorization Act (DAR Case 88-311)	0790-AB70
511	Prompt Payment, Sec. 3901, Prompt Payment Act, PL 100-496 (DAR Case 88-314D)	0790-AB71
512	Procurement Integrity, Sec. 6, OFPP Act (DAR Case 88-315D)	0790-AB72
513	Small Business Competitiveness Demonstration Program (DAR Case 88-322D)	0790-AB73
514	Small and Disadvantaged Business Utilization (SADBU) Representatives Recommendation on Contract Award, PL 100-656, Sec. 603 (DAR Case 88-332D)	0790-AB77
515	Dredging Program, Sec. 722, PL 100-656 (DAR Case 88-334)	0790-AB78
516	Threshold of DFARS Part 13 (DAR Case 88-419)	0790-AB83
517	Application of Fixed Price Award Fee (DAR Case 88-430D)	0790-AB84
518	Architectural - Engineering Performance Evaluations (DAR Case 88-434D)	0790-AB85
519	Definition of Labor Surplus Area Form - Defense Personnel Supply Center (DPSC) (DAR Case 89-002)	0790-AB86
520	Industrial Preparedness Planning (IPP) (DAR Case 89-003)	0790-AB87
521	DoD Parts Control Program (PCP) and Standardized Military Drawings (SMD) Program (DAR Case 89-004)	0790-AB88
522	Use of DD1155 as a Delivery Order Form (DAR Case 89-005)	0790-AB89
523	DD Form 350, GSA Schedules (DAR Case 89-012)	0790-AB90
524	Form, DD 350 Changes (FY 90) (DAR Case 89-016)	0790-AB91
525	Waivers of Submission and Certification of Cost and Pricing Data (DAR Case 89-017)	0790-AB92
526	Small Disadvantaged Business; Historically Black Colleges and Universities - 5 Percent Goal (DAR Case 89-023)	0790-AB93
527	Protests-Lehigh Instruments (DAR Case 89-025)	0790-AB95
528	Vendor Prices, Historical (DAR Case 89-030)	0790-AB96
529	Anti-Kickback, Designation of Department of Defense Inspector General (DoDIG) Representatives (DAR Case 89-043)	0790-AB97
530	Service Contract Act - DFARS (DAR Case 89-046)	0790-AB98

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Department of the Army—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
531	The Army General Counsel's Honors Program	0702-AA00

Department of the Army—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
532	Airfield Certification and Use of Army Airfields by Other than U.S. Department of Defense Aircraft	0702-AA02
533	Regulations Affecting Military Reservations: Prohibited Activities at Fort Bragg, NC	0702-AA17

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
534	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D–Endangered Species Counterpart Regulations	0710-AA17
535	Nationwide Permit Program	0710-AA20
536	Part 325, Processing Department of the Army Permits	0710-AA23
537	Part 326, Enforcement; Class II Administrative Penalties	0710-AA25

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
538	Regulatory Programs of the Corps of Engineers Part 325, App. C, Historic Properties	0710-AA12
539	Part 326, Enforcement; Class I Administrative Permits	0710-AA24

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
540	Release of Official Information for Litigation	0703-AA30

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
541	Public Affairs Policies and Procedures (AFR 190-1)	0701-AA18
542	Claims and Tort Litigation (AFR 112-1)	0701-AA19
543	Air Force Visual Information Systems (AFR 700-32)	0701-AA28

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Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
544	Air Force Supplement to the Federal Acquisition Regulation (FAR)	0701-AA14

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

446. ● CLAIMS, EQUITABLE ADJUSTMENT (DAR CASE 87-128D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215; 48 CFR 252

Legal Deadline: None

Abstract: Allow contracting officers to require contractors to separately account for changed work on construction contracts if changed work exceeds $100,000.

Timetable:

Action	Date	FR Cite
Case Opened	11/24/87	
NPRM	12/06/88	53 FR 49212
NPRM Comment Period End	01/05/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB40

447. ● TECHNICAL DATA, SEC. 808, 1988 AUTHORIZATION ACT (DAR CASE 87-303)

Significance: Agency Priority

Legal Authority: PL 100-180, Sec 808

CFR Citation: 48 CFR 227; 48 CFR 252

Legal Deadline: Final, Statutory, April 2, 1988.

Abstract: Do not impair right of the contractor or subcontractor to receive from a third party a fee or royalty for use of technical data.

Timetable:

Action	Date	FR Cite
Case Opened	12/02/87	
Interim Final Rule	10/28/88	53 FR 43698

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB48

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

448. ● COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Legal Authority: 5 USC 301; EO 12615; PL 93-400

CFR Citation: 32 CFR 169a

Legal Deadline: None

Abstract: This proposed rule establishes procedures and criteria for use by the Department of Defense (DoD) to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources.

Timetable:

Action	Date	FR Cite
NPRM	04/18/89	54 FR 15442
NPRM Comment Period End	07/17/89	54 FR 15442

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Miglionico, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790-AA46

449. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); IMPLEMENTATION OF SECTION 504 OF PL 93-112, THE REHABILITATION ACT OF 1973 (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301; 29 USC 794

DOD—OS

Final Rule Stage

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: The purpose of this rule is to revise the DoD Regulation 6010.8-R (32 CFR 199) to meet the intent of section 504 of the Rehabilitation Act of 1973, as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 39757
NPRM Comment Period End	12/01/86	51 FR 39757
Final Action	11/30/90	
Final Action Effective	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: T. Shahid, Department of Defense, Office of the Secretary, 303 361-3567

RIN: 0790-AA71

450. COMMERCIAL ACTIVITIES PROGRAM; PROCEDURES (DOD INSTRUCTION 4100.33)

Legal Authority: 5 USC 301; EO 12615; PL 93-400

CFR Citation: 32 CFR 169a

Legal Deadline: None

Abstract: This part proposes to establish procedures and criteria for use by the Department of Defense to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources.

Timetable:

Action	Date	FR Cite
NPRM	04/16/89	54 FR 15442
NPRM Comment Period End	07/17/89	54 FR 15442
Final Action	11/30/89	
Final Action Effective	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Miglionico, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790-AA73

451. DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE REVIEW PROGRAM (DOD DIRECTIVE 5220.6)

Legal Authority: 5 USC 504; EO 10865

CFR Citation: 32 CFR 155

Legal Deadline: None

Abstract: This part is being revised and reissued to establish a standard for determining petitions for reimbursement for loss of earnings, incorporate the revised DoD Adjudication Policies for security clearance determinations under this rule, and revise procedures for cases not requiring a hearing, and procedures for considering issues raised on appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16864
NPRM Comment Period End	06/05/87	52 FR 16864
Final Action	11/30/90	
Final Action Effective	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Brown, Department of Defense, Office of the Secretary, 202 696-4599

RIN: 0790-AA84

452. ● EQUAL OPPORTUNITY IN OFF-BASE HOUSING (DOD DIRECTIVE 1100.16)

Legal Authority: 42 USC 3601; PL 90-285; PL 100-430

CFR Citation: 32 CFR 301

Legal Deadline: None

Abstract: This document proposes to revise 32 CFR Part 301 to reflect revisions covering off-base housing enforcement. This part will also emphasize liaison with other government (local, State, and Federal) agencies. Current changes to the Public Law are also reflected in the revision.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7566
NPRM Comment Period End	03/24/89	54 FR 7566
Final Action Effective	11/30/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: M. Schneider, Department of Defense, Office of the Secretary, 202 697-6361

RIN: 0790-AB30

453. ● MILITARY WHISTLEBLOWER PROTECTION (DOD DIRECTIVE 7050.XX)

Legal Authority: 10 USC 1034

CFR Citation: 32 CFR 98a

Legal Deadline: None

Abstract: This part proposes to provide policy and implements the military whistleblower protection provisions contained in Public Law 100-456. It applies to all DoD components and personnel and establishes responsibilities, authorities, and operating procedures to ensure that military members of the Armed Forces are protected from reprisal for making lawful communication with a member of Congress or an Inspector General in which the member makes a complaint or discloses information that the member reasonably believes evidence a violation of law or regulation; mismanagement, a gross waste of funds, and abuse of authority, or a substantial and specific danger to public safety.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18547
NPRM Comment Period End	05/31/89	54 FR 18547
Final Action Effective	11/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: M. Campbell, Department of Defense, Office of the Secretary, 202 697-2884

RIN: 0790-AB31

454. ● TOTAL QUALITY MANAGEMENT (DOD DIRECTIVE 5000.51)

Legal Authority: EO 12637

CFR Citation: 32 CFR 281

Legal Deadline: None

Abstract: This proposed rule establishes policy and assigns

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responsibility for implementation of the Total Quality Management concept in the Department of Defense. The concept will be implemented both internally with the Department of Defense as well as in DoD acquisition strategies.

Timetable:

Action	Date	FR Cite
NPRM	07/19/89	54 FR 30227
NPRM Comment Period End	08/18/89	54 FR 30227
Final Action Effective	11/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. Doherty, Department of Defense, Office of the Secretary, 202 695-7915

RIN: 0790–AB33

455. ● REVIEW OF SUBCONTRACTOR'S PROPOSED CONTRACT COSTS (DAR CASE 84-096D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: How can Government be more active in subcontract pricing process.

Timetable:

Action	Date	FR Cite
Case Opened	01/18/88	
NPRM	05/26/88	53 FR 19009
NPRM Comment Period End	07/25/88	
Final Action	10/21/89	
Final Action Effective	10/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB36

456. ● COMMERCE PATENT REGULATIONS, PL 98-620 (DAR CASE 85-056D)

Significance: Agency Priority

Legal Authority: PL 98-620, Sec 501

CFR Citation: 48 CFR 227; 48 CFR 252

Legal Deadline: None

Abstract: Ensure contractor system of records maintenance for Government property at least same as own.

Timetable:

Action	Date	FR Cite
Case Opened	03/18/87	
NPRM	03/22/89	54 FR 11764
NPRM Comment Period End	05/22/89	
Final Action	10/31/89	
Final Action Effective	10/31/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB38

457. ● CARGO PREFERENCE ACT (DAR CASE 88-047)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 247; 48 CFR 252

Legal Deadline: None

Abstract: Develop coverage as a result of recent Department of Justice decision.

Timetable:

Action	Date	FR Cite
Case Opened	04/11/88	
Interim Final Rule	04/21/89	54 FR 16111
Final Action	10/31/89	
Final Action Effective	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB53

458. ● INTERMEDIATE-RANGE NUCLEAR FORCE REDUCTION TREATY (DAR CASE 88-054)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 209; 48 CFR 252

Legal Deadline: None

Abstract: Assure that defense contractors are not improperly denied contracts because of Soviet inspectors at contractor facilities.

Timetable:

Action	Date	FR Cite
Case Opened	04/20/88	
Interim Final Rule	06/06/88	53 FR 20631

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB55

459. ● DRUG-FREE WORKFORCE (DAR CASE 88-063)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 223

Legal Deadline: None

Abstract: Develop DFARs coverage for encouraging drug-free workplace.

Timetable:

Action	Date	FR Cite
Case Opened	08/14/88	
Interim Final Rule	09/28/88	53 FR 37764

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB58

460. ● SPACE DEFENSE INITIATIVE ORGANIZATION - RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION (GLENN AMENDMENT), SEC. 222 (DAR CASE 88-119)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Do not use DoD funds on any contract with foreign government or foreign firm for research, development, testing, and evaluation.

Timetable:

Action	Date	FR Cite
Case Opened	09/14/88	
Interim Final Rule	04/21/89	54 FR 16111
Final Action	10/31/89	
Final Action Effective	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB62

461. ● FOREIGN SELLING COSTS, SEC. 826, 1989 AUTHORIZATION ACT (DAR CASE 88-300D)

Significance: Agency Priority

Legal Authority: PL 100-456, Sec 826

CFR Citation: 48 CFR 225

Legal Deadline: Final, Statutory, December 28, 1988.

Abstract: Costs to promote export of products of U.S. defense industry be allowable within certain conditions.

Timetable:

Action	Date	FR Cite
Case Opened	10/06/88	
Interim Final Rule	12/22/88	53 FR 51557
Final Action	10/31/89	
Final Action Effective	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB66

462. ● COMPETITIVE THRESHOLD, PL 100-656, SEC. 303(B)8(A) (DAR CASE 88-325D)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 303

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 1, 1989.

Abstract: Establish requirement to compete 8(a) contracts at certain threshold.

Timetable:

Action	Date	FR Cite
Case Opened	04/27/89	
NPRM	07/18/89	54 FR 30101
Final Action	10/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB74

463. ● FALSE REPRESENTATION-SMALL BUSINESS, PL 100-656, SEC. 405 (DAR CASE 88-331)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 405

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Establish penalties for representation as a small business or a small disadvantaged business concern.

Timetable:

Action	Date	FR Cite
Case Opened	02/02/89	
Final Action	02/28/90	
Final Action Effective	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There

is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB75

464. ● FALSE REPRESENTATION-SMALL BUSINESS, PL 100-656, SEC. 405 (DAR CASE 88-331D)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 405

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Establish penalties for representation as a small business or a small disadvantaged business concern.

Timetable:

Action	Date	FR Cite
Case Opened	02/02/89	
Final Action	02/28/90	
Final Action Effective	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB76

465. ● CONTRACT AIR FARES, SEC. 833, PL 100-456 (DAR CASE 88-336)

Significance: Agency Priority

Legal Authority: PL 100-456, Sec 833

CFR Citation: 48 CFR 231

Legal Deadline: Final, Statutory, June 2, 1989.

Abstract: Develop cost principle re: allowability of air fare rates that exceed GSA negotiated fares.

Timetable:

Action	Date	FR Cite
Case Opened	03/14/89	
Final Action	02/28/90	
Final Action Effective	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB79

466. ● RURAL AREA BUSINESS DEVELOPMENT, SEC. 129, PL 100-590 (DAR CASE 88-341)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Develop rural area business enterprise development plans.

Timetable:

Action	Date	FR Cite
Case Opened	05/24/89	
Final Action	02/28/90	
Final Action Effective	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB80

467. ● INDIAN OWNED ENTERPRISE, ADDITIONAL 5 PERCENT (DAR CASE 88-342)

Significance: Agency Priority

Legal Authority: PL 100-442, Sec 7

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, September 22, 1989.

Abstract: Additional compensation up to 5 percent may be given if subcontractor or supplier is an Indian/Indian-owned organization.

Timetable:

Action	Date	FR Cite
Case Opened	06/13/89	
Final Action	02/28/90	
Final Action Effective	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB81

468. ● THRESHOLD, PRICE REASONABLENESS (DAR CASE 88-400D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 213

Legal Deadline: None

Abstract: Change threshold in 13.106 to 10 percent of small purchase limitation.

Timetable:

Action	Date	FR Cite
Case Opened	03/09/88	
NPRM	05/16/88	53 FR 17232
NPRM Comment Period End	06/15/88	
Final Action	10/31/89	
Final Action Effective	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB82

469. ● SMALL DISADVANTAGED BUSINESS; HISTORICALLY BLACK COLLEGES AND UNIVERSITIES - 5 PERCENT GOAL - PL 100-180, SEC. 806 (DAR CASE 89-023A)

Significance: Agency Priority

Legal Authority: PL 100-180, Sec 806

CFR Citation: 48 CFR 219; 48 CFR 226; 48 CFR 252

Legal Deadline: None

Abstract: The Office of the Secretary of Defense proposes DFARs to make progress toward 5 percent goal for DoD.

Timetable:

Action	Date	FR Cite
Case Opened	05/09/89	
NPRM	05/23/89	54 FR 22337
NPRM Comment Period End	07/24/89	
Final Action	11/30/89	
Final Action Effective	11/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB94

470. ● COMPUTER-AIDED ACQUISITION AND LOGISTICS SUPPORT (CALS) (DAR CASE 89-061)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207

Legal Deadline: None

Abstract: Revise DFARS Part 7 to implement Deputy Secretary of Defense memo of 8/5/88.

Timetable:

Action	Date	FR Cite
Case Opened	06/06/89	
Final Action	10/21/89	
Final Action Effective	10/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB99

471. ● WARRANTIES (DAR CASE 89-062)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 246

Legal Deadline: None

Abstract: Have warranty provisions specifically identify whether redesign is or is not an available remedy.

Timetable:

Action	Date	FR Cite
Case Opened	06/09/89	
NPRM	06/30/89	54 FR 27655
NPRM Comment Period End	08/31/89	
Final Action	12/31/89	
Final Action Effective	12/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC00

472. ● SUPPORT AND PRIVILEGES FOR CONTRACTOR PERSONNEL IN EUROPE (DAR CASE 89-069)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: US Army Europe providing updated information on logistics support and privileges for DoD contractor personnel and family members.

Timetable:

Action	Date	FR Cite
Case Opened	06/26/89	
Final Action	10/21/89	
Final Action Effective	10/21/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC01

473. ● ACQUISITION PLANS/JUSTIFICATION AND ACCEPTANCE; SUPPORTING DOCUMENTATION (DAR CASE 89-072)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207

Legal Deadline: None

Abstract: Recommend DFARs coverage be deleted to eliminate duplicative justifications and for clarity.

Timetable:

Action	Date	FR Cite
Case Opened	07/07/89	
Final Action	10/21/89	
Final Action Effective	10/21/89	

Small Entities Affected: Undetermined

Timetable:

Legal Deadline: None

DOD—OS

Final Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC02

474. ● THRESHOLD, PART 5 (DAR CASE 89-403D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 205

Legal Deadline: None

Abstract: Logistics Management Institute Report AL714R3 recommends changing certain thresholds.

Timetable:

Action	Date	FR Cite
Case Opened	03/31/89	
Final Action	02/28/90	
Final Action Effective	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC03

475. ● CONTRACTOR PROCUREMENT SYSTEM REVIEWS; REDUCTION OF SEPARATE REVIEWS (DAR CASE 89-434)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 244

Legal Deadline: None

Abstract: All reviews of contractor purchasing systems should be conducted by the administrative contracting officer.

Timetable:

Action	Date	FR Cite
Case Opened	04/11/89	
Final Action	10/21/89	
Final Action Effective	10/21/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC04

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

476. ● FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS (DOD DIRECTIVE 1000.11)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231

Legal Deadline: None

Abstract: This revised rule accepts clarifying and editorial changes suggested in response to the proposed rule published in the Federal Register on February 22, 1989 (54 FR 7558). In addition, this rule cites a new DoD policy that encourages the installation of automated teller machines on DoD installations that are connected to national automatic teller machines networks and provides guidance supporting that policy.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7558
Final Action Effective	07/26/89	54 FR 33512
Final Action	08/15/89	54 FR 33512

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Adolphi, Department of Defense, Office of the Secretary, 202 697-8261

RIN: 0790-AA51

477. ● PROCEDURES GOVERNING BANKING OFFICES ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.12)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 230

Legal Deadline: None

Abstract: A proposed rule to modify various procedures covering the operation of banking offices on DoD installations was published in the Federal Register on February 22, 1989 (54 FR 7551). Several of the revisions were made as a result of reviewing comments received from the notice.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7551
Final Action Effective	07/26/89	54 FR 33505
Final Action	08/15/89	54 FR 33505

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Adolphi, Department of Defense, Office of the Secretary, 202 697-8261

RIN: 0790-AA52

478. ● PROCEDURES GOVERNING CREDIT UNIONS ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.10)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231a

Legal Deadline: None

DOD—OS

Completed Actions

Abstract: For purposes of qualifying for no-cost office space and other real property under section 124 of the Federal Credit Union Act, Defense credit unions now will be able to include retired military personnel in the credit union's field of membership. This revised rule accepts clarifying and editorial changes suggested in response to the proposed rule published in the Federal Register on February 22, 1989 (54 FR 7561).

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7561
Final Action Effective	07/26/89	54 FR 33516
Final Action	08/15/89	54 FR 33516

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Adolphi, Department of Defense, Office of the Secretary, 202 697-8261

RIN: 0790-AA53

479. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PER DIEM BASED PAYMENT METHOD FOR MENTAL HEALTH SERVICES (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This final rule revises the comprehensive CHAMPUS regulation to establish a new method of paying for mental health care in psychiatric hospitals and units.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20585
NPRM Comment Period End	07/05/88	53 FR 20585
Final Action	09/06/88	53 FR 23285
Final Action Effective	01/01/89	53 FR 23285

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: S. Regensberg, Department of Defense, Office of the Secretary, 303 361-3572

RIN: 0790-AB06

480. ● CHILD DEVELOPMENT PROGRAMS (DOD INSTRUCTION 6060.2)

Legal Authority: 10 USC 2809; 40 USC 490b

CFR Citation: 32 CFR 80

Legal Deadline: None

Abstract: This final rule establishes policies, assigns responsibilities, and prescribes standards and operational requirements for child care programs for eligible minor children of the Department of Defense military and civilian personnel.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/03/89	54 FR 13369
Final Action	04/03/89	54 FR 13369

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Mahbouhi, Department of Defense, Office of the Secretary, 202 697-7191

RIN: 0790-AB28

481. ● PLACEMENT OF RESERVE COMPONENT UNITS IN LOCAL COMMUNITIES (DOD DIRECTIVE 1200.1)

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 67

Legal Deadline: None

Abstract: This final rule revises 32 CFR Part 67. It prescribes policies and procedures in the location of Reserve units in accordance with demographic supportability. It also provides standard procedures for placement of Reserve Component units in the Military Departments in local communities.

Timetable:

Action	Date	FR Cite
Final Action	03/23/89	54 FR 11945
Final Action Effective	07/14/89	54 FR 11945

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: D. McQuilliams, Department of Defense, Office of the Secretary, 202 695-7307

RIN: 0790-AB29

482. ● CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214/5 SERIES)(DOD INSTRUCTION 1336.1)

Legal Authority: 10 USC 1168; 10 USC 972

CFR Citation: 32 CFR 45

Legal Deadline: None

Abstract: This final rule revises the DD Form 214/214WS and Part 45. The text revision would authorize certain officials in grade E-5, GS-5 or above to sign the form, specify issuance requirements for reenlisting members, clarify potential obligations of retired and Individual Ready Reserve members, and clarify certain other administrative matters.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/06/89	54 FR 7409
Final Action	02/21/89	54 FR 7409

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: T. Sutherland, Department of Defense, Office of the Secretary, 202 695-6312

RIN: 0790-AB32

483. ● COMMERCIAL ACTIVITIES PROGRAM (DOD DIRECTIVE 4100.15)

Legal Authority: 5 USC 301; 5 USC 552; PL 93-400

CFR Citation: 32 CFR 169

Legal Deadline: None

Abstract: The Department of Defense revised its rules regarding the Commercial Activities Program to incorporate substantive changes to Part 169 required by Office of Management and Budget (OMB) Circular A-76. The Department of Defense reaffirms the Government's general policy of reliance on the private sector for commercial activities while recognizing that Government personnel must perform intrinsic governmental functions and must consider cost effectiveness.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/10/89	54 FR 13373
Final Action	04/03/89	54 FR 13373

Small Entities Affected: Undetermined

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Government Levels Affected: Undetermined

Agency Contact: D. Migliozzo, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790–AB34

484. ● BONDS TO GUARANTEES (DAR CASE 84-149D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 228

Legal Deadline: None

Abstract: Only separate bid bonds are acceptable for construction contracts.

Timetable:

Action	Date	FR Cite
Case Opened	08/03/84	
NPRM	12/23/87	52 FR 48549
NPRM Comment Period End	02/22/88	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB35

485. ● SHORT FORM RESEARCH CONTRACTOR - COMPETITION IN CONTRACTING ACT (DAR CASE 85-014)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 235

Legal Deadline: None

Abstract: Authorize short form research contract for competition awards.

Timetable:

Action	Date	FR Cite
Case Opened	07/08/85	
NPRM	07/21/86	51 FR 26172
NPRM Comment Period End	09/19/86	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB37

486. ● ARMS, AMMO AND EXPLOSIVES AT CONTRACTOR FACILITIES (DAR CASE 85-102)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204; 48 CFR 223; 48 CFR 252

Legal Deadline: None

Abstract: Change DFARs to correct apparent lack of uniform compliance with DoD Physical Security standards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/21/86	51 FR 42095
Case Opened	03/08/89	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB39

487. ● SAFETY AND OCCUPATIONAL HEALTH (DAR CASE 86-002D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 223

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration recommended coverage in FAR/DFAR to raise the safety and occupational health program to the same level as other programs to clarify to PCOs, ACOs, and contractors the responsibilities of the Department of Labor to provide required protection for Government employees' property and costs.

Timetable:

Action	Date	FR Cite
Case Opened	01/08/86	
NPRM	09/27/88	53 FR 37611
NPRM Comment Period End	11/28/88	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB40

488. ● RECOVERY OF NONRECURRING COSTS ON COMMERCIAL SALES (DAR 86-017)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 234; 48 CFR 235; 48 CFR 242; 48 CFR 252

Legal Deadline: None

Abstract: Clarify role of contracting officers to establish and collect

recoupment charges on commercial foreign and domestic sales.

Timetable:

Action	Date	FR Cite
Case Opened	02/01/86	
NPRM	05/23/88	53 FR 18307
NPRM Comment Period End	07/22/88	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB41

489. ● ESTIMATING SYSTEM REVIEWS (DAR CASE 86-109)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 252

Legal Deadline: None

Abstract: Create procedures for disapproving contractor estimating systems deficiencies.

Timetable:

Action	Date	FR Cite
Case Opened	06/11/86	
NPRM	07/17/87	52 FR 27019
NPRM Comment Period End	09/15/87	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB42

490. ● BILLS OF LADING/DOMESTIC ROUTE ORDER/EXPORT TRAFFIC RELEASE, APPLICATION FOR U.S. GOVERNMENT, DD FORM 1659 (DAR CASE 87-066)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 253

Legal Deadline: None

Abstract: Change form to include a block for hazardous material.

Timetable:

Action	Date	FR Cite
Case Opened	07/06/87	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB43

491. ● ADEQUATE PRICE COMPETITION (DAR CASE 87-097)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Add coverage to DFARs Part 215 to give guidance on type of analysis, if any, to be done under a competition.

Timetable:

Action	Date	FR Cite
Case Opened	08/19/87	
NPRM	03/28/88	53 FR 10408
NPRM Comment Period End	05/02/88	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB44

492. ● WORK MEASUREMENT SYSTEMS (DAR CASE 87-123)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Solicitations and contracts over $20 million annually or over $100 million cumulatively shall include provisions for work measurement systems.

Timetable:

Action	Date	FR Cite
Case Opened	10/30/87	
NPRM	08/04/88	53 FR 29347
NPRM Comment Period End	10/03/88	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB45

493. ● ENGLISH TRANSLATION OF CONTRACTS AND GAS CYLINDERS (DAR CASE 87-129D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 247; 48 CFR 252

Legal Deadline: None

Abstract: Put "translation of contract" clause in DFAR and relocate clause for gas cylinders.

Timetable:

Action	Date	FR Cite
Case Opened	12/08/87	
NPRM	10/30/88	53 FR 38753
NPRM Comment Period End	12/02/88	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB47

494. ● RESTRICTIONS ON EMPLOYMENT, SEC. 8046, FISCAL YEAR 1988 (ALASKA/HAWAII) (DAR CASE 87-321)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 222

Legal Deadline: None

Abstract: 1988 Defense Appropriations Act identifies restrictions on employment of personnel for work in construction/service contracts in Alaska and Hawaii.

Timetable:

Action	Date	FR Cite
Case Opened	01/12/88	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB49

495. ● FORM DD250, UNIT PRICES (DAR CASE 88-012)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Change Block 19 of DD250 to require entry of actual or estimated unit prices.

Timetable:

Action	Date	FR Cite
Case Opened	02/16/88	
NPRM	07/18/88	53 FR 27055
NPRM Comment Period End	09/16/88	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB50

496. ● CERTIFICATION OF NECESSITY FOR GOVERNMENT-FURNISHED PROPERTY (DAR CASE 88-028D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Delete "unwillingness" exception to requirement that contractor furnish industrial plant equipment; require Government certification that Government-furnished property is required.

Timetable:

Action	Date	FR Cite
Case Opened	04/12/89	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB51

497. ● ANTIFRICTION BEARINGS (DAR CASE 88-035)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 208

Legal Deadline: None

Abstract: Develop DFARs coverage for antifriction bearings.

Timetable:

Action	Date	FR Cite
Case Opened	03/18/88	
Interim Final Rule	08/04/88	53 FR 29332
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary,

Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB52

498. ● MASTER SOLICITATION AND AWARD FEES (DAR CASE 88-050D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 214; 48 CFR 215

Legal Deadline: None

Abstract: Put DFARs coverage concerning master solicitations and award fees into FAR.

Timetable:

Action	Date	FR Cite
Case Opened	07/19/88	
NPRM	10/21/88	53 FR 41390
NPRM Comment Period End	12/20/88	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB54

499. ● DFARS 22.4-CONSTRUCTION LABOR STANDARDS (DAR CASE 88-055)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 222

Legal Deadline: None

Abstract: New DFARs 22.4 to supplement FAR 22.4 published in FAC 84-34.

Timetable:

Action	Date	FR Cite
Case Opened	04/19/88	
NPRM	10/03/88	53 FR 38749
NPRM Comment Period End	12/02/88	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB56

500. ● INTERIM CONTRACT COMPLETION PROCEDURES (DAR CASE 88-072)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204

Legal Deadline: None

Abstract: ACO provides closeout notification to buying offices.

Timetable:

Action	Date	FR Cite
Case Opened	06/20/88	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB57

501. ● DD 1630, RESEARCH AND DEVELOPMENT BIDDERS MAILING LIST (DAR CASE 88-090)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 235; 48 CFR 253

Legal Deadline: None

Abstract: Delete DD 1630 from DFARs, delete Supp. 4, and modify the DFARs Part 35 to show deletion of DD Form 1630.

Timetable:

Action	Date	FR Cite
Case Opened	07/19/88	
NPRM	01/19/89	54 FR 02166
NPRM Comment Period End	02/21/89	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB59

502. ● MILITARY INTERDEPARTMENT PURCHASE REQUESTS (MIPRS) (DAR CASE 88-104)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 208

Legal Deadline: None

Abstract: Change DFARs 8.7 to incorporate Joint Logistics Command recommended changes to expedite processing of MIPR's and withdrawal of excess funds.

Timetable:

Action	Date	FR Cite
Case Opened	08/17/88	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB60

503. ● PROGRESS PAYMENT RATES, INCREASE (DAR CASE 88-111)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232; 48 CFR 252

Legal Deadline: None

Abstract: Change progress payment rates to agree with FAR.

Timetable:

Action	Date	FR Cite
Case Opened	06/16/88	
Interim Final Rule	09/14/88	53 FR 35511
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB61

504. ● CONTINGENCY CONTRACTING OVERSEAS (DAR CASE 88-129)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 213

Legal Deadline: None

Abstract: The Joint Chiefs of Staff is proposing new DFARs language to raise imprest fund threshold to $2500 and SF 44 ceiling to equal small purchase threshold.

Timetable:

Action	Date	FR Cite
Case Opened	10/19/88	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB63

505. ● NEGOTIATED SETTLEMENTS, ARMED SERVICES BOARD OF CONTRACT APPEALS (DAR CASE 88-130)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 233

Legal Deadline: None

Abstract: Contracting officer should consider whether information on similar claims by the same contractor is helpful in negotiating present settlement claims.

Timetable:

Action	Date	FR Cite
Case Opened	10/12/88	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB64

506. ● AUTOMATED PURCHASING SYSTEMS AND CONTRACTOR PROCUREMENT SYSTEM REVIEWS (CPSRS) (DAR CASE 88-152)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: None

Legal Deadline: None

Abstract: CPSR Manual (SUP 1) needs to be revised slightly to allow reviewers to deal with automated purchasing systems.

Timetable:

Action	Date	FR Cite
Case Opened	12/30/88	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB65

507. ● INCENTIVES FOR INNOVATION, SEC. 806, 1989 AUTHORIZATION ACT (DAR CASE 88-305)

Significance: Agency Priority

Legal Authority: PL 100-456, Sec 806

CFR Citation: 48 CFR 227

Legal Deadline: None

Abstract: Impose limits on Government's rights to require that proposals offer additional rights in technical data concerning items developed at private expense.

Timetable:

Action	Date	FR Cite
Case Opened	10/06/88	
Interim Final Rule	12/22/88	53 FR 51557
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB67

508. ● VALVE AND MACHINE TOOLS, SEC. 822, 1989 AUTHORIZATION ACT (DAR CASE 88-307)

Significance: Agency Priority

Legal Authority: PL 100-456, Sec 822

CFR Citation: 48 CFR 225; 48 CFR 252

Legal Deadline: None

Abstract: Cannot buy machine tools not made in U.S. or Canada.

Timetable:

Action	Date	FR Cite
Case Opened	10/05/88	
Interim Final Rule	02/21/89	54 FR 07425
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB68

509. ● PROHIBIT EMPLOYMENT OF FELONS, SEC. 831, 1989 AUTHORIZATION ACT (DAR CASE 88-309)

Significance: Agency Priority

Legal Authority: PL 100-456, Sec 831

CFR Citation: 48 CFR 203; 48 CFR 252

Legal Deadline: None

Abstract: Change disqualification of defense contract employee from 1 to 5 years for convicted felons whose cases arise out of DoD contracts.

Timetable:

Action	Date	FR Cite
Case Opened	10/06/88	
NPRM	12/09/88	53 FR 49694
NPRM Comment Period End	01/09/89	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB69

510. ● MATERIAL REQUIREMENTS PLANNING, SEC. 834, 1989 AUTHORIZATION ACT (DAR CASE 88-311)

Significance: Agency Priority

Legal Authority: PL 100-456, Sec 834

CFR Citation: 48 CFR 245; 48 CFR 252

Legal Deadline: Final, Statutory, March 28, 1989.

Abstract: Develop standards for inventory accounting systems and enforcement requirements.

Timetable:

Action	Date	FR Cite
Case Opened	10/05/88	
NPRM	10/28/88	53 FR 43738
NPRM Comment Period End	12/27/88	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB70

511. ● PROMPT PAYMENT, SEC. 3901, PROMPT PAYMENT ACT, PL 100-496 (DAR CASE 88-314D)

Significance: Agency Priority

Legal Authority: PL 100-496, Sec 3901

CFR Citation: 48 CFR 232; 48 CFR 252

Legal Deadline: Final, Statutory, October 1, 1989.

Abstract: Incorporate prompt payment requirements as a result of Prompt Payment Act.

Timetable:

Action	Date	FR Cite
Case Opened	02/27/89	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB71

512. ● PROCUREMENT INTEGRITY, SEC. 6, OFPP ACT (DAR CASE 88-315D)

Significance: Agency Priority

Legal Authority: PL 100-679, Sec 6

CFR Citation: 48 CFR 203; 48 CFR 252

Legal Deadline: None

Abstract: Contracts cannot offer future employment to a Government employee during conduct of procurement of property or services.

Timetable:

Pentagon, Room 3D139, Washington, DC

Government Levels Affected: Federal

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Timetable:

Action	Date	FR Cite
Case Opened	10/27/88	
NPRM	03/27/89	54 FR 12566
NPRM Comment Period End	04/26/89	
Final Action	05/16/89	54 FR 21067
Final Action Effective	05/16/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB72

513. ● SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (DAR CASE 88-322D)

Significance: Agency Priority

Legal Authority: PL 100-656

CFR Citation: 48 CFR 204

Legal Deadline: None

Abstract: Provide for enhanced goals for small businesses in certain industry groups.

Timetable:

Action	Date	FR Cite
Case Opened	01/06/89	
Interim Final Rule	01/27/89	54 FR 04246
Final Action	06/22/89	54 FR 30736
Final Action Effective	06/22/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB73

514. ● SMALL AND DISADVANTAGED BUSINESS UTILIZATION (SADBU) REPRESENTATIVES RECOMMENDATION ON CONTRACT AWARD, PL 100-656, SEC. 603 (DAR CASE 88-332D)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 603

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: SADBU's to make recommendation to contracting officers as to whether award can be made as 15(a), 8(a), or sec. 1207.

Timetable:

Action	Date	FR Cite
Case Opened	02/02/89	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB77

515. ● DREDGING PROGRAM, SEC. 722, PL 100-656 (DAR CASE 88-334)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 722

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Implement "Dredging Program" requirement of PL 100-656.

Timetable:

Action	Date	FR Cite
Case Opened	02/22/89	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB83

516. ● THRESHOLD OF DFARS PART 13 (DAR CASE 88-419)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 213

Legal Deadline: None

Abstract: Review dollar thresholds in DFAR Part 13.

Timetable:

Action	Date	FR Cite
Case Opened	03/24/88	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB78

517. ● APPLICATION OF FIXED PRICE AWARD FEE (DAR CASE 88-430D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 216

Legal Deadline: None

Abstract: Provide an incentive to encourage quality performance under fixed price conditions.

Timetable:

Action	Date	FR Cite
Case Opened	01/11/89	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB84

518. ● ARCHITECTURAL - ENGINEERING PERFORMANCE EVALUATIONS (DAR CASE 88-434D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 236

Legal Deadline: None

Abstract: Delete reference to outdated book and require SF 1421 be sent to a central database.

Timetable:

Action	Date	FR Cite
Case Opened	08/16/88	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB85

519. ● DEFINITION OF LABOR SURPLUS AREA FORM - DEFENSE PERSONNEL SUPPLY CENTER (DPSC) (DAR CASE 89-002)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 220

Legal Deadline: None

Abstract: Authorize DPSC to review second tier subcontract level to determine if substantial performance of a contract will be done in a labor surplus area for clothing.

Timetable:

Action	Date	FR Cite
Case Opened	01/10/89	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB86

520. ● INDUSTRIAL PREPAREDNESS PLANNING (IPP) (DAR CASE 89-003)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207

Legal Deadline: None

Abstract: Establish IPP as mandatory vice discretionary entry in acquisition plans.

Timetable:

Action	Date	FR Cite
Case Opened	01/17/89	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB87

521. ● DOD PARTS CONTROL PROGRAM (PCP) AND STANDARDIZED MILITARY DRAWINGS (SMD) PROGRAM (DAR CASE 89-004)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 207; 48 CFR 234

Legal Deadline: None

Abstract: Change references from specifically microcircuits to a DoD military standard.

Timetable:

Action	Date	FR Cite
Case Opened	01/25/89	
Final Action	03/22/89	54 FR 11722
Final Action Effective	03/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB88

522. ● USE OF DD1155 AS A DELIVERY ORDER FORM (DAR CASE 89-005)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 206; 48 CFR 213; 48 CFR 216

Legal Deadline: None

Abstract: The lack of FAR or DFARs section corresponding to the old DAR Sec. XVI has resulted in intermittent

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coverage on use of 1155S as delivery order forms.

Timetable:

Action	Date	FR Cite
Case Opened	01/25/89	
Final Action	07/24/89	54 FR 30736
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB89

523. ● DD FORM 350, GSA SCHEDULES (DAR CASE 89-012)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 253

Legal Deadline: None

Abstract: Revise changes to DD Form 350 made under DAR Case 88-87.

Timetable:

Action	Date	FR Cite
Case Opened	01/11/89	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB90

524. ● FORM, DD 350 CHANGES (FY 90) (DAR CASE 89-016)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204

Legal Deadline: None

Abstract: Make FY 90 changes to the DD 350 reporting system.

Timetable:

Action	Date	FR Cite
Case Opened	02/07/89	
Final Action	07/06/89	54 FR 28419
Final Action Effective	07/06/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB91

525. ● WAIVERS OF SUBMISSION AND CERTIFICATION OF COST AND PRICING DATA (DAR CASE 89-017)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Institutionalize existing blanket waivers.

Timetable:

Action	Date	FR Cite
Case Opened	02/14/89	
Final Action	04/21/89	54 FR 16111
Final Action Effective	04/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB92

526. ● SMALL DISADVANTAGED BUSINESS; HISTORICALLY BLACK COLLEGES AND UNIVERSITIES - 5 PERCENT GOAL (DAR CASE 89-023)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219; 48 CFR 226; 48 CFR 252

Legal Deadline: None

Abstract: The Office of the Secretary of Defense proposes DFARs coverage to make progress toward 5 percent goal for DoD.

Timetable:

Action	Date	FR Cite
Case Opened	03/03/89	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB93

527. ● PROTESTS-LEHIGH INSTRUMENTS (DAR CASE 89-025)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Change DFAR to cover when a Canadian firm does not send a Canadian Commercial Corporation endorsement as part of the request for proposal.

Timetable:

Action	Date	FR Cite
Case Opened	03/10/89	
Final Action	06/22/89	54 FR 26202
Final Action Effective	06/22/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB95

528. ● VENDOR PRICES, HISTORICAL (DAR CASE 89-030)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Add DFARs 15.811-76(b)(9).

Timetable:

Action	Date	FR Cite
Case Opened	03/31/89	
Final Action	05/12/89	54 FR 20589
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB96

529. ● ANTI-KICKBACK, DESIGNATION OF DEPARTMENT OF DEFENSE INSPECTOR GENERAL (DODIG) REPRESENTATIVES (DAR CASE 89-043)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 203

Legal Deadline: None

Abstract: Includes special agents of each service's investigative service as designated agents for DoDIG for Anti-Kickback Act.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/89	
Final Action	07/24/89	54 FR 30738
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB97

530. ● SERVICE CONTRACT ACT - DFARS (DAR CASE 89-046)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 222

Legal Deadline: None

Abstract: Delete current DFARs 22.10 reserve Subpart.

Timetable:

Action	Date	FR Cite
Case Opened	05/10/89	
Final Action	07/24/89	54 FR 30736
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB98

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Prerule Stage

531. THE ARMY GENERAL COUNSEL'S HONORS PROGRAM

Legal Authority: 10 USC 302; 10 USC 3005

CFR Citation: 32 CFR 585

Legal Deadline: None

Abstract: Army General Counsel's Honors Program. To recruit highly qualified attorneys to fill vacancies in the Army General Counsel's Office. Comment period completed. The document explains the methods of application and the requirements and procedures for the appointment to that office.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: John Pavlick, Department of Defense, Department of the Army, Office of the Army General Counsel, 202 695-0562

RIN: 0703-AA00

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DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Proposed Rule Stage

532. AIRFIELD CERTIFICATION AND USE OF ARMY AIRFIELDS BY OTHER THAN U.S. DEPARTMENT OF DEFENSE AIRCRAFT

Legal Authority: PL 85-726; PL 97-248; PL 91-258

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Prescribes responsibilities and procedures with regard to use of U.S. Army airfields by other than DoD.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Robert C. Cole, Department of Defense, Department of the Army, US Army Air Traffic Control Activity, Aeronautical Service Office, 703 272-7796

RIN: 0702-AA02

533. REGULATIONS AFFECTING MILITARY RESERVATIONS: PROHIBITED ACTIVITIES AT FORT BRAGG, NC

Legal Authority: 10 USC 3012

CFR Citation: 32 CFR 552

Legal Deadline: None

Abstract: This regulation establishes the criteria for enforcement of certain State laws and installation rules pertaining to driving offenses and hunting and fishing privileges on the Fort Bragg installation. This regulation provides guidance on motor vehicle offenses and the requirements to obtain hunting and fishing privileges for anyone (military or civilian) employed on, visiting, or traveling through the above reservation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John O. Roach, Army Liaison Officer with the Federal Register, Department of Defense, Department of the Army, HQDA, SFIS-APP, Alexandria, VA 22331-0302, 703 325-6297

RIN: 0702-AA17

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

534. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D--ENDANGERED SPECIES COUNTERPART REGULATIONS

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix D

Legal Deadline: None

Abstract: Procedures for the protection of endangered species in the regulatory program of the Corps of Engineers. Because of the increased emphasis being placed on endangered species by the Federal and State resource agencies, the Corps identified a need to provide more definitive guidance on implementing the Endangered Species Act (ESA) in its regulatory program. The Corps is now developing counterpart regulations with the Department of Interior. The regulations will basically bring together various guidance used in the past by both the Corps and DOI. The regulations will include guidance on how the ESA Amendments impact applicants for Federal permits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	
NPRM Comment Period End	07/00/90	
Final Action	09/00/90	
Final Action Effective	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Zell Steever, Chief, Technical Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1780

RIN: 0710-AA17

535. NATIONWIDE PERMIT PROGRAM

Significance: Regulatory Program

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps intends to propose revisions to 33 CFR 330. The intent of the proposed revisions will be to simplify and clarify the nationwide permit program of the Corps. The nationwide permit program is designed to authorize projects that have minimal impacts with little or no paperwork or delay. Section 330 of the regulation has become so complex that this goal is no longer being met.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	06/00/90	
Final Action Effective	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Regulations Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710-AA20

536. ● PART 325, PROCESSING DEPARTMENT OF THE ARMY PERMITS

Significance: Agency Priority

DOD--COE

Proposed Rule Stage

Legal Authority: 33 USC 401 et seq; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325.1(f)

Legal Deadline: None

Abstract: This regulation will provide for an increase in the fees charged for Department of the Army permits issued pursuant to section 10 of the River and Harbor Act of 1899, section 404 of the Clean Water Act, and section 103 of the Marine Protection Research and Sanctuaries Act; by the Corps of Engineers. This action is being taken after an evaluation of the current fee structure by the Department of Defense Inspector General determined that the fee amounts had not been changed for a significant time. The regulation change will also restructure the fees from "permit fees" to nonrefundable application fees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	
Final Action	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $1,000,000; Base Year for Dollar Estimates: 1989

Sectors Affected: All

Agency Contact: Jack T. Chowning, Chief, Program Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW, Washington, DC 20314-1000, 202 272-1781

RIN: 0710-AA23

537. ● PART 326, ENFORCEMENT; CLASS II ADMINISTRATIVE PENALTIES

Significance: Agency Priority

Legal Authority: 33 USC 1319(g)

CFR Citation: 33 CFR 326.7

Legal Deadline: None

Abstract: The regulation provides the procedures for assessing Class II administrative penalties for violations of the conditions and limitations contained in permits issued by the Corps of Engineers pursuant to section 404 of the Clean Water Act. Clean Water Act Class II administrative penalties may not exceed $10,000 per day, and may not exceed a maximum of $125,000.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $3,000,000; Base Year for Dollar Estimates: 1989

Sectors Affected: All

Agency Contact: Jack T. Chowning, Chief, Program Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW, Washington, DC 20314-1000, 202 272-1781

RIN: 0710-AA25

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

538. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS PART 325, APP. C, HISTORIC PROPERTIES

Legal Authority: 33 USC 401; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix C

Legal Deadline: None

Abstract: Procedure for protection of historic properties and compliance with Sections 106 and 110(f) of the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/84	49 FR 19036
NPRM Comment Period End	06/04/84	49 FR 19036
Final Action	03/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: Paperwork Reduction Act Impact - The paperwork, reports, studies, etc., required of Government at all levels, business and citizens will be reduced by the revised procedures.

Small Business Impact - By streamlining the procedures for obtaining a Corps permit, the regulatory burden on small businesses will be reduced.

GATT Impact - None.

Agency Contact: Sam Collinson, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710-AA12

539. ● PART 326, ENFORCEMENT; CLASS I ADMINISTRATIVE PERMITS

Significance: Agency Priority

Legal Authority: 33 USC 1319(g); 33 USC 2101

CFR Citation: 33 CFR 326.6

Legal Deadline: None

Abstract: The regulations provide the procedures for assessing Class I administrative penalties for violations of the conditions and limitations contained in permits issued by the Corps of Engineers pursuant to section 404 of the Clean Water Act and/or pursuant to the National Fishing Enhancement Act. Class I administrative penalties may not exceed $10,000 per violation, except that there is a maximum for Class I penalties under the Clean Water Act of $25,000; and penalties under the National Fishing Enhancement Act may not exceed $10,000.

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DOD—COE — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/12/89	54 FR 20608
NPRM Comment Period End	06/12/89	
Final Action	11/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $6,000,000; Base Year for Dollar Estimates: 1989

Sectors Affected: All

Agency Contact: Jack T. Chowning, Chief, Program Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW., Washington, DC 20314-1000, 202 272-1781

RIN: 0710–AA24

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

540. ● RELEASE OF OFFICIAL INFORMATION FOR LITIGATION

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 5013; 31 USC 9701; 32 CFR 97

CFR Citation: 32 CFR 725

Legal Deadline: None

Abstract: This regulation establishes policy, assigns responsibilities, and prescribes procedures for responding to requests for the release of official DON information, including testimony by DON personnel as witnesses, in connection with actual or contemplated litigation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/89	54 FR 26189
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: CDR R. F. Walsh, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400, 202 325-9870

RIN: 0703–AA30

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

541. PUBLIC AFFAIRS POLICIES AND PROCEDURES (AFR 190-1)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 837

Legal Deadline: None

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maj. Martens, Department of Defense, Department of the Air Force, HQ USAF (SAF/PAR), Washington, DC 20330, 202 697-6701

RIN: 0701–AA18

542. CLAIMS AND TORT LITIGATION (AFR 112-1)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 842

Legal Deadline: None

Abstract: Establishes standard policies and procedures to administratively process claims and tort litigation involving the Air Force.

Timetable:

Action	Date	FR Cite
Begin Review	02/28/86	
End Review	01/31/88	
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maj. Adams, Department of Defense, Department of the Air Force, HQ USAF/JACC, Bldg. 5683, Bolling AFB, DC 20332-6128, 202 767-1575

RIN: 0701–AA19

543. ● AIR FORCE VISUAL INFORMATION SYSTEMS (AFR 700-32)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 811

Legal Deadline: None

Abstract: Establishes policy for the management of the Air Force visual information documentation program. Establishes policy on the release, dissemination and sale of Air Force visual information materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maj. Urben, Department of Defense, Department of the Air Force, HQ USAF/SCV, Washington, DC 20330, 202 695-9610

RIN: 0701–AA28

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

544. AIR FORCE SUPPLEMENT TO THE FEDERAL ACQUISITION REGULATION (FAR)

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR Chapter 53

Legal Deadline: None

Abstract: Air Force FAR Supplement establishes for the Air Force uniform policy and procedures implementing and supplementing the FAR, the DOD FAR Supplement, and other DOD publications concerning contracting.

Timetable:

Action	Date	FR Cite
Withdrawn	02/23/89	54 FR 7813
Contracting by Negotiation		
48 CFR Ch 53, AFSC FARS	09/14/87 (52 FR 34692)	
Withdrawal of Proposed Rule	01/25/89 (54 FR 3627)	
Price Negotiation		
48 CFR 5315, AF FARS;	03/04/87 (52 FR 6590)	
Withdrawal of Proposed Rule	01/25/89 (54 FR 3630)	
Surplus Material Acquisition		
48 CFR Ch 53, AFLC FARS	10/30/86 (51 FR 39676)	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Col. Bruce Whitty, Special Assistant for FAR, Department of Defense, Department of the Air Force, SAF/AQCF, 202 695-3856

RIN: 0701–AA14

[FR Doc. 89-21719 Filed 10-27-89; 8:45 am]
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Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Department of Education.

ACTION: Publication of the semiannual agenda of Federal regulations.

SUMMARY: The Secretary of Education publishes a Semiannual Agenda of Federal Regulations as required by Office of Management and Budget (OMB) Bulletin No. 89-12 issued under the authority of section 6(b) of Executive Order 12291 (Federal Regulations). The purpose of the agenda is to encourage more effective public participation in the regulatory process by giving the public early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to Kenneth C. Depew, Acting Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241. Telephone: (202) 732-2887.

SUPPLEMENTARY INFORMATION: Executive Order 12291, dated February 17, 1981, and the **Regulatory Flexibility** Act, Pub. L. 96-354, enacted September 19, 1980, require the Department of Education to publish, in October and April of each year, (1) an agenda of regulations that the Department expects to issue, and (2) currently effective regulations that are under review. The agenda includes both notices of proposed rulemaking (NPRMs) currently being drafted and pending final regulations.

Under the authority of Executive Order 12291, the Director of OMB has issued OMB Bulletin No. 89-12, dated July 15, 1989, prescribing the content and structure of the Unified Agenda of Federal Regulations. The Unified Agenda will be issued semiannually and will cover the succeeding 12 months from the date of publication.

For each set of regulations listed, the Agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent Agenda, and planned dates of future rulemaking. In addition, the Agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of **Federal Regulations**.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.
- An indication if the action is priority and the criteria used in determining the priority status.

If the "Abstract" section of an entry refers readers to the preamble, it means that amendments to those particular regulations would be designed (1) to effect regulatory relief, including reducing paperwork and compliance burdens, improving cost effectiveness, and to the extent possible, vesting greater discretion in State and local agencies; and (2) if necessary, to clarify and simplify requirements governing that program.

The Department will review all regulations to be promulgated to ensure that they reflect the principles set forth in the joint statement issued by the President and the Nation's Governors developed during the course of the Education Summit held on September 27-28, 1989, in Charlottesville, Virginia. Particular attention will be given to increasing flexibility at the State and local levels in the use of Federal funds, in return for greater accountability for increasing the levels of education and training under the Department's programs.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. Dates of future regulatory action are subject to revision in subsequent agendas.

Dated: August 25, 1989.

Edward C. Stringer,

General Counsel.

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
545	Disposal and Utilization of Surplus Real Property For Educational Purposes	1880-AA27
546	U.S. Exchange Visitor Program - Request for Waiver of the Two-Year Foreign Residence Requirement	1880-AA29

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
547	Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	1880-AA38
548	Uniform Administrative Requirements for Grants and Cooperative Agreements	1880-AA34

Departmental Management—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
549	Education Department General Administrative Regulations – Amendments II	1880-AA24
550	Technical Amendments to Program Regulations	1880-AA33
551	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	1880-AA39

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
552	Debt Collection; Interest on Outstanding Debts	1880-AA03
553	General Education Provisions Act - Enforcement	1880-AA35

Office of Bilingual Education and Minority Languages Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
554	Bilingual Education: State Educational Agency Program	1885-AA18

Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
555	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1870-AA06

Office for Civil Rights—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
556	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs - Accessibility Standards	1870-AA09
557	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1870-AA05

Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
558	Secretary's Fund for Innovation in Education	1850-AA35
559	National Program for Mathematics and Science Education	1850-AA34
560	Fund for the Improvement and Reform of Schools and Teaching	1850-AA33
561	National Diffusion Network	1850-AA19

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Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
562	Federal, State, and Local Partnership for Educational Improvement	1810-AA49
563	Chapter 1 - Migrant Education Program	1810-AA48
564	Women's Educational Equity Act Program	1810-AA16

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
565	Dwight D. Eisenhower Mathematics and Science Education Program	1810-AA40
566	Chapter 1 Program in Local Educational Agencies	1810-AA50
567	Chapter 1 Program for Neglected or Delinquent Children	1810-AA46
568	Chapter I - Migrant Education Coordination Program for State Educational Agencies	1810-AA42
569	Even Start Migrant Education Program	1810-AA39
570	Assist. for LEAs in Areas Affected by Fed. Acts. and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Pub. Ed.–Heavily Impacted Districts; Avg. Daily Attendance	1810-AA20
571	Assistance for LEAs in Areas Affected by Federal Activities and Arrangements for Education of Children Where LEAs Cannot Provide Suitable Free Public Ed. - Sec. 2 (Consolidated Dist. Provisions)	1810-AA52
572	Christa McAuliffe Fellowship Program	1810-AA35
573	Indian Education General Provisions and Discretionary Grants	1810-AA53
574	Indian Education; Formula Grants to Local Educational Agencies	1810-AA43
575	Indian Education General Provisions and Discretionary Grant Programs - Amendments to Selection Criteria	1810-AA51
576	Indian Fellowship Program	1810-AA44
577	Magnet Schools Assistance Program	1810-AA13

Office of Planning and Budget and Evaluation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
578	Protection of Human Subjects in Research	1875-AA07

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
579	Eligibility of Foreign Postsecondary Educational Institutions Under the Guaranteed Student Loan Program	1840-AB20
580	Student Assistance General Provisions - Verification	1840-AB07
581	Student Assistance General Provisions – Miscellaneous Amendments, Selective Service Registration Requirements	1840-AB19
582	Student Assistance General Provisions – Immigration Status Confirmation	1840-AB30
583	Perkins Loan Program, College Work-Study, and Supplemental Educational Opportunity Grant Programs–(Miscellaneous changes)	1840-AB22
584	Perkins Loan, College Work Study and Supplemental Educational Opportunity Grant Program	1840-AB31
585	Perkins Loan Program	1840-AB33
586	Stafford Loan (GSL)/PLUS/Supplemental Loans for Students/ Consolidation Loan Programs	1840-AA96
587	Pell Grant Program - Technical Revisions	1840-AB34

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Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
588	Paul Douglas Teacher Scholarship Program and Guaranteed Student Loan and PLUS Programs–Targeted Teacher Deferments	1840-AB03
589	Student Assistance General Provisions and Institutional Eligibility–Secretary's Accountability Initiatives	1840-AB18
590	Income Contingent Loan Program - Due Diligence	1840-AB04
591	Guaranteed Student Loan and PLUS Programs, Default Reduction Initiative	1840-AB32

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
592	Institutional Eligibility Conversion of Clock Hours	1840-AA32
593	Robert C. Byrd Honors Scholarship Program	1840-AB06
594	Student Assistance General Provisions, Guaranteed Student Loan/ PLUS/Supplemental Loans for Students Programs–Default Reduction	1840-AB21

Office of Special Education and Rehabilitative Services—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
595	The State Supported Employment Services Program	1820-AA86

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
596	Chapter 1 - State Operated or Supported Programs for Handicapped Children	1820-AA83
597	The State Vocational Rehabilitation Services Program - Deregulation	1820-AA47
598	Rehabilitation Services Administration General Deregulation	1820-AA45
599	The State Independent Living Rehabilitation Services Program - Deregulation	1820-AA37
600	Centers for Independent Living - Standards and Evaluation Indicators	1820-AA81

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
601	Training Personnel for the Education of the Handicapped – Grants to State Educational Agencies or Institutions of Higher Education	1820-AA85
602	Projects with Industry - Compliance Indicators	1820-AA82

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
603	Assistance to States for Education of Handicapped Children	1820-AA71
604	Early Intervention Program for Infants and Toddlers with Handicaps	1820-AA49

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Office of Special Education and Rehabilitative Services—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
605	Services for Deaf-Blind Children and Youth Program	1820-AA53
606	Technology - Related Assistance for Individuals with Disabilities	1820-AA84

Office of Vocational and Adult Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
607	State Administered Adult Education Programs and Secretary's Discretionary Programs of Adult Education	1830-AA06

Office of Intergovernmental and Interagency Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
608	Intergovernmental Review of Department of Education Programs and Activities -- List of Programs	1860-AA00

Office of the General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
609	Equal Access to Justice	1801-AA01

DEPARTMENT OF EDUCATION (ED)

Departmental Management (EDMAN)

Proposed Rule Stage

545. DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR EDUCATIONAL PURPOSES

Legal Authority: 40 USC 484

CFR Citation: 34 CFR 012

Legal Deadline: None

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: David B. Hakola, Coordinator, Federal Property, Administrator for Management Services, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 1175, FOB-6, Washington, DC 20202, 202 732-5500

RIN: 1880-AA27

546. U.S. EXCHANGE VISITOR PROGRAM - REQUEST FOR WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT

Legal Authority: 8 USC 1182(e); 22 USC 2451

CFR Citation: 34 CFR 050

Legal Deadline: None

Abstract: These regulations would establish procedures and criteria for the waiver of the two-year foreign residence requirement for exchange visitors under the Mutual Educational and Cultural Exchange Program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	07/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stewart Tinsman, Director International and Territorial, Affairs Staff, Department of Education, Departmental Management, Intergovernmental and Interagency Affairs, 400 Maryland Ave., SW (Rm. 3023, FOB-6), Washington, DC 20202, 202 732-5430

RIN: 1880-AA29

DEPARTMENT OF EDUCATION (ED)

Departmental Management (EDMAN)

Final Rule Stage

547. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 34 CFR 105

Legal Deadline: None

Abstract: This regulation would specify the applicability of Sec. 504 of the Rehabilitation Act of 1973 to the federally conducted programs of the Department of Education. Sec. 504 prohibits discrimination on the basis of an individual's handicap.

Timetable:

Action	Date	FR Cite
NPRM	04/01/88	53 FR 10908
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Kilpatrick, Equal Employment Opportunity Staff, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 1167, FOB-6), Washington, DC 20202-4550, 202 732-3560

RIN: 1880-AA38

548. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 074; 34 CFR 080

Legal Deadline: None

Abstract: These regulations remove Part 80 and revise Part 74 to establish certain government-wide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and nonprofit and commercial organizations. These regulations are based on an OMB proposal to combine OMB Circulars A-102 (Grants and Cooperative Agreements with State and Local Governments) and A-110 (Grants and Cooperative Agreements with Institutions of Higher Education Hospitals and Other Nonprofit Organizations) into a single, unified grants management circular. The revised circular, for the first time, also apply these administrative requirements to commercial organizations that receive grants or cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW, Room 3636, ROB-3, Washington, DC 20202, 202 732-7400

RIN: 1880-AA34

549. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS -- AMENDMENTS II

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 74; 34 CFR 75; 34 CFR 76; 34 CFR 77; 34 CFR 237; 34 CFR 263; 34 CFR 356; 34 CFR 562; 34 CFR 630; 34 CFR 653; 34 CFR 762

Legal Deadline: None

Abstract: See Preamble. The Department is proposing miscellaneous amendments to update and improve the regulations in 34 CFR Parts 74, 75, 76, and 77 of the Education Department General Administrative Regulations (EDGAR).

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31580
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 3636, ROB-3), Washington, DC 20202, 202 732-7400

RIN: 1880-AA24

550. TECHNICAL AMENDMENTS TO PROGRAM REGULATIONS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 80

Legal Deadline: None

Abstract: On November 4, 1988, the Department published an NPRM proposing to establish certain governmentwide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and non-profit and commercial organizations. The regulations appear in a revised 34 CFR Part 74. These amendments to program regulations specify the extent to which the revised Part 74 regulations apply to the programs of the Department. The regulations also specify statutorily required deviations to the revised Part 74 regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW, Room 3636, ROB-3, Washington, DC 20202, 202 732-7400

RIN: 1880-AA33

551. ● GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: EO 12549; 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 85

Legal Deadline: None

Abstract: These regulations implement Governmentwide common provisions based on the Anti Drug-Abuse Act of 1988, enacted November 18, 1988. An interim final rule was published January 31, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/89	54 FR 4946
Final Action	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Mary Jane Kane, Management Analyst, Office of Management, Department of Education, Departmental Management, Grants and

ED—EDMAN

Final Rule Stage

Contracts Service, 400 Maryland Ave. S.W. Room 3636, ROB-3, Washington, D.C. 20202, 202 732-7400

RIN: 1880–AA39

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Completed Actions

552. DEBT COLLECTION; INTEREST ON OUTSTANDING DEBTS

CFR Citation: 34 CFR 030

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Greg Ulmes 202 732-5561

RIN: 1880–AA03

553. GENERAL EDUCATION PROVISIONS ACT - ENFORCEMENT

CFR Citation: 34 CFR 081

Completed:

Reason	Date	FR Cite
Final Action	05/05/89	54 FR 19512
Final Action Effective	06/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barry W. Stevens 202 732-2730

RIN: 1880–AA35

DEPARTMENT OF EDUCATION (ED)
Office of Bilingual Education and Minority Languages Affairs (BEMLA)

Completed Actions

554. BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROGRAM

CFR Citation: 34 CFR 548

Completed:

Reason	Date	FR Cite
Final Action	05/05/89	54 FR 19488
Final Action Effective	06/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Luis A. Cataineau 202 732-5700

RIN: 1885–AA16

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Proposed Rule Stage

555. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681

CFR Citation: 34 CFR 106

Legal Deadline: None

Abstract: These proposed regulations would amend the fringe benefits provision of the regulations implementing Title IX of the Education Amendments of 1972. The regulations would require employers offering employees a fringe benefit plan to have both equal pay-in and equal pay-out provisions, regardless of the sex of the employee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William L. Smith, Acting Assistant Secretary for Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Rm 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870–AA06

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Final Rule Stage

556. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS - ACCESSIBILITY STANDARDS

Legal Authority: 29 USC 794; 29 USC 1405

CFR Citation: 34 CFR 104

Legal Deadline: None

Abstract: These amendments include a cross-reference to the Uniform Federal Accessibility Standards in federally assisted programs or activities.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9966
NPRM Comment Period End	05/08/89	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William L. Smith, Acting Assistant Secretary for Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave., SW, Room 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870–AA09

557. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 34 CFR 110

Legal Deadline: None

Abstract: These agency-specific final regulations provide appropriate investigative, conciliation, and enforcement procedures consistent with the general Age Discrimination Act regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Final Action	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William L. Smith, Acting Assistant Secretary for Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Room 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870–AA05

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Completed Actions

558. SECRETARY'S FUND FOR INNOVATION IN EDUCATION

CFR Citation: 34 CFR 731; 34 CFR 732; 34 CFR 733; 34 CFR 734

Completed:

Reason	Date	FR Cite
Withdrawn	04/18/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard LaPointe 202 357-6496

RIN: 1850–AA35

559. NATIONAL PROGRAM FOR MATHEMATICS AND SCIENCE EDUCATION

CFR Citation: 34 CFR 755

Completed:

Reason	Date	FR Cite
Final Action	06/10/89	54 FR 32946
Final Action Effective	09/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard LaPointe 202 357-6496

RIN: 1850–AA34

560. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

CFR Citation: 34 CFR 757; 34 CFR 758

Completed:

Reason	Date	FR Cite
Final Action	05/02/89	54 FR 18840
Final Action Effective	06/16/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard La Pointe 202 357-6496

RIN: 1850–AA33

561. NATIONAL DIFFUSION NETWORK

CFR Citation: 34 CFR 785; 34 CFR 786; 34 CFR 787

Completed:

Reason	Date	FR Cite
Final Action	06/06/89	54 FR 24648
Final Action Effective	07/23/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee E. Wickline 202 357-6134

RIN: 1850–AA19

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Final Rule Stage

ED—OESE

Completed Actions

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office of Elementary and Secondary Education (OESE)

582. FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

Legal Authority: 20 USC 2911 to 2952; 20 USC 2971 to 2976

CFR Citation: 34 CFR 298; 34 CFR 76; 34 CFR 80

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	03/01/89	54 FR 8708
NPRM Comment Period End	05/01/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alicia C. Coro, Director, School Improvement Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2040, Washington, DC 20202-6245, 202 732-4657

RIN: 1810-AA49

563. CHAPTER 1 - MIGRANT EDUCATION PROGRAM

Legal Authority: 20 USC 2781; 20 USC 2782

CFR Citation: 34 CFR 201

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3924
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Bertoglio, Office of Migrant Education, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2145, Washington, DC 20202-6135, 202 732-4758

RIN: 1810-AA48

564. WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

Legal Authority: 20 USC 3041 to 3047

CFR Citation: 34 CFR 245; 34 CFR 246; 34 CFR 247

Legal Deadline: None

Abstract: See Preamble. These regulations also implement certain provisions of the Education Amendments of 1984, PL 98-511 and the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4742
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice T. Ford, Women's Educational Equity Act Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2053, Washington, DC 20202-6439, 202 732-4351

RIN: 1810-AA16

DEPARTMENT OF EDUCATION (ED) — **Completed Actions**

Office of Elementary and Secondary Education (OESE)

565. DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION PROGRAM

CFR Citation: 34 CFR 208

Completed:

Reason	Date	FR Cite
Final Action	08/10/89	54 FR 39236
Final Action Effective	09/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Lee 202 732-4157

RIN: 1810-AA40

566. CHAPTER 1 PROGRAM IN LOCAL EDUCATIONAL AGENCIES

CFR Citation: 34 CFR 200

Completed:

Reason	Date	FR Cite
Final Action	05/19/89	54 FR 21752
Final Action Effective	07/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James R. Ogura 202 732-4701

RIN: 1810-AA50

567. CHAPTER 1 PROGRAM FOR NEGLECTED OR DELINQUENT CHILDREN

CFR Citation: 34 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	07/18/89	54 FR 30192
Final Action Effective	09/04/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Ogura 202 732-4701

RIN: 1810-AA46

ED—OESE — **Completed Actions**

568. CHAPTER I - MIGRANT EDUCATION COORDINATION PROGRAM FOR STATE EDUCATIONAL AGENCIES

CFR Citation: 34 CFR 205

Completed:

Reason	Date	FR Cite
Final Action	05/09/89	54 FR 20052
Final Action Effective	06/23/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Bertoglio 202 732-4758

RIN: 1810-AA42

569. EVEN START MIGRANT EDUCATION PROGRAM

CFR Citation: 34 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	05/25/89	54 FR 22728
Final Action Effective	07/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph P. Bertoglio 202 732-4758

RIN: 1810-AA39

570. ASSIST. FOR LEAS IN AREAS AFFECTED BY FED. ACTS. AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUB. ED.--HEAVILY IMPACTED DISTRICTS; AVG. DAILY ATTENDANCE

CFR Citation: 34 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	09/07/89	54 FR 37250

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Hansen 202 732-3837

RIN: 1810-AA20

571. ASSISTANCE FOR LEAS IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUBLIC ED. - SEC. 2 (CONSOLIDATED DIST. PROVISIONS)

CFR Citation: 34 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	07/18/89	54 FR 30039
Final Action Effective	09/04/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Hansen 202 732-4855

RIN: 1810-AA52

572. CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

CFR Citation: 34 CFR 237

Completed:

Reason	Date	FR Cite
Final Action	03/15/89	54 FR 10966
Final Action Effective	05/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ramon Ruiz 202 732-4059

RIN: 1810-AA35

573. INDIAN EDUCATION GENERAL PROVISIONS AND DISCRETIONARY GRANTS

CFR Citation: 34 CFR 250; 34 CFR 252; 34 CFR 253; 34 CFR 254; 34 CFR 255; 34 CFR 256; 34 CFR 257; 34 CFR 258

Completed:

Reason	Date	FR Cite
Final Action	05/11/89	54 FR 20480
Final Action Effective	07/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Aaron N. Shedd 202 732-1887

RIN: 1810-AA53

574. INDIAN EDUCATION; FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

CFR Citation: 34 CFR 251

Completed:

Reason	Date	FR Cite
Final Action	05/04/89	54 FR 19334
Final Action Effective	06/18/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Lesceux 202 732-5146

RIN: 1810-AA43

575. INDIAN EDUCATION GENERAL PROVISIONS AND DISCRETIONARY GRANT PROGRAMS - AMENDMENTS TO SELECTION CRITERIA

CFR Citation: 34 CFR 250; 34 CFR 252; 34 CFR 253; 34 CFR 254; 34 CFR 255; 34 CFR 256; 34 CFR 257; 34 CFR 258

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Aaron N. Shedd 202 732-1887

RIN: 1810-AA51

576. INDIAN FELLOWSHIP PROGRAM

CFR Citation: 34 CFR 263

Completed:

Reason	Date	FR Cite
Final Action	05/18/89	54 FR 21576
Final Action Effective	07/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothea Perkins 202 732-1938

RIN: 1810-AA44

577. MAGNET SCHOOLS ASSISTANCE PROGRAM

CFR Citation: 34 CFR 280

ED—OESE — **Completed Actions**

ED—OPE — **Proposed Rule Stage**

ED—OESE — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	05/05/89	54 FR 19506
Final Action Effective	06/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie Mack 202 732-4358

RIN: 1810-AA13

DEPARTMENT OF EDUCATION (ED)
Office of Planning and Budget and Evaluation (OPBE) — **Final Rule Stage**

578. PROTECTION OF HUMAN SUBJECTS IN RESEARCH

Legal Authority: 5 USC 301

CFR Citation: 34 CFR 097

Legal Deadline: None

Abstract: These regulations implement procedures to protect human research subjects and implement a recommendation from the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The regulations set forth a common Federal policy for the protection of human subjects accepted by the Office of Science and Technology Policy in the Executive Office of the President.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ed Glassman, Evaluation Systems Expert, Department of Education, Office of Planning and Budget and Evaluation, 400 Maryland Ave., SW, (Room 3127-FOB-6), Washington, DC 20202, 202 732-3132

RIN: 1875-AA07

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE) — **Proposed Rule Stage**

579. ELIGIBILITY OF FOREIGN POSTSECONDARY EDUCATIONAL INSTITUTIONS UNDER THE GUARANTEED STUDENT LOAN PROGRAM

Legal Authority: 20 USC 1082; 20 USC 1085

CFR Citation: 34 CFR 606

Legal Deadline: None

Abstract: These regulations would establish procedures and criteria the Secretary would use to determine the eligibility of institutions located outside the United States for participation in student loan programs authorized under Title IV, Part B of the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia Re, Division of Eligibility, and Certification, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 3030 - ROB-3, Washington,DC 20202, 202 732-4906

RIN: 1840-AB20

580. STUDENT ASSISTANCE GENERAL PROVISIONS - VERIFICATION

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498), the Tax Reform Act of 1986, and the Compact of Free Associations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lorraine Kennedy, Student Verification Branch, Division of Policy and Program Development, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., (Room 4613 - ROB-3), Washington, DC 20202, 202 732-5592

RIN: 1840-AB07

581. STUDENT ASSISTANCE GENERAL PROVISIONS — MISCELLANEOUS AMENDMENTS, SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would amend the provisions related to selective service requirements and make other miscellaneous changes in the student assistance general provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

ED—OPE — **Proposed Rule Stage**

Agency Contact: Carney M. McCullough, Chief, Policy Section, Pell Grant Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4318 - ROB-3, Washington, DC 20202, 202 732-4888

RIN: 1840-AB19

582. STUDENT ASSISTANCE GENERAL PROVISIONS — IMMIGRATION STATUS CONFIRMATION

Legal Authority: 20 USC 1091 to 1091a; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would establish rules by which an institution shall confirm the immigration status of certain alien applicants for student financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Claude E. Denton, Student Verification Branch, Division, Policy and Program Development, Department of Education, Office of Postsecondary Education, (Rm. 4613, ROB-3), 400 Maryland Avenue, SW, Washington, DC 20202, 202 732-5591

RIN: 1840-AB30

583. PERKINS LOAN PROGRAM, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS—(MISCELLANEOUS CHANGES)

Legal Authority: 20 USC 1070b to 1070b3; 20 USC 1087aa to 1087hh; 42 USC 2751 to 2756a

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: These proposed regulations would further implement provisions of the Higher Education Amendments of 1986. The regulations would also establish procedures that would make the Supplemental Educational Opportunity Grant Program consistent with the Pell Grant Program with respect to collection of outstanding overpayments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard O. Coppage, Acting Chief, Policy Section, Campus & State Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4018 - ROB-3, Washington, DC 20202, 202 732-4490

RIN: 1840-AB22

584. ● PERKINS LOAN, COLLEGE WORK STUDY AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Legal Authority: 20 USC 1070b to 1070b3; 20 USC 1087aa to 1087hh; 42 USC 2751 to 2756a

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: These final regulations are needed to make technical corrections to the campus based student financial assistance program regulations published on December 1, 1987. This technical amendment gives institutions the authority to capitalize the penalty charges that can be applied to the National Defense/ Direct Student or Perkins Loan borrowers during the six-month period.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard O. Coppage, Acting Chief, Policy Section, Campus and State Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, S.W. Room 4018, ROB-3, Washington, D.C. 20202, 202 732-4490

RIN: 1840-AB31

585. ● PERKINS LOAN PROGRAM

Legal Authority: 20 USC 1087aa to 1087hh

CFR Citation: 34 CFR 674

Legal Deadline: None

Abstract: This proposed amendment revise the existing regulations in section 674.4 to ensure a more equitable distribution of Federal capital contributions for all schools participating in the Perkins Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard P. Coppage, Acting Chief, Policy Section, Campus and State Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave. S.W. Room 4018, ROB-3, Washington, D.C. 20202, 202 732-4490

RIN: 1840-AB33

586. STAFFORD LOAN (GSL)/PLUS/SUPPLEMENTAL LOANS FOR STUDENTS/ CONSOLIDATION LOAN PROGRAMS

Legal Authority: 20 USC 1071 et seq.

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 4310 ROB-3), Washington, DC 20202, 202 732-4242

RIN: 1840-AA96

ED—OPE — **Proposed Rule Stage**

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE) — **Completed Actions**

592. INSTITUTIONAL ELIGIBILITY

Completed:

Reason	Date	FR Cite
Final Action	05/05/89	54 FR 19506
Final Action Effective	06/19/89	

CFR Citation: 34 CFR 668; 34 CFR 682

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie Mack 202 732-4358

RIN: 1810-AA13

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ED—OPE

Proposed Rule Stage

587. ● PELL GRANT PROGRAM - TECHNICAL REVISIONS

Legal Authority: 20 USC 1070a to 1070a-6

CFR Citation: 34 CFR 690

Legal Deadline: None

Abstract: These regulations would revise several terms in the current regulations and implement a statutory change resulting from the consolidated Omnibus Budget Reconciliation Act of 1985 (PL 99-272).

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carney M. McCullough, Chief, Policy Section, Pell Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave. S.W. Room 4318, ROB-3, Washington, D.C. 20202, 202 732-4888

RIN: 1840-AB34

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

588. PAUL DOUGLAS TEACHER SCHOLARSHIP PROGRAM AND GUARANTEED STUDENT LOAN AND PLUS PROGRAMS--TARGETED TEACHER DEFERMENTS

Legal Authority: 20 USC 1071 to 1087-2; 20 USC 1111b

CFR Citation: 34 CFR 653; 34 CFR 682

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 5066
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Md. Ave., S.W. (Rm. 4310 - ROB-3), Washington, DC 20202, 202 732-4242

RIN: 1840-AB03

589. STUDENT ASSISTANCE GENERAL PROVISIONS AND INSTITUTIONAL ELIGIBILITY--SECRETARY'S ACCOUNTABILITY INITIATIVES

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 600; 34 CFR 668

Legal Deadline: None

Abstract: These regulations achieve better accountability in the student financial aid programs. Proposed amendments to Section 668.12 were published in this proposed rule on March 17, 1989; and have been published as separate final regulations on , 54 FR .

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11354
NPRM Comment Period End	05/01/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John DeCleene, Pell Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4318, ROB-3, Washington, DC 20202, 202 732-4888

RIN: 1840-AB18

590. INCOME CONTINGENT LOAN PROGRAM - DUE DILIGENCE

Legal Authority: 20 USC 1087a to 1087e

CFR Citation: 34 CFR 673

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45576
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold F. McCullough, ICL Program Specialist, Division of Policy and Program Development, Department of Education, Office of Postsecondary Education, 400 Md. Ave.,SW, (Rm. 4310, ROB-3), Washington, DC 20202, 202 732-4828

RIN: 1840-AB04

591. ● GUARANTEED STUDENT LOAN AND PLUS PROGRAMS, DEFAULT REDUCTION INITIATIVE

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations establish several additional procedures that the Secretary uses to implement the Default Reduction Initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24128
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student, Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W. Room 4310, ROB-3, Washington, D.C. 20202, 202 732-4242

RIN: 1840-AB32

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Completed Actions

592. INSTITUTIONAL ELIGIBILITY CONVERSION OF CLOCK HOURS

CFR Citation: 34 CFR 600

Completed:

Reason	Date	FR Cite
Withdrawn	07/12/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia G. Re 202 732-4906

RIN: 1840-AA32

593. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

CFR Citation: 34 CFR 654

Completed:

Reason	Date	FR Cite
Final Action	06/20/89	54 FR 26006
Final Action Effective	08/04/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Fred Sellers 202 732-4507

RIN: 1840-AB06

594. STUDENT ASSISTANCE GENERAL PROVISIONS, GUARANTEED STUDENT LOAN/ PLUS/SUPPLEMENTAL LOANS FOR STUDENTS PROGRAMS--DEFAULT REDUCTION

Significance: Regulatory Program

CFR Citation: 34 CFR 668; 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	06/05/89	54 FR 24114
Final Action Effective	07/20/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran 202 732-4242

RIN: 1840-AB21

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Prerule Stage

595. ● THE STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM

Legal Authority: 29 USC 795j to 795q

CFR Citation: 34 CFR 363

Legal Deadline: None

Abstract: These regulations are needed to address grantee implementation problems resulting from non-statutory restrictions in current regulations.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/89	
ANPRM Comment Period End	02/00/90	
NPRM	05/00/90	
NPRM Comment Period End	07/00/90	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, D.C. 20202-1550, 202 732-1345

RIN: 1820-AA86

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Proposed Rule Stage

596. CHAPTER 1 - STATE OPERATED OR SUPPORTED PROGRAMS FOR HANDICAPPED CHILDREN

Legal Authority: 20 USC 2791 to 2796

CFR Citation: 34 CFR 302

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, PL 100-297.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhonda Weiss, Acting Chief, Programs Administration Branch, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., SW, Room 3613, Switzer Bldg., Washington, DC 20202, 202 732-1376

RIN: 1820-AA83

597. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM - DEREGULATION

Legal Authority: 29 USC 701 to 731

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer

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ED—OSERS — **Proposed Rule Stage**

Building, Washington, DC 20202-1550, 202 732-1345

RIN: 1820-AA47

598. REHABILITATION SERVICES ADMINISTRATION GENERAL DEREGULATION

Legal Authority: 20 USC 107 et seq; 29 USC 701 et seq

CFR Citation: 34 CFR 362; 34 CFR 366; 34 CFR 369; 34 CFR 371; 34 CFR 372; 34 CFR 374; 34 CFR 375; 34 CFR 378; 34 CFR 379; 34 CFR 385; 34 CFR 386; 34 CFR 387; 34 CFR 388; 34 CFR 389; 34 CFR 390

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL CFR CITATION: 34 CFR 395.

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202-1550, 202 732-1345

RIN: 1820-AA45

599. THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM - DEREGULATION

Significance: Regulatory Program

Legal Authority: 29 USC 796 to 796d

CFR Citation: 34 CFR 365

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
ANPRM	06/27/88	53 FR 24175
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Daniels, Associate Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, (Rm. 3034, Switzer Building), Washington, DC 20202, 202 732-1437

RIN: 1820-AA37

600. CENTERS FOR INDEPENDENT LIVING - STANDARDS AND EVALUATION INDICATORS

Legal Authority: 29 USC 796e

CFR Citation: 34 CFR 366

Legal Deadline: NPRM, Statutory, July 1, 1988.

Abstract: These proposed regulations would implement certain changes to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1986.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW, Room 3220 - Switzer Bldg., Washington, DC 20202-1550, 202 732-1345

RIN: 1820-AA81

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office of Special Education and Rehabilitative Services (OSERS)

601. TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED – GRANTS TO STATE EDUCATIONAL AGENCIES OR INSTITUTIONS OF HIGHER EDUCATION

Legal Authority: 20 USC 1432

CFR Citation: 34 CFR 319

Legal Deadline: None

Abstract: These regulations are needed to clarify statutory requirements and to improve the operation of the program.

Timetable:

Action	Date	FR Cite
NPRM	08/22/89	54 FR 34858
NPRM Comment Period End	09/21/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Max W. Mueller, Acting Division Director, Division of Personnel Preparation, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., SW, (Rm. 3072 - Switzer Bldg.), Washington, DC 20202, 202 732-1154

RIN: 1820-AA85

602. PROJECTS WITH INDUSTRY - COMPLIANCE INDICATORS

Legal Authority: 29 USC 795g

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: These regulations implement certain changes to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1986.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	53 FR 6808
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Weinheimer, Acting Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW, Room 3220 - Switzer Bldg., Washington, DC 20202-1550, 202 732-1345

RIN: 1820-AA82

DEPARTMENT OF EDUCATION (ED) — **Completed Actions**

Office of Special Education and Rehabilitative Services (OSERS)

603. ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

CFR Citation: 34 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	04/27/89	54 FR 18248
Final Action Effective	06/11/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Tyrrell 202 732-1025

RIN: 1820-AA71

604. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH HANDICAPS

CFR Citation: 34 CFR 303

Completed:

Reason	Date	FR Cite
Final Action	06/22/89	54 FR 26306
Final Action Effective	09/04/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas B. Irvin 202 732-1114

RIN: 1820-AA49

605. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH PROGRAM

CFR Citation: 34 CFR 307

Completed:

Reason	Date	FR Cite
Final Action	04/17/89	54 FR 15308
Final Action Effective	06/09/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Safer 202 732-1109

RIN: 1820-AA53

606. TECHNOLOGY - RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

CFR Citation: 34 CFR 345

Completed:

Reason	Date	FR Cite
Final Action	08/09/89	54 FR 32770
Final Action Effective	09/23/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Jo Berland 202 732-1139

RIN: 1820-AA84

DEPARTMENT OF EDUCATION (ED) — **Completed Actions**

Office of Vocational and Adult Education (OVAE)

607. STATE ADMINISTERED ADULT EDUCATION PROGRAMS AND SECRETARY'S DISCRETIONARY PROGRAMS OF ADULT EDUCATION

CFR Citation: 34 CFR 425; 34 CFR 426; 34 CFR 432; 34 CFR 433; 34 CFR 434; 34 CFR 435; 34 CFR 436; 34 CFR 437; 34 CFR 438; 34 CFR 441

Completed:

Reason	Date	FR Cite
Final Action	08/16/89	54 FR 34408
Final Action Effective	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Johns 202 732-2237

RIN: 1830-AA06

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office of Intergovernmental and Interagency Affairs (EDSI)

608. INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES – LIST OF PROGRAMS

Legal Authority: EO 12372; 31 USC 6506; 42 USC 3334

CFR Citation: 34 CFR 79

Legal Deadline: None

Abstract: This regulatory action names those ED programs to be included and those ED programs to be excluded under EO 12372 and ED's implementing regulations in 34 CFR Part 79.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10500
NPRM Comment Period End	06/12/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Leroy Walser, Executive Director, Federal Interagency Committee on Education, Department of Education, Office of Intergovernmental and Interagency Affairs, (Room 3059 - FOB-6), Washington, DC 20202, 202 732-3069

RIN: 1860-AA00

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DEPARTMENT OF EDUCATION (ED)
Office of the General Counsel (EDOGC)

Proposed Rule Stage

609. EQUAL ACCESS TO JUSTICE

Legal Authority: 5 USC 504

CFR Citation: 34 CFR 21

Legal Deadline: None

Abstract: These regulations would amend the procedures for the award of fees and other expenses to applicants who prevail in adversary adjudications before the Department of Education. The current regulations must be amended to reflect amendments to the Equal Access to Justice Act made by P.L. 99-80.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jo-Ann Frey, General Attorney, Office of the General Counsel, Department of Education, Office of the General Counsel, 400 Maryland Ave., SW, Room 4122, Washington, DC 20202, 202 732-2800

RIN: 1801-AA01

[FR Doc. 89-21720 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part VII

Department of Energy

Semiannual Regulatory Agenda

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DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

41 CFR Ch. 9

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: October 1989 regulatory agenda.

SUMMARY: In order to make Government more responsive to the citizens of the United States and to assist in fulfilling the President's commitment to lessen regulatory burdens, the Department of Energy (DOE) is publishing this agenda of DOE rulemakings in progress and proposed rulemakings that DOE foreseeably may issue in the next year. This agenda also includes any rules which are being reviewed within the Department to determine whether to propose modifications and rulemakings and rule reviews which have been completed since the last regulatory agenda in April 1989. It also contains information on any rulemakings which are likely to have a significant economic impact on a substantial number of small entities, and it contains additional data on procurement-related actions.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda in general, contact: Theodore Wilson or Peter A. Greenlee, Department of Energy, Room 6A-141, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

Specific: For further information about any particular item on the agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION:

Covered agencies publish regulatory agendas under Executive Order 12291 in April and October of each year. The Executive order authorizes the Office of Management and Budget (OMB) to set forth standards and procedures for the preparation of these agendas. The October 1989 regulatory agenda has been prepared in accordance with OMB Bulletin No. 89-12.

There are important reasons for preparing this agenda. It is vital to efforts to reduce the burdens of existing and future regulations, to increase agency accountability for regulatory actions, to provide for Presidential oversight of the regulatory process, to minimize duplication and conflict of regulations, and to insure well-reasoned regulations. The Department has made considerable progress in these efforts.

Executive Order 12291 provides that the regulatory agenda may be incorporated with the "regulatory flexibility agenda" required under the Regulatory Flexibility Act, 5 U.S.C. 602 *et seq.* The regulatory flexibility agenda must cover any rule which the agency expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities." Its information requirements are similar to those of the Executive order. The regulatory flexibility agenda required under 5 U.S.C. 602(a) is incorporated in today's notice.

The Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 402, require publication twice a year of a "Procurement Regulatory Activity Report." As determined by OMB, agency information is now in the agenda for use by the Office of Federal Procurement Policy (OFPP) in producing these reports.

Entries appended to this notice reflect the status of activities as of approximately August 15, 1989. They are divided into categories first by DOE subagency and then according to their stage of rulemaking action: prerule, proposed rulemaking, final rulemaking, or completed action.

Appended entries contain the following information: (1) DOE organizational unit responsible for the regulation; (2) RIN number (that is, the Regulation Indentifier Number assigned by OMB/OIRA); (3) title; (4) significance (that is, whether the regulation appears in the Regulatory Program prepared annually under Executive Order 12498 and, if it does not, whether it is nevertheless a departmental priority); (5) the name, title, address, and telephone number of a person who is knowledgeable about the regulation; (6) effects on small businesses (that is, whether the action is likely to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act) and effects on Federal, State, and local governments; (7) CFR citation (that is, portion of the Code of Federal Regulations that will be affected); (8) legal authority (that is, a citation to the section of the United States Code (U.S.C.), Public Law (Pub. L.), or Executive Order (E.O.) that authorizes the regulatory action); (9) abstract (that is, a description of the problem the regulation will address, the regulatory approach under consideration, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action); (10) legal deadline (that is, the statutory or judicial deadline, if any); and (11) timetable (that is, the dates, and citations if applicable, for all past stages and, generally, the date for at least the next stage of the rulemaking). The timetable for completed actions (that is, regulations completed or withdrawn and reviews completed since the preceding agenda) gives the completion date and the citation, if appropriate.

For each procurement-related regulatory action, additional information is provided in the Additional Information data element (Block A): (1) A statement that the action is procurement-related; (2) an indication of whether or not there is a statutory requirement for the action; and (3) an indication of whether or not there is a paperwork burden associated with the action.

Organizational Note: The previous agenda contained two regulatory actions under the "Economic Regulatory Administration" heading. Functions related to these two actions have been transferred to the Assistant Secretary for Fossil Energy. Accordingly, these two actions now are grouped under the "Departmental and Others" heading, which includes actions of the Assistant Secretary.

A draft of this agenda has been transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any, to fulfill the requirements of 5 U.S.C. 602(b).

DOE's next agenda will be published in April 1990.

Issued in Washington, DC, on September 7, 1989.

Eric J. Fygi,

Acting General Counsel.

DOE

Conservation and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
610	Energy Efficiency Standards for Water Heaters, Pool Heaters, Direct Heating Equipment, Mobile Home Furnaces, Kitchen Ranges & Ovens, Room Air Conditioners, Fluorescent Lamp Ballasts, & TVs	1904-AA38

Conservation and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
611	Federal Energy Management & Planning Programs Methodology & Procedures for Life Cycle Costing Analyses	1904-AA06
612	Energy Conservation Performance Standards for New Buildings; Subpart B - Voluntary Performance Standards for New Non-Federal Residential Buildings	1904-AA34
613	Energy-Efficiency Standards for Dishwashers, Clothes Washers and Clothes Dryers	1904-AA37
614	Test Procedures for Fluorescent Lamp Ballasts	1904-AA39

Conservation and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
615	Energy Conservation Performance Standards for New Buildings; Subpart A - Commercial and Multi-Family High Rise Residential Buildings	1904-AA08
616	Energy Efficiency Test Procedures for Water Heaters	1904-AA12
617	Energy Conservation Performance Standards for New Buildings; Subpart C - Mandatory Performance Standards for New Federal Residential Buildings	1904-AA27
618	Energy-Efficiency Standards for Refrigerators and Related Products, and Small Gas Furnaces	1904-AA28
619	Energy-Efficiency Test Procedures for Refrigerator-Freezers and Freezers	1904-AA35
620	Energy Conservation Standards for Water Heaters; Technical Amendments	1904-AA36

Defense Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
621	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Q Access Authorization	1992-AA11

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
622	Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste; Amendments	1901-AA16

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
623	Part 605 Special Research Grants Program; Proposed Rule	1901-AA07
624	Annotation of Land Records; Uranium Mill Tailing Remedial Action Program	1901-AA12

DOE

Departmental and Others—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
625	Model Federal Policy for Protection of Human Research Subjects	1901-AA13
626	Powerplant and Industrial Fuel Use Act of 1978; Revisions	1901-AA17

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
627	New Administrative Procedures With Respect to Short-Term Imports and Exports of Natural Gas	1901-AA16

Economic Regulatory Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
628	New Administrative Procedures with Respect to Short-Term Imports and Exports of Natural Gas	1903-AA07
629	Powerplant and Industrial Fuel Use Act of 1978; Revisions	1903-AA08

Management and Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
630	DOE Contractor Alcohol Free Workplace Program	1991-AA57

Management and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
631	Department of Energy Acquisition Regulation Revisions; Patent Policy	1991-AA23
632	Department of Energy Property Management Regulations: Management of Motor Equipment	1991-AA28
633	Department of Energy Acquisition Regulation: Miscellaneous Changes on Acquisition of Motor Equipment	1991-AA32
634	Proposed Rule on DOE Contractor Drug Free Workplace Policy	1991-AA39
635	Resolution of Disputes Between Subcontractors and DOE Management and Operating Contractors	1991-AA44
636	Department of Energy Acquisition Regulation: Internal Controls Systems	1991-AA50
637	Department of Energy Acquisition Regulation: Price-Anderson Act	1991-AA52
638	Department of Energy Acquisition Regulation: Environmental, Safety, and Health Requirements	1991-AA53
639	Department of Energy Acquisition Regulation; Miscellaneous Amendments - Updates	1991-AA59
640	Department of Energy Acquisition Regulation; Miscellaneous Amendments	1991-AA60

Management and Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
641	Revised Policy on Objective Merit Review of Discretionary Financial Assistance Applications	1991-AA41
642	Research Opportunity Announcements	1991-AA42
643	Referral of Debts to IRS for Tax Refund Offset	1991-AA54
644	Uniform Administrative Requirements for Grants and Cooperative Agreements	1991-AA55

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Management and Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
645	Department of Energy Acquisition Regulation; Offeror Representations and Certifications Procedures	1991-AA58
646	Department of Energy Acquisition Regulation; Contract Clauses - Award Fee	1991-AA61

Management and Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
647	Department of Energy Acquisition Regulation; Use of Contract Carriers by Cost Reimbursable Contractors	1991-AA37
648	Department of Energy Acquisition Regulation: Miscellaneous Amendments	1991-AA49
649	Financial Assistance Rules; Technical Corrections	1991-AA56

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
650	Amendments to Department of Energy Conduct of Employees Regulations	1990-AA00
651	Patent Waiver Regulation	1990-AA02
652	Foreign Gifts and Decorations	1990-AA04
653	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Revision of Current Procedures	1990-AA13

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
654	Class Patent Waivers	1990-AA07
655	Indemnification of Department of Energy Officials and Employees	1990-AA11
656	Production or Disclosure of Material or Information and Provision of Agency Witnesses in Federal and State Proceedings	1990-AA12

DEPARTMENT OF ENERGY (DOE) — **Prerule Stage**

Conservation and Renewable Energy (CE)

610. ● ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS, POOL HEATERS, DIRECT HEATING EQUIPMENT, MOBILE HOME FURNACES, KITCHEN RANGES & OVENS, ROOM AIR CONDITIONERS, FLUORESCENT LAMP BALLASTS, & TVS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.
EPCA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The statute requires completion of a second reanalysis of all (cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department. This rulemaking will review the

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statutory standards for water heaters;

Timetable:

Additional Information: LEGAL

DOE—CE — Proposed Rule Stage

to undergo two subsequent rulemakings,

Action	Date	FR Cite

614. ● TEST PROCEDURES FOR

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DOE—CE — Prerule Stage

statutory standards for water heaters; pool heaters; kitchen ranges and ovens; room air conditioners; direct heating equipment; mobile home furnaces; and fluorescent lamp ballasts to determine whether those levels need to be amended. In addition, television sets will be examined to determine whether conservation standards are justified.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/90	
ANPRM Comment Period End	03/00/90	
NPRM	01/01/91	
Final Action	01/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: LEGAL DEADLINE CONT: the extant standards in a period from 7/1/94 to 12/31/2006.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Building Equipment Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA38

DEPARTMENT OF ENERGY (DOE) — Proposed Rule Stage

Conservation and Renewable Energy (CE)

611. FEDERAL ENERGY MANAGEMENT & PLANNING PROGRAMS METHODOLOGY & PROCEDURES FOR LIFE CYCLE COSTING ANALYSES

Legal Authority: 42 USC 8255; PL 95-619, Sec 545; PL 99-509, Sec 3301; EO 11912; EO 12003; PL 99-509; PL 100-615

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: Under the National Energy Conservation Policy Act, DOE has promulgated regulations establishing a methodology for estimating and comparing the life cycle costs of Federal buildings and for determining life cycle cost effectiveness. The Energy Security Act required that the regulations provide for the use of marginal energy costs in the life cycle cost analyses. DOE sought legislative revisions to authorize use of average energy costs rather than marginal costs. Appropriate legislative relief came with the Omnibus Budget Reconciliation Act of 1986. The current rulemaking would update base year prices and energy cost escalation rates based on current average energy cost projections. It would also eliminate the need for Federal Register publication of future annual updates so long as there is no significant change in the method for making average energy cost projections. In addition, the Federal Energy Management Improvement Act requires the Secretary of Energy to establish the discount rate for life cycle costing. The current rulemaking would include the methodology by which the discount rate will be established.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	04/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: K. Dean DeVine, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-6784

RIN: 1904–AA06

612. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART B - VOLUNTARY PERFORMANCE STANDARDS FOR NEW NON-FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary guidelines for the private residential sector and has promulgated interim mandatory standards for the Federal Government. Subpart B develops voluntary standards for new non-Federal residential buildings. DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James A. Smith, Director, Building Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9445

RIN: 1904–AA34

613. ENERGY-EFFICIENCY STANDARDS FOR DISHWASHERS, CLOTHES WASHERS AND CLOTHES DRYERS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Other, Statutory. EPCA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The statute requires completion of a second reanalysis of all(cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, extensively amends the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. EPCA establishes initial energy-efficiency standard levels for most types of major appliances and generally requires DOE

DOE—CE — Proposed Rule Stage

to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. This rulemaking will review the statutory standards for dishwashers, clothes washers and clothes dryers to determine whether those levels need to be amended.

Timetable:

Action	Date	FR Cite
ANPRM	05/18/88	53 FR 17712
ANPRM Comment Period End	07/18/88	53 FR 17712
NPRM	08/09/89	54 FR 32744
NPRM Comment Period End	10/10/89	54 FR 32744
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: LEGAL DEADLINE CONT: then-extant standards in a period from 7/1/94 to 12/31/2006. The NAECA requires a final determination on these three products by 01/01/90.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA37

614. ● TEST PROCEDURES FOR FLUORESCENT LAMP BALLASTS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Establishment of test procedures for fluorescent lamp ballasts in accordance with National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100-357).

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Building Equipment Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA39

DEPARTMENT OF ENERGY (DOE) — Final Rule Stage

Conservation and Renewable Energy (CE)

615. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART A - COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary standards for the non-Federal residential sector and has promulgated interim mandatory standards for the Federal Government. Subpart A develops standards for both Federal and non-Federal commercial buildings and multi-family high rise buildings. DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 17051
NPRM Comment Period End	08/04/87	
Interim Final Rule	01/30/89	54 FR 4538
Interim Final Rule Effective Date	07/31/89	54 FR 4538
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Agency Contact: James A. Smith, Director, Buildings Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9445

RIN: 1904–AA08

616. ENERGY EFFICIENCY TEST PROCEDURES FOR WATER HEATERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. In February 1984, DOE proposed to establish test procedures for heat pump water heaters and to eliminate the need for the test procedure waiver granted to A.O. Smith for its water heater with a thermal compensatory dip tube. Based on the comments received pursuant to the February 8, 1984 NPRM, the Department prepared a new NPRM published March 13, 1987. This NPRM proposed a single test procedure to cover gas, oil and electric water heaters as well as heat pump water heaters, and extended the test procedures to cover instantaneous type water heaters. In addition to the A.O. Smith matter, the rulemaking would eliminate the need for the test procedure waivers

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granted Bock Corp., Ford Products and Lockinvar Corp. for their high mass oil-fired water heaters.

Timetable:

Action	Date	FR Cite
NPRM	02/08/84	49 FR 4870
NPRM Comment Period End	05/21/84	49 FR 4870
NPRM Test Procedures for Water Heaters	03/13/87	49 FR 7972
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Under a separate rulemaking (RIN: 1904-AA36), the Secretary will determine whether the test procedure amendment alters the measured water heater efficiency and, if so, will establish corrective technical amendments to the energy conservation standard.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA12

617. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART C - MANDATORY PERFORMANCE STANDARDS FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary standards for the non-Federal residential sector and has promulgated interim mandatory standards for the Federal Government. Subpart C develops mandatory standards for new Federal residential buildings. DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29754
NPRM Comment Period End	01/16/87	51 FR 222
Interim Final Rule	08/25/88	53 FR 32536
Proposed Modification of Interim Final Rule	08/25/88	53 FR 32547
Interim Final Rule Effective	02/21/89	53 FR 32536
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Analysis: Economic Analysis 08/20/86 (51 FR 29773); Environmental FONSI 08/20/86 (51 FR 29773)

Additional Information: On 08/25/88, the Department proposed to modify the interim final rule in three respects (53 FR 32547). To the computerized building design program (COSTSAFR) would be added: (1) credit for three mass-wall configurations; (2) new energy data on window glazings; and (3) a mathematical process for integrating innovative design options into the analysis.

Agency Contact: James A. Smith, Director, Building Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-9445

RIN: 1904–AA27

618. ENERGY-EFFICIENCY STANDARDS FOR REFRIGERATORS AND RELATED PRODUCTS, AND SMALL GAS FURNACES

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Other, Statutory. EPCA requires DOE determinations to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The Statute requires completion of a second reanalysis of all then-extant (cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, extensively amends the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. EPCA establishes initial statutory energy-efficiency standard levels for most types of major appliances and generally requires the Department to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. This rulemaking will review the statutory standard levels for refrigerators, refrigerator-freezers, and freezers to determine whether those levels need to be (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/07/87	52 FR 46367
ANPRM Comment Period End	02/05/88	52 FR 46367
NPRM	12/02/88	53 FR 48798
NPRM Comment Period End	01/31/89	53 FR 48798
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis; FONSI Energy Conservation Standards 12/02/88 (53 FR 48826)

Additional Information: ABSTRACT CONT: amended; for small gas furnaces, will set an initial standard within the statutory range; and will determine whether any standard for television sets is warranted.

LEGAL DEADLINE CONT: standards in a period from 7/1/94 to 12/31/2006. Statutory deadlines for this rulemaking: proposal on standards for refrigerators and related products (7/1/88) and establishment of the small gas furnace standards level (1/1/89), the earliest NAECA deadline for a final action.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA28

619. ENERGY-EFFICIENCY TEST PROCEDURES FOR REFRIGERATOR-FREEZERS AND FREEZERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: DOE has proposed to amend existing test procedures for refrigerator-freezers and freezers to alleviate the requirement for waivers for units equipped with variable defrost controls. The proposal also addresses refrigerator-freezers equipped with two compressors. The proposed amendments would eliminate the need for the test procedure waivers granted Whirlpool and White Consolidated Industries, Inc., for their variable defrost control refrigerator-freezers.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37416
NPRM Comment Period End	11/25/88	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA35

620. ENERGY CONSERVATION STANDARDS FOR WATER HEATERS; TECHNICAL AMENDMENTS

Legal Authority: 42 USC 6292

CFR Citation: 10 CFR 430.32

Legal Deadline: None

Abstract: This action would be a technical amendment, based on water heater test procedure changes in progress (see 1904 - AA12), of the statutory standard for water heaters contained in the National Appliance Energy Conservation Act of 1987 (NAECA), as amended. This amendment could change the way the standard level is measured, but would not change the level of the minimum energy conservation standard itself. NAECA requires amendment of the applicable standard if the Secretary determines that an amended test procedure will alter the measured efficiency of the standard. This technical amendment of the standard is to be completed concurrently with the rulemaking with respect to the amended test procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1690
NPRM Comment Period End	03/20/89	54 FR 1690
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904–AA36

DEPARTMENT OF ENERGY (DOE)

Defense Programs (DP) — **Final Rule Stage**

621. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; Q ACCESS AUTHORIZATION

Significance: Agency Priority

Legal Authority: 42 USC 2014aa Atomic Energy Act of 1954, Sec 11aa; 42 USC 2201 Atomic Energy Act of 1954, Sec 161; 10 CFR 710

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: The protection of certain of the Department's security interests, with the potential, if misused, of causing unacceptable damage to the national security, requires the implementation of a program designed to assure that individuals occupying positions affording access to certain material, facilities, and programs meet the highest standards of reliability. This action would establish a Q(R) access authorization for individuals applying for or currently holding a position identified as a Personnel Security Assurance Program (PSAP) position. The security clearance determination would, through a system of continuous evaluation, identify those individuals whose judgment may be impaired by physical and/or emotional disorders, the use of controlled substances, or the use of alcohol habitually to excess.

Timetable:

Action	Date	FR Cite
NPRM	02/02/89	54 FR 5376
NPRM Comment Period End	03/06/89	
Final Action	10/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Hershkowitz, Chief, Assurance and Analysis Br. (DP-344.3), Personnel Security Assurance Program, Department of Energy, Defense Programs, Office of Safeguards & Security, DP-344.3, Washington, DC 20585, 301 353-5671

RIN: 1992–AA11

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

622. ● STANDARD CONTRACT FOR DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE; AMENDMENTS

Significance: Agency Priority

Legal Authority: 42 USC 10222

CFR Citation: 10 CFR 961 (Revision)

Legal Deadline: None

Abstract: On April 18, 1983, the Department of Energy (DOE) published a rule which established the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (standard disposal contract) to be used by the DOE in furnishing disposal services to the owners or generators of spent nuclear fuel and/or high-level radioactive waste (48 FR 16590). On March 17, 1989, the U.S. Court of Appeals for the District of Columbia (Consolidated Edison Co. et al. v. DOE, No. 88-1194) ruled that the ongoing 1.0 mill per kilowatt hour (1M/KWH) fee in DOE's standard disposal contract should be based on nuclear electricity actually sold rather than net generation of electricity as adopted in the amended final rule of September 17, 1987 (52 FR 35356). This notice publishes for comment amendments to Article I.13, Article VIII.A.1 and B.1, and Appendix G of the standard disposal contract to be consistent with the court's ruling. This amendment is expected to reduce revenues from the ongoing fee about 6 to 8 percent.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alan Brownstein, Utility Contracts Manager, Department of Energy, Departmental and Others, Office of Civilian Radioactive Waste Mgmt., 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-6869

RIN: 1901-AA18

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

623. PART 605 SPECIAL RESEARCH GRANTS PROGRAM; PROPOSED RULE

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: This action would revise administrative guidelines in order to clarify and streamline DOE-OER pre- and post-award policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23219
NPRM Comment Period End	06/30/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Zich, Director, Acquisition and Assistance, Management Division (ER-64), Department of Energy, Departmental and Others, (ER64) Office of Energy Research, Washington, DC 20545, 301 353-5544

RIN: 1901-AA07

624. ANNOTATION OF LAND RECORDS; URANIUM MILL TAILING REMEDIAL ACTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 7901 Uranium Mill Tailings Radiation Control Act of 1978

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: PL 95-604 assigned the Department of Energy the authority to conduct remedial actions at 24 processing sites and associated vicinity properties. Section 104(d) states that the Department shall issue appropriate rules and regulations concerning annotation of land records where residual radioactive materials were located and when remedial action took place. The Department will begin rulemaking proceedings during FY 1989.

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29732
NPRM Comment Period End	08/28/89	54 FR 29732
Final Action	02/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sally A. Mann, Dir., Div. of Uranium Mill Tailings Projects, Division, NE-22, Department of Energy, Departmental and Others, Office of Nuclear Energy, Washington, DC 20545, 301 353-8436

RIN: 1901-AA12

625. MODEL FEDERAL POLICY FOR PROTECTION OF HUMAN RESEARCH SUBJECTS

Significance: Agency Priority

Legal Authority: PL 95-622; PL 93-438, Sec 105A

CFR Citation: 10 CFR 745, (Revision)

Legal Deadline: None

Abstract: In response to the First Biennial Report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, DOE along with all other affected Federal departments and agencies following the lead of DHHS will adopt and implement a uniform code of regulations for the protection of human subjects in Federal research projects. This will replace the prior regulations adopted by DOE in 1976 and make DOE requirements uniform with the DHHS policies.

DOE—ENDEP

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	53 FR 45661
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Susan L. Rose, Health Scientist, Department of Energy, Departmental and Others, Office of Energy Research, Human Health and Assessments Division(ER-73), Washington, DC 20545, 301 353-4731

RIN: 1901-AA13

626. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978; REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 8301 et seq; PL 100-42; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 500; 10 CFR 501; 10 CFR 503; 10 CFR 504

Legal Deadline: None

Abstract: Legislative changes and economic conditions have made it necessary to modify the regulatory language to comport with Congressional intent of the amended Fuel Use Act. Specifically, it is proposed to remove all language that relates to industrial facilities. The fuel price calculations and inflation indices used in the cost test calculations supporting exemptions based on a lack of alternate fuel at a cost that does not substantially exceed the cost of using imported petroleum will be changed. It also is proposed to insert language that will dramatically decrease the evidence that must be presented to qualify for an FUA exemption when a powerplant certifies to the technical and financial feasibility of using an alternate fuel at a future date.

Timetable:

Action	Date	FR Cite
NPRM	01/25/89	54 FR 3726
NPRM Comment Period End	03/20/89	
Final Action	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This action formerly was identified as RIN 1903-AA06.

Agency Contact: Anthony J. Como, Director, Office of Coal and Electricity, Department of Energy, Departmental and Others, Office of Fossil Energy, 1000 Independence Ave.,SW, Room 3H-087 FE-52, Washington, DC 20585, 202 586-5935

RIN: 1901-AA17

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Completed Actions

627. NEW ADMINISTRATIVE PROCEDURES WITH RESPECT TO SHORT-TERM IMPORTS AND EXPORTS OF NATURAL GAS

Legal Authority: 15 USC 717b; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 590

Legal Deadline: None

Abstract: The rule would amend the administrative procedure regulations contained in 10 CFR 590, by establishing a new Subpart F to provide alternative, expedited procedures regarding applications to import and export natural gas on a short-term basis. The rule would reduce the regulatory burden on parties wishing to import or export natural gas on a short-term or spot market basis by streamlining our licensing process, thus facilitating the operation of the market.

Timetable:

Action	Date	FR Cite
Withdrawn	08/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This action formerly was identified as RIN 1903-AA07.

Agency Contact: Constance L. Buckley, Deputy Assistant Secretary for Fuels Programs, Department of Energy, Departmental and Others, FE-50, Office of Fossil Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9482

RIN: 1901-AA16

DEPARTMENT OF ENERGY (DOE)
Economic Regulatory Administration (ERA)

Completed Actions

628. NEW ADMINISTRATIVE PROCEDURES WITH RESPECT TO SHORT-TERM IMPORTS AND EXPORTS OF NATURAL GAS

Legal Authority: 15 USC 717b; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 590

Legal Deadline: None

Abstract: The rule would amend the administrative procedure regulations contained in 10 CFR 590, by establishing a new Subpart F to provide alternative, expedited procedures regarding applications to import and export natural gas on a short-term basis. The rule would reduce the regulatory burden on parties wishing to import or export natural gas on a short-term or spot market basis by streamlining our licensing process, thus facilitating the operation of the market.

Timetable:

Action	Date	FR Cite
TRANSFER DEVELOPMENT TO: 1901-AA16		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

DOE—ERA

Completed Actions

DOE—MA

Proposed Rule Stage

Agency Contact: Constance L. Buckley, Director, Natural Gas Division, Department of Energy, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9482

RIN: 1903–AA07

629. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978; REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 8301 et seq; PL 100-42; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 500; 10 CFR 501; 10 CFR 503; 10 CFR 504

Legal Deadline: None

Abstract: Legislative changes and economic conditions have made it necessary to modify the regulatory language to comport with Congressional intent of the amended Fuel Use Act. Specifically, It is proposed to remove all language that relates to industrial facilities. The fuel price calculations and inflation indices used in the cost test calculations supporting exemptions based on a lack of alternate fuel at a cost that does not substantially exceed the cost of using imported petroleum will be changed. It also is proposed to insert language that will dramatically decrease the evidence that must be presented to qualify for an FUA exemption when a powerplant certifies to the technical and financial feasibility of using an alternate fuel at a future date.

Timetable:

Action	Date	FR Cite
TRANSFER DEVELOPMENT TO: 1901-AA17		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Anthony J. Como, Director, Coal & Electricity Division, Department of Energy, Economic Regulatory Administration, 1000 Independence Ave., SW, Room GA-093 RG-22, Washington, DC 20585, 202 586-5935

RIN: 1903–AA08

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Prerule Stage

630. ● DOE CONTRACTOR ALCOHOL FREE WORKPLACE PROGRAM

Legal Authority: 42 USC 2011 et seq; Atomic Energy Act and Energy Reorganization Act, as amended

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: Will establish comprehensive alcohol abuse prevention policy and program at DOE-owned or -leased operations consistent with DOE responsibility to protect public health and safety and national security. Regulation will address alcohol testing requirements, educational and training programs, counseling and rehabilitation, confidentiality and protection of privacy of employees. Costs incurred will affect cost reimbursement type contracts for managing, operating, construction, and servicing DOE facilities. Benefits will be in establishing a reasonable level of consistency among contractor programs and resultant cost to the Government and in reducing risk of unacceptable damage to security environment, health and safety of employees and the public.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Juanita E. Smith, Director, Division of Employee Relations, Office of Industrial Relations, Department of Energy, Management and Administration, MA52, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-9033

RIN: 1991–AA57

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Proposed Rule Stage

631. DEPARTMENT OF ENERGY ACQUISITION REGULATION REVISIONS; PATENT POLICY

Legal Authority: 41 USC 401 et seq The Office of Federal Procurement Policy Act; 42 USC 7101 et seq The Department of Energy Organization Act; EO 12352 Procurement Reforms

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy Acquisition Regulation, promulgated March 29, 1984, at 49 FR 11922, supplements and implements the Federal Acquisition Regulation. A more recent Federal Acquisition Circular has been issued to establish a FAR Part 27 concerning Patents. It will be necessary to revise Part 927 of the DEAR to supplement and implement the FAR and to explain how DOE patent policy will differ due to our statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	
NPRM Comment Period End	03/01/90	
Final Action	07/01/90	
Final Action Effective	08/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8264

RIN: 1991–AA23

632. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS: MANAGEMENT OF MOTOR EQUIPMENT

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of motor equipment, including motor vehicles, aircraft, and watercraft.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8260

RIN: 1991–AA28

633. DEPARTMENT OF ENERGY ACQUISITION REGULATION: MISCELLANEOUS CHANGES ON ACQUISITION OF MOTOR EQUIPMENT

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 908; 48 CFR 970; 48 CFR 945

Legal Deadline: None

Abstract: To provide additional policy guidance on the acquisition of personal property in the areas concerning acquisition plans, Government supply sources, consideration for subcontracts, Government property, and updating solicitation provisions and contract clauses. To provide additional and to revise current policy guidance on the acquisition of motor equipment management including motor vehicles and aircraft.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	
Final Action	03/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8260

RIN: 1991–AA32

634. PROPOSED RULE ON DOE CONTRACTOR DRUG FREE WORKPLACE POLICY

Significance: Agency Priority

Legal Authority: 42 USC 2011 et seq; Atomic Energy Act and Energy Reorganization Act, as amended

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: Will establish comprehensive drug abuse prevention policy and program at DOE-owned or -leased operations consistent with DOE responsibility to protect public health and safety and national security. Regulation will address drug testing requirements, educational and training programs, drug counseling and rehabilitation, confidentiality and protection of privacy of employees. Costs incurred will affect cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities. Benefits will be in establishing reasonable level of consistency among contractor programs and resultant cost to the Government and in reducing risk of unacceptable damage to security environment, health and safety of employees and the public.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Juanita E. Smith, Director, Employee Relations, Office of Industrial Relations, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9033

RIN: 1991–AA39

635. RESOLUTION OF DISPUTES BETWEEN SUBCONTRACTORS AND DOE MANAGEMENT AND OPERATING CONTRACTORS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Establishes a system, by regulation, to allow subcontractors under DOE Management and Operating contracts access in certain circumstances to the Energy Board of Contract Appeals in resolution of disputes with the contractor. Also clarifies that DOE Contracting Officers lack authority to designate Management and Operating contractors as purchasing agents for DOE absent special authorization.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	
NPRM Comment Period End	01/01/90	
Final Action	04/01/90	
Final Action Effective	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8264

RIN: 1991–AA44

636. DEPARTMENT OF ENERGY ACQUISITION REGULATION: INTERNAL CONTROLS SYSTEMS

Legal Authority: 42 USC 7254; 40 USC 486(c)

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CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulation to require its Management and Operating Contractors to develop and maintain systems of internal controls to discourage waste, fraud and abuse.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8190

RIN: 1991–AA50

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637. DEPARTMENT OF ENERGY ACQUISITION REGULATION: PRICE-ANDERSON ACT

Legal Authority: 42 USC 2014

CFR Citation: 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The purpose of this action is to amend the regulations which implement the Price-Anderson Act. Amendments are necessary to incorporate the revisions included in the Price-Anderson Amendments Act of 1988. These regulations deal only with those aspects of the Price-Anderson legislation incorporated in the agency's acquisition regulations, e.g., contract clauses providing Nuclear Hazards Indemnity.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	
NPRM Comment Period End	12/01/89	
Final Action	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8284

RIN: 1991–AA52

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638. DEPARTMENT OF ENERGY ACQUISITION REGULATION: ENVIRONMENTAL, SAFETY, AND HEALTH REQUIREMENTS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 916; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy is proposing to amend the Department of Energy Acquisition Regulation to clarify and emphasize environmental protection, safety and health requirements for contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8250

RIN: 1991–AA53

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639. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS AMENDMENTS - UPDATES

Legal Authority: 42 USC 7254; 42 USC 486(e)

CFR Citation: 48 CFR 901; 48 CFR 904; 48 CFR 909; 48 CFR 915; 48 CFR 917; 48 CFR 922; 48 CFR 933; 48 CFR 942; 48 CFR 943; 48 CFR 952; 48 CFR 970; 48 CFR 971

Legal Deadline: None

Abstract: Miscellaneous Amendments - It is anticipated that these amendments will update references, remove outdated materials, correct editorial errors, add additional interagency agreement coverage, and increase the level for approval of M&O contractor personnel compensation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Management and Administration, MA-421, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA59

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640. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 901; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: Miscellaneous Amendments - It is anticipated that these amendments will update the regulation at Part 901 (Federal Acquisition Regulatory System) to assure its conformity to the Federal Acquisition Regulation and to update Part 952 (Contract Clauses) and Part 970 (Management and Operating Contracts) to further refine the applicability of certain clauses to management and operating subcontracts.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	
NPRM Comment Period End	01/30/90	
Final Action Effective	04/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Management and Administration, MA-421, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA60

DEPARTMENT OF ENERGY (DOE)

Management and Administration (MA)

Final Rule Stage

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641. REVISED POLICY ON OBJECTIVE MERIT REVIEW OF DISCRETIONARY FINANCIAL ASSISTANCE APPLICATIONS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This regulation establishes standards for program offices to follow in conducting objective merit review of discretionary awards. It addresses problems with inconsistencies among programs and uncertainties about processes within DOE. No costs are apparent. Benefits include consistency and greater public awareness of agency procedures. This regulation also implements OMB-encouraged grants management changes growing out of the Florida Demonstration Project. No costs are apparent. Benefits include less governmental and recipient paperwork and greater recipient efficiency.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10670
NPRM Comment Period End	04/14/89	54 FR 10670
Final Action	10/01/89	
Final Action Effective	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8174

RIN: 1991–AA41

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642. RESEARCH OPPORTUNITY ANNOUNCEMENTS

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 935; 48 CFR 917

Legal Deadline: None

Abstract: The purpose of this action is to amend the Acquisition Regulations (DEAR) to implement policies and procedures concerning the use of broad agency announcements, a form of competitive solicitation, as allowed by FAR 35.016.

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29757
NPRM Comment Period End	09/12/89	
Final Action	02/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward Simpson, Procurement Analyst, Department of Energy, Management and Administration, MA 421, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8246

RIN: 1991–AA42

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643. REFERRAL OF DEBTS TO IRS FOR TAX REFUND OFFSET

Legal Authority: 31 USC 3720A; PL 98-369

CFR Citation: 10 CFR 1018

Legal Deadline: None

Abstract: This rule establishes regulations under which the Department of Energy will refer past due legally enforceable debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing debts to the Department. The agreement with IRS requires DOE to promulgate regulations governing DOE operation of the Federal Tax Refund Offset Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/89	54 FR 772
Interim final rule comment period end	02/06/89	54 FR 772
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Will not issue final rule until Treasury issues its rule. 26 CFR Part 301, Reduction of Tax Overpayments by Amount of Past-Due Legally Enforceable Debt Owed to Federal Agency.

Agency Contact: Robert M. Myers, Staff Accountant, Department of Energy, Management and Administration, 1000 Independence Avenue, SW. (MA-31), Washington, DC 20585, 202 586-4860

RIN: 1991–AA54

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644. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: Regulation is part of governmentwide common rule making changes to A-110 and merging into the common rule growing out of A-102. A-110 is a Federal directive. Another alternative may be to separate A-110 from A-102 or to update and maintain Circular A-110. Under auspices of OMB, all agencies published NPRM's on 11/04/88.

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DOE—MA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44724
NPRM Comment Period End	01/03/89	53 FR 44716
Final Action	05/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-6174

RIN: 1991–AA55

645. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION; OFFEROR REPRESENTATIONS AND CERTIFICATIONS PROCEDURES

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 914; 48 CFR 915; 48 CFR 952

Legal Deadline: None

Abstract: The purpose of this action is to amend the Department of Energy Acquisition Regulation (DEAR) by revising current policies on the collection of offeror-representations and certifications.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30569
NPRM Comment Period End	09/21/89	54 FR 30569
Final Action	02/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Edward Simpson, Procurement Analyst, Department of Energy, Management and Administration, MA-421, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8246

RIN: 1991–AA58

646. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION; CONTRACT CLAUSES - AWARD FEE

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 916; 48 CFR 970

Legal Deadline: None

Abstract: Amends the Department of Energy Acquisition Regulation to provide a mandatory contract clause for the Department's management and operating (M&O) contracts awarded on an award fee basis. The clause provides that a fee determination official may withhold all award fees if a contractor's performance is unacceptable in any important area. The clause requires contractors to provide self-evaluations which will be used by agency personnel in their appraisal of contractor management.

Timetable:

Action	Date	FR Cite
NPRM	07/19/89	54 FR 30230
NPRM Comment Period End	08/18/89	
Final Action	02/00/90	
Final Action Effective	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Charles A. Dan, Procurement Analyst, Department of Energy, Management and Administration, MA-421, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8247

RIN: 1991–AA61

DEPARTMENT OF ENERGY (DOE)

Management and Administration (MA)

Completed Actions

647. DEPARTMENT OF ENERGY ACQUISITION REGULATION; USE OF CONTRACT CARRIERS BY COST REIMBURSABLE CONTRACTORS

Legal Authority: PL 95-91

CFR Citation: 48 CFR 952

Legal Deadline: None

Abstract: Amend Procurement Regulations (DEAR) in order to implement GSA Bulletin FPMR A-90 and FPMR Temporary Regulation 30. Use of Government contractor airlines, hotels/motels and car rental agencies by cost reimbursable contractor employees.

Timetable:

Action	Date	FR Cite
NPRM	12/29/86	51 FR 46884
NPRM Comment Period End	01/28/87	51 FR 46884
Final Action	04/25/89	54 FR 11734
Final Action Effective	04/25/89	54 FR 11734

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gwendolyn Cowan, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8189

RIN: 1991–AA37

648. DEPARTMENT OF ENERGY ACQUISITION REGULATION: MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 901; 48 CFR 904; 48 CFR 906; 48 CFR 908; 48 CFR 913; 48 CFR 910; 48 CFR 935; 48 CFR 942; 48 CFR 945; 48 CFR 970

Legal Deadline: None

Abstract: This amendment would revise the Acquisition Regulation (DEAR) by clarifying and updating certain policy and procedural requirements such as approval authorities for particular actions, addresses for certain submissions, and changes in property recordkeeping requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1735
NPRM Comment Period End	02/03/89	
Final Action	06/30/89	54 FR 27645
Final Action Effective	07/31/89	54 FR 27645

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Cherlyn D. Seckinger, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8737

RIN: 1991–AA49

649. FINANCIAL ASSISTANCE RULES; TECHNICAL CORRECTIONS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This regulation contains technical nonsubstantive corrections to the Financial Assistance Rules to eliminate typographical errors and repetition. No costs apparent.

Timetable:

Action	Date	FR Cite
NPRM	02/09/89	54 FR 6296
NPRM Comment Period End	03/13/89	
Final Action	06/05/89	54 FR 23958
Final Action Effective	07/05/89	54 FR 23958

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Division of Business and Financial Policy, Department of Energy, Management and Administration, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8174

RIN: 1991–AA56

DEPARTMENT OF ENERGY (DOE)

Office of General Counsel (OGC)

Proposed Rule Stage

650. AMENDMENTS TO DEPARTMENT OF ENERGY CONDUCT OF EMPLOYEES REGULATIONS

Legal Authority: 18 USC 201 to 209; 42 USC 7211 to 7210; EO 11222

CFR Citation: 10 CFR 1010

Legal Deadline: None

Abstract: The regulations need to be revised to reflect the provisions and requirements of the Ethics in Government Act. In addition, it is anticipated that certain sections of the regulations will be clarified and/or revised to reflect current Office of General Counsel policy and interpretations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Appendix I of the Regulations, regarding employee financial disclosure requirements, was published as a Final Rule in April 1988.

Agency Contact: MaryAnn Shahek, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990–AA00

651. PATENT WAIVER REGULATION

Legal Authority: 42 USC 2182; 42 USC 5908; PL 98-861

CFR Citation: 10 CFR 784; 41 CFR 9-9.109-6 (1964)

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). The proposed regulation places DOE patent waiver policy in a separate regulation, and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard E. Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-2802

RIN: 1990–AA02

652. FOREIGN GIFTS AND DECORATIONS

Legal Authority: 5 USC 7342; 41 CFR 101-49.001-5

CFR Citation: 10 CFR 1050

Legal Deadline: None

Abstract: The regulations need to be amended to reflect the increase in the dollar amount of "minimal value." (Whether a gift is of minimal value is a factor as to whether the regulations apply.) The dollar amount of minimal value is determined by the General Services Administration, by GSA regulation. Accordingly, the DOE regulations will reference the GSA regulation.

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DOE—OGC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Sbebak, Deputy Assistant General Counsel, for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990–AA04

653. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; REVISION OF CURRENT PROCEDURES

Legal Authority: 42 USC 2161; 42 USC 2165; 42 USC 2201

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: Revision and amendment of the current administrative procedure is necessary to streamline and shorten the process for resolving questions concerning the eligibility of individuals who are employed by or applicants for employment with DOE contractors, agents, and access permittees of the DOE, individuals who are DOE employees or applicants for DOE employment, and other persons designated by the Secretary of DOE for access to Restricted Data or significant quantities of special nuclear material, or for access to national security information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Crane, Deputy General Counsel for Legal Services, Department of Energy, Office of General Counsel, GC-40; Room 6A-197, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-5246

RIN: 1990–AA13

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC) — **Final Rule Stage**

654. CLASS PATENT WAIVERS

Legal Authority: 42 USC 2182; 42 USC 5908

CFR Citation: 10 CFR 785

Legal Deadline: None

Abstract: The proposed regulation would provide for certain class waivers, serving to streamline and simplify procedures for DOE contractors to seek rights in inventions made under DOE research and development contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44602
NPRM Comment Period End	01/09/89	53 FR 44602
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-2802

RIN: 1990–AA07

655. INDEMNIFICATION OF DEPARTMENT OF ENERGY OFFICIALS AND EMPLOYEES

Legal Authority: 42 USC 7131; 42 USC 7231; 42 USC 7254; 28 CFR 50.15 (a)(7)(iii)

CFR Citation: 10 CFR 1012

Legal Deadline: None

Abstract: The Department of Energy does not have a policy for indemnifying its employees who are sued personally and suffer an adverse judgment as a result of conduct taken within the scope of employment. Lawsuits against Federal employees in their personal capacity can constitute a major impediment to the effective conduct of the public's business, since employees faced with the potential of being held personally liable may be inhibited in discharging their duties. To deal with this problem, the Department proposes to establish a policy permitting, but not requiring, the indemnification of an employee who suffers an adverse verdict, judgment, or other monetary award when the actions giving rise to liability were within the scope of his employment and indemnification is in the interest of the Government. This policy would be modeled on a similar policy already adopted by the Department of Justice for its employees.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacob D. Vreeland, Trial Attorney, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., GC-22, Washington, DC 20585, 202 586-8709

RIN: 1990–AA11

656. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION AND PROVISION OF AGENCY WITNESSES IN FEDERAL AND STATE PROCEEDINGS

Legal Authority: 42 USC 7254; 5 USC 301; 28 CFR 1621

CFR Citation: 10 CFR 202

Legal Deadline: None

Abstract: The intent of this regulation is to establish an agency-wide procedure for processing and responding to subpoenas or requests for Department of Energy records or testimony by Department of Energy officers and employees. A regulation intended to fulfill this purpose currently

DOE—OGC — **Final Rule Stage**

exists. However, relocating its position in the Code of Federal Regulations and some minor language changes would clarify its applicability. In addition, efficient application of the regulation will be promoted by more closely modeling it on the comparable Department of Justice regulation, since the Department of Justice is usually responsible for representing the Department of Energy in such matters. The cost of this action is expected to be de minimis and could effect a savings, since clarification and recodification of the existing regulation may avoid needless litigation.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Robin A. Henderson, Trial Attorney, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW, GC-22, Washington, DC 20585, 202 586-6700

RIN: 1990–AA12

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federal register

Monday
October 30, 1989

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: Publication of unified agenda of regulations.

SUMMARY: The President's February 17, 1981, Executive order (12291) and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last agenda on April 24, 1989.

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: Charlotte E. Lewis, Regulations Coordinator, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201, Telephone: (202) 245-6824.

W. Keith Lively,

Acting Executive Secretary to the Department.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
657	Revisions to "Quality of Care" Exclusion and Payment Denial Regulations	0991-AA61

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
658	Principles for Determining Costs and Cost Allocation Procedures Applicable to Grants, Contracts, and Other Agreements for Work Performed by Hospitals	0991-AA12
659	Civil Money Penalties and Sanctions for HMOs and Competitive Medical Plans	0991-AA44
660	Prohibition on Use of Physician Incentive Plans	0991-AA45
661	New Civil Money Penalties and Exclusions Authorities Resulting from OBRA 1986 and OBRA 1987	0991-AA46
662	Amendments to OIG Exclusion and CMP Authorities Resulting from PL 100-93	0991-AA47
663	PRO Rural Practitioners Amendments	0991-AA51
664	Civil Money Penalties and Sanction Authorities Relating to the Medicare Catastrophic Coverage Provisions	0991-AA52
665	Civil Money Penalties for Violations Relating to Medical Supplemental Policies	0991-AA53
666	Civil Money Penalties for Misuse of Departmental Symbols or Emblems	0991-AA54
667	Block Grant Programs	0991-AA55
668	Contract Audit Policy	0991-AA59
669	Revisions to the PRO Sanctions Notification Process	0991-AA60
670	Administrative Improvements, Reporting Requirements and Other Technical Changes for State Medicaid Fraud Control Units	0991-AA62

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
671	Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs	0991-AA02
672	Equal Opportunity in Employment: Public Broadcasting, Public Radio and Public Telecommunications Entities Receiving Federal Funds from the Corporation for Public Broadcasting	0991-AA22
673	Audits of Non-governmental Grantees	0991-AA29
674	Civil Money Penalties and Exclusions for Assistants at Cataract Surgery	0991-AA37
675	Civil Money Penalties for Failure to Report Medical Malpractice Payments and for Breaching the Confidentiality of Information	0991-AA40
676	OIG Anti-Kickback Provisions	0991-AA49
677	Uniform Administrative Requirements for Grants and Cooperative Agreements	0991-AA56
678	Standardization and Uniform Application of CMP Procedures	0991-AA57

HHS

Office of the Secretary—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
679	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	0991-AA63

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
680	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02
681	Testimony by Employees and the Production of Documents in Proceedings Where the United States is not a Party	0990-AA03

Office of Human Development Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
682	Foster Care, Adoption Assistance, and Child Welfare Services	0980-AA08
683	Head Start Criteria for Selection of New Grantees	0980-AA17
684	Head Start Appeals Process	0980-AA20
685	Head Start Recruitment Selection and Enrollment of Children	0980-AA27
686	Head Start: Limits on Costs of Development and Administration	0980-AA32
687	Head Start Performance Standards for Infants, Toddlers, and Pregnant Women	0980-AA33
688	Adoption and Foster Care Information	0980-AA35
689	Social Services Block Grant Information Collection	0980-AA42

Office of Human Development Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
690	Runaway and Homeless Youth Program	0980-AA11
691	Head Start Staff and Program Options Requirements	0980-AA15
692	Head Start Performance Standards for Services to Handicapped Children	0980-AA21
693	Developmental Disabilities Program	0980-AA36
694	Child Abuse and Neglect: Technical Amendments	0980-AA40

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
695	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Cardiovascular System	0960-AA89
696	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Respiratory System	0960-AB00
697	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System	0960-AB01
698	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Adjustments in SSI Benefits on Account of Retroactive Benefits Under Title II	0960-AB38
699	Old Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Multiple Impairments	0960-AB39
700	Disclosure of Information for Law Enforcement Purposes	0960-AB66
701	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Evaluation Guides for Determining Substantial Gainful Activity (SGA)	0960-AB73

HHS

HHS

HHS

Social Security Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
702	Supplemental Security Income Program; Exclusions from Income and Resources of Indian Judgement Funds and Per Capita Distributions	0960-AB86
703	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Mental Disorders-Childhood	0960-AB96
704	Old-Age, Survivors, and Disability Insurance Program; Evaluation Criteria for Immune System Disorders, Including HIV Infection (Acquired Immunodeficiency Syndrome (AIDS)/AIDS-Related Complex)	0960-AC06
705	Old-Age, Survivors, and Disability Insurance Program; Nonpayment of Benefits to Prisoners, Vocational Rehabilitation Exception	0960-AC16
706	Supplemental Security Income Program; Continuation of Benefits and Special Eligibility for Certain Severely Impaired Recipients Who Work	0960-AC22
707	Supplemental Security Income Program; Payment of Benefits Due Deceased Recipients	0960-AC26
708	Old-Age, Survivors and Disability Insurance Program and Organization and Functions; Correction of Earnings Records	0960-AC30
709	Supplemental Security Income Program; Parent-to-Child Deeming	0960-AC38
710	Old-Age Survivors and Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Fee Limitation Policy for Purchase of Laboratory Tests	0960-AC41
711	Supplemental Security Income Program; Proceeds of a Loan, Payment of Pro Rata Share of Household Operating Expenses	0960-AC42
712	Supplemental Security Income Program; Exclusion from Countable Resources of the Value of Promissory Notes in Home Replacement Situations	0960-AC43
713	Old-Age, Survivors, and Disability Insurance Program; Extension of Social Security Coverage to Certain Workers; Medicare Only Coverage of Certain State and Local Government Employees	0960-AC45
714	Old-Age, Survivors, and Disability Insurance Program; Applicability of Government Pension to Certain Federal Employees	0960-AC46
715	Supplemental Security Income Program; Modification of Interim Assistance Reimbursement Program	0960-AC51
716	Supplemental Security Income Program; Exclusion from Income of Payments Received For and Used to Pay Last Illness and Death	0960-AC52
717	Supplemental Security Income Program; Continuation of Full Benefit Standard for Persons Temporarily Institutionalized	0960-AC55
718	Old-Age, Survivors, and Disability Insurance Program; Revision of Contributions for Support Rules	0960-AC57
719	Old-Age, Survivors, and Disability Insurance Program; Supplemental Earnings Reports	0960-AC58
720	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Representation of Parties - Suspension and Disqualification of Representatives	0960-AC59
721	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Determination of Disability - Determining State Agency Substantial Failure	0960-AC80
722	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Vocational Factors Regulations Restructuring and Clarification	0960-AC81
723	Supplemental Security Income Program; Resources and Exclusions; Definition of Resources	0960-AC66
724	Old-Age, Survivors, and Disability Insurance Program, and Organization and Procedures; Requirement of Social Security Number as a Condition for Receipt of Benefits	0960-AC67
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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Prerule Stage

657. REVISIONS TO "QUALITY OF CARE" EXCLUSION AND PAYMENT DENIAL REGULATIONS

Legal Authority: 42 USC 1320a-7(b)(6)(B); 42 USC 1320c-3(a)(2); 42 USC 1320c-5

CFR Citation: 42 CFR 1001; 42 CFR 1004; 42 CFR 466

Legal Deadline: None

Abstract: This rulemaking would revise and consolidate, where feasible, the principal regulations pertaining to "quality of care" exclusions from Medicare and other health care programs. Such exclusions may be based on the furnishing of excessive services, the failure to furnish care that meets professionally recognized standards of medical care, or the failure to properly document medical services. This rulemaking would attempt to make the various OIG regulations relating to such quality of care exclusions consistent with each other, consistent with HCFA's PRO payment denial regulations at 42 FR 466, and consistent with the case law that has been decided in the U.S. Courts of Appeals in recent years.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991-AA61

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

658. PRINCIPLES FOR DETERMINING COSTS AND COST ALLOCATION PROCEDURES APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS FOR WORK PERFORMED BY HOSPITALS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74, Appendix E; 45 CFR 78

Legal Deadline: None

Abstract: This action will revise the Department's current cost principles for research and development activities under grants and contracts with hospitals to make them clearer, more specific, and compatible with cost principles issued by OMB for State and local units of government, educational institutions and nonprofit organizations. The revision will also broaden the coverage of the principles to include all grants, contracts and other agreements with hospitals (except the Medicare & Medicaid programs).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: OMB is considering revisions to Circular A-21 and A-122 as a result of the Defense Procurement Improvement Act of 1985 (P.L. 99-145) and the Civilian Employee and Contractor Travel Expenses Act of 1985 (P.L. 99-234) as well as a complete rewrite of A-87. This action should conform to those revisions also.

Agency Contact: Edward M. Tracy, Director, Division of Cost Determination Management, Department of Health and Human Services, Office of the Secretary, Office of Grant & Contract Financial Mgmt., Rm 513D, HHH Bldg, 200 Independence Ave. SW, Washington, DC 20201, 202 245-0461

RIN: 0991-AA12

659. CIVIL MONEY PENALTIES AND SANCTIONS FOR HMOS AND COMPETITIVE MEDICAL PLANS

Legal Authority: PL 99-501, Sec 9312; PL 99-501, Sec 9434; PL 100-203, Sec 4014; PL 100-360, Sec 224; PL 100-360, Sec 411

CFR Citation: 42 CFR 1003; 42 CFR 417; 42 CFR 434

Legal Deadline: None

Abstract: This proposed rule would provide for CMPs for each violation against any risk-sharing organization that: (1) fails substantially to provide medically necessary items and services that are required under the contract; (2) imposes premiums on enrolled individuals in excess of premiums permitted; (3) acts to expel or refuse, or to re-enroll an individual; (4) misrepresents or falsifies information; (5) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment; or, (6) fails to provide for prompt payment of claims for services provided to enrollees. In addition, this rule would authorize the Medicare program to suspend enrollment of individuals in, and payment to a risk-sharing organization that (1) denies medically necessary care to a beneficiary or (2) commits marketing abuses or other violations specified in section 1876(i)(6) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This joint OIG/HCFA proposed rule is being revised as a result of broadened CMP and sanction authorities contained in PL 100-203, in addition to a technical amendment contained in PL 100-360.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991-AA44

660. PROHIBITION ON USE OF PHYSICIAN INCENTIVE PLANS

Legal Authority: PL 99-501, Sec 9313

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would prohibit a hospital from knowingly making incentive payments to a physician as an inducement to that physician to reduce or limit services provided to program beneficiaries who are under the direct care of that physician.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The effective date for implementing regulations addressing physician incentive plans by risk-sharing HMOs and competitive medical plans has been delayed to 4/1/90 by P.L. 100-203, Sec 4016. This provision will be addressed through separate rulemaking at a later date.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA45

661. NEW CIVIL MONEY PENALTIES AND EXCLUSIONS AUTHORITIES RESULTING FROM OBRA 1986 AND OBRA 1987

Legal Authority: PL 99-501, Sec 9320; PL 99-501, Sec 9331; PL 99-501, Sec 9332; PL 99-501, Sec 9334; PL 99-501, Sec 9338; PL 100-203, Sec 4022; PL 100-203, Sec 4023; PL 100-203, Sec 4039; PL 100-203, Sec 4045; PL 100-203, Sec 4049; PL 100-203, Sec 4051; PL 100-203, Sec 4062; PL 100-203, Sec 4064; PL 100-203, Sec 4085; PL 100-203, Sec 4118; ...

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule provides for civil money penalties and exclusions for various program violations resulting from OBRA 1986 and OBRA 1987, as amended by the Medicare Catastrophic Coverage Act of 1988. Penalties and sanctions may be imposed against among other things: (1) those who bill Medicare beneficiaries on a non-assigned basis for services of a certified nurse anesthetist or a physician assistant: (2) non participating physicians billing for actual charges above permitted charges (3) nursing homes: (4) home health care providers: (5) unassigned lab services: (6) DME rental providers: and (7) providers of laboratory tests.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: This proposed rule is being revised as a result of broadened CMP and sanction authorities contained in P.L. 100-203. In addition, various technical amendments to the OBRA 87 provisions contained in P.L. 100-360, the Medicare Catastrophic Coverage Act of 1988, will be incorporated into this proposed rulemaking.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA46

662. AMENDMENTS TO OIG EXCLUSION AND CMP AUTHORITIES RESULTING FROM PL 100-93

Significance: Agency Priority

Legal Authority: PL 100-93; PL 100-360, Sec 411

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003; 42 CFR 1004

Legal Deadline: None

Abstract: These regulations are designed to protect program beneficiaries from unfit health care practitioners, and otherwise to improve the anti-fraud provisions relating to Titles 5, 18, 19, and 20.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA47

663. PRO RURAL PRACTITIONERS AMENDMENTS

Legal Authority: PL 100-203, Sec 4095

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This proposed rule would permit a hearing before an Administrative Law Judge of a provider in a rural health manpower shortage area, or in a county with a population of less than 70,000 before a program exclusion of that provider took place.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington DC 20201, 202 472-5270

RIN: 0991–AA51

664. CIVIL MONEY PENALTIES AND SANCTION AUTHORITIES RELATING TO THE MEDICARE CATASTROPHIC COVERAGE PROVISIONS

Legal Authority: PL 100-360, Sec 202; PL 100-360, Sec 203; PL 100-360, Sec 221

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish various new sanction and civil money penalties resulting from the Medicare Catastrophic Coverage Act of 1988. Among other provisions, these regulations would address CMPs for (1) failure to provide required survey data relating to covered outpatient drugs; (2) a physician's failure to provide appropriate diagnostic codes and information; and (3) the submission of improper claims for home IV drug therapy services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
NPRM Comment Period End	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA52

665. CIVIL MONEY PENALTIES FOR VIOLATIONS RELATING TO MEDICAL SUPPLEMENTAL POLICIES

Legal Authority: PL 100-360, Sec 428(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish CMPs in all cases where only criminal penalties previously applied for deceptive selling practices relating to Medicare Supplemental health insurance - or Medigap - policies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA53

666. CIVIL MONEY PENALTIES FOR MISUSE OF DEPARTMENTAL SYMBOLS OR EMBLEMS

Significance: Agency Priority

Legal Authority: PL 100-360, Sec 428(a)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish civil money penalties for the unauthorized use, in advertising or solicitation, of certain words letters, symbols or emblems associated with the Department or its programs in a manner that would convey an impression that an item or service was approved, endorsed or authorized by HHS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991–AA54

667. BLOCK GRANT PROGRAMS

Legal Authority: PL 100-485; PL 100-607; PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Recent legislation modified technical, administrative and reporting requirements for several of the Department's block grants. This notice would propose regulatory changes to reflect these statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	01/01/90	
NPRM Comment Period End	02/01/90	
Final Action	07/01/90	
Final Action Effective	08/01/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert C. Raymond, Director, Research Evaluation & Special, Analyses, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue, S.W., Washington, DC 20201, 202 245-7316

RIN: 0991–AA55

668. CONTRACT AUDIT POLICY

Legal Authority: PL 94-505

CFR Citation: 45 CFR 86 (New)

Legal Deadline: None

Abstract: This proposed rule would require that audit services performed under contract by non-Federal auditors for DHHS be in compliance with the government auditing standards issued by the Comptroller General. The purpose of this rulemaking is to fulfill the responsibility of the OIG to ensure that all audits of programs and operations of the Department meet the government auditing standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
NPRM Comment Period End	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA59

669. REVISIONS TO THE PRO SANCTIONS NOTIFICATION PROCESS

Legal Authority: 42 USC 1320c-5(b)(2)

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This rule would provide for an alternative to the method of public notice currently used by the OIG in informing the general public of its decision to sanction a practitioner or

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other person under section 1156 of the Social Security Act as a result of a PRO recommendation. The rule would allow each sanctioned physician or other provider an opportunity to elect to inform each of his or her patients of the sanction action rather than having the OIG provide notice to the general public by publishing a notice in a newspaper.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991-AA60

670. ● ADMINISTRATIVE IMPROVEMENTS, REPORTING REQUIREMENTS AND OTHER TECHNICAL CHANGES FOR STATE MEDICAID FRAUD CONTROL UNITS

Legal Authority: 42 USC 1396b(a)(6); 42 USC 1396b(b)(3); 42 USC 1396b(q)

CFR Citation: 42 CFR 1002

Legal Deadline: None

Abstract: This proposed rule would amend the current regulations governing the operation and funding of Medicare Fraud Control Units by (1) clarifying the full-time employee rule; (2) providing staffing enhancements; (3) notifying units that the OIG may use performance indicators as one measure to evaluate units for recertification; (4) requiring units to refer cases to the OIG; and (5) clarifying Federal Financial Participation for fraud detection activities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of the Inspector General, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, S.W., Washington, D.C. 20202, 202 472-5270

RIN: 0991-AA62

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Office of the Secretary (OS)

671. NONDISCRIMINATION REQUIREMENTS (INCLUDING ON THE BASIS OF SEX OR RELIGION) APPLICABLE TO BLOCK GRANTS AND STANDARD NONDISCRIMINATION PROCEDURES APPLICABLE TO CERTAIN OTHER PROGRAMS

Legal Authority: 42 USC 9906; 42 USC 300x-7; 42 USC 708; 42 USC 8625; 42 USC 9821; 42 USC 9849; 42 USC 1397; 42 USC 300w-7

CFR Citation: 45 CFR 92

Legal Deadline: None

Abstract: To implement the nondiscrimination requirements applicable to block grants authorized by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2806
NPRM Comment Period End	03/24/86	51 FR 2806
Interim Final Rule	12/31/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: New CFR Subpart to be assigned.

Agency Contact: Marcella Haynes, Director, Policy and Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, Room 5036, Cohen Bldg, 330 Independence Ave, SW, Washington, D.C. 20201, 202 245-6671

RIN: 0991-AA02

672. EQUAL OPPORTUNITY IN EMPLOYMENT: PUBLIC BROADCASTING, PUBLIC RADIO AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Legal Authority: 47 USC 398

CFR Citation: 45 CFR 87.1-40

Legal Deadline: None

Abstract: Implements the Equal Opportunity in Employment Provisions of the Public Telecommunications Financing Act of 1978, PUB. L. 95-567, 47 U.S.C. 398(b)(1). This provision requires that equal opportunity in employment be afforded to all persons and that no person shall be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/79	44 FR 14582
NPRM	12/21/79	44 FR 75676
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Public Compliance Cost: Yearly Recurring Cost: $6,000

Agency Contact: Frank E. G. Weil, Chief, Policy Branch, Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, 330 Independence Avenue, SW, Room 5411, Washington, DC 20201, 202 245-6700

RIN: 0991-AA22

673. AUDITS OF NON-GOVERNMENTAL GRANTEES

Significance: Agency Priority

Legal Authority: 5 USC 301

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CFR Citation: 45 CFR 74.62(b), (Revised)

Legal Deadline: None

Abstract: This action will implement OMB Circular A-133 which is expected to be issued sometime this year. The Circular will provide governmentwide standards for non-Federal audits of college and university and other non-profit recipients of Federal grants and contracts. The Circular and these amendments will replace the audit requirements currently contained in OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Additional Information: It is expected that OMB which published a draft of its Circular in the Federal Register and obtained public comments will soon issue this Circular. The specific form and nature of our action is dependent upon actions to be taken by OMB. It is possible that A-133 may be implemented as part of the current revision of the A-102/A-110 Common Rule-45 CFR Part 92. If so there may be no need for this action.

Agency Contact: Edward M. Tracy, Director, Division of Cost Determination Management, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-0481

RIN: 0991-AA29

674. CIVIL MONEY PENALTIES AND EXCLUSIONS FOR ASSISTANTS AT CATARACT SURGERY

Legal Authority: PL 99-272, Sec 9307; PL 99-514, Sec 1895(b)(16)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: These final regulations provide for the imposition of civil money penalties and exclusions against physicians billing the Medicare program or program beneficiaries for services of an assistant at surgery for cataract operations where prior approval has not been granted. This rule specifically responds to various comments raised as a result of the interim final, and makes a number of technical corrections to those final regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/87	52 FR 11649
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991-AA37

675. CIVIL MONEY PENALTIES FOR FAILURE TO REPORT MEDICAL MALPRACTICE PAYMENTS AND FOR BREACHING THE CONFIDENTIALITY OF INFORMATION

Legal Authority: PL 99-660, Sec 421(c) and 427(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule establishes civil money penalties against any individual or entity that fails to report information on medical malpractice payments in accordance with the Health Care Quality Improvement Act of 1986, and against any individual who breaches the confidentiality of information reported to the data bank established to collect and disseminate required information in accordance with that Act.

Timetable:

Action	Date	FR Cite
NPRM	03/21/88	53 FR 9260
NPRM Comment Period End	05/20/88	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 472-5270

RIN: 0991-AA40

676. OIG ANTI-KICKBACK PROVISIONS

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: This final rule will specify payment practices which, although potentially capable of inducing referrals of business under Medicare, are not to be considered kickbacks for purposes of criminal or civil remedies.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/87	52 FR 38794
ANPRM Comment Period End	12/18/87	
NPRM	01/23/89	54 FR 3088
NPRM Comment Period End	03/24/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The review of public comments may warrant the consideration of new "safe harbor" provisions which would require the development and issuance of a new notice of proposed rule- making to address these additional provisions.

Agency Contact: Joel Schaer, Regulations Officer, Office of Inspector General, AO, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW, Washington, D.C. 20201, 202 472-5270

RIN: 0991-AA49

677. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74; 45 CFR 92

Legal Deadline: None

Abstract: Fiscal and Administrative requirements governing grants and cooperative agreements to non-governmental recipients are presently codified in an HHS-specific regulation (45 CFR Part 74). This rule would move

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those requirements (with many changes and additions) to a new rule (45 CFR Part 92) that would be virtually identical to the rules of 26 other federal agencies. The same action would also create a mechanism for applying a new set of liberalized rules to research grants. Since all Federal agencies' grants and cooperative agreements would henceforth be subject to identical rules, there should be administrative benefits for multi-award recipients and better understanding of the terms and conditions of awards.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 23729
ANPRM Comment Period End	08/23/87	
NPRM	11/04/88	53 FR 44715
NPRM Comment Period End	01/03/89	
Final Action	11/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Beverly Cordova, Director, Division of Grants Management and Oversight, Department of Health and Human Services, Office of the Secretary, Rm 513D, HHH Bldg., 200 Independence Avenue, S.W., Washington, DC 20201, 202 245-0377

RIN: 0991–AA56

678. STANDARDIZATION AND UNIFORM APPLICATION OF CMP PROCEDURES

Legal Authority: 42 USC 1302; 42 USC 1320a-7a; 42 USC 1395u(j)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rulemaking standardizes the procedures for imposing civil money penalties and related sanctions authorized by statutes incorporating provisions of section 1128A of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, AO, 330 Independence Avenue, S.W., Washington, DC 20201, 202 472-5270

RIN: 0991–AA57

679. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 84.23

CFR Citation: 45 CFR 84.23

Legal Deadline: None

Abstract: Substituting a reference to the Uniform Federal Access Standards (UFAS) for the reference to standards promulgated by the American National Standards Inc., a nongovernmental organization.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9966
NPRM Comment Period End	05/08/89	54 FR 9966

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This amendment to the regulation is being managed by the Department of Justice; it involves 15 Departments and Agencies. The Department of Justice is formulating the text of the final rule, will submit that text to the fifteen Departments and Agencies for clearance, and then arrange publication in the Federal Register. The dates for further action are in the hands of the Department of Justice.

Agency Contact: Frank E.G. Weil, Chief, Policy Branch, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, 330 Independence Ave., S.W., Washington, D.C. 20201, 202 245-6709

RIN: 0991–AA63

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Final Rule Stage

680. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A recent statutory amendment eliminated the sunset provision and made other changes in the Act. The instant regulation would amend 45 CFR Part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/84	
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrel J. Grinstead, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue, SW, Washington, DC 20201, 202 475-0150

RIN: 0990–AA02

HHS—HHSDM — **Final Rule Stage**

681. TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE THE UNITED STATES IS NOT A PARTY

Significance: Agency Priority

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 45 CFR 2

Legal Deadline: None

Abstract: Part 2 of Title 45, CFR, governs the testifying of HHS employees as part of their official duties in litigation where neither the United States nor other Federal agencies are parties. This rule will amend Part 2 to clarify it and to resolve minor technical problems.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Darrel J. Grinstead, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Departmental Management, Room 5362, Wilbur J. Cohen Building, 330 Independence Avenue, SW, Washington, D.C. 20201, 202 475-0150

RIN: 0990–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Proposed Rule Stage

682. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Legal Authority: 42 USC 670 et seq.

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM will propose criteria the Department will use to verify that a State has met statutory requirements and is eligible to receive additional funds under Section 427 of the Social Security Act. The proposed rule will contain the specific criteria by which State performance in meeting the requirements of Section 427 is determined, the percentage levels and other standards for case record compliance, and procedures for conducting compliance reviews.

Timetable:

Action	Date	FR Cite
NPRM	03/31/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Betty Stewart, Associate Commissioner, Children's Bureau, Admin. for Children, Youth, and Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0618

RIN: 0980–AA08

683. HEAD START CRITERIA FOR SELECTION OF NEW GRANTEES

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1302

Legal Deadline: None

Abstract: The current rule applies primarily to the initial section of a grantee. The NPRM will propose changes to better accommodate a wider variety of competitive situations and new criteria to address the selection of new grantees.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39018
NPRM Comment Period End	11/21/89	
Final Action	09/30/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980–AA17

684. HEAD START APPEALS PROCESS

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: The NPRM will propose revisions to current procedures for appeals from Head Start grantees and delegate agencies to improve the effectiveness and efficiency of the appeals process and reduce costs.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980–AA20

685. HEAD START RECRUITMENT SELECTION AND ENROLLMENT OF CHILDREN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1305

Legal Deadline: None

Abstract: In this NPRM, the Head Start Bureau will propose amendments to existing regulations governing recruitment, selection, and enrollment of children.

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O.

Box 1182, Washington, DC 20013, 202 245-0569

RIN: 0980–AA27

686. HEAD START: LIMITS ON COSTS OF DEVELOPMENT AND ADMINISTRATION

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1301

Legal Deadline: None

Abstract: 45 CFR 1301.32 is being amended to provide additional clarification to Head Start programs in meeting the requirement that the costs of developing and administering a Head Start program not exceed 15 percent of total costs.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0569

RIN: 0980–AA32

687. HEAD START PERFORMANCE STANDARDS FOR INFANTS, TODDLERS, AND PREGNANT WOMEN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1307

Legal Deadline: None

Abstract: The NPRM will propose to establish a new Part 1307 setting forth performance standards that must be used in providing Head Start services to infants, toddlers and pregnant women.

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0569

RIN: 0980–AA33

688. ADOPTION AND FOSTER CARE INFORMATION

Legal Authority: 42 USC 679

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: NPRM, Statutory, December 31, 1988.

Abstract: Section 479 of the Social Security Act requires the Secretary to publish regulations to collect data relating to foster care and adoption in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hartnett, Deputy Director, Office of Policy, Planning and Legislation, Department of Health and Human Services, Office of Human Development Services, 200 Independence Avenue, S.W., Room 312-F, Washington, DC 20201, 202 245-7027

RIN: 0980–AA42

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Office of Human Development Services (HDSO)

690. RUNAWAY AND HOMELESS YOUTH PROGRAM

Legal Authority: 42 USC 5701 Note

CFR Citation: 45 CFR 1351

Legal Deadline: None

Abstract: These rules will make technical changes in 45 CFR 1351 to incorporate changes made by reauthorization of the Runaway and Homeless Youth Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/15/89	54 FR 20853
Final Action	12/30/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: John Pride, Deputy Associate Commissioner, Family and Youth Services Bureau, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0102

RIN: 0980–AA11

691. HEAD START STAFF AND PROGRAM OPTIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304; 45 CFR 1306

Legal Deadline: None

Abstract: The final rule will amend existing regulations related to program design to specify class size, hours of operation, and program options such as center-based and home-based Head Start services. The final rule will also include, in a new Part, the requirements for home-based Head Start services.

Timetable:

Action	Date	FR Cite
NPRM	12/08/88	53 FR 49565
NPRM Comment Period End	02/21/89	
Final Action	03/30/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0569

RIN: 0980–AA18

692. HEAD START PERFORMANCE STANDARDS FOR SERVICES TO HANDICAPPED CHILDREN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1308

Legal Deadline: None

Abstract: The final rule will establish a new part 1308 setting forth performance standards that must be used in providing Head Start services to handicapped children.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41068
NPRM Comment Period End	01/19/89	53 FR 47235
Final Action	03/30/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0569

RIN: 0980–AA21

693. DEVELOPMENTAL DISABILITIES PROGRAM

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: NPRM, Statutory, April 30, 1988.

Abstract: This final rule will amend current regulations to implement statutory changes made by passage of Public Law 100-146, the Developmental Disabilities Assistance and Bill of Rights Act of 1987. The final rule will establish a peer review process for the University Affiliated Facilities program, and set forth standards to assure that States supplement and do not supplant program resources.

Timetable:

Action	Date	FR Cite
NPRM	12/07/88	53 FR 49332
NPRM Comment Period End	02/06/89	
Final Action	11/30/89	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Will Wolstein, Deputy Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services, Office of Human Development Services, 200 Independence Avenue, S.W., Room 325-D, Washington, DC 20201, 202 245-2988

RIN: 0980–AA36

694. CHILD ABUSE AND NEGLECT: TECHNICAL AMENDMENTS

Legal Authority: 42 USC 5101 et seq

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: Technical and conforming changes will be made in 45 CFR 1340 to implement statutory changes made by the recent reenactment of the Child Abuse Prevention and Treatment Act.

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11246
NPRM Comment Period End	05/16/89	
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Susan Weber, Director, National Center on Child Abuse and Neglect, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0586

RIN: 0980–AA40

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

Social Security Administration (SSA)

695. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; CARDIOVASCULAR SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff Appendix 1

Legal Deadline: None

Abstract: Sections 4.00 and 104.00 of Appendix 1 of the Disability regulations (404.1501 through 404.1599) describe cardiovascular impairments considered severe enough to prevent an individual from doing any gainful or age-appropriate activities. Because of the advances in medical technologies and practice in this area we anticipate the need to revise the criteria in the Listing of Impairments to bring these sections up to date. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AA99

696. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; RESPIRATORY SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, Appendix 1

Legal Deadline: None

Abstract: Sections 3.00 and 103.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those respiratory impairments which are considered severe enough to prevent a person from engaging in any gainful or age-appropriate activities. We are proposing revisions to require consideration of the nature and clinical manifestations of respiratory disorders and the limitations such disorders impose on the individual's ability to function. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance programs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AB00

697. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM

Legal Authority: 42 USC 1302; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff, Appendix 1

Legal Deadline: None

Abstract: Sections 1.00 and 101.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any substantial gainful or age-appropriate activities. We are proposing comprehensive revisions to these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AB01

698. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1320a-6; 42 USC 1302; 42 USC 1383; PL 98-369, Sec 2615; 42 USC 1383b; 42 USC 1327

CFR Citation: 20 CFR 404.406b; 20 CFR 416.1123; 20 CFR 416.1402(m); 20 CFR 416.1123a; 20 CFR 404.902

Legal Deadline: None

Abstract: Sec. 2615 of Pub. L. 98-369 amended sec. 1127 of the Social Security Act to eliminate loopholes that permitted some people who were paid Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits retroactively to receive more in total benefits for the same period than if they had been paid the benefits when regularly due. The two main changes are: (1) SSI benefits will be reduced where retroactive OASDI benefits have been paid before the SSI benefits. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the retroactive SSI had been paid first. (2) OASDI or SSI benefits payable upon reinstatement following a period of suspension or termination will be reduced by the amount of SSI benefits that would not have been paid if the OASDI benefits had been paid when regularly due. We will amend our regulations to conform to the statutory changes. The program savings to SSA are estimated as $5 million a year.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-8471

RIN: 0960–AB38

699. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; MULTIPLE IMPAIRMENTS

Significance: Agency Priority

Legal Authority: PL 98-460, Sec 4; 42 USC 405; 42 USC 423; 42 USC 1302; 42 USC 1382c

CFR Citation: 20 CFR 404.1501; 20 CFR 404.1520; 20 CFR 404.1521; 20 CFR 404.1522; 20 CFR 404.1577; 20 CFR 416.901; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.922; 20 CFR 404.1523; 20 CFR 416.923

Legal Deadline: None

Abstract: This provision of the law requires us to consider the combined effect of all of a person's impairments in determining disability regardless of whether any single impairment, if considered separately, would be of sufficient severity. If we do find a medically severe combination of impairments, the combined impact of the impairments must be considered throughout the disability determination process. When the combined effect is found to be severe, the person's impairments are evaluated throughout the full sequential evaluation process. We are revising the regulations to explain in greater detail how we consider the combined effect of multiple impairments and what we mean by a severe impairment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/05/86	50 FR 08726
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960–AB39

700. DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT PURPOSES

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 26 USC 6103; 30 USC 923; 42 USC 405(a); 42 USC 1302; 42 USC 1306

CFR Citation: 20 CFR 401.315

Legal Deadline: None

Abstract: Under present rules, disclosure to a law enforcement agency is allowed only when a violent crime has been committed and the subject of the information has been either indicted or convicted of that crime, or when relevant to the investigation or prosecution of criminal activity involving a Social Security program or other governmental health or income maintenance program. SSA is considering an amendment to these regulations that would expand the circumstances in which information, other than tax return information, could be disclosed to law enforcement agencies.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1785

RIN: 0960–AB66

701. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY (SGA)

Significance: Agency Priority

Legal Authority: PL 98-460, Sec 10

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These proposed changes will incorporate into regulations of the Social Security Administration a number of policies relating to the evaluation of a person's work activity that are now in Social Security Rulings published in 1983 and 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1758

RIN: 0960–AB73

702. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSIONS FROM INCOME AND RESOURCES OF INDIAN JUDGEMENT FUNDS AND PER CAPITA DISTRIBUTIONS

Legal Authority: PL 97-458; PL 98-64; PL 100-241

CFR Citation: 20 CFR 416K Appendix; 20 CFR 416.1234; 20 CFR 416.1236

Legal Deadline: None

Abstract: The proposed regulation reflects the provisions of the following statutes: (1) Pub. L 97-458 enacted January 12, 1983, which provides that Indian judgement funds held in trust or distributed per capita pursuant to a plan approved by Congress or the Secretary of the Interior are excluded from income and resources under the Supplemental Security Income program (2) Pub. L 98-64 enacted August 2, 1983, which provides for the exclusion of all funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe and (3) Pub. L 100-241 enacted February 3, 1988, which provides for the exclusion from income and resources of certain items received by an individual Alaska native or descendent of an Alaska native from a native corporation. Some savings in program costs may result from these changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irv Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AB86

703. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MENTAL DISORDERS-CHILDHOOD

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: Section 112.00 of Appendix 1 to the Old-Age, Survivors, and Disability Insurance Disability Regulations 404.1501 through 404.1599 describe the medical criteria that apply only to the evaluation of mental impairments of persons under age 18. We are proposing comprehensive revisions to that section to ensure that the medical criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	08/14/89	54 FR 33238
NPRM Comment Period End	10/13/89	
Final Action	06/00/90	

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HHS—SSA

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AB96

704. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EVALUATION CRITERIA FOR IMMUNE SYSTEM DISORDERS, INCLUDING HIV INFECTION (ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)/AIDS-RELATED COMPLEX)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: Sections 10.00 and 110.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe immune system disorders which are severe enough to prevent a person from doing any gainful or age-appropriate activities. We are proposing to add the criteria for evaluation of AIDS to these sections. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 695-1759

RIN: 0960–AC06

705. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; NONPAYMENT OF BENEFITS TO PRISONERS, VOCATIONAL REHABILITATION EXCEPTION

Significance: Agency Priority

Legal Authority: 42 USC 402(x)(1); 42 USC 405

CFR Citation: 20 CFR 404D

Legal Deadline: None

Abstract: Existing regulations at 20 CFR 404.468(d) provide a vocational rehabilitation exception to the nonpayment of benefits to prisoners provision described at 20 CFR 404.468(a). Under the exception, the nonpayment provision does not apply if a prisoner who is entitled to benefits on the basis of disability is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program. The proposed regulations would set out more definitive criteria for applying the exception and would define terms, such as "rehabilitation program," "court of law," and "reasonable time," for purposes of applying the exception.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AC16

706. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF BENEFITS AND SPECIAL ELIGIBILITY FOR CERTAIN SEVERELY IMPAIRED RECIPIENTS WHO WORK

Significance: Agency Priority

Legal Authority: PL 99-643, Sec 2; PL 99-643, Sec 4

CFR Citation: 20 CFR 416.260; 20 CFR 416.261; 20 CFR 416.262; 20 CFR 416.265; 20 CFR 416.268; 20 CFR 416.269; 20 CFR 416.1112; 20 CFR 416.1402; 20 CFR 416.1403

Legal Deadline: None

Abstract: These proposed regulations will implement statutory changes contained in sections 2 and 4 of PL 99-643. These provisions: (1) make section 1619 of the Social Security Act permanent; and (2) simplify the transitions among regular SSI status, special benefit status, and special Medicaid status.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8470

RIN: 0960–AC22

707. SUPPLEMENTAL SECURITY INCOME PROGRAM; PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS

Legal Authority: 42 USC 1383(b)(1)(A)

CFR Citation: 20 CFR 416.340; 20 CFR 416.345; 20 CFR 416.538; 20 CFR 416.542; 20 CFR 416.543; 20 CFR 416.1457(c)(4)

Legal Deadline: None

Abstract: Section 8 of Pub. L. 99-643 provides that effective for benefits payable for months after May 1986, an underpayment shall be paid to any surviving spouse of a deceased SSI recipient whether or not the spouse was eligible for SSI, if such spouse was living in the same household with the recipient at the time of death, or within the 6 months immediately preceding the month of death, or to the parent(s) of a deceased disabled or blind child who was an SSI recipient if the child was living with the parent(s) at the time of death or within the 6 months immediately preceding the month of death. These proposed regulations would also reflect a policy change that would continue the appeals process (versus automatic dismissal), at the Administrative Law Judge or Appeals Council level, for the survivors' entitlement to an underpayment if they meet certain conditions. The cost estimate for these provisions is estimated to be $2 million per year in program costs and less than $1 million and 30 workyears in administrative expenses.

HHS—SSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1795

RIN: 0960–AC28

708. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM AND ORGANIZATION AND FUNCTIONS; CORRECTION OF EARNINGS RECORDS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404.810; 20 CFR 404.820; 20 CFR 404.820a; 20 CFR 404.831; 20 CFR 422.125

Legal Deadline: None

Abstract: This proposed regulation would establish rules on the evidence an individual must submit with a request to correct the Secretary's record of earnings and state the conditions under which the Secretary will assist the requester in obtaining evidence that establishes such records as incorrect. This proposed regulation would reduce the number of unproductive efforts the agency makes to investigate unsubstantiated assertions that the Secretary's records are incorrect and facilitate the correction process in many cases by relying more upon evidence readily available to the requester.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC30

709. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; PARENT-TO-CHILD DEEMING

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1382(a); 42 USC 1382c(f)

CFR Citation: 20 CFR 416.1165

Legal Deadline: None

Abstract: Under the current SSI rules, three different formulas are used to calculate the amount of income deemed to an eligible child from his or her ineligible parent(s) when they are living together. The formulas produce different results depending on the type of income (earned versus unearned) and the number of children in the household. This sometimes creates anomalies. The rule would resolve the anomalies by providing that one formula be used regardless of the type of parental income. The formula to be used is the formula now used when the parent(s) has both earned and unearned income.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1755

RIN: 0960–AC38

710. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; FEE LIMITATION POLICY FOR PURCHASE OF LABORATORY TESTS

Legal Authority: 42 USC 1302; 42 USC 1383b

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: These proposed regulations would place a limitation on the rates of payment a State may pay for laboratory tests purchased by State agencies. Under these proposed regulations a State agency would be required to limit the amounts it pays for laboratory tests to the maximum payment level contained in the Health Care Financing Administration's (HCFA) National Limitation Amounts for Laboratory Fee Schedules. Currently the only payment requirement is that the rates of payment not exceed the highest rates paid by Federal or other agencies in the State for the same or similar types of services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC41

711. SUPPLEMENTAL SECURITY INCOME PROGRAM; PROCEEDS OF A LOAN, PAYMENT OF PRO RATA SHARE OF HOUSEHOLD OPERATING EXPENSES

Significance: Agency Priority

Legal Authority: 42 USC 1102

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1133

Legal Deadline: None

Abstract: It is our policy that money borrowed (a loan) is not income for SSI purposes and therefore has no effect on a person's SSI benefits. These proposed regulations will state that only cash transactions may be considered loans. These proposed regulations will also provide that the one-third reduction rule which applies when a person who lives in another's household and receives in-kind support and maintenance will not apply if the SSI recipient pays his or her pro rata share in cash and no later than the month under consideration. No additional costs or savings are anticipated since these proposed regulations will codify existing policy.

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Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC42

712. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM COUNTABLE RESOURCES OF THE VALUE OF PROMISSORY NOTES IN HOME REPLACEMENT SITUATIONS

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1212

Legal Deadline: None

Abstract: We propose to amend the regulations under the Supplemental Security Income program to provide that the current market value of an installment sales contract is excluded as part of an excluded home when certain conditions are met. The costs would be insignificant since the policy is currently in use under our operating instructions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC43

713. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EXTENSION OF SOCIAL SECURITY COVERAGE TO CERTAIN WORKERS; MEDICARE ONLY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES

Legal Authority: PL 100-203, Sec 9001; PL 100-203, Sec 9002; PL 100-203, Sec 9003; PL 100-203, Sec 9004; PL 100-203, Sec 9005; PL 100-203, Sec 9022; PL 99-272, Sec 13205; PL 99-514, Sec 1895; PL 100-647, Sec 8017

CFR Citation: 20 CFR 404.429(c)(3); 20 CFR 404.1015; 20 CFR 404.1018b; 20 CFR 404.1019; 20 CFR 404.1020; 20 CFR 404.1021; 20 CFR 404.1055; 20 CFR 404.1059; 20 CFR 404.1097

Legal Deadline: None

Abstract: These regulations would reflect recently enacted statutory changes that extend social security coverage to work situations not previously covered. These newly covered work situations include: (1) Inactive duty training in the uniformed services; (2) Certain agriculture labor situations; and (3) Work for a spouse or parent. Additionally, the year for reporting corporate directors income has been changed, and Medicare coverage is provided to many previously uncovered State and local government employees. Also, a recently enacted statutory provision (section 8017 of PL 100-647) further revised our coverage provisions relating to agricultural wages.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1794

RIN: 0960-AC45

714. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; APPLICABILITY OF GOVERNMENT PENSION TO CERTAIN FEDERAL EMPLOYEES

Legal Authority: 42 USC 402(b); 42 USC 402(c); 42 USC 402(e); 42 USC 402(f); 42 USC 402(g); PL 100-203, Sec 9007; PL 100-647, Sec 8014

CFR Citation: 20 CFR 404.408a

Legal Deadline: None

Abstract: We are proposing to revise our rules on reducing the Social Security spouse's benefits of a person who is also receiving a Government pension based on noncovered employment. The Omnibus Budget Reconciliation Act of 1987 (PL 100-203, sec 9007) requires that a Federal Government employee who elects to be covered under Social Security after December 31, 1987 must work for at least 60 months after that date in order to avoid the reduction after he or she becomes entitled to Social Security spouse's benefits. That requirement is extended to the foreign service pension system by the Technical and Miscellaneous Revenue Act of 1988 (PL 100-647), which also provides that under certain circumstances the reduction does not apply to any individual who retires before his or her coverage election becomes effective.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-0471

RIN: 0960-AC46

715. SUPPLEMENTAL SECURITY INCOME PROGRAM; MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM

Legal Authority: 42 USC 1302; PL 100-203, Sec 9110

CFR Citation: 20 CFR 416.1901; 20 CFR 416.1902; 20 CFR 416.1906

Legal Deadline: None

Abstract: These proposed rules reflect sec. 9110 of Pub.L. 100-203. They extend Interim Assistance Reimbursement to cases in which assistance is provided by a State while an individual's Supplemental Security Income (SSI) payments are suspended or terminated and then subsequently reinstated. Current regulations provide for reimbursement to a State only for interim assistance payments made while an individual's initial application for SSI is pending. No additional program costs are anticipated since the amount reimbursed to the State is later deducted from the individual's SSI payments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC51

716. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM INCOME OF PAYMENTS RECEIVED FOR AND USED TO PAY LAST ILLNESS AND DEATH

Legal Authority: PL 100-203, Sec 9120

CFR Citation: 20 CFR 416.1121; 20 CFR 416.1201

Legal Deadline: None

Abstract: The regulation reflects the provisions of section 9120 of Pub. L. 100-203 by providing that payments to an individual (including gifts and inheritances) occasioned by the death of another person are not considered income for supplemental security income purposes to the extent that such payments are expended by such individual for purposes of the deceased person's last illness and burial. Also, the regulations propose a policy change to not consider the same payments as resources for one month following receipt. Any increased costs will be negligible.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC52

717. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF FULL BENEFIT STANDARD FOR PERSONS TEMPORARILY INSTITUTIONALIZED

Significance: Agency Priority

Legal Authority: PL 100-203, Sec 9115; PL 99-643, Sec 3

CFR Citation: 20 CFR 416.211; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1167; 20 CFR 416.1325; 20 CFR 416.2040; 20 CFR 410; 20 CFR 412; 20 CFR 640; 20 CFR 1147

Legal Deadline: None

Abstract: These amendments would require continued payment based on the full payment rate to certain persons eligible for SSI payments under Section 1619 or 1611(e) of the Act who enter certain medical and psychiatric institutions. Without these provisions, SSI benefits would be reduced or suspended.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1794

RIN: 0960-AC55

718. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISION OF CONTRIBUTIONS FOR SUPPORT RULES

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 404.366(a)

Legal Deadline: None

Abstract: This proposed rule would change one of the requirements for determining whether an insured person is contributing to the support of a child at a specific time. The requirements that contributions be made regularly and be large enough to meet an important part of a child's living expenses would be replaced by a requirement that consideration be given to the economic circumstances of both the insured person and the child and that recognition also be given to the child's needs. Because of the minimal number of persons who would be affected by these proposed changes any additional program costs would be negligible.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC57

719. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SUPPLEMENTAL EARNINGS REPORTS

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.455

Legal Deadline: None

Abstract: We have learned that old-age and survivors' insurance beneficiaries whose estimate of earnings for the current year is more than the exempt amount for that year, but is equal to or less than the prior year's earnings, tend to underestimate or fail to report their work for the next year which results in overpayments. We are proposing an addition to the current regulation which will clarify that our interpretation of Section 203(h)(3) and (h)(4) of the Social Security Act permits SSA to request estimates of earnings for the next taxable year as well as the current taxable year. If a beneficiary does not furnish the requested future year's earnings estimate, we will use the estimate for the current year to determine whether to withhold benefits for the next year. We estimate savings of $3.5 million per year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations,

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6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC58

720. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REPRESENTATION OF PARTIES - SUSPENSION AND DISQUALIFICATION OF REPRESENTATIVES

Legal Authority: 42 USC 405(a); 42 USC 406; 42 USC 1302; 42 USC 1383(d)

CFR Citation: 20 CFR 404.1745; 20 CFR 404.1750; 20 CFR 404.1780; 20 CFR 404.1765; 20 CFR 404.1770; 20 CFR 404.1790; 20 CFR 404.1799; 20 CFR 416.1545; 20 CFR 416.1550; 20 CFR 416.1560; 20 CFR 416.1565; 20 CFR 416.1570; 20 CFR 416.1590; 20 CFR 416.1599

Legal Deadline: None

Abstract: This proposal amends the regulations to provide that when it appears that a person who represents claimants in dealing with the Social Security Administration (SSA) has violated one of our rules, the SSA's Associate Commissioner for Hearings and Appeals, or his or her designee, will initiate proceedings to suspend or disqualify the representative. Under the existing regulations the Office of Retirement and Survivors Insurance performed this function.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1796

RIN: 0960–AC59

721. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATION OF DISABILITY - DETERMINING STATE AGENCY SUBSTANTIAL FAILURE

Significance: Regulatory Program

Legal Authority: 42 USC 421; 42 USC 1302

CFR Citation: 20 CFR 404.1641; 20 CFR 404.1670; 20 CFR 404.1680; 20 CFR 404.1682; 20 CFR 404.1683; 20 CFR 416.1041; 20 CFR 416.1070; 20 CFR 416.1080; 20 CFR 416.1082; 20 CFR 416.1083

Legal Deadline: None

Abstract: The proposed rules contain procedures for determining when a State agency has substantially failed to make disability determinations in accordance with applicable Federal law. If it is determined that a State agency has substantially failed to make disability determinations in a manner consistent with Federal regulations or other written guidelines, the Social Security Administration, in accordance with section 221 of the Social Security Act (42 USC 421), must assume the responsibility for making the disability determinations. The costs or savings likely to result from implementation of these regulations are not predictable.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AC60

722. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; VOCATIONAL FACTORS REGULATIONS RESTRUCTURING AND CLARIFICATION

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 404.1550 to 1567; 20 CFR 416.920; 20 CFR 416.945; 20 CFR 416.950 to 967

Legal Deadline: None

Abstract: Based upon adjudicative experience, we are proposing clarifications and a restructuring of the disability vocational evaluation regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC61

723. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; RESOURCES AND EXCLUSIONS; DEFINITION OF RESOURCES

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1201

Legal Deadline: None

Abstract: This proposed change would exclude from the definition of resources, in the Supplemental Security Income program, for one calendar month following their receipt, certain cash payments made to an ineligible spouse or parent, to enable that person to provide medical or social services to the eligible individual. Current rules exclude such amounts paid to the eligible individual. This proposal would broaden the exclusion to include certain other individuals whose resources are deemed available to the beneficiary in the household.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1758

RIN: 0960–AC66

724. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM, AND ORGANIZATION AND PROCEDURES; REQUIREMENT OF SOCIAL SECURITY NUMBER AS A CONDITION FOR RECEIPT OF BENEFITS

Legal Authority: 42 USC 405(c)(2)(E); PL 100-647, Sec 8009

CFR Citation: 20 CFR 404.469

Legal Deadline: None

Abstract: This regulation reflects a section of PL 100-647 which requires, as a condition for receipt of Social Security benefits, that a person must either furnish to the Social Security Administration his or her Social Security number or apply for a number.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC67

725. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SUSPENSION OF BENEFITS OF DEPORTED NAZIS; EXEMPTION FROM SOCIAL SECURITY TAXATION BECAUSE OF RELIGIOUS BELIEFS

Legal Authority: PL 100-647, Sec 8004; PL 100-647, Sec 8007; 42 USC 402(n)(3); 42 USC 402(v)

CFR Citation: 20 CFR 404.464; 20 CFR 404.1012; 20 CFR 404.1039 (New)

Legal Deadline: None

Abstract: This regulation reflects the provisions of two sections in PL 100-647. The first provision requires Social Security to deny or terminate benefits if the beneficiary is deported (or ordered deported) because of certain actions performed while associated with the Nazi government of Germany or one of its allies. The second provision extends the current law treatment of self-employed workers who may claim an exemption from Social Security coverage if they are members of a religious faith that is opposed to participation in Social Security programs to their employees in cases where both the employee and the employer are members of a qualifying religious faith.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1784

RIN: 0960–AC68

726. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1382c

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: These proposed amendments revise the medical evaluation criteria for mental disorders for the Social Security disability programs. No substantial revisions have been made to these criteria since 1985. The proposed revisions reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC74

727. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; INTERIM DISABILITY BENEFITS

Legal Authority: 42 USC 423(h); 42 USC 1383(a); PL 100-647, Sec 8001

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These regulations implement a section of PL 100-647 that authorizes interim benefit payments whenever an Administrative Law Judge (ALJ) decides that a claimant is entitled to benefits based on disability or blindness and the Secretary has not issued his final decision within 110 days after the date of the ALJ's determination.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Budar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1795

RIN: 0960–AC76

728. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; REDETERMINATIONS OF SUPPLEMENTAL SECURITY INCOME ELIGIBILITY

Legal Authority: 42 USC 1302; 42 USC 1381a; 42 USC 1382; 42 USC 1382(c); 42 USC 1382h(a); 42 USC 1383

CFR Citation: 20 CFR 416.204

Legal Deadline: None

Abstract: We propose to amend our regulations on redeterminations of Supplementary Security Income eligibility. Our current policy does not include in the redetermination period the month of eligibility, the month of application, or the month of the last redetermination or eligibility update. The redeterminations omit these months and, as a result, we do not have an accounting of all living arrangements, income, and resources for the period of eligibility. We propose to change our policy to include in the redetermination period the month of eligibility, month of application, or

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month of eligibility update for the first redetermination and the month of the last redetermination for subsequent redeterminations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8470

RIN: 0960–AC77

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Final Rule Stage

729. SUPPLEMENTAL SECURITY INCOME PROGRAM; SUSPENSIONS, TERMINATIONS, AND ADVANCE NOTICE OF ADVERSE DETERMINATIONS

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c; 42 USC 1382d; 42 USC 1383; PL 99-643, Sec 3; PL 99-643, Sec 4; PL 100-203, Sec 9103; PL 100-203, Sec 9112; PL 100-203, Sec 9115

CFR Citation: 20 CFR 416M

Legal Deadline: None

Abstract: This regulation reorganizes, revises, and clarifies the rules on withholding, reducing, suspending, and terminating an SSI beneficiary's benefits. This regulation's original purpose was to make these rules easier to read and understand. However, these rules also reflect the following statutory enactments: (1) section 3 of Pub. L. 99-643, (2) section 4 of Pub. L. 99-643, (3) section 9103 of Pub. L. 100-203, (4) section 9112 of Pub. L. 100-203, and (5) section 9115 of Pub. L. 100-203.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	06/19/79	44 FR 35241
NPRM	05/06/86	51 FR 17057
NPRM Comment Period End	07/07/86	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1794

RIN: 0960–AA22

730. SUPPLEMENTAL SECURITY INCOME PROGRAM; REOPENING AND REVISING SUPPLEMENTAL SECURITY INCOME DETERMINATIONS AND DECISIONS WITHIN FOUR YEARS OF THE NOTICE OF THE INITIAL DETERMINATION

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416.1488

Legal Deadline: None

Abstract: The proposed rules would have provided for the reopening and revising of Supplemental Security Income determinations within four years of the notice of the initial determination if we discovered an error affecting a claimant's eligibility or benefit amount during this period through the use of information exchange and data gathering involving either our records or our records and those of other Federal or State agencies. We have determined that this proposed change is no longer necessary because improved systems processes since the publication of the NPRM allow us to process most of the errors discovered within the two-year limit on reopening an SSI determination and have relieved the need for an exception to the current two-year reopening limit.

Timetable:

Action	Date	FR Cite
NPRM	08/27/86	51 FR 30499
NPRM Comment Period End	10/27/86	
Withdrawal Notice	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-1769

RIN: 0960–AA59

731. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; TREATMENT OF OASDI LUMP SUM AND MONTHLY PAYMENTS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

Legal Authority: 42 USC 405; 42 USC 407; 42 USC 602; 42 USC 1302; 42 USC 1383(a)

CFR Citation: 20 CFR 404U; 20 CFR 416F

Legal Deadline: None

Abstract: These rules will revise 20 CFR 404.2040, which stipulates the use of benefit payments by a representative payee, explaining that retroactive and monthly title II benefits received by a representative payee may be used for other members of the AFDC Unit. We are also providing for direct payment to a beneficiary under age 18 if the beneficiary is within 7 months of attaining age 18 and is initially filing an application for benefits. This revision represents a policy change and is an extension of the 4-month period in our current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31886
NPRM Comment Period End	10/21/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-1769

RIN: 0960–AA90

732. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUED PAYMENT OF BENEFITS TO PERSONS IN VOCATIONAL REHABILITATION PROGRAMS

Legal Authority: 42 USC 405; 42 USC 425; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.902; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1338; 20 CFR 416.1331; 20 CFR 416.1402

Legal Deadline: None

Abstract: This change permits the continued payment of disability benefits to persons who medically recover while participating in a vocational rehabilitation (VR) program, without regard to whether the person was expected at the onset of the VR program to medically recover before the scheduled completion date of the program and without regard to whether the person has any residual functional limitation. These changes bring the regulations into conformity with certain recent court decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/86	51 FR 17616
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AB05

733. SUPPLEMENTAL SECURITY INCOME PROGRAM AND MEDICAID ASSISTANCE; WHAT IS NOT INCOME

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1103(a); 42 CFR 435.725(c); 42 CFR 435.726(c); 42 CFR 435.733(c); 42 CFR 435.735(c); 42 CFR 435.832(c); 42 CFR 436.832(c)

Legal Deadline: None

Abstract: The rule changes SSI policy to consider Veterans Administration payments resulting from unusual medical expenses not to be income for SSI purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32252
NPRM Comment Period End	10/24/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8470

RIN: 0960–AB09

734. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS FOR CONSULTATIVE EXAMINATIONS; EXISTING MEDICAL EVIDENCE

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 9; 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1512; 20 CFR 416.912; 20 CFR 404.1519; 20 CFR 416.919; 20 CFR 404.1502; 20 CFR 416.920; 20 CFR 404.1593; 20 CFR 416.993; 20 CFR 416.902; 20 CFR 404.1513; 20 CFR 416.913; 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 416.945; 20 CFR 404.1546; ...

Legal Deadline: None

Abstract: The regulations include standards for obtaining consultative examinations, the types of consultative examination referrals to be made, and monitoring procedures for consultative examinations and the referral process. The regulations also provide for evaluating all medical evidence of record and developing a 12-month medical history. References to "medical assessments" will be replaced by references to medical source statements as to what a person can still do despite his or her impairment(s). The regulations also set forth the standards to be used in evaluating the medical opinions of treating and other medical sources. The changes will not have any significant impact on either administrative or program costs.

Timetable:

Action	Date	FR Cite
NPRM	04/20/87	52 FR 13014
NPRM Comment Period End	06/19/87	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960–AB22

735. SUPPLEMENTAL SECURITY INCOME PROGRAM; HOW WE COUNT UNEARNED INCOME—FUNDS USED TO PAY INDEBTEDNESS

Legal Authority: 42 USC 1302; 42 USC 1382a

CFR Citation: 20 CFR 416.1123(b)

Legal Deadline: None

Abstract: The issue is whether amounts otherwise due an individual assigned to repay a legal obligation should continue to be included in income under the Supplemental Security Income (SSI) program. The regulation will clarify that we count such amounts as income. Because this clarification only will reflect current operating policy, no costs/savings are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	09/15/87	52 FR 34813
NPRM Comment Period End	11/16/87	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 965-1758

RIN: 0960–AB29

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736. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATIONS OF DISABILITY-COMPLIANCE AND OTHER CHANGES

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 1302; PL 98-460, Sec 17; 42 USC 1383

CFR Citation: 20 CFR 404.1601; 20 CFR 416.1001; 20 CFR 404.1602; 20 CFR 416.1002; 20 CFR 404.1615; 20 CFR 416.1015; 20 CFR 404.1620; 20 CFR 416.1020; 20 CFR 404.1632; 20 CFR 416.1023; 20 CFR 404.1626; 20 CFR 416.1028; 20 CFR 404.1627; 20 CFR 416.1027; 20 CFR 404.1633; ...

Legal Deadline: None

Abstract: These regulations for administering the disability determination function make changes to improve the disability determination process by modifying our State agency monitoring and technical and management assistance procedures, administrative standards, and fiscal, audit, and appeals requirements. They also clarify when we will find that a State agency has substantially failed to make disability determinations consistent with the regulations and other written guidelines.

Timetable:

Action	Date	FR Cite
NPRM	04/25/86	51 FR 15638
NPRM Comment Period End	06/24/86	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AB36

737. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAYMENT OF COSTS OF REHABILITATION SERVICES

Legal Authority: PL 98-460, Sec 11; 42 USC 405; 42 USC 422; 42 USC 1302; 42 USC 1382d; 42 USC 1383

CFR Citation: 20 CFR 404V; 20 CFR 416V

Legal Deadline: None

Abstract: Public Law 98-460 created 2 new provisions under which SSA will pay vocational rehabilitation (VR) agencies for the costs of services provided to disabled or blind social security beneficiaries or SSI recipients. Under the first new provision, SSA will allow payment to vocational rehabilitation agencies (VRAs) for the costs of VR services provided to individuals continuing to receive payment because they are participating in a VR program after their period of disability has ceased due to their medical recovery. The second new provision allows payment to VRAs for the costs of VR services provided to beneficiaries/recipients who refuse without good cause to continue or to cooperate in a VR program in such a way as to preclude their successful rehabilitation with such refusal resulting in the nonpayment of their disability or blindness payments. It is estimated that the first year costs of this program will be less than $1 million.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36510
NPRM Comment Period End	12/09/86	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AB37

738. SUPPLEMENTAL SECURITY INCOME PROGRAM; LIMITATION ON RECOUPMENT RATE IN CASE OF OVERPAYMENT

Legal Authority: 42 USC 1302; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416E

Legal Deadline: None

Abstract: These rules which implement section 2612 of Pub. L. 98-369 will limit the rate at which an overpayment may be recovered from an individual still receiving benefits (SSI or federally administered supplementary payments, or both) to 10 percent of the recipient's total income (countable income plus SSI and State supplementary payments) or the recipient's payment for the month, whichever is less. The 10 percent requirement will apply only to recipients in current payment status. The 10 percent limit will not apply in situations involving conditional disposition of resources agreements, misuse of burial funds, recovery by refund, cross program adjustment for individuals not in SSI current pay or where it is determined that the overpayment occurred because of recipient fraud, willful misrepresentation, or concealment. The rules, in negotiated cases, set a rate of withholding that is appropriate for the financial condition of the overpaid person after (continued)

Timetable:

Action	Date	FR Cite
NPRM	03/28/89	54 FR 12649
NPRM Comment Period End	05/30/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: factual evaluation. Such cases will also be considered initial determinations for which the recipient has appeal rights. Estimated costs are FY 1986 through FY 1989 - program costs of $18 million per year and administrative costs of $.5 million per year.

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1795

RIN: 0960-AB40

739. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS: EVALUATION OF SYMPTOMS, INCLUDING PAIN

Legal Authority: 42 USC 405; 42 USC 423; 42 USC 1382c; 42 USC 1383; 42 USC 1302

CFR Citation: 20 CFR 404P; 20 CFR 416I

Legal Deadline: None

Abstract: These regulations expand the existing regulations pertaining to the evaluation of cases involving pain or other symptoms to provide a more detailed explanation of SSA's current policy for evaluating symptoms, including pain.

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35577
NPRM Comment Period End	11/14/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 965-1759

RIN: 0960-AB41

740. OASDI & SSI PROGRAMS; OVERPAYMENT AND LIABILITY FOR REPAYMENT OF AN OVERPAYMENT

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.501; 20 CFR 404.502; 20 CFR 416.537; 20 CFR 404.501a

Legal Deadline: None

Abstract: These final rules reflect section 12113 of Pub. L. 99-272 (Consolidated Omnibus Budget Reconciliation Act of 1985) enacted April 7, 1986. That legislation establishes a Social Security benefit overpayment or a Supplemental Security Income benefit overpayment to a joint account owner in certain cases in which the beneficiary is deceased and payment is made after death. Also, we propose to add technical corrections to the title II regulations

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB78

741. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; BLACK LUNG; AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; AND ORGANIZATION AND PROCEDURES; APPLICATION OF CIRCUIT COURT LAW

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1395; 42 USC 1395(a)(2); 42 USC 1395hh; 5 USC 552

CFR Citation: 20 CFR 422E; 20 CFR 404J; 20 CFR 410F; 20 CFR 416N

Legal Deadline: None

Abstract: These regulations describe a new type of Social Security ruling (Social Security Acquiescence Ruling or "Acquiescence Ruling"), which is available to the public and implement a new policy explaining the manner in which we will apply decisions of the United States Courts of Appeals that we determine conflict with Social Security Administration policy in adjudicating claims under title II and title XVI of the Social Security Act and title IV, Part B of the Federal Mine Safety and Health Act of 1977. The regulation changes will become effective on the date of publication of final regulations.

Timetable:

Action	Date	FR Cite
Prior Notice of Proposed Rulemaking	01/23/87	52 FR 02557
NPRM	11/18/88	53 FR 46628
NPRM Comment Period End	01/17/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB85

742. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DECISIONS BY ADMINISTRATIVE LAW JUDGES IN CASES REMANDED BY COURTS

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 42 USC 401; 42 USC 421

CFR Citation: 20 CFR 404.953; 20 CFR 404.983; 20 CFR 404.984; 20 CFR 416.1453; 20 CFR 416.1483; 20 CFR 416.1484; 20 CFR 404.955; 20 CFR 404.988; 20 CFR 416.1455; 20 CFR 416.1456

Legal Deadline: None

Abstract: If the court remands a case and the SSA Appeals Council remands it to an administrative law judge (ALJ), under current regulations the ALJ returns the case to the Appeals Council with a recommended decision, and the Appeals Council must review that decision and take further action in every case before the decision becomes final. This can involve delay. The regulation will permit the ALJ to make a decision which would become final unless, within 30 days after the decision is received, the claimant files exceptions or within that period requests an extension of time to file exceptions, or within 60 days after the date of the decision the Appeals Council decides to review the decision on its own. The change will permit more timely final decisions, and result in administrative savings of about $1 million per year, due to a reduction in the number of personnel required to review the ALJ decision.It will not affect program cost.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38466
NPRM Comment Period End	12/15/87	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AC07

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743. SUPPLEMENTAL SECURITY INCOME PROGRAM: FEDERAL ADMINISTRATION OF OPTIONAL STATE SUPPLEMENTATION

Legal Authority: 42 USC 1382e; 42 USC 1302

CFR Citation: 20 CFR 416.2030(a)(2); 20 CFR 416.2040(b)

Legal Deadline: None

Abstract: 42 USC 1382e provides that at the option of a State with a federally administered optional supplementation program, the supplementation agreement between such State and the Secretary of HHS may be modified to allow Federal administration of optional supplementary payments to any individual in a medical facility where more than 50 percent of the individual's care is covered by the Medicaid program (Living Arrangements (LA) "D" recipients). The proposed regulation will reflect the amendment to the statute discussed above.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8470

RIN: 0960–AC13

744. SUPPLEMENTAL SECURITY INCOME PROGRAM; PERMANENT RESIDENCE IN THE UNITED STATES UNDER COLOR OF LAW - ADDITIONAL CATEGORY

Legal Authority: 42 USC 1382c; PL 99-603

CFR Citation: 20 CFR 416.1618; 20 CFR 416.1615

Legal Deadline: None

Abstract: This regulation will add the specific categories of aliens legalized by P. L. 99-603 to be considered permanently residing in the United States under color of law or lawfully admitted for permanent residence in the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4296
NPRM Comment Period End	03/31/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960–AC26

745. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EMPLOYMENT, WAGES, SELF-EMPLOYMENT, AND SELF-EMPLOYMENT INCOME

Legal Authority: PL 98-21; PL 99-514; PL 98-369; PL 100-203; PL 100-647

CFR Citation: 20 CFR 404.1041; 20 CFR 404.1042; 20 CFR 404.1068; 20 CFR 404.1049; 20 CFR 404.1050; 20 CFR 404.1001; 20 CFR 404.1026; 20 CFR 404.1046; 20 CFR 404.1048; 20 CFR 404.1051; 20 CFR 404.1052; 20 CFR 404.1053; 20 CFR 404.1054; 20 CFR 404.1058; 20 CFR 404.1070; ...

Legal Deadline: None

Abstract: PL 98-21 changed the timing of crediting deferred compensation for Social Security purposes. It also changed the treatment of retirement pay depending upon whether it is paid under a qualified deferred compensation plan. Further, it excluded from coverage various fringe benefits and payments under a Simplified Employee Pension Plan. Finally, the amendments codify certain provisions pertaining to meals and lodging and tax-sheltered annuities. PL 98-369 amended the wage exclusion for qualified bond purchase plans. PL 99-514 excluded from coverage payments under a cafeteria plan; amended the law for determining self- employment income when an individual works for a church or church-controlled organization which has elected not to pay Social Security taxes; and amended the law for receiving an exemption from Social Security coverage for members of religious orders, ministers, and Christian Science practitioners. We are adding to the final rule the provisions in sec 9003 of PL 100-203 and sec 8013 of PL 100-647 concerning wage exclusion of group life insurance payments. These regulations merely reflect the above provisions and do not add substantive rules.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24727
NPRM Comment Period End	08/29/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Since the new rules are mandated by legislation, any costs or effects upon small entities are a result of the legislation and not a result of the proposed regulations.

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1794

RIN: 0960–AC27

746. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONSIDERATION OF VOCATIONAL FACTORS

Significance: Agency Priority

Legal Authority: 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1560; 20 CFR 416.960

Legal Deadline: None

Abstract: These regulations reflect longstanding policies followed by the Social Security Administration in making disability determinations and remove an ambiguity which exists in the present regulations regarding the factors that are considered when it is determined that a claimant is not disabled because he or she is able to do his or her past work. These regulations do not reflect a substantive change in policy and are intended only to clarify what has always been agency policy.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21685
NPRM Comment Period End	08/08/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC31

747. ORGANIZATION AND PROCEDURES, AND OASDI PROGRAMS; EVIDENCE REQUIRED FOR ORIGINAL OR DUPLICATE SOCIAL SECURITY NUMBER CARD

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None

Abstract: This interim final rule will allow the Social Security Administration to test procedures that will provide an exception to the current requirement that an applicant for a duplicate card must submit corroborative evidence of identity. This will enable us to test procedures that would allow us to conduct much of our business in processing applications for duplicate Social Security number cards by telephone.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC32

748. ORGANIZATION AND PROCEDURES, AND OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; SOCIAL SECURITY NUMBER CARDS FOR ALIENS

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None

Abstract: This regulation will reflect the role of the Immigration and Naturalization Service in obtaining applications for Social Security numbers from aliens when they apply for temporary legal resident status. Rules on evidence needed to support an application are being updated and revised. The regulation will also reflect the role of the States in obtaining applications for Social Security numbers from welfare claimants and recipients. Savings for the Federal government are estimated to be $5.9 million for FY 1988 and $6.3 million for subsequent years.Virtually all of the savings are derived from the provision to reflect the role of the States in enumeration of welfare recipients.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38302
NPRM Comment Period End	11/29/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC34

749. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ADDITION OF DOWN SYNDROME TO THE LISTING OF IMPAIRMENTS

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: We are adding Down Syndrome to the multiple body systems, category of impairments, in Part B of the Listing of Impairments to provide for evaluation of Down Syndrome claims according to the impairment criteria for the major system affected. The Listing of Impairments describes, for each of the major body systems, a level of severity which is considered sufficient to find a person disabled or blind under the disability program. Part B contains additional medical criteria that apply only to the evaluation of impairments of persons under age 18.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37161
NPRM Comment Period End	12/04/87	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC35

750. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CANCELLED CONSULTATIVE EXAMINATIONS

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: We are considering the development of a final rule to provide that we will no longer pay for consultative examinations when services are not rendered because the scheduled appointment was broken or otherwise not kept. Presently, the States decide whether to pay for these canceled examinations and such payments have already been abolished in 22 States. The total elimination of these payments will establish a uniform national policy.

Timetable:

Action	Date	FR Cite
NPRM	10/07/88	53 FR 39487
NPRM Comment Period End	12/06/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

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Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **301 965-1759**

RIN: 0960–AC40

751. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD; AND TRANSFER OF ASSETS FOR LESS THAN FAIR MARKET VALUE

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1242; 20 CFR 416.1245; 20 CFR 416.1246

Legal Deadline: Final, Statutory, April 1, 1988.

Abstract: We have amended regulations under the Supplemental Security Income program to implement sections 9103 and 9104 of Pub. L. 100-203 (the Omnibus Budget Reconciliation Act of 1987) dealing with the disposition and transfer of resources in determining eligibility for SSI benefits. The cost/savings and workyear impact for these regulations have been estimated to be insignificant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/88	53 FR 13254
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **301 965-8470**

RIN: 0960–AC47

752. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM RESOURCES OF FUNDS SET ASIDE FOR BURIAL AND BURIAL SPACES

Legal Authority: 42 USC 1302; 42 USC 1382b

CFR Citation: 20 CFR 416.1231

Legal Deadline: None

Abstract: We are amending our regulations to reflect the changes made by section 9105 of Pub. L. 100-203 (the Omnibus Budget Reconciliation Act of 1987) and to make other policy changes concerning the treatment of burial spaces and certain funds set aside for burial expenses in the Supplemental Security Income program.

Timetable:

Action	Date	FR Cite
NPRM	09/15/88	53 FR 35830
NPRM Comment Period End	11/14/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **301 965-8470**

RIN: 0960–AC48

753. SUPPLEMENTAL SECURITY INCOME PROGRAM; INCREASE IN EMERGENCY ADVANCE PAYMENTS

Legal Authority: 42 USC 1383(a); PL 100-203, Sec 9109

CFR Citation: 20 CFR 416.502; 20 CFR 416.520; 20 CFR 416.1403

Legal Deadline: None

Abstract: The rules will reflect section 9109 of Pub. L. 100-203. They raise the amount of the emergency advance payment that can be paid to a person presumptively eligible for SSI payments. Because the emergency advance payment is an advance of benefits and later deducted from the benefits due an individual, no increased costs are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8215
NPRM Comment Period End	04/28/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **301 965-1758**

RIN: 0960–AC50

754. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SOCIAL SECURITY NUMBERS FOR NEWBORN CHILDREN

Significance: Agency Priority

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: Under the rule, a parent will be able to request a Social Security number in the hospital when he or she provides birth registration information for a newborn child. The State vital statistics office will receive the information and the request from the hospital and electronically transmit this information to the Social Security Administration (SSA). SSA will assign a Social Security number to the child and send a card to the parents. We expect annual savings of $11.4 million. A pilot project in three States has shown this procedure to be efficient and well-received.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6707
NPRM Comment Period End	03/16/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **301 965-8471**

RIN: 0960–AC56

755. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; CONTINUED PAYMENT OF BENEFITS DURING APPEAL

Significance: Agency Priority

Legal Authority: PL 100-647, Sec 8006

CFR Citation: 20 CFR 404.1597a

Legal Deadline: None

Abstract: These rules, which implement section 8006 of Pub. L. 100-647, extend the right to elect continuation of disability/blindness benefits and/or Medicare coverage for appeals of medical cessation determinations pending an administrative law judge decision on actions terminating benefits made through December 1989, with benefits payable through June 1990. (Effective for terminations occurring before January 1, 1990. Note: 53 FR 29011 published August 2, 1988 reflected section 9009 of PL 100-203 which was effective for terminations occurring before January 1, 1989.)

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, **301 965-1795**

RIN: 0960–AC62

756. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; INCREASE IN SUBSTANTIAL GAINFUL ACTIVITY AND TRIAL WORK PERIOD MONTHLY AMOUNTS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1383(b); 42 USC 422(c)

CFR Citation: 20 CFR 404.1574; 20 CFR 404.1592; 20 CFR 416.974

Legal Deadline: None

Abstract: These regulations will raise the earnings guidelines we use to determine whether persons with impairments other than blindness are able to do substantial gainful activity for purposes of disability benefits under title II of the Social Security Act (the Act) and Supplemental Security Income benefits under title XVI of the Act. They also raise the amount a person may earn before we consider that the person has performed services for purposes of a trial work period under the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/25/89	54 FR 30907
NPRM Comment Period End	09/25/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **301 965-1758**

RIN: 0960–AC64

757. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION OF CERTAIN HOUSING ASSISTANCE PAYMENTS FROM INCOME AND RESOURCES

Legal Authority: 42 USC 1302; 42 USC 1382a(b); 42 USC 1382b(a)

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1210; 20 CFR 416.1236; 20 CFR 416.1238; 20 CFR 416K

Legal Deadline: None

Abstract: This final rule reflects section 8103 of PL 100-647 (Technical Corrections Act of 1988). It adds to Subparts K and L of the Supplemental Security Income (SSI) regulations certain housing assistance payments that are excluded from income and resources under the SSI program for purposes of determining eligibility or payment amount under the SSI program. These exclusions (with the exception of section 202(h) of the Housing Act of 1959) are presently listed in the Appendix to Subpart K, entitled "Lists of Types of Income Excluded Under the SSI Program as Provided by Federal Laws Other than the Social Security Act." The statutes under which these payments are excluded are as follows: (a) The United States Housing Act of 1937; (b) The National Housing Act; (c) Section 101 of the Housing and Urban Development Act of 1965; (d) Title V of the Housing Act of 1949; and (e) Section 202(h) of the Housing Act of 1959. No costs or savings are involved.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **301 965-1755**

RIN: 0960–AC65

758. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CHANGES IN THE ANNUAL EARNINGS TEST

Legal Authority: 42 USC 403(f); PL 100-647, Sec 8002

CFR Citation: 20 CFR 404.430

Legal Deadline: None

Abstract: This regulation reflects a section of PL 100-647 that eliminates the short taxable year in the year of death for purposes of the earnings test and changes the rate for computing excess earnings from 50 percent to 33-1/3 percent for beneficiaries of retirement age.

Timetable:

Action	Date	FR Cite
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, **301 965-1769**

RIN: 0960–AC69

759. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EFFECT OF PENSIONS FROM NONCOVERED EMPLOYMENT

Legal Authority: 42 USC 415(a)(7); PL 100-647, Sec 8003; PL 100-647, Sec 8011

CFR Citation: 20 CFR 404.213; 20 CFR 404.241

Legal Deadline: None

Abstract: This regulation reflects sections of PL 100-647 that provide for a modified computation of an individual's Social Security benefit where he or she also receives a pension that is based on noncovered employment. The phase-out provisions of the modified computation are extended to include persons with more than 20, but less than 30, years of coverage and at the same time the percentages for each applicable year are increased. The month used in determining the appropriate pension amount in the modified computation is changed from the first month of concurrent eligibility to the first month the individual is concurrently entitled to both Social Security and the monthly pension.

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HHS—SSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC70

760. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; RULES GOVERNING SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYMENT

Legal Authority: PL 100-647, Sec 8015; 42 USC 405(p)(1); 42 USC 410(a)(5)

CFR Citation: 20 CFR 404.1018

Legal Deadline: None

Abstract: This regulation reflects a section of PL 100-647 which: (1) clarifies that the Secretary is to determine whether Federal service is covered Social Security employment, (2) clarifies the coverage for Social Security purposes of service under the Foreign Service Pension System, and (3) provides that Federal civilian employees who are once covered by Social Security would retain Social Security coverage in any subsequent Federal service.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC71

761. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SPOUSE'S BENEFITS–SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN WIDOW'S/WIDOWER'S BENEFITS

Legal Authority: 42 USC 402(e); 42 USC 402(f); PL 100-647, Sec 8010

CFR Citation: 20 CFR 404.335; 20 CFR 404.336

Legal Deadline: None

Abstract: The regulation implements a section of PL 100-647 under which a certificate of election may be used in place of an application by a person eligible for widow's or widower's benefits where the widow or widower was not yet of retirement age, was entitled to either retirement or disability benefits and to spouse's benefits in the month before the month of the insured's death.

Timetable:

Action	Date	FR Cite
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC72

762. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ENTITLEMENT OF A SURVIVING DIVORCED SPOUSE AFTER REMARRIAGE

Legal Authority: 42 USC 402(e); 42 USC 402(f)

CFR Citation: 20 CFR 404.336(e)(4)

Legal Deadline: None

Abstract: This publication will remove from current regulations the requirement that a surviving divorced spouse who has remarried cannot be entitled to Social Security benefits as a widow or widower unless the remarriage occurred after the former spouse died. The regulation reflects the decision of the district court in Pirus v. Bowen, No. CV87-1141-IH (C.D. Cal., Nov. 19, 1987).

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960–AC73

763. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; PRESUMPTIVE DISABILITY AND PRESUMPTIVE BLINDNESS: CATEGORIES OF IMPAIRMENTS; AIDS EXTENSION DATE

Legal Authority: 42 USC 1382c; 42 USC 1383(a)(4)(B)

CFR Citation: 20 CFR 416.934

Legal Deadline: None

Abstract: We are extending the expiration date of the presumptive disability category for acquired immunodeficiency syndrome (AIDS) through December 31, 1991. New treatments for AIDS are now being tested and additional time is needed to evaluate the efficacy of these treatments. Also, significant scientific developments do not appear to be imminent.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC75

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Social Security Administration (SSA)

Completed Actions

764. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAST WORK EXPERIENCE AND ADJUSTMENT TO OTHER WORK

CFR Citation: 20 CFR 404.1562; 20 CFR 404.1565; 20 CFR 416.962; 20 CFR 416.965

Completed:

Reason	Date	FR Cite
Being Combined With RIN 0960-AC61	07/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler 301 965-1759

RIN: 0960–AC39

765. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXEMPTION OF CERTAIN ASSISTANCE PAYMENTS FROM RETROSPECTIVE MONTHLY ACCOUNTING

CFR Citation: 20 CFR 416.420

Completed:

Reason	Date	FR Cite
Final Action	08/01/89	54 FR 31657

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow 301 965-1755

RIN: 0960–AC49

766. SUPPLEMENTAL SECURITY INCOME PROGRAM; PUBLIC EMERGENCY SHELTERS FOR THE HOMELESS, EXCLUSION OF UNDERPAYMENTS, INCREASE IN PERSONAL NEEDS ALLOWANCE

CFR Citation: 20 CFR 416.201; 20 CFR 416.211; 20 CFR 416.414; 20 CFR 416.432; 20 CFR 416.1160; 20 CFR 416.1163; 20 CFR 416.1165; 20 CFR 416.1233; 20 CFR 416.2095; 20 CFR 416.2096; 20 CFR 416.2097; 20 CFR 416.2098; 20 CFR 416.2099

Completed:

Reason	Date	FR Cite
Interim Final Rule effective No Final Rule Needed	05/04/89	54 FR 23018

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner 301 965-1756

RIN: 0960–AC54

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)

Proposed Rule Stage

767. WAIVERS TO REQUIREMENT THAT STATES SPEND AT LEAST A CERTAIN PORTION OF STATE BLOCK GRANT FUNDS FOR NEW MENTAL HEALTH SERVICES AND PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Section 2027 of Public Law 100-690 amends Section 1916 of the PHS Act to set a floor on the amount States must spend each year beginning in FY 1991 from Alcohol and Drug Abuse and Mental Health Services Block Grant funds for new mental health services and programs. However, the Secretary may grant any State that he determines to be in a financial crisis a waiver lowering that floor by up to a certain amount. The Act requires that such determinations be based on standards published in regulations. Issues to be resolved in regulations include: (a) how to determine when a State is in a financial crisis; (b) what information States must provide to assure that a waiver is needed to avoid disruption to existing and planned high priority services; (c) how to determine the extent of relief to be granted for approved waivers; and (d) imposing requirements that are cost effective.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sandra Garcia, Regulations Officer, Department of Health and Human Services, Public Health Service, Rm. 12C-26, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-4640

RIN: 0905–AC99

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Centers for Disease Control (CDC)

Proposed Rule Stage

768. NIOSH REVISION OF TESTS AND REQUIREMENTS FOR CERTIFICATION OF RESPIRATORY PROTECTIVE DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 842(h); 30 USC 844; 30 USC 957

CFR Citation: 30 CFR 11; 42 CFR 84

Legal Deadline: None

Abstract: The proposed rule addresses three major problems of the current regulation by (1) substantially upgrading laboratory performance tests for certifying respirators; (2) adding quantitative face seal performance tests; and (3) replacing current certification tests that are design- or application-specific with tests that are performance-based. The first NPRM for revising 42 CFR Part 84 was published in the Federal Register on August 27, 1987 (52 FR 32402). In response to the

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Proposed Rule Stage

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many comments on the first proposal, NIOSH is in the process of developing a second NPRM.

Timetable:

Action	Date	FR Cite
NPRM	06/27/87	52 FR 32402
First Public Hearing	01/20/88	52 FR 37639
Second Public Hearing	01/27/88	52 FR 37639
NPRM Public Comment Period End	03/28/88	53 FR 5595
Second NPRM Published	11/00/89	
Second NPRM Comment Period End	02/00/90	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $14,000,000; Yearly Recurring Cost: $14,000,000; Base Year for Dollar Estimates: 1990

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: Yearly recurring cost to public will drop from $14,000,000 to $6,400,000 in year six and all following years.

Agency Contact: Dr. Nelson A. Leidel, Senior Science Advisor, Office of the Director, NIOSH, Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1600 Clifton Road, MS D37, Atlanta, GA 30333, 404 639-3190

RIN: 0905–AB58

769. INTERSTATE SHIPMENT OF BIOLOGICAL MATERIAL THAT CONTAINS OR MAY CONTAIN AN ETIOLOGIC AGENT

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 264; 42 USC 271

CFR Citation: 42 CFR 72

Legal Deadline: None

Abstract: The revised regulation will clarify the requirements for packaging and shipping material containing etiologic agents. Some users have had difficulty applying the current regulation, particularly with respect to the definition of material covered. The revised regulation is not expected to have a major impact on the cost of shipping these materials and is expected to result in increased conformance so that those handling such packages will have an even lower probability of exposure to potentially infectious material.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. McVicar, D.V.M., Director, Office of Biosafety, Centers for Disease Control, Department of Health and Human Services, Public Health Service, 1600 Clifton Road NE, Atlanta, GA 30333, 404 639-3883

RIN: 0905–AC89

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Centers for Disease Control (CDC)

Final Rule Stage

770. SUBCHAPTER J - NATIONAL VACCINE PROGRAM, PART 110 INFORMATION AND EDUCATION, SUBPART A - VACCINE INFORMATION MATERIALS

Significance: Agency Priority

Legal Authority: 42 USC 300aa-26; PL 99-660, Sec 311(a)

CFR Citation: 42 CFR 110

Legal Deadline: Final, Statutory, December 22, 1988.

Abstract: This new regulation is required to implement the statutory requirements of Section 2126, Title XXI, Public Health Service Act as amended. The statute requires the Secretary to develop and disseminate vaccine information materials for distribution by health care providers. These materials will be published as an appendix of this regulation. The regulation describes the vaccine information materials and the health care providers' duties to disseminate a copy of the materials to any adult to whom the provider intends to administer vaccine and to the legal representative of any child to whom the provider intends to administer vaccine. The 90-day comment period was extended to 180 days.

Timetable:

Action	Date	FR Cite
NPRM	03/03/89	54 FR 9181
Public Hearing	04/17/89	54 FR 11547
NPRM Comment Period End	06/29/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Walter A. Orenstein, M.D., Director, Division of Immunization, Center for Prevention Services, Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333, 404 639-1880

RIN: 0905–AC83

771. HEALTH ASSESSMENTS AND HEALTH EFFECTS STUDIES OF HAZARDOUS SUBSTANCES RELEASES AND FACILITIES

Significance: Agency Priority

Legal Authority: 42 USC 9601 et seq, Sec 9604(i) amended by Sec 110 of SARA; 42 USC 6939a(c)

CFR Citation: 42 CFR 90

Legal Deadline: None

Abstract: This regulation sets forth procedures the Agency for Toxic Substances and Disease Registry (ATSDR) will follow in determining when and how to conduct health assessments and health effects studies at hazardous substances releases and facilities. In addition to CERCLA-authorized health assessments and health effects studies, this regulation also applies to ATSDR health assessment activity under the Resource Conservation and Recovery Act (RCRA) (42 USC 6939a(c)). This proposal also contains provisions pertaining to the establishment of administrative records for ATSDR health assessments and health effects studies, for tracking costs of these studies for cost recovery purposes, and for safeguarding trade secret and other confidential information.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 32259
NPRM Comment Period End	10/24/88	
Final Action	12/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Robert C. Williams, P.E., Director, Division of Health Assessment and Consultation, ATSDR, Department of Health and Human Services, Public Health Service, Chamblee 27, F38, 1600 Clifton Road, Atlanta, GA 30333, 404 639-0610

RIN: 0905–AC84

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Prerule Stage

772. DRUG EXPORTS

Significance: Agency Priority

Legal Authority: PL 99-660 Drug Export Amendments Act of 1986

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Drug Export Amendments Act of 1986 authorizes the export for commercial marketing abroad of veterinary and human drugs not approved for marketing in the United States. Under previous law, the export of new human and animal drugs for marketing was confined to drugs that were approved by FDA for domestic use. The law establishes three separate pathways for the export of unapproved products. Under each pathway, FDA approval is required before export is permitted. As a prerulemaking activity, FDA is developing guidance material for manufacturers instructing them as to what information must be submitted to the agency to obtain approval for the export of unapproved products. The guidance material will also identify FDA sources of information on agency practices and policies concerning the implementation of the Drug Export Amendments Act of 1986. The agency will then decide what, if any, regulations are necessary for the efficient implementation of the amendments, and establish timeframes for the development of those regulations.

Timetable:

Action	Date	FR Cite
Guidance Materials	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Wayne Mitchell, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8048

RIN: 0905–AC44

773. COMPUTER PRODUCTS; POLICY GUIDANCE

Significance: Regulatory Program

Legal Authority: 21 USC 321(h)

CFR Citation: 21 CFR 800

Legal Deadline: None

Abstract: As a prerulemaking activity, FDA is developing guidance for manufacturers respecting how FDA would apply existing statutory requirements to the regulation of computer products (i.e., both hardware and software) when such products meet the definition of a medical device under the act.

On September 25, 1987, FDA made available a draft policy guidance intended to clarify how FDA would apply existing statutory requirements to the regulation of such products to provide opportunity for public participation in this activity.

Upon-analysis of the public comments on the complex issues pertaining to the regulation of computer products, the agency will decide whether any additional steps are necessary to clarify which computer products meet the definition of a medical device and what level of regulation, if any, is appropriate under the act.

Timetable:

Action	Date	FR Cite
Proposed Draft Guideline	09/25/87	52 FR 36104
Final Policy Guidance	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Charles S. Furfine, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905–AC72

774. ● FOOD LABELING REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 201; 21 USC 401; 21 USC 402; 21 USC 403; 21 USC 409; 21 USC 701

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: The agency has issued an advance notice of proposed rulemaking requesting public comment on possible changes in the labeling of food products regulated by FDA. The agency has long required certain labeling, such as ingredients and net weight on packaged foods, and in recent years has bolstered such labeling with requirements for label information about the nutritional quality of foods. Now, FDA believes it is timely to consider revising the food labeling requirements, and has sought public comment on five areas: (1) whether to revise the requirements for nutrition labeling; (2) whether to change the nutrition label format on food packages; (3) whether to revise the

Cough/Cold (Anticholinergic) Products

Fvr Blister/Cold Sore Prdts (Ext.) (To be

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requirements for ingredient labeling: (4) whether to formally define commonly used food descriptions and/or reconsider the use of standards of identity for foods; and (5) how to reasonably permit the use of messages on food labels that link food components to the prevention of disease.

Timetable:

Action	Date	FR Cite
ANPRM	08/08/89	54 FR 32610
ANPRM Comment Period End	01/05/90	54 FR 38806

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. Edward Scarbrough, Deputy Director, Office of Nutrition and Food Sciences, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-201), 200 C Street, SW, Washington, DC 20204, 202 245-1561

RIN: 0905–AD08

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Proposed Rule Stage

775. OVER-THE-COUNTER (OTC) DRUG REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321(p) Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" to be combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" to be included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" to be included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" to be included in NPRM (cont)

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
Final Action 00/00/00

Alcohol (Topical) Products (To be merged w/other rulemkg)
ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 08/15/88 (53 FR 30756)

Antacid Drug Products
ANPRM 04/05/73 (38 FR 8714)
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 9862)
NPRM (Amendment) (Testing) 03/00/90

Anthelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 12/11/87 (52 FR 47312)

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
NPRM 06/15/88 (53 FR 22430)
Final Action 00/00/00

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)
Final Action 00/00/00

Antidotes, Toxic Ingestion Prdts (Now Poison Treatment Prdts)
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)

Antiflatulent Drug Products
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 19877)
NPRM (Amendment) 01/29/88 (53 FR 2716)

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 12/00/89
NPRM (Amendment) (Diaper Rash) 03/00/90

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 03/00/90

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 00/00/00

Antiseptic First Aid
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
Revised NPRM 01/00/90

Antiseptic Products (Professional Use)
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
Revised NPRM 03/00/90

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 07/07/89 (54 FR 28780)

Astringent (Wet Dressings) Prdts (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5406)
Final Action 11/00/89

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/88 (53 FR 2198)
Final Action 00/00/00

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 06/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 00/00/00

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Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 00/00/00

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 26442)

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
Final Action 00/00/00

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
Final Action 03/00/90

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 00/00/00

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 00/00/00

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
Final Action 00/00/00

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/00/89
NPRM (Amendment) (Diaper Rash) 03/00/90
NPRM (Amendment) (Fvr Blister/Ext) 03/00/90
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 00/00/00

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/27/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 12/00/89

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 00/00/00

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 00/00/00

Insect Bite & Sting (Relief) Prdts (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 00/00/00

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) 10/01/86 (51 FR 35136)
Final Action 00/00/00

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 00/00/00

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 00/00/00

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 00/00/00

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 00/00/00

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 00/00/00
Final Action 00/00/00

Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 00/00/00

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 03/00/90

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32672)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)

Poison Ivy/Oak/Sumac Prevention (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 00/00/00

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
Final Action 03/00/90

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/00/89
NPRM (Amendment) (Diaper Rash) 03/00/90
NPRM (Amendment) (Fvr Blister/Ext) 03/00/90
Final Action 00/00/00

Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 00/00/00

Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)

Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)

Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 00/00/00

Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)

Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 00/00/00
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
NPRM 00/00/00
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 00/00/00
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" to be included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" is being revised because it is being updated and split into two sections: first aid products and health care products.

SMALL BUSINESSES CONT: The effects, if any, vary depending on the individual rulemaking. However, the agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: William E. Gilbertson, Director, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-210), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8000

RIN: 0905–AA06

776. CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS; RETROSPECTIVE REVIEW

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: As part of its retrospective review, FDA plans to determine the need for any changes in the current GMPs to eliminate unnecessary requirements and to allow flexibility without undermining protection of the public health.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Meyer, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8049

RIN: 0905–AA73

777. CURRENT GOOD MANUFACTURING PRACTICE (CGMP) FOR BLOOD AND BLOOD COMPONENTS; RETROSPECTIVE REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act; 5 USC 553 Administrative Procedures Act; 5 USC 702 Administrative Procedures Act; 5 USC 703 Administrative Procedures Act; 5 USC 704 Administrative Procedures Act

CFR Citation: 21 CFR 606

Legal Deadline: None

Abstract: FDA is responsible for issuing regulatory standards for blood and blood components to ensure the continued safety, purity, and potency of such products. Since 1975, CGMP regulations have been in effect that provide standards for facilities, personnel, and manufacturing procedures for blood and blood components. In accordance with the Regulatory Flexibility Act, FDA has conducted a retrospective review of its CGMP regulations for blood and blood components, to determine how the regulations may be revised to relieve regulatory burdens and increase flexibility without adversely affecting the public health. Part of the retrospective review of the CGMP will be completed through FDA's implementation of an efficacy review of blood and blood derivatives which responds to recommendations of a Committee of scientific experts--the Panel on Review of Blood and Blood Derivatives. To complete the remainder of the retrospective review program regarding the CGMP, FDA will issue a proposed rule to revise the CGMP regulations.

Timetable:

Action	Date	FR Cite
Blood & Blood Components; Retrospective Review		
NPRM	02/00/90	
Final Action	00/00/00	
Blood & Blood Derivatives; Implementation of Efficacy Review		
NPRM	12/24/85	50 FR 52602
Comment Period Ends	03/24/86	50 FR 52602
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AA75

778. NEW ANIMAL DRUG APPROVAL PROCESS

Significance: Agency Priority

Legal Authority: 21 USC 360b Federal, Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1; 21 CFR 514.8

Legal Deadline: None

Abstract: Based upon an evaluation of an action issues report, the agency has concluded that it will recommend that the Secretary propose revision of the existing regulations in a manner consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions would articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved.

Although the guidelines would not establish regulatory requirements, persons would be able to rely on them with confidence that action taken under a guideline would be acceptable to the agency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Bob G. Griffith, DVM, Director, Division of Therapeutic Drugs for Non-Food Animals, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-110), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1963

RIN: 0905–AA96

779. REQUIREMENTS FOR ADVERSE EXPERIENCE REPORTING FOR LICENSED BIOLOGICAL PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 211; 21 CFR 310; 21 CFR 600

Legal Deadline: None

Abstract: This regulatory action is being taken to improve the safety of marketed drug products by a reporting scheme that will require serious adverse reactions associated with licensed biological products to be reported to the Food and Drug Administration (FDA).

The purpose of the regulatory action is to require prompt reporting to the agency of serious adverse experiences for all licensed biological products.

The regulatory action being considered by FDA would be consistent with the agency's requirements regarding adverse reactions reporting for approved new drugs under 21 CFR 314.80 (see February 22, 1985; 50 FR 7452). These biologic regulations would require that all "serious and unexpected" adverse experiences and any "significant increase in frequency" of a serious expected event be reported to the agency within 15 working days. Known and nonserious adverse biological product experiences would be required to be reported to the agency at quarterly or annual intervals, depending on the length of marketing experience with the product. This information (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: permits the agency to monitor effectively the safety of all licensed biological products.

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AB53

780. PROPOSED RULE TO IMPLEMENT THE ORPHAN DRUG AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Significance: Regulatory Program

Legal Authority: PL 97-414 Orphan Drug Act; PL 100-290

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Orphan Drug Act is intended to provide incentives for drug companies to invest in the development of drugs for rare diseases or conditions. Certain incentives are necessary because "orphan drugs" are unlikely to be profitable. The agency is required to carry out provisions of the Orphan Drug Act, e.g., by designating a drug as an orphan drug, by providing protocol assistance, and by granting seven years of exclusive approval status. The proposed rule would establish procedures whereby drug sponsors can take advantage of the incentives to encourage development of orphan drugs. While several provisions of the Orphan Drug Act call for promulgation of regulations, the agency is considering the extent to which regulations will be needed to provide the framework and guidance for implementing a program of incentives to drug sponsors and manufacturers.

Timetable:

Action	Date	FR Cite
Interim Guidelines	09/09/83	48 FR 40784
Revised Interim Guidelines	05/09/85	50 FR 19583
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Emery J. Sturniolo, Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, Office of Orphan Products Development (HF-35), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4718

RIN: 0905–AB55

781. ABBREVIATED NEW DRUG APPLICATION REGULATIONS (TITLE I OF THE "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984")

Significance: Agency Priority

Legal Authority: PL 98-417, (Title I)

CFR Citation: 21 CFR 10; 21 CFR 310; 21 CFR 314; 21 CFR 320

Legal Deadline: None

Abstract: Until the passage of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984," abbreviated new drug application (ANDA) procedures were only available for generic products equivalent to pioneer drugs approved before 1962. Title I opened up the ANDA policy to generic copies of products approved after 1962. On July 10, 1989 (54 FR 28872), FDA proposed regulations to implement Title I. The proposal provides for the submission of abbreviated new drug applications for generic versions of drug products first approved after 1962. These new provisions will benefit consumers by making generic drug products available more quickly.

Timetable:

Action	Date	FR Cite
NPRM	07/10/89	54 FR 28872
NPRM Comment Period End	10/10/89	54 FR 28872
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn Watson, Special Asst. to the Division Director, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-360), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8038

RIN: 0905–AB63

782. LOOK-BACK REQUIREMENTS FOR BLOOD RECIPIENTS WHO ARE AT INCREASED RISK OF HIV INFECTION

Significance: Regulatory Program

Legal Authority: 21 USC 351 to 360k; 21 USC 374; 42 USC 262 to 264

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The agency currently requires that all blood and blood components intended for the manufacture of any product be tested for antibody to human immunodeficiency virus (HIV). In instances when the blood of a donor is found to contain antibodies to HIV, some blood centers have initiated a program of voluntary "look-back" in which recipients of blood and blood components obtained from the donor's prior donations are traced and tested. A well-conducted look-back program can provide an effective mechanism for identifying, testing, and counseling transfusion recipients who are at increased risk of HIV infection–those who receive blood from a donor later found to be infected with HIV. The agency is considering a proposal to establish a mandatory look-back program. The proposal would require that blood collection facilities notify the appropriate transfusion facilities as soon as an infected donor is identified and implement a system of followup to ensure that either recipients are notified or that the physician of record determined that notification was inappropriate or was not possible.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AC90

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA)

Final Rule Stage

783. POLICIES CONCERNING USES OF SULFITING AGENTS

Significance: Regulatory Program

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 321(s) Federal Food, Drug, and Cosmetic Act; 21 USC 336 Federal Food, Drug, and Cosmetic Act; 21 USC 341 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100; 21 CFR 130.9

Legal Deadline: None

Abstract: Acceptable evidence and information exists to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 7, 1987, that requires that when a sulfiting agent is present in a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). On December 10, 1987, FDA announced its tentative conclusion that there is no longer a basis to find that the use of sulfiting agents on "fresh" potatoes served or sold unpackaged to consumers is GRAS. On December 19, 1988, FDA proposed to affirm, with specific limitations, that certain other uses of sulfiting agents are GRAS. (cont)

Timetable:

Action	Date	FR Cite
Food Labeling; Declaration of Sulfiting Agents		
NPRM	04/03/85	50 FR 13306
Final Action	07/09/86	51 FR 25012
Effective Date	01/09/87	51 FR 25012
GRAS Status of the Use of Sulfiting Agents on Potatoes		
NPRM	12/10/87	52 FR 46968
Final Action	10/00/89	
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.		
NPRM	12/19/88	53 FR 51065
Final Action	03/00/90	
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.		
NPRM	08/14/85	50 FR 32836
Final Action	07/09/86	51 FR 25021
Final Action Effective	08/09/86	51 FR 25021
Sulfiting Agents in Standardized Foods; Labeling Requirements		
NPRM	12/19/88	53 FR 51062
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: On the same date, the agency also proposed to establish labeling requirements when sulfiting agents are used in standardized foods.

Agency Contact: Robert L. Martin, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-334), 200 C Street, SW, Washington, DC 20204, 202 426-9463

RIN: 0905–AB52

784. PROVISIONALLY LISTED COLOR ADDITIVES

Significance: Agency Priority

Legal Authority: 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 376(b) to 376(d) Federal Food, Drug, and Cosmetic Act; 21 USC 376 note Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 81.1; 21 CFR 81.27

Legal Deadline: None

Abstract: Substantial progress has been made in reducing the number of provisionally listed additives and only 1 color additive remains on the provisional list. The agency is presently reviewing petitions to list the color additive permanently. Because FD&C Red No. 3 animal feeding studies have shown a treatment-related increased incidence of tumor bearing animals, the agency considered the use of quantitative risk assessment as a basis for assessing the safety of this color additive in external drugs and cosmetics. As a preliminary step in its consideration of this approach, the agency formed a scientific peer review panel of government scientists to consider whether it is possible to quantify the risk presented by the use of FD&C Red No. 3 based on the scientific data available to the agency and, if so, what level of risk is presented by the use of this color additive. The agency has received the report from the scientific review panel in which the panel estimates the risk of cancer from use of FD&C Red No. 3 in external drugs and cosmetics. Furthermore, for FD&C Red No. 3 the industry has postulated a secondary mechanism for the observed tumorigenic response in the animal feeding (cont)

Timetable:

Action	Date	FR Cite
FD&C Red No. 3		
Final Action	10/00/89	
FD&C Red No. 3; Extension of Provisional Listing		
Final Action	08/30/88	53 FR 33147
Final Action	06/30/89	54 FR 27640
Final Action	08/29/89	54 FR 35860
FD&C Red No. 3; Request for Data for Specific Uses		
Notice	11/19/87	52 FR 44485
FD&C Red No. 3; Request for Data for Specific Uses; Postponement		
Notice	12/21/87	52 FR 48326

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: study. The agency asked a second scientific peer review panel of government scientists to consider data relating to the issue of a possible secondary mechanism and implications for risk assessment. The panel was also asked to determine what, if any, further studies or analyses may be necessary to resolve the issues. The panel submitted its report to the Commissioner in July 1987. The report was made available to the public in August 1987.

Agency Contact: Catherine J. Bailey, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-334), 200 C Street, SW, Washington, DC 20204, 202 472-5690

RIN: 0905–AB60

785. FOOD LABELING INFORMATION REGARDING GOOD NUTRITION AND HEALTH

Significance: Regulatory Program

Legal Authority: 15 USC 1453 Fair Packaging and Labeling Act; 15 USC 1455 Fair Packaging and Labeling Act; 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of August 4, 1987, the Food and Drug Administration (FDA) discussed an initiative concerning health-related claims or information on food labeling and the criteria it will apply in evaluating the propriety of such labeling. Consistent with this initiative, FDA proposed to amend certain regulations on food labeling to codify and to clarify its policy on the appropriate use of health-related messages. The agency also announced its intention to form a Public Health Service (PHS) committee that will attempt to develop "health messages" appropriate for use on food labeling.

FDA recognizes that this initiative represents a substantive change in past agency policy, and because of the complexity of the matter and the broad public interest, wishes to proceed cautiously and deliberately in its regulatory approach.

Pending this rulemaking proceeding, the agency will employ the criteria discussed in the preamble to the notice in evaluating the propriety of bringing enforcement action against products bearing health messages on food labeling.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28843
NPRM - Comment Period Ends	11/02/87	52 FR 28843
NPRM - Extension of Comment Period	11/02/87	52 FR 42003
NPRM - Correction of Extension of Comment Period	11/16/87	52 FR 43772
NPRM - Extension of Comment Period Ends	01/04/88	52 FR 43772
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Adele Dennis, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AB67

786. FOOD LABELING: DEFINITIONS OF CHOLESTEROL FREE, LOW CHOLESTEROL, AND REDUCED CHOLESTEROL

Significance: Regulatory Program

Legal Authority: 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101.9; 21 CFR 101.25

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of November 25, 1986, the agency published a proposed rule that would provide a mechanism to allow relevant, truthful, and nonmisleading claims about cholesterol and fatty acid on product labeling for consumers. This proposed rule resulted from the medical and consumer interest in the association between dietary fat and cholesterol and the occurrence of

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coronary heart disease, the leading cause of death and disability in the United States today. The proposed rule would allow industry voluntarily to provide consumers with cholesterol and fatty acid information currently prohibited by regulations by permitting the use of meaningful descriptors of the cholesterol content of foods as established by regulation (e.g., "cholesterol free," "low cholesterol," and "reduced cholesterol"). Additionally, the proposal would allow the use of comparative claims (e.g., 50 percent less cholesterol than our original product), provided quantitative cholesterol content information is supplied. Public comments submitted in response to the proposed rule are being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42584
NPRM Extension of Comment Period	01/23/87	52 FR 2558
NPRM Comment Period End	03/27/87	52 FR 2558
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Adele Dennis, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AB68

787. INFANT FORMULA ACT

Significance: Regulatory Program

Legal Authority: 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; PL 99-570 Infant Formula Act of 1986

CFR Citation: 21 CFR 7; 21 CFR 106

Legal Deadline: None

Abstract: The agency is preparing one proposal and one final rule which will implement the Infant Formula Act of 1986. The proposal will establish current good manufacturing practice regulations and strengthen the agency's existing quality control procedures for infant formulas. The final rule will establish infant formula microbiological testing, consumer complaints, and record retention requirements.

Timetable:

Infant Form Cons Comp, Micro Test & Recd Retention Req
NPRM 01/26/89 (54 FR 3783)
NPRM Comment Period End 03/27/89
Final Action 01/00/90

Infant Formula Current Good Practices; Qual Control Proc
NPRM 03/00/90

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Duy, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-314), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905–AC46

788. COMMON OR USUAL NAME FOR DILUTED FRUIT OR VEGETABLE JUICE BEVERAGES OTHER THAN DILUTED ORANGE JUICE BEVERAGES

Significance: Agency Priority

Legal Authority: 21 USC 321(n) Federal Food, Drug and Cosmetic Act; 21 USC 343 Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, and Cosmetic Act

CFR Citation: 21 CFR 102.33

Legal Deadline: None

Abstract: In 1980, FDA published a regulation (21 CFR 102.33) to require the declaration of the percent of juice contained in all diluted juice beverages. This regulation was published to extend the percent juice declaration required for diluted orange juice beverages (21 CFR 102.32) to all other diluted juice beverages. These two regulations were developed to provide consumers with information as to the various amounts of juice in the diluted juice beverages offered for sale. The regulation regarding percentage juice declaration for diluted orange juice beverages had been in effect for several years and functioning well before the regulation addressing all other diluted juice beverages was published. With publication of 21 CFR 102.33, a controversy developed over the applicability of the regulation to diluted cranberry juice beverages. The controversy centered around the fact that cranberry juice is a high acid juice and is not normally consumed as a single strength juice. Due to this unresolved controversy, 21 CFR 102.33 has not been made effective. In the FEDERAL REGISTER of July 16, 1987 (52 FR 26690), the agency proposed to revoke the common or usual (cont)

Timetable:

Action	Date	FR Cite
NPRM - To Revoke Regulation	07/16/87	52 FR 26690
NPRM - Comment Period Ends	09/14/87	52 FR 26690
NPRM - Extension of Comment Period	09/25/87	52 FR 36046
NPRM - Extended Comment Period Ends	12/13/87	52 FR 36046
NPRM - Comment Period Reopened	01/22/88	53 FR 1795
NPRM - Reopened Comment Period Ends	01/27/88	53 FR 1795
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: name regulation (21 CFR 102.33) for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. The revocation of this regulation will allow voluntary percentage labeling of these diluted juice beverages at the discretion of the manufacturer and according to the demands of the marketplace. Diluted orange juice beverages would continue to be subject to the percentage labeling requirement that has been in effect for diluted orange juice beverages since 1973. This proposed action also withdraws the proposed rule published in the FEDERAL REGISTER of June 1, 1984 (49 FR 22831), which, among other things, exempted cranberry juice products from percentage ingredient labeling requirements.

Agency Contact: Terry C. Troxell, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC48

789. PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT; STANDARDS FOR INSTITUTIONAL REVIEW BOARDS FOR CLINICAL INVESTIGATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346(a) Federal Food, Drug and Cosmetic Act; 21 USC 351 to 357 Federal Food, Drug and Cosmetic Act; 21 USC 360 Federal Food, Drug and Cosmetic Act; 21 USC 360c to 360f Federal Food, Drug and Cosmetic Act; 21 USC 360h to 360j Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, Drug and Cosmetic Act; 21 USC 376 Federal Food, Drug and Cosmetic Act; 21 USC 381 Federal Food, Drug and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 241 Public Health Service Act; 42 USC 282 Public Health Service Act; 42 USC 263b to 263n Public Health Service Act

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: None

Abstract: In the Federal Register of June 3, 1986 (51 FR 20204), the Office of Science and Technology Policy (OSTP) issued for public comment a proposed Model Federal Policy for the Protection of Human Research Subjects. This Model Policy is to enhance uniformity in the implementation of a common core of regulations governing research with human subjects. FDA has concurred in the proposed Model Policy to the extent permitted by law. FDA has proposed (53 FR 45678) to amend its regulations to eliminate certain inconsistencies with the proposed Model Policy.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45678
NPRM Comment Period End	01/09/89	53 FR 45678
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann A. Graham, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905–AC52

790. LABELING FOR MENSTRUAL TAMPONS; RANGES OF ABSORBENCY

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801.430

Legal Deadline: Final, Judicial, October 30, 1989.

Abstract: On September 23, 1988 (53 FR 37250), FDA proposed to amend its current regulations governing user labeling for menstrual tampons to require uniform absorbency testing of tampons and to standardize a method of expressing absorbency on tampon package labels. Under the proposal, manufacturers would have been required to include on the package label one of six letters (A-F) corresponding to a specific range of absorbency. After analyzing all the comments received in response to the proposal, FDA decided to repropose the amendments to 21 CFR 801.430 that would replace the letter designation initially proposed with six absorbency terms that are different from currently used terms (e.g., regular, super, and super plus). See 54 FR 25076; June 12, 1989. The new terms (i.e., low, medium, medium-high, high, very high, and highest absorbency), each of which would convey absorbency information, would correspond to the six absorbency ranges set out in the initial proposal. Under the reproposal, FDA would also require that the applicable new term of absorbency be placed on the principal display panel(s) of tampon packages, separate from and more prominent than any (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 37250
NPRM Comment Period End	12/22/88	53 FR 37250
Reproposal	06/12/89	54 FR 25076
Reproposal - Comment Period Ends	08/11/89	54 FR 25076
Final Action	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: other information (e.g., regular, super, and super plus) except the corresponding numerical range of absorbency. The agency believes that the reproposed amendments would ensure truthful, accurate, and nonmisleading labeling, and facilitate interbrand comparisons of tampon absorbency.

Agency Contact: Les Weinstein, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-4874

RIN: 0905–AC54

791. ACTION LEVELS FOR ADDED POISONOUS OR DELETERIOUS SUBSTANCES IN FOOD (INCLUDING ANIMAL FEED)

Significance: Regulatory Program

Legal Authority: 21 USC 342(a)(1)

CFR Citation: 21 CFR 109; 21 CFR 509

Legal Deadline: None

Abstract: On April 21, 1989 (54 FR 16128), FDA proposed to (1) amend its regulations creating and describing action levels for added poisonous or deleterious substances in food (including animal feed) to make clear that action levels constitute prosecutorial guidance rather than substantive rules, and (2) revoke the provisions for exceptions to action levels in 21 CFR Part 109 (human food) and 21 CFR Part 509 (animal feed) because of a court decision that relied on those regulations in determining that the action levels were substantive rules. Under the proposal, an action level would define a level of contamination at which the agency may regard a food as adulterated. The proposed amendments are intended to make it clear that action levels do not have a present effect and are not binding.

Timetable:

Action	Date	FR Cite
Notice of Court of Appeals Decision	02/19/88	53 FR 5043
NPRM	04/21/89	54 FR 16128
NPRM Comment Period End	06/20/89	54 FR 16128
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John R. Wessel, Director, Contaminants Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Regulatory Affairs (HFC-6), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1815

RIN: 0905–AC73

792. PRESCRIPTION DRUG MARKETING ACT OF 1987; IMPLEMENTATION

Significance: Agency Priority

Legal Authority: PL 100-290

CFR Citation: 21 CFR 399

Legal Deadline: Final, Statutory, October 20, 1988.
Statutory date applies only to issuing guidelines for State licensing of wholesale drug distributors.

Abstract: The Prescription Drug Marketing Act of 1987 (the new law) amends the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. The new law requires that the guidelines under (1) above be promulgated as a regulation, through notice and comment rulemaking. It also provides that the prohibition against distribution of prescription drugs by unlicensed wholesalers becomes effective two years (cont)

Timetable:

Prescription Drug Marketing Act; Information Letter
Notice 08/08/88 (53 FR 29776)

Reimportation of Prescription Drugs; Import Alert
Notice 07/26/88 (53 FR 28069).

Wholesale Drug Distributers; Guidelines for State Licensing
NPRM 09/13/88 (53 FR 35325)
NPRM Public Comment Period End 10/13/88
Final Action 01/00/90

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: after the final regulation is published by the agency in the FEDERAL REGISTER. FDA has developed guidance information respecting other sections of the new law. The agency is also developing regulations implementing those sections.

Agency Contact: Richard Arkin, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905–AC81

793. LEAD FROM CERAMIC PITCHERS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 342(a); 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 109

Legal Deadline: None

Abstract: On June 1, 1989 (54 FR 23485), FDA proposed to establish a regulatory limit for ceramic food-service pitchers, excluding creamers, that would limit the leaching of lead from the glazes and decorations on the food-contact surface of these pitchers to no more than 0.1 microgram per milliliter (ug/mL) of test solution. FDA also proposed to provide that decorative ceramicware that appears to be suitable for food use will be deemed to be for food use unless it bears a conspicuous, permanent label statement molded or fired onto the ceramic piece that states that the piece is not for food use, or a hole is bored through the possible food-contact surface of the piece. FDA proposed this provision to ensure that decorative pieces are not confused with food-contact ceramicware. Finally, by means of the notice, FDA solicited comments and information on several other matters, including the need to decrease leachable lead from other ceramicware (flatware, cookware, and large and small hollowware other than pitchers) and appropriate measures for achieving any needed decrease.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	54 FR 23485
NPRM Comment Period End	07/31/89	54 FR 23485
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry C. Troxell, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0229

RIN: 0905–AC91

794. PROFICIENCY TESTING REQUIREMENTS FOR LABORATORIES TESTING BLOOD AND BLOOD COMPONENTS BY THE FDA-REQUIRED TESTS FOR HBSAG AND ANTI-HIV

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 371; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 600; 21 CFR 610

Legal Deadline: None

Abstract: The agency has proposed to amend the regulations concerning blood products to require that each establishment or laboratory, responsible for performing FDA-required tests for hepatitis B surface antigen (HBsAg) and evidence of human immunodeficiency virus (HIV), participate in an approved program to demonstrate proficiency in performing these tests. The proposal is part of an FDA program to provide increased assurance of the quality of laboratory performance.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24296
NPRM Comment Period End	07/06/89	54 FR 24296
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Minor, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AC92

795. METHADONE IN MAINTENANCE TREATMENT OF NARCOTIC ADDICTS; JOINT FDA AND NIDA PROPOSED REVISION OF CONDITIONS OF USE

Significance: Regulatory Program

Legal Authority: 21 USC 355; 21 USC 371(a); 21 USC 823(g); 42 USC 257a; 42 USC 290ee-3

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The Food and Drug Administration and the National Institute on Drug Abuse are considering a proposal to revise the conditions for the use of methadone in the maintenance treatment of narcotic addicts. The proposal would allow programs to provide minimum service (interim) maintenance treatment to patients awaiting placement in comprehensive maintenance treatment and require programs to provide counseling on avoidance of human immunodeficiency virus (HIV) transmission. These requirements are being considered in response to the HIV epidemic and are intended to allow more narcotic addicts into treatment more quickly, thereby decreasing the incidence of intravenous drug abuse and the transmission of HIV.

Timetable:

Action	Date	FR Cite
NPRM	03/02/89	54 FR 8973
NPRM Comment Period End	05/03/89	54 FR 13897
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Div. of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905–AC93

796. EXPEDITING APPROVAL FOR DRUGS INTENDED TO TREAT LIFE-THREATENING AND SEVERELY-DEBILITATING ILLNESSES

Significance: Regulatory Program

Legal Authority: 21 USC 351 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of October 21, 1988 (53 FR 41561), FDA issued an interim rule effective upon date of publication, with opportunity for public comment, that set forth procedures designed to speed the availability of new therapies to desperately ill patients, while preserving appropriate guarantees for safety and effectiveness. These procedures are intended to facilitate the development, evaluation, and marketing of such products, especially where no satisfactory alternative therapies exist. These procedures reflect the recognition that physicians and patients are generally willing to accept greater risks or side effects from products that treat life-threatening and severely-debilitating illness. These procedures also reflect the recognition that the benefits of the drug need to be evaluated in light of the severity of the disease being treated. The procedures apply to life-threatening or severely-debilitating illnesses. The agency is reviewing the public comments submitted in response to the interim rule and preparing a FEDERAL REGISTER document that will respond to these comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41561
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven H. Unger, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8049

RIN: 0905–AC94

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Completed Actions

797. METHYLENE CHLORIDE

Significance: Agency Priority

CFR Citation: 21 CFR 700.19

Completed:

Reason	Date	FR Cite
Final Action	06/29/89	54 FR 27328
Final Action Effective	08/28/89	54 FR 27328

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry C. Troxell 202 485-0229

RIN: 0905–AC00

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

798. AREA HEALTH EDUCATION CENTER PROGRAM

Legal Authority: 42 USC 216; 42 USC 295g-l

CFR Citation: 42 CFR 57, Subpart MM

Legal Deadline: None

Abstract: This NPRM proposes to amend the existing regulations governing the Area Health Education Center Program, under section 781 of the Public Health Service Act, to incorporate amendments made by the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129), and Title VI of Pub. L. 100-607, the Health Professions Reauthorization Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Heyob, Deputy Director, Division of Medicine, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6190

RIN: 0905–AC87

799. DESIGNATION OF MENTAL HEALTH MANPOWER SHORTAGE AREAS

Legal Authority: 42 USC 216; 42 USC 254e

CFR Citation: 42 CFR 5

Legal Deadline: None

Abstract: This notice proposes an amendment to the existing regulations governing the Designation of Health Manpower Shortage Areas authorized by section 332 of the Public Health Service Act, which would replace the current criteria for designations of areas having shortages of psychiatrists with criteria for mental health manpower shortage areas to include not only psychiatrists but also other core mental health professionals (clinical psychologists, psychiatric social workers and psychiatric nurses) in a geographic area.

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32459
NPRM Comment Period End	10/10/89	54 FR 32460
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Office of Program & Policy, Development, BHCDA, Department of Health and Human Services, Public Health Service, Room 7A08, Parklawn Building, Rockville, MD 20857, 301 443-1034

RIN: 0905–AC66

800. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: BANKRUPTCY REVISIONS

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This NPRM would amend existing regulations governing the Health Education Assistance Loan (HEAL) Program, as authorized by sections 727-739 of the Public Health Service Act, to include revised procedures for handling HEAL bankruptcies.

Timetable:

Action	Date	FR Cite
NPRM	10/27/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 8-23 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1173

RIN: 0905–AC75

801. NURSING STUDENT LOAN (NSL) PROGRAM: CASH MANAGEMENT

Legal Authority: 42 USC 216; 42 USC 297a to 297h

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: This NPRM would revise the existing regulations governing the Nursing Student Loan (NSL) Program to improve the cash management practices of schools participating in the program. The revisions address recommendations made by the General Accounting Office in its report on debts owed by health professionals, including nurses, and the Office of the Inspector General as a result of several major cash management audits. This notice will also incorporate technical amendments to the existing regulations made by Title VII of Pub. L. 100-607, the Nursing Shortage Reduction and Education Extension Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shirley A. Zimmerman, Chief, Program Acctg. and Analysis Branch, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1700

RIN: 0905–AC76

802. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: CASH MANAGEMENT

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: None

Abstract: This NPRM would revise the existing regulations governing the Health Professions Student Loan program to improve the cash management practices of schools participating in the program. The revisions address recommendations made by the General Accounting Office in its report on debts owed by health professionals, and the Office of Inspector General as a result of several major cash management audits. This notice will also incorporate technical amendments to the existing regulations made by Title VI of Pub. L. 100-607, the Health Professions Reauthorization Act of 1988.

HHS—PHS—HRSA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shirley A. Zimmerman, Chief, Program Acctg. and Analysis Branch, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1700

RIN: 0905–AC78

803. GRANTS FOR COMMUNITY HEALTH CENTERS

Legal Authority: PL 100-386; PL 95-626; PL 99-280

CFR Citation: 42 CFR 51c

Legal Deadline: None

Abstract: This regulation will amend the existing regulations at 42 CFR 51c, Subpart A-E, to bring them into conformance with amendments to Section 330 of the Public Health Service Act which were enacted in 1986 and 1988. These include extension of the program authorization, addition of capital construction authority, and changes regarding program income and services. PL 99-280 requires that the Secretary consult with the Chief Executive Officer and local officials of a State in publishing Medically Underserved Population designation criteria and in designating or de-designating Medically Underserved Populations. The amendment also requires the Secretary to consult with State organizations representing a majority of Community Health Centers in the State.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
NPRM Comment Period End	06/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Office of Program and Policy Development, BHCDA, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1034

RIN: 0905–AC85

804. GRANTS FOR MIGRANT HEALTH SERVICES

Legal Authority: PL 100-386; PL 95-626

CFR Citation: 42 CFR 56

Legal Deadline: None

Abstract: This regulation will amend the existing regulations at 42 CFR 56, Subparts A-H, to bring them into conformance with amendments to section 329 of the PHS Act. They were enacted in 1986 and 1988. These include extension of the program authorization, addition of perinatal program authorization, addition of capital construction authority, and changes regarding program income and services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Office of Program & Policy Development, BHCDA, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1034

RIN: 0905–AC86

805. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: PERFORMANCE STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 294 to 294 l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the HEAL program to establish performance standards against which school, lender, and holder default rates would be measured. These standards would provide schools, lenders, and holders a greater incentive to work to maintain low HEAL default rates and, thus, improve the long-term solvency of the Student Loan Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Farrington, D.M.D., Deputy Director, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-23, Parklawn Building, Rockville, MD 20857, 301 443-1173

RIN: 0905–AC87

806. NATIONAL DATA BANK FOR ADVERSE INFORMATION ON HEALTH CARE PRACTITIONERS AND PROVIDERS (SECTION 5 AMENDMENTS)

Significance: Regulatory Program

Legal Authority: 42 USC 11101 to 11152; 42 USC 1396 r-2

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners to implement section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987. This provision requires States to report to the Secretary of HHS certain adverse licensure actions taken against health care practitioners and health care entities.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Division of Quality Assurance and, Liability Management, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2300

RIN: 0905–AC88

HHS—PHS—HRSA — **Proposed Rule Stage**

HHS—PHS—HRSA — **Final Rule Stage**

HHS—PHS—HRSA — Proposed Rule Stage

807. ● GRANTS FOR EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Legal Authority: 42 USC 216; 42 USC 295g-7

CFR Citation: 42 CFR 57, Subpart S

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing section 787 of the PHS Act, by adding statutory changes made by Title VI of Pub. L. 100-607, including: 1) that 10 percent of the amount of funds appropriated during any fiscal year be set aside for community-based programs; 2) that schools not having large enrollments of students from disadvantaged backgrounds increase their enrollments of such students during a period of 3 years by 20 percent over the base year of 1987; and 3) that the amount of grant funds obligated to institutions of higher education be changed from 80 percent to 70 percent. It would also require that an individual complete at least the junior year of high school (or its equivalent) in order to receive educational assistance.

Timetable:

Action	Date	FR Cite
NPRM	11/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged, Assistance, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8A-09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-2100**

RIN: 0905–AD01

808. ● GRANTS FOR NURSING SPECIAL PROJECTS

Legal Authority: 42 USC 216; 42 USC 296k

CFR Citation: 42 CFR 57, Subpart T

Legal Deadline: None

Abstract: This rule proposes to amend the existing regulations governing the Nursing Special Projects program under section 820 of the PHS Act to reflect changes made by the Nursing Shortage Reduction and Education Extension Act of 1988 (Title VII of Pub. L. 100-607).

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: O. Marie Henry, RN, DNSc., Director, Division of Nursing, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5786**

RIN: 0905–AD02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

809. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: IMPLEMENTATION OF PUB. L. 99-129 (ALLIED HEALTH)

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This rule implements provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	11/07/88	53 FR 44913
NPRM Comment Period End	01/06/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-23, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-1173**

RIN: 0905–AC28

810. GRANTS FOR NURSE PRACTITIONER AND NURSE MIDWIFERY TRAINEESHIP PROGRAMS

Legal Authority: 42 USC 216; 42 USC 296m

CFR Citation: 42 CFR 57, Subpart AA

Legal Deadline: None

Abstract: These regulations implement the provisions of the Nurse Education Amendments of 1985 (Pub. L. 99-92), add debt management provisions of the Debt Collection Act of 1982 (Pub. L. 97-365), and incorporate technical amendments to the existing regulations made by Title VII of Pub. L. 100-607, of the Nursing Shortage Reduction and Education Extension Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16158
NPRM Comment Period End	07/05/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: O. Marie Henry, R.N., DNSc., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5786**

RIN: 0905–AC30

811. NURSING POST-BACCALAUREATE FACULTY FELLOWSHIPS PROGRAM

Legal Authority: 42 USC 216; 42 USC 297

CFR Citation: 42 CFR 57, Subpart BB

Legal Deadline: None

Abstract: These regulations implement section 830 (b) of the Public Health Service Act relating to post-baccalaureate fellowships for faculty to conform with the Nurse Education Amendments of 1985 (Pub. L. 99-92).

HHS—PHS—HRSA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/05/89	54 FR 24002
NPRM Comment Period End	08/04/89	
Final Action	02/05/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: O. Marie Henry, R.N., DNSc., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5786**

RIN: 0905–AC34

812. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS

Significance: Regulatory Program

Legal Authority: 42 USC 11136; 42 USC 11137

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This rule sets forth criteria and procedures for information to be collected in and released from a National Practitioner Data Bank, in accordance with the requirements of Title IV, Part B, of the Health Care Quality Improvement Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	03/21/88	53 FR 9260
NPRM Comment Period End	05/20/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Division of Quality Assurance and, Liability Management, BHPr, Department of Health and Human Services, Public Health Service, Room 8-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, **301 443-2300**

RIN: 0905–AC51

813. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM; GRANTS FOR STATE LOAN REPAYMENT PROGRAMS AND SPECIAL REPAYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: PL 100-177

CFR Citation: 42 CFR 62.21 to 62.30; 42 CFR 62.51 to 62.58; 42 CFR 62.71 to 62.76

Legal Deadline: Final, Statutory, May 28, 1988.

Abstract: The Public Health Service Amendments of 1987, PL 100-177 amends the Public Health Service Act adding a new section at 338B of the Act authorizing the Secretary to establish the NHSC Loan Repayment Program. PL 100-177 also amends the PHS Act by adding a new section 338H authorizing the Secretary to establish a program of matching grants to support state loan repayment programs similar to the Federal Loan Repayment Program. PL 100-177 also establishes a new program which is not part of the PHS Act which provides a time limited opportunity for persons in default of their scholarship obligation as of November 1, 1987 to repay these obligations through service or through a combination of service and monetary payment. The publication of the regulations beyond the statutory date will not have any impact on the funding or implementation of the programs affected by these regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/03/89	54 FR 13458
Comment Period End	06/02/89	54 FR 13458
Final Action	03/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Director, Program and Policy, Development, BHCDA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 7A08, Rockville, MD 20857, **301 443-1034**

RIN: 0905–AC65

814. GRANTS FOR FACULTY TRAINING PROJECTS IN GERIATRIC MEDICINE AND DENTISTRY

Legal Authority: 42 USC 216; 42 USC 295g-9(b)

CFR Citation: 42 CFR 57, (Subpart PP)

Legal Deadline: None

Abstract: These final regulations govern grants under section 789(b) of the Public health Service Act, made to schools of medicine, osteopathic medicine, teaching hospitals and graduate medical education programs for the purpose of providing support, including residencies, traineeships, and fellowships, for geriatric medicine training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry, in accordance with Pub. L. 100-177, the Public Health Amendments of 1987, and as amended, by the Health Professions Reauthorization Act of 1988 (Title VI of Pub. L. 100-607).

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44496
NPRM Comment Period End	01/03/89	
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Heyob, Deputy Director, Division of Medicine, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 4c-25 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-6190**

RIN: 0905–AC71

815. ● GRANTS FOR RESIDENCY TRAINING AND FACULTY DEVELOPMENT IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

Legal Authority: 42 USC 216; 42 USC 295g-4

CFR Citation: 42 CFR 57, Subpart FF

Legal Deadline: None

Abstract: These regulations remove the requirement that specific percentages of the residency training experience be devoted to providing continuity of care to a defined panel of patients.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Public Health Service (PHS)—Indian Health Service (IHS)

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Agency Contact: John M. Heyob, Deputy Director, Division of Medicine, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-6190**

RIN: 0905–AD03

816. ● GRANTS FOR PREDOCTORAL, GRADUATE, AND FACULTY DEVELOPMENT EDUCATION IN FAMILY MEDICINE

Legal Authority: 42 USC 216; 42 USC 295g-6(a)

CFR Citation: 42 CFR 57, Subpart Q

Legal Deadline: None

Abstract: These regulations: 1) clarify that the intent of the existing regulations is to limit the length of time during which a trainee may receive stipend support, rather than restricting the length of a training program; and 2) expand the period of support permitted for trainees in faculty development programs receiving grant support from 1 calendar year to a maximum of 24 cumulative months.

Timetable:

Action	Date	FR Cite
Final Action	11/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Heyob, Deputy Director, Division of Medicine, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-6190**

RIN: 0905–AD04

817. ● HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: IMPLEMENTATION OF PUBLIC LAW 100-607

Legal Authority: 42 USC 216; 42 USC 294 - 2941

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Health Education Assistance Loan (HEAL) program under sections 727-739 of the PHS Act to incorporate amendments to the program made by the Health Professions Reauthorization Act of 1988 (Title VI of Pub. L. 100-607).

Timetable:

Action	Date	FR Cite
Final Action	12/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart Weiss, Chief, Health Ed. Asst. Loan Branch, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-39, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-1540**

RIN: 0905–AD05

818. ● NURSING STUDENT LOAN (NSL) PROGRAM: IMPLEMENTATION OF PUBLIC LAW 100-607

Legal Authority: 42 USC 216; 42 USC 297a-i

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Nursing Student Loan (NSL) Program under sections 835-842 of the PHS Act to incorporate amendments to the program made by the Nursing Shortage Reduction and Education Extension Act of 1988 (Title VII of P.L. 100-607).

Timetable:

Action	Date	FR Cite
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Baggett, Chief, Student & Institutional Support Br., DSA, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-4776**

RIN: 0905–AD06

819. ● HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: IMPLEMENTATION OF PUBLIC LAW 100-607

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Health Professions Student Loan (HPSL) Program under sections 740-747 of the PHS Act to incorporate amendments to the program made by the Health Professions Reauthorization Act of 1988 (Title VI of Pub. L. 100-607).

Timetable:

Action	Date	FR Cite
Final Action	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Baggett, Chief, Student & Institutional Support Br., DSA, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-4776**

RIN: 0905–AD07

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Completed Actions**

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

820. GRANTS FOR CENTERS FOR EXCELLENCE

CFR Citation: 42 CFR 57, Subpart V

Completed:

Reason	Date	FR Cite
Final Action	07/05/89	54 FR 28065
Final Action Effective	07/05/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clay E. Simpson, Jr.,Ph.D. **301 443-2100**

RIN: 0905–AC77

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**

Public Health Service (PHS)—Indian Health Service (IHS)

821. INDIAN HEALTH CATASTROPHIC HEALTH EMERGENCY FUND PROGRAM

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a new program establishing a catastrophic health emergency fund. The Secretary is directed to establish the program by regulations consistent with provisions of the Law including a definition of a catastrophic disease.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	
NPRM Comment Period End	04/01/90	
Final Action	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm 8A23, Parklawn Bldg., 5600 Fishers Lave, Rockville, MD 20857, **301 443-1116**

RIN: 0905–AC97

822. REVISION OF INDIAN SELF-DETERMINATION REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 450; PL 100-202; PL 100-446; PL 100-472; PL 100-581

CFR Citation: 42 CFR 36; 48 CFR 380.4; 48 CFR 352.280-4

Legal Deadline: NPRM, Statutory, May 5, 1989. Final, Statutory, August 5, 1989.

Abstract: Public Law 93-638 passed in 1975, requires the IHS to turn over administrative responsibility to tribes so requesting, using the mechanism of contracting. Public Law 93-638 also authorizes the IHS to make grants to tribe(s) for the planning, development, and/or operations of health programs. Public Law 100-472, enacted October 5, 1988, significantly expands the scope of programs covered beyond those administered by IHS. This Act further provided that all contracting requirements be contained in regulations promulgated in final within ten months of enactment. The Law provides for tribal consultation and participation in the development of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/01/90	
NPRM Comment Period End	09/01/90	
Final Action	01/17/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

1. The Act (P.L. 100-472) provides that except for construction contracts, the Office of Federal Procurement Policy Act and Federal Acquisition Regulations shall not apply to self-determination contracts. Therefore, implementing regulations for the Indian Self-Determination Act amendments will include a subpart on construction contracts, which, unlike other self-determination awards will be made subject to certain procurement rules (e. g., FARS, HSARS, FSARS). 2. There is a statutory requirement to implement P.L. 93-638 regulations. 3. There is a paperwork burden associated with the action. It will be included with the overall clearance package.

Agency Contact: Richard J. McCloskey, Dir., Div., of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 8A23, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, **301 443-1116**

RIN: 0905–AC98

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Final Rule Stage**

Public Health Service (PHS)—Indian Health Service (IHS)

823. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM REGULATIONS

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a program in which health professionals would have their health professions education loans repayed in amounts up to a maximum of $25,000 per year in exchange for service in an Indian health program. The Secretary is directed to implement some provisions by regulations, i.e., waiver provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/90	
Public Comment Period End	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell Pratt, Chief, Manpower Support Branch, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 6A20, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, **301 443-4243**

RIN: 0905–AC96

824. ● CONTRACT HEALTH SERVICES

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: While the courts have upheld the IHS alternate resource regulation as consistent with congressional intent and the Federal trust responsibility, the courts have nevertheless allowed State and local governments to adopt their own residuality requirements defeating the purpose of the Federal regulations. We are proposing a clarification to the regulations governing receipt of contract health services from the IHS. Under this proposal, IHS would be specifically designated as payor of last

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resort for persons defined as eligible for IHS contract health services notwithstanding any State or local law to the contrary. Failure to address this problem could severely drain IHS resources as well as jeopardize the Indian's rights to equal protection and equal access to State and local programs.

Timetable:

Action	Date	FR Cite
NPRM	06/08/89	54 FR 24654
NPRM Comment Period End	07/10/89	54 FR 24654
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, OPEL, IHS, Department of Health and Human Services, Public Health Service, Rm. 8A23, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AD00

825. ● PREFERENCE IN EMPLOYMENT

Legal Authority: 25 USC 44 to 46; 25 USC 472; 42 USC 2003

CFR Citation: 42 CFR 36

Legal Deadline: Other, Judicial, February 6, 1989.
Department is under continuing Court order to apply same definition of term "Indian" for purposes of Indian preference as that adopted by the Department of the Interior.

Abstract: Amends definition of term "Indian" for purposes of Indian preference in employment in the Indian Health Service to persons of the Osage Tribe of Oklahoma. Amendment extends previous expiration date to permit tribe to organize and establish current membership standards.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Department of Health and Human Services, Public Health Service, Rm. 8A23, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AD09

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—National Institutes of Health (NIH)

Proposed Rule Stage

826. CHANGES IN NIH PROGRAM REGULATIONS DUE TO PL 99-158, PL 99-499 AND TITLE X OF PL 99-660

Legal Authority: PL 99-158, Sec 2; PL 99-499, Sec 126; PL 99-499, Sec 209; PL 99-660, Title X

CFR Citation: 42 CFR 4; 42 CFR 52 to 52h; 42 CFR 59a; 42 CFR 64; 42 CFR 66

Legal Deadline: None

Abstract: The regulations of the National Institutes of Health will be revised to show changed section numbers in the PHS Act and reflect program changes under the Health Research Extension Act of 1985 (P.L. 99-158), the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499), and the provisions of Title X of P.L. 99-660 concerning Alzheimer's Disease and Related Dementias Research.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC02

827. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS 42 CFR PART 52A

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: The NIH Center Grants Regulations will be revised to incorporate changes necessitated by the Health Research Extension Act of 1985 (P.L. 99-158).

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC27

828. VOLUNTEER SERVICES AT THE NATIONAL INSTITUTES OF HEALTH

Legal Authority: 42 USC 282(b)(10); 42 USC 284(b)(1)(k)

CFR Citation: 45 CFR 57A

Legal Deadline: None

Abstract: Sections 402 and 405 of the PHS Act authorize the Secretary, HHS, acting through the Director, NIH, and the Directors of the NIH's Institutes, to accept the uncompensated services of volunteers in carrying out the functions of the NIH. These regulations would describe the process for accepting volunteered service and for benefits and limitations on those who volunteer.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John D. Mahoney, Associate Director for Administration, NIH, Department of Health and Human Services, Public Health Service, NIH, Bldg. 1, Rm. 136, 9000 Rockville Pike, Bethesda, MD 20205, 301 496-4466

RIN: 0905–AC95

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—National Institutes of Health (NIH)

Final Rule Stage

829. NATIONAL LIBRARY OF MEDICINE PROGRAMS; REVISION OF GENERAL RULES FOR THE NATIONAL LIBRARY OF MEDICINE AND NATIONAL LIBRARY OF MEDICINE GRANTS

Legal Authority: 42 USC 216; 42 USC 286; 42 USC 286b-2; 42 USC 286b-3; 42 USC 286b-5; 42 USC 286b-6; 42 USC 284

CFR Citation: 42 CFR 4; 42 CFR 59a; 42 CFR 63; 42 CFR 64

Legal Deadline: None

Abstract: All of the regulations are being substantially clarified and reduced in size by eliminating out of date or otherwise available information. The regulations at 42 CFR Part 4 pertain to the access of facilities and library collections. Those at 42 CFR Part 59a deal with NLM extramural programs. Part 59a is being amended to remove the requirement that photocopies of biomedical material be provided without charge to users. The regulations at 42 CFR Part 63 deal with both NIH and NLM traineeships. Part 63 is proposed to be revised to reflect authority in section 405, PHS Act. The regulations at 42 CFR Part 64 govern the training grants of NIH and NLM.

Timetable:

Action	Date	FR Cite
NPRM	02/11/85	50 FR 05638
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Carney, Executive Officer, Department of Health and Human Services, Public Health Service, National Library of Medicine, Bethesda, MD 20894, 301 496-6491

RIN: 0905–AA66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—National Institutes of Health (NIH)

Completed Actions

830. MISCONDUCT IN SCIENCE

Significance: Regulatory Program

CFR Citation: 42 CFR 50

Completed:

Reason	Date	FR Cite
Final Action	08/08/89	54 FR 32496
Final Action Effective	11/08/89	54 FR 32496

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian W. Kimes, Ph.D. 301 496-2624

RIN: 0905–AB91

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Prerule Stage

831. LIMITATION ON OUT-OF-POCKET COST-SHARING EXPENSES FOR COVERED MEDICARE PART B SERVICES

Legal Authority: 42 USC 1935kk; 42 USC 1395mm; PL 100-360, Sec 201; PL 100-360, Sec 202(b); 42 USC 1302; 42 USC 1395hh; 42 USC 1395l; 42 USC 1395m; 42 USC 1395cc

CFR Citation: 42 CFR 410.12; 42 CFR 410.153; 42 CFR 410.154; 42 CFR 410.2; 42 CFR 410.1; 42 CFR 410.3; 42 CFR 410.150; 42 CFR 410.152; 42 CFR 410.160; 42 CFR 410.161; 42 CFR 410.162; 42 CFR 489.21

Legal Deadline: None

Abstract: This rule would establish an annual limit to the amount of costs a Medicare beneficiary shares in under Part B (the Supplementary Medical Insurance Program) beginning January 1, 1990. It also would specify the annual deductible and coinsurance amounts beneficiaries would pay for prescription drugs and insulin when they become covered items in 1990. These changes would implement the self-executing provisions of sections 201 and 202(b) of the Medicare Catastrophic Coverage Act of 1988.

Timetable:

Action	Date	FR Cite
Final with Comment Period	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Leslie Warren, Program Analyst, Office of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, 349 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4483

RIN: 0938–AE13

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Proposed Rule Stage

HHS—HCFA — Proposed Rule Stage

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Proposed Rule Stage

832. ADMINISTRATIVE APPEALS PROCESS FOR PROVIDER PAYMENT DISPUTES INCLUDING AMENDING COST REPORTS & REOPENING INTERMEDIARY PAYMENT DETERMINATIONS & ADMINISTRATIVE REVIEW DECISIONS

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395xx; 42 USC 405; 42 USC 1395ii; 42 USC 1395oo

CFR Citation: 42 CFR 405.453; 42 CFR 405.1833; 42 CFR 405.1885; 42 CFR 405.1887; 42 CFR 405.1803; 42 CFR 405.1811(a); 42 CFR 405.1813; 42 CFR 405.1837; 42 CFR 405.1841; 42 CFR 405.1863; 42 CFR 405.1877; 42 CFR 405.1889; 42 CFR 412.72(b)

Legal Deadline: None

Abstract: This proposal would clarify and establish rules governing the administrative appeals process for providing appeals of payment disputes including rules distinguishing between the amending of cost reports and the reopening of Medicare intermediary payment determinations and administrative review decisions. This proposal would provide guidance to intermediaries and the Provider Reimbursement Review Board concerning the circumstances under which those actions may be taken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility Policy, Room 323 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4472

RIN: 0938–AA33

833. MEDICAID ELIGIBILITY AND COVERAGE REQUIREMENTS

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(17); 42 USC 1396b(f)(1); 42 USC 1396d(a)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This regulation would amend the regulations for determining Medicaid eligibility. The amendments would implement or conform the regulations to various statutes, including the Tax Equity and Fiscal Responsibility Act of 1982, the Omnibus Budget Reconciliation Act of 1987 and the Medicare Catastrophic Coverage Act of 1988. The amendments would also make some administrative changes to clarify policy and enhance the efficient operation of the Medicaid program (for example, clarification of policy on establishing the medically needy income level for one person).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Div of Medicaid Eligibility, Room 416, East High Rise Bldg, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4451

RIN: 0938–AA58

834. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 435.732; 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: These regulations will permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process applies when an individual's income level during a budget period would ordinarily preclude eligibility except that incurred medical expenses reduce income to the eligibility level.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/01/83	
Developing detailed study of issues	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Marinos Svolos, Director, Div. of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4451

RIN: 0938–AB07

835. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES

Legal Authority: 42 USC 1395l(a)(1)(D); 42 USC 1395l(a)(2)(D); 42 USC 1395l(b)(3); 42 USC 1395l(h); 42 USC 1395cc(a)(2)(A); 42 USC 1396b(i)(7); PL 100-203, Sec 4064

CFR Citation: 42 CFR 405.501; 42 CFR 405.502; 42 CFR 405.505; 42 CFR 405.506; 42 CFR 405.511; 42 CFR 405.556; 42 CFR 405.1310; 42 CFR 413.170; 42 CFR 414.350 to 378; 42 CFR 424.55; 42 CFR 424.64; 42 CFR 431.54; 42 CFR 447.10; 42 CFR 447.300; 42 CFR 447.321

Legal Deadline: None

Abstract: These regulations would implement provisions of Pub.L. 98-369, 99-272, 99-509, and 100-203 and 100-647 regarding payment and "assignment" for diagnostic clinical laboratory tests, establishing in regulations the methods for implementing fee schedules. This rule would set forth the methods by which the fee schedules would be updated and would allow certain adjustment for exceptions to the fee schedules. In accordance with the statute, the regulations would provide that on January 1, 1990 and thereafter, fees will be determined on a nationwide basis.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, Room 1-A-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AB50

HHS—HCFA

Proposed Rule Stage

836. HOSPICE/CASE MANAGEMENT

Legal Authority: 42 USC 1396d(a)(18); 42 USC 1396d(o); 42 USC 1396b(a)(13)(D); 42 USC 1396o(a)(2)(E); 42 USC 1302; 42 USC 1396n(g)

CFR Citation: 42 CFR 418.32; 42 CFR 431.50; 42 CFR 435.218; 42 CFR 435.231; 42 CFR 440.185; 42 CFR 440.190; 42 CFR 440.250; 42 CFR 441; 42 CFR 447.53; 42 CFR 447.327; 42 CFR 447.381 to 384; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.231; 42 CFR 441.18; ...

Legal Deadline: None

Abstract: These regulations would implement 2 provisions of Pub. L. 99-272: (1) under section 9505, Medicaid coverage of hospice care, at State option, the regulations would establish eligibility requirements, covered services, reimbursement procedures and conditions of participation; (2) under section 9508, Medicaid coverage of case management services, at State option case management services may be furnished to specific Medicaid groups or geographic areas within a State. These regulations would also implement sections 9411, 9412, and 9435d of Pub. L. 99-509, and section 1895(c) of Pub. L. 99-514, all relating to optional State coverage of case management and hospice services for the Medicaid population.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AC52

837. REVISED EFFECTIVE DATE OF MEDICARE/MEDICAID PROVIDER AGREEMENT AND SUPPLIER PARTICIPATION

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1393ff(c); 42 USC 1395hh; 42 USC 1396i

CFR Citation: 42 CFR 440.10; 42 CFR 440.70; 42 CFR 442.13; 42 CFR 488.11; 42 CFR 489.13; 42 CFR 498.3

Legal Deadline: None.

Abstract: This proposed rule would establish uniform rules for determining the effective date of participation for all Medicare and Medicaid providers and suppliers. It would also specify that those dissatisfied with a decision on their effective date of participation under Medicare are entitled to a Medicare reconsideration and hearing on the decisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Alfreda Stanton, Program Analyst, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6770

RIN: 0938–AC88

838. PRO REVIEW OF SURGICAL PROCEDURES AND REQUIREMENTS FOR SECOND OPINIONS

Legal Authority: 42 USC 1320c-13; 42 USC 1302; 42 USC 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 466.150 to 190; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 405.332

Legal Deadline: None

Abstract: This proposed rule would implement section 9401 of Pub.L. 99-272, which provides that, under Medicare, a physician must request from the Peer Review Organization (PRO) preadmission review for certain surgical procedures. Under section 9401, if the PRO determines that the procedure is not appropriate and medically necessary, the PRO will deny payment under Medicare. If the PRO cannot determine whether a surgical procedure is medically necessary and appropriate, the beneficiary would obtain an opinion from a second physician, or where the opinion of the second physician differs from the first physician, the beneficiary may obtain an opinion from a third physician. In addition, as required by section 4096(b) of Pub. L.100-203, if an assigned claim by a physician or supplier or any claim by a provider is denied because the services furnished are not reasonable and necessary or constitute custodial care and the physician, suppler or provider, but not the beneficiary, knew, or reasonably could be expected to know, that the services were not covered by Medicare, (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the physician, supplier or provider would not be entitled to collect and retain payment from the beneficiary for those services.

Agency Contact: Richard Husk, Director, Office of Medical Review, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6850

RIN: 0938–AC90

839. PAYMENT FOR THE COST OF MALPRACTICE INSURANCE FOR HOSPITALS EXCLUDED FROM THE PROSPECTIVE PAYMENT SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.56

Legal Deadline: None

Abstract: Medicare's share of payment for the cost of a hospital's malpractice insurance is determined in part through the use of a scaling factor formula. In this notice, we are undertaking to develop a separate set of values for use in the scaling factor formula for hospitals excluded from the prospective payment system.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Trimble, Special Assistant, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise

HHS—HCFA

Proposed Rule Stage

HHS—HCFA

Proposed Rule Stage

Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4509

RIN: 0938–AC97

840. CHANGES CONCERNING THE DEFINITION OF ACCRUAL BASIS OF ACCOUNTING

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to revise the Medicare regulations to clarify the definition of "accrual basis of accounting" to indicate that expenses must be incurred by a provider of health care services before Medicare will pay its share of those expenses. This change is intended to conform the regulations with the law and to promote economy and efficiency in the administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AD01

841. OPTIONAL PAYMENT SYSTEM FOR LOW MEDICARE VOLUME SKILLED NURSING FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395yy(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.200; 42 CFR 413.202; 42 CFR 413.204; 42 CFR 413.208; 42 CFR 413.210; 42 CFR 413.212; 42 CFR 413.214; 42 CFR 413.216; 42 CFR 413.220; 42 CFR 413.221; 42 CFR 413.1; 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to establish optional prospective payment rates for routine services furnished by certain skilled nursing facilities. The prospective rate would be on a per diem basis and would include payment for the cost of furnishing general inpatient routine services and associated capital-related costs. Ancillary services will be paid on the basis of reasonable cost. As specified in the Conference Committee Report accompanying PL 99-272, the rates paid to proprietary SNFs would include a component for the routine service portion of the return on equity capital. As specified in section 1861(v)(1)(B) of the Act, the return on equity component would only be included in the rate paid to proprietary SNFs. This rule would propose instructions for determining eligibility for payment under this system, and the methodology for calculating the prospective payment rates. Freestanding SNFs electing to be paid under this prospective payment system may file a simplified cost report.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AD02

842. RECOGNITION OF JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS' HOME CARE PROGRAM STANDARDS AND THE NATIONAL LEAGUE FOR NURSING'S STANDARDS FOR HOME HEALTH AGENCIES

Legal Authority: 42 USC 1395bb(a); 42 USC 1395hh; 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Under this final notice, hospital-based home health agencies accredited by the Joint Commission on Accreditation for Healthcare Organizations' and home health agencies accredited by the National League for Nursing are considered or "deemed" to meet the Medicare conditions of participation. Thus, these agencies will not ordinarily be subject to an inspection by State survey agencies to determine their compliance with Federal requirements. As a result of the home health agency's deemed status, a State also can choose to permit the agency to participate as a provider under the Medicaid program.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/31/87	52 FR 49510
Public Comment Period End	02/29/88	52 FR 49510
Final Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Anita Heygster, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 431 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5667

RIN: 0938–AD13

843. MEDICAID ELIGIBILITY OF POVERTY LEVEL GROUPS AND EXTENDED COVERAGE OF SERVICES

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(l); 42 USC 1396a(f); 42 USC 1396a(b)(2); 42 USC 1302; 42 USC 1396a(m); 42 USC 1396a(c); 42 USC 1396b(f); 42 USC 1396b(u); 42 USC 1396r-1; 42 USC 1396a(a)(47); 42 USC 1396a(e)(6); 42 USC 1396a(e)(7); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would amend the Medicaid regulations to incorporate changes relating to Medicaid eligibility groups and coverage of services made by the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), the Omnibus Budget Reconciliation Acts of 1987 and 1986, (P.L. 100-203 and P.L. 99-509), and the Homeless Eligibility Clarification Act of the Anti-Drug Abuse Act of 1986 (P.L. 99-570). This rule would add eligibility groups of pregnant women, infants and children, and aged and disabled individuals with incomes up to a specified percentage of the Federal poverty line; clarify eligibility of homeless individuals; and add provisions for a presumptive eligibility period for pregnant women who, based on preliminary information, appear to meet income requirements under Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AD17

844. TRANSFER OF ASSETS

Legal Authority: 42 USC 1302; 42 USC 1396p(c)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: These regulations would conform the Medicaid regulations to the provisions of section 303(b) of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360). Section 303(b) requires that State Medicaid agencies provide individuals who are in long term care or receiving home and community based services with a period of ineligibility for Medicaid coverage of those services for up to 30 months if these individuals made transfers of assets for less than fair market value during a prohibited period. The period of ineligibility applies if the individual made a transfer of assets for less than fair market value at any time during or after he 30 month period immediately before (1) the date the individual became institutionalized, if he or she was entitled to Medicaid on that date, or (2) if not entitled to Medicaid on that date, the date he or she applied for Medicaid while institutionalized. Section 303(b) also exempts certain specific transfers of assets from the period of ineligibility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AD18

845. DISCONTINUATION OF PREVAILING CHARGE DIFFERENTIALS FOR SPECIALISTS

Legal Authority: 42 USC 1395u(b)(3); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.504(b)

Legal Deadline: None

Abstract: We are proposing discontinuing the establishment of separate prevailing charge screens for physicians' services based on specialty practice.

Timetable:

Action	Date	FR Cite
Notice of Request For Comments	04/12/88	53 FR 12037
Comment Period End	06/13/88	53 FR 12037
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of Medical Services, Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Rm. 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4497

RIN: 0938–AD26

846. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES, VISION CARE AND SERVICES FURNISHED BY PHYSICIAN ASSISTANTS

Legal Authority: 42 USC 1302; 42 USC 1395x(g); 42 USC 1395k(a)(2)(C); 42 USC 1395l(a); 42 USC 1395n(a)(2)(C); 42 USC 1395x(r); 42 USC 1395x(s)(2)(K); 42 USC 1395x(cc); 42 USC 1395hh; 42 USC 1395l(h); 42 USC 1395u(b)(12)

CFR Citation: 42 CFR 400.202; 42 CFR 405.1230; 42 CFR 410; 42 CFR 424; 42 CFR 483; 42 CFR 486; 42 CFR 489.2

Legal Deadline: None

Abstract: This proposed rule would implement sections 9337 and 9338 of Pub.L. 99-509 which provide Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy, and for physician assistant services. It also would implement section 9336 of P.L. 99-509 which includes in the definition of "physician", a doctor of optometry with respect to all services the optometrist is authorized to provide by the State in which he or she provides them.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sheridan Gladhill, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Rm. 403, EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4605

RIN: 0938–AD32

847. STATE SHARE OF FINANCIAL PARTICIPATION

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a; 42 USC 1396b

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This rule revises the current policy concerning State's use of donations and certain taxes in determining the State share of Federal financial participation in Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Bernard Truffer, Chief, Special Reimbursement, Programs Branch, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-3, ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4576

RIN: 0938–AD36

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848. PRO DISCLOSURE TO LICENSING AND CERTIFICATION BODIES

Legal Authority: 42 USC 1395hh; 42 USC 1395ww; 42 USC 1302

CFR Citation: 42 CFR 400; 42 CFR 412; 42 CFR 476; 42 CFR 498; 42 CFR 1001

Legal Deadline: None

Abstract: This proposed rule would revise and clarify HCFA's authority with respect to corrective action procedures and procedures for program payment denial against those hospital providers who circumvent the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Husk, Director, Office of Medical Review, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East, 6325 Security Boulevard, Baltimore, MD 21207, **301 966-6850**

RIN: 0938–AD42

849. REVISION OF THE MEDICARE ECONOMIC INDEX

Legal Authority: 42 USC 1395u(b)(3)

CFR Citation: 42 CFR 405.504

Legal Deadline: None

Abstract: This proposed rule would establish in regulations the revised proxy measures which we believe have a sounder economic foundation than the current ones and meet the requirements of the statute.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross H. Arnett, III, Chief, Economics and Actuarial Analysis Branch, Department of Health and Human Services, Health Care Financing Administration, 1705 Equitable Building Room 100, 6325 Security Blvd., Baltimore, MD 21207, **301 966-7934**

RIN: 0938–AD43

850. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1989

Significance: Agency Priority

Legal Authority: 42 USC 1395x(v)(1); 42 USC 1395yy; 42 USC 1302

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This notice would set forth a revised schedule of limits on skilled nursing facility inpatient routine service costs that are reimbursed under Medicare. This schedule would apply to cost reporting periods beginning on or after October 1, 1989.

Timetable:

Action	Date	FR Cite
Notice	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4513**

RIN: 0938–AD48

851. APPLICATION OF THE COMPARABLE SERVICES LIMITATION IN DETERMINING REASONABLE CHARGES

Legal Authority: 42 USC 1395u(b)(3)(B); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.508

Legal Deadline: None

Abstract: This proposed rule would clarify the circumstances under which Medicare carriers are to apply the comparable services limitation in making their determination of a reasonable charge for Medicare Part B services. Under section 1842(b)(3)(B) of the Act, carriers are prohibited from making a determination of a reasonable charge that would be higher than the charge upon which they would base payment to their own policyholders for a comparable service under comparable circumstances. Currently, there is a great deal of confusion among the carriers as to what constitutes comparable services and comparable circumstances, the result of which is that very few carriers are applying the comparable services limitation in their reasonable charge determination. We would revise the regulations to more clearly state how the comparable services limitation should be implemented by the carriers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4497**

RIN: 0938–AD50

852. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY

Legal Authority: 42 USC 1396n(d); 42 USC 1302

CFR Citation: 42 CFR 435.3; 42 CFR 435.217; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.2; 42 CFR 436.217; 42 CFR 440.180; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.350 to 441.357; 42 CFR 441.360; 42 CFR 441.365; 42 CFR 456.1; 42 CFR 456.600 to 456.603; 42 CFR 456.605 to 456.611

Legal Deadline: Final, Statutory, October 1, 1989.
Regulation must be promulgated containing methodology. Section 1915(d)(5)(B)(iii)

Abstract: This regulation would implement section 1915(d) of the Act. These rules would allow a State to provide skilled nursing facility (SNF), intermediate care facility (ICF), and home and community-based services to individuals 65 years of age and older, in exchange for a "cap" on the amount of money for which Medicaid Federal financial participation would be available. The program would be administered by means of waivers which a State could request. As currently constructed, the statute allows for waivers of statewideness, comparability, and income deeming. Home and community-based services could be made available to individuals age 65 or older who are shown by an evaluation to be likely to require the level of care provided in an SNF or ICF, the cost for which could be paid by Medicaid. For States electing this option, the waiver would replace the home and community-based services waivers available under section 1915(c) of the Act, for individuals in this age category.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR ., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4607**

RIN: 0938–AD55

853. REVISIONS TO THE FREEDOM OF INFORMATION REGULATIONS

Legal Authority: 42 USC 1306; 5 USC 552; 42 USC 1302; PL 99-570; EO 12600

CFR Citation: 42 CFR 401.101 to 401.104; 42 CFR 401.110 to 401.112; 42 CFR 401.120 to 401.125; 42 CFR 401.130 to 401.138; 42 CFR 401.140 to 401.145; 42 CFR 401.150 to 401.154

Legal Deadline: None

Abstract: This rule proposes changes to the regulations implementing the Freedom of Information Act. The regulations would be revised based on HCFA's experience with the FOIA in administering the Medicare and Medicaid programs. This proposed rule would also conform HCFA's FOIA regulations to regulations recently published by DHHS, as well as to guidance issued by the Office of Management and Budget and the Department of Justice to implement Presidential Executive Order 12600, and to the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosario Cirrincione, Chief, Freedom of Information Branch, Department of Health and Human Services, Health Care Financing Administration, Room 100 Professional Bldg., 6660 Security Blvd., Baltimore, MD 21207, **301 966-5352**

RIN: 0938–AD60

854. CHARGES TO RESIDENTS' FUNDS IN NURSING HOMES

Legal Authority: 42 USC 1395i-3(f)(7); 42 USC 1395hh; 42 USC 1396v(f)(7)

CFR Citation: 42 CFR 405; 42 CFR 442

Legal Deadline: Final, Statutory, July 1, 1988.

Abstract: This proposed rule would define those costs which may be charged to the personal funds of Medicare and Medicaid patients in nursing facilities and the costs which are to be included in the payment amount for nursing facility services.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 429 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4620**

RIN: 0938–AD66

855. PROHIBITION OF FFP FOR EDUCATIONAL AND VOCATIONAL TRAINING FOR INSTITUTIONALIZED INDIVIDUALS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(17)(B); 42 USC 1396a(a)(25); 42 USC 1396b(c)

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This proposed rule would reflect the court decision precluding the Department from using a child's individualized education program rather than the nature of services provided, to determine whether or not services provided to ICF/MR residents are reimbursable under Medicaid and the language in the Medicare Catastrophic Coverage Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel W. Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 428 EHR, 6325 Security Boulevard, Baltimore, Maryland, **301 966-4620**

RIN: 0938–AD69

856. PRE-ADMISSION REVIEW AND AUTHORIZATION OUTPATIENT SURGERY, PRE-ADMISSION DIAGNOSTIC TESTING AND SAME DAY SURGERY UNDER MEDICAID

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(30(A)

CFR Citation: 42 CFR 431

Legal Deadline: None

Abstract: This proposed rule would amend current Medicaid rules to require that State Medicaid plans include programs requiring pre-admission review and approval for selected surgical procedures and medical treatment; identify surgical procedures that can be safely performed on an ambulatory basis; require diagnostic testing prior to admission; and schedule hospital admission on the same day as surgery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Ernestine Jones, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Room 463,

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EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4646**

RIN: 0938–AD70

857. CHANGES TO THE REASONABLE COST REGULATION CONCERNING INVESTMENT INCOME

Legal Authority: 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.153; 42 CFR 413.17; 42 CFR 413.130

Legal Deadline: None

Abstract: This rule proposes to revise 42 CFR 413.153(b)(2), which requires that "necessary interest" be offset by investment income. Rather than to offset interest expense by investment income, we propose to reduce (dollar for dollar) allowable debt principal related to patient care by the principal amount of investment funds generated from operations related to patient care and subsequently invested in nonpatient care activities or in another provider's patient care activities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4513**

RIN: 0938–AD72

858. MEDICARE SECONDARY PAYER FOR DISABLED ACTIVE INDIVIDUALS

Legal Authority: 42 USC 1302; 42 USC 1395y(b); 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: These rules would establish limitations on Medicare payment for services furnished to disabled "active individuals" who are also covered under a large group health plan (LGHP), and prohibit discrimination by an LGHP against such individuals.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Herbert Pollock, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Medicare Claims Payment Policy Branch, Room 323, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4474**

RIN: 0938–AD73

859. CLARIFICATION OF DURABLE MEDICAL EQUIPMENT COVERAGE UNDER MEDICARE

Legal Authority: 42 USC 1395x(s)(6) and (n); 42 USC 1395hh; 42 USC 1302

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations would codify longstanding policies that concern the coverage, limitations, and exclusions applicable to durable medical equipment (DME). It would describe how all items of DME must be ordered by a physician and explain the requirements necessary for an item to be considered durable.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4636**

RIN: 0938–AD77

860. MEDICARE COVERAGE OF HOME HEALTH SERVICES, MEDICARE CONDITIONS OF PARTICIPATION AND HOME AIDE SUPERVISION AND DISCHARGE PLANNING

Legal Authority: 42 USC 1302; 42 USC 1395x(m) and (o); 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 409; 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would establish home health aid supervision and duty requirements applicable to all HHA's that provide services under Medicare. In addition, these regulations would codify longstanding policies that concern the limitations and exclusions applicable to home health services under Medicare.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd., Room 405 EHR, Baltimore, Maryland 21207, **301 966-4607**

RIN: 0938–AD78

861. PREPAID HEALTH CARE PLANS: BENEFICIARY AND OTHER RELATED PROVISIONS

Legal Authority: 42 USC 1395mm; 42 USC 1302; 42 USC 1395hh; 42 USC 1395l(a)(1)(A)

CFR Citation: 42 CFR 405; 42 CFR 417; 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would make a number of changes to the regulations governing health maintenance organizations, competitive medical plans, and health care prepayment plans that furnish Medicare covered services to Medicare beneficiaries. These proposed changes relate to the provision of services, beneficiary and plan rights and liabilities, and contracts. Most of the changes would clarify or establish policy in areas in which operational experiences have demonstrated a need for revision. Several of the changes would implement provisions of the Omnibus Budget Reconciliation Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Mahanes, Program Analyst, Div of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4642**

RIN: 0938–AD79

862. OMNIBUS NURSING HOME REFORM REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1395aa; 42 USC 1395i-3; PL 100-203, Sec 4201; 42 USC 1396r; PL 100-203, Sec 4211; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 483; 42 CFR 431; 42 CFR 440; 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would implement provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), PL 100-203, other than those implemented through the rule published on February 2, 1989 governing long term care facility in the Medicare and Medicaid programs effective October 1, 1990, and State requirements for FFP.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4620**

RIN: 0938–AD81

863. NEW MINIMUM STANDARDS FOR MEDICARE SUPPLEMENTAL (MEDIGAP) POLICIES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395kk(a); 42 USC 1395ss

CFR Citation: 42 CFR 403.200; 42 CFR 403.206; 42 CFR 403.210; 42 CFR 403.215 to 403.217; 42 CFR 403.220; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.239; 42 CFR 403.250 to 403.256

Legal Deadline: None

Abstract: These proposed regulations would add requirements for certification of Medicare supplemental (Medigap) policies under the Federal voluntary certification program or for approval under State regulatory programs that are deemed to have standards that are equal to or more stringent than those of the Federal program. The new standards would include: required submission of advertising to the State; reporting of actual loss ratio information under both the Federal and State programs; a uniform 30-day free-look standard; and procedural requirements for the direct claim transmittal of bills submitted for services furnished to Part B beneficiaries by participating physicians and suppliers from Medicare carriers to Medigap insurers. Insurers would be required to pay user fees for the transmittal of claims. The regulations also would require conformance with the most recent model standards adopted by the National Association of Insurance Commissioners on September 20, 1988.These regulations would implement sections 4081(b) and (c) of the Omnibus Budget Reconciliation Act of 1987 and section 221 of the Medicare Catastrophic Coverage Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas E. Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4607**

RIN: 0938–AD82

864. PAYMENT AND COVERAGE OF PSYCHOLOGISTS' SERVICES FURNISHED AT CLINICS

Legal Authority: 42 USC 1395x(s)(2)(M); 42 USC 1395x(aa)(1)(B); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 491

Legal Deadline: None

Abstract: This proposed notice would establish payment and coverage for psychologists services furnished in clinics. Payment would be based on a fee schedule and under an assignment-related basis. The fee schedule would apply to all covered diagnostic and therapeutic services furnished by qualified psychologists at clinics. The fee schedule would not apply to diagnostic services furnished by independent psychologists. The fee schedule would apply to services furnished on or after July 1, 1988.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Director, Div. of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-4637**

RIN: 0938–AD84

865. FEE SCHEDULE FOR CERTIFIED NURSE-MIDWIFE SERVICES

Legal Authority: 42 USC 1395l(a)(1)(K) and (p); 42 USC 1395x(s)(2)(L) and (gg); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would provide for the establishment of a fee schedule for the services of certified nurse-midwives under the Medicare program. This proposal would implement section 4073 of PL 100-203 and would apply to Medicare services provided by certified nurse-midwives on or after July 1, 1988.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Wren, Director, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, **301 966-5861**

RIN: 0938–AD85

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866. MEDICARE COVERAGE OF SCREENING MAMMOGRAPHY

Legal Authority: 42 USC 1395x(s)(13) and (kk); 42 USC 1395m(e); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 494

Legal Deadline: None

Abstract: This regulation will implement section 204 of Pub.L. 100-360 by providing coverage and payment standards for screening mammography, information on the frequency of coverage, and certification of quality standards.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	54 FR 36736
NPRM Comment Period End	10/31/89	54 FR 36736
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne Marie Hummel, Director, Div. of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4637

RIN: 0938–AD88

867. COVERAGE OF HOME INTRAVENOUS DRUG THERAPY SERVICES

Significance: Agency Priority

Legal Authority: 42 USC 1395k(a)(2)(A); 42 USC 1395x(jj); 42 USC 1395l; 42 USC 1395m(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 410.201; 42 CFR 410.203; 42 CFR 410.205; 42 CFR 410.207; 42 CFR 410.3; 42 CFR 424.28; 42 CFR 466.201; 42 CFR 466.202; 42 CFR 466.203; 42 CFR 466.204; 42 CFR 466.206; 42 CFR 466.208; 42 CFR 466.210; 42 CFR 466.212; 42 CFR 466.214

Legal Deadline: None

Abstract: This regulation will implement section 203 of Pub.L. 100-360. In particular it will define those services which could be covered as home intravenous drug therapy services and would require that all home intravenous therapy services be reviewed and approved by a Peer Review Organization.

Timetable:

Action	Date	FR Cite
NPRM	09/08/89	54 FR 37422
NPRM Comment Period End	11/07/89	54 FR 37422
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4638

RIN: 0938–AD89

868. IN-HOME CARE FOR CHRONICALLY DEPENDENT INDIVIDUALS

Legal Authority: 42 USC 1395x(ll); 42 USC 1395l(a); 42 USC 1395n(a)(2); 42 USC 1395y(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 408; 42 CFR 480

Legal Deadline: None

Abstract: This regulation would implement sections 205(b) through 205(e) of the Medicare Catastrophic Coverage Act of 1988 (Pub L. 100-360). It would define under the Medicare program covered services, eligible persons, payment guidelines, certification guidelines and standards for utilization of services for in-home care of chronically dependent individuals.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4697

RIN: 0938–AD90

869. COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS

Significance: Agency Priority

Legal Authority: 42 USC 1395x(t); 42 USC 1395y(c); 42 USC 1395n

CFR Citation: 42 CFR 410.10; 42 CFR 410.29 to 33

Legal Deadline: None

Abstract: This regulation will implement Sec. 202 of Pub.L. 100-360 which adds covered outpatient drugs as a covered service under Medicare. This regulation will provide a description of covered outpatient drugs and give specific guidelines on the time period a prescription will be covered.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 37190
NPRM Comment Period End	11/06/89	54 FR 37190
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Director, Div. of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4637

RIN: 0938–AD91

870. SNF/NF ENFORCEMENT OF PROVISIONS: MEDICARE AND MEDICAID

Significance: Agency Priority

Legal Authority: 42 USC 1395aa; 42 USC 1395i-3; PL 100-203, Sec 4202; 42 USC 1396r; PL 100-203, Sec 4212; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would implement provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Pub.L. 100-203, which govern the process used by HCFA to survey long-term care facilities, and certify that the facilities meet the conditions of participation for the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6763

RIN: 0938–AD94

871. RECOVERY OF OVERPAYMENTS RESULTING FROM COMPUTATIONAL ERRORS

Legal Authority: 42 USC 1395gg; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.350(a)(2); 42 CFR 405.355(a)

Legal Deadline: None

Abstract: Due to computational errors, some physicians and beneficiaries receive substantial sums of incorrect payments. This proposed rule would clarify situations where being without fault relieves a recipient of the obligation to return incorrect payments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Specifications are in OGC for development.

Agency Contact: Sam Guida, Director, Division of Overpayment Prevention, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-7521

RIN: 0938–AD95

872. GRACE PERIOD AND TERMINATION FOR NON-PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE (PART B) PREMIUMS FOR INSURED PERSONS

Legal Authority: 42 USC 1395j; 42 USC 1395q; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 408.6; 42 CFR 408.63; 42 CFR 408.67; 42 CFR 408.50

Legal Deadline: None

Abstract: Under current rules, individuals who do not pay their Part B premiums will have their coverage terminated after a grace period that allows several months lateness. The grace period for individuals eligible for monthly social security cash payments is different from that of uninsured individuals. This proposed rule would allow a uniform 3-month grace period to treat all individuals identically.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 37206
NPRM Comment Period End	11/06/89	54 FR 37206
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Janice Flaherty, Chief, Alter. Del. Syst. Reimbur. Branch, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-A-3 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4574

RIN: 0938–AD99

873. PAYMENT FOR COVERED OUTPATIENT DRUGS

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(1)(M); 42 USC 1395m(c); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: Under this proposed rule, Medicare will pay for covered outpatient drugs subject to the catastrophic drug deductible amount. The amounts payable will equal a payment percent of the lesser of the actual charge for a drug or an applicable payment limit for non-multiple source drugs and multiple source drugs with restrictive prescriptions and a payment limit for multiple source drugs without restrictive prescriptions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Charles Spalding, Chief, Pharma. & Medical Services Branch, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-5 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4496

RIN: 0938–AE00

874. PAYMENT FOR HOME INTRAVENOUS DRUG THERAPY SERVICES

Significance: Agency Priority

Legal Authority: 42 USC 1395m(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 414

Legal Deadline: Other, Statutory, January 1, 1990.

Abstract: This proposed rule sets for the methodology for payment for home intravenous drug therapy services. Payment for these services and medicare is made at the lower of the charges or a fee schedule amount. This proposed rule also establishes a per diem fee schedule for home intravenous drug therapy services and allowances that would be added to the fee schedule to cover special costs associated with those services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Charles Spalding, Chief, Pharma. & Medical Services Branch, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-5 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4496

RIN: 0938–AE00

875. WITHDRAWAL OF COVERAGE OF SEAT LIFT CHAIRS

Legal Authority: 42 USC 1395y(a)(1); 42 USC 1302

CFR Citation: 42 CFR 405.310(k)

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw

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Medicare coverage for seat lift chairs as durable medical equipment.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4636

RIN: 0938–AE05

876. PARTICIPATION AGREEMENTS FOR PHARMACIES

Legal Authority: 42 USC 1395(u)(o); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 490; 42 CFR 494.2

Legal Deadline: None

Abstract: This proposed rule would implement those sections of Pub. L. 100-360 that set forth requirements for pharmacies wishing to participate in Medicare as suppliers of covered outpatient drugs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4636

RIN: 0938–AE08

877. CONDITIONS OF PARTICIPATION FOR HOME INTRAVENOUS DRUG THERAPY PROVIDERS

Significance: Agency Priority

Legal Authority: 42 USC 1395x(jj)(3); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 485 Subpart C

Legal Deadline: None

Abstract: In order to participate as a home IV drug provider under Medicare an entity must meet a number of specific requirements that are necessary in the interest of the health and safety of beneficiaries who receive home IV drug services.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 37220
NPRM Comment Period End	11/06/89	54 FR 37220
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 479 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4636

RIN: 0938–AE09

878. OUTPATIENT PRESCRIPTION DRUGS: LIST OF COVERED HOME IV DRUGS

Significance: Agency Priority

Legal Authority: 42 USC 1395x(t)(4); 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: This final notice announces the home IV drugs that will be covered under Medicare.

Timetable:

Action	Date	FR Cite
Proposed Notice	09/07/89	54 FR 37239
Proposed Notice Comment Period End	11/06/89	54 FR 37239
Final Notice	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 479 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4636

RIN: 0938–AE10

879. WITHDRAWAL OF COVERAGE OF EXTRACRANIAL-INTRACRANIAL ARTERIAL BYPASS SURGERY FOR THE TREATMENT OR PREVENTION OF STROKE

Legal Authority: 42 USC 1395y(a)(1); 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw Medicare coverage of extracranial-intracranial arterial bypass surgery when used to treat or prevent strokes.

Timetable:

Action	Date	FR Cite
Proposed Notice	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 455 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5316

RIN: 0938–AE11

880. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSE

Legal Authority: 42 USC 1032; 42 USC 1396r(s)

CFR Citation: 42 CFR 435.630; 42 CFR 435.632; 42 CFR 435.634; 42 CFR 435.636; 42 CFR 435.638; 42 CFR 435.640; 42 CFR 435.642; 42 CFR 435.644; 42 CFR 435.646; 42 CFR 435.648

Legal Deadline: None

Abstract: These proposed regulations would interpret section 303(a) of the Medicare Catastrophic Coverage Act of 1988, as amended by section 608(d)(16) of the Family Support Act. P.L. 100-485 which allocates incomes and resources between a spouse who is institutionalized and the spouse remaining in the community. The revision would provide the community spouse with more adequate income for meeting living expenses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Marinos Svoles, Director, Division of Medicaid Eligibility, Policy, Department of Health and Human Services, Health Care Financing Administration, Room 416, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4452

RIN: 0938–AE12

881. CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARIES AND CARRIERS

Legal Authority: 42 USC 1395hh; 42 USC 1395o(b); 42 USC 1302

CFR Citation: 42 CFR 421.120; 42 CFR 421.122; 42 CFR 421.124; 42 CFR 421.201; 42 CFR 421.203

Legal Deadline: None

Abstract: This is a technical revision to Medicare regulations that will simplify and improve our system for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program. Currently, we evaluate intermediaries using performance criteria and standards issued through an annual notice in the Federal Register. We are clarifying the methodology for establishing these criteria and standards. We are also issuing requirements for the evaluation for carrier performance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Barton, Chief, Operation Standards Branch, Office of Program Administration, Department of Health and Human Services, Health Care Financing Administration, 1-C-6 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-7403

RIN: 0938–AE15

882. INSPECTION OF CARE REVIEWS

Legal Authority: 42 USC 1302; 42 USC 1396b(g)

CFR Citation: 42 CFR 456.651; 42 CFR 456.652; 42 CFR 456.654; 42 CFR 456.660

Legal Deadline: None

Abstract: This proposed rule would eliminate the requirement for States to make quarterly showings demonstrating that a State conducted annual onsite inspection of care in skilled nursing facilities or in intermediate care facilities. A quarterly showing to the Secretary of an effective program of medical review as demonstrated by a satisfactory utilization control program would be limited to inspection of care reviews in participating intermediate care facilities for the mentally retarded and mental hospitals. This rule would implement section 4212(d) (1) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elliot Naide, Chief, Utilization Control Branch, Department of Health and Human Services, Health Care Financing Administration, 2-H-1 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5820

RIN: 0938–AE17

883. HMO FISCAL SOUNDNESS AND GROUP SPECIFIC RATING

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(8)(C)

CFR Citation: 42 CFR 417.104; 42 CFR 417.107

Legal Deadline: None

Abstract: This proposed regulation would set forth the circumstances under which the resources of an organization which owns or controls a health maintenance organization (HMO) would be considered for purposes of determining whether the HMO meets the fiscal soundness and insolvency protection requirements for federal qualification under title XIII of the Public Health Service Act. It also authorizes HMOs, with certain limitations, to fix their rates for specific groups based on the HMO's revenue requirements for providing services to the group.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean LeMasurier, Program Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, 4406 Cohen Bldg., 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 245-0070

RIN: 0938–AE24

884. HMO ORGANIZATIONAL STRUCTURE AND SERVICES

Legal Authority: 42 USC 300e(a); 42 USC 300e(b)(1); 42 USC 300e(b)(3)(A)

CFR Citation: 42 CFR 417.100; 42 CFR 417.101; 42 CFR 417.103; 42 CFR 417.104

Legal Deadline: None

Abstract: This proposed regulation would provide organizations which operate health maintenance organizations (HMOs) which are federally qualified under Title XIII of the Public Health Service Act with greater flexibility in offering other health benefit plans in addition to their qualified HMO products. It would also authorize, with certain limitations, qualified HMOs to offer out-of-plan physician services and require a reasonable deductible for those services.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean LeMasurier, Program Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4406, Cohen Bldg., 330 Independence Avenue, S.W., Washington, D.C., 202 245-0070

RIN: 0938–AE25

885. HMO QUALIFICATION DETERMINATIONS

Legal Authority: 42 USC 300e(c); 42 USC 300e-1 note; 42 USC 300c-9

CFR Citation: 42 CFR 417.101; 42 CFR 417.107; 42 CFR 417.151; 42 CFR 417.157

Legal Deadline: None

Abstract: These proposed regulations would amend existing regulations to conform them to sections 5(b), 6(a), and 7 of Public Law 100-517, the Health

Maintenance Organization Amendments of 1988. Specifically, the proposal would: (a) require that employer contributions not financially discriminate against HMO enrollees; (b) repeal the requirement that employers, under certain circumstances, offer federally qualified HMOs to their employees (the "dual choice" requirement), effective October 24, 1995; and (c) include additional conforming changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cathy Carter, Director, Office of Qualifications; Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4332, Cohen Bldg., 330 Independence Avenue, S.W., Washington, D.C. 20201, 202 245-0780

RIN: 0938–AE26

886. GENERAL PERFORMANCE STANDARDS FOR DRUG BILL PROCESSORS UNDER CONTRACT

Significance: Agency Priority

Legal Authority: 42 USC 1395u(f); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice contains proposed general standards to be used to evaluate the performance of entities under contract with HCFA to implement and operate an electronic bill processing and payment and information system for covered outpatient prescription drugs furnished to Medicare beneficiaries.

Timetable:

Action	Date	FR Cite
General Notice With Comment Period	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Stewart Streimer, Director, Division of Operations Standards, Office of Program Administration, Department of Health and Human Services, Health Care Financing Administration, 1-C-5 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-7409

RIN: 0938–AE27

887. CLINICAL LABORATORIES - CLIA '88 REQUIREMENTS

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395hh; 42 USC 263A; PL 100-578

CFR Citation: 42 CFR 74.1 to 74.61; 42 CFR 405.1310 to 405.1317; 42 CFR 482.27

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: Amendments to the Clinical Laboratory Improvement Act of 1988 (CLIA) require all clinical laboratories to be regulated regardless of their ownership, location or of how few tests they perform. This proposed rule would set forth provisions of CLIA '88 that are not self-implementing. (The self-implementing provisions are contained in the final regulation "Review of Current Rules Affecting Clinical Laboratories.") This rule would contain requirements for performance standards for laboratories not regulated under CLIA as of December 31, 1988, that may vary depending on the complexity of the testing and a provision that will allow some laboratories that perform only simple examinations and procedures that have a low risk of erroneous results, a waiver from the standards and inspections. The proposed rule will also contain the requirements that would address fees for certified laboratories as well as laboratories issued a certificate of waiver from standards and inspections. The fees would be charged to meet administrative costs, as well as the cost of onsite inspections and ongoing monitoring of laboratory performance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-6763

RIN: 0938–AE28

888. ● "CONFINED TO THE HOME" REQUIREMENTS FOR HOME HEALTH SERVICES

Legal Authority: 42 USC 1302; 42 USC 1395x(n) and (o); 42 USC 1395hh

CFR Citation: 42 CFR 409.42

Legal Deadline: None

Abstract: This proposed rule would clarify when a home health patient would be considered "confined to the home" in order to receive home health benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AE34

889. ● PAYMENT ADJUSTMENTS FOR HOSPITALS THAT SERVE A DISPROPORTIONATE NUMBER OF LOW-INCOME PATIENTS

Legal Authority: 42 USC 1302; 42 USC 1396a; 42 USC 1396r-4

CFR Citation: 42 CFR 412; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This rule would establish the requirements and options for Medicaid payments to hospitals that serve a disproportionate number of low-income patients with special needs. The Medicaid agency would be required to make payment adjustments to these hospitals when such hospitals have met specified conditions. The rule would also simplify and clarify the rules that apply to these hospitals under the Medicare program, some of which are incorporated by reference in the Medicaid rules.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Bernard Truffer, Chief, Special Reimbursement Programs, Branch, Department of Health and Human Services, Health Care Financing Administration, 1 - A - 3 ELR, 6325 Security Boulevard, Baltimre, MD 21207, 301 966-4576

RIN: 0938–AE35

890. ● MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) PERFORMANCE REVIEW, NOTIFICATION PROCEDURES FOR CHANGES

Legal Authority: 42 USC 1302; 42 USC 1320b-7; 42 USC 1396(a)(a)(4); 42 USC 1396(a)25; 42 USC 1396(a)45; 42 USC 1396(b)(a)(3); 42 USC 1396b(d)(2); 42 USC 1396b(d)(5); 42 USC 1396b(o); 42 USC 1396b(p); 42 USC 1396b(r); 42 USC 1396k

CFR Citation: 42 CFR 433.123

Legal Deadline: None

Abstract: This proposal would eliminate the requirement that HCFA publish in the Federal Register a proposed notice with opportunity for public comment and then a fiscal notice for any changes in MMIS requirements, performance standards and other conditions for approval and reapproval. Instead we would use well established communication arrangements under which States provide input during the development of revisions, and we issue revised manual instructions well in advance of implementation changes. This change will increase the efficiency of the administrative process by eliminating lengthy time frames associated with a formal notice and comment procedure thus allowing an expeditious means of developing and communicating changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman, Acting Director, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, Room 273 EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-3292

RIN: 0938–AE36

891. ● HOME HEALTH AGENCIES: DEFINITIONS OF "INTERMITTENT" AND "PART-TIME" NURSING CARE AND HOME HEALTH AIDE SERVICES

Legal Authority: 42 USC 1395x

CFR Citation: 42 CFR 409.41; 42 CFR 409.42

Legal Deadline: None

Abstract: This proposed rule would define the terms "intermittent" and "part-time" nursing care and or home health aide services furnished to a medicare patient by a home health agency. The rule would revise current medicare regulations and conform them to changes made by section job of the Medicare Catastrophic Coverage Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AE37

892. ● MEDICAID PAYMENT OF MEDICARE COST SHARING FOR QUALIFIED MEDICARE BENEFICIARIES

Legal Authority: 42 USC 1396a(a)(10)(E); Clause VIII of the matter following 42 USC 1396a(a)(10)(E); 42 USC 1396a(e)(8); 42 USC 1396a(m)(4); 42 USC 1396a(n); 42 USC 1396b(f)(4); 42 USC 1396d(a); 42 USC 1396d(p)

CFR Citation: 42 CFR 431.625; 42 CFR 435; 42 CFR 436; 42 CFR 441.256; 42 CFR 447.600 to 447.620; 42 CFR 447.51; 42 CFR 447.53

Legal Deadline: None

Abstract: These rules would propose to require States to include in Their State plans payment of Medicare cost-sharing for low income Medicare beneficiaries, Qualified Medicare Beneficiaries (QMB). The territories have the option to do the same. We would define cost-sharing, specify criteria for determining QMB status, propose requirements and options for payment amounts and limitations, and provide for Federal financial participation in State payments for Medicare cost-sharing on behalf of QMBs. The changes would implement provisions of the Medicare Catastrophic Coverage Act of 1988 as modified by the Family Support Act of 1988 and the Technical and Miscellaneous Revenue Act of 1988. Under the above legislation. These provisions went into effect January 1, 1989.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director Division of Medicaid Eligibility, Policy DHHS HCFA, Department of Health and Human Services, Health Care Financing Administration, Room 400 East High Rise Bldg, 6325 security Blvd, Baltimore, MD 21207, 301 966-4451

RIN: 0938–AE38

893. ● SURVEY OF HOME HEALTH AGENCIES (HHAS) AND ALTERNATIVE SANCTIONS FOR HHAS AND PROVIDERS OF HOME INTRAVENOUS DRUG THERAPY SERVICES

Legal Authority: 42 USC 1302; 42 USC 1395w-2; 42 USC 1395bbb

CFR Citation: 42 CFR 442; 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules would establish requirements for periodic, unannounced surveys of home health agencies, and specify a number of sanctions that could be used, when a home health agency or a provider of home intravenous drug therapy services is out of compliance with Federal requirements, as an alternative to terminating their participation in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Irene Gibson, Chief, Survey & Certification Procedures, Branch, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East, 6300 Security Boulevard, Baltimore, MD 21207, 301 966-5768

RIN: 0938–AE39

894. ● HOSPITAL STANDARD FOR HIV INFECTIOUS BLOOD

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would require hospitals or blood banks providing services to hospitals to notify either each recipient or each recipient's physician when potentially HIV infectious blood has been administered, and to offer each recipient counseling and testing.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-5660

RIN: 0938–AE40

895. ● ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES AND MEMBERSHIP ACTIONS

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 482; 42 CFR 485

Legal Deadline: None

Abstract: This notice states that no rule of the Organ Procurement and Transplantation Network (OPTN) is mandatory or binding on Medicare and Medicaid hospitals or Organ Procurement Organizations (OPOs) unless the secretary, HHS has formally approved the rule and it has been published in the Federal Register, prior to its effective date.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Director, Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 489 EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4637

RIN: 0938–AE42

896. ● COVERAGE OF CATASTROPHIC PART B EXPENSES FOR BENEFICIARIES ENROLLED IN PREPAID HEALTH CARE ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1395l(c); 42 USC 1395hh

CFR Citation: 42 CFR 417.401; 42 CFR 417.417; 42 CFR 417.420; 42 CFR 417.428; 42 CFR 417.436; 42 CFR 417.447; 42 CFR 417.452; 42 CFR 417.454; 42 CFR 417.456; 42 CFR 417.479; 42 CFR 417.532; 42 CFR 417.572; 42 CFR 417.594; 42 CFR 417.800; 42 CFR 417.801; ...

Legal Deadline: None

Abstract: These proposed rules would revise current Medicare regulations relating to beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans (HCPPs). This rule would implement a statutory limit on beneficiary out-of-pocket cost sharing expenses for services covered under Part B for beneficiaries enrolled in HMOs, CMPs, and HCPPs and would establish rules for calculating the out-of-pocket expenses incurred by such beneficiaries while they are enrolled in these organizations. The proposed rule would also specify the responsibilities of certain of these organizations to maintain an accounting of expenses incurred by Medicare enrollees, and provide procedures for treatment of out-of-pocket expense after the catastrophic limit amount is reached.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jean LeMasurier, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, 4406 Cohen Bldg, 330 Independence Avenue, SW, Washington, DC 20201, 202 245-0070

RIN: 0938–AE43

897. ● HOME AND COMMUNITY BASED SERVICES WAIVERS FOR DRUG DEPENDENT OR AIDS INFECTED CHILDREN

Legal Authority: 42 USC 1396n(e)

CFR Citation: 42 CFR 441(Revision)

Legal Deadline: None

Abstract: This rule proposes to permit States to offer, under a waiver program an array of services to drug dependent children or children who test positive or infected with the etiologic agent for acquired immune deficiency syndrome (AIDS). Such drug dependent or AIDS-infected children's waivers, as authorized by section 411(k)(17) of the Medicare Catastrophic Coverage Act of 1988, allow Federal payment for the provision of noninstitutional services to those children if they are under 5 years of age and for whom adoption or foster care assistance is (or will be) made available under Part E of Title IV of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4607

RIN: 0938–AE44

898. ● COLLECTION OF PAST-DUE AMOUNTS OWED BY INDIVIDUALS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

Legal Authority: 42 USC 1302; 42 USC 1395ccc; 42 USC 1395hh

CFR Citation: 42 CFR 405.384

Legal Deadline: None

Abstract: This proposed rule sets forth the procedures to be followed for collection of past due amounts owed by individuals who breached contracts under the National Health Service Corps Scholarship program. The regulation would implement section 4052 of the Omnibus Budget Reconciliation Act of 1987.

Timetable:

Action	Date	FR Cite
Proposed Notice	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marvin Dunkleberger, Division of Overpayment Prevention, Performance Monitoring Branch, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd, Baltimore, MD 21207, 301 966-7519

RIN: 0938–AE45

899. ● DRUG DEDUCTIBLE AND RESPITE CARE FOR PREPAID PLAN ENROLLEES

Significance: Agency Priority

Legal Authority: 42 USC 1395m(c); 42 USC 1395k(a); 42 USC 1395l(c); 42 USC 1395hh

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule proposes the manner in which we would implement several provisions of the medicare Catastrophic Coverage Act of 1988 for enrollees of prepaid health care plans. Specifically, we would describe how drug deductible expenses are treated and how the new Part B benefit of in-home respite care applies for these enrollees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jean LeMasurier, Program Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4406 Cohen Bldg, 330 Independence Ave SW, Washington, DC 20201, 202 225-0070

RIN: 0938–AE46

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Health Care Financing Administration (HCFA)

900. MMIS: DEFINITION OF "MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM"

Legal Authority: 42 USC 1302; 42 USC 1396b(a)(3); 42 USC 1396b(r)

CFR Citation: 42 CFR 433.111; 42 CFR 433.112; 42 CFR 433.113; 42 CFR 433.119; 42 CFR 433.120; 42 CFR 433.121; 42 CFR 433.122; 42 CFR 433.131

Legal Deadline: None

Abstract: This rule will change the definition of "mechanized claims processing and information retrieval systems" to clarify under what circumstances we will pay Federal financial participation at a percentage higher than 50 percent for a Medicaid Management Information System or for changes to the system.

Timetable:

Action	Date	FR Cite
NPRM	06/11/88	53 FR 30317
NPRM Comment Period End	10/11/88	53 FR 30317
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard H. Friedman, Acting Director, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Procedures, 233 EHR, 6305 Security Boulevard, Baltimore, MD 21207, 301 966-3282

RIN: 0938–AA63

901. WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS (HMOS) AND STATE OPTION FOR DISENROLLMENT RESTRICTIONS FOR CERTAIN HMOS UNDER MEDICAID

Legal Authority: 42 USC 1302; 42 USC 1396a(e)(2); 42 USC 1396b(m)

CFR Citation: 42 CFR 434.26; 42 CFR 434.27; 42 CFR 434.20; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None

Abstract: This rule revises current Medicaid rules to reflect statutory authority of the Secretary (1) to permit certain health maintenance organizations (HMOs) to exceed the composition of enrollment limit, (2) to allow certain organizations that might not otherwise be permitted to do so, to contract on a risk basis, (3) to permit continuation of benefits to recipients enrolled in certain organizations after they have lost entitlement to Medicaid, and (4) to give a State the option of restricting a Medicaid enrollee's right to disenroll from certain types of risk HMOs and other organizations. These regulations would conform our regulations to incorporate authority provided in section 2364 of Pub.L. 98-369, the Deficit Reduction Act of 1984, as amended by section 9517 of Pub.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985.

Timetable:

Action	Date	FR Cite
NPRM	01/12/88	53 FR 744
NPRM Comment Period End	03/14/88	53 FR 744
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert E. Wren, Office Director, Department of Health

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and Human Services, Health Care Financing Administration, Office of Coverage Policy, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 965-5661

RIN: 0938–AB54

902. MEDICARE: HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS: COORDINATED OPEN ENROLLMENT

Significance: Agency Priority

Legal Authority: 42 USC 1395mm(c)(3)(A)(ii); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: These regulations will implement section 2350 of Pub. L. 98-369 by requiring that HMOs and CMPs hold a single coordinated open enrollment period for Medicare beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21696
NPRM Comment Period End	08/08/88	52 FR 21697
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Marie Hummel, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Medical Services Coverage Policy, Room 489 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4637

RIN: 0938–AB57

903. PAYMENT FOR THE SERVICES OF PHYSICIANS FURNISHED IN TEACHING SETTINGS AND OTHER PROVIDERS

Legal Authority: 42 USC 1395xx; 42 USC 1302; 42 USC 1395l(a)(2); 42 USC 1395hh; 42 USC 1395x(b); 42 USC 1395x(v)(1)(C); 42 USC 1395x(v)(1)(D); 42 USC 1395k(a)(2)(B)(i); 42 USC 1395u(b)(7)

CFR Citation: 42 CFR 405.465; 42 CFR 405.466; 42 CFR 405.480; 42 CFR 405.481; 42 CFR 405.482; 42 CFR 405.522; 42 CFR 405.523; 42 CFR 405.524; 42 CFR 405.525; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.552; 42 CFR 405.553; 42 CFR 405.554; 42 CFR 405.555; ...

Legal Deadline: None

Abstract: These regulations will implement provisions of section 948 of P.L. 98-499 and section 2307 of P.L. 98-369. This legislation deals with certain problems that have arisen in the Medicare program with respect to payment for physicians in the teaching setting. Specifically addressed by Congress is the problem of distinguishing between the services a physician furnishes to individual patients as a teaching physician and services furnished to the provider, as well as the method of reimbursement for these services. This rule sets forth the conditions under which physicians in teaching settings will be reimbursed on a reasonable cost basis or, alternatively, on a reasonable charge basis. It also describes the methods used to determine the customary charges for the services of those physicians. This rule will also clarify related issues of physician reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 5946
NPRM Comment Period End	04/10/89	54 FR 5946
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AB61

904. MEDICARE/MEDICAID REVALUATION OF ASSETS

Legal Authority: 42 USC 1395x(v)(1)(O); 42 USC 1396a(a)(13)(B)

CFR Citation: 42 CFR 413.130; 42 CFR 413.134; 42 CFR 413.153; 42 CFR 447.250; 42 CFR 447.253; 42 CFR 447.272

Legal Deadline: None

Abstract: This final rule implements changes to the regulations as required by section 2314 of Pub. L. 98-369 and sections 9110 and 9509 of Pub. L. 99-272. This rule imposes new limitation on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes will affect hospitals and skilled nursing facilities under the Medicare program and hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded under the Medicaid program.

Timetable:

Action	Date	FR Cite
NPRM	10/26/87	52 FR 39927
NPRM Comment Period End	12/28/87	52 FR 39927
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AB64

905. CLARIFICATION OF POLICY ON ADJUSTING THE HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1395ww(d)

CFR Citation: 42 CFR 412.72

Legal Deadline: None

Abstract: This final rule clarifies Medicare's policy on adjusting the hospital-specific portion of the prospective payment rate for inpatient hospital services as the result of adjustments to a hospital's target amount for events occurring in the year following its base year. It clarifies that exemptions, exceptions, or adjustments granted under section 1886(b)(4) of the Act or 42 CFR 413.30 or 413.40(e)-(h) for periods subsequent to the base year have no effect on the hospital-specific portion of the prospective payment rates.

Timetable:

Action	Date	FR Cite
NPRM	03/10/86	51 FR 8208
NPRM Comment Period End	04/19/86	51 FR 8208
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Rees, Branch Chief, Payment Determination Policy

Branch, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, DHPP, R. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4536

RIN: 0938–AB71

906. REVISION OF MEDICAID ELIGIBILITY QUALITY CONTROL (MEQC) PROGRAM REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1396b; 42 USC 1302

CFR Citation: 42 CFR 431.800 to 431.808; 42 CFR 431.810 to 431.822; 42 CFR 431.830 to 431.836; 42 CFR 431.861 to 431.865

Legal Deadline: None

Abstract: This final rule revises the regulations governing the Medicaid eligibility quality control (MEQC) program to include more specified program requirements and to establish new time frames for completing and reporting MEQC case findings to HCFA. The final rule also establishes a performance-based threshold for States to meet before HCFA will consider good faith waiver requests of disallowance of Federal financial participation in erroneous Medicaid payments and provides more definitive criteria for evaluating States' good faith efforts to meet the national standard error rate. In addition, the rule makes several technical changes and specifies that States may rebut their quarterly projected error rates when they can present evidence that the projected rates were based on erroneous data. The revisions will strengthen the MEQC program and provide flexibility and incentives to States to produce more accurate Medicaid eligibility determinations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/87	52 FR 02733
NPRM Comment Period End	03/27/87	52 FR 02733
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Randolph Graydon, Director, Division of Program Performance, Department of Health and Human Services, Health Care Financing Administration, Bureau of Quality Control, 207-L ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3294

RIN: 0938–AB85

907. REVIEW OF CURRENT RULES AFFECTING CLINICAL LABORATORIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395hh; 42 USC 263a; PL 100-578

CFR Citation: 42 CFR 405.1310 to 405.1317; 42 CFR 482.27; 42 CFR 74

Legal Deadline: None

Abstract: Currently, hospital-based and independent laboratories are subject to varying State Licensure requirements and to Medicare regulations that vary from requirements of private accreditation entities and from regulations governing laboratories performing tests under interstate commerce. One consequence is that the quality of laboratories' services is adjudged using different standards. Inconsistent standards not only create confusion regarding necessary performance levels, but may permit laboratories with substandard performance to continue furnishing covered services. This rule will amend the requirements to improve the quality of laboratory services. It will provide recognition of new technologies in laboratory quality assurance, refine outcome measures of performance and include personnel standards that take into account accepted management and testing practices that contribute to the quality of laboratory services. Also, this rule will provide consistent criteria for an effective proficiency testing program for Medicare, Medicaid, and CLIA laboratories.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29590
NPRM Comment Period End	11/03/88	53 FR 29590
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 ME, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6763

RIN: 0938–AB96

908. MEDICARE SECONDARY PAYER AND MEDICARE RECOVERY AGAINST THIRD PARTIES

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395y(b); 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 411; 42 CFR 489

Legal Deadline: None

Abstract: This rule revises regulations to reflect recent statutory provisions regarding HCFA's right to bring an action directly against certain third parties or to join or intervene in an action against a third party. It would also place certain requirements on hospitals regarding the identification and billing of potential Medicare secondary payer cases. Additionally, it would include requirements regarding timely refunds to Medicare when collections have been made from another insurer. It also clarifies rules for Medicare payment for services furnished to an end-stage renal disease (ESRD) patient who is also covered under an employer group health plan. It would include the changes pertaining to Medicare conditional payments for ESRD beneficiaries made by section 4036(a) of the Omnibus Budget Reconciliation Act of 1987. It would update policies pertaining to Medicare payment for services covered under a workers' compensation law or plan, or under no-fault or liability insurance. It would make Medicare secondary to all kinds of no-fault insurance, not just automobile no-fault insurance.

Timetable:

Action	Date	FR Cite
NPRM	06/15/88	53 FR 22335
NPRM Comment Period End	08/15/88	
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Herbert Pollock, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Medicare Claims Payment Policy Branch, Rm. 323

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RIN: 0938–AC05

909. MEDICARE COVERAGE OF HEPATITIS B VACCINE FOR HIGH AND INTERMEDIATE RISK INDIVIDUALS, HEMOPHILIA CLOTTING AND CERTAIN X-RAY SERVICES

Legal Authority: 42 USC 1395x(s)(2)(I); 42 USC 1395x(s)(10)(B); 42 USC 1395l(k); 42 USC 1395rr(b)(11); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.310(a); 42 CFR 405.310(e); 42 CFR 405.310(k); 42 CFR 410.10; 42 CFR 410.29; 42 CFR 410.32; 42 CFR 410.63

Legal Deadline: None

Abstract: This final rule implements section 2323 of P.L 98-369 which provides Medicare coverage for hepatitis B vaccine for those individuals who are eligible for Medicare and at high or intermediate risk of contracting hepatitis B. It would implement section 2324 of P.L. 98-369 that provides coverage for the self-administration of hemophilia clotting factors and the items necessary for their administration to Medicare eligibles. The final rule would also clarify Medicare coverage of certain x-ray services.

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34244
NPRM Comment Period End	11/09/87	52 FR 34244
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Rm. 479 EHR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4636**

RIN: 0938–AC07

910. CHANGES IN PAYMENT POLICY FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww(h); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.521; 42 CFR 405.522; 42 CFR 412.113; 42 CFR 413.85; 42 CFR 413.86; 42 CFR 413.170

Legal Deadline: None

Abstract: This rule will set forth changes in Medicare Policy concerning payment for direct graduate medical education costs of providers associated with approved residency programs. These changes are necessary in order to implement section 1886(h) of the Social Security Act which was added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and amended by section 9314 of the Omnibus Budget Reconciliation Act of 1986. The changes in this rule are effective for cost reporting periods beginning on or after July 1, 1985.

Timetable:

Action	Date	FR Cite
NPRM	09/21/88	53 FR 36589
NPRM Comment Period End	11/21/88	
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Barbara Wynn, Director, Div. of Hospital Payment Policy, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4529**

RIN: 0938–AC27

911. MEDICAID: ELIGIBILITY DETERMINATIONS BASED ON DISABILITY

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396d(a); 42 USC 1302

CFR Citation: 42 CFR 435.541; 42 CFR 435.911; 42 CFR 436.541

Legal Deadline: None

Abstract: These regulations make explicit in the regulations HCFA's policy on the relationship between State Medicaid eligibility determinations based on disability and disability determinations by SSA under the Supplemental Security Income Program. The regulations incorporate the conditions under which the State agency must make independent determinations of disability and the effect of determination by SSA of disability for purposes of establishing Medicaid eligibility. The regulations also conform the Medicaid provisions on composition of medical review teams, required information, and the time limit for making determinations more closely to similar provisions used by SSA in making SSI determinations. Because of numerous questions raised and litigation, it is necessary to clarify our policy on the controlling nature of SSI disability determinations on Medicaid eligibility.

Timetable:

Action	Date	FR Cite
NPRM	12/14/87	52 FR 47414
NPRM Comment Period End	02/12/88	52 FR 47414
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, 436 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4451**

RIN: 0938–AC31

912. EFFECT OF APPEALS ON HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412.71; 42 CFR 412.72; 42 CFR 412.73; 42 CFR 412.76; 42 CFR 412.128

Legal Deadline: None

Abstract: This final rule amends and clarifies the prospective payment regulations governing administrative and judicial review of payment amounts in order to resolve confusion concerning interpretation of those regulations. In particular, the rule amends and clarifies the provisions pertaining to adjustment of the hospital-specific rate under the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22028
NPRM Comment Period End	08/12/88	53 FR 22028
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, Rm. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4529**

RIN: 0938–AC40

913. HOME AND COMMUNITY-BASED SERVICES AND RESPIRATORY CARE FOR VENTILATOR-DEPENDENT INDIVIDUALS

Legal Authority: 42 USC 1396n(c)

CFR Citation: 42 CFR 435.726; 42 CFR 435.735; 42 CFR 440.180; 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.304; 42 CFR 441.305; 42 CFR 441.306; 42 CFR 441.307; 42 CFR 441.308; 42 CFR 441.310; 42 CFR 440.185; 42 CFR 440.250

Legal Deadline: None

Abstract: This rule revises the regulations for home and community based services as required by section 9502 of Pub.L. 99-272 and sections 9408 and 9411 of Pub.L. 99-509. Also, this rule would provide for respiratory care services as medical assistance under the State plan, in accordance with section 9408 of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	53 FR 19950
NPRM Comment Period End	07/31/88	53 FR 19950
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, **301 966-4607**

RIN: 0938–AC55

914. PAYMENT FOR PHYSICIAN'S OUTPATIENT MAINTENANCE DIALYSIS SERVICES AND OTHER PHYSICIAN SERVICES FOR ESRD PATIENTS

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 414

Legal Deadline: None

Abstract: This rule is necessitated by a court decision requiring the Secretary to reinstate a modified version of the initial method of payment for physician's dialysis services. We also are clarifying and modifying some of the principles of the monthly capitation payment method. In addition, we will clarify that physician's services paid for under both the initial method and the monthly capitation payment must meet the general program requirements for dialysis services furnished to patients.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37176
NPRM Comment Period End	12/04/87	52 FR 37176
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Niemann, Program Analyst, Reimbursement Policy Branch, Department of Health and Human Services, Health Care Financing Administration, 1-A-5 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4569**

RIN: 0938–AC57

915. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.1903; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1001.202; 42 CFR 1001.203; 42 CFR 1001.211; 42 CFR 1001.221; 42 CFR 1003.100; 42 CFR 1003.101; 42 CFR 1003.102; 42 CFR 1003.103; ...

Legal Deadline: None

Abstract: This final rule will implement sections 9121 and 9122 of PL 99-272 as amended by PL 100-203. Specifically, under section 9121, Medicare participating hospitals with emergency departments would be required to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in active labor. Hospitals failing to meet those requirements may have their Medicare provider agreements suspended or terminated. In addition, the hospital and the responsible physician may each be subject to a civil money penalty for each such violation. Under section 9122, Medicare participating hospitals would be required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations will also implement section 233 of PL 99-576, which requires Medicare hospitals to admit veterans. They will also implement section 9305(b)(1) of PL 99-509, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	53 FR 22513
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, **301 966-4607**

RIN: 0938–AC58

916. STATE PLAN REQUIREMENTS AND OTHER PROVISIONS RELATING TO STATE THIRD-PARTY LIABILITY PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 1396a(a)(25); 42 USC 1302; 42 USC 1396hh

CFR Citation: 42 CFR 433.138; 42 CFR 433.139; 42 CFR 447.20; 42 CFR 447.21; 42 CFR 447.45

Legal Deadline: Final, Statutory, October 7, 1986.
Section 9503 of Pub. L. 99-272 (April 7, 1986) requires that final regulations be published within 6 months after date of enactment.

Abstract: This rule implements, in part, those portions of sec. 9503 of Pub. L. 99-272 that set forth State plan

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requirements and other provisions relating to State third-party liability (TPL) programs. The provisions deal with (1) the integration of a State's pursuit of third-party claims with its Mechanized Claims Processing and Information Retrieval Systems and the Secretary's responsibility to develop performance standards to assess TPL collection efforts with respect to this integration; (2) certain exceptions to the cost avoidance method of claims payment in TPL situations; and (3) provider restrictions and provider penalties related to attempts at collection of cost sharing or portions of those amounts from Medicaid recipients when third party liability has been established.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 06350
NPRM Comment Period End	04/02/87	52 FR 06350
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sue Knefley, Program Analyst, Bureau of Quality Control, Department of Health and Human Services, Health Care Financing Administration, Third Party Liability Branch, 233 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3396

RIN: 0938–AC64

917. MEDICAID ELIGIBILITY FOR QUALIFIED SEVERELY IMPAIRED INDIVIDUALS

Legal Authority: 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(10(A)(i)(II); 42 USC 1396a(o); 42 USC 1396d(q); 42 USC 1382h; 42 USC 1382h note; 42 USC 1396a note

CFR Citation: 42 CFR 435.120; 42 CFR 435.121; 42 CFR 435.725; 42 CFR 435.733

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to specify for Medicaid, mandatory categorically needy eligibility for individuals who, although severely impaired, work and demonstrate ability to perform substantial gainful activity and who are considered to be Supplemental Security Income (SSI) beneficiaries by virtue of Section 1619 of the Social Security Act. It also specifies how States electing the option under Section 1902(f) of the Social Security Act to provide Medicaid under criteria more restrictive than SSI, will treat the "1619" individuals. It also specifies how SSI payments made to certain institutionalized individuals are to be disregarded as income under Medicaid for up to two months. The amendments conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1986 and the Employment Opportunities for Disabled.

Timetable:

Action	Date	FR Cite
NPRM	05/04/88	53 FR 15857
NPRM Comment Period End	07/05/88	53 FR 15857
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 448 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AC82

918. DENIAL OF PAYMENT FOR SUBSTANDARD QUALITY CARE, REVIEW OF BENEFICIARY COMPLAINTS

Significance: Regulatory Program

Legal Authority: 42 USC 1320c-3(a); 42 USC 1395cc(a)(1)(K); 42 USC 1395u; 42 USC 1395pp(b); PL 99-272, Sec 9403; PL 99-509, Sec 9353(c); PL 100-203, Sec 4096(a)(1)(A)

CFR Citation: 42 CFR 462.105; 42 CFR 466.70; 42 CFR 466.74; 42 CFR 466.83; 42 CFR 466.88; 42 CFR 466.93; 42 CFR 466.94; 42 CFR 466.98; 42 CFR 466.100; 42 CFR 466.106; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 476.133; 42 CFR 489.21; ...

Legal Deadline: None

Abstract: The purpose of this final rule is to implement section 9403 of PL 99-272, 9353(c) of PL 99-509,and section 4096(a)(1)(A) of PL 100-203. Under section 9403 of PL 99-272, Peer Review Organizations (PROs) are authorized to deny Medicare payment to a physician or hospital for services furnished that are of substandard quality. The PRO determinations to deny Medicare payment for these services will be made on the basis of criteria that are consistent with guidelines established by the Secretary. Under section 9353(c) of PL 99-509, PROs will conduct an appropriate review of all written complaints from beneficiaries or their representatives about the quality of services not meeting professionally recognized standards of health care. Under PL 100-203 beneficiaries are protected from liability for the cost of physician services where payment is denied because services were of substandard quality.

Timetable:

Action	Date	FR Cite
NPRM	01/18/89	54 FR 1956
NPRM Comment Period End	03/20/89	54 FR 1956
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia Booth, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6880

RIN: 0938–AC84

919. CHANGES CONCERNING SUSPENSION OF MEDICARE PAYMENTS, INTEREST RATES CHARGED ON OVERPAYMENTS AND UNDERPAYMENTS, AND DETERMINATIONS OF ALLOWABLE INTEREST EXPENSE

Legal Authority: 42 USC 1320b-4; 42 USC 1395g; 42 USC 1395u; 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1302; 42 USC 1395l

CFR Citation: 42 CFR 413.153; 42 CFR 405.370; 42 CFR 405.376; 42 CFR 413.5(c)(3)

Legal Deadline: None

Abstract: This rule will change the Medicare regulations to provide for the following: (1) elimination of the requirement that in case of overpayments to health care providers, the contractor makes a determination that a suspension of payment is needed to protect the program against financial loss before the payment can be suspended; (2) elimination of the requirement that investment income of providers from gifts, grants, and endowments be offset against allowable interest expenses if that investment income is commingled with other funds; and (3) extension of the list of exceptions to the interest expense/investment income offset provision to include investment income from deferred compensation plans and self-insurance funds; and (4) permitting interest on overpayments and underpayments to be assessed at the higher of the private consumer rate or the current value of funds rate.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31888
NPRM Comment Period End	10/21/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AC99

920. CRITERIA AND PROCEDURES FOR MAKING MEDICAL SERVICES COVERAGE DECISIONS THAT RELATE TO HEALTH CARE TECHNOLOGY

Significance: Regulatory Program

Legal Authority: 42 USC 1395y; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 400.200; 42 CFR 400.202; 42 CFR 405.380; 42 CFR 405.381; 42 CFR 405.382; 42 CFR 405.383

Legal Deadline: None

Abstract: The rule will establish in regulations generally applicable standards and procedures for determinations as to whether and under what circumstances specific medical items and services should be paid for under Medicare. It establishes and explains the criteria relied upon for determining whether an item or service is "reasonable and necessary." The objective of the criteria and procedures set forth in this rule is to assure that Federal funds are expended only for medical services that are covered under the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	54 FR 4302
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 455 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-5310

RIN: 0938–AD07

921. MEDICARE COVERAGE OF PRESCRIPTION DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY

Legal Authority: 42 USC 1395x(s)(2)(J); 42 USC 1302

CFR Citation: 42 CFR 410.10; 42 CFR 410.29; 42 CFR 410.31

Legal Deadline: None

Abstract: This rule will implement section 9335(c) of Pub.L. 99-509 which authorizes Medicare coverage of immunosuppressive drugs for a period of 1-year following a Medicare-covered organ transplant. Current regulations reflect the statutory exclusion from Medicare Part B coverage of drugs or biologicals that can be self-administered. The regulations will be amended to reflect the new statutory requirement. The final regulation will also implement section 4075 of P.L. 100-203, which expanded coverage from "immunosuppressive drugs" to "prescription drugs used in immunosuppressive therapy."

Timetable:

Action	Date	FR Cite
NPRM	01/19/88	53 FR 1383
NPRM Comment Period End	03/21/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4636

RIN: 0938–AD09

922. REVISIONS TO CONDITIONS OF PARTICIPATION FOR HOSPITALS AND CONDITIONS FOR COVERAGE OF SERVICES OF INDEPENDENT LABORATORIES AND SUPPLIERS OF ESRD SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(e)(6)(B); PL 99-509, Sec 9339(d); 42 USC 1395x(ee); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.1312; 42 CFR 482.21; 42 CFR 405.2135; 42 CFR 405.2137; 42 CFR 482.27; 42 CFR 482.43

Legal Deadline: None

Abstract: These revisions will (a) require hospitals to provide a discharge planning process; and (b) allow a laboratory director to meet State standards for qualifications, rather than federal, if they differ. These revisions will conform our regulations with requirements of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22506
NPRM Comment Period End	08/15/88	53 FR 22506
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wren, Director, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5861

RIN: 0938–AD11

923. ● REQUIREMENTS FOR LONG TERM CARE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(j); 42 USC 1396a(a)(28); 42 USC 1396d(c); 42 USC 1302; 42 USC 1395hh; 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 442.1; 42 CFR 442.30; 42 CFR 442.100; 42 CFR 442.101; 42 CFR 442.105; 42 CFR 442.300 to 442.346; 42 CFR 442.250 to 442.254; 42 CFR 483.1 to 483.75

Legal Deadline: None

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Abstract: A sizable number of commenters offered their views on our final rule published February 2, 1989, (54 FR 5316). These rules would incorporate any changes made as a result of evaluating these comments. We also make several minor technical corrections to terminology and cross-references to existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38582
NPRM Comment Period End	01/14/88	52 FR 38582
Final Rule W/Comment Period	02/02/89	54 FR 5316
Comment Period End	05/03/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 300, East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4620

RIN: 0938–AD12

924. EXPLANATION OF RIGHTS AND OTHER HMO/CMP PROVISIONS

Legal Authority: 42 USC 1395mm; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417.413; 42 CFR 417.428; 42 CFR 417.432; 42 CFR 417.436; 42 CFR 417.446; 42 CFR 417.448; 42 CFR 417.460; 42 CFR 417.640; 42 CFR 417.494; 42 CFR 417.444; 42 CFR 417.597

Legal Deadline: None

Abstract: This rule revises Medicare regulations to repeal the "two-for-one" rule for Medicare enrollees; require HMOs/CMPs to provide additional information to Medicare beneficiaries and annual notice of HMP/CMP enrollees' rights; add a provision to terminate a contract for noncompliance with the composition of enrollment standard requiring that no more than 50 percent of an organization's membership be comprised of Medicare or Medicaid enrollees, and authorize sanctions when organizations fail to comply with the 50/50 rule or the terms of waivers or exceptions to that rule.

Timetable:

Action	Date	FR Cite
NPRM	07/22/88	53 FR 27716
NPRM Comment Period End	09/20/88	53 FR 27716
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Joan Mahanes, Program Analyst, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4642

RIN: 0938–AD14

925. ELIGIBILITY OF ALIENS FOR MEDICAID

Legal Authority: 42 USC 1396b(u); PL 99-603, Sec 201; PL 99-509, Sec 9406

CFR Citation: 42 CFR 435.402; 42 CFR 436.402; 42 CFR 440.200; 42 CFR 440.250; 42 CFR 436.128; 42 CFR 436.406; 42 CFR 436.408; 42 CFR 436.2; 42 CFR 440.255; 42 CFR 435.139; 42 CFR 435.406; 42 CFR 435.408; 42 CFR 435.1; 42 CFR 435.3; 42 CFR 436.128; ...

Legal Deadline: None

Abstract: This rule revises Medicaid regulations applicable for aliens who meet eligibility requirements as categorically needy or medically needy. It establishes in the regulations that aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law may be eligible for all Medicaid services. It also identifies those aliens who may be eligible only for limited services.

Timetable:

Action	Date	FR Cite
NPRM	09/29/88	53 FR 38032
NPRM Comment Period End	11/28/88	53 FR 38032
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marinos T. Svolos, Director, Division of Medicaid Eligibiltiy Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AD15

926. MEDICAID: ELIGIBILITY GROUPS, EXTENDED COVERAGE OF SERVICES, AND CONDITIONS OF ELIGIBILITY: OBRA '87, COBRA, AND TEFRA

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396d(a); 42 USC 1396k(a); 42 USC 1396s; 42 USC 1383c; 42 USC 673; 42 USC 675; 42 USC 672; 42 USC 1396a(a)(25)(B); 42 USC 1396a(e)(3)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule will amend the Medicaid regulations to incorporate numerous eligibility groups for Medicaid coverage: pregnant women; children in adoption and foster care; certain disabled widows and widowers; certain disabled children being cared for at home; and qualified children. The rule will also provide for extended care for pregnant women after termination of pregnancy and add a condition of eligibility relating to third party liability. The amendments will conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1987, the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Tax Equity and Fiscal Responsibility Act of 1982. States have been informed that these provisions of the statute are self-implementing. Manual instructions containing procedures for States to implement the requirements have been issued.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7798
NPRM Comment Period End	04/24/89	54 FR 7798
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AD16

927. PAYMENT FOR SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS

Legal Authority: 42 USC 1395x(s)(ll); 42 USC 1395l(l); 42 USC 1395x(bb)

CFR Citation: 42 CFR 405.553; 42 CFR 405.502; 42 CFR 413.80

Legal Deadline: None

Abstract: Section 9320 of Pub. L. 99-509 provides for payment on a fee schedule basis for services of certified registered nurse anesthetists (CRNAs) furnished to Medicare beneficiaries on or after January 1, 1989. The payment amount will be equal to the least of 80 percent of a fee schedule established by the Secretary (and adjusted annually by the change in the Medicare economic index), 80 percent of the prevailing charge for an anesthesiologist; or 80 percent of the actual charge. CRNAs will be required to accept assignment for all Medicare services and civil monetary penalties could be imposed for violations of this requirement. Alternatively, the hospital or physician could bill for and receive payment for services of CRNAs where an employment relationship or contract so stipulates. The hospital or physician could not bill more for CRNA services than the amount the CRNA could bill directly.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3803
NPRM Comment Period End	03/27/89	54 FR 3803
Final Action	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4497

RIN: 0938–AD25

928. WITHDRAWAL OF COVERAGE OF SINGLE PHOTON ABSORPTIOMETRY AND RADIOGRAPHIC ABSORPTIOMETRY AND CONTINUED NONCOVERAGE OF DUAL PHOTON ABSORPTIOMETRY

Legal Authority: 42 USC 1395y(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw Medicare coverage (including coverage under the End-Stage Renal Disease (ESRD) program) for single photon absorptiometry and radiographic absorptiometry for measuring bone mineral density for either diagnostic or treatment purposes, and to continue noncoverage of dual photon absorptiometry.

Timetable:

Action	Date	FR Cite
Proposed Notice	09/08/88	53 FR 34898
Public Comment Period End	11/07/88	53 FR 34898
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issue Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 455 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-5316

RIN: 0938–AD28

929. MODIFICATION OF CERTAIN REQUIREMENTS FOR HEALTH INSURING ORGANIZATIONS

Legal Authority: 42 USC 1302; 42 USC 1396b(m)(2)(A); PL 99-272, Sec 9517(c); PL 99-514, Sec 1895(c)(4); PL 99-509, Sec 9435(e)

CFR Citation: 42 CFR 434.14; 42 CFR 434.20; 42 CFR 434.40; 42 CFR 434.42; 42 CFR 434.44; 42 CFR 434.2

Legal Deadline: None

Abstract: The final rule will describe the conditions under which a Health Insuring Organization (HIO) is subject to certain Medicaid Health Maintenance Organization (HMO) regulations. It would require that an HIO which becomes operational on or after January 1, 1986 and arranges for the delivery of services to recipients be subject to HMO requirements. The regulations would specify that exemptions from certain HMO requirements are permitted for HIOs which began operations on or after January 1, 1986 if the HIOs obtained a section 1915(b) waiver prior to that date, or if an HIO is otherwise identified in the law. The exemptions which are based on section 1915(b) waivers last only until the expiration of the waiver.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32406
NPRM Comment Period End	10/24/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Rm. 401 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-5061

RIN: 0938–AD31

930. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395x(w)(1)

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 489; 42 CFR 1003

Legal Deadline: None

Abstract: This rule, issued jointly by HCFA and OIG, will prohibit Medicare payment for nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital will be obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations also authorize OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service under Part B of Medicare in violation of an arrangement. These regulations will implement sections 9343(c)(1), (c)(2), and (c)(3), of the Omnibus Budget Reconciliation Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29486
NPRM Comment Period End	10/04/88	53 FR 29486
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 405 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4607

RIN: 0938–AD33

931. PHYSICIAN LIABILITY ON NON-ASSIGNED CLAIMS

Legal Authority: PL 99-509, Sec 9332; 42 USC 1395u; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.339

Legal Deadline: None

Abstract: This regulation implements Section 9332(c) of the Omnibus Budget Reconciliation Act of 1986 under which nonparticipating physicians who provide, on an unassigned basis, services which are determined to be medically unnecessary are required to refund to the beneficiary any amounts collected for such services. Exceptions to the refund requirement will be granted only if the physician did not know and could not reasonably have been expected to know that the service was not covered, or if the beneficiary, after being informed that Medicare will not pay for the service, agrees to pay.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53025
NPRM Comment Period End	02/28/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elmer Smith, Director, Office of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 400 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-5648

RIN: 0938–AD34

932. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS

Legal Authority: 42 USC 1395y(a); 42 USC 1320(c); 42 USC 1395hh; 42 USC 1396a(a)(30); 42 USC 1395cc(a)

CFR Citation: 42 CFR 405.310; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 434.53; 42 CFR 456.2; 42 CFR 456.650; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 41 CFR 466.71; 42 CFR 466.78; 42 CFR 466.78; 42 CFR 466.83; 42 CFR 466.93; ...

Legal Deadline: None

Abstract: This rule sets forth several changes to the Medicare regulations governing Peer Review Organizations. Some of these changes are the result of the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Omnibus Budget Reconciliation Act of 1986. Other changes are of a technical nature and are intended to clarify and correct existing regulations on the Peer Review Organization Program. The rule also sets forth the policy for reimbursement of costs incurred by hospitals for photocopying medical records needed by PROs during offsite reviews.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	53 FR 8654
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Husk, Director, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Rm. 2-D-2 Meadows East Bdlg., 6325 Security Blvd., Baltimore, MD. 21207, 301 966-6850

RIN: 0938–AD38

933. UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATE METHODOLOGY

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(4); 42 USC 1395l(i); 42 USC 1395k(a)(2)(F); 42 USC 1302

CFR Citation: 42 CFR 416.130

Legal Deadline: NPRM, Statutory, July 1, 1988.

Abstract: We will state the methodology used to determine the payment amounts for ambulatory surgical services and update payment rates, effective July 1, 1988.

Timetable:

Action	Date	FR Cite
Proposed Notice	08/18/88	53 FR 31468
Public Comment Period End	10/17/88	53 FR 31468
Final Notice	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Booth, Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 181 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4487

RIN: 0938–AD44

934. HOME HEALTH AGENCIES: CONDITIONS OF PARTICIPATION AND REDUCTION IN RECORDKEEPING REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395bbb

CFR Citation: 42 CFR 484

Legal Deadline: Final, Statutory, October 1, 1988.
Minimum standards for home health aide training and competency evaluation programs must, pursuant to P.L. 100-203, be established by October 1, 1988.

Abstract: These regulations specify requirements for home health agencies for: protecting and promoting patient rights; training and competency of home health aides; notifying State entities responsible for the licensing or certification of HHAs of changes in ownership, managing employees, and managing organizations; including an individual's plan of care as part of the individual's clinical records; and operating and furnishing services in compliance with accepted professional standards and principles that apply to professionals furnishing home health services.

Timetable:

Action	Date	FR Cite
Effective Date	07/01/89	
Final With Comment Period	08/14/89	54 FR 33354
Comment Period End	10/13/89	54 FR 33354
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4607

RIN: 0938–AD45

935. CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1989 RATES

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 412; 42 CFR 413

Legal Deadline: None

Abstract: This final rule makes revisions to the inpatient hospital prospective payment system based on responses to comments received concerning changes made by Pub.L. 100-360 that are applicable to discharges during FY 1989.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19498
NPRM Comment Period End	07/26/88	53 FR 19498
Final Action with comments	09/30/88	53 FR 38476
Final Action generally effective	10/01/88	53 FR 38476
Final Action Public Comment Period End	11/29/88	53 FR 38476
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4529

RIN: 0938–AD49

936. PROTOCOL FOR THE REUSE OF DIALYSIS BLOODLINES

Legal Authority: 42 USC 1395rr(a)(7); 42 USC 1302; 42 USC 1395hh; 42 USC 1395kk; 42 USC 1395x; 42 USC 1395y(a)

CFR Citation: 42 CFR 405.2150(d)

Legal Deadline: None
While the Secretary is not required to publish a regulation, ESRD facilities will not otherwise be permitted to re-use bloodlines after June 30, 1988.

Abstract: This rule would establish standards for safe and effective reuse of bloodlines. The statute forbids ESRD facilities to reuse bloodlines beginning July 1, 1988, unless the Secretary has established and the facilities follow accepted protocols for their reuse. The protocols would be incorporated into conditions of coverage.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 28236
NPRM Comment Period End	09/26/88	53 FR 28236
Final Action	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Rita McGrath, Chief, Alternate Delivery Organization Branch, Department of Health and Human Services, Health Care Financing Administration, Room 469 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4635

RIN: 0938–AD52

937. ● FEE SCHEDULES FOR RADIOLOGIST SERVICES

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(1)(j); 42 USC 1395m(b); 42 USC 1302; 42 USC 1395hh; PL 100-203, Sec 4049

CFR Citation: 42 CFR 405.501; 42 CFR 405.520; 42 CFR 405.532; 42 CFR 405.533; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.554; 42 CFR 405.555

Legal Deadline: NPRM, Statutory, August 1, 1988.
Effective for services performed on or after 01/01/89.

Abstract: As a result of provisions included in section 4049 of PL 100-203, we are setting forth a fee schedule for radiology services furnished by a board-certified or board eligible radiologist or by a physician whose charges for radiology services account for 50 percent or more of his or her total Medicare charges. These physicians will be paid at 80 percent of the lower of the actual charges or the appropriate fee schedule amount. The fee schedule amount for a nonparticipating physician will be 95 percent of the amount applicable to a participating physician. In addition, a nonparticipating physician's charges to beneficiaries will be capped. The proposed fee schedule will result in overall payment to physicians for radiology of 3 percent less than would have occurred without a fee schedule. The fee schedule will be updated annually in accordance with the annual increase in the Medicare Economic Index.

Timetable:

Action	Date	FR Cite
Interim Rule with Comment Period	03/02/89	54 FR 8994
Effective date	04/01/89	
Comment Period End	05/01/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services, Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AD62

938. UNIFORM RELATIVE VALUE GUIDE FOR ANESTHESIA SERVICES FURNISHED BY PHYSICIANS

Legal Authority: PL 100-203, Sec 4048(b); 42 USC 1302; 42 USC 1395hh; 42 USC 1395u(b)(13)

CFR Citation: 42 CFR 405.553

Legal Deadline: Final, Statutory, January 1, 1989.
Under section 4048(b) of PL 100-203 the relative value guide is to be used for physician anesthesia services furnished on or after 01/01/89.

Abstract: This final rule will establish a relative value guide for use in all carrier localities in making payment for anesthesia services furnished by physicians under Medicare Part B. This rule will implement section 4048(b) of PL 100-203. The proposed relative value guide is designed to ensure that payments using the guide do not exceed

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the amount that would have been made under the current payment system. Although the statute requires that the uniform relative value guide be effective for services furnished on or after January 1, 1989, we are delaying the effective date until March 1, 1989.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3794
NPRM Comment Period End	02/27/89	54 FR 3794
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AD63

939. PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND ORTHOTIC AND PROSTHETIC DEVICES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395m(a); 42 USC 1395x(n)

CFR Citation: 42 CFR 405.502; 42 CFR 405.514; 42 CFR 414.200; 42 CFR 414.202; 42 CFR 414.210; 42 CFR 414.220; 42 CFR 414.222; 42 CFR 414.224; 42 CFR 414.226; 42 CFR 414.228; 42 CFR 414.230; 42 CFR 410.36; 42 CFR 410.38; 42 CFR 414.232

Legal Deadline: None

Abstract: This final rule with comment period implements section 4062 of Pub. Law No. 100-203. It establishes fee schedules and payment methodologies that govern payments for six categories of durable medical equipment and orthotic and prosthetic devices as required by section 4062 of Pub. Law No. 100-203. The new payment rates are to be effective for items provided on or after January 1, 1989.

Timetable:

Action	Date	FR Cite
Final with comment period	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Director of Medical Services Reimbursement, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938–AD65

940. INHERENT REASONABLENESS FOR HOME DIALYSIS SUPPLIES AND EQUIPMENT

Legal Authority: 42 USC 1395u(b)(8); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This notice would establish a special reasonable charge payment limit for home dialysis equipment and supplies to prevent excessive payment for these items.

Timetable:

Action	Date	FR Cite
Proposed Notice	01/12/89	54 FR 1244
Comment Period Ends	03/13/89	
Final Notice	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bob Niemann, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Div. of Dialysis & Transplant Payment Policy, 1-A-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4569

RIN: 0938–AD74

941. PAYMENT FOR OUTPATIENT SURGERY AT EYE SPECIALTY HOSPITALS AND EYE AND EAR SPECIALTY HOSPITALS

Legal Authority: 42 USC 1395l(i)(3)(B)(ii); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.118

Legal Deadline: None

Abstract: In accordance with section 4088(a) of PL 100-203, we will revise the payment provisions concerning hospital outpatient services furnished in connection with ambulatory surgical procedures for certain qualified eye hospitals and eye and ear hospitals. For cost reporting periods beginning on or after October 1, 1988 and before October 1, 1990, the blended payment amount applicable to these hospitals remains at 75 percent of the hospital-specified amount and 25 percent of the ambulatory surgical center amount.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3818
NPRM Comment Period End	03/27/89	54 FR 3818
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4513

RIN: 0938–AD76

942. SWING-BED PROGRAM CHANGES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395tt

CFR Citation: 42 CFR 413; 42 CFR 424; 42 CFR 482; 42 CFR 489

Legal Deadline: None

Abstract: These regulations revise the Medicare rules relating to approved swing-bed hospitals. They implement the provisions of Pub. L. 100-203 which expand the swing-bed program to rural hospitals with less than 100 beds. Payment for extended care services furnished by hospitals with 50-99 beds are subject to additional conditions.

Timetable:

Action	Date	FR Cite
Final With Comment Period	09/07/89	54 FR 37270
Effective Date	10/10/89	
Comment Period End	11/06/89	54 FR 37270
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405, EHR, 6325

Security Boulevard, Baltimore, Maryland 21207, 301 966-4607

RIN: 0938–AD83

943. SECOND SURGICAL OPINION REQUIREMENTS FOR MEDICAID RECIPIENTS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(30)(A)

CFR Citation: 42 CFR 456.700; 42 CFR 456.703; 42 CFR 456.705; 42 CFR 456.707; 42 CFR 456.709; 42 CFR 456.711; 42 CFR 456.713; 42 CFR 456.715; 42 CFR 456.721; 42 CFR 456.723; 42 CFR 456.729

Legal Deadline: None

Abstract: These regulations require each Medicaid plan to include a program for second surgical opinions for certain surgical procedures. This program is aimed at preventing unnecessary surgery and improving patient awareness of all treatment options, where alternatives to surgery are available. These regulations cannot be published earlier than 180 days after the Secretary's submission of a report to Congress as required by OBRA 86. That report was submitted on June 16, 1989.

Timetable:

Action	Date	FR Cite
NPRM	06/17/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ernestine Jones, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Room 463, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4646

RIN: 0938–AD86

944. CONFORMING AMENDMENTS RESULTING FROM THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Legal Authority: 42 USC 1395x(r); 42 USC 1395l; 42 USC 1395x(s); 42 USC 1395y; 42 USC 1395x(e); 42 USC 1395r; 42 USC 426; 42 USC 1396d; 42 USC 1396n; 42 USC 1396b; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 408; 42 CFR 409; 42 CFR 410; 42 CFR 413; 42 CFR 416; 42 CFR 417; 42 CFR 424; 42 CFR 430; 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; ...

Legal Deadline: None

Abstract: These regulations conform HCFA rules to certain self-executing provisions of the Omnibus Budget Reconciliation Act of 1987. They are needed to make HCFA rules consistent with current provisions of law and to ensure that users of the regulations are not confused by outdated provisions or unclear language. Under the Medicare program's rules changes are made affecting: services of podiatrists; outpatient psychiatric services; SMI premiums; partial hospitalization; and comprehensive outpatient rehabilitative facility services. Under the Medicaid program changes are made affecting; services of dentists; clinic services; and waivers of certain State plan requirements. In additions, we make other conforming and transitional amendments.

Timetable:

Action	Date	FR Cite
Final rule with Comment Period	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Luisa V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, Room 418H Hubert H. Humphrey Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201, 202 245-0343

RIN: 0938–AD92

945. CATASTROPHIC COVERAGE CONFORMING AMENDMENTS

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395e; 42 USC 1395f; 42 USC 1395i; 42 USC 1395r; 42 USC 1396a; 42 USC 1396d; 42 USC 1395v; 42 USC 1396b

CFR Citation: 42 CFR 400; 42 CFR 406; 42 CFR 407; 42 CFR 408; 42 CFR 409; 42 CFR 410; 42 CFR 418; 42 CFR 424; 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 447; 42 CFR 482; 42 CFR 489

Legal Deadline: None

Abstract: These regulations conform HCFA rules to certain self executing provisions of the Medicare Catastrophic Coverage Act of 1988 which: expand the scope of benefits under Medicare Part A; change the rules applicable to deductible and coinsurance; effect the determination and promulgation of Medicare Part A premiums; impose additional premiums for Medicare Part B; require Medicaid agencies to pay Medicare premiums deductibles and coinsurance on behalf of qualified Medicare beneficiaries and make other conforming and transitional amendments. They are needed to make HCFA rules consistent with current provisions of law and to ensure that users of the regulations are not confused by outdated provisions or unclear language.

Timetable:

Action	Date	FR Cite
Final with comment period	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Luisa V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, Room 418H Hubert H. Humphrey Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201, 202 245-0343

RIN: 0938–AD93

946. DIAGNOSIS CODES ON PHYSICIAN BILLS

Legal Authority: 42 USC 1395u(p); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 424.3; 42 CFR 424.32; 42 CFR 424.34

Legal Deadline: None

Abstract: We will require that each bill or request for payment for a service furnished by a physician under Medicare Part B must include appropriate diagnostic coding for the diagnosis on the nature of the illness or injury for which the Medicare beneficiary received care. This rule implements certain provisions of section 202(g) of Pub. L. 100-360.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	54 FR 30558
NPRM Comment Period End	09/19/89	54 FR 30558
Final Action	00/00/00	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Bart McCann, M.D., Special Assistant, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 455 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4628

RIN: 0938–AE06

947. PHYSICIAN INVOLVEMENT IN PHYSICAL THERAPY AND SPEECH PATHOLOGY SERVICES

Legal Authority: PL 100-647, Sec 8424

CFR Citation: 42 CFR 405.1717; 42 CFR 405.1733; 42 CFR 424.25; 42 CFR 424.24

Legal Deadline: None

Abstract: This final rule implements section 8424 of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647. It removes from Medicare conditions of participation the requirement that providers of outpatient physical therapy and physical therapists in independent practice accept for treatment only patients referred to them by physicians, and that written plans of care be established and reviewed by physicians. It also extends the same exemption to providers of outpatient speech pathology and speech pathologists in independent practice. It affects care provided to non-Medicare patients only. The requirements for physician involvement continue to apply for services provided to Medicare beneficiaries. The purpose of the rule is to relieve providers of outpatient physical therapy and outpatient speech pathology and independent therapists of unnecessary burden imposed by current Federal regulations. States would have the flexibility under State law to establish the most appropriate requirements for non-Medicare patients in need of physical therapy or speech pathology services.

Timetable:

Action	Date	FR Cite
Final With Comment Period	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheridan Gladhill, Program Analyst, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4605

RIN: 0938–AE07

948. MMIS SYSTEM PERFORMANCE REVIEW REVISIONS

Legal Authority: 42 USC 1396b(v); 42 USC 1302

CFR Citation: 42 CFR 433.112; 42 CFR 433.123

Legal Deadline: None
Six months after enactment of Section 9503 of Pub. L. 99-272 (April 7, 1986) for only new TPL standard.

Abstract: This notice will propose revisions to the scoring and format of the system performance review of the Medicaid Management Information System (MMIS); it also proposes a new standard. The purpose of this proposal is to promote the efficiency and effectiveness of the Medicaid program.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/30/89	54 FR 27755
Comment Period End	08/29/89	
Final Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Frederick Harris, Program Analyst, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, Room 273, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5007

RIN: 0938–AE16

949. INPATIENT HOSPITAL DEDUCTIBLE FOR 1990

Legal Authority: 42 USC 1395e

CFR Citation: 42 CFR 409.82

Legal Deadline: Other, Statutory, September 15, 1989.

Abstract: This notice announces the inpatient hospital deductible for calendar year 1990 under Medicare's hospital insurance program. The Medicare statute specifies the formula to be issued to determine this amount.

Timetable:

Action	Date	FR Cite
Notice	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE19

950. PART A PREMIUM FOR THE UNINSURED AGED FOR 1990

Legal Authority: 42 USC 1395i-2

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1989.

Abstract: This notice announces the amount of the monthly premium for uninsured Medicare beneficiaries for calendar year 1990. This amount is based on the formula specified by statute.

Timetable:

Action	Date	FR Cite
Notice	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE20

951. MONTHLY ACTUARIAL RATES AND PART B PREMIUM RATES BEGINNING 1/1/90

Legal Authority: 42 USC 1395r; 42 USC 1302

CFR Citation: 42 CFR 408.20

Legal Deadline: Other, Statutory, September 30, 1989.

Abstract: This notice announces the monthly actuarial rates for aged (aged 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI)

program for the 12 months beginning January 1, 1990. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1990.

Timetable:

Action	Date	FR Cite
Notice	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Carter S. Warfield, Director, Division of Supplementary Medical Insurance, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6396

RIN: 0938–AE21

952. SNF COINSURANCE AMOUNT FOR 1990

Legal Authority: 42 USC 1395e(a)(3)(C)

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1989.

Abstract: This notice announces the daily coinsurance amount for which Medicare beneficiaries will be responsible for days 1 through 8 of a covered stay in a skilled nursing facility in 1990.

Timetable:

Action	Date	FR Cite
Notice	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Solomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M-1, 1705 Equitable Bldg., 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6386

RIN: 0938–AE22

953. UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES FOR JULY 1, 1989

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(4); 42 USC 1395l(i); 42 USC 1395k(a)(2)(F)

CFR Citation: 42 CFR 416.130

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: This notice announces the payment rates for ambulatory surgical services effective July 1, 1989.

Timetable:

Action	Date	FR Cite
Final Notice	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Booth, Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 181 EHR, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4487

RIN: 0938–AE29

954. ● DEMONSTRATION PROJECT TO DEVELOP A UNIFORM COST REPORTING SYSTEM FOR HOSPITALS

Legal Authority: 42 USC 1395ww note

CFR Citation: 42 CFR 403

Legal Deadline: None

Abstract: This rule implements the provisions of section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, which require the Secretary to conduct a demonstration project to develop a uniform cost reporting system for hospitals under the medicare program. Hospitals in two states will be required to participate in the demonstration project and additional worksheets developed for the demonstration in a uniform electronic format.

Timetable:

Action	Date	FR Cite
Interim Rule Effective	07/01/89	
Interim Final With Comment Period	08/25/89	54 FR 35329
Comment Period End	10/23/89	54 FR 35329

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4513

RIN: 0938–AE32

955. ● CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Legal Authority: 42 USC 1302; 42 USC 1396r-3

CFR Citation: 43 CFR 442

Legal Deadline: None

Abstract: This rule makes it possible for an ICF/MR with deficiencies in any area (not just in the areas of staffing and physical plant) to submit and obtain approval of a correction or reduction plan, so long as the deficiencies do not pose immediate jeopardy to the health and safety of the facility's clients. It also extends the deadline for approval of such plan to January 1, 1990.

Timetable:

Action	Date	FR Cite
Final Rule with Comment Period	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Robert Harrison, Chief, Long-Term Care Care Services, Branch, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East, 6300 Security Boulevard, Baltimore, MD 21207, 301 966-6832

RIN: 0938–AE41

956. ● OMNIBUS CLINICAL LABORATORY REGULATION

Significance: Regulatory Program

Legal Authority: PL 100-578 Section 353 of the Public Health Service Act

CFR Citation: 42 CFR 493 Subpart J

Legal Deadline: None

Abstract: Historically the Department has regulated laboratories by "location," rather than by types of tests they perform. Amendments to the Clinical Laboratories Improvements Act of 1988 changes this approach. The amendments require that the Department "regulate by test," using what is commonly referred to as the

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"complexity model." This proposed rule would set forth standards for all laboratories based on complexity. It will also seek public comments on the proposed standards as well as ask for suggestions and alternatives.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, 2-D-2 ME, Baltimore, Maryland 21207, 301 966-6763

RIN: 0938–AE47

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

957. ADDITIONS TO AND DELETIONS FROM CURRENT LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS

Significance: Regulatory Program

CFR Citation: 42 CFR 416.65

Completed:

Reason	Date	FR Cite
Final Action	06/01/89	54 FR 23540
Final Action Effective	08/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita McGrath 301 966-4655

RIN: 0938–AC45

958. PERIODIC PAYMENTS FOR HOSPITALS AND OTHER PROVIDERS

CFR Citation: 42 CFR 412.116

Completed:

Reason	Date	FR Cite
Final Action	01/21/88	53 FR 1621
Final Action Effective	02/22/88	53 FR 1621

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Goeller 301 966-4513

RIN: 0938–AD71

959. CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1990 RATES

Significance: Regulatory Program

CFR Citation: 42 CFR 412; 42 CFR 413

Completed:

Reason	Date	FR Cite
Final Action	09/01/89	54 FR 36452
Final Action Effective	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Barbara Wynn 301 966-4529

RIN: 0938–AE02

960. SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1989

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Action	06/30/89	54 FR 27742
Final Action Effective	07/01/89	54 FR 27742

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Goeller 301 966-4513

RIN: 0938–AE03

961. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1989

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0938-AD48	08/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Solomon Mussey 301 966-6386

RIN: 0938–AE18

962. FUNCTIONS OF CONTRACTORS IN THE ADMINISTRATION OF THE MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT BEGINNING JANUARY 1, 1991

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn Functions published in RFP 7-17-89	05/16/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Toba Winston 301 966-7426

RIN: 0938–AE14

963. PART B CATASTROPHIC LIMIT

CFR Citation: 42 CFR 410.110

Completed:

Reason	Date	FR Cite
Withdrawn Notice not required per statute for 1990	05/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Solomon Mussey 301 966-6386

RIN: 0938–AE18

964. ● MEDICARE AND MEDICAID APPROVED INFORMATION COLLECTION REQUIREMENTS AND FEDERAL MEDICAL ASSISTANCE PERCENTAGE COMPUTATION

Legal Authority: 44 USC Chap 35; 44 USC 1395hh

CFR Citation: 42 CFR 400; 42 CFR 433

Legal Deadline: None

Abstract: The Final Rule displays updated control numbers assigned by the Office of Management and Budget "Collection of Information" requirements contained in regulations governing Medicare and Medicaid programs. Corrections long standing formula for computing the state share of Federal Medicaid Assistance Percentage (CMAP).

Timetable:

Action	Date	FR Cite
Final Action	05/16/89	54 FR 21065
Final Action Effective	05/16/89	54 FR 21065

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxinet Turnipseed, Program Analyst, Office of Budget Administration, Department of Health and Human Services, Health Care Financing Administration, Room 2-b-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-1961

RIN: 0938–AE31

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Proposed Rule Stage

965. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

Legal Authority: 42 USC 657; 42 USC 1302

CFR Citation: 45 CFR 302.51; 45 CFR 302.32

Legal Deadline: None

Abstract: OCSE is proposing to revise the child support enforcement program regulations governing the distribution of child support collections. These proposed rules would clarify the requirements that State child support enforcement agencies must adhere to when distributing collections in IV-D cases.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Michael Fitzgerald, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5365

RIN: 0970–AA18

966. ALIEN VERIFICATION PROCEDURES FOR AFDC, STATE ADMINISTERED ADULT ASSISTANCE AND MEDICAID PROGRAMS; NOTICE OF PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: PL 99-603; Sec 121, Immigration and Reform Act of 1986

CFR Citation: 45 CFR 233; 42 CFR 435; 45 CFR 205; 45 CFR 433; 42 CFR 436

Legal Deadline: NPRM, Statutory, October 1, 1987.

Abstract: Immigration Reform and Control Act imposes new procedures on the AFDC, Adult Assistance Programs and Medicaid to verify immigration status of aliens applying for benefits under these programs with the Immigration and Naturalization Service. Under the law, States must be reimbursed at 100% for costs of their implementation and operation to access the alien status verification system. This regulation will specify what costs incurred by States will be subject to 100% reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS must establish an alien verification system that can be accessed by States by October 1, 1987. States may claim 100% reimbursement for implementing and operating SAVE beginning October 1, 1987.

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA41

967. IMMEDIATE WAGE WITHHOLDING, REVIEW AND MODIFICATION OF ORDERS, AND MONTHLY NOTICE OF SUPPORT COLLECTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 654(5); 42 USC 666

CFR Citation: 45 CFR 302.54; 45 CFR 302.70; 45 CFR 303.4; 45 CFR 303.100

Legal Deadline: None

Abstract: This regulation implements certain provisions of the Family Support Act of 1988 (P.L. 100-485). It requires States: (1) by November 1990, to require immediate income withholding in all cases receiving services under title IV-D of the Social Security Act with new or modified orders unless there is an alternative arrangement; (2) to review support orders in IV-D cases by October 1993 at least every 36 months and modify the support orders in accordance with support guidelines, as appropriate; and (3) to send monthly as opposed to annual notices of the amount of support collected to AFDC families.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

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Agency Contact: Betsy Matheson, Chief, Policy Branch, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5362

RIN: 0970–AA63

968. $50 DISREGARD, PATERNITY ESTABLISHMENT AND MANDATORY GUIDELINES

Significance: Agency Priority

Legal Authority: 42 USC 654(6); 42 USC 655(a)(1); 42 USC 657(b)(1); 42 USC 666(a)(5); 42 USC 667

CFR Citation: 45 CFR 302.50; 45 CFR 302.51; 45 CFR 302.53; 45 CFR 302.56; 45 CFR 302.70; 45 CFR 303.5; 45 CFR 303.7; 45 CFR 303.100; 45 CFR 304.20

Legal Deadline: None

Abstract: This regulation implements certain provisions of the Family Support Act of 1988 (P.L. 100-485). It requires States to use guidelines as a rebuttable presumption in setting support awards; clarifies that the $50 disregard is paid to the family if the support is paid on time; clarifies that State laws and procedures must provide for paternity establishment of any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; provides 90 percent federal funding of laboratory costs in establishing paternity; and requires genetic testing in contested paternity establishment cases upon request by any party.

Timetable:

Action	Date	FR Cite
NPRM	09/13/89	54 FR 37866
NPRM Comment Period End	11/13/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Craig Hathaway, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5367

RIN: 0970–AA64

969. CHILD SUPPORT PROGRAM; STATE PLAN REQUIREMENTS

Significance: Regulatory Program

Legal Authority: PL 100-485

CFR Citation: 45 CFR 232.2; 45 CFR 204

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The proposed rule will emphasize the role and the responsibility of the AFDC applicant/recipient in the establishment of paternity and the enforcement of child support obligations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	07/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA66

970. RELATED AFDC AMENDMENTS UNDER THE FAMILY SUPPORT ACT OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-485, Sec 401(a); PL 100-485, Sec 402; PL 100-485, Sec 403; PL 100-485, Sec 601; PL 100-485, Sec 604(a)(3)

CFR Citation: 45 CFR 201.1(g); 45 CFR 205.44(b); 45 CFR 205.44(c); 45 CFR 205.44(e); 45 CFR 232.2; 45 CFR 233.20(a)(3)(xiii); 45 CFR 233.20(a)(6)(xi); 45 CFR 233.100; 45 CFR 233.107

Legal Deadline: None

Abstract: Would make the following changes required by the Family Support Act: (1) Require all States to provide benefits for families with unemployed parents and provide at least 6 months of coverage; (2) Increase the standard work expense disregard to $90; (3) Increase the limit on the dependent care disregard to $175 ($200 for a child under 2); (4) Disregard earned income tax credit payments; (5) Allow States to require as a condition of eligibility that minor mothers who have never married live in a place of residence maintained by a parent, legal guardian or other adult-supervised living arrangement; (6) Adds American Samoa to the jurisdictions authorized to develop and operate an AFDC program and includes American Samoa within the quality control system and subjects it to the same error rate tolerances and sanctions that are applicable to other territorial jurisdictions; (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONTINUED: (7) Make States responsible for assuring that benefits and services under IV-A, IV-D, and IV-F are furnished in an integrated manner and re-enforce the role and responsibility of the State in obtaining the cooperation of the applicant/recipient in the establishment of paternity and the enforcement of child support obligations.

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA69

971. DISREGARD OF BONA FIDE LOANS, STUDENT ASSISTANCE/HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1987, COMPENSATION/CIVIL LIBERTIES ACT OF 1988, DISASTER RELIEF/EMERGENCY ASSISTANCE AMENDMENTS OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-50; PL 100-707; PL 100-383

CFR Citation: 45 CFR 233.20(a)(4)

Legal Deadline: None

Abstract: Would add the following income and resource disregards to the regulations: (1) Disregard of Bona Fide Loans; (2) Disregard of Student Financial Assistance under title IV of the Higher Education Act or under Bureau of Indian Affairs Student Assistance Programs that is made available for attendance costs; (3) Disregard of Compensation to individuals of Japanese ancestry, and residents of the Aleutian and Pribilof Islands who were interned during World War II; (4) Disregard of Federal major disaster and emergency assistance under the Disaster Relief Act, as amended.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA70

972. ● AMENDMENTS TO THE STATE LEGALIZATION IMPACT ASSISTANCE GRANT (SLIAG) REGULATION

Significance: Agency Priority

Legal Authority: 8 USC 1255a note; PL 100-525

CFR Citation: 45 CFR 402.2; 45 CFR 402.10; 45 CFR 402.11; 45 CFR 402.20; 45 CFR 402.22; 45 CFR 402.24; 45 CFR 402.26; 45 CFR 402.33; 45 CFR 402.40; 45 CFR 402.41; 45 CFR 402.51

Legal Deadline: None

Abstract: This rule proposes to implement technical amendments made to the Immigration and Naturalization Act by recent legislation and make other administrative changes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Norman L. Thompson, Director, Division of State Legalization Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, 202 252-4571

RIN: 0970–AA73

973. ● REVISIONS TO AUDIT REGULATIONS AS A RESULT OF THE CHILD SUPPORT PROVISIONS OF THE FAMILY SUPPORT ACT OF 1988

Significance: Agency Priority

Legal Authority: 42 USC 603(h); 42 USC 604(d); 42 USC 652(a)(1); 42 USC 652(a)(4); 42 USC 1302

CFR Citation: 45 CFR 305

Legal Deadline: None

Abstract: This regulation revises existing audit procedures as a result of changes to program regulations to implement the child support provisions of the Family Support Act of 1988. These changes establish timeframes and standards for providing child support enforcement services, and require use of guidelines to establish support orders among other things. Audit regulations are being revised for consistency with new program requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Betsy Matheson, Chief of Policy, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5362

RIN: 0970–AA74

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Family Support Administration (FSA)

974. SCOPE OF PAYMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1102; 42 USC 602

CFR Citation: 45 CFR 233.20(a)(2)(i); 45 CFR 233.20(a)(2)(v); 45 CFR 233.120

Legal Deadline: None

Abstract: These proposed regulations would clarify that States may not provide simultaneous multiple shelter allowances or special need allowances to recipients under Titles I, IV-A, X, XIV, and XVI of the Social Security Act based on the type of housing in which they reside. Also, these regulations would limit Federal matching under the Emergency Assistance program to one 30-day period in twelve consecutive months and would require States to specify the maximum amount of assistance to be provided for each type of emergency.

Timetable:

Action	Date	FR Cite
NPRM	12/14/87	52 FR 47420
NPRM Comment Period End	01/26/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Additional Information: Split off from Regulation on Administrative Improvement in the AFDC Program (RIN 0960-AB72).

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA00

975. AID TO FAMILIES WITH DEPENDENT CHILDREN; DEFINITION OF PERMISSIBLE STATE PRACTICE-QUALITY CONTROL

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 603

CFR Citation: 45 CFR 205.40(a)(8)

Legal Deadline: None

Abstract: This rule will amend the definition of "Permissible State Practice." The rule will enable quality control to review against Federal statutes and regulations when a state plan is not amended to reflect new federal rules.

Timetable:

Action	Date	FR Cite
NPRM	06/18/85	50 FR 25269
NPRM Comment Period End	08/19/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sean Hurley, Director, Division of Quality Control, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5075

RIN: 0970–AA04

976. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; IMPLEMENTATION OF THE DEFICIT REDUCTION ACT OF 1984

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 98-369 The Deficit Reduction Act of 1984; PL 99-514 The Tax Reform Act of 1986

CFR Citation: 45 CFR 233.36; 45 CFR 237.50; 45 CFR 238.18; 45 CFR 238.20; 45 CFR 238.50; 45 CFR 239.12; 45 CFR 239.14; 45 CFR 239.16; 45 CFR 239.24; 45 CFR 239.58; 45 CFR 239.82; 45 CFR 233.10; 45 CFR 233.90; 45 CFR 232.20; 45 CFR 233.35; ...

Legal Deadline: None

Abstract: The final regulations will clarify provisions first published in the Interim Final Rules implementing the Deficit Reduction Act of 1984 and as clarified by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/84	49 FR 35586
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA06

977. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; EXTENSION OF MEDICAID ELIGIBILITY WHEN SUPPORT COLLECTIONS RESULT IN TERMINATION OF AFDC ELIGIBILITY

Legal Authority: 42 USC 606; 42 USC 1302; PL 98-378, Sec 20; PL 100-985, Sec 303(e)

CFR Citation: 45 CFR 233; 45 CFR 435; 45 CFR 436

Legal Deadline: None

Abstract: This NPRM rule, which implements section 20 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) specifies that in any case where the collection or increased collection of support under title IV-D of the Social Security Act contributes wholly or partly to a family's ineligibility for AFDC, the family is deemed, but only for the purpose of Medicaid eligibility, to be receiving AFDC for a period of four calendar months after the last month of AFDC eligibility. This applies only to families who receive AFDC in three of the six months immediately preceding the month of ineligibility. "Received" includes those individuals denied an AFDC payment solely because the payment amount is under $10, the recoupment of overpayment, or because the payment is determined to be zero as a result of rounding.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA07

978. CONSISTENCY FOR THE FOOD STAMP PROGRAM, AFDC PROGRAM, AND THE ADULT ASSISTANCE PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 205.10(a)(4)(ii); 45 CFR 233.31(b); 45 CFR 233.20(a)(6)(v)(B); 45 CFR 205.10(a)(7); 45 CFR 205.10(a); 45 CFR 205.52; 45 CFR 233.20(a)(3)(ii)(D); 45 CFR 233.20(a)(3)(iii)

Legal Deadline: None

Abstract: The Final rule will provide increased consistency in eligibility policies and procedures between the AFDC and Food Stamp programs, within existing statutory requirements. The aim is to improve and simplify program administration and ease the burden placed upon the State agencies and individuals applying for assistance.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
ANPRM Comment Period End	04/22/85	50 FR 6970
NPRM	09/29/87	52 FR 36546
NPRM Comment Period End	11/30/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 253-5116

RIN: 0970–AA08

979. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; GENERAL ADMINISTRATION – PUBLIC ASSISTANCE PROGRAM – QUALITY CONTROL SYSTEM

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 97-248

CFR Citation: 45 CFR 205.44

Legal Deadline: None

Abstract: These proposed rules amend the QC regulations under the AFDC program by establishing more definitive criteria to be used in determining whether waivers will be granted to states that fail to meet the statutory error standard.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 21
NPRM Comment Period End	04/03/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Agency Contact: Sean Hurley, Director, Division of Quality Control, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5075

RIN: 0970–AA11

980. CHILD SUPPORT ENFORCEMENT AUDIT REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 603(h); 42 USC 604(d); 42 USC 652(a)(1); 42 USC 652(a)(4); 42 USC 1302

CFR Citation: 45 CFR 305

Legal Deadline: None

Abstract: This final regulation revises the audit period from a fiscal year period to a more flexible period comprised of any consecutive five months. Other proposed changes are not being made in this final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4841
NPRM Comment Period End	04/03/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Elizabeth Matheson, Chief, Policy Branch, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5362

RIN: 0970–AA17

981. EXCLUSION OF INDIAN TRUST FUNDS AND ALASKA NATIVE CLAIMS SETTLEMENT ACT DISTRIBUTIONS

Significance: Regulatory Program

Legal Authority: PL 97-458, Sec 4; PL 98-64, Sec 2; PL 100-241, Sec 15

CFR Citation: 45 CFR 233.20(a)(4)(ii)(a); 45 CFR 233.20(a)(4)(ii)(c); 45 CFR 233.20(a)(4)(ii)(e); 45 CFR 233.20(a)(4)(ii)(k)

Legal Deadline: None

Abstract: Would update current regulations by adding statutory exclusions for certain per capita distributions of Indian judgment funds and other funds held in trust by the Department of Interior, and initial purchases made with such funds. Additionally, would exclude the following types of distributions received from a Native Corporation pursuant to the Alaska Native Claims Settlement Act. (1) Cash to the extent that it does not in the aggregate, exceed $2,000 per individual per annum; (2) Stocks; (3) A partnership interest; (4) Land or an interest in land; and (5) An interest in a settlement trust. Regulations would reflect the statutes; therefore, no alternatives are being considered. We estimate that the Federal share of the cost of the trust funds exclusions required under PL 97-458 and PL 98-64 would be $698,960 per year, the Federal share of the cost of the Alaska Native Claims Settlement Act exclusions required under PL 100-241 would be $1,876,108 per year. Therefore, the annual result would be a cost of $3,575,068.

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19197
NPRM Comment Period End	07/03/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA47

982. COOPERATION TO PURSUE THIRD PARTY HEALTH COVERAGE

Significance: Regulatory Program

Legal Authority: Sec 12304 as amended by the Social Security Act; PL 99-272; The Consolidated Omnibus Reconciliation Act of 1985

CFR Citation: 45 CFR 232.13; 45 CFR 232.40; 45 CFR 232.41; 45 CFR 232.42; 45 CFR 232.43; 45 CFR 232.44; 45 CFR 232.45; 45 CFR 232.47; 45 CFR 232.48; 45 CFR 232.49; 45 CFR 234.60; 45 CFR 235.70

Legal Deadline: None

Abstract: The proposed rules specify that as a condition of eligibility for AFDC, each applicant or recipient must cooperate with the State by identifying and providing information to assist the State in pursuing any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	05/24/89	54 FR 22457
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA49

983. PRE-ELIGIBILITY FRAUD DETECTION MEASURES

Significance: Agency Priority

Legal Authority: PL 100-485

CFR Citation: 45 CFR 235.111

Legal Deadline: NPRM, Statutory, October 1, 1989.

Abstract: Requires State agencies to establish procedures to detect pre-eligibility fraud on all AFDC applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/89	54 FR 15944
Final Action	11/15/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA56

984. TARGETING OF, AND TOLERANCES FOR, INCOME AND ELIGIBILITY VERIFICATION SYSTEM DATA

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 9101 Omnibus Budget Reconciliation Act of 1986

CFR Citation: 45 CFR 205.56

Legal Deadline: None

Abstract: These rules make revisions to the regulations designed to incorporate changes made by Section 9101 of PL 99-509, which amended Section 1137 of the Social Security Act to allow States flexibility in targeting uses of data through the Income and Eligibility Verification System. States will not be required to verify and act on all data. This changes earlier regulations which required 100% verification and allows the States the option to target their uses to those identified in the State Plan as most likely to be productive.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/88	53 FR 52709
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, 202 252-5116

RIN: 0970–AA58

985. AUTOMATED DATA PROCESSING EQUIPMENT AND SERVICES; CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION II

Significance: Regulatory Program

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 95.601; 45 CFR 95.605; 45 CFR 95.611; 45 CFR 95.612; 45 CFR 95.613; 45 CFR 95.615; 45 CFR 95.617; 45 CFR 95.619; 45 CFR 95.621; 45 CFR 95.623; 45 CFR 95.624; 45 CFR 95.625; 45 CFR 95.631; 45 CFR 95.633; 45 CFR 95.641

Legal Deadline: None

Abstract: This final rule changes regulations of 45 CFR 95.600, et seq., affecting State and local agency requests for FFP.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35454
NPRM Comment Period End	11/30/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Lentz, Management Analyst, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, 202 252-4795

RIN: 0970–AA59

986. SERVICES TO POST-AFDC AND MEDICAID ONLY FAMILIES

Significance: Agency Priority

Legal Authority: 42 USC 654(4); 42 USC 654(5); 42 USC 657(c)

CFR Citation: 45 CFR 301.1; 45 CFR 302.31; 45 CFR 302.33; 45 CFR 302.70; 45 CFR 302.51; 45 CFR 303.72; 45 CFR 303.102; 45 CFR 304.20; 45 CFR 306.50; 45 CFR 306.51

Legal Deadline: None

Abstract: This regulation would implement section 9141 of P.L. 100-203, the Omnibus Budget Reconciliation Act of 1987 under which child support agencies are required to continue to provide IV-D services to persons no longer eligible for AFDC without requiring an application or payment of an application fee. It also implements section 9142 of P.L. 100-203 which requires child support agencies to provide IV-D services to all families with an absent parent who receive Medicaid and have assigned their rights to medical support to the State.

Timetable:

Action	Date	FR Cite
NPRM	05/23/89	54 FR 22325
NPRM Comment Period End	07/24/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Andrew Hagan, Program Specialist, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, DC 20447, 202 252-5375

RIN: 0970–AA61

987. AID TO FAMILIES WITH DEPENDENT CHILDREN - JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM, PROGRAM PARTICIPANT EMPLOYMENT PROTECTION

Significance: Regulatory Program

Legal Authority: 42 USC 684; 42 USC 1302; 42 USC 684(d)(1); 42 USC 684(d)(2)

CFR Citation: 45 CFR 251

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.

Abstract: The Family Support Act of 1988 (PL 100-485) establishes the JOBS program under title IV-A of the Social Security Act. Associated with the program are workers' issues, such as working conditions, tort claims protection, workers' compensation and displacement. The legislation, (PL 100-485) requires that necessary protections be provided for program participants.

Timetable:

Action	Date	FR Cite
NPRM	04/19/89	54 FR 15902
NPRM Comment Period End	06/19/89	54 FR 15902
Final Action	10/13/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Carol Callahan, Acting Director, Div. of Special Initiatives, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-4979

RIN: 0970–AA67

988. JOB OPPORTUNITY AND BASIC SKILLS (JOBS) TRAINING PROGRAM

Significance: Regulatory Program

Legal Authority: PL 100-485, Sec 202; PL 100-485, Sec 204; PL 100-485, Sec 201; 42 USC 602; 42 USC 681; 42 USC 682; 42 USC 683; 42 USC 684; 42 USC 685; 42 USC 603

CFR Citation: 45 CFR 250.0; 45 CFR 255.0; 45 CFR 256.0; 45 CFR 205.50; 45 CFR 224.0; 45 CFR 233.20; 45 CFR 233.90; 45 CFR 233.100; 45 CFR 234.60; 45 CFR 238.01; 45 CFR 239.01; 45 CFR 240.01; 45 CFR 250.01; 45 CFR 250.10; 45 CFR 250.11; ...

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.

Abstract: Current regulations provide for a number of work and training programs. Some States have designed their own programs. However, since most of these work programs are optional, and State support for these programs have varied, implementation of work and training programs has been uneven among the states. The Family Support Act (Public Law 100-485), which was signed 10/13/88, establishes under title IV-F of the Social Security Act, the Job Opportunities and Basic Skills (JOBS) training program. JOBS' purpose is to assure that needy families with children obtain the education, training, and employment that will help them avoid long term dependence. The legislation mandates that all States implement a JOBS program by October 1, 1990. The regulation also includes child care and supportive services provisions from Title III of the Family Support Act. These services include services needed by JOBS participants, as well as transitional child care for former AFDC recipients.

Timetable:

Action	Date	FR Cite
NPRM	04/18/89	54 FR 15638
NPRM Comment Period End	06/19/89	54 FR 15638
Final Action	10/13/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Agency Contact: Mark Ragan, Branch Chief, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 252-5116

RIN: 0970–AA66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Completed Actions

989. RETROACTIVE MODIFICATION OF CHILD SUPPORT ARREARAGES

CFR Citation: 45 CFR 302; 45 CFR 303; 45 CFR 304

Completed:

Reason	Date	FR Cite
Final Action	04/19/89	54 FR 15757
Final Action Effective	04/19/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Michael Fitzgerald 202 252-5368

RIN: 0970–AA03

990. STANDARDS FOR CHILD SUPPORT ENFORCEMENT PROGRAM OPERATIONS

Significance: Regulatory Program

CFR Citation: 45 CFR 302; 45 CFR 303; 45 CFR 304; 45 CFR 305; 45 CFR 306; 45 CFR 307

Completed:

Reason	Date	FR Cite
Final Action	08/04/89	54 FR 32284
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Joyce Allred 202 252-5369

RIN: 0970–AA16

991. COOPERATIVE AGREEMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 654(7); 42 USC 652

CFR Citation: 45 CFR 302.34; 45 CFR 303.107; 45 CFR 304.21; 45 CFR 305.34

Legal Deadline: None

Abstract: The regulation specifies provisions that must be contained in all cooperative agreements between IV-D agencies and courts and law enforcement agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/05/88	53 FR 39110
NPRM Comment Period End	12/05/88	
Final Action	07/19/89	54 FR 30216

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Andrew Hagan, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, D.C.20447, 202 252-5375

RIN: 0970–AA50

992. ● STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

Significance: Agency Priority

Legal Authority: PL 100-204

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CFR Citation: 45 CFR 402

Legal Deadline: None

Abstract: This rule amends the final rule implementing the State Legalization Impact Assistance Grants (SLIAG), published on March 10, 1988. This action changes the deadline by which Fiscal Year 1990 State SLIAG applications are due from July 15, 1989 to October 1, 1989, and the deadline by which a State's FY 1990 application must be approvable by the Secretary from October 1, 1989 to December 15, 1989. This will give States sufficient time to develop actual cost data which can be used in preparing their FY 1990 applications.

Timetable:

Action	Date	FR Cite
Final Action	06/05/89	54 FR 23983

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Norman L. Thompson, Director, Division of State Legalization Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, 202 252-4572

RIN: 0970-AA72

993. ● OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Significance: Agency Priority

Legal Authority: PL 100-203

CFR Citation: 45 CFR 233.20(a)(3)(x); 45 CFR 233.53; 45 CFR 235.112

Legal Deadline: NPRM, Statutory, April 1, 1988.
The statutory effective date of the optional AFDC fraud control program is April 1, 1988.

Abstract: (1) Permanently extends the optional disregard of certain in-kind assistance in determining eligibility for and the amount of AFDC. (2) Authorizes States to establish an optional fraud control program. (3) Provides that a child whose support and maintenance costs are covered in the foster care of his or her minor parent may not be regarded as a member of an AFDC family.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW, Washington, DC 20447, 202 253-5116

RIN: 0970-AA75

[FR Doc. 89-21721 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

VOL 54 ISS 208 OCT 30 1989 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. N-89-2039; FR-2690]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 5 of Executive Order 12291 "Federal Regulation," the Department is publishing its agenda of proposed regulations already issued or expected to be issued and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared a regulatory flexibility agenda of regulations expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12291 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permit incorporation of the agenda it requires with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12291, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency" subject to certain exceptions. The agenda published below concentrates upon regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the Federal Register. As appropriate, however, issuances in the nature of general statements of policy may be published in the Federal Register but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking actions, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days of continuous session of Congress after transmittal of the agenda. If, within such period, either Committee notifies the Secretary that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary must submit to both Committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days of continuous session before it is published for comment. The Semiannual Agenda appearing hereinafter is the agenda transmitted to the Committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publications or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following Offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; and Government National Mortgage Association.

Dated: August 23, 1989.

Frank Keating,

General Counsel.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
994	24 CFR 81.41 Secondary Market Operations of the Federal National Mortgage Association (FNMA) (S-3-81)	2501-AA10

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Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
995	24 CFR 0000 Denial of Federal Benefits to Drug Traffickers and Possessors (S-2-89; FR-2612)	2501-AA81
996	00 CFR 000 Criteria for Determining Unutilized or Underutilized Federal Property as Suitable for Facilities to Assist the Homeless (S-8-89; FR-2620)	2501-AA87
997	24 CFR 0003 Elimination of Obsolete Regulations (S-16-86; FR-2261)	2501-AA50
998	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (S-4-85; FR-2206)	2501-AA30
999	24 CFR 55 Procedure for Floodplain Management and the Protection of Wetlands; Implementation of Executive Orders 11988 and 11990 (S-7-84; FR-865)	2501-AA22
1000	24 CFR 56 Flood Insurance Requirements for Insurance, Loan, and Grant Programs (S-3-85; FR-2007)	2501-AA59
1001	24 CFR 100 Handicapped Accessibility Guidelines (S-6-89; FR-2665)	2501-AA85
1002	24 CFR 760 Verification of HUD Applicant and Participant Employment and Wage and Claim Justification (S-10-88; FR-2588)	2501-AA80
1003	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1896)	2501-AA88

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1004	24 CFR 17 Administrative Claim: Implementing Certain Provisions of the Debt Collection Act of 1982 (S-10-86; FR-1644)	2501-AA55
1005	24 CFR 18 Disallowance of Legal Fees; Litigation Controls for HUD Assistance Recipients (S-7-88; FR-2134)	2501-AA75
1006	24 CFR 24 Debarment Suspension and Limited Denial of Participation--All-Cash Sales Exception (S-4-87; FR-2356)	2501-AA60
1007	24 CFR 24 Implementation of the Drug-Free Workplace Act of 1988 (Common Rule)(S-11-88; FR-2598)	2501-AA78
1008	24 CFR 58 Environmental Review Procedures for the Community Development Block Grant, Emergency Shelter Grants, Rental Rehab & Housing Development Grant Programs (S-6-84; FR-1965)	2501-AA25
1009	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (S-7-87; FR-2383 (formerly FR-1588))	2501-AA63
1010	24 CFR 205 Mortgage Insurance for Land Development – Title X of the National Housing Act; Proposed Termination of Program (S-5-89; FR-2677)	2501-AA84
1011	24 CFR 213 Temporary Disqualification of Certain Newly Legalized Aliens from Certain HUD Programs (S-12-88; FR-2600)	2501-AA77
1012	24 CFR 813.106 Exclusions from Income for Students and Working Residents of Assisted Housing (S-9-89; FR-2691)	2501-AA89

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1013	24 CFR 206 Home Equity Conversion Mortgage Insurance Demonstration (S-2-88; FR-2481)	2501-AA67
1014	24 CFR 200 Implementation of Sec. 165 of the HCD Act of 1987–Social Security Rule (S-4-88; FR-2501)	2501-AA72
1015	24 CFR 203 Insurance of Price Level Adjusted Mortgages (Indexed Mortgages) (S-5-88; FR-2518)	2501-AA73
1016	24 CFR 570 Urban Development Action Grants Program; Changes to Project Selection System (S-4-89; FR-2647)	2501-AA83

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1017	24 CFR 200 Restrictions on All-Cash Sales (Amendment to Part 200) (H-30-87; FR-2374)	2502-AE12
1018	24 CFR 203.366 Mortgagee Charges for Serious Title Defects (H-28-87; FR-2368)	2502-AE11

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Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1019	00 CFR 000 Pre-Foreclosure Sale Option (H-12-89; FR-2682)	2502-AE72
1020	24 CFR 200 Use of Material Bulletin 40C - Grademarking of Plywood (H-21-85; FR-2407)	2502-AD01
1021	24 CFR 200 Changes to the Minimum Property Standards (H-40-88; FR-2599)	2502-AE64
1022	24 CFR 0200.815 Lead-Based Paint Poisoning Prevention - HUD-Owned Single Family Property Disposition (H-8-89; FR-2655)	2502-AE73
1023	24 CFR 201 Revised Underwriting and Loan Origination Requirements for Title I Loans (H-5-89; FR-2623)	2502-AE67
1024	4 CFR 203 Retention Period for Mortgagee Single Family Claim Records (H-81-84)	2502-AC50
1025	24 CFR 203.400 Deadline for Filing Single Family Supplemental Claims (H-26-88; FR-2487)	2502-AE51
1026	24 CFR 203 Single Family Property Disposition Sales Procedure (H-14-89; FR-2683)	2502-AE75
1027	24 CFR 207 Limitation on Prepayment of Mortgages on Multifamily Rental Housing (H-54-84; FR-1952)	2502-AC49
1028	24 CFR 221 Amendments to Multifamily Mortgage Insurance Program Regulations (H-15-89; FR-2684)	2502-AE77
1029	24 CFR 221 Amendments to Multifamily Mortgage Insurance Program Regulations - Retirement Service Centers (H-16-89; FR-2685)	2502-AE78
1030	24 CFR 290 HUD-Owned and HUD-Held Multifamily Projects - Management and Disposition Including Provision of Section 8 Assistance for Projects at Foreclosure (H-3-86; FR-2158)	2502-AD43
1031	24 CFR 3282 Manufactured Home Procedural and Enforcement Regulations Interpretative Bulletins (H-31-87; FR-2380)	2502-AE10
1032	24 CFR 880 Administrative Instructions Covering Voluntary Terminations (Opt-Out) of Existing Section 8 Contracts and Expiring Loan Management Set-Aside (LMSA) Contracts (H-17-89; FR-2689)	2502-AE79
1033	24 CFR 882 Conforming Section 8 Existing Certificate Regulation to Housing Voucher Format (H-2-87; FR-2294)	2502-AD91
1034	24 CFR 882 Section 8 Certificate and Housing Voucher Program--Denial and Termination of Assistance for Drug-Related Activities (H-9-89; FR-2662)	2502-AE70
1035	24 CFR 886.310 Miscellaneous Revisions of Part 886 (H-37-86; FR-2275)	2502-AD69
1036	24 CFR 3280 Changes to the Manufactured Home Construction and Safety Standards from the CABO and MHCSS Committees, Departmental Staff and Others (H-4-89; FR-2622)	2502-AE66
1037	24 CFR 3282 Manufactured Home Procedural and Enforcement System (H-40-86; FR-2278)	2502-AD60
1038	24 CFR 3282 Manufactured Home Design Inspection System (H-41-86; FR-2279)	2502-AD61
1039	24 CFR 3282.307(b) Manufactured Home Safety Standards - Monitoring Inspection Fee (H-2-89; FR-2613)	2502-AE65

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1040	00 CFR 000 Tenant Participation in Multifamily Projects (H-11-88; FR-2451) 1987 HCD Act	2502-AE35
1041	00 CFR 000 Section 8 Certificate Program Project-Based Assistance (New Construction)(H-30-88; FR-2502)	2502-AE56
1042	24 CFR 200 Authorize Additional Types of Loans for Direct Endorsement Processing (H-4-88; FR-2433)	2502-AE48
1043	24 CFR 203 Temporary Mortgage Assistance Payments (TMAP) and Assignments to HUD (H-44-85; FR-2147)	2502-AD34
1044	24 CFR 203 Criteria for Acceptability of Insured 10-Year Protection Plans (H-28-86; FR-2036)	2502-AD65
1045	24 CFR 203 Single Family Mortgage Insurance - Occupant and Investor Mortgagors (H-16-88; FR-2456) 1987 HCD Act	2502-AE40
1046	24 CFR 203 Action to Reduce Losses under FHA Single Family Mortgage Insurance Program (H-28-88; FR-2491)	2502-AE52
1047	24 CFR 203 Refinancing of FHA-Insured Adjustable Rate Mortgages (H-10-89; FR-2668)	2502-AE71
1048	24 CFR 203.350 Revision to FHA Insurance on Hawaiian Homelands Rule and to Assignment Rule to Remove Dependence on TMAP Rule (H-7-89; FR-2657)	2502-AE74
1049	24 CFR 208 Computer Automation of Required Data for Certification and Recertifications Subsidy Billing Procedures for Certain Multifamily Subsidized Projects (H-2-88; FR-2421)	2502-AE26
1050	24 CFR 215 State Agency Amendments (H-70-84; FR-1997)	2502-AC73
1051	24 CFR 50 Prepayment of Mortgages on Low- and Moderate-Income Housing (H-10-88; FR-2450) 1987 HCD Act	2502-AE34
1052	24 CFR 219 Capital Improvement Flexible Subsidy Program: Loans 8 (H-34-88; FR-2541)	2502-AE55
1053	24 CFR 251 Amendments to HUD Multifamily Coinsurance Program Regulations (H-13-89; FR-2681)	2502-AE76
1054	24 CFR 882 Shared Housing in the Section 8 Moderate Rehabilitation Program (H-26-86; FR-2238)	2502-AD66
1055	24 CFR 885 Management Rules and Comprehensive Housing and Community Development Amendments (H-34-83; FR-1761)	2502-AC03
1056	24 CFR 885 Loans for Housing for the Elderly or Handicapped Duration of Section 202 Fund Reservation (H-33-88; FR-2536)	2502-AE58
1057	24 CFR 885.415 Loans for Housing for the Elderly or Handicapped Davis-Bacon Wage Rate (H-6-89; FR-2589)	2502-AE69
1058	24 CFR 890 Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals (H-1-89; FR-2539)	2502-AE62

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Office of Housing—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1059	24 CFR 3500 Real Estate Settlement Procedures Act – Controlled Business Provisions and Miscellaneous Amendments (H-45-84; FR-1942)	2502-AC09

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1060	24 CFR 0000 Criteria for Determining Unutilized or Underutilized Federal Property as Suitable for Facilities to Assist the Homeless (H-3-89; FR2620)	2502-AE68
1061	24 CFR 50 Coinsurance of Equity Loans (H-37-88, FR2560)	2502-AE60
1062	24 CFR 200 Applicability of Minimum Property Standards to Manufactured Homes under Title II of the National Housing Act (H-82-82; FR-1578)	2502-AB24
1063	24 CFR 201 Amendments to the Title I Regulations (H-19-87; FR2370)	2502-AE15
1064	24 CFR 203 Penalty for Lack of Documentation (H-80-84)	2502-AC54
1065	24 CFR 203 HUD Inspections - No Duty of Care (H-1-85; FR-2025)	2502-AC92
1066	24 CFR 203 Mortgage Income Requirements (H-18-87; FR-2333)	2502-AD98
1067	24 CFR 203 Mortgage Insurance for the Allegheny Reservation of the Seneca Nation of Indians (H-32-87; FR-2382)	2502-AE09
1068	24 CFR 203.2 Eligibility Requirements--Mortgagee Approval (H-13-88; FR-2453)	2502-AE37
1069	24 CFR 207 Method of Payment of Multifamily Insurance Claims (H-38-88; FR-2571)	2502-AE61
1070	24 CFR 280 Nehemiah Opportunity Grants Program (H-25-88; FR-2478) 1987 HCD Act	2502-AE45
1071	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1896)	2502-AA73
1072	24 CFR 885 Loans for the Elderly or Handicapped - Housing for the Handicapped (H-23-88; FR-2476) 1987 HCD Act	2502-AE47
1073	24 CFR 1710 Land Registration (H-21-86)	2502-AD54
1074	24 CFR 1710 Amendments to Interstate Land Sales Registration (H-47-86; FR-2503)	2502-AD81
1075	24 CFR 3280 Manufactured Home Construction & Safety Construction on Siding & Roofing Materials & Application Criteria (H-8-87; FR-2327)	2502-AE06
1076	24 CFR 3280.506 Manufactured Housing Energy Conservation Standards (H-29-88; FR-2497) 1987 HCD Act	2502-AE53

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1077	24 CFR 570.488 Community Development Block Grants: State's Program (CPD-7-83; FR-1877)	2506-AA38
1078	24 CFR 570 Miscellaneous Revisions of Part 570 - 1987 HCD Act (CPD-5-88; FR-2496)	2506-AA84
1079	24 CFR 570 Community Development Technical Assistance Program (CPD-1-89; FR-2616)	2506-AA90

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1080	24 CFR 574 Comprehensive Homeless Assistance Plan (Implementation of 1988 McKinney Act Amendments) - (CPD 9-89; FR-2386; Formerly S-1-89)	2506-AA96
1081	24 CFR 236 Uniform Relocation Act Amendments of 1987-- Technical Amendments (CPD-3-89; FR2624)	2506-AA92
1082	24 CFR 0401 Supplemental Assistance for Facilities to Assist the Homeless (CPD-10-89; FR-2585; Formerly S-3-89)	2506-AA97
1083	24 CFR 511 Residential Rental Rehabilitation Program (CPD-7-84; FR-1901)	2506-AA55
1084	24 CFR 511 Rental Rehabilitation Program (CPD-11-88; FR-2558)	2506-AA88
1085	24 CFR 0570.511 Community Development Block Grant Program: Escrow Accounts (CPD-2-86; FR-2164)	2506-AA66
1086	24 CFR 570 Conserving Neighborhoods by Prohibiting Displacement (CPD-3-88; FR-2474) 1987 HCD Act	2506-AA82

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HUD

Office of Community Planning and Development—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1087	24 CFR 576 Emergency Shelter Grants Program (Implementation of 1988 McKinney Act Amendments) - (CPD-11-89; FR-2562; Formerly S-6-88)	2506-AA95
1088	24 CFR 840 Supportive Housing Demonstration Program (CPD-12-89; FR-2581)	2506-AA98

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1089	24 CFR 0570 Secretary's Discretionary Fund - Work Study Program (CPD-4-88; FR-2475) 1987 HCD Act	2506-AA81
1090	24 CFR 0570 Implementation of Prohibition on Use of UDAG Grants for Business Relocation (CPD-6-88; FR-2500)	2506-AA86
1091	24 CFR 570.410 Revision of Subpart E, Part 570 to Provide Increased Local Discretion in Applying Limitations on Special Projects Expenditures (CPD-2-89; FR-2669)	2506-AA93
1092	24 CFR 0570.206 CDBG - Fair Housing Requirements (CPD-5-89; FR-2658)	2506-AA94
1093	24 CFR 590 Urban Homesteading Program; Implementing of 1987 Statutory Amendments and Revision of Selected Program Procedures (CPD-1-88; FR-2461)	2506-AA79

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1094	24 CFR 390 Book-Entry Securities of GNMA (GNMA-2-85)	2503-AA03
1095	24 CFR 390 GNMA Mortgage-Backed Securities (GNMA-1-88; FR-2548)	2503-AA06

Office of Fair Housing and Equal Opportunity—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1096	24 CFR 111 Fair Housing Enforcement Support Program; Program Description and Eligibility Criteria (FHEO-2-89; FR-2687)	2529-AA43

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1097	24 CFR 000 Nondiscrimination in Housing and Community Development Programs (FHEO-1-89; FR-2629)	2529-AA42
1098	24 CFR 9.101 Nondiscrimination Based on Handicapped in Programs Conducted by HUD (FR-2163; FH&EO-2-85)	2529-AA28

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1099	24 CFR 735 Conforming Amendments to HUD Rules to Comply with Sec. 504 of the Rehab Act and Other Authorities (FH&EO-3-88; FR-2531)	2529-AA38

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Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1100	24 CFR 111 Redesign for Fair Housing Assistance Program (FHEO-2-87; FR-2403)	2529-AA33
1101	24 CFR 125 Fair Housing - Coordination of Executive Agency and Regulatory Agency Affirmative Administration of Programs in Connection with HUD (FH&EO-1-88; FR-2480)	2529-AA36

Office of Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1102	24 CFR 3 Organization, Function, and Delegations of Authority Subpart C - Secretary's Delegations of Authority to Heads of Offices (ADM-2-82)	2535-AA01

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1103	48 CFR 24 HUD Acquisition Regulation (ADM-2-88; FR-2473)	2535-AA16

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1104	24 CFR 29 OMB Cir. A-110, Uniform Administrative Requirements for Grants and Agreements with Universities, Hospitals and Other Nonprofit Organizations (ADM-1-87; FR-2378)	2535-AA15
1105	48 CFR 2401 Revisions of HUDAR to Reflect Changes in GNMA Procurement Procedures (ADM-3-88; FR-2534)	2535-AA17

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1106	24 CFR 0060 Determination of Wage Rates for Maintenance and Technical Employees of Public Housing Agencies and Indian Housing Authorities (P-10-88; FR-2211)	2577-AA68
1107	24 CFR 812 Increase in Single Person Occupancy Limits (P-48-84; FR-2063)	2577-AA07
1108	24 CFR 0913 Public and Indian Housing; Ceiling Rents (P-2-89; FR-2529) 1987 HCD Act	2577-AA57
1109	24 CFR 941 Lead-Based Paint Poisoning Prevention Act -- Stewart B. McKinney Homeless Assistance Act of 1988 -- Section 1088 (P-19-88; FR-2583)	2577-AA76
1110	24 CFR 960 Selection of Families from the Waiting List in Assisted Housing Program (P-4-89; FR-2663)	2577-AA79
1111	24 CFR 989 PHA Obligations with respect to Residual Receipts in the Public Housing, Turnkey III, and Sec. 23 Programs; (P-2-87; FR2354; formerly H-27-87)	2577-AA49
1112	24 CFR 990 Performance Funding System Revisions (87 Act)--Formal Review Process Energy Conservation Savings, Audit Responsibilities (P-12-88; FR-2504)	2577-AA71

HUD

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1113	24 CFR 970 Replacement Housing for Public Housing Demolition and Disposition (P-5-88; FR-2463) 1987 HCD Act	2577-AA58
1114	00 CFR 000 Implementation of Percentage Limit Provisions Under Section 16 of the United Housing Act of 1937 (P-7-88; FR-2465) 1987 HCD Act	2577-AA60
1115	00 CFR 000 Public Housing Drug Elimination Pilot Program (P-20-88; FR-2592)	2577-AA76
1116	24 CFR 905 Indian Housing Program–Revised Program Regulations (P-2-86; FR-2208)	2577-AA32
1117	24 CFR 960 Public Housing - Tenant Leases and PHA Grievance Hearings (P-26-79; FR-1164)	2577-AA18
1118	24 CFR 965.304 Individual Metering of Utilities of Existing PHA-Owned Projects (P-36-83; FR-1769)	2577-AA27
1119	24 CFR 965 PHA-Owned and Leased Project; Maintenance and Operation; Tenant Allowance for Utilities (P-8-86; FR-2260)	2577-AA40
1120	24 CFR 968 Public Housing CIAP and Comprehensive Grant Program (P-8-88; FR-2488)	2577-AA66

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1121	24 CFR 905 Establishment of Preference for Elderly and Near Elderly Families (P-13-88; FR-2505)	2577-AA69
1122	24 CFR 965 Change in Consolidated Supply Program (CSP) (P-11-88; FR2482)	2577-AA67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Prerule Stage

994. SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA) (S-3-81)

Legal Authority: 12 USC 1723a; 42 USC 3535(d)

CFR Citation: 24 CFR 81.41; 24 CFR 81.45

Legal Deadline: None

Abstract: This rule would amend the definition of "FNMA security" at 24 CFR 81.41(b) to delete the exclusionary parenthetical and to remove the provision in 24 CFR 81.45(b) which allows FNMA debentures in book-entry form only.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7260

RIN: 2501–AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

995. DENIAL OF FEDERAL BENEFITS TO DRUG TRAFFICKERS AND POSSESSORS (S-2-89; FR-2612)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 0000

Legal Deadline: None

Abstract: Section 5301 permits courts to declare individuals convicted of drug trafficking and possession to be ineligible for certain Federal benefits for specified periods.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Edward Murphy, Associate General Counsel for Legislation &, Regs, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7263

RIN: 2501–AA61

996. ● CRITERIA FOR DETERMINING UNUTILIZED OR UNDERUTILIZED FEDERAL PROPERTY AS SUITABLE FOR FACILITIES TO ASSIST THE HOMELESS (S-8-89; FR-2620)

Legal Authority: 42 USC 11411

CFR Citation: 00 CFR 000

HUD—HUDSEC

Proposed Rule Stage

Legal Deadline: None

Abstract: This regulation would describe the criteria HUD uses to determine whether unutilized or underutilized Federal properties, described by other agencies in HUD-conducted surveys, are suitable for facilities to assist the homeless. This determination is the responsibility of HUD under the procedures in Section 501 of the McKinney Act for the identification and use of unutilized and underutilized Federal property for facilities to assist the homeless.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Bourne, Director, Transitional Housing Development, Staff, Department of Housing and Urban Development, Office of Housing, 202 755-9075

RIN: 2501–AA87

997. ● ELIMINATION OF OBSOLETE REGULATIONS (S-16-86; FR-2261)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0003; 24 CFR 0043; 24 CFR 0052; 24 CFR 0130; 24 CFR 0200; 24 CFR 0203; 24 CFR 0205; 24 CFR 0207; 24 CFR 0209; 24 CFR 0210; 24 CFR 0211; 24 CFR 0213; 24 CFR 0215; 24 CFR 0220; 24 CFR 0221; ...

Legal Deadline: None

Abstract: This rule would remove portions of HUD regulations that are obsolete or duplicative.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7055

RIN: 2501–AA50

998. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (S-4-85; FR-2206)

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule proposes revisions in the regulations governing HUD's consideration of environmental factors in decision-making under HUD programs other than the Community Development Block Grant, Emergency Shelter Grants, Urban Development Action Grant, Rental Rehabilitation, and Housing Development Grant Programs. The rule is intended to reduce regulatory burdens and procedural details based on experience under the existing regulations; reflect field office reorganization; and implement sec. 535 of the Housing Act of 1949, as amended.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Replaces RIN: 2506-AA10

Agency Contact: Walter Prybyla, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 755-6611

RIN: 2501–AA30

999. PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS; IMPLEMENTATION OF EXECUTIVE ORDERS 11988 AND 11990 (S-7-84; FR-865)

Legal Authority: EO 11988; EO 11900; 42 USC 3535(d)

CFR Citation: 24 CFR 55; 24 CFR 50; 24 CFR 58; 24 CFR 200

Legal Deadline: None

Abstract: This regulation sets forth the policy, procedure and responsibilities of the Department of Housing and Urban Development to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. This regulation replaces a general statement of Departmental policy (44 FR 47623; August 14, 1979) implementing these Executive Orders. In addition, this rule would revise HUD's Minimum Property Standards for One and Two Family Dwellings to accord with Executive Order 11988 and FEMA's regulations for its National Flood Insurance Program.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Broun, Director, Office of Environment &. Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-7894

RIN: 2501–AA23

1000. FLOOD INSURANCE REQUIREMENTS FOR INSURANCE, LOAN, AND GRANT PROGRAMS (S-3-85; FR-2007)

Legal Authority: 42 USC 4012(a); 42 USC 4106(a)

CFR Citation: 24 CFR 56; 24 CFR 207; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 241; 24 CFR 242; 24 CFR 244; 24 CFR 250; 24 CFR 511; 24 CFR 570; 24 CFR 884; 24 CFR 904; 24 CFR 905

Legal Deadline: None

Abstract: This rule would implement HUD's responsibilities under the Flood Disaster Protection Act of 1973. It would add a new Part 56 to specify HUD's responsibilities to require that flood insurance be obtained for eligible properties. This part would then be cross-referenced in the rules governing programs involving insurance, loans and grants. This rule would do the following: (1) authorize certain exemptions for the first time; (2) clarify the statutory limitation on the conduct of HUD programs; (3) describe implementation actions to be taken by the approving official and the affected property owner; and (4) correct or remove from Title 24 outdated or inadequate references pertaining to this statutory responsibility.

HUD—HUDSEC

Proposed Rule Stage

Housing and Urban Development, Office of the Inspector

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

1004. ADMINISTRATIVE CLAIM:

of Housing and Urban Development,

Abstract: This rule establishes drug-

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HUD—HUDSEC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	05/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Replaced RIN: 2502-AC76

Agency Contact: Walter Prybyla, Deputy Director, Environmental Mgt. Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6611

RIN: 2501–AA59

1001. ● HANDICAPPED ACCESSIBILITY GUIDELINES (S-6-89; FR-2665)

Significance: Regulatory Program

Legal Authority: 42 USC 3601; 42 USC 3604(f)(3)(C)

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: In the final rule implementing the Fair Housing Amendments Act of 1988 (54 FR 3232, January 23, 1989), HUD announced its intention to publish "accessibility guidelines" to provide additional guidance to designers and developers of residential structures, and to the public, concerning the requirements of the amended Fair Housing Act as the Act relates to accessibility of dwellings for use by handicapped persons. These guidelines will be published for public comment and, thereafter, in final form, and will be adjunct to 24 CFR Part 100.

Timetable:

Action	Date	FR Cite
ANP Guidelines	08/02/89	54 FR 31856
NP Guidelines	10/00/89	
Final Action	02/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Margaret T. Milner, Office of Policy, Financial Management, and Administration, Department of Housing and Urban Development, Office of Housing, 202 755-6480

RIN: 2501–AA85

1002. VERIFICATION OF HUD APPLICANT AND PARTICIPANT EMPLOYMENT AND WAGE AND CLAIM JUSTIFICATION (S-10-88; FR-2588)

Legal Authority: 42 USC 3544; PL 100-628

CFR Citation: 24 CFR 760; 24 CFR 813; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 900; 24 CFR 903; 24 CFR 905; 24 CFR 913; 24 CFR 960

Legal Deadline: Other, Statutory, September 30, 1989.
Section 904 statutorily takes effect on September 30, 1989 (although there is an early implementation option in the statute).

Abstract: The regulation implementing section 904 of the McKinney Amendments would require applicants and participants in certain HUD programs to sign consent forms permitting (1) HUD, PHA or owners responsible for determining eligibility for or level of benefits to verify employee income information with previous or current employers, and (2) HUD or the PHA to request wage and claim information from a State unemployment agency. Signing the consent from would be a condition of eligibility or continuing eligibility for the covered program. The rule would provide limitations on the collection, maintenance, use, and dissemination of wage and claim information obtained from a State unemployment agency. Criminal and civil penalties are also specified.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis A. Raschka, Director, Fraud Control Division, Department of Housing and Urban Development, Office of the Inspector General, 202 426-6493

RIN: 2501–AA80

1003. ● REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1895)

Legal Authority: 42 USC 1439

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: The rule revises HUD's regulations for the allocation of housing assistance funds to reflect statutory changes made by the Housing and Urban-Rural Recovery Act of 1983. It contains an explicit description of the allocation formula, including some modifications to the factors making up the formula; deletes specific requirements on allocating funds in accordance with approved Housing Assistance Plans; and eliminates the requirements for local consultation in the allocation process. Part 791 would also be amended to consolidate local government submission requirements and HUD criteria for review of applications for housing. The rule tightens the headquarters funding process as well.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ADDITIONAL CONTACT PERSON:

Nancy Chisholm

Director, Office of Policy

Office of Public and Indian Housing

202-755-6713

Agency Contact: Stephen Cooley, Director, Office of Policy Development, Department of Housing and Urban Development, Office of Housing, 202 755-6454

RIN: 2501–AA88

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC) — **Final Rule Stage**

1004. ADMINISTRATIVE CLAIM: IMPLEMENTING CERTAIN PROVISIONS OF THE DEBT COLLECTION ACT OF 1982 (S-10-86; FR-1644)

Legal Authority: 42 USC 3711; 42 USC 3717; 42 USC 3535(d)

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would make final an interim rule published in 1984, implementing the administrative offset and salary offset provisions of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/14/84	49 FR 32346

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously listed as 2535-AA09. Includes: ADM-1-82.

Agency Contact: Samuel B. Rothman, Attorney Advisor, Office of Program Enforcement, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7184

RIN: 2501–AA55

1005. DISALLOWANCE OF LEGAL FEES; LITIGATION CONTROLS FOR HUD ASSISTANCE RECIPIENTS (S-7-88; FR-2134)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 16

Legal Deadline: None

Abstract: This rule will declare HUD policy regarding PHA legal expenses for litigation against HUD and prescribe limited litigation reporting procedures for HUD assistance recipients.

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 43610
NPRM Comment Period End	12/27/88	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of the Secretary, 202 755-6713

RIN: 2501–AA75

1006. DEBARMENT SUSPENSION AND LIMITED DENIAL OF PARTICIPATION—ALL-CASH SALES EXCEPTION (S-4-87; FR-2358)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This interim rule contains provisions of the common rule on Nonprocurement Debarment and Suspension which HUD could not adopt at the time that rule was published because of statutory requirements for congressional pre-publication review. These provisions relate to the application of debarment and suspension to foreign governments and organizations. The interim rule also deletes the exception for all cash sales at 24 CFR 24. The exception is being removed as a response to fraudulent practices experienced by the Department.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/88	53 FR 30049
Interim Final Rule Effective	10/01/88	53 FR 30049
Interim Final Rule Comments Due	10/11/88	53 FR 30049

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Black, Assistant General Counsel for, Inspector General & Admin Proceedings, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7200

RIN: 2501–AA60

1007. IMPLEMENTATION OF THE DRUG-FREE WORKPLACE ACT OF 1988 (COMMON RULE)(S-11-88; FR-2598)

Significance: Agency Priority

Legal Authority: PL 100-690

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule establishes drug-free workplace requirements for Federal contractors and grantees. OMB's Office of Federal Procurement Policy has the lead in developing a governmentwide common rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marylea Byrd, Attorney-Advisor, Department of Housing and Urban Development, Office of the General Counsel, 202 755-9886

RIN: 2501–AA78

1008. ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT, EMERGENCY SHELTER GRANTS, RENTAL REHAB & HOUSING DEVELOPMENT GRANT PROGRAMS (S-6-84; FR-1965)

Legal Authority: 42 USC 1437o(i); 42 USC 5304(f)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This agenda item makes final two current interim rules. These rules provide policies and procedures by which assisted communities and participating States discharge Federal environmental review responsibilities. They also streamline and reduce environmental requirements. They include: (1) an expanded listing of block grant activities and projects exempt or categorically excluded from the NEPA requirements; (2) a definitive list of related statutes and authorities that must be observed by grant recipients for the release of block grant funds as required by HUD legislation; and (3) additional provisions needed to conform with and implement innovative measures included in the HUD Amendments of 1981, such as the State-administered block grant program for small cities and the assumption of the environmental oversight responsibilities by States; and (4) (cont)

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HUD—HUDSEC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/84	49 FR 23610
Interim Final Rule Effective	07/31/84	49 FR 23610
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: provisions for extending and adopting the environmental procedures, including historic preservation requirements, to the programs established by title III of the Housing and Urban-Rural Recovery Act of 1983.

This item also provides for the extension of the rule to the new programs authorized by the Stewart B. McKinney Homeless Assistance Act - P.L. 100-77, as amended by P.L. 100-628.

Includes: RIN 2506-AA05 (CPD-21-81; FR-1027)

Agency Contact: Charles E. Thomsen, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environmental and Energy, Environmental Management Division, 202 755-6611

RIN: 2501–AA25

1009. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (S-7-87; FR-2363 (FORMERLY FR-1588))

Significance: Regulatory Program

Legal Authority: 42 USC 1436a

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 247; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 912

Legal Deadline: None

Abstract: This rule will implement section 214 of the Housing and Community Development Act of 1980, as amended in 1981, 1986, and 1988. That Act prohibits the Secretary from providing financial assistance to substantially all illegal aliens as well as to most classes of aliens admitted for temporary purposes. The restriction applies to the Public and Indian Housing programs, the Section 8 Housing Assistance Payments programs, the Rent Supplement program, the Section 236 program, and the Section 235 homeownership assistance program.

This rule will replace the rule published on April 1, 1988, which was not made effective, but has been withdrawn. This new rule will provide that alien status must be verified with the Immigration and Naturalization Service by the entity responsible for tenant selection (or for approval of a Section 235 mortgage application).

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41038
NPRM Comment Period End	12/19/88	53 FR 41038
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information:

ADDITIONAL CONTACT PERSON (Public and Indian Housing):

Edward Whipple, Director, Rental and Occupancy Branch, Office of Public Housing, (202) 426-0744

Agency Contact: James J. Tahash, Director, Program Planning Division, Office of Multifamily Hsg. Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2501–AA63

1010. ● MORTGAGE INSURANCE FOR LAND DEVELOPMENT – TITLE X OF THE NATIONAL HOUSING ACT; PROPOSED TERMINATION OF PROGRAM (S-5-89; FR-2677)

Significance: Agency Priority

Legal Authority: 12 USC 1749jj

CFR Citation: 24 CFR 205

Legal Deadline: None

Abstract: This proposed rule would terminate the mortgage insurance program authorized under Title X of the National Housing Act. Under Title X, HUD insures mortgages to finance the purchase of land and the development of building sites, water and sewer systems, streets, and lighting and other installations needed for residential communities.

Timetable:

Action	Date	FR Cite
NPRM	08/11/89	54 FR 33039
NPRM Comment Period End	10/10/89	54 FR 33039
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edwin W. Baker, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2501–AA84

1011. TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM CERTAIN HUD PROGRAMS (S-12-88; FR-2600)

Significance: Agency Priority

Legal Authority: 8 USC 1255(h); 8 USC 1255(i)

CFR Citation: 24 CFR 213; 24 CFR 221; 24 CFR 237; 24 CFR 510; 24 CFR 511; 24 CFR 570

Legal Deadline: None

Abstract: This rule will complete the action necessary to implement section 201(a) of the Immigration Reform and Control Act (IRCA) of 1986 (100 Stat. 3394, 3401) for HUD programs. That Act authorized the Attorney General to identify the programs of Federal financial assistance to which the temporary disqualification of certain newly legalized aliens applies. The Attorney General issued a proposed rule in 1987 (52 FR 31784) listing numerous HUD programs. The Attorney General's revised rule on this subject is expected to be published in late 1989, requiring that HUD publish an implementing rule for effect ninety days thereafter.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	
Final Action Effective	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Don Patch, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6587

RIN: 2501–AA77

HUD—HUDSEC

Final Rule Stage

1012. ● EXCLUSIONS FROM INCOME FOR STUDENTS AND WORKING RESIDENTS OF ASSISTED HOUSING (S-9-89; FR-2691)

Significance: Agency Priority

Legal Authority: 42 USC 1437a

CFR Citation: 24 CFR 813.106; 24 CFR 913.106; 24 CFR 215.21; 24 CFR 236.3

Legal Deadline: None

Abstract: To encourage a transition from welfare dependency to employment of residents, this rule would exclude from income (1) the portion of scholarships intended to cover subsistence expenses; and (2) a portion of income from comprehensive state or local job training and employment programs (or the entire amount for up to six months). The rule would also exclude payments for the care of foster adults to rectify an inequity between treatment of payments for foster children and foster adults, who are usually handicapped persons, unrelated to the tenant family, who are unable to live alone.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Theodore R. Daniels, Director, Financial Management and Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6145

RIN: 2501–AA89

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of the Secretary (HUDSEC)

Completed Actions

1013. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION (S-2-88; FR-2481)

Significance: Regulatory Program

CFR Citation: 24 CFR 206

Completed:

Reason	Date	FR Cite
Final Action	06/09/89	54 FR 24822
Final Action Effective	07/24/89	54 FR 24822

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Judith V. May 202 755-5537

RIN: 2501–AA67

1014. IMPLEMENTATION OF SEC. 165 OF THE HCD ACT OF 1987–SOCIAL SECURITY RULE (S-4-88; FR-2501)

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 290; 24 CFR 750; 24 CFR 813; 24 CFR 840; 24 CFR 841; 24 CFR 850; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; ...

Completed:

Reason	Date	FR Cite
Final Action	09/27/89	54 FR 39680
Final Action Effective	11/06/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Edward Murphy 202 755-7083

RIN: 2501–AA72

1015. INSURANCE OF PRICE LEVEL ADJUSTED MORTGAGES (INDEXED MORTGAGES) (S-5-88; FR-2518)

CFR Citation: 24 CFR 203; 24 CFR 220; 24 CFR 221; 24 CFR 234; 24 CFR 235

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharmeen Dosky 202 755-7055

RIN: 2501–AA73

1016. ● URBAN DEVELOPMENT ACTION GRANTS PROGRAM; CHANGES TO PROJECT SELECTION SYSTEM (S-4-89; FR-2647)

Legal Authority: 42 USC 5318

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule amends the UDAG regulations by making adjustments to the points awarded in the project selection system for the purpose of adding criteria that reflect the Secretary's priorities to address critical needs for housing and economic development.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/89	54 FR 21388
Final Action	07/27/89	54 FR 31294
Final Action Effective	09/29/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Priest, Acting Director, Office of Urban Development Action Grant, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6290

RIN: 2501–AA63

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Prerule Stage

Office of Housing (OH)

1017. RESTRICTIONS ON ALL-CASH SALES (AMENDMENT TO PART 200) (H-30-87; FR-2374)

Legal Authority: 12 USC 1703; 12 USC 1715b

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This interim rule is intended to prohibit assumptors of a mortgage, or other persons purchasing property subject to a mortgage, on which an insured claim has been paid by the Department, from participating in a HUD "all cash public sale."

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Campbell, Director, Single Family Property Disposition, Division, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502-AE12

1018. MORTGAGEE CHARGES FOR SERIOUS TITLE DEFECTS (H-28-87; FR-2368)

Legal Authority: 12 USC 1710; 12 USC 1715(b); 12 USC 1709

CFR Citation: 24 CFR 203.366; 24 CFR 203.403

Legal Deadline: None

Abstract: Proposed rule is intended to impose graduated charges on mortgagees who convey FHA-insured properties to HUD with serious title defects. These charges would increase with the length of time required by the mortgagee to rectify the defects. Exploring the base on which the graduated charges will be calculated; i.e., whether to use a percentage of the total insured claim or materials averages of daily holding costs.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jacqueline Campbell, Dir., Single Family Property Disposition, Division, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502-AE11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Housing (OH)

1019. ● PRE-FORECLOSURE SALE OPTION (H-12-89; FR-2682)

Legal Authority: 12 USC 1710

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: Section 1064 of the Stewart N. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD to add pre-foreclosure sales to its roster of servicing options, as a means of saving the Department money and of assisting qualified mortgagors to avoid foreclosure of their FHA-insured mortgages. The Department may now pay a claim to a mortgagee to "bridge the gap" between the proceeds of a sale of the property to a third party buyer at current fair market value, and the original owner's indebtedness under the note. Until the Department received the authorization to pay these claims, such pre-foreclosure sales (or "short sales," as they are also known) were impracticable. At this time, implementing regulations are being planned to introduce the pre-foreclosure sale option throughout her Department.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert E. Falkenstein, Jr., Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing, 202 755-6672

RIN: 2502-AE72

1020. ● USE OF MATERIAL BULLETIN 40C - GRADEMARKING OF PLYWOOD (H-21-85; FR-2407)

Legal Authority: 12 USC 1735e

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule would establish standards for Grademarking of Plywood approved for use in structures insured under the National Housing Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards and Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502-AD01

1021. CHANGES TO THE MINIMUM PROPERTY STANDARDS (H-40-88; FR-2599)

Legal Authority: 12 USC 1701 to 1715z-18

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would amend 24 CFR Part 200 by (1) referencing the latest editions of private sector standards presently in the MPS; (2) standardizing requirements to control termites and wood decay; (3) removing Federal agency standards for

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Proposed Rule Stage

solar energy and thermal insulation standards and referencing a model energy code instead; (4) relying on EPA approved local or State water purification systems with individual sources of unsafe water; (5) revising the time for periodic changes to the MPS; and (6) making technical changes to Section 100-1.2 and 100-1.3 Housing for the Elderly and Requirements for Accessibility to Physically Handicapped People in HUD Handbook 4910.1.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards and Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502-AE64

1022. ● LEAD-BASED PAINT POISONING PREVENTION - HUD-OWNED SINGLE FAMILY PROPERTY DISPOSITION (H-8-89; FR-2655)

Legal Authority: 42 USC 4821 to 4186

CFR Citation: 24 CFR 0200.815

Legal Deadline: None

Abstract: This proposed rule would revise the Lead-Based Paint Poisoning Prevention requirements that are applicable to the sale of HUD-owned one-to-four family dwellings when their use is intended for rehabilitation. The rule would permit the field office to require a nonoccupant purchaser to treat defective paint surfaces as a condition of sale with sufficient funds escrowed by the purchaser to assure payment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Campbell, Director, Single Family Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502-AE73

1023. REVISED UNDERWRITING AND LOAN ORIGINATION REQUIREMENTS FOR TITLE I LOANS (H-5-89; FR-2623)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule would amend the Title I regulations to require that: (1) the lender shall conduct a personal or telephone interview with the borrower to ascertain the accuracy and completeness of the credit application; (2) all manufactured homes insured under Title I shall comply with federally prescribed site installation requirements; (3) the lender or its agent shall conduct a post- disbursement site inspection of the manufactured home to detect any program fraud or misrepresentation by the dealer or the borrower; (4) the use of manufactured home loan proceeds to finance the purchase of wheels and axles and extended warranty coverage is eliminated; and (5) the lender shall give the borrower written notice of the actions HUD may take to recover the debt if a claim is paid, including the assessment of administrative costs for servicing the loan. In addition, this rule would revise the present procedures for the annual adjustment of each lender's insurance reserve account.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Coyle, Director, Title I Insurance Div., Department of Housing and Urban Development, Office of Housing, 202 755-6680

RIN: 2502-AE67

1024. RETENTION PERIOD FOR MORTGAGEE SINGLE FAMILY CLAIM RECORDS (H-81-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 4 CFR 203

Legal Deadline: None

Abstract: Under the new Single Family Claims System, the mortgagee is not required to provide documentation to support the fiscal data reported or entered on the new claim form. Instead, the mortgagee will be randomly audited; at that time, the mortgagee will be expected to produce all the supporting receipts, payment ledger records, etc.

Regulations will be changed to specify the retention period and the required file contents for records supporting single family claim payments and mortgagee reviews.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AC50

1025. DEADLINE FOR FILING SINGLE FAMILY SUPPLEMENTAL CLAIMS (H-26-88; FR-2487)

Legal Authority: 12 USC 1710

CFR Citation: 24 CFR 203.400

Legal Deadline: None

Abstract: At present, there is no regulatory control over the time period during which mortgagees can submit applications for supplemental insurance benefits. The Department has instructed lenders to file these supplemental claims within one year of the date of the original insurance settlement. This information has so far been contained in the Instructions for Single Family Application for Insurance Benefits, Form HUD-27011. This rule will formalize the requirement that lenders follow this one-year filing period for supplemental claims.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

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Government Levels Affected: Federal

Agency Contact: Robert E. Falkenstein, Jr., Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing, 202 755-8680

RIN: 2502–AE51

1026. ● SINGLE FAMILY PROPERTY DISPOSITION SALES PROCEDURE (H-14-89; FR-2683)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This regulation will describe the policies and procedures applicable to the disposition of one-to-four family properties acquired as a result of the FHA mortgage insurance program. These policies and procedures are expected to enumerate the process for individuals, public agencies and organizations such as nonprofits to purchase and/or lease HUD properties.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline B. Campbell, Director, Single Family Property, Disposition Division, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502–AE75

1027. LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING (H-54-84; FR-1952)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-15; PL 100-242, Sec 261

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 215; 24 CFR 886; 24 CFR 245; 24 CFR 277; 24 CFR 219; 24 CFR 231; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: This rule would codify HUD policies for implementing section 250(a) and (b) of the National Housing Act, as added by section 433 of the Housing and Urban-Rural Recovery Act of 1983 and amended by section 261 of the Housing and Community Development Act of 1987. This rule would restrict prepayment of multifamily project mortgages whenever Secretary has prepayment approval responsibilities. Prepayment will not be approved unless project is no longer needed for lower income housing, tenants have been given notice and opportunity to comment, and a relocation assistance plan has been put in place. Similar restrictions will apply to termination of insurance. Where the Secretary is not responsible for approving prepayment and therefore cannot restrict it, priority will be given for additional section 8 and troubled project assistance in order to discourage prepayment. Additional requirements imposed on the prepayment of multifamily project mortgages by Title II, Subtitle B of the Housing and Community Development Act of 1987 have been implemented by separate rulemaking (FR-2450; H-10-88; RIN: 2502-AE34).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AC49

1028. ● AMENDMENTS TO MULTIFAMILY MORTGAGE INSURANCE PROGRAM REGULATIONS (H-15-89; FR-2684)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 221; 24 CFR 207.32a; 24 CFR 232

Legal Deadline: None

Abstract: As warranted by multifamily coinsurance study period, regulations will be revised to conform with programmatic changes made in coinsurance programs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Brown, Deputy Director, Office of Insured Multifamily Housing, Development, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502–AE77

1029. ● AMENDMENTS TO MULTIFAMILY MORTGAGE INSURANCE PROGRAM REGULATIONS - RETIREMENT SERVICE CENTERS (H-16-89; FR-2685)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 221

Legal Deadline: None

Abstract: As warranted by retirement service center study period, regulation will be revised to tighten program and underwriting requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Brown, Deputy Director, Office of Insured Multifamily Housing, Development, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502–AE78

1030. HUD-OWNED AND HUD-HELD MULTIFAMILY PROJECTS - MANAGEMENT AND DISPOSITION INCLUDING PROVISION OF SECTION 8 ASSISTANCE FOR PROJECTS AT FORECLOSURE (H-3-86; FR-2158)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; 12 USC 3706; 12 USC 3717; 12 USC 1713(k); 12 USC 1701z-11; 12 USC 1701z-12

CFR Citation: 24 CFR 290; 24 CFR 886; 24 CFR 27

Legal Deadline: None

Abstract: This proposed rule would amend HUD regulations to implement section 181 of the Housing and Community Development Act of 1987 and section 1010 of the Stewart B. McKinney Homeless Assistance Amendments of 1988. Section 181 expanded the scope of section 203 of the Housing and Community Development Amendments of 1978 to include projects that are subject to a HUD-held mortgage and are delinquent, under a workout agreement, or being foreclosed upon by HUD. HUD, when it is owner or mortgagee-in-possession, and the owner in other situations now covered by section 203 must, to the greatest extent possible, maintain all such occupied projects in decent, safe, and sanitary condition and maintain full occupancy and must also maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible time. The statute directs HUD to provide not less than one of several specified forms of financial assistance to a purchaser other than HUD at foreclosure, or after sale by the Secretary. Section 1010 further amended section 203 to clarify which units in HUD-held unsubsidized projects (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: must be preserved for low and moderate income tenants and to provide procedures under which local governments and designated State agencies have a right of first refusal to purchase HUD-owned multifamily housing projects.

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502–AD43

1031. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS INTERPRETATIVE BULLETINS (H-31-87; FR-2380)

Legal Authority: 42 USC 5424

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This proposed rule would amend the Manufactured Home Procedural and Enforcement Regulations in order to remove the issuance of Interpretative Bulletins from the rulemaking process. The purpose of this procedural modification is to promote efficiency in issuing Interpretative Bulletins so that important guidance can be provided to the manufactured housing industry in a timely manner.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502–AE10

1032. ● ADMINISTRATIVE INSTRUCTIONS COVERING VOLUNTARY TERMINATIONS (OPT-OUT) OF EXISTING SECTION 8 CONTRACTS AND EXPIRING LOAN MANAGEMENT SET-ASIDE (LMSA) CONTRACTS (H-17-89; FR-2689)

Legal Authority: Section 262 of the Housing & Community Development Act of 1987; Section 250(a)(1) of the National Housing Act

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886

Legal Deadline: None

Abstract: Owners are required to give HUD and the tenants a one-year notice of an intent to opt-out of a Section 8 contract where there are renewable terms remaining. A reason for opting-out must be given as well. Regarding expiring LMSA contracts, an owners is required to give HUD and the tenants a one-year notice before expiration of the contract.

Field Offices must offer to extend LMSA contracts for an additional two years, for contracts expiring prior to February 5, 1990. The Department will provide incentives to owners of projects who have submitted a notice of intent to voluntarily terminate their Section 8 contracts.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: James J. Tahash, Director, Planning & Procedures Division, Office of Multifamily Hsg. Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AE79

1033. CONFORMING SECTION 8 EXISTING CERTIFICATE REGULATION TO HOUSING VOUCHER FORMAT (H-2-87; FR-2294)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; PL 100-242, Sec 144; PL 100-242, Sec 145; PL 100-242, Sec 146; PL 100-242, Sec 147; PL 100-242, Sec 148; PL 100-242, Sec 149; PL 100-242, Sec 262

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule will revise the Section 8 Certificate Program regulations in Part 882 to conform them to the extent practicable to the closely-related Housing Voucher Program regulations in Part 887, to implement certain statutory amendments to the Program under the Housing and Community Development Act of 1987 and to propose certain revisions based on programmatic experience. It will also implement several recent statutory amendments affecting the Certificate and Housing Voucher Programs and those amendments affecting other Section 8 Programs with respect to contract rent adjustments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FR-2469 (RIN: 2502-AE44) and FR-2584 (RIN: 2502-AE63) have been merged into this item.

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502–AD91

1034. ● SECTION 8 CERTIFICATE AND HOUSING VOUCHER PROGRAM—DENIAL AND TERMINATION OF ASSISTANCE FOR DRUG-RELATED ACTIVITIES (H-9-89; FR-2662)

Significance: Regulatory Program

Legal Authority: 42 USC 1427(f)

CFR Citation: 24 CFR 882; 24 CFR 887

Legal Deadline: None

Abstract: This proposed rule would revise Section 8 Certificate and Housing Voucher regulations to permit PHA to terminate assistance to participants and deny assistance to applicants who are involved in drug-related criminal activities or other serious criminal activities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence Goldberger, Director, Office of Elderly & Assisted, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502–AE70

1035. MISCELLANEOUS REVISIONS OF PART 886 (H-37-86; FR-2275)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 886.310; 24 CFR 886.330; 24 CFR 886.331; 24 CFR 886.334; 24 CFR 886.322; 24 CFR 886.333; 24 CFR 886.122

Legal Deadline: None

Abstract: This proposed rule would amend Part 886, which governs procedures for additional assistance for projects with HUD-insured or HUD-held mortgages (Subpart A) and the Section 8 housing assistance payments program for the disposition of HUD owned projects (Subpart C). This rule would (1) modify the maximum monthly rent provisions of Subpart C to reflect Section 102(b)(7) of the Housing and Community Development Amendments of 1984; (2) amend the work write-up, cost estimate and cost certification provisions governing the rehabilitation of projects under Subpart C; and (3) make other miscellaneous changes to Part 886.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This proposal was originally included as part of FR-1950.

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AD69

1036. CHANGES TO THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS FROM THE CABO AND MHCSS COMMITTEES, DEPARTMENTAL STAFF AND OTHERS (H-4-89; FR-2622)

Legal Authority: 42 USC 5401

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This proposed rule would update and amend various subparts of Part 3280 to reflect recommendations from industry, the Council of American Building Officials Manufactured Home Committee, and the Department's staff. Referenced standards would also be updated to reflect the Manufactured Energy Conservation Standards in Section 586 of the 1987 HCD Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502–AE66

1037. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT SYSTEM (H-40-86; FR-2278)

Significance: Regulatory Program

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule would propose revisions to HUD enforcement regulations at 24 CFR Part 3282 to improve the effectiveness of Production Inspection Primary Inspection Agencies (IPIAs).

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17411

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark W. Holman, Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AD60

1038. MANUFACTURED HOME DESIGN INSPECTION SYSTEM (H-41-86; FR-2279)

Significance: Regulatory Program

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This proposed rule will deregulate the current design inspection system on manufactured homes and substitute a procedure for manufacturer certification, among other revisions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mark W. Holman, Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502–AD61

1039. MANUFACTURED HOME SAFETY STANDARDS - MONITORING INSPECTION FEE (H-2-89; FR-2613)

Legal Authority: 42 USC 5419

CFR Citation: 24 CFR 3282.307(b)

Legal Deadline: None

Abstract: States with a large number of manufacturing facilities have incurred additional expenses in monitoring and inspecting those facilities. As the regulation is now written, the monitoring inspection fee paid by the manufacturers to the Secretary is distributed to the states based on the number of new manufacturer housing units whose first location after leaving the plant is on the premises of a distributor, dealer, or purchaser in that state. 24 CFR 3282.307(b) will be amended to provide a more equitable distribution of the inspection fee proceeds that will take into account the additional expenses incurred by the states in which manufacturing facilities are located.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stuart Margulies, Program Analyst, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 755-5798

RIN: 2502–AE65

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Final Rule Stage

1040. TENANT PARTICIPATION IN MULTIFAMILY PROJECTS (H-11-86; FR-2451) 1987 HCD ACT

Legal Authority: PL 100-242, Sec 183

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule provides for the applicability of the tenant participation requirements of section 202 of the HCDA of 1978 to section 202 elderly and handicapped projects. The rule also removes the Secretary's authority not to provide for tenant participation in certain owner actions and authorizes the application of the tenant participation requirements in the Secretary's proposal to sell a multifamily housing project.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash, Dir., Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AE35

1041. SECTION 8 CERTIFICATE PROGRAM PROJECT-BASED ASSISTANCE (NEW CONSTRUCTION)(H-30-88; FR-2502)

Significance: Agency Priority

Legal Authority: 42 USC 1437f

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: Section 148 of the Housing and Community Development Act of 1987 amended section 8(d)(2) of the United States Housing Act of 1937 to require the Department to permit a PHA to attach not more than 15 percent of the section 8 Existing Housing Program assistance to existing structures if the owner agrees to rehabilitate the structure other than with assistance under the 1937 Act. Section 1005 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires the Department to permit PHA's to attach assistance, within the same 15 percent limit, to newly constructed units. This rule would implement these provisions by revising Subpart G to 24 CFR Part 882 for project-based certification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/89	54 FR 230
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lawrence Goldberger, Director, Office of Elderly and, Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502–AE56

1042. AUTHORIZE ADDITIONAL TYPES OF LOANS FOR DIRECT ENDORSEMENT PROCESSING (H-4-88; FR-2433)

Significance: Agency Priority

Legal Authority: 12 USC 1709; 12 USC 1715(b)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: This rule proposes to make the following types of mortgages eligible for processing through the direct endorsement program as (1) those insured under sections 222 and 203(k) and (2) those insured pursuant to section 238(c) of the National Housing Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin, Dir., Office of Insured Single Family Hsg., Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502–AE48

1043. TEMPORARY MORTGAGE ASSISTANCE PAYMENTS (TMAP) AND ASSIGNMENTS TO HUD (H-44-85; FR-2147)

Significance: Agency Priority

Legal Authority: 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None

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Abstract: Additional amendments to TMAP and Assignment rule are needed to reflect change in TMAP interest rate made by section 428 of the Housing and Community Development Act of 1987 and to assure that mortgagees inform mortgagors of the possible right to TMAP or assignment before they accept a deed in lieu of foreclosure from the mortgagor. (This rule was identified in earlier Agendas as RIN: 2502-AB79; H-29-81; FR-1415.) An effective date for the program has not yet been announced.

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 216
NPRM Comment Period End	03/04/86	51 FR 216
Final Action	03/05/87	52 FR 6908

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin, Director, Office of Insured Single, Family Housing, Department of Housing and Urban Development, Office of Housing, **202 755-3046**

RIN: 2502–AD34

1044. CRITERIA FOR ACCEPTABILITY OF INSURED 10-YEAR PROTECTION PLANS (H-28-86; FR-2036)

Significance: Agency Priority

Legal Authority: 12 USC 1709, Sec 203, 211; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule would revise the existing administrative criteria for acceptability of insured 10-year protection Plans (Plans). The Department began this proceeding by publishing a Notice informing the public that HUD intended to revise the criteria. This rule describes, among other things, criteria related to Plan acceptability, insurance and financial backing, Plan coverage, and methods for determining Plan obligations.

HUD acceptance of these Plans is a prerequisite to reduced inspection requirements on a property accepted for mortgage insurance before the commencement of construction. It is also a prerequisite to high loan-to-value insured financing for existing one-to-four family dwellings that are less than one year old and that were not approved and inspected by HUD or the Veterans Administration before the start of construction.

Timetable:

Action	Date	FR Cite
Notice of Solicitation Public Comments	11/14/84	49 FR 45075
NPRM	06/10/87	52 FR 21961
NPRM Comment Period End	08/10/87	52 FR 21961
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin, Director, Office of Insured, Single Family Housing, Department of Housing and Urban Development, Office of Housing, **202 755-3046**

RIN: 2502–AD65

1045. SINGLE FAMILY MORTGAGE INSURANCE - OCCUPANT AND INVESTOR MORTGAGORS (H-16-88; FR-2456) 1987 HCD ACT

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203; 24 CFR 213; 24 CFR 221; 24 CFR 222; 24 CFR 226; 24 CFR 233; 24 CFR 234; 24 CFR 235

Legal Deadline: None

Abstract: This rule would implement section 406 of the Housing & Community Development Act of 1987. Section 406 authorizes HUD (1) to insure single family mortgages under title II of the National Housing Act, or (2) to approve a substitute mortgagor for single family mortgages insured under title II, only if the mortgagor is to occupy the dwelling as a principal or secondary residence, as determined by HUD. Section 406 provides that this occupancy requirement only applies if the mortgage involve a principal obligation that exceeds 75 percent of the loan-to-value or equivalent calculation under the insuring authority involved. The action exempts from the occupancy requirement, mortgagors under the Rehabilitation Loan program under section 203(k) of the National Housing Act, and certain public entity, nonprofit, serviceperson, and other mortgagors under various National Housing Act activities.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38844
NPRM Comment Period End	12/02/88	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Carter, Dir., Single Family Development Division, Department of Housing and Urban Development, Office of Housing, **202 755-6700**

RIN: 2502–AE40

1046. ACTION TO REDUCE LOSSES UNDER FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM (H-28-88; FR-2491)

Legal Authority: 12 USC 1715b; 12 USC 1735f(1); PL 100-242, Sec 407

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule proposes to implement section 407 of the Housing and Community Development Act of 1987. Where, as a result of an annual review, the Secretary finds a mortgagee with a higher than normal default and claim rate, the Secretary shall require the mortgagee to submit a report with a plan for corrective action. Failure to submit the report or complete the plan for corrective action within the timeframe required may be cause for suspension of the mortgagee from participation in FHA programs.

Timetable:

Action	Date	FR Cite
NPRM	05/22/89	54 FR 21978
NPRM Comment Period End	07/21/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin, Acting Deputy Asst. Sec. for Single Family, Housing, Department of Housing and Urban Development, Office of Housing, **202 755-6675**

RIN: 2502–AE52

1047. ● REFINANCING OF FHA-INSURED ADJUSTABLE RATE MORTGAGES (H-10-89; FR-2668)

Legal Authority: 12 USC 1709; 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: This rule would revise current regulations to make practicable a refinancing from an adjustable rate FHA mortgage to a fixed rate FAA mortgage. Existing regulations require a reduction in regular monthly mortgage payment on all FHA refinancings. This rule would exempt ARM's from that requirement.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Morris Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, **202 755-6700**

RIN: 2502–AE71

1048. ● REVISION TO FHA INSURANCE ON HAWAIIAN HOMELANDS RULE AND TO ASSIGNMENT RULE TO REMOVE DEPENDENCE ON TMAP RULE (H-7-89; FR-2657)

Legal Authority: 12 USC 1715u

CFR Citation: 24 CFR 203.350; 24 CFR 203.350a; 24 CFR 203.404; 24 CFR 203.439; 24 CFR 203.654; 24 CFR 203.665

Legal Deadline: None

Abstract: This final rule will modify the rule for FHA mortgage insurance on Hawaiian Homelands to remove its dependence on the Temporary Mortgage Assistance Payments program rule, because that rule has never been made effective. This rule also (1) makes effective a previously proposed change to the Assignment Program for FHA insured mortgages not on Hawaiian Homelands requiring defaulted mortgagor to have reasonable prospects of repayment of the mortgage to be eligible for assignment and forbearance (to conform the rule to section 230 of the National Housing Act); and (2) adds a limit on the interest rate to be charged in the Assignment Program (to reflect a change made by the Housing and Community Development Act of 1987).

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: David Pinsky, Assistant General Counsel, for Home Mortgage, Department of Housing and Urban Development, Office of the General Counsel, **202 755-5303**

RIN: 2502–AE74

1049. COMPUTER AUTOMATION OF REQUIRED DATA FOR CERTIFICATION AND RECERTIFICATIONS SUBSIDY BILLING PROCEDURES FOR CERTAIN MULTIFAMILY SUBSIDIZED PROJECTS (H-2-88; FR-2421)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 208

Legal Deadline: None

Abstract: This rule would require owners of certain multifamily subsidized projects to automate the information and transmission of HUD forms and worksheets for certification and recertification of compliance with HUD's tenant eligibility and rent procedures, and the computation of tenant rent/payment and the monthly subsidy billing forms, as applicable. This rule would apply to multifamily projects under the following program: section 236 rental assistance payments, section 8 housing assistance payments, section 221(d)(5), below market interest rate housing for low and moderate income mortgage insurance, and section 101 rent supplements.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20649
NPRM Comment Period End	07/21/88	53 FR 20649
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, **202 426-3944**

RIN: 2502–AE26

1050. STATE AGENCY AMENDMENTS (H-70-84; FR-1997)

Legal Authority: 12 USC 1715z-16(b); 12 USC 1715z-16(c)

CFR Citation: 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 245

Legal Deadline: None

Abstract: This rule would make the Department's regulations on prohibited lease terms applicable to section 236 projects financed by state housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/21/87	52 FR 48276
NPRM Comment Period End	02/19/88	52 FR 48276

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, **202 426-3944**

RIN: 2502–AC73

1051. PREPAYMENT OF MORTGAGES ON LOW- AND MODERATE-INCOME HOUSING (H-10-88; FR-2450) 1987 HCD ACT

Legal Authority: PL 100-242; PL 100-628

CFR Citation: 24 CFR 50; 24 CFR 221; 24 CFR 236; 24 CFR 241; 24 CFR 248; 24 CFR 880; 24 CFR 881; 24 CFR 883

Legal Deadline: None

Abstract: The regulation implements provisions of the Housing and Community Development Act of 1987 that provide that mortgages on "eligible low income housing" may be prepaid only in accordance with a "plan of action" approved by the Secretary. The regulation establishes procedures for the submission and negotiation of such plans of action, lists incentives which may be part of the plan of action, and

provides standards which the plans of action must meet. The regulation is designed to preserve needed low income housing in cases where the project owner might otherwise prepay its mortgage and convert the project to higher-income use.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/88	53 FR 11224
Interim Final Rule Effective Date	05/20/88	53 FR 11224
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning & Procedure Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AE34

1052. CAPITAL IMPROVEMENT FLEXIBLE SUBSIDY PROGRAM: LOANS 8 (H-34-88; FR-2541)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-1a

CFR Citation: 24 CFR 219

Legal Deadline: None

Abstract: This rule implements amendments made to section 201 of the Housing and Community Development Amendments of 1978 to broaden the categories of projects eligible for assistance under the Flexible Subsidy program and to create a program of loans for capital improvements to multifamily housing projects, under specified terms and conditions set out in the statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/89	54 FR 9708
Interim Final Rule Effective	03/07/89	54 FR 9708
Interim Final Rule Comment Period End	05/08/89	54 FR 9708
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning & Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AE55

1053. ● AMENDMENTS TO HUD MULTIFAMILY COINSURANCE PROGRAM REGULATIONS (H-13-89; FR-2681)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 251; 24 CFR 252; 24 CFR 255

Legal Deadline: None

Abstract: This rule revises regulations governing HUD's multifamily coinsurance programs which are intended to lessen the possibility of lender abuse and mismanagement, facilitate increased HUD oversight of participating lenders and strengthen overall program requirements in other areas as determined through program experience and public/private program evaluations. Changes include modified application approval procedures, enhanced HUD monitoring and lender sanction requirements, increased capitalization, liquidity and reserve requirements, limitations on maximum loan amounts, and strengthened loan underwriting, project management, loan servicing and property disposition procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank D. Brown, Deputy Director, Office of Insured Multifamily Housing, Development, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502–AE76

1054. SHARED HOUSING IN THE SECTION 8 MODERATE REHABILITATION PROGRAM (H-26-86; FR-2238)

Significance: Agency Priority

Legal Authority: 42 USC 1437f(p); 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This final rule will permit eligible applicants and tenants to share housing units with other eligible applicants or tenants in Section 8 Moderate Rehabilitation units, in accordance with the statutory directive in 42 USC 1437f(p). A proposed rule that included this program was published in 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/07/84	49 FR 48005
NPRM Comment Period End	02/05/85	49 FR 48005

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502–AD66

1055. MANAGEMENT RULES AND COMPREHENSIVE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS (H-34-83; FR-1761)

Legal Authority: 12 USC 1701q; 42 USC 3535(d)

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This final rule will amend HUD's regulations governing projects that received direct loans under section 202 of the Housing Act of 1959 and housing assistance payments under section 8 of the United States Housing Act of 1987. The regulation adds regulatory provisions to govern section 202/8 project operations and management; incorporates changes required by statutory requirements governing housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46614
NPRM Comment Period End	02/08/88	52 FR 46614

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502–AC03

1056. LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED DURATION OF SECTION 202 FUND RESERVATION (H-33-88; FR-2536)

Legal Authority: 12 USC 1701q

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This final rule amends HUD's regulations governing projects that receive direct loans under section 202 of the Housing Act of 1959 and housing assistance payments under section 8 of the United States Housing Act of 1937. The rule amends 24 CFR 885.230, duration of section 202 fund reservation (1) to permit HUD's Regional Office to extend the duration of fund reservation by an additional 12 months and (2) to add procedures governing the appeal of HUD decisions to cancel section 202 fund reservation as required by section 161(2) of the Housing and Community Development Act of 1987 (Pub. L. 100-242 approved February 5, 1988).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Wilden, Director, Assisted Elderly & Handicapped, Housing Division, Department of Housing and Urban Development, Office of Housing, 202 426-8730

RIN: 2502–AE58

1057. LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED DAVIS-BACON WAGE RATE (H-8-89; FR-2589)

Legal Authority: 12 USC 1701(q)(c)(3)

CFR Citation: 24 CFR 885.415; 24 CFR 885.420; 24 CFR 885.422

Legal Deadline: None

Abstract: This rule will implement a statutory change in the 202 direct loan program contained in sec. 162(b)(3) of the HCD Act of 1987, providing that Davis-Bacon wages are not required whenever a 202 Project contains 12 or fewer family units. (Before the Amendment, Davis-Bacon was applied to all section 202/8 projects, without regard to project size.)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Justin Logsdon, Assistant to the Secretary for, Labor Relations, Department of Housing and Urban Development, Office of the Secretary, 202 755-5370

RIN: 2502–AE69

1058. SECTION 8 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY DWELLINGS FOR HOMELESS INDIVIDUALS (H-1-89; FR-2539)

Significance: Agency Priority

Legal Authority: PL 100-77; PL 100-404

CFR Citation: 24 CFR 880

Legal Deadline: Final, Statutory, November 7, 1989.
HUD is required to establish the requirements of this program by Notice within 60 days of enactment and by final rule within 12 months of enactment.

Abstract: The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. A Notice of Fund Availability was published on January 9, 1989, to announce the availability of $45 million for the program and to establish the requirements for participation in the program for Fiscal Year 1989. The Notice serves as a Notice of Proposed Rulemaking and invites comments for a period of 60 days. A statutory deadline was set for issuance of a final rule by November 7, 1989.

Timetable:

Action	Date	FR Cite
Notice of Fund Availability	01/09/89	54 FR 758
Proposed Rule Cross-Reference	01/09/89	54 FR 769
Final Action	11/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502–AE62

1059. REAL ESTATE SETTLEMENT PROCEDURES ACT – CONTROLLED BUSINESS PROVISIONS AND MISCELLANEOUS AMENDMENTS (H-45-84; FR-1942)

Significance: Agency Priority

Legal Authority: 12 USC 2601; 12 USC 2607; PL 98-181

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: The rule will implement statutory amendments established by Section 461 of the Housing and Urban Rural Recovery Act of 1983 (Pub. L. 98-181). The amendments address a problem identified as "controlled business" and the manner in which Section 8 of the Real Estate Settlement Procedures Act (12 USC 2607), the kickback prohibition of RESPA, is to be applied to such arrangements. No alternatives are being considered because of the statutory mandate. The rule will also contain miscellaneous changes to clarify and update the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	05/16/88	53 FR 17424
NPRM Comment Period End	07/15/88	53 FR 17424

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Grant E. Mitchell, Department of Housing and Urban Development, Office of the General Counsel, Office of Equal Opportunity and Admin. Law, 202 755-6550

RIN: 2502–AC09

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

1060. CRITERIA FOR DETERMINING UNUTILIZED OR UNDERUTILIZED FEDERAL PROPERTY AS SUITABLE FOR FACILITIES TO ASSIST THE HOMELESS (H-3-89; FR2620)

CFR Citation: 24 CFR 0000

Completed:

Reason	Date	FR Cite
Withdrawn - Transferred to Office of the Secretary (RIN: 2501-AA87)	08/08/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Bourne 202 755-9075

RIN: 2502-AE68

1061. COINSURANCE OF EQUITY LOANS (H-37-88, FR2560)

CFR Citation: 24 CFR 50; 24 CFR 221; 24 CFR 236; 24 CFR 241; 24 CFR 248

Completed:

Reason	Date	FR Cite
Withdrawn	05/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hamernick 202 755-6500

RIN: 2502-AE60

1062. APPLICABILITY OF MINIMUM PROPERTY STANDARDS TO MANUFACTURED HOMES UNDER TITLE II OF THE NATIONAL HOUSING ACT (H-82-82; FR-1578)

CFR Citation: 24 CFR 200; 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Carter 202 755-6720

RIN: 2502-AB24

1063. AMENDMENTS TO THE TITLE I REGULATIONS (H-15-87; FR2370)

CFR Citation: 24 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	06/31/89	54 FR 36258
Final Action Effective	10/09/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert J. Coyle 202 755-6680

RIN: 2502-AE15

1064. PENALTY FOR LACK OF DOCUMENTATION (H-80-84)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ann M. Sudduth 202 755-7330

RIN: 2502-AC54

1065. HUD INSPECTIONS - NO DUTY OF CARE (H-1-85; FR-2025)

CFR Citation: 24 CFR 203; 24 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	05/09/89	54 FR 19886
Final Action Effective	06/20/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin 202 755-3046

RIN: 2502-AC92

1066. MORTGAGE INCOME REQUIREMENTS (H-16-87; FR-2333)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	09/20/89	54 FR 38646
Final Action Effective	10/20/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Morris E. Carter 202 755-6720

RIN: 2502-AD98

1067. MORTGAGE INSURANCE FOR THE ALLEGHENY RESERVATION OF THE SENECA NATION OF INDIANS (H-32-87; FR-2382)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	08/11/89	54 FR 32968
Final Action Effective	10/05/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Stephen Martin 202 755-3046

RIN: 2502-AE09

1068. ELIGIBILITY REQUIREMENTS--MORTGAGEE APPROVAL (H-13-88; FR-2453)

CFR Citation: 24 CFR 203.2

Completed:

Reason	Date	FR Cite
Withdrawn	07/06/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Allison 202 755-6924

RIN: 2502-AE37

1069. METHOD OF PAYMENT OF MULTIFAMILY INSURANCE CLAIMS (H-38-88; FR-2571)

Significance: Agency Priority

CFR Citation: 24 CFR 207; 24 CFR 220; 24 CFR 221; 24 CFR 233; 24 CFR 236; 24 CFR 251; 24 CFR 255

Completed:

Reason	Date	FR Cite
Withdrawn	08/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James B. Mitchell 202 426-4325

RIN: 2502-AE61

HUD—OH

Completed Actions

1070. NEHEMIAH OPPORTUNITY GRANTS PROGRAM (H-25-88; FR-2478) 1987 HCD ACT

Significance: Regulatory Program

CFR Citation: 24 CFR 280

Completed:

Reason	Date	FR Cite
Final Action	05/22/89	54 FR 22248
Final Action Effective	07/13/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Morris Carter 202 755-6720

RIN: 2502-AE45

1071. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1896)

CFR Citation: 24 CFR 791

Completed:

Reason	Date	FR Cite
Withdrawn - Transferred to RIN: 2501-AA88	08/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Stephen Cooley 202 755-6454

RIN: 2502-AA73

1072. LOANS FOR THE ELDERLY OR HANDICAPPED - HOUSING FOR THE HANDICAPPED (H-23-88; FR-2476) 1987 HCD ACT

Significance: Regulatory Program

CFR Citation: 24 CFR 885

Completed:

Reason	Date	FR Cite
Final Action	06/20/89	54 FR 25960
Final Action Effective	08/04/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Milner 202 755-6742

RIN: 2502-AE47

1073. LAND REGISTRATION (H-21-86)

CFR Citation: 24 CFR 1710

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lionel Cabrera 202 755-6924

RIN: 2502-AD54

1074. AMENDMENTS TO INTERSTATE LAND SALES REGISTRATION (H-47-86; FR-2503)

Significance: Agency Priority

CFR Citation: 24 CFR 1710

Completed:

Reason	Date	FR Cite
Final Action	10/04/89	54 FR 40863

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Roger G. Henderson 202 755-6502

RIN: 2502-AD81

1075. MANUFACTURED HOME CONSTRUCTION & SAFETY CONSTRUCTION ON SIDING & ROOFING MATERIALS & APPLICATION CRITERIA (H-8-87; FR-2327)

CFR Citation: 24 CFR 3280

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman 202 755-5718

RIN: 2502-AE06

1076. MANUFACTURED HOUSING ENERGY CONSERVATION STANDARDS (H-29-88; FR-2497) 1987 HCD ACT

CFR Citation: 24 CFR 3280.506

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with FR-2622 (RIN: 2502-AE66)	08/08/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald R. Fairman 202 755-5718

RIN: 2502-AE53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1077. COMMUNITY DEVELOPMENT BLOCK GRANTS: STATE'S PROGRAM (CPD-7-83; FR-1877)

Significance: Regulatory Program

Legal Authority: 42 USC 5301; PL 96-161, Sec 104; PL 96-161, Sec 101

CFR Citation: 24 CFR 570.488

Legal Deadline: None

Abstract: This revision would implement amendments to the State administered CDBG program made in the Housing and Urban-Rural Recovery Act (Pub. L. 98-181) approved November 30, 1983, and the Housing and Community Development Act of 1987 (Pub. L. 100-242) approved February 5, 1988. The rule includes definitions of low and moderate income persons, requirements for meeting the three national objectives, the 60% test for low and moderate income benefit, added local and state public participation, coverage of program income, performance reporting and record keeping, and consequences of States' dropping program administration after FY 85.

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HUD—CPD — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard J. Kennedy, Acting Director, State and Small Cities Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6322

RIN: 2506–AA38

1076. MISCELLANEOUS REVISIONS OF PART 570 - 1987 HCD ACT (CPD-5-88; FR-2496)

Legal Authority: PL 100-242

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The proposed rule would revise the Community Development Block Grant Program rules (24 CFR Part 570) for the entitlement and HUD-administered small cities programs, as necessary to implement certain changes in the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved Feb. 5, 1988), and the Department of Housing and Urban Development - Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved Aug. 19, 1988). The requirements for States will be covered in the State proposed rules.

The proposed rule would address:

1. The new requirements for a citizens participation plan;

2. The circumstances under which a grant recipient may newly construct, or substantially reconstruct, housing where it is clear that such work is needed before the CDBG activity commences; (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT:

3. The circumstances under which a grant recipient may provide a 9-1-1 emergency services communication system serving an area having less than 51 percent low- and moderate-income residents and still be considered to meet the national objective of benefitting low- and moderate-income persons; and

4. The authority to use CDBG funds to pay special assessments for certain low- and moderate-income property owners to recover local costs incurred in providing public improvements serving an area having less than 51 percent low- and moderate-income persons, under the national objective of benefitting such persons.

Agency Contact: Jim Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5977

RIN: 2506–AA84

1079. COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAM (CPD-1-89; FR-2616)

Legal Authority: 42 USC 5307

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would revise and update the Department's procedures governing the issuance of technical assistance awards under Title I of the Housing and Community Development Act of 1974. It would clarify the Department's authority to make such awards and to make the procedures more efficient and cost-effective.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maggie H. Taylor, Technical Assistance Division, Office of Program Policy Development, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6090

RIN: 2506–AA90

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage

Office of Community Planning and Development (CPD)

1080. COMPREHENSIVE HOMELESS ASSISTANCE PLAN (IMPLEMENTATION OF 1988 MCKINNEY ACT AMENDMENTS) - (CPD 9-89; FR-2386; FORMERLY S-1-89)

Significance: Agency Priority

Legal Authority: PL 100-628

CFR Citation: 24 CFR 574

Legal Deadline: Final, Statutory, November 7, 1989.
Final rule has statutory deadline of November 7, 1989.

Abstract: A notice implementing the 1988 McKinney amendments to the CHAP was published on December 28, 1988. The notice, which provides for public comment, will form the basis for a final rule to be published by November 1989.

Timetable:

Action	Date	FR Cite
Notice	12/28/88	53 FR 52600
Final Action	11/07/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: James Forsberg, Coordinator, Special-Needs Assistance, Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6300

RIN: 2506–AA96

1081. UNIFORM RELOCATION ACT AMENDMENTS OF 1987– TECHNICAL AMENDMENTS (CPD-3-89; FR2624)

Legal Authority: PL 100-17

CFR Citation: 24 CFR 236; 24 CFR 290; 24 CFR 510; 24 CFR 511; 24 CFR 570; 24 CFR 571; 24 CFR 575; 24 CFR 850; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 905; ...

Legal Deadline: Final, Statutory, April 2, 1989.

HUD—CPD — **Final Rule Stage**

The 1987 Amendments to the Uniform Act become effective April 2, 1989.

Abstract: The 1987 Amendments to the Uniform Relocation Act (P.L. 100-17) make numerous changes to the Uniform Act. Among the changes is the expansion of coverage to displacement resulting from rehabilitation, demolition or privately undertaken acquisition carried out for a federally assisted project or program. For HUD-assisted community development and housing programs, the expanded coverage will apply to displacements occurring on or after April 2, 1989. The amendments will contain the necessary conforming changes to HUD programs consistent with the final governmentwide rule implementing the 1987 Amendments to the Uniform Act. (See Federal Register (53 FR 4964) dated February 19, 1988.)

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold J. Huecker, Director, Relocation & Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6336

RIN: 2506–AA92

1082. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS (CPD-10-89; FR-2585; FORMERLY S-3-89)

Legal Authority: 24 USC 11301

CFR Citation: 24 CFR 0401

Legal Deadline: Final, Statutory, November 6, 1989.

Abstract: A program to provide: (1) assistance to cover costs in excess of assistance provided under the Emergency Shelter Grants and Supportive Housing Demonstration programs that are required to meet the special needs of certain homeless populations or to facilitate the transfer and use of public buildings to assist the homeless; or (2) comprehensive assistance for particularly innovative programs for or alternative methods of, meeting the immediate and long-term needs of the homeless. No funds were appropriated for this program in FY 1989.

Timetable:

Action	Date	FR Cite
NPRM	01/11/89	54 FR 988
Final Action	11/06/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL CONTACT PERSON: James Forsberg, Coordinator

Special-Needs Assistance Program

Office of Community Planning & Development

202-755-6300

Agency Contact: Edwin Stromberg, Office of Policy Development, Policy Development & Research, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-1520

RIN: 2506–AA97

1083. RESIDENTIAL RENTAL REHABILITATION PROGRAM (CPD-7-84; FR-1901)

Legal Authority: 42 USC 1437o; 42 USC 3535(d); PL 98-479, Sec 103; PL 98-181, Sec 302; PL 98-181, Sec 301

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule implements the Rental Rehabilitation Program authorized by section 17 of the U.S. Housing Act of 1937. The regulation (1) sets out a variety of program and other requirements to be met by grantees, State recipients and others that use or benefit from rental rehabilitation grants amounts, (2) enumerates the requirements for participating in the Rental Rehabilitation Program, (3) sets forth the formula by which allocations of rental rehabilitation grant amounts will be made to eligible grantees, (4) explains the rental housing assistance available for tenants, (5) enumerates administrative requirements for the Program, and (6) explains how HUD will review program performance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/84	49 FR 16936
Interim Rule Effective	05/24/84	49 FR 16936
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: Includes: CPD-17-82; CPD-8-84; FR-1912; FR-2055 (RIN: 2506-AA60)

Agency Contact: Mary Kolesar, Director, Rental Rehabilitation Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5970

RIN: 2506–AA55

1084. RENTAL REHABILITATION PROGRAM (CPD-11-88; FR-2558)

Legal Authority: PL 100-242, Sec 150(b); PL 100-242, Sec 150(f)

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule will implement sections 150(b) and 150(f) of the Housing and Community Development Act of 1987 which amend sections 17(a)(1)(A)and 17(k)(4), respectively, of the United States Housing Act of 1937. Section 150(b) makes eligible for rehabilitation grant funds property that will be privately owned upon completion of rehabilitation. The previous authorizing legislation and current regulations limit the use of rehabilitation grant funds to properties that are (and continue to be) privately owned. Section 150(f) expands the definition of "privately owned real property to be used primarily for residential rental purposes" (and thus eligible for rehabilitation grant funds) to include housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing.

Timetable:

Action	Date	FR Cite
NPRM	06/21/89	54 FR 26164
NPRM Comment Period End	08/21/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar, Director, Rehabilitation Management Division, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of

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HUD—CPD **Final Rule Stage**

Community Planning and Development, 202 755-5970

RIN: 2506–AA88

1085. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ESCROW ACCOUNTS (CPD-2-86; FR-2164)

Legal Authority: 42 USC 5301 to 5321

CFR Citation: 24 CFR 0570.511

Legal Deadline: None

Abstract: The Department is proposing to establish a rule that would govern the circumstances under which CDBG program recipients could establish escrow accounts for the purpose of disbursing funds to contractors expeditiously. The rule reflects U.S. Treasury Department requirements governing cash withdrawals.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37162
NPRM Comment Period End	12/04/87	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul D. Webster, Dir., Financial Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-1871

RIN: 2506–AA66

1086. CONSERVING NEIGHBORHOODS BY PROHIBITING DISPLACEMENT (CPD-3-88; FR-2474) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This interim rule implements section 509 of the Housing and Community Development Act of 1987 which requires an antidisplacement program as a condition to CPDG or UDAG amount.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/17/88	53 FR 31234
Interim Final Rule Comments Due	10/17/88	53 FR 31234

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Harold J. Huecker, Director, Relocation and Real Estate Div., Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6336

RIN: 2506–AA82

1087. EMERGENCY SHELTER GRANTS PROGRAM (IMPLEMENTATION OF 1988 MCKINNEY ACT AMENDMENTS) - (CPD-11-89; FR-2562; FORMERLY S-5-88)

Legal Authority: PL 100-628

CFR Citation: 24 CFR 576

Legal Deadline: Final, Statutory, November 7, 1989.
Final rule has statutory deadline of November 7, 1989.

Abstract: A notice implementing the 1988 McKinney amendments to the ESG program was published on January 9, 1989. The notice, which provides for public comment, will form the basis for a final rule to be published by November 1989.

Timetable:

Action	Date	FR Cite
Notice	01/09/89	54 FR 750
Final Action	11/07/89	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: James Forsberg, Coordinator, Special-Needs Assistance Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6300

RIN: 2506–AA95

1088. ● SUPPORTIVE HOUSING DEMONSTRATION PROGRAM (CPD-12-89; FR-2581)

Significance: Agency Priority

Legal Authority: Stewart B. McKinney Homeless Assistance Act, Title I Subtitle C

CFR Citation: 24 CFR 840; 24 CFR 841

Legal Deadline: Final, Statutory, November 6, 1989.

Abstract: This rule amends the final rule (published June 24, 1988 at 53 FR 23898) to reflect amendments to the program made by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, approved November 7, 1988. The Supportive Housing Demonstration program includes Transitional Housing (Part 840) and Permanent Housing for Handicapped Homeless (Part 841).

Timetable:

Action	Date	FR Cite
NPRM	01/09/89	54 FR 736
NPRM Comment Period End	03/27/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Forsberg, Coordinator, Special Needs Assistance Program, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-9075

RIN: 2506–AA98

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD) **Completed Actions**

1089. SECRETARY'S DISCRETIONARY FUND - WORK STUDY PROGRAM (CPD-4-88; FR-2475) 1987 HCD ACT

CFR Citation: 24 CFR 0570

Completed:

Reason	Date	FR Cite
Final Action	06/27/89	54 FR 27128
Final Action Effective	09/11/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Turk 202 755-6092

RIN: 2506–AA81

1090. IMPLEMENTATION OF PROHIBITION ON USE OF UDAG GRANTS FOR BUSINESS RELOCATION (CPD-6-88; FR-2500)

CFR Citation: 24 CFR 0570

Completed:

Reason	Date	FR Cite
Final Action	05/16/89	54 FR 21166
Final Action Effective	07/11/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stanley Newman 202 755-6290

RIN: 2506–AA86

1091. ● REVISION OF SUBPART E, PART 570 TO PROVIDE INCREASED LOCAL DISCRETION IN APPLYING LIMITATIONS ON SPECIAL PROJECTS EXPENDITURES (CPD-2-89; FR-2669)

Significance: Agency Priority

Legal Authority: 42 USC 5304(a)(8)

CFR Citation: 24 CFR 570.410

Legal Deadline: None

Abstract: This rule will provide local discretion, to units of government receiving Special Purpose Program grants under Subpart E of Part 570, to calculate the amount of grant funds eligible to be spent for "public service" activities in either of two ways, for the purpose of increasing the amount of grant funds that may be spent on public service activities.

Timetable:

Action	Date	FR Cite
Final Action	08/01/89	54 FR 31670
Final Action Effective	10/03/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Leroy Gonnella, Director, Secretary's Fund Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6002

RIN: 2506–AA93

1092. ● CDBG - FAIR HOUSING REQUIREMENTS (CPD-5-89; FR-2658)

Legal Authority: 42 USC 5301-20; 42 USC 3601-20

CFR Citation: 24 CFR 0570.206; 24 CFR 0570.601; 24 CFR 0570.904

Legal Deadline: None

Abstract: This rule amends the CDBG regulation to codify statutory revisions adding new protected classes (handicapped and family status) under the Fair Housing Act (Title VIII of the Civil Rights Act of 1968).

Timetable:

Action	Date	FR Cite
Final Action	09/08/89	54 FR 37410
Final Action Effective	10/11/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laurence Pearl, Director, Office of Program Standards, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-5288

RIN: 2506–AA94

1093. URBAN HOMESTEADING PROGRAM; IMPLEMENTING OF 1987 STATUTORY AMENDMENTS AND REVISION OF SELECTED PROGRAM PROCEDURES (CPD-1-88; FR-2461)

Significance: Agency Priority

CFR Citation: 24 CFR 590

Completed:

Reason	Date	FR Cite
Final Action	06/02/89	54 FR 23932
Final Action Effective	07/17/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Richard Burk 202 755-5327

RIN: 2506–AA79

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA) **Completed Actions**

1094. BOOK-ENTRY SECURITIES OF GNMA (GNMA-2-85)

Significance: Agency Priority

CFR Citation: 24 CFR 390

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy 202 755-7260

RIN: 2503–AA03

1095. GNMA MORTGAGE-BACKED SECURITIES (GNMA-1-88; FR-2548)

CFR Citation: 24 CFR 390

Completed:

Reason	Date	FR Cite
Withdrawn	06/07/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert P. Kalish 202 755-5593

RIN: 2503–AA06

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)
Prerule Stage

1096. ● FAIR HOUSING ENFORCEMENT SUPPORT PROGRAM; PROGRAM DESCRIPTION AND ELIGIBILITY CRITERIA (FHEO-2-89; FR-2587)

Legal Authority: 42 USC 3601 to 19

CFR Citation: 24 CFR 111; 24 CFR 120; 24 CFR 125

Legal Deadline: None

Abstract: Proposed new rule would create a consolidated, streamlined program. The redesign would consolidate three funding programs--FHAP, CHRB and FHIP to eliminate duplication of effort and overlapping of voluntary and enforcement activities undertaken by agencies. The major funding component of this program will be formula-driven according to the population of the participating jurisdictions.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/90	
ANPRM Comment Period End	06/00/90	
NPRM	08/00/90	
NPRM Comment Period End	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Wagner Jackson, Director, Office of Fair Housing, Enforcement & Section 3 Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-6836

RIN: 2529-AA43

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)
Proposed Rule Stage

1097. ● NONDISCRIMINATION IN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS (FHEO-1-89; FR-2629)

Legal Authority: 42 USC 5309

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: The regulation will provide for procedural rules under Section 109 of the Housing and Community Development Act of 1974, which prohibits discrimination based on race, color, national origin, or sex in any program funded under the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	03/00/90	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Eleanor G. Clagett, Director, Program Compliance Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-5404

RIN: 2529-AA42

1098. NONDISCRIMINATION BASED ON HANDICAPPED IN PROGRAMS CONDUCTED BY HUD (FR-2163; FH&EO-2-85)

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 9.101; 24 CFR 9.102; 24 CFR 9.103; 24 CFR 9.110; 24 CFR 9.111; 24 CFR 9.130; 24 CFR 9.140; 24 CFR 9.149; 24 CFR 9.150; 24 CFR 9.151; 24 CFR 9.160; 24 CFR 9.170

Legal Deadline: None

Abstract: This proposed rule would implement section 504 of the Rehab Act of 1973 (as extended by the Rehab. Comprehensive Service and Developmental Disabilities Act of 1978) for HUD-conducted programs or activities. This proposed rule will be a companion rule to the Department's rule on nondiscrimination based on handicap in federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Enzel, Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6207

RIN: 2529-AA28

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)
Final Rule Stage

1099. CONFORMING AMENDMENTS TO HUD RULES TO COMPLY WITH SEC. 504 OF THE REHAB ACT AND OTHER AUTHORITIES (FH&EO-3-88; FR-2531)

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 735

Legal Deadline: None

Abstract: Conforming HUD rules to comply with Sec. 504 of the Rehabilitation Act and other authorities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Pearl, Program Standards and Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-5288

RIN: 2529-AA38

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)
Completed Actions

1100. REDESIGN FOR FAIR HOUSING ASSISTANCE PROGRAM (FHEO-2-87; FR-2403)

Significance: Agency Priority

CFR Citation: 24 CFR 111

Completed:

Reason	Date	FR Cite
Final Action	05/09/89	54 FR 20094
Final Action Effective	06/20/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Maxine Cunningham 202 755-0455

RIN: 2529-AA33

1101. FAIR HOUSING - COORDINATION OF EXECUTIVE AGENCY AND REGULATORY AGENCY AFFIRMATIVE ADMINISTRATION OF PROGRAMS IN CONNECTION WITH HUD (FH&EO-1-88; FR-2400)

CFR Citation: 24 CFR 125

Completed:

Reason	Date	FR Cite
Withdrawn Merged with FR-2562 (RIN: 2501-AA74)	04/10/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Wagner D. Jackson 202 755-6836

RIN: 2529-AA36

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)
Prerule Stage

1102. ORGANIZATION, FUNCTION, AND DELEGATIONS OF AUTHORITY SUBPART C - SECRETARY'S DELEGATIONS OF AUTHORITY TO HEADS OF OFFICES (ADM-2-82)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 3

Legal Deadline: None

Abstract: Subpart C delegates authority from the Secretary to the Comptroller and then to certain Divisions. This subpart is almost entirely obsolete. The alternatives being considered are to eliminate Subpart C entirely or to update all of the obsolete references. The benefits of both alternatives are to eliminate a potentially confusing delegation of authority.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Albert M. Miller, Deputy Director, Department of Housing and Urban Development, Office of Administration, Office of Finance and Accounting, 202 755-6310

RIN: 2535-AA01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)
Proposed Rule Stage

1103. HUD ACQUISITION REGULATION (ADM-2-88; FR-2473)

Legal Authority: 42 USC 3535(d)

CFR Citation: 48 CFR 24

Legal Deadline: None

Abstract: The proposed rule will update the HUD Acquisition Regulation to conform to changes in the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535-AA16

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)
Final Rule Stage

1104. OMB CIR. A-110, UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH UNIVERSITIES, HOSPITALS AND OTHER NONPROFIT ORGANIZATIONS (ADM-1-87; FR-2376)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 29

Legal Deadline: None

Abstract: This rule is part of a government-wide common rule to provide uniformity to the administrative requirements for grants and agreements with universities, hospitals and other nonprofit organizations.

HUD—OA
Final Rule Stage

HUD—PIH
Proposed Rule Stage

HUD—OA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535–AA15

1105. REVISIONS OF HUDAR TO REFLECT CHANGES IN GNMA PROCUREMENT PROCEDURES (ADM-3-88; FR-2534)

Legal Authority: 42 USC 3535

CFR Citation: 48 CFR 2401; 48 CFR 2402

Legal Deadline: None

Abstract: Rule to amend HUDAR to clarify circumstances under which GNMA may exercise its "statutory procurement authority" without regard to FAR or FIRMR. The rule will direct that all HUD procurement policy regulations and procedures are the responsibility of the Assistant Secretary for Administration except transactions between GNMA and issuers of mortgage-backed securities in furtherance of GNMA's guaranty of such securities.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gladys Gines, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535–AA17

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH) — **Proposed Rule Stage**

1106. DETERMINATION OF WAGE RATES FOR MAINTENANCE AND TECHNICAL EMPLOYEES OF PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES (P-10-88; FR-2211)

Legal Authority: 42 USC 1437j

CFR Citation: 24 CFR 0060

Legal Deadline: None

Abstract: This rule would describe the Department's policies and procedures for determining or adopting prevailing wage rates for public housing maintenance employees under section 12 of the United States Housing Act of 1937.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Justin Logsdon, Assistant to the Secretary for Labor, Relations, Department of Housing and Urban Development, Office of the Secretary, 202 755-5370

RIN: 2577–AA68

1107. INCREASE IN SINGLE PERSON OCCUPANCY LIMITS (P-48-84; FR-2063)

Legal Authority: 42 USC 1437a

CFR Citation: 24 CFR 812; 24 CFR 912

Legal Deadline: None

Abstract: Implements Section 202 of the Housing and Urban-Rural Recovery Act of 1983 to permit the Secretary to increase from 15 percent to 30 percent the number of units that may be occupied by single persons and are within the jurisdiction of any public housing agency. In addition, this rule would revise the procedures for HUD's approval of single person occupancy for affected dwelling units.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ADDITIONAL CONTACT PERSON: James J. Tahash; Director, Program Planning Division; Office of Multifamily Housing Management. (202) 426-3944.

Agency Contact: Edward Whipple, Chief, Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577–AA07

1108. PUBLIC AND INDIAN HOUSING; CEILING RENTS (P-2-89; FR-2529) 1987 HCD ACT

Legal Authority: 42 USC 1437a; PL 100-242, Sec 102(a)

CFR Citation: 24 CFR 0913

Legal Deadline: None

Abstract: Rule to permit PHAs and IHAs to adopt, with HUD approval, rents for projects or dwelling units that would establish a cap, or ceiling on the income-based rent as currently calculated under 24 CFR 913.107, that are not more than the income-based rent and not less than the average monthly amount of debt service and operating expenses attributed to units by similar size in housing projects owned and operated by the PHA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development,

HUD—PIH — **Proposed Rule Stage**

Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA57

1109. LEAD-BASED PAINT POISONING PREVENTION ACT — STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT OF 1988 — SECTION 1088 (P-19-88; FR-2563)

Significance: Agency Priority

Legal Authority: 42 USC 4821; PL 100-628

CFR Citation: 24 CFR 941; 24 CFR 965; 24 CFR 966; 24 CFR 968; 24 CFR 35

Legal Deadline: None

Abstract: The rule will implement statutory amendments established by section 1088 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628). The amendments make a number of changes to the Lead-Based Paint Poisoning Prevention Act, including the possible selection of the 1978 CPSC standard for lead in paint of .06 percent by weight of the dry paint film as a criteria for determining when, and to what extent, abatement in public housing will be required; adding dust containing lead to the hazard to be abated; and adding atomic absorption spectroscopy (AAS) as an acceptable method of testing for lead-based paint and dust containing lead.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Grant E. Mitchell, Senior Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6550

RIN: 2577–AA78

1110. ● SELECTION OF FAMILIES FROM THE WAITING LIST IN ASSISTED HOUSING PROGRAM (P-4-89; FR-2663)

Legal Authority: 42 USC 1437(n)(c)

CFR Citation: 24 CFR 960

Legal Deadline: None

Abstract: Section 1001(a)(3) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 amended section 16(c) of the U.S. Housing Act of 1937 to prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. In addition, section 1001(b) of the 1988 Amendments amends section 6(c)(4)(A) of the 1937 Act to extend the prohibition to public housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA79

1111. PHA OBLIGATIONS WITH RESPECT TO RESIDUAL RECEIPTS IN THE PUBLIC HOUSING, TURNKEY III, AND SEC. 23 PROGRAMS; (P-2-87; FR2354; FORMERLY H-27-87)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 989

Legal Deadline: None

Abstract: This rule would reiterate the requirement of the Annual Contributions Contract that a PHA must submit to HUD its residual receipts within 60 days of the end of its fiscal year. The rule would also prescribe the method for determining the rate of interest due when residuals are not remitted on time. The rule will contain provisions for retention of residual receipts by the PHA under certain circumstances.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA49

1112. PERFORMANCE FUNDING SYSTEM REVISIONS (87 ACT)—FORMAL REVIEW PROCESS ENERGY CONSERVATION SAVINGS, AUDIT RESPONSIBILITIES (P-12-88; FR-2504)

Significance: Regulatory Program

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990; 24 CFR 965

Legal Deadline: None

Abstract: This rule would implement section 118(a) and 118(d). Section 118(a) requires HUD to amend the Performance Funding System, among other things, to provide for a formal review process for PHAs to obtain a change in allowable expense level to correct inequities in the original base year expense level, to correct for changes in operating circumstances and to reflect the level of economic distress of the locality. Section 118(d) also provides for sharing of the savings between a PHA and HUD for energy conservation improvements, and for preservation of subsidy when several units are rehabilitated and combined into fewer units. In addition, the rule would specify what requirements an insurance company or other risk protection provider must satisfy in order for the coverage to comply with ACC insurance requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA71

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH) — **Final Rule Stage**

HUD—PIH — **Final Rule Stage**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH)

Final Rule Stage

1113. REPLACEMENT HOUSING FOR PUBLIC HOUSING DEMOLITION AND DISPOSITION (P-5-88; FR-2463) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 42 USC 1437p; PL 100-242, Sec 121(a)-(d)

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This rule would establish procedures for the approval and funding of replacement housing for public housing units that have been demolished or disposed of. In addition, this rule would require that HUD may approve an application for demolition if the project is obsolete, making it unusable for housing purposes and if no reasonable program modifications are feasible to return the project to a useful life. The rule would also require HUD, in allocating assistance for public housing acquisition or development or for Section 8 moderate rehabilitation, to give consideration to housing that replaces demolished public housing units in accordance with an approved replacement plan. PHAs would be prohibited from taking any action to demolish or dispose of public housing projects without obtaining HUD's approval and satisfying pertinent statutory requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/17/88	53 FR 30984
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA58

1114. IMPLEMENTATION OF PERCENTAGE LIMIT PROVISIONS UNDER SECTION 16 OF THE UNITED HOUSING ACT OF 1937 (P-7-88; FR-2465) 1987 HCD ACT

Significance: Agency Priority

Legal Authority: 42 USC 1437n

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This rule would establish admission procedures which set differing percentage limitations on admission of lower income families in separate assisted housing programs that when aggregated will achieve the overall 5 percent limitation on occupancy under public housing annual contribution contracts and section 8 housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15412
NPRM Comment Period End	05/31/88	53 FR 15412
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA60

1115. PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM (P-20-88; FR-2592)

Significance: Regulatory Program

Legal Authority: PL 100-690

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: The Public Housing Drug Elimination Act of 1988 establishes a new HUD-administered categorical grant program to help PHA's and IHA's to eliminate drug-related crime in public and Indian housing.

Timetable:

Action	Date	FR Cite
NPRM	06/21/89	54 FR 26154
NPRM Comment Period End	08/21/89	54 FR 26154
NOFA	09/18/89	54 FR 38496
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Wayne Hunter, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA76

1116. INDIAN HOUSING PROGRAM–REVISED PROGRAM REGULATIONS (P-2-86; FR-2208)

Significance: Regulatory Program

Legal Authority: 25 USC 450e(b); PL 100-358

CFR Citation: 24 CFR 905

Legal Deadline: None

Abstract: This rule will consolidate relevant provisions of regulations flowing from the U.S. Housing Act of 1937, as amended by the Indian Housing Act of 1988. It is the Department's intention that this consolidated Part 905, followed with a comprehensive Indian Housing Handbook, should be the controlling regulatory authority governing the development and operation of Indian housing projects.

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	53 FR 24554
NPRM Comment Period End	09/27/88	53 FR 24554
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Includes P-31-82 (RIN: 2577-AA17)

Agency Contact: Patricia Arnaudo, Deputy Director, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-1015

RIN: 2577–AA32

1117. PUBLIC HOUSING - TENANT LEASES AND PHA GRIEVANCE HEARINGS (P-26-79; FR-1164)

Significance: Agency Priority

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 960; 24 CFR 966

Legal Deadline: None

Abstract: Would amend the regulations to simplify the requirements for provisions included in the lease between a PHA and its tenants and the requirements for the grievance procedure.

HUD—PIH

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Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26504
NPRM Comment Period End	09/22/86	51 FR 26504
Final Action	08/30/88	53 FR 33216
Final Rule Withdrawn	02/15/89	54 FR 6886

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Edward Whipple, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577–AA18

1118. INDIVIDUAL METERING OF UTILITIES OF EXISTING PHA-OWNED PROJECTS (P-36-83; FR-1769)

Legal Authority: 42 USC 1437 note; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965.304; 24 CFR 965.310; 24 CFR 965.404; 24 CFR 965.408

Legal Deadline: None

Abstract: Rule would revise the factors that PHAs use in estimating utility consumption savings resulting from conversions from master metered utilities systems to individually metered system and would amend energy audit provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/14/83	48 FR 51785
NPRM Comment Period End	01/13/84	48 FR 51785

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles R. Ashmore, Utilities Officer, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6640

RIN: 2577–AA27

1119. PHA-OWNED AND LEASED PROJECT; MAINTENANCE AND OPERATION; TENANT ALLOWANCE FOR UTILITIES (P-8-86; FR-2260)

Significance: Regulatory Program

Legal Authority: 42 USC 1437; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965

Legal Deadline: None

Abstract: HUD's procedures for the establishment and administration by PHAs of allowances for utilities and surcharges for excess consumption are contained in Part 965, Subpart E. This rule amends Subpart E to clarify how utility consumption attributable to air conditioning and certain tenant supplied major equipment will be treated under the allowance and surcharge provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38470
NPRM Comment Period End	12/04/87	52 FR 38470

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Ashmore, Utility Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6640

RIN: 2577–AA40

1120. PUBLIC HOUSING CIAP AND COMPREHENSIVE GRANT PROGRAM (P-8-88; FR-2488)

Significance: Regulatory Program

Legal Authority: PL 100-242, Sec 119

CFR Citation: 24 CFR 968

Legal Deadline: None

Abstract: Section 119 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) began a two-part legislative process designed to develop a Comprehensive Grant Program (CGP) which would provide an improved means of allocating funds for the modernization of public housing for PHAs that own or operate a total of 500 or more units.

Section 119 contemplates the adoption, by the Congress, of a follow-up statute providing for a revised method for allocating assistance under the new program. Until this additional legislation is approved, HUD's current method of allocating funds will continue in effect.

The Department is developing procedural rules to govern administration of the new CGP under the new system outlined in section 119, and published a proposed rule on this subject on October 27, 1988. The proposed rule also proposed simplifying the current CIAP program and limiting it to PHAs that own or operate fewer than 500 units. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 43648
NPRM Comment Period End	12/27/88	53 FR 43648
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT:

A final rule limited the simplification of the current CIAP program should be promulgated in October 1989. After a new statutory formula is adopted, the Department will publish a final rule linking the statutory allocation method with the previously promulgated procedural rule.

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577–AA66

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1121. ESTABLISHMENT OF PREFERENCE FOR ELDERLY AND NEAR ELDERLY FAMILIES (P-13-88; FR-2505)

CFR Citation: 24 CFR 905; 24 CFR 960

Completed:

Reason	Date	FR Cite
Final Action	05/12/89	54 FR 20758
Final Action Effective	06/23/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Edward Whipple 202 426-0744

RIN: 2577-AA69

1122. CHANGE IN CONSOLIDATED SUPPLY PROGRAM (CSP) (P-11-88; FR2482)

CFR Citation: 24 CFR 965

Completed:

Reason	Date	FR Cite
Final Action	05/30/89	54 FR 22866
Final Action Effective	07/13/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael E. Diggs 202 472-4703

RIN: 2577-AA67

[FR Doc. 89-21722 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part X

Department of the Interior

Semiannual Regulatory Agenda

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DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1989 and April 1990. An agenda is required by Executive Order 12291 and the Regulatory Flexibility Act.

ADDRESS: Unless otherwise indicated, all Agency Contacts are located at the Department of the Interior, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate Agency Contact. General comments relating to the agenda should be directed to the Division of Directives and Regulatory Management, Office of Management Improvement, Department of the Interior, 18th and C Streets NW., MIB-2242, Washington, DC 20240, or on 202-343-6191.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12291 that the Department publish in April and October of each year an agenda of rules that have been issued or are expected to be issued and currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules which will have significant economic effects on a substantial number of small entities; those rules which will have such effects are specifically identified in the agenda.

This agenda also identifies rules determined to be "significant" under Executive Order 12498 and which are included in this Department's 1989-90 regulatory program. A more comprehensive discussion of this program and the rules are contained in the Regulatory Program of the United States Government, which is published by the Office of Management and Budget.

Dated: August 31, 1989.

Charles E. Kay,

Acting Assistant Secretary, Policy, Budget and Administration.

Assistant Secretary for Policy, Budget, and Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1123	Natural Resource Damage Assessments	1090-AA21
1124	Natural Resource Damage Assessments	1090-AA22
1125	Certification of Non-Delinquency by Applicants for Federal Financial Assistance	1090-AA25

Assistant Secretary for Policy, Budget, and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1126	Department of the Interior Acquisition Regulation	1090-AA13
1127	Department of the Interior Acquisition Regulation	1090-AA14
1128	Natural Resource Damage Assessments	1090-AA23
1129	Department of the Interior, Nonprocurement Debarment and Suspension Regulation	1090-AA24

Assistant Secretary for Policy, Budget, and Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1130	Department of the Interior, Procurement Ethics Regulation	1090-AA15

Office of the Solicitor—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1131	Practices Before the Department	1092-AA00

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1132	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1091-AA02

Office for Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1133	Federally Assisted Programs or Activities of the Department of the Interior, Nondiscrimination on the Basis of Handicap	1091-AA03

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1134	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA25

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1135	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA37

Office of Hearings and Appeals—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1136	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA30
1137	Special Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA31

United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1138	Migratory Bird Hunting	1018-AA24

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United States Fish and Wildlife Service—Proposed Rule Stage

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1140	Endangered Species Convention	1018-AA29
1141	Public Entry and Use	1018-AA36
1142	Refuge-Specific Sport Fishing Regulations	1018-AA50
1143	Refuge-Specific Hunting Regulations	1018-AA71
1144	Nontoxic Shot Regulations for Hunting Migratory Birds	1018-AA93
1145	Subsistence Take of Migratory Birds in Alaska	1018-AB03
1146	Captive Bred Wildlife	1018-AB10
1147	Implementation of Klamath River Basin Fishery Resources Restoration Act	1018-AB11
1148	Injurious Wildlife: Importation of Live or Dead Fish, Mollusks, and Crustaceans, or Their Eggs	1018-AB13
1149	Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts	1018-AB15
1150	National Wildlife Refuges: Adding to Areas Open to Hunting and Fishing	1018-AB25
1151	Endangered and Threatened Wildlife and Plants; Designated Ports for Plants	1018-AB28
1152	Endangered and Threatened Wildlife and Plants: Revision of Special Regulations for the Grizzly Bear	1018-AB29
1153	Highly Traded Appendix II Species	1018-AB30
1154	Injurious Wildlife: Brown Tree Snakes	1018-AB33
1155	Amendments to the Marine Mammal Protection Act	1018-AB34
1156	Endangered and Threatened Wildlife and Plants	1018-AB35
1157	Endangered and Threatened Wildlife and Plants	1018-AB36

United States Fish and Wildlife Service—Final Rule Stage

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1160	Endangered and Threatened Wildlife and Plants	1018-AA85
1161	Subsistence Take of Migratory Birds	1018-AA92
1162	Endangered and Threatened Wildlife and Plants	1018-AA95
1163	Marine Mammals: Incidental Taking by Commercial Fishing Operations	1018-AA96
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1165	General Permit Procedures and Migratory Bird Permits: Raptor Propagation and Falconry Regulations	1018-AB01
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1171	Endangered and Threatened Wildlife and Plants	1018-AB18
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1176	Determination of Experimental Population Status for an Introduced Population of Guam Rails on Rota in the Commonwealth of the Northern Mariana Islands	1018-AB26
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United States Fish and Wildlife Service—Completed Actions

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United States Fish and Wildlife Service—Completed Actions—Continued

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1187	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Threatened Concho Water Snake (Nerodia Harteri Paucimaculata)	1018-AB27

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1189	Apostle Islands National Lakeshore: Snowmobiling	1024-AB80
1190	Yellowstone National Park: Commercial Traffic on U.S. Highway 191 within Yellowstone National Park	1024-AB82

National Park Service—Proposed Rule Stage

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1194	Mammoth Cave NP: Fishing	1024-AA94
1195	Appalachian National Scenic Trail	1024-AB07
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1197	Big Thicket National Preserve: Hunting Regulations	1024-AB48
1198	Cape Hatteras National Seashore: Off-Road Vehicle Regulations	1024-AB54
1199	Hawaii Volcanoes National Park: Fishing Regulations	1024-AB65
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1203	Yosemite National Park; Wawona Zoning Regulations	1024-AB77
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1205	Ozark National Scenic Riverways: Power Boat Operation	1024-AB85
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National Park Service—Final Rule Stage

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1214	Fire Island National Seashore: Zoning	1024-AA80
1215	Cape Cod National Seashore: Off-Road Vehicle Regulations	1024-AA91
1216	Fort Jefferson NM: Fishing; Boundary Adjustments	1024-AA96
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1222	Cuyahoga Valley NRA: Off-Road Vehicles and Snowmobiles	1024-AB44
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1224	Whiskeytown National Recreation Area Fishing Regulations	1024-AB61
1225	Bighorn Canyon National Recreation Area - Fishing Regulations	1024-AB63
1226	Rocky Mountain National Park: Trucking Regulations	1024-AB67
1227	Historic Preservation Certifications Pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986	1024-AB73
1228	Management of Mineral Development Associated with Mining Claims	1024-AB74
1229	Alaska Region: Same-Day-Airborne Hunting Regulations	1024-AB81
1230	Vehicles and Traffic Safety: Mandatory Seatbelt Regulation	1024-AB83
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National Park Service—Completed Actions

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1249	Protection of Archaeological Resources	1076-AC23

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1250	Law and Order on Indian Reservations	1076-AA01
1251	Administration of the Higher Education Program	1076-AA10
1252	Administration of the Indian Adult Education Programs	1076-AA15
1253	Navajo Grazing Regulations	1076-AA33
1254	Contracts for Prospecting and Mining on Indian Mineral Lands	1076-AA38
1255	Leasing of Allotted Lands for Mining	1076-AA39

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Bureau of Indian Affairs—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1256	Indian Business Development Program	1076-AA55
1257	Buy Indian Act Contracting	1076-AA56
1258	Oil and Gas Mineral Agreements	1076-AA82
1259	Attorney Fee Contracts with Indian Tribes; Payment of Tribal Attorney Fees with Federally Appropriated Funds	1076-AB87
1260	Rights-of-Way Over Indian Lands	1076-AB89
1261	Leasing of Osage Reservation Lands for Oil and Gas Mining	1076-AC09
1262	Preparation of Rolls of Indians	1076-AC11

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1263	Appeals from Administrative Actions	1076-AB21
1264	Management of Osage Judgment Funds for Education and Socio-Economic Programs	1076-AB51
1265	Loans to Indians from the Revolving Loan Fund	1076-AC00
1266	Loan Guaranty, Insurance, and Interest Subsidy	1076-AC01
1267	Procedures for Establishing that an American Indian Group Exists as an Indian Tribe	1076-AC15

Minerals Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1268	Removal of Federal Funding Limitation from State and Indian Cooperative Agreements	1010-AB36

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1269	Air Quality - Offshore California	1010-AA61
1270	Recoupments and Refunds of Excess Payments Under Federal Offshore Mineral Leases	1010-AB11
1271	Revision of Regulation Governing Effectiveness of Decisions and Orders Pending Appeal	1010-AB13
1272	Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), Subpart O, Training	1010-AB21
1273	Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Subpart P, Sulphur Operations	1010-AB23
1274	Amendment of Dual Accounting Requirement in Gas Valuation Regulations	1010-AB28
1275	Amendment of Valuation Benchmarks in Gas Regulations	1010-AB29
1276	Amendments to 30 CFR 250.52 to Add Requirements Intended to Prevent Occurrence of Accidental Fires Caused by Falling Slag from Welding or Burning	1010-AB31
1277	Clarification of Dates for Release to the Public of Certain Data and Information Submitted in Association with Drilling and Production Operations	1010-AB34
1278	Assessment for Failure to Submit Payment of Same Amount with Report or Bill or to Provide Adequate Information	1010-AB35
1279	Serving of Official Correspondence Issued by the Royalty Management Program	1010-AB37
1280	Amendment to the Regulations Concerning the Requirement for Submission of a Corporate Surety Bond to Indemnify the U.S. From Default by a Lessee on the Conditions and Terms of an OCS Lease	1010-AB38
1281	Regulations Governing Recoupment of Overpayments on Indian Leases	1010-AB40

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Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1282	Revision of Royalty Valuation Regulations Governing Gas Sales Under Percentage-of-Proceeds Contracts	1010-AB17
1283	Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Safety and Pollution-Prevention Equipment	1010-AB19
1284	Geothermal Resources Used to Generate Electricity, Product Valuation for Royalty Purposes	1010-AB22
1285	Limitation of the Director's Authority for Discretionary Release of Postlease Proprietary Data and Information	1010-AB30
1286	Revision of Regulations Governing Interest Rate Applicable to Late Payments and Underpayments	1010-AB32
1287	Appeals Procedures	1010-AB39

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1288	Nondiscrimination in Employment in the Outer Continental Shelf	1010-AA87
1289	Air Quality – Outer Continental Shelf Wide	1010-AB14
1290	Amendment to 30 CFR 250.4 and 250.34(j) to Add Guidelines for the Acceptance of Contributions for Mission Activities such as the Preparation of Environmental Impact Statements	1010-AB33

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1291	Surface Coal Mining and Reclamation Operations; Two Acre Exemption Repeal	1029-AB16
1292	Assessment Conference Scheduling	1029-AB22
1293	Reprocessing Coal Waste	1029-AB23
1294	Interim Program Revisions	1029-AB24
1295	Federal Regulatory Programs; Permit Application Fees	1029-AB29

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1296	Exemption for Coal Extraction Incidental to the Extraction of Other Minerals	1029-AA53
1297	Reclamation Technology Rule	1029-AA57
1298	Federal Lands Program	1029-AA76
1299	Permanent Program Performance Standards; Highwall Policy	1029-AB10
1300	Federal Regulatory Programs; Permit Application Fees	1029-AB15

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1301	Permanent Regulatory Program; Requirements for Permits for Special Categories of Mining	1029-AA54
1302	Requirements for Permits and Permit Processing; Permit Applications Minimum Requirements for Legal Financial Civil Penalties	1029-AA66
1303	Definition and Criteria for Valid Existing Rights	1029-AA77
1304	Permanent Regulatory Program Definitions; Areas Unsuitable for Mining	1029-AA80
1305	Lands Unsuitable Regulations	1029-AA90
1306	Requirements for Coal Exploration–Permit Requirements for Exploration Removing More than 250 Tons of Coal	1029-AA92
1307	Permanent Regulatory Program - Ownership Information	1029-AA96
1308	Permanent Program Performance Standards; Surface Mining Activities; Contemporaneous Reclamation	1029-AB02

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Office of Surface Mining Reclamation and Enforcement—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1309	Surface Coal Mining and Reclamation Operations on Indian Lands	1029-AB04
1310	Permanent Program Performance Standards; Disposal of Coal Mine Waste	1029-AB09
1311	Disposal of Excess Spoil on Preexisting Benches	1029-AB18
1312	Permit to Reclaim Rule	1029-AB26
1313	Approximate Original Contour Variances	1029-AB27
1314	Civil Penalties for Post Act Reclamation	1029-AB28

Bureau of Reclamation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1315	Procedure to Process and Recover the Value of Rights-of-Use and Administrative Costs Incurred in Permitting Such Use	1006-AA18
1316	Reclamation States Drought Assistance Act of 1988	1006-AA19

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1317	Paleontology	1004-AA27
1318	Recreation: General	1004-AA35
1319	Unauthorized Use of Public Lands	1004-AA38
1320	Onshore Oil and Gas Order No. 7 - Disposal of Produced Water	1004-AA66
1321	Cultural Resource Management	1004-AA69
1322	Recreation and Public Purposes: Solid Waste Disposal	1004-AA73
1323	Exploration Activity; Oil and Gas Leasing; Geothermal Resource Leasing-General	1004-AA97
1324	Rights-of-Way under the Mineral Leasing Act	1004-AA98
1325	Rights-of-Way, Principles and Procedures	1004-AB00
1326	Multiple Use: Mining: Mining Claims Under the General Mining Laws	1004-AB04
1327	Cadastral Survey	1004-AB07
1328	Indian Allotments	1004-AB10
1329	Geothermal Resource Operations	1004-AB15
1330	Minerals (Nonmineral Entries on Mineral Lands)	1004-AB20
1331	Onshore Oil and Gas Order No. 2 - Drilling Operations	1004-AB21
1332	Exchanges - General Procedures	1004-AB28
1333	Mining Claims Under the General Mining Laws	1004-AB36
1334	Onshore Oil and Gas Order No. 8 - Well Workovers, Completions, Abandonments	1004-AB37
1335	Exploration Activity; Oil and Gas Leasing; Competitive Leases	1004-AB41
1336	Mining Claims Under the General Mining Law - Nature and Classes of Mining Claims Assessment Work	1004-AB43
1337	Coal Management – General	1004-AB44
1338	Onshore Oil and Gas Order No. 9 - Waste Prevention and Beneficial Use of Oil and Gas	1004-AB47
1339	Law Enforcement, Criminal	1004-AB48
1340	Leases, Permits and Easements	1004-AB51
1341	Mining in Military Withdrawals	1004-AB52
1342	Special Laws and Rules; Restatement of Procedures for the Segregation and Opening of Public Lands; Amendment	1004-AB54
1343	Public Availability of Minerals Resources Information	1004-AB55
1344	Contract Extension	1004-AB56
1345	Classifications	1004-AB57
1346	Village Selections	1004-AB58
1347	Cave Management	1004-AB59
1348	Protection Management and Control of Wild Free-Roaming Horses and Burros; Private Maintenance; Supporting Information and Certification for More Than Four Horses or Burros	1004-AB63
1349	Leases, Permits and Easements	1004-AB64
1350	Oil and Gas Leasing	1004-AB65
1351	National Conservation Areas; Law Enforcement- Criminal	1004-AB67
1352	Law Enforcement–Criminal	1004-AB68

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Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1353	Onshore Oil and Gas Order No. 6 - Hydrogen Sulfide Operations	1004-AA67
1354	Onshore Oil and Gas Operations - Cooperative Agreements, Delegations of Authority and Contracts for Oil and Gas Inspection and Enforcement	1004-AB32
1355	Conduct of Sales (Timber)	1004-AB35
1356	Sales of Forest Products; Conduct of Sales	1004-AB39
1357	Sales of Forest Products; Award of Contract	1004-AB40
1358	Fees, Rents, and Royalties	1004-AB45
1359	Award of Contract; Sales Administration	1004-AB49
1360	Geothermal Resources Leasing	1004-AB53
1361	Sales of Forest Products	1004-AB66

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1362	Land Classification	1004-AB19
1363	Off-Road Vehicles	1004-AB26
1364	Sales of Forest Products; General - Preparation for Sale	1004-AB34
1365	Rights-of-Way, Trespass, and Law Enforcement - Criminal	1004-AB46
1366	Rules of Conduct; Controlled Substances on Federal Land	1004-AB60
1367	Grazing Administration Exclusive of Alaska	1004-AB61

Bureau of Mines—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1368	Mining and Mineral Resources Research Institute Program	1032-AA00

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

Prerule Stage

1123. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Other, Statutory, March 20, 1989.
42 USC 9651(c)(3) requires biennial review and revision as appropriate of the regulations.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c) (2) (A) calls for the promulgation of simplified assessment procedures. The first type A procedure for coastal and marine environments uses a computer model known as the natural resource damage assessment model for coastal and marine environments (NRDAM/CME). Section 301(c)(3) of CERCLA requires the biennial review of these natural resource damage assessment regulations. Since type A regulations were published as a final rule in 1987, the Department will issue an advance notice of proposed rulemaking (ANPRM). This ANPRM will ask trustees, other interested parties, and members of the public to draw upon their experience with the type A procedure to advise the Department of areas where revisions to the type A procedure may be appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	
ANPRM Comment Period End	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Deason, Director, Office of Environmental Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 2340, MIB, 1801 C Street, NW, Washington, DC 20240, 202 343-3891

RIN: 1090-AA21

DOI—ASPBA

Prerule Stage

1124. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Other, Statutory. 42 USC 9651(c)(3) requires biennial review and revision, as appropriate, of the regulations. This ANPRM will begin the review process.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(B) calls for the promulgation of a set of alternative protocols for the testing, sampling, and determining compensation for natural resource damages, referred to as the type B procedures. Section 301(c)(3) requires the biennial review of these natural resource damage assessment regulations. Since the general process and type B procedures were published as a final rule in 1986, the Department will issue an advance notice of proposed rulemaking (ANPRM) to begin the second biennial review of these regulations. This ANPRM will ask trustees, other interested parties, and members of the public to draw upon their experience with the type B procedures, and the general assessment process, to advise the Department of areas where revisions to the process and the type B procedures may be desired.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/90	
ANPRM Comment Period End	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Deason, Director, Office of Environmental Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 2340, 1801 C Street, NW., Washington, DC 20240, 202 343-3891

RIN: 1090-AA22

1125. CERTIFICATION OF NON-DELINQUENCY BY APPLICANTS FOR FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 31 USC 3511; 31 USC 3512; 31 USC 3302; 31 USC 3701; 31 USC 3711; 31 USC 3716 to 3719

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes a regulation requiring the use of an application form which includes a question to be answered "yes" or "no" regarding whether the applicant is delinquent on any Federal debt. The Department has withdrawn the notice of proposed rulemaking published on May 11, 1988, because subsequent guidance from the Office of Management and Budget conflicted with the proposed rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry D. Cardwell, Director, Office of Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Sts., NW, Washington, DC 20240, 202 343-8668

RIN: 1090-AA25

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

Proposed Rule Stage

1126. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1415

Legal Deadline: None

Abstract: This rule will establish formal source selection procedures for the Department pursuant to FAR 15.612.

Timetable:

Action	Date	FR Cite
NPRM	12/21/87	52 FR 48301
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090-AA13

1127. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1400

Legal Deadline: None

Abstract: This rule makes miscellaneous revisions to the Department of the Interior Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There

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is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090–AA14

1128. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: The Department has promulgated regulations, codified at 43 CFR Part 11, for the assessment of damages to natural resources injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. The regulations provide two types of assesement procedures: simplified procedures requiring minimal field investigation, referred to as the type A procedures; and alternative protocols for the testing, sampling, and valuing of natural resource damages, referred to as the type B procedures. The type A procedures that have been developed are for use in coastal and marine environments. The Department has stated that, when possible, it would develop additional type A procedures for other environments or natural resources. An advance notice of proposed rulemaking (ANPRM) will be issued by the Department. This ANPRM will solicit suggestions and supporting technical information for possible development of other type A procedures.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/88	53 FR 20143
ANPRM Comment Period End	07/18/88	53 FR 20143
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Deason, Director, Office of Envir. Project Review, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 2340, 1801 C St., NW, Washington, DC 20240, 202 343-3091

RIN: 1090–AA23

1129. DEPARTMENT OF THE INTERIOR, NONPROCUREMENT DEBARMENT AND SUSPENSION REGULATION

Legal Authority: EO 12549; 5 USC 301

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This action proposes a revision to the Department's regulation establishing a uniform system of nonprocurement debarment and suspension. This proposed rule would implement the requirements of paragraph (a)(1) of section .110, Coverage, of common final rule on Governmentwide Debarment and Suspension (Nonprocurement).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Larry D. Cardwell, Director, Office of Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Sts., NW, Washington, DC 20240, 202 343-5568

RIN: 1090–AA24

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Budget, and Administration (ASPBA)

Final Rule Stage

1130. DEPARTMENT OF THE INTERIOR, PROCUREMENT ETHICS REGULATION

Legal Authority: 5 USC 301; EO 11222; 43 CFR 20.735

CFR Citation: 48 CFR 1401; 48 CFR 1403; 48 CFR 1415; 48 CFR 1453

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes to provide implementing regulations in the Department of the Interior Acquisition Regulation for EO 11222 and the procurement integrity provisions of the Office of Federal Procurement Policy Act Amendments of 1988 (Pub. L. 100-679), which govern ethics/procurement integrity conduct of Government employees.

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	53 FR 17086
NPRM Comment Period End	07/12/88	53 FR 17086
Reproposal	09/14/89	54 FR 37959
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Division of Acquisition and Assistance, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th and C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090–AA15

BILLING CODE 4310-RK-T

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Proposed Rule Stage

1131. PRACTICES BEFORE THE DEPARTMENT

Legal Authority: 43 USC 1464

CFR Citation: 43 CFR 1

Legal Deadline: None

Abstract: This rule governs practice in administrative proceedings before the Department. It will be revised to update its provisions and assure that they are consistent with the Department's employee conduct regulations (43 CFR Part 20) and the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: January 1981.

Agency Contact: Barbara Abate, Paralegal, Department of the Interior, Office of the Solicitor, 18th and C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092–AA00

BILLING CODE 4310-17-T

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Proposed Rule Stage

1132. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: PL 92-318 Title IX of the Education Amendment of 1972; PL 93-568; PL 94-482; 20 USC 1681 to 1686

CFR Citation: 43 CFR 17, Subpart D

Legal Deadline: None

Abstract: The Title IX regulation is intended to address the problem of discrimination on the basis of sex in any education program or activity receiving or benefiting from Federal financial assistance administered by the Department of the Interior (DOI). No alternative for addressing problems of discrimination in DOI's education programs can be considered due to the fact that Title IX requires each Federal agency which extends Federal financial assistance to any educational program or activity, to issue rules and regulations implementing Title IX.

DOI's recipients are anticipated to incur expenses in two (2) areas: (1) Data collection and recordkeeping; (2) rectifying areas of noncompliance with Title IX. With respect to DOI, expenses will be incurred in three (3) areas: (1) Development and publication of the Title IX rule; (2) Provision of technical assistance; and (3) Accomplishing compliance reviews and enforcement activities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW., Washington, DC 20240, 202 343-3455

RIN: 1091–AA02

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Final Rule Stage

1133. FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES OF THE DEPARTMENT OF THE INTERIOR, NONDISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 29 USC 794, The Rehab. Act of 1973, Sec 504, as amended; EO 12250; 42 USC 4151 to 4157, The Architectural Barriers Act of 1968

CFR Citation: 43 CFR 17, Subpart B

Legal Deadline: None

Abstract: This rulemaking will amend the regulation issued by DOI at 43 CFR 17, Subpart B, for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). The regulatory amendment is intended to encourage DOI's recipients to follow UFAS for new construction and alteration projects. No alternative exists to issuing this regulation. This amendment was found to be appropriate and necessary, and is being issued by DOI pursuant to directions received from the Civil Rights Division of the Department of Justice under the authority of Executive Order 12250. It has been determined that this rule is nonmajor and that it has no major cost effect. This amendment will promote governmentwide consistency and minimize public confusion by referencing new architectural standards that are presently in use by the Department of Justice and fourteen other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18554
NPRM Comment Period End	06/30/89	54 FR 18554
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 18th and C Streets NW., Washington, DC 20240, 202 343-3455

RIN: 1091–AA03

BILLING CODE 4310-RE-T

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DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

1134. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c); 43 CFR 4.413

Legal Deadline: None

Abstract: Rulemaking is being proposed to amend the requirements for proof of service of documents to require that a party serving a document other than the notice of appeal certify that he sent the document to the adverse party by mail.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pat Sheehy, Attorney-Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094–AA25

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Final Rule Stage

1135. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1256; 30 USC 1260; 30 USC 1261; 30 USC 1264; 30 USC 1266; 30 USC 1271; 30 USC 1272; 30 USC 1275; 30 USC 1293; 5 USC 301

CFR Citation: 43 CFR 4.1360 to 4.1369; 43 CFR 4.1370 to 4.1379; 43 CFR 4.1380 to 4.1388

Legal Deadline: None

Abstract: The procedures for administrative review of Office of Surface Mining Reclamation and Enforcement decisions on (1) applications for new permits, (2) applications for permit revisions, permit renewals, and the transfer, assignment, or sale of rights granted under permit, (3) permit revisions ordered by the Office, and (4) applications for coal exploration permits vary. The Office of Hearings and Appeals proposes to remove the rules containing procedures for administrative review for (2), (3), and (4) (43 CFR 4.1370-4.1379 and 4.1380-4.1388) and to revise the rules in 43 CFR 4.1360-4.1369 so they will include review of decisions presently provided for in 43 CFR 4.1370-4.1379 and 4.1380-4.1388. The Office also proposes to amend 43 CFR 4.1351 and 4.1391(b) to provide for notice of OSMRE's decisions by certified mail or by overnight delivery service rather than by publication in a local newspaper. The proposed amendments will unify administrative review procedures and make them more expedited.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9852
NPRM Comment Period End	06/23/89	54 FR 30766
Final Action	10/16/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3750

RIN: 1094–AA37

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Completed Actions

1136. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.411

Legal Deadline: None

Abstract: The agency will propose to amend its procedural regulations to provide relief to appellants who mistakenly file their notices of appeal with the Board instead of the office specified in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 38950
NPRM Comment Period End	11/19/87	52 FR 38950
Withdrawn No further action to be taken at this time.	07/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Hughes, Attorney-Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094–AA30

1137. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 36 Stat. 855, as amended; 38 Stat. 586; 42 Stat. 1185, as amended; 56 Stat. 1021-1022; R.S. 463; R.S. 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4, Subpart D

Legal Deadline: None

Abstract: The agency is proposing to make changes to its regulations governing appeals to the Board of Indian Appeals in order to ensure compatibility between those regulations and proposed changes to administrative appeals regulations of the Bureau of Indian Affairs in 25 CFR Part 2. The rulemaking would incorporate two specific changes to regulations in 43 CFR Part 4, Subpart D, listed on previous agenda.

Timetable:

Action	Date	FR Cite
NPRM	11/06/87	52 FR 43009
NPRM Comment Period End	01/05/88	52 FR 43009
Final Action	02/10/89	54 FR 6483
Final Action Effective	03/13/89	54 FR 6483

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Kathryn Lynn, Chief Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3816

RIN: 1094–AA31

BILLING CODE 4310-79-T

DOI—OHA

Completed Actions

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Prerule Stage

1138. MIGRATORY BIRD HUNTING

Significance: Regulatory Program

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the current hunting season. This annual process consists of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/90	
NPRM	06/00/90	
Final Action	09/00/90	
1989-90 frameworks for early seasons ANPRM	03/27/89	54 FR 12534
NPRM	07/13/89	54 FR 29640
Final Action	08/11/89	54 FR 32975
1989-90 frameworks for early/late seasons NPRM	06/06/89	54 FR 24920
1989-90 frameworks for late seasons NPRM	08/16/89	54 FR 33721

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SMALL BUSINESSES CONT: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, boat and marine equipment stores, marinas, gasoline stations, private hunting clubs, land owners' leasing hunting rights, and mail order houses selling hunting equipment and supplies. Originally scheduled: April 1985. E.O. 12291: These rules are major because of the economic values associated with migratory game bird hunting; however, the need to obtain and consider the latest population data for these migratory birds requires that the regulatory schedule be shortened. The regulatory impact analysis, as required by E.O. 12291, and the small entity flexibility analysis, as required by 5 U.S.C. 601 et seq., have been combined into one analysis as provided for by both authorities. Copies of the combined analysis will be available from the Agency Contact upon publication of the Notice of Intent in March 1985.

Agency Contact: Rollin D. Sparrowe, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, MS -634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018–AA24

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1139. ● MARINE MAMMALS: NATIVE EXEMPTIONS

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to amend the regulations in 50 CFR 18 implementing the Marine Mammal Protection Act of 1972 (the Act), 16 USC 1361-1407. The proposed rule would prohibit the taking of sea otters by Alaskan Natives for use in creating and selling authentic Native articles of handicrafts and clothing under the Native Exemptions section of the Act, 16 USC 1371(b).

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45788
NPRM Comment Period End	11/30/89	54 FR 23233

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: On February 15, 1989 (54 FR 6940) the Service extended the comment period on the proposed rule to April 13, 1989. On May 31, 1989 (54 FR 23233), the Service gave notice that the comment period was further extended through November 30, 1989, to allow time for public meetings to be conducted in selected coastal Alaska locations within the range of the sea otter, and at one location in California.

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS -820 Arlington

Square, Washington, D.C. 20240, 703 358-1718

RIN: 1018–AA20

1140. ENDANGERED SPECIES CONVENTION

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will be clarified and revised to incorporate recommendations of the Parties.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, D.C. 20240, 703 358-2093

RIN: 1018–AA29

1141. PUBLIC ENTRY AND USE

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 26

Legal Deadline: None

Abstract: Regulations will be proposed which will simplify and reduce administrative costs related to the process by which special regulations relating to public access use and recreation are issued for units of the National Wildlife Refuge system. Special regulations will be used for public access use and recreation on individual national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: April 1981.

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, Washington, D.C. 20240, 703 358-1744

RIN: 1018–AA36

1142. REFUGE-SPECIFIC SPORT FISHING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 33

Legal Deadline: None

Abstract: The Service will review annually and prior to each fishing season may amend fishing regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: October 1983

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, Washington, D.C. 20240, 703 358-1744

RIN: 1018–AA50

1143. REFUGE-SPECIFIC HUNTING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service will review annually and prior to each hunting season may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	09/00/90	
1989-90 hunting season		
NPRM 07/28/89 (54 FR 31348)		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Robert Karges, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, D.C. 20240, 703 358-1744

RIN: 1018–AA71

1144. NONTOXIC SHOT REGULATIONS FOR HUNTING MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service, in coordination with the States, identifies areas of migratory bird hunting where the use of conventional lead shotshells results in lead poisoning of such birds and other wildlife. The Service will review existing nontoxic shot zones for the continued need for inclusion, and propose new areas for consideration as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	10/00/90	
1989-90 nontoxic shot zones		
Final Action 04/13/89 (54 FR 14814)		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Rollin Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS -634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018–AA93

1145. SUBSISTENCE TAKE OF MIGRATORY BIRDS IN ALASKA

Significance: Agency Priority

Legal Authority: 16 USC 703

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service will develop regulations that provide for subsistence harvest of migratory birds in Alaska. This action is being developed in cooperation with the State of Alaska, Alaskan Native organizations, and Canada.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Appeals Court recently ruled that the Migratory Bird Treaty does not permit subsistence hunting.

Agency Contact: David L. Olsen, Assistant Director - Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, MS -3252 MIB, 18th and C Streets, NW., Washington, DC 20240, 202 343-5333

RIN: 1018–AB03

1146. CAPTIVE BRED WILDLIFE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule will be revised to relieve certain restrictions on the public that have been determined to be outmoded, burdensome and counter productive.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, D.C. 20240, 703 358-2093

RIN: 1018–AB10

1147. IMPLEMENTATION OF KLAMATH RIVER BASIN FISHERY RESOURCES RESTORATION ACT

Legal Authority: 16 USC 460ss

CFR Citation: 50 CFR 72

Legal Deadline: None

Abstract: This rule is necessary to implement the Klamath River Basin Fishery Resources Restoration Act. These include establishment of qualifications for volunteers, establishment of standards for determining the value of in-kind contributions and real and personal property provided by non-Federal sources to implement the conservation area restoration program, and establishment of the basis for determining whether matching funds will be provided in a timely and appropriate manner.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/87	52 FR 9550
ANPRM Comment Period End	05/11/87	
NPRM	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Edwards, Assistant Director - Fisheries, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-6394

RIN: 1018–AB11

1148. INJURIOUS WILDLIFE: IMPORTATION OF LIVE OR DEAD FISH, MOLLUSKS, AND CRUSTACEANS, OR THEIR EGGS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations regarding importation of fish or fish eggs of the fish family Salmonidae will be revised to reflect current scientific information.

Timetable:

Action	Date	FR Cite
ANPRM	08/17/89	54 FR 33947
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph J Webster, Chief, Division of Fish Hatcheries, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, D.C. 20240, 703 358-1715

RIN: 1018–AB13

1149. ● ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Legal Authority: 16 USC 669 to 669i; 16 USC 777 to 777k

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR 80 to eliminate any requirements for grants and cooperative agreements to State and local units of Government (43 CFR 12) and to update programmatic requirements for the Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas W. Taylor, Acting Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 322 Arlington Square, Washington, DC 20240, 703 358-2156

RIN: 1018–AB15

1150. ● NATIONAL WILDLIFE REFUGES: ADDING TO AREAS OPEN TO HUNTING AND FISHING

Legal Authority: 5 USC 301; 16 USC 460K; 16 USC 664; 16 USC 668dd; 16 USC 715i

CFR Citation: 50 CFR 32; 50 CFR 33

Legal Deadline: None

Abstract: National Wildlife Refuges are generally closed to hunting or fishing until specifically opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM Addition of three refuges to areas open to hunting and one opened to sport fishing	05/12/89	54 FR 20623
Final Action	08/31/89	54 FR 36032
NPRM	05/00/90	
Final Action	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the

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Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, D.C. 20240, 703 358-1744

RIN: 1018–AB25

1151. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 24; 7 CFR 300 to 399; 50 CFR 17.12; 50 CFR 23.23

Legal Deadline: None

Abstract: The Service proposes to amend regulations by adding an additional port to the list of those designated for listed plants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-432 Arlington Square, Washington, D.C. 20240, 703 358-2093

RIN: 1018–AB28

1152. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS: REVISION OF SPECIAL REGULATIONS FOR THE GRIZZLY BEAR

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to revise the special regulations for the threatened grizzly bear to allow supervised hunting of dangerous or incorrigible nuisance bears in a defined area encompassing the Idaho, Montana, and Wyoming portions of the Yellowstone ecosystem outside Yellowstone and Grand Teton National Parks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB29

1153. ● HIGHLY TRADED APPENDIX II SPECIES

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulations international trade in listed plants and animals. The Service, as management and scientific authorities, must make appropriate determinations concerning Appendix II listed species prior to granting export approval to these listed species. Notice in the Federal Register is required by United States law in the determination process.

Timetable:

Action	Date	FR Cite
NPRM Export of American alligators harvested in 1989 through 1991	02/28/89	54 FR 8365
Final Action	08/14/89	54 FR 33231
Final Action Export of American alligators harvested in 1989 -1991	08/14/89	54 FR 33231
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, D.C. 20240, 703 358-2093

RIN: 1018–AB30

1154. ● INJURIOUS WILDLIFE: BROWN TREE SNAKES

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations will be developed proposing to add Brown tree snakes (Boiga irregularis) to the list of injurious wildlife. The Lacey Act (18 USC 42) prohibits importation and introduction into the natural ecosystem of the United States any species which may pose a threat to agriculture, the health and welfare of human beings, and the welfare and survival of native wildlife species.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS -820 Arlington Square, Washington, D.C. 20240, 703 358-1718

RIN: 1018–AB33

1155. ● AMENDMENTS TO THE MARINE MAMMAL PROTECTION ACT

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to amend regulations to reflect the 1988 amendments to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 430 Arlington Square, Washington, D.C. 20240, 703 358-2093

RIN: 1018–AB34

1156. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list the Desert tortoise (Gopherus agassizii) population north and west of the Colorado River as endangered. A fatal disease, currently referred to as Desert Tortoise Respiratory Disease Syndrome, has been identified and has caused significant declines to certain tortoise populations and threatens epidemic conditions to populations already stressed as a result of habitat degradation, predation, and other factors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/89	54 FR 32326
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The Service exercised its emergency authority to determine the Mojave population of the desert tortoise to be an endangered species pursuant to the Endangered Species Act of 1973, as amended. An emergency situation, in the form of a recently documented outbreak of a virulent desert tortoise upper respiratory disease syndrome (Respiratory Disease Syndrome), has been identified and has caused significant declines to certain tortoise subpopulations and threatens to become pandemic in subpopulations already stressed as a result degradation, predation, and other factors.

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB35

1157. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where, prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Brazilian sideneck turtle
NPRM 00/00/00
Final Action 00/00/00

Cat Island turtle
NPRM 00/00/00
Final Action 00/00/00

Cheer pheasant
NPRM 00/00/00
Final Action 00/00/00

Garret's mint
NPRM 00/00/00
Final Action 00/00/00

Higo chumbo
NPRM 00/00/00
Final Action 00/00/00

Inagua Island turtle
NPRM 00/00/00
Final Action 00/00/00

Inflated heelsplitter
NPRM 00/00/00
Final Action 00/00/00

Kral's water-plantain
NPRM 00/00/00
Final Action 00/00/00

Madagascar red owl
NPRM 00/00/00
Final Action 00/00/00

Maria Island ground lizard
NPRM 00/00/00
Final Action 00/00/00

Maria Island snake
NPRM 00/00/00
Final Action 00/00/00

Michigan monkey flower
NPRM 00/00/00
Final Action 00/00/00

Norfolk Island parakeet
NPRM 00/00/00
Final Action 00/00/00

Northern bald ibis
NPRM 00/00/00
Final Action 00/00/00

Red-tailed parrot
NPRM 00/00/00
Final Action 00/00/00

Remya kauaiensis
NPRM 00/00/00
Final Action 00/00/00

Remya mauiensis
NPRM 00/00/00
Final Action 00/00/00

Reyma montgomeryi
NPRM 00/00/00
Final Action 00/00/00

South American red-lined turtle
NPRM 00/00/00
Final Action 00/00/00

White-necked crow
NPRM 00/00/00
Final Action 00/00/00

White-winged guan
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB36

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

United States Fish and Wildlife Service (FWS)

1158. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 3376(a)(2)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service would amend the requirements for marking and labeling containers or packages containing fish or wildlife in a joint rulemaking with the Department of Commerce. The Lacey Act Amendments of 1981 make it unlawful to import, export, or transport in interstate commerce any containers or packages containing fish or wildlife that are not marked or labeled in accordance with regulations jointly issued by the Secretaries of the Interior and of Commerce. Such regulations will

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be in accordance with existing commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24559
NPRM Comment Period End	09/05/86	51 FR 24559

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: Originally scheduled: October 1983.

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington, D.C. 20240, 703 358-1949

RIN: 1018–AA79

1159. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Thornber's fishhook cactus
NPRM 04/24/84 (49 FR 17551)
FINAL ACTION - Withdrawn 07/27/87 (52 FR 29026)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: October 1984.

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AA84

1160. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Inyo brown towhee (critical habitat)
NPRM 08/03/87 (52 FR 28787)
Final Action 00/00/00
Inyo brown towhee(listing)
NPRM 03/07/85 (50 FR 9300)
Final Action 08/03/87 (52 FR 28717)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: April 1985.

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AA85

1161. SUBSISTENCE TAKE OF MIGRATORY BIRDS

Significance: Agency Priority

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: In 1979, the United States and Canada signed a protocol to amend the 1916 treaty concerning management of migratory birds. The protocol initiated efforts to recognize historical native subsistence of such birds. A rule will be developed to implement this international agreement.

Timetable:

Action	Date	FR Cite
ANPRM	03/10/83	48 FR 10101
NPRM	05/19/86	51 FR 18349

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The protocol has been reviewed by Canadian officials and they wish to reopen negotiations. This will delay indefinitely final action on development of an international agreement.

Agency Contact: David L. Olsen, Assistant Director - Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-5333

RIN: 1018–AA92

1162. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Least Bell's vireo critical habitat
Final Action 00/00/00
Least Bell's vireo listing
NPRM 05/03/85 (50 FR 18968)
Final Action 05/02/86 (51 FR 16474)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: After reviewing the biological status of candidate and

listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AA95

1163. MARINE MAMMALS: INCIDENTAL TAKING BY COMMERCIAL FISHING OPERATIONS

Legal Authority: 16 USC 101(a)(4); 16 USC 109(h)

CFR Citation: 50 CFR 18.22; 50 CFR 18.24

Legal Deadline: None

Abstract: The Service will develop regulations to implement a provision contained in the 1981 amendments to the Marine Mammal Protection Act, concerning the incidental taking of marine mammals by commercial fishermen. The rules would apply to those species of marine mammals for which the Service has responsibility, i.e. sea otters, walrus, polar bears, manatees, and dugongs, except those listed as depleted.

Timetable:

Action	Date	FR Cite
NPRM	04/12/88	53 FR 12043
NPRM Comment Period End	07/28/88	53 FR 24330
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynn Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1718

RIN: 1018–AA96

1164. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Bruneau hot spring snail
NPRM 12/30/86 (51 FR 47033)
Final Action 00/00/00
Leopard, goral, serow in Nepal
NPRM 06/14/85 (50 FR 24917)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AA98

1165. GENERAL PERMIT PROCEDURES AND MIGRATORY BIRD PERMITS: RAPTOR PROPAGATION AND FALCONRY REGULATIONS

Legal Authority: 16 USC 703; 16 USC 1531

CFR Citation: 50 CFR 21; 50 CFR 13

Legal Deadline: None

Abstract: This action will examine changes to the restrictions concerning propagation of raptors and standards for falconry. The Service will expand authorized activities and de-regulate certain other activities.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/86	51 FR 18812
ANPRM Comment Period End	05/23/86	51 FR 18812
NPRM	12/28/87	52 FR 48948
NPRM Comment Period End	02/26/88	52 FR 48948
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Clark Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington DC 20240, 703 358-1949

RIN: 1018–AB01

1166. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Fish Creek Springs tui chub
NPRM 03/10/86 (51 FR 8215)
Final Action 00/00/00
Virgin River chub
NPRM 06/24/86 (51 FR 22949)
Final Action 08/24/89 (54 FR 35305)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB02

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1167. MARINE MAMMALS: TAKE OF SMALL NUMBERS INCIDENTAL TO SPECIFIED ACTIVITIES

Legal Authority: 16 USC 1371(a)(5); 16 USC 1536(b)(4)

CFR Citation: 50 CFR 18.27; 50 CFR 402.14(i)

Legal Deadline: None

Abstract: This rule will implement 1986 amendments to the Marine Mammal Protection Act and the Endangered Species Act to allow the incidental take of depleted as well as non-depleted marine mammals, to allow incidental taking and require that the incidental take of endangered or threatened marine mammals not be authorized until authorized under the provisions of the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8473
NPRM Comment Period End	07/05/88	53 FR 17964
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and, Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, D.C. 20240, 703 358-1718

RIN: 1018–AB05

1168. PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to Section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32143
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington DC 20240, 703 358-2171

RIN: 1018–AB09

1169. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Decurrent false aster		
NPRM	02/25/88	53 FR 5598)
Final Action	11/14/88	(53 FR 45858)
Erubia		
NPRM	11/19/87	(52 FR 44580)
Final Action	06/26/88	(53 FR 32827)
Gila trout		
NPRM	10/21/87	(52 FR 37424)
NPRM - Reopen comment period	06/26/89	(54 FR 26811)
Final Action	00/00/00	
Independence Valley Speckled & Clover Valley dace		
NPRM	09/18/87	(53 FR 35282)
NPRM -Reopen Comment period	10/31/88	(53 FR 38309)
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB14

1170. MARINE MAMMALS: CHANGE DEFINITION OF U.S. CITIZEN

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 18.27

Legal Deadline: None

Abstract: Under existing regulations implementing the Marine Mammal Protection Act (MMPA), corporations organized under United States laws, but not controlled by individuals who are U.S. citizens, cannot be issued Letters of Authorization to undertake activities pursuant to any specific regulations authorizing an incidental take of marine mammals. This rule will amend the definition of U.S. citizen in the current regulations to allow corporations subject to U.S. jurisdiction to participate under the MMPA.

Timetable:

Action	Date	FR Cite
NPRM	08/17/89	54 FR 33949
Final Action	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1718

RIN: 1018–AB16

1171. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based soley on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Alabama canebrake pitcher plant		
NPRM	04/21/88	(53 FR 13230)
Final Action	03/10/89	(54 FR 10150)
Anastasia Island and Southeastern beach mouse		
NPRM	07/05/88	(53 FR 25185)
Final Action	05/12/89	(54 FR 20598)
Autumn buttercup		
NPRM	07/22/88	(53 FR 27724)
Final Action	00/00/00	
Dwarf-flowered heartleaf		
NPRM	04/21/88	(53 FR 13223)
Final Action	04/14/89	(54 FR 14964)
Kretschmarr Cave mold beetle		
NPRM	04/19/88	(53 FR 12787)
Final Action	09/16/88	(53 FR 36029)
Magazine Mountain shagreen		
NPRM	07/05/88	(53 FR 25179)
Final Action	04/17/89	(54 FR 15206)
Osterhout milkvetch		
NPRM	07/05/88	(53 FR 25181)
Final Action	07/13/89	(54 FR 29658)
Penland beardtongue		
NPRM	07/05/88	(53 FR 25181)
Final Action	07/13/89	(54 FR 29658)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB18

1172. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULES FOR MAMMALS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: This amendment brings the endangered species regulations into compliance with control procedures for African elephant ivory trade.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19416
NPRM Comment Period End	07/05/89	54 FR 19416
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington, D.C. 202401, 703 358-1949

RIN: 1018–AB19

1173. DESIGNATED PORT STATUS FOR PORTLAND, OREGON

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes to amend the regulations in 50 CFR 14 to designate Portland, Oregon as an official Customs port- of-entry for wildlife and wildlife products as required by Section 9(f) of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 11975
NPRM Comment Period End	04/24/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Clark Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington, D.C. 20240, 703 358-1949

RIN: 1018–AB21

1174. HUMANE TRANSPORT OF WILD MAMMALS AND BIRDS AMENDMENTS

Legal Authority: PL 97-79 95 Stat. 073

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: Section 9(d) of the Lacey Act Amendments of 1981 shifted the authority for prescribing requirements for the humane and healthful transport of wild mammals and birds from the Secretary of the Treasury to the Secretary of the Interior. A final rule promulgating this authority in 50 CFR 14, was published on November 10, 1987 (52 FR 43274). The Service will review the regulations for the purpose of proposing improvements and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	08/10/88	53 FR 30077
NPRM Comment Period End	09/09/88	53 FR 30077
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, D.C. 20240, 703 358-2093

RIN: 1018–AB22

1175. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based soley on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
American burying beetle		
NPRM	10/11/88	(53 FR 39617)
Final Action	07/13/89	(54 FR 29652)
American hart's tongue fern		
NPRM	09/12/88	(53 FR 35210)
Final Action	07/14/89	(54 FR 29726)

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DOI—FWS

Final Rule Stage

Brooksville bellflower
NPRM 09/12/88 (53 FR 35210)
Final Action 07/27/89 (54 FR 31190)
Chimpanzee and pygmy chimpanzee
NPRM 02/24/89 (54 FR 8152)
Final Action 02/00/90
Cooley's water willow
NPRM 09/12/88 (53 FR 35215)
Final Action 07/27/89 (54 FR 31190)
Cracking pearly mussel
NPRM 02/17/89 (54 FR 7225)
Final Action 02/00/90
Eastern/Western Prairie fringed orchid
NPRM 10/11/88 (53 FR 39621)
Final Action 10/00/89
Florida ziziphus
NPRM 09/28/88 (53 FR 37814)
Final Action 07/27/89 (54 FR 31190)
Michaux's sumac
NPRM 01/06/89 (54 FR 441)
Final Action 01/00/90
Purple-spined hedgehog cactus
NPRM 01/19/89 (54 FR 2173)
Final Action 01/00/90
Roanoke logperch
NPRM 09/07/88 (53 FR 34561)
Final Action 08/18/89 (54 FR 34468)
Rydberg milk vetch
NPRM 10/11/88 (53 FR 39626)
Final Action 10/00/89
Scrub blazing star
NPRM 09/28/88 (53 FR 37814)
Final Action 07/27/89 (54 FR 31190)
Shale barren rockcress
NPRM 11/17/88 (53 FR 46479)
Final Action 07/13/89 (54 FR 29655)

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS-400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB23

1176. ● DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF GUAM RAILS ON ROTA IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce captive-bred Guam rails (Rallus owstoni) onto the island of Rota in the Commonwealth of the Northern Mariana Islands over a 5-year period. The Rota population will be designated a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973, as amended. The species is currently protected at 13 different captive propagation facilities and nonessential status would provide the flexibility in managing the Rota population.

Timetable:

Action	Date	FR Cite
NPRM	06/19/89	54 FR 25744
NPRM Comment Period End	07/19/89	54 FR 25744
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB26

1177. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Aleutian Canada goose
NPRM 00/00/00
Final Action 00/00/00
Arkansas fatmucket
NPRM 00/00/00
Final Action 00/00/00
Bakersfield cactus
NPRM 07/27/89 (54 FR 31201)
Final Action 07/00/90
Bartram's ixia
NPRM 05/19/89 (54 FR 21635)
Final Action 05/00/90
California jewelflower
NPRM 07/27/89 (54 FR 31201)
Final Action 07/00/90
California orcutt grass
NPRM 00/00/00
Final Action 00/00/00
Cheat Mountain salamander
NPRM 09/27/88 (53 FR 37814)
Final Action 08/18/89 (54 FR 34464)
Cobana negra
NPRM 05/12/89 (54 FR 20616)
Final Action 05/00/90
Dwarf wedge mussel
NPRM 04/17/89 (54 FR 15236)
Final Action 04/00/90
Fanshell mussel
NPRM 00/00/00
Final Action 00/00/00
Hoover's wooly star
NPRM 07/27/89 (54 FR 31201)
Final Action 07/00/90
Isodendrio Hosakae St. John (Aupaka)
NPRM 00/00/00
Final Action 00/00/00
Kern mallow
NPRM 07/27/90 (54 FR 31201)
Final Action 07/00/90
Lower Keys rabbit
NPRM 08/30/89 (54 FR 35905)
Final Action 08/00/90
Neosho madtom
NPRM 05/19/89 (54 FR 21632)
Final Action 05/00/90
Northeastern beach tiger beetle
NPRM 00/00/00
Final Action 00/00/00
Pallid sturgeon
NPRM 08/30/89 (54 FR 35901)
Final Action 08/00/90
Palma de manaca
NPRM 00/00/00
Final Action 00/00/00
Palo de Rosa
NPRM 00/00/00
Final Action 00/00/00
Price's potato bean
NPRM 05/12/89 (54 FR 20619)
Final Action 05/00/90
Puritan tiger beetle
NPRM 00/00/00
Final Action 00/00/00
Purple cat's paw pearly mussel
NPRM 00/00/00
Final Action 00/00/00
Pygmy sculpin
NPRM 02/07/89 (54 FR 5986)
Final Action 02/00/90
Queen Alexandra's bird wing butterfly
NPRM 00/00/00
Final Action 00/00/00
Ring pink mussel (formerly Golf stick pearly mussel)
NPRM 01/06/89 (54 FR 554)
Final Action 01/00/90
Roan Mountain bluet
NPRM 00/00/00
Final Action 00/00/00
San Joaquin wooly-threads
NPRM 07/27/89 (54 FR 31201)
Final Action 07/00/90
Shenandoah salamander
NPRM 09/28/88 (53 FR 37814)
Final Action 08/18/89 (54 FR 34464)
Spreading avens
NPRM 00/00/00
Final Action 00/00/00
Squirrel chimney cave shrimp
NPRM 08/30/89 (54 FR 35905)
Final Action 08/00/90
Virginia spiraea
NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS-400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB31

1178. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS; NORTHERN SPOTTED OWL

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 6 months after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the Northern spotted owl, and if prudent, identify critical habitat. Such action will be taken upon determination that the species is endangered, threatened, or neither, and will be based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	06/23/89	54 FR 26666
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS-400 Arlington Square, Washington, D.C. 20240, 705 358-2171

RIN: 1018–AB32

1179. ● MIGRATORY BIRD PERMITS

Legal Authority: 16 USC 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service will modify two existing depredation orders (50 CFR 21.43 and 21.44) to prohibit killing of the tricolored blackbird throughout its range and seven species of western meadowlarks, American, Lesser and Lawrence's goldfinches, acorn woodpeckers, Lewis' woodpeckers, and northern flickers. This action is necessary because these species are no longer serious agricultural pests, and some have been declining in numbers such that their continued existence may be in jeopardy without additional protection.

Timetable:

Action	Date	FR Cite
NPRM	06/26/88	54 FR 32634
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Rollin D. Sparrowe, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, MS-634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018–AB37

DOI—FWS

Final Rule Stage

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1180. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Final Action	08/24/89	54 FR 35302
Mathis spiderling		
NPRM	07/10/87 (52 FR 26033)	
Extension of comment period	07/14/88 (53 FR 26616)	
Final Action	08/29/89 (54 FR 28413)	
Sacramento prickly poppy		
NPRM	07/13/87 (52 FR 26164)	
Final Action	08/24/89 (54 FR 35302)	
Tipton kangaroo rat		
NPRM	07/10/87 (52 FR 26040)	
Extension of comment period	09/09/87 (52 FR 33980)	
Final Action	07/08/88 (53 FR 25608)	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS-400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AA10

1181. FISH AND WILDLIFE RESTORATION GRANTS; INTEREST EARNED ON LICENSE FEES

Legal Authority: 16 USC 669i; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None

DOI—FWS

Completed Actions

DOI—FWS

Completed Actions

Abstract: This action proposes to incorporate general accepted accounting principles related to interest earned on fees collected by the States through the sale of hunting and fishing licenses. The rule would require States to ensure that such interest is used in their fish and wildlife conservation programs.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29500
Revised NPRM	08/05/88	53 FR 29500
NPRM Comment Period End	09/19/88	53 FR 29500
NPRM Public Comment Period End	09/19/88	
Final Action	04/17/89	54 FR 15208
Final Action Effective	05/17/89	54 FR 15208

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Because of the high number of comments received suggesting modification, the rule, as proposed, was not adopted. The amended proposed rule is being proposed to accommodate the concerns expressed.

Agency Contact: Thomas W. Taylor, Acting Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 322 Arlington Square, Washington, DC 20240, 703 358-2156

RIN: 1018–AA97

1182. INJURIOUS WILDLIFE: MITTEN CRABS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations will be developed which would determine whether to add the mitten crab to the list of injurious wildlife. The Lacey Act prohibits importation and introduction into the natural eco- system of the United States any species which may pose a threat to agriculture, the health and welfare of human beings, and the welfare and survival of native wildlife species.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45784
NPRM Comment Period End	12/29/88	53 FR 45784
Final Action	05/23/89	54 FR 22286
Final Action Effective	06/22/89	54 FR 22286

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynn B. Starnes, Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS -820 Arlington Square, Washington, D.C. 20240, 703 358-1718

RIN: 1018–AB04

1183. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 017

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Final Action	06/23/88	53 FR 23674
Florida lizards		
NPRM 01/21/87 (52 FR 2242)		
Final Action 11/06/87 (52 FR 42658)		
Miami palmetto		
NPRM - Extend comment period 07/21/87 (52 FR 27437)		
FINAL ACTION - Withdrawn 06/23/88 (53 FR 23674)		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB06

1184. PROPOSED DETERMINATION OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF THE NASHVILLE CRAYFISH IN TENNESSEE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to reintroduce the Nashville Crayfish (Orconectes shoupi), federally listed as an endangered species, into Richland Creek, Davidson County, Tennessee, and to determine this population to be a nonessential experimental population according to Section 10(j) of the Endangered Species Act of 1973, as amended. Section 10(j) of the Act authorizes nonessential experimental populations to be treated as if they were proposed species for the purposes of Section 7 of the Act. The Nashville crayfish is presently know to inhabit Mill Creek and five of its tributaries in Davidson and Williamson Counties, Tennessee.

Timetable:

Action	Date	FR Cite
Withdrawn - Prior to proposal	07/25/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB12

1185. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 18 USC 42; 16 USC 3371 to 3378; 16 USC 1538(d) to 1538(f); 16 USC 1540(f); 16 USC 1382; 16 USC 704; 16 USC 712; 31 USC 483(a); 16 USC 852(c)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: General review and evaluation of 50 CFR 14, including

structure of import/export and user fees.

Timetable:

Action	Date	FR Cite
NPRM	09/08/88	53 FR 34795
NPRM Comment Period End	10/11/88	
Final Action	01/27/89	54 FR 4030
Final Action Effective	01/27/89	54 FR 4030

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington, D.C. 20240, 703 358-1949

RIN: 1018–AB20

1186. PROGRAM REQUIREMENTS, FEDERAL AID IN SPORT FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Legal Authority: 16 USC 669i; 16 USC 777k

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR 80 to eliminate any requirement for Grants and Cooperative Agreements to State and Local Units of Government (43 CFR 12), and to update programmatic requirements for the Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration programs.

Timetable:

Action	Date	FR Cite
Duplicate - See RIN 1018-AB15	08/07/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas W. Taylor, Acting Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 322 Arlington Square, Washington, D.C. 20240, 703 358-2156

RIN: 1018–AB24

1187. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE THREATENED CONCHO WATER SNAKE (NERODIA HARTERI PAUCIMACULATA)

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is designating critical habitat for the Concho water snake under the authority of the Endangered Species Act of 1973, as amended. The Concho water snake was listed as a threatened species in September 1986; however, final designation of the proposed critical habitat was postponed at that time. Critical habitat is now being designated in portions of the Concho and Colorado Rivers, Runnels, Tom Green, Concho, Coleman, and McCulloch Counties, Texas.

Timetable:

Action	Date	FR Cite
NPRM	09/03/86	51 FR 31412
Final Action	06/29/89	54 FR 27377
Final Action Effective	07/31/89	54 FR 27377

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet Hohn, Chief, Branch of Listing and Recovery, Department of the Interior, United States Fish and Wildlife Service, MS-400 Arlington Square, Washington, D.C. 20240, 703 358-2171

RIN: 1018–AB27

BILLING CODE 4310-55-T

DEPARTMENT OF THE INTERIOR (DOI) — Prerule Stage

National Park Service (NPS)

1188. INDIANA DUNES NATIONAL LAKESHORE: ZONING STANDARDS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 31

Legal Deadline: None

Abstract: The National Park Service is proposing to revoke Part 31 because the Act which authorized the Secretary of Interior to promulgate minimum zoning standards 80 Stat. 1309, was repealed by Section 1 (9) of 90 Stat. 1309, on October 18, 1976.

The purpose of the regulatory action is to revoke and to eliminate the zoning standards which no longer have any purpose or authority.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4206

RIN: 1024–AB79

1189. APOSTLE ISLANDS NATIONAL LAKESHORE: SNOWMOBILING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.82

Legal Deadline: None

Abstract: This proposed rule designates routes and frozen water surfaces for use by snowmobiles at Apostle Islands National Lakeshore. The general regulations at 36 CFR 2.18 prohibit such use unless routes and water surfaces are specifically identified and promulgated as special regulations. The intended effect of this regulation is to remove that prohibition and allow the use of snowmobiles to conduct legislatively authorized fishing activities.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alford J. Banta, Superintendent, Department of the Interior, National Park Service, RT 1, Box 4, Bayfield, WI 54814, 715 779-3397

RIN: 1024–AB80

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DOI—NPS — Prerule Stage

1190. YELLOWSTONE NATIONAL PARK: COMMERCIAL TRAFFIC ON U.S. HIGHWAY 191 WITHIN YELLOWSTONE NATIONAL PARK

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None

Abstract: The proposed regulation will exempt the section of U.S. 191 within Yellowstone National Park from the prohibition on the use of National Park Service roads by commercial vehicles when such use has in no way a connection with operation of the park; delete the special regulations establishing the speed limit on U.S. 191 within Yellowstone National Park; and restrict the amount and type of hazardous materials which may be transported on U.S. 191 within Yellowstone National Park. The special regulation establishing the present fee schedule for commercial traffic within Yellowstone will be eliminated and the Superintendent provided the discretion to establish and adjust fees for such use on an annual basis.

These actions will clearly define the management and regulation of commercial traffic on U.S. 191 through Yellowstone and assure a certain measure of protection against hazardous waste spills.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert D. Barbee, Superintendent, Department of the Interior, National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190, 307 344-7381

RIN: 1024–AB82

DEPARTMENT OF THE INTERIOR (DOI) — Proposed Rule Stage

National Park Service (NPS)

1191. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT; DEPARTMENT OF THE INTERIOR REGULATIONS

Legal Authority: 16 USC 469; 16 USC 470; 16 USC 470aa

CFR Citation: 36 CFR 66

Legal Deadline: None

Abstract: This rule is part of the Department's proposed overall rulemaking with respect to the Archeological and Historic Preservation Act of 1974. This guidance will facilitate the Department's coordination of activities authorized under the Act, and its reporting to Congress on the scope and effectiveness of the program, as required by section 5(c) of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/85	50 FR 43587
ANPRM Comment Period End	11/27/85	50 FR 43587
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Douglas Scovill, Acting Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024–AA49

1192. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: PL 100-555; PL 100-588

CFR Citation: 43 CFR 7; 36 CFR 296; 18 CFR 1312; 32 CFR 229

Legal Deadline: None

Abstract: Amendments to the Archaeological Resources Protection Act of 1979 (PL 96-95) made by Congress in 1988 require amendments to the uniform regulations. Some of the amendments require changes in existing regulatory language, and some amendments add new responsibilities which may require additional regulatory guidance. Alternatives being considered are based upon the extent to which existing agency cultural resources management manuals address the new statutory responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Waldbauer, Archeologist, Department of the Interior, National Park Service, Archeological Assistance Division, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4113

RIN: 1024–AA51

1193. CAPE LOOKOUT NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.98

Legal Deadline: None

Abstract: This proposed regulation pertains to Cape Lookout National Seashore and will establish criteria for the operation of vehicles in off-road situations consistent with existing NPS policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA89

1194. MAMMOTH CAVE NP: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.36

Legal Deadline: None

Abstract: This proposed regulation pertains to Mammoth Cave National Park. The regulation will allow fishing to take place in accordance with applicable Kentucky State law.

DOI—NPS — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA94

1195. APPALACHIAN NATIONAL SCENIC TRAIL

Legal Authority: 16 USC 3; 16 USC 1246(i)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: The Service proposes to review the levels of resource and visitor protection on the Appalachian Trail provided by the General Regulations in 36 CFR Parts 1 and 2 and to revise 36 CFR 7.100 accordingly.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Ritchie, Project Manager, Department of the Interior, National Park Service, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425, 304 535-2346

RIN: 1024–AB07

1196. MINERALS MANAGEMENT - NON-FEDERAL OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq.; 16 USC 410g; 16 USC 4101; 16 USC 459d-3; 16 USC 459h-3; 16 USC 698c; 16 USC 698i; 16 USC 460-2(i); 16 USC 450kk; 16 USC 230a; PL 100-301, Sec 8; PL 100-301, Sec 8; 31 USC 9701

CFR Citation: 36 CFR 9, Subpart B

Legal Deadline: Final, Statutory, January 29, 1989.
Section 8 of the Big Cypress National Preserve Addition Act directs the Secretary of the Interior to promulgate regulations governing nonfederal oil and gas development in the (cont)

Abstract: Several sections of 36 CFR Part 9, Subpart B contain ambiguous language which has caused confusion in interpreting the existing regulations. The NPS wants to make technical revisions to clarify requirements for both applicants and the Service. Also, the existing regulations exempt two classes of operators from compliance. Because of these exemptions, the regulations apply to only 35% of the existing operations resulting in avoidable impacts to park resources and visitor values from unregulated operations. Finally, the Service intends to revise the existing regulations to incorporate congressionally mandated requirements and timetables governing nonfederal oil and gas development in the Big Cypress National Preserve Addition. Examples of such revisions include: making the regulations applicable to all oil and gas operations within all units of the National Park System; updating terms for consistency with existing policies, practices, and laws; removing the monetary ceiling and floor on bonds and security deposits so that bonds may be calculated and posted commensurate with reclamation costs; revising sections of the regulations to make them consistent with the enabling (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: legislation of affected units; and, clarifying compliance issues associated with different access conditions. Revisions will decrease the potential for prolonged uncertainty among applicants.

LEGAL DEADLINE CONT: "Addition" within nine months of the date of the enactment of that statute, which was signed into law on April 29, 1988.

Agency Contact: Carol McCoy, Chief, Policy & Regulations Section, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L St., NW, Washington, DC 20013-7127, 202 523-5120

RIN: 1024–AB39

1197. BIG THICKET NATIONAL PRESERVE: HUNTING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.85

Legal Deadline: None

Abstract: The Service proposes to revise the hunting regulations that apply to the Big Thicket. Changes proposed include dates for open seasons, the use of temporary blinds, permits, the use of calling devices and the use of dogs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024–AB48

1198. CAPE HATTERAS NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.58

Legal Deadline: None

Abstract: The Service proposes to designate by regulation routes available for off-road vehicle use at Cape Hatteras National Seashore, NC.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hartman, Superintendent, Cape Hatteras National Seashore, Department of the Interior, National Park Service, Route 1, Box 675, Manteo, NC 27954, 919 473-2111

RIN: 1024–AB54

1199. HAWAII VOLCANOES NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.25

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Proposed Rule Stage

Legal Deadline: None

Abstract: The Service is proposing to revise the fishing regulations that pertain to Hawaii Volcanoes National Park to clarify provisions that address Native Hawaiian fishing rights in the Kalapana extension area of the Park.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Ames, Superintendent, Hawaii Volcanoes National Park, Department of the Interior, National Park Service, Hawaii 96718-0052, 808 967-7311

RIN: 1024–AB66

1200. GLEN CANYON NATIONAL RECREATION AREA: COMMERCIAL OPERATIONS AND WHITEWATER BOATING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.70

Legal Deadline: None

Abstract: The Service proposes to amend special regulations that apply to Glen Canyon National Recreation Area by clarifying provisions that pertain to commercial operations and deleting duplicative provisions that pertain to Colorado River Whitewater boat trips.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Lancaster, Superintendent, Department of the Interior, National Park Service, Glen Canyon National Recreation Area, Box 1507, Page, AZ 86040, 602 645-2471

RIN: 1024–AB72

1201. MINERALS MANAGEMENT: NONFEDERAL MINERALS OTHER THAN OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq; 31 USC 9701; 5 USC 301

CFR Citation: 36 CFR 9, Subpart C

Legal Deadline: None

Abstract: Extensive nonfederal mineral rights exist within units of the National Park System. The Service presently regulates only nonfederal oil and gas activities occurring in those units. Mineral activities, other than those associated with nonfederal oil and gas, are occurring in approximately 13 units of the System. There are also 7 additional units in which nonfederal mineral development is currently proposed or has recently been proposed. The Service is charged by Congress to ensure that the development of nonfederal mineral rights within park boundaries is consistent with the purposes for which the units were established. The proposed regulation would establish procedures and standards governing nonfederal mineral development, other than nonfederal oil and gas, in a manner that protects affected park units until such time that the Service has sufficient funds to acquire the mineral right.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Determination of effects	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon Kliwinski, Environmental Protection Specialist, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L Street, NW, Washington, DC 20013-7127, 202 523-5120

RIN: 1024–AB75

1202. SEQUOIA AND KINGS CANYON NATIONAL PARKS: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.8

Legal Deadline: None

Abstract: The proposed rulemaking would revise the Parks' fishing regulation. The changes would simplify existing fishing regulation, maintain the existing variety of recreational fishing opportunities, help restore the natural distribution and abundance of native species, help retard expansion of introduced species, and open most streams to fishing which are currently closed. Anglers would have to be able to identify fish they kept, and in some areas they would be required to use single barbless hooks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold Werner, Fish and Wildlife Biologist, Department of the Interior, National Park Service, Sequoia and Kings Canyon National Parks, Three Rivers, CA 93271, 209 565-3341

RIN: 1024–AB76

1203. YOSEMITE NATIONAL PARK; WAWONA ZONING REGULATIONS

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 61

CFR Citation: 36 CFR Not yet determined

Legal Deadline: None

Abstract: The proposed rulemaking will provide for land use controls on privately owned lands in Wawona, Yosemite National Park, CA. The rulemaking will allow residential development to occur without threat of condemnation if the development is compatible with Federal and private interests, and if it meets the specific zoning requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Billie Hair, Acting Superintendent, Department of the Interior, National Park Service, Yosemite National Park, P.O. Box 1024, Yosemite, CA 95389, 209 375-6391

RIN: 1024–AB77

1204. ● LAKE MEAD NATIONAL RECREATION AREA: GLASS BEVERAGE CONTAINERS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.48

DOI—NPS

Proposed Rule Stage

Legal Deadline: None

Abstract: The purpose of the proposed regulation is to prohibit the possession of glass beverage containers within the Recreation Area except at authorized locations. Broken glass has become a major safety as well as litter problem in the developed areas, beaches, and back country campsites. Implementing this regulation will reduce both the safety and litter problems at the Recreation Area.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-4206

RIN: 1024–AB84

1205. ● OZARK NATIONAL SCENIC RIVERWAYS: POWER BOAT OPERATION

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.83

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulation by adding a section which will designate zones of motorboat operation and place horsepower limitations on motorboats. This addition is necessary in order to resolve user conflicts, protect the quality of the river and the recreational experiences, as well as address visitor safety concerns. The effects will be to increase safety, reduce conflicts, and provide maximum recreational benefits to all river users.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-4206

RIN: 1024–AB85

1206. ● VOYAGEURS NATIONAL PARK: SNOWMOBILING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rule designates routes and frozen water surfaces for use by snowmobiles at Voyageurs National Park. The general regulation, 36 CFR 2.18(c), prohibits such use unless routes and water surfaces are specifically identified and promulgated as special regulations. The intended effect of this special regulation is to remove that prohibition for the routes and frozen water surfaces identified by this regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-4206

RIN: 1024–AB86

1207. ● RECREATION FEES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 71

Legal Deadline: None

Abstract: This revision is necessary to incorporate recent legislation effecting recreation fees in the National Park System.

Timetable:

Action	Date	FR Cite
NPRM	06/01/90	
Final Action	12/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4206

RIN: 1024–AB87

1208. ● VOYAGEURS NATIONAL PARK: DESIGNATION OF AIRCRAFT LANDING AREAS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rule designates locations where the use of aircraft will be allowed and permitted. The general regulation, 36 CFR 2.17(a)(1), prohibits such use other than at locations designated pursuant to special regulations. The intended effect of this special regulation is to remove that prohibition at designated locations within Voyageurs National Park, allowing and permitting sea planes and ski-equipped planes on specified lake surfaces.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-4206

RIN: 1024–AB88

1209. ● NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None

Abstract: This rule is being amended to revise: determinations of eligibility under the Abandoned Shipwreck Act; procedures for processing nominations from the former Trust Territories of the Pacific Islands; and procedures for appealing determinations of eligibility made by Federal agencies

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carol D. Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, P.O.

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Box 37127, Washington, DC 20013, 202 343-9536

RIN: 1024–AB89

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1210. BIG CYPRESS NATIONAL PRESERVE: INDIAN USE AND OCCUPANCY

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will define the statutory rights of the Miccosukee and Seminole Indians within Big Cypress National Preserve. Although a proposed rule was published in 1981, a revised proposed rulemaking will be developed.

Timetable:

Action	Date	FR Cite
NPRM	11/21/81	46 FR 55709
NPRM	05/10/88	53 FR 16561
NPRM Comment Period End	07/11/88	53 FR 16561
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 242-4916

RIN: 1024–AA07

1211. NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None

Abstract: This rule is being amended to revise: appeals for listing nominations by persons or local governments in States without approved State historic preservation programs; procedures for nominations from State and Federal agencies; and procedures for making changes to listed properties and removals from the National Register, including appeals, and to incorporate 36 CFR Part 63.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/81	
NPRM	08/05/86	51 FR 28204
NPRM Comment Period End	10/06/86	51 FR 28204
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-9536

RIN: 1024–AA44

1212. DETERMINATION OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 63

Legal Deadline: None

Abstract: This rule incorporates certain revisions responding to the National Historic Preservation Act Amendments of 1980. In addition to responding to the new law, these changes update and revise in other minor respects the procedures for determining the eligibility of properties for the National Register. This rule will be consolidated with 36 CFR Part 60. Proposed rule (36 CFR Part 1204) was published May 23, 1980 (45 FR 34909).

Timetable:

Action	Date	FR Cite
NPRM 36 CFR 1204	05/23/80	45 FR 34909
NPRM	08/05/86	51 FR 28216
NPRM Comment Period End	10/06/86	51 FR 28216
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: July 1979.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-9536

RIN: 1024–AA46

1213. NPS UNITS IN ALASKA: CLOSURE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rule will provide for the closure of certain areas within Denali National Park and Preserve, Glacier Bay National Park and Preserve, Gates of the Arctic National Park and Preserve and Katmai National Park and Preserve to snowmachines, motorboat and aircraft use.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 14978
NPRM Comment Period End	06/06/83	48 FR 14978
Comment Period Extension Begin	06/06/83	48 FR 26319
Comment Period Extension Ends	08/06/83	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1982.

Agency Contact: David B. Ames, Associate Regional Director, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-2664

RIN: 1024–AA71

DOI—NPS

Final Rule Stage

1214. FIRE ISLAND NATIONAL SEASHORE: ZONING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 28

Legal Deadline: None

Abstract: This rule will be revised to add new definitions, to amend permitted and prohibited uses and to update zoning standards to reflect Seashore policy and local zoning ordinances.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	52 FR 37586
NPRM Comment Period End	11/06/87	52 FR 37586
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Larry Hovig, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-1178

RIN: 1024–AA80

1215. CAPE COD NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.67

Legal Deadline: None

Abstract: The Department proposes to modify the vehicle routes and travel restrictions at Cape Cod National Seashore established by the existing Cape Cod Off-Road Vehicle Regulations, which were adopted on September 3, 1985, by opening additional beach areas to off-road vehicle use and to allow use of some of the beaches at night only by off-road vehicles.

Timetable:

Action	Date	FR Cite
NPRM	01/06/89	54 FR 429
NPRM Comment Period End	02/21/89	54 FR 429
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $35,000; Base Year for Dollar Estimates: 1989

Agency Contact: Anthony Bonanno, Chief Ranger, Department of the Interior, National Park Service, Cape Cod National Seashore, South Wellfleet, MA 02663, 508 349-3785

RIN: 1024–AA91

1216. FORT JEFFERSON NM: FISHING; BOUNDARY ADJUSTMENTS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.27

Legal Deadline: None

Abstract: This proposed regulation pertains to Fort Jefferson National Monument and will delete references to the taking of crayfish and conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and conch and to update boundary changes mandated by congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28110
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA96

1217. EVERGLADES NP: MINING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.45(a)

Legal Deadline: None

Abstract: This deletion applies to Everglades National Park in Florida. Section 7.45(a) will be deleted because it is a duplication of the General Regulations 36 CFR, Sections 1.6, 1.7 and 2.1.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28108
NPRM Comment Period End	09/04/86	51 FR 28108
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FTS 242-4916.

Agency Contact: William Sturgeon, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024–AB10

1218. CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHEOLOGICAL COLLECTIONS

Legal Authority: 16 USC 470a; 16 USC 470dd

CFR Citation: 36 CFR 79

Legal Deadline: None

Abstract: This rule fulfills the Secretary of the Interior's responsibility to issue regulations on the disposition, exchange and curation of federally owned and administered prehistoric and historic archeological artifacts and associated records recovered under the Antiquities Act of 1906, the Reservoir Salvage Act of 1960 (as amended by the Archeological and Historic Preservation Act of 1974), Section 110 of the National Historic Preservation Act of 1966 (as amended) and the Archeological Resources Protection Act of 1979. The regulation will establish (a) minimum standards for repositories that provide long-term curatorial services; (b) guidelines for Federal agencies for entering into contracts and agreements with repositories and other parties for the care and management of collections; (c) guidelines for access to, loan of and use of collections; and (d) guidelines for the exchange and ultimate disposition of collections.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41527
ANPRM Comment Period End	11/12/85	50 FR 41527
NPRM	08/28/87	52 FR 32740
NPRM Comment Period End	10/27/87	52 FR 32740
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michelle C. Aubry, Archeological Program Specialist, Department of the Interior, National

Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024–AB13

1219. LAKE CHELAN NRA: TARGET PRACTICE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Lake Chelan NRA and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Reynolds, Superintendent, North Cascades National Park, Department of the Interior, National Park Service, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024–AB19

1220. ROSS LAKE NRA: TARGET PRACTICE

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 7.69

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Ross Lake National Recreation Area and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Reynolds, Superintendent, North Cascades National Park, Department of the Interior, National Park Service, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024–AB28

1221. JEAN LAFITTE NHP: CRAWFISHING REGULATIONS

Legal Authority: 16 USC 3; 16 USC 230d

CFR Citation: 36 CFR 7.37

Legal Deadline: None

Abstract: The proposed rulemaking pertains to Jean Lafitte National Historical Park located in Louisiana. The rulemaking will establish criteria for the harvesting of crawfish in the Barataria Unit and will establish a recreational and subsistence season. The policy is consistent with Public Law 95-625 and existing National Park Service and Department of the Interior policies.

Timetable:

Action	Date	FR Cite
NPRM	08/18/86	51 FR 29498
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Isenogle, Superintendent, Jean Lafitte National Historical Park, Department of the Interior, National Park Service, 423 Canal Street, Rm. 206, New Orleans, LA 70130, 504 589-3882

RIN: 1024–AB33

1222. CUYAHOGA VALLEY NRA: OFF-ROAD VEHICLES AND SNOWMOBILES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.17

Legal Deadline: None

Abstract: The Service proposes to designate routes for off-road vehicles and snowmobile use in compliance with Executive Order 11644, in an area west of Riverview Road bounded by I-80 and I-271.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22662
NPRM Comment Period End	07/15/87	52 FR 22662
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian McHugh, Chief Park Ranger, Cuyahoga Valley NRA, Department of the Interior, National Park Service, 15610 Vaughn Road, Brecksville, OH 44141, 216 526-5256

RIN: 1024–AB44

1223. CANYON DE CHELLY NATIONAL MONUMENT

Significance: Regulatory Program

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.19

Legal Deadline: None

Abstract: This proposed rulemaking will establish criteria for the operation of horse rental facilities within Canyon De Chelly National Monument.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19735
NPRM Comment Period End	06/26/87	52 FR 19735
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024–AB47

1224. WHISKEYTOWN NATIONAL RECREATION AREA FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None

Abstract: The Service is proposing to allow fishing at Whiskeytown National Recreation area in any manner authorized under applicable State law.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3759
NPRM Comment Period End	03/10/88	53 FR 3759
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, PO Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024–AB61

1225. BIGHORN CANYON NATIONAL RECREATION AREA - FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.92

Legal Deadline: None

Abstract: The Service proposes to authorize fishing at Bighorn Canyon National Recreation area in any manner authorized under the applicable laws of Montana and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36409
NPRM Comment Period End	11/10/86	51 FR 36409
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Lake, Chief, Park Ranger, Bighorn Canyon NRS, Department of the Interior, National Park Service, PO Box 458, Ft. Smith, MT 59035, 406 666-2412

RIN: 1024–AB63

1226. ROCKY MOUNTAIN NATIONAL PARK: TRUCKING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7

Legal Deadline: None

Abstract: The Service proposes to revise regulations that address permit requirements and establish a fee schedule for commercial trucks that use Trail Ridge Road within Rocky Mountain National Park.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 32924
NPRM Comment Period End	09/28/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Essex, Chief Ranger, Rocky Mountain National Park, Department of the Interior, National Park Service, Estes Park, CO 80517, 303 586-2371

RIN: 1024–AB67

1227. HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO SECTION 48(G) AND SECTION 170(H) OF THE INTERNAL REVENUE CODE OF 1986

Legal Authority: 16 USC 470(a)(1)(A); 26 USC 48 (g); 26 USC 170(h)

CFR Citation: 36 CFR 67, (Revised)

Legal Deadline: None

Abstract: This proposed rule restates and makes amendments to the procedures by which owners desiring tax benefits for rehabilitation of historic buildings apply for certifications pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986. These tax laws require certifications from the Secretary of the Interior in order for taxpayers to receive tax benefits.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18292
NPRM Comment Period End	07/22/88	53 FR 18292
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. Ward Jandl, Chief, Technical Preservation Services Branch, Department of the Interior, National Park Service, P O Box 37127, Washington, DC 20013-7127, 202 343-9584

RIN: 1024–AB73

1228. MANAGEMENT OF MINERAL DEVELOPMENT ASSOCIATED WITH MINING CLAIMS

Significance: Agency Priority

Legal Authority: 16 USC 1901 et seq Mining in the Parks Act of 1976; 16 USC 1 et seq NPS Organic Act; 30 USC 21 et seq Mining Law of 1872

CFR Citation: 36 CFR 9, Subpart A

Legal Deadline: None

Abstract: The existing regulations at 36 CFR Part 9, Subpart A, promulgated in January of 1977, contain several provisions that are either outdated or have proven difficult to understand, enforce and comply with. Most notable is a provision regarding the use of water in connection with mining claims within National Park System units. The current language creates a "catch 22" for miners seeking to use water in connection with their claims. In order to use water in a park, a miner must have perfected water right. However, to obtain a perfected water right, a miner must use water. Herein lies the "catch 22." The National Park Service (NPS) would like to rectify this dilemma through a rule change that would eliminate the perfected water right language while at the same time preserve the Service's ability to protect water quality and quantity. Additional changes sought by the NPS are as follows: Several sections of the regulations refer to a surface disturbance moratorium (mandated by the Mining in the Parks Act of 1976, 16 USC 1901 et seq) which expired in 1980. Other sections include transitional procedures used temporarily in implementing the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19411
NPRM Comment Period End	07/05/89	54 FR 19411
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rick Ernenwein, Environmental Protection Specialist, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L St., NW, Washington, DC 20013-7127, 202 523-5120

RIN: 1024–AB74

1229. ALASKA REGION: SAME-DAY-AIRBORNE HUNTING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13.21

Legal Deadline: None

Abstract: The National Park Service is proposing rules what will prohibit the hunting of certain wildlife species in the National Preserve areas in Alaska on the same day in which a hunter is airborne. Hunting will continue to be allowed pursuant to State and Federal regulations. Access to those areas by aircraft for sport hunting and other purposes is also allowed. While the

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DOI—NPS — Final Rule Stage

State of Alaska has a similar regulation in place, commonly referred to as the "same-day-airborne" regulation, recent changes to their regulation have allowed exceptions for some species in certain State of Alaska game management units including the National Preserve areas. This exception will allow "land-and-shoot" hunting of wolves in the National Preserves. The proposed National Park Service regulation will prohibit "land-and-shoot" hunting for big game including the following species: All species of Bears, Bison, Caribou, Elk, Mountain Coat, Moose, Musk Oxen, Dall Sheep, Wolf, Wolverine, Coyote, Arctic and Red Fox, and Lynx.

Timetable:

Action	Date	FR Cite
NPRM	06/09/89	54 FR 24852
NPRM Comment Period End	08/08/89	54 FR 24852
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Shackelton, Law Enforcement Specialist, Department of the Interior, National Park Service, 2525 Gambell St., Rm. 107, Anchorage, AK 99503-2892, 907 257-2548

RIN: 1024–AB81

1230. VEHICLES AND TRAFFIC SAFETY: MANDATORY SEATBELT REGULATION

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 4.15

Legal Deadline: NPRM, Statutory, October 1988.

Abstract: This rulemaking would establish an NPS mandatory seatbelt regulation to apply in park areas that are located within States that do not have a seatbelt law in effect. This regulation would affect 100 park areas in 18 States. The regulation would apply to all of a vehicle's front seat occupants except those that are occupying a seat that was not originally equipped by the manufacturer with a seatbelt and those with a medical condition that prevents restraint by a seatbelt.

The National Park Service is required to issue the proposed rule by a provision in the Department's 1989 FY Appropriations Act.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51526
NPRM Comment Period End	02/21/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4206

RIN: 1024–AB83

1231. ● LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE

Legal Authority: PL 88-578

CFR Citation: 36 CFR 59

Legal Deadline: None

Abstract: This revision to 36 CFR Part 59 is to clarify that land acquired with Land and Water Conservation Fund assistance and later converted to other than public outdoor recreation may not be replaced with land currently owned by the project sponsor.

Timetable:

Action	Date	FR Cite
Final Action	12/15/89	
Final Action Effective	12/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sam L. Hall, Chief, Recreation Grants Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-3700

RIN: 1024–AB90

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS) — Completed Actions

1232. WHISKEYTOWN UNIT, WHISKEYTOWN - SHASTA - TRINITY NRA GOLD PANNING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None

Abstract: The Service proposes to allow visitors to engage in limited gold panning activities, using pan and trowel only, in certain designated streams within the recreation area. Any gold recovered by such methods could be retained for personal, non-commercial use.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3759
Final Action	06/02/89	54 FR 23648
Final Action Effective	07/03/89	54 FR 23648

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, Whiskeytown National Recreation Area, Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024–AB71

1233. KATMAI NATIONAL PARK AND PRESERVE FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13.66

Legal Deadline: None

Abstract: This proposal is to modify fishing regulations for the Brooks River in Katmai National Park and Preserve. A change will be made to the open bait season on the Naknek River to remain consistent with changing State regulations.

DOI—NPS — Completed Actions

This proposal is consistent with National Park Service General Regulations and Policies.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29746
NPRM Comment Period End	10/07/88	53 FR 29746
Final Action	05/01/89	54 FR 18491
Final Action Effective	05/31/89	54 FR 18491

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Hurd, Chief Ranger, Department of the Interior, National Park Service, P.O. Box 7, King Salmon, AK 99613, 907 246-3305

RIN: 1024–AB78

BILLING CODE 4310-70-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA) — Proposed Rule Stage

1234. ADMINISTRATION OF A PROGRAM OF EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 28

Legal Deadline: None

Abstract: The purpose of the rule is to combine the rules described in 25 CFR Part 26, Employment Assistance for Adult Indians, and 25 CFR Part 27, Vocational Training for Adult Indians, into a new 25 CFR Part 28. The application and selection process, financial assistance, program services, and employment as the objective are common to both Parts 26 and 27. Another purpose is to establish uniform procedures for administration of the employment assistance for adult Indians program and include requirements to improve the administrative efficiency of the program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deane Poleahla, Actg. Division Chief, Job Placement and Training, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-3570

RIN: 1076–AA04

1235. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Significance: Agency Priority

Legal Authority: 25 USC 1815; 25 USC 640

CFR Citation: 25 CFR 41, (Revision)

Legal Deadline: None

Abstract: The Secretary proposes to revise the current regulations which are used to govern the administration of grants to the Tribally Controlled Community Colleges. The revision is mandatory since the current regulations do not apply to the new requirements which were made under the Amendments Act. The revision will govern the new requirements which include: 1. Planning Grants; 2. Forward Funding; 3. Facility Construction; 4. Endowments; and 5. New Method of Counting Students.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076–AA11

1236. LEASING AND PERMITTING

Significance: Agency Priority

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: The Bureau proposes to reorganize Part 162 into subparts to facilitate the use of the regulations for easier reference and to incorporate requirements for grazing permits within the rule for Leasing and Permitting. The inclusion of the requirements for grazing permits in this part will result in the removal of 25 CFR Part 166, General Grazing Regulations, from the 25 CFR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Pennington, Natural Resources Officer, Billings Area Office, Department of the Interior, Bureau of Indian Affairs, 316 North 26th Street, Billings, MT 58101, 406 657-6145

RIN: 1076–AA29

1237. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing revising 25 CFR Part 170 to reflect the current Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) policies for the road systems on Indian reservations, to assure funds are apportioned from the Highway Trust Fund (HTF) for construction projects on Indian reservations roads in accordance with the relative needs of the reservation, and to implement tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ball, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs,

18th & C Streets, NW, Washington, DC 20240, 202 343-4359

RIN: 1076–AB05

1238. LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Legal Authority: Sec. 2, 35 Stat. 312; Sec. 16, 41 Stat. 426; Sec. 1, 45 Stat. 495; Sec. 1, 47 Stat. 777; 25 USC 356; Secs. 3, 11, 35 Stat. 313, 316; Sec. 8, 47 Stat. 779

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: This rule is being revised to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, the processing of lease payments through the Minerals Management Service, and the approval process for division orders. There are no alternatives being considered and the potential cost is unknown.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Synder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3837

RIN: 1076–AB41

1239. INDIVIDUAL INDIAN MONEY ACCOUNTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: The Individual Indian Money Account program involves funds held in trust status for individuals. Although the rule generally prohibits voluntary accounts, except in circumstances of substantial hardship, the Bureau currently maintains many such accounts in the program. The current regulations will be revised to include specific criteria which must be met by voluntary depositors and which determine cases of "substantial hardship" as required by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty L. Wilkinson, Chief, Division of Accounting Management, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4807

RIN: 1076–AB91

1240. THE INDIAN POLICE

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is revising its regulations governing the Bureau's police operations to make them consistent with contemporary enforcement policies and procedures and changes in the Interior Department Manual and the DIA Manual.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James P. Donovan, Chief, Division of Law Enforcement Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Room 1364, Code 430, Washington, DC 20245, 202 343-5786

RIN: 1076–AB98

1241. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 98-473

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is amending existing Financial Assistance and Social Services Program regulations to further define the adult care services provided to Indian people. These proposed regulations define the extent of the program, establish eligibility requirements, and establish adult care services as a social services program separate and distinct from the general assistance program. The revision is needed to specifically define the Bureau's role in the provision of institutional and in-home care to Indian adults who are mentally or physically handicapped or otherwise disabled. The Bureau is also amending miscellaneous assistance provisions to conform with the congressional directive in Public Law 98-473. Miscellaneous assistance will be revised and defined as burial assistance. Emergency assistance previously provided under miscellaneous assistance was transferred to general assistance by revision of 25 CFR Part 20(c) on September 30, 1985.

Timetable:

Action	Date	FR Cite
Distribute draft rule to all Area Offices for review	04/30/89	
NPRM	12/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Carr, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-6434

RIN: 1076–AB99

1242. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: This rulemaking action is being taken to further define various programmatic responsibilities of the Child Welfare Assistance and Child and Family Service Program under this part.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Carr, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6434

RIN: 1076–AC13

1243. SCHOOL BOARDS

Significance: Agency Priority

Legal Authority: 25 USC 2001 et seq

CFR Citation: 25 CFR 35

Legal Deadline: None

Abstract: The purpose of this rule is to define and delineate the duties and responsibilities of local Indian School Boards in accordance with Federal statutes and regulations. This rule will provide Bureau-wide consistency for the overall exercise of authority and control of Bureau operated schools.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th & C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076–AC14

1244. SMALL ESTATES - OSAGE

Legal Authority: 92 Stat. 1660

CFR Citation: 25 CFR 18

Legal Deadline: None

Abstract: This rulemaking action would permit the Field Solicitor, Pawhuska, Oklahoma, to determine the heirs, devisees and/or legatees of estates under the jurisdiction of the Osage Agency, consisting of Osage headright interest, real estate on which restrictions against alienation have not been removed, and/or funds on deposit at the Osage Agency, all of which do not exceed a valuation of $10,000 on the date of death of a decedent, when requested in writing by one or more of the heirs, devisees and/or legatees; provided, that a court of competent jurisdiction has not proceeded to administer or probate the estate. The administration of such estates by the Field Solicitor would alleviate the necessity of the employment of an attorney by the beneficiaries, approval of the will pursuant to 25 CFR Part 17, and the filing of administration or probate proceedings in State Court. Because of the size of these estates, it is financially impractical for the beneficiaries to employ attorneys for that purpose.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Piepenbrink, Chief, Branch of Titles and Research, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-5473

RIN: 1076–AC18

1245. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rulemaking action is to add a new Part 70 to govern the issuance of Certificates of Degree of Indian Blood (CDIB's). There has been a sharp increase in the number of requests for CDIB's over the past few years. More and more programs are requiring individuals to submit CDIB's to document possession of Indian blood. This rulemaking action is intended to clarify the circumstances under which the Bureau will issue CDIB's; the documents and records on which the Bureau will base the issuance of CDIB's; and the procedures that individuals will need to follow, including any documentation requirements, to obtain CDIB's.

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	
NPRM Comment Period End	02/15/90	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-1702

RIN: 1076–AC19

1246. REVISED PROCEDURES FOR IMPLEMENTATION OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS OF 1988

Significance: Regulatory Program

Legal Authority: 93 USC 638; 100 USC 202; 100 USC 446; 100 USC 472; 100 USC 581

CFR Citation: 25 CFR 271; 25 CFR 272; 25 CFR 274; 25 CFR 275; 25 CFR 276; 25 CFR 277; 25 CFR 286

Legal Deadline: NPRM, Statutory, August 5, 1989. Final, Statutory, October 5, 1989.

Abstract: The primary purpose of the amendments to 93 USC 638 is to permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services while maintaining the Federal Government's unique and continuing relationship with and responsibility to individual Indian tribes and to the Indian people as a whole. In addition to extensive consultation with the tribes and Native American groups, the Bureau of Indian Affairs is examining all of its planning administrative procedures from the perspective of maximizing tribal participation. Due to the broad scope of the review, an estimate of the potential cost and potential benefit is premature. The changes are one of process rather than increases or decreases in budget or program funding. The major potential cost is to the Federal Government in order to meet the insurance requirement

of the law. The amount is undetermined to date.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	04/00/90	
Final Action Effective	08/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Bonnie Paquin, Coordinator, Department of the Interior, Bureau of Indian Affairs, Room 4641-MIB, 18th & C Streets, NW, Washington, DC 20240, 202 343-5706

RIN: 1076–AC20

1247. ● PREPARATION OF A ROLL OF THE COQUILLE INDIAN TRIBE

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 101-42

CFR Citation: 25 CFR 67

Legal Deadline: Other, Statutory, June 28, 1990.
The Act requires that the Roll be prepared by June 28, 1990. Therefore, the final rule must be published in advance of that date.

Abstract: The Bureau of Indian Affairs is proposing to add a new Part 67 to its regulations to establish procedures to govern the preparation, certification, and approval of a roll of the Coquille Indian Tribe. The Coquille Restoration Act of June 28, 1989, Pub. L. 101-42, 103 Stat. 91, directs the Secretary of the Interior to prepare within one year a membership roll of the Coquille Indian Tribe. The roll will be used to identify persons who meet the statutory requirements for membership in the Coquille Indian Tribe.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	
NPRM Comment Period End	12/01/89	
Final Action	03/01/90	
Final Action Effective	04/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, Mail Stop 4627, 18th & C Streets, NW, Washington, DC 20240, 202 343-1702

RIN: 1076–AC21

1248. ● HOUSING IMPROVEMENT PROGRAM

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 256

Legal Deadline: None

Abstract: Congressional direction contained in the FY 1984 Department of the Interior and Related Agencies Appropriation Conference Report directed the Bureau to develop a program which is more cost effective and better meets identified needs. In response to this directive, the Bureau developed a new system to achieve the results intended. The redirected Housing Improvement Program is being promulgated as proposed regulations in conformity with Section 552 and 553 of Title 5, United States Code, as required by the Indian Self-Determination and Education Assistance Act Amendments of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: G. Ronald Peake, Chief, Division of Housing Assistance, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-8427

RIN: 1076–AC22

1249. ● PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to ll, Sec. 10

CFR Citation: 25 CFR 262

Legal Deadline: None

Abstract: The proposed rule will add a new part to Title 25 of the Code of Federal Regulations. The rule is in response to direction in the Archeological Protection Act of 1979. Key areas of the proposed rule will address the permit requirements specific to Indian Tribes and individuals, and the custody of archeological resources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Sutherland, Archeologist, Office of Environmental Quality, Department of the Interior, Bureau of Indian Affairs, Mail Stop 4544-MIB, 18th & C Streets, NW, Washington, DC 20240, 202 343-2791

RIN: 1076–AC23

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Bureau of Indian Affairs (BIA)

1250. LAW AND ORDER ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The present regulations contain a very incomplete criminal code that does not cover many areas of the law that are usually in the laws of the State where the reservation is located. The current regulations also contain very sketchy provisions on criminal and civil procedure. It is proposed to update the sections on criminal offenses, and essentially create new sections on criminal procedures, domestic relations, probate proceedings, appellate proceedings and juvenile proceedings.

This will provide the Courts of Indian Offenses with more complete and up to date procedures and rules. Courts will have a six month period from the date of publication of the final rule to the effective date in which to revise their court codes. It is not anticipated that this revision will have any effect on the annual case load for these courts or require additional staffing. Therefore, the initiation of these rules should not result in additional costs.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43235
NPRM Comment Period End	01/31/86	51 FR 400
Code revisions by courts	04/01/89	
Final Action	12/00/89	
Final Action Effective	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Maria Mendoza, Branch of Judicial Services, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-1400

RIN: 1076–AA01

1251. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR Part 91. This part has been redesignated from 25 CFR Part 32.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6482
NPRM Comment Period End	05/04/87	52 FR 11503
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Originally scheduled: January 1990.

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076–AA10

1252. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	52 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076–AA15

1253. NAVAJO GRAZING REGULATIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 640d; 25 USC 640d-28

CFR Citation: 25 CFR 167

Legal Deadline: None

Abstract: This rule will be revised to clarify the Secretary's responsibilities over grazing control and range restoration activities in the area formerly known as the Joint Use Area under the July 9, 1980 amendments to the Navajo-Hopi Settlement Act, 25 USC 640d and 640d-28. The rule will form Subpart B of the Existing Navajo Grazing Regulations, which are redesignated as Subpart A of 25 CFR Part 167.

Timetable:

Action	Date	FR Cite
NPRM	03/05/87	52 FR 6822
NPRM Comment Period End	06/03/87	52 FR 6822
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In May 1962, the District Court for the District of Arizona invalidated the regulation of 25 CFR 167 and ordered the Bureau to publish new regulations. The Bureau published interim regulations on Hopi partitioned lands on September 8, 1962. During the past year several meetings have been held with the Navajo Tribe to obtain concurrence to include Navajo partitioned land in the regulations. The Navajo Tribe expressed the desire for separate regulations and the Bureau has drafted a new regulation for Navajo Partitioned Land within the existing 25 CFR Part 167.

Agency Contact: Frank H. Khattat, Natural Resources Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-3959

RIN: 1076–AA33

1254. CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Significance: Agency Priority

Legal Authority: 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477

CFR Citation: 25 CFR 211

Legal Deadline: None

Abstract: The regulations in this part govern contracts for the prospecting and mining of Indian-owned minerals, other than oil and gas. Revisions will be made which would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands into one part. This part has been redesignated from 25 CFR Part 171.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM	07/12/83	48 FR 31978
NPRM	10/21/87	52 FR 39332

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Action	Date	FR Cite
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule was republished as a proposed rule on 10/21/87 (52 FR 39332) to allow for additional public comment.

Agency Contact: Kim Snyder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3837

RIN: 1076–AA38

1255. LEASING OF ALLOTTED LANDS FOR MINING

Significance: Agency Priority

Legal Authority: 25 USC 396; 35 Stat. 396

CFR Citation: 25 CFR 212

Legal Deadline: None

Abstract: As a result of the public comments on the proposed rules for 25 CFR Parts 211 and 225, it has been determined that this part will not be removed. Public response to the proposed rule contained reasonable and compelling arguments for retaining 25 CFR Part 212 and for restructuring the format of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM for removal	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule was republished for proposed removal with the proposed rulemaking actions for 25 CFR Parts 211 and 225 on 10/21/87 (52 FR 39332).

Agency Contact: Kim Synder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3837

RIN: 1076–AA39

1256. INDIAN BUSINESS DEVELOPMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 1524 Indian Financing Act of 1974

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: This rule will activate an old grant program that has been granted appropriation authority since FY 1986. The Indian Financing Act amendments of 1984 authorize grants up to $250,000 to tribes and up to $100,000 to individual Indians for economic enterprises.

Timetable:

Action	Date	FR Cite
NPRM	06/26/89	54 FR 26800
NPRM Comment Period End	07/26/89	54 FR 26800
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Nephew, Actg. Chief, Div. of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Office of Trust and Economic Development, Division of Financial Assistance, Washington, DC 20240, 202 343-3660

RIN: 1076–AA55

1257. BUY INDIAN ACT CONTRACTING

Legal Authority: 25 USC 47; 36 Stat. 891

CFR Citation: 48 CFR 1480

Legal Deadline: None

Abstract: This rule will be codified as the new 48 CFR 1480 instead of the old 41 CFR Part 14H to establish policies and procedures concerning the Bureau of Indian Affairs acquisition management system. This issuance pertains to contracts (excluding building construction) entered pursuant to the Act of June 25, 1910 (25 USC 47), which is usually referred to as the "Buy Indian Act."

Timetable:

Action	Date	FR Cite
Proposed	11/15/84	49 FR 45187
NPRM	06/30/88	53 FR 24738
NPRM Comment Period End	08/01/88	53 FR 24738
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1982.

Agency Contact: Peter A. Campanelli, Procurement Analyst, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3498

RIN: 1076–AA56

1258. OIL AND GAS MINERAL AGREEMENTS

Legal Authority: PL 97-382; 52 Stat. 347; 35 Stat. 783

CFR Citation: 25 CFR 225

Legal Deadline: None

Abstract: The Bureau proposes to publish regulations that will govern mineral agreements for the development of Indian owned oil and gas resources pursuant to the Indian Mineral Development Act of 1982, Public Law 97-382, which authorizes the tribes to enter into negotiated agreements rather than go through the previously required competitive advertising procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/12/83	48 FR 31978
NPRM	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Kim Synder, Chief, Div. of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3837

RIN: 1076–AA82

DOI—BIA

Final Rule Stage

1259. ATTORNEY FEE CONTRACTS WITH INDIAN TRIBES; PAYMENT OF TRIBAL ATTORNEY FEES WITH FEDERALLY APPROPRIATED FUNDS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 476; 25 USC 13; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 89.40 to 89.46

Legal Deadline: None

Abstract: The Bureau of Indian Affairs proposes to revise the rule concerning the circumstances under which the Bureau of Indian Affairs, in the performance of the Federal Government's trust responsibility to Indian tribes, may, in its discretion, provide Departmental funds to an Indian tribe or other Indian organization for the payment of a private attorney's legal services. The proposed revisions would not change the underlying policy of the current rule which is to pay for private counsel to represent Indian tribes only in exceptional circumstances. The principal changes involve representation in child custody proceedings, services of tribal court personnel, and non-litigation services. The proposed revision would also provide that when trust resources are involved, tribes and individual Indian allottees are eligible to apply for and receive federally appropriated funds under 25 CFR 89.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2722
NPRM Comment Period End	03/24/86	51 FR 2722
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Keel, Special Assistant, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 201, Washington, DC 20245, 202 343-1861

RIN: 1076–AB87

1260. RIGHTS-OF-WAY OVER INDIAN LANDS

Legal Authority: 5 USC 301; 25 USC 323 to 328

CFR Citation: 25 CFR 169

Legal Deadline: None

Abstract: The Bureau of Indian Affairs intends to amend several sections of its rights-of-way regulations which impose a variety of specific requirements on grantees of rights-of-way over Indian lands. These requirements were intended to implement public laws enacted around the turn of the century which authorized the Secretary of the Interior to issue rights-of-way for various specific purposes. In 1948 Congress gave the Department comprehensive authority to grant rights-of-way for any purpose or any term of years without the antiquated restrictions of the older statutes. The regulations continue to reflect the old requirements and the result has been inconsistent application of the 1948 Act. The removal or revisions of these sections would end that practice.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Hissong, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 220, Washington, DC 20245, 202 343-3611

RIN: 1076–AB89

1261. LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Legal Authority: Sec 3, 34 Stat. 543; Sec 1, 45 Stat. 1478; Sec 2, 45 Stat. 1478; Sec 1, 45 Stat. 1479; Sec 2, 45 Stat. 1479

CFR Citation: 25 CFR 226

Legal Deadline: None

Abstract: The rules are being amended to strengthen the management of the Osage mineral estates and relieve the Osage oil lessees from basing the payment of royalties to the Osage Tribe on the offered or posted price of a major purchaser in the Kansas-Oklahoma area. These regulations will improve the management of the Osage mineral estate and will alleviate the economic hardship placed on the oil lessees.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38606
NPRM Comment Period End	11/16/87	52 FR 38606
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Synder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-3837

RIN: 1076–AC09

1262. PREPARATION OF ROLLS OF INDIANS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 100-139

CFR Citation: 25 CFR 61

Legal Deadline: Final, Statutory, October 26, 1988.
One year from date of enactment for completion of the tribal membership roll.

Abstract: This rulemaking action is being taken to amend the regulations contained in 25 CFR Part 61. Part 61 contains general enrollment procedures which can be made specifically applicable in the preparation of a particular roll by the Secretary by amending section 61.4 to include the qualifications for enrollment for that particular roll. Under the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the Secretary has been directed to prepare certain rolls of Cow Creek Indians to be used in the implementation of the Act. The proposed amendment is, therefore, to make the procedures contained in Part 61 applicable to the preparation of the Cow Creek rolls by adding in section 61.4 the qualifications for enrollment for each of the rolls to be prepared.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20335
NPRM Comment Period End	07/05/88	53 FR 20335
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, Room 2609 Main Interior, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-1762

RIN: 1076–AC11

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1263. APPEALS FROM ADMINISTRATIVE ACTIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: The present administrative appeal regulations are ambiguous and misleading. It is difficult to tell what issues may be appealed and to whom the appeal should be sent. Most deadlines are uncertain. Those that are certain are often unrealistic. It is also unclear when a final decision will be rendered by the Interior Board of Indian Appeals and when it will be rendered by the Assistant Secretary for Indian Affairs. Alternatives will be developed by reviewing the existing appeal regulations of other agencies. Consideration will be given to specifying which types of appeals go to the Assistant Secretary and which to the Board. The alternative of providing for the Assistant Secretary to make a case-by-case decision whether or not to refer the matter to the Board will also be considered. The primary benefit should be reduced frustration for both appellants and the BIA officials who handle the appeals. The greatest cost may be that both appellants and BIA officials may have to comply with more specified procedures and meet more deadlines in order for the system to work.

Timetable:

Action	Date	FR Cite
NPRM	11/06/87	52 FR 43006
NPRM Comment Period End	01/05/88	52 FR 43006
Final Action	02/10/89	54 FR 6478
Final Action Effective	03/13/89	54 FR 6478

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Bolton, Management Analyst, Department of the Interior, Bureau of Indian Affairs, Room 320 - Interior South, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4689

RIN: 1076–AB21

1264. MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIO-ECONOMIC PROGRAMS

Significance: Agency Priority

Legal Authority: 86 Stat. 1295

CFR Citation: 25 CFR 122

Legal Deadline: None

Abstract: The implementing rule for 25 CFR 122 has been reviewed and a determination was made that the portion of the regulations governing socio-economic programs is no longer needed. The rule will be revised to remove that portion of the program.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24732
NPRM Comment Period End	08/29/88	53 FR 24732
Final Action	08/18/89	54 FR 34154
Final Action Effective	09/18/89	54 FR 34154

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076–AB51

1265. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Legal Authority: 25 USC 1451; PL 93-262

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: This part is being revised to incorporate legislative changes made pursuant to the Amendments to the Indian Financing Act of 1984 and 1988, to reflect policy changes in program administration and to add clarifying language to the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	04/11/89	54 FR 14361
NPRM Comment Period End	05/10/89	54 FR 14361
Final Action	08/23/89	54 FR 34973
Final Action Effective	09/22/89	54 FR 34973

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Nephew, Acting Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-5831

RIN: 1076–AC00

1266. LOAN GUARANTY, INSURANCE, AND INTEREST SUBSIDY

Legal Authority: 88 Stat. 77

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: This part is being revised to incorporate legislative changes made pursuant to the Amendments to the Indian Financing Act of 1984 and 1988, to reflect policy changes in program administration and to add clarifying language to the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	04/11/89	54 FR 14361
Combined with RIN 1076-AC00	04/11/89	54 FR 14361
NPRM Comment Period End	05/10/89	54 FR 14361

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Nephew, Acting Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 18th and C

DOI—BIA — **Completed Actions**

Streets, NW, Washington, DC 20240, 202 343-5831

RIN: 1076–AC01

1267. PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS AN INDIAN TRIBE

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 83

Legal Deadline: None

Abstract: The proposed rule revision will resolve problems encountered with existing regulations published almost ten years ago. Revisions will reduce time and resources required to process petitions, clarify terms and definitions, interpret criteria, add a process whereby groups may withdraw a petition, improve the appeal process and respond to changing conditions. The revised rule will be more cost effective for the Department and Indian groups petitioning for Federal acknowledgment. The proposed revisions will be published taking into consideration ten years of experience with the regulations. Revisions will reflect recommendations received from the Congress, Indian groups and tribes, other Federal agencies and national organizations.

Timetable:

Action	Date	FR Cite
No action to be taken at this time Delay due to pending legislation.	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Forcia, Chief, Branch of Acknowledgment and Research, Department of the Interior, Bureau of Indian Affairs, Room 4627, Main Interior, 18th & C Streets, NW, Washington, DC 20240, 202 343-3568

RIN: 1076–AC15

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DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1268. ● REMOVAL OF FEDERAL FUNDING LIMITATION FROM STATE AND INDIAN COOPERATIVE AGREEMENTS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 228

Legal Deadline: None

Abstract: The regulations at 30 CFR 228, implementing section 202 of the Federal Oil and Gas Royalty Management Act of 1982, 30 USC 1719, provide that the Federal share of funding of certain cooperative agreement activities with any State or Indian Tribe will be limited to not more than 50 percent of the cost of eligible activities as established under the terms of the cooperative agreement. However, Congress recently passed "The Indian Self-Determination and Education Assistance Act Amendment of 1988," October 5, 1988, PL 100-472, which included amendments to PL 93-638 to require all Bureaus within the Department of the Interior to enter into PL 93-638 contracts with Indian Tribes. Consequently, the cooperative agreements that MMS may enter into in the future with Indian Tribes will be considered PL 93-638 self-determination contracts. Because PL 93-638 entitles an Indian Tribe to Federal reimbursement of 100 percent of the costs of an approved self- determination contract. MMS is proposing to amend its regulations to remove the 50-percent Federal funding limitation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB36

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1269. AIR QUALITY - OFFSHORE CALIFORNIA

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.47

Legal Deadline: None

Abstract: Amendments to the DOI Air Quality regulation for oil and gas operations will be proposed for Outer Continental Shelf areas adjacent to California. The changes would provide additional safeguards for those pollutants which could be critical to air quality in the region. The costs have been determined to have a net present value of approximately $25M to the regulated industry; the net benefits have not been quantified but would be a reduction in any effect of emissions from OCS operations on the ozone levels in adjacent onshore areas. This may be expected to yield cost reductions in health services and other related areas. The DOI has conducted a conflict assessment to determine the likelihood of the interested and affected parties being able to reach an agreement on an air quality regulatory program. If the affected parties involved can develop a mutually agreeable set of requirements, then DOI will initiate rulemaking based on that agreement.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/85	50 FR 838
ANPRM Comment Period End	03/08/85	
Begin conflict assessment phase of negotiated rulemaking process	04/15/86	
Determine potential for negotiated agreement	07/30/86	
Complete determination of effects of rules	05/18/88	
Reach agreement on a negotiated rule or begin development of rule through standard process	12/19/88	
NPRM	01/17/89	54 FR 1846
NPRM Comment Period End	02/16/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1610

RIN: 1010–AA61

1270. RECOUPMENTS AND REFUNDS OF EXCESS PAYMENTS UNDER FEDERAL OFFSHORE MINERAL LEASES

Significance: Regulatory Program

Legal Authority: 43 USC 1339

CFR Citation: 30 CFR 230

Legal Deadline: None

Abstract: This rulemaking is needed to add new regulations covering recoupment and refunds of excess payments made under Federal offshore mineral leases which are subject to section 10 of the Outer Continental Shelf Lands Act of 1953 (OCSLA), 43 USC 1339. This rule would establish requirements and guidelines for crediting (recouping) excess payments of royalties, rentals, bonuses, or other amounts against a current or future payment obligation or refunding such excess payment to any person lawfully entitled to receive a refund or credit for an overpayment made under an offshore lease. The new regulation is intended to lessen confusion on the part of payors, operators, and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB11

1271. REVISION OF REGULATION GOVERNING EFFECTIVENESS OF DECISIONS AND ORDERS PENDING APPEAL

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: The MMS regulations at 30 CFR 243.2 address the effectiveness of its Royalty Management Program decisions and orders pending administrative appeal. At the time the rule was issued in 1984, it was MMS's interpretation that most decisions and orders would not be suspended pending appeal. However, in 1986, the Interior Board of Land Appeals (IBLA) determined that unless there were special circumstances, the Director, MMS, was required to stay effectiveness of decisions and orders pending appeal provided the appellant posted adequate surety (Marathon Oil Company, 90 IBLA 236 (1986)). In view of the IBLA decision, an amendment is needed to MMS regulations at 30 CFR 243.2 to reflect clearly that MMS decisions and orders are stayed pending administrative appeal, the types of sureties which would be acceptable to MMS, and related issues.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB13

1272. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF (OCS), SUBPART O, TRAINING

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.210

Legal Deadline: None

Abstract: The rules at 30 CFR Part 250 which govern oil and gas and sulphur operations in the OCS will be revised to address in greater specificity training requirements for personnel engaged in oil, gas, and sulphur drilling, development, and production operations in the OCS. Training requirements were addressed in a proposed rule to consolidate into one document the rules governing oil and gas and sulphur operations in the OCS which was published on March 18, 1986 (51 FR 9316). The training provisions of that proposed rule have been revised, updated, and consolidated under a new Subpart O, Training. Other alternatives considered were not revising the regulations and revising only those regulations identified by industry. Promulgation of the regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	54 FR 31768
NPRM Comment Period End	10/02/89	54 FR 31768
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB21

1273. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF, SUBPART P, SULPHUR OPERATIONS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.250

Legal Deadline: None

Abstract: The rules at 30 CFR 250 which govern oil and gas and sulphur operations in the Outer Continental Shelf (OCS) will be revised to address sulphur exploration, development, and production operations with more specificity. Sulphur operations are currently addressed through rules applicable to oil, gas, and sulphur and through OCS Order No. 10, Sulphur Drilling Procedures, issued by the Gulf of Mexico OCS Region. Comments received as the result of the publication on March 18, 1986 (51 FR 9316), of a proposed rule to consolidate rules governing oil, gas, and sulphur operations in the OCS included recommendations for the development of regulations which treat sulphur operations in the OCS with greater specificity. Other alternatives considered were not revising the regulations. Promulgation of the regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	54 FR 36244
NPRM Comment Period End	10/30/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB23

1274. AMENDMENT OF DUAL ACCOUNTING REQUIREMENT IN GAS VALUATION REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The existing regulations require that the value of certain processed gas that is not sold pursuant to an arm's-length contract shall be the greater of value determined by two different methods. The comparison of the two values is commonly referred to as "dual accounting." The dual accounting requirement results in the inconsistent valuation of gas depending on whether it is sold in an arm's-length or a non-arm's length situation. Regulation amendments are being developed which would eliminate the accounting for comparison requirement except where required by lease terms.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB28

1275. AMENDMENT OF VALUATION BENCHMARKS IN GAS REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The existing regulations provide for the valuation of unprocessed gas, residue gas, or any gas plant product which is not sold pursuant to an arm's-length contract to be determined in accordance with a benchmark method. In the final regulations, MMS adopted as the first benchmark the lessee's gross proceeds received under its non-arm's-length transaction if they were equivalent to the gross proceeds received under comparable arm's-length contracts for like-quality production in the same field or area. The criteria to be considered in defining comparable contracts were also outlined. However, since the adoption of the revised regulations, numerous questions have been raised as to the interpretation of the first benchmark. These questions have identified the need to further clarify MMS's intention in this regard.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB29

1276. AMENDMENTS TO 30 CFR 250.52 TO ADD REQUIREMENTS INTENDED TO PREVENT OCCURRENCE OF ACCIDENTAL FIRES CAUSED BY FALLING SLAG FROM WELDING OR BURNING

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.52

Legal Deadline: None

Abstract: The Minerals Management Service proposes to amend 30 CFR 250.52 to add requirements designed to increase personnel safety and minimize property damage by avoiding or preventing the occurrence of accidental fires caused by hot slag from welding or burning activities falling into flammable material floating on the ocean surface beneath Outer Continental Shelf (OCS) facilities. The proposed amendment was prompted by the recommendations of an investigation of a January 6, 1984, accidental fire believed to have been

caused by hot welding slag igniting a layer of hydrocarbons floating on the surface of the ocean water beneath an OCS facility. Three men died and nine were burned as a consequence of that fire. The alternative considered was to send lessees advisory notices alerting them of the potential danger of welding slag; however, the alternative was considered less effective because it lacked enforcement. The proposed amendment would not result in increases in cost to lessees or consumers.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB31

1277. ● CLARIFICATION OF DATES FOR RELEASE TO THE PUBLIC OF CERTAIN DATA AND INFORMATION SUBMITTED IN ASSOCIATION WITH DRILLING AND PRODUCTION OPERATIONS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.18

Legal Deadline: None

Abstract: This proposed rule is intended to remove apparent inconsistency in current regulations concerning the release of data and information submitted to MMS on certain MMS forms. Section 250.18 specifies periods of time that certain geological and geophysical data will be protected from disclosure to the public when submitted on specific forms, but release dates for similar data and information on other forms are not mentioned in the regulations. The alternatives of providing guidance through an OCS Order and through a Notice to Lessees and Operators on a region-to-region basis does not ensure that information is uniformly available to the public. This rulemaking does not involve any significant additional costs. Its benefits are the removal of ambiguity in the current regulations and the availability of data and information to the public on a uniform basis in all OCS Regions.

Timetable:

Action	Date	FR Cite
NPRM	08/04/89	54 FR 32316
NPRM Comment Period End	10/03/89	54 FR 32316
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, Virginia 22070, 703 787-1600

RIN: 1010-AB34

1278. ● ASSESSMENT FOR FAILURE TO SUBMIT PAYMENT OF SAME AMOUNT WITH REPORT OR BILL OR TO PROVIDE ADEQUATE INFORMATION

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: The MMS Auditing and Financial System (AFS) matches and applies each payment received to its corresponding report or bill. If a payment cannot be automatically matched and applied by the AFS because of inadequate or erroneous information, it must be manually matched and applied by MMS personnel. The manual matching of payments to reports and bills results in MMS incurring substantial costs so that the AFS can operate properly to account for and distribute royalties. This situation also delays the payment application process and can result in delay in distribution of royalties and related information to States and Indian Tribes and allottees. To recover the costs, MMS is proposing to amend its regulations to add a new assessment amount not to exceed $250 per incident. The new assessment would encourage payors to submit their payment, when required, together with the applicable report or copy of the bill and for the same amount as the report or bill. The new assessment would also encourage payors to adequately identify payments to the report or bill to be paid.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB35

1279. ● SERVING OF OFFICIAL CORRESPONDENCE ISSUED BY THE ROYALTY MANAGEMENT PROGRAM

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: The MMS does not currently have regulations which delineate how service of official correspondence, including orders, decisions, demands for payment and notices of noncompliance issued by its Royalty Management Program is effectuated. In the absence of MMS regulations, the Interior Board of Land Appeals (IBLA) (IBLA-87-349) reversed a decision by the Director, MMS that an appeal had not been timely filed and therefore would not be considered. A rule is required that would: 1) establish an "address of record" to which official correspondence will be sent, and 2) define the "date of service" whether the document was physically or constructively delivered. The date of service established in accordance with this rule also would be the beginning date of the 30-day period in 30 CFR Part 290 for the filing of an appeal relative to an order or decision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB37

1280. ● AMENDMENT TO THE REGULATIONS CONCERNING THE REQUIREMENT FOR SUBMISSION OF A CORPORATE SURETY BOND TO INDEMNIFY THE U.S. FROM DEFAULT BY A LESSEE ON THE CONDITIONS AND TERMS OF AN OCS LEASE

Legal Authority: 43 USC 1335

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: This rulemaking would amend current regulations requiring lessee surety bonds. The monetary value of surety bonds designated in current regulations was established over a decade ago and is seriously inadequate to protect the government from loss due to lessee failure to meet the terms of the OCS lease for royalty payments, proper abandonment of wells, site cleanup, and ongoing lease operations. Bond requirements may be increased on a case-by-case basis, as an alternative to rule change. This might result in inconsistent requirements. The potential costs are whatever increase is incurred in obtaining a higher value bond. Benefits would be a reduced potential for government loss and a greater protection of the public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB38

1281. ● REGULATIONS GOVERNING RECOUPMENT OF OVERPAYMENTS ON INDIAN LEASES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Because royalty payments are a major source of income to many Indian allottees, and the only source in some instances, it has been a longstanding Department of the Interior policy that overpayments made by lessees and other royalty payors to Indians cannot be recovered by refund. This policy was established to prevent an undue financial burden on Indian allottees who may have limited financial means to refund the overpayment. However, the adopted policy permits lessees and payors to recoup overpayments as a credit against future rental or royalty accruals due to Indian tribes or allottees. Lessees and operators were instructed to follow this recoupment policy in "Notice to Lessees and Operators of Indian Oil and Gas Leases No. 1A" (NTL-1A), issued by the Conservation Division of U.S. Geological Survey in 1977. The MMS published revised final oil and gas product valuation regulations at 30 CFR Part 206 on January 15, 1988 (53 FR 1184 and 53 FR 1230), effective March 1, 1988. Section 206.150(e)(2) of the revised regulations terminated NTL-1A. Although the Indian lease overpayment recoupment policy has been the same for many years, MMS believes that its (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: regulations should state the policy. Consequently, MMS proposes to add new sections at 30 CFR 218.53 (previously reserved) and 30 CFR 218.203 to codify the policy and procedure.

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB40

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Final Rule Stage

1282. REVISION OF ROYALTY VALUATION REGULATIONS GOVERNING GAS SALES UNDER PERCENTAGE-OF-PROCEEDS CONTRACTS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) published final revised regulations governing the valuation of gas from Federal leases onshore and on the Outer Continental Shelf and from Indian Tribal and allotted leases in the Federal Register on January 15, 1988 (53 FR 1230). The proposed gas valuation provisions of section 206.153, in part, govern the determination of value in situations where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchases proceeds resulting from processing the gas. However, the inclusion of these percentages-of-proceeds contracts under section 206.153 has created unreasonable burdens on lessees. Consequently, MMS is proposing to amend its regulations to provide for the valuation of gas under percentage-of-proceeds contracts to be under the unprocessed gas valuation standards of section 206.152, rather than section 206.153.

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DOI—MMS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/15/88	53 FR 50422
NPRM Comment Period End	02/03/89	54 FR 1398
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB17

1283. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF; SAFETY AND POLLUTION-PREVENTION EQUIPMENT

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1; 30 CFR 250.126

Legal Deadline: None

Abstract: The rules at 30 CFR 250.126 on the manufacture of safety and pollution-prevention equipment (i.e., surface and subsurface safety valves) are being amended. The amendment would update the American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) SPPE-1 standard from the 1985 edition to the 1988 edition and allow compliance with either the updated version of the ANSI/ASME SPPE-1 quality assurance (QA) program (1988 edition) or the proposed American Petroleum Institute (API) QA program (API Spec Q1 in combination with API Specs 14A and 14b). Other alternatives considered were not to amend the rule and to continue using ANSI/ASME SPPE-1 as the only type of certification for the QA program. The costs to lessees under the API program or the updated ANSI/ASME SPPE-1 program are not expected to be significantly different than the costs under the current program. If there is any cost difference, it is expected to be a reduction in cost since the use of the API program is an option to the use of the ANSI/ASME SPPE-1 program. Lessees would not be expected to choose the use of the more expensive of the approved QA programs.

Timetable:

Action	Date	FR Cite
NPRM	07/05/88	53 FR 25349
NPRM Comment Period End	09/29/88	53 FR 30705
Reopen Comment Period	08/11/89	54 FR 33042
Comment Period End	09/15/89	
Final Action	11/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. L. Courtois, Chief, Offshore Inspection and Enforcement Division, Department of the Interior, Minerals Management Service, Mail Stop 647, 381 Elden Street, Herndon, VA 22070, 703 787-1576

RIN: 1010–AB19

1284. GEOTHERMAL RESOURCES USED TO GENERATE ELECTRICITY, PRODUCT VALUATION FOR ROYALTY PURPOSES

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: Existing regulations governing the valuation of geothermal resources provide insufficient guidance for the valuation of geothermal resources utilized to generate electricity in a lessee-owned power plant. Consequently, the Minerals Management Service has issued a report entitled "Valuation of Federal Geothermal Resources–Electrical Generation" which describes a "geothermal netback procedure" to value these "no sales" resources. An amendment is needed to the existing regulations to provide regulatory guidance after receipt and consideration of comments from the public to the existing geothermal netback procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 354
NPRM Comment Period End	03/06/89	
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB22

1285. LIMITATION OF THE DIRECTOR'S AUTHORITY FOR DISCRETIONARY RELEASE OF POSTLEASE PROPRIETARY DATA AND INFORMATION

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.18

Legal Deadline: None

Abstract: Amendments to the regulations providing for the discretionary release of postlease proprietary data and information will be proposed. The amendments would limit the discretion of the MMS Director to release such data and information by defining more precisely the circumstances under which such releases may be authorized and to whom the data and information may be shown. The alternative to the proposed amendment is the case-by-case determination of whether to release such proprietary data and information based on the existing less specific discretionary authority of the Director. This alternative leaves some degree of uncertainty to the lessee concerning the circumstances under which releases will be authorized, and possible changes in policy.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 11965
NPRM Comment Period End	04/24/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

DOI—MMS

Final Rule Stage

Agency Contact: John Mirabella, Senior Regulatory Policy Analyst, Department of the Interior, Minerals Management Service, MS-646, 381 Elden Street, Herndon, VA 22070, 703 787-1607

RIN: 1010–AB30

1286. REVISION OF REGULATIONS GOVERNING INTEREST RATE APPLICABLE TO LATE PAYMENTS AND UNDERPAYMENTS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Existing regulations at 30 CFR 218.54, 218.55, and 218.103 govern the rate of interest to be charged on underpayments or late payments of royalty by lessees and other royalty payors, and the rate of interest to be paid on late disbursements of an Indian Tribe's or Allottee's royalty or a State's share of royalty revenues. These regulations reference section 6621 of the Internal Revenue Code of 1954 for the applicable interest rate in each situation. However, section 6621 was amended by the Tax Reform Act of 1986 to provide for a different interest rate for overpayments and for underpayments. A rule amendment is required to clarify an ambiguity in the existing regulations, created by the amendment to section 6621, as to which of two different rates would apply.

Timetable:

Action	Date	FR Cite
NPRM	04/11/89	54 FR 14364
NPRM Comment Period End	05/11/89	
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB32

1287. ● APPEALS PROCEDURES

Legal Authority: 43 USC 1334; 30 USC 1751

CFR Citation: 30 CFR 290

Legal Deadline: None

Abstract: The final rule provides a grace period for filing of appeals of orders and decisions of Minerals Management Service officials. Existing rules required receipt of an appeal within 30 days of receipt of an order or decision. The final rule establishes a grace period whereby appeals are timely if received within 10 days after the end of the initial 30 days and there is evidence of transmittal within the 30 days. The rule allows more appeals to be considered and decided on their merits.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Roberts, Paralegal Specialist, Department of the Interior, Minerals Management Service, Mail Stop 623, 381 Elden Street, Herndon, VA 22070, 703 787-1275

RIN: 1010–AB39

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Completed Actions

1288. NONDISCRIMINATION IN EMPLOYMENT IN THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1863; 43 USC 1331 et seq; 42 USC 2000d to 2000e

CFR Citation: 30 CFR 271

Legal Deadline: None

Abstract: There are no provisions in current Minerals Management Service regulations which provide a mechanism for remedy of unlawful discrimination in Outer Continental Shelf (OCS) employment. Rules would be developed to provide a process whereby persons who believed they had been denied employment because of unlawful discrimination would have a forum. These rules would implement the purposes of section 604 of the OCS Lands Act Amendment of 1978. Alternatives considered are no action, issuance of a policy statement and no rules, and proposal of extensive affirmative action rules similar to those rescinded in the past. Very few complaints are expected to arise as there has been no evidence of discrimination to date. Therefore, costs are expected to be minimal. Benefits would be the assurance that the requirements of section 604 are being fully carried out.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17770
NPRM Comment Period End	06/11/87	
Withdrawn - action determined to be unnecessary	09/18/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1614

RIN: 1010–AA87

1289. AIR QUALITY – OUTER CONTINENTAL SHELF WIDE

Significance: Regulatory Program

Legal Authority: 30 USC 1334

CFR Citation: 30 CFR 250.44; 30 CFR 250.45; 30 CFR 250.46; 30 CFR 250.57

Legal Deadline: None

Abstract: Amendments to the Department of the Interior (DOI) Air Quality regulation for oil and gas operations will be proposed for all Outer Continental Shelf (OCS) areas. The changes would update requirements and consider the need for

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Completed Actions

current information collection burdens, and provide additional safeguards for those pollutants which could be critical to air quality in areas adjoining the OCS. A determination of potential costs and benefits cannot be made until the final rulemaking has been prepared for RIN 1010-AA61, dealing with amendments to the DOI Air Quality regulation for oil and gas operations adjacent to the State of California. Considerable information has been developed during the negotiations conducted to implement that rulemaking. There have also been revisions to the related Environmental Protection Agency regulations which will affect both of these rulemakings. Timing, content, and format for this rulemaking for all OCS areas will not be determined until completion of the rulemaking RIN 1010-AA61.

Timetable:

Action	Date	FR Cite
Withdrawn - deferred indefinitely pending results of RIN 1010-AA61	09/18/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1610

RIN: 1010–AB14

1290. AMENDMENT TO 30 CFR 250.4 AND 250.34(J) TO ADD GUIDELINES FOR THE ACCEPTANCE OF CONTRIBUTIONS FOR MISSION ACTIVITIES SUCH AS THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.4; 30 CFR 250.34(j)

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) proposes to amend 30 CFR 250.4 and 250.34(j) to implement the authority provided in the Fiscal Year 1987 Department of the Interior Appropriation Act to facilitate preparations of Environmental Impact Statements associated with the approval of certain Development and Production Plans. The alternative of prescribing specific procedures for use of such funds would not allow the flexibility to respond when the use of contractors and private contributions is the most sensible approach. There may be increased cost to some lessees; however, these costs represent a voluntary users fee comparable to the users fee provided in the Independent Offices Appropriation Act of 1952, as amended. No increase in cost or prices would result for any other entity.

Timetable:

Action	Date	FR Cite
Withdrawn - action determined to be unnecessary	09/18/89	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB33

BILLING CODE 4310-MR-T

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1291. SURFACE COAL MINING AND RECLAMATION OPERATIONS; TWO ACRE EXEMPTION REPEAL

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 700.11; 30 CFR 870.11

Legal Deadline: None

Abstract: Section 528(2) of the Surface Mining Control and Reclamation Act of 1977, exempted from the requirements of the Act "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less." On May 7, 1987, the President signed PL 100-34 which repealed the exemption. The rule action would remove the exemption provision from the regulations at 30 CFR 700 and 30 CFR 870.

Timetable:

Action	Date	FR Cite
Notice of Suspension: Two-Acre Exemption Repeal	06/04/87	52 FR 21228
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029–AB16

1292. ASSESSMENT CONFERENCE SCHEDULING

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 843; 30 CFR 845

Legal Deadline: None

Abstract: The rule would eliminate some procedural inconsistencies remaining from previous 30 CFR 843 and 845 rulemakings. In particular, the rules would allow for a more efficient and practical time frame for scheduling assessment conferences. OSMRE is undertaking this action in response to suggestions from the Interior Department's Office of the Solicitor and from OSMRE personnel involved in administering the existing 30 CFR Parts 843 and 845 requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

DOI—OSMRE

Proposed Rule Stage

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5864

RIN: 1029–AB22

1293. REPROCESSING COAL WASTE

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 786, (New); 30 CFR 829, (New); 30 CFR 701; 30 CFR 785

Legal Deadline: None

Abstract: The rule would revise existing permitting and performance standards to take into consideration the unique circumstances and requirements for reprocessing coal waste. The rule would identify the minimum requirements for this type of activity. The action is being undertaken in response to findings and planned actions identified during OSMRE's study of remining initiatives.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Ray Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029–AB23

1294. INTERIM PROGRAM REVISIONS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 710; 30 CFR 715; 30 CFR 716; 30 CFR 717; 30 CFR 718; 30 CFR 720; 30 CFR 721; 30 CFR 722

Legal Deadline: None

Abstract: The rule would amend those portions of the OSMRE interim regulatory program regulations which are different from the permanent regulatory program. OSMRE is undertaking this action to provide equity and regulatory consistency between the programs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Stephen M. Sheffield, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5361

RIN: 1029–AB24

1295. ● FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: In response to comments received concerning the rulemaking under RIN 1029-AB15, OSMRE will conduct a study of possible fees for permit revisions, renewals, and certain other permitting-related activities in the coming year and intends to propose further rulemaking where the results of that study indicate that such fees are justified and that fee collection would be administratively feasible.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029–AB29

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1296. EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO THE EXTRACTION OF OTHER MINERALS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 702; 30 CFR 700; 30 CFR 750; 30 CFR 870

Legal Deadline: None

Abstract: The Surface Mining Act exempts mining operations that extract other minerals where coal does not exceed 16 2/3 percent of tonnage of minerals removed for sale. Evidence of abuse of this exemption has been identified. Proposed regulations would establish procedures to administer the exemption. The costs of compliance for these operations are undetermined. Benefits would be to the public in terms of protection of health, safety, and environment from detrimental effects of mining. Legitimate noncoal operators would be able to compete fairly with those operations now using the exemption to undersell their legitimate competitors.

Timetable:

Action	Date	FR Cite
NPRM	06/01/87	52 FR 20546
NPRM Comment Period End	08/10/87	52 FR 20546
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Patrick Boyd, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1864

RIN: 1029–AA53

1297. RECLAMATION TECHNOLOGY RULE

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.104; 30 CFR 816.105; 30 CFR 816.101

Legal Deadline: None

DOI—OSMRE

Final Rule Stage

DOI—OSMRE

Completed Actions

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court. The regulation will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1502

RIN: 1029–AA57

1298. FEDERAL LANDS PROGRAM

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; 30 USC 181 et seq; PL 100-34

CFR Citation: 30 CFR 740

Legal Deadline: None

Abstract: Various language changes will be proposed in 30 CFR 740, 745, and 746 in response to a ruling by the District Court for the District of Columbia with respect to the definition of "mining plans," the applicability of the Federal lands program, and for technical accuracy and to clarify ambiguous language that has surfaced since publication of the rules in February 1983.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23386
NPRM Comment Period End	07/31/89	54 FR 23388
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4560

RIN: 1029–AA76

1299. PERMANENT PROGRAM PERFORMANCE STANDARDS; HIGHWALL POLICY

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 845.15; 30 CFR 846.12

Legal Deadline: None

Abstract: The proposed regulation is in accordance with a court approved settlement agreement and would provide a method of calculating civil penalties when compliance with section 816.102(a) cannot be accomplished using best technology currently available or where compliance would result in significant harm to the environment and the operation does not qualify for an exemption to total highwall elimination in accordance with 30 CFR 816.102(k).

Timetable:

Action	Date	FR Cite
NPRM	10/29/87	52 FR 41666
NPRM Comment Period End	01/07/88	52 FR 41666
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 343-7952

RIN: 1029–AB10

1300. FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: The proposed rule would govern the collection by OSMRE of application fees for permits to conduct surface coal mining and reclamation operations, and for permits to conduct coal exploration, as well as fees for processing mining plans and for midterm review of surface coal mining and reclamation permits. Recipients of these services would be required to reimburse OSMRE for costs incurred in providing the services.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17568
NPRM Comment Period End	07/18/88	53 FR 17568
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029–AB15

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1301. PERMANENT REGULATORY PROGRAM REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 701.5; 30 CFR 785.19(d)

Legal Deadline: None

Abstract: This proposed rule would respond to a ruling by the District Court for the District of Columbia which stated that the definition of farming and agricultural activities was not equal as it related to Alluvial Valley Floors as defined in OSM's regulations. The Court ordered that the definition be repromulgated in a manner consistent with congressional intent. Pursuant to the Court ruling, additional guidance would be provided as to what the "essential hydrologic functions" are of AVFs.

Timetable:

Action	Date	FR Cite
NPRM	08/03/88	53 FR 29310
NPRM Comment Period End	09/19/88	
Final Action	03/07/89	54 FR 9724
Final Action Effective	04/06/89	54 FR 9724

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Doug Growitz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1507

RIN: 1029–AA54

1302. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR LEGAL FINANCIAL CIVIL PENALTIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 773 (Revision); 30 CFR 843

Legal Deadline: None

Abstract: The existing rules pertaining to the requirements for permit and permit processing, permit applications and civil penalties are to be amended. The proposed revisions expressly establish an affirmative obligation on permittees and permit applicants to pay uncontested penalties and abate uncontested violations. Permittees and applicants for permits must meet these obligations prior to the issuance of a permit and as a condition of continued operation under existing permits.

Timetable:

Action	Date	FR Cite
NPRM	07/16/86	51 FR 25822
NPRM Comment Period End	10/24/86	51 FR 33905
Final Action	04/28/89	54 FR 18438
Final Action Effective	05/30/89	54 FR 18438

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5241

RIN: 1029–AA66

1303. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 761.5; 30 CFR 761.11(h)

Legal Deadline: None

Abstract: OSM is repromulgating certain portions of its regulations which define "valid existing rights" and prohibit surface coal mining on lands within units of the National Park System, National Wildlife Refuge System and certain other areas designated by Congress. OSM is repromulgating these regulations as a result of a District Court decision in Round III of the present litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
Notice of EIS and RIA Scoping Meeting, Request for Comments	01/22/87	52 FR 2421
Scoping Hearings for NEPA and RIA	02/06/87	
NPRM	12/27/88	53 FR 52374
NPRM Comment Period End	04/24/89	54 FR 9847
Withdrawn	07/21/89	54 FR 30557

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Annetta Cheek, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-2035

RIN: 1029–AA77

1304. PERMANENT REGULATORY PROGRAM DEFINITIONS; AREAS UNSUITABLE FOR MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: The proposed rule would clarify the applicability of the prohibitions in section 522(e) of the Surface Mining Control and Reclamation Act to the surface impacts of underground mining. The issue of the relationship between section 522(e) and mining related subsidence will be addressed in the proposed rulemaking. The rulemaking will seek to clarify whether OSM's rules have the effect of prohibiting underground mining operations related to the features and facilities within the distance limitations enumerated in section 522(e) of the Act. The proposed rulemaking will address the issue of what is a "Surface Impact" incident to an underground mine.

Timetable:

Action	Date	FR Cite
ANPRM	04/03/85	50 FR 13250
ANPRM Comment Period End	06/27/85	50 FR 13250
Notice of EIS and RIA Scoping Meeting and Request for Comments	01/22/87	52 FR 2421
EIS and RIA Scoping Meeting	02/06/87	
NPRM	12/27/88	53 FR 52374
NPRM Comment Period End	04/24/89	54 FR 9847
Withdrawn	07/21/89	54 FR 30557

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: The Office of Surface Mining has determined that the proposed rulemaking constitutes a major Federal action requiring an EIS to meet the requirements of the National Environmental Policy Act. OSM has also made the determination that the proposed rule may be significant within the meaning of EO 12291. Precise cost/price impacts cannot be determined prior to further development of the regulation, but such costs are

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anticipated to be significant in terms of EO 12291 and the Regulatory Flexibility Act. Therefore, a Preliminary Regulatory Impact Analysis and Small Entity Flexibility Analysis are being prepared.

Agency Contact: Dermot Winters, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1928

RIN: 1029–AA80

1305. LANDS UNSUITABLE REGULATIONS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 761.5

Legal Deadline: None

Abstract: OSMRE is repromulgating certain portions of its regulations under Subchapter F which contain criteria for and describe the petition process for designating lands unsuitable for surface coal mining operations. OSM is repromulgating these regulations as a result of a District Court decision in Round III of the present litigation on OSMRE's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
Combined with RIN 1029-AA57	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Jerry Schwartz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5144

RIN: 1029–AA90

1306. REQUIREMENTS FOR COAL EXPLORATION—PERMIT REQUIREMENTS FOR EXPLORATION REMOVING MORE THAN 250 TONS OF COAL

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 772.11; 30 CFR 772.12; 30 CFR 772.14; 30 CFR 815.2; 30 CFR 942.772

Legal Deadline: None

Abstract: The proposed rule would comply with a court order of the District Court for the District of Columbia which remanded OSM reporting requirements for surface coal exploration. The proposed rule would revise existing requirements to include the filing of a notice by all individuals or operators planning coal exploration, and specify the information required on applications for coal exploration. The obligation to report is a standing requirement of existing regulations. This rule would expand the requirement to report. Because affected States already have the expanded requirement in place, no additional costs or benefits are expected to be associated with the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 23532
NPRM Comment Period End	08/08/88	53 FR 23532
Final Action	12/29/88	53 FR 52942
Final Action Effective	01/30/89	53 FR 52942

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4553

RIN: 1029–AA92

1307. PERMANENT REGULATORY PROGRAM - OWNERSHIP INFORMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 778

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement is proposing to revise 30 CFR 778, which specifies what information must be furnished in a surface coal mining permit application. The permit application requirements are being revised in order to conform them to proposed revisions in 30 CFR 773 which govern the issuance of surface coal mining permits. The proposed revisions to 30 CFR 778 will require the submission of more detailed information on the ownership and control of permit applicants. It is not anticipated that the revision will impose a substantial financial burden on those applying for permits.

Timetable:

Action	Date	FR Cite
NPRM	05/28/87	52 FR 20032
NPRM Comment Period End	08/06/87	52 FR 20032
Final Action	03/02/89	54 FR 8982
Final Action Effective	04/03/89	54 FR 8982

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Andrew DeVito, Senior Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5241

RIN: 1029–AA96

1308. PERMANENT PROGRAM PERFORMANCE STANDARDS; SURFACE MINING ACTIVITIES; CONTEMPORANEOUS RECLAMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.100; 30 CFR 816.101; 30 CFR 816.104; 30 CFR 816.105

Legal Deadline: None

Abstract: The rule is being proposed in response to a remand by the Court to provide additional guidance to the regulatory authorities. The proposed rule should ensure that all reclamation efforts proceed as contemporaneously as practicable with surface coal mining operations in accordance with Section 515(b)(16) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
Combined with RIN 1029-AA57	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1502

RIN: 1029–AB02

1309. SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 750

Legal Deadline: None

Abstract: The proposed rule would implement court approved settlements involving OSMRE, the State of New Mexico, and the National Coal Association/American Mining Congress Joint Committee in regard to final Indian lands regulations. The rule would delete the reference to the American Indian Religious Freedom Act and revise the requirements addressing inclusion of surface coal mining and reclamation provisions in Indian leases.

Timetable:

Action	Date	FR Cite
NPRM	02/10/88	53 FR 3992
NPRM Comment Period End	04/20/88	53 FR 3992
Final Action	05/22/89	54 FR 22182
Final Action Effective	06/21/89	54 FR 22182

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Suzanne Hudak, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4549

RIN: 1029–AB04

1310. PERMANENT PROGRAM PERFORMANCE STANDARDS; DISPOSAL OF COAL MINE WASTE

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: The rule will reexamine performance standards and design criteria for coal waste disposal. The action is in response to a District Court for the District of Columbia remand order which cited procedural defects in an earlier rulemaking (47 FR 44006, September 26, 1983) involving inadequate notice and comment and an inadequate administrative record.

Timetable:

Action	Date	FR Cite
Combined with RIN 1029-AA57	10/31/88	53 FR 43970

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Dr. C. Y. Chen, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1501

RIN: 1029–AB09

1311. DISPOSAL OF EXCESS SPOIL ON PREEXISTING BENCHES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.74; 30 CFR 817.74

Legal Deadline: None

Abstract: The regulations at 30 CFR 816.74/817.74 allow, with the approval of the regulatory authority, the disposal of excess spoil through placement on preexisting benches provided that the standards set forth in sections 816.71/817.71 are met. These standards contain the general requirements for the disposal of excess spoil. Based on the draft study entitled "Encouraging Abandoned Mine Land Reclamation via Remining: A Federal, State and Industry Initiative" and comments received, OSMRE has reviewed these regulations. Based on this review, OSMRE has concluded that excess spoil, when placed on the benches, is similar to backfilling and grading of a highwall and bench. It therefore could be regulated under the backfilling and grading regulations in sections 816.102/817.102, in lieu of the "excess spoil" standards, while maintaining the same environmental and safety standards. The proposed rule would apply the backfilling and grading requirements to disposal of excess spoil on preexisting benches.

Timetable:

Action	Date	FR Cite
Combined with RIN 1029-AA57	10/31/88	53 FR 43970

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029–AB18

1312. PERMIT TO RECLAIM RULE

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 701; 30 CFR 740; 30 CFR 750; 30 CFR 773; 30 CFR 843

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement (OSMRE) proposes to amend its rules to provide for specific situations where a coal mine operator may be required to obtain a permit to conduct reclamation activities on a location where no coal extraction is taking place. The proposed rule would remove requirements to obtain or renew a permit when only reclamation activities must be performed.

Timetable:

Action	Date	FR Cite
NPRM	09/19/88	53 FR 36404
NPRM Comment Period End	11/03/88	
Final Action	04/05/89	54 FR 13814
Final Action Effective	05/05/89	54 FR 13814

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4533

RIN: 1029–AB26

DOI—OSMRE

Completed Actions

1313. APPROXIMATE ORIGINAL CONTOUR VARIANCES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 785; 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement (OSMRE) proposes to amend its rules to allow issuance of a permit for nonmountaintop removal, steep slope, surface coal mining and reclamation operations which includes a variance from the requirements to restore the disturbed areas to their approximate original contour.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
Combined with RIN 1029-AA57	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Suzanne Hudak, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4540

RIN: 1029–AB27

1314. ● CIVIL PENALTIES FOR POST ACT RECLAMATION

Legal Authority: PL 95-87; 30 USC 1201 et seq; PL 100-34; PL 100-102; PL 100-446

CFR Citation: 30 CFR 845

Legal Deadline: None

Abstract: This rule amends OSMRE's regulations which allow OSMRE to use money collected from payment of Federal civil penalties levied under Section 518 of the Surface Mining Control and Reclamation Act of 1977 (Act). The regulations are being amended to comply with the Department of the Interior Appropriation Act for fiscal year 1989 to allow use of these funds until expended.

Timetable:

Action	Date	FR Cite
Final Action	05/04/89	54 FR 19342
Final Action Effective	06/05/89	54 FR 19342

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-7952

RIN: 1029–AB28

BILLING CODE 4310-05-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Completed Actions

1315. PROCEDURE TO PROCESS AND RECOVER THE VALUE OF RIGHTS-OF-USE AND ADMINISTRATIVE COSTS INCURRED IN PERMITTING SUCH USE

Legal Authority: 43 USC 387; 31 USC 483(a)

CFR Citation: 43 CFR 429.3(a), (Revision); 43 CFR 429.3(d), (New); 43 CFR 429.6(c), (Revision)

Legal Deadline: None

Abstract: These changes to 43 CFR 429 will provide greater flexibility in determining the value of low value uses by third parties of lands administered by the Bureau of Reclamation. Currently an appraisal is required to provide the use value. A periodic review of the value of the use will also be provided. And finally, the authority of Reclamation's regional directors to modify or waive the values to be recovered is further clarified.

Timetable:

Action	Date	FR Cite
Withdrawn No action required at this time.	07/21/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Agency Contact: Edwin W. Cramer, Department of the Interior, Bureau of Reclamation, Denver Office, P.O. Box 25007, Denver, CO 80225-0007, 303 236-8078

RIN: 1006–AA18

1316. RECLAMATION STATES DROUGHT ASSISTANCE ACT OF 1988

Legal Authority: PL 100-387

CFR Citation: 43 CFR 423

Legal Deadline: None

Abstract: The Bureau of Reclamation has revised 43 CFR Part 423 to provide emergency drought assistance to qualified applicants for loans to purchase and transport emergency water supplies and support management and conservation activities. Actions implemented under these regulations will be to mitigate losses, or expected losses, and damage resulting from the drought conditions of 1987, 1988, and 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	04/10/89	54 FR 14228
Interim Final Rule	04/10/89	54 FR 14228

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Tom Phillips, Coordinator, Project Operations Services, Department of the Interior, Bureau of Reclamation, Denver Office, P.O. Box 25007, Denver, CO 80225-0007, 303 236-1058

RIN: 1006–AA19

BILLING CODE 4310-09-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1317. PALEONTOLOGY

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8270

Legal Deadline: None

Abstract: This rule will be revised to provide the procedures for the management of paleontological specimens located on the public lands.

Timetable:

Action	Date	FR Cite
NPRM	08/17/82	47 FR 35914
NPRM - Second	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Frank W. Snell, Chief, Division of Recreation, Cultural, and Wilderness Resources, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-6064

RIN: 1004–AA27

1318. RECREATION: GENERAL

Legal Authority: 43 USC 1701 et seq; 43 USC 869; 43 USC 1181a; 43 USC 315; 43 USC 4321 et seq; 16 USC 460l to 461; 16 USC 1131; 16 USC 1271 to 1287; 16 USC 1241; 16 USC 670; 29 USC 794

CFR Citation: 43 CFR Subpart 8300

Legal Deadline: None

Abstract: This rule will be amended to revise the policy statement for recreation management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Schneider, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-9353

RIN: 1004–AA35

1319. UNAUTHORIZED USE OF PUBLIC LANDS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 9230

Legal Deadline: None

Abstract: This rule will be amended to clarify those activities that are prohibited on the public lands, to provide managers with additional authority to resolve existing violations and to clarify the authority of the Secretary of the Interior in instances of mineral trespass.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Walter I. Johnson, Jr., Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 653-8815

RIN: 1004–AA38

1320. ONSHORE OIL AND GAS ORDER NO. 7 - DISPOSAL OF PRODUCED WATER

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for the handling, storing or disposing of water produced from oil or gas wells. It replaces NTL-2B. The order will also contain inspection standards. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AA66

1321. CULTURAL RESOURCE MANAGEMENT

Legal Authority: 43 USC 1701 et seq; 16 USC 470 et seq; 42 USC 4321; 16 USC 432; 16 USC 470aa et seq; 42 USC 1996; 16 USC 433; 36 CFR 800.11

CFR Citation: 43 CFR 8100; 43 CFR 8110; 43 CFR 8111; 43 CFR 8140; 43 CFR 8141; 43 CFR 8142; 43 CFR 8143

Legal Deadline: None

Abstract: The rule will adapt a Governmentwide compliance procedure to a Bureau-specific procedure, with substantial streamlining, reduction of outside consultation, quicker management decisions that are more rapidly carried out, public land users being allowed to proceed with land or resource use with less delay and cultural resources being protected as effectively as under the existing system of review.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John G. Douglas, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-9353

RIN: 1004–AA69

1322. RECREATION AND PUBLIC PURPOSES: SOLID WASTE DISPOSAL

Legal Authority: 43 USC 869 et seq; 43 USC 1701 et seq; 31 USC 9701

CFR Citation: 43 CFR 2740

Legal Deadline: None

Abstract: The Recreation and Public Purposes Amendment Act of 1988 (P.L. 100-648) enacted on November 10, 1988, amended the Recreation and Public Purposes Act of 1926. The regulations at 43 CFR 2740 need to be amended in order to add provisions of the new law that pertain to solid waste disposal.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Rowe, Realty Specialist, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-0693

RIN: 1004–AA73

DOI—BLM

Proposed Rule Stage

DOI—BLM

Proposed Rule Stage

1323. EXPLORATION ACTIVITY; OIL AND GAS LEASING; GEOTHERMAL RESOURCE LEASING-GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100; 43 CFR 3200

Legal Deadline: None

Abstract: The rulemaking will issue corrections and clarifications to published final rule of May 16, 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judy Reed, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1725 I St., NW (Premier Bldg.), Washington, DC 20006, 202 653-2196

RIN: 1004–AA97

1324. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Legal Authority: 30 USC 185

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Mineral Leasing Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AA98

1325. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Chief, Branch of Rights-of-Way and Use Permits, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AB00

1326. MULTIPLE USE: MINING: MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22 et seq; 30 USC 521 to 540; 30 USC 601 to 615; 30 USC 621 to 625; 43 USC 2; 43 USC 1732; 43 USC 1740; 61 Stat. 681

CFR Citation: 43 CFR Group 3700; 43 CFR Group 3800

Legal Deadline: None

Abstract: These two groups of regulations will be combined into a single group, with the language being revised to remove burdensome, cumbersome and unnecessary provisions. In addition, the language will be updated and clarified and some provisions will be revised to meet the needs of today's conditions.

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	12/27/82	47 FR 57521
NPRM	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Reed Smith, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB04

1327. CADASTRAL SURVEY

Legal Authority: 43 USC 1701 et seq; 48 USC 351; 43 USC 772; 43 USC 773

CFR Citation: 43 CFR 9180

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patrick Carroll, Land Surveyor, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8798

RIN: 1004–AB07

1328. INDIAN ALLOTMENTS

Legal Authority: 25 USC 334

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Don Simpson, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB10

1329. GEOTHERMAL RESOURCE OPERATIONS

Legal Authority: 30 USC 1001 to 1025

CFR Citation: 43 CFR 3200; 43 CFR 3260; 43 CFR 3270

Legal Deadline: None

Abstract: This rulemaking will revise provisions related to geothermal leasing and geothermal operations conducted on Federal lands. The changes are designed to remove burdensome and cumbersome provisions and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB16

1330. MINERALS (NONMINERAL ENTRIES ON MINERAL LANDS)

Legal Authority: 30 USC 186; 30 USC 124

CFR Citation: 43 CFR Subpart 2093

Legal Deadline: None

Abstract: The amendments made by this rulemaking would eliminate portions of the existing regulations that refer to repealed authorities and make minor changes that reflect the merger of functions between the Bureau of Land Management and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB20

1331. ● ONSHORE OIL AND GAS ORDER NO. 2 - DRILLING OPERATIONS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 226; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 2 by requiring new casing rather than used casing in all cases except certain circumstances prescribed by the authorized officer and changing the location of required centralizers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Kent, Petroleum Engineer, Department of the Interior, Bureau of Land Management, 601 Premier Bldg., Washington, DC 20240, 202 653-2174

RIN: 1004–AB21

1332. EXCHANGES - GENERAL PROCEDURES

Legal Authority: 43 USC 1715; 43 USC 1716; 43 USC 1732

CFR Citation: 43 CFR 2200

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: This rule will amend the existing regulations to provide procedures to facilitate and expedite the processing of land exchanges.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34380
NPRM Comment Period End	10/02/89	54 FR 34380
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Roger Taylor, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB28

1333. MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22; 43 USC 1201; 43 USC 1744; 43 USC 1734; 43 USC 1740

CFR Citation: 43 CFR Subpart 3809; 43 CFR Subpart 3833

Legal Deadline: None

Abstract: The rule would make amendments to the regulatory provisions dealing with the surface management of mining claims to incorporate changes recommended by a task force that studied this area.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Reed Smith, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB36

1334. ONSHORE OIL AND GAS ORDER NO. 8 - WELL WORKOVERS, COMPLETIONS, ABANDONMENTS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This order is being issued under the Oil and Gas Operations regulations as found in 43 CFR Part 3160. The order details the minimum standards of performance when conducting workover, completions, and abandonment of existing wells on Federal and Indian lands (except Osage Tribe). It also will contain enforcement actions that will result from the failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Minerals, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB37

1335. EXPLORATION ACTIVITY; OIL AND GAS LEASING; COMPETITIVE LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100; 43 CFR 3120

Legal Deadline: None

Abstract: The rulemaking will issue corrections and clarifications to published final rule of June 17, 1988.

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Timetable:

Action	Date	FR Cite
NPRM	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judy Reed, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1725 I St., NW (Premier Bldg.), Washington, DC 20006, 202 653-2196

RIN: 1004–AB41

1336. MINING CLAIMS UNDER THE GENERAL MINING LAW - NATURE AND CLASSES OF MINING CLAIMS ASSESSMENT WORK

Legal Authority: 43 USC 1732 to 1733; 30 USC 28-1; 30 USC 28-2; 30 USC 26; 30 USC 33; 43 USC 1782

CFR Citation: 43 CFR 3800; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rulemaking will amend the existing regulations to include the criteria for the standard of discovery as applied to oil shale placer mining claims and provide clarification of what constitutes substantial compliance with assessment work requirements under the Mining Law.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Reed Smith, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB43

1337. COAL MANAGEMENT – GENERAL

Significance: Regulatory Program

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will revise the exploration and mining operations, regulations, as well as other operations-related regulations, to streamline them and to have them reflect current policy and standard industry operating practices relating to Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Politzer, Chief, Division of Solid Mineral Operations, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AB44

1338. ONSHORE OIL AND GAS ORDER NO. 9 - WASTE PREVENTION AND BENEFICIAL USE OF OIL AND GAS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1; 43 CFR 3162.4; 43 CFR 3162.5; 43 CFR 3162.7-1; 43 CFR 3162.7-2; 43 CFR 3162.7-3; 43 CFR 3165.3; 43 CFR 3165.4

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR 3160. This order details the requirements in order to prevent wastes and promote beneficial uses of oil and gas. This order also provides the enforcement actions that will result when violations of standards occur. It also replaces NTL-4A. This order is to be referenced in the table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Division Chief, Fluid Mineral Lease & Reservoir Management, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AB47

1339. LAW ENFORCEMENT, CRIMINAL

Legal Authority: 18 USC 1852; 18 USC 1853; 43 USC 1753

CFR Citation: 43 CFR 5400; 43 CFR 9230

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning the unlawful removal of forest products from public lands. Existing regulations rely on State statutes in those States with statutes, but little support is provided if State statutes do not exist. This regulation would provide this support and improve overall management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-8864

RIN: 1004–AB48

1340. LEASES, PERMITS AND EASEMENTS

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Chief, Branch of Rights-of-Way and Use Permits, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-5141

RIN: 1004–AB51

1341. MINING IN MILITARY WITHDRAWALS

Legal Authority: 100 Stat 3457, sec. 12; 30 USC 22; 43 USC 1701 et seq

CFR Citation: 43 CFR 3828; 43 CFR 3811

Legal Deadline: None

Abstract: This proposed rule establishes guidelines for mining in certain military installations under the Mining Law of 1872, as amended, and for assuring the safe, uninterrupted, and unimpeded use of the lands for military purposes. The Military Lands Withdrawal Act of 1986 specifically provided for certain military lands previously withdrawn from mining to be considered for opening to the operation of the Mining Law of 1872, as amended, with certain special restrictions. Military Lands identified as suitable for mining through the Bureau of Land Management's planning system will be opened on the effective date of an opening order that will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Reginald E. Reid, Geologist, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB52

1342. SPECIAL LAWS AND RULES; RESTATEMENT OF PROCEDURES FOR THE SEGREGATION AND OPENING OF PUBLIC LANDS; AMENDMENT

Legal Authority: 43 USC 1202; 43 USC 851 to 852; 43 USC 869 et seq; 43 USC 641 et seq; 43 USC 321 to 323; 43 USC 231; 25 USC 334; 26 Stat 794; 25 USC 336; 16 USC 485; 72 Stat 339 to 340; 43 USC 852 note; 16 USC 818; 43 USC 315f; 43 USC 1601 et seq; ...

CFR Citation: 43 CFR 2090; 43 CFR 2091

Legal Deadline: None

Abstract: This rule will amend the existing regulations to clarify procedural aspects of specific actions covering the segregation of public lands as well as procedures under which those lands are opened to the public land and mineral laws.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 43 USC 321; 43 USC 325; 43 USC 327 to 329

Agency Contact: Dennis Samuelson, Realty Specialist, Department of the Interior, Bureau of Land Management, 18th & C St., NW., Washington, DC 20240, 202 343-6486

RIN: 1004–AB54

1343. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy Chambers, Management Analyst, Department of the Interior, Bureau of Land Management, Washington, DC 20240, 202 653-8853

RIN: 1004–AB55

1344. CONTRACT EXTENSION

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5473; 43 CFR 5474

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning extension of time for cutting and removal on timber sale contracts. Shorter contract terms and increased seasonal restrictions on operations have caused a problem with the reappraisal requirement for contract extensions. This regulation would allow contract extensions without reappraisal under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1725 I St., NW (Premier Bldg.), Washington, DC 20006, 202 653-8864

RIN: 1004–AB56

1345. CLASSIFICATIONS

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2420

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide guidance for classification terminations or modifications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB57

1346. VILLAGE SELECTIONS

Legal Authority: 43 USC 1613

CFR Citation: 43 CFR 2651

Legal Deadline: None

Abstract: This rule would amend the existing regulations to allow underselected Alaska Native Village Corporations to select lands identified

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and made available by the Secretary enabling them to fulfill their statutory entitlement under the Alaska Native Claims Settlement Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Olivia Short, Department of the Interior, Bureau of Land Management, 18th & C St., NW, Washington, DC 20240, 202 343-6511

RIN: 1004–AB58

1347. ● CAVE MANAGEMENT

Legal Authority: 16 USC 4301 et seq; 43 USC 1740

CFR Citation: 43 CFR 37

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: This rule will provide criteria to determine whether caves on Federal lands are significant and thereby to be given special attention in planning and other decisions affecting Federal lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Keith Corrigall, Chief, Branch of Wilderness Resources, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-6064

RIN: 1004–AB59

1348. ● PROTECTION MANAGEMENT AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS; PRIVATE MAINTENANCE; SUPPORTING INFORMATION AND CERTIFICATION FOR MORE THAN FOUR HORSES OR BURROS

Legal Authority: 16 USC 1331 to 1340; 43 USC 1701 et seq; 18 USC 47; 43 USC 315

CFR Citation: 43 CFR 4700

Legal Deadline: None

Abstract: This rule will prohibit the use of a power of attorney to adopt or maintain more than four (4) wild horses or burros, in order to reduce the likelihood of substantial numbers of the animals being used for commercial purposes after the 1-year maintenance period has ended.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John S. Boyles, Chief, Division of Wild Horses and Burros, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 653-9215

RIN: 1004–AB63

1349. ● LEASES, PERMITS AND EASEMENTS

Legal Authority: 43 USC 1732

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will clarify the permit requirements for public assemblies, meetings, gatherings, demonstrations, parades, and other public expressions of views.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Ryan, Associate District Manager, Department of the Interior, Bureau of Land Management, Las Vegas District Office, PO Box 26569, Las Vegas, NV 89126, 702 646-5800

RIN: 1004–AB64

1350. ● OIL AND GAS LEASING

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3104

Legal Deadline: None

Abstract: This rule will revise bond review procedures by removing requirement of surety bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rob Cervantes, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, Premier Bldg., Room 602, Washington, DC 20240, 202 653-2216

RIN: 1004–AB65

1351. ● NATIONAL CONSERVATION AREAS; LAW ENFORCEMENT-CRIMINAL

Legal Authority: 102 Stat. 4571

CFR Citation: 43 CFR 8350; 43 CFR 9260

Legal Deadline: None

Abstract: This rule will provide implementing procedures for the management of the San Pedro Riparian National Conservation Area, and reserve space in the Code of Federal Regulations for procedures for management of other National Conservation Areas.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Jeff O. Holdren, Chief, Branch of Lands, Department of the Interior, Bureau of Land Management, 3643 Main Interior, 18th & C Sts, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB67

1352. ● LAW ENFORCEMENT—CRIMINAL

Legal Authority: 43 USC 1701 et seq.

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule will prohibit individuals from harassing, threatening, giving false information to, or otherwise interfering with officers, volunteers, human resource program enrollees, or other personnel of or associated with the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Karen Folwell, Assistant Bureau Program Coordinator, Department of the Interior, Bureau of Land Management, (111), Washington, DC 20240, 202 653-7434

RIN: 1004–AB66

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1353. ONSHORE OIL AND GAS ORDER NO. 6 - HYDROGEN SULFIDE OPERATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for protecting workers and the public from hydrogen sulfide. It specifies documentation needed prior to operation and measures required during drilling and production. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40354
NPRM Comment Period End	01/14/85	49 FR 48576
NPRM - Second Comment Period End	05/16/89	54 FR 21075
	07/17/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AA67

1354. ONSHORE OIL AND GAS OPERATIONS - COOPERATIVE AGREEMENTS, DELEGATIONS OF AUTHORITY AND CONTRACTS FOR OIL AND GAS INSPECTION AND ENFORCEMENT

Legal Authority: 30 USC 1701; 30 USC 1732; 30 USC 1735; 30 USC 1751

CFR Citation: 43 CFR 3190

Legal Deadline: None

Abstract: This rule will provide the procedures for implementing the provisions of the Federal Oil and Gas Royalty Management Act authorizing delegations of authority to States in connection with oil and gas operations.

Timetable:

Action	Date	FR Cite
NPRM	11/28/88	53 FR 47904
NPRM Comment Period End	12/28/88	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Pepperney, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2200

RIN: 1004–AB32

1355. CONDUCT OF SALES (TIMBER)

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5440

Legal Deadline: None

Abstract: This rule would amend the existing regulations to define more precisely when someone may be disbarred from participating in a timber sale and would provide notice and opportunity for a hearing to those who are subject to debarment.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28830
NPRM Comment Period End	10/05/87	52 FR 28830
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB35

1356. SALES OF FOREST PRODUCTS; CONDUCT OF SALES

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5400

Legal Deadline: None

Abstract: This rule will amend the existing regulations to specify the conditions under which the provisions of this subpart are applicable to contracts that are not completed.

Timetable:

Action	Date	FR Cite
NPRM	07/28/89	54 FR 31347
NPRM Comment Period End	08/28/89	54 FR 31347
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB39

1357. SALES OF FOREST PRODUCTS; AWARD OF CONTRACT

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5450; 43 CFR 5460

Legal Deadline: None

Abstract: This rule will amend the existing regulations as they relate to timber sale contract performance bonds to discourage bidding at such a rate that the bidder, if awarded the contract, would be unable to perform under the terms of the contract.

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Timetable:

Action	Date	FR Cite
NPRM	07/12/89	54 FR 29357
NPRM Comment Period End	09/11/89	54 FR 29357
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB40

1358. FEES, RENTS, AND ROYALTIES

Significance: Agency Priority

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3473.3-2(a)(3)

Legal Deadline: None

Abstract: This rule will revise the royalty rate for coal removed from an underground mine to be a fixed percentage in the range limited by 5 percent and 8 percent.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 28822
NPRM Comment Period End	09/28/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Politzer, Chief, Division of Solid Mineral Operations, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AB45

1359. AWARD OF CONTRACT; SALES ADMINISTRATION

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5450

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning timber sale contract performance bonds and payments to encourage responsible bidding at such a rate that the bidder, if awarded the contract, would be able to perform the obligations under the contract.

Timetable:

Action	Date	FR Cite
NPRM	06/17/88	53 FR 31055
NPRM Comment Period End	10/17/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-8864

RIN: 1004–AB49

1360. GEOTHERMAL RESOURCES LEASING

Legal Authority: 30 USC 1001 to 1027

CFR Citation: 43 CFR 3200

Legal Deadline: None

Abstract: The rule would amend the existing regulations concerning definitions of terms, excepted areas, leasing terms, diligent exploration requirements, and review of executing agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/06/89	54 FR 13884
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Douglas Koza, Chief, Branch of Compliance and Operations, Department of the Interior, Bureau of Land Management, 1725 I St. NW. (Premier Bldg.), Washington, DC 20006 202 653-2127

RIN: 1004–AB53

1361. ● SALES OF FOREST PRODUCTS

Legal Authority: 43 USC 1181a et seq; 30 USC 601 et seq

CFR Citation: 43 CFR 5400

Legal Deadline: None

Abstract: This rule will remove the requirement for semi-annual reports to Congress on negotiated timber sales of 250 M board feet or more made since the last report. The report is no longer required by law. This is an administrative final rulemaking removing this and other obsolete administrative requirements.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, Premier Bldg., Room 901, Washington, DC 20240, 202 653-8864

RIN: 1004–AB66

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1362. LAND CLASSIFICATION

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: The rulemaking will revise the existing land classification regulations, will remove obsolete provisions, remove burdensome provisions, simplify the land classification system and provide a new protest system for use in connection with land classification decisions.

DOI—BLM — **Completed Actions**

Timetable:

Action	Date	FR Cite
NPRM	10/22/87	52 FR 39542
NPRM Comment Period End	12/21/87	52 FR 39542
Withdrawn Replaced by RIN 1004-AB57	07/14/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Jim Paugh, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004–AB19

1363. OFF-ROAD VEHICLES

Legal Authority: 43 USC 1201; 43 USC 315a; 16 USC 1531 et seq; 16 USC 1261c; 16 USC 670 et seq; 16 USC 4601 to 6a; 16 USC 1241 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 8340

Legal Deadline: None

Abstract: This rule will amend the existing regulations to clarify some of the definitions to remove confusion that has arisen since the implementation of the existing regulations and to improve the public notification process provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/17/87	52 FR 27017
NPRM Comment Period End	09/15/87	52 FR 27017
Final Action	06/17/88	53 FR 31002
Final Action Effective	09/16/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Traylor, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Room 2661, Main Interior Bldg., Washington, DC 20240, 202 343-9353

RIN: 1004–AB26

1364. SALES OF FOREST PRODUCTS; GENERAL - PREPARATION FOR SALE

Legal Authority: PL 90-554

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None

Abstract: Existing regulations permit timber export and purchase volumes to "ratchet" upward at a questionable rate, leading to substitution. The existing regulations need simplification. The rule would correct both of these concerns.

Timetable:

Action	Date	FR Cite
End Review No action expected at this time.	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB34

1365. RIGHTS-OF-WAY, TRESPASS, AND LAW ENFORCEMENT - CRIMINAL

Legal Authority: 16 USC 433; 16 USC 4601-6a; 16 USC 670j; 16 USC 1246(i); 16 USC 1338; 18 USC 1851 to 1861; 43 USC 315(a); 43 USC 1061; 43 USC 1181a; 43 USC 1732; 43 USC 1733; 43 USC 1740; 43 USC 1761 to 1771; 43 USC 1063; 43 USC 1181b

CFR Citation: 43 CFR 2800; 43 CFR 2810; 43 CFR 2880; 43 CFR 9230; 43 CFR 9260

Legal Deadline: None

Abstract: This rule will amend the existing regulations to address administrative costs associated with trespass resolution and to establish penalties for willful right-of-way trespass.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37319
NPRM Comment Period End	11/25/88	
Final Action	06/20/89	54 FR 25851
Final Action Effective	07/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Oscar Anderson, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-5441

RIN: 1004–AB46

1366. ● RULES OF CONDUCT; CONTROLLED SUBSTANCES ON FEDERAL LAND

Legal Authority: 16 USC 1241 et seq; 16 USC 1281c; 16 USC 460l-6a; 18 USC 670 et seq; 43 USC 1701 et seq; 43 USC 3152

CFR Citation: 43 CFR 8365

Legal Deadline: None

Abstract: This rule makes cultivation, manufacture, delivery, distribution, trafficking, or possession of controlled substances on public lands subject to criminal penalties.

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1194
NPRM Comment Period End	02/13/89	
Final Action	05/19/89	54 FR 21623
Final Action Effective	06/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Johnson, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 653-8815

RIN: 1004–AB60

1367. ● GRAZING ADMINISTRATION EXCLUSIVE OF ALASKA

Legal Authority: 43 USC 315; 43 USC 315a to 315r; 43 USC 1701 et seq; 43 USC 1182d; 98 Stat. 1837

CFR Citation: 43 CFR 4100

Legal Deadline: None

Abstract: This rule allows the BLM to determine on a case-by-case basis whether to cancel or suspend a grazing preference in whole or in part or, where resource conditions warrant, to permit livestock grazing preferences to continue unchanged despite a reduction in the acreage available for livestock grazing.

Timetable:

Action	Date	FR Cite
NPRM	12/06/88	53 FR 49565
NPRM Comment Period End	02/06/89	

DOI—BLM — **Completed Actions**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 653-8864

RIN: 1004–AB48

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Completed Actions

Action	Date	FR Cite
Final Action	07/28/89	54 FR 31484
Final Action Effective	08/28/89	54 FR 31484

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Billy R. Templeton, Chief, Division of Rangeland Management, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 653-9199

RIN: 1004–AB61

BILLING CODE 4310-84-T

DEPARTMENT OF THE INTERIOR (DOI)

Completed Actions

Bureau of Mines (MINES)

1368. ● MINING AND MINERAL RESOURCES RESEARCH INSTITUTE PROGRAM

Legal Authority: PL 98-409; PL 100-483

CFR Citation: 30 CFR 652; 30 CFR 890

Legal Deadline: None

Abstract: This rule redesignates regulations at 30 CFR 890 as a new Part 652 and revises and updates the regulations to reflect the transfer of the Mineral Institutes Program from the Office of Surface Mining. The rule contains eligibility criteria for the Mineral Institutes Program as well as a description of participants' duties and administrative procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/21/88	53 FR 36582
NPRM Comment Period End	10/21/88	
Final Action	09/18/89	54 FR 38377
Final Action Effective	10/18/89	54 FR 38377

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald A. Munson, Chief, Office of Mineral Institutes, Department of the Interior, Bureau of Mines, 1040 Columbia Plaza, 2401 E Street, NW, Washington, DC 20241, 202 634-1328

RIN: 1032–AA00

BILLING CODE 4310-53-T

[FR Doc. 88-21723 Filed 10-27-89; 8:45 am]

federal register

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Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DOJ

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DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

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48 CFR Ch. 28

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1989 regulatory agenda pursuant to Executive Order No. 12291 "Federal Regulation," 3 CFR part 127 (1981 Compilation), the Regulatory Flexibility Act, 5 U.S.C.A. sections 601-612 (West 1984), and Office of Management and Budget Bulletin No. 89-12, July 5, 1989.

FOR FURTHER INFORMATION CONTACT: Terry Samuels, Executive Secretariat, Justice Management Division, Department of Justice, Room 1110, 10th and Constitution Avenue NW., Washington, DC 20530, (202) 633-3123.

Dated: August 30, 1989.

Kevin R. Jones,

Acting Director, Office of Policy Development.

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1369	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1190-AA03

General Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1370	Representation and Appearances	1103-AA21
1371	Expedited Deportation Proceedings for Aliens Convicted of Aggravated Felonies	1103-AA22

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1372	Determination for Access to National Security Information: Eligibility, Adjudication, and Appeal Procedures	1103-AA18

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1373	Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens and Unfair (Cont)	1103-AA14
1374	Procedures for Tax Refund Offsets for the Collection of Judgments	1103-AA16
1375	Aliens and Nationality, Asylum and Withholding of Deportation Proceedings	1103-AA19
1376	Justice Acquisition Regulations Title 48; Justice Acquisition Circular 89-1	1103-AA20

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1377	Justice Acquisition Regulations Title 48 2822 Nondiscrimination on the Basis of Handicap in DOJ Contracting Activities	1103-AA17

DOJ

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1378	Application for Verification of Information from INS Service Records; Form and Fee Cancellation	1115-AA66
1379	Nonimmigrant Classes; Special Requirements for Admission; Extension and Maintenance of Status	1115-AA68
1380	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB12
1381	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB13
1382	Prosecution for Escape From Service Custody	1115-AB15
1383	Aliens and Nationality	1115-AB19
1384	Fee Remittances, Cash and Personal Check Elimination	1115-AB24
1385	Nonimmigrant Classes	1115-AB26
1386	Nonimmigrant Classes	1115-AB31
1387	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB37
1388	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB38
1389	Documentary Requirements; Nonimmigrants; Nonresident Alien Border Crossing Card	1115-AB39
1390	Field Officers, Powers and Duties	1115-AB41
1391	Aliens in Immediate and Continuous Transit	1115-AB42
1392	Transit Without Visa	1115-AB45
1393	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal	1115-AB49
1394	Employment Authorization for the Spouse and Dependent Children of an Exchange Alien	1115-AB50
1395	Nonimmigrant Classes; Special Requirement for Admission, Extension and Maintenance of Status, Control of Employment of Alien	1115-AB52
1396	Deportation of Aliens; Aliens Convicted of Aggravated Felonies	1115-AB56

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1397	Asylum Procedures	1115-AA13
1398	Powers and Duties of Service Officers; Availability of Service Records	1115-AA21
1399	Nonimmigrant Classes; Temporary Employees	1115-AA25
1400	Powers and Duties of Service Officers; Availability of Service Records; Nonimmigrant Classes	1115-AA29
1401	Immigration User Fee Review	1115-AA30
1402	Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act	1115-AA44
1403	State Employment Agencies	1115-AA50
1404	Equal Treatment of Fathers	1115-AA76
1405	Special Agricultural Workers	1115-AA83
1406	Contracts with Transportation Lines	1115-AA88
1407	Acceptance by Overseas Immigration and Naturalization Service Officers and American Consulates of Jurisdiction of Relative Petitions Based on Residence of Petitioners	1115-AB01
1408	Replenishment Agricultural Workers Regulations	1115-AB05
1409	INS/EOIR Fee Review	1115-AB11
1410	Statement of Organization; Ports of Entry for Aliens Arriving by Vessel or by Land Transportation, and by Aircraft	1115-AB14
1411	Conditions for Release From Custody and/or Bond and for Change of Venue	1115-AB16
1412	Appeals, Precedents, Certifications, and Motions	1115-AB17
1413	Aliens and Nationality	1115-AB22
1414	Aliens and Nationality	1115-AB23
1415	Applications, Petitions, and Other Documents–Evidence	1115-AB25
1416	Aliens and Nationality; Asylum and Withholding of Deportation Procedures	1115-AB27
1417	Nonimmigrant Classes Pursuant to the U.S.-Canada Free Trade Agreement	1115-AB29
1418	Nonimmigrant Classes; Special Requirements for Admission, Extension and Maintenance of Status, Control of Employment of Aliens	1115-AB30
1419	Judicial Recommendations Against Deportation; Controlled Substance Violations	1115-AB33
1420	Availability of Decisions and Interpretive Material Under the Freedom of Information Act	1115-AB36
1421	Waiver of Certain Types of Visas	1115-AB40
1422	Adjustment to Permanent Resident Status	1115-AB43
1423	Inspection of Persons Applying for Admission	1115-AB44
1424	Subpoena Issuance Authority	1115-AB46
1425	Verification of Immigration Status of Aliens Applying for Benefits Under Certain Programs	1115-AB47
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1427	Statement of Organization; Ports of Entry for Aliens Arriving by Aircraft	1115-AB51
1428	Statement of Organization; Ports of Entry for Aliens Arriving by Vessel or by Land Transportation, and by Aircraft	1115-AB53

DOJ

Immigration and Naturalization Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1429	Cooperative Agreement; Qualified Designated Entities (QDEs) in Good Standing Authorized To Conduct the Registration of Persons Abroad Seeking Replenishment Agricultural Worker (RAW) Status	1115-AB54
1430	Deportation of Aliens; Warrants of Deportation and Authentication of Foreign Records	1115-AB55
1431	Pilot Study of a Telephone Verification System for Employers to Verify the Immigration Status of Alien Employees	1115-AB57
1432	Computer-Matching Agreements between INS and State Agencies using INS's Systematic Alien Verification for Entitlements (SAVE) Program	1115-AB58

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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1434	Adjustment of Status to That of Persons Admitted for Permanent Residence; Creation of Records of Lawful Admission of Permanent Residence	1115-AA31
1435	Bonds	1115-AA41
1436	Temporary Disqualification of Certain Newly Legalized Aliens from Receiving Benefits from Federal Programs of Financial Assistance	1115-AA55
1437	Nonimmigrant Classes, Special Requirements	1115-AA65
1438	Certificate of Citizenship	1115-AA67
1439	Establishment of National Fines Office	1115-AA73
1440	Change of Nonimmigrant Classification	1115-AA87
1441	Adjustment of Status for Certain Aliens	1115-AA97
1442	Alien Commuters	1115-AB08
1443	Documentary Requirements: Immigrants; Waivers; Conditional Basis of Lawful Permanent Resident Status for Certain Alien Spouses and Sons and Daughters	1115-AB18
1444	Nonimmigrant Classes	1115-AB28
1445	School Approval and Withdrawal Regulations	1115-AB32
1446	Public Notice Legalization: English Language/Citizenship Standard Test	1115-AB34

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1447	Implementation of the Equal Access to Justice Act in Department of Justice Administrative Proceedings	1105-AA05

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1448	Notification of Obligations of Agents of Foreign Governments Under 18 USC 951	1105-AA06

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1449	Criminal Intelligence Systems Operating Policies	1121-AA12
1450	Criminal Justice Information Systems	1121-AA13

DOJ

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1451	Equal Employment Opportunity Program Guidelines	1121-AA10
1452	Nondiscrimination in OJP Federally Assisted Programs	1121-AA11

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)
Final Rule Stage

1369. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6103

CFR Citation: 28 CFR 42, Subpart I (New)

Legal Deadline: None

Abstract: This regulation will implement the Age Discrimination Act of 1975, as amended, in programs or activities assisted by the Department of Justice (DOJ). The statute, 42 USC 6103(a)(4), requires that Federal agencies providing Federal financial assistance promulgate implementing regulations consistent with the general regulations issued by the Secretary of Health and Human Services (HHS), and the statute provides that such agency regulations shall not be effective until approved by HHS. In 1980 the proposed rule was published for comment, modified, approved by the DOJ Office of Legal Counsel, and on November 10, 1980 a draft final rule was forwarded to HHS for approval. On July 13, 1984 HHS conditionally approved the draft regulation. On August 12, 1987 DOJ submitted to HHS a draft final regulation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/18/80	45 FR 32710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William R. Worthen, Attorney, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118, 202 724-2217

RIN: 1190–AA03

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)
Prerule Stage

1370. ● REPRESENTATION AND APPEARANCES

Significance: Agency Priority

Legal Authority: 8 USC 1103; 8 USC 1362

CFR Citation: 8 CFR 292.1

Legal Deadline: None

Abstract: The proposed regulation would amend 8 CFR 292.1 and enable first and second year law students taking part in a clinical program at an accredited law school to represent individuals before the Immigration and Naturalization Service, Board of Immigration Appeals, and Immigration Judges under certain specified circumstances. It will also eliminate the provision allowing law school graduates without bar admission to practice under certain limited circumstances before the Service, Board, and Immigration Judges.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA21

1371. ● EXPEDITED DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES

Significance: Agency Priority

Legal Authority: 8 USC 1101(a)(43); 8 USC 1252(a)(1) to (2); 8 USC 1252a; 8 USC 1254(e)(1)(2); 8 USC 1251(a)(4)(B)

CFR Citation: 8 CFR 3.39; 8 CFR 3.40; 8 CFR 3.41; 8 CFR 3.42; 8 CFR 3.43; 8 CFR 3.44; 8 CFR 3.45; 8 CFR 3.46; 8 CFR 3.47

Legal Deadline: None

Abstract: The proposed regulation will establish procedures for implementing sections 101(a)(43); 242(a)(1) and (2); 242(k); 244(e)(1) and (2); and 241(a)(4)(B) of the Immigration and Nationality Act as amended by the Anti-Drug Abuse Act of 1988. Specifically, these regulations will add a new Subpart D to 8 CFR Part 3 which will provide expedited deportation proceedings for aliens convicted of crimes defined as aggravated felonies in section 101(a)(43) of the Act.

DOJ—DOJADM
Prerule Stage

DOJ—DOJADM
Final Rule Stage

such as certain serious criminal

1376. ● JUSTICE ACQUISITION

8 CFR 2819.5. These rules will

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DOJ—DOJADM — **Prerule Stage**

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA22

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Proposed Rule Stage**

1372. DETERMINATION FOR ACCESS TO NATIONAL SECURITY INFORMATION: ELIGIBILITY, ADJUDICATION, AND APPEAL PROCEDURES

Legal Authority: EO 12356

CFR Citation: 28 CFR 17

Legal Deadline: None

Abstract: To establish procedures for granting, denying, suspending, and revoking access to national security information originated by, or in the control of, the Department of Justice.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: D. Jerry Rubino, Director, Security and Emergency Planning Staff, Department of Justice, General Administration, 10th & Constitution Avenue, NW, Washington, DC 20530, 202 633-2094

RIN: 1103–AA18

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Final Rule Stage**

1373. RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES IN CASES INVOLVING ALLEGATIONS OF UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR (CONT)

Significance: Agency Priority

Legal Authority: 5 USC 301; 5 USC 554; 8 USC 1103; 8 USC 1324a; 8 USC 1324b

CFR Citation: 28 CFR 68

Legal Deadline: None

Abstract: These regulations will provide the rules of practice and procedure in administrative hearings regarding allegations of unlawful hiring, recruiting or referring for a fee, for employment in the United States of aliens, knowing that the aliens are not authorized to work in the United States, or the continued employment of aliens in the United States knowing the aliens are (or have become) unauthorized to work in the United States, failure to comply with the employment verification requirements and unfair immigration-related employment practices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/24/87	52 FR 44972

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TITLE CONT: Immigration-Related Employment Practices

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA14

1374. PROCEDURES FOR TAX REFUND OFFSETS FOR THE COLLECTION OF JUDGMENTS

Legal Authority: 31 USC 3720A; 31 USC 3718; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 11

Legal Deadline: None

Abstract: The proposed regulation will establish procedures for referring to the Department of the Treasury debts for collection by offset against Federal income tax refunds. Authority to do this program expired on June 30, 1988. In limbo at present time pending Congress' action on authorization to extend offset authority. If Congress approves authorization to extend offset authority, we will follow up with necessary action.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22026
Interim Final Rule	03/09/89	54 FR 9979
Interim Final Rule Effective	03/09/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert C. Niffenegger, Department of Justice, General Administration, 10th Street and Constitution Avenue, NW, Washington, DC 20530, 202 633-5345

RIN: 1103–AA16

1375. ALIENS AND NATIONALITY, ASYLUM AND WITHHOLDING OF DEPORTATION PROCEEDINGS

Significance: Agency Priority

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1253

CFR Citation: 8 CFR 208.10

Legal Deadline: None

Abstract: The proposed regulation change would make certain grounds for the mandatory denial of asylum claims, such as certain serious criminal convictions, applicable in deportation and exclusion proceedings. It would clarify the authority of immigration judges to deny an application for asylum or withholding of deportation for mandatory reasons without an unnecessary evidentiary hearing into other aspects of the alien's case.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 28231
NPRM Comment Period End	08/26/88	53 FR 28231

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA19

DOJ—DOJADM — **Final Rule Stage**

1376. ● JUSTICE ACQUISITION REGULATIONS TITLE 48; JUSTICE ACQUISITION CIRCULAR 89-1

Legal Authority: 28 USC 510; 40 USC 486(c)

CFR Citation: 48 CFR 2801.404, (Revision); 48 CFR 2801.470, (New); 48 CFR 2803.104, (New); 48 CFR 2813.570, (New); 48 CFR 2819.5, (New)

Legal Deadline: None

Abstract: 48 CFR 2801.404 and 48 CFR 2801.470. These rules will revise the procedures for obtaining class deviations from the Federal Acquisition Regulations and Justice Acquisition Regulations and add procedures and requirements for requesting deviations.

48 CFR 2803.104. These rules are necessary to implement section 27, Procurement Integrity, of the Office of Federal Procurement Policy Act Amendments of 1988.

48 CFR 2813.570. These rules will standardize documentation required for purchase orders.

48 CFR 2819.5. These rules will establish procedures for the modification or withdrawal of small business set-asides.

The requirement to implement 41 USC 423 arose between agendas.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. L. Vann, Procurement Executive, Department of Justice, General Administration, 633 Indiana Ave., NW., Room 542, Washington, DC 20530, 202 272-8354

RIN: 1103–AA20

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Completed Actions**

1377. JUSTICE ACQUISITION REGULATIONS TITLE 48 2822 NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DOJ CONTRACTING ACTIVITIES

CFR Citation: 48 CFR 2822 (New); 48 CFR 2852, 270-1

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. L. Vann 202 272-8354

RIN: 1103–AA17

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS) — **Proposed Rule Stage**

1378. APPLICATION FOR VERIFICATION OF INFORMATION FROM INS SERVICE RECORDS; FORM AND FEE CANCELLATION

Legal Authority: 8 USC 1103; 31 USC 9701; 5 USC 553(d); 5 USC 553(b); 5 USC 605(b)

CFR Citation: 8 CFR 103.7; 8 CFR 103.21; 8 CFR 299.1; 8 CFR 343c.1; 8 CFR 499.1; 28 CFR 16.46

Legal Deadline: None

Abstract: The Immigration and Naturalization Service ("the Service") entertains numerous requests for verification of information from INS Service Records, via Form G-641. This form has been misused as a substitute document, while other INS documents are being prepared (i.e., I-94, I-551 or Certificate of Naturalization or Citizenship). Should an applicant need to have his or her status verified while waiting for one of these documents to be processed, and such verification can be satisfied by obtaining a copy of a document (certified if necessary), an FOIA/PA request can be made. If verification is needed to obtain a benefit and a copy will not suffice, the agency needing verification can make a direct request to the INS and it will be handled as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1044-88

Agency Contact: Nina Conner, Information Management Specialist, Department of Justice, Immigration and Naturalization Service, Room 5060, 425 I

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Street, NW, Washington, DC 20536, 202 633-5365

RIN: 1115–AA66

1379. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION; EXTENSION AND MAINTENANCE OF STATUS

Legal Authority: 8 USC 1101(a)(15)(B); 8 USC 1184

CFR Citation: 8 CFR 214.2(b)

Legal Deadline: None

Abstract: This notice announces the intent of the Immigration and Naturalization Service ("the Service") to set forth, in regulatory form, the special requirements for admission, extension and maintenance of status of nonimmigrant alien visitors for business and visitors for pleasure. Much of the Service's written policy relating to this subject is now contained in the Service's Operations Instructions at O.I. 214.2(b). Because it is more appropriate for interpretations and rules to be set forth in regulatory form, this information will become part of 8 CFR 214. In addition, the proposed rulemaking will clarify the criteria for according B-1 classification to members of certain occupations (such as participants in religious programs and members of foreign film crews). By issuing this advance notice, the Service is providing an opportunity to the public to submit comments and make suggestions at an earlier stage of the process. This will result in a proposed rule which is more comprehensive in its scope and more understandable to the public.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/87	52 FR 36783
ANPRM Comment Period End	11/16/87	52 FR 36783
NPRM Comment Period End	02/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1025-89

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3946

RIN: 1115–AA68

1380. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.4(c)

Legal Deadline: None

Abstract: This regulation will impact Service administration and public awareness on issues concerning "Subsequent Petition by Same Petitioner for Same Beneficiary."

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number: 1208-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB12

1381. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(8)

Legal Deadline: None

Abstract: This regulation will impact Service administration and public awareness on issues concerning blood testing.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number: 1207-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB13

1382. PROSECUTION FOR ESCAPE FROM SERVICE CUSTODY

Legal Authority: PL 100-690

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: The regulation will create implementing language for that section of the Anti-Drug Abuse Act of 1988 that makes escape, attempted escape, or assisting in an escape from Service custody a misdemeanor offense.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number: 1213-89

Agency Contact: Carol Jenifer, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2276

RIN: 1115–AB15

1383. ALIENS AND NATIONALITY

Legal Authority: 8 USC 1101 et seq

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 241; 8 CFR 242; 8 CFR 243; 8 CFR 244; 8 CFR 274a; 8 CFR 287

Legal Deadline: None

Abstract: Amendments to procedural language describing the administrative procedures used by the Immigration and Naturalization Service in apprehension, custody, hearing, and appeal processes for aliens convicted of aggravated felonies. These changes are predicated upon the amendments to the Immigration and Nationality Act contained in the Anti-Drug Abuse Act of 1988 (Subtitle J-Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number: 1209-89

Agency Contact: Robert A. McGraw, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2997

RIN: 1115–AB19

1384. FEE REMITTANCES, CASH AND PERSONAL CHECK ELIMINATION

Legal Authority: 5 USC 522(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; 7 USC 2243

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to modify our fee remittance policy to the acceptance of certified/cashiers checks and money orders only. This change is necessary to reduce misappropriation of funds, eliminate manpower and administrative costs, and to provide improved services to fee remitters.

Timetable:

Action	Date	FR Cite
NPRM	05/09/89	54 FR 19905
NPRM Comment Period End	06/08/89	54 FR 19905
Proposed Rule to be Withdrawn by Agency	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number: 1127-89

Agency Contact: Charles Thomason, Systems Accountant, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-4705

RIN: 1115–AB24

1385. NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This regulation amends regulations relating to temporary treaty traders and investors under 101 (a)(15)(E) of the INA. It further expands and clarifies current regulations for greater public understanding.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number: 1203-89

Agency Contact: Pearl Chang, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AB26

1386. NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 CFR 2

CFR Citation: 8 CFR 214.2(k)

Legal Deadline: None

Abstract: This rule will impact Service Administration and public awareness concerning issues related to "Fiancees and fiances of United States Citizens."

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number: 1204-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB31

1387. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(8); 8 CFR 204.1(a)(2)(iii)

Legal Deadline: None

Abstract: This regulation will impact Service Administration and public awareness concerning issues related to "Relationship by Adoption."

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1206-89

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-5014

RIN: 1115–AB37

1388. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(3); 8 CFR 204.2(c)(4); 8 CFR 204.2(c)(5); 8 CFR 204.1(a)(1)

Legal Deadline: None

Abstract: This rule will impact Service administration and public awareness.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1205-89

Agency Contact: Yolonda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-5014

RIN: 1115–AB38

1389. ● DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; NONRESIDENT ALIEN BORDER CROSSING CARD

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212; 8 CFR 235; 8 CFR 245; 8 CFR 284; 8 CFR 299

Legal Deadline: None

Abstract: Standardize procedures governing issuance of border crossing cards to aliens who are citizens and residents of Mexico. The rule also relates to issues and procedures for inspecting an alien who presents a border crossing card and the eligibility of an alien who entered the United States with a border crossing card to adjust status in the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1235-89

Agency Contact: Gene Paz, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Room 7123, Washington, DC 20536, 202 633-4033

RIN: 1115–AB39

1390. ● FIELD OFFICERS, POWERS AND DUTIES

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule would permit proof of official records of Canada to be treated in an identical manner as domestic records. This would help expedite the obtaining of records for use in a variety of Service proceedings such as deportations, exclusion and rescission. The Service is attempting to accelerate the obtaining of records to quicken the removal of criminal aliens who are citizens or nationals of Canada. This in many instances will save the Service detention costs while awaiting the receipt of documents authenticated in accordance with 8 CFR 287.6(b).

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INS Number 1224-89

Agency Contact: Ira Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7240, Washington, DC 20536, 202 633-3098

RIN: 1115–AB41

1391. ● ALIENS IN IMMEDIATE AND CONTINUOUS TRANSIT

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 238.3; 8 CFR 212.1(f)

Legal Deadline: None

Abstract: Amendments to section 212.1(f) as well as to section 238(d) eliminating the 8-hour transit time period replacing it with 48-hour and eliminating approved itinerary from the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: INS Number 1236-89

Agency Contact: Susan Curda, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7123, Washington, DC 20536, 202 633-2725

RIN: 1115–AB42

1392. ● TRANSIT WITHOUT VISA

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238

Legal Deadline: None

Abstract: This rule will require that aliens being transported in immediate and continuous transit through the United States be in possession of the appropriate visa prior to application for admission and removes 8 CFR 212.1(f) by eliminating direct transit without visas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1232-89

Agency Contact: Gene Paz, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 633-4033

RIN: 1115–AB45

1393. ● PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242.2(c)

Legal Deadline: None

Abstract: This regulation will amend the rules regarding warrants of arrest to delineate when a warrant of deportation may be used in lieu of a warrant of arrest to take an alien into custody.

Timetable:

Action	Date	FR Cite
NPRM	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1227-89

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7240, Washington, DC 20536, 202 633-3098

RIN: 1115–AB49

1394. ● EMPLOYMENT AUTHORIZATION FOR THE SPOUSE AND DEPENDENT CHILDREN OF AN EXCHANGE ALIEN

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184

CFR Citation: 8 CFR 214.2(e)

Legal Deadline: None

Abstract: The rule will amend INS regulations relating to employment authorization for dependents of an exchange alien in J-1 visa classification.

Timetable:

Action	Date	FR Cite
NPRM	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1233-89

Agency Contact: Pearl B. Chang, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Room 7122, Washington, DC 20536, 202 633-3240

RIN: 1115–AB50

1395. ● NONIMMIGRANT CLASSES; SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS, CONTROL OF EMPLOYMENT OF ALIEN

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214.2; 8 CFR 274a.12

Legal Deadline: None

Abstract: Collaborative effort with INS, Department of State and Department of Defense on revising Service regulations relating to employment authorization for dependents of certain principal aliens in NATO status. The revision is to clarify the current regulations and bring them more into alignment with the A and G regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1234-89

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7122, Washington, DC 20536, 202 633-3240

RIN: 1115–AB52

1396. ● DEPORTATION OF ALIENS; ALIENS CONVICTED OF AGGRAVATED FELONIES

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 242; 8 CFR 244

Legal Deadline: None

Abstract: Changes necessitated by the Anti-Drug Abuse Act of 1988 provisions relating to aliens convicted of aggravated felonies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1226-89

Agency Contact: Roberta L. Inamorato, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7240, Washington, DC 20536, 202 633-3093

RIN: 1115–AB56

DEPARTMENT OF JUSTICE (DOJ)

Final Rule Stage

Immigration and Naturalization Service (INS)

1397. ASYLUM PROCEDURES

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1253; 8 USC 1283

CFR Citation: 8 CFR 208; 8 CFR 236.3; 8 CFR 242.17(c); 8 CFR 243.9; 8 CFR 253.1(f); 8 CFR 3

Legal Deadline: None

Abstract: The proposed rule would set forth procedures to be used in adjudicating asylum and withholding of deportation applications under sections 208 and 243(h) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32552
NPRM Comment Period End	10/27/87	52 FR 32552
Modification of Proposed Rule	04/06/88	53 FR 11300
Comment Period End	05/06/88	53 FR 11300
Final Action	01/31/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: DOJ Order Number on revised proposed rule 1267-88.

Agency Contact: Ralph B. Thomas, Immigration Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-5463

RIN: 1115–AA13

1398. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 8 USC 1103; Office of Management and Budget Circular A-25

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to amend the fee schedule of the Immigration and Naturalization Service. This change will add fees for two new forms created as a result of the Immigration Marriage

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Fraud Amendments of 1986 (IMFA). These forms are the Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status (Form I-751) and the Application for Waiver of Requirement to File Joint Petition for Removal of Conditions (Form I-752). The proposed charges reflect the estimated cost of providing the benefits and services to the public, taking into account public policy and other pertinent facts.

Timetable:

Action	Date	FR Cite
NPRM	06/22/89	54 FR 26210
NPRM Comment Period End	07/24/89	54 FR 26210
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number E-88 DOJ Order Number 1353-89

Agency Contact: Michael Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye Street, NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AA21

1399. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposes sanctions against employers who hire aliens not authorized to work. Since many of the Nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to provide permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This interim rule establishes special H-2A regulatory criteria. It supplements the Department of Labor's rules covering the temporary agricultural labor certification process. This rule amends Service regulations relating therefore to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28576
NPRM Comment Period End	10/07/86	51 FR 28576
Interim Final Rule	06/01/87	52 FR 20554
Interim Rule Effective Date	06/01/87	52 FR 20554
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1008-86

Agency Contact: Michael L. Aytes, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2902

RIN: 1115–AA25

1400. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS; NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1351; 8 USC 1454; 8 USC 1455

CFR Citation: 8 CFR 103.1(f)(1); 8 CFR 214.4

Legal Deadline: None

Abstract: This proposed rule would revise the procedures and authority to withdraw approval of a school to enroll foreign students.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	51 FR 40207
NPRM Comment Period End	01/05/87	51 FR 40207
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number C-88

Agency Contact: Joanna London, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2895

RIN: 1115–AA29

1401. ● IMMIGRATION USER FEE REVIEW

Legal Authority: PL 99-591

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: Section 205 of the Department of Justice Appropriation Act of 1987 requires that at the end of each 2-year period, the Attorney General, following a public rulemaking with opportunity for notice and comment, must submit a report to the Congress concerning the status of the Immigration User Fee Account (IUFA) and recommend any adjustment in the prescribed fee. This rule accomplishes this requirement.

Timetable:

Action	Date	FR Cite
NPRM	08/09/89	54 FR 24714
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INS Number 1212-89

Agency Contact: Charles S. Thomason, Systems Accountant, Finance Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-4705

RIN: 1115–AA30

1402. TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Significance: Regulatory Program

Legal Authority: 8 USC 1101

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None

Abstract: The proposed rule amends regulations of the INS relating to Temporary Alien Workers seeking classification under section 101(a) (15) (H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	10/26/88	53 FR 43217
Another Proposed Rule Published	10/26/88	53 FR 43217
NPRM Comment Period End	11/25/88	53 FR 43217
Comment Period End	11/25/88	53 FR 43217
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1040-88

Agency Contact: Flora Richardson, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3240

RIN: 1115–AA44

1403. STATE EMPLOYMENT AGENCIES

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; PL 99-603

CFR Citation: 8 CFR 274a.6

Legal Deadline: None

Abstract: This interim rule amends the regulations at 8 CFR 274a.6, defining procedures for State employment agencies in verifying the identity and employment eligibility of individuals and certifying verifications to employers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/87	52 FR 43050
Effective date of Interim Rule	11/09/87	52 FR 43050
Comment period closes on Interim Rule	01/08/88	52 FR 43050
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS Number 1046-87

Agency Contact: Michael J. Creppy, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Room 7048, Washington, DC 20536, 202 633-2895

RIN: 1115–AA50

1404. EQUAL TREATMENT OF FATHERS

Legal Authority: PL 99-603; 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This revision is to assist in the implementation of PL 99-603, the Immigration Reform and Control Act of 1986, which recognizes, for preference petition purposes, the relationship between a biological father and his illegitimate child.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/89	54 FR 11160
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1049-87

Agency Contact: Yolanda Sanchez-K, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-5014

RIN: 1115–AA76

1405. SPECIAL AGRICULTURAL WORKERS

Significance: Agency Priority

Legal Authority: PL 99-603; 100 Stat. 3359; 8 USC 1101 note; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 8 USC 1182; 8 USC 1252; 8 USC 1362; ...

CFR Citation: 8 CFR 103; 8 CFR 210; 8 CFR 242

Legal Deadline: None

Abstract: This rule implements a new amendment to section 210 of the INA by deleting the entry cut-off date for eligibility to file applications under section 210 in the United States; and establishing standards and procedures for processing "preliminary applications" at designated ports of entry on the southern land border. This rule clarifies and makes various grammatical and technical amendments to the regulations governing the Special Agricultural Worker Program including changes necessitated by the new amendments to section 210. The rule defines the term "preliminary application"; deletes the limitation on the authority of District Directors to deny applications at legalization offices; deletes the filing date requirement for eligible aliens apprehended prior to the application period; clarifies the provision concerning where appeals under Part 210 are to be filed; deletes the references to issuance of an Order to Show Cause and Warrant of Arrest in cases where the United States Attorney declines prosecution; clarifies the provision requiring notification of decisions to the applicant's representative; confirms that Special Agricultural Worker (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/88	53 FR 10062
Comment period closes	04/28/88	53 FR 10062
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1101-88

ABSTRACT CONT: applicants are permitted to travel outside the United States and reenter upon the presentation of a valid unexpired Form I-688A; provides for eligible applicants to be issued the Temporary Resident Card at any Legalization Office; and, deletes the transitional admission.

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers (SAW), Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 786-3658

RIN: 1115–AA83

1406. ● CONTRACTS WITH TRANSPORTATION LINES

Legal Authority: 8 USC 1356

CFR Citation: 8 CFR 238.2(b); 8 CFR 238.3(b)

Legal Deadline: None

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Abstract: This action would add or delete the names of airlines under those signatory to an agreement with the US Government for the pre-flight inspection of passengers destined for the United States embarking from various designated foreign locations. In addition it would add or delete the names of transportation companies under those signatory to an agreement with the US Government for the transporting of passengers in direct and continuous transit through the United States destined for a third country.

Timetable:

Action	Date	FR Cite
Final Action	10/31/89	
At regular intervals updates to this listing will be made by the Immigration Service	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1041-87

Agency Contact: Donna Kay Barnes, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 633-3269

RIN: 1115–AA88

1407. ACCEPTANCE BY OVERSEAS IMMIGRATION AND NATURALIZATION SERVICE OFFICERS AND AMERICAN CONSULATES OF JURISDICTION OF RELATIVE PETITIONS BASED ON RESIDENCE OF PETITIONERS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This amendment revises and clarifies the process used by overseas INS offices and American consulates in accepting jurisdiction of Forms I-130, petitions for alien relatives.

Timetable:

Action	Date	FR Cite
NPRM	02/21/89	54 FR 7433
NPRM Comment Period End	03/23/89	54 FR 7433
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS Number 1055-88

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-5014

RIN: 1115–AB01

1406. REPLENISHMENT AGRICULTURAL WORKERS REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 99-603

CFR Citation: 8 CFR 210a

Legal Deadline: None

Abstract: This rule adds a new Part 210a of 8 CFR, to conform with the new section 210A of the Immigration and Nationality Act, established by the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603. The purpose of this proposed rule is to set forth the criteria and procedures to be used to admit or adjust the status of replenishment agricultural workers for temporary residence, and to address the rights and obligations of aliens admitted or adjusted under this section.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9054
NPRM Comment Period End	04/03/89	
Interim Final Rule	07/17/89	54 FR 29875
Interim Final Rule Effective	07/17/89	54 FR 29875
Interim Final Rule Comment Period End	08/16/89	54 FR 29875
Final Action	11/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1201-89

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers, Department of Justice, Immigration and Naturalization Service, 425 Eye Street NW, Washington, DC 20536, 202 786-5723

RIN: 1115–AB05

1409. INS/EOIR FEE REVIEW

Significance: Agency Priority

Legal Authority: 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule proposes to amend the existing fee schedule of the Immigration and Naturalization Service and the Executive Office for Immigration Review (EOIR). These changes are necessary to place the financial burden of providing special services and benefits which do not accrue to the public at large on the recipients of these special services and benefits. Charges have been adjusted to more nearly reflect the current recovery cost of providing these special services and benefits, taking into account public policy and other pertinent facts.

Timetable:

Action	Date	FR Cite
NPRM	12/14/88	53 FR 5030
NPRM Comment Period End	01/13/89	
Final Action	04/04/89	54 FR 13513
Final Action Effective	05/04/89	54 FR 13513
Proposed Change-Comments Due by 07/13/89	06/13/89	54 FR 25125

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number F-68

DOJ Order Numbers 1350-89, 1332-89

Agency Contact: Charles S. Thomason, Jr., Systems Accountant, Finance Branch, Department of Justice, Immigration and Naturalization Service, 425 Eye Street, NW, Washington, DC 20536, 202 633-4705

RIN: 1115–AB11

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1410. ● STATEMENT OF ORGANIZATION; PORTS OF ENTRY FOR ALIENS ARRIVING BY VESSEL OR BY LAND TRANSPORTATION, AND BY AIRCRAFT

Legal Authority: 8 USC 1103; Section 103 of the Immigration and Nationality Act

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule designates specific airports as ports of entry for aliens arriving by aircraft and redesignates other locations as "Class B" ports of entry for aliens who at the time of applying for admission are lawfully in possession of valid alien registration receipt cards or valid nonresident aliens' border-crossing identification cards or are admissible without documents under the documentary waivers contained in 8 CFR Part 212. Updates to this section and the designated ports of entry are made periodically and published in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1217-89

Agency Contact: Gregory Burcham, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 633-4033

RIN: 1115–AB14

1411. CONDITIONS FOR RELEASE FROM CUSTODY AND/OR BOND AND FOR CHANGE OF VENUE

Legal Authority: 8 USC 1103; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; 5 USC 301; 8 USC 1182; 8 USC 1252; 8 USC 1254; 8 USC 1362; EO 12356; 100 Stat 3359; PL 95-145, Title I

CFR Citation: 8 CFR 3; 8 CFR 242

Legal Deadline: None

Abstract: This rule sets forth minimum conditions which an alien who has been placed in custody following the issuance of an order to show cause and a warrant of arrest must meet in order to be considered for release from custody and/or bond. It sets similar conditions which an alien in deportation proceedings must meet in order to obtain a change of venue.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1214-89

Agency Contact: Lolita Semidey, Attorney, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-2895

RIN: 1115–AB16

1412. APPEALS, PRECEDENTS, CERTIFICATIONS, AND MOTIONS

Legal Authority: 5 USC 522(a); 8 USC 1101; 8 USC 1103; 8 USC 1160; 8 USC 1201; 8 USC 1255a; 8 USC 1303; 8 USC 1304; 8 USC 1455; 31 USC 9701; EO 12356; 3 CFR 1982 Comp., p. 166

CFR Citation: 8 CFR 103.1; 8 CFR 103.3; 8 CFR 103.4; 8 CFR 103.5

Legal Deadline: None

Abstract: The regulatory action deals with appeals, precedent decisions, certifications, and motions. It would have a beneficial impact on the public by increasing the time periods for submission of certain appeals and briefs and making requirements easier to understand. It would have a beneficial impact on the Service by increasing the number of complete appeals filed with any supporting briefs and streamlining the Service's review of certain decisions. It would also change the title of the Chief, Administrative Appeals Unit to Director, which would have a negligible impact.

Timetable:

Action	Date	FR Cite
NPRM	07/12/89	54 FR 29344
NPRM Comment Period End	08/11/89	54 FR 29344
Final Action	05/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1136-89

Agency Contact: Thomas Simmons, Chief, Administrative Appeals Unit, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 376-2064

RIN: 1115–AB17

1413. ALIENS AND NATIONALITY

Legal Authority: 8 USC 1101 et seq

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: Amendments to 8 CFR 242 to add the Deputy Assistant District Director for Investigations to the list of officials authorized to issue orders to show cause and notice of hearing and warrants of arrest in deportation proceedings.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1210-89

Agency Contact: Richard R. Kellner, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3098

RIN: 1115–AB22

1414. ALIENS AND NATIONALITY

Legal Authority: 8 USC 1101 et seq; 8 USC 1103; 8 USC 1324A

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: This action will revise several sections of 8 CFR 274a to incorporate minor technical and editorial changes on the basis of procedural problems identified during the past two years of experience with these new provisions. The provisions deal with employment authorizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/31/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: INS Number 1211-89

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Additional INS contact person: Jackie Depew, 633-3946

Agency Contact: Michael J. Creppy, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Room 7048, Washington, DC 20536, 202 633-2895

RIN: 1115–AB23

1415. APPLICATIONS, PETITIONS, AND OTHER DOCUMENTS–EVIDENCE

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 103.2(b)(1)

Legal Deadline: None

Abstract: This rule should resolve the issue of who certifies a copy of an original document.

Timetable:

Action	Date	FR Cite
Final Action	02/28/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1202-89

Agency Contact: Raymond Jaroneski, Jr., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3048

RIN: 1115–AB25

1416. ALIENS AND NATIONALITY; ASYLUM AND WITHHOLDING OF DEPORTATION PROCEDURES

Legal Authority: 8 USC 1101; 8 USC 1158; 8 USC 1253

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: The provisions of 8 CFR 208.10 are amended to make certain grounds for the mandatory denial of asylum claims, such as an alien's conviction of a particularly serious crime in the United States, directly applicable and binding on applications for asylum that are filed during deportation or exclusion proceedings. The rule also clarifies the authority of immigration judges to deny an application for asylum or withholding of deportation for mandatory reasons without an unnecessary evidentiary hearing into other aspects of an alien's case.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 28231
NPRM Comment Period End	08/26/88	
Final Action	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number G-89

INS Contact Person: Ralph Thomas, Deputy Assistant Commissioner, Refugee, Asylum and Parole, 633-5463.

Agency Contact: Gerald Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Department of Justice, Immigration and Naturalization Service, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1115–AB27

1417. NONIMMIGRANT CLASSES PURSUANT TO THE U.S.-CANADA FREE TRADE AGREEMENT

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1301; 8 USC 1302; 8 USC 1303; ...

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule implements provisions of the United States-Canada Free Trade Agreement (FTA) by establishing procedures for temporary entry of Canadian citizen business persons into the United States. This rule will facilitate temporary entry on a reciprocal basis between the United States and Canada, while recognizing the continued need to ensure border security and to protect indigenous labor and permanent employment in both countries.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	01/01/89	54 FR 12
Interim Final Rule	01/03/89	54 FR 12
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS Number 1135-89

Agency Contact: Edward Skerrett, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AB29

1418. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS, CONTROL OF EMPLOYMENT OF ALIENS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule revises the regulations of the INS relating to employment authorization for dependents of certain foreign government and international organization officials classified as A-1, A-2, and G-4 nonimmigrants. It also allows employment authorization for dependents of certain foreign officials classified as G-1 Nonimmigrants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/21/88	53 FR 46850
Interim Final Rule Effective Date	11/21/88	53 FR 46851
Interim Final Rule Comment Period End	12/21/88	53 FR 46851
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1125-89

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3946

RIN: 1115–AB30

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1419. JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; CONTROLLED SUBSTANCE VIOLATIONS

Legal Authority: 8 USC 1103; 8 USC 1251; 8 USC 1252; 8 USC 1357

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This rule will require additional data to be provided by an alien seeking a judicial recommendation against deportation in order to help identify him/her to the Immigration and Naturalization Service. This change is necessary to ensure that the Service will be given sufficient information necessary to identify the alien who is the subject of a motion for a judicial recommendation against deportation. This change will permit the Service sufficient time to obtain any file relating to the alien and to prepare a response, if desired, to the alien's motion for a judicial recommendation against deportation.

Timetable:

Action	Date	FR Cite
NPRM	01/04/89	54 FR 154
NPRM Comment Period End	02/03/89	54 FR 154
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1124-89

Agency Contact: Ira Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 633-3098

RIN: 1115–AB33

1420. AVAILABILITY OF DECISIONS AND INTERPRETIVE MATERIAL UNDER THE FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; 7 USC 2243

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to eliminate the requirement to maintain a public reading room at each district office. Since public use has been minimal, INS proposes to maintain a reading room only at its Central Office in Washington, DC.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4830
NPRM Comment Period End	03/02/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: INS Number 1117-89

Agency Contact: Russell Powell, Chief, FOIA/PA Section, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, 202 633-1722

RIN: 1115–AB36

1421. ● WAIVER OF CERTAIN TYPES OF VISAS

Legal Authority: 8 USC 1182; 8 USC 1103

CFR Citation: 8 CFR 212.1

Legal Deadline: None

Abstract: The regulation would delegate the authority of the Secretary of State to the District Director and the Officer in Charge of the Immigration & Naturalization Service (INS) to enable INS to waive nonimmigrant visas at ports of entry on routine waiver cases without the concurrence of the Department of State.

Timetable:

Action	Date	FR Cite
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1225-89

Agency Contact: Y. Peggy Wong, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW, Room 7123, Washington, DC 20536, 202 633-4033

RIN: 1115–AB40

1422. ● ADJUSTMENT TO PERMANENT RESIDENT STATUS

Legal Authority: 8 USC 1103; 8 USC 1160; 8 CFR 2

CFR Citation: 8 CFR 210

Legal Deadline: None

Abstract: This rule amends procedures for the adjustment of status of applicants under section 210 of the Immigration and Nationality Act from temporary resident status to permanent resident status. This rule will remove the burden on the alien for determining whether they have maintained temporary resident status.

Timetable:

Action	Date	FR Cite
NPRM	08/03/89	54 FR 31966
NPRM Comment Period End	09/05/89	54 FR 31966
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INS Number 1221-89

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Worker Programs, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 5250, Washington, DC 20536, 202 786-3658

RIN: 1115–AB43

1423. ● INSPECTION OF PERSONS APPLYING FOR ADMISSION

Legal Authority: Section 212 of the Immigration and Nationality Act; 8 USC 1182

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This action would be subsequent to the implementation of the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics concerning mutual visits by inhabitants of the Bering Straits Region to admit Siberian Eskimos who have relatives in the United States. Only travel to the Nome and Kopuk areas of Alaska will be permitted.

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Government Levels Affected: None

Legal Deadline: None

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Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1237-89

Agency Contact: Joyce Leonard, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7123, Washington, DC 20536, 202 633-4034

RIN: 1115–AB44

1424. ● SUBPOENA ISSUANCE AUTHORITY

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule amends section 287.4(a)(1) and section 287.4(c) of Title 8 of the Code of Federal Regulations by adding the Assistance Chief Patrol Agent officer position to the lists of those Immigration officers who may issue and designate service of subpoenas under this section.

Timetable:

Action	Date	FR Cite
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1120-89

Agency Contact: Arthur A. Harkness, Deputy Chief, Border Patrol, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7232, Washington, DC 20536, 202 633-1109

RIN: 1115–AB46

1425. ● VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS

Legal Authority: PL 99-603, Sec 121

CFR Citation: None

Legal Deadline: None

Abstract: This notice will serve as an announcement to SAVE participating agencies of GSA's decision to increase their present rate of discount approximately 3.5 percent. The rate change went into effect for FY 89, but due to misinterpretation and irregularities in their notification process, INS is presently negotiating with GSA to waive FY 89 cost increase and appropriately notify SAVE program participants of the new rate. Accordingly, agency managers will have to review their purchase/delivery orders to determine if they have sufficient funds approved to cover the rate increase.

Timetable:

Action	Date	FR Cite
Notice	12/30/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: INS Number 1231-89

Agency Contact: Neville N. Cramer, Director, SAVE Program, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7025, Washington, DC 20536, 202 633-2317

RIN: 1115–AB47

1426. ● APPREHENSION, CUSTODY, AND DETENTION: CLARIFICATION OF FORCE AND EFFECT OF SERVICE DETAINERS (FORM I-247)

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242.2

Legal Deadline: None

Abstract: This rule will clarify the force and effect of Service detainers and make clear that a Service detainer has no effect upon the alien or correctional institution until the alien has been released from the custody of the correctional institution.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29050
NPRM Comment Period End	08/10/89	54 FR 29050
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1219-89

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7240, Washington, DC 20536, 202 633-3098

RIN: 1115–AB48

1427. ● STATEMENT OF ORGANIZATION; PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

Legal Authority: 8 USC 1103; Section 103 of the Immigration and Nationality Act

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This action would designate McCarren International Airport in Las Vegas, Nevada as a class "A" port of entry and would identify the facility as a port of entry for all aliens arriving in the United States by aircraft.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1220-89

Agency Contact: Aris R. Kellner, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 633-2725

RIN: 1115–AB51

1428. ● STATEMENT OF ORGANIZATION; PORTS OF ENTRY FOR ALIENS ARRIVING BY VESSEL OR BY LAND TRANSPORTATION, AND BY AIRCRAFT

Legal Authority: Section 103 of the Immigration and Nationality Act; 8 USC 1103

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: Designates/redesignates Class A and B ports of entry for inspection of arriving aliens. The rule relates to agency management.

Timetable:

Action	Date	FR Cite
Final Action	11/30/89	

Small Entities Affected: None

DOJ—INS

Final Rule Stage

Government Levels Affected: None

Additional Information: INS Number 1238-89

Agency Contact: Gene Paz, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 633-4033

RIN: 1115–AB53

1429. ● COOPERATIVE AGREEMENT; QUALIFIED DESIGNATED ENTITIES (QDES) IN GOOD STANDING AUTHORIZED TO CONDUCT THE REGISTRATION OF PERSONS ABROAD SEEKING REPLENISHMENT AGRICULTURAL WORKER (RAW) STATUS

Legal Authority: Section 210A of the Immigration and Nationality Act, as amended

CFR Citation: 8 CFR 210a

Legal Deadline: None

Abstract: This is a notice to the general public of the existence of the cooperative agreement which deals with replenishment agricultural workers (RAWs).

Timetable:

Action	Date	FR Cite
Public Notice	10/00/89	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Additional Information: INS Number 1228-89

Agency Contact: E. B. Duarte, Jr., Director, Outreach Program, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 2108, Washington, DC 20536, 202 633-4123

RIN: 1115–AB54

1430. ● DEPORTATION OF ALIENS; WARRANTS OF DEPORTATION AND AUTHENTICATION OF FOREIGN RECORDS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1253; 8 USC 1254; 8 USC 1357; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242.2; 8 CFR 243.2; 8 CFR 287.6; 8 CFR 299.1

Legal Deadline: None

Abstract: This regulation will make technical changes to the regulations dealing with warrants of deportation and with the authentication of foreign records. It will add forms to the list found in 8 CFR 299.1.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1223-89

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7240, Washington, DC 20536, 202 633-3098

RIN: 1115–AB55

1431. ● PILOT STUDY OF A TELEPHONE VERIFICATION SYSTEM FOR EMPLOYERS TO VERIFY THE IMMIGRATION STATUS OF ALIEN EMPLOYEES

Legal Authority: Section 274A(d) of the Immigration and Nationality Act

CFR Citation: None

Legal Deadline: None

Abstract: The INS presently is seeking a redelegation to the Attorney General of the President's authority under section 274A(d) of the INA so that INS can be permitted to conduct demonstration projects to evaluate the effectiveness and security of the employment verification system required by 8 CFR 274a.2 pursuant to section 274A(b) of the INA, and be able to recommend or implement such changes as are necessary to establish a more secure system.

Timetable:

Action	Date	FR Cite
Notice	11/30/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INS Number 1230-89

Agency Contact: Neville W. Cramer, Deputy Assistant Commissioner, Employer and Labor Relations/SAVE Program, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7025, Washington, DC 20536, 202 633-2317

RIN: 1115–AB57

1432. ● COMPUTER-MATCHING AGREEMENTS BETWEEN INS AND STATE AGENCIES USING INS'S SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM

Legal Authority: PL 99-603, sec 121; PL 100-503

CFR Citation: None

Legal Deadline: Other, Statutory. Notice must be published by 12/31/89.

Abstract: Agreements between INS and State agencies using an automated "computer-matching" process to access INS's SAVE data base to verify the immigration status of alien applicants for specified entitlement benefits pursuant to Section 121 of IRCA. The Computer Matching Act applies to certain computerized comparisons of information in a Federal agency's automated system of records with the automated records of another organization, and provides procedural requirements and safeguards for any information obtained through any type of information exchange which is defined as a "computer-matching" program under that law. A "matching agreement" between the organizations is also required. Six State agencies were determined to be using as of June 1, 1989 a type of automated access method in conducting SAVE-related verifications that subjects them to the provisions of the Computer Matching Act.

Timetable:

Action	Date	FR Cite
Notice	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: INS Number 1229-89

Agency Contact: Neville W. Cramer, Deputy Assistant Commissioner, Employer and Labor Relations/SAVE Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7025, Washington, DC 20536, 202 633-2317

RIN: 1115–AB58

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DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1433. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE; DIRECT TRANSITS

CFR Citation: 8 CFR 212.7(d)

Completed:

Reason	Date	FR Cite
Withdrawn at Agency level - no rule will be forthcoming	06/25/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Harvey Adler 202 633-2725

RIN: 1115–AA19

1434. ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE; CREATION OF RECORDS OF LAWFUL ADMISSION OF PERMANENT RESIDENCE

CFR Citation: 8 CFR 245.1; 8 CFR 245.6; 8 CFR 245.7; 8 CFR 245.8; 8 CFR 245.9; 8 CFR 249.2; 8 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	07/12/89	54 FR 29440
Final Action Effective	08/11/89	54 FR 29440

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joseph D. Cuddihy 202 633-3320

RIN: 1115–AA31

1435. BONDS

CFR Citation: 8 CFR 103

Completed:

Reason	Date	FR Cite
No further action is expected	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Wanda LaBay 202 376-2854

RIN: 1115–AA41

1436. TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM RECEIVING BENEFITS FROM FEDERAL PROGRAMS OF FINANCIAL ASSISTANCE

Significance: Agency Priority

CFR Citation: 8 CFR 245a

Completed:

Reason	Date	FR Cite
Final Action	07/12/89	54 FR 29434
Final Action Effective	07/12/89	54 FR 29434

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Paul W. Virtue 202 633-2656

RIN: 1115–AA55

1437. NONIMMIGRANT CLASSES, SPECIAL REQUIREMENTS

CFR Citation: 8 CFR 214.2(b)

Completed:

Reason	Date	FR Cite
Withdrawn by Agency - no future action anticipated at this time	08/25/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul 202 633-3946

RIN: 1115–AA65

1438. CERTIFICATE OF CITIZENSHIP

CFR Citation: 8 CFR 341

Completed:

Reason	Date	FR Cite
Final Action	04/22/87	52 FR 1329
Final Action Effective	11/06/86	52 FR 1329

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook 202 633-5014

RIN: 1115–AA67

1439. ESTABLISHMENT OF NATIONAL FINES OFFICE

CFR Citation: 8 CFR 280; 8 CFR 100; 8 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	05/02/89	54 FR 18648
Final Action Effective	05/02/89	54 FR 18648

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dwight S. Faulkner 202 633-2680

RIN: 1115–AA73

1440. CHANGE OF NONIMMIGRANT CLASSIFICATION

CFR Citation: 8 CFR 248

Completed:

Reason	Date	FR Cite
Final Action	04/10/87	52 FR 11621
Final Action Effective	11/06/86	52 FR 11621

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook 202 633-5014

RIN: 1115–AA67

1441. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS

CFR Citation: 8 CFR 245a

Completed:

Reason	Date	FR Cite
Final Action	02/13/89	54 FR 6504
Final Action Effective	02/13/89	54 FR 6504

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terrance M. O'Reilly 202 786-3658

RIN: 1115–AA97

1442. ALIEN COMMUTERS

CFR Citation: 8 CFR 211

Completed:

Reason	Date	FR Cite
Final Action	02/27/89	54 FR 8184
Final Action Effective	02/27/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

DOJ—INS

Completed Actions

Agency Contact: Aaron Bodin 202 633-5309

RIN: 1115–AB08

1443. DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS; CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS

CFR Citation: 8 CFR 211; 8 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	07/20/89	54 FR 30368
Final Action Effective	07/20/89	54 FR 30368

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Shaul 202 633-3946

RIN: 1115–AB18

1444. NONIMMIGRANT CLASSES

CFR Citation: 8 CFR 214.2

Completed:

Reason	Date	FR Cite
Final Action	03/16/89	54 FR 10928
Final Action Effective	03/16/89	54 FR 10928

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Skerrett 202 633-3946

RIN: 1115–AB28

1445. SCHOOL APPROVAL AND WITHDRAWAL REGULATIONS

CFR Citation: 8 CFR 214

Completed:

Reason	Date	FR Cite
Final Action	05/08/89	54 FR 19543
Final Action Effective	06/07/89	54 FR 19543

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Pearl Chang 202 633-3946

RIN: 1115–AB32

1446. PUBLIC NOTICE LEGALIZATION: ENGLISH LANGUAGE/CITIZENSHIP STANDARD TEST

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action Notice of Program	01/31/89	54 FR 4920

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Terrance O'Reilly 202 786-3658

RIN: 1115–AB34

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

1447. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504 Equal Access to Justice Act

CFR Citation: 28 CFR 24, (Revision)

Legal Deadline: None

Abstract: The Equal Access to Justice Act was reauthorized on August 5, 1985. Various new amendments have been adopted which require revision of the procedures for applications for attorneys fees, eligible parties, and proceedings covered.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
NPRM Comment Period End	12/15/89	
Final Action	03/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: Multiple

Analysis: Regulatory Impact Analysis

Agency Contact: John J. Wilson, Associate General Counsel, Department of Justice, Legal Activities, 633 Indiana Ave., NW, Room 1268, Washington, DC 20531, 202 724-7792

RIN: 1105–AA05

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

1448. NOTIFICATION OF OBLIGATIONS OF AGENTS OF FOREIGN GOVERNMENTS UNDER 18 USC 951

Legal Authority: 18 USC 951; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 73

Legal Deadline: None

Abstract: The proposed regulations will provide guidance to agents of foreign governments who must notify the Attorney General of their agency status, and of the date, place, time, manner and content of the required notification. The regulations specify the custodian of these records in a manner calculated to assure timely notice to the Departments and Agencies most concerned.

Timetable:

Action	Date	FR Cite
NPRM	07/25/89	54 FR 30910
NPRM Comment Period End	08/24/89	54 FR 30910
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

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DOJ—LA — **Final Rule Stage**

Agency Contact: Joseph E. Clarkson, Chief, Registration Unit, Internal Security Section, Department of Justice, Legal Activities, 1400 New York Avenue, NW, Room 9300, Washington, DC 20530, 202 786-4923

RIN: 1105–AA06

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP) — **Proposed Rule Stage**

1449. CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Legal Authority: 42 USC 3789(g), (c) and (d)

CFR Citation: 28 CFR 23

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Justice Assistance Act of 1984, PL 98-473, and to clarify policy issues relating to time periods for validation of intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
NPRM Comment Period End	12/15/89	
Final Action	03/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Agency Contact: John Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW, Rm. 1254-C, Washington, DC 20531, 202 724-7795

RIN: 1121–AA12

1450. CRIMINAL JUSTICE INFORMATION SYSTEMS

Legal Authority: 42 USC 3789g

CFR Citation: 28 CFR 20

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Justice Assistance Act of 1984, PL 98-473 and State and Local Law Enforcement Assistance Act of 1988, PL 99-570 Subtitle K, and to delete obsolete terminology.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/15/89	
NPRM	10/15/89	
Final Action	03/15/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: John J. Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW, Room 1254-C, Washington, DC 20531, 202 724-7795

RIN: 1121–AA13

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP) — **Final Rule Stage**

1451. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM GUIDELINES

Legal Authority: 42 USC 3789d(c); 42 USC 5674; 42 USC 10504(b); 42 USC 10604(e)

CFR Citation: 28 CFR 42.301

Legal Deadline: None

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Justice Assistance Act of 1984 and eliminate references to Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
End Review	04/15/89	
Review Completed	06/14/89	
Final Action	10/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Winifred A. Dunton, Director, Office of Civil Rights Compliance, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW, Room 1269, Washington, DC 20531, 202 724-7681

RIN: 1121–AA10

1452. NONDISCRIMINATION IN OJP FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 3789d(c); 42 USC 5674; 42 USC 10604(e); 42 USC 10504(b)

CFR Citation: 28 CFR 42.201

Legal Deadline: None

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Justice Assistance Act of 1984 and eliminate references to Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Review Completed	08/14/89	
Final Action	10/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Winifred A. Dunton, Director, Office of Civil Rights Compliance, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW, Room 1269, Washington, DC 20531, 202 724-7681

RIN: 1121–AA11

[FR Doc. 89-21724 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part XII

Department of Labor

Semiannual Regulatory Agenda

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DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, and VII

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations, which has been selected for review or development during the coming one-year period. The agenda complies with the requirements of both Executive Order 12291 and the Regulatory Flexibility Act.

DATES: The agenda includes all regulations which are expected to be under review or development between October 1989 and October 1990.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 523-9058.

Note: Information pertaining to a specific regulation can be obtained from the Agency Contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

Executive Order 12291 became effective February 17, 1981, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. It also requires the Department to conduct a Regulatory Impact Analysis for all "major" regulations being developed.

The Regulatory Flexibility Act became effective on January 1, 1981. It applies only to regulations for which a notice of proposed rulemaking was issued on or after January 1, 1981, and requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). For any regulation that will have this impact, the Department must conduct a Regulatory Flexibility Analysis to gauge the economic consequences of the rule and to analyze the availability of more flexible approaches for lightening the rule's regulatory burden on "small entities."

If a proposed regulation will not have a "significant economic impact on a substantial number of small entities," the Department of Labor must publish a certification to that effect at the time of the general notice of proposed rulemaking or at the time of the publication of the final rule. That certification must be accompanied by a succinct statement explaining the reasons for the agency's determinations.

As permitted by law, the Department of Labor is combining this publication of its agendas under the Regulatory Flexibility Act and Executive Order 12291.

The regulatory reform process, of which the Unified Agenda is a part, continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that our regulatory reform program has resulted in improved regulatory management, more clearly written regulations, and significantly less burdensome regulations.

Further improvement is certainly needed, and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let departmental officials know how our regulatory reform process can be further improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

The Department of Labor's next semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, will be published in April 1990.

Elizabeth Dole,

Secretary of Labor.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1453	Safety and Health Standards for Federal Supply Contracts (Walsh-Healey Standards)	1290-AA09

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1454	Methodology for Determining the Shortage Number Under Section 210A of the Immigration and Nationality Act, as Amended by the Immigration Reform and Control Act of 1986	1290-AA10

DOL

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1455	Production or Disclosure of Information or Materials	1290-AA08

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1456	Child Labor Regulations, Orders and Statements of Interpretation (ESA/W-H)	1215-AA09
1457	Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity. . ." (ESA/W-H)	1215-AA14

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1458	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
1459	Nondiscrimination and Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era, and Handicapped Workers (ESA/OFCCP)	1215-AA02
1460	Claims for Medical Benefits under the Federal Employees' Compensation Act, Part 10	1215-AA13
1461	Employment of Homeworkers in Certain Industries	1215-AA36

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1462	General Regulations Under the Walsh-Healey Public Contracts Act	1215-AA33
1463	Labor Standards for Foreign Agricultural Workers	1215-AA43
1464	Employee Polygraph Protection Act of 1988	1215-AA49
1465	Compensation Payable Under the Federal Employees' Compensation Act, as Amended	1215-AA50
1466	Claims Subchapter A - Longshore and Harbor Workers' Compensation Act and Related Statutes and Subchapter B - Federal Coal Mine Health and Safety Act, as Amended	1215-AA51

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1467	Wage Payments Under the Fair Labor Standards Act of 1938	1215-AA32
1468	Employment of Workers with Disabilities Under Special Certificates	1215-AA34

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1469	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring and Enforcement	1205-AA37
1470	Use of Funds Transferred to the States Under Section 903(c) of the Social Security Act (Reed Act)	1205-AA43

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Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1471	Airline Deregulation: Employee Benefit Program	1205-AA07
1472	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: The H-2A Program	1205-AA59
1473	Advances to States and Repayment of Advances; Interest on Advances	1205-AA65
1474	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
1475	State Agency Disclosure of Unemployment Insurance Wage and Claim Information as Provided by Federal Law	1205-AA74
1476	Title V of the Job Training Partnership Act Jobs for Employable Dependent Individuals Incentive (JEDI) Bonus Program	1205-AA75
1477	Labor Standards for the Registration of Apprenticeship Programs (Revision)	1205-AA77

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1478	Senior Community Service Employment Program	1205-AA29
1479	Disaster Unemployment Assistance Program (DUA)	1205-AA50
1480	Job Training Partnership Act Audits	1205-AA53
1481	Job Corps Program Under Title IV-B of the Job Training Partnership Act	1205-AA54
1482	Administrative Procedure, Federal State Unemployment Compensation Program	1205-AA69
1483	Trade Adjustment Assistance for Workers (OTCA)	1205-AA72
1484	Job Opportunities and Basic Skills Training Program (JOBS)	1205-AA76

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1485	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate Methodology	1205-AA25
1486	Economic Dislocation and Worker Adjustment Assistance Program	1205-AA67
1487	Worker Adjustment and Retraining Notification (WARN) Act	1205-AA73

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1488	Individual Benefits Reporting and Recordkeeping for Multiemployer Plans	1210-AA02
1489	Individual Benefits Reporting and Recordkeeping for Single Employer Plans	1210-AA03
1490	Qualified Domestic Relations Orders Under the Retirement Equity Act	1210-AA19
1491	"Top Hat" Plans	1210-AA21
1492	Summary Annual Report	1210-AA36

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1493	Participant Directed Individual Account Plans	1210-AA08
1494	Adequate Consideration	1210-AA15
1495	Proposed Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA25
1496	Procedures for Filing and Processing Applications for Exemption from the Prohibited Transaction Provisions of ERISA, the Internal Revenue Code, and FERSA	1210-AA26

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Pension and Welfare Benefits Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1497	Final Bonding Rules under FERSA	1210-AA31

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1498	Summary Annual Report	1210-AA00
1499	Loans to Participants	1210-AA09
1500	Civil Penalties Under FERSA	1210-AA32
1501	Civil Penalty for Failure or Refusal to File Annual Report	1210-AA34

Office of Labor Management Standards—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1502	Labor Organizations Which May File Simplified Annual Reports	1294-AA05

Office of Labor Management Standards—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1503	Labor Organization Annual Financial Reports	1294-AA04

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1504	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
1505	Noise Standard	1219-AA53
1506	Confined Spaces	1219-AA54
1507	Approval Requirements for Detonators	1219-AA64

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1508	Underground Coal Mine Electrical Standards	1219-AA10
1509	Review of Metal and Nonmetal Electrical Standards	1219-AA14
1510	Explosives and Blasting in Underground Coal Mines	1219-AA16
1511	Notification, Investigation, Reports and Records of Accidents Injuries, Illnesses, Employment, and Coal Production in Mines	1219-AA33
1512	Hazard Communication	1219-AA47
1513	Air Quality Standards	1219-AA48
1514	Refuse Pile and Impoundment Inspection Records	1219-AA49
1515	Newly Employed Experienced Miner and Supervisor Training	1219-AA55

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Mine Safety and Health Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1516	Safety Standards for Berms and Guardrails at Metal and Nonmetal Mines	1219-AA56
1517	Approval of Electric Cables and Splice Kits	1219-AA57
1518	Approval of Intrinsically Safe Battery-Powered Devices	1219-AA59
1519	Approval of Explosion-proof Enclosures	1219-AA60
1520	Approval of Electric Motor Assemblies	1219-AA61
1521	Roof Bolts and Roof Support Removal	1219-AA63
1522	Flame Test of Conveyor Belting and Hose	1219-AA65
1523	Blasting Units for Metal and Nonmetal Mines with Methane	1219-AA66
1524	Information Collection Requirements for Mine Rescue Equipment Test and Inspection; SCSR Inspection Records; Records of Fire Drills; and First Aid Training for Supervisory Employees	1219-AA67

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1525	Pattern of Violations	1219-AA04
1526	Underground Coal Mine Ventilation	1219-AA11
1527	Review of Metal and Nonmetal Explosives Standards	1219-AA17
1528	Metal and Nonmetal Radiation Standards	1219-AA28
1529	Approval Criteria for Respiratory Protective Devices	1219-AA30
1530	Multiple-Shot Blasting Units	1219-AA42
1531	Rules of Practice for Petitions for Modification of Mandatory Safety Standards	1219-AA45
1532	Safety Standards for Roof, Face and Rib Support	1219-AA58

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1533	Certification and Qualification of Persons	1219-AA36
1534	Automatic Warning Devices for Mobile Equipment	1219-AA38
1535	Electric Mine Lamps Other Than Standard Cap Lamps	1219-AA40
1536	Mine Rescue Equipment Test and Inspection Records	1219-AA50
1537	SCSR Inspection Records	1219-AA51
1538	Safety Standards for Methane in Metal and Nonmetal Mines; Conforming Amendments	1219-AA52
1539	Records of Fire Drills and Programs to Instruct and Train Miners in the Locations and Use of Firefighting Equipment (Underground Coal Mines)	1219-AA62

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1540	Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor	1291-AA02

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Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1541	Administrative Grants and Cooperative Agreements to Government and Nonprofit Institutions	1291-AA15
1542	DOL Adoption of Common Rule Implementing Drug-Free Workplace - Nonprocurement	1291-AA17

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1543	Department of Labor Acquisition Regulation (DOLAR) (Revision)	1291-AA06

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1544	Manual Lifting (Parts 1910, 1915, 1917, 1918, 1919, 1926 and 1928)	1218-AA95
1545	Medical Surveillance Programs for Employees	1218-AB00
1546	Generic Standard for Exposure Monitoring	1218-AB01

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1547	Carcinogen Policy	1218-AA01
1548	Respiratory Protection	1218-AA05
1549	Asbestos, Tremolite, Anthophyllite and Actinolite	1218-AA26
1550	Methods of Compliance	1218-AA28
1551	Oil and Gas Well Drilling and Servicing (Part 1910)	1218-AA34
1552	Benzene Exposure in Barge/Tanker Cleaning and Repair	1218-AA47
1553	Fall Protection Systems (Personal Protective Equipment) (Part 1910)	1218-AA48
1554	Confined Space (Part 1910)	1218-AA51
1555	Safety and Health Regulations for Longshoring (Part 1918)	1218-AA56
1556	Pulp, Paper and Paperboard Mills (Part 1910)	1218-AA61
1557	Steel Erection (Part 1926)	1218-AA65
1558	Face, Head, Eye and Foot Protection (Personal Protective Equipment) (Part 1910)	1218-AA71
1559	Welding, Cutting and Brazing (Part 1910)	1218-AA72
1560	Formaldehyde	1218-AA82
1561	1,3-Butadiene	1218-AA83
1562	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol and their Acetates	1218-AA84
1563	Gear Certification (Part 1919)	1218-AA97
1564	Methylene Chloride	1218-AA98
1565	Walking and Working Surfaces (Part 1910)	1218-AB04
1566	Cadmium	1218-AB16
1567	Hazardous Materials (Part 1910)	1218-AB20
1568	Shipyard Employment: Phase II (Part 1915)	1218-AB22
1569	PEL Update Proposal for Construction, Maritime and Agriculture	1218-AB26
1570	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
1571	Vehicle Safety	1218-AB28

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Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1572	Occupational Exposure to Toxic Substances in Laboratories	1218-AA00
1573	Ethylene Dibromide (EDB)	1218-AA06
1574	Concrete and Masonry Construction (Part 1926)	1218-AA20
1575	Electrical Safety-Related Work Practices (Part 1910)	1218-AA32
1576	Excavations (Part 1926)	1218-AA36
1577	Fall Protection (Part 1926)	1218-AA37
1578	Scaffolds (Part 1926)	1218-AA40
1579	Logging Operations (Part 1910)	1218-AA52
1580	Stairways and Ladders (Part 1926)	1218-AA57
1581	4,4'-Methylenedianiline	1218-AA58
1582	Electric Power Generation, Transmission and Distribution (Part 1910)	1218-AA59
1583	Fall Protection in Shipyards (Part 1915)	1218-AA66
1584	Scaffolds in Shipyards (Part 1915)	1218-AA68
1585	Access and Egress in Shipyards (Part 1915)	1218-AA70
1586	Welding, Cutting and Heating in Shipyards (Part 1915)	1218-AA73
1587	Personal Protective Equipment in Shipyards (Part 1915)	1218-AA74
1588	Explosive and Other Dangerous Atmospheres (Part 1915)	1218-AA91
1589	Hazard Communication	1218-AB02
1590	Bloodborne Pathogens	1218-AB15

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1591	Powered Platforms for Exterior Building Maintenance (Part 1910)	1218-AA33
1592	Underground Construction (Tunnels and Shafts)(Part 1926)	1218-AA38
1593	Control of Hazardous Energy Sources (Lockout/Tagout) (Part 1910)	1218-AA53
1594	Lead (Reconsideration of the Feasibility of Compliance in Nine Industry Sectors)	1218-AB18

Office of the Assistant Secretary for Veteran's Employment & Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1595	Veterans' Programs and Services Administered by the Office of the Assistant Secretary for Veterans' Employment and Training	1293-AA03

Office of the Assistant Secretary for Veteran's Employment & Training—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1596	Establishment of New Chapter	1293-AA04

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)
Prerule Stage

1453. SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS (WALSH-HEALEY STANDARDS)

Legal Authority: 41 USC 35 et seq Walsh-Healey Act; 41 USC 351 et seq Service Contract Act; 29 USC 651 et seq Occupational Safety and Health Act; 30 USC 801 et seq Mine Safety and Health Act; 5 USC 553 Administrative Procedure Act; 20 USC 951 et seq

CFR Citation: 41 CFR 50 TO 204; 29 CFR 1910 to 1919; 29 CFR 1924; 29 CFR 1925; 30 CFR 1 to 199

Legal Deadline: None

Abstract: Part 50-204 of 41 CFR contains safety and health standards for Federal supply contracts under the Walsh-Healey Act. These standards, which also apply to Federal contracts for services under the Service Contract Act, were adopted in 1969, and were last revised in 1971. Many of the standards in Part 50-204 are duplicative of standards found in other Department of Labor regulations, primarily those issued under the Occupational Safety and Health Act (OSHA) in 29 CFR Parts 1910-1919, and the Mine Safety and Health Act (MSHA) in 30 CFR. In addition, other OSHA and MSHA standards have been revised and updated considerably since 1971, and these changes are not reflected in Part 50-204. Because employers covered by the Walsh-Healey and Service Contracts Acts are also covered by OSHA and MSHA, and thus are already required to comply with the OSHA and MSHA standards, as applicable, the Department of Labor is considering whether or not the Walsh-Healey standards should be revised by deleting redundant provisions and by substituting appropriate references (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: to the corresponding OSHA and MSHA standards. This would clarify that the safety and health standards applied to employers under Federal supply and service contracts are the same standards which apply to them under OSHA and MSHA, and that revisions or updates of OSHA and MSHA standards also apply under the Walsh-Healey and Service Contract Acts.

Agency Contact: Cynthia Attwood, Associate Solicitor, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room 4004, FP Building, Washington, DC 20210, 202 523-7723

RIN: 1290-AA09

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)
Final Rule Stage

1454. ● METHODOLOGY FOR DETERMINING THE SHORTAGE NUMBER UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Significance: Agency Priority

Legal Authority: 8 USC 1161

CFR Citation: 29 CFR 503

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: Section 210A of the Immigration and Nationality Act requires that the Secretaries of Agriculture and Labor determine the number (if any) of additional aliens who should be admitted to the U.S. or who should otherwise acquire the status of aliens lawfully admitted for temporary residence, to meet a shortage of workers to perform seasonal agricultural services. The "shortage number" so determined is the basis upon which the Immigration and Naturalization Service will admit such workers during fiscal years 1990 through 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/11/89	54 FR 32985
NPRM Comment Period End	09/08/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Reed, Director, Office of Program Economics, Office of the Assistant Secretary for Policy, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room S2114, FPBldg., Washington, DC 20210, 202 523-6007

RIN: 1290-AA10

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)
Completed Actions

1455. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Significance: Agency Priority

Legal Authority: 5 USC 552, as amended; EO 12600

CFR Citation: 29 CFR 70 (Revision)

Legal Deadline: Final, Statutory, April 27, 1987.

Abstract: The document proposes regulations to implement the Freedom of Information Reform Act of 1986, which requires agencies to promulgate regulations on a schedule of fees and on fee waivers, and Executive Order 12600, which requires predisclosure notification to submitters of confidential business information. The proposal also revises the existing DOL Freedom of

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DOL—OS — **Completed Actions**

Information Act (FOIA) regulations, which currently include interpretive material on FOIA exemptions, to limit the scope principally to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	02/23/88	53 FR 5346
NPRM Comment Period End	07/18/88	53 FR 22680
Final Action	05/30/89	54 FR 23142
Final Action Effective	06/29/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room N2428, Washington, DC 20210, 202 523-6201

RIN: 1290–AA08

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**

Employment Standards Administration (ESA)

1456. CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary also is directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14 and 15 year olds may be employed. In addition, this regulation specifies the number of hours in a day and in a week, and time periods within a day that such minors may be employed. The nonagricultural hazardous occupations orders which prohibit the employment of minors in such occupations are also contained in 29 CFR 570. Changes in technology and job content over the years require a review of the regulations to ensure the safety and health of such minors and at the same time avoid unnecessary restrictions on their employment opportunities. The Department has established a Child (cont)

Timetable:

Action	Date	FR Cite
Notice published–decision to establish Child Labor Advisory Committee	07/21/87	52 FR 27476
Notice published–announcing meetings on October 19-20, 1988	09/27/88	53 FR 37660
Notice published announcing meeting on May 10-11, 1989	04/06/89	54 FR 13958
End Review	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Labor Advisory Committee to advise the Secretary on the effective administration of the child labor provisions of the FLSA. The recommendations of the committee will be given careful consideration in the review of these regulations. The committee convened on March 9-10, 1988, at which time subcommittees were established to review Hazardous Order (HO) No. 2 (Motor Vehicle Operations), HO No. 10 (Slaughtering and Meat Packing), and Child Labor Regulation No. 3. Since that time, two additional subcommittees were established to review HO No. 11 (Bakery Machines) and HO No. 12 (Paper Products Machines). The full committee last met on May 11, 1989, to receive reports and make recommendations. A complete review of the Advisory Committee recommendations on these issues will be completed by November 1989.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA09

1457. DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY. . ." (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria used in the determination of the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional" and "outside sales employees" from the minimum wage and overtime requirements of the Act. The existing regulation was targeted for review by the President's Task Force on Regulatory Relief. A final rule increasing the salary test criteria was published on 01/13/81 (46 FR 3010) and was scheduled to become effective on 02/13/81. On 02/12/81 (46 FR 11972) an indefinite stay of the final rule was published. On 03/27/81 (46 FR 18998) a proposal to suspend the final rule indefinitely was published with comments due by 04/28/81. As a result of numerous comments and petitions received from industry groups regarding the duties and responsibilities tests as set forth in the regulations, as well as recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed and decided to reopen the comment period and broaden the scope of the review to include all aspects of the regulations.

DOL—ESA — **Prerule Stage**

An ANPRM was published on 11/19/85 and its comment period was (cont)

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal to suspend rule indefinitely	03/27/81	46 FR 18998
Comments due on suspension proposal	04/28/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period from 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: subsequently extended to 03/22/85. Regulatory action will be delayed to allow the Administration sufficient time to consider these issues.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215–AA14

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Employment Standards Administration (ESA)

1458. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Significance: Regulatory Program

Legal Authority: EO 11246, as amended; 38 USC 2012; 29 USC 793; 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: NPRM, Statutory, October 1, 1983.
Rules implementing Section 481 of the 1982 JTPA (29 USC 1781). The operational aspects of such rules need to be coordinated with the pending revisions to the Executive Order 11246 program.

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012), as amended; and Section 503 of the Rehabilitation Act of 1973, as amended. An NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues, and includes consideration of proposed regulations to integrate the requirements of Section 481 of the Job Training Partnership Act of 1982 (29 U.S.C. 1781) with the Executive Order 11246 program.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
Supplement to ANPRM	08/21/81	46 FR 42490
Previous NPRM & Suspend Eff Date	08/25/81	46 FR 42966
NPRM	04/23/82	47 FR 17770
NPRM	12/00/89	
Final Action	06/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Cari M. Dominguez, Director, Office of Federal Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3325, FPBldg., Washington, DC 20210, 202 523-9475

RIN: 1215–AA01

1459. NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS FOR DISABLED VETERANS, VETERANS OF VIETNAM ERA, AND HANDICAPPED WORKERS (ESA/OFCCP)

Significance: Agency Priority

Legal Authority: 29 USC 793; 38 USC 2012

CFR Citation: 41 CFR 60-1; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None

Abstract: This proposal would, among other things, incorporate 1978 and 1980 statutory amendments to definitions applicable to Section 503 of the Rehabilitation Act and to the Veterans' programs. However, since 1981 there have been additional amendments to the Rehabilitation Act and to the Vietnam Era Veterans' Readjustment Assistance Act affecting definitions applicable under the respective programs. All such statutorily required changes to the definitions would be incorporated into the proposed regulatory action contemplated under RIN - 1215-AA01.

Timetable:

Action	Date	FR Cite
NPRM	12/30/80	45 FR 86205
NPRM Comment Period End	03/02/81	45 FR 86205
NPRM Second	12/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cari M. Dominguez, Director, Office of Federal Contract, Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3325, FPBldg., Washington, DC 20210, 202 523-9475

RIN: 1215–AA02

1460. ● CLAIMS FOR MEDICAL BENEFITS UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, PART 10

Significance: Regulatory Program

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Proposed Rule Stage

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 10.411

Legal Deadline: None

Abstract: The Office of Workers' Compensation Programs (OWCP) in 1986 implemented a fee schedule for charges made under the Federal Employees' Compensation Act (FECA) by physicians. The fee schedule specifically excluded hospitals, nursing homes and pharmacies from coverage. In the intervening years, it has been shown that some hospitals are performing many of the same services as those which, when performed by physicians are covered by the fee schedule. The result is that different amounts may be paid for exactly the same service. OWCP proposed to end this inequity by extending to hospitals the fee schedule for those services which are similar to those provided by physicians.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas M. Markey, Director, Office of Federal, Employees' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3229, FP Building, Washington, DC 20210, 202 523-7552

RIN: 1215–AA13

1461. EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Significance: Regulatory Program

Legal Authority: 29 USC 211

CFR Citation: 29 CFR 530

Legal Deadline: None

Abstract: This regulation sets forth restrictions on industrial homework and governs the issuance of certificates authorizing the employment of homeworkers in certain industries, pursuant to Section 11(d) of the Fair Labor Standards Act (FLSA). As originally issued, these regulations restricted the employment of industrial homework in seven industries: knitted outerwear; women's apparel; jewelry; buttons and buckles; gloves and mittens; handkerchiefs; and embroideries. The ban was removed on homework in the knitted outerwear industry by the Department on 11/9/81, following extensive hearings and public comment. This action was subsequently upheld by the District Court for the District of Columbia. However, on appeal the ban was reimposed 2/29/84 by the U.S. Court of Appeals for the District of Columbia Circuit. On 3/27/84 the Department published a proposed rule rescinding the ban on homework in the knitted outerwear industry only. In addition to soliciting comments on the proposed rescission, the Department sought comments on various alternatives to such action (49 FR 11786). On 11/5/84, a final rules was published lifting the ban on homework for (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/21/86	51 FR 30036
NPRM Comment Period End	12/04/86	51 FR 37298
NPRM Second	03/30/88	53 FR 10342
NPRM Second – Comment Period End	05/13/88	53 FR 15063
Final Rule	11/10/88	53 FR 45706
ANPRM	12/30/88	53 FR 53344
ANPRM Comment Period End	05/05/89	54 FR 11008
NPRM Third	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: employers in the knitted outerwear industry who obtain a certificate from the Department. Based on analysis of the results of its enforcement experience under the new certification procedure, and review of comments from a Notice of Proposed Rulemaking published on August 21, 1986 (51 FR 30036), a proposal was published on March 30, 1988 (53 FR 10342) which included enforcement mechanisms to enhance compliance among employers of homeworkers. The comment period was later extended to May 13, 1988 (53 FR 15063). The proposal also excluded the women's apparel industry and stated that this industry would be the subject of separate rulemaking. A final rule was published November 10, 1988 (53 FR 45706). An ANPRM concerning women's apparel homework was published December 30, 1988 (53 FR 53344). A notice of public hearings on this issue held in five cities during March 1989 was published on February 3, 1989. Notice of two additional hearings held in April 1989 was published on March 6, 1989. (54 FR 11008)

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA36

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1462. GENERAL REGULATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT

Significance: Agency Priority

Legal Authority: 41 USC 38; 41 USC 40

CFR Citation: 41 CFR 50-201.101(a)

Legal Deadline: None

Abstract: This proposed rule would amend the Walsh-Healey Public Contracts Act regulations to provide an alternative regular dealer definition applicable to information systems integration businesses which bid on contracts to furnish the government fully operational information processing ("ADP") systems. The alternative definition would relieve potential contractors in this industry from having to physically maintain inventories from which sales are made, a custom that is inconsistent with this industry's practices. A proposed rule was published on June 22, 1989 inviting public review and comment. The comment period ended on July 24, 1989. (54 FR 2612)

Timetable:

Action	Date	FR Cite
NPRM	06/22/89	54 FR 2612
NPRM Comment Period End	07/24/89	54 FR 2612
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA33

DOL—ESA

Final Rule Stage

1463. LABOR STANDARDS FOR FOREIGN AGRICULTURAL WORKERS

Significance: Regulatory Program

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524). It will issue an amended final rule that incorporates the labor standards issued by the Employment and Training Administration and sets forth procedures for enforcement of these labor standards. (Note: Final action on these regulations has been delayed while the Department requires experience in enforcing the statutory requirements applicable to temporary foreign agricultural workers.)

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	52 FR 16795
Interim Final Rule	06/01/87	52 FR 20524
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA43

1464. EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-347, Employee Polygraph Protection Act of 1988; 29 USC 2001 to 2009

CFR Citation: 29 CFR 801 (New)

Legal Deadline: Final, Statutory, September 25, 1988.

Abstract: The Employee Polygraph Protection Act of 1988 (EPPA) was enacted June 27, 1988 and takes effect December 27, 1988. EPPA prohibits most private employers from administering lie detector tests to employees or prospective employees but permits the use of polygraph tests, subject to certain safeguards, under specific circumstances. The Secretary of Labor is authorized to issue rules and regulations to implement EPPA and to enforce it, including authority to conduct investigations, assess civil money penalties for violations, and bring suit in U.S. District Courts to enjoin violations of the Act. An interim final rule was published October 21, 1988 (53 FR 41494), requesting comments by February 27, 1989. The interim final rule became effective on December 27, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41494
Final Action	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA49

1465. ● COMPENSATION PAYABLE UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

Legal Authority: 5 USC 8101, et seq.; PL 100-566

CFR Citation: 20 CFR 10

Legal Deadline: None

Abstract: Public Law 100-566 (approved October 31, 1988) amended section 8112 of the Federal Employees' Compensation Act (FECA) by removing the ceiling on the amount of disability compensation payable (75% of the maximum rate of basic pay for GS-15) for for employees who are injured during an assassination or assassination attempt against specified government officials, cabinet members and members of congress. The rule changes the regulation dealing with compensation rates to conform with the amendment.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Markey, Director, Office of Federal, Employees' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3229, FP Building, Washington, DC 20210, 202 523-7552

RIN: 1215–AA50

1466. ● CLAIMS SUBCHAPTER A - LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES AND SUBCHAPTER B - FEDERAL COAL MINE HEALTH AND SAFETY ACT, AS AMENDED

Legal Authority: 33 USC 901; 30 USC 901

CFR Citation: 20 CFR 702; 20 CFR 725

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DOL—ESA — Final Rule Stage

Legal Deadline: None

Abstract: The Department of Labor has changed the title of its district office heads in its Division of Longshore and Harborworkers' Compensation and Division of Coal Mine Workers' Compensation. They were previously known as Deputy Commissioners and are now called District Directors. This change is made for administrative uniformity among all office managers within the three Office of Workers' Compensation Programs divisions and will have no effect on the authority of the office heads in their capacity as managers or as informal adjudicators.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Staufenberger, Deputy Director, Office of Workers', Compensation Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3524, FP Building, Washington, DC 20210, 202 523-7503

RIN: 1215–AA51

DEPARTMENT OF LABOR (DOL) — Completed Actions
Employment Standards Administration (ESA)

1467. WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Significance: Regulatory Program

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 531

Legal Deadline: None

Abstract: These regulations contain the basic standards governing the application of section 3(m) of the Fair Labor Standards Act (FLSA). This section provides that, under certain conditions, the reasonable cost or fair value of furnishing employees with board, lodging, or other facilities may be applied towards meeting the Act's minimum wage and overtime requirements. Section 3(m) also provides that tips received by certain employees may be credited toward the payment of the statutory minimum wage (up to a maximum of 40 percent). Due to other regulatory priorities, this regulatory initiative is being withdrawn and will be considered at a future date.

Timetable:

Action	Date	FR Cite
Withdrawn	05/04/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215–AA32

1468. EMPLOYMENT OF WORKERS WITH DISABILITIES UNDER SPECIAL CERTIFICATES

Significance: Regulatory Program

Legal Authority: 29 USC 214; 29 USC 211

CFR Citation: 29 CFR 524; 29 CFR 525; 29 CFR 529

Legal Deadline: None

Abstract: These regulations establish the terms and conditions, pursuant to section 14(c) of the Fair Labor Standards Act (FLSA), under which handicapped workers may be employed, under certificate, at wage rates less than those otherwise required by statute. The 1986 Amendments to the FLSA substantially revised section 14(c) to simplify worker certification by eliminating separate certification for more productive workers, multiple handicapped individuals, and those in evaluation or training and work activities centers. Three affected regulations (29 CFR 524, 525 and 529) were combined into a single proposed new rule which was published for public comments on May 20, 1988. The comment period closed on July 19, 1988. On October 31, 1988, a notice was published in the Federal Register (53 FR 43899) reopening the comment period for 15 days.

Timetable:

Action	Date	FR Cite
NPRM	05/20/88	53 FR 18234
NPRM Comment Period End	07/19/88	53 FR 18234
Comment Period Reopened	10/31/88	53 FR 43899
Final Action	08/10/89	54 FR 32920
Final Action Effective	09/11/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Paula V. Smith, Administator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, RM S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215–AA34

DEPARTMENT OF LABOR (DOL) — Prerule Stage
Employment and Training Administration (ETA)

1469. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Legal Authority: 29 USC 49(k)

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

DOL—ETA — Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA37

1470. USE OF FUNDS TRANSFERRED TO THE STATES UNDER SECTION 903(C) OF THE SOCIAL SECURITY ACT (REED ACT)

Legal Authority: 26 USC 3304; 42 USC 1302; 42 USC 503; 42 USC 1103

CFR Citation: 20 CFR 601; 20 CFR 651; 20 CFR 652; 20 CFR 658; 41 CFR 29 to 70

Legal Deadline: None

Abstract: This regulation sets out Reed Act requirements for States. It covers: restoration of Reed Act funds used to pay unemployment benefits; appropriation by the States and use of funds for administration; and disposition, reduced usage, and replacement of Reed Act-financed property. The regulation implements P.L. 97-248 and updates existing material issued as manuals. Alternatives being considered include: (1) Issuing a regulation, another type of directive, or nothing; (2) Limiting the scope of the regulation to areas involving compliance with Federal law or not limiting scope; and (3) which rules, if any, should be issued regarding the calculation of Reed Act balances, restorations of Reed Act funds, program income, and sales, other dispositions, and reduced usage of property acquired with Reed Act funds. Issuing a regulation will benefit grantees by reducing their uncertainty as to the applicable rules. No significant additional costs will result.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/90	
ANPRM Comment Period End	05/00/90	
NPRM	07/00/90	
NPRM Comment Period End	08/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $5,000; Yearly Recurring Cost: $5,000; Base Year for Dollar Estimates: 1984

Sectors Affected: 94 Administration of Human Resource Programs

Agency Contact: David Henson, Chief, Division of Fiscal Policy, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C5317, FPBldg., Washington, DC 20210, 202 535-8782

RIN: 1205–AA43

DEPARTMENT OF LABOR (DOL) — Proposed Rule Stage
Employment and Training Administration (ETA)

1471. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: These regulations are being developed to implement the benefit provisions contained in Sec. 43 of the Airline Deregulation Act of 1978. The Act requires the Secretary of Labor to specify the percentage of prior salary which an "eligible protected employee" would receive as a benefit payment under the Act. An eligible protected employee is a person who has had at least 4 years of employment with a certificated air carrier as of October 24, 1978 and who loses his or her job during the ten years following such date in a bankruptcy or major employment contraction if and only if the Department of Transportation determines that the principal causes of such job loss was deregulation. On May 17, 1984 the U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	04/00/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: monetary benefit aspects of the employee protection provisions.

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA07

1472. LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: THE H-2A PROGRAM

Significance: Regulatory Program

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a)

CFR Citation: 20 CFR 655

Legal Deadline: Other, Statutory, June 1, 1987.
IRCA required publication of interim final rule by June 1, 1987. This was accomplished.

Abstract: The regulation will implement the new H-2A program created by the Immigration Reform and Control Act of 1986 (IRCA). IRCA established H-2A as a new nonimmigrant subcategory for the admission of Foreign Temporary Agricultural Workers.

DOL—ETA — Proposed Rule Stage

DOL—ETA — Proposed Rule Stage

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DOL—ETA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16770
NPRM Comment Period End	05/19/87	52 FR 16770
Interim Final Rule	06/01/87	52 FR 20496
NPRM Second	11/00/89	
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA59

1473. ADVANCES TO STATES AND REPAYMENT OF ADVANCES; INTEREST ON ADVANCES

Significance: Regulatory Program

Legal Authority: 42 USC 1321; 42 USC 1322

CFR Citation: 20 CFR 606

Legal Deadline: None

Abstract: Since 1981, Congress has enacted major changes in the Federal Unemployment Tax Act (FUTA) and Social Security Act (SSA) with respect to advances to States for the payment of unemployment insurance and the repayment of such advances and interest thereon. Promulgation of comprehensive regulations is being undertaken in two phases. The proposed rule will replace instructions contained in several Unemployment Insurance Program Letters approved under OMB No. 1205-0199 expiring October 31, 1990. This action represents the second phase, governing States receiving and voluntarily repaying advances to their unemployment funds and paying interest in such advances. The final rule for the first phase, governing relief from automatic repayment and interest charges, was published in the Federal Register on September 26, 1988 (RIN 1205-AA14).

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sandra T. King, Chief, Division of Program Development, and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C4514, FP Building, Washington, DC 20210, 202 535-0309

RIN: 1205–AA65

1474. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Legal Authority: 8 USC 1182(a)(14)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: Before the Department of State (DOS) and the Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor pursuant to Section 212(a)(14) of the Immigration and Naturalization Act (INA) must certify to the Secretary of State and to the Attorney General that: (a) There are not sufficient United States workers who are able, willing, qualified and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform work; and (b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(14)). The Department of Labor (DOL) has promulgated regulations at 20 CFR Part 656 pursuant to and to implement section 212(a)(14) of the INA (8 USC 1182(a)(14)). These regulations set forth the fact finding process designed to support the granting or denial of a permanent labor certification. Experience in (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
NPRM Comment Period End	05/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: administering the regulations to the certification of immigrant aliens for permanent employment in the United States indicates that a number of changes should be made to these regulations to make labor certification process more efficient and clarify ambiguities in the present regulations.

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA66

1475. STATE AGENCY DISCLOSURE OF UNEMPLOYMENT INSURANCE WAGE AND CLAIM INFORMATION AS PROVIDED BY FEDERAL LAW

Significance: Regulatory Program

Legal Authority: 42 USC 503

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration proposes to make rules regarding the disclosure of unemployment insurance wage and claim information by State agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	01/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Virginia Chupp, Unemployment Insurance Program Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C4512, FPBldg., Washington, DC 20210, 202 535-0200

RIN: 1205–AA74

1476. TITLE V OF THE JOB TRAINING PARTNERSHIP ACT JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE (JEDI) BONUS PROGRAM

Significance: Regulatory Program

DOL—ETA — Proposed Rule Stage

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 671

Legal Deadline: NPRM, Statutory, February 7, 1989. Final, Statutory, June 30, 1989.
The proposed regulations are to be published by February 7, 1989 and the final regulations in June 1989 as mandated by Section 510 (e) of Title V.

Abstract: These regulations will implement the above legislation as mandated by Section 510(e) of Title V as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA75

1477. ● LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS (REVISION)

Significance: Regulatory Program

Legal Authority: 29 USC 50 The National Apprenticeship Act; 40 USC 276; 5 USC 3301

CFR Citation: 29 CFR 29 (Revision)

Legal Deadline: None

Abstract: ETA has undertaken a review of the Apprenticeship system to determine the role of apprenticeship in meeting America's future needs for a skilled work force. The Apprenticeship 2000 review, through research, review of existing materials and related programs, is considering alternative ways to strengthen and expand apprenticeship and related training programs. Existing regulations governing apprenticeship programs may be revised to: 1) improve the existing programs ability to produce skilled workers to meet demands in the industries where it is now prevalent; and 2) expand the apprenticeship concept of training to fill the needs for skilled workers in additional industries.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James D. Van Erden, Director, Bureau of Apprenticeship and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4649, FPBldg., Washington, DC 20210, 202 535-0540

RIN: 1205–AA77

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

1478. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 301 Older Americans Act of 1965

CFR Citation: 20 CFR 674

Legal Deadline: Final, Statutory, May 5, 1985.
PL 98-459, Section 205(c)

Abstract: The final regulations will include revisions to incorporate legislative amendments to the Older Americans Act which were made in 1984 and 1987. The revised rule also will incorporate administrative and programmatic adjustments which will make the program consistent with other Departmental rules and policies.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	08/27/85	50 FR 34725
Extension of Comment Period to 9/19/85	08/27/85	50 FR 34725
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Wilbert F. Solomon, Chief, Division of Older Worker Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4641, FPBldg., Washington, DC 20210, 202 535-0521

RIN: 1205–AA29

1479. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM (DUA)

Significance: Regulatory Program

Legal Authority: PL 100-207

CFR Citation: 20 CFR 625 (Revision)

Legal Deadline: Final, Statutory, May 21, 1989.

Abstract: Public Law 100-107 made substantial changes in the DUA programs. DUA will now be paid for up to 26 weeks after a major disaster is declared instead of up to 52 weeks. DUA will no longer be payable when an individual is eligible for State unemployment compensation or waiting period credit. An individual will now have up to 60 days to file an appeal of denial of a DUA claim and a Federal official must make a decision in 90 days.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: In addition to updating the current regulations for law changes, the anticipated changes will provide for more efficient operation of the problem.

Agency Contact: Lorenzo C. Roberts, Supervisory Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution

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Avenue, NW, Room C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA50

1480. JOB TRAINING PARTNERSHIP ACT AUDITS

Significance: Agency Priority

Legal Authority: Section 164 Job Training Partnership Act; Section 169 Job Training Partnership Act

CFR Citation: 20 CFR 629.42

Legal Deadline: None

Abstract: Governors are responsible for resolving audits of their JTPA subgrantees and subcontractors. Current ETA policy requires federal review and approval of these resolutions only in cases of fraud, gross mismanagement and abuse. More routine audit resolutions are only reviewed on a sample basis during onsite compliance reviews. However, a recent legal opinion stated that the JTPA regulations as presently written could be construed as requiring federal review and approval of all Governors' audit resolutions. The regulations may have to be amended in order to implement ETA's policy.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: None

Agency Contact: David O. Williams, Administrator, Office of Financial and Administrative Management, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4671, FPBldg., Washington, DC 20210, 202 535-0690

RIN: 1205–AA53

1481. JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

Legal Authority: 29 USC 1579

CFR Citation: 20 CFR 684

Legal Deadline: None

Abstract: The regulations will revise and streamline the existing rules for the Job Corps program. These changes will not create new cost nor materially change the existing program. The new rules will be in compliance with Title IV-B of the Job Training Partnership Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19316
NPRM Comment Period End	06/05/89	54 FR 19316
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peter E. Rell, Director, Office of Job Corps, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4508, FPBldg., Washington, DC 20210, 202 535-0550

RIN: 1205–AA54

1482. ADMINISTRATIVE PROCEDURE, FEDERAL STATE UNEMPLOYMENT COMPENSATION PROGRAM

Significance: Agency Priority

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 601; 29 CFR 96; 29 CFR 97; 29 CFR 98

Legal Deadline: None

Abstract: This proposed rule would replace outdated administrative regulations for the unemployment insurance (UI) program grants to States with reference to more current common administrative requirements for State governments codified elsewhere by the Department of Labor (DOL). Because of certain unique needs of the UI program, this action would also cover UI program exceptions to these requirements and clarifications of Employment and Training Administration (ETA) policy in applying requirements to State grantees. As a result, the proposed rule is expected to aid States in understanding and complying with the requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The regulations proposed to be amended were last amended in 1977 and 1981, and since that time DOL has implemented changes in requirements for State governments which now need to be reflected in UI program regulations.

Agency Contact: Mary Ann Wyrsch, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4231, FPBldg., Washington, DC 20210, 202 523-7831

RIN: 1205–AA69

1483. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS (OTCA)

Significance: Regulatory Program

Legal Authority: PL 100-418, The Omnibus Trade and Competitiveness Act of 1988; Part 3 – Trade Adjustment Assistance, of Subtitle D of Title I

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: These regulations implement the Amendments to the trade adjustment assistance provisions of the Trade Act of 1974 in Pub. L. 100-418 by expanding the eligibility for TAA to workers in the oil and natural gas industry engaged in exploration and drilling; requiring a written notice to workers believed to be covered by a certification issued by the Department and the publication of a notice of certification in a newspaper of general circulation; making participation in training a condition for receiving trade readjustment allowances; authorizing the waiver of training for a worker when training is not feasible or appropriate; authorizing the payment of TRA to a worker during breaks in training that do not exceed 14 days; basing TAA benefits on the workers most recent separation rather than first qualifying separation as previously applied; extending the authorization of the TAA program to September 30, 1993; and, making other changes.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48474
NPRM Comment Period End	12/30/88	53 FR 48474
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glenn M. Zech, Deputy Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 601 D Street, NW, Room 6434, PHBldg., Washington, DC 20213, 202 376-2646

RIN: 1205–AA72

1484. JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM (JOBS)

Significance: Regulatory Program

Legal Authority: Family Support Act of 1988; PL 100-485

CFR Citation: 45 CFR 201 Subpart A

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.
The proposed regulations are to be published by April 13, 1989 and the final regulations in September 1989.

Abstract: The regulations will implement the above legislation enactment of the Family Support Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/19/89	54 FR 15902
NPRM Comment Period End	06/19/89	54 FR 15902
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA76

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Completed Actions

1485. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE UNITED STATES: ADVERSE EFFECT WAGE RATE METHODOLOGY

Significance: Regulatory Program

Legal Authority: 8 USC 1101 et seq

CFR Citation: 20 CFR 655

Legal Deadline: None

Abstract: As mandated by Immigration Reform and Control Act of 1986 (IRCA), DOL published a proposed rule on May 5, 1987 (52 FR 20496) and an interim final rule on June 1, 1987 (52 FR 16770), for administering the H-2A temporary alien agricultural labor certification program created by IRCA. Comments received on the proposed rule were considered by DOL in developing the interim final rule. An additional 60-day comment period led to additional comments. Subsequently, litigation relating to the wage provisions in the June 1 rule, particularly the methodology for establishing adverse effect wage rates (AEWRs) was filed against DOL. In December 1987 the U.S. Court of Appeals for the D.C. Circuit remanded the interim final rule to DOL for further explanation of the AEWR methodology. DOL is publishing a proposed rule explaining its intent to adopt the same methodology set forth in the June 1, 1987 rule, based upon an expanded record.

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 43722
NPRM Comment Period End	11/28/88	53 FR 43722
Final Action	07/05/89	54 FR 28037
Final Action Effective	08/04/89	54 FR 28037

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA25

1486. ECONOMIC DISLOCATION AND WORKER ADJUSTMENT ASSISTANCE PROGRAM

Significance: Agency Priority

Legal Authority: 29 USC 1501

CFR Citation: 20 CFR 626; 20 CFR 627; 20 CFR 628; 20 CFR 629; 20 CFR 631

Legal Deadline: None

Abstract: The Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) was enacted on August 23, 1988 to amend the Job Training Partnership Act (JTPA) by substituting a completely new Title III. Title III of JTPA establishes programs of training and employment assistance for dislocated workers. The new program incorporates several important changes. Among these changes are: (1) institutionalizing a State rapid response capability, (2) changing delivery system to mandate the designation of substate grantees, (3) focusing on better resource utilization through reallotment and reallocation provisions, (4) greater emphasis on training by incorporating new features such as certificates of continuing eligibility and needs related payments while in training. In addition, greater emphasis will be placed upon coordination and linkages among major training and employment program components such as the public employment service, the UI and TAA programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/24/88	53 FR 41572
Final Action	09/22/89	54 FR 39118
Final Action Effective	10/23/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert N. Colombo, Director, Office of Employment Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution

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DOL—ETA — **Completed Actions**

Avenue, NW, Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA67

1487. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION (WARN) ACT

Significance: Regulatory Program

Legal Authority: 29 USC 2101

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On August 4, 1988, the Worker Adjustment and Retraining Notification (WARN) Act became law. These regulations will require certain employers to provide sixty days advance notice prior to mass layoffs or plant closings.

Timetable:

Action	Date	FR Cite
Interim Interpretative Rule	12/02/88	
NPRM	12/05/88	53 FR 49076
NPRM Comment Period End	02/03/89	53 FR 49076
Final Action	04/20/89	54 FR 16042
Action	Date	FR Cite
Final Action Effective	05/22/89	54 FR 16042

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N4469, FP Bldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA73

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Pension and Welfare Benefits Administration (PWBA)

1488. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR MULTIEMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in multiemployer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the single employer plan benefit reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/08/80	45 FR 52824
Notice of Public Hearing on Previous	11/12/80	45 FR 74727
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-7461

RIN: 1210–AA02

1489. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR SINGLE EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in single employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the multiemployer plan benefit reporting regulation.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/01/80	45 FR 51231
Notice of Public Hearing on Previous	11/12/80	45 FR 74728
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-7461

RIN: 1210–AA03

1490. QUALIFIED DOMESTIC RELATIONS ORDERS UNDER THE RETIREMENT EQUITY ACT

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of Section 206(d)(3) of ERISA added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby J. Hoover, Counsel for Regulations, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9590

RIN: 1210–AA19

DOL—PWBA — **Proposed Rule Stage**

1491. "TOP HAT" PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes an unfunded employee benefit plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees ("top hat" plans) for purposes of Title I of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N5669, FP Bldg, Washington, DC 20210, 202 523-7461

RIN: 1210–AA21

1492. ● SUMMARY ANNUAL REPORT

Significance: Regulatory Program

Legal Authority: 29 USC 1024

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rule would revise current requirements with respect to the Summary Annual Report (SAR) to eliminate unnecessary paperwork, improve the effectiveness of its contents, and include important information not currently required to be part of the SAR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA36

DEPARTMENT OF LABOR (DOL) — **Final Rule Stage**

Pension and Welfare Benefits Administration (PWBA)

1493. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: The regulation would describe the kinds of participant directed individual account plans referred to in Section 404(c) of ERISA, the circumstances under which a participant or beneficiary will be considered to have exercised control over his individual account, and the consequences under section 404(c) of such an exercise of control.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33508
NPRM Comment Period End	11/02/87	
Final Action	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby J. Hoover, Counsel for Regulations, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9590

RIN: 1210–AA08

1494. ADEQUATE CONSIDERATION

Significance: Regulatory Program

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes adequate consideration under Section 3(18) of ERISA for securities for which there is no generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	
Final Action	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby J. Hoover, Counsel for Regulations, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Rm N4611, FP Building, Washington, DC 20210, 202 523-9590

RIN: 1210–AA15

1495. PROPOSED REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: The proposed regulation is intended to provide an exemption from the bonding requirements of Section 412 (a) of ERISA for certain broker dealers and investment advisers who handle plan assets if the proposed regulation's alternative bonding requirements are met. If adopted, the regulation would permit broker-dealer and their investment adviser affiliates to substitute the fidelity bond required by the self-regulatory organizations of which they are members, subject to a minimum level of coverage, for the bond otherwise required by Section 412 of ERISA.

DOL—PWBA **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31039
NPRM Comment Period End	05/18/88	53 FR 11886
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N5669 FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA25

1495. PROCEDURES FOR FILING AND PROCESSING APPLICATIONS FOR EXEMPTION FROM THE PROHIBITED TRANSACTION PROVISIONS OF ERISA, THE INTERNAL REVENUE CODE, AND FERSA

Significance: Regulatory Program

Legal Authority: 29 USC 1108; 29 USC 1135; 5 USC 8477 (C) (3)

CFR Citation: 29 CFR 2570

Legal Deadline: Final, Statutory, December 31, 1988.
FERSA only

Abstract: This regulation describes the procedures for filing and processing applications for exemptions from the prohibited transaction provisions of ERISA of 1974 and IRC and FERSA of 1986. The proposed regulation updates the description of the Department's procedures to reflect changes in the Department of Labor's exemption authority and to clarify the procedures by providing a more detailed description of the prohibited transaction exemption process.

Timetable:

Action	Date	FR Cite
NPRM	06/28/88	53 FR 24422
NPRM Comment Period End	08/29/88	
Interim Final Rule	12/29/88	53 FR 52686
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby J. Hoover, Counsel for Regulations, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Rm N4611, FP Building, Washington, DC 20210, 202 523-9590

RIN: 1210–AA26

1497. FINAL BONDING RULES UNDER FERSA

Significance: Regulatory Program

Legal Authority: 5 USC 8478

CFR Citation: 29 CFR 2582

Legal Deadline: Final, Statutory, December 31, 1989.
Section 113 of the Federal Employees' Retirement System Technical Corrections Act of 1986 imposes a December 31, 1989 deadline for promulgating final bonding regulations under FERSA.

Abstract: FERSA Section 8478 requires the Secretary of Labor to promulgate regulations governing the bonding of fiduciaries and other persons who handle the funds or other property of the Thrift Savings Fund established under FERSA. The regulations set forth the required bonding procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/87	52 FR 35864
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA31

DEPARTMENT OF LABOR (DOL) **Completed Actions**
Pension and Welfare Benefits Administration (PWBA)

1498. SUMMARY ANNUAL REPORT

Significance: Regulatory Program

Legal Authority: 29 USC 1024

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rule would revise current requirements with respect to the Summary Annual Report (SAR) to eliminate unnecessary paperwork, improve the effectiveness of its contents, and include important information not currently required to be part of the SAR.

Timetable:

Action	Date	FR Cite
RIN Changed to 1210-AA36	08/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA00

1499. LOANS TO PARTICIPANTS

Significance: Regulatory Program

Legal Authority: 29 USC 1135; 29 USC 1108

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rule describes the circumstances under which the exemption in Section 408(b)(1) of ERISA from the prohibited transaction provisions for loans by a plan to plan participants will be available.

Timetable:

Action	Date	FR Cite
NPRM	01/22/88	53 FR 1798
NPRM Comment Period End	03/22/88	
Final Action (See Additional Information for Effective Date information)	07/20/89	54 FR 30520

Small Entities Affected: Undetermined

DOL—PWBA **Completed Actions**

Government Levels Affected: Undetermined

Additional Information: EFFECTIVE DATE: The regulation will be effective for all participant loans granted or renewed after October 18, 1989, except that Section 2550.408b-1(d)(2), which relates to the specific plan provisions requirement of section 408(b)(1)(C) of the Act, is effective for participant loans granted or renewed on or after the last day of the first plan year beginning on or after January 1, 1989.

Agency Contact: Shelby J. Hoover, Counsel for Regulations, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9590

RIN: 1210–AA09

1500. CIVIL PENALTIES UNDER FERSA

Significance: Regulatory Program

Legal Authority: 5 USC 8477(e)(1)(B)

CFR Citation: 29 CFR 2589

Legal Deadline: None

Abstract: Section 8477(e)(1)(B) of the Federal Employees' Retirement System Act of 1986 (FERSA) authorizes the Secretary of Labor to assess civil penalties against parties in interest who engage in prohibited transactions with the Thrift Savings Fund (Fund) established under FERSA. The regulations will govern the procedures for imposing sanctions and enable the Department to penalize persons who violate the prohibited transaction rules with respect to assets of the Fund.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37486
NPRM Comment Period End	11/25/88	
Final Action	08/09/89	54 FR 32635
Final Action Effective	09/08/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shelby J. Hoover, Counsel for Regulations, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW, Room N4611, FP Building, Washington, DC 20210, 202 523-9590

RIN: 1210–AA32

1501. CIVIL PENALTY FOR FAILURE OR REFUSAL TO FILE ANNUAL REPORT

Significance: Regulatory Program

Legal Authority: PL 100-203, Sec 9342(c)

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: NPRM, Statutory, January 1, 1989.
Section 9342(d) of OBRA 1987 specifically directs the Secretary to issue not later than January 1, 1989, the regulations required to implement this provision.

Abstract: Section 502(c) of the Employee Retirement Income Security Act of 1974 (ERISA) was amended by Section 9342(c) of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) to authorize the Secretary of Labor to assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file the complete annual report required to be filed with the Secretary under section 101(b)(4) of ERISA. This regulation would carry out the requirement of OBRA 1987 that the Secretary promulgate regulations implementing the new civil penalty provision relating to a plan administrator's failure or refusal to file a complete annual report.

Timetable:

Action	Date	FR Cite
NPRM	10/17/88	53 FR 40674
NPRM Comment Period End	11/17/88	
Final Action (See Additional Information for Effective Date information)	06/26/89	54 FR 26890

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EFFECTIVE DATE: The regulation is effective with respect to annual reports required to be filed for plan years beginning on or after January 1, 1988.

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA34

DEPARTMENT OF LABOR (DOL) **Prerule Stage**
Office of Labor Management Standards (OLMS)

1502. ● LABOR ORGANIZATIONS WHICH MAY FILE SIMPLIFIED ANNUAL REPORTS

Legal Authority: 29 USC 431; 29 USC 438

CFR Citation: 29 CFR 403.4(a)

Legal Deadline: None

Abstract: This proposed regulation would allow labor organizations with less than $200,000 total annual receipts o file the annual financial report required by the Labor-Management Reporting and Disclosure Act of 1959, as amended on the simplified Form LM-3 rather than the more detailed Form LM-2. The present regulations provide that only labor organizations with less than $100,000 total annual receipts may file the Form LM-3.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations, and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue, NW, Room N5613, FP Building, Washington, DC 20210, 202 523-7373

RIN: 1294–AA05

DEPARTMENT OF LABOR (DOL) **Completed Actions**
Office of Labor Management Standards (OLMS)

DOL—MSHA **Prerule Stage**

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DEPARTMENT OF LABOR (DOL) — **Completed Actions**

Office of Labor Management Standards (OLMS)

1503. LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

Legal Authority: 29 USC 431; 29 USC 438; 29 USC 461

CFR Citation: 29 CFR 403

Legal Deadline: None

Abstract: This proposed regulation would implement a new labor organization annual report form to replace Labor Organization Annual Report forms LM-2 and LM-3, which are incorporated in the Department's regulations at 29 CFR 403.3 and 403.4(a). It would also replace Form LM-1A, entitled "Report of Current Status: Labor Organization Information Supplement," which is incorporated in the regulations at 29 CFR 402.4(a).

Timetable:

Action	Date	FR Cite
Withdrawn	08/24/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue, NW, Room N5613, FPBldg., Washington, DC 20210, 202 523-7373

RIN: 1294–AA04

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**

Mine Safety and Health Administration (MSHA)

1504. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline: None

Abstract: MSHA has an established mining equipment approval program which includes evaluation criteria and corresponding safety standards requiring the use and maintenance of approved equipment. However, existing approval regulations do not generally apply to the diesel-powered equipment now being used in coal mines. In July 1988 an Advisory Committee convened by the Secretary of Labor made recommendations to the Secretary concerning standards for the use of diesel-powered equipment in underground coal mines. Based on those recommendations, MSHA has published a proposed rule that addresses the approval of components of standards for its use. The Advisory Committee also recommended that an approval program be established for equipment safety features beyond the basic engine and power package. These features could include such components as the fuel system, exhaust gas dilution system, electrical system, braking system and fire suppression system. With the proposal, MSHA published an ANPRM requesting comment on what approach should be taken on the recommendations.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee	10/06/87	52 FR 37381
Notice of Appointment of Committee Members and Notice of First Meeting	01/05/88	53 FR 00189
Committee Delivered Recommendations	07/27/88	
ANPRM	10/00/89	
NPRM	10/00/89	
Final Action	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA27

1505. ● NOISE STANDARD

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 76

Legal Deadline: None

Abstract: The problem of hearing impairment among miners has become of increasing concern to MSHA. Many miners are consistently exposed to noise levels that are near maximum levels currently permitted by MSHA. As a result, miners may be suffering hearing impairments, notwithstanding existing MSHA noise standards. MSHA intends to utilize one rulemaking to establish similar noise standards to apply to coal mining and metal/nonmetal mining.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA53

1506. ● CONFINED SPACES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 76

Legal Deadline: None

Abstract: This rulemaking would develop a performance-oriented standard to address the hazards of working in confined spaces. Many of these confined spaces work areas are not unique to mines and the hazards are identical to these confined space hazards that exist in general industry for which OSHA is preparing a proposed standard.

DOL—MSHA — **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA54

1507. ● APPROVAL REQUIREMENTS FOR DETONATORS

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 16

Legal Deadline: None

Abstract: This standard would establish requirements for the MSHA testing, evaluation and approval of electric detonators for use in underground coal mines and certain metal and nonmetal gassy mines. At the present time there are no industry-wide standards to establish minimum performance requirements for detonators. Regulations governing the technical characteristics and performance of detonators would ensure compatibility for safe use with approved blasting units and approved explosives as required by underground coal mine standards. Some imported detonators that have entered the market during the past few years require an initiating current that exceeds the tested capacity of MSHA approved blasting units making them incompatible with approved blasting units. Other detonators tested by the Bureau of Mines showed reduced no-fire current levels which present a greater sensitivity to stray electrical current and could result in premature detonation.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA64

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Mine Safety and Health Administration (MSHA)

1508. UNDERGROUND COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.500; 30 CFR 75.600; 30 CFR 75.700; 30 CFR 75.800; 30 CFR 75.900; 30 CFR 75.1000

Legal Deadline: None

Abstract: Existing electrical standards for underground coal mines would be substantially reorganized, clarified, and updated. General incorporations by reference of the National Electric Code would be eliminated and replaced with specific standards applicable to underground coal mining operations. The Agency is in the process of developing a proposed rule that addresses the wide range of issues raised by commenters on the Agency's 1986 ANPRM. MSHA is analyzing: (1) accident and injury data to determine the cause and rate of accidents involving electricity and the need to revise standards to prevent future accidents; (2) variances granted to determine whether alternative methods of compliance could be included in the standards; (3) consensus standards in the National Electrical Code for applicability to underground coal mines; and (4) litigation cases related to the Agency's enforcement efforts to determine where clarified standards could improve compliance.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/23/86	51 FR 18899
Comment Period Extended to 8/15/86	07/03/86	51 FR 24387
ANPRM Comment Period End	07/22/86	51 FR 18899
NPRM	10/00/89	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA10

1509. REVIEW OF METAL AND NONMETAL ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.12000; 30 CFR 57.12000

Legal Deadline: None

Abstract: The electrical standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. General incorporations by reference of the National Electric Code would be eliminated and replaced with standards applicable to metal and nonmetal mining and mills. These standards would also be substantially clarified, updated, and realigned into functional categories, and would include technological advances in electrical systems.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/83	45 FR 19267
ANPRM	05/20/83	48 FR 22895
ANPRM Comment Period End	07/19/83	
NPRM	10/00/89	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard,

DOL—MSHA — **Proposed Rule Stage**

DOL—MSHA — **Proposed Rule Stage**

Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA14

1510. EXPLOSIVES AND BLASTING IN UNDERGROUND COAL MINES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1300

Legal Deadline: None

Abstract: On November 16, 1988, the Mine Safety and Health Administration (MSHA) published a final rule (53 FR 46768) to revise its safety standards for explosives and blasting in underground coal mines. Prior to the effective date, MSHA stayed 30 CFR 75.1325(b) which restricts blasting to only one face in a working place to allow further review of single versus multiple face blasting. MSHA proposes to revise this and other provisions, as appropriate, allowing for further public comment.

Timetable:

Action	Date	FR Cite
Stay of Final Rule Provision	01/13/89	54 FR 1360
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA16

1511. NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

Significance: Regulatory Program

Legal Authority: 30 USC 957; 30 USC 813(d)

CFR Citation: 30 CFR 50

Legal Deadline: NPRM, Statutory. This regulatory requirement is a Federal statutory provision. It implements Sections 103(d)(h) and (j) of the Mine Act.

Abstract: In response to concerns raised by members of Congress and the mining community about the nature and accuracy of existing reporting obligations, MSHA established an intra-agency task force to review its requirements for reports of accidents, injuries and illnesses in coal and metal and nonmetal mines. The Agency focused on several aspects of the reporting requirements including the definition of an occupational injury or illness, and an expanded audit program. The Agency has determined that the existing regulations in Part 50 should be clarified and improved through the rulemaking process. MSHA will clarify the definitions of reportable injuries and illnesses and solicit suggestions from the public in this effort.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/85	
Task Force Report Completed	03/03/86	
ANPRM	11/14/88	53 FR 45878
Extension of Comment Period until 02/17/89	12/29/88	53 FR 52727
ANPRM Comment Period End	01/13/89	
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA33

1512. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR Not yet determined

Legal Deadline: None

Abstract: The primary purpose of this action is to provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the action necessary to protect their safety and health. MSHA is reviewing OSHA's hazard communication standard and is also reviewing information collected by NIOSH. MSHA anticipates pursuing a performance- oriented approach that will allow employees the flexibility to develop individual programs to best suit their particular workplace conditions.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Hearings will be held most likely in April 1990.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA47

1513. AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 55; 30 CFR 56; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: The agency has developed an NPRM which incorporates permissible exposure limits which are applicable to the hazards encountered in metal and nonmetal mines and coal mines. The proposal solicit comments on updating permissible exposure limits and methods of controlling such limits. Standards for use of respiratory protective equipment would replace an outdated incorporation by reference. The proposal would also update asbestos standards. Other issues being considered are: requirements for exposure monitoring and precautions for handling restricted-use chemicals; notification of workers of overexposures; access to exposure monitoring records; medical surveillance and transfer of miners required to use respirators and miners using certain carcinogens.

Timetable:

Action	Date	FR Cite
NPRM	06/29/89	54 FR 35760
NPRM Comment Period End	11/27/89	54 FR 35760
Final Action	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This regulation combines 1219-AA21, 1219-AA41, and 1219-AA48.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA48

1514. REFUSE PILE AND IMPOUNDMENT INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.215

Legal Deadline: None

Abstract: This rulemaking would address whether recordkeeping burdens could be reduced in 30 CFR Part 77 standards which address refuse piles and impoundments structures. In addition the proposal would address abandonment procedures for impoundment structures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA49

1515. ● NEWLY EMPLOYED EXPERIENCED MINER AND SUPERVISOR TRAINING

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48.2(b); 30 CFR 48.22(b); 30 CFR 48.6(b); 30 CFR 48.26(b)

Legal Deadline: None

Abstract: MSHA is proposing to amend the definition of "experienced miner" to mean a miner who has had one year of mining experience and, for miners hired after October 13, 1978, has completed new miner training. MSHA is also proposing to strengthen the training requirements for experienced miners by adding course requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA55

1516. SAFETY STANDARDS FOR BERMS AND GUARDRAILS AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: On August 25, 1988 the Mine Safety and Health Administration (MSHA) amended its standard addressing the use of berms and guardrails on elevated roadways at metal and nonmetal mines. However, MSHA stayed the provision which allows an alternative to the use of berms or guardrails on elevated roadways for infrequently traveled roadways used by service or maintenance vehicles. This rulemaking will be limited to addressing which safety requirements are necessary for such limited use roadways when berms or guardrails are not used.

Timetable:

Action	Date	FR Cite
NPRM	06/23/89	54 FR 35152
NPRM Comment Period End	10/23/89	
Final Action	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA56

1517. APPROVAL OF ELECTRIC CABLES AND SPLICE KITS

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of electric cables and incorporate a new requirement for the approval of cable splice kits as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria, establish minimum standards for the material used to repair cables, and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA57

1518. APPROVAL OF INTRINSICALLY SAFE BATTERY-POWERED DEVICES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of intrinsically safe battery-powered

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devices as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA59

1519. APPROVAL OF EXPLOSION-PROOF ENCLOSURES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of explosion-proof enclosures as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA60

1520. APPROVAL OF ELECTRIC MOTOR ASSEMBLIES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of electric motor assemblies as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA61

1521. ● ROOF BOLTS AND ROOF SUPPORT REMOVAL

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.204(a); 30 CFR 75.204(b); 30 CFR 75.213

Legal Deadline: Final, Statutory, February 15, 1990.

Abstract: On January 27, 1988, the Mine Safety and Health Administration published a final rule for safety standards for roof, face and rib support in underground mines. Three of the final standards were challenged by the United Mine Workers of America (UMWA), International Union, Petitioner, v. Secretary of Labor, et al, No. 88-1238 (D.C. Cir., March 10, 1989). On March 10, 1989, the U.S. Court of Appeals (D.C. Cir.) upheld one of the new standards and invalidated two, 30 CFR 75.204(a) and (b) and 30 CFR 75.213. On May 17, 1989, the Court issued an Order which, effective February 15, 1990, would vacate the two invalidated standards. These two remanded standards relate to roof bolts and roof support removal. MSHA had submitted that rulemaking with respect to these two standards could be completed in 9 months. MSHA is reopening rulemaking procedures on these standards.

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	54 FR 36106
NPRM Comment Period End	10/06/89	
Final Action	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA63

1522. ● FLAME TEST OF CONVEYOR BELTING AND HOSE

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: Conveyor belts are the leading cause of fires in underground coal mines. These mines often use many miles of conveyor belts. The remote location of the belts can allow fires to start and spread to the coal before they are detected. Application of recent improvements in the flammability of belt material would make belts more difficult to burn, resulting in fewer belt fires. The Agency is developing higher flame-resistivity approval requirements and a less complicated approval test to allow manufacturer or third party testing of conveyor belts for use in underground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA65

1523. ● BLASTING UNITS FOR METAL AND NONMETAL MINES WITH METHANE

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 57, Subpart T safety standards for methane in metal and nonmetal mines for explosive materials and blasting units by deleting the reference to 30 CFR Part 25 in Section 57.22606(g)(1). The standard would then reference blasting units approved by MSHA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, Virginia 22203, 703 235-1910

RIN: 1219–AA66

1524. ● INFORMATION COLLECTION REQUIREMENTS FOR MINE RESCUE EQUIPMENT TEST AND INSPECTION; SCSR INSPECTION RECORDS; RECORDS OF FIRE DRILLS; AND FIRST AID TRAINING FOR SUPERVISORY EMPLOYEES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 49; 30 CFR 75.1101 to 23; 30 CFR 75.1713-3; 30 CFR 75.1714-3; 30 CFR 77.1703

Legal Deadline: None

Abstract: These proposed rules would reduce the information collection burden imposed by the Mine Safety and Health Administration (MSHA) on mine operators or other affected parties by revising reporting and recordkeeping requirements. In most cases, paperwork requirements would be replaced with certification provisions. This rulemaking would examine whether recordkeeping burdens could be reduced in 30 CFR 49.6(b) which requires records of monthly inspections and tests of mine operators and equipment to be kept for one year; in 30 CFR 75.1714-3 which requires records of quarterly inspections and tests of self-contained self-rescue devices; in 30 CFR 75.1101-23(c)(1) which requires records of the participation of coal miners in quarterly fire drills and in 30 CFR 75.1713-3 and 77.1703 in which mine operators are required to conduct first-aid training courses for selected supervisory employees, and report in writing to the District Manager the names and job titles of all supervisory employees within 60 days, and the date on which such employees satisfactorily completed the first-aid training course.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA67

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Final Rule Stage

1525. PATTERN OF VIOLATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 814(e); 30 USC 957

CFR Citation: 30 CFR 104

Legal Deadline: None

Abstract: This rulemaking would implement section 104(e) of the Federal Mine Safety and Health Act of 1977 which addresses mines with a pattern of repeated, significant and substantial violations. In 1985 MSHA issued an ANPRM which outlined new procedures for implementing the statutory provision for pattern of violations. The Agency reviewed comments and has been working to develop both appropriate criteria and a meaningful procedure for identifying operators who are potential pattern violators. The costs of the regulations would primarily bear upon individual mine operators receiving issuances notices. Any costs that the mine operator would incur to comply with other Federal standards would be attributed to those standards. The primary benefit of the pattern of violators provision would accrue to workers at mines where the mine operator has shown a disregard for their safety and health by allowing the same work hazards to repeatedly occur without addressing the underlying problems.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/85	50 FR 5470
Withdrawal of 1980 NPRM	02/06/85	50 FR 5470
Extension of Comment Period to 5/10/85	04/05/85	50 FR 13617
ANPRM Comment Period End	04/09/85	50 FR 5470
NPRM	05/30/89	54 FR 23156
Extension of Comment Period to 08/31/89	06/20/89	54 FR 117
NPRM Comment Period End	07/31/89	
Final Action	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA04

1526. UNDERGROUND COAL MINE VENTILATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.300

Legal Deadline: None

Abstract: The Agency published a proposed rule concerning ventilation in underground mines which included provisions for the introduction of new technology for systematic monitoring of explosive methane gas, as well as gases that may indicate a mine fire. Other important issues include ventilation of worked-out areas: timeframes for tests for methane; and using intake air that has been used to ventilate a belt conveyor entry. The existing escapeway standards contained in 30 CFR Part 75.1704 are incorporated into the proposal.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	11/19/85	50 FR 47702
Extension of ANPRM Comment Period to 4/4/86	02/14/86	51 FR 5546
ANPRM Comment Period End	02/18/86	
NPRM	01/27/88	53 FR 2382
NPRM Comment Period End	08/19/88	53 FR 26449
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Public hearings were held during June 1988.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA11

1527. REVIEW OF METAL AND NONMETAL EXPLOSIVES STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.6000; 30 CFR 57.6000

Legal Deadline: None

Abstract: The explosives standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. These standards would be clarified and updated consistent with technological advances, such as gaseous initiation systems, miniaturized detonating cord systems and the use of bulk mixing of explosives materials. Hearings were held in April 1989.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	08/20/84	49 FR 33087
Extension of ANPRM Comment Period to 11/16/84	09/25/84	49 FR 37640
ANPRM Comment Period End	10/19/84	
NPRM	11/10/86	53 FR 45487
Extension of NPRM Comment Period to 02/10/89	12/05/86	53 FR 48934
NPRM Comment Period End	01/09/89	
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Public Hearings were held in April 1989

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA17

1528. METAL AND NONMETAL RADIATION STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.5037 to 57.5047

Legal Deadline: None

Abstract: MSHA is reviewing its radiation standards for underground metal and nonmetal mines and has identified certain issues with respect to regulatory action. The Agency published a proposal in December 1986 revising its existing ionizing radiation standards. Public hearings were held in August 1987. Extensive testimony was presented during the public hearings. The rulemaking also takes into account the receipt of the NIOSH criteria document in October 1987, and the release of the National Academy of Sciences BEIR IV Report in December 1987.

Timetable:

Action	Date	FR Cite
ANPRM	11/19/85	50 FR 47700
ANPRM Comment Period End	02/18/86	
NPRM	12/19/86	51 FR 45678
NPRM Comment Period End	02/16/87	51 FR 45678
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA28

1529. APPROVAL CRITERIA FOR RESPIRATORY PROTECTIVE DEVICES

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 11

Legal Deadline: None

Abstract: Under the 1977 Mine Act, MSHA and the National Institute for Occupational Safety and Health (NIOSH) jointly approve respirators for use in hazardous atmospheres. New technology has been developed which has not been accommodated by the existing regulations. In addition, questions have been raised about laboratory testing and field performance of respirators. The decision has been made for NIOSH to have the lead in approval of respirators. MSHA will be involved with the devices which are uniquely adapted or required for mining. A proposed rule to remove MSHA's regulations upon completion of a concurrent NIOSH rulemaking was published in August 1987. However, further rulemaking is contingent upon NIOSH's timetables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32313
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Completion of MSHA's final rule is contingent upon NIOSH's completion of parallel rulemaking.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA30

1530. MULTIPLE-SHOT BLASTING UNITS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 25

Legal Deadline: None

Abstract: The requirements for approval of blasting units are part of the overall coal review to update standards. The revision of existing Part 25 specifications was proposed as Subpart D to Part 7. Under this concept, testing would be done by the applicant or a third party, subject to Agency requirements and approval.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/84	49 FR 23281
ANPRM Comment Period End	08/10/84	49 FR 23281
NPRM	06/22/88	53 FR 23506
NPRM Comment Period End	08/22/88	
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The review of 30 CFR 25 was originally listed in the Agenda in 1984. In the October 1985 Agenda, MSHA consolidated the Review of Part 25 under 1219-AA16. A proposal was published June 22, 1988 which revises 30 CFR 25 and combines it as a subpart of 30 CFR 7.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA42

1531. RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 44

Legal Deadline: None

Abstract: On July 10, 1987, the United States Court of Appeals for the District of Columbia invalidated the Agency's existing interim relief regulation based in part, on procedural defects, holding that it was contrary to Congressional intent. (INT. UNION v. MSHA, 823 F. 2d 608 (D.C. Cir. 1987)). Therefore, MSHA has issued a proposal addressing interim relief in situations where enforcement of a mandatory standard would result in a diminution of safety to affected miners or in emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19492
Extension of Comment Period Until 08/07/89	06/28/89	54 FR 123
NPRM Comment Period End	07/05/89	
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA45

1532. SAFETY STANDARDS FOR ROOF, FACE AND RIB SUPPORT

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.206(a)

Legal Deadline: None

Abstract: On January 27, 1988 (53 FR 2354), MSHA published final rules revising its safety standards for roof, face, and rib support in underground coal mines. The Agency is proposing to revise Section 75.206(a) of these standards to exempt anthracite mines from entry width and roadway support requirements when conventional roof support is used. The requirement would remain in effect, however, for bituminous coal mines.

Timetable:

Action	Date	FR Cite
NPRM	07/20/89	54 FR 30510
NPRM Comment Period End	09/18/89	
Final Action	03/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA58

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Completed Actions

1533. CERTIFICATION AND QUALIFICATION OF PERSONS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.100; 30 CFR 75.150; 30 CFR 77.100; 30 CFR 77.105

Legal Deadline: None

Abstract: Certain MSHA regulations require persons working in coal mines to be qualified or certified to perform certain tasks, for example, testing for methane and making ventilation examinations. The existing rule requires operators to submit certification and qualification applications to MSHA every six months for recertification. The proposal eliminates the six-month limitation, permitting persons to remain certified or qualified for as long as they continue to satisfy the substantive requirements and remain employed at the same coal mine or independent contractor.

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Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12250
NPRM Comment Period End	07/15/88	
Final Action	07/20/89	54 FR 30513
Final Action Effective	09/18/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA36

1534. AUTOMATIC WARNING DEVICES FOR MOBILE EQUIPMENT

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.410

Legal Deadline: None

Abstract: MSHA's existing standard requires mobile equipment to be equipped with devices which automatically sound an alarm when the equipment is put in reverse. MSHA is considering revising the standard to exclude pickup trucks if the driver has an unobstructed rear view. The Agency is also considering allowing alternatives to automatic warning devices.

Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12253
NPRM Comment Period End	07/15/88	
Final Action	07/20/89	54 FR 30515
Final Action Effective	09/18/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A hearing was held in Pittsburgh, Pennsylvania on August 30, 1988.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA38

1535. ELECTRIC MINE LAMPS OTHER THAN STANDARD CAP LAMPS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 20

Legal Deadline: None

Abstract: Under existing standards, MSHA is limited to investigating and approving lamps which meet the design, construction and test requirements specifically set forth in 30 CFR Part 20. As a result, the Agency is restricted from approving lamps that incorporate alternative technology. The proposal would amend Part 20 to enable the Agency to issue approvals for lamps which, after testing, are found to be safe for their intended use and provide, at a minimum, the same degree of protection as lamps currently approved under the existing standards.

Timetable:

Action	Date	FR Cite
NPRM	04/13/88	53 FR 12250
NPRM Comment Period End	07/15/88	
Final Action	07/20/89	54 FR 30512
Final Action Effective	09/18/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA40

1536. MINE RESCUE EQUIPMENT TEST AND INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: This rulemaking would examine whether recordkeeping burdens could be reduced in 30 CFR 49.6(b) which requires records of monthly inspections and tests of mine rescue apparatus and equipment to be kept for one year.

Timetable:

Action	Date	FR Cite
Integrated into RIN 1219-AA67	08/25/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA50

1537. SCSR INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1714-3

Legal Deadline: None

Abstract: This rulemaking would examine whether recordkeeping burdens could be reduced in 30 CFR 75.1714-3 which requires records of quarterly inspections and tests of self-contained self-rescue devices.

Timetable:

Action	Date	FR Cite
Integrated into RIN 1219-AA67	08/25/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA51

1538. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES; CONFORMING AMENDMENTS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Existing standards address the use of brattice cloth and ventilation tubing in underground metal and nonmetal mines with a history of, or potential for, methane liberation. These conforming amendments would replace a requirement that such materials have a flame spread rating of 25 or less with a requirement that brattice cloth and ventilation tubing be approved by MSHA under 30 CFR Part 7.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48934
NPRM Comment Period End	02/03/89	
Final Action	07/20/89	54 FR 30508
Final Action Effective	08/22/89	54 FR 30508

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA52

1539. RECORDS OF FIRE DRILLS AND PROGRAMS TO INSTRUCT AND TRAIN MINERS IN THE LOCATIONS AND USE OF FIREFIGHTING EQUIPMENT (UNDERGROUND COAL MINES)

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1101-23

Legal Deadline: None

Abstract: This rulemaking would examine whether recordkeeping could be reduced in 30 CFR 75.1101-23(c)(1) which requires records of the participation of coal miners in quarterly fire drills. Currently, the records must include the number of persons participating, the area of the mine involved, the procedures followed and the equipment used.

Timetable:

Action	Date	FR Cite
Integrated into RIN 1219-AA67	08/25/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA62

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

1540. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Significance: Regulatory Program

Legal Authority: 15 USC 3151; 20 USC 1681 to 1683; 20 USC 1685; 20 USC 1686; 29 USC 794; 29 USC 1551; 29 USC 1574; 29 USC 1577; 29 USC 1579; 42 USC 6101 to 6107; 42 USC 2000d to 2000d-4

CFR Citation: 29 CFR 31

Legal Deadline: Final, Statutory, September 12, 1979.
Regulations to implement the ADA were required as of 09/12/79 and to implement JTPA as of 10/01/83. The regulation must be coordinated with DOJ pursuant to Executive Order 12250, (cont)

Abstract: DOL's existing regulations implementing Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended would be amended and revised as a single comprehensive civil rights regulation covering all DOL statutory authority relating to nondiscrimination in Federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Sectors Affected: None

Additional Information: LEGAL DEADLINE CONT: with EEOC pursuant to E.O. 12067, and with the Office of Management and Budget pursuant to E.O. 12291, prior to publication as an NPRM.

Agency Contact: Annabelle T. Lockhart, Deputy Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm N4123, FPBldg., Washington, DC 20210, 202 523-8927

RIN: 1291–AA02

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

1541. ADMINISTRATIVE GRANTS AND COOPERATIVE AGREEMENTS TO GOVERNMENT AND NONPROFIT INSTITUTIONS

Significance: Agency Priority

Legal Authority: OMB Circular A-110

CFR Citation: 29 CFR 97

Legal Deadline: None

Abstract: On March 11, 1988 a common final rule was published which implemented OMB Circular A-102, Administrative Requirements for Grants and Cooperative Agreements with State and Local governments. OMB and DHHS have prepared a proposed common rule and revised Circular A-110 to conform the grants management requirements for non-governmental grantees with government grants. The common rule already published on governmental grantees will be amended to incorporate non-governmental grants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	

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DOL—OASAM — **Final Rule Stage**

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Murphy, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Washington, DC 20210, Rm S1522, FP Bldg., 202 523-8904

RIN: 1291–AA15

1542. DOL ADOPTION OF COMMON RULE IMPLEMENTING DRUG-FREE WORKPLACE - NONPROCUREMENT

Significance: Agency Priority

Legal Authority: EO 12549; Section 5151-5160 of the Drug-Free Work Place Act of 1988; PL 100-690 Title V, Subtitle D; 5 USC 552 to 556

CFR Citation: 29 CFR 98

Legal Deadline: Final, Statutory, April 30, 1989.
The President signed the Drug Act into law on November 18, 1988. The act requires final rules within 90 days and effective date within 120 days.

Abstract: This final action is the DOL adoption of common rules that implement the Drug-Free Work Place Act of 1988. The new regulations will be housed in the DOL regulations at 29 CFR Part 98, Suspension and Debarment - Nonprocurement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Interim Final Rule Effective	03/18/89	54 FR 4947

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Daniel Murphy, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Room S1522, FP Building, Washington, DC 20210, 202 523-9174

RIN: 1291–AA17

DEPARTMENT OF LABOR (DOL) — **Completed Actions**

Office of the Assistant Secretary for Administration and Management (OASAM)

1543. DEPARTMENT OF LABOR ACQUISITION REGULATION (DOLAR) (REVISION)

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 29

Legal Deadline: None

Abstract: Revise Department of Labor Acquisition Regulation (DOLAR) to delete duplicative material and make other editorial changes.

Timetable:

Action	Date	FR Cite
Final Action	07/20/89	54 FR 30389
Final Action Effective	07/20/89	54 FR 30389

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Daniel Murphy, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Washington, DC 20210, Rm S1522, FP Bldg., 202 523-9174

RIN: 1291–AA06

DEPARTMENT OF LABOR (DOL) — **Prerule Stage**

Occupational Safety and Health Administration (OSHA)

1544. MANUAL LIFTING (PARTS 1910, 1915, 1917, 1918, 1919, 1926 AND 1928)

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Nation's number one injury problem is back injuries. These injuries account for one of five compensation claims and one of four dollars expended for compensation. The purpose of the proposed request for comments and information is to enable OSHA to determine a course of action--possibly either rulemaking or informal guidance-aimed at reducing the number of back-related injuries which result from improper manual lifting. The request will identify a number of approaches to improving manual lifting, and invite public comments and suggestions. Specific engineering and administrative controls should reduce the pain, suffering, and lost time of the workforce as well as reduce the associated economic costs.

Timetable:

Action	Date	FR Cite
Request for Information on Manual Lifting-Related Injuries	10/02/86	51 FR 35241
Reopening of Comment Period and Expansion of Scope	04/17/87	52 FR 12559

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: All

Additional Information: The Agency has determined that it will establish an interagency work group within the Department to seek more information in the area of manual lifting. Rulemaking is, therefore, not scheduled to begin immediately.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA95

DOL—OSHA — **Prerule Stage**

1545. MEDICAL SURVEILLANCE PROGRAMS FOR EMPLOYEES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 19, 1989, OSHA modified (54 FR 2332) the Z table permissible exposure limits of 29 CFR 1910.1000 in response to current scientific data. Section 6(b) of the Act requires where appropriate, provision for medical surveillance in each 6(b) rulemaking for a harmful substance. A generic standard for medical surveillance would satisfy the requirements of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37595) to acquire additional information. OSHA also intends to review its compliance experience with medical surveillance provisions and seek experienced medical opinion in the form of a symposium or other public discussion.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37595
ANPRM Comment Period End	12/27/88	
Decision to Proceed With Rulemaking	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB00

1546. GENERIC STANDARD FOR EXPOSURE MONITORING

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 19, 1989, OSHA modified (54 FR 2332) the Z table permissible exposure limits of 29 CFR 1910.1000 (General Industry) in response to current scientific data. Section 6(b)(7) of the Act requires provisions for exposure monitoring for each substance undergoing 6(b) rulemaking. A generic standard for exposure monitoring would satisfy the monitoring requirement of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the Z tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37591). OSHA intends to review its compliance experience with exposure monitoring provisions to determine the appropriateness of generic exposure monitoring provisions.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37591
ANPRM Comment Period End	12/27/88	
Decision to Proceed With Rulemaking	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB01

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Occupational Safety and Health Administration (OSHA)

1547. CARCINOGEN POLICY

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1990

Legal Deadline: None

Abstract: The Carcinogen Policy describes the criteria and procedures OSHA will use to identify, classify, and then regulate carcinogens. The Policy also establishes a process for screening chemicals and for setting priorities for potential rulemaking activities. The Carcinogen Policy explicitly recognizes that periodic revisions are necessary in order to incorporate the latest scientific advances and techniques into the regulatory process. Hence, it is time for OSHA to review and modernize the carcinogen policy. The original standard was issued in 1980 before the Supreme Court "benzene" decision on significant risk. Thereafter, a final rule deleting provisions of the Carcinogen Policy that were inconsistent with the benzene decision was published on 1/19/81 (46 FR 4889). A proposal was published on 1/23/81 (46 FR 7402) to permit alternatives to the risk analysis section of the carcinogen policy to be addressed. The proposal was withdrawn on 3/27/81 (46 FR 19000). An advance notice of proposed rulemaking was published on 1/5/82 (47 FR 187) with comments due by 4/5/82. That document (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/05/82	47 FR 187
End of Comment Period on stay	02/19/82	
ANPRM Comment Period End	04/05/82	
Stay published	01/04/83	48 FR 241
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: also proposed to stay the publication of the candidate and priority lists. The final stay was published on 1/4/83 (48 FR 241). As part of its evaluation of the policy, OSHA is reviewing the public

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comments received in response to the document published by the Office of Science and Technology Policy entitled "Chemical Carcinogens, Review of the Science and its Associated Principles, May 1984" and is reviewing the later version of that document which was published March 14, 1985.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA01

1548. RESPIRATORY PROTECTION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: The present respiratory protection standards have been in place for more than 10 years and do not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA has reviewed the current standards and intends to propose revisions.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
Public Comment Period onPreproposal Draft Ends	11/29/85	
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA05

1549. ASBESTOS, TREMOLITE, ANTHOPHYLLITE AND ACTINOLITE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1001; 29 CFR 1926.58

Legal Deadline: None

Abstract: On June 17, 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite in general industry and in the construction industry. These standards replaced OSHA's previous asbestos standard promulgated in 1972. Since the issuance of the revised standards OSHA has received letters and petitions, from both rulemaking participants and nonparticipants, that contain additional comments, assertions and information that the rulemaking record may not fully reflect. These letters and petitions concern the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite as presenting the same health risk as asbestos. OSHA has granted a temporary stay of the effective dates of the current standards as they apply to nonasbestiform varieties of tremolite, anthophyllite and actinolite. This action was taken, in part, to enable the Agency to review letters and memoranda from the National Institute for Occupational Safety and Health as well as submissions by the R.T. Vanderbilt Company and various other (cont)

Timetable:

Action	Date	FR Cite
Notice of partial admin. stay	10/17/86	51 FR 37002
Extension of partial admin. stay	04/30/87	52 FR 15722
Extension of partial admin. stay	07/20/88	53 FR 27345
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: trade associations concerning the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite in the revised standards. In addition, the temporary stay was imposed to allow sufficient time for OSHA to reopen the rulemaking record and conduct supplemental proceedings on the issue of whether, and how, to regulate occupational exposure to the nonasbestiform varieties of tremolite, anthophyllite and actinolite. The temporary stay will remain in effect until OSHA completes the evaluation of the comments and reaches a final decision.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA26

1550. METHODS OF COMPLIANCE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000(e); 29 CFR 1910.134(a)(1)

Legal Deadline: None

Abstract: OSHA's policy concerning the use of engineering controls and respirators was targeted for review by the President's Task Force on Regulatory Relief in 1981. Current OSHA regulations require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace at or below the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, not yet installed, or not adequate. This policy has been criticized as being inflexible, not cost-effective, and often unnecessary for employee health protection. OSHA believes that any changes to the policy for use of engineering controls must be closely coordinated with revisions in the respiratory protection regulations (29 CFR 1910.134). This rulemaking does not address the assessment and reduction of any absolute existing risks, but rather addresses the possible change in risk abatement associated with the use of respirators instead of engineering controls.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/83	48 FR 7473
ANPRM Comment Period End	06/22/83	
NPRM	06/05/89	54 FR 23991

Action	Date	FR Cite
NPRM Comment Period End	10/03/89	
Final Action	02/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-7075

RIN: 1218–AA28

1551. OIL AND GAS WELL DRILLING AND SERVICING (PART 1910)

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: Employees in oil and gas well drilling and servicing are exposed to a variety of safety hazards which are not specifically covered by present OSHA safety standards. It has proved difficult to apply the existing general industry standards to control the unique nature of this industry. OSHA is considering a standard which will address the unique problems of oil and gas well drilling and servicing. OSHA is reevaluating its proposed rule based on the public record and intends to reissue a proposed rule as the next action.

Timetable:

Action	Date	FR Cite
NPRM	12/28/83	48 FR 57202
NPRM Comment Period End	06/04/84	49 FR 9913
Public Hearing Held 07/24/84 thru	08/10/84	49 FR 9913

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA34

1552. BENZENE EXPOSURE IN BARGE/TANKER CLEANING AND REPAIR

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, (Table Z-2); 29 CFR 1910.1028

Legal Deadline: None

Abstract: OSHA has amended its standard for occupational exposure to benzene by reducing the permissible exposure limit from 10 parts benzene per million parts of air (10 ppm) to an eight-hour time-weighted average of 1 ppm and by adding appropriate industrial hygiene and medical surveillance provisions necessary for the protection of employee health. This action is based on OSHA's determination that the amendments are needed to reduce the risk of leukemia and other adverse health effects associated with occupational exposure to benzene. OSHA published its final amendment to the standard on September 11, 1987. Due to technical problems associated with the completion of a detailed study of feasibility in barge and tanker cleaning and repair operations, however, OSHA exempted these operations from certain provisions of the standard. OSHA intends to issue a proposal to amend the benzene standard which will address the factors specific to the barge and tanker cleaning and repair industry.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50512
Notice Changing Public Hearing	01/28/86	51 FR 3474
NPRM Comment Period End	02/14/86	50 FR 50512
Public Hearings	03/11/86	50 FR 50512
Final Action	09/11/87	52 FR 34460
Final Action Effective	12/10/87	
NPRM on Barge/Tanker Cleaning and Repair Operations	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA47

1553. FALL PROTECTION SYSTEMS (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, (Subpart I)

Legal Deadline: None

Abstract: Existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for personal fall protection systems would be added to 29 CFR Part 1910; Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1218-AA48 will be issued concurrently with 1218-AB04.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA48

1554. CONFINED SPACE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: Entry into confined spaces has been responsible for many employee deaths and injuries. However, current standards do not specifically address the hazards associated with entry into confined spaces. Therefore, OSHA is proposing certain criteria and precautions which are necessary to minimize the hazards associated with employees entering confined spaces.

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Timetable:

Action	Date	FR Cite
NPRM	06/05/89	54 FR 24080
NPRM Comment Period End	10/04/89	54 FR 30557
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA51

1555. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918, (Revision)

Legal Deadline: None

Abstract: The purpose of this regulatory action would be to update and revise a standard first issued in 1960. The current language in many instances addresses the hazards of cargo handling involving methods long since abandoned, and fails to address the serious hazards of newer methods. Because much of the current standard is out of date, there are problems with compliance. These revised requirements will provide both employers and employees with a blueprint for effective and safe workpractices in the cargo handling industry. No alternative other than revision is contemplated. The annual cost of the revision is expected to be minimal -- less than five million dollars.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA56

1556. PULP, PAPER AND PAPERBOARD MILLS (PART 1910)

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.261, (Revision)

Legal Deadline: None

Abstract: This regulatory action will revise the existing standards covering mills where pulp, paper, and paperboard are manufactured and converted. The revision will develop performance oriented standards that address current gaps in coverage, the use of new technology, the elimination of outmoded or redundant provisions, and the use of appropriate OSHA general industry standards.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 26 Paper and Allied Products

Additional Information: The Agency has determined that no further action be taken due to a priority reassignment of resources leading to the completion of a generic standard having a direct affect on the pulp, paper and paperboard mills standard.

Agency Contact: Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA61

1557. STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750, (Revision); 29 CFR 1926.751, (Revision); 29 CFR 1926.752, (Revision)

Legal Deadline: None

Abstract: This action will consolidate, clarify, and revise the existing provisions governing steel erection assembly, flooring, holting, riveting, fitting-up, plumbing-up, and fall protection. When completed, the revised fall protection requirements may be relocated and be incorporated into Subpart M (of Part 1926) which is the general fall protection standard.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA65

1558. FACE, HEAD, EYE AND FOOT PROTECTION (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Existing standards for eye, face, head, and foot protection reference outdated national consensus standards which have been updated and improved. Consequently, criteria for personal protective equipment for eye, face, head, and foot would be revised to reflect improved developments in these types of equipment. This would allow the use of better personal protective equipment and would result in improved employee protection from eye, face, head, and foot hazards.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33832
NPRM Comment Period End	10/16/89	
Final Action	07/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA71

1559. WELDING, CUTTING AND BRAZING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.251; 29 CFR 1910.252; 29 CFR 1910.253; 29 CFR 1910.254

Legal Deadline: None

Abstract: OSHA proposes to revise and update its existing Subpart Q covering welding, cutting and brazing operations, and to develop performance-oriented standards designed to reduce the number of deaths and injuries due to unsafe equipment and unsafe operations. There has been no substantial revision to Subpart Q since its adoption in 1971. A complete and comprehensive revision is needed at this time to bring the standard into line with the current state-of-the art and updated consensus standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA72

1560. FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq.

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

Abstract: The present occupational health standard for formaldehyde was published on December 4, 1987 (52 FR 46168). In this standard, the Occupational Safety and Health Administration (OSHA) required hazard warning labels to be placed on containers of all products composed of greater than 0.1 percent formaldehyde or capable of releasing formaldehyde into the air under any normal condition of use at concentrations reaching or exceeding 0.1 ppm. Material safety data sheets, prepared in accordance with paragraph (g) of the Hazard Communication Standard (29 CFR 1910.1200), were also required. On December 2, 1987, the Formaldehyde Institute filed an Application for Administrative Stay of the Formaldehyde Standard's cancer labeling requirement. On November 8, 1988, OSHA requested comments on whether to grant a petition for administrative stay of these provisions and whether to institute additional rulemaking. Based primarily on the comments received, OSHA stayed the provision at 29 CFR 1910.1048 (m)(l)(i) through (m)(4)(ii) for a period of (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: nine months, commencing December 13, 1988 (53 FR 50198). OSHA plans to propose to revoke the stayed provisions and will request alternative methods for defining a de minimis exemption for products that release trace amounts of formaldehyde. Based on public comment and the rulemaking record, OSHA will promulgate revised hazard communication provisions for formaldehyde.

Agency Contact: Charles E. Adkins, Director, Health Standards Program, Occupational Safety and Health Admin., Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218–AA82

1561. 1,3-BUTADIENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, (Table Z-1)

Legal Deadline: None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1986 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1986.

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA83

1562. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL AND THEIR ACETATES

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section

9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987, (52 FR 10586). OSHA will use the information received in response to the ANPRM, as well as other information and analysis, to prepare a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA84

1563. GEAR CERTIFICATION (PART 1919)

Legal Authority: 29 USC 655; 29 USC 941

CFR Citation: 29 CFR 1919, (Revision)

Legal Deadline: None

Abstract: In its May 7, 1987, Federal Register notice the Agency requested information to assist in the possible revision of 29 CFR Part 1919. Part 1919, entitled "Gear Certification," implements requirements located in each of OSHA's maritime standards which cover work carried out within the Federal maritime jurisdiction. Changes in the design and composition of cargo handling gear which have evolved since these rules were last amended (1969) provided questions as to the efficacy of the current rules. Additionally, the Agency sought comments that would suggest ways in which the administrative function of the accreditation program could be improved. Comment period ended: August 5, 1987.

Timetable:

Action	Date	FR Cite
Request for Information	05/07/87	52 FR 17302
Comment Period Closed	08/05/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 37 Transportation Equipment; 44 Water Transportation

Additional Information: The Agency has determined, based on input to its "Request for Comments and Information," that minor revision to Gear Certification (Part 1919) is necessary.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA97

1564. METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: In July 1985, OSHA was petitioned by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride (DCM). This request was based on information obtained from the Environmental Protection Agency and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to DCM and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. OSHA published an Advance Notice of Proposed Rulemaking on November 24, 1986 (51 FR 42257).

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	51 FR 42257
NPRM	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA98

1565. WALKING AND WORKING SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32

Legal Deadline: None

Abstract: Existing standards for walking and working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance-oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 1218-AB04 will be issued concurrently with 1218-AA48.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB04

1566. CADMIUM

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910, (Table Z-2)

Legal Deadline: None

Abstract: On June 18, 1986, the International Chemical Workers Union and the Public Citizen Health Research Group petitioned OSHA to issue an emergency temporary standard reducing the permissible exposure limit for cadmium to one microgram of cadmium per cubic meter of air. On June 25, 1987 the union and HRG filed a petition with the Court of Appeals requesting the Court to order OSHA to promulgate an ETS. In its July 1, 1987, response to the petitioners, OSHA stated that issuance of an emergency standard was not warranted, but that exposure to cadmium at levels permitted under the current standard represented a significant risk to worker health which would be addressed through section 6(b) rulemaking procedures. On September 26, 1988, OSHA published guidelines for controlling exposure to cadmium and recommended reduced exposure levels significantly below the permissible exposure limit.

Timetable:

Action	Date	FR Cite
Response to Petitioners	07/01/87	
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB16

1567. HAZARDOUS MATERIALS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, (Subpart H)

Legal Deadline: None

Abstract: Standards in 29 CFR Part 1910, Subpart H, which address the storage, handling and use of hazardous materials, such as compressed gases, acetylene, hydrogen, oxygen, liquified petroleum gases, and flammable and combustible liquids, will be revised. This regulatory action will provide a new approach to the revision of Subpart H and will occur in three phases in an expanded timeframe. The three phases will be (1) Process Hazards Management, (2) Flammable and Compressed Gases, and, (3) Hazardous Liquids. The first phase of the proposed action is intended to better protect employees from unexpected releases of significant quantities of dangerous substances. The remaining phases are intended to simplify, clarify and consolidate standards on hazardous materials and assist employers and employees in general industry to better understand and better focus on the hazards inherent in the use, handling, and storage of such materials.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 38108
NPRM	01/00/90	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This action merges two previous actions, "Hazardous Materials-- Flammable and Compressed Gases (Part 1910)" and "Hazardous Materials--Flammable and Combustible Liquids (Part 1910)" and will also include storage and handling of toxic materials.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB20

1568. SHIPYARD EMPLOYMENT: PHASE II (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq.; 29 CFR 1915.31 et seq.; 29 CFR 1915.91 et seq.; 29 CFR 1915.111 et seq.; 29 CFR 1915.131 et seq.; 29 CFR 1915.161 et seq.; 29 CFR 1915.171 et seq.; 29 CFR 1915.181; 29 CFR 1910.13; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: This regulatory action will complete the consolidation and updating of Parts 1915 and 1910 by providing shipyard employees with coverage under one comprehensive OSHA standard. This revision will involve the promulgation of 16 maritime subparts and their 1910 counterparts. Its completion will relieve shipyard owners from the burden of having to comply with two sets of rules that are complex, prescriptive, confusing and, in some cases, conflicting. OSHA has established an Advisory Committee to assist the agency in reviewing and revising these subparts. Experts from government, industry, unions and the states will be asked to work with OSHA on this project. A previously identified project, Surface Preparation and Preservation (RIN: 1218-AA96), will be included in this project.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB22

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DOL—OSHA — Proposed Rule Stage

1569. ● PEL UPDATE PROPOSAL FOR CONSTRUCTION, MARITIME AND AGRICULTURE

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: 29 CFR Not Yet Determined

Legal Deadline: None

Abstract: The permissible exposure limits (PELS) promulgated by OSHA in 1971 do not reflect current knowledge of the health effects of many toxic substances. OSHA published a proposal on June 7, 1988 (53 FR 20960) to amend and expand the PELs for general industry. On January 19, 1989 OSHA set new PELs for the toxic substances originally covered in 1971 and covered new substances in a single rulemaking that applied to general industry. OSHA now plans to update the old PELs for construction, maritime, and agricultural sectors not covered by the general industry proceeding. The PELs for these sectors are outdated: the construction industry (29 CFR 1926) references the 1970 ACGIH TLVs; the maritime industry cites three different references--29 CFR 1918 (longshoring), "dangerous gaseous contaminants not immediately dangerous to life" and "heavy concentrations of dusts." In addition, in the agricultural section, OSHA will consider chemicals and pesticides that are currently regulated by EPA. As a result of this rulemaking, OSHA expects that a unified table of PELs for toxic substances will be adopted for all industries.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218–AB26

1570. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657; 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.121, (Subpart H)

Legal Deadline: None

Abstract: Public Law 99-499 requires the Secretary of Labor to promulgate a final standard for Hazardous Waste Operations and Emergency Response. The final standard was issued on March 6, 1989. Section 126 of Public Law 99-499 was amended by Congress on December 22, 1987 to require the Secretary of Labor to include in the final rule a training course certification program at least as comprehensive as the EPA's model program for asbestos abatement in public buildings. This proposed revision would add criteria and requirements for training course certification of training for workers involved in hazardous waste operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FPBuilding, Washington, DC 20210, 202 523-8061

RIN: 1218–AB27

1571. ● VEHICLE SAFETY

Significance: Agency Priority

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.140; 29 CFR 1915.99; 29 CFR 1917.44; 29 CFR 1918.73; 29 CFR 1926.601; 29 CFR 1926.602; 29 CFR 1928.58

Legal Deadline: None

Abstract: OSHA currently has no general regulation requiring that employers train their employees in the safe operation of motor vehicles on the job, including the required use of seat belts, although motor vehicle crashes are the single largest cause of occupational fatalities. On-the-job motor vehicle crashes, in both on-road and off-road vehicles, caused over 30 percent of traumatic work-related fatalities in 1987. In the manufacturing sector, which is the primary target of most OSHA regulations, more workers are killed by motor vehicles than by fixed machinery. The hazards faced by workers operating automobiles and trucks, both on public highways and at private facilities, could be greatly reduced by requiring employers to train their employees in safe driving techniques, including the required use of seat belts. OSHA plans to proceed with a single NPRM that would regulate all employers covered by the OSH Act. The approach will be to develop a generic, performance-oriented standard. Various state regulations (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: governing the use of seat belts, and related studies will be considered in this proposal. OSHA expects that the regulation could prevent as many as 630 fatalities each year.

Agency Contact: Barry J. White Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AB28

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA) — Final Rule Stage

1572. OCCUPATIONAL EXPOSURE TO TOXIC SUBSTANCES IN LABORATORIES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1450

Legal Deadline: None

Abstract: Existing OSHA standards are designed to protect employees who are engaged in work involving exposure to only a few toxic chemicals during relatively standardized, continuous or repetitive processes. In contrast, laboratory workers are exposed to a multitude of toxic substances under frequently changing or unpredictable conditions. During this rulemaking, OSHA will examine whether prudent work practices and protective equipment, chosen for the specific facility and task, are more effective, feasible and economical for laboratory work than adhering to OSHA's current substance-specific standards. Accordingly, OSHA has proposed a special performance-oriented work practices standard that, if promulgated, would apply to laboratory workers and would contain provisions specifically designed for laboratory conditions.

Timetable:

Action	Date	FR Cite
ANPRM	04/14/81	46 FR 21785
ANPRM Comment Period End	07/15/81	
NPRM	07/24/86	51 FR 26660
NPRM Comment Period End	10/22/86	51 FR 26660
Public Hearings	03/24/87	52 FR 1212
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA00

1573. ETHYLENE DIBROMIDE (EDB)

Significance: Agency Priority

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

Abstract: Recent scientific studies have reported that ethylene dibromide causes cancer when administered orally, by inhalation and by skin application in laboratory animals. In addition, other studies have shown the chemical to be a mutagen, teratogen and testicular toxin in experimental animals. On the basis of these reports, OSHA has determined that its current permissible exposure limit of 20 ppm does not provide exposed workers adequate protection against cancer and other adverse health effects. A proposed standard for ethylene dibromide was published 10/07/83 (43 FR 45956). Public hearings were held in February 1984. OSHA is currently in the process of decisionmaking on the provisions to be included in the final standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/81	46 FR 61671
ANPRM Comment Period End	05/31/82	
NPRM	10/07/83	48 FR 45956
NPRM Comment Period End	11/21/83	48 FR 45956
Public Hearing Held	02/08/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA06

1574. CONCRETE AND MASONRY CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.700; 29 CFR 1926.701; 29 CFR 1926.702; 29 CFR 1926.703; 29 CFR 1926.704; 29 CFR 1926.705; 29 CFR 1926.706

Legal Deadline: None

Abstract: A final rule for concrete and masonry construction was published in the Federal Register on June 16, 1988. However, the record was reopened to allow information and evidence obtained from the investigation of a recent major accident to be included in the record pertaining to lift-slab operations. Revised lift-slab rules were then proposed (September 15, 1988).

Timetable:

Action	Date	FR Cite
ANPRM	02/09/82	47 FR 5910
ANPRM Comment Period End	04/10/82	
NPRM	09/16/85	50 FR 37543
NPRM Comment Period End	11/15/85	50 FR 37543
Public Hearing Scheduled	04/08/86	51 FR 11945
Public Hearing Rescheduled and Held June 17-18, 1986	05/09/86	51 FR 17203
Final Action (Except Lift-Slab)	06/16/88	53 FR 22612
Final Action Effective Date (Except Lift-Slab)	09/15/88	53 FR 22612
NPRM – Reproposal of Lift-Slab Rules	09/15/88	53 FR 35972
NPRM Public Comment Period End – Reproposal of Lift-Slab Rules	11/14/88	
Final Action on Lift-Slab Rules	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 29 CFR 1926, Subpart Q currently entitled: "Concrete, Concrete Forms, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA20

1575. ELECTRICAL SAFETY-RELATED WORK PRACTICES (PART 1910)

Significance: Regulatory Program.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.331; 29 CFR 1910.332; 29 CFR 1910.333; 29 CFR 1910.334; 29 CFR 1910.335; 29 CFR 1910.399; 29 CFR 1910.26(c)(3)(iii); 29 CFR 1910.67(b)(4); 29 CFR 1910.68(b)(4); 29 CFR 1910.68(c)(5)(iv)(c); 29 CFR 1910.94(a)(2)(iii); 29 CFR

DOL—OSHA — Final Rule Stage

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1910.103(b)(3)(iii)(e); 29 CFR 1910.106(h)(7)(iii)(a); 29 CFR 1910.110, (Table H-28); 29 CFR 1910.178(c)(2); ...

Legal Deadline: None

Abstract: Standards are currently under review for the second part (Subpart S of Part 1910) of OSHA's electrical standard which would establish a performance-oriented standard for electrical safety-related related work practices to complement the existing electrical installation standards. The proposed standard includes requirements for work performed on or near exposed energized and deenergized parts of electrical equipment and includes requirements for both the safe use of the electrical equipment as well as the use of personal protection devices.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45530
NPRM Comment Period End	02/29/88	52 FR 45530
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA32

1576. EXCAVATIONS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.650; 29 CFR 1926.651; 29 CFR 1926.652; 29 CFR 1926.653

Legal Deadline: None

Abstract: This rule prescribes the minimum measures to be taken to protect employees from injury during excavation work. A revision of the existing rule was proposed because trench and excavation sidewall failures that have resulted in death and injury to workers continue in significant numbers. Claims that the existing standards are ambiguous and too restrictive, especially with respect to the type of soil involved, have also been made.

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	52 FR 12268
NPRM Comment Period End	10/14/87	52 FR 22799
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1. 29 CFR 1926.650 through .653 currently entitled: "Excavations, Trenching, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA36

1577. FALL PROTECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.104; 29 CFR 1926.105; 29 CFR 1926.500; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.107(b); 29 CFR 1926.250(b)(2); 29 CFR 1926.651(t); 29 CFR 1926.951(b)(4)(i); 29 CFR 1926.107(c); 29 CFR 1926.107(f); 29 CFR 1926.651(w)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and does not properly address the fall protection needs of certain areas and operations. The proposal raises several significant issues including (1) when fall protection systems must be installed, (2) whether work surface inspections are necessary to insure adequate structural integrity before commencing work, and (3) whether body belt systems or body harness systems are appropriate for use as fall protection. (Subpart M revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218–AA37

1578. SCAFFOLDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and omits necessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including: (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design. (Subpart L, revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218–AA40

1579. LOGGING OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.266, (Revision)

Legal Deadline: None

Abstract: Logging is a very hazardous industry. It has an incidence rate nearly twice that of manufacturing, and reflecting the seriousness of the injuries incurred, a lost workday rate nearly four times as high. The purpose of the standard will be to protect workers from the ever-present hazards of chain saw operation, falling objects (trees, branches), rolling or sliding logs, falls from trees, and materials handling accidents. At present there is no OSHA standard specifically applicable to logging in general. There is a standard, 29 CFR 1910.266, applicable only to pulpwood logging; however, pulpwood logging is estimated to account for less than half of the logging activity in the United States. Development of a national OSHA standard addressing all types of logging will provide coverage for those loggers not now protected. The new regulation will provide coverage where there is no approved state regulation and will set a minimum safety level for those states that chose to develop a state regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/02/89	54 FR 18796
NPRM Comment Period End	07/31/89	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 24 Lumber and Wood Products, Except Furniture

Agency Contact: Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA52

1580. STAIRWAYS AND LADDERS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.452; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.1050; 29 CFR 1926.1051

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it contains references to non-government voluntary regulations by topic. The proposal raises several significant issues including: (1) what is the appropriate height limit where the use of ladders as a means of access should be required, and (2) what are appropriate field tests for determining ladder strength. (New Subpart X)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This new Subpart X is a revision of the ladder and stairway portions of existing Subparts L (ladders and scaffolds) and M (Floor and Wall Openings and Stairways). The remaining portions of Subparts L and M are being revised as Subparts L (Scaffolds) and M (Fall Protection). (RIN 1218-AA37 - Fall Protection; RIN 1218-AA40 - Scaffolds.) This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA57

1581. 4,4'-METHYLENEDIANILINE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: 4,4'-Methylenedianiline (MDA) is a chemical used primarily to manufacture methylenediphenyl diisocyanate, which is used to make polyurethane foams and elastomers. Recent scientific data indicate that MDA is a carcinogen in animals and a potential carcinogen in humans. In 1983, OSHA and the Environmental Protection Agency participated in a joint effort to publish an advance notice of proposed rulemaking to solicit information on MDA production and use, estimates of environmental and occupational exposure, and studies of its toxic and carcinogenic effects. EPA evaluated the data received in response to the advance notice and concluded that the chemical presents an unreasonable risk of injury to the health of exposed workers. Under the provisions of section 9(a) of the Toxic Substances Control Act, EPA referred MDA to OSHA for action. OSHA responded to the EPA referral on 2/26/86. OSHA established a mediated rulemaking advisory committee composed of interested parties from labor, industry and government to assist the agency in developing a proposed standard. The Committee completed its work in June 1987 (cont)

Timetable:

Action	Date	FR Cite
ANPRM	09/20/83	48 FR 42836
ANPRM Comment Period End	11/23/83	48 FR 42836
Publication of Committee Recommendation	07/16/87	52 FR 26776
NPRM	05/12/89	54 FR 20672
NPRM Comment Period End	05/16/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and forwarded its recommendations to the Agency. OSHA published the Committee's recommendations on July 16, 1987, and published a proposed standard for MDA. OSHA published the Committee's recommendations on July 16, 1987, and published a proposed standard for MDA on May 12, 1989.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA58

1582. ELECTRIC POWER GENERATION, TRANSMISSION AND DISTRIBUTION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

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DOL—OSHA

Final Rule Stage

CFR Citation: 29 CFR 1910.137; 29 CFR 1910.269

Legal Deadline: None

Abstract: A major area of coverage not addressed in the current OSHA electrical standards for general industry (29 CFR 1910) involves the maintenance and operation practices associated with electrical transmission and distribution lines, substations and generating stations. It is intended that the proposed standard fill this void by establishing minimum requirements for electrical safety work practices for qualified employees working on or near installations whose purpose is the generation and distribution of electricity.The proposal also revises the standards for electrical protective equipment, which is used routine for electrical power work.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4974
NPRM Comment Period End	06/01/89	
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA59

1583. FALL PROTECTION IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.201; 29 CFR 1915.202; 29 CFR 1915.203; 29 CFR 1915.73; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.77

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering fall protection and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.28 - .29.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA66

1584. SCAFFOLDS IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering scaffolds and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48166
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.21-1910.23.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA66

1585. ACCESS AND EGRESS IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering access and egress and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.24-1910.27; 29 CFR 1910.36-1910.37.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA68

1586. WELDING, CUTTING AND HEATING IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.51; 29 CFR 1915.52; 29 CFR 1915.53; 29 CFR 1915.54; 29 CFR 1915.55; 29 CFR 1915.56; 29 CFR 1915.57

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering welding, cutting, and heating.

DOL—OSHA

Final Rule Stage

The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. In addition, it will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48111
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.251-1910.252.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA73

1587. PERSONAL PROTECTIVE EQUIPMENT IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering personal protective equipment. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.132-1910.137.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA74

1588. EXPLOSIVE AND OTHER DANGEROUS ATMOSPHERES (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.11; 29 CFR 1915.12; 29 CFR 1915.13; 29 CFR 1915.14; 29 CFR 1915.15; 29 CFR 1915.16

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering explosive and other dangerous atmospheres. This revision will develop, in part, a performance-oriented standard, address any gaps in coverage, recognize new technology, and eliminate outmoded or redundant standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48092
NPRM Comment Period End	02/27/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 373 Ship and Boat Building and Repairing

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8063

RIN: 1218–AA91

1589. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333; 5 USC 553

CFR Citation: 29 CFR 1910.1200; 29 CFR 1915.99; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21

Legal Deadline: None

Abstract: OSHA promulgated a final rule on August 24, 1987, that extended the protections of its Hazard Communication Standard (HCS) from the manufacturing sector to all other workplaces where employees are exposed to hazardous chemicals. The HCS requires covered employers to establish hazard communication programs for their employees, including labels on containers, material safety data sheets, and training programs. On August 8, 1988, OSHA published a NPRM to modify the final rule, and provide an opportunity for public comment. Public comments have been received, hearings have been held, and OSHA will prepare a final rule based on the public record for this standard, including the record developed in earlier rulemakings.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48794
ANPRM Comment Period End	02/25/86	
NPRM	08/08/88	53 FR 29822
NPRM Comment Period End	10/24/88	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB02

1590. BLOODBORNE PATHOGENS

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: Many health-care workers are exposed to blood and body fluids

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from patients who have active bloodborne infections or are carriers of these infections. Such exposure presents a potential risk of disease for the health-care worker. One such disease, Hepatitis B, has been shown to present a substantially increased risk for health-care workers. Hepatitis B is a serious disease that may require hospitalization and, in a small percentage of cases, is fatal. Another bloodborne disease, Acquired Immune Deficiency Syndrome (AIDS) is also of great concern to health- care workers. Only a very small number of infections, however, have been documented to have resulted from occupational exposure to the virus that causes AIDS. About half of the nation's 6 million health-care workers are at increased risk from exposure to bloodborne infectious diseases. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/27/87	52 FR 45438
ANPRM Comment Period End	01/26/88	52 FR 45438
NPRM	05/30/89	54 FR 23042
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Some examples of health-care workers at highest risk are emergency room workers, dialysis unit workers, operating room personnel, intensive care unit workers, and blood bank employees. The Occupational Safety and Health Administration (OSHA) has no standard specifically regulating occupational exposure to bloodborne infectious diseases. In 1983, the Agency issued guidelines for reducing the occupational risk of Hepatitis B infection (OSHA Instruction CPL 2-2.36). These guidelines are voluntary, however. In September 1986, OSHA was petitioned by the American Federation of State, County and Municipal Employees and other unions for the issuance of an emergency temporary standard to protect workers from occupational exposure to bloodborne infectious diseases, such as hepatitis B and AIDS. On May 30, 1989, OSHA published its proposal in the Federal Register (54 FR 23042). Public comment on the proposed standard will assist OSHA in determining the appropriate scope and provisions of the final rule.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, Dc 20210, 209 523-7075

RIN: 1218–AB15

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Completed Actions

1591. POWERED PLATFORMS FOR EXTERIOR BUILDING MAINTENANCE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.66

Legal Deadline: None

Abstract: The present standard, which requires positive engagement of a powered platform with a building face to provide stabilization, may need to be revised because many variance designs have been submitted which do not provide positive engagement of the platform, yet claim equal stability. The agency believes there may be merit to this claim. The proposal provides flexibility in compliance through performance-oriented provisions as alternatives to positive engagement. It would also expand the scope of the current standard to include requirements covering additional suspension equipment, fall protection, and employee training.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/83	48 FR 6368
ANPRM Comment Period End	03/14/83	48 FR 6368
NPRM	01/22/85	50 FR 2890
NPRM Comment Period End	03/25/85	50 FR 2890
Reopening of NPRM Comment Period to 8/1/85	07/02/85	50 FR 27307
Informal Public Hearing	02/20/86	
Final Action	07/26/89	54 FR 31408
Final Action Effective	01/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA33

1592. UNDERGROUND CONSTRUCTION (TUNNELS AND SHAFTS)(PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.800

Legal Deadline: None

Abstract: The existing standards were revised to update the treatment of hazards of construction in underground locations such as tunnels, shafts, chambers, passageways and covered excavations. In some cases, the existing standards were too restrictive. In addition, existing language was rewritten to clarify the requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/05/83	48 FR 35774
NPRM Comment Period extended to 02/17/84	12/19/83	48 FR 56087
Public Hearing Held	03/13/84	

Action	Date	FR Cite
Limited Reopening of Comment Period Until 10/18/85	08/19/85	50 FR 33357
Final Action	06/02/89	54 FR 23824
Final Action Effective	08/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA38

1593. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.147, (New)

Legal Deadline: None

Abstract: The proposed standard will fill a major gap in our current regulations which now depend for enforcement on the general duty clause, 5(a)(1). It will apply to those situations where the unexpected energization, start up or the release of stored energy could cause injury to employees. Providing comprehensive and uniform control procedures is also expected to reduce significantly the potential for injury and death of employees because the hazards targeted for control exist in virtually every workplace. Further, the proposed standard will respond to the concerns of organized labor who petitioned OSHA in 1979 and again in 1982 for regulatory action to protect employees and to the American National Standards Institute's petition for OSHA to adopt its consensus standard ANSI Z244.1-1982. Regulatory options involve developing a comprehensive standard covering all potentially hazardous energy sources or limiting the scope and application to those certain machines or industries that are causing most of the injuries.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/80	45 FR 41012
ANPRM Comment Period End	09/15/80	
NPRM	04/29/88	53 FR 15496
NPRM Comment Period End	06/28/88	53 FR 15496
Final Action	09/01/89	54 FR 36644
Final Action Effective	10/31/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This final standard shall become effective October 31, 1989, except for paragraphs (c)(4), (c)(7), and (f)(2), of sections 1910.147 which contain information requirements currently under review at OMB. A document announcing the effective date of the recordkeeping portions will be published at a later date in the Federal Register.

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm. N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA53

1594. LEAD (RECONSIDERATION OF THE FEASIBILITY OF COMPLIANCE IN NINE INDUSTRY SECTORS)

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1025

Legal Deadline: Final, Judicial, June 28, 1989.

Abstract: On December 11, 1981 (46 FR 60758), OSHA published a Revised Statement of Reasons concerning the feasibility of compliance with paragraph (e)(1) of the standard for occupational exposure to lead, which had been promulgated in 1978. In this revised statement, OSHA stated that it could not reach a conclusion regarding feasibility, on the basis of the existing rulemaking record, for eight specific industry sectors: lead chromate pigments, lead chemicals, nonferrous foundries, brass and bronze ingot production, secondary copper smelting leaded steel, shipbuilding and ship repair, stevedoring, and battery breaking separate from secondary smelting, and that in addition, it wished to reexamine the applicability of the lead standard to the stevedoring industry. OSHA requested that the record (which was under review by the U.S. Court of Appeals for the District of Columbia Circuit) be remanded for supplementary administrative proceedings. The Court granted OSHA's December 1981 request on March 31, 1987, and remanded the record to OSHA for further administrative proceedings to determine the feasibility of section (e)(1) for the nine industry sectors OSHA had (cont)

Timetable:

Action	Date	FR Cite
Reopening of Lead Rulemaking Records	08/03/87	52 FR 28727
End of Comment Period	09/16/87	
Public Hearings	09/29/87	
Final Action	07/11/89	54 FR 29142
Final Action Effective	08/10/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: listed. The Court further ordered OSHA to return the record on or before October 1, 1987. On June 17, 1987, OSHA filed with the Court a motion requesting a 90-day extension to January 1, 1988. On July 31, 1987 the Court granted OSHA's motion. OSHA published in the Federal Register on August 3, 1987, a notice of a limited reopening of the rulemaking record (limited to the issue of feasibility) and specified September 2, 1987 for the receipt of comments from the public and September 15, 1987 for public hearings. Thereafter, at the request of industry and labor, OSHA deferred the relevant dates for the rulemaking until September 16 and 20, 1987, respectively.OSHA requested, and was granted by the Court, an extension for final action until July 15, 1988.Because of the complexity of the issues, OSHA petitioned the court on July 15 for an extension of time for the return of the record until the end of November 1988. OSHA published a final standard on July 11, 1989.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718,

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DOL—OSHA — **Completed Actions**

FPBldg. Washington, DC 20210, 202 523-7075

RIN: 1218–AB18

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Office of the Assistant Secretary for Veteran's Employment & Training (ASVET)

1595. VETERANS' PROGRAMS AND SERVICES ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING

Significance: Regulatory Program

Legal Authority: 38 USC Chapter 41; PL 100-323

CFR Citation: 20 CFR Chapter IX

Legal Deadline: None

Abstract: To revise new Chapter IX of Title 20, CFR, titled Office of the Assistant Secretary for Veterans' Employment and Training, to fully describe the authority and responsibilities for provision of services to veterans through administration of programs and activities carried out through the Veterans' Employment and Training Service (VETS). Revisions are to bring regulations into conformity with 38 U.S.C. Chapter 41,42, and 43, as amended by P.L. 100-323. Previous rulemaking will establish the new 20 CFR Chapter IX, Parts 1000-1099, which are hereby revised. According to PL 100-323, several major provisions must be added to the regulations as follows: a) expand responsibilities of Assistant Secretary for Veterans' Employment and Training; (b) establish position of Regional Administrator for Veterans' Employment and Training; (c) expand duties of Disabled Veterans' Outreach Program Specialists; (d) establish assignment formula and duties for local Veterans; employment Representatives; (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: (e) expand list of data items to be collected and reported to Congress annually; (f) establish permanent National Veterans' Training Institute; (g) expand membership of Secretary's Committee on Veterans' Employment; (h) set requirements for greater coordination with JTPA and OPM. Requires solution since statute requires Department of Labor to monitor and/or administer affected programs.

Agency Contact: Carlon J. Johnson, Chief, Office of Regulations and Special, Programs, Department of Labor, Office of the Assistant Secretary for Veteran's Employment & Training, 200 Constitution Avenue, NW, Room S1316, FP Building, Washington, DC 20210, 202 523-9110

RIN: 1293–AA03

DEPARTMENT OF LABOR (DOL) — **Completed Actions**

Office of the Assistant Secretary for Veteran's Employment & Training (ASVET)

1596. ● ESTABLISHMENT OF NEW CHAPTER

Legal Authority: 38 USC Chapter 41; PL 100-323

CFR Citation: 20 CFR 652B; 20 CFR 635; 20 CFR 1000 to 1099 (NEW); 20 CFR 1001 (NEW); 20 CFR 1005 (NEW)

Legal Deadline: None

Abstract: To revise Title 20 CFR by establishing a new Chapter IX, Parts 1000-1099 for the Assistant Secretary for Veterans' Employment and Training and to redesignate 20 CFR Part 652, Subpart B as 20 CFR 1001 and to redesignate 20 CFR Part 635 as 20 CFR Part 1005.

Timetable:

Action	Date	FR Cite
Final Action	09/26/89	54 FR 39352
Final Action Effective	10/26/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carlon J. Johnson, Chief, Office of Regulations and, Special Programs, Department of Labor, Office of the Assistant Secretary for Veteran's Employment & Training, 200 Constitution Avenue, NW, Room S1316 FP Building, Washington, DC 20210, 202 523-8611

RIN: 1293–AA04

[FR Doc. 89-22482 Filed 10-27-89; 8:45 am]

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federal register

Monday
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Part XIII

Department of State

Semiannual Regulatory Agenda

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DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 1133]

Unified Agenda of Federal Regulations

AGENCY: Department of State.

ACTION: Semiannual publication of regulatory agenda.

SUMMARY: As required by Executive Order 12291 and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), the October 1989 agenda of regulations of the Department of State is set forth below. This agenda was prepared under the guidelines of OMB Bulletin 89-12, dated July 5, 1989. The purpose of the agenda is to provide information to the public on the Department's regulatory plans.

FOR FURTHER INFORMATION CONTACT: James H. Thessin, Assistant Legal Adviser for Management, Department of State, Room 4427A, 2201 C Street NW., Washington, DC 20520; telephone (202) 647-2350.

Dated: September 13, 1989.

Ivan Selin,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE) — Prerule Stage

1597. BANKING SERVICES - PROCEDURES FOR RESTRICTING

Legal Authority: 22 USC 4301 et seq

CFR Citation: 22 CFR 152

Legal Deadline: None

Abstract: The rule will set out the procedures that the Department of State will follow whenever the banking services of particular foreign missions are restricted pursuant to the Foreign Missions Act, 22 USC 4301 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Porter, Acting Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW, Washington, DC 20520, 202 647-3416

RIN: 1400-AA07

1598. ESTABLISHMENT OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Legal Authority: See Additional Information.

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the Convention, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the Convention to the Senate on July 2, 1986 with the recommendation that the Senate give its advice and consent to U.S. ratification of the Convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29).

Timetable:

Action	Date	FR Cite
Hearing of Senate Foreign Relations Committee on the Convention	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: U.S. ratification of 1973 Convention providing a uniform law on the form of an international will would provide the basis for establishing the Registry.

Agency Contact: Carmen A. DiPlacido, Director, Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520, 202 647-3666

RIN: 1400-AA09

1599. FISHERMEN'S PROTECTIVE ACT PROCEDURES UNDER SECTION 7

Legal Authority: 22 USC 1977

CFR Citation: 22 CFR 33, (Revision)

Legal Deadline: None

Abstract: This regulation clarifies procedures for the administration of the Fishermen's Guaranty Fund and claims evaluation, under Section 7 of the Fishermen's Protective Act, 22 USC 1971 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stetson Tinkham, Program Administrator, Department of State, Office of Fisheries Affairs, OES/OFA, Room 5806, Washington, DC 20520, 202 647-2009

RIN: 1400-AA10

1600. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 120 to 130

Legal Deadline: None
Statutory deadline applies only to one proposed Notice; the remainder of the proposals are not subject to a legal deadline.

Abstract: The ITAR was first published in their current form in 1955 and have been periodically amended to reflect statutory enactments and to implement foreign policy. The last substantial revision occurred in December 1984; other amendments have been effected since this date. For example, on April 4, 1988, the ITAR was amended to implement an amendment to the Arms Export Control Act (AECA) that was designed primarily to ensure that individuals or firms convicted of certain offenses or debarred by U.S. Government agencies are denied export privileges. The Office of Munitions Control is continually seeking ways to improve the administration of its export control function by seeking to clarify or amend the ITAR, as necessary. During the next few months, the Department intends to amend the ITAR to include an exemption for certain temporary imports and re-exports of defense articles. The Department also intends to publish more comprehensive changes to the ITAR, which would first be the subject comment.

Timetable:

Action	Date	FR Cite
Published "Standards Identifying High-Risk Exports"	09/26/88	53 FR 37382
Continue proposed revisions	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Chard, Deputy Director, Office of Munitions Control, Department of State, PM/RASA/MC, Room 800, Department of State Annex 6, Washington, DC 20520, 703 875-6650

RIN: 1400-AA23

STATE — Prerule Stage

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

1601. REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: PL 99-509, Sec 6104; 31 USC 3801 to 3812

CFR Citation: 22 CFR 35

Legal Deadline: Final, Statutory, April 21, 1987.

Abstract: Regulations implement the Program Fraud Civil Remedies Act of 1986, which establishes an administrative remedy for fraudulent claims or statements submitted to agencies. Anyone who, with knowledge or reason to know, submits a false, fictitious or fraudulent claim or statement to an agency is liable for a monetary penalty and an assessment of double damages.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Bailly, Attorney-Adviser, Department of State, L/M, Room 4427A, 2201 C Street, NW, Washington, DC 20520, 202 647-4446

RIN: 1400-AA13

DEPARTMENT OF STATE (STATE) — Final Rule Stage

1602. DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c)

CFR Citation: 48 CFR 601 to 653

Legal Deadline: None

Abstract: DOSAR interim rules (see 53 FR 28153, July 11, 1988), have been consolidated into eight cases and identified to the Office of Federal Procurement Policy, OMB, under OMB Regulatory Identification Numbers 89-001 through 89-008. Those cases are being presented to the Civilian Agency Acquisition Council for possible inclusion into the Federal Acquisition Regulation (FAR). DOSAR final rule action on those items awaits CAAC determinations.

Timetable:

Action	Date	FR Cite
NPRM	05/26/87	52 FR 19990
NPRM Comment Period End	06/29/87	52 FR 19990
Interim Final Rule	07/11/88	53 FR 26158
Continued Review by FAR Council	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7047

RIN: 1400-AA16

1603. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 135

Legal Deadline: None

Abstract: This regulation established uniform administrative requirements for grants and cooperative agreements to State and local governments. The regulation is being changed to include institutions of higher education, hospitals, and other nonprofit organizations. This effort represents a merging of OMB circulars A-102 and A-110, and is being promulgated by 27 Federal agencies under the common rulemaking procedures.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/84	49 FR 24958
Notice of Proposed Forms	05/29/87	52 FR 20178
NPRM	06/09/87	52 FR 21820
Begin Review	06/24/87	52 FR 23729
Notice Public Comment Period End	07/28/87	52 FR 20178
NPRM Comment Period End	08/10/87	52 FR 21820
Final rule	03/11/88	53 FR 8034

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STATE — Final Rule Stage

DEPARTMENT OF STATE (STATE) — Completed Actions

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STATE — **Final Rule Stage**

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Public Comment Period End	01/03/89	53 FR 44716
Final Rule	11/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7047

RIN: 1400–AA20

1604. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENT-WIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 137

Legal Deadline: Other, Statutory, March 18, 1989.
Interim final rule for drug-free workplace regulation.

Abstract: This regulation established a uniform system of nonprocurement debarment and suspension among 27 Federal agencies. The regulation included coverage published as an interim rule, which will remain so indefinitely, until a comprehensive debarment and suspension system covering both procurement and nonprocurement is established (see 53 FR 34474, September 6, 1988). This regulation also has been amended to include Government requirements for drug-free workplace, pursuant to the Drug-Free Workplace Act of 1988 (P.L. 100-690, Title V, Subtitle D). The drug-free workplace interim rule (see 54 FR 4947, January 31, 1989) will be finalized during this regulatory period.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39015
NPRM Comment Period End	12/21/87	52 FR 39015
Interim Final Rule	05/26/88	53 FR 19161
Final Rule	05/26/88	53 FR 19161
OMB Notice	09/06/88	53 FR 34474
Final Rule effective	10/01/88	53 FR 19161
Final Rule and Interim Final Rule	01/31/89	54 FR 4947
Interim Final Rule effective	03/18/89	54 FR 4947
Interim Final Rule comment period end	04/03/89	54 FR 4947

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7047

RIN: 1400–AA21

1605. ● AMENDMENT TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR CASE 89-010)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c); 22 USC 4343

CFR Citation: 48 CFR 625

Legal Deadline: Final, Statutory, June 20, 1988.
Interim final rule at 22 CFR Part 136 made effective on June 20, 1988, the effective date of that section of the statute (PL 100-204).

Abstract: This action will amend the DOSAR to prescribe regulations covering disposition of personal property abroad by certain U.S. Government contractors. The regulation implements a general regulation at 22 CFR Part 136 (see 53 FR 23118, June 20, 1988), which was promulgated pursuant to section 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989. The DOSAR coverage will be issued as an interim final rule pending adoption on a government-wide basis, as the statute covers all contractors that enjoy importation or tax privileges in a foreign country because of their contractual relationship to the U.S. Government. The purpose of the statute is to ensure that contractors do not profit from transactions with persons not entitled to exemptions from import restrictions, duties, or taxes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7047

RIN: 1400–AA27

1606. ● AMENDMENT TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR CASE 89-009)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c)

CFR Citation: 48 CFR 601 to 653

Legal Deadline: None

Abstract: The DOSAR was issued on July 11, 1988 (53 FR 26158) and was current through Federal Acquisition Circular No. 84-33. This action will amend the DOSAR to conform with FAC's issued subsequent to FAC No. 84-33. Only those items not requiring public comment will be included in this action.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 202, SA-06, Washington, DC 20522-0602, 703 875-7047

RIN: 1400–AA28

DEPARTMENT OF STATE (STATE) — **Completed Actions**

1607. FOREIGN MISSIONS ACT REGULATIONS

Significance: Regulatory Program

CFR Citation: 22 CFR 151

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Porter 202 647-3416

RIN: 1400–AA04

1608. SOUTH AFRICA AND FAIR LABOR STANDARDS

CFR Citation: 22 CFR 60 to 65

Completed:

Reason	Date	FR Cite
Final Action	08/02/89	54 FR 31815
Final Action Effective	08/02/89	54 FR 31815

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Bruce 202 647-9866

RIN: 1400–AA19

1609. AUTOMOBILE LIABILITY INSURANCE REPORTING REQUIREMENTS UNDER THE FOREIGN MISSIONS ACT

Significance: Regulatory Program

CFR Citation: 22 CFR 151

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Harry Porter 202 647-3416

RIN: 1400–AA24

[FR Doc. 89-22483 Filed 10-27-89; 8:45 am]
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Part XIV

Department of Transportation

Semiannual Regulatory Agenda

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DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 89-2]

Department Regulations Agenda; Semiannual Summary

AGENCY: Department of Transportation.

ACTION: Department regulations agenda.

SUMMARY: The regulations agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 Seventh Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 Second Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590; 202-366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

SUPPLEMENTARY INFORMATION:

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Agenda

Background

Improvement of Government regulations is a prime goal of the Bush Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals and in accordance with Executive Order 12291 "Federal Regulation" (46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulations agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding twelve months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for and reviewed by the Department Regulations Council, the Department's regulations agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on April 24, 1989 (54 FR 16889). The next one is scheduled for publication in the **Federal Register** in April 1990.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Pub. L. 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that, each year, the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding twelve months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities, and a full RFA review will be unnecessary.

Regulatory Impact Analysis

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively, that

(1)is likely to result in:

(a)An annual effect on the economy of $100 million or more;

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(b)a major effect on the general economy in terms of costs, consumer prices, or production;

(c)a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d)significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2)the Secretary or head of the initiating office has determined requires such an analysis.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that, in the judgment of the head of the initiating office or the Secretary or the Deputy Secretary,

(a) is a major regulation;

(b) concerns a matter on which there is substantial public interest or controversy;

(c) has a major impact on another operating administration or other parts of the Department or other Federal agency;

(d) has a substantial effect on State and local governments;

(e) has a substantial impact on a major transportation safety problem;

(f) initiates a substantial regulatory program or change in policy;

(g) is substantially different from international requirements or standards; or

(h) otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register** or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget Bulletin No. 86-16 (July 2, 1986).

First, the agenda is divided by initiating offices. Then, in accordance with the OMB Bulletin, for each initiating office, the agenda is divided into four categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, and (4) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action (i.e., whether it is significant because it is on the Regulatory Program or because of agency priority or whether it is nonsignificant or routine and frequent); (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision on whether to issue the proposed or final regulation or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading entitled, "Additional Information"; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. (It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation if a Regulatory Impact Analysis is not prepared.); (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; and (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** which may occur between agenda publications. (Departmental rulemaking documents published in the **Federal Register** now contain RIN numbers.)

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made

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on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review, under Executive Order 12291, must follow such a decision. For major rules, this review could take 60 days or more. If any document is issued, publication in the **Federal Register** would follow within a few days. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (●) preceding an entry indicates that the entry appears in the agenda for the first time.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for or to obtain copies of regulatory documents, including the Department's semiannual regulations agenda issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's regulations agenda, which will be updated and published in the **Federal Register** every year during April and October. By using the agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would also like you, the public, to make suggestions or comments on how the agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from agenda to agenda? Do you find that the format for setting out the information enables you to use the agenda easily? Do you find that the presentation of the information in the agenda is clearly explained in the preamble to the agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary at the appropriate address noted in the "Addresses" paragraph above.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved at the appropriate address noted in the "Addresses" paragraph above.

Purpose

The Department is publishing this regulations agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department, with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on September 25, 1989.

Samuel K. Skinner,

Secretary of Transportation.

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Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of any regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the following addresses:

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 Second Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Urban Mass Transportation Administration (UMTA)

(Name of contact person), Urban Mass Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

David A. Watson, Training Unit, DHM-51, OHMT/RSPA, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

James Saari, Secretary, Maritime Administration, 400 Seventh Street SW., Room 7300B, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-267-3479 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulations agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50; Office of the General Counsel, Department of Transportation, Washington, DC 20590; (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired. Persons interested in a rulemaking document on an aviation matter (of the kind formerly handled by the CAB) will be placed on a mailing list for all OST aviation-related rulemakings if they so request.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Bruce Novak, Marine Safety Council, USCG Headquarters Building, Room 3600, 2100 Second Street SW., Washington, DC 20593; telephone: 202/267-1477.

FAA - John H. Cassady, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave. SW., Room 915A, Washington, DC 20591; telephone: 202/267-3073.

FHWA - Michael J. Laska, Office of the Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: 202/366-1383.

FRA - Mike Haley, Office of Chief Counsel, 400 7th Street SW., Room 6201, Washington, DC 20590; telephone: 202/366-0767.

NHTSA - Steve Kratzke, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: 202/366-2992.

UMTA - Linda Hart, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: 202/366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: 202/366-0101.

RSPA - Mary Crouter, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: 202/366-4367.

MARAD - James Saari, Secretary, Maritime Administration, 400 7th Street SW., Room 7300B, Washington, DC 20590; telephone: 202/366-5746.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: 202/366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 Second Street SW., Room 3600, Washington, DC 20593. Working Hours: 7:30-4:00 (Monday-Friday).

FAA - Rules Docket, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave. SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:30.

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NHTSA - Docket Room, 400 7th Street SW., Room 5109, Washington, DC 20590. Working Hours: 8:00-4:00.

UMTA - Docket Clerk, 400 7th Street SW., Room 9316, Washington, DC 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

RSPA - Docket Branch, 400 7th Street SW., Room 8426, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street SW., Room 7300, Washington, DC 20590. Working Hours: 9:00-5:30.

OST - Docket Clerk, 400 7th Street SW., Room 4107, Washington, DC 20590. Working Hours: 9:00-5:30.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1610	+ Computer Reservation System (CRS) Rules: Review	2105-AB47
1611	+ Anti-Alcohol Program for the Transportation Industry	2105-AB52
1612	Direct Flights	2105-AA73
1613	Comprehensive Review of CAB Consumer Rules	2105-AB03
1614	Price Advertising	2105-AB25

+ Designates significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1615	+ Commercial Space Transportation: Procedures for Setting Financial Responsibility Requirements for Commercial Space Launch Activity	2105-AA26
1616	+ Minority Business Enterprise Program (Financial Assistance Programs)	2105-AA04
1617	+ Antidrug Programs for Department of Transportation Contractors	2105-AB40
1618	+ Nondiscrimination on the Basis of Handicap in Federally Assisted Mass Transit Programs	2105-AB53
1619	Nondiscrimination on the Basis of Handicap (Directly Conducted Programs)	2105-AA29
1620	Transportation Acquisition Regulations	2105-AB54

+ Designates significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1621	+ Nondiscrimination on the Basis of Handicap (Air Travel)	2105-AA18
1622	+ Liberalization of Air-Carrier Charter Rules	2105-AA41
1623	+ Statement of Enforcement Policy on Rebating	2105-AB39
1624	+ Procedures for Transportation Workplace Drug-Testing Programs	2105-AB42
1625	+ Essential Air Service; Reductions	2105-AB43
1626	+ Price Advertising	2105-AB50
1627	Title VI Civil Rights Regulation	2105-AA02
1628	Minority Business Enterprise Program (Direct Contracting)	2105-AA03
1629	Consolidation of Transportation Grants to U.S. Territories	2105-AA08
1630	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
1631	Airline Time and Mileage Guides	2105-AA39
1632	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
1633	Air Travelers: Age Discrimination	2105-AA45
1634	Policy Statement on Airline Preemption	2105-AA46
1635	Insurance for On-Demand Air-Taxi Operators and Canadian Air Taxis	2105-AA47
1636	Implementation of Statute Requiring Interest on Subsidy Claims	2105-AA77
1637	Diversion of Flights Within a Metropolitan Area	2105-AA78
1638	Simplified Aviation Exemption Procedures	2105-AA82
1639	Baggage Liability Notices in International Air Transportation	2105-AA84
1640	Simplified Airline Counter-Sign Notices	2105-AA88
1641	Uniform Administrative Requirements for Grants and Cooperative Agreements	2105-AB46
1642	Referral of Debts to the IRS for Tax Refund Offset	2105-AB51

+ Designates significant regulation.

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Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1643	+ Consumer Protection for Default by Scheduled Air Carriers	2105-AA98
1644	+ Electronic Filing of Tariffs	2105-AB00
1645	+ Smoking Aboard Aircraft; Notice to Passengers	2105-AA72
1646	+ Certification of Speed-Limit Enforcement	2105-AB22
1647	+ Nondiscrimination on the Basis of Handicap (Commuter Rail Programs)	2105-AB23
1648	+ Escrow/Bond Protection for Airline Tickets	2105-AB26
1649	Review of Air Carrier Agreements	2105-AB48
1650	Nondiscrimination in Federally-Assisted Programs of the Department of Transportation — State Transportation Agencies' EEO Affirmative Action Programs	2105-AA06
1651	Zones for Airline Mail Rates	2105-AA44
1652	Overseas Military Personnel Air-Charter Tariffs	2105-AA67
1653	Effect of Expiration of a Bilateral Service Agreement on Foreign Air-Carrier Authority	2105-AA68
1654	Unfair and Deceptive Practices by Airline Ticket Agents	2105-AA70
1655	Cargo Rate Changes on 30 Days' Notice	2105-AA99
1656	Exemption From Prior-Approval Requirements for Certain Transactions	2105-AB20
1657	Counting UMTA Reduced-Fare Program Costs Toward 504 Cost Cap	2105-AB29

+ Designates significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1658	+ Subdivision and Damage Stability of Dry Cargo Vessels (CGD 87-094)	2115-AC87
1659	Port Access Routes; Approach to Freeport, Texas (CGD 87-038)	2115-AC78
1660	Port Access Routes: Approaches to Chesapeake Bay (88-041)	2115-AD09
1661	Disestablishment of Vessel Traffic Service: New Orleans (88-056)	2115-AD10
1662	Controlling The Marine Asbestos Hazard (88-103)	2115-AD16
1663	Vessel Identification System (89-050)	2115-AD35

+ Designates significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1664	+ Revisions of the Regulations on Outer Continental Shelf Activities (84-098)	2115-AB74
1665	+ User Fees for Coast Guard Services (84-028)	2115-AB73
1666	+ User Fees: Small Passenger and Sailing School Vessels (CGD 87-020)	2115-AC74
1667	+ Special Cargo Requirements for Benzene (88-040)	2115-AD08
1668	+ Implementation of the Commercial Fishing-Industry Vessel Safety Act (88-079)	2115-AD12
1669	+ Safety Standards for Vapor Control Systems (88-102)	2115-AD15
1670	Tankerman Requirements and Qualifications for Persons-in-Charge of Dangerous Liquid and Liquefied Gas Transfer Operations (79-116)	2115-AA03
1671	Fixed Fire-Extinguishing Systems on Uninspected Vessels (74-284)	2115-AA08
1672	Hybrid Personal Flotation Devices: Establishment of Approval Requirements (78-174)	2115-AA29
1673	Launching Devices for Inflatable Liferafts (79-168)	2115-AA45
1674	Personal Flotation Devices (81-023)	2115-AA58
1675	Pollution-Prevention Regulations for Tankers: General Revisions of 33 CFR 157 (82-030)	2115-AA88
1676	Outer Continental Shelf Facilities: Aids to Navigation (82-054)	2115-AA92
1677	Safety Standards for New Self-Propelled Vessels Carrying Bulk Liquefied Gases (82-058)	2115-AA95
1678	Fire Protection Regulations to Incorporate SOLAS 1974 (82-025)	2115-AB36
1679	Reassessment of Coast Guard Marine Engineering Regulations — Incorporation of SOLAS 74 Amendments (83-043)	2115-AB41
1680	Marine Portable Tanks (84-043)	2115-AB69
1681	Personal Flotation Device Components (84-068)	2115-AB70
1682	Mobile Offshore Drilling Unit Regulations Revision (83-071a)	2115-AB89
1683	Safety Rules for Ships Carrying Hazardous Liquids (84-085)	2115-AB92
1684	Training in the Use of Automatic Radar Plotting Aids (ARPA) (85-089)	2115-AB98
1685	Certification of Seamen (84-068)	2115-AC02

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U.S. Coast Guard—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1686	Gulf Inland Waterway Regulated Navigation Area (85-096)	2115-AC03
1687	Revisions to the Electrical Engineering Regulations (85-063)	2115-AC20
1688	Updating Approval Requirements for Breathing Apparatus (86-036)	2115-AC30
1689	Load Lines (86-013)	2115-AC37
1690	SOLAS 74/83 Lifeboat and Rescue Boat Approval Requirements (85-201)	2115-AC47
1691	Revision to Inflatable Liferaft Approval: SOLAS 74/83 (85-205)	2115-AC51
1692	Posting Requirements on Inspected Vessels (87-031)	2115-AC68
1693	Fishing Vessel Emergency Position Indicating Radio Beacons (EPIRBs) (87-016)	2115-AC69
1694	Regattas and Marine Parades (CGD 87-087)	2115-AC84
1695	Small Passenger Vessel Manning and Personnel Qualifications (85-060a)	2115-AC93
1696	Lifeboat, Liferaft and Rescue Boat Approval Requirements - SOLAS 74/83 (85-201a)	2115-AC94
1697	Documentation of Vessels - Controlling Interest (88-031)	2115-AC99
1698	Marine Transport of Bulk Solid Hazardous Materials (87-069)	2115-AD02
1699	Private Electronic Aids to Maritime Navigation (88-011)	2115-AD04
1700	Incorporation and Adoption of Industry Standards (88-032)	2115-AD05
1701	Requirements for Marine Terminals Transferring Bulk Liquefied Hazardous Gases (88-049)	2115-AD06
1702	Automatic Auxiliary Boilers (88-057)	2115-AD11
1703	Access Documents to Waterfront Facilities (88-097)	2115-AD14
1704	Advance Notice of Arrival; Warsaw Pact Nationals (88-104)	2115-AD17
1705	Regulated Navigation Areas; Brownsville Ship Channel (8-89-01)	2115-AD21
1706	Implementation of the Shore Protection Act of 1988 (89-014)	2115-AD23
1707	Amendment of Annexes to Inland Navigation Rules (89-024)	2115-AD28
1708	User Fees For Vessel Documentation (89-007)	2115-AD29
1709	Recording of Instruments--Vessel Documentation (89-008)	2115-AD30
1710	Documentation of Vessels-Hailing Port (89-026)	2115-AD32
1711	Incorporation of New SOLAS Amendments on Stability (89-037)	2115-AD33
1712	Stability Regulations--General Revision of Subchapter S (89-038)	2115-AD34

+ Designates significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1713	+ Offshore Supply Vessel Regulations (82-004)	2115-AA77
1714	+ Traffic Separation Schemes and Shipping Safety Fairways off the Coast of California (83-032)	2115-AB29
1715	+ Hazardous Materials Pollution Prevention: Bulk Liquids (86-034)	2115-AC29
1716	+ Licensing of Pilots-Manning of Vessels (84-060)	2115-AB67
1717	+ Lifesaving Equipment--Implementation of 1983 Amendments to SOLAS 1974 (84-069)	2115-AB72
1718	+ Licensing of Officers and Operators for Mobile Offshore Drilling Units (81-59a)	2115-AB91
1719	+ Prevention of Pollution by Plastics, Annex V of MARPOL(88-002)	2115-AC89
1720	Hopper Dredge Working Freeboard - Load Line and Stability Requirements (76-060)	2115-AA11
1721	Dealer and First-Purchaser List (77-115)	2115-AA16
1722	Standards for Vessel Piping Systems (77-140)	2115-AA17
1723	Offshore Cranes: Standards and Operator Qualifications (79-059)	2115-AA34
1724	General Bridge Permit Regulations (81-057)	2115-AA61
1725	Safety/Security Zone Regulations	2115-AA97
1726	Anchorage Area Regulations	2115-AA98
1727	Carriage and Use of Liquefied or Nonliquefied Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire (83-013)	2115-AB35
1728	Oil Pollution Prevention, MARPOL Annex I (85-026)	2115-AC11
1729	Performance Standards and Approval Procedures for Inflatable Life Jackets (78-174b)	2115-AC16
1730	Intervals for Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks (85-061)	2115-AC18
1731	Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
1732	Revised Approval Specifications for Noncombustibles and Prohibition of Asbestos for Commercial Vessels (86-035)	2115-AC32
1733	Cargo Lists and Tables Update (CGD 88-100 and 88-100a)	2115-AC35
1734	Guidelines on Navigation Bridge Visibility (85-099)	2115-AC42
1735	Tonnage Measurement of Vessels (87-015b)	2115-AC87
1736	Alternative Provisions for Reinspections of Offshore Supply Vessels in Foreign Ports (CGD 82-004a)	2115-AC86
1737	Delegation of Authority to Area Commanders When Functioning as Maritime Defense Zone Commanders (CGD 87-065)	2115-AC88

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U.S. Coast Guard—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1738	Anchorage Regulations (86-079)	2115-AC96
1739	Aids to Navigation System, Removal of References (88-018)	2115-AC97
1740	Civil Appeals Procedures (88-033)	2115-AD00
1741	Cargo Gear Inspection and Testing (87-089)	2115-AD03
1742	Written Warnings By Coast Guard Law Enforcement Officials (88-074)	2115-AD13
1743	Great Lakes Pilotage Regulations (88-111)	2115-AD19
1744	Summons in Lieu of Seizure of Commercial Fishing-Industry Vessels (CGD 89-003)	2115-AD20
1745	United States Aids to Navigation System (88-018)	2115-AD36
1746	Amendments to the International Regulations for Preventing Collisions at Sea (89-067)	2115-AD37

+ Designates significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1747	+ Joint U.S.-Canada Vessel Traffic Management Regulations for the Pacific Region (79-131)	2115-AA39
1748	+ Offshore Evacuation Procedures (84-098(b))	2115-AC41
1749	+ Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel	2115-AC45
1750	Maneuvering Performance Standards for U.S. Vessels (80-136)	2115-AA53
1751	General Revision of 46 CFR 151, Barges Carrying Certain Bulk Dangerous Cargoes (81-082)	2115-AA70
1752	Pollution Rules for Ships Carrying Hazardous Liquids (81-101)	2115-AA73
1753	Nautical Schools: Implementing the Maritime Education and Training Act of 1980 (82-092)	2115-AB21
1754	Fire Detection and Alarm Systems (85-051)	2115-AC13
1755	Inspected Fish Processing and Fish Tender Vessels (86-026)	2115-AC27
1756	Fire Extinguishers (Portable and Semi-Portable) - Revising Approval Specifications and Updating Carriage Requirements (86-072)	2115-AC43
1757	SOLAS 74/83 Life Jacket Approval Requirements Revision (85-200)	2115-AC46
1758	SOLAS 74/83 Emergency Drinking Water and Food Approval Requirements (85-202)	2115-AC48
1759	Revision of Pyrotechnic Distress Signal Approval Requirements: SOLAS 74/83 (85-203)	2115-AC49
1760	Revision of Disembarkation Ladder Approval Requirements: SOLAS 74/83 (85-204)	2115-AC50
1761	Hydraulic Release Units for Lifesaving Equipment: SOLAS 74/83 (85-206)	2115-AC52
1762	Revision of Davit and Winch Approval Requirements: SOLAS 74/83 (85-207)	2115-AC53
1763	Radar Reflector Approval Requirements: SOLAS 74/83 (85-209)	2115-AC54
1764	Revision of Lifebuoy Approval Requirements: SOLAS 74/83 (85-210)	2115-AC55
1765	Revision of Life Jacket Light Approval Requirements: SOLAS 74/83 (85-211)	2115-AC56
1766	Advance Notice of Arrival (CGD 86-055)	2115-AC58
1767	Oil Discharge Monitoring and Control System (CGD 87-057)	2115-AC85
1768	Floating Electric Waterlights (85-208)	2115-AC95
1769	Mississippi River; Regulated Navigation Area (88-075)	2115-AD07
1770	Qualifications for Persons in Charge of Oil Transfer Operations (79-116a)	2115-AD18
1771	Adjustment of Galveston Traffic Separation Scheme (89-019)	2115-AD22
1772	Regulated Navigation Area; Hampton Roads, VA (05-89-01)	2115-AD24
1773	Regulated Navigation Area; Kings Bay, GA (7-88-46)	2115-AD25
1774	Changes to Honolulu and Guam Marine Inspection Zones (CGD 89-039)	2115-AD26
1775	Change of Address for Marine Safety Center(89-025)	2115-AD27

+ Designates significant regulation.

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1776	+ Review and Revision of Repair Station Requirements	2120-AC38
1777	+ Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
1778	+ TCAS II and Windshear Implementation Schedules	2120-AD23
1779	Review: Part 21--Certification Procedures for Products and Parts	2120-AB09
1780	Review: Part 121 -- Certification and Operations: Domestic, Flag and Supplemental Air Carriers and Commercial Operators of Large Aircraft	2120-AB27

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Federal Aviation Administration—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1781	Review: Part 135 – Air Taxi Operators and Commercial Operators	2120-AB28

+ Designates significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1782	+ Civil Supersonic Aircraft Noise Type Certification Standards and Operating Rules	2120-AC22
1783	+ Drug Enforcement Assistance	2120-AD16
1784	+ Crash Resistant Fuel Systems in Small Airplanes	2120-AA57
1785	+ Proposed Revision of Noise Certification of Turbojet and Large Transport Category Aircraft	2120-AB88
1786	+ Airspace Reclassification	2120-AB95
1787	+ Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
1788	+ Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination, and PA Handsets	2120-AC45
1789	+ Improved Access to Type III Emergency Exits	2120-AC46
1790	+ Flight Plan Filing Requirements; National Airspace Review Recommendation	2120-AC56
1791	+ Parts 121 and 135 - Training, Checking, Certification, and Qualifications Requirements	2120-AC79
1792	+ United States Control Area	2120-AC88
1793	+ Proposed Establishment of the Washington Tri-Area TCA and Revocation of the Washington, DC, TCA and Airport Radar Service Areas at Baltimore-Washington and Dulles Airports	2120-AD01
1794	+ Proposed Establishment of the Orlando, Florida, Terminal Control Area	2120-AD03
1795	+ Proposed Establishment of the Houston Hobby Terminal Control Area	2120-AD04
1796	+ Proposed Establishment of the Tampa, Florida, Terminal Control Area	2120-AD07
1797	+ Phaseout of X-Ray Equipment for Carry-On Baggage	2120-AD13
1798	+ Emergency Locator Transmitters	2120-AD19
1799	+ Sole Means Radio Navigation System	2120-AD26
1800	+ Improved Seat Safety Standards for Commuter Category Airplanes	2120-AD27
1801	+ Ground Proximity Warning Systems	2120-AD29
1802	+ Exit Requirements for Part 23 Airplanes	2120-AD33
1803	+ Use of Inert Gas for Tire Inflation in Lieu of Air	2120-AD37
1804	Review of Medical Standards and Certification Procedures	2120-AA70
1805	Part 77 Review, Objects Affecting Navigable Airspace	2120-AA09
1806	Fuel System Fire Protection	2120-AA49
1807	Aircraft Simulator Use in Airman Training and Certification	2120-AA83
1808	Composite Propellers	2120-AB05
1809	Standards for Approval of a Reduced V1 Methodology for Takeoff on Wet and Contaminated Runways	2120-AB17
1810	Standards for Approval for High Altitude Operation of Subsonic Airplanes	2120-AB18
1811	Transport Category Rotorcraft Performance	2120-AB36
1812	Miscellaneous Operational Amendments	2120-AB45
1813	Engine Fuel and Induction Systems	2120-AB76
1814	New Rotorcraft 30-Second/2-Minute One-Engine-Inoperative Power Ratings	2120-AB90
1815	Turboshaft Engine Rotor Burst Protection	2120-AB91
1816	Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposal	2120-AC27
1817	Non-Federal Air Traffic Control Towers	2120-AC59
1818	Shoulder Harnesses in Normal and Transport Category Rotorcraft	2120-AC67
1819	Rotorcraft Crash Resistant Fuel Systems	2120-AC68
1820	Landing Gear Aural Warning	2120-AC82
1821	Ketchikan International Airport Traffic Rule, Part 93, Subpart M	2120-AC90
1822	Air Traffic Control Clearance Readback	2120-AC91
1823	Location of Marks on Fixed-Wing Aircraft and Airships	2120-AC99
1824	Revision of Aviation Maintenance Technician School Rules	2120-AD09
1825	Airport Certification; Clarification of Various Provisions	2120-AD10
1826	Small Airplane Airworthiness Review Program Notice No. 4	2120-AD20
1827	Airworthiness Standards: Aircraft Engines; Proposal for New One-Engine-Inoperative Ratings, Definitions, and Type Certification Standards	2120-AD21
1828	Maintenance Recording Requirements	2120-AD25
1829	Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins	2120-AD28
1830	Small Airplane Airworthiness Review Program Notice No. 3	2120-AD30
1831	Designated Engineering Organization Authorization Procedures	2120-AD31

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Federal Aviation Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1832	Requirements for Aircraft Protection in High Energy Radiated Electromagnetic Fields	2120-AD32
1833	Airplane Engine Cowling Retention	2120-AD34
1834	Depressurization Evaluation of Structures	2120-AD35
1835	Vibration, Buffet and Aeroelastic Stability Requirements for Transport Category Airplanes	2120-AD36
1836	Airplane Jacking Loads	2120-AD38
1837	Bird Strike Damage Assessment	2120-AD39
1838	1-G Stall Speed as a Basis for Compliance With Part 25	2120-AD40

+ Designates significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1839	+ Pilot, Flight Instructor, and Pilot School Certification Rules	2120-AB12
1840	+ Primary Category Aircraft	2120-AB53
1841	+ Transponder Requirements in an Air Defense Identification Zone (ADIZ)	2120-AB99
1842	+ Fuel Venting and Exhaust-Emission Requirements for Turbine-Engine Powered Airplanes	2120-AC62
1843	+ Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
1844	+ Exit Row Seating	2120-AC75
1845	+ Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
1846	+ Special Federal Aviation Regulation; Advanced Qualification Program	2120-AC85
1847	+ Transport Category Rotorcraft Structural Fatigue Evaluation	2120-AA84
1848	+ Airplane Cabin-Fire Protection	2120-AB22
1849	+ Occupant Restraint in Normal and Transport Category Rotorcraft	2120-AB35
1850	+ Elimination of Airport Delays	2120-AB42
1851	+ Independent Power Source for Public Address System in Transport Category Airplanes	2120-AB77
1852	+ Flight Attendant Requirements	2120-AC32
1853	+ Pilots Convicted of Alcohol- or Drug-Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedures	2120-AC51
1854	+ Design Standards for Fuel Tank Access Covers	2120-AC58
1855	+ Minimum Equipment List (MEL) Requirements	2120-AC86
1856	+ Establishment and Discontinuance Criteria for Airport Traffic Control Tower Facilities	2120-AC98
1857	+ Proposed Establishment of the Phoenix Terminal Control Area and Revocation of the Phoenix Airport, Airport Radar Service Area; Arizona	2120-AD00
1858	+ Proposed Establishment of the Salt Lake City Terminal Control Area and Revocation of the Salt Lake City International Airport, Airport Radar Service Area	2120-AD02
1859	+ Proposed Establishment of the Memphis Terminal Control Area and Revocation of the Memphis Airport, Airport Radar Service Area; Tennessee	2120-AD05
1860	+ Navigational Equipment Requirement in a Terminal Control Area, Visual Flight Rules Operations	2120-AD15
1861	+ Airborne Low-Altitude Windshear Equipment and Training Requirements	2120-AD18
1862	Rotorcraft Regulatory Review Program Notice No. 4	2120-AA29
1863	Transport Category Airplane Airworthiness Standards	2120-AA47
1864	Miscellaneous Amendments	2120-AA50
1865	Fatigue Requirements for Small Airplanes	2120-AA58
1866	National Airspace Review (NAR): Terminal Airspace Task Group Recommendations	2120-AB02
1867	Night-Visual Flight Rules Visibility and Distance from Clouds Minimums	2120-AB04
1868	Airworthiness Standards: Aircraft Engines, Electrical and Electronic Engine Control Systems	2120-AB06
1869	Low-Fuel-Quantity Alerting System	2120-AB45
1870	Construction, Alteration, Activation, and Deactivation of Airports	2120-AB74
1871	Helicopter Instrument Flight	2120-AB87
1872	Amend Section 43.17 to Allow for Maintenance of U.S. Aeronautical Products in Canada in Compliance with the U.S.-Canadian Bilateral Airworthiness Agreement	2120-AB89
1873	Controlled Airspace Designations in International Airspace	2120-AB93
1874	Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC08
1875	Small Airplane Airworthiness Review Program Notice No. 5	2120-AC14
1876	Small Airplane Airworthiness Review Program Notice 2	2120-AC15
1877	Improved Structural Requirements for Pressurized Cabins and Compartments in Transport Category Airplanes	2120-AC44
1878	Realignment of Restricted Areas in the Eglin AFB Area	2120-AC63
1879	Indemnification of Publishers of Aeronautical Charts and Maps	2120-AC73
1880	Commuter Category - Response to Final Rule Comments	2120-AC77

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Federal Aviation Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1881	Electrical and Electronic Systems Lightning Protection	2120-AC81
1882	Implementation of Equal Access to Justice Act	2120-AD17
1883	Organizational Changes and Delegations of Authority	2120-AD24
1884	Part 95 Instrument Flight Rules	2120-AA63
1885	Airworthiness Directives	2120-AA64
1886	Standard Instrument Approach Procedures	2120-AA65
1887	Airspace Actions	2120-AA66

+ Designates significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1888	+ Metropolitan Washington Airports Policy	2120-AA89
1889	+ Anti-Drug Program for Personnel Engaged in Specified Aviation Activities	2120-AC33
1890	+ Certification of Recreational Pilots and Annual Flight Review; Requirements for Recreational Pilots and Non-Instrument-Rated Private Pilots	2120-AA54
1891	+ Limits on the Growth of Noise from Certain Airplanes and Airplane Types	2120-AB50
1892	+ Noise and Emission Standards for Aircraft Powered by Advanced Turboprop (Propfan) Engines	2120-AC20
1893	+ Location of Passenger Emergency Exits in Transport Category Airplanes	2120-AC29
1894	+ Terminal Control Area (TCA) Classification and TCA Pilot and Navigational Equipment Requirements	2120-AC35
1895	+ Security Program for Foreign Air Carriers	2120-AC42
1896	+ Cockpit Voice Recorders (CVR) and Flight Recorders	2120-AC48
1897	+ Transponder With Automatic Altitude Reporting Capability Requirement	2120-AC66
1898	+ Parts 121/135 Training, Checking, Certification, and Qualification	2120-AC80
1899	+ Smoking Aboard Aircraft	2120-AC83
1900	+ High Density Traffic Airports Slot Allocation and Transfer Methods	2120-AC96
1901	+ Proposed Establishment of the Baltimore, Maryland, Terminal Control Area	2120-AD06
1902	+ Proposed Establishment of the Charlotte Terminal Control Area and Revocation of the Charlotte/Douglas International Airport, Airport Radar Service Area; North Carolina	2120-AD08
1903	+ Explosives Detection Systems for Checked Baggage	2120-AD12
1904	+ Security Directives and Information Circulars	2120-AD14
1905	+ Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System; Transponder With Automatic Altitude Reporting Capability Requirement	2120-AD22
1906	Review Part 75 for Retention or Revocation	2120-AC55
1907	Part 91, Subpart B, Review for Simplification	2120-AA07
1908	Revision of Part 91	2120-AA13
1909	Flight Engineer Training	2120-AA79
1910	Instrument Flight Rule Requirements	2120-AA82
1911	Amendment of Sections 91.171, 91.172, and Appendices E and F of Part 43	2120-AA98
1912	Protective Breathing Equipment	2120-AB32
1913	Part 101 Review Program	2120-AB75
1914	Antiblocking Device	2120-AB92
1915	Type Certification Basis for Product Type Design Change	2120-AC05
1916	Aircraft Registration; Recording of Aircraft Titles and Security Documents	2120-AC17
1917	Temporary Flight Restrictions	2120-AC40
1918	Global Positioning System Use in Terminal Control Areas	2120-AC54
1919	Proposed Revision of Part 93, Subpart O(JAX)	2120-AC65
1920	Special Flight Rules in the Vicinity of the Grand Canyon National Park	2120-AC70
1921	Rules of Practice for FAA Civil Penalty Actions	2120-AC74
1922	Airport Radar Service Area (ARSA) Clarification - Two-Way Radio Communications	2120-AC89
1923	Very High Frequency Omnirange Station (VOR) Federal Airway No. 16, Part 93, Subpart E	2120-AC92

+ Designates significant regulation.

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Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1924	Minimum Levels of Financial Responsibility for Motor Carriers: Self-Insurance	2125-AB65
1925	Qualification of Drivers; Diabetes	2125-AB91
1926	Truck Length and Width Exclusive Devices	2125-AC30

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1927	+ Truck Size and Weight; Reasonable Access	2125-AB70
1928	+ Commercial Driver's License Standards; Biometric Identifier	2125-AC24
1929	+ Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AC28
1930	+ Uniform System for Handicapped Parking	2125-AC39
1931	Review: General Materials Requirements	2125-AA19
1932	Review and Preemption of State Motor-Carrier Safety Regulations	2125-AC11
1933	Construction Contract Equal Opportunity Compliance Procedures	2125-AB15
1934	Administration of Engineering and Design Related Service Contracts	2125-AB30
1935	Federal Motor Carrier Safety Regulations; Paperwork Burdens	2125-AC04
1936	Construction Engineering Costs	2125-AC09
1937	Acquisition of Real Property for Rights-of-Way	2125-AC17
1938	Environmental Impact and Related Procedures; Constructive Use	2125-AC18
1939	Design Standards for Highways; AASHTO Publication; Geometric Design of Highways and Streets	2125-AC22
1940	Inspection, Repair and Maintenance; Brake Inspection	2125-AC25
1941	Parts and Accessories for Safe Operation; Emergency Warning Devices	2125-AC26
1942	Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Definition	2125-AC27
1943	Design Standards for Highways; Reference Material; Roadside Design Guide	2125-AC32
1944	Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings; Penalties for Failure to Comply With Notices and Orders Issued Under the Authority of 49 USC 521(b)	2125-AC36
1945	Truck Size and Weight; Dromedary Decks and Plates	2125-AC37
1946	Truck Size and Weight; Saddlemount Combinations	2125-AC38
1947	Federal Motor Carrier Safety Regulations; Minimum Levels of Financial Responsibility; Foreign Motor Carriers	2125-AC41
1948	Manual on Uniform Traffic Control Devices	2125-AA37

+ Designates significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1949	+ Private Carriage of Passengers	2125-AB62
1950	+ Commercial Driver's License Standards; Disqualification	2125-AC19
1951	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2125-AB10
1952	Contract Procedures	2125-AA18
1953	Compliance with Motor Carrier Noise Standards	2125-AA27
1954	Railroad Grade Crossings	2125-AA36
1955	Erosion and Sediment Control on Highway Construction Projects	2125-AB05
1956	Federal-Aid Programs Approval and Project Authorization	2125-AB18
1957	Advance Construction of Federal-Aid Projects	2125-AC07
1958	Public Availability of Information; Freedom of Information Act Regulations; Technical Amendments	2125-AC20
1959	Federal Motor Carrier Safety Regulations; General; Exempt Intracity Zone; Foreign Motor Carriers	2125-AC21
1960	Design Standards for Highways; Interstate System	2125-AC34
1961	Truck Size and Weight; National Network; Oregon	2125-AC35
1962	National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Pavement Markings	2125-AC40
1963	Qualification of Drivers: Written Examinations	2125-AC42

+ Designates significant regulation.

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Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1964	+ Truck Size and Weight; Specialized Equipment; Maxi-Cube	2125-AB48
1965	+ Labor and Employment	2125-AB37
1966	+ Certification of Speed Limit Enforcement	2125-AC00
1967	+ Truck Size and Weight; National Network; South Carolina	2125-AC23
1968	Acceleration of Projects	2125-AA87
1969	State Highway Agency Equal Employment Opportunity Programs	2125-AB08
1970	Right-of-Way	2125-AB58
1971	Property Management, Disposals and Airspace	2125-AB60
1972	Contract Procedures; Advertising for Bids; Noncollusion Affidavit/Declaration Requirement	2125-AC16
1973	Federal Motor Carrier Safety Regulations; General; Rental Vehicle Leasing	2125-AC29
1974	Design Standards for Highways; Guide Specifications for Bridge Railings	2125-AC31
1975	Commercial Driver Testing and Licensing Standards; Canadian Provinces and Territories	2125-AC33

+ Designates significant regulation.

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1976	+ Standard 208; Occupant Crash Protection - Chest Injury Criteria and Mandatory Use of the Part 572(E) Dummy in the Standard Compliance Testing	2127-AC13
1977	+ Rollover	2127-AC64
1978	+ Standard 102; Transmission Shift-Lever Sequence, Starter Interlock, and Transmission Braking Effect-Slippage	2127-AC74
1979	+ Standard 108; ID and Clearance Lamps on Wide Vehicles	2127-AC78
1980	+ Standard 205; Glazing Materials, Film Transmittance	2127-AC85
1981	Review: Schoolbus Seating Systems	2127-AA65
1982	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
1983	Review: Impact Protection for the Driver from the Steering Control System	2127-AB78
1984	Review: Roof Crush Resistance and Door Locks and Door Retention Components	2127-AC20
1985	Occupant Protection In Interior Impact	2127-AB16
1986	Standard 301; Fuel-System Integrity	2127-AB43
1987	Supplemental FMVSS No. 208 Injury Criteria - Facial Lacerations, Neck Injury, Knee Shear, Tibia and Ankle Injuries	2127-AC12
1988	Bumper Standard - Damage Criteria	2127-AC29
1989	Standard 208; Occupant Crash Protection, Emergency Locking Retractors	2127-AC57
1990	Brake Lining	2127-AC66
1991	Battery Explosions	2127-AC87
1992	Establish a Standard for Safe Entry and Exit Requirements for Commercial Vehicles	2127-AC82
1993	Standard 201; Occupant Protection in Interior Impact	2127-AC84
1994	Standard 213; Child Restraint Systems - Newborn and Very Small Children	2127-AC87
1995	Federal Motor Vehicle Theft Prevention Standard	2127-AC92
1996	Standard 105; Hydraulic Brake	2127-AC94
1997	Standard 121; Air Brake Systems Stopping-Distance Performance	2127-AD07
1998	Standard 207; Seating Systems - Performance	2127-AD08
1999	Standard 109; New Pneumatic Tires and Part 575.104, Uniform Tire Quality Grading Standards - CT Tires	2127-AD21
2000	Standard 109; New Pneumatic Tires - Labelling Requirements	2127-AD22
2001	Standard 209; Seat Belt Assembly - Windowshade Type	2127-AD25

+ Designates significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2002	+ Commercial Vehicle Conspicuity	2127-AA12
2003	+ Truck Rear Underride Protection	2127-AA43
2004	+ Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation	2127-AB85
2005	+ Post 1991 Light Truck Fuel Economy Standards	2127-AC51
2006	+ Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems)	2127-AA00
2007	+ Proposed New Standard 135; Passenger-Car Brake System	2127-AA13

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National Highway Traffic Safety Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2008	+ Standard 302; Flammability of Interior Materials - School Buses	2127-AA44
2009	+ Pedestrian Protection	2127-AA45
2010	+ Side-Impact Protection -- Light Trucks, Vans, and Multipurpose Passenger Vehicles	2127-AC43
2011	+ Standard 102; Transmission Shift-Lever Sequence, Starter Interlock, and Transmission Braking Effect - Shift Position/Pattern	2127-AC75
2012	+ Standard 217; Bus Window Retention and Release - Upgrade for School Buses	2127-AC88
2013	+ Standard 301; Fuel-System Integrity - Upgrade for Buses	2127-AC89
2014	+ Standard 208; Occupant Crash Protection - Upgrade	2127-AD10
2015	+ Stop-Signal Arms on New School Buses; New Standard	2127-AD16
2016	+ Standard 111; Rearview Mirrors - School Buses	2127-AD24
2017	+ Procedures for Participating in and Receiving Data from the National Driver Register Problem Driver Pointer System	2127-AD26
2018	Rearview Mirror Systems	2127-AA21
2019	Air-Brake Systems, Parking and Emergency Brakes - Trailers	2127-AA27
2020	Procedures for Considering Environmental Impacts	2127-AB79
2021	Anthropomorphic Test Dummies Representing Children: 3-Year Old	2127-AB94
2022	Anthropomorphic Test Dummies: 6-Year Old	2127-AC09
2023	Anthropomorphic Test Dummies: 9-Month Old	2127-AC10
2024	Standard 205; Glazing Materials Ball Drop Test	2127-AC14
2025	Standard 221; School Bus Body Joint Strength	2127-AC19
2026	Bumper Standard - Test Procedures	2127-AC30
2027	Standard 205; Glazing Materials - Create a New Category, AS-15	2127-AC38
2028	Standard 118; Power-Operated Window Systems, Sunroofs	2127-AC52
2029	Standard 106; Brake Hoses Permanently Attached End Fittings	2127-AC55
2030	Standard 301; Fuel System Integrity, Testing Performance	2127-AC58
2031	Standard 301; Fuel System Integrity, Fuel Spillage	2127-AC62
2032	Comprehensive Review of Visibility Topics	2127-AC69
2033	Standard 108; Optically Combined Lamps: New Definition	2127-AC77
2034	Standard 121; Air-Brake Systems, Supplemental Connector	2127-AC80
2035	Standard 121; Air-Brake Systems, Expandable and Drop Frame Container Chassis	2127-AC81
2036	Tractor-Trailer Fifth Wheel; False Latching	2127-AC83
2037	Pedestrian Head-Protection Standard	2127-AC90
2038	Driving Range Determination for Dual-Fuel Passenger Cars	2127-AD02
2039	Standard 105; Hydraulic Brake Systems - Brake Failure Indicator Lamps	2127-AD03
2040	Standard 106; Brake Hoses - Assemblies	2127-AD04
2041	Standard 116; Motor Vehicle Brake Fluids - Color Requirements	2127-AD05
2042	Standard 121; Air Brake Systems Timing Requirements	2127-AD06
2043	Standard 207; Seating Systems - Test Procedure	2127-AD09
2044	Standard 208; Occupant Crash Protection - Dynamically Tested Seat Belts	2127-AD11
2045	Standard 216; Roof Crush Resistance - Light Trucks, Vans, and Multipurpose Passenger Vehicles	2127-AD13
2046	Standard 108; Lamps, Reflective Devices and Associated Equipment - Petitions for Reconsideration, Reform	2127-AD17
2047	Standard 108; Lamps, Reflective Devices and Associated Equipment - Humidity Test	2127-AD18
2048	Standard 108; Color-Coded Rear Lighting	2127-AD19
2049	Standards for New Pneumatic Tires - Listing of Standardization Organizations	2127-AD20
2050	Standard 110, Tire Selection and Rims; and 120, Tire Selection and Rims for Other Than Passenger Cars - Size Labelling	2127-AD23
2051	Air-Brake Systems; Pneumatic Timing Requirements	2127-AD27

+ Designates significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2052	+ Crashworthiness Ratings	2127-AA03
2053	+ Anthropomorphic Test Dummies: Side-Impact Thorax Protection	2127-AA48
2054	+ Uniform Tire Quality Grading Standards - Treadwear Amendments	2127-AB21
2055	+ Side-Impact Protection: Thorax Protection	2127-AB86
2056	+ Lighting Simplification--Potential Amendments on Long-Term Issues to Simplify Federal Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment	2127-AB87
2057	+ Vehicle Classification	2127-AA57

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National Highway Traffic Safety Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2058	+ Head Restraints - Extend to MPVs, Trucks, and Buses	2127-AC06
2059	+ Part 544, Motor Vehicle Theft Prevention; Reporting Requirements for Motor Vehicle Rental and Leasing Companies	2127-AC32
2060	+ Incentive Grant Criteria for Drunk-Driving-Prevention Programs (Section 410)	2127-AD01
2061	+ Standard 208; Occupant Crash Protection - Rear Seat Lap/Shoulder Belts, Phase 2	2127-AD12
2062	Part 571.3 - Definitions - Seating Reference Point/Motor Vehicle Driver's Eye Range	2127-AA46
2063	Seat-Belt-Assembly Anchorages - Harmonize and Upgrade	2127-AA95
2064	New Non-Pneumatic Tires for Passenger Cars, Tire Selection, and Rims - Temporary Use of Non-Pneumatic Spare Tires	2127-AC18
2065	Gear Lock; Theft Protection	2127-AC24
2066	Odometer Disclosure Requirements	2127-AC42
2067	Standard 108; Proposed Use of 9007 Bulbs for Headlamps	2127-AC59
2068	Standard 115; Vehicle Identification Number and Part 567 - Certification Regulation	2127-AC65
2069	Standard 108; Lamps, Reflective Devices, and Associated Equipment; Upgrade References	2127-AC68
2070	Consumer Information Regulations	2127-AC72
2071	Standards 105 and 121; Hydraulic and Air Brake Systems - Brake Adjusters	2127-AC76
2072	Standard 208; Occupant Crash Protection - Broaden Test Procedures for Heavy Trucks	2127-AC86
2073	Confidential Business Information	2127-AC95
2074	Registered Importers of Nonconforming Vehicles	2127-AC97
2075	Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act	2127-AC98
2076	Nonconforming Vehicles: Eligibility for Importation	2127-AC99
2077	Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards	2127-AD00
2078	Insurer Reporting Requirements; List of Insurers Required to File Reports in October 1989	2127-AD14
2079	Final Listing of High Theft Lines for Model Year 1990	2127-AD15

+ Designates significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2080	+ Post-1988 Passenger-Car Fuel-Economy Standards	2127-AB75
2081	+ Standard 108; Lighting Reform, Near-Term Issues	2127-AC53
2082	+ Uniform Tire-Quality Grading	2127-AA52
2083	+ Heavy Trailer Stability	2127-AB42
2084	+ Standard 222; School Bus Seating and Crash Protection	2127-AB84
2085	+ Standard 208; Occupant Crash Protection - Rear Seat Lap/Shoulder Belts	2127-AB91
2086	+ Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC22
2087	+ Reconsideration of 1989 Passenger-Car Fuel-Economy Standard	2127-AC91
2088	Rearview Mirror Systems: Light Vehicles	2127-AA23
2089	Rearview Mirrors	2127-AA88
2090	Air-Brake Systems	2127-AB12
2091	Voluntary Vehicle Identification Standard (Theft Prevention Standard)	2127-AB93
2092	Standard 208; Occupant Crash Protection	2127-AC36
2093	FMVSS No. 208 Occupant Crash Protection	2127-AC49
2094	Standard 105; Hydraulic Brake Systems	2127-AC50
2095	Standard 102; Transmission Shift-Lever Sequence, Starter Interlock, and Transmission Braking	2127-AC54
2096	Standard 107; Reflecting Surfaces - Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses	2127-AC56
2097	Standard 108; Lamps, Reflective Devices and Associated Equipment - Proposed Amendment to Permit a New, Small, Sealed-Beam Headlamp	2127-AC60
2098	Standard 108; Lamps, Reflective Devices, and Associated Equipment	2127-AC61
2099	Standard 120; Tire Selection and Rims for Vehicles Other Than Passenger Cars	2127-AC79
2100	Standard 202; Head Restraints	2127-AC93
2101	Final Listing of High Theft Lines for 1989 Model Year; Motor Vehicle Theft Prevention Standard	2127-AC96

+ Designates significant regulation.

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Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2102	+ Rail-Highway Grade Crossing Safety	2130-AA45
2103	+ Railroad Operating Practices; Procedures for Bridge-Worker Safety	2130-AA48
2104	+ Locomotive Operator; Qualification Standards	2130-AA51
2105	+ Train Operation Event Recorders	2130-AA53

+ Designates significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2106	+ Railroad Accident/Incident Reports Classification and Notification of Right to Submit Employee Supplements	2130-AA44
2107	+ Railroad Operating Practices -- Protection of On-Track Sleeping Quarters	2130-AA46
2108	+ Safety Enforcement Procedures; Disqualification of Employees	2130-AA49

+ Designates significant regulation.

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2109	+ Review of Radio Communication	2130-AA34
2110	+ Alcohol and Drug Testing Regulations	2130-AA43
2111	+ Rail-Highway Grade-Crossing Safety	2130-AA27
2112	+ Jurisdictional Conformity Amendments	2130-AA50
2113	Review: Regulatory Flexibility Act Reviews	2130-AA10
2114	Review of Locomotive Cab Safety	2130-AA32
2115	Review: Special Safety Inquiry; Power Brake Regulations	2130-AA40
2116	Interior Noise Standards for On-Track Sleeping Quarters	2130-AA52

+ Designates significant regulation.

Urban Mass Transportation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2117	+ Implementation of Section 19 of the Urban Mass Transportation Act of 1964 as Amended -- Nondiscrimination	2132-AA01
2118	School Bus Operations	2132-AA09

+ Designates significant regulation.

Urban Mass Transportation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2119	+ Major Capital Investment Projects	2132-AA34
2120	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2132-AA19
2121	+ Bus Testing Guidelines	2132-AA30
2122	+ "Buy America" Requirements of the Surface Transportation and Uniform Relocation Assistance Act of 1987	2132-AA35
2123	Capital Leases	2132-AA28
2124	Pre-Award and Post-Delivery Audits of Rolling-Stock Purchases	2132-AA29
2125	Project Management Oversight	2132-AA31

+ Designates significant regulation.

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Urban Mass Transportation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2126	+ Major Capital Investment Projects	2132-AA22
2127	+ "Buy America" Requirements of the Surface Transportation Assistance Act of 1982	2132-AA15

+ Designates significant regulation.

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2128	+ Registration of Shippers and Carriers of Hazardous Materials	2137-AB43
2129	+ OST-FAA Information Rules: Standardized Regulatory Flexibility Requirements	2137-AB16
2130	Review of Commuter Air Traffic and Market Data Reporting	2137-AB18
2131	Airline Revenue/Nonrevenue, First Class/Business Class/Coach Passengers: Revised Definitions	2137-AB00
2132	Subsidized Commuter Carriers and Foreign Air Carriers: Records and Retention Periods	2137-AB04
2133	Fumigation	2137-AB41
2134	Conforming Gas and Liquid Pipeline Welding Standards: Final Phase	2137-AB45
2135	Gas Pipelines Operating Above 72 Percent of Specified Minimum Yield Strength	2137-AB53
2136	Transportation of Radioactive Materials	2137-AB59

+ Designates significant regulation.

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2137	+ Performance-Oriented Packaging Standards	2137-AA01
2138	+ Training for Hazardous Materials Transportation	2137-AB26
2139	+ Gas Gathering Line Definition	2137-AB15
2140	+ Proposals for Pipeline Safety	2137-AB27
2141	+ Hazardous Materials in Intrastate Commerce	2137-AB37
2142	+ Qualification of Pipeline Personnel	2137-AB38
2143	+ Highway Routing Standards for Certain Types and Quantities of Hazardous Materials	2137-AB42
2144	+ Operation and Maintenance Procedures for Pipelines	2137-AB44
2145	+ Pressure Testing Existing Hazardous Liquid Pipelines	2137-AB46
2146	+ Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2147	+ Pipeline Safety Grant Program: Minimum Requirements for One-Call Systems	2137-AB66
2148	Carriage of Hazardous Materials by Motor Vehicle	2137-AA07
2149	Specification 8W and 8WA Welded Steel Cylinders	2137-AA63
2150	Consolidation of Specifications for High-Pressure Seamless Cylinders and Rewrite of 49 CFR 173.34	2137-AA92
2151	Enforcement of Motor Carrier Financial Responsibility Requirements	2137-AB35
2152	Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Detection Flaws, and Other Defects of Tank Car Tanks	2137-AB40
2153	Gas Detection and Monitoring in Compressor Station Buildings	2137-AB49
2154	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2155	Revision of Operating Requirements for Rail Carriage	2137-AB55
2156	Revision of RSPA Form 41 Report for Changes in GAAP-FAS 95 Statement of Cash Flows	2137-AB57
2157	Elevated Temperature Materials	2137-AB58
2158	Transportation Regulations; Compatibility with the International Atomic Energy Agency	2137-AB60
2159	Retest Requirements for DOT 8 and 8AL Cylinders	2137-AB61
2160	Transportation of Hydrogen Sulfide by Pipeline	2137-AB63

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Research and Special Programs Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2161	Leakage Surveys	2137-AB64
2162	Pressure Regulators Subject to Inspection and Testing	2137-AB65
2163	Alternative Weld Defect Acceptance Criteria	2137-AB67
2164	Passage of Internal Inspection Devices	2137-AB71
2165	Transportation of Carbon Dioxide by Pipeline	2137-AB72
2166	Prohibited Placarding and Placard Visibility	2137-AB75
2167	Amendment of an Operator's Plans or Procedures	2137-AB77

+ Designates significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2168	+ Natural Gas and Hazardous Liquid Pipeline Damage Prevention Program	2137-AB47
2169	Use of Interested Inspectors for Cylinder Inspections	2137-AA08
2170	Odorization of LP Gas	2137-AA25
2171	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AA44
2172	Quantity Limitations Aboard Aircraft	2137-AA85
2173	Standards for Construction of Fireworks and Novelties; Approval for Transportation	2137-AB36
2174	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2175	Etiologic Agents; Proposal to Remove the 50 Milliliter Exception	2137-AB55

+ Designates significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2176	+ Requirements for Cargo Tanks	2137-AA42
2177	+ Data Collection and Reporting: Hazardous Materials Incident Reports	2137-AA51
2178	+ Recodification of Explosive Regulations	2137-AA93
2179	Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel	2137-AA10
2180	Private Carriers Licensed to Use Radioactive Materials	2137-AA28
2181	Specification Packages of Type B and Fissile Radioactive Materials	2137-AA29
2182	Quality Assurance for Radioactive Materials Shippers	2137-AA30
2183	DOT Specification 51 Portable Tanks	2137-AA36
2184	Emergency Response Communication Standards	2137-AA88
2185	Hazardous Materials: Uranium Hexafluoride	2137-AB10
2186	Confirmation or Revision of Maximum Allowable Operating Pressure; Alternate Method	2137-AB20
2187	Rear Bumpers on Cargo Tank Trucks	2137-AB34
2188	Annual Report for Hazardous Liquid Pipelines	2137-AB62
2189	Incorporation by Reference of Portions of American Petroleum Institute Standard 1104, Seventeenth Edition, 1988	2137-AB68
2190	Incorporation by Reference of American Petroleum Institute Specification 5L	2137-AB69
2191	Transportation of Gas and Hazardous Liquids by Pipeline: Reporting Safety-Related Conditions; Discovery of Conditions by Smart Pigs; Enforcement Rules	2137-AB70
2192	Exceptions for Specified Quantities of Radioactive Materials	2137-AB73
2193	Settlements and Compromises of Civil Penalty and Compliance Order Cases	2137-AB76

+ Designates significant regulation.

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Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2194	+ Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Oil from Alaska in the Domestic Trade	2133-AA62
2195	+ Procedures Governing the Evaluation of Bids for the Carriage of Preferred Cargoes on Subsidized Vessels	2133-AA77

+ Designates significant regulation.

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2196	+ Regulated Transactions Involving Documented Vessels and other Maritime Interests	2133-AA79
2197	Requirements for Conducting Vessel Subsidy Condition Surveys and for Accomplishing Subsidized Vessel Maintenance and Repairs	2133-AA54
2198	Federal Income Tax Aspects of the Capital Construction Fund	2133-AA78
2199	War Risk Insurance	2133-AA81

+ Designates significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2200	+ Cargo Preference, U.S.-Flag Vessels: Determination of Fair and Reasonable Rates for Bulk Vessels	2133-AA43
2201	+ Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Services; Exclusion of Commercial Cargoes Reserved for U.S.-Flag Carriers	2133-AA66
2202	+ Procedures Relating to the Conduct of Hearings Under the Merchant Marine Act, 1936	2133-AA20
2203	Capital Construction Fund	2133-AA65

+ Designates significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2204	+ Cargo Preference -- Implementation of P.L. 99-198	2133-AA55
2205	Suspension of ODS Agreements for All or Portion of the Vessels Included Therein	2133-AA17
2206	Regulations and Minimum Standards for State, Territorial, or Regional Maritime Academies and Colleges	2133-AA57
2207	Cargo Preference -- U.S.-Flag Vessels; Department of Defense Sponsored and Generated Oceanborne Cargoes	2133-AA69
2208	Approval of Vessel Charters to Noncitizens	2133-AA73
2209	Obligation Guarantees; Technical Amendments	2133-AA80

+ Designates significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Office of the Secretary (OST)

1610. ● + COMPUTER RESERVATION SYSTEM (CRS) RULES: REVIEW

Significance: Agency Priority

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 255

Legal Deadline: None

Abstract: The Department intends to conduct a comprehensive review of the regulations governing carrier-owned computer reservations systems (CRS), to determine if they should be continued or if revisions are necessary. This rulemaking is significant because of substantial public and industry interest.

DOT—OST

Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Samuel Whitehorn, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW Washington, DC 20590, 202 366-9307

RIN: 2105–AB47

1611. ● + ANTI-ALCOHOL PROGRAM FOR THE TRANSPORTATION INDUSTRY

Significance: Agency Priority

Legal Authority: 49 USC 1657

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The DOT is considering whether additional regulations concerning the use of alcohol by sensitive safety- and security-related personnel in industries regulated by its operating administrations are necessary and, if so, what the scope and focus of any new regulations should be. This proceeding is being conducted to ensure that the Department and its modal administrations have the necessary regulatory tools to respond to the hazards of alcohol use and abuse in transportation.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Neil Eisner, Assistant General Counsel, Office of Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street, S.W., Washington, D.C. 20590, 202 366-4723

RIN: 2105–AB52

1612. DIRECT FLIGHTS

Significance: Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Petition under consideration. It has been filed in Docket 41217.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA73

1613. COMPREHENSIVE REVIEW OF CAB CONSUMER RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1301 et seq Federal Aviation Act of 1958, as amended

CFR Citation: 14 CFR 201.6; 14 CFR 203; 14 CFR 205; 14 CFR 221, Subpart N; 14 CFR 249; 14 CFR 250; 14 CFR 252; 14 CFR 253; 14 CFR 254; 14 CFR 296.6; 14 CFR 298.30; 14 CFR 379; 14 CFR 380; 14 CFR 382; 14 CFR 399, Subpart G; ...

Legal Deadline: None

Abstract: After the sunset of the Civil Aeronautics Board on January 1, 1985, the Department became responsible for overseeing the consumer protection regulations applicable to airline passengers. The Department established a task force to review the current regulations and pending rulemaking proceedings to determine what, if any, actions should be taken. The internal analysis was completed and it was determined that no comprehensive report is necessary. In the next year, the Department expects to address the pending rulemaking petitions and either terminate old rulemaking proceedings or issue supplemental notices of proposed rulemakings to update information for rulemakings in which final rules are expected to issue. This entry is terminated because the comprehensive review of the consumer protection rules is now complete.

Timetable:

Action	Date	FR Cite
Begin Review	02/25/85	
End Review	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William C. Boyd, Senior Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 10222, Washington, DC 20590, 202 366-4870

RIN: 2105–AB03

1614. PRICE ADVERTISING

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Legal Deadline: None

Abstract: The DOT rules cited above state that any price stated for air transportation, a tour or a tour component must be the entire price for that transportation, tour or component. In this petition, Mr. Donald Pevsner complains that some tour operators advertise prices which do not include additional features which must be purchased and which cost extra. He asks that the rules be amended to state that such additional features may only be priced separately if they may be purchased separately, i.e., if they are optional rather than mandatory.

Timetable:

Action	Date	FR Cite
Petition for rulemaking (Dkt 43147)	05/22/85	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AB25

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DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

1615. + COMMERCIAL SPACE TRANSPORTATION: PROCEDURES FOR SETTING FINANCIAL RESPONSIBILITY REQUIREMENTS FOR COMMERCIAL SPACE LAUNCH ACTIVITY

Significance: Regulatory Program

Legal Authority: PL 98-575; PL 100-656, Sec 15(c) to 16 Commercial Space Launch Act

CFR Citation: None

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain liability insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the Government when its property or personnel are involved in such operations. The rulemaking sets out the procedures by which OCST would set the appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	50 FR 19280
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 12/31/89

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, Commercial Space Transportation, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9305

RIN: 2105–AA25

1616. + MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS)

Significance: Agency Priority

Legal Authority: 42 USC 2000d Civil Rights Act of 1964, Title VI; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f); PL 100-17, Sec 106(c)

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR Part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) extended and modified the program as applied to FHWA and UMTA; similar legislation applied the same requirements to the FAA. The Department issued a final rule to make the STURAA changes in October 1987; a similar rule for FAA programs was published in May 1988. The Department intends subsequently to issue an NPRM that would propose further changes in the regulation.

Timetable:

Action	Date	FR Cite
Final Action	03/31/80	45 FR 21172
NPRM Interim Amdt. to Final Rule, Pending Revision of Entire Rule	03/12/81	46 FR 16282
Final Action for Interim Amendment	04/27/81	46 FR 23457
Interim Final Rule	10/21/87	52 FR 39225
NPRM	10/02/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/27/81 (46 FR 23457)

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA04

1617. + ANTIDRUG PROGRAMS FOR DEPARTMENT OF TRANSPORTATION CONTRACTORS

Significance: Agency Priority

Legal Authority: 49 USC 322; 40 USC 486(c); 48 CFR 1.301; 48 CFR 1.59

CFR Citation: 48 CFR 1226.7001; 48 CFR 1252.226-70; 48 CFR 34

Legal Deadline: None

Abstract: Consistent with DOT antidrug initiatives for DOT employees and employees of regulated industries, DOT is considering requiring its contractors to establish antidrug programs (including drug testing and employee assistance programs) for employees performing sensitive safety or security functions under DOT contracts. This rulemaking is significant because of substantial public interest and departmental policy.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for, Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St., S.W., Room 10424, Washington, D.C. 20590, 202 366-9306

RIN: 2105–AB40

1618. ● + NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED MASS TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794; 49 USC 1612

CFR Citation: 49 CFR 27

Legal Deadline: NPRM, Judicial. A judicial schedule for the proposed and final rules in this rulemaking will be established by the Federal District Court on remand from the Court of Appeals for the Third Circuit. (cont)

Abstract: This rulemaking is necessitated by an en banc ruling of the U.S. Court of Appeals for the Third Circuit in ADAPT v. Skinner. The court directed DOT to revise its existing rule on this subject consistent with its opinion that provisions of the present rule were inconsistent with the Department's statutory authority. This rulemaking will incorporate an existing rulemaking concerning nondiscrimination on the basis of handicap in Federally assisted commuter rail programs. (RIN 2105-AB23). This rulemaking is significant because of substantial public interest and Federalism implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: LEGAL DEADLINE CONT: The schedule has not yet been established. The timetable for the rulemaking will be established by the Federal District Court.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AB53

DOT—OST

Proposed Rule Stage

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 28

Legal Deadline: None

Abstract: This regulation would implement the 1978 amendments to section 504 of the Rehabilitation Act of 1973 which made its prohibition of discrimination on the ground of handicap applicable to the directly conducted programs of Federal agencies as well as to their financial assistance programs. The rule would apply to DOT facilities, personnel practices, and regulatory programs. It would be based on a model rule developed by the Department of Justice. A draft NPRM is in the Department of Justice review process.

Timetable:

Action	Date	FR Cite
NPRM	11/03/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA29

1619. NONDISCRIMINATION ON THE BASIS OF HANDICAP (DIRECTLY CONDUCTED PROGRAMS)

Significance: Nonsignificant

1620. ● TRANSPORTATION ACQUISITION REGULATIONS

Significance: Nonsignificant

Legal Authority: 40 USC 486C

CFR Citation: 48 CFR Ch 12

Legal Deadline: None

Abstract: This rule proposes changes to the Department of Transportation Acquisition Regulations (TAR). These changes add coverage on debarment and suspension and on protests to the agency as well as changes to several internal operating procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/02/89

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Lawrence E. Sawler, Procurement Analyst, Department of Transportation, Office of the Secretary, 400 Seventh St., SW, Washington, DC 20590, 202 366-4287

RIN: 2105–AB54

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

1621. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (AIR TRAVEL)

Significance: Regulatory Program

Legal Authority: Section 404(c) of the Federal Aviation Act of 1958, as amended

CFR Citation: 49 CFR 27; 14 CFR 382

Legal Deadline: NPRM, Statutory, January 30, 1987.

Abstract: The Civil Aeronautics Board (CAB) had a regulation providing protection of the rights of handicapped air travellers. Based on recent Congressional action, DOT began enforcing this regulation on January 1, 1985. The Supreme Court's decision in U.S. Department of Transportation v. Paralyzed Veterans of America held that Section 504 of the Rehabilitation Act of 1973 does not apply to nonsubsidized air carriers. This decision left the existing regulation intact. The Air Carrier Access Act of 1986 directed DOT to publish new regulations prohibiting disability-based discrimination in air travel. The Department will use comments received in response to its August 1986 information notice on issues affecting blind passengers as part of the record for this rulemaking. The Department convened an advisory committee to pursue the rulemaking through a negotiated process. The negotiations have concluded and an NPRM has been published. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/22/88	53 FR 23574
NPRM Comment Period End	09/20/88	
Comment period extended to 12/19/88	09/23/88	53 FR 36997
Final Action	12/15/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/22/88 (53 FR 23574)

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Final Rule Stage

Additional Information: Reply comments were due 01/18/89. A cassette-tape version of the NPRM was made available to blind persons.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA18

1622. + LIBERALIZATION OF AIR-CARRIER CHARTER RULES

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 207; 14 CFR 208; 14 CFR 212; 14 CFR 298; 14 CFR 380

Legal Deadline: None

Abstract: The CAB proposed new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating rules restricting the types of groups (such as "affinity" or "single-entity") to whom charters may be sold. The proposal would also retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal also highlights depository bank and travel agent responsibilities in handling passenger funds. The proposal replaces one made earlier. DOT is considering what action should be taken. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/19/82	47 FR 7443
NPRM Comment Period End	04/20/82	
SNPRM	04/12/83	48 FR 15639
Comment Period End	06/13/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/19/82 (47 FR 7443)

Additional Information: Docket 40336. Original NPRM was EDR-439/SPDR 86; SNPRM of 04/12/83 was EDR-456/SPDR-86.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA41

1623. + STATEMENT OF ENFORCEMENT POLICY ON REBATING

Significance: Agency Priority

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extension of Comment Period to 02/21/89	02/03/89	54 FR 5497
Correction to Comment Period Document	02/10/89	54 FR 6475

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/88 (53 FR 41353)

Agency Contact: Betsy Wolf, Trial Attorney, Department of Transportation, Office of the Secretary, 400 Seventh St., SW., Washington, DC 20590, 202 366-9342

RIN: 2105–AB39

1624. + PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Significance: Agency Priority

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rule codifies drug-testing guidelines developed by the Department of Health and Human Services, adapting them to fit the circumstances of employers regulated by DOT. The Department's substantive drug-testing rules require employers to conduct drug testing in accordance with these procedures. This rulemaking is significant, since it affects several operating administrations and their regulated industries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/21/88	53 FR 47002
Interim final rule effective	12/21/88	
Interim final rule public comment end	01/23/89	
Final Action	11/03/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Evaluation 11/21/88 (53 FR 47002)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh St., SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB42

1625. + ESSENTIAL AIR SERVICE; REDUCTIONS

Significance: Agency Priority

Legal Authority: 49 USC 324; 49 USC 1389; PL 100-457DOT and Related Agencies Appropriations Act, 1989

CFR Citation: 14 CFR 398. (Revision)

Legal Deadline: None

DOT—OST

Final Rule Stage

Abstract: Because of the shortfall in FY 1989 appropriations, an NPRM was issued to request comments on various alternatives being considered for reducing essential-service subsidy. However, Congress subsequently amended the appropriation to supply the necessary funds to continue the subsidy payments at their current level. Therefore, further need for rulemaking became unnecessary and this contemplated action will be withdrawn. It was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/14/88	53 FR 50233
NPRM Comment Period End	01/03/89	
To be withdrawn	10/02/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh St. SW., Washington, DC 20590, 202 366-9306

RIN: 2105–AB43

1626. ● + PRICE ADVERTISING

Significance: Agency Priority

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department is proposing to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Comment Period Extended to 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31052)

Agency Contact: Samuel Whitehorn, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW Washington, DC 20590, 202 366-9307

RIN: 2105–AB50

1627. TITLE VI CIVIL RIGHTS REGULATION

Significance: Nonsignificant

Legal Authority: 42 USC 2000d-4

CFR Citation: 49 CFR 21

Legal Deadline: None

Abstract: In 1981, the Department proposed a consolidation and expansion of its existing Title VI regulation (49 CFR Part 21). Few comments were received on this NPRM, and a final regulation was never published. The Department reviewed the existing regulation to determine if changes were needed. It was concluded that the Department can continue to enforce Title VI appropriately through the existing regulation. Consequently the Department does not anticipate further rulemaking action, and intends to withdraw the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	01/19/81	46 FR 5588
NPRM Comment Period End	04/20/81	
To be withdrawn	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/19/81 (46 FR 5588)

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4754

RIN: 2105–AA02

1628. MINORITY BUSINESS ENTERPRISE PROGRAM (DIRECT CONTRACTING)

Significance: Nonsignificant

Legal Authority: EO 11625; EO 12138; 45 USC 803; PL 95-507

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: As part of the NPRM that proposed its minority business program rule (49 CFR Part 23), the Department proposed rules concerning minority business involvement in direct DOT procurement. However, because of the program established by Public Law 95-507, these proposed rules became unnecessary, and were never finalized. That program provides for subcontracting plans and goals in certain direct Federal contracts as well as for disadvantaged business set-asides under the Small Business Administration 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	05/17/79	44 FR 28928
NPRM Comment Period End	07/16/79	
Final Action concerning financial assistance programs	03/31/80	45 FR 21172
To be withdrawn	10/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/17/79 (44 FR 28928)

Additional Information: The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). The Department has concluded that further rulemaking in the direct contracting field is unnecessary at this time, and intends to withdraw this proposed rule.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA03

1629. CONSOLIDATION OF TRANSPORTATION GRANTS TO U.S. TERRITORIES

Significance: Nonsignificant

Legal Authority: PL 95-134, Title V

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: Title V of Pub. L. 95-134 permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. This proposal is being withdrawn because of problems concerning legal requirements with changing grant conditions.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/08/79	44 FR 1765
To be withdrawn	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kristen Clark, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9669

RIN: 2105–AA08

1630. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 94-135, Title III

CFR Citation: 29 CFR 1691

Legal Deadline: None

Abstract: This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. Few comments were received on the NPRM. The Department intends to publish a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
NPRM Comment Period End	01/21/80	
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/22/79 (44 FR 60946)

Agency Contact: Joseph Austin, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9662

RIN: 2105–AA09

1631. AIRLINE TIME AND MILEAGE GUIDES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: The DOT currently prohibits fares or rates based upon units of time. This proposal would remove these restrictions. The comment period on the NPRM closed on December 13, 1982. In view of the elapsed time, we intend to issue a SNPRM to determine whether there is additional information that should be considered before the Department issues a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/27/82	47 FR 47509
NPRM Comment Period End	12/13/82	
SNPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/89

Additional Information: EDR 448, Docket 41034. Formerly entitled: Tariffs; Removal of Requirements for Statements of Fares or Rates Based upon Units of Distance or Time.

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105–AA39

1632. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the force majeure clause from charter contracts. However, the Department is considering a comprehensive proposal (RIN 2105-AA41 in this agenda) to revise and simplify air charter rules. The Department's final action in this proceeding will be consistent with the comprehensive review of the charter rule.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: EDR 405, Docket 37169.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA40

1633. AIR TRAVELERS: AGE DISCRIMINATION

Significance: Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376, (Proposed)

Legal Deadline: None

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the CAB on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act. The rule was approved by HHS on July 13, 1984, with changes. However, these changes have not been incorporated. DOT is considering combining this rulemaking with a broader DOT age discrimination rule on which work is now under way.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action adopted by the Board	04/10/80	
HHS approved Final Rule with changes	07/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AA45

DOT—OST

Final Rule Stage

1634. POLICY STATEMENT ON AIRLINE PREEMPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This rule will set out Department policies for regulation of the rates, routes, and services of airlines that have interstate authority. The CAB concluded that under section 105 of the Federal Aviation Act of 1958 it, not the States, was responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: PS-83, Docket 34684.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9183

RIN: 2105–AA46

1635. INSURANCE FOR ON-DEMAND AIR-TAXI OPERATORS AND CANADIAN AIR TAXIS

Significance: Nonsignificant

Legal Authority: PL 95-504; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 205; 14 CFR 298

Legal Deadline: None

Abstract: This proposed rulemaking would have increased the minimum aircraft accident liability insurance limits for U.S. and Canadian on-demand air-taxi operators from $75,000 to $150,000 per person. (The minimum liability per person for other types of air carriers is $300,000.) The NPRM also included alternative proposals. Commenters alleged that small carriers would be adversely affected by the premiums necessary to pay for the proposed higher coverage. As the currently effective rule has not created significant controversy or complaint in recent years, it was determined no alteration to the current rule is necessary, and the proposal will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	02/04/80	45 FR 7566
NPRM Comment Period End	03/12/80	45 FR 7566
SNPRM	10/27/81	46 FR 52585
SNPRM	03/10/83	48 FR 10073
To be withdrawn	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 37531. Original NPRM (02/04/80) was EDR-395; the first SNPRM (10/27/81) was EDR-395B. The second SNPRM (03/10/83) was EDR-395C, and its comment period ended 05/17/83.

Agency Contact: Desta McDowell, Acting Chief, Regulatory Analysis Division, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1056

RIN: 2105–AA47

1636. IMPLEMENTATION OF STATUTE REQUIRING INTEREST ON SUBSIDY CLAIMS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1376; 49 USC 1389; PL 97-369

CFR Citation: 14 CFR 326, (Proposed)

Legal Deadline: None

Abstract: Under section 322 of the FY 1983 Transportation Appropriations Act, interest may be paid on certain "hold-in" subsidy claims by certificated air carriers under sections 419 and 406 of the Act. This rule would set procedures for payment of that interest.

Timetable:

Action	Date	FR Cite
NPRM	12/22/83	48 FR 56599
NPRM Comment Period End	02/21/84	
Reply Comment Period End	03/02/84	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket 41855; PDR 87.

Agency Contact: Robert Ross, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9154

RIN: 2105–AA77

1637. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is now considering what action to take.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	

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Final Rule Stage

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41663, EDR 468/PSDR-81.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA78

1638. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed updating its rules applicable to exemption procedures to conform the rules to the changes brought about by the Airline Deregulation Act and the International Air Transportation Competition Act of 1979, and to modernize the evidentiary and service requirements. The Department is evaluating comments received.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Gwyneth Radloff, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9305

RIN: 2105–AA82

1639. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket 41690; EDR-477.

Agency Contact: Timothy Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA84

1640. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. The CAB adopted an NPRM that proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted and whether a smoking notice should be included. DOT is now considering what action to take in response to the notice and comments filed.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Additional Information: Docket 41971; EDR-474

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA88

1641. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: This rule is being revised to add nongovernmental grantees and to make minor revisions to the current common rule that applies to grants and cooperative agreements to State and local governments. Due to existing statutes and the desire to reduce Federal red tape, DOT does not comply with some sections of the common rule and is proposing deviations from the additional provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

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Final Rule Stage

Analysis: Regulatory Evaluation 11/04/88 (53 FR 44716)

Additional Information: The Federal Agencies published the final common rule on 03/11/88 (53 FR 21816). The Department's proposed amendments to the final rule begin on page 44791 of the November 4, 1988 issue of the Federal Register.

Agency Contact: Charles E. Ventura, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street, S.W., Washington, D.C. 20590, 202 366-4266

RIN: 2105–AB46

1642. ● REFERRAL OF DEBTS TO THE IRS FOR TAX REFUND OFFSET

Significance: Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 49 CFR 89

Legal Deadline: None

Abstract: This regulation establishes procedures that DOT will follow when referring delinquent debts to the IRS for offset against income- tax refund. 31 USC 3720A authorizes such offset and DOT expects considerable recovery of delinquent debts owed the Department.

Timetable:

Action	Date	FR Cite
Final Rule; Request for Comments	07/07/89	54 FR 28680
Reply to Comments	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul B. Larsen, Attorney, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street, S.W., Washington, D.C. 20590, 202 366-9161

RIN: 2105–AB51

DEPARTMENT OF TRANSPORTATION (DOT)

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1643. + CONSUMER PROTECTION FOR DEFAULT BY SCHEDULED AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: None

Legal Deadline: None

Abstract: Transamerica petitioned the CAB to investigate ways to protect consumers against service defaults by scheduled air carriers in domestic, overseas, and foreign air transportation. A congressionally mandated study of methods for protecting airline passengers from carrier bankruptcies was released in January 1988. It concluded that facts did not support the need for any mandatory government-imposed system of default protection: Sixty-two percent of tickets are credit card purchases generally refundable under credit laws; some other tickets are protected by private default plans and insurance; nearly half of all tickets are for business rather than personal travel; other airlines frequently honor default-carrier tickets on a standby basis; and airline defaults have declined since 1984. Consistent with the 1988 study findings, Transamerica's petition was denied.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 42368	07/25/84	
Petition Denied	08/15/89	54 FR 33578

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA98

1644. + ELECTRONIC FILING OF TARIFFS

Significance: Regulatory Program

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: This project examined whether conversion from a paper document system to a computerized system of filing and monitoring air carrier tariffs would reduce paper flow, speed up processing, and allow the industry to utilize computers and technology to communicate with DOT. As a result of discussions with an advisory committee, the Department decided to experiment with existing data base and electronic mail systems, to determine their feasibility to meet requirements. The final rule permitted those carriers choosing to file their fares electronically with DOT the option to do so. This rule was considered significant because it involved important departmental policies and was of substantial interest to the industry.

Timetable:

Action	Date	FR Cite
ANPRM	06/19/85	50 FR 33452
ANPRM Comment Period End	11/18/85	
Federal Register Notice Advisory Committee established	11/24/86	51 FR 42327
NPRM	07/08/88	53 FR 25615
NPRM Comment Period End	09/06/88	
Reestablishing Advisory Committee	12/29/88	53 FR 52908
Final Action	01/19/89	54 FR 2087

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 07/08/88 (53 FR 25615)

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-3414

RIN: 2105–AB00

1645. + SMOKING ABOARD AIRCRAFT; NOTICE TO PASSENGERS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 252; 14 CFR 253

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Legal Deadline: None

Abstract: Part 252 guarantees airline passengers a right to a seat in the no-smoking section if they check in on time. The Civil Aeronautics Board proposed to require a notice on airline tickets advising passengers about this right. The Department of Transportation (the Board's successor) has terminated this proceeding because subsequent events have greatly reduced the need for such a notice: a recent ban on smoking on flights of two hours or less, as well as greater public awareness concerning the rights of nonsmokers on airline flights.

Timetable:

Action	Date	FR Cite
NPRM	11/19/82	47 FR 52190
NPRM Comment Period End	12/20/82	
Withdrawn	08/15/89	54 FR 33580

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: EDR-449, Docket 41009.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA72

1646. + CERTIFICATION OF SPEED-LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 118; 23 USC 315

CFR Citation: 23 CFR 659; 49 CFR 1.50; 49 CFR 1.48

Legal Deadline: None

Abstract: Final rule simplifies the procedure for determining State compliance with Federal law regarding maximum speed limits and determining the amount and timing of any reduction of Federal-aid highway funds to noncomplying States. It also updates the current regulation to reflect statutory changes, describes the reservation of obligational authority if final determination on a State's compliance is not made by the date subsequent apportionments are made, and clarifies provisions as to apportionment of withheld funds to States subsequently in compliance. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7943
NPRM Comment Period End	04/11/88	
Final Action	06/16/89	54 FR 25565
Final Action Effective	07/17/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 06/16/89 (54 FR 25565)

Agency Contact: Sam Whitehorn, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9307

RIN: 2105–AB22

1647. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (COMMUTER RAIL PROGRAMS)

Significance: Agency Priority

Legal Authority: 29 USC 704; 49 USC 1612(d)

CFR Citation: 49 CFR 27, Subpart E

Legal Deadline: None

Abstract: The notice asked comment on several alternatives for providing accessible commuter rail service, or a substitute for it, to disabled persons. The notice also requested information on the likely ridership and cost effects of the alternative approaches suggested in the notice. Studies have been received or are expected to be received in the near future. Final actions being considered include a number of alternatives spelled out in the notice. This rulemaking is considered significant because of substantial public interest and federalism implications; it has now been consolidated into an overall rulemaking entitled "Nondiscrimination on the Basis of Handicap in Federal Assisted Mass Transit Programs" (RIN 2105-AB53).

Timetable:

Action	Date	FR Cite
NPRM	05/23/86	51 FR 19032
NPRM Comment Period End	09/22/86	
Consolidated into RIN 2105-AB53	08/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St., SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AB23

1648. + ESCROW/BOND PROTECTION FOR AIRLINE TICKETS

Significance: Agency Priority

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A petition, filed by Mr. Theodore Harris, addressed the problem of airline passengers whose airline goes bankrupt after they bought their ticket but before they use it. The petitioner asked that airlines be required to protect such "unearned revenue" by escrowing it or by posting a bond in an amount equal to 150% of average unearned revenue. Exemptions could be granted to airlines which file evidence of ticket insurance plans or which enter into agreements with other airlines to accept the tickets of bankrupt carriers. This rulemaking was considered significant because of substantial public interest. However, a congressionally mandated study of methods for protecting airline passengers from carrier bankruptcies was released in January 1988. It concluded that facts did not support the need for any mandatory government-imposed system of default protection: Sixty-two percent of tickets are credit card purchases generally refundable under credit laws; some other tickets are protected by private default plans and insurance; nearly half of all tickets are for business rather than personal travel; other airlines frequently honor default-carrier tickets on a (cont)

Timetable:

Action	Date	FR Cite
Petition for Rulemaking (Dkt 44304)	08/27/86	
Petition Denied	08/15/89	54 FR 33577

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: standby basis; and airline defaults have declined since 1984. Consistent with the 1988 study findings, Mr. Harris' petition was denied.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AB26

1649. ● REVIEW OF AIR CARRIER AGREEMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1551(a)(6)

CFR Citation: 14 CFR 303

Legal Deadline: None

Abstract: This final rule made editorial revisions to the Department's procedural rules regarding the processing of aviation-related agreements, mergers, interlocking relationships, and requests for antitrust immunity, to reflect the termination of statutory authority for some of the provisions.

Timetable:

Action	Date	FR Cite
Final Action	08/15/89	54 FR 33498
Final Action Effective	09/14/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW Washington, DC 20590, 202 366-9123

RIN: 2105–AB48

1650. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION -- STATE TRANSPORTATION AGENCIES' EEO AFFIRMATIVE ACTION PROGRAMS

Significance: Nonsignificant

Legal Authority: Federal-Aid Highway Act of 1968, as amended, Sec 22(a); RR Revitalization & Regulatory Reform Act of 1976, Sec 905; 49 USC 1615 Urban Mass Transportation Act of 1964, as amended; 29 USC 794 Rehabilitation Act of 1973, Sec 504

CFR Citation: 49 CFR 1.48(c); 49 CFR 2.49(u); 49 CFR 1.51(a)

Legal Deadline: None

Abstract: This contemplated action was to set forth requirements and procedures for all State departments of transportation, and consolidate FHWA, FRA, and UMTA responsibilities in this area. However, recently enacted legislation has mooted the need for this rulemaking and it is terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4754

RIN: 2105–AA06

1651. ZONES FOR AIRLINE MAIL RATES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1376; 49 USC 1551(b)(1)(D)

CFR Citation: 14 CFR 233, (Proposed)

Legal Deadline: None

Abstract: This rule proposed to end the current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. The proposal has been withdrawn because it has been mooted by statutory changes with respect to domestic mail rates and the present process for determining international mail rates appears to work well for all concerned.

Timetable:

Action	Date	FR Cite
NPRM	09/07/79	44 FR 52246
NPRM Comment Period End	10/22/79	44 FR 52246
Comment Period End 02/17/81	12/19/80	45 FR 83510
SNPRM	12/19/80	45 FR 83510
Withdrawn	08/15/89	54 FR 33580

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Original NPRM of 09/07/79 was EDR-387/PDR 68, Docket 46497; the SNPRM of 12/19/80 was EDR-387C/PDR-68C.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9183

RIN: 2105–AA44

1652. OVERSEAS MILITARY PERSONNEL AIR-CHARTER TARIFFS

Significance: Nonsignificant

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 372

Legal Deadline: None

Abstract: When it "sunsetted," the Civil Aeronautics Board was considering whether to rescind the requirement for operators of Overseas Military Personnel Charters (OMPCs) to file tariffs. This project transferred to DOT. Since Congress eliminated all domestic tariffs effective 1983, this issue is now limited to international service only. OMPC tariff filings have slowed to practically nothing, perhaps as other forms of charters have become more acceptable to foreign governments. There is no immediate need for change in the rule, and this action is being terminated. To the extent the Department considers change to the OMPC charter form itself or to charters in general in the future, the OMPC tariff provision will be dealt with in that broader context.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA67

1653. EFFECT OF EXPIRATION OF A BILATERAL SERVICE AGREEMENT ON FOREIGN AIR-CARRIER AUTHORITY

Significance: Nonsignificant

Legal Authority: 49 USC 1159b; 49 USC 1324; 49 USC 1372; 49 USC 1386; 49 USC 1481; 49 USC 1502; 5 USC 558; 5 USC 559

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CFR Citation: 14 CFR 377

Legal Deadline: None

Abstract: In the past, the CAB had held that a foreign air carrier's permit or exemption authority continues after the underlying bilateral Service Agreement expired, by virtue of section 558(c) of the Administrative Procedure Act. Further review has determined the contemplated change is unwarranted. This contemplated action was withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	06/03/83	48 FR 24923
NPRM Comment Period End	08/02/83	
Withdrawn	08/15/89	54 FR 33582

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SPDR-89 and SPDR-89A, Docket 41498.

Agency Contact: Richard M. Loughlin, Chief, Licensing Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 6412, Washington, DC 20590, 202 366-2388

RIN: 2105–AA68

1654. UNFAIR AND DECEPTIVE PRACTICES BY AIRLINE TICKET AGENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1378; 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Two enforcement policy statements refer to fare discounts not in a carrier's filed tariff. However, the filing of tariffs for domestic fares ended in 1983. DOT considered amending the policy statements to limit them to foreign air transportation, but has now proposed to eliminate them as inconsistent with current rebating enforcement policy, and to replace them with another policy statement described in RIN 2105-AB39. Therefore, RIN AA70 is terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105–AA70

1655. CARGO RATE CHANGES ON 30 DAYS' NOTICE

Significance: Nonsignificant

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221.160

Legal Deadline: None

Abstract: The Department considered amending the regulations to allow cargo tariffs which are within the zones established under 14 CFR 399.41 to be filed on 30 days' notice. There were two alternatives: either maintain the status quo (60 days' notice) or change cargo tariff filing regulations to 30 days' notice to be consistent with passenger tariff-filing requirements. However, in reviewing the existing liberal pricing policies the Department has implemented to stimulate competition in the marketplace, whereby most changes in fares and rates are made on as little as one day's notice, no need was found to amend the existing rule. Therefore, action on the proposal was terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Tom Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105–AA99

1656. EXEMPTION FROM PRIOR-APPROVAL REQUIREMENTS FOR CERTAIN TRANSACTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1303; 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1378; 49 USC 1379; 49 USC 1382; 49 USC 1384; 49 USC 1386; 49 USC 1388; 49 USC 1551

CFR Citation: 14 CFR 303

Legal Deadline: None

Abstract: As the Department's review of the aviation-merger procedural regulations became moot with expiration of the Federal Aviation Act's section 408 on December 31, 1988, this action was withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	05/13/86	51 FR 17490
NPRM Comment Period End	06/12/86	
Withdrawn	08/15/89	54 FR 33581

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Horn, Deputy Assistant General Counsel, for International Law, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2972

RIN: 2105–AB20

1657. COUNTING UMTA REDUCED-FARE PROGRAM COSTS TOWARD 504 COST CAP

Significance: Nonsignificant

Legal Authority: 29 USC 704; 49 USC 1612(d)

CFR Citation: 49 CFR 27

Legal Deadline: None

Abstract: The Department was considering whether or not to eliminate a provision in its rule concerning mass transit services for disabled persons, which permits incremental expenditures by recipients for the off-peak, reduced-fare program for elderly and handicapped passengers on mainline mass transit services to be counted in the calculation of the three-percent limit on required expenditures. Final action determined that disallowing half-fare program costs in calculating the Part 27 cost gap is more consistent with the Part's intent than continuing to allow these costs. Therefore, the provision was eliminated.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23778
NPRM Comment Period End	08/23/88	
Final Action	07/26/89	54 FR 31039
Final Action Effective	08/25/89	

DOT—OST — **Completed Actions**

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31039)

Agency Contact: Robert Ashby, Deputy Ass't General Counsel for Regulation

and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St SW, Washington, DC 20590, 202 366-9306

RIN: 2105–AB29

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

U.S. Coast Guard (USCG)

1658. + SUBDIVISION AND DAMAGE STABILITY OF DRY CARGO VESSELS (CGD 87-094)

Significance: Agency Priority

Legal Authority: 46 USC 3301

CFR Citation: 46 CFR 174

Legal Deadline: None

Abstract: This proposal would require dry cargo vessels to meet a minimum standard of subdivision and stability. This rulemaking is significant because of international implications.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/88	53 FR 11440
ANPRM Comment Period End	01/03/89	
Reopen ANPRM Comment Period	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Lt. R. Gilbert, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2968

RIN: 2115–AC87

1659. PORT ACCESS ROUTES; APPROACH TO FREEPORT, TEXAS (CGD 87-038)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: A study of fairway anchorage sites and areas adjacent to the fairway in the approach to Freeport, Texas, has been completed and is being evaluated to determine further action.

Timetable:

Action	Date	FR Cite
Fairway Study Completed	07/02/87	52 FR 25039

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 2nd St., SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AC78

1660. PORT ACCESS ROUTES: APPROACHES TO CHESAPEAKE BAY (88-041)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard is conducting a port access route study to determine the need for vessel routing measures in the approaches to Chesapeake Bay, VA. As a result of the study a new or modified traffic separation scheme may be proposed in the Federal Register.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AD09

1661. DISESTABLISHMENT OF VESSEL TRAFFIC SERVICE: NEW ORLEANS (88-056)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This project would eliminate references to the Vessel Traffic Service (VTS) in New Orleans since the VTS has been disestablished.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: It is possible that Congress may direct the Coast Guard to reopen the Vessel Traffic Service for New Orleans. If this happens, this regulatory project will have to be revised or abandoned.

Agency Contact: Mr. J. Sollosi, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0407

RIN: 2115–AD10

1662. CONTROLLING THE MARINE ASBESTOS HAZARD (88-103)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 43 USC 1333

CFR Citation: 46 CFR Subchapter V

Legal Deadline: None

Abstract: Asbestos has been identified as a carcinogen for which there are no safe limits of exposure. This regulatory project would limit the hazards posed by asbestos to marine industry personnel aboard Coast Guard inspected vessels, mobile offshore

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drilling units, Outer Continental Shelf platforms, and deepwater ports.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR M. VanHaverbeke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AD16

1663. ● VESSEL IDENTIFICATION SYSTEM (89-050)

Significance: Nonsignificant

Legal Authority: 46 USC 12501

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Public Law 100-710 requires the Secretary of Transportation to establish a vessel identification system. This proposal would implement the provisions of the Act including an annual fee of $1.00 per vessel to pay for administrative costs.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. C. Perry, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-0979

RIN: 2115–AD35

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage

U.S. Coast Guard (USCG)

1664. + REVISIONS OF THE REGULATIONS ON OUTER CONTINENTAL SHELF ACTIVITIES (84-098)

Significance: Regulatory Program

Legal Authority: 43 USC 1331

CFR Citation: 33 CFR 140; 33 CFR 141; 33 CFR 142; 33 CFR 143; 33 CFR 144; 33 CFR 145; 33 CFR 146; 33 CFR 147

Legal Deadline: None

Abstract: This project would extend coverage of the workplace safety rules and modernize material standards for fixed platforms. It is considered significant because of the need for extensive interagency cooperation.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
Extension of Comment Period to 09/03/85	05/16/85	50 FR 20445
ANPRM Comment Period End	06/05/85	50 FR 9290
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 01/00/90

Additional Information: CGD 84-098(a)(RIN AC40) Self-Inspection of Fixed OCS Facilities split from CGD 84-098 and completed in 53 FR 18977. CGD 84-098(b)(RIN AC41) titled Offshore Evacuation Procedures separated from CGD 84-098 and completed in 54 FR 21566.

Agency Contact: Mr. J. Magill, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AB74

1665. + USER FEES FOR COAST GUARD SERVICES (84-026)

Significance: Agency Priority

Legal Authority: 31 USC 9701

CFR Citation: 33 CFR 27; 33 CFR 66; 33 CFR 74; 33 CFR 100

Legal Deadline: None

Abstract: This proposal would impose fees for certain Coast Guard services in keeping with the Administration's policy of recovering costs of services provided by the Federal Government to identifiable beneficiaries to extent practicable. This rulemaking is significant because it is likely to be of substantial interest to the public.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Further action must await enabling legislation.

Agency Contact: Mr. C. Perry, Project manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AB73

1666. + USER FEES: SMALL PASSENGER AND SAILING SCHOOL VESSELS (CGD 87-020)

Significance: Agency Priority

Legal Authority: PL 99-509

CFR Citation: 46 CFR 169; 46 CFR 175

Legal Deadline: None

Abstract: This proposal would enumerate selected Coast Guard services for which user fees would be charged, indicate how the charges are to be charged, indicate how the charges are to be made, and how they are to be paid. User fees are being considered for the following services to small passenger vessels and sailing school vessels: initial inspection for certification, inspection for certification, reinspection, drydock examination, licensing/certification, and documentation. This project is considered significant because of substantial public interest in the topic of user fees.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

DOT—USCG — **Proposed Rule Stage**

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Formerly entitled Imposition of User Fees for Certain Coast Guard Services; Documentation and Licensing (CGD 87-020).

Agency Contact: Mr. M. Fell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1483

RIN: 2115–AC74

1667. + SPECIAL CARGO REQUIREMENTS FOR BENZENE (88-040)

Significance: Agency Priority

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: This proposal would update the special cargo requirements for benzene. This would include the lowering of permissible exposure limits, addition of requirements for personal protective equipment, measurement of employee exposures, training, and medical surveillance. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Dr. M. Parnarouskis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AD08

1668. + IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (88-079)

Significance: Agency Priority

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 27; 46 CFR 28; 46 CFR 29

Legal Deadline: None

Abstract: The Commercial Fishing Industry Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. Subjects to be addressed by the rulemaking include: navigation, radio, firefighting, and lifesaving equipment, as well as fuel, ventilation, and electrical systems. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
ANPRM Comment Period End	02/27/89	53 FR 52735
ANPRM Extension of Comment Period	03/02/89	54 FR 8765
NPRM	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 11/00/89

Additional Information: Coast Guard docket 86-024 titled Uninspected Fish-Processing Vessels (RIN AC34) has been incorporated into this project.

Agency Contact: Mr. N. Lemley, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0001

RIN: 2115–AD12

1669. + SAFETY STANDARDS FOR VAPOR CONTROL SYSTEMS (88-102)

Significance: Agency Priority

Legal Authority: 46 USC 3703; 33 USC 1225

CFR Citation: 46 CFR Chapter I

Legal Deadline: None

Abstract: This project would establish minimum safety requirements for marine vapor-control systems. The requirements would include design and operating requirements for tank vessels and waterfront facilities using vapor-control systems and qualifications for personnel authorized to operate them. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: LCDR R. Fitch, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, S.W., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AD15

1670. TANKERMAN REQUIREMENTS AND QUALIFICATIONS FOR PERSONS-IN-CHARGE OF DANGEROUS LIQUID AND LIQUEFIED GAS TRANSFER OPERATIONS (79-116)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 155; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 78; 46 CFR 90; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; 46 CFR 154; 46 CFR 97

Legal Deadline: None

Abstract: Rulemaking would redefine and establish more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers (STCW), 1978 has entered into effect and establishes international standards for tank vessel personnel qualifications. In view of the length of time since publication of the NPRM, a supplemental NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
NPRM Comment Period End	03/18/81	
SNPRM	10/00/89	

DOT—USCG — Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/80 (45 FR 83268)

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate regulatory agenda item.

Agency Contact: Mr. C. Heizer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-0224

RIN: 2115–AA03

1671. FIXED FIRE-EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (74-284)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 49 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None

Abstract: Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. SNPRM will address new comments received requesting that industry specifications be used and incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
SNPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/19/82 (47 FR 16648)

Additional Information: Docket No. CGD 74-284.

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA08

1672. HYBRID PERSONAL FLOTATION DEVICES: ESTABLISHMENT OF APPROVAL REQUIREMENTS (78-174)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish performance standards for hybrid PFDs and procedures for granting product approval to these devices.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/79	44 FR 15933
NPRM	05/29/85	50 FR 21862
NPRM Comment Period End	07/15/85	
Interim Final Rule	08/22/85	50 FR 33923
SNPRM	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/85 (50 FR 33923)

Additional Information: A related project is listed in this agenda. That project is CGD 78-174b (RIN 2115-AC16), Carriage and Operational Requirements for Inflatable Life Jackets. The Coast Guard is evaluating the comments received on the interim final rule.

Agency Contact: Mr. S. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA29

1673. LAUNCHING DEVICES FOR INFLATABLE LIFERAFTS (79-168)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160; 46 CFR 163

Legal Deadline: None

Abstract: This project would establish standards, procedures, and tests for approving equipment used to launch inflatable liferafts from vessels and offshore platforms. A supplemental NPRM will be issued to reflect changes in the scope of this project.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	50 FR 5377
NPRM Comment Period End	05/13/86	
SNPRM	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/86 (51 FR 5377)

Agency Contact: LCDR Deno, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA45

1674. PERSONAL FLOTATION DEVICES (81-023)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1488

CFR Citation: 33 CFR 175; 33 CFR 181

Legal Deadline: None

Abstract: This action will revoke an obsolete provision and make several editorial changes. Upon further analysis, it has been determined that an SNPRM be issued to propose incorporating a recent amendment to Underwriters Laboratories (UL) Standard 1123 by reference in lieu of prescribing the specific text that PFD manufacturers must include in PFD information pamphlets.

Timetable:

Action	Date	FR Cite
NPRM	04/12/82	47 FR 15606
SNPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/82 (47 FR 15606)

Additional Information: Docket No. CGD 81-023.

Agency Contact: Mr. C. Perry, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AA58

DOT—USCG — Proposed Rule Stage

1675. POLLUTION-PREVENTION REGULATIONS FOR TANKERS: GENERAL REVISIONS OF 33 CFR 157 (82-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 2104; 46 USC 3703

CFR Citation: 33 CFR 157

Legal Deadline: None

Abstract: This project would amend pollution regulations to clarify them, correct minor errors, and incorporate policy decisions and international interpretations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. S. Shapiro, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AA68

1676. OUTER CONTINENTAL SHELF FACILITIES: AIDS TO NAVIGATION (82-054)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 63; 14 USC 85; 14 USC 92; 14 USC 633

CFR Citation: 33 CFR 67

Legal Deadline: None

Abstract: This item will modify existing requirements to allow for the following: central approval of aids to navigation lighting equipment, conformance to International Association of Lighthouse Authorities marking recommendations for offshore structures, and realistic light-intensity requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/90

Additional Information: Formerly entitled Aids to Navigation on Outer Continental Shelf.

Agency Contact: Mr. C. B. Mosher, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1973

RIN: 2115–AA92

1677. SAFETY STANDARDS FOR NEW SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (82-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: This proposal would update standards for ships carrying bulk liquefied gases by adopting Amendments 1 through 4 of the International Maritime Organization Code for the construction and equipment of ships carrying gases in bulk.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mrs. D. Anderson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA95

1678. FIRE PROTECTION REGULATIONS TO INCORPORATE SOLAS 1974 (83-026)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3503; 46 USC 3703

CFR Citation: 46 CFR 32; 46 CFR 72; 46 CFR 92; 46 CFR 190; 46 CFR 193

Legal Deadline: None

Abstract: The purpose of this proposal is to bring into agreement the international requirements of SOLAS 1974 (Safety of Life at Sea) and its amendments and Coast Guard regulations.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 38672
ANPRM Comment Period End	11/30/84	
NPRM	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 06/00/90

Additional Information: Formerly titled Reassessment of Coast Guard Fire Protection Regulations to Incorporate Solas 1974.

Agency Contact: Ms. M. Murtagh, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AB36

1679. REASSESSMENT OF COAST GUARD MARINE ENGINEERING REGULATIONS – INCORPORATION OF SOLAS 74 AMENDMENTS (83-043)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3307

CFR Citation: 46 CFR Subchapter F

Legal Deadline: None

Abstract: This project would effect a general reassessment of Subchapter F and incorporation of international requirements of Sept. 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/90

Agency Contact: LCDR P. Richardson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AB41

1680. MARINE PORTABLE TANKS (84-043)

Significance: Nonsignificant

Legal Authority: 49 USC 1801 to 1812

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DOT—USCG — Proposed Rule Stage

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CFR Citation: 46 CFR 64; 46 CFR 98.30; 46 CFR 98.33; 46 CFR 98.35

Legal Deadline: None

Abstract: This proposal would discontinue the Coast Guard specifications for Marine Portable Tanks. In their place, the Coast Guard would recognize tanks approved by the Department of Transportation, Research and Special Programs Administration as Intermodal Tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AB69

1681. PERSONAL FLOTATION DEVICE COMPONENTS (84-068)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 164; 46 CFR 160

Legal Deadline: None

Abstract: This project would add state-of-the-art synthetic materials as standard components, add performance requirements for nonstandard components, and upgrade out-dated requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: Mr. K. Heinz, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB70

1682. MOBILE OFFSHORE DRILLING UNIT REGULATIONS REVISION (83-071A)

Significance: Nonsignificant

Legal Authority: 46 USC 86; 46 USC 2104; 46 USC 2303; 46 USC 3305; 46 USC 3306; 46 USC 3311; 46 USC 3312; 46 USC 3318

CFR Citation: 46 CFR 56; 46 CFR 58; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 111; 46 CFR 174

Legal Deadline: None

Abstract: This project would revise the regulations in subchapter I-A to clarify them, bring them up to date, delete some unnecessary requirements, and incorporate the recommendations developed from major casualties. These changes are largely editorial in nature.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/85	50 FR 11741
Extension of Comment Period	05/16/85	50 FR 20461
ANPRM Comment Period End	09/23/85	
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 03/00/90

Additional Information: The Maritime Safety Committee (MSC) of the International Maritime organization adopted a revised action on the Mobile Offshore Drilling Code in March 1989. Final draft of the NPRM herein will be based on this code.

Agency Contact: LCDR Dupree, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AB88

1683. SAFETY RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (84-085)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1803

CFR Citation: 46 CFR 153

Legal Deadline: None

Abstract: This project would amend 46 CFR Part 153 to incorporate changes to the International Maritime Organization code for the construction and equipment of ships carrying dangerous chemicals in bulk.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/90

Agency Contact: Mr. T. Felleisen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AB92

1684. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (85-089)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: Current regulations require installation of ARPA on certain ships to improve vessel and waterway safety. Training in the use of this equipment is necessary to ensure its proper application and maximum benefit. A very small percentage of licensed personnel (those manning vessels of 10,000 GT or larger) would be required to complete an ARPA training course. The course is expected to take 5 days and cost about $800.00 per student.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 53316
ANPRM Comment Period End	12/23/85	
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 02/00/90

Agency Contact: Mr. F. Flyntz, Project Manager, Department of Transportation, U.S. Coast Guard, 2100

DOT—USCG

Proposed Rule Stage

Second Street, SW, Washington, DC 20593-0001, 202 267-6214

RIN: 2115–AB99

1685. CERTIFICATION OF SEAMEN (84-088)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 7301; 46 USC 3308; 46 USC 8105

CFR Citation: 46 CFR 12; 46 CFR 15; 49 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking would simplify and restructure the entire part. Among the changes contemplated are the addition of several new endorsements to seamen's documents and new ratings. An ANPRM was issued to gather necessary additional information.

Timetable:

Action	Date	FR Cite
ANPRM	02/04/85	50 FR 4875
Comment Period Extended to 08/01/85	06/03/85	50 FR 23318
ANPRM Comment Period End	08/01/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Agency Contact: LCDR M. Wilson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0229

RIN: 2115–AC02

1686. GULF INLAND WATERWAY REGULATED NAVIGATION AREA (85-096)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: Contemplated action would revise and update the inland waterways navigation regulations for the Gulf Intracoastal Waterway from St. Marks, Fla. to the Rio Grande River. Certain frequently granted exemptions regarding length and width of tows would be incorporated into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 07/00/90

Additional Information: Formerly titled: Exemptions to Gulf Inland Waterway Regulations.

Agency Contact: Mr. R. Robertson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0406

RIN: 2115–AC03

1687. REVISIONS TO THE ELECTRICAL ENGINEERING REGULATIONS (85-063)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 2113; 46 USC 3301; 46 USC 3306; 46 USC 3318; 46 USC 3703; 46 USC 4104

CFR Citation: 46 CFR 110; 46 CFR 111; 46 CFR 112; 46 CFR 113

Legal Deadline: None

Abstract: This rulemaking would generally update and revise 46 CFR Subchapter J to address changes in technology, include international conventions (Amendments to SOLAS '74), clarify requirements, and reflect experience gained as a result of vessel reflaggings.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/90

Agency Contact: Mr. Thomas Nolan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AC20

1688. UPDATING APPROVAL REQUIREMENTS FOR BREATHING APPARATUS (86-036)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160; 46 CFR 35 to 20

Legal Deadline: None

Abstract: Proposal would update the approval specifications for breathing apparatus for merchant vessels by citing present certification agencies and test schedules. It is also proposed to revise the tank vessel regulations for the carriage of approved pressure-demand type self-contained breathing apparatus.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LTJG C. DeLeo, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC30

1689. LOAD LINES (86-013)

Significance: Nonsignificant

Legal Authority: 46 USC 5115

CFR Citation: 46 CFR 41 to 48

Legal Deadline: None

Abstract: This proposal will revise 46 CFR Parts 42 and 44 through 46 and add Parts 41, 43, 47 and 48 (Subchapter E) to correct errors, replace previous omissions, incorporate new policies which have not been published and implement provisions of the new Load Line Law enacted on 21 Oct 86 and now in effect.

Timetable:

Action	Date	FR Cite
Notice	12/29/86	51 FR 46972
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: Mr. P. Cojeen, Naval Architect, Department of

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Proposed Rule Stage

DOT—USCG

Proposed Rule Stage

Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AC37

1690. SOLAS 74/83 LIFEBOAT AND RESCUE BOAT APPROVAL REQUIREMENTS (85-201)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: The purpose of this proposal is to establish Coast Guard approval requirements for lifeboats and rescue boats which will meet the 1974 Safety of Life at Sea Convention as amended in 1983.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC47

1691. REVISION TO INFLATABLE LIFERAFT APPROVAL: SOLAS 74/83 (85-205)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for inflatable liferafts meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Consolidated RIN AA50		
ANPRM 06/29/81 (46 FR 33341)		
NPRM 01/11/85 (50 FR 7558)		
Consolidated RIN AA57		
ANPRM 08/14/86 (51 FR 29117)		
Public Meeting 12/22/86 (51 FR 45783)		
RIN AA50		
Comment Period Extended to 10/14/85	07/05/85	(50 FR 27628)
Comment Period Extended to 01/10/86	09/09/85	(50 FR 36639)

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/90

Additional Information: Two related projects have been consolidated into this one: Inflatable Liferaft Stability (CGD 80-113) RIN AA50, and Servicing Inflatable Liferafts (CGD 81-010) RIN AA57.

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC51

1692. POSTING REQUIREMENTS ON INSPECTED VESSELS (87-031)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91; 46 CFR 167; 46 CFR 176; 46 CFR 189

Legal Deadline: None

Abstract: Various laws, international agreements, and Coast Guard regulations require the posting of specific certificates, licenses, plans, operating instructions, and warnings onboard vessels. Some of these contain essential operational data which must be accessible at all times; others are primarily informational. This rulemaking project will seek to reduce posting requirements for nonessential operational data to reduce the burden on the public. Alternatives such as having items readily available rather than being posted are being considered.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/87	52 FR 31786
ANPRM Comment Period End	11/24/87	52 FR 31786
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: As a result of the ANPRM, a new project was created to remove regulations requiring merchant vessels to post Form 811. A final rule was published under docket number 87-031a (RIN 2115-AC91) on 22 July 1988 (53 FR 27686).

Agency Contact: LCDR W. C. Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-1181

RIN: 2115–AC68

1693. ● FISHING VESSEL EMERGENCY POSITION INDICATING RADIO BEACONS (EPIRBS) (87-016)

Significance: Nonsignificant

Legal Authority: 46 USC 4102

CFR Citation: 46 CFR 25; 46 CFR 26

Legal Deadline: None

Abstract: As a result of the passage of Public Law 100-540, EPIRBs will be required on each manned uninspected vessel operating on the high seas or beyond three miles from the coast line of the Great Lakes. On August 17, 1988 the Coast Guard published a rule to require EPIRBs on certain fishing vessels. This rule extends the requirements of the August 17th rule as required by P.L. 100-540.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: LCDR Dene, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-7144

RIN: 2115–AC69

1694. REGATTAS AND MARINE PARADES (CGD 87-067)

Significance: Nonsignificant

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100.15

Legal Deadline: None

Abstract: This proposal would amend current regatta and marine parade regulations to increase the lead time requirement for submitting regatta permit applications. The rulemaking will allow the Coast Guard adequate time to review regatta permit

applications, conduct appropriate coordination, and provide necessary public notice relating to regattas and marine events. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	53 FR 3221
NPRM Comment Period End	04/04/88	53 FR 3221
SNPRM	05/00/90	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 02/04/88 (53 FR 3221)

Agency Contact: Mr. Carlton Perry, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115–AC84

1695. SMALL PASSENGER VESSEL MANNING AND PERSONNEL QUALIFICATIONS (85-080A)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 49 USC 8105

CFR Citation: 46 CFR 10; 46 CFR 15; 46 CFR 185; 49 CFR 1.46

Legal Deadline: None

Abstract: This proposal would require small passenger vessels to be manned by crew members who are trained specifically for this type of vessel and the service in which it is used.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR M. Wilson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0229

RIN: 2115–AC93

1696. LIFEBOAT, LIFERAFT AND RESCUE BOAT APPROVAL REQUIREMENTS - SOLAS 74/83 (85-201A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306a

CFR Citation: 46 CFR 160; 46 CFR 161; 46 CFR 162; 46 CFR 164

Legal Deadline: None

Abstract: This project would revise approval requirements for position-indicating lights, coated cloth, foam buoyancy material and laminating resin used for survival craft and lifesaving equipment to meet the requirements of the international Safety of Life at Sea (SOLAS) convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593, 202 267-1444

RIN: 2115–AC94

1697. DOCUMENTATION OF VESSELS - CONTROLLING INTEREST (88-031)

Significance: Nonsignificant

Legal Authority: PL 100-239

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 requires that for any United States-built vessel to be eligible for a fishery license the controlling interest in any corporation which owns the vessel must be owned by individuals who are citizens of the United States. This project would implement the provisions of the Act. Based on comments received, the scope of this project has been expanded to include a complete revision of 46 CFR 67.03 which explains citizenship requirements for vessel documentation.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41211
NPRM Comment Period End	11/21/88	
SNPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/88 (53 FR 41211)

Agency Contact: LCDR Bruce, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AC99

1698. MARINE TRANSPORT OF BULK SOLID HAZARDOUS MATERIALS (87-069)

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 46 CFR 148

Legal Deadline: None

Abstract: This proposal would incorporate into 46 CFR 148 the requirements for shipping certain frequently carried hazardous bulk solids. Putting these requirements into regulation would eliminate paperwork for both the Coast Guard and the shipping industry. This proposal would also incorporate requirements found in the International Maritime Organization's Code of Safe Practice For Solid Bulk Cargoes.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/89	54 FR 18308
ANPRM Comment Period End	06/27/89	
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mrs. D. Anderson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 29593-0001, 202 267-1217

RIN: 2115–AD02

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Proposed Rule Stage

1699. PRIVATE ELECTRONIC AIDS TO MARITIME NAVIGATION (88-011)

Significance: Nonsignificant

Legal Authority: 14 USC 85

CFR Citation: 33 CFR 66; 33 CFR 164

Legal Deadline: None

Abstract: This proposal would amend the regulations on private aids to navigation by removing a restriction precluding the Coast Guard from permitting certain private electronic aids to navigation. The rulemaking might also amend regulations pertaining to vessels required to carry an electronic position-fixing device.

Timetable:

Action	Date	FR Cite
ANPRM	07/22/88	53 FR 27708
ANPRM Comment Period End	12/02/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: After reviewing the comments received on the ANPRM, the Coast Guard is considering changing the scope of the original project.

Agency Contact: LCDR K. Hay, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0298

RIN: 2115–AD04

1700. INCORPORATION AND ADOPTION OF INDUSTRY STANDARDS (88-032)

Significance: Nonsignificant

Legal Authority: 33 USC 1321j; 46 USC 3306; 46 USC 3703

CFR Citation: 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would consist of a review of 33 CFR and 46 CFR and incorporate American Society of Testing and Materials (ASTM) standards or adopt the ASME Code as appropriate in place of the regulations. The regulations for these items currently in Subchapter Q would be deleted.

Timetable:

Action	Date	FR Cite
NPRM	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/90

Additional Information: The rulemaking on fire detection and alarm systems (RIN 2115-AC13) has been consolidated into this project.

Agency Contact: Mr. S. Irvin, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AD05

1701. REQUIREMENTS FOR MARINE TERMINALS TRANSFERRING BULK LIQUEFIED HAZARDOUS GASES (88-049)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 126; 33 CFR 127

Legal Deadline: None

Abstract: This project would develop requirements for marine terminals transferring bulk liquefied hazardous gases (petroleum and chemical) and establish comparable levels of safety and contingency measures for these commodities as are now required for liquefied natural gas (LNG).

Timetable:

Action	Date	FR Cite
ANPRM	09/28/88	53 FR 37792
ANPRM Comment Period End	11/28/88	
NPRM	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 03/00/90

Agency Contact: Mr. G.W. Chappell, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD06

1702. AUTOMATIC AUXILIARY BOILERS (88-057)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 63; 46 CFR 52; 46 CFR 61

Legal Deadline: None

Abstract: This proposal would clarify the scope and applicability of Part 63, increase safety by preventing an increase in the air flow to a boiler's furnace immediately after an emergency trip, and substitute an industry consensus standard for existing requirements where an equivalent level of safety is provided. The time required for design approvals will be reduced by eliminating several administrative and plan review procedures. The end result should be an overall reduction in costs without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mr. R. Crenwelge, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AD11

1703. ACCESS DOCUMENTS TO WATERFRONT FACILITIES (88-097)

Significance: Nonsignificant

Legal Authority: EO 10277

CFR Citation: 33 CFR 125

Legal Deadline: None

Abstract: This proposal would reemphasize the Port Security Card as an access control document rather than a personal identification document.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

DOT—USCG

Proposed Rule Stage

Agency Contact: LCDR Neill, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0475

RIN: 2115–AD14

1704. ADVANCE NOTICE OF ARRIVAL; WARSAW PACT NATIONALS (88-104)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This regulation would require advance notice to the Captain of The Port (COTP) of the presence on board certain entering vessels of any Warsaw Pact national or Non-Entrant National crew member. Such notice would enable the COTP to take appropriate measures for the removal or restriction of the crew member(s) as necessary for the protection of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/90

Agency Contact: LCDR C. Crampton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20590-0001, 202 267-0491

RIN: 2115–AD17

1705. REGULATED NAVIGATION AREAS; BROWNSVILLE SHIP CHANNEL (8-89-01)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: In recent years the port of Brownsville, Texas, has experienced several casualties involving vessels to be scrapped. This proposal would limit the possibility of future casualties by requiring advance notice of arrival and inspection for watertight integrity and the presence of hazardous gas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Lt. Garner, Project Manager, Department of Transportation, U.S.C.G. Marine Safety Office, P.O. Box 1621, Corpus Christi, TX 78403-1621, 512 888-3192

RIN: 2115–AD21

1706. ● IMPLEMENTATION OF THE SHORE PROTECTION ACT OF 1988 (89-014)

Significance: Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1989.
See discussion above.

Abstract: The Shore Protection Act of 1988 (33 USC 2501 et seq.) prohibits vessels from transporting municipal and commercial waste unless they have a permit and display a number. The Act requires the permit and number 240 days after enactment. This interim rule implements these provisions of the Act and requests comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction to Interim Final Rule	06/05/89	54 FR 24078
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/24/89 (54 FR 22546)

Additional Information: Permits issued under the procedures outlined in the interim rule are conditional permits which are valid for up to 18 months and may be withdrawn by the Coast Guard for reasons specified in the interim rule. An NPRM will be published detailing procedures for application and issuance of regular permits. The NPRM will also propose regulations implementing the suspension and revocation provisions of the Act. The interim rule was effective upon publication in the Federal Register 05/24/89.

Agency Contact: LT J. McDowell, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD23

1707. ● AMENDMENT OF ANNEXES TO INLAND NAVIGATION RULES (89-024)

Significance: Nonsignificant

Legal Authority: 33 USC 2071

CFR Citation: 33 CFR 84; 33 CFR 87

Legal Deadline: None

Abstract: This proposal would amend the Annexes to the Inland Navigation Rules. The proposed changes would conform the regulations to the International Rules (72 COLREGS) which become effective on November 19, 1989. The changes are minor. They clarify the proper location for measuring the vertical positioning of lights and allow use of optional radio systems in distress situations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mr. P. Palmer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-0406

RIN: 2115–AD28

1708. ● USER FEES FOR VESSEL DOCUMENTATION (89-007)

Significance: Nonsignificant

Legal Authority: 31 USC 9701

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This project proposes establishing user fees for documenting commercial vessels. In addition, it proposes revising existing fees for documentation of recreational vessels to reflect the actual cost of services provided.

DOT—USCG — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: LCDR Russell, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC20593-0001, 202 267-0786

RIN: 2115–AD29

1709. ● RECORDING OF INSTRUMENTS–VESSEL DOCUMENTATION (89-006)

Significance: Nonsignificant

Legal Authority: 46 USC 313

CFR Citation: 46 CFR 67

Legal Deadline: None
PL 100-710 has staggered requirements, several are effective in January 1989 while others are effective in January, 1990.

Abstract: The objective of this project is to bring existing regulations into conformity with law. PL 100-710 requires certain changes to existing regulations, such as eliminating requirements to present the vessel document for endorsement of mortgages. These changes are unequivocal and were effective on January 1, 1989. In addition, this proposal would implement requirements of the law which become effective in 1990.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: Mr. T. Willis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-1492

RIN: 2115–AD30

1710. ● DOCUMENTATION OF VESSELS-HAILING PORT (89-026)

Significance: Nonsignificant

Legal Authority: 46 USC 12502

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Current regulations limit permissible hailing ports to the home port. Public response to these regulations shows that they are too restrictive. As a result, the Coast Guard is proposing to change the regulations to permit the designation of virtually any recognized place name in the United States as a hailing port.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: LCDR Bruce, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-1482

RIN: 2115–AD32

1711. ● INCORPORATION OF NEW SOLAS AMENDMENTS ON STABILITY (89-037)

Significance: Nonsignificant

Legal Authority: 46 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115; 50 USC 198

CFR Citation: 46 CFR 171

Legal Deadline: Final, Statutory, April 29, 1990.

Abstract: This project proposes incorporating into the stability regulations for all inspected U.S. flag vessels the requirements of recently adopted amendments to the Safety of Life at Sea (SOLAS) Convention of 1974. The amendments come into force on April 29, 1990. The amendments involve stability after damage, draft indicators, stability information, and the closing of cargo doors before going to sea.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: Ms. P. Carrigan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-2967

RIN: 2115–AD33

1712. ● STABILITY REGULATIONS–GENERAL REVISION OF SUBCHAPTER S (89-038)

Significance: Nonsignificant

Legal Authority: 46 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 5115

CFR Citation: 46 CFR 170 to 174

Legal Deadline: None

Abstract: This project proposes general editorial changes to the stability regulations to correct errors and clarify meaning. No substantive revisions are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: Lt. Brown, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-2988

RIN: 2115–AD34

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG) — Final Rule Stage

1713. + OFFSHORE SUPPLY VESSEL REGULATIONS (82-004)

Significance: Regulatory Program

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 125 to 136; 46 CFR 174; 46 CFR 170

Legal Deadline: None

Abstract: These regulations would consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats would be included. Because of public interest in certain aspects of this proposal, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26631
ANPRM Comment Period End	06/14/83	48 FR 6636
ANPRM of consolidated RIN AC83	04/16/87	52 FR 12439
NPRM	05/09/89	54 FR 20006
NPRM Comment Period End	09/06/89	
Final Action	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/89 (54 FR 20006)

Additional Information: Coast Guard Docket 86-074 (RIN 2115-AC63) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with this project.

Agency Contact: LCDR M. Rosecrans, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AA77

1714. + TRAFFIC SEPARATION SCHEMES AND SHIPPING SAFETY FAIRWAYS OFF THE COAST OF CALIFORNIA (83-032)

Significance: Regulatory Program

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard has conducted the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard has preliminarily determined that potential conflicts between oil drilling and shipping require creation of a fairway system off the coast of California from the vicinity of San Francisco to Los Angeles/Long Beach and changes to the San Francisco and Santa Barbara channel traffic-separation schemes. No structures would be permitted in the fairway. This project is considered significant because of public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/27/89	54 FR 18258
Correction Notice	05/10/89	54 FR 20235
Announcement of Public Hearings	06/01/89	54 FR 23493
NPRM Comment Period End	07/26/89	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Federal, Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 04/27/89 (54 FR 18258); Environmental Assessment 04/27/89 (54 FR 18258)

Additional Information: Results of the Port Access Study for California were published in the Federal Register on June 24, 1982 (47 FR 27430) and on October 14, 1982 (47 FR 46043), and on December 5, 1985 (50 FR 49861). This rulemaking involves coordination with the Minerals Management Service of the Department of the Interior. This project was formerly titled California Offshore Routing System.

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AB29

1715. + HAZARDOUS MATERIALS POLLUTION PREVENTION: BULK LIQUIDS (86-034)

Significance: Regulatory Program

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 126; 33 CFR 154; 33 CFR 155; 33 CFR 156

Legal Deadline: None

Abstract: This Project would apply the present oil pollution prevention regulations in 33 CFR Parts 154-156 to vessels and onshore and offshore facilities transferring hazardous substances. Although previously not categorized as significant, further analysis has determined this rulemaking to be significant because of safety and environmental considerations. Based on comments received, an SNPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22118
NPRM Comment Period End	09/12/88	
SNPRM	06/09/89	54 FR 24718
Final Action	05/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/88 (53 FR 22118); Environmental Evaluation 06/13/88 (53 FR 22118)

Additional Information: Former title: Hazardous Substances Pollution Prevention.

Agency Contact: Mr. G. W. Chappell, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC29

1716. + LICENSING OF PILOTS-MANNING OF VESSELS (84-060)

Significance: Agency Priority

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502

CFR Citation: 46 CFR 15.812; 46 CFR 10.700

Legal Deadline: None

Abstract: This proposal would: (1) delineate when certain inspected vessels are required to be under the direction and control of a pilot, (2) describe first class pilotage areas where local pilotage expertise is warranted, (3) allow licensed individuals to serve as pilot in areas not identified as first class pilotage areas on vessels that they are otherwise qualified to control,

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and (4) permit individuals with 5 years experience on towing vessel combinations of at least 5,000 gross tons while acting under the authority of a license as master, mate, or operator of uninspected towing vessels, with a minimum of 2 of the 5 years having been on towing vessels combinations of at least 10,000 gross tons, to obtain without a written examination, an endorsement as first class pilot, restricted to tug and barge combinations only, for those routes over which they have made the required number of round trips. This action is considered significant because of public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
NPRM Comment Period End	12/23/85	
SNPRM Supplemental	06/06/88	53 FR 20654
SNPRM Withdrawn	08/11/89	54 FR 33045

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/85 (50 FR 26117)

Additional Information: This proposal has been split from a previously published action identified by the same title with Coast Guard Docket number 77-084 and RIN 2115-AA04, completed in 50 FR 26106. The Coast Guard has initiated a comprehensive study of pilotage issues and has requested public comment in 54 FR 31136. Future action will depend on analysis of the study.

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0217

RIN: 2115–AB67

1717. + LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (84-069)

Significance: Agency Priority

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 199; 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16198
NPRM Comment Period End	08/21/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/89 (54 FR 16198)

Additional Information: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 113; 46 CFR 167; 46 CFR 189; 46 CFR 192; 46 CFR 196; 46 CFR 199

Agency Contact: Mr. R. Markle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB72

1718. + LICENSING OF OFFICERS AND OPERATORS FOR MOBILE OFFSHORE DRILLING UNITS (81-59A)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 8105

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This project makes provision for the licensing of officers on mobile offshore drilling units and establishes manning standards for these vessels. This action is considered significant because of substantial public interest. Based on comments received, an SNPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	08/08/83	48 FR 35920
SNPRM	10/24/85	50 FR 43316
Interim Final Rule	10/16/87	52 FR 38660
Suspended Effective Date of Interim Final Rule	02/28/89	54 FR 8334
SNPRM	05/17/89	54 FR 21246
Comment Period Closed	06/16/89	
Extension of Comment Period	06/20/89	54 FR 25881
Second SNPRM Comment Period Closed	07/31/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/16/87 (52 FR 38660)

Additional Information: This project was split from Coast Guard docket 81-059, Licensing of Maritime Personnel, which has been published as a final rule under RIN 2115-AA64 (54 FR 125). The interim final rule effective date was suspended because the comments received indicated substantive revisions to the rule were necessary.

Agency Contact: LCDR Jenkins, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AB91

1719. + PREVENTION OF POLLUTION BY PLASTICS, ANNEX V OF MARPOL(88-002)

Significance: Agency Priority

Legal Authority: PL 100-220

CFR Citation: 33 CFR 151; 33 CFR 158

Legal Deadline: None

Abstract: This proposal would implement Annex V of the International Convention for the Prevention of Pollution by Ships, 1973. The Act to Prevent Pollution from Ships, as amended by Title II of P. L. 100-220, requires the Secretary to administer and enforce the annex. The Act would reduce the incidence of discharges of plastics, including synthetic fishing nets and other ship-generated garbage, into the oceans. This rulemaking is

significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/88	53 FR 23884
ANPRM Comment Period End	07/25/88	
NPRM	10/27/88	53 FR 43622
Notice of Public Hearing	10/27/88	53 FR 43622
Correction to NPRM	11/04/88	53 FR 44617
NPRM Comment Period End	11/28/88	
Interim Final Rule	04/28/89	54 FR 18384
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/28/89 (54 FR 18384); Environmental Evaluation 04/28/89 (54 FR 18384)

Additional Information: Comments on the Interim Final Rule are due by 12/31/89.

Agency Contact: LCDR C. Crampton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC89

1720. HOPPER DREDGE WORKING FREEBOARD - LOAD LINE AND STABILITY REQUIREMENTS (76-080)

Significance: Nonsignificant

Legal Authority: 43 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115

CFR Citation: 46 CFR 42; 46 CFR 44; 46 CFR 45; 46 CFR 174; 46 CFR 170

Legal Deadline: None

Abstract: Would permit self-propelled hopper dredge to load to a deeper draft (working freeboard). Only dredges desiring working freeboard must comply. This project would also establish requirements for load lines and stability.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/76	41 FR 32237
NPRM	12/10/79	44 FR 70791
SNPRM	01/24/80	45 FR 5780
SNPRM	12/14/87	52 FR 47422
SNPRM	02/22/88	53 FR 5200
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: Mr. W. Hayden, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AA11

1721. DEALER AND FIRST-PURCHASER LIST (77-115)

Significance: Nonsignificant

Legal Authority: 46 USC 4310

CFR Citation: 33 CFR 179.01 to 179.19

Legal Deadline: None

Abstract: This rulemaking would require marine dealers to furnish boat and engine manufacturers with serial numbers of new boats and engines sold and the names and addresses of retail first purchasers of those products. Manufacturers would use the information to locate purchasers of boats and engines recalled for defects which create a substantial risk of personal injury to the public and for failures to comply with applicable regulations. Currently many manufacturers cannot obtain sufficient first-purchaser information and their attempts to notify during recalls are inadequate.

Timetable:

Action	Date	FR Cite
NPRM	12/29/80	45 FR 85475
SNPRM	05/29/87	52 FR 20115
Comment Period Extended	12/17/87	52 FR 47950

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/16/87 (52 FR 47950)

Additional Information: As a result of a substantial number of negative comments on the SNPRM and a substantially larger estimated annual burden on the public, the Coast Guard is looking for other ways to accomplish the objectives of the regulatory project. The next action will consist of a third SNPRM or initiation of a new regulatory project. Future action on the proposal is now dependent upon Coast Guard implementation of the Vessel Identification System under Public Law 100-710. The former title of this project was Defect Notification and First-Purchaser Information.

Agency Contact: Mr. Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0981

RIN: 2115–AA16

1722. STANDARDS FOR VESSEL PIPING SYSTEMS (77-140)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 50; 46 CFR 56

Legal Deadline: None

Abstract: This action would update Title 46, Subchapter F - Marine Engineering. Some facets of these regulations for shipboard piping systems have become obsolete as a result of technological developments and changes in cited codes and standards. An SNPRM was issued to include clarifying language and to delete the manufacturers' affidavit system.

Timetable:

Action	Date	FR Cite
NPRM	01/09/85	50 FR 1073
NPRM Comment Period End	03/11/85	
Comment Period Extended	03/21/85	50 FR 11397
SNPRM	05/18/88	53 FR 17868
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/09/85 (50 FR 1073)

Additional Information: Docket No. CGD 77-140. Formerly entitled Miscellaneous Changes to 46 CFR 50 and, subsequently, Vessel Piping Systems.

Agency Contact: LCDR P. Richardson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AA17

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1723. OFFSHORE CRANES: STANDARDS AND OPERATOR QUALIFICATIONS (79-059)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 6101; 46 USC 6301; 49 USC 108

CFR Citation: 33 CFR 140; 33 CFR 143; 33 CFR 149; 46 CFR 107; 46 CFR 108; 46 CFR 109

Legal Deadline: None

Abstract: Would develop required qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection, and testing.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/80	45 FR 2052
NPRM	02/14/86	51 FR 5547
NPRM Comment Period End	08/15/86	51 FR 21378
To be withdrawn	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/86 (51 FR 5547)

Additional Information: The Coast Guard had been exploring the possibility of regulating cranes on offshore platforms. However, as Minerals Management Service will be responsible for regulations in this area, the Coast Guard will publish a withdrawal notice for this proposal.

Agency Contact: LDCR Stephen Johnson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AA34

1724. GENERAL BRIDGE PERMIT REGULATIONS (81-057)

Significance: Nonsignificant

Legal Authority: 33 USC 401

CFR Citation: 33 CFR 115

Legal Deadline: None

Abstract: This proposal would establish the general bridge-permit program. There is an initiative to transfer the Bridge Program to the Corps of Engineers. If the Corps agrees and the Congress approves, the program will be transferred.

Timetable:

Action	Date	FR Cite
NPRM	09/23/82	47 FR 41988
NPRM Supplemental	04/24/86	51 FR 15503

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/24/86 (51 FR 15503)

Additional Information: This project is inactive pending a decision on the transfer of the Bridge program from the Coast Guard to the Corps of Engineers.

Agency Contact: Ms B. Gallahan, Chief, Bridge Permits Branch, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0368

RIN: 2115–AA61

1725. SAFETY/SECURITY ZONE REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/90: 300.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AA97

1726. ANCHORAGE AREA REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/90.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AA98

1727. CARRIAGE AND USE OF LIQUEFIED OR NONLIQUEFIED FLAMMABLE GAS AS COOKING FUELS ON VESSELS CARRYING PASSENGERS FOR HIRE (83-013)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 4104; 46 USC 4105; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 58; 46 CFR 147; 46 CFR 184

Legal Deadline: None

Abstract: This proposal incorporates the National Fire Protection Association's standards for liquefied flammable gas and compressed natural gas as cooking fuels on passenger vessels. The Association's standards include wood and coal stoves which were not mentioned in the NPRM for this project. An Interim Final Rule invited comments on the standards for wood and coal stoves.

Timetable:

Action	Date	FR Cite
NPRM	03/22/84	49 FR 10685
SNPRM	04/18/86	50 FR 15522
Interim Final Rule	02/10/89	54 FR 6396
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/22/84 (49 FR 10685)

Additional Information: Docket No. CGD 83-013.

Agency Contact: LCDR VanHaverbeke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AB35

1728. OIL POLLUTION PREVENTION, MARPOL ANNEX I (85-026)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1902; 33 USC 1903

CFR Citation: 33 CFR 155; 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would implement various provisions of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78). These proposed changes are largely editorial.

Timetable:

Action	Date	FR Cite
NPRM	02/07/86	51 FR 4768
NPRM Comment Period End	03/24/86	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/90

Additional Information: Formerly entitled MARPOL Pollution Prevention Regulations.

Agency Contact: CDR David Pascoe, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0421

RIN: 2115–AC11

1729. PERFORMANCE STANDARDS AND APPROVAL PROCEDURES FOR INFLATABLE LIFE JACKETS (78-174B)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 26; 46 CFR 30; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 75; 46 CFR 78; 46 CFR 90; 46 CFR 94; 46 CFR 97; 46 CFR 108; 46 CFR 109; 46 CFR 160; 46 CFR 167; ...

Legal Deadline: None

Abstract: This project would establish approval and operating requirements for inflatable life jackets. Their use would be optional.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21878
NPRM Comment Period End	07/15/85	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/29/85 (50 FR 21878)

Additional Information: This project, and a companion, Recreational Hybrid PFD's (78-174a), split from the rule titled Hybrid PFD's; Establishment of Approval Requirements (78-174) (RIN: 2115-AA29), which was published as an interim final rule (50 FR 33923). The former title of the rulemaking herein was Carriage and Operational Requirements for Inflatable Life Jackets (CGD 78-174b).

Agency Contact: Mr. Wehr, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC16

1730. INTERVALS FOR INTERNAL EXAMINATION AND HYDROSTATIC TESTING OF PRESSURE VESSEL TYPE CARGO TANKS (85-061)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 38; 46 CFR 151; 46 CFR 54; 46 CFR 98

Legal Deadline: None

Abstract: The Coast Guard is proposing to amend the regulations that govern internal inspection and hydrostatic test intervals for pressure vessel cargo tanks on barges that transport liquefied gaseous cargoes and grade A flammable liquids.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/85	50 FR 49536
ANPRM Comment Period End	03/03/86	
NPRM	09/08/87	52 FR 33841
Comment Period Extended to 03/07/88	12/01/87	52 FR 45665
NPRM Comment Period End	03/07/88	52 FR 45665
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/08/87 (52 FR 33841)

Agency Contact: LCDR Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1161

RIN: 2115–AC18

1731. SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-080)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 175 to 185; 46 CFR 170; 46 CFR 171; 46 CFR 173

Legal Deadline: None

Abstract: This rulemaking would revise Subchapters "S" and "T" to reflect statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals, drydocking intervals, lifesaving equipment requirements, and fire protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
Comment Period Extended and Notice of Hearings	04/26/89	54 FR 17997
Notice of Public Hearing Change	05/25/89	54 FR 22608
NPRM Comment Period End	05/30/89	
SNPRM	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

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Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Additional Information: On April 28, 1989, the Coast Guard published notice of six public hearings and extended the comment period to July 31, 1989.

Agency Contact: LCDR W. Cummins, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1161

RIN: 2115–AC22

1732. REVISED APPROVAL SPECIFICATIONS FOR NONCOMBUSTIBLES AND PROHIBITION OF ASBESTOS FOR COMMERCIAL VESSELS (86-035)

Significance: Nonsignificant

Legal Authority: 46 USC 3306 (a)

CFR Citation: 46 CFR 30 to 40; 46 CFR 70; 46 CFR 188 to 196; 46 CFR 140 to 154; 46 CFR 90

Legal Deadline: None

Abstract: Proposal would revise the approval specifications for noncombustible materials for merchant vessel construction to delete asbestos as an acceptable noncombustible material.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48557
NPRM Comment Period End	01/17/89	53 FR 48557
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC32

1733. CARGO LISTS AND TABLES UPDATE (CGD 88-100 AND 88-100A)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1804

CFR Citation: 46 CFR 1.46(b); 46 CFR 1.46(t); 46 CFR 1.46(u); 46 CFR 30; 46 CFR 150; 46 CFR 151; 46 CFR 153; 46 CFR 154

Legal Deadline: None

Abstract: The Coast Guard periodically issues rules listing additional cargoes which may be carried on tank vessels. Since this action is recurrent, the Coast Guard has established a continuing docket for this type of action. Notices for this rule are anticipated in Jan./Feb. of each year. Final rules to be completed prior to September 30 of each year. 1.

Timetable:

Action	Date	FR Cite
Final Rule	06/04/87	52 FR 21036
NPRM	12/05/88	53 FR 49016
NPRM Comment Period End	01/19/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/05/88 (53 FR 49016)

Additional Information: Former regulation title: Noxious Liquid Substances Lists (CGD 88-100a; Bulk Hazardous Materials (CGD 88-100)(53 FR 49018). The RIN AC35 is used for both entries in the Federal Register.

Agency Contact: Dr. M. Parnarouskis/Mr. Payne, Chemical Engineer, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AC35

1734. GUIDELINES ON NAVIGATION BRIDGE VISIBILITY (85-099)

Significance: Nonsignificant

Legal Authority: 46 USC 369; 46 USC 391a

CFR Citation: 33 CFR 164; 46 CFR 32; 46 CFR 72; 46 CFR 91; 46 CFR 92; 46 CFR 108; 46 CFR 157; 46 CFR 190

Legal Deadline: None

Abstract: Limited visibility from the navigation bridge of vessels has been identified as a factor in vessel casualties and near-misses. This action would establish standards for acceptable limits of visibility based on existing international guidelines. Because the primary focus is on new vessel design, costs are estimated to be minimal compared to potential benefits in casualties prevented.

Timetable:

Action	Date	FR Cite
NPRM	03/24/89	54 FR 12241
NPRM Comment Period End	07/24/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/24/89 (54 FR 12241)

Additional Information: Formerly entitled Navigation Bridge Visibility.

Agency Contact: Ens. E. McMillen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0362

RIN: 2115–AC42

1735. TONNAGE MEASUREMENT OF VESSELS (87-015B)

Significance: Nonsignificant

Legal Authority: 46 USC 14102; 46 USC 14103

CFR Citation: 46 CFR 69

Legal Deadline: None

Abstract: This project would establish the International Convention on Tonnage Measurement of Ships, 1969, as the primary tonnage measurement system for measuring vessels of 79 feet and longer. The project will also extend simplified measurement to all vessels of less than 79 feet in length and eliminate all vessels of 79 feet in length and over from being measured under the simplified system.

Timetable:

Action	Date	FR Cite
NPRM	04/26/89	54 FR 17968
Correction Notice	05/12/89	54 FR 20670
NPRM Comment Period End	06/26/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/26/89 (54 FR 17968)

Additional Information: Formerly entitled Measurement of Vessels.

Agency Contact: Mr. Dennis Lamont, Project Manager, Department of Transportation, U.S. Coast Guard, 2100

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Second St., SW, Washington, DC 20593, 202 267-2992

RIN: 2115–AC67

1736. ALTERNATIVE PROVISIONS FOR REINSPECTIONS OF OFFSHORE SUPPLY VESSELS IN FOREIGN PORTS (CGD 82-004A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3301

CFR Citation: 46 CFR 91

Legal Deadline: None

Abstract: The Coast Guard is proposing to amend the regulations concerning the reinspection of offshore supply vessels (OSVs) in foreign ports. Currently OSVs holding two year certificates of inspection are reinspected between the 10th and 14th month of the certificate's period. In recent years, more OSVs have been based overseas in remote locations. Vessel owners must reimburse the Coast Guard for inspector travel and per diem costs in connection with foreign inspections. This action would propose an alternative to the traditional Coast Guard mid-period reinspection. The benefits would be flexibility and financial savings to the OSV industry and more effective use of Coast Guard resources.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17477
NPRM Comment Period End	08/15/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17477)

Agency Contact: LCDR Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC86

1737. DELEGATION OF AUTHORITY TO AREA COMMANDERS WHEN FUNCTIONING AS MARITIME DEFENSE ZONE COMMANDERS (CGD 87-065)

Significance: Nonsignificant

Legal Authority: 50 USC 191; 33 USC 1231

CFR Citation: 33 CFR 6

Legal Deadline: None

Abstract: Following the 1986 reorganization of the Coast Guard, Area Commanders do not have authority to establish security zones, control vessels, or perform other necessary actions. This rule would delegate that authority to the Area Commanders. Since this proposal deals with agency procedure, it will be issued as a rule with no notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Further action on this project is suspended pending signature of amended Executive Order No. 10637, which allows this delegation of authority.

Agency Contact: LCDR C. Crampton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0409

RIN: 2115–AC88

1738. ANCHORAGE REGULATIONS (86-079)

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035

CFR Citation: 33 CFR 165; 33 CFR 110

Legal Deadline: None

Abstract: This proposal would update the anchorage regulations by removing non-regulatory, obsolete or duplicative language; by standardizing the anchorage description format; by publishing subparts A and B as two parts: Part 110 - Special Anchorage Areas and Part 111 - Anchorage Grounds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7949
NPRM Comment Period End	05/11/88	
SNPRM Expanding Revisions - Comments by 02/03/89	12/05/88	53 FR 48935
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/11/88 (53 FR 7949)

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AC96

1739. AIDS TO NAVIGATION SYSTEM, REMOVAL OF REFERENCES (88-018)

Significance: Nonsignificant

Legal Authority: 14 USC 85; 33 USC 1233; 43 USC 1333(d)

CFR Citation: 33 CFR 62

Legal Deadline: None

Abstract: This project would remove parenthetical references now in the regulations to an old color scheme which is no longer used.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/90

Agency Contact: LTJG Favero, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1973

RIN: 2115–AC97

1740. CIVIL APPEALS PROCEDURES (88-033)

Significance: Nonsignificant

Legal Authority: 5 USC 552; 14 USC 633

CFR Citation: 46 CFR 1

Legal Deadline: None

Abstract: In order to reduce repetitive sections and improve clarity, this project would add an "Appeals" section

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in Part 1 of Chapter I and delete other civil appeals sections.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Lt. M. Raber, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AD00

1741. CARGO GEAR INSPECTION AND TESTING (87-089)

Significance: Nonsignificant

Legal Authority: 46 USC 170; 46 USC 363; 46 USC 367

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91

Legal Deadline: None

Abstract: This project would change the quadrennial cargo gear inspection and testing interval to five years. Improvements in material have been recognized worldwide and other nations have gone to a five-year interval.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5642
NPRM Comment Period End	04/07/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/06/89 (54 FR 5642)

Agency Contact: LCDR S. Johnson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AD03

1742. WRITTEN WARNINGS BY COAST GUARD LAW ENFORCEMENT OFFICIALS (88-074)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This proposal would clarify which Coast Guard Officials may issue written warnings for violations of statutes and regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: CDR M. Perone, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-0014

RIN: 2115–AD13

1743. GREAT LAKES PILOTAGE REGULATIONS (88-111)

Significance: Nonsignificant

Legal Authority: 46 USC 6101; 46 USC 7701; 46 USC 8105; 46 USC 9303; 46 USC 9304

CFR Citation: 46 CFR 401; 46 CFR 403

Legal Deadline: None

Abstract: In December of 1988 the Department of Transportation completed a study of the Great Lakes Pilotage System. The Secretary has approved the study and its recommendations for improving the system. This proposal would implement those recommendations.

Timetable:

Action	Date	FR Cite
NPRM	03/22/89	54 FR 11930
NPRM Comment Period End	05/22/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/22/89 (54 FR 11930)

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-0217

RIN: 2115–AD19

1744. SUMMONS IN LIEU OF SEIZURE OF COMMERCIAL FISHING-INDUSTRY VESSELS (CGD 89-003)

Significance: Nonsignificant

Legal Authority: 14 USC 633; 49 USC 322

CFR Citation: 33 CFR 1

Legal Deadline: Final, Statutory, February 16, 1989.
Section 6079 of the Act (Anti-Drug Abuse Act of 1988, PL 100-690) provides that regulations shall be prescribed by not later than 90 days after enactment of the act.

Abstract: Section 6079 of the Anti-Drug Abuse Act of 1988 (PL 100-690) requires the Secretary of Transportation to prescribe joint regulations with the Secretary of the Treasury which would provide for issuance of a summons to appear in lieu of seizure of a commercial fishing-industry vessel for violations involving the possession of personal-use quantities of a controlled substance. This proposal would implement that requirement.

Timetable:

Action	Date	FR Cite
NPRM	04/10/89	54 FR 14250
NPRM Comment Period End	05/10/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/10/89 (54 FR 14250)

Agency Contact: Cdr. G. Gallion, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1534

RIN: 2115–AD20

1745. ● UNITED STATES AIDS TO NAVIGATION SYSTEM (88-018)

Significance: Nonsignificant

Legal Authority: 14 USC 85; 33 USC 1233

CFR Citation: 33 CFR 62

Legal Deadline: None

Abstract: The Coast Guard has completed conversion of all aids in the U.S. Aids of Navigation System to harmonize with the International Association of Lighthouse Authorities Maritime Buoyage System. The rule will make minor editorial changes and remove parenthetical references.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: LTjg Faveri, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1973

RIN: 2115–AD36

1746. ● AMENDMENTS TO THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA (89-067)

Significance: Nonsignificant

Legal Authority: 33 USC 1607

CFR Citation: 33 CFR 81

Legal Deadline: None

Abstract: On June 27, 1989, the President proclaimed the 1987 amendments to the regulations of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), will enter into force for the United States on November 19, 1989. This rule will publish the President's proclamation and revise the text of the 72 COLREGS to include the 1987 amendments.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: Mr. P. Palmer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0406

RIN: 2115–AD37

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Completed Actions

1747. + JOINT U.S.-CANADA VESSEL TRAFFIC MANAGEMENT REGULATIONS FOR THE PACIFIC REGION (79-131)

Significance: Agency Priority

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This rule implements an agreement for a cooperative vessel traffic management system in the Pacific region. This rulemaking is significant because of international considerations.

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37433
NPRM Comment Period End	10/03/83	
Final Action	04/17/89	54 FR 15173
Final Action Effective	04/24/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/17/89 (54 FR 15173)

Agency Contact: Lt. J. Sollosi, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0407

RIN: 2115–AA39

1748. + OFFSHORE EVACUATION PROCEDURES (84-098(B))

Significance: Agency Priority

Legal Authority: 43 USC 1333(d); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140; 33 CFR 146

Legal Deadline: Final, Statutory, September 1, 1987.
Omnibus Budget Reconciliation Act of 1986 (PL 99-509)

Abstract: This rule requires evacuation procedures for all Outer Continental Shelf (OCS) facilities on the U.S. OCS. It applies to MODUs, both foreign and U.S.-flag; Fixed Platforms and Floating Facilities. Any designated standby vessel used as part of a plan would have to meet specific equipment requirements. This action was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
Comment Period Extended to 09/03/85	05/16/85	50 FR 20445
ANPRM Comment Period End	06/05/85	
NPRM	12/24/87	52 FR 48717
NPRM Comment Period End	01/25/88	
Final Action	05/18/89	54 FR 21566
Final Action Effective	06/19/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/18/89 (54 FR 21566)

Additional Information: CGD 84-098(b) Offshore Evacuation Procedures for OCS facilities separated from CGD 84-098, RIN AB74. Information collection requirements became effective upon publication in the Federal Register 08/11/89 (54 FR 32971).

Agency Contact: LCDR A. Dupree, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AC41

1749. ● + PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: On November 21, 1988 (53 FR 47064) the Coast Guard published

regulations which require marine employers to implement pre-employment drug testing. On June 21, 1989, the U.S. District Court for the District of Columbia requested a voluntary suspension of the pre-employment drug testing portion of the rule. This action delayed implementation of pre-employment drug testing by those employers having more than 50 employees until July 21, 1989. It was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action : Suspension of Implementation Date	06/23/89	54 FR 26377

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: CDR J. Koski, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2215

RIN: 2115–AC45

1750. MANEUVERING PERFORMANCE STANDARDS FOR U.S. VESSELS (80-136)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 1; 33 CFR 164

Legal Deadline: None

Abstract: Would establish requirements to improve ship maneuvering and stopping ability for new tank vessels and possibly all vessels in response to mandates in 46 USC 3703. International Maritime Organization recommendations will be considered.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/81	46 FR 45631
ANPRM	07/17/84	49 FR 28893
Withdrawn	08/30/89	54 FR 35895

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The international work which this rule would have promulgated is largely informal and recommendatory in nature. As a result, the Coast Guard is withdrawing the proposal since, on closer examination, it was determined it was too general to warrant a rulemaking proceeding.

Agency Contact: Mr. V. Azinovsky, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-2988

RIN: 2115–AA53

1751. GENERAL REVISION OF 46 CFR 151, BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES (81-082)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: This proposal was intended to amend the bulk cargo regulations by clarifying the language, eliminating unnecessary requirements, and upgrading some existing requirements. The project has been reevaluated and the Coast Guard has decided to withdraw it.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/84	49 FR 23085
Withdrawn	08/24/89	54 FR 35211

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project was withdrawn because the amendments it would have made have since been made under other rulemakings.

Agency Contact: Mr. T.J. Felleisen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA70

1752. POLLUTION RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (81-101)

Significance: Nonsignificant

Legal Authority: 46 USC 3507; 46 USC 3703

CFR Citation: 46 CFR 30; 46 CFR 98; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: The Coast Guard published rules implementing Annex II of MARPOL 73/78 on 03/12/87 (52 FR 7765). Experience under this rule has disclosed several areas that require clarification. This rule would clarify requirements of the Annex. An interim final rule was effective August 31, 1988; comment period closed September 15, 1988. The interim final rule was adopted without change on 3/28/89.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/88	53 FR 28970
Final Action Adoption of Interim Rule	03/28/89	54 FR 12628
Final Action Effective	04/27/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/28/89 (54 FR 12628)

Agency Contact: Mr. T. Felleison, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. S.W., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA73

1753. NAUTICAL SCHOOLS: IMPLEMENTING THE MARITIME EDUCATION AND TRAINING ACT OF 1980 (82-092)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3301(2)

CFR Citation: 46 CFR 166; 46 CFR 167; 46 CFR 168

Legal Deadline: None

Abstract: The proposal was to update authority citations for nautical school ships in 46 CFR Subchapter "R" and update certain parts to conform with current inspection policies. Nautical school vessels operated by the United States (formerly called "Public Nautical School Ships") between 15 and 300 gross tons were to be subject to inspection for the first time. This project was a cooperative effort with MARAD and was terminated because it is premature. It will be reinstituted when MARAD has determined what standards their vessels should meet.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. CGD 82-092.

Agency Contact: LCDR Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AB21

1754. FIRE DETECTION AND ALARM SYSTEMS (85-051)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This rulemaking would update the Coast Guard specification for fire detection and alarm systems to use modern terminology and address modern systems. Consensus standards were to be adopted by reference. It has been consolidated into the rulemaking entitled Incorporation and Adoption of Industry Standards, RIN 2115-AD05.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2115-AD05	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Johnson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AC13

1755. INSPECTED FISH PROCESSING AND FISH TENDER VESSELS (86-026)

Significance: Nonsignificant

Legal Authority: 46 USC Subtitle II; PL 98-364

CFR Citation: 46 CFR 105

Legal Deadline: None

Abstract: This project was to implement the provisions of the Commercial Fishing Industry Vessel Act which requires development of regulations reflecting the specialized nature and economics of fish processing and fish tender vessel operations. It has been terminated because there is presently only one vessel which could be affected and the Coast Guard has determined that any peculiarities for this type of vessel could be handled by the Navigation Vessel Inspection Circular.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: LCDR M. Karr, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC27

1756. FIRE EXTINGUISHERS (PORTABLE AND SEMI-PORTABLE) - REVISING APPROVAL SPECIFICATIONS AND UPDATING CARRIAGE REQUIREMENTS (86-072)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 162; 46 CFR 25; 46 CFR 34; 46 CFR 76; 46 CFR 95; 46 CFR 108; 46 CFR 168; 46 CFR 181; 46 CFR 193; 33 CFR 145; 33 CFR 149

Legal Deadline: None

Abstract: This action was to update the approval specifications for portable and semiportable fire extinguishers to incorporate minimum acceptance standards, and minimum factory quality control and independent laboratory inspection levels; it was to update extinguisher carriage and inspection requirements on vessels to reflect current fire extinguisher technology. In an attempt to reduce regulations, the Coast Guard is working with industry toward adopting industry (ASTM/UL) standards. As the standards are not yet complete, this rulemaking was terminated. It will be reinstituted when a firmer basis for proceeding has been formulated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mr. Klaus Wable, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC43

1757. SOLAS 74/83 LIFE JACKET APPROVAL REQUIREMENTS REVISION (85-200)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project was to establish Coast Guard approval requirements for lifejackets meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is the first in a series of projects, numbered 85-200 to 85-211, which have been split off from Coast Guard 84-069 which implemented the 1983 Amendments to SOLAS 1974. So many revisions were necessary that it was better to make several small and easily identifiable projects rather than a large and confusing one. Because of staffing assignments, this project could not be completed in a timely manner. It is expected to be reinstituted at a later date.

Agency Contact: Mr. Samuel Wehr, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC46

1758. SOLAS 74/83 EMERGENCY DRINKING WATER AND FOOD APPROVAL REQUIREMENTS (85-202)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

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Abstract: This project was to establish Coast Guard requirements for emergency drinking water and food meeting the 1983 Amendments to the Safety of Life at Sea Convention. In an attempt to reduce regulations, the Coast Guard is working with industry toward adopting industry (ASTM/UL) standards. As the standards are not yet complete, this rulemaking was terminated. It will be reinstituted when a firmer basis for proceeding has been formulated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC48

1759. REVISION OF PYROTECHNIC DISTRESS SIGNAL APPROVAL REQUIREMENTS: SOLAS 74/83 (85-203)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This action was to develop approval requirements for pyrotechnic distress signals which meet the provisions of the 1983 Amendments to the 1974 Safety of Life at Sea Convention. In an attempt to reduce regulations, the Coast Guard is working with industry toward adopting industry (ASTM/UL) standards. As the standards are not yet complete, this rulemaking was terminated. It will be reinstituted when a firmer basis for proceeding has been formulated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC49

1760. REVISION OF DISEMBARKATION LADDER APPROVAL REQUIREMENTS: SOLAS 74/83 (85-204)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project was to establish approval requirements for disembarkation ladders meeting the 1983 Amendments to the Safety of Life at Sea Convention. In an attempt to reduce regulations, the Coast Guard is working with industry toward adopting industry (ASTM/UL). As the standards are not yet complete, this rulemaking was terminated. It will be reinstituted when a firmer basis for proceeding has been formulated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR S. Deno, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC50

1761. HYDRAULIC RELEASE UNITS FOR LIFESAVING EQUIPMENT: SOLAS 74/83 (85-206)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project was to establish approval requirements for hydraulic releases meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention. This rulemaking was terminated because of a temporary lack of resources to develop standards in a timely manner, in view of higher-priority issues. It is expected to be reinstituted at a later date.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC52

1762. REVISION OF DAVIT AND WINCH APPROVAL REQUIREMENTS: SOLAS 74/83 (85-207)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project was to establish approval requirements for davits and winches meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention. This rulemaking was terminated because of a temporary lack of resources to develop standards in a timely manner, in view of higher-priority issues. It is expected to be reinstituted at a later date.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC53

1763. RADAR REFLECTOR APPROVAL REQUIREMENTS: SOLAS 74/83 (85-209)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project was to establish approval requirements for radar reflectors meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention. The Coast Guard is awaiting clarification of Safety of Life at Sea (SOLAS) requirements and may incorporate them by reference rather than develop regulations. Therefore, this rulemaking project was terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. K. Heinz, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC54

1764. REVISION OF LIFEBUOY APPROVAL REQUIREMENTS: SOLAS 74/83 (85-210)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: The project was to establish approval requirements for lifebuoys meeting the 1983 Amendments of the 1974 Safety of Life at Sea Convention. In an attempt to reduce regulations, the Coast Guard is working with industry toward adopting industry (ASTM/UL) standards. As the standards are not yet complete, this rulemaking was terminated. It will be reinstituted when a firmer basis for proceeding has been formulated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTJG C. Deleo, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC55

1765. REVISION OF LIFE JACKET LIGHT APPROVAL REQUIREMENTS: SOLAS 74/83 (85-211)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This project was to establish approval requirements for life jacket lights meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention. This project was terminated because the Safety of Life at Sea (SOLAS) standards cannot be used directly; it was determined that Cyalume chemical light sticks do not meet temperature requirements.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC56

1766. ADVANCE NOTICE OF ARRIVAL (CGD 86-055)

Significance: Nonsignificant

Legal Authority: 33 USC 1223(a)(5)

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This revision to 33 CFR 160 Subpart C requires advance notices from all foreign commercial vessels of less than 1600 gross tons bound for parts or places in the Miami Captain of the Port zone. Currently 33 CFR 160.201(c)(1) excepts all vessels of less than 1600 gross tons from reporting advance notices of arrival. The revision requires vessels of more than 1600 gross tons to provide to the COTP crew makeup and charter information at least 24 hours prior to entering ports or places within the COTP zone.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35095
NPRM Comment Period End	10/24/88	
Final Action	04/07/89	54 FR 14077
Final Action Effective	05/08/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/07/89 (54 FR 14077)

Agency Contact: Lt. J. McDowell, Office of Marine Safety, Security and Environmental Protection, Department of Transportation, U.S. Coast Guard, Commandant (G-MPS-3), 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC58

1767. OIL DISCHARGE MONITORING AND CONTROL SYSTEM (CGD 87-057)

Significance: Nonsignificant

Legal Authority: 33 USC 1321(j); 33 USC 1903; 46 USC 391(a); 49 USC 1655(b)

CFR Citation: 46 CFR 162; 33 CFR 157

Legal Deadline: None

Abstract: This project was to revise the existing equipment approval requirements for the oil discharge monitoring and control system to bring the U.S. requirements in line with the more stringent International Maritime Organization Resolution A.586(14) "Revised Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers." This project was terminated because the Coast Guard is awaiting IMO action on the effect of detergents. It is expected to be reinstituted when firmer data on this issue are available.

Timetable:

Action	Date	FR Cite
Action Terminated	08/22/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. B. Berringer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC85

1768. FLOATING ELECTRIC WATERLIGHTS (85-208)

Significance: Nonsignificant

Legal Authority: 46 USC 3306a; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This proposal replaced the detailed design, inspection, and test

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requirements for floating electric waterlights with the incorporation by reference of various industry standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48558
NPRM Comment Period End	03/01/89	53 FR 48558
Final Action	06/27/89	54 FR 27018
Final Action Effective	07/27/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27018)

Agency Contact: Mr. R. Crenwelge, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AC95

1769. MISSISSIPPI RIVER; REGULATED NAVIGATION AREA (88-075)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This rulemaking eliminates the Coast Guard requirement to record the identification of each towboat that moves a barge into, within, or out of a facility on the lower Mississippi River. The result of this change is a reduction in the information collection burden imposed on the public.

Timetable:

Action	Date	FR Cite
NPRM	12/02/88	53 FR 48653
NPRM Comment Period End	01/17/89	53 FR 48653
Final Action	04/14/89	54 FR 14957
Final Action Effective	05/15/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/02/88 (53 FR 48653)

Additional Information: Formerly entitled: Part 165--Regulated Navigation Areas and Limited-Access Areas.

Agency Contact: Mr. R. Robertson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0406

RIN: 2115–AD07

1770. QUALIFICATIONS FOR PERSONS IN CHARGE OF OIL TRANSFER OPERATIONS (79-116A)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 9102

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: This project would establish qualifications of persons in charge of or assisting in the handling, transfer, and transportation of oil and hazardous liquid cargoes in bulk aboard vessels.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2115-AA03	07/06/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project has been consolidated into Docket 79-116 (RIN 2115-AA03) which is also carried in this Agenda.

Agency Contact: Mr. C. Heizer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, S.W., Washington, DC 20593-0001, 202 267-0224

RIN: 2115–AD18

1771. ● ADJUSTMENT OF GALVESTON TRAFFIC SEPARATION SCHEME (89-019)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard has adjusted the Galveston Bay Approach Traffic Separation Scheme by centering the separation zone within the existing boundaries to accommodate a dredging project.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	54 FR 14827
NPRM Comment Period End	05/30/89	
Final Action	07/05/89	54 FR 28061
Final Action Effective	09/30/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 07/05/89 (54 FR 28061)

Agency Contact: Ms. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 20593-0001, 202 267-0415

RIN: 2115–AD22

1772. ● REGULATED NAVIGATION AREA; HAMPTON ROADS, VA (05-89-01)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 5 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: The Coast Guard is providing for special operating requirements for the Elizabeth River Ferries using a dock to be constructed at the foot of High Street in Portsmouth, VA.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3789
NPRM Comment Period End	02/26/89	
Final Action	05/04/89	54 FR 19168
Final Action Effective	06/04/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/04/89 (54 FR 19168)

Agency Contact: Lt. Ormes, Project Manager, Department of Transportation, U.S. Coast Guard, Port and Safety Office, 5th. District, 431 Crawford St., Portsmouth, VA 23704-5004, 804 398-6388

RIN: 2115–AD24

1773. ● REGULATED NAVIGATION AREA; KINGS BAY, GA (7-88-46)

Significance: Nonsignificant

Legal Authority: 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This rule more accurately defines the boundaries of the Kings Bay Regulated Navigation Area.

Timetable:

Action	Date	FR Cite
Final Action	05/12/89	54 FR 20573
Final Action Effective	05/12/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/89 (54 FR 20573)

Agency Contact: LT(jg) Lauzon, Project Manager, Department of Transportation, U.S. Coast Guard, Commander (OAN) Seventh Coast Guard District, 909 SE. First Ave, Miami, FL 33131-3050, 305 536-5621

RIN: 2115–AD25

1774. CHANGES TO HONOLULU AND GUAM MARINE INSPECTION ZONES (CGD 89-039)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 3

Legal Deadline: None

Abstract: This rule reassigned various Coast Guard Marine Inspection and Captain of the Port Zones to reflect a minor organizational change. These changes did not affect any Coast Guard services to the public.

Timetable:

Action	Date	FR Cite
Final Action	05/04/89	54 FR 19166
Final Action Effective	05/04/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/04/89 (54 FR 19166)

Agency Contact: Ms. C. Clark, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC, 202 267-0704

RIN: 2115–AD26

1775. ● CHANGE OF ADDRESS FOR MARINE SAFETY CENTER(89-025)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 46 CFR 50; 46 CFR 71; 46 CFR 91; 46 CFR 98; 46 CFR 107; 46 CFR 110; 46 CFR 153; 46 CFR 154; 46 CFR 170; 46 CFR 189

Legal Deadline: None

Abstract: This rule changed the address of the Marine Safety Center which had relocated.

Timetable:

Action	Date	FR Cite
Final Action	05/08/89	54 FR 19570
Final Action Effective	05/08/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/08/89 (54 FR 19570)

Agency Contact: LTCDR Rosencrans, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC, 202 267-2997

RIN: 2115–AD27

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Prerule Stage

1776. + REVIEW AND REVISION OF REPAIR STATION REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 145

Legal Deadline: None

Abstract: Current repair station rules were developed during the infancy of the aviation industry. Very few changes were made to those rules since they were adopted in 1952. This rulemaking project proposes to review foreign repair-station requirements and update the rules to reflect the current international and domestic environment and needs. The FAA plans to hold four public meetings to solicit information and views to review the existing regulations and to explore alternatives in revising the rules of this part. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-87-045R.

Agency Contact: Leo Weston, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8203

RIN: 2120–AC38

1777. + INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; PL 100-591

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.
Public Law 100-591, Aviation Safety Research Act of 1988.

Abstract: This preliminary action is to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicits public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. This rulemaking is considered significant because of a statutory requirement.

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DOT—FAA — **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Project No. ANM-89-005R.

Agency Contact: James Walker, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2116

RIN: 2120–AC87

1778. ● + TCAS II AND WINDSHEAR IMPLEMENTATION SCHEDULES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking would amend existing regulations requiring installation and use of an airborne collision avoidance system known as TCAS II and airborne windshear warning and escape path flight guidance systems. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	07/10/89	54 FR 28978

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Rock, Aircraft Engineering Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9567

RIN: 2120–AD23

1779. REVIEW: PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This part prescribes procedural requirements for the issuance of type certificates and changes to those certificates; the issuance of production certificates; the issuance of airworthiness certificates; and the issuance of export airworthiness approvals. In addition it prescribes rules governing the holders of these certificates and procedural requirements for the approval of certain materials, parts, processes, and appliances.

This part is being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: M. C. Beard, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9372

RIN: 2120–AB09

1780. REVIEW: PART 121 — CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This part governs the certification and operations of air carriers, supplemental air carriers, and commercial air carriers engaging in: (1) interstate or overseas transportation under a certificate of public convenience and necessity; (2) foreign air transportation under a certificate of public convenience and necessity; (3) charter flights or other special service operations; and (4) carriage of persons or property in air commerce for compensation or hire.

This part is being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary Martindell, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3749

RIN: 2120–AB27

1781. REVIEW: PART 135 — AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This part governs: (1) air taxi operations conducted under Part 298; (2) transportation of mail by aircraft conducted under a postal service contract; and (3) carriage of persons or property for compensation or hire as a commercial operator in specified aircraft.

This part is being reviewed to comply with the Regulatory Flexibility Act.

DOT—FAA — **Prerule Stage**

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120–AB28

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

1782. + CIVIL SUPERSONIC AIRCRAFT NOISE TYPE CERTIFICATION STANDARDS AND OPERATING RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431(b); 49 USC 1651(b)(2); 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: Part 36 prescribes noise type certification standards for turbojet airplanes. This proposal would revise Part 36 so that new type certificated supersonic aircraft would be required to meet Stage 3 noise levels. Action is considered significant because of the substantial public interest which may be generated on the issue.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/86	51 FR 39663
ANPRM Comment Period End	02/27/87	
Comment Period Reopened Until 07/01/87	03/12/87	52 FR 7618
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/30/86 (51 FR 39663); Final Regulatory Evaluation 10/02/89

Additional Information: Docket 25109. Formerly entitled SST Stage 3 Compliance. Project No. AEE-86-012R.

Agency Contact: Steven Albersheim, Policy and Regulatory Division, Office of Environment, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AC22

1783. ● + DRUG ENFORCEMENT ASSISTANCE

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401; 49 USC 1402; 49 USC 1403; 49 USC 1404; 49 USC 1405; 49 USC 1406; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; ...

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 16, 1989.
FAA Drug Enforcement Assistance Act of 1988.

Abstract: This notice would propose to revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announces new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The proposed requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of a statutory deadline.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/01/89

Additional Information: Project No. ACS-89-035R.

Agency Contact: Kenneth Lauterstein, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9534

RIN: 2120–AD16

1784. + CRASH RESISTANT FUEL SYSTEMS IN SMALL AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would propose changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

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Analysis: Regulatory Evaluation 10/02/89

Additional Information: Formerly titled Amend Part 23 to Include Requirements for Crash-Resistant Fuel Systems. Project No. ACE-82-005R.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-6930

RIN: 2120–AA57

1785. + PROPOSED REVISION OF NOISE CERTIFICATION OF TURBOJET AND LARGE TRANSPORT CATEGORY AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: Contemplated action would revise certification and operational requirements for aircraft effective the date of the NPRM. On that date the current two-stage noise requirements would be replaced with a simpler single standard corresponding to the current Stage 3. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Project No. AEE-84-100R.

Agency Contact: Steven Albersheim, Environmental Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AB88

1786. + AIRSPACE RECLASSIFICATION

Significance: Agency Priority

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1401 to 1405; 49 USC 1421 to 1432; 49 USC 1443; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 1657(f)

CFR Citation: 14 CFR 1; 14 CFR 11; 14 CFR 65; 14 CFR 71; 14 CFR 75; 14 CFR 91; 14 CFR 93; 14 CFR 101; 14 CFR 103; 14 CFR 105; 14 CFR 121; 14 CFR 127; 14 CFR 137; 14 CFR 159; 14 CFR 171

Legal Deadline: None

Abstract: This action would adopt certain recommendations of the National Airspace Review concerning changes to regulations and procedures dealing with airspace classification. These changes are intended to: (1) simplify airspace designations; (2) achieve international commonality of airspace designations; (3) increase standardization of equipment requirements for operations in the various classifications of airspace; and (4) associate appropriate pilot certification requirements, visual flight rules visibility and distance from clouds rules, and air traffic services offered in each proposed class of airspace. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5046
ANPRM Comment Period End	06/06/85	50 FR 5046
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket number 24456.

Regulatory Project ATO-200-84-7R.

This action incorporated RIN 2120-AC57 and will incorporate RIN 2120-AB02, National Airspace Review; Terminal Airspace Task Group Recommendations, and RIN 2120-AB93, Controlled Airspace Designations in International Airspace.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Air Traffic Rules ranch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB95

1787. + TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice will propose to revise the current requirements for passenger emergency exits and to adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to exit types and quantities required for passenger seating configurations while retaining the same level of safety. This notice also will propose to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These proposals resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington on September 3-6, 1985. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/89

Additional Information: Project No. ANM-87-006R.

Agency Contact: Franklin Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120–AC45

1788. + MISCELLANEOUS CHANGES TO EMERGENCY EVACUATION DEMONSTRATION PROCEDURES, EXIT HANDLE ILLUMINATION, AND PA HANDSETS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice will propose to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flight crew take no active role in the demonstration and changing the age/sex distribution requirement for demonstration participants. This notice also proposes to standardize the illumination requirements for the handles of the various types of passenger emergency exits. In addition, it is proposed to add a requirement for a "push to talk" switch to the public address system. These proposals are intended to enhance the provisions of transport category airplanes for egress of occupants during emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/89

Additional Information: Project No. ANM-87-010R.

Agency Contact: Frank Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120–AC43

1789. + IMPROVED ACCESS TO TYPE III EMERGENCY EXITS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice will propose to amend Parts 25 and 121 of the Federal Aviation Regulations to provide for improved access to Type III emergency exits. These proposals are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	11/27/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Formerly entitled Improved Access to Type III and Type IV Emergency Exits. Project No. ANM-86-007R.

Agency Contact: Frank Tiangsing, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120–AC46

1790. + FLIGHT PLAN FILING REQUIREMENTS; NATIONAL AIRSPACE REVIEW RECOMMENDATION

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.83

Legal Deadline: None

Abstract: This action will propose to review flight-plan filing requirements and revise according to National Airspace Review Recommendations 2-3.1.4, 2-3.1.5, 2-3.1.6, 2-3.1.7, and 2-3.1.8, i.e., to establish lower ceiling and visibility criteria for rotorcraft so as to reduce the frequency of required IFR alternate airport filings; to allow fixed-wing aircraft to file IFR alternate airports that meet the same criteria as rotorcraft; to require pilots to indicate, in their flight plans, when their aircraft is equipped with special equipment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-12R. RIN 2120-AC41 was consolidated into this proceeding.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC56

1791. + PARTS 121 AND 135 - TRAINING, CHECKING, CERTIFICATION, AND QUALIFICATIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise and upgrade the Parts 121 and 135 training, checking, certification, and qualification requirements, including cockpit resource management. In addition, commuter air carriers conducting Part 135 commuter operations in airplanes that require two pilots would be required to meet the proposed upgraded Part 121 requirements. This action is in response to recommendations of the joint Government/Industry Task Force

control (ATC) system to separate all

Government Levels Affected: None

CFR Citation: 14 CFR 25; 14 CFR 29; 14

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DOT—FAA

Proposed Rule Stage

on Flight Crew Performance and is significant because of its safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AXR-88-301R.

Agency Contact: David Catey, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120–AC79

1792. + UNITED STATES CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71; 14 CFR 11.69

Legal Deadline: None

Abstract: This action proposes to enhance flight safety and to simplify the flight rules associated with flights conducted under visual flight rules by requiring all visual flight rules operations above a common altitude (1,200 feet above ground level) to be conducted with the same distance from clouds and visibility minimums. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project Number: ATO-200-87-8R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC88

1793. + PROPOSED ESTABLISHMENT OF THE WASHINGTON TRI-AREA TCA AND REVOCATION OF THE WASHINGTON, DC, TCA AND AIRPORT RADAR SERVICE AREAS AT BALTIMORE-WASHINGTON AND DULLES AIRPORTS

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action would establish a Terminal Control Area (TCA) in the greater Baltimore/Washington, DC, area. Because the TCA would serve airports located in three different areas (Washington, DC, Maryland, and Virginia) the TCA would be established as the Washington Tri-Area TCA. The TCA would encompass four major airports: Andrews Air Force Base, Baltimore-Washington International, Dulles International, and Washington National. The TCA would consist of airspace from the surface or higher within a 20-mile radius of each airport up to and including 10,000 feet above mean sea level. This action is intended to increase the capability of the air traffic control system to separate all aircraft in the terminal airspace around these airports and to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/09/89

Additional Information: Formerly entitled Proposed Establishment of the Dulles Terminal Control Area; Virginia.

RIN 2120-AD06, Proposed Establishment of the Baltimore, Maryland, Terminal Control Area, has been incorporated into this project.

Agency Contact: Jesse Bogan, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9253

RIN: 2120–AD01

1794. + PROPOSED ESTABLISHMENT OF THE ORLANDO, FLORIDA, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/30/89

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9250

RIN: 2120–AD03

1795. + PROPOSED ESTABLISHMENT OF THE HOUSTON HOBBY TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1345(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

DOT—FAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9250

RIN: 2120–AD04

1796. + PROPOSED ESTABLISHMENT OF THE TAMPA, FLORIDA, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/89

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9250

RIN: 2120–AD07

1797. ● + PHASEOUT OF X-RAY EQUIPMENT FOR CARRY-ON BAGGAGE

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This notice proposes to phaseout obsolete x-ray systems (in use before July 22, 1985) to ensure that state-of-the-art technology is used. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/22/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/22/90

Additional Information: Project No. AXR-89-197R.

Agency Contact: Quinten T. Johnson, Civil Aviation Security Division, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8058

RIN: 2120–AD13

1798. ● + EMERGENCY LOCATOR TRANSMITTERS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1471; 49 USC 1485; 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 29; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to require improved emergency locator transmitters (ELT) that meet the requirements of Technical Standard Order (TSO) C91a or later issued ELT TSO's for all future installations on U.S.-registered airplanes and to terminate the manufacture of ELT's authorized under TSO-C91. This proposal is the result of unsatisfactory performance experienced with ELT's that are manufactured under TSO-C91 and recommendations made by the National Transportation Safety Board, the search and rescue community, and Congress. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/13/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/13/89

Additional Information: Project No. AVS-85-34aR.

Agency Contact: Phil Akers, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9571

RIN: 2120–AD19

1799. ● + SOLE MEANS RADIO NAVIGATION SYSTEM

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989.
Airway Safety and Capacity Expansion Act of 1987 (PL 100-223).3

Abstract: This notice would propose to establish minimum standards under which a radio navigation system may

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be certified as a Sole Means Air Navigation System. This rulemaking is considered significant because of a congressional mandate.

Timetable:

Action	Date	FR Cite
NPRM	12/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AFS-89-215-R.

Agency Contact: Robert R. Grimes, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3722

RIN: 2120-AD26

1800. ● + IMPROVED SEAT SAFETY STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This rulemaking action would upgrade the occupant seat restraint systems in commuter category airplanes. It is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/10/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project No. ACE-87-014-R.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-5688

RIN: 2120-AD27

1801. ● + GROUND PROXIMITY WARNING SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the requirements for Ground Proximity Warning Systems for certificate holders operating under Part 135 by requiring that: (1) all turbine-powered airplanes with 10 or more seats have these systems, and (2) Ground Proximity Warning Systems meet the applicable Technical Standard Order requirements. This proposal would change the existing rule by expanding the requirement for Ground Proximity Warning Systems, now applicable only to turbojet airplanes, to also include turboprop airplanes. This proposal would also require that only Ground Proximity Warning Systems, not alternate warning systems, be installed on airplanes which currently do not have those systems. Airplanes which already have previously approved alternate warning systems would continue to use those systems. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/02/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-86-283R.

Agency Contact: Philip Akers, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9571

RIN: 2120-AD29

1802. ● + EXIT REQUIREMENTS FOR PART 23 AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would provide alternative emergency exit requirements for commuter category airplanes when additional cabin safety features are included. This action would also develop a size requirement for the passenger entry door. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ACE-88-001R.

Agency Contact: Earsa Tankesley, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 610 East 12th Street, Kansas City, MO 64106, 202 426-6930

RIN: 2120-AD33

1803. ● + USE OF INERT GAS FOR TIRE INFLATION IN LIEU OF AIR

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to require the servicing of airplane tires with nitrogen, in lieu of air, as the need to fill or service the tires occurs. This action is prompted by three confirmed, and other suspected, cases in which the oxygen in air-filled tires combined with volatile gases given off by a severely overheated tire, and exploded upon reaching autoignition temperature. A tire explosion in the wheel well during flight is suspected in the catastrophic loss of one airplane and severe damage to two others. An Airworthiness Directive has been adopted which affects current large transport category airplanes. The changes proposed in this rulemaking would extend the provisions of the Airworthiness Directive to future transport category airplanes. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/18/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-87-027R.

Agency Contact: Gary D. Lium, Regulations Branch, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2115

RIN: 2120-AD37

1804. REVIEW OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: These regulations specify the medical standards which must be met before a medical certificate is issued to an airman. For example, a medical certificate is required before a person can obtain a pilot license. During rulemaking involving these regulations, a considerable number of commenters expressed the belief that the current standards should and could be revised to state, in generally applicable objective terms, all those circumstances in which the FAA will issue medical certificates. In the past, some certificates have been issued on a case-by-case basis, with appropriate limitations, under exemption and waiver provisions where strict compliance with the existing standards was not essential in the interest of safety. A comprehensive review of these regulations is necessary to determine if the commenters' arguments are correct. If they are and the requested regulatory changes are possible, it could greatly reduce burdens, both on the FAA and airmen, associated with the processing of medical certificates.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which will be used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AB13 has been combined into this review.

Project No. AVS-82-288R.

Agency Contact: William H. Hark, M.D., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3802

RIN: 2120-AA70

1805. PART 77 REVIEW, OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1304 Federal Aviation Act of 1958, Sec. 104; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611; 49 USC 1501 Federal Aviation Act of 1958, Sec. 1101

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would revise and reorganize 14 CFR Part 77 in a more logical sequence and present regulatory requirements relating to proposed construction or alteration and their impact on navigable airspace. It is also intended to clarify and strengthen agency actions in determining whether a particular object would be a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/02/89

Additional Information: Regulatory Project ATO-200-85-15R.

Agency Contact: William C. Davis, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AA09

1806. FUEL SYSTEM FIRE PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend Sec. 25.975 to require fuel tank vent protection during ground fires and Sec. 25.1189 to require design practices which maximize the probability of engine fuel supply shut-off in a potential fire situation.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	12/18/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/89

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project No. ANM-82-050R.

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific

Highway South, C-68966, Seattle, WA 98168, 206 431-2116

RIN: 2120–AA49

1807. AIRCRAFT SIMULATOR USE IN AIRMAN TRAINING AND CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 61; 14 CFR 135

Legal Deadline: None

Abstract: This notice will propose to amend Part 61 to permit additional use of and establish approval criteria for aircraft simulators and training devices for airman training and certification by amending various sections of Part 61 and appendices including additional appendices for rotorcraft and helicopters and by adding a new appendix for advanced simulation criteria. Additionally, this notice will propose to permit additional usage of aircraft simulators and training devices for the pilot-in-command proficiency requirements of Part 61 for airmen operating large or multiengine turbojet-powered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	04/09/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/90

Additional Information: Project No. AVS-83-105R.

Agency Contact: Brian Calendine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120–AA83

1808. COMPOSITE PROPELLERS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 35

Legal Deadline: None

Abstract: This action would revise Part 35 Fatigue Limit Test (Propellers) to add requirement for composite propellers to include environmental effects in fatigue evaluation, bird impact, and lightning protection.

Timetable:

Action	Date	FR Cite
NPRM	06/21/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/21/90

Additional Information: Formerly titled Fatigue Evaluation, Bird Impact, and Lightning Protection for Propellers of Composite Construction. Project No. ANE-83-002R.

Agency Contact: M. Buckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7079

RIN: 2120–AB05

1809. STANDARDS FOR APPROVAL OF A REDUCED V1 METHODOLOGY FOR TAKEOFF ON WET AND CONTAMINATED RUNWAYS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a) to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes amendments to Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. In view of comments received, a second NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	
Second NPRM	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/87 (52 FR 45578)

Additional Information: Docket 25471. Project No. ANM-83-030R.

Agency Contact: Bill Boxwell, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2111

RIN: 2120–AB17

1810. STANDARDS FOR APPROVAL FOR HIGH ALTITUDE OPERATION OF SUBSONIC AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposal would review special conditions issued for high altitude operation and consolidate and incorporate these special conditions into Part 25.

Timetable:

Action	Date	FR Cite
NPRM	11/27/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 11/27/89

Additional Information: Project No. ANM-83-022R.

Agency Contact: Gary Lium, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2134

RIN: 2120–AB18

1811. TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This project is to solicit public comment on possible revision and clarification of transport rotorcraft performance and airworthiness standards and to establish minimum gradients of climb during takeoff.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	06/06/86	
NPRM	12/11/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/11/89

Additional Information: Project No. ASW-83-006R.

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5109

RIN: 2120–AB36

1812. MISCELLANEOUS OPERATIONAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958 Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958 Sec. 601; 49 USC 1423 Federal Aviation Act of 1958 Sec. 603; 49 USC 1424 Federal Aviation Act of 1958 Sec. 604

CFR Citation: 14 CFR 121; 14 CFR 91; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice will propose to amend the regulations that deal with passenger information, safe passenger egress, child restraint, and emergency equipment. The proposals would prohibit smoking at any time in any location displaying a "no smoking" sign or placard. They would require that passengers wear safety belts at any time a "fasten seatbelts" sign is turned on. They would require that the "fasten seatbelts" sign be turned on during taxi. They would clearly establish a requirement for an assisting means of egress and the stowage of passenger service equipment prior to taxi. They would make the pilot in command or, in the case of operations under Part 121, the certificate holder responsible for informing the passengers that they may be liable for a civil penalty should they fail to comply with FAA regulations. They would require that supplementary child restraint devices be accepted by a certificate holder when requested by the child's attendant.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/21/90

Additional Information: Project No. AVS-84-191R.

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8096

RIN: 2120–AB45

1813. ENGINE FUEL AND INDUCTION SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: Advance notice proposed the addition of a new paragraph, FAR Section 33.35(f), to incorporate requirements for the fuel mixture to go to full-rich if a disconnect occurs in the mixture linkage. NPRM would require both the fuel-air mixture control device and throttle control device to move automatically to an acceptable position for continued safe operation in the event that the control linkage of these levers becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	01/16/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/16/90

Additional Information: Project No. ANE-85-002R.

Agency Contact: George Mulcahy, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7077

RIN: 2120–AB76

1814. NEW ROTORCRAFT 30-SECOND/2-MINUTE ONE-ENGINE-INOPERATIVE POWER RATINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1523; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This notice would propose to amend the Federal Aviation Regulations by incorporating new one-engine-inoperative (OEI) power ratings for multi-engine, turbine-powered rotorcraft. If adopted, these proposals would enhance rotorcraft safety after an engine failure or precautionary shutdown by providing OEI power, when required, with the assurance that the drive system would maintain its structural integrity and allow continued safe flight while operating at the new OEI power ratings with the operable engine(s).

Timetable:

Action	Date	FR Cite
NPRM	10/20/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/89

Additional Information: Formerly entitled New Rotorcraft Emergency Power Ratings.

Project No. ASW-85-469P.

Agency Contact: Ray Twa, Rotorcraft Standards Staff, Department of

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Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5158

RIN: 2120–AB90

1815. TURBOSHAFT ENGINE ROTOR BURST PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to revise Part 29 to require design features or other provisions to minimize the hazards of failure of high speed rotors used in turbine engines in transport category helicopters.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/89

Additional Information: Former title Turbine Burst Protection for Transport Category Helicopters. Project No. ASW-84-002.

Agency Contact: Mike Mathias, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5123

RIN: 2120–AB91

1816. ROTORCRAFT REGULATORY CHANGES BASED ON EUROPEAN JOINT AIRWORTHINESS REQUIREMENTS PROPOSAL

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This notice proposes changes to the type certification requirements for both normal and transport category rotorcraft. The changes would revise airworthiness standards for systems, propulsion, and airframes and would introduce safety improvements, clarify existing regulations, and standardize terminology. The changes are based on some of the proposals that were submitted to the FAA by the European Joint Airworthiness Requirements 29 group. These proposals are intended to encourage the European community's acceptance of the Federal Aviation Regulations' rotorcraft type certification requirements and to obviate the development of a new and different European standard. Adoption of these changes will achieve increased commonality of airworthiness standards among the respective countries.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17936
NPRM Comment Period End	10/23/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/89 (54 FR 17936)

Additional Information: Former title Rotorcraft Certification Requirements; Coordination with European Airworthiness Authorities Steering Committee (AASC). Project No. ASW-83-017R.

Agency Contact: R. T. Weaver, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5111

RIN: 2120–AC27

1817. NON-FEDERAL AIR TRAFFIC CONTROL TOWERS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 105

Legal Deadline: None

Abstract: The adoption of this recommendation would allow review, study, and proposal of changes to Parts 91 and 105 of the regulations. This proposal would define the responsibilities of non-Federal air traffic control towers as to compliance with FAA air traffic control towers. This proposal would have an effect on local and State governments.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/15/89

Additional Information: Regulatory Project No. ATO-200-87-14R

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8781

RIN: 2120–AC59

1818. SHOULDER HARNESSES IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 27; 14 CFR 29; 14 CFR 91

Legal Deadline: None

Abstract: This notice would propose to amend Parts 21, 27, 29, and 91 of the Federal Aviation Regulations to require the installation of shoulder harnesses at all seats of rotorcraft manufactured after a specified date. This notice responds to a safety recommendation from the National Transportation Safety Board and would enhance protection of occupants in rotorcraft.

Timetable:

Action	Date	FR Cite
NPRM	10/10/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/10/89

Additional Information: Formerly entitled Shoulder Harnesses for Each Seat in Parts 27 and 29 Rotorcraft. Project No. ASW-86-018R.

Agency Contact: James Major, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, PO Box 1689, Fort Worth, TX 79193-0111, 817 624-5117

RIN: 2120–AC67

1819. ROTORCRAFT CRASH RESISTANT FUEL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to implement requirements in Parts 27 and 29 for crash-resistant fuel systems to reduce injuries or fatalities resulting from ignition of flammable fluids following an otherwise survivable crash of a rotorcraft.

Timetable:

Action	Date	FR Cite
NPRM	05/14/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Formerly entitled Fuel System Crashworthiness. Project No. ASW-85-006R.

Agency Contact: Mike Mathias, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5118

RIN: 2120–AC68

1820. LANDING GEAR AURAL WARNING

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplane landing gear aural warning systems and the operating rules for air carrier and air taxi operators of transport airplanes by updating the present requirements to make them more functionally oriented. This proposal is prompted by reports of nuisance or inappropriate aural warnings which have occurred in modern transport airplanes when strictly adhering to the present regulations. It is intended to enhance flight safety while decreasing the regulatory burden associated with making an equivalent level of safety finding or exemption, for those systems that do not meet the existing requirements. This proposal will not affect existing certified airplanes.

Timetable:

Action	Date	FR Cite
NPRM	08/17/89	54 FR 34116
NPRM Comment Period End	02/13/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/17/89 (54 FR 34116)

Additional Information: Project No. ANM-86-008R.

Agency Contact: Gene Vandermolen, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2114

RIN: 2120–AC82

1821. KETCHIKAN INTERNATIONAL AIRPORT TRAFFIC RULE, PART 93, SUBPART M

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to eliminate the exclusion of airspace below 600 feet mean sea level and to require reporting for traffic advisories by all pilots flying radio-equipped aircraft within the Ketchikan International Airport control zone (regardless of whether the control zone is in effect or not).

Timetable:

Action	Date	FR Cite
NPRM	06/12/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project Number: ATO-200-88-8R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC90

1822. AIR TRAFFIC CONTROL CLEARANCE READBACK

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would require pilots to read back all clearances dealing with holding short, taking off, crossing, and proceeding onto a runway.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regulatory Project Number: ATO-200-88-17R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120–AC91

1823. LOCATION OF MARKS ON FIXED-WING AIRCRAFT AND AIRSHIPS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1401; 49 USC 1402; 49 USC

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1421; 49 USC 1423; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 45

Legal Deadline: None

Abstract: This notice proposes to amend the regulations for the location of nationality and registration marks on fixed-wing aircraft and airships. This proposal would modify the requirements for the location of marks on fixed-wing aircraft and airships with configurations that are not addressed by the existing regulations. These amendments are needed because existing rules cannot be applied to unconventional aircraft/airship configurations, and the proposed rule would allow for alternative locations for nationally and registration marking

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-88-132P.

Agency Contact: Earl Seabrooks, Aircraft Manufacturing Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9540

RIN: 2120–AC99

1824. ● REVISION OF AVIATION MAINTENANCE TECHNICIAN SCHOOL RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 147

Legal Deadline: None

Abstract: This notice proposes to update the regulations for certificating aviation maintenance technician schools to accommodate the increasing demand for maintenance technicians with higher levels of skill and knowledge.

Timetable:

Action	Date	FR Cite
NPRM	02/27/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/27/90

Additional Information: Project No. AVS-87-190R.

Agency Contact: Leslie K. Vipond, General Aviation and Commercial Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3269

RIN: 2120–AD09

1825. ● AIRPORT CERTIFICATION; CLARIFICATION OF VARIOUS PROVISIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1432; 49 USC 106(g)

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: This notice proposes to change a section of the certification and operation regulations of airports dealing with the control of ground vehicles on an airport. This action is necessary since concerns have been expressed that the current language appears to place undue responsibility and liability on certificate holders.

Timetable:

Action	Date	FR Cite
NPRM	10/26/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AAS-88-365P.

Agency Contact: Edward Rancourt, Airport Safety and Operations Division, Office of Airport Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8723

RIN: 2120–AD10

1826. ● SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 4

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would propose changes to the airframe and flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes that are based on a number of recommendations discussed at the Small Airplane Airworthiness Review Conference held on October 22-26, 1984. This action arises from the recognition that updated safety standards are needed for an acceptable level of safety in the design requirements for small airplanes used in both private and commercial operations. This action will include design requirements applicable to advancements in technology being incorporated in current designs and will reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety.

Timetable:

Action	Date	FR Cite
NPRM	11/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/09/89

Additional Information: Project No. ACE-84-012R.

Agency Contact: Bobby Sexton, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 610 East 12th Street, Kansas City, Missouri 64106, 816 426-5688

RIN: 2120–AD20

1827. ● AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES; PROPOSAL FOR NEW ONE-ENGINE-INOPERATIVE RATINGS, DEFINITIONS, AND TYPE CERTIFICATION STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1347; 49 USC 1348; 49 USC 1354(a); 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1421 to 1430; 49 USC 1432; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 33

Legal Deadline: None

Abstract: The Aerospace Industries Association of America, Inc., petitioned for amendments to the Federal Aviation Regulations to provide new one-engine-inoperative ratings for rotorcraft engines and their application to rotorcraft. This notice would respond to that petition and propose to define and establish type certification standards for new one-engine-inoperative ratings for rotorcraft engines in Parts 1 and 33.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANE-85-001R.

Agency Contact: Donald F. Perrault, Engine and Propeller Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, 617 273-7061

RIN: 2120–AD21

1828. ● MAINTENANCE RECORDING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1421 to 1430; 49 USC 1502

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This rulemaking action would clearly define the recordkeeping requirements related to airworthiness directives and life limited parts. This rulemaking would also specifically identify and describe the types of records which would be acceptable to the FAA and the required retention period for these records.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project No. AXR-89-181-R.

Agency Contact: George H. Johnson, Project Development Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3798

RIN: 2120–AD25

1829. ● IMPROVED FLAMMABILITY STANDARDS FOR MATERIALS USED IN THE INTERIORS OF TRANSPORT CATEGORY AIRPLANE CABINS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would clarify a number of editorial errors in Amendments 25-61, 25-86, 121-189, and 121-190 concerning the flammability standards for components used in the cabins of transport category airplanes.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-88-024R.

Agency Contact: Gary Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120–AD28

1830. ● SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 3

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would propose changes to the powerplant and equipment airworthiness standards for normal, utility, acrobatic, and commuter category airplanes that are based on certain proposals and recommendations discussed at the Small Airplane Airworthiness Review Conference held in St. Louis, Missouri, on October 22-26, 1984. These proposals arise from the recognition, by both government and industry, that updated safety standards are needed to maintain an acceptable level of safety in the design requirements for small airplanes that are used in both private and commercial operations. These proposals, if adopted, will include design requirements applicable to advancements in technology being incorporated in current designs and reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety.

Timetable:

Action	Date	FR Cite
NPRM	12/18/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ACE-84-011R.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-6930

RIN: 2120–AD30

1831. ● DESIGNATED ENGINEERING ORGANIZATION AUTHORIZATION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 1651; 49 USC 1657; 49 USC 106(g)

CFR Citation: 14 CFR 21; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by combining and amending the Delegation Option Authorization Procedures, the Designated Alteration Station Authorization Procedures, and the Development of Major Repair Data into a revised Subpart J of Part 21 entitled "Designated Engineering Organization Authorization Procedures (DEO).

This action would: (1) broaden existing delegation of aircraft certification and approval functions to organizations in

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the United States; (2) extend these functions to domestic organizations which possess the necessary technical and managerial qualifications specified in revised Subpart J of Part 21; (3) improve the standardization and reduce the long-term cost of FAA certification and approval functions; and (4) result in DEO conducted programs that are equivalent in safety and compliance to standard FAA conducted programs.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-85-249R.

Agency Contact: George Marania, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9589

RIN: 2120–AD31

1832. ● REQUIREMENTS FOR AIRCRAFT PROTECTION IN HIGH ENERGY RADIATED ELECTROMAGNETIC FIELDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23; 14 CFR 25; 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by adding a new requirement for the protection of electrical and electronic systems in high energy radiated electromagnetic fields.

Timetable:

Action	Date	FR Cite
NPRM	06/08/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-89-180R.

Agency Contact: Abbas Rizvi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9564

RIN: 2120–AD32

1833. ● AIRPLANE ENGINE COWLING RETENTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved engine cowling retention devices. A review of a number of inflight incidents where engine cowling was lost revealed that the largest single cause of such losses is improper latching of the cowling. If adopted, this proposal would provide additional design standards to detect improperly latched cowling and to ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	10/23/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-87-004R.

Agency Contact: Mike Pasion, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2116

RIN: 2120–AD34

1834. ● DEPRESSURIZATION EVALUATION OF STRUCTURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would develop a retroactive requirement for transport category airplanes that would require that normally unpressurized areas and compartments be able to withstand the effects of the required depressurization failure conditions that have been applied to the pressurized compartments.

Timetable:

Action	Date	FR Cite
NPRM	09/04/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-88-008R.

Agency Contact: Jim Haynes, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120–AD35

1835. ● VIBRATION, BUFFET AND AEROELASTIC STABILITY REQUIREMENTS FOR TRANSPORT CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would revise the structural requirements for transport category airplanes concerning flutter, divergence, vibration, and buffet. It would clarify the requirement to consider flutter and divergence when treating certain damage and failure conditions required by other sections of Part 25. It would revise the required safety margins by slightly reducing the safety margin concerning airplane speed for normal configurations and providing a minimum safety margin concerning airplane speed for damage and failure configurations. These changes are intended to provide consistency with other sections of Part 25, to relieve a design burden which is now unnecessary as a result of advances in technology, and to improve certain safety margins as a result of the evolution in the design of transport airplanes.

Timetable:

Action	Date	FR Cite
NPRM	11/17/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-86-024R.

Agency Contact: James Haynes, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2113

RIN: 2120–AD36

1836. ● AIRPLANE JACKING LOADS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to include standards for airplane tiedown and jacking loads which would provide for protection of primary structure during jacking operations and ground gust conditions.

Timetable:

Action	Date	FR Cite
NPRM	12/26/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-84-006R.

Agency Contact: Iven Connally, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120–AD38

1837. ● BIRD STRIKE DAMAGE ASSESSMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by upgrading the standards for protecting transport category airplanes from bird impact damage by requiring that airplanes be designed such that: (1) only minor damage would result from impact with a 4-pound bird and (2) the airplane would be capable of continued safe flight and landing after impact with an 8-pound bird. These standards are needed because of possible vulnerability of new technology flight controls, flight instruments, and flight structures to bird strike damage. These proposed changes are based on research and service experience and are intended to improve survivability of the airplane by providing better protection of critical structures and systems.

Timetable:

Action	Date	FR Cite
NPRM	09/04/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-87-037R.

Agency Contact: Iven Connally, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120–AD39

1838. ● 1-G STALL SPEED AS A BASIS FOR COMPLIANCE WITH PART 25

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: The low speed stalling features of some transport category airplanes are not characterized by the nose-down pitching that has traditionally identified the stall. As a result, the stall speed can be demonstrated to an artificially low level by continuing to decrease speed to the point that the airplane load factor is substantially less than one. The maximum usable power level may vary considerably with flight conditions. To correct this problem, this action would propose the use of a 1-G stall speed in all areas of Parts 25 and 36.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-88-041R.

Agency Contact: James Haynes, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120–AD40

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Final Rule Stage

1839. + PILOT, FLIGHT INSTRUCTOR, AND PILOT SCHOOL CERTIFICATION RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 141

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations governing pilot initial and recurrent training and the operations of FAA certificated pilot schools. This rulemaking action is the result of concerns identified by the National Transportation Safety Board

1982, and insert requirements to comply with Part 34 in the other affected Parts.

rulemaking is significant because of the safety implications.

Analysis: Regulatory Evaluation

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and the public and issues raised in petitions for exemption from the the regulations. This action would update standards of pilot performance and respond to technological advances in pilot training since the current rules were issued. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Hearings	06/27/88	53 FR 24178
Comment Period Extended	08/05/88	53 FR 29582
Comment Period Extended	12/05/88	53 FR 49072
NPRM	05/26/89	54 FR 22852
NPRM Comment Period End	08/24/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/26/89 (54 FR 22852)

Additional Information: RIN 2120-AB14 has been combined into this review.

This project was formerly titled Review of Part 61, 141, 143, Pilot, Pilot School, and Ground Instructor Rules.

Project No. AVS-88-244R.

Agency Contact: John D. Lynch, General Aviation and Commercial Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120-AB12

1840. + PRIMARY CATEGORY AIRCRAFT

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857(f); 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 36; 14 CFR 43; 14 CFR 91; 14 CFR 141; 14 CFR 147

Legal Deadline: None

Abstract: This action proposes to establish a new category of aircraft for type, production, and airworthiness certification. These aircraft will be designed for pleasure and personal use, and classified as a primary category aircraft. In addition, the NPRM proposed simplified type, production, and airworthiness certification procedures, special maintenance criteria, and associated changes to pilot requirements for this category of aircraft. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9738
NPRM Comment Period End	09/07/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/07/89 (54 FR 9738)

Additional Information: Formerly entitled Primary Category Aircraft; Powered Ultralight; Falsification of Applications, Reports, or Records.

Project No. AVS-83-133R.

Agency Contact: Lyle Davis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9583

RIN: 2120-AB53

1841. + TRANSPONDER REQUIREMENTS IN AN AIR DEFENSE IDENTIFICATION ZONE (ADIZ)

Significance: Regulatory Program

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: This action would establish requirements for all civil aircraft to be equipped with a transponder (basic transponder or Mode S transponder) with automatic altitude reporting equipment when conducting operations into or out of the United States into, within, or across the contiguous United States Air Defense Identification Zone. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/07/86	51 FR 4756
ANPRM Comment Period End	04/10/86	
NPRM	10/12/88	53 FR 39846
NPRM Comment Period End	11/14/88	
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 10/12/88 (53 FR 39846); Final Regulatory Evaluation 10/02/89

Additional Information: Regulatory Project ATO-200-85-8R (Docket # 24903).

Agency Contact: Reginald C. Matthews, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AB99

1842. + FUEL VENTING AND EXHAUST-EMISSION REQUIREMENTS FOR TURBINE-ENGINE POWERED AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1341(a); 49 USC 106(g); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1481; 49 USC 1502

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 23; 14 CFR 25; 14 CFR 45; 14 CFR 91

Legal Deadline: None

Abstract: Special Federal Aviation Regulation (SFAR) 27 prescribes standards and test procedures for fuel venting and exhaust emissions for the turbine powered airplanes. This proposal would replace SFAR 27, as amended through SFAR 27-6, with a new Part 34 of the Federal Aviation Regulations which will include all of the standards and test procedures of 40 CFR 87 previously included in SFAR 27. This will codify in a single part all of the applicable requirements of 40 CFR 87, Control of Air Pollution from Aircraft and Aircraft Engines; Emissions Standards and Test Procedures, as amended, December 30, 1982, and insert requirements to comply with Part 34 in the other affected Parts where applicable. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18530
NPRM Comment Period End	06/22/88	
Final Action	11/09/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/88 (53 FR 18530); Final Regulatory Evaluation 11/09/89

Additional Information: Project No. AEE-89-217R.

Agency Contact: Harvey H. Van Wyen, Manager, Research and Engineering Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3558

RIN: 2120-AC82

1843. + IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Significance: Regulatory Program

Legal Authority: 49 USC 106(g); 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, June 28, 1988.
PL 100-223, Section 303, Airport and Airway Safety and Capacity Enhancement Act of 1987.

Abstract: This action proposes new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to US-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This proposal is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The proposed requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890); Final Regulatory Evaluation 10/02/89

Additional Information: Project No. AVS-85-205R.

Agency Contact: John Petrakis, Department of Transportation, Federal Aviation Administration, Office of Air Worthiness, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9574

RIN: 2120-AC72

1844. + EXIT ROW SEATING

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 2355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposes to regulate exit row seating in aircraft operated by U.S. air carrier and commercial operators (certificate holders). This rulemaking is needed to ensure that only persons who are determined by the certificate holder to be able, without assistance, to activate an emergency exit and to take the additional actions needed to ensure safe use of that exit in an emergency are seated in exit rows. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10484
NPRM Comment Period End	06/12/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/13/89 (54 FR 10484)

Additional Information: This issue will also be subsumed within the Regulatory Program proceeding entitled Nondiscrimination of the Basis of Handicap (Air Travel), RIN 2105-AA16. Project No. AVS-88-127R.

Agency Contact: Irene Mields, Senior Attorney, General Legal Services Division, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3473

RIN: 2120-AC75

1845. + RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.
PL 100-223 Sec 303

Abstract: The FAA proposes to require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

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Analysis: Regulatory Evaluation

Small Entities Affected: None

Analysis: Draft Regulatory Evaluation

Small Entities Affected: None

occupant, and add human impact injury criteria for the dynamic crash-impact

reporting regulation implemented by DOT and nonregulatory air-traffic

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DOT—FAA — Final Rule Stage

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650); Final Regulatory Evaluation 10/02/89

Additional Information: Docket 25611. Project No. AVS-88-136R.

Agency Contact: Arthur Hayes, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9937

RIN: 2120–AC84

1846. + SPECIAL FEDERAL AVIATION REGULATION; ADVANCED QUALIFICATION PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This proposed Special Federal Aviation Regulation (SFAR) would establish a voluntary alternative method for meeting the training, evaluation, certification, and qualification requirements for flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators, and other operations personnel subject to the training requirements of 14 CFR Part 121 and Part 135. The FAA has developed this alternative method in response to recommendations made by a task force composed of representatives from the Government, airlines, aircrew professional organizations, and airline industry organizations. The proposed SFAR is designed to improve aircrew performance and would allow certificate holders that are subject to the training requirements of Part 121 and Part 135 to develop innovative training programs that incorporate the most recent advances in training methods and techniques. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7670
NPRM Comment Period End	04/24/89	
Final Action	03/09/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Analysis: Regulatory Evaluation 02/22/89 (54 FR 7670); Final Regulatory Evaluation 03/09/90

Additional Information: Project No. AVS-88-281R.

Agency Contact: David L. Catey, Manager, Project Development Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8094

RIN: 2120–AC85

1847. + TRANSPORT CATEGORY ROTORCRAFT STRUCTURAL FATIGUE EVALUATION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This action would revise the type certification standards for transport category rotorcraft by adding flaw tolerance requirements to the requirements for fatigue evaluation of structures. This action would also extend the requirements for fatigue evaluations from flight structures only to all critical structures, including landing gear, and would require consideration of operations having a high number of power cycles per hour. This rulemaking is considered significant because it involves important safety issues.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/83	48 FR 772
ANPRM Comment Period End	04/18/83	48 FR 772
NPRM	09/22/86	51 FR 33704
NPRM Comment Period End	04/03/87	51 FR 45343
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 09/22/86 (51 FR 33704); Regulatory Evaluation 10/02/89

Additional Information: Docket No. 23485. Public meeting held on February 8, 1983. This project was formerly entitled Rotorcraft Structural Fatigue Including Tolerance to Flaws. Project No. ASW-83-001R.

Agency Contact: Robert T. Weaver, Manager, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5111

RIN: 2120–AA84

1848. + AIRPLANE CABIN-FIRE PROTECTION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes amendments to the FAR which would provide for improved cabin fire protection for transport category airplanes by requiring: (1) each lavatory to be equipped with a smoke detector system which provides warning to the cockpit or to the passenger cabin crew; (2) each lavatory trash receptacle to be equipped with a fire extinguisher which discharges automatically upon the occurrence of a fire within the receptacle; (3) the number of hand fire extinguishers in the cabins of airplanes with passenger seating capacities greater than 200 to be increased; (4) a specified number of the hand fire extinguishers in the cabin to contain Hallon 1211 or equivalent as the extinguishing agent. These safety protections are currently required for operation of airplanes used in air carrier service, but not for the full range of transport category airplanes such as those used for executive transportation. This notice also proposes to require each transport category (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1292
NPRM Comment Period End	07/10/89	

Next Action Undetermined

DOT—FAA — Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/12/89 (54 FR 1292)

Additional Information: ABSTRACT CONT: airplane manufactured after a specified date to incorporate these improvements. These proposals are needed to respond to investigations of inflight fires and an inspection survey of the U.S. air carrier fleet, and are needed to increase protection against possible inflight fires. This rulemaking is significant because of substantial public interest.

Project No. ANM-83-027R.

Agency Contact: Gary L. Killion, Manager, Regulations Branch, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120–AB22

1849. + OCCUPANT RESTRAINT IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1344 Federal Aviation Act of 1958, Sec. 303; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604; 49 USC 1425 Federal Aviation Act of 1958, Sec. 605; 49 USC 1428 Federal Aviation Act of 1958, Sec. 606; 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 1430 Federal Aviation Act of 1958, Sec. 610; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to amend the rotorcraft airworthiness standards in Parts 27 and 29 of the FAR. These proposals would add two dynamic crash-impact design requirement conditions for seat and occupant restraint systems, increase the static design load factors for seating devices and items of mass in the cabin or adjacent to the cabin as prescribed, prescribe a shoulder harness for each occupant, and add human impact injury criteria for the dynamic crash-impact conditions. These proposals are intended to significantly improve occupant protection levels in a survivable emergency landing impact. This rulemaking is significant because of the obvious safety improvements in crash situations, but also because of industry and operator concerns as to incurred costs due to increased weight and design effort.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20938
NPRM Comment Period End	12/30/87	
Comment Period Reopened to 05/05/88	03/08/88	53 FR 7479
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/03/87 (52 FR 20938); Final Regulatory Evaluation 10/02/89

Additional Information: Project No. ASW-84-001R.

Agency Contact: James Major, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5117

RIN: 2120–AB35

1850. + ELIMINATION OF AIRPORT DELAYS

Significance: Agency Priority

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposed rule was designed to alleviate increased delays throughout the air-traffic system, and was significant because of its involvement with important departmental policy. However, this action will be withdrawn because the proposed measures are unnecessary at this time, considering the delay-reporting regulation implemented by DOT and nonregulatory air-traffic control actions.

Timetable:

Action	Date	FR Cite
NPRM	08/20/84	49 FR 33062
NPRM Comment Period End	09/04/84	
To be Withdrawn	10/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/20/84 (49 FR 33062)

Additional Information: Docket No. 24206.

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3491

RIN: 2120–AB42

1851. + INDEPENDENT POWER SOURCE FOR PUBLIC ADDRESS SYSTEM IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the regulations to require an independent power source for the public address (PA) system in certain transport category airplanes. The requirement would be applicable to future type certification of airplanes that are required to have PA systems for use in air carrier service and to such airplanes manufactured after a specified date, regardless of the date of application for type certificate. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	51 FR 19140
NPRM Comment Period End	11/24/86	

DOT—FAA — Final Rule Stage

Action	Date	FR Cite

Timetable:

"Report on Audit of Airmen Medical Certification Program."

DOT—FAA — Final Rule Stage

Timetable:

Government Levels Affected: None

Timetable:

Action	Date	FR Cite
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/27/86 (51 FR 19140); Final Regulatory Evaluation 10/02/89

Additional Information: Docket No. 24995. Project No. ANM 84-019R.

Agency Contact: Robert Hall, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2143

RIN: 2120–AB77

1852. + FLIGHT ATTENDANT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: The current regulations need to be revised to account for the changed operational practices stemming from airline economic deregulation. This proposal would clarify or change the number of flight attendants required when passengers are on board an airplane, including at stops. This proposal includes two new requirements: (1) a revision of the reduced number of flight attendants which, under certain conditions, a carrier is permitted to have on board a passenger-carrying airplane during stops; and (2) a requirement for a demonstration of competency by the other authorized persons who may be permitted to be substituted for required flight attendants when passengers are on board the airplane during stops. This proposal would change the current rule by clarifying and specifying the training required to be completed by these other authorized persons. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15134
NPRM Comment Period End	07/13/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/14/89 (54 FR 15134)

Additional Information: Project No. AVS-86-077R.

Agency Contact: David L. Catey, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120–AC32

1853. + PILOTS CONVICTED OF ALCOHOL- OR DRUG-RELATED MOTOR VEHICLE OFFENSES OR SUBJECT TO STATE MOTOR VEHICLE ADMINISTRATIVE PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 67

Legal Deadline: None

Abstract: This notice proposes rules under which two or more alcohol- or drug-related motor vehicle convictions or related State administrative actions would be grounds for certificate action against a pilot. This notice also proposes rules under which a pilot's medical certificate would expire, requiring that the pilot apply for a new medical certificate, after an alcohol- or drug-related motor vehicle action. The notice proposes to require pilots to report alcohol- or drug-related motor vehicle actions to the FAA and proposes to add an express consent provision to facilitate FAA access to information reported to the National Driver Register. The proposed rules are needed to prohibit a pilot from operating an aircraft after multiple alcohol- or drug-related motor vehicle actions. This rulemaking is a significant FAA initiative based on the Department of Transportation/ Inspector General Report of February 17, 1987, entitled "Report on Audit of Airmen Medical Certification Program."

Timetable:

Action	Date	FR Cite
NPRM	05/18/89	54 FR 21580
NPRM Comment Period End	07/17/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/18/89 (54 FR 21580)

Additional Information: Formerly entitled Pilots Convicted of Driving While Intoxicated (DWI)/Under Influence (DUI). Project No. AVS-87-115R.

Agency Contact: Judie Craine, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9681

RIN: 2120–AC51

1854. + DESIGN STANDARDS FOR FUEL TANK ACCESS COVERS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would require that the fuel tank access covers on transport category airplanes be designed to minimize penetration by likely foreign objects and be fire resistant. This proposed change is based on service experience and is intended to reduce the hazards associated with the loss of access panels. This action also proposes to require that the panels of all turbine powered airplanes operated in air carrier service after a specified date meet these standards. This rulemaking is considered significant because it involves an important crashworthiness safety issue.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18526
NPRM Comment Period End	09/17/88	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/88 (53 FR 18526); Final Regulatory Evaluation 10/02/89

Additional Information: Project No. ANM-86-006R.

Agency Contact: Iven Connally, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2120

RIN: 2120–AC58

1855. + MINIMUM EQUIPMENT LIST (MEL) REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposes to amend Part 125 and Part 135 requirements for the use of a Minimum Equipment List (MEL). It also proposes to amend the Part 121 requirements for the use of a MEL to make them consistent with the amended Part 125 and Part 135 MEL requirements. Finally, it provides for the development and use of MELs for single-engine aircraft operated under Part 135. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3320
NPRM Comment Period End	03/24/89	
Reopened Comment Period to 4/26/89	03/27/89	54 FR 12553
Final Action	04/02/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/23/89 (54 FR 3320); Final Regulatory Evaluation 04/02/90

Additional Information: Project No. AVS-87-271R.

Agency Contact: Marlene G. Livack, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, 202 267-3753

RIN: 2120–AC86

1856. + ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWER FACILITIES

Significance: Agency Priority

Legal Authority: 49 USC 1343; 49 USC 1346; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 170

Legal Deadline: Final, Statutory, December 31, 1988.

Abstract: This rulemaking would prescribe benefit-cost based criteria for establishment and discontinuance of visual flight rule (VFR) airport traffic control tower facilities. It considers traffic density (number of aircraft operations without consideration of aircraft size), passengers served, and aircraft operating efficiencies along with the cost of establishing and maintaining or decommissioning a tower. The FAA utilizes these criteria to assess benefits and costs associated with establishing or decommissioning an airport traffic control tower at an airport as a part of its mission to maximize safety and efficiency throughout the airport and airway system consistent with available resources. This regulation, if promulgated, would implement the requirements of recent legislation requiring the publication of criteria for navigational aids and airport traffic control towers as a Federal regulation. This rulemaking is significant because of statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22698
NPRM Comment Period End	07/06/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/25/89 (54 FR 22698)

Additional Information: Project No. APO-88-012R.

Agency Contact: Ward Keech, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-3312

RIN: 2120–AC98

1857. + PROPOSED ESTABLISHMENT OF THE PHOENIX TERMINAL CONTROL AREA AND REVOCATION OF THE PHOENIX AIRPORT, AIRPORT RADAR SERVICE AREA; ARIZONA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/02/89	54 FR 23922
Correction to NPRM	06/28/89	54 FR 27306
Correction to NPRM	07/24/89	54 FR 30759
NPRM Comment Period End	08/01/89	

Next Action Undetermined

provide for acceptance of alternative

update the airframe and related

Additional Information: Docket No.

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Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/02/89 (54 FR 23922)

Agency Contact: Betty W. Harrison, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9255

RIN: 2120–AD00

1858. + PROPOSED ESTABLISHMENT OF THE SALT LAKE CITY TERMINAL CONTROL AREA AND REVOCATION OF THE SALT LAKE CITY INTERNATIONAL AIRPORT, AIRPORT RADAR SERVICE AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/23/89	54 FR 26680
Correction to NPRM	07/21/89	54 FR 30633
NPRM Comment Period End	08/22/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/23/89 (54 FR 26680)

Agency Contact: Betty W. Harrison, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9255

RIN: 2120–AD02

1859. + PROPOSED ESTABLISHMENT OF THE MEMPHIS TERMINAL CONTROL AREA AND REVOCATION OF THE MEMPHIS AIRPORT, AIRPORT RADAR SERVICE AREA; TENNESSEE

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/26/89	54 FR 22844
NPRM Comment Period End	07/24/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/26/89 (54 FR 22844)

Agency Contact: Alton Scott, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9252

RIN: 2120–AD05

1860. ● + NAVIGATIONAL EQUIPMENT REQUIREMENT IN A TERMINAL CONTROL AREA, VISUAL FLIGHT RULES OPERATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposes to remove the navigational equipment requirement for operations conducted under visual flight rules in a terminal control area and recognizes the usefulness of other types of navigation equipment for visual flight rules operations. This proposal would codify existing practices into the Federal Aviation Regulations, and is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/26/89	54 FR 26782
NPRM Comment Period End	07/26/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/26/89 (54 FR 26782)

Agency Contact: Robert L. Laser, Air Traffic Rules Branch, Airspace-Rules/Aeronautical Information Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AD15

1861. ● + AIRBORNE LOW-ALTITUDE WINDSHEAR EQUIPMENT AND TRAINING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposed to amend the airborne low-altitude windshear equipment rule to (1) remove the requirement that windshear flight guidance be installed on older technology airplanes, (2) amend the provision allowing for an extended compliance period based on a phased airplane retrofit schedule, and (3) provide for acceptance of alternative airplane equipment in the form of an approved airborne windshear detection and avoidance system.

This action is the result of information received in a petition for rulemaking submitted by the Air Transport Association (ATA) requesting that the FAA amend the windshear equipment rule to repeal the requirement that older airplanes be retrofitted with the flight guidance system.

This action solicited comments on the ATA petition and on the FAA's intention to (1) standardize windshear terminology and (2) allow the use of alternative predictive windshear detection and avoidance systems, when such technology is available.

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34394
NPRM Comment Period End	09/18/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/89

Additional Information: Project No. AFS-77-23P.

Agency Contact: Gary Davis, Project Development Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 202 267-8096

RIN: 2120–AD18

1862. ROTORCRAFT REGULATORY REVIEW PROGRAM NOTICE NO. 4

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This is Notice 4 of a series of notices issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the airframe and related equipment requirements in Parts 27 and 29 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 9190
NPRM Comment Period End	09/19/88	53 FR 9190
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 03/14/88 (53 FR 9190)

Additional Information: Project No. ASW-82-004R.

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5117

RIN: 2120–AA29

1863. TRANSPORT CATEGORY AIRPLANE AIRWORTHINESS STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards contained in Part 25 applicable to transport category airplanes to: (1) relieve the regulatory burden wherever possible, (2) ensure the airworthiness standards are practicable for the light transport airplanes common to regional air carrier operation, and (3) update Part 25 for clarity and accuracy.

Timetable:

Action	Date	FR Cite
NPRM	12/03/84	49 FR 47358
NPRM Comment Period End	04/04/85	
Final Action	01/16/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 12/03/84 (49 FR 47358); Regulatory Evaluation 01/16/90

Additional Information: Docket No. 24344. Project No. ANM-82-001R.

Agency Contact: Gary Killion, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2112

RIN: 2120–AA47

1864. MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1352 Federal Aviation Act of 1958, Sec. 311; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend various sections of the regulations. Some of the amendments are clarifying or editorial in nature or correct improper or obsolete references. Others relax certain existing requirements. Others allow issuance of special flight permits for an additional purpose, relax a requirement for passenger information signs, and eliminate the bulk erasure device on cockpit voice recorders. This action is in response to numerous complaints, suggestions, and petitions for exemption concerning several regulatory requirements received from users of the National Airspace System. These users state that these sections contain obsolete references and vague, complex, and inadequate language and that, in some instances, the cost of compliance is not justified by the benefits derived.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/89 (49 FR 45214)

Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-6932

Avenue, SW, Washington, DC 20591, 202 267-8783

Avenue, SW, Washington, DC 20591, 202 267-8783

1869. LOW-FUEL-QUANTITY

Timetable:

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DOT—FAA

Final Rule Stage

Analysis: Regulatory Evaluation 10/03/83 (48 FR 45214)

Additional Information: Docket No. 23761. Project No. AVS-81-12SR.

Agency Contact: Jean Casciano, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9683

RIN: 2120–AA50

1865. FATIGUE REQUIREMENTS FOR SMALL AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would adopt fatigue requirements for empennage, canard, tandem wing, and winglet/tip fin structures for airplanes certificated in the normal, utility, acrobatic, or commuter category. Service history, airworthiness directives, and field reports related to unsafe, or potentially unsafe, fatigue failures of empennage structural components on airplanes of these types have shown the need to consider empennage fatigue strength during type certification.

Timetable:

Action	Date	FR Cite
NPRM	09/22/86	51 FR 33700
NPRM Comment Period End	01/21/87	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/86 (51 FR 33700); Regulatory Evaluation 10/02/89

Additional Information: The FAA is evaluating additional data obtained from NASA. This project was formerly titled Amend Part 23 to Include Empennage Fatigue Requirements. Project No. ACE-82-004R.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-6930

RIN: 2120–AA58

1866. NATIONAL AIRSPACE REVIEW (NAR): TERMINAL AIRSPACE TASK GROUP RECOMMENDATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 1; 14 CFR 71; 14 CFR 91

Legal Deadline: None

Abstract: This project would: (1) reclassify terminal control areas into one category; (2) apply the operating requirements of the current Group I TCA to Group II TCA's; (3) require student pilots to obtain a logbook endorsement from a certified instructor pilot prior to operating in any TCA; (4) replace the term "airport traffic area" with the term "control tower area;" (5) apply the two-way radio communications requirements of Section 91.87 for operations at an airport with an operating control tower operated by other entities; (6) adopt a new definition for airport traffic areas (control tower areas); (7) redefine control zones with a standard ceiling of 3,000 feet AGL; and (8) use nautical miles versus statute miles to describe certain terminal airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5055
ANPRM Comment Period End	06/06/85	50 FR 5055
To be Consolidated	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project ATO-200-83-17R (Docket # 24455). To be consolidated in RIN: 2120-AB95, Airspace Reclassification.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB02

1867. NIGHT-VISUAL FLIGHT RULES VISIBILITY AND DISTANCE FROM CLOUDS MINIMUMS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This proposal would establish standard visibility and cloud clearance minimums for night-visual flight rules operations. This rulemaking effort is the result of a recommendation of a nongovernmental aviation safety panel. This panel's recommendation sought to reduce the incidence of fatal aircraft accidents associated with night-visual flight rules flights in instrument flight rules conditions while in uncontrolled airspace.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 30124
NPRM Comment Period End	09/23/85	50 FR 30124
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/23/85 (50 FR 30124); Final Regulatory Evaluation 10/02/89

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1427; 48 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 2122; 49 USC 2123; 49 USC 2124; 49 USC 2125; 42 USC 4321 et seq; EO 11514, 49 USC 106(a), Revised Pub. L. 97-449, January 12, 1983, Regulatory Project ATO-200-83-16R (Docket # 24722).

Formerly entitled Nighttime VFR Weather Minimums.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB04

DOT—FAA

Final Rule Stage

1868. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES, ELECTRICAL AND ELECTRONIC ENGINE CONTROL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would establish requirements for the certification of electrical and electronic engine control systems. These control systems range from simple power or thrust trimming devices with full hydromechanical backup to full authority digital electronic controls with no mechanical backup. Although these types of control systems have been certificated under existing regulations, those regulations do not address specific requirements related to electrical and electronic engine controls such as engine supplied power and data, lightning protection, high energy radio frequency protection, and software verification/validation.

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6186
NPRM Comment Period End	07/29/85	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/85 (50 FR 6186); Final Regulatory Evaluation 10/02/89

Additional Information: Project No. ANE-83-001R.

Agency Contact: Cosimo J. Bosco, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 270-2402

RIN: 2120–AB06

1869. LOW-FUEL-QUANTITY ALERTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action contemplates possible revision to FAR 25.1305 to include a requirement to install a means to alert the flightcrew of potentially unsafe low fuel.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17890)

Additional Information: Docket No 25213. Project No. ANM-83-039R.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2135

RIN: 2120–AB46

1870. CONSTRUCTION, ALTERATION, ACTIVATION, AND DEACTIVATION OF AIRPORTS

Significance: Nonsignificant

Legal Authority: 49 USC 1350; 49 USC 1354(a); 49 USC 1355

CFR Citation: 14 CFR 157

Legal Deadline: None

Abstract: This notice proposes to amend the FAR Notice of Construction, Alteration, Activation, and Deactivation of Airports, in response to a recommendation of a National Airspace Review (NAR) task group and an FAA-initiated review of this regulation. The FAA believes that the proposed changes will enhance the safety and efficiency of the use of airspace and the safety of persons and property on the surface.

Timetable:

Action	Date	FR Cite
NPRM	10/04/88	53 FR 39062
NPRM Comment Period End	01/03/89	
Final Action	02/22/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/04/88 (53 FR 39062); Final Regulatory Evaluation 02/22/90

Additional Information: Regulatory Project ATO-200-88-13R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB74

1871. HELICOPTER INSTRUMENT FLIGHT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This notice proposed to amend the Federal Aviation Regulations to provide helicopter instrument flight airworthiness standards for the approach and landing flight phases to permit flight at airspeeds below the normal minimum instrument flight speed. The FAA has carefully considered all of the comments received in response to this notice, the comments made at the public meeting, and the results of further research flight tests. As a result, the FAA has determined that additional study is required and this notice will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21488
NPRM Comment Period End	04/03/87	51 FR 45343
To be Withdrawn	01/19/90	

Small Entities Affected: None

Government Levels Affected: None

DOT—FAA

Final Rule Stage

DOT—FAA

Final Rule Stage

Analysis: Regulatory Evaluation 06/12/86 (51 FR 21488)

Additional Information: Project No. ASW-84-003R.

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5109

RIN: 2120–AB87

1872. AMEND SECTION 43.17 TO ALLOW FOR MAINTENANCE OF U.S. AERONAUTICAL PRODUCTS IN CANADA IN COMPLIANCE WITH THE U.S.-CANADIAN BILATERAL AIRWORTHINESS AGREEMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 43

Legal Deadline: None

Abstract: This notice proposes to amend the regulations to provide for the acceptance of maintenance, preventive maintenance, and alterations accomplished on U.S. civil aeronautical products and components in Canada. This proposal is prompted by the airworthiness maintenance provisions contained in the U.S.-Canadian Bilateral Airworthiness Agreement and the Schedule of Implementation Procedures between the United States and Canada. The proposed amendment would provide for acceptance by the FAA of maintenance, preventive maintenance, and alterations performed on aircraft, engines, propellers, appliances, materials, parts, and other components which are transported from the United States to Canada and which are for installation on U.S.-registered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24304
NPRM Comment Period End	08/07/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/06/89 (54 FR 24304)

Additional Information: Project No. AVS-83-258R.

Agency Contact: Leo Weston, Aircraft Maintenance Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8203

RIN: 2120–AB89

1873. CONTROLLED AIRSPACE DESIGNATIONS IN INTERNATIONAL AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) F.A. Act, Section 307(a); 49 USC 1354(a) F.A. Act, Section 313(a)

CFR Citation: 14 CFR 71; 14 CFR 75

Legal Deadline: None

Abstract: User organizations recommended under the National Airspace Review to simplify the classification of offshore airspace designations. This issue will be subsumed in the broader airspace reclassification proceeding and will be consolidated therein.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/85	50 FR 30798
ANPRM Comment Period End	10/28/85	50 FR 30798
To be Consolidated	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/29/85 (50 FR 30798)

Additional Information: Regulatory Project ATO-200-84-19R/ATO-200-84-7R. This action will be consolidated into RIN 2120-AB95, Airspace Reclassification.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9246

RIN: 2120–AB93

1874. PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 1485; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: The FAA proposes to update and clarify the certification and operations specifications requirements for persons who operate aircraft for compensation or hire by (1) codifying the Special Federal Aviation Regulation pertaining to the certification requirements and (2) consolidating into one part the certification and operations specifications requirements for persons who operate under Part 121 or Part 135. The proposal responds to the termination of the Civil Aeronautics Board (CAB) and to changes in the air transportation industry since the Airline Deregulation Act of 1978. The proposal would provide a guide enabling persons who operate aircraft for compensation or hire to determine the certification and operations requirements with which they must comply.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39852
NPRM Comment Period End	01/10/89	
Final Action	11/13/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/12/88 (53 FR 39852); Final Regulatory Evaluation 11/13/89

Additional Information: Project No. AVS-84-190R.

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3752

RIN: 2120–AC08

1875. SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 5

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23; 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This notice is one of a series of notices that proposes to adopt new and amended airworthiness standards for small airplanes. It also proposes to amend the flight instrument requirements in the general operating rules and the operating rules for air taxi and commercial operators. This particular notice proposes amended design requirements for complex systems critical for safety in small airplanes and amended requirements for locating certain instruments, including new technology electronic display indicators. It proposes to add a new airworthiness standard for electronic display instruments. It also includes related changes to the general and air taxi operating rules to allow a third attitude indicator in lieu of a rate-of-turn indicator.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9338
NPRM Comment Period End	07/05/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/89 (54 FR 9338)

Additional Information: Formerly entitled Part 23 Airworthiness Review Notice 5 (Equipment, Systems, and Installation).

Project No. ACE-85-006R.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-5688

RIN: 2120–AC14

1876. SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE 2

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 1; 14 CFR 23

Legal Deadline: None

Abstract: This notice is one of a series of notices that proposes to adopt new and amended airworthiness standards for small airplanes which are based on certain proposals discussed at the Small Airplane Airworthiness Review Conference held on October 22-26, 1984, in St. Louis, Missouri. These new and amended airworthiness standards result in the need for new definitions to be added to the regulations, and this notice also proposes the addition of those definitions. The proposals in this notice reflect advancements in technology being incorporated in current designs, permit type certification of spin resistant airplanes, and reduce the regulatory burden in showing compliance with some of the requirements while maintaining the standards governing the design and type certification of small airplanes as may be required in the interest of safety.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9276
NPRM Comment Period End	07/05/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/89 (54 FR 9276)

Additional Information: Formerly entitled Part 23 Airworthiness Review, Notice 2.

Project No. ACE-84-010R.

Agency Contact: Ervin E. Dvorak, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120–AC15

1877. IMPROVED STRUCTURAL REQUIREMENTS FOR PRESSURIZED CABINS AND COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend Part 25 of the Federal Aviation Regulations (FAR) to upgrade the structural requirements for transport category airplane pressurized cabins by (1) amending the criteria for evaluation of the secondary effects of openings in the pressure vessel, and (2) extending the area of consideration to include openings anywhere within the pressure vessel. The required opening sizes to be considered would not be changed. The proposal is the result of an FAA review of the pressurized cabin load requirements and is intended to make the pressurized cabin load requirements less design-dependent and more objective. It would require evaluation of openings in any pressurized compartment and examination of the effects of differential pressure loads on any critical structure inside or outside of the pressurized cabin.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8742
Correction to NPRM	05/19/88	53 FR 18022
NPRM Comment Period End	07/14/88	
Final Action	12/26/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/16/88 (53 FR 8742); Final Regulatory Evaluation 12/26/89

Additional Information: Project No. ANM-86-005R.

Agency Contact: James Haynes, Policy and Procedures Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2113

RIN: 2120–AC44

1878. REALIGNMENT OF RESTRICTED AREAS IN THE EGLIN AFB AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1348(a); EO 10854; 49 USC 106(g); 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 1510; 49 USC 1522; 49 USC 2402; 49 USC 2424

CFR Citation: 14 CFR 73; 14 CFR 93

Legal Deadline: None

Abstract: This notice proposes to amend the regulations to provide for the acceptance of maintenance, preventive maintenance, and alterations accomplished on U.S. civil aeronautical products and components in Canada. This proposal is prompted by the airworthiness maintenance provisions contained in the U.S.-Canadian Bilateral Airworthiness Agreement and the Schedule of Implementation Procedures between the United States and Canada. The proposed amendment would provide for acceptance by the FAA of maintenance, preventive maintenance, and alterations performed on aircraft, engines, propellers, appliances, materials, parts, and other components which are transported from the United States to Canada and which are for installation on U.S.-registered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24304
NPRM Comment Period End	08/07/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/06/89 (54 FR 24304)

Additional Information: Project No. AVS-83-258R.

Agency Contact: Leo Weston, Aircraft Maintenance Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8203

RIN: 2120–AB89

1879. AMENDMENT TO PART 71 TO REVOKE THE CONTROL ZONE AT ROCKFORD, IL

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) F.A. Act, Section 307(a); 49 USC 1354(a) F.A. Act, Section 313(a)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action proposes to revoke the control zone at Rockford, IL. The control zone is no longer required because the Rockford Airport Traffic Control Tower has been closed.

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	54 FR 35922
NPRM Comment Period End	10/16/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/31/89 (54 FR 35922)

Additional Information: Project No. AGL-89-10.

Agency Contact: Nancy B. Shelton, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9246

RIN: 2120–AD01

1880. AMENDMENT TO PART 71 TO REVOKE THE CONTROL ZONE AT MARION, IL

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) F.A. Act, Section 307(a); 49 USC 1354(a) F.A. Act, Section 313(a)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action proposes to revoke the control zone at Marion, IL. The control zone is no longer required because the Marion Airport Traffic Control Tower has been closed.

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	54 FR 35923
NPRM Comment Period End	10/16/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/31/89 (54 FR 35923)

Additional Information: Project No. AGL-89-11.

Agency Contact: Nancy B. Shelton, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9246

RIN: 2120–AD02

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	54 FR 35924
NPRM Comment Period End	10/16/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/31/89 (54 FR 35924)

Additional Information: Project No. AGL-89-12.

Agency Contact: Nancy B. Shelton, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9246

RIN: 2120–AD03

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DOT—FAA

Final Rule Stage

Legal Deadline: None

Abstract: This revision proposes to realign restricted areas in the Eglin AFB area to increase the availability of airspace for civil users. In addition, to include certain portions of the realigned restricted areas, when not active in Section 93.81, Special Air Traffic Rule Airspace.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 517
NPRM Comment Period End	02/19/88	53 FR 517

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/88 (53 FR 517)

Additional Information: Regulatory Project No. ATO-200-87-11P

Agency Contact: Paul Gallant/Wayne Pierce, Air Traffic Control Specialists, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9253

RIN: 2120–AC63

1879. INDEMNIFICATION OF PUBLISHERS OF AERONAUTICAL CHARTS AND MAPS

Significance: Nonsignificant

Legal Authority: 49 USC 1519

CFR Citation: 49 CFR 15.10; 49 CFR 15.11; 49 CFR 15.12; 49 CFR 15.13; 49 CFR 15.14; 49 CFR 15.15; 49 CFR 15.16; 49 CFR 15.17

Legal Deadline: None

Abstract: This proposed action would revise 49 USC 1519 to provide for the filing of indemnity claims by publishers of aeronautical charts and maps, who are not presently encompassed in that section, provided they meet certain specified conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31608
NPRM Comment Period End	10/03/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 08/18/88 (53 FR 31608)

Additional Information: This action is in response to an amendment of 49 USC 1519, which added a new section 1118 to the Federal Aviation Act of 1978, as amended.

Agency Contact: James S. Dillman, Assistant Chief Counsel, Litigation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3661

RIN: 2120–AC73

1880. COMMUTER CATEGORY - RESPONSE TO FINAL RULE COMMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would respond to and resolve comments received in response to the final rule, request for comments, which was published January 15, 1987 (52 FR 1806).

Timetable:

Action	Date	FR Cite
Final Action	11/09/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ACE-88-003R.

Agency Contact: Earsa L. Tanksley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 600 Independence Avenue, SWtion, Washington, DC 20591, 816 426-6930

RIN: 2120–AC77

1881. ELECTRICAL AND ELECTRONIC SYSTEMS LIGHTNING PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the Federal Aviation Regulations to add a new standard for transport category airplanes which would provide lightning protection requirements for installed electrical and electronic systems. This proposal is the result of increasing concern for the vulnerability of these systems to the indirect effects of lightning. It seeks to promulgate specific lightning protection requirements for electrical systems which perform essential or critical functions.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	54 FR 23164
NPRM Comment Period End	09/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/89 (54 FR 23164)

Additional Information: Project No. ANM-88-014R.

Agency Contact: Gene Vandermolen, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2157

RIN: 2120–AC81

1882. ● IMPLEMENTATION OF EQUAL ACCESS TO JUSTICE ACT

Significance: Nonsignificant

Legal Authority: 5 USC 504(c)(1); PL 99-80, Equal Access to Justice Act

CFR Citation: 14 CFR 14

Legal Deadline: None

Abstract: This notice would implement the Equal Access to Justice Act. The Act, which took effect on October 1, 1981, provides for the award of attorney fees and other expenses to parties who prevail over the Federal Government in certain administrative and court proceedings under Section 554 of the Administrative Procedure Act. It requires agencies conducting proceedings under Section 554 to establish uniform procedures for making awards. This notice would set uniform procedures under the Equal Access to Justice Act for any adversary adjudication conducted pursuant to Section 554 by the FAA.

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/17/89	54 FR 29978
NPRM Comment Period End	08/16/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan H. Horowitz, Manager, Enforcement Policy Branch, Regulations and Enforcement Division, Department of Transportation, Federal Aviation Administration, 202 267-3137

RIN: 2120–AD17

1883. ● ORGANIZATIONAL CHANGES AND DELEGATIONS OF AUTHORITY

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1427; 49 USC 2101; 49 USC 2102; 49 USC 106(g); ...

CFR Citation: 14 CFR 11; 14 CFR 13; 14 CFR 15; 14 CFR 21; 14 CFR 43; 14 CFR 45; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 67; 14 CFR 73; 14 CFR 77; 14 CFR 91; 14 CFR 93; 14 CFR 109; ...

Legal Deadline: None

Abstract: This action would adopt changes to office titles and certain terminology in the regulations that were affected by a recent agencywide reorganization. These changes will reflect delegations of authority that were changed, as well as offices that were renamed or abolished and replaced with new office designations. These changes are necessary to make the regulations consistent with the current agency structure.

Timetable:

Action	Date	FR Cite
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-86-230-R.

Agency Contact: Jean Casciano, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9683

RIN: 2120–AD24

1884. PART 95 INSTRUMENT FLIGHT RULES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act of 1958, Sec. 307; 49 USC 1510 F.A. Act of 1958, Sec. 1110

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2500. 10/00/89 - 10/00/90.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8277

RIN: 2120–AA63

1885. AIRWORTHINESS DIRECTIVES

Significance: Routine and Frequent

Legal Authority: 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1423 F.A. Act, Sec. 603; 49 USC 1431(b) F.A. Act, Sec. 611(b)

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected--300. 10/00/89 - 10/00/90.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9580

RIN: 2120–AA64

1886. STANDARD INSTRUMENT APPROACH PROCEDURES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act, Sec. 307; 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1510 F.A. Act, Sec. 1110

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2800. 10/00/89 - 10/00/90.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8277

RIN: 2120–AA65

1887. AIRSPACE ACTIONS

Significance: Routine and Frequent

Legal Authority: 49 USC 1348(a) F.A. Act, Sec. 307(a); 49 USC 1354(a) F.A. Act, Sec. 313(a)

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--240.

Timetable:

Action	Date	FR Cite
Final Action	04/01/90	

Small Entities Affected: None

Government Levels Affected: None

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DOT—FAA — **Final Rule Stage**

Agency Contact: Richard Huff, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3075

RIN: 2120–AA66

DEPARTMENT OF TRANSPORTATION (DOT) — **Completed Actions**

Federal Aviation Administration (FAA)

1888. + METROPOLITAN WASHINGTON AIRPORTS POLICY

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(b) Federal Aviation Act of 1958, Sec. 307(b); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposed various operational ceilings at Washington National Airport and contemplated future guidance on operation and development of National and Dulles Airports.

This action was superseded by the Metropolitan Washington Airports Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/28/83	48 FR 19174
NPRM Comment Period End	07/27/83	
SNPRM	06/14/84	49 FR 24626
SNPRM Comment Period End	07/16/84	
Withdrawn	12/03/86	51 FR 43585

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/14/84 (49 FR 24626)

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3491

RIN: 2120–AA89

1889. ● + ANTI-DRUG PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 121

Legal Deadline: None

Abstract: On November 21, 1988, the FAA published a final rule requiring specified aviation employers and operators to submit and to implement anti-drug programs for personnel performing sensitive safety- and security-related functions. This final rule extends certain compliance dates and revises the method by which certain entities may be covered by anti-drug programs approved by the FAA. This document also makes minor editorial changes and clarifications to the final anti-drug rule to aid an employer's development of a program and implementation of an approved anti-drug program. These issues were addressed in the prior rulemaking actions that lead to promulgation of the final anti-drug rule. This rulemaking action is necessary to facilitate implementation of the final rule published on November 21, 1988. This rulemaking action is intended to clarify the requirements of the final anti-drug rule and to improve administration of the rule. Comments on this final rule were invited through May 15, 1989. A response to those comments will be published in the Federal Register. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/11/89	
Final Action	04/14/89	54 FR 15148

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Heidi Mayer, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3410

RIN: 2120–AC33

1890. + CERTIFICATION OF RECREATIONAL PILOTS AND ANNUAL FLIGHT REVIEW; REQUIREMENTS FOR RECREATIONAL PILOTS AND NON-INSTRUMENT-RATED PRIVATE PILOTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This final rule establishes a recreational pilot certificate. The recreational pilot certificate is intended to provide a lower cost alternative to the private pilot certificate by requiring less training than is currently required for private pilot certification. The recreational pilot certificate is intended for those persons interested in flying basic, experimental, or homebuilt aircraft in close proximity to a home airport while in airspace in which communication with air traffic control facilities is not required. The rule also establishes an annual flight review requirement for non-instrument-rated private pilots with fewer than 400 flight hours. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/25/85	50 FR 26286
NPRM Comment Period End	09/24/85	
Final Action	03/29/89	54 FR 13028
Final Action Effective	08/31/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/25/85 (50 FR 26286); Regulatory Evaluation 03/29/89 (54 FR 13028)

Additional Information: Docket No. 24695. Formerly entitled Certification of Recreational Pilots and Annual Flight Review. Project No. AVS-82-173R.

Agency Contact: Edna French, General Aviation and Commercial Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3844

RIN: 2120–AA54

DOT—FAA — **Completed Actions**

1891. + LIMITS ON THE GROWTH OF NOISE FROM CERTAIN AIRPLANES AND AIRPLANE TYPES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514; 49 USC 106(g)

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: This final rule revises noise certification standards to ensure that aircraft certificated within certain noise level groups or "stages" remain within those stages. This rule applies to large transport category aircraft and to turbojet powered aircraft regardless of category and prohibits modification of individual airplanes and whole airplane types which result in increased noise beyond the limits of an airplane's certificated stage. While the rule does not restrict airplane changes that result in decreased noise, it does prohibit any remodification of an airplane which would return it to its original noise level. This rulemaking is significant because of intense public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/17/87	52 FR 23144
NPRM Comment Period End	09/14/87	
Final Action	05/15/89	54 FR 21040
Final Action Effective	08/14/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/15/89 (54 FR 21040)

Additional Information: Project No. AEE-54-098R.

Agency Contact: Steven Albersheim, Environmental Specialist, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120–AB50

1892. + NOISE AND EMISSION STANDARDS FOR AIRCRAFT POWERED BY ADVANCED TURBOPROP (PROPFAN) ENGINES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423; 49 USC 1431

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: Although this project was considered significant due to public interest, the FAA has decided, after consideration of the public comments submitted in response to ANPRM No. 87-2, to discontinue this rulemaking. The ANPRM sought public comments on the need for modifications to current noise and emission standards as they apply to the emerging generation of advanced turboprop (propfan) engines and the aircraft powered by them. At this time, further rulemaking action is inappropriate. Before the FAA can determine whether any additional standards and regulations are necessary to govern the noise characteristics of the advanced turboprop (propfan) engines, the agency must first conduct the analysis required by Sections 611(b)(2) and (d) of the Federal Aviation Act of 1958. Only after this analysis has been performed will the FAA be able to determine whether additional noise standards are necessary or appropriate. In order to perform this analysis in a timely manner, the FAA will seek to enter into a joint research effort with the National Aeronautics and Space Administration and industry. The results of this research will be made available for public comment.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/87	52 FR 8050
ANPRM Comment Period End	06/11/87	
Comment period extended to 10/01/87	07/20/87	52 FR 27304
Withdrawn	05/05/89	54 FR 19496

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard N. Tedrick, Office of Environment, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3577

RIN: 2120–AC20

1893. + LOCATION OF PASSENGER EMERGENCY EXITS IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This final rule establishes a new standard that limits the distance between emergency exits on transport category airplanes. This rule prohibits airplane manufacturers and air carriers from increasing the distance between emergency exits to more than 60 feet. Existing regulations do not limit the distance. This rule is intended to ensure an opportunity for safe passenger evacuation during an emergency, and for this reason, this rule is considered significant.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39190
NPRM Comment Period End	12/21/87	
Final Action	06/23/89	54 FR 26688

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Action	Date	FR Cite
Final Action Effective	07/24/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/23/89 (54 FR 26688)

Additional Information: Project No. AVS-86-271R.

Agency Contact: Arthur Hayes, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9937

RIN: 2120–AC29

1894. ● + TERMINAL CONTROL AREA (TCA) CLASSIFICATION AND TCA PILOT AND NAVIGATIONAL EQUIPMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: On October 14, 1988, the FAA published a final rule on TCA Classification and TCA Pilot and Navigational Equipment Requirements. That final rule required, among other things, all aircraft operating in a TCA to be equipped with Very High Frequency Omnidirectional Range (VOR) or Tactical Air Navigation (TACAN) equipment, eliminating the previous exclusion for helicopters effective July 1, 1989. This action delays the effective date of the navigational equipment requirement for helicopter operations in a TCA until January 1, 1990. The FAA by separate action intends to propose to amend the regulations requiring VOR or TACAN navigational equipment only for aircraft conducting operations under IFR. Consequently, the FAA is delaying the effective date of the TCA navigational equipment requirement for 180 days. This delay is necessary to allow interested parties to comment on the related equipment proposal and to delay purchase of equipment should that proposal be adopted.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/06/89	
Final Action	06/09/89	54 FR 24682

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert L. Laser, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AC35

1895. ● + SECURITY PROGRAM FOR FOREIGN AIR CARRIERS

Significance: Agency Priority

Legal Authority: 49 USC 1345(a); 49 USC 1346; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1502; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: This final rule requires foreign air carriers that land or take off in the United States to submit to the Administrator for approval a written security program that describes the procedures, facilities, and equipment used by foreign air carriers to provide for the protection of persons and property traveling in air transportation against acts of criminal violence and air piracy. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/08/88	53 FR 34874
NPRM Comment Period End	11/07/88	
Final Action	03/16/89	54 FR 11116
Final Action Effective	04/17/89	
Notice of Implementation Policy	06/15/89	54 FR 25551

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 03/16/89 (54 FR 11116)

Additional Information: A final rule was published on March 16, 1989. On June 15, 1989, the FAA published a notice which sets forth an implementation policy regarding the final rule. The policy statement stated that with respect to that portion of a proposed security program dealing with identified airports that are a last point of departure to the United States, a foreign air carrier may submit a proposed security program that either specifies the procedures implemented for its operations to the United States at those airports or refers the FAA to the appropriate government authorities that implement those procedures.

Agency Contact: David Smith, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3466

RIN: 2120–AC42

1896. + COCKPIT VOICE RECORDERS (CVR) AND FLIGHT RECORDERS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1502; 49 USC 106(g); ...

CFR Citation: 14 CFR 23; 14 CFR 25; 14 CFR 27; 14 CFR 29; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA amends its regulations to require digital flight data recorders and cockpit voice recorders (CVR) to be installed in a broad category of airplanes and rotorcraft operated by air carriers and commuters, as well as in selected aircraft operated in general aviation. The amendments are in response to legislation which mandates the FAA to amend its flight recorder and CVR requirements in accordance with recommendations from the National Transportation Safety Board. The intent of this rulemaking is to provide more information to accident investigators in determining the causes of accidents and the measures needed to correct the causes. In addition, the FAA requested comments on the general aviation requirements. A disposition of those comments was published in the Federal Register. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/12/88	53 FR 4314
NPRM Comment Period End	03/28/88	53 FR 4314
Final Action	07/11/88	53 FR 26134
Correction to Final Action	08/16/88	53 FR 30838
Correction to Final Action	08/16/88	53 FR 30906
Final Action Effective	10/11/88	
Disposition of comments	07/07/89	54 FR 28769

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 07/11/88 (53 FR 26134)

Additional Information: Formerly entitled Commuter Category Airplanes: Cockpit Voice Recorder (CVR) and Flight Data Recorder (FDR) Requirements. Project No. AVS-87-145R.

Agency Contact: Frank Rock, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9567

RIN: 2120–AC48

1897. ● + TRANSPONDER WITH AUTOMATIC ALTITUDE REPORTING CAPABILITY REQUIREMENT

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; ...

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, June 30, 1988.

Abstract: This rulemaking requires a transponder and automatic altitude reporting equipment in terminal airspace of certain airports where air traffic control radar service is provided. Implementation will be in two phases: Phase I, effective June 1, 1989, requires a transponder with Mode C at and above 10,000 feet MSL, and within 30 miles of TCA primary airports. Balloons, gliders, and aircraft without an electrical system are excluded when operating outside a TCA below the altitude of the TCA ceiling and when operating between 10,000 and 18,000 feet MSL. Phase II, effective December 30, 1990, implements a transponder with Mode C requirement in and above the airspace of an ARSA up to 10,000 feet. This rulemaking was significant because of substantial public interest and statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	02/12/88	53 FR 4306
Comment period extended to 05/12/88	03/24/88	53 FR 9758
NPRM Comment Period End	03/28/88	
Final Action	06/21/88	53 FR 23356
Correction to Final Rule	07/01/88	53 FR 25050
Correction to Final Rule	07/14/88	53 FR 26592
Final Action Effective	07/21/88	
Delay of Effective Dates	06/16/89	54 FR 25680
Policy Statement	06/30/89	54 FR 27836

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/21/88 (53 FR 23356)

Additional Information: This final rule was published on June 21, 1988. On June 30, 1989, the FAA published a policy statement which allows operators flexibility while transitioning to this rule. This policy statement was necessary because many pilots delayed their decision to purchase the required equipment pending the outcome of the FAA's decision on a petition for rulemaking which would affect this final rule. Considering that the petition was denied only 14 days prior to the implementation date of this final rule, the FAA believed it was necessary to issue the policy statement.

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9245

RIN: 2120–AC86

1898. + PARTS 121/135 TRAINING, CHECKING, CERTIFICATION, AND QUALIFICATION

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would propose to improve aircrew performance in air carrier and commuter operations by establishing a core of training requirements to include cockpit resource management (CRM) training, airman upgrade training, milestone schedules for training, criteria for training centers, etc. This rulemaking, which is considered significant because of its safety implications, is a duplicate of RIN 2120-AC79 and is therefore deleted from the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated Duplicated in RIN 2120-AC79	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Formerly entitled Advanced Qualification Program. Project No. AXR-88-301R.

Agency Contact: David Catey, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8094

RIN: 2120–AC80

1899. ● + SMOKING ABOARD AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: Final, Statutory, April 23, 1988.

Abstract: This rule requires the "no smoking" sign to be turned on at all times on scheduled airline flights, except for flights between the United States and other countries, which are scheduled to be two hours or less in duration. This rule carries out a ban on

smoking on such flights mandated by PL 100-202. This rule also makes minor changes in other related sections of Parts 121 and 135 which affect smoking aboard air carrier aircraft during flights not covered by a total ban. Smoking in lavatories is prohibited on all air carrier flights. Also, the required passenger briefing must include more detailed instructions on smoking, including all of these changes and the new statutory ban on tampering with smoke alarms in aircraft lavatories. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action	04/13/88	53 FR 12358
Final Action Effective	04/23/88	
Correction to Final Rule	04/26/88	53 FR 14888
Correction to Final Rule	11/02/88	53 FR 44182
Disposition of Comments	05/26/89	54 FR 22872

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/13/88 (53 FR 12358)

Additional Information: Due to the congressional mandate, the rule went into effect on April 23, 1988. Because of the early effective date, the FAA did not have sufficient time to issue a notice of proposed rulemaking and receive comments from the public. Therefore, post-effective date comments were invited from the public. The comment period closed on May 31, 1988; however, the FAA addressed comments received through December 31, 1988, in a disposition of comments which was published on May 26, 1989.

Agency Contact: Gary E. Davis, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AC83

1900. + HIGH DENSITY TRAFFIC AIRPORTS SLOT ALLOCATION AND TRANSFER METHODS

Significance: Agency Priority

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: Other, Statutory, June 30, 1989.
As mandated by PL 100-457.

Abstract: This final rule makes several technical amendments to the regulations pertaining to allocation and transfer of air carrier and commuter operator slots (i.e., allocated instrument flight rules take-off and landing reservations) at Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, and Washington National Airport. It provides that slots generally will not be withdrawn from carriers holding eight or fewer slots if the holding carrier itself operates the slots. It also changes the maximum passenger seating capacity for operations in "scheduled commuter" slots from less that 56 seats to less than 75 seats, and changes the definition of "summer" and "winter" season to conform to the current legal definition of Daylight Savings Time and Local Standard Time. This rulemaking was significant because of congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/22/88	53 FR 51628
NPRM Correction	01/10/89	54 FR 831
NPRM Correction	01/23/89	54 FR 3079
NPRM Comment Period End	02/06/89	
Final Action	08/22/89	54 FR 34904
Final Action Effective	09/21/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/22/88 (53 FR 51628)

Agency Contact: David L. Bennett, Airspace and Environmental Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-3491

RIN: 2120–AC96

1901. + PROPOSED ESTABLISHMENT OF THE BALTIMORE, MARYLAND, TERMINAL CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace user. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2120-AD01	07/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project has been combined with RIN 2120-AD01, Proposed Establishment of the Washington Tri-Area Terminal Control Area and Revocation of the Washington, DC, Terminal Control Area and Airport Radar Services Areas at Baltimore-Washington International Airport, MD, and Dulles International Airport, VA.

Agency Contact: Jesse Bogan, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9253

RIN: 2120–AD06

1902. + PROPOSED ESTABLISHMENT OF THE CHARLOTTE TERMINAL CONTROL AREA AND REVOCATION OF THE CHARLOTTE/DOUGLAS INTERNATIONAL AIRPORT, AIRPORT RADAR SERVICE AREA; NORTH CAROLINA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this final rule is to substantially increase safety while accommodating the legitimate concerns of airspace users. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/08/89	54 FR 19860
Correction to NPRM	05/18/89	54 FR 21526
NPRM Comment Period End	07/07/89	
Final Action	08/08/89	54 FR 32604
Final Action Effective	08/24/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/08/89 (54 FR 19860); Final Regulatory Evaluation 08/08/89 (54 FR 32604)

Agency Contact: Alton Scott, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9252

RIN: 2120–AD08

1903. ● + EXPLOSIVES DETECTION SYSTEMS FOR CHECKED BAGGAGE

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: Final, Statutory, August 29, 1989.
Public Law 101-45

Abstract: This notice proposes to require domestic air carriers conducting scheduled or public charter operations with aircraft with a passenger seating configuration of more than 60 seats to use an explosives detection system, such as a thermal neutron analysis device, approved by the Administrator, to screen checked baggage. This rulemaking is considered significant because of substantial public interest and a statutory deadline.

Timetable:

Action	Date	FR Cite
NPRM	07/10/89	54 FR 28985
NPRM Comment Period End	08/07/89	
Final Action	09/05/89	54 FR 36938
Final Action Effective	10/05/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: RFA; Regulatory Evaluation 07/10/89 (54 FR 28985)

Additional Information: Project No. AXR-89-195R.

Agency Contact: Quinten T. Johnson, Civil Aviation Security Division, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8058

RIN: 2120–AD12

1904. ● + SECURITY DIRECTIVES AND INFORMATION CIRCULARS

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1358; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This final rule provides for the issuance of Security Directives and Information Circulars to enable air carriers and the security community to coordinate responses to threats against civil aviation. This rule also requires mandatory compliance with the countermeasures prescribed in Security Directives and prohibits the release of the information contained in both Security Directives and Information Circulars to unauthorized persons. This action is necessary to simplify and expedite existing procedures, to ensure that appropriate officials take specific measures to counter terrorism directed at civil aviation, and to prohibit the unauthorized disclosure of sensitive security information. This regulation is intended to increase protection of passengers and crewmembers traveling in air transportation and air commerce. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action	07/10/89	54 FR 28982
Final Action Effective	07/10/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/10/89 (54 FR 28982)

Additional Information: The FAA has allowed a 30-day comment period for this final rule. That comment period ended August 9, 1989. Any comments received in response to the final rule will be addressed in a separate rulemaking document.

Project No. AXR-89-196R.

Agency Contact: Quinten T. Johnson, Civil Aviation Security Division, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8058

RIN: 2120–AD14

1905. ● + AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM; TRANSPONDER WITH AUTOMATIC ALTITUDE REPORTING CAPABILITY REQUIREMENT

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1304; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action responded to a petition filed by the Experimental Aircraft Association, Aircraft Owners and Pilots Association, and Helicopter Association International concerning Mode S and Mode C transponder requirements. The Mode S transponder aspect of that petition was partially granted with a final rule that revised the dates associated with the installation of Mode S transponders. This final rule allows certain aircraft operators to install non-Mode S

transponders in aircraft until July 1,

Timetable:

11514; 49 USC 106(g) Revised Pub L 97-

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transponders in aircraft until July 1, 1992, instead of until January 1, 1992, provided that such transponders are manufactured prior to January 1, 1991, instead of prior to January 1, 1990. A manufacturer's comment to the petition which cited a delay in the production of general aviation type Mode S transponders necessitated this final rule action. This action also denied that portion of the petition concerning Mode C transponders. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Summary of Petition for Rulemaking	12/28/88	53 FR 52428
Final Action	06/16/89	54 FR 25680
Final Action Effective	06/16/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald C. Matthews, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 25091, 202 267-3479

RIN: 2120–AD22

1906. REVIEW PART 75 FOR RETENTION OR REVOCATION

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 106(g)

CFR Citation: 14 CFR 75

Legal Deadline: None

Abstract: This action will review Part 75 per National Airspace Review Recommendations toward revocation and establish nonrulemaking procedures for handling jet route actions.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Regulatory Project No: ATO-200-84-24R

Agency Contact: A. Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8781

RIN: 2120–AC55

1907. PART 91, SUBPART B, REVIEW FOR SIMPLIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The agency set up a National Airspace Review Task Group for the review of 14 CFR Part 91, Subpart B. This action will cover the recommendations made by the group.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1471; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 2122; 49 USC 2123; 49 USC 2124; 49 USC 2125; 49 USC 4321 et seq: EO 11514; 49 USC 106(g) Revised Pub L 97-449 January 12, 1983 Regulatory Project ATO-200-85-28R.

Agency Contact: Richard Kagehiro, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AA07

1908. REVISION OF PART 91

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1402 Federal Aviation Act of 1958, Sec. 502; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 to 1430 Fed. Aviation Act of 1958, Secs. 602 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This amendment reorganized and realigned the general operating and flight rules to make them more understandable and easier to use. Also, several changes were made to provide more flexibility for certain operations. These changes resulted from comments received from the general public and aviation industry in response to a request for specific comments to help identify substantive areas needing review.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/79	44 FR 4571
NPRM	09/10/81	46 FR 45256
NPRM	03/20/85	50 FR 11282
NPRM Comment Period End	07/18/85	
Final Action	06/18/89	54 FR 34284
Final Action Effective	08/18/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/10/81 (46 FR 45256)

Additional Information: Docket No. 18334. Project No. AFS-78-303R.

Agency Contact: Marion Clemens or Edna French, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120–AA13

1909. FLIGHT ENGINEER TRAINING

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 63; 14 CFR 91; 14 CFR 125

Legal Deadline: None

Abstract: This proposed action would amend the regulations to allow the flight engineers' normal procedure practical test to be conducted in an approved flight simulator in lieu of conducting it, in flight, in an airplane.

This Project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 22781.

Formerly titled Accelerated Ground Training - Flight Engineers' Skill Requirements.

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120–AA79

1910. INSTRUMENT FLIGHT RULE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This proposed action would revise several sections of Part 135 dealing with instrument flight rules. The proposed rule would: (1) permit IFR operations enroute with a VFR buffer zone underneath the cloud ceiling by permitting an IFR approach at destination; (2) change IFR takeoff minimums at U.S. military airports to be compatible with U.S. civil airport requirements; and (3) provide driftdown standards during enroute operations in IFR conditions in multiengine aircraft.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120–AA62

1911. AMENDMENT OF SECTIONS 91.171, 91.172, AND APPENDICES E AND F OF PART 43

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 43; 14 CFR 91

Legal Deadline: None

Abstract: This action would delay an October 15, 1992, compliance date to afford operators additional time to accomplish tests and inspections required by Sec. 91.171, correct inappropriate references, and delete a requirement for integrated system tests of ATC transponders by operators.

This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al Hodges, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8177

RIN: 2120–AA98

1912. ● PROTECTIVE BREATHING EQUIPMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: On June 3, 1987, the FAA published a final rule which amended the regulations applicable to protective breathing equipment (PBE). This final rule amends the compliance date for installing PBE and for training air carrier crewmembers in the use of PBE. The compliance date is extended from July 6, 1989, to January 31, 1990. This rule is necessary due to technical problems and delays in the certification of PBE and production problems experienced by several manufacturers of PBE. By extending the compliance date, air carriers will not be penalized for the supply problems caused by the delayed certification and production of PBE units.

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Timetable:

Action	Date	FR Cite
Final Action	05/22/89	54 FR 22270
Final Action Effective	05/22/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Comments to the final action were due by 07/21/89.

Agency Contact: Gary E. Davis, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8096

RIN: 2120–AB32

1913. PART 101 REVIEW PROGRAM

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1372; 49 USC 1421; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 1; 14 CFR 91; 14 CFR 101

Legal Deadline: None

Abstract: This review program is intended to provide full public participation in matters concerning FAA evaluation of the operation of moored balloons, kites, unmanned rockets, and unmanned free balloons.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Part 91 revision would also be required to provide comprehensive treatment of manned balloon operations and to clarify the respective applicability and requirements of both Parts 91 and 101 with respect to balloon operations. Regulatory Project ATO-200-84-20R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB75

1914. ANTIBLOCKING DEVICE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 106(g), Revised PL 97-449, January 12, 1983; 49 USC 1354(a)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: Mr. John G. Rutty submitted a petition for rulemaking seeking to amend the FAR to require antiblocking and stuck microphone (ABD) relief circuitry operatively associated with aircraft voice communications radios employed in certain high-density air traffic areas. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Docket Number 23755. Regulatory Project ATO-200-84-2P

Agency Contact: Richard Kagehiro, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AB92

1915. TYPE CERTIFICATION BASIS FOR PRODUCT TYPE DESIGN CHANGE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857f-10; 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action would have amended the Federal Aviation Regulations governing the certification procedures applicable to the type design approval of aircraft, aircraft engines, and propellers. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	08/03/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Project No. AVS-85-127R.

Agency Contact: Lyle Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9568

RIN: 2120–AC05

1916. AIRCRAFT REGISTRATION; RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1354; 49 USC 1401; 49 USC 1403; 49 USC 1405; 49 USC 1406; 49 USC 1502

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This is a recodification of 14 CFR Parts 47 and 49 in order to modernize these parts, making them compatible with modern business practices, in keeping with FAA policy.

The potential costs have not yet been assessed, but are considered to be negligible as the impact will be procedural and not substantive.

The potential benefits are the clarification of regulatory language and facilitation of procedures for registration of aircraft and recordation of conveyances affecting ownership of or interest in U.S. civil aircraft.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVN-89-2011.

Agency Contact: Alonso J. Rodriguez, Attorney Advisor, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125, 405 686-2296

RIN: 2120–AC17

1917. TEMPORARY FLIGHT RESTRICTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 3101(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.91

Legal Deadline: None

Abstract: This proposal would amend Section 91.91 to prevent interference with ground or aerial search or investigation by nonparticipating aircraft.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983).

Regulatory Project No: ATO-200-87-9R

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC40

1918. GLOBAL POSITIONING SYSTEM USE IN TERMINAL CONTROL AREAS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.90

Legal Deadline: None

Abstract: Adoption of this recommendation would allow aircraft operating in a Group I or II Terminal Control Area to be equipped with Global Position System (GPS), Very High Frequency Omnirange Station (VOR) or Tactical Air Navigation (TACAN) equipment.

This project is being removed from the agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-17R

Agency Contact: A. Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120–AC54

1919. PROPOSED REVISION OF PART 93, SUBPART O(JAX)

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The purpose of this proposal is to lessen the burden on the flying public by reducing the lateral size of the existing Jacksonville, Florida, Navy Airport Traffic Area. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Regulatory Project No. ATO-200-87-15R

Agency Contact: James Steenson, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence

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Avenue, SW, Washington, DC 20591, 202 267-8783

RIN: 2120-AC65

1920. ● SPECIAL FLIGHT RULES IN THE VICINITY OF THE GRAND CANYON NATIONAL PARK

Significance: Nonsignificant

Legal Authority: 49 USC 1348; PL 100-91

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: On June 02, 1988, the FAA published a final rule for the operation of aircraft in the airspace above the Grand Canyon up to an altitude of 14,500 feet above mean sea level, with an effective date of September 22, 1988. The regulations were adopted to comply with recent legislation requiring additional flight regulations based on the recommendations of the U.S. Department of the Interior. The FAA requested comments on the final rule at the time it was published. This action establishes a corridor into the airport on the Hualapai Indian Reservation and simplifies the configuration of a flight corridor in the vicinity of Dragon Butte in the central canyon.

Timetable:

Action	Date	FR Cite
Final Action	03/22/89	54 FR 11926
Final Action Effective	04/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Bennett, Regulations and Enforcement Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3491

RIN: 2120-AC70

1921. ● RULES OF PRACTICE FOR FAA CIVIL PENALTY ACTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1345(a); 49 USC 1354(a); 49 USC 1374(a); 49 USC 1401 to 1406; 49 USC 1421 to 1428; 49 USC 1471; 49 USC 1475; 49 USC 1481; 49 USC 1482(a); 49 USC 1482(b); 49 USC 1482(c); 49 USC 1484 to 1489; 49 USC 1475; 49 USC 1655(c)

CFR Citation: 14 CFR 13

Legal Deadline: Other, Statutory, December 30, 1989.

Authority to assess civil penalties and conduct on-the-record hearings terminates 12/30/89; FAA had to report to Congress by 06/30/89.

Abstract: This final rule revises the initiation procedures and provides new procedural rules regarding civil penalty assessment actions. This final rule provides procedures for one-the-record hearings required by Congress in civil actions not in excess of $50,000 assessed by the FAA.

Timetable:

Action	Date	FR Cite
Final Action	09/07/88	53 FR 34646
Final Action Effective	09/07/88	
Correction to Final Rule	10/06/88	53 FR 39404
Disposition of Comments	03/22/89	54 FR 11914

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/07/88 (53 FR 34646)

Additional Information: This final rule was published on September 7, 1988. Because the rules of practice are purely procedural and are necessary to govern on-the-record hearings required by statute, the FAA determined that notice and public comment procedures were impracticable, unnecessary, and contrary to the public interest. However, the FAA provided an opportunity for public comment on the final rule through November 7, 1988. A disposition of those comments was published in the Federal Register on March 22, 1989.

Agency Contact: Allan H. Horowitz, Manager, Enforcement Policy Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3137

RIN: 2120-AC74

1922. AIRPORT RADAR SERVICE AREA (ARSA) CLARIFICATION - TWO-WAY RADIO COMMUNICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The purpose of this action was to clarify the intent of the two-way radio communications requirement of airport radar service areas. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regulatory Project Number: ATO-200-88-16R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120-AC89

1923. VERY HIGH FREQUENCY OMNIRANGE STATION (VOR) FEDERAL AIRWAY NO. 16, PART 93, SUBPART E

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: Subpart E was implemented to segregate aircraft departing/arriving Luke Air Force Base Federal Airway Victor 16 (V-16) from uncontrolled aircraft operating along that airway. The United States Air Force has recently established a military approach control unit at Luke Air Force Base. Petitioner believes there is no longer a valid reason to retain this part of the regulation since the Luke Air Force Base approach control exercises control over the subject airspace and is aware of all activity in that area. Petitioner believes that safety has, therefore, been enhanced. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes the priorities and sets timetables for rulemaking projects, designates this project as an emergency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	06/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project Number: ATO-200-88-3R.

Agency Contact: James Steenson, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, 202 267-8783

RIN: 2120-AC92

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

1924. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS: SELF-INSURANCE

Significance: Nonsignificant

Legal Authority: 49 USC 10927 Note

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: The FHWA has determined that the issues associated with its authority to permit motor carriers to self-insure need to be examined in light of the insurance crisis affecting the motor carrier industry. The FHWA is seeking public comment from interested parties concerning self-insurance as a viable and effective mechanism for demonstrating financial responsibility as required by the Motor Carrier Act of 1980.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22086
ANPRM Comment Period End	07/18/86	51 FR 22086
SANPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 03/00/90

Additional Information: An interim final rule was published on June 18, 1986, at 51 FR 22080 permitting motor carriers of property to satisfy the financial responsibility requirements of the DOT (FHWA) by self-insuring if they have received approval from the ICC to self-insure and have maintained an FHWA "satisfactory" safety rating. This rulemaking action will further analyze the issues addressed in the interim final rule. After analyzing comments received to the 6/18/86 ANPRM, the FHWA has decided to issue a supplemental ANPRM in order to further explore the issues.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125-AB65

1925. QUALIFICATION OF DRIVERS; DIABETES

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: This rulemaking action responds to a petition filed by the American Diabetes Association (ADA) and others. The current diabetic rule prohibits insulin-using diabetics from driving in interstate or foreign commerce. The ADA has petitioned to change the regulation to provide for exemptions. The purpose of this action is to consider the proposed exemption program. A supplemental ANPRM is being issued to request comments on the development of medical evaluation procedures and risk assessment procedures for insulin dependent diabetics.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	53 FR 45204
Comment Period Extended to 02/01/88	01/04/88	53 FR 42
Supplemental ANPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125-AB91

1926. ● TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, Sec 411; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA is requesting public comment on how, under Section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STAA) (Pub. L. 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mr. Max Pieper,

St., SW, Washington, DC 20590, 202

entitled: "Federal Motor Carrier Safety

Fox, who can be reached at 202 366-

regulation pertaining to commercial

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DOT—FHWA — **Prerule Stage**

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mr. Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4029

RIN: 2125–AC30

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

1927. + TRUCK SIZE AND WEIGHT; REASONABLE ACCESS

Significance: Regulatory Program

Legal Authority: 49 USC 2311(d); 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA has requested information and comments on the existing FHWA regulation governing reasonable access by commercial vehicles with lengths and widths authorized by the Surface Transportation Assistance Act of 1982 (STAA) as amended. A Supplemental NPRM will be published to request public comment on a report released by the Transportation Research Board (TRB) concerning issues relating to reasonable access. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/05/87	52 FR 298
ANPRM Comment Period End	05/05/87	52 FR 298
NPRM	12/30/88	53 FR 53006
NPRM Comment Period End	05/01/89	54 FR 53006
Comment Period Extended to 09/01/89	05/04/89	54 FR 19196
Supplemental NPRM	10/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/30/88 (53 FR 53006)

Additional Information: Additional agency contact: John F. Grimm (202) 366-4039.

Agency Contact: Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2951

RIN: 2125–AB70

1928. + COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Significance: Regulatory Program

Legal Authority: PL 100-202, Sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: This action will develop improved identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Such high technology "unique" identifiers, when and if incorporated into the Commercial Driver's License Information System and the related State information systems, would reduce still further the opportunities for a driver to fraudulently obtain multiple licenses and to conceal disqualifying offenses. Alternatives under consideration include, but will not be limited to, retinal eye scans and advanced fingerprint technologies. Potential costs will accrue to the States for startup and operation of the upgraded identification methods, and to drivers and/or employers for incremental licensing costs passed on to them by the States. Safety benefits are expected to flow from the more accurate identification of CDL applicants and tracking of CDL holders' offenses. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	54 FR 20875
NPRM	03/00/90	
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 03/00/90

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4001

RIN: 2125–AC24

1929. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Significance: Agency Priority

Legal Authority: 49 USC 3102; 49 USC App 2503; 49 USC App 2505

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This rulemaking document proposes revisions to the current requirements contained in 49 CFR 390.21 concerning the marking of motor vehicles. Three areas are being considered for possible revision: (1) the applicability of the marking requirements to all commercial motor vehicles operated in interstate commerce, (2) postcard type registration of motor carriers, and (3) the treatment of rental vehicles. The third area of concern is being considered in response to a request for interpretation filed by the Truck Rental and Leasing Association (TRALA). This rulemaking is considered significant because of the public interest in commercial motor-carrier safety.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/89

Additional Information: The rulemaking action identified by RIN 2125-AC29 and entitled: "Federal Motor Carrier Safety Regulations; General; Rental Vehicle Leasing" has been merged into this rulemaking action.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC28

DOT—FHWA — **Proposed Rule Stage**

1930. ● + UNIFORM SYSTEM FOR HANDICAPPED PARKING

Significance: Agency Priority

Legal Authority: PL 100-641, Sec 3; PL 100-17, Sec 262; PL 98-78, Sec 231; 23 USC 315

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA and NHTSA are considering the establishment of an advisory committee to develop a report which includes a recommended rulemaking proposal concerning a uniform system for handicapped parking. The committee would develop its recommendation using a negotiation process. The committee would be comprised of persons who represent the interests affected by handicapped parking regulations. The regulations would address: the use of the International Symbol of Access on Handicapped plates and placards; fees for plates and placards; and the recognition of out-of-State handicapped plates and placards. It is intended that the problems facing the handicapped traveler would be greatly reduced. Due to the nationwide interest in this issue, this rulemaking action is considered significant.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee for Reg. Negotiation	06/12/89	54 FR 24908
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 11/00/89

Additional Information: The contact person in NHTSA is Mr. E. William Fox, who can be reached at 202 366-1834. A first meeting was tentatively scheduled for 8/21/89 for an advisory committee.

Agency Contact: Mr. Vincent J. Nowakowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2146

RIN: 2125–AC39

1931. REVIEW: GENERAL MATERIALS REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635D

Legal Deadline: None

Abstract: This regulation would simplify procedures relating to general material requirements for Federal-aid construction work. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	01/29/81	46 FR 9642
NPRM Comment Period End	03/30/81	
SNPRM	08/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 08/00/90

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0392

RIN: 2125–AA19

1932. REVIEW AND PREEMPTION OF STATE MOTOR-CARRIER SAFETY REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC App. 2507; 49 USC App. 2508

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 394; 49 CFR 395; 49 CFR 396; 49 CFR 397; 49 CFR 398; 49 CFR 399

Legal Deadline: None

Abstract: Sections 207-209 of the Motor Carrier Safety Act of 1984 establish a process whereby any State law or regulation pertaining to commercial motor vehicle safety in interstate commerce will be reviewed and analyzed by the Commercial Motor Vehicle Safety Regulatory Review Panel (Safety Panel). The Safety Panel is to determine if such law or regulation has the same effect as, is less stringent than, or is additional to or more stringent than the Federal Motor Carrier Safety Regulations. Based on the determination of the Safety Panel, the Secretary is to initiate a rulemaking proceeding to determine if such a law or regulation may remain in effect and enforced. This notice of proposed rulemaking is the initial rulemaking action for any possible preemptive action by the Secretary. It will contain alternatives for comment on ways the Secretary may satisfy the requirements of section 206 of the Act. Section 9109 of the Truck and Bus Safety and Regulatory Reform Act of 1988 extends the deadline for Secretarial preemption under certain conditions until no later than 10/30/91.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: Thomas Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC11

1933. CONSTRUCTION CONTRACT EQUAL OPPORTUNITY COMPLIANCE PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230; 23 CFR 640; 23 CFR 642

Legal Deadline: None

Abstract: This revision will amend and update the existing policies and procedures relative to the equal employment opportunity program on Federal and Federal-aid highway construction contracts. In addition, this revision will amend the on-the-job

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training (OJT) special provisions and procedures for implementation of OJT supportive services programs to increase program effectiveness and address the current need for upgrading minorities and women in the skilled construction trades. This project was formerly entitled Equal Employment Opportunity on Federal and Federal-Aid Contracts (including Support Services).

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	47 FR 52470
SNPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 11/22/82 (47 FR 52470)

Additional Information: A supplemental NPRM will be issued in order to propose updated revisions. The supplemental NPRM will address all procedures and provisions contained in 23 CFR 420. Therefore, the proposed rulemaking action explained under the entry (RIN No. 2125-AB27) formerly located in the "Proposed Rule Stage" portion of the agenda has been merged with this rulemaking action.

Agency Contact: Glenn Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1567

RIN: 2125–AB15

1934. ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICE CONTRACTS

Significance: Nonsignificant

Legal Authority: 23 USC 315; 23 USC 104(f); 23 USC 114(a); 23 USC 307(c); 23 USC 402; 23 USC 112(b); 23 USC 302

CFR Citation: 23 CFR 172

Legal Deadline: None

Abstract: Revisions to the existing regulation will be made to standardize the minimum requirements by including FHWA's interpretation of OMB Circular A-102 requirements. Inclusion of OMB Circular A-102 as an appendix to the regulations will be deleted. This rulemaking action will also address the changes to the selection procedures as required by section 111(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 03/00/90

Additional Information: A 60-day comment period will be provided. This project was formerly entitled: Administration of Contracts.

Agency Contact: Si Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4628

RIN: 2125–AB30

1935. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; PAPERWORK BURDENS

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2503

CFR Citation: 49 CFR 350 to 399

Legal Deadline: None

Abstract: By this rulemaking, the FHWA will be considering ways to reduce paperwork burdens imposed on motor carriers subject to the requirements of the Federal Motor Carrier Safety Regulations (49 CFR 350-399). Changes are being considered in accordance with the requirements of the Paperwork Reduction Reauthorization Act of 1986. This Act requires the agencies to set goals to reduce the paperwork burden imposed on motor carriers by 20 percent by September 30, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/89	54 FR 15232
ANPRM Comment Period End	07/17/89	54 FR 15232
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/90

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC04

1936. CONSTRUCTION ENGINEERING COSTS

Significance: Nonsignificant

Legal Authority: 23 USC 101(e); 23 USC 114(a); 23 USC 115(b); 23 USC 120 to 122; 23 USC 315; PL 95-599, Sec 115(c); PL 100-17, Sec 114

CFR Citation: 23 CFR 140

Legal Deadline: None

Abstract: This rulemaking document will implement provisions mandated by section 114 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 114 revised 23 USC 121(d) by eliminating the 10-percent limitation on construction engineering (CE) costs and increasing the limitation to 15 percent of actual costs of construction excluding costs of right-of-way, preliminary engineering, and CE.

Timetable:

Action	Date	FR Cite
NPRM	08/25/89	54 FR 35354
NPRM Comment Period End	10/24/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 08/25/89 (54 FR 35354)

Agency Contact: Max I. Inman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2053

RIN: 2125–AC09

1937. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 100-17, Sec 126; PL 100-17, Sec 146

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/90

Additional Information: The rulemaking actions consolidated in this action are: 1) a proposed rule entitled "Right-of-Way" which appeared in the Agenda under RIN 2125-AB58 and 2) a proposed rule entitled "Property Management: Disposals and Airspace" which appeared in the Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking.

Agency Contact: Douglas Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125–AC17

1938. ENVIRONMENTAL IMPACT AND RELATED PROCEDURES; CONSTRUCTIVE USE

Significance: Nonsignificant

Legal Authority: 23 USC 315; 49 USC 303

CFR Citation: 23 CFR 771

Legal Deadline: None

Abstract: The need for rulemaking in this area has been caused by recent court decisions. The courts have delayed or halted several important Federal-aid highway projects on the grounds that the proximate effects or impacts from a given highway would constructively use land from a park or historic site. In each instance the FHWA had determined that there existed no constructive use. This determination was based on an analysis of proximity impacts and whether the impacts would substantially impair the functions or values which qualified the property for protection under Section 4(f) of the DOT Act. The FHWA has been operating under an informal policy directive on constructive use since 11/12/85. This rulemaking action would formalize existing policy on constructive use, and future court decisions would address the regulation rather than be based on ad hoc interpretations of specific project facts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Reg. Evaluation (Minimal Impact) 01/00/90

Agency Contact: Harter M. Rupert, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4093

RIN: 2125–AC18

1939. DESIGN STANDARDS FOR HIGHWAYS; AASHTO PUBLICATION; GEOMETRIC DESIGN OF HIGHWAYS AND STREETS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The American Association of State Highway Transportation Officials (AASHTO) is revising and updating the publication entitled " Policy on Geometric Design of Highways and Streets, AASHTO 1984." It is anticipated that this action will, after receipt of public comments on the proposed action, designate, in whole or in part, the revised AASHTO publication as being acceptable to the FHWA for application in the geometric design of highways and remove the out-of-date version from the acceptable list.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 09/00/90

Additional Information: The initial appearance of this entry in the agenda (4/89) made reference to another AASHTO publication entitled "A Policy on Design–Interstate System." This publication is being addressed in a separate rulemaking action under RIN #2125-AC34 entitled "Design Standards for Highways; Interstate System" and is located under the proposed rule section.

Agency Contact: Seppo I. Sillan, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1327

RIN: 2125–AC22

1940. INSPECTION, REPAIR AND MAINTENANCE; BRAKE INSPECTION

Significance: Nonsignificant

Legal Authority: PL 100-690, Sec 9110

CFR Citation: 49 CFR 393

Legal Deadline: Final, Statutory, December 31, 1990.

Abstract: The FHWA is requesting public comment concerning the development and implementation of Federal standards or methods to ensure that brakes and brake systems of commercial motor vehicles are properly maintained and inspected. This action is required by Section 9110 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100-690, 102 Stat. 4181).

Timetable:

Action	Date	FR Cite
ANPRM	02/03/89	54 FR 5518
ANPRM Comment Period End	04/04/89	
NPRM	12/00/89	
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/03/89 (54 FR 5518)

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC25

1941. PARTS AND ACCESSORIES FOR SAFE OPERATION; EMERGENCY WARNING DEVICES

Significance: Nonsignificant

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DOT—FHWA — **Proposed Rule Stage**

Legal Authority: PL 100-690, Sec 9106

CFR Citation: 49 CFR 393

Legal Deadline: Final, Statutory, October 31, 1989.
Final action must be taken by 10/31/89.

Abstract: The FHWA is requesting comments on several issues relating to the appropriate use of emergency warning devices for commercial motor vehicles in response to Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100-690, 102 Stat. 4181). Issues include the use of fuses as an alternative or supplement to bidirectional emergency reflective triangles, as well as all aspects of emergency warning devices, including the type allowed and exemptions and/or condition for use.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/89	54 FR 5516
ANPRM Comment Period End	03/20/89	
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/03/89 (54 FR 5516)

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 266-2981

RIN: 2125–AC26

1942. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; COMMERCIAL MOTOR VEHICLE DEFINITION

Significance: Nonsignificant

Legal Authority: 49 USC 2391 to 2404; 49 USC App 2505; 49 USC 3102

CFR Citation: 49 CFR 350; 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is addressing the issue of the gross vehicle weight rating (GVWR) criterion used to define a "commercial motor vehicle" subject to the Federal Motor Carrier Safety Regulations (FMCSR's). The FHWA is specifically seeking public comment on the enforcement and regulatory capability regarding the rating.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/89	54 FR 7224
Comment Period Extended to 06/19/89	04/03/89	54 FR 13391
ANPRM Comment Period End	04/18/89	54 FR 25484
Comment Period Extended to 11/03/89	06/15/89	54 FR 25484
NPRM	05/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 02/17/89 (54 FR 7224)

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC27

1943. ● DESIGN STANDARDS FOR HIGHWAYS; REFERENCE MATERIAL; ROADSIDE DESIGN GUIDE

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The American Association of State Highway and Transportation Officials (AASHTO) has approved and published a document entitled "Roadside Design Guide" which superseded its 1977 "Guide for Selecting, Locating and Designing Traffic Barriers." The Federal Highway Administration (FHWA) is proposing to replace references to the latter document in 23 CFR Parts 625 and 645 with references to the 1989 "Roadside Design Guide." Further, the FHWA is soliciting comments on whether the "Roadside Design Guide" should be considered in whole or in part or modified in any way for application to Federal-aid projects.

Timetable:

Action	Date	FR Cite
Notice; Initiation of Rulemaking	01/12/87	52 FR 1200
Notice; Rulemaking Status	02/09/88	53 FR 3757
NPRM	07/17/89	54 FR 29910
NPRM Comment Period End	10/25/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 07/17/89 (54 FR 29910)

Agency Contact: Mr. Richard D. Powers, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1320

RIN: 2125–AC32

1944. ● RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS; PENALTIES FOR FAILURE TO COMPLY WITH NOTICES AND ORDERS ISSUED UNDER THE AUTHORITY OF 49 USC 521(B)

Significance: Nonsignificant

Legal Authority: 49 USC 2701 et seq; 49 USC 2501 et seq; 49 USC 104(c)(2); 49 USC 501 et seq; 49 USC 3101 et seq; 49 USC 1801 et seq

CFR Citation: 49 CFR 386

Legal Deadline: None

Abstract: This rulemaking action is intended to implement section 213(b) of the Motor Carrier Safety Act of 1984 by adding a penalty schedule to 49 CFR Part 386 applicable to failure to comply with notices and orders issued under the authority of section 521(b) of Title 49, United States Code. These penalties would apply in addition to other civil forfeiture assessments for violations of the Federal Motor Carrier Safety Regulations (FMCSR) charged in a Notice of Claim or Notice of Investigation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/89

Agency Contact: Mr. Paul L. Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0834

RIN: 2125–AC36

DOT—FHWA — **Proposed Rule Stage**

1945. ● TRUCK SIZE AND WEIGHT; DROMEDARY DECKS AND PLATES

Significance: Nonsignificant

Legal Authority: 23 USC 127; 49 USC App 2311 to 2313; 49 USC App 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This rulemaking document proposed to amend current regulations to include dromedary decks and plates under the dromedary box provisions. This would preempt inconsistent State laws and regulations to permit truck tractors equipped with dromedary decks or plates having the capacity to carry cargo that were in legal use on December 1, 1982, to continue to operate throughout their useful lives. Proof of such legal use would continue to rest with the operator of the equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/24/89	54 FR 35199
NPRM Comment Period End	10/23/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 08/24/89 (54 FR 35199)

Agency Contact: Mr. Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4029

RIN: 2125–AC37

1946. ● TRUCK SIZE AND WEIGHT; SADDLEMOUNT COMBINATIONS

Significance: Nonsignificant

Legal Authority: 23 USC 127; 49 USC App 2311 to 2313; 49 USC App 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: In response to a petition from the National Automobile Transporters Association (NATA) and its member companies dated 9/7/88, the FHWA proposes to amend 23 CFR 658.5 and 658.13 to regulate the overall length of driveaway saddlemount combinations and driveaway saddlemount and fullmount combinations. The proposed changes would increase the overall length limit from 65 to 75 feet and clarify that both saddlemount and saddlemount with fullmount automobile transporters are specialized equipment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Mr. Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4029

RIN: 2125–AC38

1947. ● FEDERAL MOTOR CARRIER SAFETY REGULATIONS; MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY; FOREIGN MOTOR CARRIERS

Significance: Nonsignificant

Legal Authority: 49 USC 10927

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: This rulemaking action responds to Section 9112 of the Truck and Bus Safety and Regulatory Reform Act of 1988. Section 9112 states that the Secretary may issue regulations which permit foreign motor carriers and foreign private motor carriers providing transportation of property to meet the minimum levels of financial responsibility only during periods in which these carriers are providing transportation of property in the United States, rather than on a continuous basis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 02/00/90

Agency Contact: Mr. Thomas Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC41

1948. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Significance: Routine and Frequent

Legal Authority: 23 USC 109(b); 23 USC 109(d); 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected–2. 12/00/89.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Reg. Evaluation (Minimal Impact) 12/00/89

Agency Contact: P. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2184

RIN: 2125–AA37

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

1949. + PRIVATE CARRIAGE OF PASSENGERS

Significance: Regulatory Program

Legal Authority: 49 USC 104; 49 USC 3102; 49 USC App 2503; 49 USC App 2505

CFR Citation: 49 CFR 383; 49 CFR 390 to 393; 49 CFR 395; 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing revisions to the requirements for private motor carriers of passengers and the drivers of private motor vehicles of passengers. The proposed revisions would require private motor carriers of passengers and drivers of private motor vehicles of passengers to operate under the Federal Motor Carrier Safety Regulations (FMCSR). However, the paperwork burden of these requirements will be minimized and several parts of the FMCSR will not apply to either private motor carriers of passengers or to drivers of such vehicles. This rulemaking is significant in that it is controversial, involving bringing new carriers under the regulatory scheme.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	02/17/89	54 FR 7362
NPRM Comment Period End	06/19/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7362)

Additional Information: This action was formerly entitled Minimum Requirements for Private Motor Carriers of Passengers and Drivers of Private Motor Vehicles of Passengers.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AB62

1950. + COMMERCIAL DRIVER'S LICENSE STANDARDS; DISQUALIFICATION

Significance: Regulatory Program

Legal Authority: 49 USC 3102; 49 USC App. 2505; PL 99-570, Title IX

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: None

Abstract: The FHWA is proposing to amend Parts 383 and 391 of the Federal Motor Carrier Safety Regulations (FMCSR's) to address certain questions that were posed in the final rule (Docket MC-125; Notice No. 87-06) published in the Federal Register on June 1, 1987. Specifically, in this document the FHWA proposes to define "excessive speeding," "reckless driving" and "other serious traffic violations." The FHWA also proposes to amend the subject parts to clarify or make minor revisions. Because of the public interest in the issue of commercial motor vehicle safety and the expected benefits of improved transportation safety, this action is considered significant under the regulatory policies and procedures of the Department of Transportation.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 5036
NPRM Comment Period End	04/03/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 01/31/89 (54 FR 5036)

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590, 202 366-4001

RIN: 2125–AC19

1951. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770

Legal Deadline: None

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to States and to meet the objectives of the CAA in the most cost-effective and expeditious manner. The amendments are significant because they involve important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35178
NPRM Comment Period End	11/08/88	53 FR 35178
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 09/09/88 (53 FR 35178)

Agency Contact: James M. Shrouds, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4836

RIN: 2125–AB10

1952. CONTRACT PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: This revision will update and simplify existing Federal-aid contract procedures. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/18/78	43 FR 36645
NPRM Comment Period End	10/17/78	
SNPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/00/90

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-8392

RIN: 2125–AA18

DOT—FHWA

Final Rule Stage

1953. COMPLIANCE WITH MOTOR CARRIER NOISE STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 325

Legal Deadline: None

Abstract: The FHWA considered amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA also considered eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g., grassy areas. Based upon a further review, the FHWA has determined that no further action is required at this time. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	04/03/80	45 FR 22120
To Be Withdrawn	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AA27

1954. RAILROAD GRADE CROSSINGS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 392.10

Legal Deadline: None

Abstract: The FHWA had considered a revision that would make this Federal regulation more consistent with the Uniform Vehicle Code with respect to stopping requirements. However, after further review it has been determined that no further action by the FHWA is needed in this area. Therefore, the 11/18/82 ANPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	11/18/82	47 FR 51904
To be withdrawn	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AA36

1955. EROSION AND SEDIMENT CONTROL ON HIGHWAY CONSTRUCTION PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(g); 23 USC 315; 23 USC 109(h); 33 USC 1323

CFR Citation: 23 CFR 650

Legal Deadline: None

Abstract: The proposed rule was intended to adopt the AASHTO Guide Specifications for water pollution control. After careful consideration of comments submitted in response to the NPRM and based upon a further review by FHWA, it has been determined that rulemaking in this area is no longer necessary. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	01/18/85	50 FR 2694
NPRM Comment Period End	03/18/85	
To be withdrawn	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Philip L. Thompson, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4611

RIN: 2125–AB05

1956. FEDERAL-AID PROGRAMS APPROVAL AND PROJECT AUTHORIZATION

Significance: Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 116; 23 USC 134; 23 USC 315; PL 100-17, Sec 117(e)

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: This action addresses FHWA's programming and authorization policies and procedures for projects under the Federal-aid program. This action will revise existing regulations and implement section 117 (e) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17). Section 117 (e) allows a State to contribute more State and/or local funds to a Federal-aid project under the minimum required by Title 23 of the United States Code.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/84	49 FR 31079
ANPRM Comment Period End	10/01/84	
Interim Final Rule	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 03/00/90

Agency Contact: James M. Overton, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0450

RIN: 2125–AB18

1957. ADVANCE CONSTRUCTION OF FEDERAL-AID PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 116; 23 USC 120(f); 23 USC 121(c); 23 USC 125; 23 USC 315; 23 USC 320; PL 100-17, Sec 113

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: The FHWA is revising its regulations relating to the advance construction of Federal-aid highway projects. The revisions incorporate new provisions mandated by section 113 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). The procedures allow States to advance the construction of Federal-aid highway projects without requiring that Federal funds be obligated at the time the FHWA approves the project.

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DOT—FHWA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/09/89	54 FR 24715
NPRM Comment Period End	08/08/89	54 FR 24715
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 06/09/89 (54 FR 24715)

Agency Contact: Max I. Inman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2853

RIN: 2125–AC07

1958. PUBLIC AVAILABILITY OF INFORMATION; FREEDOM OF INFORMATION ACT REGULATIONS; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 5 USC 552; 31 USC 9701; 49 USC 322

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This action amends Appendix D of the final rule published on 8/11/88 at 53 FR 30265 regarding implementation of the Freedom of Information Act by FHWA. The technical amendments are necessary in order to correct a typographical error, to remove unnecessary explanatory language, to add a paragraph on determinations to disclose records and grant or deny requests for fee waivers or reductions, and to conform paragraph designations.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Reg. Evaluation (Minimal Impact) 11/00/89

Agency Contact: Mr. John H. Schnackenberg, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0534

RIN: 2125–AC20

1959. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; EXEMPT INTRACITY ZONE; FOREIGN MOTOR CARRIERS

Significance: Nonsignificant

Legal Authority: 49 USC App 2503; 49 USC 2505; 49 USC 3102; 49 USC 3104; 49 USC 504; PL 100-690, Sec 9102

CFR Citation: 23 CFR 390; 23 CFR 391; 23 CFR 393

Legal Deadline: None

Abstract: The FHWA is amending Parts 390, 391, and 393 of the Federal Motor Carrier Safety Regulations (FMCSRs). This action amends the intracity zone exemption to make it consistent with Truck and Bus Safety and Regulatory Reform Act of 1988 (the Act) (Title IX, Subtitle B of PL 100-690, 102 Stat. 4181). It also exempts certain foreign motor carriers from the provisions of 49 CFR Part 393 for a period of one year from the date of enactment of the Act (i.e., 11/18/89). The Act also requires the Secretary to report to Congress on the effects of the delayed application and recommend "on the extent to which foreign motor carriers may or should comply with all or any of the requirements of Part 393." To comply with the Congressional mandate, the FHWA is requesting comments from all interested parties on this issue.

Timetable:

Action	Date	FR Cite
Final Rule: Parts 390 and 391	03/24/89	54 FR 12200
Notice to Reopen Docket to 07/24/89	07/10/89	54 FR 28818
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 03/24/89 (54 FR 12200)

Additional Information: The final rule published on 3/24/89 (54 FR 12200) amended Parts 390, 391 and 393 of the FMCSRs to make the existing regulation consistent with Title IX, Subpart B of P.L. 100-690. The effective date for Parts 390 and 391 was 4/24/89. The effective date for Part 393 was 11/18/88. The final rule also requested public comment concerning future application of 393 to foreign motor carriers. The initial comment period closed on 6/22/89. A notice published on 7/10/89 at 54 FR 28818 reopened the docket until 7/24/89.

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC21

1960. ● DESIGN STANDARDS FOR HIGHWAYS; INTERSTATE SYSTEM

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is requesting comments on a proposed amendment to the design standards which apply to Interstate highway construction and reconstruction projects eligible to receive funding under the Federal-aid highway program. A revised publication approved by the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Design Standards--Interstate System, AASHTO 1988" would be substituted for the previous version of these standards last revised June 20, 1967. If the Federal Highway Administration (FHWA) adopts the 1988 document, the new AASHTO publication would constitute the FHWA's policy on geometric design for all federally-assisted construction and reconstruction projects on the Interstate highway system.

Timetable:

Action	Date	FR Cite
NPRM	07/18/89	54 FR 30095
NPRM Comment Period End	09/18/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 07/18/89 (54 FR 30095)

Agency Contact: Mr. Seppo I. Sillan, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1327

RIN: 2125–AC34

DOT—FHWA — Final Rule Stage

1961. ● TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; OREGON

Significance: Nonsignificant

Legal Authority: 23 USC 127; 49 USC 2311; 49 USC 2313; 49 USC App 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This regulatory action proposes to modify the National Network for commercial motor vehicles by adding and deleting certain routes in Oregon. The National Network was established by the final rule on truck size and weight published at 49 FR 23302 on June 5, 1984. It is maintained under 23 CFR 658, Appendix A, as amended. The State of Oregon has requested the Federal Highway Administration (FHWA) to consider additions and deletions as authorized by the Surface Transportation Assistance Act (STAA) of 1982 (Pub. L. 97-424, 96 Stat. 2097).

Timetable:

Action	Date	FR Cite
Technical Amendments	06/05/89	54 FR 23976
NPRM	08/29/89	54 FR 35703
NPRM Comment Period End	09/28/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/89

Agency Contact: Mr. Richard A. Torbik, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0233

RIN: 2125–AC35

1962. ● NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; PAVEMENT MARKINGS

Significance: Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 217; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This rulemaking action amends the Manual on Uniform Traffic Control Devices (MUTCD) to revise the definition of short-term pavement markings to provide the States with flexibility in providing temporary pavement markings in construction and maintenance areas. The MUTCD is incorporated by reference in 23 CFR 655, Subpart F and is recognized as the national standard for traffic control devices on all public roads. The amendment affects various parts of the MUTCD and is intended to expedite traffic, improve safety, and provide a more uniform application of highway signs, signals and markings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 11/00/89

Agency Contact: Mr. Philip O. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2184

RIN: 2125–AC40

1963. ● QUALIFICATION OF DRIVERS: WRITTEN EXAMINATIONS

Significance: Nonsignificant

Legal Authority: 49 USC App. 2503, 2505; 49 USC 3102; 49 USC 4104

CFR Citation: 49 CFR Subchapter B, Appendix C

Legal Deadline: None

Abstract: Due to amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) which have occurred in the past few years, certain information and terminology currently found in the written examinations for drivers is no longer correct. Consequently, the FHWA is amending the written examination, which is given to driver applicants by motor carriers subject to the jurisdiction of the FHWA, to correct the examination's information and terminology. While the revisions are nonsubstantive in nature, they will improve the usefulness of the written examination.

Timetable:

Action	Date	FR Cite
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State

Analysis: Reg. Evaluation (Min. Impact) 12/00/89

Agency Contact: Tom Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC42

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

1964. + TRUCK SIZE AND WEIGHT; SPECIALIZED EQUIPMENT; MAXI-CUBE

Significance: Regulatory Program

Legal Authority: 23 USC 315; 49 USC 2311(d); PL 99-591, Sec 324

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: An ANPRM had been issued requesting public comment on a petition to designate a particular combination of vehicles as specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA). Upon further review, the FHWA has determined that no rulemaking action is required at this time. This rulemaking action has been withdrawn effective 7/10/89 (54 FR 29060).

Timetable:

Action	Date	FR Cite
ANPRM	12/27/85	50 FR 52940
ANPRM Comment Period End	02/10/86	50 FR 52940

Action	Date	FR Cite
ANPRM Supplemental	02/28/86	51 FR 7085
Withdrawn	07/11/89	54 FR 29060

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4036

RIN: 2125–AB48

1965. + LABOR AND EMPLOYMENT

Significance: Agency Priority

Legal Authority: 23 USC 113; 23 USC 315

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: This amendment would have revised the existing regulation prescribing the inclusion of prevailing wage rates determined by the Secretary of Labor in advertisements and contracts for Federal-aid highway projects. The proposed amendment would have precluded the inclusion of State prevailing wage rates which are higher than those determined by the Department of Labor in Federal-aid contracts. However, in light of the comments received as to the federalism implications and enforcement problems, the proposed amendment action was withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 39137
NPRM Comment Period End	11/12/85	50 FR 39137
Withdrawn	08/21/89	54 FR 34529

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (minimal impact) 09/27/85 (50 FR 30137)

Agency Contact: Kathy Markman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0780

RIN: 2125–AB37

1966. + CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 315; PL 100-17, Sec 174

CFR Citation: 23 CFR 659

Legal Deadline: None

Abstract: The FHWA and the National Highway Traffic Safety Administration (NHTSA) have amended the regulations on certification of speed limit enforcement in order to streamline the sanction process and to take into account the provisions mandated by section 174 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 174 of STURAA amended 23 U.S.C. 154 by giving the States the authority to increase, without loss of Federal-aid funds, the maximum speed limit to no more than 65 miles per hour (mph) on certain Interstate System highways. A notice of proposed rulemaking was issued proposing revisions to the sanction process contained in 23 CFR Part 659. A separate final rulemaking action has been issued in order to provide the States the authority to adjust the speed sampling and analysis plan required for determining the level of 55 mph noncompliance.

Timetable:

Action	Date	FR Cite
Final Action Adjusting Sampling Plans	08/03/87	52 FR 28691
NPRM	03/11/88	53 FR 7943
NPRM Comment Period End	04/11/88	53 FR 7943
Final Action	06/16/89	54 FR 25565
Final Action Effective	07/17/89	54 FR 25565
Correction to Final Rule	08/11/89	54 FR 32967

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 06/16/89 (54 FR 25565)

Additional Information: This rulemaking action, as well as the final rule on sampling plans (Supplemental), are considered significant because of the substantial public interest involved.

Agency Contact: Sheldon G. Strickland, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1993

RIN: 2125–AC00

1967. + TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; SOUTH CAROLINA

Significance: Agency Priority

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 2311; 49 USC 2313; 49 USC App 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA was proposing to modify the National Network for commercial motor vehicles by deleting a certain route in South Carolina. The National Network was established by the final rule on Truck Size and Weight published at 49 FR 23302 on June 5, 1984. It is maintained under 23 CFR 658, Appendix A, as amended. However, the State then requested that the route not be deleted. Rulemaking was therefore terminated on April 24, 1989 at 54 FR 16372. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/88	53 FR 18859
NPRM Comment Period End	07/25/88	53 FR 18859
Action Terminated	04/24/89	54 FR 16372

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The NPRM was published as part of the entry under RIN 2125-AC10. Since additional information and data was needed to resolve the issue of deleting the route in South Carolina, the FHWA has separated the action on South Carolina from those actions that addressed routes in Iowa and Kentucky. Also, since the NPRM addressed routes in the States of Iowa and Kentucky, the NPRM was not withdrawn.

Agency Contact: Mr. Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2951

RIN: 2125–AC23

1968. ACCELERATION OF PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 140; 23 USC 315; PL 97-424, Sec 129

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: This revision was intended to expedite the processing of Federal-aid highways projects by promoting wider use of the findings and recommendations of the demonstration project carried out under section 141 of the 1976 Federal-Aid Highway Act. Upon further review, it has been determined that no further action was required. Therefore, the ANPRM was withdrawn by final notice on June 1, 1989 (54 FR 23489).

Timetable:

Action	Date	FR Cite
ANPRM	08/26/83	48 FR 38854
ANPRM Comment Period End	11/25/83	48 FR 57330
Withdrawn	06/01/89	54 FR 23489

Small Entities Affected: None

Government Levels Affected: State

Additional Information: An interim policy statement was published 6/6/83 (48 FR 25181) to implement acceleration methods for selected projects within existing regulations. Initially, FHWA had considered issuing a new regulation as a vehicle for accelerating Federal-aid projects pursuant to Section 129 of the STAA of 1982. However, it has been determined that the objectives of Section 129 can be best implemented by revisions to existing regulations. Therefore, separate regulations will not be issued regarding the acceleration program. This approach received the concurrence of Deputy Administrator Lamm on April 11, 1984. This regulation has been withdrawn.

Agency Contact: S. M. Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4520

RIN: 2125–AA87

1969. STATE HIGHWAY AGENCY EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Significance: Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 140(a); 23 USC 315

CFR Citation: 23 CFR 230

Legal Deadline: None

Abstract: The proposed revisions would have amended the existing FHWA regulation governing construction contract equal employment opportunity (EEO) compliance procedures, which concern the employment practices of construction contractors on Federal highway projects. Upon further review, FHWA determined that no further action was necessary. Therefore, the rulemaking action was terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/10/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Formerly entitled: State Highway Agency Construction Contracts; Equal Opportunity Compliance Review; Program Requirements.

Agency Contact: Glenn R. Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1587

RIN: 2125–AB08

1970. RIGHT-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 720

Legal Deadline: None

Abstract: The FHWA intends to publish an NPRM to update and reorganize its right-of-way regulations for the Federal-aid highway program. Subjects to be addressed include State highway agency responsibilities, authorizations, and reimbursement. These issues will be addressed in the proposed rulemaking under RIN 2125-AC17 which can be located in the proposed rule section.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2125-AC17	07/11/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125–AB60

1971. PROPERTY MANAGEMENT, DISPOSALS AND AIRSPACE

Significance: Nonsignificant

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 713

Legal Deadline: None

Abstract: The FHWA intends to issue an NPRM proposing to update its regulations on property management, disposal, and airspace relative to the Federal-aid highway program. This rulemaking action will reflect current departmental decisions and policies as well as recent legislative mandates. These issues will be addressed in the proposed rule under RIN 2125-AC17 which can be located under the proposed rule section.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2125-AC17	07/11/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125–AB58

1972. CONTRACT PROCEDURES; ADVERTISING FOR BIDS; NONCOLLUSION AFFIDAVIT/DECLARATION REQUIREMENT

Significance: Nonsignificant

Legal Authority: 23 USC 112 to 114; 23 USC 117; 23 USC 128; 23 USC 315; 31 USC 6506; 42 USC 3334; 42 USC 4601 et seq

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) revised its regulations on contract procedures regarding advertising for bids. The revised regulation will allow all bidders the option, on a Federal-aid highway project, to submit an unsworn noncollusion declaration, under penalty

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of perjury under the laws of the United States, as an alternative to the sworn noncollusion affidavit requirement of the existing regulation.

Timetable:

Action	Date	FR Cite
Final Action	06/22/89	54 FR 26187
Final Action Effective	06/22/89	54 FR 26187

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 06/22/89 (54 FR 26187)

Additional Information: Since the revisions were minor administrative adjustments and required no change to FHWA procedures, this document was issued without a public comment period.

Agency Contact: William A. Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0392

RIN: 2125–AC16

1973. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; RENTAL VEHICLE LEASING

Significance: Nonsignificant

Legal Authority: 49 USC 2905

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This rulemaking action responds to a petition filed by the Truck Rental and Leasing Association (TRALA). The FHWA is proposing to amend its commercial motor vehicle marking requirements to allow certain "rental vehicles" to be marked with the name and address of the rental company and the U.S. DOT identification number issued to the rental company in lieu of requiring the renting motor carrier to display its required identification information on the sides of the rental vehicle. This action will enhance the uniform identification of commercial motor vehicles operated on the nation's highways and aid enforcement officers in carrying out their duties. This rulemaking action has been merged with the rulemaking action entitled: "Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking" (RIN #2125-AC28), in the prerule section of the Agenda.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2125-AC28	07/05/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mr. Thomas P. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2981

RIN: 2125–AC29

1974. ● DESIGN STANDARDS FOR HIGHWAYS; GUIDE SPECIFICATIONS FOR BRIDGE RAILINGS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The FHWA updated the guides and references list in 23 USC 625 by adding the American Association of State Highway and Transportation Officials (AASHTO) 1989 "Guide Specifications for Bridge Railings." Also, FHWA is considering a possible future rulemaking action related to bridge railing design and is requesting public comment on the AASHTO guide specifications, on their possible application as a standard rather than as a guide on Federal-aid projects, and on any other bridge railing design-related subjects.

Timetable:

Action	Date	FR Cite
Final Action	06/13/89	54 FR 25116
Final Action Effective	06/13/89	54 FR 25116

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 06/13/89 (54 FR 25116)

Additional Information: The comment period on bridge railing design will remain open until further notice.

Agency Contact: Mr. James H. Hatton, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1329

RIN: 2125–AC31

1975. ● COMMERCIAL DRIVER TESTING AND LICENSING STANDARDS; CANADIAN PROVINCES AND TERRITORIES

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2505; PL 99-570, Title IX

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: This rulemaking document technically amended 49 CFR 383 by inserting into the regulatory text the Federal Highway Administrator's determination that commercial drivers' licenses issued by Canadian jurisdictions under the Canadian National Safety Code meet the commercial driver testing and licensing standards contained in 49 CFR Part 383. Accordingly, a commercial driver's license issued by a Canadian jurisdiction in conformity with the Canadian National Safety Code is considered to be the single commercial driver's license for operation in the United States by Canadian drivers. Also, a Canadian driver is prohibited from obtaining any driver's license from a State or other licensing jurisdiction of the United States. The actual letter of determination prepared by the Administrator appeared in a separate notice published on May 23, 1989 (54 FR 22392).

Timetable:

Action	Date	FR Cite
Final Action Effective	12/29/88	54 FR 22285
Notice of Determination	05/23/89	54 FR 22392
Final Action	05/23/89	54 FR 22285

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 05/23/89 (54 FR 22285)

Agency Contact: Ms. Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4001

RIN: 2125–AC33

1976. + STANDARD 208; OCCUPANT CRASH PROTECTION - CHEST INJURY CRITERIA AND MANDATORY USE OF THE PART 572(E) DUMMY IN THE STANDARD COMPLIANCE TESTING

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Petitions for reconsideration have raised the question of whether the Part 572(E) dummy's chest deflection limit of 2 in. is appropriate for belt restraints. The rulemaking will address the petitioner's issues. The intention is to upgrade the chest-deflection injury criteria for unrestrained occupants when vehicles are tested for the Standard compliance with the Hybrid III Dummy. The Final Rule stated that the agency will have to resolve this issue by September 1, 1990. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Former title: Mandatory Use of the Part 572(E) Dummy in FMVSS 208 Compliance Testing.

RIN 2127-AC34, involving chest injury criteria, has been consolidated herein.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC13

1977. + ROLLOVER

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: Consumers Union petitioned for rulemaking to develop a new standard to protect against unreasonable risk of rollover. The petition was granted on September 1, 1988. This action is considered significant because of substantial public interest and safety factors involved.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC64

1978. + STANDARD 102; TRANSMISSION SHIFT-LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING EFFECT-SLIPPAGE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: A petition is being considered which requests that an amendment be made which would require that automatic transmissions be designed so that they do not slip out of the PARK position. This issue is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC74

1979. + STANDARD 108; ID AND CLEARANCE LAMPS ON WIDE VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A rulemaking action is being considered which would amend the provisions for location of identification and clearance lamps on vehicles that are more than 80 inches wide. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC78

1980. + STANDARD 205; GLAZING MATERIALS, FILM TRANSMITTANCE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: A petition is being considered which requests that an amendment be made to the standard which would allow the applications of a film with 35% transmittance to the windows of motor vehicles. This project is considered significant because of the substantial public interest expected to be generated.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

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Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC85

1981. REVIEW: SCHOOLBUS SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: This regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/85	
End Review	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AA65

1982. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1985, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987 and a final report in August 1989. Comments were requested, which will be considered before the review ends.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Final Evaluation Report Published	08/04/89	54 FR 32153
End Review	06/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The evaluation report indicated that cars equipped with center high-mounted stop lamps were 17 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NPP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB76

1983. REVIEW: IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.203

Legal Deadline: None

Abstract: This review involves detailed quantitative analysis of factors limiting the performance of energy-absorbing steering assemblies in cars and an evaluation of the assemblies' fatality and injury reduction in light trucks.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/86	
End Review	03/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NNP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB78

1984. REVIEW: ROOF CRUSH RESISTANCE AND DOOR LOCKS AND DOOR RETENTION COMPONENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.206; 49 CFR 571.216

Legal Deadline: None

Abstract: This program was selected for review because of costs. The evaluation will study the effect of roof crush strength and door lock improvements on the crashworthiness of passenger cars in rollover crashes.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/31/90

Additional Information: Title was amended to add Door Locks and Door Retention Components.

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC20

1985. OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks and buses, and multipurpose passenger vehicles, includes requirements for padded instrument panels, seat backs, sun visors and arm rests. Its purpose is to provide impact protection for occupants. This regulation was selected for review because of costs, safety benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/86	
Evaluation Report Published	01/25/88	53 FR 2516
End Review	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/31/90

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB16

1986. STANDARD 301; FUEL-SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks, and school buses, specifies requirements for the integrity of motor vehicle fuel systems. The purpose of the standard is to reduce deaths and injuries caused by fires which result from fuel spillage after motor vehicle crashes. This evaluation follows up and expands on a prior study on passenger cars which showed that, while the regulation was effective in preventing deaths and injuries, the incidence of crash fires appeared to be increasing. This evaluation will also provide the initial assessment of the regulation as it applies to light trucks.

Timetable:

Action	Date	FR Cite
End Review	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Director, Office of Program Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AB43

1987. SUPPLEMENTAL FMVSS NO. 208 INJURY CRITERIA - FACIAL LACERATIONS, NECK INJURY, KNEE SHEAR, TIBIA AND ANKLE INJURIES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The intention to apply in Federal Motor Vehicle Safety Standard No. 208 rulemaking additional injury criteria in order to prevent facial lacerations, neck injury, knee shear, tibia, and ankle trauma was announced in Notice 39 Docket 74-14 (50 FR 14602, April 12, 1985). The final rule (Notice 40) stated that the agency will issue another Notice on the additional information about the potential effects of adopting these criteria. Alternatives and potential costs were addressed in Notice 39.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC12

1988. BUMPER STANDARD - DAMAGE CRITERIA

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 581; 49 CFR 582

Legal Deadline: None

Abstract: Consumers Union has petitioned to restore the bumper-damage criteria to the 1982 protection level of 5mph or, if this is not possible, to require automobile dealers to provide repair cost and insurance premium information related to the bumper systems on the passenger cars that they sell. The agency has completed and published a study on the cost effects and consumer interest in bumper-damageability standards. The agency will now consider the arguments set forth in the petition and take appropriate further action.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC29

1989. STANDARD 208; OCCUPANT CRASH PROTECTION, EMERGENCY LOCKING RETRACTORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires safety belt systems in the front outboard seating positions of passenger cars to adjust automatically by means of emergency locking retractors. Horkey and Associates petitioned the agency to prohibit the use of emergency locking retractors as it is alleged they do not provide adequate protection against occupant rebound in rear impacts. The petition is under consideration.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC57

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DOT—NHTSA

Prerule Stage

1990. BRAKE LINING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requesting initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and are presently under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC86

1991. BATTERY EXPLOSIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Petition to provide protection against battery explosions by providing a plastic barrier attached to battery has been received from Dr. Abraham. Ongoing analysis will determine the magnitude of the problem and benefits and costs of possible corrective actions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC67

1992. ESTABLISH A STANDARD FOR SAFE ENTRY AND EXIT REQUIREMENTS FOR COMMERCIAL VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The International Brotherhood of Teamsters has petitioned the agency to commence rulemaking to establish safe entry and exit requirements for commercial vehicles. The Teamsters urged that such requirements are necessary to combat frequent injuries to professional drivers from slipping and falling. The petition was granted and notice issued requesting comments.

Timetable:

Action	Date	FR Cite
Petition Granted	07/03/80	45 FR 45336
Request for Comments	08/28/89	54 FR 35515
Comment Period End	10/12/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC, 202 366-0842

RIN: 2127–AC82

1993. STANDARD 201; OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This action responds to a petition by Chrysler to exempt from the head-impact requirements of the standard those vehicles equipped with a passenger-side airbag complying with Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection.

Timetable:

Action	Date	FR Cite
Request for Comments	08/10/89	54 FR 32830
ANPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC84

1994. STANDARD 213; CHILD RESTRAINT SYSTEMS - NEWBORN AND VERY SMALL CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a petition to amend the standard to provide specific requirements for restraints to be used by newborn and very small children.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC87

1995. FEDERAL MOTOR VEHICLE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 541

DOT—NHTSA

Prerule Stage

Legal Deadline: Other, Statutory, October 24, 1990.

The Motor Vehicle Information and Cost Savings Act (P.L. 98-547) requires a Report to Congress five years after promulgation of the Federal Motor Vehicle Theft Prevention Standard.

Abstract: This standard, which applies to passenger cars, requires identifying numbers or symbols to be placed on major parts of high theft passenger motor vehicles. A comprehensive evaluation will be performed to determine the effectiveness of the regulation in reducing the incidence of motor vehicle thefts and to estimate the costs of manufacturing and applying the identifying information. The evaluation of the regulation is required by the Motor Vehicle Information and Cost Savings Act and calls for a Report to Congress five years after promulgation of the standard.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/86	
End Review	10/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC92

1996. STANDARD 105; HYDRAULIC BRAKE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: This standard regulates the performance of antilock brake systems for passenger cars and other vehicles with hydraulic brakes. The purpose of antilock brakes is to enhance the driver's control of the vehicle during emergency braking. Antilock brakes are currently available on some passenger cars. The standard, at this time, does not require them for all cars. The regulation was selected for review because of public interest in the costs and benefits of antilock brakes.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/90	
End Review	06/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC94

1997. ● STANDARD 121; AIR BRAKE SYSTEMS STOPPING-DISTANCE PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Accidents involving heavy trucks have a disproportionate (higher) fatality rate than all other motor vehicles. This rulemaking proposes to reinstate stopping distance performance requirements in Standard 121 so as to help improve heavy vehicle braking performance and hence reduce the number of accidents involving these vehicles. Although a court decision found that Standard 121, as it then existed, was unenforceable, additional accident data and technical review have persuaded NHTSA that the court's requirements can now be met.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD07

1998. ● STANDARD 207; SEATING SYSTEMS - PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the general performance requirements of the Standard.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD06

1999. ● STANDARD 109; NEW PNEUMATIC TIRES AND PART 575.104, UNIFORM TIRE QUALITY GRADING STANDARDS - CT TIRES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109; 49 CFR 575.104

Legal Deadline: None

Abstract: The agency has received a petition from General Tire, Inc., Continental AG, Germany, and Daimler-Benz AG, Germany, for rulemaking to amend FMVSS No. 109 and Part 575.104 to allow the use of CT tires (tires which use an inverted flange rim). The petition was granted, and additional information will be requested from General Tire.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th

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DOT—NHTSA — **Prerule Stage**

St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD21

2000. ● STANDARD 109; NEW PNEUMATIC TIRES - LABELLING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None

Abstract: The agency has received a petition from the European Tyre and Rim Technical Organization (ETRTO) requesting amendment to the standard pertaining to the tire labelling requirements. Additional information will be requested from petitioner.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD22

2001. ● STANDARD 209; SEAT BELT ASSEMBLY - WINDOWSHADE TYPE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: The agency has received a petition from the Goodson Engineering, Inc., to amend FMVSS 209 to prohibit windowshade-type shoulder belt retractors.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD25

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2002. + COMMERCIAL VEHICLE CONSPICUITY

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposed actions would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights). This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/27/80	45 FR 35405
ANPRM Comment Period End	08/25/80	45 FR 35405
Request for Comments	09/18/87	52 FR 35345
Comment Period End	11/09/87	
NPRM	07/31/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 07/31/91

Additional Information: Docket No. 80-9.

Research underway.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1537

RIN: 2127–AA12

2003. + TRUCK REAR UNDERRIDE PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This project would require protective devices to reduce vehicle penetration under the rear ends of heavy trucks and trailers (without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices). This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136
NPRM Comment Period End	04/08/81	46 FR 2136
SNPRM	01/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 01/31/90

Additional Information: Docket No. 1-11. NPRM, Notice 8.

Research underway.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA43

DOT—NHTSA — **Proposed Rule Stage**

2004. + SIDE-IMPACT PROTECTION, HEAD/NECK PROTECTION, AND OCCUPANT EJECTION MITIGATION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.206; 49 CFR 571.214

Legal Deadline: None

Abstract: Contemplated action proposes amending the current standard to include head/neck protection and to mitigate ejection through side windows and doors. This is considered significant because of the safety implications involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31712
ANPRM Comment Period End	10/18/88	
NPRM	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB85

2005. + POST 1991 LIGHT TRUCK FUEL ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 31, 1990.

Light truck fuel economy standards are required to be set at least 18 months prior to the beginning of the Model Year.

Abstract: In accordance with the mandatory requirements of Section 502(b) of the Motor Vehicle Information and Cost Savings Act, this rulemaking will establish light truck average fuel economy standards for Model Year 1992 and later years. This action is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
Questionnaire to Manufacturers	01/06/89	54 FR 436
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC51

2006. + HEAVY DUTY VEHICLE BRAKE SYSTEMS (FORMERLY TRUCK AND TRAILER BRAKE SYSTEMS)

Significance: Agency Priority

Legal Authority: 15 USC 1392 National Traffic & Motor Vehicle Safety Act of 1966; 15 USC 1407 National Traffic & Motor Vehicle Safety Act of 1966

CFR Citation: 49 CFR 571.121; 49 CFR 571.105

Legal Deadline: None

Abstract: Proposed action would establish a new brake standard for all trucks, buses, and trailers with a Gross Vehicle Weight Rating (GVWR) over 10,000 pounds. This standard would replace Standard No. 121, Air Brake Systems, and that portion of Standard No. 105, Hydraulic Brake Systems, that applies to vehicles with a GVWR over 10,000 pounds. It would also establish new requirements for heavy trailers having other than air-actuated brakes. In developing the standard, the agency will consider compatibility with international regulations. Research programs in support of this new standard and possible future upgradings of the standard will investigate such long-term advanced braking system concepts as antilock systems, automatic brake adjustors, load-sensing proportioning values, air driers, and retarders for heavy trucks, buses, and trailers. This rule is considered significant because of the level of public and Congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/79	44 FR 9783
ANPRM	02/28/80	45 FR 13155
NPRM	07/31/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 79-03. ANPRM, Notice 1; Second ANPRM, Notice 3.

Research underway.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA00

2007. + PROPOSED NEW STANDARD 135; PASSENGER-CAR BRAKE SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: Action proposes a New Standard No. 135, "Passenger Car Brake System," which would replace Standard No. 105, "Hydraulic Brake System," as it applies to that vehicle type. New Standard would differ from the existing one primarily in that it contains a revised and shortened test procedure based on a draft harmonized international procedure developed by the United Nations Economic Commission for Europe (ECE). This rulemaking is significant because of substantial public interest; in light of comments received, a second SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
Correction to NPRM for RIN AC63	06/20/85	50 FR 25612
Comment Period Extended to 01/13/86	09/17/85	50 FR 37702
NPRM Comment Period End	10/07/85	50 FR 19744
SNPRM	01/14/87	52 FR 1474

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Action	Date	FR Cite
SNPRM	10/13/87	
Comment Period End		
Second SNPRM	03/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/10/85 (50 FR 19744)

Additional Information: Docket No. 85-06. RIN AC63. Passenger-Car Brake Systems has been consolidated into this rulemaking.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA13

2008. + STANDARD 302; FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	53 FR 44627
NPRM	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 09/30/90

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA44

2009. + PEDESTRIAN PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This proposal would reduce adult and child pedestrian injuries through modification of the vehicle frontal structure. This rulemaking is significant because of substantial public interest. Due to technical problems, a second NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7015
NPRM Comment Period End	05/22/81	46 FR 7015
Second NPRM	03/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 03/31/90

Additional Information: Docket No. 78-19. NPRM, Notice 1. Research underway.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA45

2010. + SIDE-IMPACT PROTECTION -- LIGHT TRUCKS, VANS, AND MULTIPURPOSE PASSENGER VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 1.50; 49 CFR 571.214

Legal Deadline: None

Abstract: The purpose of this notice is to announce that the NHTSA is considering the proposal of requirements for light trucks, vans, and, multipurpose passenger vehicles intended to reduce the risk of fatalities and injuries in side impacts and other crashes where the side protection of the vehicle is a relevant factor, and to request comments to assist the agency in developing the proposal. The contemplated requirements would be part of the agency's efforts to address the serious problem of side impacts. As another part of those efforts, the agency proposed requirements for passenger cars intended to reduce the risk of injuries to the thorax and pelvis in side impact crashes between vehicles. (RIN 2127-AB86.) This rulemaking is considered significant because of the public safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31716
Comment Period Extension Denied	09/27/88	53 FR 37615
Comment Period Extension Denied	10/17/88	53 FR 40462
ANPRM Comment Period End	10/18/88	53 FR 31716
NPRM	01/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 7th Street, S.W., Washington, DC 20590, 202 366-0842

RIN: 2127–AC43

2011. + STANDARD 102; TRANSMISSION SHIFT-LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING EFFECT - SHIFT POSITION/PATTERN

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: A rulemaking action is being considered which would amend the provisions for indication of the shift position or shift pattern for transmissions that do not have a "PARK" position. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC75

2012. + STANDARD 217; BUS WINDOW RETENTION AND RELEASE - UPGRADE FOR SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of the standard to increase the minimum number of emergency exists on school buses. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44623
ANPRM Comment Period End	01/03/89	53 FR 44623
NPRM	01/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC88

2013. + STANDARD 301; FUEL-SYSTEM INTEGRITY - UPGRADE FOR BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: NHTSA is contemplating amending the standard to include buses over 10,000 pounds gross vehicle weight rating (GVWR) (such as intercity and transit buses) and to upgrade the standard's current requirements for all buses (including school buses) to which the standard already applies. The current standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses that have a GVWR of 10,000 pounds or less. This action is considered significant because of the safety implications involved.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/89	54 FR 13082
ANPRM Comment Period End	05/30/89	54 FR 13082

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC89

2014. ● + STANDARD 208; OCCUPANT CRASH PROTECTION - UPGRADE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action would require automatic occupant crash protection in light trucks, vans, and multipurpose passenger vehicles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD10

2015. ● + STOP-SIGNAL ARMS ON NEW SCHOOL BUSES; NEW STANDARD

Significance: Agency Priority

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Many injuries occur to school age children when drivers of other vehicles do not see the children or the school bus as the children are approaching or leaving a school bus. An average of 13 fatalities per year were reported resulting from pedestrians being struck by vehicles other than the school bus as they are approaching or leaving the school bus. The objective of this proposed project is to develop a new motor vehicle safety standard that will require installation of stop signal arms on all new school buses as recommended in the National Research Council's report "Improving School Bus Safety." Stop signal arms are stop signs with flashing red lights that extend from the left side of the school bus when it stops to load or unload students. This will probably necessitate additional equipment and possibly more training for some drivers. This action is significant because of substantial public interest, and possible Federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD16

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2016. ● + STANDARD 111; REARVIEW MIRRORS - SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This action is designed to help prevent school buses from running over children by improving mirrors and other items. This will probably necessitate more mirrors on the school buses, resulting in added cost for this additional equipment. Some drivers will need additional training. This is significant because of of substantial public interest, and possible Federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AD24

2017. ● + PROCEDURES FOR PARTICIPATING IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Significance: Agency Priority

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1325

Legal Deadline: None

Abstract: This regulation will implement an improved National Driver Register (NDR), the purpose of which is to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. The objective is to prevent the issuance of driver's licenses to individuals whose licenses to operate a motor vehicle have been withdrawn or denied, especially those convicted of drunk driving. By participating in the NDR, State Driver licensing officials may better identify problem drivers and deny them access to the nation's highways, thus making them safer. Annual cost to the Government will be between $5 and $7 million. This action is considered significant because of the impact on transportation safety.

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	
NPRM Comment Period End	02/15/90	
Final Action	07/15/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 01/15/90

Agency Contact: Clayton E. Hatch, Chief, Driver Register Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4800

RIN: 2127-AD26

2018. REARVIEW MIRROR SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: Proposal would amend FMVSS No. 111 to improve mirror systems for light and heavy trucks, buses, and multipurpose passenger vehicles.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
NPRM Comment Period End	03/06/79	43 FR 51657
SNPRM	07/31/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/31/91

Additional Information: Docket No. 71-3a. NPRM, Notice 4. Two other rulemakings involving rearview mirror systems have been consolidated herein: RINS 2127-AA23 and 2127-AA88.

Research underway.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA21

2019. AIR-BRAKE SYSTEMS, PARKING AND EMERGENCY BRAKES - TRAILERS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: This project would revise the requirements in Standard No. 121 for parking and emergency-brake functions for trailers.

Timetable:

Action	Date	FR Cite
NPRM	07/23/81	46 FR 37952
NPRM Comment Period End	08/24/81	46 FR 37952
SNPRM	10/31/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 79-03. NPRM, Notice 5.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA27

2020. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Significance: Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen C. DeMeter, Ass't Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1834

RIN: 2127-AB79

2021. ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN: 3-YEAR OLD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would update the specifications of Part 572 covering the three-year-old child dummy to allow optional use of new accelerometers and a new head design.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29071
NPRM Comment Period End	11/08/89	54 FR 29071

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/11/89 (54 FR 29071)

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB94

2022. ANTHROPOMORPHIC TEST DUMMIES: 6-YEAR OLD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: This action would add the specifications covering the 6-year-old-child test dummy to Part 572 to allow its use in evaluation of child restraints designated for older children.

Timetable:

Action	Date	FR Cite
NPRM	04/06/89	54 FR 13901
NPRM Comment Period End	10/03/89	54 FR 13901

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/06/89 (54 FR 13901)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC09

2023. ANTHROPOMORPHIC TEST DUMMIES: 9-MONTH OLD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would add the specification covering the 9-month-old-child test dummy to Part 572 to allow its use in evaluation of restraints designated for infants and small toddlers.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/28/90

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC10

2024. STANDARD 205; GLAZING MATERIALS BALL DROP TEST

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: Based on a petition, this action would amend the FMV Safety Standard No. 205, Glazing Materials, to revise the ball drop test No. 26 to allow clamping of glass-plastic samples. NHTSA is evaluating the petitions.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC14

2025. STANDARD 221; SCHOOL BUS BODY JOINT STRENGTH

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: ANPRM requested comments on three items, all related to FMVSS No. 221 School Bus Body Joint Strength. These are: (a) possible new standard requiring minimum floor strength for large school buses over 10,000 lbs. GVWR, (b) revision of exemption provision for maintenance access panels, and (c) revision of test procedures of FMVSS No. 221.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	52 FR 23314
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	04/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Proposed Rule Stage

Analysis: Regulatory Evaluation 04/30/90

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC19

2026. BUMPER STANDARD - TEST PROCEDURES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 581

Legal Deadline: None

Abstract: Subaru of America has petitioned to modify the test conditions for bumper compliance testing so that vehicles with variable height suspension would be tested at the normal, unraised height position. This action will consider the arguments set forth in the petition and take appropriate further action.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this petition is awaiting disposition of a petition on vehicle classification, RIN 2127-AA57.

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Divison, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC30

2027. STANDARD 205; GLAZING MATERIALS - CREATE A NEW CATEGORY, AS-15

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: The Taliq Corporation of Sunnyvale, CA, petitioned the agency to create a new category of glass-plastic glazing, AS-15. This proposed glazing would consist of a layer of tempered glass and a layer of plastic with the tempered glass layer on the outside surface when installed in the vehicle. This glazing would be permitted only in vehicle locations not requisite for driving visibility. The merits of the petition are being considered.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC38

2028. STANDARD 118; POWER-OPERATED WINDOW SYSTEMS, SUNROOFS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1409

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: Amendments are proposed to Federal Motor Vehicle Safety Standard No. 118 to extend the standard's requirements to power-operated sunroofs and either permitting external non-key locking systems to operate power windows and sunroofs or prohibiting all external operating systems.

Timetable:

Action	Date	FR Cite
NPRM	04/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This project has been separated from RIN 2127-AC25, entitled: Power-Operated Window Systems, which was a completed action 6/24/88 (53 FR 23766).

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC52

2029. STANDARD 106; BRAKE HOSES PERMANENTLY ATTACHED END FITTINGS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Volvo-White Truck Corporation petitioned to amend Federal Motor Vehicle Safety Standard No. 106 to change the definition of permanently attached end fitting to include fittings that are attached by permanent methods other than crimping or swaging. The petition is being considered.

Timetable:

Action	Date	FR Cite
NPRM	04/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/30/90

Agency Contact: Ralph Hitchcock, Dirctor, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC55

2030. STANDARD 301; FUEL SYSTEM INTEGRITY, TESTING PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 301 specifies requirements for the integrity and security of vehicle's entire fuel system, including the fuel tank, fuel pump, lines and connections in front and rear, or lateral barrier impact tests; also fuel loss must not exceed one ounce per minute in a static rollover test following these barrier crash tests as well as not exceeding these limits after and incidental to the crash tests. Thomas Feahney petitioned the agency to amend the Standard to include simple functional testing to assure performance equivalent to fuel systems made of high density polyethylene. The petition was granted and an ANPRM requested comments.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/89	54 FR 9855
ANPRM Comment Period End	05/08/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC62

2032. COMPREHENSIVE REVIEW OF VISIBILITY TOPICS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.111; 49 CFR 571.219

Legal Deadline: None

Abstract: As a result of requests for interpretation for head-up displays and other devices which affect driver visibility through vehicle windows, the agency is conducting a comprehensive review of visibility research.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC69

2031. STANDARD 301; FUEL SYSTEM INTEGRITY, FUEL SPILLAGE

Significance: Nonsignificant

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard (FMVSS) No. 301 specifies requirements for the integrity of motor vehicle fuel systems so that fires that result from fuel spillage during and after motor vehicle crashes may be reduced. This standard applies to passenger cars and school buses, and to multipurpose passenger vehicles, trucks, and buses that have a gross vehicle weight rating of 10,000 pounds or less. The California Highway Patrol (CHP) petitioned the agency to specify requirements in FMVSS No. 301 to reduce fuel spills from the fuel tank or fuel lines on heavy trucks and truck tractors over 10,000 pounds. The fuel spills, according to the CHP, are due to damage caused by road debris. On May 2, 1988, the agency published a grant of petition for rulemaking in the Federal Register for the CHP petition. However, the agency is granting the petition pending the results of its forthcoming investigation of fuel-tank fires in over-the-road trucks.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC77

2033. STANDARD 108; OPTICALLY COMBINED LAMPS: NEW DEFINITION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A petition is being considered which requests an amendment to introduce a new definition for the term "optically combined" concerning lamps.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC77

2034. STANDARD 121; AIR-BRAKE SYSTEMS, SUPPLEMENTAL CONNECTOR

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Wabco has petitioned the agency to amend the standard to allow the use of a supplemental electrical connector instead of the stop lamp circuit to power the antilock brake system on air-braked trailers. The petitioner believes the use of a supplemental connector would provide better performance and protection against system malfunctions.

Timetable:

Action	Date	FR Cite
Petition Granted by Letter	03/17/88	
Request for Comments	10/12/88	53 FR 39751
NPRM	03/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th

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RIN: 2127–AC80

2035. STANDARD 121; AIR-BRAKE SYSTEMS, EXPANDABLE AND DROP FRAME CONTAINER CHASSIS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: The Truck Trailer Manufacturers Association has petitioned the agency to amend the standard to remove extendable and drop frame container chassis from the partial exclusions applying to heavy hauler trailers. The petitioner believes that the reasons for excluding heavy hauler trailers from certain requirements of the standard do not apply in the case of container chassis. The petition is under consideration.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC81

2036. TRACTOR-TRAILER FIFTH WHEEL; FALSE LATCHING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The petitioner claims that it is possible to "high-hitch" or false latch the fifth wheel and the kingpin when connecting a trailer to the towing tractor. (The fifth wheel is the coupling unit on the tractor that allows the unit to be joined and towed through a wide range of articulation.) Petitioner requested the agency to write a standard that would not allow false latching of the tractor trailer fifth wheel. The action is a request for information on separation of tractor trailers, availability of accident data, information of the cost of changing the present designs, and performance tests should a standard be considered.

Timetable:

Action	Date	FR Cite
Request for Comments and Petition Granted	08/18/88	53 FR 31378
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This project is being considered jointly with FHWA, although NHTSA is responsible for compiling the information received.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC83

2037. PEDESTRIAN HEAD-PROTECTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This proposal would reduce adult and child head injuries through modification of the vehicle hood structure.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC90

2038. ● DRIVING RANGE DETERMINATION FOR DUAL-FUEL PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 2013

CFR Citation: None

Legal Deadline: Final, Statutory, April 14, 1990.
Eighteen months after enactment of the law.

Abstract: The Alternative Motor Fuels Act of 1988 (P.L. 100-494) requires the establishment of minimum driving range for two groups of dual energy passenger automobiles: those operating on alcohol and either gasoline or diesel fuel, and for those operating on natural gas and either gasoline or diesel fuel.

Timetable:

Action	Date	FR Cite
Request for Comments by 07/17/89	06/15/89	54 FR 25539
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AD02

2039. ● STANDARD 105; HYDRAULIC BRAKE SYSTEMS - BRAKE FAILURE INDICATOR LAMPS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 105 requires vehicles to have a brake failure indicator lamp which illuminates upon a failure within the brake system. This failure may be the result of a gross loss of pressure (Par. S5.3.1(a)) or a drop in the level of brake fluid in any master cylinder reservoir compartment to less than a specified safe level (S5.3.1(b)). The standard does not specify which mode of failure must be specified. This mode selection is left to the choice of the manufacturers. A petition from Mr. Sinclair Buckstaff, Transamerica Consultant Engineers (Buckstaff) requests that a loss of pressure indicator be made mandatory with a fluid level loss indicator to be optional (preferably mandatory) also, along with the pressure failure indicator. Buckstaff maintains a master cylinder internal failure can occur wherein no failure indication would ever occur if only a fluid level loss indicator were installed on the vehicle.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD03

2040. ● STANDARD 106; BRAKE HOSES - ASSEMBLIES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 106 requires hoses, end fittings, and hose assemblies, except under limited circumstances, to be marked in a manner providing source identification for the hose, fitting, or assembly. Paragraphs S12 and S13 provide two exceptions. Paragraph S12 exempts "assemblies" from individual labelling of the "components." The "assembly" must still be labeled as specified in the appropriate paragraphs S5.2, S7.2, and S9.2. Paragraph S13 exempts hoses, fittings, and assemblies, if each or all are installed in a vehicle to which the standard applies (i.e., new vehicles, factory assemblies) from the individual requirements for labelling these components or assemblies. Rulemaking is to be initiated to clarify these requirements as they apply to the labelling of components or assemblies which use "reusable" fittings. A conflict may exist as to whether these materials with "reusable" components are considered to be "assemblies."

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD04

2041. ● STANDARD 116; MOTOR VEHICLE BRAKE FLUIDS - COLOR REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.116

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 106 requires that brake fluids classified as type DOT-5 be colored purple. Mr. Frank Haynes, Bendix-France (Haynes) and others have petitioned for rulemaking concerning the requirements as to color coding, pH value, and chemical stability for DOT-5 nonsilicone brake fluids. Petitioners requested these new types be differentiated from the silicone fluids.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD05

2042. ● STANDARD 121; AIR BRAKE SYSTEMS TIMING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Petitions for reconsideration were received from Volvo GM Hedvk Truck Corporation and Novistar International Transportation Corporation in response to a final rule implementing timing requirements for parking brake application and holding.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD06

2043. ● STANDARD 207; SEATING SYSTEMS - TEST PROCEDURE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: The agency is considering whether to adopt a test procedure more appropriate to pedestal seats.

Timetable:

Action	Date	FR Cite
NPRM	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD09

2044. ● STANDARD 208; OCCUPANT CRASH PROTECTION - DYNAMICALLY TESTED SEAT BELTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

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CFR Citation: 49 CFR 571.208; 49 CFR 571.209

Legal Deadline: None

Abstract: This action responds to petitions by Volkswagen and Ford Motor Company to exempt certain dynamically tested safety belts from elongation and other requirements for Federal Motor Vehicle Safety Standard No. 209, Seat Belt Assembly.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD11

2045. ● STANDARD 216; ROOF CRUSH RESISTANCE - LIGHT TRUCKS, VANS, AND MULTIPURPOSE PASSENGER VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 1.50; 49 CFR 571.216

Legal Deadline: None

Abstract: The purpose of this notice is to announce that the agency is considering extending the roof crush resistance requirements of the standard to cover light trucks, vans, and multipurpose vehicles (MPVs). This rulemaking is intended to reduce the risk of fatalities and injuries in rollover accidents and other crashes where the roof crush resistance of the vehicle is a relevant factor.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD13

2046. ● STANDARD 108; LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT - PETITIONS FOR RECONSIDERATION, REFORM

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has received petitions for reconsideration of the final rule for near-term headlighting reform (54 FR 20066, May 9, 1989 - RIN 2127-AC53) from Chrysler, Ford, General Motors, Koito, Motor Vehicle Manufacturers Association, and Volkswagen. The petitions are under consideration.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD17

2047. ● STANDARD 108; LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT - HUMIDITY TEST

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency received petitions from Hella, Bosch, and Koito for clarification of the humidity test procedures. Petitioners were granted.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD18

2048. ● STANDARD 108; COLOR-CODED REAR LIGHTING

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has received a petition from Mr. Freeman requesting permission for production of a new color-coded rear signalling device for motor vehicles.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD19

2049. ● STANDARDS FOR NEW PNEUMATIC TIRES - LISTING OF STANDARDIZATION ORGANIZATIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109; 49 CFR 571.119; 49 CFR 571.120

Legal Deadline: None

Abstract: In the agency's safety standards applicable to new pneumatic tires for use on motor vehicles, there are listings of standardization organizations whose publications of specifications are accepted under the standards as means for determining appropriate rim sizes on which to mount the tire during testing, and for providing other tire and rim technical data. The agency has received a petition requesting changes to these listings. The Tyre and Rim Association of Australia has asked that their name be added to the list of standardization organizations.

Timetable:

Action	Date	FR Cite
NPRM	04/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD20

DOT—NHTSA — Proposed Rule Stage

2050. ● STANDARD 110, TIRE SELECTION AND RIMS; AND 120, TIRE SELECTION AND RIMS FOR OTHER THAN PASSENGER CARS - SIZE LABELLING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.110; 49 CFR 571.120

Legal Deadline: None

Abstract: The agency has received a petition from the Rubber Manufacturers Association for rulemaking to amend FMVSS Nos. 110 and 120 to require size labelling of all new highway vehicle wheels, whether for original equipment or for the replacement market.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD23

2051. ● AIR-BRAKE SYSTEMS; PNEUMATIC TIMING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action proposes to require for towing vehicles that actuation at the interface between towing vehicles and trailers must be at least as fast as actuation at the towing vehicle brake chambers. It also proposed requirements for towing trailers to ensure that the relay booster valves used on these trailers do not upset brake balance between vehicles in a combination.

Timetable:

Action	Date	FR Cite
NPRM	05/03/89	54 FR 18912
NPRM Comment Period End	07/03/89	
Comment Period Extended	07/21/89	54 FR 30571
Comment Period End	10/03/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/03/89 (54 FR 18912)

Agency Contact: Richard C. Carter, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-5274

RIN: 2127–AD27

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

2052. + CRASHWORTHINESS RATINGS

Significance: Regulatory Program

Legal Authority: 15 USC 1401; 15 USC 1941

CFR Citation: 49 CFR Chapter 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Draft Regulatory Evaluation 01/22/81 (46 FR 7025)

Additional Information: Docket No. 79-17. NPRM, Notice 1.

Agency Contact: Marilynne Jacobs, Director, Office, Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1740

RIN: 2127–AA03

2053. + ANTHROPOMORPHIC TEST DUMMIES: SIDE-IMPACT THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would provide performance criteria for the adult surrogate dummies which would be required in dynamic testing of vehicles if Standard 214, Side Door Strength, is upgraded. This action is considered significant because of the safety implications.

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Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2254
NPRM Comment Period End	01/27/88	53 FR 2254
Corrections to NPRM	03/17/88	53 FR 8783
Final Action	03/31/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Preliminary Regulatory Evaluation 01/27/88 (53 FR 2254)

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA48

2054. + UNIFORM TIRE QUALITY GRADING STANDARDS - TREADWEAR AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: Contemplated action would amend treadwear grading procedures of the Uniform Tire Quality Grading Standards to assure greater reliability of grading information for consumers. Test procedures would be amended to reduce variability. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 2167
NPRM Comment Period End	03/20/89	54 FR 2167
Final Action	02/28/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 01/19/89 (54 FR 2167)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Div., Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA48

2055. + SIDE-IMPACT PROTECTION: THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: NPRM proposes amending the current standard to upgrade thoracic protection in passenger-car side impacts. This action is considered significant because of the safety implications involved.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	
NPRM Comment Period End 10/24/88	01/27/88	53 FR 2239
NPRM Technical Correction	03/17/88	53 FR 8782
Final Action	03/31/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/27/88 (53 FR 2239)

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB21

2056. + LIGHTING SIMPLIFICATION–POTENTIAL AMENDMENTS ON LONG-TERM ISSUES TO SIMPLIFY FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 108 LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: NHTSA proposes a comprehensive review of headlighting requirements of FMVSS No. 108 which may be simplified, while being consistent with motor-vehicle safety. The agency has concentrated its efforts into five principal areas. This action addresses the first of these, which is the feasibility of a standard directed toward onboard original-equipment headlighting performance rather than toward performance of individual aftermarket headlamps in a laboratory environment. This action is considered significant because of safety implications. Based on comments received, a second NPRM was issued.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	10/29/87	52 FR 49038
NPRM Comment Period End	03/26/88	
NPRM	05/09/89	54 FR 20048
Correction to Second NPRM	05/19/89	54 FR 21727

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 12/29/87 (52 FR 49038)

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2.

Federal Register Notice (51 FR 1542) extended comments period from a closing date of Jan. 21, 1986 to March 6, 1986.

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB87

2057. + VEHICLE CLASSIFICATION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 2001

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the advance notice invited comment on possible amendments to the regulation with respect to the manner in which light trucks, vans, multipurpose vehicles, and certain other vehicles are classified. The October 17, 1988 Notice of Proposed Rulemaking proposed two alternative vehicle classification approaches for those vehicles now categorized as light trucks, multipurpose passenger vehicles, and passenger cars. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/87	52 FR 41475
ANPRM Comment Period End	12/28/87	52 FR 41475
ANPRM Comment Period Extended to 01/25/88	01/07/88	53 FR 426
NPRM	10/17/88	53 FR 40463
NPRM Comment Period End	01/17/89	53 FR 40463

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/88 (53 FR 40463)

Agency Contact: Deborah Parker, Special Project Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4931

RIN: 2127–AA57

2058. + HEAD RESTRAINTS - EXTEND TO MPVS, TRUCKS, AND BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: This action grants a petition for rulemaking and requests comments on the NPRM's proposal to extend head restraint requirements of Federal Motor Vehicle Safety Standard No. 202 to multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or less. This issue is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	12/13/88	53 FR 50047
NPRM Comment Period End	02/13/89	53 FR 50047
Final Action	10/15/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/13/88 (53 FR 50047)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC06

2059. + PART 544, MOTOR VEHICLE THEFT PREVENTION; REPORTING REQUIREMENTS FOR MOTOR VEHICLE RENTAL AND LEASING COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 2032

CFR Citation: 49 CFR 544

Legal Deadline: Final, Statutory, October 25, 1989.
Rental and leasing companies who are self-insured are required to report to the agency October 25th of each year.

Abstract: This notice has proposed to require theft reports only from rental and leasing companies with combined fleets of 50,000 or more vehicles. This would result in the largest rental and leasing companies being required to file theft reports, instead of the approximately 4,000 companies currently required to do so. NHTSA has determined that reports from the largest rental and leasing companies would provide the agency with the representative sampling of the theft experience of rental and leasing companies, while reducing an unnecessary burden on smaller such companies. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5519
NPRM Comment Period End	03/20/89	
Final Action	11/30/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action proposes amendment to the final rule published 01/02/87 (52 FR 59).

Agency Contact: Barbara Kurtz, Chief, Motor Vehicle Theft Group, NRM-20, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4808

RIN: 2127–AC32

2060. ● + INCENTIVE GRANT CRITERIA FOR DRUNK-DRIVING-PREVENTION PROGRAMS (SECTION 410)

Significance: Agency Priority

Legal Authority: PL 100-690

CFR Citation: 23 CFR 1313

Legal Deadline: NPRM, Judicial, November 18, 1989.
NHTSA is required to publish a final rule by November 18, 1989.

Abstract: Under the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, this rulemaking establishes regulations and criteria under which States may apply for and receive federal alcohol highway safety incentive grants. Grant criteria include prompt license suspension for Driving While Intoxicated (DWI) offenses, self-sustaining community DWI programs, mandatory alcohol blood testing, prevention of underage drivers from drinking, suspension of vehicle license plates and registration for DWI offenses, and prevention of open alcohol containers and drinking in cars. This rulemaking is significant under DOT policy and procedures because it would have substantial impact on State and local governments.

Timetable:

Action	Date	FR Cite
NPRM	06/26/89	54 FR 26783
NPRM Comment Period End	07/26/89	54 FR 26783
Interim Final Rule	11/16/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 06/26/89 (54 FR 26783)

Agency Contact: Lewis S. Buchanan, Chief, Driver Control Div, Traffic Safety

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Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-2753

RIN: 2127–AD01

2061. ● + STANDARD 208; OCCUPANT CRASH PROTECTION - REAR SEAT LAP/SHOULDER BELTS, PHASE 2

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action responds to a petition by Stephanie Tombrello and would require rear seat lap/shoulder belts in light trucks, vans, MPVs, and small buses. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 47982
NPRM Comment Period End	01/30/89	53 FR 47982
Final Action	11/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD12

2062. PART 571.3 - DEFINITIONS - SEATING REFERENCE POINT/MOTOR VEHICLE DRIVER'S EYE RANGE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This project would update the definition of Seating Reference Point.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/82	47 FR 9865
NPRM	06/05/86	51 FR 20536
NPRM Comment Period End	08/04/86	51 FR 20536
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulation Evaluation (Minimal) 06/05/86 (51 FR 20536)

Additional Information: Docket No. 82-05.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA46

2063. SEAT-BELT-ASSEMBLY ANCHORAGES - HARMONIZE AND UPGRADE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: This action proposes amending Standard No. 210 to harmonize the strength of the anchorage test with the United Nations Economic Commission for Europe (ECE) Regulation No. 14 and to upgrade other requirements and clarify language.

Timetable:

Action	Date	FR Cite
NPRM	02/03/87	52 FR 3293
NPRM Comment Period End	04/06/87	52 FR 3293
Final Action	10/31/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/03/87 (52 FR 3293)

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA95

2064. NEW NON-PNEUMATIC TIRES FOR PASSENGER CARS, TIRE SELECTION, AND RIMS - TEMPORARY USE OF NON-PNEUMATIC SPARE TIRES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.110; 49 CFR 571.129

Legal Deadline: None

Abstract: Based on a petition, the agency is proposing an amendment to Federal Motor Vehicle Safety Standard No. 110, Tire Selection and Rims - Passenger Cars, to allow temporary use of non-pneumatic spare tires and establish performance requirements for them in a new Federal Motor Vehicle Safety Standard No. 129, Non-Pneumatic Tires for Passenger Cars.

Timetable:

Action	Date	FR Cite
Request for Comments	09/23/87	52 FR 35740
Comment Period End	12/22/87	
NPRM	04/07/89	54 FR 14109
NPRM Comment Period End	06/06/89	54 FR 14109

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/07/89 (54 FR 14109)

Additional Information: Former title: Non-Pneumatic Tires for Passenger Cars.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC18

2065. GEAR LOCK; THEFT PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.114

Legal Deadline: None

Abstract: This action would amend Federal Motor Vehicle Safety Standard 114 to prevent the inadvertent knocking out of gear of the gear shift lever and potential accidents, injuries and fatalities from vehicles rolling out of control. This amendment is in response to a petition for rulemaking relating to an inadvertent knock-out-of-gear accident resulting in a fatality. In addition, FMVSS 114 is proposed to be amended to insure that, if a steering column locking device is employed, the device cannot be activated until the key is removed and the vehicle must be in park on automatic transmission vehicles to remove the key.

Timetable:

Action	Date	FR Cite
NPRM	04/05/88	53 FR 11105
Comment Period Extended to 07/05/88	05/18/88	53 FR 17732
NPRM Comment Period End	05/20/88	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Prelim. Regulatory Evaluation 04/05/88 (53 FR 11105)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC24

2066. ODOMETER DISCLOSURE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1981

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: An interim final rule permitted, in limited circumstances when a title document is physically held by a lienholder, the use of a secure power-of-attorney form. Final action contemplates further action on that issue, clarifying definitions of transferor and transferee, requiring the transferee to return to the transferor a signed copy of the odometer disclosure statement, and requiring that title reassignment documents be issued by the States. Comments to the interim final rule are being evaluated and will be discussed in the final action.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 2171
NPRM Comment Period End	01/30/89	
NPRM	03/08/89	54 FR 9858
Interim Final Rule	03/08/89	54 FR 9809
Denial of Petitions for Reconsideration	03/08/89	54 FR 9816
Grant of Extensions of Time	05/01/89	54 FR 18516
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action will amend the final rule issued 06/05/88 (53 FR 29464). Extensions to the compliance data appeared in the Federal Register as follows: 03/22/89 starting at 54 FR 11729; 04/17/89 starting at 54 FR 15197; 04/26/89 starting at 54 FR 17950; 05/01/89 starting at 54 FR 18507.

Agency Contact: Mattie Cohan, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, DOT/NHTSA, 400 Seventh Street, SW, Room 5219, Washington, DC 20590, 202 366-1834

RIN: 2127–AC42

2067. STANDARD 108; PROPOSED USE OF 9007 BULBS FOR HEADLAMPS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 552; 49 CFR 571.108

Legal Deadline: None

Abstract: Ford has petitioned to allow Federal Motor Vehicle Safety Standard No. 108 to be amended to permit a new replaceable bulb design for headlamps and replacement use, designated HB5. The petition was granted with a Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/29/89	54 FR 27399
NPRM Comment Period End	08/14/89	54 FR 27399
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/29/89 (54 FR 27399)

Agency Contact: Ralph J. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC59

2068. STANDARD 115; VEHICLE IDENTIFICATION NUMBER AND PART 567 - CERTIFICATION REGULATION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1397; 15 USC 1401; 15 USC 1403; 15 USC 1407; 15 USC 1912; 15 USC 1915; 15 USC 2022; 15 USC 2028; 15 USC 2120

CFR Citation: 49 CFR 571.115; 49 CFR 567

Legal Deadline: None

Abstract: The agency proposed to amend Federal Motor Vehicle Safety Standard No. 115 and Part 567 with regard to vehicles not originally manufactured for sale in the United States and that do not comply with Federal motor vehicle safety standards, but that are imported into this country by businesses unaffiliated with the original manufacturer. These vehicles often are labelled with "homemade" 17 digit Vehicle Identification Numbers (VIN). Under the proposal, the importer would label the vehicle partially exempt from Standard No. 115 and direct interested parties to the location of the original manufacturers's number to be used in lieu of the VIN. The agency is taking this action in response to a petition from the National Automobile Theft Bureau (NATB).

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	53 FR 17088
NPRM Comment Period End	06/27/88	53 FR 17088
Final Action	10/31/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th

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RIN: 2127–AC65

2069. STANDARD 108; LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT; UPGRADE REFERENCES

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A petition from Truck Safety Equipment Institute (TSEI) primarily requested NHTSA to update references in Federal Motor Vehicle Safety Standard No. 108 to latest version of Society of Automotive Engineers (SAE) standards for stoplamps and turn signal lamps. The NPRM proposed to incorporate by reference the current SAE standards.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35097
NPRM Comment Period End	10/24/88	53 FR 35097
Final Action	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/09/88 (53 FR 35097)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC68

2070. CONSUMER INFORMATION REGULATIONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1421; 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This notice implements the granting of a petition by Motor Voters requesting that NHTSA require motor vehicle manufacturers to include information in their vehicle owner's manual advising owners about the agency's defect authority and providing them with the agency's Auto Safety Hotline. To encourage owners to report defects and to facilitate their doing so, this notice proposes to amend the agency's Consumer Information Regulations to require manufacturers to provide the requested information.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45527
NPRM Comment Period End	12/27/88	53 FR 45527

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/10/88 (53 FR 45527)

Agency Contact: Marvin L. Shaw, Attorney, Department of Transportation, National Highway Traffic Safety Administration, NHTSA - NCC-20, 400 7th Street, SW, Washington, DC 20590, 202 366-2992

RIN: 2127–AC72

2071. STANDARDS 105 AND 121; HYDRAULIC AND AIR BRAKE SYSTEMS - BRAKE ADJUSTERS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: Proposal would amend the standards to require that if a vehicle is equipped with automatic brake adjusters they must be connected during burnishing and testing. This amendment is proposed to provide a consistent procedure for the two standards.

Timetable:

Action	Date	FR Cite
NPRM	06/27/83	48 FR 29560
NPRM Comment Period End	08/26/83	48 FR 29560
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC76

2072. STANDARD 208; OCCUPANT CRASH PROTECTION - BROADEN TEST PROCEDURES FOR HEAVY TRUCKS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action responds to two petitions for reconsideration on the final rule for seat belts on trucks over 10,000 lbs. gross vehicle weight rating (07/06/88, 53 FR 25337). The rule requires retractors on the belt systems and standardized buckle releases. The petitions requested the agency amend the rule to broaden the test procedure to include anti-cinching devices anywhere on the seat belt systems. The petitions were granted with a Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29069
NPRM Comment Period End	08/25/89	54 FR 29069
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Another petition for reconsideration was requesting a change to this same rule to require retractors only on front outboard seats. This petition was from the Recreational Vehicle Industry Association. The petition was granted (RIN 2127-AB71) with a Final Rule (July 11, 1989, 54 FR 29041).

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC86

2073. CONFIDENTIAL BUSINESS INFORMATION

Significance: Nonsignificant

Legal Authority: 15 USC 1401; 15 USC 1402; 15 USC 1407; 15 USC 1418; 15 USC 1914; 15 USC 1944; 15 USC 1990d; 15 USC 2005; 15 USC 2029; 15 USC 322; 15 USC 552

CFR Citation: 49 CFR 512

Legal Deadline: None

Abstract: Revisions to the existing regulation are necessary to ensure efficient processing of business information received by the National Highway Safety Administration pursuant to Exemption 4 of the Freedom of Information Act. This action is intended to clarify certain provisions, to revise certain sections to conform to statutory and case law, to include additional class determinations and to respond to a petition from General Motors Corporation, recommending that the agency consider adding a presumptive class determination.

Timetable:

Action	Date	FR Cite
NPRM	07/07/89	54 FR 28696
NPRM Comment Period End	08/21/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/07/89 (54 FR 28696)

Agency Contact: William Fox, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1834

RIN: 2127–AC95

2074. REGISTERED IMPORTERS OF NONCONFORMING VEHICLES

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 592, (New)

Legal Deadline: Final, Statutory, October 31, 1989.

Abstract: This action implements those provisions of PL 100-562 that will restrict importation of nonconforming vehicles, not otherwise exempted, to persons who have registered with the Department as undertaking to provide certification that the vehicles have been conformed after entry, or to persons who have contracted with importers registered with the Department to undertake conformance work, by establishing the requirements for obtaining and maintaining registration.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17780
NPRM Comment Period End	06/26/89	
Final Action	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/25/89 (54 FR 17780)

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC, 202 366-5263

RIN: 2127–AC97

2075. SCHEDULE OF FEES AUTHORIZED BY THE IMPORTED VEHICLE SAFETY COMPLIANCE ACT

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 594 (New)

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: The Act requires NHTSA to establish different fees concerning the importation of motor vehicles into the United States. NHTSA will be establishing fees relating to the administration of the registered importer program, fees to cover costs associated with the agency's determination whether a motor vehicle is eligible for importation into the United States, and fees to allow reimbursement of the U.S. Customs Service for costs incurred in processing the bond that is required when certain nonconforming vehicles are imported.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17792
NPRM Comment Period End	06/26/89	
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/89 (54 FR 17792)

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127–AC98

2076. NONCONFORMING VEHICLES: ELIGIBILITY FOR IMPORTATION

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 593, (New)

Legal Deadline: Final, Statutory, October 31, 1989.

Abstract: This action will implement provisions of PL 100-562 that restrict importation of vehicles not certified as meeting Federal Motor Vehicle Safety Standards to those which NHTSA has determined in fact conform, or can be modified to conform, with such standards.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17786
NPRM Comment Period End	06/26/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/25/89 (54 FR 17786)

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127–AC99

2077. IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Significance: Nonsignificant

Legal Authority: PL 100-562 The Imported Vehicle Safety Compliance Act of 1988

CFR Citation: 49 CFR 591, (New)

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DOT—NHTSA

Final Rule Stage

Legal Deadline: Final, Statutory, October 31, 1989.

Abstract: This action would implement those provisions of PL 100-562 that modify the existing procedures applicable to the importation into the United States of motor vehicles and equipment subject to the Federal Motor Vehicle Safety Standards.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17772
NPRM Comment Period End	06/26/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/25/89 (54 FR 17772)

Agency Contact: Taylor Vinson, Attorney, Department of Transportation, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127–AD00

2078. ● INSURER REPORTING REQUIREMENTS; LIST OF INSURERS REQUIRED TO FILE REPORTS IN OCTOBER 1989

Significance: Nonsignificant

Legal Authority: 15 USC 2021 to 2026

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: This notice lists the subject insurers required to file annual reports with this agency on motor vehicle theft, unless exempt from filing such reports. The listing of insurance companies in this notice is derived from 1987 data provided by A. M. Best whose data are based on reports submitted voluntarily by the insurance companies. Those insurance companies included on the final rule listing would be required to file reports for the 1989 calendar year not later than October 25, 1989. Any insurance company not on the final list is not required to file a report for the 1989 calendar year.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	54 FR 22921
NPRM Comment Period End	07/14/89	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Kurtz, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD14

2079. ● FINAL LISTING OF HIGH THEFT LINES FOR MODEL YEAR 1990

Significance: Nonsignificant

Legal Authority: 15 USC 2021 to 2026

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The purpose of this notice is to report the results of this agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the model year 1990 and publish a list of those car lines. The agency has previously published a list of the car lines that were selected as high theft car lines for prior model years, beginning with the 1987 model year. The list in this notice includes all of the car lines in the previous lines, as well as the new lines that were introduced for the 1990 model year and that have been selected as likely high theft lines. This notice is revised yearly (each model year).

Timetable:

Action	Date	FR Cite
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Kurtz, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AD15

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2080. + POST-1988 PASSENGER-CAR FUEL-ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: Final, Statutory, October 1, 1988.
Amendments reducing the fuel economy standard for a particular model year are required to be made by the beginning of a model year.

Abstract: Automotive Importers of America, Inc., Austin Rover Group Ltd., Mercedes-Benz of North America, Inc., Competitive Enterprise Institute, and General Motors Corporation petitioned to lower passenger car Corporate Average Fuel Economy (CAFE) standards for Model Years 1989 and 1990. The March 1988 ANPRM sought public comment on whether to reduce the CAFE standard for MY 1989 and/or 1990, to determine whether retaining the present standard would adversely affect U.S. employment or competitiveness of the U.S. auto industry. The final action determined that retention of the 27.5 mpg standard will not adversely affect employment or competition.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/88	53 FR 8668
ANPRM Comment Period End	04/11/88	53 FR 8668
NPRM	06/29/88	53 FR 33080
NPRM Comment Period End	09/15/88	53 FR 33080
Final Action for Model Year 1989	10/06/88	53 FR 39275
Final Action	05/22/89	54 FR 21965

Small Entities Affected: None

Government Levels Affected: None

DOT—NHTSA

Completed Actions

Analysis: Regulatory Evaluation 06/29/88 (53 FR 33080); Environmental Assessment 06/29/88 (53 FR 33080)

Additional Information: Petitioners had addressed MY 1986 and beyond; MY 1986 through 1988 were covered on 10/06/86 (51 FR 35594). Comment period ended 09/15/86 for MY 1989; comment period ended 10/28/88 for MY 1990.

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Div., Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AB75

2081. + STANDARD 108; LIGHTING REFORM, NEAR-TERM ISSUES

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Final action amends Standard 108 headlighting requirements by deleting certain external dimensions for sealed-beam headlamps, lifetime requirements for sealed-beam headlamps and standardized replaceable light sources, photometric requirements for headlamps designed to conform to SAE J579a, and certain durability requirements for headlamps. A new category was added: headlamps without dimensional requirements. These issues had been separated from RIN 2127-AB87. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	12/29/87	52 FR 49038
NPRM Comment Period End	03/28/88	52 FR 49038
Final Action	05/09/89	54 FR 20066
Final Action Effective	06/06/89	54 FR 20066
Correction to Final Rule	07/19/89	54 FR 30223
Partial Stay of Effectiveness	08/01/89	54 FR 31687

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 85-15, Notice 1 (50 FR 42735) ANPRM; Docket No. 85-15, Notice 2 (50 FR 43970) extend comment period for ANPRM; Docket No. 85-15, Notice 3 (51 FR 2537) correction to ANPRM; Docket No. 85-15, Notice 5 (52 FR 49038) NPRM. Two related rulemakings, RINs 2127-AC60 and AC61, were consolidated into this proceeding.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC53

2082. + UNIFORM TIRE-QUALITY GRADING

Significance: Agency Priority

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This action contemplated including rolling resistance for tires as a substitute for top-temperature-resistance grade in the Uniform Tire Quality Grading Standards, and was considered significant because of substantial public interest. However, since excessive temperature can lead to sudden tire failure, this aspect is more important as to safety than is rolling resistance. Of the two, temperature resistance should be retained and rolling resistance, which cannot be defined in terms of fuel economy, put aside. For this reason, the action on this rulemaking is terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AA52

2083. + HEAVY TRAILER STABILITY

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a new regulation to add a requirement that 102-inch wide trailers be equipped with axle tracks having a minimum axle width of 77 inches. An advanced notice of proposed rulemaking seeking comments on the safety issue raised by the petition was published 05/22/84 (48 FR 21551). This rulemaking was initially considered significant because of possible impact on the industry. However, the industry has voluntarily adopted the 102-inch axle/tire track and, therefore, further action is unnecessary.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/84	49 FR 21551
ANPRM Comment Period End	08/20/84	49 FR 21551
Withdrawn	06/29/89	54 FR 27397

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: To Be Determined

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB42

2084. + STANDARD 222; SCHOOL BUS SEATING AND CRASH PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: This action proposed to amend FMVSS No. 222, School Bus Passenger Seating and Crash Protection, to set requirements for safety belts when belts are voluntarily installed on school buses having gross vehicle weight ratings greater than 10,000 pounds, and was considered significant because of substantial public interest. However, information indicates most

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safety belts on new, large school buses are voluntarily installed by major manufacturers in a manner compliant with the proposed amendment and the agency has decided not to amend the standard.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	50 FR 41368
NPRM Comment Period End	11/25/85	50 FR 41368
Withdrawn	03/22/89	54 FR 11765

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 10/10/85 (50 FR 41368)

Additional Information: Previous title: Federal Motor Vehicle Safety Standards; Schoolbus Passenger Seating and Crash Protection.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB84

2085. + STANDARD 208; OCCUPANT CRASH PROTECTION - REAR SEAT LAP/SHOULDER BELTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This final rule amends FMVSS 208 to require lap/shoulder belts on all forward-facing rear outboard seating positions in passenger cars (other than convertibles), and was significant because of substantial public interest. A new RIN 2127-AD12 has been established to cover this issue for light trucks, multipurpose passenger vehicles, and small buses.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/87	52 FR 22818
ANPRM Comment Period End	07/31/87	52 FR 22818
NPRM	11/29/88	53 FR 47982
NPRM Comment Period End	01/30/89	53 FR 47982
Final Action	06/14/89	54 FR 25275
Final Action Technical Amendment	08/07/89	54 FR 32345
Final Action Effective	12/11/89	54 FR 25275

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 11/29/88 (53 FR 47982)

Additional Information: Former title: Occupant Crash Protection.

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB91

2086. + STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Volkswagen of America petitioned to change Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment to permit an additional standardized replaceable light source for motor vehicle headlamps. The type of light source proposed was that currently used in European headlamps, the type H-4. Review of the merits of the petition found that, as used in Europe, the light source was not capable of achieving the level of performance required of U.S. light sources and NHTSA subsequently proposed a U.S. version to be known as the type HB2, which would have interchangeability and performance aspects compatible with U.S. safety needs. The final rule adopted NHTSA's proposed type HB2. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/13/85	50 FR 19961
NPRM Comment Period End	06/27/85	50 FR 19961
Supplemental NPRM Comment Period Ended 07/14/86	06/13/86	51 FR 21696
Final Action	06/29/89	54 FR 27362
Final Action Effective	07/31/89	54 FR 27362
Delay of Effective Date: re Motorcycle Headlamps	08/02/89	54 FR 31840

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC22

2087. + RECONSIDERATION OF 1989 PASSENGER-CAR FUEL-ECONOMY STANDARD

Significance: Agency Priority

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: None

Abstract: The Center for Auto Safety and Public Citizen petitioned the agency to reconsider the Model Year 1989 passenger-car corporate average fuel-economy standard set by the agency and published 10/06/88: 53 FR 39275. This rulemaking was considered significant because of substantial public interest expected to be generated. However, based on agency records, no reason was found for modifying the standard.

Timetable:

Action	Date	FR Cite
Petition Denied	05/30/89	54 FR 22899

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC91

2088. REARVIEW MIRROR SYSTEMS: LIGHT VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This proposal, to improve mirror systems for trucks, buses, and multipurpose passenger vehicles of GVWR of 10,000 pounds or less, has been consolidated into the overall proceeding on rearview mirror systems, RIN 2127-AA21, and will no longer appear as a separate item in the Agenda.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
NPRM Comment Period End	03/06/79	43 FR 51657
Consolidated into RIN 2127-AA21	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Agency Contact: R. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA23

2089. REARVIEW MIRRORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This proposal would amend Federal Motor Vehicle Safety Standard No. 111 by establishing requirements for passenger cars to: a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter-resistant and breakaway or foldaway tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. This rulemaking has been consolidated into the overall rearview mirror systems proceeding, RIN 2127-AA21.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
Final Action to Permit Use of Passenger Side Convex Mirrors	09/02/82	47 FR 38698
Final Action Responding to Petitions and Clarifying 1982 FR	08/26/83	48 FR 38842
Consolidated into RIN 2127-AA21	06/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 71-3a. NPRM, Notice 4; FR, Notice 6; FR, Notice 7.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AA88

2090. AIR-BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: A final rule amends the brake application and release timing requirements and test devices in Federal Motor Vehicle Safety Standard No. 121 in order to better simulate the real-world performance with respect to towing and towed units, especially multitrailer combinations. On May 3, 1989, an NPRM was issued (54 FR 18912) initiating additional rulemaking in other phases; see Air-Brake Systems; Pneumatic Timing Requirements, RIN 2127-AD27.

Timetable:

Action	Date	FR Cite
NPRM	05/14/85	50 FR 20113
NPRM Comment Period End	06/28/85	50 FR 20113
NPRM Comment Period Extended to 12-30-85	07/01/85	50 FR 27032
Final Action	05/03/89	54 FR 18890
Final Action Effective	06/02/89	54 FR 18890

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation (Minimal) 05/03/89 (54 FR 18890)

Additional Information: These amendments require mandatory compliance effective 05/03/91. Petitions for reconsideration were due 06/02/89.

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AB12

2091. VOLUNTARY VEHICLE IDENTIFICATION STANDARD (THEFT PREVENTION STANDARD)

Significance: Nonsignificant

Legal Authority: 15 USC 2033

CFR Citation: 49 CFR Not yet determined

Legal Deadline: None

Abstract: NHTSA was contemplating a voluntary vehicle-identification standard, for persons other than motor vehicle manufacturers who would still be bound to requirements of Part 541. However, the standards was not statutorily required by the Motor Vehicle Theft Law Enforcement Act. The agency has decided to await the outcome of the 5-year report to Congress as to effectiveness of the Motor Vehicle Information and Cost Savings Act prior to initiating any rulemaking in this area, as the report would provide alternate recommendations.

Timetable:

Action	Date	FR Cite
Action Terminated	06/01/89	

Small Entities Affected: None

Legal Authority: 15 USC 1392; 15 USC

vehicle equipped with an automatic

Timetable:

Agency Contact: Ralph Hitchcock,

Timetable:

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Kurtz, Senior Program Analyst, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh St., SW, Washington, DC 20590, 202 366-4808

RIN: 2127–AB93

2092. STANDARD 208; OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Motor Vehicle Manufacturer's Association (MVMA) petitioned to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection, to require that height-adjustable seats, and other adjustable seat features such as lumbar supports, be placed in the nominal design riding position specified by the manufacturer. However, current compliance procedures are objective and simple to administer; there appears no compelling reason for changing them. Available information indicates current positioning procedures are representative of the seat positioning most drivers have chosen. For these reasons, the petition was denied.

Timetable:

Action	Date	FR Cite
Request for Comments	05/02/88	53 FR 15576
Petition Denied	04/19/89	54 FR 15782

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC36

2093. FMVSS NO. 208 OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1497

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This amendment extends requirements for Webbing Tension Relieving Devices to include air-bag-equipped cars and permits testing of adjustable belt-anchorage points at manufacturers' normal position.

Timetable:

Action	Date	FR Cite
NPRM	07/06/88	53 FR 25354
NPRM Comment Period End	08/22/88	
Final Action	07/11/89	54 FR 29045
Final Action Effective	09/01/89	54 FR 29045

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/11/89 (54 FR 29045)

Additional Information: Provisions for vehicles with tension-relieving devices at seating positions also equipped with air bags will apply to vehicles manufactured on or after 09/01/90.

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC49

2094. STANDARD 105; HYDRAULIC BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 105 requires vehicles to have one or more brake system indicator lamps in the instrument panel area, to warn drivers about certain types of brake failure and to indicate when the parking brake is in the applied position. Section S5.3.2 of the standard requires that the brake system indicator lamps be activated automatically when the vehicle is started, to enable the driver to check whether the lamp bulb is burned out. That section also provides that in a vehicle equipped with an automatic transmission, the activation of the lamp as a check of lamp function is not required when the transmission shift lever is in a forward or reverse drive position, since the vehicle cannot be started when the transmission shift lever is in those positions. In response to a petition for rulemaking submitted by Mazda, the final rule amends the standard to provide that the activation of the lamp as a check of lamp function is not required whenever the starting of a vehicle is prevented by an interlock switch.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31379
NPRM Comment Period End	10/17/88	53 FR 31379
Final Action	05/30/89	54 FR 22904
Final Action Effective	06/29/89	54 FR 22904

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/18/88 (53 FR 31379)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC50

2095. STANDARD 102; TRANSMISSION SHIFT-LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING

Significance: Nonsignificant

Legal Authority: 15 USC 1392

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: The purpose of Federal Motor Vehicle Safety Standard No. 102 is to reduce the likelihood of shifting errors. Manufacturers have provided a permanently displayed shift lever position indicator to meet the requirement of S3.2 of this Standard. Chrysler and General Motors petitioned the agency to amend the Standard to allow the use of electronic "PRNDL" displays. The amended requirements will facilitate the use of electronic displays, while assuring the information is displayed at all times.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32409
NPRM Comment Period End	10/24/88	
Final Action	07/11/89	54 FR 29042
Final Action Effective	08/10/89	54 FR 29042

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/11/89 (54 FR 29042)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC54

2096. STANDARD 107; REFLECTING SURFACES - PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.107

Legal Deadline: None

Abstract: This standard requires that windshield wiper arms inside windshield moldings, horn rings, and frames and brackets of inside rearview mirrors have matte surfaces which will greatly reduce the likelihood of hazardous reflection into the driver's eyes. A petition was filed to extend the standard to the above items which are made of non-metallic, as well as metallic, materials. However, in view of the lack of substantiation of a problem, the apparent insignificance of any problem if one does exist, and the costliness of developing and using a more complex test procedure, extending the standard was determined to be inappropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/13/87	52 FR 43628
NPRM Comment Period End	12/28/87	52 FR 43628
Withdrawn	08/23/89	54 FR 35011

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC, 202 366-0842

RIN: 2127–AC56

2097. STANDARD 108; LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT - PROPOSED AMENDMENT TO PERMIT A NEW, SMALL, SEALED-BEAM HEADLAMP

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 552; 49 CFR 571.108

Legal Deadline: None

Abstract: General Motors petitioned the agency for a 55X135 mm sealed-beam headlamp system. This issue was consolidated into RIN 2127-AC53, which is now a completed action in this Agenda.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AC53	05/01/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ralph Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC60

2098. STANDARD 108; LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Sylvania petitioned National Highway Traffic Safety Administration to amend Federal Motor Vehicle Safety Standard No. 108 to permit a new multiple lamp headlamp system with integral aim capability. The issue was consolidated into RIN 2127-AC53 and is now a completed action in this Agenda.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AC53	05/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph J. Hitchcock, Director, Office, Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127–AC61

2099. STANDARD 120; TIRE SELECTION AND RIMS FOR VEHICLES OTHER THAN PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.120

Legal Deadline: None

Abstract: Redco Corporation petitioned for amendment to the standard, to require that labels be placed on vehicles to instruct service personnel on the proper methods of servicing multipiece wheel rims. The petition was denied because the requested action would not be effective in significantly reducing injuries.

Timetable:

Action	Date	FR Cite
Petition Denied	05/17/89	54 FR 21263

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127–AC79

2100. STANDARD 202; HEAD RESTRAINTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.202

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Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, includes requirements for head restraints. Its purpose is to protect occupants from neck injury in rear-impact crashes. A comprehensive evaluation was published in February 1982, and further action or review is deemed unnecessary at this time.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/88	
Action Terminated	07/12/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127–AC93

2101. FINAL LISTING OF HIGH THEFT LINES FOR 1989 MODEL YEAR; MOTOR VEHICLE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2021 to 2026

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The purpose of this notice is to report the results of this agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the 1989 model year, and publish a list of those car lines. NHTSA has previously published a list of the car lines that were selected as high theft car lines for prior model years, beginning with the 1987 model year. The list in this notice includes all of the car lines in the previous lists, as well as the new lines that were introduced for the 1989 model year and that have been selected as likely high theft lines. This notice is revised yearly (each model year). This notice is used by other Federal agencies in carrying out the statutory requirements under Titles II and III. Title II is Antifencing Measures, 18 USC 511, and Title III is Importation and Exportation Measures, 18 USC 553 and 19 USC 1627.

Timetable:

Action	Date	FR Cite
Final Action	03/30/89	54 FR 13067
Final Action Effective	03/30/89	54 FR 13067

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Barbara Kurtz, Chief, Motor Vehicle Theft Group, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh Street SW., Washington, DC 20590, 202 366-4807

RIN: 2127–AC96

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2102. ● + RAIL-HIGHWAY GRADE CROSSING SAFETY

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; PL 100-432

CFR Citation: None

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: If necessary, rules on the inspection and maintenance of train-activated railroad-highway grade-crossing devices must be issued. An ANPRM announced public hearings and requested comments from the public to assist in evaluating future possible action to enhance public safety at these grade crossings. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/23/88	53 FR 47554
Comment Period Extended to 01/17/89	01/03/89	54 FR 49
ANPRM Comment Period End	01/04/89	
Comment Period Extended to 02/01/89	01/30/89	54 FR 4320

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A public hearing, announced in the ANPRM, was held in Washington, DC, in December 1988.

This item was formerly recorded under RIN 2130-AA27, which is removed from the Agenda.

Agency Contact: Philip Olekszyk, Deputy Associate Administrator for Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA45

2103. + RAILROAD OPERATING PRACTICES; PROCEDURES FOR BRIDGE-WORKER SAFETY

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: A recently enacted statute requires FRA to issue necessary rules to protect workers performing tasks on bridges. FRA is studying the casualty data, the appropriate types of protection, and the respective roles of FRA and OSHA. This proceeding is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/89

Agency Contact: Edward R. English, Chief, Maintenance Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh

St., SW, Washington, DC 20590, 202 366-9186

RIN: 2130–AA48

2104. + LOCOMOTIVE OPERATOR; QUALIFICATION STANDARDS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: FRA is required to adopt qualification standards for locomotive operators. Major elements that could be included in such standards involve initial training, retraining, performance monitoring, testing and retesting, and general fitness criteria. Issues being explored include the structure of the program to resolve questions of whether a Federal license program or a railroad licensing program meeting Federal criteria will best achieve the statutory intent. This rulemaking is significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/89

Agency Contact: Lawrence I. Wagner, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh, St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA51

2105. + TRAIN OPERATION EVENT RECORDERS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, December 22, 1989.

Abstract: FRA is required to issue necessary rules to provide for the recording of events relating to train operations and to ensure that devices recording those events are tamper-resistant. Aspects of the issue being explored include: determining the state of the art for such devices; the recordable events appropriate for accident investigation purposes; standards for "tamper resistance"; and regulatory structure. This project is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
ANPRM	11/23/88	53 FR 47557
Public Hearing Held 01/10/89	11/23/88	53 FR 47557
ANPRM Comment Period End	03/13/89	
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: Edwards R. English, Chief, Maintenance Program Division, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-9178

RIN: 2130–AA53

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2106. + RAILROAD ACCIDENT/INCIDENT REPORTS CLASSIFICATION AND NOTIFICATION OF RIGHT TO SUBMIT EMPLOYEE SUPPLEMENTS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This project addresses possible problems of bias and inaccuracy in FRA's railroad data base. Although FRA investigates about 400 accidents a year and receives unsolicited information on a few more accidents, FRA's sole source of information on the great majority of railroad accidents is the railroad company itself. The proposed rule would require that the railroad provide written notification to any employee whom the railroad alleges to have caused a certain type of accident, informing the employee of the relevant allegations and of his or her right to file an accident statement with FRA. The proposed rule also would establish the format and filing procedures for such statements. Alternatives being considered are: (1) revising the reporting form itself to include boilerplate language regarding what, where, and how to file the employee statement and (2) requiring a separate notice to the employee with the same information. Potential costs have yet to be determined. This action is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48560
Public Hearing Notice	12/01/88	53 FR 48560
NPRM Comment Period End	01/27/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Former title: Railroad Accident/Incident Reports Classification and Investigations Permitting Employee Supplements.

Agency Contact: J. A. McNally, Director, Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-9252

RIN: 2130–AA44

2107. + RAILROAD OPERATING PRACTICES – PROTECTION OF ON-TRACK SLEEPING QUARTERS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

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DOT—FRA — **Final Rule Stage**

CFR Citation: 49 CFR 218

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: Railroads use on-track equipment adapted for service as mobile sleeping quarters, in order to have large dormitories adjacent to work sites. A recently enacted statute requires FRA to establish rules to protect those vehicles from the risk of being struck by other on-track vehicles. This project is intended to accomplish that purpose and is therefore considered significant.

Timetable:

Action	Date	FR Cite
NPRM	02/17/89	54 FR 7219
NPRM Comment Period End	03/21/89	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7219)

Additional Information: A public hearing was held in Washington, DC, on 04/05/89.

Agency Contact: J. A. McNally, Director, Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-9252

RIN: 2130–AA46

2108. + SAFETY ENFORCEMENT PROCEDURES; DISQUALIFICATION OF EMPLOYEES

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FRA has been granted legal authority to disqualify an individual railroad employee who is shown to be unfit to perform safety-sensitive functions based on a violation of FRA's safety rules. The procedures that FRA will employ in exercising this authority must include a notice and hearing for the individual. FRA must define what constitutes a safety-sensitive function; the nature of the hearing; appellate review structure; and criteria for what constitutes unfitness. This proceeding is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	12/09/88	53 FR 49695
Public Hearing Held 01/05/89	12/09/88	53 FR 49695
NPRM Comment Period End	01/10/89	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/09/88 (53 FR 49695)

Agency Contact: Peter J. Hannums, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., NW, Washington, DC 20590, 202 366-0637

RIN: 2130–AA49

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2109. + REVIEW OF RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: Although significant, this proceeding is terminated because the issue of radio communications is being addressed by the FRA within the broader rail industry communications context of railroad dispatcher practices. An FRA study of dispatcher practices and related issues is in process in response to section 22 of the Rail Safety Improvement Act of 1988, and FRA may initiate a rulemaking in the future if warranted by the results of the present study.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	11/04/86	51 FR 40101
Public Hearing, Washington, DC	01/27/87	
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA34

2110. ● + ALCOHOL AND DRUG TESTING REGULATIONS

Significance: Regulatory Program

Legal Authority: 45 USC 431; 45 USC 438

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: This final rule contains amendments to the rule on Control of Alcohol and Drug Use in Railroad Operations, revising both the mandatory compliance dates for the Transportation Workplace Drug Testing Procedures and the requirements for submission and implementation of random drug testing programs. Drug-free rule eff. 10/2/89; workplace testing eff. 10/2/89. Random testing for Class I, Amtrak and commuter carriers: Programs due 10/2/89, begin testing 1/16/90; Class II: programs due 4/2/90, begin testing 7/2/90; Class III: programs due 7/2/90; begin testing 11/1/90.

Timetable:

Action	Date	FR Cite
Notice of Informal Safety Inquiry	01/20/87	52 FR 2118
Public Hearing, Washington, DC Random and Workplace Drug Testing	02/18/87	
NPRM Random and Workplace Drug Testing	05/10/88	53 FR 16640
Notice of Public Hearings Random and Workplace Drug Testing	05/24/88	53 FR 18589
NPRM Comment Period End	08/08/88	
Final Rule Random and Workplace Drug Testing	11/21/88	53 FR 47102
Final Action Various Effective Dates for Different Programs and Carriers	05/23/89	54 FR 22283
Notice of Guidance Availability for Implementation	08/30/89	54 FR 35879
Final Action Effective	10/02/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: A supplemental NPRM on random drug testing implementation will be published in early 1990. An NPRM on issues raised by implementation of the existing program and on new technical amendments to the existing rule to conform to the random testing rule is now under review and will be published shortly.

Agency Contact: Dr. Sam Holley, Alcohol & Drug Program Manager (RRS-10), Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0501

RIN: 2130–AA43

DOT—FRA — **Completed Actions**

Action	Date	FR Cite
Notice of Special Safety Inquiry	06/18/84	49 FR 24968
Notice of Special Safety Inquiry	12/24/84	49 FR 49961
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. RSSI - 84-3.

Public hearings were held in St. Paul, Minn. (7/84) and Washington, DC (1/85). The Summary Report on the hearings was issued 7/16/85. A further public hearing was held in Washington, DC (12/88).

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA27

2111. + RAIL-HIGHWAY GRADE-CROSSING SAFETY

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; PL 100-432

CFR Citation: None

Legal Deadline: None

Abstract: A new proceeding has been initiated pursuant to the Rail Safety Improvement Act of 1988, with an ANPRM published 11/23/88 and an NPRM anticipated in the near future. Because of the confusion resulting from the use of an old regulatory agenda number assigned to a related, but now completed, rulemaking that has not yet been deleted, a new RIN Number (2130-AA45) is assigned to the new proceeding. Consequently, this agenda item is terminated under this entry number. Information regarding the new proceeding will be found under RIN 2130-AA45.

Timetable:

Action	Date	FR Cite
Final Action	08/14/89	54 FR 33227

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/14/89 (54 FR 33227)

Agency Contact: Mark Tessler, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA50

2113. REVIEW: REGULATORY FLEXIBILITY ACT REVIEWS

Significance: Nonsignificant

Legal Authority: PL 96-354

CFR Citation: None

Legal Deadline: None

Abstract: FRA has completed the regulatory revisions based directly on the results of its Safety Inquiry and is deleting this entry. FRA has decided to incorporate future RFA review efforts into its more extensive evaluation effort designed to improve its older regulations rather than continue to conduct a separate RFA review proceeding.

Timetable:

Action	Date	FR Cite
Review Plan	06/30/81	46 FR 33693
Notice of Safety Inquiry Review	08/03/81	46 FR 39461
Action Terminated	07/12/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence I. Wagner, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA10

2114. REVIEW OF LOCOMOTIVE CAB SAFETY

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 22; 45 USC 23; 45 USC 28; 45 USC 34

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: This proceeding is terminated based on the rail industry's recent adoption of voluntary standards addressing FRA's primary concerns regarding crashworthiness. Now undergoing formal ratification by the

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DOT—FRA — **Completed Actions**

Association of American Railroads, these recommended practices will apply to future locomotive construction.

Timetable:

Action	Date	FR Cite
Notice of Safety Inquiry	09/22/88	53 FR 36936
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA32

2115. REVIEW: SPECIAL SAFETY INQUIRY; POWER BRAKE REGULATIONS

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 232

Legal Deadline: None

Abstract: FRA has determined that no further regulatory action is required at this time to modify the 1982 changes to its power brake regulations.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	09/03/85	50 FR 35643
Notice of Change of Hearing Date	09/26/85	50 FR 39025
Public Hearing, Washington, D.C.	10/24/85	
Action Terminated	07/12/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket RSSI-85-1.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130–AA40

2116. INTERIOR NOISE STANDARDS FOR ON-TRACK SLEEPING QUARTERS

Significance: Nonsignificant

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: FRA's interpretive guidance concerning compliance with an hours-of-service statute will be extended by operation of law unless FRA acted within 6 mos. FRA guidelines specify a maximum noise level for the interior of facilities used to give train crews required periods of rest under the Hours of Service Act. The statute will make the noise level applicable to on-track vehicles used as dormitories for other railroad employees unless FRA alters its guidance on this matter for the on-track vehicles. FRA has determined that there is no need to delay the effective date of the statute; the statute is in effect without change.

Timetable:

Action	Date	FR Cite
Action Terminated	07/12/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryJo Spottswood, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0628

RIN: 2130–AA52

DEPARTMENT OF TRANSPORTATION (DOT) — **Proposed Rule Stage**

Urban Mass Transportation Administration (UMTA)

2117. + IMPLEMENTATION OF SECTION 19 OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED -- NONDISCRIMINATION

Significance: Agency Priority

Legal Authority: 49 USC 1615

CFR Citation: 49 CFR 641

Legal Deadline: None

Abstract: The proposed regulation would unify the Urban Mass Transportation Administration's civil rights requirements. This rulemaking is significant because of potential federalism implications as well as possible public interest. This rulemaking would improve the agency's civil rights regulations, assuring effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.

Timetable:

Action	Date	FR Cite
NPRM	09/29/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/29/90

Additional Information: Section 19 was added to the UMT Act in November 1978 by the Surface Transportation Assistance Act of 1978. UMTA plans to issue an NPRM in 1990.

Agency Contact: Akira Sano, Associate Director for Civil Rights Policy, Department of Transportation, Urban Mass Transportation Administration, Office of Technical Assistance, 400 7th St., SW, Room 7412, Washington, DC 20590, 202 366-4018

RIN: 2132–AA01

2118. SCHOOL BUS OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1602(g); 49 USC 1608(c)(6); 23 USC 103(e)(4); 23 USC 142(a); 23 USC 142(c)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: The current UMTA regulation is adequate as drafted; there is no substantive change required. Accordingly, the agency is withdrawing the rulemaking.

DOT—UMTA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	10/12/82	47 FR 44795
ANPRM Comment Period End	11/26/82	
To be Withdrawn	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis

Additional Information: UMTA originally issued this regulation on April 1, 1976 (41 FR 14128). UMTA reviewed this regulation and issued an ANPRM that proposed three alternatives to the current regulation: (1) retain the existing regulation, (2) modify the definition of "tripper services," and (3) define "exclusive" schoolbus service. The agency has determined that the current regulation is adequate and will withdraw this rulemaking.

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132–AA09

DEPARTMENT OF TRANSPORTATION (DOT) — **Final Rule Stage**

Urban Mass Transportation Administration (UMTA)

2119. ● + MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Regulatory Program

Legal Authority: 49 USC 1602(i); 23 USC 103(e); 23 USC 142; PL 100-17, Sec 303

CFR Citation: 49 CFR 611

Legal Deadline: None

Abstract: This regulation implements section 303 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The regulation will define the procedures applicants must follow in developing fixed guideway projects. It also will set forth the means by which the agency will evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment as required by law. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17878
NPRM Comment Period End	06/26/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/89 (54 FR 17878)

Agency Contact: Don Emerson, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0096

RIN: 2132–AA34

2120. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770; 49 CFR 623

Legal Deadline: None

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments also are intended to provide more authority and flexibility to State and local agencies and to meet the objectives of the CAA in the most cost-effective and expeditious manner. The amendments are significant because they involve important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35178
NPRM Comment Period End	11/08/88	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/09/88 (53 FR 35178)

Additional Information: ADDITIONAL AGENCY CONTACT: James N. Shrouds, (202) 366-4836 of FHWA. RIN 2125-AB10.

Agency Contact: A. Joseph Ossi, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 7th St., SW, Room 9301, Washington, DC 20590, 202 366-0096

RIN: 2132–AA19

2121. + BUS TESTING GUIDELINES

Significance: Agency Priority

Legal Authority: 49 USC 1606(h)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation would implement a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, Pa. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

DOT—UMTA — **Final Rule Stage**

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/25/89 (54 FR 22716)

Additional Information: Section 12(h) of the UMT Act, as amended, defines a "new bus model" as a "bus model which has not been used in mass-transportation service in the United States before the date of production of such model, or a bus model which has been used in such service but which is being produced with a major change in configuration or components." The interim final rule, containing interim procedures for the program, is effective from 10/01/89 to 09/30/90, with comments due by 11/21/89.

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, Room 9316, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4011

RIN: 2132–AA30

2122. ● + "BUY AMERICA" REQUIREMENTS OF THE SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987

Significance: Agency Priority

Legal Authority: PL 100-17, Sec 337

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: This rulemaking will amend UMTA's "Buy America" requirements to implement new statutory provisions and reflect UMTA's experience with implementing the existing regulation. It is considered significant because of substantial public interest and federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 32994
Comment Period Extended to 11/14/88	10/27/88	53 FR 43457
NPRM Comment Period End	10/28/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 08/29/88 (53 FR 32994)

Additional Information: Section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 amended the "Buy America" provisions of section 165 of the Surface Transportation Assistance Act of 1982.

Agency Contact: Rita Daguillard, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4096

RIN: 2132–AA35

2123. CAPITAL LEASES

Significance: Nonsignificant

Legal Authority: 49 USC 1607a(j)

CFR Citation: 49 CFR 639

Legal Deadline: NPRM, Statutory, June 1, 1987. Final, Statutory, November 28, 1987.

Abstract: This regulation would implement a statutory provision requiring UMTA to prescribe policies and procedures governing the eligibility for capital assistance under section 9 of the UMT Act, as amended, for leases of equipment and facilities where leasing is more cost-effective than purchase or construction.

Timetable:

Action	Date	FR Cite
NPRM	05/20/88	53 FR 18222
NPRM Comment Period End	07/19/88	53 FR 18222
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/20/88 (53 FR 18222)

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132–AA28

2124. PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING-STOCK PURCHASES

Significance: Nonsignificant

Legal Authority: 49 USC 1608(j)

CFR Citation: 49 CFR 663

Legal Deadline: None

Abstract: This regulation would implement a statutory provision that requires an independent pre-award and post-delivery audit of the purchase of transit rolling stock with UMTA assistance to assure compliance with Federal motor-vehicle safety standards, Buy America requirements, and adherence to bid specification requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/18/88	53 FR 40850
NPRM Comment Period End	12/19/88	
Final Action	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/18/88 (53 FR 40850)

Additional Information: Formerly titled Rolling Stock Purchase Audits

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132–AA29

2125. PROJECT MANAGEMENT OVERSIGHT

Significance: Nonsignificant

Legal Authority: 49 USC 1619

CFR Citation: 49 CFR 633

Legal Deadline: NPRM, Statutory, June 1, 1987. Final, Statutory, September 29, 1987.

Abstract: This regulation would implement a statutory provision that permits UMTA to use a portion of the funding of its major capital programs to hire outside contractors to perform project management oversight of major capital projects, and require an UMTA grantee constructing a major capital project to prepare and, after UMTA approval, implement a project management plan.

DOT—UMTA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/11/87	52 FR 29709
NPRM Comment Period End	10/13/87	52 FR 29709
Final Action	10/01/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/01/89

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation, and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132–AA31

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
Urban Mass Transportation Administration (UMTA)

2126. + MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Regulatory Program

Legal Authority: 49 USC 1602; 49 USC 1604; 49 USC 1607; 49 USC 1607a-1; 23 USC 103(e)(4); 23 USC 142

CFR Citation: 49 CFR 611

Legal Deadline: None

Abstract: This policy statement set forth UMTA's criteria for evaluating proposals for new fixed guideway systems and extensions of systems. The policy statement was effective upon publication and was significant because it involved important departmental policy. This entry has been carried inadvertently in the Agenda and is now removed. For the new rulemaking relating to the Surface Transportation and Uniform Relocation Assistance Act of 1987, see RIN 2132-AA35.

Timetable:

Action	Date	FR Cite
Final Action : Notice of Policy	05/18/84	49 FR 21284

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Don Emerson, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 7th St., SW, Room 9301, Washington, DC 20590, 202 366-0096

RIN: 2132–AA22

2127. + "BUY AMERICA" REQUIREMENTS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Significance: Agency Priority

Legal Authority: PL 97-424, Sec 165

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: This rulemaking amended UMTA's Buy America requirements to implement new statutory provisions and reflect UMTA's experience with implementing the existing regulation. It was considered significant because of substantial public interest and federalism implications.

Timetable:

Action	Date	FR Cite
Final Action	09/15/83	48 FR 41564

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This rulemaking was completed 09/15/83 and has been continued inadvertently in the Agenda. For the new "Buy America" rulemaking relating to the Surface Transportation and Uniform Relocation Assistance Act of 1987, see RIN 2132-AA35.

Agency Contact: Rita Daguillard, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 7th St., SW, Room 9316, Washington, DC 20590, 202 366-4096

RIN: 2132–AA15

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
Research and Special Programs Administration (RSPA)

2128. + REGISTRATION OF SHIPPERS AND CARRIERS OF HAZARDOUS MATERIALS

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: DOT lacks comprehensive data on the number, volume, and other statistics characterizing the transportation of hazardous materials in commerce. Comments will be requested on the burdens and benefits associated with various alternatives that could be used to obtain such information. The registration of carriers and shippers is one such alternative. This rulemaking is significant because of the public interest and safety implications.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Nalevanko/H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4484

RIN: 2137–AB43

DOT—RSPA — **Prerule Stage**

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DOT—RSPA

Prerule Stage

2129. + OST-FAA INFORMATION RULES: STANDARDIZED REGULATORY FLEXIBILITY REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1387

CFR Citation: 14 CFR 241; 14 CFR 298; 14 CFR 399

Legal Deadline: None

Abstract: The threshold for the aviation-information program for regulatory flexibility analysis is 60 seats or maximum payload of 18,000 pounds or less. Carriers operating aircraft under these limits are considered small carriers. FAA, on the other hand, uses a threshold based on the operational certificate requirements (Part 121 versus Part 135) with the threshold established at 30 seats or maximum payload of 7,500 pounds for a Part 135 certificate. FAA regulatory analysis for safety, congestion, etc., centers around the lower threshold which means much of the aviation economic information that they use has to be manipulated to fit their needs. This proposal of standardizing the threshold within the Department would save considerable resources and would eliminate much confusion in the air transportation industry. Most carriers, especially the newer ones, are familiar with FAA's requirements. This rulemaking is significant because it will achieve consistency in departmental treatment.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB16

2130. REVIEW OF COMMUTER AIR TRAFFIC AND MARKET DATA REPORTING

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None

Abstract: Currently commuter air carriers providing scheduled passenger service file two quarterly traffic schedules. One schedule summarizes nine traffic elements while the other schedule provides the origination and destination for all the carriers' on-line passengers. The Department is considering proposing a new traffic and market data system for certificated and foreign air carriers. This system could be used for commuter air carriers, providing the Department with one automated traffic and market data system for all carriers. This system would be less burdensome for the commuter air carriers and be more efficient for the user.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1 Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB18

2131. AIRLINE REVENUE/NONREVENUE, FIRST CLASS/BUSINESS CLASS/COACH PASSENGERS: REVISED DEFINITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The present definition of revenue and nonrevenue passengers for aviation reporting purposes is stated in terms of the exemptions for free and reduced-rate transportation in section 403(b) of the Federal Aviation Act of 1958. These definitions have become outmoded in the process of air-fare deregulation. In addition, first class and coach passengers are defined in terms of the type of fare paid with premium or standard fares being the benchmark for first class. With deregulation and the proliferation of new air fares in the marketplace, such as business class, these definitions may also be outmoded. The DOT is considering several options for revising these definitions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Title was revised to include Business Class Passengers.

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB00

2132. SUBSIDIZED COMMUTER CARRIERS AND FOREIGN AIR CARRIERS: RECORDS AND RETENTION PERIODS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 249

Legal Deadline: None

Abstract: This rule would require commuter air carriers receiving subsidy to retain certain records in support of their claims for subsidy; require foreign air carriers submitting traffic and market data to retain records in support of their submissions; modify or eliminate several of the records prescribed for retention by public charter operators and overseas operators. In addition, the proposal would transfer the record retention requirements contained in Part 374a to Part 249.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

DOT—RSPA

Prerule Stage

Government Levels Affected: Federal

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137–AB04

2133. FUMIGATION

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 174

Legal Deadline: None

Abstract: This proposal would revise the placarding requirements in the Hazardous Materials Regulations (HMR) to recognize the requirements of the Environmental Protection Agency (EPA) which address the placarding of commodities which have been fumigated. Those portions of the HMR which address the fumigation placard would be removed from the HMR to avoid duplication with EPA's requirements for placarding commodities which have been fumigated.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Strombom/E. Pritchard (FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB41

2134. CONFORMING GAS AND LIQUID PIPELINE WELDING STANDARDS: FINAL PHASE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action would be the last of a series of rulemakings undertaken to conform the gas and liquid pipeline welding standards.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB45

2135. GAS PIPELINES OPERATING ABOVE 72 PERCENT OF SPECIFIED MINIMUM YIELD STRENGTH

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This proposal would eliminate or qualify the "grandfather clause" of the natural gas pipeline safety regulations that permits operation of an existing rural or offshore gas pipeline found to be in satisfactory condition at the highest actual operating pressure to which the segment was subjected during the five years preceding July 1, 1970, or, in the case of an offshore gathering line, July 1, 1976.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: Formerly entitled: Operation of Existing Rural and Offshore Gas Pipelines at Stress Levels Higher Than Permitted for New Pipelines.

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, D.C. 20590, 202 366-1640

RIN: 2137–AB53

2136. TRANSPORTATION OF RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 177

Legal Deadline: None

Abstract: This proposal would require motor carriers of highway route controlled quantities (HRCQ) of radioactive materials to transport those materials directly from pickup points to preferred routes and directly from preferred routes to delivery points.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-164C

Agency Contact: R. Gassaway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB59

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DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2137. + PERFORMANCE-ORIENTED PACKAGING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 176; 49 CFR 178; 49 CFR 179

Legal Deadline: None

Abstract: This action will develop performance-oriented packaging standards and hazardous material classification based on the United Nations Committee of Experts on the Transport of Dangerous Goods. Rulemaking also includes former nonsignificant rulemakings entitled "Consolidation of Specifications and Establishment of Performance Standards for Specification Bags" (Docket No. HM-153), "Specifications for and use of Specification 17 Steel Drums" (Docket No. HM-182), and "Organic Peroxide Requirements" (Project 186-72). The rulemaking is significant because a large number of specifications for packaging in the hazardous Materials Regulations would be affected by this project. To a large extent the complexity and mass of the present Hazardous Materials Regulations are due to the detailed specification-type packaging standards contained in these regulations. To replace these with standards based on the U.N. system would both simplify the present regulations and facilitate international trade. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM for RIN AA05	05/07/81	46 FR 25492
ANPRM for RIN AA11	06/05/81	46 FR 31294
ANPRM	04/15/82	47 FR 16266
Correction Document and Notice of Meeting	06/17/82	47 FR 26172
Extension of Comment Period to 01/13/83	09/16/82	47 FR 40816
ANPRM Comment Period End	01/13/83	47 FR 40816
NPRM	05/05/87	52 FR 16482
NPRM Comment Period Extended to 02/26/88	09/08/87	52 FR 33906
NPRM Comment Period End	11/02/87	
Supplemental NPRM	11/06/87	52 FR 42772
NPRM Comment Period Extended to 05/25/88	04/14/88	53 FR 12442
Supplemental NPRM and Extension of Comment Period to 3/9/89	11/14/88	53 FR 45868
SNPRM	07/26/89	54 FR 31158
SNPRM Comment Period End	10/24/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/05/87 (52 FR 16482)

Additional Information: Docket No. HM-181. A decision on whether to proceed with a final rule will be made following review and evaluation of comments to the docket. RINs 2137-AA11, AA05, and AA93 have been consolidated into this rulemaking.

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA01

2138. + TRAINING FOR HAZARDOUS MATERIALS TRANSPORTATION

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action will propose to establish detailed training requirements for persons involved with the transportation of hazardous materials. Establishing more detailed training requirements should diminish the number of hazardous materials transportation incidents which can be attributed to human error. At this time, the potential cost of establishing this program is unknown. This rulemaking is significant because of public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31144
NPRM Comment Period End	11/24/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31144)

Additional Information: Docket No. HM-126F. A public hearing was scheduled for 10/03/89 in Salt Lake City, Utah, (54 FR 33657).

Agency Contact: C. Strombom, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB26

2139. + GAS GATHERING LINE DEFINITION

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.3

Legal Deadline: None

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry. Action is significant because the definition is the subject of litigation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1640

RIN: 2137–AB15

DOT—RSPA

Proposed Rule Stage

2140. + PROPOSALS FOR PIPELINE SAFETY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 191; 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Based on the numerous public comments and recommendations of the Department's two pipeline safety advisory committees, many of the proposals put forth in the ANPRM will be withdrawn. Those not withdrawn will be further evaluated in special studies or become the subject of separate rulemakings.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/87	52 FR 4361
ANPRM Comment Period End	03/30/87	52 FR 4361
NPRM to be Withdrawn	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: Docket No. PS-93

Agency Contact: L. Furrow, Office of Pipeline Safety, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB27

2141. + HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Significance: Agency Priority

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171 to 179

Legal Deadline: None

Abstract: ANPRM invites comments on the need for, and possible consequences of, DOT extending the application of its Hazardous Materials Regulations to all intrastate transportation of hazardous materials in commerce. This rulemaking is significant because of substantial public interest and possible federalism implications.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period Extended to 11/28/87	09/21/87	52 FR 35464
ANPRM Comment Period End	09/28/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: Docket No. HM-200

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB37

2142. + QUALIFICATION OF PIPELINE PERSONNEL

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Training and qualification standards would be proposed for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines. Special consideration would be given to operators of small gas systems to alleviate the burden of compliance. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	52 FR 9189
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Docket No. PS-94. Formerly entitled: Pipeline Operator Qualifications.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB38

2143. + HIGHWAY ROUTING STANDARDS FOR CERTAIN TYPES AND QUANTITIES OF HAZARDOUS MATERIALS

Significance: Agency Priority

Legal Authority: 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 173.177; 49 CFR 397

Legal Deadline: None

Abstract: Currently, except for certain radioactive materials, DOT has not promulgated uniform, national standards for the highway routing of hazardous materials. The proposal would establish such standards and provide guidance to States and localities to minimize the promulgation of State and local routing requirements that are inconsistent with the Hazardous Materials Transportation Act. This rulemaking is significant because of the safety implications and possible federalism implications.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/88	53 FR 11618
ANPRM Comment Period Extended to 12/13/88	10/05/88	53 FR 39114
ANPRM Comment Period End	10/11/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: Docket No. HM-203. Public hearings were held on June 14, 1988, in Sacramento, California, and on September 15, 1988, in Washington, DC.

Agency Contact: J. Nalevanko/B. Romo, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4484

RIN: 2137–AB42

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2144. + OPERATION AND MAINTENANCE PROCEDURES FOR PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Adequate procedures for pipeline operation and maintenance, backed up by personnel training, have proven effective in minimizing the potential for accidents. Gas operators are required to have such procedures, but the existing requirements lack the clarity and specificity needed to assure a uniform, broad-based level of safety for all pipelines. Therefore, this proposal would clarify the existing requirements, make them more comprehensive, and, where appropriate, similar to the more detailed requirements applicable to the operation and maintenance of hazardous liquid pipelines. Also, a few additions and clarifying changes would be made to the hazardous liquid pipeline requirements. This is a significant action because of the need for adequate procedures to provide a basis for training and qualifying operator personnel. A related rulemaking to provide procedures requiring operators to amend operation and maintenance plans, and make operators subject to enforcement sanctions for failure to maintain plans, is entitled Amendment of an Operator's Plans or Procedures (RIN 2137-AB77).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Formerly entitled: Operation and Maintenance Procedures for Gas Pipelines.

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 368-4560

RIN: 2137–AB44

2145. + PRESSURE TESTING EXISTING HAZARDOUS LIQUID PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Recent accidents involving petroleum product pipelines demonstrate the potential for catastrophic losses if a large spill occurs in a populated area. Studies have shown that accidents attributable to latent material or construction defects can be prevented by restricting operation to not more than 80 percent of a prior test or operating pressure. In this regard, significant results have been achieved by imposing such an operating restriction on those product pipelines that carry highly volatile liquids. This rule would extend this existing safety standard to all hazardous liquid pipelines. This rulemaking is significant because of substantial public interest in the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB46

2146. + MAPS AND RECORDS OF PIPELINE LOCATION AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: Maintenance of appropriate information about pipelines is essential for emergency response, compliance with safety standards, and other purposes. As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action proposes to equalize as far as possible the requirements that gas and liquid operators keep maps and records to show the location and other characteristics of pipelines. Operators would also be required to keep an inventory of pipe and annually report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of Congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/89

Additional Information: RIN 2137-AB62, "Annual Report for Hazardous Liquid Pipelines," has been consolidated into this rulemaking.

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB48

2147. + PIPELINE SAFETY GRANT PROGRAM: MINIMUM REQUIREMENTS FOR ONE-CALL SYSTEMS

Significance: Agency Priority

Legal Authority: PL 100-561, Sec 303

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, May 1, 1990.

Abstract: This rulemaking proposes the issuance of requirements for the establishment and operation of appropriate one-call notification systems in areas containing underground gas or hazardous liquid pipeline facilities. The requirements are intended for adoption by States with agencies participating in the Federal/State pipeline safety grant-in-aid program. Adoption would be a consideration in determining reimbursement of State program costs. This rulemaking is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/00/89

Additional Information: This action is mandated by Pub. L. 100-561.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB66

2148. CARRIAGE OF HAZARDOUS MATERIALS BY MOTOR VEHICLE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes simplification and recodification of existing operating procedures for transportation of hazardous materials by motor vehicle as prescribed in Part 177.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Project 261-76

This project was formerly entitled: Revision of Operating Procedures for Motor Vehicles.

Agency Contact: R. Gassaway/A. Coates (FHWA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA07

2149. SPECIFICATION 8W AND 8WA WELDED STEEL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This action would eliminate existing specifications 8 and 8AL and provide a consolidated specification for the manufacture of acetylene cylinders.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-23.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA63

2150. CONSOLIDATION OF SPECIFICATIONS FOR HIGH-PRESSURE SEAMLESS CYLINDERS AND REWRITE OF 49 CFR 173.34

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: The Department will propose revision of requalification requirements for cylinders and proposed consolidation and revision of the specifications for high-pressure seamless cylinders. (Project No. 123-71).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders.

Agency Contact: Charles H. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA92

2151. ENFORCEMENT OF MOTOR CARRIER FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1805; 49 USC 1808 to 1809; 49 USC 1655; 49 USC 1655(c); 49 USC 10927

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 387

Legal Deadline: None

Abstract: This notice solicits comments on the merits of a petition for rulemaking from the National Tank Truck Carriers proposing to amend the Hazardous Materials Regulations to require shippers of hazardous materials by highway, in cargo tanks, to obtain documentary proof that the motor carrier possesses the minimum level of financial responsibility required by 49 CFR Part 387.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/87	52 FR 19116
ANPRM Comment Period End	08/18/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-199

Agency Contact: J. Nalevanko/R. Gassaway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4484

RIN: 2137–AB35

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2152. DETECTION AND REPAIR OF CRACKS, PITS, CORROSION, LINING FLAWS, THERMAL DETECTION FLAWS, AND OTHER DEFECTS OF TANK CAR TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This rule would require tank-car owners and repair facilities to inspect for cracks and other defects after certain tank-car repairs to assure that no defects exist. The proposal would include those issues which are the subject of several petitions filed in response to Docket HM-201B, "Shippers–Use of Tank-Car Tanks with Localized Thin Spots," RIN 2137-AB39.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/87	52 FR 46510
ANPRM Comment Period End	02/11/88	52 FR 46510
ANPRM Comment Period Extended to 05/13/88	02/18/88	53 FR 4862

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Morris/P. Olekszyk(FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB40

2153. GAS DETECTION AND MONITORING IN COMPRESSOR STATION BUILDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Leaking gas accumulating inside an inadequately ventilated compressor station building is a serious safety problem that has caused recent deaths and injuries. This rulemaking action proposes additional regulations to require installation of gas detection and alarm systems.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/88	53 FR 10906
ANPRM Comment Period End	06/03/88	53 FR 10906
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Docket No. PS-100

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB49

2154. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1808

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 were discovered developing cracks during service and occasionally leaks developed resulting in loss of contents. This ANPRM is to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The ANPRM requests comments concerning ways to resolve the problems.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	52 FR 26027
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Docket No. HM-176A

Agency Contact: C. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB51

2155. REVISION OF OPERATING REQUIREMENTS FOR RAIL CARRIAGE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 174

Legal Deadline: None

Abstract: The purpose of the rulemaking is to update and rewrite the regulations contained in 49 CFR Parts 171 and 174 which govern the transportation of hazardous materials by rail.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Strombom, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB55

2156. REVISION OF RSPA FORM 41 REPORT FOR CHANGES IN GAAP-FAS 95 STATEMENT OF CASH FLOWS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The accounting system that underpins the Form 41 Report is based on Generally Accepted Accounting Principles (GAAP) established by the Financial Accounting Standards Board. This board recently amended GAAP reporting disclosure standards by adding a Statement of Cash Flows. The Form 41 Report currently has a Statement of Financial Position. Unless there is some incompatibility with another aviation regulatory program, a proposed rule will be issued to replace the Statement of Financial Position with a Cash Flow Statement to maintain uniformity with GAAP. This rule would relieve large U.S. air carriers from the burden of preparing two different statements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1, Room 4125, 400 Seventh St., S.W., Washington, D.C. 20590, 202 366-4383

RIN: 2137–AB57

2157. ELEVATED TEMPERATURE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking addresses regulation of hazardous materials offered for transportation at elevated temperatures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Docket No. HM-198A

Agency Contact: B. Romo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB58

2158. TRANSPORTATION REGULATIONS; COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY

Significance: Nonsignificant

Legal Authority: 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This rulemaking would align the Hazardous Materials Regulations (HMR) with the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6. This action is necessary to implement practices and procedures that will improve safety in the transportation of radioactive materials and to facilitate international commerce.

Timetable:

Action	Date	FR Cite
Request for Comments	11/21/88	53 FR 46973
Comment Period End	12/23/88	
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Docket HM-169A

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4545

RIN: 2137–AB60

2159. RETEST REQUIREMENTS FOR DOT 8 AND 8AL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1804; 49 USC 1808

CFR Citation: 49 CFR 171.7

Legal Deadline: None

Abstract: This rulemaking would propose the incorporation by reference of the Compressed Gas Association's (CGA) Pamphlet C-13 entitled "Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders," 1985 edition. This pamphlet would set forth the guidelines for the testing and requalification of DOT cylinders used for transporting acetylene. (This proposal was previously contained in Docket No. HM-23.)

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB61

2160. TRANSPORTATION OF HYDROGEN SULFIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In a few reported instances, excessive amounts of hydrogen sulfide were introduced into natural gas pipelines. High concentrations of hydrogen sulfide are very detrimental to steel pipelines and extremely toxic. This action examines the need to establish a maximum allowable concentration and other control measures.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/89	54 FR 24361
ANPRM Comment Period End	09/05/89	54 FR 24361
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 03/00/90

Additional Information: Docket No. PS-106

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1649

RIN: 2137–AB63

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DOT—RSPA — **Proposed Rule Stage**

2161. LEAKAGE SURVEYS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Many gas distribution operators look for signs of dying vegetation as a leak survey technique. This technique is not as effective as other available methods, and leaks have occurred in areas found safe by vegetation surveys. This action would require the use of alternative methods to meet the leak survey requirements, where appropriate, and clarify that leakage surveys must be conducted at least at 3-year minimum intervals on cathodically unprotected pipelines that are not electrically surveyed for corrosion.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/00/89

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4560

RIN: 2137–AB64

2162. PRESSURE REGULATORS SUBJECT TO INSPECTION AND TESTING

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.739

Legal Deadline: None

Abstract: This rulemaking would clarify which pressure regulators are subject to rules for inspection and testing of pressure regulating stations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 03/00/90

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-4560

RIN: 2137–AB65

2163. ALTERNATIVE WELD DEFECT ACCEPTANCE CRITERIA

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: The safety standards for pipelines and liquefied natural gas facilities reference the workmanship standards of the American Petroleum Institute (API) "API 1104" for the acceptance of weld defects. Appendix A of the 1988 edition includes alternative acceptance criteria based on fracture mechanics. This action proposes to incorporate Appendix A by reference.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/00/89

Additional Information: A petition by the American Petroleum Institute (P-38) provides a basis for this rulemaking action.

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB67

2164. PASSAGE OF INTERNAL INSPECTION DEVICES

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 108; PL 100-561, Sec 207

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish minimum Federal safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by P.L. 100-561.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 04/00/90

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB71

2165. TRANSPORTATION OF CARBON DIOXIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 211

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action would amend the existing safety standards for hazardous liquid pipelines to include new standards necessary for the safe transportation of carbon dioxide by pipeline. This action is mandated by P.L. 100-561.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB72

2166. ● PROHIBITED PLACARDING AND PLACARD VISIBILITY

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: This rulemaking proposes to amend section 172.502 to clarify that use of slogans on displays similar to placards is prohibited, and will request comments on methods to increase visibility of placards, especially in emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/89

Additional Information: Project 89-1

Agency Contact: D. Billings, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB75

DOT—RSPA — **Proposed Rule Stage**

2167. ● AMENDMENT OF AN OPERATOR'S PLANS OR PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1671 et. seq.; 49 USC 1861 et. seq.; 49 USC 2001 et. seq.

CFR Citation: 49 CFR 190; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: This was previously part of RIN 2137-AB44. An administrative rule prescribing criteria and procedures for requiring hazardous liquid pipeline operators to amend their procedural manuals for operations, maintenance, and emergencies would be expanded to apply to all plans and procedures that operators of hazardous liquid pipelines, gas pipelines, and LNG Facilities are required to prepare. In addition, it proposes to make operators subject to all enforcement sanctions for failure to maintain plans and procedures in accordance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Cesar DeLeon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1640

RIN: 2137–AB77

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2168. + NATURAL GAS AND HAZARDOUS LIQUID PIPELINE DAMAGE PREVENTION PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 2002(e)

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Each year a large percentage of gas and hazardous liquid pipeline accidents are caused by excavation damage. Based on existing rules intended to reduce damage to gas pipelines in populated areas, this action would require hazardous liquid pipeline operators to provide damage prevention programs and gas operators would have to expand their programs to cover rural areas. This is a significant action because of the widespread interest in the use of "one-call" programs to prevent damage to buried pipelines.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24747
NPRM Comment Period End	08/29/88	53 FR 24747
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24747)

Additional Information: Docket No. PS-101

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2036

RIN: 2137–AB47

2169. USE OF INTERESTED INSPECTORS FOR CYLINDER INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking would end the permitting of "interested" inspectors to perform inspections and testing of domestically manufactured low-pressure gas cylinders. It will be withdrawn until further evaluation of the proposal is undertaken.

Timetable:

Action	Date	FR Cite
NPRM	03/17/76	41 FR 1179
To be Withdrawn	10/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-74A

Agency Contact: H. Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA08

2170. ODORIZATION OF LP GAS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: NPRM solicited comments on the benefit of requiring LP gas to be odorized. Odorization would enhance its identification during transportation in commerce. Comments to the NPRM indicated that further study should be made before proceeding to a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/27/84	49 FR 38164

Next Action Undetermined

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DOT—RSPA — **Final Rule Stage**

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/27/84 (49 FR 38164)

Additional Information: Docket No. HM-126E.

Agency Contact: D. Billings, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA25

2171. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months, with FR targeted approximately two months thereafter.

Timetable:

Action	Date	FR Cite
Periodic Update	03/19/85	50 FR 11048
NPRM	06/03/86	51 FR 19866
NPRM Comment Period End	09/04/86	51 FR 27223
Periodic Update	04/20/87	52 FR 13034
Periodic Update - NPRM	09/19/88	53 FR 36410
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/88 (53 FR 36410)

Additional Information: Docket No. HM-166.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA44

2172. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action proposes removal of the fifty-pound limit on the quantity that may be stowed in an inaccessible cargo location on passenger-carrying aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

Additional Information:

This project was formerly entitled: Limitation Aboard Aircraft. Further action is awaiting completion of an FAA project.

Agency Contact: Ann Boylan, Transportation Reg. Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA85

2173. STANDARDS FOR CONSTRUCTION OF FIREWORKS AND NOVELTIES; APPROVAL FOR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171; 49 CFR 173

Legal Deadline: None

Abstract: This action proposed to eliminate a requirement for fireworks examination prior to their approval for transportation by the Director, Office of Hazardous Materials Transportation.

Timetable:

Action	Date	FR Cite
NPRM	02/12/88	53 FR 4348
NPRM Comment Period End	04/04/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/12/88 (53 FR 4348)

Additional Information: Formerly entitled Standards for Construction of Fireworks and Approval for Transportation.

Agency Contact: J. Smith, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AB36

2174. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. As part of a continuing policy to adopt similar requirements for gas and liquid pipelines where appropriate for safety, this action proposes that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	54 FR 27041
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27041)

Additional Information: National Transportation Safety Board Recommendation P-87-3 provides a basis for this action. Docket No. PS-107

DOT—RSPA — **Final Rule Stage**

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB50

2175. ETIOLOGIC AGENTS; PROPOSAL TO REMOVE THE 50 MILLILITER EXCEPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking proposes to revise the definition of an etiologic agent, and remove the 50-milliliter per package exemption for such agents.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45525
NPRM Comment Period End	01/18/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/10/88 (53 FR 45525)

Additional Information: Docket HM-142A

Agency Contact: Ann Boylan, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., S.W., Washington, DC 20590, 202 366-4488

RIN: 2137–AB56

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions

Research and Special Programs Administration (RSPA)

2176. + REQUIREMENTS FOR CARGO TANKS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rule modifies cargo tank specifications in sections 178.337-178.343 to improve clarity, quality control and safety, and provides for vacuum-loaded cargo tanks. It includes improved standards for inspection and testing of cargo tanks, improved valves and closures to prevent leakage and the risk of fire in overturns and other accidents, and new qualification criteria for cargo tank manufacturers, repairers, and inspectors. This rulemaking was developed in conjunction with FHWA. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/28/82	47 FR 27876
NPRM	09/17/85	50 FR 37767
Corrections and Clarifications	12/05/85	50 FR 49866
NPRM Comment Period End	05/22/86	
Final Action	06/12/89	54 FR 24982
Correction to Final Rule	07/07/89	54 FR 28750
Final Action Effective	12/12/89	54 FR 24982

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/12/89 (50 FR 24982)

Additional Information: Docket Nos. HM-183, 183A. See specific applicability dates for effectiveness of the regulations adopted.

Agency Contact: J. O'Steen/ J. Pena, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA42

2177. + DATA COLLECTION AND REPORTING: HAZARDOUS MATERIALS INCIDENT REPORTS

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1809

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: The final rule implements several changes to the system of collecting information on incidents involving the transportation of hazardous materials. The incident report form has been modified to provide more meaningful and comprehensive incident data, especially in terms of incident causation and consequence. Reporting requirements have been expanded to include closure of major transportation arteries or facilities, unscheduled events involving aircraft transporting hazardous materials, and fires associated with shipments of radioactive materials. This rulemaking is significant because of substantial public interest due to safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10042
NPRM	03/27/87	52 FR 9996
NPRM Comment Period End	07/29/87	
Final Action	06/19/89	54 FR 25808
Final Action Effective	01/01/90	54 FR 25808

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/89 (54 FR 25808)

Additional Information: Docket HM-36B. The current form (F.5800.1) may be continued in use until the effective date of the final rule. However, compliance with the amended regulation is authorized immediately.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA51

2178. + RECODIFICATION OF EXPLOSIVE REGULATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This action would propose consolidation and revision of regulations on classification and packaging of explosives, and the alignment of these regulations with the recommendations of the United Nations

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Committee of Experts on the Transport of Dangerous Goods. This rulemaking is considered significant because of substantial public interest. It has now been consolidated into the overall rulemaking entitled Performance-Oriented Packaging Standards, RIN 2137-AA01.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2137-AA01	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-181A.

Agency Contact: D. Billings/C. Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA93

2179. CONSOLIDATION AND REVISION OF REQUIREMENTS FOR THE CARRIAGE OF EXPLOSIVES BY VESSEL

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 46 CFR 146; 49 CFR 107; 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 176

Legal Deadline: None

Abstract: This action involved consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode. It is being terminated in order to give priority attention to other rulemakings.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Project 279-78

Agency Contact: C. Strombom/F. Thompson (USCG), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA10

2180. PRIVATE CARRIERS LICENSED TO USE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: The Department intended to propose exceptions from the regulations for private carriers which are licensed to use radioactive materials in the course of their businesses. However, this project is terminated in order to give priority attention to other rulemakings.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Project 290-82.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA28

2181. SPECIFICATION PACKAGES OF TYPE B AND FISSILE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The Department was considering addressing the possibility of continued use and needed modifications of certain radioactive materials package designs. However, this project is terminated in order to give priority attention to other rulemakings.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA29

2182. QUALITY ASSURANCE FOR RADIOACTIVE MATERIALS SHIPPERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The Department was considering soliciting comments on the desirability of establishing quality assurance program requirements for all shippers of radioactive materials. However, this action is terminated in order to give priority attention to other rulemakings.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AA29

2183. DOT SPECIFICATION 51 PORTABLE TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The Department was considering revising the requirements for DOT Specification 51 Portable Tanks and to adopting certain provisions of the recommendations of the United Nations and the International Maritime Organization. However, this project is terminated in order to give priority attention to other rulemakings.

Timetable:

Action	Date	FR Cite
Action Terminated	07/14/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project 302-83.

Agency Contact: Helen L. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA36

2184. EMERGENCY RESPONSE COMMUNICATION STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: This rule requires additional emergency response information be included on shipping papers, carried on vehicles transporting hazardous materials, and be available at facilities handling hazardous materials during transportation.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10048
Public Hearing held, Washington, D.C.	05/02/84	49 FR 10048
ANPRM Comment Period End	06/26/84	49 FR 10048
NPRM	08/20/87	52 FR 31486
NPRM Comment Period Extended to 12/22/87	09/04/87	52 FR 33611
NPRM Comment Period End	09/21/87	52 FR 31486
Final Action	06/27/89	54 FR 27138
Correction to Final rule	07/07/89	54 FR 28750
Final Action Effective	04/02/90	54 FR 27138

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27138)

Additional Information: HM-126C. Compliance with the amended regulations is authorized as of 07/31/89.

Agency Contact: Helen L. Engrum, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137–AA88

2185. HAZARDOUS MATERIALS: URANIUM HEXAFLUORIDE

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This final rule amended the Hazardous Materials Regulations to permit the transport of uranium hexafluoride (UF6) in certain packagings that do not meet the requirements of either the American National Standards Institute (ANSI) Standard N14.1-1987 (ANSI N14.1-1987) or the specification for DOT Class 106 A multi-unit tank car tanks, and to permit the transport of depleted UF6 in packagings filled to a capacity not exceeding 62% by volume at 68 degrees Fahrenheit.

Timetable:

Action	Date	FR Cite
NPRM	04/11/86	51 FR 12529
NPRM Comment Period End	07/01/86	51 FR 12529
Interim Final Rule	11/18/86	51 FR 41631
Revision to Final Rule	12/24/86	51 FR 46674
Emergency Final Rule	03/12/87	52 FR 7581
NPRM New	07/06/87	52 FR 25342
Revision to Final Rule	07/06/87	52 FR 25340
Amended NPRM	04/06/88	53 FR 11320
Comment Period Ends	05/06/88	
Final Action	08/29/89	54 FR 35651
Final Action Effective	09/28/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/86 (51 FR 12529)

Additional Information: Docket No. HM-166V.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AB10

2186. CONFIRMATION OR REVISION OF MAXIMUM ALLOWABLE OPERATING PRESSURE; ALTERNATE METHOD

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.611(a)

Legal Deadline: None

Abstract: This rule provides an alternate method for confirmation or revision of the maximum allowable operating pressure of pipelines previously tested to less than 90 percent of specified minimum yield strength. The alternate method allows operators to establish a maximum allowable operating pressure in proportion to the level permitted for pipelines tested to 90 percent of specified minimum yield strength, or more, without retesting the pipeline. Considerable cost savings are expected.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	53 FR 1043
NPRM Comment Period End	03/15/88	53 FR 1043
Final Action	06/06/89	54 FR 24173
Correction to Final Rule	06/19/89	54 FR 25716
Final Action Effective	07/06/89	54 FR 24173

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 06/06/89 (54 FR 24173)

Additional Information: Docket No. PS-97.

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137–AB20

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2187. REAR BUMPERS ON CARGO TANK TRUCKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This action provides a 36-month period to allow operators of cargo tank trucks operated in combination with cargo tank full trailers to modify their front units by adding the required rear bumper or rear end tank protection device. This rulemaking was developed in conjunction with FHWA.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28605
NPRM Comment Period End	09/22/86	
Final Action	05/02/89	54 FR 18820
Final Action Effective	07/01/89	54 FR 18820

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/89 (54 FR 18820)

Additional Information: Docket No. HM-183B. Compliance with the amended regulations was authorized immediately.

Agency Contact: H. Mitchell/B. Byrd (FHWA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137–AB34

2188. ANNUAL REPORT FOR HAZARDOUS LIQUID PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 2010

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action proposes to require that operators of hazardous liquid pipelines annually report pipeline mileage, needed for user fee assessments, and other information needed to administer the pipeline safety regulatory program.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2137-AB48	06/02/89	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: As this project has been consolidated into RIN 2137-AB48, "Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; and Pipe Inventory," it will no longer appear as a separate item in the Agenda.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB62

2189. INCORPORATION BY REFERENCE OF PORTIONS OF AMERICAN PETROLEUM INSTITUTE STANDARD 1104, SEVENTEENTH EDITION, 1988

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: In the safety standards for pipelines and liquefied natural gas facilities, the references to the welding requirements of the document "API 1104" are updated to the requirements of the 1988 edition of that document, except for the requirements of Appendix A, which is the subject of a separate rulemaking (RIN 2137-AB67). The previously referenced edition of "API 1104" is out of print.

Timetable:

Action	Date	FR Cite
Final Action	07/03/89	54 FR 27881
Correction to Final Action	07/28/89	54 FR 31405
Final Action Effective	08/02/89	54 FR 27881

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/03/89 (54 FR 27881)

Additional Information: A petition by the American Petroleum Institute (P-38) provided a basis for this rulemaking action. Docket No. PS-106. This action was formerly entitled: Updating References to API 1104.

Agency Contact: L. Ulrich, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-1649

RIN: 2137–AB68

2190. INCORPORATION BY REFERENCE OF AMERICAN PETROLEUM INSTITUTE SPECIFICATION 5L

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: The pipeline safety standards incorporate by reference the steel pipe manufacturing specification in "API 5L". The currently referenced edition of the document has been superseded by the 1988 edition. This rulemaking updated all references to refer to the 1988 edition. This updating permits operators to use steel pipe made in accordance with API's latest technical requirements.

Timetable:

Action	Date	FR Cite
Final Action	08/07/89	54 FR 32344
Final Action Effective	09/06/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 08/07/89 (54 FR 32344)

Additional Information: Petitions by Bethlehem Steel Corp. (P-33) and Transcontinental Gas Pipeline Corp. (P-36) provided a basis for this rulemaking action, which was formerly entitled: Updating References to API 5L.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2036

RIN: 2137–AB69

2191. TRANSPORTATION OF GAS AND HAZARDOUS LIQUIDS BY PIPELINE: REPORTING SAFETY-RELATED CONDITIONS; DISCOVERY OF CONDITIONS BY SMART PIGS; ENFORCEMENT RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 190; 49 CFR 191; 49 CFR 195

Legal Deadline: None

Abstract: Requirements for reporting safety-related conditions on pipeline facilities and discovery of those conditions by instrumental internal inspection devices (smart pigs) was clarified. Also, new penalty provisions established by P.L. 100-561 was added to the pipeline safety enforcement procedures.

Timetable:

Action	Date	FR Cite
Final Action	08/07/89	54 FR 32342

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: Formerly entitled: Revised Pipeline Reporting and Enforcement Rules. Final rule with respect to Parts 191 and 195 is effective 08/07/89; changes to Part 190 are effective 10/31/89.

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Washington, DC 20590, 202 366-2392

RIN: 2137–AB70

2192. EXCEPTIONS FOR SPECIFIED QUANTITIES OF RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This action renews exceptions in the Hazardous Materials Regulations to permit the continued transportation by passenger-carrying aircraft of certain small quantities of radioactive material.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	53 FR 49895
NPRM Comment Period End	01/11/89	
Final Action	04/13/89	54 FR 14813
Final Action Effective	05/02/89	54 FR 14813

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/12/88 (53 FR 49895)

Agency Contact: Ann Boylan, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB73

2193. ● SETTLEMENTS AND COMPROMISES OF CIVIL PENALTY AND COMPLIANCE ORDER CASES

Significance: Nonsignificant

Legal Authority: 49 USC 1802; 49 USC 1806; 49 USC 1808 to 1811

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: This final rule amends the procedural rules for civil penalty and compliance order cases under the Hazardous Materials Transportation Act. The rule allows parties to compromise or settle enforcement cases without the approval of an Administrative Law Judge even when the case is pending before an Administrative Law Judge.

Timetable:

Action	Date	FR Cite
Final Action	05/30/89	54 FR 22898
Final Action Effective	05/30/89	54 FR 22898

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Tenley, Jr., Chief Counsel, Department of Transportation, Research and Special Programs Administration, 202 366-4400

RIN: 2137–AB78

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Prerule Stage

2194. + PARTICIPATION BY VESSELS BUILT WITH CONSTRUCTION-DIFFERENTIAL SUBSIDY IN THE CARRIAGE OF OIL FROM ALASKA IN THE DOMESTIC TRADE

Significance: Agency Priority

Legal Authority: 46 USC App 1114(b); 46 USC App 1156

CFR Citation: 46 CFR 250

Legal Deadline: None

Abstract: This regulation establishes conditions for MARAD approval of tanker vessels over 100,000 dwt built with CDS, for participation in the carriage of Alaskan oil from Alaska to the Panama Canal. MARAD is reassessing the need for this regulation in light of the experience in administering its provisions, its policy of allowing total repayment of CDS (46 CFR Part 276) and litigation challenging these policies. This rulemaking is significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances Olsen, Chief, Division of Trade Studies, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2282

RIN: 2133–AA62

2195. + PROCEDURES GOVERNING THE EVALUATION OF BIDS FOR THE CARRIAGE OF PREFERRED CARGOES ON SUBSIDIZED VESSELS

Significance: Agency Priority

Legal Authority: 46 USC App 1114(b)

CFR Citation: 46 CFR 381.8

Legal Deadline: None

Abstract: This action would have solicited public comment to assist in evaluating requests received from an operator and another Department that MARAD expand the scope of its

Agency Contact: Jean E. McKeever, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2282

RIN: 2133–AA62

2196. + PROCEDURES GOVERNING THE EVALUATION OF BIDS FOR THE CARRIAGE OF PREFERRED CARGOES ON SUBSIDIZED VESSELS

Significance: Agency Priority

Legal Authority: 46 USC App 1114(b)

CFR Citation: 46 CFR 381.8

Legal Deadline: None

Abstract: This action would have solicited public comment to assist in evaluating requests received from an operator and another Department that MARAD expand the scope of its regulations to permit certain vessels

Government Levels Affected: Federal

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procedures concerning evaluation of bids for the carriage of preference cargoes to apply to all types of preference cargo, specifically including civilian purchased preference and military cargoes. Existing procedures apply only to bulk cargoes. While considered significant, this contemplated action is temporarily suspended because maritime procurement procedures are undergoing a comprehensive review.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur S. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh St. S.W. Washington, D.C. 20590, **202 366-2323**

RIN: 2133–AA77

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage
Maritime Administration (MarAd)

2196. + REGULATED TRANSACTIONS INVOLVING DOCUMENTED VESSELS AND OTHER MARITIME INTERESTS

Significance: Agency Priority

Legal Authority: 46 USC App 705; 46 USC App 802; 46 USC App 803; 46 USC App 808; 46 USC App 835; 46 USC App 839; 46 USC App 841a; 46 USC App 1195; 46 USC App 1114(b); PL 100-710

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: These interim final regulations amend MARAD's regulations regarding transfers of interests in U.S. documented vessels and approval of vessel mortgagees and trustees pursuant to P.L. 100-710. Publication of an interim final rule permit implementation of the new law without a hiatus and would minimize transitional uncertainty among the corporate and financial communities that are affected. This rulemaking is considered significant because of substantial public interest. In view of comments received to the interim final rule, a new supplemental NPRM will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/89	54 FR 5382
Correction to Interim Final Rule	02/27/89	54 FR 8195
NPRM (Supplemental)	10/02/89	

RIN 2133-AA73

ANPRM 11/02/88 (53 FR 44206)
ANPRM - Comments End 01/03/89
NPRM 03/10/89 (54 FR 10168)
NPRM - Comments End 04/24/89

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 971 National Security; 972 International Affairs

Analysis: Regulatory Evaluation 02/02/89 (54 FR 5382)

Additional Information: The interim final rule was effective 02/02/89; the comment period ended 04/03/89. RIN 2133-AA73 was merged with this rule on 6/29/89.

Agency Contact: Robert J. Patton, Jr., Deputy Chief Counsel, Department of Transportation, Maritime Administration, 400 7th St., SW, Washington, DC 20590, **202 366-5711**

RIN: 2133–AA79

2197. REQUIREMENTS FOR CONDUCTING VESSEL SUBSIDY CONDITION SURVEYS AND FOR ACCOMPLISHING SUBSIDIZED VESSEL MAINTENANCE AND REPAIRS

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b); 46 USC App 1173

CFR Citation: 46 CFR 272

Legal Deadline: None

Abstract: This regulation would amend and clarify current MARAD procedures for the administration of maintenance and repair subsidy and the requirement for condition surveys.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 35509
NPRM Comment Period End	10/27/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Agency Contact: John J. Davis, Chief, Div. of Ship Management, Department of Transportation, Maritime Administration, DOT/MARAD, 400 Seventh St., SW, Washington, DC 20590, **202 366-5776**

RIN: 2133–AA64

2198. FEDERAL INCOME TAX ASPECTS OF THE CAPITAL CONSTRUCTION FUND

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b); 46 USC App 1177

CFR Citation: 46 CFR 391

Legal Deadline: None

Abstract: The Maritime Administration and Department of the Treasury are jointly proposing to amend the regulations for determining the tax liability of participants in a Capital Construction Fund (CCF) to give effect to amendments in the Tax Reform Act of 1986 (PL 99-514). This rulemaking is a companion to RIN 2133-AA65, which proposes to implement changes in regulations for administering the CCF, consistent with PL 99-514.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 449 Services Incidental to Water Transportation; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

DOT—MarAd — **Proposed Rule Stage**

Agency Contact: Jean E. McKeever, Chief, Division of Capital Assets, Department of Transportation, Maritime Administration, 400 Seventh Street SW, Washington, DC, 366, 202, **202 366-1905**

RIN: 2133–AA78

2199. ● WAR RISK INSURANCE

Significance: Nonsignificant

Legal Authority: 46 USC App. 1114(b); 46 USC App. 1283

CFR Citation: 46 CFR 308

Legal Deadline: None

Abstract: This rulemaking proposes to amend MARAD's War Risk Insurance regulations to permit certain vessels registered in the Republic of the Marshall Islands to become eligible to apply for war risk insurance. Under the existing regulations; only vessels registered under United States law, as well as certain vessels that are owned or controlled by U.S. citizens and registered under the laws of Panama, Honduras, Liberia, and the Bahamas, are eligible to apply for war risk insurance interim binders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Analysis: Regulatory Evaluation 10/00/89

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis . Insurance, Maritime Administration, Department of Transportation, Maritime Administration, **202 366-2400**

RIN: 2133–AA81

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
Maritime Administration (MarAd)

2200. + CARGO PREFERENCE, U.S.-FLAG VESSELS: DETERMINATION OF FAIR AND REASONABLE RATES FOR BULK VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC App 1242(b); 46 USC App 1114(b)

CFR Citation: 46 CFR 382, (New)

Legal Deadline: None

Abstract: This regulation would require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo in bulk vessels at the request of concerned Federal agencies. Calculation of fair and reasonable rates would be based on industry cost data supplied by participating carriers. It would establish requirements for submission of data on which the calculations would be based. This rulemaking is significant because it concerns a matter on which there is substantial public interest. It would clarify the meaning of a statutory term.

Timetable:

Action	Date	FR Cite
NPRM	08/06/85	50 FR 31735
NPRM Comment Period End	10/07/85	
First SNPRM Comments due 03/17/87	12/17/86	51 FR 45135
Second SNPRM Comments due 08/12/88	06/28/88	53 FR 24324
Public Hearing Notice	08/22/88	53 FR 31870
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Analysis: Draft Regulatory Evaluation 12/17/86 (51 FR 45135)

Additional Information: This rulemaking was split from an earlier, completed rulemaking: Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates for Liners (RIN 2133-AA02). Cargo preference regulations was last revised in 1977 (49 CFR 381).

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, **202 366-2323**

RIN: 2133–AA43

2201. + OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICES; EXCLUSION OF COMMERCIAL CARGOES RESERVED FOR U.S.-FLAG CARRIERS

Significance: Regulatory Program

Legal Authority: 46 USC App 1114

CFR Citation: 46 CFR 252

Legal Deadline: None

Abstract: MARAD has proposed a rulemaking that clarifies its policy that cargoes which are not preference cargoes, but are reserved to U.S.-flag vessels by agreement of countries which receive U.S. foreign assistance in the form of cash transfers (or any similar cash assistance program), are not "commercial" cargoes, subject to foreign competition and are therefore not subsidizable. This rulemaking is considered significant because it concerns a matter on which there is substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37536
NPRM Comment Period End	11/25/88	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Draft Regulatory Evaluation 09/26/88 (53 FR 37536); Final Regulatory Evaluation 10/02/89

Agency Contact: Edmond Fitzgerald, Director, Off. of Trade Analysis & Insurance, Department of Transportation, Maritime Administration, DOT/MARAD, 400 Seventh St., SW, Washington, DC 20590, **202 366-2400**

RIN: 2133–AA66

DOT—MarAd — **Final Rule Stage**

2202. + PROCEDURES RELATING TO

Sectors Affected: 441 Deep Sea

Other regulations are being developed

DOT—MarAd — **Completed Actions**

Legal Authority: 46 USC App 1184; 46 USC App 1114(b); PL 97-35

Timetable:

Action	Date	FR Cite

Department of Transportation, Maritime Administration, 400 Seventh Street SW

2202. + PROCEDURES RELATING TO THE CONDUCT OF HEARINGS UNDER THE MERCHANT MARINE ACT, 1936

Significance: Agency Priority

Legal Authority: 46 USC App 1114(b); 46 USC App 1175(c); 46 USC App 1223(a)

CFR Citation: 46 CFR 203 (New); 46 CFR 201

Legal Deadline: None

Abstract: Regulations would establish procedures relating to the conduct of hearings under the Merchant Marine Act, 1936, as amended, prior to approval of applications for operating differential subsidy. The procedures to be proposed would allow MARAD to render more timely decisions by providing alternatives to the conduct of evidentiary hearings, in appropriate circumstances. This rulemaking is significant because of substantial public interest in the award or amendment of ODS contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/25/79	44 FR 37003
NPRM Comment Period End	08/24/79	
Notice of Intent Re Policy Change	05/13/88	53 FR 17134
NPRM Comments Due 06/26/89	05/11/89	54 FR 20402
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Analysis: Regulatory Evaluation 05/11/89 (54 FR 20402)

Additional Information: This rulemaking is more limited in scope than what was to be developed in a 1979 NPRM, "Rules of Practice and Procedures for Hearing in ODS Applications." The RIN has been retained, although the title has been further revised.

Agency Contact: Murray A. Bloom, Chief, Division of Maritime Aids, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5164

RIN: 2133–AA20

2203. CAPITAL CONSTRUCTION FUND

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b); 46 USC App 1177; PL 99-514

CFR Citation: 46 CFR 390.391

Legal Deadline: None

Abstract: The Maritime Administration is amending its regulations concerning the Capital Construction Fund (CCF) to give effect to amendments in the Tax Reform Act of 1986 (P.L. 99-514) relative to the operation of a CCF. This rulemaking proposes to amend the regulations at 46 CFR Part 390 governing the administration of a CCF to reflect changes made by PL 99-514. Other regulations are being developed jointly with the Department of the Treasury (IRS) to implement provisions of PL 99-514 relating to Federal Income Tax Aspects of the Capital Construction Fund (46 CFR 391). See RIN 2133-AA78.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43907
Correction to NPRM Preamble	11/14/88	53 FR 45783
Correction to NPRM	11/21/88	53 FR 46999
Comment Period Extended to 01/03/89	12/12/88	53 FR 49895
NPRM Comment Period End	12/15/88	53 FR 43907
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 449 Services Incidental to Water Transportation; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Analysis: Regulatory Evaluation 11/00/89

Agency Contact: Jean E. McKeever, Chief, Div. of Capital Assets Management, Department of Transportation, Maritime Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1905

RIN: 2133–AA65

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Completed Actions

2204. + CARGO PREFERENCE – IMPLEMENTATION OF P.L. 99-198

Significance: Agency Priority

Legal Authority: 46 USC App 1241

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: These amendments to the existing cargo-preference regulations would have implemented S1142 of P.L. 98-198, the Food Security Act of 1985, that clarifies the applicability of cargo-preference requirements to the shipment of U.S. agricultural products. This regulation was terminated because the passage of time while awaiting the U.S. Court of Appeals decision involving allocation of preference cargoes to port ranges has made a number of issues irrelevant and rendered other issues no longer appropriate. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Action Terminated	06/25/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Agency Contact: Lewis C. Paine, Director, Office of Market Development, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5517

RIN: 2133–AA55

2205. SUSPENSION OF ODS AGREEMENTS FOR ALL OR PORTION OF THE VESSELS INCLUDED THEREIN

Significance: Nonsignificant

Legal Authority: 46 USC App 1184; 46 USC App 1114(b); PL 97-35

CFR Citation: 46 CFR 295, (New); 46 CFR 201

Legal Deadline: None

Abstract: These regulations were intended to implement Sec. 1603 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), which adds a new Sec. 614 to the Merchant Marine Act, 1936 (46 App. U.S.C. 1184).

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37449
Withdrawn	06/12/89	54 FR 24914

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Additional Information: NPRM was withdrawn because the Maritime Subsidy Board final Opinion and Order in Docket S-764, that does not require CDS repayment for bulk vessels carrying preference cargoes, is a more attractive alternative for operators than ODS suspension that requires CDS repayment. Also, operator of only liner vessels to make election is in bankruptcy.

Agency Contact: Raymond Barberesi, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2256

RIN: 2133–AA17

2206. REGULATIONS AND MINIMUM STANDARDS FOR STATE, TERRITORIAL, OR REGIONAL MARITIME ACADEMIES AND COLLEGES

Significance: Nonsignificant

Legal Authority: 46 USC App 1295

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: The Maritime Administration provides support to six State maritime schools for maritime education. The Federal support is outlined in agreements that have been executed between MARAD and the schools. This regulation was terminated because it was prepared in anticipation of legislation which has not been enacted that would have modified these agreements.

Timetable:

Action	Date	FR Cite
Action Terminated	05/24/89	

Small Entities Affected: None

Government Levels Affected: State

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 822 Colleges, Universities, Professional Schools, and Junior Colleges

Agency Contact: Bruce Carlton, Director, Office of Maritime Labor & Training, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5755

RIN: 2133–AA57

2207. CARGO PREFERENCE – U.S.-FLAG VESSELS; DEPARTMENT OF DEFENSE SPONSORED AND GENERATED OCEANBORNE CARGOES

Significance: Nonsignificant

Legal Authority: 46 USC App 1241(b)

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: This action was terminated because the Department of Defense (DOD) has already complied with two cargo preference statutes that require that minimum specified percentages of oceanborne cargoes sponsored and generated by DOD be carried on privately owned U.S.-flag commercial vessels in a rulemaking, Defense Aquisition Circular 88-6, published at 54 Federal Register 16111.

Timetable:

Action	Date	FR Cite
Action Terminated	06/27/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 473 Arrangement of Transportation of Freight and Cargo; 971 National Security

Agency Contact: S. Thomas Romeo, Chief, Division of National Cargo, Department of Transportation, Maritime Administration, 400 Seventh Street SW (MAR-820), Room 7209, Washington, DC 20590, 202 366-4610

RIN: 2133–AA69

2208. APPROVAL OF VESSEL CHARTERS TO NONCITIZENS

Significance: Nonsignificant

Legal Authority: 46 USC App 808; 46 USC App 839; 46 USC App 1114(b)

CFR Citation: 46 CFR 221.7

Legal Deadline: None

Abstract: MARAD has received a petition for rulemaking from an association representing oil-drilling contractors requesting that MARAD expand the scope of its general approval of charters to noncitizens (without obtaining prior MARAD approval) to include (1) intra-company charters of mobile offshore drilling units (MODUs) regardless of their duration; and (2) all bareboat charters and subcharters of MODUs to facilitate their employment in foreign business activities. The issues involved are being subsumed in the broader rulemaking in RIN 2133-AA79 and are consolidated therein.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/88	53 FR 44206
ANPRM Comment Period End	01/03/89	
NPRM	03/10/89	54 FR 10168
NPRM Comment Period End	04/24/89	
Consolidated into RIN 2133-AA79	06/29/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 448 Water Transportation of Passengers

Agency Contact: Jessie Fernanders, Vessel Transfer & Disposal Officer, Department of Transportation, Maritime Administration, 400 Seventh St., SW., Room 2112, Washington, DC 20590, 202 366-5111

RIN: 2133–AA73

2209. ● OBLIGATION GUARANTEES;

consistent with provisions in P.L. 100-70

Sectors Affected: 441 Deep Sea

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2209. ● OBLIGATION GUARANTEES; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 46 USC App 1114(b); 46 USC App 1279b

CFR Citation: 46 CFR 298; 49 CFR 1.66

Legal Deadline: None

Abstract: This rule merely effects changes in definitions and other provisions of the regulations for the vessel obligation guarantee program (Title XI Program) to reflect and be consistent with provisions in P.L. 100-70 and implementing MARAD regulations at 46 CFR Part 221. These amendments make no substantive changes in the administration of the Title XI Program.

Timetable:

Action	Date	FR Cite
Final Action	04/13/89	54 FR 14812
Final Action Effective	04/13/89	54 FR 14812

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 448 Water Transportation of Passengers

Agency Contact: Edmund T. Sommer, Jr., Chief, Division of Regulations, Office of the Chief Counsel, Department of Transportation, Maritime Administration, 400 7th St., S.W., Washington, D.C. 20590, 202 366-5181

RIN: 2133–AA80

[FR Doc. 89-23080 Filed 10-27-89; 8:45 am]
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Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.[1]

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda Format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific departmental offices' regulation, contact the "agency contact" listed in the specific regulatory action. For general information concerning the agenda, contact Richard S. Carro, Associate General Counsel, Room 1422, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 566-2558, not a toll-free call.

Dated: August 29, 1989.

Richard W. Porter,

Acting Executive Secretary.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2210	31 CFR 10 Due Diligence Standards With Respect to Persons Practicing Before the Internal Revenue Service	1505-AA17

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2211	31 CFR 103 Proposed Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping Requirements by Casinos	1505-AA10
2212	31 CFR 103 Proposed Amendment to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks, Cashier's Checks, Traveler's Checks and Money Orders	1505-AA32
2213	31 CFR 17 Enforcement of Nondiscrimination on the Basis of Handicap in Treasury Programs	1505-AA34

[1] The regulatory agenda of the former Federal Home Loan Bank Board appears in Part LI of this issue of the Federal Register. Beginning with the April 1990 edition of the Unified Agenda, FHLBB items will be reported in the agenda of the Office of Thrift Supervision, Department of the Treasury, or the agendas of the other agencies to which authority for the items has been transferred by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

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Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2214	31 CFR 103 Bank Secrecy Act Regulations; Amendments Regarding the International Transportation and Receipt of Monetary Instruments	1505-AA31
2215	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Relating to Geographic Reporting of Certain Domestic Currency Transactions	1505-AA33

DEPARTMENT OF THE TREASURY (TREAS) — Proposed Rule Stage
Departmental Offices (DO)

2210. DUE DILIGENCE STANDARDS WITH RESPECT TO PERSONS PRACTICING BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 5 USC 301; 31 USC 330; 31 USC 321

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: The proposed regulation would modify the current regulations governing practice before the Internal Revenue Service by clarifying the requirements relating to due diligence standards imposed on tax practitioners.

Timetable:

Action	Date	FR Cite
NPRM	08/14/86	51 FR 29113
Extend Public Comment Period to 11/13/86	08/27/86	51 FR 30510
NPRM Comment Period End	10/14/86	51 FR 29113
Extend public comment period to 02/13/87	11/06/86	51 FR 40340

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie S. Shapiro, Director of Practice, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 535-6787

RIN: 1505-AA17

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Departmental Offices (DO)

2211. PROPOSED AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING AND RECORDKEEPING REQUIREMENTS BY CASINOS

Legal Authority: 31 USC 5311 to 5322; 12 USC 1829b; 12 USC 1951 to 1959

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: The proposed regulations contain 18 amendments to the Bank Secrecy Act regulations that are designed to respond to substantial noncompliance with the current regulations by casinos.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31370
NPRM Comment Period End	10/17/88	53 FR 31370
Comment Period Extension To 11/14/88	10/29/88	53 FR 43736
Comment Period Extension To 12/14/88	12/01/88	53 FR 48551
Final Action	10/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Zoscak, Jr., Attorney-Advisor, Office of the Assistant General Counsel (Enforcement), Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave., NW, Room 2000, Washington, DC 20220, 202 566-2914

RIN: 1505-AA10

TREAS—DO — Final Rule Stage

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2212. PROPOSED AMENDMENT TO THE BANK SECRECY ACT REGULATIONS RELATING TO IDENTIFICATION REQUIRED TO PURCHASE BANK CHECKS, CASHIER'S CHECKS, TRAVELER'S CHECKS AND MONEY ORDERS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5324; PL 100-690, Sec 6185(b)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This advance notice solicits public comments on the implementation of section 6185(b) of the Anti-Drug Abuse Act of 1988, which requires the issuance of regulations prescribing what identification shall be provided by purchasers of cashier's checks, traveler's checks, money orders and bank checks.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/88	53 FR 51846
Extension of comment period to 02/15/89	01/19/89	54 FR 02138
ANPRM Comment Period End	01/22/89	
NPRM	08/22/89	54 FR 34791
NPRM Comment Period End	10/23/89	54 FR 34791

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney Advisor, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-9947

RIN: 1505–AA32

2213. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN TREASURY PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 31 CFR 17

Legal Deadline: None

Abstract: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Department of the Treasury.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 24203
NPRM Comment Period End	08/07/89	54 FR 24203
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlene J. Robinson, Director, Human Resources Directorate, Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave., NW., Washington, DC 20220, 202 566-5256

RIN: 1505–AA34

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

2214. BANK SECRECY ACT REGULATIONS; AMENDMENTS REGARDING THE INTERNATIONAL TRANSPORTATION AND RECEIPT OF MONETARY INSTRUMENTS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5324

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This notice defines the term "at one time" for the purposes of the international transportation and receipt of monetary instruments and proposes to clarify the definition of "monetary instruments" as it pertains to traveler's checks.

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45774
Technical correction	11/18/88	53 FR 46634
Technical correction	12/07/88	53 FR 49378
NPRM Comment Period End	01/13/89	53 FR 45774
Final Action	07/06/89	54 FR 28416
Final Action Effective	08/07/89	54 FR 28416

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney Advisor, Department of the Treasury, Departmental Offices, Room

4320, Washington, DC 20220, 202 566-9947

RIN: 1505–AA31

2215. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS RELATING TO GEOGRAPHIC REPORTING OF CERTAIN DOMESTIC CURRENCY TRANSACTIONS

Legal Authority: 12 USC 1730d; 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5326; PL 100-690, Sec 6185(c)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: Section 6185(c) of the Anti-Drug Abuse Act of 1988 permits the issuance of orders to identify financial institutions in certain geographic locations for special reporting of currency transactions in amounts less than $10,000 for a limited period of time. The proposal describes the procedures that would be followed in issuing such orders.

Timetable:

Action	Date	FR Cite
NPRM	03/24/89	54 FR 12238
NPRM Comment Period End	05/08/89	54 FR 12238
Final Action	08/16/89	54 FR 33675
Final Action Effective	09/15/89	54 FR 33675

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney Advisor, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-9947

RIN: 1505–AA33

[FR Doc. 89-21725 Filed 10-27-89; 8:45 am]
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DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Fiscal Service

31 CFR Ch. II

Semiannual Agenda

AGENCY: Financial Management Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Public Law 96-354, September 19, 1980) and Executive Order 12291 (Federal Regulation, February 17, 1981), which require publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act.

Dated: August 24, 1989.

Bland T. Brockenborough,

Acting Commissioner.

Financial Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2216	31 CFR 205 Revision of 31 CFR Part 205 (TDC No. 1075), Payments Between the Federal Government and Recipient Organizations	1510-AA00
2217	31 CFR 225,(Revision) Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds	1510-AA13

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2218	31 CFR 223, (Revision) Regulations Governing Surety Companies Doing Business with the United States	1510-AA12

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TREAS—FMS

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2219	31 CFR 210, (Revision) Federal Payments through Financial Institutions by the Automated Clearing House Method	1510-AA09
2220	31 CFR 235 Time Limitation on Payment and Cancellation of Treasury Checks and Reclamation Actions and Claims	1510-AA11

DEPARTMENT OF THE TREASURY (TREAS) — **Prerule Stage**

Financial Management Service (FMS)

2216. REVISION OF 31 CFR PART 205 (TDC NO. 1075), PAYMENTS BETWEEN THE FEDERAL GOVERNMENT AND RECIPIENT ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: Revision of 31 CFR 205 will implement a new funding technique for Federal programs. The regulation would require a State to pay interest on Federal funds from the time they are deposited to the State's account until the time those funds are paid out to redeem checks or warrants or make payments by other means. This new "Checks Issued-Interest Remitted" technique was developed in response to statutes in some States that require that funds reside in a bank account prior to the issuance of checks. This revision also provides for the remittance of interest by the Federal Government if a State disburses its own funds for program purposes in accordance with Federal law, regulation or Federal/State agreement.(cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: In addition, other cash management issues discussed by the State/Federal Cash Management Reform Task Force will be addressed in this regulation.This regulation is pending regulation.

Agency Contact: Michael C. Salapka, Manager, Treasury Programs Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 420B, Washington, DC 20227, 202 287-0590

RIN: 1510–AA00

2217. ACCEPTANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

Significance: Agency Priority

Legal Authority: 31 USC 9303

CFR Citation: 31 CFR 225,(Revision)

Legal Deadline: None

Abstract: The revision will address changes to definitions in the areas of acceptable securities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terry Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 259, Washington, DC, 20227, 202 287-3915

RIN: 1510–AA13

DEPARTMENT OF THE TREASURY (TREAS) — **Proposed Rule Stage**

Financial Management Service (FMS)

2218. REGULATIONS GOVERNING SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309

CFR Citation: 31 CFR 223, (Revision)

Legal Deadline: None

Abstract: The revision makes editorial changes, and contains substantive changes to sections concerning business experience, collateral and reinsurance requirements. Substantive changes include: 1) a 3-year aging requirement in order to qualify for Treasury certification, 2) elimination of the alternative to use collateral for protecting excess risks, and 3) a requirement that all reinsurance on Federal bonds be placed with companies recognized by Treasury for reinsurance purposes. The proposed regulations provide provisions for exceptions to the aging and reinsurance regulations under certain circumstances. These regulations will help Treasury ensure that certified companies are capable of carrying out their surety contracts.

TREAS—FMS — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/05/87	52 FR 29039
NPRM Comment Period End	10/19/87	52 FR 37334

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terry Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 259, Washington, DC 20227 202 287-3915

RIN: 1510–AA12

DEPARTMENT OF THE TREASURY (TREAS) — **Completed Actions**

Financial Management Service (FMS)

2219. FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

Significance: Agency Priority

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321

CFR Citation: 31 CFR 210, (Revision)

Legal Deadline: None

Abstract: Revision of 31 CFR Part 210 will clarify the breadth of payments governed by the regulations. These include non-benefit payments such as vendor payments, miscellaneous payments, Internal Revenue Service (IRS) tax refunds, savings bonds, grants and loans. It will also include the payment of discretionary allotments of net pay of Federal employees' salaries by DD/EFT. Electronic funds thus transferred through the Federal Reserve System eliminate the possibility of checks being lost, stolen, or forged. The Federal Government's operating efficiency will be improved, productivity will be increased, and the costs associated with the current methods will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	07/27/88	53 FR 144
NPRM Comment Period End	09/26/88	
Final Action	05/12/89	54 FR 20568
Final Action Effective	06/12/89	54 FR 20568

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sheryl Morrow, Manager, Policy Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW, Room 328, Washington, DC 20227, 202 287-0308

RIN: 1510–AA09

2220. TIME LIMITATION ON PAYMENT AND CANCELLATION OF TREASURY CHECKS AND RECLAMATION ACTIONS AND CLAIMS

Significance: Agency Priority

Legal Authority: PL 100-86, Sec 1005 Title X; 31 USC 3328; 31 USC 3334; 31 USC 3712(a)

CFR Citation: 31 CFR 235; 31 CFR 240; 31 CFR 245

Legal Deadline: Final, Statutory, October 1, 1989.

The Secretary of the Treasury, using his legal authority, extended the date the amendments shall become effective to 10/01/89. The notice of the extension appears at 53 FR 3584.

Abstract: These regulations are required under PL 100-86, Sec 1005, and they will prescribe rules and procedures necessary in order to implement the time limitation on payment and cancellation of Treasury checks and reclamation actions and claims.

Timetable:

Action	Date	FR Cite
Final Action	08/29/89	54 FR 35639
Final Action Effective	10/01/89	54 FR 35639

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joan Pesata, Director, Limited Payability Project, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 816-C, Prince Georges Center II Bldg., Hyattsville, MD 20782, 301 436-7172

RIN: 1510–AA11

[FR Doc. 89-21726 Filed 10-27-89; 8:45 am]

BILLING CODE 4810-35-T

DEPARTMENT OF THE TREASURY (TREAS)

Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 672]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: General Notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291, entitled "Federal Regulations," ATF is publishing an agenda of proposed regulations that are expected to be issued and of proposed regulations that have been issued and an agenda of existing regulations that are being reviewed under the terms of the Executive order, within the next six months. The latter agenda also lists regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have a significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the

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regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next Unified Agenda of Federal Regulations will be published in the **Federal Register** of April 1990.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact" for the regulatory project.

For general information about this general notice, contact Lori Weins, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7626.

Issuance

By direction of the Secretary of the Treasury, this general notice reads as set forth below.

Dated: August 18, 1989.

Stephen E. Higgins,

Director.

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2221	27 CFR 4 Recodification of 27 CFR Part 4	1512-AA17
2222	27 CFR 4 Wine Labeling Regulation Issues	1512-AA31
2223	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Appearance of Athletes and Depiction of Athletic Events	1512-AA50
2224	27 CFR 250 Recodification of 27 CFR Part 250 as 27 CFR Part 26	1512-AA69
2225	27 CFR 27 Recodification of 27 CFR Part 251 as 27 CFR Part 27	1512-AA72
2226	27 CFR 4.73 Standards of Fill for Wine and Distilled Spirits	1512-AA77
2227	27 CFR 55 Explosives Storage Regulations	1512-AA85
2228	27 CFR 285 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2229	27 CFR 19.11 Implementation of the "Wine Impact Bill"	1512-AA06
2230	27 CFR 9 American Viticultural Areas	1512-AA07
2231	27 CFR 5.22 Standard of Identity for Vodka	1512-AA10
2232	27 CFR 197 Nonbeverage Drawback	1512-AA20
2233	27 CFR 240.180 to 240.400 Recodification of Wine Regulations (Subparts A to O)	1512-AA42
2234	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Use of the Word "Light (Lite)"	1512-AA48
2235	27 CFR 240 Materials and Processes for the Production and Treatment of Wine	1512-AA61
2236	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2237	27 CFR 4.35 Winemaking Terminology	1512-AA70
2238	27 CFR 4.24 Non-Generic Designations of Grape Wine Having Geographical Significance	1512-AA71
2239	27 CFR 4.32 Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages; Disclosure of FD & C Yellow No. 6	1512-AA76
2240	27 CFR 5.39 Label Disclosure for Brandy Treated with Wood	1512-AA81
2241	27 CFR 16 Warning Statement on Alcoholic Beverages	1512-AA82
2242	27 CFR 55 Fireworks Regulations	1512-AA52
2243	27 CFR 179 NFA Collector's Items (Machine Guns, Destructive Devices and Certain Other Firearms)	1512-AA84
2244	27 CFR 270.11 Manufacturer's Identification on Tobacco Products Packages	1512-AA28

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2221. RECODIFICATION OF 27 CFR PART 4

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: To revise the wine labeling and advertising regulations; where applicable, to incorporate production regulations; and due to statutory amendments requested, may result in a legislative submission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional Agency Contact: Ed Reisman

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA17

2222. WINE LABELING REGULATION ISSUES

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Wine labeling issues addressed: 1. Transported grapes to retain viticultural area designation 2. Certain wines allowed "other than standard" on label 3. Harvest date for fruit, berry and agricultural wines 4. Another use of the term "Estate Bottled" 5. Harvest labeling for wine.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA31

2223. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; APPEARANCE OF ATHLETES AND DEPICTION OF ATHLETIC EVENTS

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: Discusses present policy on prohibition of active athletes and requests comments on whether the policy should be relaxed, retained, expanded to include all celebrities. On athletic events, comments are requested if the present prohibition should be expanded to include any athletic event, regardless of when the participants are shown consuming, or preparing to consume, alcohol beverages.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA50

2224. RECODIFICATION OF 27 CFR PART 250 AS 27 CFR PART 26

Significance: Agency Priority

Legal Authority: 26 USC 7651 to 7652; PL 85-859; 26 USC 5314; 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None

Abstract: As part of the recodification of Part 250, we plan to simplify, consolidate and or eliminate as many sections of regulations as possible placing particular emphasis on reducing the number of recordkeeping requirements, forms, and customs responsibilities. Wherever possible, we plan to utilize a proprietor's commercial records in lieu of requiring the proprietor to submit public use forms. These changes to Part 250 should considerably reduce the burden hours on industry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20026, 202 566-7531

RIN: 1512-AA69

2225. RECODIFICATION OF 27 CFR PART 251 AS 27 CFR PART 27

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 27; 27 CFR 251

Legal Deadline: None

Abstract: To update and clarify regulations relating to the Importation of Distilled Spirits, Wine, and Beer and to incorporate related ATF Rulings into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Reisman, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA72

2226. STANDARDS OF FILL FOR WINE AND DISTILLED SPIRITS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.73; 27 CFR 5.47

Legal Deadline: None

Abstract: ATF is considering amending the standard of fill requirements for wine and distilled spirits. Based, in part, on a petition it has received, the Bureau wishes to gather information by inviting comments from the public and industry concerning the existing standards of fill.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 26385
ANPRM Comment Period Extended	08/14/87	52 FR 30390
ANPRM Comment Period End	08/24/87	

blasting agents. Recently FBP were

Government Levels Affected: None

Timetable:

2234. LABELING AND ADVERTISING

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Action	Date	FR Cite
ANPRM	10/23/87	
Extended Comment Period End		
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional Agency Contact: Ed Reisman 566-7531

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512–AA77

2227. ● EXPLOSIVES STORAGE REGULATIONS

Significance: Agency Priority

Legal Authority: 18 USC 841-848

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: There is a need to provide information to Emergency Response Personnel (ERP) concerning over-the-road vehicles and other facilities storing blasting agents. Recently ERP were killed while fighting a fire involving stored blasting agents. Placards which are required by the Department of Transportation during the transportation of blasting agents will be required on all facilities.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	54 FR 36325
NPRM Comment Period End	10/31/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Crowley, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 789-3029

RIN: 1512–AA85

TOBACCO PRODUCTS

2228. 27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat 917)

CFR Citation: 27 CFR 285

Legal Deadline: None

Abstract: To reduce or eliminate administrative and recordkeeping burdens under 27 CFR Part 285.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/84	
ANPRM Comment Period End	10/02/84	
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512–AA33

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2229. IMPLEMENTATION OF THE "WINE IMPACT BILL"

Significance: Agency Priority

Legal Authority: 26 USC 5010

CFR Citation: 27 CFR 19.11; 27 CFR 19.37 to 19.40; 27 CFR 19.42; 27 CFR 19.340; 27 CFR 19.372; 27 CFR 19.402; 27 CFR 19.505; 27 CFR 19.566; 27 CFR 19.681; 27 CFR 19.748; 27 CFR 19.763; 27 CFR 19.764; 27 CFR 19.778 to 19.780; 27 CFR 170.681 to 170.691; 27 CFR 197.105; ...

Legal Deadline: None

Abstract: Restores the tax system which existed for distilled spirits products containing wine or alcoholic flavoring materials prior to the enactment of the Distilled Spirits Tax Revision Act of 1979; also permits spirits bottled for industrial purposes to be transferred in bond between distilled spirits plants.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 9873
NPRM Comment Period End	06/25/87	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512–AA06

2230. AMERICAN VITICULTURAL AREAS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Arroyo Grande Valley, CA (contact Robert White)
- NPRM 07/20/89 (54 FR 30398)
- NPRM Comment Period End 09/05/89
- Final Action 02/00/90

Mt. Veeder, CA (contact David Brokaw)
- NPRM 07/14/89 (54 FR 29739)
- NPRM Comment Period End 08/28/89
- Final Action 02/00/90

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: See supplemental timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA07

2231. STANDARD OF IDENTITY FOR VODKA

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Legal Deadline: None

Abstract: Considers clarifying the standard of identity for vodka by revoking Revenue Ruling 56-98 which permits the use of small quantities of sugar or citric acid in vodka; or would propose a new class and type of vodka which contains trace amounts of sugar or citric acid.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/82	47 FR 1148
ANPRM Comment Period End	07/11/82	
NPRM	02/19/86	51 FR 6009
NPRM Comment Period End	05/20/86	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA10

2232. NONBEVERAGE DRAWBACK

Significance: Agency Priority

Legal Authority: 26 USC 5131 et seq

CFR Citation: 27 CFR 197

Legal Deadline: None

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28286
NPRM Comment Period End	10/29/87	
Final Action	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SMALL ENTITIES CONT: This regulation affects approximately 500 entities.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA20

2233. RECODIFICATION OF WINE REGULATIONS (SUBPARTS A TO O)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 240.180 to 240.400

Legal Deadline: None

Abstract: To update, simplify, and clarify regulations relating to wine; and to incorporate ATF rulings into the Regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/07/86	51 FR 8098
NPRM Comment Period End	07/07/86	
NPRM Comment Period Extended	07/08/86	51 FR 24719
NPRM Extended Comment Period End	12/31/86	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA42

2234. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; USE OF THE WORD "LIGHT (LITE)"

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: "Light (Lite)" was addressed to a limited extent in Notice No. 362 (45 FR 83530). However, subsequent to its publication ATF was petitioned by the Center for Science in the Public Interest (CSPI), requesting mandatory caloric labeling on all alcohol beverages, as well as the establishment of upper limits on calories in products labeled as "light (lite)." Comments will be requested on CSPI's petition as well as other issues involving use of the term "light (lite)."

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 28836
NPRM Comment Period End	11/10/86	
NPRM Comment Period Reopened	11/14/86	51 FR 41355
NPRM Reopened Comment Period End	12/31/86	
NPRM	06/17/88	53 FR 22678
NPRM Comment Period End	08/15/88	
NPRM Comment Period Extended	08/16/88	53 FR 30848
NPRM Extended Comment Period End	11/15/88	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA48

2235. MATERIALS AND PROCESSES FOR THE PRODUCTION AND TREATMENT OF WINE

Significance: Agency Priority

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TREAS—BATF — **Final Rule Stage**

Legal Authority: 27 USC 5382

CFR Citation: 27 CFR 240

Legal Deadline: None

Abstract: Updates, clarifies, and simplifies the regulations relating to the production and treatment of wine.

Timetable:

Action	Date	FR Cite
NPRM	09/24/84	49 FR 37527
NPRM Comment Period Extended	01/22/85	50 FR 2832
NPRM Comment Period End	01/23/85	
NPRM Extended Comment Period End	03/01/85	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This was formerly part of RIN 1512-AA12 Materials and Processes for the Production and Treatment of Wine.

Agency Contact: Robert White, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA61

2236. WINEGRAPE VARIETAL DESIGNATIONS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: This proposal would establish standardized lists of winegrape varietal names which may be used on domestic wine labels. In addition we are proposing a method by which new names may be added to the list. These standardized lists will assure more accurate and truthful identification of the wine.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	
NPRM Comment Period Extended	04/08/86	51 FR 11944
NPRM Extended Comment Period End	07/07/86	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 789-3178

RIN: 1512–AA67

2237. WINEMAKING TERMINOLOGY

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4.35

Legal Deadline: None

Abstract: ATF is proposing to define words denoting winemaking operations for use on wine labels in conjunction with the name and address of the bottler. This project partially fulfills the requirements of the court order in Wawskiewicz v. Department of the Treasury, 480 F. Supp. 739 (D.D.C. 1979), aff'd. in part, rev'd in part, 670 F.2d 296.

Timetable:

Action	Date	FR Cite
NPRM	05/29/86	51 FR 19361
NPRM Comment Period End	09/26/86	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512–AA70

2238. NON-GENERIC DESIGNATIONS OF GRAPE WINE HAVING GEOGRAPHICAL SIGNIFICANCE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.24

Legal Deadline: None

Abstract: This proposal expands the list of names officially recognized under 27 CFR Part 4, as being non-generic for the purposes of labeling and advertising of wine. This proposal is the result of petitions from numerous foreign countries for ATF recognition of non-generic wine designations which, in their view, denote distinctive national products. This proposal is also an outgrowth of one of the commitments made by the United States, in the Exchange of Letters of July 26, 1983 with the Commission of the European Communities, to work within the regulatory framework of 27 CFR Part 4, to prevent erosion of non-generic designations of geographic significance. For practical reasons it is being proposed that only "examples" of non-generic designations be listed in Part 4 while a complete list of all non-generic designations be listed in a new Part 12.

Timetable:

Action	Date	FR Cite
NPRM	04/12/88	53 FR 12024
NPRM Comment Period End	07/11/88	
NPRM Comment Period Extended	07/13/88	53 FR 26448
NPRM Extended Comment Period End	10/11/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gale Guinand, International Liaison Officer, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 789-3011

RIN: 1512–AA71

2239. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS, AND MALT BEVERAGES; DISCLOSURE OF FD & C YELLOW NO. 6

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.32; 27 CFR 5.32; 27 CFR 7.22

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations by requiring the mandatory disclosure of FD & C Yellow No. 6 on labels of alcoholic beverages, because of evidence indicating the possibility of allergic-type reactions to the color additive. As in the case of FD & C Yellow No. 5, which also requires label disclosure under existing regulations FD & C Yellow No. 6 is used infrequently in the production of alcoholic beverages being limited to mostly cocktails, liqueurs, and other specialty products.

TREAS—BATF — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	09/04/87	52 FR 33603
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512–AA76

2240. LABEL DISCLOSURE FOR BRANDY TREATED WITH WOOD

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.39

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR Part 5 concerning the wording, and placement, of the disclosure statement for brandy treated with wood.

Timetable:

Action	Date	FR Cite
NPRM	05/24/88	53 FR 18574
NPRM Comment Period Extended	08/16/88	53 FR 30848
NPRM Comment Period End	08/22/88	
NPRM Extended Comment Period End	11/22/88	
General Notice Extending Use-up Period	07/14/89	54 FR 29701
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512–AA81

2241. WARNING STATEMENT ON ALCOHOLIC BEVERAGES

Significance: Agency Priority

Legal Authority: 27 USC 215

CFR Citation: 27 CFR 16

Legal Deadline: Other, Statutory, February 16, 1989. Temporary Rule with Notice

Abstract: This temporary rule implements the provisions of the Alcoholic Beverage Labeling Act of 1988, Title VIII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690). The regulations implement the statute by requiring that a health warning statement appear on the labels of all containers of alcoholic beverages sold or distributed in the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7164
Interim Final Rule	02/16/89	54 FR 7160
NPRM Comment Period End	04/03/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512–AA82

FIREARMS

2242. FIREWORKS REGULATIONS

Significance: Agency Priority

Legal Authority: 18 USC 841-848

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: Information gathering on safe handling of explosive materials in the fireworks industry is necessary due to accidental explosions causing death. Injuries and property damage have occurred at fireworks manufacturing and assembling plants. Damage has been in the millions of dollars and some regulatory changes are needed. This notice to gather information is to determine changes needed and potential costs.

Timetable:

Action	Date	FR Cite
General Notice	06/06/84	49 FR 23872
NPRM	07/20/88	53 FR 27452
NPRM Comment Period End	09/19/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Crowley, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 789-3029

RIN: 1512–AA52

2243. ● NFA COLLECTOR'S ITEMS (MACHINE GUNS, DESTRUCTIVE DEVICES AND CERTAIN OTHER FIREARMS)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 179

Legal Deadline: None

Abstract: Proposal to establish an age of 50 years before a National Firearms Act firearm can be considered a collector's item and removed from the provisions of the Act. The industry now has no guidance because the "date of manufacture" in the regulations is indeterminate.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	54 FR 23490
NPRM Comment Period End	07/31/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Barry Fields, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 789-3031

RIN: 1512–AA84

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TREAS—BATF — Final Rule Stage

TOBACCO PRODUCTS

2244. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Significance: Agency Priority

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.161; 27 CFR 290.165; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Legal Deadline: None

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	52 FR 1207
NPRM Comment Period End	03/13/87	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512–AA28

[FR Doc. 89-21727 Filed 10-27-89; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (Office) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Regulatory actions taken since the publication of the Office's previous semiannual agenda on April 24, 1989 (54 FR 17064) are also included. It is expected that this semiannual agenda will enable the public to be more aware of and allow it to more effectively participate in the Office's regulatory activity.

ADDRESS: The mailing address for all contacts: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact Nancy Lowther, Financial Analyst, Legislative and Regulatory Analysis Division, (202) 447-1177.

For additional information about a particular item on this semiannual agenda, contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: The Office has determined that none of the rulemakings discussed in this semiannual agenda requires a regulatory flexibility analysis; all entries have been determined not to have a "significant impact on a substantial number of small entities" and, therefore, are not subject to the provisions of the act. Additionally, none of the rules is a "major" rule as defined by Executive Order 12291. Executive Order 12291 defines a "major" rule as one likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dated: August 14, 1989.

Robert L. Clarke,

Comptroller of the Currency.

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2245	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
2246	12 CFR 4.19 Production of Documents and Testimony in Litigation Where the Comptroller or the Office is Not a Party	1557-AA57
2247	12 CFR 11, (New Subsection) Securities Exchange Act Disclosure Rules	1557-AA58
2248	12 CFR 16 Securities Offering Disclosure Rules	1557-AA65
2249	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA66
2250	12 CFR 4 Supervision of Bank Operations	1557-AA67
2251	12 CFR 5.33 Merger, Consolidation, Purchase and Assumption	1557-AA71
2252	12 CFR 32 Lending Limits	1557-AA72
2253	12 CFR 12 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA75
2254	12 CFR 4 Description of Office, Procedures, Public Information	1557-AA77

TREAS—OCC

Comptroller of the Currency—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2255	12 CFR 7.3400 Leasing of Personal Property	1557-AA80
2256	12 CFR 12.7 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA84
2257	12 CFR 7.7490 Messenger Service	1557-AA85
2258	12 CFR 5.61 Rules, Policies, and Procedures for Corporate Activities; Payment of Dividends	1557-AA86
2259	12 CFR 3 Minimum Capital Ratios; Issuance of Directives	1557-AA87

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2260	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2261	12 CFR 32.2(d) Lending Limits	1557-AA32
2262	12 CFR 19 Rules of Practice and Procedure	1557-AA43
2263	12 CFR 5.49 Receivership and Conservatorship	1557-AA82

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2264	12 CFR 21 Reports of Crimes and Suspected Crimes	1557-AA74

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2245. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: Sec 1, 77 Stat 666; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: Comments in response to a prior rulemaking Final Rule Docket No. 80-16 (46 FR 71571) published October 29, 1980, included recommendations that additional amendments should be made to 12 CFR 9. The OCC believes that the issues raised by the commenters can best be addressed through a comprehensive review of its regulations concerning national bank fiduciary powers and collective investment funds. The OCC requested comments from the public as to the desirability and feasibility of a comprehensive review of its trust regulations pertaining to collective investment funds, including specific matters which should be addressed. In view of the favorable disposition of litigation impacting on the fiduciary powers of national banks and collective investment funds (Investment Company Institute v. Clarke, 789 F.2d 175 (2d Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Conover, 790 F.2d 925 (D.C. Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Clarke, 793 F.2d 220 (9th Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/25/82	47 FR 27833
ANPRM Comment Period End	09/23/82	47 FR 27833
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Clarke, No. 86-3725 (W.D.N.C. August 25, 1986)(appeal withdrawn by stipulation, Jan. 8, 1987), the project has been reactivated. The effect on small entities will be considered in the development of this rulemaking.

Agency Contact: Donald N. Lamson, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA04

2246. PRODUCTION OF DOCUMENTS AND TESTIMONY IN LITIGATION WHERE THE COMPTROLLER OR THE OFFICE IS NOT A PARTY

Legal Authority: 5 USC 301; 12 USC 481; 5 USC 552(b)(8)

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CFR Citation: 12 CFR 4.19; 12 CFR 4.18(c); 12 CFR 7.6025(c); 12 CFR 4.18(a); 12 CFR 4.18(b)

Legal Deadline: None

Abstract: This rule governs the release by the OCC of confidential documents, especially reports of examination, and testimony for use in litigation in which the OCC is not a party. The OCC is considering changing the rule to spell out the exact requirements for a request for such release, and the situations under which release might be authorized. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lester N. Scall, Senior Trial Attorney, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1893

RIN: 1557–AA57

2247. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11, (New Subsection)

Legal Deadline: None

Abstract: The proposed rule would require that more detailed and meaningful information be provided to shareholders and the OCC concerning banks' loan portfolios, including loans to borrowers in foreign countries experiencing liquidity problems, other sources of income and exposure to risks. This will assist shareholders in evaluating proposals for mergers, consolidations, acquisitions and similar matters and will assist the OCC in administering and enforcing the Securities Exchange Act of 1934 as it applies to national banks. The OCC considered not proposing the additional amendments or proposing them as a general guide rather than a rule. However, the OCC determined it was appropriate to propose the additional requirements as amendments to Part 11 because the OCC believes the proposed requirements will help to clarify the types of disclosures which the OCC, shareholders and the public would consider material in analyzing various Exchange Act filings and statements. The proposed rule will also include amendments to update Part 11 to conform with recent amendments by the Securities and Exchange Commission to its Securities Exchange Act Disclosure Rules. The (CONT)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONTINUED: effect on small entities will be considered in the development of this rulemaking.

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA58

2248. SECURITIES OFFERING DISCLOSURE RULES

Legal Authority: 12 USC 1818; 12 USC 93a

CFR Citation: 12 CFR 16

Legal Deadline: None

Abstract: This regulation contains the OCC's disclosure requirements for securities offerings by national banks. The OCC is considering revisions which would clarify the coverage of the rule, specify the OCC's enforcement authority in connection with the rule, liberalize nonpublic offering requirements, provide for more meaningful disclosure requirements in public offerings, revise financial information requirements to be more consistent with 12 CFR 11, and where practicable, incorporate by reference provisions of 12 CFR 11. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
NPRM Comment Period End	02/00/90	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA65

2249. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: 12 USC 92a

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC proposes to amend this regulation to clarify the requirements concerning national bank fiduciary investment of uninvested or undistributed cash in fiduciary accounts. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barrett Aldemeyer, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Analysis Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1632

RIN: 1557–AA66

2250. SUPERVISION OF BANK OPERATIONS

Legal Authority: 12 USC 481; 5 USC 552

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The proposed regulation will set forth amendments to the existing description of supervision of bank operations by the Office of the Comptroller of the Currency. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James F. E. Gillespie, Jr., Assistant Director, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1893

RIN: 1557–AA67

2251. MERGER, CONSOLIDATION, PURCHASE AND ASSUMPTION

Legal Authority: 12 USC 93a; 12 USC 181; 12 USC 214a; 12 USC 215; 12 USC 215a; 12 USC 1828(c)

CFR Citation: 12 CFR 5.33; 12 CFR 11.590

Legal Deadline: None

Abstract: The OCC proposes to amend 12 CFR 5.33 to set forth the OCC's merger proxy statement filing requirements for banks that do not have a class of equity securities registered under the Securities Exchange Act of 1934 ("Exchange Act"), and to specify the disclosure that is required of such banks for various types of merger transactions. This action is expected to assist bank merger applicants in preparing their merger proxy materials, which are subject to OCC review and clearance pursuant to the OCC's merger procedures. The effect on small entities will be considered in development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Laura Plaze, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557–AA71

2252. LENDING LIMITS

Legal Authority: 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: The OCC is considering several amendments to the lending limits regulation to simplify, clarify and improve that regulation. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: William C. Kerr, National Bank Examiner, Supervision Policy/Research Division, (202) 447-1164, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Deborah Katz, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA72

2253. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: This rulemaking will update 12 CFR 12 in light of the final regulations issued July 24, 1987 (52 FR 27910) by the Department of the Treasury as required by the Government Securities Act of 1986. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Kerr, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Investment Securities, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1901

RIN: 1557–AA75

2254. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION

Legal Authority: 5 USC 552; EO 12600

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: This proposed regulation implements recent amendments to the Freedom of Information Act (FOIA). The amendments concern Exemption 7 of the FOIA (relating to law enforcement records) and the provisions of the FOIA concerning fees and fee waivers. In addition, the proposed regulation implements Executive Order 12600, which deals with predisclosure notification procedures for confidential commercial information. This proposed regulation also makes technical changes to the OCC's existing FOIA regulation. The proposed regulation, and the OCC's FOIA regulations in general, affect public disclosure of information by the OCC. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/10/89	54 FR 32820
NPRM Comment Period End	10/10/89	54 FR 32820
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dean DeBuck, Freedom of Information Officer, (202) 447-1800, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA77

2255. LEASING OF PERSONAL PROPERTY

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.3400

Legal Deadline: None

Abstract: The proposed regulation will interpret new statutory lease financing authority provided to national banks by Section 108 of the Competitive Equality Banking Act of 1987, codified at 12 USC 24(10). The OCC is considering what prudential guidelines, if any, are needed, in order to ensure that national banks conduct this new activity safely. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen C. Starr, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1880**

RIN: 1557–AA80

2256. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12.7

Legal Deadline: None

Abstract: This rulemaking would broaden an exemption from requirements that banks maintain certain records and establish certain written policies and procedures. Under the proposal, the current exemption for banks with an average of less than 200 securities transactions per year is expanded to 1,000 transactions per year. The purpose of broadening the exemption from 200 transactions per year to 1,000 transactions per year is to reduce the regulatory burden on small banks.

Timetable:

Action	Date	FR Cite
NPRM	06/09/89	54 FR 32653
NPRM Comment Period End	10/10/89	54 FR 32653
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Kerr, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Investment Securities, 490 L'Enfant Plaza East, SW., Washington, DC 20219, **202 447-1901**

RIN: 1557–AA84

2257. ● MESSENGER SERVICE

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.7490

Legal Deadline: None

Abstract: This rulemaking is intended to clarify how national banks may operate messenger services without engaging in branch bank activities. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard H. Blake, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, **202 447-1880**

RIN: 1557–AA85

2258. ● RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; PAYMENT OF DIVIDENDS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 5.61; 12 CFR 5.62; 12 CFR 7.6100; 12 CFR 7.6125

Legal Deadline: None

Abstract: This rulemaking will amend two interpretive rulings in 12 CFR 7 and promulgate them as regulations in 12 CFR 5. The amendments are needed to revise and clarify certain OCC interpretations of statutes that govern the payment of dividends by national banks (12 USC 56 and 60). The intended effect is to make the calculation of the restrictions on the payment of dividends by national banks consistent with generally accepted accounting principles (GAAP). The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33711
NPRM Comment Period End	10/16/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Shimabukura, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, **202 447-1880**

RIN: 1557–AA86

2259. ● MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: The OCC is proposing to amend its capital regulation in 12 CFR 3. Primarily, this amendment would (1) make the definition of capital in 12 CFR 3.2 and in the OCC's recently published risk-based capital guidelines consistent and (2) change the minimum capital ratio in 12 CFR 3.6. This amendment will limit the amount of leverage a national bank can undertake. The intended effect of this amendment is to ensure the continued safety and soundness of the national banking system. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Jennifer C. Kelly, National Bank Examiner, Supervision Policy/Research Division, (202) 447-1164; or Mark Winer, Financial Economist, Economic and Policy Analysis Division, (202) 447-1924.

490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Robert J. Roth, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, **202 447-1880**

RIN: 1557–AA87

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

2260. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 5

Legal Deadline: None

Abstract: The OCC is engaged in a continuing review of its rules, policies, and procedures governing corporate activities. The OCC proposes to provide clarification of the OCC's ability to impose conditions on transactions between a bank and its subsidiaries; to add 12 CFR 5.36 to require notification to the OCC of certain equity investments which national banks are authorized by statute to make; to outline the responsibility of the applicants for accurate and complete filings; to centralize the OCC's distribution of forms; and to make several miscellaneous technical amendments. These proposals are expected to benefit the OCC by assisting the OCC in fulfilling its responsibility for maintaining the safety and soundness of national banks and the national banking system, and to improve OCC efficiency. The effect on small entities is considered in the development of each rulemaking. If adopted as final rules, the changes to Part 5 will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Equity Investments NPRM Public Comment Period End 03/28/89	01/27/89	54 FR 4038
Operating Subsidiaries NPRM Public Comment Period End 03/28/89	01/27/89	54 FR 4038
Applicants' Responsibility	00/00/00	
Change in Bank Control	00/00/00	
Forms Distribution	00/00/00	
Technical Amendments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheila Ogilvie, National Bank Examiner/Senior Licensing, Policy and Systems Analyst, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1184**

RIN: 1557–AA00

2261. LENDING LIMITS

Legal Authority: 12 USC 84(b)(1); 12 USC 84(d)(1); 12 USC 93a

CFR Citation: 12 CFR 32.2(d)

Legal Deadline: None

Abstract: This rulemaking will revise the definition of a "contractual commitment to advance funds" in response to comments received on the Temporary Rule on National Bank Lending Limits, at 53 FR 23752 (June 24, 1988). Comments were generally in favor of the temporary rule, but expressed concern about its impact on banks which had not experienced a decline in capital. This proposed revision will address those concerns through an amendment to the definition of a "contractual commitment to advance funds." This action will return to banks some flexibility in monitoring their lending limits and outstanding loan commitments. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/18/89	54 FR 30054
NPRM Comment Period End	09/18/89	54 FR 30054
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: William C. Kerr, National Bank Examiner, Supervision Policy/Research Division, (202) 447-1164, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Deborah Katz, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1880**

RIN: 1557–AA32

2262. RULES OF PRACTICE AND PROCEDURE

Legal Authority: 12 USC 1817(j); 12 USC 1818; 12 USC 1820; 15 USC 781(h); 15 USC 781(i); 15 USC 78o-4(c); 15 USC 78u; 15 USC 78w; 5 USC 554 to 557; PL 95-630; 12 USC 3102; 12 USC 3108(a)

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The proposed regulation sets forth amendments to the hearing rules for administrative hearings. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/26/89	54 FR 22759
NPRM Comment Period End	07/25/89	54 FR 22759
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Daniel Stipano, Acting Assistant Director, Enforcement and Compliance Division, (202) 447-1818, 490 L'Enfant Plaza East, SW., Washington, DC 20219

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

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TREAS—OCC — **Final Rule Stage**

Agency Contact: Brenda Curry, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Analysis Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1632

RIN: 1557–AA43

2263. RECEIVERSHIP AND CONSERVATORSHIP

Legal Authority: 12 USC 93a; 12 USC 191

CFR Citation: 12 CFR 5.49

Legal Deadline: None

Abstract: The proposed regulation will clarify the standards of insolvency the OCC may use in determining whether to appoint a receiver under 12 USC 191. Specifically, the rulemaking describes the net worth and liquidity tests. The rulemaking is intended to state OCC procedures clearly, to conform those procedures more closely to GAAP and to evaluate an insolvent bank's true financial condition. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/05/89	54 FR 28072
NPRM Comment Period End	09/05/89	54 FR 28072
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Kennard L. Page, National Bank Examiner, Special Supervision Division, (202) 447-1719, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Ferne Fishman Rubin, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557–AA82

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC) — **Completed Actions**

2264. REPORTS OF CRIMES AND SUSPECTED CRIMES

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: This regulation revises the two criminal referral forms, raises the threshold for filing criminal referrals where no suspect has been identified, and clarifies the filing requirement as far as reporting financial crimes where no loss is incurred by the bank, such as money laundering, bank bribery, and Bank Secrecy Act violations. These revisions are intended to clarify the filing requirement for these reports and are intended to reduce the overall number of criminal referral reports to be filed by national banks. This regulation will not have a significant economic impact on a substantial number of small banks or other small entities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/11/88	53 FR 7861
Interim Final Rule Comment Period End	05/10/88	
Final Action	06/20/89	54 FR 25839
Final Action Effective	07/20/89	54 FR 25839

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Miller, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Enforcement and Compliance Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1618

RIN: 1557–AA74

[FR Doc. 89-21728 Filed 10-27-89; 8:45 am]
BILLING CODE 4810-33-T

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Customs Service

19 CFR Ch. I

Semiannual Agenda

AGENCY: U.S. Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Public Law 96-354, the "Regulatory Flexibility Act," and Executive Order 12291 "Federal Regulations," Customs is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The projects listed below are not considered to be "major" regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301) and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, additional, specific statutory authority is indicated as the legal authority for the project.

Dated: August 29, 1989.

Harvey B. Fox,
Director, Office of Rulings and Regulations.

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2265	19 CFR 19 Customs Warehouses; Duty-Free Stores	1515-AA22
2266	19 CFR 134 Country of Origin Marking	1515-AA59
2267	19 CFR 111 Electronic Entry Filing	1515-AA79
2268	19 CFR 133 Enforcement of Protection of Semiconductor Chip Products; Patent Surveys	1515-AA81
2269	19 CFR 161 Informers Compensation	1515-AA82
2270	19 CFR 10 United States-Israel Free Trade	1515-AA84
2271	19 CFR 111 Broker Compliance	1515-AA85
2272	19 CFR 12 Definition of Switchblade Knives	1515-AA86
2273	19 CFR 142 Requirement of Name and Address of Manufacturer/Shipper To Be on Invoice at Time of Entry	1515-AA88
2274	19 CFR 12.80 Vehicle Safety, Bumper and Anti-Theft Compliance	1515-AA89

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2275	19 CFR 4 Customs User Fees	1515-AA50
2276	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2277	19 CFR 4 Conforming Customs Regulations to Harmonized System of Tariff Classification	1515-AA61
2278	19 CFR 162 Highest Degree of Care and Diligence to Prevent Unmanifested Narcotics and Marijuana	1515-AA67
2279	19 CFR 122 Overflight Exemptions for Private Aircraft; Fingerprinting Requirements	1515-AA69
2280	19 CFR 24 Statement Processing and Automated Clearinghouse	1515-AA72
2281	19 CFR 12 Import Sanctions Against the Toshiba Machine Company and The Kongsberg Trading Company	1515-AA74
2282	19 CFR 10 United States-Canada Free Trade Agreement	1515-AA75
2283	19 CFR 132 Filling Absolute Quota	1515-AA76
2284	19 CFR 162 Seizure of Property for Possession of Controlled Substances	1515-AA77
2285	19 CFR 122 Air Carrier Smuggling Prevention Program	1515-AA78
2286	19 CFR 4 Electronic Release Notification	1515-AA80
2287	19 CFR 134.43 Country of Origin Marking of Native American-Style Arts and Crafts	1515-AA83
2288	19 CFR 24 Donated Cargo Exemption from Harbor Maintenance Fee	1515-AA87

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2289	19 CFR 128 Clearance of Cargo Carried by Express Consignment Operators or Carriers	1515-AA64
2290	19 CFR 192 Exportation of Used Self-Propelled Vehicles	1515-AA65

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United States Customs Service—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2291	19 CFR 134 Country of Origin Marking of Jewelry	1515-AA66
2292	19 CFR 141 Changing Maximum Amount for Informal Entries to $1250	1515-AA70
2293	19 CFR 177 Certain Administrative Procedures	1515-AA71

DEPARTMENT OF THE TREASURY (TREAS)

Proposed Rule Stage

United States Customs Service (CUSTOMS)

2265. CUSTOMS WAREHOUSES; DUTY-FREE STORES

Legal Authority: 19 USC 1556; 19 USC 1565; 19 USC 1623

CFR Citation: 19 CFR 19; 19 CFR 144

Legal Deadline: None

Abstract: Consideration of various actions in regard to administration of duty-free stores. Actions range from abolition of stores to their designation as class of bonded warehouse and/or increased regulation. Actions necessary due to need for increased efficiency of store administration by Customs and to address enforcement problems related to stores. Public comment requested on actions under consideration, as well as store operations in general. Work Plan 83-1 approved.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/83	48 FR 33318
ANPRM Comment Period End	09/19/83	
Notice of Status	07/07/86	51 FR 24535
Congressional Action PL 100-418	08/23/88	
NPRM	03/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Holl, Operation Officer, Department of the Treasury, United States Customs Service, Room 4414, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5354

RIN: 1515-AA22

2266. COUNTRY OF ORIGIN MARKING

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the requirement that every imported article of foreign origin, or its container, shall be legibly and conspicuously marked to indicate to an ultimate purchaser in the U.S., the English name of the country of origin of the article. Proposal would require that whenever the full or abbreviated name of a country or place other than the country of origin, or a symbol readily associated with a country or place other than the country of origin appears anywhere on a foreign article or its container, then the actual country of origin of the article must be marked on the article or its container in close proximity to each reference to the country or place not the country of origin, or a hang tag or sticker affixed to a highly conspicuous portion of the article.

Timetable:

Action	Date	FR Cite
NPRM in Treasury Review	02/22/88	
NPRM	03/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury, United States Customs Service, Room 2212, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA59

2267. ● ELECTRONIC ENTRY FILING

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1624

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 143

Legal Deadline: None

Abstract: Amend Customs Regulations to provide that immediate delivery and entry summary information could be filed electronically with Customs through the Automated Broker Interface module of Customs Automated Commercial System.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Nolle, ACS Officer, Department of the Treasury, United States Customs Service, Room 2341, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-7907

RIN: 1515-AA79

2268. ● ENFORCEMENT OF PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS; PATENT SURVEYS

Legal Authority: 17 USC 901 to 914; 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 133; 19 CFR 12; 19 CFR 24

Legal Deadline: None

Abstract: This document proposes to amend the Customs Regulations to enable persons seeking protection from infringing semiconductor chip products (mask works) to obtain the assistance of Customs in preventing pirated chips from being imported into the U.S. This would give rise to a process of Customs recordation of mask works similar to that for copyrights.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Atwood, Director, Intellectual Property Rights Task Force, Department of the Treasury, United States Customs Service, Room 4117, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-6933

RIN: 1515-AA81

2269. ● INFORMERS COMPENSATION

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1646a

CFR Citation: 19 CFR 161

Legal Deadline: None

Abstract: Amends Customs Regulations relating to awards of compensation given to informants whose actions result in recoveries of any Customs duties withheld, or any fine penalty or forfeiture incurred for a violation of the Customs or navigation laws, by increasing the maximum award from $50,000 to $250,000.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriett Blank, Attorney, Department of the Treasury, United States Customs Service, Room 2129, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8317

RIN: 1515-AA82

2270. ● UNITED STATES-ISRAEL FREE TRADE

Legal Authority: 99 Stat 82; 19 USC 2112

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amend Customs Regulations to include for public information the legal and existing administrative rules under which the United States-Israel Free Trade Area is presently being conducted. Under this program, products of Israel are entitled to free or reduced rates.

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leo Wells, Operations Officer, Department of the Treasury, United States Customs Service, Room 1311, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-7550

RIN: 1515-AA84

2271. ● BROKER COMPLIANCE

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111

Legal Deadline: None

Abstract: Amendment of Customs Regulations to permit more effective management of the broker community's legal requirements and to allow Customs to deal with operational problems dealing with brokers and to facilitate processing license applications and the review of penalty recommendations forwarded by District Directors.

Timetable:

Action	Date	FR Cite
NPRM	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Janiszewski, Chief, Broker Compliance and Evaluation Branch, Department of the Treasury, United States Customs Service, Room 1422, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8248

RIN: 1515-AA85

2272. ● DEFINITION OF SWITCHBLADE KNIVES

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1625; 15 USC 1241

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amend Regulations to clarify scope of prohibited knives and also to include a new congressionally mandated type of knife within prohibition.

Timetable:

Action	Date	FR Cite
NPRM	09/18/89	54 FR 34186
NPRM Comment Period End	10/17/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Orandle, Attorney, Department of the Treasury, United States Customs Service, Room 2104, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515-AA86

2273. ● REQUIREMENT OF NAME AND ADDRESS OF MANUFACTURER/SHIPPER TO BE ON INVOICE AT TIME OF ENTRY

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Amend Regulations to require the manufacturer or shipper name and address be placed on the invoice presented at the time of entry. This information is needed to enable Customs Automated Commercial System cargo processing module to operate as designed. Currently this data is not required to be supplied to Customs.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Pat Flynn, Inspector, Department of the Treasury, United States Customs Service, Room 3135, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5354

RIN: 1515-AA88

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TREAS—CUSTOMS — Proposed Rule Stage

Abstract: Amend Customs Regulations to update them with respect to new safety standard compliance requirements, bumper standard requirements, and anti-theft standard requirements of the National Highway Traffic Safety Adm., Department of Transportation. The main requirement is that imported vehicles be labeled to show compliance.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Paterson, Operations Officer, Department of the Treasury, United States Customs Service, Room 1311, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8651

RIN: 1515–AA89

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
United States Customs Service (CUSTOMS)

2275. CUSTOMS USER FEES

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272

CFR Citation: 19 CFR 4; 19 CFR 6; 19 CFR 24; 19 CFR 111; 19 CFR 123; 19 CFR 145

Legal Deadline: Final, Statutory, July 7, 1986.

Abstract: Amends Customs Regulations to provide for payment of specific fees to Customs for the processing of persons, aircraft, vehicles and merchandise arriving in the U.S. as well as for the payment of an annual fee by Customs brokers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/86	51 FR 21152
Final Rule Pending internal decision	05/01/88	
Final Action	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Denise Crawford, Operations Officer, Department of the Treasury, United States Customs Service, Room 4133, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-8425

RIN: 1515–AA50

2276. HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 623; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509; PL 99-662

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Legal Deadline: Final, Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 which authorizes Customs to assess a harbor maintenance fee of 0.04 percent (.0004) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Interim Final Rule Public Comment Period End	08/28/87	
Comments being analyzed	02/08/88	
Final Action	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Barbare, Department of the Treasury, United States Customs Service, Room 4118, 1301 Constitution Ave., NW, Washington, DC 20229, 202 566-8301

RIN: 1515–AA57

2277. CONFORMING CUSTOMS REGULATIONS TO HARMONIZED SYSTEM OF TARIFF CLASSIFICATION

Significance: Agency Priority

Legal Authority: 5 USC 310; 19 USC 66; 19 USC 1624; 19 USC 1202; 19 USC 1448; 19 USC 1484; 19 USC 1557; 19 USC 1559; 19 USC 81a to 81u; 19 USC 1751; 19 USC 1401a; 19 USC 1500; 19 USC 1313; 5 USC 552; 31 USC 483a; ...

CFR Citation: 19 CFR 4; 19 CFR 7; 19 CFR 10; 19 CFR 11; 19 CFR 12; 19 CFR 18; 19 CFR 19; 19 CFR 24; 19 CFR 54; 19 CFR 101; 19 CFR 103; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 122; ...

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Amends the Customs Regulations by removing all references to the Tariff Schedule of the United States and inserting in their stead the appropriate Harmonized Tariff Schedule of the United States reference.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/88	53 FR 51244
Comment Period End	03/21/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hubbard L. Valenick, Attorney, Department of the Treasury, United States Customs Service, Room 2146, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8530

RIN: 1515–AA61

2278. HIGHEST DEGREE OF CARE AND DILIGENCE TO PREVENT UNMANIFESTED NARCOTICS AND MARIJUANA

Significance: Agency Priority

Legal Authority: 19 USC 1584; 19 USC 1594; 19 USC 1595a; 21 USC 960; 21 USC 961; PL 99-570

CFR Citation: 19 CFR 162

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the liability of common carriers to penalties, seizure and forfeiture for unmanifested narcotic drugs or marijuana. The proposed changes would add to the regulations the statutory standard for the highest degree of care and diligence on the part of common carriers in preventing unmanifested drugs and marijuana. It also sets forth specific duties and procedures by which the standard is defined and against which compliance with the standard can be determined. These duties and procedures include such security measures as background investigations of employees, access restrictions to cargo areas, use of lighting in storage areas, and similar measures.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4835
NPRM Comment Period End	04/03/89	
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriett D. Blank, Attorney, Department of the Treasury, United States Customs Service, Room 2131, 1301 Constitution Ave., NW, Washington, DC 20229, 202 566-8317

RIN: 1515–AA67

TREAS—CUSTOMS — Final Rule Stage

2279. OVERFLIGHT EXEMPTIONS FOR PRIVATE AIRCRAFT; FINGERPRINTING REQUIREMENTS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amendment to Customs Regulations to provide fingerprint requirement as part of the application process for all usual and anticipated pilots and crew members seeking overflight exemptions for flights that do not involve air ambulance operations or the non-emergency transport of persons seeking medical treatment in the U.S. Amendment will allow Customs to conduct more thorough background investigations on applicants and thus provide better control over air traffic arriving from the direction of countries that are major sources of illegal drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/24/89	54 FR 3400
NPRM Comment Period End	03/27/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glenn Ross, Inspector, Department of the Treasury, United States Customs Service, Room 4413, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5687

RIN: 1515–AA69

2280. STATEMENT PROCESSING AND AUTOMATED CLEARINGHOUSE

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 58a to 58c; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-662; 19 USC 197; 19 USC 198; 19 USC 1648

CFR Citation: 19 CFR 24; 19 CFR 132; 19 CFR 141; 19 CFR 142; 19 CFR 143

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to provide users of Customs Automated Broker Interface with the option of paying their entry/entry summaries and entry summaries by the statement processing method and to require ABI filers who use statement processing to pay their statements through the use of the Automated Clearinghouse electronic payment mechanism. Further, entries of quota class merchandise and other special classes of merchandise designated by Customs Headquarters would be permitted to be paid through statement processing.

Timetable:

Action	Date	FR Cite
NPRM	03/09/89	54 FR 10019
NPRM Comment Period End	05/08/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Childress, ACS Specialist, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2343, Washington, DC 20229, 202 566-8778

RIN: 1515–AA72

2281. IMPORT SANCTIONS AGAINST THE TOSHIBA MACHINE COMPANY AND THE KONGSBERG TRADING COMPANY

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 (General Note 8, HTSUS); PL 100-418

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Legislatively mandated import sanctions imposed on Toshiba Machine Company and Kongsberg Trading Company products for a three-year period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4780
Interim Final Rule Effective	01/31/89	
Comment Period End	04/03/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Interim Rule implements Executive Order 12661; issued December 28, 1988. Final Rule will be issued after analysis of comments.

Agency Contact: William Rosoff, Chief, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2301, Washington, DC 20229, 202 566-5856

RIN: 1515–AA74

2282. UNITED STATES-CANADA FREE TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1499; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 58; 19 USC 1498

CFR Citation: 19 CFR 10; 19 CFR 24; 19 CFR 148

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Amends the Customs Regulations to implement the duty preferences of the United States-Canada Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/88	53 FR 51762
Comment Period End	02/21/89	
Comment Period Extended	03/23/89	54 FR 10322
Final Action	00/00/00	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: John Valentine, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2307, Washington, DC 20229, 202 566-8181

RIN: 1515–AA75

2283. FILLING ABSOLUTE QUOTA

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 132

Legal Deadline: None

Abstract: Amend Customs Regulations to provide that importers may not transfer allotment from one port of entry to another for absolute quotas that fill at opening. Procedure will reduce labor required by Customs in processing absolute quota merchandise, expedite the release of merchandise and provide more timely statistical information.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7781
NPRM Comment Period End	04/24/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Cooper, Operations Officer, Department of the Treasury, United States Customs Service, Room 2379, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8592

RIN: 1515–AA76

2284. ● SEIZURE OF PROPERTY FOR POSSESSION OF CONTROLLED SUBSTANCES

Significance: Regulatory Program

Legal Authority: 19 USC 66; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amend Customs Regulations to provide certain expedited procedures when property is seized due to violations involving the possession of personal use quantities of controlled substances.

Timetable:

Action	Date	FR Cite
NPRM	04/10/89	54 FR 14242
NPRM Comment Period End	05/10/89	
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriett D. Blank, Attorney, Department of the Treasury, United States Customs Service, Room 2129, 1301 Constitution Avenue NW., Washington, DC 20229, 202 566-8317

RIN: 1515–AA77

2285. ● AIR CARRIER SMUGGLING PREVENTION PROGRAM

Significance: Regulatory Program

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC App 1509; 19 USC 1584 note

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amend Customs Regulations to establish an Air Carrier Smuggling prevention program. Congressionally mandated effort to increase carrier participation in anti-drug effort by providing incentives to program participants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Heffner, Inspector, Department of the Treasury, United States Customs Service, Room 4132, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-2140

RIN: 1515–AA78

2286. ● ELECTRONIC RELEASE NOTIFICATION

Legal Authority: 19 USC 66; 19 USC 1624; 46 USC 2; 46 USC 3

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amends Customs Regulations to provide that Customs may notify parties of the release of their cargo by posting in each Customs district at the start of each business day a computer-generated list of shipments which have been authorized for release from Customs custody.

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	53 FR 30696
NPRM Comment Period End	10/14/88	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Knox, Inspector, Department of the Treasury, United States Customs Service, Room 4141, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8151

RIN: 1515–AA80

2287. ● COUNTRY OF ORIGIN MARKING OF NATIVE AMERICAN-STYLE ARTS AND CRAFTS

Legal Authority: PL 100-48, sec 1907(c)

CFR Citation: 19 CFR 134.43

Legal Deadline: None

Abstract: Amend regulations to require more permanent methods of marking for Native American-style arts and crafts.

Timetable:

Action	Date	FR Cite
NPRM	02/10/89	54 FR 6418
NPRM Comment Period End	04/10/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney-Advisor, Department of the Treasury, United States Customs Service, Room 2137, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515–AA83

2288. ● DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; 19 USC 58b; 19 USC 58c

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amends interim Customs Regulations relating to harbor maintenance fees. The interim regulations established a shipping fee for transporting cargo on specified US waterways. The Act was amended to include an exemption for nonprofit organizations or cooperatives which own or finance cargo determined by Customs to be intended for use in humanitarian or development assistance overseas. This amendment sets forth the applicability and terms of this exemption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbare, Operations Officer, User Fee Task Force, Department of the Treasury, United States Customs Service, Room 4112, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-9684

RIN: 1515–AA87

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

2289. CLEARANCE OF CARGO CARRIED BY EXPRESS CONSIGNMENT OPERATORS OR CARRIERS

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1498; 19 USC 1551; 19 USC 1555; 19 USC 1556; 19 USC 1565; 19 USC 1624

CFR Citation: 19 CFR 128

Legal Deadline: None

Abstract: Amendment to the Customs Regulations to set forth revised special informal entry procedures applicable to the entry and clearance of cargo carried by the various entities which comprise the express consignment industry and to further refine and expand upon the existing procedures which recognize the special needs of the growing express consignment industry. The member countries of the Customs Cooperation Council have recently examined the industry and associated issues and have adopted international guidelines which established various definitions, including the term "Express Consignment Operators or Carriers." The overwhelming growth of this industry requires Customs to provide more expedited clearance procedures. The amendments will promote uniform, fair and consistent treatment of the various courier and express air services, while at the same time better assuring the protection of the revenue in accord with all applicable laws and regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/16/87	52 FR 47729
NPRM Comment Period End	02/16/88	
In Treasury Review	03/09/89	
Final Action T.D. 89-53	05/08/89	54 FR 19561
Final Action Effective	06/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vincent Dantone, Operations Officer, Department of the Treasury, United States Customs Service, Room 4137, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5354

RIN: 1515–AA64

2290. EXPORTATION OF USED SELF-PROPELLED VEHICLES

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1627; 19 USC 1627a; 19 USC 1646a

CFR Citation: 19 CFR 192

Legal Deadline: None

Abstract: An amendment to the Customs Regulations to add a new part concerning the exportation of used self-propelled vehicles. It sets forth the requirements for lawful exportation of such vehicles as well as the penalties and liabilities for attempted unlawful exportation. These regulations are necessary to implement certain provisions of the Motor Theft Law Enforcement Act of 1984 and the Trade and Tariff Act of 1984 dealing with the unlawful exportation of used self-propelled vehicles.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 8303
NPRM Comment Period End	05/18/87	
NPRM Second	08/18/88	53 FR 31367
NPRM Public Comment Period End	10/17/88	
Final Action T.D. 89-46	04/18/89	54 FR 15402
Final Action Effective	05/18/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: After consideration of the comments received in response to the previous notice proposing this change certain modifications were made. Accordingly, the document has been modified and is being republished to allow all affected persons an opportunity to submit comments before any final decisions are made.

Agency Contact: Louis Razzino, Operations Officer, Department of the Treasury, United States Customs Service, Room 4144, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-2140

RIN: 1515–AA65

2291. COUNTRY OF ORIGIN MARKING OF JEWELRY

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 (Gen. Hdnt. 11); 19 USC 1304; 19 USC 1624; PL 100-418, Omnibus Trade and Competitiveness Act of 1988

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the country of origin marking of jewelry. More permanent methods of marking are proposed to avoid removal of country

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Internal Revenue Service (IRS)

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of origin identifications from jewelry, particularly Native American style jewelry, after importation, but before sale to consumers often for the purpose of deceptively representing the merchandise as made in the U.S. The proposed rule will limit the permanent marking requirement to the smallest practicable portion of imported jewelry that will ensure that imported jewelry is permanently identified with the country of origin. For jewelry covered under the proposed rule, previous methods permitting country of origin marking for jewelry using adhesive labels or string tags would be permitted only where the size of the article does not permit more permanent marking methods. For other articles, the changes will require that jewelry be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other equally permanent methods, or with a similarly marked plastic or metal tag.

Timetable:

Action	Date	FR Cite
NPRM	02/10/89	54 FR 6418
NPRM Comment Period End	04/11/89	
Final Action	09/27/89	54 FR 39520
Final Action Effective	10/27/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A proposed interpretive rule was published on July 15, 1986 (51 FR 25574) soliciting comments on a proposal to require that all foreign-made Native American-style jewelry be indelibly marked with the country of origin by cutting, die-sinking, engraving or stamping. In response to the notice, 92 written comments were received. Thirty-five of the comments supported the proposal that all foreign-made Native American-style jewelry be permanently marked with the country of origin; 42 favored the permanent marking of all foreign-made silver jewelry; 11 commenters said that all foreign-made jewelry should be permanently marked; and one commenter favored permanent marking of all imported gold and silver jewelry. On August 23, 1988, Congress enacted PL 100-418, which, among other things, requires the indelible and permanent marking on all imported Native American-style jewelry. The final rule will implement this law, taking into consideration public comments on the revised proposal concerning ways in which the type of jewelry subject to permanent marking might be reduced while accomplishing the statutory objective.

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Ave., NW, Room 2104, Washington, DC 20229, 202 566-5765

RIN: 1515–AA66

2292. CHANGING MAXIMUM AMOUNT FOR INFORMAL ENTRIES TO $1250

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624; 19 USC 1481; 19 USC 1498; 19 USC 1315

CFR Citation: 19 CFR 141; 19 CFR 143; 19 CFR 145

Legal Deadline: None

Abstract: Amendment to Customs Regulations to raise the limit for informal entry to the statutory maximum of $1250.

Timetable:

Action	Date	FR Cite
NPRM	01/24/89	54 FR 3492
NPRM Comment Period End	03/27/89	
T.D. in Treasury review	07/25/89	
Final Action T.D. 89-82	08/31/89	54 FR 36025
Final Action Effective	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2301, Washington, DC 20229, 202 566-5856

RIN: 1515–AA70

2293. CERTAIN ADMINISTRATIVE PROCEDURES

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1624; PL 96-39; PL 100-690

CFR Citation: 19 CFR 177

Legal Deadline: Final, Statutory, April 1, 1989.

Abstract: Amendments to the Customs Regulations relating to: promoting uniformity in decisions made by Customs officers; creating district ruling program; circumstances under which the effective date of a Customs ruling can be delayed; the obligations of a recipient of a tariff classification ruling; and the elimination of the "clearly wrong" test as the standard by which Customs determines whether certain established and uniform practices should be changed.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8208
NPRM Comment Period End	03/29/89	
Final Action T.D. 89-74	07/31/89	54 FR 31511
Final Action Effective	08/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Roth, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2211, Washington, DC 20229, 202 566-5868

RIN: 1515–AA71

[FR Doc. 89-21729 Filed 10-27-89; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations that the Internal Revenue Service will be developing from October 1, 1989, through September 30, 1990. Determinations with respect to the agenda were made as of July 31, 1989. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Robert Boyer, (202) 566-3935 (not a toll-free number), Regulations Unit, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:CORP:T:R.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act both require that a semiannual agenda of regulations under development and review be published in the **Federal Register**. The next semiannual agenda of the Internal Revenue Service will be published in the **Federal Register** in April of 1990.

Description

This Semiannual Agenda of Regulations lists all projects within the Internal Revenue Service (IRS) as of July 31, 1989, for the development of regulations to appear in the Code of Federal Regulations. This agenda lists existing regulations under development by the Offices of the Assistant Chief Counsel (Corporate), Assistant Chief Counsel (Financial Institutions and Products), Assistant Chief Counsel (Income Tax and Accounting), Assistant Chief Counsel (Passthroughs & Special Industries), Assistant Chief Counsel (Disclosure Litigation), Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Assistant Chief Counsel (General Litigation), and Associate Chief Counsel (International). The following information is provided for each regulation project: the title; priority status; its effect, if any, on small business; the part of the Code of Federal Regulations affected; the legal authority for issuing the regulation; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under Additional Information, there is provided the control number of the project within the Chief Counsel's office and the names and telephone numbers of the drafting and reviewing attorneys.

By direction of the Secretary of the Treasury.

Fred T. Goldberg,

Commissioner of Internal Revenue.

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2294	26 USC 0130 Income Tax–Part 1 Personal Injury Liability Assignments	1545-AF39
2295	26 USC 0183 Election to Postpone Determination with Respect to the Presumption That an Activity is Engaged In for Profit	1545-AG27
2296	26 USC 0367 (e) Regulations under Section 367 (e)	1545-AL34
2297	26 USC 0367 (e) Regulations under Section 367 (e)	1545-AL35
2298	26 USC 0446 Blocked Income	1545-AL85
2299	26 USC 0482 Section 482 Regulations	1545-AL80
2300	26 USC 0482 Section 482 Cost Sharing Regulations	1545-AM00
2301	26 USC 0834 Interest Deduction under Section 834(c)(5)	1545-AL07
2302	26 USC 0847 Special Estimated Tax Payments	1545-AN33
2303	26 USC 0861 Income Tax - Interest and Dividends of 80-20 Companies	1545-AJ58
2304	26 USC 0863 (a) Allocation of Gross Income Attributable to Interest Rate Swaps under Section 863 (a)	1545-AL25
2305	26 USC 0882 Computation of Interest Expense Deduction	1545-AL84
2306	26 USC 0897 (c) (3) FIRPTA Cleanup	1545-AJ72
2307	26 USC 0932 Source Rules within the Virgin Islands	1545-AL40
2308	26 USC 0952 Subpart F - Use of Deficits	1545-AJ71
2309	26 USC 0987 Computation of a Branch's Taxable Income Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
2310	26 USC 1248 Section 1248 Sales and Earnings and Profits	1545-AM42
2311	26 USC 1502 Income Tax–Deletion of the Requirement of Section 1.1502-47 (d) (12) (v) (C) That, in Applying Tacking Rule, Profitable and Loss Life Activities Not Be Separated	1545-AI98
2312	26 USC 6331 Levy and Distraint	1545-AM70
2313	26 USC 6332 Surrender of Property Subject to Levy	1545-AN45
2314	26 USC 6334 Property Exempt From Levy	1545-AN46
2315	26 USC 6335 Sale of Seized Property	1545-AN47
2316	26 USC 6343 Authority To Release Levy and Return Property	1545-AN48
2317	26 USC 6502 Collection After Assessment	1545-AM71
2318	26 USC 6655(j) Determining Large Corporation Status for Consolidated Return Groups Paying Estimated Tax	1545-AM75
2319	26 USC 6700 Penalty for Promoting Abusive Tax Shelters	1545-AE99

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Internal Revenue Service—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2320	26 USC 6701 Penalty for Aiding and Abetting in the Understatement of Tax Liability	1545-AF01

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2321	26 USC 0001 Income Tax--Deduction for Bus Operating Authorities and Freight	1545-AJ18
2322	26 USC 0040 Alcohol Credit for ETBE	1545-AN73
2323	26 USC 0055 Income Tax--Alternative Minimum Tax	1545-AE80
2324	26 USC 0055 Minimum Tax Credit and other miscellaneous rules relating to the Alternative Minimum Tax	1545-AJ86
2325	26 USC 0056 Income Tax--Inventory Adjustment for the Alternative Minimum Tax	1545-AL02
2326	26 USC 0057 Income Tax-Minimum Tax. Item of Tax Preference for Intangible Drilling Costs Incurred in Drilling Oil, Gas or Geothermal Wells	1545-AA34
2327	26 USC 0061 Taxation, Valuation, and Reporting of "Frequent Flyer" or Similar Bonus Payments	1545-AK02
2328	26 USC 0061 Amendment to the regulations under section 61 to conform the treatment of Bond Premium Income to the constant yield method	1545-AL92
2329	26 USC 0072 Loans Treated as Distributions	1545-AE41
2330	26 USC 0072 Ten Percent Additional Tax on Early Distribution From Qualified Plans	1545-AN16
2331	26 USC 0079 Removing Gender Distinction From Mortality Tables	1545-AK50
2332	26 USC 0079 Extension of Section 79 Uniform Premium Table	1545-AN51
2333	26 USC 0079 Section 79 Table I Update	1545-AN54
2334	26 USC 0083 Study of Application of Section 302 and Section 1.83(d)	1545-AN55
2335	26 USC 0103 To Provide Regulations Under Section 147 (b)--Relating to Limitation on Maturity of Private Activity Bonds	1545-AE69
2336	26 USC 0103 Regulations Relating to Federally Guaranteed Bonds	1545-AG84
2337	26 USC 0103 Definition of "Reissuance" Under Section 103	1545-AI65
2338	26 USC 0103A To Revise Definition of Areas of Chronic Economic Distress for Purposes of Mortgage Subsidy Bonds	1545-AG88
2339	26 USC 0108 Income Tax--Discharge of Indebtedness	1545-AA67
2340	26 USC 0111 Income Tax--Part 1--Income Tax Regulations Under Section 111 Relating to Inclusion of Tax Benefit Items	1545-AH17
2341	26 USC 0117 (d) Qualified Tuition Reductions	1545-AI13
2342	26 USC 0119 (d) Income Tax--Tax Treatment of Faculty Housing	1545-AJ21
2343	26 USC 0129 Dependent Care Assistance	1545-AN17
2344	26 USC 0135 Exclusion From Gross Income for Income From U.S. Savings Bonds Used To Pay Tuition and Fees	1545-AN18
2345	26 USC 0141 Definition of "Private Activity Bond", "Qualified Bond"	1545-AM01
2346	26 USC 0142 Tax-exempt Bonds for Residential Rental Projects	1545-AJ66
2347	26 USC 0145 Qualified 501 (c) (3) Bonds	1545-AJ39
2348	26 USC 0146 State Volume Cap for Tax-exempt Bonds	1545-AJ37
2349	26 USC 0148 General Revision of Arbitrage Regulations	1545-AL90
2350	26 USC 0149 Advance Refundings	1545-AL91
2351	26 USC 0162 Income Tax--To Provide Better Definitions in the Area of Political Advertising & Grassroots Lobbying	1545-AA79
2352	26 USC 0162 Deductions with respect to noncash Fringe Benefits	1545-AM40
2353	26 USC 0162 (g) Definition of Related Violation	1545-AK83
2354	26 USC 0163 Qualified Residence Interest	1545-AL67
2355	26 USC 0163 Prohibition on Foreign Targeting Obligations Backed by United States Government Securities	1545-AM19
2356	26 USC 0168 Income Tax--Normalization Requirement for Public Utility Property	1545-AA88
2357	26 USC 0168 Modification of ACRS	1545-AJ38
2358	26 USC 0170 Income Tax -- to Provide Regulations Relating to Contributions to Private Foundations	1545-AI09
2359	26 USC 0179 Election to Expense Certain Depreciable Assets	1545-AL74
2360	26 USC 0195 Income Tax--To Add Provisions Relating to Start-Up Expenditures	1545-AB02
2361	26 USC 0245 Deduction for Dividends Received from Certain Foreign Corporations	1545-AL94
2362	26 USC 0246A Income Tax-Debt-Financed Portfolio Stock	1545-AH39
2363	26 USC 0263A Capitalization of Certain Pension, etc. Costs	1545-AI92
2364	26 USC 0263A (f) Notice of Proposed Rulemaking -- Capitalization of Interest Expense	1545-AK01
2365	26 USC 0269B Rules for Treatment of Foreign Corporation Whose Stock Is Stapled to the Stock of a Domestic Corporation	1545-AN20
2366	26 USC 0274 Income Tax--To Add Provisions Relating to Foreign Conventions (as Amended by Section 4 of Public Law 96-608)	1545-AB04
2367	26 USC 0302 Certain attribution rules and certain Corporate Reorganizations	1545-AF13

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Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2368	26 USC 0336 Certain Stock Sales and Distributions Treated as Asset Transfers	1545-AK29
2369	26 USC 0336 Cross-reference--Recognition of gain or loss on liquidating sales and distributions of property (TRA 1986; sections 631 to 633)	1545-AK90
2370	26 USC 0337 Application of General Utilities Repeal Regulatory Authority to RICs and REITs	1545-AL65
2371	26 USC 0338 Mandatory Application of MADSP Formula for Determination of Deemed Sale Price for Old Target's Assets	1545-AK25
2372	26 USC 0338 Treatment of an Affiliated Group of Corporations as a Selling Consolidated Group for Purposes of Elective Recognition under Section 338 (h) (10)	1545-AK31
2373	26 USC 0358 Income Tax--Triangular Reorganizations, Basis and Other Consequences	1545-AB21
2374	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2375	26 USC 0367 (b) Certain exchanges described in more than one Code section	1545-AN58
2376	26 USC 0368 Corporate Reorganization Amendments - Bankruptcy Tax Act of 1980	1545-AK33
2377	26 USC 0382 Income Tax--Limitation on Corporate Net Operating Loss Deduction	1545-AI99
2378	26 USC 0382 Computation of Section 382 Limitation	1545-AK27
2379	26 USC 0382 Amendment of sec. 1.382-2T(h)(4)(x) to grant the IRS authority to designate in the Internal Revenue Bulletin additional options to be excepted from attribution rules of sec. 1.382-2T(h)(4)(i)	1545-AN76
2380	26 USC 0383 Special Limitations on Certain Credit and Loss Carryovers	1545-AK26
2381	26 USC 0384 Limitation on Use of Preacquisition Losses to Offset Built-in Gains	1545-AM46
2382	26 USC 0401 (a) (4) Nondiscrimination Requirements for Qualified Plans	1545-AM95
2383	26 USC 0403 Nondiscrimination and other Rules Applicable to Section 403(b) Annuities	1545-AI90
2384	26 USC 0404 Income Tax--Employee Stock Ownership Plan Loan Payments	1545-AD77
2385	26 USC 0409 Income Tax--Requirements for Tax Credit Employee Stock Ownership Plans, Employee Plan Credit, and Defined Contribution Plan Voting Rights	1545-AD82
2386	26 USC 0409 Inc. Tax -- Part 1; Estate Tax -- Part 20, Employee Stock Ownership Plan Rules Affected by TRA 1986	1545-AI87
2387	26 USC 0410 (b) Special Rules in Merger and Acquisition	1545-AM94
2388	26 USC 0412 Revising the Drafting of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2389	26 USC 0414 (r) Definition of Line of Business	1545-AL23
2390	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
2391	26 USC 0422A Incentive Stock Options	1545-AN26
2392	26 USC 0442 Inc. Tax--Part 1--Amendment of section 1.442-1 to Provide Simplified Procedures for Changes of Annual Accounting Period by Certain Exempt Organizations	1545-AI68
2393	26 USC 0446 Timing, Character and Source of Income With Respect to Notional Principal Contracts	1545-AN15
2394	26 USC 0453 Income Tax -- Gain or Loss on the Disposition of an Installment Obligation	1545-AB41
2395	26 USC 0453 Income Tax--Installment Sales Between Related Parties	1545-AB45
2396	26 USC 0453 Income Tax--Installment Sales Revision Act of 1980, Regulations Relating to Wrap-Around Mortgages	1545-AB46
2397	26 USC 0453 Income Tax Regulations--Part 1--Special Rules Relating to Installment Obligations That Are Readily Tradable or Payable on Demand	1545-AG37
2398	26 USC 0457 Income Tax -- Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations	1545-AI89
2399	26 USC 0460 Accounting for Long-term Contracts	1545-AJ28
2400	26 USC 0461 (h) Income Tax Regulations--The Economic Performance Requirement	1545-AH32
2401	26 USC 0465 Extension of the At-Risk Rules	1545-AF86
2402	26 USC 0465 Aggregation of Certain Activities for Purposes of the At-Risk Rules	1545-AI02
2403	26 USC 0465 Application of At-risk Limitations to the Holding of Real Property	1545-AK08
2404	26 USC 0467 Temporary Income Tax Regulations-Deferred Payments for Use of Property or Services	1545-AG81
2405	26 USC 0468A Disposition of an Interest in a Nuclear Power Plant	1545-AN06
2406	26 USC 0474 Simplified Dollar-value LIFO Method for Certain Small Businesses	1545-AK64
2407	26 USC 0514 Income Tax--Unrelated Trade or Business Income	1545-AE00
2408	26 USC 0595 Treatment of Foreclosed Property by Certain Creditors	1545-AF00
2409	26 USC 0597 Tax Consequences of Federal Financial Assistance Provided in Connection with Taxable Asset Acquisitions of Troubled Financial Institutions	1545-AN71
2410	26 USC 0612 Income Tax--Restoration of Depletion Deductions on Bonus and Advanced Royalties in Certain Cases	1545-AB69
2411	26 USC 0643 Property Distributed in Kind and Treatment of Multiple Trusts (Sec: 81 and 82 of The Tax Reform Act of 1984)	1545-AI06
2412	26 USC 0643 Clarification of Section 1.643 (a) (3) Relating to the Inclusion of Capital Gain in Distributable Net Income	1545-AI31
2413	26 USC 0667 Accumulation Trusts	1545-AM78
2414	26 USC 0671 Revision of Reporting Requirements for Grantor Trusts	1545-AN77
2415	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20

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Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2416	26 USC 0704 (c) Allocations of Income Gain, Loss, and Deduction with Respect to Property Contributed to a Partnership	1545-AG98
2417	26 USC 0706 Income Tax--Items Allocated to Portion of Year Partner Held Interest	1545-AB81
2418	26 USC 0707 Income Tax--Treatment of Payments to Partners Not Acting in Their Capacity as Partners	1545-AG83
2419	26 USC 0707 Amendment of Income Tax Regulations with Respect to Treatment of Disguised Sales by Partners	1545-AH22
2420	26 USC 0724 Contributions to a Partnership of Unrealized Receivables, Inventory Items or Capital Loss Property	1545-AG85
2421	26 USC 0752 Amendments to Proposed Regulations under sections 752 and 704(b) Issued 12/29/88	1545-AN30
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2673	26 USC 0469 (k) Application of Passive Activity Loss and Credit Limitations to Interests in Publicly Traded Partnerships	1545-AN63
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2712	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction and Other Special Rules for FSC	1545-AI16
2713	26 USC 0936 Income Tax–Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico & Possession Tax Credit	1545-AC10
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2717	26 USC 0985 Functional Currency	1545-AL24
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2720	26 USC 0988 Taxation of Exchange Gain or Loss on Foreign Currency Denominated Transactions	1545-AL16
2721	26 USC 0989 Definition of a Qualified Business Unit	1545-AM31
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2726	26 USC 1060 Income Tax–Special Allocation Rules for Certain Asset Acquisitions	1545-AJ06
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2728	26 USC 1092 (b) Income Tax Regulations Under the Tax Reform Act of 1984 Relating to Mixed Straddles	1545-AH59
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2732	26 USC 1275 Regulations Under Section 1271 Through 1275 Relating to Tax Treatment of Debt Instruments Having Original Issue Discount	1545-AH46
2733	26 USC 1291 (d) (2) Passive Foreign Investment Companies	1545-AI33
2734	26 USC 1361 Income Tax–Definition of S Corporation	1545-AE86
2735	26 USC 1362 Amendment of Income Tax Regulations Under Code Sections 1362 and 1363 Relating to the Election, Revocation, and Termination of an S Corporation	1545-AE26
2736	26 USC 1374 Temporary Regulation–Application of Section 1374 Built-in Gain Tax to C Corporation's Electing S Corporation Status	1545-AK91
2737	26 USC 1441 Withholding on Items of Income Covered by an Income Tax Convention	1545-AH86
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2783	26 USC 6103 Disclosure of information	1545-AN01
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2806	26 USC 7701 (b) Amendment of Procedure and Administration Regulations Under Section 7701(b) (Definition of Resident Aliens) to Reflect Section 138 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AH13
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2815	26 USC 0044 Income Tax--Credit for Increasing Research Activities	1545-AA07
2816	26 USC 0058 Tax Benefit Rule for Corporate Add-On Minimum Tax under the Internal Revenue Code of 1954	1545-AK21
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2818	26 USC 0132 Income Tax--Prizes and Awards	1545-AJ19
2819	26 USC 0148 Arbitrage Restrictions on Tax-exempt Bonds	1545-AJ81
2820	26 USC 0267 Regulations Under Section 267 of the Code to Reflect Section 174 of the Tax Reform Act of 1984 Relating to Losses, Expenses, and Interest in Transactions Between Related Taxpayers	1545-AG11
2821	26 USC 0267 (a) (3) Withholding on Accounts Payable to Related Parties	1545-AL97
2822	26 USC 0280F Limitations on Amount of Depreciation and Investment Tax Credit for Luxury Automobiles and Certain Other Property	1545-AG99
2823	26 USC 0367 (b) Foreign Liquidations and Reorganizations (Temporary Regulations)	1545-AJ76
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2825	26 USC 0368 Income Tax--Cross-Reference-Reorganizations Involving Financially Troubled Thrift Institutions	1545-AB29
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2829	26 USC 0469 (l) Limitations on Passive Activity Losses and Credits : Definition of activity	1545-AK62
2830	26 USC 0565 Consent Dividends	1545-AL86
2831	26 USC 0585 Repeal of Bad Debt Reserve Method: Foreign Issues	1545-AL83
2832	26 USC 0702 Income Tax - Application of Effective Date for New Rules Regarding Deductions for Meal, Travel, and Entertainment to Partnerships and S Corporations	1545-AK80
2833	26 USC 0817 Income Tax Regulations-Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts	1545-AG79
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2836	26 USC 0864(e) Transition Rules for Allocation and Apportionment of Interest Expense and Rules Concerning the Treatment of Financial Arrangements That Alter Effective Interest Expense	1545-AN11
2837	26 USC 1502 Treatment of Dividend Distributions after the Sale of a Subsidiary	1545-AM36
2838	26 USC 3406 Backup Withholding	1545-AL48
2839	26 USC 4051 Excise Tax--Retailers Excise Taxes on Motor Vehicles	1545-AF61
2840	26 USC 4051 Temporary Regulation Excise Taxes on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors Sold at Retail	1545-AF79
2841	26 USC 6081 Extension of Time to File for Taxpayers Traveling Outside the United States	1545-AM07
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2844	26 USC 7624 Procedure and Administration Regulations--Reimbursement for State and Local Law Enforcement Agencies	1545-AM45
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2846	26 USC 7811 Taxpayer Assistance Orders	1545-AM61

DEPARTMENT OF THE TREASURY (TREAS) **Prerule Stage**

Internal Revenue Service (IRS)

2294. INCOME TAX--PART 1 PERSONAL INJURY LIABILITY ASSIGNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 130 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will provide rules on the exclusion from gross income for amounts received for agreeing to the assignment of a liability to make periodic payments as damages on account of personal injury or sickness.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-82-83.

Drafting attorney: Rochelle Pickard (202) 566-3637.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: Rochelle Pickard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545-AF39

2295. ELECTION TO POSTPONE DETERMINATION WITH RESPECT TO THE PRESUMPTION THAT AN ACTIVITY IS ENGAGED IN FOR PROFIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 183 (e) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the election to postpone the determination whether the section 183 (d) presumption applies until the activity has been conducted for five (or seven) years. The regulations will specify who can make the election and the time and manner of making the election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-73-84.

Drafting attorney: Bernard Englander (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: Bernard Englander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545-AG27

2296. REGULATIONS UNDER SECTION 367 (E)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Whether gain should be recognized under section 367 (e) (1) and (2) on the distribution of stock, securities or other property.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-752-87

Drafting attorney: Charles P. Besecky (202) 566-3319.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AL34

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2297. REGULATIONS UNDER SECTION 367 (E)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal deals with whether gain should be recognized under section 367 (e) (1) and (2) on the distributor of stock, securities or other property.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-704-87

Drafting attorney: Charles P. Besecky (202) 566-3319.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545–AL35

2298. BLOCKED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Computation of income subject to currency or exchange restrictions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-566-86

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Peter Barnes (202) 566-5812.

13 Income Taxes.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AL85

2299. SECTION 482 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise section 482 regulations per section 482 white paper.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-401-88

Drafting attorney: Teresa T. Milton (202) 287-4851.

Reviewing attorney: Ken Wood (202) 287-4651.

Treasury attorney: Rom Watson (202) 566-8066.

13 Income Taxes.

Agency Contact: Teresa T. Milton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, DC 20024, 202 287-4851

RIN: 1545–AL80

2300. SECTION 482 COST SHARING REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Transfer of intangibles between affiliates; intercompany pricing issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-372-88

Drafting attorney: Lisa L. Grogan (202) 287-4851.

Reviewing attorney: Ken Wood (202) 287-4851.

Treasury attorney: Rom Watson (202) 566-8066.

13 Income Taxes.

Agency Contact: Lisa L. Grogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545–AM00

2301. INTEREST DEDUCTION UNDER SECTION 834(C)(5)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations clarify that in order to be deductible under section 834(c)(5), interest must relate to investment income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-110-87

Drafting attorney: William Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3294.

Treasury attorney: Don Rocap (202) 566-8277.

Income Taxes

Agency Contact: William L. Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Prerule Stage

Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AL07

2302. ● SPECIAL ESTIMATED TAX PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 847 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide rules for payment of special Estimated Taxes in an amount equal to the Tax Benefit of the special deduction allowed by section 847.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-022-89

Drafting Attorney: William Blagg (202) 566-3294.

Reviewing Attorney: Joseph Ryals (202) 566-3456.

Treasury Attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: William L. Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AN33

2303. INCOME TAX - INTEREST AND DIVIDENDS OF 80-20 COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to the sourcing of dividends and interest paid by so-called "80-20" companies, that is, companies with 80% or more foreign source income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-950-86

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income taxes.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ58

2304. ALLOCATION OF GROSS INCOME ATTRIBUTABLE TO INTEREST RATE SWAPS UNDER SECTION 863 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides source rules for income and expense attributable to interest rate swap agreements. Interest rate swap agreements are basically agreements used to hedge agreement interest rate fluctuation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-773-87

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Bob Katcher (202) 566-6795.

Treasury attorney: Peter Daub (202) 566-5991.

13 Income Taxes

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AL25

2305. COMPUTATION OF INTEREST EXPENSE DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 882 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will revise the rules for the computation of the interest expense deduction of a foreign corporation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-309-88

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-4979.

13 Income Taxes.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 202 566-6284

RIN: 1545–AL84

2306. FIRPTA CLEANUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Reporting requirements for 5 percent shareholders; equity kickers; establish securities market definition; other related issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-785-87

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Drafting attorney: James Sams (202) 377-9059.

Reviewing attorney: Robert Culbertson (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AJ72

2307. SOURCE RULES WITHIN THE VIRGIN ISLANDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide sourcing rules for the determination as to whether income is derived from sources within the Virgin Islands or the U.S. or is effectively connected with the conduct of a trade or business within the Virgin Islands or the U.S. To the extent possible, the rules will be similar to those set forth in IRC sections 861-865.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-613-87

Drafting attorney: John J. Brady (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes

Agency Contact: John J. Brady, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W. Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL40

2308. SUBPART F - USE OF DEFICITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 952 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the extent to which current year deficits in unrelated income categories or prior year deficits may reduce the amount included in the gross income of any U.S. shareholder under section 951(a)(1)(A)(i) for taxable years after 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-954-88

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income taxes.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ71

2309. COMPUTATION OF A BRANCH'S TAXABLE INCOME TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch Rules on how to translate branch income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-965-86

Drafting attorney: David Rosenberg (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM12

2310. SECTION 1248 SALES AND EARNINGS AND PROFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will close a loophole in the section 1248 regulations, which currently allow a taxpayer to "bunch" income earned over several years into a single taxable year.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-458-87

Drafting Attorney: Thomas D. Fuller (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: Thomas D. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AM42

2311. INCOME TAX–DELETION OF THE REQUIREMENT OF SECTION 1.1502-47 (D) (12) (V) (C) THAT, IN APPLYING TACKING RULE, PROFITABLE AND LOSS LIFE ACTIVITIES NOT BE SEPARATED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will prospectively delete the requirement of section 1.1502-47 (d) (12) (v) (C) relating to the restriction on the separation of profitable activities from loss activities in applying the tacking rule to life insurance companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-157-86

Drafting attorney: William Barry (202) 566-4551.

Reviewing attorney: Marcus Blumkin (202) 566-4551.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: William F. Barry, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4551

RIN: 1545–AI98

2312. LEVY AND DISTRAINT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6335 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6331-1; 26 CFR 301.6331-2

Legal Deadline: None

Abstract: Sections 6331 of the Internal Revenue Code was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to preclude certain levies. The Treasury regulations promulgated under Code section 6331 must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-709-88

Drafting attorney: Anne P. Rosselot (202) 535-9669.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Anne P. Rosselot, Docket Attorney (General Litigation Div.), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9669

RIN: 1545–AM70

2313. ● SURRENDER OF PROPERTY SUBJECT TO LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6332-1

Legal Deadline: None

Abstract: Section 6332 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to require banks to hold levied upon accounts for twenty-one days after a levy is served. The Treasury regulations promulgated under this code section must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-172-89

Drafting Attorney: Anne Rosselot (202) 535-9669.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 535-9669

RIN: 1545–AN45

2314. ● PROPERTY EXEMPT FROM LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6334-1; 26 CFR 301.6334-2; 26 CFR 301.6334-3; 26 CFR 301.6334-4; 26 CFR 301.6334-5; 26 CFR 301.6334-6; 26 CFR 301.6334-7

Legal Deadline: None

Abstract: Section 6334 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to increase certain exemptions from levy, and to exempt a taxpayer's principal residence from levy in most instances. The Treasury regulations promulgated under this section must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-173-89

Drafting Attorney: Anne Rosselot (202) 535-9678.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Dockety Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AN46

2315. ● SALE OF SEIZED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6335 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6335-1

Legal Deadline: None

Abstract: Section 6335 of the Internal Revenue Code of 1986 was amended by

section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to allow the owner of property seized by the Internal Revenue Service to request that the property be sold within sixty days, or any longer period specified by the owner. The Treasury regulations promulgated under this section must be changed to reflect this new statutory provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-174-89

Drafting Attorney: Anne Rosselot (202) 535-9669.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 535-9669

RIN: 1545–AN47

2316. ● AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6343-1

Legal Deadline: None

Abstract: Section 6343 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to provide new procedures for the release of levies and return of property. The Treasury regulations promulgated under this section must be changed to reflect the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-175-89

Drafting Attorney: Anne Rosselot (202) 535-9668.

Reviewing Attorney: Robert Miller (202) 566-3771.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 535-9669

RIN: 1545–AN48

2317. COLLECTION AFTER ASSESSMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6502-1

Legal Deadline: None

Abstract: Section 6502 of the Internal Revenue Code of 1986 was amended by section 1015(u) of the Technical and Miscellaneous Revenue Act of 1988, to provide that the statute of limitations on administrative collection is extended if a timely suit to collect is commenced and, furthermore, that the statute is extended until any judgment obtained becomes unenforceable. Treasury Regulation 301.6502-1 must be changed to conform to this new statutory provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-721-88

Drafting attorney: Anne P. Rosselot (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation Div.), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AM71

2318. DETERMINING LARGE CORPORATION STATUS FOR CONSOLIDATED RETURN GROUPS PAYING ESTIMATED TAX

Legal Authority: 26 USC 6655(j) Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-5

Legal Deadline: None

Abstract: Section 6655(d)(2) of the IRC of 1986 requires large corporations to make estimated tax payments based on 90 percent of their current year's tax. Section 6655(g)(2) defines a large corporation as one who itself (or a predecessor corporation) had taxable income of $1,000,000 or more in any of the three previous taxable years. The regulation will address difficulties in applying the definition to an affiliated group of corporations filing a consolidated return.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-87-88

Drafting attorney: Brendan P. O'Hara (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Treasury attorney: Marc Levy (202) 566-4902.

Procedure and Administration

Agency Contact: Brendan O'Hara, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AM75

2319. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6700 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-273-82.

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller, Jr. (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AE99

2320. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-274-82.

Drafting attorney: Vincent G. Surabian (202) 566-4680.

Agency Contact: Vincent G. Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4680

RIN: 1545–AF01

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Proposed Rule Stage

2321. INCOME TAX—DEDUCTION FOR BUS OPERATING AUTHORITIES AND FREIGHT

Legal Authority: 26 USC 1 et seq Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules allowing taxpayers an ordinary deduction ratably over a 60-month period for the adjusted basis of bus operating authorities and freight forwarders held or acquired on certain specified dates.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-110-86

Drafting attorney: Christopher Wilson (202) 786-9220.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Bryan Collins (202) 566-8277.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 786-9220

RIN: 1545–AJ18

2322. ● ALCOHOL CREDIT FOR ETBE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.40-1T

Legal Deadline: None

Abstract: This regulation explains mixtures for which credit is available.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-047-89

Drafting attorney: Frank K. Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AN73

2323. INCOME TAX—ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-235-82.

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Drafting attorney: Stephen J. Toomey (202) 566-6320.

Reviewing attorney: William Galanko (202) 566-3862.

Treasury attorneys: Ellen Aprill (202) 566-5453 and

Robert Scarborough (202) 566-4979.

Agency Contact: Stephen J. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AE80

2324. MINIMUM TAX CREDIT AND OTHER MISCELLANEOUS RULES RELATING TO THE ALTERNATIVE MINIMUM TAX

Significance: Regulatory Program

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will address issues relating to the Alternative Minimum Tax for individuals and Corporations. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The regulations will provide individual and corporate taxpayer's with the guidance necessary to determine their alternative minimum tax and their minimum tax credit.

Timetable:

Action	Date	FR Cite
NPRM	10/03/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-2-87

Drafting attorney: Stephen J. Toomey (202) 566-6320.

Reviewing attorney: William Galanko (202) 566-3862.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4979.

Agency Contact: Stephen T. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-6320

RIN: 1545–AJ86

2325. INCOME TAX–INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustments for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-85-87

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: William Jackson (202) 566-4196.

Treasury Attorney: Mark Levy (202) 566-4029.

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3861

RIN: 1545–AL02

2326. INCOME TAX-MINIMUM TAX. ITEM OF TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS INCURRED IN DRILLING OIL, GAS OR GEOTHERMAL WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-209-76.

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: William Galanko (202) 566-4104.

Agency Contact: Edward C. Schwartz, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AA34

2327. TAXATION, VALUATION, AND REPORTING OF "FREQUENT FLYER" OR SIMILAR BONUS PAYMENTS

Legal Authority: 26 USC 61 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will require information reporting with respect to "frequent flyer" or similar bonus payments in order to increase compliance. The regulation will also provide valuation rules to assist taxpayers in valuing the bonuses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-79-86

Drafting attorney: Karin G. Gross (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-4430.

Treasury attorney: Susan Scherbel (202) 535-6965.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AK02

2328. AMENDMENT TO THE REGULATIONS UNDER SECTION 61 TO CONFORM THE TREATMENT OF BOND PREMIUM INCOME TO THE CONSTANT YIELD METHOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide a method for determining how to include bond premium into income. The method is the constant yield method.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-70-88

Drafting attorney: Mark Scott (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AL92

2329. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatmeat to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-82.

Drafting attorney: Elizabeth Purcell (202) 566-3251.

Reviewing attorney: Michael Thrasher (202) 566-3576.

Agency Contact: Elizabeth A. Purcell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AE41

2330. ● TEN PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTION FROM QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 72

Legal Deadline: None

Abstract: Guidance concerning the application of the tax to early distributions and an explanation of the exceptions, such as substantially equal periodic payments.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: EE-002-89

Drafting Attorney: Janet Lloyd (202) 566-4747.

Reviewing Attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Janet Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AN16

2331. REMOVING GENDER DISTINCTION FROM MORTALITY TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will update and gender-neutralize the mortality table used under section 79 to determine the value of permanent group-term life insurance benefits provided to employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-88-86

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4465

RIN: 1545–AK50

2332. ● EXTENSION OF SECTION 79 UNIFORM PREMIUM TABLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulation will extend the present table for determining the cost of group term life insurance to include ages over 64.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-003-89

Drafting attorney: Betty Clary (202) 566-4465

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-4465

RIN: 1545–AN51

2233. ● SECTION 79 TABLE I UPDATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will update the table used to determine the cost amount of group-term life insurance to be included in gross income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-4-89

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4465

RIN: 1545–AN54

2334. ● STUDY OF APPLICATION OF SECTION 302 AND SECTION 1.83(D)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 83 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.83-6

Legal Deadline: None

Abstract: Regulation section 1.83-6(d) will be revised to distinguish between a section 302 transaction and a 1032 transaction. Also, a special rule will be added for transfers of stock from a parent corporation to employees of a subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-81-88

Drafting Attorney: Charles Deliee (202) 566-4752.

Agency Contact: Charles T. Deliee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4752

RIN: 1545–AN55

2335. TO PROVIDE REGULATIONS UNDER SECTION 147 (B)—RELATING TO LIMITATION ON MATURITY OF PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide guidance with respect to computation of weighted average economic life and weighted average maturity. Rules limit the average length of the maturity of all private activity bonds (including qualified 501 (c) (3) bonds), other than mortgage revenue bonds and student loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-220-82.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AE69

2336. REGULATIONS RELATING TO FEDERALLY GUARANTEED BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provisions enacted by the Tax Reform Act of 1984 which denies Federal income tax exemption for bonds issued by State or local governmental units if payments of principal or interest with respect to such bonds are directly or indirectly guaranteed by the Federal Government.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-156-84.

Drafting attorney: Jack Malgeri (202) 566-4545.

Reviewing attorney: Michael J. Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: Elliott Stern (202) 566-2566.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4545

RIN: 1545–AG84

2337. DEFINITION OF "REISSUANCE" UNDER SECTION 103

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed Regulations would provide guidance regarding whether changes in the terms of an outstanding obligation result in that obligation being treated as retired and reissued as a new obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: FI-29-86.

Drafting attorney: George Kelley (202) 566-3283.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney: Margaret C. Henry (202) 533-6966.

Guidance on the definition of Issuance appeared as Notice 88-130, 1988-52 IRB 12. The rules contained in the Notice will be incorporated in the regulations.

Agency Contact: George Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3283

RIN: 1545–AI65

2338. TO REVISE DEFINITION OF AREAS OF CHRONIC ECONOMIC DISTRESS FOR PURPOSES OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 143 Internal Revenue Code of 1986; 26 USC 103A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103A-2

Legal Deadline: None

Abstract: The regulations will clarify the rules under section 103A relating to designations of areas of chronic economic distress. The regulations would provide objective tests to be used in analyzing requests for such designations.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-307-84.

Drafting attorney: Allan Seller (202) 566-3332.

Reviewing attorney: Michael J. Montemurro (202) 566-4545.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Allan Seller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3332

RIN: 1545–AC88

2339. INCOME TAX–DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108 Internal Revenue Code of 1986; 26 USC 1017 Internal Revenue Code of 1986; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-91-81.

Drafting Attorney: Warren Joseph (202) 566-4430.

Reviewing Attorney: Sharon Hall (202) 566-4430.

Agency Contact: Warren Joseph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AA87

2340. INCOME TAX–PART 1–INCOME TAX REGULATIONS UNDER SECTION 111 RELATING TO INCLUSION OF TAX BENEFIT ITEMS

Legal Authority: 26 USC 111 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will revise the rules for determining whether the recovery of an amount deducted in a prior taxable year must be included in income, to reflect changes in section 111 made by section 170 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-303-84.

Drafting Attorney: Karin G. Gross (202) 566-4430.

Reviewing Attorney: Karin G. Gross (202) 566-4430.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AH17

2341. QUALIFIED TUITION REDUCTIONS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations contain rules explaining when qualified tuition reductions provided for education below the graduate level to an employee of an educational organization or to a person treated as an employee will be excluded from the employee's gross income. The proposed regulations include rules relating to tuition reductions which discriminate in favor of officers, owners or highly compensated employees and so are includible in income. The proposed regulations also provide rules relating to the treatment of tuition reductions in the case of graduate student teaching and research assistants.

Timetable:

Action	Date	FR Cite
NPRM	11/15/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-35-85.

Drafting Attorney: Michael Schmit (202) 566-3826.

Reviewing Attorney: William Galanko (202) 566-3826.

Treasury Attorney: Jeanne Hoenicke (202) 566-5911.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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RIN: 1545–AH13

2342. INCOME TAX–TAX TREATMENT OF FACULTY HOUSING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 119 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the definition of a "qualified appraisal". In addition, the regulations will set forth the time and manner in which the appraisal shall be reviewed and updated.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-74-86.

Drafting attorney: Richard Pavel (202) 566-3503.

Reviewing attorney: Jerry Holmes (202) 566-4747

Treasury attorney: Marjorie Roberts (202) 566-2565.

Agency Contact: Richard Pavel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3503

RIN: 1545–AJ21

2343. ● DEPENDENT CARE ASSISTANCE

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 129 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to employers and their employees concerning qualified dependent care assistance programs. Under 26 USC 129, an employee may exclude up to $5,000 from gross income for dependent care.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-090-88

Drafting Attorney: Monice Rosenbaum (202) 566-3505.

Reviewing Attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545–AN17

2344. ● EXCLUSION FROM GROSS INCOME FOR INCOME FROM U.S. SAVINGS BONDS USED TO PAY TUITION AND FEES

Significance: Agency Priority

Legal Authority: 26 USC 135 Internal Revenue Code Of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers concerning the exclusion from income of interest on United States Savings Bonds used to pay higher education tuition and fees.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-013-89

Drafting Attorney: Celia Gabrysh (202) 566-6320.

Reviewing Attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Celia Gabrysh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AN18

2345. DEFINITION OF "PRIVATE ACTIVITY BOND", "QUALIFIED BOND"

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1985; 26 USC 141 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides a definition of the term "private activity bond".

Timetable:

Action	Date	FR Cite
NPRM	09/19/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-72-88

Drafting attorney: Dave Selig (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

13 Income Tax

Agency Contact: Dave Selig, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4545

RIN: 1545–AM01

2346. TAX-EXEMPT BONDS FOR RESIDENTIAL RENTAL PROJECTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide regulations relating to tax-exempt bonds issued to provide qualified residential rental projects.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-089-86

Drafting attorney: Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2926.

Agency Contact: Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4336

RIN: 1545–AJ66

2347. QUALIFIED 501 (C) (3) BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 145 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for qualified 501 (c) (3) bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-84-86.

Drafting attorney: Dave White (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-4545

RIN: 1545–AJ39

2348. STATE VOLUME CAP FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 146 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide state volume cap rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-86-86

Drafting attorney: David Selig (202) 566-4545.

Reviewing attorney: David Walton (202) 566-3723.

Agency Contact: David Selig, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-4545

RIN: 1545–AJ37

2349. GENERAL REVISION OF ARBITRAGE REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules regarding the arbitrage restrictions for tax-exempt bonds, other than the rebate requirement.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-46-88

Drafting attorney: George Kelley (202) 566-3283.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

This project is being drafted at the Treasury and will be reviewed by IRS. Thus, it is impossible to establish a timetable.

Agency Contact: George P. Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3283

RIN: 1545–AL90

2350. ADVANCE REFUNDINGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986;; 26 USC 149 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules regarding advance refundings of certain private activity bonds and certain other bonds.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-50-88

Drafting attorney: Jack Malgeri (202) 566-3347.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3347

RIN: 1545–AL91

2351. INCOME TAX–TO PROVIDE BETTER DEFINITIONS IN THE AREA OF POLITICAL ADVERTISING & GRASSROOTS LOBBYING

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide better definitions in the area of political advertising and grassroots lobbying.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-190-77.

Drafting attorney: Karin G. Gross (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-4430.

Timetable:

Action	Date	FR Cite

2358. INCOME TAX – TO PROVIDE

Additional Information: PS-52-88

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Office of Tax Legislative Counsel reviewing attorney: Ellen

Aprill (202) 566-5453.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AA79

2352. DEDUCTIONS WITH RESPECT TO NONCASH FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.162-25

Legal Deadline: None

Abstract: The project is to produce proposed rules relating to an alternative way for employers to take deductions with respect to noncash fringe benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-89-88

Drafting Attorney: Joel Rutstein (202) 566-4430.

Reviewing Attorney: Paul Kane (202) 566-4430.

Income Tax

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-4430

RIN: 1545–AM40

2353. DEFINITION OF RELATED VIOLATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would amend the definition of "related violations" under section 162(g) of the Internal Revenue Code of 1986 in order to update such definition in light of subsequent events.

Timetable:

Action	Date	FR Cite
NPRM	11/03/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-87

Drafting Attorney: Joel Rutstein (202) 566-4430.

Reviewing Attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AK83

2354. QUALIFIED RESIDENCE INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the definition of qualified residence interest, including the definition of acquisition debt and guidance regarding the computation of the limitation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-88

Drafting Attorney: Sharon L. Hall (202) 566-4430.

Reviewing Attorney: John Fischer (202) 566-8131.

Treasury Attorney: Adam Handler (202) 566-2175.

13 Income Tax

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. 20224, 202 566-4430

RIN: 1545–AL67

2355. PROHIBITION ON FOREIGN TARGETING OBLIGATIONS BACKED BY UNITED STATES GOVERNMENT SECURITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking providing that obligations backed by United States government securities may not be foreign targeted.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-070-88

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Dupuy (202) 566-6795.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM19

2356. INCOME TAX—NORMALIZATION REQUIREMENT FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 (e) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to public utilities relating to the transitional rules for the public utility normalization requirements of ACRS under section 168 (e) (3). Prior to ACRS some public utilities did not have to normalize in order to use accelerated depreciation. Under the transitional rule these utilities are given until January 1, 1993 to meet the normalization requirements of section 168 (e) (3).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-244-81.

Drafting attorney: Michael Hahn (202) 566-6511.

Reviewing attorney: Noel Sheehan (202) 566-4819.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Scarborough (202) 566-2928.

Normalization Requirement

Agency Contact: Michael Hahn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6511

RIN: 1545–AA88

2357. MODIFICATION OF ACRS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules concerning the accelerated cost recovery system for property generally placed in service after December 31, 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-86-86.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: William Dwyer (202) 566-6511.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3292

RIN: 1545–AJ38

2358. INCOME TAX — TO PROVIDE REGULATIONS RELATING TO CONTRIBUTIONS TO PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the percentage limitations for charitable contributions to private foundations. The regulations will also provide rules relating to "qualified appreciated stock" as that term is defined in section 170 (e) (5) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-231-84.

Drafting attorney: Karin G. Gross (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-4430.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AI09

2359. ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules rules relating to the changes made to section 179 by the Tax Reform Act of 1986. This includes changes to the dollar limitation and recapture provision as well as the new trade or business income limitation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-52-88

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Harold Burghart (202) 566-3292.

Treasury attorney: Barksdale Penick (202) 566-5453.

Income Tax - Election to expense depreciable business assets.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AL74

2360. INCOME TAX—TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 195 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-36-81.

Drafting attorney: Paul F. Handleman (202) 566-4121.

Reviewing attorney: James Ranson (202) 566-4944.

Agency Contact: Paul F. Handleman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4121

RIN: 1545–AB02

2361. DEDUCTION FOR DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 245

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Legal Deadline: None

Abstract: Draft regulations under section 245 of the Code, incorporating changes made by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-943-86

Drafting attorney: Kenneth Allison (202) 566-6457.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL94

2362. INCOME TAX-DEBT-FINANCED PORTFOLIO STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 246A Internal Revenue Code of 1986; 26 USC 7701 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 246A of the Internal Revenue Code of 1954 relating to the dividends received deduction where portfolio stock is debt financed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-261-84.

Drafting attorney: Forest Boone (202) 566-3881.

Reviewing attorney: Vincent Cardella (202) 566-4425

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AH39

2363. CAPITALIZATION OF CERTAIN PENSION, ETC. COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that certain costs of deferred compensation must be capitalized rather than deducted currently.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-56-78

Drafting attorney: John Tolleris (202) 566-3060.

Reviewing attorney: Michael Garvey (202) 566-3251.

Agency Contact: John Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI92

2364. NOTICE OF PROPOSED RULEMAKING – CAPITALIZATION OF INTEREST EXPENSE

Significance: Regulatory Program

Legal Authority: 26 USC 263A (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-121-86.

Drafting attorney: Carol Conjura (202) 566-3024.

Reviewing attorney: John Fischer (202) 566-6131.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3024

RIN: 1545–AK01

2365. ● RULES FOR TREATMENT OF FOREIGN CORPORATION WHOSE STOCK IS STAPLED TO THE STOCK OF A DOMESTIC CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 268B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide a general rule that where a U.S. owned foreign corporation and a U.S. owned domestic corporation are stapled entities, the foreign corporation will be treated as a domestic corporation and that the deemed conversion will be treated as a reorganization under section 368(a)(1)(F) of the Code. The regulations will also provide exceptions to this general rule.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-237-89

Drafting attorney: Patricia C. Bray (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Patricia C. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AN20

2366. INCOME TAX–TO ADD PROVISIONS RELATING TO FOREIGN CONVENTIONS (AS AMENDED BY SECTION 4 OF PUBLIC LAW 96-608)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274 (h) Internal Revenue Code of 1986; PL 96-608, Sec 4; PL 97-424, Sec 543; PL 98-67, Sec 222

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules to assist taxpayers in determining whether it is as reasonable to hold a convention, seminar, or similar meeting outside North America as within it, and thus whether expenses relating to attendance at the convention are deductible.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-114-81.

Drafting attorney: Carlos Sandoval (202) 377-9586.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Judd Kelley (202) 566-8527.

Agency Contact: Carlos Sandoval, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9586

RIN: 1545–AB04

2367. CERTAIN ATTRIBUTION RULES AND CERTAIN CORPORATE REORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 302 (c) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the definitions and special rule for waiver of family attribution by entities contained in section 302 (c) (2) of the Internal Revenue Code of 1954, which relates to the tax treatment of certain redemptions of corporate stock.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-189-82.

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3450.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF13

2368. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e), and the consequences which result from making such an election.

Timetable:

Action	Date	FR Cite
NPRM	01/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-52-87

Drafting attorney: Linda Schultz (202) 566-3422.

Reviewing attorney: Marcus Blumkin (202) 566-3216.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Linda Schultz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545–AK29

2369. CROSS-REFERENCE–RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY (TRA 1986; SECTIONS 631 TO 633)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for the recognition of gain or loss on a corporation's liquidating sales or distributions.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-79-87

Drafting attorney: Peter J. Bautz (202) 566-3341.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Peter J. Bautz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3341

RIN: 1545–AK90

2370. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO RICS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulations project is one of several dealing with the implementation of the repeal of the General Utilities doctrine by section 631 of the Tax Reform Act of 1986. This project deals with the regulations necessary to ensure the repeal is implemented with respect to RICs and REITs.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-15-88

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Glenn Carrington (202) 566-3430.

Treasury attorney: Judge Kelley (202) 566-2175.

13 Income Tax, Normal Taxes and Surtaxes, RICs and REITs

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AL65

2371. MANDATORY APPLICATION OF MADSP FORMULA FOR DETERMINATION OF DEEMED SALE PRICE FOR OLD TARGET'S ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will require the use of the MADSP formula in a qualified stock purchase to which Section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-87.

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judd Kelly (202) 566-2175.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AK25

2372. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-50-87

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Judd Kelly (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AK31

2373. INCOME TAX–TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 112

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-993-71.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher Kane (202) 566-3551.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Wessel 202) 566-5453.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AB21

2374. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-084-89

Drafting attorney: Elizabeth U. Karzon (202) 566-3160.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-3992.

13 Income taxes.

Agency Contact: Elizabeth U. Karzon, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AM97

2375. ● CERTAIN EXCHANGES DESCRIBED IN MORE THAN ONE CODE SECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Change regulations to conform treatment under the section 367(b) regulations of the transfer of controlled foreign corporation stock.

Timetable:

Action	Date	FR Cite
NPRM	11/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-352-89

Drafting attorney: Richard Chewining (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: Martin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AN58

2376. CORPORATE REORGANIZATION AMENDMENTS - BANKRUPTCY TAX ACT OF 1980

Legal Authority: 26 USC 354 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986; 26 USC 357 Internal Revenue Code of 1986; 26 USC 358 Internal Revenue Code of 1986; 26 USC 361 Internal Revenue Code of 1986; 26 USC 362 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance with respect to amendments to the Internal Revenue Code by the Bankruptcy Tax Act of 1980, dealing with bankruptcy and other insolvency reorganizations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-74-87.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher Kane (202) 566-3433.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AK33

2377. INCOME TAX–LIMITATION ON CORPORATE NET OPERATING LOSS DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will explain and illustrate the limitations provided under section 382 of the Internal Revenue Code of 1986 on a corporation's use of net operating loss carryovers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-103-86.

Drafting Attorney: Keith Stanley (202) 566-3367.

Reviewing Attorney: Charles M. Whedbee (202) 566-3422.

Treasury Attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AI99

2378. COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers and liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-67-87

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3422.

Treasury attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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RIN: 1545–AK27

2379. ● AMENDMENT OF SEC. 1.382-2T(H)(4)(X) TO GRANT THE IRS AUTHORITY TO DESIGNATE IN THE INTERNAL REVENUE BULLETIN ADDITIONAL OPTIONS TO BE EXCEPTED FROM ATTRIBUTION RULES OF SEC. 1.382-2T(H)(4)(I)

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of this project is to amend the temporary regulations under section 382 of the Internal Revenue Code to provide additional exceptions to the operation of the option attribution rules of 1.382-2T(h)(4)(x) and to grant the Internal Revenue Service the authority to issue revenue rulings to provide future additional exceptions to those option attribution rules.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-010-89

Drafting attorney: Keith Stanley (202) 566-3367.

Reviewing attorney: James L. Dahlberg (202) 566-3255.

Treasury attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AN76

2380. SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-69-87

Drafting attorney: Lori Jones (202) 566-3205.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Lori Jones, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AK26

2381. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 384 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to provide guidance concerning the application of section 384 of the Internal Revenue Code. This section limits a Corporation's ability to offset gains that accrued prior to a merger or acquisition against pre-acquisition losses of a second Corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-99-88

Drafting Attorney: Robert M. Casey (202) 566-3551.

Reviewing Attorney: Glenn Carrington (202) 566-3430.

Income Tax: Corporate adjustment and distribution.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AM48

2382. NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation is intended to provide guidance concerning the application of sections 401(a)(4) and 410(b) of Internal Revenue Code. These sections require tax-qualified pension plans to meet certain nondiscrimination requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-61-86

Drafting attorney: Rebecca Wilson (202) 343-6954.

Reviewing attorneys: Richard Wickersham and Nancy Marks (202) 343-6954.

Agency Contact: Rebecca S. Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-6954

RIN: 1545–AM95

2383. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Legal Authority: 26 USC 403 (b) (12) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax- sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-86

Drafting attorney: Richard M. Lent (202) 566-3050.

Reviewing Attorney: Nancy Marks (202) 343-6954.

Treasury Attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Richard M. Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AI90

2384. INCOME TAX—EMPLOYEE STOCK OWNERSHIP PLAN LOAN PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404 (a) (9) Internal Revenue Code of 1986; 26 USC 415 (c) (6) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the deduction limitations when employer contributions to an employee stock ownership plan are used to repay the principal and interest of an exempt loan that was made to the employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-152-81.

Drafting attorney: Michael Gompertz (202) 566-4530.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: Michael Gompertz, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4530

RIN: 1545–AD77

2385. INCOME TAX—REQUIREMENTS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS, EMPLOYEE PLAN CREDIT, AND DEFINED CONTRIBUTION PLAN VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986; 26 USC 6699 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for electing the employee plan credit under section 48 of the Internal Revenue Code, establishing a tax credit employee stock ownership plan under section 409 of the Internal Revenue Code and providing voting rights to participants of certain defined contribution plans under section 401(a)(22) of the Internal Revenue Code. Further, the regulations provide guidance for determining the applicability of and calculating the assessable penalties relating to tax credit employee stock ownership plans under section 6699 of the Internal Revenue Code. The regulations reorganize and modify the current regulations which are based on section 301(d), (e), and (f) of the Tax Reduction Act of 1975, and provide a single set of rules that would apply to tax credit employee stock ownership plans established under the provisions of the Tax Reduction Act of 1975 and the 1978 Revenue Act.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-49-80.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD82

2386. INC. TAX – PART 1; ESTATE TAX – PART 20, EMPLOYEE STOCK OWNERSHIP PLAN RULES AFFECTED BY TRA 1986

Legal Authority: 26 USC 409 Internal Revenue Code of 1986; 26 USC 401 (a) (28) Internal Revenue Code of 1986; 26 USC 401 (a) (23) Internal Revenue Code of 1986; 26 USC 133 Internal Revenue Code of 1986; 26 USC 404 (k) Internal Revenue Code of 1986; 26 USC 2057 Internal Revenue Code of 1986; 26 USC 1042 Internal Revenue Code of 1986; 26 USC 2210 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulations would set forth requirements for the tax qualification of ESOPs and for various ESOP tax incentives.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-164-86

Drafting attorney: John Ricotta (202) 566-4747.

Reviewing attorney: Michael Thrasher (202) 566-3576.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI87

2387. SPECIAL RULES IN MERGER AND ACQUISITION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: The regulations are intended to provide special rules for employee plans in mergers and acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-26-88

Drafting attorney: Richard M. Lent (202) 566-3050.

Reviewing attorney: Richard Wickersham (202) 566-4621.

Income Tax: Pension, Profit-Sharing, Stock Bonus Plans

Agency Contact: Richard Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AM94

2388. REVISING THE DRAFTING OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412 (c) (7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, August 5, 1988.

Abstract: This project will interpret the new full funding limitation on deductible contributions to pension plans.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-62-88

Drafting attorney: Heather Kerr (202) 566-6260.

Reviewing attorney: Richard Wickersham (202) 566-4621.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Heather Kerr, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6260

RIN: 1545–AL53

2389. DEFINITION OF LINE OF BUSINESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (r) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: Internal Revenue Code section 414 (r) defines line of business for purposes of applying the coverage requirements under section 410 (b) and the nondiscrimination requirements for certain employee benefit plans under section 89.

Timetable:

Action	Date	FR Cite
NPRM	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-144-87

Drafting attorney: Rhonda G. Migdail (202) 566-4747.

Reviewing attorney: Richard Wickersham (202) 566-4621.

Treasury attorney: Priscilla Ryan (202) 566-5435.

Agency Contact: Rhonda G. Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AL23

2390. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 419 Internal Revenue Code of 1986; 26 USC 419A Internal Revenue Code of 1986; 26 USC 1239 (d) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-66-84.

Drafting attorney: Mark Schwimmer (202) 566-3155.

Reviewing attorney: Norman Paul (202) 566-4741.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3155

RIN: 1545–AG14

2391. ● INCENTIVE STOCK OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 422A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.422A-1; 26 CFR 1.422A-2

Legal Deadline: None

Abstract: Outstanding proposed regulations will be revised to reflect changes to section 422A made by the Tax Reform Act of 1986, PL 99-514. The revised regulations will be reissued in proposed form.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-86-88

Drafting Attorney: Charles Delisle (202) 566-4752.

Agency Contact: Charles Delisle, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4752

RIN: 1545–AN26

2392. INC. TAX—PART 1—AMENDMENT OF SECTION 1.442-1 TO PROVIDE SIMPLIFIED PROCEDURES FOR CHANGES OF ANNUAL ACCOUNTING PERIOD BY CERTAIN EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 442 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revenue Procedure 85-58 provides change of accounting period approval procedures for exempt organizations. It substantially simplifies the former procedures in Revenue Procedure 76-9. The regulations under section 1.442-1 will be amended to reflect Revenue Procedure 85-58.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-05-86.

Drafting attorney: Suzanne K. Tank (202) 566-3050.

Reviewing attorney: Paul G. Accettura (202) 566-6478.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3050

RIN: 1545–AI68

2393. ● TIMING, CHARACTER AND SOURCE OF INCOME WITH RESPECT TO NOTIONAL PRINCIPAL CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations address the timing and nature of income and deductions from notional principal contracts. They are intended to provide guidance to both purchasers and sellers of notional principal contracts, and will include a section on marking notional principal contracts to market.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-016-89

Drafting Attorney: Karl Walli (202) 566-3516.

Reviewing Attorney: Phoebe Mix (202) 566-3331.

Treasury Attorney: Reed Schuldiner (202) 566-2175.

Agency Contact: Karl Walli, Attorney Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3516

RIN: 1545–AN15

2394. INCOME TAX — GAIN OR LOSS ON THE DISPOSITION OF AN INSTALLMENT OBLIGATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain or loss upon the disposition of an installment obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-103-81.

Drafting attorney: Michael J. Grace (202) 377-9660.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AB41

2395. INCOME TAX—INSTALLMENT SALES BETWEEN RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment sales between related parties.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-2-81.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AB45

2396. INCOME TAX—INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-147-82.

Drafting attorney: Robert N. Deitz (202) 377-9582.

Agency Contact: Robert N. Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9582

RIN: 1545–AB48

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2397. INCOME TAX REGULATIONS—PART 1—SPECIAL RULES RELATING TO INSTALLMENT OBLIGATIONS THAT ARE READILY TRADABLE OR PAYABLE ON DEMAND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to installment obligations that are readily tradable or payable on demand.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-54-84.

Drafting attorney: Robert N. Deitz (202) 377-9582.

Reviewing attorney: George Wright (202) 377-9587.

Agency Contact: Robert N. Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9582

RIN: 1545–AG37

2398. INCOME TAX — DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 457 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Internal Revenue Code section 457 provides an exclusion from gross income, in the case of a participant in an eligible deferred compensation plan, for any amounts deferred under the plan and any income attributable to the amounts attributable to the amounts so deferred.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-168-86

Drafting attorney: Brant Goldwyn (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Agency Contact: Brant Goldwyn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI89

2399. ACCOUNTING FOR LONG-TERM CONTRACTS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to accounting for costs incurred in the performance of long-term contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-130-86

Drafting attorney: Carol Conjura (202) 566-3024.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3024

RIN: 1545–AJ28

2400. INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-258-84.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Cynthia Clark (202) 566-8302.

Treasury attorney: Kathleen Ferrell (202) 566-5453.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AH32

2401. EXTENSION OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers with respect to the extension of the at-risk rules to all activities other than the holding of real property. The regulations would also provide guidance with respect to the exception to the at-risk rules for closely-held corporations actively engaged in equipment leasing, and the recapture provision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-192-78.

Drafting attorney: Charles Alton (202) 377-9660.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AF86

2402. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-106-85.

Drafting attorney: Jeffrey C. Golden (202) 566-3244.

Reviewing attorney: Frances D. Schafer (202) 566-3629.

Treasury attorney: John H. Parcell (202) 566-2784.

Agency Contact: Jeffrey C. Golden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3244

RIN: 1545–AI02

2403. APPLICATION OF AT-RISK LIMITATIONS TO THE HOLDING OF REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; 26 USC 752 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will explain the application of the at risk limitations to the activity of holding real property and the exception for qualified nonrecourse financing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-124-86.

Drafting attorney: John Kramer (202) 377-9660.

Reviewing attorney: Michael J. Grace (202) 377-9660.

Treasury attorney: John H. Parcell (202) 566-2784.

Agency Contact: John Kramer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AK08

2404. TEMPORARY INCOME TAX REGULATIONS-DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 467 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The regulations will provide rules to the accrual of rents for the use of tangible property (and interest on rent that accrues but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be defined. Certain tax avoidance transactions will be defined. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-292-84.

Drafting attorney: Sharon L. Hall (202) 566-4430

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AG81

2405. ● DISPOSITION OF AN INTEREST IN A NUCLEAR POWER PLANT

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.468A-6, (New); 26 CFR 1.468A-1(b), (Revision); 26 CFR 1.468A-3, (Revision); 26 CFR 1.468A-8(b), (Revision)

Legal Deadline: None

Abstract: Final regulations relating to Nuclear Decommissioning Funds did not include provisions for treatment upon disposition of an interest in a nuclear power plant. The proposed regulations will provide guidance to determine the tax consequences of such disposition on a Nuclear Decommissioning Fund and on taxpayers that establish such funds. In addition, the proposed regulations will make a number of needed changes and clarifications to the existing regulations that will aid in the administration and processing of requests for schedules of ruling amounts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 493 Combination Electric and Gas, and Other Utility Services

Additional Information: PS-004-89

Drafting Attorney: Peter C. Friedman (202) 566-3602

Reviewing Attorney: Noel Sheehan (202) 566-4819

Treasury Attorney: Robert Scarborough (202) 566-2928

Agency Contact: Peter C. Friedman, Senior Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington D.C. 20224, 202 566-3602

RIN: 1545–AN06

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2406. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar-value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-31-87

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Pleet (202) 566-3261.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2383

RIN: 1545–AK64

2407. INCOME TAX–UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 512 (a) Internal Revenue Code of 1986; 26 USC 514 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust. The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income. The regulation will also address the issue of the proper allocation method to determine fixed indirect expenses connected with the unrelated trade or business use of an exempt organization's property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-27-81.

Drafting attorney: Monice Rosenbaum (202) 566-3505.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545–AE00

2408. TREATMENT OF FORECLOSED PROPERTY BY CERTAIN CREDITORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 595 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulation would amend the existing regulations relating to the treatment of amounts realized and expended with respect to property securing loans which have been foreclosed on by certain banks.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-083-82.

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AF00

2409. ● TAX CONSEQUENCES OF FEDERAL FINANCIAL ASSISTANCE PROVIDED IN CONNECTION WITH TAXABLE ASSET ACQUISITIONS OF TROUBLED FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 597 Internal Revenue Code of 1986, as amended

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Purpose of regulation is to implement changes to Section 597 by FIRREA. The FDIC needs this guidance to facilitate the reorganization of failed S&L's.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-046-89

Drafting attorney: Bernita Thigpen (202) 566-3829.

Reviewing attorney: Steven Glickstein (202) 566-3346.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545–AN71

2410. INCOME TAX–RESTORATION OF DEPLETION DEDUCTIONS ON BONUS AND ADVANCED ROYALTIES IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 612 Internal Revenue Code of 1986; 26 USC 613 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the restoration of depletion deductions on bonuses and advanced royalties and the deferment of the exclusion of advanced royalties from gross income from the property.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-148-71.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AB69

2411. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS (SEC: 81 AND 82 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee. The regulations also explain election rules available to the distributing trust or estate. The regulations also explain rules under which certain multiple trusts will be treated as a single trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-34-85.

Drafting attorney: Carol E. Schultze (202) 566-3625.

Reviewing attorney: Thomas J. Hines (202) 566-6813.

Agency Contact: Carol E. Schultze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3625

RIN: 1545–AI08

2412. CLARIFICATION OF SECTION 1.643 (A) (3) RELATING TO THE INCLUSION OF CAPITAL GAIN IN DISTRIBUTABLE NET INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 (a) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will revise rules specifying when capital gains will be included in distributable net income.

Timetable:

Action	Date	FR Cite
NPRM	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-148-85.

Drafting attorney: Richard H. Smith, Jr. (202) 343-8558.

Reviewing attorney: Arthur H. Ernst (202) 566-3158.

Treasury attorney: William M. Paul 9202) 566-5455.

Agency Contact: Richard H. Smith, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-8558

RIN: 1545–AI31

2413. ACCUMULATION TRUSTS

Legal Authority: 26 USC 667 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.667(a); 26 CFR 1.641; 26 CFR 1.643; 26 CFR 1.652; 26 CFR 1.661; 26 CFR 1.666; 26 CFR 1.668

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 provides for a new method of computing the tax on distributions of income accumulated by a trust in prior years. The new method, in effect, determines the tax attributable to an accumulation distribution by averaging the distribution over the number of years during which the income was earned by the trust. This is accomplished by including, for purposes of tentative computations, a fraction of the income received from the trust in the beneficiaries' income for 3 of the 5 preceding years. Those 3 years are determined by taking from the 5 preceding years the year with the highest taxable income and the year with the lowest. The fraction of the income included in each of the 3 years is based upon the number of years during which the income is accumulated by the trust. The average yearly additional tax determined by recomputing the tax for the 3 years is then multiplied by the number of years during which the distribution was accumulated. The resulting tax so computed may be offset by a credit for any taxes previously paid by the trust with respect to the accumulated income. (Cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-164-76

Drafting attorney: James F. Hogan (202) 566-3502.

Reviewing attorney: Tom Hines (202) 566-6813.

Treasury attorney: Bob Weaver (202) 535-6959.

"ABSTRACT CONT": Any remaining tax liability is then due and payable in the same year as the tax on the beneficiary's other income in the year of the distribution.

Estates and Trusts

Agency Contact: James F. Hogan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3502

RIN: 1545–AM78

2414. ● REVISION OF REPORTING REQUIREMENTS FOR GRANTOR TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 671 Internal Revenue Code of 1986; 26 USC 6012 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.671-4, (Revision); 26 CFR 1.6012-3; 26 CFR Not yet determined

Legal Deadline: None

Abstract: Grantor trusts would file 1099's or nothing at all with the Service, and provide a statement of earnings

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deductions and credits to each grantor. This will enable the Service to match the reported income from grantor trusts with the grantor's tax return. Different procedures will be required for trusts with single grantors as opposed to multiple grantors. Corporation grantors will be included. Other considerations will be whether backup withholdings rules apply and whether there is a legal basis for requiring a payor to report income directly to the grantor rather than the trust.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-49-89

Drafting attorney: Mary Jane Kossar (202) 566-3453.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Mary Jane Kossar, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3453

RIN: 1545–AN77

2415. INCOME TAXATION OF TRUSTS AND ESTATES

Legal Authority: 26 USC 645 Internal Revenue Code of 1986; 26 USC 672 Internal Revenue Code of 1986; 26 USC 673 Internal Revenue Code of 1986; 26 USC 6654 (k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxable years of trusts and estates, taxation of grantor trusts, and payment of estimated tax by trusts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-86.

Drafting attorney: Richard H. Smith, Jr. (202) 343-8558.

Reviewing attorney: Arthur H. Ernst (202) 566-3158.

Treasury attorney: William M. Paul (202) 566-5455.

Agency Contact: Richard H. Smith, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8558

RIN: 1545–AJ20

2416. ALLOCATIONS OF INCOME GAIN, LOSS, AND DEDUCTION WITH RESPECT TO PROPERTY CONTRIBUTED TO A PARTNERSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will provide rules and examples relating to the requirement to allocate income, gain, loss, and deduction so as to take into account the variation between the basis of the property and its fair market value at the time of contribution.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-164-84.

Drafting attorney: Claire E. Toth (202) 566-3830.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-4979.

Agency Contact: Claire E. Toth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3830

RIN: 1545–AG98

2417. INCOME TAX–ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (d) Internal Revenue Code of 1986; 26 USC 704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-265-76.

Drafting attorney: Donna K. Douglas (202) 377-9665.

Reviewing attorney: Claire E. Toth (202) 566-3830.

Treasury attorney: Greg Marich (202)566-2927.

Agency Contact: Donna Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9665

RIN: 1545–AB81

2418. INCOME TAX–TREATMENT OF PAYMENTS TO PARTNERS NOT ACTING IN THEIR CAPACITY AS PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the treatment of certain allocations and distributions to partners for services and transfers of property where the partner is not acting in his capacity as a partner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-234-84.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-4979.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury,

Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AG83

2419. AMENDMENT OF INCOME TAX REGULATIONS WITH RESPECT TO TREATMENT OF DISGUISED SALES BY PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for determining when partnership transactions are to be treated as disguised sales.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-163-84.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: John B. Bromell (202) 566-4320.

Office of Tax Legislative Counsel (Treasury) reviewing Treasury attorney: Greg Marich (202) 566-4979.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AH22

2420. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS OR CAPITAL LOSS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 724 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the character of gain or loss upon the disposition by a partnership of unrealized receivables, inventory items or capital loss property contributed to the partnership by a partner.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-232-84.

Drafting attorney: Noah S. Baer (202) 566-3622.

Reviewing attorney: Thomas S. Hines (202) 566-6813.

Income Tax

Agency Contact: Noah S. Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3622

RIN: 1545–AG85

2421. ● AMENDMENTS TO PROPOSED REGULATIONS UNDER SECTIONS 752 AND 704(B) ISSUED 12/29/88

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These amendments make certain clarifying and corrective changes to the proposed regulations issued 12/29/88 (RIN 1545-AH26) relating to the treatment of partnership liabilities and the allocation of deductions attributable to nonrecourse debt.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-019-89

Drafting attorney: Mary A. Munday (202) 377-9470

Reviewing attorney: Dianna Miosi (202) 566-4070

Treasury attorney: Greg Marich (202) 566-5453

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D. C. 20224, 202 377-9470

RIN: 1545–AN30

2422. ● TREATMENT OF SALVAGE RECOVERABLE UNDER SECTION 832

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.832-4T

Legal Deadline: None

Abstract: Regulations will provide rules relating to the proper treatment of salvage and reinsurance recoverable in the computation of the losses incurred deduction of section 832(b)(5).

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-042-89

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3294.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AN68

2423. ● TAXATION OF FOREIGN INSURANCE COMPANIES DOING BUSINESS IN THE UNITED STATES INCLUDING THE EXPLICATION OF THE MINIMUM NET INVESTMENT INCOME CALCULATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.842, (New); Not yet determined

Legal Deadline: None

Abstract: The regulation will describe the proper rules applicable to the taxation of Foreign Insurance Companies doing business in the United States. In particular, the regulation will address the computation of an Insurance Company's minimum effectively connected net investment

Income. Also the procedures by which

Additional Information: FI-011-89

CFR Citation: 26 CFR 1

Income. Also the procedures by which an Insurance Company may elect to use its worldwide current investment yields will be discussed.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-020-89

Drafting Attorney: Fred Campbell-Mohn and Phil Garlett (202) 566-3458.

Reviewing Attorney: Steve Hooe (202) 566-3294.

Treasury Attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Frederick S. Campbell-Mohn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AN31

2424. ● THE DEFINITION OF MODIFIED ENDOWMENT CONTRACT AND THE PROPER TREATMENT OF LOANS AND OTHER DISTRIBUTIONS FROM SUCH CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7702(A); Not yet determined

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the proper computation of the 7-pay premium. In addition, the regulation will elaborate on the rules for treatment of materially changed contracts. The regulations will also describe any adjustments to the 7-pay premiums due to small contracts or expenses solely attributable to the collection of premiums more frequently than annually. The regulations will also develop the effective date provisions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-011-89

Drafting attorney: Barry Landau (202) 566-3458.

Reviewing attorney: Steve Hooe (202) 566-3294.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Barry Landau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AN49

2425. FOREIGN INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986; 26 USC 864(c)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining income effectively connected with the conduct of an insurance business in the United States.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-024-88

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AL82

2426. INCOME TAX REGULATIONS–DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses of property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of a company's loss payment pattern.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-139-86.

Drafting Attorney: Bill Blagg (202) 566-3294.

Reviewing Attorney: Joe Ryals (202) 566-3459.

Treasury Attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3294

RIN: 1545–AJ51

2427. TREATMENT OF CERTAIN LOSSES ATTRIBUTABLE TO PERIODS AFTER OCTOBER 31 OF A TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY

Legal Authority: 26 USC 852 (b) (3) Internal Revenue Code of 1986; 26 USC 852 (b) (8) Internal Revenue Code of 1986; 26 USC 852 (c) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to certain losses attributable to periods after October 31 of a taxable year of a regulated investment company for purposes of determining taxable income, earnings and profits, and the amount which may be designated as capital gain dividends for a taxable year.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-105-88

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William E. Coppersmith (202) 566-3336.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Regulated Investment Companies

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545–AM55

2428. INCOME TAX–ESSENTIAL ISSUES RELATING TO REAL ESTATE MORTGAGE INVESTMENT CONDUITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860E Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance on real estate mortgage investment conduits, a new entity established to clarify the tax treatment of investment in real estate mortgages and mortgage backed securities.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-88-86.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lyden (202) 566-3827.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3458

RIN: 1545–AJ35

2429. ● REAL ESTATE MORTGAGE INVESTMENT CONDUITS (REMICS); REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860G Internal Revenue Code of 1986; 26 USC 1275 (c) Internal Revenue Code of 1986; 26 USC 6049 (d)(7)(D)Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on how to elect REMIC status, and the reporting requirements on REMICs and brokers or middlemen holding as nominees for the actual owner.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-22-89

Drafting Attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing Attorney: Thomas J. Lyden (202) 566-3287.

Treasury Attorney: Reed Schuldiner (202) 566-2175.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AN52

2430. TRANSPORTATION INCOME SOURCE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-947-86

Drafting attorney: Patricia A. Bray (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6845.

Treasury attorney: Chisoon Lee (202) 566-8275.

13 Income taxes

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ68

2431. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986 -- SOURCE OF INCOME RULES FOR INCOME DERIVED FROM SPACE AND OCEAN ACTIVITIES INCLUDING TELECOMMUNICATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863(d) Internal Revenue Code of 1986; 26 USC 863(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance relating to determining the source of income derived from space, and certain ocean activities (excluding mining within the continental shelf.) The regulation will also provide guidance on determining the source of income derived from international telecommunications activities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-949-86

Drafting attorney: Carol E. Murphy (202) 566-3160.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: David Crowe (202) 566-8275.

13 Income taxes.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AJ84

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2432. ● SOURCE OF GROSS INCOME ATTRIBUTABLE TO CERTAIN FINANCIAL PRODUCTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will clarify the source of gross income from certain financial products.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-190-89

Drafting attorney: Jeffrey Dorfman (202) 566-6284.

Reviewing attorney: Bob Katcher (202) 566-6284.

Treasury attorney: Rom Watson (202) 343-0247.

13 Income taxes.

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AN35

2433. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE US

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of certain deferred payments and property transactions in sourcing effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-662-88

Drafting attorney: Emerson G. Yearwood (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Emerson G. Yearwood, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AM53

2434. SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-946-86

Drafting attorney: Carol P. Tello (202) 377-9059.

Reviewing attorney: Robert E. Culbertson (202) 377-9483.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income Taxes.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AJ83

2435. EMPLOYMENT TAXES—APPLICATION OF REPEAL OF 30 PERCENT WITHHOLDING BY TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules enforcing the exclusion from portfolio interest treatment of interest received by certain related parties.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-920-87

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Employment taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM30

2436. INCOME TAX - RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 883 Internal Revenue Code of 1986; 26 USC 872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-945-86

Drafting attorney: Patricia A. Bray (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Chisoon Lee (202) 566-8275.

13 Income taxes.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ57

2437. INCOME TAX – PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(g) Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986; 26 USC 1445(e)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for foreign partners disposing of an interest in a partnership holding United States real property interests, to determine the amount of gain or loss from such disposition for purposes of section 897(a).

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-384-88

Drafting attorney: James Sams (202) 377-9059.

Reviewing attorney: Charles Besecky (202) 566-3319.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AL77

2438. DEEMED PAID CREDIT UNDER SECTIONS 902 AND 960 DETERMINED ON ACCUMULATED BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 902 (c)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable:

Action	Date	FR Cite
NPRM	12/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-933-86

Drafting attorney: Kenneth Wood (202) 287-4851.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Kenneth Wood, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 287-4851

RIN: 1545–AL98

2439. CARRYBACK AND CARRYFORWARD OF FOREIGN TAX CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the carryback and carryforward of excess foreign tax credits under the provisions of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-945-86

Drafting attorney: Bobby Burns (202) 566-3388.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

13 Income Taxes.

Agency Contact: Bobby Burns, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3388

RIN: 1545–AM18

2440. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the impact of the Technical Corrections and Miscellaneous Revenue Act of 1988 on section 904(d), the foreign tax credit limitation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-790-88

Drafting attorney: Caren S. Shein (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

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1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AM54

2441. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904 (f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-338-89

Drafting attorney: Willard W. Yates (202) 566-3898.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Willard Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3898

RIN: 1545–AM11

2442. SUSPENSION OF REQUIREMENT TO FILE A RECEIPT FOR FOREIGN TAXES PAID ON A RETURN FOR FOREIGN TAXES ACCRUED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the suspension of the requirement to file a receipt for foreign taxes paid or a return for foreign taxes accrued.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-357-88

Drafting Attorney: Thomas D. Fuller (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: Thomas D. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AM43

2443. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS AND TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, SAMOA OR CNMI

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 876 Internal Revenue Code of 1986; 26 USC 931 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 eliminates the requirement that there be a mirrored system of taxation in Guam and the CNMI, and coordinates the tax system of these possessions and of American Samoa with the U.S. tax system. Guam the CNMI and American Samoa are granted full authority over their own local income tax systems, with respect to income of bona fide residents sourced within or effectively connected with the conduct of a trade or business within any of these possessions. This grant of authority is effective, however, only if and so long as an implementing agreement is in effect between the possession at issue and the United States which provides for elimination of double taxation, prevention of evasion or avoidance of U.S. tax exchange of information and other administrative matters. Regulations are needed to clarify who qualifies as a bona fide resident and to determine sourcing rules.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-968-86

Drafting attorney: George Sellinger (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: Rom Watson (202) 343-0247.

13 Income Taxes.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ80

2444. COORDINATION OF U.S. AND VIRGIN ISLANDS TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986, inhabitants of the Virgin Islands satisfied their U.S. tax liability by filing a return with the Virgin Islands. The Tax Reform Act of 1986 repealed the inhabitant rule to correct an erroneous interpretation of its operation in connection with the Virgin Islands mirror code. Section 1274 of the Tax Reform Act of 1986 clarifies the filing obligations of individuals in the Virgin Islands. Bona fide residents of the Virgin Islands are required to file only one return with the Virgin Islands in which they report worldwide income and identify the sources of income from the Virgin Islands will be required to file two identical tax returns one with the US and one with the Virgin Islands and pay a pro rata amount of tax to each. Regulations are needed to clarify who qualifies as a bona fide resident. It is anticipated that the regulations will provide a facts and circumstances test for determining bona fide resident status. It is unknown what the operational costs will be.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-969-86

Drafting attorney: Grace Perez-Navarro (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Rom Watson (202) 343-0247.

Agency Contact: Grace Perez-Navarro, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ55

2445. REGULATIONS UNDER SECTION 932(B)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address United States residents earning income in the Virgin Islands and the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-004-89

Drafting Attorney: John Brady (202) 287-4851.

Reviewing Attorney: George Sellinger (202) 287-4851.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: John Brady, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AM89

2446. CBI INVESTMENTS OF SECTION 936 FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that gives rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-053-89

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Chisoon Lee (202) 343-0247.

13 Income taxes.

Agency Contact: W. Edward Williams, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Washington, DC 20024, 202 287-4851

RIN: 1545–AM91

2447. AMENDMENT OF SECTION 936(H) WITH RESPECT TO ELECTION OF PRODUCT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would require that once a product election was made it could not be amended for the taxable year of the election.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-450-87

Drafting attorney: Patricia A. Bray (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income taxes.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AK77

2448. INSURANCE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation defines related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-939-86

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: T. Timothy Tuerff (202 566-5896.

Treasury attorney: Peter Barnes (202) 566-5815

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AJ70

2449. SUBPART F SHIPPING AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address statutory changes under the Tax Reform Act of 1986, with respect to foreign base company shipping income and amounts invested in and withdrawn from foreign base company shipping operations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-654-88

Drafting attorney: Christine E. Arquit (202) 566-6645.

Reviewing attorney: Jack Feldman (202) 566-6645.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Christine E. Arquit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AM46

2450. TAX ACCOUNTING ELECTIONS IN COMPUTING EARNINGS AND PROFITS OF FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-040-89

Drafting attorney: Teresa Hughes (202) 566-6795.

Reviewing attorney: Barbara Felker (202) 566-6284.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Teresa Hughes, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 202224, 202 566-6795

RIN: 1545–AM90

2451. ● EXCHANGE GAIN OR LOSS ON DISTRIBUTION OF PREVIOUSLY TAXED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 986 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide timing and computation rules relating to the taxation of exchange gain or loss on previously taxed income that is distributed through a chain of controlled foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-89

Drafting attorney: Barbara Felker (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Barbara Felker, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AN37

2452. SECTION 988(D) - INTEGRATED HEDGING RULES FOR FOREIGN EXCHANGE GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 988 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules regarding fully hedged and partially hedged nonfunctional currency denominated transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-966-86

Drafting attorney: Jeffrey Dorfman (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6284.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AL15

2453. ● TAXATION OF EXCHANGE GAIN OR LOSS ON FOREIGN CURRENCY DENOMINATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 988 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides rules regarding the determination of gain or loss realized on section 988 transactions. Rules regarding the source and character of such gain or loss are also provided. The project also contains a definitional section which defines section 988 transactions, among other terms.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-405-89

Drafting attorney: Jeffrey Dorfman (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6284.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AN28

2454. ● CHANGE IN FUNCTIONAL CURRENCY AND DEFINITION OF WEIGHTED AVERAGED EXCHANGE RATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 985 Internal Revenue Code of 1986; 26 USC 989 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project sets forth the adjustments that are necessary on a change in functional currency and the definition of weighted average exchange rate.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-472-89

Drafting attorney: David Rosenberg (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AN53

2455. DISC REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Conforming DISC regulations to FSC regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-104-88

Drafting attorney: Peter J. Hanley (202) 566-3499.

Reviewing attorney: Richard L. Chewning (202) 566-6384.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AM05

2456. RULES RELATING TO THE INAPPLICABILITY OF SECTION 1031 TO PARTNERSHIP INTERESTS AND THE LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance with respect to changes made to section 1031 by the Tax Reform Act of 1984 including the inapplicability of section 1031 to partnership interests and the limitation on the period during which like kind exchanges may be made.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-237-84.

Drafting attorney: D. Lindsay Russell (202) 343-2381.

Reviewing attorney: John M. Fischer (202) 566-8131.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: D. Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-2381

RIN: 1545–AH43

2457. ● DETERMINATION OF LIKE-KIND PROPERTY IN BUSINESS-FOR-BUSINESS EXCHANGES; MULTIPLE ASSET EXCHANGES; AND SINGLE ASSET EXCHANGES OF PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation concerns the determination of like-kind property in single asset exchanges of personal property, exchanges of multiple assets, and exchanges of businesses. These regulations are intended to correct and clarify the current regulations under section 1031 of the code.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-012-89

Drafting Attorney: Christopher Rogers (202) 377-9583.

Reviewing Attorney: John Fischer (202) 566-8131.

Treasury Attorney: Adam Handler (202) 566-2175.

Agency Contact: Christopher Rogers, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 377-9583

RIN: 1545–AN38

2458. ● SOURCING OF PASS-THROUGH PAYMENTS AND FEES PAID IN INTERNATIONAL SHORT SALES OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: When securities are sold short and payments in lieu of dividends or interest are paid by a U.S. person to a foreigner or vice versa, no rules exist to determine the source of such payments. These regulations will provide such rules. Either the payments will be sourced by reference to residence of the payor or residence of the recipient. Taxpayers now are likely using whatever rule avoids taxation; these regulations will at least provide some revenue to the FISC.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-106-89

Drafting attorney: Teresa B. Hughes (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AN34

2459. INCOME TAX–NOTICE OF PROPOSED RULEMAKING - AMENDMENT OF REGULATIONS RELATING TO BASIS REDUCTIONS FOR NON-TAXED PORTION OF EXTRAORDINARY DIVIDENDS TO REFLECT TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1059 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 1059 of the Internal Revenue Code of 1954 relating to the non-taxed portion of extraordinary dividends. The regulations will explain what dividends are extraordinary, the operations of the required basis reduction, the application of the holding period rule in section 246 (c), etc.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-260-84.

Drafting attorney: Keith Engel (202) 566-6271.

Reviewing attorney: Peter Lynard (202) 566-6358.

Treasury attorney: Don Rocap (202) 566-6278.

Agency Contact: Keith Engel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6271

RIN: 1545–AH41

2460. INCOME TAX–TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 263 (g) Internal Revenue Code of 1986; 26 USC 1256 Internal Revenue Code of 1986; 26 USC 1212 Internal Revenue Code of 1986; 26 USC 1236 Internal Revenue Code of 1986; 26 USC 1234A Internal Revenue Code of 1986; 26 USC 1232 Internal Revenue Code of 1986; 26 USC 1221 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-167-81.

Drafting attorney: James W. C. Canup (202) 566-3287.

Reviewing attorney: David Brandon (202) 566-3287.

Treasury attorney: Kathleen Ferrell (202) 566-2928.

Agency Contact: James W. C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545–AC21

2461. INCOME TAX–GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-42-86

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AC31

2462. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Cross-reference notice of proposed rulemaking to amend regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not recognized.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-910-87

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL88

2463. INCOME TAX--TO CLARIFY TAX TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1253 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would clarify the tax treatment of the transfer of a franchise trademark, or trade name under section 1253 of the Internal Revenue Code of 1954. It would also provide guidance regarding how to allocate the basis among the portions of the sale proceeds which are treated as arising from the sale of a capital asset and other portions which are ordinary income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-183-81.

Drafting attorney: Unassigned

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928.

Agency Contact: John M. Coulter, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3928

RIN: 1545–AC34

2464. INCOME TAX–GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL OR OTHER MINERAL PROPERTIES BY S CORPORATIONS AND THEIR SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978 .

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment by S corporations and their shareholders from the disposition of certain oil, gas, geothermal, or other mineral properties. Gain subject to recapture under section 1254 will be accorded ordinary income treatment. The regulations also will determine the tax treatment of sales of shares of stock in an S corporation that holds oil, gas, geothermal, or other mineral properties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-7-89

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Charles Ramsey (202) 566-3553.

Treasury attorney: Barksdale Penick (202) 566-5453.

Natural Resources

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AM98

2465. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-11-88.

Drafting attorney: Channing E. Brackey (202) 566-3287.

Reviewing attorney: David Brandon (202) 566-3287.

13 Income Tax

Agency Contact: Channing E. Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3287

RIN: 1545–AI59

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2466. HEDGING EXCEPTION TO

Timetable:

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2466. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-10-86.

Drafting attorney: Channing E. Brackey (202) 566-3287.

Reviewing attorney: David Brandon (202) 566-3287.

Agency Contact: Channing E. Brackey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3287

RIN: 1545–AI72

2467. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1276 Internal Revenue Code of 1986; 26 USC 1278 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the Treatment of Gain Realized on the Disposition of any Market Discount Bond as Ordinary Income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-21-85.

Drafting attorney: Carol A. Schwartz (202) 566-3297.

Reviewing attorney: Steve R. Glickstein (202) 566-3297.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C.20224, 202 566-3297

RIN: 1545–AH82

2468. INCOME TAX-TREATMENT OF STRIPPED BONDS AND STRIPPED COUPON

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1286 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax treatment of stripped bonds and stripped coupons purchased after July 1, 1982. In particular, guidance will be given as to the proper method for allocation of basis and purchase price.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-19-85.

Drafting attorney: Carol A. Schwartz(202) 566-3297.

Reviewing attorney: Alvin J. Kraft (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: Reed Shuldiner (202) 535-6963

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AH75

2469. TREATMENT OF SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1291 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-87

Drafting attorney: Gayle Novig (202) 377-9059.

Reviewing attorney: Tom Fuller (202) 377-9059.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income taxes.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AC06

2470. QEF SHAREHOLDER ELECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1295 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address QEF shareholder election as it applies to section 1295.

Timetable:

Action	Date	FR Cite
NPRM	03/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-579-88

Drafting Attorney: Joseph S. Henderson (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

13 Income Taxes.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AM41

2471. INCOME TAX–TREATMENT OF OBLIGATIONS WHICH PURPORT TO REPRESENT DEBT AS A SECOND CLASS OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to shareholders and debt instrument holders who must comply with the law relating to subchapter S corporations. The regulations will provide rules relating to whether or not a subchapter S corporation has more than one class of stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-4-73.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Kathleen Ferrell (202) 566-5911.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AC37

2472. INCOME TAX–PASS-THRU OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the tax treatment of income and loss items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-261-82.

Drafting attorney: Stuart G. Wessler (202) 566-6016.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing

attorney: Bryan Wessel (202) 566-8277.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6016

RIN: 1545–AE85

2473. INCOME TAX–RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATION AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1367 Internal Revenue Code of 1986; 26 USC 1368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining the treatment of property distributions by an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-264-82.

Drafting attorney: Stuart G. Wessler (202) 566-6016.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6016

RIN: 1545–AE88

2474. INCOME TAX–APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1371 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal would amend the regulations under section 1371 to changes made by the subchapter S Revision Act of 1982 relating to the application of subchapter C rules to S corporations and other technical amendments under sections 2, 5, and 6 of the Act. The regulation would provide the public with guidance to comply with the Act.

Timetable:

Action	Date	FR Cite
NPRM	09/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-265-82.

Drafting attorney: Judith C. Winkler (202) 377-9665.

Reviewing attorney: William O'Shea (202) 566-3244.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9665

RIN: 1545–AE90

2475. CROSS-REFERENCE–APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374

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Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the section 1374 built-in gains tax to C corporations electing S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-80-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Nelson F. Crouch (202) 566-4696.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK93

2476. INCOME TAX–DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986; 26 USC 1379 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would define and interpret special rules contained in Sections 1377 and 1379 of the Internal Revenue Code of 1986, the thereby giving guidance to the public on how the Internal Revenue Service intends to interpret those sections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-268-82.

Drafting attorney: Eileen M. Shatz (202) 566-3822.

Reviewing attorney: Stuart Wessler (202) 566-6016.

Office of Tax Legislative Counsel Reviewing attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Eileen M. Shatz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3022

RIN: 1545–AE94

2477. REVISED WITHHOLDING TAX REGULATION TO MODIFY "AS SOON AS PRACTICAL" REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will modify a requirement of Treas. Reg. section 1.1441-6(c) regarding the time for filing of Form 1001. Section 1.1441-6(a) provides that the withholding rate shall be reduced as may be provided by a treaty with any country. To secure a reduced treaty withholding rate, subsection (c) of the regulation requires the recipient of the income to file Form 1001 (ownership, exemptions, or reduced rate certificate) with the withholding agent. The regulation further provides that each such Form 1001 filed with any withholding agent shall be filed "as soon as practicable". The "as soon as practicable" requirement will be changed to a narrower and more objective time period.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-685-87

Drafting attorney: Lilo A. Hester (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL19

2478. ● WITHHOLDING OF TAX ON NON-RESIDENT ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1441

Legal Deadline: None

Abstract: Section 864 (c) (6) of the Code, added in 1986, had the unintended effect of allowing nonresident alien individuals to elect out of all withholding on pension payments from qualified plans. The regulation corrects this inadvertent loophole and requires withholding on such payments.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: INTL-587-89

Drafting attorney: Carol Tello (202) 377-9059.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Carol Tello, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AN75

2479. WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains when withholding is required under section 1446, how and when the amounts withheld are to be reported and paid over to the Internal Revenue Service, and when the taxpayer is to credit the tax withheld against its U.S. income tax liability or apply for a refund. The notice will be published simultaneously with, and will cross-reference to, temporary regulations dealing with these matters (INTL-938-86). No significant policy issues are involved. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-980-86

Drafting attorney: David Chan (202) 377-9059.

Reviewing attorney: Robert E.Culbertson, Jr. (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AL30

2480. ● REVISION OF REGULATIONS UNDER SECTIONS 1491, 1492, AND 1494

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1491 Internal Revenue Code of 1986; 26 USC 1492 Internal Revenue Code of 1986; 26 USC 1494 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of these regulations is to provide guidance to taxpayers regarding both the types of outbound property transfers that are subject to the tax imposed by section 1491 and the types of outbound property transfers that are exempt from the tax by reasons of section 1492.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-102-89

Drafting attorney: Elizabeth Karzon (202) 566-3160.

Reviewing attorney: Charles Besecky (202) 566-3319.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Elizabeth U. Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AN39

2481. NONTAXABLE TRANSFERS UNDER SECTION 1491

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1492 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to exempt transfers of property to foreign partnerships from the excise tax imposed by section 1491, on the condition that gain attributable to the property at the time of transfer is taxed to the transferor when subsequently disposed of by the foreign transferee partnership. The regulations will set forth the necessary conditions and exceptions to the exemption.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-260-88

Drafting attorney: Elizabeth Karzon (202) 566-3160.

Reviewing attorney: Charles Besecky (202) 566-3319.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: Elizabeth Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AL96

2482. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would revise the method of adjusting the basis of stock under section 1.1502-32.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-222-81.

Drafting attorney: David Kessler (202) 566-4551.

Reviewing attorney: John Broadbent (202) 566-3877.

Agency Contact: David Kessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4551

RIN: 1545–AC47

2483. INCOME TAX–APPLICATION OF SECTION 465 AT RISK LIMITATIONS TO MEMBERS THAT JOIN IN FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-79.

Drafting attorney: Richard E. Coss (202) 566-6212.

Reviewing attorney: Peter G. Lynard (202) 566-6358.

Treasury attorney: Bryan Collins (202) 566-2175.

Agency Contact: Richard E. Coss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545–AC55

2484. CROSS-REFERENCE–CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporation acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	03/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK94

2485. CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides revisions of consolidated return regulations under sections 1.1502-14 and 1.1502-31.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-4-88

Drafting attorney: Robert Eifler (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3877.

13 Income Taxes

Agency Contact: Robert Eifler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AL44

2486. REVISION OF SECTION 1.1502-33

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide new rules for determining earnings and profits of each member of the consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-68-88

Drafting attorney: Jerilynn V. Chapman (202) 566-3877.

Reviewing attorney: John Broadbent (202) 566-3484.

Treasury attorney: Thomas Wessel (202) 566-2927.

13 Income Tax

Agency Contact: Jerilynn V. Chapman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545–AL60

2487. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS TO ADDRESS TREATMENT OF ORGANIZATIONS WHOSE TAX EXEMPT STATUS WAS REPEALED BY THE 1986 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 833 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will specify the consolidated return ramifications of the revocation of the tax-exempt status of certain organizations by section 1012 of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-026-89

Drafting Attorney: Jean M. Whalen (202) 566-3422.

Reviewing Attorney: Edward S. Cohen (202) 566-3484.

Treasury Attorney: J. Judge Kelley (202) 566-2175.

Income Tax

Agency Contact: Jean Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545–AM49

2488. PAYMENT OF REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986; 26 USC 6402 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1502; 26 CFR 6402

Legal Deadline: None

Abstract: The regulations will address in what instances a refund can be paid to the court appointed fiduciary of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return when to the extent, that the Secretary determines the refund is attributable to losses or credits of the insolvent corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-96-88

Drafting attorney: Rose Williams (202) 566-3354.

Reviewing attorney: Lewis Brickates (202) 566-3877.

Treasury attorney: Bryan Collins (202) 566-8277.

Income Taxes

Agency Contact: Rose Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AM74

2489. DUAL RESIDENT COMPANIES-LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: If a United States corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a United States affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for United States tax purposes, its loss will be of available to offset.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-399-88

Drafting attorney: Shannon M. Votava (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: Shannon M. Votava, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6845

RIN: 1545–AM16

2490. INCOME TAX–INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.1504(d)

Legal Deadline: None

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-88

Drafting attorney: Kenneth Allison (202) 566-6457.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AC58

2491. INCOME TAX -- AMENDMENT OF REGULATIONS UNDER SECTION 1504 (A) OF THE CODE, AS AMENDED BY SECTION 60 OF THE TAX REFORM ACT OF 1984, DEFINING "AFFILIATED GROUP"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules defining "affiliated group" for purposes of subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-152-84.

Drafting attorney: Kenneth Cohen (202) 566-3877.

Reviewing attorney: Edward Cohen (202) 566-3484.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Tom Wessel (202) 566-2927.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545–AH09

2492. ESTATE AND GIFT TAXES, INCOME TAXES-UNIFIED CREDIT IN LIEU OF EXEMPTIONS, UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES SITUS OF FOREIGN PARTNERSHIPS FOR ESTATE TAXATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986; 26 USC 2010 Internal Revenue Code of 1986; 26 USC 2011 Internal Revenue Code of 1986; 26 USC 2012 (a) Internal Revenue Code of 1986; 26 USC 2012 (c) Internal Revenue Code of 1986; 26 USC 2013 (b) Internal Revenue Code of 1986; 26 USC 2013 (e) (1) Internal Revenue Code of 1986; 26 USC 2014 (b) (2) Internal Revenue Code of 1986; 26 USC 2035 Internal Revenue Code of 1986; 26 USC 2038 (a) Internal Revenue Code of 1986; 26 USC 2044 Internal Revenue Code of 1986; 26 USC 2052 Internal Revenue

2493. ESTATE TAX GENERATION-SKIPPING TRANSFER TAX

Small Entities Affected: None

2499. EMPLOYMENT TAX-

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Code of 1986; 26 USC 2104 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 1

Legal Deadline: None

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation. The regulations also relate to the estate tax consequences of transfers made within three years of death. The regulations also provide rules relating to charitable remainder trusts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-212-76.

Drafting attorney: Deborah S. Ryan (202) 535-9511.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Agency Contact: Deborah S. Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 535-9511

RIN: 1545–AC60

2493. ESTATE TAX–VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2032A Internal Revenue Code of 1986; 26 USC 2013 (f) Internal Revenue Code of 1986; 26 USC 1016 (c) Internal Revenue Code of 1986; 26 USC 1040 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 1

Legal Deadline: None

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-209-81.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Office of the Tax Legislative Counsel (Treasury) reviewing attorney: Robert Weaver (202) 535-6959.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-9512

RIN: 1545–AC62

2494. ESTATE TAX - INCLUSION OF ESTATE FREEZES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: Through the use of various transactions taxpayers have been able to "freeze" the value of an enterprise by "transferring" a major portion of the enterprise while retaining managerial rights. Section 2036 (c) requires that an estate include the value of "frozen" enterprises where the transferor in effect transfers future appreciation while retaining present income or managerial rights.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-101-88

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Robert Weaver (202) 535-6959.

Estate and Gift Taxes

Agency Contact: Fred Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9512

RIN: 1545–AM59

2495. ALIEN SPOUSE MARITAL DEDUCTION

Legal Authority: 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2056A Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986; 26 USC 6324 Internal Revenue Code of1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property where the surviving spouse or donee spouse is not a United States citizen. The regulations will prescribe how certain transfers to a qualified domestic trust for the benefit of an alien spouse will qualify for the estate tax marital deduction. The regulations will also describe the manner on which an estate tax is imposed in the case of any principal distribution from a qualified domestic trust before the death of the surviving spouse and upon the value of the property remaining in the trust upon the surviving spouse's death.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-102-88

Drafting attorney: Susan Hurwitz (202) 566-5983.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Estate and Gift Taxes

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-5983

RIN: 1545–AM85

2496. ESTATE TAX-GENERATION-SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: The regulations will provide rules relating to certain definitions, the allocation of the transferor's GST exemption, and the determination of inclusion ratio.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-73-88

Drafting attorney: John B. Franklin (202) 535-9540.

Reviewing attorney: Fred Grundeman (202) 535-9512.

Treasury attorney: Robert Weaver (202) 535-6959.

13 Estate and Gift Tax

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-8540

RIN: 1545–AL75

2497. AMENDMENT OF THE EMPLOYMENT TAX REGULATIONS UNDER CODE SECTION 3121 TO CONFORM TO SECTION 321 OF THE SOCIAL SECURITY AMENDMENTS OF 1983

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986

CFR Citation: 26 CFR 36

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers with respect to agreements entered into under section 3121 of the Internal Revenue Code of 1954 as that Section was amended by section 321 of the Social Security Amendments of 1983.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-38-88.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-6650.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AF91

2498. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-142-87.

Drafting attorney: Gregory J. Stull (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Gregory J. Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AF97

2499. EMPLOYMENT TAX–WITHHOLDING FROM PENSIONS, ANNUITIES, AND OTHER DEFERRED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3405 Internal Revenue Code of 1986; 26 USC 6047 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35

Legal Deadline: None

Abstract: Proposed regulations would clarify and amend the temporary regulations relating to withholding from pensions, annuities, and other deferred income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-115-82.

Drafting attorney: Gregory Stull (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Gregory Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AE98

2500. WITHHOLDING ON CERTAIN DEFERRED PAYMENTS OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3405 (d) (13) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35

Legal Deadline: None

Abstract: The regulation will provide questions and answers dealing with circumstances under which an election for no withholding on employer deferred compensation plan payments may not be made.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-956-86.

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Drafting attorney: Gerald H. Parshall, Jr. (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: P. Ann Fisher (202) 566-4979.

13 Income Taxes.

Agency Contact: Gerald H. Parshall, Jr., Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL31

2501. TO PROVIDE REGULATIONS RELATING TO BACKUP WITHHOLDING UNDER SECTION 3406

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide that a tax equal to 20 percent of any reportable payment is required to be withheld if certain conditions exist. With respect to reportable interest or dividends, backup withholding applies if (1) no number is provided in the manner required, (2) the Service notifies the payor that the payee's taxpayer identification number is not correct, (3) the payee is subject to backup withholding due to a notified payee underreporting, and (4) the payee fails to certify when required that he or she is not subject to backup withholding due to notified payee underreporting. With respect to other reportable payments (such as rents, royalties, nonemployee compensation, broker transactions, or barter exchanges), backup withholding applies if (1) no taxpayer identification number is provided, or (2) the Service notifies the payor that the payee's taxpayer identification number is not correct.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-224-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928.

Treasury attorney: Andre Dubroff (202) 566-4921.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545–AE20

2502. EXCISE TAX–COLLECTION OF EXCISE TAX IMPOSED ON THE SALE OR REMOVAL OF GASOLINE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 4082 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide rules relating to excise tax imposed on the sale or removal of gasoline. The regulations will also provide procedural requirements for any required registration and bonding, and obtaining applicable refunds or credits relating to the excise tax.

Timetable:

Action	Date	FR Cite
NPRM	11/18/87	52 FR 44141
Hearing	01/05/88	
NPRM - withdrew one paragraph of 11/18/87 NPRM	09/27/88	53 FR 37950
NPRM	10/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

PS-115-86.

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-4077.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AJ09

2503. MODIFICATION OF THE GASAHOL REGULATIONS TO INCREASE THE TOLERANCE ALLOWED TO THE 10 PERCENT ALCOHOL MIXTURE AND TO CLARIFY THE LATER BLENDING RULES

Legal Authority: 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will modify the tolerance allowed for the alcohol to gasoline ratio in gasahol and will clarify the later blending rules with regard to incidental dilution of gasahol at retail outlets.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-093-88

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Jeffrey Nelson (202) 566-4077.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545–AM86

2504. EXCISE TAX ON DIESEL FUEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4091 to 4093 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation provides guidance on the collection of diesel fuel excise tax under the Revenue Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-3-88

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-2567.

Treasury attorney: Ellen Aprill (202) 566-5453.

13 Excise Taxes

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL43

2505. GASOLINE EXCISE TAX BOND REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the bond requirement under section 4101 as it pertains to gasoline excise tax.

Timetable:

Action	Date	FR Cite
NPRM	09/27/88	53 FR 37590
NPRM	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-77-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

13 Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Consitution Ave., N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AM32

2506. REVISION OF SECTION 48.4181-1(A)(2) OF THE MANUFACTURERS AND RETAILERS EXCISE TAX REGULATIONS RELATING TO THE TAX ON FIREARM PARTS AND ACCESSORIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulation will clarify the meaning of the terms "complete firearm" and "parts or accessories of firearms"

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-69-88

Drafting attorney: Donald Fidlow (202) 566-3904.

Reviewing attorney: Richard Kocak (202) 566-3434

13 Excise Tax

Agency Contact: Donald Fidlow, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3904

RIN: 1545–AL72

2507. INCOME TAX, EXCISE TAX, AND ENVIRONMENTAL TAX–IMPOSITION OF TAXES ON PETROLEUM, CERTAIN CHEMICALS, AND CORPORATIONS AND ADDITIONAL EXCISE TAXES ON CERTAIN FUELS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 59A Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4042 Internal Revenue Code of 1986; 26 USC 4091 Internal Revenue Code of 1986; 26 USC 4092 Internal Revenue Code of 1986; 26 USC 4093 Internal Revenue Code of 1986; 26 USC 6421 Internal Revenue Code of 1986; 26 USC 6427 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 48; 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental taxes on petroleum, certain chemicals, and additional excise taxes on certain fuels. The regulations will also provide rules for the computation of the environmental tax imposed on the modified alternative minimum taxable income of corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-158-86.

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeff Nelson (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-4902.

Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AJ23

2508. TAX ON CERTAIN IMPORTED SUBSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4671 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental tax on certain imported chemical substances.

Timetable:

Action	Date	FR Cite
NPRM	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-71-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeff Nelson (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-4902.

13 Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury,

Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL73

2509. INCOME TAX–EXCISE TAX–PROCEDURE AND ADMINISTRATION–VARIOUS PRIVATE FOUNDATION PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4940 Internal Revenue Code of 1986; 26 USC 4941 Internal Revenue Code of 1986; 26 USC 4942 Internal Revenue Code of 1986; 26 USC 4943 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53

Legal Deadline: None

Abstract: These regulations will amend existing rules to reflect changes made by the Tax Reform Act of 1984 relating to the excise taxes on private foundations.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-76-84.

Drafting attorney: V. A. Moore (202) 566-4503.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: V. A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545–AG18

2510. EXCISE TAX – PART 54, REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986; PL 99-514, Sec 1132

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the excise tax on reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-165-86

Drafting attorney: Vernon Carter (202) 566-3539.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3539

RIN: 1545–AI82

2511. ELECTRONIC FILING OF TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance and standards to taxpayers governing the electronic filing of individual income tax returns.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-21-87

Drafting attorney: Celia Gabrysh (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Celia A. Gabrysh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AL01

2512. AMENDMENT OF SECTION 1.6033-2 (G) (5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 91-172, Sec 101 (d) (1) Tax Reform Act of 1969

CFR Citation: 26 CFR 1.6033-2(g)

Legal Deadline: None

Abstract: These regulations will revise the definition of integrated auxiliary of a church in Section 1.6033-2 (g) (5) of the Treasury Regulations to be consistent with Rev. Proc. 86-23, 1986-1 CB 564.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-41-86.

Drafting attorney: V.A. Moore (202) 566-4503.

Reviewing attorney: Paul Accettura (202) 566-6478.

Agency Contact: V.A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545–AI52

2513. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986 foreign controlled foreign corporations doing business in the US and foreign controlled US corporations are required to report transactions with related foreign corporations. The 86 Act requires such entities to report transactions with all related foreign parties, whether or not corporations. The Act also provides a new definition for the term related parties, and requires information necessary to carry out the installment sales rules, as amended by such Act, to also be reported.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-958-86

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ56

2514. PROCEDURE ON CERTAIN FRINGE BENEFITS PLANS

Legal Authority: 26 USC 6039D Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance concerning a return required by specified fringe benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-117-84.

Drafting attorney: Sylvia F. Hunt (202) 566-3251.

Reviewing attorney: Harry Beker (202) 566-3251.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AI22

2515. INFORMATION REGARDING RESIDENT STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6039E Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on Passport and Green card applicants and the penalties to be imposed on such applicants if they do not supply the information.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-978-86

Drafting attorney: Gerald H. Parshall, Jr. (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: P. Ann Fisher (202) 566-4979.

13 Income Taxes.

Agency Contact: Gerald H. Parshall, Jr., Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ93

2516. INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 7805; 26 CFR 6045

Legal Deadline: None

Abstract: This regulation would provide additional rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: IA-94-88

Drafting Attorney: Arthur E. Davis III (202) 377-9581

Reviewing Attorney: David L. Crawford (202) 377-9590

Treasury Attorney: J. Judge Kelley (202) 566-2175

Income Tax

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AM38

2517. INCOME TAX REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6046A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-879-86

Drafting attorney: Robert A. Walker (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Mark Beams (202) 566-5992.

13 Income Taxes.

Agency Contact: Robert A. Walker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545–AK75

2518. REPORTING OF PLAN DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6047 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Legislative changes require that increased numbers of retirees and plan participants must make complex calculations of the taxable amount of distributions they receive from qualified

plans. The regulations will require the payor of a qualified plan distribution (or the plan administrator) to calculate the taxable amount and to report it on the appropriate information return.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-29-88

Drafting attorney: Gregory J. Stull (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Gregory J. Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AL54

2519. INCOME TAX--TO REQUIRE ISSUERS OF CERTIFICATES OF DEPOSIT TO FURNISH ISSUE PRICE TO BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would amend existing regulations to require issuers to furnish the issue price to brokers.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-63-87

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lyden (202) 566-3287.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, llll Constitution Ave., N.W., Washington, D. C. 20224, 202 566-3458

RIN: 1545–AK36

2520. ● AMEND AGGREGATION RULES FOR FILING REQUIREMENT

Legal Authority: 26 USC 6050I Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6050I-1(b)(1)

Legal Deadline: None

Abstract: An amendment to the regulation is necessary as the result of a policy decision to revise Form 8300.

Timetable:

Action	Date	FR Cite
NPRM	11/17/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-041-89

Drafting attorney: Philip Scott (202) 566-3826.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Philip Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3826

RIN: 1545–AN42

2521. ● IRC SECTION 6051

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6051 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6051

Legal Deadline: None

Abstract: Project will modify existing regulations to require employers who terminate their business or otherwise cease operations to file Forms W-2 and W-3 within 30 calendar days after termination.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-005-89

Drafting Attorney: Janet Lloyd (202) 566-4747.

Reviewing Attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Janet Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AN57

2522. TREASURY-BASED RETURN POSITIONS; FAILURE TO DISCLOSE TREATY-BASED RETURN POSITION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6114 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Notice of proposed rulemaking to regulations that will provide guidance to taxpayers concerning compliance with the treaty-based return position disclosure requirements of section 6114 which was added to the code by TAMRA.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-361-89

Drafting attorney: David Bergkuist (202) 566-3872.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5815.

Income Taxes

Agency Contact: David Bergkuist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3872

RIN: 1545–AM87

2523. AGREEMENTS FOR PAYMENT FOR TAX LIABILITY IN INSTALLMENTS

Legal Authority: 26 USC 6159 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6159

Legal Deadline: None

Abstract: Prior law did not address the authority of the Internal Revenue Service to enter into installment payment agreements with taxpayers. New code section 6159, as added by the Technical and Miscellaneous Revenue Act of 1988, authorizes such agreements and specifies the circumstances under which the Service may modify or terminate such an agreement and when the Service must provide prior notice of a determination to modify or terminate an agreement. New regulations implementing section 6159 will be drafted in order to provide taxpayers and the Service specific guidance on the requirements and responsibilities imposed by this provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-708-88

Drafting attorney: Mitchel Hyman (202) 535-9682.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9682

RIN: 1545–AM66

2524. ESTATE TAX--PROCEDURE AND ADMINISTRATION--DEFERRAL AND INSTALLMENT PAYMENT OF ESTATE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6166 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986; 26 USC 6151 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to extend the time for payment of estate tax where the estate contains an interest in a closely held business. The regulations will provide rules in determining what qualifies as an interest in a closely held business. In addition, the regulations will explain when the installment privileges allowed by section 6163 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-210-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AD23

2525. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6242 Internal Revenue Code of 1986; 26 USC 6243 Internal Revenue Code of 1986; 26 USC 6244 Internal Revenue Code of 1986; 26 USC 6233 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 51

Legal Deadline: None

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of partnership items.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-289-82.

Drafting attorney: William J. Gregg (202) 377-9470.

Reviewing attorney: Dianna K. Miosi (202) 566-4070.

Office of Tax Legislative Counsel Reviewing attorney: Greg Marich (202) 566-5453

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-8470

RIN: 1545–AE96

2526. ● RAILROAD UNEMPLOYMENT REPAYMENT TAX

Legal Authority: 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The new regulations will restore the authority of the Service to require quarterly payments of the Railroad Unemployment Repayment Tax. The authority was inadvertently eliminated under section 7106 of TAMRA.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: EE-001-89

Drafting Attorney: Thomas Wolf (202) 566-3505.

Reviewing Attorney: Phil Corn (202) 566-3505.

Agency Contact: Thomas Wolf, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545–AN40

2527. PROCEDURE AND ADMINISTRATION REGULATIONS--PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6311 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will describe the circumstances under which taxpayers may pay taxes by check, money order or other guaranteed draft and the circumstances under which financial institutions on which such

instruments are drawn may be liable for unpaid taxes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-549-87.

Drafting attorney: Nancy O. Ryan (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Nancy O. Ryan, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AI24

2528. NOTICE OF LIEN ON PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6323 (f)(1)(ii),(Revision); 26 CFR 1.6323 (f)(5)

Legal Deadline: None

Abstract: The purpose of these regulations is to solve the problem that arose in the case of United States v. Air Florida, Inc. 56 B.R. 732 (S.D. Fla. 1985). The regulations will provide that if a state has adopted a Federal law establishing a place for the filing of liens under a national filing system, the state is not considered to have a second office for filing of the notice of lien. The regulations will also provide that the filing of a notice of Federal tax lien is governed solely by the Internal Revenue Code and is not subject to any other Federal law establishing a national filing system.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-719-88

Drafting attorney: Holly J. Wilson (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Holly J. Wilson, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AM64

2529. PROCEDURE AND ADMINISTRATION–RELEASE OF LIENS, NOTICE BEFORE LEVY, PROPERTY EXEMPT FROM LEVY REDEMPTION OF LEVIED REAL PROPERTY AND AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6325 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien. The regulation will revise existing regulations relating to the size of the exemption from levy available for certain property. The proposed regulation also increases the length of post-sale redemption period currently specified in the regulations. The proposed regulations provide rules for service employees administering the Code for providing notice of intention to levy upon the property of a delinquent taxpayer. The proposed regulations increase the amount of damages allowed where property has been levied wrongfully.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-547-87.

Drafting attorney: Kevin B. Connelly (202) 535-9684.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin B. Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-9684

RIN: 1545–AE82

2530. EFFECT OF HONORING A LEVY

Legal Authority: 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6332-1(c)

Legal Deadline: None

Abstract: Section 1.6332-1(c) currently provides that any person in possession of or obligated with respect to property or rights to property subject to levy and upon which levy has been made who surrenders the property or rights to property, or discharges the obligation to the district director is discharged from any obligation or liability to the delinquent taxpayer. Section 1015(t) of Technical and Miscellaneous Revenue Act of 1988 amends Section 6332 of the Internal Revenue Code to provide that a person who honors a levy is protected from any obligation or liability to any other person as well as the delinquent taxpayer. This should cause a reduction in the number of interpleader actions filed because of concerns over liability to third parties.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: GL-720-88

Drafting attorney: Charles E. Samuel (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Charles E. Samuel, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AM72

2531. ● REQUIREMENT FOR GUARANTEED REMITTANCE TO REDEEM PROPERTY

Legal Authority: 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: To resolve any uncertainty as to how payments to redeem real property sold by the Internal Revenue Service after levy must be made. The present regulations do not state the form in which the redemption price is to be paid. Thus, controversy exists as to whether personal checks or other non-guaranteed forms of payment would be sufficient to constitute tender.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-425-89

Drafting attorney: Jerome D. Sekula (202) 566-3943.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3943

RIN: 1545–AN44

2532. GASOLINE EXCISE TAX DEFINITIONS, NOTIFICATION OF REGISTRATION REQUIREMENTS, AND SECTION 6416 PROCEDURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 6416 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the gasoline excise tax definition of trader, notification of registration verification procedures required for tax-free or reduced rate of transfers of gasoline, and additional requirements under section 6416 claims.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-11-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3454.

Treasury attorney: Robert Scarborough (202) 566-2928.

13 Excise Tax

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AL89

2533. DIFFERENTIAL INTEREST RATES AND EXPANDED CREDITING OF OVERPAYMENTS AGAINST UNDERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will explain the computation of interest on underpayments and overpayments of tax, including the extent to which underpayments and overpayments will be offset in computing interest.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-123-86

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AK06

2534. PROCEDURE & ADMINISTRATION–ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS AND UNDERSTATEMENTS, AND INCREASE IN THE NEGLIGENCE PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6659 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 6660 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions with respect to the addition to tax in the case of valuation overstatements and understatements, including rules for computing the portion of an underpayment that is attributable to a valuation overstatement or understatement. The regulations would also provide rules with respect to the increase in the negligence and fraud penalties.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-272-81.

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AD39

2535. USE OF FACSIMILE SIGNATURES BY INCOME TAX RETURN PREPARERS OF FORMS 1041, U.S. FIDUCIARY INCOME TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6695 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6695-1 (b)

Legal Deadline: None

Abstract: Section 1.6695-1 (b) currently requires that, with one exception, income tax return preparers must

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manually sign returns or claims for refund signed by them. The exception does allow preparers of returns and refund claims for nonresident aliens to use facsimile signatures under certain circumstances. Section 645 (a) of the Internal Revenue Code, added by section 1403 (a) of the Tax Reform Act of 1986, requires trusts, with certain limited exceptions, to use a calendar taxable year. The calendar year requirement means that, instead of being able to spread their duty to sign trust returns over the entire course of a year, preparers must now sign all trust returns before April 15 in order to present them to clients for timely filing. To alleviate this hardship, we are examining the advisability of permitting income tax return preparers of Forms 1041, U.S. Fiduciary Income Tax Returns, to use facsimile signatures and under what conditions such use would be permitted and appropriate.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

GL-238-88

Drafting attorney: Nancy O. Ryan (202) 535-9678.

Reviewing attorney: Robert A. Miller (202) 566-3117.

13 Procedure and Administration

Agency Contact: Nancy O. Ryan, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AL49

2536. INCOME TAX–PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6867 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6867

Legal Deadline: None

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents gross income to a single individual, (2) is taxable at a rate of fifty percent, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6861.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-548-87.

Drafting attorney: John C. Isaacs (202) 566-3780.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: John C. Isaacs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3780

RIN: 1545–AE30

2537. FORFEITURE OF LAND SALES CONTRACT WITH RESPECT TO DISCHARGE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will address the issue of when a land sales contract is considered to be forfeited for Federal tax purposes. It may be necessary, in so doing, to provide a definition or other guidelines as to what constitutes a land sales contract for purposes of this provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-550-87

Drafting attorney: Richard Preston (202) 566-3780.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Richard Preston, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3780

RIN: 1545–AK24

2538. REDEMPTIONS OF REAL PROPERTY UNDER IRC 7425 - EXCESS EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7425 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 301.7425-4(b)(3)(ii), which deals with excess expenses incurred by a purchaser of property after a foreclosure sale and before redemption, provides that the Service may request a written itemized statement from the purchaser regarding excess expenses with 15 days, it shall be presumed that no excess expenses are payable. However, even after the 15-day period expires, a payment for excess expenses shall be made after the redemption within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser. There is no specific time frame set for the purchaser to submit his claim after the redemption and after the expiration of the 15-day period. We are examining the feasibility of establishing a 30-day time limit within which a final claim for excess expenses must be submitted by the purchaser after the sale of the property. This will eliminate claims for reimbursement of expenses that may be submitted after redemption and sale of the property, where the liens were fully satisfied and released, and all surplus funds returned to the taxpayer.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-520-87

Drafting attorney: Barton J. Uze (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

13 Procedure and Administration

Agency Contact: Barton J. Uze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, D.C. 20224, 202 535-9682

RIN: 1545–AL20

2539. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES

Legal Authority: 26 USC 7429 Internal Revenue Code of 1986 PL 100-647, Sec 6237; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7429

Legal Deadline: None

Abstract: Section 7429 currently provides for administrative and judicial review of jeopardy assessments, but these review procedures do not apply to jeopardy levies. The Technical and Miscellaneous Revenue Act of 1988, PL 100-647, Sec. 6237, extends the review procedures of Section 7429 to the review of jeopardy levies and provides concurrent jurisdiction to the Tax Court with Federal District courts with respect to actions challenging a jeopardy assessment or jeopardy levy, provided a Tax Court petition is filed prior to the making of the assessment or levy. We are examining whether any regulations need to be promulgated under the statutory amendment. In particular, we are examining whether any procedural guidelines for the filing of actions in the Tax Court are needed by means of regulations, or whether revision to Tax Court rules is more appropriate. We are also examining whether the revised review procedures contain any ambiguity for which clarification by way of regulation would be helpful.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-710-88

Drafting attorney: John C. Isaacs (202) 566-3780.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: John C. Isaacs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3780

RIN: 1545–AM63

2540. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN

Legal Authority: PL 100-647, Sec 6240; 26 USC 7432

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The new section 7432 grants taxpayers the right to bring a cause of action for damages in Federal District court if any officer or employee of the Internal Revenue Service knowingly or negligently fails to release a lien under section 6325 on property of the taxpayer. Damages will not be awarded for failure to release a lien unless the court determines that the taxpayer has exhausted all administrative remedies within the Internal Revenue Service. The Secretary must provide by regulations a reasonable procedure for the taxpayer to notify the Service of a failure to release a lien on property of the taxpayer. Currently, we are considering regulations that will provide procedures for a taxpayer to notify the Service of a failure to release a lien and procedures for administrative exhaustion of remedies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-706-88

Drafting attorney: Kevin B. Connelly (202) 535-9684.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Kevin B. Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9684

RIN: 1545–AM68

2541. CIVIL CAUSES OF ACTION FOR DAMAGES SUSTAINED DUE TO CERTAIN UNAUTHORIZED ACTIONS BY I.R.S

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6241; 26 USC 7433

CFR Citation: 26 CFR 1.7433

Legal Deadline: None

Abstract: PL 100-647, Sec 6241, adds a new section 7433 to the Internal Revenue Code. This provision allows taxpayers to sue the Internal Revenue Service to recover economic damages if a Service employee, in connection with the collection of a tax, recklessly or intentionally disregards any provision of the Code or regulations. The new implementing regulation will establish administrative remedies for taxpayers to meet the statutory requirement that administrative remedies be exhausted prior to a court award of damages. The regulation will also outline what steps taxpayers should take to satisfy the statutory requirement that they mitigate their damages.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-707-88

Drafting attorney: Miriam A. Howe (202) 566-3780.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Miriam A. Howe, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 ConstitutionAvenue, N.W., Washington, D.C. 20224, 202 566-3780

RIN: 1545–AM65

2542. ESTATE AND GIFT TAX VALUATION TABLES

Legal Authority: 26 USC 7520 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7520; 26 CFR 1.642, (Revision); 26 CFR 1.664, (Revision); 26 CFR 20.2031, (Revision); 26 CFR 25.2512, (Revision)

Legal Deadline: None

Abstract: Section 7520 of the Internal Revenue Code, as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988, requires that the value of any annuity, any interest for life or a term of years, and any remainder or reversionary interest be determined under valuation tables, revised periodically and the applicable Federal interest rate for the month of the valuation of the interest. The regulations will address the use of the tables, which will be published separately, and will contain rules for making an election where charitable transfers are involved. It will also include rules for rounding the applicable interest rates. In addition, the regulations will modify the current regulations for gift, estate, and charitable transfers of annuity trusts, and unitrusts and pooled income funds.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-100-88

Drafting attorney: William L. Blodgett (202) 377-9661.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Unknown

Procedure Involving Taxpayer Interviews

Agency Contact: William L. Blodgett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9661

RIN: 1545–AM81

2543. PROCEDURES INVOLVING TAXPAYER INTERVIEWS (TIME AND PLACE OF EXAMINATION)

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7605 Internal Revenue Code of 1986; PL 100-647, Sec 6228 Taxpayer Bill of Rights 102 Stat. 3342

CFR Citation: 26 CFR 301.7605-1(a), (Revision)

Legal Deadline: NPRM, Statutory, November 10, 1989. Final, Statutory, November 10, 1992.

Abstract: Section 7605(a) of the Internal Revenue Code, 26 USC 7605(a), and section 301.7605-1(a) of the regulations currently provide the time and place of an examination shall be fixed by an officer or employee of the Internal Revenue Service and shall be reasonable under the circumstances. No regulations have been promulgated elaborating on this provision. The Taxpayer Bill of Rights requires the publication within one year of regulations enumerating standards for determining whether the selection of a time and place for interviewing a taxpayer is reasonable. These regulations are to provide that if it is generally not reasonable for the IRS to require a taxpayer to attend an examination at an IRS office within the assigned district other than the office located closest to the taxpayer's home. They will also provide it is generally not reasonable for the IRS to audit a taxpayer at his or her place of business if the business is so small that doing so will essentially require the taxpayer to close his business.

Timetable:

Action	Date	FR Cite
NPRM	11/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-705-88

Drafting attorney: Nancy O. Ryan (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Nancy O. Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9678

RIN: 1545–AM69

2544. PROCEDURE AND ADMINISTRATION - SUSPENSION OF STATUTES OF LIMITATIONS IN ABSENCE OF THIRD-PARTY RECORDKEEPER RESPONSE TO SUMMONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 7609 by the Tax Reform Act of 1986. Under those changes, statutes of limitations are suspended in certain cases in which a summons is served to a third-party recordkeeper and in which there is no resolution of the third- party recordkeeper's response to the summons.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-521-87

Drafting attorney: Mitchel S. Hyman (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9682

RIN: 1545–AK72

2545. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Legal Authority: 26 USC 7609 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7609

Legal Deadline: None

Abstract: Under prior law the statute of limitations was suspended under IRC section 7609(e)(2) only where summonses were served on third-party recordkeepers as defined in IRC section 7609(a)(3). Section 7609(e)(2) was amended by the Technical and Miscellaneous Revenue Act of 1988 so that the suspension applies to all John Doe summonses, whether or not the summoned party is a third-party recordkeeper as defined in IRC section 7609(a)(3). The new regulations will make minor changes to 26 CFR 301.7609 to conform with the 1988 Amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-723-88

Drafting attorney: Mitchel Hyman (202) 535-9682.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9682

RIN: 1545–AM67

2546. COVER OVER OF INCOME TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7654 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to section 7654 of the Internal Revenue Code of 1986 which generally provides that net income tax collections from individuals described in sections 931 or 932(c), plus earned income of federal personnel while bona fide residents of specified possessions, must be covered into the Treasury of the Treasury of the specified possession of which such individuals are bona fide residents.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-971-86

Drafting attorney: John J. Brady (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5615.

13 Income Taxes.

Agency Contact: John J. Brady, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL18

2547. DEFINITION OF LIFE INSURANCE CONTRACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules to define a life insurance contract.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-107-87

Drafting attorney: Katherine Lee Wambsgans (202) 566-3740.

Reviewing attorney: Stephen D. Hooe (202) 566-3803.

13 Income Taxes

Agency Contact: Katherine Lee Wambsgans, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3740

RIN: 1545–AL08

2548. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide rules relating to the classification of publicly traded partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-13-88

Drafting attorney: Stuart G. Wessler (202) 566-6016.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Office of Tax Legislative Counsel Reviewing attorney: Barksdale Penick (202) 566-5453.

13 Procedure and Administration

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6016

RIN: 1545–AL57

2549. THE TIME AND MANNER OF MAKING CERTAIN ELECTIONS UNDER THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5h.6

Legal Deadline: None

Abstract: This document contains regulations relating to the time and manner of making certain elections under the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-9-89

Drafting attorney: Grace Matuszeski (202) 343-2382.

Reviewing attorney: John Fischer (202) 566-8131.

Administration and Procedures

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2382

RIN: 1545–AN03

2550. ● 50 % EXCISE TAX ON ANY GAIN REALIZED BY PERSON WHO RECEIVES "GREENMAIL"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 5881 Internal Revenue Code of 1986; 26 USC 6001 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986

CFR Citation: 26 CFR 155, (New); 26 CFR 602

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2554. ● ALCOHOL CREDIT FOR ETBE

Reviewing attorney: James Benson (202)

2557. LOW-INCOME HOUSING CREDIT

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Legal Deadline: None

Abstract: Proposed regulations relating to the manner and method of reporting and paying the nondeductible 50 % Excise Tax imposed with respect to the receipt of "Greenmail"

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-021-89

Drafting Attorney: Warren Joseph (202) 566-4430.

Reviewing Attorney: Karin G. Gross (202) 566-3889.

Treasury Attorney: J. Judge Kelley (202) 566-8527.

Agency Contact: Warren Joseph, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AN41

2551. PROPOSED AMENDMENTS TO THE PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984 RELATING TO THE REDUCTION OF TAX OVERPAYMENTS BY AMOUNTS ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 42 USC 664

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e. tax refund) by the amount of any past due support which a State has agreed to collect under section 454 (6) of the Social Security Act. The regulations explain the steps a State must take to have a tax overpayment reduced by an amount of past-due support.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-85-85.

Drafting attorney: William A. Galanko (202) 566-4104.

Reviewing attorney: David Dickinson (202) 566-6655.

TITLE CONT: of Past-Due Support Owed.

Agency Contact: William A. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4104

RIN: 1545–AH99

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

2552. TO PROVIDE REGULATIONS RELATING TO MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-1 to 1.25-6T; 26 CFR 1.6709-1

Legal Deadline: None

Abstract: The regulations will provide guidance on the issuance of mortgage credit certificates rules. Guidance will be provided with respect to the various eligibility requirements that mortgagors must satisfy as well as the various program requirements that issuers must satisfy.

Timetable:

Action	Date	FR Cite
NPRM	05/08/85	50 FR 19383
NPRM Comment Period End	07/08/85	50 FR 19383
Hearing	08/14/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-245-84.

Drafting attorney: Harold N. Diamond (202) 566-3340.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3340

RIN: 1545–AH06

2553. INCOME TAX–INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers of mortgage credit certificates relating to the information to be collected with respect to each recipient of a mortgage credit certificate. The regulations will also provide guidance regarding the time and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35572
NPRM Comment Period End	11/04/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-114-85.

Drafting attorney: Harold N. Diamond (202) 566-3340.

Reviewing attorney: Michael J. Montemurro (202) 566-4085.

Treasury attorney Elliot Stern (202) 566-2926.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3340

RIN: 1545–AI38

2554. ● ALCOHOL CREDIT FOR ETBE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.40-1T

Legal Deadline: None

Abstract: This regulation explains mixtures for which credit is available.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-047-89

Drafting attorney: Frank K. Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545–AN72

2555. LOW-INCOME HOUSING CREDIT ALLOCATION RULES AND INFORMATION REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide low-income housing credit allocation and reporting rules.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23471
NPRM Comment Period End	08/21/87	52 FR 23471
Hearing	11/09/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-83-86

Drafting attorney: Donna Young (202) 566-6898.

Reviewing attorney: James Renson (202) 566-4944.

Treasury attorney: Andy Dubroff (202) 535-6966.

Agency Contact: Donna Young, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-6898

RIN: 1545–AJ65

2556. CLARIFICATION OF DETERMINATION OF BAD DEBT EXPERIENCE UNDER NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This NPRM cross-references to temporary regulations clarifying the determination of bad debt experience under the nonaccrual-experience method of accounting under IRC section 448(d)(5).

Timetable:

Action	Date	FR Cite
NPRM	04/15/88	53 FR 12534
Hearing	12/01/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: IA-26-88

Drafting attorney: James A. Orefice (202) 566-3637

Reviewing attorney: Cynthia Clark (202) 566-6302

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AK92

2557. LOW-INCOME HOUSING CREDIT FOR FEDERALLY-ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for Federally-assisted buildings acquired during a 10-year period.

Timetable:

Action	Date	FR Cite
NPRM	11/03/87	52 FR 42098
NPRM Comment Period End	01/04/88	52 FR 42098
Hearing	03/17/88	53 FR 2605

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-62-87

Drafting attorney: Susan Reaman (202) 566-4537.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Andrew Dubroff (202) 535-6966.

Agency Contact: Susan Reaman, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4537

RIN: 1545–AL05

2558. LOW INCOME HOUSING CREDIT RECAPTURE RULE

Legal Authority: 26 USC 38 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986; 26 USC 142(d) Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986; 26 USC 267(b) Internal Revenue Code of 1986; 26 USC 1274(d)(1) Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986; 26 USC 6622 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance with respect to the recapture requirements of section

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Final Rule Stage

42(j)for the low-income housing credit. In addition, these regulations will clarify the types of housing that will qualify for the credit.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-108-87

Drafting attorney: Christopher J. Wilson (202) 786-8220.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Andrew Dubroff (202) 535-8966.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 786-8220

RIN: 1545–AL12

2559. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 47, 48 AND 196 RELATING TO BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 196 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules concerning a basis adjustment in the case of the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35438
NPRM Comment Period End	11/20/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-183-82.

Drafting attorney: Patrick T. McGroarty (202) 566-6321.

Reviewing attorney: James Ranson (202) 566-4944.

Agency Contact: Patrick T. McGroarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6321

RIN: 1545–AF06

2560. INCOME TAX–SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 (l) Internal Revenue Code of 1986; PL 96-223, Sec 223 (c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period End	03/20/82	47 FR 03559
Hearing	06/03/82	
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-176-80.

Drafting attorney: Winston H. Douglas (202) 786-7340.

Reviewing attorney: William J. Dwyer (202) 566-6511.

Energy Credit

Agency Contact: Winston H. Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 786-7340

RIN: 1545–AA26

2561. BOOK INCOME ADJUSTMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for computing the Alternative Minimum Tax Book Income Adjustment.

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	53 FR 15234
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-55-87

Drafting attorney: Nicholas G. Bogos (202) 566-3862.

Reviewing attorney: William Galanko (202) 566-4104.

Treasury attorney: Marc Levy (202) 535-4902.

International Tax Counsel Reviewing attorney: Peter Daub (202) 566-5791.

Agency Contact: Nicholas G. Bogos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AK23

2562. INCOME TAX–INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustment for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-84-87

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: William Jackson (202) 566-4196.

Treasury Attorney: Mark Levy (202) 566-4029.

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Agency Contact: Edward C. Schwartz, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3861

RIN: 1545–AL03

2563. ● ADJUSTED CURRENT EARNINGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.56

Legal Deadline: None

Abstract: Determination of adjusted current earnings of corporations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-029-89

Drafting attorney : Nicholas G. Bogos (202) 566-3862.

Reviewing attorney: William A. Galanko (202) 566-4104.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: Nicholas G. Bogos, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AN24

2564. TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19409
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-56-87

Drafting attorney: Forest R. Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4979.

Agency Contact: Forest R. Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AK20

2565. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the miscellaneous itemized deductions that are subject to the 2-percent floor and provide expense allocation rules for regulated investment companies and REMICs.

Timetable:

Action	Date	FR Cite
NPRM	03/28/88	53 FR 9951
Final Action	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-97-86.

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorney: George B. Baker (202) 566-9292.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3980

RIN: 1545–AJ49

2566. TREATMENT OF TRANSFER OF PROPERTY BETWEEN SPOUSES, TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS, AND DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 71 Internal Revenue Code of 1986; 26 USC 215 Internal Revenue Code of 1986; 26 USC 1041 Internal Revenue Code of 1986; 26 USC 152 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to assist taxpayers in determining whether alimony and separate maintenance payments are deductible from income by the payor and includible in income by the payee, whether property transferred between spouses or between spouses incident to divorce has a carryover basis and whether the custodial or noncustodial parent is entitled to the dependency exemption.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34528
NPRM Comment Period End	10/20/84	49 FR 34528
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-153-84.

Drafting attorney: Stephen J. Toomey (202) 566-6320.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Steve Toomey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545–AI49

2567. EXTENSION OF SECTION 79 UNIFORM PREMIUM TABLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: The temporary regulations extend the present uniform premium table for employees over 65 years of age.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/31/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-89-88

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4465

RIN: 1545–AM96

2568. NONDISCRIMINATION RULES FOR NON-PENSION EMPLOYEE BENEFIT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 89 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the following: an explanation of the eligibility, benefits and alternative tests contained in section 89; an explanation as to which plans are subject to section 89 requirements; and, rules concerning how the requirements will be applied in actual operation. Also, these regulations will provide additional guidance for cafeteria plans under section 125.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9460
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-130-86

Drafting attorney: Munroe/Zech (202) 566-3251.

Reviewing attorney: Nancy Marks (202) 343-6954.

Agency Contact: David Munroe/Felix Zech, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AI78

2569. INCOME TAX REGULATIONS–MORTALITY TABLES TO BE USED TO DETERMINE AMOUNT HELD BY INSURER WITH RESPECT TO A BENEFICIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 101 (d)(2)(B)(ii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will prescribe the mortality table to be used to determine the amount held by an insurer with respect to a beneficiary of a life insurance contract.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35447
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-135-86

Drafting attorney: Barry S. Landau (202) 566-3458.

Reviewing attorney: William T. Sullivan (202) 566-3458.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Barry S. Landau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AK14

2570. INCOME TAX–EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 142 (e) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/07/78	
NPRM	08/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 33283
Hearing	01/30/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-190-78.

Drafting attorney: Hervey H. Kornegay (202) 566-3458.

Reviewing attorney: Alice Bennett (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: Hervey H. Kornegay, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AA49

2571. INCOME TAX–TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt industrial development bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6274
NPRM Comment Period End	04/22/86	51 FR 6274
Hearing	06/04/86	51 FR 6273

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-59-74.

Drafting attorney: Dave White (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N W, Washington, D C 20224, 202 566-4545

RIN: 1545–AA56

2572. INCOME TAX–MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules which interpret the provisions of section 103A, relating to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a significant portion of the proceeds of which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
NPRM - Previous	07/01/81	46 FR 34346
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	46 FR 55513

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-10-81.

Drafting attorney: Suzanne Reynolds (202) 566-4310.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Suzanne Reynolds, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4310

RIN: 1545–AA63

2573. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (a) Internal Revenue Code of 1986; 26 USC 163 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction, loss of capital gains treatment, loss of an earnings and profits adjustment, and loss of tax-exempt interest status.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
NPRM Comment Period End	01/14/83	47 FR 51414
Hearing	01/25/83	47 FR 51414
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-255-82.

Drafting attorney: Dianne O. Umberger (202) 566-4336.

Reviewing attorney: David Brandon (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

13 Income Tax

Agency Contact: Dianne O. Umberger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AE18

2574. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)–RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved–failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	48 FR 21166

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-221-82.

Drafting attorney: Eric E. Boody (202) 566-4336.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AE24

2575. REGULATIONS RELATING TO $40 MILLION SMALL ISSUE LIMIT ON TAX-EXEMPT BONDS PER TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (a) (10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provision enacted by the Tax Reform Act of 1984 which generally denies Federal income tax exemption for a small issue of development bonds if any of its beneficiaries receives the benefits of more than $40 million of prior outstanding industrial development bonds allocated to itself, including its allocated portion of the small issue in question. These regulations would also provide guidance regarding how the proceeds of an issue of industrial development bonds are to be allocated among its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6270
NPRM Comment Period End	04/22/86	51 FR 6270
Hearing	06/04/86	51 FR 6273

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-157-84.

Drafting attorney: Dave White (202) 566-4545.

Reviewing attorney: Mike Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: Elliott Stern(202) 566-2928.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4545

RIN: 1545–AH19

2576. TO PROVIDE REGULATIONS RELATING TO THE TAX EXEMPTION OF OBLIGATIONS TO FINANCE MIXED-USE RESIDENTIAL RENTAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-8

Legal Deadline: None

Abstract: The regulations will clarify the rule relating to obligations to provide residential rented property. The regulations will make clear that a residential rental project can consist in part of non-residential rental property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 46303
NPRM Comment Period End	01/06/86	
Hearing	02/10/86	51 FR 1392

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-269-84.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2566.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AH68

2577. ● CLARIFICATION REGARDING THE CONCLUSIVENESS OF THE CERTIFICATION UNDER SECTION 1.103-13(A)(2) OF THE INCOME TAX REGULATIONS

Legal Authority: 26 USC 103 (c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103-13

Legal Deadline: None

Abstract: This regulation clarifies the extent to which a certification is conclusive as to the reasonable expectations of the issuer under section 1.103-13 (a) (2) of the Income Tax Regulations, when the issuer either certifies in bad faith or takes subsequent and deliberate actions to produce arbitrage.

Timetable:

Action	Date	FR Cite
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-031-89

Drafting attorney: Jack Malgeri (202) 566-3347.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3347

RIN: 1545–AN08

2578. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 116 Internal Revenue Code of 1986 PL 96-223, Sec 404

CFR Citation: 26 CFR 116

Legal Deadline: None

Abstract: This regulations project is necessary to conform the regulations relating to section 116 of the Internal Revenue Code of 1986 to amendments to section 404 made by the Crude Oil Windfall Profit Tax Act of 1980, P.L. 96-223. This regulation will provide guidance to individuals who administer section 116 and taxpayers who are subject to and must comply with these sections of the code. Section 116 relates to the partial exclusion of dividends and interest received by individuals.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-80

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: William Galanko (202) 566-4104.

Income Tax

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3862

RIN: 1545–AM73

2579. EXCLUSION OF QUALIFIED SCHOLARSHIPS AND FELLOWSHIPS FROM GROSS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules relating to the exclusion of certain amounts received as a qualified scholarship. Regulations will also provide rules relating to withholding from certain payments and return of information requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 21668
Final Action	12/15/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-3-87

Drafting Attorney: Michael Schmit (202) 566-3826.

Reviewing Attorney: William Galanko (202) 566-3862.

Treasury Attorney: Kathleen Ferrell (202) 566-5911.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution, N.W., Washington, DC 20224, 202 566-3826

RIN: 1545–AJ87

2580. INCOME TAX--TAX TREATMENT OF CAFETERIA PLANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits which include statutory nontaxable benefits and cash.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50733
NPRM Comment Period End	01/30/85	
Hearing	03/11/85	
NPRM	03/07/89	54 FR 9500
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-16-79.

Drafting attorney: Harry Beker (202) 566-3251.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AD63

2581. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 126 Internal Revenue Code of 1986; 26 USC 1255 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from income of certain cost sharing payments and on the amount recaptured when the property improved with government payments is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	46 FR 27723
Hearing	12/01/81	46 FR 50808
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-222-78.

Drafting attorney: Brenda M. Stewart (202) 566-4919.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Agency Contact: Brenda M. Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4919

RIN: 1545–AA73

2582. INCOME TAX--PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 131 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will explain what foster child care payments may be excluded from the gross income of a foster parent.

Timetable:

Action	Date	FR Cite
NPRM	02/01/85	50 FR 4702
NPRM Comment Period End	04/02/85	50 FR 4702
Hearing	06/25/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-83.

Drafting attorney: Victoria J. Driscoll (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: Victoria J. Driscoll, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AP52

2583. INCOME TAX--STUDENT LOAN BONDS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (b) Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to issuers of tax-exempt student loan bonds.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	07/05/88	54 FR 28075
ANPRM Comment Period End	09/05/89	54 FR 28075

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-80-86.

Drafting attorney: Elliott Stern (202) 566-2566.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: George F. Delduke, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3347

RIN: 1545–AJ42

2584. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 146 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide regulations relating to Arbitrage restrictions on Tax-Exempt Bonds.

Timetable:

Action	Date	FR Cite
NPRM	05/15/89	54 FR 20861
NPRM Comment Period End	09/14/89	54 FR 20861

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: FI-91-86

Drafting attorney: Elliott Stern (202) 566-2926.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliott Stern (202) 566-2926.

Agency Contact: George Delduke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4545

RIN: 1545–AJ67

2585. ● SUBSEQUENT INTENTIONAL ACTS TO EARN ARBITRAGE AND THE REASONABLE EXPECTATIONS TEST FOR ARBITRAGE BONDS

Legal Authority: 26 USC 148 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-13

Legal Deadline: None

Abstract: The proposed regulations provide that if subsequent intentional acts are taken after the date of issue to earn arbitrage, the reasonable expectations test does not prevent a bond from being declared an arbitrage bond.

Timetable:

Action	Date	FR Cite
Temporary Regulation	11/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-044-89

Drafting attorney: Jack Malgeri (202) 566-3347.

Reviewing attorney: Mike Montemurro (202) 566-4085.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3347

RIN: 1545–AN69

2586. INFORMATION REPORTING FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide information reporting rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/87	52 FR 7408
NPRM Comment Period End	05/11/87	52 FR 7408
Hearing	06/26/87	
Final Action	10/01/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-146-86

Drafting attorney: Mark Scott [202] 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3336

RIN: 1545–AJ63

2587. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 106 (b) Internal Revenue Code of 1986; 26 USC 162 (i) (2) Internal Revenue Code of 1986; 26 USC 162 (k) Internal Revenue Code of 1986; 26 USC 4980B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	52 FR 22716
Hearing	11/04/87	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-143-86

TREAS—IRS **Final Rule Stage**

Drafting attorney: Mark Schwimmer (202) 566-3155.

Review attorney: Norman Paul (202) 566-4741.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3155

RIN: 1545–AJ93

2588. INCOME TAX REGULATIONS—LIMITATIONS ON DEDUCTIONS FOR NONBUSINESS INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the disallowance of a deduction for personal interest, including guidance regarding the definitions of qualified residence, qualified residence interest and qualified indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/22/87	52 FR 48452

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-137-86

Drafting Attorney: Sharon L. Hall (202) 566-4430.

Reviewing Attorney: John Fischer (202) 566-8131.

Treasury Attorney: Adam Handler (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AK17

2589. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules regarding deductibility of interest on pass-through certificates when certificates are held by nominees.

Timetable:

Action	Date	FR Cite
NPRM	05/19/88	53 FR 17960
Final Action	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: INTL-905-87

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2904.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM22

2590. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Publication of section 1.163-5T inadvertently deleted 12/19/86, dealing with deductibility of interest on pass-through certificates.

Timetable:

Action	Date	FR Cite
NPRM	05/19/88	53 FR 17959
Final Action	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-990-86

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2904.

13 Income Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM23

2591. INCOME TAX REGULATIONS—TAX STRADDLES RELATING TO SECTION 108 OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 165 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules under section 108 of the Tax Reform Act of 1984 and section 1808 (d) of the Tax Reform Act of 1986, relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	08/23/84	49 FR 33458
NPRM Comment Period End	10/22/84	49 FR 33458
Hearing	11/29/84	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-147-84.

Drafting attorney: Karl T. Walli (202) 566-3297.

Reviewing attorney: Steven R. Glickstein (202) 566-3297.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Karl T. Walli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AG57

2592. NORMALIZATION REQUIREMENTS FOR PUBLIC UTILITY PROPERTY: INCONSISTENT PROCEDURES AND ADJUSTMENTS

Legal Authority: 26 USC 168 (i)(9)(B)(iii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 167; 26 CFR 168

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Legal Deadline: None

Abstract: Regulation will provide guidance as to the proper application of the normalization requirements for public utilities filing consolidated income tax returns. Regulation will prescribe the extent to which adjustments and procedures that reduce a utility's ratemaking tax expense to reflect the tax losses of nonregulated affiliated companies will be treated as inconsistent with the normalization rules.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-107-88

Drafting attorney: Martin Schaffer (202) 566-6589.

Reviewing attorney: Noel Sheehan (202) 566-4819.

Treasury attorney: Robert Scarborough (202) 566-2928.

Income Taxes

Agency Contact: Martin Schaffer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6589

RIN: 1545–AM60

2593. INCOME TAX--ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954; 26 USC 167 Internal Revenue Code of 1954; 26 USC 1250 Internal Revenue Code of 1954; 26 USC 57 (a) (12) Internal Revenue Code of 1954; 26 USC 312 (k) Internal Revenue Code of 1954; 26 USC 172 (b) Internal Revenue Code of 1954; 26 USC 812 (b) Internal Revenue Code of 1954; 26 USC 48 (b) Internal Revenue Code of 1954; 26 USC 53 (c) Internal Revenue Code of 1954; 26 USC 381 (c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the accelerated cost recovery scheme. This cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
NPRM	02/16/84	49 FR 5940
NPRM Comment Period End	05/16/84	49 FR 5940
Hearing held	05/21/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-185-81.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: William Dwyer (202) 566-6511.

Treasury attorney: Barksdale Penick (202) 566-5453.

Accelerated Cost Recovery System.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AA87

2594. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules concerning tax-exempt entity leasing and service contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27297
NPRM Comment Period End	09/03/85	50 FR 27297
Hearing	11/25/85	
Final Action	12/01/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-31-85.

Drafting attorney: Edward C. Schwartz (202) 566-3861.

Reviewing attorney: William Galanko (202) 566-6104.

Treasury attorney: Adam Handler (202) 535-6964.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AH76

2595. DEDUCTIONS IN EXCESS OF $5000 CLAIMED BY A SUBCHAPTER C CORPORATION FOR CHARITABLE CONTRIBUTIONS OF CERTAIN PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 170 (a) (1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide substantiation requirements with which subchapter C corporations must comply in order to take deductions for charitable contributions of certain property.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16156
Hearing	09/23/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-87

Drafting attorney: Stuart Spielman (202) 566-3980.

Reviewing attorney: Rudi Planert (202) 566-9293.

Treasury attorney: A.L. Spitzer (202) 566-5911.

13 Income Tax

Agency Contact: Stuart Spielman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3980

RIN: 1545–AL09

2596. DEFINITION OF RESEARCH AND EXPERIMENTAL EXPENDITURES UNDER SECTION 174 OF THE CODE

Legal Authority: 26 USC 7805(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.174-2; 26 CFR 1.41

Legal Deadline: None

Abstract: The regulations clarify the definition of "research and experimental expenditures" under section 174 of the Internal Revenue Code. The regulations also clarify the definition of "research and experimental expenditures" for purposes of section 41 of the Code, because section 41 relies on the definition of that item in section 174.

Timetable:

Action	Date	FR Cite
NPRM	05/17/89	54 FR 21224
NPRM Comment Period End	07/17/89	
Final Action	12/25/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-002-89

Drafting attorney: David Hagland (202) 377-9851.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Evelyn Brody (202) 535-6959.

Research and Experimental Expenditures

Agency Contact: David Hudson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4021

RIN: 1545–AM92

2597. PROVISIONS RELATING TO COOPERATIVE HOUSING CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 216 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for determining a tenant-stockholder's proportionate share of taxes or interest in the case where the cooperative housing corporation has made the election provided in section 216 (b) (3) (B) of the Code. These regulations also provide rules for determining whether a deduction claimed by a tenant-stockholder should be disallowed as more proper allocable to the corporation's capital account.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19312

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-102-88.

Drafting attorney: David L. Click (202) 566-4821.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Agency Contact: David L. Click, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4021

RIN: 1545–AJ96

2598. INDIVIDUAL RETIREMENT PLANS AND SIMPLIFIED EMPLOYEE PENSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 62 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 220 Internal Revenue Code of 1986; 26 USC 404 (h) Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3306 Internal Revenue Code of 1986; 26 USC 4973 Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986; 26 USC 6693 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans, spousal individual retirement plans, and simplified employee pensions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/81	46 FR 36198
NPRM Comment Period End	09/14/81	46 FR 36198
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-7-78.

Drafting attorney: William D. Gibbs (202) 566-3050.

Reviewing attorney: A. Thomas Brisendine (202) 566-3050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-6277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AD59

2599. INDIVIDUAL RETIREMENT PLANS, SIMPLIFIED EMPLOYEE PENSIONS, AND QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 415 Internal Revenue Code of 1986; 26 USC 2039 Internal Revenue Code of 1986; 26 USC 2517 Internal Revenue Code of 1986; 26 USC 6652 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: These regulations set forth rules for individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions after amendment of the Internal Revenue Code of 1954 by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	01/23/84	49 FR 2794
NPRM Comment Period End	03/23/84	49 FR 2794
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

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Additional Information: EE-148-81.

Drafting attorney: William D. Gibbs (202) 566-3050.

Reviewing attorney: A. Thomas Brisendine (202) 566-3050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AD66

2600. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the costs incurred in the production and acquisition of property for resale in a trade or business or activity conducted for profit.

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10118
NPRM Comment Period End	05/29/87	
Hearing	12/07/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-168-86.

Drafting attorney: Ellen McElroy (202) 566-3731.

Reviewing attorney: Paulette C. Galanko (202) 566-3802.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AK05

2601. TEMPORARY REGULATION—CAPITALIZATION OF INTEREST EXPENSE RELATING TO PRODUCTION OF PROPERTY

Significance: Regulatory Program

Legal Authority: 26 USC 263A(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation of interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-120-86.

Drafting attorney: Carol Conjura (202) 566-3024.

Reviewing attorney: John Fischer (202) 566-8131.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3024

RIN: 1545–AK03

2602. ● LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0267 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The primary purpose of this project is to provide final regulations under section 267 of the Internal Revenue Code concerning the deferral and restoration of loss on the intercompany sale of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47048
NPRM Comment Period End	01/29/85	49 FR 47048

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-023-89

Drafting Attorney: Keith E. Stanley (202) 566-3367.

Reviewing Attorney: James L. Dahlberg (202) 566-3255.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AN19

2603. INCOME TAX—PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	48 FR 13438
Hearing	07/19/83	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-188-82.

Drafting attorney: Paul Horrell (202) 566-2457.

Reviewing attorney: Nelson Crouch (202) 566-3651.

Agency Contact: Paul Horrell, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., N.W., Washington, D.C. 20224, 202 566-2457

RIN: 1545–AF11

2604. ● EMPLOYEE ACHIEVEMENT AWARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986; 26 USC 74 Internal Revenue Code of 1986; 26 USC 102 Internal Revenue Code of 1986

CFR Citation: 26 CFR 274; 26 CFR 74; 26 CFR 102

Legal Deadline: None

Abstract: Final regulations concerning employee achievement awards. Specific guidance concerning the phrase "tangible personal property".

Timetable:

Action	Date	FR Cite
NPRM	01/09/89	54 FR 627
Public Hearing on Prop. Regs.	06/02/89	54 FR 18117

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-008-88

Drafting Attorney: Janet Lloyd (202) 566-4747.

Reviewing Attorney: Jerry Holmes (202) 566-4747.

Treasury Attorney: J. Judge Kelley (202) 566-8527.

Agency Contact: Janet Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AN56

2605. INCOME TAX—SUBSTANTIATION REQUIREMENTS WITH RESPECT TO LISTED PROPERTY AND SUBSTANTIATION REQUIREMENTS RELATING TO THE TAXATION OF FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will set forth the requirements to substantiate any deduction or credit for certain business-related expenses with adequate records or sufficient evidence corroborating a taxpayer's own statement.

Timetable:

Action	Date	FR Cite
NPRM	11/06/85	50 FR 46006
NPRM Comment Period End	01/06/86	50 FR 46006
Hearing	03/04/86	51 FR 02898
Final Action	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-140-86.

Drafting Attorney: Joel Rutstein (202) 566-4430.

Reviewing Attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service NW, Washington, DC 20224, 202 566-4430

RIN: 1545–AJ40

2606. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33326
NPRM Comment Period End	09/21/83	
Hearing	10/04/83	
Final Action	03/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-361-76.

Drafting Attorney: Joel S. Rutstein (202) 566-4430.

Reviewing Attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AB09

2607. ● LIMITATION OF DEDUCTIONS ON PASSENGER AUTOMOBILES AND OTHER LISTED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules limiting the Investment Tax Credit (if any) and Cost Recovery deductions allowable with respect to passenger automobiles and certain other "listed property".

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-015-89

Drafting Attorney: John E. Moffat (202) 566-6682.

Reviewing Attorney: Charles B. Ramsey (202) 566-3553.

Treasury Attorney: John H. Parcell (202) 566-2784.

Agency Contact: John E. Moffat, Senior Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-6682

RIN: 1545–AN05

2608. NOTICE OF PROPOSED RULEMAKING RELATING TO RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280G Internal Revenue Code of 1986

CFR Citation: 26 CFR 280G

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Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-217-84.

Drafting attorney: Stuart Wessler (202) 566-6016.

Reviewing attorney: Sharon Galm (202) 566-4741.

Treasury attorney: Don Rocap (202) 566-5911.

Income Tax

Agency Contact: Stuart Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6016

RIN: 1545–AH49

2609. AFFILIATED GROUPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides proper adjustments to stock bases and earnings and profits of members of an affiliated group in section 304 (a) transfers of intragroup stock.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-2-88

Drafting attorney: Paul Horrell (202) 566-2457.

Reviewing attorney: Virginia Voorhees (202) 566-2454.

13 Income Taxes

Agency Contact: Paul Horrell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2457

RIN: 1545–AL41

2610. INCOME TAX–PART 1 TEMPORARY REGULATIONS-RECOGNITION OF GAIN OR LOSS LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY (TRA 1986, SECTIONS 631 TO 633)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide rules for the recognition of gain or loss on a corporation's liquidation sales or distributions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-117-86.

Drafting attorney: Peter J. Bautz (202) 566-3341.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Peter J. Bautz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3341

RIN: 1545–AJ01

2611. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e) and the consequences which result from making such an election

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-51-87

Drafting attorney: Linda Schultz (202) 566-3422.

Reviewing attorney: Marcus Blumkin (202) 566-3216.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Linda Schultz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545–AK30

2612. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO CERTAIN DISTRIBUTIONS UNDER SECTION 355

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to cause the recognition of net gain by the distributing corporation ("parent") upon the distribution of the stock and securities of a controlled corporation ("subsidiary") in a transaction to which section 355 applies when the distribution is part of a transaction that is made with a gain avoidance purpose and within two years of the distribution a person acquires control of the parent or the subsidiary.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-88

Drafting attorney: Robert Casey (202) 566-3551.

Reviewing attorney: Glenn Carrington (202) 566-3430.

Treasury attorney: Thomas Wessel (202) 566-2927.

13 Income tax

Agency Contact: Robert Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AM34

2613. ● SCOPE OF GENERAL UTILITIES REPEAL

Legal Authority: 26 USC 337(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), thereby requiring corporations to recognize gain in most cases upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. It has been determined that GU repeal can be circumvented in certain circumstances, including, downstream mergers, conversion into tax exempt entities, and cross ownership. This project will seek to identify these areas and promulgate regulations to assure corporate level gain recognition as required by the Act.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-014-89

Drafting attorney: John Geracimos (202) 566-3651.

Reviewing attorney: Virginia Voorhees (202) 566-8454.

Agency Contact: John Geracimos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3651

RIN: 1545–AN21

2614. DEEMED PURCHASE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	51 FR 23790
NPRM Comment Period End	09/02/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-191-82.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel (202) 566-3458.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF29

2615. INCOME TAX-ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	09/06/84	49 FR 35144
NPRM Comment Period End	11/05/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-26-83.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Thomas F. Wessel (202) 566-2927.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AF38

2616. REGULATIONS UNDER SECTION 338 (H) (10) AS ADDED TO THE CODE BY SECTION 306 OF THE TECHNICAL CORRECTIONS ACT OF 1982, RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the rules of section 338 (h) (10) under which a special election can be made so that target recognizes gain or loss on the deemed sale of its assets. The proposal is necessary so that affected taxpayers can make election under the provision.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 763
NPRM Comment Period End	03/10/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-218-83.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

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Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel (202) 566-2927.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545-AF93

2617. QUESTIONS AND ANSWERS RELATING TO MISCELLANEOUS MATTERS UNDER SECTION 338

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on a broad range of issues under section 338.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 16430

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-33-85.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Thomas F. Wessel (202) 566-4979.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545-AH66

2618. STATEMENTS OF ELECTION AND DUE DATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance to taxpayers who make express elections under section 338 pursuant to the extended July 15, 1986, filing deadline where the statute of limitations in the target's taxable year which includes the acquisition date has expired prior to July 15, 1986, or will expire shortly thereafter.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17989
NPRM Comment Period End	07/15/86	51 FR 17989

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-8-86.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545-AI53

2619. MANDATORY APPLICATION OF MADSP FORMULA FOR DETERMINATION OF DEEMED SALE PRICE FOR OLD TARGET'S ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will require the use of the MADSP formula in a qualified stock purchase to which section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-76-86

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judd Kelly (202) 566-2175.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545-AJ07

2620. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-49-87

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545-AK32

2621. APPLICATION OF INSTALLMENT METHOD TO DEEMED SALE OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.338(h)(10)

Legal Deadline: None

Abstract: The regulations will provide guidance for utilization of the installment method of reporting in a qualified stock purchase to which section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-88-88

Drafting attorney: Mark Schneider (202) 566-3544.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Judd Kelley (202) 566-2175.

Income Taxes

Agency Contact: Mark Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AM84

2622. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-610-86

Drafting attorney: Elizabeth U. Karzon (202) 566-3160.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-3992.

13 Income taxes.

Agency Contact: Elizabeth U. Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545-AK74

2623. INCOME TAX—PART 1—TEMPORARY-WHETHER EARNINGS AND PROFITS SHOULD BE ALLOCATED TO AN ACQUIRING CFC FROM AN ACQUIRED CFC FOLLOWING A NON-RECOGNITION TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Should earnings and profits be allocated to an acquiring CFC from an acquired CFC following a transaction which qualified for non-recognition treatment.

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-76-86.

Drafting attorney: Richard Chewning (202) 566-6384.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-6384

RIN: 1545-AI32

2624. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (NPRM)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 7

Legal Deadline: None

Abstract: Proposal would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9236
NPRM Comment Period End	05/05/89	54 FR 9236
Final Action	04/15/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-986-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AJ78

2625. ● CERTAIN EXCHANGES DESCRIBED IN MORE THAN ONE CODE PROVISION (TEMP REG)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Change regulations to conform treatment under the section 367(b) regulations of the transfer of controlled foreign corporation stock.

Timetable:

Action	Date	FR Cite
Temporary Regulation	11/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-358-89

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AN59

2626. INCOME TAX–EXCHANGE FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 (a) (2) (F) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to reorganizations of undiversified investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 1744
NPRM Comment Period End	03/08/81	46 FR 1744

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-135-76.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3551

RIN: 1545–AB31

2627. INCOME TAX–OWNERSHIP CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on what constitutes "ownership change" under section 382 of the Internal Revenue Code of 1986 (generally, an "ownership change" is a shift in loss corporation stock ownership (after which the corporation's net operating loss carryovers are limited)).

Timetable:

Action	Date	FR Cite
NPRM	08/11/87	52 FR 29704
NPRM Comment Period End	10/13/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-106-86.

Drafting Attorney: Keith E. Stanley (202) 566-3367.

Reviewing Attorney: Charles M. Whedbee (202) 566-3422.

Treasury Attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AJ00

2628. COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers and liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information:

CO-66-87.

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3422.

Treasury attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AK87

2629. SECTION 382 LIMITATION ON GROUPS FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This temporary regulation provides rules for computation of the section 382 limitation by groups filing consolidated returns.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-132-87

Drafting attorney: David P. Madden (202) 566-3205.

Reviewing attorney: Charles Whedbee (202) 566-3422.

Treasury attorney: Thomas Wessel (202) 566-8277.

Income Taxes

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AL36

2630. ALLOCATION OF A LOSS CORPORATION'S INCOME OR LOSS FOR THE TAXABLE YEAR THAT INCLUDES THE CHANGE DATE BETWEEN THE PERIODS ENDING WITH AND AFTER THE CHANGE DATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Except as provided in regulations, sections 382 (b) (3) (A) and (d) (1) of the Internal Revenue Code of 1986 provide for a ratable allocation of income or net operating loss, respectively, for the taxable year that includes the change date. Notice 87-79, 1987-2 C.B. 387, states that regulations will, in certain cases, provide taxpayers with an election to allocate income and loss between the periods ending with and after the change date on the basis of a closing of their books as of the change date (rather than on the basis of a ratable allocation). The purpose of this regulations project is to implement the above mentioned portion of Notice 87-79 and to provide guidance in certain related areas.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-49-88

Drafting attorney: Keith E. Stanley (202) 566-3618.

Reviewing attorney: James Dahlberg (202) 566-3255.

Treasury attorney: Thomas Wessel (202) 566-8277.

13 Income Tax

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3618

RIN: 1545–AL58

2631. ● AMENDMENT OF SEC. 1.382-2T(H)(4)(X) TO GRANT THE IRS AUTHORITY TO DESIGNATE IN THE INTERNAL REVENUE BULLETIN ADDITIONAL OPTIONS TO BE EXCEPTED FROM ATTRIBUTION RULES OF SEC. 1.382-2T(H)(4)(I)

Legal Authority: 26 USC 0382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of this project is to amend the Temporary regulations under section 382 of the Internal Revenue Code to provide additional exceptions to the operation of the options attribution rules of sec. 1.382-2T(h)(4)(x) and to grant the Internal Revenue Service the authority to issue Revenue Rulings to provide future additional exceptions to those option attribution rules.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/29/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-010-89

Drafting Attorney: Keith E. Stanley (202) 566-3367.

Reviewing Attorney: James L. Dahlberg (202) 566-3255.

Treasury Attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AN22

2632. ● CORPORATE CONTRACTIONS UNDER SECTION 382

Legal Authority: 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations will be issued which will identify certain acquisition indebtedness as a corporate contraction for purposes of section 382(e)(2).

Timetable:

Action	Date	FR Cite
Temporary Regulation	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-035-89

Drafting attorney: David Madden (202) 566-3205.

Reviewing attorney: James Dahlberg (202) 566-3255.

Treasury attorney: Thomas Wessel (202) 566-8277.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AN60

2633. ● FOREIGN CORPORATE FIRST TIER ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.382-2T(k)(6)

Legal Deadline: None

Abstract: The temporary regulations under section 382 of the Code require loss corporations to identify their five percent shareholders and any five percent shareholders of the loss corporation's corporate shareholders. Foreign corporations do not always have the ability to identify their five percent shareholders. This project will consider whether the attribution, aggregation, and segregation rules under section 382 should be modified when applied to foreign corporate shareholders of a loss corporation, and whether the Service should substitute a more convenient inquiry for foreign corporate shareholders than the current five percent shareholder identification.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-034-89

Drafting attorney: Vicki Hyche (202) 566-3265.

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Reviewing attorney: Jamie Dahlberg (202) 566-3255.

Agency Contact: Vicki J. Hyche, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3265

RIN: 1545–AN61

2634. SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-68-87

Drafting attorney: Lori Jones (202) 566-3205.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Lori Jones, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3205

RIN: 1545–AK28

2635. INCOME TAX--REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (a) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	48 FR 10374
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-133-80.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD68

2636. INCOME TAX--REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 408 (a) (6) Internal Revenue Code of 1986; 26 USC 401 (a) (9) Internal Revenue Code of 1986; 26 USC 408 (b) (3) Internal Revenue Code of 1986; 26 USC 408 (d) (3) (C) Internal Revenue Code of 1986; 26 USC 219 (d) (4) Internal Revenue Code of 1986; 26 USC 403 (b) (10) Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984, and Income Tax Reform Act of 1986 concerning the required distributions from qualified plans, individual retirement accounts and 403(b) annuities and custodial accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28070
HEARING	12/04/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-113-82.

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Jerry Holmes/R. Wickersham (202) 566-4747.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AE95

2637. INCOME TAX - - PART 1--ADDITIONAL PARTICIPATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
02/01/88 Deadline for final regulations

Abstract: The regulations set forth rules relating to minimum participation requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6710
NPRM Comment Period End	04/17/89	54 FR 6710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-44-87

Drafting attorney: Michael Lloyd (202) 343-8954.

Reviewing attorney: Nancy Marks (202) 343-8954.

Agency Contact: Michael Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 343-8954

RIN: 1545–AK48

2638. CASH OR DEFERRED ARRANGEMENTS (TAX REFORM ACT OF 1986)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(k)

Legal Deadline: NPRM, Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to cash or deferred arrangements brought about because of the amendment of section 401 (k) by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29719
NPRM Comment Period End	10/07/88	53 FR 29719
Hearing	01/27/89	54 FR 4045
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-158-86

Drafting attorney: Catherine L. Fernandez (202) 566-3050

Reviewing attorney: Mary E. Oppenheimer (202) 566-6628.

Treasury attorney: Paul Strella (202) 566-2784.

Agency Contact: Catherine L. Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AI79

2639. INCOME TAX -- PART 1--APPLICATION OF NONDISCRIMINATION RULES TO INTEGRATED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (l) Internal Revenue Code of 1986; 26 USC 401 (a) (5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to the application of the nondiscrimination rules to integrated plans.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Public Hearing	06/29/89	54 FR 12925

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-159-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Treasury attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI86

2640. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(m)

Legal Deadline: NPRM, Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to nondiscrimination requirements for employer matching contributions and employee contributions. The regulations will also provide rules on computing the excise tax on excess contributions made under a cash or deferred arrangement and on excess aggregate contributions.

Timetable:

Action	Date	FR Cite
NPRM	08/08/88	53 FR 29719
NPRM Comment Period End	10/07/88	53 FR 29719
Hearing	01/27/89	54 FR 4045
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-160-86

Drafting attorney: Catherine L. Fernandez (202) 566-3050.

Reviewing attorney: Mary E. Oppenheimer (202) 566-6628.

Treasury attorney: Paul Strella (202) 566-2784.

Agency Contact: Catherine L. Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AI80

2641. INCOME TAX--DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	04/06/85	50 FR 13821
NPRM Comment Period End	06/07/85	50 FR 13821
Hearing	09/20/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-81.

Drafting attorney: Harry Beker (202) 566-3251.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AD81

2642. ANNUAL INFORMATION REPORTS BY TRUSTEES AND ISSUERS OF INDIVIDUAL RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; PL 98-369, Sec 147

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: On June 28, 1983, the Internal Revenue Service issued news release IR-83-86 requiring new information reporting by trustees of individual retirement accounts and issuers of individual retirement annuities

(including accounts and annuities that are simplified employee pensions). Form 5498, Individual Retirement Arrangement Information, was prescribed in the news release as the information return to be used for this purpose. This regulation project will amend the regulations under section 408 to conform them to the reporting requirements announced in the news release. In addition, section 147 of the Tax Reform Act of 1984 amended section 408 (i) of the Code to require that contributions be identified as to the taxable year to which they apply. This amendment will be included in this regulation period.

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45450
NPRM Comment Period End	01/15/85	49 FR 45450
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-65-83.

Drafting attorney: William Gibbs (202) 566-3050.

Reviewing attorney: A. Thomas Brisendine (202) 566-3050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AF83

2643. COVERAGE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: Rules relating to minimum coverage requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/18/89	54 FR 21437
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-128-86

Drafting attorney: Rebecca Wilson (202) 566-3251.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Rebecca Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AK41

2644. INC. TAX – PART 1 – BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411 (b) (1) (H) Internal Revenue Code of 1986; 26 USC 411 (b) (2) Internal Revenue Code of 1986; 26 USC 410 (a) (2) Internal Revenue Code of 1986; 26 USC 411 (a) (8) (B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to benefit accruals after attainment of normal retirement age and maximum age conditions on participating in certain type of plans.

Timetable:

Action	Date	FR Cite
NPRM	04/11/88	53 FR 11876
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-184-86

Drafting attorney: Stephen H. Sherman (202) 566-3251.

Reviewing attorney: Michael Garvey (202) 566-3251.

Treasury attorney: Paul Strella (202) 566-8277

Agency Contact: Stephen H. Sherman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3251

RIN: 1545–AI85

2645. INCOME TAX - PART 1 - MINIMUM VESTING STANDARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; PL 99-514, Sec 1113 Tax Reform Act of 1986; PL 99-514, Sec 1141 Tax Reform Act of 1986; 26 USC 411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Deadline set by Section 1141 of PL 99-514 "Tax Reform Act of 1986"

Abstract: These regulations will amend existing rules to reflect changes made by section 1113 of the Tax Reform Act of 1986, relating to minimum vesting standards and participation standards.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 261
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-167-86

Drafting attorney: V.A. Moore (202) 566-4503.

Reviewing attorney: James Brokaw (202) 566-3496.

Cross-Reference to EE-73-87

Agency Contact: V. A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4503

RIN: 1545–AI88

2646. INCOME TAX–EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/28/83	48 FR 8293
NPRM Comment Period End	04/29/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-3-81.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AD90

2647. INCOME TAX REGULATIONS–AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (n) Internal Revenue Code of 1986; 26 USC 414 (m) (5) Internal Revenue Code of 1986; 26 USC 414 (o) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the treatment of certain leased employees. In addition, the regulations will provide guidance regarding the aggregation of certain management companies as affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32502
NPRM Comment Period End	10/26/87	
Hearing	12/02/87	52 FR 45835
Hearing	02/25/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-111-82.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Office of Tax Legislative Counsel reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: Patricia McDermott/Rhonda Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AE91

2648. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE" AND "COMPENSATION"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1114 Tax Reform Act of 1986; PL 99-514, Sec 1115 Tax Reform Act of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the definitions of "highly compensation contained in subsections 414(q) and (s) of The Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-129-86

Drafting attorney: Suzanne K. Tank (202) 343-6954.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Cross Reference to EE-74-87.

Agency Contact: Suzabbe K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-6954

RIN: 1545–AI91

2649. TAXABLE YEARS OF CERTAIN ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to S corporations, personal service corporations and partnerships, that must conform their taxable years, in general, to the taxable year of their owners.

Timetable:

Action	Date	FR Cite
NPRM	12/23/87	52 FR 48546
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-45-87

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AK63

2650. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED YEAR BY PARTNERSHIPS, S CORPORATIONS AND PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 444 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to elections of taxable years other than the required taxable year by partnerships, S corporations and personal service corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19715
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-53-88

Drafting attorney: Arthur Davis (202) 377-9581.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury accountant-advisor: Marc Levy (202) 535-6966.

13 Income taxes

Agency Contact: Arthur Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue, Washington, D.C. 20224, 202 377-9581

RIN: 1545–AL68

2651. LIMITATION OF THE USE OF THE CASH METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain C Corporations, partnerships with a corporate partner and tax shelters prohibited from using the cash method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22796
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-122-86.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Thomas Evans (202) 566-3277.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3637

RIN: 1545–AJ52

2652. NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING—CLARIFICATION OF AMOUNTS DETERMINED TO BE UNCOLLECTIBLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 (d) (5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will clarify amounts determined to be uncollectible with respect to the nonaccrual-experience method of accounting under section 448 (d) (5).

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-79-88

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4402.

13 Income Tax

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AM33

2653. ACCOUNTING FOR LONG-TERM CONTRACTS; CORPORATIONS FILING CONSOLIDATED RETURNS WITH A CONTRACTOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules for the manufacturer of components and subassemblies reasonably expected to be incorporated in the subject matter of an extended period long-term contract in the case of members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 3
NPRM Comment Period End	03/07/86	51 FR 3
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-121-85.

Drafting attorney: Carol Conjura (202) 566-3731.

Reviewing attorney: John M. Fischer (202) 566-6131.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3731

RIN: 1545–AI19

2654. INCOME TAX—GENERAL RULES FOR INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	46 FR 10749
Hearing	10/01/81	46 FR 40774
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-173-80.

Drafting attorney: Chris Rogers (202) 377-9583.

Reviewing attorney: George Wright (202) 566-9587.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: Chris Rogers, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9583

RIN: 1545–AB42

2655. INCOME TAX—INSTALLMENT REPORTING - ASSET SALES AND LIQUIDATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation. Additionally includes rules regarding the allocation of consideration received in a multiple asset sale if a disposition of any one of the properties would qualify for installment sale treatment.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	49 FR 1742
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-184-80.

Drafting attorney: Robert Deitz (202) 377-9582.

Reviewing attorney: Doug Fahey (202) 566-4442.

Treasury attorney: Mark Levy (202) 566-4902.

Agency Contact: Robert Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9582

RIN: 1545–AB43

2656. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain is not generally recognized.

Timetable:

Action	Date	FR Cite
NPRM	05/03/84	49 FR 18866

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-186-80.

Drafting Attorney: D. Lindsay Russell (202) 343-2361.

Reviewing Attorney: John M. Fischer (202) 566-8131.

Agency Contact: D. Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-2361

RIN: 1545–AB44

2657. INCOME TAX—INSTALLMENT METHOD REPORTING BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in personal property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	11/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-146-81.

Drafting attorney: Benjamin P. Foster (202) 343-0328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Benjamin P. Foster, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-0328

RIN: 1545–AB47

2658. TRANSITIONAL RULE RELATING TO CERTAIN INSTALLMENT SALES BY MANUFACTURERS TO DEALERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to an exception from the general rules applicable to installment sales.

Timetable:

Action	Date	FR Cite
NPRM	07/12/88	53 FR 26279
NPRM Comment Period End	09/12/88	53 FR 26279

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-51-88

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Taxes

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AL55

2659. INCOME TAX REGULATIONS—PART 1. INSTALLMENT SALE BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to sales by dealers of personal property on the installment plan.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26903
NPRM Comment Period End	09/26/86	51 FR 26903
Final Action	11/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-141-83.

Drafting attorney: Benjamin P. Foster (202) 343-0328.

Office of Tax Legislative Counsel reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Benjamin P. Foster, Tax Law Specialist, Department of the Treasury, Internal Revenue Service,

1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-0328

RIN: 1545–AF71

2660. ● SPECIAL RULES FOR NONDEALERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the pledging rules and special interest charge of section 453A.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-025-89

Drafting Attorney: James A. Orefice (202) 566-3637.

Reviewing Attorney: Cynthia L. Clark (202) 566-6302.

Treasury Attorney: Marc Levy (202) 566-4902.

Agency Contact: James Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AN13

2661. CERTAIN INDEBTEDNESS TREATED AS PAYMENTS ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for treating certain indebtedness as payment on installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34778
NPRM Comment Period End	11/07/88	53 FR 34778

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-88

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Marc Levy (202) 566-4902.

13 Income Tax

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4440

RIN: 1545–AM37

2662. INCOME TAX—EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 458 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34520

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-195-78.

Drafting attorney: Edward C. Schwartz (202) 566-3861.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AB48

2663. TEMPORARY INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-257-84.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AH33

2664. INCOME TAX—LIMITATION ON DEDUCTIONS IN CASE OF FARMING SYNDICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 464 Internal Revenue Code of 1986; 26 USC 278 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that enterprises which qualify as farming syndicates must deduct expenses for feed, seed fertilizer, etcetera, only when used or consumed and to capitalize certain cost of poultry. Furthermore, farming syndicates are to capitalize certain expenses of groves, orchards and vineyards to the extent such expenses are incurred before the grove, orchard or vineyard becomes productive.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	48 FR 51936
NPRM Comment Period End	01/16/84	48 FR 51936
Hearing	03/08/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-144-76.

Drafting attorney: Unassigned.

Reviewing attorney: Cynthia C. Clark (202) 566-6302.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Evans (202) 566-6277.

Agency Contact: Cynthia Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6302

RIN: 1545–AB51

2665. INCOME TAX—DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; PL 94-455, Sec 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	08/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	44 FR 32235
Hearing	09/27/79	44 FR 49701
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-168-76.

Drafting attorney: Charles Alton (202) 377-9660.

Reviewing attorney: William P. O'Shea (202) 566-3241.

Treasury attorney: John H. Parcell (202) 535-8965.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AB52

2666. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This temporary regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-155-85.

Drafting attorney: Jeffrey C. Golden (202) 566-3244.

Reviewing attorney: Frances D. Schafer (202) 566-3629.

Treasury attorney: John H. Parcell (202) 566-2784.

Agency Contact: Jeffrey C. Golden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3244

RIN: 1545–AH41

2667. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-5T; 26 CFR 1.469-11T

Legal Deadline: None

As an alternative to a no-rule position on this issue, the Service could publish a revenue procedure that contains the terms and conditions of a plan that must be.

Abstract: The proposed regulations address essential issues in connection with passive activity losses and credits.

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	53 FR 5733
Hearing	06/28/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-14-88

Drafting attorney: Robert Stoddart (202) 566-4751.

Reviewing attorney: Michael Grace (202) 566-4751.

Treasury attorney: John H. Parcell(202) 535-8965.

13 Income Tax

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4751

RIN: 1545–AB26

2668. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS - MISCELLANEOUS ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-6T; 26 CFR 1.469-7T; 26 CFR 1.469-8T; 26 CFR 1.469-9T; 26 CFR 1.469-10T

Legal Deadline: None

Abstract: The proposed regulations address miscellaneous issues in connection with passive activity losses and credits.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-083-88

Drafting attorney: Robert Stoddart (202) 566-4751.

Reviewing attorney: Michael J. Grace (202) 566-4751.

Treasury attorney: John H. Parcell (202) 566-6965.

Income Tax

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4751

RIN: 1545–AM58

2669. ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulations will provide final rules for allocating interest expense for purposes of applying the passive loss, investment interest and personal interest limitations.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25036
NPRM Comment Period End	08/31/87	52 FR 25036
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-010-87

Drafting attorney: Robert N. Deitz (202) 377-9582.

Reviewing attorney: Michael J. Grace (202) 566-6460.

Treasury attorney: Adam Handler (202) 535-6964.

Passive Activity Losses and Credits

Agency Contact: Robert N. Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9582

RIN: 1545–AM83

2670. ● APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO TRUSTS, ESTATES, AND THEIR BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0469 (a)(2)(A) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-8T

Legal Deadline: None

Abstract: This regulation will describe how the passive loss limitations affect trusts and estates.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-036-89

Drafting attorney: Robert Stoddart (202) 377-9660.

Reviewing attorney: Michael Grace (202) 377-9660.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AN62

2671. ● LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS–FORMER PASSIVE ACTIVITIES

Legal Authority: 26 USC 469 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-1T(k)

Legal Deadline: None

Abstract: The regulations will provide rules concerning the treatment of former passive activities and changes in the status of certain corporations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-37-89

Drafting attorney: Andrea Tucker (202) 377-9665.

Reviewing attorney: Michael Grace (202) 377-9660.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Andrea Tucker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9665

RIN: 1545–AN66

2672. ● LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS - $25,000 OFFSET FOR RENTAL REAL ESTATE ACTIVITIES

Legal Authority: 26 USC 0469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-9T

Legal Deadline: None

Abstract: The regulation will address the offset of up to $25,000 from passive activity loss and passive credit limitations where the taxpayer is a natural person that actively participates in rental real estate activities and meets certain adjusted gross income requirements.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-040-89

Drafting attorney: Dexter Johnson (202) 377-9660.

Reviewing attorney: Michael Grace (202) 377-9660.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AN65

2673. ● APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO INTERESTS IN PUBLICLY TRADED PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-10T

Legal Deadline: None

Abstract: This regulation will describe how the passive loss and credit limitations affect publicly traded partnerships and their partners.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: PS-038-89

Drafting attorney: Robert Stoddart (202) 377-9660.

Reviewing attorney: Michael Grace (202) 377-9660.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AN63

2674. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS - DEFINITION OF ACTIVITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-4T; 26 CFR 1.469-5T; 26 CFR 1.469-11T; 26 CFR 602.101

Legal Deadline: None

Abstract: Pursuant to the grant of authority in section 469(l), the regulations define "activity".

Timetable:

Action	Date	FR Cite
NPRM	05/12/89	54 FR 20606
NPRM Comment Period End	08/31/89	54 FR 20606
Final Action	05/01/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-001-89

Drafting attorney: Robert Stoddart (202) 566-4751.

Reviewing attorney: Michael J. Grace (202) 566-4751.

Treasury attorney: John H. Parcell (202) 535-6965.

Income Taxes

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4751

RIN: 1545–AM88

2675. ● LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS-SELF CHARGED ITEMS

Legal Authority: 26 USC 0469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-7T

Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: PS-039-89

Drafting attorney: Dexter Johnson (202) 377-9660.

Reviewing attorney: Michael Grace (202) 377-9660.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AN64

2676. SPECIAL RULES FOR ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES IN THE CASE OF PASSTHROUGH ENTITIES

Legal Authority: 26 USC 469(l) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulation will address the treatment of interest expense on (1) debt allocated to distributions by passthrough entities; (2) repayment of passthrough entity debt; (3) debt allocated to expenditures for interests in passthrough entities; and (4) allocation of debt to loans between passthrough entities and interest holders.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-109-87

Drafting attorney: Dexter Johnson (202) 377-9660.

Reviewing attorney: Michael Grace (202) 377-9660.

Treasury attorney: Adam A. Handler (202) 535-6964.

Passive Activity Losses and Credits

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9660

RIN: 1545–AM79

2677. INCOME TAX–THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 472 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	04/11/83	48 FR 6134
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-254-81.

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Pleet (202) 566-3261

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., N.W., Washington, D.C. 20224, 202 343-2383

RIN: 1545–AB55

2678. ● SIMPLIFIED DOLLAR VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar-value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-30-87

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Pleet (202) 566-3261.

Treasury accountant advisor : Marc Levy (202) 535-6966.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2383

RIN: 1545–AN09

2679. INCOME TAX--RULES CLARIFYING THE REGULATIONS WITH RESPECT TO THE COMPUTATION OF "GROSS INCOME" OF AN ELECTRIC COOPERATIVE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501 (c) (12) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that electric cooperatives would take into account costs of goods sold when determining income under the 85 percent member-income test.

Timetable:

Action	Date	FR Cite
NPRM	01/10/84	49 FR 1244
NPRM Comment Period End	03/12/84	49 FR 1244
Hearingheld 5/31/84	03/26/84	49 FR 1186
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-17-81.

Drafting attorney: William D. Gibbs (202) 566-3050.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AD99

2680. BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide proposed regulations that relate to the repeal of the bad debt reserve for large banks.

Timetable:

Action	Date	FR Cite
Temporary Regulation	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

FI-81-86.

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Sharon Galm (202) 566-3326.

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3458

RIN: 1545–AJ31

2681. INCOME TAX--LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
NPRM	12/19/83	48 FR 56083
NPRM Comment Period End	02/17/84	48 FR 56083

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-152-79.

Drafting attorney: Eric E. Boody (202) 566-4336.

Reviewing attorney: David Brandon (202) 566-3458.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AB66

2682. ● TAX CONSEQUENCES OF FEDERAL FINANCIAL ASSISTANCE PROVIDED IN CONNECTION WITH TAXABLE ASSET ACQUISITIONS OF TROUBLED FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 597 Internal Revenue Code of 1986, as amended

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Purpose of regulation is to implement changes to Section 597 by FIRREA. The FDIC needs this guidance to facilitate the reorganization of failed S&L s.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-045-89

Drafting attorney: Bernita Thigpen (202) 566-3829.

Reviewing attorney: Steven Glickstein (202) 566-3846.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545–AN70

2683. INCOME TAX--SUPPLEMENTARY RULES ON LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL & GAS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613 (a) Internal Revenue Code of 1986; 26 USC 703 (a) Internal Revenue Code of 1986; 26 USC 705 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/77	42 FR 24279
Hearing	08/31/78	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-105-75.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AB73

2684. TRANSFERS BY INDIVIDUALS TO CORPORATION UNDER SECTION 613A (C)(10)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613A (c) (10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers using the section 613A(c)(10) exception to the transfer rules under section 613A(c)(9). In general section 613A(c)(9) disallows percentage depletion to the transferee of proven oil or gas property. Section 613A(c)(10) relates to the transfer of qualified property by an individual to a qualified transferee corporation solely in exchange for stock.

Timetable:

Action	Date	FR Cite
NPRM	10/03/84	49 FR 39076
NPRM Comment Period End	12/03/84	49 FR 39076
Hearing	03/15/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-35-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545–AB74

2685. TAXABLE YEARS OF CERTAIN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the appropriate taxable year for certain partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/29/87	52 FR 49030
Interim Final Rule	07/05/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-101-88.

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorney: Rudi Planert (202) 566-9293.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3980

RIN: 1545–AJ47

2686. PARTNER'S SHARE OF PARTNERSHIP LIABILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations revise the Income Tax Regulations under section 752 of the Internal Revenue Code of 1954 to conform such regulations to changes in the law with respect to a partner's share of partnership liabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53174
NPRM Comment Period End	03/30/89	53 FR 53174
Extension of comment periodNPRM	00/00/00	54 FR 25878
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-229-84.

Drafting attorney: Mary A. Munday (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Greg Marich (202) 566-5453.

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury,

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Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545–AH26

2687. ● AMENDMENTS TO TEMPORARY REGULATIONS UNDER SECTIONS 752 AND 704(B) ISSUED 12/29/88

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These amendments make certain clarifying and corrective changes to the temporary regulations issued 12/29/88 (RIN 1545-AH26) relating to the treatment of partnership liabilities and the allocation of deductions attributable to nonrecourse debt.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-018-89

Drafting attorney: Mary A. Munday (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Greg Marich (202) 566-5453.

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545–AN29

2688. MORTALITY AND MORBIDITY TABLES TO BE USED FOR INSURANCE PRODUCTS FOR WHICH THERE ARE NOT APPLICABLE COMMISSIONER'S TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 807 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the mortality and morbidity tables to be used in computing reserves for life insurance contracts for which there are no applicable Commissioner's standard tables.

Timetable:

Action	Date	FR Cite
NPRM	01/02/87	52 FR 0063
NPRM Comment Period End	03/03/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-71-86.

Drafting attorney: Katherine A. Hossofsky (202) 566-3458.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AK04

2689. IMPUTED EARNINGS RATE FOR MUTUAL LIFE INSURANCE COMPANIES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 809 (d) Internal Revenue Code of 1986; 26 USC 809 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to mutual life insurance companies regarding the computation of the imputed earninge rate.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-159-84.

Drafting attorney: Katherine A. Hossofsky (202) 566-3458.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AG63

2690. ● TREATMENT OF SALVAGE RECOVERABLE UNDER SECTION 832

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.832-4T

Legal Deadline: None

Abstract: Regulations will provide rules relating to the proper treatment of salvage and reinsurance recoverable in the computation of the losses incurred deduction of Section 832(b)(5).

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-043-89

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3294.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AN67

2691. TEMPORARY INCOME TAX REGULATIONS–DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses by property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of company's loss payment pattern.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-138-86.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Joe Ryals (202) 566-3459.

Treasury attorney: Don Rocap (202) 566-8277.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3294

RIN: 1545–AI96

2692. TREATMENT OF DESIGNATED HEDGES BY RICS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 851 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules concerning the treatment of designated hedges by regulated investment companies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-092-88

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: David Brandon (202) 566-3287.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Regulated Investment Company

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AM82

2693. TREATMENT OF CERTAIN LOSSES ATTRIBUTABLE TO PERIODS AFTER OCTOBER 31 OF A TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY

Legal Authority: 26 USC 852 (b)(3) Internal Revenue Code of 1986; 26 USC 852 (b)(8) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986; 26 USC 852 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to certain losses attributable to periods after October 31 of a taxable year of a regulated investment company for purposes of determining taxable income, earnings and profits, and the amount which may be designated as capital gain dividends for a taxable year.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-86-88

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William Coppersmith (202) 566-3336.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Regulated Investment Companies

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545–AM56

2694. INCOME TAX–REAL ESTATE MORTGAGE INVESTMENT CONDUITS (REMICS); REPORTING REQUIREMENTS AND OTHER ADMINISTRATIVE MATTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860G Internal Revenue Code of 1986; 26 USC 1275(c) Internal Revenue Code of 1986; 26 USC 6049(d)(7)(D) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on how to elect REMIC status, and the reporting requirements on REMICs and brokers or middlemen holding as nominees for the actual owner.

Timetable:

Action	Date	FR Cite
Temporary Regulation	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-8-89

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lyden (202) 566-3287.

Treasury attorney: Reed Shuldiner (202) 566-2175.

Income Tax

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AM99

2695. APPCRTIONMENT OF EXPENSES IN THE FSC AND DISC CONTEXTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide guidance on how expenses in the DISC and FSC contexts will be apportioned.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17473
Final Action	11/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-028-88

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: T. Timothy Tuerff (202) 566-9050.

Treasury attorney: R. Watson (202) 343-0247.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the

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Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AK78

2696. CALIFORNIA FRANCHISE TAX AND SECTION 1.861-8 ALLOCATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 862 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarification of allocation of deduction for state income and franchise taxes. Provides guidance in situations not addressed by current examples in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/12/88	53 FR 49893
* Hearing	05/18/89	54 FR 12238
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-041-88

Drafting attorney: David F. Chan (202) 377-9059.

Reviewing attorney: Unassigned.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AM08

2697. ALLOCATION OF GROSS INCOME ATTRIBUTABLE TO INTEREST RATE SWAPS UNDER SECTION 863 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides source rules for income and expenses attributable to interest rate swap agreement. Interest rate swap agreement are basically agreements used to hedge against interest rate fluctuation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-987-86

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Bob Katcher (202) 566-6795.

Treasury attorney: Peter Daub (202) 566-5991.

13 Income Taxes

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AL26

2698. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income producing activities or property of corporations.

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35525
Hearing	02/21/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-952-86

Drafting attorney: David M. Merrick (202) 566-6276.

Reviewing attorney: Charles Saverude (202) 377-9060.

Treasury attorney: Mark Beams (202) 566-2964.

13 Income Taxes.

Agency Contact: David M. Merrick, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AM20

2699. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986; 26 USC 956 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules will relate to the treatment of income derived by foreign corporations from factoring the receivables of related persons, rules relating to certain investments in U.S. property and stock redemptions through related corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	53 FR 22186
Hearing	02/09/89	53 FR 49895
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-49-86.

Drafting attorney: Steven Marcuse (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes.

Agency Contact: Steven Marcuse and Barbara Felker, Attorney-Advisors, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AH85

2700. ● TRANSITION RULES FOR ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND RULES CONCERNING THE TREATMENT OF FINANCIAL ARRANGEMENTS THAT ALTER EFFECTIVE INTEREST EXPENSE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The interest allocation transition rules are a complex set of provisions featuring a three part phase-in scheme. Particular statutory provisions are eligible for extended relief from the generally applicable phase-in rule. The interest equivalent portion of the regulations deals with the impact of financial products on the total amount of interest expense that is subject to allocation.

Timetable:

Action	Date	FR Cite
NPRM	08/02/89	54 FR 31858

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-304-89

Drafting attorney: David Merrick (202) 566-6276.

Reviewing attorney: Charles Saverude (202) 377-9483.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: David Merrick, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AM10

2701. TEMPORARY REGULATIONS FOR SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide temporary rules for determining the source of income from sales of personal property until final regulations may be promulgated.

Timetable:

Action	Date	FR Cite
Temporary regulation	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-356-88

Drafting attorney: Carol P. Tello (202) 377-9059.

Reviewing attorney: Robert E. Culbertson (202) 377-9394.

Treasury attorney: Mary Bennett (202) 566-5992.

13 Income Taxes.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AL78

2702. EMPLOYMENT TAXES—APPLICATION OF REPEAL OF 30 PERCENT WITHHOLDING BY TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: Temporary regulations providing rules enforcing the exclusion from portfolio interest of interest received by certain related parties.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-921-87

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Dupuy (202) 566-6795.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Employment Taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitutuion Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM29

2703. UNTIMELY FILING BY FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules regarding deductibility of expenses by a foreign corporation that does not file a timely tax return.

Timetable:

Action	Date	FR Cite
NPRM	07/31/89	54 FR 31545
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-74-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-8140.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AJ74

2704. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND 2ND LEVEL WITHHOLDING TAXES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the calculation of the

branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	09/02/88	53 FR 34120
Hearing	01/17/89	53 FR 49208
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-934-86

Drafting attorney: Richard M. Elliott (202) 566-6457.

Reviewing attorney: Benedetta A. Kissel (202) 566-3179.

Treasury attorney: Ann Fisher (202) 566-4979.

13 Income taxes.

Agency Contact: Richard M. Elliott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AJ73

2705. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 892 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking by Cross-reference to temporary regulations regarding the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	53 FR 24100
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-285-88

Drafting attorney: David A. Juster (202) 566-6384.

Reviewing attorney: Bernard T. Bress (202) 566-6440.

Treasury attorney: Rom Watson (202) 343-0247.

13 Income Taxes.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6384

RIN: 1545–AL93

2706. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986; 26 USC 897(g) Internal Revenue Code of 1986; 26 USC 1445(e)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation of a partnership interest.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-48-86

Drafting attorney: James Sams (202) 377-9059.

Reviewing attorney: Charles Besecky (202) 566-3319.

Treasury attorney: David Crowe (202) 566-5791.

13Income Taxes.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AB98

2707. NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-491-87

Drafting attorney: Leslie A. Cracraft (202) 566-6276.

Reviewing attorney: Charles C. Saverude (202) 566-6008.

Treasury attorney: David Crowe (202) 566-6545.

13 Income taxes.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AK79

2708. AMENDMENT OF SECTION 1.901-2(E)(3)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 901(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules to implement 1986 Tax Act amendment to Section 901 concerning certain tax subsidiaries used by foreign governments. Proposal will deny foreign tax credit to the extent that there is a subsidy.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45942
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-942-86

Drafting attorney: Carol E. Murphy (202) 566-3160.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3160

RIN: 1545–AL90

2709. 904(F) TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1203

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904 (f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset the taxpayer's other foreign source income subject to a separate limitation for the taxable year on a proportionate basis before such losses offset the taxpayer's U.S. source income. Accordingly, the regulation will provide rules for the allocation of foreign source losses incurred in taxable years beginning before the effective date of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17472
Interim Final Rule	07/08/88	53 FR 17473
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-932-86

Drafting attorney: Willard W. Yates (202) 566-3896.

Reviewing attorney: Carol Doran-Klein (202) 566-6419.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income Taxes

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 202 566-3896

RIN: 1545–AL17

2710. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 (c) Internal Revenue Code of 1986; 26 USC 6689 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	01/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-61-86

Drafting attorney: Eli J. Dicker (202) 566-3489.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: David Crowe (202) 566-4791.

13 Income taxes.

Agency Contact: Eli J. Dicker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 5531, Washington, D.C. 20224, 202 566-3489

RIN: 1545–AC09

2711. AMENDMENT OF REGULATIONS UNDER SECTION 907 OF THE INTERNAL REVENUE CODE OF 1954 TO CONFORM THEM TO SECTION 211 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 907 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would amend the regulations under section 907 of the Internal Revenue Code of 1954, relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3083
NPRM Comment Period End	04/24/89	54 FR 3083
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-152-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 566-6045.

Treasury attorney: Peter Barnes (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service.

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RIN: 1545–AE34

2712. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION AND OTHER SPECIAL RULES FOR FSC

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 925 (b) (1) Internal Revenue Code of 1986; 26 USC 925 (b) (2) Internal Revenue Code of 1986; 26 USC 927 (d) (2) (B) Internal Revenue Code of 1986; 26 USC 927 (e) (1) to 927 (e) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for Application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and Other Special FSC provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	52 FR 6467
Hearing	01/19/88	
Final Action	04/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-153-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Treasury attorney: Rom Watson (202) 343-0247.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AI16

2713. INCOME TAX–DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936 (d) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-44-86

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-5815.

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AC10

2714. CBI INVESTMENTS OF SECTION 936 FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that give rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
Temporary regulation	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-955-86

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Chisoon Lee (202) 343-0247.

13 Income Taxes.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545–AL81

2715. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would define and interpret when foreign oil related income will be subject to current taxation under section 954 of the Internal Revenue Code of 1954. Changes to the applicable law were made by section 212 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32308
NPRM Comment Period End	10/26/87	
Final Action	12/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-57-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-8275.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AE38

2716. SUBPART F DEFINITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 957 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Definition of FPHC income. Particular issues include income equivalent to interest of property which does not give rise to income.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	53 FR 27532
Hearing	02/09/89	53 FR 49895
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-362-88

Drafting attorney: Philip L. Garlett (202) 566-6645.

Reviewing attorney: Phyllis Marcus (202) 566-6645.

Treasury attorneys: Peter Barnes (202) 566-5815 and Chisoon Lee (202) 566-8275.

13 Income Taxes.

Agency Contact: Philip L. Garlett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6645

RIN: 1545–AM15

2717. FUNCTIONAL CURRENCY

Legal Authority: 26 USC 7805 Internal Revenue Code Of 1986; 26 USC 985 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides rules for determining the currency an entity will compute gain or loss. If the entity is a foreign entity, it may be allowed to compute its gain or loss in a foreign currency and translate the net amount of such gain or loss into U.S. dollars.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20337
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-962-86

Drafting attorney: David Rosenberg (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AL24

2718. PROFIT AND LOSS TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 967 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a profit and loss method of accounting prior to the enactment of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32405
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-393-88

Drafting attorney: David Rosenberg (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM13

2719. ● COMPUTATION OF A BRANCH'S TAXABLE INCOME, TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-378-89

Drafting attorney: David Rosenberg (202) 566-6795.

Reviewing attorney: Bob Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AN32

2720. TAXATION OF EXCHANGE GAIN OR LOSS ON FOREIGN CURRENCY DENOMINATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 988 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides rules regarding the determination of gain or loss realized on section 988 transactions. Rules regarding the source and character of such gain or loss are also provided. The project also contains a definitional section which defines section 988 transactions, among other terms.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-936-86

Drafting attorney: Jeffrey Dorfman (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6284.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

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Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AL16

2721. DEFINITION OF A QUALIFIED BUSINESS UNIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 989 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Certain foreign operations of a United States person or foreign corporation may have a functional currency other than the United States dollar if such operations satisfy the requirements for a qualified business unit.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20650
Final Action	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-983-86

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 634-5406.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AM31

2722. TRANSITION RULE FOR QUALIFIED BUSINESS UNITS USING A NET WORTH METHOD OF ACCOUNTING FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 989 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a net worth method of accounting prior to the enactment of the Tax Reform Act of 1986. Under the Act, foreign branches must now account for their operations under the profit and loss method as set forth in section 987 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20651
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-964-86

Drafting attorney: David Rosenberg (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes.

Agency Contact: David Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AL29

2723. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 995 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-043-86.

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AG71

2724. INCOME TAX–TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1058 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	48 FR 33912
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-182-78.

Drafting attorney: Mark Smith (202) 566-3829.

Reviewing attorney: Al Kraft (202) 566-3297.

Agency Contact: Mark Smith, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545–AC20

2725. CUSTOMS LIMITATION ON TAXPAYER'S BASIS IN PROPERTY IMPORTED FROM RELATED PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986 importers could claim a transfer price for customs purposes that was too low to be consistent with the price they claim for income tax purposes. Section 1248 of the Tax Reform Act of 1986 addressed this problem by enacting Section 1059A of the Internal Revenue Code, under which importers cannot claim a transfer price for income tax purposes that is higher than would be consistent with the value they claim for customs purposes. Regulations will be needed to provide rules for coordinating customs and tax valuation principles. It is anticipated that as a result of Section 1059A of the Internal Revenue Code, some taxpayers will claim higher transfer prices for customs purposes. No estimate has been made of the revenue.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33427
NPRM Comment Period End	11/02/87	
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-960-86

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: Rom Watson (202) 343-0247.

13 Income Taxes.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545–AJ92

2726. INCOME TAX–SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1060 Internal Revenue Code of 1986; 26 USC 755 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will explain and illustrate the application of the residual method of allocation to the purchase price in certain asset acquisitions. It will also provide certain informational reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/18/88	53 FR 27053
NPRM Comment Period End	11/15/88	53 FR 32899
Final Action	09/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-119-86.

Drafting attorney: Judith C. Winkler (202) 377-9665.

Reviewing attorney: Charles Whedbee (202) 566-3280.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9665

RIN: 1545–AJ06

2727. CHARACTER OF GAINS AND LOSSES IN CASE OF STRADDLES WHERE AT LEAST ONE POSITION IS ORDINARY AND AT LEAST ONE POSITION IS CAPITAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance with respect to the timing and character of gains and losses in case of straddles where at least one position is ordinary and at least one position is capital.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-106-88

Drafting attorney: Mark Scott (202) 566-4336.

Reviewing attorney: David Brandon (202) 566-3287.

Straddles

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AM57

2728. INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO MIXED STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) (1) Internal Revenue Code of 1986; 26 USC 1092 (b) (2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to mixed straddles. The regulations will explain the application of the straddle-by-straddle identification rules of mixed straddles and the establishment of mixed straddle accounts.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Hearing	05/02/85	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-299-84.

Drafting attorney: Mark Scott (202) 566-4336.

Reviewing attorney: David L. Brandon (202) 566-3287.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Mark Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AH59

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2729. INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981 AND THE TAX REFORM ACT OF 1984, RELATING TO STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to tax straddles. The regulations will explain the general loss deferral rule under section 1092, and the application of rules similar to section 1091 and 1233 to straddles.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Hearing	05/02/85	
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-297-84.

Drafting attorney: Karl T. Walli (202) 566-3297.

Reviewing attorney: Steven R. Glickstein (202) 566-3297.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Karl T. Walli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AH60

2730. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations that amend the regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not required.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-039-87

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL89

2731. INCOME TAX–GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	45 FR 39512
Hearing	09/09/80	
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-276-76.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Charles Ramsey (202) 566-3553.

Treasury attorney: Barksdale Penick (202) 566-5453.

Natural Resources.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3292

RIN: 1545–AC35

2732. REGULATIONS UNDER SECTION 1271 THROUGH 1275 RELATING TO TAX TREATMENT OF DEBT INSTRUMENTS HAVING ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original issue discount is computed under a constant yield method. Guidance is also provided as to the computation of original issue discount in special circumstances where the bond contains a variable interest rate, where put and call options are present, where there are contingent payments, and in other circumstances.

Timetable:

Action	Date	FR Cite
NPRM	05/08/86	51 FR 12022
Hearing	11/17/86	51 FR 24162
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-189-84.

Drafting attorney: William E. Blanchard (202) 566-3142.

Reviewing attorney: Andrew Kittler (202) 566-4114.

Treasury attorney: Reed Shuldiner (202)-566-2175.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3142

RIN: 1545–AH46

2733. PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1294 Internal Revenue Code of 1986; 26 USC 1297(b)(1) Internal Revenue Code of 1986; 26 USC 1291(d)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to passive foreign investment companies and their shareholders that are United States about the time, manner and other requirements for making certain elections.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6781
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-941-86

Drafting attorney: Gayle Novig (202) 377-9059.

Reviewing attorney: Tom Fuller (202) 377-9059.

Treasury attorney: Mary Bennett (202) 566-5992.

Income taxes.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AI33

2734. INCOME TAX–DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would address the following matters: (1) the number of permitted shareholders of a small business corporation, (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	51 FR 35659
NPRM Comment Period End	12/08/87	
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-262-82.

Drafting attorney: Noah S. Baer (202) 566-3622.

Reviewing attorney: Thomas Hines (202) 566-6813.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins (202) 566-2175.

Income Tax

Agency Contact: Noah S. Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3622

RIN: 1545–AE86

2735. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1363 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52190
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-260-82.

Drafting attorney: Stuart G. Wessler (202) 566-6016.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Treasury attorney: Thomas Wessel (202) 566-8277.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6016

RIN: 1545–AE26

2736. TEMPORARY REGULATION–APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide ruling relating to the section 1374 built-in gains tax to C corporations electing S corporation status

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-6-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Nelson F. Crouch (202) 566-2456.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK91

2737. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

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Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-41-86

Drafting attorney: Lisa L. Grogan (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Ann Fisher (202) 566-4979.

13 Income Taxes.

Agency Contact: Lisa L. Grogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Suite 3319, Washington, DC 20024, 202 287-4851

RIN: 1545–AH86

2738. ● WITHHOLDING OF TAX ON NON-RESIDENT ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1441

Legal Deadline: None

Abstract: Section 864 (c) (8) of the Code, added in 1986, had the unintended effect of allowing nonresident alien individuals to elect out of all withholding on pension payments from qualified plans. The regulation corrects this inadvertent loophole and requires withholding on such payments.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/15/89	

Small Entities Affected: Businesses, Governmental jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: INTL-587-89

Drafting attorney: Carol Tello (202) 377-9059.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Carol Tello, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AN74

2739. WITHHOLDING RULES ON DISTRIBUTIONS ATTRIBUTABLE TO DISPOSITIONS OF US REAL PROPERTY INTEREST BY PUBLICLY TRADED PARTNERSHIPS, TRUSTS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address withholding upon proceeds of disposition of US property real interests by publicly traded partnerships, publicly traded trusts and real estate investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46888
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-088-86

Drafting attorney: John Dean (202) 377-9493.

Reviewing attorney: Christine Halphen (202) 566-6645.

Treasury attorney: Chisoon Lee (202) 566-4979.

13 Income taxes.

Agency Contact: John Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9493

RIN: 1545–AM50

2740. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains when withholding is required under section 1446, how and when the amounts withheld are to be reported and paid over to the Internal Revenue Service, and when the taxpayer is to credit the tax withheld against its U.S. income tax liability or apply for a refund significant policy issues tax involved. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-938-86

Drafting attorney: David F. Chan (202) 377-9059.

Reviewing attorney: Robert E. Culbertson, Jr. (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income Taxes

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attn: CC:INTL, Room 4607, 202 377-9059

RIN: 1545–AL32

2741. INCOME TAX—CREDIT & DEDUCTIONS ETC., FOR CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to clarify, among other things, the rules relating to net operating loss carrybacks of a member of an affiliated group filing consolidated returns to a year in which the member was not in existence, thereby giving the public needed guidance on what the rule is in that situation.

Timetable:

Action	Date	FR Cite
NPRM	07/31/84	49 FR 30528
NPRM Comment Period End	10/01/84	
Hearing	12/10/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-97-79.

Drafting attorney: Roy Hirschhorn (202) 566-3354.

Reviewing attorney: John Broadbent (202) 566-3877.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thomas Wessel (202) 566-2928.

Agency Contact: Roy A. Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AC48

2742. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would revise the method of adjusting the basis of stock under section 1.1502-32.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-15-86.

Drafting attorney: David Kessler (202) 566-4551.

Reviewing attorney: John Broadbent (202) 566-3877.

Agency Contact: David Kessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-4551

RIN: 1545–AI58

2743. TEMPORARY REGULATIONS-CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporate acquisitions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-4-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK95

2744. CONSOLIDATED RETURN REGULATIONS; ADJUSTMENT ON DISPOSITION OF STOCK OF SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will finalize temporary regulation 1.1502-32T concerning basis reduction accounts that are created when a subsidiary is deconsolidated but members of the affiliated group retain some stock in the deconsolidated subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 8773
NPRM Comment Period End	05/16/88	53 FR 8773
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-28-86

Drafting attorney: David Kessler (202) 566-4551.

Reviewing attorney: John Broadbent (202) 566-4324.

13 Income Tax

Agency Contact: David Kessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4551

RIN: 1545–AL59

2745. ADJUSTMENTS REFLECTING A RESTRUCTURING OF A CONSOLIDATED GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for determining the basis and the earnings and profits of members of a consolidated group following certain changes in the structure of the group where the group remains in existence. This regulation also provides for alternative agents of the group if the common parent ceases to be the common parent.

Timetable:

Action	Date	FR Cite
NPRM	09/08/88	53 FR 34779
Final Action	12/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-66-88

Drafting attorney: Jerilynn V. Chapman (202) 566-3877.

Reviewing attorney: John Broadbent (202) 566-3484.

Treasury attorney: Thomas Wessel (202) 566-2927.

13 Income Tax

Agency Contact: Jerilynn V. Chapman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545–AL62

2746. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS REGARDING DEFERRAL OF GAIN OR LOSS ON COMPLETE LIQUIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the treatment of gain recognized upon complete liquidations of corporations in a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	04/18/88	53 FR 12705
NPRM Comment Period End	06/17/88	53 FR 12705
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-47-88

Drafting attorney: Jerilynn V. Chapman (202) 566-3877.

Reviewing attorney: John Broadbent (202) 566-4324.

Treasury attorney: Thomas Wessel (202) 566-2928.

13 Income Tax

Agency Contact: Jerilynn V. Chapman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3877

RIN: 1545–AL63

2747. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS TO ADDRESS TREATMENT OF CERTAIN ORGANIZATIONS WHOSE TAX-EXEMPT STATUS WAS REVOKED BY THE 1986 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 833 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will specify the consolidated return ramifications of the revocation of the Tax-Exempt status of certain organizations by section 1012 of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-67-88

Drafting attorney: Jean M. Whalen (202) 566-3422.

Reviewing attorney: Edward S. Cohen (202) 566-3484.

Treasury attorney: J. Judge Kelley (202) 566-2175.

13 Income Tax

Agency Contact: Jean M. Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545–AL64

2748. CONSOLIDATED INVESTMENT CREDIT RECAPTURE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-3(f)(2)

Legal Deadline: None

Abstract: Section 47 (a) (1) of the Internal Revenue Code and the regulations thereunder provide the general rule that if section 38 property is disposed of there shall be recapture of investment credit. Section 1.1502-3 (f) (2) provides an exception to that rule for the transfer of section 38 property between members of an affiliated group; such a transfer will not cause a disposition within the meaning of section 47 (a) (1). This exception is premised on treating the affiliated group, for investment tax credit purposes, as a single entity that continues to own the property after the transfer. Such a premise is not justified, and the exception does not apply, if at the time of the transfer there is an intent that the property subsequently leave the group in a transaction described in section 1.1502-13 (f). See Rev. Rul. 82-20, 1982-1 CB 6. In such a case, recapture is appropriate. The regulation will amend section 1.1502-3 (f) (2) to make this explicit.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-80-88

Drafting attorney: Roy Hirschhorn (202) 566-3354.

Reviewing attorney: John Broadbent (202) 566-3877.

13 Income tax

Agency Contact: Roy A. Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AM35

2749. ● TREATMENT OF DIVIDEND DISTRIBUTIONS AFTER THE SALE OF A SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-32 (T)

Legal Deadline: None

Abstract: When a subsidiary declares a dividend while a member of a consolidated group, but pays the dividend after disaffiliation from the consolidated group, the basis of the subsidiary's stock is not reduced by the amount of the dividend. The problem is caused by a difference in timing of the two events (declaration of dividend and payment of dividend) and its effect on earnings and profits and basis. This regulation will alleviate the problem by providing that basis of the subsidiary's stock will be reduced when the subsidiary declares a dividend.

Timetable:

Action	Date	FR Cite
NPRM	03/16/89	54 FR 11007

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-005-89

Drafting Attorney: Kenneth Cohen (202) 566-4324.

Reviewing Attorney: John Broadbent (202) 566-3484.

Treasury Attorney: Tom Wessel (202) 566-8277.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AN12

2750. ● TRANSACTIONS BETWEEN MEMBERS INVOLVING COMMON NONTAXABLE EXCHANGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-13

Legal Deadline: None

Abstract: Section 1.1502-13 of the Income Tax Regulations provides the general rule that the term intercompany transaction means a transaction during a consolidated return year between corporations which are members of the same group. Section 1.1502-13 (f) provides as a general rules that deferred gain attributable to a selling member will be triggered when the asset leaves the group. The regulation, in effect, does not deal with a situation where a selling member exchanges property subject to Section 1.1502-13 rules in a nontaxable exchange to an outside party. Moreover, the current regulations do not adequately cover tax free transactions between members. This proposed regulation will provide rules for certain common nontaxable exchanges within the affiliated group.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-028-89

Drafting attorney: Roy Hirschhorn (202) 566-3354.

Reviewing attorney: John Broadbent (202) 566-3877.

Treasury attorney: Tom Wessel (202) 566-8277.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3354

RIN: 1545–AN25

2751. DUAL RESIDENT COMPANIES-LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: If a U.S. Corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a U.S. affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for U.S. purposes, its loss will be available to offset income of that corporation in other years, but not income of another U.S. Corporation. Regulations may exempt a U.S. corporation from this rule to the extent that its losses do not offset the income of foreign corporations for foreign tax purposes.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-961-86

Drafting attorney: Shannon M. Votava (202) 566-6645.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: David Crowe (202) 566-8275.

2752. CROSS-REFERENCE–ALASKA NATIVE CORPORATIONS; REQUIREMENTS FOR AFFILIATION IN ORDER TO FILE A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the affiliated requirements of Alaska Native Corporations with certain other corporations in order to file a consolidated return.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8471
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-23-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-2455

RIN: 1545–AK88

2753. ESTATE & GIFT TAXES–INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of

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that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	08/03/83	48 FR 35143
NPRM Comment Period End	11/03/83	48 FR 35143
Final Action	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-181-78.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury Attorney: Robert Weaver (202) 535-6959.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-8512

RIN: 1545–AC63

2754. ESTATE AND GIFT TAXES—INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2012 Internal Revenue Code of 1986; 26 USC 2014 Internal Revenue Code of 1986; 26 USC 2055 Internal Revenue Code of 1986; 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2207A Internal Revenue Code of 1986; 26 USC 2519 Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 6019 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	05/21/84	49 FR 21350
NPRM Comment Period End	07/20/84	49 FR 21350
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-211-76.

Drafting attorney: Susan Hurwitz (202) 566-5983.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Weaver (202) 535-6959.

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3983

RIN: 1545–AC67

2755. ● TIMELINESS OF A DISCLAIMER OF INTEREST IN PROPERTY CREATED PRIOR TO JAN. 1, 1977

Legal Authority: 26 USC 2511 Internal Revenue Code of 1986

CFR Citation: 26 CFR 25.2511-1(c)

Legal Deadline: None

Abstract: The existing regulation includes the term "taxable transfers", but does not adequately explain that this term includes certain transfers that are not necessarily subject to tax.

Timetable:

Action	Date	FR Cite
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: PS-30-89

Drafting attorney: George Masnik (202) 566-4788.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Robert Weaver (202) 535-6959.

Agency Contact: George Masnik, Assistant to Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4788

RIN: 1545–AN27

2756. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2653 Internal Revenue Code of 1986; 26 USC 2662 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation skipping transfers.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8469
Final Action	07/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-128-86.

Drafting attorney: John B. Franklin (202) 535-9540.

Reviewing attorney: Fred E. Grundeman (202) 535-9512.

Treasury attorney: Robert Weaver (202) 535-6959.

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 535-8540

RIN: 1545–AJ11

2757. EMPLOYMENT TAX—TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3231 Internal Revenue Code of 1986; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security

or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	07/06/82	47 FR 29266
NPRM Comment Period End	09/06/82	
Final Action	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-23-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Neal J. Sheldon (202) 566-3783.

Treasury attorney: Paul Strella (202) 535-6965.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545–AC77

2758. BACKUP WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a

Legal Deadline: None

Abstract: This regulation relates to the requirement that certain payments must be reported to the Internal Revenue Service and that in certain instances 20% of a reportable payment must be deducted and withheld under section 3406 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 05991
Hearing	06/15/89	54 FR 11236
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-052-86

Drafting attorney: Teresa B. Hughes (202) 566-6795.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

13 Income Taxes.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6795

RIN: 1545–AL89

2759. CLARIFYING AMENDMENTS TO SECTION 35A.3406-1 REGARDING BACKUP WITHHOLDING DUE TO AN INCORRECT TIN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: This regulation clarifies certain requirements under section 35a.3406-1 regarding backup withholding due to an incorrect TIN.

Timetable:

Action	Date	FR Cite
NPRM	04/11/89	54 FR 11364
Final Action	10/31/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-104-88

Drafting Attorney: Renay France (202) 566-3627.

Reviewing Attorney: John Coulter (202) 566-3926.

Treasury Attorney: Andrew Dubroff (202) 566-4902.

Employment Taxes.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3627

RIN: 1545–AM51

2760. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3508 Internal Revenue Code of 1986; 26 USC 3509 Internal Revenue Code of 1986; 26 USC 6041A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers. The proposed rules would also provide guidance for computing certain employer liability for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Hearing	06/18/86	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-37-86.

Drafting attorney: Alfred Kelley (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Alfred Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AE62

2761. ELECTION TO HAVE CERTAIN DIESEL FUEL TAXES IMPOSED ON SALES TO RETAILERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance to assist diesel fuel retailers in making an election to have the diesel fuel excise tax collected by the wholesaler at the time the liquid is sold to the retailer.

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Timetable:

Action	Date	FR Cite
NPRM	03/01/88	53 FR 6524
NPRM Comment Period End	05/02/88	53 FR 6524
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-114-86

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-2567.

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4475

RIN: 1545-AJ13

2762. TAXABILITY OF CONVERTER DOLLIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145.4051

Legal Deadline: None

Abstract: The regulation will address whether converter dollies for truck semitrailers are subject to tax under section 4051 of the Code.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-59-88

Drafting attorney: Theodore Margopulos (202) 343-8555.

Reviewing attorney: Richard Kocak (202) 566-3398.

13 Excise Tax

Agency Contact: Theodore N. Margopulos, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-8555

RIN: 1545-AL71

2763. EXCISE TAX - EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will clarify the definition of first retail sale.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16882
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-17-86.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-2565.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545-AI51

2764. INCOME TAX--LOBBYING BY PUBLIC CHARITIES AND PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501 (h) Internal Revenue Code of 1986; 26 USC 504 Internal Revenue Code of 1986; 26 USC 4911 Internal Revenue Code of 1986; 26 USC 170 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 56

Legal Deadline: None

Abstract: The regulations will provide rules applicable to tax exempt organizations described in section 501(c)(3) that elect to have the provisions of section 501(h) and 4911 apply to their lobbying expenditures, and will also apply to lobbying expenditures by private foundations.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51826
NPRM Comment Period End	03/03/89	53 FR 51826
Hearing	04/03/89	53 FR 51826
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-154-78.

Drafting attorney: Jerome P. Walsh Skelly (202) 566-3505.

Reviewing attorney: Paul G. Accettura (202) 566-3505.

Agency Contact: Jerome P. Walsh Skelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3505

RIN: 1545-AE02

2765. EXCISE TAX--ELECTION TO AGGREGATE LINES OF BUSINESS FOR PURPOSES OF CERTAIN FRINGE BENEFIT EXCLUSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4977 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: Regulations will provide guidance in the manner of making an election under section 4977. The regulations will also provide rules concerning the requirements for making a section 4977 election.

Timetable:

Action	Date	FR Cite
NPRM	01/07/85	50 FR 836
NPRM Comment Period End	03/08/85	50 FR 836
Hearing See additional information	04/16/85	50 FR 7072
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-139-87

Drafting attorney: Rhonda G. Migdail (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Proposed and temporary regulations under section 4977 were published together with other fringe benefits regulations (LR-216-84) and the subject of public hearings. Additional section 4977 regulations will be provided exclusively in this project.

Agency Contact: Rhonda G. Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-4747

RIN: 1545-AH83

2766. EXCISE TAX -- EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4981A Internal Revenue Code of 1986; 26 USC 4980A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the amount of the excise tax on excess distributions from qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	12/10/87	52 FR 46782
NPRM Comment Period End	02/08/88	52 FR 46782

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-162-86

Drafting attorney: Richard Pavel (202) 566-3503.

Reviewing attorney: Jerry Holmes/Richard Wickersham (202) 566-4747/(202) 566-4621.

Treasury attorney: Paul Strella (202) 566-6958.

Agency Contact: Richard Pavel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3503

RIN: 1545-AI61

2767. EXCISE TAX--ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4986 to 4998 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	51 FR 34653
NPRM Comment Period End	12/01/86	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-225-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Barksdale Penick (202) 566-5453.

Withdrawal notice in signature package.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545-AC94

2768. EXCISE TAX--DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	09/25/86	51 FR 34095
NPRM Comment Period End	11/24/86	51 FR 34095
Hearing	02/25/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-34-82.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Windfall Profits Tax

Withdrawal notice in signature package

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4819

RIN: 1545-AD08

2769. EXCISE TAX -- PART 54 -- PROCEDURE AND ADMINISTRATION--PART 301 -- FILING OF RETURNS FOR PAYMENT OF PENSION EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the payment of the excise tax by employers receiving reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/02/87	52 FR 10583
NPRM Comment Period End	06/01/87	52 FR 10583
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-151-86

Drafting attorney: Suzanne K. Tank (202) 566-3060.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3060

RIN: 1545–AI83

2770. ● RETURN FILING REQUIREMENTS FOR INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6012 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6012-2(c)

Legal Deadline: None

Abstract: Regulations will outline requirements for the filing of income tax returns by insurance companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-32-89

Drafting attorney: William Blagg (202) 566-3294.

Reviewing attorney: Joe Ryals (202) 566-3459.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: William Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AN23

2771. INCOME TAX-AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 3075
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-198-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Robert A. Berkovsky (202) 566-3851.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545–AE40

2772. NOMINEE REPORTING OF PARTNERSHIP INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to nominee reporting of partnership interest which such nominee holds for another person. The regulations will provide the information that the nominee is required to provide and will also provide the manner in which this information is to be reported to the partnership.

Timetable:

Action	Date	FR Cite
NPRM	09/07/88	53 FR 34545
NPRM Comment Period End	11/07/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-156-86.

Drafting attorney: Vincent G. Surabian (202) 566-4680.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Office of Tax Legislative Counsel Reviewing attorney: Greg Marich (202) 566-4979.

Agency Contact: Vincent G. Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4680

RIN: 1545–AJ98

2773. INFORMATION RETURNS OF BROKER TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations in this project clarify the definition of the term "commodity" for purposes of broker reporting. Rules are provided for determining whether personal property (including gold and silver) is a commodity. Generally, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property that the secretary determines is to be treated as a commodity or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. The rules proposed include alternative methods (the "exact" and "approximate" methods) of tangible personal property valuation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/84	49 FR 646
NPRM Comment Period End	03/05/84	49 FR 646
Hearing	03/28/84	49 FR 645
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-201-83.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AG02

2774. INFORMATION RETURNS ON SALES THROUGH COD ACCOUNTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide a special rule for broker reporting with respect to transactions made through a cash on delivery account (COD). In addition, these regulations make technical corrections to the list of recipients exempted from coverage under the reporting requirement, and expand the class of brokers which qualify for the multiple broker rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22343
NPRM Comment Period End	07/30/84	49 FR 22343
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-84.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AG52

2775. INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation proposed to adopt as final rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/03/87	52 FR 10774
Hearing	07/22/87	52 FR 23308
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-95-86.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 377-9581

RIN: 1545–AJ25

2776. INCOME TAX–INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide additional rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-130-87

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reviewing attorney: David L. Crawford (202) 377-9590.

Treasury attorney: Judge Kelley (202) 566-2175.

13 Income Tax

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AL06

2777. TO CLARIFY THE OBLIGATION OF BROKERS TO REPORT ORIGINAL ISSUE DISCOUNT ON FORM 1099

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6049 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulation explains the revised reporting requirements for original issue discount on debt instruments held by brokers and other middlemen as nominees to make it clear that a broker or middleman has an unqualified obligation to report original issue discount on certain debt instruments held as a nominee.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45131
NPRM Comment Period End	02/17/87	51 FR 45131

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-144-85

Drafting attorney: Carol Nachman (202) 566-3287.

Reviewing attorney: Thomas Lyden (202) 566-3287.

Original Issue Discount Reporting Requirements of Brokers

Agency Contact: Carol Nachman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545–AM80

2778. FINAL REGULATIONS RELATING TO REPORTS OF FORECLOSURES AND ABANDONMENTS OF SECURITY UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050J Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations proposed rules relating to information reporting of foreclosures, abandonments, and other acquisitions of property securing indebtedness, including the persons and property subject to the reporting requirement and the information required to be reported, and when a person has reason to know that property has been abandoned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34518
NPRM Comment Period End	10/31/84	49 FR 34518
Final Action	00/00/00	

Small Entities Affected: None

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Government Levels Affected: None

Additional Information: IA-181-84.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9581

RIN: 1545–AG48

2779. REPORTING REQUIREMENTS PERTAINING TO RETURNS RELATING TO PERSONS RECEIVING CONTRACTS FROM FEDERAL EXECUTIVE AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050M Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance to the heads of Federal executive agencies for purposes of complying with information and reporting requirements prescribed by section 6050M.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 28669
NPRM Comment Period End	08/29/88	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: IA-133-86

Drafting Attorney: Keith E. Stanley (202) 566-3367.

Reviewing Attorney: Charles M. Whedbee (202) 566-3422.

Treasury Attorney: Judge J. Kelley (202) 566-2175.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3367

RIN: 1545–AJ05

2780. NOTICE OF PROPOSED RULEMAKING - AUTOMATIC EXTENSION OF TIME TO FILE PARTNERSHIP RETURN OF INCOME AND TRUST INCOME TAX RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Automatic Extension of Time to File Partnership Return of Income and Trust Income Tax Return.

Timetable:

Action	Date	FR Cite
NPRM	04/05/88	53 FR 11103
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-29-88

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Greg Marich (202) 566-5453.

13 Income Taxes

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AL38

2781. EXTENSION OF TIME TO FILE FOR TAXPAYERS TRAVELING OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Notice by cross-reference to temporary regulations under section 6081 of the Code relating to extension of time to file income tax returns.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7783
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-461-87

Drafting attorney: Peter J. Hanley (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AM06

2782. INCOME TAX-DISCLOSURE OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF COMMERCE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6103 (j) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulation would disclose to the Bureau of the Census additional tax return information needed to help them determine whether an individual who itemizes is over 65.

Timetable:

Action	Date	FR Cite
NPRM	12/14/88	53 FR 50243
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-42-88

Drafting attorney: Paul Winkler (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-4430.

13 Procedure and Information

Agency Contact: Paul W. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AM02

2783. DISCLOSURE OF INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6103 (n) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These amendments to the regulations allow the Tax Division Department of Justice, to make Disclosures to third parties in connection with the Procurement of Litigation Support Services that are necessary for the effective Litigation of Tax Administration cases.

Timetable:

Action	Date	FR Cite
NPRM	01/03/89	54 FR 39
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: D-1398-88

Drafting attorney: James N. Beyer (202) 566-3074.

Reviewing attorney: Margo L. Stevens (202) 566-3074.

Agency Contact: James Beyer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., CC:D Room 3564, Washington, D.C. 20224, 202 566-3074

RIN: 1545–AN01

2784. IDENTIFYING NUMBERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6109 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6109-1(c), (Revision)

Legal Deadline: None

Abstract: Amend regulations to delete requirement that payor sign affidavit on transmittal for information returns regarding solicitation of payee taxpayer identification numbers.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-90-88

Drafting Attorney: Margaret A. Owens (202) 566-4430.

Reviewing Attorney: Karin G. Gross (202) 566-4430.

Procedure and Administration

Agency Contact: Margaret A. Owens, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AM44

2785. PROPOSED REGULATIONS UNDER SECTIONS 6111 AND 6709, RELATING TO TAX SHELTER REGISTRATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This project will provide rules explaining what investments are tax shelters that must be registered with the Internal Revenue Service. The project will also provide rules relating to the persons required to register tax shelters and to the furnishing of tax shelter registration numbers to investors in tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	06/15/84	49 FR 32728
NPRM Comment Period End	10/15/84	49 FR 32728
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-142-84.

Drafting attorney: Unassigned.

Reviewing attorney: Tom Luxner (202) 566-4495.

Agency Contact: Tom Luxner, Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4495

RIN: 1545–AG45

2786. ● TREATY-BASED RETURN POSITIONS; FAILURE TO DISCLOSE TREATY-BASED RETURN POSITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6114 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers concerning compliance with the treaty-base return position disclosure requirements of section 6114 which was added to the Code by TAMRA.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-103-89

Drafting attorney: David Bergkuist (202) 566-3872.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5815.

13 Income taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3872

RIN: 1545–AN43

2787. ● APPLICATION OF UNIFIED PARTNERSHIP AUDIT PROVISIONS OF TEFRA TO REMICS

Legal Authority: 26 USC 860G(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6221; 26 CFR 301.6222; 26 CFR 301.6223; 26 CFR 301.6224; 26 CFR 301.6225; 26 CFR 301.6226; 26 CFR 301.6227; 26 CFR 301.6228; 26 CFR 301.6229; 26 CFR 301.6230; 26 CFR 301.6231; 26 CFR 301.6232; 26 CFR 301.6233; 26 CFR 1.860F

Legal Deadline: None

Abstract: Public Law 99-514, Title VI, section 671(a) (October 22, 1986, 100 Stat. 2309) added sections 860A-860G of the Internal Revenue Code of 1986. These sections set forth the Federal income tax treatment of REMICs and of investors in REMICs, and provide that REMICs will generally be treated as partnerships. This project will apply the partnership audit provisions of sections 6221 through 6233 of the Internal Revenue Code (added by Public Law 97-248, Tax Equity and Fiscal Responsibility Act of 1982) to REMICs.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-048-89

Drafting attorney: William Galanis (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Agency Contact: William Galanis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545-AN78

2788. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6222 Internal Revenue Code of 1986; 26 USC 6223 Internal Revenue Code of 1986; 26 USC 6224 Internal Revenue Code of 1986; 26 USC 6227 Internal Revenue Code of 1986; 26 USC 6230 Internal Revenue Code of 1986; 26 USC 6231 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

Timetable:

Action	Date	FR Cite
NPRM	04/18/86	51 FR 13231
NPRM Comment Period End	06/17/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-205-82.

Drafting attorney: William Galanis (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Greg Marich (202) 566-2927.

Agency Contact: William Galanis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545-AE51

2789. SMALL S CORPORATION EXCEPTION AND DEFINITION OF SUBCHAPTER S ITEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6241 Internal Revenue Code of 1986; 26 USC 6245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602; 26 CFR 51

Legal Deadline: None

Abstract: These regulations will provide a small S corporation exception to the unified corporate audit procedures of subchapter D of chapter 63 of the Internal Revenue Code. These regulations also will define subchapter S items for purposes of the income tax and windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	52 FR 3027
NPRM Comment Period End	03/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-74-86.

Drafting attorney: William J. Gregg (202) 377-9470.

Reviewing attorney: Dianna K. Miosi (202) 566-4070.

Office of Tax Legislative Counsel Reviewing attorney: Greg Marich (202) 566-5453.

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 377-9470

RIN: 1545-AJ99

2790. ● ADMINISTRATIVE APPEAL OF THE ERRONEOUS FILING OF NOTICE OF TAX LIEN

Legal Authority: 26 USC 6326 Internal Revenue Code of 1986 PL 100-647, sec. 6238

CFR Citation: 26 CFR 1.6326

Legal Deadline: None

Abstract: Section 6238 establishes a new section 6326 of the Internal Revenue Code. New section 6326 (a) provides that the Secretary shall prescribe regulations that provide for the Administrative Appeal of the filing of Notice of Federal Tax Lien. Section 6326 (b) provides that if the Secretary determines that the service has erroneously filed a Notice of Federal Tax Lien, the Secretary must expeditiously, and to the extent practicable within fourteen days after such determination, issues a certificate that must include a statement that the filing was erroneous. The regulations, will address what issues are appealable under section 6326, to when an appeal should be made, and the procedures for appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/08/89	54 FR 19578

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-161-89

Drafting Attorney: Kevin B. Connelly (202) 535-9684.

Reviewing Attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 535-9684

RIN: 1545-AN07

2791. PROPOSED REGULATIONS UNDER THE SPENDING REDUCTION ACT OF 1984, RELATING TO REDUCTION OF TAX OVERPAYMENTS BY THE AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations will provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e., tax refund) by the amount of any past-due legally enforceable debt owed to a federal agency by the taxpayer. The regulations explain which debts qualify for offset, and the steps a federal agency must make to refer a debt to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39713
Temporary Regulation	11/30/85	
Temporary Regulation	05/13/87	52 FR 17949
NPRM	01/06/89	54 FR 428
Temporary Regulation	01/06/89	54 FR 400
NPRM Comment Period End	03/07/89	54 FR 428
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-291-84.

Drafting Attorney: Sharon L. Hall (202) 566-4430.

Reviewing Attorney: David Dickinson (202) 535-9864.

Treasury Attorney: Barksdale Penick (202) 566-6964.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545-AG95

2792. PROCEDURE AND ADMINISTRATIVE--REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend proposed regulations published September 30, 1985 relating to the reduction of a taxpayer's overpayment of tax by the amount of past-due legally enforceable debt owed to a federal agency by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 17949
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-72-86

Drafting attorney: Sharon L. Hall (202) 566-4430.

Reviewing attorney: David Dickinson (202) 535-9543.

Treasury attorney: Barksdale Penick (202) 566-6964.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545-AK12

2793. PROCEDURE AND ADMINISTRATIONS--REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend regulations published September 30, 1985. The regulations will provide a new effective date for those regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/06/89	54 FR 426
NPRM Comment Period End	03/07/89	54 FR 428
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-41-88

Drafting attorney: Sharon L. Hall (202) 566-4430.

Reviewing attorney: David Dickinson (202) 535-9543.

Treasury attorney: Barksdale Penick (202) 535-6964.

13 Procedure and Administration

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, Washington, D.C. 20224, 202 566-4430

RIN: 1545-AL66

2794. PROCEDURE AND ADMINISTRATION - ABATEMENT OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance on the definition of ministerial act.

Timetable:

Action	Date	FR Cite
NPRM	06/13/87	52 FR 30177

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-34-87

Drafting attorney: John J. McGreevy (202) 566-4196.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: John J. McGreevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4196

RIN: 1545-AK71

2795. ● ABATEMENT OF ANY PENALTY OR ADDITION TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986 PL 100-647 sec 6229; 26 USC 6404 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Other, Statutory, May 10, 1989.

Abstract: Regulations relating to the abatement of a portion of any penalty or addition to tax attributable to erroneous written advice furnished to a taxpayer by the I.R.S.

Timetable:

Action	Date	FR Cite
NPRM	05/16/89	54 FR 21073
NPRM Comment Period End	07/17/89	54 FR 21073

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-024-89

Drafting Attorney: Stephen J. Toomey (202) 566-6320.

Reviewing Attorney: William Galanko (202) 566-4104.

Treasury Attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Stephen J. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-6320

RIN: 1545-AN04

2796. PROCEDURE AND ADMINISTRATION REGULATIONS--EXTENSION OF THE PERIOD FOR ASSESSMENT OF TAX IN CERTAIN CIRCUMSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6501 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will describe circumstances under which the normal three-year period for the assessment and collection of tax may be extended.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-162-85.

Drafting attorney: Michael J. Grace (202) 566-6460.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928.

Agency Contact: Michael J. Grace, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6460

RIN: 1545-AI23

2797. PROCEDURE AND ADMINISTRATION REGULATIONS--MODIFICATIONS OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6611 Internal Revenue Code of 1986; 26 USC 6601 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	10/09/84	49 FR 39566
NPRM Comment Period End	12/10/84	
Final Action	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-280-82.

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545-AF10

2798. PROCEDURE AND ADMINISTRATION REGULATIONS - INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance to taxpayers subject to the increased rate of interest on substantial underpayments attributable to certain tax motivated transactions. The regulations define tax motivated transaction and accounting methods that may result in a substantial distortion of income. The regulations also provide rules for determining the amount of a tax motivated underpayment and the accrual of interest at the increased rate.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	49 FR 50406
NPRM Comment Period End	02/26/85	49 FR 50406

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-180-84.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Robert A. Berkovsky (202) 566-3851.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AG75

2799. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules. The amount of estimated tax payments required for all corporations is increased from 80 to 90 percent of current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	03/26/84	49 FR 11186
Hearing	06/26/84	
Final Action	12/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-228-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John Coulter (202) 566-3828.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: Renay France, Attorney, Department of the Treasury,

Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AE37

2800. PENALTY FOR FAILURE TO INCLUDE CORRECT INFORMATION ON INFORMATION RETURNS AND PAYEE STATEMENTS

Legal Authority: 26 USC 6723 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance on the penalty for failing to provide correct information on information returns and payee statements

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34358

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-142-86.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Peter Frederick (202) 566-3825.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3627

RIN: 1545-AI29

2801. PROCEDURE AND ADMINISTRATION--PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE UNDER THE MONEY LAUNDERING CONTROL ACT OF 1986

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7103 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 405

Legal Deadline: None

Abstract: This regulation provides guidance with respect to property seized by the Internal Revenue Service under the Money Laundering Control Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	11/19/85	50 FR 47563
NPRM Comment Period End	12/19/85	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-3-85.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Peter J. Frederick (202) 566-3825.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545-AH91

2802. AMENDMENT OF REGULATIONS TO PERMIT DISCLOSURE OF TAX RETURN INFORMATION BETWEEN FRANCHISEES WHO JOINTLY OPERATE A TAX SERVICE

Legal Authority: 26 USC 7216 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would allow disclosure of tax return information by tax return preparers for the purpose of monitoring quality of return preparation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/29/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: IA-3-89

Drafting attorney: Mark Ely (202) 343-2380.

Reviewing attorney: John Fischer (202) 566-8131.

Agency Contact: Mark H. Ely, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2380

RIN: 1545-AN02

2803. RECOVERY OF ADMINISTRATIVE COSTS

Legal Authority: 26 USC 7430 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7430

Legal Deadline: None

Abstract: Section 6239 of the Technical and Miscellaneous Revenue Act expands section 7430 of the Internal Revenue Code to allow the recovery of administrative costs incurred after the earlier of the date of the receipt by the taxpayer of the notice of decision of the IRS Office of Appeals or the date of the notice of deficiency, if the taxpayer prevails against a position of the U.S. that is not substantially justified. The regulations will define essential terms in the statute and develop procedures to administer the statute.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/29/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: IA-3-89

Drafting attorney: Mark Ely (202) 343-2380.

Reviewing attorney: John Fischer (202) 566-8131.

Agency Contact: Mark H. Ely, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2380

RIN: 1545-AN02

2804. PROCEDURE AND ADMINISTRATION--AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

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Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71430
NPRM Comment Period End	02/11/80	44 FR 71430
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-406-71

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Neal E. Sheldon (202) 566-3783.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: unassigned.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545–AD42

2805. PROCEDURE AND ADMINISTRATION REGULATIONS—REIMBURSEMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7624 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules relating to reimbursement to state and local law enforcement agencies for expenses incurred for information furnished to IRS that substantially contributed to recovery of taxes on illegal drug related activities.

Timetable:

Action	Date	FR Cite
NPRM	05/16/89	54 FR 21073
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: IA-6-89

Drafting attorney: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Procedure and Administration

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AN00

2806. AMENDMENT OF PROCEDURE AND ADMINISTRATION REGULATIONS UNDER SECTION 7701(B) (DEFINITION OF RESIDENT ALIENS) TO REFLECT SECTION 138 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 301

Legal Deadline: None

Abstract: These regulations provide rules for determining whether an alien individual is a resident or a nonresident alien of the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34230
NPRM Comment Period End	11/10/87	52 FR 34230
Hearing	06/15/88	
Final Action	10/02/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-55-86.

Drafting attorney: Peter Hanley (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: P. Ann Fisher (202) 566-4439.

13 Income taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AH13

2807. EFFECTIVE DATES AND OTHER QUESTIONS ARISING UNDER EMPLOYEE BENEFIT PROVISIONS OF THE TAX REFORM ACT OF 1984

Legal Authority: PL 98-369, Sec 511 to 561

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide proposed rules relating to effective dates and other questions arising under the employee benefit provisions of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4391
Hearing	06/26/86	51 FR 15916
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-96-85.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4747

RIN: 1545–AI21

2808. 50 % EXCISE TAX ON ANY GAIN REALIZED BY A PERSON WHO RECEIVES "GREENMAIL"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 5881 Internal Revenue Code of 1986; 26 USC 6001 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986

CFR Citation: 26 CFR 155, (New); 26 CFR 602

Legal Deadline: None

Abstract: Temporary regulations relating to the manner and method of reporting and paying the nondeductible 50 percent Excise Tax imposed with respect to the receipt of Greenmail

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-7-88

Drafting attorney: Warren Joseph (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-3289.

Treasury attorney: J. Judge Kelley (202) 566-8527.

Excise Taxes

Agency Contact: Warren Joseph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AL47

2809. THE TIME AND MANNER OF MAKING CERTAIN ELECTIONS UNDER THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

Legal Authority: 26 USC 168 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986; 26 USC 835 Internal Revenue Code of 1986; 25 USC 210 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986; 26 USC 245 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986; 26 USC 936 Internal Revenue Code of 1986; 26 USC 1296 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5.6(h)

Legal Deadline: None

Abstract: This document contains temporary regulations relating to the time and manner of making certain elections under the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-036-88

Drafting attorney: Grace Matuszeski (202) 343-2382.

Reviewing attorney: John Fischer (202) 566-8131.

Administration and Procedures

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-2382

RIN: 1545–AM76

2810. ● TAXPAYER ASSISTANCE ORDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986 PL 100-647, Sec. 6230

CFR Citation: 26 CFR 301.7811

Legal Deadline: Final, Statutory, February 8, 1992.
Temporary regulation published as TD 8246 effective February 8, 1989, must be published as final regulations within three years.

Abstract: PL 100-647, section 7811, adds new section 7811 to the Internal Revenue Code. This section provides that upon application filed by a taxpayer with the Ombudsman's office, the Ombudsman may issue a taxpayer assistance order (TAO) upon a determination that a taxpayer is or is about to suffer a significant hardship as the result of how the internal revenue laws are being administered by the service. The temporary regulations discuss the form, manner and time for filing an application for assistance, the terms of a TAO, and the supervision of applicable periods of limitation.

Timetable:

Action	Date	FR Cite
NPRM	03/22/89	54 FR 11744

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-075-89

Drafting Attorney: Joseph W. Clark (202) 566-4574.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Joseph W. Clark, Technical Assistant to ACC, (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-4574

RIN: 1545–AN14

2811. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 Internal Revenue Code of 1986; 26 USC 7871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide guidance to certain Indian tribal governments as to their treatment as States under designated sections of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19329
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-221-83.

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William Coppersmith (202) 566-3336.

Office of Tax Legislative Counsel: Elliot Stern (202) 566-2926.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545–AF77

2812. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the

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amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	50 FR 33553
Hearing	01/09/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-165-84.

Drafting attorney: David B. Silber (202) 566-3432.

Reviewing attorney: Maura Sullivan (202) 566-3288.

Agency Contact: David B. Silber, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3432

RIN: 1545–AH72

DEPARTMENT OF THE TREASURY (TREAS) — Completed Actions

Internal Revenue Service (IRS)

2813. TREATMENT OF EXEMPT-INTEREST DIVIDENDS AS TAX PREFERENCE ITEM

Legal Authority: 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 57 (a)(5) of the Internal Revenue Code of 1986 provides that regulations will be promulgated to explain that subsection. These regulations will fulfill that statutory mandate.

Timetable:

Action	Date	FR Cite
Closed without regulations	03/28/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-97-88

Drafting Attorney: William A. Galanko (202) 566-4104

Reviewing Attorney: Vincent Cardella (202) 566-4425

Treasury Attorney: Unassigned

Agency Contact: William A. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-4104

RIN: 1545–AM39

2814. TO CLARIFY THE TERMS "BUILDING" AND "PLACED IN SERVICE" FOR PURPOSES OF SECTION 42

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides definition of the term "building", "placed in service", "eligible basis", etc.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/08/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-43-88

Drafting attorney: Donna Young (202) 566-4537.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Peg Henry (202) 535-6966.

13 Income Tax

Agency Contact: Donna Young, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4537

RIN: 1545–AM03

2815. INCOME TAX–CREDIT FOR INCREASING RESEARCH ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 41 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide the extent to which taxpayers will be entitled to an income tax credit for increases in certain research activity.

Timetable:

Action	Date	FR Cite
NPRM	01/21/83	48 FR 2790
NPRM Comment Period End	03/19/83	
Hearing	04/19/83	
Final Action T.D. 8251	05/17/89	54 FR 21203

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-236-81.

Drafting attorney: David S. Hudson (202) 566-4821.

Reviewing attorney: Walter Woo (202) 535-0545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evelyn Brody (202) 535-0964.

Agency Contact: David S. Hudson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4821

RIN: 1545–AA07

2816. TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

TREAS—IRS **Completed Actions**

Timetable:

Action	Date	FR Cite
Final Action T.D. 8249	05/05/89	54 FR 19363

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-53-87

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4979.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3861

RIN: 1545–AK21

2817. INCOME TAX–TAXATION OF FRINGE BENEFITS AND EXCLUSIONS FROM GROSS INCOME FOR CERTAIN FRINGE BENEFITS

Legal Authority: 26 USC 61 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance on the taxation and valuation of fringe benefits. The regulations will also address the requirements for certain fringe benefit exclusions, including nondiscrimination and line of business restrictions.

Timetable:

Action	Date	FR Cite
Hearing	04/16/85	50 FR 7072
NPRM	12/23/85	50 FR 52333
Interim Final Rule	12/23/85	50 FR 52281
NPRM Comment Period End	02/21/86	50 FR 52333
Hearing	03/03/86	51 FR 2898
Hearing	04/29/86	51 FR 8517
Final Action T.D. 8256	07/06/89	54 FR 28576

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-63-88

Drafting attorney: Richard Pavel (202) 566-3503.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Priscilla Ryan (202) 566-5453.

Agency Contact: Rhonda G. Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-4747

RIN: 1545–AH73

2818. INCOME TAX–PRIZES AND AWARDS

Legal Authority: 26 USC 74 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 170 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986; 26 USC 102 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will incorporate changes with respect to the tax treatment of prizes and awards and certain employee achievement awards. They will provide guidance so that effective designations and transfers of awards may be accomplished as well as rules with respect to allowance of exclusions and deductions for awards given in an employment context.

Timetable:

Action	Date	FR Cite
NPRM	01/09/89	54 FR 627
NPRM Comment Period End	03/10/89	54 FR 627
Public Hearing	06/02/89	54 FR 18117
Closed without regulations	06/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-111-86.

Drafting Attorney: Johnnel St. Germain (202) 566-4430.

Reviewing Attorney: Karin Gross (202) 566-2175.

Treasury Attorney: Judge Kelley (202) 566-2175.

Regulations project transferred to Employee Benefits and Exempt Organizations.

Agency Contact: Johnnel St. Germain, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4430

RIN: 1545–AJ19

2819. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The project provided temporary regulations relating to arbitrage restrictions on tax-exempt bonds.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8252	05/15/89	54 FR 20787

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: FI-90-86

Drafting attorney: Elliot Stern (202) 566-2926

Reviewing attorney: Michael Montemurro (202) 566-4085.

Treasury attorney: Elliot Stern (202) 566-2926.

Agency Contact: George Delduke, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4545

RIN: 1545–AJ81

2820. REGULATIONS UNDER SECTION 267 OF THE CODE TO REFLECT SECTION 174 OF THE TAX REFORM ACT OF 1984 RELATING TO LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267 Internal Revenue Code of 1986; 26 USC 706 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

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Legal Deadline: None

Abstract: The regulation deals with changes in section 267 arising from section 174 of the Tax Reform Act of 1984. It deals with the matching of payor deductions and payee income items in the case of expenses and interest where the accrual method payor and the cash method payee are related persons. The regulation also deals with the deferral and restoration of loss on the sale or exchange of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47048
NPRM Comment Period End	01/29/85	49 FR 47048
Closed without regulations	04/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-183-84.

Drafting attorney: Gerald A. Consalvi (202) 566-3886.

Reviewing attorney: George Baker (202) 566-9292.

Agency Contact: Gerald A. Consalvi, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3886

RIN: 1545–AG11

2821. WITHHOLDING ON ACCOUNTS PAYABLE TO RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267 (a) (3) Internal Revenue Code of 1986; 26 USC 163 (e) (3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Withholding tax liability and deductibility of payments on accounts payable to related parties.

Timetable:

Action	Date	FR Cite
Closed Without regulations	02/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-390-88

Drafting attorney: James K. Sams (202) 377-9059.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: James K. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 377-9059

RIN: 1545–AL97

2822. LIMITATIONS ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT FOR LUXURY AUTOMOBILES AND CERTAIN OTHER PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules limiting the investment tax credit and cost recovery deductions allowable with respect to passenger automobiles and certain other "listed property."

Timetable:

Action	Date	FR Cite
NPRM	10/24/84	49 FR 42743
NPRM Comment Period End	12/24/84	49 FR 42743
Second Hearing	03/04/86	51 FR 2898
Closed without regulations	02/28/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-145-84.

Drafting attorney: John E. Moffat (202) 566-6682.

Reviewing attorney: William J. Dwyer (202) 566-6511.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: John E. Moffat, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6682

RIN: 1545–AG99

2823. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (TEMPORARY REGULATIONS)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 7

Legal Deadline: None

Abstract: Temporary regulations would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8243	03/06/89	54 FR 9200
Temporary Regulation	04/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-991-86

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Treasury attorney: M. Risinger (202) 566-4979.

13 Income taxes.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545–AJ76

2824. INCOME TAX—TEMPORARY REGULATIONS—REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5c

Legal Deadline: None

Abstract: Provision would provide temporary regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret these issues.

Timetable:

Action	Date	FR Cite
Closed without Regulations	03/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-230-81.

Drafting attorney: Mark Schneider (202) 566-3544.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Agency Contact: Mark Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545–AB29

2825. INCOME TAX—CROSS-REFERENCE-REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would provide regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue intends to interpret these issues.

Timetable:

Action	Date	FR Cite
Closed without Regulations	03/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-063-81.

Drafting attorney: Mark Schneider (202) 566-3544.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Agency Contact: Mark Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545–AB29

2826. DEFINED BENEFIT PLAN TERMINATIONS AND THE REVERSION OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe when, in fact, a defined benefit pension plan has been terminated so as to permit reversion to the employer of excess assets.

Timetable:

Action	Date	FR Cite
Closed by Memo - No Regulations	03/15/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-83.

Drafting attorney: Suzanne K. Tank (202) 566-3050.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AF81

2827. INCOME TAX—EXCISE TAX REGULATIONS—FUNDING FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412 Internal Revenue Code of 1986; 26 USC 413 (b) Internal Revenue Code of 1986; PL 93-406, Sec 1013

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the minimum funding requirements for employee pension benefit plans, and to excise taxes for failure to meet the minimum funding standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54093
NPRM Comment Period End	01/31/83	47 FR 54093
Closed by Closing Memorandum. No Regulations issued.	06/15/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-99-78.

Drafting attorney: Suzanne K. Tank (202) 566-3050.

Reviewing attorney: Richard J. Wickersham (202) 566-4621.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3050

RIN: 1545–AD84

2828. INCOME TAX REGULATIONS—PART I. INSTALLMENT SALES BY NONTAXABLE ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to installment sales by nontaxable entities and the election provision by foreign personal holding companies.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-143-83.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3637

RIN: 1545–AF73

2829. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS : DEFINITION OF ACTIVITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-4T; 26 CFR 1.469-5T; 26 CFR 1.469-11T; 26 CFR 602.101

Legal Deadline: Final, Statutory, May 12, 1992.
IRC 7805 (f)(2)

Abstract: Pursuant to the grant of regulatory authority in section 469(l), the regulations will define "activity".

Timetable:

Action	Date	FR Cite
Final Action T.D. 8253	05/12/89	54 FR 20576

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-48-87

Drafting attorney: Robert Stoddart (202) 566-4751.

Reviewing attorney: Michael J. Grace (202) 566-4751.

Treasury attorney: John H. Parcell (202) 535-6965.

13 Income Taxes

Agency Contact: Robert Stoddart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4751

RIN: 1545–AK82

2830. CONSENT DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Cross-reference notice of proposed rulemaking concerning rules relating to section 565 to limit the availability of consent dividend procedure of section 565 to only those entities entitled to a dividend paid deduction under section 561.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	52 FR 47609
Final Action T.D. 8244	03/14/89	54 FR 10537

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-313-87

Drafting attorney: David Bergkuist (202) 566-6457.

Reviewing attorney: T. Timothy Tuerff (202) 566-5896.

Treasury attorney: Mark Beams (202) 566-6275.

13 Income Taxes.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545–AL86

2831. REPEAL OF BAD DEBT RESERVE METHOD: FOREIGN ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will address issues applicable to international banks in recapturing bad debt reserves as required by the Tax Reform Act.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-974-86

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Carolyn M. Dupuy (202) 566-6284.

Treasury attorney: Unassigned.

13 Income Taxes.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6284

RIN: 1545–AL83

2832. INCOME TAX - APPLICATION OF EFFECTIVE DATE FOR NEW RULES REGARDING DEDUCTIONS FOR MEAL, TRAVEL, AND ENTERTAINMENT TO PARTNERSHIPS AND S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 702 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the effective date for new rules regarding deductions for meals, travel, and entertainment to partnerships and S corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6670
Final Action T.D. 8247	04/05/89	54 FR 13679

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-29-87

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: Marshall D. Feiring (202) 566-4060.

Treasury Attorney: Susan Himes (202) 566-2565.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 343-8459

RIN: 1545–AK80

2833. INCOME TAX REGULATIONS-DIVERSIFICATION REQUIREMENTS FOR VARIABLE ANNUITY, ENDOWMENT, AND LIFE INSURANCE CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 817 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide diversification requirements for variable annuity, endowment, and life insurance contracts. The testing of diversification for various periods and applicable effective dates.

Timetable:

Action	Date	FR Cite
NPRM	09/15/86	51 FR 32664
NPRM Comment Period End	11/14/86	51 FR 32664
Hearing	07/01/87	
Final Action T.D. 8242	03/02/89	54 FR 8726

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-295-84.

Drafting attorney: Katherine A. Hosofsky (202) 566-3458.

Reviewing attorney: Stephen B. Hooe (202) 566-3294.

Treasury attorney: Donald Rocap (202) 566-6277.

Agency Contact: Katherine A. Hosofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545–AC79

2834. TREATMENT OF SALVAGE AND REINSURANCE IN DETERMINING LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the treatment of salvage and reinsurance recoverable in determining the paid and unpaid losses of property and casualty insurance companies.

Timetable:

Action	Date	FR Cite
NPRM	01/05/88	53 FR 153
Hearing	06/31/88	53 FR 28018
Closed without regulations	06/11/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-65-87

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Joe Ryals (202) 566-3459.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AK49

2835. ● SOURCE OF FINANCIAL INSTRUMENTS - WITHHOLDING PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will clarify the source of gross income from certain financial products.

Timetable:

Action	Date	FR Cite
Closed Without regulations	05/11/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-245-89

Drafting attorney: Jeffrey Dorfman (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6284.

Treasury attorney: Rom Watson (202) 343-0247.

13 Income taxes.

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 202 566-6284

RIN: 1545–AN36

2836. ● TRANSITION RULES FOR ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND RULES CONCERNING THE TREATMENT OF FINANCIAL ARRANGEMENTS THAT ALTER EFFECTIVE INTEREST EXPENSE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The interest allocation transition rules are a complex set of provisions, featuring a three-part phase-in scheme. Particular statutory provisions are eligible for extended relief from the generally applicable phase-in rule. The interest equivalent portion of the regulations deals with the impact of financial products on the total amount of interest expense that is subject to allocation.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8257	08/02/89	54 FR 31816

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-305-89

Drafting attorney: David Merrick (202) 566-6276.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: David Crowe (202) 566-5791.

13 Income taxes.

Agency Contact: David Merrick, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AN11

2837. TREATMENT OF DIVIDEND DISTRIBUTIONS AFTER THE SALE OF A SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-32(T)

Legal Deadline: None

Abstract: When a subsidiary declares a dividend while a member of a consolidated group, but pays the dividend after disaffiliation from the consolidated group, the basis of the subsidiary's stock is not reduced by the amount of the dividend. The problem is caused by a difference in timing of the two events in (payment of dividend and declaration of dividend) and its effect on earnings and profits and basis. This regulation will alleviate the problem by providing that basis of the subsidiary's stock will be reduced when the subsidiary declares a dividend.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8245	03/16/89	54 FR 10980

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Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-81-88

Drafting attorney: Kenneth Cohen (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3484.

13 Income Tax

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4324

RIN: 1545–AM36

2838. BACKUP WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 35a

Legal Deadline: None

Abstract: This regulation clarifies certain requirements under section 35a.3406-1 regarding backup withholding due to incorrect TIN.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/11/89	54 FR 14341
Final Action T.D. 8248	04/11/89	54 FR 14341

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-8-88

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John Coulter (202) 566-3928.

Treasury attorney: Andrew Dubroff (202) 566-4902.

13 Income Taxes

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3627

RIN: 1545–AL48

2839. EXCISE TAX–RETAILERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986; 26 USC 4051 Internal Revenue Code of 1986; 26 USC 4053 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance as to what kinds of vehicles are taxable and how the tax is computed.

Timetable:

Action	Date	FR Cite
Closed- Incorporated into PS-17-86.	07/13/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-30-83.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545–AF61

2840. TEMPORARY REGULATION EXCISE TAXES ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS SOLD AT RETAIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4051 Internal Revenue Code of 1986; 26 USC 4052 Internal Revenue Code of 1986; 26 USC 4053 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145

Legal Deadline: None

Abstract: The regulations will provide guidance to dealers in paying tax on the sale of heavy trucks, trailers, and tractors.

Timetable:

Action	Date	FR Cite
Closed - Incorporated into PS-17-86.	07/13/89	
Temporary Regulation	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-142-83.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4077

RIN: 1545–AF79

2841. EXTENSION OF TIME TO FILE FOR TAXPAYERS TRAVELING OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Regulations to repeal extension of time to file income tax returns for taxpayers traveling outside the United States and Puerto Rico.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8241	02/23/89	54 FR 7762

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-287-88

Drafting attorney: Peter J. Hanley (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Mark Beams (202) 566-8275.

13 Income Taxes.

Agency Contact: Peter J. Hanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545–AM07

2842. ADMINISTRATIVE APPEAL OF THE FILING OF NOTICE OF FEDERAL TAX LIEN

Significance: Agency Priority

Legal Authority: PL 100-647, Sec 6238; 26 USC 6326

CFR Citation: 26 CFR 1.6326

Legal Deadline: NPRM, Statutory, May 9, 1989.

Abstract: Section 6238 establishes a new section 6326 of the Internal Revenue Code. The new section 6326 (a) provides that the Secretary shall prescribe regulations that provide for the administrative appeal of the filing of notice of Federal tax lien. Section 6326 (b) provides that if the Secretary determines that the Service has erroneously filed a Federal tax lien, the Secretary must expeditiously and to the extent practicable, within 14 days after such determination, issue a certificate of release of the lien. This certificate must include a statement that the filing was erroneous. We currently are in the process of drafting regulations pursuant to section 6326. The regulations will address what issues are appealable under section 6326, to whom an appeal should be made, and the procedures for appeal.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8250	05/08/89	54 FR 19568

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-704-88

Drafting attorney: Kevin B. Connelly (202) 535-9684.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Kevin B. Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 535-9684

RIN: 1545–AM62

2843. ABATEMENT OF PENALTIES OR ADDITIONS TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE OF INTERNAL REVENUE SERVICE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6229; 26 USC 6404 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Other, Statutory, May 10, 1989.

Abstract: These regulations relate to the abatement of a portion of any penalty or addition to tax attributable to erroneous written advice furnished to a taxpayer by the Internal Revenue Service. The regulations will provide a definition for the term "advice", and will provide procedures that must be followed to obtain an abatement.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8254	05/16/89	54 FR 21055

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: IA-103-86

Drafting Attorney: Stephen J. Toomey (202) 566-6320.

Reviewing Attorney: William Galanko (202) 566-4104.

Abatement of penalties

Agency Contact: Steve Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-6320

RIN: 1545–AM47

2844. PROCEDURE AND ADMINISTRATION REGULATIONS–REIMBURSEMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7624 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules relating to reimbursement to State and Local law enforcement agencies for expenses incurred for information furnished to IRS that substantially contributes to recovery of taxes on illegal drug related activities.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8255	05/16/89	54 FR 21053

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: IA-95-88

Drafting Attorney: Gail M. Winkler (202) 566-4442.

Reviewing Attorney: Norlyn D. Miller, Jr. (202) 566-3273.

Procedure and Administration

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4442

RIN: 1545–AM45

2845. ◆ ELECTIONS UNDER 88 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 245(a)(10) Internal Revenue Code of 1986; 26 USC 865(f) Internal Revenue Code of 1986; 26 USC 865(g)(3) Internal Revenue Code of 1986; 26 USC 865(h)(2) Internal Revenue Code of 1986; 26 USC 936 Internal Revenue Code of 1986; 26 USC 904(g)(10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 5H; 26 CFR 602

Legal Deadline: None

Abstract: This regulation project included material that is to be covered in IA-98-88 when it is published.

Timetable:

Action	Date	FR Cite
Closed without Regulations. Included in IA-96-88	06/16/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-127-89

Drafting attorney: Leslie A. Cracraft (202) 566-6276.

Reviewing attorney: Benedetta Kissel (202) 566-3179.

Treasury attorney: Unassigned.

13 Income taxes.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6276

RIN: 1545–AN50

2846. TAXPAYER ASSISTANCE ORDERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6230

CFR Citation: 26 CFR 1.7811

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TREAS—IRS **Completed Actions**

Legal Deadline: Other, Statutory, February 8, 1989.
February 8, 1989. 90 days from date on which PL 100-69 was enacted (11-10-88).

Abstract: PL 100-647, Sec. 7811, adds new section 7811 to the Internal Revenue Code. This section provides that upon application filed by a taxpayer with the Ombudsman's office, the Ombudsman may issue a taxpayer assistance order (TAO) upon a determination that the taxpayer is or about to suffer a significant hardship as a result of how the internal revenue laws are being administered by the Service. The implemental regulations will discuss the form, manner and time for filing an application for assistance, the terms of a TAO, and the suspension of applicable periods of limitation.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8246	03/22/89	54 FR 11699

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-703-88

Drafting attorney: Joseph W. Clark (202) 566-4574.

Reviewing attorney: Robert Miller (202) 566-3117.

Procedure and Administration

Agency Contact: Joseph W. Clark, Technical Assistant to the Chief Counsel, (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4574

RIN: 1545-AM61

[FR Doc. 89-21730 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs will have under review, development, or revision during the 12-month period from October 1989 to October 1990. The purpose in publishing the Department's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual Department contact listed for each regulation or by writing to: Paperwork Management and Regulations Service (70Y731), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: 38 CFR: M'Liz McLendon, (202) 233-3770; 48 CFR Chapter 8: Sunny Huff, (202) 233-4240.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the **Federal Register** in April and October of each year an agenda of regulations under development and review.

The Department of Veterans Affairs has no regulations considered major under the terms of Executive Order 12291; however, all of this Department's proposed rules and current rules under review, except those considered to be internal Department policy management or routine regulations, have been listed in accordance with section 5(a) of the Executive order.

This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) of the Regulatory Flexibility Act.

This agenda has been prepared in accordance with OMB Bulletin 89-12.

Dated: August 25, 1989.
By direction of the Secretary.

Michael J. Herway,

Deputy Assistant Secretary for Information Resources Management.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2847	Schedule for Rating Disabilities; Genitourinary System Disabilities	2900-AE11

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2848	Disposition of Veteran's Personal Funds and Effects on Facility upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Facility	2900-AB61
2849	Transportation of Claimants and Beneficiaries	2900-AC70
2850	Grants to States for State Extended Care Facilities	2900-AD16
2851	Expanded Eligibility for 30-40 Percent Service-Connected Veterans	2900-AD41
2852	Treatment of U.S. Veterans Who Are Not U.S. Citizens	2900-AD45
2853	Increasing the Domiciliary Income Limitation	2900-AD46
2854	Providing Emergency Hospital Care to Community Nursing Home Patients	2900-AD47
2855	Operation of Child Care Centers at VA Facilities	2900-AD48
2856	Confidential Quality Assurance Program Records and Documents	2900-AD73
2857	Confidentiality of Tort Claim Peer Review	2900-AE06
2858	Reporting Health Care Professionals to Licensing and Monitoring Entities	2900-AE27
2859	Confidentiality of Certain Medical Records	2900-AE28
2860	Employee Fiduciaries	2900-AB50
2861	1. Veterans Services Officer (VSO) to Select and Appoint or Recommend for Appointment the Person or Legal Entity to Receive Benefits in a Fiduciary Capacity 2. Direct Payment	2900-AB75
2862	1. Payment to the Wife or Husband of an Incompetent Veteran 2. Legal Custodian	2900-AB76
2863	Veterans Education; Federal Equal Opportunity Laws	2900-AC52
2864	Extension of Time Limit for Claims	2900-AC61
2865	Compliance with Civil Rights Provisions	2900-AC72
2866	Training Outside of State Under 38 CFR 21.130	2900-AC73
2867	Loans to Purchase Manufactured Homes	2900-AC85
2868	VA Home Loan Credit Standards; New SAH Grant	2900-AC90
2869	Qualification Requirements for Department of Veterans Affairs Fee Appraisers	2900-AD32
2870	Loan Guaranty: Approval and Withdrawal of Automatic Processing Privilege	2900-AD33
2871	Allowable Fees and Charges for Department of Veterans Affairs Guaranteed Loans	2900-AD34
2872	Full Disclosure of Beneficiary's Income and Assets	2900-AD35

VA

Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2873	Basic Eligibility Determinations: Education	2900-AD60
2874	Reservists Education; Veterans' Benefits and Services Act of 1988 and the Montgomery GI Bill	2900-AD68
2875	Definition of Former Prisoner of War	2900-AD71
2876	Authority of Fiduciaries to Conduct Insurance Transactions	2900-AD74
2877	Extension of Vocational Programs for Seriously Disabled Veterans	2900-AD76
2878	Extension of Eligibility Because of the Disabling Effects of Chronic Alcoholism	2900-AD77
2879	On Job Training in Non-Federal Agencies on a Nominal Pay Basis	2900-AD79
2880	Use of For-Profit Agencies	2900-AD80
2881	Veterans Education; State Approving Agencies and the Montgomery GI Bill-Selected Reserve	2900-AD81
2882	Veterans and Dependents Education; The Veterans' Benefits and Programs Improvement Act	2900-AD84
2883	Veterans Education; The Veterans' Benefits and Programs Improvement Act and VEAP	2900-AD85
2884	Reservists Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill	2900-AD89
2885	Implementation of Pub. L. 100-198 Concerning Changes in Amount of Entitlement, Calculation of Guaranty Amount, Occupancy Requirements, and Requirements for Refinancing Loans	2900-AD91
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2890	Veterans Education Increase in Rates Payable in the Educational Assistance Test Program (EATP)	2900-AE08
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2903	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51
2904	Suits Against Department of Veterans Affairs Employees	2900-AD72
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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
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2909	Federal Policy for the Protection of Human Subjects	2900-AE29
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2918	Processing of VA Appraisals by Designated Lenders	2900-AD31
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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
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2929	Veterans Education; Disabling Effects of Chronic Alcoholism	2900-AE05
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2931	Acquisition Regulation; Construction Contracting Procedures	2900-AC87
2932	Acquisition Regulation: Contractor Qualifications	2900-AE16
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2935	Appeals Regulations and Rules of Practice; Cutoff Date for Acceptance of Evidence	2900-AD14
2936	Appeals Regulation: Rules of Practice	2900-AE02
2937	Committee on Waivers and Compromises	2900-AD50
2938	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities	2900-AB87
2939	Suits Against VA Employees Arising Out of Common Law Torts and Based Upon Medical Care and Treatment Furnished in or by VHS&RA	2900-AE14
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Sequence Number	Title	Regulation Identifier Number
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2943	Quality Assurance Confidentiality	2900-AC27
2944	Department of Veterans Affairs Health Professional Scholarship Program	2900-AC66
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2946	Recreation Facilities to be Considered Department of Veterans Affairs Facilities	2900-AD44
2947	Employment Services for Certain Eligible Veterans	2900-AB89
2948	Providing an Initial Evaluation for a Veteran not Residing in a State	2900-AC46
2949	Veterans Education; Amendments Needed to Implement Pub. L. 99-576	2900-AC76
2950	Definition of Fraud	2900-AD19
2951	Payment of Guaranty Claims	2900-AD39
2952	Diseases Subject to Presumptive Service-Connection	2900-AD53
2953	Veterans Education; Procedural Protections Following Loss of Dependent	2900-AD58
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2955	Extension of the Temporary Program for Trial Work Period and Rehabilitation	2900-AD78
2956	Veterans Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill	2900-AD83
2957	Veterans Education; Procedural Due Process	2900-AD86
2958	Veterans Education; Eligibility for Dependents' Educational Assistance	2900-AD87
2959	Combined Ratings Table	2900-AD90
2960	Loan Guaranty: Determination of Net Value	2900-AD93
2961	Benefits at DIC Rates in Certain Cases When Death is Not Service-Connected	2900-AD98
2962	Evaluation of Studies Relating to Health Effects of Dioxin and Radiation Exposure	2900-AE09
2963	VA Acquisition Regulation: Bonds, Insurance, and Taxes	2900-AE00
2964	Acquisition Regulation: Packaging Requirements; Estimated Quantities	2900-AE04
2965	Acquisition Regulation: Internal Management of the Department of Veterans Affairs Acquisition System	2900-AE07
2966	Appeals Regulations and Rules of Practice- Status of Legal Interns, Law Students and Paralegals	2900-AC11
2967	Appeals Regulations and Rules of Practice - Hearing Date	2900-AC88
2968	Inventions by Employees of the Department of Veterans Affairs, Authority Delegations	2900-AD51

DEPARTMENT OF VETERANS AFFAIRS (VA) — Prerule Stage

VETERANS BENEFITS ADMINISTRATION

2847. ● SCHEDULE FOR RATING DISABILITIES; GENITOURINARY SYSTEM DISABILITIES

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.115; 38 CFR 4.115a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the genitourinary system.

Timetable:

Action	Date	FR Cite
ANPRM	08/21/89	54 FR 34531
ANPRM Comment Period End	10/20/89	54 FR 34531
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE11

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

2848. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a Department of Veterans Affairs facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any Department of Veterans Affairs facility or any hospital, while being furnished care or treatment therein by VA will escheat to the U.S. Government. Some of these regulations have not been updated since 1948, therefore, editorial changes will be made which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AB61

2849. TRANSPORTATION OF CLAIMANTS AND BENEFICIARIES

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.100

Legal Deadline: None

Abstract: These proposed regulations will implement Section 108 of Pub. L. 100-322 which provides that the Secretary of the Department of Veterans Affairs shall make payments for travel during the fiscal year for examination, treatment or care for which the person is eligible or in connection with vocational rehabilitation provided pursuant to Chapter 31 of Title 38, United States Code.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul C. Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AC70

2850. GRANTS TO STATES FOR STATE EXTENDED CARE FACILITIES

Legal Authority: 38 USC 5031 to 5037; PL 100-322

CFR Citation: 38 CFR 17.170 to 17.177

Legal Deadline: None

Abstract: Pub. L. 100-322 changed the date of the priority list for applications from July 1 to August 15. The Secretary is provided authority to conditionally award construction grants. If a state does not complete requirements within 90 days after conditional approval, funds will be deobligated. These proposed regulations will implement that change. Construction standards in 38 CFR 17.177 are being totally reformatted, revised and updated. The veteran population in 38 CFR 17.171 Appendix A is being updated to reflect the current information. Additionally, provisions are being established to handle large grant requests where one project may exceed the annual appropriation. Requests for projects exceeding one-half the annual appropriation will receive lower priority on the list and may be partially funded if funds are available, the project ranks high enough on the priority list for Federal funds, and the State accepts a smaller grant.

VA — Proposed Rule Stage

VA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Brent Baker, Chief, State Home Construction Grants, Ofc of Geriatrics and Extended Care (182C), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3679

RIN: 2900–AD16

2851. EXPANDED ELIGIBILITY FOR 30-40 PERCENT SERVICE-CONNECTED VETERANS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.60

Legal Deadline: None

Abstract: The proposed regulations will implement the provisions in Section 101 of Pub. L. 100-322 which provides that outpatient medical services on an ambulatory or outpatient basis shall be furnished to a specified group of veterans in preparation for hospital admission or to obviate the need for hospital admission.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD41

2852. TREATMENT OF U.S. VETERANS WHO ARE NOT U.S. CITIZENS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.36

Legal Deadline: None

Abstract: The proposed regulations implement Section 105 of Pub. L. 100-322 which provides that a veteran residing in Canada, who is eligible for hospital care and medical services, is provided such care and services for a service-connected condition or as a part of a rehabilitation program under Chapter 31 of Title 38, United States Code.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD45

2853. INCREASING THE DOMICILIARY INCOME LIMITATION

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.47; 38 CFR 17.48

Legal Deadline: None

Abstract: The proposed regulations implement Section 102 of Pub. L. 100-322 which provides that domiciliary care may be provided to veterans whose incomes do not exceed the maximum applicable rate of pension for a veteran in need of regular aid and attendance.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD46

2854. PROVIDING EMERGENCY HOSPITAL CARE TO COMMUNITY NURSING HOME PATIENTS

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.50b(3)

Legal Deadline: None

Abstract: These proposed regulations implement Section 104 of Pub. L. 100-322 which provides that hospital care for the treatment of medical emergencies is authorized for veterans receiving care in a community nursing home until such time as the veteran can be safely transferred to a VA facility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900–AD47

2855. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Legal Authority: PL 100-322, Sec 412

CFR Citation: 38 CFR 17.162

Legal Deadline: None

Abstract: Section 412 of Pub. L. 100-322 authorizes the Veterans Canteen Service to operate child care centers at VA facilities. The centers will be established based on the demand for care and to the extent that such operation is practical and in the best interest of VA. The centers will be available for the children of VA employees and, to the extent space is available, the children of other Federal and Department of Veterans Affairs affiliated employees. Also, these centers should provide an incentive for personnel recruitment. The proposed regulations will prescribe the requirements and standards for the operation of VA child care centers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Brenda L. Jenkins, Actng Dir, Ofc of Child Care Svcs (133H), Veterans Canteen Service, Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 376-8149

RIN: 2900–AD48

2856. CONFIDENTIAL QUALITY ASSURANCE PROGRAM RECORDS AND DOCUMENTS

Legal Authority: 38 USC 3305; 38 USC 4151

CFR Citation: 38 CFR 17.500; 38 CFR 17.506; 38 CFR 17.507(a)(4); 38 CFR 17.508; 38 CFR 17.509; 38 CFR 17.515; 38 CFR 17.516; 38 CFR 17.519

Legal Deadline: None

Abstract: 38 USC 3305 prohibits VA from designating any Quality Assurance (QA) program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. Final regulations implementing 38 USC 3305 were made effective October 22, 1982. Those regulations govern VA's QA program activities and records and documents which are made confidential and privileged. Proposed rules amending 38 CFR 17.500-17.534 were issued in the Federal Register on October 27, 1988, and the public comment period ended November 38, 1988. One commenter suggested a change to those regulations that could not be accepted by VA without public comment. Therefore, VA is proposing to reorganize the description of the continuous monitoring functions, streamline programmatic QA requirements for the medical facilities and update requirements according to new standards.

Timetable:

Action	Date	FR Cite
NPRM	01/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lubran, Chief, System Review Staff (10Q), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3113

RIN: 2900–AD73

2857. ● CONFIDENTIALITY OF TORT CLAIM PEER REVIEW

Legal Authority: 38 USC 3305

CFR Citation: 38 CFR 17.501 to 17.534

Legal Deadline: None

Abstract: These regulations will make confidential the results of the peer review of medical care provided in cases where malpractice is alleged.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39416
NPRM Comment Period End	10/26/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Agatha Francis, Health Science Officer, Ofc of Medical Inspector (10A6), Department of Veterans Affairs, Veterans Health Svcs. & Res. Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5418

RIN: 2900–AE06

2858. ● REPORTING HEALTH CARE PROFESSIONALS TO LICENSING AND MONITORING ENTITIES

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This regulation will specify the requirements for reporting licensed health care professionals to licensing and monitoring entities. It will also state the criteria to be used in determining who should be reported to licensing and monitoring entities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Agatha J. Francis, Health Science Officer (10A6), Office of the Medical Inspector, Department of Veterans Affairs, Veterans Health Svcs & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5417

RIN: 2900–AE27

2859. ● CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

Legal Authority: 38 USC 4132

CFR Citation: 38 CFR 1.460-499

Legal Deadline: None

Abstract: These regulations address the confidentiality of VA records pertaining to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), and sickle cell anemia treatment, rehabilitation, education, training, evaluation and research information.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2504

RIN: 2900–AE28

VETERANS BENEFITS ADMINISTRATION

2860. EMPLOYEE FIDUCIARIES

Legal Authority: 38 USC 210

CFR Citation: 38 CFR 0.735-21

Legal Deadline: None

Abstract: The existing regulation falls under the general rules of conduct for employees. The intended change will bar most employees from becoming fiduciaries for beneficiaries of Department of Veterans Affairs benefits and establish an exemption to the bar under a limited number of circumstances such as when the employee is a close relative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AB50

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2861. 1. VETERANS SERVICES OFFICER (VSO) TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Legal Authority: 38 USC 3202(a)

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Legal Deadline: None

Abstract: 38 CFR 13.55 authorizes the VSO to select and appoint a fiduciary and defines the types of payees authorized to receive payments in fiduciary cases. The intended change updates the authority language to more closely reflect changes to 38 USC 3202; removes gender specific terminology and reference to mental illness; and, further clarifies the types of payees available for selection.

38 CFR 13.56 defines classes of beneficiaries who may be paid directly. The intended change clarifies the conditions for direct payment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AB75

2862. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.57; 38 CFR 13.56

Legal Deadline: None

Abstract: 38 CFR 13.57 specifies types of Department of Veterans Affairs benefits that may be paid to spouse payee. The intended change broadens the class of payments to include Department of Veterans Affairs insurance. 38 CFR 13.58 explains in part duties expected of a legal custodian. The intended change will clarify the custodian's authority to purchase a burial agreement for the incompetent beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900–AB76

2863. VETERANS EDUCATION; FEDERAL EQUAL OPPORTUNITY LAWS

Legal Authority: 42 USC 2000d; 20 USC 1681; 29 USC 794; 42 USC 6101

CFR Citation: 38 CFR 21.4300; 38 CFR 21.4301; 38 CFR 21.4302; 38 CFR 21.4304; 38 CFR 21.4305; 38 CFR 21.4306; 38 CFR 21.4307; 38 CFR 21.4135

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to rescind several regulations. These regulations concern the implementation of Title VI, Civil Rights Act of 1964 in the education programs which VA administers. The regulations either conflict with or repeat unnecessarily other regulations which deal with the implementation of that Act. Rescinding these regulations will eliminate any confusion in the public's perception of the way VA is implementing this Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900–AC52

2864. EXTENSION OF TIME LIMIT FOR CLAIMS

Legal Authority: 38 USC 3013

CFR Citation: 38 CFR 21.32

Legal Deadline: None

Abstract: Under current rules a veteran's request for assistance under the vocational rehabilitation program may be adversely affected if the veteran fails to timely provide information requested by VA even if VA did not inform the veteran of the time limits for providing the information requested. VA is proposing to change these rules to extend the period during which evidence may be submitted if VA did not inform the veteran of the time limits for submitting the requested information.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	54 FR 40687
NPRM Comment Period End	11/02/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC61

2865. COMPLIANCE WITH CIVIL RIGHTS PROVISIONS

Legal Authority: 38 USC 1515

CFR Citation: 38 CFR 21.324

Legal Deadline: None

Abstract: Compliance with civil rights provisions require that payment of benefits to veterans be terminated upon a finding that a veteran is attending a facility which has been found in noncompliance with applicable provisions of Part 18, Nondiscrimination in Federally Assisted Programs of the Department of Veterans Affairs. We propose to amend 38 CFR 21.324 to reflect this new requirement.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC72

2866. TRAINING OUTSIDE OF STATE UNDER 38 CFR 21.130

Legal Authority: 38 USC 1514

CFR Citation: 38 CFR 21.130

Legal Deadline: None

Abstract: The provision of training outside a State is subject to certain limitations not applicable to training pursued within the United States. VA is proposing to amend these provisions in the case of veterans who wish to become employed outside the United States. The purpose of the change is to help assure that vocational rehabilitation services lead to suitable employment given the special problems inherent in providing vocational rehabilitation programs outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900–AC73

2867. LOANS TO PURCHASE MANUFACTURED HOMES

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4202; 38 CFR 36.4204; 38 CFR 36.4222; 38 CFR 36.4232; 38 CFR 36.4283

Legal Deadline: None

Abstract: A number of regulatory changes will be proposed for the VA manufactured home loan program. VA would conform to HUD's practices on certifications, invoicing and volume rebates. Lenders would be permitted to file claims upon receipt of the VA's resale price and thereafter retain the profit or loss which results from subsequent sale of the home. Broader insurance coverage would be required to cover missing items at repossession. Actual freight costs would be allowed in the invoice, and the amounts and items which could be included in the loan would be revised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900–AC85

2868. VA HOME LOAN CREDIT STANDARDS; NEW SAH GRANT

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g); PL 99-576

CFR Citation: 38 CFR 4200 et seq.; 38 CFR 4300 et seq.; 38 CFR 4400 et seq.

Legal Deadline: None

Abstract: Regulations will be amended to implement the requirements of Public Law 99-576. The new law adds a new specially adapted housing grant purpose and requires that Department of Veterans Affairs home loan credit standards be in regulatory form.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900–AC90

2869. QUALIFICATION REQUIREMENTS FOR DEPARTMENT OF VETERANS AFFAIRS FEE APPRAISERS

Legal Authority: 38 USC 210(c); 38 USC 1831; PL 100-198

CFR Citation: 38 CFR 36.4339

Legal Deadline: None

Abstract: Pub. L. 100-198 requires that certain standards for being designated as a fee appraiser be published in regulatory form. The standards are to include the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers. In the past, such requirements have been published in administrative issues other than regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Burke, Assistant Director for Construction, and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2691

RIN: 2900–AD32

2870. LOAN GUARANTY: APPROVAL AND WITHDRAWAL OF AUTOMATIC PROCESSING PRIVILEGE

Legal Authority: 38 USC 210(c); 38 USC 1802(d)

CFR Citation: 38 CFR 36.4300; 38 CFR 36.4300

Legal Deadline: None

Abstract: The Department of Veterans Affairs may grant lenders the authority to process loans on the automatic basis if they meet requirements set by VA. Currently these requirements are published in administrative issues with release to program participants. The proposed regulations will place the requirements in regulatory form to ensure proper notice. The requirements will include minimums for such items as working capital, experience of the firm and/or principal officers and its

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underwriters. These regulations will apply to lenders such as mortgage bankers who are not already under supervision by State or Federal entities. These regulations will also prescribe standards and procedures for withdrawal of the automatic processing authority.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AD33

2871. ALLOWABLE FEES AND CHARGES FOR DEPARTMENT OF VETERANS AFFAIRS GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)

CFR Citation: 38 CFR 36.4312; 38 CFR 36.4254

Legal Deadline: None

Abstract: Regulations allow the veteran obtaining a Department of Veterans Affairs guaranteed loan to pay the lender making the loan a one percent origination fee to cover the processing of the loan. Any other discount points required by the lender are to be paid by someone other than the veteran except in those cases where it is specifically allowed, such as refinancing loans. This regulation would clarify the instances in which a veteran may or may not pay discount points. This regulation change would also clarify that discount points may not be paid by the veteran (except when specifically allowed) to anyone, including the lender, seller or other concerned party.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AD34

2872. FULL DISCLOSURE OF BENEFICIARY'S INCOME AND ASSETS

Legal Authority: PL 99-576, Sec 505; 38 USC 3202(b)

CFR Citation: 38 CFR 13.58(b)(2)(iii); 38 CFR 13.59(a); 38 CFR 13.100(a)(1); 38 CFR 13.102(b); 38 CFR 13.104(a)

Legal Deadline: None

Abstract: Federally appointed fiduciaries are not required, except under very specific circumstances, to divulge non-VA income and assets belonging to the incompetent beneficiary. It is difficult to assess whether the fiduciary is using the beneficiary's VA assets appropriately unless placed in the context of total income and assets available. The purpose of these changes is to lessen the potential for fraud, waste and abuse. 38 CFR 13.58(b)(2) and 13.59(a) detail the responsibilities of legal custodians and court-appointed guardians respectively. They would be amended to require the reporting of non-VA assets. 38 CFR 13.100(a)(1) defines the authority of the Veterans Services Officer to supervise fiduciaries. The intended change would permit the Veterans Services Officer to request non-VA financial information from fiduciaries. 38 CFR 13.102(b) and 13.104(b) define the accountability of legal custodians and court-appointed guardians respectively. The intended change requires disclosure of non-VA financial information.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence J. Timko, Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AD35

2873. BASIC ELIGIBILITY DETERMINATIONS: EDUCATION

Legal Authority: 38 USC 1411(a); 38 USC 1412(b); 38 USC 1602; 38 USC 1652(a)

CFR Citation: 38 CFR 3.315

Legal Deadline: None

Abstract: VA has a regulation which provides authority and guidelines for making service-connected discharge determinations needed to determine eligibility for VA benefits. On November 18, 1986, VA proposed an amended regulation to determine when this determination must be made for a veteran who has applied for benefits under the Montgomery GI Bill-Active Duty. Subsequently, legislation was enacted which requires this determination for some reservists under the Montgomery GI Bill-Selected Reserve. VA will combine the two requirements and publish the regulation for further comment.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	54 FR 40684
NPRM Comment Period End	11/02/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD60

2874. RESERVISTS EDUCATION; VETERANS' BENEFITS AND SERVICES ACT OF 1988 AND THE MONTGOMERY GI BILL

Legal Authority: 10 USC 2136(b); 38 USC 1788

CFR Citation: 38 CFR 21.7670; 38 CFR 21.7672

Legal Deadline: None

Abstract: The Veterans Benefits and Services Act of 1988 contains a provision which changes the method of measuring laboratory sessions for the purpose of paying educational benefits. The definition of standard class session is also changed. This proposal will

bring the pertinent regulation governing the Montgomery GI Bill into agreement with the law.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD68

2875. DEFINITION OF FORMER PRISONER OF WAR

Legal Authority: PL 100-322

CFR Citation: 38 CFR 3.1(y)

Legal Deadline: None

Abstract: This amendment gives VA the authority to make determinations on prisoner of war status for persons interned during wartime by neutral or allied governments. This expands the class of persons eligible to be declared former prisoners of war.

Timetable:

Action	Date	FR Cite
NPRM	11/18/88	53 FR 46634
NPRM Comment Period End	12/19/88	53 FR 46634
New NPRM	10/03/89	54 FR 40686
New NPRM Comment Period End	11/02/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Leonard, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AD71

2876. AUTHORITY OF FIDUCIARIES TO CONDUCT INSURANCE TRANSACTIONS

Legal Authority: 38 USC 706; 38 USC 744

CFR Citation: 38 CFR 6.211; 38 CFR 8.119

Legal Deadline: None

Abstract: Under current procedures, State appointed fiduciaries may perform insurance transactions, e.g., apply for coverage or reinstate a policy, on behalf of incapacitated veterans. The ability of a fiduciary to perform a particular transaction is dependent on the authority granted to the fiduciary by State law. Such authority varies from State to State. Because of this, before any insurance transaction can be completed it must first be determined whether the fiduciary is authorized by State law to conduct the particular transaction. This entails referring the matter to a District Counsel for review. This process is time consuming and delays rendering service to our policyholders. In order to alleviate this problem and to establish a consistent approach regarding the powers of State-appointed fiduciaries, as well as federally appointed fiduciaries as they pertain to government life insurance transactions only, we are proposing regulations which will clarify and enunciate such powers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Insurance Specialist/Attorney (290B), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5710

RIN: 2900-AD74

2877. EXTENSION OF VOCATIONAL PROGRAMS FOR SERIOUSLY DISABLED VETERANS

Legal Authority: PL 100-687, Sec 1303; PL 100-227, Sec 202

CFR Citation: 38 CFR 21.6001; 38 CFR 21.6005; 38 CFR 21.6015; 38 CFR 21.6021; 38 CFR 21.6040; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6054; 38 CFR 21.6059

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its regulations governing two programs which provide vocational service to seriously disabled veterans receiving pension or individual unemployability benefits from VA. These changes are required because recent legislation extended both programs through January 31, 1992, and revised eligibility criteria for participation. The intended effect of these amendments is to make these programs available to an expanded group of veterans in receipt of pension from VA and eliminate the mandatory participation requirement for veterans awarded individual unemployability benefits on or after February 1, 1985.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5496

RIN: 2900-AD76

2878. EXTENSION OF ELIGIBILITY BECAUSE OF THE DISABLING EFFECTS OF CHRONIC ALCOHOLISM

Legal Authority: PL 100-689, Sec 109

CFR Citation: 38 CFR 21.42

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains provisions under which the period of eligibility of a veteran requesting assistance under the vocational rehabilitation program may be extended for the period during which the veteran could not participate in a program because of the disabling effects of chronic alcoholism. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810

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Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD77

2878. ON JOB TRAINING IN NON-FEDERAL AGENCIES ON A NOMINAL PAY BASIS

Legal Authority: PL 100-689, Sec 201

CFR Citation: 38 CFR 21.296; 38 CFR 21.299

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains provisions which allow the establishment of programs of training and work experience on a nonpay or nominal pay basis in state and local government agencies. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD79

2880. USE OF FOR-PROFIT AGENCIES

Legal Authority: PL 100-689, Sec 202

CFR Citation: 38 CFR 21.160; 38 CFR 21.162; 38 CFR 21.294; 38 CFR 21.252

Legal Deadline: None

Abstract: The Veterans' Benefits Programs and Improvement Act of 1988 contains provisions which allow VA to utilize for-profit agencies to provide independent living services and employment services under certain conditions. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AD80

2881. VETERANS EDUCATION; STATE APPROVING AGENCIES AND THE MONTGOMERY GI BILL-SELECTED RESERVE

Legal Authority: 10 USC 2136; 38 USC 1774A

CFR Citation: 38 CFR 21.7700

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contains several provisions which affect the Department of Veterans Affairs relationships with the state approving agencies. This amendment will state that in administering Chapter 106, Title 10, United States Code, the Department of Veterans Affairs will apply the provisions of that new section in the same manner that it will be applied in the administration of 38 U.S.C. Chapters 34 and 36.

Timetable:

Action	Date	FR Cite
NPRM	09/25/89	54 FR 39207
NPRM Comment Period End	10/25/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD81

2882. VETERANS AND DEPENDENTS EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT

Legal Authority: 38 USC 1733; 38 USC 1692

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains provisions which affect both the Dependents' Educational Assistance Program and the Vietnam Era GI Bill. Refresher, remedial and deficiency training is now permitted in the former, while the amount of tutorial assistance is raised in the latter, and the provisions for extending the delimiting date is liberalized for both of them. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer the new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD84

2883. VETERANS EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT AND VEAP

Legal Authority: 38 USC 105; 38 USC 1602; 38 USC 1631; 38 USC 1634; 38 USC 1641; 38 USC 1652; 38 USC 1788

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5042; 38 CFR 21.5072; 38 CFR 21.5130; 38 CFR 21.5132; 38 CFR 21.5138; 38 CFR 21.5139; 38 CFR 21.5230; 38 CFR 21.5250; 38 CFR 21.5270; 38 CFR 21.5296

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Post-Vietnam Era Veterans' Educational Assistance Program. These include permitting cooperative training in this program, permitting refresher remedial and deficiency training in this program, providing tutorial assistance to veterans in this program, liberalizing the provisions for extending a veteran's period of eligibility, and reducing benefits to veterans who are incarcerated by reason of a felony conviction. Some of these changes are liberalizing. Some are more restrictive. This proposal will acquaint the public with the way in which the Department

of Veterans Affairs will administer the new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD85

2884. RESERVISTS EDUCATION; THE VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT AND MONTGOMERY GI BILL

Legal Authority: 38 USC 105; 38 USC 2131 to 2133; 38 USC 2135

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Montgomery GI Bill-Selective Reserve. These include paying benefits for less than half-time training in certain instances; liberalizing the eligibility criteria; and liberalizing the provisions for extending a reservist's period of eligibility. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer most of the new provisions of the law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD89

2885. IMPLEMENTATION OF PUB. L. 100-198 CONCERNING CHANGES IN AMOUNT OF ENTITLEMENT, CALCULATION OF GUARANTY AMOUNT, OCCUPANCY REQUIREMENTS, AND REQUIREMENTS FOR REFINANCING LOANS

Legal Authority: 38 USC 210(c)(1); PL 100-198; PL 100-253

CFR Citation: 38 CFR 36.4302; 38 CFR 36.4303; 38 CFR 36.4306; 38 CFR 36.4306a; 38 CFR 36.4502; 38 CFR 36.4504

Legal Deadline: None

Abstract: Regulations will be amended to implement certain provisions of Pub. L. 100-198 as amended by Pub. L. 100-253. The new law requires: (1) An increase in the maximum amount of entitlement from $27,500 to $36,000, (2) A revision of the method for calculating the guaranty amount, (3) A revision of the occupancy requirements, and (4) A revision of the requirements for refinancing loans. These regulations will formalize the implementation of these provisions since all have been put into effect administratively.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AD91

2886. REQUIRE HOLDER TO RETAIN RECORDS FOR ONE YEAR; ELIMINATE MINIMUM PROPERTY STANDARDS

Legal Authority: 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4215; 38 CFR 36.4330; 38 CFR 36.4360(a)

Legal Deadline: None

Abstract: Regulations will be revised to require lenders to keep loan origination records for one year. This will ensure that records will be available for one year should the Department of Veterans Affairs wish to audit them. The regulations will also be revised to eliminate references to the HUD Minimum Property Standards as both HUD and the Department of Veterans Affairs have discontinued use of these standards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AD92

2887. WAIVER/COMPROMISE OF DEBTS ESTABLISHED AS RESULT OF FORECLOSURE

Legal Authority: 38 USC 210(c)(1); 38 USC 1820

CFR Citation: 38 CFR 36.4323(e)

Legal Deadline: None

Abstract: Under 38 USC 1820 the Secretary of the Department of Veterans Affairs is authorized to waive or compromise debt collection rights prior to the completion of a GI loan foreclosure. The Department of Veterans Affairs presently uses this authority under certain circumstances. This amendment will put into regulatory form the specific conditions under which the Secretary's authority to waive or compromise collection of debts may be used.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900-AD94

2888. INDEPENDENT MEDICAL OPINIONS

Legal Authority: 38 USC 3009

CFR Citation: 38 CFR 3.328

Legal Deadline: None

Abstract: The proposed regulation provides authority and procedures for requesting independent medical opinions in complex or controversial claims.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AD96

2889. EXCLUSIONS FROM INCOME

Legal Authority: PL 100-687

CFR Citation: 38 CFR 3.272

Legal Deadline: None

Abstract: This amendment excludes from countable income, for purposes of needs-based benefits, reimbursements for casualty losses and funds received from the Agent Orange litigation settlement.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Leonard, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AD97

2890. ● VETERANS EDUCATION INCREASE IN RATES PAYABLE IN THE EDUCATIONAL ASSISTANCE TEST PROGRAM (EATP)

Legal Authority: 10 USC 2143-44

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually based upon the average cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that these rates should be increased by six percent for the 1988-89 school year. These regulations dealing with these rates will be adjusted accordingly.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Actng Assistant Director for Education Policy & Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE08

2891. ● RESERVISTS EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS IMPROVEMENT AND HEALTH-CARE AUTHORIZATION ACT OF 1986

Legal Authority: PL 99-576; PL 100-689

CFR Citation: 38 CFR 21.7540; 38 CFR 21.7600; 38 CFR 21.7603; 38 CFR 21.7642; 38 CFR 21.7670; 38 CFR 21.7672; 38 CFR 21.7673

Legal Deadline: None

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains several provisions which affect the provision of educational assistance to members of the Selected Reserve. The most important provisions include a change in the way in which VA must measure certain courses which do not lead to a standard college degree; a requirement that certain reservists be counseled before choosing a program of education; and a change concerning nonduplication of Federal programs. The appropriate regulations must be amended accordingly. The Veterans' Benefits and Program Improvement Act of 1988 contains some related provisions which also require amendments to VA regulations. These amendments will be proposed at the same time. Unrelated amendments will be proposed separately.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2668

RIN: 2900–AE10

2892. ● CLAIMS BASED ON EXPOSURE TO HERBICIDES CONTAINING DIOXIN

Legal Authority: PL 98-542; 38 USC 210(c)

CFR Citation: 38 CFR 3.311a

Legal Deadline: None

Abstract: This regulation will implement the court decision in Nehmer, et al., vs. United States Veterans Administration, et al., C.A. No. C-86-6160 TEH, U.S.D.C., N.D. Cal., May 3, 1989.

Timetable:

Action	Date	FR Cite
NPRM	04/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE12

2893. ● LOAN GUARANTY: SERVICING REQUIREMENTS FOR VA GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4200 et seq.; 38 CFR 36.4300 et seq.

Legal Deadline: None

Abstract: Presently, VA has no standards for loan holders to follow in servicing VA guaranteed home loans. It is proposed to develop appropriate standards for holders to follow in servicing VA loans. This would ensure that defaults would be prevented whenever possible and that liquidations are conducted as efficiently as possible.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan, Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900–AE19

2894. ● LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1820

CFR Citation: 38 CFR 36.4320

Legal Deadline: None

Abstract: Present regulations give loan holders a choice of various forms of title evidence when conveying a property to the Secretary of Veterans Affairs. The regulations will be amended to authorize the Secretary to specify the title documentation necessary for conveyance of properties to the Secretary and establish a date by which such title evidence must be received. The amendment will also provide that the property must be vacant when conveyed to VA unless occupied by someone properly in possession by virtue of a redemption period or as otherwise directed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan, Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900–AE20

2895. ● LOAN GUARANTY: DISCRIMINATION ON THE BASIS OF HANDICAP OR FAMILY STATUS

Legal Authority: 48 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4253; 38 CFR 36.4350

Legal Deadline: None

Abstract: Present VA regulations permit restrictions on title which limit the sale, lease or occupancy of the property based on age. The Fair Housing Amendments of 1988 prohibit discrimination in residential real estate transactions because of family status or handicap except for certain housing for older persons. VA proposes to amend its regulations to provide that age restrictions will be acceptable only if they are acceptable under the provisions of the Fair Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900–AE21

2896. ● NEW AND MATERIAL EVIDENCE

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.156

Legal Deadline: None

Abstract: This amendment establishes a regulatory definition for the term "new and material evidence."

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	
Final Action	02/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE22

2897. ● VA ASSISTANCE IN DEVELOPING CLAIMS

Legal Authority: 38 USC 210(c); 38 USC 3007

CFR Citation: 38 CFR 3.159

Legal Deadline: None

Abstract: This amendment defines VA's responsibility to assist claimants in developing the facts pertinent to their claims.

Timetable:

Action	Date	FR Cite
NPRM	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE23

2898. ● FAILURE TO REPORT FOR VA EXAMINATION

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.326; 38 CFR 3.327; 38 CFR 3.329; 38 CFR 3.655

Legal Deadline: None

Abstract: These amendments clarify the requirement that individuals must report for VA examinations and require VA to issue advance notice before taking adverse action because of failure to report.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810

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Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE24

2899. ● EXCHANGE RATES FOR FOREIGN CURRENCIES

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.32

Legal Deadline: None

Abstract: This amendment establishes a procedure for converting foreign currencies into U.S. dollar equivalents for the purpose of calculating rates or amounts due to VA beneficiaries who receive income or pay expenses in foreign currencies.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE25

2900. ● MITIGATING CIRCUMSTANCES

Legal Authority: PL 100-689, Sec 121

CFR Citation: 38 CFR 21.324

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 provides that mitigating circumstances exist the first time a veteran withdraws from a course or courses which do not exceed six semester hours or the equivalent for which the veteran has been paid. Under prior provisions the determination of mitigating circumstances would have been made on a case-by-case basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900-AE26

2901. ● VETERANS EDUCATION; QUALIFYING FOR THE MONTGOMERY GI BILL THROUGH SERVICE IN THE SELECTED RESERVE

Legal Authority: 38 USC 1412

CFR Citation: 38 CFR 21.7042

Legal Deadline: None

Abstract: An individual may qualify for benefits under the Montgomery GI Bill-Active Duty by serving at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service and, after completion of active duty service, serving at least four continuous years in the Selected Reserve. In order to ensure that the Selected Reserve enlists servicemembers before their military skills have significantly eroded, this proposal would set a time limit of one year between release from active duty and affiliation with the Selected Reserve.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE31

NATIONAL CEMETERY SYSTEM

2902. ● GROUP MEMORIAL MONUMENTS

Legal Authority: 38 USC 210; 38 USC 906; 38 USC 1003

CFR Citation: 38 CFR 1.633

Legal Deadline: None

Abstract: VA provides grave markers for veterans and eligible descendants and operates under authority of 38 U.S.C. 906 and 1000-1007. Under 38 U.S.C. 1003(b), VA may erect memorials in national cemeteries to individuals or groups of individuals whose remains have never been recovered. Regulations have been published regarding provision of headstones for individuals, but not for groups of individuals whose remains have not been recovered. VA is proposing to provide memorials for such groups on the same basis as for individuals, or if requested, by a Federal agency or department acting on behalf of the next of kin.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annabelle D. Stone, Actng Dir, Ofc of Executive Communications, and Administration (40D), Department of Veterans Affairs, National Cemetery System, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2396

RIN: 2900-AE13

OFFICE OF EQUAL OPPORTUNITY

2903. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Significance: Regulatory Program

Legal Authority: 20 USC 1681 et seq; 38 USC 210(a); EO 12250; EO 12067

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: To establish standards and procedures for enforcing Title IX of the Education Amendments of 1972 in educational programs and activities receiving Federal financial assistance from VA. Title IX prohibits discrimination on the basis of sex. There are no alternatives to the issuance of the regulations. Participants, potential participants and the public in general will benefit from Federally assisted programs provided free from prohibited discrimination based on sex.

This originally appeared as a proposed rule in the Federal Register of April 25, 1979 (44 FR 24320). Because of the extended time frame due to internal agency consultation with the Department of Justice, the Department is planning to repropose these regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William E. Nunn, Equal Opportunity Specialist (06A), Department of Veterans Affairs, Office of Equal Opportunity, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2150

RIN: 2900-AB51

OFFICE OF THE GENERAL COUNSEL

2904. SUITS AGAINST DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES

Legal Authority: PL 100-694

CFR Citation: 38 CFR 14

Legal Deadline: None

Abstract: This proposal updates regulations to correspond to Department of Justice regulations implementing the Federal Employees Liability Reform and Tort Compensation Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James E. Adams, Deputy Assistant General Counsel (023A), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2060

RIN: 2900-AD72

2905. ● RECOGNITION OF ORGANIZATIONS, REPRESENTATIVES, AGENTS, AND ATTORNEYS

Legal Authority: 38 USC 210(c)(1); 38 USC 3402

CFR Citation: 38 CFR 14.629

Legal Deadline: None

Abstract: The proposed amendments to existing procedures and requirements will authorize accreditation as claim representatives of individuals working at least 1,000 hours annually for organizations recognized by VA to represent veterans-benefit claimants and establish criteria for the accreditation of county veterans' service officers as claim representatives based on recommendation and supervision by State organizations recognized by VA to represent veterans' benefit claimants. VA believes less-than-full-time employment of a claim representative (specifically, at least 1,000 hours per year) does not connote lack of accountability to the recognized organization, primarily because the representative is significantly dependent upon the organization as the source of livelihood. As regards accreditation of county veterans' service officers, VA has for some years recognized some such officers, even though they are not actually State-employed, under the theory they are so closely associated with the State as to be considered State employees. The proposed regulations would provide recognized

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Additional Information: (Item No. 9 Continued) State organizations and VA with clear and uniform standards to apply in determining whether such officers are qualified to represent claimants.

Agency Contact: Richard J. Hipolit, Acting Deputy Assistant General, Counsel (022A), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2440

RIN: 2900-AE15

PROGRAM COORDINATION AND EVALUATION

2906. ● STANDARDS FOR PROGRAM EVALUATION

Legal Authority: 38 USC 210(c); 38 USC 219

CFR Citation: 38 CFR 1.15

Legal Deadline: None

Abstract: Due to the realignment of the program evaluation function and the reduction of resources dedicated to that function, the conduct of program evaluations will be reevaluated and alternatives explored which will better meet the needs of the VA in assessing the effectiveness of its programs. Regulations will be proposed to implement these changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Chavez Long, Deputy Assistant Secretary for Program Coordination and Evaluation (076), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-7590

RIN: 2900-AE30

DEPARTMENT OF VETERANS AFFAIRS (VA) — Final Rule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

2907. CONTRACT MEDICAL CARE

Significance: Regulatory Program

Legal Authority: PL 99-576

CFR Citation: 38 CFR 17.50b; 38 CFR 17.87

Legal Deadline: None

Abstract: The Department of Veterans Affairs and the Department of Health and Human Services will be proposing to amend applicable regulations to permit VA to pay for authorized or private hospital care in amounts based on the rates allowed by Medicare under the prospective payment system. This step will help ensure that payments made by VA are consistent with those

made by the largest Federal health care program for similar services in the community.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47726
NPRM Comment Period End	12/27/88	53 FR 47726
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AC31

2908. NONDISCRIMINATION AGAINST ALCOHOL AND DRUG ABUSERS AND PERSONS INFECTED WITH HIV

Legal Authority: 38 USC 4133; PL 100-322, Sec 122

CFR Citation: 38 CFR 17.48(k)

Legal Deadline: None

Abstract: This regulation is being amended to comply with Pub. L. 100-322, section 121, which prohibits the discrimination in admission or treatment in any VA health care facility of veterans who are eligible for treatment and who are alcohol or drug abusers or are infected with human immunodeficiency virus.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (136F), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AD49

2909. ● FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Legal Authority: 5 USC 301; 38 USC 210(c)[1]; 38 USC 4131; 38 USC 4184; 42 USC 300v-1(b)

CFR Citation: 38 CFR 16

Legal Deadline: None

Abstract: This amendment establishes policy regarding all research involving human subjects conducted, supported or otherwise subject to regulation by any Federal department or agency.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Lorei, Staff Assistant to the ACMD for Research and Development (15C), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2618

RIN: 2900-AE29

VETERANS BENEFITS ADMINISTRATION

2910. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION OR DIOXIN

Legal Authority: PL 98-542

CFR Citation: 38 CFR 3.311b

Legal Deadline: None

Abstract: These amendments expand the list of radiogenic diseases and modify certain manifestation periods for radiation-related cancers. Minor technical clarifications are also included.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48551
NPRM Comment Period End	01/03/89	53 FR 48551
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AB64

2911. DETERMINING ENTITLEMENT USAGE UNDER THE VOCATIONAL REHABILITATION PROGRAM

Legal Authority: 38 USC 1505

CFR Citation: 38 CFR Not yet determined

Legal Deadline: None

Abstract: To establish a specific method for determining entitlement changes under Chapter 31. In view of the number of education and training programs not authorized under Title 38, a specific statement of Chapter 31 policy for determining entitlement changes is needed.

Timetable:

Action	Date	FR Cite
NPRM	02/17/89	54 FR 7206
NPRM Comment Period End	03/20/89	54 FR 7206
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Policy and Program Development, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900-AC08

2912. 1. APPORTIONMENT OF BENEFITS TO DEPENDENTS 2. PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION 3. RECOMMENDATION FOR PAYMENT

Legal Authority: 38 USC 210; 38 USC 3202; 38 USC 3203; PL 98-543, Sec 402

CFR Citation: 38 CFR 13.70; 38 CFR 13.71; 38 CFR 13.74

Legal Deadline: None

Abstract: 38 CFR 13.70 defines the conditions under which the Veterans Services Officer may recommend an apportionment of benefits to dependents. The proposed amendment will clarify these conditions. The amendment will also remove a reference to mental illness as the sole criteria for a rating of incompetency.

38 CFR 13.71 is to be amended to make clear that the signing of an institutional award agreement does not waive an institution's right to claim payments under 38 USC 641. This action is the result of an unpublished General Counsel opinion.

38 CFR 13.74 is based on the provisions of 38 USC Sec. 3203(b) (1)(A); however, where the law refers to more than one type of institutional care, the regulation refers only to instances of hospitalization. This would seem to preclude application of the regulation when veterans are in State run nursing homes or other institutions operated by the United States or a political subdivision. The Department of Veterans Affairs, therefore, proposes to correct this defect by substituting the terms "institution" and "institutionalization" where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/05/87	52 FR 300
NPRM Comment Period End	02/05/87	52 FR 300
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AC10

2913. PROCEDURAL DUE PROCESS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.103; 38 CFR 3.105; 38 CFR 3.109; 38 CFR 3.110; 38 CFR 3.114

Legal Deadline: None

Abstract: These changes expand the procedural due process provided to beneficiaries, especially when benefits are proposed to be reduced or terminated. There is also a clarification of the effective date rule applicable to liberalizing laws or administrative issues.

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37797
NPRM Comment Period End	10/28/88	53 FR 37797
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Leonard, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC54

2914. SUSPENSION OF INDIVIDUAL EMPLOYEES OF MANUFACTURED HOME DEALERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4235

Legal Deadline: None

Abstract: Present regulations authorize the Secretary to refuse to guarantee loans to purchase manufactured homes from dealers determined by the Secretary to have engaged in contracts of sale or methods or practices which are unfair or prejudicial to veteran purchasers. It is proposed to amend this regulation to also authorize suspension of individual employees of manufactured home dealers who engage in unfair or prejudicial practices.

Timetable:

Action	Date	FR Cite
NPRM	10/18/88	53 FR 40742
NPRM Comment Period End	11/17/88	53 FR 40742
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Schneider, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AC83

2915. DUE PROCESS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 21.420

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to bring procedures for informing veterans of changes in payments for dependents into conformity with the decision of the courts. Under the proposed change, VA will provide 60 days advance notice if the veteran loses benefits being paid for a dependent in certain cases.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10378
NPRM Comment Period End	04/12/89	54 FR 10378
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6496

RIN: 2900-AD27

2916. PLACING USE OF THE VOCATIONAL REHABILITATION PANEL ON A DISCRETIONARY BASIS

Legal Authority: 38 USC 1504(a); 38 USC 1505(a); 38 USC 1506(a); 38 USC 1520

CFR Citation: 38 CFR 21.62; 38 CFR 21.74; 38 CFR 21.76; 38 CFR 21.52; 38 CFR 21.53

Legal Deadline: None

Abstract: Under current provisions, use of the Vocational Rehabilitation Panel is required in certain instances. The role of the Panel is to assist in helping seriously disabled veterans successfully pursue a rehabilitation program. The requirement for consultation was a sound policy when the vocational rehabilitation program was substantially revised and broadened in 1980. As staff have gained experience with the new policies which resulted from the revision of the rehabilitation program in 1980, the need for consultation in every case has decreased. Current field experience indicates that placing use of the Panel on a discretionary basis is in the interest of the veteran and the government.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9237
NPRM Comment Period End	04/05/89	54 FR 9237
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-6198

RIN: 2900-AD29

2917. ASSUMPTION OF VA GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1802(b); PL 100-198

CFR Citation: 38 CFR 36.4300; 38 CFR 36.4200

Legal Deadline: None

Abstract: Pub. L. 100-198 requires that assumers of Department of Veterans Affairs loans committed to on or after March 1, 1988, meet certain criteria, including credit underwriting, before the assumption may take place. The proposed regulations will place the requirements of the law into regulatory form and will, as required by the law, set timeliness standards for processing assumed loans and the maximum that may be charged for the processing.

Timetable:

Action	Date	FR Cite
NPRM	06/15/89	54 FR 25469
NPRM Comment Period End	07/17/89	54 FR 25469
Final Action	01/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3668

RIN: 2900-AD30

2918. PROCESSING OF VA APPRAISALS BY DESIGNATED LENDERS

Legal Authority: 38 USC 210(c); PL 100-198; 38 USC 1810; 38 USC 1810(b)(5); 38 USC 1831

CFR Citation: 38 CFR 36.4300

Legal Deadline: None

Abstract: Pub. L. 100-198 requires the publication of regulations authorizing certain lenders to process appraisals on VA guaranteed loans. Such lenders will determine the value of the property, based on an appraisal by an appraiser selected by VA, without VA's approval or review of the appraisal. The regulations will set the criteria for being a designated lender and the procedures to follow.

Timetable:

Action	Date	FR Cite
NPRM	05/11/89	54 FR 20396
NPRM Comment Period End	06/12/89	54 FR 20396
Final Action	12/00/89	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Burke, Assistant Director for Construction and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2691

RIN: 2900-AD31

2919. DETERMINATION OF SERVICE-CONNECTION FOR IMPAIRED HEARING

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.385

Legal Deadline: None

Abstract: This amendment provides regulatory limits for establishing service-connection for impaired hearing and precludes service-connection for impaired hearing when those limits are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	08/26/88	53 FR 32627
NPRM Comment Period End	09/26/88	53 FR 32627
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AD54

2920. VETERANS EDUCATION; PAYMENTS DURING BREAKS IN ENROLLMENT

Legal Authority: 38 USC 1434; 38 USC 1780(a)

CFR Citation: 38 CFR 21.4203; 38 CFR 21.4205; 38 CFR 21.7130; 38 CFR 21.7140

Legal Deadline: None

Abstract: VA may make payments of educational assistance allowance to veterans and eligible persons under the various GI Bills during breaks within a certified period of enrollment when the break results from a school closing based upon an order of the President or due to an emergency situation. The Directors of Regional Offices have been delegated the authority to determine when these payments should be made. In the interest of administrative efficiency VA is considering permitting other VA employees to make these determinations during some school closings.

Timetable:

Action	Date	FR Cite
Final Action	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD59

2921. VETERANS EDUCATION; RESTRICTIONS ON MAKING VEAP PAYMENTS TO SERVICEPERSONS

Legal Authority: 38 USC 1621; 38 USC 1631

CFR Citation: 38 CFR 21.5134

Legal Deadline: None

Abstract: The law requires that generally, an individual must contribute to the Post-Vietnam Education Assistance Program (VEAP) fund for 12 months in order to receive educational assistance. So as to encourage participation by servicemembers, VA has permitted a servicemember who meets all the other eligibility requirements to receive educational assistance after he or she has completed 3 months of contributions to the fund or has made a lump-sum payment which is the equivalent of at least 3 months' contributions to the fund. In order to comply with the law it has been VA's policy to require these servicemembers to establish a continuing allotment so that they eventually will contribute to the fund for 12 months. However, the regulation which mentions the 3 months' contributions does not mention the 12 months' participation requirement. This has led to instances where servicemembers who have been paid educational assistance, never participated for 12 months. VA wishes to amend the regulation to correct this.

Timetable:

Action	Date	FR Cite
NPRM	04/06/89	54 FR 13702
NPRM Comment Period End	05/05/89	54 FR 13702
Final Action	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD62

2922. VETERANS EDUCATION; VETERANS EMPLOYMENT, TRAINING AND COUNSELING AMENDMENTS OF 1988

Legal Authority: PL 100-322; 38 USC 1434; 38 USC 1774; 38 USC 1774A; 38 USC 1782; PL 100-323, Sec 11; PL 100-323, Sec 14; PL 100-323, Sec 17

CFR Citation: 38 CFR 21.4150-4155; 38 CFR 21.4612; 38 CFR 21.4622; 38 CFR 21.4624; 38 CFR 21.4630-4632; 38 CFR 21.7200

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contains provisions which affect the relationship VA and the State approving agencies have with each other, and other provisions which affect the administration of the Veterans' Job Training Act. The pertinent regulations must be revised so that they implement the new law.

Timetable:

Action	Date	FR Cite
NPRM	05/17/89	54 FR 21230
NPRM Comment Period End	06/16/89	54 FR 21230
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Educational, Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD63

2923. VERBAL AUTHORIZATION OF PREMIUM ACTIONS

Legal Authority: 38 USC 708

CFR Citation: 38 CFR 8.8; 38 CFR 8.9

Legal Deadline: None

Abstract: Under current procedures insured veterans who wish to pay National Service Life Insurance (NSLI) premiums by monthly deductions from Department of Veterans Affairs benefits or military service retired pay must make a written request to do so. Under our proposal a written request will no longer be required. Instead, veterans wishing to make deduction action changes such as the establishment, adjustment or discontinuance of a deduction will be able to do so by telephoning their requests to the Department of Veterans Affairs for instantaneous service.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18550
NPRM Comment Period End	05/31/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Insurance Specialist/Attorney (290B), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5710

RIN: 2900-AD75

2924. DEPENDENTS EDUCATION; ELIGIBILITY OF STEPCHILDREN

Legal Authority: 38 USC 1701; 38 USC 1712

CFR Citation: 38 CFR 21.3041; 38 CFR 21.4135

Legal Deadline: None

Abstract: The stepchildren of a veteran whose children are eligible for dependents educational assistance are also eligible for that assistance on the same basis as those children. Occasionally, while such a stepchild is receiving assistance, the veteran will separate from or divorce his or her spouse. The child in question then ceases to be eligible for dependents educational assistance, because he or she is no longer the veteran's stepchild. This regulation will state how the Department of Veterans Affairs will determine when to discontinue the child's assistance.

Timetable:

Action	Date	FR Cite
NPRM	09/13/89	54 FR 10377
NPRM Comment Period End	04/12/89	54 FR 10377
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD82

2925. VETERANS EDUCATION; STATE APPROVING AGENCIES AND VEAP

Legal Authority: 38 USC 1641; 38 USC 1774A

CFR Citation: 38 CFR 21.5150

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contains several provisions which affect the Department of Veterans Affairs relationships with the State approving agencies. This amendment will state that in administering Chapter 32, Title 38, United States Code, the Department of Veterans Affairs will apply the provisions of that new section in the

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same manner that it will be applied in the administration of 38 U.S.C. Chapters 34 and 36.

Timetable:

Action	Date	FR Cite
NPRM	08/23/89	54 FR 35006
NPRM Comment Period End	09/22/89	54 FR 35006
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AD88

2926. DEFINITION OF MARGINAL EMPLOYMENT

Legal Authority: 38 USC 210(c); 38 USC 355

CFR Citation: 38 CFR 4.16

Legal Deadline: None

Abstract: This amendment defines the term "marginal employment" for purposes of making determinations of individual unemployability. This amendment is in response to a recommendation from the General Accounting Office.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 34531
NPRM Comment Period End	09/27/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AD99

2927. ● DUTY PERIODS

Legal Authority: PL 100-456

CFR Citation: 38 CFR 3.6

Legal Deadline: None

Abstract: This amendment defines "active duty for training" and "inactive duty training" with respect to the Senior Reserve Officer Training Corps.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24212
NPRM Comment Period End	07/06/89	54 FR 24212
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Leonard, Legal Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900–AE01

2928. ● VETERANS EDUCATION: IMPLEMENTATION OF THE VETERAN BENEFITS IMPROVEMENT AND HEALTH CARE AUTHORIZATION ACT OF 1986 AND NEW GI BILL CONTINUATION ACT OF 1987

Legal Authority: 38 USC 105; 38 USC 1411 to 1413; 38 USC 1417 to 1419; 38 USC 1788

CFR Citation: 38 CFR 21.7000; 38 CFR 21.7020; 38 CFR 21.7040; 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7050; 38 CFR 21.7076; 38 CFR 21.7100; 38 CFR 21.7103; 38 CFR 21.7112; 38 CFR 21.7122; 38 CFR 21.7131; 38 CFR 21.7135-7138

Legal Deadline: None

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains many provisions which affect the administration of the new educational assistance program for veterans and servicemembers. These include provision for apprenticeship and other on-job training and correspondence training in this program; minor changes to the criteria which must be met in order to establish eligibility for the program; a requirement that certain veterans be counseled before choosing a program of education; and a change concerning nonduplication of Federal programs. The New GI Bill Continuation Act of 1987 makes this program permanent, and changes it name to the Montgomery GI Bill.

Timetable:

Action	Date	FR Cite
NPRM	06/19/89	54 FR 25733
NPRM Comment Period End	07/19/89	54 FR 25733
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE03

2929. ● VETERANS EDUCATION; DISABLING EFFECTS OF CHRONIC ALCOHOLISM

Legal Authority: 38 USC 105; 38 USC 1662

CFR Citation: 38 CFR 3.301; 38 CFR 3.302; 38 CFR 21.1043

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 provides among other things that for the purposes of any provision relating to the extension of a delimiting period under any education benefit or rehabilitation program administered by the Department of Veterans Affairs, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct. These interim regulations will inform the public of the way in which the Department will implement this provision of law with respect to the Post-Korean Conflict GI Bill.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/89	54 FR 31950
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Actng Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE05

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

2930. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION - CONSULTING SERVICE

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 837

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation provides coverage regarding contracting aspects of OMB Circular A-120 consulting services.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Figg, Chief, Acquisition Policy Staff (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3334

RIN: 2900–AC86

2931. ACQUISITION REGULATION; CONSTRUCTION CONTRACTING PROCEDURES

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 836; 48 CFR 852

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation will update and clarify construction contracting procedures and clauses.

Timetable:

Action	Date	FR Cite
NPRM	01/21/88	53 FR 1630
NPRM Comment Period End	02/22/88	53 FR 1630
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Chris A. Figg, Acquisition Management Service (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3054

RIN: 2900–AE16

2932. ● ACQUISITION REGULATION: CONTRACTOR QUALIFICATIONS

Legal Authority: 38 USC 210; 38 USC 486(c)

CFR Citation: 48 CFR 809

Legal Deadline: None

Abstract: This amendment makes administrative changes regarding the VA procedures for making debarment and suspension decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Chris A. Figg, Acquisition Policy Staff (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3784

RIN: 2900–AC87

2933. ● ACQUISITION REGULATION: SEALED BIDDING

Legal Authority: 38 USC 210; 40 USC 486(c)

CFR Citation: 48 CFR 814

Legal Deadline: None

Abstract: This amendment will delete duplicative coverage from the VA Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mildred C. Shields, Procurement Analyst (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-4339

RIN: 2900–AE17

2934. ● ACQUISITION REGULATION: CONTRACTING BY NEGOTIATION

Legal Authority: 38 USC 210; 40 USC 486(c)

CFR Citation: 48 CFR 815

Legal Deadline: None

Abstract: This amendment will delete duplicative coverage from the VA Acquisition Regulation and allow contracting officers at medical centers to include two 1-year options for extension of prepared contracts for scarce medical specialists and specialized medical resources when those contracts are awarded through competitive negotiation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mildred C. Shields, Procurement Analyst (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-4339

RIN: 2900–AE18

BOARD OF VETERANS APPEALS

2935. APPEALS REGULATIONS AND RULES OF PRACTICE; CUTOFF DATE FOR ACCEPTANCE OF EVIDENCE

Legal Authority: 38 USC 4004; 38 USC 4005

CFR Citation: 38 CFR 19.174

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Legal Deadline: None

Abstract: This regulation will be amended to specify a cutoff date for the acceptance of additional evidence, requests for hearings or changes of representation once an appeal is transferred to the Board of Veterans Appeals.

Timetable:

Action	Date	FR Cite
NPRM	07/06/89	54 FR 28445
NPRM Comment Period End	08/07/89	54 FR 28445
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Donsbach, Special (Legal) Assistant (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900–AD14

2936. ● APPEALS REGULATION: RULES OF PRACTICE

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 6103; 38 USC 111; 38 USC 210; 38 USC 211a; 38 USC 212(a); 38 USC 3007 to 3008; 38 USC 3301 to 3302(b); 38 USC 3311; 38 USC 3401 to 3405; 38 USC 4001 to 4010

CFR Citation: 38 CFR 19; 38 CFR 20

Legal Deadline: None

Abstract: The provisions of Pub. L. 100-687 establish judicial review of Board of Veterans Appeals decisions, provide for greater involvement of private attorneys-at-law in the appeals process at the Department level, and make other changes affecting appeals. The Appeals Regulations and Rules of Practice are revised to accommodate these changes and to generally update these regulatory provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	54 FR 34334
NPRM Comment Period End	09/18/89	54 FR 34334
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jan Donsbach, Special Legal Assistant (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2978

RIN: 2900–AE02

OFFICE OF BUDGET AND FINANCE

2937. COMMITTEE ON WAIVERS AND COMPROMISES

Legal Authority: 38 USC 3102

CFR Citation: 38 CFR 1.955

Legal Deadline: None

Abstract: Currently, a panel of a Committee on Waivers and Compromises is composed of either one, three, or five members. A one-member panel is used for waiver requests on debts of $1,000 or less. The proposed revision will permit one panel member for debts of $20,000 or less and two or three-member panels for debts in excess of $20,000. We believe that this proposed revision will provide the most efficient use of Committee members.

Timetable:

Action	Date	FR Cite
NPRM	05/17/89	54 FR 21229
NPRM Comment Period End	06/16/89	54 FR 21229
Final Action	10/25/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern, Special Assistant (047F5), Department of Veterans Affairs, Ofc of Finance and Planning, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3405

RIN: 2900–AD50

OFFICE OF EQUAL OPPORTUNITY

2938. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 18.423(c); 38 CFR 18.401 to 18.461, App A

Legal Deadline: None

Abstract: To incorporate a reference to the Uniform Federal Accessibility Standards (UFAS) and update the list of Federal financial assistance programs administered by VA. The existing regulations require that new construction and alteration of facilities be made in an accessible manner. The regulations provide that new construction or alteration of facilities in conformance with the American National Standard Specifications for Making Building and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI A117.1-1961 (B 1971)) shall constitute compliance with the accessibility requirements for new construction and alteration of facilities. The proposed revision will replace the current standard with the UFAS, published under the Architectural Barriers Act of 1966. Because some facilities subject to the accessibility requirements of section 504 of the Rehabilitation Act of 1973 are also subject to the accessibility requirements of the Architectural Barriers Act, this proposal would eliminate any potential conflict between standards enforced under the two statutes.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9971
NPRM Comment Period End	05/08/89	54 FR 9966
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William E. Nunn, Equal Opportunity Specialist (06A), Department of Veterans Affairs, Office of Equal Opportunity, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2150

RIN: 2900–AB87

OFFICE OF THE GENERAL COUNSEL

2939. ● SUITS AGAINST VA EMPLOYEES ARISING OUT OF COMMON LAW TORTS AND BASED UPON MEDICAL CARE AND TREATMENT FURNISHED IN OR BY VHS&RA

Legal Authority: 38 USC 4116(f)

CFR Citation: 38 CFR 14.610

Legal Deadline: None

Abstract: This amendment will incorporate a change in the law of personal immunity of Department of Veterans Affairs (VA) health care personnel. 38 U.S.C. 4116 renders the Federal Tort Claims Act (FTCA) the exclusive remedy for negligence or malpractice committed by a VA health care worker in the course of his or her employment in or for the Veterans Health Services and Research Administration (VHS&RA). Judicial decisions have held the provision to be inapplicable, however, and the immunity effected thereby unavailable, when the tort allegedly committed was one excepted from the coverage of the FTCA, as a number of intentional torts are by virtue of 28 U.S.C. 2680(h). Section 203(a) of Pub. L. 100-322, now codified as 38 U.S.C. 4116(f), waives the intentional torts exception of the FTCA in the medical care context, permitting an action against the United States and conferring immunity on the VA health care worker.

Timetable:

Action	Date	FR Cite
Final Action	01/00/90	
Final Action Effective	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Douglas Bradshaw, Jr., Deputy Assistant General Counsel (021B), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2153

RIN: 2900–AE14

OFFICE OF INFORMATION MANAGEMENT AND STATISTICS

2940. RELEASE OF VA LISTS OF NAMES AND ADDRESSES AND PENALTY PROCEDURES FOR UNAUTHORIZED USE

Legal Authority: 38 USC 3301(f)

CFR Citation: 38 CFR 1.519

Legal Deadline: None

Abstract: VA is amending the existing regulations concerning VA lists of names and addresses and is also proposing administrative procedures to use when these lists are used for purposes not authorized by law. This action results from the need to amend the regulations to reflect current procedures, organizational changes, and concern expressed by veterans and some service organizations regarding unsolicited mail. The proposed regulatory amendments will allow VA to enforce its statutory duty to protect the privacy of information concerning veterans and their dependents, establish procedures to suspend recipients who misuse VA name and address lists of veterans/dependents, and give advance notice to recipients of what constitutes an authorized/unauthorized use of veterans/dependents names and address lists, thereby protecting the due process rights of any recipient before penalties are enforced.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8624
NPRM Comment Period End	04/20/87	52 FR 8624
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Epps, Management Analyst (70Y723B), Department of Veterans Affairs, Ofc of Information Mgmt & Statistics, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2545

RIN: 2900–AC83

2941. PREDISCLOSURE OF CONFIDENTIAL COMMERCIAL INFORMATION

Legal Authority: 5 USC 552(b)(4); EO 12600

CFR Citation: 38 CFR 1.554

Legal Deadline: None

Abstract: Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, establishes certain mandatory and uniform procedures for handling Freedom of Information Act (FOIA) requests for records which may contain confidential commercial information, protected by FOIA exemption (5 U.S.C. 552(b)(4)). The Executive Order requires the notification and designation procedures be established in VA regulations. Accordingly, the revision to 38 CFR 1.554 will comply with the requirements of the Executive Order.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45944
NPRM Comment Period End	12/15/88	53 FR 45944
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon Boone, Chief, Records Management Div. (70Y733), Department of Veterans Affairs, Ofc of Information Mgmt and Statistics, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-4243

RIN: 2900–AD09

DEPARTMENT OF VETERANS AFFAIRS (VA) — Completed Actions

2942. COMMUNITY RESIDENTIAL CARE

CFR Citation: 38 CFR 17.51h to 17.51q

Completed:

Reason	Date	FR Cite
Final Action	05/15/89	54 FR 20840
Final Action Effective	06/14/89	54 FR 20840

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Kelly 202 233-3692

RIN: 2900–AB32

2943. QUALITY ASSURANCE CONFIDENTIALITY

CFR Citation: 38 CFR 17.500 to 17.540

Completed:

Reason	Date	FR Cite
Final Action	07/07/89	54 FR 28667
Final Action Effective	01/01/85	54 FR 28667

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lubran 202 233-3115

RIN: 2900–AC27

2944. DEPARTMENT OF VETERANS AFFAIRS HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

CFR Citation: 38 CFR 17.600

Completed:

Reason	Date	FR Cite
Final Action	07/07/89	54 FR 28673
Final Action Effective	05/20/88	54 FR 28673

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlotte Beason, Ed.D. 202 233-3589

RIN: 2900–AC66

2945. ELIGIBILITY FOR DENTAL CARE FOR FORMER POWS

CFR Citation: 38 CFR 17.123(d)

Completed:

Reason	Date	FR Cite
Final Action	06/15/89	54 FR 25449
Final Action Effective	05/20/88	54 FR 25449

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus 202 233-2504

RIN: 2900–AD43

2946. RECREATION FACILITIES TO BE CONSIDERED DEPARTMENT OF VETERANS AFFAIRS FACILITIES

CFR Citation: 38 CFR 17.30(w)

Completed:

Reason	Date	FR Cite
Final Action	04/12/89	54 FR 14648
Final Action Effective	05/12/89	54 FR 14648

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus 202 233-2504

RIN: 2900–AD44

2947. EMPLOYMENT SERVICES FOR CERTAIN ELIGIBLE VETERANS

CFR Citation: 38 CFR 21.47; 38 CFR 21.51; 38 CFR 21.73; 38 CFR 21.250

Completed:

Reason	Date	FR Cite
Final Action	05/17/89	54 FR 21214
Final Action Effective	05/17/89	54 FR 21214

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6496

RIN: 2900–AB89

2948. PROVIDING AN INITIAL EVALUATION FOR A VETERAN NOT RESIDING IN A STATE

CFR Citation: 38 CFR 21.100; 38 CFR 21.376

Completed:

Reason	Date	FR Cite
Final Action	08/04/89	54 FR 32070
Final Action Effective	08/04/89	54 FR 32070

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6496

RIN: 2900–AC46

2949. VETERANS EDUCATION; AMENDMENTS NEEDED TO IMPLEMENT PUB. L. 99-576

CFR Citation: 38 CFR 21.1022; 38 CFR 21.3022; 38 CFR 21.3046; 38 CFR 21.4022; 38 CFR 21.4100; 38 CFR 21.4101; 38 CFR 21.4102; 38 CFR 21.4104; 38 CFR 21.4130; 38 CFR 21.4137; 38 CFR 21.4138; 38 CFR 21.4230; 38 CFR 21.4231; 38 CFR 21.4232; 38 CFR 21.4233; ...

Completed:

Reason	Date	FR Cite
Final Action	08/17/89	54 FR 33885
Final Action Effective	10/28/86	54 FR 33885

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr. 202 233-2092

RIN: 2900–AC76

2950. DEFINITION OF FRAUD

CFR Citation: 38 CFR 3.1

Completed:

Reason	Date	FR Cite
Final Action	08/02/89	54 FR 31828

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus 202 233-3005

RIN: 2900–AD19

2951. PAYMENT OF GUARANTY CLAIMS

Significance: Regulatory Program

CFR Citation: 38 CFR 36.4319; 38 CFR 36.4320; 38 CFR 36.4321

Completed:

Reason	Date	FR Cite
Final Action	06/26/89	54 FR 27162
Final Action Effective	07/26/89	54 FR 27162

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leonard A. Levy 202 233-3668

RIN: 2900–AD30

2952. DISEASES SUBJECT TO PRESUMPTIVE SERVICE-CONNECTION

CFR Citation: 38 CFR 3.309; 38 CFR 3.812

Completed:

Reason	Date	FR Cite
Final Action	05/21/89	54 FR 26027
Final Action Effective	05/20/88	54 FR 26027

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus 202 233-3005

RIN: 2900–AD53

2953. VETERANS EDUCATION; PROCEDURAL PROTECTIONS FOLLOWING LOSS OF DEPENDENT

CFR Citation: 38 CFR 21.4132

Completed:

Reason	Date	FR Cite
Final Action	08/02/89	54 FR 31829

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr. 202 233-2092

RIN: 2900–AD58

2954. OPTIONAL SETTLEMENTS ON INSURANCE–CALCULATIONS

CFR Citation: 38 CFR 6.69(a); 38 CFR 8.80; 38 CFR 8.80(c); 38 CFR 8.81; 38 CFR 8.82(a)

Completed:

Reason	Date	FR Cite
Final Action	09/15/89	54 FR 38228
Final Action Effective	10/16/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul F. Koons 215 951-5360

RIN: 2900–AD65

2955. EXTENSION OF THE TEMPORARY PROGRAM FOR TRIAL WORK PERIOD AND REHABILITATION

CFR Citation: 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6509; 38 CFR 21.6511; 38 CFR 21.6513; 38 CFR 21.6515; 38 CFR 21.6517; 38 CFR 21.6525

Completed:

Reason	Date	FR Cite
Withdrawn Combined with 2900-AD76.	08/08/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6496

RIN: 2900–AD78

2956. VETERANS EDUCATION; THE VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT AND-MONTGOMERY GI BILL

CFR Citation: 38 CFR 21

Completed:

Reason	Date	FR Cite
Withdrawn Replaced by 2900-AE03.	06/19/89	54 FR 25733

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr. 202 233-2092

RIN: 2900–AD83

2957. VETERANS EDUCATION; PROCEDURAL DUE PROCESS

CFR Citation: 38 CFR 21.1032; 38 CFR 21.3032; 38 CFR 21.4131; 38 CFR 21.4136; 38 CFR 21.4137

Completed:

Reason	Date	FR Cite
Final Action	07/07/89	54 FR 28676
Final Action Effective	08/07/89	54 FR 28676

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr. 202 233-2092

RIN: 2900–AD86

2958. VETERANS EDUCATION; ELIGIBILITY FOR DEPENDENTS' EDUCATIONAL ASSISTANCE

CFR Citation: 38 CFR 21.3041

Completed:

Reason	Date	FR Cite
Final Action	08/03/89	54 FR 31961
Final Action Effective	09/02/89	54 FR 31961

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Susling, Jr. 202 233-2092

RIN: 2900–AD87

2959. COMBINED RATINGS TABLE

CFR Citation: 38 CFR 4.25

Completed:

Reason	Date	FR Cite
Final Action	06/26/89	54 FR 27161
Final Action Effective	07/26/89	54 FR 27161

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Leonard 202 233-3005

RIN: 2900–AD90

2960. LOAN GUARANTY: DETERMINATION OF NET VALUE

Significance: Regulatory Program

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323(e)

Completed:

Reason	Date	FR Cite
Final Action	07/19/89	54 FR 30207
Final Action Effective	08/21/89	54 FR 30207

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy 202 233-3668

RIN: 2900–AD93

2961. BENEFITS AT DIC RATES IN CERTAIN CASES WHEN DEATH IS NOT SERVICE-CONNECTED

CFR Citation: 38 CFR 3.54

Completed:

Reason	Date	FR Cite
Final Action	08/02/89	54 FR 31828
Final Action Effective	11/18/88	54 FR 31828

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England 202 233-3005

RIN: 2900–AD98

2962. ● EVALUATION OF STUDIES RELATING TO HEALTH EFFECTS OF DIOXIN AND RADIATION EXPOSURE

Significance: Regulatory Program

Legal Authority. 38 USC 210(c); PL 98-542

CFR Citation: 38 CFR 1.17

Legal Deadline: None

Abstract: This amendment establishes criteria for determining when a significant statistical association exists between exposure to dioxin or ionizing radiation and specific diseases.

Timetable:

2964. ● ACQUISITION REGULATION: actions and the process of warranting

VA — Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	07/18/89	54 FR 30099
NPRM Comment Period End	08/17/89	54 FR 30099
Final Action	10/02/89	54 FR 40386
Final Action Effective	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert White, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900–AE09

2963. ● VA ACQUISITION REGULATION: BONDS, INSURANCE, AND TAXES

Legal Authority: 38 USC 210; 40 USC 486(c)

CFR Citation: 48 CFR 828; 48 CFR 829

Legal Deadline: None

Abstract: This regulation makes administrative and technical revisions to 48 CFR Parts 828 and 829, to update organizational titles, and to delete duplicative coverage also provided for in the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Final Action Effective	05/26/89	54 FR 24172
Final Action	06/06/89	54 FR 24172

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mildred C. Shields, Procurement Analyst, Acquisition Management Service (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-4339

RIN: 2900–AE00

2964. ● ACQUISITION REGULATION: PACKAGING REQUIREMENTS; ESTIMATED QUANTITIES

Legal Authority: 38 USC 210; 38 USC 486(c)

CFR Citation: 48 CFR 809; 48 CFR 814; 48 CFR 816; 48 CFR 828; 48 CFR 852; 48 CFR 870

Legal Deadline: None

Abstract: This amendment to the VAAR clarifies the Department's right to repackage depot shipments. In addition, it allows contractors to bid for National Cemetery System annual monument requirements at less than 75 percent of the annual estimated quantity. There are also miscellaneous technical amendments to correct erroneous references, change organizational terminology, and delete duplicative coverage provided for in the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24106
NPRM Comment Period End	07/27/88	53 FR 24106
Final Action Effective	07/07/89	54 FR 30043
Final Action	07/18/89	54 FR 30043

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mildred C. Shields, Program Analyst, Acquisition Management Service (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3054

RIN: 2900–AE04

2965. ● ACQUISITION REGULATION: INTERNAL MANAGEMENT OF THE DEPARTMENT OF VETERANS AFFAIRS ACQUISITION SYSTEM

Legal Authority: 38 USC 210; 38 USC 486(c)

CFR Citation: 48 CFR 801

Legal Deadline: None

Abstract: These regulations make internal procedural changes in the technical reviews of proposed contract actions and the process of warranting contracting officers, revises the delegation for VA approval of individual deviations, and revises and relocates coverage regarding the ratification of unauthorized contract actions.

Timetable:

Action	Date	FR Cite
NPRM	07/15/89	
Final Action	08/03/89	54 FR 31961
Final Action Effective	08/03/89	54 FR 31961

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris A. Figg, Acquisition Management Service (93), Ofc of Acquisition and Materiel Mgmt, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3054

RIN: 2900–AE07

2966. APPEALS REGULATIONS AND RULES OF PRACTICE- STATUS OF LEGAL INTERNS, LAW STUDENTS AND PARALEGALS

CFR Citation: 38 CFR 19.152, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	03/20/89	54 FR 11375
Final Action Effective	04/19/89	54 FR 11375

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Donsbach 202 233-2978

RIN: 2900–AC11

2967. APPEALS REGULATIONS AND RULES OF PRACTICE - HEARING DATE

CFR Citation: 38 CFR 19.159, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	03/20/89	54 FR 11375
Final Action - Effective	04/19/89	54 FR 11375

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Donsbach 202 233-2978

RIN: 2900–AC88

VA — Completed Actions

2968. INVENTIONS BY EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS, AUTHORITY DELEGATIONS

CFR Citation: 38 CFR 1.653; 38 CFR 2.83

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26027
Final Action Effective	06/21/89	54 FR 26027

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana M. Bloss 202 233-3651

RIN: 2900–AD51

[FR Doc. 89-21731 Filed 10-27-89; 8:45 am]
BILLING CODE 8320-01-T

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Part XVII

ACTION

Semiannual Regulatory Agenda

ACTION (ACTION)

ACTION

45 CFR Ch. XII

Executive Order 12291, Federal Regulation, Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning ACTION regulations or this semiannual agenda, contact Stewart A. Davis, Acting General Counsel, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, (202) 634-9333.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

ACTION has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Jane A. Kenny,
Acting Director.

ACTION (ACTION) — Prerule Stage

2969. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000(d)(1); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1203

Legal Deadline: None

Abstract: In accordance with 42 USC 2000(d)(1), ACTION will promulgate regulations implementing provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, as amended, and Section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibit discrimination on the basis of race, color, national origin, religion or sex, in federally assisted programs. Relevant provisions of existing ACTION Title VI regulations will be subsumed into this new regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, Office of Compliance, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001–AA06

2970. INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH PUBLIC INFORMATION ACT

Legal Authority: 5 USC 552; 42 USC 4951

CFR Citation: 45 CFR 1215

Legal Deadline: None

Abstract: In accordance with the Freedom of Information Act (5 USC 552), the Agency is updating its regulation concerning the release of Agency information.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Lowell Genebach, Director, Planning, Budget and Management Division, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9137

RIN: 3001–AA09

2971. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL ASSISTANCE FROM ACTION

Legal Authority: 42 USC 6101; 42 USC 4951

CFR Citation: 45 CFR 1221

Legal Deadline: None

Abstract: In accordance with 42 USC 6101 and 42 USC 4951, ACTION will promulgate regulations implementing provisions of the Age Discrimination Act of 1975, as amended, and Section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, Office of Compliance, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001–AA10

ACTION (ACTION) — Proposed Rule Stage

2972. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ACTION PROGRAMS

Legal Authority: 29 USC 794; 42 USC 5057; 42 USC 5060

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), ACTION will promulgate implementing regulations which prohibit discrimination on the basis of handicap in federally conducted programs and activities. ACTION regulations prohibiting discrimination on the basis of handicap in federally assisted programs are contained in 45 CFR 1232.

Timetable:

Action	Date	FR Cite
NPRM	09/18/89	54 FR 38401
NPRM Comment Period End	11/17/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, Office of Compliance, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001–AA07

[FR Doc. 89-21732 Filed 10-27-89; 8:45 am]
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Part XVIII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC — ACTION: Publication of agenda — FOR FURTHER INFORMATION CONTACT:

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Advisory Council on Historic Preservation

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ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 810

Unified Agenda of Federal Regulations

AGENCY: Advisory Council on Historic Preservation (ACHP).

ACTION: Publication of agenda.

SUMMARY: The following ACHP regulation is scheduled for development from February through April 1990. It is submitted herein for publication in the Unified Agenda of Federal Regulations, EO 12291.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Robert D. Bush,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

2973. FREEDOM OF INFORMATION ACT REGULATIONS

Legal Authority: 16 USC 470 Nat. Historic Preservation Act of 1966, as amended

CFR Citation: 36 CFR 810.5

Legal Deadline: None

Abstract: The regulation will increase the fees charged to requesters of information to better reflect the cost to the Government of locating and copying the documents requested. Copying charges would be increased from $0.10 to $0.13 per page; fees for searches by professional staff from $2.00 to $4.65 per quarter hour; and fees for searches by clerical staff from $1.00 to $2.30 per quarter hour. The regulation would thus impose a "user's fee" to users of the Government FOIA system which is more consistent with other agencies' fees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
NPRM Comment Period End	03/00/90	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Katherine Barns Soffer, Associate General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW #809, Washington, DC 20004, 202 786-0503

RIN: 3010-AA03

[FR Doc. 89-21733 Filed 10-27-89; 8:45 am]

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Part XIX

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

AID — Proposed Rule Stage

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; Agency Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Agency regulations agenda.

SUMMARY: The Agency for International Development (AID) is publishing this agenda as required by section 5(a) of Executive Order 12291, Federal Regulation (46 FR 13193, February 19, 1981), and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This agenda reports the status of those regulations currently under review and gives AID's plan for the issuance of proposed regulations during the next twelve months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in AID's rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Mr. John H. Elgin, Office of Information Resources Management, Agency for International Development, Washington, DC 20523; telephone (703) 875-1608.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

Regulatory Flexibility Act (RFA)

The Agency does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

Dated: August 21, 1989.

John F. Owens,

Acting Assistant to the Administrator for Management.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

2974. REGULATION FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Legal Authority: 22 USC 2381; 5 USC 552a; 5 USC 553

CFR Citation: 22 CFR 215

Legal Deadline: None

Abstract: The regulation is being reviewed for update. Two new systems of records are being studied for incorporation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Harper, Director, Office of Public Inquiries, Agency for International Development, Bureau for External Affairs, Washington, DC 20523, 202 647-4220

RIN: 0412-AA03

2975. DONATION OF AGRICULTURAL COMMODITIES/PRODUCTS TO ASSIST NEEDY PERSONS OVERSEAS (416 PROGRAM)

Legal Authority: 7 USC 1431; PL 97-253, Sec 110

CFR Citation: 22 CFR 210, (New)

Legal Deadline: None

Abstract: This regulation sets forth provisions of the Agency for International Development (AID), acting as an agent for the USDA/Commodity Credit Corporation (CCC), to carry out part of the responsibilities for selecting, approving, administering and implementing the Section 416 program of the Agricultural Act of 1949, as amended. This program will assist needy persons overseas and reduce surplus stocks of dairy and wheat products in CCC inventory. The donation of commodities under this new authority will be coordinated with, but not replace, assistance provided under the Agricultural Trade Development and Assistance Act of 1954, as amended, PL 83-480. The Agency is not considering any alternatives for addressing the problem. There are some minor costs in administering the regulation. The potential benefits will go to needy persons overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/84	49 FR 22024

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessie C. Vogler, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, 703 235-9193

RIN: 0412-AA05

2976. TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE

Legal Authority: 7 USC 1705; 7 USC 1721 to 1723; 7 USC 1693

CFR Citation: 22 CFR 211

Legal Deadline: None

Abstract: This regulation prescribes the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations. The regulation is being reviewed to assess its current procedures and requirements with an intent to improve its effectiveness and efficiency. There will be internal administrative and operational costs. There are potential benefits to aid-receiving countries.

Timetable:

Action	Date	FR Cite
Begin Review	12/15/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessie C. Vogler, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, 703 235-9193

RIN: 0412-AA06

AID — Proposed Rule Stage

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Completed Actions

2977. PUBLIC INFORMATION

Legal Authority: 22 USC 2381; 5 USC 552

CFR Citation: 22 CFR 212

Legal Deadline: None

Abstract: The regulation is being updated to conform with the congressional changes made in 1987.

Timetable:

Action	Date	FR Cite
Final Action	05/24/89	54 FR 22437
Final Action Effective	05/24/89	54 FR 22437

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Harper, Director, Office of Public Inquiries, Agency for International Development, Bureau for External Affairs, Washington, DC 20523, 202 647-4220

RIN: 0412-AA02

[FR Doc. 89-21734 Filed 10-27-89; 8:45 am]

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Part XX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ATBCB — Prerule Stage

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda of Federal Regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the agency during the next 12 months. This regulatory agenda may be revised and/or refined by the agency during the coming months as a result of action taken by the Board. In addition to any regulatory actions, the Board may also consider issuing advisory standards and/or policy statements as part of its statutory responsibilities. When appropriate, these standards and policies will also be published in the Federal Register.

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 1111 18th Street NW., Suite 501, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Ms. Elizabeth A. Stewart, Senior Attorney, (202) 653-7834 (voice or TDD).

James J. Raggio,

Acting Executive Director, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Prerule Stage

2978. ● 36 CFR PART 1152 - EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 5 CFR 735

CFR Citation: 36 CFR 1152

Legal Deadline: None

Abstract: The proposed rule would amend the current regulations concerning the Statements of Employment and Financial Interests, including but not limited to, which employees are required to submit statements, the procedures and responsibilities for reviewing the statements, the forms utilized and such other areas as necessary to implement appropriate procedures for compliance with the requirements for financial disclosure based on the current authorities and responsibilities of the agency. This rulemaking will have no financial impact.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Elizabeth A. Stewart, Senior Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014–AA05

2979. ● 36 CFR PART 1150 - PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Significance: Agency Priority

Legal Authority: Section 502 Rehabilitation Act of 1973, PL 93-112, as amended; 29 USC 792, 87 Stat. 391

CFR Citation: 36 CFR 1150

Legal Deadline: None

Abstract: The proposed rule would amend current procedures for the processing and resolution of complaints filed with the agency as well as the procedures for administrative hearings conducted in accordance with Section 502 of the Rehabilitation Act of 1973, Pub. L. 92-112 as amended (29 USC 792). The potential financial impact is undetermined at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014–AA06

2980. ● 36 CFR PART 1153 - AUTHORITIES AND DELEGATIONS

Significance: Agency Priority

Legal Authority: Section 502, Rehabilitation Act of 1973, PL 93-112, as amended; 29 USC 792, 87 Stat. 391

CFR Citation: 36 CFR 1153

Legal Deadline: None

Abstract: This proposed rule would amend current Authorities and Delegations to provide for such additional duties and responsibilities as are necessary to effectuate and implement the procedures set forth in the revised Statement of Organization and Procedures. The revision will include but is not limited to the designation of the authority to establish the Board agenda and such other delegations as are necessary to insure the proper functioning of the agency. This rulemaking will have no financial impact.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth A. Stewart, Senior Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014–AA07

ATBCB — Prerule Stage

2981. ● 36 CFR PART 1155 - STATEMENT OF ORGANIZATION AND PROCEDURES

Significance: Agency Priority

Legal Authority: Section 502, Rehabilitation Act of 1973, PL 93-112, as amended; 29 USC 792, 87 Stat. 391

CFR Citation: 36 CFR 1155

Legal Deadline: None

Abstract: The proposed rule would amend current Board procedures to provide for a system of notational voting and such other internal procedures as are necessary for the functioning of the agency. The potential financial impact is undetermined at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth A. Stewart, Senior Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014–AA08

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

2982. INFORMATION AVAILABILITY: PROCEDURES (36 CFR 1120)

Legal Authority: 5 USC 552

CFR Citation: 36 CFR 1120, (Revision)

Legal Deadline: Final, Statutory, April 25, 1987.

Abstract: This interim final rule amends the ATBCB's regulations to establish a schedule and system for collecting fees to recover certain direct costs associated with responding to Freedom of Information Act (FOIA) requests as required by the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/10/87	52 FR 43193
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth A. Stewart, Senior Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW, Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014–AA04

[FR Doc. 89-21735 Filed 10-27-89; 8:45 am]

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Part XXI

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from October 1, 1989, through March 31, 1990. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact: Jeffrey P. O'Connell, Acting Solicitor, U.S. Commission on Civil Rights, Room 604, 1121 Vermont Avenue NW., Washington, DC 20425, (202) 376-8514.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "major" rules within the meaning of E.O. 12291, and no Regulatory Impact Analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required.

William J. Howard,

General Counsel.

COMMISSION ON CIVIL RIGHTS (CCR) — Final Rule Stage

2983. IMPLEMENTATION OF FREEDOM OF INFORMATION REFORM ACT

Significance: Agency Priority

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552

CFR Citation: 45 CFR 704.1, (Revision)

Legal Deadline: Final, Statutory, April 25, 1967.

Abstract: The regulation implements the 1986 statutory amendments to the Freedom of Information Act (FOIA) (5 USC 552). The revised provisions modify the terms of exemption 7 and also establish new procedures regarding the charging and waiving of fees pursuant to a FOIA request.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5504
NPRM Comment Period End	03/06/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Howard, General Counsel, Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 604, Washington, DC 20425, 202 376-8351

RIN: 3035–AA00

2984. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504-HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 707

Legal Deadline: None

Abstract: The proposed regulation provides for the implementation of Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22534
NPRM Comment Period End	08/15/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Howard, General Counsel, Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 604, Washington, DC 20425, 202 376-8351

RIN: 3035–AA01

[FR Doc. 89-21736 Filed 10-27-89; 8:45am]

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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

need and will use the information and
publication dates are more than a year
• References to small entities

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-3642-1]

Regulatory Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA revises and issues the regulatory agenda semiannually, and it appears in the **Federal Register** each April and October. It provides specific information on the status of regulations that are under development, revision, and review at the Agency. The agenda is published to keep interested parties informed of the progress of EPA regulations.

ADDRESSES: If you want to be on the mailing list for future agendas, please call or write to Bridgette Dent, Regulation Management Branch, EPA, PM-223, Washington, DC 20460, (202) 382-5475.

If you have any suggestions for improving this publication or need general information about the agenda, please call or write to Angela Suber, Regulation Management Branch, EPA, PM-223, Washington, DC 20460, (202) 382-7205.

FOR FURTHER INFORMATION CONTACT: For specific information on any item in the agenda, please contact the person listed with each entry.

SUPPLEMENTARY INFORMATION:

Statutes Covered in the Agenda

Asbestos Hazard Emergency Response Act (AHERA)
Atomic Energy Act (AEA)
Clean Air Act (CAA)
Clean Water Act (CWA)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
Federal Food, Drug, and Cosmetics Act (FFDCA)
Hazardous and Solid Waste Amendments (HSWA)
Marine Protection, Research, and Sanctuaries Act (MPRSA)
Resource Conservation and Recovery Act (RCRA)
Safe Drinking Water Act (SDWA)
Superfund Amendments and Reauthorization Act (SARA)
Toxic Substances Control Act (TSCA)
Water Quality Act of 1987 (WQA)
General - Other Acts (including grant and procurement regulations that cut across several program areas)

Organization of the Agenda

The agenda is organized by statute, and in several cases, it combines regulations with differing statutory authorities that have closely related subject matter. For example, the Asbestos-in-Schools Inspection, Abatement, and Disposal regulation is written under AHERA but appears with regulations under TSCA.

Within each statutory listing, the regulations are ordered numerically by section number of the authorizing legislation. For example, all RCRA regulations under section 3001 appear before those under section 3006.

Within each statutory area, the entries are further divided into four categories: (1) Prerule, (2) proposed rule, (3) final rule, and (4) completed actions (regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these sections is presented below.

I. Prerulemakings

Prerulemaking actions include activities intended to determine whether or how to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important pre-regulatory policy proposals.

This section also includes existing EPA regulations that are now under review. The purpose of such reviews is to determine whether the Agency should revise the rule, rescind it, or leave it unchanged. When finished, the Agency will list these reviews in the completed section of the agenda. If EPA decides to revise or rescind the regulation, the action will appear in the proposed rule section of the next agenda, which will state the timetable for completing the revision or rescission.

For each regulation under review, the agenda provides the title, a short abstract, legal authority, CFR reference, any analysis EPA is preparing, contact person, and the schedule for completing the review. It also indicates the "review authority," which may be different from the regulation's statutory authority. EPA reviews regulations under various mandates, and some reviews satisfy more than one of these mandates. The principal mandates are:

Executive Order 12498 is intended to outline the Administration's annual Regulatory Program. It defines priority activities that Federal departments and agencies will work on during the upcoming year. Its purpose is to minimize duplication and conflict among regulatory activities and enhance public understanding of the Administration's regulatory objectives.

Executive Order 12291 establishes the general policy that Federal departments and agencies should review their regulations to ensure that the costs of the regulations are justified by their benefits. The Office of Management and Budget (OMB) reviews agency rules to assess their compliance with the Executive order's goals of maximizing net social benefits.

The Regulatory Flexibility Act (RFA) requires that Federal departments and agencies review existing regulations that have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governments, at least once every ten years. EPA invites public comment regarding RFA issues on the list of regulations EPA is reviewing.

Reviews EPA has targeted under the RFA are identified under "Analysis." The agenda identifies the types of entities affected under "Small Entities Affected." "Government Levels Affected" (State, local, or Federal) are also indicated.

When the Agency completes reviews of regulations with a significant impact on small entities, the agenda indicates whether to revise, rescind, or leave the regulation unchanged. This announcement complies with the RFA and EPA's July 16, 1981, plan (46 FR 36930) for reviewing regulations under the Act.

The Paperwork Reduction Act (PRA) requires Federal departments and agencies to review their information collection activities to assure that they need and will use the information and manage it efficiently. They must also ensure that the information to be collected is of high quality, appropriate for its intended use, and does not already exist at some other Federal agency. In addition, the PRA requires agencies to review the cost of collecting the information so that it will be held to a minimum for both the respondent and the agencies. Congress gave oversight authority to OMB. EPA must have OMB approval before it either collects information or requires that information be collected.

II. Proposed and Final Rules

This section includes all "significant" EPA regulations. Some are priority regulations under development that are subject to Executive Order 12498 or that the Agency has designated for priority development or revision. These regulations are also subject to certain provisions of E.O. 12291, RFA, and PRA.

EPA generally lists regulations in this category of the agenda once they are within a year of proposal or promulgation. Very important regulations under development will usually appear even if the scheduled publication dates are more than a year away.

Proposed and final rules appear as: (a) Actions that will create new CFR parts, subparts, or subsections (the word "revision" will appear in subsections) or (b) actions that revise or amend already existing CFR parts, subparts, or subsections. The word "revision" will appear in parentheses after the title of each regulation undergoing revision. All regulations appearing in the agenda for the first time are marked with bullets (●).

However, the listings exclude (a) specialized categories of actions (such as EPA approvals of State plans and other actions that do not apply nationally) and (b) routine actions (such as pesticide tolerances and minor amendments to existing rules).

For each proposed and final regulation, the agenda includes:

- Title
- Priority classification (if applicable)
- Legal authority
- CFR reference(s)
- Legal deadline (if applicable)
- Abstract (short description of action)
- Timetable of existing and scheduled actions
- References to small entities
- Additional information (includes the FTS phone number for the Agency contact, the Start Action Request (SAR) number, which is assigned to the regulation for internal tracking purposes, and any other information that is not included in the abstract)
- Agency contact
- Analysis (indicates if the Agency is preparing a Regulatory Impact Analysis (RIA) and/or an analysis under the RFA)

III. Completed Actions

These are actions that appeared in the previous agenda, which EPA is deleting because they are completed or are no longer under consideration for rulemaking. Information on these regulations is less detailed than for those that are still under consideration. Generally, completed entries include: (1) An explanation of why the Agency is deleting the regulation from the agenda or (2) the **Federal Register** publication date and citation for the final rule.

Dated: August 24, 1989.

Dan Beardsley,

Deputy Assistant Administrator, Office of Policy, Planning and Evaluation.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2985	SAR No. 2684. Pesticide Regulations for Pesticidal Transgenic Plants (Revision)	2070-AC02
2986	SAR No. 2351. Restricted Use Classification for Groundwater Contaminating Pesticides	2070-AB60
2987	SAR No. 2567. Registration Data Requirements for Pesticide Product Performance and Companion Pesticide Assessment Guidelines (Revision)	2070-AB82
2988	SAR No. 2337. Sale of Restricted Use Pesticides to Noncertified Persons	2070-AB48
2989	SAR No. 2448. Regulations on Certification of Pesticide Applicators (Revision)	2070-AB75
2990	SAR No. 2406. Pesticide Applicator Certification Fees for EPA Administered Programs	2070-AB76
2991	SAR No. 2445. Amendments to Experimental Use Permit Rule for Certain Microbial Pesticides (Revision)	2070-AB77
2992	SAR No. 2338. Reporting Requirements for Risk/Benefits Information	2070-AB50
2993	SAR No. 2724. Pesticide Data Requirements: Methods for Safe Storage and Disposal	2070-AC11
2994	SAR No. 2725. FIFRA Books and Records of Pesticide Production and Distribution Amended	2070-AC07
2995	SAR No. 2687. Pesticide Data Requirements	2070-AC12
2996	SAR No. 2735. Revision of Statement of Policy on FIFRA Section 17(a), Pesticides and Devices Intended for Export	2070-AC09
2997	SAR No. 2659. Storage, Disposal, Transportation, and Recall of Pesticides	2070-AB95
2998	SAR No. 2639. Child-Resistant Packaging Regulations (Revision)	2070-AB96
2999	SAR No. 2425. Responses to Petitions Received to Add to or Delete Chemicals from the List of Toxic Chemicals Under Section 313 of SARA	2070-AC00

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Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3000	SAR No. 2444. Food Additive Regulations Concerning Pesticide Residues: Procedural Regulations	2070-AB76
3001	SAR No. 2269. Labeling Requirements for Pesticides and Devices (Revision)	2070-AB46
3002	SAR No. 2720. Policy or Procedures for Notification to the Agency of Stored Pesticides with Cancelled of Suspended Registration	2070-AC09
3003	SAR No. 2554. Interpretative Rule - Advertising Claims Made for Registered Pesticide Products	2070-AB88
3004	SAR No. 1640. Worker Protection Standards (Revision)	2070-AA49

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3005	SAR No. 1703. FIFRA Good Laboratory Practice Standards (Revision)	2070-AB68

Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3006	SAR No. 2284. Regulatory Investigation of Chlorinated Solvents	2070-AB41
3007	SAR No. 2654. Scrap Metal Recycling Regulatory Controls	2070-AC01

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3008	SAR No. 2555. Toxic Chemical "Peak Release" Reporting Rule (Revision)	2070-AB86
3009	Decisions on Test Rules: Proposed Rules	2070-AB07
3010	SAR No. 2563. SARA Section 110 Chemicals Generic Test Rule	2070-AB79
3011	SAR No. 2657. Amendments to Test Rules and Consent Agreements	2070-AB97
3012	SAR No. 1923. Follow-up Rules on Existing Chemicals	2070-AA58
3013	Chemical Specific Significant New Use Rules to Extend Provisions of Section 5(e) Orders	2070-AB27
3014	SAR No. 2247. Generic Significant New Use Rule for Acrylate Compounds	2070-AB56
3015	Rulemaking Concerning Certain Microbial Products ("Biotechnology")	2070-AB61
3016	SAR No. 2561. Proposal to Exempt Certain Microorganisms from PMN Requirements under TSCA 5(h)(4)	2070-AB89
3017	SAR No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
3018	SAR No. 2560. Procedures and Criteria for Termination of Polychlorinated Biphenyl Disposal Permits	2070-AB81
3019	SAR No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3020	SAR No. 2658. Modification of Toxic Release Reporting under SARA 313, Title III	2070-AB98
3021	SAR No. 2245. Negotiated Consent/Procedural Test Rule (Revision)	2070-AB30
3022	Decision on Test Rules: Final Rules	2070-AB94
3023	SAR No. 1976. Follow-up Rules on Non-5(e) New Chemicals	2070-AA59
3024	SAR No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions from the Ban on Manufacturing, Processing, and Distribution	2070-AB20
3025	SAR No. 2550. PCB Notification and Manifesting Rule	2070-AB83
3026	SAR No. 2704. Partial Updating of the TSCA Inventory Data Base	2070-AC10

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Toxic Substances Control Act (TSCA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3027	SAR No. 2178. Section 8 (a) Preliminary Assessment Information Rules	2070-AB08

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3028	SAR No. 1886. TSCA Good Laboratory Practice Standards (Revision)	2070-AB65
3029	SAR No. 2375. Procedural Rule for Expedited New Chemical Follow-up	2070-AB64
3030	SAR No. 2296. Action Concerning Commercial and Industrial Use of Asbestos	2070-AB29

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3031	SAR No. 2747. Oil and Gas Extraction Point Source Category; Coastal Subcategory, Effluent Limitation Guidelines and New Source Performance Standards	2040-AB72

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3032	SAR No. 2497. Water Quality Standards - Revision	2040-AB56
3033	SAR No. 1427. Pharmaceuticals	2040-AA13
3034	SAR No. 2473. Effluent Guidelines and Standards for Pesticides Manufacturers and Formulator/Packagers	2040-AB32
3035	SAR No. 2712. Effluent Guidelines for Pulp, Paper and Paperboard	2040-AB53
3036	SAR No. 2745. Organic Chemicals, Plastics and Synthetic Fibers Effluent Limitations, Pretreatment Standards and New Source Performance Standards	2040-AB65
3037	SAR No. 2746. Copper and Beryllium Forming Point Source Effluent Guidelines and Standards	2040-AB71
3038	SAR No. 2749. National Pollution Discharge Elimination System and Sludge Management State Program Regulations for Indian Tribes	2040-AB70
3039	SAR No. 2587. Revisions to Regulations for Modification of Secondary Treatment Requirements for Municipal Discharge into Marine Waters	2040-AB29
3040	SAR No. 2493. NPDES Regulatory Revisions	2040-AB38
3041	SAR No. 2501. NPDES Permit Application Standard Form A and Short Form A (Revision)	2040-AB39
3042	SAR No. 2682. Treatment of Indian Tribes as States Under Section 404 of the Clean Water Act	2040-AB69
3043	SAR No. 2222. De-Designation of Ocean Dumping Sites	2040-AB61
3044	SAR No. 2737. Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62
3045	SAR No. 2736. Reorganization and Corrections to List of Ocean Dumping Sites	2040-AB63

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3046	SAR No. 1722. Simplifying Construction Grants Regulations (Revision)	2040-AA70
3047	SAR No. 2585. Comprehensive Construction Grant Regulation Revision	2040-AB25
3048	SAR No. 1649. Effluent Guidelines for Offshore Subcategory of the Oil and Gas Extraction Industry	2040-AA12
3049	SAR No. 2583. Non-Ferrous Manufacturing (Phase II)	2040-AB31
3050	SAR No. 2475. Water Quality Standards – Revision for Indian Tribes	2040-AB36
3051	SAR No. 2744. State Revolving Fund Program Implementation Regulations	2040-AB64

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Clean Water Act (CWA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3052	SAR No. 2748. Section 303(d) List of State Waters	2040-AB68
3053	SAR No. 2617. Estuary Program Grant Regulation	2040-AB54
3054	SAR No. 2200. NPDES Regulations: Stormwater Application Requirements (Revision)	2040-AA79
3055	SAR No. 2304. Notice of Final Plan to Review and Promulgate National Effluent Guidelines and Standards	2040-AA90
3056	SAR No. 2162. Sewage Sludge Use and Disposal Regulations	2040-AA74
3057	SAR No. 2515. Citizen Suit Notice Regulation under the CWA	2040-AB50
3058	SAR No. 2462. Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AB58
3059	SAR No. 2342. EPA Administered Programs: NPDES; General Pretreatment Regulations for Existing and New Sources: Proposals to Implement the Domestic Sewage Study	2040-AA99

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3060	SAR No. 2163. National Pollutant Discharge Elimination System Sewage Sludge Permit Regulations; State Sludge Management Program Requirements	2040-AA73
3061	SAR No. 2479. Water Quality Planning and Management Grants for Indian Tribes	2040-AB35
3062	SAR No. 2525. Interpretation of Provisions of Section 304(1) of the CWA	2040-AB46
3063	SAR No. 2189. Comprehensive Revisions to Ocean Dumping Regulations	2040-AA78
3064	SAR No. 2546. Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Effective Dates; and Capacity Variances for Additional First Third Wastes (Second Sixth)	2040-AB55

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3065	SAR No. 2590. Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	2060-AC30
3066	SAR No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
3067	SAR No. 2073. Residual Radioactivity	2060-AB31

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3068	SAR No. 1162. Transuranium Elements	2060-AA01
3069	SAR No. 1166. Groundwater Protection Standards for Inactive Uranium Tailing Sites	2060-AC03

Atomic Energy Act (AEA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3070	SAR No. 1525. Radiofrequency Radiation Guidance	2060-AA02

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Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3071	SAR No. 2426. Revisions to the Safe Drinking Water Act's Underground Injection Control Regulations	2040-AB27
3072	SAR No. 2261. National Primary Drinking Water Regulation: Radionuclides	2040-AA84
3073	SAR No. 2340. National Primary Drinking Water Regulations: Disinfection, Disinfectants and Disinfection By-Products (Revision)	2040-AA97
3074	SAR No. 2630. National Primary Drinking Water Regulations: Inorganic and Organic Compounds (Phase V/25 Contaminants)	2040-AB11

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3075	SAR No. 2449. Indian Rule for the Wellhead Protection Program and Sole Source Aquifer Demonstration Program	2040-AB18
3076	SAR No. 2489. Revision to Public Water System Supervision (PWSS) State Primacy Requirements	2040-AB26
3077	SAR No. 1755. National Primary Drinking Water Regulations: Synthetic Organic Chemicals and Inorganic Chemicals, Monitoring for Unregulated Contaminants (Phase II, 38 Contaminants)	2040-AA55
3078	SAR No. 2610. National Primary Drinking Water Regulations: Lead and Copper	2040-AB51
3079	SAR No. 2381. Public Water Supply Supervision Program, Administrative Enforcement Implementation Procedures	2040-AB67

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3080	SAR No. 2376. Criteria for Filtration and Disinfection of Surface Water and National Primary Drinking Water Regulations for Microbiological Contaminants	2040-AB24

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3081	State-Administered UIC Programs; Incorporation by Reference Update	2040-AB60

Noise Control Act (NCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3082	SAR No. 2646. Withdrawal of Products from the Agency's Reports Identifying Major Noise Sources and Withdrawal of Proposed Rules	2060-AB24

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3083	SAR No. 2434. Management of Used Oil	2050-AC17
3084	SAR No. 2572. Determination on Wastes from Combustion of Coal by Electric Utility Power Plants	2050-AC40

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Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3085	SAR No. 2634. Oil Pollution Prevention Regulation	2050-AC62
3086	SAR No. 2332. Mandatory Inspections of Hazardous Waste Management Facilities	2050-AB59
3087	SAR No. 2524. No-Migration Variance for Restricted Hazardous Waste Land Disposal	2050-AC44
3088	SAR No. 2494. Municipal Waste Combustor Ash Management	2050-AC24
3089	SAR No. 2482. Identification and Listing of Hazardous Wastes - De Minimis Exemption Levels	2050-AC30
3090	SAR No. 2635. Exclusions for Waste Generated On-Board Ships (Revision)	2050-AC61
3091	SAR No. 2622. Hazardous Waste Management System, Amendment to Subpart C Rulemaking Petitions: Use of Groundwater Data in Delisting Decisions	2050-AC65
3092	SAR No. 2716. Identification and Listing of Hazardous Wastes from Chlorotoluene Production	2050-AC84
3093	SAR No. 2227. Identification and Listing of Hazardous Wastes from Coke By-Product Industries	2050-AC85
3094	SAR No. 2078. Burning of Hazardous Waste in Boilers and Industrial Furnaces	2050-AA72
3095	SAR No. 2080. Liners and Leak Detection for Hazardous Waste Land Disposal Units	2050-AA76
3096	SAR No. 2303. Location Standards for Hazardous Waste Facilities	2050-AB42
3097	SAR No. 2390. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3098	SAR No. 2391. Landfill, Surface Impoundment, and Waste Pile Closures for Hazardous Waste Management Facilities	2050-AB81
3099	SAR No. 2453. Emission Controls for Hazardous Waste Incinerators	2050-AB90
3100	SAR No. 2461. Land Disposal Restrictions for Soil and Debris Containing Hazardous Wastes	2050-AC03
3101	SAR No. 2439. Permitting Experimental Facilities Conducting Hazardous Waste Research	2050-AC04
3102	SAR No. 2503. Corrective Action for Releases to Ground Water from Regulated Hazardous Waste Units	2050-AC28
3103	SAR No. 2570. Modification of the Definition of Wastewater Treatment Unit	2050-AC86
3104	SAR No. 2647. RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3105	SAR No. 2664. Definition of Hazardous Waste Tank, Surface Impoundment and Waste Pile (Revision)	2050-AC72
3106	SAR No. 2523. Land Disposal Restrictions for the Third Third of Scheduled Wastes	2050-AC73
3107	SAR No. 2675. Hazardous Waste Sump Requirements in Response to Rulemaking Petition (Revision)	2050-AC79
3108	SAR No. 2435. List (Phase 2) of Hazardous Constituents for Ground Water Monitoring	2050-AC05
3109	SAR No. 2158. Compliance Monitoring and Enforcement Requirements for State Hazardous Waste Management Programs	2050-AB01
3110	SAR No. 2389. Mining Waste Management Under RCRA Subtitle D	2050-AB77
3111	SAR No. 2465. Underground Storage Tanks Containing Hazardous Substances - Financial Responsibility Requirements	2050-AC15
3112	SAR No. 2642. Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements: Financial Test for Self Insurance for Local Government Entities	2050-AC67
3113	SAR No. 2741. Technical Amendment to Final Underground Storage Tank Rules for Overfill Prevention	2050-AC97

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3114	SAR No. 2653. Medical Waste Demonstration Tracking Program	2050-AC74
3115	SAR No. 2226. Identification and Listing of Hazardous Wastes - Petroleum Refinery Primary Treatment Sludge	2050-AB70
3116	SAR No. 2174. Identification and Listing of Hazardous Wastes - Wood Preserving and Surface Protection Waste	2050-AC43
3117	SAR No. 2157. Identification and Listing of Hazardous Waste - Methyl Bromide	2050-AC60
3118	SAR No. 2575. RCRA Definition of Solid Waste (Revision)	2050-AC68
3119	SAR No. 2224. Solid Waste Disposal Facility Criteria	2050-AB21
3120	SAR No. 2507. Test Methods for Evaluating Solid Waste (Manual SW846) Incorporation by Reference and Mandatory Good Laboratory Practices	2050-AC32
3121	SAR No. 2062. Identification of Hazardous Wastes by Toxicity Characteristic and Listing of Additional Organic Toxicants	2050-AA78
3122	SAR No. 2651. Determination on Solid Waste from Selected Metallic Ore Processing Operations	2050-AC41
3123	SAR No. 2058. Forty-seven Analytical Methods Approved for Subtitle C RCRA Hazardous Waste Testing	2050-AC80
3124	SAR No. 1954. Identification and Listing of Hazardous Wastes: Dimethyl Hydrazine	2050-AC91
3125	SAR No. 1854. Identification and Listing of Hazardous Wastes: Chlorinated Aliphatic Wastes	2050-AC92
3126	SAR No. 2676. Amendment to the FO19 Hazardous Waste Listing to Exclude Wastewater Treatment Sludges from Zirconium Phosphating in the Aluminum Can Washing Process	2050-AC76
3127	SAR No. 2207. Disposal of Containerized Liquids in Hazardous Waste Landfills	2050-AA34
3128	SAR No. 2277. Ground-Water Monitoring at Hazardous Waste Facilities	2050-AB20
3129	SAR No. 2388. Double Liner and Leachate Collection Systems for Hazardous Waste Land Disposal Units	2050-AB76
3130	SAR No. 2397. Permitting Mobile Hazardous Waste Treatment Units	2050-AC20

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3131	SAR No. 2641. Underground Storage Tanks Containing Petroleum-Financial Responsibility Requirements; Suspension of Enforcement Procedures	2050-AC83

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3132	SAR No. 2487. Delay in the Closure Period for Hazardous Waste Management Facilities	2050-AB71
3133	SAR No. 2522. Land Disposal Restriction for Second Third of Scheduled Wastes	2050-AC55
3134	SAR No. 2521. Hazardous Waste Management System: Subpart C Requirements of Rulemaking Petitions (Revision)	2050-AC75
3135	SAR No. 2527. New Requirements for State Hazardous Waste Programs	2050-AC51

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3136	SAR No. 1004. NAAQS: Nitrogen Dioxide (Review)	2060-AC06
3137	SAR No. 1001. NAAQS: Carbon Monoxide (Review)	2060-AC07
3138	SAR No. 1010. NSPS: Organic Solvent Degreasing	2060-AA12
3139	SAR No. 1119. NSPS: Perchloroethylene Dry Cleaning	2060-AA14
3140	SAR No. 1695. NSPS: Organic Solvent Degreasing (111d)	2060-AA33
3141	SAR No. 2430. NSPS: Asphalt Processing and Asphalt Roofing Manufacturing Plants (Review)	2060-AC21
3142	SAR No. 1869. NESHAP: Cadmium	2060-AB92
3143	SAR No. 2360. NESHAP: Perchloroethylene Dry Cleaning	2060-AC27
3144	SAR No. 1695. NESHAP: Organic Solvent Degreasing	2060-AC31
3145	SAR No. 2365. Fuel and Fuel Additives: Health and Emissions Effects Testing	2060-AC10
3146	SAR No. 2629. General Requirements for Determination of Gasoline Metal Content	2060-AC52

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3147	SAR No. 2679. Protection of Stratospheric Ozone	2060-AC09
3148	SAR No. 1919. NAAQS: Lead (Review)	2060-AA95
3149	SAR No. 1920. NAAQS: Ozone (Review)	2060-AA96
3150	SAR No. 2577. NAAQS: Fine Particulate Matter	2060-AC32
3151	SAR No. 2428. Federal Promulgation of State Implementation Plan to Protect Visibility	2060-AB82
3152	SAR No. 2608. New Source Review Requirements – CMA Exhibit B	2060-AC54
3153	SAR No. 1931. NSPS: SOCMI Reactor Processes	2060-AB55
3154	SAR No. 2424. NSPS: Municipal Waste Combustors	2060-AC26
3155	SAR No. 2535. NSPS: Municipal Landfills	2060-AC42
3156	SAR No. 2719. NSPS: Medical Waste Incineration	2060-AC89
3157	SAR No. 1686. NESHAP: Coke Oven Emissions from Coke Oven Charging, Door Leaks, and Topside Leaks on Wet-Coal-Charged Batteries	2060-AA49
3158	SAR No. 1714. NESHAP: Asbestos Revision (Risk Reduction)	2060-AB51
3159	SAR No. 2161. Decisions on Regulating Various Air Pollutants	2060-AB56
3160	SAR No. 2161. NESHAP: Chromium	2060-AB83
3161	SAR No. 2366. NESHAP: Chromium–Industrial Cooling Towers	2060-AC12
3162	SAR No. 2366. NESHAP: Chromium–Electroplating	2060-AC14
3163	SAR No. 2363. NESHAP: Hazardous Organics	2060-AC19
3164	SAR No. 2484. NESHAP: Ethylene Oxide from Commercial Sterilization	2060-AC28
3165	SAR No. 2557. Guideline on Air Quality Models (Revision)	2060-AC43

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Clean Air Act (CAA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3166	SAR No. 2491. PSD Increments for PM10	2060-AC33
3167	SAR No. 2384. Motor Vehicle Test Procedures for Evaporative Hydrocarbons (Revision)	2060-AC84
3168	SAR No. 2704. On-Board Vehicle Based Diagnostic System Requirement	2060-AC85
3169	SAR No. 2287. Emission Standards for Light-Duty Trucks (Revision)	2060-AB85
3170	SAR No. 2665. Amendments to Motor Vehicle Imports Regulations Pertaining to Canadian Vehicles	2060-AC58
3171	SAR No. 2660. Interim Cold Ambient Air Temperature Carbon Monoxide Emission Standards	2060-AC59
3172	SAR No. 2589. Revisions to the Stack Height Regulation	2060-AC60
3173	SAR No. 2373. Test Procedures for Trap-Equipped Diesel Vehicles and Engines	2060-AC08
3174	SAR No. 2431. Nonconformance Penalties for 1991 through 1994 Model Year Emission Standards for Heavy-Duty Vehicles and Engines	2060-AC39
3175	SAR No. 2366. Diesel Fuel Quality standards	2060-AC00
3176	SAR No. 2604. Fuel and Fuel Additives: Enforcement of Section 211(f)(4) Waivers	2060-AC53
3177	SAR No. 2690. Radon User Fees	2060-AC58
3178	SAR No. 2240. Treatment, Storage, and Disposal Facility Area Source Air Emissions - RCRA Standards	2060-AB94

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3179	SAR No. 5440. State Implementation Plans: Attainment Status Designations	2060-AC56
3180	SAR No. 1002. NAAQS: Sulfur Oxides (Review)	2060-AA61
3181	SAR No. 2298. New Source Review Requirements -- Surface Coal Mines and Fugitive Emissions	2060-AC40
3182	SAR No. 1618. NSPS: SOCMI Air Oxidation Process	2060-AA30
3183	SAR No. 1733. NSPS: SOCMI Distillation Operations	2060-AA35
3184	SAR No. 1691. NSPS: Polymer and Resin Manufacture	2060-AA37
3185	SAR No. 2044. NSPS: Automobile and Light-Duty Truck Coating Operations (Revision)	2060-AB22
3186	SAR No. 2083. NSPS: Fossil Fuel-Fired Steam Generators (Revision)	2060-AB29
3187	SAR No. 2239. NSPS: Small Boilers	2060-AB95
3188	SAR No. 2559. State Implementation Plans: Policy on Post - 1987 Ozone and Carbon Monoxide Plan Revisions for Areas Not Attaining the National Ambient Air Quality Standards	2060-AB96
3189	SAR No. 2285. NSPS: Calciners and Dryers	2060-AC67
3190	SAR No. 2386. NESHAP: Chromium--Comfort Cooling Towers	2060-AC13
3191	SAR No. 2543. Rural Fugitive Dust Policy for PM10	2060-AC44
3192	SAR No. 2547. NESHAP: Radionuclides	2060-AC47
3193	SAR No. 1714. NESHAP for Asbestos (Compliance Revisions)	2060-AC57
3194	NESHAP: Benzene Litigation	2060-AC68
3195	SAR No. 2318. Control of Excess Evaporative Emissions/Fuel Volatility	2060-AB89
3196	SAR No. 2384. Decision on Air Pollution Regulatory Strategies for the Gasoline Marketing Industry	2060-AC04
3197	SAR No. 1315. Trading and Banking of Heavy-duty Engine NOx and PM Emission Credits	2060-AC05
3198	SAR No. 2143. Small-Volume Manufacturers Certification Procedure (Revision)	2060-AB54
3199	SAR No. 2637. Alternative Test Procedure for the Voluntary Aftermarket Part Certification Program	2060-AC50
3200	SAR No. 2638. Motor Vehicle Emissions Performance Warranty Short Tests	2060-AC51

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3201	SAR No. 1845. New Source Review Requirements -- CMA Exhibit A	2060-AA68
3202	SAR No. 1736. NSPS: Petroleum Refinery, FCC Regenerators	2060-AA36
3203	SAR No. 2237. NSPS: Polymeric Coating of Supporting Substrates	2060-AB67
3204	SAR No. 2573. NESHAP: Benzene Reconsideration	2060-AC41
3205	SAR No. 2112. Emission Standards and Test Procedures for Methanol-Fueled New Motor Vehicles	2060-AB28
3206	SAR No. 2136. Emission Performance Warranty Regulations (Revision)	2060-AB53
3207	SAR No. 2145. Voluntary Aftermarket Part Certification Regulations (Revision)	2060-AB58
3208	SAR No. 2214. Fuel and Fuel Additives: Gasoline Lead Content (Revision)	2060-AB60

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Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3209	SAR No. 2702. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2050-AC98
3210	SAR No. 2650. National Contingency Plan-Subpart K: A Roadmap to the NCP for Federal Facilities	2050-AC76
3211	National Priorities List (NPL) for Uncontrolled Hazardous Waste Sites - Update 10	2050-AD01
3212	SAR No. 2498. Administrative Hearing Procedure for Superfund Claims	2050-AC26
3213	SAR No. 2401. Technical Assistance Grants to Groups of Individuals at Superfund Sites	2050-AC10

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3214	SAR No. 2336. Designation of Extremely Hazardous Substances as CERCLA Hazardous Substances	2050-AB62
3215	SAR No. 2429. Reportable Quantities (RQs) for Substances on the Extremely Hazardous Substances List	2050-AC14
3216	SAR No. 2411. Reporting Continuous Releases of Hazardous Substances	2050-AA46
3217	SAR No. 2394. Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3218	SAR No. 2538. Procedures for Planning and Implementing Off-Site Response Actions	2050-AC35
3219	SAR No. 2400. National Oil and Hazardous Substances Pollution Contingency Plan (NCP)	2050-AA75
3220	SAR No. 2566. Hazard Ranking System for Uncontrolled Hazardous Substance Releases	2050-AB73
3221	SAR No. 5358. National Priorities List for Uncontrolled Hazardous Waste Sites - Update 7	2050-AC16
3222	SAR No. 5434. National Priorities List (NPL) for Uncontrolled Hazardous Wastes Sites - Update 6	2050-AC47
3223	SAR No. 5357. National Priorities List for Uncontrolled Hazardous Waste Sites - RCRA Sites	2050-AC48
3224	SAR No. 2667. National Priorities List for Uncontrolled Hazardous Waste Sites - Update 8	2050-AC81
3225	SAR No. 2688. National Priorities List for Uncontrolled Hazardous Waste Sites Update 9	2050-AC99
3226	National Priorities List (NPL) for Uncontrolled Hazardous Waste Sites - Update (Health Advisory Sites)	2050-AD00
3227	SAR No. 2564. Response Claims Procedures for the Hazardous Substances Superfund	2050-AA90
3228	SAR No. 2464. Reporting Hazardous Substances Activity When Transferring Federal Real Property	2050-AC00
3229	SAR No. 2409. Reimbursement of Local Governments for Emergency Response to Hazardous Substance Releases	2050-AC11
3230	SAR No. 2674. Delisting Certain Chemicals from the List of Extremely Hazardous Substances (Revision)	2050-AC77
3231	SAR No. 2644. Emergency and Hazardous Chemical Inventory Forms and Community Right-to-Know Reporting Requirements; Implementation of Reporting Requirements for Indian Lands	2050-AB88
3232	SAR No. 2512. Administrative Hearing Procedures for Class II Penalties under CERCLA and Emergency Planning and Community Right-to-Know Act	2050-AC39
3233	SAR No. 2615. Prior Notice of Citizen Suits Under CERCLA and the Emergency Planning and Community Right-to-know Act	2050-AC70

Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3234	SAR No. 2104. Reportable Quantities for Releases of Potential Carcinogens and Other Hazardous Substances	2050-AA80
3235	SAR No. 2335. Reportable Quantities (RQs) for Releases of Radionuclides	2050-AB60
3236	SAR No. 5433. National Priorities List (NPL) for Uncontrolled Hazardous Wastes Sites - Update 5	2050-AC45
3237	SAR No. 0932. National Priorities List for Uncontrolled Hazardous Waste Sites - Federal Facility Policy and Listing	2050-AC57
3238	SAR No. 2455. Arbitration Procedures for Small Superfund Cost Recovery Claims	2050-AC36
3239	SAR No. 2495. Citizen Awards for Information on Criminal Violations under Superfund	2050-AC38
3240	SAR No. 2427. Worker Protection Standards for Hazardous Waste Operations and Emergency Response	2050-AC12
3241	SAR No. 2511. Administrative Hearing Procedures for Class I Civil Penalties Under CERCLA and the Emergency Planning Community Right-to-Know Act	2050-AC37

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General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3242	SAR No. 2196. Denial or Restriction of Disposal Sites (Revision)	2040-AB20
3243	SAR No. 0952. Evaluation Procedure for Award of Fixed Price Contracts for Commercial Supplies and Services	2030-AA09
3244	SAR No. 0951. Contractor Compliance with Information Resources Management Directives	2030-AA10
3245	SAR No. 0950. Miscellaneous Delegations from the Contracting Authority	2030-AA11
3246	SAR No. 0949. Implementation of Federal Acquisition Regulation Coverage on Ratification of Unauthorized Commitments	2030-AA12
3247	SAR No. 2683. Payment of Fee on Term Form Contracts	2030-AA15
3248	SAR No. 2739. Claiming Billing Information as Confidential Information	2030-AA17
3249	SAR No. 2662. Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3250	SAR No. 2195. Confidentiality Regulations: Special Rules Governing Certain Information Under FIFRA (Revision)	2020-AA06
3251	SAR No. 2536. Procedures and Requirements Implementing the National Environmental Policy Act for the Environmental Protection Agency's Research and Development Program	2030-AA14

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3252	SAR No. 2551. Environmental Protection Agency Acquisition Regulation (EPAAR); Submission of General Financial and Organizational Information, and Purchasing System Information by Offerors	2030-AA06
3253	SAR No. 2740. Data Rights	2030-AA16
3254	SAR No. 2738. Billing Requirements for EPA Contractors	2030-AA18
3255	SAR No. 2652. EPCRA Inspection Authority and Procedures	2020-AA15
3256	SAR No. 2218. Nondiscrimination on the Basis of Age in Programs Receiving Financial Assistance From the EPA (Revision)	2090-AA09
3257	SAR No. 2476. Cooperative Agreements and Superfund State Contracts for Superfund Response Actions	2010-AA11

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3258	SAR No. 2307. Notice Requirements for Citizen Suits under the SDWA	2040-AB59
3259	SAR No. 2609. Collection of Civil Penalties under Title II of the Toxic Substances Control Act, and the Asbestos Hazard Emergency Response Act	2020-AA14

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

2985. PESTICIDE REGULATIONS FOR PESTICIDAL TRANSGENIC PLANTS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 2; 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25; 7 USC 136c/FIFRA 5

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: EPA will consider the need for an amendment to clarify that chemical pesticides produced by transgenic plants are not considered to be biological pest control agents and, therefore, may not be exempt from the provisions of FIFRA (the existing section 152.20 exempts from FIFRA regulation all plants that may be used as biological pest control agents). Instead, chemical pesticides produced by transgenic plants may receive regulatory oversight similar to that which is already in place for chemical pesticide products that are produced and applied by conventional means. This regulation and its development will be coordinated with USDA/APHIS and other agencies, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2684.

FTS:8-557-9307

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Agency Contact: Fred Betz, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-9307

RIN: 2070–AC02

2986. RESTRICTED USE CLASSIFICATION FOR GROUNDWATER CONTAMINATING PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136d/FIFRA 6; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule will provide a scheme for identifying pesticides which may pose an unacceptable hazard because of the potential to leach into groundwater. The Agency will propose criteria for classifying such pesticides for restricted use. Restricted use pesticides generally may be applied only by state certified applicators.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2351.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7508C), Washington, DC 20460, 703 557-3942

RIN: 2070–AB60

2987. REGISTRATION DATA REQUIREMENTS FOR PESTICIDE PRODUCT PERFORMANCE AND COMPANION PESTICIDE ASSESSMENT GUIDELINES (REVISION)

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25; 7 USC 136d/FIFRA 6

CFR Citation: 40 CFR 158.640

Legal Deadline: None

Abstract: The Agency may change pesticide producer requirements on submission of qualitative and quantitative product performance data relative to other chemical or non-chemical practices. A companion revised quideline may provide protocols and methodologies for conducting the studies necessary to produce acceptable compartive performance data. Registrants may experience cost increases to support registration of pesticide products. The benefits would be better and more uniform data on pesticide product performance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2567.

FTS:8-557-3691

Agency Contact: Bernard A. Schneider, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7503C), Washington, DC 20460, 703 557-3691

RIN: 2070–AB82

2988. SALE OF RESTRICTED USE PESTICIDES TO NONCERTIFIED PERSONS

Legal Authority: 7 USC 136b/FIFRA 4; 7 USC 136j/FIFRA 12; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 171.12

Legal Deadline: None

Abstract: This action is intended to develop regulations to allow the sale of restricted use pesticides to persons who are not certified under special circumstances as set forth by Congress in 1978. Regulatory development will be coordinated with the review of state plans under FIFRA Section 4 to determine both need and compatibility with State authorities and programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2337.

FTS: 8-557-7410

Agency Contact: Robert Bielarski, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, D.C. 20460, 703 557-7410

RIN: 2070–AB48

2989. REGULATIONS ON CERTIFICATION OF PESTICIDE APPLICATORS (REVISION)

Legal Authority: 7 USC 136a/FIFRA 4; 7 USC 136b/FIFRA 4; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This action is intended to revise existing regulations on certification of pesticide applicators. The current standards and requirements may need to be updated to clarify definitions and to reflect changes in technology and current needs in State programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Organizations

Government Levels Affected: State

Additional Information: SAR No. 2446.

FTS:8-557-7410

Agency Contact: Chuck Reese, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7410

RIN: 2070–AB75

2990. PESTICIDE APPLICATOR CERTIFICATION FEES FOR EPA ADMINISTERED PROGRAMS

Legal Authority: 31 USC 9701/FIFRA 4

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This rule is intended to implement a program for assessing fees for certification and training of commercial and private applicators who apply restricted use pesticides. Fees will be collected in States with Federally-administered pesticide certification and training programs, and

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will cover the costs of administering such programs

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2406.

FTS:8-557-7410

Agency Contact: Chuck Reese, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7410

RIN: 2070–AB76

2991. AMENDMENTS TO EXPERIMENTAL USE PERMIT RULE FOR CERTAIN MICROBIAL PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136c /FIFRA 5; 7 USC 136a/FIFRA 3

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA proposes to amend its experimental use permit regulations for pesticides to clarify the circumstances under which an experimental use permit is presumed not to be required and to specify that the presumption is based on risk. EPA also proposes to require notification before initiation of small-scale testing of certain genetically modified microbial pesticides. Each notification will be reviewed by the Agency, and a determination made as to whether an experimental use permit will be required. This notification scheme would implement provisions of the Agency's policy statement of June 26, 1986 (51 FR 23302), with some modifications, and is intended to provide sufficient oversight of the early testing of these microbial pesticides pesticides to mitigate any adverse human health or environmental effects.

Timetable:

Action	Date	FR Cite
Notice	02/15/89	54 FR 7026
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2445.

FTS:8-557-8307

Agency Contact: Fred Betz, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-9307

RIN: 2070–AB77

2992. REPORTING REQUIREMENTS FOR RISK/BENEFITS INFORMATION

Legal Authority: 7 USC 136d/FIFRA 6

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: FIFRA Section 6(a)(2) requires that registrants report to EPA additional factual information regarding unreasonable adverse effects of their products. In September 1985, EPA revised its 1979 section 6(a)(2) enforcement policy by publishing a notice which expanded upon the types of factual information which must be reported and established uniform timeframes for compliance. In response to comments received on this notice, the Agency is reissuing it as a proposal to clarify the types of information which registrants must report to EPA. EPA is also incorporating instructions for use by registrants who are subject to generating reregistration data on what 6(a)(2) data to identify during reregistration.

Timetable:

Action	Date	FR Cite
Codified Interpretive Rule		
Final Action	09/20/85	(50 FR 38115)
Enforcement Policy		
Final Action	07/12/79	(44 FR 40716)
Interpretive Rule		
Final Action	08/23/78	(43 FR 37611)
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2338.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7508C), Washington, D.C. 20460, 703 557-3942

RIN: 2070–AB50

2993. ● PESTICIDE DATA REQUIREMENTS: METHODS FOR SAFE STORAGE AND DISPOSAL

Legal Authority: 7 USC 136 / FIFRA 3, FIFRA 6, FIFRA 19

CFR Citation: 40 CFR 158; 40 CFR 165

Legal Deadline: None

Abstract: EPA is authorized to issue regulations to specify the types and minimum amounts of data the Agency requires to support the registration or continued registration of a pesticide, and for other purposes. This rule may specify the necessary information and data EPA would require regarding methods for the safe storage and disposal of pesticides. The data requirements table and supporting information would become a part of existing 40 CFR Part 158.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2724.

FTS: 8-557-5739

Agency Contact: Robert Holst, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), 703 557-5734

RIN: 2070–AC11

2994. ● FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION AMENDED

Legal Authority: 7 USC 136f/FIFRA Section 8

CFR Citation: 40 CFR 169

Legal Deadline: None

Abstract: This action may change the requirements for registrants and applicants records under FIFRA Section 8. It will also examine recordkeeping affected by the 1988 amendments to FIFRA and amend 40 CFR Part 169, as necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2725.

FTS:8-475-7786

Agency Contact: Steve Howie, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 475-7786

RIN: 2070–AC07

2995. ● PESTICIDE DATA REQUIREMENTS

Legal Authority: 7 USC 136 /FIFRA 8

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: This amendment may update the data requirements for evaluating the risks of pesticide products. Recent health and environmental concerns (e.g., groundwater contamination and neurotoxicity) and advancements in testing technology have changed. Also, the revisions may clarify data requirements to reflect current practice.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2687.

FTS:8-557-7695

Agency Contact: Amy Rispin, Environmental Protection Agency, Pesticides and Toxic Substances, (H-750 7C), 703 557-7695

RIN: 2070–AC12

2996. ● REVISION OF STATEMENT OF POLICY ON FIFRA SECTION 17(A), PESTICIDES AND DEVICES INTENDED FOR EXPORT

Legal Authority: 7 USC 136 / FIFRA 17

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action will revise the Statement of Policy to improve compliance monitoring. Changes will be incorporated to improve recognition and response to potential violations of FIFRA 17(a).

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2735.

FTS:8-475-7786

Agency Contact: Steve Howie, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), 202 475-7786

RIN: 2070–AC09

2997. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL OF PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136q/FIFRA 19

CFR Citation: 40 CFR 165

Legal Deadline: Final, Statutory, December 24, 1991. Other, Statutory, December 24, 1990.
Regulations on container design and rinsate handling, as a part FIFRA 88, required by 12/24/91. Container study Report to Congress by 12/24/90.

Abstract: The 1988 amendments to FIFRA significantly expand EPA authority to regulate the storage, transportation, and disposal of pesticides. The Agency may exercise this authority through data requirements for pesticide registration, labeling provisions, procedures for recall of cancelled products, and other regulations for storage, transport, and disposal of pesticides, containers, and materials contaminated by pesticide residues.

Timetable:

Action	Date	FR Cite
Container Design		
NPRM	10/00/90	
Storage, Disposal, Transportation and Recall of Pesticides		
NPRM	10/00/90	
Final Action	12/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2659.

FTS:8-557-0481

Agency Contact: Dr. Paul F. Schuda, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, D.C. 20460, 703 557-0481

RIN: 2070–AB95

2998. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Legal Authority: 7 USC 136/FIFRA 25

CFR Citation: 40 CFR 157; 16 CFR 1700.15; 16 CFR 1700.20

Legal Deadline: None
EPA regulations should be concurrent with CPSC.

Abstract: These regulations will revise current Child Resistant Packaging regulations (CRP) to be consistent with 6 CRP protocol testing revisions the CPSC is proposing for its CRP regulations. Also, these regulations will discuss the implementation of these changes in terms of pesticide registrations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2639.

FTS: 8-557-7700

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7505C), Washington, DC 20460, 703 557-7700

RIN: 2070–AB98

2999. RESPONSES TO PETITIONS RECEIVED TO ADD TO OR DELETE CHEMICALS FROM THE LIST OF TOXIC CHEMICALS UNDER SECTION 313 OF SARA

Legal Authority: 42 USC 11013 SARA 313

CFR Citation: 40 CFR 372

Legal Deadline: NPRM, Statutory, 00/00/00. Other, Statutory, 00/00/00. For each of these petitions the Agency must either initiate rulemaking or provide an explanation for the denial in the Federal Register within 180 days.

Abstract: These are various actions to grant or deny petitions received to add to or delete chemicals from the list of

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toxic chemicals under Section 313 of SARA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAR No. 2425.

FTS: 8-382-3667

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070–AC00

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Final Rule Stage**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3000. FOOD ADDITIVE REGULATIONS CONCERNING PESTICIDE RESIDUES: PROCEDURAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346a/FFDCA 408; 21 USC 348/FFDCA 409

CFR Citation: 40 CFR 180

Legal Deadline: None

Abstract: The first phase of this regulation will set forth procedures for which food additive tolerances, required by section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA), may be established, modified or revoked. The proposal also covers procedural rules governing the filing of objections, requests for hearings and hearing procedures under FFCDA Sections 406 and 409. In the second phase, which will overlap the first, the Agency plans to develop a unified regulation that will deal with the substantive interpretations and criteria for deciding when tolerances or food additive regulations are needed, what data are needed to support a tolerance or food additive regulation, and what criteria will be used by EPA to determine whether a tolerance or food additive regulation should be established, modified, or revoked.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41126
FFDCA Section 408/409 Procedural Rules Final Action	12/31/89	
FFDCA Section 409 Tolerance Criteria NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2444.

FTS:8-557-7700

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7505C), Washington, DC 20460, 703 557-7700

RIN: 2070–AB78

3001. LABELING REQUIREMENTS FOR PESTICIDES AND DEVICES (REVISION)

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136d/FIFRA 6; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 156; 40 CFR 167

Legal Deadline: None

Abstract: This regulation will revise and expand the labeling requirements for pesticide products and devices. The revisions will provide for pesticide producers a comprehensive description of pesticide labeling requirements, and will result in better quality pesticide labeling for users.

Timetable:

Action	Date	FR Cite
NPRM	09/26/84	49 FR 37959
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2289.

FTS: 8-557-0944.

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-0944

RIN: 2070–AB46

3002. ● POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OF SUSPENDED REGISTRATION

Legal Authority: 7 USC 136 / FIFRA 6

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This policy will implement the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess cancelled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
Final Policy	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2720.

FTS:8-382-7825

Agency Contact: Dan Helfgott, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 382-7825

RIN: 2070–AC06

3003. INTERPRETATIVE RULE - ADVERTISING CLAIMS MADE FOR REGISTERED PESTICIDE PRODUCTS

Legal Authority: 7 USC 136j /FIFRA 12

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: This rule interprets FIFRA section 12(a)(1)(B) which provides for the regulation of claims made when advertising registered pesticide products. The rule will establish

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standards for acceptable advertising claims with respect to claims made about the safety and efficacy of the product.

Timetable:

Codified Interpretative Rule
Final Action 11/30/90

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2554.

FTS:8-557-7443

Agency Contact: Jean Jenkins, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7505C), 703 557-7443

RIN: 2070–AB88

3004. WORKER PROTECTION STANDARDS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3; 7 USC 136j/FIFRA 26; 7 USC 136w(a)/FIFRA 25

CFR Citation: 40 CFR 156; 40 CFR 170

Legal Deadline: None

Abstract: The Worker Protection Standards for agricultural pesticides will be revised to reflect new and developing requirements for the registration, reregistration and use of pesticides. The current standards need to be revised in order to increase the scope of coverage, update the provisions, clarify definitions and responsibilities, and improve implementation, compliance, and enforcement.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/84	49 FR 32605
NPRM	07/06/88	53 FR 25970
Final Action	10/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1640.

FTS: 8-557-7666.

Agency Contact: Patricia Breslin, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7666

RIN: 2070–AA40

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Completed Actions**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3005. FIFRA GOOD LABORATORY PRACTICE STANDARDS (REVISION)

CFR Citation: 40 CFR 160

Completed:

Reason	Date	FR Cite
Final Action	07/17/89	54 FR 34052

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Howie 202 475-7786

RIN: 2070–AB68

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Prerule Stage**

Toxic Substances Control Act (TSCA)

3006. REGULATORY INVESTIGATION OF CHLORINATED SOLVENTS

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6; 15 USC 2608/TSCA 9

CFR Citation: 40 CFR 754

Legal Deadline: None

Abstract: EPA, in consultation with the Consumer Product Safety Commission, Occupational Safety and Health Administration, and Food and Drug Administration, is developing a comprehensive and integrated strategy for a regulatory investigation of methylene chloride and five other chlorinated solvents. In some cases, these chlorinated solvents are competitive and can be easily substituted for each other in a number of uses. The integrated effort is being conducted to reach general agreement on the risks associated with the solvents and to avoid ineffective risk management actions that may occur due to solvent switching or pollutant transfer among media which could be caused by piecemeal regulation. Data are being gathered for six solvents (methylene chloride, perchloroethylene, trichloroethylene, methyl chloroform, carbon tetrachloride, and CFC-113 which is now being phased out due to its ozone depletion characteristics) and their potential substitutes. This regulatory investigation is focused on three categories: metal cleaning, paint stripping, and aerosol application. The investigation will determine whether coordinated regulatory controls are needed to eliminate or reduce (cont)

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42037

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2284.

FTS: 8-382-3777.

ABSTRACT CONT: exposure to these solvents.

Agency Contact: Larry Dorsey, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3777

RIN: 2070–AB41

3007. SCRAP METAL RECYCLING REGULATORY CONTROLS

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 7

Legal Deadline: None

EPA—TSCA — **Prerule Stage**

Agency Contact: Richard Troast,

Timetable:

CFR Citation: 40 CFR 721

EPA—TSCA — **Proposed Rule Stage**

EPA—TSCA — Prerule Stage

Abstract: Processing, distribution in commerce, and disposal activities by the scrap metal recycling industry are resulting in some releases of PCBs (and other hazardous substances such as lead) at levels exceeding current regulatory action levels. The problem may affect all media (air, land, and water). Regulatory options under consideration focus on the mandate of both the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act (TSCA). Options include: (1) mechanisms to provide relief to the shredding industry such as authorizing PCB-related activities that do not present an unreasonable risk, and (2) the feasibility of using TSCA to reduce risks posed by other materials.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2654.

FTS: 8-382-3866

An RIA and an RFA would not be statutorily required for this regulation because the rule would grant relief from the Toxic Substances Control Act (TSCA) processing, distributions in commerce and disposal requirements rather than impose additional burdens on the regulated community. Nevertheless, we do plan to assess the economic impact of any proposed actions on industry, particularly small businesses, as part of our unreasonable risk analysis for TSCA.

Agency Contact: John Smith, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070–AC01

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Toxic Substances Control Act (TSCA)

3008. TOXIC CHEMICAL "PEAK RELEASE" REPORTING RULE (REVISION)

Legal Authority: 42 USC 11013 /SARA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This action proposes to add a "peak release" reporting element to the Toxic Chemical Release Inventory Reporting Form. Reporting of releases is of annual aggregate releases to all environmental media. The proposal addresses the issue of obtaining a more specific indication of this frequency and/or duration of releases in order to better assess risks to health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2555.

FTS:8-382-3667

Agency Contact: Susie Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070–AB86

3009. DECISIONS ON TEST RULES: PROPOSED RULES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: Other, Statutory. 12-month statutory deadline for ITC-designated chemicals

Abstract: The following table lists chemicals for which EPA will initiate rulemaking to require testing, obtain testing through negotiated consent orders, or publish a notice which provides the reasons for not doing so. The list includes chemicals which have been designated for priority testing consideration by the Interagency Testing Committee as well as those chemicals (i.e., recommended and non-designated chemicals) for which the 12-month statutory requirement does not apply. The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Aryl Phosphates (ITC List 2) (SAR 5369)
ANPRM 12/29/83 (40 FR 57452)
Aryl Phosphates (ITC List 2)(SAR 5369)
NPRM 12/00/90
C.I. Disperse Blue 79 (ITC List 19)(SAR 5370)
FINAL RULE/Consent Order 12/00/89
Crotonaldehyde (ITC List 22) (SAR 5454)
FINAL RULE/Consent Order 12/00/89
Disperse Red 60 (ITC List 21) (SAR 5368)
NPRM 12/00/89
Ethoxylated Quaternary Ammonium Compounds (SAR 5456)
NPRM 12/00/89
Glycidols (ITC List 3) (SAR 5375)
ANPRM 12/30/83 (48 FR 57562)
Glycidols(ITC List 3) (SAR 5375)
NPRM 12/00/89
Hexamethylene Diisocyanate (ITC List 22)(SAR 5453)
NPRM 05/17/89 (54 FR 21240)
Imidazolium Quaternary Ammonium Compounds (SAR 5455)
NPRM 11/00/90
N-Methylpyrolidone(SAR 2757)
NPRM 12/00/89
Nonylphenol (SAR 5380)
NPRM/Consent Order 10/00/89
1,1,1-Trichloroethane (muta/neuro) (ITC List 2) (SAR 5384)
FINAL RULE/Consent Order 10/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

See SAR number listed next to each action.

FTS: 8-475-8130.

The following rules were deleted from the NPRM list of Test Rules: Acid Blue 40 (ITC List 21 - SAR 5385 - withdrawn by ITC), Acid Blue 45 (ITC List 21 - SAR 5386 - withdrawn by ITC), Acrylates (SAR 5368 - withdrawn by ITC), Disperse Blue 56 (ITC List 21 - SAR 5387 - withdrawn by ITC), Methylolurea (ITC List 12 - SAR 5379 - decision made not to test)

EPA—TSCA — Proposed Rule Stage

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB07

3010. SARA SECTION 110 CHEMICALS GENERIC TEST RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: The regulation will set forth the policies and procedures for using the TSCA Section 4 testing authority to obtain toxicity and chemical fate testing to fill certain data needs identified in toxicity profiles of chemicals prepared pursuant to Section 110 of the Superfund Amendments and Reauthorization Act (SARA).

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2563.

FTS:8-475-8130

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB79

3011. AMENDMENTS TO TEST RULES AND CONSENT AGREEMENTS

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This action will amend the testing consent order process to increase its efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2657.

FTS:8-475-8130

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB97

3012. FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under TSCA section 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Certain CFC Substitutes
NPRM 11/00/89
2,4-Pentanedione
NPRM 10/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1923.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070–AA56

3013. CHEMICAL SPECIFIC SIGNIFICANT NEW USE RULES TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that in the absence of adequate safety data, the uncontrolled manufacture, import, processing, distribution, use or disposal of a PMN substance may present an unreasonable risk, it may issue a proposed order under section 5(e) to limit the aforementioned activities. However, section 5(e) orders apply only to the PMN submitter. Once the substance is placed on the TSCA chemical inventory, other persons are free to manufacture, import, or process the substance without controls. Therefore, EPA by rule, designates manufacture, import, or processing of the substances for use without the specified controls as a significant new use. These SNURs ensure that the original submitter is not at a competitive disadvantage and that no uncontrolled activities will occur without an opportunity for prior Agency review.

Timetable:

(84-274) (see additional information for title) (SAR 5407)
NPRM 08/26/85 (50 FR 34505)
Final Action 03/00/90
(85-1176) (see additional information for title) (SAR 5404)
NPRM 06/00/90
(85-544) (see additional information for title) (SAR 5408)
NPRM 06/00/90
(85-564) (see additional information for title) (SAR 5405)
NPRM 06/00/90
(85-703) (see additional information for title) (SAR 5406)
NPRM 06/23/86 (51 FR 22831)
Final Action 06/00/90
Alkyl Aryl Phosphine (83-1023) (SAR 5413)
NPRM 09/20/84 (49 FR 36880)
Final Action 06/00/90
Alkyl Glycoether Acrylic Acid Derivative (84-27) (SAR 5414)
NPRM 12/24/84 (49 FR 49868)
Final Action 03/00/90
Brominated Aryl Alkyl Ether, Ethylated Amino (SAR 5415)
NPRM (83-906/908/909/910) 09/28/84 (49 FR 38303)
Final Action 06/00/90
Certain Acrylate and Methacrylate Chemicals (SAR 5416)
NPRM 03/27/85 (50 FR 12046)
Final Action 03/00/90
Certain Acrylate Chemicals (84-341-344) (SAR 5417)
NPRM 04/04/86 (51 FR 11591)
Final Action 03/00/90

EPA—TSCA — Proposed Rule Stage

EPA—TSCA — Proposed Rule Stage

3016. PROPOSAL TO EXEMPT

Abstract: As described in the Federal

3018. PROCEDURES AND CRITERIA

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Methylammonium n-Methyldithiocarbamate (84-1042) (SAR 5418)
NPRM 03/24/86 (51 FR 10027)
Final Action 06/00/90
N,N,N'N'-Tetrakis (oxiranylmethyl) (SAR 5420)
NPRM (84-7) 01/13/86 (51 FR 1396)
Final Action 03/00/90
Polyol Polyacrylate (85-718) (SAR 5419)
NPRM 03/00/90
Substituted Benzene, Halogenated (85-612) (SAR 5421)
NPRM 06/00/90
Substituted Benzene, Halogenated (84-660 and 84-704) (SAR 5422)
NPRM 03/18/86 (51 FR 9221)
Final Action 06/00/90
Substituted Bromothiophene (83-769) (SAR 5423)
NPRM 09/28/84 (49 FR 38310)
Final Action 06/00/90
Substituted Methylpyridine (83-237)(SAR 5424)
NPRM 02/06/84 (49 FR 4380)
Final Action 10/00/90
Substituted Polyester Resin (85-395)(SAR 5425)
NPRM 03/00/90
Substituted Tetrafluoro Alkanes (84-105/106/107) (SAR 5426)
NPRM 03/21/85 (50 FR 11384)
Final Action 10/00/90
2-Butenedioic Acid(z), (85-543) (SAR 5427)
NPRM 03/00/90
2-Propenoic Acid-3-Dimethylamino)-2,3-Dimethyl-Propyl (SAR 5428)
NPRM 03/00/90
2-Propenoic Acid, (85-546) (SAR 5429)
NPRM 03/00/90
2-Propenoic Acid, 3,3,5-Trimethylcyclohexylester (SAR 5430)
NPRM 03/00/90

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

See SAR number listed next to each action.

FTS:8-382-3771.

(85-1176) Alcohols, C1-4, ethers with Polyethylent-polypropylene glycol mono (2-aminopropyl) ether, polymer with maleic anhydride and trimethylolpropane triacrylate

(85-564) Isocyanic acid, polymethylene-polyphenylene ester, polymer with 1,1-methylenebis ;4-isocyanatobenzene; 2-hydroxyethyl acrylate-blocked

(85-703) Poly 2-hydroelectric melamine, polymers with 5-isocyana to 1-isocyanatomethyl-1,3,3-trimethylcyclohexane 2-hydroxyethyl acrylate-blocked

(84-274) Poly(oxy-1,4-butanediyl)-alpha-(1-oxo-2-propenyl) -omega-((1-oxo-2-propenyl)-oxy)

(85-544) 2-Propenoic Acid, 2-Methyl-7,7,9-Trimethyl-4,13-dioxo- 3,14-Dioxo-t,12-Diazahexadecane,1,16-Dyl Ester

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3771

RIN: 2070–AB27

3014. GENERIC SIGNIFICANT NEW USE RULE FOR ACRYLATE COMPOUNDS

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of manufacture or process for a significant new use. The significant new use rule will apply to a subset of acrylates and methacrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2247.

FTS: 8-382-3771

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3771

RIN: 2070–AB56

3015. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY")

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5; 15 USC 2607 /TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 720; 40 CFR 721

Legal Deadline: None

Abstract: Under the authority of the Toxic Substances Control Act, the agency is proposing two separate regulatory actions for manufacturers, importers, and processors of certain microbial products of biotechnology. Under section 5, the Agency is proposing to amend its definition of "small quantities solely for research and development" contained in the Premanufacture Notification (PMN) Rule, thereby requiring persons to submit notices prior to testing new microorganisms in the environment. This amendment will require reporting for new microorganisms and will establish a special notification mechanism for experimental releases of microorganisms. EPA also is proposing significant new use notification requirements under section 5(a)(2), which would ensure that EPA will receive for review, notices of large scale releases of other microorganisms developed for significant new uses, and will review small-scale environmental releases. The primary objective of these actions is to ensure uses of microorganisms in the environment do not affect human health and the environment in unforeseen and possible harmful ways.

Timetable:

Action	Date	FR Cite
Notice	02/15/89	54 FR 7027
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information:

SAR No. 2325 (SNUR for Certain Biotech Products); SAR No. 2326 (PMN for Certain Biotech Products)

FTS:8-382-3856

Agency Contact: Ron Evans, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3856

RIN: 2070–AB61

3016. PROPOSAL TO EXEMPT CERTAIN MICROORGANISMS FROM PMN REQUIREMENTS UNDER TSCA 5(H)(4)

Significance: Regulatory Program

Legal Authority: 15 USC 1504/TSCA 5

CFR Citation: 40 CFR 723

Legal Deadline: None

Abstract: Under the authority of the Toxic Substances Control Act, the Agency will propose to exempt from review new microorganisms used in certain contained systems. The Agency considers it a priority to exempt from consideration organisms that can be shown to meet the statutory requirements under section 5(h)(4) of TSCA. To meet those requirements, it must be shown that the substances will not present unreasonable risks. EPA is considering public comment received and other evidence concerning use of microorganisms in closed systems and other controlled environments to determine whether those categories satisfy the requirements of section 5(h)(4) of TSCA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: SAR No. 2561.

FTS:8-382-3856

Agency Contact: Ron Evans, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3856

RIN: 2070–AB89

3017. REGULATORY INVESTIGATION OF FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 765

Legal Deadline: Other, Judicial, October 30, 1989.
Court Ordered Deadline for Bi-Annual Progress Report every April and October.

Abstract: As described in the Federal Register on May 23, 1984, the Agency has been investigating regulatory options for reducing the exposure to formaldehyde of: (1) residents exposed to formaldehyde emissions from wood products used in the construction of manufactured homes; (2) similarly exposed residents of conventional homes; (3) apparel manufacture employees exposed to formaldehyde released from treated fabrics. When OSHA proposed a revised workplace standard in December 1985 that applies to all occupational exposure, EPA terminated its investigation with respect to apparel manufacturing employees. Investigation of risks from exposure to formaldehyde emissions from wood products is being conducted in consultation with HUD and CPSC. This investigation may lead to the initiation of various control alternatives, including section 9 referral to other agencies and/or section 6 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
Section 9(d) and Notice of Termination for Apparel Workers	03/19/86	51 FR 9469
Bi-Annual Progress Report	10/00/89	
Section 9 Report, NPRM, or Statement of No Unreasonable Risk Regarding Wood Products	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2146.

FTS: 8-382-2134.

Agency Contact: George Semeniuk, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-2134

RIN: 2070–AB14

3018. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYL DISPOSAL PERMITS

Legal Authority: 15 USC 2605/TSCA 6; 5 USC 556 et seq

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under section 6(e) of TSCA, the Agency is considering establishing uniform procedures and criteria for the revocation and suspension of TSCA disposal permits. The regulation would establish uniform revocation procedures and criteria and thereby ensure consistency in permit revocation proceedings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2560.

FTS:8-382-3866

Agency Contact: John Smith, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-796), Washington, DC 20460, 202 382-3866

RIN: 2070–AB81

3019. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and mixtures subject to the requirements of the TSCA Section 8(d) Health and Safety Data Reporting Rule. These chemicals are identified by OTS, other EPA offices, other Agencies, as well as chemicals recommended by the Interagency Testing committee (ITC) on the TSCA Section 4(e) Priority List. Manufacturers, importers, and processors of listed substances must submit unpublished health and safety data on those listed substances.

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Timetable:

Certain CFC Substitutes
NPRM 11/00/89
25th ITC List Chemicals
Final Action 11/00/89

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1139.

FTS: 8-382-3936.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070–AB11

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA)

Final Rule Stage

3020. MODIFICATION OF TOXIC RELEASE REPORTING UNDER SARA 313, TITLE III

Legal Authority: 42 USC 11013/SARA 0313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This action proposes to add ten chemicals to the list of toxic chemicals under Section 313 of SARA. The addition of nine of these substances is based on concerns for carcinogenicity and chronic toxicity as reflected in determinations made under Section 102 of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA). EPA believes that these chemicals meet the criteria for addition to the list of toxic substances as established in Section 313(d)(2). EPA is also proposing a modification to include toluenediisocyanate (mixed isomers) on the same concern of health and environmental effects as the individual isomers already on the list.

Timetable:

Action	Date	FR Cite
NPRM	04/21/89	54 FR 16138
Final Action	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2658.

FTS:8-382-3667

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070–AB98

3021. NEGOTIATED CONSENT/PROCEDURAL TEST RULE (REVISION)

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This amends the test rule development and exemptions procedural rule published October 10, 1984 (49 FR 39776) which allowed for rulemaking to be conducted in a single phase (i.e., a proposed rule and a final rule covering both the effects for which testing is necessary and the testing methodology) and added consent orders as a means of obtaining test data required under Section 4 of TSCA. This rule will simplify the procedures governing the development and implementation of testing requirements under 2-phase rulemaking, and amend the current procedures governing modification of test standards and schedules for tests required under test rules and testing consent agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
Interim Final Rule (Technical Modification)	12/00/90	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2245.

FTS:8-475-8130.

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB30

3022. DECISION ON TEST RULES: FINAL RULES

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: The following table lists chemicals for which EPA has issued proposed test rules and will take final action under TSCA section 4. The Agency defines final action as promulgation of a test rule or withdrawal of a proposed test rule. (See also Decisions on Test Rules: Proposed Rules under RIN: 2070-AB07.)

Timetable:

C.I. Disperse Blue 79 (ITC List 19) (SAR 5370)
Final Action/Consent Order 12/00/89
Crotonaldehyde (ITC List 22) (SAR 5454)
Final Action/Consent Order 12/00/89
Cyclohexane (ITC List 18) (SAR 5391)
NPRM 05/20/87 (52 FR 19096)
Final Action 12/00/89
Diethylene glycol butyl ether acrylate (ITC List 13) (SAR 5392)
ANPRM 11/19/84 (49 FR 45606)
NPRM 04/04/86 (51 FR 27880)
Final Action 09/00/89
Isopropanol (ITC List 19) (SAR 5376)
NPRM 03/16/88 (53 FR 8638)
Final Action 12/00/89
Phenylenediamines (ITC List 6) (SAR 5382)
NPRM 01/06/86 (51 FR 472)
NPRM 01/14/88 (53 FR 913)
Final Action 12/00/89
Tributyl Phosphate (ITC List 19) (SAR 5383)
Final Action 12/00/89
Triethylene glycol monomethyl, monoethyl (SAR 5402)
NPRM 05/15/86 (51 FR 17883)
Final Action 04/03/89 (54 FR 13470)
Vinylidene Chloride (SAR 5403)
NPRM 08/12/86 (51 FR 28840)
Final Action 04/03/89 (54 FR 13472)
1,1,1-Trichloroethane (mutalneuro) (ITC List 2)
Final Action/Consent Order 10/00/89

2,6 Di-tert-butylphenol (ITC List 18)(SAR 5394)
NPRM 06/25/87 (52 FR 23862)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

See SAR number listed next to each action.

FTS:8-475-8130

Agency Contact: Richard Troast, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070–AB94

3023. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to follow the commercial development of selected new chemicals that have completed premanufacture notice review. EPA will issue rules on new chemicals of concern as they are identified to require follow-up reporting under TSCA Section 5 or 8, by the manufacturers and processors of the chemicals.

Timetable:

Alkyl, Sulfonic Acid, Ammonium Salt (84-1056)
NPRM 06/11/86 (51 FR 21199)
Final Action 00/00/00
Dinitrophenyl Azo-2,4-Diamino-5-Methoxybenzene Derivatives
NPRM 10/25/84 (49 FR 42960)
Final Action 00/00/00
Diphenyl-2,4,6-Trimethylbenzol Phosphine Oxide (87-586)
NPRM 02/02/88 (53 FR 2857)
Final Action 00/00/00
1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)
NPRM 12/08/87 (52 FR 46496)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1976.

FTS: 8-382-3771.

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3771

RIN: 2070–AA59

3024. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Legal Authority: 5 USC 556 / TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(b) of TSCA provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacture, processing and distribution in commerce of PCBs upon finding (1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment, and (2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32328
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2150.

FTS:8-382-3866

Agency Contact: John Smith, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070–AB30

3025. PCB NOTIFICATION AND MANIFESTING RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under the authority of TSCA, EPA is considering rulemaking which would require that all PCB wastes be manifested for disposal. The purposes of the regulation would be 1) to obtain information about handlers and storers of PCB wastes; and 2) to track shipment of wastes containing PCBs. The rulemaking will also consider imposing new requirements on commercial storers of PCB wastes.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 37436
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2550.

FTS:8-382-3866

Agency Contact: John Smith, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070–AB83

3026. ◉ PARTIAL UPDATING OF THE TSCA INVENTORY DATA BASE

Legal Authority: 15 USC 2607 / TSCA 7

CFR Citation: 40 CFR 710

Legal Deadline: None

Abstract: This rule was promulgated in 1986 in order to obtain recent production volume and plant site data for chemical substances on the TSCA Inventory. The rule requires reporting every four years. OTS is making some technical amendments to the rule in order to facilitate compliance and to make the rule consistent with other OTS and EPA reporting activities.

Timetable:

Action	Date	FR Cite
Final Action Technical Amendment	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2704.

FTS:8-382-3536

Agency Contact: Donald Sadowsky, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-793), 202 382-3536

RIN: 2070–AC10

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EPA—TSCA — **Final Rule Stage**

3027. SECTION 8 (A) PRELIMINARY ASSESSMENT INFORMATION RULES

Legal Authority: 15 USC 2607a / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the TSCA Section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712). These chemicals are identified by OTS, other EPA offices, and other Agencies, as well as chemicals recommended by the Interagency Testing Committee (ITC) on the TSCA Section 4(e) priority list. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. It will also support risk assessment and test rule decisions.

Timetable:

25th ITC List Chemicals
Final Action 11/00/89

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2178.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20640, 202 382-3436

RIN: 2070–AB08

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Completed Actions**

Toxic Substances Control Act (TSCA)

3028. TSCA GOOD LABORATORY PRACTICE STANDARDS (REVISION)

CFR Citation: 40 CFR 792

Completed:

Reason	Date	FR Cite
Final Action	07/17/89	54 FR 34034

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Howie 202 475-7786

RIN: 2070–AB65

3029. PROCEDURAL RULE FOR EXPEDITED NEW CHEMICAL FOLLOW-UP

Significance: Regulatory Program

CFR Citation: 40 CFR 721

Completed:

Reason	Date	FR Cite
Final Action	07/27/89	54 FR 31298

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Bowser 202 382-3771

RIN: 2070–AB64

3030. ACTION CONCERNING COMMERCIAL AND INDUSTRIAL USE OF ASBESTOS

Significance: Regulatory Program

CFR Citation: 40 CFR 763

Completed:

Reason	Date	FR Cite
Final Action	07/12/89	54 FR 29460

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John Rigby 202 382-3862

RIN: 2070–AB29

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Prerule Stage**

Clean Water Act (CWA)

3031. ● OIL AND GAS EXTRACTION POINT SOURCE CATEGORY; COASTAL SUBCATEGORY, EFFLUENT LIMITATION GUIDELINES AND NEW SOURCE PERFORMANCE STANDARDS

Legal Authority: 33 USC 1314 /CWA 301; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 435.40; 40 CFR 435.60

Legal Deadline: None

Abstract: EPA will begin development of regulations under the Clean Water Act to limit effluent discharges to the waters of the United States from coastal oil and gas extractor facilities. These regulations will apply to the aforementioned facilities involved in exploration, development and production operations. These regulations would establish effluent limitations and guidelines based on BAT and BCT and would establish new source performance standards (NSPS).

Timetable:

Action	Date	FR Cite
NOTICE	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2747.

FTS:8-382-7115

Agency Contact: Karen S. Troy, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7115

RIN: 2040–AB72

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Proposed Rule Stage**

Clean Water Act (CWA)

3032. WATER QUALITY STANDARDS - REVISION

Significance: Agency Priority

Legal Authority: 33 USC 1313(c) /CWA 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: This action establishes requirements for the adoption of numeric criteria for 307(a) priority pollutants in water quality standards pursuant to Section 303(c)(2)(b) of the CWA, thus bringing the water quality standards regulation into compliance with the CWA, as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2497.

FTS:475-7315.

Agency Contact: David K. Sabock, Environmental Protection Agency, Water, (WH-585), Washington, D.C. 20460, 202 475-7315

RIN: 2040–AB56

3033. PHARMACEUTICALS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: None

Abstract: The Agency will review and revise as appropriate the effluent limitations guidelines and standards for the pharmaceuticals industry. A major part of the review will consider revisions to the regulations to include limitations on toxic and non-conventional volatile organic pollutants. The existing proposal covering NSPS for conventional pollutants may also be reevaluated.

Timetable:

Action	Date	FR Cite
NPRM	11/26/82	47 FR 53584
NPRM NSPS	10/27/83	48 FR 49832
Final Action	10/27/83	48 FR 45606
NOTICE	11/01/83	48 FR 50322
NOTICE	01/10/84	49 FR 1190
NPRM BCT Cost	03/09/84	49 FR 8967
NOTICE	04/26/84	49 FR 17976
NOTICE New Data	07/02/84	49 FR 27145
NOTICE	01/31/85	50 FR 4513
NOTICE	05/01/85	50 FR 18486
NOTICE New Data	09/09/85	50 FR 36638
Final Action BCT	12/16/86	51 FR 45094
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1427.

FTS:8-382-7182.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7182

RIN: 2040–AA13

3034. EFFLUENT GUIDELINES AND STANDARDS FOR PESTICIDES MANUFACTURERS AND FORMULATOR/PACKAGERS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: Final, Statutory, December 31, 1986.
Date contained in Water Quality Act of 1987

Abstract: On October 4, 1985 the EPA promulgated a final regulation establishing BAT effluent limitations, NSPS, PSES, and PSNS for the pesticide industry under the Clean Water Act. On July 25, 1986, the final regulation was remanded to the EPA by the Eleventh Circuit Court of Appeals in response to a joint motion filed by the Agency and other parties to litigation challenging the regulation. EPA removed the BAT effluent limitations, NSPS, PSNS, and PSES from the Code of Federal Regulations at the direction of the Court and informed the public that the regulation is no longer effective (December 15, 1986; 51 FR 44911). The BCT limitations published on April 25, 1978 and September 29, 1978, are still effective. The Agency intends to establish new effluent limitation guidelines and standards for the pesticide manufacturers and formulators/packagers industry in a future rulemaking. The Agency has decided to establish separate rulemaking tracks for the pesticide manufacturers and formulators/packagers because of significant differences between these two industries.

Timetable:

Formulators/Packagers
NPRM 00/00/00

Manufacturers
NPRM 02/00/91
Final Action 04/00/92

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2473.

FTS:8-382-7158

Agency Contact: Thomas Fielding, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7158

RIN: 2040–AB32

3035. EFFLUENT GUIDELINES FOR PULP, PAPER AND PAPERBOARD

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: The Agency will review existing BPT and BAT effluent limitations, PSES, PSNS, and NSPS for pulp, paper, and paperboard industry, to ensure adequate control of discharges of toxic, conventional and non-conventional pollutants from existing and new dischargers in that industry.

Timetable:

Action	Date	FR Cite
NPRM (BPT)	04/00/91	
Final Action (BPT)	05/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2712.

FTS:8-382-7164

EPA—CWA — **Proposed Rule Stage**

EPA—CWA — **Proposed Rule Stage**

Agency Contact: Wendy Smith, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7184

RIN: 2040–AB53

3036. ● ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS EFFLUENT LIMITATIONS, PRETREATMENT STANDARDS AND NEW SOURCE PERFORMANCE STANDARDS

Legal Authority: 33 USC 1251 et seq /CWA 301

CFR Citation: 40 CFR 414

Legal Deadline: None

Abstract: EPA is proposing to amend 40 CFR 414 to allow regulatory authorities to establish cyanide limitations and standards based on best professional judgment for elevated levels of non-amenable cyanide that result from the unavoidable complexing of cyanide at the process source of cyanide- bearing waste streams. Another amendment proposes to allow regulatory authorities to establish metals limitations and standards to accommodate low background levels of metals in non-"metal-bearing waste streams" that result from corrosion of construction materials or from contamination of raw materials. EPA is also proposing to amend Appendices A and B to Part 414 to correct listing errors. The last amendment specifies the method for determining BOD5 and TSS effluent limitations for direct discharge plants with manufacture processes in more than one subcategory.

Timetable:

Action	Date	FR Cite
NPRM	11/15/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2745.

FTS:8-382-7190

Agency Contact: Eldwood Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7190

RIN: 2040–AB65

3037. ● COPPER AND BERYLLIUM FORMING POINT SOURCE EFFLUENT GUIDELINES AND STANDARDS

Legal Authority: 33 USC 1251 et seq./CWA 301, 304, 306, 307, 308 and 501

CFR Citation: 40 CFR 468

Legal Deadline: None

Abstract: In accordance with a settlement agreement, the Agency modified the Copper Forming regulation (40 CFR Part 468) to exclude the forming of beryllium copper alloys (copper that is alloyed to contain 0.1 percent or more beryllium) and to create a new subcategory in the regulation reserved for effluent guidelines and standards covering beryllium copper alloys. This rulemaking would establish guidelines and standards in that reserved subcategory.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2746.

FTS:8-382-3151

Agency Contact: George Jett, Environmental Protection Agency, Water, U.S. EPA, Industrial Technology Division (WH-552), 401 M St., S.W., Washington, D.C. 20460, 202 382-3151

RIN: 2040–AB71

3038. ● NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM AND SLUDGE MANAGEMENT STATE PROGRAM REGULATIONS FOR INDIAN TRIBES

Significance: Agency Priority

Legal Authority: 33 USC 1342; 33 USC 1345; 33 USC 1377

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 501

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This rule, pursuant to CWA Section 518, will establish the requirements and procedures by which an Indian tribe may be treated as a State and be approved to administer the NPDES and/or sludge management program for the purpose of CWA Sections 402 and 405.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	09/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2749.

FTS:8-475-9539

Agency Contact: Gary Hudiburgh, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9539

RIN: 2040–AB70

3039. REVISIONS TO REGULATIONS FOR MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR MUNICIPAL DISCHARGE INTO MARINE WATERS

Legal Authority: 33 USC 1311(h)/CWA 301(h)

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: The revisions to the regulations primarily are intended to respond to statutory changes made to sec. 301(h) of the Clean Water Act (33 USC 1311(h)), which governs secondary treatment waivers for municipal discharges into marine waters. The statutory changes to be addressed include, among other things, new requirements for minimum treatment levels and additional requirements for pretreatment programs for certain waiver applicants. In addition, the Agency is considering revising the regulations to address more specifically procedures and requirements for the renewal of secondary treatment waivers. The revised regulations will affect only the limited number of municipal treatment plants which met the 1982 statutory deadline for applying for a secondary treatment waiver.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	10/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAR No. 2587.

FTS:8-475-7134

Agency Contact: Virginia Fox-Norse, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7129

RIN: 2040–AB29

3040. NPDES REGULATORY REVISIONS

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125; 40 CFR 403; 40 CFR 434; 40 CFR 501

Legal Deadline: None

Abstract: This action will revise the NPDES and other regulations pursuant to requirements contained in the 1987 Water Quality Act. In addition, several other changes will be made to clarify existing requirements and policies. These revisions will not encompass requirements mandated by Section 406 (sewage sludge) of the 1987 Water Quality Act, except for partial sludge management programs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2493.

FTS:8-475-9539

This action may affect small entities subject to NPDES permits or pretreatment requirements due to statutory or programmatic changes.

Agency Contact: Gary Hudiburgh, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9539

RIN: 2040–AB38

3041. NPDES PERMIT APPLICATION STANDARD FORM A AND SHORT FORM A (REVISION)

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122.21(j)

Legal Deadline: None

Abstract: This action will revise the current NPDES Permit Application Standard Form A (municipal) and Short Form A (municipal) to reflect amendments to the Clean Water Act and changes in program requirements and emphasis. The new application forms will replace the old versions and enable permit writers to obtain more pertinent information regarding expected discharges and the environmental impact of proposed operations.

Timetable:

Action	Date	FR Cite
NPRM Municipal forms	03/00/90	
NPRM	04/00/90	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2501.

FTS:8-245-3716

Agency Contact: Claudia O'Brien, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 245-3716

RIN: 2040–AB39

3042. ● TREATMENT OF INDIAN TRIBES AS STATES UNDER SECTION 404 OF THE CLEAN WATER ACT

Significance: Regulatory Program

Legal Authority: 33 USC 1251 et seq.

CFR Citation: 40 CFR 230; 40 CFR 233

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This proposed rule would a) establish requirements for determining eligibility of Indian Tribes to be treated as States for purposes of Section 404 of the CWA and if found eligible, and b) allow for assumption of the dredge and fill permit program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	09/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2682.

FTS:8-382-5043

Agency Contact: Lori Williams, Environmental Protection Agency, Water, U.S. EPA, Office of Wetlands Protection (A-104F), 401 M St., S.W., Washington, D.C. 20460, 202 382-5043

RIN: 2040–AB69

3043. ● DE-DESIGNATION OF OCEAN DUMPING SITES

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 228.12

Legal Deadline: None

Abstract: The Agency is taking action to de-designate certain ocean dumping sites. This action will take the form of two rulemaking actions: (1) to remove from the list of ocean dumping sites as published in the Code of Federal Regulations sites which are expired or which were terminated by previous rulemaking and (2) to de-designate ocean dumping sites which are no longer needed. None of the sites affected are being used. This action is necessary to assure that the list of ocean dumping sites accurately reflects earlier rulemaking and also to assure that unnecessary sites are removed from the list.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2222.

FTS:8-475-7177

This action was split from RIN 2040-AA78.

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556A), Washington, DC 20460, 202 475-7177

RIN: 2040–AB61

3044. ● REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

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EPA—CWA — **Proposed Rule Stage**

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations is necessary to respond to the decision in National Wildlife Federation vs. Costle, 629 F. 2d. 118 (DC Circuit 1980) and to incorporate program experience. The revisions will make necessary technical changes and will improve the clarity of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2737.

FTS:8-475-7177

This action was split from RIN 2040-AA78

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556A), Washington, DC 20460, 202 475-7177

RIN: 2040–AB62

3045. ● REORGANIZATION AND CORRECTIONS TO LIST OF OCEAN DUMPING SITES

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 228.12

Legal Deadline: None

Abstract: This action is necessary to correct technical errors in the list of ocean dumping sites and to better organize the format in which ocean dumping sites are listed in the Code of Regulations. The revision would correct misprints and other technical errors, and organize the list of sites by EPA region and type of material.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2736.

FTS:8-475-7177

This action was split from RIN 2040-AA78.

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556A), Washington, DC 20460, 202 475-7177

RIN: 2040–AB63

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Water Act (CWA)

3046. SIMPLIFYING CONSTRUCTION GRANTS REGULATIONS (REVISION)

Legal Authority: 33 USC 1281/CWA 201

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: A revised interim final regulation describing allowable and unallowable costs for construction grant projects was published February 17, 1984. The Agency is revising that action as a final rule.

Timetable:

Action	Date	FR Cite
NPRM - Previous	11/06/81	46 FR 55220
NPRM	05/12/82	47 FR 20470
Interim Final Rule	05/12/82	47 FR 20450
Interim Final Rule Revised	02/17/84	49 FR 6224
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1722.

Docket No. G-81-5.

FTS: 8-382-2287.

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, (WH-546), Washington, DC 20460, 202 382-2287

RIN: 2040–AA70

3047. COMPREHENSIVE CONSTRUCTION GRANT REGULATION REVISION

Legal Authority: 33 USC 1281 / CWA 201; CWA 518

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This regulation will amend existing regulations to implement the Water Quality Act of 1987. That Act amended the construction grants program, and authorized EPA to treat qualifying Indian tribes as states for purposes of administering the construction grants program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2585.

FTS:8-382-2287

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, WH-546, Washington, DC 20460, 202 382-2287

RIN: 2040–AB25

3048. EFFLUENT GUIDELINES FOR OFFSHORE SUBCATEGORY OF THE OIL AND GAS EXTRACTION INDUSTRY

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 435

Legal Deadline: Other, Judicial, December 31, 1982.
1980 consent decree contemplated promulgation of NSPS in the offshore subcategory by 1982.

Abstract: The Agency will promulgate BAT and BCT effluent guidelines, and New Source Performance Standards (NSPS) for offshore oil and gas extraction processes in the oil and gas extraction point source category.

EPA—CWA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34592
NOTICE	11/13/85	50 FR 46784
NOTICE	12/31/85	50 FR 53348
NOTICE	10/21/86	53 FR 41356
NOTICE Extension of Comment Period	12/05/88	53 FR 48947
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1649.

FTS:8-382-7131

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7131

RIN: 2040–AA12

3049. NON-FERROUS MANUFACTURING (PHASE II)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 421

Legal Deadline: None

Abstract: The Agency will promulgate amendments to the regulation previously promulgated on September 20, 1985 (50 FR 38276). These amendments are in response to settlements with six petitioners and will affect six subcategories: primary beryllium subcategory, primary molybdenum and rhenium subcategory, second molybdenum and vanadium subcategory, secondary precious metals subcategory and secondary tungsten and cobalt subcategory. The amendments will revise BPT and BAT effluent limitations, NSPS, and pretreatment standards.

Timetable:

Action	Date	FR Cite
NPRM	04/28/89	54 FR 18412
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2583.

FTS:8-382-7126

Agency Contact: Ernst P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040–AB31

3050. WATER QUALITY STANDARDS — REVISION FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 518

CFR Citation: 40 CFR 131

Legal Deadline: Final, Statutory, August 14, 1988.

Abstract: These rules establish the procedures by which an Indian tribe can qualify for treatment as a state for the purposes of CWA sections 303, and 401. The revised water quality standards regulation establishes a mechanism to resolve unreasonable consequences arising from tribes and states adopting differing water quality standards for common bodies of water.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	
Final Action	09/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2475.

FTS:8-475-7315

Agency Contact: David Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 475-7315

RIN: 2040–AB36

3051. ● STATE REVOLVING FUND PROGRAM IMPLEMENTATION REGULATIONS

Legal Authority: 33 USC 1285(m); 33 USC 1361(a); 33 USC 1381 to 1389

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: This interim rule implements the State water pollution control revolving fund capitalization grant program. The program, under which EPA awards grants to States to capitalize funds that will provide assistance for water pollution control purposes, was established in the Water Quality Act of 1987 as a new title VI to the Clean Water Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2744.

FTS:8-382-2287

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, (WH-546), Washington, DC 20460, 202 382-2287

RIN: 2040–AB64

3052. ● SECTION 303(D) LIST OF STATE WATERS

Legal Authority: 33 USC 1251 et seq /CWA 303(d); 33 USC 1251 et seq /CWA 305(b)

CFR Citation: 40 CFR 130

Legal Deadline: None

Abstract: EPA published a Federal Register notice on July 24, 1989 to re-open and extend the public comment period on a proposal to require a biennial submission of lists under sections 303(d) and 305(b) of the Clean Water Act (CWA). On January 12, 1989, in conjunction with regulations to implement Section 304(l) of the CWA, EPA proposed to require that the States submit as part of 305(b) reports, the lists of waters required by 303(d) of theq CWA. However, after reviewing public comments, EPA decided not to include this particular requirement in the final regulations for 304(l), which was published in the Federal Register on 8/2/89 (54 FR 23868). Instead, EPA decided to solicit additional comments on the proposal and consider promulgating these listing requirements at a later date, if appropriate. The proposed amendments require States to submit to EPA every two years the list of water quality-limited waters required under 303(d) of the CWA. The reporting vehicle for the list would be the States Biennial Water Quality Reports required by CWA 305(b). [SEE ADDITIONAL INFORMATION FOR COMPLETION OF ABSTRACT]

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EPA—CWA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1300
NPRM Comment Period End	02/13/89	54 FR 1300
Notice To Reopen Public Comment Period	07/24/89	54 FR 30765
Second NPRM Comment Period End	09/25/89	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2748.

FTS:8-382-7025

EPA is also proposing certain data requirements and review and approval criteria for the States and EPA to use to develop and review the 303(d) lists of waters.

Agency Contact: Judith Lecrone, Environmental Protection Agency, Water, (WH-553), Washington, DC 20460, 202 382-7025

RIN: 2040-AB68

3053. ESTUARY PROGRAM GRANT REGULATION

Legal Authority: 33 USC 1330 /CWA 320(g)

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: This action modifies 40 CFR Part 35 to add specific requirements for grants under the National Estuary Program. These modifications specify the conditions that a grant applicant must meet to receive grant funding under the Program. Current regulations do not include specific restrictions for funds granted under the National Estuary Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2617.

FTS:8-475-7378

Agency Contact: Thomas M. Armitage, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7378

RIN: 2040-AB54

3054. NPDES REGULATIONS: STORMWATER APPLICATION REQUIREMENTS (REVISION)

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: Final, Statutory, February 4, 1989.

Abstract: These revisions to the NPDES permit program application requirements for stormwater discharges will reflect the 1987 amendments to the Clean Water Act and will address the deadline for application submission as a result of the rescinded September 1984 stormwater regulations.

Timetable:

Action	Date	FR Cite
Final Action - Deadline Extension	02/12/88	53 FR 4157
NPRM	12/07/88	53 FR 49416
Final Action	08/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2200.

FTS: 8-475-9518.

Agency Contact: Tom Seaton, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9518

RIN: 2040-AA79

3055. NOTICE OF FINAL PLAN TO REVIEW AND PROMULGATE NATIONAL EFFLUENT GUIDELINES AND STANDARDS

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 304(m)

CFR Citation: 40 CFR 400

Legal Deadline: Other, Statutory, February 7, 1988.
Statutory deadline for EPA to issue biennial notice. First notice due 02/07/88.

Abstract: In accordance with Section 304(m) of the Clean Water Act, EPA will publish a biennial plan in the Federal Register for the promulgation of new effluent limitations guidelines and standards and the review and revision of existing guidelines and standards for categories of sources discharging toxic and non-conventional pollutants. Section 304(m) establishes a planning process that sets the Agency's agenda for future effluent guidelines and standards rulemaking. The first notice and subsequent 304(m) notices will identify selected categories for promulgation of new guidelines and revision of existing guidelines.

Timetable:

Action	Date	FR Cite
NOTICE	08/25/88	53 FR 32584
NOTICE	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2304.

FTS: 8-382-7120.

Agency Contact: Eric Strassler, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7150

RIN: 2040-AA90

3056. SEWAGE SLUDGE USE AND DISPOSAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1345 / CWA 405

CFR Citation: 40 CFR 503

Legal Deadline: NPRM, Statutory, November 30, 1988. Final, Statutory, August 31, 1987.

Abstract: The Agency will promulgate standards and management practices for the use and disposal of sewage sludge as required by Section 405 of the Clean Water Act, as amended. The use and disposal practices addressed in the sewage sludge technical regulation are: land application, distribution and marketing, incineration, landfilling and surface disposal. Inorganic and organic pollutants are being regulated for the various use and disposal practices.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5646
Final Action	10/00/91	

Small Entities Affected: None

EPA—CWA

Final Rule Stage

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2162.

FTS: 8-382-7301

Agency Contact: William Diamond, Environmental Protection Agency, Water, (WH-551), Washington, DC 20460, 202 475-7301

RIN: 2040-AA74

3057. CITIZEN SUIT NOTICE REGULATION UNDER THE CWA

Legal Authority: 33 USC 1365 /CWA 505

CFR Citation: 40 CFR 135

Legal Deadline: None

Abstract: This regulation will specify on whom the copies of CWA citizen suit complaints and consent decrees should be served, the manner of service, and the addresses of such persons. This rule will amend existing 40 CFR 135.

Timetable:

Action	Date	FR Cite
NPRM	08/30/89	54 FR 36020
Final Action	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAR No. 2515.

FTS:8-382-2949

Agency Contact: David Drelich, Environmental Protection Agency, Water, LE-134W, Washington, DC 20460, 202 382-2949

RIN: 2040-AB30

3058. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Legal Authority: 33 USC 1251 /CWA 301, 302, 304(h), 307, 501(a), and 502

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This rule will amend 40 CFR 136 by adding new measurements and new test procedures for the analysis of pollutants under section 304(h) of the Clean Water Act. This rule: adds Direct Current Plasma (DCP) atomic emission spectrometric method to the list of approved methods for certain metals; adds multi-laboratory validation data to three previously approved methods for metals; clarifies the interpretation of equivalency of methods approved under Part 136; and allows the option to use hydrochloric acid as a preservative for samples to be analyzed for oil and grease.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33543
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2462.

FTS:8-684-7306

Agency Contact: James J. Lichtenberg, Office of Research and Development, Environmental Monitoring Systems Laboratory, Environmental Protection Agency, Water, Cincinnati, Ohio 45268, 513 569-7891

RIN: 2040-AB58

3059. EPA ADMINISTERED PROGRAMS: NPDES; GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES: PROPOSALS TO IMPLEMENT THE DOMESTIC SEWAGE STUDY

Significance: Regulatory Program

Legal Authority: 42 USC 6939 / RCRA 3018; 33 USC 1317 /CWA 307; 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 403

Legal Deadline: Final, Statutory, August 1987.

Abstract: The Agency will prepare final changes to the NPDES and General Pretreatment Regulations that address: toxicity testing by POTWs, specific discharge prohibitions; controls on spills and batch discharges; discharges by liquid waste haulers; industrial user notification requirements; control mechanisms for significant industrial users and local limits. These changes will be responsive to the recommendations of the Domestic Sewage Study submitted to Congress February 7, 1986 and are to improve the control of hazardous wastes and other toxic materials discharged through sewers to publicly-owned treatment works.

Timetable:

Action	Date	FR Cite
NPRM	11/23/88	53 FR 47632
Final Action	01/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2342.

FTS 8-475-9528.

Agency Contact: Marilyn Goode, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9526

RIN: 2040-AA99

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ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Clean Water Act (CWA)

3060. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM SEWAGE SLUDGE PERMIT REGULATIONS; STATE SLUDGE MANAGEMENT PROGRAM REQUIREMENTS

Significance: Regulatory Program

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 501

Completed:

Reason	Date	FR Cite
Final Action	05/02/89	54 FR 18716

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Martha Kirkpatrick 202 475-9529

RIN: 2040-AA73

3061. WATER QUALITY PLANNING AND MANAGEMENT GRANTS FOR INDIAN TRIBES

Significance: Regulatory Program

CFR Citation: 40 CFR 35; 40 CFR 130

Completed:

Reason	Date	FR Cite
Interim Final Rule	04/11/89	54 FR 14354

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Icke 202 475-8040

RIN: 2040-AB35

3062. INTERPRETATION OF PROVISIONS OF SECTION 304(1) OF THE CWA

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 130

Completed:

Reason	Date	FR Cite
Final Action	05/26/89	54 FR 23869

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul Connor 202 475-7718

RIN: 2040-AB46

3063. COMPREHENSIVE REVISIONS TO OCEAN DUMPING REGULATIONS

Significance: Regulatory Program

CFR Citation: 40 CFR 220 to 229

Completed:

Reason	Date	FR Cite
Separated into three separate RINS: 2040-AB61, 2040-AB62, 2040-AB63	09/15/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Darrell Brown 202 475-7180

RIN: 2040-AA78

3064. UNDERGROUND INJECTION CONTROL PROGRAM: HAZARDOUS WASTE DISPOSAL INJECTION RESTRICTIONS; EFFECTIVE DATES; AND CAPACITY VARIANCES FOR ADDITIONAL FIRST THIRD WASTES (SECOND SIXTH)

Significance: Regulatory Program

CFR Citation: 40 CFR 148

Completed:

Reason	Date	FR Cite
Final Action	06/14/89	54 FR 25416

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Bruce Kobelski 202 382-5500

RIN: 2040-AB55

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Atomic Energy Act (AEA)

3065. ENVIRONMENTAL STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Legal Authority: 42 USC 2201/AEA 161

CFR Citation: 40 CFR 191

Legal Deadline: None

Abstract: On August 15, 1985, the Agency promulgated generally applicable environmental standards for the management and disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. These Standards applied to management and disposal of such materials generated by activities under the jurisdiction of the Department of Energy or regulated by the Nuclear Regulatory Commission. They established limits for the release of radioactive materials to the environment. Subsequent to promulgation of this rule, several petitions for review were filed and consolidated in the U.S. Court of Appeals for the First Circuit. As of September 23, 1987 the Court vacated and remanded Subpart B of the Standards to the Agency for revision consistent with its ruling.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2590.

FTS:8-475-9633

Agency Contact: Daniel Egan, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 202 475-9633

RIN: 2060-AC30

3066. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 2201 /AEA 274; 15 USC 2625 /TSCA 6(a)(6)

CFR Citation: 40 CFR 193; 40 CFR 764

Legal Deadline: None

Abstract: Under 40 CFR 193, the Agency intends to set generally applicable standards for the management and disposal of low-level radioactive wastes under the purview of the Atomic Energy Act, as amended. The Agency is considering criteria for declaring certain wastes as below regulatory concern as part of this activity. Under 40 CFR 764, the Agency is proposing to regulate the disposal of certain naturally occuring and accelerator-produced radioactive wastes.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAR No. 1727.

FTS:8-475-9633.

Agency Contact: James M. Grubiks, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9633

RIN: 2060-AA04

3067. RESIDUAL RADIOACTIVITY

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 161; 42 USC 2021/AEA 272

CFR Citation: 40 CFR 194

Legal Deadline: None

Abstract: The Agency is determining what standards and/or guidance is needed to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action may also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22284
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2073.

FTS: 8-475-9620.

Agency Contact: John L. Russell, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 202 475-9620

RIN: 2060-AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Atomic Energy Act (AEA)

3068. TRANSURANIUM ELEMENTS

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action provides Interim recommendations to Federal Agencies to establish dose rate limits for people exposed to transuranium elements in the general environment.

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1182.

FTS:8-475-9620.

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9620

RIN: 2060-AA01

3069. GROUNDWATER PROTECTION STANDARDS FOR INACTIVE URANIUM TAILING SITES

Significance: Regulatory Program

Legal Authority: 42 USC 2022(a) /AEA 275(a)

CFR Citation: 40 CFR 192

Legal Deadline: None

Abstract: The Tenth Circuit Court of Appeals has remanded the ground water standards at 40 CFR 192.20(a)(2) and (3). The new standards will replace these remanded standards.

Timetable:

Action	Date	FR Cite
NPRM	09/24/87	52 FR 36000
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1186.

FTS:8-475-9620

Agency Contact: Kurt Feldmann, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9620

RIN: 2060-AC03

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Atomic Energy Act (AEA)

3070. RADIOFREQUENCY RADIATION GUIDANCE

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn Withdrawn due to changes in program's priorities.	07/28/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: David E. Janes 202 475-9626

RIN: 2060-AA02

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3071. REVISIONS TO THE SAFE

and Primary Drinking Water Standards

Government Levels Affected: Local,

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Safe Drinking Water Act (SDWA)

3075. INDIAN RULE FOR THE

Small Entities Affected: None

Government Levels Affected: Local,

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ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Proposed Rule Stage**

Safe Drinking Water Act (SDWA)

3071. REVISIONS TO THE SAFE DRINKING WATER ACT'S UNDERGROUND INJECTION CONTROL REGULATIONS

Legal Authority: 42 USC 300j-4 /SDWA 1445; 42 USC 300h-1 /SDWA 1422

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: These amendments to the UIC Program clarify the intent of the regulations covering authorization-by-rule requirements at 40 CFR Part 144, Subpart C. These new provisions will clarify how existing injection wells become authorized by rule and when injection is prohibited for failure to comply with authorization- by-rule requirements. EPA will also propose amendments to the noncompliance and program reporting requirements at 40 CFR 144.8; to the mechanical integrity requirements at 40 CFR 144.28(f) and 144.51(p). Finally, a new regulation will codify SDWA 1445(a)(1) as it applies to the UIC program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2426.

FTS:8-382-5530

Agency Contact: Francoise Brasier, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5530

RIN: 2040–AB27

3072. NATIONAL PRIMARY DRINKING WATER REGULATION: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Final, Statutory, June 19, 1989.

Abstract: EPA will propose Maximum Contaminant Levels Goals (MCLGs) and Primary Drinking Water Standards for radionuclides in drinking water. These radionuclides include radium, uranium, radon, total alpha, and beta particle and photon emitters.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM	09/30/86	51 FR 34836
NPRM	09/00/90	
Final Action	06/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2281.

FTS: 8-382-8049.

Agency Contact: Greg Helms, Environmental Protection Agency, Water, (WH-550-D), Washington, DC 20460, 202 382-8049

RIN: 2040–AA94

3073. NATIONAL PRIMARY DRINKING WATER REGULATIONS: DISINFECTION, DISINFECTANTS AND DISINFECTION BY-PRODUCTS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Statutory, June 19, 1989.
This deadline applies only to the disinfection requirements.

Abstract: EPA will propose that all public water systems use disinfection treatment processes; variance criteria will be developed. The Agency will propose MCLGs and MCLs or treatment technique requirements for disinfectants and disinfection by-products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Final Action	09/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2340.

FTS: 8-382-3028.

Agency Contact: Stephen W. Clark, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-3028

RIN: 2040–AA97

3074. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INORGANIC AND ORGANIC COMPOUNDS (PHASE V/25 CONTAMINANTS)

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Final, Statutory, June 19, 1989.

Abstract: This rule will set MCLGs and NPDWRs for about 25 inorganic and organic chemicals specified in the SDWA.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM Comment Period End	11/13/85	50 FR 16936
NPRM	03/00/90	
Final Action	09/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2630.

FTS:8-382-7575

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 475-7274

RIN: 2040–AB11

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Final Rule Stage**

Safe Drinking Water Act (SDWA)

3075. INDIAN RULE FOR THE WELLHEAD PROTECTION PROGRAM AND SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 300j-11/SDWA 1451

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, December 19, 1987.

Abstract: The Safe Drinking Water Act Amendments of 1986 authorize the EPA Administrator to treat Indian tribes as States, where appropriate. EPA is to issue associated regulations by eighteen months after the date of enactment (signed June 19, 1986). The Indian rule for the Wellhead Protection and Sole Source Aquifer Demonstration Programs will allow eligible Indian tribes to apply for and receive grants under these two programs, in the same manner as States.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46712
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Additional Information: SAR No. 2440.

FTS:8-382-7077

Agency Contact: Marian Mlay, Environmental Protection Agency, Water, Office of Ground Water Protection, (WH-550G), Washington, DC 20460, 202 382-7077

RIN: 2040–AB18

3076. REVISION TO PUBLIC WATER SYSTEM SUPERVISION (PWSS) STATE PRIMACY REQUIREMENTS

Legal Authority: 42 USC 300 /SDWA 1413

CFR Citation: 40 CFR 142

Legal Deadline: None

Abstract: These revisions primarily will set requirements for state amendments to their PWSS primary programs to incorporate new EPA national primary drinking water regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/02/88	53 FR 29194
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2489.

FTS:8-382-5522.

Agency Contact: Carl Reeverts, Environmental Protection Agency, Water, WH-550-E, Washington, DC 20460, 202 382-5522

RIN: 2040–AB26

3077. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SYNTHETIC ORGANIC CHEMICALS AND INORGANIC CHEMICALS, MONITORING FOR UNREGULATED CONTAMINANTS (PHASE II, 38 CONTAMINANTS)

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142; 40 CFR 143

Legal Deadline: NPRM, Judicial, April 30, 1989. Final, Judicial, December 31, 1990.

Abstract: EPA is reproposing maximum contaminant level goals (MCLGs) and proposing National Primary Drinking Water Regulations (NPDWRs) for about 38 synthetic organic chemicals and inorganic chemicals. The NPDWRs consist of proposed maximum contaminants level (MCLs), as well as proposed monitoring, reporting, and public notification requirements for these contaminants. This action proposes the best available technology (BAT) upon which the MCLs are based and BAT for the purposes of issuing variances and exemptions to public water systems. In addition to the NPDWRs for the synthetic organic chemicals and inorganic chemicals, the notice proposes monitoring requirements for other synthetic organic chemicals which are not regulated by NPDWRs or proposed for regulation in this notice.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM	11/13/85	50 FR 46936
NPRM	05/22/89	54 FR 22062
Final Action	01/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1755.

FTS:8-382-7575.

Agency Contact: Al Havinga, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5555

RIN: 2040–AA55

3078. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LEAD AND COPPER

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Statutory, June 19, 1989.

Abstract: This rule will set MCLGs and national primary drinking water regulations for lead and copper.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM MCLG	11/13/85	50 FR 46936
NPRM MCLGs/MCLs & Treatment Technique	08/18/88	53 FR 31516
Final Action	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2610.

FTS:8-382-5508

Agency Contact: Jeff Cohen, Lead Task Force, Environmental Protection Agency, Water, (WH-550A), Washington, DC 20460, 202 382-5508

RIN: 2040–AB51

3079. PUBLIC WATER SUPPLY SUPERVISION PROGRAM, ADMINISTRATIVE ENFORCEMENT IMPLEMENTATION PROCEDURES

Legal Authority: 42 USC 300 / SDWA 1414

CFR Citation: 40 CFR 22; 40 CFR 142

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EPA—SDWA — **Final Rule Stage**

Legal Deadline: None

Abstract: EPA plans to promulgate regulations establishing procedures for administrative compliance orders under Section 1414(g) of the Safe Drinking Water Act. Section 1414(g) orders may not take effect without notice and opportunity for public hearing and opportunity for primary states to confer with EPA. The Agency will also amend 40 CFR Part 22 to include PWS penalty assessments.

Timetable:

Action	Date	FR Cite
NPRM	07/12/89	54 FR 29515
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2381.

FTS:8-382-5558

Agency Contact: Don Olson, Environmental Protection Agency, Water, WH-550, Washington, DC 20460, 202 382-5558

RIN: 2040-AB07

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Safe Drinking Water Act (SDWA)

3080. CRITERIA FOR FILTRATION AND DISINFECTION OF SURFACE WATER AND NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR MICROBIOLOGICAL CONTAMINANTS

Significance: Regulatory Program

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	06/29/89	54 FR 27486

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Joseph Cotruvo 202 382-7575

RIN: 2040-AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3081. ● STATE-ADMINISTERED UIC PROGRAMS; INCORPORATION BY REFERENCE UPDATE

Legal Authority: 42 USC 300 /SDWA 1451

CFR Citation: 40 CFR 147

Legal Deadline: None

Abstract: The Safe Drinking Water Act requires EPA to promulgate regulations specifying minimum requirements for State Underground Injection control programs to prevent injections through wells which may endanger drinking water sources. The individual State-administered programs (primacy) are codified in 40 CFR 147 and that Part incorporates by reference and makes applicable requirements from the appropriate State regulations. The incorporation by reference material has not been updated since 1984. Any Federal enforcement action in a primacy State will be based on the codified Part 147 material no matter what is actually in place at the time. Thus, for any enforcement action to be effective, the State statutes which are incorporated by reference must be up-to-date. Without this action, any Federal enforcement action could be ineffective. There is no impact on the economy, costs, or prices, and no public health or intermedia issues, or adverse consequences on the public. The only alternative given the present codification (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: ABSTRACT CONT: scheme is to amend the Part 147 incorporation by reference material to incorporate the most recent State statutes and regulations.

SAR No. 2717

FTS:8-382-5561

Agency Contact: Andrew B. Cherry, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5561

RIN: 2040-AB60

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Noise Control Act (NCA)

3082. WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904(b)(1) / NCA 5(b)(1); 42 USC 4905(a)(1)/ NCA 6(a)(1)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: This action withdraws certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also withdraws proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54108
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2046.

FTS:8-382-4996

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: K.E. Feith, Environmental Protection Agency, Air and Radiation, (ANR-443), 202 382-4996

RIN: 2060-AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Prerule Stage

Resource Conservation and Recovery Act (RCRA)

3083. MANAGEMENT OF USED OIL

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6925 /RCRA 3005; 42 USC 6930 /RCRA 3010; 42 USC 6935 /RCRA 3014

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline: NPRM, Statutory, November 8, 1985. Final, Statutory, November 8, 1986.

Abstract: EPA's decision not to list recycled oil as hazardous waste (51 FR 41900 11/19/86) was remanded by the U.S. Court of Appeals (D.C. Circuit) on 10/7/88. Therefore, EPA is considering approaches for management of used oil that is consistent with the court's decision. EPA is reexamining its options for listing and management of used oil. If EPA determines that elements of the 1985 proposal should be finalized without reproposal, EPA expects to promulgate those in July 1990.

Timetable:

Action	Date	FR Cite
NPRM	11/29/85	50 FR 49212
FINAL (Listing Decision for Recycled Used Oil)	11/19/86	51 FR 41900
Decision on How Best to Regulate Disposed Used Oil and on Development of Mgt. Stds.	07/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2434.

FTS:8-382-7934

Docket No. 3014

Contact Angela Wilkes for management standards(OS-322)

Contact Robert Scarberry for listing decision (OS-332)

Agency Contact: Angela Wilkes, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7934

RIN: 2050-AC17

3084. DETERMINATION ON WASTES FROM COMBUSTION OF COAL BY ELECTRIC UTILITY POWER PLANTS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 8002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: NPRM, Statutory, September 1988.

Abstract: EPA conducted a study of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste and other wastes generated by the combustion of coal by electric utility power plants. The study was in response to Section 8002(n) of RCRA and culminated in a Report to Congress on March 8, 1988. EPA must determine within six months after submitting the report, holding public hearings, and allowing for public comment whether to regulate any of these wastes under Subtitle C of RCRA.

Timetable:

Action	Date	FR Cite
Notice Regulatory Determination	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2572.

FTS:8-382-3608

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), 202 382-3608

RIN: 2050-AC40

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Proposed Rule Stage**

Resource Conservation and Recovery Act (RCRA)

3085. OIL POLLUTION PREVENTION REGULATION

Significance: Agency Priority

Legal Authority: 33 USC 1321 /CWA 311(j)(1)(c)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major oil spill with substantial environmental impacts, an interagency task force reviewed the adequacy of regulations concerning the prevention and control of oil spills. The task force recommended a significant upgrade to the Oil Pollution Prevention Regulation and an inventory of the regulated community. A two-phased regulatory approach is being pursued. In Phase I, the regulation will be clarified to indicate that widely accepted industry practices that are currently treated as recommended practices henceforth will be considered as required practices. The Phase II regulatory effort will address other recommended modifications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
Final Action	01/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2634.

FTS:8-382-4130

Agency Contact: John M. Cunningham, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-4130

RIN: 2050-AC82

3086. MANDATORY INSPECTIONS OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6927(e) /RCRA 3007(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action establishes requirements for mandatory inspections of treatment, storage, and disposal facilities for hazardous waste. The regulation establishes the manner, frequency, recordkeeping, and reporting of the inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2332.

FTS: 8-475-9849

Agency Contact: Peter Sieback, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, D.C. 20460, 202 475-9849

RIN: 2050-AB59

3087. NO-MIGRATION VARIANCE FOR RESTRICTED HAZARDOUS WASTE LAND DISPOSAL

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Agency will propose a regulation that interprets the statutory requirements for making a "no-migration" demonstration that would allow the land disposal of untreated hazardous waste that has been restricted from land disposal under 40 CFR 268. The regulation will define such terms as "no-migration," "reasonable degree of certainty," "hazardous constituent," and various pathways by which waste can migrate and the environmental media of concern.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2524.

FTS:8-382-4665

Accompanying guidance manual to be published while rule proposal is under development. Guidance will assist facility owners and operators in characterizing environmental media of concern and environmental pathways along which constituent migration may occur.

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4665

RIN: 2050-AC44

3088. MUNICIPAL WASTE COMBUSTOR ASH MANAGEMENT

Significance: Regulatory Program

Legal Authority: 42 USC 6907 /RCRA 1008; 42 USC 6944 /RCRA 4004; 42 USC 6949 /RCRA 4010

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Based on preliminary data, EPA has determined a need to develop a management scheme for handling and disposing of municipal waste combustor ash. The Agency is considering various options for addressing concerns over fugitive dust emissions and groundwater contamination.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
Final Action	11/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2494.

FTS:8-382-4489

Agency Contact: Susan O'Keefe, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), 202 382-4489

RIN: 2050-AC24

3089. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - DE MINIMIS EXEMPTION LEVELS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: None

EPA—RCRA — **Proposed Rule Stage**

Abstract: This action exempts from RCRA Subtitle C regulation any currently listed wastes that are not hazardous because the hazardous constituents are present at levels lower than the concentration levels established by this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2482.

FTS:8-475-9715

Entries combined, formerly titled "Concentration-Based Relisting of Wastes From Chlorinated Aliphatics" and "Concentration-Based Relisting of Wastes From Explosives, Inorganic Chemicals, and Iron and Steel Industries."

Agency Contact: Steve Cochran, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-9715

RIN: 2050-AC30

3090. EXCLUSIONS FOR WASTE GENERATED ON-BOARD SHIPS (REVISION)

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 261.4(c)

Legal Deadline: None

Abstract: This proposed rule would amend an exemption in 40 CFR 261.4(c) which is currently limited to product or raw material vessels, so that it will apply to all vessels. The result of this change would be that all vessel operators, both product and non-product, would be regulated the same. In both cases, hazardous wastes generated on-board ships would not be subject to the RCRA regulations for storage, manifesting, etc., until the waste is removed from the ship. The discharge of any wastes while underway is governed by regulations issued under the provision of the Clean Water Act, Rivers and Harbors Act, Refuse Act, CERCLA/SARA, and others.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2635.

FTS:8-475-6551

Agency Contact: Ed Abrams, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-6551

RIN: 2050-AC61

3091. HAZARDOUS WASTE MANAGEMENT SYSTEM, AMENDMENT TO SUBPART C RULEMAKING PETITIONS: USE OF GROUNDWATER DATA IN DELISTING DECISIONS

Legal Authority: 42 USC 6903 /RCRA 1004; 42 USC 6921 /RCRA 3001

CFR Citation: 40 CFR 260.22

Legal Deadline: None

Abstract: This amendment will require those who submit delisting petitions for hazardous wastes to provide ground water monitoring data as part of their petition. The amended regulations will clarify the Agency's existing authority to consider the impact of a petitioned waste on groundwater and deny a petition based on groundwater contamination. EPA is seeking this amendment to clarify its authority to request and consider such data in delisting decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	04/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2622.

FTS:8-382-2234

Agency Contact: Robert Kayser, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-343), Washington, DC 20460, 202 382-2234

RIN: 2050-AC65

3092. ● IDENTIFICATION AND LISTING OF HAZARDOUS WASTES FROM CHLOROTOLUENE PRODUCTION

Legal Authority: 40 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1988.
RCRA Section 3001(e) requires EPA to make a determination whether or not to list chlorotoluene wastes as hazardous within 15 months of the passage of HSWA.

Abstract: The hazardous waste listing regulations will be amended to add new waste codes from the production of chlorotoluenes and to designate these wastes hazardous substances under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2716.

FTS:8-382-7438

Agency Contact: Dr. Ambika Bathija, Environmental Protection Agency, Solid Waste and Emergency Response, 401 M St., S.W. (OS-333), Washington, D.C. 20460, 202 382-7438

RIN: 2050-AC84

3093. ● IDENTIFICATION AND LISTING OF HAZARDOUS WASTES FROM COKE BY-PRODUCT INDUSTRIES

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1988.
RCRA Section 3001(e) requires EPA to make a determination whether or not to list coke by-product wastes within 15 months of the passage of HSWA.

Abstract: The hazardous waste listing regulations will be amended by adding nine new waste codes from the coke

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by-products industry. These wastes will be designated hazardous substances under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2227.

FTS:8-382-8715

Agency Contact: Ron Josephson, Environmental Protection Agency, Solid Waste and Emergency Response, Office of Solid Waste (OS-333), 401 M St., S.W., Washington, D.C. 20460, 202 475-8715

RIN: 2050–AC85

3094. BURNING OF HAZARDOUS WASTE IN BOILERS AND INDUSTRIAL FURNACES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 266

Legal Deadline: None

Abstract: Burning of hazardous waste in boilers and industrial furnaces for the purpose of heat recovery or material recovery is currently exempt from regulation under RCRA. The Hazardous and Solid Waste Amendments of 1984 require the Agency to develop technical standards for the burning of hazardous waste fuels. This regulation will establish standards for controlling emissions of organic compounds, metals, and hydrogen chloride from boilers and industrial furnaces that burn hazardous waste for any purpose, including energy recovery, material recovery, or destruction.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16982
NPRM (Supplement)	10/00/89	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2078.

FTS-8-382-7921.

Agency Contact: Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7921

RIN: 2050–AA72

3095. LINERS AND LEAK DETECTION FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(o); 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 271

Legal Deadline: NPRM, Statutory, May 8, 1987.

Abstract: EPA has proposed these regulations under the authority of section 3004(a) and 3004(o)(4) of the Resource Conservation and Recovery Act. The regulations would require: 1) new landfills, surface impoundments, waste piles, and land treatment units for the treatment, storage, or disposal of hazardous wastes to utilize an approved leak detection system; 2) double liners and leachate collection systems for waste piles, and certain landfills and surface impoundments; and 3) development of a construction quality assurance program for certain landfills and surface impoundments, as well as final covers at land treatment units. EPA originally proposed this rule on May 29, 1987 (52 FR 20218); the Agency may repropose the double liner sections of the rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20218
NPRM (Reproposal)	10/00/89	
Final Action	09/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2080.

FTS-8-382-4684.

Agency Contact: Ken Skahn, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4684

RIN: 2050–AA76

3096. LOCATION STANDARDS FOR HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6912 /RCRA 2002; 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: Section 3004(o)(7) of RCRA authorizes EPA to promulgate standards for the location of hazardous waste treatment, storage, and disposal facilities. Two existing location standards (floodplain and seismic restrictions) at 40 CFR Part 264.18 will be amended based on new data and information. Additional standards will specify other criteria for the acceptable location of new, expanding, and existing treatment, storage and disposal facilities in a variety of sensitive environments (e.g., unstable terrains, wetlands). The Agency's goals are to enhance the effectiveness of a unit's design and operating controls by avoiding the most sensitive locations, to decrease cleanup and prospective future RCRA Corrective Action and superfund sites, and to more effectively ensure long-term protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	
Final Action	07/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2303.

FTS:8-382-4678.

Agency Contact: Glen R. Galen, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4678

RIN: 2050–AB42

3097. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(u), 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations set forth the technical and procedural requirements for conducting corrective action to clean up significant releases to air, surface water, ground water and soil at solid waste management units (SWMUs) at operating, closed, or closing RCRA facilities. The regulations will be used to define the structure of the program, and the requirements for implementing remedial action, remedy selection and corrective measures. Currently, the permitting agencies must make case-by-case decisions on action.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2390.

FTS:8-382-4497

Agency Contact: David Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, OS-341, 202 382-4497

RIN: 2050–AB80

3098. LANDFILL, SURFACE IMPOUNDMENT, AND WASTE PILE CLOSURES FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: These regulations will provide alternate closure options for EPA and authorized states to establish closure and post-closure requirements on a site-specific basis. The regulations address waste and site characteristics, potential pathways of hazardous constituent migration, and health effects. These rules allow for cover systems to be designed base on unique site and waste characteristics. EPA originally proposed this rule on March 19, 1987 (52 FR 8712); the Agency will repropose the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8712
NPRM (Reproposal)	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2391.

FTS:8-475-8559

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8860

RIN: 2050–AB81

3099. EMISSION CONTROLS FOR HAZARDOUS WASTE INCINERATORS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925/RCRA 9005

CFR Citation: 40 CFR 264

Legal Deadline: None

Abstract: EPA intends to amend the incinerator standards of Subpart O of Part 264 by proposing additional controls on emissions of metals and residual organic compounds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2453.

FTS:8-382-7924

Agency Contact: Shiva Garg, Environmental Protection Agency, Solid Waste and Emergency Response, OS-322, Washington DC 20460, 202 382-7924

RIN: 2050–AB90

3100. LAND DISPOSAL RESTRICTIONS FOR SOIL AND DEBRIS CONTAINING HAZARDOUS WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Agency is investigating the need to set separate treatment standards for soil and debris containing hazardous wastes. By statute, these wastes do not become subject to the Land Disposal Restrictions Rule (51 FR 40572 and 52 FR 25760) for Solvents and Dioxins (RCRA 3004(e)) and the California List (RCRA 3004(d)) until 11/8/88. If necessary, the Agency will further subcategorize the waste streams to provide separate treatment standards applicable to such wastes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2461.

FTS:8-382-4660

Agency Contact: Michaelle Wilson, Environmental Protection Agency, Solid Waste and Emergency Response, OS-333, Washington, DC 20460, 202 382-4660

RIN: 2050–AC03

3101. PERMITTING EXPERIMENTAL FACILITIES CONDUCTING HAZARDOUS WASTE RESEARCH

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This proposal will establish special permitting procedures for experimental facilities conducting research and development on the storage, treatment, or disposal of hazardous waste. The regulations would allow experimental facilities considerable flexibility in operating according to an approved research plan, without requiring frequent permit modifications as details of the research changed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
Final Action	09/00/91	

Small Entities Affected: None

EPA—RCRA — Proposed Rule Stage

Government Levels Affected: None

Additional Information: SAR No. 2439.

FTS:8-382-4751

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, OS-341, 202 382-4751

RIN: 2050–AC04

3102. CORRECTIVE ACTION FOR RELEASES TO GROUND WATER FROM REGULATED HAZARDOUS WASTE UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations will amend the technical and procedural requirements for conducting corrective action to clean up significant releases to ground water from regulated hazardous waste units at operating, closed, or closing RCRA facilities. The regulations will be used to amend the structure of the program and the requirements for implementing remedial action, remedy selection and corrective measures. The requirements for regulated units will be amended to conform to the corrective action requirements for solid waste management units.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2503.

FT:8-382-4685

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4685

RIN: 2050–AC28

3103. MODIFICATION OF THE DEFINITION OF WASTEWATER TREATMENT UNIT

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 270

Legal Deadline: None

Abstract: Currently, wastewater treatment units and elementary neutralization units are exempt from the requirements in 40 CFR Parts 264, and 265 (see 45 FR 76074, November 17, 1980). This action will amend the regulations to explain more clearly that thermal treatment units, except sludge dryers, are not exempt from regulation under the "wastewater treatment unit exclusion." It was never EPA's intention that thermal treatment units be exempt from regulation. Rather, specific regulations have been developed for these devices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2570.

FTS:8-475-9614

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-9614

RIN: 2050–AC66

3104. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: This amendment will revise financial test criteria that must be satisfied by owners and operators employing the test to demonstrate RCRA financial responsibility requirements. The anticipated revisions will adjust test criteria so as to increase availability of this assurance mechanism to financially viable and stable firms and increase sensitivity to bankruptcy prediction.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2647.

FTS:8-382-6259

Agency Contact: Mark Pollins, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-6259

RIN: 2050–AC71

3105. DEFINITION OF HAZARDOUS WASTE TANK, SURFACE IMPOUNDMENT AND WASTE PILE (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA3004

CFR Citation: 40 CFR 260

Legal Deadline: None

Abstract: The Agency is receiving information on an increasing number of situations where it is difficult to determine whether specific types of hazardous waste management units meet the definition of a tan, pile or surface impoundment. EPA intends to clarify the difference between these units by revising the definitions for these units in 40 CFR 260.1. In particular EPA expects to address the use of liners for primary containment as well as other issues relating to the use of "earthen" and "nonearthen" materials.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	06/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2664.

FTS:8-475-9614

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-9614

RIN: 2050–AC72

3106. LAND DISPOSAL RESTRICTIONS FOR THE THIRD THIRD OF SCHEDULED WASTES

Legal Authority: 42 USC 6924(g); 42 USC 6924(h); 42 USC 6924(j); 42 USC 6924(h); 42 USC 6924(k); 42 USC 6924(m)

EPA—RCRA — Proposed Rule Stage

CFR Citation: 40 CFR 268

Legal Deadline: Final, Statutory, May 8, 1990.
Absolute prohibition on land disposal waste of any kind for which EPA has not established a treatment standard takes effect on 5/8/90.

Abstract: This rule will establish land disposal restrictions for the Third Third of scheduled hazardous waste and promulgate treatment standards for these waste streams as required by sections 3004(g) and 3004(m) of RCRA. The schedule was published on May 6, 1986 (51FR19300).

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	05/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2523.

FTS:8-382-4669

Agency Contact: Michaelle Wilson, Environmental Protection Agency, Solid Waste and Emergency Response, OS-3330), Washington, DC 20460, 202 382-4669

RIN: 2050–AC73

3107. HAZARDOUS WASTE SUMP REQUIREMENTS IN RESPONSE TO RULEMAKING PETITION (REVISION)

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6974; 42 USC 6924; 42 USC 6925

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: This regulation will address a petition for rulemaking submitted by the Boeing Company, requesting that EPA amend several hazardous waste tank system requirements as applied to certain existing sumps. A sump, being a type of tank, if used to manage a hazardous waste storage/treatment tank system. The petition focuses on those existing sumps that are situated inside of buildings and constructed as an integral part of the building's floor or foundation. The petitioner argues that because of differences in design, construction, and use, these sumps should be regulated independently of other hazardous waste storage/ treatment tank systems. Companies are requesting additional time to bring these sumps into compliance with the hazardous waste tank system standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2675.

FTS:8-475-9614

Agency Contact: William J. Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-9614

RIN: 2050–AC79

3108. LIST (PHASE 2) OF HAZARDOUS CONSTITUENTS FOR GROUND WATER MONITORING

Significance: Regulatory Program

Legal Authority: 42 USC 3251 / RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: The Appendix IX of 40 CFR Part 264 is a list of hazardous constituents presently referenced in 40 CFR Part 264 for use in ground water monitoring. This proposed amendment would make minor revisions to Appendix IX and create a new list for the first part (Detection Monitoring) of the ground water monitoring program. This proposal would also include a more detailed discussion of the appropriate monitoring techniques than currently exists in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2435.

FTS: 382-4685

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington DC 20460, 202 382-4685

RIN: 2050–AC05

3109. COMPLIANCE MONITORING AND ENFORCEMENT REQUIREMENTS FOR STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

Legal Authority: 49 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 271.15; 40 CFR 271.16

Legal Deadline: None

Abstract: Regulations governing State Authorization requirements for compliance monitoring and enforcement actions will be revised to reflect the Hazardous and Solid Waste Amendments of 1984. EPA will consider other changes such as requirement for states to have administrative penalty authority.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2156.

FTS: 8-475-9325.

Agency Contact: Nancy Parkinson, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 475-9325

RIN: 2050–AB01

3110. MINING WASTE MANAGEMENT UNDER RCRA SUBTITLE D

Significance: Regulatory Program

Legal Authority: 42 USC 6941 to 6949 /RCRA 4001-4009

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Based on the first mining waste Report to Congress submitted 12/31/85, comments on the report, and other available information, EPA has determined that regulation of wastes from the extraction and beneficiation of ores and minerals under Subtitle C of the Resource Conservation and Recovery Act (RCRA) is not warranted at this time (51 FR 24496). Instead, EPA

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EPA—RCRA — Proposed Rule Stage

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plans to develop a program for mining waste under Subtitle D of RCRA, working with the States to determine the specific nature of their current mining waste activities and their future plans to administer such programs. EPA will propose a set of criteria for the proper disposal of mining wastes under RCRA Subtitle D authority. EPA will also work with other Federal agencies (e.g., DOI, USGS) to avoid duplication in regulatory efforts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	08/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2389.

FTS: 8-382-3608

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, OS-323, Washington, DC 20460, 202 382-3608

RIN: 2050–AB77

3111. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES - FINANCIAL RESPONSIBILITY REQUIREMENTS

Legal Authority: 42 USC 6991 /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: Final, Statutory, August 8, 1988.

Abstract: This regulation will establish, under Subtitle I of RCRA (as amended by SARA), requirements for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by releases from underground storage tanks (USTs) containing hazardous substances. An ANPRM was published to help gather data (e.g., frequency of releases from such USTs, costs of corrective action and third-party damages, and the regulated community's financial condition and use of financial assurance mechanisms) needed for the development of a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/88	53 FR 3818
NPRM	09/00/91	
Final Action	09/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2465.

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC15

3112. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS: FINANCIAL TEST FOR SELF INSURANCE FOR LOCAL GOVERNMENT ENTITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6991(b) /RCRA 9003

CFR Citation: 20 CFR 280

Legal Deadline: None

Abstract: These regulations will establish a simple financial test that local governments can use for the purpose of self insuring for taking corrective action and compensating third parties for bodily injury and property damage as required by the Financial Responsibility Requirements promulgated in September 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	09/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Additional Information: SAR No. 2642.

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC67

3113. ● TECHNICAL AMENDMENT TO FINAL UNDERGROUND STORAGE TANK RULES FOR OVERFILL PREVENTION

Legal Authority: 42 USC 6991(b)/RCRA 9003(b)

CFR Citation: 40 CFR 280.20(c)

Legal Deadline: None

Abstract: This action adds a provision to the overfill prevention equipment requirements that provides a performance standard alternative to the two design choices already in the final Underground Storage Tanks (UST) regulations. This clarifies EPA's interpretation of the "other alternatives allowed" provision in the final UST regulations. The added flexibility of meeting a performance standard will more clearly enable UST system owners and operators to use overfill prevention equipment in a manner that is more flexible as long as it is protective of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2741.

FTS:8-382-7815

Agency Contact: David O'Brien, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, D.C. 20460, 202 382-7815

RIN: 2050–AC97

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Final Rule Stage**

Resource Conservation and Recovery Act (RCRA)

3114. MEDICAL WASTE DEMONSTRATION TRACKING PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 6992/Medical Waste Tracking Act

CFR Citation: 40 CFR 259

Legal Deadline: Other, Statutory, May 30, 1989.
The legal deadline prescribed is for an interim final by May 1989.

Abstract: Because of the numerous incidents of public exposure to improperly disposed medical waste Congress passed the Medical Waste Tracking Act of 1988. The Act requires EPA to develop a demonstration tracking program for medical waste in 10 States. The demonstration program sets forth segregation, packaging, labeling, tracking, transportation, and recordkeeping requirements of medical waste generated in the covered States, and lists the wastes to be covered by the program. The emphasis of the tracking program is to assure the generator that the waste is delivered to a proper disposal facility. States participating in the program include New York, New Jersey, Connecticut (effective 6/22/89), Rhode Island, and Puerto Rico (effective 7/24/89).

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/89	54 FR 12326
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2653.

Agency Contact: Paul S. Mushovic, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC74

3115. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PETROLEUM REFINERY PRIMARY TREATMENT SLUDGE

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 9602

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Other, Statutory, February 8, 1986.
Statutory deadline to determine whether to list "refining wastes" no later than February 8, 1986.

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 268, 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	11/20/80	45 FR 74893
Notice	02/11/85	50 FR 5637
Notice	04/13/86	53 FR 12162
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2226.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (382-3000)

Agency Contact: Ben Smith, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 382-4791

RIN: 2050–AB70

3116. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - WOOD PRESERVING AND SURFACE PROTECTION WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 9602

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, May 8, 1985. Final, Judicial, June 30, 1990.
Best efforts to promulgate by 06/30/90.

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 268, 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53282
Final Action	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2174.

FTS:8-475-8551

Agency Contact: Ed Abrams, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC43

3117. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE - METHYL BROMIDE

Significance: Agency Priority

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: Final, Statutory, February 1986.

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	04/25/85	50 FR 16432
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2157.

FTS-382-4786

Agency Contact: Cate Jenkins, Environmental Protection Agency, Solid Waste and Emergency Response, Washington, DC 20460, 202 382-4786

RIN: 2050–AC60

3118. RCRA DEFINITION OF SOLID WASTE (REVISION)

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912 /RCRA 2002; 42 USC

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6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This regulation will provide: (1) the Agency's interpretation of a court opinion, concerning the Agency's authority in regulating certain recycled hazardous secondary materials and (2) amendments to the rules required by the court's opinion.

Timetable:

Action	Date	FR Cite
NPRM	01/08/88	53 FR 519
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAR No. 2575.

FTS:8-475-8551

Agency Contact: Mitch Kidwell, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC68

3119. SOLID WASTE DISPOSAL FACILITY CRITERIA

Significance: Regulatory Program

Legal Authority: 42 USC 6907(a)(3)/RCRA 1008(a)(3); 42 USC 6944(a)/RCRA 4004(a); 42 USC 6949(c)/RCRA 4001(c); 33 USC 1345(d)/CWA 405(d); 33 USC 1345(e)/CWA 405(e)

CFR Citation: 40 CFR 257; 40 CFR 258

Legal Deadline: Final, Statutory, March 31, 1988.

Abstract: The Hazardous and Solid Waste Amendments of 1984 (HSWA) require EPA, by March 31, 1988, to revise the subtitle D criteria for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators. In response to this statutory mandate, EPA is revising the subtitle D criteria for municipal landfills. At a minimum these criteria should include ground-water monitoring requirements, location standards, and corrective action requirements as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	53 FR 33314
NPRM Comment Period End	11/30/88	53 FR 41210
Final Action	02/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2224.

FTS-382-4687

Agency Contact: Allen Geswein, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC, 202 382-4687

RIN: 2050–AB21

3120. TEST METHODS FOR EVALUATING SOLID WASTE (MANUAL SW846) INCORPORATION BY REFERENCE AND MANDATORY GOOD LABORATORY PRACTICES

Legal Authority: 42 USC 6912 /RCRA 2002

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: This action proposes to update testing methods in the RCRA testing regulations to: a) permit persons to use the latest (3rd) edition of Test Methods for Evaluating Solid Waste (SW-846); and b) require that all testing conducted in support of the RCRA regulatory program follow minimum good laboratory practices and quality control/quality assurance procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3212
Final Action	05/15/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2507.

FTS:8-382-4761

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-3282

RIN: 2050–AC32

3121. IDENTIFICATION OF HAZARDOUS WASTES BY TOXICITY CHARACTERISTIC AND LISTING OF ADDITIONAL ORGANIC TOXICANTS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: Final, Statutory, March 8, 1987.
November 8, 1986 for adding additional characteristics; March 8, 1987 for revising the extraction procedure.

Abstract: The EPA is amending its hazardous waste identification regulations by introducing a new extraction procedure to be used in the Toxicity Characteristic and by expanding the Toxicity Characteristic to include approximately 38 additional organic toxicants. EPA originally proposed this rule on June 13, 1986 (51 FR 21648).

Timetable:

Action	Date	FR Cite
NPRM	06/13/86	51 FR 21648
Final Action (use of TCLP for Land Disposal Restriction program testing)	11/07/86	51 FR 40572
NPRM (Supplemental)	05/18/87	52 FR 18583
NPRM (Supplemental)	05/19/88	53 FR 18024
NPRM (Supplemental)	05/24/88	53 FR 18792
NPRM (Supplemental)	08/01/88	53 FR 28892
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2062.

FTS-8-382-7737.

Agency Contact: David Topping, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 382-7737

RIN: 2050–AA78

3122. DETERMINATION ON SOLID WASTE FROM SELECTED METALLIC ORE PROCESSING OPERATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 6002

CFR Citation: 40 CFR 261

Legal Deadline: NPRM, Judicial, April 7, 1989. Final, Judicial, August 18, 1989. Other, Judicial, January 31, 1991. Regulatory Determination Notice due 01/31/91. See Additional Information for other legal deadlines.

Abstract: EPA is presently developing a list of "high-volume, low- hazard" ore processing wastes for study under Section 8002(p) of RCRA, in response to an opinion of the U.S. Court of Appeals for the D.C. Circuit (EDF v. EPA, 852 F.2d 1316 (D.C. Cir. 1988). EPA will then conduct a Section 8002 study of those processing wastes excluded from Subtitle C regulation by the "Bevill Amendment" 3001(b)(3)(A) RCRA. The study will culminate in a Report to Congress in July 1990. RCRA Section 3001(b)(3) requires the Agency, after public hearing and public comment, to determine within six months of submitting the report, whether to regulate any of these wastes under RCRA Subtitle C.

Timetable:

Application of Final Criteria
NPRM 09/25/89 (54 FR 39298)
Final Action 01/00/90
List of Exempted Wastes
NPRM 10/20/88 (53 FR 41288)
NPRM 04/17/89 (54 FR 15316)
Final Action 09/01/89 (54 FR 36592)
Regulatory Determination
Notice 01/00/91

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2651.

FTS:8-382-3608

LEGAL DEADLINE CONT:

NPRM, Judicial, September 15, 1989.

Final, Judicial, January 15, 1990.

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 382-3508

RIN: 2050–AC41

3123. FORTY-SEVEN ANALYTICAL METHODS APPROVED FOR SUBTITLE C RCRA HAZARDOUS WASTE TESTING

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6924 /RCRA 3004; 42 USC 6925 /RCRA 3005; 42 USC 6926 /RCRA 3006

CFR Citation: 40 CFR 260; 40 CFR 261

Legal Deadline: None

Abstract: This rule promulgates 47 new analytical methods approved for RCRA Subtitle C hazardous waste testing that were originally proposed in 1984. The purpose of this rulemaking is to provide better and more complete test methods for RCRA-related testing. These 47 methods may be used to meet regulatory requirements in conjunction with, or in addition to, the methods found in the Second Edition of SW-846, as amended by Updates I and II. Except where regulations specifically require the use of certain SW-846 test methods or QC procedures, the SW-846 manual is a guidance document and is not mandatory. These 47 methods offer the regulated community in some cases refinements of existing methods that are usually used, and in other cases, new technologies that provide alternative methods to those now available for the analysis of certain analytes or parameters. Therefore, the Agency believes that the economic impact of this rule on the regulatory community will be minimal to none.

Timetable:

Action	Date	FR Cite
NPRM	10/01/84	49 FR 38786
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2058.

FTS:8-382-3282

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-3282

RIN: 2050–AC00

3124. ● IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: DIMETHYL HYDRAZINE

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002; 42 USC 6938

CFR Citation: 40 CFR 261; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1986.
RCRA 3001(e) requires EPOA to make a determination whether or not to list Dimethylhydrazine wastes within 15 months of the passage of HSWA.

Abstract: This rule will determine whether or not to list as hazardous wastes under RCRA four waste streams from the production of unsymmetrical dimethyl hydrazine (UDMH). The Agency will also designate these wastes as hazardous under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	12/20/84	49 FR 49556
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1954.

FTS:8-475-9888

Agency Contact: Michael Petruska, Environmental Protection Agency, Solid Waste and Emergency Response, OS-332, Washington, DC 20460, 202 475-9888

RIN: 2050–AC91

3125. ● IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: CHLORINATED ALIPHATIC WASTES

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002; 42 USC 6938

CFR Citation: 40 CFR 261.31; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1986.
RCRA 3001(e) requires EPA to make a determination whether or not to list chlorinated Aliphatic Wastes within 15 months of the passage of HSWA.

Abstract: This rule will determine whether or not to list as hazardous wastes under RCRA two generic categories of wastes generated during the production of chlorinated aliphatic hydrocarbons by three radical catalyzed processes. These wastes also will be designated as hazardous substances under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	02/10/84	49 FR 5313
Interim Final Rule	02/10/84	49 FR 5308
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

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Additional Information: SAR No. 1654.

FTS:8-382-4769

Agency Contact: Steve Cochran, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4769

RIN: 2050–AC82

3126. AMENDMENT TO THE FO19 HAZARDOUS WASTE LISTING TO EXCLUDE WASTEWATER TREATMENT SLUDGES FROM ZIRCONIUM PHOSPHATING IN THE ALUMINUM CAN WASHING PROCESS

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922

CFR Citation: 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: None

Abstract: This rule will modify the hazardous waste listing F019, wastewater treatment sludges from the chemical conversion coating of aluminum, (40 CFR 261.31). The modification will narrow the scope of the F019 listing to exclude the zirconium phosphating of aluminum cans process because it does not use or form any Appendix VIII constituents in hazardous concentrations. There are approximately 80 facilities employing this process, which is currently within the scope of the F019 listing. This modification to F019 will not exclude facilities engaged in other types of chemical conversion coating of aluminum.

Timetable:

Action	Date	FR Cite
NPRM	06/04/89	54 FR 32320
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2676.

FTS:8-245-3519

Agency Contact: Denise Wright, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 245-3519

RIN: 2050–AC78

3127. DISPOSAL OF CONTAINERIZED LIQUIDS IN HAZARDOUS WASTE LANDFILLS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(c) / RCRA 3004(c)

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: Final, Statutory, February 8, 1986.

Abstract: The Agency has proposed these regulations under the Hazardous and Solid Waste Amendment of 1984. The regulation will 1) minimize the placement of containers holding liquid hazardous waste and free liquids in hazardous waste landfills, 2) minimize the presence of free liquids in containers holding hazardous waste to be disposed of in landfills and 3) prohibit the use of absorbents that biodegrade or release liquids when compressed.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46824
Notice of Availability of Supplemental Information	06/24/87	52 FR 23695
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2207.

FTS:8-475-8860

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8860

RIN: 2050–AA34

3128. GROUND-WATER MONITORING AT HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This action will change the Subpart F ground-water monitoring regulations. The following is a summary of the major changes: - allow use of site-specific data on contaminant fate and transport for groundwater monitoring variances; - allow flexibility in well installation requirements when access to waste management boundary is difficult; - clarify the definition of waste management area and provide flexibility in determining the appropriate monitoring or response programs for individual areas; - allow flexibility in schedules for submittal of information upon approval by the Regional Administrator (RA); - base the requirement for ground-water flow rate & direction determinations upon site-specific fluctuations in water levels; - clarify the RA's authority to require monitoring of any flow pathway in the uppermost aquifer and unsaturated zone; - clarify the Regional Administrator's authority to designate supplemental monitoring wells when justified by complicated monitoring situations; and (see additional information for completion of abstract)

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 28160
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2277.

FTS-382-4685

ABSTRACT CONT:

- allow a return to detection or compliance monitoring as appropriate; - add quality assurance and quality control requirements for groundwater monitoring devices and methods

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4685

RIN: 2050–AB20

3129. DOUBLE LINER AND LEACHATE COLLECTION SYSTEMS FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(o) /RCRA 3004(o)

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 144

Legal Deadline: Final, Statutory, November 1988.

Abstract: This rule establishes minimum technology requirements (e.g., double liners and leachate collection systems) for new hazardous waste landfills and surface impoundments, as well as lateral expansions and replacements to existing landfills and surface impoundments. This rule will establish standards for these systems enabling unit owners and operators to design and construct systems that will protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	51 FR 10706
Notice of Availability of Information	04/17/87	52 FR 12566
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2388.

FTS: 8-382-4684

Agency Contact: Ken Skahn, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4684

RIN: 2050–AB76

3130. PERMITTING MOBILE HAZARDOUS WASTE TREATMENT UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 3005

CFR Citation: 40 CFR 260; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: This action responds to a petition submitted to EPA by the Hazardous Waste Treatment Council (HWTC). It will establish state-wide permitting procedures for mobile hazardous waste treatment units, and will modify hazardous waste delisting procedures so that hazardous waste treatment residues could be delisted as part of the permitting process. In addition, the petition response solicited comment on HWTC's request that EPA exempt certain treatment technologies from the requirements for hazardous waste management.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20914
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2397.

FTS:8-475-6729

Agency Contact: Deborah Gallman, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 475-6729

RIN: 2050–AC20

3131. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM-FINANCIAL RESPONSIBILITY REQUIREMENTS; SUSPENSION OF ENFORCEMENT PROCEDURES

Legal Authority: 42 USC 6991(b) /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: None

Abstract: This regulation would establish final procedures for suspension of enforcement from the "Financial Responsibility - Requirements," which were published on October 26, 1988 (53FR43322).EPA is currently reevaluating the need for this regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/17/87	52 FR 12786
Final Action	04/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAR No. 2641.

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA)

Completed Actions

3132. DELAY IN THE CLOSURE PERIOD FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

CFR Citation: 40 CFR 264; 40 CFR 265

Completed:

Reason	Date	FR Cite
Final Action	08/14/89	54 FR 33376

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sharon Frey 202 475-6725

RIN: 2050–AB71

3133. LAND DISPOSAL RESTRICTION FOR SECOND THIRD OF SCHEDULED WASTES

Significance: Regulatory Program

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Final Action	06/23/89	54 FR 26594

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhonda Craig 202 382-4770

RIN: 2050–AC55

3134. HAZARDOUS WASTE MANAGEMENT SYSTEM: SUBPART C REQUIREMENTS OF RULEMAKING PETITIONS (REVISION)

CFR Citation: 40 CFR 260.22(b)

Completed:

Reason	Date	FR Cite
Final Action	06/27/89	54 FR 27114

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cessar 202 475-9828

RIN: 2050–AC75

3135. NEW REQUIREMENTS FOR STATE HAZARDOUS WASTE PROGRAMS

CFR Citation: 40 CFR 271

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Michael Forlini 202 382-2229

RIN: 2050–AC51

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Clean Air Act (CAA)

3136. NAAQS: NITROGEN DIOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory. Reviews by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the NO2 NAAQS was completed in June 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Complete review of criteria document and staff paper	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1004.

FTS: 8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, N.C. 27711, 919 541-5656

RIN: 2060–AC06

3137. NAAQS: CARBON MONOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.8

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory, Review by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the CO NAAQS was completed in September 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Complete review of criteria document and staff paper	09/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1001.

FTS: 8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AC07

3138. NSPS: ORGANIC SOLVENT DEGREASING

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60, Subpart JJ

Legal Deadline: Final, Statutory, August 1982.

Abstract: An NSPS was proposed for this source category in 1980. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program or both. That regulatory decision has been delayed pending a decision on how to respond to the court's decision on vinyl chloride (see benzene reconsideration). This action could affect any manufacturing operations that employ organic solvent cleaners to remove grease and oils from parts prior to assembly.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39766
NOTICE – solicitation of public participation	08/10/87	52 FR 29548
NOTICE – decision on whether to regulate	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 1010.

Docket No. OAQPS 78-12.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA12

3139. NSPS: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60, Subpart OO

Legal Deadline: Final, Statutory, August 1982.

Abstract: Some new issues have arisen, and EPA is deciding whether to go forward with this rule. The potential regulations would apply to all types of machines and could also address auxiliary equipment and safe workplace practices.

Timetable:

Action	Date	FR Cite
NPRM	11/25/80	45 FR 78174
NOTICE Decision on whether to regulate	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1119.

Docket No. A-79-30.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA14

3140. NSPS: ORGANIC SOLVENT DEGREASING (111D)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: An NSPS was proposed for this source category in 1980. Section 111(d) of the CAA provides a mechanism by which EPA can require states to develop emissions standards for existing sources for certain source categories for which NSPS standards have been developed. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program or both. That regulatory decision has been delayed pending a decision on how to respond to the court's decision on vinyl chloride (see benzene reconsideration). This action could impact any manufacturing operations that employs organic solvent cleaners to remove grease and oils from parts prior to assembly.

Timetable:

Action	Date	FR Cite
Notice Decision on whether to regulate	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 1695.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA33

3141. NSPS: ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING PLANTS (REVIEW)

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is reviewing this NSPS to determine whether revisions are warranted. The review will assess performance and costs of asphalt processing and asphalt roofing manufacturing plant control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will announce the results of its review in the Federal Register.

Timetable:

Action	Date	FR Cite
Begin Review	08/00/86	
End Review	06/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2430.

FTS:8-629-5425.

Agency Contact: Kenneth Durkee, Chief, Standards Documentation Section, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5425

RIN: 2060–AC21

3142. NESHAP: CADMIUM

Significance: Regulatory Program

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list cadmium under Section 112 (50 FR 42000). EPA is investigating the need for regulation of cadmium and techniques to control the emissions from identified source categories. If EPA decides that emission standards are warranted, cadmium will be listed under section 112, and EPA will propose standards.

Timetable:

Action	Date	FR Cite
Decision on Regulation	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1869.

FTS:8-629-5602

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5602

RIN: 2060–AB92

3143. NESHAP: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: In 1985, the Agency published a notice of intent to list perchloroethylene under Section 112. A decision on whether to regulate this source category under the NESHAP program has been delayed pending a decision on how to respond to the court's decision on the Vinyl Chloride NESHAP (see benzene reconsideration). The potential NESHAP regulations would apply to all types of machines and could also address auxiliary equipment and safe workplace practices.

Timetable:

Action	Date	FR Cite
NOTICE – intent to list	12/26/85	50 FR 52880
NOTICE – decision on whether to regulate	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2360.

FTS:8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air

and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC27

3144. NESHAP: ORGANIC SOLVENT DEGREASING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: An NSPS was proposed for this source category in 1980. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP program, the NSPS program or both. That regulatory decision has been delayed pending a decision on how to respond to the court's decision on the Vinyl Chloride NESHAP (see benzene reconsideration). The potential NESHAP regulations would apply to organic solvent cleaners (degreasers) and would control emissions of perchloroethylene, methylene chloride, and trichlorethylene from new and existing sources. The emissions reduction techniques that would be considered would be combinations of add-on controls, hardware and improved operating practices.

Timetable:

Action	Date	FR Cite
NOTICE – solicitation of public participation	08/17/87	52 FR 29548
NOTICE – decision on whether to regulate	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAR No. 1695.

FTS:8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC31

3145. FUEL AND FUEL ADDITIVES: HEALTH AND EMISSIONS EFFECTS TESTING

Legal Authority: 42 USC 7545(e) / CAA 211(e)

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: Final, Statutory, August 7, 1978.

Abstract: The CAA requires that testing protocols be developed to address at a minimum, the possible carcinogenic, mutagenic, and teratogenic effects of fuels and fuel additives as well as their effect on emissions and emission control devices. This action would implement protocols for such testing, which would have to be performed prior to fuel or additive registration, and or in the case already registered fuels, within three years of the date on which the protocols are promulgated. Fuels and additives already registered or for sale would also have to undergo testing testing, as provided for by the CAA.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2365.

FTS:8-374-8408

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8408

RIN: 2060–AC10

3146. GENERAL REQUIREMENTS FOR DETERMINATION OF GASOLINE METAL CONTENT

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This action will add a new method(s) to a previously promulgated set of testing procedures for the determination of lead (and perhaps other metals) content in gasoline. Such action would provide flexibility to both government and private laboratories in analyzing gasoline samples.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/89	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2629.

FTS:8-475-8841

Agency Contact: David Kortum, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 475-8841

RIN: 2060–AC52

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Clean Air Act (CAA)

3147. PROTECTION OF STRATOSPHERIC OZONE

Significance: Agency Priority

Legal Authority: 42 USC 7457(b)

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: EPA issued an Advance Notice of Proposed Rulemaking (ANPR) on August 12, 1988, seeking public comment on whether the Agency should add a regulatory fee to its current allocated-quota rule, or whether it should shift to an auction based regulation. The ANPR also asked for comment on the need for direct regulation on CFC or halon use to supplement its existing rule. This activity will follow-up on these issues.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/88	52 FR 30604
ANPRM Comment Period End	11/01/88	52 FR 30604
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAR No. 2679.

FTS:8-382-2787

Agency Contact: Stephen Seidel, Environmental Protection Agency, Air and Radiation, ANR-445, Washington, DC 20460, 202 382-2787

RIN: 2060–AC09

3148. NAAQS: LEAD (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.12

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory, Reviews due by December 31, 1980 and at 5-year intervals.

Abstract: EPA is reassessing the health and welfare information that has become available since the promulgation of the standard. The Agency has prepared a staff paper for review by the Clean Air Scientific Advisory Committee (CASAC).

Timetable:

Action	Date	FR Cite
CASAC Closure	09/00/89	
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1919.

FTS: 8-629-5656.

Docket No. A-83-22.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA95

3149. NAAQS: OZONE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.9

Legal Deadline: Final, Statutory, December 31, 1980.
Statutory. Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reassessing health and welfare information which has become available since the last revision of the standard. In May 1989 EPA received closure on the scientific and technical adequacy of the ozone staff paper. In order to retain a unified regulatory review package in light of the emerging data base on health and welfare effects associated with longer-term averaging times, EPA is continuing the standard review until such information is published and a decision made on the appropriate standards choice. The major issue is whether the new information will indicate that new standards with longer term averaging times are required to protect public health and welfare or whether adequate protection is afforded by the current form and averaging time of the standard.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1920.

FTS: 8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA96

3150. NAAQS: FINE PARTICULATE MATTER

Significance: Regulatory Program

Legal Authority: 42 USC 7408 /CAA 108; 42 USC 7409 /CAA 109

CFR Citation: 40 CFR 50.7

Legal Deadline: None

Abstract: On July 1, 1987, EPA issued an ANPRM soliciting public comment on the development of a new secondary (welfare-based) NAAQS for fine particles (those particles less than 2.5 micrometers in aerodynamic diameter). This action represents a continuation of the review process for the secondary standards for particulate matter discussed by the Agency on March 20, 1984 (49 FR 10408). The principal welfare effect to be addressed by such a standard is impairment of visibility. Once a decision on whether and how to proceed is reached, a schedule for further action will be developed.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24670
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2577.

FTS:8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AC32

3151. FEDERAL PROMULGATION OF STATE IMPLEMENTATION PLAN TO PROTECT VISIBILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7410 /CAA 110; 42 USC 7491 /CAA 169A

CFR Citation: 40 CFR 52

Legal Deadline: NPRM, Judicial. (See Timetable)

Abstract: Section 169A of the CAA requires that State Implementation Plans (SIPs) contain provisions to remedy existing and prevent future visibility impairment in certain national parks and wilderness areas. In 1980, EPA promulgated guideline regulations for States to follow in developing their SIP revisions (40 CFR 51.300-307). Many States failed to submit adequate visibility SIPs and EPA was sued to force the Agency to promulgate SIPs for such States. EPA entered into a consent decree under which it agreed to promulgate SIPs implementing the requirements of the visibility regulations in States that have not submitted adequate SIPs. This activity was divided into four parts, the first and third of which have been completed. Part IV is being proposed and promulgated according to the schedule shown under timetable.

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Timetable:

Action	Date	FR Cite
Final Action	11/24/87	52 FR 45132
NPRM Remedying Existing Impairment (Part III)	09/15/88	53 FR 35956
Final Action Remedying Existing Impairment (Part III)	05/19/89	54 FR 21904
NPRM Attribution Decision (Part IV)	09/05/89	54 FR 36948
NPRM Remedying Existing Impairment (Part IV)	02/00/90	
Final Action Remedying Existing Impairment (Part IV)	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2428.

FTS:8-629-5634

Docket No. A-89-02

Agency Contact: Denise W. Scott, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-0870

RIN: 2060–AB82

3152. NEW SOURCE REVIEW REQUIREMENTS – CMA EXHIBIT B

Legal Authority: 42 USC 7410 /CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association (CMA) and other parties who challenged the regulation amendments promulgated on August 7, 1980. This action covers the issues in Exhibit B of the agreement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1931.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AB55

3154. NSPS: MUNICIPAL WASTE COMBUSTORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, November 30, 1989. Final, Judicial, December 31, 1990.

Abstract: The EPA has completed a preliminary assessment of air emissions from municipal waste combustors (MWC). Based on this assessment, EPA has concluded that MWC emissions may reasonably be anticipated to contribute to the endangerment of public health and welfare. As a result, EPA issued a notice in the Federal Register (52 FR 25399) that announces its intent to regulate emissions from new and modified MWC under Section 111(b). Pollutants to be regulated will include one or more designated pollutants (pollutants not regulated under Sections 108-110 or 112) thus invoking Section 111(d) which will require States to develop additional emissions standards for existing MWC based on EPA guidelines.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/87	52 FR 25399
ANPRM Comment Period End	10/06/87	52 FR 37335
NPRM	11/00/89	
Final Action	12/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2424.

FTS:8:629-5602

Agency Contact: Alfred E. Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 2771, 919 541-5662

RIN: 2060–AC26

3155. NSPS: MUNICIPAL LANDFILLS

Significance: Agency Priority

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop a proposal for regulating emissions from new and modified municipal landfills under Section 111(b). Pollutants to be regulated would include one or more designated pollutants (pollutants not regulated under Section 108 - 110 or 112 of the Act) thus invoking Section 111(d). Section 111(d) would require States to develop emission standards for existing landfills based on EPA guidelines.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	05/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2535.

FTS:8-629-5395

Agency Contact: K.C. Hustvedt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5395

RIN: 2060–AC42

3156. ● NSPS: MEDICAL WASTE INCINERATION

Significance: Regulatory Program

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abetract: The incineration of medical waste is being investigated for control under Section 111. Add-on controls and operator training requirements are being investigated.

Timetable:

Action	Date	FR Cite
NPRM	03/00/92	
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2719.

FTS:8-629-5425

Agency Contact: Ken Durkee, Environmental Protection Agency, Air and Radiation, U.S. EPA, Research Triangle Park (MD-13), North Carolina, 27711, 919 541-5425

RIN: 2060–AC69

3157. NESHAP: COKE OVEN EMISSIONS FROM COKE OVEN CHARGING, DOOR LEAKS, AND TOPSIDE LEAKS ON WET-COAL-CHARGED BATTERIES

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: NPRM, Statutory, March 1985.

Abstract: This regulation would control emissions of coke oven emissions, which have been designated as hazardous under section 112. It would require improved maintenance and operation to limit visible emissions from wet-coal-charged coke oven batteries. The standards may apply to charging and leaks from doors, lids, or offtakes for all existing or new sources. A supplemental proposal will be published to reevaluate the standard consistent with the court decision on vinyl chloride. The schedule has been delayed pending a decision on how to respond to a court decision on the Vinyl Chloride NESHAP (see benzene reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	04/23/87	52 FR 13586
NPRM (Supplemental)	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1686.

Docket No. A-79-15.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA48

3158. NESHAP: ASBESTOS REVISION (RISK REDUCTION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61, Subpart M

Legal Deadline: None

Abstract: The Agency is considering revising the asbestos NESHAP to reduce further the risks to public health. The schedule has been delayed pending a decision on how to respond to the court decision on the vinyl chloride NESHAP (see "benzene reconsideration"). The Agency also is considering another revision on an accelerated schedule that would address compliance and monitoring provisions only. See asbestos revision (compliance provisions).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1714.

FTS 8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AB51

3159. DECISIONS ON REGULATING VARIOUS AIR POLLUTANTS

Significance: Regulatory Program

Legal Authority: 42 USC 7411/CAA 112

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The Agency is reviewing the health effects, sources, emissions to the ambient air, and the public exposure of various pollutants. The Agency will publish decisions regarding whether certain pollutants should be controlled under the Clean Air Act or under other regulatory mechanisms in order to protect the public health. Decisions of regulating specific pollutants have been delayed pending decision on how to respond to the court decision on the Vinyl Chloride NESHAP (See Benzene Reconsideration).

Timetable:

Action	Date	FR Cite
Decision on Regulations Various Air Pollutants	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2181.

FTS:8-629-5647

Agency Contact: Robert G. Kellam, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5647

RIN: 2060–AB56

3160. NESHAP: CHROMIUM

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds. Also, EPA is investigating emissions of chromium and techniques that are available to control the emissions from 11 identified source categories. If EPA decides that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and EPA will propose standards. Agency actions on industrial comfort cooling towers and chromium electroplating are described separately in the agenda.

Timetable:

Action	Date	FR Cite
NPRM – decision on whether to regulate	09/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2181.

FTS: 8-629-5596

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5596

RIN: 2060–AB83

3161. NESHAP: CHROMIUM–INDUSTRIAL COOLING TOWERS

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24137). EPA is further assessing the public health risks of chromium compounds. Preliminary assessment performed by EPA has identified industrial process cooling towers as a source category for which the proposal of national emission standards may be warranted. If EPA decides, based on these investigations, that emissions standards are warranted, chromium or hexavalent chromium will be listed under Section 112 and EPA will propose standards. However, the schedule has been postponed pending the court decision on the Vinyl Chloride NESHAP (see Benzene Reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	04/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2386.

FTS-8-629-5602

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060–AC12

3162. NESHAP: CHROMIUM–ELECTROPLATING

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds. A preliminary assessment performed by EPA has identified chromium electroplating as a source category which emits significant quantities of chromium to the atmosphere and for which the proposal of national emission standards may be warranted. If EPA decides, based on these investigations, that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and standards will be proposed. However, the schedule has been delayed pending a decision on how to respond to the court decision on the Vinyl Chloride NESHAP (see Benzene Reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2386.

FTS-8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060–AC14

3163. NESHAP: HAZARDOUS ORGANICS

Significance: Regulatory Program

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This potential regulation would control emissions of 1,3-butadiene, ethylene oxide, ethylene dichloride, chloroform, carbon tetrachloride, perchloroethylene, trichloroethylene, and methylene chloride, as hazardous pollutants under Section 112. The potential regulation would cover the production categories and some use categories for these eight pollutants. It would require installation of combustion devices to control process vents and an inspection and monitoring program to control leaks from pumps and valves. The schedule has been delayed pending a decision on how to respond to the court decision on the Vinyl Chloride NESHAP (see benzene reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2363

FTS:8-629-5568

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AC19

3164. NESHAP: ETHYLENE OXIDE FROM COMMERCIAL STERILIZATION

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This potential standard would control ethylene oxide emissions from sterilization chambers. The emission reduction being considered would require add-on controls for sterilizers. The schedule has been delayed pending decision on how to respond to the court decision on the Vinyl Chloride NESHAP (see benzene reconsideration).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2484.

FTS:8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC28

3165. GUIDELINE ON AIR QUALITY MODELS (REVISION)

Legal Authority: 42 USC 2475(e)/CAA 165(e)

CFR Citation: 40 CFR 51.24(l); 40 CFR 52.21(m)

Legal Deadline: None

Abstract: In response to Section 320 of the Clean Air Act, EPA held the Fourth Conference on Air Quality Modeling in October 1988. Based on input provided to the Agency at or closely following this Conference, additional revisions to EPA's Guideline on Air Quality Models have been defined and a NPRM is being developed.

Timetable:

Action	Date	FR Cite
NPRM	08/00/90	
Final Action	04/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2557.

FTS:8-629-5561

Agency Contact: Joseph Tikvart, Environmental Protection Agency, Air and Radiation, (MD-14), Research Triangle Park, NC 27711, 919 541-5561

RIN: 2060–AC43

3166. PSD INCREMENTS FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 7476/CAA 166

CFR Citation: 40 CFR 52.21; 40 CFR 51.166

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The purpose of this action is to prevent significant deterioration of air quality as measured by the new indicator for particulate matter, PM10. The existing PSD program has particulate matter increments based on the original TSP indicator. The EPA has now promulgated a PM10 NAAQS to replace the original TSP-based particulate matter NAAQS. Therefore, EPA is preparing to revise the PSD program by promulgating PM10 increments in accordance with section 166 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	10/05/89	54 FR 41218
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2491.

FTS:8:629-5593

Docket No. A-88-19

Agency Contact: Daniel DeRoeck, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5593

RIN: 2060–AC33

3167. ● MOTOR VEHICLE TEST PROCEDURES FOR EVAPORATIVE HYDROCARBONS (REVISION)

Significance: Agency Priority

Legal Authority: 42 USC 7521 /CAA 201; 42 USC 7525 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: In conjunction with testing in support of EPA's regulatory effort to control motor vehicle reeling emissions, EPA determined that significant evaporative hydrocarbon emissions can occur when a motor vehicle is running. Such emissions are defined by EPA as "running losses." Testing has shown that running losses can be particularly high on hot summer days which are also conducive to ozone formation. Through this action, EPA will evaluate revisions to the motor vehicle test procedures for evaporative hydrocarbons in order to reduce running losses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2364.

FTS:8-374-8339

This action is a result of the motor vehicle refueling emissions control regulatory action. Previously part of RIN:2060-AC04

Agency Contact: Rick Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4339

RIN: 2060–AC64

3168. ● ON-BOARD VEHICLE BASED DIAGNOSTIC SYSTEM REQUIREMENT

Legal Authority: 42 USC 7521 /CAA 201; 42 USC 7525 /CAA 208; 42 USC 7526 /CAA 207

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: EPA will evaluate the imposition of requirements for passenger cars and light trucks for on-board vehicle diagnostic systems capable of detecting operational malfunctions within the emissions control system. Emission system failures often go undetected or are misdiagnosed resulting in excess emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen. On-board diagnostic systems, which are required in the California vehicle emissions program beginning with the 1988 model year, have the potential for improving air quality through the early detection and proper repair of emission system failures. This regulatory effort will be structured to compliment existing and future State and local inspection and maintenance programs.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2704.

FTS:8-374-8214

Agency Contact: John German, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4214

RIN: 2060–AC85

3169. EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Through this action, EPA will propose more stringent hydro- carbon and CO emission standards for light-duty trucks based upon the belief that very cost-effective hydrocarbon control is available from these vehicles. The proposed standards would be set at levels which could be met by applying currently available passenger car control technology to light trucks.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/86	51 FR 32032
NPRM	10/00/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAR No. 2287.

FTS: 8-374-8496.

Agency Contact: J. Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8496

RIN: 2060–AB85

3170. AMENDMENTS TO MOTOR VEHICLE IMPORTS REGULATIONS PERTAINING TO CANADIAN VEHICLES

Significance: Agency Priority

Legal Authority: 42 USC 7522 /CAA 203; 42 USC 7525 /CAA 206; 42 USC 7541/CAA 207; 42 USC 7542/CAA 206; 42 USC 7601/CAA 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider amendments to the regulations in 40 CFR Part 85, Subpart P as they pertain to importers of vehicles which are originally sold in Canada and which are identical to their U.S.-certified counterparts. This action is in response to a petition for review of the imports regulations filed on November 24, 1987.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2665.

FTS:8-382-2542

Agency Contact: Randall Chaffins, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, Office of Air & Radiation (EN-340F), Washington, D.C. 20460, 202 382-2542

RIN: 2060–AC58

3171. INTERIM COLD AMBIENT AIR TEMPERATURE CARBON MONOXIDE EMISSION STANDARDS

Significance: Agency Priority

Legal Authority: 42 USC 7521 /CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: EPA's current carbon monoxide (CO) emission standards are applicable to the 68 degree to 86 degree farenheit temperature range of the current Federal Test Procedure. Since CO emissions are higher at colder ambient temperatures, and since CO ambient air quality problems occur primarily under ambient temperature conditions less than 68 degrees farenheit, EPA is considering the adoption of CO emission standards applicable to 20 degrees farenheit.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2660.

FTS:8-374-8214

Agency Contact: John German, Environmental Protection Agency, Air and Radiation, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8214

RIN: 2060–AC59

3172. REVISIONS TO THE STACK HEIGHT REGULATION

Legal Authority: 42 USC 7423/CAA 123

CFR Citation: 40 CFR 51.100

Legal Deadline: None

Abstract: Under the Clean Air Act, emission limitations for sources are generally determined on the basis of local, ground-level concentrations of pollutants. In the absence of laws and/or regulations prohibiting such action, a source can lower the local ground-level ambient pollutant concentrations not only by reducing the amount of pollutants it emits into the air, but also by raising the physical height of its stack or using other dispersion techniques. Section 123, which was added to the CAA by the 1977 Amendments, restricts the manner in which techniques for dispersion of pollutants from a source may be considered in setting emission limitations. The EPA promulgated the current stack height regulation on July 8, 1985. On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit upheld EPA's regulation except for three provisions which were remanded to the Agency for proceedings consistent with the court's opinion. The purpose of this action is to revise the stack height regulation in accordance with the January 22, 1988 court decision.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2589.

The court remanded two grandfathering provisions which allow dispersion credit, including credit for certain stack height increases. The decision also remanded the allowance of dispersion credit for sources with originally designed and constructed merged stacks. The court concluded that exclusion of these groups of sources from the regulation's restrictions was not adequately supported. The EPA is analyzing the court decision to determine whether further support should be offered for the current provisions or whether to revise the regulation to limit or delete these exclusionary provisions. The Agency's regulatory decisions and any rule revisions will be proposed for public comment in the Federal Register before taking final action.

Agency Contact: Doug Grano, Environmental Protection Agency, Air and Radiation, EPA(MD-15), Research Triangle Park, NC 27711, 919 541-5255

RIN: 2060–AC60

3173. TEST PROCEDURES FOR TRAP-EQUIPPED DIESEL VEHICLES AND ENGINES

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: The particulate standards for 1991 and later model year heavy-duty diesel engines may require the use of trap-oxidizers for some vehicles and engines. The existing test procedures do not expressly describe how to deal with emissions and fuel economy effects during trap regeneration. If it turns out that trap oxidizers are necessary to comply with the 1991 particulate standards, the Agency will develop an appropriate test procedure.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2373.

FTS: 8-374-8496

Agency Contact: John Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8496

RIN: 2060–AC08

3174. NONCONFORMANCE PENALTIES FOR 1991 THROUGH 1994 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES AND ENGINES

Legal Authority: 42 USC 7524 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1991 through 1994 model year emission standards for heavy-duty vehicles and engines. The availability of NCPs will allow a manufacturer, whose vehicles or engines fail to conform with certain applicable emission standards, but which do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. This rule is the third phase of NCP rulemaking. The first, published August 30, 1985, established generic aspects of NCPs. The second, published December 31, 1985, addressed NCPs applicable to 1987 through 1990 model years.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2431.

FTS:8-382-2535.

Agency Contact: Richard Babst, Environmental Protection Agency, Air and Radiation, (EN-340-F), Washington, DC 20460, 202 382-2535

RIN: 2060–AC39

3175. DIESEL FUEL QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 7545 / CAA 211

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: None

Abstract: Trap oxidizers, the use of which may be required to meet future heavy-duty diesel particulate standards, may require the use of low sulfur diesel fuels. In promulgating the particulate standard, EPA promised to examine the potential need for low-sulfur fuel. In particular, fuel sulfur and aromatics content have been shown to have a direct effect on particulate emissions. This action will consider the costs and benefits of improving diesel fuel quality.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2366.

FTS:8-374-8339

Agency Contact: Richard Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4339

RIN: 2060–AC00

3176. FUEL AND FUEL ADDITIVES: ENFORCEMENT OF SECTION 211(F)(4) WAIVERS

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: The purpose of this action is to establish regulations under sections 211(c) and 211(f) of the CAA for the enforcement of prohibitions against certain fuel and fuel additives not complying with CAA requirements. The regulations will also formalize the procedures for reviewing applications from manufacturers of fuel and fuel additives for waivers of the provisions of paragraphs (1), (2), and (3) of section 211(f), which the Agency may grant pursuant to section 211(f)(4).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2804.

FTS:8-382-2640

Agency Contact: Steven Hoover, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2640

RIN: 2060–AC53

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3177. ● RADON USER FEES

Legal Authority: 15 USC 2665 Sec. 305 Indoor Radon Abatement Act

CFR Citation: None

Legal Deadline: None

Abstract: Section 305 of the Indoor Radon Abatement Act authorizes the imposition of fees for certain voluntary proficiency and training programs. The fees will be deposited into a special account with amounts in the account to be appropriated for administering and establishing these programs. Fees will be charged for the National Radon Measurement Proficiency (RMP) Program, field and classroom training, and the National Radon Contractor Proficiency Program (RCPP) exam.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	
Final Action	09/00/90	
Final Action Effective	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $3,000,000; Yearly Recurring Cost: $2,500,000; Base Year for Dollar Estimates: 1989

Sectors Affected: Multiple

Additional Information: SAR No. 2690.

FTS:8-475-9617

Agency Contact: Jamie Burnett, Environmental Protection Agency, Air and Radiation, U.S. EPA/OAR/ORP (ANR 464), 401 M St., S.W., Washington, D.C. 20460, 202 475-9617

RIN: 2060–AC66

3178. TREATMENT, STORAGE, AND DISPOSAL FACILITY AREA SOURCE AIR EMISSIONS - RCRA STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004, 3007

CFR Citation: 40 CFR 264, Subparts I to N

Legal Deadline: None

Abstract: The purpose of this action is to investigate the health impact of non-combustion source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Area sources include surface impoundments, landfills, waste piles, land treatment operations and waste water treatment facilities. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter, specific toxic substances, or a combination of these. The mandate for standards development under RCRA is to protect human health and the environment. The Agency has adopted a three-phase approach, with Phase I concerning organic emission leaks and vents, Phase II concerns hazardous waste storage tanks and impoundments, and Phase III deals with residual risks from particular hazardous organic constituents.

Timetable:

Leaks and Vents
NPRM 02/05/87 (52 FR 3748)
Final Action 11/00/89
Tanks and Impoundments
NPRM 11/00/89
Final Action 03/00/91

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2240.

FTS:8-629-5672.

Agency Contact: K.C. Hustvedt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5395

RIN: 2060–AB94

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Air Act (CAA)

3179. STATE IMPLEMENTATION PLANS: ATTAINMENT STATUS DESIGNATIONS

Significance: Agency Priority

Legal Authority: PL 100-202

CFR Citation: 40 CFR 81

Legal Deadline: NPRM, Statutory, August 31, 1988.

Abstract: On June 6, 1988 (53 FR 20722), the EPA, as directed by the Mitchell-Conte Amendment of December 22, 1987 (contained in the continuing resolution of 1987, Pub. L. 100-202), proposed to designate as nonattainment under the CAA those areas throughout the nation that have not attained the NAAQS for either ozone or carbon monoxide (CO). EPA proposed to designate as nonattainment some areas currently codified under the Clean Air Act as attainment or unclassified, and to renew the designations for areas currently codified under the Clean Air Act as nonattainment The notice also proposed for public comment 3 interpretations of the regulatory consequences of these nonattainment designations under the Mitchell-Conte amendment.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20722
NPRM Comment Period End	08/05/88	53 FR 20722
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 5440.

FTS:8-629-5517

Docket No. A-88-17

Pub. L. 100-202

Agency Contact: Brock Nicholson, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5517

RIN: 2060–AC56

3180. NAAQS: SULFUR OXIDES (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7409 /CAA 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: Final, Statutory, December 31, 1980.
Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA has reviewed the scientific criteria used as a basis for establishing ambient air quality standards for sulfur oxides. The Agency will revise the standards if and as

appropriate to protect public health and welfare. On April 26, 1988, EPA announced its proposed decision not to revise the current standards. The notice also solicited comment on the alternative of adding a new 1-hour standard and certain other revisions.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	04/26/88	53 FR 14926
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1002.

Docket No. A-84-25.

FTS:8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA61

3181. NEW SOURCE REVIEW REQUIREMENTS – SURFACE COAL MINES AND FUGITIVE EMISSIONS

Significance: Regulatory Program

Legal Authority: 42 USC 7410/CAA 110; 42 USC 7470/CAA 160; 42 USC 7471/CAA 161; 42 USC 7472/CAA 162; 42 USC 7473/CAA 163; 42 USC 7474/CAA 164; 42 USC 7475/CAA 165; 42 USC 7476/CAA 166; 42 USC 7477/CAA 167; 42 USC 7478/CAA 168; 42 USC 7479/CAA 169

CFR Citation: 40 CFR 52.21; 40 CFR 51.166; 40 CFR 52.24; 40 CFR 51, Appendix S

Legal Deadline: Final, Judicial, November 16, 1989.

Abstract: The various EPA regulations that govern new construction under the CAA generally apply to "major" new stationary sources of air pollution and "major" modifications of existing sources. They require fugitive emissions to be included in threshold applicability determinations of whether a new source is "major," but only for 30 categories of sources. The purpose of this action is to determine if surface coal mines should be added to the existing list of 30 categories. A companion action will respond to a petition on the more general issue of including fugitive emissions in NSR applicability determinations.

Timetable:

Action	Date	FR Cite
NPRM	10/26/84	49 FR 43211
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2298.

FTS:8-629-5374

Docket No. A-84-33

Agency Contact: William Lamason, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5374

RIN: 2060–AC40

3182. NSPS: SOCMI AIR OXIDATION PROCESS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart III

Legal Deadline: None

Abstract: EPA has proposed regulations which would control emissions of volatile organic compounds from the manufacture of synthetic organic chemicals via air oxidation processes.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48932
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1615.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA30

3183. NSPS: SOCMI DISTILLATION OPERATIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed this regulation which would control emissions of volatile organic compounds from new, modified, and reconstructed distillation facilities at petroleum refineries and synthetic organic chemical plants.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	48 FR 57536
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1733.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AA35

3184. NSPS: POLYMER AND RESIN MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, August 1982.

Abstract: Upon promulgation, this rule will control volatile organic compound (VOC) emissions in exhaust streams from polymerization processes in the manufacture of organic polymers and resins.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	52 FR 36678
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Sectors Affected: Multiple

Additional Information: SAR No. 1691.

Docket No. A-82-19.

FTS:8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AA37

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3185. NSPS: AUTOMOBILE AND LIGHT-DUTY TRUCK COATING OPERATIONS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed to revise the NSPS for automobile and light-duty truck coating operations which was promulgated in December 1980 to reflect additional operational data of the best demonstrated prime coat system. This proposal does not reflect a change in the basis of the prime coat standard, but a better understanding of the performance of the prime coat system upon which the standard was originally based.

Timetable:

Action	Date	FR Cite
NPRM	07/29/82	47 FR 32743
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2044.

FTS: 8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AB22

3186. NSPS: FOSSIL FUEL-FIRED STEAM GENERATORS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7601(a)

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed revisions to the existing NSPS for large fossil fuel-fired steam generators which would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48960
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2083.

FTS: 8-629-5251.

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AB29

3187. NSPS: SMALL BOILERS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, June 1, 1989. Final, Judicial, September 1, 1990.

Abstract: EPA has proposed new source performance standards for small industrial-commercial-institutional boilers with heat input capacities of 100 million Btu/hr or less.

Timetable:

Action	Date	FR Cite
NPRM	06/09/89	54 FR 24792
Final Action	09/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2239.

FTS:8-629-5251

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AB85

3188. STATE IMPLEMENTATION PLANS: POLICY ON POST - 1987 OZONE AND CARBON MONOXIDE PLAN REVISIONS FOR AREAS NOT ATTAINING THE NATIONAL AMBIENT AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 7401 et seq/CAA

CFR Citation: 40 CFR Not applicable

Legal Deadline: None

Abstract: The EPA is developing a program to address the fact that many areas in the country have not attained the national ambient air quality standards (NAAQS) for ozone and carbon monoxide (CO) by December 31, 1987, the latest date for attainment expressly identified in the Clean Air Act. This notice describes EPA's views about how EPA should interpret the Act so as to bring those areas into attainment, the reasons for that interpretation, and the concrete steps EPA intends to take to implement that interpretation soon and in the long term. The final policy will be an advance notice of how EPA intends, in subsequent rulemakings, to judge the adequacy of State efforts to plan for attainment of the ozone and CO standards.

Timetable:

Action	Date	FR Cite
NPRM	11/24/87	52 FR 45044
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2559.

FTS:8-629-5517

Docket No. A-87-18

Agency Contact: Brock Nicholson, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5517

RIN: 2060–AB96

3189. ● NSPS: CALCINERS AND DRYERS

Significance: Regulatory Program

Legal Authority: 42 USC 75411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: An NSPS was proposed in April, 1986 to regulate particulate matter emissions from calciners and dryers in mineral processing industries. This action will promulgate this regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/23/86	51 FR 15438
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2265.

Docket No. OAQPS 82-39

FTS:8-629-5568

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, U.S. EPA, Research Triangle Park, North Carolina, 27711, 919 541-5568

RIN: 2060–AC87

3190. NESHAP: CHROMIUM–COMFORT COOLING TOWERS

Significance: Regulatory Program

Legal Authority: 15 USC 2605; 15 USC 2607

CFR Citation: 40 CFR 749

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds and investigating emissions of chromium and techniques that are available to control the emissions from identified source categories. Emissions from cooling towers using chromium chemicals in the recirculating water are predominantly hexavalent. EPA analysis has indicated that emissions standards are warranted, and standards have been proposed under Section 6 of TSCA.

Timetable:

Action	Date	FR Cite
Notice of Solicitation	09/15/86	51 FR 32668
NPRM	03/29/88	53 FR 10205
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2386.

FTS-8-629-5625

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5625

RIN: 2060–AC13

3191. RURAL FUGITIVE DUST POLICY FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 7401 /et. seq CAA

CFR Citation: 40 CFR 50; 40 CFR 52

Legal Deadline: None

Abstract: Since 1977, EPA has allowed States with rural fugitive dust areas (RFDAs) to discount fugitive dust in developing and enforcing a State Implementation Plan(SIP) for attainment and maintenance of the NAAQS for particulate matter (PM). On July 1, 1987, EPA promulgated revisions to its particulate matter National Ambient Air Quality Standards (NAAQS), 52 FR 24634. In this notice, EPA also solicited comments on alternatives for SIP requirements for RFDAs and on the adequacy of the definitions which are used in identifying RFDAs, and the importance of protecting annual versus 24-hour NAAQS (52 FR 24716). The EPA will issue its decision after considering public comments on the alternatives. The EPA will continue its existing fugitive policy and apply it to implementation of the revised particulate standard until a decision is made.

Timetable:

Action	Date	FR Cite
NPRM	07/01/87	52 FR 24716
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2543.

FTS:8-629-5634

Agency Contact: Robin M. Dunkins, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5335

RIN: 2060–AC44

3192. NESHAP: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: NPRM, Judicial, February 28, 1989. Final, Judicial, October 31, 1989.
U.S. Court of Appeals for the D.C. Circuit has granted EPA's motion to remand radionuclides NESHAPs and decisions not to regulate.

Abstract: EPA addressed the risks to individuals and to populations due to radionuclide emissions to air in rulemaking decisions issued in 1985 and 1986. This action will reevaluate the NESHAP regulatory decisions for: Department of Energy Facilities, Nuclear Regulatory Commission Licenses, Elemental Phosphorous plants, Radon-222 emissions from uranium mill tailings, Coal-fired boilers, uranium fuel cycle facilities, inactive uranium mill tailings, high-level radioactive waste, and phosphogypsum piles, to insure they are consistent with the recent court decision on the Vinyl Chloride NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9612
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2547.

FTS:8-475-9610

Agency Contact: Terrence A. McLaughlin, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9610

RIN: 2060–AC47

3193. NESHAP FOR ASBESTOS (COMPLIANCE REVISIONS)

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61, Subpart M

Legal Deadline: None

Abstract: The Agency is considering revisions to the Asbestos NESHAP to enhance enforcement and promote compliance with the standards. The revision would require monitoring and proper operation and maintenance of air pollution control devices used by asbestos milling, manufacturing, and fabricating sources. It also would require additional work practice and recordkeeping provisions for demolition and renovation operations, including asbestos waste disposal.

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 912
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1714.

FTS:8-629-5625

This action was split from the asbestos risk reduction revision (RIN 2060-AB51)

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so that the revised compliance revisions could be adopted on an accelerated schedule. The compliance provisions involve none of the legal issues that have delayed the risk reduction action (see "benzene reconsideration" and "asbestos revision, risk reduction").

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AC57

3194. ● NESHAP: BENZENE LITIGATION

Significance: Regulatory Program

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: NPRM, Judicial, August 31, 1989. Final, Judicial, February 27, 1990.

Abstract: On February 7, 1989, the District Court of the District of Columbia ordered EPA to propose decisions on whether to regulate benzene emissions from the following industrial sources of benzene: chemical manufacturing process vents; chemical manufacturing and petroleum refinery waste disposal; benzene handling; benzene solvent use; and gas marketing. This action proposed standards for these categories.

Timetable:

Action	Date	FR Cite
NPRM	09/14/89	54 FR 38083
Final Action	02/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: Docket No. A-89-03 Benzene from Process Vents

Docket No. A-89-04 Benzene Transfer Operations

Docket No. A-89-05 Benzene as Industrial Solvents

Docket No. A-89-06 Benzene Waste Operations

Docket No. A-89-07 Gasoline Marketing System

SAR No. 2896

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, U.S. EPA, Research Triangle Park (MD-13), North Carolina, 27711, 919 541-5568

RIN: 2060-AC88

3195. CONTROL OF EXCESS EVAPORATIVE EMISSIONS/FUEL VOLATILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7414; 42 USC 7541; 42 USC 7542; 42 USC 7521 /CAA 202; 42 USC 7525 /CAA 206; 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301(a)

CFR Citation: 40 CFR 80; 40 CFR 600; 40 CFR 86

Legal Deadline: None

Abstract: In-use motor vehicle evaporative hydrocarbon emissions greatly exceed their applicable EPA emissions standards. A major reason is that the volatility of commercial gasoline is substantially greater than that of the certification test fuel specified by EPA. On March 22, EPA promulgated a rule limiting the summertime volatility of gasoline. EPA will continue to assess whether additional control of gasoline volatility is cost-effective and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31274
Final Rule	03/22/89	54 FR 11868
Final Action (Additional Control)	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2318.

FTS:8-374-8339

Agency Contact: Richard A. Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313 668-4339

RIN: 2060-AB89

3196. DECISION ON AIR POLLUTION REGULATORY STRATEGIES FOR THE GASOLINE MARKETING INDUSTRY

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202; 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Evaporative hydrocarbons emitted during vehicle refueling contribute to the failure of many urban areas to attain the National Ambient Air Quality Standard for ozone. The Bush Administration's recently proposed Clean Air Act amendments would delete section 202(a)(6) and substitute a requirement for Stage II controls.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31162
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2384.

FTS:8-374-8270

Agency Contact: Phil Carlson, Environmental Protection Agency, Air and Radiation, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105, 313 668-4270

RIN: 2060-AC04

3197. TRADING AND BANKING OF HEAVY-DUTY ENGINE NOX AND PM EMISSION CREDITS

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: In March 1985 the EPA promulgated NOx and PM emission standards for heavy-duty vehicles and engines. The rulemaking included a provision for emissions averaging for the final stages of standard implementation in order to mitigate the economic impact of the stringent standards. EPA realized that the averaging mechanism could provide more benefits to manufacturers with a broader product line. In order to address this issue, EPA included in the final package a provision to study the potential for mitigating this uneven distribution of benefits through an emissions credit trading program. The study was expanded to include the concept of 'banking' emissions credits. The study was completed and the Agency made it available to the public and a technical workshop was held in January 1987. EPA proposed a comprehensive trading and junking program for heavy-duty engines in May 1989.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22652
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1315.

FTS: 8-374-8408

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4408

RIN: 2060-AC05

3198. SMALL-VOLUME MANUFACTURERS CERTIFICATION PROCEDURE (REVISION)

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule revises the regulations governing small-volume manufactured and small-volume engine family certification procedures. The revisions are intended to increase EPA's confidence in the useful life emissions compliance of vehicles and engines certified under the small-volume certification procedures. The revisions incorporate procedures to which many manufacturers currently adhere to and thus are designed to ensure that small volume manufacturers will also comply with these procedures. No significant impact on industry is expected.

Timetable:

Action	Date	FR Cite
NPRM	03/09/88	53 FR 7676
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2143.

FTS: 8-374-8444.

Agency Contact: Charles Cole, Environmental Protection Agency, Air and Radiation, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4444

RIN: 2060-AB54

3199. ALTERNATIVE TEST PROCEDURE FOR THE VOLUNTARY AFTERMARKET PART CERTIFICATION PROGRAM

Legal Authority: 42 USC 7541 (b) / CAA 207 (B)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action would consider an alternative testing procedure to be used in the voluntary aftermarket part certification program for certifying aftermarket parts. Currently only the full Federal Test Procedure and Emission Critical Parameters for Specified parts are acceptable test procedures for this program.

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32598
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAR No. 2637.

FTS:8-374-4316

Agency Contact: Michael Sabourin, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4316

RIN: 2060-AC50

3200. MOTOR VEHICLE EMISSIONS PERFORMANCE WARRANTY SHORT TESTS

Legal Authority: 42 USC 7541 /CAA 207

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider allowing alternative dynamometer specifications for an existing loaded-mode short test approved for use in State and local inspection/maintenance programs in conjunction with the federal emissions performance warranty regulations. The alternative specifications the Agency is considering would allow lower loading, perhaps varying by engine size. Such a change could improve overall test effectiveness for identifying excess in-use emissions and correlation with the Federal Test Procedure.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51956
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2638.

FTS:8-374-8471

Agency Contact: Jane Armstrong, Environmental Protection Agency, Air and Radiation, Emission Control Technology Division, 2565 Plymouth Rd, Ann Arbor, MI 48105, 313 668-8471

RIN: 2060-AC51

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

Completed Actions

3201. NEW SOURCE REVIEW REQUIREMENTS – CMA EXHIBIT A

Significance: Regulatory Program

CFR Citation: 40 CFR 51; 40 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	06/26/89	54 FR 27274

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Gary McCutchen 919 541-5592

RIN: 2060-AA68

3202. NSPS: PETROLEUM REFINERY, FCC REGENERATORS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	08/17/89	54 FR 34006

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

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Agency Contact: Fred Dimmick 919 541-5625

RIN: 2060–AA36

3203. NSPS: POLYMERIC COATING OF SUPPORTING SUBSTRATES

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	09/11/89	54 FR 37534

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Doug Bell 919 541-5568

RIN: 2060–AB67

3204. NESHAP: BENZENE RECONSIDERATION

Significance: Regulatory Program

CFR Citation: 40 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	09/14/89	54 FR 38044

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Fred Dimmick 919 541-5625

RIN: 2060–AC41

3205. EMISSION STANDARDS AND TEST PROCEDURES FOR METHANOL-FUELED NEW MOTOR VEHICLES

Significance: Regulatory Program

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	04/11/89	54 FR 14426

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Chuck Moulis 313 668-4229

RIN: 2060–AB28

3206. EMISSION PERFORMANCE WARRANTY REGULATIONS (REVISION)

CFR Citation: 40 CFR 85

Completed:

Reason	Date	FR Cite
Withdrawn Withdrawn due to changes in the program's priorities.	07/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jane Armstrong 313 668-4471

RIN: 2060–AB53

3207. VOLUNTARY AFTERMARKET PART CERTIFICATION REGULATIONS (REVISION)

CFR Citation: 40 CFR 85

Completed:

Reason	Date	FR Cite
Final Action	08/08/89	54 FR 32566

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Michael Sabourin 313 668-4316

RIN: 2060–AB58

3208. FUEL AND FUEL ADDITIVES: GASOLINE LEAD CONTENT (REVISION)

Significance: Regulatory Program

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Withdrawn Withdrawn due to changes in program's priorities.	07/31/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Richard Kozlowski 202 382-2633

RIN: 2060–AB60

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Superfund (CERCLA)

3209. ● COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Significance: Agency Priority

Legal Authority: 42 USC 9604 /CERCLA 104; 42 USC 9606/CERCLA 106; 42 USC 9607/CERCLA 107; 42 USC 9613/CERCLA 113; 42 USC 9622/CERCLA 122

CFR Citation: 40 CFR 305

Legal Deadline: None

Abstract: EPA is granted the authority, under CERCLA, to hold potentially responsible parties liable for the cost of cleanup. Consequently it is Agency policy to pursue those potentially responsible parties for costs expended if a cleanup settlement is not reached. As courts gradually resolve the fundamental question of CERCLA liability, PRPs have increasingly focused on the tactic of investigating the documentation supporting EPA's cost recovery program. Rulemaking can be used to identify the specific recoverable costs, the documentation sufficient to prove EPA's case, and the documents that will be available to PRPs. The cost recovery regulation should make the process more efficient. The regulation will at least address the following issues: Direct Costs, Indirect Costs, Recovery of Interest, and Oversight Costs. The selection of alternatives will be influenced primarily by Agency experience. Through consensus building with the work group, positions will be prepared for proposal.

Timetable:

Action	Date	FR Cite
NPRM	07/00/90	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2702.

FTS:8-475-6771

Agency Contact: Carrie Capuco, Environmental Protection Agency, Solid Waste and Emergency Response, OS-510, 202 475-6771

RIN: 2050–AC98

3210. NATIONAL CONTINGENCY PLAN-SUBPART K: A ROADMAP TO THE NCP FOR FEDERAL FACILITIES

Legal Authority: 42 USC 9605 /CERCLA 105; 42 USC 9620 /CERCLA 120

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: Subpart K of the NCP, entitled "Federal Facilities", is a roadmap to the entire NCP for Federal facilities. It consolidates in one subpart of the NCP references to the requirements in the other subparts that federal agencies must follow when conducting CERCLA response actions where the release is on, or where the sole source of the release is from, their facility.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2650.

FTS:8-475-9801

Agency Contact: Linda Southerland, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-530), Washington, DC 20460, 202 475-9801

RIN: 2050–AC76

3211. ● NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 10

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(B) /CERCLA 105(a)(8)(B); 42 USC 9620(d)(2) /CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: None

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency lan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information:

FTS: 8-202-382-3000

Agency Contact: Martha Otto, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), 202 382-3000

RIN: 2050–AD01

3212. ADMINISTRATIVE HEARING PROCEDURE FOR SUPERFUND CLAIMS

Legal Authority: 42 USC 9612(b) /CERCLA 112(b)

CFR Citation: 40 CFR 305

Legal Deadline: None

Abstract: Section 112(b)(2) of CERCLA as amended, provides that a person who has made a claim against the Superfund and is dissatisfied with the award by EPA may request an administrative hearing. Such hearings shall be before an administrative law judge. The purpose of this rule would be to establish procedures for conducting administrative hearings. The procedures of this rule would replace the Arbitration procedures, formerly codified at 40 CFR Part 305, revoked as a result of the amendments to section 112.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2498.

FTS:8-382-5734

Agency Contact: Hugo Paul Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-5734

RIN: 2050–AC26

3213. TECHNICAL ASSISTANCE GRANTS TO GROUPS OF INDIVIDUALS AT SUPERFUND SITES

Legal Authority: 42 USC 9617 /SARA 117

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: Superfund Amendments and Reauthorization Act 1986 requires that EPA develop grant regulations for technical assistance for citizen groups. Under Section 117(e) groups of individuals may apply for the technical assistance grants only at NPL sites. The grants are limited to $50,000 per site and require matching funds. This limit may be waived.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/87	52 FR 22244
Interim Final Rule	03/24/88	53 FR 9736
Revised Interim Final Rule	10/00/89	
Final Action	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2401.

FTS:8-382-2443

Agency Contact: Murray Newton, Environmental Protection Agency, Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 401 M St., S.W. (OS-220), Washington, D.C. 20460, 202 382-2443

RIN: 2050–AC10

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Superfund (CERCLA)

3214. DESIGNATION OF EXTREMELY HAZARDOUS SUBSTANCES AS CERCLA HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: This rule will designate 232 non-CERCLA extremely hazardous substances (EHS), as defined in Section 302 of SARA Title III, as hazardous substances pursuant to Section 102 of CERCLA. Currently, only releases of those EHSs that are also CERCLA hazardous substances are required to be reported to the National Response Center under CERCLA Section 103. Upon designation, potential confusion concerning the different SARA Title III and CERCLA requirements will be reduced by ensuring consistent procedures for reporting releases of all EHSs.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3388
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2336.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, D.C. 20460, 202 382-5850

RIN: 2050–AB62

3215. REPORTABLE QUANTITIES (RQS) FOR SUBSTANCES ON THE EXTREMELY HAZARDOUS SUBSTANCES LIST

Significance: Regulatory Program

Legal Authority: 42 USC 11002 / SARA 302; 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: This action will adjust the reportable quantities (RQs) for 232 substances on the Extremely Hazardous Substances List, which EPA has proposed for designation as CERCLA hazardous substances. These RQ adjustments will reduce unnecessary reporting of releases to local, State, and Federal officials.

Timetable:

Action	Date	FR Cite
NPRM	08/30/89	54 FR 35988
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2429.

For further information, contact the RCRA/Superfund Hotline (800-424-9346); in the Metropolitan Area (202-382-3000).

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, Washington, DC 20460, 202 382-5650

RIN: 2050–AC14

3216. REPORTING CONTINUOUS RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 / CERCLA 102

CFR Citation: 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: The purpose of this action is to clarify the reduced reporting requirements pursuant to Section 103(f)(2) of CERCLA for facilities that have continuous and stable releases of hazardous substances in amounts at or above their reportable quantities.

Timetable:

Action	Date	FR Cite
NPRM	04/19/88	53 FR 12868
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2411.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, Washington, DC 20460, 202 382-2463

RIN: 2050–AA46

3217. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This regulation will clarify the definition of "federally permitted release" in Section 101(10) of CERCLA. Federally permitted releases of hazardous substances are exempt from reporting under Section 103 of CERCLA and from liability.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2394.

RCRA/Superfund Hotline 800-424-9346, in Washington DC 202-382-3000

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, OS-210, 202 382-2463

RIN: 2050–AB62

3218. PROCEDURES FOR PLANNING AND IMPLEMENTING OFF-SITE RESPONSE ACTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 9604(c)/CERCLA 104(c); 42 USC 9621(d)(3)/CERCLA 121(d)(3); 33 USC 1321(c)(2)/CWA 311(c)(2); 42 USC 9605 /CERCLA 105

CFR Citation: 40 CFR 300.440

Legal Deadline: None

Abstract: This rule interprets and codifies (1) the requirements of Section 121(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) and (2) the revised off-site policy directive (November 13, 1987). Section 121(d)(3) and the directive describe procedures that must be observed when a response action funded under CERCLA or using a CERCLA authority involves off-site transfer of CERCLA wastes. Section 121(d)(3) CERCLA specifies that wastes from removal or remedial actions under CERCLA: 1) only be transferred to facilities that are in compliance with Sections 3004 and 3005 of the Resource Conservation and Recovery Act (RCRA), other applicable Federal laws and State laws, and 2) only be transferred to units at hazardous waste land disposal facilities that are not leaking and where releases from other (non-receiving) units at the facility are under a corrective action program.

EPA—CERCLA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 46218
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2538.

FTS:8-382-4808

Agency Contact: Nancy Browne, Environmental Protection Agency, Solid Waste and Emergency Response, RCRA Enforcement Division (OS-520), 401 M St., S.W., Washington, D.C. 20460, 202 382-4808

RIN: 2050–AC35

3219. NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN (NCP)

Significance: Regulatory Program

Legal Authority: 33 USC 1321 / CWA 311; 42 USC 9605 / CERCLA 105

CFR Citation: 40 CFR 300

Legal Deadline: NPRM, Statutory, April 17, 1988. Final, Statutory, April 17, 1988. Court-ordered: January 31, 1990

Abstract: The National Contingency Plan (NCP) is the primary regulation directing government and responsible party response to and cleanup of discharges of oil, and releases of hazardous substances, pollutants and contaminants. The Superfund Amendments and Reauthorization Act of 1986 mandated that the NCP be revised within 18 months of the date of enactment to incorporate statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	53 FR 51394
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2400.

FTS-8-475-8406.

Agency Contact: Tod Gold, Environmental Protection Agency, Solid Waste and Emergency Response, OS-240, Washington, DC 20460, 202 475-8406

RIN: 2050–AA75

3220. HAZARD RANKING SYSTEM FOR UNCONTROLLED HAZARDOUS SUBSTANCE RELEASES

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(A) /CERCLA 105(a)(8)(A); 42 USC 9605(c) /CERCLA 105(c); 42 USC 9618 /CERCLA 118; 42 USC 9625 /CERCLA 125

CFR Citation: 40 CFR 300

Legal Deadline: Final, Statutory.

Abstract: This action revises the Hazard Ranking System (HRS) which is Appendix A of the National Contingency Plan. The HRS is a system for determining the relative risk among releases of hazardous substances. The HRS is the primary mechanism for establishing the National Priorities List under CERCLA. CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986, requires that the HRS be amended to assure, to the extent feasible, that it accurately assesses relative risk to public health and the environment. CERCLA specifically requires that the HRS take into consideration natural resource damages that may affect the human food chain as well as potential air contamination. The HRS must also appropriately assess human health risks associated with contamination of surface waters for drinking or recreation.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/87	52 FR 11513
NPRM	12/23/88	53 FR 51962
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2566.

FTS: 8-382-3000

Agency Contact: Steve Caldwell and Jane Metcalfe, Environmental Protection Agency, Solid Waste and Emergency Response, OS-230, Washington, DC 20460, 202 382-3000

RIN: 2050–AB73

3221. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 7

Significance: Regulatory Program

Legal Authority: 42 USC 9605 /CERCLA 105; 42 USC 9620 /CERCLA 120

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update.

Abstract: This action is the seventh proposed update to the National Priorities List (NPL) for uncontrolled hazardous waste sites that the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23988
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5358.

Superfund/RCRA Hotline 800-424-9346 or in Metropolitan Area 202-382-5000

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-

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EPA—CERCLA

Final Rule Stage

230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC16

3222. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTES SITES - UPDATE 6

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(B)/CERCLA 105(a)(8)(B); 42 USC 9620(d)(2)/CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update

Abstract: This action is the sixth final update to the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	01/22/87	52 FR 2492
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5434.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (382-3000)

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC47

3223. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - RCRA SITES

Significance: Regulatory Program

Legal Authority: 42 USC 9605/CERCLA 105

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory. Annual Update

Abstract: This action proposes revisions to the National Priorities List (NPL), Appendix B to the National Contingency Plan (NCP). This action is proposed for sites in accordance with the NPL policy concerning sites subject to the Subtitle C corrective action authorities of the Resource Conservation and Recovery Act (RCRA). This action reproposes thirteen RCRA sites there were previously proposed for the NPL and proposes to drop 30 RCRA sites from the proposed NPL.

Timetable:

Action	Date	FR Cite
NPRM	06/24/88	53 FR 23978
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 5357.

RCRA/Superfund Hotline 800-424-9346, in Washington DC 202-382-3000.

Agency Contact: Henry Stevens, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AC48

3224. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 8

Legal Authority: 42 USC 9605(a)(8)(B)/CERCLA 105(a)(8)(B)

CFR Citation: 40 CFR 300.66

Legal Deadline: Other, Statutory.

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. See the related actions in the proposed and final rule sections of this Agenda.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19526
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2667.

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, 401 M St., S.W. (OS-230), Washington, D.C. 20460, 202 382-3000

RIN: 2050–AC81

3225. ● NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES UPDATE 9

Legal Authority: 42 USC 9605(a)(8)(B)/CERCLA 105(a)(8)(B)

CFR Citation: 40 CFR 300.66; 40 CFR 322

Legal Deadline: Other, Statutory. Annual Update

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous wastesites in the National Contingency Plan (NCP). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. See the related actions in the proposed and final rule sections of this Agenda.

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29820
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2688.

FTS: 8-382-3000

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, OS-230, 202 382-3000

RIN: 2050–AC99

3226. ● NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE (HEALTH ADVISORY SITES)

Significance: Regulatory Program

EPA—CERCLA

Final Rule Stage

Legal Authority: 42 USC 9605(a)(8)(B) /CERCLA 105(a)(8)(B); 42 USC 9620(d)(2) /CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: None

Abstract: This action is a proposed update to the National Priorities List (NPL) for uncontrolled waste sites in the National Contingency Plan (NCP). This update proposes to add two sites to the NPL: Radium Chemical Co., Inc., in Woodside, Queens, New York; Forrest Glen Subdivision in Niagara, New York. CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33846
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information:

FTS: 8-382-3000

Agency Contact: Martha Otto, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), 202 382-3000

RIN: 2050–AD00

3227. RESPONSE CLAIMS PROCEDURES FOR THE HAZARDOUS SUBSTANCES SUPERFUND

Legal Authority: 42 USC 9612 / CERCLA 112

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: This action prescribes the forms and procedures for persons other than governments to recover response costs incurred in carrying out the National Contingency Plan.

Timetable:

Action	Date	FR Cite
NPRM	09/13/89	54 FR 37892
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2564.

FTS: 8-382-4645.

Agency Contact: William O. Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-4645

RIN: 2050–AA90

3228. REPORTING HAZARDOUS SUBSTANCES ACTIVITY WHEN TRANSFERRING FEDERAL REAL PROPERTY

Legal Authority: 42 USC 9601/SARA 120

CFR Citation: 40 CFR 373

Legal Deadline: Final, Statutory, April 17, 1988.

Abstract: Section 120(h) of SARA requires that EPA, in consultation with the General Services Administration, promulgate rules which will require the disclosure of the type and quantity of any hazardous substances that have been stored, released or disposed of on federally owned land when such land is sold or otherwise transferred by the United States. This section of SARA also requires that the agencies holding such land provide, at the time of transfer, a covenant warranting that: (1) all remedial actions necessary for protection of human health and the environment have been taken; and (2) any additional action found to be necessary after the transfer will be undertaken by the U.S. EPA is not required to develop rules concerning these latter requirements and is not doing so.

Timetable:

Action	Date	FR Cite
NPRM	01/13/88	53 FR 850
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2464.

FTS:8-475-5647

Agency Contact: Deborah Lebow, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-510), Washington, DC 20460, 202 475-8235

RIN: 2050–AC00

3229. REIMBURSEMENT OF LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES

Legal Authority: 42 USC 9623 / SARA 123; 42 USC 9671(c)(11)

CFR Citation: 40 CFR 310

Legal Deadline: Final, Statutory, October 17, 1987.

Abstract: This provision authorizes reimbursement of local governments for costs incurred in providing temporary emergency measures in response to releases of hazardous substances. Reimbursement is limited to $25,000 per incident and is not intended to supplant local funds normally provided for response.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/87	52 FR 39386
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAR No. 2409.

FTS:8-382-3382

Agency Contact: Local Gov't Reimbursement Coordinator, Environmental Protection Agency, Solid Waste and Emergency Response, Solid Waste and Emergency Response, Emergency Response Division(OS-210), Washington, D.C. 20460, 202 382-3382

RIN: 2050–AC11

3230. DELISTING CERTAIN CHEMICALS FROM THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES (REVISION)

Legal Authority: 42 USC 11013 /SARA 302

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: This rule will amend the Title III List of Extremely Hazardous Substances by delisting certain chemicals from the list. Review of the technical background documents indicate that at least one and perhaps other chemicals may not meet the criteria originally established for listing the substances.

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EPA—CERCLA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30700
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2674.

FTS:8-382-7912

Agency Contact: Kathleen Bishop, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7912

RIN: 2050–AC77

3231. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS AND COMMUNITY RIGHT-TO-KNOW REPORTING REQUIREMENTS; IMPLEMENTATION OF REPORTING REQUIREMENTS FOR INDIAN LANDS

Significance: Regulatory Program

Legal Authority: 42 USC 11011(b)/SARA 311(b); 42 USC 11012(b)/SARA 312(b); 42 USC 11002/SARA 302; 42 USC 11004/SARA 304; 42 USC 11013/SARA 313

CFR Citation: 40 CFR 350; 40 CFR 355; 40 CFR 370; 40 CFR 372

Legal Deadline: None

Abstract: Under Title III of SARA, EPA has authority to establish thresholds below which facilities do not have to report. In the rule published on October 15, 1987, EPA set reporting thresholds for the first two years of reporting. At the same time, the Agency made a commitment to further evaluate the appropriate level for a final threshold. The proposed rule set forth the proposed permanent threshold for reporting as well as proposed amendments to the sections 302, 304, and 313 final rules. The final rule will establish a uniform final reporting threshold for Sections 311 and 312, and will finalize other amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/29/89	54 FR 12992
Interim Final (Reporting Threshold)	10/00/89	
Supplemental Final (Reportable Quantities)	10/00/89	
Supplemental Notice	10/00/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2844.

FTS:8-472-8353

Agency Contact: Kathleen Brody, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-120), Washington, DC 20460, 202 475-8353

RIN: 2050–AB88

3232. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS II PENALTIES UNDER CERCLA AND EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: 42 USC 9609/11045

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This rule will govern the conduct of administrative hearings for all penalties to be assessed under CERCLA Section 109 and SARA Section 325. The rule provides the procedures for these penalty assessments. The action is expected to have a negligible economic impact on consumers, industries, or governmental agencies, but will provide the benefit of uniform procedures for assessing penalties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/89	54 FR 21174
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2512.

FTS:8-475-9437

Agency Contact: Sandra Connors, Environmental Protection Agency, Solid Waste and Emergency Response, U.S. Environmental Protection Agency, OECM (LE-134S), Washington, DC 20460, 202 382-3110

RIN: 2050–AC39

3233. PRIOR NOTICE OF CITIZEN SUITS UNDER CERCLA AND THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: 42 USC 9659/SARA 326; 42 USC 11046/CERCLA 310

CFR Citation: 40 CFR 310; 40 CFR 326

Legal Deadline: None

Abstract: These regulations are promulgated under Section 326 of Title III of SARA and Section 310 of CERCLA. They govern the notice required to be given 60 days prior to the filing of a citizen suit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3918
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2615.

FTS:8-382-2860

Agency Contact: Belinda Holmes, Environmental Protection Agency, Solid Waste and Emergency Response, OECM (LE-134S), Washington, DC 20460, 202 382-2860

RIN: 2050–AC70

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Completed Actions**

Superfund (CERCLA)

3234. REPORTABLE QUANTITIES FOR RELEASES OF POTENTIAL CARCINOGENS AND OTHER HAZARDOUS SUBSTANCES

Significance: Regulatory Program

CFR Citation: 40 CFR 117; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	06/14/89	54 FR 33418
Final Action Effective	08/14/89	54 FR 33418

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Ivette O. Vega 202 382-2463

RIN: 2050–AA80

3235. REPORTABLE QUANTITIES (RQS) FOR RELEASES OF RADIONUCLIDES

Significance: Regulatory Program

CFR Citation: 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	05/24/89	54 FR 22524

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Pamela Harris 202 475-9814

RIN: 2050–AB60

3236. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTES SITES - UPDATE 5

Significance: Regulatory Program

CFR Citation: 40 CFR 300.66

Completed:

Reason	Date	FR Cite
Final Action	03/31/89	54 FR 13296

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sandra J. Crystall 202 382-3000

RIN: 2050–AC45

3237. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - FEDERAL FACILITY POLICY AND LISTING

Significance: Regulatory Program

CFR Citation: 40 CFR 300.66

Completed:

Reason	Date	FR Cite
Final Action	03/13/89	54 FR 10512

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra J. Crystall 202 382-3000

RIN: 2050–AC57

3238. ARBITRATION PROCEDURES FOR SMALL SUPERFUND COST RECOVERY CLAIMS

CFR Citation: 40 CFR 304

Completed:

Reason	Date	FR Cite
Final Action	05/30/89	54 FR 23174

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Janice Linett 202 382-3077

RIN: 2050–AC36

3239. CITIZEN AWARDS FOR INFORMATION ON CRIMINAL VIOLATIONS UNDER SUPERFUND

CFR Citation: 40 CFR 303

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26143

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Keith Onsdorff 202 475-9666

RIN: 2050–AC38

3240. WORKER PROTECTION STANDARDS FOR HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE

CFR Citation: 40 CFR 311

Completed:

Reason	Date	FR Cite
Final Action	06/23/89	54 FR 26654

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Rodney Turpin 201 321-6741

RIN: 2050–AC12

3241. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS I CIVIL PENALTIES UNDER CERCLA AND THE EMERGENCY PLANNING COMMUNITY RIGHT-TO-KNOW ACT

CFR Citation: 40 CFR Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn Activity combined with other consolidated efforts.	07/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sandra Connors 202 382-3110

RIN: 2050–AC37

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Proposed Rule Stage**

General

3242. DENIAL OR RESTRICTION OF DISPOSAL SITES (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 /CWA 404(c)

CFR Citation: 40 CFR 231

Legal Deadline: None

Abstract: This action will revise EPA's existing 404(c) regulations, in effect

since October 9, 1979. It will amend the procedures to be used when EPA is considering the use of Section 404(c) of the CWA to prevent the discharge of dredged or fill material into a defined area of the waters of the United States. Section 404(c) gives the Administrator authority to prohibit or withdraw the specification of a site as a disposal site or to deny or restrict use of a disposal site. The revisions will reflect our experiences to date under Section 404(c), and more clearly address use of 404(c) in advance of a specific proposed discharge.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	01/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2196.

FTS: 8-475-7799

Agency Contact: Suzanne E. Schwartz, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 475-7799

RIN: 2040–AB20

3243. EVALUATION PROCEDURE FOR AWARD OF FIXED PRICE CONTRACTS FOR COMMERCIAL SUPPLIES AND SERVICES

Legal Authority: EPAAR

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: The rule will result in the addition of an evaluation procedure to EPA Aquisition Regulation for making award of certain fixed price contracts for commercial supplies or services the procedure will provide for award to the lowest price offeror whose technical proposal meets the minimum needs of the government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 0952.

FTS:8-382-5035

Agency Contact: Eleanor Norment, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5035

RIN: 2030–AA09

3244. CONTRACTOR COMPLIANCE WITH INFORMATION RESOURCES MANAGEMENT DIRECTIVES

Legal Authority: EPAAR

CFR Citation: 48 CFR 1510; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will require contractor compliance with Agency directives for contracts involving information resources management. Examples of such contracts include the acquisition or modification of a computer program, data communications, and ADP or word processor equipment or services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 0951.

FTS:8-382-5028

P.L. 98-577, Sec. 302

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5028

RIN: 2030–AA10

3245. MISCELLANEOUS DELEGATIONS FROM THE CONTRACTING AUTHORITY

Legal Authority: EPAAR

CFR Citation: 48 CFR 1501; 48 CFR 1503; 48 CFR 1508; 48 CFR 1514; 48 CFR 1515; 48 CFR 1516; 48 CFR 1517; 48 CFR 1522; 48 CFR 1530; 48 CFR 1531; 48 CFR 1532; 48 CFR 1536; 48 CFR 1545

Legal Deadline: None

Abstract: This rule will amend the EPA Aquisition Regulations to reflect delegations made by the head of contracting activity to other aquisition officials for the exercise of various authorities in the acquisition process. Examples include source selection, approval of termination settlements, and approval of award fee plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 0950.

FTS:8-245-3938

P.L. 98-577, Section 302

Agency Contact: Jane Raspberry, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 245-3938

RIN: 2030–AA11

3246. IMPLEMENTATION OF FEDERAL ACQUISITION REGULATION COVERAGE ON RATIFICATION OF UNAUTHORIZED COMMITMENTS

Legal Authority: EPAAR

CFR Citation: 48 CFR 1501.6

Legal Deadline: None

Abstract: Federal Acquisition Circular 84-33, dated February 8, 1988 amended the Federal Acquisition Regulation to provide coverage on ratification of unauthorized commitments. This rule will delete duplicative FAR information in the EPA Acquisition Regulation, and implement policies and procedures unique to EPA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 0949.

FTS:8-382-5035

Agency Contact: Eleanor Norment, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5035

RIN: 2030–AA12

3247. PAYMENT OF FEE ON TERM FORM CONTRACTS

Legal Authority: EPAAR

CFR Citation: 48 CFR 1516; 48 CFR 1552

Legal Deadline: None

Abstract: The proposed rule will address the payment of fees on cost-reimbursable term form contracts. The rule will recommend a change to the current procedure of making provisional payments of fee as a percentage of cost incurred to a method based on the number of direct hours performed in relation to the total level of effort in the contract.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 2683.

FTS:8-382-5019

PL 98-577 Section 302

Agency Contact: Joe Nemargut, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5019

RIN: 2030–AA15

3248. ● CLAIMING BILLING INFORMATION AS CONFIDENTIAL INFORMATION

Legal Authority: 40 USC 486(c); 63 Stat 390, sec 205(c), as amended

CFR Citation: 48 CFR 1524; 48 CFR 1552

Legal Deadline: None

Abstract: The proposed rule will provide EPA contractors with procedures for claiming billing information submitted to the Agency as Confidential Business Information.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 2739.

FTS:8-382-5019

Agency Contact: Joe Nemargut, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5019

RIN: 2030–AA17

3249. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Legal Authority: 7 USC 1361(a); 15 USC 2615(a); 33 USC 1415(a); 42 USC 7545; 42 USC 7601; 42 USC 6928

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing technical amendments to the Consolidated Rules of Practice under 40 CFR Part 22. These amendments will include correction of the address to which penalty payments are sent, lengthening the period to file an appeal, and modifying the specified procedures for service of process. The Agency will incorporate other technical amendments in the rules as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2662.

FTS:8-475-8781

Agency Contact: Larry Blackwood, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-133), Washington, DC 20460, 202 475-8781

RIN: 2020–AA13

3250. CONFIDENTIALITY REGULATIONS: SPECIAL RULES GOVERNING CERTAIN INFORMATION UNDER FIFRA (REVISION)

Legal Authority: 5 USC 552 / Freedom of Information Act ; 7 USC 136h / FIFRA 10

CFR Citation: 40 CFR 2.307

Legal Deadline: None

Abstract: This action would make changes in EPA's procedures for handling business information under FIFRA to reflect amendments to Section 10 of the Act. It would also clarify existing regulations on the treatment of confidential business information under FIFRA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	09/00/92	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2195.

FTS: 8-382-5460

Agency Contact: Jane Roemer, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132G), Washington, DC 20460, 202 382-5460

RIN: 2020–AA06

3251. PROCEDURES AND REQUIREMENTS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT FOR THE ENVIRONMENTAL PROTECTION AGENCY'S RESEARCH AND DEVELOPMENT PROGRAM

Legal Authority: 42 USC 4321

CFR Citation: 40 CFR 6.700

Legal Deadline: None

Abstract: This action amends EPA's Environmental Policy Act (NEPA) regulation in 40 CFR Part 6, Subpart G which addresses the environmental review procedures for research and development projects undertaken by EPA's Office of Research and

Development (ORD). The purpose of

Administration and Resource

3256. NONDISCRIMINATION ON THE

CFR Citation: 40 CFR 31

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Development (ORD). The purpose of this rulemaking is to develop procedures for categorically excluding classes of ORD actions having no significant impact on the environment, from the requirement to prepare an environmental assessment (EA) or an environmental impact statement (EIS). The rulemaking also clarifies the criteria under which EPA would be required to prepare an EIS. This rulemaking will enable EPA to focus its resources on assessing research and development projects which have the potential to significantly affect the environment. The revisions are consistent with the Council on Environmental Quality's NEPA regulation in 40 CFR Parts 1500-1508. .SEE ADDITIONAL INFORMATION FOR COMPLETION OF ABSTRACT]

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2536.

FTS:8-382-5905

This action also revises 40 CFR Part 6 Subpart D which addresses NEPA review procedures for public and other agency involvement. The proposed rulemaking would eliminate the current Agency requirement for public notice of EPA's categorical exclusion determinations, except for the Construction Grants projects. This revision would make the regulation consistent with CEQ and other federal agency NEPA regulations.

Agency Contact: Judith Troast, Environmental Protection Agency, Administration and Resource Management, (A-104), Washington, DC 20460, 202 382-5905

RIN: 2030–AA14

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

General

3252. ENVIRONMENTAL PROTECTION AGENCY ACQUISITION REGULATION (EPAAR); SUBMISSION OF GENERAL FINANCIAL AND ORGANIZATIONAL INFORMATION, AND PURCHASING SYSTEM INFORMATION BY OFFERORS

Legal Authority: EPAAR

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: General financial and organizational information is only required from offerors in the competitive range. This information does not include information on the offerors purchasing systems. The proposed rule will require that all offerors provide general financial and organizational information, which includes purchasing system information.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7072
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

SAR No. 2551.

FTS:8-382-5028

PL 98-577 Sec. 302

Agency Contact: Edward N. Chambers, Environmental Protection Agency, Administration and Resource Management, PM-214F, 202 382-5028

RIN: 2030–AA06

3253. ● DATA RIGHTS

Legal Authority: PL 98-377, sec 302

CFR Citation: 48 CFR 1527; 48 CFR 1552

Legal Deadline: None

Abstract: The proposed rule will delete coverage in EPA Aquisition Regulation on data rights that duplicates FAR coverage. EPAAR coverage was issued to insert clauses that FAR did not include at that time. FAR has since included appropriate coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 2740.

FTS:8-245-3938

Agency Contact: Jane Raspberry, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 245-3938

RIN: 2030–AA16

3254. ● BILLING REQUIREMENTS FOR EPA CONTRACTORS

Legal Authority: 40 USC 486(c); 63 Stat 390, sec 205(c), as amended

CFR Citation: 48 CFR 1532; 48 CFR 1552

Legal Deadline: None

Abstract: The interim rule will require EPA contractors to include EPA accounting information on payment requests; have the same period of performance for both progress reports and payment requests; and submit duplicate copies of payment requests to EPA project officers and contracting officers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 2738.

8-382-5019

Agency Contact: Joe Nemargut, Environmental Protection Agency,

Administration and Resource Management, Procurement & Contracts Mgmt. Div. (PM-214F), Washington, D.C. 20460, 202 382-5019

RIN: 2030–AA18

3255. EPCRA INSPECTION AUTHORITY AND PROCEDURES

Legal Authority: 15 USC 11048

CFR Citation: 40 CFR 375

Legal Deadline: None

Abstract: This regulation sets out EPA's authority to inspect under the Emergency Planning and Community Right-to-Know Act (EPCRA). It will also set out EPA's guidelines for conducting these inspections.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2652.

FTS:8-475-8693

Agency Contact: Vincent Giordano, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-134P), Washington, DC 20460, 202 475-8693

RIN: 2020–AA15

3256. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE FROM THE EPA (REVISION)

Legal Authority: 42 USC 6101 /Age Discrimination Act of 1979

CFR Citation: 40 CFR 7

Legal Deadline: None

Abstract: This action is necessary to add age as a basis for nondiscrimination to EPA's Federally-Assisted Nondiscrimination Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/81	46 FR 2306
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2218.

FTS: 8-382-4567

Agency Contact: Nereid Maxey, Environmental Protection Agency, Office of the Administrator, Office of Civil Rights, (A-105), Washington, DC 20460, 202 382-4567

RIN: 2090–AA09

3257. COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS

Legal Authority: 42 USC 9601 /CERCLA 104(c)

CFR Citation: 40 CFR 31

Legal Deadline: None

Abstract: Under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, there are provisions for recovering clean-up costs from responsible parties. In order for the cost recovery provisions to be effective, recipients of Superfund Assistance Agreements must adhere to strict management practices in all aspects of administering the Agreement. Therefore, EPA will issue this regulation to set forth all administrative requirements for Superfund Assistance Agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/27/89	54 FR 4132
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: SAR No. 2476.

FTS:8-382-5268

Agency Contact: Richard Johnson, Environmental Protection Agency, Policy Planning and Evaluation, (PM-216F), Washington, DC 20460, 202 382-5296

RIN: 2010–AA11

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

General

3258. NOTICE REQUIREMENTS FOR CITIZEN SUITS UNDER THE SDWA

CFR Citation: 40 CFR 135

Completed:

Reason	Date	FR Cite
Final Action	05/12/89	54 FR 20770

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy Hill 202 382-7700

RIN: 2040–AB59

3259. COLLECTION OF CIVIL PENALTIES UNDER TITLE II OF THE TOXIC SUBSTANCES CONTROL ACT, AND THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT

CFR Citation: 40 CFR 22.38

Completed:

Reason	Date	FR Cite
Final Action	06/05/89	54 FR 24112

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Jon Silberman 202 475-8690

RIN: 2020–AA14

[FR Doc. 89-22284 Filed 10-27-89; 8:45 am]

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Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission is publishing its semiannual regulatory agenda pursuant to Executive Order No. 12291, 3 CFR p. 127 (1981 Compilation), and the Regulatory Flexibility Act, 5 U.S.C. Chapter 6. The agenda contains all regulations which are scheduled for review or development during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Irene L. Hill, Assistant Legal Counsel for Coordination, Office of the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4690.

SUPPLEMENTARY INFORMATION: The Commission identified ten current and projected rulemakings for inclusion in the agenda. Two of the listings have been published as ANPRMs. Two have been published as NPRMs. Four are currently under development or review by Commission staff. One is under review by another agency, and one has been published as a final regulation.

Signed in Washington, DC, this 28th day of August 1989.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3260	Procedures for Administrative Exemptions under Section 9 of the Age Discrimination in Employment Act	3046-AA22
3261	Early Retirement Plans	3046-AA36
3262	Possible Revisions to Interpretations Relating to Benefits Under Employee Benefit Plans	3046-AA37

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3263	Uniform Guidelines on Employee Selection Procedures	3046-AA00
3264	Equal Employment Opportunity in the Federal Government; Individual and Class EEO Complaints Processing	3046-AA11
3265	Uniform Guidelines on Employee Selection Procedures	3046-AA24

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3266	Coordination of Federal Equal Employment Opportunity Programs	3046-AA10
3267	Pension Accruals and Contributions Under ADEA	3046-AA31

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3268	Enforcement of Nondiscrimination on the Basis of Handicap in Equal Employment Opportunity Commission Programs	3046-AA30
3269	Tolling of the Statute of Limitations for Private Actions Under the ADEA	3046-AA38

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

3260. PROCEDURES FOR ADMINISTRATIVE EXEMPTIONS UNDER SECTION 9 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Legal Authority: 29 USC 628 Age Discrimination in Employment Act

CFR Citation: 29 CFR 1627.15

Legal Deadline: None

Abstract: The purpose of the proposed amendment to 29 CFR 1627.15 is to give those covered by the ADEA more specific information about what they should do if they wish to seek an exemption from any or all of the ADEA's prohibitions. The advantage is that the establishment of a specific procedure will facilitate the processing of exemption requests.

Timetable:

Action	Date	FR Cite
Submission of Staff Recommendations to Commission	03/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4690

RIN: 3046–AA22

3261. EARLY RETIREMENT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 628

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: The ADEA prohibits discrimination on the basis of age with respect to an employee's compensation, terms, conditions, or privileges of employment. In light of recent amendments to the ADEA and several cases dealing with early retirement, questions have arisen regarding the legality of early retirement plans in general and of specific plans. Since the use of early retirement has expanded greatly in recent years, the Commission deems it appropriate to consider the issuance of regulatory guidance in the area. The ANPRM seeks comment on issues such as voluntariness, plan structuring and eligibility to participate.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26789
ANPRM Comment Period End	10/13/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4690

RIN: 3046–AA36

3262. POSSIBLE REVISIONS TO INTERPRETATIONS RELATING TO BENEFITS UNDER EMPLOYEE BENEFIT PLANS

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.10

Legal Deadline: None

Abstract: The current interpretive regulations at 29 CFR 1625.10 were framed in 1979. Since that time the ADEA has been amended in a manner that necessitates considering revisions to the regulations, for example, the addition of sec. 4(g) to the Act and the lifting of the age 70 cap. Accordingly, the Commission requested public comment to determine whether revisions are necessary and, if so, the nature and scope of any such revision. The continuing viability of this project will be assessed in light of the Supreme Court's decision in Retirement System of Ohio v. Betts, 57 U.S.L.W. 4931 (June 20, 1989).

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26788
ANPRM Comment Period End	10/13/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4690

RIN: 3046–AA37

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

3263. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: UGESP Recordkeeping Provisions. On March 15, 1983, the Commission voted to review those portions of the recordkeeping provisions of the Guidelines which relate to the maintenance of data necessary to determine adverse impact. Pursuant to that vote, the Commission published in the Federal Register a notice seeking public comment in general and on several specific questions about UGESP recordkeeping. 48 Fed. Reg. 34766 (Aug. 1, 1983). Approximately 45 comments were received. The Commission is currently reviewing the comments and is considering further action. On June 12, 1984, the Commission voted to prepare an NPRM concerning certain UGESP recordkeeping requirements. Prior to publication for comment, co-signatories to UGESP will engage in discussion of recommended changes and other affected agencies will be consulted under EO 12067.

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EEOC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is included in the Regulatory Program of the United States under the overall RIN 3046-AA24.

Agency Contact: Nicholas Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046–AA00

3264. ● EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; INDIVIDUAL AND CLASS EEO COMPLAINTS PROCESSING

Significance: Agency Priority

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1614, (Proposed)

Legal Deadline: None

Abstract: Comprehensive revision of regulations for processing individual and class EEO complaints in the Federal sector. Under development.

Timetable:

Action	Date	FR Cite
Commission vote to approve NPRM for circulation to OMB	05/22/89	
Issuance sent to OMB for review	05/24/89	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Inzeo, Assistant Legal Counsel, Legal Services, Equal Employment Opportunity Commission, Office of Legal Counsel, 202 663-4669

RIN: 3046–AA11

3265. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: On March 15, 1983, the Commission voted to review the recordkeeping portions of the Guidelines. During that review process, several questions arose which pertained to the substantive, non-recordkeeping provisions of the Guidelines. Consequently, the Commission decided to review the substantive portions of the Guidelines. The major substantive areas under review are: 1) the purpose of the Guidelines and whether there is still a need for the Guidelines; 2) the theory of adverse impact and the method of determining when such impact is significant; and 3) how to establish test validity. When the review is completed, the Commission will decide whether any regulatory revisions are needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/84	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This action resulted from splitting previous entry RIN 3046-AA00, Uniform Guidelines on Employee Selection Procedures.

It is included in the Regulatory Program of the United States under overall RIN 3046-AA25.

Agency Contact: Philip Lyons, Special Assistant to the Chairman, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6700

RIN: 3046–AA24

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — **Final Rule Stage**

3266. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Legal Authority: EO 12067 Sec 1-303; EO 12067 Sec 1-304

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: These amendments to 29 CFR 1690 will implement an agreement reached by EEOC and the Department of Justice with the Office of Management and Budget which clarified the sequence to be followed when agencies are required to seek prepublication clearance of equal employment opportunity rules from EEOC under EO 12067, DOJ under EO 12250, and from OMB under EO 12291 and the Paperwork Reduction Act. In addition to clearance by the EEOC under EO 12067, equal employment opportunity rules issued under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, or any other provision of Federal statutory law which prohibits discrimination under any program or activity receiving Federal financial assistance, require clearance from DCJ under EO 12250.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4690

RIN: 3046–AA10

3267. PENSION ACCRUALS AND CONTRIBUTIONS UNDER ADEA

Significance: Agency Priority

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967; PL 99-509, Sec 9204

CFR Citation: 29 CFR 1625.10

EEOC — **Final Rule Stage**

Legal Deadline: Final, Statutory, February 1, 1988.
Rule will be completed when the Department of the Treasury completes its regulatory review.

Abstract: Regulations, as may be necessary, to carry out congressional enactments regarding pension accruals and contributions under ADEA.

Timetable:

Action	Date	FR Cite
NPRM	11/27/87	52 FR 45360
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4690

RIN: 3046–AA31

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — **Completed Actions**

3268. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROGRAMS

Significance: Agency Priority

CFR Citation: 29 CFR 1615

Completed:

Reason	Date	FR Cite
Final Action	05/26/89	54 FR 22742
Final Action Effective	05/26/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton 202 663-4690

RIN: 3046–AA30

3269. ● TOLLING OF THE STATUTE OF LIMITATIONS FOR PRIVATE ACTIONS UNDER THE ADEA

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1626.15(b)

Legal Deadline: None

Abstract: Interpretation of the ADEA holding that when the Commission engages in 7(b) conciliation, the statute of limitations is tolled for private litigants.

Timetable:

Action	Date	FR Cite
NPRM	03/09/89	54 FR 10025
NPRM Comment Period End	04/10/89	
Final Action	06/15/89	54 FR 33501
Final Action Effective	09/14/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4690

RIN: 3046–AA38

[FR Doc. 89-21737 Filed 10-27-89; 8:45 am]

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Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

VOL 54 ISS 208 OCT 30 1989 UMI

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual agenda.

SUMMARY: Pursuant to section 5 of Executive Order 12291 "Federal Regulations," the Federal Emergency Management Agency is publishing its semiannual agenda for FEMA. The agenda lists regulations that will be under development or review during the period April 1, 1989, to March 31, 1990.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 840, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: For general information, contact Susan Kantor Bank, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3973. For additional information about a specific regulation, contact the person listed as the contact point in the agenda.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulations" directs each executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 601 *et seq.*

In fulfillment of requirements imposed by the Executive order and 5 U.S.C. 601 *et seq.*, this agenda describes current and projected regulations and regulations which will be under review during the period April 1, 1989, to March 31, 1990. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda published April 24, 1989, at 54 FR 17344.

Public comment on the agenda, including that by State and local governments, is invited and should be submitted to the Rules Docket Clerk.

The agenda is not limited to major or significant rules and contains as much information as possible concerning all FEMA regulations to be published in the next 12 months except for routine flood elevation determinations, listing of eligible communities under the National Flood Insurance Program, listing of suspended communities and similar designations, and organizational and management matters.

Dated: August 28, 1989.

George W. Watson,

Acting General Counsel.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3270	Federal Emergency Management Agency Acquisition Regulations	3067-AB40

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3271	Nondiscrimination in Federally-Assisted Programs	3067-AA00
3272	National Security Policy Guidance Governing the Scientific and Engineering Workforce	3067-AA43
3273	Individual and Family Grant Program Changes	3067-AA64
3274	Review and Approval of State and Local Emergency Response Plans	3067-AA76
3275	Radiological Emergency Planning and Preparedness	3067-AA77
3276	Flood Insurance Rating System Changes	3067-AA98
3277	Comprehensive Cooperative Agreement (CCA) Policies, Procedures, and Associated Programs	3067-AB18
3278	National Flood Insurance Program Changes for Structures on Land Subject to Imminent Collapse or Subsidence	3067-AB42
3279	Temporary Housing Assistance	3067-AB43
3280	National Flood Insurance Program (NFIP) Criteria for Evaluating Coastal Flood Control Structures and Other NFIP Changes	3067-AB44
3281	Disaster Assistance; Hazard Mitigation Planning	3067-AB45
3282	Protection of Essential Resources and Facilities	3067-AB46
3283	Use of Civil Defense Personnel, Materials, and Facilities for Natural Disaster Purposes	3067-AB48
3284	National Flood Insurance Program: Deductible Provisions	3067-AB50
3285	National Defense Executive Reserve Guidance	3067-AB51
3286	Federal Crime Insurance Program Increase	3067-AB53
3287	Individual and Family Grant Programs	3067-AB54

FEMA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3288	Emergency Health and Medical Occupations	3067-AA35
3289	Civil Defense: State and Local Emergency Management Assistance Program (EMA)	3067-AB14
3290	Nondiscrimination in Federally Assisted Programs on the Basis of Age	3067-AB16
3291	National Flood Insurance Program Elevation Requirements for Manufactured Homes	3067-AB25
3292	National Flood Insurance Program Changes	3067-AB32
3293	Graduated Mobilization Response	3067-AB35
3294	Disaster Assistance	3067-AB37
3295	Disaster Assistance, Hazard Mitigation Grant Program	3067-AB41
3296	Predesignation of Nonindustrial Facilities for National Security Emergency Use	3067-AB47
3297	Radiological Emergency Program: User Fees	3067-AB49
3298	Individual Assistance Programs Other Than the Individual and Family Grant Program	3067-AB52
3299	Great Lakes Planning Assistance	3067-AB56

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3300	Permanent Relocation Assistance	3067-AA84
3301	Criteria for Hurricane Preparedness Assistance to State and Local Governments	3067-AB11
3302	Federal Crime Insurance Program Rate Increase	3067-AB33
3303	Commercial Nuclear Power Plants; Emergency Preparedness Planning	3067-AB39

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Prerule Stage

3270. FEDERAL EMERGENCY MANAGEMENT AGENCY ACQUISITION REGULATIONS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 44

Legal Deadline: None

Abstract: The parts of the FEMAAR affected by this revision relate to unsolicited proposals, formal source selection, handicapped discrimination, protests to the agency, and rights to technical data and computer software. These sections have been revised to set forth internal procedures or to conform to revisions to the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
Begin Review	03/01/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Christine A. Makris, Chief, Policy & Evaluation Division, Office of Acquisition Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202-646-3743

RIN: 3067-AB40

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

3271. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 42 USC 2000d-1; 29 USC 794; 20 USC 1682; 42 USC 6103; 42 USC 5151; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and Section 311 of the Disaster Relief Act of 1974. A draft regulation is undergoing interagency review. The notice of proposed rulemaking will be issued as

soon as interagency clearances are obtained.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	
NPRM Comment Period End	01/01/91	
Final Action	12/01/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Katherine H. Shannon, Director, Office of Personnel & Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3962

RIN: 3067–AA00

3272. ● NATIONAL SECURITY POLICY GUIDANCE GOVERNING THE SCIENTIFIC AND ENGINEERING WORKFORCE

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 324

Legal Deadline: None

Abstract: Provides policy guidance for Federal departments and agencies governing the availability and utilization of scientific and engineering workforce to meet Federal Government needs during a national security emergency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Interim Final Rule	12/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry Hyatt, Physical Scientist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3567

RIN: 3067–AA43

3273. INDIVIDUAL AND FAMILY GRANT PROGRAM CHANGES

Legal Authority: 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: The following revisions to the regulations are being considered: establishing a group flood insurance policy for all IFG recipients for each flood declaration; reduce the application period for IFG assistance; change references to obsolete forms; reduce the amount of applicant recordkeeping required by States; revise the formula for calculating State administrative costs; include guidance on current IG audit report procedures, and revise the requirements for the IFG State administrative plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Donna M. Dannels, Emergency Management Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3662

RIN: 3067–AA64

3274. REVIEW AND APPROVAL OF STATE AND LOCAL EMERGENCY RESPONSE PLANS

Legal Authority: 50 USC app. 225g; EO 12148

CFR Citation: 44 CFR 350

Legal Deadline: None

Abstract: Updates existing regulation governing policies and procedures for review and approval of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which might occur at a commercial nuclear power plant.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Craig S. Wingo, Chief, Technological Hazards Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3026

RIN: 3067–AA76

3275. RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Legal Authority: EO 12148; EO 12241

CFR Citation: 44 CFR 351

Legal Deadline: None

Abstract: Updates regulations which set out Federal Agency roles and assigns tasks regarding Federal assistance to States and local governments in their radiological emergency planning and preparedness activities connected with radiological accidents at commercial nuclear power plants.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Craig S. Wingo, Chief, Technological Hazards Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3026

RIN: 3067–AA77

3276. FLOOD INSURANCE RATING SYSTEM CHANGES

Significance: Regulatory Program

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: National Flood Insurance Program premium rating system changes under consideration include a community rating system and a system to use revised FIRMs producing higher rates for existing policyholders, subject to a rate cap. The community rating system would be designed to recognize circumstances within local communities that mitigate or exacerbate the flooding risk, such as the inaction of a community in addressing flood problems or the performance of a community that goes beyond minimum NFIP floodplain management requirements. The use of revised FIRMs for existing policyholders would replace the current practice of allowing premium rates for such policyholders to be based on the map in existence at the time of construction so long as the construction met the requirements at that time.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24482
ANPRM Comment Period End	08/31/87	
NPRM	06/01/90	
NPRM Comment Period End	07/31/90	
Final Action	09/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francis V. Reilly, Deputy Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2782

RIN: 3067–AA98

3277. COMPREHENSIVE COOPERATIVE AGREEMENT (CCA) POLICIES, PROCEDURES, AND ASSOCIATED PROGRAMS

Legal Authority: 50 USC 2286; 50 USC 2251; 42 USC 5121; 42 USC 5151; 42 USC 7701; 42 USC 4001; PL 95-224; PL 96-295; PL 99-499; PL 93-288; PL 95-124; PL 90-488; PL 93-234; PL 90-577; EO 12148

CFR Citation: 44 CFR 305; 44 CFR 302; 44 CFR 360; 44 CFR 301; 5 CFR 900

Legal Deadline: None

Abstract: The comprehensive aspect of the CCA process itself was not created by legislation or even by regulation; Presidential emphasis on grants consolidation and FEMA policy on integrating programs created the CCA. The cooperative agreement aspect of the CCA process is based on PL 95-224, the Federal Grant and Cooperative Agreement Act of 1977. Cooperative agreements are used when stimulating a public purpose (the multiple programs delivered in each CCA are aimed at stimulating public purposes, primarily civil defense). The Federal Civil Defense Act of 1950, as amended, authorizes the major portion of CCA programs and assistance dollars, and is therefore the major legislative authority underpinning the CCA process. Various Civil Preparedness Guides, primarily CPG 1-36 and CPG 1-3 address the CCA process and associated programs. However, a regulation would provide complete notice to States and interested parties and complete the policy and procedural requirements identified by the Office of General Counsel. Specific quantitative estimates cannot be cited.

Timetable:

Action	Date	FR Cite
Interim Final Rule Public comment period end	10/01/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Nancy J. Holt, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3505

RIN: 3067–AB18

3278. NATIONAL FLOOD INSURANCE PROGRAM CHANGES FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE

Legal Authority: 42 USC 4002 et seq; EO 23227

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 62

Legal Deadline: None

Abstract: Section 544 of the Housing and Community Development Act of 1987 provided a new benefit to National Flood Insurance Program policyholders: Payment for demolition or relocation of an insured structure if it is located "along the shore of a lake or other body of water and is certified by appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels." FEMA published interim regulations on this subject on September 23 and November 2, 1988, and commissioned an investigation through the National Academy of Sciences to provide a basis for further regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/01/90	
NPRM Comment Period End	07/31/90	
Final Action	09/01/90	
Final Action Effectiv	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067–AB42

3279. TEMPORARY HOUSING ASSISTANCE

Legal Authority: 42 USC 5174

CFR Citation: 44 CFR 206.101

Legal Deadline: None

Abstract: Revisions to the method of providing assistance being considered would require revision to those sections of the regulations covering the types of assistance available, particularly the home repairs and rental assistance. Another change is the removal of the provision for State governments to administer the program.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	
NPRM Comment Period End	02/28/90	
Final Action	05/31/90	
Final Action Effective	06/30/90	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: F. Scott Martin, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3650

RIN: 3067–AB43

3280. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) CRITERIA FOR EVALUATING COASTAL FLOOD CONTROL STRUCTURES AND OTHER NFIP CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 65

Legal Deadline: None

Abstract: Regulations will be developed defining criteria for evaluating the effectiveness of coastal flood control structures in preventing or reducing 100-year flooding or damage. The criteria will be used to determine whether

areas protected by such structures will be included in, or excluded from, Special Flood Hazard Area designations and/or Coastal High Hazard Area (V-zone) designations on Flood Insurance Rate Maps prepared for the National Flood Insurance Program. The criteria will be based on the results of a special study by the U.S. Army Corps' Coastal Engineering Research Center entitled "Development of Criteria for Evaluating Coastal Flood Control Structures." Other changes to NFIP regulation, including changes to the standard flood insurance policy, are being considered.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	
NPRM Comment Period End	02/13/90	
Final Action	05/28/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067–AB44

3281. DISASTER ASSISTANCE; HAZARD MITIGATION PLANNING

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; PL 100-707

CFR Citation: 44 CFR 206.100

Legal Deadline: None

Abstract: This proposed rule addresses hazard mitigation planning requirements of the Robert T. Stafford Disaster Relief and Emergency Assistance Planning requirements with the section 404 Hazard Mitigation Grant Program and other hazard mitigation programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Final Action	02/15/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Patricia Stahlschmidt, Mitigation Assistance Program Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3678

RIN: 3067–AB45

3282. PROTECTION OF ESSENTIAL RESOURCES AND FACILITIES

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 335

Legal Deadline: None

Abstract: Provides policy and guidance for Federal departments and agencies on how to carry out their responsibilities for national assets protection under section 204 of Executive Order 12656.

Timetable:

Action	Date	FR Cite
NPRM	08/07/89	54 FR 32350
NPRM Comment Period End	10/06/89	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry Hyatt, Physical Scientist, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3567

RIN: 3067–AB46

3283. ● USE OF CIVIL DEFENSE PERSONNEL, MATERIALS, AND FACILITIES FOR NATURAL DISASTER PURPOSES

Legal Authority: 50 USC App. 2253

CFR Citation: 44 CFR 312.5

Legal Deadline: None

Abstract: This rule amends the use of civil defense personnel in time of natural disasters.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Thomas Gilboy, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3507

RIN: 3067–AB48

3284. ● NATIONAL FLOOD INSURANCE PROGRAM: DEDUCTIBLE PROVISIONS

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: Regulations will establish a lower deductible for any group flood insurance policy issued by the National Flood Insurance Program as it relates to Federal disaster assistance provided under the Individual and Family Grant Program after a Presidential disaster declaration has been made.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067–AB50

3285. ● NATIONAL DEFENSE EXECUTIVE RESERVE GUIDANCE

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 337

Legal Deadline: None

Abstract: Provides guidance and procedures for those Federal departments and agencies delegated authority under Executive Order 11179 to sponsor reserve units under National Defense Executive Reserve Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	
Interim Final Rule	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Matticks, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-2703

RIN: 3067–AB51

3286. ● FEDERAL CRIME INSURANCE PROGRAM INCREASE

Legal Authority: 12 USC 1749bbb et seq; EO 12127

CFR Citation: 44 CFR 83

Legal Deadline: None

Abstract: A Federal Crime Insurance Program premium rate increase is planned.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	
NPRM Comment Period End	03/01/90	
Final Action	03/30/90	
Final Action Effective	04/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. DeHenzel, Chief, Urban Property Operations, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3440

RIN: 3067–AB53

3287. ● INDIVIDUAL AND FAMILY GRANT PROGRAMS

Legal Authority: 42 USC 5178

CFR Citation: 44 CFR 206.131 (Subpart E of Part 206)

Legal Deadline: None

Abstract: The IFG program will be revised in several areas, some of which are required as a result of passage of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Some of the areas to be revised are flood insurance and floodplain management requirements, revision of the maximum award to $10,000 and elimination of advance of the State's share.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	
NPRM Comment Period End	12/01/89	
Final Action	12/30/89	
Final Action Effective	01/30/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Interim rules to implement the Stafford Act were published on March 21, 1989. Comments received as a result of that publication will be considered along with comments received as a result of this proposed rule, and both will be incorporated into a final rule.

Agency Contact: Donna Dannels, Emergency Management Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3662

RIN: 3067–AB54

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3288. ● EMERGENCY HEALTH AND MEDICAL OCCUPATIONS

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; 50 USC App 2251 et seq; EO 12656

CFR Citation: 44 CFR 325

Legal Deadline: None

Abstract: Identifies those medical occupations and skills for which there will be a critical need in time of a national security emergency.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30565
NPRM Comment Period End	09/20/89	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Victor Esch, Health Resources Manager, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3062

RIN: 3067–AA38

3289. CIVIL DEFENSE: STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAM (EMA)

Legal Authority: 50 USC app 2253; Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 302, (Revision)

Legal Deadline: None

Abstract: Changes within existing regulation to delete one allocation formula factor.

Timetable:

Action	Date	FR Cite
NPRM	08/26/87	52 FR 32140
NPRM Comment Period End	10/26/87	52 FR 32140
Interim Final Rule	10/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: John McKay, Assistant Associate Director for Civil Defense, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4252

RIN: 3067–AB14

3290. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS ON THE BASIS OF AGE

Legal Authority: 42 USC 6103

CFR Citation: 44 CFR 7, Subpart E

Legal Deadline: None

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of the Age Discrimination Act of 1975.

Timetable:

Action	Date	FR Cite
NPRM	01/14/88	53 FR 922
NPRM Comment Period End	03/14/88	53 FR 922
Final Action	03/15/90	
Final Action Effective	05/15/90	

Small Entities Affected: None

FEMA — **Final Rule Stage**

Government Levels Affected: Local, State

Agency Contact: Alan Clive, Equal Employment Manager, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3957

RIN: 3067–AB16

3291. NATIONAL FLOOD INSURANCE PROGRAM ELEVATION REQUIREMENTS FOR MANUFACTURED HOMES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60

Legal Deadline: None

Abstract: Revisions to National Flood Insurance Program regulations regarding the elevation of manufactured homes placed in existing mobile home parks and subdivisions in special flood hazard areas that were effective October 1, 1986, were suspended effective June 30, 1987. There are three possible options: (1) lifting the suspension so that the October 1, 1986, revisions go back into effect; (2) continuing the suspension indefinitely; or (3) making some revisions different from the October 1, 1986 revisions. Option (3) is the option that was chosen in the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/19/89	54 FR 21888
NPRM Comment Period End	07/18/89	
Final Action	10/00/89	
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Michael F. Robinson, Chief, Program Policy & Compliance Div., Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2716

RIN: 3067–AB25

3292. NATIONAL FLOOD INSURANCE PROGRAM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 65; 44 CFR 72

Legal Deadline: None

Abstract: Possible changes to the National Flood Insurance Program regulations include minor modifications to the definitions of the terms "substantial improvement" and "new construction," providing for mapping on the basis of future conditions, clarifying the use of alternative hydraulic or hydrologic methodologies in requests for map revisions, specifying requirements for requests for map revisions for alluvial fan areas, and adjustment of the labor rate charged for processing requests for conditional approval of map changes.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9523
NPRM Comment Period End	05/08/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Chief, Regulations & Underwriting Division, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3422

RIN: 3067–AB32

3293. GRADUATED MOBILIZATION RESPONSE

Significance: Regulatory Program

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 334

Legal Deadline: None

Abstract: Provides policy and guidance to Federal departments and agencies on the Graduated Mobilization Response system. The Graduated Mobilization Response system is part of the National Security Emergency Preparedness program of planning mobilization actions that will permit a timely reaction to early warning indicators. Graduated Mobilization Response policy guidance is to be incorporated in department and agency mobilization preparedness planning.

Timetable:

Action	Date	FR Cite
NPRM	06/08/89	54 FR 24570
NPRM Comment Period End	08/07/89	
Final Action	11/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard F. Mariller, Senior Planning Officer (Policy), Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3003

RIN: 3067–AB35

3294. DISASTER ASSISTANCE

Significance: Regulatory Program

Legal Authority: 42 USC 5121 et seq; PL 100-707

CFR Citation: 44 CFR 206

Legal Deadline: Other, Statutory, May 23, 1989.

Abstract: This interim rule will cover certain aspects of the disaster relief program authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93-288, as amended): individual assistance, public assistance, fire suppression assistance, community disaster loans, and hazard mitigation planning. Based on comments received during a 60-day period while the rule is effective, a final rule will also be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/21/89	54 FR 11610
Final Action	05/19/89	
Final Action Effective	10/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Gregg Chappell, Assistant Associate Director, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3615

RIN: 3067–AB37

3295. DISASTER ASSISTANCE, HAZARD MITIGATION GRANT PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; 33 USC 426p note; PL 100-707

CFR Citation: 44 CFR 206

FEMA — **Final Rule Stage**

Legal Deadline: Final, Statutory, May 23, 1989.

Abstract: This interim rule implements section 404 of the Robert T. Stafford Relief and Emergency Assistance Act (PL 93-288, as amended). The document provides requirements and establishes general procedures for administration of the Hazard Mitigation Grant Program. Based on comments received during a 60-day period while the rule is effective, a final rule will also be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/22/89	54 FR 22173
Final Action	10/31/89	
Final Action Effective	11/30/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Patricia Stahlschmidt, Mitigation Assistance Program Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3678

RIN: 3067–AB41

3296. ● PREDESIGNATION OF NONINDUSTRIAL FACILITIES FOR NATIONAL SECURITY EMERGENCY USE

Legal Authority: 50 USC 404; 50 USC App. 2061 et seq; EO 12656

CFR Citation: 44 CFR 336

Legal Deadline: None

Abstract: Provides policy and procedural guidance to assist the Federal departments and agencies in the development of plans for the predesignation and assignment of nonindustrial facilities to ensure that emergency requirements can be met in time of national emergency.

Timetable:

Action	Date	FR Cite
NPRM	06/22/89	54 FR 26213
NPRM Comment Period End	08/21/89	
Final Action	10/30/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry Hyatt, Physical Scientist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3567

RIN: 3067–AB47

3297. ● RADIOLOGICAL EMERGENCY PROGRAM: USER FEES

Legal Authority: 31 USC 9701; EO 12657; EO 12148

CFR Citation: 44 CFR 353

Legal Deadline: None

Abstract: The proposed regulation sets out fees charged for site specific radiological emergency planning and preparedness rendered by the Federal Emergency Management Agency.

Timetable:

Action	Date	FR Cite
NPRM	09/11/89	54 FR 27390
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vernon Adler, Acting Chief, Program Development Branch, Technological Hazards Division, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3348

RIN: 3067–AB49

3298. ● INDIVIDUAL ASSISTANCE PROGRAMS OTHER THAN THE INDIVIDUAL AND FAMILY GRANT PROGRAM

Significance: Agency Priority

Legal Authority: PL 93-288, as amended by PL 100-707; 42 USC 5121, et seq.

CFR Citation: 44 CFR 206.141; 44 CFR 206.151; 44 CFR 206.161; 44 CFR 206.164; 44 CFR 206.171; 44 CFR 206.181; 44 CFR 206.191

Legal Deadline: None

Abstract: Subpart F covers the following programs, which will be revised in a final rule to accommodate passage of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: disaster unemployment assistance, food commodities, disaster legal services, crisis counseling assistance and training, use of gifts and bequests for disaster assistance purposes, and duplication of benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/21/89	54 FR 11610
Final Action	12/30/89	
Final Action Effective	01/30/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Agnes Mravcak, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3660

RIN: 3067–AB52

3299. ● GREAT LAKES PLANNING ASSISTANCE

Significance: Agency Priority

Legal Authority: PL 100-707, Title II

CFR Citation: 44 CFR 207

Legal Deadline: Final, Statutory, May 23, 1989.

Abstract: This interim rule implements Title II of PL 100-707, the Great Lakes Planning Assistance Act. The rule provides requirements and establishes general procedures for administration of one-time grants to Great Lakes States. Based on comments received during a 60-day period while the rule is effective, a final rule will also be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/21/89	54 FR 16108
Final Action	10/15/89	
Final Action Effective	10/15/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Karen Helbrecht, Mitigation Assistance Programs Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3358

RIN: 3067–AB56

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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Completed Actions

3300. PERMANENT RELOCATION ASSISTANCE

Significance: Regulatory Program

CFR Citation: 44 CFR 221

Completed:

Reason	Date	FR Cite
Final Action	03/23/89	54 FR 11950
Final Action Effective	04/24/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles D. Robinson 202 646-3805

RIN: 3067–AA84

3301. CRITERIA FOR HURRICANE PREPAREDNESS ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Significance: Agency Priority

CFR Citation: 44 CFR 362

Completed:

Reason	Date	FR Cite
Merged with 3067-AB37	08/25/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Dennis Kwiatkowski 202 646-2858

RIN: 3067–AB11

3302. FEDERAL CRIME INSURANCE PROGRAM RATE INCREASE

CFR Citation: 44 CFR 83

Completed:

Reason	Date	FR Cite
Final Action	08/01/89	54 FR 31681
Final Action Effective	09/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. DeHenzel 202 646-3440

RIN: 3067–AB33

3303. ● COMMERCIAL NUCLEAR POWER PLANTS; EMERGENCY PREPAREDNESS PLANNING

Significance: Agency Priority

Legal Authority: 50 USC App. 2251 et seq; 44 USC 5121 et seq.; 31 USC 9701; EO 12657

CFR Citation: 44 CFR 352

Legal Deadline: None

Abstract: The rulemaking adopts in final form Part 352 in Title 44 CFR Emergency Management and Assistance, Chapter 1, Subchapter E Preparedness. This part concerns licensee certification and FEMA determinations, and provision of Federal assistance for offsite radiological emergency planning and preparedness for commercial nuclear power plants under Executive Order 12657. This part responds to a requirement in section 6[a] of the order that FEMA issue directives and procedures to implement the order. This part is intended to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants under construction or in operation.

Timetable:

Action	Date	FR Cite
Final Action	08/02/89	54 FR 31920
Final Action Effective	09/01/89	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Craig S. Wingo, Chief, Technological Hazards Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3026

RIN: 3067–AB39

[FR Doc. 89-21738 Filed 10-27-89; 8:45 am]

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Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

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FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: The Federal Mediation and Conciliation Service is redrafting one regulation subject to the Regulatory Flexibility Act during the six-month period from October 1989 to April 1990. That regulation is Arbitration Policy and Practice.

FOR FURTHER INFORMATION CONTACT: Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427, (202) 653-5305.

Dated: August 16, 1989.

Robert P. Baker,

Acting Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Final Rule Stage

3304. REVIEW OF EXISTING ARBITRATION REGULATION

Significance: Agency Priority

Legal Authority: 29 USC 172; 5 USC 552; 29 USC 173

CFR Citation: 29 CFR 1404

Legal Deadline: None

Abstract: The Federal Mediation and Conciliation Service is in the process of redrafting its existing Arbitration Services regulation at 29 CFR 1404. The Service has completed its initial draft and is presently analyzing comments received. A final rule will be published soon.

Timetable:

Action	Date	FR Cite
NPRM	04/20/88	53 FR 12952
NPRM Comment Period End	06/30/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW, Washington, DC 20427, 202 653-5305

RIN: 3076–AA01

[FR Doc. 89-21739 Filed 10-27-89; 8:45 am]

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Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 201, 301, 302, 303, and 304

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since April 1989. This agenda was developed under the guidelines in OMB Bulletin 89-12, dated July 5, 1989. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Correspondence Management Branch, (202) 566-0666.

SUPPLEMENTARY INFORMATION: None of the regulations will have an effect on small businesses or other entities. None of the regulations listed are considered major under Executive Order 12291 "Federal Regulations."

Dated: August 23, 1989.

Richard G. Austin,

Acting Administrator of General Services.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3305	Negotiated Disposal of Personal Property	3090-AD29
3306	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	3090-AC48
3307	Nondiscrimination on the Basis of Race, Color, National Origin, and where applicable, sex	3090-AC49
3308	Federal Property Management Regulations; Annual Real Property Inventories	3090-AC74
3309	Government Wide Real Property Asset Management	3090-AD43

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3310	Multiple Award Schedule Program (GSAR 5-38A)	3090-AC61
3311	Federal Property Management Regulations; Revises the Reporting Requirements for Real Property	3090-AB31
3312	NonFederal Interim Use of Real Property	3090-AD58
3313	Federal Travel Regulation (FTR), Amendment Mileage Allowance	3090-AD49
3314	Federal Travel Regulation (FTR), Amendment Worldwide Per Diem Allowances	3090-AD52
3315	Federal Property Management Regulation Part 101-17, Assignment and Utilization of Space	3090-AD42

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3316	General Services Administration Acquisition Regulation (GSAR); Authorizing Payment by Credit Card Under GSA Schedule Contracts, GSAR Notice No. 5-272	3090-AD61
3317	General Services Administration Acquisition Regulation (GSAR) Bonds, Proposed rule, GSAR Notice No. 5-244	3090-AD67
3318	General Services Administration Acquisition Regulation (GSAR); Procurement Integrity, AC-89-2 (5-276)	3090-AD69
3319	General Services Administration Acquisition Regulation (GSAR); Congressional Notification of Contract Awards, CHGE 63, (5-184)	3090-AD70
3320	Specifications, Standards, Purchase Descriptions and Acquisition of Commercial Products, GSAR Reissuance and Revision (5-230)	3090-AD74
3321	Revision of Public Voucher for Transportation Charges, Standard Form 1113	3090-AB69
3322	Outline for Explanatory Statements for Negotiated Sales	3090-AD32
3323	Temporary Modification of Procedures for Making Federal Real Property Available to the Homeless	3090-AD55
3324	Donation of Abandoned and Forfeited Personal Property	3090-AA24
3325	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
3326	Submission of Paid Freight Bills/Invoices, CBL's, GTR's Passenger Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts	3090-AD35
3327	Federal Travel Regulation (FTR), Amendment CONUS Per Diem Allowances	3090-AD44
3328	FPMR Temp. Reg. A-33, Supp.1 Federal and State Tax Tables for Calculating 1989 Relocation Income Tax Allowance Payments	3090-AD45
3329	Federal Travel Regulation (FTR), Amend Premium Class Air Accommodations	3090-AD46

GSA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3330	Federal Travel Regulation (FTR) Amendment; Permanent Codification of Temporary Regulations and an Interim Rule	3090-AD47
3331	FPMR Temp. Reg. A-34, Supp. 1 Limiting Travel Advances	3090-AD48
3332	FPMR Temp. Reg. A-32, Supplement 1 Allowances for Presidential Transition Team Personnel Appointed to Government Service	3090-AD50
3333	FPMR Amendment G Change to Subchapter G -- Transportation and Motor Vehicles	3090-AD51
3334	Federal Travel Regulation (FTR) Amendment; Congressional Reporting Requirement	3090-AD53
3335	Submission of Transportation Vouchers	3090-AD54
3336	Federal Travel Regulation (FTR) Amendment; Residence Transactions	3090-AD57
3337	Update of Governmentwide Telecommunications Policies and Regulations	3090-AB08
3338	Establishment of Policies and Procedures for Federal Agencies' Management of Electronic Recordkeeping, Project 86.83A	3090-AC54
3339	Implementation of Title VIII, Paperwork Reduction Reauthorization Act of 1986, P.L. 99-500 Regarding Automatic Data Processing Equipment	3090-AD03
3340	FIRMR Improvement Project	3090-AD04
3341	Update Regulations Regarding FTS 2000 Usage (FIRMR Interim Rule 1)	3090-AD20
3342	Restructuring and Simplification of Federal Information Resources Management Standards	3090-AD21
3343	Information Resources Management Reviews Codification Amendment for FIRMR Temporary Regulation 10	3090-AD22
3344	Implement Legislation to Accommodate the Hearing Impaired	3090-AD36
3345	Revisions of FIRMR Policies to Simplify the Procurement Process	3090-AD36

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3346	General Services Administration Acquisition Regulation Change Subpart 46.7 (GSAR 5-91)	3090-AB82
3347	Miscellaneous Changes on the Acquisition of Leasehold Interests in Real Property (GSAR 5-155)	3090-AC59
3348	Multiyear Contracts and Contracts with Options (GSAR 5-106)	3090-AC68
3349	General Services Administration Acquisition Regulation (GSAR) Proposed Rule, Utility Contracts, GSAR Case 5-65	3090-AD10
3350	General Services Administration Acquisition Regulation; Economic Price Adjustment Clause for Multiple Award Schedule Contracts, CHGE 61, 5-268	3090-AD40
3351	General Services Administration Acquisition Regulation; Inspection of Supplies, CHGE 64, 5-173	3090-AD41
3352	General Services Administration Acquisition Regulation; Improper Business Practices and Personal Conflicts of Interest, GSAR Reissuance and Revision (5-221)	3090-AD56
3353	General Services Administration Acquisition Regulation; Contractor's Report of Orders Received Clause for GSA Schedule Contracts, GSAR Reissuance and Revision (5-115)	3090-AD59
3354	General Services Administration Acquisition Regulation; Contractor Qualifications; Solicitations Provisions and Contract Clauses, GSAR Reissuance and Revision (5-227)	3090-AD60
3355	General Services Administration Acquisition Regulation; (CHG 60) Availability of GSA Form 3501 Concerning Solicitation Provisions and Appendix A Concerning Contracting Office Assignment Codes	3090-AD62
3356	General Services Administration Acquisition Regulation (GSAR); Debarment, Suspension, and Ineligibility, GSAR Reissue and Revision (APD 2800.12A)	3090-AD63
3357	General Services Administration Acquisition Regulation (GSAR); Foreign Acquisition, GSAR Reissuance and Revision (ADP 2800.12A) (5-242)	3090-AD64
3358	General Services Administration Acquisition Regulation (GSAR); Prompt Payment Act, CHGE 62 (5-208)	3090-AD65
3359	General Services Administration Acquisition Regulation; Publicizing and Response Times, GSAR Reissue and Revision (5-223)	3090-AD66
3360	General Services Administration Acquisition Regulation (GSAR); Bid samples, GSAR Reissuance and Revision (APD 2800.12A) (5-233 and 5-234)	3090-AD68
3361	General Services Administration Acquisition Regulation (GSAR); Construction Contract Modifications, Proposed Rule, GSAR Notice No. 5-255	3090-AD71
3362	General Services Administration Acquisition Regulation (GSAR); Reissuance and Revision; Final Rule	3090-AD72
3363	General Services Administration Acquisition Regulation (GSAR); Legal Review, Change 65, (5-266)	3090-AD73
3364	General Services Administration Acquisition Regulation (GSAR); Acquisition Circular Ac-89-1, Implementation of Prompt Payment Act Amendments of 1988, (5-271)	3090-AD75
3365	Revision of Standard Form 1170, Redemption of Unused Tickets	3090-AD13
3366	Use of Electronic Data Interchange to Document and Pay Transportation Bills	3090-AD27
3367	Submission of Paid Freight Bills/Invoices, CBL's, GTR's, Passengers Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts	3090-AD35

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GENERAL SERVICES ADMINISTRATION (GSA)

Prerule Stage

FEDERAL SUPPLY AND SERVICES

3306. NEGOTIATED DISPOSAL OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(e)

CFR Citation: 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46

Legal Deadline: None

Abstract: This regulation will implement the personal property sales provisions and reporting requirements of the Federal Managements of the Federal Property Management Improvement Act of 1988. There should be no significant costs to the public as a result of this rule. The rule will significantly reduce time and workload in preparing reports to Congress and improve the efficiency and effectiveness of personal property sales by expanding on negotiated sales procedures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Stanley M. Duda, Director, Property Management Division (FBP), General Services Administration, Washington, DC 20406, 703 557-1240

RIN: 3090-AD29

OFFICE OF ORGANIZATION AND PERSONNEL

3305. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: PL 95-602, Sec 119

CFR Citation: 41 CFR 105-8

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement the above cited laws. These statutes prohibit discrimination on the basis of handicap as it applies to any programs or activities conducted by GSA.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This proposed rule has been circulated internally and externally for comments. Comments have been received from the Equal Employment Opportunity Commission. We are still waiting for the Department of Justice's approval and comment on the regulation. Employment Opportunity Commission. The Department of Justice's comments on regulation with respect to GSA's role as the Federal Government landlord have been received. Comments regarding the program portion of the regulation have not been received. Comments regarding the program portion of the regulation were received on June 4, 1987 from the Department of Justice (DOJ). Reconciling of comments with Public Building Services and DOJ is presently occurring.

Agency Contact: Thomas E. Henderson, Equal Employment Specialist (CTC), General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC48

3307. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND WHERE APPLICABLE, SEX

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-8.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, EEO Specialist, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC49

PUBLIC BUILDINGS SERVICE

3308. FEDERAL PROPERTY MANAGEMENT REGULATIONS; ANNUAL REAL PROPERTY INVENTORIES

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This regulation will be reviewed and updated in light of the governmentwide space reduction and utilization improvement initiatives mandated in Executive Order 12411--Government Work Space Management Reform--and FPMR Temporary Regulation D-73-- Quality Workplace Environment.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: James M. Cayce, Director, Governmentwide Policy Div., General Services Administration, Office of Governmentwide Real Property, Policy and Oversight (PG), Washington, DC 20405, 202 566-0507

RIN: 3090-AC74

3309. ◆ GOVERNMENT WIDE REAL PROPERTY ASSET MANAGEMENT

Legal Authority: 40 USC 486(c)

GSA

Prerule Stage

CFR Citation: 41 CFR 16; 41 CFR 17; 41 CFR 47

Legal Deadline: None

Abstract: This regulation is being issued for the purpose of requiring Executive agencies to institute policies and procedures to preserve and protect Federal real property assets. This regulation will not produce a major impact on the economy, and its potential benefits out weigh potential costs. The regulation now primarily affects those Federal agencies for whom GSA provides office space and related facilities. As the regulation is developed, it will affect agency controlled and GSA controlled real property.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: James M. Cayce, Director, Governmentwide Policy Division, General Services Administration, Relations - PG, Washington, DC 20405, 202 566-0507

RIN: 3090-AD43

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

ACQUISITION POLICY

3310. MULTIPLE AWARD SCHEDULE PROGRAM (GSAR 5-38A)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation will be amended to revise Section 515.804-3 to add instructions on claiming and granting exemptions to the requirement for submission on cost or pricing data in the multiple award schedule (MAS) contracting process; to add Section 515.804-70 to provide the format of the discount schedule and marketing data sheets to be used in MAS solicitations; to add Part 538 to provide procedures on the GSA schedule contracting process; and to add Section 552.238-70 to provide text of the price reductions clause to be used in certain MAS solicitations and contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 31344
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC61

OFFICE OF THE COMPTROLLER

3311. FEDERAL PROPERTY MANAGEMENT REGULATIONS; REVISES THE REPORTING REQUIREMENTS FOR REAL PROPERTY

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This regulation revises FPMR 101-3 with changes and additions to the data elements currently collected as part of the World-Wide Real Property Inventory System. It also displays the revised forms to be used when supplying this information. These changes are necessary to monitor governmentwide space reduction initiatives mandated by Executive Order 12411 - Government Work Space Management Reforms and Temporary Regulation D-70-Work Space Management Plans.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Bobby Daniel, Accounting Specialists, General Services Administration, Office of Governmentwide Real Property, Policy and Oversight(PG), Washington, DC 20405, 202 566-1426

RIN: 3090-AB31

FEDERAL PROPERTY RESOURCES SERVICE

3312. ◆ NONFEDERAL INTERIM USE OF REAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.312

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations concerning nonFederal interim use of surplus Federal real property to implement the provisions of section 4 of Public Law 100-612. Section 4 amends section 203(e)(6) of the Federal Property and Administrative Service Act of 1949, as amended, regarding Congressional review of certain negotiated lease disposals.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Marjorie L. Lomax, Director, Policy & Planning Division (DRP), General Services Administration, 18th & F Streets, N.W., Washington, Dc 20405, 202 535-7052

RIN: 3090-AD58

GSA

Proposed Rule Stage

GSA

Final Rule Stage

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GSA — Proposed Rule Stage

FEDERAL SUPPLY AND SERVICES

3313. ● FEDERAL TRAVEL REGULATION (FTR), AMENDMENT MILEAGE ALLOWANCE

Legal Authority: 5 USC 5701 to 5709; EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-4

Legal Deadline: None

Abstract: This amendment increases the mileage reimbursement rate from 22.5 cents to 24 cents for advantageous use of a privately owned automobile on official business. The estimated economic impact for all Executive agencies is $38.4 million annually.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD48

3314. ● FEDERAL TRAVEL REGULATION (FTR), AMENDMENT WORLDWIDE PER DIEM ALLOWANCES

Legal Authority: 5 USC 5701 to 5709; EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-7

Legal Deadline: None

Abstract: This amendment establishes a worldwide lodging-plus computation method based on the actual cost of lodging not to exceed a maximum daily amount plus a fixed allowance for meals and incidental expenses. The economic impact of this regulation to the Government has not been calculated to date.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD52

PUBLIC BUILDINGS SERVICE

3315. FEDERAL PROPERTY MANAGEMENT REGULATION PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Significance: Agency Priority

Legal Authority: 40 USC 481; 40 USC 601; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: A new and comprehensive permanent FPMR 101-17, Assignment and Utilization of Space, will improve the space delivery process for federal agencies by making it more efficient, more timely, and better able to deliver quality space that supports agency mission needs. The new FPMR will implement a new space assignment process that emphasizes client service; issue a new comprehensive move policy that clarifies roles and responsibilities; revise the GSA location policy to be more responsive to agency mission needs; revise the standard alterations, which agencies receive upon an initial move, to recognize modern office needs; and revise the space classification definitions to eliminate ambiguity. These changes will result in a more efficient space delivery process that will improve the overall efficiency of government operations. The assignment and utilization of federal space has been governed by a series of four temporary regulations since 1963. The current FPMR Temporary Regulation D-73 is outdated and is not comprehensive in its coverage of the process for acquisition and assignment of federal space. The new permanent FPRM will correct these problems.

Timetable:

Action	Date	FR Cite
Final Action	02/02/89	
NPRM	10/15/89	
NPRM Comment Period End	12/15/89	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 653 Real Estate Operators (except Developers) and Lessors; 871 Engineering, Architectural, and Surveying Services

Agency Contact: Phil Kogan, Chief, Assignment and Utilization Policy Branch, General Services Administration, GSA (PQRP), Washington, DC 20405, 202 566-0603

RIN: 3090-AD42

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

ACQUISITION POLICY

3316. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); AUTHORIZING PAYMENT BY CREDIT CARD UNDER GSA SCHEDULE CONTRACTS, GSAR NOTICE NO. 5-272

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 532; 48 CFR 552

Legal Deadline: None

Abstract: This notice invites comments on a proposed change to the GSAR that would add subpart 532.70 to establish criteria for including a contract clause that would authorize GSA schedule contractors to accept the Government commercial credit card as an alternative method of payment for orders of $25,000 or less; revise section 552.210-79, Packing List, to add supplemental information which must be included on the packing list or other shipping document when payment will be made by Government commercial credit card, and add section 552.232-80 to provide the text of clause authorizing GSA schedule contractors to be paid for oral or Written orders of $25,000 or less by using the Government commercial credit card.

GSA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/29/89	54 FR 27396
NPRM Comment Period End	07/31/89	54 FR 27396
Final Action	10/15/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AD61

3317. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR) BONDS, PROPOSED RULE, GSAR NOTICE NO. 5-244

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 528; 48 CFR 552; 48 CFR 553

Legal Deadline: None

Abstract: This notice invites comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) that would revise section 528.101-4 to clarify the procedure for dealing with noncompliance with bid guarantee requirements in negotiated acquisitions; revise section 528.103-2 to delete percentage parameters for establishing the penal amount of performance bond from paragraph (c) and thereby permit the contracting officer to establish the penal amount on a case-by-case basis and to amend paragraph (d) to modify the prescriptive language for use of the clause at 552.228-72, Performance Bond, to reflect the need to modify the clause when it is used in solicitations that do not contain options to extend the period of performance; to modify clause 552.228-73 and add section 528.106-1 to provide for use of the GSA Form 3604, Performance Bond for Other Than Construction Contracts, instead of the Standard Form 25.

Timetable:

Action	Date	FR Cite
NPRM	06/26/89	54 FR 26807
NPRM Comment Period End	07/26/89	54 FR 26807
Final Action	10/15/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AD67

3318. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); PROCUREMENT INTEGRITY, AC-89-2 (5-276)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 505; 48 CFR 552

Legal Deadline: None

Abstract: The GSAR is temporarily amended to add sections 503.104, 503.104-4, 503.104-5, 503.104-9, 503.104-10, 503.104-11, and 503.104-12 to subpart 503.1 in order to implement and supplement the FAR requirements on procurement integrity; to revise section 505.303-70 and 505.403 to provide for use of a caution notice on any proprietary or source selection information provided to Member of Congress; and to add section 552.203-8, 552-203-10 and 552.203-71 to provide the text of provisions and clauses related to procurement integrity to be included in solicitations and contracts for the acquisition of leasehold interests in real property.

Timetable:

Action	Date	FR Cite
Temporary Regulation	07/14/89	54 FR 29720
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AD69

3319. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); CONGRESSIONAL NOTIFICATION OF CONTRACT AWARDS, CHGE 63, (5-184)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 505; 48 CFR 553

Legal Deadline: None

Abstract: Revised the GSAR by deleting section 505.301 and 505.302 that unnecessarily repeat the FAR; revised sections 505.303 and 505.304 to update office titles and symbols; revised 505.303-70 to modify the reporting requirements and procedures for notifying Congress of proposed substantial awards; and deleted section 553.370-2932 that illustrated the GSA Form 2932.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Street, NW., Washington, DC 20405, 202 523-3822

RIN: 3090-AD70

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GSA — Final Rule Stage

3320. ● SPECIFICATIONS, STANDARDS, PURCHASE DESCRIPTIONS AND ACQUISITION OF COMMERCIAL PRODUCTS, GSAR REISSUANCE AND REVISION (5-230)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 510; 48 CFR 511; 48 CFR 552

Legal Deadline: None

Abstract: This change to the General Services Administration Acquisition Regulation revised section 510.011 to prescribe an alternate to the Acceptable Age of Supplies clause; retitled section 511.070 and added the prescription for use of the Commercial Item Certification provision; deleted section 511.070-1, and amended section 522.210-72 to provide the text for the alternate to the Acceptable Age of Supplies clause.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1739
NPRM Comment Period End	02/17/89	54 FR 1739

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AD74

OFFICE OF THE COMPTROLLER

3321. REVISION OF PUBLIC VOUCHER FOR TRANSPORTATION CHARGES, STANDARD FORM 1113

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This rule revises Public Voucher for Transportation Charges, Standard Form 1113, to eliminate various information blocks because certain agency fiscal control numbers are no longer required. This change will reduce the amount of time agencies spend in processing these documents.

Timetable:

Action	Date	FR Cite
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gracie Jones, Transportation Specialist, General Services Administration, Regulations and Procedures Section (FWCP/R), Washington, DC 20405, 202 786-3007

RIN: 3090-AB69

FEDERAL PROPERTY RESOURCES SERVICE

3322. OUTLINE FOR EXPLANATORY STATEMENTS FOR NEGOTIATED SALES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.4911

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations concerning the disposal of Federal surplus real property to implement the provisions of Public Law 100-77, as amended by Public Law 100-628. Public Law 100-77 amended the Federal Property and Administrative Services Act of 1959, as amended, and contains provisions which affect congressional oversight of negotiated sales.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie L. Lomax, Director, Policy and Planning Division (DRP), Federal Property Resources Service, General Services Administration, 18th and F Street, NW., Washington, DC 20405, 202 535-7052

RIN: 3090-AD32

3323. ● TEMPORARY MODIFICATION OF PROCEDURES FOR MAKING FEDERAL REAL PROPERTY AVAILABLE TO THE HOMELESS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: The General Services Administration is temporarily modifying its policies and procedures for making suitable Federally owned real properties available for homeless use pursuant to the Stewart B. McKinney Homeless Assistance Act.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marjorie L. Lomax, Director, Policy and Planning Division (DRP), General Services Administration, 18th & F Streets, N.W., Washington, DC 20405, 202 535-7052

RIN: 3090-AD55

FEDERAL SUPPLY AND SERVICES

3324. DONATION OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Legal Authority: 28 USC 5688(a)

CFR Citation: 41 CFR 101-48.2

Legal Deadline: None

Abstract: This rule would emphasize that all forfeited distilled spirits, wine, or malt beverages donated to eleemosynary institutions are to be used only by their inpatients for medicinal purposes. Allegations of misuse of these donated spirits have created a need for this regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

GSA — Final Rule Stage

Agency Contact: Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA24

3325. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48; 41 CFR 101-49

Legal Deadline: None

Abstract: Revisions and additions to existing rules are proposed to establish a separate regulatory section concerning the utilization, donation, sale, abandonment or destruction of hazardous materials.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Proposals are to be circulated among Federal agencies on an information basis before rulemaking consideration.

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA42

3326. ● SUBMISSION OF PAID FREIGHT BILLS/INVOICES, CBL'S, GTR'S PASSENGER COUPONS, AND SUPPORTING DOCUMENTATION COVERING TRANSPORTATION SERVICES UNDER COST-REIMB' 'RSEMENT CONTRACTS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: The provisions of this temporary regulation will be published as a final rule prior to the expiration date.

Timetable:

Action	Date	FR CRe
Final Action	10/21/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort, Chief, Regulations, Procedures, & Review Branch, General Services Administration, 16th & F Streets, NW, Washington, DC 20405, 202 786-3814

RIN: 3090-AD35

3327. ● FEDERAL TRAVEL REGULATION (FTR), AMENDMENT CONUS PER DIEM ALLOWANCES

Legal Authority: 5 USC 5702; 5 USC 5707; EO 11609, July 22, 1971

CFR Citation: 41 CFR 301-7

Legal Deadline: None

Abstract: Pursuant to the 1989 meal and lodging costs survey, Appendix A at the end of 41 CFR Chapter 301 is revised to reflect changes in the listing formerly published in 54 FR 20299, et seq. May 10, 1989. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulation Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD44

3328. ● FPMR TEMP. REG. A-33, SUPP.1 FEDERAL AND STATE TAX TABLES FOR CALCULATING 1989 RELOCATION INCOME TAX ALLOWANCE PAYMENTS

Legal Authority: 5 USC 5724b; EO 11609, July 22, 1971; EO 12466, February 27, 1984

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FPMR Temporary Regulation A-33 implemented the Federal and State tax tables for calculating 1989 relocation income tax (RIT) allowance payments. Because these tax tables were incorporated in appendixes A, B, and C to 41 CFR Part 302-11, this regulation is removed from the appendix at the end of Subchapter A to title 41 of the Code of Federal Regulations. No economic impact on the Government will result from this action.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regualtions Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD45

3329. ● FEDERAL TRAVEL REGULATION (FTR), AMEND PREMIUM CLASS AIR ACCOMMODATIONS

Legal Authority: 5 USC 5701 to 5709; EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-1; 41 CFR 301-3; 41 CFR 301-4; 41 CFR 301-7

Legal Deadline: None

Abstract: This amendment adds new provision concerning the redemption of frequent traveler benefits for upgrades to premium-class air accommodations and to clarify the intent of the Government's policy concerning the use of premium-class air accommodations, such as business class. No economic impact on the Federal government is anticipated.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD46

GSA — Final Rule Stage

3330. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT; PERMANENT CODIFICATION OF TEMPORARY REGULATIONS AND AN INTERIM RULE

Legal Authority: 40 USC 486(c); 5 USC 5701 to 5709; EO 11609, July 22, 1971; 5 USC 5721 to 5734; 20 USC 905(a)

CFR Citation: 41 CFR Chapter 301; 41 CFR Chapter 302

Legal Deadline: None

Abstract: This amendment incorporates in the Federal Travel Regulation (FTR) those provisions formerly contained in FTR Temporary Regulations 1, 2, and 3 (54 FR 20355 Through 20363, May 10, 1989); FPMR Temporary Regulation A-32 (54 FR 10543, March 14, 1989); FPMR Temporary Regulation A-34 (54 FR 14652, April 12, 1989); and the Interim Rule published in 54 FR 29716, July 14, 1989. No economic impact will result from this action.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD47

3331. ● FPMR TEMP. REG. A-34, SUPP. 1 LIMITING TRAVEL ADVANCES

Legal Authority: 5 USC 5707; EO 11609, July 22, 1971

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: This supplement removes FPMR Temporary Regulation A-34 from the appendix at the end of Subchapter A to title 41 of the Code of Federal Regulations. The provisions of this regulation are made permanent and are incorporated in 41 CFR Part 301-10. No economic impact on the Government will result from this action.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD48

3332. ● FPMR TEMP. REG. A-32, SUPPLEMENT 1 ALLOWANCES FOR PRESIDENTIAL TRANSITION TEAM PERSONNEL APPOINTED TO GOVERNMENT SERVICE

Legal Authority: 5 USC 5707; EO 11609, July 22, 1971

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: This supplement removes FPMR Temporary Regulation A-32 from the appendix at the end of Subchapter A to title 41 of the Code of Federal Regulations. The provisions of this regulation are made impact on the Government will result from this action.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD50

3333. ● FPMR AMENDMENT G CHANGE TO SUBCHAPTER G – TRANSPORTATION AND MOTOR VEHICLES ●

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-40

Legal Deadline: None

Abstract: This amendment updates certain references which have become outdated due to an organizational change, an office relocation, a reissued temporary regulation by the GSA Office of Real Property Development (Real Estate Division), the codification of the Federal Travel Regulation under 41 CFR Chapter 301 through 304, and the enactment of Pub. L. 100-565 which amended 31 U.S.C. 3721.

Economic impact (Pub.L.100-565): Unavailable.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD51

3334. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT; CONGRESSIONAL REPORTING REQUIREMENT

Legal Authority: 5 USC 5701 to 5709; EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-15

Legal Deadline: None

Abstract: This rule prescribes requirements and procedures for the reporting of travel and relocation cost data by selected Federal agencies for the fiscal year 1988, 1989, and 1991. The Federal Civilian Employee and Contractor Travel Expenses Act of 1985, January 2, 1986, requires the Administrator of General Services to submit periodic analyses of agency payments for employee travel and relocation to the Director of the Office of Management and Budget (OMB). The analyses are to be based on a sampling survey of agencies each of which spent more than $5 million on employee travel and relocation during the previous fiscal year. The law further requires the selected agencies to provide the information necessary for preparing the analyses in a format prescribed by the Administrator and approval by the Director of OMB. This rule establishes a travel survey questionnaire as the format for reporting the required travel and relocation cost data. The economic impact of this rule has not been estimated to date.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

GSA — Final Rule Stage

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD53

3335. ● SUBMISSION OF TRANSPORTATION VOUCHERS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This regulation is being amended to eliminate agency submissions of travel vouchers containing reimbursable transportation charges purchased with contractor-issued charge cards.

Timetable:

Action	Date	FR Cite
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort, Chief, Regulations, Procedures, & Review Branch, General Services Administration, 18th & F Streets NW, Washington, DC 20405, 202 786-3014

RIN: 3090-AD54

3336. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT; RESIDENCE TRANSACTIONS

Significance: Agency Priority.

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, July 22, 1971(36 FR 13747)

CFR Citation: 41 CFR 302-6; 41 CFR 302-12

Legal Deadline: None

Abstract: This document amends the Federal Regulation (FTR) to authorize, under certain conditions, reimbursement of allowable residence transaction expenses for employees transferred from an official station in a foreign area to a different nonforeign area official station than the one from which the employer was transferred when assigned to the foreign post of duty. The estimated economic impact of the relocation legislation is approximately $24 million, assuming that 75 percent of employees selling a residence will opt for relocation services and that the average price of a residence transaction is $100,000. This regulation implements the provisions of Section 628 of Pub. L. 100-202 (101 Stat. 1329-430, 431), Dec. 22, 1987.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Acting Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AD57

OFFICE OF INFORMATION RESOURCES MANAGEMENT

3337. UPDATE OF GOVERNMENTWIDE TELECOMMUNICATIONS POLICIES AND REGULATIONS

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-21; 41 CFR 201-23; 41 CFR 201-38; 41 CFR 201-39; 41 CFR 201-41

Legal Deadline: None

Abstract: This project revises FIRMR Provisions relating to Federal Telecommunications acquisition and management. It will include changes brought about by the Federal Communications Commission Computer II inquiry and the divestiture of AT&T. This regulation will update GSA policies and provisions impacting Governmentwide telecommunication management and will specifically address the need for requirements definition and analysis for local and intercity service. It will revise "major change" requirements and state what GSA needs from agencies if GSA is expected to provide services or if GSA is reviewing service for individual agency acquisitions. All obsolete provisions will be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	09/23/87	52 FR 35736
NPRM Comment Period End	11/23/87	52 FR 35736
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret Truntich, Chief Regulations Branch, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AB06

3338. ESTABLISHMENT OF POLICIES AND PROCEDURES FOR FEDERAL AGENCIES' MANAGEMENT OF ELECTRONIC RECORDKEEPING, PROJECT 86.03A

Legal Authority: 40 USC 486(f); 40 USC 751(f)

CFR Citation: 41 CFR 201-22; 41 CFR 201-45

Legal Deadline: None

Abstract: This project establishes a new Subpart 201-45.2 in the FIRMR to establish governmentwide policies and procedures for the management of electronic recordkeeping. Specifically responsibilities for the creation, maintenance, use, and disposition of electronic records will be prescribed.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48947
NPRM Comment Period End	02/13/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. Stewart Randall, Management Analyst, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AC54

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3339. IMPLEMENTATION OF TITLE VIII, PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986, P.L. 99-500 REGARDING AUTOMATIC DATA PROCESSING EQUIPMENT

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-2; 41 CFR 201-23; 41 CFR 201-24

Legal Deadline: None

Abstract: This regulation implements certain selected portions of the Paperwork Reduction Reauthorization Act of 1986. Among the other changes, it clarifies the applicability of the FIRMR to the management acquisition, and use of various information resources by Federal agencies. The amendment prescribes FIRMR policies and procedures for use in determining whether any particular procurement must be conducted under GSA's exclusive procurement authority. It also streamlines the Delegations Program by establishing uniform procedures, uniform blanket delegations of procurement authority, Agency Procurement Requests for all ADP and telecommunications resources.

Timetable:

Action	Date	FR Cite
NPRM	06/15/88	53 FR 30706
NPRM Comment Period End	09/23/88	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William Loy/Margaret Truntich, Procurement Analyst/Chief, Regulation Branch, General Services Administration, IRMS/KMPR, Washington, D.C. 20405, 202 566-0194

RIN: 3090-AD03

3340. FIRMR IMPROVEMENT PROJECT

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: In response to recommendations by users of the FIRMR to revise the regulation to make it more readable and useful, GSA plans to restructure the FIRMR during the next few years. This restructuring will include: the separation of policies and procedures, the separation of contracting from management and use provisions, the reorganization of FIRMR contracting provisions for consistency with the Federal Acquisition Regulations, and the reorganization of the FIRMR's management and use provisions into a life cycle format. As the final draft of each subchapter is completed, GSA will seek public comment on the subchapter through a notice of proposed rulemaking. Subchapter E, which deals with acquisition, will be completed first and, if possible, issued as a final rule before publication of the entire FIRMR. An advanced notice of proposed rulemaking describing the project was published in the Federal Register in January 1988. The next planned action is a notice of proposed rulemaking for planned action is a notice of proposed rulemaking for Sub Chapter C.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/88	53 FR 620
ANPRM Comment Period End	03/11/88	53 FR 620
NPRM	02/06/89	
NPRM Comment Period End	04/06/89	
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Mullins, Chief, Policy Branch, General Services Administration, IRMS/KMPR, Washington, D.C. 20405, 202 535-7462

RIN: 3090-AD04

3341. UPDATE REGULATIONS REGARDING FTS 2000 USAGE (FIRMR INTERIM RULE 1)

Significance: Agency Priority

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-41

Legal Deadline: None

Abstract: FIRMR Interim Rule 1, regarding the mandatory use of the FTS 2000 network, was published on July 29, 1988, to meet the requirements of the Conference Report for PL 100-202. PL 100-440 was subsequently enacted on September 22, 1988, to include more specific provisions regarding use of FTS 2000. This proposed interim rule will update Interim Rule 1 to incorporate the provisions of PL 100-440 or any succeeding legislation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/88	53 FR 28638
Interim Final Rule Effective Date	11/00/89	
Interim Final Rule Public Comment Period End	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William B. Loy, Procurement Analyst, General Services Administration, Regulations Branch (KMPR), 18th & F Sts., Washington, DC 20405, 202 566-0194

RIN: 3090-AD20

3342. RESTRUCTURING AND SIMPLIFICATION OF FEDERAL INFORMATION RESOURCES MANAGEMENT STANDARDS

Legal Authority: 40 USC 488(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-8; 41 CFR 201-13; 41 CFR 201-39

Legal Deadline: None

Abstract: This project revises the FIRMR to simplify provisions on the use and implementation of Federal automatic data processing and telecommunications standards. It results in major changes in the regulatory coverage and presentation of FIRMR provisions on standards. The intent is to remove redundant and nonregulatory provisions from the FIRMR that may be found in other agency issuances and to reorganize provisions, consistent with the FAR so that users may more readily locate standards provisions relevant to their particular need.

Timetable:

Action	Date	FR Cite
NPRM	01/03/89	
NPRM Comment Period End	03/13/89	
Final Action	10/00/89	

Small Entities Affected: None

GSA — Final Rule Stage

Government Levels Affected: Federal

Agency Contact: Margaret Truntich, Chief, Reg. Branch, General Services Administration, Regulations Branch (KMPR), 18th and F St., Washington, DC 20405, 202 566-0194

RIN: 3090-AD21

3343. INFORMATION RESOURCES MANAGEMENT REVIEWS CODIFICATION AMENDMENT FOR FIRMR TEMPORARY REGULATION 10

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-19

Legal Deadline: None

Abstract: This project revises the FIRMR by codifying certain provisions contained in FIRMR Temporary Regulation 10 regarding the Federal Information Resources Management Reviews Program (triennial reviews). Temporary Regulation 10 describes the policies and procedures for GSA - Federal agencies to follow in carrying out their information resources management review responsibilities under the Paperwork Reduction Act. It also established GSA as the primary agency for collecting, assessing, and reporting on information resources management review results to OMB. This Final Rule will be issued incorporation comments received on temporary regulation 10. This rule will codify in the FIRMR Governmentwide for policies for triennial reviews. A bulletin will also be issued providing detailed information regarding review procedures.

Timetable:

Action	Date	FR Cite
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Management Analyst, General Services Administration, Regulations Branch (KMPR), 18th & F Streets, Washington, DC 20405, 202 566-0194

RIN: 3090-AD22

3344. ● IMPLEMENT LEGISLATION TO ACCOMMODATE THE HEARING IMPAIRED

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-1; 41 CFR 201-6; 41 CFR 201-38

Legal Deadline: NPRM, Statutory. Final, Statutory, October 24, 1989.

Abstract: The Telecommunications Accessibility Enhancement Act of 1988 (PUB.L.100-542) directed GSA to prescribe regulations that make the Federal Telecommunications system fully accessible to hearing and speech impaired individuals. In condition with other agencies and organizations, GSA is developing an interim rule that will specify requirements for Federal agencies in providing telecommunications access to hearing and speech impaired individuals who are either employees or client of the agencies. A FIRMR Bulletin will also be issued to describe the types of telecommunication devices for the deaf (TDD's) and related services currently available.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret Truntich, Chief, Regulation Branch, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AD36

3345. REVISIONS OF FIRMR POLICIES TO SIMPLIFY THE PROCUREMENT PROCESS

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This regulation revises a number of FIRMR management and acquisition policies, primarily to remove unnecessary detail and redundancy, provide consistency with the Federal Acquisition Regulations and clarify confusing provisions in the FIRMR.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	
NPRM Comment Period End	03/24/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William Loy/Margaret Truntich, Procurement Analyst/Chief, Regulations Branch, General Services Administration, Regulations Branch (KMPR), 18th & F Streets, NW., Washington, DC 20405, 202 566-0194

RIN: 3090-AD38

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3346. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE SUBPART 46.7 (GSAR 5-91)

CFR Citation: 48 CFR 546

Completed:

Reason	Date	FR Cite
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AB82

3347. MISCELLANEOUS CHANGES ON THE ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY (GSAR 5-155)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 570

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to codify in the regulation the revised contract clauses approved for use in lease contracts.

Timetable:

Action	Date	FR Cite
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This rule was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC59

3348. MULTIYEAR CONTRACTS AND CONTRACTS WITH OPTIONS (GSAR 5-106)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 517

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to incorporate the deviation from FAR 52.217-1, Limitations of Price and Contractor Qualifications and FAR 52.217-2, Cancellation of Items; and to consider the applicability of FAR Part 17 to Federal Supply Service multiyear contracts and contracts with options.

Timetable:

Action	Date	FR Cite
NPRM	01/18/89	54 FR 4319
NPRM Comment Period End	03/01/89	54 FR 4319
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This rule was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Aquisition Policy, 18th & F Streets, NW 20405, Washington, D.C., 202 523-3822

RIN: 3090-AD10

3349. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR) PROPOSED RULE, UTILITY CONTRACTS, GSAR CASE 5-65

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 553

Legal Deadline: None

Abstract: This proposed General Services Administration Acquisition Regulation will revise Part 508 to clarify the Federal Acquisition Regulation definition of utility services, to prescribe policies governing the acquisition of utility services, to prescribe procedures for precontract review for utility contracts, to provide for annual rate reviews, to provide for use of GSA forms for acquiring utility services; and to revise Part 553 to illustrate GSA Forms 1533, Utilities Contract; 1683, Negotiated Electric Utility Contract, and 1684, Technical Provisions (Electric Utility Contract).

Timetable:

Action	Date	FR Cite
NPRM	12/24/87	52 FR 48729
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This rule was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Street, NW., Washington, DC 20405, 202 523-3822

RIN: 3090-AD40

3350. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; ECONOMIC PRICE ADJUSTMENT CLAUSE FOR MULTIPLE AWARD SCHEDULE CONTRACTS, CHGE 61, 5-268

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise Alternate I of the clause entitled "Economic Price Adjustment-FSS Multiple Award Schedule Contracts" at GSAR 552.216-71 to provide for price adjustments in multi-year contracts that are for periods of more than 3 years.

Timetable:

Action	Date	FR Cite
NPRM	11/09/88	53 FR 45293
NPRM Comment Period End	12/09/88	
Final Action	02/02/89	54 FR 6931
Final Action Effective	03/23/89	54 FR 6931

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Street, NW., Washington, DC 20405, 202 523-3822

RIN: 3090-AD41

3351. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; INSPECTION OF SUPPLIES, CHGE 64, 5-173

Legal Authority: 8 USC 486(c)

CFR Citation: 48 CFR 512; 48 CFR 546; 48 CFR 552; 48 CFR 542

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise section 512.104 to amend the prescription for use of the Availability for Inspection, Testing and Shipment/Delivery clause; delete section 546.301; amend section 546.302, 546.302-70 and 546.302-71 to revise the sections to prescribe the new Source Inspection by Quality Approved Manufacturer and the Source Inspection clause; delete sections 546.302-72, 546.316 and 546.316-70; amend section 552.216-72 to combine the two availability for Inspection, Testing and Shipment/Delivery clauses currently used into a single clause with an alternate; amend section 552.242-70 to revise the Status Report of Order and Shipments clause to change the reporting frequency from twice a month to once a month, retitle section 552.246-70 and revise the section to provide the text of the new Source Inspection by Quality Approved Manufacturer clause; delete section 552.246-72 and make other miscellaneous changes for clarity.

Timetable:

Action	Date	FR Cite
NPRM	11/23/88	53 FR 47551
NPRM Comment Period End	12/23/88	
Final Action	03/14/89	53 FR 11954
Final Action Effective	04/03/89	53 FR 11954

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy and Regulations, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090-AD41

3352. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST, GSAR REISSUANCE AND REVISION (5-221)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 552

Legal Deadline: None

Abstract: This change to the General Services Administration Acquisition Regulation revised Subpart 503.2 which deals with contractor gratuities to Government employees to provide agency procedures for dealing with violation of the Gratuities clause; added section 503.404 to prescribe a solicitation provision and contract clause on contingent fees for use in acquisitions of leasehold interests in real property; revised section 503.570 which deals with contractors referring to contracts awarded by GSA in commercial advertising in a manner which indicates the product or service is endorsed by Government; revised Subpart 503.7 which deals with voiding and rescinding contracts to revise agency procedures; added sections 552.203-4 and 552.203-5 to provide the text of the Contingent Fees provision and clause for use in acquisitions of leasehold interests in real property and revised section 552.203-70 to amend the Restriction on Advertising clause.

Timetable:

Action	Date	FR Cite
NPRM	01/25/89	54 FR 3627
NPRM Comment Period End	02/24/89	54 FR 3627
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090-AD58

3353. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; CONTRACTOR'S REPORT OF ORDERS RECEIVED CLAUSE FOR GSA SCHEDULE CONTRACTS, GSAR REISSUANCE AND REVISION (5-115)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 538; 48 CFR 539; 48 CFR 552

Legal Deadline: None

Abstract: This change to the General Services Administration Acquisition Regulation retitled Part 538 and amended the part to add Section 538.00 and Subpart 538.2; added Part 539; and amended Subpart 552.2 to add Section 552.238-72 to provide the text of the new Contractor's Report of Orders Received clause with two alternates.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1740
NPRM Comment Period End	02/16/89	54 FR 1740
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: Organizations

Government Levels Affected: None

Sectors Affected: All

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets,

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NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD59

3354. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; CONTRACTOR QUALIFICATIONS; SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES, GSAR REISSUANCE AND REVISION (5-227)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 502; 48 CFR 552

Legal Deadline: None

Abstract: This revision to the GSAR added Subpart 509.3 to provide coverage on first article testing, and add section 552.209.74, and 552.209-76 to provide the text of the clauses prescribed in Subpart 509.3.

Timetable:

Action	Date	FR Cite
NPRM	02/09/89	54 FR 6308
NPRM Comment Period End	03/13/89	54 FR 6308
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD60

3355. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; (CHG 60) AVAILABILITY OF GSA FORM 3501 CONCERNING SOLICITATION PROVISIONS AND APPENDIX A CONCERNING CONTRACTING OFFICE ASSIGNMENT CODES

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 553

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation was amended to revise section 553.370-3501 to illustrate the August 1988 edition of the GSA Form 3501, Solicitation Provisions (Sealed Bid) and to revise Appendix A to reflect current Contracting Office Assignment Codes.

Timetable:

Action	Date	FR Cite
Final Action	01/13/89	54 FR 3604
Final Action Effective	02/03/89	54 FR 3604

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD62

3356. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); DEBARMENT, SUSPENSION, AND INELIGIBILITY, GSAR REISSUE AND REVISION (APD 2800.12A)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 509

Legal Deadline: None

Abstract: This change to the GSAR revised Subpart 509.4 by eliminating provisions that unnecessarily duplicate or repeat material contained in FAR Subpart 9.4. Section 509.401 was revised to apply the procedures outlined in Subpart 509.4 to debarment and suspension proceeding arising under General Services Administration Property Management Regulation (GSPMR) 105-68 (nonprocurement debarment and suspension). Revised section 509.405 by requiring contracting officers to review both sections of the Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs, eliminating the requirement that termination of current contracts with debarred or suspended contractors be approved at a level above the contracting officer, and requiring contracting officers to consider the availability of remedies under FAR Subpart 3.2 (gratuities clause) and Subpart 3.7 (voiding and rescinding). This rule also clarified the role of the agency factfinding official in proceedings conducted pursuant to FAR 9.406-3(d)(2) (ii) and FAR 9.407-3(d)(2)(i).

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 12462
NPRM Comment Period End	04/26/89	54 FR 12462
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090–AD63

3357. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); FOREIGN ACQUISITION, GSAR REISSUANCE AND REVISION (ADP 2800.12A) (5-242)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 525; 48 CFR 552

Legal Deadline: None

Abstract: This revision to the GSAR amended sections 525.105, 525.105-70 and 525.105-71 to simplify regulatory coverage and prescribe and amended Buy American Act--Hand or Measuring Tools or Stainless Steel Flatware provision and a Notice of Procurement Restriction--Hand or Measuring tools or Stainless Flatware clauses; added section 525.302 to provide applicable when contracting under the Balance of

Payments Program; retitled and revised section 525.407 to simplify regulatory coverage and prescribe the renumbered Eligible Products from Nondesignated Countries--Waiver clause; revised sections 552.225-70 and 552.225-71 to include stainless steel flatware in the provision and clause; deleted sections 552.225-72 and 552.225-73; renumbered and revised section 552.225-74 to clarify regulatory coverage.

Timetable:

Action	Date	FR Cite
NPRM	03/03/89	54 FR 9067
NPRM Comment Period End	04/02/89	54 FR 9067
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streetam Nw., Washington, DC 20405, 202 523-3822

RIN: 3090–AD64

3358. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); PROMPT PAYMENT ACT, CHGE 62 (5-206)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 514; 48 CFR 532; 48 CFR 552

Legal Deadline: None

Abstract: This change to the GSAR added section 501.602.3 to implement and supplement the FAR requirements on the ratification of unauthorized commitments; deleted section 501.675, 501.675-1, 501.675-2 and 501.675-3; revised section 514-201-2 to refer to the Prompt Payment clause instead of the Payment Due Date Clause; revised part 532 to delete Payment Due Date, Interest on Overdue Payments and Method of Payment clauses; added material to supplement the Federal Acquisition Regulation by establishing parameters for modifying constructive acceptance periods in the FAR Prompt Payment clause; revised part 552 to delete the existing Payment Due Date clause and provide a new Payments by Electronic Funds Transfer clause for use when payments may be made by GSA and other agencies. Acquisition Circular AC-88-1 regarding Prompt Payment and Ratification of Unauthorized Commitments was canceled.

Timetable:

Action	Date	FR Cite
Final Action	02/14/89	54 FR 9049
Final Action Effective	03/14/89	54 FR 9049

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD65

3359. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; PUBLICIZING AND RESPONSE TIMES, GSAR REISSUE AND REVISION (5-223)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 505

Legal Deadline: None

Abstract: This revision to the General Services Administration Acquisition Regulation revised section 505.203 to establish the same minimum requirement for publicizing in local newspapers acquisitions of leasehold interests in real property as is currently provided for acquisitions of real property appraisal services and to establish for leasehold interests in real property a minimum response time of 20 calendar days between issuance of the solicitation and receipt of initial offers. The Administrator of General Services made to determination under section 18(c)(3) of the Office of Federal Procurement Policy Act that publicizing acquisitions of leasehold interests in real property and real property appraisal services in local newspapers is more appropriate than synopsizing in the Commerce Business Daily. The requirement to publicize applies to blocks of space of 10,000 square feet or more. [GSAR 505.101]

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5516
NPRM Comment Period End	03/06/89	54 FR 5516
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

The revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090–AD66

3360. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); BID SAMPLES, GSAR REISSUANCE AND REVISION (APD 2800.12A) (5-233 AND 5-234)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 514; 48 CFR 515; 48 CFR 552

Legal Deadline: None

Abstract: This revision to the GSAR revised section 514.202-4 to simplify regulatory coverage by deleting material unnecessarily duplicative of the Federal Acquisition Regulation and material non-regulatory in nature; added subpart 515.70 to provide policies and procedures regarding the use of bid samples in negotiated acquisitions; and amended section 552.214.76 to delete unnecessary material in the introductory paragraph and provided

the text of a revised Bid Sample Requirements clauses.

Timetable:

Action	Date	FR Cite
NPRM	02/28/89	54 FR 8362
NPRM Comment Period End	03/30/89	54 FR 8362
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This revision was incorporated in the reissue of the regulation, which became effective July 1, 1989.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquistion Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD68

3361. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); CONSTRUCTION CONTRACT MODIFICATIONS, PROPOSED RULE, GSAR NOTICE NO. 5-255

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This proposed rule would revise the Equitable Adjustments clause in section 552.243-71 by (1) establishing timeframes for submission of proposals, (2) eliminating the $5,000 threshold for submitting detailed price breakdowns, (3) eliminating the term "commission" and the four-percentage limitation and substitute overhead and profit for "commission," (4) establishing an overhead rate by calculating the rate as a percentage of the company's total direct costs which percentage would be applied to the total direct cost amount, and (5) providing for bond premium adjustments resulting from changes to be made at final settlement.

Timetable:

Action	Date	FR Cite
NPRM	03/24/89	54 FR 12251
NPRM Comment Period End	04/24/89	54 FR 12251
Withdrawn	04/27/89	54 FR 18912

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090–AD71

3362. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); REISSUANCE AND REVISION; FINAL RULE

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 502; 48 CFR 503; 48 CFR 504; 48 CFR 505; 48 CFR 506; 48 CFR 507; 48 CFR 508; 48 CFR 509; 48 CFR 510; 48 CFR 511; 48 CFR 512; 48 CFR 513; 48 CFR 514; 48 CFR 515 to 553 and 570

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) Chapter 5 (APD 2800.12A), was revised to reflect the results of a general review of the entire regulation conducted to assure the regulation is essential to implement Government-wide policies and procedures within GSA, needed to satisfy unique needs of the agency, and to ensure the regulation meets other statutory requirements. The provision regulation (APD 2800.12) and Acquisition Circulars AC-88-2, AC-89-1 were canceled.

Timetable:

Action	Date	FR Cite
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Notices of proposed rulemaking that affected the public and or had requirements under the Paperwork Reduction Act were published in the Federal Register for comment prior to incorporation in this final rule and have been included in the October 1989 agenda.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD72

3363. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); LEGAL REVIEW, CHANGE 65, (5-266)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501

Legal Deadline: None

Abstract: This change to the GSAR revised the sections within Part 501 that deal with legal review and assistance to reflect the agency's policy on the involvement of attorneys in the acquisition and disposal process.

Timetable:

Action	Date	FR Cite
Final Action	03/23/89	54 FR 13887
Final Action Effective	04/17/89	54 FR 13887

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 523-3822

RIN: 3090–AD73

3364. ● GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR); ACQUISITION CIRCULAR AC-89-1, IMPLEMENTATION OF PROMPT PAYMENT ACT AMENDMENTS OF 1988, (5-271)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 532; 48 CFR 552; 48 CFR 553

Legal Deadline: None

Abstract: The Acquisition Circular temporarily amended the GSAR to revise section 532.111 by deleting subparagraph (a)(1) and eliminating the subparagraph designation for subparagraph (a) (2); revised section 532.905 by amending the regulatory language to conform to the FAR as amended by Federal Acquisition Circular 84-45; added section 532. 905-70 to prescribe the GSA Form 2419, Certification of Progress Payments Under Fixed Price Contracts; deleted subpart 532.70 as unnecessary in light of revised FAR coverage; revised section 553.370-2419 to illustrate the revised GSA Form 2419, and make other miscellaneous revisions for clarity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/89	54 FR 14234
Final Action	06/02/89	54 FR 26486
Final Action Effective	07/01/89	54 FR 26486

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

This Acquisition Circular was incorporated in the reissue of the regulation, which became effective July 1, 1989. The Acquisition Circular was canceled.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of GSA Acquisition Policy, Washington, DC 20405, 202 523-3822

RIN: 3090–AD75

3365. REVISION OF STANDARD FORM 1170, REDEMPTION OF UNUSED TICKETS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	04/20/89	54 FR 15943

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Carolyn West 202 786-3005

RIN: 3090–AD13

3366. USE OF ELECTRONIC DATA INTERCHANGE TO DOCUMENT AND PAY TRANSPORTATION BILLS

CFR Citation: 41 CFR 101

Completed:

Reason	Date	FR Cite
Final Action	04/20/89	54 FR 15940

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort 202 786-3005

RIN: 3090–AD27

3367. SUBMISSION OF PAID FREIGHT BILLS/INVOICES, CBL'S, GTR'S, PASSENGERS COUPONS, AND SUPPORTING DOCUMENTATION COVERING TRANSPORTATION SERVICES UNDER COST-REIMBURSEMENT CONTRACTS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Temporary Regulation	04/20/89	54 FR 15942

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn West 202 786-3005

RIN: 3090–AD35

[FR Doc. 89-21740 Filed 10-27-89; 8:45 am]

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Part XXVII

Merit Systems Protection Board

Semiannual Regulatory Agenda

MERIT SYSTEMS PROTECTION BOARD (MSPB)

MERIT SYSTEMS PROTECTION BOARD

5 CFR Ch. II

Regulatory Agenda

AGENCY: Merit Systems Protection Board.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Merit Systems Protection Board (MSPB) regulations are scheduled for review or development from October 1989 through September 1990. They are submitted herein for publication in the Unified Agenda of Federal Regulations, E.O. 12291. Regulatory action may not be limited to the items listed.

FOR FURTHER INFORMATION CONTACT: Paul D. Mahoney, Director, Office of Management Analysis, (202) 653-8892.

Dated: August 4, 1989.

Merit Systems Protection Board,

Daniel R. Levinson,

Chairman.

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Prerule Stage

3368. ● PART 1209 -- PRACTICES AND PROCEDURES FOR APPEALS OF PERSONNEL ACTIONS ALLEGEDLY BASED ON WHISTLEBLOWING AND REQUESTS FOR STAYS OF PERSONNEL ACTIONS IN SUCH CASES

Significance: Agency Priority

Legal Authority: 5 USC 1204; 5 USC 1221; 5 USC 7701

CFR Citation: 5 CFR 1209.1 to 1209.19

Legal Deadline: None

Abstract: The Board is amending its regulations by adding a new part to implement the Whistleblower Protection Act of 1989.

Timetable:

Action	Date	FR Cite
Begin Review	09/00/89	
End Review	12/00/89	
Final Action	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Patricia Price, Office of General Counsel, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8919

RIN: 3124–AA19

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Final Rule Stage

3369. PART 1201 - PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1204; 5 USC 7701

CFR Citation: 5 CFR 1201.1 to 1201.199

Legal Deadline: None

Abstract: These regulations are republished to present the Board's requirements in plain English and to implement the Whistleblower Protection Act of 1989 (Pub. L. 101-12).

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
Interim Final Rule	07/06/89	54 FR 28632
Interim Final Rule - Appendix 1 to Part 1201	10/00/89	
End Review	10/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8892

RIN: 3124–AA10

3370. ● PART 1210 -- DEBT MANAGEMENT

Legal Authority: 31 USC 3701; 31 USC 3711; 31 USC 3716 to 3719; 31 USC 3728; 5 USC 5514

CFR Citation: 5 CFR 1210

Legal Deadline: None

Abstract: This part establishes the Board's regulations to implement the provisions of the Debt Collection Act of 1982. This part will enhance the Board's ability to recover delinquent debts promptly and to minimize the adverse impact on the economy as well as on MSPB's delivery of program services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/90	
Final Action	07/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Darrell L. Netherton, Director of Administration, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-5805

RIN: 3124–AA20

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Completed Actions

3371. PART 1205--PRIVACY ACT REGULATIONS

CFR Citation: 5 CFR 1205.1 to 1205.32

Completed:

Reason	Date	FR Cite
Final Action	07/06/89	54 FR 28662
Final Action Effective	07/09/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael H. Hoxie 202 653-7200

RIN: 3124–AA05

3372. PART 1206--OPEN MEETINGS

CFR Citation: 5 CFR 1206.1 to 1206.12

Completed:

Reason	Date	FR Cite
Final Action	05/11/89	54 FR 20367
Final Action Effective	05/11/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael H. Hoxie 202 653-7200

RIN: 3124–AA06

3373. PART 1203--PROCEDURES FOR REVIEW OF RULES AND REGULATIONS OF THE OFFICE OF PERSONNEL MANAGEMENT

CFR Citation: 5 CFR 1203.1 to 1203.22

Completed:

Reason	Date	FR Cite
Final Action	07/06/89	54 FR 28658
Final Action Effective	07/09/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney 202 653-8892

RIN: 3124–AA07

3374. PART 1204--AVAILABILITY OF OFFICIAL INFORMATION

CFR Citation: 5 CFR 1204.1 to 1204.22

Completed:

Reason	Date	FR Cite
Final Action	07/06/89	54 FR 28658
Final Action Effective	07/09/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael H. Hoxie 202 653-7200

RIN: 3124–AA08

3375. PART 1207--ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS CONDUCTED BY THE MERIT SYSTEMS PROTECTION BOARD

CFR Citation: 5 CFR 1207.1 to 1207.99

Completed:

Reason	Date	FR Cite
Withdrawn	07/06/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert U. Hernandez 202 653-6180

RIN: 3124–AA09

3376. ● PART 1208--NATIONAL SECURITY INFORMATION PROCEDURES

Legal Authority: EO 12356 47 FR 14874 (April 6, 1982); ISOO Directive No. 1 47 FR 27837 (June 25, 1982)

CFR Citation: 5 CFR 1208.1 to 1208.16

Legal Deadline: None

Abstract: The Board does not have original security information classification authority. It does occasionally receive material classified by other agencies. This part establishes the Board's procedures for handling such information.

Timetable:

Action	Date	FR Cite
Final Action	05/18/89	54 FR 21397
Final Action Effective	05/18/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-7262

RIN: 3124–AA17

3377. ● PART 1202--STATUTORY REVIEW BOARD

Legal Authority: 5 USC 1204

CFR Citation: 5 CFR 1202.1

Legal Deadline: None

Abstract: This part is republished in plain English and is revised to use current terminology and to make technical and conforming corrections.

Timetable:

Action	Date	FR Cite
Final Action	07/06/89	54 FR 28657
Final Action Effective	07/09/89	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Charles J. Stanislav, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419, 202 653-8931

RIN: 3124–AA18

[FR Doc. 89-19909 Filed 10-27-89; 8:45 am]

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Part XXVIII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration.

ACTION: Regulatory agenda.

SUMMARY: This regulatory agenda describes the proposed regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESS: Director, Management Operations Office (Code NA), Office of Management, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202/453-2922.

SUPPLEMENTARY INFORMATION: OMB Bulletin No. 89-12 "Unified Agenda of Federal Regulations for October 1989," Executive Order 12291 "Federal Regulation," and NASA Management Instruction 1410.10E "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents" require a regulatory agenda of proposed regulations under development and review be published in the **Federal Register** each April and October.

John W. Gaff,

Director, Management Operations Office.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3378	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3379	General Provisions Regarding Flight of Reimbursable Payloads Aboard the Space Shuttle	2700-AA14
3380	Space Transportation System; Mementos Aboard Space Shuttle Flights	2700-AA18
3381	Personnel Security Adjudication and Procedures	2700-AA31
3382	Space Transportation System; Reimbursement for Shuttle Services Provided to Non-U.S. Government Users; Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and (cont)	2700-AA45
3383	Delegation of Authority of Certain Civil Rights Functions to the Department of Health, Education, and Welfare	2700-AA47
3384	Extraterrestrial Exposure	2700-AA53
3385	Policy Concerning Data Obtained from Space Science Flight Investigations	2700-AA54
3386	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Assistance by NASA	2700-AA69
3387	Limited Arrest Authority and Use of Force by NASA Security Force Personnel	2700-AA80
3388	NASA Grant and Cooperative Agreement Handbook Instruction 84-5	2700-AA97
3389	NASA Grant and Cooperative Agreement Handbook Instruction 84-6	2700-AA98

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3390	Space Transportation System; Insurance and Indemnification of NASA Space Vehicle Users	2700-AA00
3391	Space Transportation System; Reimbursement for Spacelab Services	2700-AA01
3392	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3393	Availability of Agency Records to Members of the Public	2700-AA49
3394	Nondiscrimination in Federally-Assisted Programs of NASA	2700-AA50
3395	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	2700-AA51
3396	Payload Specialists for Space Transportation System (STS) Missions	2700-AA52
3397	Duty-Free Entry of Space Articles	2700-AA62
3398	Policy On The Protection Of Human Subjects	2700-AA76
3399	Care and Use of Animals in the Conduct of NASA Activities	2700-AA78
3400	Interim Changes to the NASA FAR Supplement on Domestic Preference	2700-AA87
3401	NASA FAR Supplement Directive (NFSD) 89-1	2700-AA90
3402	NASA FAR Supplement Directive (NFSD) 89-2	2700-AA91
3403	NASA FAR Supplement Directive (NFSD) 89-3	2700-AA92

NASA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3404	NASA FAR Supplement Directive (NFSD) 89-4	2700-AA93
3405	NASA FAR Supplement Directive (NFSD) 89-5	2700-AA94
3406	Space Transportation System Personnel Reliability Program	2700-AA99

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3407	NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags, and the Agency's Unified Visual Communications Systems	2700-AA15
3408	NASA Astronaut Candidate Recruitment and Selection Program	2700-AA26
3409	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs	2700-AA32
3410	Availability of Agency Records to Members of the Public	2700-AA49
3411	National Space Grant College and Fellowship Program	2700-AA75
3412	Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug Free Workplace (Grants)	2700-AA81
3413	Processing of Monetary Claims (General)	2700-AA82
3414	Pension Portability	2700-AA83
3415	Cross-Waiver Liability for Space Station	2700-AA84
3416	Special Government Employees	2700-AA85
3417	Changes to NASA FAR Supplement on Service Contract Act	2700-AA86
3418	NASA FAR Supplement Directive (NFSD) 85-14	2700-AA88
3419	NASA FAR Supplement Directive (NFSD) 89-0	2700-AA89
3420	NASA Grant and Cooperative Agreement Handbook Instruction 84-4	2700-AA96

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Prerule Stage

3378. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1270

Legal Deadline: None

Abstract: Common rule for grants administration replacing NASA implementation of OMB Circular A-110.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA95

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3379. GENERAL PROVISIONS REGARDING FLIGHT OF REIMBURSABLE PAYLOADS ABOARD THE SPACE SHUTTLE

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.1

Legal Deadline: None

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

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Additional Information: RIN 2700-AA13 merged with RIN 2700-AA14.

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1911

RIN: 2700-AA14

3380. SPACE TRANSPORTATION SYSTEM; MEMENTOS ABOARD SPACE SHUTTLE FLIGHTS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.6

Legal Deadline: None

Abstract: Clarifies policy on carrying mementos aboard Space Shuttle flights and use of both official flight kits and personal preference kits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wanda J. Dockery, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1923

RIN: 2700-AA18

3381. PERSONNEL SECURITY ADJUDICATION AND PROCEDURES

Legal Authority: 42 USC 2451 et seq.; 5 USC 552 A; 5 USC 5596; EO 10450; EO 12356; 5 USC 7312; 5 USC 7531 TO 7533

CFR Citation: 14 CFR 1203.J

Legal Deadline: None

Abstract: 14 CFR Part 1203 is amended by adding this new Subpart J, "Emergency Personnel Security Adjudication and Procedures." This proposed rule sets forth NASA's personnel security adjudication policy and procedures. The intended effect of this proposed rule is to inform individuals of the procedures within NASA with respect to those individuals whose employment with NASA may not be clearly consistent with the interests of national security.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome Verba, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2946

RIN: 2700-AA31

3382. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO NON-U.S. GOVERNMENT USERS; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO CIVIL U.S. GOVERNMENT USERS AND (CONT)

Legal Authority: PL 85-568, Sec 203; 42 USC 2473; PL 87-624, Sec 201(b); 47 USC 721(b)

CFR Citation: 14 CFR 1214.1; 14 CFR 1214.2

Legal Deadline: None

Abstract: This revision will incorporate provisions for scheduled shared-flight retrieval service and for equitable charging for use of the downweight capability of the shuttle.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TITLE CONT: Foreign Users Who Have Made Substantial Investment in the STS Program

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1911

RIN: 2700-AA45

3383. DELEGATION OF AUTHORITY OF CERTAIN CIVIL RIGHTS FUNCTIONS TO THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Legal Authority: 42 USC 2473(b)(1); 42 USC 2473(b)(3); 42 USC 2473(b)(5); 42 USC 2473(b)(6); 42 USC 2473(b)(14)

CFR Citation: 14 CFR 1204.506

Legal Deadline: None

Abstract: Amends existing NASA regulation to reflect changes in the Federal sector and to include new civil rights laws enacted since the original regulation was published.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, Code U, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA47

3384. EXTRATERRESTRIAL EXPOSURE

Legal Authority: 42 USC 2455; 42 USC 2456; 42 USC 2473; 18 USC 799

CFR Citation: 14 CFR 1211

Legal Deadline: None

Abstract: Revision updates the existing regulation to conform to current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephan W. Fogleman, Office of Space Science and Applications, Code EB, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1530

RIN: 2700-AA53

3385. POLICY CONCERNING DATA OBTAINED FROM SPACE SCIENCE FLIGHT INVESTIGATIONS

Legal Authority: 42 USC 2454

CFR Citation: 14 CFR 1205.1

Legal Deadline: None

Abstract: Amends regulation to reflect current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Hunolt, Office of Space Science and Applications, Code

EC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1500

RIN: 2700-AA54

3386. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM ASSISTANCE BY NASA

Legal Authority: 20 USC 1681 et seq

CFR Citation: 14 CFR 1253

Legal Deadline: None

Abstract: This regulation proposes to establish for NASA a set of rules prohibiting sex discrimination in educational programs or activities receiving financial assistance from NASA. Under authority provided by the Education Amendments of 1974, this regulation seeks to ensure that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefit of, or otherwise be subject to discrimination under any program or activity receiving Federal financial assistance from NASA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Program, Code U, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA89

3387. LIMITED ARREST AUTHORITY AND USE OF FORCE BY NASA SECURITY FORCE PERSONNEL

Legal Authority: 42 USC 2456(e); 42 USC 2456(f); EO 12356

CFR Citation: 14 CFR 1203.b

Legal Deadline: None

Abstract: NASA proposes to implement 42 USC 2456(e), (f), and EO 12356 by establishing centralized control over the exercise of arrest authority at NASA Headquarters and ensuring that NASA Security Force personnel at NASA Installations exercise such arrest authority, including the use of force to effect such an arrest in a manner consistent with both NASA's security objectives and recognized legal standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2953

RIN: 2700-AA80

3388. ● NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK INSTRUCTION 84-5

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1260

Legal Deadline: None

Abstract: Miscellaneous changes to Grant and Cooperative Agreement Handbook.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA97

3389. ● NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK INSTRUCTION 84-6

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1260

Legal Deadline: None

Abstract: Miscellaneous changes to Grant and Cooperative Agreement Handbook, including revisions NASA implementation of OMB Circular A-110.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3390. SPACE TRANSPORTATION SYSTEM; INSURANCE AND INDEMNIFICATION OF NASA SPACE VEHICLE USERS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473 Sec 308 of the Space Act as amended; 42 USC 2458(b)

CFR Citation: 14 CFR 1214.13

Legal Deadline: None

Abstract: Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users. Comments on the proposed rule were received from several individuals.

Timetable:

Action	Date	FR Cite
NPRM	11/10/80	45 FR 74499
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: June W. Edwards, Office of General Counsel, Code G, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2432

RIN: 2700–AA00

3391. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SPACELAB SERVICES

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.8

Legal Deadline: None

Abstract: Describes the policy for Spacelab services provided by NASA to users during the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/85	50 FR 30807
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1911

RIN: 2700–AA01

3392. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Legal Authority: PL 85-568 Sec 203; 42 USC 2473

CFR Citation: 14 CFR 1215

Legal Deadline: None

Abstract: Annual revision of Appendix A to reflect each Calendar Year rate change for TDRSS services.

Timetable:

Action	Date	FR Cite
Final Action for CY 1990 Rate Change	03/15/89	54 FR 10627
Final Action for CY 1991 Rate Change	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick, Office of Space Operations, Code T, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2939

RIN: 2700–AA29

3393. ● AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Legal Authority: 42 USC 2473; 5 USC 552 as amended; 5 USC 552a

CFR Citation: 14 CFR 1206

Legal Deadline: None

Abstract: This action amends 14 CFR Part 1206 by making nonsubstantive administrative changes and corrections reflecting the renaming of one field center, the change in the offices responsible for Freedom of Information Act requests, and a reassignment of responsibilities for final determinations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricial M. Riep, Freedom of Information Act Officer, Code LN, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2939

RIN: 2700–AA49

3394. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA

Legal Authority: Title VI of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Age Discrimination Act of 1975; EO 12250

CFR Citation: 14 CFR 1250

Legal Deadline: None

Abstract: NASA is revising 14 CFR Part 1250, "Nondiscrimination in Federally-Assisted Programs of NASA," to reflect changes in the NASA organization and processes through which this regulation is implemented. The purpose of this Part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964, as amended.

Timetable:

Action	Date	FR Cite
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, Code U, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2165

RIN: 2700–AA50

3395. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 14 CFR 1251

Legal Deadline: None

Abstract: This proposed rule amends existing section 504 regulations for federally assisted programs or activities require that new construction be designed and built to be accessible and that alterations of facilities be made in an accessible manner.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9966
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynda Sampson, Handicapped and Aged Employment Program, Manager, Code UI, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2177

RIN: 2700–AA51

3396. PAYLOAD SPECIALISTS FOR SPACE TRANSPORTATION SYSTEM (STS) MISSIONS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473; PL 87-624, Sec 201(b); 47 USC 721(b)

CFR Citation: 14 CFR 1214.3

Legal Deadline: None

Abstract: NASA is amending 14 CFR Part 1214 by revising Subpart 1214.3. This revision redefines the title of the subpart and the payload specialist responsibilities, and sets forth NASA's policy on and process for the determination of need, selection, and utilization of payload specialists and additional mission specialists to be assigned to an STS flight in addition to the standard NASA flight crew.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry J. Fitts, Transportation Services, Code MC, Office of Space Flight, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2347

RIN: 2700–AA52

3397. DUTY-FREE ENTRY OF SPACE ARTICLES

Legal Authority: PL 98-573 Sec 124; PL 97-446 Sec 116 and Sec 156; 19 USC 1202 note

CFR Citation: 14 CFR 1214.15

Legal Deadline: None

Abstract: Amending 14 CFR Subpart 1214.15 to reflect the changes on the duty-free entry of communication satellites imposed by PL 98-573.

Timetable:

Action	Date	FR Cite
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pierre M. Hartman, Office of General Counsel, Code GK, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2434

RIN: 2700–AA62

3398. POLICY ON THE PROTECTION OF HUMAN SUBJECTS

Legal Authority: 42 USC 2451

CFR Citation: 14 CFR 1230

Legal Deadline: None

Abstract: NASA will be one of a few Federal Agencies to adopt a Model Federal Policy for the Protection of Human Subjects which was prepared by the Office of Science and Technology Policy. This NPRM will implement a Model Federal Policy for the Protection of Human subjects of research conducted, supported or regulated by NASA.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45868
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Arnauld E. Nicogossian, Life Sciences Division, Code EB, Office of Space Science and Applications, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1539

RIN: 2700–AA76

3399. CARE AND USE OF ANIMALS IN THE CONDUCT OF NASA ACTIVITIES

Legal Authority: 42 USC 2451; PL 89-544, as amended; 7 USC 2131; 39 USC 3001; PL 99-158, Sec 495

CFR Citation: 14 CFR 1232

Legal Deadline: None

Abstract: This proposed rule establishes the policy, implementation procedures, and management authority and responsibility for the care and use of vertebrate animals in the conduct of NASA activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/30/89	54 FR 35869
Interim Final Rule Effective	08/30/89	
Comment Period End	10/30/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thora Halstead, Office of Space Science and Applications, Code EB, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1527

RIN: 2700–AA78

3400. ● INTERIM CHANGES TO THE NASA FAR SUPPLEMENT ON DOMESTIC PREFERENCE

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1825; 48 CFR 1852

Legal Deadline: None

Abstract: Implements Sec. 209 of Pub.L 100-685, the FY 1989 NASA Authorization Act which contains a special domestic preference ("Buy America") provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/27/89	54 FR 18112
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA87

3401. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-1

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA90

NASA — Final Rule Stage

3402. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-2

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA91

3403. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-3

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA92

3404. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-4

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	06/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA94

3405. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-5

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA93

3406. ● SPACE TRANSPORTATION SYSTEM PERSONNEL RELIABILITY PROGRAM

Legal Authority: 42 USC 2473; 47 USC 721(b)

CFR Citation: 14 CFR 1214.5

Legal Deadline: None

Abstract: NASA is amending 14 CFR Part 1214 by revising Subpart 1214.5. This rule establishes a program designed to ensure that personnel assigned to mission-critical positions in connection with the Space Transportation System and other critical space systems, including but not limited to the Space Station, designated Expendable Launch Vehicles, and designated payloads, meet established screening requirements.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jerry F. Moore, Office of Safety, Reliability, Maintainability and Quality Assurance, National Aeronautics and Space Administration, Code QS, NASA Headquarters, Washington, DC 20546, 202 453-1155

RIN: 2700-AA99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3407. ● NASA SEAL, INSIGNIA, LOGOTYPE INSIGNIA, PROGRAM AND ASTRONAUT BADGES, AND FLAGS, AND THE AGENCY'S UNIFIED VISUAL COMMUNICATIONS SYSTEMS

Legal Authority: 42 USC 2472(a); 42 USC 2473(b)(1)

CFR Citation: 14 CFR 1221.1; 14 CFR 1221.110; 14 CFR 1221.112

Legal Deadline: None

Abstract: NASA is amending 14 CFR Part 1221 by revising two paragraphs in subpart 1221.1. These revised paragraphs correct a position title in paragraph (d) of section 1221.110 and insert words that were inadvertently omitted from paragraph (b)(1) of section 1221.112.

Timetable:

Action	Date	FR Cite
Final Action	08/11/89	54 FR 32963

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Schulman, Graphics Coordinator, Code LPS, Public Service Division, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8315

RIN: 2700-AA15

3408. ● NASA ASTRONAUT CANDIDATE RECRUITMENT AND SELECTION PROGRAM

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.11

Legal Deadline: None

Abstract: NASA is amending 14 CFR Part 1214 by revising Subpart 1214.11. This rule establishes the process for selection of astronauts to support Space Shuttle mission operations. It is being revised to enable NASA to establish and maintain an integrated pool of qualified civilian applicants from which to select astronaut candidates.

Timetable:

Action	Date	FR Cite
Final Action	09/14/89	54 FR 37940
Final Action Effective	09/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. T. Dannessa, Office of Space Flight, Code MOI, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8645

RIN: 2700-AA28

3409. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

CFR Citation: 14 CFR 1208

Completed:

Reason	Date	FR Cite
Final Action	03/02/89	54 FR 8912

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gitta G. Hosenball 202 453-1958

RIN: 2700-AA32

3410. AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

CFR Citation: 14 CFR 1206

Completed:

Reason	Date	FR Cite
Final Action	04/04/89	54 FR 13518

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia M. Riep 202 453-2930

RIN: 2700-AA49

3411. NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

CFR Citation: 14 CFR 1259

Completed:

Reason	Date	FR Cite
Final Action	05/09/89	54 FR 19880

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine Schwartz 202 453-8344

RIN: 2700-AA75

3412. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG FREE WORKPLACE (GRANTS)

CFR Citation: 14 CFR 1265.F

Completed:

Reason	Date	FR Cite
Final Action	03/16/89	54 FR 4946

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: David K. Beck 202 453-8250

RIN: 2700-AA81

3413. PROCESSING OF MONETARY CLAIMS (GENERAL)

CFR Citation: 14 CFR 1261

Completed:

Reason	Date	FR Cite
Final Action	08/28/89	54 FR 35456
Final Action Effective	08/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sara Najjar 202 453-2465

RIN: 2700-AA82

3414. ● PENSION PORTABILITY

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1837

Legal Deadline: None

Abstract: Establishes NASA policy regarding pension portability in service contracts.

Timetable:

Action	Date	FR Cite
Final Action	02/06/89	54 FR 5625

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700-AA83

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3415. ● CROSS-WAIVER LIABILITY FOR SPACE STATION

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 14 CFR 1828; 14 CFR 1852

Legal Deadline: None

Abstract: On 9/29/88, the United States Government and eleven other governments entered into an agreement which bind them to a cross-waiver of liability for space station activities. This rule implements that agreement in the NASA Federal Acquisition Regulation Supplement.

Timetable:

Action	Date	FR Cite
Final Action	02/16/89	54 FR 7073

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA84

3416. ● SPECIAL GOVERNMENT EMPLOYEES

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1815

Legal Deadline: None

Abstract: Non-governmental participants in solicited proposal evaluation proceedings must be appointed as special government employees.

Timetable:

Action	Date	FR Cite
Final Action	12/29/88	53 FR 52713

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA85

3417. ● CHANGES TO NASA FAR SUPPLEMENT ON SERVICE CONTRACT ACT

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1822; 48 CFR 1852

Legal Deadline: None

Abstract: Withdraws final rule on Service Contract Act included in NASA FAR Supplement Directive 85-14.

Timetable:

Action	Date	FR Cite
Final Action	05/17/89	54 FR 21222

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA86

3418. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 85-14

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	03/15/89	54 FR 10796

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA88

3419. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-0

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	07/05/89	54 FR 28186

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA89

3420. ● NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK INSTRUCTION 84-4

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1260

Legal Deadline: None

NASA

Completed Actions

Abstract: Miscellaneous changes to Grant and Cooperative Agreement Handbook.

Timetable:

Action	Date	FR Cite
Final Action	03/07/89	54 FR 9426

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8953

RIN: 2700–AA96

[FR Doc. 89-21741 Filed 10-27-89; 8:45 am]

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Part XXIX

National Archives and Records Administration

Semiannual Regulatory Agenda

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1989. This agenda was developed under the guidelines in OMB Bulletin No. 89-12, dated July 5, 1989. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. None of the regulations listed in the agenda are considered major under Executive Order 12291 "Federal Regulation."

FOR FURTHER INFORMATION CONTACT: John A. Constance, Acting Chief, Information Management and Directives Branch, (202) 523-3214.

Dated: August 22, 1989.

Don W. Wilson,

Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3421	Restrictions on Access to Archival Records	3095-AA21
3422	Micrographics Records Management	3095-AA22
3423	Uniform Administrative Requirements for Grants and Cooperative Agreements	3095-AA23
3424	NARA Standards of Conduct	3095-AA25
3425	NARA Fee Schedule	3095-AA33
3426	National Historical Publications and Records Commission Grant Program Procedures	3095-AA43
3427	Creation and Maintenance of Records; Adequate and Proper Documentation	3095-AA45
3428	Disposition of Federal Records	3095-AA46

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3429	Electronic Records Management	3095-AA29
3430	Governmentwide Requirements for Drug-Free Workplace (Grants)	3095-AA44

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3431	Transfers to the National Personnel Records Center	3095-AA15
3432	Freedom of Information Act Access Procedures	3095-AA34

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3421. RESTRICTIONS ON ACCESS TO ARCHIVAL RECORDS

Legal Authority: 44 USC 2108(a); 44 USC 2104(a)

CFR Citation: 36 CFR 1256.40

Legal Deadline: None

Abstract: This rule will add specific agency restrictions on the use of certain accessioned archival records. The restrictions will be in conformity with the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
NPRM Comment Period End	12/00/89	
Final Action	03/00/90	

Small Entities Affected: None

NARA — **Proposed Rule Stage**

Government Levels Affected: None

Agency Contact: Trudy H. Peterson, Assistant Archivist, Office of National Archives, National Archives and Records Administration, Washington, DC 20408, 202 523-3130

RIN: 3095-AA21

3422. MICROGRAPHICS RECORDS MANAGEMENT

Legal Authority: 44 USC 2907; 44 USC 3302; 44 USC 3312

CFR Citation: 36 CFR 1230

Legal Deadline: None

Abstract: This rule will update existing regulations on micrographics records management to correct references to Federal and industry micrographics standards.

Timetable:

Action	Date	FR Cite
NPRM	09/12/89	54 FR 37693
NPRM Comment Period End	11/13/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA22

3423. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 44 USC 2104; 44 USC 2504

CFR Citation: 36 CFR 1207

Legal Deadline: None

Abstract: This action proposes a common rule updating and replacing agencies' implementation of OMB Circular A-110 with a single, government-wide common rule establishing consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to institutions of higher education, hospitals, other nonprofit organizations, and commercial or for-profit entities. This result is achieved by amending the common rule issued by the agencies on March 11, 1988, to similarly update and replace implementation of OMB Circular A-102. The provisions of the common rule are largely drawn from the existing departmental rules issued by the several agencies which in the past developed a single, comprehensive rule implementing the circulars. This proposed common rule contains fiscal and administrative requirements applicable to grantees.

Timetable:

Action	Date	FR Cite
NPRM	11/04/89	53 FR 44716
NPRM Comment Period End	01/03/89	53 FR 44716

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, D.C. 20408, 202 523-3214

RIN: 3095-AA23

3424. NARA STANDARDS OF CONDUCT

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1204

Legal Deadline: None

Abstract: These regulations will establish standards of conduct for NARA employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Brooks, Designed Agency Ethics Official, National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095-AA25

3425. NARA FEE SCHEDULE

Legal Authority: 44 USC 2104(a); 44 USC 2116(c)

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA will revise fees charged for reproduction of records created by other Federal agencies and transferred to the custody of the Archives of the United States, donated historical materials and records filed with the Office of the Federal Register. The fees will be changed to reflect the current costs of providing the reproduction services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA33

3426. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT PROGRAM PROCEDURES

Legal Authority: 44 USC 2104(a); 44 USC 2501 to 2506

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: Revises and updates NHPRC's regulations to conform with governmentwide grants management regulations. Incorporating RIN 3095-AA20, "Membership on State Historical Records Advisory Boards", which restructures the State Historical Records Advisory Boards and redefines their function in the grant review process.

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32455
NPRM Comment Period End	10/10/89	54 FR 32455
Final Action	11/00/89	
Final Action Effective	11/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

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NARA — Proposed Rule Stage

Agency Contact: Richard A. Jacobs, Executive Director, National Historical Publications and Records Commission, National Archives and Records Administration, Washington, DC 20408, 202 523-1701

RIN: 3095–AA43

3427. CREATION AND MAINTENANCE OF RECORDS; ADEQUATE AND PROPER DOCUMENTATION

Legal Authority: 44 USC 2901 to 2909; 44 USC 3101 to 3107

CFR Citation: 36 CFR 1222; 36 CFR 1234

Legal Deadline: None

Abstract: The National Archives is revising its regulations relating to the creation and preservation of adequate and proper documentation by Federal agencies of the organization, functions, policies, decisions, procedures, and essential transactions of the government. The revision will clarify and expand the description of adequate and proper documentation and provide additional standards for records creation and maintenance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace, Director, Agency Services Division, National Archives and Records Administration, Washington DC 20408, 202 724-1453

RIN: 3095–AA45

3428. DISPOSITION OF FEDERAL RECORDS

Legal Authority: 44 USC 2104; 44 USC 2107; 44 USC 2901 to 2909; 44 USC 3101 to 3107; 44 USC 3301 to 3314

CFR Citation: 36 CFR 1220; 36 CFR 1228

Legal Deadline: None

Abstract: The National Archives has revised its regulations relating to the disposition of Federal records to ensure clarity and conformity with current practices. This revision updates, clarifies, and reorganizes records disposition procedures. It was developed to provide additional information to assist agencies in carrying out their responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	11/00/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Keating, Deputy Director, Records Appraisal and, Disposition Division, National Archives and Records Administration, Washington, DC 20408, 202 724-1457

RIN: 3095–AA46

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Final Rule Stage

3429. ELECTRONIC RECORDS MANAGEMENT

Legal Authority: 44 USC 2904; 44 USC 3102

CFR Citation: 36 CFR 1234

Legal Deadline: None

Abstract: Federal agencies increasingly are recording their policies and authorities electronically. The proposed regulation will provide comprehensive standards for the creation, maintenance, use and disposition of electronic records.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48936
NPRM Comment Period End	02/03/89	53 FR 52202
Final Action	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace, Director, Agency Services Division (NIA), National Archives and Records Administration, Washington, DC 20408, 202 724-1453

RIN: 3095–AA29

3430. GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: EO 12549; PL 100-690, Drug-Free Workplace Act of 1988; 44 USC 2104(a)

CFR Citation: 36 CFR 1209

Legal Deadline: Final, Statutory, March 18, 1989.

Abstract: NARA is joining in the common grants rule to implement the Drug-Free Workplace Act of 1988. The rule will affect the National Historical Publications and Records Commission grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Comments on Interim Final Rule	04/03/89	54 FR 4947

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095–AA44

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3431. TRANSFERS TO THE NATIONAL PERSONNEL RECORDS CENTER

CFR Citation: 36 CFR 1228.154

Completed:

Reason	Date	FR Cite
Withdrawn Cancellation of low priority project.	08/01/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gregory A. Pomicter 202 653-8388

RIN: 3095–AA15

3432. FREEDOM OF INFORMATION ACT ACCESS PROCEDURES

CFR Citation: 36 CFR 1250; 36 CFR 1254

Completed:

Reason	Date	FR Cite
Final Action	08/04/89	54 FR 32067
Final Action Effective	08/04/89	54 FR 32067

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John A. Constance 202 523-3214

RIN: 3095–AA34

[FR Doc. 89-21742 Filed 10-27-89; 8:45 am]
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National Capital Planning Commission

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NATIONAL CAPITAL PLANNING COMMISSION (NCPC)

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Ch. IV

Regulatory Agenda

AGENCY: National Capital Planning Commission (NCPC).

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report final rulemaking activities of the NCPC as required by Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: Linda Dodd-Major, Legal Counsel, National Capital Planning Commission, 1325 G Street NW., Washington, DC 20576; telephone (202) 724-0187.

Reginald W. Griffith,

Executive Director.

NATIONAL CAPITAL PLANNING COMMISSION (NCPC) — **Completed Actions**

3433. GUIDELINES AND SUBMISSIONS REQUIREMENTS FOR INSTALLATION OF ANTENNAS ON FEDERAL PROPERTY IN NATIONAL CAPITAL REGION

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/11/89	54 FR 20456

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert E. Gresham 202 724-0206

RIN: 3125–AA03

[FR Doc. 89-22485 Filed 10-27-89; 8:45 am]

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Part XXXI

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — **Final Rule Stage**

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NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur A. Warren, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

D. K. Stephens,

Assistant Director for Administration, National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Proposed Rule Stage

3434. COLLECTION OF CLAIMS

Significance: Agency Priority

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365), which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3718-3718) to authorize among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies and credit agencies by the government. The amendments also implement government-wide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA01

3435. NONDISCRIMINATION ON THE BASIS OF AGE

Significance: Agency Priority

Legal Authority: 42 USC 6101 et seq

CFR Citation: 45 CFR 1154

Legal Deadline: None

Abstract: This rule prohibits discrimination on the basis of age in programs and activities receiving assistance from the National Endowment for the Arts. These regulations are proposed pursuant to the requirements of the Age Discrimination Act and consistent with the general government-wide regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	
NPRM	11/00/89	
NPRM Comment Period End	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA03

3436. CLAIMS COLLECTION: SALARY OFFSET

Legal Authority: 5 USC 5514; EO 11809 (redesignated EO 12107); 5 CFR 550, Subpart K

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation provides procedures for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal Government. The regulation outlines certain procedural protections that must be accorded to an employee prior to commencing offset.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Murray R. Welsh, Director, Administrative Services Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW, Washington, DC 20506, 202 682-5401

RIN: 3135-AA04

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Final Rule Stage

3437. ● GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Agency Priority

Legal Authority: PL 100-690, Title V, Subtitle D, Sections 5151 to 5160; EO 12549

CFR Citation: 45 CFR 1154

Legal Deadline: Final, Statutory, February 16, 1989.
Section 5156 of the Drug-Free Workplace Act of 1988 requires agencies to issue regulations 90 days after the Act is signed into law.

Abstract: This rule is for the purpose of implementing the statutory requirements of the Drug-Free Workplace Act of 1988 which requires that recipients of Federal grants certify that they will maintain a drug-free workplace. If the grantee is an individual, certification that his or her conduct under the grant will be drug-free is required. This rule directs that grantees submit certifications and establish sanctions of violation for drug-free workplace requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4964
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur A. Warren, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135-AA05

3438. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Significance: Agency Priority

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; 31 USC 6301 to 6308; Pres. Memo. for Heads of Exec. Depts & Agencies (Mar. 12, 1987)

CFR Citation: 45 CFR 1157

Legal Deadline: None

Abstract: This action proposes a common rule to be published by various agencies establishing consistency and uniformity in the administration of grants and cooperative agreements to State, local, and Federally-recognized Indian tribal governments, as well as institutions of higher education, hospitals, and other nonprofit organizations, and commercial or for profit entities.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Arthur A. Warren, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135-AA06

[FR Doc. 89-21743 Filed 10-27-89; 8:45 am]
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Part XXXII

National Endowment for the Humanities

Semiannual Regulatory Agenda

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, and Executive Order 12291 "Federal Regulations," dated February 17, 1981, the National Endowment for the Humanities is required to publish in April and October of each year an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/786-0322.

Celeste Colgan,

Deputy Chairman and Acting Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Proposed Rule Stage

3439. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 42 USC 2000d to 2000d4

CFR Citation: 45 CFR 1110; 45 CFR 1173

Legal Deadline: None

Abstract: This proposed regulation implements Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs and activities, with respect to programs and activities receiving federal financial assistance from the National Endowment for the Humanities.

Programs and activities receiving federal financial assistance from the National Endowment for the Humanities are currently covered by a regulation implementing Title VI that was issued by the National Foundation on the Arts and the Humanities in 1973 (45 CFR 1110). The proposed rule will remove NEH programs from the coverage of the earlier rule and replace it with a new part applicable only to NEH-assisted programs and activities. Programs and activities assisted by the National Endowment for the Arts remain covered under the existing regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Gordon, EEO Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 419, Washington, DC 20506, 202 786-0410

RIN: 3136–AA11

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

3440. GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Legal Authority: PL 100-690, Title V, Subtitle D, Secs 5151 to 5160; EO 12549

CFR Citation: 45 CFR 1169

Legal Deadline: Final, Statutory, February 16, 1989.
Section 5156 of the Drug-Free Workplace Act of 1988 requires agencies to issue regulations 90 days after the Act is signed into law.

Abstract: This rule is for the purpose of implementing the statutory requirements of the Drug-Free Workplace Act of 1988 which requires that recipients of Federal grants certify that they will maintain a drug-free workplace. If the grantee is an individual, certification that his or her conduct under the grant will be drug-free is required. This rule directs that grantees submit certifications and establish sanctions of violation for drug-free workplace requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4964
Interim Final Rule Effective	03/18/89	
Final Action	11/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rex O. Arney, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 530, Washington, DC 20506, 202 786-0322

RIN: 3136–AA12

3441. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; 31 USC 6301 to 6308; Pres. Memo. for Heads of Exec. Depts & Agencies (Mar. 12, 1987)

CFR Citation: 45 CFR 1174

Legal Deadline: None

Abstract: This action proposes a common rule to be published by various agencies establishing consistency and uniformity in the administration of grants and cooperative agreements to State, local, and federally-recognized Indian tribal governments, as well as institutions of higher education, hospitals, and other nonprofit organizations, and commercial or for profit entities.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44718
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 530, Washington, DC 20506, 202 786-0322

RIN: 3136–AA13

[FR Doc. 89-21744 Filed 10-27-89; 8:45 am]
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Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

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Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

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NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Federal Regulation; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of semiannual regulations agenda.

SUMMARY: The National Science Foundation (NSF) publishes its semiannual agenda of regulations under development or review as required by Executive Order 12291, Federal Regulation (46 FR 13193, February 17, 1981). This agenda has been prepared in accordance with OMB Bulletin No. 89-12, Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Sukari S. Smith, Office of the General Counsel, National Science Foundation, Washington, DC 20550, (202) 357-9435.

Dated: July 28, 1989.

Sukari S. Smith,

Regulatory Contact.

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

3442. PATENTS

Legal Authority: 42 USC 1870(a) The Natl. Sci. Found. Act of 1950, as amended; 35 USC 200 et seq The Bayh-Dole Act, as amended

CFR Citation: 45 CFR 650

Legal Deadline: None

Abstract: The Bayh-Dole Act (35 USC 200 et seq) was amended by Title V of PL 96-620 (98 Stat. 3364, 3368). The Department of Commerce has prepared a governmentwide implementing regulation. The Foundation's Patents regulation (45 CFR 650) conforms to it. Because the revision to the NSF patents regulation will merely echo a governmentwide regulation on which the public will have had an opportunity to comment, the Foundation expects that the revision will be published as a final rule. No additional costs will be imposed on the public as a result of the revision.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The notable changes to be made in the revision of the NSF patents regulation will be: elimination of restrictions on the licensing of NSF-supported inventions by nonprofit organizations, including universities; modification of the criteria and procedures for determining that "exceptional circumstances" warrant restricting a grantee's right to retain principal patent rights to its employees' NSF-supported inventions; and elimination of the Foundation's authority to waive the government license and "march-in" rights in awards not subject to the Bayh-Dole Act. All these changes are required by amendments to the Bayh-Dole Act.

Agency Contact: John Chester, Intellectual Property Attorney, National Science Foundation, Office of the General Counsel, Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145–AA07

[FR Doc. 89-19910 Filed 10-27-89; 8:45 am]

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Part XXXIV

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III

Federal Regulations; OMB Circulars and Policy Letters Included in the Semiannual Agenda of Upcoming Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities on OMB Circulars and Office of Federal Procurement Policy Letters (OFPP Policy Letters). This action is in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31 United States Code; Executive Order No. 11541; and other specific authority as cited. The agenda includes actions on issuances which are not guidelines but which are of public interest. While it is presented in the standard Governmentwide format of prerule, proposed rule, and final rule stages, the entries are not rules.

OMB Circulars and OFPP Policy Letters are policy guidelines that communicate Governmentwide policy of a continuing nature. For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda; c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Darrell A. Johnson (202/395-7250) at the above address.

Dated: September 15, 1989.

Darrell A. Johnson,

Assistant Director for Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3443	Policies on Government Publications (Circular No. A-3)	0348-AA77
3444	Policy Governing Charges for Rental Quarters and Other Facilities (Circular No. A-45)	0348-AA85
3445	Management of Federal Audiovisual Activities (Circular No. A-114)	0348-AA84
3446	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AA76

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3447	Writing and Administering Performance Work Statements (Part II of Supplement to Circular No. A-76)	0348-AA34
3448	Enhancing Governmental Productivity Through Competition (Circular No. A-76)	0348-AA45

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3449	Federal Government User Charges Policy (Circular No. A-25)	0348-AA41
3450	Cost Principles for State and Local Governments (Circular No. A-87)	0348-AA83
3451	Audits of Institutions of Higher Education and Other Nonprofit Organizations (Proposed Circular No. A-133)	0348-AA68
3452	Grants and Cooperative Agreements (OMB Circular No. A-XXX)	0348-AA69
3453	Prompt Payment (Circular No. A-125)	0348-AA67
3454	Statistical Policy Directives	0348-AA43
3455	"Rule of Origin" under the Buy American Act of 1933 as amended	0348-AA88

OMB

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3456	Policy Guidance for Development of Government-Wide Regulations Concerning "Procurement Integrity"	0348-AA87

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Prerule Stage

3443. POLICIES ON GOVERNMENT PUBLICATIONS (CIRCULAR NO. A-3)

Significance: Agency Priority

Legal Authority: 44 USC 1108

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-3, "Government Publications", last revised in May 1985, prescribes policies and procedures for approving funding for government periodicals to fulfill the requirements of 44 USC 1108, and for reporting periodicals and non-recurring publications. OMB is proposing to incorporate this Circular, with minor revisions, into OMB Circular No. A-130, "Management of Federal Information Resources", and published a proposed revision for comment on January 4, 1989.On June 15, 1989, OMB published a notice for comment summarizing comments on the January 1989 notice, presenting OMB reaction to comments, and further describing proposed revisions to Circular No. A-3.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advanced Proposal to Replace Circular	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advanced Proposal to Replace Circular	06/15/89	54 FR 25554
Third Advance Proposal to Replace Circular	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Timothy Sprehe, Statistician, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA77

3444. POLICY GOVERNING CHARGES FOR RENTAL QUARTERS AND OTHER FACILITIES (CIRCULAR NO. A-45)

Legal Authority: 5 USC 5911 (F); EO 11609 (Section 9)

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-45 was issued to provide policy guidance regarding charges for rental quarters and other Government facilities. OMB is reviewing this Circular pursuant to the provisions of paragraph 9 of the Circular, dated March 28, 1964.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/88	
End Review	10/01/89	
Final Action	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Richard A. Ong, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA85

3445. MANAGEMENT OF FEDERAL AUDIOVISUAL ACTIVITIES (CIRCULAR NO. A-114)

Legal Authority: Budget and Accounting Act of 1950

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-114 was issued to produce policies governing the consolidation, use, and management of federal audiovisual resources. OMB is reviewing this Circular pursuant to the Sunset Review Provision of the Circular as revised on March 20, 1985.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/88	
End Review	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Donna Fossum, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA84

3446. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Significance: Agency Priority

Legal Authority: 44 USC 35; 5 USC 552a; 40 USC 759; 40 USC 487; 31 USC 11

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-130, "Management of Federal Information Resources", issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Computer Security Act of 1987 (PL 100-235). OMB published for comment on January 4, 1989, a proposed further policy on dissemination of information that

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includes electronic dissemination of information and user charges for government information products.On June 15, 1989, OMB published for comment a notice, presenting OMB reaction to comments, withdrawing the January 1989 notice, and outlining plans for revising Circular No. A-130.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal of Changes	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal to Circular	06/15/89	54 FR 25554
Third Advance Proposal to Circular	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Timothy Sprehe, Statistician, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA76

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3447. WRITING AND ADMINISTERING PERFORMANCE WORK STATEMENTS (PART II OF SUPPLEMENT TO CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This document describes a systematic means for developing Performance Work Statements and Quality Assurance Surveillance plans for Government management of commercial activities. It also includes procedures for contracting personnel who develop, review, award, and administer service contracts.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	10/01/89	
Final Action	01/05/90	
Final Action Effective	03/05/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David L. Muzio, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA34

3448. ENHANCING GOVERNMENTAL PRODUCTIVITY THROUGH COMPETITION (CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector, and provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. This Circular is currently under revision to incorporate changes required by Executive Order No. 12615, and to provide more management flexibility to directly contract certain functions.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	10/01/89	
Final Action	01/05/90	
Final Action Effective	03/05/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David L. Muzio, Deputy Associate Administrator for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA45

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3449. FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: Title V of Independent Offices Appropriations Act of 1952; 31 USC 9701

CFR Citation: None

Legal Deadline: None

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. Public comments have been received on a revised draft of the Circular. They are currently being considered.

Timetable:

Action	Date	FR Cite
Draft Published for Comment	07/01/87	52 FR 24890
Public Comment Period End	08/01/87	
Final Publication	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

OMB — **Final Rule Stage**

Government Levels Affected: Local, State, Federal

Agency Contact: Joel Friedman, Financial Economist, Office of Management and Budget, Budget Review Division, Fiscal Analysis Branch, Washington, D.C. 20503, 202 395-4574

RIN: 0348-AA41

3450. COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-87)

Legal Authority: 64 Stat 832; Budget and Accounting Act of 1921 as amended; Budget and Accounting Procedures Act of 1950 as amended; EO 11541; Office of Federal Procurement Policy Act of 1974 as amended

CFR Citation: None

Legal Deadline: None

Abstract: This review will update the circular.

Timetable:

Action	Date	FR Cite
Draft Circular Published for Public Comment	10/14/88	53 FR 40352
Circular to be Issued	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3993

RIN: 0348-AA83

3451. AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS (PROPOSED CIRCULAR NO. A-133)

Significance: Agency Priority

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble; Budget and Accounting Act of 1921 as amended; Budget and Accounting Procedures Act of 1950 as amended; Reorganization Plan No.2 of 1970; EO 11541; Office of Federal Procurement Policy Act of 1974 as amended

CFR Citation: None

Legal Deadline: None

Abstract: The review will develop requirements for "single audit" of universities and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Published in the Federal Register for Public Comment	11/06/85	50 FR 46244
Publish Revised Proposal for Comment	11/10/88	53 FR 45744
Circular to be Issued	10/31/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Current policy for independent audits of universities is contained in Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations". The proposed revision will be merged with current policy for Federal audits of universities contained in Circular No. A-88.

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-3993

RIN: 0348-AA68

3452. GRANTS AND COOPERATIVE AGREEMENTS (OMB CIRCULAR NO. A-XXX)

Significance: Agency Priority

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; Federal Grant and Cooperative Agreement Act of 1977; Intergovernmental Cooperation Act of 1968; Office of Federal Procurement Policy Act of 1974 as amended

CFR Citation: None

Legal Deadline: None

Abstract: The proposed circular would replace OMB Circulars No. A-102, "Grants and Cooperative Agreements with State and Local Governments", and No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations", to contain guidance to Federal agencies on grants management issues which are internal to the Federal agencies. Simultaneously, the Federal agencies are proposing a common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements", which contains fiscal and administrative requirements for grantees.

Timetable:

Action	Date	FR Cite
Begin Review	06/15/87	
Invitation for Comments	06/24/87	52 FR 23729
Proposed Circular	11/04/88	53 FR 44710
Final Circular	11/01/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Jonathan D. Breul, Management Analyst, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3050

RIN: 0348-AA69

3453. PROMPT PAYMENT (CIRCULAR NO. A-125)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; 31 USC 3901 et seq; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: The Office of Management and Budget has amended Circular No. A-125 to implement changes made by the Prompt Payment Act Amendments of 1988, PL 100-496.

Timetable:

Action	Date	FR Cite
Proposal to Revise Circular	04/15/89	
Comment Period End	06/01/89	54 FR 15053
Final Action	09/01/89	
Final Action Effective	10/01/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Suzanne Duval, Management Analyst, Office of Management and Budget, Financial Management Division, Credit and Cash

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Management Branch, Washington, D.C. 20503, 202 395-6187

RIN: 0348-AA87

3454. STATISTICAL POLICY DIRECTIVES

Legal Authority: 31 USC 1104 Budget & Accounting Procedures Act 1950 (Sec 103); PL 96-511 Paperwork Reduction Act of 1980; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: The Directives give general policies for gathering, compiling, analyzing, publishing, and disseminating statistical information by the agencies in the Executive Branch of the Federal Government. A draft Circular was issued for public comment on January 20, 1988. The public comment period was subsequently extended to July 15, 1988. A revised draft circular is planned to be issued for public comment by October 1991. The final circular is planned for April 1991.

Timetable:

Action	Date	FR Cite
Draft Circular for Public Comment	01/20/88	53 FR 1542
Final Circular	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzann K. Evinger, Statistical Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, 202 395-3093

RIN: 0348-AA43

3455. ● "RULE OF ORIGIN" UNDER THE BUY AMERICAN ACT OF 1933 AS AMENDED

Significance: Agency Priority

Legal Authority: PL 100-418,Section 7002

CFR Citation: None

Legal Deadline: Other, Statutory, February 1990.
OFPP must present a report to Congress by February 1990 which includes policy guidance or recommended legislative changes on factors to be used in making determinations of country of origin.

Abstract: The Buy American Act (the Act) was enacted in 1933 to ensure Federal agencies gave domestic products priority in competition for government contracts. The Act provides that, unless it is inconsistent with the public interest or unreasonably costly, all materials and supplies purchased by any department of the Federal Government, and all materials and supplies furnished by contractors doing work for the Federal Government, be produced within the jurisdictional limits of the United States. In 1988, the Act was amended by several sections of Title VII of PL 100-418. among other things, the 1988 amendments, directed the Administrator of Federal Procurement Policy to "conduct an assessment of the rules currently used this Act for making determinations of country of origin and alternatives to such rules." In conducting this assessment, the administrator was directed to identify and evaluate reasonable alternative rules of origin, including one which requires that a determination be made on the basis of total cost. The results of this analysis, including policy guidance and recommended legislative changes,are to be submitted to designated committees of Congress by Feb. 90.

Timetable:

Action	Date	FR Cite
Final Action	02/00/90	
Final Action Effective	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Agency Contact: Donna Fossum, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, 725 17th St., N.W.; NEOB; RM.9025, Washington, D.C.20503, 202 395-3300

RIN: 0348-AA88

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3456. POLICY GUIDANCE FOR DEVELOPMENT OF GOVERNMENT-WIDE REGULATIONS CONCERNING "PROCUREMENT INTEGRITY"

Significance: Agency Priority

Legal Authority: PL 100-679, Sec 6 OFPP Act Amendments of 1988

CFR Citation: None

Legal Deadline: Final, Statutory, July 16, 1989.
Sec 6(a) provides that regulations and guidelines are required to be issued 180 days after enactment of PL 100-679 (November 17, 1988). PL 101-28 extended effective date to July 16, 1989.

Abstract: Section 6 of PL 100-679 establishes a "Procurement Integrity" requirement applicable to all government contractors having contracts with federal agencies that are subject to the Office of Federal Procurement Policy Act. The Policy and Regulations will cover: Prohibited Conduct by Competing Contractors; Prohibited Conduct by Procurement Officials; Disclosure of Information to Unauthorized Persons; Post-Employment Restrictions on Government Officials; Contractual Penalties; Administrative Actions; Criminal Penalties; and Civil Penalties. The statutory provision mandates federal action by requiring implementation in the Federal Acquisition Regulation. No alternative approach is permitted. Potential cost and benefits undetermined.

Timetable:

Action	Date	FR Cite
Policy Guidance Issued	04/07/89	
Final Action	07/16/89	
Final Action Effective	07/16/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kindred LaBorde, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA87

[FR Doc. 89-22486 Filed 10-27-89; 8:45 am]

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Monday
October 30, 1989

Part XXXV

Office of Personnel Management

Semiannual Regulatory Agenda

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OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for development or review from October 1, 1989, through September 30, 1990. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the Federal Register does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

FOR FURTHER INFORMATION CONTACT: JoAnn G. Blackler, (202) 632-0373.

U.S. Office of Personnel Management.

Constance B. Newman,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3457	Executive Assignment System	3206-AC03
3458	Suitability -- Suitability Disqualification/Rating Actions	3206-AC19
3459	Personnel Security and Related Programs	3206-AC21
3460	Investigations	3206-AB92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3461	Organization of the Government for Personnel Management; Personnel Management in Agencies	3206-AA66
3462	Performance Management System	3206-AD22
3463	Veterans Readjustment Appointment (VRA) Program	3206-AD80
3464	Executive and Management Development	3206-AC12
3465	Prevailing Rate Systems	3206-AD70
3466	Pay Administration under the FLSA: Compliance	3206-AA40
3467	Political Activity of Federal Employees	3206-AA47
3468	Employee Responsibilities and Conduct	3206-AD90
3469	Corrective Action and Reporting Requirements Relating to Agency Ethics Programs	3206-AD71
3470	Retirement; Credit for Military Service	3206-AD87
3471	Retirement; Credit and Deposits for Military Service	3206-AB73
3472	Retirement; CSRS Offset Service	3206-AD58
3473	Debt Collection	3206-AD88
3474	Retirement and Federal Employees' Group Life Insurance; Designation of Beneficiary Under CSRS, FERS and FEGLI and Retention of Family Optional FEGLI for Judges	3206-AD84
3475	Retirement; Concurrent Entitlement to Retirement and Compensation Benefits	3206-AD89
3476	Retirement; Reemployment of Annuitants	3206-AD60
3477	Retirement; Basic Employee Death Benefits under FERS	3206-AD85
3478	Federal Employees Health Benefits Program (FEHBP) Enrollment Process for Federal Employees' Retirement System (FERS) Retirees	3206-AD53
3479	Miscellaneous Federal Employees Health Benefits Program (FEHBP) Amendments	3206-AD55
3480	Federal Employees Health Benefits Program; Continuation of Enrollment and Discontinued Plan Enrollment Changes	3206-AB88
3481	Modification of Federal Employees Health Benefits Acquisition Regulation (FEHBAR) Provisions and Clauses	3206-AD78
3482	OPM Procurement Regulations	3206-AB28

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3483	Availability of Official Information	3206-AD83
3484	Employment (General); Employment Practices	3206-AB41
3485	Amendment to Selective Service Registration Requirements	3206-AD68
3486	Employment in the Excepted Service	3206-AD73

OPM

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3487	Pay Under the General Schedule; "Highest Previous Rate"	3206-AD44
3488	Performance Awards in the Senior Executive Service	3206-AD91
3489	Grade and Pay Retention	3206-AD45
3490	Pay Administration (General); Severance Pay	3206-AC41
3491	Processing Garnishment Orders for Child Support and/or Alimony	3206-AB42
3492	Allowances and Differentials; Cost of Living Allowance and Post Differential--Nonforeign Areas	3206-AB34
3493	Absence and Leave; Coverage of D.C. Government Employees	3206-AC47
3494	Absence and Leave; Voluntary Leave Transfer Program	3206-AD41
3495	Absence and Leave; Voluntary Leave Bank Program	3206-AD69
3496	Executive Personnel Financial Disclosure Requirements	3206-AA93
3497	Post Employment Conflict of Interest; 1988 Designation of Certain Positions and Agencies	3206-AD72
3498	Retirement; Bankruptcy Judges and Magistrates	3206-AD66
3499	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AB75
3500	Retirement; Disability Retirement	3206-AB77
3501	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AD48
3502	Retirement; Deposits for Military Service	3206-AB35
3503	Retirement; Crediting Personal Service Contract Service	3206-AD59
3504	Retirement; Federal Employees' Retirement System Act of 1986	3206-AC94
3505	Retirement; Federal Employees' Retirement System Act of 1986	3206-AD65
3506	Retirement; FERS Cost-of-Living Adjustments	3206-AD62
3507	Retirement; FERS--Annual Pay Computation for Less than Full-Time Employees	3206-AD63
3508	Retirement; FERS Disability Benefits	3206-AD61
3509	Federal Employees' Group Life Insurance; Annual Rates of Pay for Employees Who Work Less Than Full Time	3206-AD50
3510	Federal Employees Health Benefits for Former Spouses of CIA and Foreign Service Employees	3206-AD28
3511	Federal Employees Health Benefits Program/Withdrawal of Carrier and Plan Approval	3206-AD37
3512	Health Insurance Coverage for Certain Temporary Employees	3206-AD79
3513	Debarments, Civil Monetary Penalties and Assessments Imposed on Health Care Practitioners and Providers of Services or Supplies for Cited Offenses	3206-AD76
3514	Federal Employees Health Benefits Program; Temporary Continuation of Coverage	3206-AD66
3515	Amendment to ALJ Regulations	3206-AD82
3516	Computer Security Training	3206-AD43

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3517	Availability of Official Information	3206-AD05
3518	Career and Career-Conditional Employment	3206-AD81
3519	Employment in the Senior Executive Service	3206-AC81
3520	Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems	3206-AA21
3521	Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems	3206-AA23
3522	Training	3206-AD06
3523	Reduction in Grade and Removal Based on Unacceptable Performance	3206-AB21
3524	Prevailing Rate Systems	3206-AC82
3525	Retirement; Recovery of Annuity Overpayments	3206-AB78
3526	Federal Employees Group Life Insurance	3206-AB80
3527	Additional Optional Life Insurance and Family Optional Life Insurance under the Federal Employees Life Insurance Program (FEGLI)	3206-AD75
3528	Removing Age 36 Barrier for Electing/Adding Option B Life Insurance Coverage and Other Miscellaneous Changes	3206-AD77
3529	Federal Employees Health Benefits Program; Technical Corrections	3206-AB83
3530	Definition of Medicare Eligible Individuals	3206-AD49
3531	Conversion Privilege for Family Members Who Lose Coverage Under the Federal Employees Health Benefits Program (FEHBP)	3206-AD56
3532	Federal Employees Health Benefits Program; Reenrollment of Certain Annuitants	3206-AD23
3533	"Adjusted Community Rating" and Price Adjustments for Defective Community Rating under the Federal Employees Health Benefits Program	3206-AD74

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Prerule Stage

3457. EXECUTIVE ASSIGNMENT SYSTEM

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3324; EO 10577

CFR Citation: 5 CFR 305

Legal Deadline: None

Abstract: Review of regulations on executive assignment system (GS-16/18). Regulations need to be reviewed in light of the establishment of the Senior Executive Service, which incorporated most GS-16/18 positions, and delegations to agencies under the CSRA.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/89	
End Review	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4486

RIN: 3206-AC03

3458. SUITABILITY -- SUITABILITY DISQUALIFICATION/RATING ACTIONS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, Subparts B and C

Legal Deadline: None

Abstract: Comprehensive review of suitability standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel suitability standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC19

3459. PERSONNEL SECURITY AND RELATED PROGRAMS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: Comprehensive review of security standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel security standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC21

3460. INVESTIGATIONS

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: Review of Governmentwide background investigations standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel investigations standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-4426

RIN: 3206-AB92

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3461. ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT; PERSONNEL MANAGEMENT IN AGENCIES

Legal Authority: 5 USC 1104; 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 230; 5 CFR 250

Legal Deadline: None

Abstract: Deletes Part 230 and transfers its regulations to Part 250, to maintain parallel structure with 5 U.S.C. Combines material formerly in Part 230 with regulations now found in Part 250 to present all regulations on agencies' authorities for personnel management in a single part of the Code of Federal Regulations. Changes improve the technical integrity of the CFR by eliminating redundancies and improving the efficiency of OPM's regulations. No change in the coverage or substance of affected regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22728
NPRM	10/00/89	
Action	Date	FR Cite
Final Action	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Oland, Chief, Program Development Division, Office of Personnel Management, Agency Compliance and Evaluation, Personnel Systems and Oversight Group, 1900 E

OPM — Proposed Rule Stage

St., NW, Washington, DC 20415, 202 632-4486

RIN: 3206-AA66

3462. PERFORMANCE MANAGEMENT SYSTEM

Significance: Regulatory Program

Legal Authority: 5 USC Ch 43; 5 USC Ch 45; 5 USC Ch 53; 5 USC Ch 54; 5 USC 552; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; 5 CFR 7.2; EO 9830

CFR Citation: 5 CFR 293; 5 CFR 430

Legal Deadline: None

Abstract: Revises requirements for the Performance Management Systems for General Schedule and Prevailing Rate employees. Regulations will be streamlined to eliminate impediments to management flexibility while still assuring pay-for-performance systems. The section on filing and transfer of performance records contains a technical change that would bring the Official Personnel Folder (OPF) subpart into conformance with the Employee Performance Folder (EPF) subpart, indicating that performance ratings of record, and the performance plans on which they are based, may be filed in either the OPF or the EPF.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Frank Carrick, Chief, Performance Management Division, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7630

RIN: 3206-AD22

3463. ◆ VETERANS READJUSTMENT APPOINTMENT (VRA) PROGRAM

Legal Authority: 38 USC 2014

CFR Citation: 5 CFR 307

Legal Deadline: None

Abstract: Unless it is extended, the current VRA Program expires December 31, 1989. If in fact it is extended or modified, OPM will need to issue regulations to reflect the provisions of the legislation.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Carbonneau, Special Assistant for Veterans Programs, Office of Personnel Management, Career Entry and Employee Development Group, Affirmative Recruiting and Employment, 1900 E St., NW; Washington, DC 20415, 202 632-6043

RIN: 3206-AD80

3464. EXECUTIVE AND MANAGEMENT DEVELOPMENT

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412

Legal Deadline: None

Abstract: Regulations to reconstruct executive and management development program authority.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Loftis, Chief, Management and Oversight Division, Office of Personnel Management, Career Entry and Employee Development Group, 1121 Vermont Ave., NW; PO Box 7230, Washington, DC 20044, 202 632-6255

RIN: 3206-AC12

3465. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Proposed rule would move material that is of a regulatory nature from FPM Supplements 532-1 and 532-2 to 5 CFR Part 532.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Summers, Acting Chief, Wage Systems Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7630

RIN: 3206-AD70

3466. PAY ADMINISTRATION UNDER THE FLSA: COMPLIANCE

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551, Subpart F

Legal Deadline: None

Abstract: Proposed new regulation covering the FLSA Compliance Program and simplifying the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Tapping, Personnel Management Specialist, Office of Personnel Management, Personnel and Systems and Oversight Group, Agency Compliance and Evaluation, 1900 E St., NW, Washington, DC 20415, 202 632-4530

RIN: 3206-AA40

3467. POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Legal Authority: 5 USC 1308; 5 USC 3301; 5 USC 3302; 5 USC 7301; 5 USC 7321 to 7325; 5 USC 7327; 42 USC 2729; EO 10577 3 CFR, 1954-1958 Comp. p. 218; 5 USC 7701 et seq; EO 12107

CFR Citation: 5 CFR 733

Legal Deadline: None

Abstract: Prescribes (1) regulations under the Hatch Act and related provisions of law that restrict the political activity of Federal employees; (2) definitional and structural revisions; and (3) possible addition and/or recision of partial exceptions by the Director for municipalities or political subdivisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

OPM — Proposed Rule Stage

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OPM — Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: JoAnn Chabot, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW, Room 7536, Washington, DC 20415, 202 632-5030

RIN: 3206–AA47

3468. ● EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: EO 12674

CFR Citation: 5 CFR 735

Legal Deadline: None

Abstract: Proposed new regulation implementing new Executive Order of Principles of Ethical Conduct to supersede employee conduct rules of 5 CFR Part 735.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
Analyze Comments	12/15/89	
Final Action	02/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Wilcox, Staff Attorney, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 523-5757

RIN: 3206–AD90

3469. CORRECTIVE ACTION AND REPORTING REQUIREMENTS RELATING TO AGENCY ETHICS PROGRAMS

Significance: Regulatory Program

Legal Authority: 5 USC App 402; PL 100-598

CFR Citation: 5 CFR 738; 5 CFR 735

Legal Deadline: None

Abstract: Proposed new regulation to implement portions of 5 CFR Part 738 by adding new Subpart D - Correction of Agency Programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Analyze Comments	11/30/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Wilcox, Staff Attorney, Office of Personnel Management, Office of Government Ethics, PO Box 14108, Washington, DC 20044, 202 523-5757

RIN: 3206–AD71

3470. ● RETIREMENT; CREDIT FOR MILITARY SERVICE

Legal Authority: 5 USC 8347; 5 USC 8461; PL 97-253, Sec 307

CFR Citation: 5 CFR 831, Subpart C; 5 CFR 842, Subpart C; 5 CFR 843, Subpart C

Legal Deadline: None

Abstract: These regulations govern credit for military service under FERS and CSRS in situations where annuitants have simultaneous entitlement to Social Security benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW.; Washington, DC 20415, 202 632-4682

RIN: 3206–AD87

3471. RETIREMENT; CREDIT AND DEPOSITS FOR MILITARY SERVICE

Legal Authority: PL 97-253, Sec 306(b); PL 98-94, Sec 1257; PL 98-369, Sec 2205

CFR Citation: 5 CFR 831, Subparts C and U

Legal Deadline: None

Abstract: Public Laws 97-253, 98-94, and 98-369 amend the provisions of the retirement law that deal with crediting military service and making deposits for military service. Proposed regulations would revise the affected regulations to implement these laws.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-4682

RIN: 3206–AB73

3472. RETIREMENT; CSRS OFFSET SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart J

Legal Deadline: None

Abstract: The Federal Employees' Retirement System Act of 1986 provided that certain employees would continue to be covered by both the Civil Service Retirement System and social security. Their CSRS deductions are offset by social security taxes (FICA), and, when they retire, their CSRS benefits are offset by the value of this service in their social security benefits. The regulations will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Newland, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206–AD58

3473. ● DEBT COLLECTION

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835

Legal Deadline: None

Abstract: These proposed regulations would consolidate in one Part, all of OPM's procedures for collecting both our own and other agencies' debts from benefits payable from the Civil Service Retirement and Disability Fund for debtors covered by the Civil Service Retirement System or the Federal Employees Retirement System.

OPM — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW.; Washington, DC 20415, 202 632-4682

RIN: 3206–AD88

3474. ● RETIREMENT AND FEDERAL EMPLOYEES' GROUP LIFE INSURANCE; DESIGNATION OF BENEFICIARY UNDER CSRS, FERS AND FEGLI AND RETENTION OF FAMILY OPTIONAL FEGLI FOR JUDGES

Legal Authority: 5 USC 8347; 5 USC 8424; 5 USC 8441; 5 USC 8442; 5 USC 8716

CFR Citation: 5 CFR 831, Subpart T; 5 CFR 843, Subpart B; 5 CFR 870, Subpart I; 5 CFR 873, Subpart F

Legal Deadline: None

Abstract: Regulations to amend CSRS, FERS and FEGLI to specify and make consistent the policy that only the federal employee or annuitant is eligible to make or change their designation of beneficiary. In addition, the regulation specifies that certain retired judges are exempted from the reduction of Family Optional FEGLI.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW.; Washington, DC 20415, 202 632-4634

RIN: 3206–AD84

3475. ● RETIREMENT; CONCURRENT ENTITLEMENT TO RETIREMENT AND COMPENSATION BENEFITS

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: These regulations would implement Section 124 of Public Law 100-238, the Federal Employees Retirement System Technical Corrections Act, which addressed commuted compensation payments. They would also clarify the effect of an alternative annuity election in cases where retirees have concurrent entitlement to a retirement annuity and compensation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	
Final Action	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW.; Washington, DC 20415, 202 632-4682

RIN: 3206–AD89

3476. RETIREMENT; REEMPLOYMENT OF ANNUITANTS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841, Subpart K; 5 CFR 846

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 8, 1988, amended the Federal Employees' Retirement System Act provisions concerning reemployment of FERS annuitants and CSRS annuitants who transfer to FERS. These regulations implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206–AD60

3477. ● RETIREMENT; BASIC EMPLOYEE DEATH BENEFITS UNDER FERS

Legal Authority: 5 USC 8442; 5 USC 8461

CFR Citation: 5 CFR 843, Subpart C

Legal Deadline: None

Abstract: These regulations give notice of our existing practice to permit surviving spouses who elect to receive the basic employee death benefit in installments to opt to receive the present value of the remaining installments in a lump sum.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St. NW.; Washington, DC 20415, 202 632-4682

RIN: 3206–AD85

3478. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) ENROLLMENT PROCESS FOR FEDERAL EMPLOYEES' RETIREMENT SYSTEM (FERS) RETIREES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify FEHBP enrollment process and "immediate annuity" for individuals eligible for a FERS annuity at the minimum retirement age with at least 10 years of service (MRA plus 10 provision).

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E

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OPM — Proposed Rule Stage

Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206–AD53

3479. MISCELLANEOUS FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) AMENDMENTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to establish earlier effective date of coverage for former spouses; to clarify the treatment of former spouse health benefits if former spouse is or becomes a Federal employee or is covered under the Federal enrollment of another; and to clarify the current provision on continued coverage while confined in a hospital at the time of change of plan.

Timetable:

Action	Date	FR Cite
NPRM	10/15/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206–AD55

3480. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; CONTINUATION OF ENROLLMENT AND DISCONTINUED PLAN ENROLLMENT CHANGES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None

Abstract: Regulations to reflect established OPM practice of (1) allowing surviving family members to continue FEHBP participation under multiple enrollments in split-award survivor annuity cases; and (2) setting an alternative time and effective date for a change of enrollment when a one-option health benefits plan is discontinued at the end of the contract period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AB88

3481. MODIFICATION OF FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION (FEHBAR) PROVISIONS AND CLAUSES

Legal Authority: 5 USC 8913; 40 USC 486(c)

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: Proposed regulations to improve OPM's administration of the Federal Employees Health Benefits Program (FEHBP).

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206–AD78

3482. OPM PROCUREMENT REGULATIONS

Legal Authority: 48 CFR Chapter 1

CFR Citation: 48 CFR 17

Legal Deadline: None

Abstract: Regulations to implement and supplement the Federal Acquisition Regulations (FAR). The FAR were effective April 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alfred F. Chatterton III, Acting Chief, Acquisition Division, Office of Personnel Management, Administration Group, 1900 E Street, NW, Washington, DC 20415, 202 632-5476

RIN: 3206–AB28

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3483. ● AVAILABILITY OF OFFICIAL INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: Revisions in response to the requirements of E.O. 12600 regarding confidential commercial information and revisions to the description of the Index to information to clearly reflect OPM's practices.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25120
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Ronald Trueworthy, Chief, Reports and Forms Management Branch, Office of Information Management, Office of Personnel Management, Administration

OPM — Final Rule Stage

Group, 1900 E St., NW; Washington, DC 20415, 202 632-0361

RIN: 3206–AD83

3484. EMPLOYMENT (GENERAL); EMPLOYMENT PRACTICES

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Clarification of the policy and appeal procedures used in developing and implementing employment practices in the recruitment, measurement and selection of individuals for appointments and promotion within the competitive service. The proposed amendments would remove a non-statutory appeal procedure which was created to provide a simple, streamlined administrative review procedure but which has, instead, become a time-consuming, convoluted process. Additionally, the proposed changes would avoid a duplicative enforcement procedure currently subject to review by OPM and MSPB, which is, more properly, within the sole jurisdiction of the EEOC.

Timetable:

Action	Date	FR Cite
EEOC Coordination	04/01/88	
NPRM	06/20/88	53 FR 23123
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James S. Green, Associate General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Washington, DC 20415, 202 632-5067

RIN: 3206–AB41

3485. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300, Subpart G

Legal Deadline: None

Abstract: We will issue a final rule delegating authority to agencies to determine whether a Federal job applicant's failure to register with the Selective Service System was knowing and willful. This change was authorized by an amendment to 5 USC 3328 which imposes the selective service registration requirement as a condition of employment in Federal executive agencies. The delegation will permit faster decisions for interested job seekers and reduce paperwork.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Personnel Staffing Specialist, Office of Personnel Management, Career Entry and Employee Development Group, Staffing Policy Division, 1900 E St., NW; Washington, DC 20415, 202 653-0407

RIN: 3206–AD68

3486. EMPLOYMENT IN THE EXCEPTED SERVICE

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: Regulations will respond to substantive issues raised during revision of Part 302 in FY 88: (1) distinction between candidates who should receive priority consideration for reemployment and other reemployment candidates (currently all are referred on same list); (2) delegation to agencies of authority to establish alternative ranking plans under 5 CFR 302.105.

Timetable:

Action	Date	FR Cite
NPRM	09/12/89	54 FR 37685
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Holum, Assistant Director, Office of Staffing Policy and Operations, Office of Personnel Management, Career Entry and Employee Development Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206–AD73

3487. PAY UNDER THE GENERAL SCHEDULE; "HIGHEST PREVIOUS RATE"

Legal Authority: 5 USC 5334(a); 5 USC 5338

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Under current regulations, Federal agencies must request prior OPM approval to use a special rate as an employee's "highest previous rate" upon reassignment to another position. The proposed regulations would revise the "highest previous rate" provisions of the regulations to remove this requirement and to clarify an agency's authority to establish an employee's rate of basic pay upon promotion, demotion, reassignment, transfer, reemployment, or change in type of appointment.

Timetable:

Action	Date	FR Cite
NPRM	03/31/89	54 FR 13196
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Gatewood, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 632-5658

RIN: 3206–AD44

3488. ● PERFORMANCE AWARDS IN THE SENIOR EXECUTIVE SERVICE

Legal Authority: 5 USC 5384; 5 USC 5385

CFR Citation: 5 CFR 534

Legal Deadline: None

Abstract: Proposed regulations to require that Senior Executive Service (SES) Performance Review Boards be composed of a majority of career SES members when making recommendations on performance awards for career SES appointees.

Timetable:

Action	Date	FR Cite
NPRM	08/29/89	54 FR 35654
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

OPM — Final Rule Stage

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Executive Administration, Office of Personnel Management, Office of Executive Personnel, 1900 E St. NW.; Washington, DC 20415, 202 632-4486

RIN: 3206–AD91

3489. GRADE AND PAY RETENTION

Legal Authority: 5 USC 5365

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: Proposed regulations would provide for the application of current pay retention rules when a Federal prevailing rate (wage) schedule is reduced as a result of a decline in the local private sector economy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/88	53 FR 49545
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 632-5856

RIN: 3206–AD45

3490. PAY ADMINISTRATION (GENERAL); SEVERANCE PAY

Significance: Regulatory Program

Legal Authority: 5 USC 5595; EO 11228

CFR Citation: 5 CFR 550, Subpart G

Legal Deadline: None

Abstract: Proposed regulations would make eligibility for involuntary retirement and severance pay parallel, since the same circumstances give rise to both. Proposed regulations also would clarify severance pay coverage for certain employees serving under time-limited appointments and make other changes related to eligibility for severance pay.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23215
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Winstead, Chief, Pay and Leave Administration Division, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5856

RIN: 3206–AC41

3491. PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661; 42 USC 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: Update regulation in response to ongoing suggestions and corrections, especially changes to Appendix A which contains an obsolete list of agents designated to accept legal process.

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	51 FR 15787
NPRM	09/06/88	53 FR 34305
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW; Room 7544, Washington, DC 20415, 202 632-5090

RIN: 3206–AB42

3492. ALLOWANCES AND DIFFERENTIALS; COST OF LIVING ALLOWANCE AND POST DIFFERENTIAL--NONFOREIGN AREAS

Significance: Regulatory Program

Legal Authority: 5 USC 5941; EO 10000

CFR Citation: 5 CFR 591, Subpart B

Legal Deadline: None

Abstract: Current regulations need to be revised to bring the allowance-setting program into conformity with APA requirements, and to establish a methodology for measuring living costs and setting allowance rates that will fulfill the requirements of law and Executive order.

Timetable:

Action	Date	FR Cite
NPRM	10/21/85	50 FR 42531
NPRM	06/02/89	54 FR 23664
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne, Pay Specialist, Office of Pay and Performance, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW, Washington, DC 20415, 202 632-7184

RIN: 3206–AB34

3493. ABSENCE AND LEAVE; COVERAGE OF D.C. GOVERNMENT EMPLOYEES

Legal Authority: 5 USC 6311; DC Law 2-139, as amended

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: Current regulations contain obsolete references to certain DC government employees who are no longer covered by chapter 63 of title 5 of the United States Code. Final regulations will clarify leave coverage for DC government employees.

Timetable:

Action	Date	FR Cite
NPRM	02/27/85	50 FR 7922
NPRM	06/29/89	54 FR 35654
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5856

RIN: 3206–AC47

3494. ABSENCE AND LEAVE; VOLUNTARY LEAVE TRANSFER PROGRAM

Significance: Regulatory Program

Legal Authority: 5 USC 6311; 5 USC 6332; PL 100-202; PL 100-284; PL 100-440; PL 100-566

CFR Citation: 5 CFR 630

Legal Deadline: Final, Statutory, January 31, 1989.

OPM — Final Rule Stage

Abstract: Public Law 100-202 authorized the Office of Personnel Management to establish a program under which Federal employees may transfer annual leave to other employees who need such leave because of a "personal emergency." Interim regulations issued in 1988 established administrative procedures for Federal agencies to permit the transfer of annual leave for this purpose. The statutory authority for this program has been extended through FY 89. In addition, Public Law 100-566 authorized a 5-year experimental voluntary leave transfer program, which will expire on October 31, 1993. Regulations to implement the new program by Public Law 100-566 will supersede previous regulations governing this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/08/88	53 FR 7325
Interim Final Rule	04/26/88	53 FR 14775
Interim Final Rule	11/15/88	53 FR 45886
Interim Final Rule	01/31/89	54 FR 4749
Interim Final Rule	04/26/89	54 FR 18267
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Regarding the interim rules published 3/8/88, 4/26/88, and 11/15/88: The initial program will be phased-out as agencies implement the new program, and these regulations will not be published as final actions. Regarding the interim rule published January 31, 1989: These regulations implement the new program, and will be followed by a final action.

Agency Contact: Martha Hoehn, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance Management, Personnel Systems and Oversight Group, 1900 E St., NW., Washington, DC 20415, 202 632-5056

RIN: 3206–AD41

3495. ABSENCE AND LEAVE; VOLUNTARY LEAVE BANK PROGRAM

Significance: Regulatory Program

Legal Authority: 5 USC 6362; PL 100-566

CFR Citation: 5 CFR 630

Legal Deadline: Final, Statutory, April 30, 1989.

Abstract: Public Law 100-566 authorizes the Office of Personnel Management to establish a 5-year experimental voluntary leave bank program to be implemented in at least 3 executive agencies. Under the voluntary leave bank program, employees can donate annual leave to a common leave fund within each agency, and then can apply to withdraw leave from the fund if they encounter a medical emergency. The regulations will establish the administrative procedures for participating agencies to permit the contribution and use of annual leave for this purpose. The statutory authority for this program expires on October 31, 1993. Further action is dependent upon whether continuing or permanent authorization is enacted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/89	54 FR 18267
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This item is combined in the Regulatory Program with the Leave Transfer regulations (under RIN 3206-AD41).

Agency Contact: John Cahill, Pay and Benefits Specialist, Office of Personnel Management, Personnel Systems and Oversight Group, Office of Pay and Performance Management, 1900 E St., NW; Washington, DC 20415, 202 632-5056

RIN: 3206–AD69

3496. EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 5 USC App 207(a); PL 95-521

CFR Citation: 5 CFR 735

Legal Deadline: None

Abstract: Final regulation to supersede portions of 5 CFR Part 735 dealing with confidential financial disclosure for grades below GS-16.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Analyze comments	07/15/89	
Final Action	11/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Gressman, Staff Attorney, Office of Government Ethics, Office of Personnel Management, P.O. Box 14108, Washington, DC 20044, 202 523-5757

RIN: 3206–AA93

3497. POST EMPLOYMENT CONFLICT OF INTEREST; 1988 DESIGNATION OF CERTAIN POSITIONS AND AGENCIES

Legal Authority: 18 USC 207(b)(1)(c); PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None

Abstract: Final regulation to meet the annual requirement to designate senior employees (for CY 1988) who are subject to the conflict-of-interest provisions of the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
Final Action	11/05/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sid Smith, Staff Attorney, Office of Personnel Management, Office of Government Ethics, PO Box 14108, Washington, DC 20044, 202 523-5757

RIN: 3206–AD72

3498. ● RETIREMENT; BANKRUPTCY JUDGES AND MAGISTRATES

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 841

Legal Deadline: None

Abstract: Interim regulations needed to implement Public Law 100-659, the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988. This Act establishes a new retirement system under title 28, United States Code, and requires coordination of benefits for judges with service

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under the Civil Service and Federal Employees Retirement Systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H.T. Newland, Jr., Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St.,NW.; Washington, DC 20415, 202 632-4682

RIN: 3206-AD86

3499. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subparts F, and T

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20064
Interim Final Rule -- Revised	09/08/86	51 FR 31927
Interim Final Rule-- Revised	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Siegelman, Paralegal Specialist, Retirement and Insurance Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4682

RIN: 3206-AB75

3500. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart L

Legal Deadline: None

Abstract: Comprehensive revision of disability retirement regulations to clarify (1) OPM'S authority to find a disability annuitant recovered from a disability when the annuitant is reemployed in the Federal service in a position equivalent in grade to the one from which he or she retired, and (2) the rules used to determine whether a disability annuitant has been restored to earning capacity.

Timetable:

Action	Date	FR Cite
NPRM	09/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Newland, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AB77

3501. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subpart Q

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act and provide procedures when there are competing claims from applicants for survivor benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20064
Interim Final Rule	09/08/86	51 FR 31927
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW, Washington, DC 20415, 202 632-4682

RIN: 3206-AD48

3502. RETIREMENT; DEPOSITS FOR MILITARY SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart U

Legal Deadline: None

Abstract: Final regulations to extend eligibility to make deposits for military service to separated individuals who were prevented from making a timely deposit due to administrative error or misinformation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/84	49 FR 20631
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AB35

3503. RETIREMENT; CREDITING PERSONAL SERVICE CONTRACT SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 8, 1988, provides qualifying employees and annuitants with an opportunity to credit certain service performed under the auspices of a personal services contract with a Federal agency. These regulations will implement this provision of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/25/88	53 FR 42934
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206-AD59

3504. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 842; 5 CFR 846

Legal Deadline: None
New system took effect January 1, 1987.

Abstract: Final regulations to implement the statutory provision for a new Federal Employees' Retirement System, alternative annuities for FERS retirees under section 6001 of Public Law 100-203, and conforming changes to the current Civil Service Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/86	51 FR 47185
Interim Final Rule	01/16/87	52 FR 2058
Interim Final Rule	02/11/87	52 FR 4472
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-5560

RIN: 3206-AC94

3505. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: Final regulations to implement the statutory provision for a new Federal Employees' Retirement System and conforming changes to the current Civil Service Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/87	52 FR 4472
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-5560

RIN: 3206-AD65

3506. RETIREMENT; FERS COST-OF-LIVING ADJUSTMENTS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841, Subpart G

Legal Deadline: None

Abstract: The Federal Employees' Retirement System Act of 1986 provides basic rules for adding cost-of-living adjustment (COLA's) to annuities of FERS retirees and their survivors. These regulations implement and clarify these provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36799
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206-AD62

3507. RETIREMENT; FERS--ANNUAL PAY COMPUTATION FOR LESS THAN FULL-TIME EMPLOYEES

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841; 5 CFR 843

Legal Deadline: None

Abstract: These regulations provide a methodology for computing the amount of the basic employee death benefit under the Federal Employees' Retirement System (FERS) Act of 1986 for employees whose tour of duty is less than full time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/88	53 FR 16535
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206-AD63

3508. RETIREMENT; FERS DISABILITY BENEFITS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 844

Legal Deadline: None

Abstract: These regulations implement Subchapter V of chapter 84, the Federal Employees' Retirement System Act disability provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/88	53 FR 33433
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Newland, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4682

RIN: 3206-AD61

3509. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE; ANNUAL RATES OF PAY FOR EMPLOYEES WHO WORK LESS THAN FULL TIME

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870, Subpart C

Legal Deadline: None

Abstract: Regulations to establish a new method of arriving at annual rates of pay for life insurance purposes for employees on less than full-time schedules.

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Timetable:

Action	Date	FR Cite
NPRM	10/14/88	53 FR 40232
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 632-4634

RIN: 3206-AD50

3510. FEDERAL EMPLOYEES HEALTH BENEFITS FOR FORMER SPOUSES OF CIA AND FOREIGN SERVICE EMPLOYEES

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to implement Sections 302 and 303 of the Intelligence Authorization Act of 1986 and Sections 831 and 832 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, by describing the conditions under which certain former spouses of Central Intelligence Agency and Foreign Service employees, and former spouses of former employees of those agencies, previously omitted from spouse equity legislation may enroll in the Federal Employees Health Benefits (FEHB) Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/08/88	53 FR 45069
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD28

3511. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM/WITHDRAWAL OF CARRIER AND PLAN APPROVAL

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify OPM's minimum standards for a health plan's or carrier's participation in FEHB and OPM's right to withdraw approval, with due process.

Timetable:

Action	Date	FR Cite
NPRM	02/16/89	54 FR 7039
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW., Washington, DC 20415, 202 632-4634

RIN: 3206-AD37

3512. HEALTH INSURANCE COVERAGE FOR CERTAIN TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: PL 100-654

CFR Citation: 5 CFR 890

Legal Deadline: Final, Statutory, March 14, 1989.

Abstract: Regulation to implement Title III of the Federal Employees Health Benefits (FEHB) Amendments Act of 1988 (Pub. L. 100-654) giving certain temporary employees, who were previously excluded, the opportunity to participate in the FEHB Program. The effective date is March 14, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/23/89	54 FR 7755
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Randall, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD79

3513. DEBARMENTS, CIVIL MONETARY PENALTIES AND ASSESSMENTS IMPOSED ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF SERVICES OR SUPPLIES FOR CITED OFFENSES

Significance: Regulatory Program

Legal Authority: 5 USC 8913; PL 100-654

CFR Citation: 5 CFR 890, Subpart J

Legal Deadline: None

Abstract: Regulations to implement title I of Public Law 100-654, the "Federal Employees Health Benefits Amendments Act of 1988." Title I of Pub. L. 100-654 permits OPM to exclude from further participation in the FEHB Program any health care provider (1) convicted of fraud or various other cited examples of unethical professional conduct, or (2) determined by OPM to have committed various cited offenses against the FEHB Program. The above cited debarment authority is for an offense committed on or after January 1, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	
Final Action	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD76

3514. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TEMPORARY CONTINUATION OF COVERAGE

Significance: Regulatory Program

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart K

Legal Deadline: Final, Statutory, January 1, 1990.

Abstract: Regulations to permit temporary continuation of health benefits coverage for certain employees, children, and former spouses who would otherwise lose coverage due to loss of covered appointment, loss of status as unmarried dependent child, or dissolution of marriage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/89	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Pay and Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD66

3515. ● AMENDMENT TO ALJ REGULATIONS

Legal Authority: 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3323(b); 5 USC 3344; 5 USC 4301(2)(d); 5 USC 5335(a)(B); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930, Subpart B

Legal Deadline: None

Abstract: OPM is proposing to amend its regulations governing the appointment, pay and removal of administrative law judges. The proposed amendment would permit an administrative law judge to transfer to another agency before completing 1 year of service, provided the losing agency agrees to a transfer. If both the gaining and losing agency agree to the transfer before the usually required 1 year of service following appointment is completed, such transfers should be permitted under the regulations, so that the gaining agency does not have to request a variation from established regulations to effect the transfer.

Timetable:

Action	Date	FR Cite
NPRM	07/25/89	54 FR 30898
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig B. Pettibone, Assistant Director, Administrative Law Judges, Office of Personnel Management, Career Entry and Employee Development Group, 1900 E St., NW; Washington, DC 20415, 202 632-5677

RIN: 3206-AD82

3516. COMPUTER SECURITY TRAINING

Legal Authority: PL 100-235

CFR Citation: 5 CFR 930, Subpart C

Legal Deadline: Final, Statutory, July 10, 1988.

Abstract: Regulations for government-wide training requirement in computer security.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/88	53 FR 26562
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Loftis, Chief, Management and Oversight Division, Career Entry and Employee Development Group, Office of Personnel Management, 1121 Vermont Ave., NW., P.O. Box 7230, Washington, DC 20044, 202 632-6255

RIN: 3206-AD43

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3517. AVAILABILITY OF OFFICIAL INFORMATION

CFR Citation: 5 CFR 294

Completed:

Reason	Date	FR Cite
Final Action	06/13/89	54 FR 25093
Final Action Effective	07/13/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Ronald Trueworthy 202 632-0261

RIN: 3206-AD05

3518. ● CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 8151

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Regulations will amend section 315.603 to permit noncompetitive appointments of a former employee entitled to restoration following a compensable injury when the employee's position was brought into the competitive service either before the employee's separation for compensable injury or during his or her period of statutory restoration rights following such injury. Currently the regulations refer only to former employees entitled to restoration following military service.

Timetable:

Action	Date	FR Cite
Final Action	09/07/89	54 FR 37091
Final Action Effective	09/07/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Holum, Assistant Director, Office of Staffing Policy and Operations, Office of Personnel Management, Career Entry and Employee Development Group, 1900 E ST. NW.; Washington, DC 20415, 202 632-6817

RIN: 3206-AD81

3519. EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Significance: Regulatory Program

CFR Citation: 5 CFR 317; 5 CFR 359; 5 CFR 430; 5 CFR 534; 5 CFR 752

Completed:

Reason	Date	FR Cite
Final Action	01/23/89	54 FR 2985

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kirke Harper 202 632-4486

RIN: 3206-AC81

Completed:

Government Levels Affected: None

3533. "ADJUSTED COMMUNITY

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OPM — Completed Actions

3520. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

CFR Citation: 5 CFR 359

Completed:

Reason	Date	FR Cite
Final Action	05/03/89	54 FR 18673
Final Action Effective	06/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood 202 632-4486

RIN: 3206–AA21

3521. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

CFR Citation: 5 CFR 359

Completed:

Reason	Date	FR Cite
Final Action	05/03/89	54 FR 18673
Final Action Effective	06/02/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood 202 632-4486

RIN: 3206–AA23

3522. TRAINING

CFR Citation: 5 CFR 410

Completed:

Reason	Date	FR Cite
Final Action	06/02/89	54 FR 23631
Final Action Effective	07/03/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Loftis 202 632-0255

RIN: 3206–AD06

3523. REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

CFR Citation: 5 CFR 432

Completed:

Reason	Date	FR Cite
Final Action	06/21/89	54 FR 26172
Final Action Effective	07/21/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Dirks 202 653-8551

RIN: 3206–AB21

3524. PREVAILING RATE SYSTEMS

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	09/15/89	54 FR 38197
Final Action Effective	10/16/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Summers 202 632-7530

RIN: 3206–AC82

3525. RETIREMENT; RECOVERY OF ANNUITY OVERPAYMENTS

CFR Citation: 5 CFR 831, Subpart M

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester 202 632-4682

RIN: 3206–AB78

3526. FEDERAL EMPLOYEES GROUP LIFE INSURANCE

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eleanor Goodwin 202 632-4634

RIN: 3206–AB80

3527. ADDITIONAL OPTIONAL LIFE INSURANCE AND FAMILY OPTIONAL LIFE INSURANCE UNDER THE FEDERAL EMPLOYEES LIFE INSURANCE PROGRAM (FEGLI)

CFR Citation: 5 CFR 872; 5 CFR 873

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith 202 632-4634

RIN: 3206–AD75

3528. REMOVING AGE 36 BARRIER FOR ELECTING/ADDING OPTION B LIFE INSURANCE COVERAGE AND OTHER MISCELLANEOUS CHANGES

CFR Citation: 5 CFR 872; 5 CFR 873

Completed:

Reason	Date	FR Cite
Final Action	09/07/89	54 FR 37092
Final Action Effective	10/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith 202 632-4634

RIN: 3206–AD77

3529. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TECHNICAL CORRECTIONS

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers 202 632-4634

RIN: 3206–AB83

3530. DEFINITION OF MEDICARE ELIGIBLE INDIVIDUALS

CFR Citation: 5 CFR 890

OPM — Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	05/25/89	54 FR 22575
Final Action Effective	05/26/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Randall 202 632-4634

RIN: 3206–AD49

3531. CONVERSION PRIVILEGE FOR FAMILY MEMBERS WHO LOSE COVERAGE UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 632-4634

RIN: 3206–AD56

3532. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REENROLLMENT OF CERTAIN ANNUITANTS

CFR Citation: 5 CFR 890, Subpart C

Completed:

Reason	Date	FR Cite
Withdrawn Notice to be published	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith 202 632-4634

RIN: 3206–AD23

3533. "ADJUSTED COMMUNITY RATING" AND PRICE ADJUSTMENTS FOR DEFECTIVE COMMUNITY RATING UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

CFR Citation: 48 CFR 16

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer or John Ray 202 632-4634

RIN: 3206–AD74

[FR Doc. 89-21745 Filed 10-27-89; 8:45 am]
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Part XXXVI

Panama Canal Commission

Semiannual Regulatory Agenda

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PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Assistant to the Chairman and Secretary, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4996, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, APO Miami 34011-5000.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, require that executive agencies publish in the Federal Register a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the agency's regulatory review and development process. This agenda was prepared under the guidelines established by OMB Bulletin No. 88-12.

Dated: August 25, 1989.

Michael Rhode, Jr.,

Assistant to the Chairman and Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Prerule Stage

3534. ● RULES FOR MEASUREMENT OF VESSELS

Significance: Agency Priority

Legal Authority: PL 96-70, Sec 1601

CFR Citation: 35 CFR 135

Legal Deadline: None

Abstract: In July 1982, 48 nations, representing more than 80 percent of world shipping, began implementing a new uniform method for tonnage determination in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Final implementation is scheduled for July 1994. The present Panama Canal measurement system is based upon the old national tonnage measurement system. The Panama Canal Commission is currently studying the possibility of adapting its tonnage measurement system to one which is compatible with the 1969 Convention. This would eliminate the need for vessels to be measured twice, once under the new system and again under the old system for Panama Canal assessment purposes. No timetable for rulemaking has been established.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Rhode, Jr., Assistant to the Chairman and Secretary, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4996, 202 634-6441

RIN: 3207–AA23

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

3535. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR Chapter 35, (New)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to issue the Panama Canal Commission Acquisition Regulation (PAR) as Chapter 35 of Title 48 Code of Federal Regulations. The proposed PAR implements and supplements the Federal Acquisition Regulation (FAR), which is the primary acquisition regulation that governs the contracting process of all executive agencies or otherwise controls the relationship between such agencies and their contracts or prospective contractors. This action is necessary to provide regulatory coverage pertinent to Commission acquisitions that is not otherwise provided in the FAR.

Timetable:

Action	Date	FR Cite
NPRM	08/23/89	54 FR 35010
NPRM Comment Period End	10/23/89	54 FR 35010
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: R. D. Morgan, Procurement Executive, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207–AA10

3536. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 22 USC 3622

CFR Citation: 35 CFR 255, (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to amend its regulations to implement the Ethics in Government Act, the Commission's Code of Conduct as approved by its Board of Directors, and supplementary regulations that clarify certain provisions of the Code of Conduct.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn H. Twohy, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207–AA16

3537. ● VESSELS CARRYING DANGEROUS CARGOES IN BULK: PROHIBITED CARGOES

Significance: Agency Priority

Legal Authority: 22 USC 3611; EO 12215; 45 FR 36043

CFR Citation: 35 CFR 113.29

Legal Deadline: None

Abstract: This regulation will spell out specifics on prohibited cargoes and certificates of fitness or certificates of compliance. Exceptions will also be considered.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. William Y. Clark II, Special Assistant to Marine Director, Marine Safety Unit, Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207–AA22

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

3538. INSPECTION AND REGISTRATION OF VESSELS

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215; 44 USC 3501

CFR Citation: 35 CFR 121.2, (Revision); 35 CFR 121.3, (Revision); 35 CFR 121.41, (Revision); 35 CFR 121.43, (Revision); 35 CFR 121.45, (Revision); 35 CFR 121.47, (Revision); 35 CFR 121.58(a)(b), (Revision); 35 CFR 121.63, (Revision); 35 CFR 121.65(a)(b), (Revision); 35 CFR 121.66, (Revision); 35 CFR 121.67, (Revision); 35 CFR 121.68, (Revision); 35 CFR 121.69, (Revision); 35 CFR 121.70, (Revision); 35 CFR 121.71, (Revision); ...

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to make procedural changes to bring its regulations into conformity with internal reorganization which changed units responsible for inspection and registration of vessels and to bring vessel equipment requirements into compliance with International Regulations for Preventing Collisions at Sea, 1972.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27030
NPRM Comment Period End	07/27/89	54 FR 27030
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. William Y. Clark, II, Special Assistant to Marine Director, (Marine Safety Unit), Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207–AA18

3539. DANGEROUS CARGOES RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 113.3(a), (Revision); 35 CFR 113.4(a), (Revision); 35 CFR 113.5, (Revision); 35 CFR 113.21, (Revision); 35 CFR 113.22, (Revision); 35 CFR 113.26(a), (Revision); 35 CFR 113.29(b), (Revision); 35 CFR 113.29(c), (Revision); 35 CFR 113.42, (Revision); 35 CFR 113.43(c), (Revision); 35 CFR 113.45, (Revision); 35 CFR 113.49(b)(c), (Revision); 35 CFR 113.50(c)(e)(1)(2), (Revision); 35 CFR 123.4(a), (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to amend its regulations to make minor technical changes and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27030
NPRM Comment Period End	07/27/89	54 FR 27030
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Capt. William Y. Clark II, Special Assistant to Marine Director, (Marine Safety Unit), Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207–AA19

3540. ARRIVING AND DEPARTING VESSELS: VARIOUS COMMUNICATION, DOCUMENTATION, SANITATION AND ADMEASUREMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 22 USC 3811

CFR Citation: 35 CFR 101.10(e), (Revision); 35 CFR 101.10(f), (Revision)

Legal Deadline: None

Abstract: The purpose of the proposed changes is to make minor technical corrections by requiring that cargo manifests and loading plans show international Maritime Organization Division in addition to class.

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PANAMA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27030
NPRM Comment Period End	07/27/89	54 FR 27030
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Capt. William Y. Clark II, Special Assistant to Marine Director, (Marine Safety Unit), Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207–AA20

PANAMA CANAL COMMISSION (PANAMA)

Completed Actions

3541. TOLLS FOR USE OF CANAL

Significance: Agency Priority

CFR Citation: 35 CFR 133, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	08/23/89	54 FR 35148
Final Action Effective	10/01/89	54 FR 35148

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Rhode, Jr. 202 634-6441

RIN: 3207–AA04

3542. TOLLS FOR USE OF CANAL; RULES FOR MEASUREMENT OF VESSELS

Significance: Agency Priority

CFR Citation: 35 CFR 133.32; 35 CFR 133.34; 35 CFR 135.265(a); 35 CFR 135.352

Completed:

Reason	Date	FR Cite
Final Action	08/23/89	54 FR 35148
Final Action Effective	10/01/89	54 FR 35148

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael Rhode, Jr. 202 634-6441

RIN: 3207–AA17

3543. ● PAPERWORK REDUCTION ACT; OMB-APPROVED COLLECTIONS OF INFORMATION

Legal Authority: 22 USC 3811; EO 12215; 44 USC 3501

CFR Citation: 35 CFR 103.1; 35 CFR 117.4; 35 CFR 135.1; 35 CFR 135.2; 35 CFR 135.443; 35 CFR 135.484

Legal Deadline: None

Abstract: In accordance with the requirements of the Paperwork Reduction Act of 1980 (PL 96-511), as amended, that agencies publish Office of Management and Budget (OMB) control numbers assigned to their collections of information contained in regulations, the Panama Canal Commission is amending Parts 103, 117, and 135 of Title 35, Code of Federal Regulations to reflect current OMB numbers.

Timetable:

Action	Date	FR Cite
Final Action	07/12/89	54 FR 29335
Final Action Effective	07/12/89	54 FR 29335

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Barbara A. Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4996, 202 634-6441

RIN: 3207–AA21

[FR Doc. 89-21746 Filed 10-27-89; 8:45 am]

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Monday
October 30, 1989

Part XXXVII

Peace Corps

Semiannual Regulatory Agenda

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PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Executive Order 12291, Federal Regulations, Semiannual Agenda of Regulations

AGENCY: Peace Corps.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from October 1, 1989, through September 30, 1990. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning Peace Corps regulations or this semiannual agenda, contact Robert Martin, Associate General Counsel, Peace Corps, 1990 K Street NW., Washington, DC 20526, (202) 254-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulations" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by Peace Corps are not "major" rules within the meaning of E.O. 12291, and no Regulatory Impact Analysis is required. Peace Corps has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: September 1, 1989.

Margaret H. Thome,

Associate Director for Management.

PEACE CORPS (PEACE) — Proposed Rule Stage

3544. DISCRIMINATION COMPLAINT PROCEDURES

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 306

Legal Deadline: None

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps Volunteers. Under development.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orinda R. Nelson, Equal Employment Manager, Peace Corps, 1990 K Street, NW, Room 5050, Washington, DC 20526, 202 254-7526

RIN: 0420-AA02

3545. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 311

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) which prohibits discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Scales, General Counsel, Peace Corps, 1990 K Street, NW, Room 8302, Washington, DC 20526, 202 254-3114

RIN: 0420-AA03

PEACE CORPS (PEACE) — Completed Actions

3546. EMPLOYEE DISCRIMINATION COMPLAINT PROCEDURE

CFR Citation: 22 CFR 310

Completed:

Reason	Date	FR Cite
Withdrawn Combined with RIN 0420-AA02	08/21/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Orinda R. Nelson 202 254-7526

RIN: 0420-AA01

[FR Doc. 89-22487 Filed 10-27-89; 8:45 am]

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Monday
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Part XXXVIII

Pennsylvania Avenue Development Corporation

Semiannual Regulatory Agenda

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PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC)

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document sets forth the Pennsylvania Avenue Development Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations currently under rulemaking review that PADC expects to have as a final rule during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue NW., Washington, DC 20004; (202) 724-9068.

Dated: September 5, 1989.

M. J. Brodie,

Executive Director.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Prerule Stage

3547. PROCEDURES AND UNIFORM STANDARDS FOR PUBLIC USE OF PARKS AND PLAZAS

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 912

Legal Deadline: None

Abstract: The Pennsylvania Avenue Development Corporation (PADC) has received an increasing number of requests for public use of parks and plazas within the Pennsylvania Avenue Development Area. The proposed regulations would ensure equality of opportunity for use of PADC parks and plazas while protecting public property, safety, and tranquility.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW, Washington, DC 20004, 202 724-9068

RIN: 3206-AA01

3548. DEVELOPMENT POLICIES AND PROCEDURES

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 911, (New)

Legal Deadline: None

Abstract: The Corporation is studying ways to apply past experience to update its development policies and procedures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9068

RIN: 3206-AA06

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Completed Actions

3549. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Significance: Agency Priority

CFR Citation: 36 CFR 904

Completed:

Reason	Date	FR Cite
Final Action	03/02/89	54 FR 8912
Final Action Effective	04/02/89	54 FR 8912

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Reginald Robinson 202 724-9068

RIN: 3206-AA09

[FR Doc. 89-22488 Filed 10-27-89; 8:45 am]

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Part XXXIX

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next twelve months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESS: Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact J. Ronald Goldstein, Senior Counsel, Office of the General Counsel, 202-778-8850. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193, each agency is required to publish in April and October an agenda of regulations currently or soon to be under development. The Executive order requires that the agenda also include those currently effective regulations that are being reviewed by the agency pursuant to the Executive order. The Regulatory Flexibility Act, Pub. L. 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines (OMB Bulletin No. 89-12) prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next twelve months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Douglas R. Cannon,

Acting Executive Director, Pension Benefit Guaranty Corporation.

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3550. TRANSFERS FROM MULTIEMPLOYER PLANS TO SINGLE-EMPLOYER PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1412; 29 USC 1414

CFR Citation: 29 CFR 2678

Legal Deadline: None

Abstract: Sections 4232 and 4234 of ERISA prescribe rules governing the transfer of liabilities and assets from a multiemployer plan to a single-employer plan and prohibit certain transfers unless approved by PBGC. The regulation will establish procedures for requesting and criteria for PBGC approval of transfers which require approval and guidelines for satisfying the statutory requirements pertaining to other transfers. The regulation will also establish standards for the PBGC's waiver of a multiemployer plan's contingent liability arising from the transfer of unfunded vested benefits to a single-employer plan.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Publication of this proposed regulation was delayed because of the need to revise the portions dealing with waiver of a multiemployer plan's contingent liability to reflect certain changes in related statutory provisions made by the Single-Employer Pension Plan Amendments Act of 1986. Work on this rule was subsequently deferred because the enactment of SEPPAA and the 1987 Pension Protection Act amendments required that staff be reassigned to work on higher priority regulations necessitated by those laws.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA20

3551. PLAN RULES FOR REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1387(b)

CFR Citation: 29 CFR 2647 (Amendment)

Legal Deadline: None

Abstract: Under section 4207(a) of ERISA, the PBGC has issued a regulation (29 CFR Part 2647) providing for the reduction or waiver of an employer's liability for complete withdrawal upon the employer's resumption of participation under the plan from which it withdrew. The statute also requires the PBGC to prescribe procedures and standards under which multiemployer plans may adopt their own rules abating complete withdrawal liability upon an employer's return to the plan (section 4207(b)).

The purpose of letting plans adopt their own abatement rules is obvious: a specific rule adopted by a plan may well work better under the facts and circumstances of that particular plan than the broad rules adopted by the PBGC. This regulation will permit a plan to fashion the rules it needs to encourage the return of withdrawn employers, while at the same time protecting the plan from the loss of withdrawal liability payments without a compensating resumption of contributions to the plan by a formerly withdrawn employer. The PBGC is unable to (cont)

PBGC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	
NPRM Comment Period End	07/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: quantify the benefits and costs of this regulation because it cannot predict how many plans will exercise the authority conferred by this regulation.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA38

3552. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 2624

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will contain rules and policies relating to the payment of such benefits. The regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings. It also will reduce costs to the public and the PBGC by providing payment rules, thereby reducing the number of requests for administrative review.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
NPRM Comment Period End	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA35

3553. EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS: INTEREST RATE

Legal Authority: 29 USC 1302(b); 29 USC 1362 to 1364 (Supp. V 1987); 29 USC 1367 to 1368 (Supp. V 1987)

CFR Citation: 29 CFR 2622

Legal Deadline: None

Abstract: The PBGC's employer liability regulation incorporates by reference the interest rate charged under section 6601 of the Internal Revenue Code as the interest rate charged, or credited, on late payments, or overpayments, of employer liability. The Tax Reform Act of 1986 significantly changed the way in which the section 6601 rate is established and creates two interest rates: one for underpayments and another, lower rate for overpayments. Because of these changes, the PBGC plans to conduct a new rulemaking proceeding to determine whether it should continue to use the section 6601 interest rates under the employer liability regulation or whether it should adopt a new rate(s) for this purpose.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	
NPRM Comment Period End	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Therese Cleary, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8823

RIN: 1212-AA48

3554. PAYMENTS BY PBGC OF UNFUNDED NONGUARANTEED BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c) (Supp. V 1987)

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: The Pension Protection Act repealed ERISA section 4049 and 4062(c). Those provisions established new employer liability to plan participants and beneficiaries in the event of a distress termination or involuntary termination by the PBGC of a plan without sufficient assets to pay all benefit commitments; the section 4049 trust was the vehicle for collecting and distributing these liability amounts. This system proved flawed in several respects, however, and Congress therefore created a new scheme by which to channel employer liability recoveries to plan participants and beneficiaries, amended ERISA section 4022(c).

Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded benefit liabilities in excess of guaranteed benefits). In turn, the PBGC is to pay a portion of its employer liability recovery to participants and beneficiaries. The amount to be paid is based on the PBGC "recovery ratio" (as defined in amended sec. 4022(c)(3)).(cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
NPRM Comment Period End	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This new statutory rule contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work. The regulation will, for example, contain rules on how the PBGC will value its employer liability recoveries for purposes of computing the recovery ratio, whether the allocation of amounts payable under this provision will be done as part of the regular section 4044 asset allocation, and whether the PBGC will pay these benefits by increasing the amount of annuity payments it is making to participants or making lump sum payments.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA54

PBGC — **Proposed Rule Stage**

PBGC — **Final Rule Stage**

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PBGC — **Proposed Rule Stage**

3555. RETIREMENT EQUITY ACT AMENDMENTS - VALUATION OF PLAN BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341 (Supp. V 1987)

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement- type subsidies, and mandates the range of interest rates that may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR Part 2619). The major changes will address the rules on determining the form of benefit to be valued on plan termination and the interest rate rules for lump sum payments in standard terminations.

The PBGC had planned to issue the amendments to the valuation of benefits regulation concurrently with the two revised termination regulations. However, work on these amendments has been delayed pending PBGC's efforts with the Internal Revenue Service to develop a definition of the term "benefit liabilities", which was introduced by the Pension (cont.)

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Interim Final Rule	06/00/90	
NPRM Comment Period End	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: (Cont'd Abstract) Protection Act. So as not to delay further the issuance of the termination regulations, the PBGC has dropped its plans to issue all of these rules simultaneously.

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212–AA55

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — **Final Rule Stage**

3556. REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1388(e)(3)

CFR Citation: 29 CFR 2646

Legal Deadline: None

Abstract: Section 4208 of ERISA provides for the reduction or elimination under certain circumstances of an employer's partial withdrawal liability arising from a 70 percent reduction in contribution base units. That section also authorizes the PBGC to prescribe rules for the reduction or elimination of partial withdrawal liability under other conditions. The regulation will provide for the abatement of partial withdrawal liability arising from the cessation of the obligation to contribute under a collective bargaining agreement or with respect to a facility. Section 4208 also requires the PBGC to issue a regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation will allow plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21319
NPRM Comment Period End	08/04/87	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212–AA22

3557. ADJUSTMENT OF WITHDRAWAL LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(b)

CFR Citation: 29 CFR 2649

Legal Deadline: None

Abstract: Under section 4206(b) of ERISA, if an employer partially or completely withdraws from a multiemployer plan subsequent to an earlier partial withdrawal from that plan, the employer's liability for the second withdrawal must be reduced by the amount of its liability for the earlier partial withdrawal. The purpose of this credit is to avoid plans double-charging employers for the same unfunded liabilities. Section 4206(b) also requires the PBGC to prescribe regulations adjusting this credit to ensure that the employer's liability for its second withdrawal properly reflects the employer's share of liability with respect to the plan.

The need for this adjustment to the credit can be seen from the following example. In a plan that uses the rolling-5 allocation method, an employer's withdrawal liability is based on its last five years' participation in the plan. If an employer's second withdrawal occurs more than five years after its partial withdrawal, the liability for the second withdrawal is based solely on plan participation subsequent to the partial (cont)

PBGC — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/06/87	52 FR 37329
NPRM Comment Period End	12/07/87	
Final Action	11/00/89	
Final Action Effective	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: withdrawal. Thus, there is no double-charging with respect to the old liabilities and no reason to give the employer a credit against its liability for the second withdrawal. However, without this regulation, the employer would get that credit under the statute. There are many other possible situations in which the employer's credit should similarly be reduced in order to ensure equitable treatment of the withdrawing employer vis-a-vis the other employers still contributing to the plan.

This regulation will result in some shifting of liabilities among employers contributing to a multiemployer plan. An employer that has another withdrawal following a partial withdrawal may incur greater liability for the second withdrawal because of the reduction in the credit for the prior partial withdrawal. However, this increase in liability would reduce the unfunded vested benefits allocable to other employers that withdraw thereafter. In the aggregate, the regulation will impose no new costs.

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212–AA37

3558. DETERMINATION OF WITHDRAWAL LIABILITY FOLLOWING A MERGER

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(f)

CFR Citation: 29 CFR 2642 (Amendment)

Legal Deadline: None

Abstract: The merger of two multiemployer plans creates a problem as to how the successor plan's unfunded vested benefits are to be allocated in order to determine withdrawal liability for post-merger withdrawals. Frequently, the two plans will have been using different allocation methods prior to the merger. Even if they were using the same method, if they had different plan years, that would create different allocations.

For this reason, section 4211(f) of ERISA requires the PBGC to issue regulations prescribing rules for the post-merger allocation of unfunded vested benefits. The PBGC proposes to establish rules that parallel the statutory allocation methods: i.e., there would be a presumptive allocation method that would apply to plans unless they chose otherwise, and plans would be permitted to adopt certain modifications to this presumptive method without the PBGC's approval and other more significant modifications with the PBGC's approval. [cont)

Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43082
NPRM Comment Period End	01/08/88	
Final Action	04/00/90	
Final Action Effective	05/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This regulation will remove a significant impediment to multiemployer plan mergers by eliminating employers' concern and confusion over how their withdrawal liability would be calculated after a merger. Plan mergers are generally to be encouraged since a larger plan is typically a stronger plan because of its broader contribution base, and because portability of benefits is increased. This regulation will impose no new costs.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212–AA39

3559. DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c) (Supp. V 1987)

CFR Citation: 29 CFR 2616

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 substantially revised ERISA section 4041 dealing with the voluntary termination of single-employer pension plans. Under amended section 4041, a plan may voluntarily terminate only if the termination satisfies the statutory conditions for a standard or distress termination. These rules were further modified by the 1987 Pension Protection Act, which increased the benefits that must be provided, or for which the employer maintaining the plan is liable, upon plan termination. Thus, under current law, unless a plan has sufficient assets to satisfy all plan benefit liabilities, it may voluntarily terminate only in a "distress" termination; i.e., a termination in which the plan sponsor and all members of its controlled group are able to demonstrate either such financial hardship or unduly burdensome pension costs that, as a practical matter, they are unable to continue to maintain the plan. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

The statutory rules and procedures for distress terminations are substantially different from the prior rules and procedures for terminating insufficient plans. Therefore, it is necessary to revise the PBGC's plan termination regulations to reflect these new rules and procedures. This regulation covering distress terminations and a companion rule covering standard terminations (to be codified in Part 2617) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617).

Although the notice of proposed rulemaking for this regulation was

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issued prior to enactment of the Pension Protection Act, the final rule will reflect the relevant statutory changes from that Act.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212–AA41

3560. STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(b) (Supp. V 1987); 29 USC 1344 (Supp. V 1987)

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: Under ERISA Section 4041, as amended by the Single-Employer Pension Plan Amendments Act of 1986 and the Pension Protection Act, absent a showing of financial hardship or unduly burdensome pension costs that would satisfy the requirements for a distress termination, a single-employer plan may be voluntarily terminated only if it is sufficient for all benefit liabilities (i.e., all benefits provided under the plan on the termination date, whether or not vested). This is referred to as a "standard" termination. SEPPAA also modified many of the termination rules and procedures that applied under prior law, both to increase the protections afforded plan participants and beneficiaries and to simplify and expedite the PBGC's processing of these sufficient plan terminations. It is, therefore, necessary to promulgate this new regulation implementing the new rules and procedures for standard terminations. This regulation and its companion regulation covering distress terminations (to be codified in Part 2616) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617). (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	03/00/90	
Final Action Effective	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Although the notice of proposed rulemaking for this regulation was issued prior to enactment of the Pension Protection Act, the final rule will reflect the relevant statutory changes from that Act.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212–AA47

3561. MISCELLANEOUS SEPPAA/PPA AMENDMENTS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b); 29 USC 1322; 29 USC 1341 to 1344 (Supp. V 1987); 29 USC 1362 to 1364 (Supp. V 1987); 29 USC 1367 to 1368 (Supp. V 1987)

CFR Citation: 29 CFR 2606; 29 CFR 2615; 29 CFR 2622; 29 CFR 2623

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") and the Pension Protection Act ("PPA") made several changes in Title IV rules and procedures that affect and, in some cases, override portions of several PBGC regulations. For this reason, these regulations - administrative review of agency decisions, benefit reductions in terminated plans, reportable events and employer liability - must be amended to conform them to the current law. For example, because SEPPAA altered the determinations that the PBGC may make with respect to voluntary plan terminations, the list in 29 CFR 2606.1(b) of determinations subject to agency review must be amended.

Similarly, SEPPAA contained, for distress terminations, specific benefit cutback rules. These rules differ somewhat from those set forth in 29 CFR Part 2623 and, therefore, conforming amendments to Part 2623 are required. SEPPAA and the PPA significantly changed the rules on employer liability to the PBGC in distress and involuntary terminations. Now, an employer is liable to the PBGC for the total plan underfunding, (cont)

Timetable:

Action	Date	FR Cite
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: i.e., for all unfunded benefit liabilities. Further, the 30 percent of net worth limitation is now relevant only in determining the amount subject to PBGC's statutory lien and the status of PBGC's claim in bankruptcy. The employer liability regulation needs to be amended to reflect these changes.

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212–AA50

3562. RULES UNDER SECTIONS 4041A AND 4281 FOR PLANS TERMINATED BY MASS WITHDRAWAL

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341A ERISA; 29 USC 1441 ERISA

CFR Citation: 29 CFR 2675

Legal Deadline: None

Abstract: Section 4041A of ERISA provides rules with respect to the termination of multiemployer plans and the payment of benefits under those plans. Under section 4041A(f)(2), PBGC is authorized to prescribe rules for the administration of those plans that are appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the insurance system. Under section 4281(b), the plan sponsor of a plan that has terminated by mass withdrawal is required annually to determine the value of the plan's nonforfeitable benefits and assets. If the value of the benefits exceeds the value of the assets, the sponsor must amend the plan to eliminate benefits not eligible for PBGC's guarantee under section 4022A(b), to the extent necessary to insure that the plan assets are sufficient to pay all nonforfeitable benefits. This determination of sufficiency is to be made in accordance with rules prescribed by PBGC. This regulation would establish the rules for administering plans that have terminated by mass withdrawal, including the rules for determining sufficiency in the circumstances described above. The primary purpose (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24536
NPRM Comment Period End	09/05/86	
Final Action	07/11/89	54 FR 29025
Final Action Effective	08/10/89	54 FR 29025

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and benefit of this regulation will be to establish rules that encourage the efficient administration of these plans. By thus helping to preserve plan assets, these rules will, in the first instance, benefit plan participants and beneficiaries and secondarily, the multiemployer insurance system and premium payers. PBGC lacks adequate data to be able to quantify these benefits.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212–AA19

3563. PAYMENT OF PREMIUMS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307; PL 100-203, Sec 9331

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: The Pension Protection Act substantially altered the rules pertaining to single-employer plan premiums that are paid to the PBGC. Under the Act, there is a flat per capita charge (increased from that under prior law) plus a new variable rate charge tied to the value of a plan's unfunded vested benefits. The new premium rules are effective for plan years beginning after December 31, 1987.

On June 30, 1988, the PBGC issued an interim regulation implementing these rules. Because of the need to issue the regulation quickly to provide guidance for 1988 premium payments, the PBGC did not solicit public comment before issuing the regulation. For the same reason, the interim regulation did not address certain relevant, but secondary, issues pertaining to the new rules. Therefore, on October 5, 1988, the PBGC issued a notice of proposed rulemaking in order to permit public comment on the interim regulation. The NPRM also addressed problems or questions raised by the public in response to the interim regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/88	53 FR 24906
NPRM	10/05/88	53 FR 39200
NPRM Comment Period End	12/05/88	
Final Action	07/10/89	54 FR 28944
Final Action Effective	07/10/89	54 FR 28944

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The PBGC expects to issue the final regulation in June 1989, effective for 1989 premium payment. As set forth in the proposed regulation, the final regulation will contain some new provisions further simplifying the rules for determining a plan's unfunded vested benefits and excluding more plans from having to calculate unfunded vested benefits.

Agency Contact: Mr. Harold Ashner, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW. Washington, D.C. 20006, 202 778-8823

RIN: 1212–AA53

[FR Doc. 89-21747 Filed 10-27-89; 8:45 am]

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Part XL

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RRB

Completed Actions—Continued

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next twelve months and regulations that are scheduled to be reviewed in that period.

ADDRESS: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, (312) 751-4935 (FTS 386-4935).

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: August 24, 1989.
By Authority of the Board.
Beatrice Ezerski,
Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3564	Determining Disability	3220-AA01
3565	Eligibility for an Annuity	3220-AA15
3566	Recovery of Overpayments	3220-AA44
3567	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
3568	Computing Employee, Spouse, and Divorced Spouse Annuities	3220-AA58
3569	Survivor Annuity Computations	3220-AA59
3570	Social Security Overall Minimum	3220-AA60
3571	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
3572	Medicare	3220-AA64
3573	Exhaustion of Rights to Benefits	3220-AA67
3574	Remuneration	3220-AA68
3575	Railroad Employers' Reports and Responsibilities; Lump-Sum Payments	3220-AA69
3576	Military Service	3220-AA70
3577	Qualified Employee	3220-AA71
3578	Monthly Compensation Base	3220-AA72
3579	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals from Such Determinations	3220-AA73
3580	Voluntary Quit	3220-AA75
3581	Mileage or Work Restrictions and Stand-By or Lay-Over Rules	3220-AA76
3582	Employers' Contributions and Contribution Reports	3220-AA79
3583	Determination of Daily Benefit Rates	3220-AA82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3584	Sickness Benefits	3220-AA45
3585	Employees Under the Railroad Retirement Act	3220-AA52
3586	General Administration; Miscellaneous	3220-AA56
3587	Family Relationships	3220-AA57
3588	Available for Work	3220-AA65
3589	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals From Such Determinations; Recovery of Benefits	3220-AA77

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3590	Annuity Beginning and Ending Dates	3220-AA13
3591	Evidence Required for Payment	3220-AA14

RRB

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3592	Application for Annuity or Lump Sum	3220-AA16
3593	Registration for Railroad Unemployment Benefits	3220-AA74
3594	Contributions Under Special Transition Rule for Public Commuter Railroads	3220-AA78

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

3564. DETERMINING DISABILITY

Significance: Regulatory Program

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220; 20 CFR 208; 20 CFR 230; 20 CFR 260

Legal Deadline: None

Abstract: The Board's regulations with respect to disability determinations have not been updated for several years and they are, in certain respects, obsolete. As revised, this regulation should ease the administration of disability benefits and result in greater consistency in disability determinations.

Timetable:

Action	Date	FR Cite
NPRM	08/04/89	54 FR 32164
NPRM Comment Period End	10/03/89	54 FR 32164
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Grace Koester, Regulations Project Director, Bureau of Hearings and Appeals, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4783

RIN: 3220–AA01

3565. ELIGIBILITY FOR AN ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Legal Deadline: None

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA15

3566. RECOVERY OF OVERPAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 255

Legal Deadline: None

Abstract: Part 255 is being revised to clarify when and how erroneous payments must be recovered under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA44

3567. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board's regulations with respect to employer status have not been updated in recent years and may, in some respects, be obsolete. Parts 202 and 301 are being amended to conform them to current law, delete obsolete provisions, and to simplify and clarify the language of these parts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA51

3568. COMPUTING EMPLOYEE, SPOUSE, AND DIVORCED SPOUSE ANNUITIES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 226

Legal Deadline: None

Abstract: The Railroad Retirement Board's regulations on the computation of employee, spouse, and divorced spouse annuities must be updated to conform to the Railroad Retirement Act of 1974 and to amendments to the Act

RRB — **Proposed Rule Stage**

Street, Chicago, Illinois 60611, 312 751-

RRB — **Proposed Rule Stage**

Legal Deadline: None

Timetable:

made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA58

3569. SURVIVOR ANNUITY COMPUTATIONS

Legal Authority: 45 USC 231f(f)(5)

CFR Citation: 20 CFR 228

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 228 to describe how survivor annuities are computed in accordance with the Railroad Retirement Act of 1974, and amendments to that Act made in 1981 and 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA59

3570. SOCIAL SECURITY OVERALL MINIMUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 229

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 229 to describe when the social security overall minimum annuity computation applies and how it is computed for retirement annuities under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA60

3571. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA61

3572. MEDICARE

Legal Authority: 45 USC 231f(d)

CFR Citation: 20 CFR 238

Legal Deadline: None

Abstract: The Board proposes to add this part to explain its role in the administration of medicare benefits to qualified railroad retirement beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA64

3573. EXHAUSTION OF RIGHTS TO BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 336

Legal Deadline: None

Abstract: This proposed amendment will remove obsolete provisions and clarify the meaning of the term extended benefit period as provided for in section 2(c) of the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA67

3574. REMUNERATION

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 322

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend Part 322 of its regulations under the Railroad Unemployment Insurance Act to remove obsolete language and to clarify the meaning of remuneration in light of recent legal opinions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220–AA68

3575. RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES; LUMP-SUM PAYMENTS

Legal Authority: 45 USC 231(f)

CFR Citation: 20 CFR 209; 20 CFR 234

Legal Deadline: None

Abstract: Provides for payment of a new lump-sum benefit as authorized by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA69

3576. MILITARY SERVICE

Legal Authority: 45 USC 231(f)

CFR Citation: 20 CFR 212

Legal Deadline: None

Abstract: Adds additional period for which military service is creditable under the Railroad Retirement Act as provided for by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA70

3577. QUALIFIED EMPLOYEE

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 317

Legal Deadline: None

Abstract: This new Part explains how an individual qualifies for benefits under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA71

3578. MONTHLY COMPENSATION BASE

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 318

Legal Deadline: None

Abstract: This new Part will explain how the monthly compensation base is computed under the Railroad Unemployment Insurance Act and its effect on benefits under that statute.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA72

3579. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 320

Legal Deadline: None

Abstract: Part 320 is being revised to provide for employer intervention rights provided for by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA73

3580. VOLUNTARY QUIT

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new Part 328 is being added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220–AA75

3581. MILEAGE OR WORK RESTRICTIONS AND STAND-BY OR LAY-OVER RULES

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 332

Legal Deadline: None

Abstract: Part 332 is being amended to provide that an employee in interdivisional service will be considered to have a regular assignment and thus not eligible for unemployment insurance benefits on days when the employee is standing by or laying over between assignments.

Timetable:

Action	Date	FR Cite
NPRM	09/06/89	54 FR 37007
NPRM Comment Period End	10/06/89	
Final Action	03/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law,

RRB — Proposed Rule Stage

Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA76

3582. EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Legal Authority: 45 USC 362(f)

CFR Citation: 20 CFR 345

Legal Deadline: None

Abstract: Part 345 is being revised to reflect experience rating as provided for in the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, P.L. 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA79

3583. DETERMINATION OF DAILY BENEFIT RATES

Legal Authority: 45 USC 362(i); 45 USC 362(l)

CFR Citation: 20 CFR 330

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend Part 330 of its regulations under the Railroad Unemployment Insurance Act. Part 330 sets forth the Board's procedures for computing (1) an employee's daily benefit rate for a given benefit year, and (2) the maximum daily benefit rate authorized by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Walter P. Witkovich, Regulations and Legal Specialist, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4750

RIN: 3220-AA82

RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

3584. SICKNESS BENEFITS

Legal Authority: 45 USC 362; 45 USC 355

CFR Citation: 20 CFR 335

Legal Deadline: None

Abstract: Part 335 is being amended to delete obsolete provisions and to simplify and clarify the language of that part.

Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 24357
NPRM Comment Period End	07/07/89	54 FR 24357
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Witkovich, Regulations and Legal Specialist, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4750

RIN: 3220-AA45

3585. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board's regulations with respect to employee status have not been updated in recent years and may, in some respects, be obsolete. Part 203 is being amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	54 FR 318
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA52

3586. GENERAL ADMINISTRATION; MISCELLANEOUS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 200; 20 CFR 282

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) amends 20 CFR Part 200 to move sections of Part 282 into Part 200 to place these regulations more appropriately under General Administration.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24193
NPRM Comment Period End	08/07/89	54 FR 24193
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA56

3587. FAMILY RELATIONSHIPS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 222

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) adds 20 CFR Part 222 to define any family relationship requirements needed to establish eligibility and entitlement for any monthly annuity or lump-sum payment under the Railroad Retirement Act of 1974.

RRB — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24196
NPRM Comment Period End	08/07/89	54 FR 24196
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA57

3588. AVAILABLE FOR WORK

Legal Authority: 45 USC 362(b)

CFR Citation: 20 CFR 327

Legal Deadline: None

Abstract: This proposed rule will amplify the meaning of "available for work" under the Railroad Unemployment Insurance Act in light of recent legal opinions.

Timetable:

Action	Date	FR Cite
NPRM	08/03/89	54 FR 31968
NPRM Comment Period End	09/05/89	54 FR 31968
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4513

RIN: 3220-AA65

3589. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS; RECOVERY OF BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 320; 20 CFR 340

Legal Deadline: None

Abstract: Parts 320 and 340 are being revised to further define when waiver of an overpayment will be required under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	06/20/89	54 FR 25877
NPRM Comment Period End	07/20/89	54 FR 25877
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA77

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3590. ANNUITY BEGINNING AND ENDING DATES

CFR Citation: 20 CFR 218

Completed:

Reason	Date	FR Cite
Final Action	07/24/89	54 FR 30723
Final Action Effective	07/24/89	54 FR 30723

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA13

3591. EVIDENCE REQUIRED FOR PAYMENT

CFR Citation: 20 CFR 219

Completed:

Reason	Date	FR Cite
Final Action	08/03/89	54 FR 31939
Final Action Effective	08/03/89	54 FR 31939

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA14

3592. APPLICATION FOR ANNUITY OR LUMP SUM

CFR Citation: 20 CFR 217

Completed:

Reason	Date	FR Cite
Final Action	04/03/89	54 FR 13362
Final Action Effective	04/03/89	54 FR 13362

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA16

3593. REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS

CFR Citation: 20 CFR 325

Completed:

Reason	Date	FR Cite
Final Action	06/08/89	54 FR 24551
Final Action Effective	06/08/89	54 FR 24551

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA74

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RRB — Completed Actions

3594. CONTRIBUTIONS UNDER SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS

CFR Citation: 20 CFR 344

Completed:

Reason	Date	FR Cite
Final Action	06/20/89	54 FR 25846
Final Action Effective	06/20/89	54 FR 25846

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA78

[FR Doc. 89-21748 Filed 10-27-89; 8:45 am]
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Monday
October 30, 1989

Part XLI

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435, telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12291. Selective Service Regulations appear in 32 CFR Chapter XVI.

Dated: August 8, 1989.

Samuel K. Lessey, Jr.,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS) — Prerule Stage

3595. SELECTIVE SERVICE REGULATIONS

Legal Authority: 50 USC App. 451 et seq Military Selective Service Act

CFR Citation: 32 CFR Chapter XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR Chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street, NW, Washington, DC 20435, 202 724-1167

RIN: 3240–AA01

[FR Doc. 89-19911 Filed 10-27-89; 8:45 am]

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Monday
October 30, 1989

Part XLII

Small Business Administration

Semiannual Regulatory Agenda

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SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration.

SUMMARY: This is SBA's 21st semiannual agenda of regulations. Although not a regulatory agency, SBA has attempted to draft agendas that meet both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Pub. L. 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual Agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street NW., Washington, DC 20416; (202) 653-6644.

SUPPLEMENTARY INFORMATION: The SBA agenda contains many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Pre-Rulemakings, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the 12-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

Dated: August 25, 1989.

Susan Engeleiter,

Administrator.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3596	Small Business Investment Company Regulations: Compliance Audits	3245-AB07
3597	Small Business Investment Companies	3245-AB29
3598	Small Business Institutes - Counseling Fees	3245-AB32
3599	Loans to State and Local Development Companies	3245-AB35
3600	Nondiscrimination in Federally-Assisted Programs	3245-AB36
3601	Nondiscrimination in Financial Assistance Programs	3245-AB37
3602	User Fees for SBA Programs	3245-AB44
3603	Procurement: Subcontracting Limitations	3245-AB62
3604	Accrual of Interest Payable by SBA in Secondary Market	3245-AB89
3605	Small Business Size Regulation	3245-AB88
3606	State and Local Development Companies	3245-AB90
3607	Homestead Protection for Farmers	3245-AB91
3608	Disaster Loans	3245-AB97

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3609	Certificate of Competency	3245-AA74
3610	Regulations Applying Small Business Size Standards	3245-AA84
3611	Small Business Investment Companies	3245-AB12
3612	Small Business Development Centers	3245-AB17
3613	Small Business Size Standards: Residual Size Standards	3245-AB57
3614	Uniform Administrative Requirements for Grants and Cooperative Agreements; Proposed Revision of Circular A-110	3245-AB67
3615	Surety Bond Guarantee	3245-AB77
3616	Business Loans	3245-AB81
3617	Business Loan Policy	3245-AB84
3618	Business Loan Policy	3245-AB85
3619	Business Loan Policy	3245-AB86
3620	Small Business Size Regulations	3245-AB87

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3621	Small Business Size Standards for Natural Gas Distribution	3245-AB94
3622	Business and Disaster Loans	3245-AB99

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3623	Size Standards, Export Trading Companies	3245-AA83
3624	Size Standards: Timber Industry	3245-AB34
3625	Small Business Size Standards: Nonmanufacturers	3245-AB58
3626	Business Loans, Fees	3245-AB71
3627	Small Business Size Standards: Size Standard for Commodity Contracts Brokers and Dealers	3245-AB72
3628	Minority Small Business and Capital Ownership Development	3245-AB76
3629	Business Loans	3245-AB82
3630	Loans to State and Local Development Companies; Minimum Amount of Pool Certificates	3245-AB89
3631	Business Loans	3245-AB92
3632	Management Assistance; International Trade	3245-AB93
3633	Standards of Conduct	3245-AB95
3634	8(a) Program Conforming Amendments	3245-AB96
3635	Business Loans for 8(a) Program Participants	3245-AB98

SMALL BUSINESS ADMINISTRATION (SBA) — Proposed Rule Stage

3596. SMALL BUSINESS INVESTMENT COMPANY REGULATIONS: COMPLIANCE AUDITS

Legal Authority: 15 USC 687(b)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Establishment of new system of periodic compliance audits of small business investment companies by independent certified public accountants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
NPRM Comment Period End	09/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Peyser, Counsel to the Inspector General, Small Business Administration, 1441 L Street, NW, Room 1018, Washington, DC 20416, 202 653-6370

RIN: 3245-AB07

3597. SMALL BUSINESS INVESTMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Major revision to Part 107 of title 13 governing Small Business Investment Companies. The regulation will cover changes to ownership or control of a licensee, definition of private capital, deposits and investments of idle funds, other permissible financing, leverage for Section 301(d) SBICs, definition of small business concern , control of small concern, operational requirements, cost of money, funds to licensee, conflicts of interest provisions, redemptions, commitments, the purchase, sale or guarantee of securities evidencing leverage, and the filing of SBA Form 468.

Timetable:

Action	Date	FR Cite
NPRM	03/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph L. Newell, Director, Office of Investment, Small Business Administration, 1441 L Street,N.W., Room 808, Washington, DC 20416, 202 653-6584

RIN: 3245-AB29

3598. SMALL BUSINESS INSTITUTES - COUNSELING FEES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 129

Legal Deadline: None

Abstract: User fees for training (management and/or technical) conducted by SBA cosponsors under the Small Business Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

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Additional Information: The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1989 (PL 100-459) prohibits SBA from using appropriated funds to establish or increase user fees. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 90 Appropriations legislation.

Agency Contact: John Cox, Associate Administrator for Business, Development, Small Business Administration, 1441 L Street, N.W., Room 317, Washington, D.C. 20416, 202 653-6881

RIN: 3245-AB32

3599. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Complete revision of the Section 502 local development company rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Room 720, Washington, D.C. 20416, 202 653-6416

RIN: 3245-AB35

3600. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, D.C. 20416, 202 653-6050

RIN: 3245-AB36

3601. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681, et seq.; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, D.C. 20416, 202 653-6050

RIN: 3245-AB37

3602. USER FEES FOR SBA PROGRAMS

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC App. 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database, guaranty of debentures issued by Small Business Investment Companies, guaranty of surety bonds, appeals of size determinations and standard industrial classification code designations, application to the Minority Small Business (Section 8(a)) Program, training sponsored by the Service Corps of Retired Executives (SCORE), SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs, counseling by Small Business Institutes and application for a Certificate of Competency.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The Small Business Administration is prohibited under the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1989 (PL 100-459) from using appropriated funds to establish or increase user fees. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 90 Appropriations legislation.

Agency Contact: Ramona Powell, Attorney Adviser, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, DC 20416, 202 653-6437

RIN: 3245-AB44

3603. PROCUREMENT: SUBCONTRACTING LIMITATIONS

Legal Authority: PL 99-591; PL 99-661; 15 USC 634(b)(6)

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: Guidelines for application of subcontracting limitations imposed by Public Laws 99-591 and 99-661.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
NPRM Comment Period End	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert J. Moffitt, Acting Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB62

3604. ACCRUAL OF INTEREST PAYABLE BY SBA IN SECONDARY MARKET

Legal Authority: 15 USC 634(f); 15 USC 634(g); 15 USC 634(h); 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The proposed regulation would spell out the process of calculating accrued interest payable by SBA to an investor. The payment by SBA is triggered by a borrower defaulting on an SBA guaranteed loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Allan S. Mandel, Assistant Deputy Associate Administrator, for Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6696

RIN: 3245-AB69

3605. SMALL BUSINESS SIZE REGULATION

Legal Authority: 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: Final, Statutory, August 15, 1989.

Abstract: Rule to establish procedures for requesting/granting waivers to the nonmanufacturers rule when there are no small business manufacturers in the Federal market.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert J. Moffitt, Acting Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB88

3606. ● STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: PL 100-590

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This proposed rulemaking would define "rural" areas pursuant to PL 100-590. Further, the deposit required on loan applications would be increased, and self-dealing by borrowers would be prohibited. Alter ego leases would be permitted to be divided into an initial period plus options to save recordation fees for long-term leases. Finally, certified development companies would be permitted to be compensated.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Wayne S. Foren, Director, Office of Economic Development, Small Business Administration, 1441 L Street, N.W., Room 720-A, Washington, DC 20416, 202 653-6416

RIN: 3245-AB90

3607. ● HOMESTEAD PROTECTION FOR FARMERS

Legal Authority: 7 USC 2000; 15 USC 634(b)(6)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Amendments to 13 CFR 120 necessitated by amendments to 7 USC 2000 which provide exemptions from foreclosure to farmers on qualified homestead property.

Timetable:

Action	Date	FR Cite
NPRM	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Earl Chambers, Director, Office of Portfolio Management, Small Business Administration, 1441 L Street, N.W., Room 816, Washington, DC 20416, 202 653-6860

RIN: 3245-AB91

3608. ● DISASTER LOANS

Legal Authority: PL 100-590; 15 USC 634(b)(6)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: Amend disaster loan regulations to incorporate the amendments made by PI 100-590 and certain other changes, including dropping the Real Estate Settlement Procedures Act (RESPA) requirements pursuant to an exemption, clarifying certain portions of the regulations, and eliminating the requirement for disaster victims seeking State grants to first obtain a certificate of ineligibility from SBA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Deputy Associate Administrator for, Disaster Assistance, Small Business Administration, 1441 L Street, N.W., Room 820, Washington, DC 20416, 202 653-6879

RIN: 3245-AB97

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

3609. CERTIFICATE OF COMPETENCY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to Certificate of Competency regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22015
NPRM Comment Period End	08/12/88	
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, Acting Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, NW, Room 600, Washington, DC 20416, 202 653-6562

RIN: 3245–AA74

3610. REGULATIONS APPLYING SMALL BUSINESS SIZE STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revision of substantive rules governing compliance with small business size standards.

Timetable:

Action	Date	FR Cite
NPRM	08/31/87	52 FR 32870
NPRM Comment Period End	10/30/87	
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David R. Kohler, Associate General Counsel, Small Business Administration, 1441 L Street, NW, Room 706, Washington, DC 20416, 202 653-6660

RIN: 3245–AA84

3611. SMALL BUSINESS INVESTMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 320

CFR Citation: 13 CFR 107

Legal Deadline: Other, Statutory, June 7, 1986.

Abstract: Establishment of mechanism for selling to the public certificates of interest backed by pools of SBIC guaranteed debentures and of a system of registration of such sales.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/86	51 FR 21484
Final Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert G. Lineberry, Deputy Associate Administrator/Investment, Small Business Administration, 1441 L Street, NW, Room 808, Washington, DC 20416, 202 653-6848

RIN: 3245–AB12

3612. SMALL BUSINESS DEVELOPMENT CENTERS

Significance: Agency Priority

Legal Authority: PL 96-302; PL 98-395

CFR Citation: 13 CFR 129

Legal Deadline: None

Abstract: Comprehensive regulations governing the Small Business Development Center Program.

Timetable:

Action	Date	FR Cite
NPRM	10/23/86	51 FR 37580
Comment period extended to 1/21/87	11/24/86	51 FR 42255
NPRM Comment Period End	01/27/87	

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1989 (PL 100-459) prohibits the Small Business Administration from using appropriated funds to adopt or implement any rules or regulations for the Small Business Development Center program. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 90 Appropriations legislation.

Agency Contact: Janice Wolfe, Associate Administrator for Small, Business Development Centers, Small Business Administration, 1441 L Street, NW, Room 317, Washington, DC 20416, 202 653-6768

RIN: 3245–AB17

3613. SMALL BUSINESS SIZE STANDARDS: RESIDUAL SIZE STANDARDS

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishes size standard for industries for which no size standard has been previously established.

Timetable:

Action	Date	FR Cite
NPRM	02/09/89	54 FR 6298
NPRM Comment Period End	03/13/89	
Final Action	11/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245–AB57

3614. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS; PROPOSED REVISION OF CIRCULAR A-110

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 143

Legal Deadline: None

Abstract: This regulation establishes a uniform administrative rule for the SBA's grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
Final Action	11/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small

SBA

Final Rule Stage

Business Administration, 1441 L Street, N.W., Room 722, Washington, DC 20416, 202 653-6573

RIN: 3245–AB67

3615. SURETY BOND GUARANTEE

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 687(c); 15 USC 694(d); PL 100-590

CFR Citation: 13 CFR 115

Legal Deadline: Final, Statutory, May 2, 1989.

Abstract: This regulation implements changes necessitated by the Preferred Surety Bond Guarantee Program Act of 1988, Title II of Pub. L. 100-590. The regulation changes the method of computing the guarantee fee charged by SBA to the surety from a flat dollar amount to 20 percent of the premium. It also provides for additional guarantee fees or refunds, whenever the contract amount is increased or decreased in excess of 25 percent or $50,000, whichever is less.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/89	54 FR 19545
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: James W. Parker, Jr., Director, Office of Surety Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, VA 22203, 703 235-2900

RIN: 3245–AB77

3616. BUSINESS LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); PL 100-590

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: This regulation implements statutory changes contained in the Small Business Administration Reauthorization Act (PL 100-590) which authorizes SBA to guaranty loans of up to $1,000,000 to finance pollution control facilities.

Timetable:

Action	Date	FR Cite
ANPRM	04/20/89	54 FR 18300
ANPRM Comment Period End	05/30/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Everett Shell, Director, Office of Business Loans, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6470

RIN: 3245–AB81

3617. BUSINESS LOAN POLICY

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This regulation is designed to implement a limit, by SBA, in its guaranty of a Preferred Lenders Program loan to no more than 5 percentage points below the percent guaranteed for other loans. The regulation would also limit the Preferred Lenders Program to loans over $155,000, and would prohibit preferred lenders from selling all or part of the unguaranteed portion of the loan.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 15952
NPRM Comment Period End	06/19/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804D, Washington, DC 20416, 202 653-6574

RIN: 3245–AB84

3618. BUSINESS LOAN POLICY

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This regulation implements a provision of the Small Business Administration Reauthorization Act (PL 100-590) which establishes a certified lenders program.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18529
NPRM Comment Period End	05/31/89	
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804D, Washington, DC 20416, 202 653-6574

RIN: 3245–AB85

3619. BUSINESS LOAN POLICY

Legal Authority: 15 USC 636; PL 100-590

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed rule would implement a provision of the Small Business Administration Reauthorization and Amendment Act (PL 100-590). The legislation authorizes Certified and Preferred Lender to keep one-half of the two percent guaranty fee chargeable to borrowers for loans of $50,000 or less with maturities in excess of one year.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9233
NPRM Comment Period End	04/05/89	
Final Action	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Allan S. Mandel, Assistant Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6886

RIN: 3245–AB86

3620. SMALL BUSINESS SIZE REGULATIONS

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6); PL 100-590

SBA

Final Rule Stage

SBA

Completed Actions

SBA

Final Rule Stage

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, March 15, 1989. Final, Statutory, May 3, 1989.

Abstract: The rule would clarify the eligibility of nonprofit organizations operated for the benefit of the blind and severely handicapped for Federal procurements restricted to small businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	
Final Action	10/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Robert J. Moffitt, Acting Associate Administrator for, Procurement Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB87

3621. ● SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: SBA is imposing a size standard of 500 employees for a new 8(a) program for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Final Action	01/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB94

3622. ● BUSINESS AND DISASTER LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); 15 USC 636(h); PL 100-590; 31 USC 3717(e)

CFR Citation: 13 CFR 120; 13 CFR 123

Legal Deadline: None

Abstract: This rule would allow SBA to recover its collection costs from borrowers who have failed to satisfy their loan agreements and to assess additional penalties permitted by law.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 35499
NPRM Comment Period End	09/27/89	
Final Action	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Acting Associate Administrator for, Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, DC 20416, 202 653-6574

RIN: 3245-AB99

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

3623. SIZE STANDARDS, EXPORT TRADING COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Propose size standard for Export Trading Companies.

Timetable:

Action	Date	FR Cite
NPRM	06/07/88	53 FR 20857
NPRM Comment Period End	08/08/88	
Final Action	06/12/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: It was determined that a separate size standard for Export Trading Companies was unnecessary because the Wholesale Size Standard adequately covers these companies. A formal notice of withdrawal will be published in the Federal Register.

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA83

3624. SIZE STANDARDS: TIMBER INDUSTRY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Study related to natural resources sales program to determine whether rule change is needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/15/87	
Withdrawn	12/13/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A preliminary review of industry data indicates that no further action is needed concerning this size standard.

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, D.C. 20416, 202 653-6373

RIN: 3245-AB34

3625. SMALL BUSINESS SIZE STANDARDS: NONMANUFACTURERS

Significance: Agency Priority

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishes size standard for nonmanufacturers.

SBA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	04/26/88	53 FR 15232
NPRM Comment Period End	05/13/88	
Final Action	03/31/89	54 FR 13160
Final Action Effective	03/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB58

3626. BUSINESS LOANS, FEES

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120.104-2(e)

Legal Deadline: None

Abstract: A lender or associate will be permitted to charge an applicant for an SBA loan reasonable fees for packaging and/or other services. SBA will not ordinarily review such fees but it will investigate if an applicant complains.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	53 FR 33141
NPRM Comment Period End	10/31/88	
Final Action	05/30/89	54 FR 22877
Final Action Effective	05/30/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles R. Hertzberg, Acting Associate Administrator for, Finance and Investment, Small Business Administration, 1441 L Street, N.W., Room 804-D, Washington, DC 20416, 202 653-6574

RIN: 3245-AB71

3627. SMALL BUSINESS SIZE STANDARDS: SIZE STANDARD FOR COMMODITY CONTRACTS BROKERS AND DEALERS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishment of size standard of $3.5 million annual receipts for commodity contracts brokers and dealers, Standard Industrial Classification (SIC) Code 6221, for which no size standard exists at present.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/88	53 FR 29676
Merged with RIN 3245-AB57	08/25/88	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB72

3628. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); PL 100-656; PL 101-37

CFR Citation: 13 CFR 124

Legal Deadline: NPRM, Statutory, March 15, 1989. Final, Statutory, August 15, 1989.

Abstract: Substantive changes to criteria and processes applicable to 8(a) program eligibility and business development during program participation.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12054
NPRM Comment Period End	04/24/89	
Final Action	08/21/89	54 FR 34692

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Erline M. Patrick, Acting, Associate Administrator for Minority Small, Business and Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, DC 20416, 202 653-6407

RIN: 3245-AB76

3629. BUSINESS LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); PL 100-418

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: This regulation will implement changes contained in the Omnibus Trade and Competitiveness Act of 1988, relating to export loans.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52187
NPRM Comment Period End	02/27/89	
Final Action	06/05/89	54 FR 23860
Final Action Effective	06/05/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gail Hepler, Commercial Loan Specialist, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6570

RIN: 3245-AB82

3630. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; MINIMUMS AMOUNT OF POOL CERTIFICATES

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697; 15 USC 697a; 15 USC 697b

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This regulation reduces the minimum amount of Development Company debenture pool certificates from the present $100,000 to $25,000.

Timetable:

Action	Date	FR Cite
NPRM	10/03/88	53 FR 38737
NPRM Comment Period End	11/02/88	
Final Action	04/20/89	54 FR 15919
Final Action Effective	04/20/89	54 FR 15919

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Acting Associate Administrator for, Finance and Investment, Small Business

Administration, 1441 L Street, N.W., Washington, DC 20416, 202 653-5985

RIN: 3245–AB89

3631. ● BUSINESS LOANS

Legal Authority: PL 100-590; 15 USC 634(b)(6)

CFR Citation: 13 CFR 120

Legal Deadline: Final, Statutory, May 3, 1989.

Abstract: This proposed rule would amend the regulations for alter ego loan guarantees. The changes would be identical to those PL 100-590 made on the alter ego rule for development companies. PL 100-590 changed the rule for development companies so that complete identity of ownership interests would not be required if certain listed family members were owners of the operating business and the so-called alter ego, the real estate holding company.

Timetable:

Action	Date	FR Cite
NPRM	04/28/89	54 FR 18299
Final Action	08/28/89	54 FR 35453

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6574

RIN: 3245–AB92

3632. ● MANAGEMENT ASSISTANCE; INTERNATIONAL TRADE

Legal Authority: PL 100-418; 15 USC 634(b)(6)

CFR Citation: 13 CFR 129

Legal Deadline: Final, Statutory, February 23, 1989.

Abstract: Amendments to SBA's regulations on international trade. The amendments, which set forth the services the Office of International Trade will provide to assist small businesses compete in international markets, are made in compliance with the Small Business International Trade and Competitiveness Act, PL 100-418.

Timetable:

Action	Date	FR Cite
NPRM	12/09/88	53 FR 49675
NPRM Comment Period End	01/08/89	
Final Action	03/07/89	54 FR 9424
Final Action Effective	03/07/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sheryl Swed, Director, Office of International Trade, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, DC 20416, 202 653-7794

RIN: 3245–AB93

3633. ● STANDARDS OF CONDUCT

Legal Authority: PL 100-656; 15 USC 634(b)(6)

CFR Citation: 13 CFR 105

Legal Deadline: Final, Statutory, August 15, 1989.

Abstract: This final rule implements sections 402 and 403 of PL 100-656 which provided for certain prohibitions, reporting requirements and penalties in connection with actions by SBA employees with regard to the administration of SBA's Minority Small Business and Capital Ownership Development program.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34745
Final Action Effective	09/20/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street, N.W., Room 700, Washington, DC 20416, 202 653-6642

RIN: 3245–AB95

3634. ● 8(A) PROGRAM CONFORMING AMENDMENTS

Legal Authority: PL 100-656; 15 USC 634(b)(6)

CFR Citation: 13 CFR 134

Legal Deadline: Final, Statutory, August 15, 1989.

Abstract: This final rule implements changes to the operational procedures of the Small Business Administration's Office of Hearings and Appeals with respect to the administrative appeal rights relating to its 8(a) program as necessitated by PL 100-656 and its implementing regulations, 13 CFR 124, Subpart A.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34746
Final Action Effective	08/21/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, DC 20416, 202 653-8573

RIN: 3245–AB96

3635. ● BUSINESS LOANS FOR 8(A) PROGRAM PARTICIPANTS

Legal Authority: PL 100-656; 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Legal Deadline: Final, Statutory, August 15, 1989.

Abstract: Section 302 of PL 100-656 would be implemented by this proposed rule to provide SBA with a statutory basis for a program of direct, guaranteed and immediate participation financial assistance to eligible SBA 8(a) program participants.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/01/89	
Final Action	09/05/89	54 FR 36760

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Allan S. Mandel, Assistant Deputy Associate Administrator for, Financial Assistance, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-6696

RIN: 3245–AB98

[FR Doc. 89-21749 Filed 10-27-89; 8:45 am]

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federal register

Monday
October 30, 1989

Part XLIII

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

VOL 54 ISS 208 OCT 30 1989 UMI

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates very few regulations. However, TVA has four regulations under development and has published a notice of intent with regard to a fifth regulation. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12291.

FOR FURTHER INFORMATION CONTACT: For further information please contact the persons listed.

W. F. Willis,

Executive Vice President and Chief Operating Officer.

TENNESSEE VALLEY AUTHORITY (TVA) — Proposed Rule Stage

3636. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to 470ll

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The planned regulations will implement provisions of the Archaeological Resources Protection Act of 1979 by providing protection of archaeological resources on public lands in TVA custody and control. TVA will seek to protect such resources through permits authorizing excavation or removal of resources, through civil penalties for unauthorized excavation or removal, through preservation of archaeological resource collections and data, and through assuring confidentiality of information about resources when disclosure would threaten the resources. The planned regulations will supplement existing uniform regulations by assigning specific responsibilities within TVA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 238 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA02

3637. ALTERNATIVE PROGRAM FOR SHARING PATENT-RELATED INCOME

Legal Authority: 15 USC 3710, amended by PL 99-502

CFR Citation: 18 CFR Not yet determined

Legal Deadline: Final, Statutory, October 1988.

The royalty-sharing program under the statute must be implemented if the alternative program has not been implemented by October 1988; however, the statute does not preclude (cont)

Abstract: Pursuant to new section 14 of the Stevenson-Wydler Act, TVA has elected to promulgate regulations providing for an alternative program for sharing royalties and other patent-related income with its employee-inventors.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/87	52 FR 1469
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: implementations of an alternative program at a later date.

Agency Contact: H. Brown Wright, Program Coordinator Manager, Manufacturing, Technology Utilization, Tennessee Valley Authority, 601 West Summit Hill Drive, OCH 2D 46B-K, Knoxville, TN 37902-1499, 615 632-6435

RIN: 3316–AA05

3638. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Legal Authority: 20 USC 1682; 16 USC 831 to 831dd

CFR Citation: 18 CFR Not yet determined

Legal Deadline: None

Abstract: This regulation implements 20 USC 1681 which assures nondiscrimination on the basis of sex in educational programs or activities receiving financial assistance from Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Freddie L. Hogan, Manager, Contracts and Community Assistance Section, Tennessee Valley Authority, 417 Chemical Engineering Building, Muscle Shoals, AL 35660, 205 872-2048

RIN: 3316–AA13

3639. ● PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: 16 USC 470ii(a)

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The proposed rule would revise the prohibited acts section of the uniform regulations to conform to recent amendments to the Archaeological Resources Protection Act, thus enabling Federal land managers to assess civil penalties for the attempt to excavate, remove, damage, alter, or otherwise deface archaeological resources. The proposed rule would thus affect persons who make unauthorized use of archaeological resources or attempt to do so.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

TVA — Proposed Rule Stage

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 238 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA14

TENNESSEE VALLEY AUTHORITY (TVA) — Final Rule Stage

3640. ● BOOK-ENTRY PROCEDURES

Significance: Agency Priority

Legal Authority: 16 USC 831 to 831dd

CFR Citation: 18 CFR 1314, (New)

Legal Deadline: None

Abstract: The regulations will relate to the issuance of, and transactions in, TVA evidences of indebtedness issued in book-entry form.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward C. Christenbury, General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902-1499, 615 632-2241

RIN: 3316–AA15

[FR Doc. 89-22480 Filed 10-27-89; 8:45 am]

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Monday
October 30, 1989

Part XLIV

Department of Defense General Services Administration National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. I

Semiannual Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council, in compliance with Executive Order 12291 "Federal Regulation." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The FAR Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the Federal Acquisition Regulation (FAR) and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FACs). None of the regulations listed in this agenda are considered major under Executive Order 12291 "Federal Regulation."

Dated: August 28, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3641	Amendment to Federal Acquisition Regulation (FAR Case 89-38)	9000-AD16

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3642	Amendment to Federal Acquisition Regulation (FAR Case 84-45)	9000-AA29
3643	Amendment to Federal Acquisition Regulation (FAR Case 85-16)	9000-AA35
3644	Amendment to Federal Acquisition Regulation (FAR Case 87-13)	9000-AB73
3645	Amendment to Federal Acquisition Regulation (FAR Case 87-25)	9000-AB84
3646	Amendment to Federal Acquisition Regulation (FAR Case 87-37)	9000-AC00
3647	Amendment to Federal Acquisition Regulation (FAR Case 88-6)	9000-AC19
3648	Amendment to Federal Acquisition Regulation (FAR Case 88-15)	9000-AC28
3649	Amendment to Federal Acquisition Regulation (FAR Case 88-19)	9000-AC32
3650	Amendment to Federal Acquisition Regulation (FAR Case 88-22)	9000-AC35
3651	Amendment to Federal Acquisition Regulation (FAR Case 88-29)	9000-AC41
3652	Amendment to Federal Acquisition Regulation (FAR Case 88-31)	9000-AC43
3653	Amendment to Federal Acquisition Regulation (FAR Case 88-36)	9000-AC47
3654	Amendment to Federal Acquisition Regulation (FAR Case 88-42)	9000-AC53
3655	Amendment to Federal Acquisition Regulation (FAR Case 88-47)	9000-AC58
3656	Amendment to Federal Acquisition Regulation (FAR Case 88-54)	9000-AC65
3657	Amendment to Federal Acquisition Regulation (FAR Case 88-56)	9000-AC67
3658	Amendment to Federal Acquisition Regulation (FAR Case 88-57)	9000-AC68
3659	Amendment to Federal Acquisition Regulation (FAR Case 88-60)	9000-AC71
3660	Amendment to Federal Acquisition Regulation (FAR Case 88-64)	9000-AC75
3661	Amendment to Federal Acquisition Regulation (FAR Case 88-66)	9000-AC77
3662	Amendment to Federal Acquisition Regulation (FAR Case 88-67)	9000-AC78
3663	Amendment to Federal Acquisition Regulation (FAR Case 88-68)	9000-AC79
3664	Amendment to Federal Acquisition Regulation (FAR Case 88-70)	9000-AC80
3665	Amendment to Federal Acquisition Regulation (FAR Case 88-72)	9000-AC83
3666	Amendment to Federal Acquisition Regulation (FAR Case 89-6)	9000-AC84
3667	Amendment to Federal Acquisition Regulation (FAR Case 89-8)	9000-AC86
3668	Amendment to Federal Acquisition Regulation (FAR Case 89-9)	9000-AC87
3669	Amendment to Federal Acquisition Regulation (FAR Case 89-10)	9000-AC88
3670	Amendment to Federal Acquisition Regulation (FAR Case 89-11)	9000-AC89

FAR

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3671	Amendment to Federal Acquisition Regulation (FAR Case 89-12)	9000-AC90
3672	Amendment to Federal Acquisition Regulation (FAR Case 89-13)	9000-AC91
3673	Amendment to Federal Acquisition Regulation (FAR Case 89-14)	9000-AC92
3674	Amendment to Federal Acquisition Regulation (FAR Case 89-15)	9000-AC93
3675	Amendment to Federal Acquisition Regulation (FAR Case 89-16)	9000-AC94
3676	Amendment to Federal Acquisition Regulation (FAR Case 89-17)	9000-AC95
3677	Amendment to Federal Acquisition Regulation (FAR Case 89-18)	9000-AC96
3678	Amendment to Federal Acquisition Regulation (FAR Case 89-19)	9000-AC97
3679	Amendment to Federal Acquisition Regulation (FAR Case 89-20)	9000-AC98
3680	Amendment to Federal Acquisition Regulation (FAR Case 89-21)	9000-AC99
3681	Amendment to Federal Acquisition Regulation (FAR Case 89-23)	9000-AD01
3682	Amendment to Federal Acquisition Regulation (FAR Case 89-24)	9000-AD02
3683	Amendment to Federal Acquisition Regulation (FAR Case 89-25)	9000-AD03
3684	Amendment to Federal Acquisition Regulation (FAR Case 89-28)	9000-AD06
3685	Amendment to Federal Acquisition Regulation (FAR Case 89-29)	9000-AD07
3686	Amendment to Federal Acquisition Regulation (FAR Case 89-30)	9000-AD08
3687	Amendment to Federal Acquisition Regulation (FAR Case 89-31)	9000-AD09
3688	Amendment to Federal Acquisition Regulation (FAR Case 89-32)	9000-AD10
3689	Amendment to Federal Acquisition Regulation (FAR Case 89-34)	9000-AD12
3690	Amendment to Federal Acquisition Regulation (FAR Case 89-36)	9000-AD14
3691	Amendment to Federal Acquisition Regulation (FAR Case 89-37)	9000-AD15
3692	Amendment to Federal Acquisition Regulation (FAR Case 89-40)	9000-AD18
3693	Amendment to Federal Acquisition Regulation (FAR Case 89-42)	9000-AD20
3694	Amendment to Federal Acquisition Regulation (FAR Case 89-43)	9000-AD21
3695	Amendment to Federal Acquisition Regulation (FAR Case 89-44)	9000-AD22
3696	Amendment to Federal Acquisition Regulation (FAR Case 89-45)	9000-AD23
3697	Amendment to Federal Acquisition Regulation (FAR Case 89-47)	9000-AD25
3698	Amendment to Federal Acquisition Regulation (FAR Case 89-53)	9000-AD31
3699	Amendment to Federal Acquisition Regulation (FAR Case 89-54)	9000-AD32
3700	Amendment to Federal Acquisition Regulation (FAR Case 89-55)	9000-AD33
3701	Amendment to Federal Acquisition Regulation (FAR Case 89-56)	9000-AD34
3702	Amendment to Federal Acquisition Regulation (FAR Case 89-57)	9000-AD35
3703	Amendment to Federal Acquisition Regulation (FAR Case 89-58)	9000-AD36
3704	Amendment to Federal Acquisition Regulation (FAR Case 89-59)	9000-AD37
3705	Amendment to Federal Acquisition Regulation (FAR Case 89-60)	9000-AD38
3706	Amendment to Federal Acquisition Regulation (FAR Case 85-32)	9000-AD39
3707	Amendment to Federal Acquisition Regulation (FAR Case 87-25)	9000-AD40
3708	Amendment to Federal Acquisition Regulation (FAR Case 87-38)	9000-AD41
3709	Amendment to Federal Acquisition Regulation (FAR Case 87-46)	9000-AD42
3710	Amendment to Federal Acquisition Regulation (FAR Case 89-61)	9000-AD43
3711	Amendment to Federal Acquisition Regulation (FAR Case 89-62)	9000-AD44
3712	Amendment to Federal Acquisition Regulation (FAR Case 89-63)	9000-AD45
3713	Amendment to Federal Acquisition Regulation (FAR Case 89-64)	9000-AD46
3714	Amendment to Federal Acquisition Regulation (FAR Case 89-65)	9000-AD47

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3715	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-10 (FAR Case 85-32)	9000-AA00
3716	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-9	9000-AA01
3717	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-11	9000-AA02
3718	Amendment to Federal Acquisition Regulation (FAR Cases 88-12 and 88-35)	9000-AA97
3719	Amendment to Federal Acquisition Regulation (FAR Case 86-33)	9000-AB18
3720	Amendment to Federal Acquisition Regulation (FAR Case 86-51)	9000-AB37
3721	Amendment to Federal Acquisition Regulation (FAR Case 86-69)	9000-AB55
3722	Amendment to Federal Acquisition Regulation (FAR Case 87-24)	9000-AB83
3723	Amendment to Federal Acquisition Regulation (FAR Case 87-41)	9000-AC04
3724	Amendment to Federal Acquisition Regulation (FAR Case 87-43)	9000-AC06
3725	Amendment to Federal Acquisition Regulation (FAR Case 87-51)	9000-AC14

FAR

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — **Final Rule Stage**

3642 AMENDMENT TO FEDERAL — Timetable: — 10th & F Streets, NW, Washington, DC

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Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3726	Amendment to Federal Acquisition Regulation (FAR Case 87-54)	9000-AC17
3727	Amendment to Federal Acquisition Regulation (FAR Case 88-7)	9000-AC20
3728	Amendment to Federal Acquisition Regulation (FAR Case 88-9)	9000-AC22
3729	Amendment to Federal Acquisition Regulation (FAR Case 88-10)	9000-AC23
3730	Amendment to Federal Acquisition Regulation (FAR Case 88-16)	9000-AC29
3731	Amendment to Federal Acquisition Regulation (FAR Case 88-25)	9000-AC37
3732	Amendment to Federal Acquisition Regulation (FAR Case 88-26)	9000-AC38
3733	Amendment to Federal Acquisition Regulation (FAR Case 88-30)	9000-AC42
3734	Amendment to Federal Acquisition Regulation (FAR Case 88-37)	9000-AC48
3735	Amendment to Federal Acquisition Regulation (FAR Case 88-43)	9000-AC54
3736	Amendment to Federal Acquisition Regulation (FAR Case 88-44)	9000-AC55
3737	Amendment to Federal Acquisition Regulation (FAR Case 88-49)	9000-AC60
3738	Amendment to Federal Acquisition Regulation (FAR Case 88-61)	9000-AC72
3739	Amendment to Federal Acquisition Regulation (FAR Case 88-62)	9000-AC73
3740	Amendment to Federal Acquisition Regulation (FAR Case 88-63)	9000-AC74
3741	Amendment to Federal Acquisition Regulation (FAR Case 88-69)	9000-AC81
3742	Amendment to Federal Acquisition Regulation (FAR Case 88-71)	9000-AC82
3743	Amendment to Federal Acquisition Regulation (FAR Case 89-7)	9000-AC85
3744	Amendment to Federal Acquisition Regulation (FAR Case 89-22)	9000-AD00
3745	Amendment to Federal Acquisition Regulation (FAR Case 89-26)	9000-AD04
3746	Amendment to Federal Acquisition Regulation (FAR Case 89-27)	9000-AD05
3747	Amendment to Federal Acquisition Regulation (FAR Case 89-33)	9000-AD11
3748	Amendment to Federal Acquisition Regulation (FAR Case 89-35)	9000-AD13
3749	Amendment to Federal Acquisition Regulation (FAR Case 89-39)	9000-AD17
3750	Amendment to Federal Acquisition Regulation (FAR Case 89-41)	9000-AD19
3751	Amendment to Federal Acquisition Regulation (FAR Case 89-46)	9000-AD24
3752	Amendment to Federal Acquisition Regulation (FAR Case 89-48)	9000-AD26
3753	Amendment to Federal Acquisition Regulation (FAR Case 89-49)	9000-AD27
3754	Amendment to Federal Acquisition Regulation (FAR Case 89-50)	9000-AD28
3755	Amendment to Federal Acquisition Regulation (FAR Case 89-51)	9000-AD29
3756	Amendment to Federal Acquisition Regulation (FAR Case 89-52)	9000-AD30
3757	Amendment to Federal Acquisition Regulation (FAR Case 88-33)	9000-AD48

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — **Proposed Rule Stage**

3641. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-38)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 33

Legal Deadline: None

Abstract: To amend the FAR to provide a standard time frame for filing agency level protests and establish the minimum requirements for the content of these protests.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD16

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — **Final Rule Stage**

3642. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 3

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to implement OFPP Letter 84-1 on Federally Funded Research and Development Centers.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9720
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA29

3643. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to correct language in the current 5-day late bid rule concerning acceptable evidence to establish the date of mailing a late bid, modification, or withdrawal sent by registered or certified mail; provide a 2-day late bid rule for bids mailed by U.S. Postal Service Express Mail Next Day service; provide separate late bid rules for bids outside the U.S. and Canada; allow contracting officers the option of permitting the use of facsimile equipment for the submission of bids, acknowledgements of amendments to solicitations, and modifications or withdrawals of bids; and make corresponding revisions with respect to contracting by negotiation.

Timetable:

Action	Date	FR Cite
NPRM	03/22/85	50 FR 11522
Additional NPRM	08/15/88	53 FR 30818
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA35

3644. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-13)

Legal Authority: PL 99-500, Sec 922

CFR Citation: 48 CFR 5; 48 CFR 13; 48 CFR 19; 48 CFR 52

Legal Deadline: Final, Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation to (1) raise the threshold for publicizing proposed acquisitions, other than sole source acquisitions, from $10,000 to $25,000, (2) require posting of notices of solicitations expected to exceed $10,000 but not to exceed $25,000, and (3) raise the limitation for small business, small purchase set-asides from $10,000 to $25,000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB73

3645. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation concerning guaranteed maximum shipping weights and dimensions.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 31722
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB84

3646. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to provide a simplified contract format and allow annual submission of contractor's representations and certifications.

Timetable:

Action	Date	FR Cite
NPRM	10/27/87	52 FR 41390
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There

is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC00

3647. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-6)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify procedures applicable when converting an acquisition from sealed bidding to negotiation.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3814
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC19

3648. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-15)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: To amend the FAR to allow the contracting officer the authority to limit progress payments on first article work by a stated dollar amount or percentage.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8734
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC28

3649. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-19)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4

Legal Deadline: None

Abstract: To amend the FAR to extend the record retention period for contractors who submit late annual indirect cost rate proposals and clarify the meaning of "record" to include computer input data.

Timetable:

Action	Date	FR Cite
NPRM	06/17/88	53 FR 23105
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC32

3650. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-22)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require that, if a contractor or subcontractor, obtains a reduction of its U.S. income tax liability because of foreign tax credits under the IRS, the amount of the reduction shall be credited back to the U.S. Government at the time the foreign tax credit is given.

Timetable:

Action	Date	FR Cite
NPRM	04/14/88	53 FR 12501
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC35

3651. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-29)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require contractors to provide advance notice of shipment for categories of material requiring preparation by the consignee for safety and security consideration.

Timetable:

Action	Date	FR Cite
NPRM	07/01/88	53 FR 25102
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC41

3652. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-31)

Legal Authority: 19 USC 2511 to 2518; 3 USC 301

CFR Citation: 48 CFR 5; 48 CFR 14; 48 CFR 15; 48 CFR 17; 48 CFR 25

Legal Deadline: Final, Statutory, February 14, 1988.

Abstract: To amend the FAR to incorporate changes necessitated by a major renegotiation of the Government Procurement Code by the U.S. Trade Representative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/88	53 FR 27460
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC43

3653. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide clear policy and uniform procedures or furnishing or acquiring special tooling under fixed-price contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 33020
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC47

3654. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-42)

Legal Authority: PL 100-202

CFR Citation: 48 CFR 8

Legal Deadline: None

Abstract: To amend the FAR to withdraw coverage pertaining to requirements in 44 USC 501(2) for approval, by the Congressional Joint Committee on Printing, of requirements for acquisition of printing.

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 33017
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC53

3655. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-47)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit contracting officers to authorize shipment of material F.o.b. origin on prepaid commercial bills of lading and for contractors to be reimbursed for transportation costs.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38656
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC58

3656. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to clarify and strengthen the current cost principle to provide a sufficient basis to adequately question consultant costs.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41530
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AC65

3657. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-56)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify standards for procedures governing Commercial Bills of Lading (CBL's) documentation, payment, and audit.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45742
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC67

3658. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-57)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR concerning individual surety procedures. Among other things, the revisions would require a pledge of assets by an individual surety, prescribe the type of acceptable assets to be submitted, provide for exclusion of individual sureties for cause, revise Standard Form 28, and add two Optional Forms.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44564
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC68

3659. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-60)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontract Report.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48495
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC71

3660. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-64)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 22; 48 CFR 23; 48 CFR 36; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add coverage concerning hazardous material.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC75

3661. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-66)

Legal Authority: PL 100-656, Title VII

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to implement the Joint Office of Procurement Policy and Small Business Administration policy directive implementing Title VII of the Business Opportunity Development Act of 1988 (Pub. L. 100-656).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 5052
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC77

3662. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-67)

Legal Authority: 41 USC 701-707

CFR Citation: 48 CFR 9; 48 CFR 23; 48 CFR 52

Legal Deadline: Other, Statutory, February 16, 1989.

Abstract: To amend the FAR to implement the requirements of the Drug-Free Workplace Act (Pub. L. 100-690).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4967
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC78

3663. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-68)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to provide notice to offerors and guidance to Government contracting personnel concerning unbalanced bids and proposals.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4230
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC79

3664. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-70)

Legal Authority: PL 100-449

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: Other, Statutory, January 1, 1989.

Abstract: To amend the FAR to implement the United States-Canada Free-Trade Agreement and the United States-Canada Free-Trade Implementation Act of 1988, which added requirements with respect to acquisitions from Canada.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53340
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC80

3665. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-72)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify that the Buy American List of Exempt Items is provided for information only and that each agency is responsible for making a determination that an item is exempt from the provisions of the Buy American Act.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 6251
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC83

3666. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-6)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to reflect a new amount for evaluating proposals to determine if a multiple award would be economically advantageous to the Government. The amount is increased for evaluation purposes from $250 to $500.

Timetable:

Action	Date	FR Cite
NPRM	02/21/89	54 FR 7515
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC84

3667. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-8)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to add an item, 50 denier rayon yarn, to the Buy American List of Exempt Items.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA

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3673. ● AMENDMENT TO FEDERAL

Agency Contact: Margaret A. Willis,

Additional Information: This is a

(FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC86

3668. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-9)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to add an item, rabbit fur felt, to the Buy American List of Exempt Items.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC87

3669. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-10)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: To amend the FAR to be consistent with the Department of Defense implementation of section 803, Pub. L. 100-456, which authorizes delegation of the authority of the Under Secretary of Defense for Acquisition to approve justifications for other than full and open competition in excess of $10,000,000.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC88

3670. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-11)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the clause at 52.228-5, Insurance-Work on a Government Contract, to eliminate the administrative burden on contracting officers to maintain copies of subcontractor's certificates of insurance. The change does not alter insurance requirements or the documentation to be held by the prime contractor.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC89

3671. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-12)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to bring the cost principle on unfunded pension costs in line with Cost Accounting Standard 412.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC90

3672. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-13)

Legal Authority: PL 100-456

CFR Citation: 48 CFR 31; 48 CFR 37; 48 CFR 52

Legal Deadline: Other, Statutory, March 28, 1989.

Abstract: To amend the FAR to assure that severance payments to foreign nationals employed under a service contract performed outside the United States do not exceed the typical rate of severance pay in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC91

3673. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-14)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to emphasize responsibilities regarding certification of final indirect cost rate proposals.

Timetable:

Action	Date	FR Cite
NPRM	03/09/89	54 FR 10133
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC92

3674. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-15)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to remove the implication that Contract Administration Services were responsible for administering statutory and regulatory requirements for hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	02/28/89	54 FR 8492
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC93

3675. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 48; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify the application of Value Engineering (VE) to contracts for architect-engineer (A-E) services.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12122
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC94

3676. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-17)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide an alternate contract clause for use when advance payments are authorized, but a special bank account is not authorized.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12126
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC95

3677. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-18)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to clarify the policy that, regardless of the type of contract used, profit or fee will not be paid for facilities purchased for the account of the Government.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12126
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC96

3678. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-19)

Legal Authority: PL 100-700

CFR Citation: 48 CFR 31

Legal Deadline: Other, Statutory, April 17, 1989.

Abstract: To amend the FAR regarding the allowability of litigation costs and certain other costs.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC97

3679. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-20)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to require that, when an award is made to an offeror for less than all of the items that may be awarded to that offeror, and additional items are being withheld for subsequent award, the award notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period, and to clarify that notice of potential subsequent award must be provided with each award that may be followed by a subsequent award.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17894
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC98

3680. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-21)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 46

Legal Deadline: None

Abstract: To amend the FAR to more clearly define under what circumstances the Government should rely on inspection and testing by contractors when acquiring commercial off-the-shelf supplies.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 16094
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC99

3681. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-23)

Legal Authority: 41 USC 423

CFR Citation: 48 CFR 1; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 37; 48 CFR 43; 48 CFR 52

Legal Deadline: Other, Statutory, July 16, 1989.

Abstract: To amend the FAR to implement the procurement integrity requirements of section 27 of the OFPP Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 12556
Interim Final Rule	05/11/89	54 FR 20488
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD01

3682. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: To amend the FAR pertaining to Architect-Engineer performance evaluations.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15132
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD02

3683. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-25)

Legal Authority: PL 100-679

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: To amend the FAR to clarify the definitions of Architect- Engineer services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/89	54 FR 13332

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD03

3684. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to set forth new rules on the allowability of costs resulting from business combinations.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18634
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD06

3685. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-29)

Legal Authority: PL 98-620

CFR Citation: 48 CFR 1; 48 CFR 27; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement the contractual aspects of a final rule issued by the Department of Commerce on March 16, 1987 (52 FR 855) concerning commerce patents.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/89	54 FR 25060
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD07

3686. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-30)

Legal Authority: 50 USC App 2410a

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add coverage pertaining to sanctions (Toshiba/Kongsberg) for violations of export controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/89	54 FR 19812
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD08

3687. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify that the Government takes title in the form of "ownership" rather than a lien when progress payments are made under the progress payments clause at FAR 52.232-16.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18631
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD09

3688. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 13

Legal Deadline: None

Abstract: To amend the FAR to establish a threshold at which price reasonableness must be verified and quotations solicited from a reasonable number of sources. The revision proposes to increase the threshold from $1,000 to 10 percent of the small purchase limitation (presently at ($25,000).

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19339
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which

there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD10

3689. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-34)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify the procedures for submission of cost impact proposals and the authority of the ACO to withhold a portion of payments when the contractor does not submit the cost impact proposal in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	54 FR 25686
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD12

3690. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to extend the period for which a contractor would be liable for loss or damage to household goods.

Timetable:

Action	Date	FR Cite
NPRM	06/02/89	54 FR 23861
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD14

3691. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to contractually require contractors to pay interest on overpayments made by the Government resulting from contractor defective pricing.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25206
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD15

3692. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42

Legal Deadline: None

Abstract: To amend the FAR to provide additional guidance on the use of quick closeout procedures described in FAR 42.708.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25211
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD18

3693. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-42)

Legal Authority: PL 100-656, Sec 304

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require a prime contractor to pay liquidated damages upon a lack of good faith effort to meet its small business subcontracting goals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/89	54 FR 30703
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD20

3694. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-43)

Legal Authority: PL 100-590, Sec 133

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to authorize participation of public or private organizations for the handicapped in small business set-asides during fiscal years 1989 through 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/89	54 FR 25060
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD21

3695. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-44)

Legal Authority: PL 100-656, Sec 303(h)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit small business regular dealers to offer any domestically produced or manufactured product under a small business set-aside or award under section 8(a) of the Small Business Act when the acquisition is for a product in a class which SBA has determined that there are no small business manufacturers or processors in the Federal market.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/89	54 FR 25060
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD22

3696. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to provide that forms prescribed by the FAR or by agency supplements may be computer generated by the public.

Timetable:

Action	Date	FR Cite
NPRM	06/22/89	54 FR 26303
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD23

3697. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-47)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 7; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to include technical corrections needed to comply with recent changes to OMB Circular A-76.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25214
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD25

3698. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-53)

Legal Authority: PL 100-656, Sec 303(b) & 303(d)

CFR Citation: 48 CFR 5; 48 CFR 6; 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement sec. 303(b) and 303(d) of the Business Opportunity Development Reform Act (PL 100-656) to provide that acquisitions over a specified threshold offered for award pursuant to section 8(a) of the Small Business Act shall be awarded on the basis of competition restricted to eligible program participants and to provide for SBA appeals when requirements are not offered to the section 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	06/26/89	54 FR 27310
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD31

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3699. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 43; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit contracting officers to include the clause at FAR 52.243-6, Change Order Accounting, in construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29296
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD32

3700. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-55)

Legal Authority: PL 100-590, Sec 124

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise the SF 295 to add the requirement for contractors to report subcontract awards to women-owned businesses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD33

3701. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-56)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide an exception for heavy or bulky freight to a requirement in FAR 47.303-6 and the clause at 52.247-34, F.o.b. Destination, that supplies be delivered to the truck's tailgate.

Timetable:

Action	Date	FR Cite
NPRM	07/17/89	54 FR 29984
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD34

3702. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-57)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 10

Legal Deadline: None

Abstract: To amend the FAR to clarify that the exception in FAR 10.006 applies to both purchases and contracts that do not exceed the small purchase threshold.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD35

3703. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-58)

Legal Authority: PL 99-550; 31 USC 1344

CFR Citation: 48 CFR 45; 48 CFR 51; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement PL 99-550 which specifies that Government-owned or leased passenger carriers are to be used for official purposes only, and to clarify the methodology to be used by contractors when ordering from Government sources.

Timetable:

Action	Date	FR Cite
NPRM	08/07/89	54 FR 32424
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD36

3704. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-59)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 44

Legal Deadline: None

Abstract: To amend the FAR to add clarification concerning the extent to which notification and consent to

subcontract have been resolved during negotiations and, therefore, need not be addressed by the ACO during the course of contract administration.

Timetable:

Action	Date	FR Cite
NPRM	08/07/89	54 FR 32422
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD37

3705. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-60)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: To amend the FAR to clarify when discussions will be held with A-E firms, to eliminate an unnecessary clause, and simplify the submission of performance reports using the SF 1420, Performance Evaluation (Construction Contracts.)

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD38

3706. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-32)

Legal Authority: PL 98-577, Sec 204; PL 98-525; PL 99-591

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require contractors who sell certain spare parts to certify that their prices to the Government do not exceed the lowest commercial prices unless an explanation of the differences is provided.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27560
Additional NPRM	11/18/88	53 FR 46792
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD39

3707. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to more specifically describe the information required from the offeror concerning shipping characteristics, to provide that offers submitted without the requested information will be evaluated on the basis of the shipping characteristics submitted with any offer that produces the highest transportation costs, and to provide that the contract price of the successful offer will be reduced by an amount equal to the difference between the transportation costs actually incurred and the costs which would have been accurate.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	53 FR 31723
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD40

3708. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-38)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to illustrate the type and form of contractor cost and financial information which is to be made available to auditors conducting audits of contract costs.

Timetable:

Action	Date	FR Cite
NPRM	08/17/88	53 FR 31280
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD41

3709. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-46)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 3

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Legal Deadline: None

Abstract: To amend the FAR to require the use of a certificate of independent price determination in certain overseas procurements. Prior to this proposed revision, the certificate was specifically excluded from these procurements.

Timetable:

Action	Date	FR Cite
NPRM	01/04/88	53 FR 100
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD42

3710. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-61)

Legal Authority: PL 99-145; PL 100-180; PL 100-456; PL 100-700

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to add coverage on the allowability of costs incurred under Federal contracts with educational institutions, state and local governments, Federally recognized Indian tribal governments, and nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	07/28/89	54 FR 31480
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD43

3711. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-62)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to eliminate the grouping in solicitations and contracts of provisions and clauses which are incorporated by reference within the applicable uniform contract format (UCF) and the deletion of the Alternates to the clauses at 52.252-1 and 52.252-2 which allow incorporation by reference of provisions and clauses and do not use the UCF.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD44

3712. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-63)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: To amend the FAR to clarify that the suspension of progress payments for accounting deficiencies should be applied only to the portion of the progress payments associated with a deficiency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD45

3713. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-64)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide editorial changes to reference the small purchase limitation in FAR 13.000 and provide consistency with the FAR's standard "small purchase limitation" terminology.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD46

3714. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-65)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to clarify the requirement that nonmanufacturer offerors on small business set-aside contracts must be small businesses and

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establishes a size standard of 500 employees for such nonmanufacturers.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD47

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — Completed Actions

3715. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-10 (FAR CASE 85-32)

Legal Authority: PL 98-577, Sec 204; PL 98-525; PL 99-591

CFR Citation: 48 CFR 7; 48 CFR 15; 48 CFR 19; 48 CFR 34; 48 CFR 52

Legal Deadline: Final, Statutory, May 1, 1985.

Abstract: (1) Implement Sec. 1213 of Pub. L. 98-525 and Sec. 201 of Pub. L. 98-577 by (a) requiring that the contracting officer, prior to contracting, review the acquisition history of the supplies or services and the description of the supplies, and (b) specifying new requirements applicable to planning for the solicitation of a major system production contract; (2) Implement Sec. 1245 of Pub. L. 98-525 and Sec. 501 of Pub. L. 98-577 by specifying that offerors/contractors (a) are required to distribute costs within contracts on a basis that ensures that unit prices of supplies are in proportion to the item's base cost, (b) may be required to identify supplies that they will not manufacture or to which they will not contribute significant value, and (c) are required to flow the requirement down to subcontractors; (3) Implement Sec. 1216 of Pub. L. 98-525 and Sec. 204 of Pub. L. 98-577 by requiring offerors/contractors in certain acquisitions to certify that the prices offered for those items of supply that the contractor offers for sale to the public are no higher than any lower price charged to any other customer during the preceding 60 days, or submit a written justification for any (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27580
Final Action FAR Case 85-23, Small Business Subcontracting Policy	07/29/86	51 FR 27114
Final Action FAR Case 85-28, Integrity of Unit Prices	07/29/86	51 FR 27114
Final Action FAR Case 85-11, Definition of Major System	07/29/86	51 FR 27114
Final Action FAR Case 85-30, Planning for Future Competition	07/29/86	51 FR 27114
Final Action FAR Case 85-32 being reported individually.	08/09/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

ABSTRACT CONT: differences; (4) Implement Sec. 402 of Pub. L. 98-577 by (a) widening the area where subcontracting possibilities are considered to exist, (b) further specifying the types of acquisitions that are to be considered for contracting and subcontracting with small and small disadvantaged business concerns, and (c) stating the policy of the United States that its prime contractors establish procedures to ensure timely payments to small and small disadvantaged subcontractors; and (5) Implement Sec. 1211 of Pub. L. 98-525 and Sec. 102 of Pub. L. 98-577 by specifying a definition of "major system."

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA00

3716. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-9

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 12; 48 CFR 33; 48 CFR 52

Legal Deadline: None

Abstract: To revise the FAR to comply with revised Department of Justice advice concerning the General Accounting Office (GAO) "stay" provisions in 31 U.S.C. 3553(c) and (d) and the GAO "damages" provision in 31 U.S.C. 3554(c) regarding payment of costs of filing and pursuing a protest and preparing the bid and proposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/85	50 FR 25680
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA01

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3717. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-11

Legal Authority: PL 98-525; PL 98-577

CFR Citation: 48 CFR 3; 48 CFR 7; 48 CFR 9; 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: Final, Statutory, May 1, 1985.

Abstract: To revise the FAR to (1) Prohibit contractors and subcontractors from asserting or agreeing to unreasonable restrictions on direct sales by subcontractors to the Government; (2) Prescribe policies, procedures, and a solicitation provision for gathering and using information from offerors to assist the Government in planning the most advantageous quantities in which supplies should be purchased; and (3) Prescribe policies, procedures, and a solicitation provision regarding the establishment and enforcement of qualification requirements for sources and products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/85	50 FR 35474
Final Action FAR Case 85-37 Unreasonable Restrictions on Subcontractor Sales	07/29/86	51 FR 27114
Final Action FAR Case 85-36 Economic Order Quantities	08/12/87	52 FR 30074
Final Action FAR Case 85-38 merged into FAR Case 86-57	08/08/88	
Final Action	09/02/88	53 FR 34224

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA02

3718. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASES 86-12 AND 88-35)

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation to revise Standard Form 1417 to (1) eliminate unnecessary delays in securing solicitation documents by requiring construction contractors to obtain a certified check or cashiers check, and (2) require inclusion of the contractor's telephone number on the SF 1417.

Timetable:

Action	Date	FR Cite
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA97

3719. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-33)

Legal Authority: 40 USC 486(c); 42 USC 2473(c); 10 USC Chapter 137

CFR Citation: 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation to incorporate changes to provide improved value engineering coverage, as well as those changes necessitated by OMB Circular A-131, Value Engineering.

Timetable:

Action	Date	FR Cite
NPRM	09/02/86	51 FR 31197
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AA18

3720. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR regarding penalties charged under DOD contracts for submission of defective cost or pricing data and interest charged from the date of overpayment on all Government contracts in defective pricing cases.

Timetable:

Action	Date	FR Cite
Withdrawn	04/20/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB37

3721. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-59)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 31; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to include more specific regulatory coverage concerning the termination of overfunded defined benefit pension plans and the resultant employer withdrawal of excess pension fund assets.

Timetable:

Action	Date	FR Cite
NPRM	02/09/87	52 FR 4084
Final Action	06/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB55

3722. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 44; 48 CFR 52

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation concerning debarment and suspension procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/31/87	52 FR 28642
Final Action	05/08/89	54 FR 19812

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AB83

3723. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-41)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to prescribe and illustrate the latest edition of Standard Form 1409, Abstract of Offers, and Standard Form 1409A, Abstract of Offers-Continuation Sheet.

Timetable:

Action	Date	FR Cite
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC04

3724. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-43)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To invite comments concerning the development of changes to the FAR on the allowability of costs incident to mergers and other business combinations.

Timetable:

Action	Date	FR Cite
ANPRM	10/26/87	52 FR 41474
Withdrawn	12/09/88	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC06

3725. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to prescribe uniform procedures regarding nonpersonal services contracts for health care services.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2464
Final Action	01/31/89	54 FR 5052

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC14

3726. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 33

Legal Deadline: None

Abstract: To amend the FAR to clarify the policy of the Government concerning demands for payment of contract debts owed to the Government.

Timetable:

Action	Date	FR Cite
NPRM	01/28/88	53 FR 2577
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC17

3727. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to permit contracting offices to use an option provision which enables the Government to require continued performance of any services within the limits and at the rate specified in a contract.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3814
Final Action	03/29/89	54 FR 13022

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC20

3728. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-9)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to specify that the subcontracting plans for contracts containing options that meet the required threshold for requiring such plans must separately address both the basic and option quantities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/88	53 FR 5928
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC22

3729. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-10)

Legal Authority: 41 USC 351

CFR Citation: 48 CFR 1; 48 CFR 5; 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to incorporate the implementation of the Department of Labor regulations regarding the Service Contract Act.

Timetable:

Action	Date	FR Cite
NPRM	02/22/88	53 FR 5928
Final Action	05/08/89	54 FR 19812

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC23

3730. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14

Legal Deadline: None

Abstract: To amend the FAR to clarify the obligation of the contracting officer to disclose all appropriate information when requesting additional evidence to support a contractor's bid when there is a basis to believe that the bid might contain a mistake.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8734
Final Action	03/29/89	54 FR 13022

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC29

3731. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 36; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise SF 1419, Abstract of Offers–Construction, to make the form more functional when recording offers from seven or more offerors and/or recording offers when the construction contract solicitation requires individual offers on 14 or more line items.

Timetable:

Action	Date	FR Cite
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC37

3732. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to consolidate and amplify requirements dealing with subcontract pricing.

Timetable:

Action	Date	FR Cite
NPRM	07/07/88	53 FR 25572
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC38

3733. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-30)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to clarify FAR plant clearance policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/01/88	53 FR 25084
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC42

3734. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to increase delivery of excess quantities threshold from $100 to $250 and to modify the clause title accordingly.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32561
Final Action	08/21/89	54 FR 34750

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC48

3735. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-43)

Legal Authority: 26 USC 6041; 26 USC 6041M; 26 USC 6050M

CFR Citation: 48 CFR 4; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to add coverage to provide for contractors to submit their taxpayer identification number (TIN) and certain related information to the appropriate contracting office.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/26/88	53 FR 43386
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC54

3736. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-44)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add language prescribing the use of the clause at 52.225-14, Inconsistency Between English Version and Translation of Contracts, when translating a contract into a foreign language.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32558
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC55

3737. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-49)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to add coverage on the use of master solicitations.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41535
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC60

3738. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-61)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28

Legal Deadline: None

Abstract: To amend the FAR to clarify existing policy regarding the requirement for bid guarantees.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53279
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC72

3739. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-62)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to recognize electronic and automated inventory techniques.

Timetable:

Action	Date	FR Cite
Final Action	06/12/89	54 FR 25060

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC73

3740. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-63)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to increase the threshold for mandatory use of make-or-buy procedures in negotiated contracts from $2 million to $5 million.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC74

3741. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-69)

Legal Authority: PL 100-496

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: Final, Statutory, April 1, 1989.

Abstract: To amend the FAR to incorporate Pub. L. 100-496, Prompt Payment Amendments of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53364
Final Action	03/31/89	54 FR 13332

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC81

3742. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-71)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to provide a means for agencies to indicate in synopses if they are willing to accept electronic requests for solicitation packages.

Timetable:

Action	Date	FR Cite
Final Action	06/12/89	54 FR 25060

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC82

3743. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to accommodate the updated Commerce Business Daily Numbered Notes and to establish a system to review and revise Numbered Notes.

Timetable:

Action	Date	FR Cite
Final Action	05/11/89	54 FR 20488

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AC85

3744. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-22)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 38

Legal Deadline: None

Abstract: To amend the FAR for editorial and clarification purposes and to update the criteria used in establishing a Federal Supply Schedule.

Timetable:

Action	Date	FR Cite
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD00

3745. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to clarify that only one classification code shall be included in synopses submitted to the Commerce Business Daily and further, that failure to include a classification code or submission of more than one code, will result in rejection of the synopsis by the Commerce Business Daily.

Timetable:

Action	Date	FR Cite
Final Action	06/12/89	54 FR 25060

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD04

3746. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-27)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42

Legal Deadline: None

Abstract: To amend the FAR to clarify existing FAR coverage and to list additional contract administration functions that are being performed but are not recognized in the current FAR coverage.

Timetable:

Action	Date	FR Cite
Final Action	06/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD05

3747. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add a provision for use in all contracts in excess of $25,000 requesting offerors to identify their Contractor Establishment Codes, if available.

Timetable:

Action	Date	FR Cite
Final Action	07/11/89	54 FR 29278

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD11

3748. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-35)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4; 48 CFR 42

Legal Deadline: None

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Abstract: To amend the FAR to add coverage that requires contracting offices to accomplish more timely funds reviews of physically complete contracts.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD13

3749. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-39)

Legal Authority: PL 100-656, Sec 603

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to add to the existing list of duties of agency Directors of Small and Disadvantaged Business Utilization the responsibility for making recommendations as to whether an acquisition should be awarded as a set-aside 8(a) award, or other procedure, and to require contracting officers to consider those recommendations and document whenever they are not accepted.

Timetable:

Action	Date	FR Cite
Final Action	06/12/89	54 FR 25060

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD17

3750. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-41)

Legal Authority: PL 100-590, Sec 110

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to implement section 110 of the SBA Reauthorization Act of 1988 concerning duties of SBA breakout center representatives.

Timetable:

Action	Date	FR Cite
Final Action	06/12/89	54 FR 25060

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD19

3751. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-46)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to explicitly permit the use of a three party contract for 8(a) contracts as opposed to the previous method of preparing two separate contract documents.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD24

3752. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-48)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 22

Legal Deadline: None

Abstract: To amend the FAR to make two minor editorial changes to FAR 19.601(c) and 22.608-2(f)(3).

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD26

3753. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-49)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add the notice to offerors, that the Government may waive first article testing, prescribed at FAR 9.306(c) to the clauses at 52.209-3 and 52.209-4.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD27

3754. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-50)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to remove contractor unwillingness to obtain their own facilities as a basis on which the Government will provide such facilities.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD28

3755. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to conform the wording of the last sentence in paragraph (a) of the clause at 52.237-7 requesting information from contractors on medical liability insurance with the instructions on the requested information currently in the note at the end of the clause.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD29

3756. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-52)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 27

Legal Deadline: None

Abstract: To amend the FAR to delete a paragraph which was being interpreted by some as a sunset provision to the coverage in FAR 27.400.

Timetable:

Action	Date	FR Cite
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD30

3757. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to delete FAR 31.205-1(h) which deals with the relationship between the cost principle entitled "Public Relations and Advertising Costs" and the other cost principles.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41527
Final Action	08/21/89	54 FR 34750

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000–AD48

[FR Doc. 89-21750 Filed 10-27-89; 8:45 am]

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Part XLV

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

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COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESS: Comments should be sent to: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-6090.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* ("RFA"), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1]

The Commission's agenda represents its best estimate of significant rules which will be considered over the next twelve months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its October 1989 Regulatory Flexibility Agenda as part of the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in the Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

The Commission's October 1989 Regulatory Flexibility Agenda is set forth below.

Issued in Washington, DC, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3758	Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	3038-AA10
3759	Rules Relating to Commission Review of National Futures Association Decisions In Disciplinary, Membership Denial, Registration and Member Responsibility Actions	3038-AA57
3760	Distribution of "Risk Disclosure Statement" by Futures Commission Merchants and Introducing Brokers	3038-AA64
3761	Trading Card and Order Collection	3038-AA67
3762	Orders From Another Exchange Member on the Floor	3038-AA69
3763	Committee Membership Eligibility	3038-AA70
3764	Affiliations Among Brokers	3038-AA71

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of an event in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory which list rules that the Commission is considering or will consider in the near future.

CFTC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3765	Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities (Dealer Options)	3038-AA03
3766	Regulation of Hybrid Instruments	3038-AA58
3767	Recordkeeping and The Exchange of Futures for Cash Commodities or of Futures in Connection with Cash Commodity Transactions	3038-AA62
3768	Indemnification of CFTC Employees	3038-AA63
3769	Leverage Transactions	3038-AA65

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

3758. MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

Legal Authority: 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.12; 17 CFR 1.17

Legal Deadline: None

Abstract: The Commission adopted two amendments to its minimum financial and related requirements for futures commission merchants (FCMs). One amendment preserves the one-day grace period for debit/ deficit accounts unless the account had been in debit/deficit status on the previous business day and the previous day's debit or deficit was not timely satisfied in its entirety by the deposit of new funds. The second amendment is an enhancement of the financial early warning system which requires an FCM to notify its designated self-regulatory organization and the Commission immediately when it determines that an account it is carrying is undermargined by an amount which exceeds its adjusted net capital. The Commission also reproposed a rule to clarify the requirements for and treatment of a guaranteed account.

Timetable:

Action	Date	FR Cite
NPRM	06/25/80	45 FR 42633
NPRM	12/01/80	45 FR 79498
NPRM	08/05/85	50 FR 31612
NPRM	07/29/87	52 FR 28281
NPRM Comment Period End	09/28/87	52 FR 28281

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Two final rules published 7/29/87, 52 FR 28246 and 52 FR 28248. Effective date: 8/28/87. Guaranteed account rule reproposed on 7/29/87, 52 FR 28261.

Agency Contact: Lawrence Patent/Gary Miller, Assoc. Chief Counsel/Asst. Chief Acct., Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA10

3759. RULES RELATING TO COMMISSION REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

Legal Authority: 7 USC 21(h); 7 USC 21(i); 7 USC 21(o)(2); 7 USC 12(a)(5); 7 USC 4a

CFR Citation: 17 CFR 3; 17 CFR 171

Legal Deadline: None

Abstract: The Commission proposes to adopt rules establishing standards and procedures for Commission review of decisions of registered futures associations such as the National Futures Association ("NFA"). The Commission is proposing specific standards of review for decisions by NFA in four types of actions - disciplinary actions, membership denial actions, registration actions and member responsibility actions. The proposed rules would establish a common procedure for seeking review and a stay of a final decision by NFA in disciplinary, membership denial and registrations actions. The proposed rules would also establish a procedure for seeking review of and a stay of decisions by NFA in a member responsibility action. In proposing these rules, the Commission seeks to promulgate standards for review that will permit NFA to exercise its expertise and independent judgment in the proceedings subject to these rules while providing a person aggrieved by the result of NFA's action an effective means to obtain relief from prejudicial errors in NFA's determination. The Commission also seeks to establish an appellate process that is comprehensive, balanced, efficient and fair.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Richards, Deputy Chief, Options Section, Office of General Counsel, Commodity Futures Trading Commission, 2033 K St. N.W., Washington, D.C. 20581, 202 254-7110

RIN: 3038–AA57

3760. DISTRIBUTION OF "RISK DISCLOSURE STATEMENT" BY FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Legal Authority: 7 USC 6(b); 7 USC 6b; 7 USC 6g(1); 7 USC 6o; 7 USC 12a(5); 7 USC 24

CFR Citation: 17 CFR 1.55; 17 CFR 30.6; 17 CFR 190.10

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Legal Deadline: None

Abstract: The Commission is considering whether to amend Rule 1.55, its basic rule with respect to risk disclosure by futures commission merchants and introducing brokers. Any such amendments would be designed to further simplify risk disclosure with respect to trading of domestic and foreign futures products so as to reduce the number of separate risk disclosure documents required by the Commission, the National Futures Association and other self-regulatory organizations (SROs), including foreign SROs. The Commission may also consider whether the current rules need to be clarified regarding disclosure of the risk of bankruptcy and disclosures required when an account is transferred from one futures commission merchant or introducing broker to another futures commission merchant or introducing broker.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	
NPRM Comment Period End	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA64

3761. ● TRADING CARD AND ORDER COLLECTION

Legal Authority: 7 USC 6; 7 USC 6g; 7 USC 7; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 1.35 (d); 17 CFR 1.35 (j); 17 CFR 1.35(a-1)

Legal Deadline: None

Abstract: The proposed rulemaking will establish requirements for frequent collection of trading cards and filled customer order tickets on the exchanges during the trading day. Specifically, the rulemaking will require that such records be collected at intervals not to exceed one half hour during a brief implementation stage and thereafter at intervals not to exceed 15 minutes. Such defined periods shall include separately designated opening and closing periods with a separate trade record submission requirement. In addition, the rule will require that all trading cards be timestamped upon completion or collection, be prenumbered, that exchange members account for all trading cards and record trades in chronological order as sequential lines of a trading card. These rules, among other things, will improve the audit trail for all trades and limit any opportunity to alter such records.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 37117
NPRM Comment Period End	10/10/89	
Final Action	01/01/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Apfelbaum, Assistant Director, Commodity Futures Trading Commission, 2033 K ST NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA67

3762. ● ORDERS FROM ANOTHER EXCHANGE MEMBER ON THE FLOOR

Legal Authority: 7 USC 6; 7 USC 6g; 7 USC 7; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 1.35

Legal Deadline: None

Abstract: The anticipated proposed regulation will amend existing regulation 1.35 to require that an order ticket be prepared for orders placed by members on the floor of an exchange with another member for execution (CTI 3 trades) as is presently required for all other orders. Currently, regulation 1.35 (a-1) (3) exempts a member receiving an order from another member on the floor from the requirements of this regulation, which requires that an order ticket be prepared and time stamped upon receipt, if the member receiving such order notes on his trading card or other record the time of execution to the nearest minute. Alternatively, the proposed regulation may require other audit trail improvements for such orders. The proposed amendment is intended to improve the available audit trail for orders executed on behalf of members on the floor of an exchange so that the trading activity of those members may be better monitored. The proposed regulation will contain an exemption for certain inter-commodity or futures/option spread transactions to preserve the efficient execution of such orders. Because of the relatively small number of orders for members on the floor, the Commission (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	
Final Action	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: believes that the additional burden imposed by the requirement will not be economically significant.

Agency Contact: Elliot Levine, Staff Attorney, Commodity Futures Trading Commission, 2033 K ST NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA69

3763. ● COMMITTEE MEMBERSHIP ELIGIBILITY

Legal Authority: 7 USC 5; 7 USC 6b; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 13a; 7 USC 12; 7 USC 12a; 7 USC 13; 7 USC 21; 7 USC 26(b)

CFR Citation: 17 CFR 1.63

Legal Deadline: None

Abstract: This rule would require self-regulatory organizations (SROs), i.e., contract markets, clearing organizations, and the National Futures Association, to implement rules that prohibit persons with significant disciplinary histories from serving on SRO disciplinary committees, arbitration panels and governing boards. The rule is intended to uphold the perceived integrity of the SROs and thereby enhance the effectiveness of the self-regulatory system.

Timetable:

Action	Date	FR Cite
NPRM	09/06/89	54 FR 37001
NPRM Comment Period End	11/06/89	
Final Action	01/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David P. Van Wagner, Special Counsel, Commodity Futures Trading Commission, 2033 K ST NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA70

3764. ● AFFILIATIONS AMONG BROKERS

Legal Authority: 7 USC 6; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 1

Legal Deadline: None

Abstract: The Commission proposes to develop regulations to assure the adequate monitoring of trading activity among affiliated brokers, which may include a definition of such affiliations and a requirement that exchanges implement registration procedures for such entities.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	
Final Action	04/07/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elliot Levine, Staff Attorney, Commodity Futures Trading Commission, 2033 K ST NW, Washington, DC 20581, 202 254-8955

RIN: 3038–AA71

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

3765. REGULATIONS PERMITTING THE GRANT, OFFER AND SALE OF OPTIONS ON PHYSICAL COMMODITIES (DEALER OPTIONS)

CFR Citation: 17 CFR 1; 17 CFR 3; 17 CFR 32

Completed:

Reason	Date	FR Cite
Withdrawn To Be Included in RIN 3038-AA58	08/09/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert H. Rosenfeld 202 254-8955

RIN: 3038–AA03

3766. REGULATION OF HYBRID INSTRUMENTS

CFR Citation: 17 CFR 34

Completed:

Reason	Date	FR Cite
Final Action	07/21/89	54 FR 30684
Final Action Effective	07/21/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert H. Rosenfeld 202 254-8990

RIN: 3038–AA58

3767. RECORDKEEPING AND THE EXCHANGE OF FUTURES FOR CASH COMMODITIES OR OF FUTURES IN CONNECTION WITH CASH COMMODITY TRANSACTIONS

CFR Citation: 17 CFR 1.35 (a-2)

Completed:

Reason	Date	FR Cite
Final Action	08/17/89	54 FR 33878
Final Action Effective	11/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia C. Apfelbaum 202 254-8955

RIN: 3038–AA62

3768. INDEMNIFICATION OF CFTC EMPLOYEES

CFR Citation: 17 CFR 140; 28 CFR 50.15

Completed:

Reason	Date	FR Cite
Final Action	06/14/89	54 FR 25233
Final Action Effective	06/14/89	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David W. Kuhnsman 202 254-8880

RIN: 3038–AA63

3769. LEVERAGE TRANSACTIONS

CFR Citation: 17 CFR 1.3 (ff); 17 CFR 3.2; 17 CFR 3.3; 17 CFR 3.17; 17 CFR 3.18; 17 CFR 3.20; 17 CFR 3.21; 17 CFR 3.31; 17 CFR 3.32; 17 CFR 3.33; 17 CFR 3.40; 17 CFR 3.43; 17 CFR 31; 17 CFR 145.5(d)(1)(i)(H); 17 CFR 147.3(b)(4)(i)(A)(8); ...

Completed:

Reason	Date	FR Cite
Final Action	10/05/89	54 FR 41068
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent 202 254-8955

RIN: 3038–AA65

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Part XLVI

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CPSC

Prerule Stage—Continued

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish twice each year a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions expected to be under development or review by the agency during the succeeding 12 months and which further provide that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATE: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1989.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; (301) 492-6980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601-612, contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act, 5 U.S.C. 602, requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, the objectives and legal basis for the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The regulatory flexibility agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or current regulations under review and further states that such an agenda may be combined with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The regulatory flexibility agenda published below lists, for a 12-month period, the regulatory activities expected to be under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: September 20, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3770	Rule review	3041-AA24
3771	Rule review	3041-AA25
3772	All-terrain vehicles	3041-AA53
3773	Requirements to make cigarette lighters child resistant	3041-AA73
3774	Method for identifying toys and other articles intended for children under 3 years of age which present choking, aspiration, or ingestion hazards because of small parts	3041-AA76
3775	Petition CP 89-2 requesting development of a standard for electric heat tape	3041-AA78
3776	Petition CP 89-3 for safety standard for hand-held electric hair dryers	3041-AA79
3777	Petition HP 89-1 for rule to ban certain crib toys	3041-AA83
3778	Petition CP 89-1 for safety standard for saunas	3041-AA85

CPSC

Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3779	Petition PP 88-2 for rules to require child-resistant packaging for products containing acetonitrile or sodium bromate or potassium bromate	3041-AA86
3780	Petition CP 89-4 for Labeling Rule Applicable to Water Beds	3041-AA89

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3781	Requirements for the special packaging of household substances; revision of test protocol for child resistant packaging	3041-AA22
3782	Proposed rule to exempt electronic video games from electrical toy regulations	3041-AA41
3783	Household substances containing methylene chloride; status as hazardous substances; proposed rule	3041-AA59

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3784	Poison Prevention Packaging Act requirements for certain effervescent acetaminophen tablets, proposed amendment of exemption	3041-AA69
3785	Poison Prevention Packaging Act requirements for certain unflavored aspirin in powder form, proposed amendment of exemption	3041-AA70
3786	Poison Prevention Packaging Act requirements for certain medroxyprogesterone acetate tablets, proposed amendment of exemption	3041-AA71
3787	Proposed rule to exempt medroxyprogesterone acetate tablets from Poison Prevention Packaging Act requirements for child-resistant packaging	3041-AA77
3788	Application for exemption from preemption; proposed rule	3041-AA82

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3789	Proposed rule to exempt medroxyprogesterone acetate tablets from Poison Prevention Packaging Act requirements for child-resistant packaging	3041-AA84

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

3770. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Legal Deadline: Other, Statutory, December 31, 1990.

Abstract: The Commission plans to publish a Federal Register notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	11/00/89	
Public comment period ends	01/00/90	

Small Entities Affected: Businesses

CPSC — **Prerule Stage**

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Government Levels Affected: None

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041–AA24

3771. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Legal Deadline: Other, Statutory, December 31, 1990.

Abstract: On February 22, 1984, the Commission published a Federal Register notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	02/22/84	49 FR 6504
Public comment period ends	04/23/84	49 FR 6504
End Review	11/30/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041–AA25

3772. ALL-TERRAIN VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1262(f) Federal Hazardous Substances Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: On May 31, 1985, the Commission published an advance notice of proposed rulemaking (ANPR) to announce its preliminary determination that an unreasonable risk of injury may be associated with all-terrain vehicles. An all-terrain vehicle (ATV) is a three- or four-wheeled motorized machine, designed for off-road use, and intended to be ridden by one person. A consent decree in the U.S. District Court of the District of Columbia in U.S. v. American Honda Motor Co. et al., approved on April 28, 1988, Civil Act. No. 87-3525 GAG), required ATV manufacturers to attempt in good faith to reach agreement on a voluntary standard for the Commission's consideration. The Commission accepted that standard, along with an industry agreement concerning lateral stability, on October 28, 1988. Except for lateral stability and youth models, the Commission will defer rulemaking for a time sufficient for the voluntary standard to be adopted by the American National Standards Institute. Also, the Commission concluded that for labeling, manuals, age recommendations, advertising, training, point-of-purchase materials, and other

Timetable:

Action	Date	FR Cite
ANPRM	05/31/85	50 FR 23139
ANPRM Comment Period End	09/30/85	50 FR 31391
Staff sends status report to Commission	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT. aspects of manufacturing and marketing of ATVs which are controlled by the consent decree, rulemaking is no longer required. The staff plans to send a status report to the Commission in December concerning progress on the voluntary standard and development of requirements for lateral stability of ATVs.

Agency Contact: Carl Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C. 20207, 301 492-6554

RIN: 3041–AA53

3773. REQUIREMENTS TO MAKE CIGARETTE LIGHTERS CHILD RESISTANT

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1261 et seq Federal Hazardous Substances Act; 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On March 3, 1988, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) to announce its preliminary determination that unreasonable risks of death and injury may be associated with cigarette lighters because they are not sufficiently resistant to operation by children. The Commission staff is analyzing comments received in response to the ANPRM. A test protocol using panels of children and adults is under development. The test protocol will be used to determine the child resistance of lighters now on the market and to evaluate lighter modifications reported to be more child resistant. A child resistant cigarette lighter standard will be developed using the test protocol as a basis.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/88	53 FR 6833
ANPRM Comment Period End	05/02/88	53 FR 6833
Staff sends briefing package on NPRM to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: L. James Sharman, Fire Programs Officer, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C. 20207, 301 492-6554

RIN: 3041–AA73

CPSC — Prerule Stage

3774. METHOD FOR IDENTIFYING TOYS AND OTHER ARTICLES INTENDED FOR CHILDREN UNDER 3 YEARS OF AGE WHICH PRESENT CHOKING, ASPIRATION, OR INGESTION HAZARDS BECAUSE OF SMALL PARTS

Legal Authority: 15 USC 1261 to 1262 Federal Hazardous Substance Act

CFR Citation: 16 CFR 1501

Legal Deadline: None

Abstract: The Commission has a regulation applicable to toys and other articles intended for children under three years old that prescribes a test cylinder to determine if articles, or detachable parts of such articles, present a choking hazard to young children. Articles or components which fit within the test cylinder are banned. Although this regulation has been in effect since January 1980, choking incidents have occurred since it went into effect involving products which either pass the test or which are exempt from the regulation. The Commission has established a project to gather information about the nature and causes of these incidents and to determine what, if any, additional measures are needed to reduce injuries and deaths from such incidents, including possible modification of the small parts test cylinder. The Commission published an ANPRM on June 7, 1988, to solicit comments on ways to address choking hazards to young children, including specific modifications of the test cylinder requested in a petition from the Consumer Federal of America and the New York State Attorney General's Office.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/88	53 FR 20865
ANPRM Comment Period End	08/08/88	53 FR 20865
Notice announcing establishment of medical advisory committee	01/19/89	54 FR 2198
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: In the Federal Register of January 19, 1989, the Commission published a notice to announce the establishment of a medical advisory committee which will consist of five to seven physicians with specialized training or experience in children's asphyxiation accidents and injuries. The advisory committee will provide expert medical advice to the Commission on appropriate modifications, if any, of the test fixture specified in the small parts regulations and other topics relevant to this rulemaking proceeding.

Agency Contact: Elaine A. Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA76

3775. PETITION CP 89-2 REQUESTING DEVELOPMENT OF A STANDARD FOR ELECTRIC HEAT TAPE

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2056 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act; 15 USC 2076(e) Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On December 22, 1988 Christian B. Stegeman, III and others petitioned the Commission to begin a proceeding under provisions of the Consumer Product Safety Act for development of a safety standard for electric heat tape. The petition requests the Commission to develop a standard with requirements for the design and performance of electric heat tape and for instructions and warnings to accompany the product. If the Commission grants the petition, it will begin a rulemaking proceeding under the Consumer Product Safety Act.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA78

3776. PETITION CP 89-3 FOR SAFETY STANDARD FOR HAND-HELD ELECTRIC HAIR DRYERS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On September 5, 1988, David A. Snow, President of the Michele Snow Foundation, petitioned the Commission to issue a consumer product safety standard for hand-held electric hair dryers. The petition alleges that hand-held electric hair dryers are associated with five to ten fatal electrocutions of children each year. The petition requests the Commission to issue a safety standard for hand-held electric hair dryers to require immersion detection circuit interrupters to protect against electric shock injuries if the hair dryer accidentally falls into water. The Commission staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a proceeding under the Consumer Product Safety Act for development of a consumer product safety standard.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Glatz, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA79

3777. PETITION HP 89-1 FOR RULE TO BAN CERTAIN CRIB TOYS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances

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Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2079(d) Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18

Legal Deadline: None

Abstract: On November 17, 1988, Consumer Federation of America and the New York State Attorney General's Office petitioned the Commission to begin a proceeding for issuance of a rule to ban certain crib toys and mobiles described in the petition. The petition alleges that these toys present risks of strangulation to infants. If the Commission grants the petition, it will begin a proceeding under the Federal Hazardous Substances Act for issuance of the requested banning rule.

Timetable:

Action	Date	FR Cite
Staff sends briefing package on petition to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elaine A. Tyrrell, Project Manager, Consumer Product Safety Commission, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA63

3778. PETITION CP 89-1 FOR SAFETY STANDARD FOR SAUNAS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On October 4, 1988, Edward Press, M.D. petitioned the Commission to issue a safety standard for saunas. A sauna is a wood-walled enclosure equipped with benches and a heater. The petition alleges that saunas are associated with risks of death and injury from heat stroke or hypothermia, cardiac arrhythmia and cardiac arrest, myocardial infarction, and syncope or fainting. The petition requests the Commission to issue a safety standard for saunas with requirements for signs to warn about hazards associated with use of saunas; a switch outside the sauna enclosure to limit operating time of the sauna to a maximum of ten minutes per setting; a switch inside the sauna enclosure to shut off the sauna when the dry-bulb temperature exceeds 195 degrees F.; adequate ventilation of the sauna enclosure; and an alarm signal which can be activated inside the sauna enclosure to summon aid. The staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a proceeding for development of a consumer product safety standard under provisions of the Consumer Product Safety Act.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to the Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Elder, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA85

3779. PETITION PP 88-2 FOR RULES TO REQUIRE CHILD-RESISTANT PACKAGING FOR PRODUCTS CONTAINING ACETONITRILE OR SODIUM BROMATE OR POTASSIUM BROMATE

Legal Authority: 5 USC 553(e) . Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: On June 27, 1988, the American Association of Poison Control Centers, Inc. petitioned the Commission to issue rules under provisions of the Poison Prevention Packaging Act to require child-resistant packaging for two types of cosmetics: products containing acetonitrile used to remove sculptured nails; and home cold-wave permanent kits containing sodium bromate. The petition alleges that children have suffered serious injuries after accidentally ingesting the products which are the subject of the petition. The staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition it will begin a proceeding under the Poison Prevention Packaging Act to issue rules requiring child-resistant packaging of household glue removers containing acetonitrile and home permanent wave neutralizers containing sodium or potassium bromate.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA86

3780. ● PETITION CP 89-4 FOR LABELING RULE APPLICABLE TO WATER BEDS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On July 10, 1989, the Commission received a petition from the New York State Attorney General and others requesting initiation of a proceeding for issuance of a labeling rule applicable to adult- sized water beds. The petition asserts that adult-sized water beds are associated with risks of death and injury by suffocation to infants and physically handicapped children, and requests issuance of a rule to require labeling of adult-sized water beds and point-of-sale information to warn of these risks. The Commission staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a proceeding under the Consumer Product Safety Act to issue the requested labeling rule.

CPSC — Prerule Stage

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stan Morrow, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA89

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

3781. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; REVISION OF TEST PROTOCOL FOR CHILD RESISTANT PACKAGING

Legal Authority: 15 USC 1472 Poison Prevention Packaging Act; 15 USC 1473 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.20

Legal Deadline: None

Abstract: On January 19, 1983, the Commission published an Advance Notice of Proposed Rulemaking soliciting comments on ways to amend the existing requirements for child-resistant packaging to improve the effectiveness and efficiency of these requirements. In June 1985, the Commission staff completed testing to determine the feasibility of using some of the alternate procedures for evaluation of child-resistant packaging described in the ANPR. In August 1987, the Commission considered the comments received in response to the ANPR and the staff's recommendations regarding revision of existing requirements for child-resistant packaging. The Commission directed the staff to prepare draft proposals to amend the test protocols used to evaluate the effectiveness of child-resistant packaging. The staff is preparing a briefing package concerning specific revisions to the child test protocol and the adult test protocol. The staff anticipates that it will transmit the briefing package to the Commission in September 1989.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment Period End	03/21/83	48 FR 2389
NPRM	00/00/00	
Staff sends briefing package toCommission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA22

3782. PROPOSED RULE TO EXEMPT ELECTRONIC VIDEO GAMES FROM ELECTRICAL TOY REGULATIONS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1505

Legal Deadline: None

Abstract: In correspondence dated December 21, 1983, the Consumer Electronic Group of the Electronic Industries Association petitioned the Commission to amend the regulation on electrical toys to exempt electronic video games from coverage. The Commission granted the petition on September 27, 1988, and expects to publish a proposed exemption later in 1989.

Timetable:

Action	Date	FR Cite
Commission decision	09/27/88	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA41

3783. HOUSEHOLD SUBSTANCES CONTAINING METHYLENE CHLORIDE; STATUS AS HAZARDOUS SUBSTANCES; PROPOSED RULE

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500.12(a)(2)

Legal Deadline: None

Abstract: On August 20, 1986, the Commission proposed a rule to declare that household products containing methylene chloride are hazardous substances under the Federal Hazardous Substances Act. These products include some paint strippers and spray paints. The Commission's concern arises from animal tests showing that methylene chloride is a carcinogen by inhalation and studies indicating a significant human exposure as a result of reasonably foreseeable use of products containing methylene chloride. The initiation of this rulemaking proceeding granted one part of a petition (HP 85-1) from the Consumer Federation of America. The staff provided an analysis of the comments on the proposed rule to the Commission in June 1987. In August 1987, the Commission determined that there was insufficient controversy over the status of methylene chloride as a hazardous substance; therefore, the Commission suspended the rulemaking and issued a statement of enforcement policy stating the Commission's view that household products that contain methylene chloride and that expose consumers to significant levels of methylene chloride are (cont.)

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CPSC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	06/20/86	51 FR 29778
NPRM Comment Period End	10/20/86	51 FR 29778
Policy published	09/14/87	52 FR 34698

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: subject to the FHSA's labeling requirements.The rulemaking proceeding is suspended pending a determination of the extent of compliance with the enforcement policy.

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041–AA59

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

3784. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN EFFERVESCENT ACETAMINOPHEN TABLETS, PROPOSED AMENDMENT OF EXEMPTION

Legal Authority: 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Regulations implementing the Poison Prevention Packaging Act exempt effervescent acetaminophen tablets containing less than 10 per cent acetaminophen from requirements for child-resistant packaging. In the Federal Register of October 20, 1988, the Commission published a proposed amendment of those regulations to increase the acetaminophen content of tablets exempted from requirements for child-resistant packaging from less than ten per cent to not more than 15 per cent. In September 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposed amendment and contains a draft notice to issue the proposed amendment on final basis.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41200
NPRM Comment Period End	12/19/88	53 FR 41200
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA69

3785. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN UNFLAVORED ASPIRIN IN POWDER FORM, PROPOSED AMENDMENT OF EXEMPTION

Legal Authority: 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Regulations issued under provisions of the Poison Prevention Packaging Act exempt certain unflavored aspirin in powder form which is packaged in unit doses providing not more than 13 grains of aspirin per unit dose from requirements for child-resistant packaging. In the Federal Register of October 20, 1988, the Commission proposed an amendment of those regulations to exempt unflavored aspirin in powder form which is packaged in unit doses providing not more than 15.4 grains of aspirin per dose from requirements for child-resistant packaging. In September 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposed amendment and contains a draft notice to issue the proposed amendment on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 4199
NPRM Comment Period End	12/19/88	53 FR 4199
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA70

3786. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN MEDROXYPROGESTERONE ACETATE TABLETS, PROPOSED AMENDMENT OF EXEMPTION

Legal Authority: 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In the Federal Register of October 20, 1988, the Commission proposed a rule under provisions of the Poison Prevention Packaging Act to exempt medroxyprogesterone acetate tablets dispensed in mnemonic packages containing not more than 100 milligrams of the drug from requirements for child-resistant packaging. The Commission published this proposal after granting a petition from Ayerst Laboratories. In September 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposal and contains a draft notice to issue the proposed rule on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	10/30/88	53 FR 41202
NPRM Comment Period End	12/19/88	53 FR 41202
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA71

CPSC — **Final Rule Stage**

3787. PROPOSED RULE TO EXEMPT MEDROXYPROGESTERONE ACETATE TABLETS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

Legal Authority: 15 USC et seq Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In the Federal Register of January 12, 1989, the Commission published a proposed rule under provisions of the Poison Prevention Act to exempt medroxyprogesterone acetate tablets from requirements for child-resistant packaging. The Commission published this proposal after granting a petition from Upjohn Company. In September 1989, the staff expects to transmit a briefing package to the Commission which analyzes comments received in response to the proposed rule and contains a draft notice to issue the proposed rule on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1187
NPRM Comment Period End	03/13/89	54 FR 1187
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA77

3788. APPLICATION FOR EXEMPTION FROM PREEMPTION; PROPOSED RULE

Legal Authority: 15 USC 2075 Consumer Product Safety Act; 15 USC 1261n Federal Hazardous Substances Act; 15 USC 1203 Flammable Fabrics Act; 15 USC 1476 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1061; 16 CFR 1604; 16 CFR 1704

Legal Deadline: None

Abstract: In the Federal Register of December 26, 1988, the Commission published a proposed regulation to establish procedures for submission and consideration of applications by state and local governments for exemption from preemption by statutes, standards, and regulations of the Consumer Product Safety Commission. The proposed regulation would implement provisions of the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act which authorize state and local governments to petition the Commission for exemption from preemption of state and local laws by requirements enforced by the Consumer Product Safety Commission, and specify the conditions under which the Commission may grant such petitions.

Timetable:

Action	Date	FR Cite
NPRM	12/26/88	53 FR 52432
NPRM Comment Period End	01/27/89	53 FR 52432
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen Lemberg, Assistant General Counsel, Consumer Product Safety Commission, Office of the General Counsel, Washington, D.C. 20207, 301 492-5980

RIN: 3041–AA82

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

3789. PROPOSED RULE TO EXEMPT MEDROXYPROGESTERONE ACETATE TABLETS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3041-AA77	08/25/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White 301 492-6554

RIN: 3041–AA84

[FR Doc. 89-22834 Filed 10-27-89; 8:45 a.m]

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Part XLVII

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

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FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulations

AGENCY: Farm Credit Administration.

ACTION: Department unified agenda of regulations and review list.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations, which it will have under development and review during the period of October 1989 through April 1990.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. The FCA is an independent regulatory agency that is exempt from the provisions of Executive Order 12291. Additionally, FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

While FCA is an independent agency exempt from Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Dated: August 25, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3790	Releasing Information; Investigations; General Provisions; Releasing Information	3052-AA05
3791	Organization: Director Compensation	3052-AA09
3792	Organization: Receiver	3052-AA92
3793	Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Coordination; General Provisions; Definitions	3052-AA94
3794	Debt Collection Act	3052-AB02
3795	Organization and Functions: Service of Process	3052-AB07
3796	Personnel Administration: Human Resources Management	3052-AB08
3797	Loan Policies and Operations	3052-AB09
3798	Eligibility and Scope of Financing	3052-AB10
3799	Rules for the Implementation of the Equal Access to Justice Act (Title V) in Farm Credit Administration Proceedings	3052-AB11
3800	Organization	3052-AB12
3801	Loan Policies and Operations	3052-AB13

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3802	Personnel Administration; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions: Prior Approvals	3052-AB06

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

3790. RELEASING INFORMATION; INVESTIGATIONS; GENERAL PROVISIONS; RELEASING INFORMATION

Legal Authority: PL 92-181; PL 99-205; 12 USC 2252(a)(10)

CFR Citation: 12 CFR 602; 12 CFR 617; 12 CFR 618

Legal Deadline: None

Abstract: Clarify existing policies and procedures with respect to the release of information and/or documents obtained in or resulting from the conduct of official business by employees of the Farm Credit Administration and the Farm Credit System.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: James Morris, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052–AA05

3791. ORGANIZATION: DIRECTOR COMPENSATION

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Agricultural Credit Act of 1987 requires revision to FCA regulations to ensure the rights of shareholders to obtain a copy of the district board policy regarding compensation of district directors and also to inspect and copy the supporting records.

Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43081
NPRM Comment Period End	01/08/88	52 FR 43081

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Greg Yowell, Senior Financial Specialist, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4371

RIN: 3052–AA09

3792. ● ORGANIZATION: RECEIVER

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2221; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; PL 100-233, Sec 411; PL 100-233, Sec 412

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Revise due to Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43897
NPRM Comment Period End	11/21/88	53 FR 43897

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: G. Michael Dew, Chief, Special Projects Division, Office of Regulatory Enforcement, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4447

RIN: 3052–AA92

3793. ELIGIBILITY AND SCOPE OF FINANCING; LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; COORDINATION; GENERAL PROVISIONS; DEFINITIONS

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252; 12 USC 2279a; ...

CFR Citation: 12 CFR 613; 12 CFR 614; 12 CFR 615; 12 CFR 616; 12 CFR 618; 12 CFR 619

Legal Deadline: None

Abstract: Revise due to Agricultural Credit Act of 1987

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052–AA94

3794. DEBT COLLECTION ACT

Legal Authority: 12 USC 2252(a)(10)

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: GAO and Justice have issued standards for issuance of regulations

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Rob Brammer, Chief, Budget & Accounting Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4122

RIN: 3052–AB02

3795. ORGANIZATION AND FUNCTIONS: SERVICE OF PROCESS

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 600

Legal Deadline: None

Abstract: Establishes the method to be used in order to serve legal process upon the agency, including identification of the agency official designated to receive such process.

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FCA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Gary L. Bohlke, Associate General Counsel, Litigation and Enforcement, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052–AB07

3796. PERSONNEL ADMINISTRATION: HUMAN RESOURCES MANAGEMENT

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 612

Legal Deadline: None

Abstract: Establishes a broader description of the responsibilities and requirements for human resources management in the Farm Credit System.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Charles R. Row, Chief, Human Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4135

RIN: 3052–AB08

3797. ● LOAN POLICIES AND OPERATIONS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Clarify existing policies and procedures for the establishment of a funding relationship between the Farm Credit banks and their affiliated direct lending institutions. Provide uniform guidelines upon which the general financing agreements, associated with such lending relationships, shall be developed and executed.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
NPRM Resolicitation of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052–AB09

3798. ● ELIGIBILITY AND SCOPE OF FINANCING

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 613

Legal Deadline: None

Abstract: Clarify existing policies and procedures with respect to borrower eligibility and scope of financing as provided for in the Farm Credit Act of 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052–AB10

3799. ● RULES FOR THE IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT (TITLE V) IN FARM CREDIT ADMINISTRATION PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 12 CFR 625

Legal Deadline: None

Abstract: Establish procedures for the submission and consideration of applications for an award of fees and other expenses incurred in adversary adjudications before the Farm Credit Administration pursuant to the Equal Access to Justice Act of 1980, as amended. Would be based on the Model Rules issued by the Administrative Conference of the United States at 1 CFR Part 315 (1986).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Anthony N. Torres, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052–AB11

FCA — Proposed Rule Stage

3800. ● ORGANIZATION

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2221; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; PL 100-233, Sec 411; PL 100-233, Sec 412

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Establish regulations for the Farm Credit Administration to terminate charters.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Robert Child, Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052–AB12

3801. ● LOAN POLICIES AND OPERATIONS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Revisions to various regulations relating to existing Farm Credit institutions lending limits and the establishment of lending limits for those Farm Credit institutions created pursuant to the Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
NPRM Resolicitation of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Lori Markowitz, Financial Analyst, Office of Financial Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4426

RIN: 3052–AB13

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

3802. PERSONNEL ADMINISTRATION; LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; GENERAL PROVISIONS: PRIOR APPROVALS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 612; 12 CFR 614; 12 CFR 615; 12 CFR 618

Legal Deadline: None

Abstract: Eliminates prior approval portions of certain regulations requiring institutions to submit certain proposed policies, procedures, programs and activities to FCA for its approval prior to the institution implementing such policies, procedures, programs and activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/89	54 FR 1149

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: John C. Moore, Deputy Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4402

RIN: 3052–AB06

[FR Doc. 89-21752 Filed 10-27-89; 8:45 am]

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Federal Communications Commission

Semiannual Regulatory Agenda

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; October 1989

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The agenda also provides the CFR citations and legal authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167: 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item.

The Unified Agenda is published in the **Federal Register** in April and October of each year.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tenecia Moncrief, Office of Managing Director, (202) 632-3906.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB publishes the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number - is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus a sequential number which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. When a docket number consists of only five digits (e.g., Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report & Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Donna R. Searcy,

Secretary, Federal Communications Commission.

COMMON CARRIER BUREAU—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3803	Jurisdictional Separation Procedures: Central Office Equipment (Circuit Equipment) and Cable and Wire Facilities	3060-AE14

COMMON CARRIER BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3804	Satellite Communications	3060-AD70
3805	Deregulation of Certain Basic Services	3060-AE02
3806	Regulatory Policies and International Telecommunications: Notice of Inquiry and Proposed Rulemaking	3060-AE03
3807	Jurisdictional Separations Procedures: Central Office Equipment Category 3, Local Switching Equipment	3060-AE06
3808	Jurisdictional separations procedures: Reconsideration of the decision to exclude access revenues from the allocation of marketing expenses	3060-AE07
3809	Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons	3060-AE39
3810	Telephone Company Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
3811	Cellular Resale Policies	3060-AE57

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COMMON CARRIER BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3812	Jurisdictional Separations: Mixed Use Special Access	3060-AD93
3813	Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313	3060-AE38

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3814	900 MHz G/NG Fixed	3060-AD55
3815	LTTS Reallocation	3060-AD67
3816	Part 15 Revision	3060-AD68
3817	Cordless Telephones	3060-AD95
3818	Alternative Type Acceptance Procedure	3060-AD99
3819	Verification of Parts 73, 74, and Devices	3060-AE00
3820	Cellular Flexibility	3060-AE15
3821	Proposal to Create a New Air-to-Ground Public Switched Telephone Network (PSTN) Interconnected Service	3060-AE36
3822	Part 15 Measurement Procedures	3060-AE37
3823	Part 15 Measurement Procedures	3060-AE54
3824	L-Band Reconsideration	3060-AE55
3825	Lo-Jack Vehicle Recovery System	3060-AE56
3826	Cordless Phone Channel Split	3060-AE61

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3827	216 - 225 MHz Allocations	3060-AC91
3828	Scanning Receiver Labelling	3060-AE18

FIELD OPERATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3829	In the matter of an Automatic Transmitter Identification System (ATIS) for Radio Transmitting Equipment (Gen. Doc. #86-337)	3060-AE25

MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3830	Broadcast EEO: Reconsideration	3060-AD73
3831	Radio Multiple Ownership & Cross Ownership Rules	3060-AD78
3832	Satellite Television Stations	3060-AD79
3833	AM Expanded Band: Domestic	3060-AD92
3834	Wireless Cameras	3060-AE10
3835	FM Translators: Moody Bible	3060-AE11
3836	FM/TV Directional Antenna	3060-AE12
3837	Channels 14/69 Interference: NOI/NPRM	3060-AE13
3838	FM Translators: NOI/NPRM	3060-AE23
3839	Advanced Television Systems	3060-AE24

FCC

MASS MEDIA BUREAU—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3840	FM Class C3 and Class A FM Upgrade Petitions	3060-AE30
3841	Non-Stock Entities	3060-AE31
3842	Cable System Definition	3060-AE34
3843	AM: Enhanced Nighttime Operation	3060-AE35
3844	Interference Reduction Agreements	3060-AE51
3845	Comparative New Criteria	3060-AE52
3846	Syndex for TVROs	3060-AE53

MASS MEDIA BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3847	Comparative Renewal	3060-AE27
3848	AM: Skywave Propagation	3060-AE28
3849	AM: Ground Propagation: FNOI/FNPRM	3060-AE29

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3850	Section 73.37(e): Petition for Reconsideration	3060-AD63
3851	TV Networks Rules: Two-year Rule	3060-AE32

PRIVATE RADIO BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3852	Subpart M&S Reconsideration	3060-AE42
3853	National Public Safety Plans	3060-AE43
3854	Wireline Common Carriers-Operation of SMRS	3060-AE46
3855	Trunking of conventional channels (800 mhz & above)	3060-AE47
3856	Special Emergency Radio Private Carriers	3060-AE49
3857	Harris Petition-2.5 channelization plan	3060-AE56
3858	PR Docket 89-45, Private Carrier Eligibility-Expansion of eligibility to permit licensing of private carriers below 800MHz	3060-AE59
3859	Frequency Coordination-alternatives and options to the present frequency coordination system	3060-AE60

PRIVATE RADIO BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3860	Wireline Common Carriers - Operation of SMRS	3060-AD54
3861	Multiple Address Systems	3060-AE09
3862	Amend Part 80 to preclude accidental or intentional off- frequency operation of externally controlled synthesized radio transmitters	3060-AE41
3863	Secondary Fixed Tone Signalling	3060-AE44
3864	Conditional Licensing	3060-AE45

FCC

PRIVATE RADIO BUREAU—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3865	Amend Part 80 to preclude accidental or intentional off- frequency operation of externally controlled synthesized radio transmitters	3060-AE48

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Prerule Stage

3803. JURISDICTIONAL SEPARATION PROCEDURES: CENTRAL OFFICE EQUIPMENT (CIRCUIT EQUIPMENT) AND CABLE AND WIRE FACILITIES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: With the issuance of this Order inviting comments and requests for data, we are seeking information concerning the jurisdictional separations separations treatment of investment in Cable and Wire Facilities and in Circuit Equipment.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
R&O	05/01/87	52 FR 17228
Order inviting comments	10/15/87	52 FR 43206
Request for Comments (Joint Board)	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CC Docket No. 78-72 CC Docket No. 80-286 CC Docket No. 86-297

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060-AE14

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Proposed Rule Stage

3804. SATELLITE COMMUNICATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 553

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed rules. These proposed rules are designed to implement recommendations made by the joint industry/government Advisory Committee on 2 degree satellite spacing; and they will codify basic applications requirements for satellite services. The proposed rules would apply to all entities including small entities who seek authorization under Part 25 of the Commission's rules to construct and operate Fixed-Satellite communications facilities. The proposed rules would establish operational and technical procedures designed to alleviate adjacent satellite interference and may increase the reporting and cost burdens on all satellite licensees. The rules codifying basic applications requirements are codifications of existing policies. Will impose no additional burdens, and may, in fact, reduce the burden by eliminating several current requirements. In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	52 FR 6175
ANPRM Comment Period End	11/01/87	
Final App. Proc. Rules	12/00/89	
Final Technical Rules	12/00/90	
Final Action	12/00/90	
Final Action Effective	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Rosalee Gorman or Fern Jarmulnek, Staff Attorneys, Federal Communications Commission, 2025 M Street, N.W., Room 6324, Washington, D.C. 20554, 202 634-1624

RIN: 3060-AD70

3805. DEREGULATION OF CERTAIN BASIC SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 220; 47 USC 303(g); 47 USC 303(r); 47 USC 403; 47 USC 404; 5 USC 553

CFR Citation: 47 CFR 1.40; 47 CFR 1.49; 47 CFR 1.419

Legal Deadline: None

Abstract: Proposed reduction of regulation for certain basic services

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Proposed Rule Stage

FCC—CCB

Proposed Rule Stage

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offered by dominant carriers based on a service-by-service analysis of competition. Contract services and packet switched services are targeted for such potential deregulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	
NPRM Comment Period End	04/10/87	
Supplemental NPRM/Order	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CC Docket 86-421

Agency Contact: Cynthia Werkr, Deputy Chief, Policy and Program Planning Division, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-4047

RIN: 3060–AE02

3806. REGULATORY POLICIES AND INTERNATIONAL TELECOMMUNICATIONS: NOTICE OF INQUIRY AND PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214; 47 USC 218 to 222; 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 63.01; 47 CFR 63.701; 47 CFR 68.226; 47 CFR 63.703; 47 CFR 63.10; 47 CFR 63.702; 47 CFR 68.01; 47 CFR 69.01

Legal Deadline: None

Abstract: The Report and Order adopted certain information gathering measures designed to increase the Commission's knowledge of the extent of participation in the U.S market by foreign companies and service providers. Four petitions for reconsideration were filed in response to the Report and Order. Reporting requirement were modified to address concerns raised by the petitioners.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	
NPRM Comment Period End	05/22/87	
R&O	03/25/88	
Order on Reconsideration	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William J. Kirsch, Deputy Asst. Bureau Chief/International, Federal Communications Commission, 1919 M Street, N.W. Room 544, Washington, D.C. 20554, 202 632-4047

RIN: 3060–AE03

3807. JURISDICTIONAL SEPARATIONS PROCEDURES: CENTRAL OFFICE EQUIPMENT CATEGORY 3, LOCAL SWITCHING EQUIPMENT

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36

Legal Deadline: None

Abstract: We are seeking comments on the development of other relative use allocators, including Switched Minutes of Use (SMOU) to allocate Central Office Equipment investment included in the Local Switching Equipment Category in the Part 36 Separations Manual.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
Recom. Decision and Order(Joint Board)	04/08/87	52 FR 15354
Report and Order	05/01/87	52 FR 17228
Recom. Decision and Order	12/00/89	
Report and Order	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: CC Docket 80-286

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060–AE06

3808. JURISDICTIONAL SEPARATIONS PROCEDURES: RECONSIDERATION OF THE DECISION TO EXCLUDE ACCESS REVENUES FROM THE ALLOCATION OF MARKETING EXPENSES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: We are addressing the petitions for reconsideration filed by parties urging the FCC to reconsider its decision to exclude access revenues from the allocation factor for marketing expenses. We also are initiating a further proceeding to reexamine the separations treatment of marketing expenses.

Timetable:

Action	Date	FR Cite
Recom. Decision and Order	12/00/89	
Report and Order	03/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CC Docket 78-72 CC Docket 80-286 CC Docket 86-297

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060–AE07

3809. ACCESS TO TELECOMMUNICATIONS EQUIPMENT AND SERVICES BY THE HEARING IMPAIRED AND OTHER DISABLED PERSONS

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 710

CFR Citation: 47 CFR 68.312(c); 47 CFR 68.4; 47 CFR 68.5; 47 CFR 64.605; 47 CFR 69.116; 47 CFR 69.603

Legal Deadline: Final, Statutory, May 16, 1989. Other, Statutory, July 27, 1989. Hearing Aid Compatibility Act of 1988 Telecommunications Accessibility Enhancement Act of 1988

Abstract: This proceeding consists of two phases; one dealing with the telephone hearing aid compatibility issue and the other addressing the implementation of an interstate relay system for users of telecommunications devices for the deaf (TDDs). In Phase One, consistent with P.L. 100-394, the FCC adopted rules on May 4, 1989, requiring nearly all telephones manufactured in or imported into this country after August 16, 1989, to be hearing aid compatible. On July 27, 1989, the FCC concluded its NOI in Phase Two of this proceeding by finding that an interstate TDD relay system is in the public interest and issuing a FNPRM. The FNPRM offers two approaches for providing interstate relay service: one requiring all interexchange carriers subject to Sec. 69.116(a) of the rules to individually or jointly provide the service, and the other assigning the managerial and operation responsibilities of the system to the National Exchange Carrier Association.

Timetable:

Action	Date	FR Cite
Further NPRM	02/28/89	
Report and Order Phase One - Effective 8/16/89	05/04/89	
Further NPRM Phase Two	07/27/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert James, Electronics Engineer, Federal Communications Commission, 202 634-1831

RIN: 3060–AE39

3810. TELEPHONE COMPANY CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.58

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 309(e) to 309(h); 47 USC 313; 47 USC 405; 47 USC 412; 47 USC 522

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Legal Deadline: None

Abstract: This proceeding addresses the statutory restrictions which prohibit telephone companies from providing cable television service within their telephone service areas. The FCC has tentatively concluded that the statutory restrictions should be repealed. The Commission solicited comments and will decide whether to recommend to Congress whether the restrictions should be repealed. The Commission also issued an NPRM to modify the standards of affiliation between cable companies and telephone companies.

Timetable:

Action	Date	FR Cite
Further NOI and NPRM	09/22/88	53 FR 38042

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patrick J. Donovan, Attorney, Federal Communications Commission, 202 634-1832

RIN: 3060–AE40

3811. CELLULAR RESALE POLICIES

Significance: Agency Priority

Legal Authority: 47 USC 201(a); 47 USC 201(b)

CFR Citation: None

Legal Deadline: None

Abstract: The Commission will determine whether to continue to apply its previous resale policies to resale by cellular entities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Abraham Leib, Chief, Legal Branch, Mobile Svcs. Div., Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554, 202 632-6450

RIN: 3060–AE57

FEDERAL COMMUNICATIONS COMMISSION (FCC) COMMON CARRIER BUREAU

Final Rule Stage

3812. JURISDICTIONAL SEPARATIONS: MIXED USE SPECIAL ACCESS

Significance: Agency Priority

Legal Authority: 47 USC 410; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 218

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: This proceeding concerns the allocation between the state and federal jurisdictions of the costs of special access lines (including those used with WATS service) that carry both interstate and intrastate traffic.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	
Joint Board Recommended Decision	02/06/89	
Order	07/20/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Claudia Pabo, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C., 202 632-4047

RIN: 3060–AD93 .

3813. POLICY AND RULES CONCERNING RATES FOR DOMINANT CARRIERS, CC DOCKET NO. 87-313

Significance: Agency Priority

Legal Authority: 47 USC 154(j); 47 USC 154(i); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r); 47 USC 403; 5 USC 553

CFR Citation: 47 CFR 1.773; 47 CFR 61.3; 47 CFR 61.32; 47 CFR 61.33; 47 CFR 61.38; 47 CFR 61.49; 47 CFR 61.41; 47 CFR 61.42; 47 CFR 61.43; 47 CFR 61.44;

FCC—CCB — Final Rule Stage

47 CFR 61.45; 47 CFR 61.47; 47 CFR 61.58; 47 CFR 65.701; 47 CFR 65.1; ...

Legal Deadline: None

Abstract: The Commission has adopted final rules that implement price cap regulation for American Telephone and Telegraph Company. The price cap rules replace rate of return regulation, which sets limits on carrier earnings, with a system of regulation that directly limits the prices a carrier can charge for service. The Commission found that price cap regulation will provide incentive for AT&T to become more efficient and innovative, and will benefit consumers by creating a system that will result in aggregate prices that are lower than aggregate prices would have been under rate or return. The Commission has also adopted a Second Further Notice of Proposed Rulemaking containing a specific plan for implementing a modified form of price cap regulation for local exchange carriers' interstate rates.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 33962
NPRM Comment Period End	02/17/88	
Further Notice of Proposed Ruling	05/23/88	53 FR 22356
FNPRM Public Comment Period End	08/26/88	53 FR 22356
Report and Order	03/16/89	54 FR 19836
Second FNPRM	03/16/89	54 FR 19846
Report and Order	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Brown, Senior Attorney, Tariff Division, Federal Communications Commission, 202 632-5550

RIN: 3060-AE38

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY — Proposed Rule Stage

3814. 900 MHZ G/NG FIXED

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 74; 47 CFR 94

Legal Deadline: None

Abstract: Development of operating rules and sharing arrangement for use of the 932-935 and 941-943 MHz bands for G/NG fixed services.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	
NPRM Comment Period End	11/02/87	
R&O	02/26/89	
MO&O	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: 82-243

Agency Contact: Rodney Small, Federal Communications Commission, 2025 M St., NW, Rm. 7332, Washington, DC 20554, 202 653-8116

RIN: 3060-AD55

3815. LTTS REALLOCATION

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 74

Legal Deadline: None

Abstract: Reallocation of the Local Television Transmission Service (LTTS) from the 11.7-12.2 GHz band to the 14.2-14.4 GHz band. This reallocation is designed to permit improved frequency sharing between the LTTS and the fixed-satellite services.

Timetable:

Action	Date	FR Cite
NPRM	07/09/87	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 87-136

Agency Contact: Ray LaForge, Federal Communications Commission, 2025 M Street, N.W., Room 7328, Washington, D.C. 20554, 202 653-6117

RIN: 3060-AD67

3816. PART 15 REVISION

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 4(i)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: A comprehensive revision of Part 15 which proposes to allow marketing and use of a greater variety of devices, and to reduce the regulatory burden on the public.

Timetable:

Action	Date	FR Cite
NPRM	10/02/87	
NPRM Comment Period End	05/09/88	
R&O	04/18/89	
MO&O	10/00/89	
MO&O	01/00/90	
MO&O	04/00/90	
MO&O	07/00/90	
MO&O	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 87-389

Agency Contact: John Reed, Federal Communications Commission, 2025 M Street, N.W., Room 7122, Washington, D.C. 20554, 202 653-7313

RIN: 3060-AD68

3817. CORDLESS TELEPHONES

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Petition from TIA requesting that the Commission require the use of coding to address the problem of false dialing will be addressed concurrently

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
R&O	06/00/90	

Small Entities Affected: Businesses

FCC—OET — Proposed Rule Stage

Government Levels Affected: None

Additional Information: RM-5320

Agency Contact: George Harenberg, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-7314

RIN: 3060-AD95

3818. ALTERNATIVE TYPE ACCEPTANCE PROCEDURE

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: That proceeding in Docket No. 85-171 proposed a new technique that would allow maximum flexibility in getting innovative new equipment designs into the marketplace. This proposal will be a new approach to solve some of the technical and administrative problems identified in Docket 85-171.

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	
NPRM Comment Period End	02/25/88	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 85-171

Agency Contact: Hector Davis, Federal Communications Commission, 7435 Oakland Mills Road, Guilford, MD 21045, 301 725-1585

RIN: 3060-AD99

3819. VERIFICATION OF PARTS 73, 74, AND DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73; 47 CFR 74; 47 CFR 78

Legal Deadline: None

Abstract: Proposal for relaxation of the rules to change the equipment authorization procedure for certain devices subject to Parts 73, 74, and 78 from notification to the less burdensome verification procedure.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	02/01/88	
R&O	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 87-552

Agency Contact: George Harenberg, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8187

RIN: 3060-AE00

3820. CELLULAR FLEXIBILITY

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 22

Legal Deadline: None

Abstract: Proceeding will investigate approach to relax technical standards for new cellular spectrum at 800 MHZ in order to provide flexibility to licensees for implementation of new technologies and new service offerings.

Timetable:

Action	Date	FR Cite
NPRM	10/15/87	
R&O	12/12/88	
MO&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 87-390

Agency Contact: Hector Husnay, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8108

RIN: 3060-AE15

3821. PROPOSAL TO CREATE A NEW AIR-TO-GROUND PUBLIC SWITCHED TELEPHONE NETWORK (PSTN) INTERCONNECTED SERVICE

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: The Commission proposes to amend Parts 2 and 22 and/or Parts 2 and 90 of its rules to permit use of four megahertz of reserve spectrum at 849/851/894-896 MHz for an air-to-ground telephone service. This action also proposes licensing policies and technical guidelines for the air-to-ground service.

Timetable:

Action	Date	FR Cite
NPRM	04/27/88	
NPRM Comment Period End	04/27/88	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 88-96

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8116

RIN: 3060-AE36

3822. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Proposal to revise the Commission's Measurement Procedure (MP-4) recommended for testing of computing devices, based on the Part 15 revision in Docket No. 87-389, and on a proposal by CBEMA to revise the MP.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	
R&O	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Art Wall, Federal Communications Commission, 202 725-1585

RIN: 3060-AE37

3823. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: In support of the revision of Part 15, MP-12 (intentional radiators above 30 MHz); MP-14 (unintentional radiators above 30 MHz); and MPs 1 and 11 (remote control and security

FCC—OET — Proposed Rule Stage

FEDERAL COMMUNICATIONS COMMISSION (FCC) FIELD OPERATIONS BUREAU — Proposed Rule Stage

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devices) will be revised to conform with the new format and prepared as separate NPRMs.

Timetable:

Action	Date	FR Cite
NPRM	06/29/89	
R&O	03/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 89-116,89-117,89-118

Agency Contact: Art Wall, Federal Communications Commission, 202 725-1585

RIN: 3060–AE54

3824. L-BAND RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Respond to petitions from certain aviation parties for further reconsideration of the mobile satellite service allocation at L-band.

Timetable:

Action	Date	FR Cite
MO&O	08/04/89	
NPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ray Laforge, Federal Communications Commission, 202 653-8117

RIN: 3060–AE55

3825. LO-JACK VEHICLE RECOVERY SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: In response to petition from Lo-Jack Corporation, allocate 173.075 MHz for a stolen vehicle recovery system.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	
NPRM Comment Period End	12/21/88	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 88-566

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-8112

RIN: 3060–AE56

3826. ● CORDLESS PHONE CHANNEL SPLIT

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Proposal to permit cordless telephone operation on channels that are offset from currently specified channels.

Timetable:

Action	Date	FR Cite
R&O	06/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joe Husnay, Federal Communications Commission, 301 653-8114

RIN: 3060–AE61

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY — **Completed Actions**

3827. 216 - 225 MHZ ALLOCATIONS

Significance: Agency Priority

CFR Citation: 47 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	06/15/89	
Final Action Effective	06/15/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Fred Thomas 202 653-8112

RIN: 3060–AC91

3828. SCANNING RECEIVER LABELLING

Significance: Agency Priority

CFR Citation: 47 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	03/03/89	
Final Action Effective	03/03/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Marrangoni 202 653-8107

RIN: 3060–AE18

FEDERAL COMMUNICATIONS COMMISSION (FCC)
FIELD OPERATIONS BUREAU — **Proposed Rule Stage**

3829. IN THE MATTER OF AN AUTOMATIC TRANSMITTER IDENTIFICATION SYSTEM (ATIS) FOR RADIO TRANSMITTING EQUIPMENT (GEN. DOC. #86-337)

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 302; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 25

Legal Deadline: NPRM, Statutory, October 20, 1986. Other, Statutory, September 14, 1987.
Further Notice of Proposed Rulemaking

Abstract: This proceeding looks to establish a means by which radio emissions might be encoded with a distinct automatically transmitted identifier to benefit orderly management of the radio spectrum by identifying the source of radio frequency interference to other radio signals. For video satellite uplink stations regulated under Part 25 of the Commission's rules, it proposes rules regarding such identifiers. There are no significant alternatives being considered that are consistent with stated objectives. Every operator of a satellite video uplink would be required to purchase and operate a device to insert identification on all transmissions. Approximately 1,000 stations would be involved. Each encoder would cost under $2000. Operating upkeep expenses should be minimal.

Timetable:

Action	Date	FR Cite
NPRM	06/07/86	51 FR 32223
Further NPRM	07/09/87	52 FR 26538
R&O	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John Hudak, Chief, Signal Analysis Branch, Federal Communications Commission, Enforcement Division, Room 744, 1919 M St., N.W., Washington, D.C. 20554, 202 632-6977

RIN: 3060–AE25

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU — **Proposed Rule Stage**

3830. BROADCAST EEO: RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.2080

Legal Deadline: None

Abstract: The Commission has adopted new Equal Employment Opportunity (EEO) rules and reporting requirements for broadcasters that emphasize a licensee's overall EEO efforts rather than the numerical composition of its workforce. Reconsideration requested.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	
R&O	04/16/87	
MO&O	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: mmb-298 NPRM mm-85-350 FNPRM

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060–AD73

3831. RADIO MULTIPLE OWNERSHIP & CROSS OWNERSHIP RULES

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: In its 2nd R&O in this proceeding, the FCC established new waiver procedure with respect to the common ownership of radio and television stations in the same market. Under this procedure, the FCC determined that it would look with favor upon waiver applications in the top 25 TV markets (1) where there would be at least 30 "voices" following the proposed combination, and (2) where the proposed combination involved a "failed" station. Reconsideration requested.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
NPRM Comment Period End	01/15/87	
R&O	12/12/88	
MO&O	06/02/89	
NOI	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: MMB-414 NPRM

Agency Contact: Michele Farquhar, Federal Communications Commission, 202 632-7792

RIN: 3060–AD78

3832. SATELLITE TELEVISION STATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: Report and Order to establish policy with respect to television satellite stations.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
NPRM Comment Period End	01/15/87	
R&O	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: mmb-421 NPRM

Agency Contact: Diane Hofbauer, Federal Communications Commission, 202 632-7792

RIN: 3060–AD79

3833. AM EXPANDED BAND: DOMESTIC

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: Inquiry into domestic issues resulting from expansion of the Am broadcasting band.

Timetable:

Action	Date	FR Cite
FNOI	02/25/88	
FNPRM	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Diane Hofbauer, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7792

RIN: 3060–AD92

3834. WIRELESS CAMERAS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 74.602; 47 CFR 74.604; 47 CFR 74.636; 47 CFR 74.637; 47 CFR 74.802

Legal Deadline: None

Abstract: Proposal to permit low power wireless cameras to operate on vacant UHF and VHF TV channels.

Timetable:

Action	Date	FR Cite
NPRM	05/04/87	
NPRM Comment Period End	05/04/87	
FNPRM	05/04/87	
R&O	10/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: MM-85-36[a]

Agency Contact: Hank Van Deursen, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-9660

RIN: 3060–AE10

3835. FM TRANSLATORS: MOODY BIBLE

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 74.501; 47 CFR 74.531; 47 CFR 74.532; 47 CFR 74.1231

Legal Deadline: None

Abstract: This proceeding addresses the possible use of satellite and microwave facilities to deliver signals to noncommercial FM translators that are owned and operated by parties other than their primary station.

Timetable:

Action	Date	FR Cite
NPRM	03/24/88	
R&O	12/31/88	
2nd R&O	12/00/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: mmb-311 RM-5219

Agency Contact: Tatsu Kondo, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-6302

RIN: 3060–AE11

3836. FM/TV DIRECTIONAL ANTENNA

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.315; 47 CFR 73.316

Legal Deadline: None

Abstract: The Commission will address concerns expressed in six petitions for reconsideration. Four petitions request minor changes in the technical rules adopted in this proceeding. Two others completely oppose the new rules.

Timetable:

Action	Date	FR Cite
NPRM	03/25/88	
R&O	12/12/88	
MO&O	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Gorden, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-9660

RIN: 3060–AE12

3837. CHANNELS 14/69 INTERFERENCE: NOI/NPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 304

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: In the Report and Order the Commission will consider spacing criteria for TV applicants for channel 14 or 69 in order to protect adjacent band land mobile operations. The Further Notice would propose rules to permit flexible use of channels 14 and 69.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	
NPRM Comment Period End	10/20/87	
NOI/NPRM	10/20/87	
FNPRM/R&O	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: David Siddal, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7792

RIN: 3060–AE13

3838. FM TRANSLATORS: NOI/NPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 74.1202; 47 CFR 74.1203; 47 CFR 74.1231; 47 CFR 74.1232; 47 CFR 74.1235

Legal Deadline: None

Abstract: The NOI in this proceeding initiated a study of the role of FM translators in the radio broadcast service. The objective of this proceeding is to examine and, where necessary or appropriate, to revise FCC policy regarding the authorization and operation of FM translators consistent with the Commission's overall allocations plan. In this NPRM, the Commission will consider modification of the FM translator rules.

Timetable:

Action	Date	FR Cite
NOI	03/24/88	
NPRM/MO&O	10/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060–AE23

3839. ADVANCED TELEVISION SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 73.610; 47 CFR 73.682; 47 CFR 73.687

Legal Deadline: None

Abstract: FCC will consider whether it should make final the six tentative findings of the 1st FNOI and its decision to mandate a single transmission standard. FCC will also seek comment on the advantages and disadvantages of: protecting existing LPTV/TV translator spectrum allocated for educational TV expansion; reserving spectrum for future advances in ATV if an EDTV system is ultimately selected; setting ATV receiver standards; and restricting eligibility for supplemental ATV spectrum.

Timetable:

Action	Date	FR Cite
Tentative Decision/FNOI	09/01/88	
Policy Statement/2nd FNOI	12/00/89	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: RM-5811 NOI

Agency Contact: David R. Siddall, Federal Communications Commission, 202 632-7792

RIN: 3060–AE24

3840. FM CLASS C3 AND CLASS A FM UPGRADE PETITIONS

Significance: Agency Priority

Legal Authority: 47 USC 303(e); 47 USC 303(f)

CFR Citation: 47 CFR 73.207; 47 CFR 73.210; 47 CFR 73.211; 47 CFR 73.506; 47 CFR 73.1690

Legal Deadline: None

Abstract: FCC will consider elimination of zone distinctions between classes FM station nationwide, thereby providing additional opportunities for incremental upgrades. Class B and B1 station antenna height would be increased. Class A maximum power would be 6kW. Proceeding would restore engineering integrity to the allotment/assignment standards.

Timetable:

Action	Date	FR Cite
NPRM	06/20/88	
NPRM Comment Period End	06/20/88	
R&O	03/30/89	
FNPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jay Jackson, Federal Communications Commission, 202 632-9660

RIN: 3060–AE30

3841. NON-STOCK ENTITIES

Significance: Agency Priority

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider a Notice of Inquiry concerning Commission treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	03/16/89	
NPRM	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Marilyn Mohrman-Gillis, Federal Communications Commission, 202 632-7792

RIN: 3060–AE31

3842. CABLE SYSTEM DEFINITION

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 522(a); 47 USC 522(b)

CFR Citation: 47 CFR 76.5

Legal Deadline: None

Abstract: The Commission will consider a Report and Order determining whether to change its definition of a CATV system.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	
R&O	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Barrett Brick, Federal Communications Commission, 202 254-3407

RIN: 3060–AE34

3843. AM: ENHANCED NIGHTTIME OPERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.21

Legal Deadline: None

Abstract: Proposal to permit Class II and III stations to enhance nighttime operations by establishing a separate nighttime antenna system at a daytime site or at a new site without having to comply with city-coverage or minimum operating hour requirements imposed on primary service stations.

Timetable:

Action	Date	FR Cite
NPRM	10/13/88	
NPRM Comment Period End	10/13/88	
R&O	12/00/89	

Small Entities Affected: Business.

Government Levels Affected: None

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FCC—MMB — Proposed Rule Stage

Agency Contact: Diane Hofbauer, Federal Communications Commission, 202 254-3394

RIN: 3060–AE35

3844. INTERFERENCE REDUCTION AGREEMENTS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider whether it should adopt rules to permit AM licensees to reduce current levels of interference through private negotiated agreements.

Timetable:

Action	Date	FR Cite
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Diane Hofbauer, Federal Communications Commission, 202 254-3394

RIN: 3060–AE51

3845. COMPARATIVE NEW CRITERIA

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(g); 47 USC 303(r); 47 USC 309(i)

CFR Citation: 47 CFR 73.3584; 47 CFR 1.1601

Legal Deadline: None

Abstract: The Commission has proposed implementing a random lottery procedure (random selection) for new AM, FM and television stations in lieu of the present comparative hearing process.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	
NPRM Comment Period End	01/30/89	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Rhodes, Federal Communications Commission, 202 632-7792

RIN: 3060–AE52

3846. SYNDEX FOR TVROS

Significance: Agency Priority

Legal Authority: 47 USC 712

CFR Citation: None

Legal Deadline: None

Abstract: The Commission will consider the feasibility of imposing syndicated programming exclusivity rules for satellite carriage of broadcast signals and to adopt such rules if feasible.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	
NPRM Comment Period End	05/30/89	
R&O	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Horowitz, Federal Communications Commission, 202 632-7792

RIN: 3060–AE53

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU

Final Rule Stage

3847. COMPARATIVE RENEWAL

Significance: Agency Priority

Legal Authority: 47 USC 311(d); 47 USC 309(e)

CFR Citation: 47 CFR 73.3525; 47 CFR 73.3584

Legal Deadline: None

Abstract: FNOI/FNPRM seeking comment on a content-independent standard for renewal expectancy and other comparative criteria for use in comparative hearings for license renewal.

Timetable:

Action	Date	FR Cite
FNOI	06/23/88	
Policy Statement	03/30/89	
FNOI/FNPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: M. Mohrman-Gillis, Federal Communications Commission, 202 632-7792

RIN: 3060–AE27

3848. AM: SKYWAVE PROPAGATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.190

Legal Deadline: None

Abstract: The Commission will consider the skywave propagation model proposed in the NPRM.

Timetable:

Action	Date	FR Cite
NOI	07/16/87	
NPRM	12/01/88	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Olson, Federal Communications Commission, 202 254-3394

RIN: 3060–AE28

3849. AM: GROUND PROPAGATION: FNOI/FNPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.183; 47 CFR 73.184

Legal Deadline: None

Abstract: The Commission will consider proposals to refine its rules for calculating groundwave field strength contours.

FCC—MMB — Final Rule Stage

Timetable:

Action	Date	FR Cite
NOI	07/16/87	
NPRM	12/01/88	
R&O	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Olson, Federal Communications Commission, 202 254-3394

RIN: 3060–AE29

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU

Completed Actions

3850. SECTION 73.37(E): PETITION FOR RECONSIDERATION

CFR Citation: 47 CFR 73.37(e)

Completed:

Reason	Date	FR Cite
Final Action	05/31/89	
Final Action Effective	05/31/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: L. Stevens 202 632-7792

RIN: 3060–AD63

3851. TV NETWORKS RULES: TWO-YEAR RULE

Significance: Agency Priority

CFR Citation: 47 CFR 73.658(c)

Completed:

Reason	Date	FR Cite
Final Action	03/16/89	54 FR 14960
Final Action Effective	03/16/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Eugenia Hull 202 632-7792

RIN: 3060–AE32

FEDERAL COMMUNICATIONS COMMISSION (FCC)
PRIVATE RADIO BUREAU

Proposed Rule Stage

3852. SUBPART M&S RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC amended its rules applicable to communications entrepreneurs who operate SMR stations. Loading standards, waiting list procedures and eligibility requirements were affected.

Timetable:

Action	Date	FR Cite
NPRM	10/16/86	51 FR 45025
R&O	02/15/88	53 FR 12154
MO&O	12/00/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060–AE42

3853. NATIONAL PUBLIC SAFETY PLANS

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC amended its rules to meet the telecommunications requirements of state and local public safety authorities. As regional plans are filed, the Bureau, in conjunction with OET, will make them available for public comment.

Timetable:

Action	Date	FR Cite
Other Action	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Marty Liebman, Federal Communications Commission, 202 632-6497

RIN: 3060–AE43

3854. WIRELINE COMMON CARRIERS-OPERATION OF SMRS

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC has proposed amending Subpart S of Part 90 to permit wireline common carriers to be eligible to apply for a license in the SMRS.

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 2910
NPRM Comment Period End	01/22/86	
FNPRM	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Guy Ludington, Federal Communications Commission, 202 634-2443

RIN: 3060–AE46

3855. TRUNKING OF CONVENTIONAL CHANNELS (800 MHZ & ABOVE)

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC has proposed to amend the rules to increase the number of frequencies available for trunked technology.

Timetable:

Action	Date	FR Cite
NOI	06/10/87	52 FR 25265
NPRM	12/12/88	54 FR 1967
R&O	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Mike Lewis, Federal Communications Commission, 202 634-2443

RIN: 3060–AE47

3856. SPECIAL EMERGENCY RADIO PRIVATE CARRIERS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90.35

Legal Deadline: None

Abstract: The FCC adopted a proposal allowing private carriers to be licensed in the Special Emergency Radio Service. Petitions have been filed to reconsider private carrier aspect and modify MED channel restriction.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 35281
NPRM Comment Period End	09/18/87	
R&O	05/18/88	53 FR 25607
MO&O	09/30/89	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060–AE49

3857. ● HARRIS PETITION-2.5 CHANNELIZATION PLAN

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 94

Legal Deadline: None

Abstract: The FCC proposes rechannelization of the 2450-2483.5 MHz band based on narrow channels with the option to combine or "stack" adjacent channels to achieve greater bandwidths.

Timetable:

Action	Date	FR Cite
NPRM	05/10/89	54 FR 24006
NPRM Comment Period End	06/05/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Mike Lewis, Federal Communications Commission, 202 634-2443

RIN: 3060–AE58

3858. ● PR DOCKET 89-45, PRIVATE CARRIER ELIGIBILITY-EXPANSION OF ELIGIBILITY TO PERMIT LICENSING OF PRIVATE CARRIERS BELOW 800MHZ

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Expansion of eligibility to permit licensing of private carriers in any service below 800 MHz.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 14109
NPRM Comment Period End	04/07/89	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060–AE59

3859. ● FREQUENCY COORDINATION-ALTERNATIVES AND OPTIONS TO THE PRESENT FREQUENCY COORDINATION SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Proposals or options to change present frequency coordination system.

Timetable:

Action	Date	FR Cite
NPRM	08/02/89	
R&O	12/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Nayreeb Cesaitis, Federal Communications Commission, 202 632-6497

RIN: 3060–AE60

FEDERAL COMMUNICATIONS COMMISSION (FCC) PRIVATE RADIO BUREAU

Completed Actions

3860. WIRELINE COMMON CARRIERS - OPERATION OF SMRS

CFR Citation: 47 CFR 90.603

Completed:

Reason	Date	FR Cite
Withdrawn - duplicate item	08/21/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gay Ludington 202 634-2443

RIN: 3060–AD54

3861. MULTIPLE ADDRESS SYSTEMS

Significance: Agency Priority

CFR Citation: 47 CFR 94

Completed:

Reason	Date	FR Cite
Final Action	03/01/89	54 FR 19575
Final Action Effective	05/08/89	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Roz Allen 202 634-2443

RIN: 3060–AE09

3862. AMEND PART 80 TO PRECLUDE ACCIDENTAL OR INTENTIONAL OFF-FREQUENCY OPERATION OF EXTERNALLY CONTROLLED SYNTHESIZED RADIO TRANSMITTERS

Significance: Agency Priority

CFR Citation: 46 CFR 80

Completed:

Reason	Date	FR Cite
Withdrawn - duplicate item	08/21/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: W. Berges 202 632-7175

RIN: 3060–AE41

3863. SECONDARY FIXED TONE SIGNALLING

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	06/15/89	54 FR 28678
Final Action Effective	07/07/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Eugene Thomson 202 634-2443

RIN: 3060–AE44

3864. CONDITIONAL LICENSING

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	09/30/89	
Final Action Effective	09/30/89	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Jerry Feldman 202 632-7125

RIN: 3060–AE45

3865. AMEND PART 80 TO PRECLUDE ACCIDENTAL OR INTENTIONAL OFF-FREQUENCY OPERATION OF EXTERNALLY CONTROLLED SYNTHESIZED RADIO TRANSMITTERS

Significance: Agency Priority

CFR Citation: 47 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	07/13/89	54 FR 31639
Final Action Effective	07/13/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: W. Berges 202 632-7175

RIN: 3060–AE48

[FR Doc. 89-21753 Filed 10-27-89; 8:45 am]

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Part XLIX

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FDIC

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is hereby publishing items for the October 1989 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled, "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), which was enacted on August 9, 1989, contains reforms that significantly restructure Federal deposit insurance and the regulation of financial institutions. As a consequence, the FDIC expects, in the coming months, to propose and adopt a number of regulations, as required by FIRREA. Among them are regulatory actions pertaining to insurance fund assessment procedures and the requirements for notifying the public of deposit insurance coverage, which are included in this agenda.[1]

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Dated: August 25, 1989.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

Prerule Stage

Sequence Number		Title	Regulation Identifier Number
3866	12 CFR 309	Disclosure of Information	3064-AA65
3867	12 CFR 311	Rules Governing Public Observation of Meetings of the Corporation's Board of Directors	3064-AA66
3868	12 CFR 330	Clarification and Definition of Deposit Insurance Coverage	3064-AA68
3869	12 CFR 304	Prior Notice by Insured Banks of Intent To Directly or Indirectly Engage in a New Banking Activity and of Intent To Acquire or Establish a Subsidiary	3064-AA29
3870	12 CFR 356	Insider Transactions - Conflicts of Interest	3064-AA94
3871	12 CFR 328	Advertisement of Membership	3064-AA95

Proposed Rule Stage

Sequence Number		Title	Regulation Identifier Number
3872	12 CFR 355	Salary Offset	3064-AA93
3873	12 CFR 344	Securities Recordkeeping and Confirmations	3064-AA30
3874	12 CFR 304	Prior Notice of Rapid Growth in Insured Banks	3064-AA88

[1] The regulatory agenda of the former Federal Home Loan Bank Board appears in Part LI of this issue of the **Federal Register**. Beginning with the April 1990 edition of the Unified Agenda, FHLBB items will be reported in the agenda of the Federal Deposit Insurance Corporation or the agendas of the other agencies to which authority for the items has been transferred by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

FDIC

Final Rule Stage

Sequence Number		Title	Regulation Identifier Number
3875	12 CFR 335	Securities of Insured Nonmember Banks	3064-AA45
3876	12 CFR 303	Delegations of Authority to Act on Applications	3064-AA84
3877	12 CFR 330	Insurance Coverage; Unit Investment Trust	3064-AA73
3878	12 CFR 354	Deposit Liabilities	3064-AA82

Completed Actions

Sequence Number		Title	Regulation Identifier Number
3879	12 CFR 310	Privacy Act Regulations	3064-AA91
3880	12 CFR 327	Assessments	3064-AA96
3881	12 CFR 328	Advertisement of Membership	3064-AA95
3882	12 CFR 346	Foreign Banks; Delegations of Authority	3064-AA78

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

3866. DISCLOSURE OF INFORMATION

Legal Authority: 5 USC 552; 12 USC 1819

CFR Citation: 12 CFR 309

Legal Deadline: None

Abstract: Part 309 sets forth the basic policies of the FDIC regarding the information it maintains and the procedures for obtaining access to such information.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Dudine, Chief, Special Activities Section, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6750

RIN: 3064-AA65

3867. RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Legal Authority: 5 USC 552b; 12 USC 1819

CFR Citation: 12 CFR 311

Legal Deadline: None

Abstract: Part 311 implements the policy of the "Government in the Sunshine Act," section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision-making processes of certain Federal agencies, including the FDIC, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3813

RIN: 3064-AA66

3868. CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: Part 330 provides for the determination by the FDIC of the insured depositors of an insured bank and the amount of their insured deposit accounts. It sets forth the rules for determining the insurance coverage of deposit accounts maintained by depositors.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. William Via, Jr., Counsel, Legal Division, Federal

FDIC — **Prerule Stage**

Deposit Insurance Corporation, Washington, DC 20429, 202 898-3733

RIN: 3064–AA68

3869. PRIOR NOTICE BY INSURED BANKS OF INTENT TO DIRECTLY OR INDIRECTLY ENGAGE IN A NEW BANKING ACTIVITY AND OF INTENT TO ACQUIRE OR ESTABLISH A SUBSIDIARY

Legal Authority: 12 USC 1816; 12 USC 1817; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820; 12 USC 1821(f)

CFR Citation: 12 CFR 304; 12 CFR 332

Legal Deadline: None

Abstract: The FDIC is considering amending its regulations to require any insured State nonmember bank to provide 30-day prior written notice to the regional director of the FDIC region in which the bank is located of the bank's intent to engage in a new banking activity and of its intent to acquire or establish a subsidiary. The planned rule also would require notice to the regional director of the FDIC region in which the bank is located not more than 10 days after the activity is started or the subsidiary is established or acquired.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel M. Gautsch, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3812

RIN: 3064–AA95

Insurance Corporation, Washington, DC 20429, 202 898-6912

RIN: 3064–AA29

3870. ● INSIDER TRANSACTIONS - CONFLICTS OF INTEREST

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1820; 12 USC 1821(f)

CFR Citation: 12 CFR 356

Legal Deadline: None

Abstract: The FDIC staff is considering whether to recommend to the Board of Directors that it amend its regulations to require any state-chartered nonmember bank and FDIC-insured foreign branch to adopt written guidelines governing all insider transactions beyond loans. Staff expects to recommend that the planned rule would require that no covered institution may enter into a business transaction with an insider (as defined) unless: (i) it is made on substantially the same terms as those prevailing at the time for comparable transactions, (ii) the board of directors or trustees states in writing that the business transaction is for the benefit of the bank and is not merely an accommodation to a bank insider, and (iii) the transaction does not present unfavorable features which may be detrimental to the bank's interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel M. Gautsch, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington DC 20429, 202 898-6912

RIN: 3064–AA94

3871. ● ADVERTISEMENT OF MEMBERSHIP

Legal Authority: 12 USC 1819; 12 USC 1828(a); PL 101-73, Sec 221

CFR Citation: 12 CFR 328

Legal Deadline: None

Abstract: The FDIC has issued a final rule amending its regulation regarding advertisement of membership in order to comply with the requirements of section 221 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (see 54 FR 33669, August 16, 1989). Because the FDIC acted under a statutory deadline, the final rule established only those requirements that were considered to be the minimum necessary to comply with FIRREA. The FDIC is now considering additional amendments to the regulation.

Timetable:

Action	Date	FR Cite
ANPRM	08/16/89	54 FR 33716
ANPRM Comment Period End	10/16/89	
NPRM	02/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie J. Best, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3812

RIN: 3064–AA95

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

3872. SALARY OFFSET

Legal Authority: 5 USC 5514; 12 USC 1819

CFR Citation: 12 CFR 355

Legal Deadline: None

Abstract: The FDIC is planning to propose new regulations to implement salary offset procedures required by 5 USC 5514 and 5 CFR 550, Subpart K. The proposal would set out procedures to be used by the FDIC to offset the salary of any FDIC employee who is indebted to the United States and refuses to pay voluntarily. The proposal would also enumerate procedures through which the FDIC may request another agency to offset the salary of one of its employees to satisfy a debt that employee may owe the FDIC.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine N. Lundblad, Personnel Management Specialist, Office of Personnel Management, Federal Deposit Insurance

FDIC — **Proposed Rule Stage**

Corporation, Washington, DC 20429, 202 898-8857

RIN: 3064–AA93

3873. SECURITIES RECORDKEEPING AND CONFIRMATIONS

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 344

Legal Deadline: None

Abstract: The FDIC expects to propose an amendment to 12 CFR Part 344, which governs an insured nonmember bank's recordkeeping and confirmation requirements for securities transactions. The proposed amendment would expand an existing exception under Part 344 for low activity. The exception would be increased to allow banks which effect an average of fewer than 1,000 securities transactions per year to be exempt from certain recordkeeping and written policymaking requirements. The current "low-activity" threshold is 200 transactions per year. The amendment is needed to eliminate unnecessary paperwork burden and is intended to reduce the impact of FDIC's regulation on insured nonmember banks that engage in a low number of securities transactions per year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Harvey, Review Examiner (Trust Specialist), Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6762

RIN: 3064–AA30

3874. PRIOR NOTICE OF RAPID GROWTH IN INSURED BANKS

Legal Authority: 5 USC 552; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820

CFR Citation: 12 CFR 304

Legal Deadline: None

Abstract: The FDIC plans to substitute for its current regulation on reporting fully insured brokered deposits and fully insured deposits placed directly by other depository institutions (12 CFR 304.6) a new requirement calling for the reporting of planned rapid growth by certain limited means such as the solicitation and acceptance of brokered deposits, out-of-territory deposits and borrowings. The report would describe the volume, sources and anticipated uses of the funds to be borrowed.

Timetable:

Action	Date	FR Cite
NPRM	04/05/89	54 FR 13693
NPRM Comment Period End	06/05/89	
NPRM - Revised	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Hrindac, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6892

RIN: 3064–AA88

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

3875. SECURITIES OF INSURED NONMEMBER BANKS

Legal Authority: 12 USC 1819 Federal Deposit Insurance Act; 15 USC 78l(i) Securities Exchange Act of 1934

CFR Citation: 12 CFR 335

Legal Deadline: None

Abstract: The Securities Exchange Act of 1934 requires the FDIC to issue regulations substantially similar to regulations of the Securities and Exchange Commission, or publish reasons for not doing so. The FDIC has proposed such conforming amendments for public comment based on recent rulemaking actions by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	07/25/89	54 FR 30976
NPRM Comment Period End	09/25/89	
Final Action	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence H. Pierce, Securities Activities Officer, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8902

RIN: 3064–AA45

3876. DELEGATIONS OF AUTHORITY TO ACT ON APPLICATIONS

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1829; 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: The FDIC is preparing final amendments to Part 303 of its rules and regulations to clarify and, in some cases, to modify the delegations of authority for acting on a variety of applications (e.g., mergers, branches, relocations, deposit insurance, trust and banking powers, change in control, and management interlocks). The amendments do not alter any rights or obligations of any person, bank, or other applicant.

Timetable:

Action	Date	FR Cite
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy L. Alper, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3720

RIN: 3064–AA84

3877. INSURANCE COVERAGE; UNIT INVESTMENT TRUST

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: The FDIC proposed amending Part 330 of its rules and regulations. Under the proposed rule, unit investment trusts would no longer be treated as corporations for purposes of

insurance coverage limits where deposits in any one insured bank are insured to the maximum of $100,000. Instead, the proposal, if adopted, would result in deposit insurance up to $100,000 as to each beneficial owner of the trust's deposits.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39746
NPRM Comment Period End	12/12/88	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Douglas Birdzell, Special Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3716

RIN: 3064–AA73

3878. DEPOSIT LIABILITIES

Legal Authority: 12 USC 1813; 12 USC 1819

CFR Citation: 12 CFR 354

Legal Deadline: None

Abstract: The FDIC issued for public comment a proposed regulation expanding the definition of the term "deposit." The proposed rule would find that a bank's liability on a promissory note, bond, acknowledgement of advance, or similar obligation that is issued or undertaken by the insured bank as a means of obtaining funds is a deposit liability.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47723
NPRM Comment Period End	01/24/89	
Final Action	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katharine H. Haygood, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3732

RIN: 3064–AA92

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) Completed Actions

3879. ● PRIVACY ACT REGULATIONS

Legal Authority: 5 USC 552a

CFR Citation: 12 CFR 310

Legal Deadline: None

Abstract: The FDIC has exempted from certain provisions of its regulations implementing the Privacy Act of 1974 its proposed new Investigative Files and Records system. This new system of records will contain files on employees of the FDIC or other persons involved in the FDIC's programs or operations who are or have been under investigation by the FDIC's Office of Inspector General where fraud or abuse has been suspected.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25126
NPRM Comment Period End	06/14/89	
Final Action	09/19/89	54 FR 38507
Final Action Effective	10/19/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Feldman, Deputy Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3811

RIN: 3064–AA91

3880. ● ASSESSMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1817 to 1819

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: The FDIC is amending Part 327 of its regulations, entitled "Assessments," in response to the requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The final rule establishes interim assessment procedures for savings associations. The final rule also provides a mechanism for funding the Financing Corporation and the Resolution Funding Corporation through the end of 1989.

The FDIC will consider any public comments received by November 13, 1989, in order to determine whether this final rule should be revised.

Timetable:

Action	Date	FR Cite
Final Action	09/14/89	54 FR 37935
Final Action Effective	09/14/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jules Bernard, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3731

RIN: 3064–AA96

3881. ● ADVERTISEMENT OF MEMBERSHIP

Significance: Agency Priority

Legal Authority: 12 USC 1819; 12 USC 1828(a); PL 101-73, Sec 221

CFR Citation: 12 CFR 328

Legal Deadline: Final, Statutory, August 9, 1989.

Abstract: The FDIC is amending its regulation prescribing the requirements with regard to the official sign insured financial institutions must display notifying the public of deposit insurance coverage. This action is necessary in order to comply with the requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). This rule is intended to assure that insured financial institutions comply with the requirements of FIRREA.

Because the FDIC is acting under a statutory deadline, this final rule establishes only those requirements that are considered to be the minimum necessary to comply with FIRREA. Consequently, additional changes to the FDIC's regulation governing advertisement of membership are being considered, and comments are invited through a separately published "Advance Notice of Proposed Rulemaking" (see 54 FR 33716, August 16, 1989).

Timetable:

Action	Date	FR Cite
Final Action	08/16/89	54 FR 33669
Final Action Effective	08/16/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie J. Best, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3812

RIN: 3064–AA95

3882. FOREIGN BANKS; DELEGATIONS OF AUTHORITY

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820; 12 USC 1828; 12 USC 1829; 12 USC 3103; 12 USC 3104; 12 USC 3108; 15 USC 1607

CFR Citation: 12 CFR 346; 12 CFR 303

Legal Deadline: None

Abstract: The FDIC has adopted changes to its regulations pertaining to insured branches of foreign banks. Substantial changes were made to the current provisions relating to exemptions from the deposit insurance requirement, the capital equivalency requirement, and the country exposure provision. Changes were also made to the pledge of assets requirement and to the delegations of authority concerning it (12 CFR Part 303.6), as well as to miscellaneous provisions throughout the regulation.

On June 28, 1989 (54 FR 27154), the FDIC published an addendum to the final regulation regarding exemptions from deposit insurance for branches of foreign banks. According to the addendum, the exemption for initial deposits of less than $100,000 by depositors who are neither citizens nor residents of the U.S. at the time of the initial deposit will be included in the final regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41180
NPRM Comment Period End	12/19/88	
Final Action	04/07/89	54 FR 14064
ADDENDUM to Final Regulation regarding Exemptions from Deposit Insurance	06/28/89	54 FR 27154
Final Action Effective	07/06/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles V. Collier, Assistant Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8850

RIN: 3064–AA78

[FR Doc. 89-21754 Filed 10-27-89; 8:45 am]

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Part L

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

federal register

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FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In response to Office of Management and Budget Bulletin No. 88-12, the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 16 rulemakings listed, 14 are current and projected rulemakings and 2 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Lois D. Cashell,

Secretary.

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Prerule Stage

3883. REGULATIONS GOVERNING SUBMITTAL OF PROPOSED HYDROPOWER LICENSE CONDITIONS, AND OTHER MATTERS

Significance: Agency Priority

Legal Authority: 16 USC 792a et seq. (1982 and Supp. 1987) Federal Power Act; 16 USC 661 et seq. (1982) Fish and Wildlife Coordination Act; 42 USC 4321 et seq (1982) National Environmental Policy Act

CFR Citation: 18 CFR 1

Legal Deadline: None

Abstract: This rulemaking will propose improvements in the coordination between the Commission and Federal and State fish and wildlife agencies concerning appropriate conditions and other measures to be taken in proceedings on the granting of licenses to applicants for hydroelectric facilities subject to the Commission's jurisdiction. Docket No. RM89-7-000.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202 357-5597

RIN: 1902–AB12

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

3884. FEES FOR HYDROPOWER PROJECTS

Legal Authority: 31 USC 9701 Independent Offices Appropriations Act; 16 USC 803 Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 381

Legal Deadline: None

Abstract: The rulemaking would establish a fee for services performed by the Commission under the Federal Power Act for hydropower projects. The rule would cover permits, licenses and exemptions. Docket No. RM83-33-000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: No action expected in the next 12 months.

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA48

3885. STANDARDS OF CONDUCT

Significance: Agency Priority

Legal Authority: EO 11222

CFR Citation: 18 CFR 3c

Legal Deadline: None

Abstract: This rulemaking proceeding would update and revise the Commission's Standards of Conduct for employees and Commissioners. Docket No. RM88-8-000.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB01

3886. OPTIONAL CERTIFICATES FOR CONSTRUCTION RELATED TO TRANSPORTATION

Significance: Agency Priority

Legal Authority: 15 USC 717f

CFR Citation: 18 CFR 157

Legal Deadline: None

Abstract: The rulemaking will consider revision of the Commission's regulations, codified at 18 C.F.R. Part 157, Subpart E, governing optional procedures to obtain a certificate for transportation and sale of natural gas facilities under Section 7 of the Natural Gas Act. Docket No. RM88-11-000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB03

3887. 5-YEAR TAKE-OR-PAY MAKE-UP PROVISIONS IN NATURAL GAS PRODUCER-PIPELINE CONTRACTS

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982) Natural Gas Act; 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009 (1978) 3 CFR Part 142; 31 USC 9701 (1970) Independent Offices Approp. Act

CFR Citation: 18 CFR 154

Legal Deadline: None

Abstract: This notice of proposed rulemaking eliminates the requirement in the Commission's regulations that a gas purchase contract between an independent natural gas producer and an interstate natural gas pipeline must allow the pipeline a minimum 5-year make-up period in which to take gas for which payment has already been made. The Commission believes that this requirement, established in 1967, may no longer be necessary in light of current efforts by pipelines and producers to resolve take-or-pay issues and to enter into market-responsive contracts for future gas supplies. Docket No. RM88-20-000.(See Docket No. RM89-2-000).

Timetable:

Action	Date	FR Cite
NPRM	07/14/88	53 FR 27704
NPRM Comment Period End	08/15/88	53 FR 27704

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB08

3888. BLANKET SALES CERTIFICATES FOR FIRST SELLERS OF NATURAL GAS

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982); EO 12009 3 CFR 1978 Comp., p. 142; 15 USC 3301 to 3432 (1982); 42 USC 7101 to 7352 (1982)

CFR Citation: 18 CFR 270; 18 CFR 271

Legal Deadline: None

Abstract: The proposed rule would grant blanket sales authority to first sellers of natural gas (except gas marketers) to make sales for resale in interstate commerce. Marketers would be required to apply individually for this authorization. The rule would eliminate virtually all of the certificate and filing requirements presently applicable to these sales. (This NOPR would consolidate Docket No. RM88-20-000 into this rule.) Docket No. RM89-2-000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202 357-5597

RIN: 1902–AB11

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Final Rule Stage

3889. CALCULATION OF CASH WORKING CAPITAL ALLOWANCE FOR PUBLIC UTILITIES

Legal Authority: 16 USC 791a to 828c

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The proposed rule would provide that the cash working capital requirements of a public utility that files an electric rate schedule will be presumed to be zero dollars, and thus will not affect the utility's rate base, unless the utility shows there is a significant difference between the time it pays certain current operating expenses and the time it receives revenues from ratepayers. The proposed rule would establish a threshold standard that must be met to support a cash working capital adjustment to a utility's rate base, the expense elements to be considered in calculating cash working capital adjustments to rate base, and criteria applicable to studies submitted in support of a request for an adjustment to rate base. Docket No. RM84-9-000.

Timetable:

Action	Date	FR Cite
NPRM	04/05/84	49 FR 14384
NPRM Comment Period End	06/04/84	49 FR 14384
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA33

3890. REGULATION OF NATURAL GAS PIPELINES AFTER PARTIAL WELLHEAD DECONTROL

Significance: Agency Priority

Legal Authority: 42 USC 7102 to 7352 (1982); EO 12009 3 CFR 1978 Comp., p.142; 5 USC 551 to 557 (1982); 15 USC 717 to 717w (1982); 16 USC 791 to 828c

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FERC — Final Rule Stage

(1982); 15 USC 3301 to 3402 (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 2; 18 CFR 284.10; 18 CFR 284.8; 18 CFR 284.9; 18 CFR 2.104; 18 CFR 2.105

Legal Deadline: None

Abstract: Order No. 500 is an interim rule that readopted the regulations promulgated in Order No. 436 with one addition and one deletion. Order No. 500 added a requirement that producers submit an offer of take-or-pay credits to an open access pipeline in order to make the pipeline's gas eligible for transportation (unless the pipeline and producer agree to a different arrangement); it deleted the customers' contract demand reduction option. Order No. 500 also adopted a policy on passthrough mechanisms for take-or-pay buyout and buydown costs and on gas inventory charges. Order Nos. 500-A, 500-B, 500-C and 500-D made changes to the crediting provisions and extended certain deadlines. Rehearing of the Order No. 500 interim rule was denied in Order No. 500-E. Docket No. RM87-34-000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/87	52 FR 30334
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: See Order Explaining Crediting (Oct. 16, 1987) and Order Nos. 500-A, 500-B, 500-C, 500-D and 500-E for more details.

Agency Contact: Andrea Wolfman, Assistant General Counsel, for Pipeline Rates and Valuation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8448

RIN: 1902–AA97

3891. REGULATIONS GOVERNING BIDDING PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982); EO 12009 3 CFR 142 (1978); 31 USC 9701 (1982); 16 USC 7919 to 8252 (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 35; 18 CFR 293

Legal Deadline: None

Abstract: The Commission proposed to adopt regulations authorizing state regulatory authorities and nonregulated electric utilities to implement bidding procedures as a means of establishing rates for power purchases from qualifying facilities (QFs) under section 210 of PURPA. Docket No. RM88-5-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9323
NPRM Comment Period End	06/14/88	53 FR 9323
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA98

3892. REGULATIONS GOVERNING INDEPENDENT POWER PRODUCERS

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 3401; 42 USC 7101 to 7352 (1982); EO 12009 3 CFR (1978) Comp., p. 142; 5 USC 551 to 557 (1982); 15 USC 717 to 717w (1982); 16 USC 791a to 828c (1982); 15 USC 3301 to 3432 (1982); 16 USC 2601 to 2645 (1982); 49 USC 1 to 27 (1976)

CFR Citation: 18 CFR 38; 18 CFR 382

Legal Deadline: None

Abstract: The Commission proposed to streamline regulation of a class of non-traditional utility suppliers, called independent power producers (IPPS). The proposed regulations would: (1) authorize rates for IPPS to be determined through competition or rate negotiation subject to a price cap, thereby freeing IPPS from cost-based ratemaking while ensuring that rates fall within a zone of reasonableness; (2) authorize IPPs to file rate schedules without having to provide extensive cost support; (3) exempt IPPS from cost-related accounting, reporting and recordkeeping requirements; (4) streamline the corporate and financial regulation of IPPS; (5) provide the blanket prior authorizations to engage in certain corporate activities; and (6) adopt and advance certification procedures to qualify as an IPP. Docket No. RM88-4-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9327
NPRM Comment Period End	06/16/88	53 FR 9327
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AA99

3893. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Significance: Agency Priority

Legal Authority: PL 99-495; 42 USC 7101 to 7352 (1982); EO 12009 3 CFR (1978) Comp., p. 142; 31 USC 9701 (1982); 16 USC 791a to 825r (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: The Commission is proposing to amend its regulations governing purchases and sales of electricity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities (QFs). Docket No. RM 88-6-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9331
NPRM Comment Period End	06/14/88	53 FR 9331
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. 202 357-5597

RIN: 1902–AB00

3894. BROKERING OF INTERSTATE NATURAL GAS PIPELINE CAPACITY

Significance: Agency Priority

FERC — Final Rule Stage

Legal Authority: 15 USC 717 to 717w (1982) Natural Gas Act; 15 USC 3301 to 3432 (1982) Natural Gas Policy Act of 1976; 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009, 3 CFR 1978 Comp., p.142; 4 USC 551 to 557 (1982) Administrative Procedures Act; 31 USC 9701 (1982) Independent Offices Approp. Act; 16 USC 791 to 825r (1982) Federal Power Act; 16 USC 2601 to 2645 (1982) Public Utilities Reg. Pol. Act; 49 USC 1 to 27 (1982) Interstate Commerce Act

CFR Citation: 18 CFR 284; 18 CFR 385

Legal Deadline: None

Abstract: Under this notice of proposed rulemaking, the Commission proposed to allow holders of firm transportation rights on an interstate natural gas pipeline to sell or assign (broker) those rights. Rights to the pipeline's system storage could also be brokered to the extent that these rights are subject to Secs. 284.8 and 284.9 of the Commission's regulations. Docket No. RM88-13-000

Timetable:

Action	Date	FR Cite
NPRM	04/27/88	53 FR 15061
NPRM Comment Period End	05/19/88	53 FR 15061
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB06

3895. REGULATIONS GOVERNING THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009, 3 CFR 1978, Comp., p. 142; 31 USC 9701 (1982) Independent Offices Approp. Act; 16 USC 791a to 825r (1982) Federal Power Act; 16 USC 2601 to 2645 (1982) Public Util. Regulatory Pol. Act

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: Under this notice of proposed rulemaking, the Commission is proposing to amend its regulations governing the implementation of Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA). This rule addresses problems with the criteria and procedures under Section 201 of PURPA by which qualifying small power production and cogeneration facilities can obtain PURPA benefits. Docket No. RM88-17-000.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 31021
NPRM Comment Period End	10/27/88	53 FR 31021
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202 357-8530

RIN: 1902–AB14

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

3897. RELICENSING REGULATIONS UNDER THE FEDERAL POWER ACT

Significance: Agency Priority

CFR Citation: 18 CFR 4; 18 CFR 16

Completed:

Reason	Date	FR Cite
Final Action	05/17/89	54 FR 23756
Final Action Effective	05/17/89	54 FR 23756

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler 202 357-5597

RIN: 1902–AB02

3898. ESTABLISHMENT OF DEADLINES FOR FIRST SELLERS TO MAKE AND REPORT REFUNDS

Significance: Agency Priority

CFR Citation: 18 CFR 2; 18 CFR 154; 18 CFR 157; 18 CFR 250; 18 CFR 375; 18 CFR 381; 18 CFR 389

Completed:

Reason	Date	FR Cite
Final Action	08/03/89	54 FR 32805
Final Action Effective	08/03/89	54 FR 32805

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Smoler 202 357-5597

RIN: 1902–AB10

[FR Doc. 89-22490 Filed 10-27-89; 8:45 am]

BILLING CODE 6717-01-T

3896. ● REGULATIONS IMPLEMENTING THE NATURAL GAS WELLHEAD DECONTROL ACT OF 1989

Significance: Agency Priority

Legal Authority: 15 USC 3301 to 3432 Natural Gas Policy Act of 1978

CFR Citation: 18 CFR 272.103

Legal Deadline: None

Abstract: This final rule makes technical amendments to the Commission's regulations to implement the Natural Gas Wellhead Decontrol Act of 1989. Docket No. RM89-16-000.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry M. Smoler, Assistant General Counsel, Rulemaking and Environmental Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902–AB07

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Part LI

Federal Home Loan Bank Board

Semiannual Regulatory Agenda

FEDERAL HOME LOAN BANK BOARD (FHLBB)

FEDERAL HOME LOAN BANK BOARD

12 CFR Ch. V

[No. 89-2162]

Agenda of Federal Regulations

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Home Loan Bank Board ("Bank Board") is hereby publishing items for the "October Unified Agenda of Federal Regulations." The agenda items reflect the status of the Bank Board's regulatory projects as of July 31, 1989.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. 101-73, 103 Stat. 183, signed into law on August 9, 1989, reorganizes the regulation of the thrift industry and the functions currently performed by the Bank Board. Under FIRREA, the regulatory responsibilities of the Bank Board were transferred to a new Office of Thrift Supervision ("OTS") in the Department of the Treasury and to the Federal Deposit Insurance Corporation ("FDIC"). Revisions to Bank Board regulations transferred to OTS and FDIC and new regulatory initiatives implementing FIRREA will be published in the **Federal Register** as they are promulgated and will appear in subsequent editions of the Unified Agenda under the appropriate agency.

ADDRESS: Information Services Division, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

Dated: August 2, 1989.
By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Proposed Rule Stage

3899. INSURANCE TERMINATION PROVISIONS

Legal Authority: 12 USC 1464; 12 USC 1727; 12 USC 1730

CFR Citation: 12 CFR 565

Legal Deadline: None

Abstract: The Bank Board is reviewing a number of issues relating to the extent to which institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") that terminate their insured status in connection with transfers by operation of law must pay a final insurance premium to the FSLIC. As part of its review, the Bank Board solicited public comment to ascertain whether to issue a proposal in this area. On October 7, 1986, the Bank Board adopted a clarifying amendment to the definition of "transfers" set forth in its statement of policy regarding mergers and transfers of assets. (12 CFR 571.5(a)). However, as the clarification indicates, the interpretation did not specifically address the separate issues of whether an insured institution undertaking a transfer of assets and liabilities by operation of law in which the surviving entity is not FSLIC-insured must pay a final insurance premium to the FSLIC, and if so, the amount of such payment. The Bank Board has been reviewing this so-called "exit premium" issue on an ongoing basis and as yet has made no final determination with respect to this matter. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17408
ANPRM Comment Period End	07/07/87	52 FR 17408

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Since the proposal is only an advance notice of proposed rulemaking, the potential costs and benefits on the industry have not been quantified.

Agency Contact: John A. Buchman, Assistant Deputy Director, Corporate and Securities Div., Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 906-6963

RIN: 3068–AA28

3900. REQUIRED CAPITAL LEVELS FOR INSURED INSTITUTIONS; REGULATORY INTERVENTION

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724; 12 USC 1725 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: In conjunction with its current proposal to amend its regulations to establish minimum capital requirements for FSLIC-insured institutions, the Bank Board is addressing whether the final capital regulation should contain specific language defining a particular level of capital as an "unsafe and unsound condition to transact business" for the purpose of activating the Board's statutory authority to appoint a conservator or receiver for an institution. The Board is considering setting its floor capital requirement at a level of 1.5% of total assets, to be held in the form of core equity capital.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/89	54 FR 826
ANPRM Comment Period End	02/09/89	54 FR 826

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Theresa Stark, Attorney, Regulations and Legislation, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7054

RIN: 3068–AA75

3901. MUTUAL SAVINGS AND LOAN HOLDING COMPANIES

Significance: Agency Priority

FHLBB — **Proposed Rule Stage**

Legal Authority: 12 USC 1437; 12 USC 1725

CFR Citation: 12 CFR 500 et seq.

Legal Deadline: None

Abstract: The Bank Board is reviewing issues to be addressed through the implementation of the mutual holding company provisions of the National Housing Act ("NHA") added by the Competitive Equality Banking Act of 1987 ("CEBA"). The provisions permit any insured institution to reorganize to form a holding company by chartering an interim savings institution whose stock is wholly-owned by the mutual institution and transferring substantially all of the mutual institution's assets and liabilities (including all insured liabilities) to the interim savings institution.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/88	53 FR 41343
ANPRM Comment Period End	12/05/88	53 FR 44436

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeff Miner, Assistant Deputy Director, Corporate and Securities Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7546

RIN: 3068–AA77

3902. ● BONDS FOR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS; FORM AND AMOUNT OF BONDS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The Bank Board recently adopted amendments to 12 CFR 563.19 which modified the schedule for calculating the permissible deductible for fidelity bonds. See RIN 3068-AA71. The Bank Board is now seeking comment on whether additional, more substantive revisions to the fidelity bond regulations for all insured institutions are necessary at this time.

Among the revisions under consideration are changes to The American Surety Association Form No. 22 Blanket Bond, and to the amount of the bond required.

Timetable:

Action	Date	FR Cite
ANPRM	06/13/89	54 FR 25127
ANPRM Comment Period End	07/13/89	54 FR 25127

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cindy L. Hausch, Financial Analyst, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-7458

RIN: 3068–AA92

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Final Rule Stage

3903. TRANSACTIONS WITH AFFILIATES

Significance: Agency Priority

Legal Authority: 12 USC 1730a; 12 USC 1425a; 12 USC 1462; 12 USC 1724; PL 100-86

CFR Citation: 12 CFR 584.3

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its regulations pertaining to transactions between institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation and affiliates of those institutions. The proposed amendments (1) define and clarify the applicability of the limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act and (2) clarify the applicability of the limitations and prohibitions specified in the Board's regulations existing prior to the Competitive Equality Banking Act (CEBA). The proposed amendments are intended to further the Congressional intent codified in CEBA by providing parity between a bank and a thrift holding company with respect to the treatment of transactions between the subsidiary depository institution and its affiliates engaged in activities permissible for a bank holding company under the Bank Holding Company Act and the regulations thereunder.

There are no alternatives that would be less burdensome than the proposed rule in addressing the concerns expressed above.

The potential costs and benefits of the regulation on (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/10/88	53 FR 21838
NPRM Comment Period End	08/09/88	53 FR 21838
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: ABSTRACT CONT: the industry have not been quantified.

Agency Contact: Paul Glenn, Staff Attorney, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington DC 20552, 202 906-6203

RIN: 3068–AA65

3904. READMISSION OF FEDERAL HOME LOAN BANK MEMBERS TERMINATING THEIR STATUS AS INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1730(i); PL 89-695; 12 USC 1426(i)

CFR Citation: 12 CFR 523

Legal Deadline: None

Abstract: The Bank Board is proposing to amend its regulations governing applications for membership in the Federal Home Loan Bank ("FHLBank") System by institutions that have been

FHLBB — **Final Rule Stage**

FHLBB — **Final Rule Stage**

CFR Citation: 12 CFR 545

Bank Board is also proposing to require

Government Levels Affected: None

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removed from membership under the National Housing Act by virtue of the termination of Federal Savings and Loan Insurance Corporation ("FSLIC") insurance of their accounts. Specifically, the proposal would amend Part 528 of the Board's Rules and Regulations for the Federal Home Loan Bank System, to provide that an FHLBank member that terminates its status as an FSLIC-insured institution and is thereby removed from FHLBank membership (as well as any other member whose membership is terminated pursuant to section 6(i) of the Federal Home Loan Bank Act), may be readmitted as a member only after the expiration of a five year period following its departure from the FHLBank System.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	53 FR 30686
NPRM Comment Period End	10/14/88	53 FR 30686
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: John A. Buchman, Assistant Deputy Director, Corporate and Securities Division, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, DC 20552, 202 906-6963

RIN: 3068–AA66

3905. ELECTION OF DIRECTORS OF THE FEDERAL HOME LOAN BANKS

Significance: Agency Priority

Legal Authority: 12 USC 1425b; 12 USC 1426; 12 USC 1427; 12 USC 1437; 12 USC 1464; 12 USC 1725; 12 USC 1726; 12 USC 1730; 18 USC 207; 42 USC 6101 et seq.

CFR Citation: 12 CFR 522

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend its rules governing the Election of Directors of the Federal Home Loan Banks ("Banks") due to its concern about the appearance of conflicts of interest that may exist when officers or directors of institutions that are of regulatory concern are elected to positions as directors of the Banks. The Board feels that it is not be appropriate for persons who have been the subject of regulatory concern to serve on the boards of the Banks as they are an important part of the supervision and regulation of the thrift industry.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/88	53 FR 44437
ANPRM Comment Period End	12/05/88	53 FR 44437
NPRM	04/07/89	54 FR 14085
NPRM Comment Period End	06/06/89	54 FR 14085

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Carey, Director, Bank Liason Division, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6656

RIN: 3068–AA72

3906. REGULATORY CAPITAL REQUIREMENTS FOR INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 561.13; 12 CFR 563.13

Legal Deadline: None

Abstract:

The Bank Board is proposing to amend its regulations concerning capital requirements for FSLIC-insured institutions. The proposal is more risk-based than the Board's current capital regulations, in order to ensure that institutions engaging in higher risk activities are adequately capitalized. The proposal also addresses interest-rate risk and collateralized borrowing.

In connection with the proposal, the Bank Board has proposed for comment a description of proposed methodologies to be used in calculating the interest-rate-risk component of the proposal.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51800
NPRM Comment Period End	03/23/89	53 FR 51800
Advance Supplemental NPRM Interest-Rate-Risk	07/03/89	54 FR 27885

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Fishman, Senior Policy Analyst, Office of, Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street, N.W., Washington, D.C. 20006, 202 331-4592

RIN: 3068–AA73

3907. DRUG-FREE WORKPLACE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1437(a)

CFR Citation: 12 CFR 516; 12 CFR 516.305; 12 CFR 516.320

Legal Deadline: Final, Statutory, February 16, 1989.

Abstract: The Bank Board has implemented the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D). The Act requires contractors and grantees of Federal agencies to certify that they will provide drug-free workplaces.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Caroline Morris, Attorney, Legal Counsel Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6431

RIN: 3068–AA85

3908. ● AGENCY OFFICES

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1464; 12 USC 1725 to 1726; 12 USC 1730

CFR Citation: 12 CFR 545

Legal Deadline: None

Abstract: The Bank Board is proposing to revise its regulations in order to remove the restriction prohibiting Federal institutions from establishing agency offices to originate and service mortgage loans outside of the state where the institution's home office is located or states where any of the institution's branches are located. The Bank Board is also proposing to require written notification of agency openings and closings.

Timetable:

Action	Date	FR Cite
NPRM	07/31/89	54 FR 30555
NPRM Comment Period End	09/13/89	54 FR 30555

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cindy Hausch, Financial Analyst, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-7488

RIN: 3068–AB01

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Completed Actions

3909. INVESTMENT PORTFOLIO POLICY AND ACCOUNTING GUIDELINES

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1464; 12 USC 1725 to 1726; 15 USC 78c

CFR Citation: 12 CFR 571.19; 12 CFR 563c

Legal Deadline: None

Abstract: The Board has amended its regulations governing institutions insured by the Federal Savings and Loan Insurance Corporation by adopting a statement of policy and by amending its rules to clarify that insured institutions must account for securities held for investment sale and/or trading in accordance with generally acceptable accounting procedures ("GAAP"). The policy statement requires an insured institution's board of directors to document and monitor its investment in policy and strategies; discuss the appropriate documentation of investment decisions; summarize GAAP applicable to securities held for investment,sale, and/or trading; and offer guidance on the application of GAAP by insured institutions in determining when securities should be accounted for as a security held for trading. The Board's intent is to provide guidance and clarifications to insured institutions on the accounting for and classification of investment in securities within the confines of existing accounting literature.

Timetable:

Action	Date	FR Cite
NPRM	06/21/88	53 FR 23247
NPRM Comment Period End	09/20/88	53 FR 31363
Final Action	06/01/89	54 FR 23457
Final Action Effective	06/01/89	54 FR 23457

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Julie A. Gerschick, Professional Accounting Fellow, Office of Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street, N.W., Washington, D.C. 20006, 202 331-4583

RIN: 3068–AA62

3910. RULES OF PRACTICE AND PROCEDURE

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1464; 12 USC 1730q; 12 USC 1730a; PL 89-695; PL 89-630

CFR Citation: 12 CFR 509; 12 CFR 512

Legal Deadline: None

Abstract: The Bank Board has revised 12 CFR Parts 509 and 512, its regulations governing the rules of practice and procedure in adjudicatory proceedings. The revisions to Part 509 streamline prehearing procedures with a view toward expediting the proceedings, clarifying the authority of the Administrative Law Judges appointed to conduct the proceedings, and adding several new provisions. The revisions to Part 512 are of a clarifying and technical nature and update several provisions of the rules relating to the conduct of investigative and formal examination proceedings.

There are no alternatives that would be less burdensome than the proposed amendments in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulations on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	09/29/88	53 FR 40432
NPRM Comment Period End	12/16/88	53 FR 40432
Final Action Effective	06/14/89	54 FR 26349
Final Action	06/23/89	54 FR 26349

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary A. Gegenheimer, Senior Attorney, Office of Enforcement, Federal Home Loan Bank Board, 1735 Eye Street, N.W., Washington D.C. 20552, 202 906-7110

RIN: 3068–AA64

3911. BONDS FOR DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS; FORM AND AMOUNT OF BONDS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.19

Legal Deadline: None

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Abstract:

The Bank Board has amended 12 CFR 563.19 by deleting the current schedule for calculating the permissible deductible amount for bonds for directors, officers, employees, and agents of FSLIC-insured institutions. A new method for calculating the permissible deductible has been instituted making the maximum permissible deductible the higher of either five percent of tangible capital as defined in 12 CFR 563.9-8(b)(12) or $50,000, with some exceptions.

In addition, the allowance for institutions to increase the permissible deductible to a maximum of three times the permissible amount if losses under the bond exceed 50 percent of the premium has been eliminated as it is unnecessary due to the increase in the permissible deductibles.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45484
NPRM Comment Period End	01/09/89	53 FR 45484
Final Action	06/13/89	54 FR 25098
Final Action Effective	07/13/09	54 FR 25098

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cindy L. Hausch, Financial Analyst, Office of, District Banks, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7488

RIN: 3068–AA71

3912. EQUITY-RISK INVESTMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.9-8

Legal Deadline: None

Abstract: The Bank Board has amended 12 CFR 563.9-8 concerning investments by FSLIC-insured institutions in equity securities, real estate, service corporations, operating subsidiaries, and certain land loans and non-residential construction loans. It has extended the current equity-risk investment regulation until October 13, 1989 to give the Board the opportunity to analyze the results of its recent regulatory capital proposal and the report on equity-risk investment due to Congress on February 10, 1989.

Timetable:

Action	Date	FR Cite
NPRM	01/04/89	54 FR 155
NPRM Comment Period End	02/03/89	54 FR 155
Final Action Effective	04/16/89	54 FR 15400
Final Action	04/18/89	54 FR 15400

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard M. Schwartz, Attorney, Regulations and Legislation, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6897

RIN: 3068–AA74

3913. ISSUANCE AND USE OF SUBORDINATED DEBT SECURITIES

Significance: Agency Priority

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563.8-1

Legal Deadline: None

Abstract: The Bank Board amended 12 CFR 563.8-1, its regulations governing the issuance of subordinated debt securities by insured institutions, to codify certain interpretations of the rule and to incorporate technical revisions to the rule which are necessary due to recently-enacted legislation.

The rule also modifies the bases for supervisory objection to approval of a subordinated debt application by giving the Office of Regulatory Activities ("ORA") the authority to develop guidelines outlining the bases for supervisory objection to the issuance of subordinated debt. The Principal Supervisory Agent ("PSA") is given the authority to approve or deny subordinated debt applications, subject to an appeal process.

The rule also includes a standard set of conditions which would apply to approvals of applications to include subordinated debt in regulatory capital.

Timetable:

Action	Date	FR Cite
NPRM	01/13/89	54 FR 1379
NPRM Comment Period End	03/14/89	54 FR 1379
Final Action	08/18/89	54 FR 34148
Final Action Effective	09/18/89	54 FR 34148

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul D. Glenn, Attorney, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6203

RIN: 3068–AA76

3914. ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1730a

CFR Citation: 12 CFR 574.7

Legal Deadline: None

Abstract: The Bank Board has revised its applications processing regulations with regard to the approval of the formation of savings and loan holding companies by insured institutions. The revisions include automatic approval of applications for routine reorganizations involving the formation of savings and loan holding companies, subject to certain requirements. Applications will be automatically approved 30 calendar days after filing if the Board has not notified the applicant in writing that more information is required, that it is materially deficient, or that it is denied.

The rule also provides for an improved approval process for permission to organize an interim federal institution for insurance of accounts, for Federal Home Loan Bank Membership and merger of any interim institution that is part of the reorganization transaction.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4040
NPRM Comment Period End	03/28/89	54 FR 4040
Final Action	08/11/89	54 FR 32959
Final Action Effective	08/11/89	54 FR 32959

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard C. Bluver, Attorney, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7584

RIN: 3068–AA79

3915. ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1730; 12 USC 1730a

CFR Citation: 12 CFR 574.6

Legal Deadline: None

Abstract: The Bank Board has adopted a short-form application for use by insured institutions seeking approval for routine reorganizations involving the formation of savings and loan holding companies. The rule is intended to improve the application process by limiting the required contents of routine reorganization applications to that which is necessary for the FSLIC to make informed decisions.

Timetable:

Action	Date	FR Cite
NPRM	09/25/85	50 FR 38832
NPRM Comment Period End	02/01/86	52 FR 42116
Period of Consideration Elapsed	07/10/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: V. Gerard Comizio, Director, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Stree, N.W., Washington, D.C. 20552, 202 906-6411

RIN: 3068–AA63

3916. CORPORATE GOVERNANCE, PART I

Significance: Agency Priority

Legal Authority: 12 USC 1464

CFR Citation: 12 CFR 541.0 et seq.; 12 CFR 542.1 et seq.

Legal Deadline: None

Abstract: The Bank Board proposed extensive revisions to its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations. Due to the magnitude of the revisions, the Bank Board presented the proposal in parts, issued separately for public comment. The proposed regulations would have reorganized parts of Subchapter C (the regulations for federally chartered associations) and amended and added sections to provide a more cohesive and complete body of rules for the corporate governance of Federal associations. Part I would have provided definitions and rules for the organization and incorporation of Federal associations.

The proposed rule would have applied equally to all insured institutions.

The time period for Board action on the proposal expired on July 10, 1989. It is anticipated that the proposal will be formally withdrawn and reproposed at a later date.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4043
NPRM Comment Period End	03/28/89	54 FR 4043
Final Action	08/14/89	54 FR 33183
Final Action Effective	08/14/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard Bluver, Attorney, Corporate and Securities Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-7584

RIN: 3068–AA80

3917. CORPORATE GOVERNANCE, PART II

Significance: Agency Priority

Legal Authority: 12 USC 1464

CFR Citation: 12 CFR 543.1 et seq.; 12 CFR 544.1 et seq.

Legal Deadline: None

Abstract: The Bank Board proposed extensive revisions to its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations. Due to the magnitude of the revisions, the Bank Board presented the proposal in parts, issued separately for public comment. The proposed regulations would have reorganized parts of Subchapter C (the regulations for federally chartered associations) and amended and added sections to provide a more cohesive and complete body of rules for the corporate governance of Federal associations. Part II would have contained provisions regarding the corporate structure and governing processes for Federal stock associations and Federal mutual associations.

The time period for Board consideration of the proposal expired on July 10, 1989. It is anticipated that the proposal will be formally withdrawn and reproposed at a later date.

Timetable:

Action	Date	FR Cite
NPRM	12/24/85	50 FR 52462
NPRM Comment Period End	02/01/86	52 FR 42116
Partial Withdrawal	02/06/89	54 FR 5629
Period of Consideration Elapsed	07/10/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: V. Gerard Comizio, Director, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G Stree, N.W., Washington, D.C. 20552, 202 906-6411

RIN: 3068–AA63

3918. RELEASE OF CUSTOMER FINANCIAL RECORDS BY FEDERAL ASSOCIATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1425b; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1726; 12 USC 1728; 12 USC 1730; 12 USC 1730a

CFR Citation: 12 CFR 545.131; 12 CFR 545.132; 12 CFR 545.141; 12 CFR 552.11

Legal Deadline: None

Abstract: The Bank Board has revised its regulations concerning the releases by federally chartered savings and loan associations and savings banks of customer financial records. It generally authorizes a Federal association to disclose the names and addresses of its customers to any party unless the customer objects, but would prohibit the disclosure of confidential information regarding customers' savings or loan accounts subject to specific exceptions. It also modifies the requirement that Federal mutual associations obtain the prior approval of either the Board or a Supervisory Agent before releasing their customer records.

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Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5629
NPRM Comment Period End	04/07/89	54 FR 5629
Final Action	08/17/89	54 FR 33859
Final Action Effective	12/15/89	54 FR 33859

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey R. Williams, Attorney-Advisor, Regulations and, Legislation Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6559

RIN: 3068–AA86

3919. CONFORMING AND TECHNICAL AMENDMENTS TO THE CLASSIFICATION OF ASSETS SYSTEM

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1425b; 12 USC 1464; 12 USC 1730a; 12 USC 1462; 12 USC 1724 to 1730; 12 USC 1421 et seq.; 12 USC 1437; 12 USC 1461 et seq.; 12 USC 3806; 15 USC 78c; 12 USC 1730g; 5 USC 552; 5 USC 559; 12 USC 1431

CFR Citation: 12 CFR 545.45; 12 CFR 545.73; 12 CFR 545.74; 12 CFR 545.112; 12 CFR 546.2; 12 CFR 561.17; 12 CFR 563.7-5; 12 CFR 563.8; 12 CFR 563.8-1; 12 CFR 563.8-4; 12 CFR 563.9-7; 12 CFR 563.9-8; 12 CFR 563.17-2; 12 CFR 563.22; 12 CFR 563b.101; ...

Legal Deadline: None

Abstract: The Bank Board has amended its regulations by removing references to scheduled items and specified assets to ensure that they conform with the classification of assets system mandated by the Competitive Equality Banking Act of 1987 (Pub.L. 100-86, 101 Stat. 552).

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6685
NPRM Comment Period End	03/16/89	54 FR 6685
Final Action Effective	08/08/89	54 FR 34143
Final Action	08/18/89	54 FR 34143

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey R. Williams, Attorney-Advisor, Regulations and, Legislation Division, O.G.C., Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202 906-6559

RIN: 3068–AA90

3920. ● ELECTION OF DIRECTORS OF THE FEDERAL HOME LOAN BANKS

Significance: Agency Priority

Legal Authority: 12 USC 1425b; 12 USC 1426 to 1427; 12 USC 1437; 12 USC 1464; 12 USC 1725 to 1726; 12 USC 1730; 18 USC 207; 42 USC 8101 et seq.

CFR Citation: 12 CFR 522

Legal Deadline: None

Abstract: The Bank Board has adopted a temporary rule to implement the procedures to be used for the election of directors to the boards of the Federal Home Loan Banks during calendar year 1989. As a result of legislation pending in Congress to restructure the regulation of the thrift industry, the election process will be delayed, but will be completed by December 31, 1989, in any case.

Timetable:

Action	Date	FR Cite
Final Action Temporary Rule Expiring 6/14/90	06/21/89	54 FR 26017
Final Action Effective	06/21/89	54 FR 26017

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Carey, Director, Bank Liaison Division, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-6720

RIN: 3068–AA93

3921. ● EQUITY-RISK INVESTMENTS

Significance: Agency Priority.

Legal Authority: 12 USC 1421 et seq.; 12 USC 1425a; 12 USC 1425b; 12 USC 1437; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1730; 12 USC 1730a; 12 USC 3806

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The Bank Board has amended its regulations concerning investments by FSLIC-insured institutions in equity securities, real estate, service corporations, operating subsidiaries, certain land loans, and nonresidential construction loans. The rule differs from the original proposal (See RIN 3068-AA74) in that investments in Federal National Mortgage Association and Federal Home Loan Mortgage Corporation stock made on or before December 14, 1988 would be grandfathered in a manner consistent with the savings clause of the current equity-risk investment regulation found at 12 CFR 563.9-8(f) (1988).

See RIN 3068-AA74, Completed Actions, for references to the original proposal.

Timetable:

Action	Date	FR Cite
NPRM	04/18/89	54 FR 15426
NPRM Comment Period End	05/18/89	54 FR 15426
Final Action	08/17/89	54 FR 33870
Final Action Effective	09/18/89	54 FR 33870

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard M. Schwartz, Attorney, Regulations & Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-6897

RIN: 3068–AA94

3922. ● FEDERAL HOME LOAN BANKS AS SECURED CREDITORS

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1462 to 1464; 12 USC 1724 to 1726; 12 USC 1728 to 1730; 12 USC 1730a

CFR Citation: 12 CFR 549; 12 CFR 569a; 12 CFR 569c

Legal Deadline: None

Abstract: The Bank Board has adopted as a final rule a new section of its receivership regulations which recognizes the role of the Federal Home Loan Banks as special purpose lenders to the thrift industry, outlining the rights of the Banks regarding the collateral securing advances and the process of implementation of such rights.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/27/89	54 FR 19155
Final Action	05/04/89	54 FR 19155

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel for FSLIC, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-6428

RIN: 3068–AA95

3923. ● MANAGEMENT OFFICIAL INTERLOCKS

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1437; 12 USC 1464; 12 USC 1725 to 1726; 12 USC 1730; 12 USC 3201 et seq.

CFR Citation: 12 CFR 563f

Legal Deadline: None

Abstract: The Bank Board has amended its regulations concerning management official interlocks to delegate to the Principal Supervisory Agent the authority to respond to all applications for exemptions or extensions of time under 12 CFR 563f.4 and 563f.6, by either granting or withholding approval. This delegation does not, however, apply to applications which present an issue of policy or law.

Timetable:

Action	Date	FR Cite
Final Action	05/19/89	54 FR 21595
Final Action Effective	05/19/89	54 FR 21595

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robyn Dennis, Financial Analyst, Office of Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street, NW, Washington, D.C. 20006, 202 331-4572

RIN: 3068–AA96

3924. ● NONDISCRIMINATION REQUIREMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1437; 12 USC 1425b; 12 USC 1464; 12 USC 1725 to 1726; 12 USC 1730; 12 USC 2901; 15 USC 1691; 42 USC 1981 to 1982; 42 USC 3601 to 3619

CFR Citation: 12 CFR 528; 12 CFR 531

Legal Deadline: None

Abstract: The Bank Board has amended its regulations governing nondiscrimination by members of the Federal Home Loan Bank System in order to implement changes made through the Fair Housing Amendments Act of 1988 to Title VIII of the Civil Rights Act of 1968, in order to conform its regs to the statute and to implementing regulations promulgated by the Department of Housing and Urban Development.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/29/89	54 FR 30535
Final Action	07/21/89	54 FR 30535

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen D. Johnson, Attorney-Advisor, Office of Community Investment, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-6318

RIN: 3068–AA97

3925. ● PREAPPROVED SECURITIES BROKERAGE SERVICE CORPORATION ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1464; 12 USC 1725 to 1726; 12 USC 1730

CFR Citation: 12 CFR 545.74

Legal Deadline: None

Abstract: The Bank Board has amended its Federal association service corporation regulations to enable service corporations to commence certain types of securities brokerage activities more quickly than under current procedures and regulations and without the need for a case-by-case application procedure by designating certain types of securities brokerage and investment advisory activities as preapproved.

This rule was originated as a reproposal of a previous proposal for which the period for Board consideration elapsed on December 6, 1988. See RIN 3068-AA61, in the April, 1989 Unified Agenda, 54 FR 17549 (April 24, 1989).

Timetable:

Action	Date	FR Cite
NPRM	04/07/89	54 FR 14091
NPRM Comment Period End	05/08/89	54 FR 14091
Final Action	08/11/89	54 FR 32954
Final Action Effective	09/11/89	54 FR 32954

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dean V. Shahinian, Deputy Director for Corporate Activities, Corporate & Securities Division, OGC, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-7289

RIN: 3068–AA98

3926. ● PROHIBITED ACTS

Significance: Agency Priority

Legal Authority: 12 USC 1425a; 12 USC 1462; 12 USC 1464; 12 USC 1724 to 1726; 12 USC 1728 to 1730; 12 USC 1730a

CFR Citation: 12 CFR 584

Legal Deadline: None

Abstract: The Bank Board has amended its regulations governing prohibited acts by delegating additional authority to the Supervisory Agent to disapprove applications filed under 12 CFR 584.9(d) for relief from the Management Interlocks prohibitions found at 12 CFR 584.9 (b).

Timetable:

Action	Date	FR Cite
Final Action	05/24/89	54 FR 22414
Final Action Effective	05/24/89	54 FR 22414

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robyn Dennis, Financial Analyst, Office of Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street, NW, Washington, D.C. 20006, 202 331-4572

RIN: 3068–AA99

3927. ● REQUIREMENT THAT POTENTIAL CLAIMANTS AGAINST FSLIC RECEIVERSHIPS PRESENT NOTICE OF CLAIMS TO RECEIVER BEFORE COMMENCING LITIGATION

Significance: Agency Priority

Legal Authority: 12 USC 1437; 12 USC 1464; 12 USC 1729

CFR Citation: 12 CFR 575a

evaluate the merits of the potential

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Completed Actions

CFR Citation: 12 CFR 575a

Legal Deadline: None

Abstract: The Bank Board has adopted a regulation requiring that, prior to commencing litigation against the FSLIC as Receiver for a savings institution in liquidation, a litigant must have presented notice to the Receiver and allowed 180 days for the Receiver to evaluate the merits of the potential claim.

Timetable:

Action	Date	FR Cite
Final Action	03/24/89	54 FR 12414
Final Action Effective	03/24/89	54 FR 12414

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Judith L. Friedman, Associate General Counsel, Adjudication, Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, 202 906-7399

RIN: 3068–AB00

[FR Doc. 89-21755 Filed 10-27-89; 8:45 am]

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federal register

Monday
October 30, 1989

Part LII

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FMC

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FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of E.O. 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration during the period from October 1, 1989, to September 30, 1990, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 1100 L Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section.

The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's Unified Regulatory Agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Joseph C. Polking,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3928	Automated Tariff Filing	3072-AA61
3929	Index of Documents for Agreements	3072-AA64
3930	User Fees to Recover Agency Costs	3072-AA70
3931	Independent Action - Miscellaneous Provisions	3072-AA83
3932	Rates Quoted Subject to Booking	3072-AA86
3933	Financial Reports of Vessel Operating Common Carriers by Water in the Domestic Offshore Trades	3072-AA93
3934	Cancellation of Tariffs for Failure to Either File Anti-Rebate Certifications or Publish Appropriate Notices in Tariffs	3072-AB09
3935	Rules Implementing Report in Fact Finding 17 - Rates and Charges Provided at Marine Terminal Facilities	3072-AB17
3936	Rules Implementing Report in Fact Finding 15 -- Practices of Entities Acting as Intermediaries in Ocean Transportation of Goods in U.S. Commerce	3072-AB18
3937	Petition for Tariff Rule To Eliminate "Per Container" Rates (P4-89)	3072-AB19
3938	Petition for Tariff Rule on Maximum Container Weights (P3-89)	3072-AB20
3939	Petition for Section 16 Exemption - Cruise Lines International Association (P2-89)	3072-AB21

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3940	Equipment Interchange Agreements - Tariff Publication of Free Time and Detention Charges - Docket No. 89-4	3072-AB14
3941	Inquiry Into Laws, Regulations and Policies of the Government of Ecuador - Docket No. 89-07	3072-AB22

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3942	Practices of Ocean Common Carriers Regarding Effective Date of Rate Changes - Docket No. 88-19	3072-AB04

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Sequence Number	Title	Regulation Identifier Number
3943	Costs of Proceedings	3072-AA45
3944	Regulations to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States - Docket No. 88-24	3072-AB13
3945	Definitions of "Conference Agreement" and "Joint Service/ Consortium Agreement" - Docket No. 88-26	3072-AB15
3946	Tariff Filing Exemption for Port-to-Port Service in Hawaii - Docket No. 89-3	3072-AB15

FEDERAL MARITIME COMMISSION (FMC) — Prerule Stage

3928. AUTOMATED TARIFF FILING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 817; 46 USC app 841a; 46 USC app 1707; 46 USC app 1708; 46 USC app 1715; 46 USC app 1716; 46 USC app 1717; 31 USC 9701

CFR Citation: 46 CFR 515; 46 CFR 550; 46 CFR 580

Legal Deadline: None

Abstract: The Commission is considering the development of a fully automated system whereby tariff matters can be made available to the public and to the Commission through automatic data processing in order to reduce paperwork and other burdens. An Industry Advisory Committee is assisting the Commission in the project. User fees for services will be considered.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
Notice of Intent to form Advisory Committee	04/12/85	50 FR 14453
Notice of Second Meeting	05/19/86	51 FR 18376
Notice of Third Meeting	10/21/86	51 FR 37347
Notice of Inquiry on System Functionality	12/22/87	52 FR 48504
Further Notice	06/13/88	53 FR 22048
Second Report on System Functionality	12/29/88	53 FR 52785
End Review	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA61

3929. INDEX OF DOCUMENTS FOR AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 1703 to 1706; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 572.704

Legal Deadline: None

Abstract: Section 572.704 of Title 46 Code of Federal Regulations requires agreement parties who are required to file minutes to maintain an index of certain reports, studies and documents used for certain decisions, and to file such an index quarterly with the Commission. This requirement is being considered along with requirements to file minutes and other reports and with record retention provisions.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA64

3930. USER FEES TO RECOVER AGENCY COSTS

Significance: Agency Priority

Legal Authority: 5 USC 552 to 553

CFR Citation: 46 CFR 503.43

Legal Deadline: None

Abstract: The Commission is reviewing existing fees for services in order to determine whether they are adequate to recover costs.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA70

3931. INDEPENDENT ACTION - MISCELLANEOUS PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717; 46 USC app 1718

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: Review would attempt to analyze certain conference practices to ensure that they do not unduly inhibit

FMC — Prerule Stage

the right of individual members to take independent action as provided by the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA83

3932. RATES QUOTED SUBJECT TO BOOKING

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814 to 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 847; 46 USC app 1702 to 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 550; 46 CFR 580

Legal Deadline: None

Abstract: Review would determine the necessity of regulations governing the parties of quoting rates subject to booking. Related to FMC Spec. Dkt. 1343.

Timetable:

Action	Date	FR Cite
Begin Review	02/14/86	
End Review	06/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA86

3933. FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 820; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 522

Legal Deadline: None

Abstract: Current rule providing for domestic rate-making and justification methodology is being reviewed to determine if requirements can be made less stringent.

Timetable:

Action	Date	FR Cite
Begin Review	01/09/86	
End Review	06/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AA93

3934. CANCELLATION OF TARIFFS FOR FAILURE TO EITHER FILE ANTI-REBATE CERTIFICATIONS OR PUBLISH APPROPRIATE NOTICES IN TARIFFS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707; 46 USC app 1709; 46 USC app 1714; 46 USC app 1716

CFR Citation: 46 CFR 580; 46 CFR 582

Legal Deadline: None

Abstract: Rule would minimize noncompliance with the requirements to file Anti-Rebate Certifications (46 CFR 582) and to publish anti-rebate provisions in tariffs (46 CFR 580.5(c)(2)).

Timetable:

Action	Date	FR Cite
Begin Review	12/27/87	
End Review	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB09

3935. RULES IMPLEMENTING REPORT IN FACT FINDING 17 - RATES AND CHARGES PROVIDED AT MARINE TERMINAL FACILITIES

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 814; 46 USC app 816; 46 USC app 817(a); 46 USC app 820; 46 USC app 821; 46 USC app 833a; 46 USC app 841a; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 515; 46 CFR 560; 46 CFR 572

Legal Deadline: None

Abstract: Action would address issues of tariff and agreement filing requirements for marine terminal and stevedoring services.

Timetable:

Action	Date	FR Cite
End Review	04/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5796

RIN: 3072–AB17

3936. RULES IMPLEMENTING REPORT IN FACT FINDING 15 -- PRACTICES OF ENTITIES ACTING AS INTERMEDIARIES IN OCEAN TRANSPORTATION OF GOODS IN U.S. COMMERCE

Significance: Agency Priority

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Action would address issues regarding the definition of "shipper" and untariffed NVOCC's.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB18

FMC — Prerule Stage

3937. ● PETITION FOR TARIFF RULE TO ELIMINATE "PER CONTAINER" RATES (P4-89)

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission has received a petition for a tariff rule to eliminate "per container" rates from the TransPacific Westbound Freight Agreement, American Trucking Associations, and ATA Intermodal Council.

Timetable:

Action	Date	FR Cite
Notice of Petition	08/24/89	54 FR 35246

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB19

3938. ● PETITION FOR TARIFF RULE ON MAXIMUM CONTAINER WEIGHTS (P3-89)

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission has received a petition for a tariff rule on maximum container weights from the South Europe/USA Freight Conference, American Trucking Associations, and ATA Intermodal Council.

Timetable:

Action	Date	FR Cite
Notice of Petition	08/24/89	54 FR 35246

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB20

3939. ● PETITION FOR SECTION 16 EXEMPTION - CRUISE LINES INTERNATIONAL ASSOCIATION (P2-89)

Legal Authority: 46 USC app 815

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission has received a petition for a section 16 exemption from the Cruise Lines International Association.

Timetable:

Action	Date	FR Cite
Notice of Petition	07/25/89	54 FR 30939

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072–AB21

FEDERAL MARITIME COMMISSION (FMC) — Proposed Rule Stage

3940. EQUIPMENT INTERCHANGE AGREEMENTS - TARIFF PUBLICATION OF FREE TIME AND DETENTION CHARGES - DOCKET NO. 89-4

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814; 46 USC app 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841; 46 USC app 843; 46 USC app 845a; 46 USC app 847; 46 USC app 1702 to 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; ...

CFR Citation: 46 CFR 550; 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: Action would provide guidelines for filing equipment interchange agreement tariffs and similar provisions in service contracts. This will simplify the filing of equipment interchange agreements.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5506
Extension of Comment Period	03/17/89	54 FR 11249
NPRM Comment Period End	03/20/89	54 FR 5507
Comment Period End	04/04/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legal Authority Cont: 46 USC app 1718

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5796

RIN: 3072–AB14

3941. ● INQUIRY INTO LAWS, REGULATIONS AND POLICIES OF THE GOVERNMENT OF ECUADOR - DOCKET NO. 89-07

Significance: Agency Priority

Legal Authority: 46 USC app 876(1)(b); 46 USC app 1710a; Reorg Plan No. 7 of 1961

CFR Citation: 46 CFR 586

Legal Deadline: None

Abstract: The proposed rule would adjust or meet apparent unfavorable conditions by imposing burdens on an Ecuadorian carrier in response to burdens imposed on U.S. commerce by Ecuadorian laws and regulations.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	03/15/89	54 FR 10721
Notice of Further Comments	05/18/89	54 FR 21473
NPRM	08/18/89	54 FR 34194
NPRM Comment Period End	09/18/89	54 FR 34194

FMC — Proposed Rule Stage

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Next Action Undetermined
Small Entities Affected: Undetermined
Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725
RIN: 3072–AB22

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

3942. PRACTICES OF OCEAN COMMON CARRIERS REGARDING EFFECTIVE DATE OF RATE CHANGES - DOCKET NO. 88-19

Significance: Agency Priority
Legal Authority: 5 USC 553; 46 USC app 1707
CFR Citation: 46 CFR 580
Legal Deadline: None
Abstract: Requested rule would state that tariff rates and rules may not be applicable to cargo that is received by the carrier or its agent prior to the effective date of the tariff provision.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking	12/30/87	52 FR 49205
End Review	06/01/88	
NPRM	08/30/88	53 FR 33153
Extend time for comments to 11/01/88	10/04/88	53 FR 38969
NPRM Comment Period End	10/14/88	
Final Action	04/02/89	
Final Action	05/10/89	54 FR 20127
Effective Date Stayed Until Further Notice	07/10/89	54 FR 29036

Next Action Undetermined
Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725
RIN: 3072–AB04

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

3943. COSTS OF PROCEEDINGS

Significance: Agency Priority
Legal Authority: 5 USC 553; 46 USC app 1716; 46 USC app 1717(a)(4)
CFR Citation: 46 CFR 502
Legal Deadline: Other, Statutory, September 20, 1989.
Abstract: Section 18(a)(4) of the Shipping Act requires the Commission to collect and analyze data concerning the impact of the Act on the costs of major types of regulatory proceedings before the Commission. This action will provide the regulations needed to obtain this information.

Timetable:

Action	Date	FR Cite
Withdrawn Not necessary	07/01/89	

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725
RIN: 3072–AA45

3944. REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES - DOCKET NO. 88-24

Significance: Agency Priority
Legal Authority: 5 USC 553; 46 USC app 876(1)(b); 46 USC app 1712(b)(5); 46 USC app 1714; 46 USC app 1716; 46 USC app 10002; Reorg. Plan No. 7 of 1961 (75 Stat 840)
CFR Citation: 46 CFR 585; 46 CFR 587; 46 CFR 588 (New)
Legal Deadline: None
Abstract: The action will implement the Foreign Shipping Practices Act of 1988, 46 USC app 10002.

Timetable:

Action	Date	FR Cite
NPRM	11/01/88	53 FR 44039
NPRM Comment Period End	01/15/89	
Final Action	03/21/89	54 FR 11529
Final Action Effective	04/20/89	54 FR 11529

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5740
RIN: 3072–AB13

3945. DEFINITIONS OF "CONFERENCE AGREEMENT" AND "JOINT SERVICE/ CONSORTIUM AGREEMENT" - DOCKET NO. 88-26

Significance: Agency Priority
Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1714 to 1717
CFR Citation: 46 CFR 572
Legal Deadline: None
Abstract: Action would amend the definitions of "conference agreement" and "joint service/consortium agreement" in rules governing the filing of agreements.

Timetable:

Action	Date	FR Cite
NPRM	12/06/88	53 FR 42910
Withdrawn	06/22/89	54 FR 26218
NPRM Comment Period End	12/06/89	

Small Entities Affected: None
Government Levels Affected: None

FMC — **Completed Actions**

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Monitoring, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5787
RIN: 3072–AB15

3946. TARIFF FILING EXEMPTION FOR PORT-TO-PORT SERVICE IN HAWAII - DOCKET NO. 89-3

Significance: Agency Priority
Legal Authority: 5 USC 553; 46 USC app 817; 46 USC app 833a; 46 USC app 841a; 46 USC app 844
CFR Citation: 46 CFR 550
Legal Deadline: None
Abstract: Action would permit carriers in the port-to-port service in the Hawaiian domestic offshore trade to publish on one day's notice reductions in existing commodity rates, and rates on new tariff items.

Timetable:

Action	Date	FR Cite
NPRM	02/02/89	54 FR 5253
NPRM Comment Period End	03/06/89	
Final Action	03/22/89	54 FR 11716
Final Action Effective	03/22/89	54 FR 11716

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5740
RIN: 3072–AB16

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Part LIII

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from October 1, 1989, through April 1, 1990. The next semiannual agenda will be published in April 1990.

DATES: Comments about the form or content of the agenda may be submitted any time during the next six months.

ADDRESS: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1989 Agenda as part of the October 1989 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12291. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (●) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3947	Regulation: C – Home Mortgage Disclosure	7100-AB04
3948	Regulation: E - Electronic Fund Transfers	7100-AA77
3949	Regulation: G - Securities Credit by Persons Other Than Banks, Brokers, or Dealers; and Regulation: U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks	7100-AA99
3950	Regulation: K - International Banking Operations	7100-AA92
3951	Regulation: K - International Banking Operations	7100-AA98
3952	Regulation: P - Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks	7100-AA69
3953	Regulation: T - Credit by Brokers and Dealers	7100-AA72
3954	Private Sector Presentment (Docket Number: R-0631)	7100-AA96

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3955	Regulation: B - Equal Credit Opportunity (Docket Number: R-0671)	7100-AA97
3956	Regulation: D - Reserve Requirements of Depository Institutions (Docket Number: R-0571)	7100-AA62
3957	Regulation: Q - Interest on Deposits (Docket Number: R-0514)	7100-AA56
3958	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0537)	7100-AA52
3959	Regulation: Y - Bank Holding Companies and Change in Bank Control and Regulation H - Membership of State Banking Institutions (Docket Number: R-0616)	7100-AA88
3960	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number R-0652)	7100-AA41
3961	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0664)	7100-AB03
3962	Proposals to Modify the Payments System Risk Reduction Program (Docket Numbers: R-0661, R-0668, R-0669, R-0670)	7100-AA76

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3963	Regulation: K - International Banking Operations	7100-AA67
3964	Regulation: K - International Banking Operations (Docket Number: R-0550)	7100-AA58

FRS

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3965	Regulation: T - Credit by Brokers and Dealers	7100-AA93
3966	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0614)	7100-AA89
3967	Regulation: Z - Truth in Lending (Docket Number: R-0655)	7100-AA91
3968	Regulation: Z - Truth in Lending (Docket Number R-0654)	7100-AB00
3969	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0639)	7100-AA85
3970	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0648)	7100-AB01
3971	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0649)	7100-AB02
3972	Proposals for Long-Term Improvement to the Check Collection System (Docket Number: R-0622)	7100-AA94

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

3947. ● REGULATION: C – HOME MORTGAGE DISCLOSURE

Legal Authority: 12 USC 2803(e); 12 USC 2803(h)

CFR Citation: 12 CFR 203

Legal Deadline: Other, Statutory, January 1, 1990.
As of January 1, 1990, lenders are required to collect the new information.

Abstract: Before year-end, the Board will propose for public comment and adopt revisions to Regulation C to implement amendments to the Home Mortgage Disclosure Act (HMDA) that were contained in the Financial Institutions Reform, Recovery and Enforcement Act, signed August 9, 1989. Currently, HMDA requires covered institutions to disclose and report information regarding their mortgage lending. Among other things, the statutory amendments extend the coverage of HMDA to include most mortgage lenders. Covered institutions will be required also to maintain and disclose information regarding mortgage loan applications, and information regarding the race, gender and income of applicants and borrowers. Under the amendments, banks and other depository institutions with $30 million or less in assets will not be required to report data on the race, gender, and income level of applicants and borrowers. Institutions with $10 million or less in assets remain exempt from all requirements of the Act. Therefore, it is not expected that the proposals will have a significant economic impact on the smallest mortgage lenders; they will have significant economic impact on institutions (cont)

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation C by	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: that have over $30 million in assets.

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AB04

3948. REGULATION: E - ELECTRONIC FUND TRANSFERS

Legal Authority: 15 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: The Board is conducting a review of Regulation E, which implements the Electronic Fund Transfer Act, and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of technological and other developments. The Board will also consider whether to make any legislative recommendations for statutory changes.

Public comment will be requested on any regulatory proposals that may be developed following the review. It is not anticipated that the revisions would have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board may consider revisions to Regulation E	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dolores S. Smith, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AA77

3949. REGULATION: G - SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS; AND REGULATION: U - CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 221; 12 CFR 207

Legal Deadline: None

Abstract: During the next three months the Board may address the ability of

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lenders subject to Regulations G and U to transfer a credit between these two types of lenders without treating the transaction as creating a new extension of credit. The regulations currently permit a transfer only between lenders subject to the same regulation. Several law firms have expressed an interest in such a deregulatory amendment.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may address transfer provisions in Regulations G and U	11/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA99

3950. REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 1843 (c)(13); 12 USC 601 to 604a; 12 USC 611 to 631

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: The Board will consider whether to publish for public comment a proposed amendment to Regulation K to permit U.S. banking organizations to engage in a broader range of activities abroad. Specifically, the Board will consider whether U.S. banking organizations should be permitted to underwrite, distribute, and deal in equity securities outside the United States in excess of the current restriction in Regulation K, which prohibits a subsidiary of a U.S. banking organization from making an underwriting commitment for shares of an issuer in excess of: (i) $2 million, or (ii) 20 percent of the capital and surplus of the issuer's voting shares, unless covered by binding commitments from subunderwriters or other purchasers.

In addition, the Board will consider whether the purchases of shares of companies held in trading accounts should continue to be subject to the investment procedures set out in Regulation K at 12 CFR 211.5(c). This proposal may be considered in connection with the broad-based review of Regulation K to be issued by year-end. See RIN 7100-AA98. It is not expected that the proposal would have a significant economic impact on a (cont)

Timetable:

Action	Date	FR Cite
Board may consider an amendment to Regulation K	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: substantial number of small businesses, because it applies to U.S. banking organizations involved in international securities activities.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA92

3951. REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 221 et seq; 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

Legal Deadline: Other, Statutory, December 1989.
Section 3(b) of the International Banking Act of 1978 requires that Board review and revise Subpart A of Regulation K every five years, beginning in 1979.

Abstract: In 1989, the Board will conduct a broad-based review of Subpart A of Regulation K (International Operations of United States Banking Organizations), as required every five years by the International Banking Act. This review will include consideration of the powers of Edge corporations and additional overseas activities of U.S. banking organizations, including expanded authority to underwrite and deal in equity securities outside the United States. In addition, Subpart B (Foreign Banking Organizations) will be reviewed, particularly with respect to the effect of the revisions of the Standard Industrial Classification (SIC) codes on that Subpart. Subpart C (Export Trading Companies) will be reviewed with a view toward bringing that Subpart into conformity with the Export Trading Company Act Amendments of 1988. Two items that have been listed on the Board's Semiannual Agenda will now be considered in connection with this broad-based review. These items relate to restrictions on transactions with affiliates by Edge corporations (Docket No. R-0550; RIN 7100-AA58) and a possible amendment to Section 211.3(b)(g) governing (cont)

Timetable:

Action	Date	FR Cite
Board will conduct review by	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: establishment of a foreign operating subsidiary by a member bank (RIN 7100-AA67). Separate, but related to this review of Regulation K, is the consideration of the liberalization of overseas securities activities (RIN: 7100-AA92).

It is not expected that any revisions would have an adverse impact on a substantial number of small banking organizations.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA98

3952. REGULATION: P - MINIMUM SECURITY DEVICES AND PROCEDURES FOR FEDERAL RESERVE BANKS AND STATE MEMBER BANKS

Legal Authority: 12 USC 1881 to 1884

CFR Citation: 12 CFR 216

Legal Deadline: None

Abstract: During the next two months, the Board will conduct a zero-based review of Regulation P, which implements the Bank Protection Act of 1968, and establishes minimum security standards for Federal Reserve Banks and for State member banks. The review will consider whether any provisions of the regulation are outdated and whether any substantive

changes are necessary because of new technological developments. The regulation will also be reorganized and revised for simplicity and clarity. Public comment will be requested following the zero-based review. It is not anticipated that the revised regulation will have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation P	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas A. Durkin, Regulatory Planning and Review Director, Federal Reserve System, Office of the Secretary, 202 452-2326

RIN: 7100-AA69

3953. REGULATION: T - CREDIT BY BROKERS AND DEALERS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: During the next two months the Board may consider proposing amendments to Regulation T to accommodate settlement and clearance of foreign securities in accounts covered by Regulation T. A request has been made that extensive amendments be proposed because of the growing internationalization of the securities markets.

It is not anticipated that any proposals in this area would affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may review a proposal to amend Regulation T	10/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA72

3954. PRIVATE SECTOR PRESENTMENT (DOCKET NUMBER: R-0631)

Legal Authority: 12 USC 4008(c)

CFR Citation: None

Legal Deadline: None

Abstract: In April 1988, the Board requested comment on whether it should require paying banks to pay for checks presented by private sector collecting banks before 2:00 p.m. in same-day funds and without imposing presentment fees (53 FR 11911, April 11, 1988). The purpose of such a regulation would be to speed the forward collection of checks by requiring paying banks to accept checks without charging a fee later in the day, thus increasing the number of checks that can be collected that day. It would give private sector collecting banks the same rights vis-a-vis paying banks as the Federal Reserve Banks now have.

The Board has not yet made a specific proposal to amend its regulation in this regard. Rather, it merely requested comment on the idea of same-day payment in private sector presentments. If such a regulation were to be adopted, small entities that might be affected include small banks and State and local governments.

The Board will review the public comments and determine whether to propose specific regulations within the next four months.

Timetable:

Action	Date	FR Cite
Board requests comment	04/11/88	53 FR 11911
Board extends comment period to December 1, 1988	07/21/88	53 FR 27565
Board will review further	12/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100-AA96

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

3955. REGULATION: B - EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0671)

Legal Authority: 15 USC 1691 et seq as amended Equal Credit Opportunity Act

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In July 1989, the Board published for comment revisions to Regulation B to implement amendments to the Equal Credit Opportunity Act contained in H.R. 5050, enacted in October 1988 (54 FR 29734, July 14, 1989). The Board's proposal would require creditors (1) to give written notice to business applicants (either at the time of application or when credit is denied) of their right to a written statement of the reasons for credit denial or other adverse action, and (2) to maintain records used in evaluating credit applications for 25 months. The proposal closely parallels the rules that govern nonbusiness transactions (with one or two differences that would offer creditors some flexibility). Creditors could follow the present nonbusiness rules and be in full compliance with the amended regulation.

The statutory changes were intended to expand the ECOA rights available to small-business owners. Under the Board's proposal, the new rules would apply to credit applications from businesses with gross revenues of $500,000 or less; other applications and trade credit transactions would (cont)

Timetable:

Action	Date	FR Cite
Board proposed amendments to Regulation B	07/14/89	54 FR 29734

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Action	Date	FR Cite
Further Board action by	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: remain subject to modified rules, which also would be revised. The new rules will cover all institutions that extend business loans, and do not distinguish between large and small creditors. Consequently, institutions of all sizes will incur similar types of costs in implementing the rules.

The Board will review the public comments and is expected to adopt final regulations in late October 1989; the new rules would take effect January 1, 1990.

Agency Contact: Adrienne D. Hurt, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AA97

3956. REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0571)

Legal Authority: 12 USC 248(k); 12 USC 461(a)

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In May 1986, the Board issued for comment rules to clarify the definition of "deposit" in Regulation D to include the interest or liability associated with a borrowing in the form of certain sales of assets and related transactions by a depository institution (51 FR 16855, May 7, 1986). These transactions include a sale of assets that involves a full guarantee by the institution that, in effect, substitutes the institution's credit standing for that of the ultimate borrower and in which the institution retains the risk of borrower default after the asset is sold.

Further, the regulation currently treats obligations of an affiliate as deposits of the depository institution to the extent the proceeds are provided to the depository institution. The Board proposes to exclude proceeds received from a sale of assets without recourse to the affiliate. The proposal also would clarify the application of Regulation D to certain of these transactions involving organizations effectively controlled by the depository institution even though not formally affiliated. Finally, the proposal would (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation D	05/07/86	51 FR 16855
Comment period extended	07/10/86	51 FR 25069
Further Board action by	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: clarify how the Board measures the "maturity" of an obligation for the purposes of Regulation D. The proposal requests comment on any alternatives that the public believes may be preferable to the Board's proposed amendments. Suggested alternatives will be considered when comments are analyzed.

The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

The Board will review the comments and take further action in the near future.

Agency Contact: John Harry Jorgenson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100–AA62

3957. REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER: R-0514)

Legal Authority: 12 USC 371b

CFR Citation: 12 CFR 217

Legal Deadline: None

Abstract: In January 1986, the Board issued for comment proposals to clarify, update, and simplify the advertising provisions of Regulation Q (51 FR 1379, January 13, 1986). The revisions incorporate and supersede the proposals of March 1984 concerning advertising of split-rate deposits and IRA/Keogh (HR 10) Plan accounts. The proposal is not expected to have a significant adverse effect on small banks.

The Board will review the comments and is expected to take further action within the next six months.

It is also anticipated that the Board will consider at that time various options with regard to providing written disclosures to consumers about their accounts.

Timetable:

Action	Date	FR Cite
Board proposed revisions	01/13/86	51 FR 1379
Further Board action by	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick J. McDivitt, Attorney, Federal Reserve System, Legal Division, 202 452-3818

RIN: 7100–AA56

3958. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0537)

Legal Authority: 12 USC 1841 Bank Holding Company Act; 12 USC 221 Federal Reserve Act; 12 USC 3901 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1986, the Board requested public comment on a proposal to permit bank holding companies to engage in real estate investment activities within certain limits (52 FR 543, January 7, 1987). The proposed limits are designed to ensure that conduct of the activity does not result in unsafe or unsound practices, unfair competition, conflicts of interest or other adverse effects.

The Board requested public comment on a number of specific items, including whether real estate investment activities may be deemed to be closely related to banking and a proper incident thereto for purposes of Section 4(c)(8) of the Bank Holding Company Act; whether the proposed limits on the size, scope, and manner in which the activity would be conducted are appropriate; whether nonbank companies owned by holding company banks should be prohibited from conducting these activities; and whether the Board should establish special capital requirements for bank holding companies that control banks directly engaged in these activities.

The proposal, if adopted, would permit bank holding (CONT)

Timetable:

Action	Date	FR Cite
ANPRM	01/31/85	50 FR 4519
Board issues proposal for public comment	01/07/87	52 FR 543
Further Board action indefinite	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: companies to engage in limited real estate investment activities that bank holding companies are not now permitted to conduct and would not impose more burdensome requirements on bank holding companies than are currently applicable. Moreover, the proposal includes provisions designed to permit small bank holding companies to participate meaningfully in the proposed activities. The proposal does not impose any limitations on the direct real estate investment activities of holding company banks. (See Docket Number R-0616, for additional information on proposed real estate investment limitations.)

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking to rescind the Regulation Y provision permitting bank holding companies to acquire, through their subsidiary state banks, shares of companies engaged in activities that the bank is permitted to conduct under state law, so-called operations subsidiaries (R-0652).

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100–AA52

3959. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL AND REGULATION H - MEMBERSHIP OF STATE BANKING INSTITUTIONS (DOCKET NUMBER: R-0616)

Legal Authority: 12 USC 1843(c)(8); 12 USC 371c; 12 USC 3901

CFR Citation: 12 CFR 225.13(b)(1); 12 CFR 225, Appendix; 12 CFR 208.14

Legal Deadline: None

Abstract: In November 1987, the Board requested comment on whether, in evaluating proposals submitted under section 3 of the Bank Holding Company Act, the Board should consider the impact of real estate activities of the bank to be acquired by the bank holding company on the financial condition of the bank and bank holding company, and, where appropriate, should prohibit banks and savings banks that are acquired by bank holding companies from directly engaging in real estate investment and development activities (52 FR 42301, November 4, 1987).

The Board also requested comment on whether member banks that are not in a bank holding company should be made subject to the interaffiliate lending restrictions of section 23A of the Federal Reserve Act in their dealings with real estate investment and development subsidiaries of the bank.

Finally, the Board requested comment on whether the Board should impose special capital requirements on real estate subsidiaries of banks in a bank holding company, under the Board's authority in the International Lending Supervision Act. These three proposals supplement the Board's earlier (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	11/04/87	52 FR 42301
Further Board action indefinite	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: request for comment in December 1986 regarding whether the Board should permit bank holding companies to engage in real estate investment activities.

This proposal is not expected to have a significant economic impact on small companies because the Board believes that very few small banks are currently engaged in real estate investment and development activities, and bank holding companies are not generally permitted to engage in these activities.

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking to rescind the Regulation Y provision permitting bank holding companies to acquire, through their subsidiary state banks, shares of companies engaged in activities that the bank is permitted to conduct under state law, so-called operations subsidiaries (R-0652).

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100–AA68

3960. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER R-0652)

Legal Authority: 12 USC 1843 Bank Holding Company Act; 12 USC 1844(b) Bank Holding Company Act

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: A provision of Regulation Y permits a State bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under State law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under Federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

In December 1988, the Board requested public comment regarding whether this rule, as it applies to nonbanking companies owned by state banks in a holding company system, continues to be valid and appropriate in light of enactment of the (cont)

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FRS — Final Rule Stage

Timetable:

Action	Date	FR Cite
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board requested comment	12/05/88	53 FR 48915
Further Board action by	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Garn-St Germain Act and certain recent court decisions (53 FR 48915, December 5, 1988). The Board also held an informal public hearing on this matter on April 7, 1989. The Board has not proposed revising its current rule regarding subsidiaries of national banks in a holding company. A determination to reverse the Board's state bank rule could have an adverse impact on small banks that are subsidiaries of holding companies because they might be required to restructure their nonbanking activities or to take other action. The Board is expected to take further action within the next six months.

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Legal Division, Federal Reserve System, **202 452-3583**

RIN: 7100–AA41

3961. ● REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0664)

Legal Authority: 12 USC 1843(c)(8)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1988, the Board requested public comment on a proposal by a bank holding company to provide armored car transportation services to non-affiliated customers and on whether the proposed armored car activities may be deemed to be closely related to banking and a proper incident thereto for purposes of Section 4(c)(8) of the Bank Holding Company Act (53 FR 50292, December 14, 1988).

The National Armored Car Association submitted comments in opposition to the application and requested a hearing on whether the proposal would meet Section 4(c)(8) of the Bank Holding Company Act. A formal, public hearing before a hearing officer was held on June 16 and July 11, 1989, at the offices of the Board in Washington, D.C. A recommended decision by the hearing officer is expected to be filed with the Board in September, 1989, after which the Board will consider the application. The proposal, if adopted, would permit a bank holding company to engage in a broader range of armored car services than bank holding companies currently are permitted to conduct under 12 CFR 225. Specifically, the proposal would permit a small bank (cont)

Timetable:

Action	Date	FR Cite
Board issued proposal for comment	12/14/88	53 FR 50292
Board will review further	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: holding company that currently operates an armored car for internal automatic teller machine servicing to utilize excess capacity in the armored car to serve non-affiliated financial institutions and other customers in the East Moline, Illinois, trading area.

Agency Contact: Kay E. Bondehagen, Senior Attorney, Legal Division, Federal Reserve System, **202 452-2067**

RIN: 7100–AB03

3962. PROPOSALS TO MODIFY THE PAYMENTS SYSTEM RISK REDUCTION PROGRAM (DOCKET NUMBERS: R-0661, R-0668, R-0669, R-0670)

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In June 1989, the Board requested comment on several proposals that would modify its payments system risk reduction program (54 FR 26090, June 21, 1989). The proposals concerned pricing of daylight overdrafts (R-0668, previously proposed in Docket R-0592, 51 FR 45042, December 16, 1986), book-entry securities transfers (R-0669), and foreign bank agencies and branches (R-0670). In conjunction with the proposals, the Board issued three policy statements regarding private delivery-against-payment systems (R-0665), offshore clearing and netting systems (R-0666), and rollovers and continuing contracts (R-0667).

In addition, as another facet of its risk reduction program, in March 1989, the Board requested comment on changes in the way the Federal Reserve Banks treat automated clearing house transactions (Docket R-0661, 54 FR 8822, March 2, 1989). It is not expected that these actions will have a significant economic impact on a substantial number of small entities, because small entities do not usually participate in large-dollar wire transfer systems.

Timetable:

Action	Date	FR Cite
Board requested comment	06/21/89	54 FR 26090
Further Board action by	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Board will review the public comments and is expected to take further action by April 1990.

Agency Contact: Edward C. Ettin, Deputy Director, Federal Reserve System, Division of Research and Statistics, **202 452-3368**

RIN: 7100–AA76

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

3963. REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 601 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: The last Semiannual Agenda included a possible amendment to the Board's regulation governing the establishment of foreign operating subsidiaries by member banks. The amendment would eliminate the requirement in section 211.3(b)(9) of Regulation K that a member bank's operating subsidiary be established only where required by local law or regulation. The revision is intended to promote the efficiency of member banks' foreign operations. The Board will consider this item in connection with the broad-based review of Regulation K expected by the end of the year. See RIN 7100-AA98.

The proposal would not have a significant economic impact on a substantial number of small businesses because it affects only U.S. banks operating abroad.

Timetable:

Action	Date	FR Cite
Amendment to be considered in broad-based review of Regulation K (RIN 7100-AA98)	08/25/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, **202 452-3786**

RIN: 7100–AA67

3964. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0550)

Legal Authority: 12 USC 611 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In August 1985, the Board published for comment proposed regulations that would restrict lending by an Edge Corporation to its affiliates where the Edge Corporation is not subject to the restrictions of Section 23A of the Federal Reserve Act (12 USC 371c) because it is not owned by a U.S. insured bank (50 FR 35238, August 30, 1985). In taking this action, the Board noted the increasing number of owners of Edge Corporations that are not subject to Federal banking supervision and the potential adverse effects that might result from such affiliations, such as the impairment of the Edge's ability to act as an impartial arbiter of credit. The Board requested comment on the effect of the proposal on existing Edge Corporations, especially those owned by foreign banks and whether any exemptions from the restrictions are appropriate.

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies only to organizations involved in international banking. (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation K	08/30/85	50 FR 35238
Amendment to be considered in broad-based review of Regulation K (RIN 7100-AA98)	08/25/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The Board is continuing to evaluate whether this proposal should be adopted and will consider it in the broad-based review of Regulation K expected by the end of the year. See RIN 7100-AA98.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, **202 452-3786**

RIN: 7100–AA58

3965. REGULATION: T - CREDIT BY BROKERS AND DEALERS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: Several national securities exchanges have proposed trading new stock-index-related products, often called "index participations." Because these products may not fit the existing categories of securities in Regulation T, it is expected that the Board will address the marginability of these products at broker-dealers.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Because of pending litigation, further review of this issue by the Board is indefinite.

Timetable:

Action	Date	FR Cite
Further review is indefinite	08/25/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, **202 452-2781**

RIN: 7100–AA93

3966. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0614)

Legal Authority: 12 USC 1843(c)(8)

CFR Citation: 12 CFR 225.25(b)(9)

Legal Deadline: None

Abstract: In September 1987, the Board requested public comment on whether the Board should authorize bank holding companies to acquire thrift institutions as a general matter under section 4(c)(8) of the Bank Holding Company Act. The Board currently permits bank holding companies to acquire thrift institutions only if the thrift is failing or has failed, and the acquisition is likely to result in revitalization of the thrift.

The Board requested comment on whether changes in the economic and regulatory environment, in particular the expansion of the powers of thrifts and the growth in state initiatives authorizing interstate banking, justify revisions of the Board's policy and the authorization of thrift acquisitions by bank holding companies. The Board also requested comment on what, any, conditions the Board should impose on bank holding companies seeking to acquire thrifts. The provisions of the

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recently enacted Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Act), which became effective on August 9, 1989, specifically permit the (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	09/25/87	52 FR 36041
Board adopted proposal	08/24/89	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Board to authorize the acquisition of any savings association by any bank holding company. The Board, therefore, on August 24, 1989 adopted its proposal in light of the provisions of the Act (Federal Register cite unavailable). The Board's proposal is not expected to impose a substantial economic burden on small bank holding companies because this action would permit all bank holding companies to acquire thrift institutions, and would not impose different requirements on companies based on their size.

Agency Contact: Michael J. O'Rourke, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3288

RIN: 7100–AA89

3967. REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER: R-0655)

Legal Authority: 15 USC 1604, as amended, Truth in Lending Act

CFR Citation: 12 CFR 226

Legal Deadline: Other, Statutory. The Board's rules apply to open-end credit plans entered into or applications for such plans that are distributed on or after November 7, 1989.

Abstract: In June 1989, following review of public comments received on its January 1989 proposal, the Board published a final rule to amend Regulation Z to implement provisions of the Home Equity Loan Consumer Protection Act of 1988, which requires creditors to provide consumers with more information for open-end credit plans secured by the consumer's dwelling, and imposes substantive limitations on these plans (54 FR 24670, June 9, 1989).

Under the amended regulation, creditors have to provide additional information at the time an application is provided to consumers, including information about the payment terms, fees imposed under the plan, and, for variable-rate plans, information about the index and a fifteen-year history of changes in the index values. Creditors also are required to provide consumers with a brochure prepared by the Board (or with one substantially similar) that describes home equity plans. In addition, new duties are imposed on third parties who provide applications to consumers, and the rules relating to advertisements for home equity plans have been modified. (cont)

Timetable:

Action	Date	FR Cite
Board proposed amendment	01/23/89	54 FR 3063
Board adopted final rule	06/09/89	54 FR 24670

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: The final rule also amends Regulations Z to implement new substantive limitations imposed by the law on home equity plans. Small institutions engaged in home equity lending could incur additional expenses, including costs to revise and reprint disclosure forms, to acquire and distribute the home equity brochures, and possibly to modify their contracts. They also will need to review and possibly modify their advertisements for home equity plans. The Board has revised Appendix G of the regulation to provide disclosure samples and model clauses to assist creditors in preparing their disclosures.

Agency Contact: Sharon Bowman, Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3867

RIN: 7100–AA91

3968. REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER R-0654)

Legal Authority: 15 USC 1604 as amended Truth in Lending Act

CFR Citation: 12 CFR 226

Legal Deadline: Final, Statutory. Final regulations were effective April 3, 1989, 150 days from enactment of the law.

Abstract: In April 1989, following review of public comments received on its December 1988 proposal, the Board adopted revisions to Regulation Z to implement amendments to the Truth in Lending Act that were part of H.R. 515, the Fair Credit and Charge Card Disclosure Act of 1988, enacted on November 3, 1988 (54 FR 13855, April 6, 1989). The statutory amendments require credit and charge card issuers to provide certain credit disclosures in telephone solicitations and in direct mail and other applications and solicitations to open credit and charge card accounts. Card issures will also be required to give cardholders written notice regarding the renewal of their credit and card accounts before a cardholder has to pay a fee to renew the account. In addition, the law requires credit card issures to provide cardholders with written notice of a change in the entity providing credit insurance on credit card accounts.

The Board also revised Appendix G of Regulation Z to provide model forms and clauses to assist creditors in preparing their disclosures.

Timetable:

Action	Date	FR Cite
Board proposed amendment to Regulation Z	12/23/88	53 FR 51785
Board adopted final rule	04/06/89	54 FR 13855

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: Regardless of size, most commercial banks offer credit card plans to consumers. The regulations do not distinguish between large and small creditors. Consequently, creditors of all sizes will incur similar types of costs. However, the magnitude of these expenses will depend upon the level of a particular creditor's credit card plan operation and the type of marketing employed. With respect to bank cards, the majority of credit card accounts are held by a relatively small number of large card issuers. These institutions also probably account for a substantial proportion of the credit card solicitations. Consequently, large card issuers will probably incur a larger aggregate cost, relative to smaller card issuers, to comply with the new rules, although on a cost-per-solicitation or cost-per-account basis these costs will probably be relatively small.

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100–AB00

3969. REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0639)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229.36

Legal Deadline: None

Abstract: In June 1988, the Board issued for comment a proposed amendment to Regulation CC that would prohibit banks from issuing teller's checks unless a depositary bank located in the same check processing region as the issuing bank would normally receive credit for the check as early as credit for a check drawn on the issuing bank. The purpose of the amendment is to address the problems connected with certain delayed disbursement practices.

Following review of public comments, and in lieu of adopting the proposed regulation, the Board issued a policy statement discouraging the delayed disbursement of teller's checks and cashier's checks (54 FR 13839, April 6, 1989). The policy statement applies to all banks regardless of size. It is not expected that the policy will impose significant costs on small banks.

Timetable:

Action	Date	FR Cite
Board requested comment on a proposed amendment to Regulation CC	06/27/88	53 FR 24093
Adoption of policy statement	04/06/89	54 FR 13839

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100–AA95

3970. REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0648)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In November 1988, the Board adopted a rule to amend its Regulation CC to treat "bank payable through checks" as local or nonlocal based on the location of the bank on which they are written rather than the location of the bank through which they are payable. In conjunction with the final rule, the Board issued proposed amendments to Regulation CC designed to alleviate the operational difficulties and additional risks resulting from the final rule. Following review of the public comments, the Board, in July 1989, issued a final rule that provides for certain labeling requirements for bank payable through checks and shifts some of the risk of loss due to a late return of a bank payable through check to the bank on which the check is written (54 FR 32035, August 4, 1989). The proposed rule would affect all institutions that issue payable through checks. A number of these institutions would be small banks, generally credit unions.

Timetable:

Action	Date	FR Cite
Board issued proposals for comment	11/02/88	53 FR 44335
Final rule adopted	08/04/89	54 FR 32035

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100–AB01

3971. REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0649)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: The Board's Regulation CC requires banks to make funds available to their customers within specific times, to disclose their fund availability policies to their customers, and to handle returned checks expeditiously. Since the publication of Regulation CC, the Board has received numerous requests from banks and others for clarification of various provisions of the regulation. In November 1988, the Board issued for comment proposed changes to Regulation CC that respond to many of the questions and provide assistance to banks in understanding and complying with the regulation.

Following review of public comments, the Board adopted final amendments in April 1989 (54 FR 13841, April 6, 1989).

Adoption of the final amendments did not result in any significant economic impact on small entities.

Timetable:

Action	Date	FR Cite
Board requested comment on proposed changes	11/02/88	53 FR 44343
Board adopted proposed amendments	04/06/89	54 FR 13841

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Attorney, Federal Reserve System, Legal Division, 202 452-3198

RIN: 7100–AB02

3972. PROPOSALS FOR LONG-TERM IMPROVEMENT TO THE CHECK COLLECTION SYSTEM (DOCKET NUMBER: R-0622)

Legal Authority: 12 USC 4001 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In December 1987, the Board published for comment several proposals that have the potential to improve the check collection system (52 FR 47112, December 11, 1987). They are, however, long-term proposals that are not likely to be implemented in the immediate future. They include bar-code endorsements, digitized image processing of checks, electronic clearing zones, and an electronic clearing house.

If these were to be introduced, they would likely have a significant economic impact on a substantial number of small banks and small entities including State and local governments that use their services.

Because these are long-term proposals requiring extensive review, the Board does not expect action in the near future.

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FRS — Completed Actions

Timetable:

Action	Date	FR Cite
Board issued proposals for comment	12/11/87	52 FR 47112
Action not expected in near future	08/25/88	

Action	Date	FR Cite
Board may take further action	04/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Gayle Thompson, Program Leader, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-2934

RIN: 7100-AA94

[FR Doc. 89-21757 Filed 10-27-89; 8:45 am]

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federal register

Monday
October 30, 1989

Part LIV

Federal Trade Commission

Semiannual Regulatory Agenda

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FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Each projected date reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda.

Several agenda items concern rulemaking proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding is likely to have a significant economic impact on such entities will depend upon the Commission's final determinations respecting the need for and the substance of a trade regulation rule.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available. These views should not be regarded as a final staff position nor should they be attributed to the Commission itself. The Commission will independently address the issues presented on the rulemaking record in each proceeding.

Agenda items include the projected timing of certain future actions. In most instances, the dates of future events are listed by month, not by a specific day. Acquisition of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact person listed for each particular proceeding.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3973	Review of Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses ("Holder-in-Due Course Rule")	3084-AA08
3974	Informal Dispute Settlement Procedures	3084-AA30
3975	Franchise Rule	3084-AA39

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3976	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
3977	Review of the Sewing Machine Rule	3084-AA39
3978	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA40

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3979	Review of the Funeral Industry Practices Rule	3084-AA05
3980	Mail Order Merchandise	3084-AA19
3981	Review of the Premerger Notification Rules and Report Form	3084-AA23
3982	Appliance Labeling Rule -- Energy Policy and Conservation Act	3084-AA26
3983	Transistor Rule	3084-AA37

FTC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3954	Retail Food Store Advertising and Marketing Practices	3084-AA17

FEDERAL TRADE COMMISSION (FTC)

Prerule Stage

3973. REVIEW OF TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS CLAIMS AND DEFENSES ("HOLDER-IN-DUE COURSE RULE")

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 433

Legal Deadline: None

Abstract: The Holder-In-Due Course Rule affects many sales that are financed by closed-end or open-end consumer credit; therefore, it may have a significant effect on a substantial number of small entities. The Commission has solicited comments and data on this issue and, if the Rule has had an effect, whether it should be amended to minimize what kinds of costs the Rule has imposed on small entities, how the Rule has effected the availability and cost of credit for small entities and how creditors and sellers have adapted to the Rule. This information will be used to determine whether the Commission should amend or repeal the Rule.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	11/03/88	53 FR 44456
Commission Consideration of Staff Recommendations	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard C. Sauer, Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3144

RIN: 3084-AA08

3974. INFORMAL DISPUTE SETTLEMENT PROCEDURES

Legal Authority: 15 USC 2309; 15 USC 2310(a)(2) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Magnuson-Moss Warranty Act, enacted on January 4, 1975, requires that the Federal Trade Commission promulgate a rule prescribing the minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty subject to the Act. Because warrantors are not required to incorporate such procedures into warranties, the rule applies only to warrantors who choose to do so. The present rule sets forth detailed procedural, recordkeeping, and reporting requirements for dispute settlement mechanisms designed to insure their fairness. To assess whether any changes are needed, the Commission conducted a regulatory negotiation process in which an advisory committee was charged to recommend to the Commission revisions to the rule that would facilitate the Congressional (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	
Initial Notice of Intent to Form Advisory Committee	02/12/86	51 FR 5205
Convene Advisory Committee	09/23/86	
Facilitator Report to Commission	12/10/87	
Commission Issuance of ANPR	05/16/89	54 FR 21070
Commission Consideration of Petition to Amend Rule	05/00/89	
Extension of Time for Public Comment Period	07/17/89	54 FR 29910
Comment Period Ends	09/15/89	
Extension of Comment Period	09/19/89	54 FR 38529
Comment Period Ends	11/15/89	
Commission Consideration of Staff Recommendations	05/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: objective of encouraging warrantors to establish and participate in informal dispute settlement mechanisms. The committee met for the last time on June 17, 1987, and failed to reach a consensus on rule revisions. The Commission and its staff will continue to monitor the impact of the current informal dispute settlement procedures rule. On April 11, 1988, the FTC received a petition from the Motor Vehicle Manufacturers Association and the Automobile Importers Association to amend this rule in order to preempt certain state "lemon" laws. The Commission has issued an Advance Notice of proposed rulemaking requesting public comment on whether to initiate a review of the Rule and on the issues raised in the petition.

Agency Contact: Gary Laden, Federal Trade Commission, Division of Marketing Practices, Federal Trade

FTC — Prerule Stage

Commission, Washington, DC 20580, 202 326-3118

RIN: 3084–AA30

3975. FRANCHISE RULE

Legal Authority: 15 USC 41 et seq., Federal Trade Commission

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: On December 21, 1978, the Commission issued a trade regulation rule applicable to franchises and other business opportunity ventures. The franchise rule took effect on October 21, 1979. The rule requires franchisors to give pre-sale disclosures to prospective investors before they pay money or become legally bound to pay. The disclosures provide material information and are designed to assure that potential investors have the information they need to investigate the franchise offer so they can make an informed investment decision. The Commission is considering whether to amend its trade regulation rule concerning franchises and business opportunity ventures. In particular, the Commission is considering whether to amend the rule's earnings claim and preemption provisions.

Timetable:

Action	Date	FR Cite
ANPR	02/16/89	54 FR 7041
Staff Recommendations to Commission	02/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Craig Tregillus, Franchise Rule Coordinator, PC-H-238, Federal Trade Commission, Division of Marketing Practices, Washington, D.C. 20580, 202 326-2970

RIN: 3084–AA38

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

3976. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419

Legal Deadline: None

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an advance notice of proposed rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
NPRM	07/07/88	53 FR 25503
Staff Report	08/30/89	
Presiding Officer Report	10/30/89	
Commission Consideration of Staff Recommendation	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which have been reconsidered. The Commission issued an NPRM on July 7, 1988 to consider amendments that would reduce the burden of the rule's recordkeeping and disclosure requirements.

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Ave., Cleveland, Ohio 44114, 216 522-4207

RIN: 3084–AA24

3977. ● REVIEW OF THE SEWING MACHINE RULE

Legal Authority: 15 USC 41-58

CFR Citation: 16 CFR 401

Legal Deadline: None

Abstract: On June 30, 1965, the Commission promulgated the Sewing Machine Rule. The Rule states that the use of the word "automatic" or terms of similar import to describe a household sewing machine is an unfair or deceptive act. The need for the Rule, stated at the time of promulgation, was that use of the word automatic as a description of a sewing machine led consumers "to believe that merely by the twist of a dial or the flick of a lever they will be able to perform sewing operations." On April 19, 1989, the Commission initiated a rulemaking proceeding to determine whether or not the Sewing Machine Rule should remain in effect without changes or should be repealed. In an Advance Notice of Proposed Rulemaking, the Commission sought public comment on whether sewing machine technology and marketing have changed so that the Rule is no longer needed, and whether the Rule still provides any benefit.

Timetable:

Action	Date	FR Cite
ANPR	05/03/89	54 FR 18906
Close of Comment Period	06/02/89	
NPR	10/00/89	

FTC — Proposed Rule Stage

Action	Date	FR Cite
Commission Consideration of Staff Recommendations	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Federal Trade Commission, Washington, D.C.20580, 202 326-3029

RIN: 3084–AA39

3978. ● REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: Other, Judicial, July 31, 1989.
Deadline is for the NPR.

Abstract: On July 31, 1989, the Commission issued a NPR to amend its regulations under the Comprehensive Smokeless Tobacco Act of 1986, 15 U.S.C. 4401, and sought public comment. In 1986, the Commission had issued final regulations implementing the Act's requirements for the display of health warnings in the labeling and advertising of smokeless tobacco products and for the submission of plans specifying the method used to rotate, display, and distribute the mandated health warnings. The regulations exempted utilitarian objects that are sold or given to consumers for their personal use, that display the brand name, logo, or selling message of a smokeless product. The Commission's exemption of these items from the regulation's requirements was challenged in court and the Commission was ordered to delete this exemption. This proposed amendment deletes the previous exemption and proposes a method for the display of the mandated health warnings on utilitarian objects.

Timetable:

Action	Date	FR Cite
Rule Promulgated	11/04/86	51 FR 40004
NPR	07/31/89	54 FR 31541
Closing of Comment Period	08/30/89	
Extension of Comment Period	09/07/89	54 FR 37117
Closing of Comment Period	10/16/89	
Commission Consideration of Staff Recommendations	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne V. Maher, Federal Trade Commission, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.20580, 202 326-2987

RIN: 3084–AA40

FEDERAL TRADE COMMISSION (FTC) — Final Rule Stage

3979. REVIEW OF THE FUNERAL INDUSTRY PRACTICES RULE

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The funeral industry practices rule, which became fully effective on April 30, 1984, seeks to increase consumer access to accurate information about prices and legal requirements prior to and at the time of purchase of funeral goods and services. The Rule: (1) requires funeral directors to provide consumers with written itemized pre-sale disclosures; (2) prohibits misrepresentation of legal and cemetery requirements and the preservative or protective value of embalming, caskets, and vaults; (3) prohibits funeral directors from requiring a casket for cremations, or any other tie-in arrangements; (4) prohibits funeral directors from charging for goods and services not specifically ordered, such as embalming, unless required by law; and (5) requires funeral directors to give, on request, price information over the telephone. The Rule provides that no later than four years after its effective date, the Commission will begin a rulemaking proceeding to determine whether the Rule should be amended or terminated. (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	09/24/82	47 FR 42260
Prohibitions Effective Date	01/01/84	
Affirmative Requirements Effective Date	04/30/84	
ANPRM	12/09/87	52 FR 46706
NPRM	05/31/88	53 FR 19864
Hearings Ended	02/03/89	
Staff Report	01/00/90	
Commission Consideration of Staff Recommendations	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The Commission has issued the Notice of Proposed Rulemaking for public comment and held informal public hearings in the cities of Washington, Chicago, and San Francisco. The subsequent steps include the publication of a staff recommendation and a report from the presiding officer. Thereafter, the Commission will make its final determination.

Agency Contact: Raouf M. Abdullah, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, D.C. 20580, 202 326-3024

RIN: 3084–AA05

3980. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Legal Deadline: None

Abstract: The Commission's rule concerning mail order merchandise was promulgated on October 22, 1975. The rule requires mail order sellers to possess a reasonable basis for any

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claims made concerning shipping dates or, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. The Commission's rule is designed to address a number of significant consumer problems described on the record of the rulemaking proceeding, including failure to deliver ordered merchandise, unexplained delays in delivery, failure to make prompt (or any) refunds upon cancellation of an order, and inability to obtain responses to inquiries about pending orders. The rule enables consumers to obtain ordered merchandise within a reasonable time period or, if delays occur, to cancel the order and obtain a prompt refund, so that losses due to undelivered merchandise, delays, and inadequate or nonexistent refunds can be avoided. By subjecting sellers (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Begin Reg Flex Act Review	10/20/83	
End Reg Flex Review	06/10/86	51 FR 20991
ANPR	10/27/88	53 FR 43448
Commission Consideration of Staff Recommendations	09/00/89	
Final Action	01/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: who solicit orders they cannot fill within a reasonable time to the risk of cancellation, the rule may provide competitive benefits, since buyers may shift their business to more efficient merchants. Costs relating to the rule may include the cost of establishing a system for monitoring and recording orders, shipments, delays, cancellations, consents to delays, and refunds; the costs of complying with the rule's notification requirements regarding delays (printing, postage, etc.); the cost of processing refunds; and additional inventory costs. Staff is considering whether to recommend to the Commission that the rule be amended to cover orders placed by telephone or any other means, and whether the rule's definition of "properly completed order" for credit sales should be amended to mean the time the seller receives sufficient information to charge the buyer's account. On October 27, 1988, the Commission published an ANPR inviting public comment on these questions. After analyzing these comments and other information, the staff will recommend that the Commission either publish an NPRM or end the inquiry.

Agency Contact: Joel N. Brewer, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-2967

RIN: 3084–AA19

3981. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Significance: Agency Priority

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801; 16 CFR 802; 16 CFR 803; 16 CFR 803, (Appendix)

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. In September 1988, the Commission proposed to amend these rules to exempt the acquisition of small percentages of an issuer's voting securities, and proposed two alternative amendments that would provide other special treatment for acquisitions of small percentages of voting securities. (cont)

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM – De Minimis Exemption	09/22/88	53 FR 36831
ANPR – Partnerships	02/24/89	54 FR 7960
Comm. Consid. of Staff Rec. re: De Minimis Exemption	08/00/89	
Comm. Consid. of Staff Rec. re: Partnerships	01/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: In February 1989, the Commission issued an ANPR seeking comments on options for amending the rules to modify their treatment of transactions involving partnerships. In fiscal year 1990, the Commission expects to determine what action, if any, to take on the proposed amendment regarding partnerships.

Agency Contact: Roberta S. Baruch, Deputy Assistant Director, Federal Trade Commission, Bureau of Competition, Washington, DC 20580, 202 326-3300

RIN: 3084–AA23

3982. APPLIANCE LABELING RULE – ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; PL 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Legal Deadline: Final, Statutory, July 1, 1989.
See section 2(d)(2)(B) of Pub. L. 100-357, June 28, 1988, 102 Stat. 672.

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. In 1987, the Commission amended the rule to include central air conditioners and heat pumps and to include two new types of furnace under the rule's coverage. The provisions took effect on June 7, 1988. Since the Commission's rule implements the requirements of EPCA, most of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances but does impose some burdens on distributors and retailers. Some of those entities may be small businesses under section 610 of the Regulatory Flexibility Act. Therefore, the Commission (cont)

Timetable:

Action	Date	FR Cite
Begin Reg Flex Act Review	04/08/85	50 FR 13820
End Reg Flex Review	06/13/88	53 FR 22106
NPRM (comprehensive review)	06/13/88	53 FR 22022
NPRM (Fluorescent Lamp Ballasts)	01/12/89	54 FR 1182
Final Action (Ballasts)	07/05/89	54 FR 28031
Final Action (comprehensive review)	12/00/89	
Effective Date (Fluorescent Lamp Ballasts)	01/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: has reviewed the rule to determine whether it has had a significant economic effect on a substantial number of small entities. The Commission has terminated that review and has begun another rulemaking to consider several amendments that would make the rule's energy usage disclosure scheme more efficient for consumers and business. The Commission has estimated that the proposals will reduce the paperwork burden of compliance by 5 percent. Pursuant to recent amendments to EPCA, the Commission issued a rule prescribing labeling requirements for fluorescent lamp ballasts.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084–AA26

3983. TRANSISTOR RULE

Legal Authority: 15 USC 41 et seq., Federal Trade Commission Act

CFR Citation: 16 CFR 414

Legal Deadline: None

Abstract: The Transistor Count Rule states that it is an unfair method of competition and an unfair or deceptive act or practice in connection with the sale of radio receivers (including transceivers) to represent that a radio set contains a specified number of transistors when the transistors counted do not function to detect, amplify, or receive radio signals. The rule was adopted May 4, 1968 and became effective on December 10, 1968. The Commission seeks comment on whether or not changes in technology and marketing over the last twenty years have rendered the rule obsolete and therefore no longer in the public interest. The Commission has issued an NPR asking for comment on the continued viability of the rule and whether it should be repealed.

Timetable:

Action	Date	FR Cite
ANPR	02/01/89	54 FR 5090
NPRM	05/05/89	54 FR 24191
Final Action	12/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202 326-3029

RIN: 3084–AA37

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

3984. RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 424

Legal Deadline: None

Abstract: The Commission's Rule on Retail Food Store Advertising and Marketing Practices states that it is a violation of Section 5 of the Federal Trade Commission Act for grocery stores to advertise products at a particular price unless such products are in stock and conspicuously and readily available for sale at the advertised price during the effective period of the advertisement. If a store runs out of advertised products, it is in violation of the rule even if the store noted the limitations on availability in its advertisement and even if the store provides rainchecks or substitute items. The rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. The rule may cause costs to be incurred in maintaining sufficient inventory to meet anticipated demand, and costs associated with the monitoring of price changes, changing marked prices, training employees to comply with the rule and keeping records to prove compliance. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/10/84	49 FR 48059
NPRM	10/24/85	50 FR 43224
Commission Decision to Amend the Rule	04/21/88	
Final Action	08/28/89	54 FR 35456
Final Action Effective	08/28/89	

Small Entities Affected: None

Government Levels Affected: None

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Additional Information: ABSTRACT CONT: The rule may also discourage the advertising of certain kinds of products, such as perishables or goods that are available to the store only in limited supply. The staff concluded from a careful review of the rule's effects that the costs the rule imposes on consumers in the form of higher grocery prices significantly exceeds its benefits. On April 21, 1988, the Commission decided to modify the rule so that a store could comply by clearly and adequately disclosing in its advertisements that there are limitations on availability, or by offering rainchecks or substitute items if supplies run out. On August 28, 1989, the final rule, as amended, became effective.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3319

RIN: 3084–AA17

[FR Doc. 89-22491 Filed 10-27-89; 8:45 am]

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federal register

Monday
October 30, 1989

Part LV

Interstate Commerce Commission

Semiannual Regulatory Agenda

INTERSTATE COMMERCE COMMISSION (ICC)

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420 (Sub-No. 17)]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual regulatory agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to OMB Bulletin No. 89-12, issued under section 6(b) of E.O. 12291 to implement the provisions of section 5 of the Executive order concerning Regulatory Agendas, the Commission is publishing an agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: A list of proceedings appears below containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda also identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a Unified Agenda of Federal Regulations compiled by the Office of Management and Budget which is to be published in a single issue of the **Federal Register** in October 1989. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the Federal Government's current regulatory plans, and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 4, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Prerule Stage

3985. REVIEW OF CAR-HIRE REGULATION, EX PARTE NO. 334 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 49 USC 10708; 49 USC 10734; 49 USC 11122; 5 USC 553

CFR Citation: 49 CFR 1033; 49 CFR 1036

Legal Deadline: None

Abstract: The Commission is considering whether regulation of railroad car-hire charges (except charges for boxcars) should be retained, modified, or eliminated.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/85	50 FR 16724
ANPRM Comment Period End	08/26/85	50 FR 27031
Supplemental Comment Period	02/07/86	50 FR 52972
Comments under Internal Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This proceeding embraces the proposals and record developed in Zone of Reasonableness for Car-Hire Charges, Ex Parte No. 334 (Sub-No. 5), RIN 3120-AA13. In a related proceeding, Ex Parte No. 334 (Sub-No. 7), Suspension of Car-Hire Updates, all further updates of car-hire charges have been suspended pending completion of Review of Car-Hire Regulation, Ex Parte No. 334 (Sub-No. 6). Notice of suspension appeared at 51 FR 263 on 01/03/86.

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AA13

3986. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None

Abstract: The Commission is considering whether to exempt in whole or in part rail demurrage from regulation.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51565
Extension of Public Comment Period	01/21/86	51 FR 2740
Comment Period End	03/18/86	51 FR 2740
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB35

ICC — Prerule Stage

3987. CLASS EXEMPTION FOR RAIL CONSTRUCTION, EX PARTE NO. 392 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10901; 5 USC 553; 5 USC 559; 5 USC 704

CFR Citation: 49 CFR 1150.35

Legal Deadline: None

Abstract: The Commission is considering whether to exempt from regulation all applications under 49 USC 10901 for construction and operation of new lines of railroad.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/87	52 FR 20632
ANPRM Comment Period End	07/02/87	52 FR 20632
Comments under evaluation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB50

3988. AMENDMENTS TO RAIL CARRIER COST RECOVERY TARIFFS, EX PARTE NO. 290 (SUB-NO. 5)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: The Commission is considering whether its regulations should be revised by changing the regulations governing the form and volume of supplemental matter to rail carrier cost recovery tariffs filed pursuant to Ex Parte No. 290 (Sub-No. 2), Railroad Cost Recovery Procedures. Present regulations provide that such tariffs be published with expiration dates and they may be maintained without regard to the amount of supplemental matter in effect. Informal criticisms have been received by the Commission which indicate that the tariffs have become extremely cumbersome to follow and apply. In view of these criticisms, the Commission is concerned that the tariffs are not being published in a manner which is consistent with the public interest. Comments dealing with problems encountered by users of the rail carrier cost recovery tariffs are sought as well as suggestions for rule changes.

Timetable:

Action	Date	FR Cite
ANPRM	06/19/86	53 FR 31720
ANPRM Comment Period End	11/07/86	53 FR 40922
Comments under review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence C. Herzig, Chief, Section of Rates and Informal Cases, Interstate Commerce Commission, 12th and Constitution Ave., NW, Room 4310, Washington, DC 20423, 202 275-7358

RIN: 3120-AB56

INTERSTATE COMMERCE COMMISSION (ICC) — Proposed Rule Stage

3989. ADOPTION OF UNIFORM RAIL COSTING SYSTEM FOR DETERMINING VARIABLE COST FOR JURISDICTIONAL THRESHOLD AND SURCHARGE PURPOSES (URCS), EX PARTE NO. 431

Significance: Agency Priority

Legal Authority: 49 USC 10705(a); 49 USC 10709

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Develops new cost methodology applicable to the rail industry as mandated in the 1976 4-R Act and the 1980 Staggers Rail Act.

Timetable:

Action	Date	FR Cite
NPRM	01/31/83	48 FR 4562
NPRM Comment Period End	09/28/83	48 FR 25290
Decision to hold in abeyance until further notice	11/13/84	49 FR 45000
Draft notice of study being prepared	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Ex Parte No. 431 has been held in abeyance pending the development of cost accounting principles by the Railroad Accounting Principles Board. These principles were published on September 1, 1987, and included a recommendation that further research be performed into certain identified subject areas of the Uniform Railroad Costing System before the system is implemented. This is to be done within 18 months of the Board's report.

Agency Contact: William T. Bono, Chief, Section of Cost Development, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7354

RIN: 3120-AA63

3990. ● ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

Legal Authority: 49 USC 10321; 49 USC 10706; 49 USC 10761; 49 USC 10762; 5 USC 553

CFR Citation: 49 CFR 1312; 49 CFR 1314

Legal Deadline: None

Abstract: The ICC adopted final regulations which would have allowed electronic tariff filing as an alternative to printed tariffs and established, in lieu of detailed tariff regulations, simple tariff standards governing the construction, filing and maintenance of tariffs containing regulated carriers' rates. Effective date of adopted regulations stayed pending consideration of petition to reopen.

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Timetable:

Action	Date	FR Cite
ANPRM	03/09/83	48 FR 9672
ANPRM Comment Period End	04/26/83	48 FR 18861
NPRM	10/22/87	52 FR 39549
NPRM Comment Period End	02/19/88	53 FR 5022
Final Action	02/10/89	54 FR 6403
Effective Date Stayed	03/13/89	54 FR 10533
Final Action Effective	03/13/89	54 FR 6403
Petition to reopen under review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Although final rules have been adopted in this proceeding their effective date has been stayed pending disposition of a petition to reopen.

Agency Contact: Charles E. Langyher, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, 12th Street & Constitution Avenue, NW., Washington, DC 20423, 202 275-7739

RIN: 3120-AA99

3991. RAIL GENERAL EXEMPTION AUTHORITY - MISCELLANEOUS MANUFACTURED COMMODITIES, EX PARTE NO. 346 (SUB-NO. 24)

Legal Authority: 49 USC 10505

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: 49 USC 10505 requires that the Commission exempt from regulation the movement by rail of traffic for which it finds continued regulation no longer necessary to serve the Nation's transportation policy objectives and to protect shippers from abuse of market power by the railroads. In examining the transportation characteristics and markets of various commodities moving by rail, there appear to be many products for which sufficient competition exists among transportation alternatives so that regulation may no longer be necessary. Exemption of such commodities should provide increased rate and service flexibility for railroads to meet shippers' needs and to compete more effectively for the subject traffic. Anticipated benefits include lower rates and improved service, at a possible "cost" of increased price instability and competition to alternative transport firms.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3900
NPRM Comment Period End	05/16/88	53 FR 9672
Comments under review	10/00/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Lundy, Economist, Interstate Commerce Commission, Washington, DC 20423, 202 275-6853

RIN: 3120-AB06

3992. PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (REVISION OF OPERATIONAL REGULATIONS), EX PARTE NO. MC-19 (SUB-NO. 26)

Legal Authority: 49 USC 11110

CFR Citation: 49 CFR 1056

Legal Deadline: None

Abstract: This proceeding involves a plenary review of the household goods regulations in which the Commission invites public comment and proposals which would minimize the regulatory burden on movers to the maximum extent consistent with the protection of individual shippers.

Timetable:

Action	Date	FR Cite
ANPRM	10/26/83	48 FR 49561
ANPRM Comment Period End	01/12/84	48 FR 49561
NPRM	07/00/90	
NPRM Comment Period End	08/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia M. Schulze, Transportation Industry Analyst, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-7841

RIN: 3120-AB17

3993. RATE GUIDELINES - NON-COAL PROCEEDINGS, EX PARTE NO. 347 (SUB-NO, 2)

Significance: Agency Priority

Legal Authority: 49 USC 10301; 49 USC 10321; 49 USC 10326; 49 USC 10701a; 49 USC 10704; 49 USC 10707; 49 USC 11701; 5 USC 553

CFR Citation: None

Legal Deadline: None

Abstract: Proposal to adopt maximum rate reasonableness guidelines for captive non-coal commodities. Request for comments on alternative guidelines for small shippers including small coal shippers.

Timetable:

Action	Date	FR Cite
Notice of proposed policy stmt.	05/22/86	51 FR 18811
Notice of Intent to Participate due	06/02/86	
Comments due	07/21/86	
Begin Review	07/24/87	
End Review	09/30/87	
Comments under internal evaluation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leslie J. Selzer, Assistant to the Director, Interstate Commerce Commission, 12th & Constitution Ave., NW, Washington, DC 20423, 202 275-7627

RIN: 3120-AB41

3994. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505

CFR Citation: 49 CFR 1150

Legal Deadline: None

Abstract: The Commission proposes to exempt from the prior approval requirements of 49 USC 10901, the construction of rail connecting tracks, except those construction projects that would result in a major market extension as defined at 49 CFR 1180.3(c).

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
Internal review of comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AB43

3995. COST RATIO FOR RECYCLABLES - COMPLIANCE PROCEDURES, EX PARTE NO. 394 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10731; 5 USC 553

CFR Citation: 49 CFR 1134; 49 CFR 1135; 49 CFR 1145

Legal Deadline: None

Abstract: The Commission is proposing rules that will establish procedures by which the Commission annually will (a) announce the revenue-to-variable cost ratio required by 49 USC 10731(e) to apply for the following calendar year; (b) monitor and take necessary action to ensure continued compliance by the railroads with 49 USC 10731(e); and (c) prohibit further rate increases, including those authorized under 49 USC 10707a(a)-(d), on recyclables having revenue/variable cost ratios in excess of the statutory cap level until such rates fall to below the cap level or the statutory cap level increases by Commission order.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/86	51 FR 21780
Extension of time for filing comments on ANPRM; new date: 10/15/86	08/12/86	51 FR 28647
ANPRM Comment Period End	09/15/86	51 FR 21780
NPRM	04/23/87	52 FR 13482
NPRM Comment Period End	07/22/87	52 FR 13482
Notice of Environmental assessment and request for comments	05/06/88	53 FR 16296
Comments under evaluation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB47

3996. ENVIRONMENTAL DOCUMENTATION IN RAIL PROCEEDINGS, EX PARTE NO. 55 (SUB-NO. 22A)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10903 to 10906; 16 USC 1247(d); 42 USC 4332; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1105

Legal Deadline: None

Abstract: The Commission is considering whether to modify its procedures to increase certain environmental notice periods and the information included in those notices. The modifications would also require service of environmental notices on designated parties, would substitute a revamped environmental notice for the former report requirement, and would reclassify some categories of actions for which environmental analyses are required.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB53

3997. EX PARTE NO. 55 (SUB-NO. 89), RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY -- REVISION OF FORM OP-1

Legal Authority: 5 USC 551(a); 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 10101; 49 USC 10305; 49 USC 10321; 49 USC 10541; 49 USC 10921; 49 USC 10922; 49 USC 10923; 49 USC 10924; 49 USC 10928; 49 USC 10931; 49 USC 11102

CFR Citation: 49 CFR 1003; 49 CFR 1160; 49 CFR 1162; 49 CFR 1168

Legal Deadline: None

Abstract: The Commission proposes to revise significantly the general licensing application form (Form OP-1) and to make corresponding revisions in its regulations governing licensing procedures at 49 CFR 1160, 1162, and 1168 and the list of forms at 49 CFR 1003. The proposed OP-1 replacement form would integrate the information presently required in and supersede: (1) the existing Form OP-1 used by applicants for motor and water carrier, property broker, and household goods freight forwarder authority; and (2) Form OCCA-95 used by applicants for temporary and emergency temporary authority. The proposed form revisions are intended to simplify and unify the temporary and permanent authority licensing processes, minimize the application filing burdens on applicants and, in turn, create a more efficient application process, both for the public and the Commission.

Timetable:

Action	Date	FR Cite
NPRM	05/12/89	54 FR 20879
Extension of comment period to 06/26/89	06/07/89	54 FR 24364
NPRM Comment Period End	06/14/89	54 FR 20879
Comments under review	10/00/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Suzanne O'Malley, Principal Attorney, Motor Section, Interstate Commerce Commission, Room 2353, Washington, DC 20423, 202 275-7292

RIN: 3120-AB57

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INTERSTATE COMMERCE COMMISSION (ICC) — **Completed Actions**

3998. RAIL ABANDONMENTS; USE OF RIGHTS-OF-WAY AS TRAILS; SUPPLEMENTAL TRAILS ACT PROCEDURES, EX PARTE NO. 274 (SUB-NO. 13)

Significance: Agency Priority

CFR Citation: 49 CFR 1152

Completed:

Reason	Date	FR Cite
Final Action	05/30/89	54 FR 22970
Final Action Effective	06/29/89	54 FR 22970

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar 202 275-7245

RIN: 3120-AB45

3999. ● EX PARTE NO. 246 (SUB-NO. 7) REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES – 1989 UPDATE

Significance: Agency Priority

Legal Authority: 5 USC 552(2)(4)(A); 5 USC 553; 31 USC 9701; 49 USC 10321

CFR Citation: 49 CFR 1002

Legal Deadline: None

Abstract: In this proceeding the Commission adopted its 1989 User Fee Update.

Timetable:

Action	Date	FR Cite
NPRM	06/12/89	54 FR 24915
NPRM Comment Period End	07/12/89	
Final Action	08/31/89	54 FR 36029
Final Action Effective	09/29/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kathleen M. King, Assistant Secretary, Interstate Commerce Commission, Office of the Secretary, 12th & Constitution Avenue, NW., Washington, DC 20428, 202 275-7428

RIN: 3120-AB58

[FR Doc. 89-19912 Filed 10-27-89; 8:45 am]

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federal register

Monday
October 30, 1989

Part LVI

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemaking, reviews of existing regulations, and completed actions as of July 31, 1989. NCUA will also include this agenda in the "Unified Agenda of Federal Regulations."

DATES: This information is current as of July 31, 1989.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing, at the above address or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into four parts: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions. Interpretive Rulings and Policy Statements (IRPS) promulgated by NCUA are also included in the agenda.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 52 FR 35231, September 18, 1987). Executive Order No. 12291 does not require independent executive agencies such as NCUA to publish a regulatory agenda, but NCUA has voluntarily decided to do so by including this agenda in the Office of Management and Budget's next publication of its "Unified Agenda of Federal Regulations."

Approved by the NCUA Board on August 21, 1989.

Becky Baker,

Secretary of the Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4000	Share, Share Draft and Share Certificate Accounts	3133-AA82
4001	Investment and Deposit Activities	3133-AA87

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4002	Management Interlocks	3133-AA19
4003	Loan Participation	3133-AA49
4004	Purchase, Sale and Pledge of Eligible Obligations	3133-AA50
4005	Records Preservation Programs	3133-AA56
4006	Credit Union Service Contracts	3133-AA95
4007	Retirement Benefits for Employees of Federal Credit Unions	3133-AA96
4008	Loans to Members and Lines of Credit to Members	3133-AB00
4009	Designation of Low-Income Status	3133-AB03

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4010	Full and Fair Disclosure	3133-AA12
4011	Nondiscrimination Requirements	3133-AA17
4012	Mergers of Federally Insured Credit Unions: Voluntary Termination or Conversion of Insurance Status	3133-AA59
4013	Employee Responsibility and Conduct	3133-AA84
4014	Loans to Members and Lines of Credit to Members	3133-AA88

NCUA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4015	FCU Ownership of Fixed Assets	3133-AA06
4016	Treasury Tax and Loan Accounts	3133-AA16
4017	Other Applications	3133-AA44
4018	Definitions	3133-AA47
4019	Federal Credit Unions Acting as Depositaries and Financial Agents of the Government	3133-AA53
4020	Liquidation Priorities and Adjudication of Claims	3133-AA84
4021	Federal Credit Union Field of Membership and Chartering Policy	3133-AA89
4022	Description of Office; Disclosure of Official Records; Availability of Information and other Applications	3133-AA98
4023	Organization and Operations of Federal Credit Unions; Fidelity Bond and Insurance Coverage for Federal Credit Unions	3133-AA99
4024	Organization and Operation of Federal Credit Unions	3133-AB01
4025	Loans to Members and Line of Credit to Members; Investment and Deposit Activities	3133-AB02

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Prerule Stage

4000. SHARE, SHARE DRAFT AND SHARE CERTIFICATE ACCOUNTS

Legal Authority: 12 USC 1752; 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1782; 12 USC 1789

CFR Citation: 12 CFR 701.35

Legal Deadline: None

Abstract: An FCU's payment of dividends on share, share draft and share certificate accounts is limited to available earnings and cannot be guaranteed in advance. Staff is considering whether a statement to this effect should be included in NCUA's share account regulation, in light of problems which NCUA has encountered with certain liquidated credit unions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133-AA82

4001. INVESTMENT AND DEPOSIT ACTIVITIES

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: NCUA staff is undertaking a comprehensive review of FCU investment authority in light of changes in the marketplace, e.g., increased availability of mutual funds geared primarily toward FCU's new instruments based on permissible FCU investments, new investment structures, statutory expansions of FCU investment authority.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133-AA87

NCUA — **Proposed Rule Stage**

4002. MANAGEMENT INTERLOCKS

Legal Authority: 12 USC 3201

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: This part implements the provisions of the Depository Institution Management Interlocks Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41614
ANPRM Comment Period End	01/23/89	53 FR 41614
NPRM	03/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133-AA19

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NCUA — **Proposed Rule Stage**

4003. LOAN PARTICIPATION

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.22

Legal Deadline: None

Abstract: This section sets forth definitions and requirements for Federal credit unions wishing to participate in making loans with other credit unions, credit organizations, or financial organizations. The regulation will be reviewed to determine what changes are needed in this area and how the regulation can be simplified and clarified.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41613
ANPRM Comment Period End	01/23/89	53 FR 41613
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA49

4004. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: This section sets forth definitions and requirements for Federal credit unions that wish to purchase, sell, or pledge a loan or group of loans. This section will be reviewed to determine whether any changes are necessary.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41613
ANPRM Comment Period End	01/23/89	53 FR 41613
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA50

4005. RECORDS PRESERVATION PROGRAMS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 749

Legal Deadline: None

Abstract: This part mandates that Federal credit unions maintain a records preservation program. It sets forth program implementation procedures and also lists what records must be stored. Staff is reviewing this part to determine whether it can be deleted, updated, or simplified.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-6930

RIN: 3133–AA56

4006. CREDIT UNION SERVICE CONTRACTS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.26

Legal Deadline: None

Abstract: This section authorizes, subject to certain requirements, an FCU to enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets, or engaging in activities and/or services relating to the daily operations of credit unions. Staff will review this section to determine if it needs to be clarified or otherwise amended.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA95

4007. RETIREMENT BENEFITS FOR EMPLOYEES OF FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1766; 12 USC 1761b

CFR Citation: 12 CFR 701.19; 12 CFR 701.24

Legal Deadline: None

Abstract: Section 701.19 sets forth an FCU's authority to provide retirement benefits to employees and officers. Section 724 describes when an FCU can act as a trustee or custodian of pension plans.

Timetable:

Action	Date	FR Cite
NPRM	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael McKenna, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA96

4008. ● LOANS TO MEMBERS AND LINES OF CREDIT TO MEMBERS

Legal Authority: 12 USC 1752; 12 USC 1757(6); 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 701.21(g)

Legal Deadline: None

Abstract: Staff is reviewing this section to determine if FCU's should be required to use standard mortgage loan documents and loan qualification standards. Standard documentation would enable rapid sale of such long-term mortgage loans in the secondary mortgage markets.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Michael McKenna, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AB00

4009. ● DESIGNATION OF LOW-INCOME STATUS

Significance: Agency Priority

Legal Authority: 12 USC 1752; 12 USC 1757(6); 12 USC 1766; 12 USC 1781; 12 USC 1789; PL 97-35, 95 Stat. 498; PL 99-509

CFR Citation: 12 CFR 700.1; 12 CFR 701.32; 12 CFR 705.3; 12 CFR 741.5

Legal Deadline: None

Abstract: The purposes of the proposed amendment are: (1) to clarify that a Federal credit union must receive a designation from NCUA to act in the capacity of a low-income credit union; (2) to establish procedures for granting and revoking the designation of a low-income credit union; and (3) to establish that a federally insured State-chartered credit union must receive a low-income credit union designation from its State regulator with the concurrence of NCUA.

Timetable:

Action	Date	FR Cite
NPRM	07/27/89	54 FR 31196
NPRM Comment Period End	10/25/89	54 FR 31196
Final Action	02/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AB03

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4010. FULL AND FAIR DISCLOSURE

Legal Authority: 12 USC 1762; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 702

Legal Deadline: None

Abstract: This proposed rule suggested some changes to the definition of risk assets. Such a change would adjust federal-insured credit unions' reserve requirements.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/87	52 FR 38771
ANPRM Comment Period End	02/05/88	
NPRM	05/22/89	54 FR 21963
NPRM Comment Period End	08/21/89	54 FR 21963
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Riley, Director, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9640

RIN: 3133–AA12

4011. NONDISCRIMINATION REQUIREMENTS

Legal Authority: 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1786; 12 USC 1789; 24 USC 3601 to 3610; 24 USC 1961; 15 USC 1601 et seq

CFR Citation: 12 CFR 701.31

Legal Deadline: None

Abstract: This action sets forth prohibitions against discrimination by FCU's in making real estate-related loans and appraisals. The regulation also sets forth guidelines for compliance with the Fair Housing Act and court decisions rendered thereunder.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41609
ANPRM Comment Period End	01/23/89	53 FR 41609
NPRM	05/22/89	54 FR 21963
NPRM Comment Period End	08/21/89	54 FR 21963
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA17

4012. ● MERGERS OF FEDERALLY INSURED CREDIT UNIONS: VOLUNTARY TERMINATION OR CONVERSION OF INSURANCE STATUS

Significance: Agency Priority

Legal Authority: 12 USC 1766; 12 USC 1785; 12 USC 1786; 12 USC 1789

CFR Citation: 12 CFR 708.301; 12 CFR 708.302

Legal Deadline: None

Abstract: This proposed rule will add "approval" and "disapproval" boxes to the ballots used for membership voting on termination of Federal insurance or conversion from Federal insurance to non-Federal insurance.

Timetable:

Action	Date	FR Cite
NPRM	05/22/89	54 FR 21968
NPRM Comment Period End	08/21/89	54 FR 21968
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AA59

4013. EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222; 5 CFR 735.104; 12 USC 1766

CFR Citation: 12 CFR 796

Legal Deadline: None

Abstract: This regulation sets forth the rules governing NCUA employees. The rule does not affect credit unions.

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NCUA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	53 FR 42955
Final Action	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The NCUA Board approved a final rule that was submitted to the Office of Government Ethics, OPM, for approval, in June 1988. The rule was reviewed by OPM and recommended changes have been made. In April 1989, the Board adopted a final package, designated as Part 796, as agency policy and guidelines. The package will not become a final rule until after OPM adopts its own new rules and approves Part 796 as a final regulation.

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA64

4014. LOANS TO MEMBERS AND LINES OF CREDIT TO MEMBERS

Legal Authority: 12 USC 1766; PL 100-86; 12 USC 1757

CFR Citation: 12 CFR 701.21(f)

Legal Deadline: None

Abstract: Amendments by Competitive Equality Banking Act of 1987 permit the NCUA Board to increase the present maturity limit on second mortgage, mobile home and home improvement loans.

Timetable:

Action	Date	FR Cite
ANPRM	10/25/88	53 FR 42953
ANPRM Comment Period End	01/23/89	53 FR 42953
NPRM	05/22/89	54 FR 21967
NPRM Comment Period End	06/21/89	54 FR 21967
Final Action	12/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA88

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

4015. FCU OWNERSHIP OF FIXED ASSETS

Legal Authority: 12 USC 1757(4); 12 USC 1766

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: This section sets forth limitations on an FCU's ownership of fixed assets. The proposed rule clarifies and simplifies the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42953
NPRM Comment Period End	01/23/89	53 FR 42953
Final Action	05/01/89	54 FR 18466
Final Action Effective	05/01/89	54 FR 18466

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tim Hornbrook, Director of Supervision, National Credit Union Administration, Office of Examination & Insurance, 1776 G Street, NW, Washington, DC 20456, 202 682-9640

RIN: 3133–AA06

4016. TREASURY TAX AND LOAN ACCOUNTS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.37; 12 CFR 701.37-1

Legal Deadline: None

Abstract: Sections 701.37-1 and 701.37-2 set forth the authority for and requirements of FCU's when serving as Treasury tax and loan depositaries, and depositaries of public funds and financial agents of the United States Government. The final amendment has combined these two sections into one.

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41611
NPRM Comment Period End	01/23/89	53 FR 41611
Final Action	05/01/89	54 FR 18470
Final Action Effective	05/01/89	54 FR 18470

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamulevix, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA16

4017. OTHER APPLICATIONS

Legal Authority: 12 USC 1766(a)

CFR Citation: 12 CFR 701.5

Legal Deadline: None

Abstract: This section specifies the manner in which applications, requests, or submittals to NCUA, not addressed in other sections of the NCUA Regulations, are to be presented to the Agency. This section has been removed and the subject matter incorporated into Part 790.

Timetable:

Action	Date	FR Cite
NPRM	12/11/87	52 FR 47014
NPRM Comment Period End	02/09/88	52 FR 47014
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	
Final Action	05/01/89	54 FR 18473
Final Action Effective	05/01/89	54 FR 18473

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie Ulan, Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA44

NCUA — **Completed Actions**

4018. DEFINITIONS

Legal Authority: 12 USC 1752(5); 12 USC 1757(6); 12 USC 1766(a)

CFR Citation: 12 CFR 700.1

Legal Deadline: None

Abstract: This section sets forth basic definitions applicable in all NCUA regulations.

Timetable:

Action	Date	FR Cite
Withdrawn	07/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamulevix, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA47

4019. FEDERAL CREDIT UNIONS ACTING AS DEPOSITARIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.37

Legal Deadline: None

Abstract: Sections 701.37-1 and 701.37-2 set forth the authority for and requirements of FCU's when serving as Treasury tax and loan depositaries, and depositaries of public funds and financial agents of the United States Government. The final amendment has combined these two sections into one.

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41611
NPRM Comment Period End	01/23/89	53 FR 41611
Final Action	05/01/89	54 FR 18470
Final Action Effective	05/01/89	54 FR 18470

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Tamulevix, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA53

4020. LIQUIDATION PRIORITIES AND ADJUDICATION OF CLAIMS

Legal Authority: 12 USC 1787

CFR Citation: None

Legal Deadline: None

Abstract: Staff is studying two liquidation issues: priority of payout and the administrative procedure for adjudicating creditor claims.

Timetable:

Action	Date	FR Cite
Withdrawn No action taken	07/31/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA84

4021. FEDERAL CREDIT UNION FIELD OF MEMBERSHIP AND CHARTERING POLICY

Legal Authority: 12 USC 1752; 12 USC 1753; 12 USC 1759

CFR Citation: 12 CFR 701.1

Legal Deadline: None

Abstract: The NCUA Board conducted a comprehensive review of its policies on chartering new Federal credit unions and expansions of existing Federal credit unions to ensure NCUA policy is implemented fairly and consistently. Interpretive Ruling and Policy Statement ("IRPS") 89-1 will replace all prior NCUA IRPS, manuals and statements on this subject. Section 701.1 of the NCUA's Rules and Regulations (12 CFR 701.1) also was amended to reference IRPS 89-1.

Timetable:

Action	Date	FR Cite
Begin Review	08/29/87	52 FR 36429
ANPRM	06/17/88	53 FR 22656
ANPRM Comment Period End	08/16/88	
Final Action	07/27/89	54 FR 31165
Final Action Effective	08/28/89	54 FR 31165

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Allen Carver, Regional Director, National Credit Union Administration, Region IV (Chicago), 300 Park Blvd., Suite 155, Itasca, IL 60143, 312 250-6000

RIN: 3133–AA89

4022. DESCRIPTION OF OFFICE; DISCLOSURE OF OFFICIAL RECORDS; AVAILABILITY OF INFORMATION AND OTHER APPLICATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1766; 12 USC 1789; 12 USC 1795f

CFR Citation: 12 CFR 790; 12 CFR 791; 12 CFR 792

Legal Deadline: None

Abstract: This final rule restructures and clarifies NCUA's regulations concerning NCUA internal operations. The three consecutive sections address NCUA structure; Part 791, rules of NCUA Board procedure; and Part 792, information and privacy laws.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	
Final Action	05/01/89	54 FR 18473
Final Action Effective	05/01/89	54 FR 18473

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie Ulan, Assistant General Consel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA98

4023. ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS; FIDELITY BOND AND INSURANCE COVERAGE FOR FEDERAL CREDIT UNIONS

Significance: Agency Priority

Legal Authority: 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701.20(c)

Legal Deadline: None

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Abstract: The final amendment requires a provision in FCU surety bonds assuring that the surety company notifies NCUA whenever bond coverage of a credit union is terminated in its entirety, or when it is terminated on an individual employee or official.

Timetable:

Action	Date	FR Cite
NPRM	10/24/88	53 FR 41610
NPRM Comment Period End	01/23/89	
Final Action	05/01/89	54 FR 18468
Final Action Effective	05/01/89	54 FR 18468

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 682-9630

RIN: 3133–AA99

4024. ● ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Significance: Agency Priority

Legal Authority: 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701.32; 12 CFR 741.5

Legal Deadline: None

Abstract: New section 701.32 requires that FCU's obtain NCUA approval prior to receiving nonmember funds in excess of 20 percent of total shares. A change to section 741.5 of the regulations requires that federally insured, State-chartered credit unions comply with these limitations. Only minor changes have been made to the substantive provisions contained in the interim final rule.

Timetable:

Action	Date	FR Cite
Final Action	07/27/89	54 FR 31182
Final Action Effective	07/27/89	54 FR 31182

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB01

4025. ● LOANS TO MEMBERS AND LINE OF CREDIT TO MEMBERS; INVESTMENT AND DEPOSIT ACTIVITIES

Legal Authority: 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701.21; 12 CFR 703

Legal Deadline: None

Abstract: This final amendment permits FCU's to purchase put options under limited circumstances for the purpose of reducing the risk of loss from interest rate increases on real estate loans.

Timetable:

Action	Date	FR Cite
Final Action	05/01/89	54 FR 18471
Final Action Effective	05/01/89	54 FR 18471

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward P. Dupcak, Director, Department of Risk Management, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB02

[FR Doc. 89-21758 Filed 10-27-89; 8:45 am]
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federal register

Monday
October 30, 1989

Part LVII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

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NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12291 "Federal Regulations." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 24, 1989 (54 FR 16440).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying at a cost of ten cents per page at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the NRC quarterly agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 275-2060 or (202) 275-2171.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael Lesar, Acting Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492-7758. Persons outside the Washington, DC, metropolitan area may call toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: Although publication of the agenda is only required semiannually in April and October, the NRC has chosen to update and publish its agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on April 24, 1989 (54 FR 16440).

Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through August 25, 1989. The date under the heading "Timetable," for the next scheduled action, is the date the rule is scheduled to be published in the **Federal Register.** The date is considered tentative and is not binding on the Commission or its staff. This regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for the review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

Rules that have received EDO approval to date are identified by the symbol (+) at the beginning of the title. As additional rules receive EDO approval, they will be identified in subsequent editions of this agenda.

The NRC agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 1(b) of Executive Order 12291.

Eight rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Bethesda, Maryland, this 15th day of August 1989.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4026	Night Firing Qualifications for Security Guards at Nuclear Power Plants	3150-AC88
4027	Conduct of Employees; Miscellaneous	3150-AD15

NRC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4028	Proposed Revisions to the Criteria and Procedures for the Reporting of Defects and Noncompliance	3150-AA98
4029	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4030	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AB66
4031	Safety Related and Important to Safety in 10 CFR Part 50	3150-AB88
4032	NRC Acquisition Regulation (NRCAR)	3150-AC01
4033	Availability of Official Records	3150-AC07
4034	Disposal of Waste Oil by Incineration from Nuclear Power Plants	3150-AC14
4035	Radioactive Waste Below Regulatory Concern; Generic Rulemaking	3150-AC35
4036	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4037	Criteria for Licensing the Custody and Long-Term Care of Uranium Mill Tailings Sites	3150-AC56
4038	Basic Quality Assurance Program for Medical Use of Byproduct Material	3150-AC65
4039	Revision of Definition of Meeting	3150-AC78
4040	Twenty-Four Hour Notification of Incidents	3150-AC91
4041	Codes and Standards for Nuclear Power Plants (ASME Code, Section XI, Division 1, Subsection IWE)	3150-AC90
4042	Licensing and Radiation Safety Requirements for Large Irradiators	3150-AC98
4043	Medical Use of Byproduct Material: Training and Experience Criteria	3150-AC99
4044	Amendment of the Pressurized Thermal Shock Rule	3150-AD01
4045	Nuclear Plant License Renewal	3150-AD04
4046	Codes and Standards for Nuclear Power Plants (ASME Code, 1986/1987/1988 Addenda)	3150-AD05
4047	Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components	3150-AD10
4048	Clarification of General Physical Protection Requirements	3150-AD16
4049	Stabilization and Decontamination Priority, Trusteeship Provisions, and Amount of Property Insurance Requirements	3150-AD19
4050	Revision of Fee Schedules: Radioisotope Licenses	3150-AD23
4051	Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation	3150-AD26
4052	Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository	3150-AD27
4053	+Credit Checks - Expanded Personnel Security Investigative Coverage	3150-AD28
4054	Day Firing Qualifications and Physical Fitness Programs for Security Personnel at Category I Fuel Cycle Facilities	3150-AD30
4055	Amendments to Part 60 to Delineate Anticipated Processes and Events and Unanticipated Processes and Events	3150-AD31
4056	Emergency Response Data System	3150-AD32
4057	Low-Level Waste Manifest Information and Reporting	3150-AD33
4058	Requirements for Possession of Industrial Devices	3150-AD34

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4059	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
4060	Amendment to 10 CFR 51.51 and 51.52, Tables S-3 and S-4, Addition of Radon-222 and Technetium-99 Radiation Values, and Addition of Appendix B, "Table S-3 Explanatory Analysis"	3150-AA31
4061	Standards for Protection Against Radiation	3150-AA36
4062	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
4063	Personnel Access Authorization Program	3150-AA90
4064	Elimination of Inconsistencies between NRC Regulations and EPA Standards	3150-AC03
4065	Safety Requirements for Industrial Radiographic Equipment	3150-AC12
4066	Transportation Regulations: Compatibility With the International Atomic Energy Agency (IAEA)	3150-AC41
4067	Reasserting NRC's Sole Authority for Approving Onsite Low-Level Waste Disposal in Agreement States	3150-AC57
4068	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3150-AC84
4069	Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites	3150-AC78
4070	Debt Collection Procedures	3150-AC87
4071	Ensuring the Effectiveness of Maintenance Programs for Nuclear Power Plants	3150-AD00
4072	Minor Amendments to Physical Protection Requirements	3150-AD03
4073	Sequestration of Witnesses Interviewed Under Subpoena/Disqualification of Attorneys	3150-AD06
4074	Palladium-103 for the Interstitial Treatment of Cancer	3150-AD11
4075	Informal Hearing Procedures for Nuclear Reactor Operator Licensing Adjudications	3150-AD17
4076	Statement of Organization and General Information; Minor Amendments	3150-AD18
4077	Export of Heavy Water to Canada	3150-AD20
4078	Preserving the Free Flow of Information to the Commission	3150-AD21

NRC

NRC

Prerule Stage

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NRC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4079	Modifications to the NRC Hearing Process (Limited Interrogatories and Factual Basis for Contentions)	3150-AA05
4080	Emergency Preparedness for Fuel Cycle and Other Radioactive Materials Licensees	3150-AA41
4081	Informal Hearing Procedures for Materials Licenses Proceedings	3150-AB83
4082	Disposal of Radioactive Wastes; Part 61 Amendments	3150-AB89
4083	NEPA Review Procedures for Geologic Repositories for High-Level Waste	3150-AC04
4084	Issuance or Amendment of Power Reactor License or Permit Following Initial Decision	3150-AC15
4085	Rules of Practice for Domestic Licensing Proceedings--Procedural Changes in Hearing Process	3150-AC22
4086	Education and Experience Requirements for Senior Reactor Operators and Supervisors at Nuclear Power Plants	3150-AC26
4087	Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors	3150-AC61
4088	Regulation of Uranium Enrichment Facilities	3150-AC71
4089	Flow Control Conditions for the Standby Liquid Control System in Boiling Water Reactors	3150-AC72
4090	Fitness For Duty Program	3150-AC81
4091	Licensee Action During National Security Emergency	3150-AC83
4092	Extension of Time for the Implementation of the Decontamination Priority and Relationship Provisions of Property Insurance Requirements	3150-AC94
4093	Rule on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste	3150-AD02
4094	Financial Protection Requirements and Indemnity Agreements; Miscellaneous Amendments Necessitated by Changes in the Price-Anderson Act	3150-AD08
4095	Access to Safeguards Information	3150-AD12
4096	Indemnification of Licensees that Manufacture, Produce, Possess or Use Radiopharmaceuticals or Radioisotopes for Medical Purposes	3150-AD13
4097	Freedom of Information Act; Appeal Authority for Deputy Executive Director for Operations	3150-AD14
4098	Manner of Service of Pleadings Upon the Secretary of the Commission	3150-AD22
4099	Access Authorization Fee Schedule for Licensee Personnel and Implementation of SF-312	3150-AD24
4100	Advisory Committees; Policies and Procedures	3150-AD25
4101	Duplication Fees	3150-AD29

NUCLEAR REGULATORY COMMISSION (NRC) — Prerule Stage

4026. NIGHT FIRING QUALIFICATIONS FOR SECURITY GUARDS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The rulemaking would ensure that security force effectiveness at nuclear power plants is not dependent on the time of day. Security guards currently are required to perform night firing for familiarization only. There is no requirement for standards to measure their effectiveness. The rule would change that by requiring that security guards at nuclear power plants qualify for night firing. The only alternative to rulemaking is to retain the current status.

Part 73, Appendix B, Part IV, will be amended to require reactor security guards to qualify annually in an NRC-approved night firing course with their assigned weapons. The amendment will standardize training and qualification in night firing and prepare power reactor guard forces to more effectively respond in the event of an incident occurring in limited lighting conditions. The cost to industry should be relatively modest since licensees already operate daylight firing training and qualification facilities and programs. The costs to NRC will also be minimal because it will only (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: require minor licensing, inspection and other regulatory actions. There is no occupational exposure.

It is estimated that 0.4 staff-years of effort over 2 years by the NRC will be required for the rulemaking.

Agency Contact: Dr. Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150-AC88

4027. ● CONDUCT OF EMPLOYEES; MISCELLANEOUS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 000

Legal Deadline: None

Abstract: The rule would clarify and correct typographical errors in 10 CFR Part 0 concerning acts affecting a personal financial interest; confidential statement of employment and financial interests; and restriction against ownership of certain security interests

NRC — Prerule Stage

by Commissioners, certain staff members, and other related personnel.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karla Smith, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1606

RIN: 3150-AD15

NUCLEAR REGULATORY COMMISSION (NRC) — Proposed Rule Stage

4028. PROPOSED REVISIONS TO THE CRITERIA AND PROCEDURES FOR THE REPORTING OF DEFECTS AND NONCOMPLIANCE

Legal Authority: 42 USC 2201; 42 USC 2282; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 21; 10 CFR 50

Legal Deadline: None

Abstract: This proposed rule would amend Part 21 and sec. 50.55(e), both of which require the reporting of safety defects by licensees. In addition, Part 21 requires reporting by non-licensees. This proposed amendment was prompted by TMI Action Plan Task II, J.4, and NRC staff experience with Part 21 and section 50.55 (e) reporting. The main objectives of the rulemaking effort are: (1) elimination of duplicate evaluation and reporting of safety defects; (2) consistent threshold for safety defect reporting in Part 21 and section 50.55(e); (3) establishment of consistent and uniform content of reporting under Part 21 and section 50.55 (e) and (4) establishment of consistent time limits for reporting defects.

Approximately 300 reports are submitted to the Commission annually under Part 21. Approximately 900 reports are submitted to the Commission annually under section 50.55 (e). These reports identify both plant-specific and generic safety defects for further NRC regulatory action. Under current rules, these reports have formed the basis for NRC issuance of numerous NRC generic communications. (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44594
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Alternatives to this rulemaking approach which were considered, varied from establishment of a single rule for all reporting of safety defects and operating reactors events to maintaining status quo for defect reporting. All alternatives were rejected since they would not substantially improve the current safety defect reporting situation.

Current costs of reporting under Part 21 and section 50.55 (e) are estimated at $6.67 million annually for industry and $670,000 annually for NRC evaluations. It is anticipated that the annual industry reporting burden should be reduced by approximately $1.0 million; while NRC burden should remain the same. Additional industry burden, though minimal, is anticipated in the area of reissuing procedures for reporting and record keeping.

Agency Contact: William R. Jones, Nuclear Regulatory Commission, Office of Analysis and Evaluation of Operational Data, Washington, DC 20555, 301 492-4442

RIN: 3150-AA68

4029. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would revise the criteria for an extraordinary nuclear occurrence (ENO) to eliminate the problems encountered in the Three Mile Island ENO determination. It is desirable to get revised criteria in place in the event they are needed.

There are no alternatives to this rulemaking, as the current ENO criteria are already embodied in Subpart E of 10 CFR Part 140. The only way to modify these criteria, as this rule seeks to do, is through rulemaking.

There is no safety impact on public health or safety. The ENO criteria provide legal waivers of defenses. Industry (insurers and utilities) claims that a reduction in the ENO criteria could cause increases in insurance premiums. The final rule would also be responsive to PRM-140-1.

It is estimated that approximately 1.0 staff year of NRC time will be required to process the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13976
NPRM Comment Period End	09/06/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3640

RIN: 3150-AB01

4030. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 05 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would shorten and simplify existing Commission procedural rules applicable to domestic licensing proceedings by

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comprehensively restating the current practice, and revising and reorganizing the statement of those rules to reflect current practice. The changes in this proposed rule would enable the Commission, directly and through its adjudicatory offices, to render decisions in a more timely fashion, eliminate the stylistic complexity of the existing rules, and reduce the burden and expense to the parties participating in agency proceedings. During his tenure, Chairman Zech requested re-submission of this proposed rule for possible re-consideration by the Nuclear Regulatory Commission. The Commission had deferred further consideration of this proposal which would have revised the Commission's procedural rules governing the conduct of all adjudicatory proceedings, with the exception of export licensing proceedings under 10 CFR Part 110.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Sebastian Aloot, Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555, 301 492-7787

RIN: 3150–AB66

4031. SAFETY RELATED AND IMPORTANT TO SAFETY IN 10 CFR PART 50

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would clarify in the Commission's regulations the use of the terms "important to safety" and "safety related" by adding definitions of these two terms and of "facility licensing documents" to 10 CFR Part 50 and by discussing how these definitions will be applied in NRC licensing reviews. Significant issues concerning the meaning of these terms as they are used in this part have arisen in Commission licensing proceedings. This proposed rule would define these terms and clarify the nature and extent of their effect on quality assurance requirements, thereby resolving these issues.

Rulemaking was chosen as the method of resolving this issue as a result of the Commission's directive to resolve the issue by rulemaking contained in the Shoreham licensing decision (CLI-84-9, 19 NRC 1323, June 5, 1984).

A position paper requesting approval of the staff proposed definitions and additional guidance from the Commission was signed by the EDO on May 29, 1986. In addition to rulemaking, the position paper discusses the alternative of the Commission (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: issuing a policy statement concerning the definitions and their usage.

Since the proposed rule is only clarifying existing requirements, there is no impact on the public or the industry as a result of this rulemaking. It is anticipated that the NRC will expend 3.2 to 4.4 staff years in developing the final rule over a two year period. The manpower and time frame will depend on Commission guidance received on the extent to which 10 CFR usage of the terms is to be consistent, i.e., 10 CFR Part 50 only or all of 10 CFR Chapter I. The timetable for this rule is on hold based on a decision by the Commission.

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3729

RIN: 3150–AB88

4032. NRC ACQUISITION REGULATION (NRCAR)

Legal Authority: 42 USC 2201; 42 USC 5841; 41 USC 401

CFR Citation: 48 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish provisions unique to the NRC concerning the acquisition of goods and services. The NRC Acquisition Regulation is necessary to implement and supplement the government-wide Federal Acquisition Regulation. This action is necessary to ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency. The NRC Acquisition Regulation implements the Federal Acquisition Regulation within the agency and includes additional policies, procedures, solicitation provisions, or contract clauses needed to meet specific NRC needs.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	54 FR 40420

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Ronald D. Thompson, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-8770

RIN: 3150–AC01

4033. AVAILABILITY OF OFFICIAL RECORDS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and agency practice. The amendment would reaffirm that the terms of 10 CFR 2.790(c) provide submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three exceptions to the right to withdraw, pursuant to 10 CFR 2.790(c) of the NRC's regulations, i.e., information submitted in a rulemaking proceeding that subsequently forms the basis for the final rule, information which has been made available to an advisory committee or was received at an advisory committee meeting, and information that is subject to a pending Freedom of Information Act request.

Additionally, the proposed amendment would add a notice statement to 10 CFR Part 2 that submitters of documents and information to the NRC should be careful in submitting copyrighted works. The agency in receiving submittals and making its normal distributions routinely photocopies submittals, makes microfiche of such submittals and insures that these (con't)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: fiche are distributed to the PDR, LPDRs, all appropriate internal offices, and to the National Technical Information Service Center. This broad distribution and reproduction is made to satisfy the congressional mandate of Section 142(b) of the Atomic Energy Act by increased public understanding of the peaceful uses of atomic energy. Accordingly, copyright owners are on notice that their act of submitting such works to the agency will be considered as the granting to the NRC an implied license to reproduce and distribute according to normal agency practice. Naturally, this notice does not prevent submitters from applying 10 CFR 2.790(b)(1) procedures to information that contains trade secrets or privileged or confidential commercial or financial information (proprietary information) and it is recognized that some information in those categories may be copyrighted. The key factor is that it is their proprietary information status that exempts them from public disclosure and not their copyright designation. Lastly, this implied license is not applicable to fair use of copyrighted works or the incorporation by reference of copyrighted works in agency submittals.

Agency Contact: Catherine Holzle, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1560

RIN: 3150–AC07

4034. DISPOSAL OF WASTE OIL BY INCINERATION FROM NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 2167; 42 USC 2073

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule, which is being initiated in partial response to a petition filed by Edison Electric Institute and Utility Nuclear Waste Management Group (PRM-20-15, dated July 31, 1984), would amend NRC regulations to allow onsite incineration of waste oil at nuclear power plants subject to specified conditions. Currently, the only approved disposal method for low-level, radioactively contaminated waste oil from nuclear power plants involves absorption or solidification, transportation to, and burial at a licensed disposal site. There is a clear need to allow, for very low activity level wastes, the use of alternative disposal methods which are more cost effective from a radiological health and safety standpoint and which conserve the limited disposal capacity of low-level waste burial sites.

Increased savings to both the public and the industry could thereby be achieved without imposing additional risk to the public health and safety. There would be an estimated industry-wide economic savings of approximately $3 million to $12 million per year if such a rule were promulgated. (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/29/88	53 FR 32914
NPRM Comment Period End	10/28/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Alternatives to this rulemaking action are to maintain the status quo or to wait until the Environmental Protection Agency develops standards on acceptable levels of radioactivity which may be released to the environment on an unrestricted basis. It is estimated that approximately 1-2 person years of NRC staff time will be required to process this rule.

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3638

RIN: 3150–AC14

4035. RADIOACTIVE WASTE BELOW REGULATORY CONCERN; GENERIC RULEMAKING

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 2; 10 CFR 20

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) sought comments on a proposal to amend NRC regulations to address disposal of radioactive wastes that contain sufficiently low quantities of radionuclides that their disposal does not need to be regulated as radioactive.

The NRC has already published a policy statement providing guidance for filing petitions for rulemaking to exempt individual waste streams (August 29, 1986; 51 FR 30839). It is believed that generic rulemaking could provide a more efficient and effective means of dealing with disposal of wastes below regulatory concern. Generic rulemaking would supplement the policy statement which was a response to Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240). The public was asked to comment on 14 questions. The ANPRM requested public comment on several alternative approaches that the NRC could take. The evaluation of public comment together with the results from a proposed research contract will help to determine whether and how NRC should proceed on the matter. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/02/86	51 FR 43367
ANPRM Comment Period End	03/02/87	51 FR 43367

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

The action on this rule is dependent on the issuance of broad Commission policy statement on exemptions from regulatory control.

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Agency Contact: William Lahs, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3774

RIN: 3150-AC35

4036. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations governing the medical use of byproduct material to require a comprehensive quality assurance program for medical licensees using byproduct materials. The purpose of this rulemaking action is to address each source of error that can lead to a misadministration. An ANPRM was published to request public comment on the extent to which in addition to the basic quality assurance steps (being addressed by another rulemaking action, entitled "Basic Quality Assurance for Medical Use of byproduct Material") a more comprehensive quality assurance requirement is needed, and invites advice and recommendations on about 20 questions that will have to be addressed in the rulemaking process.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3787

RIN: 3150-AC42

4037. CRITERIA FOR LICENSING THE CUSTODY AND LONG-TERM CARE OF URANIUM MILL TAILINGS SITES

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 40

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking would amend 10 CFR Part 40 to include a procedure for licensing a custodian for the post-closure, long-term control of uranium mill tailings sites required by the Uranium Mill Tailings Radiation Control Act of 1987 (UMTRCA). This amendment would establish a general license for custody and long-term care of uranium mill tailings by the Department of Energy, other designated Federal agencies, or States when applicable. The license would be formulated so that it would become effective for a particular site when (1) NRC concurs in the DOE determination that the site has been properly reclaimed or closed and (2) a Surveillance and Maintenance Plan that meets the requirements of the license has been received by NRC. No significant impact to the public or industry is expected as a result of this proposed action.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/88	53 FR 32396
ANPRM Comment Period End	10/24/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3877

RIN: 3150-AC56

4038. BASIC QUALITY ASSURANCE PROGRAM FOR MEDICAL USE OF BYPRODUCT MATERIAL

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the medical use of byproduct material. The proposed amendments would require its medical licensees to establish and implement a written basic quality assurance program to prevent, detect, and correct the cause of errors in the administration of byproduct material. The proposed action is necessary to provide for improved patient safety. The proposed amendment, which is intended to reduce the potential for and severity of therapy misadministrations, would primarily affect hospitals, clinics, and individual physicians. The proposed rule would also modify reporting and recordkeeping requirements for diagnostic and therapy events.

Timetable:

Action	Date	FR Cite
NPRM	10/02/87	52 FR 36942
NPRM Comment Period End	12/01/87	52 FR 36942

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3787

RIN: 3150-AC65

4039. REVISION OF DEFINITION OF MEETING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Legal Deadline: None

Abstract: The proposed rule would return the definition of "meeting" to its pre-1985 wording. The proposal is based on a study of comments submitted on an interim final rule published on May 21, 1985 (50 FR 20889), and the 1987 recommendations and report of the American Bar Association (ABA). Since the pre-1985 wording of the definition of meeting is fully adequate to permit the types of non-Sunshine Act discussions that the NRC believes would be useful, the proposal calls for the NRC to reinstitute its pre-1985 definition of meeting, with the intention of conducting its non-Sunshine Act discussions in accordance with the guidelines recommended by the ABA.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Crane, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150-AC78

4040. TWENTY-FOUR HOUR NOTIFICATION OF INCIDENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: This rulemaking would amend 10 CFR Part 20.403(a) and (b) to clarify the licensees' reporting requirements. While 10 CFR 20.403(a) and (b) are reasonably clear in terms of licensee reporting requirements for events involving "exposures" and "releases" of radioactive materials, these sections are not clear concerning events involving "loss of operation" and "damage to property." "Loss of operation" should be clarified in terms of loss of use of facilities, devices or equipment. "Damage to property" should be clarified to include contamination clean-up if the corrective action is equal to or greater than a certain cost. In addition, the rulemaking should also define "immediate" in actual time, e.g., within 1 hour, for reporting requirements.

This rulemaking action will clarify a current Commission regulation; there is no other appropriate procedure to accommodate the clarification.

Timetable:

Action	Date	FR Cite
NPRM	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The health and safety of the public will be better protected because improved reporting requirements will reduce the potential risk of exposure to radiation. Clarifying the reporting requirements will also simplify regulatory functions and free the staff from unnecessary additional investigation and, at the same time, protect the industry from unnecessary and unexpected fines.

Agency Contact: Joseph J. Mate, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3795

RIN: 3150-AC91

4041. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, SECTION XI, DIVISION 1, SUBSECTION IWE)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," of Section XI (Division 1) of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Subsection IWE provides the rules and requirements for inservice inspection, repair, and replacement of Class MC pressure retaining components and their integral attachments, and of metallic shell and penetration liners of Class CC pressure retaining components and their integral attachments in light-water cooled power plants.

Incorporation by reference of Subsection IWE will provide systematic examination rules for containment structure for meeting Criterion 53 of the General Design Criteria (Appendix A of 10 CFR Part 50) and Appendix J of 10 CFR Part 50. Age-related degradation of containments has occurred, and additional and potentially more serious degradation mechanisms can be anticipated as nuclear power plants age. (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: If the NRC did not take action to endorse the Subsection IWE rules, the NRC position on examination practices for containment structure would have to be established on a case-by-case basis and improved examination practices for steel containment structures might not be implemented. The other alternatives of incorporating these detailed examination requirements into the American National Standard ANSI/ANS 56.8-1981 or into Appendix J are not feasible.

Incorporating by reference the latest edition and addenda of Subsection IWE will save applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff can review any single submission. Adoption of the proposed amendment would permit the use of improved methods for containment inservice inspection.

Agency Contact: Wallace E. Norris, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3805

RIN: 3150-AC93

4042. LICENSING AND RADIATION SAFETY REQUIREMENTS FOR LARGE IRRADIATORS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 036

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is developing regulations to specify radiation safety requirements and license requirements for the use of licensed radioactive materials in large irradiators. Irradiators use gamma radiation to irradiate products to change their characteristics in some way. The requirements would apply to large panoramic irradiators (those in which the radioactive sources and the material being irradiated are in a room that is accessible to personnel while the source is shielded) and certain large self-contained irradiators in which the source always remains under water. The rule would not cover small self-contained irradiators, instrument calibrators, medical uses of sealed sources (such as teletherapy), or non-destructive testing (such as industrial radiography).

The alternative to a regulation is continuing to license irradiators on a case-by-case basis using license conditions. The formalization would make the NRC's requirements better understood and possibly speed the licensing of irradiators. Development of the rule will require 2 staff-years.

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Timetable:

Action	Date	FR Cite
NPRM	10/00/89	
Final Action	05/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3757

RIN: 3150-AC98

4043. MEDICAL USE OF BYPRODUCT MATERIAL; TRAINING AND EXPERIENCE CRITERIA

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations concerning training and experience criteria for individuals involved in medical use of byproduct material. Rulemaking may be needed to reduce the chance of misadministrations. The Commission may proceed with rulemaking, assist in the development of national voluntary training standards, or issue a policy statement recommending increased licensee attention to training. If the Commission proceeds with rulemaking, the NRC could publish criteria in its regulations or recognize medical specialty certificates. The NRC is not able to project costs or benefits at this time, and has requested cost/benefit comments in an ANPRM published May 25, 1988. The NRC has hired a contractor to study training, accreditation and certification programs that are now in place. The NRC staff will analyze the study results, due in November 1989, and the comments received to determine whether regulatory action is necessary.

Timetable:

Action	Date	FR Cite
ANPRM	05/25/88	53 FR 18845
ANPRM Comment Period End	08/24/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Terry A. Johnson, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 492-0633

RIN: 3150-AC99

4044. AMENDMENT OF THE PRESSURIZED THERMAL SHOCK RULE

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule revises the Pressurized Thermal Shock (PTS) rule, published on July 23, 1985, which established a screening criterion, a limit on the degree of radiation embrittlement of PWR reactor vessel beltline materials beyond which operation cannot continue without additional plant-specific analysis. The PTS rule prescribed how to calculate the degree of embrittlement as a function of the copper and nickel contents of the controlling material and the neutron fluence. The proposed amendment revises the calculative procedures to be consistent with that given in Revision 2 of Regulatory Guide 1.99. This guide, which was published in final form on June 8, 1988, provides an updated correlation of embrittlement data.

The need to amend the PTS rule to be consistent with the guide became apparent when it was found that some medium-copper, high-nickel materials embrittlement is worse now than predicted using the PTS rule. A number of PWR's will reach the screening criterion sooner than previously thought, and three plants will need to make plant-specific analyses in the next 10 years. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Abstract Cont.

An unacceptable alternative to this amendment from the safety standpoint is to leave the present PTS rule in place. A plant-by- plant analysis by the NRC staff found four plants whose reference temperatures are 52 to 68 degrees F higher than previously thought, based on the present rule. This is beyond the uncertainties that were felt to exist when the proposed rule was published. Another unacceptable alternative that has been evaluated is to change the calculative procedure for the reference temperature and also change the screening criterion. Failure probabilities for the most critical accident scenarios in three plants, when recalculated using the new embrittlement estimates, were somewhat lower, but were quite dependent on the plant configuration and the scenario chosen. Furthermore, the screening criterion was based on a variety of considerations besides the probabilistic analysis. Reopening the question of where to set the screening criterion was not considered productive because of plant-to-plant differences.

Agency Contact: Pryos N. Randall, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3842

RIN: 3150-AD01

4045. NUCLEAR PLANT LICENSE RENEWAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule is scheduled for completion prior to the anticipated submittal of license renewal applications for Yankee Rowe and Monticello. The rule will provide the basis for development and review of these two "lead plant" applicants and the concurrent development of implementing regulatory guidance. Timely completion of the rule is critical for establishing standards for continued safe operation of power reactors during the license renewal term and providing the regulatory stability desired by utilities in determining whether to prepare for license renewal or pursue alternative sources of generating capacity.

License renewal rulemaking to provide regulatory requirements for extending nuclear power plant licenses beyond 40 years was initiated in response to the Commission's 1986 and 1987 policy and planning guidance. Current regulatory

provisions permit license renewal but do not provide requirements for the form and content of a license renewal application nor the standards of acceptability against which the application will be reviewed.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/88	53 FR 32919
ANPRM Comment Period End	10/28/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Donald Cleary, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3836

RIN: 3150-AD04

4046. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, 1986/1987/1988 ADDENDA)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference the 1986 Addenda, the 1987 Addenda, the 1988 Addenda, and the 1989 Edition of Section III, Division 1, and Section XI, Division 1, with a specified modification, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Also, the proposed amendment would impose augmented examination of reactor vessel shell welds and would separate the requirements for inservice testing from those for inservice inspection by placing the requirements for inservice testing in a separate paragraph. The ASME Code provides rules for the construction of light-water-reactor nuclear power plant components in Section III, Division 1, and provides rules for the inservice inspection and inservice testing of those components in Section XI, Division I.

The proposed rule would update the existing reference to the ASME Code and would thereby permit the use of improved methods for the construction, inservice inspection, and inservice testing of nuclear power plant components. Incorporating by reference the latest addenda of the ASME Code would save (cont)

Timetable:

Action	Date	FR CRe
NPRM	02/00/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Abstract Cont. applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff could review any single submission. In addition, the proposed rule would require expeditious implementation of the expanded reactor vessel shell weld examinations provided in the 1988 Addenda and the 1989 Edition of Section XI and would clarify the existing requirements in the regulation for inservice inspection and inservice testing.

This action will be handled as a routine updating of 10 CFR 50.55a of the NRC regulations. There is no reasonable alternative to rulemaking action. The proposed amendment will be issued for public comment. The task to develop and publish the proposed amendment is scheduled for a period of 7.5 months with an estimated staff effort of 400 p-hrs.

Agency Contact: Gilbert C. Millman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3848

RIN: 3150-AD05

4047. ACCEPTANCE OF PRODUCTS PURCHASED FOR USE IN NUCLEAR POWER PLANT STRUCTURES, SYSTEMS, AND COMPONENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The Nuclear Regulatory Commission is proposing to develop regulations requiring enhanced receipt inspection and testing of products purchased for use in nuclear power plant structures, systems, and components. These regulations are believed to be necessary to provide an acceptable level of assurance that products purchased for use in nuclear power plants will perform as expected to protect the public health and safety. An Advance Notice of Proposed Rulemaking (ANPRM) was published to solicit public comments on the need for additional regulatory requirements and to obtain an improved understanding of alternatives to regulatory requirements.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/89	54 FR 9229
ANPRM Comment Period End	07/05/89	

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Max J. Clausen, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-0969

RIN: 3150-AD10

4048. ● CLARIFICATION OF GENERAL PHYSICAL PROTECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the regulations regarding general physical protection for fixed sites to clarify the intent that physical protection against sabotage or theft, or both, must be provided only as required by specific sections of 10 CFR Part 73 which apply to designated classes of facilities or material. This action is necessary because the Atomic Safety and Licensing Board, in a recent ruling issued an interpretation of this provision which is different from the Commission's intent and application.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carl J. Withee, Nuclear Regulatory Commission, Office

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of Nuclear Material Safety and Safeguards, 301 492-0358

RIN: 3150–AD16

4049. ● STABILIZATION AND DECONTAMINATION PRIORITY, TRUSTEESHIP PROVISIONS, AND AMOUNT OF PROPERTY INSURANCE REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on property insurance as they apply to commercial power reactor licensees. The proposed rule, which is in response to three petitions for rulemaking, would (1) clarify the scope and timing of the stabilization and decontamination processes after an accident at a covered reactor; (2) specify that the insurance is required to ensure that commercial power reactor licensees will have sufficient funds to carry out their obligations to clean up and decontaminate after an accident; (3) eliminate the requirement that insurance proceeds after an accident are paid to an independent trustee; and (4) solicit comments on appropriate level of required insurance in view of inflation of decontamination and clean up costs.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert Woods, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1960

RIN: 3150–AD19

4050. ● REVISION OF FEE SCHEDULES: RADIOISOTOPE LICENSES

Legal Authority: 31 USC 9701; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing licensing and inspection fees for radioisotope licenses (small programs licensed under the provisions of 10 CFR parts 30, 40, and 70). The revised schedule of fees that would more completely recover the costs incurred by the Commission in providing services to identifiable recipients. The proposed rule would update the schedule of fees for small byproduct material applications for decommissioning, change the cost per professional staff hour for NRC services based on the FY 1990 budget, delete certain exemption provisions and clarify others for ease of administration, add a new exemption to provide that Indian tribes and Indian organizations will be exempt from the payment of fees, and fund transfer in accordance with U.S. Department of the Treasury cash management initiatives.

Timetable:

Action	Date	FR Cite
NPRM	10/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lee Hiller, Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555, 301 492-7351

RIN: 3150–AD23

4051. ● CONSIDERATION OF ENVIRONMENTAL IMPACTS OF TEMPORARY STORAGE OF SPENT FUEL AFTER CESSATION OF REACTOR OPERATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by revising the generic determination concerning the timing of availability of a geologic repository for commercial high-level radioactive waste and spent fuel and the environmental impacts of storage of spent fuel at reactor sites after the expiration of reactor operating licenses. These proposed revisions reflect proposed findings of the Commission reached in a five-year update and supplement to its 1984 "Waste Confidence" rulemaking proceeding.

Timetable:

Action	Date	FR Cite
NPRM	09/28/89	54 FR 39765

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen Cyr, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150–AD26

4052. ● PROCEDURES APPLICABLE TO PROCEEDINGS FOR THE ISSUANCE OF LICENSES FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing the licensing proceeding on the disposal of high-level radioactive waste at a geologic repository (HLW proceeding). The proposed revisions are intended to facilitate the Commission's ability to comply with the schedule for the Commission's decision on the construction authorization for the repository, while providing for a through technical review of the license application and the equitable treatment of the parties to the hearing. The proposed rule would establish a new standard for the admission of initial contentions, would define "late contentions" as any contention proposed after the initial contentions were submitted, would require parties to present direct testimony on contentions, would establish a compulsory hearing schedule, and would eliminate sua sponte review by the Commission's adjudicatory boards.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39387

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Brad Jones, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150–AD27

4053. ● CREDIT CHECKS - EXPANDED PERSONNEL SECURITY INVESTIGATIVE COVERAGE

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 5841; 42 USC 2273

CFR Citation: 10 CFR 011; 10 CFR 025

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require the expansion of the present investigative scope for licensee "R" Special Nuclear Material Access Authorization and "L" security clearance applicants by adding a credit check and would revise the corresponding fee schedule to recover the additional cost of each credit check.

These amendments are necessary for the following reasons: (1) to obtain a higher degree of assurance that licensee "R" and "L" applicants are reliable, trustworthy, and do not have any significant financial problems which may cause them to be susceptible to pressures, blackmail, or coercion to act contrary to the national interest; (2) to achieve greater comparability with the investigation scope for DOE's "L" and Secret clearances; (3) to be consistent with the investigative coverage proposed in the NUMARC guidelines for licensee personnel with unescorted access to protected and vital areas of nuclear power plants; and (4) to recover the additional cost of each credit check. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38863

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Abstract Cont. NRC resources required for processing this rule through final publication are estimated to be 240 staff hours.

Agency Contact: Beth Bradshaw, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-4120

RIN: 3150–AD28

4054. ● DAY FIRING QUALIFICATIONS AND PHYSICAL FITNESS PROGRAMS FOR SECURITY PERSONNEL AT CATEGORY I FUEL CYCLE FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that security personnel qualify and requalify annually on specific standardized day firing courses using all assigned weapons. Current regulations require day firing qualification using a national policy course or equivalent for handguns and an NRA or nationally recognized course for semiautomatic weapons. A firing course is specified for shotguns, which is in need of revision. Recent amendments to Part 73 added a requirement for night firing qualification using specific, designated firing courses. To ensure uniformity, the current day firing requirements should be compatible.

Additionally, current regulations specify that security personnel shall have no physical weaknesses that would adversely affect their performance of assigned job duties. However, no regulatory standards exist for assuring that security personnel are physically fit to perform their duties. Requirements for a physical fitness program and fitness standards at Category I fuel cycle facilities for security personnel need to be added to the regulations in order to provide a uniform, (CONT)

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Abstract Cont. enforceable program. Guidance will be developed to assure that such a program will not, at the same time, endanger the health of those participating in it.

The proposed rule change would amend 10 CFR Part 73, Appendix H, to include day firing qualification courses in each type of required weapon as well as a standardized physical fitness training course and fitness standards for security personnel. Alternatives to the rulemaking would be to allow the status quo to continue. Standardization of day firing courses to be consistent with those established for night firing would be of negligible cost to the 3-4 affected licensees and to the NRC since day firing qualification using a variety of firing courses is already being done. Physical fitness training programs would incur moderate costs to the licensee in the area of personnel time and limited physical fitness equipment. The cost to the NRC would be in the area of licensing and inspection activities. Neither area of rulemaking affects occupational exposure.

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AD30

4055. ● AMENDMENTS TO PART 60 TO DELINEATE ANTICIPATED PROCESSES AND EVENTS AND UNANTICIPATED PROCESSES AND EVENTS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: In 10 CFR Part 60, licensing requirements for disposal of radioactive wastes in geologic repositories, certain performance requirements for the repository are based on an assumption of the occurrence of anticipated processes and events. The specific meaning and use of this term, and unanticipated processes and events, needs further clarification. This rulemaking would modify the definition of this term in Section 60.2, modify Section 60.113, which describes the use of this term and modify the definition of "geologic setting" in Section 60.2, and modify the use of that term in Section 60.102.

The objective of the rulemaking is to improve the licensing process for the geologic repository program. It would have no adverse effects on the licensee or the public. It is expected that the resources expended by NRC on the rulemaking would be more than offset

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by resources saved during the licensing process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Melvin Silberberg, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3810

RIN: 3150-AD31

4056. ● EMERGENCY RESPONSE DATA SYSTEM

Legal Authority: 42 USC 2131; 42 USC 2133; 42 USC 2134; 42 USC 2135; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5843; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by requiring the implementation of the NRC-approved Emergency Response Data System (ERDS) at all licensed nuclear power plants. The primary role of the Nuclear Regulatory Commission during an emergency at a licensed nuclear power facility is one of monitoring the licensee to assure that appropriate recommendations are made with respect to necessary offsite actions to protect its role during an emergency, the NRC requires accurate and timely data on four types of parameters: (1) the reactor core and coolant system conditions to assess the extent or likelihood of core damage; (2) the conditions inside the containment building to assess the likelihood of its failure; (3) the radioactivity release rates to assess the immediacy and degree of public danger; and (4) the data from the plant's meteorological tower to assess the distribution of potential or actual impact on the public.

The ERDS is a licensee-activated computer data link between the electronic data systems at licensed nuclear power (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	
Final Action	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Abstract Cont. facilities and a central computer in the NRC Operations Center. Current experience with voice-only emergency communication link, utilized for data transmission, has demonstrated it to be slow and inaccurate. Simulated site tests of the ERDS concept in emergency planning exercises have demonstrated that ERDS is effective between the NRC Operations Center and affected licensees.

The rule would require that the licensees provide the required hardware and software to transmit the data in a format specified by the NRC. The NRC would require that the licensee activate the ERDS as soon as possible following the declaration of an alert condition. Based on a site survey of 80 percent of licensed facilities, the current estimates of licensee costs are $20K-50K for software and $0-100K for hardware. The current estimated cost to NRC is $2.6 million. The proposed changes to 10 CFR Part 50 will be issued for public comment.

Agency Contact: M. L. Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3749

RIN: 3150-AD32

4057. ● LOW-LEVEL WASTE MANIFEST INFORMATION AND REPORTING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 061

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to: (1) augment and improve information contained in manifests accompanying shipments of waste to low-level waste (LLW) disposal facilities licensed under Part 61; (2) require that operators of these disposal facilities store portions of this manifest information in onsite computer recordkeeping systems; and (3) require that operators periodically submit, in an electronic format, reports of shipment manifest information.

To assure safe disposal of LLW, we must understand the mechanisms and rates by which radioactivity can be released from LLW and into the environment. To do this, we must understand the chemical physical, and radiological characteristics of LLW. This task is greatly complicated by the heterogeneous nature of LLW; it exists in a variety of chemical and physical forms and contains roughly 200 different radionuclides in concentrations that can range from a few microcuries to several hundred curies per cubic foot. Each year there are thousands of shipments of LLW disposal sites. (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	
Interim Final Rule	05/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Abstract Cont.

Pursuant to Section 20.311, a manifest must accompany each shipment of LLW to a disposal facility. Unfortunately, existing manifests do not describe the waste in detail sufficient to assure compliance with the Part 61 performance objectives. In addition, NRC's regulations do not require that disposal site operators develop and operate computer systems for storage and manipulation of shipment manifests information. We believe that such onsite computer systems are necessary for safe disposal facility operation. We also believe that a national data base is needed which contains information on LLW disposed at all sites.

A rulemaking to upgrade shipment manifests and require disposal site computer recordkeeping systems will assure that technical information on LLW is available and in a form which can be used for performance assessments, technical analyses, and other activities. It is expected that the rulemaking will slightly increase disposal costs.

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office

of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3677

RIN: 3150-AD33

4058. ● REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES

Legal Authority: 42 USC 2111; 42 USC 2114; 42 USC 2201

CFR Citation: 10 CFR 031

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the possession of industrial devices containing byproduct material to require device users to report to the NRC on a periodic basis. The proposed report would indicate that the device is still in use or to whom the device has been transferred. The proposed rule would be the most efficient method, considering the number of general licensees and the number of devices currently in use, for assuring that devices are not improperly transferred or inadvertently discarded. The proposed rule is necessary to avoid unnecessary radiation exposure to the public that may occur when an improperly discarded device is included in a batch of scrap metal for reprocessing. The proposed rule would also avoid the unnecessary expense involved in retrieving the manufactured items fabricated from contaminated metal. The proposed rule would impose a small burden on device users and the NRC.

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	
Final Action	05/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Mate, Nuclear Regulatory Research, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3785

RIN: 3150-AD34

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4059. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 1; 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would implement the Equal Access to Justice Act (EAJA) by providing for the payment of fees and expenses to certain eligible individuals and businesses that prevail in agency adjudications when the agency's position is determined not to have been substantially justified. This proposed regulation is modeled after rules issued by the Administrative Conference of the United States (ACUS) and have been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent to develop government-wide, "uniform" agency regulations and would describe NRC procedures and requirements for the filing and disposition of EAJA applications. A draft final rule was sent to the Commission in June 1982, but Commission action was suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties. This issue was also the subject of litigation in Business and Professional People for the Public Interest v. NRC, 793 F. 2d 1366 (D.C. Cir. 1986). This litigation is being evaluated to determine what if any changes may be necessary in the proposed rule. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/28/81	46 FR 53189
NPRM Comment Period End	11/28/81	46 FR 53189

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Additionally, in August 1985, the President signed into law an enactment renewing the EAJA after its expiration under a statutory sunset requirement. This legislation, Pub. L. No. 99-80 revises the EAJA, and these revisions are being evaluated to determine whether further conforming changes may be necessary in the proposed rule.

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150-AA01

4060. AMENDMENT TO 10 CFR 51.51 AND 51.52, TABLES S-3 AND S-4, ADDITION OF RADON-222 AND TECHNETIUM-99 RADIATION VALUES, AND ADDITION OF APPENDIX B, "TABLE S-3 EXPLANATORY ANALYSIS"

Legal Authority: 42 USC 2011; 42 USC 2201; 42 USC 4321; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 51

Legal Deadline: None

Abstract: The proposed rule provides a narrative explanation of the numerical values established in Table S-3, "Table of Uranium Fuel Cycle Environmental Data," that appears in the Commission's environmental protection regulations. The proposed rule describes the basis for the values contained in Table S-3, the significance of the uranium fuel cycle data in the table, and the conditions governing the use of the table. The proposed rule amends Section 51.52 to modify the enrichment value of U-235 and the maximum level of average fuel irradiation. The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing litigation time and costs for both NRC and applicants.

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The proposed revision of 10 CFR 51.51 and the addition of Appendix B was published for public review and comment on March 4, 1981 (46 FR 15154). The final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v. NRC, No. 74-1486) in the U.S. Circuit) decision of (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	46 FR 15154
Final Action	08/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983. The proposed rule to provide an explanatory analysis for Table S-3 has been revised to reflect new developments during the time the rulemaking was deferred. Final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 could be added to the table and covered in the narrative explanation. The rule is being reissued as a proposed rule because the scope has been expanded to include radiation values for radon-222 and technetium-99 and the narrative explanation has been extensively revised from that published on March 4, 1981 (46 FR 15154).

The staff's estimate is that the completion of a final Table S-3 rule covering the new values for radon-222 and technetium-99 and the revised explanatory analysis will be completed in 1989. A Commission paper presenting the final rulemaking plan and schedule was submitted on August 18, 1988 (SECY 88-242). On September 8, 1988, SECY 88-242 was approved by the Commission.

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3739

RIN: 3150-AA31

4061. STANDARDS FOR PROTECTION AGAINST RADIATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: Radiation protection philosophy and technology have changed markedly since the present Part 20 was promulgated nearly thirty years ago. Since Part 20 contains the NRC standards for protection against radiation that are used by all licensees and affects exposures of workers and members of the public, it should be the most basic of the NRC regulations. However, because the present Part 20 has become outmated, most radiation protection actions occur through licensing actions independent of Part 20. A complete revision is necessary to provide better assurance of protection against radiation; establish a clear health protection basis for the limits; reflect current information on health risk, dosimetry, and radiation protection practices and experience; provide NRC with a health protection base from which it may consider other regulatory actions taken to protect public health; be consistent with recommendations of world authorities (ICRP); International Commission on Radiological Protection (ICRP); and apply to all licensees in a consistent manner.

Alternatives to the complete revision considered were no action, delay for further guidance, and partial revision (cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/20/80	45 FR 18023
ANPRM Comment Period End	06/18/80	45 FR 18023
NPRM	12/20/85	50 FR 51992
NPRM Comment Period End	10/31/86	
Final Action	11/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: of the standards. These were rejected as ignoring scientific advancements, being unresponsive to international and national guidance, and correcting only some of the recognized problems with the present Part 20.

Benefits would include updating the regulations to reflect contemporary scientific knowledge and radiation protection philosophy; implementing regulations which reflect the ICRP risk-based rationale; reducing lifetime doses to individuals receiving the highest exposures; implementing provisions for summation of doses from internal and external exposures; providing clearly identified dose limits for the public; and providing an understandable health-risk base for protection.

Initial estimates of the cost of implementing the revision is about $33 million for all NRC and Agreement State licensees in the initial year and about $8 million in each subsequent year. This cost does not include any savings which might also be realized by the revision.

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3649

RIN: 3150-AA36

4062. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors. Problems have developed in application and interpretation of the existing rule. These result from changes in testing technology, test criteria, and a relevant national standard that needs to be recognized.

The revision is urgently needed to resolve continuing conflicts between licensees and NRC inspectors over interpretations, current regulatory practice that is no longer being reflected accurately by the existing rule, and endorsement in the existing regulation of an obsolete national standard that was replaced in 1981.

The benefits anticipated include elimination of inconsistencies and obsolete requirements, and the addition of greater usefulness and a higher confidence in the leak-tight integrity of containment system boundaries under post-loss-of-coolant accident conditions. The majority of the effort needed by NRC to issue the rule has already been expended. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/29/86	51 FR 39538
NPRM Comment Period End	04/24/87	52 FR 2416

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

A detailed analysis of costs, benefits, and occupational exposures is available in the NRC Public Document Room, and indicates possible savings to industry of $14 million to $300 million and an increase in occupational exposure of less than 1 percent per year per plant due to increased testing.

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3814

RIN: 3150-AA86

4063. PERSONNEL ACCESS AUTHORIZATION PROGRAM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 073

Legal Deadline: None

Abstract: The Commission has concluded that it is appropriate for each licensee who operates a nuclear power plant to establish an access authorization program to ensure that individuals who require unescorted access to protected areas or vital areas of their facilities are trustworthy, reliable, emotionally stable, and do not pose a threat to commit radiological sabotage. Accordingly, the NRC published a proposed rule on August 1, 1984, which would require an access authorization program at nuclear power plants (42 FR 30726).

An alternative proposal by the Nuclear Utility Management and Resource Committee (NUMARC) was submitted as a public comment on this proposed rule. The alternative proposed a voluntary industry commitment to implement an access authorization program at nuclear power plants based upon industry guidelines. Major provisions of this program include background investigation, psychological evaluation, and behavioral observation.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement Published	03/09/88	53 FR 7534
Final Action	11/00/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information:

On June 18, 1986, the Commission approved developing a policy statement endorsing industry guidelines as an alternative to the proposed rulemaking. Commitments to adhere to these guidelines would be formalized through amendments to the physical security plans and be subject to inspection and enforcement by NRC.

On March 9, 1988, the NRC published a proposed policy statement endorsing the NUMARC guidelines. In the Federal Register notice, the Commission specifically requested public comments as to whether the access authorization program should be a rule or a policy statement.

On April 19, 1989, the Commission decided to go forward with a final rule which would require all licensees to have an access authorization program and would specify the major attributes of the program. The NRC would also issue a regulatory guide which would endorse, with appropriate exceptions, the applicable industry guidelines, as an acceptable way of complying with the rule.

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150-AA90

4064. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA STANDARDS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would eliminate several inconsistencies with the EPA standards to be developed for the disposal of HLW in deep geologic repositories. The Nuclear Waste Policy Act of 1982 (NWPA) directs NRC to promulgate criteria for the licensing of HLW geologic repositories. Section 121(c) of this Act states that the criteria for the licensing of HLW geologic repoaitories must be consistent with these standards. The proposed rule is needed in order to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirement.

The public, industry, and NRC will benefit from eliminating inconsistencies in Federal HLW regulations. NRC resources needed would be several staff years but will not include contract resources.

Because the Federal Court invalidated the EPA standards, action on this rule, which is in response to the EPA standards, is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22268
NPRM Comment Period End	08/18/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Melvin Silberberg, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3810

RIN: 3150-AC03

4065. SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC EQUIPMENT

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 34

Legal Deadline: None

Abstract: The proposed rule would amend the present regulations to establish performance standards for industrial radiography exposure devices. Overexposures of radiographers (and occasionally the general public) are more than double that of other radiation workers and have been a concern to the NRC for some time. Approximately 25-35% of the radiography overexposures are

associated with equipment malfunction. The issue of safety requirements for these devices is a primary concern since the devices use relatively high intensity, high energy gamma-ray emitting sources with the potential for serious overexposures. Although a consensus standard for radiographic exposure devices was published in 1981 (American National Standard N432), it is not clear that all manufacturers are adopting the standard.

The alternatives considered were to take no action at this time, amend the regulations to require performance standards for radiographic devices plus a requirement for radiographers to wear alarm dosimeters and simultaneously issue a regulatory guide endorsing the consensus standard, supplemented by such other performance standards deemed necessary, and incorporate (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8460
NPRM Comment Period End	06/16/88	53 FR 18096
Final Action	10/00/89	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the consensus standard by reference in the regulations supplemented by such other performance standards as deemed necessary, plus a requirement for radiographers to wear alarm dosimeters.

The proposed rule would require licensees to modify radiographic devices to meet the performance standards through design changes and quality control procedures. Costs of incorporating the proposed changes are estimated to be a one-time cost of $1,625 per licensee to purchase alarm dosimeters and $850 annually for replacement of devices and alarm dosimeters, annual calibration of dosimeters, and annual maintenance costs. Determination of the benefits to be derived from the proposed rule are difficult to determine on a monetary basis, but the potential hazards that might be averted include radiation sickness, injury, and even death. NRC resources required for processing this rule to final publication are estimated to be 0.4 person-years.

Agency Contact: Donald O. Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3628

RIN: 3150–AC12

4066. TRANSPORTATION REGULATIONS: COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The proposed rule, would in conjunction with a corresponding rule change by the U.S. Department of Transportation, make the United States Federal regulations for the safe transportation of radioactive material consistent with those of the International Atomic Energy Agency (IAEA). The IAEA regulations can be found in IAEA Safety Series No. 6 "Regulations for the Safe Transport of Radioactive Material," 1985 Edition.

Consistency in transportation regulations throughout the world facilitates the free movement of radioactive materials between countries for medical, research, industrial, and nuclear fuel cycle purposes. Consistency of transportation regulations throughout the world also contributes to safety by concentrating the efforts of the world's experts on a single set of safety standards and guidance (those of the IAEA) from which individual countries can develop their domestic regulations. In addition, the accident experience of every country that bases its domestic regulations on those of the IAEA can be applied by every other country with consistent regulations to improve its safety program. The action will be handled as a routine (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 21550
NPRM Comment Period End	09/06/89	53 FR 51299

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: updating of NRC transportation regulations. There is no reasonable alternative to rulemaking action. These changes should result in a minimal increase in costs to affected licensees. Proposed changes to 10 CFR Part 71, based on current IAEA regulations, have been issued for public comment. The task will be scheduled over a 2-year interval and will consume 2-3 staff-years of effort, depending on the number and difficulty of conflicts to be resolved.

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3784

RIN: 3150–AC41

4067. REASSERTING NRC'S SOLE AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

Legal Authority: 42 USC 2201; 42 USC 2021; 42 USC 5841

CFR Citation: 10 CFR 150

Legal Deadline: None

Abstract: This rulemaking would establish NRC's sole authority for approving onsite disposal of low-level waste at all NRC licensed reactors and at Part 70 fuel cycle facilities. There is a need to amend 10 CFR 150.15 to authorize one agency (the NRC) to regulate all onsite disposal of low-level waste in order to provide a more comprehensive regulatory review of all onsite waste management activities and to avoid unnecessary duplication of effort. Uniform review by the NRC will provide for greater assurance that the radioactive material will not present a health hazard at a later date after the site is decommissioned.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31880
NPRM Comment Period End	10/21/88	
Final Action	01/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William R. Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AC57

4068. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 004

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, government wide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the section 504 regulations or more than one Federal agency.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9966
NPRM Comment Period End	05/08/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Edward Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization/Civil Rights, Washington, DC 20555, 301 492-7106

RIN: 3150–AC84

4069. STORAGE OF SPENT NUCLEAR FUEL IN NRC-APPROVED STORAGE CASKS AT NUCLEAR POWER REACTOR SITES

Legal Authority: 42 USC 10153; 42 USC 10198

CFR Citation: 10 CFR 50; 10 CFR 72; 10 CFR 170

Legal Deadline: None

Abstract: The proposed rule is in response to the Nuclear Waste Policy Act (NWPA) section 218 (a) which states in part, that the Secretary of DOE shall establish a demonstration program, in cooperation with the private sector, for dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at sites of civilian nuclear power reactors. The NWPA also requires that the NRC establish procedures for the licensing of any technology approved by the Commission under section 218(a) for use at the site of any civilian nuclear power reactor.

The staff anticipates a significant increase in the demand for use of dry spent fuel storage casks starting in the early 1990s, thus processing of this proposed rule would be timely. NRC resource requirements are anticipated to be about two staff years.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19379
NPRM Comment Period End	06/19/89	
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William R. Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AC78

4070. DEBT COLLECTION PROCEDURES

Legal Authority: 31 USC 3711; 31 USC 3717; 31 USC 3718; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 015

Legal Deadline: None

Abstract: The proposed rule would amend the regulations concerning the procedures that the NRC uses to collect the debts which are owed to it. The proposed amendments are necessary to conform NRC regulations to the amended procedures contained in the Federal Claims Collection Standards issued by the General Accounting Office and the U.S. Department of Justice. The proposed action is intended to allow the NRC to further improve its collection of debts due to the United States. Because the proposed regulation is necessary to implement the Debt Collection Act of 1982, there is no suitable alternative to rulemaking for this action. No comments were received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/07/88	53 FR 39480
NPRM Comment Period End	11/21/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Graham D. Johnson, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7535

RIN: 3150–AC87

4071. ENSURING THE EFFECTIVENESS OF MAINTENANCE PROGRAMS FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would provide functional requirements for the maintenance of nuclear power plants and allow industry initiatives to develop the details of maintenance programs to meet these requirements. The proposed rule would apply to all components, systems and structures of nuclear power plants and wold be applicable to existing and future plants. The proposed rule would also require each licensee to develop, implement and maintain a maintenance program, and to formally commit to follow the program.

The scope of maintenance activities addressed in the rule will be within the framework of the Commission's Policy Statement on Maintenance of Nuclear Power Plants which was issued on March 23, 1988 (53 FR 9430).

It is estimated that about 3 staff-years of effort and $800,000 for contract services will be required to process the final rule.

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Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 47922
NPRM Comment Period End	02/27/89	53 FR 52716

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Moni Dey, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3730

RIN: 3150-AD00

4072. MINOR AMENDMENTS TO PHYSICAL PROTECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

Abstract: The proposed rule amends the Commission's regulations dealing with physical protection requirements that are out of date, susceptible to differing interpretations, or in need of clarification. These problems were identified by a systematic review of the agency's safeguards regulations and guidance documents conducted by the Safeguards Interoffice Review Group (SIRG). In addition, the staff has identified other areas in the regulations where minor changes are warranted. In response to these efforts, specific amendments to the regulations are being proposed. The proposed changes would: (1) add definitions for common terms not currently defined by frequent use, (2) delete action dates that no longer apply, (3) correct outdated terms and cross references, (4) clarify wording that is susceptible to differing interpretations, (5) correct typographical errors, and (6) make other minor changes.

Timetable:

Action	Date	FR Cite
NPRM	08/15/89	54 FR 33570
NPRM Comment Period End	09/29/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The alternative to rulemaking would be to allow the status quo to continue. Except for the change in the impact of a high radiation field on physical protection requirements, these minor amendments affect the public, industry and the NRC only in so far as they make the regulations easier to understand, implement, and enforce. It is estimated that 0.4 staff-years of NRC effort over 2 years will be required for the rulemaking. This is a low priority rulemaking.

Agency Contact: Stan Dolins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3745

RIN: 3150-AD03

4073. SEQUESTRATION OF WITNESSES INTERVIEWED UNDER SUBPOENA/DISQUALIFICATION OF ATTORNEYS

Legal Authority: 41 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019

Legal Deadline: None

Abstract: The proposed rule would provide for the sequestration of all persons compelled to appear before NRC representatives under subpoena during the conduct of investigative interviews. The proposed rule would also give the agency official conducting the investigation (after consultation with the Office of the General Counsel) the authority to disqualify an attorney who represents multiple interests from the investigative interviews of other witness clients or from the investigatory proceedings entirely whenever the attorney impairs or impedes the progress of the investigation. The proposed rule would require the official to have evidence of the attorney's improper conduct and must provide the excluded counsel a written statement of reasons for the disqualification. The proposed rule would also provide disqualified counsel a right to Commission review of the disqualification decision. The proposed rule is intended to clarify and delineate the rights and responsibilities of the agency, interviewees, licensees, and attorneys during the conduct of agency investigations. The proposed rule is also (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45768
NPRM Comment Period End	01/10/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Abstract Cont. intended to promote candor in the investigative process and to facilitate an expeditious resolution of agency investigations.

Agency Contact: Carolyn F. Evans, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1632

RIN: 3150-AD06

4074. PALLADIUM-103 FOR THE INTERSTITIAL TREATMENT OF CANCER

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the medical use of byproduct material. The proposed regulation would add Palladium-103 sealed source as seeds to the list of sources permitted in 10 CFR Part 35 for use in cancer treatment. Under current NRC regulations, users must have their licenses amended before they may use Palladium-35 seeds by each potential user (about 700 licensees) with either a simplified amendment or no amendment, depending upon the individual license. An evaluation of potential radiation hazards to hospital personnel and the public showed a minimal risk if the seeds are used in accordance with the manufacturer's radiation safety and handling instructions.

Timetable:

Action	Date	FR Cite
NPRM	04/06/89	54 FR 13892
NPRM Comment Period End	05/08/89	
Final Action	04/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150-AD11

4075. ● INFORMAL HEARING PROCEDURES FOR NUCLEAR REACTOR OPERATOR LICENSING ADJUDICATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would amend NRC regulations to provide rules of procedure for informal adjudicatory hearings in nuclear power reactor operator licensing proceedings. The Atomic Energy Act of 1954 requires that the NRC, in any proceeding for the granting, suspending, revoking, or amending of an NRC license, including licensing as an operator or senior operator of a nuclear power plant, afford an interested person, upon request, a "hearing." This proposed rule would amend an existing rule which provides for informal hearing procedures for materials licensing proceedings to include reactor operator licensing proceedings as well.

Timetable:

Action	Date	FR Cite
NPRM	04/26/89	54 FR 17961
NPRM Comment Period End	06/26/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karla Smith, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1606

RIN: 3150-AD17

4076. ● STATEMENT OF ORGANIZATION AND GENERAL INFORMATION; MINOR AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 000; 10 CFR 001; 10 CFR 002; 10 CFR 008; 10 CFR 010; 10 CFR 015; 10 CFR 025; 10 CFR 051; 10 CFR 095

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations pertaining to its statement of organization and general information to reflect the recent reorganization within the Office of the Executive Director for Operations and the former Office of Administration and Resources Management and the creation of the Office of the Licensing Support System Administration. This rule would inform licensees and the public of organizational changes within the NRC.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7211

RIN: 3150-AD18

4077. ● EXPORT OF HEAVY WATER TO CANADA

Legal Authority: 42 USC 3201; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations concerning the import and export of nuclear equipment and material in 10 CFR Part 110. Current regulations require that license applications for the export of 1000 kilograms or more of heavy water to any country require review by the Commission. The Commission has reviewed its processing of nuclear export license applications and has determined that license applications for the export of any quantity of heavy water to Canada do not raise issues that require Commission review. Therefore, the Commission has delegated additional authority to the NRC staff to act upon such export license applications without prior consultation with the Commission. There is no acceptable alternative to rulemaking because an amendment to the regulations is necessary to identify the classes of export license application which require Commission review. The rule should benefit the NRC, the industry, and the public by expediting the review process for these kinds of applications.

Timetable:

Action	Date	FR Cite
Final Action	07/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elaine G. Hamby, Nuclear Regulatory Commission, Office of Governmental and Public Affairs, Washington, DC 20555, 301 492-0341

RIN: 3150-AD20

4078. ● PRESERVING THE FREE FLOW OF INFORMATION TO THE COMMISSION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 070; 10 CFR 072; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations requiring licensees and license applicants to ensure that neither they, nor their contractors or subcontractors, impose conditions in settlement agreements under Section 210 of the Energy Reorganization Act, or in other agreements on the terms, conditions, and privileges of employment, that would prohibit, restrict, or otherwise discourage an employee from providing the Commission with information on potential safety violations. The proposed rule would require licensees and license applicants to establish procedures to ensure that their contractors and subcontractors have been informed of the prohibition, that licensees and license applicants are notified of any complaints filed with the Department of Labor pursuant to Section 210 of the Energy Reorganization Act by an employee of a contractor or subcontractor, and to require review by the licensee of any settlement agreements related to employee complaints of such determination by a contractor or subcontractor.

Timetable:

Action	Date	FR Cite
NPRM	07/18/89	54 FR 30049
NPRM Comment Period End	09/18/89	

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NRC — Final Rule Stage

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1623

RIN: 3150-AD21

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

4079. MODIFICATIONS TO THE NRC HEARING PROCESS (LIMITED INTERROGATORIES AND FACTUAL BASIS FOR CONTENTIONS)

Legal Authority: 42 USC 2239

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule has been superseded by the proposed rule entitled, "Rules of Practice for Domestic Licensing Proceedings--Procedural Changes in Hearing Process," which is scheduled to be published as a final rule in July 1989. This rule will address the following aspects of the hearing process: admission of contentions, discovery against NRC staff, use of cross examination plans timing of motions for summary disposition and limitations on matters and issues that may be included in proposed findings of fact or conclusions of law, or in an appellate brief submitted by a person who does not have the burden of proof or who has only a limited interest in the proceeding.

Timetable:

Action	Date	FR Cite
Terminated	06/29/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen D. Cyr, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150-AA05

4080. EMERGENCY PREPAREDNESS FOR FUEL CYCLE AND OTHER RADIOACTIVE MATERIALS LICENSEES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations to require about 30 fuel cycle and other radioactive materials licensees to submit an emergency plan that would, among other actions, require the notification of local authorities in case of an accident and that the licensee recommend protective actions for the public.

Timetable:

Action	Date	FR Cite
Final Action	04/07/89	54 FR 14051

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3918

RIN: 3150-AA41

4081. INFORMAL HEARING PROCEDURES FOR MATERIALS LICENSES PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2111

CFR Citation: 10 CFR 02

Legal Deadline: None

Abstract: This final rule amended the Commission's regulations concerning its rules of practice to provide comprehensive treatment of hearing procedures to be implemented by the Commission for materials licensing proceedings. These procedures reduce the economic burden on participants in a materials licensing proceeding.

Timetable:

Action	Date	FR Cite
Final Action	02/28/89	54 FR 8269
Final Action Effective	03/30/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150-AB83

4082. DISPOSAL OF RADIOACTIVE WASTES; PART 61 AMENDMENTS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 61

Legal Deadline: None

Abstract: The final rule requires geologic repository disposal of all above Class C low-level radioactive waste (LLW) unless an alternative has been approved by the Commission. This accomplishes the objective of establishing suitable disposal requirements for radioactive waste with a minimal impact on cost burdens.

Timetable:

Action	Date	FR Cite
Final Action	05/25/89	54 FR 22578
Final Action Effective	06/26/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Melvin Silberberg, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3810

RIN: 3150-AB89

4083. NEPA REVIEW PROCEDURES FOR GEOLOGIC REPOSITORIES FOR HIGH-LEVEL WASTE

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 02; 10 CFR 51; 10 CFR 60

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide procedures for performing an environmental review of High Level Waste (HLW) geologic repositories.

NRC — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	07/03/89	54 FR 27864
Final Action Effective	08/02/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James R. Wolf, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1641

RIN: 3150-AC04

4084. ISSUANCE OR AMENDMENT OF POWER REACTOR LICENSE OR PERMIT FOLLOWING INITIAL DECISION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: This final rule amended the Commission's "immediate effectiveness" regulation that specifies when an initial adjudicatory decision authorizing the issuance or amendment of a license or permit becomes effective.

Timetable:

Action	Date	FR Cite
NPRM	02/04/87	51 FR 3442
NPRM Comment Period End	05/06/87	51 FR 11475
Final Action	02/23/89	54 FR 7756
Final Action Effective	03/27/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150-AC15

4065. RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS--PROCEDURAL CHANGES IN HEARING PROCESS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations which address the following aspects of the hearing process: admission of contentions, discovery against NRC staff, use of cross examination plans, timing of motions for summary disposition and limitations on matters and issues that may be included in proposed findings of fact or conclusions of law, or in an appellate brief submitted by a person who does not have the burden of proof or who has only a limited interest in the proceeding.

Timetable:

Action	Date	FR Cite
Final Action	08/11/89	54 FR 33168
Final Action Effective	09/11/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen D. Cyr, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150-AC22

4086. EDUCATION AND EXPERIENCE REQUIREMENTS FOR SENIOR REACTOR OPERATORS AND SUPERVISORS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50; 10 CFR 55

Legal Deadline: None

Abstract: The Commission is withdrawing this proposed rulemaking published on December 29, 1988 (54 FR 52718), in which comments were solicited on two proposed alternative amendments to its regulations. The alternatives proposed in the Federal Register notice would have imposed additional education and experience requirements for either senior operators or control room supervisors. In consideration of the comments received on the proposed rule and the status of industry initiatives to enhance the education level of its operating personnel, the Commission concludes that it should withdraw the proposed rule published on December 29, 1988. The Commission published a policy statement that presents its views concerning education for senior operators and shift supervisors at nuclear power plants (August 15, 1989; 54 FR 33639).

Timetable:

Action	Date	FR Cite
Withdrawn	08/15/89	54 FR 33568

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Morton Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3794

RIN: 3150-AC26

4087. EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 4842; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 002; 10 CFR 050; 10 CFR 051; 10 CFR 052; 10 CFR 170

Legal Deadline: None

Abstract: The final rule adds a new part to the Commission's regulations to improve the reactor licensing process. The rule provides for the issuance of early site permits, standard design certifications, and combined construction permits and conditional operating licenses for nuclear power reactors.

Timetable:

Action	Date	FR Cite
Final Action	04/18/89	54 FR 15372
Final Action Effective	05/18/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Steven Crockett, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1600

RIN: 3150-AC61

4088. REGULATION OF URANIUM ENRICHMENT FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 76

Legal Deadline: None

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Abstract: The advance notice of proposed rulemaking has been withdrawn. The Commission has agreed with the staff's recommendation not to initiate a proposed rule for the regulation of uranium enrichment facilities at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	05/09/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Loysen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 492-0685

RIN: 3150–AC71

4089. FLOW CONTROL CONDITIONS FOR THE STANDBY LIQUID CONTROL SYSTEM IN BOILING WATER REACTORS

Legal Authority: 42 USC 2136

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: This final rule clarified the Commission's regulations pertaining to boiling water reactors (BWR). The current regulations require that all boiling water reactors must have a standby liquid control system (SLCS) with a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute (gpm) of 13 weight percent of sodium pentaborate solution.

Timetable:

Action	Date	FR Cite
Final Action	04/03/89	54 FR 13361
Final Action Effective	05/03/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William R. Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AC72

4090. FITNESS FOR DUTY PROGRAM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The final rule created a new part in the Commission's regulations that requires licensees authorized to operate nuclear power reactors to implement a fitness for duty program that will provide reasonable assurance that activities associated with nuclear power plant operations are carried out in an environment that is free from the effects of alcohol and drug abuse.

Timetable:

Action	Date	FR Cite
Final Action	06/07/89	54 FR 24468
Final Action Effective	07/07/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Loren L. Bush, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-0944

RIN: 3150–AC81

4091. LICENSEE ACTION DURING NATIONAL SECURITY EMERGENCY

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations governing the domestic licensing of production and utilization facilities to allow a licensee during a national security emergency to deviate from a license condition or a technical specification. The Commission previously has granted authority to nuclear power reactor licensees to take reasonable action that departs from a license condition or a technical specification in an emergency when the action is immediately necessary to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This final rule provides the same flexibility to licensees, but for the purpose of attaining national security objectives during a declared national emergency due to nuclear war or natural disaster.

Timetable:

Action	Date	FR Cite
Final Action	02/17/89	54 FR 7178
Final Action Effective	03/20/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan Aron, Nuclear Regulatory Commission, Office of Assessment and Evaluation of Operational Data, Washington, DC 20555, 301 492-9001

RIN: 3150–AC83

4092. EXTENSION OF TIME FOR THE IMPLEMENTATION OF THE DECONTAMINATION PRIORITY AND RELATIONSHIP PROVISIONS OF PROPERTY INSURANCE REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: This final rule amended the implementation schedule for the decontamination priority and trusteeship provisions of its property insurance regulations contained in 10 CFR 50.54(w)(5)(i) to change the effective date from October 4, 1988 to April 1, 1990.

Timetable:

Action	Date	FR Cite
Final Action	03/17/89	54 FR 11161
Final Action Effective	03/17/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert S. Wood, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1280

RIN: 3150–AC94

4093. RULE ON THE SUBMISSION AND MANAGEMENT OF RECORDS AND DOCUMENTS RELATED TO THE LICENSING OF A GEOLOGIC REPOSITORY FOR THE DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The Nuclear Waste Policy Act [NWPA] provides three years for the NRC to reach a decision on construction authorization for a high-level waste repository. In order for the NRC to be able to make its decision within the allotted time, ready access to all pertinent records must be assured to all parties in the licensing proceeding. The DOE has committed to develop an electronic information management system to be used for the licensing proceeding. The NRC staff has used the process of negotiated rulemaking to develop a rule that revises the Commission's discovery procedure and motion practice in 10 CFR Part 2 for the high-level waste licensing proceeding. This rule requires the DOE license application and all supporting records to be provided in a standardized electronic format. All parties to the licensing proceeding will be required to submit all relevant data to this system. In turn, all parties will have access to the data base.

Timetable:

Action	Date	FR Cite
Final Action	04/14/89	54 FR 14925
Final Action Effective	05/15/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1623

RIN: 3150–AD02

4094. FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS; MISCELLANEOUS AMENDMENTS NECESSITATED BY CHANGES IN THE PRICE-ANDERSON ACT

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The final rule implements the statutory requirements of the Price-Anderson Act of 1988. The final rule amends the Commission's regulations to coincide, as statutorily required, with the increase in the level of the primary layer of insurance provided by private nuclear liability insurance pools.

Timetable:

Action	Date	FR Cite
Final Action	06/06/89	54 FR 24157
Final Action Effective	07/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ira Dinitz, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1289

RIN: 3150–AD08

4095. ACCESS TO SAFEGUARDS INFORMATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: This final rule amended the Commission's requirements for access to Safeguards Information to conform with a provision of Pub. L. 99-399, "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986."

Timetable:

Action	Date	FR Cite
Final Action	04/25/89	54 FR 17703
Final Action Effective	05/25/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark L. Au, Nuclear Regulatory Commission, Washington, DC 20555, 301 492-3749

RIN: 3150–AD12

4096. INDEMNIFICATION OF LICENSEES THAT MANUFACTURE, PRODUCE, POSSESS OR USE RADIOPHARMACEUTICALS OR RADIOISOTOPES FOR MEDICAL PURPOSES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: Section 19 of the Price-Anderson Amendments Act of 1988 required the Commission to determine, through use of a negotiated rulemaking proceeding, whether persons licensed by the Commission or Agreement States for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes ("radiopharmaceutical licensees") should be indemnified under the Price-Anderson Act. Section 19 required the Convenor of the proceeding to submit a recommendation to the Commission on whether the Commission should enter into indemnity agreements with radiopharmaceutical licensees. The Convenor's report recommended that the Commission not extend indemnity under the Price-Anderson Act to any class of radiopharmaceutical licensees. Therefore, this rulemaking was terminated.

Timetable:

Action	Date	FR Cite
Terminated	05/24/89	54 FR 22444

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1623

RIN: 3150–AD13

4097. FREEDOM OF INFORMATION ACT; APPEAL AUTHORITY FOR DEPUTY EXECUTIVE DIRECTOR FOR OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

Abstract: This final rule amended the Commission's regulations concerning the Freedom of Information Act to reflect the recent reorganization within the Office of the Executive Director for Operations. This amendment permits a Deputy Executive Director for Operations to respond to appeals in lieu of the Executive Director for Operations.

Timetable:

Action	Date	FR Cite
Final Action	03/10/89	54 FR 10138
Final Action Effective	03/10/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office

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of Administration, Washington, DC 20555, 301 492-7211

RIN: 3150-AD14

4098. ● MANNER OF SERVICE OF PLEADINGS UPON THE SECRETARY OF THE COMMISSION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to require all parties in NRC proceedings to file copies of all pleadings filed with any agency adjudicatory tribunal with the Office of the Secretary in the same or equivalent manner in which they were filed with the tribunal. This will result in the Office of the Secretary receiving the pleading on approximately the same day as the tribunal.

Timetable:

Action	Date	FR Cite
Final Action	06/26/89	54 FR 26730
Final Action Effective	07/26/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles Mullins, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1606

RIN: 3150-AD22

4099. ● ACCESS AUTHORIZATION FEE SCHEDULE FOR LICENSEE PERSONNEL AND IMPLEMENTATION OF SF-312

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 2273; 42 USC 5841

CFR Citation: 10 CFR 011; 10 CFR 025; 10 CFR 095

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to revise the rate charged to licensees by the NRC for conducting access authorization background investigations. The final rule implements the use of the Standard Form 312, "Classified Information Nondisclosure Agreement," in lieu of the SF-189-A (of the same title), to fulfill the National Security Decision Directive 84 requirement that all persons authorized access to classified information sign a nondisclosure agreement as a condition of access.

Timetable:

Action	Date	FR Cite
Final Action	10/04/89	54 FR 40859
Final Action Effective	10/04/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Patricia A. Smith, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-4118

RIN: 3150-AD24

4100. ● ADVISORY COMMITTEES; POLICIES AND PROCEDURES

Legal Authority: 43 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 007

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations that define the policies and procedures to be followed by the NRC in the establishment, utilization, and termination of advisory committees. This amendment reflects administrative and management changes that have taken place since NRC's regulations were published in 1975 and maintains consistency between NRC regulations and those issued by the General Services Administration in 1987.

Timetable:

Action	Date	FR Cite
Final Action	06/27/89	54 FR 26947
Final Action Effective	06/27/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan Fonner, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1632

RIN: 3150-AD25

4101. ● DUPLICATION FEES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by revising the charges for copying records publicly available at the NRC Public Document Room in Washington, DC. The amendment reflects the change in copying charges resulting from the Commission's award of a new contract for the copying of records.

Timetable:

Action	Date	FR Cite
Final Action	09/05/89	54 FR 36757
Final Action Effective	09/05/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Kathleen E. Ruhlman, Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, 202 634-3273

RIN: 3150-AD29

[FR Doc. 89-21759 Filed 10-27-89; 8:45 am]

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federal register

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Part LVIII

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-6845, 34-27245, 35-24953, 39-2225, IC-17134, IA-1199; File No. S7-26-89]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda and rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its open and anticipated rulemaking actions pursuant to chapter six of the Administrative Procedure Act and Office of Management and Budget Bulletin 89-12. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission invites questions and public comment on individual agenda entries.

DATE: Public comments are due by December 31, 1989.

ADDRESSES: Persons wishing to submit written views should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-26-89 and will be available for public inspection at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: William J. Atkinson, Office of Economic Analysis, Securities and Exchange Commission, 450 5th Street NW., Room 9200, Stop 9-1, Washington, DC 20549 (202-272-7100). The names of persons to contact concerning particular rules are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") (Pub. L. 96-354, 94 Stat. 1164 [September 19, 1980]) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** a regulatory flexibility agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities.[1]

The RFA also requires the Commission to publish a plan for the periodic review of all rules issued by the agency which have or will have a significant economic impact on a substantial number of small entities.[2] The Commission published such a plan in 1981.[3] The plan provides for the review of all rules in effect on January 1, 1981, within ten years of that date and for the review of all rules adopted thereafter within ten years of their adoption as final rules. The RFA further requires publication, each year, of a list of those rules which are to be reviewed during the succeeding twelve months.[4]

The Commission's continuing review of its rules, begun before the effective date of the statute (January 1, 1981), extends beyond the requirements of the RFA. Consequently, some rules listed in this part of the agenda may not be subject to RFA review requirements. The Commission is identifying them here in order to inform the public of its intention to review them. The agenda also identifies the rulemaking actions which have been completed (or withdrawn) since the last RFA release was published.[5]

The statute specifically provides that the agenda does not preclude the Commission from considering or acting on any matter not included nor is the Commission required to consider or act on any matter which is included.[6] Furthermore, the inclusion of a rule in the Commission's agenda reflects only the staff's preliminary judgment that the rule, if adopted or as it exists, may have a significant economic impact on a substantial number of small entities.[7] This preliminary judgment may be changed upon further analysis.

The Commission's entries to the October 1989 Unified Agenda of Federal Regulations are listed below. The Commission's agenda includes new entries, as well as items carried over from the April 1989 publication. New entries are marked with a bullet next to the Sequence Number. Priority items are identified under the heading "Significance."

Copies of the Commission's regulatory agenda are available from the Commission's Office of Public Affairs (Room 1015). The Commission's regulatory agenda is also available for inspection and copying in the Public Reference Room (Room 1026). Please refer to File S7-26-89 as noted above.

The Commission invites public comment on the individual entries in its regulatory agenda.

Dated: September 14, 1989.

By the Commission.

Jonathan G. Katz,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4102	17 CFR 210.9-03(7)(e) Financial Statement Disclosure by Bank Holding Companies About Loans to Related Parties	3235-AB45
4103	17 CFR 230.415 Shelf Offerings Pursuant to Rule 415 under the Securities Act of 1933	3235-AD67
4104	17 CFR 230 Sales Literature and the Securities Act of 1933	3235-AD68
4105	00 CFR Not yet determined Leveraged Buyouts and Debtholders	3235-AD69

[1] 5 U.S.C. 602(a).
[2] 5 U.S.C. 610(a).
[3] Securities Act Release No. 6362 (June 24, 1981) [46 FR 33287].
[4] 5 U.S.C. 610(c).
[5] Securities Act Release No. 6824 (April 24, 1989) [54 FR 17624].
[6] 5 U.S.C. 602(d).
[7] The agenda relies on the definitions of the term "small entity" for purposes of the RFA, which were adopted by the Commission for the various categories of regulated entities. *See* Securities Act Release No. 6380 (January 28, 1982) [47 FR 5215].

SEC

Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
4106	17 CFR 210.3-20 Reporting Currency in Financial Statements under Rule 3-20 of Regulation S-X	3235-AD70

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4107	17 CFR 210 Request for timely review of quarterly financial information	3235-AD31
4108	17 CFR 229.405 (New) Reports of Directors, Officers and Principal Stockholders	3235-AB14
4109	00 CFR Not yet determined Rulemaking for Operational Edgar System	3235-AC48
4110	17 CFR 230. Rule 153 Definition of Preceded by a Prospectus as used in Section 5(b)(2) in relation to Certain Transactions	3235-AC61
4111	17 CFR 210 Multijurisdictional Disclosure	3235-AC84
4112	17 CFR 230 Classification of Small Issuers for Reporting Purposes	3235-AC86
4113	17 CFR 230.134 Communications not Deemed a Prospectus	3235-AD22
4114	17 CFR 240.14a-7 Shareholder Lists	3235-AD41
4115	17 CFR 230.112 Lock-Box Rules	3235-AD43
4116	17 CFR 230.801 Rule 801	3235-AD44
4117	17 CFR 229.703 Disclosure of the Bases for a Board of Directors Evaluation of an Extraordinary Corporate Transaction	3235-AD53
4118	17 CFR 230.169 Rule 169 - Disclosure Requirements for Certain Offerings Relating to Probable Acquisitions	3235-AD54
4119	17 CFR 249.220f (Revision) Foreign Issuer Reporting on Form 20-F under the Securities Exchange Act of 1934	3235-AD71
4120	17 CFR 240.12g3-2 Foreign Issuer Reporting under Rule 12g3-2(b) under the Securities Exchange Act of 1934	3235-AD72
4121	17 CFR 240.15c2-11 Initiation or Resumption of Quotations Without Specified Information	3235-AA48
4122	17 CFR 240.15c3-1 Net capital requirements for brokers or dealers	3235-AD79
4123	00 CFR Not yet determined Mutual Fund Governance	3235-AA44
4124	17 CFR 270.17j-1 Rule 17j-1 under the Investment Company Act of 1940	3235-AA68
4125	17 CFR 240.14a-1 to 240.14a-102 Revision of Investment Company Proxy Rules	3235-AA69
4126	17 CFR 239.14 Amendments to Form N-2	3235-AB40
4127	17 CFR 275.206(3)-3 Method for Compliance with Section 206(3) of the Investment Advisers Act of 1940 with Respect to Certain Transactions	3235-AB74
4128	17 CFR 270.6c-11 Proposed Rule 6c-11 under the Investment Company Act of 1940 ("ICA")	3235-AC03
4129	17 CFR 275.206(4)-1 Advertising by Investment Advisers	3235-AC09
4130	17 CFR 274.11A N-1A Technical Amendments	3235-AC25
4131	17 CFR 270.10f-3 Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate	3235-AC28
4132	17 CFR 270.12d3-2 Proposed Rule 12d3-2 under the Investment Company Act	3235-AC36
4133	00 CFR Not yet determined Advertising by Unit Investment Trusts	3235-AC70
4134	17 CFR 270.6c-12 Proposed Rule 6c-12 under the Investment Company Act of 1940	3235-AC84
4135	17 CFR 270.17f-5 Rule 17f-5 under the Investment Company Act of 1940	3235-AC85
4136	17 CFR 270.12d3-1 Proposed Amendments to Rule 12d3-1 under the Investment Company Act of 1940	3235-AD19
4137	17 CFR 230.139a Information that broker-dealers may disseminate about Investment Companies	3235-AD20
4138	17 CFR 275. Revisions to the registration and the annual supplement forms used by Investment Advisers	3235-AD21
4139	17 CFR 270.36a-1 Proposed Rule 36a-1 under the Investment Company Act of 1940	3235-AD33
4140	17 CFR 270.17f-6 Custody of Investment Company Assets with Registered Futures Commission Merchants	3235-AD34
4141	17 CFR 275.203(b)(1) -1 Exemption from Registration Under the Advisers Act for certain Smaller Investment Advisers	3235-AD38
4142	17 CFR 230.485 Revisions to Rules 485 and 486	3235-AD55
4143	17 CFR 274.11A Revisions to Annual Report to Shareholders	3235-AD56
4144	17 CFR 270.24f-1 Registration under the Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AD64
4145	17 CFR 270.12d1-1 Exemption from the Limitation Imposed by Section 12 (d)(1)(a) of the Investment Company Act of 1940	3235-AD65
4146	17 CFR 270.31a-2 Amendments to Rule 31a-2 under the Investment Company Act of 1940	3235-AD66

SEC

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4147	17 CFR 210.5-02 Proposals Regarding Industry Segment and Other Interim Financial Reporting Matters, Management's Discussion and Analysis, and Off Balance Sheet Financing Disclosures	3235-AB15
4148	17 CFR 210 Independent Accountants - Mandatory Peer Review	3235-AC79
4149	17 CFR 229 Report of Management's Responsibilities	3235-AD29
4150	17 CFR 210 Technical Amendments to Regulation S-X	3235-AD32
4151	17 CFR 240.13e-2 Acquisitions of Substantial Amounts of Securities and Related Activities during and following a Tender Offer for those Securities	3235-AA50
4152	17 CFR 239.16b Form S-8 Registration Statement under the Securities Act of 1933	3235-AB79
4153	17 CFR 230.144A Resale of Restricted Securities; Changes to Method of Determining Holding Period of Restricted Securities	3235-AC65
4154	17 CFR 230.433 Prospectus Delivery Requirements in Firm Commitment Underwritten Offerings of Securities Made for Cash (Rule 433)	3235-AC80
4155	17 CFR 240.13d-1 Regulation 13D-G	3235-AD09
4156	17 CFR 230.901-906 Regulation S - Rules governing Offers and Sales made outside the United States without Registration under the Securities Act of 1933	3235-AD23
4157	17 CFR 230.465 Automatically Effective Post-Effective Amendments for Acquisitions by Certain Limited Partnerships	3235-AD24
4158	17 CFR 240.13d-101 Disclosure of Significant Equity Participants in Control Transactions	3235-AD42
4159	17 CFR 240. 15c2-10 Rule 15c2-10	3235-AC94
4160	17 CFR 240.15c3-3 Customer Protection Reserves and Custody of Securities	3235-AD60
4161	17 CFR 240.15c3-1 Net Capital Requirements for Broker or Dealers	3235-AD62
4162	17 CFR 270.3a-4 Proposed Rule 3a-4 -- Individualized Investment Management Services	3235-AA12
4163	17 CFR 270.17g-1 Proposed Amendment to Rule 17g-1 Under the Investment Company Act	3235-AA16
4164	17 CFR 239.16 Simplification of Registration Statements Filed by Unit Investment Trusts	3235-AA47
4165	17 CFR 270.24f-3 Registration Under The Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AC10
4166	17 CFR 270.12b-1 Proposed amendments to Rules 12b-1 and 17d-3 under the Investment Company Act of 1940, and to item 7 of Form N-1A under the Securities Act of 1933	3235-AC11
4167	17 CFR 230.134 Disclosure of Security Ratings in Registration Statements of Money Market Funds	3235-AC24
4168	17 CFR 270.6c-10 Proposed Rule 6c-10 under the Investment Company Act of 1940 and Amendment to item 2 of Form N-1A under the Securities Act of 1933	3235-AD18
4169	17 CFR 250.17 Diversification by Exempt Holding Companies	3235-AD39

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4170	17 CFR 240.3a12-10 Exemption of Certain Securities Issued by the Resolution Funding Corporation	3235-AD90
4171	17 CFR 229.303 Management's Discussion and Analysis of Financial Condition and Results of Operations	3235-AD03
4172	17 CFR 240 Disclosure of Block Repurchases by an Issuer or Affiliate	3235-AD25
4173	17 CFR 228.801(e) Guide 5 under the Securities Act of 1933	3235-AD73
4174	00 CFR None Exemption of Sales of Certain Interests and Participations issued in Connection with H.R. 10 Plans from Section 15(a)	3235-AC16
4175	17 CFR 240. 17Ad-8 Rule 17Ad-8 of the Securities Exchange Act	3235-AC29
4176	17 CFR 240.15a-6 Exemption of certain foreign brokers or dealers	3235-AD27
4177	17 CFR 240.15c2-12 Municipal Securities Disclosure	3235-AD58
4178	17 CFR 240.15c2-6 Sales Practice Requirements for Certain Low-Priced Securities	3235-AD63
4179	17 CFR 230.180 Amendment to Rule 180 -- Exemption from Registration of Certain Interests and Participations in Certain H.R. 10 Plans	3235-AA08
4180	17 CFR 270.11a-3 Proposed Rules 11a-3 and 11c-1 Under the Investment Company Act	3235-AA14
4181	17 CFR 270.17f-1 Forms for Filings by accountants	3235-AD37
4182	17 CFR 270.32a-3 Proposed rule 32a-3 under the Investment Company Act of 1940	3235-AD57
4183	17 CFR 270.18f-1 Rule 18f-1, Exemption from certain requirements of section 18(f)(1) of the Act of 1940 for registered open-end investment companies which have the right to redeem in kind	3235-AD74
4184	17 CFR 270.23c-1 Rule 23c-1 under the Investment Company Act of 1940, Repurchase of Securities by closed-end companies	3235-AD75
4185	17 CFR 270.17d-2 Rule 17d-2 under the Investment Company Act of 1940, Form for report by small business Investment Company and Affiliated Bank	3235-AD76
4186	17 CFR 270.8f-1 Rule 8f-1 under Act of 1940, Form for application by certain registered Investment Company for orders declaring that such companies have ceased to be Investment Company	3235-AD77

SEC

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
4187	17 CFR 270.6d-1 Rule 6d-1 under the Investment Company Act of 1940, Exemption for certain closed-end Investment Companies	3235-AD78

SECURITIES AND EXCHANGE COMMISSION (SEC) — Prerule Stage

Accounting Rules

4102. FINANCIAL STATEMENT DISCLOSURE BY BANK HOLDING COMPANIES ABOUT LOANS TO RELATED PARTIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77a(25); 15 USC 77a(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR 210.9-03(7)(e)

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose amendments to its rules in Article 9 of Regulations S-X requiring disclosure by bank holding companies about loans to related parties. The staff will consider whether the accumulation of the required information may be unreasonably costly.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Greg W. Norwood, Professional Accounting Fellow, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB45

Disclosure Rules

4103. ● SHELF OFFERINGS PURSUANT TO RULE 415 UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230.415

Legal Deadline: None

Abstract: The Commission staff is considering whether to recommend to the Commission proposals based upon its reexamination of the use of Rule 415 under the Securities Act of 1933 in the context of novel and unique securities offerings and other current market transactions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD67

4104. ● SALES LITERATURE AND THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77s

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The Commission staff is considering whether to recommend to the Commission proposals that would address the use of sales literature in connection with securities offerings registered pursuant to the Securities Act of 1933.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD68

4105. ● LEVERAGED BUYOUTS AND DEBTHOLDERS

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77aa(12); 15 USC 78l; 15 USC 78o(d); 15 USC 78w

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission staff is considering whether to recommend to the Commission proposals based upon its consideration of the effect of leveraged buyouts on debtholders.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard W. Bohan, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street,

SEC — Prerule Stage

N.W., Washington, D.C. 20549, 202 272-

Legal Deadline: None

Timetable:

SEC — Proposed Rule Stage

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SEC

Prerule Stage

N.W., Washington, D.C. 20549, 202 272-7931

RIN: 3235–AD69

4106. ● REPORTING CURRENCY IN FINANCIAL STATEMENTS UNDER RULE 3-20 OF REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77aa(25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79k(a); 15 USC 80a-8; 15 USC 30a-29

CFR Citation: 17 CFR 210.3-20

Legal Deadline: None

Abstract: The staff is considering whether to recommend to the Commission revisions to Rule 3-20 of Regulation S-X that would clarify provisions allowing a foreign private issuer to state its financial statements in a currency other than that of the country in which it is incorporated or organized. In lieu of that rule's present reference to the issuer's primary economic environment the revised rule would identify characteristics of the issuer that would guide the selection of a reporting currency.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2553

RIN: 3235–AD70

SECURITIES AND EXCHANGE COMMISSION (SEC)

Proposed Rule Stage

Accounting Rules

4107. REQUEST FOR TIMELY REVIEW OF QUARTERLY FINANCIAL INFORMATION

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s (a); 15 USC 77aa (25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o (d); 15 USC 78w (a); 15 USC 79c (b); 15 USC 79n; 15 USC 79t (a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Commission has issued a concept release soliciting comments on whether the Commission's rules should be amended to require independent public accountants to review interim financial information before it is filed with the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	06/20/89	54 FR 27023
ANPRM Comment Period End	09/25/89	54 FR 27023
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kenneth V. Moreland, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235–AD31

Disclosure Rules

4108. REPORTS OF DIRECTORS, OFFICERS AND PRINCIPAL STOCKHOLDERS

Legal Authority: 15 USC 78m(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78p(e); 15 USC 78w(a)

CFR Citation: 17 CFR 229.405 (New); 17 CFR 240.12h-2; 17 CFR 240.14a-101; 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11; 17 CFR 240.16c-1 to 240.16c-4; 17 CFR 240.16e-1; 17 CFR 249.103; 17 CFR 249.104; 17 CFR 249.105 (New); 17 CFR 249.310; 17 CFR 270.30f-1; 17 CFR 274.101

Legal Deadline: None

Abstract: The Commission published for comment a revised set of proposals that would provide a comprehensive revision of its rules promulgated under Section 16 of the Securities Exchange Act. The reproposed rules would define certain key terms, change trade reporting obligations, change exemptions from Section 16(b) short-swing profit recovery, and promulgate new forms and instructions.

Timetable:

Action	Date	FR Cite
Original NPRM	12/02/88	53 FR 49997
Original NPRM comment period end	03/13/89	
NPRM	08/18/89	
NPRM Comment Period End	11/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Brian J. Lane, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AB14

4109. RULEMAKING FOR OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78ii; 15 USC 79 to 79z-6; 15 USC 77aaa to 77bbb; 15 USC 80a-1 to 80a-52

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rulemaking encompasses the changes necessary to accommodate electronic filing in the operational Edgar system, as well as to update the rules to take advantage of the efficiencies of electronic filing and processing.

SEC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	07/02/86	51 FR 24155
ANPRM Comment Period End	09/05/86	
NPRM	11/30/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William H. Carter, Special Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2573

RIN: 3235–AC48

4110. RULE 153 DEFINITION OF PRECEDED BY A PROSPECTUS AS USED IN SECTION 5(B)(2) IN RELATION TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 77e

CFR Citation: 17 CFR 230.

Legal Deadline: None

Abstract: The prospectus delivery requirement for certain transactions effectuated on a national securities exchange may be satisfied by delivery to the exchange. The staff will consider whether to recommend to the Commission that this procedure should be available for certain transactions on the NASDAQ Inter Dealer Quotation System.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AC61

4111. MULTIJURISDICTIONAL DISCLOSURE

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77ddd; 15 USC 77eee; 15 USC 77fff; 15 USC 78c(b); 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 210; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260

Legal Deadline: None

Abstract: The Commission has proposed a multijurisdictional disclosure system that would permit Canadian issuers that, depending on the nature of the offering, meet market value, public float and Canadian reporting history tests to register securities in the United States using disclosure documents prepared according to the requirements of Canadian regulatory authorities. Certain Canadian issuers would also be able to use such documents to meet U.S. periodic disclosure requirements. Companies subject to U.S. proxy requirements could use Canadian documents for certain solicitations. Canadian insider reports could be filed with the Commission. Additionally, tender offers for Canadian companies could be made in accordance with Canadian rules where a limited number of shareholders reside in the U.S.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/85	50 FR 9281
ANPRM Comment Period End	07/15/85	
NPRM	07/26/89	54 FR 32226
NPRM Comment Period End	10/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AC64

4112. CLASSIFICATION OF SMALL ISSUERS FOR REPORTING PURPOSES

Legal Authority: 15 USC 78l; 15 USC 78m

CFR Citation: 17 CFR 230; 17 CFR 240; 17 CFR 244; 17 CFR 260

Legal Deadline: None

Abstract: Other appropriate criteria are being sought to establish the threshold level for companies to enter into the Securities Exchange Act of 1934 reporting system, which would complement or be substituted for the present size criteria of 500 shareholders and total assets of $5 million.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/86	51 FR 25369
ANPRM Comment Period End	09/30/86	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AC66

4113. COMMUNICATIONS NOT DEEMED A PROSPECTUS

Legal Authority: 15 USC 77b; 15 USC 77s

CFR Citation: 17 CFR 230.134

Legal Deadline: None

Abstract: The staff will consider whether to recommend to the Commission that amendments to Rule 134 of the Commission's rules and regulations under the Securities Act of 1933 that would permit direct participation programs such as state limited partnerships to include additional information in their Rule 134 tombstone advertisements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William E. Morley, Associate Director, Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th

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Street, N.W., Washington, D.C. 20549, 202 272-2573

RIN: 3235–AD22

4114. SHAREHOLDER LISTS

Legal Authority: 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-7; 17 CFR 240.14d-5

Legal Deadline: None

Abstract: The Commission staff is developing proposals to amend the proxy and tender offer rules to give a securityholder the right, under specified circumstances, to obtain a list of the names, addresses and holdings of certain of the registrant's shareholders.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AD41

4115. LOCK-BOX RULES

Legal Authority: 15 USC 77s(a); 15 USC 78w(a); 15 USC 77f

CFR Citation: 17 CFR 230.112; 17 CFR 240.0-12; 17 CFR 230.456

Legal Deadline: None

Abstract: The staff is developing proposals that would address procedures regarding payment of fees to the lock-boxes designated at 17 CFR 202.3a with respect to 1933 Act filings and 1934 Act change of control transactional filings.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne M. Krauskopf, Special Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2573

RIN: 3235–AD43

4116. RULE 801

Significance: Agency Priority

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.801

Legal Deadline: None

Abstract: The Commission staff is developing proposals that would provide an exemption from the registration requirements of the Securities Act of 1933 for certain rights offerings to the existing security holders of non-reporting issuers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AD44

4117. DISCLOSURE OF THE BASES FOR A BOARD OF DIRECTORS EVALUATION OF AN EXTRAORDINARY CORPORATE TRANSACTION

Significance: Agency Priority

Legal Authority: 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 229.703; 17 CFR 240.13e-100; 17 CFR 240.13e-101; 17 CFR 240.14a-101; 17 CFR 240.14d-1 to 240.14f-1

Legal Deadline: None

Abstract: The staff is developing proposals to promote shareholder analysis of extraordinary corporate transactions recommended or approved by the board of directors of the subject company. Amendments would be proposed to Rule 13e-3 and Schedule 13E-3 to apply those provisions to transactions where it is anticipated that management will have a significant interest in the transaction, such as an equity interest in the surviving entity. The proposals also would adopt enhanced disclosure requirements, similar to those of Rule 13e-3 for a broader class of extraordinary transactions. The objective of the proposals would be to provide investors with more information concerning the transaction (including the values inherent in the transaction) and the evaluation processes of the board of directors. In connection with this rulemaking project, a review of Rules 13e-3 and 14d-1 through 14f-1 and Schedule 13E-3 will be conducted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard E. Baltz, Deputy Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235–AD53

4118. RULE 169 - DISCLOSURE REQUIREMENTS FOR CERTAIN OFFERINGS RELATING TO PROBABLE ACQUISITIONS

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77s(a)

CFR Citation: 17 CFR 230.169

Legal Deadline: None

Abstract: The staff is developing proposals that would require certain issuers offering registered securities through outstanding warrants, rights or convertible securities, or through a secondary offering to file post-effective amendments when an acquisition becomes probable in order to furnish information, including audited financial statements about the company to be acquired.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235–AD54

4119. ● FOREIGN ISSUER REPORTING ON FORM 20-F UNDER THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 249.220f (Revision)

Legal Deadline: None

Abstract: The staff is considering whether to recommend to the Commission revisions to Form 20-F to permit its use by Canadian issuers in all circumstances.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AD71

4120. ● FOREIGN ISSUER REPORTING UNDER RULE 12G3-2(B) UNDER THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 781; 15 USC 78w

CFR Citation: 17 CFR 240.12g3-2; 17 CFR 249

Legal Deadline: None

Abstract: The staff is considering whether to recommend to the Commission revisions to clarify the requirements of Rule 12g3-2(b) and provide forms for use by persons furnishing information under that Rule.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235–AD72

Securities Markets and Securities Industry Rules

4121. ● INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Significance: Agency Priority

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(c); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: Rule 15c2-11 governs the submission and publication of quotations by brokers or dealers for certain over-the-counter securities. The rule applies principally to the initiation or resumption of quotations in the National Daily Quotation Service, which is also known as the "pink sheets." The proposed amendments to the rule are intended to clarify and enhance a broker-dealer's obligation to obtain and maintain information before commencing or resuming quotations in the pink sheets. The proposed amendments will further the Commission's efforts to combat fraud and manipulative conduct in the penny stock market.

Timetable:

Action	Date	FR Cite
NPRM	09/15/89	
NPRM Comment Period End	12/01/89	54 FR 39194

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy J. Snow, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (Stop 5-1), Washington, D.C. 20549, 202 272-2848

RIN: 3235–AA48

4122. ● NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the appropriate levels of minimum net capital required of registered broker-dealers. As a result, the Commission decided to publish for comment proposed amendments to the net capital rule that, among other things, will raise the minimum net capital required of various classes of registered broker-dealers. The Commission believes that these higher levels of required net capital are justified based upon the risks posed by undercapitalized firms to customers and to the securities system as a whole.

Timetable:

Action	Date	FR Cite
NPRM	09/14/89	
NPRM Comment Period End	12/04/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Jamroz, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (Stop 5-1), Washington, D.C. 20549, 202 272-2372

RIN: 3235–AD79

Investment Management Rules

4123. MUTUAL FUND GOVERNANCE

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On December 10, 1982, the Commission issued an advance concept release (Investment Company Act Release No. 12888, (47 FR 56509)) soliciting public comment on whether the Commission should propose rules or

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recommend legislation which would provide for an alternative form of mutual fund governance. Specifically, this release requests comment on whether mutual funds should be exempted from shareholder voting and/or director requirements under the Investment Company Act of 1940 (the "Act") and, if so, whether conditions could be fashioned which would adequately insure against loss of investor protection. Although such changes might be effected through rulemaking, the Commission has indicated that, in its preliminary judgment, changes of this magnitude should be effected through legislative rather than administrative action. Since the costs and benefits of providing for an alternative scheme of mutual fund governance cannot be estimated at the present time, the release solicits specific comment on the costs and benefits which would result from such changes. Extension of comment period until April 18, 1983 was announced in Investment Company Act Release No. 13012 (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/10/82	47 FR 56509
Extended Comment Period to 4/18/83	02/07/83	48 FR 6354
ANPRM Comment Period End	04/18/83	48 FR 6354

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: (February 7, 1983) 48 FR 6354.

Agency Contact: Brian P. Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AA44

4124. RULE 17J-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17j-1

Legal Deadline: None

Abstract: Rule 17j-1 requires every access person of a registered investment company, or of an investment adviser of or principal underwriter for the investment company to report to the investment company certain of his securities transactions. The Commission is considering whether to propose an amendment to this rule which would reduce the reporting requirement for investment company directors who are interested persons with respect to the investment company by reason of their affiliation with a registered broker-dealer. Members of the industry have characterized these reporting requirements as unnecessarily burdensome in some instances. Any such rule amendment would have the effect of lessening the reporting requirements currently imposed by the rule. As a result, the staff believes that the costs, which should be insignificant, of complying with any amendment would be significantly less than the benefits it would provide. The Commission is also considering whether to amend Rule 17 j-1 to define specified acts as fraudulent, deceptive or manipulative or to require certain minimum standards to be set forth on a company's code of ethics.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-3042

RIN: 3235–AA68

4125. REVISION OF INVESTMENT COMPANY PROXY RULES

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1; 17 CFR 270.20a-2; 17 CFR 270.20a-3

Legal Deadline: None

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent in respect of any security with respect to which a registered investment company is the issuer, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to certain duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the Commission has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. Since the action will apply to all registered investment companies soliciting proxies, unless the solicitation is excepted, the Action is expected to have a significant impact on a substantial number of small entities. However, the contemplated revisions are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the revision actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are anticipated to be significant.

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235–AA69

4126. AMENDMENTS TO FORM N-2

Legal Authority: 15 USC 80a-8 Investment Company; 15 USC 77g Securities Act; 15 USC 77j Securities Act

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission believes a simplified prospectus is necessary because current prospectuses have become too cumbersome for the average investor to understand and because current requirements result in the disclosure of much information that is not necessarily material to an investment decision. The Commission has proposed a simplified three-part form.

Timetable:

Action	Date	FR Cite
NPRM	08/11/89	54 FR 32993
NPRM Comment Period End	10/20/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AB40

4127. METHOD FOR COMPLIANCE WITH SECTION 206(3) OF THE INVESTMENT ADVISERS ACT OF 1940 WITH RESPECT TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.206(3)-3

Legal Deadline: None

Abstract: Section 206(3) of the Investment Advisers Act of 1940 makes it unlawful for any investment adviser, by use of the mail or any means or instrumentality of interstate commerce, directly or indirectly, knowingly to effect a securities transaction (a) with a client while acting as principal or (b) for a client while acting as broker for a person other than such client, without disclosing in writing to such client before the completion of the transaction the capacity on which he is acting and obtaining the consent of the client to the transaction. The Commission is considering whether to propose a rule that would provide a nonexclusive method for compliance with the provisions of Section 206(3) of the Investment Advisers Act of 1940 in connection with purchases of securities from an underwriting syndicate for an advisory client under specified conditions. Because the proposed rule is still in the developmental stages, its potential effect on small entities and its potential costs and benefits as a whole are unknown at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AB74

4128. PROPOSED RULE 6C-11 UNDER THE INVESTMENT COMPANY ACT OF 1940 ("ICA")

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6c-11

Legal Deadline: None

Abstract: The Commission is considering whether to propose a rule that would exempt from all provisions of the ICA companies that invest primarily in whole pool and partial pool agency certificates, and companies that issue debt securities collateralized by mortgages and private mortgage certificates.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Pfordte, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2811

RIN: 3235–AC03

4129. ADVERTISING BY INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-6(4)

CFR Citation: 17 CFR 275.206(4)-1

Legal Deadline: None

Abstract: Rule 206(4)-1 contains a wide range of restrictions on advertising by investment advisers including prohibitions on the use of testimonials. The rule was adopted in 1962 and has not been revised since. The Commission is considering whether to amend the rule in a manner that would permit greater flexibility to investment advisers in their advertising and protect the investing public from potential abuse. Because the proposed amendments to the rule are still in the developmental stages, the potential effect on small entities and its potential costs and benefits as a whole are uncertain at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert E. Plaze, Chief of Office, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2098

RIN: 3235–AC09

4130. N-1A TECHNICAL AMENDMENTS

Legal Authority: 15 USC 80a-8(b)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None

Abstract: The Commission is considering several modifications to Form N-1A including: reducing the number of copies to be filed with the Commission; conforming the language of Form N-1A with Forms N-3 and N-4; and clarifying many of the current disclosure requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management (Stop 5-2), 450 5th Street, N. W., Washington, DC 20549, 202 272-2107

RIN: 3235–AC25

4131. EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATE

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None

Abstract: The conditions in existing Rule 10f-3, which allow purchases from affiliated underwriters during the existence of an underwriting syndicate, may no longer be appropriate in today's financial markets. The Commission is investigating possible alternative provisions and soliciting comment on these alternatives.

Timetable:

Action	Date	FR Cite
ANPRM	01/29/86	51 FR 4386
ANPRM Comment Period End	04/07/86	51 FR 4386

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235–AC28

4132. PROPOSED RULE 12D3-2 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.12d3-2

Legal Deadline: None

Abstract: The Commission is considering whether to propose a rule that would set forth the conditions under which registered investment companies may engage in repurchase agreement transactions with persons engaged in securities related businesses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian Kindelan, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AC36

4133. ADVERTISING BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 77j; 15 USC 77s; 15 USC 80a-37(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Currently unit investment trusts advertise their performance by means of an "estimated current return" which shows estimated cash flow. However, because there is no uniform method of computing the estimated current return, they cannot be compared by prospective investors. This rulemaking project will endeavor to create such a uniform method. A uniform method of computation will permit investors to make more informed investment decisions by enabling them to compare the performance of different trusts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Diane C. Blizzard, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AC70

4134. PROPOSED RULE 6C-12 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.6c-12

Legal Deadline: None

Abstract: The regulation will be designed to codify numerous exemptions from the provisions of the Investment Company Act of 1940 ("Act") granted to two-tier real estate limited partnerships. Exemptions from the Act pursuant to Section 6(c) of the Act have generally been granted where: 1) the two-tier partnership invests in limited partnerships engaged in the development and building of housing for low and moderate income persons; 2) the limited partnership interests are sold only to suitable investors; and 3) requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer are included in the basic organizational documents of the partnership. The regulation will reduce the number of exemptive relief applications received by the Office of Investment Company Regulation requesting exemptions for two-tier real estate limited partnerships.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Pfordte, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235–AC84

4135. RULE 17F-5 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: Rule 17f-5 permits U.S. registered Investment Companies to maintain certain Securities and other assets in the custody of an "Eligible Foreign Custodian," as that term is defined in the rule. In response to comments that the present definition of Eligible Foreign Custodian and other provisions of the rule are too restrictive, the Commission is considering whether to propose amendments to the rule.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Rochelle G. Kauffman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235–AC85

4136. PROPOSED AMENDMENTS TO RULE 12D3-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission is considering whether to propose amendments to Rule 12d3-1 under the Investment Company Act of 1940, which provides exemptive relief from the Act's prohibition against investment company acquisitions of securities issued by persons engaged in certain securities-related businesses. If adopted, the proposed amendments would expand the exemptive relief provided by the rule to permit, under certain conditions, investment companies to acquire equity securities issued by persons organized outside the United States that are engaged in securities related businesses.

Timetable:

Action	Date	FR Cite
NPRM	08/11/89	54 FR 33027
NPRM Comment Period End	10/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Christopher Sprague, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D. C. 20549, 202 272-7779

RIN: 3235–AD19

4137. INFORMATION THAT BROKER-DEALERS MAY DISSEMINATE ABOUT INVESTMENT COMPANIES

Legal Authority: 15 USC 77s(a)

CFR Citation: 17 CFR 230.139a

Legal Deadline: None

Abstract: The Commission is considering proposing a rule that would provide a safe harbor under Section 5 of the Securities Act of 1933 for certain broker-dealer publications that contain information about investment companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diane C. Blizzard, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD20

4138. REVISIONS TO THE REGISTRATION AND THE ANNUAL SUPPLEMENT FORMS USED BY INVESTMENT ADVISERS

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11; 15 USC 80b-1

CFR Citation: 17 CFR 275.; 17 CFR 279.

Legal Deadline: None

Abstract: The Commission is considering a proposal that would revise the Amendment and updating requirements and procedures for an advisers registration form and annual report. The Commission would propose such revisions in order to facilitate the review of investment adviser registration forms and resolve certain administrative difficulties.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235–AD21

4139. PROPOSED RULE 36A-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.36a-1

Legal Deadline: None

Abstract: The Commission is considering whether to propose a rule that would require non-resident directors of registered management investment companies to designate a resident agent for service of process in any action before the Commission or in any appropriate court of the United States with respect to any action arising under the provisions of the securities acts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wendy B. Finck, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235-AD33

4140. CUSTODY OF INVESTMENT COMPANY ASSETS WITH REGISTERED FUTURES COMMISSION MERCHANTS

Legal Authority: 15 USC 80a-37

CFR Citation: 17 CFR 270.17f-6

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending rulemaking to permit registered investment companies to maintain initial margin and excess variation margin in the custody of certain futures commission merchants if appropriate conditions can be developed to ensure the safety and integrity of the assets thus maintained.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christopher Sprague, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2779

RIN: 3235-AD34

4141. EXEMPTION FROM REGISTRATION UNDER THE ADVISERS ACT FOR CERTAIN SMALLER INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-6A

CFR Citation: 17 CFR 275.203(b)(1)-1; 17 CFR 275.203(b)(3)-2

Legal Deadline: None

Abstract: The Commission proposed rules that, if adopted would exempt smaller investment advisers from most federal adviser regulation other than the general antifraud provisions, if the advisers are registered in all states in which they do business. The proposed exemptions should significantly diminish the costs and paperwork associated with dual federal and state regulation of small advisory businesses. The proposed rules would rely on the states to assume responsibility for the detailed regulation that, at the federal level, would no longer be applicable to small advisers exempt under these rules. The proposed rules, which include both an interstate and an intrastate exemption, would determine eligibility for the exemptions by reference to the size of the adviser's business; whether the adviser has custody of client funds or securities; and whether the adviser is registered as an adviser in the state or states in which it does business. The proposed exemptions, together with the amendment of several rules, would eliminate costs of registration and reporting as well as compliance with the brochure rule, the recordkeeping rule, the performance for rule, the cash (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 36997
NPRM Comment Period End	11/22/88	
Reproposal	09/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: solicitation rule, the advertising rule, and the Act's regulation of principal and agency cross transactions for advisers exempt under the proposed rules that choose not to register or to deregister with the Commission.

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235-AD38

4142. REVISIONS TO RULES 485 AND 486

Legal Authority: 15 USC 77g; 15 USC 77h; 15 USC 77s(2); 15 USC 78d-1; 15 USC 78d-2; 15 USC 802-37

CFR Citation: 17 CFR 230.485; 17 CFR 230.486; 17 CFR 200.30-5

Legal Deadline: None

Abstract: The Commission is considering proposing revisions that would make changes in the circumstances under which post effective amendments to registration statements may become effective pursuant to rules 485 and 486 and would permit the Commission to suspend use of rules 485(b) and 486(b) in cases of misuse of those rules.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235-AD55

4143. REVISIONS TO ANNUAL REPORT TO SHAREHOLDERS

Legal Authority: 15 USC 77g; 15 USC 77h; 15 USC 77s(2); 15 USC 802-8; 15 USC 802-29(d); 15 USC 802-30(c); 15 USC 802-37(2)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None

Abstract: The Commission is considering proposing revisions that would permit mutual funds to provide a summary portfolio schedule to shareholders in their annual reports.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235-AD56

4144. ● REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

Legal Authority: 15 USC 80a-37; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-1; 17 CFR 270.24f-2

Legal Deadline: None

Abstract: Rules 24f-1 and 24f-2 under the Investment Company Act of 1940, respectively, permit certain investment companies to register securities sold in excess of the number of shares included in a registration under the Securities Act of 1933. The changes being considered will clarify operation of certain provisions of the rules with respect to time periods provided therein (by changing the measurement of the time periods from months to days) and by clarifying the filing requirements of Rule 24f-2 in the context of investment company reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	10/01/89	
NPRM Comment Period End	12/10/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kenneth J. Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2097

RIN: 3235-AD64

4145. ● EXEMPTION FROM THE LIMITATION IMPOSED BY SECTION 12 (D)(1)(A) OF THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-37; 15 USC 80c-88; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.12d1-1

Legal Deadline: None

Abstract: Section 12(d)(1)(a) of the Investment Company Act of 1940 limits registered investment companies in the amount of securities of other investment companies which they may acquire. These restrictions may apply to acquisitions of foreign banks and foreign insurance company securities. The proposed rule would ease restrictions on such acquisitions, providing registered investment companies a broader range of investment policies.

Timetable:

Action	Date	FR Cite
NPRM	08/02/89	54 FR 31850
NPRM Comment Period End	10/02/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3042

RIN: 3235-AD65

4146. ● AMENDMENTS TO RULE 31A-2 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 31(a); 15 USC 38; 15 USC 40

CFR Citation: 17 CFR 270.31a-2

Legal Deadline: None

Abstract: Rule 31a-2 specifies where and how long books and records, required to be maintained by registered investment companies and other person, must be preserved. The Commission is considering whether to propose amendments to the rule to remove any uncertainty concerning record keeping requirements for registered investment companies investing primarily in foreign securities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Rochelle G. Kauffman, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235-AD66

SECURITIES AND EXCHANGE COMMISSION (SEC) — Final Rule Stage

Accounting Rules

4147. PROPOSALS REGARDING INDUSTRY SEGMENT AND OTHER INTERIM FINANCIAL REPORTING MATTERS, MANAGEMENT'S DISCUSSION AND ANALYSIS, AND OFF BALANCE SHEET FINANCING DISCLOSURES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa (25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80-29

CFR Citation: 17 CFR 210.5-02; 17 CFR 210.10-01; 17 CFR 210.11-02; 17 CFR 229.303

Legal Deadline: None

Abstract: The Commission proposed amendments to require (1) presentation of certain industry segment information for interim periods; (2) a discussion of reportable segments in management's discussion and analysis; and (3) modifications of other miscellaneous interim reporting requirements. The release also provides advance notice of possible future rulemaking regarding (1) additional segment reporting disclosures and (2) uniform disclosure of off balance sheet financing arrangements. The proposals are designed to enhance analysis of financial information. They may entail some new recordkeeping but any such costs have not been determined. The Commission's interim reporting rules will be reviewed as a part of this action.

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Timetable:

Action	Date	FR Cite
NPRM	02/15/84	49 FR 6737
NPRM Comment Period End	05/15/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This entry replaced the following three entries from the October 1983 agenda. RIN 3235-AA53 -- Off Balance Sheet Obligations. RIN 3235-AA54 -- Segment Information. RIN 3235-AA55 -- Quarterly Financial Reporting.

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB15

4148. INDEPENDENT ACCOUNTANTS - MANDATORY PEER REVIEW

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa (25) to 77aa(28); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The Commission has proposed amendments to its rules that would require accountants' reports included in Commission filings be signed by an independent accountant who has undergone a peer review of its accounting and audit practice within the past three years.

Timetable:

Action	Date	FR Cite
NPRM	04/01/87	52 FR 11665
NPRM Comment Period End	09/01/87	52 FR 11665
Final Action	02/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Burns, Chief Counsel, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC79

4149. REPORT OF MANAGEMENT'S RESPONSIBILITIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77i; 15 USC 77s(a); 15 USC 77aa (25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o (d); 15 USC 78w (a); 15 USC 79c (b); 15 USC 79n; 15 USC 79t (a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 229; 17 CFR 240; 17 CFR 249; 17 CFR 270; 17 CFR 274

Legal Deadline: None

Abstract: The Commission has proposed rules to require registrants to include a report of management's responsibilities in Forms 10-K and N-SAR and annual reports to security holders. The management report would contain a description or statement of management's responsibilities for the preparation of the registrant's financial statements and other financial information and for establishing and maintaining a system of internal control directly related to financial reporting, with management's assessment of the effectiveness of the registrant's internal control system.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 28009
NPRM Comment Period End	10/24/88	53 FR 28009
Final Action	12/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AD29

4150. TECHNICAL AMENDMENTS TO REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s (a); 15 USC 77aa (25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o (d); 15 USC 78w (a); 15 USC 79 (c) (b); 15 USC 79n; 15 USC 79 (t)a; 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The Commission has proposed amendments to Regulation S-X to conform that regulation to recently adopted changes in generally accepted accounting principles.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8202
NPRM Comment Period End	04/28/89	
Final Action	10/01/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Teresa Iannaconi, Staff Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AD32

Disclosure Rules

4151. ACQUISITIONS OF SUBSTANTIAL AMOUNTS OF SECURITIES AND RELATED ACTIVITIES DURING AND FOLLOWING A TENDER OFFER FOR THOSE SECURITIES

Legal Authority: 15 USC 78c(b); 15 USC 78m(e); 15 USC 78n(d); 15 USC 78w(a); 15 USC 78o(c); 15 USC 78l(b)

CFR Citation: 17 CFR 240.13e-2; 17 CFR 240.14d-11

Legal Deadline: None

Abstract: The Commission proposed Rules 13e-2 and 14d-11 that would require that, subject to certain exceptions, purchases, offers to purchase, arrangements or understandings to purchase and solicitations of offers to sell securities undertaken during and shortly after a tender offer that would increase any person's ownership of the class of securities subject to the tender offer by 10% or more of the class be made in compliance with the statutory provisions and rules applicable to tender offers. The proposed rules would apply to all persons from the formal commencement of a tender offer until 10 business days after the scheduled expiration date. A proposed rule also would subject a bidder to the same requirements from the time it commenced a tender offer by public announcement until it either formally commenced a tender offer by some other means or 30 business days after it made a subsequent public announcement stating that it had determined not to continue with the tender offer.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/86	51 FR 28096
ANPRM Comment Period End	12/01/86	
NPRM	10/01/87	52 FR 37472
NPRM Comment Period End	12/07/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, DC 20549, 202 272-3097

RIN: 3235-AA50

4152. FORM S-8 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 239.16b

Legal Deadline: None

Abstract: The Commission has proposed major revisions to the procedures for registering employee benefit plan securities on Form S-8. The proposals are intended to reduce costs to registrants by eliminating the need to prepare and file separate documents for federal securities law purposes that duplicate information otherwise provided to plan participants, while assuring timely delivery of information necessary for participants to make informed investment decisions. In the context of this rulemaking, Form S-8 will be fully reviewed for purposes of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/12/89	54 FR 25936
NPRM Comment Period End	08/15/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Murphy, Attorney-Adviser, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AB79

4153. RESALE OF RESTRICTED SECURITIES; CHANGES TO METHOD OF DETERMINING HOLDING PERIOD OF RESTRICTED SECURITIES

Legal Authority: 15 USC 77d(1); 15 USC 77d(3); 15 USC 77s(a)

CFR Citation: 17 CFR 230.144A; 17 CFR 230.144; 17 CFR 230.145

Legal Deadline: None

Abstract: The Commission has reproposed for public comment Rule 144A, which would provide a safe harbor exemption from the registration requirements of the Securities Act of 1933 for "qualified institutional buyers" as defined in the Rule. The Commission also has reproposed amendments to Rules 144 and 145 under the Securities Act, which would redefine the required holding period for restricted securities, whether acquired pursuant to Rule 144 or otherwise.

Timetable:

Action	Date	FR Cite
Original NPRM	10/25/88	53 FR 44016
Extension of comment period	12/02/88	53 FR 50038
NPRM	07/11/89	54 FR 30076
NPRM Comment Period End	09/12/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Hanks, Chief, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235-AC65

4154. PROSPECTUS DELIVERY REQUIREMENTS IN FIRM COMMITMENT UNDERWRITTEN OFFERINGS OF SECURITIES MADE FOR CASH (RULE 433)

Legal Authority: 15 USC 77b(10); 15 USC 77s(a); 15 USC 77j(a)(4); 15 USC 77j(d)

CFR Citation: 17 CFR 230.433

Legal Deadline: None

Abstract: The Commission proposed two alternative versions of a new Rule 433 that would provide a safe harbor from the requirement to deliver a final prospectus prior to or contemporaneously with a confirmation of sale in a firm commitment offering of securities for cash. Both proposals would permit, if all conditions of the rule are satisfied, the sending of a final prospectus no later than five business days after a confirmation of sale is sent to an investor in such an offering.

Timetable:

Action	Date	FR Cite
NPRM	06/06/87	52 FR 29206
NPRM Comment Period End	10/05/87	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC80

4155. REGULATION 13D-G

Significance: Agency Priority

Legal Authority: 15 USC 78m(d); 15 USC 78m(g); 15 USC 78m(a)

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2; 17 CFR 240.13d-7; 17 CFR 240.13d-101; 17 CFR 240.13d-102

Legal Deadline: None

Abstract: The Commission is proposing revisions to Regulation 13D-G to improve the meaningfulness to investors of filings on Schedule 13D, while at the same time reducing the reporting obligations of non-institutional investors that have a passive investment purpose. In connection with this project, a review

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of Rules 13d-1 through 13d-7 and Schedules 13D and 13G will be conducted.

Timetable:

Action	Date	FR Cite
NPRM	03/14/89	54 FR 10552
NPRM Comment Period End	05/15/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Baltz, Deputy Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235-AD09

4156. REGULATION S - RULES GOVERNING OFFERS AND SALES MADE OUTSIDE THE UNITED STATES WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77b; 15 USC 77d; 15 USC 77s

CFR Citation: 17 CFR 230.901-906

Legal Deadline: None

Abstract: The Commission has published for comment proposed and reproposed Regulation S intended to clarify the extraterritorial application of the registration provisions of the Securities Act of 1933. The Regulation would provide generally that any offer or sale that occurs outside the United States is not subject to Section 5.

Timetable:

Action	Date	FR Cite
Original NPRM	08/10/88	53 FR 22661
Extension of comment period	08/24/88	53 FR 33147
NPRM	07/11/89	54 FR 30063
NPRM Comment Period End	09/12/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sara Hanks, Chief, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD23

4157. AUTOMATICALLY EFFECTIVE POST-EFFECTIVE AMENDMENTS FOR ACQUISITIONS BY CERTAIN LIMITED PARTNERSHIPS

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230.465; 17 CFR 230.424; 17 CFR 229.601(c); 17 CFR 230.406

Legal Deadline: None

Abstract: The Commission is proposing for comment two alternative forms of a new Rule 465 that would provide for the automatic effectiveness of post-effective amendments filed by limited partnerships during the distribution period, provided that such amendments relate to significant acquisitions and contain required financial statements, financial information and textual information.

Timetable:

Action	Date	FR Cite
NPRM	07/08/88	53 FR 26718
NPRM Comment Period End	09/12/88	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Murphy, Attorney-Adviser, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD24

4158. DISCLOSURE OF SIGNIFICANT EQUITY PARTICIPANTS IN CONTROL TRANSACTIONS

Legal Authority: 15 USC 78c(b); 15 USC 78m(d); 15 USC 78n; 15 USC 78v

CFR Citation: 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14a-102; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The proposals are intended to require disclosure of information concerning the identity and background of limited partners and other participants holding significant investments in limited partnerships or other closely held entities or groups of such entities involved with major acquisitions of securities, tender offers, proxy contests and going private transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10360
NPRM Comment Period End	05/12/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard E. Baltz, Deputy Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235-AD42

Securities Markets and Securities Industry Rules

4159. RULE 15C2-10

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78k(A)-1; 15 USC 78o(c)(1); 15 USC 78o(c)(2); 15 USC 78w(a)

CFR Citation: 17 CFR 240. 15c2-10

Legal Deadline: None

Abstract: The Commission has proposed for comment a rule that would govern the operation of proprietary securities trading systems that are not operated as facilities of a national securities association or exchange.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	
NPRM Comment Period End	06/02/89	54 FR 15429

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gordon K. Fuller, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth St., N.W., Washington, D.C. 20549, 202 272-2414

RIN: 3235-AC94

4160. ● CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: Because the borrowing of government securities plays an important role in the government securities market, the Commission believes that, for purposes of the customer protection rule, the categories of instruments that broker-dealer can provide to customer lenders of government securities should be expanded to include certain instruments currently not listed in the rule. Therefore, the Commission has decided to propose for comment an amendment to the customer protection rule that will allow broker- dealers to provide, in addition to the instruments currently listed in the rule, certain government securities as the collateral in government securities borrowings.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10680
NPRM Comment Period End	05/01/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Jamroz, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2372

RIN: 3235-AD60

4161. ● NET CAPITAL REQUIREMENTS FOR BROKER OR DEALERS

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the specialist financial responsibility rules and specialist financial surveillance systems of the various exchanges. As a result, the Commission decided to publish for comment proposed amendments to the net capital rule that, among other things, will make the rule applicable to certain specialists that are now exempt from the rule. In addition to the consequential overall financial accountability and discipline that results from the application of the net capital rule, the Commission believes it would be desirable to have a uniform measure whereby it may review the financial health and liquidity of all specialists at all exchanges.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 315
NPRM Comment Period End	04/03/89	54 FR 9842

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jerry Carpenter, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3128

RIN: 3235-AD62

Investment Management Rules

4162. PROPOSED RULE 3A-4 -- INDIVIDUALIZED INVESTMENT MANAGEMENT SERVICES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-4

Legal Deadline: None

Abstract: In Investment Company Act Release No. 11391 (October 10, 1980) [45 FR 69479) the Commission proposed for public comment Rule 3a-4, which would deem investment management services providing their clients with individualized treatment not to be investment companies for purposes of the Act. The rule provides a "safe harbor" for any investment manager providing its clients with treatment based on the needs and goals of each client. Under such circumstances, regulation of investment management services under the Act appears unnecessary. The proposed rule was intended to clarify the Commission's position on the question of "mini-accounts" by providing a safe harbor for certain investment management services and thereby provide some certainty to the public. The Commission does not expect any final action taken on the proposal to significantly affect the cost of providing investment management services. The public comment letters on the proposal have been reviewed and alternatives for final action are being considered.

Timetable:

Action	Date	FR Cite
NPRM	10/10/80	45 FR 69479
NPRM Comment Period End	01/31/81	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: NPRM is Release No. IC-11391 (10/10/80)

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235-AA12

4163. PROPOSED AMENDMENT TO RULE 17G-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-17(g); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None

Abstract: The Commission is considering whether to adopt an amendment to Rule 17g-1 under the Investment Company Act. The amendment was proposed for public comment in Investment Company Act Release No. 11193 (June 2, 1980) (45 FR 38407). Rule 17g-1 requires every registered investment company to provide and maintain a bond against larceny and embezzlement covering officers and employees of the company. In some circumstances, the officers and employees of a company's depositor, trustee, investment adviser or other manager and various affiliates of such persons, because they have access to the company's assets, function as

4167. DISCLOSURE OF SECURITY

Legal Deadline: None

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officers and employees of the investment company. The proposed amendment to the rule would clarify the scope of the rule by explicitly requiring the bonding of such persons. The principal cost associated with this rule would be the cost of a bond. That cost would vary according to the persons required to be bonded by the rule. In this regard, before adopting any amendment to the rule, the Commission will carefully consider what persons should be bonded to protect investors adequately, weighing the benefits of the protection against the cost of a bond.

Timetable:

Action	Date	FR Cite
NPRM	06/02/80	45 FR 38407

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235–AA16

4164. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: On March 9, 1987, the Commission reproposed for public comment Form N-7, a new form for registering unit investment trusts("UITS") and their securities under the Investment Company Act of 1940 and the Securities Act of 1933. Form N-7 was originally proposed by the Commission on May 14, 1985. Adoption of Form N-7 would (i) codify the disclosure requirements for VITS into one form; (ii) codify the disclosure standards that have been developed for VITS; and (iii) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. As reproposed, a one-part prospectus originally proposed, but the prospectus would retain a series specific part and a generic part. The requirement for audited financial statements would be eliminated under certain circumstances. The requirement that registrants include certain third party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust under the reproposal.

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	50 FR 21282
NPRM Comment Period End	12/31/87	
Final Action	12/31/89	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Agency Contact: Diane C. Blizzard, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3040

RIN: 3235–AA47

4165. REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

Legal Authority: 15 USC 80a-37; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-3

Legal Deadline: None

Abstract: On March 9, 1987, the Commission published for public comment a new rule 24f-3 under the Investment Company Act of 1940 that would simplify filing requirements under section 24(f) of the Investment Company Act by allowing a unit investment trust to register an indefinite number of securities solely for secondary market purposes and to pay no registration fee on secondary market sales. The Commission is considering whether to adopt such amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 8302
NPRM Comment Period End	05/15/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AC10

4166. PROPOSED AMENDMENTS TO RULES 12B-1 AND 17D-3 UNDER THE INVESTMENT COMPANY ACT OF 1940, AND TO ITEM 7 OF FORM N-1A UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 80a-12(b); 15 USC 80a-17(d); 15 USC 80a-39; 15 USC 77a, et seq.

CFR Citation: 17 CFR 270.12b-1; 17 CFR 270.17d-3; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission has proposed for comment amendments to Rule 12b-1 under the Investment Company Act to redefine the Circumstances under which investment companies may finance distribution of fund assets. The Commission has also proposed amendments to Rule 17d-3 to allow affiliated investment companies to jointly finance distribution activities under certain conditions. Finally, the Commission has proposed amendments to Form N-1A which would require an additional disclosure to be made regarding the amount of payments under distribution plans.

Timetable:

Action	Date	FR Cite
NPRM	06/21/88	53 FR 23258
NPRM Comment Period End	12/14/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rochelle G. Kauffman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235–AC11

4167. DISCLOSURE OF SECURITY RATINGS IN REGISTRATION STATEMENTS OF MONEY MARKET FUNDS

Legal Authority: 15 USC 77(g); 15 USC 77(i); 15 USC 77(s)(a)

CFR Citation: 17 CFR 230.134; 17 CFR 230.436; 17 CFR 230.482

Legal Deadline: None

Abstract: The Commission proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933 on March 14, 1986. The amendments would, if adopted, permit certain investment companies to use in their statutory and omitting prospectuses security ratings assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO's consent to being named pursuant to Section 7 of the Securities Act. The Commission is now considering whether to adopt such amendments.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	05/16/86	51 FR 9838

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235–AC24

4168. PROPOSED RULE 6C-10 UNDER THE INVESTMENT COMPANY ACT OF 1940 AND AMENDMENT TO ITEM 2 OF FORM N-1A UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-22(c); 15 USC 80a-37; 15 USC 80a-39; 15 USC 77a, et. seq.

CFR Citation: 17 CFR 270.6c-10; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission has proposed for public comment rule 6c-10 under the Investment Company Act to provide a registered open-end management investment company, other than a registered insurance company separate account, and certain related persons with exemptions from the Act to the extent necessary to permit the fund to impose sales loads on a deferred basis. The Commission has also proposed amendments to Form N-1A, the registration statement for funds to accommodate the deferred sales loads that would be permitted if rule 6c-10 is adopted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Proposed rule 6c-10 was formerly included with the proposed amendments to rules 12b-1 and 17d-3 under the Investment Company Act. Proposed rule 6c-10 has been split from that entry to comprise a separate item on the agenda.

Agency Contact: Rochelle G. Kauffman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D. C. 20549, 202 272-2048

RIN: 3235–AD18

4169. DIVERSIFICATION BY EXEMPT HOLDING COMPANIES

Legal Authority: 15 USC 79c(a)(1); 15 USC 79t(a)

CFR Citation: 17 CFR 250.17; 17 CFR 250.2; 17 CFR 259.402

Legal Deadline: None

Abstract: Proposed Rule 17 clarifies under what conditions diversification into non-utility enterprises would not be deemed detrimental to the public interest or the interest of investors or consumers within the meaning of the "unless and except" clause of S3(a)(1) of the Public Utility Holding Company Act of 1935. The rule would provide two alternative "safe harbors". A companion proposed amendment to rule 2 under the Act would require after three years from its adoption, claims of exemption under rule 2, in order to be effective, would require that the claimant meet one of the safe harbor provisions of rule 17. Also proposed is an amendment to Form U-3A-2, the statement filed annually by holding companies claiming exemptions under rule 2, that would request information necessary to determine whether a rule 2 claim of exemption by an intrastate holding company was meritorious in light of the requirement added to rule 2. These proposals could significantly increase regulatory compliance costs for those intrastate public utility holding companies that have diversified operations, or that intend to do so. The proposals could require such a company to forego acquisition of an unrelated (con't)

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 6701
NPRM Comment Period End	08/15/89	54 FR 29739

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: non-utility interest or to divest such an interest previously acquired; or alternatively, to seek enactment by the legislature in its state of organization of a utility holding company statute that addresses diversification activities.

Agency Contact: William C. Weeden, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-7683

RIN: 3235–AD39

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SECURITIES AND EXCHANGE COMMISSION (SEC) — Completed Actions

4170. ● EXEMPTION OF CERTAIN SECURITIES ISSUED BY THE RESOLUTION FUNDING CORPORATION

Significance: Agency Priority

Legal Authority: 15 USC 78w; 15 USC 78b; 15 USC 78c

CFR Citation: 17 CFR 240.3a12-10

Legal Deadline: None

Abstract: Rule 3a12-10 defines certain securities issued by the Resolution Funding Corporation as "exempted securities" for purposes of those provisions of the Exchange Act that by their terms do not apply to an "exempted security" or to "exempted securities."

Timetable:

Action	Date	FR Cite
Final Action	09/13/89	54 FR 37766
Final Action Effective	09/13/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Edward L. Pittman, Assistant Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235–AD80

4171. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

CFR Citation: 17 CFR 229.303; 17 CFR 211; 17 CFR 231; 17 CFR 241; 17 CFR 271

Completed:

Reason	Date	FR Cite
Final Action Interpretive release issued	05/24/89	54 FR 22427
Final Action Effective	05/24/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul N. Edwards 202 272-3205

RIN: 3235–AD03

4172. DISCLOSURE OF BLOCK REPURCHASES BY AN ISSUER OR AFFILIATE

CFR Citation: 17 CFR 240; 17 CFR 249

Completed:

Reason	Date	FR Cite
The staff has decided not to pursue this proposal at the present time	08/25/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano 202 272-3097

RIN: 3235–AD25

4173. ● GUIDE 5 UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77s

CFR Citation: 17 CFR 228.801(e)

Legal Deadline: None

Abstract: Guide 5 is intended to provide guidance regarding disclosure to minimize delays in the review of registration statements relating to real estate limited partnerships and also to assist issuers, accountants, attorneys, and others in the preparation of such filings. The Guide does not contain rules of the Commission, nor is it published as bearing the Commission's official approval. Instead, it reflects the policies and practices followed by the Division of Corporation Finance in the administration of the registration requirements of the Securities Act of 1933 regarding real estate limited partnerships.

Timetable:

Action	Date	FR Cite
End Review	08/03/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard W. Bohan, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-7931

RIN: 3235–AD73

4174. EXEMPTION OF SALES OF CERTAIN INTERESTS AND PARTICIPATIONS ISSUED IN CONNECTION WITH H.R. 10 PLANS FROM SECTION 15(A)

CFR Citation: None

Completed:

Reason	Date	FR Cite
The staff has decided not to pursue this proposal pending the receipt of more information	10/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan J. Walters 202 272-2417

RIN: 3235–AC16

4175. RULE 17AD-8 OF THE SECURITIES EXCHANGE ACT

CFR Citation: 17 CFR 240. 17Ad-8

Completed:

Reason	Date	FR Cite
No revisions are being considered at this time	08/01/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas C. Etter, Jr. 202 272-2782

RIN: 3235–AC29

4176. EXEMPTION OF CERTAIN FOREIGN BROKERS OR DEALERS

Significance: Agency Priority

CFR Citation: 17 CFR 240.15a-6

Completed:

Reason	Date	FR Cite
Final Action	07/11/89	54 FR 30013
Final Action Effective	08/15/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Polanin, Jr. 202 272-2848

RIN: 3235–AD27

SEC — Completed Actions

4177. MUNICIPAL SECURITIES DISCLOSURE

Significance: Agency Priority

CFR Citation: 17 CFR 240.15c2-12

Completed:

Reason	Date	FR Cite
Final Action	06/28/89	54 FR 28799
Final Action Effective	01/01/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Edward L. Pittman 202 272-2848

RIN: 3235–AD58

4178. ● SALES PRACTICE REQUIREMENTS FOR CERTAIN LOW-PRICED SECURITIES

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j; 15 USC 78o

CFR Citation: 17 CFR 240.15c2-6

Legal Deadline: None

Abstract: Rule 15c2-6 is the Commission's response to the widespread incidence of misconduct by some broker-dealers in connection with transactions in equity securities that are not traded on an exchange or NASDAQ, and whose issuers do not meet certain financial standards. The Commission has initiated a number of enforcement actions against such broker-dealers, yet the misconduct has continued. Consequently, the Commission believes that additional regulatory action is necessary to deal more effectively with the problem. Rule 15c2-6 requires broker-dealers who recommend purchases of such securities to obtain written customer agreement to, and make a documented suitability determination for, the purchase. Benefits of the rule include increased investor confidence in covered securities, thereby enhancing broker-dealer activities in the securities, and the capital raising function of their issuers.

Timetable:

Action	Date	FR Cite
Final Action	08/22/89	54 FR 35468
Final Action Effective	01/01/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dan Gray, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235–AD63

4179. AMENDMENT TO RULE 180 — EXEMPTION FROM REGISTRATION OF CERTAIN INTERESTS AND PARTICIPATIONS IN CERTAIN H.R. 10 PLANS

CFR Citation: 17 CFR 230.180

Completed:

Reason	Date	FR Cite
The staff has decided not to pursue this proposal at the present time	08/01/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian P. Kindelan 202 272-2048

RIN: 3235–AA08

4180. PROPOSED RULES 11A-3 AND 11C-1 UNDER THE INVESTMENT COMPANY ACT

CFR Citation: 17 CFR 270.11a-3; 17 CFR 270.11c-1

Completed:

Reason	Date	FR Cite
Final Action	08/18/89	54 FR 35177

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wendy B. Finck 202 272-2048

RIN: 3235–AA14

4181. FORMS FOR FILINGS BY ACCOUNTANTS

CFR Citation: 17 CFR 270.17f-1; 17 CFR 270.17f-2; 17 CFR 275.206(4)-2

Completed:

Reason	Date	FR Cite
Final Action	07/26/89	
Final Action Effective	09/25/89	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman 202 272-2107

RIN: 3235–AD37

4182. PROPOSED RULE 32A-3 UNDER THE INVESTMENT COMPANY ACT OF 1940

CFR Citation: 17 CFR 270.32a-3

Completed:

Reason	Date	FR Cite
Final Action	07/26/89	54 FR 31329
Final Action Effective	07/26/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Christopher Sprague 202 272-7779

RIN: 3235–AD57

4183. ● RULE 18F-1, EXEMPTION FROM CERTAIN REQUIREMENTS OF SECTION 18(F)(1) OF THE ACT OF 1940 FOR REGISTERED OPEN-END INVESTMENT COMPANIES WHICH HAVE THE RIGHT TO REDEEM IN KIND

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-18(f); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.18f-1

Legal Deadline: None

Abstract: Rule 18f-1 permits an open-end investment company which has the right to redeem securities of which it is the issuer in assets other than cash to commit itself to pay in cash all requests for redemption by any shareholder of record, limited in amount with respect to each shareholder during any 90 day time period, upon the filing of Form N-18F-1 and upon meeting certain other conditions.

Timetable:

Action	Date	FR Cite
End Review	09/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th

SEC — Completed Actions

Street., N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD74

4184. ● RULE 23C-1 UNDER THE INVESTMENT COMPANY ACT OF 1940, REPURCHASE OF SECURITIES BY CLOSED-END COMPANIES

Legal Authority: 15 USC 80a

CFR Citation: 17 CFR 270.23c-1

Legal Deadline: None

Abstract: The rule permits a registered closed-end investment company to purchase a security of which it is the issuer, subject to certain conditions. Such transactions would otherwise be prohibited by Section 23(c) of the Investment Company Act.

Timetable:

Action	Date	FR Cite
End Review	09/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street., N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD75

4185. ● RULE 17D-2 UNDER THE INVESTMENT COMPANY ACT OF 1940, FORM FOR REPORT BY SMALL BUSINESS INVESTMENT COMPANY AND AFFILIATED BANK

Legal Authority: 15 USC 80a-17

CFR Citation: 17 CFR 270.17d-2

Legal Deadline: None

Abstract: Rule 17d-2 prescribes Form N-17D-1 as the form for reports required by Rule 17d-1(d)(3) under the Investment Company Act of 1940 to report certain exempt joint enterprises or arrangements between a small business investment company and an affiliated bank.

Timetable:

Action	Date	FR Cite
End Review	09/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street., N. W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD76

4186. ● RULE 8F-1 UNDER ACT OF 1940, FORM FOR APPLICATION BY CERTAIN REGISTERED INVESTMENT COMPANY FOR ORDERS DECLARING THAT SUCH COMPANIES HAVE CEASED TO BE INVESTMENT COMPANY

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.8f-1

Legal Deadline: None

Abstract: Rule 8f-1 prescribes Form N-8F as a short form for application for an order pursuant to section 8(f) of the Investment Company Act of 1940 for an order declaring that a company has ceased to be an Investment Company. The form mey only be used under certain limited circumstances specified in the rule.

Timetable:

Action	Date	FR Cite
End Review	09/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street., N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD77

4187. ● RULE 6D-1 UNDER THE INVESTMENT COMPANY ACT OF 1940, EXEMPTION FOR CERTAIN CLOSED-END INVESTMENT COMPANIES

Legal Authority: 15 USC 80a-6

CFR Citation: 17 CFR 270.6d-1

Legal Deadline: None

Abstract: Rule 6d-1 prescribes the information that must be provided in an application for exemption from the Investment Company Act of 1940 filed under section 6(d) of the Act. That section requires the Commission, subject to appropriate terms and conditions, to exempt from the Act certain small closed-end investment companies that make no public offering other than in their own state of organization.

Timetable:

Action	Date	FR Cite
End Review	09/30/89	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street., N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD78

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Briefing on How To Use the Federal Register
For information on briefings in San Francisco, CA, and Seattle, WA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

Contents

Federal Register
Vol. 54, No. 209
Tuesday, October 31, 1989

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

WHEN: November 29; at 9:00 a.m.
WHERE: Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center,
415-556-6600.

SEATTLE, WA

WHEN: November 30; at 1:00 p.m.
WHERE: South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.
RESERVATIONS: Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
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Tacoma: 206-383-7970,
Portland: 503-326-2222.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1610

Determination of the 1989 Fiscal Year Interest Rate on Rural Telephone Bank Loans

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of 1989 fiscal year interest rate determination.

SUMMARY: In accordance with 7 CFR 1610.10, the Rural Telephone Bank's Fiscal Year 1989 cost of money rate has been established at 5.00 percent. Except for loans approved from October 1, 1987 through December 21, 1987 where borrowers elected to remain at interest rates set at loan approval, all loan advances made from October 1, 1988 through September 30, 1989 under Bank loans approved on or after October 1, 1987 shall bear interest at the rate of 5.00 percent.

The calculation of the Bank's cost of money rate for Fiscal Year 1989 is provided in Table 1. Since the calculated rate (4.87 percent) is less than the minimum rate allowed under 7 U.S.C. 948(b)(3)(A), the cost of money rate is set at the minimum rate of 5.00 percent. The methodology required to calculate the cost of money rate is established in 7 CFR 1610.10(c).

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–9550.

SUPPLEMENTARY INFORMATION: The cost of money rate methodology develops a weighted average rate for the Bank's cost of money by considering total fiscal year loan advances; the excess of fiscal year loan advances over amounts received in the fiscal year from issuances of Class A, B, and C stocks, debentures and other obligations; and the costs to the Bank of obtaining funds from these sources. During Fiscal Year 1989, the Bank paid the following dividends: the dividend on Class A stock was 2.00 percent as established in amended section 406(c) of the Rural Electrification Act; no dividends were payable on Class B stock as specified in 7 CFR 1610.10(c); and the dividend on Class C stock was established by the Bank at 8.5 percent.

The total amount received by the Bank in Fiscal Year 1989 from the issuance of Class A stock was $28,710,000. Total advances for the purchase of Class B stock and cash purchases for Class B stock were $4,955,025. Rescissions of loan funds advanced for Class B stock amounted to $1,071,815. Thus, the amount received by the Bank from the issuance of Class B stock, per 7 CFR 1610.10(c), was $3,883,210 ($4,955,025 –$1,071,815). The total amount received by the Bank in Fiscal Year 1989 from the issuance of Class C stock was $11,614.

The Bank did not issue debentures or any other obligations during Fiscal Year 1989. Consequently, no cost was incurred related to the issuance of debentures subject to 7 U.S.C. 943(b)(3)(D).

The excess of Fiscal Year 1989 loan advances over amounts received from issuances of Class A, B, and C stocks and debentures and other obligations amounted to $64,442,123. The cost associated with this excess is the historical cost of money rate as defined in 7 U.S.C. 948(b)(3)(D)(v). The calculation of the Bank's historical cost of money rate is provided in Table 2. The methodology required to perform this calculation is described in 7 CFR 1610.10(c). The cost of money rates for fiscal years 1974 through 1987 are defined in section 406(b) of the RE Act, as amended by Public Law 100–203, and are listed in 7 CFR 1610.10(c) and Table 2 herein.

Dated: October 25, 1989.

Jack Van Mark,
Acting Governor, Rural Telephone Bank.

TABLE 1.—RURAL TELEPHONE BANK FY 1989 COST OF MONEY RATE

Source of bank funds	Amount	Cost rate (percent)	Amount × cost rate	(Amount × rate) advances (percent)
FY 1989 issuance of Class A Stock	$28,710,000	2.00	$574,200	0.5917
FY 1989 issuance of Class B Stock	3,883,210	0.00	0	0.0000
FY 1989 issuance of Class C Stock	11,614	8.50	987	0.0010
FY 1989 issuance of debentures and other obligations	0		0	0.0000
Excess of total advances over 1989 issuances	64,442,123	6.44	4,150,073	4.2764
Total FY 1989 advances	97,046,947			[1] 4.87
				[2] 5.00

[1] Calculated cost of money rate.
[2] Minimum cost rate allowable.

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TABLE 2.—RURAL TELEPHONE BANK HISTORICAL COST OF MONEY

Fiscal year	Bank cost of money (percent)	Bank loan advances	Advances × cost rate	(Advances × cost rate) total advances (percent)
1974	5.01	$111,022,574	$5,562,231	0.336
1975	5.85	130,663,197	7,643,797	0.462
1976	5.33	99,915,066	5,325,473	0.322
1977	5.00	80,907,425	4,045,371	0.244
1978	5.87	142,297,190	8,352,845	0.504
1979	5.93	130,540,067	7,741,026	0.467
1980	8.10	199,944,235	16,195,483	0.978
1981	9.46	148,599,372	14,057,501	0.849
1982	8.39	112,232,127	9,416,275	0.569
1983	6.99	93,402,836	6,528,858	0.394
1984	6.55	90,450,549	5,924,511	0.358
1985	5.00	72,583,394	3,629,170	0.219
1986	5.00	71,652,383	3,592,619	0.217
1987	5.00	51,974,938	2,598,747	0.157
1988	5.00	119,488,367	5,974,418	0.361
Total advances		1,655,873,720		[1] 6.44

[1] Cost of money rate.

[FR Doc. 89-25682 Filed 10-30-89; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Supplemental List of Specially Designated Nationals (Cuba) in Panama

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice of Additions to the List of Specially Designated Nationals of Cuba.

SUMMARY: This notice provides the names of individuals and firms operating in Panama that have been added to the list of Specially Designated Nationals under the Treasury Department's Cuban Assets Control Regulations (31 CFR Part 515). Also provided is a complete current listing of known Specially Designated Nationals of Cuba in Panama.

EFFECTIVE DATE: October 31, 1989.

FOR FURTHER INFORMATION CONTACT: Richard J. Hollas, Chief, Enforcement Division, Office of Foreign Assets Control, Tel: (202) 376-0400. Copies of the list of Specially Designated Nationals are available upon request at the following location: Office of Foreign Assets Control, Department of the Treasury, 1331 G Street, NW., Room 300, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Under the Cuban Assets Control Relgulations, persons subject to the jurisdiction of the United States are prohibited from engaging, directly or indirectly, in transactions with any nationals or specially designated nationals of Cuba, or involving any property in which there exists an interest of any national or specially designated national of Cuba, except as authorized by law or by the Treasury Department's Office of Foreign Assets Control by means of a general or specific license.

Section 515.302 of Part 515 defines the term "national," in part, as (a) a subject or citizen domiciled in a particular country, or (b) any partnership, association, corporation, or other organization owned or controlled by nationals of that country, or that is organized under the laws of, or that has had its principal place of business in that foreign country since the effective date (for Cuba, 12:01 a.m., e.s.t., July 8, 1963), or (c) any person that has directly or indirectly acted for the benefit or on behalf of any designated foreign country. Section 515.305 defines the term "designated national" as Cuba or any national thereof, including any person who is a specially designated national. Section 515.306 defines "specially designated national" as any person who has been designated as such by the Secretary of the Treasury; any person who, on or since the effective date, has either acted for or on behalf of the government of, or authorities exercising control over, any designated foreign country; or any partnership, association, corporation or other organization that, on or since the applicable effective date, has been owned or controlled directly or indirectly by such government or authorities, or by any specially designated national

Section 515.201 prohibits any transaction, except as provided in Section 515.201 or as authorized by law or by the Secretary of the Treasury, involving property in which there exists an interest of any national or specially designated national of Cuba. The list of Specially Designated Cuban Nationals is a partial one, since the Department of the Treasury may not be aware of all the persons located outside Cuba that might be acting as agents or front organizations for Cuba, thus qualifying as specially designated nationals of Cuba. Also, names may have been omitted because it seemed unlikely that those persons would engage in transactions with persons subject to the jurisdiction of the United States. Therefore, persons engaging in transactions with foreign nationals may not rely on the fact that any particular foreign national is not on the list as evidence that it is not a specially designated national.

The Treasury Department regards it as incumbent upon all U.S. persons engaging in transactions with foreign nationals to take reasonable steps to ascertain for themselves whether such foreign nationals are specially designated nationals of Cuba, or other designated countries (at present, Cambodia, North Korea, and Vietnam). The list of Specially Designated Nationals was last published on December 10, 1986, in the **Federal Register** (51 FR 44459), and was amended on November 3, 1988 (53 FR 44307), January 24, 1989 (54 FR 3446), April 10, 1989 (54 FR 14215) and August 4, 1989 (54 FR 32064), and September 20, 1989 (54 FR 38811).

Please take notice that section 16 of the Trading with the Enemy Act as amended (the "Act"), 50 U.S.C. App. 16, provides in part that whoever willfully violates any provision of the Act or any license, rule or regulation issued thereunder:

"Shall, upon conviction, be fined not more than $50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both; and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States."

In addition, persons convicted of an offense under the Act may be fined a greater amount than set forth in the Act, as provided in 18 U.S.C. 3571 and 3581.

Authority: 50 U.S.C. App. 5(b) and 16 U.S.C. 3571 and 3581.

Specially Designated Nationals of Cuba in Panama (New Additions at this Publication)

Noriega, Manuel Antonio
Panama
Sieiro de Noriega, Felicidad
Panama
Atlantic Pacific, S.A. (APSA)
Panama
Calpar de Panama, S.A. (a.k.a. Zebetex International, S.A.)
Panama
Carbonica, S.A.
Panama
Casas de Cambio
Panama
Cia. Istmena de Aviacion
Panama
Club Villa Fenix
Panama
Duty Free Shop
Balboa Pier
Panama
Duty Free Shop
Cristobal Pier
Panama
Duty Free Shop
Paitilla Airport
Panama
Duty Free Shop
Torrijos Airport
Panama
Duty Free Shop
Port of Vacamonte
Panama
Econollantas
Panama
El Deposito
Panama
El Millon
Panama
Hotel Granada
Panama
Hotel Nacional
Panama
Hotel Riande Aeropuerto
Panama
Hotel Riande Continental
Panama
Hotel Suites Alvear
Panama
Joyeria y Boutique Pretelt
Panama
Marinexam
Panama
Melo y Cia.
Panama
Pan Canal Skipping Company
Panama
Piex
Panama
Procesos Metalicos. S.A.
Panama
Radio Verbo
Panama
Setraca, S.A.
Panama
Shahani Auto Supplier
Panama
Superseguros
Panama
Televisora Nacional Canal 2
Panama
Teneria Tauro, S.A.
Panama
Zebetex International, S.A. (a.k.a. Calpar de Panama, S.A.)
Panama

Complete Current List of Specially Designated Nationals of Cuba in Panama

Abastecadora Naval Y Industrial, S.A. (a.k.a. Anainsa)
Panama
Abdelnur, Nury De Jesus
Panama
Agencia de Viajes Guama (a.k.a. Viajes Guama Tours, Guamatur, S.A. and Guama Tour)
Bal Harbour Shopping Center, Via Italia, Panama City, Panama
Alfonso, Carlos, (a.k.a. Carlos Alfonso Gonzalez)
Panama
Alvarez, Manuel (Aguirre)
Panama
Anainsa (a.k.a. Abastecadora Naval Y Industrial, S.A.)
Panama
Angelini, Alejandro Abood
Panama
Atlantic Pacific, S.A. (APSA)
Panama
Avalon, S.A.
Colon Free Zone, Panama
Azrak, S.A.
Panama
Azrak, Victor
Panama
Batista, Miguel
Panama
Bewell Corporation, Inc.
Panama
Boutique La Maison
42 Via Brasil
Panama City, Panama
Bradfield Maritime Corp., Inc.
Panama
Calpar de Panama, S.A. (a.k.a. Zebetex International, S.A.)
Panama
Caballero, Roger Montanes (a.k.a. Roger Montanes and Roger Edward Dooley)
Panama
Canapel, S.A.
Panama
Carbonica, S.A.
Panama
Caribbean Happy Lines (a.k.a. Caribbean Happy Lines Co.)
Panama
Caribeugar, S.A.
Panama
Carisub, S.A.
Panama
Casa de Cambio
Panama
Casa del Respuesto
Panama
Castell, Osvaldo Antonio (Valdez)
Panama
Cecoex, S.A.
Panama City, Panama
Chamet Import, S.A.
Panama
Cia. Istmena de Aviacion
Panama
Cimex, S.A.
Panama
Club Villa Fenix
Panama
Duty Free Shop
Balboa Pier
Panama
Duty Free Shop
Cristobal Pier
Panama
Duty Free Shop
Paitilla Airport
Panama
Duty Free Shop
Torrijos Airport
Panama
Duty Free Shop
Port of Vacamonte
Panama
Coll, Gabriel (Prado)
Panama
Colon, Eduardo (Betancourt)
Panama
Colony Trading, S.A.
Panama
Comercial Cimex, S.A.
Panama
Comercial Muralla, S.A. (a.k.a. Muralla, S.A.)
Panama City, Panama
Companis Pesquera Internacional, S.A.
Panama
Contex, S.A.
Panama
Corporacion Cimex, S.A.
Panama
Cubana Airlines (a.k.a. Empresa Cubana de Aviacion)
Calle 29 y Avda Justo Arosemena
Panama City, Panama
Cuenca, Ramon Cesar
Panama
Delgado, Antonio (Arsenio)
Panama
Deprosa, S.A. (a.k.a. Desarrollo De Proyectos, S.A.)
Panama City, Panama
Desarrollo De Proyectos, S.A. (a.k.a. Deprosa, S.A.)
Panama City, Panama
Dooley, Michael P.
Panama
Dooley, Roger Edward (a.k.a. Roger Montanes Caballero and Roger Montanes)
Panama
Duque, Carlos
Panama
Echeverri, German
Panama

Econollantas
Panama
Edyju, S.A.
Panama
El Deposito
Panama
Inversiones Lupamar, S.A. (a.k.a. The Lupamar Investment Company)
Panama
IPESCO (a.k.a. International Petroleum S.A.)
Colon Free Zone, Panama
Jiminez, Guillermo (Solar)
Panama
Pesmar (or Pezmar), S.A. (a.k.a. Pescados y Mariscos de Panama)
Panama City, Panama
Piex
Panama

Technic Holding Inc.
Calle 34 No. 4-50, Office 301
Panama City, Panama
Televisora Nacional Canal 2
Panama

for residues of fenarimol in or on the commodity was requested in a petition submitted by Elanco Products Co.

EFFECTIVE DATE: October 31, 1989.

hyperplastic nodules) at the highest dose tested (17.5 mg/kg bwt/day), when data for male and female rats were combined.

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Econollantas
Panama
Edyju, S.A.
Panama
El Deposito
Panama
El Millon
Panama
Empresa Cubana de Aviacion (see Cubana Airlines)
Panama
Fabro Investment, Inc.
Panama
Facobata
Panama
Famesa International, S.A.
Panama
Fruni Trading, S.A.
Panama City, Panama
Gallo Import
Panama
Garcia Santamaria de la Torre, Alfredo Rafael (see also "Santamarina")
Panama
Global Marine Overseas, Inc.
Panama
Goldern Comet Navigation Co., Ltd.
Panama
Gonzalez, Carlos Alfonso (a.k.a. Carlos Alfonso)
Panama
Grete Shipping Co., S.A.
Panama
Guaco Export
Panama
Guama Tour (a.k.a. Agencia de Viajes Guama, Viajes Guama Tours and Guamatur, S.A.)
Bal Harbour Shopping Center, Via Italia
Panama City, Panama
Guamar Shipping Co., S.A.
Panama
Guamatur, S.A. (a.k.a. Agencia de Viajes Guama, Viajes Guama Tours and Guama Tour)
Bal Harbour Shopping Center, Via Italia
Panama City, Panama
Havanatur, S.A.
Panama City, Panama
Havinpex, S.A. (a.k.a. Transover, S.A.)
Panama City, Panama
Haya, Francisco
Panama
Hermann Shipping Corp., Inc.
Panama
Heywood Navigation Corp.
Panama
Hotel Granada
Panama
Hotel Nacional
Panama
Hotel Riande Aeropuerto
Panama
Hotel Riande Continental
Panama
Hotel Suites Alvear
Panama
Imprisa, S.A.
Panama
Interconsult
Panama
International Petroleum, S.A.
Colon Free Zone, Panama
International Transport Corporation
Colon Free Zone, Panama
Inversiones Lupamar, S.A. (a.k.a. The Lupamar Investment Company)
Panama
IPESCO (a.k.a. International Petroleum S.A.)
Colon Free Zone, Panama
Jiminez, Gillermo (Soler)
Panama
Joyeria y Boutique Pretelt
Panama
Kaspar Shipping, S.A.
Panama
Kave, S.A.
Panama
Lakshmi
Panama
Leybda Corporation, S.A.
Panama
Louth Holdings, S.A.
Panama
Manzper Corp.
Panama
Marine Registration Company
Panama
Marinexam
Panama
Mariscо (or Mariscos de Farallon, S.A.
Panama
Marketing Associates Corporation
Calle 52 E, Campo Alegre
Panama City, Panama
Maryol Enterprises, Inc.
Panama
Median, Anita (a.k.a. Ana Maria Medina)
Panama
Melo y Cia.
Panama
Mercurius Import/Export Company, Panama, S.A.
Calle C, Edificio 16
Box 4048, Colon Free zone, Panama
Monet Trading Company
Panama
Montanes, Roger (a.k.a. Roger Montanes Caballero and Roger Edward Dooley)
Panama
Montanez, Michael
Panama
Moonex International, S.A.
Panama
Muralla, S.A. (a.k.a. Comercial Muralla, S.A.)
Panama City, Panama
Navigable Water Corp., Ltd.
Panama
Noriega, Manuel Antonio
Panama
Ortega, Dario (Pina)
Edificio Saldivar
Panama City, Panama
Panamerican Import and Export Commercial Corp.
Panama
Panoamericana
Panama
Pan Canal Shipping Company
Panama
Pena, Jose (Torres)
Panama
Pena, Victor
Panama
Perez, Alfonso
Panama
Perez, Manuel Martin
Panama
Perez, Osvaldo (Cruz)
Panama
Pescados Y Mariscos de Panama (a.k.a. Pesmar or Pezmar) S.A.
Panama City, Panama
Pesmar (or Pezmar), S.A. (a.k.a. Pescados y Mariscos de Panama)
Panama City, Panama
Piex
Panama
Piramide Internacional
Panama
Pons, Alberto
Executive Representative
Banco Nacional de Cuba
Federico Boyd Ave. & 51 St.
Panama City, Panama
Prado, Julio (a.k.a. Julio Lobato)
Panama
Presa, S.A.
Panama
Processos Metalicos, S.A.
Panama
Radio Service, S.A.
Panama
Radio Verbo
Panama
Reciclaje Industrial, S.A.
Panama
Rent-A-Car, S.A.
Panama
Reyes, Guillermo (Vergara)
Panama City, Panama
Rocha, Antonio
Panama City, Panama
Rodriquez, Jesus (Borges or Borjes)
Panama
Romeo, Charles (a.k.a. Charles Henri Robert Romeo)
Panama
Roque, Roberto (Perez)
Panama
Ruiz, Ramon Miguel (Poo)
Panama
Santamarina, de la Torre Rafael Garcia (see also "Garcia")
Panama
Servimpex, S.A.
Panama
Servinaves, S.A.
Panama
Setraca, S.A.
Panama
Shahani Auto Supplier
Panama
Shipley Shipping Corp.
Panama
Siboney Internacional, S.A.
Edificio Balmoral, 82 Via Argentina
Panama City, Panama
Sieiro de Noriega, Felicidad
Panama
Superseguros
Panama
Suplidora Latino Americana, S.A. (a.k.a. Suplilat, S.A.)
Panama City, Panama
Suplilat, S.A., (a.k.a. Suplidora Latino Americana, S.A.)
Panama City, Panama
Taller De Reparaciones Navales, S.A. (a.k.a. Tarena)
Panama City, Panama
Tarena, S.A. (a.k.a. Taller De Reparaciones Navales S.A.)
Panama
Technic Digemex Corp.
Calle 34 No. 4–50, Office 301
Panama City, Panama

Technic Holding Inc.
Calle 34 No. 4–50, Office 301
Panama City, Panama
Televisora Nacional Canal 2
Panama
Temis Shipping Co.
Panama
Teneria Tauro, S.A.
Panama
Tosco, Arnaldo (Garcia)
Panama
Tramp Pioneer Shipping Co.
Panama
Transit, S.A.
Panama
Transover, S.A. (a.k.a. Havinpex, S.A.)
Panama City, Panama
Treviso Trading Corporation
Edificio Banco de Boston
Panama City, Panama
Trober, S.A. (a.k.a. Trover, S.A.)
Edificio Saldivar
Panama City, Panama
Trust Import-Export, S.A.
Panama
Valletta Shipping Corp.
Panama
Vasquez, Oscar D. (a.k.a. Vazques, Oscar D.)
Panama
Viacon International, Inc.
Apartment 7B Torre Mar Building
Punta Paitilla Area, Panama City, Panama
France Field, Colon Free Zone, Panama
Viajes Guama Tours (a.k.a. Guamatur, S.A., Guama Tour and Agencia de Viajes Guama)
Bal Harbour Shopping Center, Via Italia
Panama City, Panama
Wittgreen, Carlos (a.k.a. Carlos Wittgreen Antinori, Carlos Wittgreen A., and Carlos Antonio Wittgreen)
Panama
Zebetex International, S.A. (a.k.a. Calpar de Panama S.A.)
Panama

Date: October 13, 1989.

R. Richard Newcomb,
Director, Office of Foreign Assets Control.

Approved: October 17, 1989.

Salvatore R. Martoche,
Assistant Secretary (Enforcement).

[FR Doc. 89-25717 Filed 10-27-89; 12:36 pm]
BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8F3630/R1039; FRL-3658-1]

Pesticide Tolerance for Fenarimol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide fenarimol in or on the raw agricultural commodity cherries at 1.0 part per million (ppm). This regulation to establish the maximum permissible level for residues of fenarimol in or on the commodity was requested in a petition submitted by Elanco Products Co.

EFFECTIVE DATE: October 31, 1989.

ADDRESSES: Written objections, identified by the document control number [PP 8F3630/R1039], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. M–3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Susan T. Lewis, Acting Product Manager (PM) 21, Registration Division (H7505C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 25, 1988 (53 FR 18898), which announced that Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285, had submitted pesticide petition (PP) 8F3630 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the fungicide fenarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol] in or on the raw agricultural commodity cherries at 1.0 ppm.

There were no comments received in response to the notice of filing.

The data submitted in support of the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the tolerance include the following:

1. A 1-year dog feeding study using doses of 0, 1.25, 12.5, and 125 milligrams/kilogram (mg/kg) body weight (bwt)/day. The no-observed-effect level (NOEL) is 12.5 mg/kg bwt/day. The 125 mg/kg bwt/day dose level caused increased serum alkaline phosphatase, increased liver weights, increase in *p*-nitroanisole *o*-demethylase activity, and mild hepatic bile stasis.

2. An initial 2-year chronic feeding/oncogenicity study in rats using dietary concentrations of 0, 50, 130, and 350 ppm (equivalent to doses of 0, 2.5, 6.5, and 17.5 mg/kg bwt/day). In a previous **Federal Register** Notice (51 FR 7567; March 5, 1986), the Agency indicated fenarimol to be oncogenic. In that Notice, the Agency's initial conclusion that fenarimol was oncogenic was based on a finding in the 2-year rat study of a statistically significant increase in hepatic lesions (adenomas and hyperplastic nodules) at the highest dose tested (17.5 mg/kg bwt/day), when data for male and female rats were combined.

Since that time, the compound has been reevaluated. The Agency now considers it more appropriate to separate data for males and females and also to separate hyperplastic nodules from tumors (adenomas and carcinomas). When a reevaluation of the hepatic lesions for males and females was performed separately with the elimination of hyperplastic nodules, the data did not demonstrate a statistically significant increased incidence in adenomas and/or carcinomas in either sex. Moreover, the mouse oncogenicity study did not demonstrate oncogenic potential at dose levels up to and including a dose level of 85.7 mg/kg bwt/day (the highest dose level tested).

Because of the appearance of a low incidence of fatty change of the liver (nonneoplastic pathological lesions) in the low-dose groups in this study, it was unclear if a NOEL for fatty change of the liver was established in this study.

3. Additional 2-year chronic feeding/oncogenicity studies in rats using dietary concentrations of 0, 12.5, 25, and 50 ppm (equivalent to doses of 0, 0.63, 1.25, and 2.5 mg/kg bwt/day). The purpose of these additional studies was to assist in determining a NOEL for fatty liver changes. The first of these two studies was compromised, however, by an outbreak of chronic respiratory disease which reduced survival in all experimental groups, including control. The study was then repeated with the same dose levels. In the second study, no fatty liver changes or oncogenic effects were observed at the doses tested under the conditions of the study. Using data from all three 2-year studies, a NOEL for fatty liver change of 6.5 mg/kg bwt/day was established.

4. A 2-year oncogenicity study in mice using dietary concentrations of 0, 50, 170, and 600 ppm (equivalent to doses of 0, 7, 24.3, and 85.7 mg/kg bwt/day) that was negative for oncogenic effects at all doses tested under the conditions of the study. At 600 ppm, an increase in fatty change of the liver was demonstrated. The NOEL for this effect was 170 ppm (24.3 mg/kg bwt/day).

5. A rabbit teratology study that was negative for teratogenic effects at all doses tested (0, 5, 10, and 35 mg/kg).

6. A rat teratology study that demonstrated hydronephrosis at 35 mg/kg (doses tested were 0, 5, 13, and 35 mg/kg). A second study in rats (with a postpartum evaluation) again demonstrated hydronephrosis at 35 mg/kg, but also indicated that the dose level

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of 35 mg/kg was associated with a maternal toxic effect (decreased body weight gain during treatment). The Agency considers the NOEL for hydronephrosis and for maternal toxicity to be 13 mg/kg.

7. A multigeneration reproduction study in rats that demonstrated decreased fertility in males and delayed parturition and dystocia in females at 5 mg/kg bwt/day. The NOEL for reproductive effects in this study was 2.5 mg/kg bwt/day.

8. Multigeneration reproduction studies in guinea pigs and mice that were negative for reproductive effects at doses up to 35 mg/kg bwt/day (highest dose tested) and 20 mg/kg bwt/day, respectively.

9. An aromatase inhibition study in rats that showed fenarimol to be a moderately weak inhibitor of aromatase activity.

The adverse reproductive effects observed in the rat multigeneration reproduction study are considered to be a species-specific effect caused by aromatase inhibition. This enzyme promotes normal sexual behavior in rats and mice, but not in guinea pigs, primates, or man. A NOEL of 35 mg/kg bwt/day for reproductive effects relevant to humans was established in the multigeneration reproduction study in guinea pigs.

10. A mouse lymphoma forward mutation assay; a DNA repair synthesis study in rat liver culture systems; gene mutation assays in *Salmonella typhimurium* (Ames test) and in *Escherichia coli*; a dominant lethal assay in Wistar rats; an assay for transformation activity in the C3H/10T ½ embryonic mouse fibroblast; and an *in vivo* assay for chromosome aberration in the Chinese hamster. Fenarimol did not demonstrate mutagenic activity in any of these studies.

The mutagenic potential of fenarimol has been evaluated in several assay systems (see item 10 above). Fenarimol did not demonstrate a mutagenic effect in any of these studies. Furthermore, fenarimol did not induce altered foci or neoplastic nodules in an initiation and promotion study in rat liver tissue.

Based on the above findings, the Agency concludes that fenarimol was not oncogenic in long-term studies in rats and mice under test conditions in which the highest dose tested for both species approached a maximum tolerated dose as evidenced by increased fatty change in the liver.

Data currently lacking is additional field trial data from California. The Agency expects the additional data to be submitted by October 1989.

The acceptable daily intake (ADI) based on the 2-year rat chronic feeding study (NOEL of 6.5 mg/kg bwt/day), and using a hundredfold safety factor, is calculated to be 0.065 mg/kg bwt/day. The theoretical maximum residue contribution from previously established tolerances and the tolerances established here is 0.0004 mg/kg bwt/day and utilizes 0.6 percent of the ADI. Previous tolerances have been established for fenarimol in pecans, pears, apples, apple pomace, milk, meat and meat byproducts of cattle, goats, hogs, horses, and sheep; and fat and liver of cattle, goats, hogs, horses, and sheep.

The nature of the residue is adequately understood, and adequate analytical methods are available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the *Pesticide Analytical Manual*, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operation Division (H7506C), 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 242, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–4432.

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

This tolerance will expire 1 year after the date of publication of this final rule. Based on the reviews of the California residue data, the Agency will determine whether establishing a permanent tolerance is appropriate.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirement of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirement of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 27, 1989.

Douglas D. Campt,
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.421, by revising paragraph (b) by adding the raw agricultural commodity cherries and putting the paragraph in tabular format, to read as follows:

§ 180.421 Fenarimol; tolerances for residues.

* * * * *

(b) A tolerance is established for combined residues of the fungicide fenarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol] and its metabolites [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-1,4-dihydro-5-pyrimidinemethanol and 5-[(2-chlorophenyl) (4-chlorophenyl)methyl]-3,4-dihydro-4-pyrimidinol measured as the total of fenarimol and 5-[(2-chlorophenyl)-(4-chlorophenyl)methyl]pyrimidine (calculated as fenarimol)], in or on the following raw agricultural commodities:

Commodities	Parts per million	Expiration date
Cherries	1.0	October 31, 1990.
Grapes	0.2	None.

[FR Doc. 89-25478 Filed 10-30-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-61; RM-6521]

Radio Broadcasting Services; Strasburg, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 272A to Strasburg, Colorado, as that community's first local broadcast service, in response to a petition for rule making filed on behalf of Express Communications. See 54 Fed. Reg. 12249, March 24, 1989. Coordinates used for Channel 272A at Strasburg are 39–39–37 and 104–15–25. With this action, the proceeding is terminated.

DATES: Effective November 30, 1989; the window period for filing applications on Channel 272A at Strasburg, Colorado, will open on December 1, 1989, and close on January 2, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–61, adopted September 26, 1989, and released October 16, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Colorado, by adding Strasburg, Channel 272A.

Federal Communications Commission.

Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25575 Filed 10-30-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-367; RM-6221, RM-6530]

Radio Broadcasting Services; Selma and Georgiana, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 261C2 for Channel 261A at Selma, AL, and modifies the Class A license of Holder Communications Corp. for Station WDXX(FM), as requested, to specify operation on the higher class channel, thereby providing that community with an additional expanded coverage FM service (RM–6221). See, 53 FR 30076, August 10, 1988. Additionally, Channel 299A is allotted to Georgiana, AL, as that community's first local broadcast service in response to a counterproposal filed on behalf of Alabama Broadcasting Service Company (RM–6530). Coordinates used for Channel 261C2 at Selma are 32–26–02 and 87–00–40. Coordinates used for Channel 299A at Georgiana are 31–39–31 and 86–44–22. With this action, the proceeding is terminated.

DATES: Effective December 4, 1989, the window period for filing applications on Channel 299A at Georgiana, AL, will open on December 5, 1989, and close on January 4, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process at Georgiana, AL, should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–367, adopted September 29, 1989, and released October 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alabama, is amended by adding Georgiana, Channel 299A, and for Selma, by removing Channel 261A and adding Channel 261C2.

Federal Communications Commission.

Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25574 Filed 10-30-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-599; RM-6501]

Radio Broadcasting Services; Salem, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 250A to Salem, Indiana, as that community's second local FM broadcast service, in response to a petition for rule making filed on behalf of Gary Albarez. See 54 FR 4862, January 31, 1989. Coordinates used for Channel 250A at Salem are 38–38–13 and 86–09–47. With this action, the proceeding is terminated.

DATES: Effective December 4, 1989. The window period for filing applications on Channel 250A at Salem, Indiana, will open on December 5, 1989, and close on January 4, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–599, adopted September 29, 1989, and released October 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Indiana, by adding Channel 250A to the entry for

Department-issued procurement-related regulations.

EFFECTIVE DATE: October 10, 1989.

List of Subjects in 48 CFR Part 815

Government procurement.

Dated: October 25, 1989.

Proposed Rules

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§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Indiana, by adding Channel 250A to the entry for Salem.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25573 Filed 10-30-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Part 815

RIN 2900-AE18

Acquisition Regulation; Contracting by Negotiation

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting previously published information concerning Department-issued procurement-related regulations.

EFFECTIVE DATE: October 10, 1989.

FOR FURTHER INFORMATION CONTACT: Charles A. Fountaine, III, Chief, Directives Management Division (70Y731), Paperwork Management and Regulations Service, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC (202) 233-2073.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 17, 1989, (54 FR 42507), VA published its regulations to eliminate procurement-related regulations not essential to implement Governmentwide policies and procedures within the Department, to specify the VA control point for all unsolicited proposals, to delegate authority to permit correction of mistakes in proposals before award, and to authorize the use of option clauses in acquisitions with medical schools, clinics, and any other group or individual providing scarce medical specialist and sharing services at VA facilities. In that final regulation, a citation was incorrectly stated and is corrected.

List of Subjects in 48 CFR Part 815

Government procurement.

Dated: October 25, 1989.

Donald R. Howell,

Acting Chief, Directives Management Division.

For the foregoing reason, the Department of Veterans Affairs hereby corrects FR Doc. 89-24492 in the issue of October 17, 1989, on page 42508 middle column, to read as follows:

PART 815—[AMENDED]

* * * * *

3. Subpart 815.6 consisting of 815.607, is added to read as follows:

Subpart 815.6—Source Selection

815.607 Disclosure of mistakes before award.

The Head of the Contracting Activity (as defined in 802.1) is delegated authority to permit correction of mistakes in proposals before award consistent with FAR 15.607.

[FR Doc. 89-25548 Filed 10-30-89; 8:45 am]

BILLING CODE 6320-01-M

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 971

[Docket No. FV-89-110]

South Texas Lettuce; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order 971 for the 1989-90 fiscal period. Authorization of this budget would allow the South Texas Lettuce Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program would be derived from assessments on handlers.

DATES: Comments must be received by November 10, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone 202-447-5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 144 and Marketing Order No. 971 [7 CFR part 971], regulating the handling of lettuce grown in the Lower Rio Grande Valley of South Texas. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 10 handlers and 20 producers of South Texas lettuce covered under this marketing order. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989-90 fiscal year was prepared by the South Texas Lettuce Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of lettuce. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of lettuce. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on October 3, 1989, and unanimously recommended a 1989-90 budget of $51,531.49. Last season's budget was $34,305. Major expense items include increases in committee staff salaries, travel and marketing development and production research projects.

The committee also unanimously recommended an assessment rate of $0.05 per carton, the same rate as last season's. This rate, when applied to anticipated shipments of 1,011,500 cartons of lettuce, would yield $50,575 in assessment revenue. This amount when added to $956.49 from the reserve fund would be adequate to cover budgeted expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989-90 fiscal period began in August, and the marketing order requires that the rate of assessment apply to all assessable lettuce handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for this program needs to be expedited. The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 971

Lettuce, Marketing agreements and orders, South Texas.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 971 be amended as follows:

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PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 971 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674

2. A new section 971.229 is added to read as follows:

971.229 Expenses and assessment rate.

Expenses of $51,531.49 by the South Texas Lettuce Committee are authorized and an assessment rate of $0.05 per carton of lettuce is established for the fiscal period ending July 31, 1990. Unexpended funds may be carried over as a reserve.

Dated: October 25, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25569 Filed 10–30–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 984

[FV–89–106PR]

Expenses and Assessment Rate for Walnuts Grown in California for 1989–90

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 984 for the 1989–90 marketing year established under the walnut marketing order. This action is needed for the Walnut Marketing Board (Board), the agency responsible for the local administration of the order, to operate during the 1989–90 marketing year. The Board incurs expenses on a continuous basis and needs to collect funds during the year to pay those expenses. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by November 10, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2524–S, Washington, DC 20090–6456; telephone (202) 447–5120.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984 [7 CFR part 984], both as amended, regulating the handling of walnuts grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "nonmajor" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of walnuts grown in California who are subject to regulation under the walnut marketing order, and approximately 5,000 producers of walnuts in the production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of walnut producers and handlers may be classified as small entities.

The walnut marketing order requires that the assessment rate for a particular marketing year shall apply to all assessable walnuts handled from the beginning of such year. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture for approval. The Board consists of handlers, producers, and a non-industry member. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of walnuts. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment is usually acted upon by the Board shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Board will have funds to pay its expenses.

The Board met on September 15, 1989, and unanimously recommended 1989–90 marketing order expenditures of $1,463,782 and an assessment rate of $0.0085 per kernelweight pound of walnuts. In comparison, 1988–89 marketing year budgeted expenditures were $1,475,294, and the assessment rate was $0.0085 per kernelweight pound of walnuts. Budget categories for 1989–90 are $79,436 for administrative expenses, $300,000 for production research, $700,000 for the domestic market research and development program, and $37,000 for the 1990 crop estimate. Comparable actual expenditures for the 1988–89 crop were $75,999, $244,988, $688,554, and $30,500, respectively. Assessment income for 1989–90 is estimated to total as much as $1,539,707 based on an estimated crop of 181,142,000 kernelweight pounds of walnuts.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for the program need to be expedited. The Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 984

California, Marketing agreements and order, Walnuts.

For the reasons set forth in the preamble, it is proposed that a new § 984.341 be added as follows:

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 984—WALNUTS GROWN IN CALIFORNIA

2. New § 984.341 is added to read as follows:

§ 984.341 Expenses and assessment rate.

Expenses of $1,463,782 by the Walnut Marketing Board are authorized, and an assessment rate of $0.0085 per kernelweight pound of merchantable walnuts is established for the 1989–90 marketing year ending July 31, 1990.

Dated: October 25, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25570 Filed 10–30–89; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 85

[Docket No. 89–022]

Pseudorabies

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the pseudorabies regulations to allow certain interstate movements of swine based on compliance with new herd vaccination and testing procedures. The effect of this action would be to allow an additional option for the interstate movement of swine without presenting a significant risk of pseudorabies being spread interstate.

DATE: Consideration will be given only to comments received on or before November 30, 1989.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 89–022. Comments received may be inspected at Room 1141 of the South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William Stewart, Chief Staff Veterinarian, Swine Diseases Staff, VS, APHIS, USDA, Room 736, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7767.

SUPPLEMENTARY INFORMATION:

Background

Pseudorabies, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus and is primarily a disease of swine. The regulations in 9 CFR part 85 (referred to below as the regulations) govern the interstate movement of swine and other livestock in order to help prevent the spread of pseudorabies. Swine are allowed to be moved interstate under specific conditions, as provided in §§ 85.3 through 85.13 of the regulations.

The specific conditions that apply depend, in part, upon whether the swine are known to be infected with or exposed to pseudorabies. Swine known to be infected with or exposed to the disease may be moved interstate under very restrictive conditions to prevent the interstate spread of the disease. Swine not known to be infected with or exposed to pseudorabies may be moved interstate under less restrictive conditions.

Within the latter category, swine vaccinated for pseudorabies are subject to tighter controls than unvaccinated swine. There are two related reasons for this. First, the pseudorabies vaccines that have been developed do not confer immunity from the disease; vaccinated swine can become infected and spread pseudorabies. The advantages of vaccination are that it increases the swine's resistance to the disease and, if infection occurs, lessens the severity of the illness and facilitates recovery. Also, vaccinated swine that become infected with pseudorabies generally shed less virus than nonvaccinated swine, making them less likely to spread the disease. The drawback is that vaccinated swine produce antibodies to the vaccine that cannot be distinguished by traditional pseudorabies tests from antibodies produced in response to the field strain of the virus that causes pseudorabies infection. Thus, the second reason for restricting the interstate movement of vaccinated swine is that the pseudorabies status of these swine cannot be determined by traditional tests.

A test has been developed that, when used in conjunction with a new vaccine, can distinguish between antibodies produced in response to the field strain of the pseudorabies virus and antibodies produced in response to the new vaccine. The new test is called the "HardChek® anti-pseudorabies virus glycoprotein X enzyme-linked immunosorbent assay test" (referred to below and in the proposed regulations as "HardChek® anti-PRV-gpX ELISA test"). The complementary vaccine is called the "PRV/Marker ™ vaccine."

The PRV/Marker ™ vaccine is a vaccine from which a nonessential glycoprotein (gpX) has been deleted. Swine vaccinated with the gpX-deleted vaccine would not produce antibodies to that gpX unless they were infected with the pseudorabies field virus or vaccinated with vaccines containing the gpX antigen. The HardChek® anti-PRV-gpX ELISA test is specific for antibodies to the gpX deleted from the PRV/Marker ™ vaccine, that is, it recognizes those antibodies but ignores others. Thus, the HardChek® anti-PRV-gpX ELISA test, when used in combination with the PRV/Marker ™ vaccine, can distinguish between swine vaccinated with the PRV/Marker ™ vaccine and swine infected with pseudorabies.

Data submitted to the Animal and Plant Health Inspection Service by the producers of the new vaccine and test, including results of field trials on these products, and other relevant literature are available for inspection at the Hyattsville, Maryland, offices of the Animal and Plant Health Inspection Service (Room 736, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782).

Based on this information, it appears that swine from a herd vaccinated and tested with these products could, under certain conditions, be moved interstate with fewer restrictions than swine vaccinated in the traditional manner, without increasing the risk of spreading pseudorabies interstate. We therefore propose to revise the regulations accordingly.

We anticipate that the proposed changes to the regulations would provide swine producers with a greater incentive to vaccinate their herds, thereby reducing pseudorabies in the United States. The American Association of Veterinary Laboratory Diagnosticians and the U.S. Animal Health Association recommend that we allow use of the PRV/Marker ™ vaccine and the associated HardChek® anti-PRV-gpX ELISA test.

Herd Status

To ensure that swine from herds vaccinated and tested with the PRV/

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Marker ™ vaccine and the HardChek® anti-PRV-gpX ELISA test can be moved interstate as proposed in this document (see "Interstate Movements" in this Supplementary Information) without increasing the risk of spreading pseudorabies interstate, the herd would have to meet certain conditions to ensure the swine are free of pseudorabies. Herds that meet these conditions would be designated as "qualified PRV/Marker vaccinated/gpX nagative herds." We propose the following requirements for achieving the maintaining this herd status:

Initial Qualifying Tests

(1) All swine in the herd over 6 months of age must be tested with an official pseudorabies serologic test. For a minimum of 30 days before the test, the herd must not have been a known infected herd. During the 90 days before the test, at least 90 percent of the swine in the herd either must have been on the premises and a part of the herd or must have entered the herd directly from a qualified pseudorabies nagative herd. If any of the tested swine are found positive on this or any other official pseudorabies test prior to vaccination with the PRV/Marker ™ vaccine, the requirements in paragraph (2) must be met.

These requirements appear necessary to establish that the herd is free of swine infected with or exposed to pseudorabies. Requiring a 30-day waiting period for herds that have had pseudorabies would ensure that the disease, if incubating in the herd, would be detectable by an official pseudorabies serologic test. Tests of more recently exposed swine may not yield a positive result because the swine would not have had time to develop sufficient antibodies to the virus. Placing restrictions on additions to the herd during the 90 days before the qualifying test would further reduce the chances of the herd containing swine that are in the initial stages of developing pseudorabies. Our experience with herds subject to these identical qualifying conditions (qualified pseudorabies negative herds) indicates that testing all swine in the herd over 6 months of age would be adequate to detect pseudorabies if it exists in the herd.

(2) If any swine in the herd test positive on the official pseudorabies test, those swine must be removed from the herd, and the premises on which the herd is kept must be disinfected in accordance with the regulations (see 9 CFR 85.13). No less than 30 days after the positive swine are removed and the premises are disinfected, all swine in the herd except swine nursing from their mothers must be tested with an official pseudorabies serologic test and found negative. Within 30 to 60 days after this first negative test, the herd must be tested again in accordance with paragraph (1), above.

These requirements appear necessary to establish that the herd no longer contains swine infected with or exposed to pseudorabies. Requiring that positive swine be removed from a herd is the only way to remove sources of infection from a herd; there are no effective treatments for pseudorabies. Cleaning and disinfection of premises in accordance with the regulations has been shown to destroy pseudorabies virus that may be present on inanimate objects. Follow-up testing of all remaining swine in the herd, except swine nursing from their mothers, is necessary to determine whether the herd is free of pseudorabies infection. Nursing swine would not need to be tested since the result of a pseudorabies test on the mother would be sufficient indication of the disease status of the nursing swine. Swine nursing from a dam infected with pseudorabies would become infected. Swine nursing from a dam free of pseudorabies would be unlikely to contract the disease since they would normally not come in contact with swine other than their dam or other swine in the same litter. Based on our experience with herds that have had pseudorabies, it appears that all swine other than those nursing from their mothers must be subjected to an official pseudorabies serologic test to determine whether the herd is free of pseudorabies. The 30-day waiting period before this test would help ensure that swine incubating the disease have had time to develop detectable levels of antibodies. If all tested swine are negative, then negative results on a second official pseudorabies serologic test 30 to 60 days later would establish that the herd is free of pseudorabies.

Vaccination and Follow-up Tests

(1) No more than 15 days after test results show the herd to be negative for pseudorabies in accordance with paragraph (1) under "Initial Qualifying Tests," all swine in the herd over 6 months of age must be vaccinated with the PRV/Marker™ vaccine.

We are proposing a 15-day time period to allow herd owners time to have the herd vaccinated, yet minimize the chances for exposure to pseudorabies between testing and vaccination. Based on our experience with pseudorabies controlled vaccinated herds, 15 days appears to be an appropriate amount of time.

(2) Not less than 35 days after vaccination with the PRV/Marker™ vaccine, all swine in the herd over 6 months of age must be tested with an official pseudorabies serologic test. All serological samples that are positive must be tested with the HerdChek® anti-PRV-gpX ELISA test and found negative.

Testing the vaccinated swine with an official pseudorabies serologic test would identify all swine in the herd that have antibody titers for pseudorabies. Testing those positive swine with the HerdChek® anti-PRV-gpX ELISA test would be necessary to show that the positive reaction to the official pseudorabies serologic test was in response to the PRV/Marker™ vaccine and not pseudorabies infection. We are proposing an interval of at least 35 days between vaccination with the PRV/Marker™ vaccine and the official pseudorabies serologic test to ensure that the vaccinated swine have sufficient time to develop detectable levels of antibodies to the PRV/Marker™ vaccine.

Maintaining Herd Status

We propose that qualified PRV/Marker vaccinated/gpX negative herds meet the following requirements to maintain their status:

(1) All swine over 6 months of age in the herd must be tested at least once a year with the HerdChek® anti-PRV-gpX ELISA test and found negative. This requirement could be met by testing 25 percent of the swine over 6 months of age every 80–105 days, or by testing 10 percent of the swine over 6 months of age each month and finding them negative. No swine could be tested twice in 1 year to comply with the 25 percent requirement, or twice in 10 months to comply with the 10 percent requirement.

Continued testing would be required to ensure that the herd remains free of pseudorabies. Testing all swine over 6 months of age has been found to be a sufficient method of monitoring for pseudorabies in herds not known to be infected with or exposed to the disease. Testing a certain percentage of the swine on a rotating basis throughout the year is desirable to find infection as early as possible if it develops in a herd.

(2) Swine may be added to a qualified PRV/Marker vaccinated/gpX negative herd only under one of the following conditions:

(i) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from another qualified PRV/Marker vaccinated/gpX negative herd, or from a qualified pseudorabies negative herd, without having any contact en route with swine other than those from a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd.

(ii) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from a qualified pseudorabies negative herd, have contact en route with swine other than those from a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to an official pseudorabies serologic test conducted 30 days or more after the swine are isolated.

(iii) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from another qualified PRV/Marker vaccinated/gpX negative herd, have contact en route with swine other than those from a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to a HerdChek® anti-PRV-gpX ELISA test conducted 35 days or more after the swine are isolated.

(iv) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from a herd other than a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to two official pseudorabies serologic tests, one conducted at the time the swine are isolated, and the second conducted 30 days or more after the swine are isolated.

These conditions are designed to ensure that any swine added to the herd are free of pseudorabies.

Swine from qualified pseudorabies negative herds or qualified PRV/Marker vaccinated/gpX negative herds would present an insignificant risk of carrying pseudorabies infection, given the existing and proposed standards for achieving and maintaining herd status. If swine from these herds have no contact, en route, with swine from other types of herds, it is unlikely that they will be exposed to pseudorabies infection. There does not appear to be any need to isolate and test these swine before adding them to the herd.

If swine from a qualified pseudorabies negative herd do have contact, en route to their new herd, with swine from other than a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, the risk of exposure to infection would be increased. That is why we are proposing to isolate the swine until they are found negative to an official pseudorabies serologic test conducted 30 days or more after the swine are isolated. The same rationale applies to swine that are moved from another qualified PRV/Marker vaccinated/gpX negative herd and have contact with swine from other than a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd. The only difference is that these swine, vaccinated with the PRV/Marker™ vaccine, would need to be tested with the HerdChek® anti-PRV-gpX ELISA test rather than an official pseudorabies serologic test.

Swine from other than a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd would present the greatest risk of carrying and spreading pseudorabies infection. Requiring that the swine be isolated until they are found negative to two official pseudorabies serologic tests, one conducted at the time the swine are isolated, and the second conducted 30 days or more after the swine are isolated, would help ensure that only swine free of pseudorabies are added to the herd.

Interstate Movement of Swine From a Qualified PRV Marker Vaccinated/gpX Negative Herd

We propose to allow swine that are from a qualified PRV/Marker vaccinated/gpX negative herd, and that are not known to be infected or exposed to pseudorabies, to be moved interstate without further restriction under the pseudorabies regulations if:

(1) The swine are moved directly to a recognized slaughtering establishment, or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment; or

(2) The swine are moved from a qualified PRV/Marker vaccinated/gpX negative herd directly to a feedlot, quarantined feedlot, or approved livestock market; or

(3) The swine are moved from an approved livestock market to a feedlot, quarantined feedlot, or other approved livestock market.

These interstate movements represent market channels for moving swine to slaughter, either directly or through markets or feedlots. Swine from a qualified PRV/Marker vaccinated/gpX negative herd would present an insignificant risk of carrying pseudorabies infection, given the proposed standards for achieving and maintaining herd status. If any of these swine became exposed to pseudorabies at any point along the way to slaughter, they would be unlikely, in most cases, to develop and spread the infection before being slaughtered, and, in any case, would not have contact with any swine other than those also moving to slaughter. Thus, these interstate movements would not present a significant risk of spreading pseudorabies interstate.

The regulations in 9 CFR part 71 contain identification and recordkeeping requirements for swine moved in interstate commerce, including swine moved in accordance with the pseudorabies regulations. These requirements appear adequate to allow the swine to be traced through market channels.

For all other interstate movements of swine from a qualified PRV/Marker vaccinated/gpX negative herd, we proposed to require that the swine be accompained by a certificate, and that the certificate be delivered to the consignee. In addition to other information routinely required on a certificate (see 9 CFR 85.1), the certificate would have to state that the swine are from a qualified PRV/Marker vaccinated/gpX negative herd and the date of the last qualifying test, and list the identification for the swine to be moved, in accordance with 9 CFR 71.19. Swine moved interstate for purposes other than slaughter, sale for slaughter, or feeding would be breeder swine or could have opportunity for contact with breeder swine. Breeder swine that become exposed to or infected with pseudorabies present a significant risk of spreading pseudorabies. Requiring the swine to be accompained by a certificate would provide the consignee with certification by a Veterinary Services representative, a State representative, or an accredited veterinarian that the swine are from a qualified PRV/Marker vaccinated/gpX negative herd and are not infected with or exposed to pseudorabies.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or

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on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

According to the United States Department of Agriculture (USDA) markets the "HardChek® anti-PRV-gpX test kit, and another that markets the PRV/Marker™ vaccine. Both businesses appear to be small entities.

However, the two affected firms are

the words "paragraph (q) of" would be removed.

3. In § 85.1, in the definition of "official pseudorabies test", the semicolon immediately after "(ELISA)

(3) No more than 15 days after test results show the herd to be negative for pseudorabies in accordance with paragraph (a)(1) of this definition, all swine in the herd over 6 months of age

until they are found negative to a HerdChek® anti-PRV-gpX ELISA test conducted 35 days or more after the swine are isolated.

(iv) The swine are moved to the

quarantined feedlot, or approved livestock market; or

(3) The swine are moved from an approved livestock market to a feedlot, quarantined feedlot, or other approved

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on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

According to the United States Department of Agriculture (USDA) Agricultural Statistics Board, in 1988 hogs were raised on 333,500 farms in the United States. This includes all farms that raised hogs of any type. The vast majority of producers raise hogs for the slaughter market, but a small number of farms raise hogs to produce breeding stock, which is sold to other hog producers. Very few, if any, producers who raise hogs for the slaughter market maintain qualified pseudorabies negative herds. It appears, from tabulating the membership rolls of hog breed associations, that about 12,000 farmers raise hog breeding stock. Of these producers' herds, 3,182 are listed by USDA and State regulatory officials as qualified pseudorabies-negative herds. These herds supply most of the U.S. hog seedstock.

We believe that under the proposed rule qualified pseudorabies negative herds are the only viable market for the PRV/Marker™ vaccine and the HerdChek® anti-PRV-gpX test kits. However, we believe these products will be used as a risk management tool by only a small number of these specialized hog producers. Their use would be optional. Producers' decisions to adopt this technology will depend on current disease exclusion costs, producers' perceptions of the risk of their herds' being infected with pseudorabies, and their personal preferences about assuming risk.

We estimate that owners of no more than 5 percent of the qualified pseudorabies negative herds will use the Marker vaccine and its companion test instead of or in addition to the management practices they currently use to prevent pseudorabies from entering their herds. Assuming an average of 100 sows and 10 boars in a herd and an annual production of 18 pigs weaned per sow per year, and that all breeding animals and their offspring are vaccinated annually, the estimated annual use of the vaccine would be 310,000 doses.

Some small businesses may realize a modest economic benefit through the sale of the PRV/Marker™ vaccine and the HerdChek® anti-PRV-gpX test kits. Other marker vaccines and tests for pseudorabies may be developed. When appropriate, APHIS would propose to amend the regulations to include these vaccines and tests. Of the dozen or so businesses that market pseudorabies vaccines and related products, we are aware of only one that currently markets the "HardChek® anti-PRV-gpX test kit, and another that markets the PRV/Marker™ vaccine. Both businesses appear to be small entities.

However, the two affected firms are working in a niche within a small part of a very large market. USDA records indicate that approximately 25.2 million doses of pseudorabies vaccine were produced in the United States in 1988. These records also indicate that about 65 percent of annual production (19.8 million doses) is for domestic use. The approximate annual value of the United States pseudorabies vaccine market, at $10 million, is just 2 percent of the United States $500 million-a-year veterinary biologics market. The estimated use of the Marker vaccine under the proposed regulations would expand the pseudorabies vaccine market by only 1.5 percent. Thus any strategic advantage gained by these firms, while important to them, would not be significant compared with the total veterinary biologics market.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this proposal contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR part 3015, Subpart V.)

List of Subjects in 9 CFR Part 85

Animal diseases, Livestock, Pseudorabies, Quarantine, Reporting and recordkeeping requirments, Transportation.

Accordingly, 9 CFR part 85 would be amended as follows:

PART 85—PSEUDORABIES

1. The authority citation for part 85 would continue to read as follows:

Authority: 21. U.S.C. 111–112, 113, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 3.71.2(d).

§ 85.1 [Amended]

2. In § 85.1, in the definition of "Official pseudorabies serologic test" the words "paragraph (q) of" would be removed.

3. In § 85.1, in the definition of "official pseudorabies test", the semicolon immediately after "(ELISA) Test" would be replaced by a comma, and the phrase "except for the HerdChek® anti-pseudorabies virus glycoprotein X enzyme-linked immunosorbent assay test (Herdchek® anti-PRV/gpX ELISA test);" would be added immediately after "(ELISA) Test,".

4. In § 85.1, in the definition of "Certificate", the phrase "are not pseudorabies vaccinates" would be removed and the phrase "are not vaccinated for pseudorabies with any vaccine other than the PRV/Marker™ vaccine" would be added in its place.

5. In § 85.1, two new definitions would be added, in alphabetical order, to read as follows:

§ 85.1 [Amended]

* * * * *

PRV/Marker vaccinate swine. Swine vaccinated with the PRV/Marker™ vaccine.

* * * * *

Qualified PRV/marker vaccinated/gpX negative herd. (a) Qualified PRV/marker vaccinated/gpX negative herd status is attained under the following conditions:

(1) All swine in the herd over 6 months of age must be tested with an official pseudorabies serologic test. For a minimum of 30 days before the test, the herd must not have been a known infected herd. During the 90 days before the test, at least 90 percent of the swine in the herd either must have been on the premises and a part of the herd or must have entered the herd directly from a qualified pseudorabies negative herd. If any of the tested swine are found positive on this or any other official pseudorabies test prior to vaccination with the PRV/Marker™ vaccine, the requirements in paragraph (a)(2) of this definition must be met.

(2) If any swine in the herd test positive on the official pseudorabies test, those swine must be removed from the herd, and the premises on which the herd is kept must be disinfected in accordance with § 85.13 of this part. No less than 30 days after the positive swine are removed and the premises are disinfected, all swine in the herd except swine nursing from their mothers must be tested with an official pseudorabies serologic test and found negative. Within 30 to 60 days after this first negative test, the herd must be tested again in accordance with paragraph (a)(1) of this definition.

(3) No more than 15 days after test results show the herd to be negative for pseudorabies in accordance with paragraph (a)(1) of this definition, all swine in the herd over 6 months of age must be vaccinated with the PRV/Marker™ vaccine.

(4) Not less than 35 days after vaccination with the PRV/Marker™ vaccine, all swine in the herd over 6 months of age must be tested with an official pseudorabies serologic test. All serological samples that are positive must be tested with the Herdchek® anti-PRV/gpX ELISA test and found negative.

(b) Qualified PRV/Marker vaccinated/gpX negative herd status is maintained under the following conditions:

(1) All swine over 6 months of age in the herd must be tested at least once a year with the Herdchek® anti-PRV/gpX ELISA test and found negative. This requirement may be met by testing 25 percent of the swine over 6 months of age every 80–105 days, or by testing 10 percent of the swine over 6 months of age each month and finding them negative. No swine may be tested twice in 1 year to comply with the 25 percent requirement, or twice in 10 months to comply with the 10 percent requirement.

(2) Swine may be added to a qualified PRV/Marker vaccinated/gpX negative herd only under one of the following conditions:

(i) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from another qualified PRV/Marker vaccinated/gpX negative herd, or from a qualified pseudorabies negative herd, without having any contact en route with swine other than those from a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd.

(ii) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from a qualified pseudorabies negative herd, have contact en route with swine other than those from a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to an official pseudorabies serologic test conducted 30 days or more after the swine are isolated.

(iii) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from another qualified PRV/Marker vaccinated/gpX negative herd, have contact en route with swine other than those from a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to a HerdChek® anti-PRV-gpX ELISA test conducted 35 days or more after the swine are isolated.

(iv) The swine are moved to the qualified PRV/Marker vaccinated/gpX negative herd from a herd other than a qualified PRV/Marker vaccinated/gpX negative herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to two official pseudorabies serologic tests, one conducted at the time the swine are isolated, and the second conducted 30 days or more after the swine are isolated.

* * * * *

§ 85.6 [Amended]

6. In § 85.6, remove the phrase "pseudorabies vaccinate swine" and add the phrase "pseudorabies vaccinate swine, except PRV/Marker vaccinate swine," in the following places:

(a) The section heading;

(b) The heading for paragraph (a); and

(c) The heading for paragraph (b).

7. In § 85.6, remove the phrase "Pseudorabies vaccinate swine" and add the phrase "Pseudorabies vaccinate swine, except PRV/Marker vaccinate swine," in the following places:

(a) In the introductory text to § 85.6;

(b) In the introductory text to paragraph (a); and

(c) In the introductory text to paragraph (b).

§§ 85.9, 85.10, and 85.11 [Redesignated from §§ 85.8, 85.9, and 85.10]

5. Sections 85.8, 85.9, and 85.10 would be redesignated as §§ 85.9, 85.10, and 85.11, respectively.

6. A new § 85.8 would be added to read as follows:

§ 85.8 Interstate movement of swine from a qualified PRV/Marker vaccinated/gpX negative herd and not known to be infected with or exposed to pseudorabies.

Swine that are from a qualified PRV/Marker vaccinated/gpX negative herd, and that are not known to be infected or exposed to pseudorabies, may be moved interstate only in accordance with the following provisions:

(a) Without further restriction under this part if:

(1) The swine are moved directly to a recognized slaughtering establishment, or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment; or

(2) The swine are moved from a qualified PRV/Marker vaccinated/gpX negative herd directly to a feedlot, quarantined feedlot, or approved livestock market; or

(3) The swine are moved from an approved livestock market to a feedlot, quarantined feedlot, or other approved livestock market.

(b) For all interstate movements other than those set forth in paragraph (a) of this section, the swine must be accompanied by a certificate, and the certificate must be delivered to the consignee. In addition to the information required by § 85.1, the certificate must state that the swine are from a qualified PRV/Marker vaccinated/gpX negative herd and the date of the herd's last qualifying test, and must list the identification for the swine to be moved interstate, in accordance with § 71.19 of this chapter.

Done in Washington, DC, this 25th day of October 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–25567 Filed 10–30–89; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

RIN 1076-AC11

Preparation of Rolls of Indians

September 8, 1989.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to amend the regulations contained in 25 CFR part 61 governing the preparation of rolls of Indians. The Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987 directs the Secretary of the Interior to prepare a tribal membership roll in accordance with the regulations contained in 25 CFR part 61. The regulations in Part 61 provide general enrollment procedures that can be made applicable to the preparation of a specific roll of Indians by amending the regulations to include the qualifications for enrollment and the deadline for filing applications for the particular roll. The BIA is proposing to amend Part 61 by adding a paragraph (e) to § 61.4 to include the qualifications for enrollment and the deadline for filing applications so that the procedures contained in part 61 will govern the preparation of the tribal membership

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roll of the Cow Creek Band of Umpqua Tribe of Indians.

DATE: Comments must be received on or before November 30, 1989.

ADDRESS: Written comments should be directed to the Chief, Division of Tribal Government Services, Bureau of Indian Affairs, Mail Stop 4627 MIB, 18th & C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, Mail Stop 4627 MIB, 18th & C Streets, NW., Washington, DC 20240, telephone number: (202) 343–1702 (FTS 343–1702).

SUPPLEMENTARY INFORMATION: This proposed amendment to a rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8.

A proposed rule to amend the regulations contained in Part 61 to include the qualifications for enrollment and the deadline for filing applications for the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians was previously published for public comment in the **Federal Register** on Friday, June 3, 1988, 53 FR 20335. An editorial correction was published in the **Federal Register** on Wednesday, June 29, 1988, 53 FR 24551.

The Cow Creek Band of Umpqua Tribe of Indians was awarded judgment funds in docket numbered 53–61L by the United States Claims Court. Funds to satisfy the award were appropriated by Congress. The Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of October 26, 1987, Pub. L. 100–139 (Judgment Act), authorized the use and distribution of the judgment funds.

Section 5 of the Judgment Act, which amended the Cow Creek Band of Umpqua Tribe of Indians Recognition Act of December 29, 1982 (Recognition Act), directs the Secretary to prepare a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians in accordance with the regulations contained in 25 CFR part 61. The Act further directs that the tribal membership roll be published in the **Federal Register.**

Language was included in the Fiscal Year 1989 Interior Appropriations Act of September 27, 1988, Public Law 100–446, to amend the Cow Creek Band of Umpqua Tribe of Indians Recognition Act. The amendment to the Recognition Act affects the qualifications for enrollment on the tribal membership roll that were in the proposed rule published in the **Federal Register** on June 3, 1988. Because the effect, which will be discussed below under COMMENTS AND CHANGES, is significant, the BIA is again issuing a proposed rule to amend the regulations contained in part 61.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed amendment.

The regulations in part 61 provide general enrollment procedures and contain provisions which are not applicable in the preparation of all rolls. As a matter of clarification, because the BIA is preparing a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians under this proposed amendment, review of applications by tribal authorities under section 61.10 will be applicable to provide for maximum tribal participation in the enrollment process.

Also, in addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Superintendent, Siletz Agency, Bureau of Indian Affairs, shall send notices in accordance with section 61.5(c) to all persons whose names appear on the so-called Interrogatory No. 14 roll and all descendants, whose names have been furnished to the BIA, of persons named on the so-called Interrogatory No. 14 roll at their last available address. The notice shall advise individuals of the preparation of the roll and the relevant procedures to be followed, including the qualifications for enrollment and the deadline for filing application forms. It should be noted, however, that the ability of the Superintendent to send notices will be dependent upon the availability of addresses furnished either by the individuals or the tribe. An application form will be mailed with each notice.

The primary author of this document is Kathleen L. Slover, Tribal Enrollment Specialist, Division of Tribal Government Services, Mail Stop 4627 MIB, Bureau of Indian Affairs, 18th and C Streets, NW., Washington, DC 20240.

Comments and Changes

The period for commenting on the previously proposed amendment to 25 CFR part 61 to add paragraph (e) to section 61.4 to include the qualifications for enrollment and a deadline for filing applications for the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians closed on July 5, 1988. Comments were received from 46 individuals and the Cow Creek Band of Umpqua Tribe of Indians through its General Counsel within the public comment period. Basically only three provisions were addressed by the commenters: (1) The requirement that all individuals must establish Cow Creek Indian ancestry to be included on the membership roll of the Cow Creek Band of Umpqua Tribe of Indians, (2) the deadline date for filing applications that was published in the proposed rule document and (3) the requirement that all individuals have to file applications by the deadline date to establish eligibility for enrollment.

1. Section 5 of the Judgment Act states that the Secretary is to prepare a tribal membership roll comprised of "Indian individuals" who were not members of any other federally recognized Indian tribe on July 30, 1987, and (1) who are named on a tribal roll dated September 13, 1980 (the so-called Interrogatory No. 14 roll); (2) who were born on or prior to October 26, 1987, and are descendants of persons named on the so-called Interrogatory No. 14 roll; or (3) who are descendants of persons considered to be members of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 19, 1853.

The Department had concluded that the enrollment requirements stated in the Judgment Act were ambiguous, in particular it was not clear what was meant by "Indian individuals" in the context of the Judgment and Recognition Acts. A review of the legislative history found no clear intent that when Congress recognized the Cow Creek Band of Umpqua Tribe of Indians it was recognizing a tribal entity comprised of individual Indians, irrespective of tribal affiliation, rather than a tribe comprised of Cow Creek descendants.

If all individuals were not required to establish Cow Creek Indian ancestry, the Secretary might be in the position of preparing and approving a tribal membership roll comprised of individuals who did not meet the current membership requirements or the membership requirements under which the so-called Interrogatory No. 14 roll was prepared. The Judgment Act provided that until the tribe adopted and the Secretary approved a new governing document, the interim governing document would "be the tribal bylaws entitled 'Bylaws of Cow Creek Band of Umpqua Tribe of Indians' which bear an 'approved' date of '9–10–78.' " The 1978 Bylaws were also the document under which the so-called Interrogatory No. 14 roll was prepared. The membership

article of the Bylaws states that no person "shall be a member * * * unless he shall be able to trace his ancestry to the members of the Cow Creek Band who claimed and lived upon the land described in the treaty of September 19, 1853, with the United States Government."

The BIA was reluctant to expand administratively the membership of the Cow Creek Band of Umpqua Tribe of Indians beyond clear Congressional intent. Consequently, the proposed rule published on June 3, 1988, to govern the preparation of the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians required all persons, including those whose names appeared on the so-called Interrogatory No. 14 roll and their descendants, to establish that they were of Cow Creek Indian ancestry to qualify for enrollment.

During Congressional consideration of the Fiscal Year 1989 Interior Appropriations Act, disapproval of the BIA's interpretation was expressed and the Secretary was directed to revise the proposed rule to include all members on the so-called Interrogatory No. 14 roll who satisfy basic Indian ancestry requirements. Accordingly, the Fiscal Year 1989 Interior Appropriations Act amended the Recognition Act by striking out "Indian individuals" and inserting "Cow Creek descendants or other Indian individuals."

As a result of the amendment to the Recognition Act, the BIA has determined that when Congress recognized the Cow Creek Band of Umpqua Tribe of Indians, it was recognizing the tribe and its members, irrespective of their tribal affiliation, rather than a tribe comprised exclusively of Cow Creek descendants.

Section 3 of the Restoration Act, codified at 25 U.S.C. 712a, in part, provides:

> (a) Federal Recognition.—Notwithstanding any provision of the Act approved August 13, 1954 (25 U.S.C. 691 et seq.) [Western Oregon Indians Termination of Federal Supervision Act], or any other law, Federal recognition is extended to the Cow Creek Band of Umpqua Tribe of Oregon. * * *
>
> (b) Restoration of Rights and Privileges.—All rights and privileges of *the tribe and the members of the tribe* under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which may have been diminished or lost under the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), are restored, and the provisions of such Act shall be inapplicable to *the tribe and to members of the tribe* after the date of enactment [December 29, 1982] of this Act. [Italic supplied.]

The Restoration Act, as amended, defines "member" as a person enrolled on the membership roll of the tribe in accordance with the membership provisions that are contained in the Judgment Act. Under the Judgment Act until a permanent roll is prepared by the Secretary the membership shall consist of all persons named on the so-called Interrogatory No. 14 roll and their descendants.

When Congress restored the Cow Creek Band of Umpqua Tribe of Indians, it was restoring not only the tribe, but individual members, i.e., those persons named on the so-called Interrogatory No. 14 roll and their descendants. Consequently, "other Indian individuals" named on the so-called Interrogatory No. 14 roll and their descendants, irrespective of their tribal affiliation, have been effectively restored and may "satisfy basic Indian ancestry requirements." Appropriate changes have been made to the proposed amendment.

Consistent with a generally accepted legal definition of Indian and absent any specific statutory language to the contrary, individuals, in addition to being recognized as Indian by their tribe or community, must possess aboriginal ancestry indigenous to the United States. [*See* F. Cohen, HANDBOOK OF FEDERAL INDIAN LAW, pp. 19–20 (1982 ed.)] Although persons named on the so-called Interrogatory No. 14 roll and their descendants may be recognized as Indians by the tribe, they will, nevertheless, be required to establish that they possess Indian ancestry indigenous to the United States to qualify for inclusion on the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians being prepared. Appropriate changes have been made to the proposed amendment to part 61 from what was previously proposed.

2. As, the proposed amendment to part 61 was published in the **Federal Register**, the date of August 2, 1988, was inserted in paragraph (e)(2) of section 61.4, as the deadline for filing applications to establish eligibility for inclusion on the roll of the Cow Creek Band of Umpqua Tribe of Indians being prepared under the regulations. Most of the commenters believed that the deadline of August 2, 1988, was not a reasonable or adequate length of time. The insertion of August 2, 1988, in the proposed amendment when it was published was, however, an editorial error. The deadline in the proposed amendment should have been published to read as "60 days from the effective date of the final rule." A document was published in the **Federal Register** on Wednesday, June 29, 1988 (53 FR 24551), to make that correction. The commenters did not suggest an alternate deadline or specify a particular length of time for the filing of applications. Consequently, no change is being made. A deadline date of 60 days from the effective date of the final rule is being proposed.

3. As the amendment to part 61 to govern the preparation of the membership roll of the Cow Creek Band of Umpqua Tribe of Indians was previously proposed, all persons including those named on the so-called Interrogatory No. 14 roll and their descendants were required to file application forms by the deadline date to establish eligibility for enrollment. One of the commenters, the General Counsel on behalf of the tribe, objected strongly and found this requirement directly contrary to the Judgment Act. It is presumed that this is a twofold objection, both to the requirement that individuals named on the so-called Interrogatory No. 14 roll and their descendants must file application forms and that they must file before the deadline date to establish eligibility for enrollment.

The commenter argued that section 5 of the Judgment Act directs that only the third category of potentially eligible individuals, i.e., those who are descendants of persons considered to be members of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 19, 1853, must apply for inclusion on the membership roll, while mandating the inclusion of all Indian individuals, or as amended, all Cow Creek descendants or other Indian individuals named on the so-called Interrogatory No. 14 roll and their descendants. The commenter found that the Congressionally-established distinction in the Judgment Act between the section 5(b) (1) and (2) enrollees, i.e., so-called Interrogatory No. 14 enrollees and their descendants, on one hand and section 5(b)(3) enrollees, i.e., descendants of persons considered to be members of the historical Cow Creek Band, on the other is confirmed by section 5(c) which mandates regulations covering the enrollment process for section 5(b)(3) enrollees only. Further, these group-specific regulations are necessary because only section 5(b)(3) enrollees must actually apply to the Secretary for inclusion on the tribal membership roll.

Section 5(c) is not the only reference in section 5 of the Judgment Act to regulations for enrollment purposes. Section 5(b) directs the Secretary to prepare the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians "in accordance with the

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regulations contained in part 61 of title 25 of the Code of Federal Regulations." Thus, the enrollment process of all categories of eligibles is, in fact, subject to Secretarial regulations.

An early version of the proposed Cow Creek legislation contained specific language granting a "rebuttable presumption" of eligibility for those persons whose names were listed on the so-called Interrogatory No. 14 roll, but that provision was removed from the Judgment Act as enacted. Furthermore, recent considerations of the Judgment and Restoration Acts still indicate a Congressional intent that persons named on the so-called Interrogatory No. 14 roll must satisfy basic Indian ancestry requirements. Consequently, the real issue here is the appropriateness of requiring the filing of application forms to meet the burden of proof.

The so-called Interrogatory No. 14 roll is basically a listing of names. It does not contain sufficient information on which to base a determination of eligibility for enrollment on the tribal membership roll being prepared under this amendment. The most suitable manner in which to ensure that adequate information and documentation is submitted is to require that all persons including those named on the Interrogatory No. 14 roll and their descendants submit application forms for enrollment on the tribal membership roll being prepared under this amendment to part 61.

The regulations contained in part 61 provide in section 61.6(c) that "[a]pplication forms may be filed by sponsors on behalf of other persons." Under section 61.1 "sponsor" is defined as "any person who files an application for enrollment or appeal on behalf of another person." Consequently, under the regulations the tribe can file applications on behalf of their members and relieve the individuals of the burden.

No alternative manner for the BIA to obtain the necessary Indian ancestry information about the individuals named on the so-called Interrogatory No. 14 roll and their descendants was offered by the commenter. Consequently, the proposed rule to amend part 61 requires the submission of application forms for all persons including those named on the so-called Interrogatory No. 14 roll and their descendants to establish eligibility for enrollment on the tribal membership roll being prepared.

As indicated above, the requirement that applications be filed and the requirement that applications be filed by a deadline are considered two issues. The proposed amendment imposed both requirements on all persons including those named on the so-called Interrogatory No. 14 roll and their descendants.

The BIA has found that if a roll is ever to be completed, there must be a deadline for filing applications. Although the class of persons named on the so-called Interrogatory No. 14 roll is a matter of record, such persons must still establish their eligibility for enrollment. If a deadline is not imposed on this class of persons, there might then be confusion as to whether applications had to be filed at all. Also, if a deadline is not set, there would be no reasonable basis for determining when the BIA could take actions rejecting persons for failure to establish that they met the requirements for enrollment. As far as descendants of persons named on the so-called Interrogatory No. 14 roll, that class of individuals is not a matter of record. Although the BIA has received listings from time to time of "supplemental enrollees," BIA's records may not be complete. To avoid any confusion as to who has to file applications and when the applications have to be filed, the proposed rule to amend part 61 requires all persons including those named on the so-called Interrogatory No. 14 roll and their descendants to submit applications by the deadline specified to establish eligibility for enrollment. Furthermore, such persons can be rejected solely for failure to file on time regardless of whether they otherwise meet the qualifications for enrollment. Therefore, no change has been made to the amendment from what was previously proposed.

It should be noted the Judgment Act does provide that after completion and publication in the **Federal Register**, membership in the Cow Creek Band of Umpqua Tribe of Indians shall be limited to persons listed on the tribal membership roll being prepared and their descendants. However, the Judgment Act further provides that the Cow Creek Band of Umpqua Tribe of Indians, at its discretion, may subsequently grant tribal membership to any person of Cow Creek Band of Umpqua ancestry who under tribal procedures applies to the tribe for membership and is determined to meet the tribal requirements for membership.

Other Changes

No other changes have been made to the text of the amendment adding a new paragraph (e) to § 61.4 of part 61 to govern the preparation of a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians from what was published in the proposed rule. However, the proposed rule does not revise the authority citation for Part 61 as previously proposed. Section 6 of the Judgment Act directed the Secretary to determine the eligibility of two additional categories of Cow Creek descendants. On Wednesday, April 6, 1988, 53 FR 11271, a final rule was published amending Part 61 to govern processing of applications from the two other categories of Cow Creek Indian descendants. The final rule revised the authority citation for part 61 and no further revision is necessary.

Paperwork Reduction Act

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in this part 61 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Executive Order 12291

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and those individuals who are determined eligible to be enrolled on the tribal membership roll will be participating in the programs of one tribal entity funded by a relatively small judgment award granted the Cow Creek Band by the United States Claims Court.

Compliance With Other Laws

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because of the limited applicability as stated above.

The Department of Interior has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and that neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 25 CFR Part 61

Indians—claims, Indians—enrollment.

Accordingly, it is proposed that part 61 of Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations be amended as shown.

1. The authority citation for part 61 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9; 25 U.S.C. 1401 et seq., as amended; Pub. L. 100–139; Pub. L. 100–580.

2. Section 61.4 is amended by adding a new paragraph (e) to read as follows:

§ 61.4 Qualifications for enrollment and the deadline for filing application forms.

* * * * *

(e) *Cow Creek Band of Umpqua Tribe of Indians.* (1) Pursuant to Section 5 of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of October 26, 1987, Pub. L. 100–139, a tribal membership roll is to be prepared comprised of all persons who are able to establish that they are of Cow Creek or other Indian ancestry indigenous to the United States based on any rolls or records acceptable to the Secretary and were not members of any other Federally recognized Indian tribe on July 30, 1987; and:

(i) Who are named on the tribal roll dated September 13, 1980, the so-called Interrogatory No. 14 roll;

(ii) Who are descendants of individuals named on the tribal roll dated September 13, 1980, the so-called Interrogatory No. 14 roll, and were born on or prior to October 26, 1987; or

(iii) Who are descendants of individuals who were considered to be members of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 18, 1853.

(2) Application forms for enrollment must be filed with the Superintendent, Siletz Agency, Bureau of Indian Affairs, P.O. Box 539, Siletz, Oregon 97380, by (60 days from the effective date of the Final rule). Application forms filed after that date will be rejected for inclusion on the tribal membership roll for failure to file on time regardless of whether the applicant otherwise meets the qualifications for enrollment.

* * * * *

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89–25564 Filed 10–30–89; 8:45 am]

BILLING CODE 4310–02–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046–AA11

Federal Sector Equal Employment Opportunity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is proposing a fundamental restructuring of the Federal sector EEO complaint process in this new part 1614 to its regulations. The new regulations will result in quicker, more efficient processing and will promote administrative fairness in the process of Federal sector EEO complaints.

DATES: Written comments on the proposed regulations must be received on or before January 2, 1990. The Commission proposes to consider any comments received and thereafter adopt final regulations.

ADDRESSES: Comments should be addressed to the Office of the Executive Secretariat, Room 10402, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, NW., Washington, DC between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, at (202) 663–4669, Thomas J. Schlageter, Senior Attorney at (202) 663–4669, or Kathleen Oram, Staff Attorney at (202) 663–4669.

SUPPLEMENTARY INFORMATION: Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), and Executive Order 12106, 44 FR 1053 (December 28, 1978), authority for the administration and enforcement of equal opportunity in Federal employment, previously vested in the Civil Service Commission, was transferred to the Equal Employment Opportunity Commission. The Commission is specifically granted the authority to issue rules, regulations, orders and instructions pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–16(b); the Age Discrimination in Employment Act of 1967, 29 U.S.C. 633a(b); the Rehabilitation Act of 1973, 29 U.S.C. 794a(a)(1); the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*, and E.O. 12067.

Pursuant to the foregoing authorities, the Commission is publishing a proposed part 1614 that fundamentally restructures the Federal sector equal employment opportunity complaint process. Part 1614 represents the Commission's response to numerous commentaries on the existing Federal sector complaint process, located at 29 CFR part 1613, that was created by the Civil Service Commission in 1972, 37 FR 22,717 (October 21, 1972). Recent commentaries on part 1613 include a Government Accounting Office Audit Report, comments by the Assistant Secretaries for Management Group, and the latest in the series, the House Employment and Housing Subcommittee's Report, "Overhauling the Federal EEO Complaint Processing System: A New Look at a Persistent Problem." H.R. Rep. No. 456, 100th Cong., 1st Sess. (1987).

The new part will apply to all counseling efforts pending on or commencing after the effective date of the regulations as well as to all complaints filed after the effective date of the regulations; complaints previously filed will continue to be processed under part 1613. The major differences between part 1613 and proposed part 1614 are discussed below.

A. Organization

Proposed part 1614 is organized differently than part 1613. Part 1613 is organized according to the type of discrimination complaint at issue; it has separate subparts for Title VII complaints, mixed case complaints, age complaints, class complaints, handicap complaints, and old mixed case complaints. Proposed part 1614 eliminates the repetition and cross-references inherent in the part 1613 scheme by consolidating the complaint processing procedures as much as possible. It is organized into six subparts. Subpart A concerns the agencies' programs for promoting equal employment opportunity and the procedures for agency processing of individual complaints of discrimination. Subpart B provides additional provisions that are applicable to the processing of particular types of complaints (i.e., ADEA, Equal Pay Act, Rehabilitation Act, class). Subpart C explains the relationship between the EEO process and the negotiated grievance process and between the EEO process and appeals to MSPB. Subpart D describes the right and method by which a complainant can appeal to EEOC and the right to file civil actions under each statute administered by EEOC. Subpart E sets forth EEOC's policy on remedies and corrective action when discrimination has occurred. Subpart F contains miscellaneous provisions of general applicability to agency EEO programs.

B. Individual Complaint Process

Proposed part 1614 also changes the complaint process for individual complaints. As under part 1613, a person who believes he or she has been retaliated against or discriminated against on the basis of race, color, religion, sex, national origin, age, or handicap must first seek counseling from the alleged discriminating agency and then file a written complaint with that agency. The agency must

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acknowledge receipt and, if properly filed, investigate. Proposed part 1614, however, eliminates the hearing from the agency investigation stage and requires the agency to investigate, attempt resolution and issue a notice of final action within 180 days. (A complainant's right to a hearing is being shifted from the agency investigation process to the EEOC appeal process; only the timing of the request, not the right to a hearing itself, is being modified by the proposal.) Because agencies' responsibilities in the 180-day period are limited to investigation and settlement attempts, it is anticipated that agencies will be able to complete investigations within that time limit.

The new procedure allows a large degree of flexibility in the investigation of complaints. The agency can use an exchange of letters, position papers, interrogatories, investigation, fact-finding conference or any other method or combination of methods that will lead to the development of a complete factual record. Agencies can incorporate alternative dispute resolution techniques into their investigations in order to facilitate early resolution of complaints. The Commission encourages agencies to explore the possibility of tailoring their investigative procedures to the issue(s) raised in a complaint and to adopt procedures that emphasize prompt resolution.

If the complainant wishes to pursue the matter beyond the agency level, he or she may file a civil action in federal district court or may appeal the notice of final action to the EEOC. In an appeal, EEOC will review the agency record to determine if it is adequate for decision. If it is not, EEOC will supplement the agency investigation by various methods. It may remand part or all of the matter to the agency for further investigation and may draw an adverse inference if the agency fails to supplement the record within the time specified by the Commission or it may refer the matter to an EEOC field office for investigation and require that the agency reimburse the Commission for the investigation. Although § 1613.216(c) of the current regulations provides for reimbursement, it has seldom been used; the Commission intends to make full use of the reimbursement provision in the proposed process. If an agency fails to develop an adequate record, the Commission may also send notice of this deficiency to an appropriate agency official or Congressional committee or take other appropriate action.

Once EEOC has determined the record is complete, it will so notify the parties and the complainant will have 15 days within which to request a hearing. A party may request that the Administrative Judge issue recommended findings and conclusions without a hearing if there are not genuine issues of fact or of credibility. After the Administrative Judge issues recommended findings and conclusions, or after the complainant fails to timely request a hearing, the EEOC will issue a decision on the appeal and the appellant can then seek reopening or file a civil action in federal court. By shortening the agency processing time, independently reviewing the agency's investigation and, when appropriate, conducting its own investigation, EEOC has attempted to make the federal sector process more like its private sector charge process.

By providing for EEOC review of agency investigations early in the process and for EEOC supplementation of agency investigations when necessary, the proposed part should correct any perceived conflict of interest or unfairness in the current part 1613 practice of agency self-investigation. The proposed part should also eliminate the time delays and backlogs frequently associated with part 1613 agency complaint processing by limiting agency processing to 180 days and by reducing the number of decision-making levels (proposed part 1614 eliminates the proposed disposition).

C. The Rehabilitation Act and Reassignment

In proposed section 1614.103, the Commission defines the scope of the part. In a change from § 1613.701(b), § 1614.103 states that for purposes of the Rehabilitation Act, the part applies to military departments as defined in 5 U.S.C. 102, executive agencies as defined in 5 U.S.C. 105, the U.S. Postal Service, the Postal Rate Commission and the Tennessee Valley Authority. This definition of charge processing jurisdiction is based on the plain language of section 501 of the Rehabilitation Act which limits coverage to departments, agencies and instrumentalities in the executive branch, and brings the regulation into conformance with a recent decision of a United States Court of Appeals. In *Judd* v. *Billington*, 863 F.2d 103 (D.C. Cir. 1988), the court held that section 791 of the Rehabilitation Act "applies only to employees in the executive branch. *See* 29 U.S.C. 791(b)." 863 F.2d at 105. The Commission recently acknowledged and adopted the *Judd* decision in *Faucette* v. *Kennickell*, Request No. 05880686 (March 1, 1989).

The former Civil Service Commission had authority to issue regulations covering competitive positions in legislative and judicial branch agencies, 5 U.S.C. 7153, however, that authority passed, not to EEOC, but to the Office of Personnel Management in 5 U.S.C. 7203. EEOC has requested that the Office of Personnel Management issue a regulation under section 7203 extending regulatory coverage of the Rehabilitation Act to competitive positions in the legislative and judicial branches. In addition, EEOC has asked the Interagency Committee on Handicapped Employees to recommend a legislative change to section 501 of the Rehabilitation Act to provide competitive employees of legislative and judicial branch agencies with a remedy under the Rehabilitation Act.

The Commission has taken the position that, under certain circumstances, an agency is required by section 501 of the Rehabilitation Act of 1973, 5 U.S.C. 791, and the Commission's implementing regulations to consider reassignment as a reasonable accommodation. *See Ignacio* v. *United States Postal Service*, Petition No. 03840005 (Sept. 4, 1984), upheld, 30 M.S.P.R. 471 (Spec. Panel 1986). The courts have not embraced this position. Congress intended the Federal government to be a model employer of the handicapped and the Commission believes that reassignment of employees with handicaps who can no longer perform in their positions is a necessary component of that responsibility. The Commission is, therefore, proposing a new § 1614.203(g), which imposes a duty to consider reassignment as part of an agency's affirmative action obligation under section 501.

The Supreme Court has recognized a distinction in the Rehabilitation Act's civil rights provisions between nondiscrimination and affirmative action. In *Southeastern Community College* v. *Davis*, 442 U.S. 397, 410 (1979), the Court contrasted the "evenhanded treatment of qualified handicapped persons" required by section 504 with the "affirmative efforts to overcome the disabilities caused by handicaps" required by section 501 and noted the requirements of the latter section for affirmative action program plans that describe how the special needs of handicapped employees are being met. The Court reiterated in *Alexander* v. *Choate*, 469 U.S. 287, 300 n.20 (1985), the distinction between the nondiscriminatory reasonable accommodations required by section 504 and the affirmative action required by section 501 to effect substantial changes, adjustments and modifications in existing personnel practices. Section 501 requires each agency to submit an affirmative action program plan for the hiring, placement and advancement of handicapped individuals including a description of the extent to which and methods whereby the special needs of handicapped individuals are being met.

The Commission can require that such plans include reassignment as a method of meeting the special needs of handicapped employees. As a special affirmative action requirement, the reassignment obligation would not be a component of the statute's reasonable accommodation requirement and would not be subject to the undue hardship limitation. Because this would be a new provision implementing the affirmative action requirements of section 501 only, the case law interpreting reasonable accommodation would be inapplicable. Thus, cases involving reassignment would rely on this new provision and not the reasonable accommodation case law in determining the proper legal standards for such reassignments under section 501.

The proposed paragraph does not require the Postal Service to reassign an employee to a position in a different craft or to make any other reassignment that would be inconsistent with the terms of a collective bargaining agreement covering an employee. This except for the Postal Service in included in order to be consistent with the reassignment requirements of 5 U.S.C. 8337 and 5 U.S.C. 8451. The Commission seeks comment on this new proposal.

D. Opting Out of Class Complaints

The Commission proposes to delete the opting out provisions contained in § 1613.605(b). The class complaint regulations are based on Rule 23 of the Federal Rules of Civil Procedure. *See* 41 FR 8081 (Feb. 24, 1976); 42 FR 11807 (March 1, 1977). Rule 23 governs class action lawsuits; among other things, it defines the different types of class actions and states the required notice provisions and opting out provisions for each. In court, employment discrimination class actions are generally treated under subsection (b)(2) of Rule 23, *Holmes* v. *Continental Can Co.*, 706 F.2d 1144, 1152 (11th Cir. 1983). A prerequisite of a "(b)(2)" class is that the defendant "acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole." Fed. R. Civ. P. 23(b)(2). The right to opt out of such a class could be inconsistent with the prerequisite of a (b)(2) class that relief is appropriate for the class as a whole. Some courts have permitted class members to opt out of a (b)(2) class but only at the settlement or relief stage. *Cox* v. *American Cast Iron Pipe Co.*, 784 F.2d 1546, 1554 (11th Cir. 1986). In *Cox*, the court held that it would be an abuse of discretion for a district court to permit a right to opt out at the certification stage, i.e., before the class is identified or before the merits of the class claim are considered or resolved.

Permitting class members to opt out would make the class action mechanism less effective. It would make possible the repeated litigation of pattern and practice issues, a consequence that the class action procedure was designed to prevent. *Cox*, 784 F. 2d at 1554. Use of an opt out procedure at the commencement of a class action "force[s] class members to take a stand against their employers in order to stay in a controversial lawsuit." *Cox*, 784 F. 2d at 1554–55. It also discourages settlement by making it impossible to resolve all claims at once and would subject the defendant to the risk that class members will settle only the questionable claim and opt for separate treatment of the stronger claims. *Kincade* v. *General Tire & Rubber Co.*, 635 F. 2d 501, 507 (5th Cir. 1981). An opt out provision is thus inconsistent with the Title VII goal of encouraging settlement of claims.

If the opt-out provision is eliminated from the regulation, all class members will still receive notice that the class complaint has been filed and notice of any settlement or decision on the class complaint. If they do not wish to participate in the class or to file a claim for individual relief, they do not have to do so. Those who wish to participate will have the opportunity to object to any proposed settlement and to file claims for individual relief if discrimination is found. The Commission believes that class members' rights are sufficiently protected by the notice provisions and that the opt-out provision is both inconsistent and unnecessary. Therefore, the proposed regulation omits it.

E. Negotiated Grievance Procedure.

Under 29 CFR 1613.219, employees of agencies covered by 5 U.S.C. 7121(d) must elect initially to pursue a matter that is both grievable and allegedly discriminatory either through the negotiated grievance procedure or through the EEO complaint process, but not both. This regulatory provision also states that allegations of discrimination by employees of agencies not subject to 5 U.S.C. 7121(d) will not be subject to an election and should be processed as complaints under part 1613. The Commission proposes to continue this processing distinction between agencies that are and are not covered by 5 U.S.C. 7121(d). In view of the dual filing and processing responsibilities that can arise in agencies that are not covered by 5 U.S.C. 7121(d), however, the Commission proposes to toll the new 180-day processing limit for such complaints. If an employee of an agency not covered by 5 U.S.C. 7121(d) files an EEO complaint on a matter which is the subject of a negotiated grievance, the 180-day processing time contained in § 1614.108 shall be held in abeyance during the processing of the grievance. This will permit efficient processing of the EEO complaint without undercutting the grievance procedure.

F. Time limit For Seeking Counseling

Part 1613 provides that unless the time limits should be extended in accordance with certain criteria, an agency may only accept a complaint if the complainant previously sought counseling for the matter within 30 calendar days of the date of the alleged discriminatory event, of the effective date of the alleged discriminatory personnel action or of the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action. Part 1614 continues this 30-day rule and the provision for extension of the time limit under certain circumstances. The Commission, however, is aware of concerns expressed by some people that this 30-day time limit does not provide sufficient time for a potential claimant to evaluate the situation or to decide if he or she wants to pursue the matter in the EEO process, and of suggestions that this period be extended to as much as 180 days. The Commission solicits comment on whether this time limit should be lengthened, and if so, what the appropriate period for seeking counseling should be.

G. ADEA Statute of Limitations

The Commission proposes in § 1614.409(a) to address the absence of an explicit statute of limitations period in section 15 of the Age Discrimination in Employment Act, 29 U.S.C. 633a, which creates a right of action against Federal agencies for violations of the ADEA. The absence of an express limitations period in a statute does not mean that there is no time limitation for filing suits under that statue. *DelCostello* v. *International Brotherhood of Teamsters*, 462 U.S. 151, 158 (1983). When a statute is silent, courts borrow a limitations period from a closely analogous statute. *Johnson* v.

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Railway Express Agency, Inc., 421 U.S. 454, 466 (1975).

The courts have split on the issue of the correct statute of limitations applicable to ADEA lawsuits by federal employees. One court found that the two-and three-year limitations period for private sector ADEA cases was the most analogous limitations period for federal sector ADEA cases. *Weirsema* v. *Tennessee Valley Authority*, 41 Fair Empl. Prac. Cas. (BNA) 1588 (E.D. Tenn. 1986). *But see Lehman* v. *Nakshian*, 453 U.S. 156 (1981) (the Court held that the federal sector provisions of the ADEA are self-contained and looked to Title VII rathern than the private sector provisions of the ADEA for guidance in interpreting the ADEA's federal sector provisions). Other courts have borrowed the Title VII limitations period as the most analogous. *See Carraway* v. *Postmaster General of the United States*, 678 F. Supp. 125 (D. Md. 1988); *Strazdos* v. *Baker*, No. 88–1520 (S.D.N.Y. July 5, 1988); *DiCamillo* v. *U.S. Postal Service*, No. 87–6028 (D. Conn. April 22, 1988); *Ramachandran* v. *U.S. Postal Service*, No. CV–88–7690 WDK (C.D. Cal. April 15, 1987), *aff'd*, No. 87–6028 (9th Cir. May 26, 1988); *White* v. *Department of the Air Force*, No. CA–3–87–1452–R (N.D. Tex. Oct. 14, 1987) *aff'd*, 835 F. 2d 871 (Fed. Cir. 1987); *Healy* v. *U.S. Postal Service, 677 F. Supp. 1284 (E.D.N.Y. 1987); see also Rivera* v. *U.S. Postal Service*, 830 F. 2d 1037, 1039 (9th Cir. 1987) (dismissing ADEA claims for failure to file within 30 days), *cert. denied*, 180 S. Ct. 1737 (1988). Three courts have refused to borrow the 30-day limitations period of Title VII for ADEA actions without stating what limitations period should be borrowed. *See Coleman* v. *Nolan*, 49 Fair Empl. Prac. Cas. (BNA) 285 (S.D.N.Y. 1988); *Wetzel* v. *U.S. Postal Service*, No. 87–4–CIV–5 (E.D.N.C. Aug. 14, 1987); *Tkac* v. *Veterans Administration*, 610 F. Supp. 1075 (W.D. Mich. 1985). One court applied the six-year statute of limitations contained in 28 U.S.C. 2401(a) to a Federal sector ADEA suit. *Marks* v. *Turnage*, 46 Fair Empl. Prac. Cas. (BNA) 382 (N.D. Ill. 1988).

The Commission finds the reasoning of the cases applying the two- or three-year limitations period of the private sector ADEA provisions or the six-year limitations periods of 28 U.S.C. 2401(a) upersuasive and the use of those limitations periods to be inconsistent with the administrative process utilized for federal sector ADEA complaints. The Commission believes that the most closely analogous statutes to the Federal sector provisions of the ADEA are section 717 of Title VII and the Civil Service Reform Act and that their 30-day limitations periods should be borrowed for federal sector ADEA lawsuits.

Although there are differences between the federal sector provisions of Title VII and the ADEA, courts have nevertheless looked to Title VII for analogous procedures to use in Federal employees' ADEA lawsuits. *See, e.g., Lehman* v. *Nakshian*, 453 U.S. 156 (1981) (as in Title VII action, plaintiff is not entitled to trial by jury); *Ellis* v. *United States Postal Service*, 784 F.2d 835, 838 (7th Cir. 1986) (as in Title VII action, the only proper defendant in an ADEA suit is the head of the Federal agency); *Smith* v. *Office of Personnel Management*, 778 F.2d 258, 262 (5th Cir. 1985) (like Title VII, the ADEA does not allow recovery of compensatory damages). The use of different statutes of limitations for Federal sector Title VII and ADEA cases could lead to attempts to split complaints that allege violations of both statutes or premature departure from the administrative process in order to timely file a lawsuit on the ADEA issue.

Further support for a 30-day limitations period is found in the Civil Service Reform Act (CSRA) and its legislative history. The CSRA provides a 30-day limitations period for Federal employees to file suit when a claim of age discrimination is based on an action that is appealable to the MSPB, i.e., a mixed case involving a claim of age discrimination. *See* 5 U.S.C. 7703(b)(2). This may indicate that Congress intended or understood that the 30-day limitations period from Title VII applied as well to ADEA lawsuits. *See* S. Rep. No. 969, 95th Cong., 2d Sess. 63, reprinted in 1978 U.S. Code Cong. & Admin. News 2723, 2785 ("Under the anti-discrimination laws an employee has 30 days from the final agency action to initiate a de novo court proceeding"). Apart from any indication of legislative intent, it also constitutes another analogous statute of limitations that is available for borrowing. It can be argued that it is the most analogous limitations period since it applies not only to employment discrimination actions by Federal employees like Title VII but more specifically to those alleging age discrimination. In the alternative, it can be argued that it is at least as analogous as the Title VII limitations period to which it is identical. Thus, the CSRA supports the use of a 30-day limitations period for ADEA lawsuits either because its legislative history indicates that Congress intended the Title VII limitations period be applied to ADEA actions, or because the CSRA limitations period is the most analogous statute of limitations, or because the limitations periods common to both Title VII and the CSRA should both be borrowed as the most analogous statutes of limitations. Failure to use the 30-day limitations period for all civil actions under the ADEA would result in some age complaints having a 30-day limitations period (i.e., mixed case complaints that raise age discrimination) and others having a different limitations period (i.e., non-mixed case complaints).

The Commission, therefore, proposes that the limitations period applicable to suits brought under Title VII and the CSRA be borrowed and applied to suits brought under section 15 of the ADEA by individuals who have filed administrative complaints.

There are, however, two methods for a Federal employee to pursue an ADEA claim, i.e., by filing an administrative complaint or by filing a notice of intent to sue. Where an individual files a complaint, the Commission believes that the 30-day suit period is appropriate. Where, however, an individual files a notice of intent to sue, the Commission believes that the two- or three-year limitations period applicable to private sector ADEA lawsuits is appropriate. The notice of intent to sue procedure clearly comes from the private sector ADEA process and adopting that limitations period for this purpose is consistent with the case law on borrowing and our approach.

H. Exhaustion of Remedies Under the ADEA

In § 1614.409(b), the Commission proposes to address the exhaustion of remedies problem raised by the decisions in *Purtill* v. *Harris*, 658 F.2d 134, 137 (3d Cir. 1981), *cert. denied*, 462 U.S. 1131 (1983); *Bunch* v. *United States*, 548 F.2d 336, 340 (9th Cir. 1977), and other cases. These cases hold that once a Federal complainant under the Age Discrimination in Employment Act initiates administrative procedures, he or she must exhaust these procedures before filing a civil action. As the agency responsible for interpretation and enforcement of the ADEA in the Federal sector, the Commission believes that a complainant exhausts administrative remedies either 180 days after filing a complaint (the time period during which the agency is required to issue a notice of final action), or 180 days after filing an appeal with the EEOC, if EEOC has not issued a decision, or after EEOC issues a decision on an appeal. This exhaustion requirement is the same as the Title VII exhaustion requirement and will permit those complainants alleging age discrimination as well as Title VII discrimination to bring the entire complaint to court at the same time.

The Commission believes that this proposed fundamental restructuring of the complaint process will provide more efficient resolution of federal sector employment discrimination complaints while, at the same time, ensuring administrative fairness.

In the process of developing proposed part 1614, the Commission considered proposals to require payment of interest on back pay in discrimination cases and to provide for awards of attorneys fees in Age Discrimination in Employment Act cases. The Office of Legal Counsel at the Department of Justice has advised us, however, of its opinion that the Back Pay Act of 1966, 5 U.S.C. 5596, does not serve as a waiver of sovereign immunity for those purposes. We are now providing in § 1614.501, therefore, that interest on back pay may not be awarded to federal applicants or employees who prevail in discrimination claims. Proposed § 1614.501(e) will remain unchanged from its counterpart in part 1613; that is, the attorneys fees awards provisions shall apply to allegations of discrimination or retaliation prohibited by Title VII and the Rehabilitation Act.

In addition to these proposed regulations, the Commission invites comment on whether the Supreme Court's recent decision in *Price Waterhouse* v. *Hopkins*, 57 U.S.L.W. 4469 (May 1, 1989), requires that the Commission change its regulation on remedial action, found currently at 29 CFR 1613.271. Section 1613.271 states that full relief should be provided to an individual when discrimination is found unless the record contains clear and convincing evidence that the individual would not have been selected even absent discrimination. During the public comment and interagency coordination of the latest amendments to part 1613, published at 52 FR 41919 (October 30, 1987), commenters suggested that the burden of proof be changed from "clear and convincing evidence" to "a preponderance of the evidence" standard. As a result of these suggestions and comments, the Commission solicits comment on what effect, if any, the Hopkins decision should have on proposed § 1614.501, which is patterned on 29 CFR 1613.271.

The Commission also invites comments on whether any of the substantive changes proposed for part 1614 should also be applied to complaints being processed under part 1613.

These regulations have been coordinated with affected federal agencies pursuant to E.O. 12067 and have been reviewed by the Office of Management and Budget pursuant to E.O. 12291. The Commission hereby publishes these proposed rules for public comment. The proposed rules appear below.

List of Subjects in 29 CFR Part 1614

Equal employment opportunity, Government employees.

For the Commission,

Clarence Thomas,

Chairman.

For the reasons set forth in the preamble, it is proposed to amend title 29, chapter XIV of the Code of Federal Regulations by adding part 1614 to read as follows:

PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

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Authority: 42 U.S.C. 2000e–16; 29 U.S.C. 633a; 29 U.S.C. 791 and 794a; 29 U.S.C. 206(d); E.O. 10577; 3 CFR 218 (1954–1958 Comp.); E.O. 11222, 3 CFR 306 (1964–1965 Comp.); E.O. 11478, 3 CFR 133 (1969 Comp.); E.O. 12106, 44 FR 1053 (1978); Reorg. Plan No. 1 of 1978, 43 FR 19807 (1978), unless otherwise noted.

Subpart A—Agency Program To Promote Equal Employment Opportunity

§ 1614.101 General policy.

(a) It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age or handicap and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

(b) No person shall be subject to retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act (Title VII), the Age Discrimination in Employment Act (ADEA), the Equal Pay Act or the Rehabilitation Act or for participating in any stage of administrative or judicial proceedings under those statutes.

§ 1614.102 Agency program.

(a) Each agency shall maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies. In support of this program, the agency shall:

(1) Provide sufficient resources to its equal employment opportunity program to ensure efficient and successful operation;

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(2) Provide for the prompt, fair and impartial processing of complaints in accordance with this part and the instructions contained in the Commission's Management Directives;

(3) Conduct a continuing campaign to eradicate every form of prejudice or discrimination from the agency's personnel policies, practices and working conditions;

(4) Communicate the agency's equal employment opportunity policy and program and its employment needs to all sources of job candidates without regard to race, color, religion, sex, national origin, age or handicap, and solicit their recruitment assistance on a continuing basis;

(5) Review, evaluate and control managerial and supervisory performance in such a manner as to insure a continuing affirmative application and vigorous enforcement of the policy of equal opportunity, and provide orientation, training and advice to managers and supervisors to assure their understanding and implementation of the equal employment opportunity policy and program;

(6) Take appropriate disciplinary action against employees who engage in discriminatory practices;

(7) Make reasonable accommodation to the religious needs of applicants and employees when those accommodations can be made without undue hardship on the business of the agency;

(8) Provide recognition to employees, supervisors, managers and units demonstrating superior accomplishment in equal employment opportunity;

(9) Establish a system for periodically evaluating the effectiveness of the agency's overall equal employment opportunity effort;

(10) Provide the maximum feasible opportunity to employees to enhance their skills through on-the-job training, work-study programs and other training measures so that they may perform at their highest potential and advance in accordance with their abilities;

(11) Inform its employees and recognized labor organizations of the affirmative equal employment opportunity policy and program and enlist their cooperation; and

(12) Participate at the community level with other employers, with schools and universities and with other public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(b) In order to implement its program, each agency shall:

(1) Develop the plans, procedures and regulations necessary to carry out its program;

(2) Appraise its personnel operations at regular intervals to assure their conformity with its program, part 1614 and the instructions contained in the Commission's Management Directives;

(3) Designate a Director of Equal Employment Opportunity (EEO Director), EEO Officer(s) and such Special Emphasis Program Managers (including but not necessarily limited to a Handicapped Program Coordinator, a Federal Women's Program Manager and a Hispanic Employment Program Manager), clerical and administrative support as may be necessary to carry out the functions described in this part in all organizational units of the agency and at all agency installations. The EEO Director shall be under the immediate supervision of the agency head. The responsibility for regulating the government-wide Special Emphasis Program continues with the Office of Personnel Management;

(4) Make written materials available to all employees and applicants informing them of the variety of equal employment opportunity programs and administrative and judicial remedial procedures available to them and prominently post such written materials in all personnel and EEO offices and throughout the workplace;

(5) Ensure that full cooperation is provided by all agency employees to EEO Counselors and agency EEO personnel in the processing and resolution of pre-complaint matters and complaints within an agency and that full cooperation is provided to the Commission in the course of appeals, including granting the Commission routine access to personnel records of the agency when required in connection with an investigation;

(6) Publicize to all employees and permanently post the names and addresses of the EEO Director, EEO Officer, Special Emphasis Program Managers and EEO Counselors and a notice of the time limits and necessity of contacting a Counselor before filing a complaint; and

(c) Under each agency program, the EEO Director shall be responsible for:

(1) Advising the head of the agency with respect to the preparation of national and regional equal employment opportunity plans, procedures, regulations, reports and other matters pertaining to the policy in § 1614.101 and the agency program;

(2) Evaluating from time to time the sufficiency of the total agency program for equal employment opportunity and reporting to the head of the agency with recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial, supervisory or other employees who have failed in their responsibilities;

(3) When authorized by the head of the agency, making changes in programs and procedures designed to eliminate discriminatory practices and improve the agency's program for equal employment opportunity;

(4) Providing for counseling of aggrieved individuals and for the receipt and processing of individual and class complaints of discrimination; and

(5) Assuring that individual complaints are properly and thoroughly investigated and that notices of final action are issued in a timely manner in accordance with this part.

§ 1614.103 Complaints of discrimination covered by this part.

(a) Individual and class complaints of employment discrimination and retaliation prohibited by title VII (discrimination on the basis of race, color, religion, sex and national origin), the ADEA (discrimination on the basis of age when the aggrieved individual is at least 40 years of age), the Rehabilitation Act (discrimination on the basis of handicap) or the Equal Pay Act (sex-based wage discrimination) are covered by this part unless the complainant has elected to grieve the matter through a negotiated grievance procedure or to appeal the matter to the Merit Systems Protection Board.

(b) This part applies to:

(1) Military departments as defined in 5 U.S.C. 102;

(2) Executive agencies as defined in 5 U.S.C. 105;

(3) The United States Postal Service, Postal Rate Commission and Tennessee Valley Authority, except for complaints under the Equal Pay Act; and

(4) All units of the legislative and judicial branches of the Federal Government having positions in the competitive service, except for complaints under the Rehabilitation Act. This part does not apply to the General Accounting Office or the Library of Congress.

(c) Within the covered departments, agencies and units, this part applies to all employment policies or practices affecting employees or applicants for employment including employees and applicants who are paid from nonappropriated funds but does not apply to the employment of aliens outside the limits of the United States.

§ 1614.104 Agency processing.

(a) Each agency subject to this part shall adopt procedures for processing individual and class complaints of

discrimination and retaliation that include the provisions contained in §§ 1614.105 through 1614.107 and that are consistent with all other applicable provisions of this part and the instructions for complaint processing contained in the Commission's Management Directives.

(b) The Commission shall periodically review agency resources and procedures to ensure that an agency makes reasonable efforts to resolve complaints informally, to process complaints in a timely manner, to develop adequate factual records, to issue findings which are consistent with acceptable legal standards, to explain the reasons for its findings, and to give complainants adequate and timely notice of their rights.

§ 1614.105 Counseling.

(a) Aggrieved persons who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age or handicap or retaliated against must consult a Counselor prior to filing a complaint in order to try to informally resolve the matter. Contact with a Counselor must be initiated by the aggrieved person within 30 days of the date of the matter alleged to be discriminatory, within 30 days of the effective date of a personnel action or within 30 days of the date that the aggrieved person knew or reasonably should have known of the matter or personnel action alleged to be discriminatory.

(b) At the initial counseling session, Counselors must advise individuals in writing of their rights and responsibilities, including election rights pursuant to § 1614.301 and § 1614.302, the right to file a notice of intent to sue pursuant to § 1614.201(a) and a lawsuit under the ADEA instead of an administrative complaint of age discrimination under this part, the duty to mitigate damages, administrative and court time frames, and that only the matter(s) raised in pre-complaint counseling may be alleged in a subsequent complaint filed with the agency. Counselors must advise individuals of their duty to keep the agency and Commission informed of their current address. If the aggrieved person informs the Counselor that he or she wishes to file a class complaint, the Counselor shall explain the class complaint procedures and the responsibilities of a class agent and include in the notice required by paragraphs (d) or (e) of this section a notice of the right to file a class complaint.

(c) Counselors shall conduct counseling activities in accordance with instructions contained in Commission Management Directives. When advised that a complaint has been filed by an aggrieved person, the Counselor shall submit a written report to the agency's EEO Officer and the aggrieved person concerning the issues discussed and actions taken during counseling.

(d) Unless the aggrieved person agrees to a longer counseling period under paragraph (e) of this section, the Counselor shall conduct the final interview with the aggrieved person within 30 days after the date the aggrieved person brought the matter to the Counselor's attention. If the matter has not been resolved to the satisfaction of the aggrieved person, that person shall be informed in writing by the Counselor, not later than the thirtieth day after contacting the Counselor, of the right to file a discrimination complaint. The notice shall inform the complainant of the right to file a discrimination complaint at any time up to 15 days after receipt of the notice, of the appropriate official with whom to file a complaint and of the complainant's duty to assure that the agency is informed immediately if the complainant retains counsel or a representative.

(e) Prior to the end of the 30-day period, the aggrieved person may agree in writing with the Counselor to postpone the final interview and extend the counseling period for an additional period of no more than 60 days. If the matter has not been resolved to the satisfaction of the aggrieved person before the conclusion of the agreed extension, the notice described in paragraph (d) shall be issued.

(f) The Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint. The Counselor shall not reveal the identity of an aggrieved person who consulted the Counselor, except when authorized to do so by the aggrieved person, until the agency has received a discrimination complaint under this part from that person involving that same matter.

(g) The agency shall ensure that full cooperation is provided by all employees to the Counselor in the performance of the duties under this section.

§ 1614.106 Individual complaints.

(a) Complainants or their representatives must file complaints with the agency that allegedly discriminated against them.

(b) Complainants must file complaints within 15 days after receipt of the notice required by § 1614.105(d) or (e).

(c) Complaints must contain a signed statement from the person claiming to be aggrieved. This statement must be sufficiently precise to identify the aggrieved individual and the agency and to describe generally the action(s) or practice(s) that form the basis of the complaint.

(d) The agency shall acknowledge receipt of a complaint and inform the complainant of the date on which the complaint was filed. Such acknowledgement shall also advise the complainant that:

(1) The agency is required to complete processing of the complaint within 180 days after filing unless the parties agree in writing to extend that period; and

(2) If the agency has not issued a notice of final agency action within 180 days of filing or within the agreed period of extension, the complainant can file a civil action or appeal to EEOC in accordance with subpart D.

(e) In accordance with instructions contained in Commission Management Directives, the agency shall develop a complete factual record upon which to make findings on the matters raised by the written complaint. Agencies may use an exchange of letters or memoranda, interrogatories, investigations, fact-finding conferences or any other fact-finding conferences or any other fact-finding methods that efficiently and thoroughly address the matters at issue. Agencie are encouraged to incorporate alternative dispute resolution techniques into their investigative efforts in order to promote early resolution of complaints.

(f) The agency shall issue a notice of final action within 180 days from the date of filing of an individual complaint. By written agreement within the 180-day period, the complainant and the agency may voluntarily extend this 180-day period for not more than an additional 90 days. The notice of final action shall consist of:

(1) Findings by the agency on the merits of each issue in the complaint that is not rejected or cancelled pursuant to § 1614.107; and

(2) Appropriate remedial and corrective action in accordance with Subpart E of this part when discrimination is found; and

(3) A statement of supporting reasons for rejection or cancellation of each issue not considered on the merits; or

(4) A statement that the agency has been unable to resolve the matter or issue findings within the time limits of this paragraph.

The notice of final action shall include notice of the right to appeal to the Commission with the applicable time limitations, EEOC Form 573, Notice Of

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Appeal/Petition, and notice of the right to file a civil action in Federal district court with the applicable time limitations. A copy of the agency's investigative file shall be attached to the notice.

(g) An agency's failure to issue a notice of final action after 180 days or any period of extension shall constitute final action and the agency shall cease processing the complaint.

§ 1614.107 Rejections or cancellations of complaints.

The agency shall reject or cancel a complaint or part of a complaint:

(a) That fails to state a claim under § 1614.103 or § 1614.106(a) or states the same claim that is pending before or has been decided by the agency or Commission;

(b) That fails to comply with the applicable time limits contained in §§ 1614.105, 1614.106 and 1614.204(c), unless the agency extends the time limits in accordance with § 1614.604(c), or that raises a matter which has not been brought to the attention of a Counselor;

(c) That is the basis of a pending civil action in a United States District Court in which the complainant is a party provided that at least 180 days have passed since the filing of the administrative complaint, or that was the basis of a civil action decided by a United States District court in which the complainant was a party;

(d) Where the complainant has raised the matter in a negotiated grievance procedure that permits allegations of discrimination or in an appeal to the Merit Systems Protection Board and § 1614.301 or § 1614.302 indicates that the complainant has elected to pursue the non-EEO process;

(e) That alleges that an agency is proposing to take a personnel action that may be dicriminatory;

(f) Where the complainant cannot be located, provided that reasonable efforts have been made to locate the complainant and the complainant has not responded within 15 days to a notice of proposed cancellation sent to his or her last known address;

(g) That the complainant has failed to cooperate, where the agency has provided the complainant with a written request to provide relevant information or otherwise proceed with the complaint, and the complainant has failed to satisfy the request within 15 days of its receipt, provided that the request included a notice of the proposed cancellation; or

(h) If the complainant refuses within 15 days of receipt of an offer of settlement to accept an agency offer of full relief in adjustment of the complaint, provided that the agency's EEO Director, Chief Legal Officer or a designee reporting directly to the EEO Director or Chief Legal Officer, has certified in writing that the agency's written offer constitutes full relief. An offer of full relief under this subsection is the appropriate relief in § 1614.501.

Subpart B—Provisions Applicable to Particular Complaints

§ 1614.201 Age Discrimination in Employment Act.

(a) As an alternative to filing a complaint under this part, an aggrieved individual may file a civil action to obtain a judicial determination of his or her rights under the ADEA after giving the Commission not less than 30 days notice of the intent to file such an action. Such notice must be filed in writing with EEOC, Federal Sector Programs, 1801 L St. NW., Washington, DC 20507 within 180 days after the alleged unlawful practice occurred.

(b) The Commission may exempt a position from the provisions of the ADEA if the Commission establishes a maximum age requirement for the position on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position.

§ 1614.202 Equal Pay Act.

(a) In its enforcement of the Equal Pay Act, the Commission has the authority to investigate an agency's employment practices on its own initiative at any time in order to determine compliance with the provisions of the Act.

(b) Complaints alleging violations of the Equal Pay Act shall be processed under this part unless they are brought against the United States Postal Service, Postal Rate Commission or the Tennessee Valley Authority. These three entities will be treated by the Commission as private employers. Alleged violations by these agencies may be filed with an appropriate Commission office listed in 29 CFR 1610.4(c).

§ 1614.203 Rehabilitation Act.

(a) *Definitions.* (1) "*Individual with handicaps*" is defined for this section as one who:

(i) Has a physical or mental impairment which substantially limits one or more of such person's major life activities.

(ii) Has a record of such an impairment, or

(iii) Is regarded as having such an impairment.

(2) "*Physical or mental impairment*" means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genitourinary, hemic and lymphatic, skin, and endocrine, or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(3) "*Major life activities*" means functions, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(4) "*Has a record of such an impairment*" means has a history of, or has been classified (or misclassified) as having, a mental or physical impairment that substantially limits one or more major life activities.

(5) "*Is regarded as having such an impairment*" means has a physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such impairment; or has none of the impairments defined in Paragraph (a)(2) of this section but is treated by an employer as having such an impairment.

(6) "*Qualified individual with handicaps*" means with respect to employment, an individual with handicaps who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of the individual or others and who, depending upon the type of appointing authority being used:

(i) Meets the experience or education requirements (which may include passing a written test) of the position in question, or

(ii) Meets the criteria for appointment under one of the special appointing authorities for individuals with handicaps.

(b) The Federal Government shall become a model employer of individuals with handicaps. Agencies shall give full consideration to the hiring, placement, and advancement of qualified individuals with mental and physical handicaps. An agency shall not discriminate against a qualified individual with physical or mental handicaps.

(c) *Reasonable accommodation.* (1) An agency shall make reasonable accommodation to the known physical or mental limitations of an applicant or employee who is a qualified individual with handicaps unless the agency can demonstrate that the accommodation would impose an undue hardship on the operations of its program.

(2) Reasonable accommodation may include, but shall not be limited to:

(i) Making facilities readily accessible to and usable by individuals with handicaps, and

(ii) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, the provision of readers and interpreters, and other similar actions.

(3) In determining whether, pursuant to paragraph (c)(1) of this section, an accommodation would impose an undue hardship on the operation of the agency in question, factors to be considered include:

(i) The overall size of the agency's program with respect to the number of employees, number and type of facilities and size of budget;

(ii) The type of agency operation, including the composition and structure of the agency's work force; and

(iii) The nature and the cost of the accommodation.

(d) *Employment criteria.* (1) An agency may not make use of any employment test or other selection criterion that screens out or tends to screen out qualified individuals with handicaps or any class of individuals with handicaps unless:

(i) The test score or other selection criterion, as used by the agency, is shown to be job-related for the position in question, and

(ii) Alternative job-related tests or criteria that do not screen out or tend to screen out as many individuals with handicaps are not shown by the Office of Personnel Management to be available.

(2) An agency shall select and administer tests concerning employment so as to insure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's ability to perform the position or type of positions in question rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skill (except where those skills are the factors that the test purports to measure).

(e) *Preemployment inquiries.* (1) Except as provided in paragraphs (e)(2) and (e)(3) of this section, an agency may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is an individual with handicaps or as to the nature or severity of a handicap. An agency may, however, make preemployment inquiry into an applicant's ability to meet the medical qualification requirements, with or without reasonable accommodation, of the position in question, i.e., the minimum abilities necessary for safe and efficient performance of the duties of the position in question. The Office of Personnel Management may also make an inquiry as to the nature and extent of a handicap for the purpose of special testing.

(2) Nothing in this section shall prohibit an agency from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided that:

(i) All entering employees are subjected to such an examination regardless of handicap or when the preemployment medical questionnaire used for positions that do not routinely require medical examination indicates a condition for which further examination is required because of the job-related nature of the condition, and

(ii) The results of such an examination are used only in accordance with the requirements of this part. Nothing in this section shall be construed to prohibit the gathering of preemployment medical information for the purposes of special appointing authorities for individuals with handicaps.

(3) To enable and evaluate affirmative action to hire, place or advance individuals with handicaps, the agency may invite applicants for employment to indicate whether and to what extent they are handicapped, if:

(i) The agency states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used, that the information requested is intended for use solely in conjunction with affirmative action, and

(ii) The agency states clearly that the information is being requested on a voluntary basis, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(4) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be kept confidential except that:

(i) Managers, selecting officials, and others involved in the selection process or responsible for affirmative action may be informed that the applicant is an individual with handicaps eligible for affirmative action;

(ii) Supervisors and managers may be informed regarding necessary accommodations;

(iii) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment;

(iv) Government officials investigating compliance with laws, regulations, and instructions relevant to equal employment opportunity and affirmative action for individuals with handicaps shall be provided information upon request; and

(v) Statistics generated from information obtained may be used to manage, evaluate, and report on equal employment opportunity and affirmative action programs.

(f) *Physical access to buildings.* (1) An agency shall not discriminate against applicants or employees who are qualified individuals with handicaps due to the inaccessibility of its facility.

(2) For the purpose of this subpart, a facility shall be deemed accessible if it is in compliance with the Architectural Barriers Act of 1968.

(g) Reassignment. When a nonprobationary employee becomes unable to perform the essential functions of his or her position even with reasonable accommodation due to a handicap, an agency shall reassign the individual to a vacant position within the same commuting area and at the same grade or level, whose essential functions the individual would be able to perform with reasonable accommodation if necessary. In the absence of a position at the same grade or level, reassignment to a vacant lower graded position shall be required, but availability of such a vacancy shall not affect the employee's entitlement, if any, to disability retirement pursuant to 5 U.S.C. 8337 or 5 U.S.C. 8451. For the purpose of this paragraph, an employee of the United States Postal Service shall not be considered qualified for reassignment to a position in a different craft or for any reassignment that would be inconsistent with the terms of a collective bargaining agreement covering the employee.

§ 1614.204 Class complaints.

(a) *Definitions.* (1) A "*class*" is a group of employees, former employees or applicants for employment who, it is

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alleged, have been or are being adversely affected by an agency personnel management policy or practice which discriminates against the group on the basis of their race, color, religion, sex, national origin, age or handicap.

(2) A "*class complaint*" is a written complaint of discrimination filed on behalf of a class by the agent of the class alleging that:

(i) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(ii) There are questions of fact common to the class;

(iii) The claims of the agent of the class are typical of the claims of the class;

(iv) The agent of the class, or, if represented, the representative, will fairly and adequately protect the interests of the class.

(3) An "*agent of the class*" is a class member who acts for the class during the processing of the class complaint.

(b) Pre-complaint processing. An employee or applicant who wishes to file a class complaint must seek counseling and be counseled in accordance with § 1614.105.

(c) Filing and presentation of a class complaint.

(1) A class complaint must be signed by the agent and must identify the policy or practice adversely affecting the class as well as the specific action or matter affecting the class agent.

(2) The complaint must be filed with the agency that allegedly discriminated not later than 15 days after the agent's receipt of the notice of right to file a class complaint.

(3) The complaint shall be processed promptly; the parties shall cooperate and shall proceed at all times without undue delay.

(d) *Acceptance, rejection or cancellation.* (1) Within 15 days of an agency's receipt of a complaint, the agency shall forward the complaint, along with a copy of the Counselor's report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to the Commission. The Commission shall assign the complaint to a Commission Administrative Judge except in instances where the Commission finds it more practical to delegate this responsibility to a complaints examiner or Administrative Judge from another agency who is not an employee of the agency in which the complaint arose.

(2) The Administrative Judge may recommend that the agency reject the complaint, or any portion, for any of the reasons listed in § 1614.107 or because it does not meet the prerequisites of a class complaint under § 1614.204(a)(2).

(3) If an allegation is not included in the Counselor's report, the Administrative Judge shall afford the agent 15 days to state whether the matter was discussed with the Counselor and, if not, explain why it was not discussed. If the explanation is not satisfactory, the Administrative Judge shall recommend that the agency reject the allegation. If the explanation is satisfactory, the Administrative Judge shall refer the allegation to the agency for further counseling of the agent.

(4) If an allegation lacks specificity and detail, the Administrative Judge shall afford the agent 15 days to provide specific and detailed information. The Administrative Judge shall recommend that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the Administrative Judge shall advise the agent how to proceed on an individual or class basis concerning these allegations.

(5) The Administrative Judge shall recommend that the agency extend the time limits for filing a complaint and for consulting with a Counselor when the agent shows that he or she was not notified of the prescribed time limits and was not otherwise aware of them or that he or she was prevented by circumstances beyond his or her control from acting within the time limits.

(6) When appropriate, the Administrative Judge may recommend that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(7) The Administrative Judge's recommendation to the agency on whether to accept, reject or cancel a complaint shall be transmitted in writing to the agency and the agent. The Administrative Judge's recommendation to accept, reject or cancel shall become the agency decision unless the agency accepts, rejects, cancels or modifies the recommended decision within 60 days of the receipt of the recommended decision and complaint file. The agency shall notify the agent and the Administrative Judge of its decision to accept, reject, modify or cancel a complaint. A decision to reject or cancel a class complaint shall inform the agent either that the complaint will be processed as an individual complaint of discrimination under subpart A or that the complaint is also rejected as an individual complaint in accordance with § 1614.107. In addition, it shall inform the agent of the right to appeal the final agency decision rejecting or cancelling the class complaint to the Office of Review and Appeals or to file a civil action and include EEOC Form 573, Notice Of Appeal/Petition.

(e) *Notification.* (1) Within 15 days of accepting a class complaint, the agency shall use reasonable means, such as delivery, mailing to last known address or distribution, to notify all class members of the acceptance of the class complaint.

(2) Such notice shall contain:

(i) The name of the agency or organizational segment, its location, and the date of acceptance of the complaint;

(ii) A description of the issues accepted as part of the class complaint; and

(iii) An explanation of the binding nature of the final decision or resolution of the complaint on class members.

(f) *Obtaining evidence concerning the complaint.* (1) Upon the acceptance of a complaint, the agency head shall designate an agency representative. The agency representative shall not be any of the individuals referenced in § 1614.102(b)(3).

(2) *Development of evidence.* (i) The Administrative Judge shall notify the agent and the agency representative of the time period that will be allowed both parties to prepare their cases. This time period may be extended by the Administrative Judge upon the request of either party. Both parties are entitled to reasonable development of evidence on matters relevant to the issues raised in the complaint. Evidence may be developed through interrogatories, depositions, and requests for production of documents. It shall be grounds for objection to producing evidence that the information sought by either party is irrelevant, overburdensome, repetitious, or privileged.

(ii) If mutual cooperation fails, either party may request to develop evidence. If a party refuses in bad faith or fails without adequate explanation to respond fully and in timely fashion to a request made or approved by the Administrative Judge for documents, records, comparative data, statistics or affidavits, and the information is solely in the control of one party, such failure may, in appropriate circumstances, cause the Administrative Judge:

(A) To draw an adverse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information;

(B) To consider the matters to which the requested information pertains to be

established in favor of the opposing party;

(C) To exclude other evidence offered by the party failing to produce the requested information; or

(D) To take such other actions as the Administrative Judge deems appropriate.

(iii) During the period for development of evidence, the Administrative Judge may, in his or her discretion, direct that an investigation of facts relevant to the complaint or any portion be conducted by an investigator trained or certified by the Commission.

(iv) Both parties shall furnish to the Administrative Judge copies of all materials that they wish to be examined and such other material as may be requested.

(g) *Opportunity for resolution of the complaint.* (1) The Administrative Judge shall furnish the agent and the representative of the agency a copy of all materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the agency representative and attempt resolution of the complaint.

(2) The complaint may be resolved by agreement of the agency and the agent at any time as long as the agreement is fair and reasonable.

(3) If the complaint is resolved, the terms of the resolution shall be reduced to writing and signed by the agent and the agency.

(4) Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by the agency. A resolution shall bind all members of the class. Within 30 days of the date of the notice of resolution, any member of the class may petition the EEO Director to vacate the resolution because it benefits only the class agent or is otherwise not fair and reasonable. Such a petition will be processed in accordance with § 1614.204(d) and if the Administrative Judge finds that the resolution does not comply with § 1614.204(g)(2), he or she shall recommend that the resolution be vacated and that the original class agent be replaced by the petitioner or some other class member who is eligible to be the class agent during further processing of the class complaint. Agency acceptance of a petition under this paragraph vacates any agreement between the former class agent and the agency. An agency decision on such a petition shall inform the former class agent or the petitioner of the right to appeal the adverse decision to the Office of Review and Appeals and include EEOC Form 573, Notice of Appeal/Petition.

(h) *Hearing.* On expiration of the period allowed for preparation of the case, the Administrative Judge shall set a date for hearing. The hearing shall be conducted in accordance with 29 CFR 1614.406.

(i) *Report of findings and recommendations.* (1) The Administrative Judge shall transmit to the agency a report of finding and recommendations on the complaint, including a recommended decision, corrective action pertaining to systemic relief for the class and any individual corrective action, where appropriate, with regard to the personnel action or matter that gave rise to the complaint.

(2) If the Administrative Judge finds no class relief appropriate, he or she shall determine if a finding of individual discrimination is warranted and, if so, shall recommend appropriate relief.

(3) The Administrative Judge shall notify the agent of the date on which the report of findings and recommendations was forwarded to the agency.

(j) *Agency decision.* (1) Within 60 days of receipt of the report of findings and recommendations issued under § 1614.204(h), the agency shall issue a decision to accept, reject, or modify the findings and recommendations of the Administrative Judge.

(2) The decision of the agency shall be in writing and shall be transmitted to the agent along with a copy of the report of findings and recommendations of the Administrative Judge.

(3) When the agency's decision is to reject or modify the findings and recommendations of the Administrative Judge, the decision shall contain specific reasons for the agency's action.

(4) If the agency has not issued a decision within 60 days of its receipt of the Administrative Judge's report of findings and recommendations, those findings and recommendations shall become the final agency decision. The agency shall transmit the final agency decision to the agent within five days of the expiration of the 60-day period.

(5) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination.

(6) A final agency decision on a class complaint shall, subject to the provisions of § 1614.204(g)(4) and subpart D, be binding on all members of the class and the agency.

(7) The final agency decision shall inform the agent of the right to appeal or to file a civil action in accordance with subpart D and of the applicable time limits.

(k) *Notification of decision.* The agency shall notify class members of the decision and corrective action, if any, through the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the agency within 10 days of the transmittal of its decision to the agent.

(l) *Corrective action for individual class members.* (1) When discrimination is found, an agency must eliminate or modify the employment policy or practice out of which the complaint arose and provide individual corrective action, including an award of attorney's fees and costs, to the agent in accordance with § 1614.501.

(2) When class-wide discrimination is not found, but it is found that the class agent is a victim of discrimination, the remedial provisions of § 1614.501 shall apply.

(3) When discrimination is found in the final agency decision and a class member believes that he or she is entitled to individual relief, the class member may file a written claim with the head of the agency or its EEO Director within 30 days of notification by the agency of its decision. The claim must include a specific, detailed showing that the claimant is a class member who was affected by a personnel action or matter resulting from the discriminatory policy or practice, and that this discriminatory action took place within the period of time for which the agency found class-wide discrimination in its decision. The period of time for which the agency finds class-wide discrimination shall begin not more than 30 days prior to the agent's initial contact with the Counselor and shall end not laer than the date when the agency eliminates the policy or practice found to be discriminatory in the final agency decision. The agency shall issue a final decision on each such claim within 90 days of filing. Such decision must include a notice of the right to file an appeal or a civil action in accordance with subpart D of this part and the applicable time limits.

Subpart C—Related Processes

§ 1614.301 Relationship to negotiated grievance procedure.

(a) When a person is employed by an agency subject to 5 U.S.C. 7121(d) and is covered by a collective bargaining agreement that permits allegations of

discrimination to be raised in a negotiated grievance procedure, a person wishing to file a complaint or a grievance on a matter of alleged

appealed to the Merit Systems Protection Board (MSPB). The complaint may contain only an allegation of employment discrimination or it may

Any such mixed case complaint filed after an appeal has been filed on the same matter shall be rejected without affecting the complainant's right to raise

The EEOC will not accept appeals from MSPB dismissals without prejudice.

(b) *Method of filing.* Filing shall be made by certified or registered mail return receipt requested to the Office of

the Commission shall within 60 days after the date of its determination, consider the entire record of the proceedings of the MSPB and on the basis of the evidentiary record before

(2) One member of the MSPB designated by the Chairman of the Board each time a panel is convened;

(3) One member of the EEOC

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discrimination to be raised in a negotiated grievance procedure, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to raise the matter under either part 1614 or the negotiated grievance procedure, but not both. An election to proceed under this part is indicated only by the filing of a written complaint; use of the pre-complaint process as described in § 1614.105 does not constitute an election for purposes of this section. An aggrieved employee who files a complaint under this part may not thereafter file a grievance on the same matter. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely written grievance. An aggrieved employee who files a grievance with an agency whose negotiated agreement permits the acceptance of grievances which allege discrimination may not thereafter file a complaint on the same matter under part 1614 irrespective of whether the grievance has raised an issue of discrimination. Any such complaint filed after a grievance has been filed on the same matter shall be rejected without prejudice to the complainant's right to proceed through the negotiated grievance procedure including the right to appeal to the Commission from a final decision as provided in subpart D of this part. The notice of final action rejecting such a complaint shall advise the complainant of the right to appeal the final grievance decision to the Commission.

(b) When a person is not covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure, allegations of discrimination shall be processed as complaints under this part.

(c) When a person is employed by an agency not subject to 5 U.S.C. 7121(d) and is covered by a negotiated grievance procedure, allegations of discrimination shall be processed as complaints under this part, except that the time limits for processing the complaint contained in § 1614.106 and for appeal to the Commission contained in § 1614.402 shall be held in abeyance during processing of a grievance covering the same matter as the complaint.

§ 1614.302 Mixed case complaints.

(a) *Definitions.* (1) *Mixed case complaint.* A mixed case complaint is a complaint of employment discrimination filed with a federal agency based on race, color, religion, sex, national origin, age, handicap or retaliation related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB). The complaint may contain only an allegation of employment discrimination or it may contain additional allegations that the MSPB has jurisdiction to address.

(2) *Mixed case appeals.* A mixed case appeal is an appeal filed with the MSPB that alleges that the appealable agency action was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, handicap, age or retaliation.

(b) *Election.* An aggrieved person may initially file a mixed case complaint with an agency pursuant to this part or an appeal on the same matter with the MSPB pursuant to 5 CFR 1201.151, but not both. An agency shall inform every employee who is the subject of an action that is appealable to the MSPB and who has raised the issue of discrimination, either orally or in writing, during the processing of the action of the right to file either a mixed case complaint with the agency or to file a mixed case appeal with the MSPB. The person shall be advised that he or she may not initially file both a mixed case complaint and an appeal on the same matter and that whichever is filed first shall be considered an election to proceed in that forum. If a person files an appeal with the MSPB that is dismissed as untimely, he or she may, subject to § 1614.107, be able to file a mixed case complaint with the agency.

(c) *Cancellation or rejection.* An agency decision to cancel or reject a mixed case complaint on the basis of the complainant's prior election of the MSPB procedures shall be made as follows:

(1) Where the agency does not dispute the MSPB's jurisdiction over the appeal on the same matter, it shall cancel or reject the mixed case complaint pursuant to § 1614.107(d).

(2) Where the agency disputes the MSPB's jurisdiction over the appeal on the same matter, it shall hold the mixed case complaint in abeyance until the MSPB's Administrative Judge rules on the jurisdictional issue. During this period of time, all time limitations for processing or filing under this part and the statutes referenced in § 1614.103(a) will be tolled. If the MSPB's Administrative Judge finds that MSPB has jurisdiction over the matter, the agency shall cancel or reject the mixed case complaint pursuant to § 1614.107(d). If the MSPB's Administrative Judge finds that MSPB does not have jurisdiction over the matter, the agency shall recommence processing of the mixed case complaint. Any such mixed case complaint filed after an appeal has been filed on the same matter shall be rejected without affecting the complainant's right to raise the discrimination issue in the MSPB process and the complainant's right to petition the EEOC to review MSPB's decision on the discrimination allegation as provided in § 1614.303. The notice of final action rejecting such a complaint shall advise the complainant of the right to petition the EEOC to review the MSPB's final decision on the discrimination issue. An agency decision to hold a mixed case complaint in abeyance is not appealable to EEOC. An agency decision to cancel or reject a mixed case complaint is not appealable to the Commission except where § 1614.107(d) has been applied to a non-mixed case matter.

(d) Procedures for agency processing of mixed case complaints. When a complainant elects to proceed initially under this part rather than with the MSPB, the procedures set forth in subpart A shall govern the processing of the mixed case complaint with the following exceptions:

(1) At the time the agency advises a complainant of the acceptance of a mixed case complaint, it shall also advise the complainant that:

(i) If a notice of final action is not issued within 120 days of the date of filing of the mixed case complaint, the complainant may appeal the matter to the MSPB at any time thereafter as specified at 5 CFR 1201.154(a) or may file a civil action as specified at § 1614.310(g), but not both, and

(ii) If the complainant is dissatisfied with the agency's notice of final action on the mixed case complaint, the complainant may appeal the matter to the MSPB (not EEOC) within 20 days of receipt of the agency's notice of final action;

(2) At the time that the agency issues its notice of final action on a mixed case complaint, the agency shall advise the complainant of the right to appeal the matter to the MSPB (not EEOC) within 20 days of receipt and of the right to file a civil action as provided at § 1614.310(a).

§ 1614.303 Petitions to the EEOC from MSPB decisions on mixed case appeals and complaints.

(a) *Who may file.* Individuals who have received a final decision from the MSPB on a mixed case appeal or on the appeal of a notice of final action on a mixed case complaint under 5 CFR 1201.151 *et seq.* and 5 U.S.C. 7702 may petition EEOC to consider that decision.

The EEOC will not accept appeals from MSPB dismissals without prejudice.

(b) *Method of filing.* Filing shall be made by certified or registered mail return receipt requested to the Office of Review and Appeals, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507.

(c) *Time to file.* A petition must be filed with the Commission either within 30 days after receipt of the final decision of the MSPB or within 30 days after the decision of a MSPB field office becomes final.

(d) *Service.* The petition for review must be served upon all individuals and parties on the MSPB's service list and the petitioner must certify as to the date and method of service.

§ 1614.304 Contents of petition.

(a) *Form.* Petitions must be written or typed, but may use any format including a simple letter format. Petitioners are encouraged to use EEOC Form 573, Notice of Appeal/Petition.

(b) *Contents.* Petitions must contain the following:

(1) The name and address of the petitioner;

(2) The name and address of the petitioner's representative, if any;

(3) A statement of the reasons why the decision of the MSPB is alleged to be incorrect, in whole or in part, with regard to issues of discrimination based on race, color, religion, sex, national origin, age, handicap or retaliation;

(4) A copy of the decision issued by the MSPB; and

(5) The signature of the petitioner and representative, if any.

§ 1614.305 Consideration procedures.

(a) Once a petition is filed, the Commission will examine it and determine whether the Commission will consider the decision of the MSPB. An agency may oppose the petition, either on the basis that the Commission should not consider the MSPB's decision or that the Commission should concur in the MSPB's decision, by filing any such argument with the Office of Review and Appeals and serving a copy on the petitioner within 15 days of the date of service of the petition.

(b) The Commission shall determine whether to consider the decision of the MSPB within 30 days after the Commission's Office of Review and Appeals receives the petition. A determination of the Commission not to consider the decision shall not be used as evidence with respect to any issue of discrimination in any judicial proceeding concerning that issue.

(c) If the Commission makes a determination to consider the decision, the Commission shall within 60 days after the date of its determination, consider the entire record of the proceedings of the MSPB and on the basis of the evidentiary record before the Board as supplemented in accordance with paragraph (d) of this section, either:

(1) Concur in the decision of the MSPB; or

(2) Issue in writing a decision that differs from the decision of the MSPB to the extent that the Commission finds that, as a matter of law:

(i) The decision of the MSPB constitutes an incorrect interpretation of any provision of any law, rule, regulation, or policy directive referred to in 5 U.S.C. 7702(a)(1)(B), or

(ii) The decision involving such provision is not supported by the evidence in the record as a whole.

(d) In considering any decision of the MSPB, the Commission, pursuant to 5 U.S.C. 7702(b)(4), may refer the case to the MSPB for the taking of additional evidence within such period as permits the Commission to make a decision within the 60-day period prescribed or provide on its own for the taking of additional evidence to the extent the Commission considers it necessary to supplement the record.

(e) Where the EEOC has differed with the decision of the MSPB under § 1614.305(c)(2), the Commission shall refer the matter to the MSPB.

§ 1614.306 Referral of case to special panel.

If the MSPB reaffirms its decision under 5 CFR 1201.162(a)(2) with or without modification, the matter shall be immediately certified to the Special Panel established pursuant to 5 U.S.C. 7702(d). Upon certification, the Board shall, within five days (excluding Saturdays, Sundays, and Federal holidays), transmit to the Chairman of the Special Panel and to the Chairman of the EEOC the administrative record in the proceeding including—

(a) The factual record compiled under this section, which shall include a transcript of any hearing(s);

(b) The decisions issued by the Board and the Commission under 5 U.S.C. 7702; and

(c) A transcript of oral arguments made, or legal brief(s) filed, before the Board and the Commission.

§ 1614.307 Organization of special panel.

(a) The Special Panel is composed of:

(1) A Chairman appointed by the President with the advice and consent of the Senate, and whose term is 6 years;

(2) One member of the MSPB designated by the Chairman of the Board each time a panel is convened;

(3) One member of the EEOC designated by the Chairman of the Commission each time a panel is convened.

(b) Designation of Special Panel member.

(1) Time of designation. Within five days of certification of the case to the Special Panel, the Chairman of the MSPB and the Chairman of the EEOC shall each designate one member from their respective agencies to serve on the Special Panel.

(2) Manner of designation. Letters of designation shall be served on the Chairman of the Special Panel and the parties to the appeal.

§ 1614.308 Practices and procedures of the special panel.

(a) *Scope.* The rules in this subpart apply to proceedings before the Special Panel.

(b) *Suspension of rules.* In the interest of expediting a decision, or for good cause shown, the Chairman of the Special Panel may, except where the rule is required by statute, suspend these rules on application of a party, or on his or her own motion, and may order proceedings in accordance with his or her direction.

(c) *Time limit for proceedings.* Pursuant to 5 U.S.C. 7702(d)(2)(A), the Special Panel shall issue a decision within 45 days after a matter has been certified to it.

(d) *Administrative assistance to Special Panel.*—(1) The MSPB and the EEOC shall provide the Panel with such reasonable and necessary administrative resources as determined by the Chairman of the Special Panel.

(2) Assistance shall include, but is not limited to, processing vouchers for pay and travel expenses.

(3) The Board and the EEOC shall be responsible for all administrative costs incurred by the Special Panel and, to the extent practicable, shall equally divide the costs of providing such administrative assistance. The Chairman of the Special Panel shall resolve the manner in which costs are divided in the event of a disagreement between the Board and the EEOC.

(e) *Maintenance of the official record.* The Board shall maintain the official record. The Board shall transmit two copies of each submission filed to each member of the Special Panel in an expeditious manner.

(f) *Filing and service of pleadings.*—(1) The parties shall file the original and six copies of all submissions with the

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Clerk, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419. One copy of each submission shall be served on the other parties.

(2) A certificate of service specifying how and when service was made must accompany all submissions of the parties.

(3) Service may be by mail or by personal delivery during normal business hours (8:30 a.m.–5:00 p.m.). Due to the short statutory time limit, parties are required to file their submissions by overnight Express Mail, provided by the U.S. Postal Service, should they file by mail.

(4) The date of filing shall be determined by the date of mailing as indicated by the order date for Express Mail. If the filing is by personal delivery, it shall be considered filed on that date it is received in the office of the Clerk, MSPB.

(g) *Briefs and responsive pleadings.* If the parties wish to submit written argument, briefs shall be filed with the Special Panel within 15 days from the date of the Board's certification order. Due to the short statutory time limit responsive pleadings will not ordinarily be permitted.

(h) *Oral argument.* The parties have the right to oral argument if desired. Parties wishing to exercise this right shall so indicate at the time of filing their brief, or if no brief is filed, within 15 days from the date of the Board's certification order. Upon receipt of a request for argument, the Chairman of the Special Panel shall determine the time and place for argument and the time to be allowed each side, and shall so notify the parties.

(i) *Post-argument submissions.* Due to the short statutory time limit, no post-argument submissions will be permitted except by order of the Chairman of the Special Panel.

(j) *Procedural matters.* Any procedural matters not addressed in these regulations shall be resolved by written order of the Chairman of the Special Panel.

§ 1614.309 Enforcement of special panel decision.

The Board shall, upon receipt of the decision of the Special Panel, order the agency concerned to take any action appropriate to carry out the decision of the Panel. The Board's regulations regarding enforcement of a final order of the Board shall apply. These regulations are set out at 5 CFR Part 1201, subpart E.

§ 1614.310 Right to file a civil action.

An individual who has a complaint processed pursuant to 5 CFR 1201.151 *et seq.* or 29 CFR 1614.302 *et seq.* is authorized by 5 U.S.C. 7702 to file a civil action in an appropriate United States District Court:

(a) Within 30 days of receipt of notice of final action issued by an agency on a complaint unless an appeal is filed with the MSPB; or

(b) Within 30 days of receipt of notice of the final decision or action taken by the MSPB if the individual does not file a petition for consideration with the EEOC; or

(c) Within 30 days of receipt of notice that the Commission has determined not to consider the decision of the MSPB; or

(d) Within 30 days of receipt of notice that the Commission concurs with the decision of the MSPB; or

(e) If the Commission issues a decision different from the decision of the MSPB, within 30 days of receipt of notice that the MSPB concurs in and adopts in whole the decision of the Commission; or

(f) If the MSPB does not concur with the decision of the Commission and reaffirms its initial decision or reaffirms its initial decision with a revision, within 30 days of the receipt of notice of the decision of the Special Panel; or

(g) After 120 days from the date of filing a formal complaint if there is no final action or appeal to the MSPB; or

(h) After 120 days from the date of filing an appeal with the MSPB if the MSPB has not yet made a decision; or

(i) After 180 days from the date of filing a petition for consideration with Commission if there is no decision by the Commission, reconsideration decision by the MSPB or decision by the Special Panel.

Subpart D—Appeals and Civil Actions

§ 1614.401 Appeals to the Commission.

(a) A complainant may appeal an agency's notice of final action or an agency's failure to issue such a notice on an individual complaint.

(b) An agent may appeal a final agency decision on a class complaint, a class member may appeal a final agency decision on a claim for individual relief under a class complaint and both may appeal a final agency decision on a petition pursuant to § 1614.204(g)(4).

(c) A grievant may appeal issues of employment discrimination raised in a negotiated grievance procedure where the agency's negotiated labor-management agreement permits such issues to be raised and the individual elected under 5 U.S.C. 7121(d) to raise the matter in the negotiated grievance procedure. A grievant may appeal the final decision:

(1) Of the agency on the grievance;

(2) Of the arbitrator on the grievance; or

(3) Of the Federal Labor Relations Authority (FLRA) on exceptions to the arbitrator's award. A grievant may not appeal under this part, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration, is before the FLRA or is appealable to the MSPB. Any appeal prematurely filed in such circumstances shall be dismissed without prejudice. In addition, a grievant may not appeal under this subsection if 5 U.S.C. 7121(d) is inapplicable to the involved agency.

(d) A complainant, agent or individual class claimant may appeal to the Commission an agency's alleged noncompliance with a settlement agreement, notice of final action or final agency decision in accordance with § 1614.505.

§ 1614.402 Time for appeals to the commission.

Except for mixed case complaints and class complaints, any notice of final action may be appealed to the Commission within 30 days of the complainant's receipt of the notice. Except for complaints to which § 1614.301(c) applies, any complaint may be appealed after 180 days from the filing of the written complaint or, after 180 days plus any period of extension agreed to under § 1614.106(e), if the agency has not issued a notice of final action. Any complaint to which § 1614.301(c) applies may be appealed after 180 days after the grievance decision becomes final if the agency has not issued a notice of final action. Any grievance decision may be appealed within 30 days of receipt of a decision referred to in § 1614.401(c). In the case of class complaints, any final agency decision received by an agent, petitioner or an individual claimant may be appealed to the Commission within 30 days of its receipt.

§ 1614.403 How to appeal.

(a) The complainant must file his or her appeal and any supporting statement or brief with the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. The agency shall include this address in any notice of appeal rights which it is required to give the complainant under this part. The complainant should use EEOC Form 573, Notice of Appeal/Petition.

(b) The complainant shall furnish a copy of the appeal and any supporting statement or brief to the agency's EEO Director (or whomever is designated by the agency in the notice of final action) at the same time that he or she files the appeal with the Commission. In or attached to the appeal, the complainant must certify that a copy of the appeal and any supporting statement or brief were furnished to the agency's EEO Director or other designated official and state the date and method by which it was furnished.

(c) If a complainant does not file an appeal within the time limits of this subpart, the appeal will be untimely and shall be rejected by the Commission.

(d) The Agency file and any agency statement or brief in opposition to the appeal must be submitted to the Commission within 30 days of the date on which the appeal was served on the agency. A copy of the agency's opposition and, if not already furnished, the agency file, must be served on the complainant at the same time.

§ 1614.404 Appellate procedure.

The EEOC Chairman or his or her designee shall review the record and shall determine if the record requires supplementation. If the record requires supplementation, EEOC may supplement the record by its own fact finding or may remand the complaint back to the agency for further investigation. Once EEOC determines the record is complete, it will notify the parties and the complainant may then request a hearing. After the hearing, or after the time to request a hearing expires, the Commission shall issue a written decision on the appeal setting forth the reasons for its decision.

§ 1614.405 Supplementing the record on appeal.

The EEOC Chairman or his or her designee may supplement the record by an exchange of letters or memoranda, investigation, fact finding conference, remand to the agency or other procedures.

(a) Where the EEOC Chairman or his or her designee determines that the agency record is inadequate (i.e., the agency, without a reasonable explanation, did not investigate an issue or matter raised by the complaint, the investigation of which is necessary for a proper determination or which could change the outcome of the case; material evidence is available but was not obtained, there is no adequate explanation as to why it was not obtained and such evidence is either necessary for a proper determination or could change the outcome of the case; new and material evidence has been discovered that could change the outcome of the case; or substantial allegations of impropriety in the conduct of the investigation have been made that could change the outcome of the case) he or she may send the appeal to one of the Commission's field offices with instructions on how to supplement the record, or may remand the complaint back to the agency to complete the investigation.

(b) An agency's failure to develop an adequate record may result in notice being sent to an appropriate agency official or Congressional committee, or other appropriate action.

(c) If the EEOC Chairman or his or her designee determines that the complaint requires further investigation by EEOC, the field office shall assigne an investigator to supplement the record. The Commission's investigator shall submit a report of the investigation to the Office of Review and Appeals.

(d) If the EEOC Chairman or his or her designee remands the complaint back to the agency to complete the investigation, he or she shall designate a period of time between 30 and 90 days within which the agency must complete the investigation and return the record to EEOC. If the agency fails to return the complete record to the EEOC within the designated time period without adequate explanation, such failure may, in appropriate circumstances, cause the EEOC:

(1) To draw an adverse inference that the completed record would have reflected unfavorably on the agency;

(2) To consider the matters to which the further investigation pertains to be established in favor of the complainant;

(3) To exclude other evidence offered by the agency;

(4) To take such other actions as deemed appropriate.

(e) When the Commission supplements the record by means of additional investigation, the agency shall reimburse the Commission in accordance with instructions contained in the Commission's Management Directives.

(f) The following procedures apply when the Commission supplements the record:

(1) The complainant, the agency, and any employee of a federal agency shall produce such documentary and testimonial evidence as the Commission deems necessary.

(2) Commission employees are authorized to administer oaths. Statements of witnesses shall be made under oath or affirmation or, alternatively, be made by written statement under penalty or perjury.

(3) When the complainant, or the agency against which a complaint is filed, or its employees in bad faith fail to respond fully and in timely fashion to requests for documents, records, comparative data, statistics, affidavits, or the attendance of witness(es), the Commission may, in appropriate circumstnaces:

(i) Draw an averse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information;

(ii) Consider the matters to which the requested information pertains to be established in favor of the opposing party;

(iii) Exclude other evidence offered by the party failing to produce the requested information;

(iv) Issue a decision in favor of the opposing party; or

(v) Take such other actions as it deems appropriate.

(g) Any supplementation of the record will be conducted by Commission employees with appropriate security clearances when necessary except where the Commission finds it appropriate to delegate this responsibility to an Administrative Judge, complaints examiner or investigator from another agency that is not a party to the complaint. When the Commission delegates such responsibilities, it will supply the agency with the name of an Administrative Judge, a complaints examiner or investigator from another agency with appropriate security clearance who has been certified by the Commission as qualified to exercise the delegated responsibility.

§ 1614.406 Hearings.

(a) When EEOC determines the investigation is complete, the Chairman or his or her designee shall notify the parties that the investigation is complete and where appropriate shall transmit copies of any supplemental record to the parties. At that time, the Chairman or his or her designee shall notify the complainant that he or she may request a hearing. The complainant must notify the EEOC in writing within 15 calendar days of the receipt of the notice that he or she desires a hearing.

(b) Conduct of hearing. Agencies shall provide for the attendance at a hearing of all employees approved as witnesses by a Commission Administrative Judge. Attendance at hearings will be limited to persons determined by the Administrative Judge to have a direct connection with the complaint. Hearings are part of the investigative process and are thus closed to the public. The Administrative Judge shall have the power to regulate the conduct of a

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hearing, limit the number of witnesses whose testimony would be repetitious, and exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing. The Administrative Judge shall receive into evidence information or documents relevant to the complaint. Rules of evidence shall not be applied strictly, but the Administrative Judge shall exclude irrelevant or repetitious evidence. The Administrative Judge or the Commission may refer to the Disciplinary Committee of the appropriate Bar Association any attorney who refuses to follow the orders of an Administrative Judge, or who otherwise engages in improper conduct. The procedures contained in § 1614.405(f) shall apply to the conduct of hearings.

(c) *Recommended findings and conclusions without hearing.* (1) If a party believes that some or all material facts are not in genuine dispute and there is no genuine issue as to credibility, the party may file a statement with the Administrative Judge prior to the hearing setting forth the fact or facts and referring to the parts of the record relied on to support the statement. The statement must demonstrate that there is no genuine issue as to any material fact asserted not to be in dispute and cannot be based on informaiton not previously made available during the investigation unless the party demonstrates that the information was not available during the investigation. The statement must also demonstrate that there is no genuine issue as to credibility.

(2) A party opposing a request for recommended findings and conclusions without a hearing may refer to the record in the case to rebut the statement that a fact is not in dispute or may file an affidavit stating that the party cannot, for reasons stated, present facts to oppose the request. After considering the submissions, the Administrative Judge may refuse the request for recommended findings and conclusions without a hearing, order that discovery be permitted on the fact or facts involved, limit the hearing to the issues remaining in dispute, or make such other ruling as is appropriate.

(3) If the Administrative Judge determines that some or all facts are not in genuine dispute, based on a statement by a party or upon his or her own initiative, the Administrative Judge may, after giving notice to the parties and providing them an opportunity to respond in writing within 15 calendar days, issue recommended findings and conclusions without holding a hearing.

(d) *Recommended findings and conclusions.* Except as provided in § 1614.406(c), the Administrative Judge shall issue recommended findings and conclusions on the merits of the complaint, including recommended remedial action, where appropriate, with regard to the matter that gave rise to the complaint. The Administrative Judge shall send copies of the recommended findings and conclusions to the parties. The parties may, within 30 days of receipt of the recommended findings and conclusions, submit statements concerning the recommended findings and conclusions to the Office of Review and Appeals.

§ 1614.407 Decisions on appeals.

(a) Where the appeal has not been settled and after receipt of the statements of the parties regarding the recommended findings and conclusions or upon expiration of the period for submitting statements, or if a complainant fails to request a hearing within 15 days of receiving notice that the investigation is complete, the Office of Review and Appeals on behalf of the Commission shall issue a decision that specifically sets forth findings for each issue decided on the merits and reasons for each issue that is cancelled. The Commission shall cancel appeals or portions of appeals in accordance with § 1614.107 and shall remand matters to the agency when it reverses an agency's rejection or cancellation of a complaint. The decision shall be based on the preponderance of the evidence. If the decision contains a finding of discrimination or retaliation, appropriate remedy(ies) shall be included and, where appropriate, the entitlement to attorney's fees or costs shall be indicated. The decision shall reflect the date of its issuance, inform the complainant of his or her civil action rights, and be transmitted to the complainant and the agency by certified mail, return receipt requested. A copy of the appeal file will only be provided to the complainant and to the agency upon request.

(b) A decision issued under this section is final within the meaning of §§ 1614.408 and 1614.409 unless:

(1) Either party files a timely request to reopen pursuant to § 1614.407; or

(2) the Commission on its own motion reopens the case.

§ 1614.408 Reopening and reconsideration.

(a) Within a reasonable period of time, the Commission may, in its discretion, reopen and reconsider any decision of the Commission notwithstanding any other provisions of this part.

(b) A party may request reopening or reconsideration provided that such request is made within 30 days of receipt of a decision of the Commission or within 20 days of receipt of another party's timely request to reopen. Such request, along with any supporting statement or brief, shall be submitted to the Office of Review and Appeals and to all parties with proof of such submission. All other parties shall have 20 days from the date of service in which to submit to all other parties, with proof of submission, any statement or brief in opposition to the request.

(c) The request or the statement or brief in support of the request shall contain arguments or evidence which tend to establish that:

(1) New and material evidence is available that either was not readily available when the previous decision was issued or that explains evidence obtained by the Commission under § 1614.405; or

(2) The previous decision involved an erroneous interpretation of law, regulation or material fact, or misapplication of established policy; or

(3) The decision is of such exceptional nature as to have effects beyond the actual case at hand.

(d) A decision on a request to reopen by either party is final and there is no further right by either party to request reopening unless the decision remanded the complaint to the agency for further processing.

§ 1614.409 Civil action: Title VII and Rehabilitation Act.

A complainant who has filed an individual complaint, an agent who has filed a class complaint or a claimant who has filed a claim for individual relief is authorized under Title VII and the Rehabilitation Act to file a civil action in an appropriate United States District Court:

(a) Within 30 days of receipt of the agency's notice of final action on an individual complaint or final agency decision on a class complaint if no appeal has been filed;

(b) After 180 days from the date of filing a complaint if no appeal has been filed;

(c) Within 30 days after receipt of the Commission's final decision on an appeal; or

(d) After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.

§ 1614.410 Civil action: Age Discrimination in Employment Act.

(a) A complainant who has filed an individual complaint, an agent who has filed a class complaint or claimant who has filed a claim for individual relief and who has exhausted administrative remedies may file a civil action in an appropriate United States District Court:

(1) Within 30 days of receipt of the agency's notice of final action on an individual complaint or final agency decision on a class complaint if no appeal has been filed;

(2) After 180 days from the date of filing a complaint if no appeal has been filed;

(3) Within 30 days after receipt of the Commission's final decision on an appeal; or

(4) After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.

(b) When an individual has filed an administrative complaint alleging age discrimination, administrative remedies will be considered to be exhausted:

(1) 180 days after the filing of an individual complaint if the agency has not issued a notice of final action and the individual has not filed an appeal or 180 days after the filing of a class complaint if the agency has not issued a final agency decision;

(2) After the issuance of notice of final action on an individual complaint or final agency decision on a class complaint if the individual has not filed an appeal; or

(3) After the issuance of a final decision by the Commission on an appeal or 180 days after the filing of an appeal if the Commission has not issued a final decision.

(c) When a person has not filed an administrative complaint alleging age discrimination, the person may file a civil action not less than 30 days after giving the Commission notice of intent to file such action. Such notice shall be filed with EEOC, Federal Sector Programs, 1801 L Street NW., Washington, DC 20507, within 180 days after the alleged unlawful practice occurred. The civil action must be filed in an appropriate United States District Court within two years or, if willful, three years of the date of the alleged violation of the ADEA. Recovery of back wages in such a lawsuit is limited to two years prior to the date of filing suit, or to three years if the violation is deemed willful.

§ 1614.411 Civil action: Equal Pay Act.

A complainant is authorized under section 16(b) of the Fair Labor Standards Act to file a civil action in a court of competent jurisdiction within two years or, if the violation is willful, three years of the date of the alleged violation of the Equal Pay Act regardless of whether he or she pursued any administrative complaint processing. Recovery of back wages is limited to two years prior to the date of filing suit, or to three years if the violation is deemed willful; liquidated damages in an equal amount may also be awarded. The filing of a complaint or appeal under this part shall not toll the time for filing a civil action.

§ 1614.412 Effect of filing civil action.

Filing a civil action under § 1614.408 through § 1614.410 shall terminate Commission processing of the appeal. If private suit is filed subsequent to the Commission's initiation of an investigation, the parties are requested to notify the Commission in writing.

Subpart E—Remedies and Corrective Action

§ 1614.501 Remedial actions.

(a) When an agency, or the Commission, in an individual case of discrimination, finds that an applicant or an employee has been discriminated against, the agency shall provide full relief, as explained in appendix A of this part, which shall include the following elements in appropriate circumstances:

(1) Notification to all employees of the agency in the affected facility of their rights to be free of unlawful discrimination and assurance that the particular types of discrimination found will not recur;

(2) Commitment that corrective, curative or preventive action will be taken, or measures adopted, to ensure that violations of the law similar to those found will not recur;

(3) An unconditional offer to each identified victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by that person, or a substantially equivalent position;

(4) Payment to each identified victim of discrimination on a make whole basis for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) Commitment that the agency shall cease from engaging in the specific unlawful employment practice found in the case.

(b) Remedial action involving an applicant. (1) When an agency, or the Commission, finds that an applicant for employment has been discriminated against, the agency shall offer the applicant the position for which the applicant applied or, if justified by the circumstances, a substantially equivalent position unless clear and convincing evidence indicates that the applicant would not have been selected even absent the discrimination. The offer shall be made in writing. The individual shall have 15 days from receipt of the offer within which to accept or decline the offer. Failure to accept the offer within the 15-day period will be considered a declination of the offer, unless the individual can show that circumstances beyond his or her control prevented a response within the time limit. If the offer is accepted, appointment shall be retroactive to the date the applicant would have been hired. Back pay, computed in the manner prescribed by 5 CFR 550.805, shall be awarded from the date the individual would have entered on duty until the date the individual actually enters on duty unless clear and convincing evidence indicates that the applicant would not have been selected even absent discrimination. The back pay computation, however, shall not include any amount as interest on back pay. The individual shall be deemed to have performed service for the agency during this period for all purposes except for meeting service requirements for completion of a required probationary or trial period. If the offer of employment is declined, the agency shall award the individual a sum equal to the back pay he or she would have receive, computed in the manner prescribed by 5 CFR 550.805, from the date he or she would have been appointed until the date the offer was made, subject to the limitation of paragraph (b)(4) of this section. The back pay computation shall not include any amount as interest on back pay. The agency shall inform the applicant, in its offer of employment, of the right to this award in the event the offer is declined.

(2) When an agency, or the Commission, finds that discrimination existed at the time the applicant was considered for employment but also finds by clear and convincing evidence that the applicant would not have been hired even absent discrimination, the agency shall nevertheless take all steps necessary to eliminate the discriminatory practice and ensure it does not recur.

(3) This paragraph shall be cited as the authority under which the above-described appointments or awards of back pay shall be made.

(4) Back pay under this paragraph for complaints under Title VII or the Rehabilitation Act may not extend from a date earlier than two years prior to the date on which the complaint was initially filed by the applicant.

(c) Remedial action involving an employee. When an agency, or the Commission, finds that an employee of the agency was discriminated against, the agency shall take remedial actions which shall include one or more of the following, but need not be limited to these actions:

(1) Retroactive promotion, with back pay computed in the manner prescribed by 5 CFR 550.805, unless clear and convincing evidence contained in the record evidences that the employee would not have been promoted or employed at a higher grade, even absent discrimination. The back pay computation, however, shall not include any amount as interest on back pay. The back pay liability under Title VII or the Rehabilitation Act is limited to two years prior to the date the discrimination complaint was filed.

(2) If clear and convincing evidence indicates that, although discrimination existed at the time selection for promotion was made, the employee would not have been promoted even absent discrimination, the agency shall nevertheless eliminate any discriminatory practice and ensure it does not recur.

(3) Cancellation of an unwarranted personnel action and restoration of the employee.

(4) Expunction from the agency's records of any reference to or any record of an unwarranted disciplinary action that is not a personnel action.

(5) Full opportunity to participate in the employee benefit denied (e.g., training, preferential work assignments, overtime scheduling).

(d) The agency has the burden of proving by a preponderance of the evidence that the complainant has failed to mitigate his or her damages.

(e) *Attorney's fees or costs.* (1) *Awards of attorney's fees or costs.* The provisions of this paragraph relating to the award of attorney's fees or costs shall apply to allegations of discrimination or retaliation prohibited by Title VII and the Rehabilitation Act. In a notice of final action or a decision, the agency or Commission may award the applicant or employee reasonable attorney's fees or costs incurred in the processing of the complaint.

(i) A finding of discrimination raises a presumption of entitlement to an award of attorney's fees.

(ii) Any award of attorney's fees or costs shall be paid by the agency.

(iii) Attorney's fees are allowable only for the services of members of the Bar and law clerks, paralegals or law students under the supervision of members of the Bar, except that no award is allowable for the services of any employee of the Federal Government.

(iv) Attorney's fees shall be paid only for services performed after the filing of the complaint required in § 1614.104 and after the complainant has notified the agency that he or she is represented by an attorney, except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the Complainant. Written submissions to the agency which are signed by the representative shall be deemed to constitute notice of representation.

(2) *Amount of awards.* When the agency or the Commission awards attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services and both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the agency. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 days of the agency's receipt of the verified statement and accompanying affidavit, the agency shall issue a decision determining the amount of attorney's fees or costs due within 30 days of receipt of the statement and affidavit. The decision shall include a notice of right to appeal to the EEOC along with EEOC Form 573, Notice Of Appeal/Petition and shall include the specific reasons for determining the amount of the award.

(i) The amount of attorney's fees shall be calculated in accordance with existing case law using the following standards:

(A) The starting point shall be the number of hours reasonably expended multiplied by a reasonable hourly rate.

(B) This amount may be reduced or increased in consideration of the following factors, although ordinarily many of these factors are subsumed within the calculation set forth above: the time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the attorney's preclusion from other employment due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involed and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases. Only in cases of exceptional success should any of these factors be used to enhance an award computed by the formula set forth in paragraph (d)(2)(i)(A) of this section.

(ii) The costs that may be awarded are those authorized by 28 U.S.C. 1920 to include:

(A) Fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case;

(B) Fees and disbursements for printing and witnesses; and

(C) Fees for exemplification and copies of papers necessarily obtained for use in the case.

Witness fees shall be awarded in accordance with the provisions of 28 U.S.C. 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

§ 1614.502 Corrective action.

(a) Corrective action ordered by the Office of Review and Appeals or the Commission is mandatory and binding on the agency except as provided in § 1614.406(b). Failure to implement ordered relief shall be subject to judicial enforcement as specified in § 1614.504(c).

(b) When the agency requests reopening and when the case involves removal, separation, or suspension continuing beyond the date of the request to reopen, and when the decision recommends retroactive restoration, the agency shall comply with the decision only to the extent of the temporary or conditional restoration of the employee to duty status in the position recommended by the Commission, pending the outcome of the agency request for reopening.

(1) Service under the temporary or conditional restoration provisions of this paragraph shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, if the Commission upholds its decision after reopening the case or refuses to reopen.

(2) The agency shall notify the Commission and the employee in writing, at the same time it requests

reopening, that the remedial action it takes is temporary or conditional.

(c) When no request for reopening is filed within 30 days of receipt of the decision, or when a request to reopen is denied, the agency shall execute the action ordered and there is no further right to delay implementation of the ordered relief. The corrective action shall be completed not later than 60 days after the decision becomes final.

§ 1614.503 Enforcement of final decisions.

(a) *Petition for enforcement.* A complainant may petition the Commission for enforcement of a decision issued under the Commission's appellate jurisdiction. The petition shall be submitted to the Office of Review and Appeals. The petition shall specifically set forth the reasons that lead the complainant to believe that the agency is not complying with the decision.

(b) *Compliance.* On behalf of the Commission, the Office of Review and Appeals shall take all necessary action to ascertain whether the agency is implementing the decision of the Commission. If the agency is found not to be in compliance with the decision, efforts shall be undertaken to obtain compliance.

(c) *Clarification.* On behalf of the Commission, the Office of Review and Appeals may, on its own motion or in response to a petition for enforcement or in connection with a timely request to reopen, issue a clarification of a prior decision. A clarification cannot change the result of a prior decision or enlarge or diminish the relief ordered but may further explain the meaning or intent of the prior decision.

(d) *Referral to the Commission.* Where the Director, Office of Review and Appeals, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the Commission, or, as directed by the Commission, refer the matter to another appropriate agency.

§ 1614.504 Enforcement action by the commission.

(a) *Notice to show cause.* The Commission may issue a notice to the head of any Federal agency that has failed to comply with a decision to show cause why there is noncompliance. Such notice may request the head of the agency or a representative to appear before the Commission or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons for non-compliance.

(b) *Certification to the Office of Special Counsel.* Where appropriate and pursuant to the terms of a memorandum of agreement, the Commission may refer the matter to the Office of Special Counsel for enforcement action.

(c) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that an agency is not complying with a prior decision, or where an agency has failed or refused to submit its report of corrective action, the Commission shall notify the complainant of the right to file a cival action for enforcement of the decision pursuant to Title VII, the ADEA, the Equal Pay Act or the Rehabilitation Act and to seek judicial review of the agency's refusal to implement corrective action pursuant to the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, and the mandamus statute, 28 U.S.C. 1361, or to commence *de novo* proceedings pursuant to the appropriate statutes.

§ 1614.505 Compliance with settlement agreements and decisions.

Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. A notice of final action or final agency decision that has not been the subject of an appeal, request to reopen, or civil action shall be binding on the agency. If the complainant believes that the agency has failed to comply with the terms of a settlement agreement, notice of final action, or final agency decision, the complainant shall notifiy the EEO Director, in writing, of the alleged noncompliance within 30 days of when the complainant knew or should have known of the alleged noncompliance. The complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complainant be reinstated for further processing from the point processing ceased. The agency shall resolve the matter and respond to the complainant, in writing. If the agency has not responded to the complainant, in writing, or if the complainant is not satisfied with the agency's attempt to resolve the matter, the complainant may appeal to the Commission for a determination as to whether the agency has complied with the terms of the settlement agreement, notice of final action or final agency decision. The complainant may file such an appeal 35 days after service of the allegations of noncompliance, but must file an appeal within 30 days of receipt of an agency's determination. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it deems necessary or may direct that an investigation or hearing on the matter be conducted. If the Commission determines that the agency is not in compliance and the noncompliance is not attributable to acts or conduct of the complainant, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased. Allegations that subsequent acts of retaliation or discrimination violate a settlement agreement shall be processed as separate complaints under § 1614.106 or § 1614.204, as appropriate, rather than under this section.

Subpart F—Matters of General Applicability

§ 1614.601 EEO group statistics.

(a) Each agency shall establish a system to collect and maintain accurate employment information on the race, national origin, sex and handicap(s) of its employees.

(b) Data on race, national origin and sex shall be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the agency shall advise the employee of the importance of the data and of the agency's obligation to report it. If the employee still refuses to provide the information, the agency must make a visual identification and inform the employee of the data it will be reporting. If an agency believes that information provided by an employee is inaccurate, the agency shall counsel the employee about the solely statistical purpose for which the data is being collected, the need for accuracy, the agency's recognition of the sensitivity of the information and the existence of procedures to prevent its unauthorized disclosure. If, after counseling, the employee declines to change the apparently inaccurate self-identification, the agency must accept it.

(c) The information collected under paragraph (b) of this section shall be disclosed only in the form of gross statistics. An agency shall not collect or maintain any information on the race, national origin or sex of individual employees except when an automated data processing system is used in accordance with standards and requirements prescribed by the Commission to insure individual privacy and the separation of that information from personnel records.

(d) Each system is subject to the following controls:

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(1) Only those categories of race and national origin prescribed by the Commission may be used;

(2) Only the specific procedures for the collection and maintenance of data that are prescribed or approved by the Commission may be used;

(3) The Commission shall review the operation of the agency system to insure adherence to Commission procedures and requirements. An agency may make an exception to the prescribed procedures and requirements only with the advance written approval of the Commission.

(e) The agency may use the data only in studies and analyses which contribute affirmatively to achieving the objectives of the equal employment opportunity program. An agency shall not establish a quota for the employment of persons on the basis of race, color, religion, sex, or national origin.

(f) Data on handicaps shall also be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the agency shall advise the employee of the importance of the data and of the agency's obligation to report it. If an employee who has been appointed pursuant to special appointment authority for hiring individuals with handicaps still refuses to provide the requested information, the agency must identify the employee's handicap based upon the records supporting the appointment. If any other employee still refuses to provide the requested information or provides information which the agency believes to be inaccurate, the agency should report the employee's handicap status as unknown.

(g) An agency shall report to the Commission on employment by race, national origin, sex and handicap in the form and at such times as the Commission may require.

§ 1614.602 Reports to the Commission.

(a) Each agency shall report to the Commission information concerning precomplaint counseling and the status, processing and disposition of complaints under this part at such times and in such manner as the Commission prescribes.

(b) Each agency shall advise the Commission whenever it is served with a Federal court complaint based upon a complaint that has been appealed to the Commission.

(c) Each agency shall submit annually for the review and approval of the Commission written national and regional equal employment opportunity plans of action. Plans shall be submitted in a format prescribed by the Commission and shall include, but not be limited to:

(1) Provision for the establishment of training and education programs designed to provide maximum opportunity for employees to advance so as to perform at their highest potential;

(2) Description of the qualifications, in terms of training and experience relating to equal employment opportunity, of the principal and operating officials concerned with administration of the agency's equal employment opportunity program; and

(3) Description of the allocation of personnel and resources proposed by the agency to carry out its equal employment opportunity program.

§ 1614.603 Voluntary settlement attempts.

Each agency shall make reasonable efforts to voluntarily settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints, including the precomplaint counseling stage. Any settlement reached shall be in writing and signed by both parties and shall identify the allegations resolved.

§ 1614.604 Filing and computation of time.

(a) All time periods in this part that are stated in terms of days are calendar days unless otherwise stated.

(b) A document shall be deemed timely if it is delivered in person or postmarked before the expiration of the applicable filing period, or, in the absence of a legible postmark, if it is received by mail within five days from the expiration of the applicable filing period.

(c) The agency or the Commission shall extend any time limits in this part when the individual shows that he or she was not notified of the time limits and was not otherwise aware of them, or that despite due diligence he or she was prevented by circumstances beyond his or her control from submitting the matter within the time limits, or for other reasons considered sufficient by the agency or the Commission.

(d) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday or Federal holiday, in which case the period shall be extended to include the next business day.

§ 1614.605 Representation and official time.

(a) At any stage in the processing of a complaint, including the counseling stage under § 1614.105, the complainant shall have the right to be accompanied, represented, and advised by a representative of complainant's choice.

(b) If the complainant is an employee of the agency, he or she shall have a reasonable amount of official time to prepare the complaint if otherwise on duty. If the complainant is an employee of the agency and he designates another employee of the agency as his or her representative, the representative shall have reasonable amount of official time, if otherwise on duty, to prepare the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint.

(c) In cases where the representation of a complainant or agency would conflict with the official or collateral duties of the representative, the Commission or the agency may, after giving the representative an opportunity to respond, disqualify the representative.

(d) After the agency has received written notice of the designation of a representative, all official correspondence shall be with the representative with copies to the complainant, and time frames for receipt of materials by the complainant shall be computed from the time of receipt by the representative.

(e) The Complainant shall at all times be responsible for proceeding with the complaint whether or not he or she has designated a representative.

(f) Witnesses who are Federal employees, regardless of their tour of duty and regardless of whether they are employed by the respondent agency or some other Federal agency, shall be in a duty status when their presence is authorized or required by Commission or agency officials in connection with a complaint.

§ 1614.606 Joint processing and consolidation of complaints.

Complaints of discrimination filed by two or more complainants consisting of substantially similar allegations of discrimination or relating to the same matter, or two or more complaints of discrimination from the same complainant, may be consolidated by the agency or the Commission for joint processing after appropriate notification to the parties.

§ 1614.607 Severance of issues.

An agency or the Commission may sever any issue(s) from a complaint at any time for separate processing or decision, or for consolidation with another complaint after appropriate notification to the complainant.

§ 1614.608 Delegation of authority.

An agency may delegate authority under this part to the agency's EEO Director, who must report directly to the agency head. The EEO Director may redelegate any of his or her authority to a designee reporting directly to the EEO Director.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program; Kentucky Bond Pool

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of a proposed program amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of proposed modifications to Kentucky Administrative Regulations (KAR) at 405 KAR 10:200, the regulations governing Kentucky's alternative bonding program known as the Kentucky Bond Pool. The proposed regulations implement Senate Bill 338 passed by the 1988 Kentucky General Assembly.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on November 30, 1989. If requested, a public hearing on the proposed amendment will be held at 10:00 a.m. on November 27, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on November 15, 1989.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: Roger Calhoun, Acting Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-7327

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5131, Washington, DC 20240. Telephone: (202) 343-5492

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-2828

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: Roger Calhoun, Acting Director, Lexington Field Office, Telephone (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By letter dated September 18, 1989 (Administrative Record No. KY-916), Kentucky submitted proposed regulations to revise 405 KAR 10:200, the regulations governing the Kentucky Bond Pool. The proposed regulations implement Senate Bill 338 passed by the 1988 Kentucky General Assembly.

The proposed regulations delete from the definition of "member" the requirement that only permits held by bond pool members can be covered by the pool. Kentucky Revised Statutes (KRS) 350.720(14) authorizes pool coverage for nonmember permittees to participate in the abandoned mine land enhancement program.

The proposed regulations relax the criteria used to determine eligibility for membership into the Kentucky Bond Pool. The proposed regulations allow the Bond Pool Commission greater flexibility in applying compliance record criteria in determining eligibility. The Bond Pool Commission is authorized to defer action on an application for pool membership until violations and penalty assessments that could affect the applicant's eligibility or membership rating have been resolved. The proposed regulations also make several nonsubstantive changes for compliance with KRS Chapter 13A provisions.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m. on November 15, 1989. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will

greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**." All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES**." A written summary of each meeting will be made a part of the Administrative Record.

VI. Procedural Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 19, 1989.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 89-25560 Filed 10-30-89; 8:45am]

BILLING CODE 4310-05-M

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30 CFR Part 935

Ohio Permanent Regulatory and Abandoned Mined Lands Programs; Revision of Ohio Revised Code

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed Program Amendment Number 40 to the Ohio permanent regulatory and abandoned mined lands (AML) programs (hereinafter jointly referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments were initiated by Ohio and are intended to revise six sections of the Ohio Revised Code to be consistent with Amended Substitute House Bill 399 of the 118th Ohio General Assen.bly. The proposed amendments would revise Ohio's method of calculating average wage rates for contractors performing reclamation work for the State, would restore civil service status to Ohio's regulatory inspection officers, would allow use of forfeited bond and defaulted area funds to pay administrative and design costs, and would prohibit the delay of reclamation while the Ohio Attorney General takes action to recover the State's reclamation expenses.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on November 30, 1989. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on November 27, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on November 15, 1989.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43232, Telephone: (614) 866-0578.

Ohio Department of Natural Resources, Division of Reclamation, Fountain Square, Building B-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated October 2, 1989 (Administrative Record No. OH-1218), Ohio submitted proposed Program Amendment No. 40. This proposed amendment was initiated by Ohio to revise six sections of the Ohio Revised Code to be consistent with Amended Substitute House Bill 399 of the 118th Ohio General Assembly. The proposed amendment would revise the Ohio program at Ohio Revised Code (ORC) sections 1513.02(J); 1513.08(A); 1513.18

(B), (C), (F), and (H); 1513.24; and 1513.37(J).

Nonsubstantive changes are proposed throughout these six sections of the ORC to correct paragraph letter notations and to improve the clarity of the statutes.

The substantive changes proposed in Program Amendment No. 40 are discussed briefly below:

(1) Average Wage Rates for Reclamation Contractors

ORC section 1513.02 paragraph (J): This new paragraph is being added to specify that the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief), shall triennially determine the average wage rates paid by companies performing reclamation for Ohio. The initial determination of the average wage rate will be based on the wages paid by companies performing work for Ohio during the last ten years. Subsequent determinations will be based on wages paid by companies during the preceding three years.

ORC section 1513.18 paragraph (H): This paragraph is being rewritten to specify that the average wage rate required by the Chief of every contractor performing reclamation work under ORC section 1513.18 shall be as determined by the Chief under ORC section 1513.02.

ORC section 1513.24: A new paragraph is being added to provide that the Chief shall require every contractor performing reclamation work under ORC section 1513.24 to pay workers at the greater of their rate of pay or the average wage rate for the same or similar work as determined by the Chief under ORC section 1513.02.

ORC section 1513.37 paragraph (J): The last sentence in this paragraph is being rewritten to specify that the average wage rate required by the Chief of every contractor performing reclamation work under ORC section 1513.37 shall be as determined by the Chief under ORC section 1513.02.

(2) Civil Service Status for Regulatory Inspectors

ORC 1513.03: This section is being rewritten to delete the statement that Ohio regulatory inspection officers shall serve at the pleasure of the Chief. A new paragraph is also being added to provide that, to be eligible for appointment as inspection officers, appointees shall first pass an examination prepared and administered by the Ohio Department of Administrative Services and that new inspectors shall serve in a provisional status for one year to the satisfaction of the Chief. These provisions shall not apply to persons who were inspection officers on or before April 10, 1972 if the person is a certified employee in the classified service of the State.

(3) Administrative and Design Costs for Reclamation of Forfeited and Defaulted Areas

ORC section 1513.08 paragraph (A): This paragraph is being rewritten to provide that the Chief may expend money from the reclamation supplemental forfeiture account to pay necesary administrative, engineering, and design costs incurred by Ohio in reclaiming forfeited areas. Administrative exenditures need not be made under contract.

ORC section 1513.18 paragraphs (B) and (C): These paragraphs are being rewritten to provide that the Chief may expend money from the defaulted areas fund to pay necessary administrative, engineering, and design costs incurred by Ohio in reclaiming defaulted areas. Administrative expenditures need not be made under contract.

(4) Prohibition Against Delaying Reclamation

ORC section 1513.18 paragraph (F): The last sentence in this paragraph is being rewritten to provide that the Chief shall not postpone the reclamation of forfeited or defaulted areas because of any actions being brought by the Ohio Attorney General under this paragraph to recover the State's reclamation expenses. Prior to completing reclamation, the Chief may collect through the Attorney General any additional amount in excess of the forfeited bond that the Chief believes will be necessary for reclamation of the land that the operator should have, but failed to, reclaim.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenters recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR MORE INFORMATION CONTACT**" by 4:00 p.m. on November 15, 1989. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "**FOR MORE INFORMATION CONTACT**." All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "**ADDRESSES**." A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 19, 1989.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 89-25512 Filed 10-31-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Bank Secrecy Act Regulatory Applictions to the Problem of Money Laundering Through International Payments

AGENCY: Departmental Offices, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Treasury expects to issue a Notice of Proposed Rulemaking under

transfers of funds include transactions where either (1) a foreign office of a financial institution instructs a U.S. office of a financial institution to effect a

transfers of funds and book transfers of credit. Currently, Treasury does not specify what type of information must be contained in the record. Thus,

1. Require a record or report by the financial institution originating or receiving an international wire transfer of funds for a customer which includes

This list is not meant to be exhaustive of the ways in which Treasury's regulatory authority might be used to address the problem. Treasury is open

was published in the **Federal Register** on October 18, 1989 (54 FR 42307), "Commercial Activities Program Procedures," 32 CFR part 169a. This

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ACTION: Advance notice of proposed rulemaking.

SUMMARY: Treasury expects to issue a Notice of Proposed Rulemaking under the Bank Secretary Act to address the problem of money laundering through international payments, especially wire transfers of funds. This Advance Notice of Proposed Rulemaking requests comments on a number of regulatory options.

DATES: Comments must be received no later than January 2, 1990.

ADDRESS: Comments should be sent to: Amy G. Rudnick, Director, Office of Financial Enforcement, Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Linda Noonan, Senior Counsel for Financial Enforcement. Office of the Assistant General Counsel (Enforcement), (202) 566–2941.

SUPPLEMENTARY INFORMATION: The Bank Secretary Act, Public Law 91–508, (codified at 12 U.S.C. 1829b, 12 U.S.C. 1951, *et seq.*, and 31 U.S.C. 5311–5326), authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree or usefulness in criminal, tax, and regulatory matters. The primary purpose of the Act is to identify the sources, volumes and movements of monies moving into and out of the country and through domestic financial institutions. *See* H.R. Rep. No. 975, 91st Cong., 2d Sess. 11–13 (1970). In exercising this far reaching authority, Treasurey has been mindful of issues concerning undue interference with foreign laws and has been careful not to create obstacles to the free flow of legitimate international trade and commerce. H.R. Rep. No. 975 at 13.

Under 31 U.S.C. 5314, the Secretary may require reports or records relating to transactions between persons subject to the jurisdiction of the United States and "foreign financial agencies", *e.g.*, financial institutions located abroad. In addition, pursuant to 31 U.S.C. 5318(a)(2), the Secretary may require that domestic financial institutions "maintain appropriate procedures" to ensure compliance with any regulation prescribed under section 5314 or any other provision in 31 U.S.C. 5311–5326. Treasury will be exercising its authority unde these provisions to address the problem of "laundering" drug and other illegal proceeds through the international payments system, particularly through international wire transfers of funds. International wire transfers of funds include transactions where either (1) a foreign office of a financial institution instructs a U.S. office of a financial institution to effect a payment in the U.S., directly or indirectly, or (2) where a U.S. office of a financial institution instructs a foreign office of a financial institution to effect a payment abroad, directly or indirectly. (The term does not include check or ACH payments.)

World-wide gross drug revenues are estimated to be $300 billion. Illegal drug revenues in the United States are estimated to total $110 billion. Estimates are that only 20% of the money generated from narcotics trafficking goes to the cost of goods sold, with 80% available for profits. These profits are used to finance other narcotics and criminal activities, purchase luxury items, make investmens in real estate and acquire legitimate businesses.

Money laundering is a vital component of drug trafficking and other criminal activity throughout the world. Criminals must "wash" their "dirty" money to make it appear "clean." As President Bush recently stated,

> Drug money undermines honest businesses, corrupts political institutions, and even threatens the security of nations. To conceal their obscene profits, drug barons must wash their money by cycling it through financial institutions and illegitimate shell corporations.

Currently, illegal funds are being transferred from or to the United States and "cycled" through intricate money laundering schemes involving international payments, particularly wire transfers. Several recent money laundering operations, which have been discovered by Treasury and other federal law enforcement agencies, such as Operations C-Chase and Polar Cap, are testaments to this phenomenon. In an April 28, 1989, submission to the Director, Office of National Drug Control Policy, reprinted in the Congressional Record of May 18, 1989, the American Bankers Association stated that, "Wire transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade." 135 Cong. Rec. S5555 (May 16, 1989).

To date Treasury has used its Bank Secrecy Act authority to require financial institutions to keep records of all requests, advices and instructions relating to international transfers of more than $10,000 to or from any person or account outside the United States. 31 CFR 103.33(b). Under this provision, a financial institution must keep a record of each international transaction over $10,000, including all international wire transfers of funds and book transfers of credit. Currently, Treasury does not specify what type of information must be contained in the record. Thus, financial institutions are not required to obtain or record information from or about the identity of an originator or beneficiary of a payment, about the parties on whose behalf the originator or beneficiary may be acting, or other information beyond what is in their records or necessary to make the transfer.

In addition to the current recordkeeping requirements for wire transfers, Treasury is authorized to require financial institutions to report transactions, including international wire transfers of funds, with foreign financial institutions in a designated location for a limited period of time pursuant to 31 CFR 103.25. This authority is limited by the fact that financial institutions involved in international wire transfers of funds frequently do not have complete information about the originator or beneficiary of payments.

Treasury is reviewing a number of regulatory options under the authority of 31 U.S.C. 5314 and 5318 to deal with these deficiencies and the severe money laundering problem. In our regulatory review, we will give careful consideration to the question of reaching an appropriate balance between law enforcement needs, the importance of free capital flow in global commerce and an efficient international financial network, and the potential burden on financial institutions. This is difficult given the severity of the money laundering problem and the enormous daily volume of international payments, the overwhelming majority of which represent normal commercial transactions. Therefore, Treasury is soliciting views of financial institutions, law enforcement officials, regulatory agencies, and other interested parties on these or other regulatory options. After Treasury analyzes the comments received in response to the Advance Notice, it expects to issue a Notice of Proposed Rulemaking with specific regulatory proposals for comment.

The following list illustrates some of the regulatory options under consideration. Treasury seeks views on each of these proposals. However, these proposals are not meant to be considered as mutually exclusive alternatives; they may be later proposed in combination with one another. With respect to any possible reporting requirement, Treasury would propose that reporting could be made by electronic data transmission.

1. Require a record or report by the financial institution originating or receiving an international wire transfer of funds for a customer which includes identifying and account information about the originator, beneficiary and the person on whose behalf the payment is being made or received and whether the sender or receiver is aware of any separate payment instructions regarding the payment unknown to the financial institution. This requirement might be coupled with some type of an exemption system designed to cover the majority of normal business transactions.

2. Require that all international wire transfer messages contain all known third party identifying information, *e.g.*, account numbers, addresses, and names of the originator and beneficiary of the payment.

3. Require that, prior to originating international payments on a customer's behalf, either through book entry transfers of credit or through international wire transfers of funds, financial institutions apply model "know your customer" procedures to verify the legitimate nature of the customer's business and that the transfers are commensurate with legitimate business activities.

4. Require special identification procedures and recordkeeping or reporting of international payments sent or received by persons without established account relationships at financial institutions.

5. Require that financial institutions develop a suspicious international wire transfer profile and report suspicious payments to Treasury. The profile might include certain criteria suggested by Treasury, for example, the presence of large currency deposits prior to an outgoing transfer or the existence of an incoming transfer followed by issuance of a cashier's check.

6. Require that (A) when an institution, typically a bank, receives a targeting order under 31 CFR 103.25 relating to international wire transfers of funds, it must obtain, to the extent possible, information from other domestic banks involved in the transfer regarding the identity of the originator or beneficiary of the transfer, and (B) that those other domestic banks cooperate in providing this information on a timely basis to the targeted institution.

7. Provide that an additional category of information may be requested through a regulation issued under 31 CFR 103.25, relating to international book transfers of credit not involving wire transfers, *e.g.*, transfers of credit between U.S. and foreign offices of a financial institution.

This list is not meant to be exhaustive of the ways in which Treasury's regulatory authority might be used to address the problem. Treasury is open to other suggestions from financial institutions or other interested parties regarding additional or alternative regulatory measures or voluntary programs.

Treasury requests that financial institutions that have dealt with the issue of money laundering through international payments share their experiences with Treasury, for instance, on efforts to isolate suspicious wire transfers or to impose "know your customer" procedures. We would like financial institutions to advise of their policies and procedures for "pay on proper ID" payments or other arrangements whereby noncustomers can receive (or send) international payments. Treasury also is interested in comments on any practical problems presented by these options and on the estimated costs of compliance. We welcome recommendations on how best to fashion an appropriate exemption system if routine recordkeeping or reporting requirements are adopted. Finally, we welcome comments relating to specific problems which might arise with foreign jurisdictions, such as foreign constraints on U.S. jurisdiction and enforcement abilities.

Treasury is committed to the effective and judicious use of its Bank Secrecy Act authority and wishes to work with the affected financial institutions and law enforcement community to fashion a responsible regulatory solution to the problem at hand. We look forward to the full cooperation and participation of financial institutions on this regulatory project.

Dated: October 25, 1989.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 89–25521 Filed 10–30–89; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 169a

[DOD Instruction 4100.33]

RIN 0790–AA48

Commercial Activities Program Procedures

AGENCY: DOD, WHS.

ACTION: Proposed rule; correction.

SUMMARY: This document makes corrections to paragraph 169a.2(k) which was published in the **Federal Register** on October 18, 1989 (54 FR 42807), "Commercial Activities Program Procedures," 32 CFR part 169a. This correction is made to enable readers to better understand paragraph 169a.2(k)'s original meaning.

FOR FURTHER INFORMATION CONTACT: Mr. Dom Miglionico, Office of the Assistant Secretary of Defense (Production and Logistics)Installations Support Division, Pentagon, Washington, DC 20301–8000.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 169a

Armed forces; Government procurement.

Accordingly, 32 CFR Part 169a is amended as follows:

PART 169a—[AMENDED]

1. The authority citation for part 169a continues to read as follows:

Authority: 5 U.S.C. 301; E.O. 12615; Pub. L. 99–400.

2. Section 169a.2(k) is corrected to read as follows:

§ 169a.2 Applicability and scope.

* * * * *

(k) Establishes and shall not be construed to create any substantive or procedural basis for anyone to challenge any DoD action or inaction on the basis that such action or inaction was not in accordance with this part, except as specifically set forth in paragraph 169a.6(c)(7).

October 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–25585 Filed 10–30–89; 8:45am]

BILLING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–462, RM–5852]

Television Broadcasting Services; Colorado Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of the University of Southern Colorado, seeking the allotment of UHF Channel *66 to Colorado Springs, Colorado, as that community's first local

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noncommercial television service. Coordinates for the proposal are 38–48–26 and 104–48–51.

Although this proposal falls within the parameters of the Denver, Colorado, market, which is one of the metropolitan areas for which the Commission has imposed a "freeze" on TV allotments, or applications therefor, a waiver is appropriate in this instance since the proposed allotment of Channel *66 at Colorado Springs is for noncommercial educational use.

DATES: Comments must be filed on or before December 12, 1989, and reply comments on or before December 22, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Wayne Coy, Jr., Esq., Cohn & Marks, 1333 New Hampshire Ave., NW., Suite 600, Wash., DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.89–462, adopted September 26,1989, and released October 16, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR part 73

Television broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25576 Filed 10–30–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–461, RM–6881]

Radio Broadcasting Services; Lafayette, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Brian Mitchell Rowland requesting the substitution of Channel 260C2 for Channel 260A at Lafayette, Florida, and modification of the construction permit (BPH–870729MJ) for Station WKXJ(FM) to special operation on the higher powered channel. Channel 260C2 can be allotted to Lafayette in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.8 kilometers (12.9 miles) southeast. The coordinates for the allotment are North Latitude 30–18–21 and West Longitude 84–03–09. In accordance with § 1.420(g) of the Commission's Rules, competing expressions of interest in use of Channel 260C2 at Lafayette will not be considered and petitioner will not be required to demonstrate the availability of an additional equivalent channel for use by such interested parties.

DATES: Comments must be filed on or before December 7, 1989, and reply comments on or before December 22, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Peter Gutmann, Neal J. Friedman, Pepper & Corazzini, 200 Montgomery Building, 1776 K Street, NW., Washington, DC 20006, (Attorneys for petitioner)

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.89–461, adopted October 2, 1989, and released October 16, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, as *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25577 Filed 10–30–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No.89–463, RM–6896]

Radio Broadcasting Services; Boyce, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Trinity Broadcasting Corporation, licensee of Station KBCE(FM), Boyce, Louisiana, proposing the substitution of Channel 272C3 for Channel 272A at Boyce, and the modification of the station's license to special operation on the higher powered channel. A site restriction of 5.7 kilometers (3.5 miles) east of the community has been requested. The coordinates are 31–22–21 and 92–36–41. The community could receive its first wide coverage area FM service.

DATES: Comments must be filed on or before December 7, 1989, and reply comments on or before December 22, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Robert G. Allen, Esquire, Denise B. Moline, Broadcast Media Legal Services, P.O. Box 1667, Manassas Park, VA 22111 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–463, adopted September 26, 1989, and released October 16, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, as *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25579 Filed 10–30–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–459 , RM–7009]

Radio Broadcasting Services; Giddings, Cameron, Centerville, Edna and Hearne, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Radio Lee County, the licensee of Station KGID(FM), Channel 268C2 at Giddings, Texas, proposing the substitution of Channel 268C1 for Channel 268C2 at Giddings and the modification of its license to specify the higher class station. In order to accomplish the substitution at Giddings, channel substitutions must also be made at four other Texas communities: (1) Cameron, Texas, Channel 232A for Channel 267A, Station KJKS(FM); (2) Centerville, Texas, Channel 290A for vacant Channel 276A; (3) Edna, Texas, Channel 285A for vacant but applied for Channel 289A; and (4) Hearne, Texas, Channel 276A for Channel 232A, Station KHRN(FM).

DATES: Comments must be filed on or before December 8, 1989, and reply comments on or before December 26 , 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Don Werlinger, Broadcast Development Group, 7819 Manassas Drive, Austin, Texas 78745 (Consultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.89–459 , adopted October 2, 1989, and released October 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, as *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The proposed allotment of Channel 268C1 at Giddings requires the station to relocate its transmitter site at least 21.6 kilometers south of the community. The coordinates specified by the petitioner are 29–55–00 and 97–20–00, which is located 48.2 kilometers (30.0 miles) southwest of the city. The suggested channel changes at Cameron, Centerville, Edna and Hearne can be accomplished at the existing stations's sites. The coordinates for Channel 232A at Cameron are 30–57–00 and 96–54–07. The coordinates for Channel 290A at Centerville are 31–15–36 and 95–58–42. The coordinates for Channel 285A at Edna are 28–57–32 and 96 37–30. The coordinates for Channel 276A at Hearne are 30–51–07 and 96–34–04.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25578 Filed 10–30–89; 8:45am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB35

Endangered and Threatened Wildlife and Plants; Desert Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; correction.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is correcting an error in the SUMMARY of the proposed rule to list the Mojave population of the desert tortoise, which appeared in the **Federal Register** on October 13, 1989 (54 FR 42270).

FOR FURTHER INFORMATION CONTACT: Dr. James Tate, Jr. at (703) 358–2171.

SUPPLEMENTARY INFORMATION: The Service published an emergency rule to list the Mojave population of the desert tortoise as endangered on August 4, 1989 (54 FR 55654). The emergency rule will cease to have force and effect after 240 days unless the procedures leading to a final rule, or to a withdrawal of the emergency rule, have been complied with during that period. Thus, the emergency rule to list the desert tortoise would expire on Sunday, April 1, 1990 (actually on the next working day, Monday, April 2, 1990). A proposed rule to list the Mojave population of the desert tortoise appeared in the **Federal Register** on October 13, 1989 (54 FR 42270).

The correct statement that the "* * * emergency rule provides protection

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under the [Endangered Species] Act for the Mojave population of tortoises for 240 days (until April 2, 1990)" appears on page 42271. An incorrect date of August 2, 1990 appears in the SUMMARY of the same publication. This error is corrected below.

* * * * *

Dated: October 25, 1989.

John F. Turner,

Director, Fish and Wildlife Service.

The following correction is made in RIN 1018–AB35, the proposed rule to list the Mojave population of the desert tortoise, which appeared in the Federal Register on October 13, 1989 (54 FR 42270).

On page 42270, first column, line 33, change "August 2, 1990" to "April 2, 1990".

* * * * *

[FR Doc. 89–25628 Filed 10–30–89; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 54, No. 209

Tuesday, October 31, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Seismic Exploration Permit Fees

AGENCY: Forest Service, USDA.

ACTION: Notice of interim policy.

SUMMARY: The Forest Service gives notice that it is establishing a standard land use rental fee applicable nationwide to seismic exploration permits issued by the Forest Service. The revised fee policy is set forth in Interim Directive No. 69 to the Forest Service Manual Chapter 2720—Special Uses Administration. The intended effect is to bring consistency to fee determinations on seismic exploration permits and to increase efficiency in processing permits.

EFFECTIVE DATE: The interim directive is effective November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Persons interested in this rental fee policy should direct inquiries and comments to Ruben M. Williams, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 (703) 235–8212.

SUPPLEMENTARY INFORMATION: National Forest System lands are open to seismic exploration activities. Seismic exploration commonly involves the use of explosives or machinery to generate energy shock waves through the earth's surface to detect the presence of oil and gas deposits or conditions likely to be favorable to location of such deposits. When an operator wishes to explore for oil and gas in an area of the National Forest system that is not covered by a Federal lease, the operator must obtain a permit for the exploration and pay a land use rental fee (36 CFR 251.57).

Forest Service policy has allowed Regional Foresters to establish fees for seismic exploration permits by one of two methods. The first method bases the fee on a survey of rental payments paid to private land owners within a market area for seismic exploration surveys. The second method, which was developed by the Regional Forester for the Rocky Mountain Region in consultation with seismic exploration contractors, was based upon average rental values of Federal oil and gas leases within that Region and adjacent areas. This fee method, notice of which was published February 12, 1987, in the Federal Register [52 FR 4514] resulted in a fee of $200 per mile, or fraction of a mile. In contrast, surveys of the private rental market have resulted occasionally in fees that were higher than the fees determined by the Rocky Mountain Region, particularly when the National Forest lands were located in areas with good potential for oil and gas development, such as the Gulf Coast States.

The agency has reviewed the current fee determination procedure and concluded that a uniform fee would not only eliminate inconsistent fee charges but would also increase agency efficiency of processing seismic permits by reducing the time and cost associated with the current fee determination methods. The agency is, therefore, adopting a standard, nationwide fee for seismic exploration permits of $200 per mile, or fraction of a mile, and $50 per shot hole. This fee rate is currently charged on several National Forests for seismic permits.

These fee rates will be imposed on all types of seismic exploration in which temporary disturbance and occupancy of the land is authorized by a Forest Service permit. They do not apply to exploration by a holder of a valid Federal lease within a leasehold on National Forest System lands. Also, the seismic permit fee does not include any costs of reclamation, restoration, or compliance with applicable laws, such as indentification and protection of cultural resources for which the holder may be responsible as a condition of the permit.

This fee policy is being issued as interim direction to allow the agency to evaluate the effects of a standard fee and the fee amount over the next 12 months and to determine if any changes are needed before isuing permanent direction. Any member of the public, including seismic exploration contractors, may submit comments for the agency's consideration during the evaluation period. Notice of adoption of a final fee policy for seismic exploration will be given in the Federal Register.

Dated: October 10, 1989.

George M. Leonard,

Associate Chief.

[FR Doc. 89–25568 Filed 10–30–89; 8:45 am]

BILLING CODE 3410–11–M

Draft Supplement to a Final Environmental Impact Statemept for the Grouse Creek Gold Mine Project (Formally the Sunbeam Mine Project) on the Yankee Fork Ranger District of the Challis National Forest, Custer County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare a Draft and Final Supplement (DSEIS and SEIS respectively) to the Environmental Impact Statement (EIS) previously prepared for the Sunbeam Mining Project (September 1984). The supplement is for an expanded Plan of Operation proposed by Grouse Creek Mining, Inc., for an open-pit gold mine located 19 miles northeast of Stanley, Idaho and 30 miles southwest of Challis, Idaho, on the Yankee Fork District of the Challis National Forest in Custer County, Idaho.

The supplement will focus on proposed modifications to the original Sunbeam Mining Project, including: (1) Expanded operation into the Grouse Creek drainage resulting in an additional pit and potential waste dump, (2) change in milling process from vat leaching to conventional counter-current decant process, (3) construction of tailing impoundment and embankments, and (4) improvement of Forest Route 40172. The modified proposal will be called Grouse Creek Project.

The agency will accept written comments and suggestions on the scope of the analysis. However, because the Forest has been communicating with interested persons concerning the scope of the proposed action through prior negotiations and meetings, the agency urges that any comments on the proposal be concise. Comments directed to the substance, as opposed to the scope, of the proposal are more

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appropriately submitted during the comment period following release of the DSEIS.

In addition, the agency gives notice of the full environmental analysis and decision-making process will occur on the proposal so that interested persons are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by December 1, 1989 to ensure timely consideration.

ADDRESS: Submit written comments and suggestions related to the scope of the analysis to Forest Supervisor, Challis National Forest, P.O. Box 404, Challis, Idaho 83226.

FOR FURTHER INFORMATION: Direct questions about the proposed action and DSEIS to Ruth Monahan, Project Coordinator, Challis Supervisor's Office, P.O. Box 404, Challis, Idaho, telephone 208–879–2285.

SUPPLEMENTARY INFORMATION: The Final Environmental Impact Statement for the Sunbeam Mining Project was approved by Forest Supervisor Jack C. Griswold on September 28, 1984. Full development and construction of the Sunbeam Project has been delayed due to litigation concerning Clean Water Act section 402/404 permitting authority between the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, relating to the discharge of spent ore tailings to the Pinyon Basin wetland. As a result of Sunbeam Mining Corporation's recent merger with CoCa Mines, Inc., the original Sunbeam Mine Project is now being developed by Grouse Creek Mining, Inc. a subsidiary of CoCa Mines, Inc.

The Forest Service received a Conceptual Plan of Operation from Grouse Creek Mining, Inc. in August of 1989. Re-evaluation of the original Sunbeam Mine Project caused Grouse Creek Mining, Inc. to modify components of the original project. Grouse Creek Mining proposes to construct an open pit mine, waste dumps, haul road, processing facilities, mine tailing embankments and impoundments, and widening of USFS Forest Road #40172 along Jordan Creek. The 1984 EIS Project Area has also been expanded under the modified proposed project to include the Grouse Creek drainage basin. The supplemental EIS will evaluate the new or changed aspects of the Project.

A range of alternatives will be considered, including the no-action alternative. Other alternatives will be developed to address significant issues and to mitigate impacts.

Scoping of this project was initiated on August 24, 1989 through an informational meeting held in Stanley, Idaho by Grouse Creek Mining, Inc. Numerous Federal, State, and local agencies and other individuals and organizations were represented at the August 24 meeting. All interested and affected publics are invited to participate in the scoping process. This process will include:

1. Identification of new or additional issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those sufficiently covered in the original Sunbeam EIS.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

Additional public meetings are tentatively scheduled for November 1989 and will be held in Stanley and Challis, Idaho. Actual dates, times and locations for these meetings will be announced through the news media, by letter or personal contact.

The Fish and Wildlife Service of the Department of the Interior, Army Corps of Engineers of the Department of Army, and the U.S. Environmental Protection Agency (EPA) have been invited to participate as cooperating agencies. The U.S. Fish and Wildlife Service will evaluate potential impacts on threatened and endangered species habitat if any are found to exist in and adjacent to proposed project area.

The Army Corps of Engineers is responsible for issuance of the Clean Water Act section 404 permit, regulating the discharge of dredged or fill materials into navigable waters. The EPA is responsible for the issuance of the National Pollution Discharge Elimination System (NPDES) permit, regulating any discharges to surface water. The SEIS will provide the National Environmental Policy Act documentation requirements necessary for the issuance of the section 404 and the NPDES permits. Numerous other State and local permits and licenses will be required to implement the proposed action.

Jack C. Griswold, Forest Supervisor of the Challis National Forest, Challis, Idaho, is the responsible official for this action. The Forest Service is the lead agency.

The DSEIS is expected to be filed with the Environmental Protection Agency and be available for public review in April of 1990. At that time, the Environmental Protection Agency will publish a notice of availability of the draft supplement in the **Federal Register**.

The comment period on the DSEIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be most useful, comments on the DSEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (See The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of DSEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the SEIS. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

The SEIS is scheduled to be completed and available to the public by August 1990. The responsible official will document the decision and the reasons supporting it in a Record of Decision. That decision will be subject to appeal pursuant to 36 CFR 217.

Dated: October 23, 1989.

Ronald L. Johnson,

Acting Forest Supervisor.

[FR Doc. 89–2551 Filed 10–30–89; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; National Zoological Park, Smithsonian Institution

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, Commerce.

ACTION: Application for Permit; National Zoological Park—Smithsonian Institution (P6L).

SUMMARY: Notice is hereby given that an Applicant has applied in due form for a Scientific Research Permit to import marine mammal samples as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. Applicant: National Zoological Park, Smithsonian Institution, Washington, DC 20008.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Harbor seals (*Phoca vitulina*), up to 80; Gray seal (*Halichoerus grypus*), up to 160.

4. The Applicant requests permission to import samples of milk (including gastric milk contents), blood and tissues (organs and blubber) from harbor seals and gray seals, collected from animals under a research permit issued by the Director General of Fisheries and Oceans, Government of Canada. Tissues were previously obtained by the Canadian Government from animals sacrificed according to Canadian Sealing Regulations.

5. Location and Duration of Activity: Samples will be obtained from seals on Sable Island, Nova Scotia, Canada. The requested duration for import of samples is three years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7330, Silver Spring, Maryland 20910;

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930; and

Director, National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE BIN C15700, Seattle, Washington 98115.

Dated: October 19, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89–25537 Filed 10–31–89; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Rescission of a Limit on Luggage of Silk Blend and Other Vegetable Fiber Produced or Manufactured in the People's Republic of China

October 24, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs cancelling a limit.

EFFECTIVE DATE: October 31, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to consultations held with the Government of the People's Republic of China, the United States Government has decided to cancel the current restraint limit on luggage of silk blend and other vegetable fiber in Category 870.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50278, published on December 14, 1988.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 24, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: Effective on October 31, 1989, this directive cancels only that portion of the directive of December 6, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which establishes a restraint limit for silk blend and other vegetable fiber textile products in Category 870, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–25420 Filed 10–27–89; 8:45 am]

BILLING CODE 3510–DR–M

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

October 25, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–8041. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

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The current limits for Groups I, II, and III, and certain sublevels within the groups, are being adjusted, variously, for swing, carryover and shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50988, published on December 19, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 25, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 13, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 1, 1989, the directive of December 13, 1988 is amended further to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Republic of Korea:

Category	Adjusted 12-month limit [1]
Group I	
200, 201, 218–220, 222–229, 300–326, 360–363, 369–O[2], 400, 410, 414, 464–469, 600–607, 611–622, 624–629, 665–669 and 670–O[3], as a group.	387,587,856 square meters equivalent.
Sublevels in Group I	
200	375,199 kilograms.
300/301	2,689,281 kilograms.
317/326	16,054,242 square meters.
604	295,819 kilograms.
611	2,230,203 square meters.
625/626/627/628/629	11,749,337 square meters.
669–T [4]	3,924,236 kilograms.
Group II	
237, 239, 330–354, 359, 431–448, 459, 630–654 and 659, as a group.	583,581,095 square meters equivalent.
Sublevels in Group II	
333/334	106,000 dozen.
335	111,229 dozen.
336	49,635 dozen.
338/339	851,843 dozen.
340	471,144 dozen of which not more than 155,980 dozen shall be in Category 340–Y.[5]
341	201,608 dozen.
342	75,429 dozen.
347/348	377,339 dozen.
351	126,819 dozen.
352	149,282 dozen.
353/354/653/654	249,281 dozen.
359–H [6]	2,126,281 kilograms.
433/434	18,063 dozen of which not more than 13,627 dozen shall be in Category 433 and not more than 6,802 dozen shall be in Category 434.
435	34,151 dozen.
436	13,655 dozen.
442	46,526 dozen.
443	338,158 numbers.
444	52,737 numbers.
447	85,504 dozen.
448	34,691 dozen.
459–W [7]	92,974 kilograms.
631	260,499 dozen pairs.
632	1,996,798 dozen pairs.
633/634/635	1,340,662 dozen of which not more than 150,000 dozen shall be in Category 633, not more than 803,000 dozen shall be in Category 634, and not more than 559,000 dozen shall be in Category 635.
638/639	5,756,299 dozen.
640–D [8]	3,477,935 dozen of which not more than 1,325,538 dozen shall be in Category 640–DY.[9]
640–O [10]	2,548,567 dozen of which not more than 2,192,235 dozen shall be in Category 640–OY.[11]
641	1,042,542 dozen of which not more than 37,730 dozen shall be in Category 641–Y.[12]
642	96,672 dozen.
643	779,560 numbers.
647/648	1,273,262 dozen.
650	21,113 dozen.
659–H [13]	1,211,917 kilograms.
659–S [14]	156,811 kilograms.
Group III	
831–844 and 847–859, as a group.	12,507,858 square meters equivalent.
Sublevels in Group III	
835	29,595 dozen.
836	76,315 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369–O, all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000 in Category 369–L.

[3] In Category 670–O, all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 in Category 670–L.

[4] In Category 669–T, only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9000.

[5] In Category 340–Y, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060.

[6] In Category 359–H, only HTS numbers 6505.90.1530 and 6505.90.2060.

[7] In Category 459–W, only HTS number 6505.90.4060.

[8] In Category 640–D, only HTS numbers 6205–30.2010, 6205.30.2020, 6205.30.2030, 6205.90.2040, 6205.90.2030 and 6205.90.4030.

[9] In Category 640–DY, only HTS numbers 6205.30.2010 and 6205.30.2020.

[10] In Category 640–O, only HTS numbers 6203.23.0080, 6203.29.2050, 6205.30.1000, 6205.30.2050, 6205.30.2060, 6205.30.2070, 6205.30.2080 and 6211.33.0040.

[11] In Category 640–OY, only HTS numbers 6205.30.2050 and 6205.30.2060.

[12] In Category 641–Y, only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[13] In Category 659–H, only HTS numbers 6502–00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.8060.

[14] In Category 659–S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–25557 Filed 10–30–89; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Civilian Validation of ASVAB–14; Supplemental Information form, Behaviorally-Anchored Rating Scales (BARS), Importance of Occupational Dimensions; 0704–0292.

Type of Request: Extension.

Average Burden Hours/Minutes per Response: 15 minutes

Frequency of Resonse: One

Number of Respondents: 7,736

Annual Burden Hours: 1,934

Annual Responses: 7,736

Needs and Uses: Three types of instruments will be used to determine the valdity of ASVAB 14 for predicting performance in 12 civilian occupations. The Supplemental Information form will ask employees who take the ASVAB certain background information about themselves. The Behaviorally-anchored Rating Scales will ask supervisors their employees' performance; and the third instrument, Importance of Occupational Dimensions, will ask supervisors to indicate importance of the occupational dimensions covered in the scales.

Affected Public: Individuals or households, State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions.

Frequency: One-time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. Timothy Sprehe

Written comments and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management of Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rasco-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: October 25, 1989.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–25515 Filed 10–30–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Privacy Act of 1974, Amended System of Records Notice

AGENCY: Department of the Army, DOD.

ACTION: Amendment of one system of records notice for public comment.

SUMMARY: The Department of the Army proposes to amend one system of records to its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The system notice for the amended system is set forth below.

DATES: This amendment will be effective November 30, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to Mr. Robert Priest, Chief, Systems Management Branch, HQ, Army Information Systems Command (AS–OPS–MR), Ft. Huachuca, AZ 85613–5000.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22090, May 29, 1985 (Compilation, changes follow)
51 FR 23576, Jun 30, 1986
51 FR 30900, Aug 29, 1986
51 FR 40479, Nov 7, 1986
51 FR 44361, Dec 9, 1986
52 FR 11847, Apr 13, 1987
52 FR 18798, May 19, 1987
52 FR 25905, Jul 9, 1987
52 FR 32329, Aug 27, 1987
52 FR 43932, Nov 17, 1987
53 FR 12971, Apr 20, 1988
53 FR 16575, May 10, 1988
53 FR 21508, Jun 8, 1988
53 FR 26247, Jul 27, 1988
53 FR 28249, Jul 27, 1988
53 FR 28430, Jul 28, 1988
53 FR 34576, Sep 7, 1988
53 FR 49589, Dec 8, 1988
53 FR 51580, Dec 22, 1988
54 FR 10034, Mar 9, 1989
54 FR 11790, Mar 22, 1989
54 FR 14835, Apr 13, 1989

The record system was previously published in the **Federal Register** at 54 FR 14835 on April 13, 1989. The system is being amended to separate the "Disclosure to consumer reporting agencies" from the "Routine uses" element and adding the Federal Claims Collection Act of 1966 and the Debt Collection Act of 1982 to the "Authority" element. The specific changes to the record system being amended is set forth below, followed by the system notice, as amended, published in its entirety. The amended notice is not within the purview of subsection (r) of the Privacy Act, 5 U.S.C. 552a, which requires the submission of an altered system report.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 24, 1989.

AAFES0702.34

System name:

Individual Accounts Receivable Files (54 FR 14835, Apr 13, 1989).

Changes:

* * * * *

Authority for maintenance of the system:

Delete entire entry and substitute with "10 U.S.C. 3012 and 8012; Federal Claims Collection Act of 1966, 31 U.S.C. § 3711; Debt Collection Act of 1982 (Pub. L. 97–365); 31 U.S.C. 5512 through 5514; and E.O. 9397."

* * * * *

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Delete paragraph d. in its entirety. Change paragraph e. to d. Add the following element after paragraph d.:

"Disclosure to consumer reporting agencies:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) to collect dishonored check indebtedness."

* * * * *

AAFES0702.34

SYSTEM NAME:

Individual Accounts Receivable Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; Headquarters, AAFES Europe; and Headquarters, AAFES, Pacific. Official mailing addresses are published as an appendix to the Army's compilation of systems notices.

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AAFES customers (military, retirees, civilian, and civilian dependents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files relating to debts owed by individuals, including dishonored checks, deferred payment plans, home layaways, salary/travel advances, pecuniary liability claims and credit cards. These files include all correspondence to the debtor/his or her commander, notices from banks concerning indebtedness, originals or copies of returned checks, envelopes showing attempts to contact the debtor, payment documentation, pay adjustment authorizations, deferred payment plan applications, charges and statements or accounts, and home layaway cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012 and 8012; Federal Claims Collection Act of 1966, 31 U.S.C. 3711; Debt Collection Act of 1982 (Pub. L. 97–365); 31 U.S.C. 5512 through 5514; and E.O. 9397.

PURPOSE(S):

To process, monitor, and post audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto. To collect dishonored check indebtedness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the U.S. Department of Justice/U.S. Attorneys for legal action and/or final disposition of the debt claim.

To the Internal Revenue Service to obtain locator status for delinquent accounts receivables (controls exist to preclude redisclosure of solicited IRS address data; and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

To private collection agencies for collection action when the Army has exhausted its internal collection efforts.

To civil or criminal law enforcement agencies for law enforcement purposes.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Army's compilation of systems of records also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) to collect dishonored check indebtedness.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in individual file folders.

RETRIEVABILITY:

Retrieved by customer's surname or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only by authorized personnel within AAFES/CM–G.

RETENTION AND DISPOSAL:

Records are retained in current files until close of fiscal year in which the receivable is cleared, or if office space doesn't permit, at the end of the fiscal quarter in which receivable is cleared. At year end, files are stored for 10 years and subsequently forwarded to the Federal Records Center, Fort Worth, Texas for destruction.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, Dallas, TX 75222.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Chief, General Accounting Branch, Comptroller Division, Dallas, TX 75222 or telephone (214) 330–2631.

Individuals should provide full name, Social Security Number, or other acceptable identifying information that will facilitate locating the records.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Chief, General Accounting Branch, Comptroller Division, Dallas, TX 75222 or telephone (214) 330–2631.

Individuals should provide full name, Social Security Number, or other acceptable identifying information that will facilitate locating the records.

CONTESTING RECORD PROCEDURE:

The Department of the Army rules for accessing records and for contesting contents and appealing initial agency determinations are published in Department of the Army Regulation 430–21–8; 32 CFR Part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the customer and from correspondence between AAFES and Vendors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–25588 Filed 10–30–89; 8:45 am]

BILLING CODE 3810–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Clean Water Act Section 404 Permit for Construction of Hunter Lake Reservoir near Springfield, IL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: On July 28, 1989, an application for a permit under Section 404 of the Clean Water Act (33 CFR part 325) was submitted to the U.S. Army Corps of Engineers, Rock Island District (Corps) for construction of the Hunter Lake Reservoir near Springfield, Illinois. A DEIS will be prepared to address the effects of construction and operation of the project.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Charlene Carmack; 309/788–6361, Ext. 570. Written comments may be addressed to: District Engineer, U.S. Army Engineer District, Rock Island, ATTN: Planning Division, Clock Tower Building—P.O. Box 2004, Rock Island, Illinois 61204–2004.

SUPPLEMENTARY INFORMATION:

1. The proposed reservoir, presently known as Hunter Lake, would be constructed by building an earthfill dam across Horse Creek, approximately one mile downstream of the confluence of Horse and Brush Creeks. The lake would have a projected storage volume of 17.4 billion gallons with a surface area at normal lake elevation of 3,250 acres. Proposed development will include approximately 82 miles of shoreline and 4,450 acres of marginal property surrounding the area of inundation.

2. Alternatives, in addition to the No Action alternative, to be considered for meeting water supply needs include temporary or permanent diversions of water from the Sangamon River to supplement the City's present supply.

3. This notice solicits input and assistance from the interested public and invites participation by affected Federal and State agencies having special jurisdiction and/or expertise.

—Impacts to natural, social, economic, and cultural resources resulting from construction and operation of the project will be addressed and considered in determining whether it is in the public interest to grant or to deny the permit.

4. A scoping meeting is expected to be scheduled within the last quarter of calendar year 1989 to facilitate early input to the NEPA process and identify significant issues to be analyzed in depth in the EIS. The date, time and location of this meeting is yet to be determined.

5. It is anticipated that the DEIS will be made available to the public in the second quarter of calendar year 1991.

Dated: October 13, 1989.

John R. Brown,

Colonel, EN, Commanding.

[FR Doc. 89–25514 Filed 10–30–89; 8:45 am]

BILLING CODE 3710–HV–M

Department of the Navy

Privacy Act of 1974; Amended Record Systems

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amended systems of records subject to the Privacy Act.

SUMMARY: The Department of the Navy proposes to amend eight systems of records in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: This proposed action will be effective without further notice November 30, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), Room 5E521, Department of the Navy, The Pentagon, Washington, DC 20350–2000. Telephone (202) 697–1459, Autovon: 227–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices inventory subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

51 FR 12908 Apr 16, 1986
51 FR 18086 May 16, 1986 (Compilation, changes follow)
51 FR 19884 Jun 3, 1986
51 FR 30377 Aug 26, 1986
51 FR 30393 Aug 26, 1986
51 FR 45931 Dec 23, 1986
52 FR 2147 Jan 20, 1987
52 FR 2149 Jan 20, 1987
52 FR 8500 Mar 18, 1987
52 FR 15530 Apr 29, 1987
52 FR 22671 Jun 15, 1987
52 FR 45846 Dec 2, 1987
53 FR 17240 May 16, 1988
53 FR 21512 Jun 8, 1988
53 FR 22028 Jun 13, 1988
53 FR 25363 Jul 6, 1988
53 FR 39499 Oct 7, 1988
53 FR 41224 Oct 20, 1988
54 FR 8322 Feb 28, 1989
54 FR 14377 Apr 11, 1989
54 FR 32682 Aug 9, 1989
54 FR 40160 Sep 29, 1989
54 FR 41495 Oct 10, 1989

The specific changes to the record systems being amended are set forth below, followed by the system notices, as amended, published in their entirety. These notices are not within the purview of subsection (r) of the Privacy Act, 5 U.S.C. 552a, which requires the submission of altered systems reports.

October 24, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N10140–1

System name:

Ration Card, Luxury Permit Record Cards (51 FR 18207, May 16, 1986).

Changes:

System name:

Delete entire entry and substitute with "Ration Card Records".

System location:

Delete entire entry and substitute with "U.S. Navy Personnel Support Activity Detachments London, Holy Loch, Brawdy, Edzell and Thurso, United Kingdom."

* * * * *

Categories of records in the system:

In line one, delete the words "/Luxury Permits." In line five, delete the words "/Luxury Permit." In line seven, delete the words "Card/Luxury Permit" and replace with "Cards".

* * * * *

Purpose(s):

In line nine, delete the words "Card and Luxury Permits program" and replace with "Cards".

* * * * *

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In line one, delete the words "Card/Luxury Permit" and replace with "Cards".

* * * * *

Retention and disposal:

Delete the entry in its entirety and substitute with "All records maintained for duration of tour of personnel concerned and then destroyed."

* * * * *

N10140–1

SYSTEM NAME:

Ration Card Records.

SYSTEM LOCATION:

U.S. Navy Personnel Support Activity Detachments London, Holy Loch, Brawdy, Edzell, and Thurso, United Kingdom.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers, enlisted, and civilian component personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Ration Card holders are entered on 5" x 8" color coded cards, which are contained in boxes and maintained alphabetically. Ration Cards are registered in log, showing name of individual and number of Ration Cards issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To establish strict control over persons entitled to acquire tax-free ration items; to ensure entitled personnel do not obtain more than one ration card, and for inspection by officers of Her Majesty's Commissioners of Customs and Excise, United Kingdom, with whom the Ration Card program was originally negotiated by the U.S. military authorities. Accredited members of the Naval Investigative Service Office may have access, upon request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

BEST COPY AVAILABLE

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All Ration Cards are maintained on 5" x 8" cards filed and listed in numerical order in logs.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records held in file cabinets in space maintained by Enlisted Personnel Office during working hours and locked after working hours.

RETENTION AND DISPOSAL:

All records maintained for duration of tour of personnel concerned and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Naval Activities, United Kingdom, Box 60, FPO New York 09510–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should visit the U.S. Navy Personnel Support Activity Detachment where attached. Official addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

Personnel should be prepared to present a valid military identification card or Department of Defense identification card to view records pertaining to themselves.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should visit the U.S. Navy Personnel Support Activity where attached. Official addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Not applicable.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N10140–4

System name:

USAREUR/USAFE Ration Card (51 FR 18208, May 16, 1986).

Changes:

* * * * *

System location:

Delete entire entry and substitute with "U.S. Navy Personnel Support Activity Detachment, Thurso UK, FPO New York 09516–1100."

Categories of individuals covered by the system:

In lines three and four, delete the words "U.S. Radio Station, FPO New York 09516" and substitute with "U.S. Naval Communication Station, FPO New York 09516–3000."

Categories of records in the system:

In line two, delete the word "* * * and * * *" and the period and replace the period with a comma. Delete line three in its entirety and substitute with "* * * and marital status."

* * * * *

Safeguards:

Delete the entire entry and substitute with "Locked safe in PSD with a 24 hour security alarm."

* * * * *

System manager(s) and address:

Delete the entire entry and substitute with "Commanding Officer, U.S. Navy Personnel Support Activity, UK/NOREUR FPO New York 09553–2900 is the overall policy official with the Officer in Charge, U.S. Navy Personnel Support Activity Detachment, Thurso UK, FPO New York 09516–1100 as the subordinate holder."

* * * * *

N10140–4

SYSTEM NAME:

USAREUR/USAFE Ration Card.

SYSTEM LOCATION:

U.S. Navy Personnel Support Activity Detachment, Thurso, United Kingdom, FPO New York 09516–1100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USN personnel and their dependent wives and children over 18 years of age who are stationed at U.S. Naval Communication Station, FPO New York 09516–3000.

CATEGORIES OF RECORDS IN THE SYSTEM:

File sheet with member's name, rate, Social Security Number, organization assigned, and marital status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To record the individuals holding a ration card.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Locked safe in PSD with a 24 hour security alarm.

RETENTION AND DISPOSAL:

Records are maintained as long as member retains ration card. After transfer, records are burned.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer, U.S. Navy Personnel Support Activity, UK/NOREUR FPO New York 09553–2900 is the overall policy official with the Officer in Charge, U.S. Navy Personnel Activity Detachment, Thurso United Kingdom, FPO New York 09516–1100 as the subordinate holder.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Officer in Charge, U.S. Navy Personnel Support Activity Detachment, Thurso, United Kingdom, FPO New York 09516–2200. The request should include full name, address, and Social Security Number of the individual concerned and should be signed. Personal visitors must have valid military I.D. or, if no longer in the military, have other valid identification such as a driver's license.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Officer in Charge, U.S. Navy Personnel Support Activity Detachment, Thurso, United Kingdom, FPO New York 09516–1100.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Applicable U.S. Servicemen.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N10140–6

System name:

Gasoline Ration System (51 FR 18209, May 16, 1986).

Changes:

* * * * *

Purpose(s):

In lines one and two, delete the words "Transportation Officer" and replace with "custodian(s)".

* * * * *

Storage:

Delete entire entry and replace with "Index cards in a safe."

* * * * *

Safeguards:

In line three, delete the words "Transportation Officer" and replace with "custodian(s)".

Retention and disposal:

In line two, delete the words "or burning approximately * * *" In line three, place a "," after "transfer" and delete the words "of individual" and replace with "sale, death, or other changes in status."

* * * * *

N10140–6

SYSTEM NAME:

Gasoline Ration System.

SYSTEM LOCATION:

Officer in Charge, U.S. Naval Weapons Facility Detachment, FPO New York 09515–0052.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel stationed aboard Naval Weapons Facility Detachment Machrihanish who own private vehicles and wish to purchase Navy Exchange Gasoline.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record on each individual contains information on vehicle description; dates of vehicle insurance, inspection and tax; United Kingdom address of individual and amount of gasoline allowed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

Information is used by custodian(s) to allocate ration coupons to authorized personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index cards in a safe.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Locked in combination safe in an office which is locked when unmanned. Only custodian(s) know(s) combination to safe.

RETENTION AND DISPOSAL:

Records are destroyed by shredding one year after transfer, sale, death, or other changes in status.

SYSTEM MANAGER(S) AND ADDRESS:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515–0052.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515–0052. The request should contain full name and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515–0052.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information concerning vehicles, insurance, inspection and tax is copied from the appropriate document as provided by the individual. Other information is received from the individual directly.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12711–1

System name:

Labor Management Relations Records (51 FR 18216, May 16, 1986)

Changes:

* * * * *

System location:

Delete lines one through four and substitute with "Office of Civilian Personnel Management (OCPM) (Code 31), Department of the Navy and Designated Contractors; OCPM Regional Offices; * * *"

Categories of individuals covered by the system:

In line five, beginning with "; Navy" delete the entry in its entirety and substitute with "or who are involved in the filing of an Unfair Labor practice complaint which has been referred to the Federal Labor Relations Authority (FLRA) for resolution, or who are involved in a labor negotiations impasse which has been referred to the Federal Service Impasses Panel or an interest arbitrator for resolution, or who are involved in a negotiability dispute which has been referred to the FLRA for resolution; union officials and representatives (both Navy employees and non-employees) involved in the aforementioned processes and in national consultation; independent arbitrators involved in grievance and interest arbitrations concerning Navy activities."

Categories of records in the system:

In line six, beginning with the word "arbitration" delete entry in its entirety and substitute with "case. Field

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activities maintain manual rosters of local union officials and representatives. OCPM Headquarters maintains manual roster of addresses and files concerning national consultation with national/international unions regarding changes in Departmental-level civilian personnel policies. (2) ADP system maintains records by type of case and case number (not individual). Centrally maintained data base (access restricted to authorized users) contains all information pertaining to a specific case. Bargaining unit files contain information about each bargaining unit, including contact information on union local presidents."

* * * * *

Purpose(s):

In line four, beginning with the word "interpretation" delete entry in its entirety and substitute with "processing of unfair labor practice charges; adjudication of negotiability disputes, resolution of negotiations impasses; interpretation of 5 U.S.C. 7101–7135 through 3rd party case decisions; national consultation and other dealings with recognized unions."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

In paragraph three, delete lines two through four in their entirety and substitute with "* * * Administrative Law Judge, arbitrator, or other proper 3rd party for the purpose of conducting a hearing or inquiry in connection with an employee's grievance, unfair labor practice charge, impasse, negotiability appeal, or other labor relations dispute." Delete paragraph four in its entirety.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

At end of entry, add "ADP records are stored in a central, contractor maintained data base."

Retrievability:

At end of entry, add "ADP records are retrieved by case subject, activity, bargaining unit, servicing personnel office, command, or 3rd party docket number."

Safeguards:

In line one, delete the word "* * * manual * * *" and at the end of the entry add "Access to the ADP system is controlled through the use of multiple security passwords."

System manager(s) and address:

Delete the entire entry and substitute with "Office of Civilian Personnel Management (Code 31), 800 North Quincy Street, Arlington, VA 22203–1998."

* * * * *

N12711–1

SYSTEM NAME:

Labor Management Relations Records System.

SYSTEM LOCATION:

Office of Civilian Personnel Management (OCPM) (Code 31), Department of the Navy and Designated Contractors; OCPM Regional Offices; and Navy staff headquarters and field activities employing civilians. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy civilian employees paid from appropriated and non-appropriated funds, who are involved in a grievance which has been referred to an arbitrator for resolution, or who are involved in the filing of an Unfair Labor practice complaint which has been referred to the Federal Labor Relations Authority (FLRA) for resolution, or who are involved in a labor negotiations impasse which has been referred to the Federal Service Impasses Panel or an interest arbitrator for resolution, or who are involved in a negotiability dispute which has been referred to the FLRA for resolution; union officials and representatives (both Navy employees and non-employees) involved in the aforementioned processes and in national consultation; independent arbitrators involved in grievance and interest arbitrations concerning Navy activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are comprised of (1) Manual files maintained in paper folders, manually filed by type of case and case number (not individual). Folder contains all information pertaining to a specific case. Field activities maintain manual rosters of local union officials and representatives. OCPM Headquarters maintains manual roster of addresses and files concerning national consultation with national/international unions regarding changes in Departmental level civilian personnel policies. (2) ADP system maintains records by type of case and case number (not individual). Centrally maintained data base (access restricted to authorized users) contains all information pertaining to a specific case. Bargaining unit files contain information about each bargaining unit, including contact information on union local presidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7101–7135.

PURPOSE(S):

To manage the Labor-Management Relations Program, e.g., administration/implementation of arbitration awards; processing of unfair labor practice charges; adjudication of negotiability disputes, resolution of negotiations impasses; interpretation of 5 U.S.C. 7101–7135 through 3rd party case decisions; national consultation and other dealings with recognized unions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To representatives of the Office of Personnel Management on matters relating to the inspection, survey, audit, or evaluation of Navy Civilian Personnel Management Programs.

To the Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Navy's Labor Management Relations Program. To a duly appointed hearing examiner, Administrative Law Judge, arbitrator, or other proper 3rd party for the purpose of conducting a hearing or inquiry in connection with an employee's grievance, unfair labor practice charge, impasse, negotiability appeal, or other labor relations dispute.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records are stored in paper folders. ADP records are stored in a central, contractor maintained data base.

RETRIEVABILITY:

Manual records are retrieved by case subject, case number, and/or individual employee names. ADP records are retrieved by case subject, activity, bargaining unit, servicing personnel office, command, or 3rd party docket number.

SAFEGUARDS:

All files are accessible only to authorized personnel having a need to know. Access to the ADP system is controlled through the use of multiple security passwords.

RETENTION AND DISPOSAL:

Case files are permanently maintained. Union official rosters are normally destroyed after a new roster has been established.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Civilian Personnel Management (Code 31), 800 North Quincy Street, Arlington, VA 22203–1998.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Office of Civilian Personnel Management (Code 31), 800 North Quincy Street, Arlington, VA 22203–1998, their servicing personnel office, arbitrator's office, or Federal unions or local unions.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Office of Civilian Personnel Management (Code 31), 800 North Quincy Street, Arlington, VA 22203–1998, their servicing personnel office, arbitrator's office, or Federal unions or local unions.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Navy civilian personnel offices; arbitrator's offices; Federal unions and union locals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12930–2

System name:

Area Coordinator Information and Operation Files (51 FR 18219, May 16, 1986).

Changes:

* * * * *

System location:

Delete lines one through four, and substitute with "Office of Civilian Personnel Management (OCPM) and OCPM field offices,".

* * * * *

System manager(s) and address:

Delete line one and substitute with "Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998 * * * ".

* * * * *

N12930–2

SYSTEM NAME:

Area Coordinator Information and Operation Files.

SYSTEM LOCATION:

Office of Civilian Personnel Management (OCPM) and OCPM field offices, designated contractors, and Navy staff, headquarters, and field activities employing civilians. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees, paid from appropriated and non-appropriated funds, military personnel or private citizens affected by or involved in action of area coordination significance, and speakers, specialists and other interested participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

System is composed of, but not limited to, records compiled in accordance with regulations, correspondence regarding status of EEO investigations, index file of program administration and interested participants including ad hocs, summaries compiled for budget administration, biographies of speakers or of key officials obtained from individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To manage civilian personnel and special projects related to civilian employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To representatives of the Office of Personnel Management on matters relating to the inspection, survey, audit or evaluation of Navy civilian personnel management programs or personnel actions, or such other matters under the jurisdiction of the Office of Personnel Management.

To a duly appointed Hearing Examiner or Arbitrator (an employee of another Federal agency) for the purpose of conducting a hearing in connection with an employee's grievance.

To an arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper file folders, list finders, index cards, or logs or other indexing systems.

RETRIEVABILITY:

Records are retrieved by subject matter or by name.

SAFEGUARDS:

Records are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Records are retained for varying lengths of time as required by local regulations; some records may be maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998 and the heads of Navy Staff, Headquarters, and field activities employing civilians. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the servicing civilian personnel office where assigned or to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998. The request should contain full name, Social Security Number, and address. For personal visits, proof of identification will consist of a Department of Defense or Navy building pass or identification badge or driver's license or other types of identification

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bearing his/her signature or picture or by providing information which may be verified against the record.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the servicing civilian personnel office or to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR Part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Navy Civilian Personnel Offices and their representatives.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12950–3

System name:

Payroll and Employee Benefits Records (51 FR 18221, May 16, 1986).

Changes:

* * * * *

System location:

In lines two and three, delete the words "Fort Wadsworth" and substitute with "Naval Station New York Staten Island".

* * * * *

Authority for maintenance of the system:

Delete the words "and 10 U.S.C. 5031" and substitute with ", Departmental Regulations". At the end of the entry, add "and E.O. 9397."

* * * * *

System manager(s) and address:

In paragraph one, lines two and three, delete the words "Fort Wadsworth" and substitute with "Naval Station New York Staten Island". Delete paragraph two and substitute with "Record Holder-Manager, Risk Management and Workers Compensation Branch (TD2), Manager, Labor/Employee Relations and Employee Benefits Branch (IRD1), Comptroller Non-Appropriated Fund Division (CNAFD), Navy Resale and Services Support Office, Naval Station New York Staten Island, Staten Island, New York 10305–5097."

* * * * *

N12950–3

SYSTEM NAME:

Payroll and Employee Benefits Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Naval Station New York Staten Island, Staten Island, New York 10305–5097.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and former civilian employees with the Navy Resale and Services Support Office and Navy Exchanges located world-wide. (Payroll and benefits information) Civilian employees and former civilian employees of Coast Guard exchanges, clubs and messes and US Navy civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Distribution reports; tax reports; leave accrual reports; earnings records cards, payroll registers; insurance records and reports regarding property damage, personal injury or death, group life, disability, medical and retirement plan; payroll savings authorization; record of payroll savings; overtime authorization; Treasury Department tax withholding exemption certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397.

PURPOSE(S):

To calculate pay; prepare checks for distribution; prepare education registers; leave records; to submit federal and state tax reports; to record contributions to benefit plans; to process all insurance claims; to calculate retirement benefits upon request of employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the insurance carriers and the U.S. Department of Labor, Bureau of Employees Compensation.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include Magnetic tape files; card files; file folders; ledgers; and printed reports.

RETRIEVABILITY:

Name and/or Social Security Number; employee job number; employee payroll number.

SAFEGUARDS:

Locked file cabinets; safes; locked offices which are supervised by appropriate personnel, when open; security guards; supervised computer tape library which is accessible only through the computer center (entry to computer center is controlled by a combination lock known by authorized personnel only).

RETENTION AND DISPOSAL:

Permanent records—maintained for five years and then retired to the Director, National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, Naval Station New York Staten Island, Staten Island, NY 10305–5097.

Record Holder Manager, Risk Management and Workers Compensation Branch (TD2), Manager, Labor/Employee Relations and Employee Benefits Branch (IRD1), Comptroller Non-appropriated Fund Division (CNAFD), Navy Resale and Services Support Office, Naval Station New York Staten Island, Staten Island, NY 10305–5097.

Individual record holders within the central system may be contacted through the central system record holder.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Resale and Services Support Office, Naval Station New York Staten Island, Staten Island, NY 10305–5097.

In the initial inquiry the requester must provide full name, Social Security Number, activity where last employed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Resale and Services Support Office, Naval Station New York Staten Island, Staten Island, NY 10305–5097.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5C, 32 CFR part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The employee or former employee; payroll department; the employee's supervisor and the employee's physician or insurance carrier's physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12950–5

System name:

Navy Civilian Personnel Data System (NCPDS) (51 FR 18222, May 16, 1986).

Changes:

* * * * *

System location:

Delete lines one through six beginning with "Chief" and ending with "Divisions" and substitute with "Office of Civilian Personnel Management (OCPM) and its field offices".

* * * * *

Categories of records in the system:

In lines 33 and 34, delete the phrase "OP–14/NCPC" and substitute with "Office of Civilian Personnel Management (OCPM)".

* * * * *

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

In paragraph eight, line one, delete the words "complaints examiner" and substitute with "Administrative Judge".

* * * * *

System manager(s) and address:

Delete the entry in its entirety and substitute with "Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998 and the commanding officers of the employee's activity."

* * * * *

Record source categories:

In line four, delete the word "NCPC" and substitute with "OCPM".

* * * * *

N12950–5

SYSTEM NAME:

Navy Civilian Personnel Data System (NCPDS).

SYSTEM LOCATION:

Office of Civilian Personnel Management (OCPM) and its field offices; operating civilian personnel offices and Navy commands and management offices; and the Navy Regional Data Automation Center (NARDAC) and its designated contractors. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Included in this notice are those records duplicated for retrievability at a site closer to where the employee works (e.g., in an administrative office or a supervisor's work area).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Navy civilian employees paid from appropriated and non-appropriated funds and foreign national direct and indirect hire employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system is comprised of automated and non-automated records describing and identifying the employee (e.g., name, Social Security Account Number, sex, birth date, minority designator, citizenship, physical handicap code); the position occupied and the employee's qualifications; salary and salary basis or other compensation and allowances; employee's status in relation to the position occupied and the organization to which assigned; tickler dates for impending changes in status; education and training records; previous military status; functional code; previous employment record; performance appraisal and other data needed for screening and selection of an employee; referral records; professional licenses and publications; and reason for position change or other action affecting the employee and case files pertaining to EEO, MSPB, labor and employee relations, and incentive awards. The records are those found in the NCPDS subsystems: the Navy Automated Civilian Manpower Information System (NACMIS), the Training Information Management System (TIMS), the Personnel Automated Data System (PADS), the Computerized Employee Management Program Administration and Research (CEMPAR), Office of Civilian Personnel Management Customer Support Centers, the Executive Personnel Management Information System (EPMIS) and the NCPDS base level and Headquarters systems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 4118; E.O. 9397; 5 U.S.C. 2951; E.O. 10450; 42 U.S.C. 2000e, 5 U.S.C. 3135, 5 U.S.C. 4301, et seq., 5 U.S.C. 4501 et seq., 5 U.S.C. 4705 and subparts D, E, F, and G of title 5 U.S.C. and 29 CFR part 1613 et seq.

PURPOSE(S):

To manage and administer the Department's civilian personnel and civilian manpower planning programs and in the design, development, maintenance and operation of the automated system of records. Designated contractors of the Department of the Navy and Defense in the performance of their duties with respect to equipment and system design, development test, operation and maintenance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office.

To the Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of Executive Branch agencies.

To officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to the screening and selection of candidates for vacant positions.

To representatives of the United States Department of Labor on matters relating to the inspection, survey, audit or evaluation of the Navy's apprentice training programs or on other such matters under the jurisdiction of the Labor Department.

To representatives of the Veterans Administration on matters relating to the inspection, survey, audit or evaluation of the Navy's apprentice and on-the-job training program.

To contractors or their employees for the purpose of automated processing of data from employee personnel actions and training documents, or data collection forms and other documents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, punched cards, computer printouts, and microfiche.

RETRIEVABILITY:

Name, Social Security Account Number, and/or employee number.

SAFEGUARDS:

Buildings are protected by guards and locked after normal duty hours. Access to records is limited to those persons whose official duties require such access. Records are stored in locked cabinets or rooms. Computer systems are protected by software systems.

RETENTION AND DISPOSAL:

Records are maintained on a calendar year basis except where noted otherwise. Records are retained in active file until they are one year old and then retired to the Director, National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118. Records are destroyed when they are 75 years old. Exceptions are: Records on microfiche are destroyed when superseded or when no longer needed for reference. Records on the computer magnetic tapes are permanent. Manual records are maintained on a fiscal year basis and are retained for varying periods from one to five years.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998.

Record Holder: Commanding officers of the employee's activity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998.

In the initial inquiry the requester must provide full name, Social Security Number, activity where last employed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR part 701, or may be obtained from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy civilian employees paid from appropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

system of records should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998.

are available to Government agencies. These exemptions are used whenever the anticipated savings outweigh the administrative costs associated with processing required documentation.

To contractors or their employees for the purpose of automated processing of data from employee personnel actions and training documents, or data collection forms and other documents.

To a duly appointed hearing examiner or arbitrator in connection with an employee's grievance.

To an appointed Administrative Judge for the purpose of conducting a hearing in connection with an employee's formal Equal Employment Opportunity (EEO) complaint.

To officials and employees of schools and other institutions engaged to provide training.

To labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

To representatives of the Federal Labor Relations Authority.

To representatives of the Merit Systems Protection Board.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tape, disc, drum and punched cards and computer printouts. Manual records are stored in paper file folders.

RETRIEVABILITY:

Information is retrieved by Social Security Number or other similar substitute if there is no Social Security Number, position number, name, or by specific employee characteristics such as date of birth, grade, occupation, employing organization, tickler dates, academic specialty level.

SAFEGUARDS:

The computer facility and terminal are accessible only to authorized persons that have been properly screened, cleared and trained. Manual and automated records and computer printouts are available only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Input documents are destroyed after data are converted to magnetic medium. Information is stored in magnetic medium within the ADP system. Information recorded via magnetic medium will be retained permanently. For TIMS and the apprentice programs the computer magnetic tapes are permanent. Manual records are maintained on a fiscal year basis and are retained for varying periods from one to five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998 and the commanding officers of the employee's activity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998 or to the civilian personnel officer under his/her cognizance. The request should contain the individual's full name, Social Security Number and name of employing activity. Requesters may visit the civilian personnel office of the naval activity covered by the system to obtain information. In such case, proof of identity will consist of full name, Social Security Number and a third positive identification such as driver's license, Navy building pass or identification badge, birth certificate, Medicare card, etc. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998 or to the civilian personnel officer under his/her cognizance. The request should contain the individual's full name, Social Security Number and name of employing activity. Requesters may visit the civilian personnel office of the naval activity covered by the system to obtain information. In such case, proof of identity will consist of full name, Social Security Number and a third positive identification such as driver's license, Navy building pass or identification badge, birth certificate, Medicare card, etc. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Categories of sources of records in the system are: the civilian personnel office of the employing activity; the payroll office; OCPM headquarters; the security office of the employing activity; line managers, other designated officials and supervisors; the employee and persons named by the employee as references.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12950–6

System Name:

Computer Assisted Manpower Analyses System (CAMAS) (51 FR 18223, May 16, 1986)

Changes:

* * * * *

System location:

In line one, delete the words "Chief of Naval Operations (OP–14)," and substitute with "Office of Civilian Personnel Management,".

* * * * *

Authority for maintenance of the system:

In line one, delete the word "Title". At the end of the entry, add "and E.O. 9397."

* * * * *

System manager(s) and address:

Delete the entire entry and substitute with "Director, Office of Civilian Personnel Management, 800 N. Quincy St., Arlington, VA 22203–1998".

* * * * *

N12950–6

SYSTEM NAME:

Computer Assisted Manpower Analyses System (CAMAS).

SYSTEM LOCATION:

Office of Civilian Personnel Management, and Navy Department Staff, headquarters, and field activities employing civilians. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy civilian employees paid from appropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain records from the Personnel Automated Data System (PADS) which contain job related data including individual identification, location information, and salary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397.

PURPOSE(S):

To aggregate manpower planning, including calculating transition rates, forecasting number of retirements, and running models to determine the extent to which projected manpower requirements can be met.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tape and disc.

RETRIEVABILITY:

Retrieved by Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Civilian Personnel Management, Department of the Navy, 800 North Quincy Street, Arlington, VA 22203–1998.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998. The request for information must contain full name of the individual, current address and telephone number, and birth date and Social Security Number.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Office of Civilian Personnel Management, 800 North Quincy Street, Arlington, VA 22203–1998.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Personnel Automated Data System (PADS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–25589 Filed 10–30–89; 8:45 am]

BILLING CODE 3810–01

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection, Customs and Duties.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Jeritta Parnell, Office of Federal Acquisition Policy, GSA (202) 523–6982.

SUPPLEMENTARY INFORMATION:

a. Purpose

United States laws impose duties on foreign supplies imported into the customs territory of the United States. Certain exemptions from these duties are available to Government agencies. These exemptions are used whenever the anticipated savings outweigh the administrative costs associated with processing required documentation. When a Government contractor purchases foreign supplies it must notify the contracting officer to determine whether the supplies should be duty-free. In addition, all shipping documents and containers must specify certain information to assure the duty-free entry of the supplies.

The contracting officer analyzes the information submitted by the contractor to determine whether or not supplies should enter the country duty-free. The information, the contracting officer's determination, and the U.S. Customs forms are placed in the contract file.

b. Annual Reporting Burden

This is estimated as follows: Respondents, 10; total annual responses, 13,300; hours per response, .5; responses, total burden hours, 6,650.

Obtaining Copies of Proposals: Requester may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0022, Customs and Duties.

Dated: October 23, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–25517 Filed 10–30–89; 8:45 am]

BILLING CODE 6820–JC–M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection, Customs and Duties.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Jeritta Parnell, Office of Federal Acquisition Policy, GSA, (202) 523–8982.

SUPPLEMENTARY INFORMATION:

a. Purpose

Under the Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers over a certain dollar limitation not supply an eligible product without regard to the restrictions of the Buy American Act or the Balance of Payments program. Offerors identify excluded end products on this certificate.

The contracting officer uses the information to identify the offered items which are domestic end products. Items having components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a designated country of the Act.

b. Annual Reporting Burden

This is estimated as follows: Respondents, 10; total annual responses, 11,400; hours per response, .167; responses, total burden hours, 1,904.

Obtaining Copies of Proposals: Requester may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0025, the Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate.

Dated: October 23, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–25518 Filed 10–30–89; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF EDUCATION

[CFDA 84.026]

Educational Media Research, Production, Distribution, and Training Program; Correction

AGENCY: Department of Education.

ACTION: Final priority; correction.

SUMMARY: On September 14, 1989, final funding priorities for certain new Direct Grant awards for FY 1990 were published at 54 FR 38160. The notice contained a final priority for Closed-Captioned Children's Program under the Educational Media Research, Production, Distribution, and Training Program, at 54 FR 38164.

The priority is corrected as follows:

On page 38164, in the second column, the fifth line is corrected to read "closed-captioned network, syndicated and public".

FOR FURTHER INFORMATION CONTACT: Joseph Clair, Office of Special Education and Rehabilitative Services, Division of Educational Services, 400 Maryland Avenue, SW., Room 4622, Switzer Building, Washington, DC 20202 Telephone: (202) 732–4503.

Authority: 20 U.S.C. 1451, 1452.

Dated: October 25, 1989.

Robert Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 89–25539 Filed 10–31–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Solicitation for Grant Application

AGENCY: U.S. Department of Energy.

ACTION: Solicitation for grant application.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rule, 10 CFR 600.9, announces the availability of a solicitation for grant application No. DE–90CH15997 under the States' Initiative Subprogram of the Energy-Related Invention Program (ERIP).

FOR FURTHER INFORMATION CONTACT: Ms. Mary Lou Zambrano, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, (312) 972–2077.

SUPPLEMENTARY INFORMATION: The objective of this solicitation is to identify and provide support for up to ten innovative projects to be conducted by nonfederal entities in the field of providing support to independent inventors.

ERIP was established in 1974 under the authority of the Federal Non-Nuclear Energy Research and Development Act of 1974 to assist independent and small company inventors. The principal means through which the program has worked with inventors is a program offering technical evaluation of inventions by the National Institute of Standards and Technology (NIST), formerly the National Bureau of Standards (NBS), and the prospect of financial support (grants) form DOE for those inventions identified by NIST as "promising" in terms of technical feasibility, commercial viability and energy impact potential.

Establishement of the States' Initiatives Program in 1986 was prompted by the recognition that the needs of independent and small company inventors were being addressed by numerous programs at the non-federal level. The proliferation of programs during the middle of the decade indicated widespread interest at the state and local level in helping inventors and technology based small businesses succeed. Since that time, program staff have been involved in identifying and characterizing various assistance programs that can be useful to inventors.

This solicitation represents a new effort of the States' Initiatives Program to provide assistance to groups (inventor support groups) which work with independent and small company inventors in the area of invention development and commercialization assistance or otherwise promote the interests of inventors. This solicitation invites proposals for grants to support new initiatives by inventor support groups; it is not intended to offset the cost of established day-to-day operations of existing programs. The grants will be awarded to inventor support groups proposing new, innovative projects aimed at improving assistance to inventors. The grants will be for projects of up to one year in length. Examples of such projects would include experimental inventor-resource matching systems, development of educational materials pertaining to the invention commercialization process or projects which will enhance the standing of inventors as a group.

Project applications must identify a complete project and the availability of resources required to complete it in order to receive consideration. Funding will not be awarded to start a project that will rely upon as yet unidentified resources for completion. Special consideration will be given for projects that are transferable to other inventor support groups for their educational benefit or duplication by them. A final report on the results of each project will be required. Project results will be published in the Inventor Assistance Newsletter published by Argone National Laboratory.

Total funding for this solicitation is $200,000.00 to fund up to ten grants. No grant under this solicitation will exceed $20,000.00. The solicitation is expected to be issued on or about November 6, 1989 with applications due on or about December 8, 1989. If you are interested in receiving the solicitation, send your written request to Mary Lou Zambrano, Team Secretary at the above address.

All responsible sources may submit an application, which will be considered.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 89–25616 Filed 10–30–89; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on Nuclear Facility Safety; Open and Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date & Time:
Monday, November 13, 1989, 8:00 a.m. to 10:00 p.m.
Tuesday, November 14, 1989, 1:00 p.m. to 5:00 p.m.

Place: Harvey Hotel, 3100 I–40 West, Amarillo, Texas 79102.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/586–1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

November 13, 1989
8:00 a.m. Chairman John F. Ahearne Opens Meeting, Waste Isolation Pilot Plant Report, Committee Business, Review of Issues at Pantex.
Noon. Lunch.
1:00 p.m. Review of Issues at Pantex, Subcommittee Reports, Committee Business.
5:00 p.m. Meeting Adjourned until 8:00 p.m.
8:00 p.m. to 10:00 p.m. Public Comment Session.

November 14, 1989
1:00 p.m. to 5:00 p.m. Closed Meeting.

Public Participation: The meeting on November 13 is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements at the public comment session on November 13 should contact Wallace R. Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Closed Meeting: Pursuant to section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (U.S.C. App. II (1982)), part of these advisory committee meetings concerns matters listed in 5 U.S.C. 552b(c)(1). Accordingly on November 14, 1989, from approximately 1:00 p.m. until 5:00 p.m., the meeting will be closed to the public.

Transcripts: The transcript of the open meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 25, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89–25619 Filed 10–30–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP90–15–000]

Equitrans, Inc. v. Texas Eastern Transmission Corp.; Complaint and Request for Stay

October 24, 1989.

Take notice that on October 20, 1989, pursuant to Section 5 of the Natural Gas Act, 15 USCA § 717d, Section 10(d) of the Administrative Procedure Act, 5 USCA § 705, and Rules 206 and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 and 385.212, Equitrans, Inc. (Equitrans) filed an emergency complaint against Texas Eastern Transmission Corporation (Texas Eastern) and requests an immediate stay of the Commission's authorization for Texas Eastern to implement a Gas Supply Inventory Reservation Charge (GIC) pending action on the complaint.

Equitrans alleges it has been unable to secure, to the extent requested, the FT-1 firm receipt and delivery points upon which to secure transportation of third party supplies. As a result, Equitrans alleges it is unable to convert the full portion of sales entitlements to transportation entitlements it requested in order to avoid the GIC payments to Texas Eastern.

Equitrans contends that in order to obtain priority to firm receipt and delivery points for FT-1 service, Texas Eastern's sales customers were required to submit nominations for those points by October 1, 1989. Equitrans contends that it fully complied with Texas Eastern's tariff requirements by requesting firm FT-1 conversions of 60,000 dekatherms (dth) per day by letter dated September 25, 1989 and amended on September 29, 1989. However, even though the conversion option was intended to permit up to 100 percent abandonment of the sales service at the sole discretion of the sales customer, Equitrans alleges that it was denied its request for even the 60,000 dth conversion it requested. Equitrans asserts that Texas Eastern informed Equitrans by letter on October 9, 1989, that it would permit only 20,000 dth of firm transportation and that if it still desired FT-1 conversion of the remaining 40,000 dth, it must request alternative firm receipt and delivery points by noon on October 11, 1989, less than 48 hours after the letter was received. Equitrans contends this was insufficient time to arrange for new gas purchase agreements with third parties. In addition, according to Equitrans, it and the other customers were required to execute new ten-year service agreements which provide for, *inter alia*, full or partial conversions from firm sales to firm transportation, by October 16, 1989. Equitrans asserts that it had no meaningful choice but to execute a service agreement providing for only 20,000 dth of firm transportation under Rate Schedule FT-1, and make no change with respect to its remaining sales entitlements.

Equitrans requests that the Commission:

(1) Investigate the policy of Texas Eastern with respect to handling requests for firm transportation receipt and delivery points for FT-1 and standby service customers;

(2) Assure that Texas Eastern give a higher priority to requests for firm receipt and delivery points by customers opting for FT-1 conversions than for standby service;

(3) Direct Texas Eastern to incorporate its policy on allocating FT-1 capacity in its FERC Gas Tariff;

(4) Provide for an iterative process to take place under which a series of requests for firm receipt and delivery points would be made by customers

converting to firm transportation from firm sales service in whole or in part until such time as all requests for firm points have been satisfied at mutually

Waechter, Poitevent, Carrere & Denegre, Suite 1700, One American Plaza, Baton Rouge, Louisiana 70825 on behalf of Walker Resources, Inc. (Applicant)

abandonment previously issued by the Commission in Docket No. CI89–348–000 to the extent necessary to authorize the sale for resale of gas purchased by

unnecessary for Natgas to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Northwest Alaskan Pipeline Co., Docket No. CP78–123–038
Northwest Alaskan Pipeline Co., Docket No. RP90–16–000
Northern Border Pipeline Co., Docket No.

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural

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converting to firm transportation from firm sales service in whole or in part until such time as all requests for firm points have been satisfied at mutually agreeable points;

(5) Nullify new ten-year service agreements between Texas Eastern and its customers executed on or about October 16, 1989, and permit new agreements to be executed after the new rounds of requests for firm receipt and delivery points have been concluded;

(6) Determine whether denials of requests for firm receipt and delivery points that were made by Texas Eastern in order to reserve the locations where the lowest cost supplies are available for Texas Eastern's system supply; and

(7) Stay the authorization for Texas Eastern to commence billing its sales customers a GIC for purchase deficiencies until after the firm transportation conversions and new service agreements requested above have been completed and executed, respectively.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before November 7, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before November 7, 1989.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25524 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CF88-72-003]

Gulf Coast Engineering Management, Inc., and Boyce Machinery Corp. (Walker-Roemer Facility; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 24, 1989.

On October 17, 1989, Gulf Coast Engineering Management, Inc., 6 Richmond Place, New Orleans, Louisiana 70115 and Boyce Machinery Corporation, c/o Jones, Walker, Waechter, Poitevent, Carrere & Denegre, Suite 1700, One American Plaza, Baton Rouge, Louisiana 70825 on behalf of Walker Resources, Inc. (Applicant) submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located at 2800 Richland Street, Metairie, Louisiana. The facility will consist of an internal combustion engine-generator and a heat recovery boiler. The thermal energy recovered from the facility will be used in pasteurizing and processing milk and milk products, and for space heating and cooling. The net electric power production capacity will be 481 kW. Primary source of energy will be natural gas.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25523 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI89-348-001]

Natgas U.S. Inc.; Application To Amend a Blanket Certificate With Pregranted Abandonment

October 24, 1989.

Take notice that on October 23, 1989, Natgas U.S. INC. (Natgas) of 500, 707 Eighth Avenue, SW., Calgary, Alberta, Canada, T2P 3V3, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder and Section 9 of the Alaska Natural Gas Transportation Act of 1976 to amend its blanket certificate with pregranted abandonment previously issued by the Commission in Docket No. CI89-348-000 to the extent necessary to authorize the sale for resale of gas purchased by Natgas from Northwest Alaskan Pipeline Company (Northwest Alaskan) as part of the Alaska Natural Gas Transportation System (ANGTS) prebuild project. Natgas also request that the Commission amend the blanket certificates of marketers which purchase gas from Natgas to provide such marketers with blanket authorization to sell such gas for resale. In addition, Natgas requests that it be authorized to resell prebuild gas which it purchases from Northwest Alaskan at the contract rates which it negotiates at arm's length with its customers and that similar authority be granted to certificated marketers who purchase such gas from Natgas for resale. Finally, Natgas requests that the Commission find that Commission actions granting the approvals requested are "necessary or related to the construction and initial operation of the * * * [ANGTS]" and grant any waivers or relief as may be necessary to implement the proposal set forth herein. The application is on file with the Commission and open for public inspection.

According to Natgas, the authorization requested is an integral part of a comprehensive settlement agreed to by Pan-Alberta Gas Ltd. and United Gas Pipe Line Company (United) on June 5, 1989, in order to resolve all ongoing disputes pertaining to United's obligation to the ANGTS prebuild project and to release United permanently from all such obligations.

It appears reasonable and consistent with the public interest in this case to prescribe a period of 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Natgas to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25525 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-93-000]

Natgas U.S. Inc.; Application

October 24, 1989.

Take notice that on October 23, 1989, Natgas U.S. Inc. (Natgas), 500, 707 Eighth Avenue, SW., Calgary, Alberta, Canada, T2P 3V3, filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act, section 9 of the Alaska Natural Gas Transportation Act (ANGTA) and part 157 of the Commission's Regulations for the expedited issuance of a certificate of public convenience and necessity.

By such application, Natgas seeks:

(1) Authorization to sell up to 100,000 Mcf of natural gas per day to Northern Natural Gas Company for resale in interstate commerce;

(2) A finding that such an authorization is necessary or related to the construction and initial operation of the Alaskan Natural Gas Transportation System (ANGTS);

(3) Confirmation that the sale by Natgas to Northern is exempt from Order No. 380 concerning minimum bills, as codified in Section 154.111 of the Commission's Regulations;

(4) Confirmation that Northern may flow through, on an "as-billed" basis, all demand charges paid to Natgas, as an exception to policy established in Opinion No. 256; and,

(5) Waiver of certain tariff and rate regulations so that Natgas' tariff may be in the form of its agreement with Northern and that such tariff may become effective on a specifically defined date in the *pro forma* tariff.

Natgas' proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Natgas states that it is a wholly-owned subsidiary of Pan-Alberta Resources, Inc., an affiliate of Pan-Alberta Gas, Ltd. (Pan-Alberta). All of these companies are engaged in various phases of natural gas marketing in both Canada and the United States.

Natgas states that this application is one of several being filed as the result of complex, interrelated agreements reached between the parties with respect to the purchase, sale and transportation of Canadian gas on the pre-build Eastern Leg of the ANGTS. This group of applications includes:

Northwest Alaskan Pipeline Co., Docket No. CP78-123-028

Northwest Alaskan Pipeline Co., Docket No. RP90-16-000

Northern Border Pipeline Co., Docket No. CP78-124-013

Natgas (U.S.) Inc., Docket No. CI89-348-001

United Gas Pipe Line Co., Docket No. CP79-400-004

Northern Natural Gas Co., Natgas (U.S.) Inc., Docket No. CP79-395-007

Natgas states that Pan-Alberta is the export/supplier of 800,000 Mcf per day of natural gas to Northwest Alaskan Pipeline Company (Northwest Alaskan), which sells the gas for resale in interstate commerce to three interstate pipelines. The gas is transported by Northern Border Pipeline Company as part of the pre-build project of the Eastern Leg of the ANGTS. Natgas further states that one on those interstate pipeline repurchasers, United Gas Pipe Line Company, (United) is assigning its rights and obligation to purchase and ship up to 450,000 Mcf per day to Natgas. Natgas states that it will seek to market these supplies of natural gas, which it will now purchase from its affiliate, Pan-Alberta.

Natgas states that this application requests certification of a specific long-term sale for resale in interstae commerce of up to 100,000 Mcf per day of those supplies to Northern pursuant to a Gas Purchase Agreement dated October 16, 1989, between Natgas and Northern. Natgas states that under the Agreement, Northern will have the obligation to purchase a minimum of 20% of the contract quantity on a daily basis and a minimum of 60% of the contract quantity on an annual average basis. The term of the Agreement is through October 31, 2001.

Natgas states that the price of the gas will be based on a multi-part rate which includes a demand charge, Tier I, Tier II and best-efforts commodity charges. The demand charges is equal to 50% of the current demand charge, Northern currently pays to Northwest Alaskan, plus 100/450 th's of Natgas' share of Northern Border's demand charges. The demand charge is limited by a cap through October 31, 1991. The Tier I commodity charge is equal to Northern's then effective weighted average cost of domestic gas and the Tier II and best-efforts commodity charges will be determined on the basis of market factors.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Natgas to appear or be represented at the hearing.

Lois D.Cashell,

Secretary.

[FR Doc. 89-25526 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL89-55-000]

New England Power Co.; Filing

October 24, 1989.

Take notice that on September 28, 1989, New England Power Company (NEP) filed a Petition for Waiver of Fuel Clause Regulations. NEP requests waiver of the Commission's fuel clause regulations in order to allow flow-through to customers of certain contract termination costs related to uranium supply and enrichment services billed to NEP pursuant to its power contracts with Yankee Atomic Electric Company, Maine Yankee Nuclear Corporation, and Vermont Yankee Nuclear Power Corporation. According to the Company, the benefits of these transactions have

already been passed on to customers as lower fuel expense.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 7, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25527 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-124-013]

Northern Border Pipeline Co.; Petition To Amend

October 24, 1989.

Take notice that on October 23, 1989, Northern Border Pipeline Company (Northern Border), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP78-124-013, an application pursuant to Sections 7 (b) and (c) of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act (ANGTA) for amendment of its certificate authorization.

By such application Northern Border seeks: (1) Approval to abandon the transportation of natural gas for United Gas Pipe Company (United); (2) A certificate of public convenience and necessity authorizing the firm transportation of natural gas for Natgas U.S. Inc. (Natgas) through October 31, 2001; and, (3) Pre-granted approval to abandon service to Natgas under certain conditions.

Northern Border's proposals are fully set forth in the application which is on file with the Commission and open to public inspection.

Northern Border indicates that the application is one of several being filed as the result of complex, interrelated agreements reached between the parties with respect to the purchase, sale and transportation of Canadian gas on the pre-built Eastern Leg of the ANGTS. This group of applications includes:

Northwest Alaskan Pipeline Co., Docket No. CP78-123-028;
Northwest Alaskan Pipeline Co., Docket No. RP90-16-000;
Natgas (U.S.) Inc, Docket No. CP90-93-000;
Natgas (U.S. Inc., Docket No. CI89-348-001;
United Gas Pipe Line Co., Docket No. CP79-400-004;
Northern Natural Gas Co., Natgas (U.S.) Inc., Docket No. CP79-396-007.

By this application Northern Border proposes to abandon the firm transportation of 450,000 Mcf per day of natural gas for United. Northern Border receives the natural gas volumes for United's account at a point of interconnection between the facilities of Foothills Pipe lines (Sask.) Ltd. and Northern Border on the international boundary near Port of Morgan, Montana, (Monchy, Saskatchewan). Northern Border transports and redelivers such volumes at existing points of interconnection between the facilities of Northern Natural Gas Company, (Northern) and Northern Border near Aberdeen, South Dakota, Welcome, Minnesota and Ventura, Iowa.

Northern Border states that United purchases the natural gas volumes transported by Northern Border from Northwest Alaskan Pipeline Company (Northwest Alaskan) which in turn purchases them from Pan-Alberta Gas Ltd. (Pan-Alberta).

Northern Border further states that United and Pan-Alberta have entered into a Memorandum of Understanding, dated June 5, 1989 which provides that Pan-Alberta's designee, Natgas U.S. Inc., (Natgas), will assume United's natural gas purchase rights and obligations with Northwest Alaskan and United's natural gas transportation rights and obligations with Northern Border.

Thus, Northern Border now proposes to transport on a firm basis up to 450,000 Mcf per day of natural gas for Natgas from Monchy to Aberdeen, Welcome and Ventura. Northern Border states that Natgas is a natural gas marketer in the United States and is an affiliate of Pan-Alberta. Northern Border states that Natgas and Northern Border have entered into a "U.S. Shippers Service Agreement", dated October 6, 1989, which makes special provision for an alternative credit support arrangement between Natgas and Northern Border.

Northern Border also seeks pre-granted approval for abandonment of the transportation service for Natgas in the event of nonpayment by Natgas. Northern Border states that it will terminate service to Natgas if Natgas fails to make timely payment to Northern Border, fails to maintain a letter of credit or fails to adhere to the specific provision of the alternative credit support arrangement. Northern Border states that its application is being filed under the ANGTA and that ANGTA furnishes an independent and unique basis for approval of the pre-granted abandonment..

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25528 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-16-000]

Northern Alaskan Pipeline Co.; Tariff Changes

October 24, 1989.

Take notice that on October 23, 1989, Northwest Alaskan Pipeline Company ("Northwest Alaskan") tendered for filing in Docket No. RP90-16-000 the following revisions to its FERC Gas Tariff, Original Volume No. 2.

Rate Schedule and Tariff Sheet Number
X-1
Fourth Revised Sheet No. 100;
Fourth Revised Sheet No. 101;
Second Revised Sheet No. 106;
Third Revised Sheet No. 109;
Fourth Revised Sheet No. 123;
Fifth Revised Sheet No. 150;
Second Revised Sheet No. 157;
Second Revised Sheet No. 157A;
Third Revised Sheet No. 158;
Fourth Revised Sheet No. 186A;
X-3
Third Revised Sheet No. 300;
Third Revised Sheet No. 301;
Original Sheet Nos. 321A-321I;
Third Revised Sheet No. 322;
Second Revised Sheet No. 350;
Second Revised Sheet No. 386A;
Original Sheet Nos. 386B-386G.

Northwest Alaskan states that the proposed tariff revisions implement, in part, a transaction contemplated in principle by the Memorandum of Understanding between Northwest Alaskan's supplier, Pan-Alberta Gas, Ltd. ("Pan-Alberta") and its purchaser, United Gas Pipe Line Company ("United"). The proposed tariff revisions provide, in summary, for an assignment at Pan-Alberta's request of the Gas Purchase Agreement between Northwest Alaskan and United (the "United Agreement") from United to Natgas U.S. Inc. ("Natgas"), a redetermination of the price to be paid by Natgas under the United Agreement, an increase of the minimum daily volume of gas to be purchased by Northern National Gas Company, Division of Enron Corp. ("Northern"), from Northwest Alaskan, and the elimination of Northern's option to increase its average daily volume of gas purchased from Northwest Alaskan.

These tariff revisions would not become effective unless a notice is filed with the commission by Northwest Alaskan within thirty days of filing the Petition and would not become effective until the time specified in that notice.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before November 3, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25529 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-123-028]

Northwest Alaskan Pipeline Co.; Petition To Amend

October 24, 1989.

Take notice that on October 23, 1989, Northwest Alaskan Pipeline Company (Northwest Alaskan), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP78-123-028, an application pursuant to Section 7 of the Natural Gas Act and Section 9 of the Alaskan Natural Gas Transporation Act (ANGTA). Northwest Alaskan states that its application is necessary or related to the construction and initial operation of the Alaskan Natural Gas Transportation System (ANGTS).

By such application Northwest Alaskan seeks to: (1) Abandon its sale to United Gas Pipe Line Company (United) of an average daily volume of 450,000 Mcf of Canadian natural gas transported through the Eastern Leg of the ANGTS; (2) Amend its current certificate of public convenience and necessity to authorize the sale for resale of an annual average daily volume of 450,000 Mcf to Natgas U.S. Inc. (Natgas), as a replacement for United; and (3) Amend its current certificate of public convenience and necessity to extend the authorization for sale for resale through October 31, 2001 of a maximum daily volume of up to 880,000 Mcf per day, plus two percent tolerance, not to exceed on an annual basis, a daily average of 800,000 Mcf.

Northwest Alaskan's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest Alaskan indicates that the application is one of several being filed as the result of complex, interrelated agreements reached between the parties with respect to the purchase, sale and transportation of Canadian gas on the pre-build Eastern Leg of the ANGTS. This group of applications includes:

Northwest Alaskan Pipeline Co., Docket No. RP90-16-000;
Northern Border Pipeline Co., Docket No. CP78-124-013;
Natgas (U.S.) Inc., Docket No. CP90-93-000;
Natgas (U.S.) Inc., Docket No. CI89-348-001;
United Gas Pipe Line Co., Docket No. CP79-400-004;
Northern Natural Gas Co., Natgas (U.S.) Inc., Docket No. CP79-396-007.

Northwest Alaskan states that the overall transaction proposed by this group of applications is subject to a final Closing Agreement which will have terms addressing and resolving all issues relating to the potential bankruptcy of a party and any potential losses or liabilities that result. Northwest Alaskan further states that if it has not filed a notice with the Commission within thirty days of this application, the application will be deemed automatically withdrawn.

Northwest Alaskan states that upon the recommendation of the United States Government it initiated the pre-build projects of the Eastern and Western Legs of the ANGTS. With respect to the Eastern Leg, Northwest Alaskan states that it entered into a contract, dated March 9, 1978, with Pan-Alberta Gas, Ltd. for the purchase of 800,000 Mcf per day of natural gas which was to be imported by Northwest Alaskan and resold to three interstate natural gas pipelines. Of that volume, United was to have purchased 450,000 Mcf per day, Northern Natural Gas Company (Northern)—200,000 Mcf per day, and Panhandle Eastern Pipe Line Company (Panhandle)—150,000 per day.

Northwest Alaskan states that the sale to United has been amended several times, most recently by the Commission in Docket No. RP87-34-000 and 001 on June 16, 1987. This amendment approved a two-year settlement of take-or-pay and *force majeure*, disputes between United and Northwest Alaskan. The settlement was later extended through October 31, 1988. Northwest Alaskan states that upon further negotiations, United has agreed to assign its Northwest Alaskan natural gas purchase rights and obligations to Pan-Alberta's designee, now Natgas. Northwest Alaskan states that Natgas is a natural gas marketer in the United States and is an affiliate of Pan-Alberta.

Thus, by this application, Northwest Alaskan seeks approval of the abandonment the sale to United of 450,000 Mcf per day and re-certification of the sale of that volume to Natgas.

Northwest Alaskan also seeks approval of an amendment of its certificate to extend the term of its sales to Natgas, Northern, and Panhandle through October 31, 2001. Northwest Alaskan further specifically requests that it be authorized to make sales for resale in interstate commerce of a maximum of 880,000 Mcf per day, plus a two percent tolerance, not to exceed on an annual average daily basis 800,000 Mcf per day.

Finally, Northwest Alaskan states that it cannot and will not accept an order which does not provide that each component of the order becomes effective simultaneously, and which does not allow for a prospective period in which it can review the contents of the order. Northwest Alaskan also wants the order to be effective only after the date it specifies in its further notice to the Commission. Northwest Alaskan further seeks waiver of § 157.20(a) which would otherwise require it to accept a certificate within thirty days of issuance.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1989, file with the Federal Energy Regulatory Commission,

Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25530 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-34-009]

Northwest Alaskan Pipeline Co.; Extension of Tariff Provisions

October 25, 1989.

Take notice that on October 24, 1989, Northwest Alaskan Pipeline Company ("Northwest Alaskan") tendered for filing in Docket No. RP87-34-009 the following tariff sheets:

Rate Schedule and Tariff Sheets Number X-3

Original Sheet No. 308BBB.2;
Original Sheet No. 308FFF.2;
Original Sheet No. 358VV.2;
Original Sheet No. 358AAA.2

Northwest Alaskan proposed that these tariff sheets be effective on November 1, 1989.

Northwest Alaskan states that these tariff sheets would continue in effect certain aspects of the current interim agreement among Northwest Alaskan, United Gas Pipe Line Company ("United") and Pan-Alberta Gas Ltd. ("Pan-Alberta"), which would otherwise expire on October 31, 1989, from November 1, 1989 through December 31, 1989 (the "Extended Interim Period'). The current interim agreement (the "Interim Agreement") consists of the Tenth Amendment to the Gas Purchase Agreement between United and Northwest Alaskan, the Twentieth Amending Contract to the Gas Sales Contract between Northwest Alaskan and Pan-Alberta and the Marketing and Transportation Agreement between United and Pan-Alberta, which are contained in Northwest Alaskan's FERC Gas Tariff Original Volume No. 2, Rate Schedule X-3 at tariff sheets numbered 30800 through 308FFF and 358HH through 358AAA.

Northwest Alaskan states that the provisions of the Interim Agreement to be extended for the Extended Interim Period are paragraphs 5(b), 7, 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(h), 7(i), 8, 9, 9(b), 11, 12, 13, 14, 17 and 18 of the Tenth Amendment and the Twentieth Amending Contact and paragraphs 3(a), 3(b), (5(a), 5(b), 6, 7, and 8 of the Marketing and Transportation Agreement.

Northwest Alaskan states that United and Pan-Alberta have entered into a Memorandum of Understanding dated June 5, 1989 which sets forth among other things, the basic principles upon which definitive agreements shall be reached with respect to the purchase, sale and transportation of Canadian gas subsequent to the expiration of the Interim Agreement. The purpose of the requested extension is to preserve that status quo and to grant the parties an opportunity to finalize and obtain necessary approvals of those definitive agreements.

Northwest Alaskan has requested that the Commission approve the requested extension of the Interim Agreement provisions of Northwest Alaskan's tariff to be effective on November 1, 1989 and find that the extension is in the public interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25531 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP87-103-000 and RP88-262-000, et al. (Not Consolidated)].

Panhandle Eastern Pipe Line Co.; Change of Date of Informal Settlement Conference

(October 24, 1989).

By notice issued on October 18, 1989, an informal settlement conference was scheduled to convened in the above-proceedings on Friday, November 3, 1989, at 9:30 a.m. in a hearing room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, 20426. The settlement conference will be convened on November 2, 1989, at 2 p.m. instead of November 3, 1989 at 9:30 a.m. and, if necessary, the settlement conference will continue through November 3, 1989.

Any party, as defined by 18 CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact John J. Keating, (202) 357-5762 or Donald A. Heydt, (202) 357-5248.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25532 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-400-004 and CP79-396-007]

United Gas Pipe Line Co. et al; Petition To Amend

October 24, 1989.

Take notice that on October 23, 1989, United Gas Pipe Line Company (United), Northern Natural Gas Company, Division of Enron Corp. (Northern), and Natgas U.S. Inc. (Natgas), (jointly as the applicants), filed an application in the above-captioned dockets pursuant to Sections 7(b) and (c) of the Natural Gas Act, and Section 9 of the Alaska Natural Gas Transportation Act (ANGTA), for the expedited issuance of an amendment to a certificate of public convenience and necessity.

By such application the applicants seek: (1) Approving the "partial" abandonment of the firm exchange of up to 450,000 Mcf per day of natural gas between United States and Northern authorized in Docket Nos. CP79-396 and CP79-400; (2) Authorizing the exchange on a firm basis of 75,000 Mcf per day of natural gas between Northern and Natgas, as successor to United, and the exchange of amounts in excess of 75,000 Mcf per day, up to 450,000 Mcf per day, on a best-efforts basis; and (3) Extend the term of the exchange through October 31, 2001.

The applicants' proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

United, Northern, and Natgas state that their application is one of several being filed as the result of complex, interrelated agreements reached among the parties with respect to the sale, purchase, and transportation of Canadian gas on the pre-build Eastern Leg of the Alaskan Natural Gas Transportation System (ANGTS). This group of applications includes:

Northwest Alaskan Pipeline Co. Docket No. RP90-16-000;
Northwest Alaskan Pipeline Co. Docket No. CP78-123-028;
Northern Border Pipeline Co. Docket No. CP78-124-013;
Natgas (U.S.) Inc. Docket No. CP90-93-000;
Natgas (U.S.) Inc. Docket No. CI89-348-001.

The applicants state that United purchase up to 450,000 Mcf per day of natural gas from Northwest Alaskan Pipeline Company (Northwest Alaskan), which Northwest Alaskan imports from Pan-Alberta Gas, Ltd. (Pan-Alberta). The natural gas is then transported by the Northern Border Pipeline Company (Northern Border). United takes delivery of these volumes via a firm exchange of natural gas with Northern, which interconnects at various locations with Northern Border. This exchange is for the mutual benefit of United and Northern, and is on a cost-free basis.

The applicants state that as a result of an agreement among United, Pan-Alberta, and Northwest Alaskan, Natgas, an affiliate of Pan-Alberta, will replace United in the purchase and shipment of 450,000 Mcf per day. By this application the applicants seek to partially reassign to Natgas United's rights and obligations in the natural gas exchange with Northern.

More specifically, the applicants propose to abandon United's obligation to deliver 450,000 Mcf per day to Northern and the obligation of Northern to deliver 450,000 Mcf per day to United. Applicants request that a certificate be issued authorizing the exchange of natural gas between Northern and Natgas on a firm, cost-free basis of up to 75,000. Mcf per day, and the cost-free exchange of volumes in excess of 75,000, up to 450,000 on a best-efforts basis. The applicants state that they have amended and assigned the existing exchange agreement between Northern and United by a further agreement provided with the application. Further, this agreement contains a listing of the firm and alternative exchange points to be used by Northern and Natgas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25533 Filed 10-30-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Continuation of Solicitation for Special Research Grants and Research Opportunity Announcement for Research Contracts, No. 90-1

AGENCY: Department of Energy.

ACTION: Annual notice of continuation of availability of research grants and contracts.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy hereby announces its continuing interest in receiving applications/proposals for Special Research Grants or Research Contracts supporting work in the following ER program offices: Basic Energy Sciences, Health and Environmental Research, Fusion Energy, Scientific Computing, Field Operations Management, Superconducting Supercollider, and High Energy and Nuclear Physics. Information about submission of applications/proposals, eligibility, limitations, evaluation and selection processes, and other policies and procedures are specified, for grants, in 10 CFR part 605 which was published in the **Federal Register** on April 15, 1985 (50 FR 14856) and, for contracts, in the Research Opportunity Announcement published on November 8, 1988 (53 FR 45234). The Catalog of Federal Domestic Assistance number is 81.049.

DATES: Applications and proposals may be submitted at any time in response to this Notice of Availability but in all cases must be received by DOE on or before October 31, 1990.

ADDRESSES: Applicants/proposers may obtain forms and additional information from Director, Acquisition and Assistance Management Division, Office of Energy Research, ER-64, U.S. Department of Energy, Washington, DC 20545, (301) 353-5544. Completed applications or proposals must be sent to this same address.

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitations for Special Research Grants and the Research Opportunity Announcement for research contracts were published in the **Federal Register**. Those solicitations specify the policies and procedures which govern the application/proposal, evaluation, and selection processes for research grants and contracts. It is anticipated that approximately 409 million dollars will be available for award in FY 1990. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications/proposals. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications/proposals submitted in response to this notice.

Issued in Washington, DC, on October 17, 1989.

D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 89-25624 Filed 10-30-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 89-53-NG]

Amerigas International Corp.; Application To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 13, 1989, of an application filed by Amerigas International Corporation (Amerigas) requesting blanket authorization to export from the United States to Mexico up to 54.75 Bcf of natural gas over a two-year period beginning on the date of first delivery. Amerigas intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported gas. Amerigas states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

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DATE: Protests, motions to intervene, or notices of intervention, as appliable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 30, 1989.

ADDRESS: Office of Fuels Program, Fossil Energy, U.S. Department of Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Program, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3056, 1000 Independence Ave, SW., Washington, DC 20585. (202) 586–1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION:

Amerigas, a subsidary of AP Propane, Inc., a Delaware corporation, is located in Houston, Texas, and was organized to engage in the international marketing of natural gas, light hydrocarbons, and gaseous petroleum chemicals. Amerigas intends to export natural gas to Mexico for spot-market sales, primarily to Petroleos Mexicanos (Pemex). Amerigas currently is negotiating with Pemex a contract for the sale of up to 60,000 Mcf per day. Amerigas anticipates purchasing all the gas required to serve this authorization from natural gas producers in the states of Texas and New Mexico. Amerigas states that each sales transaction would be negotiated at arms length with Pemex and would be consistent with the public interest.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at the international border point where existing transmission facilities of Del Norte Pipeline near El Paso, Texas, connect with the facilities of Pemex near Ciudad Juarz, Chihuahua, Mexico, or at any other existing border exit facility. Further, all parties should be aware that, in accordance with its present policy and past practice, if DOE approves the blanket authorization, it may limit the terms to two years. This limitation, if imposed, presumes that the exports would take place under contracts with terms of two years or less.

Amerigas requests that an authorization be granted on an expedited basis. A decision on Amerigas' request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 29, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR Sec. 590.316.

A copy of Amerigas's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 27, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25620 Filed 10–30–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–15–NG]

Great Lakes Gas Transmission Co.; Conditional Order Amending Authorization To Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of conditional order amending authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a conditional order approving an amendment to Great Lakes Gas Transmission Company's (Great Lakes) authorization to import natural gas from and export natural gas to Canada. The order issued in FE docket No. 89–15–NG increases by 417,500 Mcf the currently authorized maximum daily volumes Great Lakes may import from and export to Canada and thereby raises the total maximum daily volumes Great Lakes may import and export through November 1, 2005, from 987,500 Mcf to 1,405,000 Mcf.

Final approval of this import is conditioned on DOE's completion of its responsibilities under the National Environmental Policy Act of 1969 and its reexamination at that time of this conditional order.

A copy of this order is available for inspection and copying in the Office of Fuels Program Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 25, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25621 Filed 10–30–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–64–NG]

Libra Marketing, Inc.; Application To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 14, 1989, of an application filed by Libra Marketing, Inc. (Libra), requesting blanket authorization to export from the United States to Mexico up to 146 Bcf of natural gas over a two-year period beginning on the date of first delivery. Libra intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported gas. Libra states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 30, 1989.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–055B, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION:

Libra, a Texas corporation with its principal place of business in Corpus Christi, Texas, is an international marketer of natural gas, light hydrocarbons, and gaseous petroleum chemicals. Libra intends to export natural gas to Mexico for spot market sales, primarily to Petroleos Mexicanos (Pemex). Libra anticipates purchasing all the gas required to serve this authorization from natural gas producers in the States of Texas, Louisiana, and New Mexico. Libra states that each sales transaction would be negotiated at arms length with Pemex or other purchasers and that the terms of each would reflect market conditions.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at any point of exit on the international border where existing pipeline facilities are located.

Libra requests that an authorization be granted on an expedited basis. A decision on Libra's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to

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this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Libra's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F-056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 23, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-25622 Filed 10-30-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-42-NG]

Panhandle Trading Co.; Order Granting Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Panhandle Trading Company (PTC) blanket authorization to import and export natural gas. The order issued in FE Docket No. 89-42-NG authorizes PTC to import up to 100 Bcf of Canadian natural gas and to export up to 100 Bcf of domestically produced natural gas to Canada for short-term and spot market sales over separate two-year periods beginning on the dates of the first import and the first export.

A copy of the order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-25623 Filed 10-30-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3676-4]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for an Equivalent Method Determination

Notice is hereby given that on September 12, 1989, the Environmental Protection Agency received an application from Environics, Inc., 165 River Road, West Willington, Connecticut 06279, to determine if their Series 300 Computerized Ozone Analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR part 53. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**.

Erich W. Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89-25580 Filed 10-30-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3676-7]

Open Meeting of International Environmental Technology Transfer Advisory Board

Under Public Law 92-463, notice is hereby given that a meeting of the International Environmental Technology Transfer Advisory Board (IETTAB) will be held on December 7, 1989 in the Main Lounge of the National Press Club, 14th and F Streets, NW., Washington, DC. The meeting is open to the public and will run from 8:30 a.m. until approximately 5:00 p.m.

The purpose of this meeting is to review the need for transfer of environmental technolgy to low income countries to eliminate ozone depleting substances and greenhouse gases as well as similar needs regarding other pollution control or prevention. The Board will review ways and means to facilitate finance and aid for such environmental technology transfer.

Public comments can be made through written statements which will be distributed to Board Members. Written statements must be sent in care of the Executive Secretary listed below no later than November 17, 1989, in order to distribute to Members before the meeting time. Seating for interested members of the public is limited to seventy seats. Seats will be filled on a first-come basis. To confirm your interest in attending, contact the Executive Secretary by November 17, 1989.

FOR MORE INFORMATION CONTACT: Mark Kasman, Executive Secretary, IETTAB, Office of International Activities (A-106), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 382-4870.

Dated: October 20, 1989.

Timothy B. Atkeson,

Assistant Administrator for International Activities.

[FR Doc. 89-25583 Filed 10-30-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3674-6]

Clyde Elrod Drum Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for past response costs at the Clyde Elrod Drum Site, Kevil, Kentucky with Clyde M. Elrod and Central Service, Inc. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Investigation Support Assistant, Investigation and Cost Recovery Unit, Site Investigation and Support Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland St., NE., Atlanta, GA 30365, (404) 347-5059.

Written comments may be submitted to the person above by 30 days from date of publication.

Dated: October 10, 1989.

Patrick M. Tobin,

Director, Waste Management Division, EPA Region IV.

[FR Doc. 89-25581 Filed 10-30-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3676-5]

Extension of the Public Comment Period for the Proposed Determination To Restrict the Specification of Leonard Pond and Its Wetlands as Disposal Sites

AGENCY: Environmental Protection Agency.

ACTION: Notice to extend the comment period for August 30, 1989, § 404(c) proposed determination.

SUMMARY: A Public Notice entitled "Proposed Determination to Restrict the Specification of Leonard Pond and its Wetlands as Disposal Sites" was published in the **Federal Register** on August 30, 1989 (54 FR 35827). That notice indicated that comments should be received at the address listed below on or before October 16, 1989.

During the public comment period landowners within the area of the proposed determination and the U.S. Fish and Wildlife Service asked for an extension to the comment period in order to obtain and submit information which pertains directly to the environmental values of the site. Since this information could influence the nature and scope of the section 404(c) action, EPA believes there is good cause for extending the comment period. Therefore, EPA is extending the period for comment on the proposed determination until close of business, November 27, 1989. This time extension is made under authority of 40 CFR 231.6.

DATE: Comments should be postmarked on or before November 27, 1989

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Abele, EPA Water Quality Branch, JFK Federal Building, WWP-1900, Boston, MA 02203-2211, (617) 565-4438.

Dated: October 24, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 89-25562 Filed 10-30-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Social Security Administration

1990 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Secretary has determined—(1) A 4.7 percent cost-of-living increase in benefits under title II (section 215(i)) of the Social Security Act (the Act);

(2) An increase in the Federal Supplemental Security Income (SSI) (title XVI) monthly benefit amounts for 1990 to $386 for an eligible individual, $579 for an eligible individual with an eligible spouse, and $193 for an essential person (section 1617 of the Act);

(3) The average of the total wages for 1988 to be $19,334.04;

(4) The Social Security contribution and benefit base to be $50,400 for remuneration paid in 1990 and self-employment income earned in taxable years beginning in 1990;

(5) The amount of earnings a person must have to be credited with a quarter of coverage in 1990 to be $520;

(6) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1990 to be $780 for beneficiaries age 65 through 69 and $670 for beneficiaries under age 65;

(7) The "old-law" contribution and benefit base to be $37,800 for 1990.

We also describe the computation of benefits for a worker and the worker's family who first become eligible for benefits in 1990, and the computation of the old-age, survivors, and disability insurance (OASDI) fund ratio used to determine whether the automatic increase in benefits under title II of the Act is affected by the "stabilizer" provision.

Finally, we are publishing a table of OASDI "special minimum" benefit amounts. This table provides the range of primary insurance amounts and the corresponding maximum family benefits under the "special minimum" benefit provision, as revised to reflect the automatic benefit increase. These benefits are payable to certain individuals with long periods of relatively low earnings.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-3013.

SUPPLEMENTARY INFORMATION: The Secretary is required by the Act to publish within 45 days after the close of the third calendar quarter of 1989 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Secretary is required to publish before November 1 the average of the total wages for 1988 (section 215(i)(2)(C)(ii)) and the OASDI fund ratio for 1989 (section 215(i)(2)(C)(iii)). Finally, the Secretary is required to publish on or before November 1 the contribution and benefit base for 1990 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1990 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1990 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1990 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1990 (section 203(a)(2)(C)).

Cost-of-Living Increases

General

The cost-of-living increase is 4.7 percent for benefits under titles II and XVI of the Act.

Under title II, old-age, survivors, and disability insurance benefits will increase by 4.7 percent beginning with

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the December 1989 benefits, which are payable on January 3, 1990. The kinds of benefits payable to individuals entitled under this program are old-age,

Consumer Price Index for the calendar quarter ending September 30, 1989, exceeds that for the calendar quarter ending September 30, 1988, by 4.7

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his

average wage for 1988 is determined to be $19,334.04.

Contribution and Benefit Base

General

of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual

203(f)(8)(B) for computing the exempt amount applicable for years after 1982. The monthly exempt amount for 1989 was determined by this formula to be $740. Under the formula, the exempt

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the December 1989 benefits, which are payable on January 3, 1990. The kinds of benefits payable to individuals entitled under this program are old-age, disability, wife's, husband's, child's, widow's, widower's, mother's, father's, and parent's insurance benefits. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 4.7 percent effective for payments made for the month of January 1990 but paid on December 29, 1989. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1990 is the same as the title II benefit increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation

Under section 215(i) of the Act, the third calendar quarter of 1989 is a cost-of-living computation quarter for all the purposes of the Act. The Secretary is therefore required to increase benefits, effective with December 1989, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1989, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1988 through the third quarter of 1989. Automatic benefit increases may be modified by a "stabilizer" provision under certain adverse financial conditions that are described in the section on the OASDI fund ratio. The December 1989 benefit increase is not affected by this provision.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1988, was: for July 1988, 117.2; for August 1988, 117.7; and for September 1988, 118.5. The arithmetic mean for this calendar quarter is 117.8 (after rounding to the nearest 0.1). The corresponding Consumer Price Index for each month in the quarter ending September 30, 1989, was: for July 1989, 123.2; for August 1989, 123.2; and for September 1989, 123.6. The arithmetic mean for this calendar quarter is 123.3. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1989, exceeds that for the calendar quarter ending September 30, 1988, by 4.7 percent, a cost-of-living benefit increase of 4.7 percent is effective for benefits under title II of the Act beginning December 1989.

Title II Benefit Amounts

In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1990, benefits will increase 4.7 percent beginning with benefits for December 1989 which will be received January 3, 1990. In the case of first eligibility after 1989, the 4.7 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95-216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) increasing by 4.7 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the contribution and benefit base for 1989); and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1990, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Public Affairs, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines an automatic increase in Social Security benefits, the Secretary shall publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other porvisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. In accordance with section 215(a)(1)(C)(i), the attached table shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 4.7 percent benefit increase.

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $151.90 for an individual under sections 227 and 228 of the Act is increased by 4.7 percent to obtain the new amount of $159.00. The present monthly benefit amount of $76.10 for a spouse under section 227 is increased by 4.7 percent to $79.60.

Title XVI Benefit Amounts

In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 4.7 percent effective January 1990. Therefore, the yearly Federal SSI benefit amount of $4,416 for an eligible individual, $6,636 for an eligible individual with an eligible spouse, and $2,208 for an essential person, which became effective January 1989, are increased, effective January 1990, to $4,632, $6,948, and $2,316 respectively after rounding. The corresponding monthly amounts for 1990 are determined by dividing the yearly amounts by 12, giving $386, $579, and $193, respectively. The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

Average of the Total Wages for 1988

The determination of the average wage figure for 1988 is based on the 1987 average wage figure of $18,426.51 announced in the **Federal Register** on October 31, 1988 (53 FR 43932), along with the percentage increase in average wages from 1987 to 1988 measured by annual wage data tabulated by the Social Security Administration (SSA). The average amounts of wages calculated directly from this data were $17,416.59 and $18,274.38 for 1987 and 1988, respectively. To determine an average wage figure for 1988 at a level that is consistent with the series of average wages for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiplied the 1987 average wage figure of $18,426.51 by the percentage increase in average wages from 1987 to 1988 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent):

Average wage for
1988=$18,426.51×$18,274.38÷$17,416.59=$19,334.04. Therefore, the average wage for 1988 is determined to be $19,334.04.

Contribution and Benefit Base

General

The contribution and benefit base is $50,400 for remuneration paid in 1990 and self-employment income earned in taxable years beginning in 1990.

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which Social Security taxes are paid.

(2) It is the maximum annual amount used in determining a person's Social Security benefits.

Computation

Section 230(c) of the Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Act contains a formula for determining the contribution and benefit base. Under the prescribed formula, the contribution and benefit base for 1990 shall be equal to the 1989 base of $48,000 multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year 1988 to (2) the average amount of those wages for the calendar year 1987. Section 230(b) further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages

The average wage for calendar year 1987 was previously determined to be $18,426.51. The average wage for calendar year 1988 has been determined to be $19,334.04 as stated herein.

Amount

The ratio of the average wage for 1988, $19,334.04, compared to that for 1987, $18,426.51, is 1.0492513. Multiplying the 1989 contribution and benefit base of $48,000 by the ratio 1.0492513 produces the amount of $50,364.06, which must then be rounded to $50,400. Accordingly, the contribution and benefit base is determined to be $50,400 for 1990.

Quarter of Coverage Amount

General

The 1990 amount of earnings required for a quarter of coverage is $520. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95-216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Individuals generally must have self-employment income of at least $400 in a taxable year in order to be credited with any quarters of coverage.

Computation

Under the prescribed formula, the quarter of coverage amount for 1990 shall be equal to the 1978 amount of $250 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar 1988 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages

The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1988 has been determined to be $19,334.04 as stated herein.

Quarter of Coverage Amount

The ratio of the average wage for 1988, $19,334.04, compared to that for 1976, $9,226.48, is 2.0954947. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 2.0954947 produces the amount of $523.87, which must then be rounded to $520. Accordingly, the quarter of coverage amount is determined to be $520 for 1990.

Retirement Earnings Test Exempt Amounts

(a) Beneficiaries Aged 70 or Over

Beginning with months after December 1982, there is no limit on the amount an individual 70 or over may earn and still receive Social Security benefits.

(b) Beneficiaries Aged 65 through 69

The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is stated in the Act at section 203(f)(8)(D) for years 1978 through 1982. A formula is provided in section 203(f)(8)(B) for computing the exempt amount applicable for years after 1982. The monthly exempt amount for 1989 was determined by this formula to be $740. Under the formula, the exempt amount for 1990 shall be the 1989 exempt amount multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1988 to (2) the average amount of those wages for calendar year 1987. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages

Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1988, $19,334.04, compared to that for 1987, $18,426.51, is 1.0492513.

Exempt Amount for Beneficiaries Aged 65 through 69

Multiplying the 1989 retirement earnings test monthly exempt amount of $740 by the ratio of 1.0492513 produces the amount of $776.45. This must then be rounded to $780. The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $780 for 1990. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $9,360.

(c) Beneficiaries Under Age 65

Section 203 of the Act provides that beneficiaries under age 65 have a lower retirement earnings test monthly exempt amount than those beneficiaries aged 65 through 69. The exempt amount for beneficiaries under age 65 is determined by a formula provided in section 203(f)(8)(B) of the Act. Under the formula, the monthly exempt amount for beneficiaries under age 65 is $540 for 1989. The formula provides that the exempt amount for 1990 shall be the 1989 exempt amount for beneficiaries under age 65 multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1988 to (2) the average amount of those wages for calendar year 1987. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages

Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average

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wages for 1988, $19,334.04, compared to that of 1987, $18,426.51, is 1.0492513.

Exempt Amount for Beneficiaries Under Age 65

Multiplying the 1989 retirement earnings test monthly exempt amount of $540 by the ratio 1.0492513 produces the amount of $566.60. This must then be rounded to $570. The retirment earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $570 for 1990. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $6,840.

Computing Benefits After 1978

General

The Social Security Amendments of 1977 provided a new method for determining an individual's primary insurance amount. This method uses a formula based on "wage indexing" and was fully explained with interim regulations and final regulations published in the **Federal Register** on December 29, 1978, at 43 FR 60877 and July 15, 1982, at 47 FR 30731 respectively. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. The formula uses the worker's earnings after they have been adjusted, or "indexed," in proportion to the increases in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance amount, using the worker's average indexed monthly earnings. The computation formula is adjusted automatically each year to reflect changes in general wage levels.

Average Indexed Monthly Earnings

To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1990, we divide the average of the total wages for 1988, $19,334.04, by the average of the total wages for each year prior to 1988 in which the worker had earnings. We then multiply the actual wages and self-employment income as defined in section 211(b) of the Act credited for each year by the corresponding ratio to obtain the worker's adjusted earnings for each year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollar amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1990.

Computing the Primary Insurance Amount

The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The amounts for 1990 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1988, $19,334.04, and for 1977, $9,779.44. These results were then rounded to the nearest dollar. For 1990, the ratio is 1.9770089. Multiplying the 1979 amounts of $180 and $1,085 by 1.9770089 produces the amounts of $355.86 and $2,145.05. These must then be rounded to $356 and $2,145. Accordingly, the portions of the average indexed monthly earnings to be used in 1990 are determined to be the first $356, the amount between $356 and $2,145, and the amount over $2,145.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1990, or who die in 1990 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $356 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $356 and through $2,145, plus

(c) 15 percent of the average indexed monthly earnings over $2,145.

This amount is then rounded to the next multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General

The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a final rule published in the **FEDERAL REGISTER** on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum

The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The amounts for 1990 are obtained by multiplying the 1979 amounts by the ration between the average of the total wages for 1988, $19,334.04, and the average for 1977 $9,779.44. This amount is then rounded to the nearest dollar. For 1990, the ratio is 1.9770089. Multiplying the amounts of $230, $332, and $433 by 1.9770089 produces the amounts of $454.71, $656.37, and $856.04. These amounts are then rounded to $455, $656, and $856. Accordingly, the portions of the primary insurance amounts to be used in 1990 are determined to be the first $455, the amount between $455 and $656, the amount between $656 and $856, and the amount over $856.

Consequently, for the family of a worker who becomes age 62 or dies in 1990, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $455 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $455 through $656, plus

(c) 134 percent of the worker's primary insurance amount over $656 through $856, plus

(d) 175 percent of the worker's primary insurance amount over $856.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

"Old-Law" Contribution and Benefit Base

General

The 1990 "old-law" contribution and benefit base is $37,500. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(1) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(2) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Act), and

(3) Social Security to determine a "year of coverage" in computing the "special minimum" benefit and in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation

The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments. Under the formula, the "old-law" contribution and benefit base shall be the "old-law" 1989 base multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year of 1988 to (2) the average amount of those wages for the calendar year of 1987. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages

The average wage for calendar year 1987 was previously determined to be $18,426.51. The average wage for calendar year 1988 has been determined to be $19,334.04, as stated herein.

Amount

The ratio of the average wage for 1988, $19,334.04, compared to that for 1987, $18,426.51, is 1.0492513. Multiplying the 1989 "old-law" contribution and benefit base amount of $35,700 by the ratio of 1.0492513 produces the amount of $37,458.27 which must then be rounded to $37,500. Accordingly, the "old-law" contribution and benefit base is determined to be $37,500 for 1990.

OASDI Fund Ratio

General

Section 215(i) of the Act was amended by section 112 of Public Law 98–21, the Social Security Amendments of 1983, to include a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified level, the automatic benefit increase is equal to the lesser of (1) the increase in average wages or (2) the increase in prices. The threshold level specified for the OASDI fund ratio is 20.0 percent for benefit increases for December of 1989 and later. The amendments also provide for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation

Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1989 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1989, including advance tax transfers for January 1989, to (2) the estimated expenditures of the OASI and DI Trust Funds during 1989, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio

The combined assets of the OASI and DI Trust Funds at the beginning of 1989 (including advance tax transfers for January 1989) equaled $134,428 million, and the expenditures are estimated to be $235,674 million. Thus, the OASDI fund ratio for 1989 is 57.0 percent, which exceeds the applicable threshold of 20.0 percent. As a result, the "stabilizer" provision does not affect the benefit increase for December 1989.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802–13.805, and 13.807 Social Security Programs.)

Dated: October 26, 1989.

Louis W. Sullivan,

Secretary of Health and Human Services.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for Dec. 1988	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1989	Special minimum family benefit payable for Dec. 1989
$21.00	11	$21.90	$33.00
41.70	12	43.60	65.70
62.70	13	65.60	98.70
83.80	14	87.40	131.30
104.40	15	109.30	164.00
125.40	16	131.20	197.20
146.30	17	153.10	229.90
167.20	18	175.00	262.70
188.10	19	196.90	295.50
208.80	20	218.60	328.20
230.00	21	240.60	361.30
250.80	22	262.50	394.00
271.90	23	284.60	427.30
292.70	24	306.40	460.00
313.50	25	328.20	492.50
334.60	26	350.30	525.90
355.50	27	372.20	558.60
376.30	28	393.90	591.20
397.10	29	415.70	624.20
418.00	30	437.60	656.80

[FR Doc. 89–25625 Filed 10–30–89; 8:45 am]

BILLING CODE 4190–11–M

National Institutes of Health

Meeting of the Program Advisory Committee on the Human Genome

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Program Advisory Committee on the Human Genome on December 4, and a joint NIH and DOE subcommittee meeting on December 5, 1989, (as specified in the Memorandum of Understanding) at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 8:30 a.m. to 5:30 p.m. on December 4, and the joint subcommittee meeting will take place from 9:00 a.m. to 1:00 p.m. on December 5 in the Shannon Building, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland. The meeting will be open to the public.

This will be the third meeting of the Program Advisory Committee on the Human Genome. The purpose of the meeting is to discuss the planning, organization, and progress of the human genome project at the National Institutes of Health.

Dr. Elke Jordan, Deputy Director of the National Center for Human Genome Research, National Institutes of Health, Shannon Building, Room 201, Bethesda, Maryland 20892, (301) 496–0844, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Dated: October 24, 1989.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 89–25510 Filed 10–30–89; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–89–2076]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Letter of Transmittal, 24 CFR part 390

Office: Government National Mortgage Association (GNMA)

Description of the Need for the Information and its Proposed Use: GNMA provides these forms for use by issuers of mortgage-backed securities to transmit the required materials to request approval of an application, to provide GNMA with a Resolution of the Board of Directors and Certificate of Authorized Signatures, and to furnish the servicing agreement.

Form Number: HUD–11700, 11702, and 11707

Respondents: Businesses or Other For-Profit

Frequency of Submission: On Occasion

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–11700	1,250		3.78		0.25		1,169
HUD–11702	50		1		.50		25
HUD–11707	1,250		18.7		.25		5,845

Total Estimated Burden Hours: 7,050

Status: Extension

Contact: Brenda Countee, HUD, (202) 755–5535, John Allison, OMB, (202) 395–6880.

Dated: October 24, 1989.

[FR Doc. 89–25542 Filed 10–30–89; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–89–2077]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 25, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Summary of Guaranty Agreements (To include recordkeeping requirements contained in the Guaranty Agreements)

Office: Government National Mortgage Association (GNMA)

Description of the Need for the Information and Its Proposed Use: The information furnished on the forms incorporates the terms and conditions of the Guaranty Agreements for each type of mortgage pool. Execution by the issuer indicates compliance with the terms and conditions of the Guaranty Agreement.

Form Number: HUD–11710, 1723, 11727, 1730, and 11733

Respondents: Businesses or Other For-Profit

Frequency of Submission: On Occasion

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	1,250		18.7		.25		5,845

Total Estimated Burden Hours: 5,845

Status: Extension

Contact: Brenda Countee, HUD, (202) 755–5535, John Allison, OMB, (202) 395–6880.

Dated: October 25, 1989.

Proposal: Request for Release of Document and Debit Authorization

Office: Government National Mortgage Association (GNMA)

Description of the Need for the Information and Its Proposed Use: The documents: (1) Provide for the releases of mortgage documents held by the pool custodian, and (2) show evidence that the issuers have established a central account with a designated custodian in connection with the issuance of mortgage-backed securities.

Form Number: HUD–11708 and 11709–A

Respondents: Businesses or Other For-Profit

Frequency of Submission: On Occasion

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–11708	1,250		192		0.017		4,000
HUD–11709–A	50		1		.25		12

Total Estimated Burden Hours: 4,012

Status: Extension

Contact: Brenda Countee, HUD, (202) 755–5535,, John Allison, OMB, (202) 395–6880

Dated: October 25, 1989.

Proposal: Mandatory Meals Program in Multifamily Rental and Cooperative Projects for the Elderly, FR–2179.

Office: Housing

Description of the Need for the Information and Its Proposed Use: Housing project owners may require tenants of elderly assisted housing to participate in and pay for a mandatory meals program as a condition of occupancy in projects equipped with central kitchen and dining facilities.

Form Number: None

Respondents: Individuals or Households, Businesses or Other For-Profit, Federal Agencies or Employees, and Non-Profit Organizations.

Frequency of Submission: On Occasion

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Requests	400		1		3		1,200
Recordkeepers	400		1		2		800

Total Estimated Burden Hours: 2,000

Status: Reinstatement

Contact: James J. Tahash, HUD, (202) 426–3944., John Allison, OMB, (202) 395–6880

Dated: October 25, 1989.

[FR Doc. 89–25543 Filed 10–30–89; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–00–4410–14]

Moab District Advisory Council Meeting

AGENCY: Bureau of Land Management, Moab.

ACTION: Moab District Advisory Council Meeting.

SUMMARY: The Moab District Advisory Council will meet Tuesday, November 21, 1989. The meeting will be held in the BLM Moab District Office Conference Room beginning at 10:00 a.m. and adjourning at 4:30 p.m. The agenda includes an update on current planning

efforts and the drought situation in southeast Utah. Also, selected program updates, new business, opportunity for public comment, finalization of

[OR–942–00–4730–12: GPO–027]

Filing of Plats of Survey: Oregon/Washington

Dated: October 20, 1989.

Robert E. Mellohan,

Acting Chief, Branch of Lands and Minerals Operations.

KENTUCKY

Henderson County

Ehlen, E. L., Livery and Sale Stable, 110 First St., Henderson, 89002007

Rock Ledge (Rhinebeck Town MRA), Roughly Ackert Hook Rd., Haggerty Hill Rd., and Troy Dr., Rhinebeck vicinity, 89002010

Essex County

Summit County

US Post Office—Park City Main (US Post Offices in Utah 1900–1941 MPS), Main and 5th Sts., Park City, 89001997

efforts and the drought situation in southeast Utah. Also, selected program updates, new business, opportunity for public comment, finalization of resolutions, and adjournment.

All Advisory Council meetings are open to the public. Persons wishing to make a comment to the Council must notify the BLM by Friday, November 17. Depending on the number of people desiring to make a statement, a per-person time limit may be established.

Gene Nodine,

District Manager.

[FR Doc. 89-25603 Filed 10-30-89; 8:45 am]

BILLING CODE 4310-DQ-M

[ID-942-00-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plats of survey of the following described lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 A.M., date October 23, 1989.

The plat representing the dependent resurvey of the west boundary, portions of the south and north boundaries, and subdivisional lines, and the subdivision of certain sections in T. 14, S., R. 46 E., Boise Meridian, Idaho, Group No. 732, was accepted September 27, 1989.

This survey was executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the east and north boundaries and a portion of the subdivisional lines, the subdivision of section 1, and the survey of Lot 1, T. 3 N., R. 41 E., Boise Meridian, Idaho, Group No. 765, was accepted October 11, 1989.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, H.E.S. 260 and a portion of H.E.S. No. 555, the subdivision of section 6, and the survey of certain lots in section 6 and 7, T. 3 N., R. 42 E., Boise Meridian, Idaho, Group No. 766, was accepted October 11, 1989.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

All inquires about these lands should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

October 23, 1989

[FR Doc. 89-25592 Filed 10-30-89; 8:45 am]

BILLING CODE 4310-GG-M

[OR-942-00-4730-12; GPO-027]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 3 N., R. 2 W., accepted 9/15/89
T. 3 N., R. 3 W., accepted 9/29/89
T. 2 N., R. 3 W., accepted 10/6/89
T. 29 S., R. 3 W., accepted 9/29/89
T. 30 S., R. 7 W., accepted 9/15/89
T. 13 S., R. 8 W., accepted 9/15/89
T. 5 S., R. 3 E., accepted 10/6/89
T. 5 S., R. 4 E., accepted 10/6/89
T. 28 S., R. 14 E., accepted 10/6/89

Washington

T. 39 N., R. 25 E., accepted 9/29/89
T. 32 N., R. 35 E., accepted 8/25/89

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 20, 1989.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-25581 Filed 10-30-89; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 21, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by November 15, 1989.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Carroll County

Chaney, James C., House, AR 68, Osage, 89002012

GEORGIA

Floyd County

Mayo's Bar Lock and Dam, On the Coosa River, 8 mi. SW of Rome, Rome vicinity, 89002030

Thomas County

Box Hall Plantation, Lower Cairo Rd. at Pinetree Blvd., Thomasville, 89002015

HAWAII

Kauai County

US Post Office—Lihue, 4441 Rice St., Lihue, 89002011

IDAHO

Butte County

Mackenzie's Donald, Campground, Pallett Springs in Challis National Forest, City Unavailable, 89001990

Clark County

Spencer Rock House, Off US 91 at Huntley Canyon, Spencer, 89001991

IOWA

Linn County

Armstrong, Robert and Esther, House, 370 34th St., SE., Cedar Rapids, 89002008

Polk County

Rumely—Des Moines Drug Company Building, 110 SW. Fourth St., Des Moines, 89002006

KENTUCKY

Henderson County

Ehlen, E. L., Livery and Sale Stable, 110 First St., Henderson, 89002007
Klee Funeral Parlor, 13—17 S. Main St., Henderson, 89002006

Jefferson County

Widman's Saloon and Grocery, 2317—19 Frankfort Ave., Louisville, 89002016

Nelson County

Cobblestone Path, E end of Flaget Ave., NE to Broadway, Bardstown, 89002018

Oldham County

Bondurant—Hustin House (Peewee Valley MPS), 104 Castlewood Dr., Peewee Valley, 89001989
Ellis, Joseph H., House (Peewee Valley MPS), 320 Maple Ave., Peewee Valley, 89001988
Forrester—Duvall House (Peewee Valley MPS), 115 Old Forest Rd., Peewee Valley, 89001987
House at 301 La Grange Road (Peewee Valley MPS), 301 La Grange Rd., Peewee Valley, 89001980
Miller, George, House (Peewee Valley MPS), 331 Central Ave., Peewee Valley, 89001986
Peebles, Dr. Thomas C., House (Peewee Valley MPS), 114 Maple Ave., Peewee Valley, 89001985
Peewee Valley Confederate Cemetery (Peewee Valley MPS), Maple Ave., SE of jct. with Old Floydsburg Rd., Peewee Valley vicinity, 89001984
Smith, William Alexander, House (Peewee Valley MPS), 108 Mt. Mercy Dr., Peewee Valley, 89001982
St. Aloysius Church (Peewee Valley MPS), 202 Mt. Mercy Dr., Peewee Valley, 89001983
Tanglewood (Peewee Valley MPS), 417 La Grange Rd., Peewee Valley, 89001981
Tuliphurst (Peewee Valley MPS), 15 La Grange Rd., Peewee Valley, 89001979
Van Horn—Ross House (Peewee Valley MPS), 138 Rosswoods Dr., Peewee Valley, 89001978

Warren County

Magnolia Street Historic District, Magnolia St. between Broadway and Tenth St., Bowling Green, 89002017

LOUISIANA

Iberia Parish

First United Methodist Church, 119 Jefferson St., New Iberia, 89002002

Natchitoches Parish

Prud'homme, Jean Pierre Emmanuel, Plantation (Boundary Decrease), LA 484, E of Natchez, Natchez vicinity, 89002024

NEW JERSEY

Cape May County

Marshallville Historic District, Roughly Marshallville Rd. at Co. Rt. 557, Marshallville, 89002013

NEW YORK

Dutchess County

De Peyster, Watts, Fireman's Hall, 86 Broadway at Pine St., Tivoli, 89002005
Rock Lodge (Rhinebeck Town MRA), Roughly Ackert Hook Rd., Haggerty Hill Rd., and Troy Dr., Rhinebeck vicinity, 89002010

Essex County

Liberty Monument (Ticonderoga MRA), MY 9M at Montcalm St., Ticonderoga, 89002014

Monroe County

Blackwell, Antoinette Louisa Brown, Childhood Home, 1089 Pinnacle Rd., Henrietta, 89002003
Our Mother of Sorrows Roman Catholic Church Complex, 1785 Latta Rd., Greece, 89002001

Suffolk County

Longbotham, Nathaniel, House, 1541 Stony Brook Rd., Stony Brook, 89002022
Smith—Rourke House, 350 S. Country Rd., East Patchogue, 89002021

Ulster County

Lafevre, John A., House and School, NY 208, S of New Paltz, New Paltz vicinity, 89002023

Westchester County

Anawalk Friends Meeting House, Quaker Church Rd., Anawalk, 89002004

SOUTH CAROLINA

Darlington County

Wilds, Peter Abel, House, Skufful Farm Rd., Mont Clare vicinity, 89002019

UTAH

Beaver County

US Post Office—Beaver Main (US Post Offices in Utah 1900-1941 MPS), 20 S. Main St., Beaver, 89001992

Carbon County

US Post Office—Helper Main (US Post Offices in Utah 1900-1941 MPS), 45 S. Main, Helper, 89001995
US Post Office—Price Main (US Post Offices in Utah 1900-1941 MPS), 95 S. Carbon Ave., Price, 89001998

Iron County

US Post Office—Cedar City Main (US Post Offices in Utah 1900-1941 MPS), 10 N. Main, Cedar City, 89001993

Juab County

US Post Office—Eureka Main (US Post Offices in Utah 1900-1941 MPS), Main and Wallace, Eureka, 89001994
US Post Office—Nephi Main (US Post Offices in Utah 1900-1941 MPS), 10 N. Main, Nephi, 89001996

Sanpete County

US Post Office—Springville Main (US Post Offices in Utah 1900-1941 MPS), 309 S. Main, Springville, 89002000

Sevier County

US Post Office—Richfield Main (US Post Offices in Utah 1900-1941 MPS), 93 N. Main, Richfield, 89001999

Summit County

US Post Office—Park City Main (US Post Offices in Utah 1900-1941 MPS), Main and 5th Sts., Park City, 89001997

The following property was erroneously published in the **Federal Register** as a pending boundary increase and accepted as such on 9/14/89. This acceptance has been retracted as of 10/18/89.

LOUISIANA

Natchitoches Parish

Oakland Plantation (Boundary Increase) E of Natchez on LA 494, Natchez vicinity 89001444

The following property was erroneously published in the **Federal Register** as a pending nomination.

VIRGINIA

Colonial Heights Independent City

Conjurer's Field Archeological Site (44CF20) Address Restricted, Colonial Heights (Independent City) vicinity 89001924

[FR Doc. 89-25552 Filed 10-30-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: China Toy and Novelty Co. and Western Novelty Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 20, 1989.

Copies of the initial detrmination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official

business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW. Washington, DC 20436, telephone 202-252-1000. Hearing

conclusion of phase one, all AT&T and McKinsey personnel will be excused.

During phase two of the *in camera session,* petitioner will be allowed to address all other BPI matters.

and extends eastward from the F&J junction to the Talleyrand Docks and Terminal. The transaction was to be consummated on the effective date of this notice, September 14, 1989.[1]

Constitution Avenue, NW., Washington, DC 20210.

These meetings will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The

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business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW. Washington, DC 20436, telephone 202–252–1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street, SW. Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desirng to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–252–1805.

By order of the Commission.

Issued: October 25, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–25546 Filed 10–30–89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–295]

Certain Novelty Teleidoscopes; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Universal Specialties Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 20, 1989.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW. Washington, DC 20436, telephone 202–252–1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–252–1805.

By order of the Commission.

Issued: October 25, 1989.

Kenneth R. Mason,

Secretary.

FR Doc. 89–25547 Filed 10–30–89; 8:45 am]

BILLING CODE 7020-02-M

[Inv. Nos. 731–TA–426–428]

Certain Telephone Systems and Subassemblies Thereof From Japan, Korea, and Taiwan; Commission Determination to Conduct a Portion of Its Hearing In Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of Commission hearing to the public.

SUMMARY: Upon request of certain respondents and without objection from the petitioner, the U.S. International Trade Commission has unanimously determined that the unique circumstances of this investigation warrant that a portion of its hearing be conducted *in camera*. *See* 19 CFR 201.13, 201.35(b)(3). The *in camera* portion of the hearing will consist of two phases. In phase one, the presentations will be limited to arguments relevant to the proper analysis of AT&T's financial data and the relevance of its McKinsey study. In phase two, the parties will be allowed to comment on all other business proprietary information.

In determining to undertake this unusual procedural step, the Commission strongly reaffirms the desirability of conducting its business in public. However, given the dominant position of the petitioner in the domestic industry and its involvement in a wide array of activities in addition to, but also related to, the production of small business telephone equipment, including refurbishing, renting, leasing, selling and distributing such equipment, an *in camera* session devoted to the proper understanding of its financial condition is appropriate. Moreover, none of the parties to this investigation have raised any objection to this procedure. *See* 19 CFR 201.35(b)(4). In the interests of procedural equity, the Commission has determined not to limit the *in camera* session solely to the petitioner's business proprietary information.

After the completion of the petitioner's public presentation and questioning of the petitioner by the Commission, the hearing will be recessed. The *in camera* session will take place when the Commission reconvenes following the recess. Only those individuals who have been granted access to business proprietary information under a Commission Administrative Protective Order (APO) and are included on the Commission's APO service list will be allowed to attend the *in camera* session. *See* 19 CFR 201.35(b)(1), (2). During phase one of the *in camera* session, the relevant AT&T and McKinsey personnel will be allowed to attend. They will, however, be excused at the end of phase one. All those planning to attend that session should present proper identification in order to be admitted to the hearing room.

During phase one of the *in camera* hearing, respondents will first present their arguments relating to the financial condition of AT&T and the relevance of its McKinsey study. The Commission will then question the respondents as appropriate. Petitioner may then respond. Petitioner also will be questioned by the Commission. At the conclusion of phase one, all AT&T and McKinsey personnel will be excused.

During phase two of the *in camera session*, petitioner will be allowed to address all other BPI matters. Respondents may then reply. Both groups will be questioned by the Commission as appropriate.

Respondents will be allowed up to 20 minutes to make their collective presentation, allocated as they choose between phase one and phase two, with that amount deducted from their allotted time. Petitioner will be allowed up to 15 minutes to make its collective presentation, allocated as it chooses between phase one and phase two, with that amount of time deducted from its allotted time.

At the conclusion of the *in camera* portion of the hearing, the Commission will take a brief recess and will reconvene in public session to complete their public questioning of the petitioner, if necessary. The Commission will then consider the public presentation of respondents.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, tel. 202–252–1095.

AUTHORITY: The General Counsel has certified, pursuant to Commission Rule 201.39, 19 CFR 201.39, that, in her opinion, a portion of the Commission's hearing in *Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan*, Inv. Nos. 731–TA–426–428 (Final) may be closed to the public to prevent the disclosure of confidential financial information.

By order of the Commission.

Issued: October 26, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–25689 Filed 10–27–89; 10:23 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31544]

Jaxport Terminal Railway Co.; Lease and Operation Exemption—Terminal Railroad Facilities in Jacksonville, Duvall County, FL

Jaxport Terminal Railway Company (JTR), a noncarrier, has filed a notice of exemption to lease and operate 8.72 miles of rail line owned by the Municipal Docks Railroad (MDR), a unit of the Jacksonville Port Authority. The line is located between Norfolk Southern milepost 5–C and CSX Transportation, Inc., milepost 632.08, and extends eastward from the F&J junction to the Talleyrand Docks and Terminal. The transaction was to be consummated on the effective date of this notice, September 14, 1989.[1]

Any comments must be filed with the Commission and served on Frank J. Pergolizzi, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Applicant must retain its interest in and maintain the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470 is achieved. *See Class Exemption—Acq. of Oper. of R. Lines Under 49 U.S.C. 10901*, 4 I.C.C.2d 305 (1988).[2]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d), may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 25, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–25558 Filed 10–30–89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Review Panel for the Job Training Partnership Act Presidential Awards; Meeting

The Review Panel for the Job Training Partnership Act (JTPA) Presidential Awards was renewed by Notice dated August 8, 1988, for a two-year period, and published August 12, 1988, 53 FR 30482, to advise the Secretary of Labor on the selection of the Presidential Awards recipients.

Notice is hereby given of the meetings of the Review Panel for the JTPA Presidential Awards and its working groups during a two-week period to begin November 20, 1989.

TIME AND PLACE: 10:00 a.m., Room S5515, Seminar Room 2, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

These meetings will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Panel will review and discuss personal information regarding the nominees, disclosure of which would constitute a clearly unwarranted invasion of privacy.

FOR FURTHER INFORMATION, CONTACT: Robert N. Colombo, Director, Office of Employment and Training Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4703, Washington, DC 20210. Telephone: 202–535–0577.

Signed at Washington, DC, this 25th day of October, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89–25595 Filed 10–30–89; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA–W–21,739]

Myers Drilling Co.; Midland, Texas; Termination of Investigation; Correction

This notice corrects the language in the **Federal Register** of March 3, 1989 at page 9096 (54 FR 9096), FR Document 89–5029, denoting the TA–W number of the active certification covering the instant worker group.

Under Myers Drilling Co., Midland TX; Termination of Investigation, the last line on page 9096, the active certification number covering the petitioning group of workers should be "TA–W–21,592" instead of TA–W–21,739.

Signed at Washington, DC, this 20th day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89–25596 Filed 10–30–89; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued druing the period of October 1989.

[1] JTR states that even though the lease became effective on July 24, 1989, common carrier operations would not begin until the notice became effective. It notes that it has performed all terminal railroad operations on the property during the interim period, solely as contract agent of MDR, in MDR's name and pursuant to MDR's filed tariffs.

[2] JTR certifies that it has identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old and older that will be transferred as a result of this transaction.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of

TA–W–23,315; L & S Shirt Co., Inc., New York, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23,275; SSMC, Inc., Fairfield, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

A certification was issued covering all workers separated on or after April 1, 1989.

TA–W–23,231; Joy Footwear Co., Hialeah, FL

A certification was issued covering all workers separated on or after July 28, 1988.

TA–W–23,242; Samsung International, Inc., Ledgewood, NJ

TA–W–23,268; Oil Well Perforators, Inc., Englewood, CO

A certification was issued covering all workers separated on or after August 3, 1988.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absoulte decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,282; V'Lora Swimwear, Inc., Bloomfield, NJ

TA-W-23,270; Parker Seal Co., Berea, KY

TA-W-23,277; Snyder Tank Corp., Galeton, PA

TA-W-23,229; Honeywell, Inc., Solid State Electronics Div, Colorado Springs, CO

TA-W-23,272; Pharoah Corp., East Newark, NJ

TA-W-23,330; Syltron, Inc., PMG, Luquillo PR

TA-W-23,252; Dotti Original, Inc., Elizabeth, NJ

TA-W-23,286; Circuline Fabrics, Inc., Brooklyn, NY

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,284; Michel T. Halbouty Energy Co., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,289; GE Lighting, Troy, MI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,267; North Central Oil Corp., Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,315; L & S Shirt Co., Inc., New York, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,282; Grant Oil Country Tubular Corp., Houston, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,329; Sooner Completion Co., Enid, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-21,635; Kerr Finishing, Inc., Travelers Rest, SC

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,336; B & B Tool & Supply Co., Inc., Casper, WY

U.S. imports of oilfield machinery are negligible.

TA-W-23,339; BOP Repair & Machine, Inc., Casper, WY

U.S. imports of oilfield machinery are negligible.

TA-W-23,318; Miller Taxidermy, Aransas Pass, TX

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-23,309; Dailey Petroleum Services, Inc., Lafayette, LA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,394; National Semiconductor Corp., Danbury, CT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,279; Sovonics Solar Systems, Troy, MI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,320; Moriarty Welding & Fabrication, Buffalo, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,290; GNB, Inc., Dunmore, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,276; Service America Corp., Springdale, AR

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,275; SSMC, Inc., Fairfield, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,256; First Financial Management Corp., Thrift Services Div., Englewood, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,260; J.C. Penny Co., Inc., Merchandise Testing Center, New York, NY

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,230; Harnischfeger Corp., Cedar Rapids, IA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,298; PPG Industries, Inc., Glass Research Center, Pittsburgh, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,236; MCENA, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,263; Meilink Steel Safe Co., Toledo, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,257; Guy Friel & Sons, Inc., Smyrna Mills, ME

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determination

TA-W-23,142; Garan, Inc., Adamsville, TN

A certification was issued covering all workers separated on or after June 27, 1988.

TA-W-23,262; Koelling Metals, St. Louis, MO

A certification was issued covering all workers separated on or after August 1, 1988.

TA-W-23,233; Leviton Manufacturing Co., Inc., West Kingston, RI

A certification was issued covering all workers separated on or after July 19, 1988.

TA-W-23,244; Teledyne Wisconsin Motors, West Allis, WI

A certification was issued covering all workers separated on or after April 1, 1989.

TA-W-23,231; Joy Footwear Co., Hialeah, FL

A certification was issued covering all workers separated on or after July 19, 1988 and before April 30, 1989.

TA-W-23,251; Diamond Well Service, Inc., Casper, WY

A certification was issued covering all workers separated on or after July 27, 1988.

TA-W-23,249; Beta Manufacturing Co., Warren, MI

A certification was issued covering all workers separated on or after August 3, 1988.

TA-W-23,273; Rod Ric Corp., Odessa, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,223; Edmar Creations, Inc./ The Edmar Co., Clifton, NJ

A certification was issued covering all workers separated on or after July 13, 1988.

TA-W-23,248; Barlyn Manufacturing Corp., Newark, NJ

A certification was issued covering all workers separated on or after June 7, 1988.

TA-W-22,860; Kaypro Corp., Solana Beach, CA

A certification was issued covering all workers separated on or after April 14, 1988.

TA-W-23,293; Harris Graphics Corp., Pawcatuck, CT

A certification was issued covering all workers separated on or after August 7, 1988.

TA-W-23,297; Ottenheimer & Co., Inc., Bozarth Facility, Vichy, MO

A certification was issued covering all workers separated on or after August 8, 1988 and before May 30, 1989.

TA-W-23,301; Sherwood Medical Co., Tucson, AZ

A certification was issued covering all workers separated on or after June 30, 1988.

TA-W-23,327; RPI International, Inc., Boulder, CO

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,302; Teledyne Exploration Co., Metairie, LA

A certification was issued covering all workers separated on or after July 28, 1988.

TA-W-23,303; Teledyne Exploration Co., Houston TX

A certification was issued covering all workers separated on or after July 28, 1988.

TA-W-23,242; Samsung International, Inc., Ledgewood, NJ

A certification was issued covering all workers separated on or after July 20, 1988.

TA-W-23,278; Somerset Knitting Mills, Philadelphia, PA

A certification was issued covering all workers separated on or after August 7, 1988.

TA-W-23,274; RWIMCO, Inc., Cisco, TX

A certification was issued covering all workers separated on or after August 7, 1988.

TA-W-23,322; Niagara Paper Co., Inc., Buffalo, NY

A certification was issued covering all workers separated on or after August 21, 1988.

TA-W-23,266; Nichols Casing Crews, Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after August 2, 1988

TA-W-23,280; Texaco USA, West Region, Producing Dept., Casper, WY

A certification was issued covering all workers separated on or after August 2, 1988.

TA-W-23,280A; Texaco USA, West Region, Producing Dept., Operating at Other Locations in WY

A certification was issued covering all workers separated on or after August 2, 1988.

TA-W-23,280; Texaco USA. West Region, Producing Dept., Operating at Various Locations in The Following States:

A-W-23,280B CO
A-W-23,280C MT
A-W-23,280F UT
A-W-23,280D NM
A-W-23,280E ND

A certification was issued covering all workers separated on or after August 2, 1988.

TA-W-23,281; Texaco USA, Midland Div., Midland, TX

A certification was issued covering all workers separated on or after January 23, 1989.

TA-W-23,281A; Texaco USA, Midland Div., Operating at Other Locations in Texas

A certification was issued covering all workers separated on or after January 23, 1989.

TA-W-23,281B; Texaco USA, Midland Div., Operating at Other Locations in New Mexico.

A certification was issued covering all workers separated on or after August 1, 1988.

TA-W-23,268; Oil Well Perforators, Inc., Englewood, CO

A certification was issued covering all workers separated on or after August 3, 1988.

TA-W-23,268; Oil Well Perforators, Inc., & Operating at Various Locations in The Following States

A-W-23,268A CO
A-W-23,268B WY
A-W-23,268C UT
A-W-23,268D MT

A certification was issued covering all workers separated on or after August 3, 1988.

TA-W-21,807; Catus Drilling Co., Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

I hereby certify that the aforementioned determinations were issued during the month of October 1989. Copies of these determinations are available for inspection in Room 6434. U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 24, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-25594 Filed 10-30-89; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; State Designations of Entities as Dislocated Worker Units Under Title III, as Amended by Economic Dislocation and Worker Adjustment Assistance Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information an update of a listing of names, addresses, and telephone numbers of entities designated by State as Dislocated Worker Units.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N-4469, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-535-0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title III of the Job Training Partnership Act (JTPA), as amended by the Economic

Dislocation and Worker Adjustment Assistance Act (EDWAA) provides that the Department of Labor (DOL or Department) shall fund programs for States to assist dislocated workers

Colorado

Mr. Dick Rautio, Director, DWU, Governor's Job Training Office, 1391 N. Speer Boulevard, #440, Denver,

Indiana

Ms. Nina White, Manager, Operational Planning and Support, Program Operations Division, Indiana

Box 30039, Lansing, Michigan 48909, Telephone: 517-373-6227

Minnesota

Mr. Edward Retka, Employment and

Telephone: 505-827-6824, copy to: Mr. Paul Garcia, Secretary, New Mexico Department of Labor, P.O. Box 1928, Albuquerque, New Mexico 87102

South Dakota

Dislocated Worker Unit, South Dakota Department of Labor, 700 Governor's Drive, Pierre, South Dakota 57501,

Dislocation and Worker Adjustment Assistance Act (EDWAA) provides that the Department of Labor (DOL or Department) shall fund programs for States to assist dislocated workers. Section 311(b)(2) of JTPA provides that States will designate or create an identifiable State Dislocated Worker Unit (DWU) or office with the capability to respond rapidly, onsite, to permanent plant closures and substantial layoffs throughout the State. The DWU is a key feature of the States' implementation of the new programs under EDWAA.

On March 6, 1989, the Assistant Secretary of Labor sent a letter to each of the Governors to verify a listing of their State DWU designated entity, and on April 25, 1989 the original list was published. Revisions to the listing have been received, so DOL is publishing this notice.

Signed at Washington, DC this 24th day of October, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

Dislocated Worker Units Nationwide

Alabama

Mrs. Ruth Ott, Employment and Training Division, Department of Economic and Community Affairs, 3465 Norman Bridge Road, P.O. Box 250347, Montgomery, Alabama 36205-0939, Telephone: 205-284-8900

Alaska

Mr. William Mailer, JTPA Program Manager, Rural Development Division, Department of Community and Regional Affairs, 949 East 36th Avenue, Suite 403, Anchorage, Alaska 99508, Telephone: 907-563-1955

Arizona

Ms. Delia Walters, Department of Economic Security, Division of Employment and Rehabilitation Services, 1300 West Washington, 3rd Site Code 901A, Phoenix, Arizona 85005, Telephone: 602-542-4910

Arkansas

Mr. William D. Caddy, Administrator, Arkansas Employment Security Division, P.O. Box 2981, Little Rock, Arkansas 72203, Telephone: 501-682-2121

California

Mr. Werner O. Schink, Acting Chief, Job Training Partnership Division, MIC 69, Employment Development Department, California Response Team, P.O. Box 942880, Sacramento, California 94280-0001, Telephone: 916-322-4440

Colorado

Mr. Dick Rautio, Director, DWU, Governor's Job Training Office, 1391 N. Speer Boulevard, #440, Denver, Colorado 80204, Telephone: 303-620-4400

Connecticut

Mr. Arthur Franklin, Director, State Department of Labor Dislocated, Worker Unit, 200 Folly Brook Boulevard, Whethersfield, Connecticut 06109, Telephone: 203-566-7433

Delaware

Ms. Alice Mitchell, Technical Services Manager, Delaware Department of Labor, P.O. Box 9499, Newark, Delaware 19714-9499, Telephone: 302-368-6913

District of Columbia

Ms. Brenda Boykins, Division Chief, Division of Program Operations, Department of Employment Services, Office of Employability Development, 500 C Street, NW., Room 301, Washington, DC 20001, Telephone: 202-639-1359

Florida

Mr. Shelton Kemp, Chief, Bureau of Job Training, Division of Labor, Employment and Training, Department of Labor and Employment Security, 1320 Executive Center Drive, Suite 201, Tallahassee, Florida 32399-0667, Telephone: 904-488-0250

Georgia

Ms. Andrea Harper, (All correspondence should be addressed to Mr. James A. Lowe), Georgia Department of Labor, Sussex Place, Suite 600, 148 International Boulevard NE., Atlanta, Georgia 30303, Telephone: 404-656-3031

Hawaii

Mr. Mario Ramil, Director, Department of Labor and Industrial Relations, 830 Punchbowl Street, Room 321, Honolulu, Hawaii 96813, Telephone: 808-548-3150

Idaho

Ms. Julie Kilgrow, Director, Department of Employment, 317 Main Street, Boise, Idaho 83735-0001, Telephone: 208-334-6110

Illinois

Mr. John Taylor, Manager, Job Training Programs Division, Illinois Dept. of Commerce and Comm. Affairs, 620 E. Adams Street, Springfield, Illinois 62704, Telephone: 217-785-6006

Indiana

Ms. Nina White, Manager, Operational Planning and Support, Program Operations Division, Indiana Department of Employment and Training Service, 10 N. Senate Avenue, Room 325, Indianapolis, Indiana 46204, Telephone: 317-232-8066

Iowa

Mr. Jeff Nall, Administrator, Job Training Division, Department of Econ. Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: 515-281-3759

Kansas

Mr. Patrick Pritchard, Director, Program and Support Services, Department of Human Resources, 401 Topeka Avenue, Topeka, Kansas 66603, Telephone: 913-296-2063

Kentucky

Mr. Charles Furr, Director, Division for Job Training, Department for Employment Services, 275 East Main, 2 West, Frankfort, Kentucky 40621, Telephone: 502-564-5360

Louisiana

Mrs. Phyllis C. Mouton, Secretary of Labor, ATTN. DWU, Copy to: Robert Dupre, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094, Telephone: 504-342-3018

Maine

Mr. James H. McGowan, Director, Bureau of Labor Standards, Department of Labor, State House Station #45, Augusta, Maine 04333, Telephone: 207-289-6400

Maryland

Mr. Vernon J. Thompson, Director, Contracts and Operations, Office of Employment Training, Department of Economic and Employment Development, 1100 N. Eutaw Street, Rm. 310, Baltimore, Maryland 21201, Telephone: 301-333-5149

Massachusetts

Dr. Patricia Hanratty, Executive Director, Industrial Services Program, One Ashburton Place, Room 1413, Boston, Massachusetts 02108, Telephone: 617-727-8158

Michigan

Mr. James Houck, Manager, Dislocated Workers Unit, Michigan Department of Labor, Governor's Office For Job Training, 222 Hollister Building, P.O. Box 30039, Lansing, Michigan 48909, Telephone: 517-373-6227

Minnesota

Mr. Edward Retka, Employment and Training Specialist III, Minnesota Department of Jobs and Training, State Job Training Office, 690 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101, Telephone: 612-296-7918

Mississippi

Ms. Jane Black, Director, DWU, Department of Job Development and Training, Governor's Office of Federal-State Programs, 301 West Pearl Street, Jackson, Mississippi 39203-3089, Telephone: 601-949-2128

Missouri

Mr. Michael Hartmann, Director, Department of Econ. Dev., Division of Job Development and Training, 221 Metro Drive, Jefferson City, Missouri 65109, Telephone: 314-751-7796

Montana

Ms. Patricia Gross, Program Manager, DWU, Employment Policy Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624, Telephone: 406-444-4500

Nebraska

Ms. Patricia Meisenholder/Mr. Edward Kosark, Nebraska Department of Labor, Job Training Program Division, 550 South 16th Street, Box 95004, Lincoln, Nebraska 68509-5004, Telephone: 402-471-2127

Nevada

Ms. Barbara Weinberg, State Job Training Office, Capitol Complex, Carson City, Nevada 89710, Telephone: 702-885-4310

New Hampshire

Mr. Robert Steiner, Director, Dislocated Worker Unit, NH Job Training Coordinating Council, 64B Old Suncook Road, Concord, New Hampshire 03301, Telephone: 603-228-9500

New Jersey

Mr. Thomas Draybik, Coordinator, New Jersey Department of Labor Response Team, New Jersey Department of Labor Room 1013, John Fitch Plaza, Trenton, New Jersey 08625, Telephone: 609-292-2074

New Mexico

Mr. Patrick Newman, Chief, Dislocated Worker Unit, State Administrative Entity, P.O. Box 4218, 1596 Pacheco Street, Santa Fe, New Mexico 87501 Telephone: 505-827-6824, copy to: Mr. Paul Garcia, Secretary, New Mexico Department of Labor, P.O. Box 1928, Albuquerque, New Mexico 87102

New York

Mr. David Mance, Early Warning Notification Unit, Room 162, Building 12, State Office Building Campus, Albany, New York 12240, Telephone: 518-457-0206 (Within State—1-800-548-1158)

North Carolina

Mr. Joel C. New, Director, Division of Employment and Training, P.O. Box 27687, Raleigh, North Carolina 27611-7687, Telephone: 919-733-6363

North Dakota

Mr. James Hirsch, Director, Employment and Training Division, Job Service of ND, P.O. Box 1537, Bismarck, North Dakota 58502, Telephone: 701-224-2843

Ohio

Ms. Ellen O'Brien Saunders, Administrator, Ohio Bureau of Employment Services, 145 S. Front Street, Columbus, Ohio 43215, Telephone: 614-466-8032

Oklahoma

Mr. Eddie Foreman, Supervisor, EDWAA Unit, Oklahoma Employment Security Commission, Will Rodgers Building, Room 308, 22401 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Telephone: 405-557-7128

Oregon

Ms. Gale Castillo, Manager, Job Training Partnership Administration, Economic Development Department, 155 Cottage Street N.E., Salem, Oregon 97310, Telephone: 503-373-1995

Pennsylvania

Mr. Franklin G. Mont, Deputy Secretary for Employment, Security and Job Training, 7th and Forster Streets, Harrisburg, Pennsylvania 17120, Telephone: 717-787-1745

Rhode Island

Mr. Richard D'Iorio, Director, The Dislocated Workers Resources Center, 555 Valley Street, Building 51, Providence, Rhode Island 02908, Telephone: 401-277-2090

South Carolina

Ms. Regina D. Ratterree, Program Coordinator, South Carolina Employment Security Commission, Manpower Training Unit, Rapid Response Unit, 1550 Gadsden Street, Columbia, South Carolina 29201-3430, Telephone: 803-737-2600 or 1-800-922-6332

South Dakota

Dislocated Worker Unit, South Dakota Department of Labor, 700 Governor's Drive, Pierre, South Dakota 57501, Telephone: 605-773-5017

Tennessee

Mr. Jimmy White, Commissioner, Tennessee Department of Labor, Dislocated Worker Unit, 501 Union Building, 6th Floor, Nashville, Tennessee 37219-5388, Telephone: 615-741-2582

Texas

Ms. Joyce Leidy, Associate Director, Texas Department of Commerce, Industrial Development Training, P.O. Box 12728, Austin, Texas 78711, Telephone: 512-834-6237

Utah

Mr. Gary Gardner, Director, DWU, Office of Job Training and Economic Development, 6136 State Office Building, Salt Lake City, Utah 84114, Telephone: 801-538-3819

Vermont

Mr. Thomas Douse, Director, Office of Employment and Training Programs, Department of Employment and Training, P.O. Box 488, Montpelier, Vermont 05602, Telephone: 802-229-0311

Virginia

Mr. Ralph Cantrell, Commissioner, Virginia Employment Commission, P.O. Box 1358, 703 E. Main Street, Richmond, Virginia 23211, Telephone: 804-786-3001, Copy to: Dr. James E. Price, Executive Director, Governor's Employment and Training Department, The Commonwealth Building, 4615 West Broad Street, Third Floor, Richmond, Virginia 23230, Telephone: 804-367-9800

Washington

Ms. Susan Dunn, Commissioner, Employment Security Department, Training and Employment Analysis Division, 605 Woodview Drive S.E., KG 11, Olympia, Washington 98504, Telephone: 206-438-4611

West Virginia

Mr. Paul Skaff, Administrative Manager, State DWU, Employment and Training Division, Governor's Office of Community and Industrial Development, 5790-A Mac Corkle Avenue S.E., Charleston, West Virginia 25304, Telephone: 304-348-5920

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Wisconsin

Mr. Dan Bond, Division of Employment and Training Policy, State Job Training Program Section, Jobs Bureau—DILHR, 201 E. Washington Avenue, P.O. Box 7972, Madison, Wisconsin 53707, Telephone: 608–266–0745

Wyoming

Mr. Jerry Baldwin, Coordinator, DWU, Department of Employment, Job Training Administration, Barrett Building, 3rd Floor, 2301 Central Avenue, Cheyenne, Wyoming 82002, Telephone: 307–777–7745

Puerto Rico

Mr. Jose Reyes Herrerro, Director, DWU, Office of Economic Opportunity, La Fortaleza, Call Box 50087, Old San Juan, Puerto Rico 00901, Telephone: 809–724–7900

[FR Doc. 89–25597 Filed 10–30–89; 8:45am]

BILLING CODE 4510–30–M

Job Training Partnership Act: Announcement of Proposed Noncompetitive Grant Awards

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of intent to award a noncompetitive grant.

SUMMARY: The Employment and Training Administration (ETA) announces its intent to award a grant on a basis noncompetitive to National Council on the Aging to provide specialized services under the authority of the Job Training Partnership Act (JTPA).

DATES: It is anticipated that this grant agreement will be executed by November 22, 1989 and will be funded for one year. Submit comments by 4:45 p.m. (Eastern Time), on November 15, 1989.

ADDRESS: Submit comments regarding the proposed award to: U.S. Department of Labor, Employment and Training Administration, Room C–4305, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Betty Koonce; Reference FR–DAA–104.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces its intent to award a noncompetitive grant to the National Council on the Aging. The proposed grantee will help the JTPA system to promote the increased utilization of Older Workers in private industry through the provision of technical information services and materials to the business sector regarding the productivity and profitability of employing and retaining older workers. Grantee will conduct seminars to build the capacity of the states and SDAs in conducting more effective programs for older workers. Funds for this activity are authorized by the Job Training Partnership Act (JTPA), as amended, title IV—Federally Administered programs. The proposed funding is $250,000 for a period of twelve (12) months.

Signed at Washington, DC, on October 17, 1989.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 89–25593 Filed 10–30–89; 8:45am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 89–93; Exemption Application No. D–7364 et al.]

Grant of Individual Exemptions; National Rural Utilities Cooperative Finance Corp. (CFC), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

National Rural Utilities Cooperative, Finance Corporation (CFC)
Located in Washington, DC.

[Prohibited Transaction Exemption 89–93; Exemption Application No. D–7364]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to certain transactions, described in the summary of facts and representations of the notice of proposed exemption (referred to below), between CFC and certain employee benefit plans (the Plans). CFC may be deemed to be a party in interest with respect to the Plans as a result of providing services to a trust in situations where the assets of the trust are considered to be "plan assets" as a result of the Plans acquiring significant equity interests in the trust in the form of pass-through certificates (the Certificates). The exemption will be effective provided that:

A. The decision by a Plan to engage in the transactions is made by a fiduciary of the Plan which is independent of CFC as well as the trustee of the trust; and

B. The terms of each such transaction are no less favorable to the Plan than the terms available in a similar transaction involving unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1989 at 54 FR 25356.

Effective Date: The effective date of this exemption is July 22, 1987.

Written Comments: The applicant submitted a few written comments with respect to the notice of proposed exemption (the Notice).

Paragraph 4 of the Notice states that in June 1986, Congress passed legislation (the Legislation) permitting rural electric utilities to take advantage of the reductions in interest rates by prepaying their high interest loans from the Federal Financing Bank of the United States Treasury (the FFB Loans), without any prepayment penalty or fees, through the issuance of debt to private lenders (i.e. private notes) which would be guaranteed by the Rural Electrification Agency (REA). Paragraph 4 states further that REA has adopted regulations (the Regulations) implementing the Legislation, and has accepted prepayment applications submitted by a number of cooperative electric utilities (the Cooperatives).

In addition, paragraph 5 of the Notice stetes that CFC has formulated a program (the Program) to permit the Cooperatives to refinance their FFB Loans in accordance with the Regulations at competitive rates, and that the Program has been approved by REA as complying with the Regulations.

The third paragraph of Paragraph 5 of the Notice states that the Regulations require that the interest rates on the private notes issued by the Cooperatives must be at least 50 basis points lower than the weighted average interests rate borne by the FFB Loans being repaid.

The applicant states that the Regulations have been revised, effective as of February 1988, to require that the interest rates on the private notes be equal to or lower than the weighted average interest rate borne by the FFB Loans being repaid, taking into account savings achieved during earlier periods following the refinancing of such FFB Loans. CFC states that it continues to assume all risks associated with interest rate fluctuations.

Paragraph 13 of the Notice states that a number of Cooperatives have submitted applications to REA to refinance their FFB Loans under the Program. The applicant states that all of the Cooperatives mentioned in paragraph 13 have refinanced their FFB loans in accordance with the Program, except for Cajun Electric Power Cooperative, Inc. The applicant states further that Western Illinois Power Cooperative, Inc., which was not mentioned in paragraph 13, has also refinanced its FFB Loan under the Program, although the Certificates resulting from such refinancing have not yet been resold by CFC.

After consideration of the entire record, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Ophthalmic Associates, P.A. Employees' Pension Plan (the Pension Plan) and Ophthalmic Associates, P.A. Employees' Money Purchase Pension Plan (the Money Purchase Pension Plan; collectively, the Plans)
Located in Lansdale, PA

[Prohibited Transaction Exemption 89–94; Exemption Application Nos. D–7684 and D–7685, respectively]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the transfer by the Pension Plan to the Money Purchase Pension Plan of a 50 percent tenant-in-common interest in certain improved real property and cash, provided the terms of the transaction are at least as favorable to the Money Purchase Pension Plan as those obtainable in an arm's-length transaction with an unrelated party. In addition, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the assumption, by the Money Purchase Pension Plan, of certain pre-existing loan, lease and sublease obligations of the Pension Plan with persons who are parties in interest with respect to both Plans, provided the terms of the transaction are at least as favorable to the Money Purchase Pension Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 23, 1989 at 54 FR 35094.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Jon A. Harding, D.M.D., P.S., Employees' Amended and Restated Money Purchase Pension Plan and Trust (the Plan)
Located in Spokane, Washington

Prohibited Transaction Exemption 89–95; Exemption Application No. D–8030]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash by the Plan of certain real property (the Real Property) to Helen M. Harding, a party in interest with respect to the Plan, provided that the price paid be no less than the fair market value of the Real Property on the date of sale, as established by an independent and qualified appraiser of real estate.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 8, 1989 at 54 FR 32542.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of October, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-25565 Filed 10-30-89; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7902, et al.]

Proposed Exemptions; Ohio Bank & Savings Company Employees' Profit Sharing Plan and Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Ohio Bank and Savings Company Employees' Profit Sharing Plan and Trust (the Plan) Located in Findlay, OH

[Exemption Application No. D-7902]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed purchase by the Plan of certain real property (the Property) located in Findlay, Ohio which is leased to the Ohio Bank and Savings Company (the Employer), the sponsor of the Plan; (2) the proposed lease of the Property by the Plan to the Employer; and (3) the proposed potential purchase of the Property by the Employer from the Plan; provided that all terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 143 participants and total assets of $959,718.00 as of December 31, 1988. The Employer is a state-chartered bank organized under the laws of the state of Ohio with its corporate headquarters in Findlay, Ohio. The Employer serves as the trustee and administrator of the Plan through committees appointed from among its employees, officers and directors.

2. The Employer maintains its principal place of business in premises located in downtown Findlay, Ohio at 236 South Main Street. Situated nearby is the Property, which is utilized as a parking lot by the Employer. The Employer leases the Property (the Original Lease) from W. Dean Fouts and Joyce M. Fouts (Fouts), whom the Employer represents to be unrelated to the Plan and the Employer. The Original Lease, a ten-year triple-net lease effective November 1, 1988, was executed after the Employer loaned the Fouts $140,000 (the Loan) to adapt the Property for use as the Employer's parking lot. Since the Original Lease was executed, the Fouts have expressed a desire to sell the Property and the Employer has determined that ownership of the Property and income therefrom under a lease to the Employer would constitute a desirable investment for the Plan. Accordingly, the Employer is proposing that the Plan purchase the Property for cash from the Fouts and immediately commence leasing the Property to the Employer under an agreement which provides for the Employer's potential future purchase of the Property from the Plan. The Employer is requesting an exemption to permit such transactions under the terms and conditions described herein.

3. The interests of the Plan with respect to the proposed transactions will be represented by an independent fiduciary, Ronald C. Pfeiffer (the Fiduciary), an institutional investment services professional with the firm of McDonald & Company Securities, Inc. in Findlay, Ohio, who represents that he has substantial knowledge and experience in fiduciary responsibilities under the Act and that he is independent of the Employer. The Fiduciary will represent the Plan in the Plan's proposed purchase of the Property from the Fouts, in the execution of the proposed lease with the Employer (the New Lease) and in the oversight and enforcement of the Employer's obligations under the New Lease for its duration. The Fiduciary will also represent the Plan in any potential sale of the Property to the Employer pursuant to one of three provisions in the New Lease as described herein.

4. The Property consists of eight contiguous lots of commercially-zoned real property located at 100 North Main Street in the central business district in the City of Findlay, County of Hancock, Ohio. All buildings on the Property, having been condemned, were removed by the Fouts in preparation of the Property's 19,200 square feet of surface area for asphalt paving suitable for automobile parking. This adaptation of the Property has resulted in the creation of fifty-six parking spaces and the Property remains accessible to full utilities and municipal police and fire protection. As of August 17, 1988, the Property had a fair market value of $149,000, according to Larry E. McCormick and J.F. Lamberjack, professional real property appraisers with the firm of Midwest Appraisal Service (Midwest) in Findlay, Ohio.

5. It is proposed that the Plan will pay the Fouts cash for the Property in the amount of $142,000, a price negotiated with and accepted by the Fouts. The Fouts will deliver to the Plan fee simple title in the Property free of all liens and mortgages. The Loan will be repaid in full before the transfer of the Property.

6. The New Lease will be a triple-net lease for an initial term of ten years commencing on the date of the Plan's purchase of the Property. The Plan's interests as landlord under the New Lease will be represented exclusively by the Fiduciary. With the Fiduciary's approval and ninety days advance written notice, the New Lease is renewable at the expiration of the initial term for one additional term of five years under the same terms applicable to the initial term. The New Lease authorizes the Fiduciary to terminate the New Lease without penalty of any sort to the Plan in the event, during the New Lease, the Fiduciary receives and accepts a bona fide offer for the purchase of the Property. Under the New Lease the Employer will pay annual rent in monthly installments at the rate of no less than the Property's fair market annual rental value. The New Lease provides that during its first three years the annual rent will be the greater of $14,784 or the Property's fair market annual rental value upon commencement of the New Lease as determined by an independent professional real estate appraiser selected by the Fiduciary. Thereafter, the Fiduciary shall cause the Property to be appraised every three years by an independent appraiser, at the expense of the Employer, and the annual rent will be increased in the amount, if any, by which the Property's fair market rental value has increased since the previous appraisal.

In addition to obligations for payment of all taxes and all costs of maintenance and repair on the Property, the Employer is required under the New Lease to provide full fire and extended coverage insurance of the Plan's interests in the Property and to provide general public liability insurance. The Employer is also required to obtain rent insurance in the amount of six months net rent. Under the New Lease the Employer will agree to indemnify and hold harmless the Plan against and from any and all claims of any nature arising from the Employer's use of the Property.

7. The New Lease will include a provision granting the Employer a right of first refusal (the Right) with respect to the Property. Accordingly, upon the Fiduciary's acceptance of a bona fide offer for the purchase of the Property or any part thereof during the New Lease, including any renewal, and after the Fiduciary has determined such acceptance to be in the best interests of the Plan's participants and beneficiaries, the Employer will be entitled to purchase the Property or part thereof from the Plan upon the same terms as the bona fide offer accepted by the Fiduciary. However, the Right authorizes only a cash purchase of the Property by the Employer, regardless of other non-cash terms of the bona fide offer, and the bona fide offer is limited to one which equals or exceeds the Property's fair market value at the time of the offer as determined by an independent professional real estate appraiser selected by the Fiduciary.

8. A purchase option (the Option) on the part of the Employer will also be among the New Lease's provisions. Pursuant to the Option, the Employer will have the right, subject to the approval of the Fiduciary, to purchase the Property from the Plan by providing written notice in compliance with the Option at least ninety days prior to the expiration of the initial or renewal term of the New Lease. The Fiduciary represents that it will approve of a sale of the Property by the Plan only after having determined that the continued holding of the Property would not be in the best interests of the participants and beneficiaries of the Plan. The Option provides that any purchase of the Property thereunder will be for cash in the amount of no less than the greater of $142,000 or the Property's fair market value as determined at the time of such purchase by an independent professional real estate appraiser selected by the Fiduciary. In any sale pursuant to the Option the Employer will pay all closing costs and other fees and expenses related to the transfer of the Property.

9. The New Lease also includes a provision (the Put) which empowers the Fiduciary to require the Employer to Purchase the Property from the Plan any time after the tenth year of the New Lease, following two consecutive years of unsuccessful efforts to sell the Property, if the Fiduciary so elects. Any purchase of the Property pursuant to the Put will be for cash in the amount of the greater of $142,000 or the fair market value of the Property at the time of the Put's exercise as determined by an independent professional real property appraiser selected by the Fiduciary. In any sale pursuant to the Put the Employer will pay closing costs and other expenses related to the transfer of the Property.

10. The Fiduciary represents that after a complete investigation of the proposed transactions, including an inspection of the Property, he has determined that the Plan's acquisition of the Property and its lease to the Employer under the New Lease would be in the best interests and protective of the participants and beneficiaries of the Plan. The Fiduciary has ascertained that the Plan's investment in the Property will leave the Plan appropriately liquid and diverse, as it will constitute the Plan's sole investment in real property and will represent less than twenty five percent of the Plan assets. In this regard, the Fiduciary notes that, because of the particular provisions of the New Lease, the Plan will not be compelled to retain the Property among its assets in the event, which he represents to be unlikely, that ownership of the Property ceases to be in the best interests of the participants and beneficiaries of the Plan. The Fiduciary finds little or no risks to the Plan from the proposed transactions due to the protective provisions of the New Lease.

The Fiduciary represents that he will continually monitor and oversee the performance by the Employer of the tenant obligations under the New Lease and will move without delay to remedy any breaches or defaults thereunder. The Fiduciary states that in the event the Right, the Put or the Option are exercised under the New Lease, he will cause the Property to be sold only at such time as he determines that continuing to hold the Property is not in the best interests of the Plan and will ensure that the Property is sold only for no less than its fair market value.

11. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the New Lease and the

potential sale of the Property to the Employer pursuant to the New Lease will be represented exclusively by the Fiduciary, who represents himself to be independent of the Employer; (2) The Plan will pay the Fouts cash for the Property in an amount not exceeding its fair market value and will obtain fee simple title free of all liens; (3) The Plan's ownership of the Property as proposed will present little or no risks to the Plan due to the protective and triple-net provisions of the New Lease which ensure that the Plan will receive rental payments of no less than the Property's fair rental market value; (4) The New Lease provides for its termination if the Fiduciary determines to sell the Property before the completion of the initial or renewal terms of the New Lease; (5) The Put enables the Plan to require the Employer to purchase the Property in the event the Fiduciary determines that it is not in the best interests of the Plan to retain the Property and is not able to sell the Property to an unrelated buyer; (6) Any sale of the Property to the Employer under the New Lease will occur only after the Fiduciary has determined that continued ownership of the Property would not be in the best interests of the Plan; and (7) The sale provisions of the New Lease ensure that the Plan will receive cash in the amount of no less than the Property's fair market value.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Capital Guardian Trust Company (Capital Guardian) Located in Los Angeles, CA

(Application No. D–7929)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the cross-trading of securities by Capital Guardian for employee benefit plan accounts (Plans) for which Capital Guardian acts as a fiduciary.

Conditions and Definitions

1. This exemption is subject to the following conditions:

(a) A Plan's participation in the cross-trade program is subject to a written authorization executed in advance by a fiduciary with respect to each such Plan, the fiduciary of which is independent of Capital Guardian;

(b) The authorization referred to in paragraph (a) is terminable at will without penalty to such Plan, upon receipt by Capital Guardian of written notice of termination; and

(c) Before an authorization is made, the authorizing Plan fiduciary must be furnished with any reasonably available information necessary for the authorizing fiduciary to determine whether the authorization should be made, including (but not limited to) a copy of this exemption, an explanation of how the authorization may be terminated, a description of Capital Guardian's cross-trade practices, and any other reasonably available information regarding the matter that the authorizing fiduciary requests;

2. (a) No more than three (3) business days prior to the execution of any cross-trade transaction, Capital Guardian must inform an independent fiduciary of each Plan involved in the cross-trade transaction: (i) That Capital Guardian proposes to buy or sell specified securities in a cross-trade transaction if an appropriate opportunity is available; (ii) the current trading price for such securities; and (iii) the total number of shares to be acquired or sold by each such Plan;

(b) Prior to each cross-trade transaction, the transaction must be authorized either orally or in writing by the independent fiduciary of each Plan involved in the cross-trade transaction;

(c) If a cross-trade transaction is authorized orally by an independent fiduciary, Capital Guardian will provide written confirmation of such authorization in a manner reasonably calculated to be received by such independent fiduciary within one (1) business day from the date of such authorization;

(d) The authorization referred to in this paragraph (2) will be effective for a period of three (3) business days; and

(e) No more than ten (10) days after the completion of a cross-trade transaction, the independent fiduciary authorizing the cross-trade transaction must be provided a written confirmation of the transaction and the price at which the transaction was executed;

3. (a) The cross-trade transaction is effected at the closing price for the security on the date of the transaction, and such price is within 10 percent of the closing price of the security on the day before the date on which Capital Guardian receives authorization by the independent Plan fiduciary to engage in the cross-trade transaction;

(b) The securities involved in the cross-trade transaction are those for which there is a generally recognized market; and

(c) The cross-trade transaction is affected only where the trade involves less than 5 percent of the aggregate average daily trading volume of the securities which are the subject of the transaction for the week immediately preceding the authorization of the transaction;

4. (a) Capital Guardian furnishes the authorizing Plan fiduciary at least once every three months, and not later than 45 days following the period to which it relates, a report disclosing: (i) A list of all cross-trade transactions engaged in on behalf of the Plan; and (ii) with respect to each cross-trade transaction, the highest and lowest prices at which the securities involved in the transaction were traded on the date of such transaction; and

(b) The authorizing Plan fiduciary is furnished with a summary of the information required under this paragraph 4(a) at least once per year. The summary must be furnished within 45 days after the end of the period to which it relates, and must contain the following: (i) A description of the total amount of Plan assets involved in cross-trade transactions during the period; (ii) a description of Capital Guardian's cross-trade practices, if such practices have changed materially during the period covered by the summary; (iii) a statement that the Plan fiduciary's authorization of cross-trade transactions may be terminated upon receipt by Capital Guardian of the fiduciary's written notice to that effect; and (iv) a statement that the Plan fiduciary's authorization of the cross-trade transactions will continue in effect unless it is terminated;

5. The cross-trade transaction does not involve assets of any Plan established or maintained by Capital Guardian or any of its affiliates;

6. All Plans which will participate in the cross-trade program will have total assets of at least $25 million;

7. Capital Guardian receives no fee or other compensation (other than its agreed investment management fee) with respect to any cross-trade transaction;

8. Capital Guardian is a discretionary investment manager with respect to Plans participating in the cross-trade program;

9. For purposes of this exemption:

(a) "cross-trade" transaction means a purchase and sale of securities between accounts for which Capital Guardian or an affiliate of Capital Guardian is acting as a trustee or investment manager;

(b) "affiliate" means any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Capital Guardian;

(c) "Plan account" means an account holding assets of one or more employee benefit plans which are subject to the Act, for which Capital Guardian acts as a fiduciary.

Summary of Facts and Representations

1. Capital Guardian is a trust company organized under the laws of the State of California and supervised by the California banking authorities. Capital Guardian is a wholly-owned subsidiary of the Capital Group, an organization which, through its subsidiaries, provides a broad range of financial services to a variety of different clients, including employee benefit plans, registered investment companies, college endowment funds, and foundations.[1] Capital Guardian currently provides investment management services to 120 employee benefit plans. Other companies affiliated with the Capital Group provide investment advisory services to accounts, principally mutual funds, the underlying securities of which the applicant represents are not plan assets subject to the Act. Capital Guardian currently has more than $16 billion in assets under management. With respect to the Plans participating in the cross-trading program, it is represented that Capital Guardian is a discretionary investment manager.

2. Capital Guardian sometimes receives instructions from an employee benefit plan or other client to liquidate all or a portion of an investment account. In addition, Capital Guardian sometimes must dispose of securities held in a client account in order to bring the portfolio into compliance with client-imposed investment guidelines. For example, such investment guidelines for an account may require the sale of a security that has increased in value which Capital Guardian might otherwise continue to hold in the account. In addition, an affiliate of Capital Guardian may make a discretionary determination to dispose of securities for an account not involving plan assets. However, it is represented that cross-trade transactions will not involve assets of any Plan established or maintained by Capital Guardian or any of its affiliates.

3. It is represented that Capital Guardian's disposition of a particular security for one client account may involve a security which a portfolio manager may desire to purchase for one or more of Capital Guardian's other accounts. If Capital Guardian acquires such securities for one of its other accounts, it has an opportunity to save substantial commissions for both the liquidating account and the acquiring account. This saving is caused by an independent broker effecting a cross-trade transaction, which involves matching Capital Guardian's sell orders for a particular day with its buy orders for the same day and the execution of trades between the accounts in off-market transactions. The independent broker is prepared to execute these transactions for Capital Guardian for one cent per share. By contrast, if Capital Guardian were to execute the same trades on the open market, it is represented that the commission would be six to seven cents per share for each of the purchase and sale transactions. Accordingly, cross-trade transactions can be made at lower costs than open market trades.

4. Capital Guardian's portfolio managers make decisions regarding which securities to purchase or sell for client accounts considering all of the relevant facts and circumstances, including the composition of the portfolios and the liquidity requirements of the Plan accounts. Such decisions, it is represented, are not influenced by the fact that an opportunity for a cross-trade transaction may, or may not, be available. The matching of sale and purchase orders is represented to be largely automatic.

5. Under the proposed exemption, only Plans with at least $25 million in assets will participate in the cross-trade program. A Plan fiduciary which is independent of Capital Guardian must provide written authorization allowing the Plan's participation in Capital Guardian's cross-trade program before any specific cross-trade transactions are executed. This authorization will be terminable at will upon written notice by the appropriate independent Plan fiduciary. Capital Guardian will receive no additional fee for providing such service. No penalty or other charge will be made as a result of the termination of a Plan's participation in the program. In addition, before any such general authorization is granted, Capital Guardian will provide the authorizing Plan fiduciary with all materials necessary to permit an evaluation of the cross-trade program. These materials will include a copy of the exemption, an explanation of how the authorization may be terminated, a description of Capital Guardian's cross-trade practices, and any other available information which the authorizing Plan fiduciary may reasonably request.

6. In addition to requiring a general authorization of a Plan's participation in Capital Guardian's cross-trade program, an independent fiduciary of each Plan must specifically authorize each cross-trade transaction. Any such authorization will be effective only for a period of three (3) business days and will be subject to certain pricing and volume limitations (see representations 9 and 10, respectively). The authorization to proceed with the transaction may be either oral or written. If a cross-trade transaction is authorized orally by an independent fiduciary, Capital Guardian will provide a written confirmation of such authorization in a manner reasonably calculated to be received by such independent fiduciary within one (1) business day from the date of such authorization. The Plan fiduciary will be sent a written confirmation of the cross-trade, including the price at which it was executed, within ten (10) days of the completion of the transaction.

7. At least once every three months and not later than forty-five (45) days following the period to which it relates, Capital Guardian will provide the authorizing Plan fiduciary with a report setting forth: (a) A list of all the cross-trade transactions conducted on behalf of the Plan account during the previous period; and (b) with respect to each cross-trade transaction, the highest and lowest prices at which the subject securities were traded on the date of such transaction. In addition, at least once a year, and not later than 45 days after the end of the period to which it relates, each Plan fiduciary will be provided with a summary of the quarterly reports, including: (a) A description of the total amount of Plan assets involved in cross-trade transactions completed during the year; (b) a statement that the Plan's fiduciary's authorization to participate in the cross-trade program can be terminated without penalty upon Capital Guardian's receipt of a written notice to that effect; (c) a statement that the fiduciary's authorization of the Plan's participation in the program will continue unless it is terminated; and (d) a description of any material change, if any, in Capital Guardian's cross-trade practices during the period covered by the summary. It is represented that these reports will provide the Plan fiduciaries with a mechanism for monitoring the operation of the cross-trade program. The applicant further represents that the authorization procedures, particularly

[1] All future references to Capital Guardian will also include affiliated companies in the Capital Group.

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the requirement of specific authorization for each cross-trade transaction, would prevent Capital Guardian from favoring one account at the expense of another in a cross-trade transaction.

8. The securities involved in the cross-trade transaction will be those only for which there is a generally recognized market.

9. A cross-trade transaction will be effected at the closing price for the security on the date of the transaction. Such price must be within 10 percent of the closing price of the security on the day before the date on which Capital Guardian receives authorization by the independent Plan fiduciary to engage in the cross-trade transaction. This condition, together with the specific authorization requirements, it is represented, would prevent Capital Guardian from using cross-trade transactions to benefit one client to the detriment of another client. This safeguard requires monitoring market activity and avoids executing trades at prices that were not contemplated at the time the independent fiduciaries authorized such transactions.

10. A cross-trade transaction will be effected only where the trade involves less than 5 percent of the aggregate average daily trading volume for the securities involved in the transaction for the week immediately preceding the authorization of the transaction. It is represented that this condition will help to minimize the potential impact which a large trade might have in the sale of securities on the open market.

11. Capital Guardian represents that it is highly unlikely that situations will arise in which it will be necessary to allocate cross-trade opportunities among several accounts. It is possible, however, that situations may arise where securities to be sold for a client account present an attractive investment opportunity for more than one other account. In this regard, the applicant represents that the issues presented in allocating cross-trade opportunities among client accounts are no different than the issues which Capital Guardian must face daily in determining the allocation of limited investment opportunities among client accounts. Capital Guardian will make these decisions considering all the relevant facts and circumstances in a manner which it believes to be consistent with its fiduciary responsibilities under the Act and which is equitable to all accounts involved. In making such allocation decisions, Capital Guardian will consider, among other things, the relative liquidity needs of the accounts, the composition of the portfolios and the number of cross-trade opportunities which have been made available to the accounts. In this regard, Capital Guardian does not believe that an automatic allocation system would be appropriate because it would interfere with the proper discharge of its fiduciary duties as an investment manager.[2]

12. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because among other things:

(a) An independent Plan fiduciary must provide written authorization, which is terminable at will, to Capital Guardian to permit the Plan to participate in the cross-trading program;

(b) Oral or written authorization must be provided by the independent Plan fiduciary to Capital Guardian prior to each cross-trade transaction;

(c) All cross-trades will be executed at the closing price for the security on the date of the transaction;

(d) A cross-trade transaction will be effected only if certain price and volume requirements are satisfied;

(e) All securities involved in cross-trades will be ones for which there is a generally recognized market;

(f) Capital Guardian will receive no additional fees as a result of the proposed cross-trades;

(g) Capital Guardian will provide periodic reporting of the cross-trade transactions to the participating Plan's independent fiduciary;

(h) The Plans participating in the cross-trade program will save significant sums of money because of reduced brokerage commissions;

(i) All Plans participating in the cross-trade program must have assets of not less than $25 million; and

(j) The cross-trade transaction does not involve the assets of any Plan established or maintained by Capital Guardian or any affiliates thereof.

For Further Information Contact: Mrs. B.S. Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Samuel Shapiro & Co., Inc. Profit Sharing Trust (the Plan) Located in Baltimore, Maryland

[Exemption Application No. D-8072]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedure set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale by the Plan of common stock of Samuel Shapiro & Co. (of D.C.), Inc. (the D.C. Company), to Samuel Shapiro & Co., Inc. (the Company), the sponsor of the Plan and a Subchapter S Corporation under the Code, in connection with the proposed merger of the Company and the D.C. Company, provided that the sales price for the stock is not less than the fair market value of the stock on the date of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which, as of December 31, 1988, had approximately 54 participants and total assets of approximately $6,491,114. The Profit Sharing Trust Committee (the Committee) is the named fiduciary of the Plan. The members of the Committee are M. Sigmund Shapiro (Mr. Shapiro), Morris E. Horwitz and Julius Braverman. The trustee of the Plan (the Trustee) is the Mercantile-Safe Deposit & Trust Company, located in Baltimore, Maryland.

The Committee has the authority under the Plan to appoint an investment advisor to invest the Plan's assets. The Committee has appointed Rothchild and Company of Baltimore, Maryland (the Advisor) as an investment advisor. The applicant states that the decision-makers for investment of the Plan's assets are the Committee and the Advisor.

2. The Company is a Maryland corporation and the D.C. Company is a Delaware corporation (together, the Companies). The Companies are engaged in the business of providing customs brokerage and freight forwarding services. Mr. Shapiro is the President and the Chairman of the Board of Directors of the Company. Mr. Shapiro owns 92.5% of the stock of the Company (the Company Stock).

The Company owns 72% of the common stock of the D.C. Company (the D.C. Company Stock) and Mr. Shapiro owns 3% of the D.C. Company Stock. The Plan owns 25% of the D.C. Company Stock. The Plan acquired the D.C. Company Stock as a contribution from the Company in 1989 prior to the effective date of the Act. The applicant represents that because the Company is a Subchapter S Corporation under the Code, Mr. Shapiro is a shareholder-employee with respect to the Plan as the owner of more than 5% of the Company Stock.[3] However, the D.C. Company is not a Subchapter S Corporation under the Code. The applicant states that the D.C. Company presently cannot operate as a Subchapter S Corporation due to the Plan's ownership of the D.C. Company Stock (see section 1361 of the Code).

3. The applicant represents that a proposal has been made to merge the Companies (the Merger), in order to simplify administration and eliminate duplication of operational expenses. After the Merger, the combined organization will be a Subchapter S Corporation.

The applicant states that the Merger would be accomplished as follows: (1) The Board of Directors of the Companies would recommend to the stockholders that the Companies be merged; (2) the stockholders of each of the Companies would approve the Merger by at least a two-thirds vote; (3) an Agreement of Merger (the Agreement) would be filed with the Secretary of State of Delaware and Articles of Merger (the Articles) would be filed with the State Department of Assessments and Taxation of Maryland; (4) pursuant to the Agreement and the Articles, the D.C. Company would be merged into the Company, and the assets and liabilities of the D.C. Company would be transferred to the Company; (5) pursuant to the Merger all stockholders of the D.C. Company (except the Plan) would receive Company Stock in exchange for their D.C. Company Stock; and (6) the Plan would receive cash in change for its D.C. Company Stock. Therefore, the Plan would not own any D.C. Company Stock after the Merger and would not own any Company Stock as a result of the Merger.

4. The Committee and the Advisor (together, the Plan Fiduciaries) represent that the Plan's continued investment in the D.C. Company Stock is not in the best interest of the Plan. The Plan Fiduciaries state that the D.C. Company Stock has limited potential for appreciation and that the interest of the Plan's participants and beneficiaries would be served better by an investment which is more likely to appreciate in value. In this regard, the Plan Fiduciaries state that the D.C. Company has had an erratic earnings history and that the future profitability of the D.C. Company is uncertain. Moreover, the Plan Fiduciaries note that the long-term management direction of the D.C. Company is unclear due to the age of the key executive, Mr. Shapiro. In addition, the Plan Fiduciaries believe that the progressively increasing expenses of operating the D.C. Company may cause a decline in the value of the D.C. Company Stock. Finally, the Plan Fiduciaries state that the D.C. Company Stock is not publicly traded and the Plan should have an investment which is more liquid in nature.

5. The D.C. Company Stock was appraised on July 10, 1989 by Harvey D. Gold (Mr. Gold), an independent, qualified appraiser in Baltimore, Maryland, as having a fair market value of $9000 per share as of May 31, 1989. The applicant states that Mr. Gold will update his appraisal of the D.C. Company Stock prior to the Merger.

6. The Plan Fiduciaries represent that the proposed sale of the D.C. Company Stock to the Company would be in the best interest of the Plan and its participants and beneficiaries. The Plan Fiduciaries state that the Plan will receive cash equal to the value of the D.C. Company Stock, as established by Mr. Gold's appraisal. In addition, the proposed ttansaction will provide the Plan with funds which can be invested in assets with more certain income earning potential and greater likelihood for future appreciation. The Plan will not pay any commissions or other expenses with respect to the proposed sale.

7. In summary, the applicant represents that the proposed transaction will meet the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) the sale will be a one-time transaction for cash; (b) the Plan will receive an amount which is not less than the fair market value of the D.C. Company Stock, as established by an independent, qualified appraiser; (c) the Plan will not pay any commissions or other expenses with respect to the sale; and (d) the transaction will allow the Plan to divest itself of the D.C. Company Stock and acquire investments yielding a higher rate of return.

For Further Information Contact: Mr. E.F. Williams of the Department at (202) 523-8883. (This is not a toll-free number.)

Dudley M. Baker, M.D. Profit Sharing Plan and Trust (the Plan) Located in Bennington, Vermont

[Application No. D-8157]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408 (a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), (406)(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan of $25,000 (the Loan) to Dudley M. Baker, M.D. (Dr. Baker), a party in interest with respect to the Plan, by Dr. Baker's individually directed account in the Plan, provided that the terms and conditions of the proposed Loan are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated third party at the time of the making of the proposed Loan.

Summary of Facts and Representations

1. The Plan is a frozen Keogh plan with two participants, one of whom is Dr. Baker. As of the end of the Plan's 1988 plan year the assets in Dr. Baker's individually directed separate account amounted to $160,033. Dr. Baker, a surgeon doing business as a sole proprietor, is an owner-employee as defined in section 401(c)(3) of the Code.

2. It is proposed that a loan of $25,000 be made to Dr. Baker from his separate account in the Plan. The Loan will not affect the account of the Plan's other participant. The Loan would be secured by the account of Mrs. Geraldine Baker (Dr. Baker's wife) in Massachusetts Financial Services' Managed Municipal Bond Trust which held 8,143.098 shares worth $10.71 each as of July 19, 1989. The applicant represents that the account balance securing the Loan will at all times exceed the outstanding Loan balance.

3. The Loan will be at a rate 2 percent over the prime rate charged for similar loans on the date of the Loan by First Vermont Bank and Trust Company (the Bank) of Bennington, Vermont, an unrelated bank, and will be repaid over a five-year period with equal quarterly payments of principle and interest. The applicant and the Bank represent that these terms are no less favorable to the Plan than those obtainable from an unrelated third party.

[2] The Department is expressing no opinion herein as to the applicability of any of the provisions of part 4 of title I of the Act to the allocation decisions made by Capital Guardian on behalf of the Plans participating in the cross-trading program.

[3] Section 408(d) of the Act prohibits any transaction in which a plan acquires for the plan any property from or sells any property to any person who is with respect to the plan an owner-employee, as defined under section 401(c)(3) of the Code, or shareholder-employee, as defined under section 1372 of the Code. However, the Department has the authority under section 408(a) of the Act to provide an exemption for such a transaction.

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4. In summary, the applicant represents that the proposed transaction will satisfy the provisions of section 408 (a) of the Act because: (a) The Loan will be adequately secured at all times; (b) Only 15.6% of Dr. Baker's account will be invested in the Loan; (c) The terms and conditions of the Loan are no less favorable to the Plan than those obtainable from an unrelated party; and (d) Dr. Baker, the only participant whose account is affected by this proposed transaction, has determined that the proposed transaction would be in the interest of his account in the Plan, and desires that the proposed transaction be consummated.

Notice to Interested Persons: Because Dr. Baker is the only person in the Plan to be affected by the proposed transaction, it has been determined that there is no need distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this notice of proposed exemption in the **Federal Register.**

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Hotel Employees and Restaurant Employees International Union Welfare Plan (the Plan) Located in Naperville, Illinois

[Application No. L–7754]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to: the lease arrangement (the Arrangement) comprising five written agreements executed on July 6, 1988—namely: a Lease of Personal Property, a Computer Security Agreement, an Option To Purchase (covering leased computer equipment), a Software Program License Agreement, and a Software System Support Agreement—between (a) the Plan and (b) Resource Information Management Systems (RIMS) and its wholly owned subsidiary, Winthrop Financial Group, Inc. (Winthrop), parties in interest with respect to the Plan, covering computer equipment and software previously leased to the Plan's former administrator, William L. Meyers, Inc. (Meyers), provided the terms of the Arrangement are as favorable to the Plan as those the Plan could obtain in a similar transaction with unrelated parties.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective as of July 6, 1988, the date the agreements comprising the Arrangement were executed.

Summary of Facts and Representations

1. The Plan

The Plan was established by the Hotel Employees and Restaurant Employees International Union to provide health and welfare benefits for its members. It is administered by a Taft-Hartley joint board of trustees (the Trustees), of whom there are currently seventeen. As of September 12, 1988, the Plan covered approximately 106,000 participants. The approximate fair market value of the total assets of the Plan was $65,749,327 as of March 31, 1987. The percentage of the fair market value of the Plan's total assets involved in the exemption transaction is 0.5%. As of September 12, 1988, no Plan assets were invested in loans to any party in interest involved in this exemption transaction, in property leased to any such party in interest, or in securities issued by such party in interest.

2. Meyers

From its inception to July 31, 1988, the Plan was administered by Meyers. The applicant, the Martin E. Segal Company (Segal), the independent fiduciary in charge of (among other things) the Plan's agreements with RIMS and Winthrop, states that as the size of the Plan increased, the Trustees became aware of the development of a number of administrative problems and delays in claim processing. Consequently, in 1986 the Trustees retained Segal as a consultant to evaluate Plan administration, particularly relating to the services provided by Meyers.

3. Segal—General Information

The applicant, Segal, represents that it: was founded in 1939, is among the largest employee benefit consulting firms in the country, is headquartered in New York, has 15 regional offices around the country, and provides, through its 600 employees, consulting and actuarial services to more than 3,000 employee benefit plans covering nearly eight million employees and their dependents. Segal also represents that it has substantial experience with the establishment and operation of welfare benefit plans and that, as a major employee benefit consulting firm, it has substantial experience in advising clients on the selection of computer equipment and software and is familiar with current state-of-the-art systems. Segal states that it was already familiar with the RIMS system before Segal became involved in the termination of Meyers' contract with the Plan (described below) and that in Segal's November 1986 report to the Trustees, Segal commented favorably on the RIMS system. Segal represents that it has no interest in or relation to Meyers, RIMS, or Winthrop.

4. Segal's Evaluation of and Recommendations re: Plan Administration

In November 1986, Segal submitted its report on Meyers' administrative services. This report was critical of the Meyers operation, particularly with respect to the abilities of its management-level executives, while noting, nevertheless, that a number of very capable and knowledgeable employees were trying to do a competent job. This report also identified alternative solutions to the Plan's administrative problems, suggesting that the Trustees (a) select another third-party administrator to replace Meyers, or (b) self-administer the Plan, either by acquiring the services of Meyers' staff or by hiring entirely new employees. After studying the relative merits of each proposal, the Trustees decided to self-administer the Plan. The Trustees at that time hoped to acquire the services of many of Meyers' employees and to acquire Meyers' offices, equipment, and computer systems, either by purchase or lease.

5. The Plan's Negotiations with Meyers

In September 1987, the Trustees authorized Segal, along with outside counsel for the Trustees, to begin negotiations with Meyers concerning the termination of Meyers' administrative contract and the possible sale of Meyers' assets to the Plan. On November 13, 1987, the Trustees formally adopted a resolution to terminate Meyers for cause as Plan administrator. The Trustees directed Segal to discharge Meyers at an appropriate time, based on the progress of Segal's negotiations with Meyers, and to negotiate the acquisition of Meyers' assets at a price determined by Segal.

On January 20, 1988, Segal notified Meyers that, pursuant to the six-month termination provision in Meyers' contract with the Plan, Meyers would be terminated as Plan administrator effective July 31, 1988. Segal then continued negotiations with Meyers regarding Meyers' termination and the transition to self-administration. Segal states that these negotiations were lengthy and difficult, involving a number of disputes with Meyers, some of which were not resolved as of the date of the exemption application. Segal represents that in conducting these negotiations, it was guided by the following principles and concerns:

(a) Meyers must remain in operation to provide services to the Plan until July 31, 1988, thereby avoiding any disruption in Plan administration;

(b) The Plan must obtain access to Meyers' employees to arrange for their employment by the Plan;

(c) Plan employees must be provided with full, active cooperation by Meyers and its employees, and complete access to those documents, information, data, and software that are the Plan's property in Meyers' possession;

(d) It would be more efficient and less expensive for the Plan to use certain equipment and office space currently used by Meyers; and

(e) The Plan's new administrative system must be operational as of August 1, 1988. For this reason, time deadlines were imposed on negotiations, and alternative courses of action, including court enforcement actions, were considered.

In the negotiation process, Segal initially explored the possibility of the Plan's purchasing all of Meyers' assets, including its office furniture, computer software, and equipment leases, but because the parties involved were unable to agree to the terms for these transactions, this possibility was rejected. However, the Plan has sublet some office space leased by Meyers in connection with its Plan administration activities.[4]

6. Segal's Appointment as Independent Fiduciary for the Plan

By May 12, 1988, Segal was appointed Independent Fiduciary for the Plan in connection with the settlement of litigation concerning the administration of the Plan. In both *McLaughlin* v. *Hanley*, No. 86–421–LDG (D. Nev. 1988) and *McLaughlin* v. *Gerace*, No. 85–3669 (D. N.J. 1988), the Secretary of Labor alleged violations of Part 4 of Subtitle B, Title I of the Act in connection with certain aspects of the Plan's administration. These cases were settled pursuant to the entry of two substantially similar Consent Decrees, on May 12, 1988 and April 12, 1988, respectively, after lengthy negotiations among the parties. Segal was not a party to this litigation and therefore had no direct role in the settlement negotiations or the preparation of the Consent Decrees. Among other things, these Consent Decrees provided for the appointment of an independent named fiduciary with certain specifically enumerated responsibilities relating to Plan administration, including, for example, the authority to terminate Meyers as Plan administrator, to oversee benefit delivery arrangements, to monitor performance of Plan service and benefit providers, and to oversee record keeping and claims processing.

Segal's authority as Independent Fiduciary is limited to the authority granted under the Consent Decrees, which provide that Segal, as Independent Fiduciary, must generally make either binding or non-binding recommendations to the Trustees for their approval before undertaking actions on behalf of the Plan. The Consent Decrees allocate to the Trustees authority in a number of areas involving Plan investments and operation, as well as the authority to monitor the activities of the Independent Fiduciary and to petition the courts for its removal. By the terms of the Consent Decrees, the district courts retain jurisdiction over the parties and Segal "for the purpose of administration, application and interpretation" of the Consent Decrees. Segal is required to provide to the courts, the Trustees, and the Secretary semi–annual reports describing its activities as Independent Fiduciary for the Plan.

7. Termination of Meyers' Contracts

Meyers, Segal, and the Trustees executed a severance agreement on July 6, 1988, governing all aspects of the termination of Meyers and the transition to self-administration. The termination of Meyers' position as Plan administrator became effective on July 31, 1988, as scheduled. Segal states that as of August 1, 1988, the Plan commenced administration at its new offices in Naperville, Illinois.

Segal advises that through the period ending July 31, 1988, the payment of benefits on behalf of the Plan was made by Meyers through a computer system supplied by RIMS. As part of this system, Meyers entered into an exclusive licensing agreement with RIMS for the use of RIMS software. Segal explains that under the terms of the licensing agreement, Meyers alone had the right to use this software and could not transfer that right to any other entity, including the Plan.

Segal states that because Meyers' position as administrator of the Plan was terminated as of July 31, 1988, a termination of the lease between RIMS and Meyers was made possible. Meyers and RIMS and Winthrop executed a termination agreement on July 6, 1988, under which Meyers relinquished all its rights and title to the RIMS equipment and software it had leased. In return, RIMS released Meyers from its obligations, including the financial obligations incurred by Meyers in connection with the lease and exclusive software licensing agreement.

8. The Plan's Acquisition of Computer Equipment and Software

Segal represents that in connection with the transition to self-administration, it considered various methods of acquiring or leasing computer equipment and software for the Plan. Among other things, Segal took into account that a major cost of the change to self-administration would be the expense of computer conversion, part of which is attributable to the cost of software and hardware (programming and equipment). Segal explains that this expense also involves the cost of moving the equipment, the effort needed to identify the data elements and acquaint new technical staff with the style and location of information within the existing computer files, the transfer and control of the current and historical data from the old computers to their replacements, and the start-up and training of technical and operation staff handling the new systems. Segal states that all these conversion efforts require expertise and a great deal of staff time.

Segal considered purchasing or leasing computer equipment and software different from that which had been used by Meyers. However, Segal concluded that the acquisition of an entirely different computer system would be impractical because the Plan would have to transfer all its data from the old system to the new system as well as to spend time correcting the inevitable errors accompanying such a transfer. Segal noted that an important consideration was that staff would have to be retrained to operate the new equipment and software. Segal determined that this alternative was unnecessarily costly and impractical at this time.

In considering possible computer systems for the Plan, Segal contacted RIMS to discuss leasing new, upgraded equipment and software which would be generally compatible with the then-existing system. Although the software used by Meyers would be compatible with the new system the software licensed exclusively to Meyers would not be available to the Plan absent a

[4] The Department is proposing no exemption with respect to such subleasing and is expressing no opinion herein as to whether or not such subleasing satisfies the requirements of either section 408(b)(2) or section 406(a)(1) of the Act.

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separate agreement between the Plan and RIMS. Segal states that RIMS was willing to sell a new computer system and to license software to the Plan for approximately $480,000.

At the same time, Segal considered the possibility of leasing the RIMS system then leased to Meyers. Segal asserts that using this system would avoid the disruption of services which would be inherent in any change of computer systems, particularly as the Plan planned to hire employees who had experience using the same RIMS system. Segal states that RIMS was willing to lease the equipment and software to the Plan (assuming that it was available and no longer used by Meyers) for approximately $360,000, a present value equivalent of $315,000 after discounting for time payments over three years at ten percent.

Segal determined that leasing the RIMS system previously used by Meyers was the most cost effective and efficient method of securing computer services for the Plan. Segal's prior experience had shown that the RIMS system was competitively priced and a good system. In Segal's opinion, continued use of the existing system would reduce the start-up costs for switching to self-administration of the Plan. Moreover, significant training and start-up costs would be eliminated due to the familiarity with the system of Meyers' staff, whom the Plan intended to hire. Furthermore, the computer software was already in place to handle the Plan's benefit claims. Thus, service to participants and beneficiaries would suffer the least disruption through this decision. Consequently, Segal began negotiations with RIMS to lease the system then used by Meyers.

In connection with the severance agreement, and in light of the termination agreement between RIMS and Meyers, Segal made a binding recommendation to the Trustees for the approval of the RIMS lease for the computer system used by Meyers. The Trustees reviewed this recommendation at their meeting on June 29, 1988, and approved a resolution putting this recommendation into effect. Pursuant to this resolution, RIMS (and its wholly owned subsidiary, Winthrop) and the Plan entered into an agreement providing for a 32-month lease for the computer system. They also executed an option-to-purchase agreement which gives the Plan the ability to purchase the equipment it currently leases.

The lease of computer equipment and software from RIMS and Winthrop by the Plan commenced on August 1, 1988, pursuant to the contracts between the Plan and RIMS or Winthrop executed July 6, 1988. Because the RIMS system was already substantially in place when the Plan took over its own administration on August 1, 1988, no shutdown of administrative services was necessary. Segal states that some RIMS computers were installed in the Naperville, Illinois office over the weekend of July 30–31, and they were operational and paying claims on August 1; while in other Plan offices, the systems were already in place. Segal asserts that only leasing the equipment previously used by Meyers could have achieved this result, and that leasing this system successfully avoided any shutdown of Plan operations. Thus, Segal opines that the leasing of the subject computer equipment and software was clearly in the best interests of the Plan's participants and beneficiaries, and necessary and appropriate for the efficient and economical administration of the Plan.

9. The Party-in-Interest Status of RIMS and Winthrop

Segal asserts that although RIMS has had a contractual relationship with Meyers, RIMS has had no relationship (as a service provider or otherwise) with the Plan prior to the Plan's lease with RIMS and Winthrop. Segal also represents that although the Plan entered into a lease for the same equipment and software previously leased by Meyers, the Plan did not assume Meyers' lease, and Meyers is not a party, directly or indirectly, to the lease agreement between RIMS and the Plan. Segal explains that Winthrop is the leasing agent for RIMS and, as such, provided no services with respect to the hardware or software formerly leased to Meyers. However, upon execution of the Software System Support Agreement (described below), RIMS became a service provider to the Plan and, therefore, a party in interest thereto, as did Winthrop due to its status as a wholly owned subsidiary of RIMS, pursuant to paragraphs (B) and (G), respectively, of section 3(14) of the Act.

10. Current RIMS/Winthrop Contractual Arrangements

Segal explains that the Plan currently has the following contractual relationships with RIMS or Winthrop:

(a) A Lease of Personal Property between the Plan and Winthrop;

(b) A Computer Equipment Security Agreement between the Plan and Winthrop;

(c) The Option: An Option To Purchase the computer equipment leased by the Plan from Winthrop;

(d) A Software Program License Agreement between the Plan and RIMS; and

(e) A Software System Support Agreement between the Plan and RIMS.

Segal represents that all of these agreements are standard form contracts which represent the common practice within the industry and summarizes the terms of these agreements as follows:

(a) Lease of Personal Property: This is the lease of computer hardware for 32 months by the Plan from Winthrop. The equipment was installed at the Plan's administrative offices in Naperville, Illinois and Atlantic City, New Jersey. For the first 27 months of the lease, rental payments are $13,039.10 per month; for months 28 through 32, the rental payments are reduced to $2,811.96. (The last five payments are reduced to reflect the deposit supplied to Winthrop by the Plan.)

(b) Computer Equipment Security Agreement: The Plan provided to Winthrop a security interest in the Qantel computer and computer-related equipment until the Plan's obligations under the Lease of Personal Property are satisfied.

(c) The Option: The Plan has the right to purchase the computer equipment from Winthrop for approximately $19,000, representing 10 percent of the initial computer equipment cost, at the expiration of the term of the computer equipment lease (see (a), above) or any renewal or extension term thereof. The computer equipment would be sold in an "as is" condition.

(d) Software Program License Agreement: RIMS provides to the Plan a non-exclusive license to use its programs on the equipment rented from Winthrop and will also provide training for Plan personnel. In return, the Plan will pay RIMS $96,500.

(e) Software System Support Agreement: RIMS agrees to provide the Plan with telephone support services for the use of its licensed programs. In addition, RIMS will supply all final versions of all new releases of the programs during the terms of the lease. The Plan is required to maintain at each installation site a key operator who has taken the RIMS training program. These key operators will be the sole Plan employees to request support from RIMS. This agreement has a term of one year, beginning August 1, 1988, with automatic one-year renewals unless either party provides the other party with 30-days prior written notice of its intent not to renew. The Plan will pay RIMS a fee of $1,845.58 per month for the first one year term.

11. Comparison of the Plan's and Meyers' Contracts

Segal states that Meyers and RIMS/Winthrop had standard form contracts which represented the common practice within the industry and that Meyers had the following agreements with RIMS or Winthrop:

(a) Lease of Personal Property,

(b) Software Program Licenses Agreement, and

(c) System Support Agreement.

Segal also represents that the agreements between the Plan and RIMS/Winthrop and the agreements between Meyers and RIMS/Winthrop are substantially the same and are all the standard form contracts developed by RIMS/Winthrop which were in use at the time the parties entered into the contracts.

Segal represents that although the first year fee paid by the Plan for system support services is greater than the initial fee paid by Meyers under its 1985 systems support services agreement with RIMS, the increase in the amount of the fee from 1985 (payable by Meyers) to 1988 (payable by the Plan) was a result of changing market conditions. Segal represents further that the fee currently charged by RIMS reflects industry fee levels and is reasonable in light of the services to be provided. Further, Segal represents that the overall cost increases reflected in the Plan's 1988 agreements with RIMS and Winthrop merely indicate changes in the market for this equipment and these services since 1985. Segal notes that the lease payments by the Plan are essentially the same as those paid by Meyers and will result in a significant savings for the Plan. While the systems servicing fees have increased, Segal states that those increased fees represent reasonable compensation for the services rendered and that leasing the RIMS equipment previously used by Meyers is clearly in the best interests of the Plan and its participants and beneficiaries because of the efficiencies and cost savings involved.

12. Monitoring by Segal

Segal represents that as court-appointed independent fiduciary to the Plan, Segal will monitor the Plan's agreements with RIMS and Winthrop and will act to protect the Plan's interest therein throughout the duration of said agreements. With regard to the Option (see 10(c), above), Segal makes the following representations:

(a) The Option is appropriate and commercially reasonable in a lease of this type (see 10(a), above);

(b) If Segal elects to exercise the Option, such election will only be made to the extent that the purchase of the equipment is in the Plan's best interest;

(c) Segal will ensure that the Option is not exercised if Segal determines that the Plan's purchase of the equipment is not in the Plan's best interests; and

(d) If the Option is to be exercised, Segal will determine the leased equipment's fair market value as of the date of purchase by the Plan and will ensure that the purchase price to be paid by the Plan does not exceed said fair market value.

13. Summary

In summary, Segal (the applicant) represents that the Arrangement satisfies the exemption criteria set forth in section 408(a) of the Act because:

(a) Having considered alternative arrangements, Segal, an independent fiduciary with respect to the Plan, believes that the Arrangement is in the best interests of the Plan and its participants and beneficiaries because it preserves the continuity of Plan administration, including the processing of participants' and beneficiaries' claims, while conserving the Plan's assets;

(b) Segal, which has extensive experience in the operation of multiemployer benefit plans and is familiar with state-of-the-art computer systems, has negotiated the terms of the Arrangement on behalf of the Plan, with the approval of the Trustees;

(c) As independent fiduciary to the Plan, Segal has expressed the opinions that (i) the increases (compared to the amounts payable by Meyers under its contracts with RIMS/Winthrop) in payments required from the Plan under its Lease of Personal Property with Winthrop (see 10(a), above) and under its Software System Support Agreement with RIMS (see 10(e), above) are due to changing market conditions, and (ii) although the first year fee paid by the Plan for system support services is more than the initial fee paid by Meyers under its 1985 systems support services agreement, the fee currently charged to the Plan reflects industry fee levels and is reasonable in light of the services to be provided;

(d) As independent fiduciary to the Plan, Segal is responsible for oversight of record keeping and claims processing for the Plan, among other duties, and will monitor the contracts between the Plan and RIMS or Winthrop, pursuant to the Arrangement, acting to protect the Plan's interests therein throughout their duration; and

(e) With respect to the Option, Segal represents that: (i) the Option is appropriate and commercially reasonable in a lease of this type (see 10(a), above); (ii) if Segal elects to exercise the Option, such election will only be made to the extent that the purchase of the equipment is in the Plan's best interest; (iii) Segal will ensure that the Option is not exercised if Segal determines that the Plan's purchase of the equipment is not in the Plan's best interests; and (iv) if the Option is to be exercised, Segal will determine the leased equipment's fair market value as of the date of purchase by the Plan and will ensure that the purchase price to be paid by the Plan does not exceed said fair market value.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and

Dated: October 19, 1989.

Edward A. Frankle,

General Counsel.

[FR Doc. 89-25549 Filed 10-30-89; 8:45 am]

Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

statistically by employees and contractors of the National Science Foundation and the co-sponsors of the survey (the National Institutes of Health, the Department of Agriculture and the

information for individuals responding to the 1989 or subsequent surveys.

Individuals wishing to comment on the proposed routine use of the microdata from the Survey of Doctoral

Alternatives to the Proposed Action:

Since the staff concluded that there are no significant environmental effects that would result from the proposed

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(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of October 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[Fk Doc. 89–25566 Filed 10–30–89; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89–75]

Intent To Grant Co-Exclusive Patent Licenses

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant co-exclusive licenses.

SUMMARY: NASA hereby gives notice of intent to grant National Water Management Corporation of San Jose, California, Stearman Industries, Incorporated, of Tavares, Florida, and Alten Water Treatment Corporation of Palo Alto, California, each a limited, revocable, royalty-bearing, co-exclusive license to practice the invention as described in U.S. Patent No. 4,172,786 for "Ozonation of Cooling Tower Waters," which issued October 30, 1979, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed co-exclusive licenses will contain appropriate terms, limitations and conditions in accordance with NASA Patent Licensing Regulations, 14 CFR part 1245, subpart 2. NASA will negotiate the final terms and conditions and grant the co-exclusive licenses, unless written objections to this Notice are received within 60 days of the date of this Notice. The Director of Patent Licensing will review the written objections and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the co-exclusive licenses.

DATE: Comments to this notice must be received January 2, 1989.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453–2430.

Dated: October 19, 1989.

Edward A. Frankle,

General Counsel.

[FR Doc. 89–25549 Filed 10–30–89; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Cooperative Agreement

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement for the design and implementation of a process for conducting independent assessments of the readiness of approximately 80 panel-recommended organizations which have applied to the Endowment to participate in the Advancement Program. The recipient of the Cooperative Agreement will prepare written reports which will provide professional judgment on each organization's financial and organizational status and capacity to develop through the 15-month period of technical assistance services provided by the program. The recipient will also identify principal areas of need in order to ensure the assignment of appropriate consultants and to permit planning for supplementary workshops or specialized assistance. Those interested in receiving the Solicitation package should reference Program Solicitation PS 90–03 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 90–03 will be available approximately November 8, 1989, with proposals due on December 8, 1989.

ADDRESS: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, Room 217, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William Hummel or Anna Mott, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202/682–5482).

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 89–25519 Filed 10–30–89; 8:45 am]

BILLING CODE 7537–01–M

Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. Law 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 730, from 9:00 a.m. to 5:00 p.m. on Tuesday, November 21, 1989.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 1990.

Because the proposed meeting will consider financial and commercial data and because it is important to keep value of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Stephen J. McCleary, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 89–25572 Filed 10–30–89; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Establishment of a Routine Use for Microdata for the Survey of Doctorate Recipients

Background

The National Science Foundation (NSF) collects information on the characteristics of a sample of individuals who have received a doctoral-level degree in science and engineering fields. This biennial survey is referred to as the Survey of Doctoral Scientists and Engineers. The survey results are currently analyzed

statistically by employees and contractors of the National Science Foundation and the co-sponsors of the survey (the National Institutes of Health, the Department of Agriculture and the Department of Energy). There have been numerous requests from the research community to make the microdata from this survey more readily available for secondary analysis.

Plans for the Release of Microdata

It is NSF's intent to release microdata from the 1989 and subsequent Surveys of Doctoral Scientists and Engineers in two formats that are intended to be used only for statistical purposes. For the 1989 survey we intend to produce the following:

(1) A public use tape will be prepared with selected information on 1989 survey respondents. This tape will include information obtained from these 1989 respondents prior to 1989 in addition to their 1989 responses. All direct identifiers (e.g., name, social security number, address, and phone number) will be stripped from this tape. In addition, information which could be easily used to identify someone indirectly will either be stripped from the tape or otherwise disguised. For example, sex and race will not be included on the tape. Instead of identifying colleges and universities by name, these institutions will be grouped by type of institution. This tape will be made available to the public.

(2) A limited access tape for 1989 survey respondents designed to serve statistical research needs that cannot be met by the public use tape will be prepared. This tape will be stripped of direct identifiers, but it will contain other information stripped from the public use tape (e.g., sex and race). Release of the limited access tape will only be made under stringent safeguards. It is expected that researchers wishing to use this tape will need to:

(a) Submit a prospectus explaining the research to be conducted. This prospectus will be reviewed by relevant NSF program staff.

(b) Sign a non-disclosure form.

(c) Use the tape at a computer facility designated by NSF.

(d) Agree to cite NSF and the Survey of Doctoral Recipients in any published results.

(e) Agree to provide two copies of all resulting publications to NSF.

(f) Comply with other procedures developed by NSF to protect the privacy of individuals.

For survey years after 1989 we will produce similar tapes to the 1989 tapes. These tapes will only include information for individuals responding to the 1989 or subsequent surveys.

Individuals wishing to comment on the proposed routine use of the microdata from the Survey of Doctoral Scientists and Engineers should submit comments in writing to the following address within thirty days of the publication date of this notice: Dr. Carolyn F. Shettle, National Science Foundation, Room L–611, 1800 G Street, NW., Washington, DC 20550.

Dated: October 26, 1989.

William L. Stewart,

Director, Division of Science Resources Studies, National Science Foundation.

[FR Doc. 89–25555 Filed 10–30–89; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Co.; Millstone Nuclear Power Station, Unit No. 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–49 to Northeast Nuclear Energy Company (the licensee), for Millstone Unit 3 located in the Town of Waterford, Connecticut.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would provide revised Technical Specifications to decrease the reactor trip set point and allowable value for the reactor coolant pump (RCP) low shaft speed (underspeed trip set point) from 97.8 to 95.8 percent of rated speed and from 94.6 to 92.5 percent rated speed, respectively.

The proposed action is in accordance with the licensee's application dated August 1, 1989.

The Need for the Proposed Action:

The proposed changes are needed to prevent unnecessary plant trips which could result from electrical grid disturbances.

Environmental Impacts of the Proposed Action:

The proposed changes to the Technical Specifications would not affect plant effluents during normal or accident conditions. Accordingly, there are no significant radiological/non-radiological environmental impacts associated with the proposed licensing action.

Alternatives to the Proposed Action:

Since the staff concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and might result in additional plant trips.

Alternative Use of Resources:

The action would involve no use of resources not previously considered in the "Final Environmental Statement related to the operation of Millstone Nuclear Power Station Unit No. 3" dated December 1984.

Agencies and Persons Consulted:

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding No Significant Impact

The staff has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the forgoing environmental assessment, we conclude that the proposed actions will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated August 1, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–25561 Filed 10–30–89; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Meeting; Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the advisory Committee on Reactor Safeguards will hold a meeting on November 16–18 1989 in Room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on October 18, 1989.

Thursday, November 16, 1989

Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

8:30 a.m.–8:45 a.m.: Comments by ACRS Chairman (Open)—The ACRS Chairman will report on items of current interest.

8:45 a.m.–11:00 a.m.: Nuclear Power Plant Accident Management (Open)—The Committee will review and report on a proposed NRC generic letter and NUREG/CR report on accident management at nuclear power plants. Representatives of the NRC staff will participate.

11:00 a.m.–12:00 Noon: Definition of "Adequate Protection" (Open)—The Committee will discuss a proposed report to the Commission on ACRS and NRC staff positions regarding the definition of "adequate protection" as it relates to the NRC quantitative safety goals. Representatives from the NRC staff will participate, as appropriate.

1:00 p.m.–1:45 p.m.: Standardized PWRs (Open)—The Committee will hear a briefing regarding the status of the NRC staff's review of proposed standardized PWRs, including the WAPWR SP/90, Westinghouse AP–600, and the CESSAR-System 80 plus.

1:45 p.m.–3:15 p.m.: Access Authorization at Nuclear Power Plants (Open/Closed)—The Committee will review and report on the proposed final rule, 10 CFR part 743, "Access Authorization Program for Nuclear Power Plants." Representatives of the NRC staff will participate, as appropriate.

Portions of the session will be closed as required to discuss safeguards and security information at nuclear power plants.

3:30 p.m.–5:00 p.m.: Integration of the Nuclear Regulatory Process (Open)—The Committee will discuss proposed ACRS recommendations on how best to integrate the nuclear regulatory process.

5:00 p.m.–6:00 p.m.: Three Mile Island Nuclear Station, Unit 2 (Open)—The Committee will hear a briefing regarding analysis of the loss of cooling accident at TMI–2.

Friday, November 17, 1989

8:30 a.m.–12:30 p.m.: GE Advanced Boiling Water Reactor (Open/Closed)—The Committee will review and report on the initial portion (Mod 1) of the NRC staff's review of the GE Advanced boiling Water Reactor.

Representatives of the NRC staff and the GE Company will participate as appropriate in the discussion regarding this standardized plant design.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this design. Representatives from the NRC staff will participate, as appropriate.

1:30 p.m.–4:30 p.m.: Nine Mile Point Nuclear Station, Unit 1 (Open)—The Committee will review and report on the proposed restart of this nuclear plant which has been shut down for an extended period due to safety-related reasons. Representatives from the NRC staff and licensee will participate, as appropriate.

4:45 p.m.–5:15 p.m.: Future Activities (Open)—The Committee will discuss anticipated ACRS subcommittee activities, items proposed for consideration by the full Committee, and ACRS meeting dates for CY 1990.

5:15 p.m.–6:15 p.m.: Generic Issue—87, HPCI Steam Line Break Without Isolation (Open)—The Committee will discuss a proposed ACRS report to the NRC regarding the resolution of this generic issue proposed by the NRC staff.

Saturday, November 18, 1989

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports to the NRC (Open)—The Committee will discuss proposed ACRS reports to the NRC regarding items considered during this meeting.

1:30 p.m.–2:30 p.m.: ACRS Subcommittee Activities (Open)—The Committee will hear and discuss reports of ACRS subcommittee activities including thermal-hydraulic phenomena and ACRS policies and practices.

2:30 p.m.–2:45 p.m.: Appointment of ACRS Members (Open/Closed)—The Committee will hear and discuss a report regarding the status of the appointment of candidates proposed for selection as ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarrranted invasion of personal privacy.

2:345 p.m.–3:00 p.m.: Activities of ACRS Members (Open)—The Committee will discuss related activities of ACRS members.

3:00 p.m.–3:30 p.m.: Miscellaneous (Open)—The Committee will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 27, 1989 (54 FR 39594). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and televison cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting as noted above to discuss safeguards and security information at nuclear plants (5 U.S.C. 552b(c)(3), information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), and Proprietary Information applicable to matters being discussed (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 7:30 a.m. and 4:15 p.m.

Dated: October 26, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89–25563 Filed 10–30–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of OPM Attitudinal Survey Submitted to OMB for Expedited Clearance

AGENCY: Office of Personnel Management.

ACTION: Expedited Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces an expedited request for clearance of the attached OPM attitudinal telephone survey. This survey is required to carry out OPM's statutory mandate to study the operation and administration of the Federal Employees Health Benefits Program and to formulate a comprehensive reform package for Congress by February 7, 1990, as required by Public Law 101–76.

Approximately 1,500 annuitants are expected to be contacted by telephone on a one time only basis; each telephone survey requires approximately 10 minutes to complete, for a total burden of 250 hours. A copy of the proposed survey questions appear below.

For copies of this proposal, call Larry Dambrose on (202) 632–0199.

DATES: Comments on this proposal should be received within 5 working days from the date of this publication. This is an expedited clearance and OMB approval is requested within 1 day after the fifth working day of this publication.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Abby Block, (202) 632–4958.

U.S. Office of Personnel Management

Constance Berry Newman,

Director.

FEHB Annuitant Telephone Survey

I am conducting a survey for the Office of Personnel Management about the Federal Employees Health Benefits Program. We are interested in your opinions about the program. The information you provide will be used by OPM in developing proposed changes to the Federal Employees Health Benefits Program.

First I'd like to ask you some questions about yourself.

ABOUT YOURSELF

1. Are you married? yes no
2. How much per month is your gross annuity, to the closest hundred dollars?
3. To which of the following age groups do you belong?
   a. under 55
   b. 55 to 64
   c. 65 or older
4. To which health plan do you belong? _____
5. Are you enrolled as Self Only or Self and Family?
6. If family, how many dependents, including your spouse, are covered under your FEHB Plan? _____
7. How long have you been in your current plan? _____
8. How many years have you been covered under the FEHB Program? _____
9. How many times did you and/or your covered family members visit a health care provider, other than a dentist, during the past year? _____
10. Were you and/or a covered family member an overnight patient in a hospital during 1989? yes no
11. Are you now covered by Medicare? _____ Own Coverage _____ Spouse Coverage _____ Not Covered
12. Will you be covered at age 65? _____ Own _____ Spouse _____ Will Not Be Covered

ABOUT FEHB

Now I'm going to ask you a few questions about the Federal Employees Health Benefit Program.

1. Why did you choose your current health plan?
   1. price
   2. special benefits
   3. wanted an HMO
   4. familiar with plan
   5. recommended
   6. covered by plan under another's enrollment
   7. organizational sponsorship
   8. other _____

Please answer A or B to the next two questions.

2. If the premiums were the same, would you pick (A) a plan that required you to pay a $300 deductible after which the plan then paid 80% of hospital and doctors' bills, or (B) a plan that had a $100 deductible and then paid 70% of hospital and doctors' bills?
3. If the premiums were the same, would you pick (A) a plan that paid 80% of hospital and doctors' bills and had a $3000 limit on your total out of pocket expenses for the year, or (B) a plan that paid 70% of hospital and doctors' bills and had a $1500 limit on your total out of pocket expenses for the year?

Please answer AGREE or DISAGREE to the rest of the questions.

4. I think that every FEHB plan should provide, at a minimum, the same basic benefits package.
5. I would prefer a health plan that is strong in basic benefits, such as hospital, physician services and prescription drugs, without extras such as dental, vision, and hearing.
6. I would prefer a plan that covers my typical expenses such as visits to the dentist or to my physician for regular check-ups over a plan that emphasizes hospital and major medical coverage.
7. I think the FEHB Program should be simpler and have fewer plans to choose from than the current program.
8. Employee organization plans should be able to offer benefits in a restructured FEHB Program.
9. There should be an HMO alternative wherever one is available.
10. There should be benefits packages tailored specifically for employees, annuitants, and Medicare covered annuitants.
11. There should be different Government contribution rates for employees, annuitants, and Medicare covered annuitants.

[FR Doc. 89–25571 Filed 10–30–89; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of the Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142

Upon Written Request Copy Available From: Securities & Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549

Reinstatement; Rule 17a–3; File No. 270–26, Rule 17a–4; File No. 270–242

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for reinstatement for OMB clearance, Rule 17a–3 which requires certain reports to be made by exchange members, brokers, and dealers. Six thousand respondents incur an estimated burden of two hundred and forty nine hours to comply with the rule; and Rule 17a–4 which requires exchange members, brokers and dealers to preserve for prescribed periods of time certain records required to be made by Rule 17a–3 and other Commission rules. Eight thousand and eight hundred respondents incur an estimated average of two hundred and fifty burden hours to comply with the rule.

The estimated average burden hours are made solely for the purpose of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of costs of SEC rules. Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 23, 1989.

Jonathan Katz,

Secretary.

[FR Doc. 89–25499 Filed 10–30–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27389; File No. SR–NASD–89–48]

Self-Regulatory Organizations;

period will be established and published by the Association. Article VII Section 3 of the By-Laws allows Association action regarding the operation of a

of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the

Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

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[Rel. No. 34-27369; File No. SR-NASD-89-48]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modification of Grace Period to Establish New SOES Exposure Limit

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"), notice is hereby given that on October 16, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies the grace period for restoration of SOES exposure limits in NASDAQ/NMS securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change increases the grace period allowed by the NASD for renewal by NASDAQ/NMS market makers of their SOES exposure limit.[1] Failure by a market maker to renew its exposure limit results in a suspension from SOES. This modification has been necessitated by the extraordinary market conditions encountered on Friday, October 13, 1989. Section (c)(2)(E) of the SOES rules provides that the duration of the standard grace period will be established and published by the Association. Article VII Section 3 of the By-Laws allows Association action regarding the operation of a system owned by the NASD or its subsidiaries under emergency or extraordinary market conditions.

The NASD believes that the rule change is consistent with Section 15 A (b)(6) of the Act which, among other things, requires the rules of the Association to be designed to perfect the mechanism of a free and open market and national system and in general to protect investors and the public interest. The rule change will facilitate SOES participants' ability to continue to function in the SOES market under extraordinary market conditions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 21, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 19, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25502 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

[1] The NASD allowed a grace period of 10 minutes for the day of October 16, 1989. This is an increase from the usual grace period of 5 minutes.

[Rel. No. 34-27376; [File No. SR-MSTC-89-08]]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Company Relating to Procedues Regarding the Payment of Cash in Lieu of Bonds in Portions Less Than $1,000 Principal Amount in Bond Issues Paying in Kind

October 24, 1989.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 12, 1989, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the text of a proposed rule change of MSTC which interprets and clarifies MSTC's current procedures regarding the payment of cash-in-lieu of bonds in portions less than $1,000 principal amount in bond issues paying in kind (PIK).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under current MSTC procedures, MSTC does not process fractional shares (those in denominations of less than one share) or bonds for denominations in principal amount less than $1,000 ("baby bonds"). MSTC also does not process stock dividend allocations in fractional shares and accordingly distributes cash in lieu of fractional shares. The proposed rule change clarifies that, as in the case of payments in cash of fractional shares, MSTC will also distribute cash in lieu of the "baby bond" portion of interest distributions involving PIK issues.

The proposed rule change is consistent with Section 17A of the Act, in that it promotes the prompt and accurate clearance and settlement of PIK bond transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File No. SR-MSTC-89-08 and should be submitted by November 21, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Exhibit A—MST System

Administrative Bulletin

August 3, 1989

To: All participants.
Attention: Dividend manager/head cashier.
Subject: Cash-in-lieu of baby bonds.

Due to the increase in bond issues paying in kind (PIC), MCC/MSTC will commence to pay cash-in-lieu of the baby bond portions (less than $1,000 principal amount) of this type of distribution. This policy change becomes effective immediately and will maintain interfacing compatibility with other RIO members.

MCC/MSTC will also pay cash-in-lieu of baby bonds on any type of distribution resulting in a baby bond residue. On all claims made by, or against, MCC/MSTC, the baby bond portion will also be paid in the form of cash-in-lieu.

Questions regarding this bulletin may be directed to your Participant Services Representative

Kathleen M. Staes,

Vice president, MCC/MSTC.

[FR Doc. 89-25497 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27377; File No. SR-MCC-89-12]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Clearing Corporation Relating to Procedures Regarding the Payment of Case in Lieu of Bonds in Portions Less Than $1,000 Principal Amount in Bond Issues Paying the Kind

October 24, 1989,

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 10, 1989, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the text of a proposed rule change of MCC which interprets and clarifies MCC current procedures regarding the payment of case-in-lieu of bonds in portions less than $1,000 principal amount in bond issues paying in kind (PIK).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under current MCC procedures, MCC does not process fractional shares (those in denominations of less than one share) or bonds for denominations in principal amount less than $1,000 ("baby bonds"). MCC also does not process stock dividend allocations in fractional shares and accordingly distributes cash in lieu of fractional shares. The proposed rule change clarifies that, as in the case of payments in cash of fractional shares, MCC will also distribute cash in lieu of the "baby bond" portion of interest distributions involving PIK issues.

The proposed rule change is consistent with Section 17A of the Act, in that it promotes the prompt and accurate clearance and settlement of PIK bond transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others.

MCC/MSTC will also pay cash-in-lieu of baby bonds on any type of distribution resulting in a baby bond residue. On all claims made by, or against, MCC/MSTC, the

II. Description of the Proposal

A. ESP Description.

The ESP service enables the trading of

of ESP trading, each 500-stock ESP will have a value of approximately $5 million.[7]

The S&P 500 Portfolio Index is nearly

The NYSE states that even with these two differences, the S&P 500 Portfolio Index closely tracks the S&P 500 Index. During the latter half of 1988, the

requirements.[11] Exchange members or member organizations registered as CBMMs in the ESP market basket would be treated as specialists for margin

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(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others.

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act and subparagraph (e) of Rule 19B–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communicaitons relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File No. SR–MCC–89–12 and should be sumitted by November 21, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Exhibit A—MST System

Administrative Bulletin

August 3, 1989

To: All participants.

Attention: Dividend manager/head cashier.

Subject: Cash-in-lieu of baby bonds.121Due to the increase in bond issues paying in kind (PIK), MCC/MSTC will commence to pay cash-in-lieu of the baby bond portions (less than $1000 principal amount) of this type of distribution. This policy change becomes effective immediately and will maintain interfacing compatibility with other RIO members.

MCC/MSTC will also pay cash-in-lieu of baby bonds on any type of distribution resulting in a baby bond residue. On all claims made by, or against, MCC/MSTC, the baby bond portion will also be paid in the form of cash-in-lieu.121Questions regarding this bulletin may be directed to your Participant Services Representative.

Kathlee M. Staes,

Vice president, MCC/MSTC.

[FR Doc. 89–25497 Filed 10–30–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27382; File No. SR–NYSE–89–05]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval to Amendments to Proposed Rule Changes Relating to Basket Trading

I. Introduction

On June 2, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] a proposed rule change to trade "Exchange Stock Portfolios" ("ESP's"), standardized baskets of stocks, on the floor of the exchange. The proposed rule change consists of changes to existing Exchange rules, the adoption of a new "800 series" of rules that apply solely to ESP trading, the adoption of guidelines to implement certain provisions of the proposed rules, and an ESP fee schedule. Amendments No. 1, 2, and 3, submitted on September 1 and 13 and October 18, 1989, respectively, proposed additional changes to the Exchange's rules, fees and the statements of purposes governing the proposed rule change.[3]

Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26908, June 8, 1989), and by publication in the **Federal Register** (54 FR 25516, June 15, 1989). Nine comment letters were received regarding the proposed rule change.[4]

[1] 15 U.S.C 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] In Amendment No. 2, The NYSE proposed, among other things, that the Commission initially approve proposed NYSE Rules 805 and 806 for only a 6-month period. In amendments No. 2 and 3, the exchange requested accelerated approval of file No. SR–NYSE–89–05, as amended.

[4] *See* notes 59–71, *infra* and accompanying text.

II. Description of the Proposal

A. ESP Description.

The ESP service enables the trading of standardized baskets of stocks at an aggregate price in a single execution on the Exchange's stock Floor.[5] An ESP trade will result in a transfer to the buyer of ownership of each of the component stocks. When the transaction is completed, the buyer will be entitled to all rights attending ownership of the basket stocks (including rights to vote and receive dividends), and will be free to sell or hold each stock separately.

That same buyer may later sell the basket stocks he acquired, either individually or through another ESP trade. In order to sell the basket stocks through the ESP service, they must be identical as a group with the standardized ESP basket at the time of sale. If a buyer has sold individual basket stocks and has not separately re-acquired them, or if changes have been made to the index sincethe basket was purchased, the buyer will havew to "rebalance" his position by purchasing or borrowing the additional securities so that he can deliver all the current ESP stocks in their proportionate number of shares.

Initially, ESP trading will be available for executions of a standardized basket of 500 stocks comprising the "Standard & Poor's ("S&P") 500 ("S&P 500") Portfolio Index."[6] At the commencement

[5] NYSE Rule 800(b)(iii) defines the term "basket" as "a group of stocks that the Exchange designates as eligible for execution in a single trade through the ESP service and that consists of stocks whose inclusion and relative representation in the group are determined by the inclusion and relative representation of their current market prices ina widely-disseminated stock index reflecting the stock market as a whole." *See also* the definition contained in proposed Rule 431(a)(8). NYSE Rule 801: (1) Limits ESP trading to baskets that the Exchange has approved; (2) authorizes the Exchange to change the component stocks comprising a basket; and (3) requires that a basket's component stocks have been admitted to dealings for ESP purposes on an "issued", "when issued", or "when distributed" basis. *See also* NYSE Rule 804.

[6] Section 12(a) of the act generally prohibits the trading of a security on a national securities exchange unless the security is requested on the exchange. Upon application by an exchange and Commission approval, however, section 129(f)(1) of the Act and Rule 12f–1 thereunder authorize the Commission to extend unlisted trading privileges ("UTP") to any security registered pursuant to Sections 12(b) or (g) of the Act. The NYSE's S&P 500 Portfolio Index currently is comprised of 39 stocks that are not listed for trading on the NYSE. Pursuant to Section 12(f) of the Act, the Exchange has submitted applications for UTP in 206 stocks for the limited purpose of ESP stock basket trading based upon the S&P 500 Portfolio Index, which the Commission has approved by seperate order. Because the composition of the market baskets will change from time to time as the composition of the S&P 500 Index changes, it will be necessary for the

Continued

of ESP trading, each 500-stock ESP will have a value of approximately $5 million.[7]

The S&P 500 Portfolio Index is nearly identical to the S&P 500 Index, containing the same stocks and with virtually the same capitalization weighting. It differs in two respects to accommodate standardized basket trading. First, the S&P 500 Portfolio Index is designed so that fractional share interests that would result from a basket derived directly from the S&P 500 Index are rounded up or down to the nearest whole share. Because of this factor, a basket based on the S&P 500 Portfolio Index will not contain fractional shares.

Second, in order to decrease the occasions when rebalancing is necessary to liquidate a basket position, the Exchange may not adjust the S&P 500 Portfolio Index every time S&P adjusts the S&P 500 Index. At a minimum, the Exchange will adjust the S&P 500 Portfolio Index each calendar quarter. The Exchange will determine when additional adjustments will be made to the S&P 500 Portfolio Index in response to adjustments made to the S&P 500 Index. Generally, such additional adjustments will be made whenever an index stock is substituted or some other corporate event occurs that affects significantly an index stock's relative capitalization in the S&P 500 Index, such as the issuance of stock dividends or special cash distributions. Whenever an adjustment is made to the S&P 500 Portfolio Index, all intervening changes to the S&P 500 Index will be incorporated as well.[8]

The NYSE states that even with these two differences, the S&P 500 Portfolio Index closely tracks the S&P 500 Index. During the latter half of 1988, the "tracking" error between the two indexes never exceeded .02 index points.

Under § 220.18(a) of Regulation T,[9] ESP trades would be subject to the 50% initial margin requirement applicable to exchange-traded equity securities. In addition, basket stocks that are acquired through an ESP transaction would be subject to the 25% maintenance margin requirement set out in NYSE Rule 431(c)(1).

B. ESP Market Structure.

1. *Competitive Basket Market Makers.*—The Exchange will not use its standard specialist system to trade ESPs, but instead will employ a market structure consisting of "Competitive Basket Market Makers" ("CBMMs"), Exchange specialists, Floor brokers, and an ESP "Basket Book Broker" ("BBB"). The CBMMs will perform the principal market-making function for ESP trading,[10] and registration as a CBMM will trigger specific market-making obligations. In contrast to the traditional exchange specialist, CBMMs will not be required to maintain a presence on the Floor. They may fulfill their market-making functions through their upstairs ESP terminals, which will provide them with the same basket data available to the crowd on the Floor, plus order-entry capability and identification of their own entered orders. Under proposed NYSE Rule 36.20, CBMMs (or CBMM nominees) on the Floor also will have telephone access to their upstairs desks.

Pursuant to NYSE Rule 807A(a), a NYSE member or member organization may register as a CBMM by satisfying such registration requirements as the Exchange may from time to time specify. Registered CBMMs must meet a minimum $10 million capital requirement over and above any and all other federal and/or Exchange capital requirements.[11] Exchange members or member organizations registered as CBMMs in the ESP market basket would be treated as specialists for margin purposes, and would be entitled to good faith margin treatment for ESP transactions effected in their CBMM accounts.[12]

NYSE Rule 807A(e) authorizes CBMMs to withdraw voluntarily their CBMM registration with proper notice to the Exchange. The NYSE Guidelines for the 800 Series Rules—Basket Trading ("Basket Guidelines") establish a 30 day written notice requirement for withdrawal of a CBMM registration. A CBMM, however, may not give such notice prior to the 60th day after its registration becomes effective, and hence must remain registered as a CBMM until at least the 90th day following the effective date of its registration. A member or member organization so withdrawing its CBMM registration will not be eligible to re-register as a CBMM for 30 days after such withdrawal. Moreover, a CBMM may petition the Exchange's Department of Market Surveillance in writing to suspend its CBMM market-making obligations, but only for cause.

In return for the CBMM franchise, member firms undertake certain affirmative market-making obligations set forth in NYSE Rule 807B. The following specific obligations govern CBMM market-making activities: (1) A CBMM may make a proprietary bid or offer only in a manner consistent with the maintenance of a fair and orderly market; (2) a CBMM must help alleviate temporary disparities between supply and demand; (3) a CBMM must effect proprietary trades in a reasonable and orderly manner in relation to the market in general and to the basket market; and (4) a CBMM must maintain a continuous, two-sided quotation in the basket subject to a specified bid-ask parameter.[13] The rule authorizes a

NYSE to request UTP in additional securities in the future. Section 12(f)(5) of the Act requires that 10 days' notice be provided to the issuer of a security for which UTP has been requested. This requirement could hamper trading in standardized market baskets, as the NYSE cannot receive 10 days advance notice of changes in the S&P 500 Index.To remedy this, the Commission is considering a new rule [Rule 12a–7] that will exempt from section 12(a), solely for the purpose of market basket trading, securities included in a standardized market basket product approved by the Commission pursuant to section 19(b) of the Act.

[7] The dollar value of a basket bid or offer is determined by multiplying the basket multiplier and the number of index points bid or offered. NYSE Rule 801.10. Pursuant to NYSE Rule 800(b)(v), the term "basket multiplier" is defined as an amount which, when multiplied by the current price of a basket expressed in index points, establishes the dollar value of the basket. Subject to compliance with Rule 19b–4 under the Act, the Exchange shall from time to time specify each basket's multiplier. The Exchange will issue specifications setting forth the number of shares of each of a basket's component stocks that comprise a basket based upon a formula that determines the percentage of the total index that each component stock represents. NYSE Rule 801.10.

[8] The NYSE states that index information will be readily available to investors. The Exchange will use S&P's Index Alert System to disseminate current information about the composition and capitalization weighting of the S&P 500 Portfolio Index. In addition, the Exchange will maintain in files available to the public current data on the composition of the component stocks and their relative representation in the Index and the method of calculating the Index. The Exchange also will make available computer disks containing all current data on the state of the Index as well as a facility for disseminating current data on the component stocks through commercial electronic mail.

[9] 12 CFR 220.10(a) (1989).

[10] In addition to the CBMMs' principal market-making function for ESP trading, specialists and the BBB perform a secondary, passive ESP market-making function. *See* notes 17–32, *infra* and accompanying text.

[11] NYSE Rule 807A(d). *See also*, Rule 15c3–1 under the Act, 17 CFR 240.15c3–1 (1989); NYSE Rule 325.

[12] Under proposed NYSE Rule 431(e)(2)(D), a member organization may clear and carry a CBMM's ESP trades upon such margin as the member and market maker may agree so long as the resulting margin adequately covers the risk attendant to the Market Functions Account (*i.e.*, CBMM account) in which the ESP transactions are carried. Moreover, NYSE Rule 807A(g) authorizes a CBMM to have a bank or a member finance its ESP transactions in a special or joint account on a margin basis that is mutually agreeable with the carrying organization.

[13] In addition, NYSE Rule 803 imposes on CBMMs obligations comparable to those that Rule 11Ac1–1 under the Act, 17 CFR 240.11Ac1–1 (the firm quote rule) and NYSE Rule 60 impose with respect to

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CBMM to comply with its market-making obligations by having a Floor broker represent and execute orders on its behalf.

The Basket Guidelines include provisions governing the withdrawal of CBMM registration, the suspension of CBMM market-making obligations, and the transfer of CBMM registration. The Basket Guidelines also require CBMMs to maintain certain books and records, and to file certain reports with the Exchange.

2. *Basket Book Broker.*—The BBB will be a Floor broker who will perform a secondary, passive ESP market-making function. The BBB will maintain a bid and offer in the ESP basket, but will not be required to maintain a presence on the Floor. The BBB will maintain his bid and offer through his upstairs ESP terminal, which will provide him with the same basket data available to the crowd on the Floor, plus order-entry capability and identification of his own entered orders. Under proposed NYSE Rule 36.20, the BBB (or BBB nominee) on the Floor also will have telephone access to his upstairs desk.

The BBB will be subject to the same capital requirements as CBMMs. The BBB will be required to register with the Exchange, and may withdraw his registration upon 30 days' written notice to the Exchange. The Basket Guidelines establish a 30 day written notice requirement for withdrawal of a BBB registration. A BBB, however, may not give such notice prior to the 60th day after its registration becomes effective, and hence must remain registered as a BBB until at least the 90th day following the effective date of its registration. A member or member organization so withdrawing its BBB registration will not be eligible to re-register as a BBB for 30 days after such withdrawal. Moreover, a BBB may petition the Exchange's Department of Market Surveillance in writing to suspend its BBB market-making obligations, but only for cause.

In return for the BBB franchise, member firms undertake certain affirmative market-making obligations set forth in NYSE Rule 807B. The following specific obligations govern BBB market-making activities: (1) A BBB may make a proprietary bid or offer only in a manner consistent with the maintenance of a fair and orderly market; (2) a BBB must help alleviate temporary disparities between supply and demand; (3) a BBB must effect proprietary trades in a reasonable and orderly manner in relation to the market in general and to the basket market; and (4) a BBB must maintain a continuous, two-sided quotation in the basket subject to a specified bid-ask parameter.[14] The rule authorizes a

Tier 1" quotation will be derived from the weighted summation of the prevailing bids and offers for each of the basket's component stocks as disseminated through the consolidated

to the consolidated tape.[24] Because the ESP system will calculate and disseminate the aggregate Tier 1 and Tier 2 quotes only once every 15

crowd to see both the ESP bid-offer spread and the depth of the ESP market.

Only the BBB's terminal has both execution and confirmation capabilities. All basket executions must be entered

(offer) no more than ⅛ point lower (higher) than that rounded value. The BBB must establish his Tier 2 bid (offer) no more than ¼ point lower (higher)

and the lowest offer will have priority.[25] Aggregate Tier 1 and Tier 2 bids and offers, however, are accorded priority over all other bids and offers at the same price. Otherwise, bids and offers

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CBMM to comply with its market-making obligations by having a Floor broker represent and execute orders on its behalf.

The Basket Guidelines include a general requirement that a CBMM must maintain a spread of not greater than two index points during normal market conditions as the bid-ask parameter. Nevertheless, whenever the spread in the S&P 500 Index quote [14] exceeds two points, the required bid-ask spread can equal that spread.

Although CBMMs, like Floor brokers and BBBs, can represent customer orders, as a general matter, NYSE Rule 809 establishes that only CBMMs can initiate basket trades for their own accounts on the Floor or from terminals.[15] Thus, only CBMMs can facilitate a customer's ESP transaction.[16] In addition, proposed NYSE Rule 111(g) authorizes a CBMM to initiate proprietary trades to liquidate a position in a component stock that the CBMM established through basket transactions in the same trading session, whether acquired to accommodate customers, to meet his market-making obligations, or otherwise.

2. *Specialists.* NYSE specialists in the individual stocks comprising the ESP basket will, in the aggregate, act as one passive ESP market maker. Whenever all of the basket's component stocks listed on the Exchange are open for trading, NYSE Rule 803(e) requires that the Exchange automatically calculate and disseminate through the ESP system at 15-second intervals the aggregate Tier 1 and Tier 2 quotations in all basket stocks.[17]

A specialists's "Tier 1 component stock" quotation means the price of the best published bid and published offer for a basket's component stock that is listed on the Exchange.[18] An "aggregate Tier 1" quotation will be derived from the weighted summation of the prevailing bids and offers for each of the basket's component stocks as disseminated through the consolidated quotation system, plus the Tier 1 "mini-basket" bid and offer for the non-NYSE component stocks.[19] When a basket order is executed at the aggregate Tier 1 quote, upon receiving the basket execution notice through the ESP service, a specialist must assign, take, or supply the number of shares of the component stock at the execution price needed to complete one basket and must report the size and price as a trade to the consolidated tape.[20]

NYSE Rule 800(b)(xii) defines a "Tier 2 component stock" quotation as a bid or offer for the number of shares of a basket's component stock necessary to comprise three baskets. NYSE Rule 803(e) specifies that the "aggregate Tier 2" quotation derives from the weighted summation of the prevailing bids and offers for each of the component stocks necessary to fill three baskets, plus the Tier 2 "mini-basket" bid and offer for the non-NYSE component stocks.[21] The aggregate Tier 2 quote represents a bid or offer for three baskets, and is designed to operate as a limit off-market, away from the Tier 1 quote. The Basket Guidelines specify that the quotes for the component stocks comprising the Tier 2 aggregate quotation may each be "auto-quoted" at, or ⅛ or ¼ point away from, the Tier 1 individual quote.[22] If a basket order is executed at the aggregate Tier 2 quote, each component stock specialist must assign, take, or supply at the execution price the number of shares of his specialty stock needed to complete three baskets.

When the ESP system sends a basket execution notice to the component stock specialist indicating that a basket order has been executed at the aggregate Tier 1 or Tier 2 quotation, the specialist must assign the execution at the execution price to interest on his book or in the trading crowd in accordance with existing stock rules of priority and precedence,[23] as well as report the price to the consolidated tape.[24] Because the ESP system will calculate and disseminate the aggregate Tier 1 and Tier 2 quotes only once every 15 seconds, and because of the human and system time involved in entering an ESP trade and disseminating the execution notices, the Tier 1 or Tier 2 execution price indicated in a basket execution notice may be superior or inferior to the prevailing market quotation at the time the specialist receives the execution notice. Nevertheless, the execution price indicated in the execution notice always will apply. If the execution price indicated in the notice is inferior to the prevailing market price, the specialist must assign the execution to the bid or offer then having priority at the price indicated in the notice. If the execution price indicated in the notice is superior, the specialist must take or supply the necessary shares. The specialist also is required to take or supply the necessary shares when the size of the interest on the book or in the trading crowd at or better than the execution price is insufficient or, in a non-firm market, when it is impractical for him to assign the execution to the book or trading crowd.[25]

3. *The Basket Book Broker.* Under NYSE Rule 808, the BBB presides over all ESP executions, executes orders entrusted to him, maintains the ESP display unit, arranges the opening of the ESP market, presides over the ESP call market, maintains a market in mini-baskets, reports ESP trades to market data vendors, and otherwise generally supervises the ESP market. Qualified members or member organizations may register as a BBB,[26] and the BBB franchise may be operated on a rotational basis.[27] Each BBB must arrange to have a member qualified to act as a BBB in attendance during all business hours.

The ESP display unit is maintained by the BBB. The display unit on the Floor provides members in the trading crowd ESP market data that is also available off-Floor through vendors (*i.e.*, the ESP last sale price and current best quote, with sizes), as well as the size interest at each minimum tick away from the prevailing bid and offer for the basket. Thus, the display unit allows the trading crowd to see both the ESP bid-offer spread and the depth of the ESP market.

Only the BBB's terminal has both execution and confirmation capabilities. All basket executions must be entered into the system by the BBB, and only the BBB's data display identifies the entering member firms. The BBB uses a terminal to perform its order entry function. CBMMs also may enter orders through their upstairs terminals. CBMMs and brokers in the crowd also may enter orders in terminals near the trading location. If the CBMM or broker order would result in an execution, then the BBB would enter the execution into the system.

The BBB has responsibility for the ESP limit order "book." NYSE Rule 808(f) requires a BBB to execute promptly any immediately-executable limit orders entrusted to him at the price shown on the display unit, in accordance with price and time priority, against the prevailing contra-side interest until the order is filled, and to place promptly any other limit orders on the basket display unit.

In conjunction with specialist participation for purposes of Tier 1 and Tier 2 basket executions, the BBB acts also as a passive market maker with respect to those stocks that are not NYSE-listed.[28] The BBB makes a market in the "mini-basket" [29] by disseminating "Tier 1 mini-basket" quotations and "Tier 2 mini-basket" quotations, *i.e.*, "bids and offers for the mini-basket that are related to the markets for the stocks included in the mini-basket in accordance with such parameters as the Exchange may from time to time prescribe." [30] The Basket Guidelines provide that the BBB must establish Tier 1 and Tier 2 quotes expressed in ⅛ point increments either as follows or pursuant to such other criteria as the Exchange's Market Surveillance Department may prescribe. In establishing his Tier 1 quote, the BBB must round the weighted sum of the bids (offers) for the mini-basket's component stocks down (up) to the nearest ⅛ point and must set his bid (offer) no more than ⅛ point lower (higher) than that rounded value. The BBB must establish his Tier 2 bid (offer) no more than ¼ point lower (higher) than his Tier 1 bid (offer). When a basket order is executed at the aggregate Tier 1 or Tier 2 quotation, the BBB must take or supply the necessary mini-baskets at the price indicated in the basket execution notice.[31] Upon the execution of a basket transaction, NYSE rule 808.15 requires the BBB to report for dissemination, and submit to the Exchange for comparison, such transaction-related information as the Exchange prescribes.[32]

C. ESP Trading Rules.[33]

1. *Acceptable Orders, Limit Orders and the Book.* NYSE Rule 802(d) permits only market and limit orders to be entered on the basket display unit. Additionally, in contrast to traditional block trading procedures,[34] the ESP rules provide no special rules to handle large "one-sided" stock basket orders. Rather, the rules for ESP trading provide that orders may be executed against opposite-side limit orders on the display unit at their displayed prices, in accordance with price and time priority, until the order is filled, thereby allowing a larger buyer or seller of baskets to "walk the book" without having to effect the execution at a single "clean-up" price.[35]

2. *Rules of Priority, Parity and Precedence.* For purposes of ESP trading, NYSE Rule 805 makes no distinction between proprietary and customer basket orders. Accordingly, ESP priority rules, based strictly on time and price, apply equally to agency and principal interest.[36]

ESP baskets will trade in an auction market based on strict time and price priority, and traditional rules of priority or precedence based on size do not apply to ESP trading.[37] The highest bid and the lowest offer will have priority.[38] Aggregate Tier 1 and Tier 2 bids and offers, however, are accorded priority over all other bids and offers at the same price. Otherwise, bids and offers displayed on the basket display unit enjoy priority based on the order of entry into the ESP service.[39] Basket orders will retain time priority once they are entered on the display unit, and intervening trades will not result in a new auction.[40]

3. *Crossing Orders.* Under NYSE Rule 805(d), a member may cross two agency orders without exposing either side, but only at a price that is better than the best bid and offer on the ESP display unit and only if the crossing price is announced to the trading crowd. Thus, a Floor broker or CBMM can cleanly cross customer orders for ESPs anywhere within the prevailing ESP quote, by executing the cross on the Floor, and then giving it to the BBB to enter into the system.[41]

CBMMs also can enter agency crosses through their terminals by sequential entry of each side, although they risk a break-up during the time it takes to enter the second side. In either case, if the crossing price is at or away from the prevailing bid of offer, the broker or CBMM can execute the cross only by clearing the book of all quotes that have priority. Although CBMMs, like Floor brokers and BBBs, can represent customer orders, as a general matter, under NYSE Rule 809 only CBMMs can initiate basket trades for their own accounts on the Floor or from terminals.[42]

Proposed NYSE Rule 808(a) permits CBMMs to facilitate a customer's order at a price that is better than the best bid or offer on the ESP display unit, after communicating the facilitation price to other members in the trading crowd.[43] NYSE Rule 808(b) prohibits another Exchange member from interceding in the facilitation if the proposed facilitation price is only one "minimum variation" (*i.e.*, .01 index points) better than the prevailing quote on the customer's side of the market.[44] When a

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quotations for individual stocks. Basket quotations always will be firm under Rule 803, except when the basket market is in the call mode. *See* NYSE Rule 815.

[14] The S&P 500 Index quotation reflects the mathematical aggregation of all the bid and offer quotations of the component stocks multiplied by their respective percentage weighting.

[15] Pursuant to NYSE Rule 809, a non-CBMM member may initiate proprietary basket trades on the Floor to offset a basket transaction made in error or, subject to NYSE Rule 92, a non-CBMM member on the Floor may accept proprietary basket orders initiated off the Floor.

[16] *See* NYSE Rule 808.

[17] *See* proposed NYSE Rule 104.11A. NYSE Rule 803(e) permits specialist participation in the basket market through aggregate Tier 1 and Tier 2 quotes only when all the NYSE-listed stocks that comprise the S&P 500 Portfolio Index are open. Thus, no component stock specialist participates in the basket market unless all participate.

[18] *See* NYSE Rule 800(b)(xi). The terms "published bid" and "published offer" have the meaning given to them in Rule 11Ac1–1 under the Act, 17 CFR 240.11Ac1–1. *See also* proposed NYSE Rule 104.11A.

[19] *See* NYSE Rule 803(e). *See also* notes 28–32, *infra* and accompanying text for a description of the BBB's obligation to supply the Tier 1 and Tier 2 "mini-basket" quotations.

[20] *See* NYSE Rules 800(b)(iv), 800(b)(xi), and proposed NYSE Rule 104A.11A.

[21] *See* note 30, *infra* and accompanying test, for a definition of "mini-basket" quotations.

[22] The Basket Guidelines provide that the Exchange's Department of Market Surveillance may grant requests for wider settings consistent with applicable Exchange Depth Guidelines.

[23] *See* NYSE Rules 71 and 72.

[24] *See* proposed NYSE Rule 104.11A.

[25] *Id.*

[26] The BBB may be affiliated with a CBMM, but the two units must be separated in accordance with the guidelines of NYSE Rule 98. *See* NYSE Rule 808(h).

[27] A BBB may withdraw its registration by providing the Exchange's Department of Market Surveillance with 30 days' written notice. NYSE Rule 808(g).

[28] As discussed above, ESP trading initially will be available for executions of a standardized basket of 500 stocks based on the S&P 500 Portfolio Index, which is nearly identical to the S&P 500 Index. Because the S&P 500 Portfolio Index currently is comprised of 39 stocks that are not listed for trading on the NYSE, UTP will be necessary in order to trade these non-NYSE-listed issues as part of an ESP stock basket. *See* discussion at note 6, *supra*.

[29] NYSE Rule 800(b)(ix) defines the term "mini-basket" as "a group of stocks that consist of those of a basket's stocks that are not listed for trading on the Exchange and whose inclusion and relative representation in the group are determined by the inclusion and relative representation of their current market prices in the stock index from which the basket is derived."

[30] NYSE Rule 808.20(a).

[31] NYSE Rule 808.20(b).

[32] *See also* NYSE Rule 817.

[33] *See* File No. SR–NSCC–88–06. Securities Exchange Act Release No. 27021 (July 11, 1989), 54 FR 30125 (July 18, 1989), and Securities Exchange Act Release No. 27207 (September 1, 1989), 54 FR 37859 (September 13, 1989) for a description of the clearance and settlement rules applicable to ESPs. *See also* NYSE rule 817.

[34] *See, e.g.*, NYSE rule 127.

[35] *See* NYSE Rule 808(f).

[36] The Exchange has proposed that the Commission initially approve Rule 805 for only a six-month period. Once the Exchange has experience in the operation of Rule 805 in the basket market, the Exchange will propose permanent approval of Rule 805, either in its current form or modified in light of market experience.

[37] *See, e.g.*, NYSE Rules 71 and 72.

[38] NYSE Rules 805(a) and 805(c).

[39] NYSE Rules 805(b)(i) and 805(c).

[40] NYSE Rules 805(b)(iii) and 805(c).

[41] As stated *supra* note 3, the Exchange has proposed that the Commission approve Rule 805 for only a six-month period.

[42] *See* note 15, *supra* and accompanying text.

[43] The Exchange has proposed that the Commission initially approve NYSE Rule 806 for only a six-month period. Once the Exchange has experience in the operation of Rule 806 in the basket market, the Exchange will propose permanent approval of Rule 806, either in its current form or modified in light of market experience.

[44] *See* NYSE Rule 802(b).

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facilitation is more than the minimum variation from the prevailing quote, NYSE Rule 808(b) permits another member to intercede in a CBMM's facilitation trade by taking or supplying all of the baskets that the customer seeks at a price that is better for the customer than the facilitation price.

4. *Split Orders.* NYSE Rule 802.30 allows CBMMs to accommodate a customer's need for a customized basket through "split" orders that enable a CBMM to participate on the same side of the transaction with a customer. In a "vertical split", a customer takes or supplies all shares of specified component stocks of a basket and the CBMM takes or supplies the remainder. A CBMM may not take or supply more than 100 stocks when vertically splitting an order for a customer, whether as part of an agency cross under Rule 805 or as a facilitation under Rule 806.[45] In a "horizontal split", a customer takes or supplies a specified percentage of each component stock's basket shares, rounded to the nearest whole share, and the CBMM takes or supplies the residual percentage of every stock in the basket.

5. *Index-on-Close Orders.* The Exchange's proposed "Index-on-Close" ("IOC") order would enable baskets to trade at 4:00 p.m. at the not-yet-known closing value of the S&P 500 Index. IOC orders may be placed at any time during the day prior to the close of trading, but only as crosses. Because the closing S&P 500 Index value is based on the weighted sum of the closing prices of the 500 component stocks, the IOC trade price will be appended and disseminated after the 4:00 execution of the IOC orders.[46]

6. *Trading Halts and Call Markets.* ESP basket trading would halt under NYSE Rule 816(b) when market activity triggers the Rule 80B "circuit breakers".[47] Moreover, under NYSE Rule 816(b), the Exchange's Senior Officers or Floor Directors can halt ESP trading when the condition of the market so warrants.[48]

In addition, under Rule 816(b) and the Basket Guidelines, a call market is mandatory if more than 30% of the weighted value of the index is not open for trading *and* trading in the related futures contract has reached the daily price limit (or trading in the contract has halted). Under NYSE Rule 816(a) and the Basket Guidelines, the Exchange's Senior Officers or Floor Directors may initiate a call market if market conditions make it unreasonable to conduct basket trading pursuant to regular auction procedures. The Basket Guidelines establish standards that NYSE officials may consider in making such a determination, including an unreasonably wide spread in the S&P 500 Index quote or the triggering of the NYSE Rule 80A "sidecar"provisions.[49] Under NYSE Rule 816(b), the existence of a call market suspends the obligations of specialist, BBBs, CBMMs to establish, maintain, and communicate component stock, mini-basket, and basket quotations.

The BBB must conduct the call market as follows. At the commencement of a call market, the BBB will begin to collect indications of interest in the basket and enter them into the display unit. Within five minutes of entry into the call mode, the BBB must disseminate the initial indications of interest to the Floor and to the CBMM terminals.[50] The BBB must update the indications whenever appropriate, but at least every fifteen minutes, even if only to indicate that there is no new interest.[51] The BBB may execute any matching interest that the indication process elicits at the end of each fifteen-minute cycle. If the match consists of paired market orders, a Floor Governor must determine that the proposed execution price is fair under the circumstances.[52]

The BBB may not reinitiate the continuous market until the later of (1) fifteen minutes after the dissemination of the initial indications or (2) five minutes after the most recent dissemination. Following the approval of the Exchange's Senior Officers or Floor Directors, the BBB may reopen the auction market with a quotation.[53]

7. *Openings and Reopenings.* NYSE Rule 815 permits the basket market to open or reopen only at a single price, and requires that all market orders be executed at that price. All market orders are matched. If there is an order imbalance, then the BBB will attempt to satisfy the imbalance with the limit orders on the book at a single price, unless the imbalance is significant enough to warrant entry into a call market.

D. *Price Allocations.* Member firms have indicated to the Exchange that they will use the Institutional Delivery ("ID") System of the Depository Trust Company ("DTC") to confirm transactions with customers and to effect customer settlement.[54] Because the ID System requires that member firms provide individual prices for each of the basket component stocks, NYSE Rule 817.20 provides a methodology to allocate a basket execution price to each of the basket's 500 component stocks.[55] The NYSE believes that the single price allocation methodology should avoid confusion among member firms and institutional users of the ESP product. The methodology would allocate an execution price based on the relative representation of each of the component stocks in the basket, as determined by the closing price of each stock on the day prior to trade date.[56] Where a customer buys or sells a basket that contains fewer than all 500 stocks, the calculation will exclude the omitted component stock(s).

E. *Fees.* The ESP fee schedule proposes fees intended to recover the Exchange's costs in developing and operating the ESP market. The initial fees are $200 per unit (*i.e.*, per basket) per side, $125 per unit per side for crosses, and an access fee of $12,000 per year in advance for each CBMM terminal line.

F. *Purpose and Benefit.* Given the increased institutionalization of the stock market and the growth of index-related trading strategies, the Exchange has proposed the ESP service to address the need for an institutional stock

[45] NYSE Rule 802.40.

[46] *See* NYSE Rule 802.20.

[47] NYSE Rule 80B, the Exchange's "circuit breaker" rule, provides procedures for one-hour trading halt in the trading of all securities after a 250-point decline in the Dow Jones Industrial Average ("DJIA") and a two-hour trading halt after a 400-point decline. *See* Securities Exchange Act Release No. 26196 (October 19, 1988), 53 FR 41637 (order approving NYSE, American Stock Exchange, Chicago Board Options Exchange, and National Association of Securities Dealers circuit breaker proposals).

[48] The Commission notes in addition that the practical effect of a Commission-ordered suspension of trading in a basket component stock pursuant to section 12(k) of the Act, 15 U.S.C. 781(k), would be a halt in ESP basket trading. Because transactions in such a security would be prohibited while such a trading halt was in effect, basket transactions could not take place until the suspension of trading ended.

[49] NYSE Rule 80A, the "sidecar" rule, imposes certain trading restrictions on orders entered into the NYSE's automated order-routing system, the Super Designated Order Turnaround ("SuperDOT") System, during period of significant market declines. The rule applies when the price of the S&P 500 futures contract traded on the Chicago Mercantile Exchange falls 12 points below the previous trading day's closing value. Once activated, program trading-related market orders entered into SuperDOT are routed into a separate file. *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637.

[50] NYSE Rule 816(a).

[51] *Id.*

[52] NYSE Rule 816.10.

[53] NYSE Rule 816(a).

[54] *See* notes 88–92, *infra* and accompanying text for a discussion of the Exchange's request for exemption from the trade confirmation requirements of Rule 10b–10 under the Act, 17 CFR 240.10b–10 (1989).

[55] *See also* NYSE circular, dated September 11, 1989.

[56] *See* File No. SR–NSCC–89–06, *supra* note 33, for further explanation of the clearance and settlement rules applicable to basket transactions.

basket trading system with physical delivery of the underlying component stocks. The Exchange contends that the ESP service will address market inefficiencies resulting from the fragmented executions currently accorded program trading strategies.[57] The Exchange believes that the proposed ESP market structure is designed to attract and concentrate the "block positioning"[58] capital necessary to support ESP trading. The Exchange further believes that ESP trading will reduce the transaction and price impact costs associated with current index-related trading strategies through the ESP service's single, aggregated execution function. Finally, the Exchange states that the ESP trading service may reduce the price volatility associated with institutional demands and selling pressures that their index-oriented trading strategies currently transmit to individual component stocks and which may translate into overall market volatility.

III. *Comments Received.* The Commission received nine comment letters in response to its request for comments on the proposed rule change. The Commission received a comment letter from the Commodity Futures Trading Commission ("CFTC")[59] stating that ESP transactions are "spot transactions in securities", and therefore are not "contracts of sale of a commodity for future delivery under section 2(a)(1)(A) of the Commodity Exchange Act."[60]

The Commission also received a comment letter from the Chicago Board of Trade ("CBOT"), a commodities exchange registered with the CFTC as a contract market.[61] The CBOT letter commended the NYSE for developing the ESP service, and asserted that the ESP service will have a positive influence on liquidity in the markets as an efficient execution mechanism for trading a standardized basket of stocks at a single, aggregate price on the Floor of the NYSE.

A third comment letter was received from the Alliance of Floor Brokers ("AFB"),[62] whose membership is comprised predominantly of NYSE Floor brokers. In general, the AFB letter criticizes certain aspects of the ESP market structure as anti-competitive. The AFB also believes that ESP trading may exacerbate structural market risks that already exist because of the unequal regulatory treatment accorded derivative products. The AFB argues that, in comparison to existing equity auction market trading procedures, the alternative trading procedures envisioned by the ESP system ultimately would result in a fragmented securities market structure with increased market volatility. In a report appended to its comment letter, the AFB made the following specific comments.

(1) The AFB criticized the lack of compatibility of the ESP rules package with traditional auction market concepts embodied in NYSE Rule 92 that attempt to eliminate conflicts of interest that may arise in an auction market environment. The AFB argued that a CBMM should be required to hand off all customer orders to an independent agent if the CBMM seeks to continue to trade for its own account.

(2) The AFB contends that parity[63] should be allowed at the basket point-of-sale, because absolute time and price priority will serve to dampen participation by portfolio managers if they must reveal their trading intentions in advance.

(3) The AFB argues that all crosses, whether agency to agency or principal to agency, should be subject to price betterment at the basket point-of-sale and that all brokers, not just CBMMs, should be permitted to effect facilitation crosses.

(4) The AFB argues for more basket order interaction with the "trading crowd," and contends that the BBB should be allowed to stop basket commitments whenever appropriate in the hope of achieving price improvement.

(5) The AFB contends that when a specialist receives a basket execution notice, that execution should receive a better price in the equity pieces whenever available at the equity point-of-sale.

(6) The AFB contends that the ability of a larger buyer or seller to disadvantage the limit orders on the book essentially with prior knowledge that inferior priced prints will take place is counter to existing block trading rules. Specifically, the AFB argues that this type of dealing is predatory when the prior knowledge is shared with a market maker who then takes part of the contra side at a clean up price after intervening public orders have been disadvantaged. Accordingly, the AFB believes some form of block trading protection is necessary for ESP transactions.

(7) The AFB agreed with the Exchange's logic supporting its request for short sale relief when the specialist is required to participate in an execution and the specialist is short the stock. The AFB also supported the Exchange's request for short sale relief when a CBMM supplies stock on a minus or zero-minus tick because the prices of the individual equity prices are priced independently. The AFB, however, criticized the NYSE's request to extend short sale relief to the basket point-of-sale as a potentially disruptive deregulatory initiative. The AFB also claims that such relief would foment a regime of anti-competitive and inequitable short sale regulation in comparison to the regulation of the short selling of individual stocks. Specifically, the AFB posits the example of shorting an industry group (*i.e.*, oil stocks) through ESP short sales in a fashion that is otherwise not available in the retail equity market.

Richard Ney & Associates Asset Management Inc. ("Ney"), an investment management company, criticized the configuration of ESP transaction reporting.[64] The Commission also received letters from Thomas G. and Ruth M. Roberts ("the Roberts") and from Dr. Burton Roger ("Dr. Roger"), individual investors residing in California, who similarly criticized the Exchange's proposed transaction reporting plan as it would apply to the basket's constituent stocks.[65]

[57] "Program trading" generally is defined as the simultaneous entry, but separate execution, of multiple orders together in a package trade. NYSE Rule 80A defines "program trading" as "either (A) index arbitrage or (B) any trading strategy involving the related purchase or sale of a 'basket' or group of 15 or more stocks having a total value of $1 million or more. Program trading includes the purchases or sales of stocks that are part of a coordinated trading strategy, even if the purchases or sales are neither entered or executed contemporaneously, not part of a trading strategy involving options or futures contracts on an index stock group, or options on any such futures contracts, or otherwise relating to a stock market index."

[58] Section 3(a)(38) of the Act, 15 U.S.C. 78c(a)(38), defines the term "market maker" as "any dealer acting in the capacity of a block positioner." NYSE Rules 97 and 127 generally govern the block positioning operations of Exchange member organizations.

[59] *See* letter from Jean A. Webb, Secretary, CFTC, to Jonathan G. Katz, Secretary, SEC, dated August 17, 1989.

[60] 7 U.S.C. 2(a)(1)(A) (1982).

[61] *See* letter from Thomas R. Donovan, President and Chief Executive Officer, CBOT, to Jonathan G. Katz, Secretary, SEC, dated July 17, 1989.

[62] *See* letter from Michael D. Robbins, President, AFB, to Jonathan G. Katz, Secretary, SEC, dated July 13, 1989.

[63] Namely, customer orders and proprietary orders are accorded equal execution priorities.

[64] *See* letter from Richard Ney, Richard Ney & Associates Asset Management, Inc., to Richard G. Ketchum, Director, Division of Market Regulation, dated July 5, 1989.

[65] *See* letter from Thomas G. and Ruth M. Roberts, to the Hon. Esteban E. Torres, U.S. House of Representatives, dated August 10, 1989, and letter from Burton Roger, M.D., to the Hon. Howard L. Berman, U.S. House of Representatives, dated August 19, 1989.

Specifically, Ney, the Roberts, and Dr. Roger criticized the lack of real time price and volume reporting for the ESP stock components when NYSE

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IV. Discussion.

A. Introduction

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Specifically, Ney, the Roberts, and Dr. Roger criticized the lack of real time price and volume reporting for the ESP stock components when NYSE specialists do not participate in a basket execution. Tucker Anthony, Inc. ("Tucker Anthony"), an investment management firm,[66] criticizes the ESP system as an institutional and proprietary trading vehicle whose trading will increase market volatility. Tucker Anthony also criticized the NYSE's proposed exemptions from the short sale rule, and expressed concern regarding the operational aspects of basket trading.

The eighth comment letter was from Junius W. Peake, a securities trading systems consultant, and Morris Mendelson, a finance professor ("Peake-Mendelson letter"), who together question the overall need for the ESP trading system, and argue that the ESP service is an inefficient protfolio execution system that would lead to market fragmentation and exacerbated price discontinuities.[67] The Peake-Mendelson letter also requests a more complete vetting of the market structure implications of ESP trading in a public hearing. The ninth comment letter was from the John Hancock Freedom Securities Corp. ("John Hancock Securities letter"),[68] a holding company for three broker-dealer subsidiaries that are NYSE member organizations. The John Hancock Securities letter reiterated several criticisms raised by the AFB,[69] including concern over the proposed strict price and time priorities applicable to ESP trading and the proposed regulatory treatment of ESP short sales.

The Exchange generally addressed these commentator's concerns and other issues raised by Commission staff in a letter to Commission staff ("September 6 letter"), which further explains the rationale underlying ESP trading and its accompanying market structure, as well as clarifies its requests for relief from certain trading practice rules of the Commission.[70] In its September 6 letter, the Exchange notes that ESP trading is structured with the goal of providing institutional customers and member firms with a trading vehicle suited for an institutional, composite-asset market. The Exchange believes that the rules supporting ESP trading are designed appropriately to accommodate the particular needs of the portfolio market in a fair and competitive market structure.

In response to the specific issues raised in the comment letters, the Exchange made the following comments.

(1) In response to the concern that the proposed ESP market structure would require CBMMs to make markets while allowing them to handle customer orders, the Exchange contends that if CBMMs cannot trade for their own accounts while holding customer orders, they would either have to cease providing two-sided quotations while holding customer orders, or they would have to hand off all of their customer orders. The Exchange concluded that the former alternative would lead to inadequte support for the product, while the latter alternative ignores a fundamental market reality, namely, that the potential ESP market-making firms are the very same firms that are likely to handle customer orders. Accordingly, the Exchange struck a balance between the two competing concerns by proposing a basket market structure that allows a market maker holding customer orders to maintain a two-sided quotation, while executing customer orders against those quotations and otherwise trading in furtherance of its affirmative obligations.

(2) In response to the contention that parity should be allowed at the basket point-of-sale, the Exchange contends that absolute time and price priority is essential to attracting upstairs capital to the ESP basket market. The Exchange states that strict priorities are necessary to assure upstairs market makers that an order will be executed when the market reaches the specified price, thus providing them with an incentive to place and leave orders in the system. The Exchange notes that the minimum ESP tick is 1/100th the size of the tick in the average Exchange-traded stock, and should provide traders ample room to compete by betttering the market.

(3) In response to the suggestion that all crosses should be subject to price betterment at the basket point-of-sale, the Exchange stated that it believes that the limitations on when ESP crosses must be exposed for price improvement are reasonable when viewed in the context of the absolute time and price priorities imposed by the ESP rules. The Exchange contends that no exposure is necessary for agency crosses because both sides of the order will receive prices better than the prevailing quotations in the market. The Exchange further contends that the lack of exposure for principal crosses when the price to the customer is a minimum tick inside the bid or offer is reasonable because the customer receives an immediate execution at the best available price. In addition, it encourages market makers to bring order flow to the Floor because it provides them with certainty in executing crosses, so long as they are prepared to provide the customer the best possible price.

In response to the argument that all brokers should be able to effect facilitation crosses, the Exchange stated its belief that allowing only CBMMs to effect proprietary crosses is an appropriate limitation when viewed in the overall context of the ESP market structure. In particular, because market makers will assume significant obligations and will incur significant costs in helping to maintain a fair and orderly market, the Exchange believes it is reasonable to limit to CBMMs the ability to effect facilitation crosses. The Exchange believes that without this limitation it would be difficult to attract sufficient market-making expertise.

(4) The Exchange notes, in response to the argument for more basket order interaction with the trading crowd, that the ESP rules provide for price improvement at the basket point-of-sale: because orders are "flashed" electronically to all market participants, both upstairs and Floor traders can interact with that order and improve the best bid or offer in the system.

(5) In response to the argument for price improvement at the equity point-of-sale, the Exchange argues that the issue of possible price improvement at the equity point-of-sale in a basket execution that involves Tier 1 or Tier 2 specialist participation arises because the specialist's aggregate quotations are updated only every 15 seconds, and an unavoidable delay occurs between the basket execution and the integration of that execution in the markets for the component stocks. As a result, when a specialist receives a basket execution notice, there could be a quotation in the stock superior to the price specified in the notice. The Exchange contends that it is reasonable to award the benefits of the improved price to the participant in the market for the component stock, who is much more likely to be a retail customer interested in receiving the best price for his order. The Exchange further contends that such a resoluton is a reasonable one for a basket customer who may view a speedy execution with price certainty as more important than a relatively insignificant improvement in the price of a $5 million basket.

(6) In response to concerns raised regarding the ability of large buyers or sellers to walk the book, the Exchange notes that the ESP basket market is an institutional market comprised of the equivalent of large block orders competing for execution according to strict price and time priorities. Accordingly, the Exchange believes that ESP trading does not require a regulatory structure modeled on its retail auction market which is designed to integrate both retail and institutional order flow and to protect retail order flow from inferior block executions at "gap" prices.[71]

(7) Finally, in response to concerns raised about the NYSE proposal for relief from the short sale rule, the Exchange notes that ESPs, much like options and futures, will be priced derivatively. Because the Exchange also expects ESP trading to be somewhat discontinuous, with potentially long intervals between trades, the Exchange believes that there is not likely to be much of a price relationship between the last tick in the ESP market and the actual direction of market movements in the ESP market and the actual direction of market movements in the component stocks. The Exchange contends, moreover, that it is impractical to apply the short sale rule at the basket point-of-sale since it will not be easy to determine when a person is "short" a basket that contains 500 component stocks. Thus, the Exchange reasons that it is impractical and competitively disadvantageous to apply short sale restrictions at the basket point-of-sale.

In response to the suggestion that a market participant might use the market basket to short a particular industry group, the Exchange counters that the risk inherent in such a trading strategy is prohibitively expensive, because the trader would be required to cover the unwanted stock short positions at a price no higher than the price at which it sold the stocks. Moreover, the Exchange notes that the general anti-fraud rules of the Exchange and the Commission will apply fully to ESP trading, and that the Exchange's detailed surveillance procedures will operate to capture any such anomalous trading patterns that may evidence a manipulative or otherwise fraudulent trading strategy.

IV. Discussion.

A. Introduction

After careful consideration of the comments received, applicable statutory provisions, and relevant policy considerations, the Commission believes that the NYSE's basket trading proposal is reasonably desinged to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trades, provide for an equitable allocation of fees, and is consistent with the maintenance of fair and orderly markets. For these reasons and for the additional reasons set forth below, the Commission finds that approval of the Exchange's proposed rule change relating to stock basket trading is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of sections 6(b) (4) and (5).[72]

B. Benefits of Market Baskets

Both the Division of Market Regulation's Report on *The October 1987 Market Break* [73] and an NYSE-commissioned Study entitled *An Overview of Program Trading and Its Impact on Current Market Practices* ("Katzenbach Report") recommend, among other things, the listing and trading of a basket of stocks on an exchange as a means to enhance efficiency and, possibly, the market's ability to absorb institutional portfolio trading.[74] As noted in the Staff Report, the creation of one or more posts for the purpose of trading actual baskets or portfolios of stock could alter the dynamics of program trading, because the availability of such basket trading could, in effect, restore program trades to more traditional block trading techniques.[75] The Staff Report noted further that, while arbitrage ultimately would flow to individual component stocks, many institutional investors and member firms effecting arbitrage transactions could focus their equity transactions at the basket post where the market makers and trading crowd could provide efficiencies associated with effecting transactions in a portfolio of securities as opposed to individual stocks. This could add an additional layer of liquidity and concentrated capital to the market in order to help absorb the volume and velocity of trading associated with index-related trading strategies.[76]

Furthermore, because ESP market basket will be traded on the Exchange Floor at a single location in an "open book" environment, members in the crowd will be able to see both the ESP bid-offer spread and the depth of the ESP market, *i.e.*, the size of the buying and/or selling interest at each minimum tick away from the prevailing bid and offer for the basket. Program trading order flow entered into the system and imbalances resulting therefrom thus will be disclosed, thereby ameliorating curent market information limitations in identifying program trade executions (or overhanging program orders) in the individual stocks.[77] Finally, by creating a trading vehicle for an aggregated basket of standardized portfolios of stocks in a single execution with minimal "execution slippage," [78] the ESP trading system will provide an efficient mechanism to trade, clear and settle stock baskets.

The Commission believes the ESP trading will provide institutional investors with a cost efficient means to make investment decisions based on the direction of standardized measures of stock market segments and the stock market as a whole, and may provide stock market participants several advantages over existing methods of effecting progam trades of stocks and transactions in portfolios of securities. The Commission recognizes that the ESP market will have different trading dynamics than the market for the individual stocks, and that the

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[66] *See* letter from John H. Goldsmith, President and Chief Executive Officer, Tucker Anthony, to Mr. John Phelan, Chairman of the Board, NYSE, dated July 20, 1989.

[67] *See* letter from Junius W. Peake, Chairman, The Peake/Ryerson Consulting Group, Inc., and Morris Mendelson, Professor of Finance, The Wharton School, University of Pennsylvania, to Jonathan G. Katz, Secretary, SEC, dated September 1, 1989.

[68] *See* letter from John H. Goldsmith, Chairman and Chief Executive Officer, John Hancock Freedom Securities Corporation, to Jonathan G. Katz, Secretary, SEC, dated October 12, 1989.

[69] *See supra* note 62.

[70] *See* letter from James E. Buck, Secretary, NYSE, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated September 6, 1989.

[71] *See* NYSE Rule 127.

[72] 15 U.S.C. 78f(b) (4) and (5) (1982).

[73] SEC, Division of Market Regulation, *The October 1987 Market Break* (February 1988) ("Staff Report").

[74] *See also*, Securities and Exchange Commission Recommendations Regarding the October 1987 Market Break contained in Testimony of David S. Ruder, Chairman, SEC, Before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, on February 3, 1988.

[75] Staff Report at 3–18. For a detailed description of current block trading mechanisms, *see* the *Report of the Presidential Task Force on Market Mechanisms*, at VI–9 to VI–11 (January 1988) ("Brady Report").

[76] *Id.* Similar ideas have been discussed in J. Grundfest, "Would More Regulation Prevent Another black Monday?", Address before the CATO Institute Policy Forum on July 20, 1988, at 13–14 (available at the Commission); H. Stoll and R. Whaley, "Program Trading and The Monday massacre" (November 4, 1987) (available at the Owen Graduate School of Management, Vanderbilt University); and H. Stoll, *Portfolio Trading*, Working Paper No. 87–14 (September 1987) (available at the Owen Graduate School of Management, Vanderbilt University).

[77] The NYSE's concept of an open, fully-disclosed book to support ESP trading is consistent with suggestions offered by various studies of the October 1987 Market Break. *See, e.g.*, the Brady Report, *supra* note 75 at vii. *See also* Wells Fargo Investment Advisors, *Reflections on the Stock Market Crash of October 1987* (January 25, 1987).

[78] "Execution slippage" may be defined as the adverse price impact that currently accompanies the fragmented execution of program trades. *See, e.g.*, the Katzenbach Report at note 28.

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regulatory structure for individual stocks may not be best suited for ESP trading. For the reasons discussed below, the Commission finds that the

be able to facilitate customer orders through proprietary trading on the Floor.[80] Thus, only CBMMs may effect proprietary cross transactions.

Commission finds that it is consistent with the Act for the NYSE to build in necessary incentives to ensure active market-making participation.

Designated Order Turnaround ("DOT") system. The Commission is satisfied that the NYSE's present surveillance and examination programs are capable of detecting any such improper trading.

F. Price Improvement and Price Protection

As discussed above, the ESP rules provide variations from the usual NYSE market structure in several other

and Tier 2 specialist executions are appropriate because it is reasonable to award the benefit of any improved price to the participant in the market for the component stock, who is much more

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regulatory structure for individual stocks may not be best suited for ESP trading. For the reasons discussed below, the Commission finds that the deviations from this structure proposed by the NYSE reasonably are designed to promote just and equitable principles of trade and fair and orderly markets. Furthermore, the Commission believes that ESP trading will not lead unduly toward a more fragmented and volatile market, because the "open book" environment, customer crossing and facilitation rules, and the combination of both "auction" and "dealer" attributes in the trading system for ESPs are consistent with the development of an open and competitive national market system.

C. Margin

As discussed above, ESP trades would be subject to the to percent initial margin requirement applicable to exchange-traded equity securities. Market makers who are designated as CBMMs in the ESP market basket would be treated as specialist for margin purposes, and would be entitled to good faith margin treatment for ESP transactions effected in their CBMM account.

Because the purchase of an ESP results in the physical delivery of each stock composing the basket, Regulation T requires a 50 percent initial margin requirement. For the same reasons, the Commission believes that it is appropriate to apply the NYSE equity security maintenance margin requirement of 25 percent to ESPs.

The Commission also finds that, in light of their affirmative market making obligations, the NYSE proposal appropriately treats CBMMs as "specialists" for the purpose of receiving exempt credit treatment under Regulation T and U.[79] In order for CBMMs to qualify for exempt credit, however, the Commission believes that it is necessary for CBMMs to segregate market-making positions from other positions (*e.g.*, proprietary and arbitrage transactions).

D. Agency Crosses, Proprietary Trading and Customer Facilitations

Rule 805(d) provides that any member or member organization may cross agency orders. As discussed above, however, under NYSE Rules 806 and 809 only CBMMs can initiate basket trades for their own accounts on the Floor or from terminals, and CBMMs alone will be able to facilitate customer orders through proprietary trading on the Floor.[80] Thus, only CBMMs may effect proprietary cross transactions.

In response to concerns voiced by the commentators that these provisions were anti-competitive, the Exchange contended that such a structural tradeoff was necessary to attract sufficient upstairs market-making participation.[81] In return for this trading "monopoly", the Exchange emphasized that CBMMs will be required to undertake specific affirmative obligations in connection with their ESP market-making operations. For example, Rule 807 establishes affirmative market-making obligations, including the requirement to maintain a fair and orderly ESP market. Moreover, CBMMs must help alleviate temporary disparity between supply and demand through proprietary trading operations. In addition, CBMMs also must maintain a continuous, two-sided firm quotation in the basket.

The Exchange also emphasized that CBMMs will incur the terminal and other systems and personnel costs necessary to support their market-making function. Furthermore, once registered, operation of a CBMM franchise demonstrates a significant capital commitment to the ESP market because a CBMM will not be permitted to withdraw its registration except on 30 days' notice,[82] and if a CBMM does withdraw its registration, it will not be permitted to re-register for 30 additional days.

The Commission believes that the unique capabilities provided to market makers in the ESP market raise difficult questions under the Act. On the one hand, the limitations on direct proprietary facilitations by other NYSE members may discourage their use of ESPs, thus reducing liquidity. On the other hand, the NYSE is attempting to provide, through CBMM participation, a continous basket trading market, something which has heretofore been unavailable. It is difficult to predict whether the market will expand and be characterized by active basket trading, or whether trading will be sporadic. At least in its initial stages, when the latter assumption may be correct, the Commission finds that it is consistent with the Act for the NYSE to build in necessary incentives to ensure active market-making participation. Accordingly, the Commission has determined to approve, on a temporary six-month basis, the NYSE's limitations on proprietary trading contained in NYSE Rule 806. If during the next six months, however, ESPs become actively traded, no artificial market-making incentives should be necessary and the Commission would expect the NYSE to revise its rules to permit basket trading and facilitation by all member firms.

E. Customer Protection Rules and Rules of Priority, Parity and Precedence

1. Customer Protection

NYSE Rule 92 protects against conflicts of interest when a member holds a customer order and trades for a proprietary account by imposing specific requirements on how the member must price and handle customer orders in these circumstances. Under NYSE Rule 800(c)(i), however, a member who holds or has knowledge of a customer's unexecuted order for one or more of a basket's component stocks still may initiate proprietary basket transactions, despite the otherwise contrary application of Rule 92. Thus, while holding customer orders, the ESP rules allow a market maker to maintain a two-sided quotation, executing customer orders against those quotations and otherwise trading in furtherance of its affirmative obligations. The Rule 92 restrictions apply when a CBMM seeks to trade for its own account at the then-prevailing bid or offer (if not pursuant to its affirmative obligations), or to break up a facilitation.[83]

The Commission believes that the exceptions proposed for CBMMs are appropriate measures to facilitate liquidity in an institutional market. Because of the size of the ESP's unit of trading and the screen-based trading system employed, ESPs require the participation of large, well-capitalized upstairs firms. Because these firms are integrated, any restriction on their ability to handle customer orders almost certainly would discourage them from registering as CBMMs. While the Commission is concerned over the potential that CBMMs might prefer their own proprietary order over a customer order or "frontrun" that customer order, the Commission recognizes that effectively the same potential for abuse exists today when upstairs firms execute programs through the NYSE's Designated Order Turnaround ("DOT") system. The Commission is satisfied that the NYSE's present surveillance and examination programs are capable of detecting any such improper trading. The Commission also notes that the Rule 92 restrictions still apply when a CBMM seeks to "hit" the then-prevailing bid or offer for a proprietary account (if not pursuant to its affirmative obligations), or to break up a facilitation. Accordingly, in light of the unique market structure of ESPs and the institutional nature of the market, the Commission finds that the NYSE's limitation of Rule 92 is consistent with the Act.

2. *Rules of Priority, Parity and Precedence.* Pursuant to NYSE Rule 805, the ESP basket market will trade under a regime of strict price and time priority. Accordingly, for purposes of determining ESP execution priorities, there is no distinction between proprietary and customer basket order.[84]

The Commission agrees with the Exchange that rules of time and price priority are appropriate in an institutional basket product that will trade in lots of $5 million. Coupled with the "open book" environment of the ESP basket market, rules of time priority should promote a more "transparent" ESP market by providing institutions with an incentive to place and leave orders in the system. This should result in order flow and imbalances being more fully disclosed, thereby ameliorating current market information limitations that may result when program trades are executed in the individual stocks. The alternative of granting institutional customer orders a preference over market maker orders would allow institutions to price broker-dealer CBMMs out of the market without those institutions accepting the affirmative obligations required of market makers. The result might be significant disincentives to market making and less liquidity. Accordingly, because the Commission believes that strict time and price priority provides a fair market regimen for ESPs, the Commission has determined to approved NYSE Rule 805 for a six-month period.

F. Price Improvement and Price Protection

As discussed above, the ESP rules provide variations from the usual NYSE market structure in several other instances to accommodate ESP trading. First, the rules for ESP trading allow orders to be executed against opposite-side limit orders on the display unit at their displayed prices, in accordance with price and time priority, until the order is filled, thereby allowing a larger buyer or seller of baskets to "walk the book" without having to effect the execution at a single "clean-up"price.[85]

Second, the proposed ESP rules [86] provide that when a specialist receives a notice indicating the execuion of a Tier 1 or Tier 2 basket trade, he or she must assign that interest at the price specified in the notice to whomever has priority at that time or take or supply the component stock at the execution price.[87]

The Commission believes that the trading rules proposed by the NYSE are consistent with the Act. The "gap pricing" protections set forth in NYSE Rule 127 for block transactions in individual securities are designed to ensure that small public limit orders do not receive block executions inferior to those of the block trade. Application of similar protections in the ESP market would first raise difficult definitional questions as to what was an ESP block. In addition, it is not clear that the sophisticated institutions participating in the ESP market require the identical protections developed for retail public investors in the equity market. In this connection, it is important to note that the absolute time priority provided in the ESP market protects limit orders from being "sized out" by larger orders that would be provided precedence in the market for individual securities. Therefore, the Commission believes that the absence of gap pricing protections for ESP limit orders in light of the institutional nature of the market and the advantage provided limit orders by time priority is appropriate.

Similarly, the Commission believes that the special rules regarding Tier 1 and Tier 2 specialist executions are appropriate because it is reasonable to award the benefit of any improved price to the participant in the market for the component stock, who is much more likely to be a retail customer interested in receiving the best price for his order, and because a basket customer is likely to view a speedy execution with price certainty as more important than a relatively insignificant improvement in the price of a $5 million basket.

G. Exemption Requests

The Exchange has requested that the Commission grant exemptions from Rules 10a–1, 10b–6, 10b–7, 10b–8, 10b–10, 10b–13, 15c1–5, and 15c1–6 under the Act [88] to facilitate trading in ESPs.[89]

Rule 10a–1 provides that short sales [90] of exchange-listed securities may not be effected at a price less than the price at which the immediately preceding sale was effected ("minus tick") or at a price equal to the last sale if the last preceding transaction at a different price was at a higher price ("zero-minus tick"). The Exchange has requested relief from Rule 10a–1 in three areas. First, the Exchange seeks an exemption form Rule 10a–1 as it would apply to the individual component stocks traded in an ESP transaction and to transactions in the ESPs themselves. Second, the Exchange requests an exemption analogous to the "block positioner" exemption in paragraph (e)(13) of Rule 10a–1.[91] The requested exemption would permit CBMMs selling stock acquired in an ESP transaction to disregard, when netting positions for purposes of Rule 10a–1, a short position that is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedging activities. Third, the Exchange is requesting relief from the operation of the short sale rule as it would apply to a specialist's obligation to trade for its own account when the specialist participates in a Tier 1 or a Tier 2 execution through a "passive sale," *i.e.*, when the specialist is acting

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[79] The BBB also will be entitled to exempt credit, but only with respect to transactions entered into pursuant to its role as passive market maker in the "mini-basket."

[80] A non-CBMM member may initiate proprietary basket trades on the Floor to offset a basket transaction made in error, however, or, subject to NYSE Rule 92, a non-CBMM member on the Floor may accept proprietary basket orders initiated off the Floor.

[81] NYSE September 6 letter, *supra* note 70.

[82] In addition, because the member or member organization may not give such notice prior to the 60th day after its registration becomes effective, a CBMM must continue to function as such for at least 90 days. *See* Basket Guidelines.

[83] *See supra* note 44.

[84] In contrast, Rule 11a1–1(T)(a)(3) under the Act, 17 CFR 240.11a1–1(T)(a)(3), generally provides an exemption from Section 11(a) conditioned on providing customer orders priority over orders of the exchange member handling those orders at the same price. Members whose ESP orders are subject to Section 11(a)'s limitations will have available the exemptions provided in Rule 11a2–2(T) as well as Rule 11a1–1(T) in executing these orders.

[85] *See* NYSE Rule 808(f).

[86] *See* proposed NYSE Rule 104.11A(b).

[87] Moreover, although NYSE Rule 812 requires a CBMM to guarantee the purchase or sale of a basket at the price at which he "stops" a basket, the Exchange is not requiring the BBB to "stop" basket market orders to achieve price improvement. Because of the fact that ESP baskets trade in lots of $5 million, the Commission believes it is reasonable for the Exchange not to require the BBB to stop basket orders in what may prove to be an illusory attempt at achieving price improvement, because the BBB would ultimately bear the risk of any adverse market moves whenever it would stop a basket commitment.

[88] 17 CFR 240.10a–1, 240.10b–6, 240.10b–7, 240.10b–8, 240.10b–10, 240.10b–13, 240.15c1–5 and 240.15c1–6 (1989).

[89] *See* letters from Donald J. Solodar, Senior Vice President, NYSE, to Larry Bergmann, Associate Director, SEC, dated September 25 and October 12, 1989.

[90] A short sale is defined in Rule 3b–3 under the Act, 17 CFR 240.3b–3, as any sale of a security that the seller does not own or any sale that is consummated by the delivery of a security borrowed by, or for the account of, the seller. Rule 3b–3 provides further that a person shall be deemed to own a security only to the exent that that person has a net long position in that security.

[91] *See* Securities Exchange Act Release No. 20715 (March 6, 1984), 49 FR 9414 (March 13, 1984).

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as the seller of last resort who is required to fulfill a trading commitment at a given price.

Rule 10b–6 limits the ability of underwriters, issuers, or certain other persons to bid for or purchase a security being distributed, or a related security, during the distribution of that security. Rule 10b–7 regulates stabilizing transactions in connection with an offering of securities. Rule 10b–8 restricts bids and purchases of rights, and offers and sales of the underlying stock, by persons participating in a rights offering. Rule 10b–10 requires broker-dealers to provide customers with a written confirmation that includes the identity, price, and number of shares or units of a security purchased or sold by the customer.[92] Rule 10b–13 prohibits persons making a tender offer for a security from purchasing or arranging to purchase that security otherwise than pursuant to the tender offer. Rule 15c1–5 requires a broker-dealer to disclose that it has a control relationship with an issuer before executing a transaction in that issuer's securities. Rule 15c1–6 requires a broker-dealer to disclose any participation or financial interest in the distribution of a security, at or before the completion of a transaction in such security for the account of a customer.

The Commission believes that transactions in ESPs generally do not involve the same concerns that are applicable to transactions in individual stocks, and that appropriate conditional relief from Rules 10a–1, 10b–6, 10b–7, 10b–8, 10b–10 is necessary if the benefits of ESP trading are to be achieved. With respect to Rules 15c1–5 and 15c1–6, in recognition of the unique nature of ESP transactions, the Division has determined that transactions in ESPs are unlikely to give rise to the abuses the rules were designed to prevent and accordingly, the Division is taking a no-action position under these rules. Accordingly, the Commission's staff today has issued a letter granting certain exemptions and taking certain no-action positions with respect to the treatment of transactions in ESPs under these rules.

H. NYSE Rules 95, 96, 97, 104, 107, 112 and 312(g)

A variety of Exchange rules impose transaction restrictions designed to ameliorate conflicts of interest that arise in connection with the intersection of proprietary trading operations and customer operations. Proposed Rule 800(c) would exempt ESP trading from these customer protection rules.

For example, NYSE Rule 95.20 generally prohibits specialists from initiating discretionary orders in specialty stocks. Proposed NYSE Rule 800(c)(ii) would allow a specialist to originate basket orders for discretionary accounts even if the basket contains his specialty stocks, despite the otherwise contrary provisions of NYSE Rule 95.20. Similarly, a member who holds or has granted an option on a basket's component stock may still initiate proprietary basket transactions under Rule 800(c)(iii), despite the otherwise contrary operation of Rule 98.

Exchange Rule 97 generally restricts block positioners from trading in a manipulative manner that would be inconsistent with the informational advantages derived from the intersection of their customer and proprietary trading operations. Proposed Rule 800(c)(iv) exempts a member from the operation of the otherwise applicable tick tests contained in Rule 97 if he or she has acquired a long stock position as a result of a member's basket transactions.

Additionally, a stock specialist may initiate basket transactions under Rule 800(c)(v), even if the basket contains a specialty stock, despite the otherwise contrary provisions of Rule 104. Nevertheless, under Rule 800(c)(vi), a specialist, registered competitive market maker or competitive trader must include in any calculation of his aggregate stock position any stock that he has acquired by means of one or more basket transactions for the purposes of the stock trading limitations imposed by Rules 104, 107 and 112.

Finally, NYSE Rule 312(g) places restrictions on an Exchange member corporation effecting transactions, or making recommendations, in its own securities or in securities issued by any corporation controlling, controlled by, or under common control with the member corporations (collectively, an "affiliated issue"). The rule is designed to protect against potential conflicts of interest and potential misuses of corporate information. Applied literally to basket trading, however, the rule would prohibit a member firm that is affiliated to any of the component companies included in a standardized market basket product approved by the Commission from: (1) Making recommendations or effecting customer transactions in baskets, (2) making a market in baskets, or (3) executing "split" orders for customers in baskets if the customer wanted to exclude the stock of the affiliated issuer, because the member firm would have to buy or sell the stock for its own account to accommodate the customer.

Paragraph (vii) of NYSE Rule 800(c) would apply Rule 312(g) to market baskets [93] as follows: (1) Member corporations of the NYSE would be permitted to recommend and effect customer market basket transactions without restrictions; (2) an Exchange member corporation that is a market maker in stock baskets (*e.g.*, CBMMs on the NYSE or other exchange-designated basket market makers) would be permitted to buy and sell baskets for proprietary accounts without restrictions; (3) if an Exchange member that is a CBMM or other exchange-designated basket market maker liquidates one or more component stock positions with respect to a basket that it holds in its market-making inventory, the CBMM or such other exchange-designated basket market maker will have until the close of the day following such action to liquidate its position in the stock of an affiliated issuer; and (4) if an Exchange member corporation that is neither a CBMM nor a basket market maker designated on another exchange acquires a position in the stock of an affiliated issuer through its execution of a split order, the member corporation would have until the close of business on the day following the transaction to dispose of the position in the stock of the affiliated issuer.

The Exchange contends that the Rule 800(c) provisions appropriately balance customer protection concerns against potential conflicts that could arise while members and member organizations service customers and provide liquidity to the basket market. Consistent with the no-action position taken by the Commission staff with regard to the operation of Rules 15c1–5 and 15c1–6 under the Act,[94] the Commission believes that the amended operation of Exchange Rules 95, 96, 97, 104, 107, 112 and 312(g) as they relate to ESP trading strike an appropriate balance between customer protection concerns and any potential trading abuses by members and member organizations, because investors will make basket trading decisions based on the market as a whole and not on stock-specific criteria, and any proprietary trading undertaken by a member or member organization in this connection does not entail the

[92] *See* notes 54–56, *supra* and accompanying text for a description of the NYSE's proposed methodology for allocating an execution price to each component stock in a basket.

[93] Amendment No. 3 to the Exchange's rule filing clarifies that the operation of NYSE Rule 800(c)(vii) is generic in its application to baskets traded on other national securities exchanges.

[94] *See* note 92 *supra* and accompanying text.

manipulative concerns that these Exchange rules are intended to address in the context of individual stock trading.

I. Transaction and Quotation Data Reporting

Pursuant to Rule 11Aa3–1 under the Act,[95] the NYSE is required to collect and disseminate transaction data on securities listed and traded on the Exchange. The NYSE will provide trading facilities through the ESP service for reported securities (as components of baskets) but will not report transactions in the component stocks, as is required by Rule 11Aa3–1.[96]

The Exchange intends to disseminate basket last sale information and quotations to market data vendors, thereby assuring that all ESP market participants will have ready access to the ESP transaction reports and quotations. Tier 1 and Tier 2 executions in the NYSE-listed component stocks will be disseminated to market data vendors in the same manner as individual executions in the component stocks. In addition, proposed Rule 803 will impose on members obligations consistent with those imposed by Rule 11Ac1–1 under the Act [97] and Exchange Rule 60 with respect to the quotations for individual stocks. Basket quotations always will be firm under Rule 803, except when the market is in a call mode. However, outside of the existing markets in the individual component stocks trading on the Exchange in compliance with Rules 11Aa3–1 and 11Ac1–1, no quotes or last sale reporting will be available for the individual constituent stocks that comprise a stock basket when it trades under the ESP market structure, unless an order is executed against a Tier 1 or Tier 2 aggregate quotation.

For the first six months of ESP trading, the NYSE will not disseminate on a consolidated basis the total trading volume for each of the component stocks represented by ESP transactions either during or after the trading day. The NYSE believes that its proposal to exclude end-of-day transaction volume in the ESP component stocks from the consolidated transaction volume figures is appropriate to provide the Commission and the Exchange with an opportunity to assess whether the absence of individual basket component stocks in the end-of-day consolidated volume figures merits modification in light of actual trading experience.[98] The NYSE has, however, committed at the end of the first six months of basket trading to submit to the Commission a proposed rule change that will provide for the inclusion of end-of-day transaction volume in the ESP component stocks in the consolidated transaction volume figures.[99]

Ney, the Roberts, and Dr. Roger criticized the proposed configuration of ESP transaction reporting, which would not include price and volume breakdowns in the component stocks of a basket trade. Because ESP trades are executed at aggregated prices, the Exchange contends that a last sale reporting requirement for the price and volume of a basket's individual component stocks does not translate well into the ESP context.

The Commission agrees with the Exchange that, with the exception of specialist Tier 1 and Tier 2 executions, real-time last sale and volume reporting for the individual component stocks underlying a basket trade would not be appropriate in the ESP context. Pricing of the baskets is based on the aggregate value of the underlying securities and thus any assignment of a "price" to any of the component stocks in the basket would be arbitrary. For these reasons, the Commission believes that the proposed reporting requirements, even though they deviate to a certain extent from the requirements of Rule 11Aa3–1, are, nevertheless, consistent with the Act. In addition, the Commission believes that a six-month delay in implementing consolidated reporting of end-of-day transaction volume in the basket component stocks is reasonable in order to determine whether such consolidation would provide useful information to market participants.

The Commission believes that conditional relief from Rule 11Aa3–1 for ESP transactions is necessary and appropriate. Accordingly, the Commission has issued an order exempting the NYSE from certain requirements in that rule with respect to transactions in ESPs.[100]

J. Surveillance Procedures

The proposed ESP market structure raises various surveillance concerns. The Commission believes that the Exchange's enhanced ESP surveillance procedures should capture any potentially abusive trading practices of market participants attempting to profit unfairly from the information advantages that their fiduciary and market positions entail. In this connection, the Commission expects the Exchange to exercise its Rule 814 authority to surveil ESP training through routine post-trade monitoring, program trading reports, revamped Form 81s, intermarket surveillance, its surveillance agreement with the Chicago Mercantile Exchange and the Exchange's own frontrunning circular. The Exchange should be able to monitor and police derivative activity relating to ESP trading and program trading, as well as questionable transactions that may relate to customer conflicts of interest. Finally, the Commission believes that the Exchange should use its existing procedures to discipline members and member organizations that abuse their fiduciary positions and informational advantages to the detriment of customers and the public interest.

V. Conclusion.

The Commission believes that the ESP market structure balances appropriately the competing concerns of various Exchange constituencies in a manner consistent with just and equitable principles of trade. Given the institutional character of stock portfolio trading that ESP trading is designed to capture, the Commission agrees that the Exchange's chosen market structure, which accords institutions strict price-time priority, is a fair and competitive market structure. Finally, the Commission's section 19 authority and the Rule 19b–4 process allow the Commission and the Exchange sufficient flexibility to modify ESP trading in light of actual trading experience and any future developments that materially affect the ESP market structure.[101]

[95] Rule 11Aa3–1, the transaction reporting rule, generally requires that exchanges file transaction reporting plans governing the collection, processing and dissemination of last sale data on securities traded on the exchanges. 17 CFR 240.11Aa3–1 (1988).

[96] By separate order, The Commission has granted the NYSE an exemption from this requirement. *See* Securities Exchange Act Release No. 27390 (October 26, 1989).

[97] 17 CFR 240.11Ac1–1 (1989). Rule 11Ac1–1 imposes quote collection obligations on exchanges and associations and requires broker-dealer quotations, subject to specific exceptions, to be firm at the price and size publicly disseminated. The Commission notes that Rule 11Ac1–1 applies to quotations for ESP baskets.

[98] *See* letter from Richard A. Grasso, President and CEO, NYSE, to Brandon C. Becker, Associate Director, Division of Market Regulation, SEC, dated October 4, 1989.

[99] *Id.* The Exchange has reserved the right to provide views and information that would express its continued opposition to the addition of end-of-day transaction volume in the ESP component stocks in the consolidated transaction volume figures.

[100] *See supra* note 90.

[101] The Commission believes that the 30 day comment period that accompanied publication of the Exchange's proposal and the Commission's continued willingness to entertain all comments that precede its action as providing an adequate public forum to vet all the issues and concerns that may have accompanied the ESP proposal. Accordingly, it is unnecessary to hold public hearings on the NYSE proposal.

Accordingly, based upon the aforementioned factors, the Commission finds that the Exchange's proposed rule change relating to the trading of ESP stock baskets is properly within its jurisdiction and consistent with the requirements of sections 6(b)(4) and (5) and the rules and regulations thereunder.[102]

The Commission finds good cause for approving those portions of the NYSE's proposal that were amended by Amendments 1, 2, and 3 prior to the thirtieth day after the date of publication of the amendments in the **Federal Register**. The original filing was the subject of a 35-day notice period that generated several comment letters. The amendments made only minimal changes to the proposal as noticed. In addition, accelerated approval is necessary because ESP trading is scheduled to begin on October 26, 1989. Because of the Commission view of the benefits that may result from the trading of a basket of stocks on a national securities exchange, the Commission believes a good cause finding is justified.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 21, 1989.

[102] The Commission notes that approval of the proposed rule change is based upon a determination that the terms of ESP basket trading are consistent with the requirements of the Act. If the terms of the ESP basket market structure, including the index multiplier, are changed in any material way, however, it would be necessary for the NYSE to submit a proposed rule change to the Commission in order to afford the public an opportunity to review the proposed modification and for the Commission to review its prior determination.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[103] that proposed Rules 805 and 806 are approved for a six-month period ending on April 30, 1990 and that the remaining proposed rule changes be, and hereby are, approved.

By the Commission.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25598 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27383; File No. SR-CBOE-88-20]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Filing and Order granting Accelerated Approval of Amendments to Proposed Rule Change Relating to Market Basket Trading

I. Introduction

On may 12, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change that establishes Exchange rules to govern the trading of "market basket contracts" on the floor of the Exchange.

The proposed rule change was published for comment in Securities Exchange Act Release No. 26882 (June 1, 1989), 54 FR 24442 (June 7, 1989).[3] The Exchange subsequently submitted amendments to its proposed rule change.[4] No direct comment letters were received regarding the proposed rule change, although commentators did discuss the CBOE proposal in responding to proposals by other exchanges to trade baskets of stock.[5]

[103] 15 U.S.C. 78s(b)(2) (1982).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] The proposed rule change published for comment was Amendment No. 2 to SR-CBOE-88-20 and was filed with the Commission on May 12, 1989. The CBOE originally filed SR-CBOE-88-20 with the Commission on November 1, 1988, and filed Amendment No. 1 to the filing with the Commission on January 13, 1989.

[4] The Commission received Amendments No. 3, 4, and 5 to the CBOE proposal on September 21, 1989, September 26, 1989 and October 6, 1989, respectively. The Exchange requested accelerated approval of File No. SR-CBOE-88-20, as amended. The notable changes made in these amendments are described in this order.

[5] The New York Stock Exchange, Inc. ("NYSE") filed with the Commission a proposal that sets forth a framework for trading "Exchange Stock Portfolios" ("ESPs"), standardized baskets of stocks, on the floor of the NYSE. *See* Securities Exchange Act Release No. 26926 (June 8, 1989), 54 FR 25516 (June 15, 1989). Additionally, the Midwest Stock Exchange, Inc. ("MSE") filed with the Commission a proposal to establish a secondary trading session for the execution of transactions in portfolios of securities. *See* Securities Exchange Act Release No. 26887 (June 1, 1989), 54 FR 24779 (June 9, 1989). For a discussion of the comments applicable to the CBOE proposal, see *infra* notes 34-39 and accompanying text.

II. Background and Description of Market Baskets

A. Description and Terms of Market Basket Contracts

A CBOE market basket contract enables the trading of standardized baskets of stocks at an aggregate price in a single execution on the Exchange's floor.[6] A market basket trade will result in a transfer to the buyer of ownership of each of the component stocks. When the transactions is completed, the buyer will be entitled to all rights attending ownership of the basket stocks (including rights to vote and receive dividends), and will be free to sell or hold each stock separately.

That same buyer may later sell the basket stocks he acquired, either individually or through another market basket trade. In order to sell the basket stocks through market basket contracts, they must be identical as a group with the standardized basket at the time of sale.[7] If a buyer has sold individual basket stocks and has not separately reacquired them, or if changes have been made to the index since the basket was purchased, the buyer who then decides to sell a basket will have to "rebalance" his position so that he can deliver all the current market basket stocks in their proportionate number of shares.[8]

[6] The number of shares of individual stock shall be determined by dividing the outstanding float of the particular security by the divisor of the index and multiplying this value by the index multiplier, subject to the requirement that any fractional amount is to be rounded to the nearest whole share. For example, if XYZ Corp. has 130.257 million shares outstanding and the divisor for the S&P 500 (expressed to four decimal places) is 3022.4168 million, the weighted number of shares for XYZ Corp. would be 0.0431 (130.257 million ÷ 3022.4168 million). The purchaser of the S&P 500 market basket would receive 216 shares (.0431 × 5,000, the index multiplier for the basket contract) of XYZ stock, together with the stock of the other companies whose shares comprise the index in amounts corresponding to their respective weighting in the index.

[7] The process will be simpler for offsetting transactions that occur during a single trading day. Specifically, the Exchange proposes that if a customer has purchased and sold the same market basket contract on the same date, then the customer will receive a confirmation statement reflecting the terms of such purchase and sale, including the amount of any credit or debit to the customer's account.

[8] If a change occurs in the composition of either the S&P 100 or S&P 500, the composition of the

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The CBOE proposes to trade market basket contracts based on the Standard & Poor's 100 Stock Price Index ("S&P 100") and the Standard & Poor's 500 Stock Price Index ("S&P 500").[9] The Exchange proposal provides that determinations as to the composition of the index, the index divisor, and the number of shares outstanding of each of the component stocks shall be determined by the Exchange after the close of business on the date preceding the trade date.[10] The index multiplier for both the S&P 100 basket ("OBE") and S&P 500 basket ("MBX") contract is 5,000, and, accordingly, the value of a single OBE and MBX contract is approximately $1,610,000 and $1,730,000, respectively.[11]

B. Market Structure for the Trading of Market Basket Contracts

1. DPM and Market Makers

The Exchange proposes to trade market basket contracts under its Designated Primary Market Maker ("DPM") program. In acting as a market maker, the DPM will fulfill all the obligations of a market maker along with the other market basket market makers that are at the market basket post. Additionally, the DPM will fulfill the responsibilities of the Order Book Official by, among other things, maintaining the limit order book and displaying bids and offers in the book.[12]

The Exchange also proposes to appoint market makers to trade the market basket contracts. These market basket market makers will supplement the DPM in making markets and thereby provide additional liquidity to the market basket post. Under the proposal, market makers in market basket contracts will be obligated to perform a similar function to market makers in classes of options. In general, a market maker will be expected to engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. Specifically, market basket market makers, when present in the trading crowd, will be expected to compete with other market makers to improve the markets of market basket contracts. Moreover, when present in the trading crowd, the market basket market makers are expected to update market quotations in response to changed market conditions. In addition, the market basket market makers will be expected to make markets and, at the request of another member or the DPM, provide bid and/or offer quotations that are subject to immediate acceptance for one contract. The Exchange believes this one-contract requirement is appropriate based on the size of each market basket contract.[13] Moreover, if a bid and/or offer quotation larger than one contract is displayed, then the trading crowd (including the DPM) will be required to sell or buy such greater number of contracts.

2. Financial Requirements for DPM and Market Makers

In addition to the requirement of a Clearing Member Guarantee,[14] the Exchange proposes to establish financial requirements for the market basket DPM and market makers. Specifically, the CBOE proposes to require the market basket DPMs to have $10,000,000 in excess net capital.[15]

The Exchange also proposes to require a market maker to have $450,000 of net liquidating equity in order to be eligible to trade market basket contracts.[16] In addition to this initial capital requirement, the CBOE proposal contains a maintenance requirement for market makers of $225,000 net liquidating equity. The net equity requirement can be met from either an individual account, joint account, [17] or group account.[18] According to the CBOE, this net liquidating equity standard does not require that specific funds be dedicated to market basket trading; rather, the standard is designed to ensure that only market makers with a substantial equity position are allowed to trade market basket products.

The Exchange believes these financial requirements will ensure that participating market makers have sufficient capital to withstand day-to-day price movements in the securities comprising the market baskets.[19]

stocks that comprise the applicable market basket will change the following trade day. Accordingly, changes in the composition of the market baskets will complicate liquidating transactions by market participants and investors.

[9] Section 12(a) of the Act generally prohibits the trading of a security on a national securities exchange unless the security is registered on the exchange. Upon application by an exchange and Commission approval, however Section 12(f)(1) of the Act and Rule 12f-1 thereunder authorize the Commission to extend unlisted trading privileges ("UTP") to any security registered pursuant to Section 12 (b) or (g) of the Act. The CBOE has requested UTP in the companies comprising the S&P 100 and S&P 500 Index.

[10] The CBOE states that index information will be readily available to investors. For Example, S&P's Index Alert System provides current information about the composition and capitalization weighting of the S&P 100 and 500 Indexes. The Exchange will maintain in files available to the public current data on the composition of the component stocks and their relative representation in the indexes.

[11] Based on S&P 100 and S&P 500 Index values on September 8, 1989.

[12] In addition, the DPM will be required continuously to display the highest bid and the lowest offer voiced in the trading crowd, execute customer orders left on his book, and disclose, upon request, information regarding the depth of the market.

[13] Interpretation .05 to CBOE Rule 8.7. establishes a similar bidding/offering five-contract requirement for options market makers. The monetary value of five OEX contracts, however, is approximately $20,000, in comparison to a value of $1,600,000 for one MBX basket.

[14] CBOE Rule 8.5 provides that no market maker shall make any transaction on the floor of the Exchange unless a Letter of Guarantee has been issued for such member by a clearing member, approved by the Options Clearing Corporation ("OCC"), and filed with the Exchange. With respect to market basket contracts, a market maker Letter of Guarantee must acknowledge that the market maker is approved to trade market basket contracts. Additionally, special notations will be placed on the badges of market makers that are qualified to trade market baskets.

[15] The Exchange reserves the right to waive this requirement in unusual circumstances, such as permitting a DPM, whose capital drops below the capital requirement, to continue its function where the markets are volatile or disruptive, and no other Exchange member reasonably can be expected to fulfill the DPM function. *See* letter from Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated September 27, 1989. For the purpose of this requirement, net capital shall be computed in accordance with the requirements of Rule 15c3-1 under the Act. Excess net capital shall mean the amount of net capital in excess of the amount required under Rule 15c3-1.

[16] By contrast, a member acting as a floor broker will be required to have $225,000 of net liquidating equity in order to qualify to trade market basket contracts. Net liquidating equity is defined as the sum of the net value of a market maker's long and short positions adjusted for any credit or debit balance. *See* Rule 15c3-1(c)(2)(x)(B)(2).

[17] *See* letter from Margaret E. Wiermanski, Director, Credit Policies and Special Projects, Department of Financial Compliance, CBOE, to Mark McNair, Staff Attorney, Division of Market Regulation, SEC, dated September 1, 1989. A joint market maker account is an account in which more than one market maker participates. The Exchange approves all joint accounts and, for surveillance purposes, each joint account is assigned an acronym that begins with the letter "Q." If a joint account trades market basket contracts, then only one individual market maker can trade market basket contracts for the benefit of the joint account at any time unless the Exchange grants an exception.

[18] A group account involves several traders trading for the same market maker account, where the equity in each trader's account is aggregated to determine the equity position of the group account. For example, broker-dealer *ABC* is a market maker firm that has employed four individuals to trade on its behalf ("nominees") at the Exchange. Each nominee has an acronym and an account, but the accounts identify *ABC* as the ultimate beneficiary. For purposes of the minimum capital requirements, the nominee accounts are combined to determine how many, if any, nominees would be permitted to trade market basket contracts for the group account For example, if the combined net liquidating equity for *ABC* is $1,000,000, then the market maker firm could have no more than two nominees trading market basket contracts at the same time.

[19] Specifically, the Exchange examined the daily close-to-close price moves for the Indexes for the last three years. The Exchange, consistent with its methodology for assessing risk in other areas such as margin requirements, sought to develop financial requirements that would meet the close-to-close

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Moreover, the Exchange notes that there are a significant number of OEX and SPX Options market makers [20] who currently meet the proposed financial

in the maintenance of a fair and orderly market for the market basket contracts. Because a market basket contract is a stock product and not an options

confirmation of customer transactions, member organizations must provide details, not only as to the market basket transaction itself, but also information

margin requirements applicable to exchange-traded equity securities would be appropriate for market basket contracts.[28]

of OCC and OCC's correspondent stock clearing corporations.[53]

III. Comments Received

the CBOE letter notes that many of the market structure issues identified in the AFB comment letters are specifically addressed in the CBOE proposal.

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Moreover, the Exchange notes that there are a significant number of OEX and SPX Options market makers [20] who currently meet the proposed financial requirements that would be eligible to trade market baskets.[21] The Exchange proposed an initial entry requirement higher than the maintenance level to ensure that day-to-day price changes in equities do not prevent market makers from committing equity to trading market basket contracts.[22]

3. Location of the Market Basket Posts

The Exchange proposes to trade market baskets adjacent to the posts where index options are traded. The Exchange believes that this arrangement will enhance the efficiency of both markets by minimizing price disparities between market baskets and index options. Additionally, the Exchange believes this arrangement will facilitate hedging and other trading strategies involving both types of index contracts. Moreover, the Exchange believes that this arrangement will not present any of the potential abuses generally associated with side-by-side trading because both the market basket and index options contracts are priced derivatively in relation to the prices of the underlying stocks in the principal markets where such stocks are traded.

C. Application of Exchange Rules to Market Basket Contracts

The Exchange proposes to apply most of its rules for options to the trading of market baskets. The Exchange believes that these rules are suitable to the trading of market baskets and will assist in the maintenance of a fair and orderly market for the market basket contracts. Because a market basket contract is a stock product and not an options contract, however, there are areas where the Exchange proposes to modify the applicable Exchange rules.

1. Net Capital Requirements

Broker-dealers, at the end of the trading day, will be long or short the component stocks as a result of the market basket transactions. Accordingly, the Exchange notes that the normal "haircuts" for stocks set out in the Commission's net capital rule will apply to transactions in market basket contracts. Additionally, the CBOE notes that positions in the component stocks resulting from the trading of market baskets will be subject to lesser haircuts when these positions are offset by broad-based index options or futures contracts.[23]

2. Customer Protection Rules

The Exchange proposes to apply substantially all of its customer protection rules to market basket trading.[24] In considering the applicability of its customer protection rules, the Exchange notes that the dollar value of the unit of trading for market baskets most likely will limit the interest in these contracts only to the largest and most sophisticated institutional investors. Accordingly, the Exchange believes that these institutional investors may not require the same protections as do retail investors. Nevertheless, the Exchange proposes that market basket transactions will be subject to Exchange rules covering supervision, suitability, restrictions on acting for persons affiliated with exchanges or other members, assuming losses, communications with customers, and complaints.[25] With respect to the confirmation of customer transactions, member organizations must provide details, not only as to the market basket transaction itself, but also information as to the identity, price and number of shares of each of the component stocks that comprise the basket.[26] The CBOE proposal provides that members who participate in the Institutional Delivery System ("IDS") of the Depository Trust Company may use the confirmations generated by IDS to satisfy customer confirmation requirements.[27]

3. Position and Exercise Limits

The Exchange believes that the position limits and exercise limits applicable to options contracts should not be applicable to market basket contracts because there will be no open interest in, and no exercise of, market basket contracts. Instead, all transactions in market baskets will be settled by the delivery of the component stocks. Thus, the Exchange believes that exercise limits have no application to market baskets. Additionally, the Exchange believes that because there are no numerical restrictions on the ownership of individual common stock, the position limits that apply to transactions in options should not apply to market basket transactions.

4. Margin

Because the purchase of a market basket contract results in the physical delivery of each stock composing the basket, Regulation T requires a 50% margin requirement. Moreover, the applicable Exchange rules provide for maintenance margin requirements of 25% and 30% for long and short positions, respectively. In this regard, the CBOE received a staff opinion from the Federal Reserve System that the margin requirements applicable to exchange-traded equity securities would be appropriate for market basket contracts.[28]

The Exchange also proposes to clarify the margin rules applicable to market makers in market basket contracts. Specifically, the Exchange believes that market basket market makers should be entitled to "good faith margin" treatment for all transactions in market basket contracts, as would any other specialist who makes a market in a particular security.[29] Movever, the Exchange believes that Regulation T affords good faith margin treatment for positions in broad-based index options taken by market basket makers, provided that the market maker is using the options to hedge stock positions acquired through market basket trading and he is a market maker in both the market basket and the index option. Accordingly, index options market makers who are not market makers in market baskets would not receive good faith margin treatment for market basket transactions that hedge their index options positions.[30]

D. Clearing and Settlement of Proposed Contracts

The CBOE proposed that OCC will perform the clearing and settlement functions for the Exchange's market basket products.[31] OCC has submitted a proposal to the Commission to amend its rules to enable it to perform such functions for the trading of baskets of stock.[32]

Specifically, the Exchange proposes that the buyer of the market basket contract will be obligated to purchase and the seller will be obligated to sell a quantity of shares of each component stock of the designated index. The settlement of the purchase and sale of the underlying component stocks will take place on the fifth business day after trade date in accordance with the rules of OCC and OCC's correspondent stock clearing corporations.[33]

III. Comments Received

The Commission did not receive any comment letters in response to its request for comments on the proposed rule. The Commission, however, did receive responses to a similar proposal by the NYSE to trade baskets of stock.[34] Specifically, the Commission received a comment letter from the Commodity Futures Trading Commission ("CFTC") that stated that the NYSE market basket proposal was not a futures contract under the Commodity Exchange Act, and a Chicago Board of Trade ("CBT") letter that commended the NYSE proposal to trade baskets of stock.[35]

The Commission also received comment letters from the Alliance of Floor Brokers ("AFB"), whose membership is predominately comprised of NYSE floor brokers, on both the NYSE proposal [36] and the MSE proposal.[37] The AFB letters raised objections to each exchange's respective proposal and stated that their reservations extended to the CBOE "ersatz stock" proposal. In general, the AFB claimed not to be unequivocally and arbitrarily opposed to portfolio products, but believed that the regulations and trading practices applicable to individual stock transactions generally should apply to stock basket transactions.

In response to the comment letters, the CBOE argues that although the AFB comment letters argue that both the NYSE and MSE proposals have very specific defects,[38] neither AFB letter specifically discussed any shortcomings in the CBOE proposal.[39] Additionally, the CBOE letter notes that many of the market structure issues identified in the AFB comment letters are specifically addressed in the CBOE proposal. Specifically, the CBOE notes that because of its concern with order exposure and competition, the CBOE proposal utilizes a competitive market maker and DPM trading system to trade market baskets. The CBOE also notes that all the present safeguards to ensure public priority in options trading will apply to basket trading. In particular, for example, there will be a public limit order book in place and basket orders will be routed via the CBOE's computerized "Order Routing System."

The CBOE also responded to AFB criticisms regarding possible exemptive relief from the short sale rule for market basket products. Specifically, the CBOE believes that sales of market baskets should be exempted from the "tick test" of Rule 10a–1 under the Act because the underlying rationale for the Rule is not applicable to market basket trading. Moreover, the Exchange notes that application of the tick test to market baskets could effectively preclude market basket trading during a declining market, when the "shock absorbing" benefits of market basket trading would be most useful.

IV. Discussion

A. Introduction

After careful consideration of the comments received, applicable statutory provisions, and relevant policy considerations, the Commission believes that the CBOE's market basket proposal is reasonably designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, provide for an equitable allocation of fees, and, in general, protect investors and the public interest. For these reasons and for the additional reasons set forth below, the Commission finds that approval of the Exchange's proposed rule change relating to the trading of market basket contracts is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in general, and the requirements of sections 6(b) (4) and (5) and the rules and regulations thereunder, in particular.[40]

B. Benefits of Market Baskets

The Division of Market Regulation's Report on *The October 1987 Market*

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price moves for 95% of trading days. Moreover, the CBOE, in calculating market maker exposure, assumed the market maker would have an unhedged position of ten market basket contracts on the same side of the market and such an exposed position would be unusual for a market maker. Accordingly, the Exchange believes the proposed $450,000 financial requirement for market makers, which would cover 95% of one day price moves based on closing prices for 10 MBX baskets, is sufficient and appropriate. *See* letter from Mary Bender, First Vice President, Division of Regulatory Services, CBOE, to Brandon Becker, Associate Director, Division of Market Regulation, dated August 21, 1989.

[20] "OEX" and "SPX" are options contracts traded on the Exchange and based on the S&P 100 Index and S&P 500 Index, respectively.

[21] The Exchange represents that as of July 1989, with respect to OEX and SPX traders with monthly trading volume in excess of 10,000 contracts, approximately 70 traders maintain net liquidating equity of $225,000 or more, of which 50 traders maintain net liquidating equity greater than $450,000. *See* CBOE letter, *supra* note 19.

[22] A trader falling below the maintenance level will be permitted only to effect liquidating market basket transactions as a market maker. As long as his account maintains positive equity, however, he would not be precluded from trading option contracts on the Exchange.

[23] *See* letter from Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, to Michael Macchiaroli, Assistant Director, Division of Market Regulation, dated January 27, 1989.

[24] Because the buyer is acquiring a basket of securities rather than an option, delivery of an options disclosure document is not required.

[25] The original CBOE proposal included a requirement that a member organization provide a customer, before or contemporaneous with the first written confirmation of a market basket transaction, a written description, substantially in the form provided by the Exchange, of the mechanics and risks of trading in market basket contracts. The Exchange has amended its proposal to delete this requirement. The Exchange believes that this requirement is not necessary because only sophisticated institutional investors will trade the product. Additionally, because market basket contracts are not options, the CBOE further amended its proposal to make the rules for market basket contracts relating to dealing with the public more closely comparable to the rules of other self-regulatory organizations that regulate the trading of stocks. Specifically, many CBOE rules were adopted in recognition that the unique attributes of options required special safeguards and procedures that are not required for a customer's non-options accounts and transactions. For example, the CBOE proposal provides that certain rules relating to the opening of customer options accounts, such as registration of options principals and delivery of the options disclosure document, will not be applicable to market baskets.

[26] Such information is required by the provisions of Rule 10b–10 of the Act. The Exchange's proposed Rule 26.10 provides that each confirmation shall show the class of a market basket contract, contract price, number of market basket contracts purchased or sold, number of individual component underlying stocks, commissions, date of transaction and settlement date, whether the transaction is a purchase or sale, and whether it is a principal or agency transaction.

[27] The CBOE proposal also provides that the derived prices of component stocks of a market basket contract shall be based upon the market basket transaction price and calculated in accordance with an algorithm provided by the CBOE.

[28] *See* letter from Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, to Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System, dated May 17, 1989, and letter from Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System, to Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, dated June 8, 1989.

[29] *See* Regulation T, 12 CFR § 220.12(b)(3)(i).

[30] In this regard, the CBOE received a Federal Reserve Board staff opinion that agreed with the CBOE's application of good faith margin to market basket market makers. *See* Homer Letter, *supra* note 28, at 2.

[31] Presently, OCC provides such functions for the Exchange's options contracts.

[32] *See* Securities Act Release No. 27157 (August 21, 1989), 54 FR 35743 (August 29, 1989). OCC filed amendments to the proposal with the Commission on September 21, 1989 and October 13, 1989.

[33] *See* Securities Exchange Act Release No. 27309 (October 25, 1989).

[34] *See supra* note 5.

[35] *See* letterr from Jean A. Webb, Secretary, CFTC, to Jonathan G. Katz, Secretary, SEC, dated August 17, 1989 and letter from Thomas R. Donovan, President and Chief Executive Officer, CBT, to Jonathan G. Katz, Secretary, SEC, dated July 17, 1989.

[36] *See* letter from Michael D. Robbins, President, AFB, to Jonathan G. Katz, Secretary, SEC, dated July 13, 1989.

[37] *See* letter from Michael D. Robbins, President, AFB, to Jonathan G. Katz, Secretary, SEC, dated August 18, 1989.

[38] The AFB comments regarding the NYSE proposal are discussed in Securities Exchange Act Release No. 27382 ("NYSE ESP Order") (October 26, 1989) at notes 62–63, 66–69 and accompanying text. The AFB comments regarding the MSE proposal are discussed in Securities Exchange Act Release No. 27384 ("MSE Order") (October 26, 1989) at notes 2124 and accompanying text.

[39] *See* letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Jonathan G.Katz, Secretary, SEC, dated September 27, 1989.

[40] 15 U.S.C. 78f(b) (4) and (5) (1982).

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Break ("Staff Report"),[41] and an NYSE-commissioned study entitled *An Overview of Program Trading and Its Impact on Current Market Practices* ("Katzenbach Report"), recommend, among other things, the listing and trading of a basket of stocks on an exchange as a means to enhance market efficiency and, possibly, the market's ability to absorb institutional portfolio trading.[42] As noted in the Staff Report, the creation of one or more posts for the purpose of trading actual baskets or portfolios of stock could alter the dynamics of program trading because the availability of such a basket trading mechanism could, in effect, restore the execution of program trades to more traditional block trading techniques.[43] The Staff Report noted further that, while arbitrage ultimately would flow to indivdiual component stocks, many institutional investors and member firms effecting arbitrage transactions could focus their equity transaction at the basket post where the market makers and trading crowd could provide efficiencies associated with effecting transactions in a portfolio of securities as opposed to individual stocks. This could add an additional layer of liquidity and concentrated capital to the market in order to help absorb the volume and velocity of trading associated with certain index-related trading strategies.[44]

Furthermore, because market baskets will be traded on the Exchange Floor at a single location in an "open book" environment, members in the crowd will be able to see the bid offer spread and inquire as to the depth of the market (*i.e.*, the size of the buying and/or selling interest at each minimum tick away from the prevailing bid and offer for the basket). Program trading order flow entered into the system and imbalances resulting therefrom thus will be disclosed, thereby ameliorating current market information limitations in identifying program trade executions (or overhanging program orders) in the individual stocks.[45] Finally, by creating a trading vehicle for an aggregated basket of standardized protfolios of stocks in a single execution with minimal "execution slippage",[46] the trading of market baskets will provide an efficient mechanism to trade, clear and settle stock baskets.

The Commission believes that the CBOE market baskets will provide institutional investors with a cost efficient means to make investment decisions based on the direction of standardized measures of stock market segments and the stock market as a whole, and may provide stock market participants several advantages over existing methods of effecting program trades of stocks and transactions in portfolios of securities. For the reasons discussed below, the Commission finds that the market structure proposed by the CBOE reasonably is designed to promote just and equitable principles of trade and fair and orderly markets. Furthermore, the Commission believes that market basket trading will not lead unduly toward a more fragmented and volatile market, and that the CBOE proposal to trade market baskets is consistent with the development of an open and competitive national market system.

C. Price Dissemination and Reporting

The CBOE proposes to disseminate basket last sale information and quotations through the Options Price Reporting Authority ("OPRA"), thereby ensuring that all market participants will have ready access to market basket transaction reports and quotations.[47] Rule 11Aa3–1 under the Act requires, however, an exchange to file a transaction reporting plan that would govern transaction reporting of certain securities traded on that exchange. Because CBOE will be trading securities subject to transaction reporting requirements and has not filed a transaction reporting plan, it has requested an exemption from that requirement. The Commission has granted the exemption in Securities Exchange Act Release No. 27391 (October 26, 1989) ("Exemption Order").

CBOE Rule 26.11(e) imposes on Exchange members an obligation to make firm quotes for market basket contracts, which is consistent with the requirement in Commission Rule 11Ac1–1 that quotations be firm.[48] However, no quotes or last sale reports will be generated or disseminated for the individual constituent stocks comprising a market basket during the trading day.

For the first six months of basket trading, the CBOE will not disseminate on a consolidated basis the total trading volume represented by basket trades. While the Commission is aware of the limited usefulness of price information on the underlying securities in the baskets, it believes that dissemination of the share volume in the underlying securities is important information and should be included in the daily consolidated volume for each of the underlying securities. Because this presents a number of technological difficulties for CBOE, CBOE has represented that it will evaluate trading in the baskets over a six-month period and, at the end of that period in consultation with the Commission, CBOE will reconsider whether its volume dissemination prodocures should be modified.[49]

D. Market Structure

The Commission believes that the trading structure for market basket contracts is adequate to provide fair and orderly markets. The DPM system has been employed by the CBOE for other new products, and will help to ensure continuous quotations for the basket products. Moreover, supplemental market making support for this relatively "expensive" product will be provided by potentially dozens of market basket market makers. These market makers will be obligated to make markets, and, specifically, provide bid and/or offer quotations which will be subject to immediate acceptance.

[41] Division of Market Regulation, *The October 1987 Market Break* (February 1988).

[42] *See also* Securities and Exchange Commission Recommendations Regarding the October 1987 Market Break contained in Testimony of David S. Ruder, Chairman, SEC, Before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, on February 3, 1988.

[43] Staff Report at 3–16. For a detailed description of current block trading mechanisms, *see* the *Report of the Presidential Task Force on Market Mechanisms*, at VI–9 to VI–11 (January 1988) ("Brady Report").

[44] *Id.* Similar ideas have been discussed in J. Grundfest, "Would More Regulation Prevent Another Black Monday?", Address before the CATO Institute Policy Forum on July 20, 1988, at 13–14 (copies available at the Commission); H. Stoll and R. Whaley, "Program Trading and The Monday Massacre" (November 4, 1987) (copies available at the Owen Graduate School of Management, Vanderbilt University); and H. Stoll, *Portfolio Trading*, Working Paper No. 87–14 (September 1987) (copies available at the Owen Graduate School of Management, Vanderbilt University).

[45] The CBOE's concept of an open, fully-disclosed book to support market basket trading is consistent with suggestions offered by various studies of the October 1987 Market Break. *See also* Wells Fargo Investment Advisors, *Reflections on the Stock Market Crash of October 1987* (January 25, 1988).

[46] "Execution slippage" is defined as the adverse price impact that currently accompanies the fragmented execution of program trades. *See, e.g.*, the Katzenbach Report at note 29.

[47] OPRA is responsible for collecting from the options exchanges last sale and quotation information for all standardized options and disseminating that information to private vendors.

[48] 17 CFR § 240.11Ac1–1 (1989). The Commission notes that Rule 11Ac1–1 requires that disseminated quotations include the size associated with the quote. OPRA, the facility through which CBOE basket quotes will be reported cannot, however, disseminate size. Thus, CBOE requested an exemption from this requirement, which the Commission granted in the Exemption Order.

[49] *See* letter from Nancy R. Crossman, First Vice President and General Counsel, CBOE, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated October 11 , 1989. *See* Exemption Order for further discussion.

The Commission believes the proposed financial requirements for the DPM and market makers to trade market basket contracts are appropriate. Specifically, the financial requirement for the DPM will ensure that the DPM has sufficient resources to perform effectively its market obligations. Additionally, the Commission believes the initial and maintenance financial requirements for market makers are sufficient to ensure that only those persons or firms with adequate equity to trade contracts worth over $1,000,000 will receive market maker status. At the same time, these financial standards are not so high as to result in an inadequate number of market basket market makers. The Commission believes that the Exchange has balanced concerns regarding liquidity and required capital, and, accordingly, designed standards to ensure sufficient market making resources at the market basket trading post.

In regard to the physical location of the market basket pit, the Commission does not believe that the location of the market basket trading post adjacent to the post or posts where traditional index options are traded raises side-by-side trading concerns. Specifically, both the market basket contracts and index options contracts are based on the prices of a group of stocks, none of which by itself accounts for a significant weighting of the applicable index.[50] In addition, the underlying stocks for the baskets are not traded on the CBOE. Accordingly, Exchange market makers will not have a market informational advantage of the nature and dimension that specialists in individual stocks traded on the primary market would have. Therefore, the Commission does not believe that permitting CBOE members to be market makers for index options and market baskets will create an undue advantage that would undermine the maintenance of fair and orderly markets. Additionally, the Commission believes that the close proximity of the index options and market basket posts will allow CBOE market makers to hedge both their index options and stock basket positions more efficiently. The Commission believes that this opportunity to hedge may enhance the depth and liquidity of the index options and market basket markets, thereby improving the quality of these markets.

E. Application of Current Rules to Market Basket Contracts

The Commission believes that the application of the existing Exchange options trading rules to market basket transactions will assist in the maintenance of a fair and orderly market for the new market basket contracts. Moreover, the Commission believes that the application of the current trading rules will promote just and equitable principles of trade at the market basket trading post and protect investors and the general public.

In addition, the Commission recognizes that because transactions in market basket contracts result in the transfer of the underlying stocks, certain Exchange rules designed for options contracts are not appropriate for the trading of market basket contracts. Specifically, position and exercise limits are not appropriate for market basket contracts, because the transactions are not leveraged and the underlying securities are actually acquired. Additionally, for the same reasons, the Commission believes that the applicable margin rules for both customers and market basket market makers should be based on the rules applicable to the underlying stock involved in a market basket transaction.

The Commission also believes that the proposed rules regarding customer protection are appropriate for market basket contracts. The Commission recognizes that because of the size of a market basket contract only institutional or sophisticated investors will invest in them. The Commission agrees with the Exchange that such investors do not require a special disclosure document that describes the risks of trading baskets of stocks. The Commission notes, however, that the Exchange will apply substantially all of its customer protection rules, including suitability requirements, to market basket transactions.[51]

F. Exemption Requests

The Exchange has requested that the Commission grant exemptions from Rules 10a–1; 10b–6, 10b–8, 10b–10, 10b–13, 15c1–5, and 15c1–6 under the Act[52] to facilitate trading in market basket contracts.[53]

Rule 10a–1 provides that short sales[54] of exchange-listed securities may not be effected at a price less than the price at which the immediately preceding sale was effected ("minus tick") or at a price equal to the last sale if the last preceding transaction at a different price was at a higher price ("zero-minus tick"). The Exchange has requested relief from Rule 10a–1 in two respects. First, the Exchange seeks an exemption from Rule 10a–1 as it would apply to the individual component stocks in the S&P 100 and S&P 500 market basket contracts and to transactions in the market basket contract itself. Second, the Exchange requests an exemption analogous to the "block positioner" exemption in paragraph (e)(13) of Rule 10a–1.[55] The requested exemption would permit DPMs and market basket market makers, selling stock acquired in a market basket transaction, to disregard, when netting positions for purposes of Rule 10a–1, a short position that is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedging activities.

Rule 10b–6 limits the ability of underwriters, issuers, or certain other persons to bid for or purchase a security being distributed, or a related security, during the distribution of that security. Rule 10b–7 regulates stabilizing transactions in connection with an offering of securities. Rule 10b–8 restricts bids and purchases of rights, and offers and sales of the underlying stock, by persons participating in a rights offering. Rule 10b–10 requires broker-dealers to provide customers with a written confirmation that includes, among other things, the identity, price and number of shares or units of a security purchased or sold by the customers.[56] Rule 10b–13 prohibits persons making a tender offer for a security from purchasing or arranging to purchase that security otherwise than pursuant to the tender offer. Rule 15c1–5 requires a broker-dealer to disclose that it has a control relationship with an issuer before executing a transaction in that issuer's securities. Rule 15c1–6 requires a broker-dealer to disclose its participation or financial interest in the

[50] As of August 31, 1989, the five largest companies in the S&P 50 (IBM, Exxon, GE, AT&T, and GM) comprised 10.97 percent of the Index. The five largest companies in the S&P 100 (IBM, Exxon, GE, AT&T, and Philip Morris) comprised 28.49 percent of the Index.

[51] To the extent relevant, the Commission incorporates in this order its response to the comments on the NYSE's ESP proposal.

[52] 17 C.F.R. §§ 240.10a–1, 240.10b–6, 240.10b–7, 240.10b–8, 240.10b–10, 24010b–13, 240.15c1–5, and 240.15c1–6 (1989).

[53] *See* letters from Nancy Crossman, General Counsel, CBOE to Larry E. Bergmann, Associate Director, Division of Market Regulation, SEC, dated September 6, 1989, September 18, 1989, and October 10, 1989.

[54] A short sale is defined in Rule 3b–3 under the Act, 17 CFR § 2403b–3, as any sale of a security that the seller does not own or any sale that is consummated by the delivery of a security borrowed by, or for the account of, the seller. Rule 3b–3 provides further that a person shall be deemed to own a security only to the extent that such person has a new long position in the security.

[55] *See* Securities Exchange Act Release No. 20715 (March 6, 1984), 49 FR 9414 (March 13, 1984).

[56] See *supra*, note 25.

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distribution of a security at or before the completion of a transaction in such security for the account of a customer of that broker-dealer.

The Commission believes that transactions involving standardized baskets of stocks generally involve the same regulatory concerns that are applicable to transactions in individual stocks, and that appropriate conditional relief from Rules 10a–1, 10b–6, 10b–7, 10b–8, 10b–10, and 10b–13 is necessary and appropriate if the benefits of trading in market basket contracts are to be achieved. With respect to Rules 15c1–5 and 15c1–6, in recognition of the unique nature of market basket contract transactions, the Division has determined that transactions in market baskets are unlikely to give rise to the abuses the rules were designed to prevent and accordingly, the Division is taking a no-action position under those rules. Accordingly, the Commission's staff today has provided exemptions or other appropriate relief with respect to the treatment of transactions in market basket contracts under these rules.

V. Conclusion

The Commission believes that the market structure for trading market baskets is consistent with just and equitable principles of trade. Moreover, given the institutional character of stock portfolio trading that market basket trading is designed to capture, the Commission believes that the Exchange's chosen market structure is a fair and competitive market structure. Finally, the Commission's Section 19 authority and the Rule 19b–4 process allow the Commission and the Exchange sufficient flexibility to modify market basket trading in light of actual trading experience and any future developments.[57]

Accordingly, based upon the aforementioned factors, the Commission finds that the Exchange's proposed rule change relating to the trading of market baskets is properly within its jurisdiction and consistent with the requirements of Sections 6(b)(4) and (5) of the Act and the rules and regulations thereunder.[58]

[57] The Commission believes that the 30 day comment period that accompanied publication of the Exchange's proposal, and the Commission's continued willingness to entertain all comments that preceded this action, provided an adequate public forum in which to examine all the issues and concerns regarding the Exchange's market basket proposal. Accordingly, it is unnecessary to hold public hearings on the CBOE proposal.

The Commission notes that approval of the proposed rule change is based upon a determination that the terms of market basket trading are consistent with the requirements of the Act. If the terms of the market basket contract, including the index multiplier, or market structure are changed in any material way, however, it would be necessary for the CBOE to submit a proposed rule change in order to afford the public an opportunity to review and comment on the proposed modification and for the Commission to review its prior determination.

The Commission finds good cause for approving those portions of the proposal that were amended by Amendments No. 3, 4, and 5 prior to the thirtieth day after the date of publication of the amendments in the **Federal Register**. The original filing was the subject of a 30-day notice period and the amendments made only minimal changes to the proposal as noticed. In addition, accelerated approval is necessary because market basket trading is scheduled to begin on October 26, 1989. Because of the Commission view of the benefits that may result from the trading of market baskets on a national securities exchange, the Commission believes a good cause finding is justified.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings also will be available for inspection and copying at the principal office of the CBOE. All submission should refer to file number SR–CBOE–88–20, and should be submitted by November 23, 1989.

It is therefore ordered, pursuant to section 19(b)(2) of the act,[59] that the proposed rule change (SR–CBOE–88–20) be, and hereby is, approved.

By the Commission.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25599 Filed 10–30–89; 8:45 am]

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[59] 15 U.S.C. 78s(b)(2) (1982).

[Rel. No. 34–27384; File No. SR–MSE–89–02]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change to Establish a Secondary Trading Session for the Execution of Transactions in Portfolios of Securities

I. Introduction

On April 28, 1989, the Midwest Stock Exchange, Inc. ("Midwest" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change [3] designed to establish a Secondary Trading Session for the execution of transaction in portfolios of securities through its new automated Portfolio Trading System ("PTS" or "System").[4] Concurrent with its April 28, 1989 filing, Midwest filed with the Commission's Division of Market Regulation ("Division") a proposed transaction reporting plan pursuant to Commission Rules 11Aa3–1 and 11Aa3–2 under the Act.[5]

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] Additionally, Midwest stated that it intends to submit an application to the Commission's Division of Market Regulation for unlisted trading privileges ("UTP") pursuant to Section 12(f) of the Act, 15 U.S.C. § 781(f). *See* letter from J. Craig Long, Vice President and General Counsel, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated April 27, 1989 ("April 27 letter"). Specifically, Midwest will apply for UTP in those securities which comprise a part of the Standard and Poor's ("S&P") 500 Index and which Midwest does not trade currently pursuant to UTP.

[4] Amendment No. 1, submitted by the Midwest on May 31, 1989, deletes changes to Article XX, Rule 12 and Article XXI, Rules 2, 3, 4, 8, 9, 12 and 13 as proposed in the Exchange's original filing submitted on April 28, 1989. Amendment No. 1 also adds an Interpretation and Policy, to be set forth in Article VIII, Rule 9 of the Midwest's Rules, that clarifies the application of the Exchange's off-board trading restrictions to member transactions in securities traded on the Exchange. In particular, the Interpretation and Policy clarifies that implementation of the Midwest's proposed Secondary Trading Session will not prohibit members from effecting transactions in securities listed or admitted to unlisted trading privileges on the Exchange, where the member acts as principal or agent, on any organized exchange, or over-the-counter market in any foreign country, outside of the trading hours of the Exchange's Primary Trading Session.

[5] 17 CFR §§ 240.11Aa3–1 and 240.11Aa3–2 (1989). The Midwest also has requested an exemption from the requirements of paragraph (b)(2)(viii) of Rule 11Aa3–1 for transactions effected through the System. *See* letter from J. Craig Long, Midwest, to Mary Revell, Branch Chief, SEC, dated September 12, 1989.

Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26887, June 2, 1989), and by publication in the **Federal Register** (54 FR 24779, June 9, 1989). The Commission received one comment on the proposed rule change.[6]

II. Description of the Proposal

A. PTS Product Description and Market Structure

Proposed Midwest Rule 10(b), Article IX would establish a Secondary Trading Session to be conducted from 3:30 p.m. to 5:00 p.m. Central Time (4:30 p.m. to 6:00 p.m. Eastern Standard Time) for the limited purpose of permitting the execution of transactions in qualified portfolios of equity securities through the PTS.[7] The rules governing the Secondary Trading Session are to be set forth in a new Article XXXV of the Midwest's Bylaws.[8]

The Midwest's Floor will not be open during the Secondary Trading Session. Rather, all qualified portfolio transactions will be executed through the PTS, an automated, screen-based trading system maintained by Midwest. Exchange members will be permitted access to the PTS through dial-up modems, but Exchange specialists, odd-lot dealers and registered market makers may not participate as such during the Secondary Trading Session.

The Midwest's Secondary Trading Session is limited to transactions in portfolios of "Eligible Securities." These are defined in proposed Rule 2(d), Article XXXV as all securities that are listed for trading on the Exchange or to which UTP have been granted. The Midwest's Secondary Trading Session will allow portfolio transactions in both "standardized portfolios" and "non-standardized portfolios". Proposed Rule 2(a), Article XXXV defines the term "standardized portfolios" as any group of Eligible Securities that are the subject of an option contract traded on a national securities exchange or a futures contract traded on a contract market designated by the Commodity Futures Trading Commission. Rule 2(b) defines a "non-standardized portfolio" as any group of Eligible Securities consisting of at least 20 securities, where the value of any one security does not exceed 20 percent of the contract price of the shares in the portfolio as executed.

Proposed Midwest Rule 9, Article XXXV establishes objective and subjective pricing parameters for stock portfolio transactions executed through the PTS. Using the last reported price after the New York Stock Exchange ("NYSE") close for each of the securities comprising a portfolio as reported on the Consolidated Transaction Reporting System or the NASDAQ Transaction Reporting System on the day the portfolio transaction is to be executed, the price at which the portfolio transaction is executed may not be less than 95% or greater than 105% of the aggregate value of the securities comprising the portfolio. Additionally, proposed Rule 9, Article XXXV specifies that the price of each security comprising a portfolio may not be less than 90% or greater than 110% of the last reported price for that security. Furthermore, the price at which a portfolio transaction is executed, both in the aggregate and on a security-by-security basis, must be fair, taking into consideration all relevant circumstances, including market conditions with respect to such security or securities at the time of the transaction, the expense involved, and the fact that the member or member organization is entitled to a profit. Upon application by a member or member organization, Rule 9 permits an officer of the Exchange to exempt transactions on a case-by-case basis from the operation of the objective portfolio pricing parameters.

Under proposed Rule 5, Article XXXV, bids or offers in portfolios entered into the PTS must be made in minimum increments of $.01. Bids or offers in Eligible Securities comprising a portfolio must be made in increments of 1/10,000 of a dollar per share.[9]

B. PTS Order Entry and Trading Rules

1. Acceptable Orders

All qualified protfolios traded in the PTS are deemed to consist of a single unit of trading, which is comprised of the number of shares of each security in the portfolio as specified in the bid and offer. All bids and offers entered into the PTS are deemed to be firm quotations to buy or sell the portfolio at the stated price as if made available for an individual security in accordance with Rule 11Ac1-1 under the Act.[10]

Only orders for portfolios may be executed during the Secondary Trading Session. No other orders for the purchase or sale of securities will be accepted for execution. Any orders for the purchase or sale of securities entered in Midwest's Primary Trading Session that remain unfilled at the close will be held over for execution during the next Primary Trading Session and will not be executed during the Secondary Trading Session. Thus, there will be no interaction between orders in individual securities left open at the end of the Primary Trading Session and portfolio executions that take place during the Secondary Trading Session.

A personal computer ("PC") may be used for order entry into the PTS. A member or member organization may make a bid or offer to purchase or sell a portfolio by entering into the System the total value of the portfolio, the symbol and quantity of all eligible securities comprising a non-standardized portfolio, and the settlement terms of other than "regular way" transactions. In the event that an Exchange member or member organization attempts to trade a portfolio that contains a non-eligible security, a PTS systems check would disallow the input, and generate a rejection. Similarly, if a portfolio did not meet the standards for concentration and issue composition, the PTS would generate a rejection.

2. Price Protections and Order Execution

Members may enter crossed orders or unmatched bids and offers into the system. When crosses are entered, the System will first search all unmatched orders to determine whether there is an order in the System for the same portfolio at the same or a better price. If there is no better quotation, the cross will be executed, provided the transaction price is within the applicable pricing parameters.[11] If there is a better quotation, the cross will not be permitted and a message to that effect will be sent to the member attempting to effect the transaction.

If an unmatched bid or offer is entered, and the member or member organization wished to sell a specific portfolio at a price equal to or lower than a published bid, or it wishes to buy a specific portfolio at a price equal to or higher than a published offer, then Rule

[6] *See* notes 21–34, *infra* and accompanying text.

[7] The Primary Trading Session currently is conducted on the Floor of the Exchange from 8:30 a.m. to 3:00 p.m. Central Time.

[8] The Article XXXV Rules apply to Exchange contracts made on the Exchange during the Secondary Trading Session. Except to the extent that specific Article XXXV Rules govern, or unless the context otherwise requires, the provisions of Midwest's Constitution and all other rules and policies of the Board of Governors are applicable to the execution of portfolio transactions through the PTS.

[9] The Midwest has stated that the relatively small portfolio valuation increments were chosen to reflect current business practice: customers price a portfolio to the nearest cent, and then allocate the portfolio's dollar value to each stock in the portfolio. In allocating the portfolio's value to the stocks, customers may need to use a fraction of a cent to value each stock.

[10] Midwest Rule 6(a), Article XXXV.

[11] *See* April 27 letter, *supra* note 3.

6(b), Article XXXV requires the member or member organization to "satisfy" such a pre-existing quotation prior to executing any order at that price. The member could then contact the other

accepted in any given Secondary Trading Session, then the bid or offer will be retained for the next Secondary Trading Session, unless it is a day order.[12]

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could interact with portfolios, brokers would have the incentive to change their individual stock price allocation in order to avoid this result.

In order to accommodate trading in the System, Midwest has requested

The AFB believes that Midwest's Secondary Trading Session may exacerbate existing structural market risks because of the unequal regulatory treatment accorded transactions in PTS portfolios and regular way transactions

6(b), Article XXXV requires the member or member organization to "satisfy" such a pre-existing quotation prior to executing any order at that price. The member could then contact the other side and personally negotiate a price at which the transaction an take place, because PTS does not operate as an order interaction system. One of the two members would then enter a matched bid and offer into the system for execution.

An Exchange member or member organization that has accepted for execution an order to purchase or sell a portfolio of securities on behalf of a customer through the PTS cannot fill the order by selling or purchasing such portfolio for its own account if it is holding an unexecuted order on behalf of another customer to sell or purchase a portfolio at the same or a better price.[12] Similarly, no Exchange member or member organization that has accepted an order to purchase or sell a portfolio of securities on behalf of a customer through the PTS may fill such an order by selling or purchasing such portfolio for its own account or the account of a customer, if another member or member organization has entered a quotation into the System to sell or purchase such a portfolio at the same or a better price.[13]

When a bid or offer is accepted over the phone by another member or member organization, the portfolio transaction must be executed in accordance with Rule 7, Article XXXV. In order to execute an order, a member or member organization must enter into the System a matched bid and offer for a portfolio.[14] An Exchange member or member organization must then enter specified information describing the executed portfolio transaction into the System.[15] If a bid or offer is not accepted in any given Secondary Trading Session, then the bid or offer will be retained for the next Secondary Trading Session, unless it is a day order.[16]

C. Transaction Reporting Plan

The Midwest has filed a transaction reporting plan ("Plan") that is limited specifically to portfolio transactions executed during the Exchange's Secondary Trading Session.[17] Pursuant to the Plan, when a portfolio is executed through the PTS, Midwest will disseminate real-time transaction reports for the portfolios, but not for the individual securities that comprise the portfolios, from 3:30 p.m. to 5:00 p.m., Central Time (the hours of the Secondary Trading Session), on all trading days.[18] The Exchange will make available to vendors and subscribers: (1) the aggregate price of the portfolio; and (2) the symbol and quantity for each security comprising the portfolio.[19] At the end of each Secondary Trading Session, Midwest will provide to news vendors and subscribers a report on the aggregate number of shares of each of the securities purchased and sold during that session, as well as aggregate System volume.

The Plan submitted by the Midwest does not provide for the consolidation of transaction reports from other markets trading the same securities. The Commission has decided to gant Midwest a temporary exemption, for six months, from the requirement in Rule 11Aa3–1 that the Plan provide a mechanism for the consolidation of last sale data on these securities with last sale data from other markets trading the same securities. While the Commission is aware of the limited usefulness of price information on the underlying securities in a portfolio transaction executed during Midwest's Secondary Trading Session, it believes that dissemination of the share volume in the underlying securities is important information that should be included in the daily consolidated volume for each of the underlying securities. This presents a number of technological difficulties for Midwest, however, and the Commission has therefore decided to grant a temporary exemption from this requirement to allow Midwest adequate time to make the necessary arrangements to have this volume data included in the end-of-day consolidated volume.[20]

D. Fees

For portfolio transactions executed through the PTS, proposed Rule 13, Aticle XXXV imposes transaction fees equal to the greater of $100 per portfolio transaction or $.025 per $1,000 valuation. Midwest members and member organizations that elect to participate in PTS are required to pay a monthly fee of $2,500, payable quarterly in advance. The monthly access fee will be reduced by an amount equal to the amount of transaction fees such member or member organization pays.

E. Purpose and Benefits

Midwest has proposed its Secondary Trading Session to permit the efficient execution of transactions in portfolios of securities subject to the regulatory oversight of the Midwest. The Exchange contends that the Secondary Trading Session is designed to address some of the effects of NYSE Rule 390, which generally prohibits a NYSE member, or any broker or dealer affiliated with a NYSE member, from effecting any transaction in most NYSE-listed securities as a principal in the over-the-counter market or from acting as agent of both parties in an over-the-counter transaction. Because these prohibitions are not applicable to transactions effected in any foreign country outside of NYSE trading hours, many brokers for large institutional investors in portfolios of securities that desire to execute transactions based on the closing prices of securities on the NYSE effect such transactions off-shore, usually in London.

The Exchange contends that these overseas execution procedures are unsatisfactory from several viewpoints. First, these transactions take place without the benefit of exchange oversight and without the regulatory protection afforded participants in U.S. security markets. In addition, such transactions are not reported to the public. Thus, issuers, the investing

[12] Midwest Rule 8(a), Article XXXV. This rule is designed to address concerns raised by the conflict of interest that may arise because of the intersection of a member firm's customer and proprietary trading operations.

[13] Midwest Rule 8(b), Article XXXV.

[14] Portfolio transactions between Exchange member or member organization or between members and their customers must be entered into the System by only one member or member organization. Midwest Rule 7(a), Article XXXV.

[15] An executed portfolio transaction must be accompanied by the following items of information: (1) the name of the executing member or member organization and its Exchange symbol; (2) the name of the clearing member or members, if not the entering member; (3) the symbol, quantity and price, in decimals, for each security in the portfolio; (4) the total value of the portfolio; and (5) the settlement terms, if other than "regular way." Midwest Rule 7(b), Article XXXV. Upon entry of this information, an Exchange contract will be made for each security comprising the portfolio; (4) the total value of the portfolio; and (5) the settlement terms, if other than "regular way." Midwest Rule 7(b), Article XXXV.

Upon entry of this information, an Exchange contract will be made for each security comprising the portfolio.

[16] Midwest Rule 4(a), Article XXXV.

[17] *See* Securities Exchange Act Release No. 27385 (October 26, 1989) (Commission order approving Midwest Plan and exemptions from certain requirements of Rule 11Aa3–1 under the Act).

[18] However, Rule 11Aa3–1 under the Act requires that transactions in the individual securities be reported. Thus, by separate order the Commission has granted Midwest an exemption from this requirement. *See supra* note 17.

[19] The Plan also provides the terms of access for vendors who wish to retransmit the data. The Plan provides for no vendor fees for access to the information but would require subscribers to pay "appropriate" fees for receipt of the data. The Commission notes that any fees established by the Midwest that would be charged to PTS subscribers must be filed with the Commission.

[20] *See* Midwest Plan approval order, *supra* note 17.

public and the regulatory agencies responsible for the oversight of the markets are deprived of important information regarding trading activity in various securities.

The Midwest believes that the Secondary Trading Session will permit broker-dealers to execute transactions in portfolios rapidly through the PTS automated trading system maintained by Midwest, and will provide disclosure to the public of trade information concerning such transactions. In addition, the Midwest notes that it will maintain a complete audit trail of all transactions effected in the Secondary Trading Session, permitting the Commission and the Midwest to monitor better the after-hours institutional market.

As discussed above, there will be no interaction between orders in individual securities left open on Midwest during the Primary Trading Session and portfolio executions during the Secondary Trading Session. The Exchange claims that this aspect of the System is a necessary consequence of the limited trading environment being supported during the Secondary Trading Session. The PTS is not designed or intended to be an after-hours automated execution system for individual securities and small groups of securities. Midwest states that at the present time it is not prepared to advocate an off-floor, electronic trading mechanism for these types of orders, which can benefit from open outcry or widespread dissemination of firm quotations reflecting buying and selling interest.

Integration of orders from the Primary Trading Session into the Secondary Trading Session also would require fundamental changes in the way limit orders are handled. Brokers that do not want their customers' orders to be executed after hours would have to mark those orders or withdraw them prior to the close of the Primary Trading Session. Customers would be faced with the decision whether to obtain an after-hours execution or wait until the opening of the Primary Trading Session the following day when there could be an even greater price movement.

Finally, the Exchange contends that its proposed price allocation process makes the entire notion of order interaction somewhat specious. Under its proposed rules package, individual stock prices have the potential to be set derivatively so long as they are within the applicable pricing parameters set forth in Rule 9, Article XXXV. Therefore, the Exchange believes that it would be inappropriate to initiate order executions based on that price. Similarly, if individual stock orders could interact with portfolios, brokers would have the incentive to change their individual stock price allocation in order to avoid this result.

In order to accommodate trading in the System, Midwest has requested exemptive relief from the operation of Commission Rules 10a–1 and 11Aa3–1 as they would otherwise apply to portfolio trading through the PTS during the Secondary Trading Session. The Exchange believes that these rules would impede the operation of the alternative trading procedures that govern trading through the PTS during its Secondary Trading Session without providing any regulatory benefits.

III. Comments Received

The Commission received one comment on the proposed rule change from the Alliance of Floor Brokers ("AFB"),[21] whose membership is comprised predominantly of NYSE floor brokers. In general, the AFB comment letter argues that in comparison to existing equity market trading procedures, the unequal regulatory treatment envisioned by the Secondary Trading Session and the supporting System would result ultimately in a fragmented securities market structure with increased market volatility. The AFB questions the Midwest's rationale supporting its proposed rule change, as well as the overall need for the Secondary Trading Session.

The AFB also levels more specific criticisms at the Exchange's proposal. For example, the AFB contends that the pricing mechanisms that govern stock portfolio trading during Midwest's Secondary Trading Session do not provide for sufficient price transparency, order interaction and ultimate price betterment. Furthermore, the AFB comments that the Secondary Trading Session's proposed crossing rules do not consider adequately the "price conditionality" [22] of some proposed cross transactions, nor do the portfolio pricing parameters account adequately for the possibility of severe price variances from closing prices that may result from the proposed price parameters that would govern Midwest's Secondary Trading Session. The AFB also criticized the Midwest's proposed Plan for reporting trades executed during the Secondary Trading Session.

The AFB believes that Midwest's Secondary Trading Session may exacerbate existing structural market risks because of the unequal regulatory treatment accorded transactions in PTS portfolios and regular way transactions in individual securities. The AFB particularly criticizes the exemption to the short selling rule that would apply during the Secondary Trading Session. The AFB argues that in comparison to existing equity procedures, short selling during the Secondary Trading Session would result ultimately in a fragmented securities market structure with increased market volatility.

The Exchange responded to the AFB's concerns and other issues raised by Commission staff in a letter to Commission staff.[23] The letter addressed the market structure and regulatory concerns raised by the proposal and explained further the rationale for implementing a Secondary Trading Session for executing portfolio transactions.

In its letter the Exchange notes that its Secondary Trading Session is structured with the goal of providing institutional customers and member firms with a trading vehicle that allows a largely institutional composite-asset market to rebalance stock portfolios after the NYSE close to reflect the last reported sale on the consolidated transaction reporting system. The Exchange believes that the rules supporting its Secondary Trading Session are designed appropriately to accommodate the particular needs of its market niche in a fair and competitive market structure. Finally, Midwest believes that it proposal will result in improvements in the areas cited by the AFB by bringing a share of the after-hours institutional market in portfolio transactions under the auspices of the Commission and Exchange oversight and by requiring transactions to be reported.

The Exchange also answers the AFB's specific criticisms. In response to the concern raised by the AFB that the proposed price parameters afford too much leeway in pricing portfolio transactions, the Exchange stated that it believes that the flexibility in its proposed price parameters are necessary to accommodate institutional trading in a composite-asset market where stock transactions with otherwise separate executions are executed in aggregated portfolios at a single price, and will therefore allow parties to a portfolio transaction to price portfolios

[21] *See* letter from Michael D. Robbins, President, AFB, to Jonathan G. Katz, Secretary, SEC, dated August 18, 1989.

[22] A proposed cross transaction may be "price conditional" to the extent that one or both sides of the trade would delay executing the cross at the market in the hope that a better execution price may be found in other buying or selling interest.

[23] *See* letter from J. Craig Long, General Counsel, Midwest, to Jonathan G. Katz, Secretary, SEC, dated September 11, 1989.

in response to the buying and selling interest of their customers, as well as respond to changed market conditions after the close of regular trading. The Exchange contends that the price limits

Secondary Trading Session is designed appropriately to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of

needs in this area. The Midwest system is another attempt to provide a program trading service for institutional investors. The Commission agrees with Midwest that the Secondary Trading

price of the shares in a "non-standardized portfolio" as executed.

The Commission agrees with Midwest that the price parameters afford institutions the flexibility to price

decision to deny order interaction between its Primary and Secondary Trading Sessions is reasonable to ensure that limit orders are not triggered by potentially unrepresentative prices of

The Commission believes it is appropriate, particularly in view of the absence of price reporting in the individual stocks comprising portfolios, to exempt transactions during Midwest's

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in response to the buying and selling interest of their customers, as well as respond to changed market conditions after the close of regular trading. The Exchange contends that the price limits assure that the execution prices of a portfolio and its component securities will be fair and consistent with prevailing market conditions and fundamental corporate valuations.

In response to the AFB's criticism of the proposed crossing procedures for the Secondary Trading Session, Midwest notes that its Secondary Trading Session will permit matched orders to be crossed only if there is not an unmatched order in the PTS at the same or a better price. Citing the Cincinnati Stock Exchange's ("CSE") National Securities Trading System ("NSTS") as an example,[24] the Exchange claims that its PTS provides the same level of order interaction and price competition approved by the Commission in other electronic trading systems.

Midwest responded to the AFB's critique of the proposed transaction reporting plan for trades executed during the Secondary Trading Session by emphasizing that its Secondary Trading Session represents a marked improvement over current market practices, where overseas portfolio transactions are not reported either to the Commission or the public. Under Midwest's proposed transaction reporting plan for its Secondary Trading Session, real time portfolio transaction reports will be disseminated to vendors and subscribers along with aggregate shares traded. Thus, the Exchange notes that the investing public will no longer be deprived of important information regarding portfolio trading activity in various securities.

Finally, the AFB suggested that the Secondary Trading Session is susceptible to manipulation of individual securities and insider trading abuses. In response, the Exchange emphasizes that the lack of a price effect for the individual stocks that comprise a portfolio and the Exchange's detailed surveillance procedures will deter and capture any trading abuses.

IV. Discussion

A. Introduction

After careful consideration of the comments received, applicable statutory provisions, and relevant policy considerations, the Commission concludes that Midwest's proposed Secondary Trading Session is designed appropriately to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, provide for an equitable allocation of fees, and is consistent with the maintenance of fair and orderly markets, an open and competitive national market system, and the ability of a national securities exchange to enforce compliance with its rules. For these reasons and for the additional reasons set forth below, the Commission finds that approval of the Exchange's proposed rule change relating to a Secondary Trading Session is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).[25]

Over the past several years the use of composite-asset trading techniques and strategies by institutional investors has increased substantially. Both the stock exchanges and private information vendors have developed products to facilitate the trading of portfolios of securities.[26] In addition, broker-dealers have used exchanges-for-physicals ("EFPs") [27] to satisfy their customers' needs in this area. The Midwest system is another attempt to provide a program trading service for institutional investors. The Commission agrees with Midwest that the Secondary Trading Session may provide a useful means for executing portfolio trades in U.S. securities that currently are being executed overseas. Moreover, the System may be helpful in soliciting contra-side interest for portfolios orders.

As described below, the Commission also believes that the market structure Midwest has designed to support its Secondary Trading Session balances appropriately the competing concerns of various Exchange constituencies and its institutional clientele in a manner consistent with just and equitable principles of trade. Given the institutional character of stock portfolio trading that the Secondary Trading Session is designed to capture, the Commission agrees that the Exchange's chosen market structure, which accords price protections and trade reporting, as well as the benefits of Commission and Exchange oversight pursuant to the Act, is a fair and competitive market structure. Furthermore, the Commission believes that Midwest's Secondary Trading Session will not, as the AFB contends, lead unduly toward a more fragmented and volatile market. The Secondary Trading Session responds to existing demand for a means to effect portfolio trades at an aggregate price reflective of the market closing prices of the component securities. By definition, these transactions will not occur during regular equity trading hours. The Secondary Trading Session offers the very real benefits of trade reporting, consolidated surveillance, and pricing protections which ensure that matched bids and offers do not "trade through" an unmatched quotation.[28]

B. Portfolio Pricing Parameters.

As discussed above, each individual security in a portfolio traded in the System must be priced within a range of plus or minus 10% of the last reported price for that security on the day the portfolio transaction is executed, provided that the portfolio itself is priced within a range that is plus or minus 5% of the aggregate closing prices of the securities comprising the portfolio. Further, no one security shall consist of more than 20% of the contract price of the shares in a "non-standardized portfolio" as executed.

The Commission agrees with Midwest that the price parameters afford institutions the flexibility to price portfolio transactions executed during the Exchange's Secondary Trading Session in response to changed market conditions, such as currency movements after the close of regular equity trading hours, or because of differing estimates of equities' values. It would be unnecessarily rigid to require that prices on the system reflect precisely the closing prices for the constituent securities in the Primary Trading Session.

With respect to the AFB's concerns regarding the transparency of the PTS price mechanism and the flexibility of the price parameters that govern portfolio trading during the Secondary Trading Session, the Commission recognizes that although the individual prices allocated among the stocks that comprise a protfolio are somewhat derivative, the plus or minus 10% price limit on an individual stock will operate as a reasonable limit on the actual price variance that a particular stock may experience. Moreover, the additional plus or minus 5% price limit on the portfolio as a whole also operates, on average,[29] as a further restriction on the discretion of pricing an individual component stock. The Commission notes furthermore that proposed Rule 9, Article XXXV requires all portfolio transactions executed during the Secondary Trading Session both in the aggregate and on a security-by-security basis to be fair, taking into consideration all the relevant circumstances attendant to the transaction. The Commission believes Midwest's Secondary Session pricing parameters strike an appropriate balance between allowing institutions and Exchange members the flexibility to price transactions according to economic fundamentals while restricting the ability of market participants to effect trades at prices that do not benefit from open outcry or the widespread dissemenation of firm quotations during regular equity trading hours.

C. Order Interaction and Price Protections

The Commission believes that Midwest's Secondary Trading Session's order interaction and price protecton rules are consistent with fair and orderly markets. First, Midwest's decision to deny order interaction between its Primary and Secondary Trading Sessions is reasonable to ensure that limit orders are not triggered by potentially unrepresentative prices of constituent securities executed after the close of the primary markets for those securities. The composite-asset nature of the portfolios traded over the System, combined with the fact that the Secondary Trading Session will operate in a discontinuous manner, makes the prices of the individual securities less indicative of the prices obtained during the Primary Trading Session, and therefore not useful triggers for limit orders. Second, because the PTS will permit matched orders to be crossed only if there is not an unmatched order in the System at the same or a better price, the Secondary Trading Session's proposed crossing rules provide an opportunity for price betterment and preserve time and price priority for portfolios.

D. Transaction Reporting

As described above, the Midwest has filed with the Commission a proposed Plan for reporting transactions executed during the Secondary Trading Session. The Midwest also has requested exemptions from certain requirements of Rule 11Aa3–1 under the Act for transactions executed through the System. Because the Commission agrees with Midwest that the proposed configuration for transaction reporting during the Secondary Trading Session is appropriate, the Commission has issued a separate order approving the Plan and the exemptions.[30]

E. Short Sale Exemption

The Exchange has requested that the Commission grant an exemption from Rule 10a–1 under the Act [31] to facilitate transactions in the Secondary Trading Session.[32] Rule 10a–1 provides that short sales [33] of exchange-listed securities may not be effected at a price less than the price at which the immediately preceding sale was effected ("minus tick") or at a price equal to the last sale if the last preceding transaction at a different price was at a higher price ("zero-minus tick").

The Commission believes it is appropriate, particularly in view of the absence of price reporting in the individual stocks comprising portfolios, to exempt transactions during Midwest's Secondary Trading Session from the operation of the short sale rule. Accordingly, the Commission's staff will issue a letter granting appropriate relief from Rule 10a–1 with respect to such transactions.

V. Conclusion

Midwest's Secondary Trading System should improve the portfolio trading process by providing a means to disseminate buying and selling interest for portfolio orders. To the extent that Midwest's Secondary Trading Session does not integrate all segments of the securities markets, the Commission agrees with Midwest that these departures are reasonably necessary to accommodate the unique aspects of the PTS without deviating from the concept of fair and orderly markets. Finally, the Commission's Section 19 authority and the Rule 19b–4 process allow the Commission and the Exchange sufficient flexibility to modify the rules governing portfolio trading on Midwest during its Secondary Trading Session in light of actual trading experience and any future developments that materially affect the Secondary Trading Session's market structure.[34]

Based upon the aforementioned factors, the Commission finds that the Exchange's proposed rule change relating to the after-hours trading of stock baskets is consistent with the requirements of Sections 6(b) (4) and (5) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[35] that the proposed rule change be, and hereby is, approved.

By the Commission.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25603 Filed 10–30–89; 8:45 am]

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[24] The CSE's NSTS is a system of users linked electronically, which executes orders automatically. For a general discussion of CSE's NSTS, *see generally* SEC, Division of Market Regulation, *The October 1987 Market Break* at 7–40 (February 1988).

[25] 15 U.S.C. §§ 78f(b) (1982).

[26] *See, e.g.*, Securities Exchange Act Release No. 27383 (October 26, 1989) (Commission order approving File No. SR–NYSE–89–05, a proposed rule change submitted by the NYSE designed to enable the trading of standardized baskets of stocks at an aggregate price in a single execution on the NYSE floor); Securities Exchange Act Release No. 27383 (October 26, 1989) (Commission order approving File No. SR–CBOE–89–20, a proposed rule change submitted by the Chicago Board Options Exchange ("CBOE") also designed to enable the trading of standardized baskets of stocks at an aggregate price in a single execution on the CBOE floor); and letter from Brandon Becker, Associate Director, Division of Market Regulation, SEC, to Lloyd H. Feller, Esq., Morgan Lewis and Bockius, dated July 28, 1987 (Commission no-action letter issued under Sections 5 and 6 of the Act on behalf of request by Jeffries and Co., Inc. to implement a computerized order entry mechanism to allow for trading customized portfolios of stocks at a single price).

[27] An EFP generally may be defined as the exchange of a long (short) futures position for an equivalently valued long (short) stock position. This normally takes place after the NYSE close and is completed in accordance with Commodity Futures Trading Commission ("CFTC") regulations. In the CFTC Division of Trading and Markets *Report on Exchanges of Futures for Physicals*, dated October 1, 1987 ("CFTC Report"), an EFP was defined as "a transaction in which one party buys the physical commodity and simultaneously sells (or gives up a long) futures contract. The price of the exchanged futures position, the quantity of the futures and cash commodity, and other terms are privately negotiated by the parties rather than being competitively executed in the pit." CFTC Report at 2. The CFTC has interpreted Section 4c(a) of the Commodity Exchange Act, 7 U.S.C. § 6c(a), and CFTC Regulation 1.38, 17 C.F.R. § 1.38, to permit individual contract markets, such as the Chicago Mercantile Exchange, to establish rules permitting and governing EFP transactions.

[28] The Commission's approval order issued today for the NYSE's basket proposal, *supra* note 26, addresses comments received by the AFB on that product. The Commission incorporates its responses to the AFB's comments on the NYSE proposal to the AFB's comments on the PTS to the extent that the comments are the same for both proposals.

[29] The Commission notes that the combination of the price limits and the different weighing of stocks in a portfolio accounts for the sliding scale price mechanism as applied to individual stocks.

[30] *See* Midwest Plan approval order, *supra* note 17.

[31] 17 CFR 240.10a–1 (1989).

[32] *See* letter from J. Craig Long, Vice President and General Counsel, Midwest, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated April 27, 1989.

[33] A short sale is defined in Rule 3b–3 under the Act, 17 CFR § 240.3b–3, as any sale of a security that the seller does not own or any sale that is consummated by the delivery of a security borrowed by, or for the account of, the seller.

[34] The Commission notes that approval of the proposed rule change is based upon a determination that the terms of Midwest's Secondary Trading Session and the PTS are consistent with the requirements of the Act. If the terms of Midwest's Secondary Trading Session's market structure are changed in any material way, however, it would be necessary for the Midwest to submit a proposed rule change in order to afford the public an opportunity to review and comment on the proposed modification and for the Commission to review its prior determination.

[35] 15 U.S.C. 78s(b)(2) (1982).

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[Release No. 34-27385; File No. SR-MSE-89-02]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Transaction Reporting Plan

On April 28, 1989, the Midwest Stock Exchange, Inc. ("Midwest" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Rules 11Aa3-1 and 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"),[1] a proposed transaction reporting plan ("Plan") governing the collection, consolidation and dissemination of information on transactions in reported securities that are executed during the Midwest Secondary Trading Session.[2] As part of the proposal, the Exchange requested certain exemptions under Rule 11Aa3-1.[3] The Plan was noticed in Securities Exchange Act Release No. 26887, June 2, 1989, 54 FR 24779. The Commission received one comment on the proposed rule.

Description of the Plan

The transaction reporting plan filed by Midwest is specifically limited in application to trading during the Exchange's Secondary Trading Session. All qualified portfolio transactions can be executed during Midwest's Secondary Trading Session through the PTS, an automated, screen-based trading system maintained by Midwest. The Midwest's Secondary Trading Session is limited to transactions in portfolios of "Eligible Securities."[4] Pursuant to the Plan, Midwest will disseminate last sale transaction reports for each portfolio, but not the individual securities composing the portfolio. Midwest will make available to vendors and subscribers: (1) the aggregate price of the portfolio; and (2) the symbol and quantity for each security in the portfolio.[5] The Plan further provides that Midwest will make transaction reports available to information vendors from 3:30 p.m. to 5:00 p.m., Central Time, on all trading days [6] and that at the end of each Secondary Trading Session, Midwest will make available to vendors the aggregate number of shares of each of the securities that were purchased and sold during that session.

The Plan also contains provisions for ensuring the accuracy and validity of transaction reports. The Plan provides that all trades in portfolio transactions will be reported immediately upon execution to Midwest through the PTS pursuant to the requirements in Article XXXV of Midwest's rules. In addition, the Plan provides a description of how Midwest will verify the accuracy of the reports and how Midwest will review portfolio transaction reports for compliance with the pricing parameters for portfolios contained in Rule 9, Article XXXV. Finally, the Plan provides that all contracts with vendors and subscribers explicitly provide that the information provided them must be used consistently with all applicable statutes and regulations and must not be used in a fraudulent or manipulative manner.

Comments

The Commission received one comment on the proposed Plan from the Alliance of Floor Brokers ("AFB").[7] In general, the AFB argues that in comparison to existing equity market trading procedures, the different regulatory treatment envisioned by the Secondary Trading Session would result in a fragmented securities market structure. More specifically, the AFB contends that the pricing mechanisms that govern stock portfolio trading during the Secondary Trading Session do not provide for sufficient price transparency, order interaction and ultimate price improvement. The AFB argues that Midwest has not properly addressed the lack of pricing transparency, and is concerned that some individual securities prices may be somewhat arbitrary and unreflective of their actual price movements.

Midwest responded to the AFB's critique by emphasizing that its Secondary Trading Session represents a marked improvement over current market practices, where overseas portfolio transactions are not reported, either to the Commission or to the public.[8] Under the Plan, real-time portfolio transaction reports will be disseminated to vendors and subscribers along with aggregated shares traded. Thus, the Exchange noted that the investing public will no longer be deprived of important information regarding portfolio trading activity in various securities.

In addition, Midwest believes that the pricing of portfolio tranactions between institutional buyers and sellers is actually based on the aggregate portfolio price, not on the prices of individual securities. As a result, although Midwest's rules require reporting of individual security prices for audit trail and clearing purposes, and require that these prices be within a 10% range of the close, Exchange members and their customers are free to allocate the portfolio's price among the individual securities at their own discretion. Individual security prices therefore may be somewhat derivative and not reflective of the price movements in any particular security. Thus, Midwest is concerned that disseminating these arbitrarily determined prices to the general public may be misleading and potentially harmful to the market.

Discussion

A. Standards of Review

In reviewing the Plan, the Commission must determine that it meets the standards set forth in Section 11A of the Act and Rules 11Aa3-1 and 11Aa3-2 thereunder. The Commission believes that the Plan, as described above, substantially meets these standards.

Rule 11Aa3-1(b)(2) provides that any National Market System ("NMS") plan shall specify, at a minimum: (1) the listed equity and NASDAQ securities or classes of such securities for which transaction reports are required by the plan; (2) the reporting requirements for transactions in listed equity securities or NASDAQ/NMS securities for any broker or dealer subject to the plan; (3) the manner of collecting, processing, sequencing, making available and disseminating transaction reports and the last sale data reported pursuant to such plan; (4) the manner such transaction reports reported pursuant to the plan are to be consolidated with transaction reports from exchanges and associations reported pursuant to any other effective transaction reporting plan; (5) the applicable standards and methods that will be used to ensure promptness of reporting and the accuracy and completeness of transaction reports; (6) any rules or procedures that may be adopted to ensure that transaction reports or last sale data will not be disseminated in a fraudulent or manipulative manner; (7) specific terms of access to transaction reports made available or disseminated pursuant to the plan; and (8) that transaction reports or last sale data made available to any vendor for display on an interrogation device identify the marketplace where each transaction was executed.[9]

B. Exemptions From Rule 11Aa3-1

Because of the limited purposes of the Plan and limited nature of the Plan itself, Midwest requested that the Commission grant three exemptions from the requirements of Rule 11Aa3-1.[10] Specifically, Midwest requests exemptions from the Rule's requirements to: (1) report transactions in reported securities; (2) specify in the Plan the method of consolidation with transaction reports from exchanges and associations reported pursuant to any other effective transaction reporting plan; and (3) provide market identifiers for last sale transaction reports disseminated pursuant to the Plan.[11]

Paragraphs (c) (1) and (2) of Rule 11Aa3-1 require Midwest to disseminate last sale transaction reports for individual reported securities traded on the Exchange.[12] The Plan provides for the dissemination of transaction reports for each portfolio, but not the individual securities composing the portfolio.[13] As noted above, however, Midwest will make transaction reports on the portfolios available during the Secondary Trading Session and at the end of each Session it will provide the aggregate number of shares of each of the securities traded that day. The Commission agrees with the Exchange that real-time last sale transaction reporting for the individual stocks underlying a portfolio transaction is not necessary in the Secondary Trading Session context. The Commission concurs that dissemination of prices of the individual securities composing the portfolio may be of limited value. For the reasons discussed above, the Commission believes that dissemination of transaction reports only for the portfolios, rather than for the underlying securities, is consistent with the goal of publicly disseminating accurate and useful transaction information. Thus, the Commission believes that it is appropriate to grant an exemption from this requirement of Rule 11Aa3-1.

Rule 11Aa3-1(b)(2)(iv) requires that provision be made in the plan for the consolidation of transaction reports from other markets trading the same securities. The Commission has decided to grant Midwest a temporary exemption, for six months from the date of this order, from the requirement that the Plan provide a mechanism for the consolidation of last sale data on these securities with last sale data from other markets trading the same securities.[14] While the Commission is aware of the limited usefulness of price information on the underlying securities in the portfolio, it believes that dissemination of the share volume in the underlying securities is important information and should be included in the daily consolidated volume for each of the underlying securities. This presents a number of technological difficulties for Midwest, however, and thus the Commission has decided to grant a temporary exemption from this requirement to allow Midwest adequate time to make the necessary arrangements to have this volume data included in the end-of-day consolidated volume.

Finally, Midwest requested an exemption from the requirement of Rule 11Aa3-1(b)(2)(viii) that it provide market identifiers on the disseminated portfolio transaction reports. It requires, however, that NMS plans provide market identifiers. Therefore, Midwest requested an exemption from this specific provision. Because Midwest will be the only marketplace reporting transactions to vendors pursuant to the Plan, all trades will be known by vendors as Midwest Trades. Midwest believes, therefore, that there is no benefit to be gained by requiring that transaction reports contain marketplace identifiers. The Commission agrees that unless and until any other market becomes a party to the Plan and transactions in that market are reported pursuant to the Plan, it is not necessary that the Plan provide market identifiers for transaction reports. Thus, the Commission believes it is appropriate to grant Midwest an exemption from the requirements of Rule 11Aa3-1(b)(2)(viii).

Conclusion

For the reasons discussed above, the Commission finds that the Midwest transaction reporting plan and the exemptions under Rule 11Aa3-1 are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, Section 11A(a)(1) and Rules 11Aa3-1 and 11Aa3-2.

It is therefore ordered, pursuant to section 11A of the Act and Rules 11Aa3-1 and 11Aa3-2 thereunder, that the proposed transaction reporting plan be, and hereby is, approved. Further, the Commission hereby orders that Midwest be granted the following exemptions from Rule 11Aa3-1: (1) the requirement under paragraphs (c) (1) and (2) that Midwest disseminate transaction reports for individual reported securities traded on the Exchange; (2) the requirement under paragraph (b)(2)(viii) that transaction reports include market identifiers; and (3) a temporary exemption for a six-month period commencing on the date of this order from the requirement under paragraph (b)(2)(iv) that the Plan provide for the consolidation of transaction reports from other markets trading the same security.

By the Commission.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25601 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 240.11Aa3-1 and 240.11Aa3-2 (1989).

[2] Proposed Midwest Rule 10(b), Article IX will establish a Secondary Trading Session to be conducted from 3:30 p.m. to 5:00 p.m. Central Time for the limited purpose of permitting the execution of transactions in qualified portfolios of equity securities through the new automated Portfolio Trading System ("PTS" or "System"). Brokers for institutional investors in portfolios of securities that desire to execute transactions based on closing prices of securities on the NYSE often effect such transactions offshore, usually in London. These transactions take place without exchange oversight and without regulatory protection for participants in U.S. securities markets. Further, such transactions are not reported to the public. Midwest developed the Secondary Trading Session to provide a facility for broker-dealers to execute transactions in portfolios in the United States. The Commission approved the proposed rule change submitted by Midwest to establish the Secondary Trading Session in a separate order issued today. *See* Securities Exchange Act Release No.

[3] *See* letter from J. Craig Long, Vice President, General Counsel and Secretary, Midwest, SEC, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated September 12, 1989, and letter from J. Craig Long to Kathryn Natale, Assistant Director, Division of Market Regulation, SEC, dated October 18, 1989.

[4] Eligible securities are defined in proposed Rule 2(d), Article XXXV as all securities that are listed for trading on the Exchange or to which unlisted trading privileges ("UTP") have been granted.

[5] The Plan also provides the terms of access for vendors who wish to retransmit the data. The Plan provides for no vendor fees for access to the information but would require subscribers to pay "appropriate" fees for receipt of the data.

[6] This corresponds to the hours of the Secondary Trading Session.

[7] *See* Letter from Michael D. Robbins, President, AFB, to Jonathan G. Katz, Secretary, SEC, dated August 18, 1989.

[8] *See* letter from J. Craig Long, Vice President and General Counsel, Midwest, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated April 27, 1989 ("April 27 letter").

[9] Additionally, Rule 11Aa3-2, to the extent that it is applicable, requires that a NMS plan describe the terms and conditions under which brokers, dealers, and/or self-regulatory organizations will be granted or denied access.

[10] The Commission has authority under paragraph (g) of Rule 11Aa3-1 to grant exemptions from the provisions of the Rule.

[11] *See* note 3.

[12] "Reported securities" are securities for which there is in effect a transaction reporting plan.

[13] As noted above, Midwest will disseminate the volume of the stocks comprising baskets but will not disseminate the price of those component stocks.

[14] The Commission anticipated that the portfolios traded in the Secondary Trading Session will consist mostly, if not entirely, of securities already subject to transaction reporting requirements pursuant to the Consolidated Transaction Reporting Plan (the plan governing transaction reporting of New York and American Stock Exchange stocks) or the National Association of Securities Dealers' transaction reporting plan. Among other things, these plans provide for real-time reporting of the price and volume on trades in securities subject to the plans.

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[Rel. No. 34-27388; File No. 7-5309 and 7-5356]

Self-Regulatory Organizations; Findings and Order Granting Applications for Unlisted Trading Privileges; New York Stock Exchange, Incorporated

October 26, 1989.

The New York Stock Exchange, Inc. ("NYSE") has filed application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) and (C) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 12f-1 [2] thereunder for unlisted trading privileges ("UTP") in the 205 securities listed in the attached *Exhibit A* [3] for the purpose of trading Exchange Stock Portfolio ("ESPs") which are based on the Standard & Poor's 500 Portfolio Index ("Index").[4]

As indicated by *Exhibit A*, the NYSE is applying for UTP on 98 stocks registered on the American Stock Exchange ("Amex") and 107 over-the-counter securities ("OTC") that are quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") but that are not listed and registered on any national securities exchange. Last sale information relating to the exchange-listed stocks is reported in the consolidated transaction reporting system. Last sale information on the ITC stocks is reported through NASDAQ facilities.

Two comment letters were submitted on the NYSE's UTP application.[5] The Amex stated that, although the NYSE's UTP application caused some confusion for the Amex-listed companies that were included in the application, the Amex believed that any such confusion would be eliminated if the Commission limited the grant of UTP to the sole purpose of trading these securities as part of the ESP and then only to the extent that the securities are actually included in the ESP, as indicated by the NYSE in its application.

The NASD letter expressed concern that the application of exchange off-board trading restrictions [6] to the proposed market baskets of both the NYSE and CBOE would prohibit the NASD from trading exchange listed stocks as part of a similar market basket product. In their view, the approval of the UTP applications only would be appropriate if the Commission conditioned such approval on "reciprocal unlisted trading privileges [7] to all NYSE securities included in future basket products that may be traded in the NASDAQ market, free of any off-board trading restrictions applicable to such basket products." The NASD stated that, without such a condition, the Commission could not find that the grant of UTP would have no anti-competitive effect as required under section 12(f)(2) of the Act.

Under section 12(f) of the Act the Commission may approve UTP applications if it finds, after notice and opportunity for hearing, that the extensions of UTP pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. Further, in considering the NYSE's application for extension of UTP in the 107 NASDAQ stocks, section 12(f)(2) of the Act requires the Commission to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1)(C) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

After careful review, the Commission has determined that granting the NYSE's UTP application for the limited purpose of accommodating trading on the NYSE's ESPs is consistent with the maintenance of fair and orderly markets and the protection of investors. As noted above, the NYSE's UTP application is *not* intended to (nor does it) permit them to make individual markets in the stocks on which UTP has been requested, but rather to permit the NYSE to trade its market basket product, ESPs. The Commission today approved the NYSE's proposal to trade a basket of stocks at a single trading location on the exchange.[8] The Commission's approval order concludes that the NYSE proposal could offer a means to enhance the efficient execution of portfolio trades and, possibly increase the market's ability to absorb institutional portfolio trading. In particular, the order notes that liquidity increases resulting from trading in basket products could help absorb the volume and velocity of trading associated with index-related trading strategies, thereby reducing volatility. Based on the above, the Commission believes that the granting of UTP on the requested stocks for the sole purpose of accommodating trading on NYSE's market basket product is consistent with the maintenance of fair and orderly markets and the protection of investors.

The Commission also believes that approval of the NYSE's request for UTP on the 107 OTC stocks is appropriate and meets the requirements under section 12(f)(2) of the Act. First, because the grant of UTP on the OTC securities is limited to effecting transactions in ESPs, the Commission does not believe the concerns that have been previously raised relating to the extension of UTP on OTC stocks to a national securities exchange are directly applicable.[9] For example, among other things, the Commission has been concerned with procedures for assuring coordinated market information if OTC issues were traded on an exchange.[10] Because the OTC issues on which the NYSE has requested UTP only will trade as part of a market basket and not individually, however, these concerns are not raised. Further, because the grant of UTP does *not* permit market making in the individual securities by the NYSE, the other factors which section 12(f)(2) directs the Commission to consider do not raise concerns. For example, the trading of the OTC securities as part of a basket should not have any negative impact on the public trading activity in such securities or their existing market and should not have any potential to change the existing primary market for the individual stocks.[11] In this regard, we note that the 31 OTC issues that currently comprise the ESP make up a small component of the composite index value, thus assuring that any impact on the underlying NASDAQ market will be minimal.

Finally, the Commission is cognizant of the competitive implications raised by the NASD about approving UTP on the OTC issues without limiting the application of exchange off-board trading restrictions to market baskets. In this context, the Commission would be concerned about any exchange restrictions that would limit the ability of any market to quote and trade a market basket product similar to the market baskets approved for trading on the NYSE and CBOE.

Accordingly, it is ordered, pursuant to section 12(f) of the Act, that the NYSE's application for unlisted trading privileges in the securities listed in the attached *Exhibit A* for the limited purpose of trading such securities as part of the NYSE's ESPs and only to the extent that the securities actually are included in the Index on which the ESPs will be based is hereby approved.

By the Commission.

Jonathan G. Katz,

Secretary.

Exhibit A

I. Amex-Listed Stocks

Symbol	Issuer	Class
AMEX:		
AMH	Amdahl Corp	
APLA	American Petrofina Co	A
ATC	Atari Corp	
ATX.A	Cross Co	A
AZA	Alza Corp	
BBC.A	Bergen Brunswig Corp	A
BF.A	Brown-Forman Corp	A
BF.B	Brown-Forman Corp	B
BHA	Biscayne Holdings Inc	
BIC	Bic Corp	
BID	Sotheby's Holdings, Inc	A
BL	Blair Corp	
BLR	Bolar Pharmaceutical Co., Inc	
BNE	Bowne & Co., Inc	
CCL	Carnival Cruise Lines Inc	A
CDV.A	Chambers Development Co., Inc.	A
CDV.B	Chambers Development Co., Inc.	A
CFB	Citizens First Bancorp	
CJN	Caesars New Jersey, Inc	
CTY	Century Communications Corp	A
CVC	Cablevision Systems Corp	A
DIA	Diasonics, Inc	
DPC	Dataproducts Corp	
EXC	Excel Industrial, Inc	
FCE.A	Forest City Enterprises, Inc	A
FCE.B	Forest City Enterprises, Inc	B
FES	First Empire State Corp	
FRK	Florida Rock Industries, Inc	
FRX	Forest Laboratories, Inc	A
FTL	Fruit of the Loom, Inc	A
GAN	Garan Inc	
GB	Guardian Bancorp	
GDS.B	Glenmore Distilleries Co	B
GFS.A	Giant Food, Inc	A
GLT	Glatfelter Co	
GO	Collins Industries, Inc	
HA	Hal, Inc	
HAI	Hampton Industries, Inc	
HAS	Hasbro, Inc	
HBW	Howard B Wolf, Inc	
HCO	Hubco, Inc	
HEI	Heico Corp	
HGC	Hudson General Corp	
HOC	Holly Corp	
HOV	Hovnanian Enterprises, Inc	
HRL	Hormel & Co	
HSN	Home Shopping Network, Inc	
HUB.A	Hubbell, Inc	A
HUB.B	Hubbell, Inc	B
ICH	ICH Corp	
JBM	Jan Bell Marketing, Inc	
LFA	Littlefield Adams & Co	
LII	Larizza Industries, Inc	
LJC	La Jolla Bancorp	
MEG.A	Media General, Inc	A
MMZ.A	Metro Mobile CTS, Inc	A
MMZ.B	Metro Mobile CTS, Inc	B
MND	Mitchell Energy & Development Corp.	
MXM	Maxxam, Inc	
NAN	Nantucket Industries, Inc	
NYT.A	New York Times Co	A
OEA	OEA, Inc	
ONA	Oneita Industries	
OSL	O'Sullivan Corp	
PAR	Precision Aerotech, Inc	
PGU	Pegasus Gold, Inc	
PLL	Pall Corp	
PRY	Pittway Corp	
RAV	Raven Industries, Inc	
RDK	Ruddick Corp	
SA	Stage II Apparel Corp	
SBA	Sbarro, Inc	
SEB	Seaboard Corp	
SER	Sierracin Corp	
SGC	Superior Surgical Manufacturing Co., Inc.	
SMC.A	Smith A.O. Corp	A
SMK	Sanmark Stardust, Inc	
SP	Spelling Entertainment, Inc	A
SUP	Superior Industries International Inc.	
SWD	Standard Shares, Inc	
TBS.A	Turner Broadcasting System, Inc.	A
TBS.B	Turner Broadcasting System, Inc.	B
TDS	Telephone and Data Systems, Inc.	
TFX	Teleflex, Inc	
THI	Thermo Instrument Systems, Inc.	
TMD	Thermedics, Inc	
TRC	Tejon Ranch Co	
USM	United States Cellular Corp	
VAC.A	Vermont American Corp	A
VAL	Valspar Corp	
VIA	Viacom, Inc	
VOT	Voplex Corp	
WAB	Westamerica, Bancorp	
WAH	Westair Holding, Inc	
WAN.B	Wang Laboratories, Inc	B
WDC	Western Digital Corp	
WPO.B	Washington Post Co	B
WSC	Wesco Financial Corp	

*All stocks in this list are common stock.

II. OTC-Traded Stocks

Symbol	Issuer	Class
AAPL	Apple Computer Inc	
ACAD	Autodesk, Inc	
ACCOB	Adolph Coors Co	B
AGREA	American Greetings Corp	A
ALEX	Alexander and Baldwin Co	
AMGN	Amgen, Inc	
AMTR	Ameritrust Corp	
ANAT	American National Insurance Co	
ANDW	Andrew Corp	
ATCMA	American Television and Communications	A
BETZ	Betz Laboratories, Inc	
BNHI	Bancorp Hawaii, Inc	
BOAT	Boatmens Bancshares, Inc	
BRNO	Brunos, Inc	
BSET	Bassett Furniture Industries, Inc	
CCER	Commerce Clearing House, Inc	
CCXLA	Contel Cellular, Inc	A
CHRS	Charming Shoppes, Inc	
CINF	Cincinnati Financial Corp	
CITUB	Citizens Utilities Co	B
CMCA	Comerica, Inc	
CMCSA	Comcast Corp	A
CNCAA	Centel Cable Television Co	A
COMM	Cellular Communication, Inc	
CPER	Consolidated Papers, Inc	
CRBN	Calgon Carbon Corp	
CRFC	Crestar Financial Corp	
CSFN	Corestates Financial Corp	
CTCO	Cross and Trecker Corp	
CTYN	City National Corp	
DIGI	DSC Communications Corp	
DMBK	Dominion Bankshares Corp	
EWSC	E.W. Scripps Co	A
FDLNB	Food Lion, Inc	B
FEXC	First Executive Corp	
FITB	Fifth Third Bancorp	
GOSHA	Oshkosh B Gosh, Inc	A

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[1] 15 U.S.C. 78l(F)(1) (1982).

[2] 17 CFR 240.12f-1 (1989).

[3] *See* Securities Exchange Act Release Nos. 27248, September 15, 1989 and 27328, October 2, 1989. Notice of the application was given by publication in the *Federal Register* (54 FR 38778). We note that this order does not grant UTP on Jerrico, Inc., as originally requested by the NYSE, because that stock has since been deleted from the Index. As discussed below, the Commission received two comment letters regarding this application.

[4] *See* File No. SR-NYSE-89-05. The NYSE application includes the 39 stocks currently comprising the INDEX that are not listed and registered on the NYSE (The remaining 461 stocks comprising the Index are currently registered and traded on the NYSE). The NYSE believes that the remaining 166 stocks on which they have applied for UTP are likely candidates for substitution in the Index. The NYSE has indicated that UTP on the stocks in its application will be used for the limited purpose of trading these securities as part of the NYSE's ESPs and then only to the extent these securities are actually included in the ESP. The Chicago Board Options Exchange, Inc. ("CBOE") also has requested UTP on the 500 stocks comprising the S&P 500 Index for the purpose of trading these securities as part of a market basket. *See* Securities Exchange Act Release Nos. 27237, September 11, 1989 and 27327, October 2, 1989 and 54 FR 36475.

[5] *See* letters from Kenneth R. Leibler, President, American Stock Exchange, Inc. to Jonathan G. Katz, Secretary, SEC, dated September 22, 1989 and from Joseph R. Hardiman, President, National Association of Securities Dealers, Inc. ("NASD") to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated October 9, 1989.

[6] *See* NYSE Rule 390 which prohibits members from effecting any transaction in any listed security off the exchange floor. Rule 19c-3 under the Act, however, prevents exchange rules from prohibiting members from effecting transactions off an exchange floor in securities that have been listed or traded pursuant to UTP on or after April 26, 1979.

[7] We note that unlike the registration requirements for exchanges under section 12(a) of the Act, there is no Section of the Act that actually would prohibit the NASD from trading exchange listed stocks as part of a market basket approved by the Commission. We recognize, however, that the application on exchange off-board trading restrictions that prohibit exchange members from trading certain securities off an exchange floor could have a severe impact on the trading market for an OTC market basket comprised of stocks subject to these restrictions.

[8] *See* Securities Exchange Act Release No. 27382, October 26, 1989.

[9] *See* Securities Exchange Act Release No. 22417 (September 16, 1985), 50 FR 38640 which announced

Continued

the Commission's willingness to grant UTP on OTC securities if certain conditions were met.

[10] *See* Securities Exchange Act Release No. 22407 (April 24, 1987), 52 FR 17349 which approved a Midwest Stock Exchange application for UTP on 25 OTC issues subject to the development of a joint transaction reporting plan to accommodate such trading.

[11] Rather, as noted above, one positive result of such trading could be increased liquidity in the subject securities and reduced volatility.

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Symbol	Issuer	Class
HAML	Hamilton Oil Corp	
HBAN	Huntington Bancshares, Inc	
HBOL	Hartford Steam Boiler Inspection and Insurance.	
HECHA	Hechinger, Co	A
HENG	Henley Group, Inc	A
INGR	Intergraph Corp	
INTC	Intel Corp	
ITGR	Integra Financial Corp	
JJSC	Jefferson Smurfit Corp	
KELYA	Kelly Services, Inc	A
LINB	Lin Broadcasting Corp	
LIZC	Liz Claiborne, Inc	
LMED	Lyphomed, Inc	
LNCE	Lance Inc	
LOTS	Lotus Development Corp	
MASX	Masco Industries, Inc	
MCAWA	McCaw Cellular Communications, Inc.	A
MCCRK	McCormick and Company, Inc	
MCCS	Medco Containment Services, Inc.	
MCIC	MCI Communications Corp	
MIDL	Midlantic Corp	
MMEDC	Multimedia, Inc	
MNCO	Michigan National Corp	
MNTL	Manufacturers National Corp	
MOLX	Molex, Inc	
MRDN	Meridian Bancorp, Inc	
MRIS	Marshall and Ilsley Corp	
MSFT	Microsoft Corp	
NHLI	National Health Laboratories, Inc.	
NIKE	Nike, Inc	B
NGNA	Neutrogena Corp	
NOBE	Nordstrom, Inc	
NOVL	Novell, Inc	
NOXLB	Noxell Corp	B
NTRS	Northern Trust Corp	
OCAS	Ohio Casualty Corp	
ORCL	Oracle Systems Corp	
PACCB	Provident Life and Accident Insurance of America.	B
PCAR	Paccar, Inc	
PCLB	Price Co	
PHYB	Pioneer Hi Bred International, Inc.	
PTCM	Pacific Telecom, Inc	
ROAD	Roadway Services, Inc	
ROUS	Rouse Co	
SAFC	Safeco Corp	
SCRP	Scripps Howard Broadcasting Co.	
SGAT	Seagate Technology, Inc	
SIAL	Sigma Aldrich Corp	
SMED	Shared Medical Systems Corp	
SOCI	Society Corp	
SONO	Sonoco Products Co	
SPGLA	Spiegel, Inc	A
STBK	State Street Boston Corp	
STJM	St. Jude Medical, Inc	
STPL	St. Paul Companies, Inc	
SUNW	Sun Microsystems, Inc	A
TCOMA	Tele Communication, Inc	A
TECU	Tecumseh Products Co	
TYSNA	Tyson Foods, Inc	A
UBNK	Union Bank	
USBC	U.S. Bancorp of Oregon	
USWNA	U.S. West New Vector Group Inc.	A
VCELA	Vanguard Cellular Systems Inc	A
WETT	Wetterau, Inc	
WILM	Wilmington Trust Co	
WMOR	Westmoreland Coal Co	
WMTT	Willamette Industries, Inc	
WTHG	Worthington Industries, Inc	
YELL	Yellow Freight System, Inc. of Delaware.	
RYAN	Ryan's Family Steak Houses, Inc.	

*All stocks in this list are common stock.

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[Rel. No. 34-27387; File No. 7-5301 and 7-5357]

Self-Regulatory Organizations; Findings and Order Granting Applications for Unlisted Trading Privileges; Chicago Board Options Exchange, Inc.

October 26, 1989.

The Chicago Board Options Exchange, Inc. ("CBOE") has filed application with the Securities and Exchange Commission ("Commission") pursuant to sections 12(f)(1)(B) and (C) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 12f-1 [2] thereunder for unlisted trading privileges ("UTP") in 500 securities [3] for the purpose of trading market baskets on the Standard & Poor's ("S&P") 500 and 100 Stock Price Indexes ("Index").[4]

The CBOE originally applied for UTP on 462 stocks registered on the New York Stock Exchange ("NYSE"), 7 registered on the American Stock Exchange, Inc. ("Amex") and 31 over-the-counter securities ("OTC") that are quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") but that are not listed and registered on any national securities exchange.[5] Last sale information relating to the exchange-listed stocks is reported in the consolidated transaction reporting system. Last sale information on the OTC stocks is reported through NASDAQ facilities.

One comment lette was submitted on the CBOE's UTP application.[6] The NASD letter expressed concern that the application of exchange off-board trading restrictions [7] to the proposed market baskets of both the New York Stock Exchange ("NYSE") [8] and CBOE would prohibit the NASD from trading exchange-listed stocks as part of a similar market basket product. In their view, the approval of the UTP applications only would be appropriate if the Commission conditioned such approval on "reciprocal unlisted trading privileges [9] to all NYSE securities included in future basket products that may be traded in the NASDAQ market, free of any off-board trading restrictions applicable to such basket products." The NASD stated that, without such a condition, the Commission could not find that the grant of UTP would have no anti-competitive effect as required under section 12(f)(2) of the Act.

Under section 12(f) of the Act the Commission may approve UTP applications if it finds, after notice and opportunity for hearing, that the extensions of UTP pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. Further, in considering the CBOE's application

[1] 15 U.S.C. 78l(f)(1) (1982).

[2] 17 CFR 240.12f-1 (1989).

[3] *See* Securities Exchange Act Release No. 27237 September 11, 1989. Notice of the application was given by publication in the **Federal Register** (54 FR 38475). As discussed below, the Commission received two comment letters regarding this application. The Commission also received applications for UTP in four additional securities. *See* Securities Exchange Act Release Nos. 27327 (October 2, 1989) 54 FR 41357.

[4] *See* File No. SR-CBOE-88-20. The CBOE requested UTP in the 500 stocks comprising the S&P 500 Index at the time of their initial application. Subsequent to the submission of CBOE's UTP application, S&P replaced four stocks in the Index. The replacement stocks were not part of CBOE's original UTP request. Although the Commission has noticed for comment the UTP request for the four replacement securities, the 10 day notice period required by Section 12(f)(5) of the Act has not expired on two of the replacement securities. Accordingly, the Commission is only considering a grant of UTP in the 498 stocks listed on the attached *Exhibit A* that are currently included in the Index and for which the 10 day notice requirement has been fulfilled. *But see* letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC to Nancy R. Crossman, General Counsel, CBOE, dated October 26, 1989 granting no-action relief from compliance with Section 12(f) of the Act to the CBOE under certain conditions for replacement securities.

[5] For the reasons discussed in note 4 *supra*, the Commission is only considering CBOE's request for UTP in the 498 stocks listed in *Exhibit A*. This list includes 460 NYSE registered stocks rather than 462. The list continues to include 7 Amex registered stocks and 31 OTC securities.

[6] *See* letter form Joseph R. Hardiman, President, National Association of Securities Dealers, Inc. ("NASD") to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated October 9, 1989.

[7] *See* NYSE Rule 390 which prohibits members from effecting any transaction in any listed security off the exchange floor. Rule 19c-3 under the Act, however, prevents exchange rules from prohibiting members form effecting transactions off an exchange floor in securities that have been listed or traded pursuant to UTP on or after April 26, 1979.

[8] The NYSE also has requested UTP in 205 stocks for the purpose of trading these securities as part of Exchange Stock Portfolios ("ESPs"). *See* Securities Exchange Act Release Nos. 27248, September 15, 1989 and 27328, October 2, 1989 and 54 FR 38778. In a separate order the Commission is approving the NYSE's UTP request. *See* Securities Exchange Act Release No. 27386.

[9] We note that unlike the registration requirements for exchanges under section 12(a) of the Act, there is no Section of the Act that actually would prohibit the NASD from trading exchange-listed stocks as part of a market basket approved by the Commission. We recognize, however, that the application of exchange off-board trading restrictions that prohibit exchange members from trading certain securities off an exchange floor could have a severe impact on the trading market for an OTC market basket comprised of stocks subject to these restrictions.

for extension of UTP in the 31 NASDAQ stocks, section 12(f)(2) of the Act required the Commission to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1)(C) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

After careful review, the Commission has determined that granting the CBOE's UTP application for the limited purpose of accommodating trading on the CBOE's market basket contracts is consistent with the maintenance of fair and orderly markets and the protection of investors. As noted above, the CBOE's UTP application is not intended to (nor does it) permit them to make individual markets in the stocks on which UTP has been requested, but rather to permit the CBOE to trade its market basket product. The Commission today approved the CBOE's proposal to trade a basket of stocks at a single trading location on the exchange.[10] The Commission's approval order concludes that the CBOE proposal could offer a means to enhance the efficient execution of portfolio trades and, possibly, the market's ability to absorb institutional portfolio trading. In particular, the order notes that liquidity increases resulting from trading in basket products could help absorb the volume and velocity of trading associated with index/related trading strategies thereby reducing volatility. Based on the above, the Commission believes that the granting of UTP on the requested stocks for the sole purpose of accommodating trading on CBOE's proposed market basket product is consistent with the maintenance of fair and orderly markets and the protection of investors.

The Commission also believes that approval of the CBOE's request for UTP on the 31 OTC stocks is appropriate and meets the requirements under section 12(f)(2) of the Act. First, because the grant of UTP on the OTC securities is limited to effecting transactions in market baskets, the Commission does not believe the concerns that have been previously raised relating to the extension of UTP on OTC stocks to a national securities exchange are directly applicable.[11] For example, among other things, the Commission has been concerned with preocedures for assuring coordinated market information if OTC issues were traded on an exchange.[12] Because the OTC issues on which the CBOE has requested UTP only will trade as part of a market basket and not individually, however, these concerns are not raised. Further, because the grant of UTP does *not* permit market making in the individual securities by the NYSE, the other factors which section 12(f)(2) directs the Commission to consider do not raise concerns. For example, the trading of the OTC securities as part of a basket should not have any negative impact on the public trading activity in such securities or their existing market and should not have any potential to change the existing primary market for the individual stocks.[13] In this regard, we note that the 31 OTC issues that currently comprise the CBOE's market basket product make up a small component of the composite index value, thus assuring that any impact on the underlying NASDAQ market will be minimal. Finally, the Commission is cognizant of the competitive implications raised by the NASD about approving UTP on the OTC issues without limiting the application of exchange off-board trading restrictions to market baskets. In this context, the commission would be concerned about any exchange restrictions that would limit the ability of any market to quote and trade a market basket product similar to the market baskets approved for trading on the NYSE and CBOE.

Accordingly, it is ordered, pursuant to section 12(f) of the Act, tha the CBOE's application for unlisted trading privileges in the securities listed in the attached *Exhibit A* for the limited purpose of trading such securities as part of the CBOE's market basket contracts and only to the extent that the securities actually are included in the Index on which the market baskets will be based is hereby approved.

By the Commission.

Jonathan G. Katz,

Secretary.

EXHIBIT A

Traded	Ticker	Company	Security	Par value
NYSE	AMP	AMP Incorporated	Common Stock	None.
NYSE	AMR	AMR Corporation	Common Stock	$1.00
NYSE	AR	ASARCO Incorporated	Common Stock	None.
NYSE	ABT	Abbott Laboratories	Common Stock	None.
NYSE	AMT	Acme-Cleveland Corporation	Common Stock	$1.00
NYSE	AMD	Advanced Micro Devices, Inc	Common Stock	$0.01
NYSE	AET	Aetna Life & Casualty Company	Common Stock	None.
NYSE	AHM	Ahmanson (H.F.) & Company	Common Stock	None.
NYSE	APD	Air Productis & Chemicals, Inc	Common Stock	$1.00
NYSE	ACV	Alberto-Culver Company	Common Stock	None.
			Class A Common Stock	$0.22
			Class B Common Stock	$0.22
NYSE	ABS	Albertson's, Incorporated	Common Stock	$1.00
NYSE	AL	Alcan Aluminum Limited	Common Stock	None.
NYSE	ASN	Alco Standard Corporation	Common Stock	None.
NYSE	AAL	Alexander & Alexander Services Inc	Common Stock	$1.00
NYSE	ALD	Allied-Signal Inc	Common Stock	$1.00
NYSE	AA	Aluminum Company of America (Alcoa)	Common Stock	$1.00

[10] *See* Securities Exchange Act Release No. 27383, (October 26, 1989).

[11] *See* Securities Exchange Act Release No. 22417 (September 16, 1985), 50 FR 38640 which announced the Commission's willingness to grant UTP on OTC securities if certain conditions were met.

[12] *See* Securities Exchange Act Release No. 24407 (April 24, 1987), 52 FR 17349 which approved a Midwest Stock Exchange application for UTP on 25 OTC issues subject to the development of a joint transaction reporting plan to accommodate such trading.

[13] Rather, as noted, above, one positive result of such trading could be increased liquidity in the subject securities and reduced volatility.

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	AMX	AMAX Inc.	Common Stock	$1.00
AMEX	AMH	Amdahl Corporation	Common Stock	$0.05
NYSE	AHC	Amerada Hess Corporation	Common Stock	$1.00
NYSE	AMB	American Brands, Inc.	Common Stock	$1.56
NYSE	ACY	American Cyanamid Company	Common Stock	$5.00
NYSE	AEP	American Electric Power Company, Inc.	Common Stock	$6.50
NYSE	AXP	American Express Company	Common Stock	$0.60
NYSE	AGC	American General Corporation	Common Stock	$0.50
NYSE	AHP	American Home Products Corporation	Common Stock	0.33⅓
NYSE	AIG	American International Group, Inc.	Common Stock	$2.50
NYSE	ASC	American Stores Company	Common Stock	$1.00
NYSE	T	American Telephone and Telegraph Company	Common Stock	$1.00
NYSE	AIT	American Information Technologies Corporation	Common Stock	$1.00
NYSE	AN	Amoco Corporation	Common Stock	None.
NASDAQ	ANDW	Andrew Corporation	Common Stock	$0.01
NYSE	BUD	Anheuser-Busch Companies, Inc.	Common Stock	$1.00
NASDAQ	AAPL	Apple Computer, Inc.	Common Stock	None.
NYSE	ADM	Archer-Daniels-Midland Company	Common Stock	None.
NYSE	ALG	Arkla, Inc.	Common Stock	$0.625
NYSE	AS	Armco Inc.	Common Stock	$1.00
NYSE	ACK	Armstrong World Industries, Inc.	Common Stock	$1.00
NYSE	ASH	Ashland Oil, Inc.	Common Stock	$1.00
NYSE	ARC	Atlantic Richfield Company	Common Stock	$2.50
NYSE	AUD	Automatic Data Processing, Inc.	Common Stock	$0.10
NYSE	AVY	Avery International Corporation	Common Stock	$1.00
NYSE	AVP	Avon Products, Inc.	Common Stock	$0.50
NYSE	BHI	Baker Hughes Incorporated	Common Stock	$1.00
NYSE	BLL	Ball Corporation	Common Stock	None.
NYSE	BLY	Bally Manufacturing Corporation	Common Stock	$0.66⅔
NYSE	BGE	Baltimore Gas and Electric Company	Common Stock	None.
NYSE	ONE	Banc One Corporation	Common Stock	None.
NYSE	BKB	Bank of Boston Corporation	Common Stock	$2.25
NYSE	BAC	BankAmerica Corporation	Common Stock	$1.5625
NYSE	BT	Bankers Trust New York Corporation	Common Stock	$10.00
NYSE	BCR	Bard (C.R.), Inc.	Common Stock	$0.25
NYSE	BBI	Barnett Banks, Inc.	Common Stock	$2.00
NASDAQ	BSET	Bassett Furniture Industries, Incorporated	Common Stock	$5.00
NYSE	BOL	Bausch & Lomb Incorporated	Common Stock	$0.40
NYSE	BAX	Baxter International Inc.	Common Stock	$1.00
NYSE	BOX	Becton, Dickinson and Company	Common Stock	$1.00
NYSE	BEL	Bell Atlantic Corporation	Common Stock	$1.00
NYSE	BLS	BellSouth Corporation	Common Stock	$1.00
NYSE	BMS	Bemis Company, Inc.	Common Stock	$0.10
NYSE	BNL	Beneficial Corporation	Common Stock	$1.00
NYSE	BS	Bethlehem Steel Corporation	Common Stock	$1.00
NYSE	BEV	Beverly Enterprises	Common Stock	$0.10
NYSE	BDK	Black & Decker Corporation (The)	Common Stock	$0.50
NYSE	HRB	Block (H & R), Inc.	Common Stock	None.
NYSE	BA	Boeing Company (The)	Common Stock	$5.00
NYSE	BCC	Boise Cascade Corporation	Common Stock	$2.50
NYSE	BN	Borden, Inc.	Common Stock	$1.25
NYSE	BGG	Briggs & Stratton Corporation	Common Stock	$3.00
NYSE	BMY	Bristol-Myers Company	Common Stock	$0.10
NYSE	BNS	Brown & Sharpe Manufacturing Company	Common Stock	$1.00
			Class A Common Stock	$1.00
			Class B Common Stock	$1.00
NYSE	BG	Brown Group, Inc.	Common Stock	$3.75
NYSE	BFB	Brown-Forman, Inc.	Class B Common Stock	$0.15
AMEX	BFI	Browning-Ferris Industries, Inc.	Common Stock	$.016⅔
NYSE	BC	Brunswick Corporation	Common Stock	None.
NYSE	BNI	Burlington Northern Inc.	Common Stock	None.
NYSE	CBS	CBS Inc.	Common Stock	$2.50
NYSE	CI	CIGNA Corporation	Common Stock	$1.00
NYSE	CNA	CNA Financial Corporation	Common Stock	$2.50
NYSE	CPC	CPC International Inc.	Common Stock	$0.25
NYSE	CSX	CSX Corporation	Common Stock	$1.00
NYSE	CPB	Campbell Soup Company	Common Stock	$0.30
NYSE	CCB	Capital Cities/ABC, Inc.	Common Stock	$1.00
NYSE	CPH	Capital Holding Corporation	Common Stock	$1.00
NYSE	CPL	Carolina Power & Light Company	Common Stock	None.
NYSE	CHH	Carter Hawley Hale Stores, Inc.	Common Stock	$0.01
NYSE	CAT	Caterpillar Inc.	Common Stock	None.
NYSE	CTX	Centex Corporation	Common Stock	$0.25
NYSE	CSR	Central & South West Corporation	Common Stock	$3.50
NYSE	CHA	Champion International Corporation	Common Stock	$0.50
NASDAQ	CHRS	Charming Shoppes Inc.	Common Stock	$0.10
NYSE	CMB	Chase Manhattan Corporation	Common Stock	$12.50
NYSE	CHL	Chemical Banking Corporation	Common Stock	$12.00
NYSE	CHV	Chevron Corporation	Common Stock	$3.00
NYSE	C	Chrysler Corporation	Common Stock	$1.00

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	CB	Chubb Corporation (The)	Common Stock	$1.00
NYSE	CMZ	Cincinnati Milacron Inc.	Common Stock	$1.00
NYSE	CC	Circuit City Stores, Inc.	Common Stock	$1.00
NYSE	CCI	Citicorp	Common Stock	$1.00
NYSE	CKL	Clark Equipment Company	Common Stock	$7.50
NYSE	CLX	Clorox Company (The)	Common Stock	$1.00
NYSE	CGP	Coastal Corporation (The)	Common Stock	$0.33⅓
NYSE	KO	Coca-Cola Company (The)	Common Stock	$1.00
NYSE	CL	Colgate-Palmolive Company	Common Stock	$1.00
NYSE	CG	Columbia Gas System, Inc. (The)	Common Stock	$10.00
NYSE	CSP	Combustion Engineering, Inc.	Common Stock	$1.00
NYSE	CMCSA	Comcast Corporation	Class A Common Stock	$1.00
NYSE	CWE	Commonwealth Edison Company	Common Stock	$12.50
NYSE	CMY	Community Psychiatric Centers	Common Stock	$1.00
NYSE	CPQ	COMPAQ Computer Corporation	Common Stock	$0.01
NYSE	CA	Computer Associates International, Inc.	Common Stock	$0.10
NYSE	CSC	Computer Sciences Corporation	Common Stock	$1.00
NYSE	CAG	ConAgra, Inc.	Common Stock	$5.00
NYSE	ED	Consolidated Edison Company of New York, Inc.	Common Stock	$2.50
NYSE	CNF	Consolidated Freightways, Inc.	Common Stock	$0.625
NYSE	CNG	Consolidated Natural Gas Company	Common Stock	$2.75
NYSE	CRR	Consolidated Rail Corporation	Common Stock	$1.00
NYSE	CIC	Continental Corporation (The)	Common Stock	$1.00
NYSE	CDA	Control Data Corporation	Common Stock	$0.50
NYSE	CBE	Cooper Industries, Inc.	Common Stock	$5.00
NASDQ	ACCOB	Coors (Adolph) Company	Class B Common Stock	None.
NYSE	GLW	Corning Glass Works	Common Stock	$5.00
NYSE	CBL	Corroon & Black Corporation	Common Stock	$0.12½
NYSE	CR	Crane Co.	Common Stock	$1.00
NYSE	CYR	Cray Research, Inc.	Common Stock	$1.00
NYSE	CTCO	Cross & Trecker Corporation	Common Stock	$1.00
NYSE	CCK	Crown Cork & Seal Company, Inc.	Common Stock	$5.00
NYSE	CUM	Cummins Engine Company, Inc.	Common Stock	$2.50
NYSE	CYM	Cyprus Minerals Company	Common Stock	None.
NASDAQ	DIGI	DSC Communications Corporation	Common Stock	$0.01
NYSE	DCN	Dana Corporation	Common Stock	$1.00
NYSE	DGN	Data General Corporation	Common Stock	$0.01
NYSE	DFT	Datapoint Corporation	Common Stock	$0.25
NYSE	DH	Dayton Hudson Corporation	Common Stock	$1.00
NYSE	DE	Deere & Company	Common Stock	$1.00
NYSE	DAL	Delta Air Lines, Inc.	Common Stock	$3.00
NYSE	DLX	Deluxe Corporation	Common Stock	$1.00
NYSE	DTE	Detroit Edison Company (The)	Common Stock	$10.00
NYSE	DEC	Digital Equipment Corporation	Common Stock	$1.00
NYSE	DDS	Dillard Department Stores Inc	Class A Common Stock	None.
NYSE	D	Dominion Resources, Inc	Common Stock	None.
NYSE	DNY	Donnelley (R.R.) & Sons Company	Common Stock	$1.25
NYSE	DOV	Dover Corporation	Common Stock	$1.00
NYSE	DOW	Dow Chemical Company (The)	Common Stock	$2.50
NYSE	DJ	Dow Jones & Company, Inc.	Common Stock	$1.00
NYSE	DI	Dresser Industries, Inc.	Common Stock	$0.25
NYSE	DD	du Pont (E.I.) de Nemours and Company	Common Stock	$1.66⅔
NYSE	DUK	Duke Power Company	Common Stock	None.
NYSE	DNB	Dun & Bradstreet Corporation	Common Stock	$1.00
NYSE	EGG	EG&G, Inc.	Common Stock	$1.00
NYSE	ESY	E-System, Inc	Common Stock	$1.00
NYSE	ENS	ENSERCH Corporation	Common Stock	$4.45
NYSE	EFU	Eastern Enterprises	Common Stock	$1.00
NYSE	EK	Eastman Kodak Company	Common Stock	$2.50
NYSE	ETN	Eaton Corporation	Common Stock	$0.50
NYSE	ECH	Echlin Inc	Common Stock	$1.00
NYSE	ECL	Ecolab Inc	Common Stock	$1.00
NYSE	EMR	Emerson Electric Co	Common Stock	$1.00
NYSE	EC	Englehard Corporation	Common Stock	$1.00
NYSE	ENE	Enron Corp	Common Stock	$10.00
NYSE	ETR	Entergy Corporation	Common Stock	$5.00
NYSE	EY	Ethyl Corporation	Common Stock	$1.00
NYSE	XON	Exxon Corporation	Capital Stock	None.
NYSE	FMC	FMC Corporation	Common Stock	$0.10
NYSE	FPL	FPL Group, Inc	Common Stock	$.01
NYSE	FJQ	Fedders Corporation	Common Stock	$1.00
NYSE	FDX	Federal Express Corporation	Common Stock	$0.10
NYSE	FNM	Federal National Mortgage Association	Common Stock	None.
NYSE	FBO	Federal Paper Board Company, Inc	Common Stock	$5.00
NYSE	FNB	First Chicago Corporation	Common Stock	$5.00
NYSE	FFB	First Fidelity Bancorporation	Common Stock	$1.00
NYSE	I	First Interstate Bancorp	Common Stock	$2.00
NYSE	FRM	First Mississippi Corporation	Common Stock	$1.00
NYSE	FTU	First Union Corporation	Common Stock	$3.33⅓
NYSE	FNB	Fleet/Norstar Financial Group, Inc	Common Stock	$1.00

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	LTD	Limited, Inc. (The)	Common Stock	None.

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EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	FLE	Fleetwood Enterprises, Inc	Common Stock	$1.00
NYSE	FLM	Fleming Companies, Inc	Common Stock	$2.50
NYSE	FLR	Flour Corporation	Common Stock	$0.62½
NYSE	F	Ford Motor Company	Common Stock	$1.00
NYSE	FWC	Foster Wheeler Corporation	Common Stock	$1.00
NYSE	GTE	GTE Corporation	Common Stock	$0.10
NYSE	GCI	Gannett Co., Inc	Common Stock	$1.00
NYSE	GPS	Gap, Inc. (The)	Common Stock	$0.05
NYSE	GNE	Genentch, Inc	Common Stock	$0.02
NYSE	GCN	General Cinema Corporation	Common Stock	$1.00
NYSE	GD	General Dynamics Corporation	Common Stock	$1.00
NYSE	GE	General Electric Company	Common Stock	$0.63
NYSE	GRL	General Instrument Corporation	Common Stock	$1.00
NYSE	GIS	General Mills, Inc	Common Stock	$0.75
NYSE	GM	General Motors Corporation	Common Stock	$1.66⅔
NYSE	GRN	General Re Corporation	Common Stock	$0.50
NYSE	GSX	General Signal Corporation	Common Stock	$1.00
NYSE	GCO	Genesco incorporated	Common Stock	$1.00
NYSE	GPC	Genuine Parts Company	Common Stock	$1.00
NYSE	GP	Georgia-Pacific Corporation	Common Stock	$0.80
NYSE	GEB	Gerber Products Company	Common Stock	$2.50
AMEX	GFSA	Giant Food, Inc	Class A Common Stock	$1.00
NYSE	GS	Gillette Company (The)	Common Stock	$1.00
NYSE	GDW	Golden West Financial Corporation	Common Stock	$0.10
NYSE	GR	Goodrich (B.F.) Company, (The)	Common Stock	$5.00
NYSE	GT	Goodyear Tire & Rubber Company (The)	Common Stock	None.
NYSE	GRA	Grace (W.R.) & Co	Common Stock	$1.00
NYSE	GWW	Grainger (W.W.), Inc	Common Stock	$1.00
NYSE	GAP	Great Atlantic & Pacific Tea Company, Inc. (The)	Common Stock	$1.00
NYSE	GNN	Great Northern Nekoosa Corporation	Common Stock	$2.50
NYSE	GWF	Great Western Financial Corporation	Common Stock	$1.00
NYSE	G	Greyhound Corporation (The)	Common Stock	$1.50
NYSE	GQ	Grumman Corporation	Common Stock	$1.00
NYSE	HAL	Halliburton Company	Common Stock	$2.50
NYSE	HDL	Handleman Company	Common Stock	$0.01
NYSE	HBJ	Harcourt Brach Jovanovich, Inc	Common Stock	$1.00
NYSE	HRS	Harris Corporation	Common Stock	$1.00
NYSE	HMX	Hartmanx Corporation	Common Stock	$2.50
AMEX	HAS	Hasbro Inc	Common Stock	$0.50
NYSE	HNZ	Heinz (H.J.) Company	Common Stock	$0.50
NYSE	HP	Helmerich & Payne, Inc	Common Stock	$0.10
NYSE	HPC	Hercules Incorporated	Common Stock	None.
NYSE	HSY	Hershey Foods Corporation	Common Stock	$1.00
NYSE	HWP	Hewlett-Packard Company	Common Stock	$1.00
NYSE	HLT	Hilton Hotels Corporation	Common Stock	$2.50
NYSE	HIA	Holiday Corporation	Common Stock	$1.50
NYSE	HD	Home Depot, Inc. (The)	Common Stock	$0.05
NYSE	HM	Homestake Mining Company	Common Stock	$1.00
NYSE	HON	Honeywell Inc	Common Stock	$1.50
NYSE	HI	Household International, Inc	Common Stock	$1.00
NYSE	HOU	Houston Industries Incorporated	Common Stock	None.
NYSE	HUM	Humana Inc	Common Stock	$0.16⅔
NYSE	ISS	INTERCO, INCORPORATED	Common Stock	None.
NYSE	ITT	ITT Corporation	Common Stock	$1.00
NYSE	ITW	Illinois Tool Works Inc	Common Stock	None.
NYSE	N	Inco Limited	Common Stock	None.
NYSE	IR	Ingersoll-Rand Company	Common Stock	$2.00
NYSE	IAD	Inland Steel Industries, Inc	Common Stock	$1.00
NASDAQ	INTC	Intel Corporation	Capital Stock	None.
NASDAQ	INGR	Intergraph Corporation	Common Stock	$0.10
NYSE	IK	Interlake Corporation	Common Stock	$1.00
NYSE	IBM	International Business Machines Corporation	Common Stock	$1.25
NYSE	IFF	International Flavors & Fragrances Inc	Common Stock	$0.125
NYSE	IGL	International Minerals & Chemical Corporation	Common Stock	$5.00
NYSE	IP	International Paper Company	Common Stock	$1.00
NYSE	JR	James River Corporation of Virginia	Common Stock	$0.10
NYSE	JP	Jefferson-Pilot Corporation	Common Stock	$1.25
NYSE	JNJ	Johnson & Johnson	Common Stock	$1.00
NYSE	JCI	Johnson Controls, Inc	Common Stock	$0.16⅔
NYSE	JOS	Jostens, Inc	Common Stock	$0.33⅓
NYSE	KM	K mart Corporation	Common Stock	$1.00
NYSE	KBH	Kaufman and Broad Home Corporation	Common Stock	$1.00
NYSE	K	Kellogg Company	Common Stock	$0.25
NYSE	KMG	Kerr-McGee Corporation	Common Stock	$1.00
NYSE	KMB	Kimberly-Clark Corporation	Common Stock	$1.25
NYSE	KWP	King World Productions, Inc	Common Stock	$0.01
NYSE	KRI	Knight-Ridder, Inc	Common Stock	$0.02½
NYSE	KR	Kroger Co. (The)	Common Stock	$1.00
NASDAQ	LINB	LIN Broadcasting Corporation	Common Stock	$0.01
NYSE	LLY	Lilly (Eli) and Company	Common Stock	$0.62½

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	LTD	Limited, Inc. (The)	Common Stock	None.
NYSE	LNC	Lincoln National Corporation	Common Stock	$.125
NYSE	LIT	Litton Industries, Inc	Common Stock	$1.00
NASDAQ	LIZC	Liz Claiborne, Inc	Common Stock	$1.00
NYSE	LK	Lockheed Corp	Common Stock	$1.00
NYSE	LCE	Lone Star Industries, Inc	Common Stock	$1.00
NYSE	LDG	Longs Drug Stores Corp	Common Stock	None.
NYSE	LOR	Loral Corporation	Common Stock	$0.25
NASDAQ	LOTS	Lotus Development Corporation	Common Stock	$0.01
NYSE	LLX	Louisiana Land & Exploration Company (The)	Capital Stock	$0.15
NYSE	LPX	Louisiana-Pacific Corporation	Common Stock	$1.00
NYSE	LOW	Lowe's Companies, Inc	Common Stock	$0.50
NYSE	LUB	Luby's Cafeterias, Inc	Common Stock	$0.32
NYSE	MAI	M/A-Com, Inc	Common Stock	$1.00
NYSE	MCA	MCA Inc	Common Stock	None.
NASDAQ	MCIC	MCI Communication Corporation	Common Stock	$0.10
NYSE	MNR	Manor Care, Inc	Common Stock	$0.10
NYSE	MHC	Manufacturers Hanover Corporation	Common Stock	$1.00
NYSE	MHS	Marriott Corporation	Common Stock	$1.00
NYSE	MMC	Marsh & McLennan Companies, Inc	Common Stock	$1.00
NYSE	ML	Martin Marietta Corporation	Common Stock	$1.00
NYSE	MAS	Masco Corporation	Common Stock	$1.00
NYSE	MAT	Mattel, Inc	Common Stock	$1.00
NYSE	MXS	Maxus Energy Corporation	Common Stock	$1.00
NYSE	MA	May Department Stores Company (The)	Common Stock	$1.66⅔
NYSE	MYG	Maytag Corporation	Common Stock	$1.25
NYSE	MDR	McDermott International, Inc	Common Stock	$1.00
NYSE	MCD	McDonald's Corporation	Common Stock	None.
NYSE	MD	McDonnell Douglas Corporation	Common Stock	$1.00
NYSE	MHP	McGraw-Hill, Inc	Common Stock	$1.00
NYSE	MCK	McKesson Corporation	Common Stock	$2.00
NYSE	MEA	Mead Corporation (The)	Common Stock	None.
NYSE	MDT	Medtronic, Inc	Common Stock	$.10
NYSE	MEL	Mellon Bank Corporation	Common Stock	$.50
NYSE	MES	Melville Corporation	Common Stock	$1.00
NYSE	MST	Mercantile Stores Company, Inc	Common Stock	$.35⅓
NYSE	MRK	Merck & Co., Inc	Common Stock	$.00
NYSE	MOP	Meredith Corporation	Common Stock	$1.00
NYSE	MER	Merrill Lynch & Co., Inc	Common Stock	$1.33⅓
NYSE	MIL	Millipore Corporation	Common Stock	$1.00
NYSE	MMM	Minnesota Mining & Manufacturing Company	Common Stock	None.
NYSE	MOB	Mobile Corporation	Common Stock	$2.00
NYSE	MMO	Monarch Machine Tool Company (The)	Common Stock	None.
NYSE	MTC	Monsanto Company	Common Stock	$2.00
NYSE	MCL	Moore Corporation Limited	Common Stock	None.
NYSE	JPM	Morgan (J.P.) & Co. Incorporated	Common Stock	$2.50
NYSE	MII	Morton International, Inc	Common Stock	$1.00
NYSE	MOT	Motorola, Inc	Common Stock	$3.00
NYSE	NBO	NBO Bancorp, Inc	Common Stock	$1.00
NYSE	NCB	NCNB Corporation	Common Stock	$2.50
NYSE	NCR	NCR Corporation	Common Stock	$5.00
NYSE	GAS	NICOR Inc	Common Stock	$5.00
NYSE	NL	NL Industries, Inc	Common Stock	$.125
NYSE	NC	NACCO Industries, Inc	Class A Common Stock	$1.00
NYSE	NEC	National Education Corporation	Common Stock	$.01
NYSE	NII	National Intergroup, Inc	Common Stock	$5.00
NYSE	NME	National Medical Enterprises, Inc	Common Stock	$.15
NYSE	NSM	National Semiconductor Corporation	Common Stock	$.50
NYSE	NSI	National Service Industries, Inc	Common Stock	$1.00
NYSE	NAV	Navistar International Corporation	Common Stock	$1.00
AMEX	NYTA	New York Times Company (The)	Class A Common Stock	$.10
NYSE	NWL	Newell Co	Common Stock	$1.00
NYSE	NEM	Nemone Mining Corporation	Common Stock	$1.40
NYSE	NMK	Niagara Mohawk Power Corporation	Common Stock	$1.00
NASDAQ	NIKE	NIKE, Inc	Class A Common Stock	None.
			Class B Common Stock	None.
NASDAQ	NOBE	Nordstrom, Inc	Common Stock	None.
NYSE	NSC	Norfolk Southern Corporation	Common Stock	$1.00
NYSE	NSP	Northern States Power Company	Common Stock	$2.50
NYSE	NT	Northern Telecom Limited	Common Stock	None.
NYSE	NOC	Northrop Corporation	Common Stock	$1.00
NYSE	NRT	Norton Company	Common Stock	$5.00
NYSE	NOB	Norwest Corporation	Common Stock	$1.00⅔
NASDAQ	NOXLB	Noxell Corporation	Class B Common Stock	$1.00
NYSE	NUE	Nucor Corporation	Common Stock	$.40
NYSE	NYN	NYNEX Corporation	Common Stock	$1.00
NYSE	OKE	ONEOK Inc	Common Stock	None.
NYSE	OXY	Occidental Petroleum Corporation	Common Stock	$.20
NYSE	OG	Ogden Corporation	Common Stock	$.50
NYSE	OEC	Ohio Edison Company	Common Stock	$0.00

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NASDAQ	ORCL	Oracle Systems Corporation	Common Stock	$.01
NYSE	ORX	Oryx Energy Company	Common Stock	$1.00
NASDAQ	GOSHA	Oshkosh B'Gosh, Inc.	Class A Common Stock	$.01
NYSE	OM	Outboard Marine Corporation	Common Stock	$.30
NYSE	OCF	Owens-Corning Fiberglass Corporation	Common Stock	$.10
NASDAQ	PCAR	PACCAR Inc	Common Stock	$12.00
NYSE	PHM	PHM Corporation	Common Stock	$.01
NYSE	PNC	PNC Financial Corp.	Common Stock	$5.00
NYSE	PPG	PPG Industries, Incorporated	Common Stock	$1.66⅔
NYSE	PIN	PSI Moldings, Inc.	Common Stock	None.
NYSE	PPW	PacifiCorp	Common Stock	$3.25
NYSE	PET	Pacific Enterprises	Common Stock	None.
NYSE	PCG	Pacific Gas & Electric Company	Common Stock	$10.00
NYSE	PAC	Pacific Telesis Group	Common Stock	$.10
AMEX	PLL	Pall Corporation	Common Stock	$.25
NYSE	PN	Pan Am Corporation	Common Stock	$.25
NYSE	PEL	Panhandle Eastern Corporation	Common Stock	$1.00
NYSE	PCI	Paramount Communications Inc.	Common Stock	$1.00
NYSE	PH	Parker Hannifin Corporation	Common Stock	$.50
NYSE	JCP	Penney (J.C.) Company, Inc.	Common Stock	$.50
NYSE	PZL	Pennzoil Company	Common Stock	$.83⅓
NYSE	PGL	Peoples Energy Corporation	Common Stock	None.
NYSE	PEP	PepsiCo. Inc.	Common Stock	$.05
NYSE	PKN	Perkin-Elmer Corporation (The)	Common Stock	$1.00
NYSE	PFE	Pfizer Inc.	Common Stock	$.10
NYSE	PD	Phelps Dodge Corporation	Common Stock	$6.25
NYSE	PE	Philadelphia Electric Company	Common Stock	None.
NYSE	MO	Philip Morris Companies, Inc.	Common Stock	$1.00
NYSE	PHL	Philips Industries Inc. (Ohio)	Common Stock	None.
NYSE	P	Phillips Petroleum Company	Common Stock	$1.25
NYSE	PBI	Pitney Bowes, Inc.	Common Stock	$2.00
NYSE	PCO	Pittston Company (The)	Common Stock	$1.00
NYSE	PDG	Placer Dome Inc.	Common Stock	$0.00
NYSE	PRD	Polaroid Corporation	Common Stock	$1.00
NYSE	PCH	Potlatch Corporation	Common Stock	$1.00
NYSE	PMI	Premark International, Inc.	Common Stock	$1.00
NASDAQ	PCLB	Price Company (The)	Common Stock	None.
NYSE	PDQ	Prime Motor Inns, Inc.	Common Stock	$.05
NYSE	PA	Primerica Corporation	Common Stock	$.01
NYSE	PG	Procter & Gamble Company (The)	Common Stock	None.
NYSE	PEG	Public Service Enterprise Group Incorporated	Common Stock	None.
NYSE	OAT	Quaker Oats Company (The)	Common Stock	$5.00
NYSE	CUE	Quantum Chemical Corporation	Common Stock	$2.50
NYSE	RAL	Ralston Purina Company	Common Stock	$.41⅔
NYSE	RAM	Ramada Inc.	Common Stock	$.10
NYSE	RYC	Raychem Corporation	Common Stock	None.
NYSE	RTN	Raytheon Company	Common Stock	$1.00
NYSE	RBK	Reebok International Ltd.	Common Stock	$.01
NYSE	RLM	Reynolds Metals Company	Common Stock	None.
NYSE	RAD	Rite Aid Corporation	Common Stock	$1.00
NASDAQ	ROAD	Roadway Services, Inc.	Common Stock	None.
NYSE	ROK	Rockwell International Corporation	Common Stock	$1.00
NYSE	ROH	Rohm & Haas Company	Common Stock	$2.50
NYSE	REN	Rollins Environmental Services, Inc.	Common Stock	$1.00
NYSE	RDC	Rowan Companies, Inc.	Common Stock	$.12½
NYSE	RD	Royal Dutch Petroleum Co.	Share Capital	5 Guilders.
NYSE	RBD	Rubbermaind Incorporated	Common Stock	$1.00
NYSE	RML	Russell Corporation	Common Stock	$.01
NYSE	R	Ryder System, Inc.	Common Stock	$.50
NASDAQ	SAFC	SAFECO Corporation	Common Stock	$5.00
NYSE	SCE	SCE Corp	Common Stock	$4½
NYSE	SPW	SPX Corporation	Common Stock	$10.00
NYSE	SK	Safety-Kleen Corp.	Common Stock	$.10
NYSE	SB	Salomon Inc.	Common Stock	$1.00
NYSE	SFX	Santa Fe Pacific Corporation	Common Stock	$1.00
NYSE	SLE	Sara Lee Corporation	Common Stock	$1.33⅓
NYSE	SGP	Shering-Plough Corporation	Common Stock	$1.00
NYSE	SLB	Schlumberger Limited	Common Stock	$.01
NYSE	SFA	Scientific-Atlanta Inc.	Common Stock	$.50
NYSE	SPP	Scott Paper Company	Common Stock	None.
NYSE	VO	Seagram Company Ltd. (The)	Common Stock	None.
NYSE	S	Sears, Roebuck & Co.	Common Stock	$.75
NYSE	SPC	Security Pacific Corporation	Common Stock	$10.00
NYSE	SRV	Service Corporation International	Common Stock	$1.00
NASDAQ	SMED	Shared Medical Systems Corporation	Common Stock	$.01
NYSE	SNC	Shawmut National Corporation	Common Stock	$.01
NYSE	SHW	Sherwin-Williams Company (The)	Common Stock	$1.00
NYSE	SHN	Shoney's, Inc.	Common Stock	$1.00
NYSE	SKY	Skyline Corporation	Common Stock	$.0277
NYSE	SNA	Snap-On Tools Corporation	Common Stock	$1.00

EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	SNT	Sonat Inc.	Common Stock	$1.00
NYSE	SO	Southern Company (The)	Common Stock	$5.00
NYSE	SBC	Southwestern Bell Corporation	Common Stock	$1.00
NYSE	SOV	Sovran Financial Corporation	Common Stock	$5.00
NYSE	SMI	Springs Industries, Inc.	Common Stock	$0.50
			Class A Common Stock	$0.25
			Class B Common Stock	$0.25
NYSE	SQD	Square D Company	Common Stock	$1.66⅔
NASDAQ	STPL	St. Paul Companies, Inc. (The)	Common Stock	None.
NYSE	SWK	Stanley Works (The)	Common Stock	$2.50
NYSE	STO	Stone Container Corporation	Common Stock	None.
NYSE	SUN	Sun Company, Inc.	Common Stock	$1.00
NYSE	STI	SunTrust Bank, Inc.	Common Stock	$1.00
NYSE	SVU	Super Valu Stores, Inc.	Common Stock	$1.00
NYSE	SYN	Syntex Corporation	Common Stock	$1.00
NYSE	SYY	Sysco Corporation	Common Stock	$1.00
NYSE	TJX	TJX Companies, Inc. (The)	Common Stock	$1.00
NYSE	TRW	TRW Inc.	Common Stock	$0.625
NYSE	TDM	Tandem computers Incorporated	Common Stock	$0.02½
NYSE	TAN	Tandy Corporation	Common Stock	$1.00
NYSE	TEK	Tektronix, Inc.	Common Stock	None.
NASDAQ	TCOMA	Tele-Communications, Inc.	Class A Common Stock	$1.00
NYSE	TDY	Teledyne, Inc.	Common Stock	$1.00
NYSE	TIN	Temple-Inland Inc.	Common Stock	$1.00
NYSE	TGT	Tenneco Inc.	Common Stock	$5.00
NYSE	TX	Texaco Inc.	Common Stock	$6.25
NYSE	TXN	Texas Instruments Incorporated	Common Stock	$1.00
NYSE	TXU	Texas Utilities Company	Common Stock	None.
NYSE	TXT	Textron Inc.	Common Stock	$0.12½
NYSE	TNB	Thomas & Betts Corp.	Common Stock	$0.50
NYSE	TL	Time Incorporated	Common Stock	$1.00
NYSE	TMC	Times Mirror Company (The)	Series A Common Stock	None.
NYSE	TKR	Timken Company (The)	Common Stock	None.
NYSE	TKA	Tonka Corporation	Common Stock	$0.66⅔
NYSE	TMK	Torchmark Corporation	Common Stock	$2.00
NYSE	TOY	Toys "R" Us, Inc.	Common Stock	$0.10
NYSE	TA	Transamerica Corporation	Common Stock	$1.00
NYSE	TIC	Travelers Corporation (The)	Common Stock	$1.25
NYSE	TRB	Tribune Company	Common Stock	None.
NYSE	TNV	Trinova Corporation	Common Stock	$5.00
NYSE	TYC	Tyco Laboratories, Inc.	Common Stock	$0.50
NYSE	FG	USF&G Corporation	Common Stock	$2.50
NYSE	UAL	UAL Corporation	Common Stock	$5.00
NYSE	USW	US West, Inc.	Common Stock	None.
NYSE	U	USAir Group, Inc.	Common Stock	$1.00
NYSE	USG	USG Corporation	Common Stock	$0.10
NYSE	USH	USLIFE Corporation	Common Stock	$1.00
NYSE	UST	UST Inc.	Common Stock	$0.50
NYSE	X	USX Corporation	Common Stock	$1.00
NYSE	UN	Unilever N.V.	Ordinary Shares	$4 Guilders.
NYSE	UCC	Union Camp Corporation	Common Stock	$1.00
NYSE	UK	Union Carbide Corporation	Common Stock	$1.00
NYSE	UNP	Union Pacific Corporation	Common Stock	$2.50
NYSE	UIS	Unisys Corporation	Common Stock	$5.00
NYSE	UH	U.S. Home Corporation	Common Stock	$0.10
NYSE	UTX	United Technologies Corporation	Common Stock	$5.00
NYSE	UT	United Telecommunication, Inc.	Common Stock	$2.50
NYSE	UCL	Unocal Corporation	Common Stock	$1.00
NYSE	UPJ	Upjohn Company (The)	Common Stock	$1.00
NYSE	VFC	V.F. Corporation	Common Stock	None.
NYSE	VAT	Varity Corporation	Common Stock	None.
NYSE	WMT	Wal-Mart Stores, Inc.	Common Stock	$0.10
NYSE	WAG	Walgreen Co.	Common Stock	$1.25
NYSE	DIS	The Walt Disney Company	Common Stock	$0.10
AMEX	WANB	Wang Laboratories, Inc.	Class B Common Stock	$0.50
NYSE	WLA	Warner-Lambert Company	Common Stock	$1.00
NYSE	WMX	Waste Management, Inc.	Common Stock	$1.00
NYSE	WFC	Well Fargo & Company	Common Stock	$5.00
NYSE	WEN	Wendy's International, Inc.	Common Stock	$0.10
NYSE	WX	Westinghouse Electric Corporation	Common Stock	$1.00
NASDAQ	WMOR	Westmoreland Coal Company	Common Stock	$2.50
NYSE	W	Westvaco Corporation	Common Stock	$5.00
NASDAQ	WETT	Wetterau, Incorporation	Common Stock	$1.00
NYSE	WY	Weyerhaeuser Company	Common Stock	$1.25
NYSE	WHR	Whirlpool Corporation	Common Stock	$1.00
NYSE	WH	Whitman Corporation	Common Stock	None.
NYSE	WMB	Williams Companies (The)	Common Stock	$1.00
NYSE	WIN	Winn-Dixie Stores, Incorporated	Common Stock	$1.00
NYSE	Z	Woolworth Corporation	Common Stock	$1.00
NASDAQ	WTHG	Worthington Industries, Inc.	Common Stock	$0.01

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EXHIBIT A—Continued

Traded	Ticker	Company	Security	Par value
NYSE	WWY	Wrigley (Wm.) Jr. Company	Common Stock	None.
NYSE	XRX	Xerox Corporation	Common Stock	$1.00
NASDAQ	Yell	Yellow Freight Systems, Inc. of Delaware	Common Stock	$1.00
NYSE	ZE	Zenith Electronics Corporation	Common Stock	$1.00
NYSE	ZRN	Zurn Industries, Inc.	Common Stock	$0.50
NASDAQ	RYAN	Ryan's Family Steak Houses, Inc.	Common Stock	$1.00
NYSE		Harnischfeger Industries, Inc.	Common Stock	$1.00

[FR Doc. 89-25606 Filed 10-30-89; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-27388; File No. SR-NSCC-89-08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change Providing for the Processing of Basket Trades

On June 7, 1989, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (SR-NSCC-89-08) with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On July 18, 1989, the Commission published notice of the proposal in the **Federal Register** to solicit comments from interested parties.[2] On August 24, 1989, NSCC submitted an amendment to its filing. No comments were received. As discussed below, the Commission is approving the amended proposal.

I. Description

NSCC proposed to revise its rules to enable it to clear and settle basket trades.[3] NSCC will accept locked-in basket trade data from an exchange[4] or a marketplace selfregulatory organization ("SRO"). NSCC will net reported basket trades so that each member will have either a net long position or a net short position in basket trades. After netting a member's basket trades, NSCC will "burst" the member's net basket position into its individual security components based on information received from the exchange or marketplace SRO.

The extent to which NSCC must burst a member's net basket position depends on the quotation off of which the member's basket trades were executed. For example, if a member executes a basket trade off of a quote established by a competitive basket market maker,[5] NSCC will receive a locked-in basket trade from the NYSE into its comparison system, and thus will be responsible for bursting the basket into its 500 component securities. If, on the other hand, a member executes a basket trade off of a Tier 1 or Tier 2 quote,[6] the NYSE will burst the basket into 461 separate locked-in trades for securities traded on the NYSE and one locked-in trade of a mini-basket of 39 securities that are not traded on the NYSE. NYSE will submit the 461 separate locked-in trades and the locked-in mini-basket trade to NSCC's comparison system. NSCC will then be responsible for bursting the mini-basket into its 38 component securities.

NSCC will issue a report ("Basket Trade Detail Report") to members showing the results of their basket trades on the day after the trade date ("T+1"). This report will contain, among other things, the member's net position with respect to basket trades, the individual security components of such net position, the individual and aggregate settlement value [7] for such components and any adjustment to basket trades or component securities as described below.

At the same time NSCC issues the Basket Trade Detail Report to its members, it also will issue a report to

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] *See* Securities and Exchange Act Release No. 27021 (July 11, 1989), 54 FR 30125.

[3] In its proposed rules, NSCC defines a "basket trade" as a trade in a group of securities that an exchange or marketplace self-regulatory organization [as defined in § 3(a)(26 of the Act. *See* 15 U.S.C. 78c (1982)] designates as eligible for execution in a single trade. The Commission has approved a proposal by the New York Stock Exchange ("NYSE") to begin trading a market basket product called Exchange Stock Portfolios ("ESPs"). *See* Securities Exchange Act Release No. 27382 (October 20, 1989), File No. SR-NYSE-89-05 ("Exchange Approval Order"). Although this Release refers only to the NYSE's ESPs, NSCC's filing is generic and its proposed rules would apply to all market basket products cleared and settled through NSCC.

[4] All comparison of ESP trade data will occur at the NYSE. The NYSE's method for comparing basket trades and its format for submission of data to NSCC depends upon whether the trade occurred between two market makers or between a market maker and the basket book broker ("BBB"). For example, two market makers who agree to a basket trade must bring the trade to the BBB for execution. The BBB executes the trade by entering it into his terminal on the floor of the NYSE. Entry of the trade will result in a report showing the two market makers as the counterparties to a locked-in basket trade. The NYSE takes this report, adds it to a file containing all of these reports, and passes this file to NSCC at the end of the day. Consequently, for market maker to market maker basket trades, NSCC receives basket trade reports from the NYSE that show the market makers as the counterparties to locked-in basket trades.

NYSE will use an omnibus comparison system for trades between market makers and the BBB, and has established a new omnibus account, TAB, for this purpose. After a market maker agrees to trade a basket with the BBB, the BBB will enter the trade into his terminal. This will create a report showing that the market maker bought or sold a basket from TAB. This also will automatically send a message to the specialists in the 461 component stocks traded on the NYSE informing them that their bids have been hit or their offers have been taken. Each specialist will see TAB as his counterpart, and must take or provide the appropriate number of shares either from his inventory or off his book. Similarly, the BBB also is notified that he must take or provide the 39 stocks that do not trade on the NYSE to TAB. All trades executed against TAB are locked-in trades.

The NYSE will create a file comprised of all NYSE locked-in omnibus basket trades and pass this file to NSCC at the end of the day. Thus, NSCC will see the market maker v. TAB on one side of the trade, and will see the appropriate specialist v. TAB, and the BBB v. TAB on the other side of the trade. NSCC will burst the market maker v. TAB position into 500 "pieces" and burst the BBB v. TAB position into 39 "pieces", thus allowing it to zero out the TAB account. Telephone conversation between John Limerick, NYSE, and Ross Pazzol, Attorney, Branch of Clearing Agency Regulation, Division of Market Regulation, SEC, on October 12, 1989.

[5] A competitive basket market maker has four specific market-making obligations: (1) Establish and maintain a course of dealings consistent with a fair and orderly market; (2) help alleviate temporary disparities between supply and demand; (3) effect proprietary trades in a reasonable and orderly manner in relation to the market in general and the basket market in particular; and (4) maintain a continuous, two-sided quotation in the basket within specified bid-ask parameters. *See* Exchange Approval Order at 8.

[6] Under NYSE's basket trading rules, each NYSE specialist has the obligation to contribute quotes in his specialty stock(s) for the purpose of facilitating market basket transactions. All of these contributed specialist quotes will comprise aggregate "Tier 1" and "Tier 2" basket quotes, and will consist of the prevailing bids and offers in all basket stocks as disseminated through the consolidated quotation system. When an aggregate Tier 1 quote is hit, a specialist must take or supply the number of shares of his specialty stocks needed to complete one basket. Similarly, when a Tier 2 quote is hit, each specialist must take or supply the number of shares of his specialty stocks needed to complete three baskets.

[7] The aggregate settlement value for each component security is equal to the product of the settlement price (*i.e.*, the current NSCC system price) of the component security and the number of shares of the component in the basket as reported by the exchange or marketplace SRO.

the BBB,[8] for its position in mini-baskets arising from trades executed off of Tier 1 or Tier 2 quotes. This report will contain the same information for mini-baskets that the Basket Trade Detail Report contains for basket trades as a whole. NSCC makes this information available to the BBBs so they can determine their net deliver and receive obligations for the securities comprising the mini-basket. If, however, a BBB executes a basket trade for his own account, the mini-basket component of his proprietary trades will not be netted with the mini-basket trades he executes pursuant to his function as a passive market maker for trades executed off of Tier 1 and Tier 2 quotes.

One result arising from a basket trading system in which a member must deliver or receive the component securities comprising the basket is that the value of the basket contract may differ from the settlement value of the component securities.[9] To eliminate that disparity, NSCC will make a cash adjustment for the difference between the contract value [10] of the market basket and the aggregate settlement values of all of the component securities. The cash adjustment will be collected and paid to the appropriate party on the settlement date.

After the component stocks are separated and assigned a settlement value, they are processed through NSCC with the member's other trades. Securities acquired or sold through basket trading will be netted with all of the member's other transactions in the same securities and entered into either NSCC's continuous net settlement ("CNS") system or balance order accounting system, as appropriate. The results of the processing cycle will be reported to the members on the appropriate compared trade summary on the morning of T+4.

Throughout the basket trade processing cycle, NSCC will be able to accept adjustment data from the exchange or marketplace SRO with respect to market basket transaction prices and the prices of the component securities. If NSCC makes an adjustment on T+4 or later which causes a change in the quantity of securities to be received or delivered, or the value to be received or delivered for a CNS-eligible security, the trade will settle two business days after such adjustment. If a similar adjustment is made to a component security which is a balance order security, NSCC will issue a trade-for-trade ticket between the original parties to the basket trade.

II. Rationale for the Proposal

NSCC believes its proposed rule change is consistent with the purposes and requirements of section 17A of the Act. Specifically, NSCC believes that its proposal will promote the prompt and accurate clearance and settlement of securities transactions by increasing the number of securities transactions that are subject to its efficient clearance and settlement procedures. NSCC also believes that its proposal will promote the safeguarding of funds and securities within its possession or control by subjecting market basket transactions to its risk assessment procedures and safeguards.

III. Discussion

The Commission believes that NSCC's proposal is consistent with section 17A of the Act and NSCC's obligation to promote the prompt and accurate clearance and settlement of securities transactions and to safeguard securities and funds in NSCC's custody and control. Accordingly, for the reasons discussed below, the Commission is approving NSCC's proposal.

Since the October 1987 market break, a number of studies have recommended creating a market basket product.[11] These studies suggest that such a product may, among other things, address the volatility and steep price declines experienced during and since October 1987.[12] These studies did not discuss the clearance and settlement issues raised by the development of a market basket product. It appears, however, that the feasibility of developing a workable market basket product is directly related to the development of a system that provides for the safe and efficient clearance and settlement of such products.[13] This order focuses on NSCC's proposed system.

The Commission believes that NSCC's procedures for processing market basket transactions will promote the prompt and accurate clearance and settlement of securities transactions. In general, NSCC's proposed procedures are substantially similar to its existing procedures for the clearance and settlement of equity securities transactions.

Notwithstanding the similarity between the procedures set forth in NSCC's proposal and its existing processing procedures, NSCC's proposal does contain some items that are unique to the clearance and settlement of market baskets. The first of these items concerns the manner in which NSCC will deal with the possibility that the aggregate value of the securities comprising the basket may differ from the value of the market basket contract. As described above,[14] NSCC will account for the possible disparity between these values by creating a cash adjustment equal to the amount of the disparity between the market basket contract price and the aggregate settlement values of the underlying component securities. The Commission believes this is appropriate because it enables NSCC to combine obligations arising out of market basket with obligations arising out of individual stock transactions for netting purposes while simultaneously allowing the purchaser or seller of the market basket to deliver or receive the agreed value of the component stocks comprising the basket.[15] Thus, the Commission believes NSCC's market basket cash adjustement mechanism enhances NSCC's ability to clear and settle securities transactions in a timely and accurate manner.

The second new item presented by NSCC's proposal is the fact that NSCC will be responsible for "bursting" a basket of 500 stocks into its individual security components within a relatively short time frame. NSCC will receive

[8] The BBB performs many of the same functions for market baskets performed by specialists for individual stocks. *See* Exchange Approval Order at 13-16.

[9] For example, assume a basket is comprised of two stocks, A and B, and that the market price of A is $50 and the market price of B is also $50. Assume also that the purchaser buys a market basket for $100 and that the last sale price of A and B at the end of the day was $50½. Because the purchaser would be obligated to deliver $101 on the settlement date, the purchaser would be entitled to receive a $1.00 cash adjustment from NSCC.

[10] At present, the current contract value of a NYSE market basket is $5 million.

[11] *See, e.g.*, N. Katzenbach, *An Overview of Program Trading and Its Impact on Current Market Practices* (December 21, 1987) and Division of Market Regulation, *The October 1987 Market Break* (February 1988). *See also* Report of the Presidential Task Force on Market Mechanisms (January 1988) and the Interim Report of the Working Group on Financial Markets (May 1988) for other reccommendations arising out of the October 1987 market break.

[12] *See* Exchange Approval Order, *supra*, note 7, for a more detailed discussion of the benefits of market basket products.

[13] This is because settlement of the ESP will involve the actual transfer of the component stocks underlying the ESP. *See* Exchange Approval Order at 2. Similarly, settlement of the Chicago Board Options Exchange's market basket product also will result in the transfer of the component stocks comprising the basket. *See* Securities Exchange Act Release No. 27383 (October 20, 1989), File No. SR-CBOE-89-20.

[14] *See* note 8, *supra*.

[15] The Commission notes that NSCC's cash adjustment procedure for market baskets is similar to NSCC's existing cash adjustment mechanism used in connection with its balance order and CNS systems. *See* NSCC Procedures at V and VII.

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data by 2:00 a.m. (Eastern Time) and for those members with automated output capacity, will be responsible for reporting a member's positions by 4:00 a.m. (Eastern Time). NSCC has represented to the Commission that its computer systems have the capacity to perform such functions and that such performance will not adversely affect NSCC's processing capabilities.[16] Thus, the Commission believes that this aspect of NSCC's proposal will not detract from NSCC's ability to promote the prompt and accurate clearance and settlement of securities transactions.

The Commission also believes that NSCC's procedures enable NSCC to safeguard securities and funds in its custody and control consistent with its obligations under the Act. Members desiring to trade market baskets are subject to the same financial responsibility and reporting requirements currently imposed on all NSCC members.[17] In addition, member's equity security deliver and receive obligations arising out of basket trading will be guaranteed by NSCC on midnight of the day after the trade date.[18] Members, therefore, will be exposed to the credit risk of their counterparty for only a short period of time. Moreover, NSCC will add a member's deliver and receive obligations arising out of basket trading to all of the member's other obligations for the purposes of calculating the member's required clearing fund contribution. In this way, NSCC will ensure that it will be covered for any additional exposure resulting from its member's market basket trading.[19]

For the reasons stated above, the Commission believes that NSCC's proposal is consistent with section 17A of the Act.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NSCC–89–08) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25604 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27389; File No. SR-OCC-89-10]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change Providing for the Clearance and Settlement of Market Baskets

On August 14, 1989, the Options Clearing Corporation ("OCC") filed a proposed rule change (SR–OCC–89–10) with the Commission pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on August 29, 1989 [2] to solicit comments from interested parties. On September 21, 1989 and October 13, 1989, OCC filed amendments to its proposal. No comments were received. As discussed below, the Commission is approving the amended proposal.

I. Introduction

OCC proposes to revise its rules to provide for the clearance and settlement of market baskets traded on the Chicago Board Options Exchange ("CBOE").[3] OCC's proposed By-laws define a "market basket" as a contract obligating the seller to sell and the purchaser to purchase a designated number of shares of each of the stocks comprising the index group on which the market basket is based.[4] Although market basket trades are purchases and sales of the component basket stocks, OCC will process market basket trades as if market baskets were exercised equity options, but will include market baskets as a class group within the non-equity option system for other purposes. To account for the differences between market baskets and options, OCC also proposes to add a new set of rules and procedures designed specifically to accommodate market baskets. These are described more fully below.

II. Description

OCC proposes to revise its rules so that clearing members involved in basket trading ("market basket clearing members") are subject to the same general requirements as OCC clearing members that trade non-equity options. For example, any clearing member desiring to trade market baskets first would have to obtain OCC's approval to do so. Before receiving such approval, each clearing member, among other things, would be required to meet OCC's minimum initial net capital requirements.[5] After receiving approval to trade market baskets, a market basket clearing member would have to deposit the minimum required contribution to OCC's non-equity securities clearing fund,[6] and maintain the level of minimum net capital required by OCC.[7] A market basket clearing member also would be required to maintain the records prescribed by OCC [8] and maintain a bank account in a clearing bank [9] for each of its market basket accounts.[10]

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[16] *See* letter from Robert A. Schultz, Executive Vice President, NSCC, to Ross Pazzol, Attorney, Branch of Clearing Agency Regulation, Division of Market Regulation, SEC, dated October 19, 1989.

[17] *See* NSCC Rule 15.

[18] NSCC will treat the burst stock positions of members involved in basket trading as being reported to NSCC as compared. Thus, NSCC will guarantee the performance of these transactions at midnight on T+1. *See* letter from Allison Hoffman, Associate Counsel, NSCC, to Ross Pazzol, Attorney, Branch of Clearing Agency Regulation, Division of Market Regulation, dated October 24, 1989. *Accord,* Securities Exchange Act of Release No. 27192 (August 29, 1989), 54 FR 37070.

[19] *See* NSCC Procedure XV. The Commission is concerned that NSCC's clearning fund calculation may not reflect a member's actual mark-to-the-market exposure because it allows NSCC to collect only a percentage of a member's mark-to-the-market exposure. NSCC currently calculates each member's mark-to-the-market exposure daily, but only collects mark-to-the-market payments on the settlement date. The Commission believes that NSCC should consider collecting marks on all of its members' open obligations from the time of guarantee through the scheduled settlement date. *See* Securities Exchange Act Release No. 27192 (August 29, 1989), 54 FR 37070.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] *See* Securities Exchange Act Release No. 27157 (August 21, 1989), 54 FR 35743.

[3] OCC's proposal is generic and would apply to all market basket products cleared and settled through OCC. However, because OCC's proposal was submitted concurrently with CBOE's proposal to begin trading two market basket products based on the Standard and Poor's 100 Stock Price Index and the Standard and Poor's 500 Stock Price Index, this release will discuss OCC's proposal as it relates to CBOE's market basket products. *See* Securities Exchange Act Release No. 27383 (October 26, 1989), File No. SR–CBOE–88–20, approving CBOE's proposal ("CBOE Approval Order").

[4] *See* Article 1, Section 1( ) of OCC's proposed By-laws.

[5] *See* OCC Rule 301.

[6] *See* OCC By-laws, Article VIII, section 2. Under Rule 1001(b), a market basket clearing member's minimum required non-equity securities clearing fund contribution is equal to the greater of (1) $75,000; or (2) the member's proportionate share of 7% of the average daily aggregate margin requirement for non-equity securities options contracts, and market baskets outstanding during the preceding month. Under OCC's proposal, a market basket clearing member's proportionate share is determined by calculating the member's daily average long and short positions in non-equity securities options contracts and the daily average of the net number of market baskets purchased or sold during the preceding month and dividing it by the same sum as calculated for all non-equity securities clearing members.

[7] *See* OCC Rule 302.

[8] *See* OCC Rule 207.

[9] A "clearing bank" is a bank located in a city in which OCC has a clearing office and which has entered into an agreement with OCC for settlement of transactions on behalf of a clearing member. *See* OCC Rule 101(c).

[10] *See* OCC Rule 203.

OCC's proposal also adds new provisions to its rules and By-laws that apply specifically to market baskets. In many areas, these rules and By-laws parallel those for processing equity option transactions. For example, under OCC's proposal, each exchange must report to OCC each exchange transaction in market baskets for which the purchasing clearing member and the selling clearing member have submitted matching trade information. This report must identify the purchaser and seller of the market baskets, the number of market baskets bought and sold, and the class [11] and trade price of each market basket. This report also must identify the transaction to the clearing member's firm, market maker or customer account. After OCC receives this report, OCC will calculate the difference between the price at which a member purchased or sold a market basket and the closing price of the component securities on that day ("cash adjustment"). OCC will net the member's cash adjustments across accounts to arrive at a net cash adjustment credit or requirement.

After calculating each member's net cash adjustment, OCC will net out each member's market basket trades to either a net long or short position, burst each member's net position into its underlying component securities,[12] and assign each component security a price equal to its closing price as determined by OCC's reporting authority. OCC then will report the above information to each market basket clearing member's designated clearing corporation by 2:00 a.m. (Central Time). If OCC does not receive the closing price of any of the component securities, OCC may either set the market price of the securities based on the most recent market price available for such securities or suspend the settlement obligations of its clearing members for such securities.[13]

Each market basket clearing member must deposit margin at OCC for its net basket position by 9 a.m. (Central Time) on the day after the trade date.[14] Members with a net cash adjustment requirement also must pay this amount to OCC at this time. Members with a net cash adjustment credit may offset their required margin deposits by this amount.

Each member must pay the required margin on its net basket position on a daily basis. In addition, members with net cash adjustment requirements must maintain such amounts on deposit with OCC until the settlement date.[15] Although members with net cash adjustment credits may use these credits to offset their daily margin obligations, they may not collect these amounts until the settlement date.

After members pay their margin and net cash adjustment requirements, OCC will "accept" (*i.e.*, guarantee) their market basket transactions and interpose itself between the parties to the transactions. OCC will deem all accepted market basket positions to be in the member's firm account. OCC will report each member's net market basket settlement obligations to the member's designated clearing corporation by 2:00 a.m. (Central Time) on the day after the trade date.[16]

At 1:00 p.m. (Central Time) on the day before the settlement date, OCC's settlement obligations for accepted market basket transactions will be transferred to each member's designated Clearing Corporation. From that point forward, each member's designated Clearing Corporation will guarantee its member's market basket settlement obligations.[17]

Money and securities settlement of market baskets will occur at the member's Clearing Corporation on the settlement date. Members also will settle their net cash adjustment credits on the settlement date through OCC's cash settlement system. Any member with a net cash adjustment credit will receive this amount from OCC at or before 10:00 a.m. (Central Time).

If a certain component security is ineligible for settlement through a member's Clearing Corporation, OCC may require that the security be settled outside the Clearing Corporation on a broker to broker basis. In addition, OCC may postpone settlement of one or more component securities comprising the basket if, in its opinion, such action is required because of unusual market conditions or is in the public interest. If OCC determines that, because of extraordinary conditions, delivery of such securities is impossible or unduly burdensome for the delivering member, OCC may relieve the delivering member from its obligation to deliver such security and adjust the aggregate value of the market basket accordingly.[18]

If OCC suspends any member obligated to deliver the securities comprising a market basket before the member's Clearing Corporation becomes obligated to effect settlement (*i.e.*, before 1:00 p.m. (Central Time) on the day before the settlement date), OCC will direct a receiving member to buy-in the securities and report the execution price of the buy-in to OCC. If the member buying in suffers a loss, OCC must satisfy the loss by 10:00 a.m. (Central Time) the following business day. If such a buy-in results in a gain, the buying member must pay the gain to OCC, and OCC will deposit the amount in the suspended member's Liquidating Settlement Account.[19] If a member is suspended after his designated clearing corporation is obligated to effect settlement on his behalf, any amount the member is entitled to receive is paid

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[11] OCC's proposal amends OCC Rule 602A(b)(2) to set market baskets in a seperate class group from the other non-equity options products issued, cleared and settled at OCC. Market baskets will, however, be included in OCC's broad-based index product group.

[12] The CBOE will determine the particular securities comprising the market basket and the number of shares of each such security in the basket at or prior to the opening of trading on each exchange on which the market basket is traded.

[13] *See* OCC proposed By-Law XIX, section 5.

[14] OCC will calculate margin requirements for market baskets in essentially the same manner it makes such calculations for non-equity options. Accordingly, each member must pay margin consisting of two components: (1) "Premium margin" (which covers OCC's exposure resulting from the one day price movement in the market value of the member's net basket position), and (2) "additional margin" (which covers any exposure OCC may have as a result of liquidating a member's net basket position). After OCC calculates a member's margin requirement (credit) for market baskets, it will determine the member's product group margin requirement (credit) by combining such requirement (credit) with the member's margin requirements (credits) for other broad-based index options. OCC will determine a member's aggregate margin requirement by adding the member's aggregate class group and product group margin requirements and (1) subtracting 50% of any credits attributable to such class groups and product groups; (2) adding (subtracting) any mark-to-market payments which the member has paid (collected) for its net basket position; and (3) subtracting any margin credit attributable to the member's position in equity options. *See* OCC proposed Rule 602A.

[15] All market basket transactions will settle on the fifth business day after the trade date ("T").

[16] Each market basket clearing member must designate either National Securities Clearing Corporation ("NSCC"), Midwest Clearing Corporation ("MCC") or the Stock Clearing Corporation of Philadelphia ("SCCP") ("Clearing Corporation(s)") as its designated clearing corporation for the purpose of settling the deliver and receive obligations arising out of the member's market basket activity. OCC has supplemented its options exercise settlement agreements with the Clearing Corporations to provide for settlement of these obligations.

[17] *See* Supplement to Options Exercise Settlement Agreements between OCC and NSCC, MCC and SCCP dated October 26, 1989. After OCC's market basket settlement guarantees are transferred to each member's designated Clearing Corporation, OCC will continue to calculate and collect margin from market basket clearing members until the settlement date. *See* discussion at p. 18, *infra.*

[18] *See* OCC proposed By-Law XIX, Section 4.

[19] After a member is suspended, OCC promptly converts all of the member's margin deposits, clearing fund contributions and other funds subject to OCC's control to cash and deposits these funds in a Liquidating Settlement Account in the name of the clearing member. OCC then uses these funds to satisfy the member's outstanding liabilities. *See* OCC Rule 1104.

directly into his Liquidating Settlement Account. These same procedures apply in reverse to a situation in which a member obligated to receive securities is suspended from OCC.[20]

Advocates of such a product believe that trading baskets of portfolios of stock may reduce the volatility and dramatic price changes in the market that are associated with index-related

Although OCC's proposal relies heavily on its existing equity option exercise and settlement procedures, some aspects of OCC's proposal are tailored to fit the unique characteristics

adjustment to eliminate this disparity.[20] This cash adjustment will settle through OCC's cash settlement system on the settlement date. The Commission believes this mechanism is appropriate

to which they are subject. It also allows them to gauge their financial commitments and allows them to adjust their trading strategy accordingly.

The Commission, however, believes

default in a manner that does not impose unnecessary costs on clearing members. Until such revised agreements are in effect, however, the Commission believes that OCC and the Clearing

directly into his Liquidating Settlement Account. These same procedures apply in reverse to a situation in which a member obligated to receive securities is suspended from OCC.[20]

III. OCC's Rationale for the Proposed Rule Change

OCC believes its proposed rule change is consistent with the purposes and requirements of the Act. Specifically, OCC believes that its proposal will promote the prompt and accurate clearance and settlement of securities transactions by applying to market basket transactions rules and procedures comparable to those that have been used successfully for the clearance and settlement of options transactions. OCC also believes that its proposal will promote the safeguarding of funds and securities because it will apply to market baskets a system of safeguards which is substantially the same as those that OCC currently uses for options.

IV. Discussion

The Commission believes that OCC's proposal is consistent with section 17A of the Act and with OCC's obligation to promote the prompt and accurate clearance and settlement of securities transactions and to safeguard funds and securities in OCC's custody and control. Accordingly, the Commission is approving OCC's proposal for the reasons provided below.

The Commission believes that market basket trading will benefit the financial markets. Indeed, one of the many recommendations in the aftermath of the October 1987 market break was the creation of a market basket product.[21] Advocates of such a product believe that trading baskets of portfolios of stock may reduce the volatility and dramatic price changes in the market that are associated with index-related trading strategies.[22] They also believe that a specific post or posts for trading market baskets will enhance the liquidity of the markets by providing a mechanism for the efficient trading of portfolios of stocks.[23]

The Commission is satisfied that OCC's proposal to clear and settle the market basket product to be traded on the CBOE is well designed to promote the prompt and accurate clearance and settlement of these transactions consistent with section 17A(b)(3) of the Act. As stated in OCC's proposal, a market basket is not a separate security;[24] instead, it is a contract to purchase and sell a designated number of shares of each of the stocks comprising the index group on which the market basket is based.[25] Thus, because the assets underlying market baskets are equity securities, and because the purchase and sale of a market basket results in an obligation to deliver or receive equity securities, the Commission believes that the clearance and settlement of market basket transactions should be similar to the exercise and settlement of equity option transactions. As described above, OCC's proposed rules, for the most part, follow OCC's well-established system for processing equity option transactions. Therefore, the Commission believes that OCC's proposed rules facilitate the same prompt and accurate clearance and settlement of market basket transactions that OCC's rules presently provide for equity option transactions.[26]

Although OCC's proposal relies heavily on its existing equity option exercise and settlement procedures, some aspects of OCC's proposal are tailored to fit the unique characteristics of market baskets. For example, unlike purchases and sales of equity options, a clearing member who buys or sells a market basket is obligated to purchase or deliver the stocks comprising the basket. Consequently, the Commission believes it is appropriate that OCC's proposed rules require both the purchasing clearing member and the selling clearing member to deposit margin on the morning of the day after the trade date.[27] Moreover, although settlement of market basket transactions results in the delivery or receipt of stock, OCC proposes to margin its members' positions in market baskets under its non-equity option margin system. The Commission believes this is appropriate because OCC's non-equity option margin system, unlike its present equity option margin system, is a "portfolio-based" system that provides a sophisticated method of calculating the amount of margin necessary to cover the risk posed by the member's positions.[28] OCC's proposal also recognizes that the contract price of the basket may be greater or less than the aggregate settlement value of the individual stocks comprising the basket.[29] OCC will use a cash

[20] The Commission has received an opinion from OCC's counsel stating that in the event of a suspension of a clearing member, the rights of OCC as set forth in proposed section 3(b) of Article XIX of OCC's By-Laws would be enforceable by OCC against the clearing member and any receiver, examiner or trustee appointed for the clearing member's estate under the Securities Investor Protection Act of 1970 or the Bankruptcy Code, to the same extent as if such transaction had originated in the clearing member's firm account and without regard to whether market basket transactions effected by such clearing member are or have been identified in any of OCC's reports as having originated in the customer, market-maker or other account of the clearing member. *See* letter from James R. McDaniel, Schiff, Hardin & Waite, to Jonathan Kallman, Assistant Director, Division of Market Regulation, dated October 24, 1989.

[21] *See, e.g.*, Division of Market Regulation, *The October 1987 Market Break* (February, 1988) ("Staff Report") and N. Katzenbach, *An Overview of Program Trading and its Impact on Current Market Practices* (December 21, 1987) ("Overview of Program Trading"). *See also* Report of the Presidential Task Force on Market Mechanisms (January 1988) and The Interim Report of the President's Working Group on Financial Markets (May 1988) for other recommendations arising out of the market break.

[22] *See* Overview of Program Trading at note 20. *See also* H. Stoll, *Portfolio Trading*, Working Paper No. 87–14 (September 1987) (available at the Owen Graduate School of Management, Vanderbilt University).

[23] *Id.* For a more complete discussion of the benefits provided by the creation and trading of market basket products, *see* CBOE Approval Order note 3, *supra*, and Securities Exchange Act Release No. 27382 (October 26, 1989), File No. SR–NYSE–89–05, approving the New York Stock Exchange ("NYSE") proposal to trade a market basket product.

[24] *See* proposed section 1 (mmmm) of Article I of OCC's By-Laws.

[25] *See* CBOE approval order at 26.

[26] Section 31 of the Act requires each national securities exchange to pay certain transaction fees to the Commission. *See* 15 U.S.C. 78ee (1982). OCC and CBOE have agreed in writing that OCC will collect the so-called Section 31 fees attributable to market basket trading on CBOE's behalf and pay them to the Commission as CBOE's agent. Although Section 31 does not specifically contemplate this arrangement, the Commission does not believe that it is inconsistent with the requirements of Section 31. The Commission also notes that this arrangement does not affect CBOE's obligation to pay Section 31 fees. *See* Section 18 of the Market Basket Supplemental Agreement between OCC and CBOE dated October 26, 1989.

[27] *See* OCC proposed Rule 602A(a).

[28] Both OCC's equity and non-equity option margin calculations are based, in part, on options premiums. In both systems, open positions are marked to market daily based on closing ask prices. The second component of equity options margin, however, is based on a flat 30% of the current value of the underlying securities. The second component of non-equity option margin is more flexible and is adjusted according to the current risk posed to OCC by the member's position. *See* Staff Report at 10–50.

OCC's non-equity option margin system uses options price theory to project the cost of liquidating a member's positions in the event of an assumed "worst-case" change in the price of the underlying asset or index. The margin requirement on the same class of options equals the premium plus the additional margin calculated by determining the assumed maximum one-day price movement in the underlying assets and by projecting the liquidating value of such position. To provide additional protection, OCC presumes that the cost of liquidating a member's out of the money positions would increase by a minimum of 25% of the margin interval. For a further discussion of OCC's non-equity options margin system, *see* OCC, *The Back-up System, A Special Study by the Margin Committee Subcommittee* ("Backup Report") (August 3, 1988) at 24–41. *See also* Staff Report at 10–36.

[29] For example, assume a basket comprised of one share each of two separate stocks. Assume each stock has a fair market value of $50½ and that

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adjustment to eliminate this disparity.[30] This cash adjustment will settle through OCC's cash settlement system on the settlement date. The Commission believes this mechanism is appropriate because it simultaneously ensures that market basket clearing members pay the agreed upon price for a market basket while facilitating netting by allowing OCC to combine transactions in the same securities executed at different prices in a single netting process.[31]

Finally, OCC's proposal is designed so that market participants who buy and sell stocks through individualized stock transactions in the exchange and over-the-counter markets and who buy or sell stock through basket trading will have a report that summarizes all of their previous day's trading activity before the beginning of trading on the following day. OCC will report market basket transaction data to the Clearing Corporations in time for them to include this data in position reports that are made available to members before the opening of trading on the following day.[32] The Commission believes that this aspect of OCC's proposal is beneficial because it allows market participants to have a report that reflects all of their previous day's compared stock trades regardless of the marketplace in which such trades were executed or the trading vehicle used to acquire such stocks before trading commences on the following day. This, in turn, provides market participants a complete and accurate picture of their market exposure and the credit risk [33] to which they are subject. It also allows them to gauge their financial commitments and allows them to adjust their trading strategy accordingly.

The Commission, however, believes that there is room for further improvement in OCC's market basket processing procedures. For example, as discussed below, the Commission believes that OCC and the Clearing Corporations could enhance their protection against the credit risk associated with market basket transactions.

Under OCC's proposal, OCC will assume the credit risk involved in market basket transactions by guaranteeing transactions upon payment of the margin on the morning of T+1 at 9:00 a.m. (Central Time). OCC also will protect against the market risk [34] associated with market basket transactions by collecting market-to-market payments daily through its margin system. On T+4, each Clearing Corporation will take over OCC's guarantee by becoming the counterparty to every market basket transaction settled through its facilities. This guarantee will remain in effect until settlement occurs on T+5.

Under the Clearing Corporations' current rules, locked-in equity trades are guaranteed as of midnight on T+1.[35] This trade guarantee policy does not apply to exercise and settlement of equity option transactions. Thus, because OCC's proposal treats the clearance and settlement of market basket transactions in much the same way as the exercise and settlement of equity options, the Clearing Corporations' guarantee will not become effective until T+4. The Commission understands that OCC will be revising its exercise settlement agreements with the Clearing Corporations to reflect the Corporations' earlier trade guarantees. The Commission encourages OCC to do so with a view toward providing adequate protection against Member default in a manner that does not impose unnecessary costs on clearing members. Until such revised agreements are in effect, however, the Commission believes that OCC and the Clearing Corporations can take certain steps to increase their protection against clearing member default within the framework of their existing arrangements.

As explained above, the Clearing Corporations' trade guarantee with respect to equity option transactions and market basket transactions is currently effective from 1:00 p.m. on T+4 (Central Time) until settlement on T+5. OCC, however, collects margin from T+1 until settlement on T+5. The Commission believes OCC should explore ways to make the margin deposited in connection with equity option and market basket transactions available to the Clearing Corporations (to the extent necessary to satisfy losses arising out of equity options exercise settlement obligations and market basket transactions) from the time the Clearing Corporations' guarantee becomes effective until settlement. OCC could make this amount available by giving the Clearing Corporations a perfected, first lien on such amounts deposited at OCC.[36] This would provide the Clearing Corporations with more direct protection against market risk than is currently provided under their existing financial safeguards.[37] OCC's exposure would not be increased under such an arrangement because its loss of control over the margin on deposit would coincide with the termination of its guarantee. After settlement of exercised equity options and market basket transactions at the appropriate Clearing Corporation, the Clearing Corporation's lien would be terminated and OCC would then release

the purchaser buys the basket for $101.00. Further assume that each stock has a system price (*i.e.*, the price used to facilitate netting) of $50 per share. Because each stock will settle at $50 per share, the seller is entitled to receive a $1.00 cash adjustment to account for the difference between the basket contract price and the settlement value of the underlying stocks.

[30] *See* OCC proposed Rule 2001(b)(3).

[31] NSCC intends to use a similar mechanism to facilitate the netting of transactions in the NYSE's market basket product. *See* Securities Exchange Act Release No. 27388 (October 26, 1989), File No. SR–NSCC–89–06.

[32] For example, NSCC will include market basket transaction data in the reports it provides to its members in automated form through the current Regional Interface Operation by 8:00 a.m. (Eastern Time) on the morning of T+1. *See* letter from Robert A. Schultz, Executive Vice President, NSCC, to Ross Pazzol, Attorney, Branch of Clearing Agency Regulation, Division of Market Regulation, dated October 19, 1989. MCC also will report market basket transaction data to its members by 9:00 a.m. on the morning of T+1. *See* letter from Jeffrey Lewis, Associate Counsel, MCC, to Ross Pazzol dated October 24, 1989.

[33] Credit risk is the risk that the counterparty to a transaction will not be able to meet its obligations under the terms of the transaction.

[34] Market risk is the risk associated with the change in the market price of a security. This risk arises where the price of the security rises or falls after trade execution but before settlement. If the price of the security rises and the seller does not deliver the security, the buyer may have to find another seller at a higher price. Conversely, if the price of the security falls and the buyer does not honor the trade, the seller may have to find another buyer at a lower price. Currently, stock clearing corporations such as NSCC calculate marks-to-the-market on a daily basis but do not collect such amounts until the settlement date. The Commission believes that requiring members to make daily mark-to-the-market payments would provide the clearing corporation (and its members) with the greatest degree of protection against the market risk. *See* Staff Report at 10–25.

[35] *See* Securities Exchange Act Release No. 27912 (August 29, 1989), 54 FR 37070.

[36] This proposal assumes that OCC would have no liability remaining with respect to the equity options and market basket settlement obligations it guaranteed after its guarantee is superceded by the Clearing Corporations' guarantee on T+4. If OCC retains some residual liability for performance of such guaranteed settlement obligations, OCC would want to maintain control over the margin deposited with it on T+4 and T+5 to satisfy any contingent liability it may have with respect to such obligations. The Commission urges OCC and the Clearing Corporations to resolve this issue expeditiously.

[37] OCC's margin calculations include a mark-to-market component. *See* note 14, *supra*. By contrast, each Clearing Corporation's current clearing fund calculations does not normally cover the full amount of its members' daily mark-to-market exposure. *See* Securities and Exchange Act Release No. 27912 (August 29, 1989), 54 FR 37070. The Commission and NSCC are currently exploring, in a separate proceeding, the appropriate calculation of clearing fund requirements.

the margin to the appropriate clearing member.[38]

For the reasons stated above, the Commission believes that OCC's proposal is consistent with Section 17A

report transactions in reported securities and to disseminate on a consolidated basis the total trading volume for each component stock in ESP transactions.[5] Notice of the proposal was provided by

executions in the NYSE-listed component stocks will be disseminated to market data vendors in the same manner as individual executions in the component stocks.[11]

The Alliance of Floor Brokers ("AFB"),[12] criticized certain aspects of the ESP market structure as anti-competitive. The AFB believes that ESP trading may exacerbate structural market risks that exist because of the

asset market. The Exchange believes that the rules supporting ESP trading are designed appropriately to accommodate the particular needs of the portfolio market in a fair and competitive market

figures merits modification in light of actual trading experience.[21]

At the end of the first six months of basket trading, however, the NYSE has committed to submit to the Commission

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the margin to the appropriate clearing member.[38]

For the reasons stated above, the Commission believes that OCC's proposal is consistent with Section 17A of the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–OCC–89–10) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.20.3.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25605 Filed 10–30–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27390; File No. SR–NYSE–89–05]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Exemptions Relating to Basket Trading

I. Introduction

On June 2, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to trade "Exchange Stock Portfolios" ("ESPs"), standardized baskets of stocks, on the floor of the Exchange.[3] As part of the proposal, the Exchange requested certain exemptions under Rule 11Aa3–1 [4] from the Rule's requirements to report transactions in reported securities and to disseminate on a consolidated basis the total trading volume for each component stock in ESP transactions.[5] Notice of the proposal was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26908, June 8, 1989), and by publication in the **Federal Register** (54 FR 25516, June 15, 1989). Seven comment letters were received regarding the proposed rule change, three of which dealt with transaction reporting.[6]

II. Description of the Proposed ESP Service and Exemption Requests

The ESP Service will allow NYSE members to trade standardized baskets of stocks at an aggregate price in a single execution on the Exchange's stock floor.[7] Given the increased institutionalization of the stock market and the growth of index-related trading strategies, the Exchange has proposed the ESP Service to address the need for an institutional stock basket trading system with physical delivery of the underlying component stocks.[8] The Exchange intends to disseminate basket last sale information and quotations to market data vendors, thereby assuring that all ESP market participants will have ready access to the ESP transaction reports and quotations. In addition, Tier 1 [9] and Tier 2 [10] executions in the NYSE-listed component stocks will be disseminated to market data vendors in the same manner as individual executions in the component stocks.[11]

Further, proposed Rule 803 will impose on members obligations that are consistent with those that Commission Rule 11Ac1–1 [12] and Exchange Rule 60 impose on quotations for individual stocks. Basket quotations, with one exception, will be firm under Rule 803. Outside of the existing markets in the individual component stocks trading on the Exchange in compliance with Rules 11Aa3–1 and 11Ac1–1, however, no quotes or last sale reports will be available for the individual component stocks that comprise a stock basket when it trades under the ESP market structure, unless, as discussed above, an order is executed against a Tier 1 or Tier 2 aggregate quotation. This, however, is inconsistent with paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1, which require that the Exchange disseminate transaction reports in individual reported securities. In addition, the Exchange will not provide a mechanism for consolidating transaction volume in the individual reported securities, which is inconsistent with Rule 11Aa3–1(b)(2)(iv). That paragraph requires the Exchange to disseminate transaction reports pursuant to a plan that provides for the consolidation of transactions in the same securities executed on other exchanges. Thus, the NYSE filed its request that the Commission grant exemptions from those requirements.

III. Comments

The Commission received seven comment letters in response to its request for comments on the proposed rule change, three of which addressed transaction reporting.

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[38] The Commission notes that OCC has not completed action with respect to some of the recommendations made in the Backup Report, including guaranteeing trades as they are compared, instead of making OCC's guarantee conditional on payment of the premium. OCC has represented that it will assess the feasiblity of moving to an earlier trade guarantee and the corresponding increase in risks by the end of this year. Conversation between James Yong, Deputy General Counsel, OCC and Jonathan Kallman, Assistant Director, Division of Market Regulation, on September 25, 1989. Thus, the Commission expects OCC to inform the Commission of the results of its assessment and set a timetable for completing action of Backup Report recommendations by January 1, 1990.

[1] 15 U.S.C. 78(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] The Commission approved the proposed rule change submitted by the NYSE to establish ESPs in a separate order issued today. *See* Securities Exchange Act Release No. 27382 (October 26, 1989).

[4] Rule 11Aa3–1, the Transaction Reporting Rule, generally requires that exchanges file transaction reporting plans governing the collection, processing and dissemination of last sale data on securities traded on the exchanges. Paragraph (g) of the Rule gives the Commission authority to grant exemptions from the Rule's requirements. 17 CFR § 240.11Aa3–1 (1989).

[5] *See* letter from Richard A. Grasso, President and Chief Operating Officer, NYSE, to Brandon C. Becker, Associate Director, Division of Market Regulation ("Division"), SEC, dated October 4, 1989; and letter from Michael J. Simon, Milbank, Tweed, Hadley & McCloy, counsel for the NYSE, to Kathryn V. Natale, Assistant Director, Division of Market Regulation, SEC, dated October 13, 1989.

[6] *See* notes 13–15, *infra* and accompanying text.

[7] Initally, ESP trading will be available for executions of a standardized basket of 500 stocks comprising the Standard & Poor's 500 ("S&P 500") Portfolio Index. At the commencement of ESP trading, each 500-stock ESP will have a value of approximately $5 million.

[8] The Exchange contends that the ESP Service will address market inefficiencies resulting from the fragmented executions that currently characterize program trading. Furthermore, the Exchange believes that the ESP Service may reduce the price volatility associated with institutional demands and the selling pressures their index-oriented trading strategies currently transmit to individual component stocks.

[9] "Tier 1 component stock quotation" refers to the price of the best published bid and published offer for each basket component stock that is listed on the Exchange. An "aggregated Tier 1" quotation will be derived from the weighted summation of the prevailing bids and offers for each of the component stocks as disseminated through the consolidated quotation system, plus Tier 1 "mini-basket" bids and offers for the non-NYSE component stocks.

[10] "Tier 2 component stock quotation" refers to the bid or offer for the number of shares of a basket's component stocks necessary to comprise three baskets. An "aggregated Tier 2" quotation will be derived from the weighted summation of the prevailing bids and offers for each of the component stocks necessary to fill three baskets, plus the Tier 2 "mini-basket" bids and offers for the non-NYSE component stocks.

[11] When a basket order is executed at the aggregated Tier 1 quote, upon receiving the basket execution notice through the ESP Service, each component-stock specialist must assign, take or supply the number of shares of the component stock at the execution price needed to complete one basket and must report the size and price as a trade in the same manner as all reported stocks. If a basket order is executed at the aggregate Tier 2 quote, each component-stock specialist must assign, take, or supply at the execution price the number of shares of his specialty stock needed to complete three baskets.

[12] 17 CFR § 240.11Ac1–1 (1989). The Commission notes that Rule 11Ac1–1 applies to quotations on ESP baskets.

The Alliance of Floor Brokers ("AFB"),[13] criticized certain aspects of the ESP market structure as anti-competitive. The AFB believes that ESP trading may exacerbate structural market risks that exist because of the different regulatory treatment accorded derivative products. The AFB argues that, in comparison to existing equity auction market trading procedures, the alternative trading procedures evisioned by the ESP System ultimately would result in a fragmented securities market structure with increased market volatility.

Richard Ney & Associates Asset Management Inc. ("Ney"), an investment management company, criticizes the configuration of ESP transaction reporting.[14] The Commission also received letters from Thomas G. and Ruth M. Roberts ("the Roberts"), and Burton Roger ("Roger"), individual investors residing in California, who similarly criticized the Exchange's proposed transaction reporting plan as it would apply to the basket's component stocks.[15] Specifically, Ney, Roger and the Roberts criticized the lack of real time price and volume reporting for the ESP stock companies when NYSE specialists do not participate in a basket execution. Further, the Ney letter questioned the usefulness of the consolidated tape when such information is not included.[16]

The Exchange generally addressed these commentators' concerns and other issues raised by Commission staff in a letter to Commission staff ("September 6 letter"), which, among other things, further explained the rationale underlying ESP trading and its accompanying market structure.[17] In its September 6 letter, the Exchange notes that ESP trading is structured with the goal of providing institutional customers and member firms with a trading vehicle suited for an institutional, composite-asset market. The Exchange believes that the rules supporting ESP trading are designed appropriately to accommodate the particular needs of the portfolio market in a fair and competitive market structure. Because ESP trades are executed at aggregated prices, the Exchange contends that a last sale reporting requirement for the price and volume of a basket's individual component stocks does not translate well into the ESP context.

IV. Discussion

Pursuant to Commission Rule 11Aa3–1 [18] the NYSE is required to collect and disseminate transaction data on securities listed and traded on the exchange. More specifically, Rule 11Aa3–1 requires that the Exchange disseminate transaction reports for individual reported securities traded on the Exchange,[19] and that the Exchange disseminate on a consolidated basis trading volume for each of the component stocks represented by ESP transactions.[20]

The NYSE will provide trading facilities through the ESP Service for reported securities (as components of baskets) but will not report transactions in the individual component stocks, as is required by paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1. The Commission agrees with the Exchange that, with the exception of specialist Tier 1 and Tier 2 executions, real-time last sale and volume reporting for the individual component stocks underlying a basket trade would not be appropriate in the ESP context. Pricing of the baskets is based on the aggregate value of the underlying securities and, thus, any assignment of a "price" to any of the component stocks in the basket would be derivative of the aggregate price.

Further, for the first six months, the NYSE will not disseminate on a consolidated basis the total daily trading volume for each component stock. The NYSE believes that its proposal to exclude end-of-day transaction volume in the ESP component stocks from the consolidated transaction volume figures is appropriate to provide the Division and the Exchange with an opportunity to assess whether the absence of individual basket component stocks in the end-of-day consolidated volume figures merits modification in light of actual trading experience.[21]

At the end of the first six months of basket trading, however, the NYSE has committed to submit to the Commission a proposed rule change that will provide for the inclusion of end-of-day transaction volume in the ESP component stocks in the consolidated transaction volume figures. The Exchange has reserved the right to provide views and information that would express and support its continued opposition to the inclusion of end-of-day transaction volume in the ESP component stocks in the consolidated transaction volume figures, which would be reflected in the publication of the proposed rule change for comment. The Exchange would withdraw the amendment should the Commission concur with the Exchange at that time. The Commission believes that a six-month delay is reasonable in order to determine whether the absence of the consolidated reporting of end-of-day transaction volume in the basket components stocks merits modification.

The Commission believes that the ESPs will provide institutional investors with a cost-efficient means to make investment decisions based on the direction of standardized measures of stock market segments and the stock market as a whole, and may provide stock market participants several advantages over existing methods of effecting program trades of stocks and transactions in portfolios of securities. The Commission believes that appropriate conditional relief from Rules 11Aa3–1 is necessary and appropriate if the benefits of trading in market basket contracts are to be achieved.

V. Conclusion

The Commission believes that the ESP market structure balances appropriately the competing concerns of various Exchange constituencies and is consistent with the maintenance of fair and orderly markets and the protection of investors. Accordingly, based upon the aforementioned factors, the Commission finds that the requested exemptions under Rule 11Aa3–1 are consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 11A of the Act, and Rule 11Aa3–1(g) thereunder, that the following requested exemptions from Rule 11Aa3–

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[13] *See* letter from Michael D. Robbins, President, AFB, to Jonathan G. Katz, Secretary, SEC, dated July 13, 1989.

[14] *See* letter from Richard Ney, Richard Ney & Associates Asset Management, Inc., to Richard G. Ketchum, Director, Division of Market Regulation, dated July 5, 1989.

[15] *See* letter from Thomas G. and Ruth M. Roberts, to the Hon. Esteban E. Torres, U.S. House of Representatives, dated August 10, 1989; and letter from Burton Roger to the Hon. Howard L. Berman, U.S. House of Representatives, dated August 19, 1989.

[16] The consolidated tape refers to the data stream of last sale reports on NYSE, American Stock Exchange and certain regional exchange stocks, which is collected, processed and disseminated pursuant to the Consolidated Transaction Association Plan.

[17] *See* letter from James E. Buck, Secretary, NYSE, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated September 6, 1989.

[18] 17 CFR 240.11Aa3–1 (1989).

[19] Rule 11Aa3–1(c) (1) and (2). "Reported securities" are securities for which there is in effect a transaction reporting plan.

[20] Rule 11Aa3–1(b)(2)(iv).

[21] *See* letter from Richard A. Grasso, President and CEO, NYSE, to Brandon C. Becker, Associate Director, Division of Market Regulation, SEC, dated October 4, 1989.

1 be, and hereby are, granted: (1) an exemption from the requirements of paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1 that the NYSE disseminate last sale transaction reports for individual

in the market basket context. Pricing of the baskets is based on the aggregate value of the underlying securities and, thus, any assignment of a "price" to any

1 be, and hereby are, granted: (1) an exemption from the requirements of paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1 that the NYSE disseminate last sale transaction reports for individual securities and (2) a temporary exemption for a six-month period commencing on the date of this order from the requirement of paragraph (b)(2)(iv) of Rule 11Aa3–1 that the Exchange provide for the consolidation of transaction reports.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25602 Filed 10–30–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27391; File No. SR–CBOE–88–20]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Exemptions Relating to Market Basket Trading

I. Introduction

On May 12, 1988, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change that establishes Exchange rules governing the trading of "market basket contracts" on the floor of the Exchange.[3] As part of the proposal, the Exchange requested certain exemptions under Rules 11Aa3–1 and 11Ac1–1.[4] The Exchange requested, pursuant to Rule 11Aa3–1(g) an exemption from the Rule's requirements to report transactions in reported securities pursuant to an effective transaction reporting plan and to disseminate on a consolidated basis the total trading volume for each component stock of the market basket contracts.[5] CBOE also requested, pursuant to Rule 11Ac1–1(d), an exemption from the Rule 11Ac1–1 requirement that disseminated quotations include the size associated with those quotations.[6] The proposal was published for comment in Securities Exchange Act Release No. 26882 (June 1, 1989), 54 FR 24442 (June 7, 1989).[7] No direct comment letters were received regarding the proposed rule change, however, commentators did discuss the CBOE proposal in responding to proposals by other exchanges to trade baskets of stock.[8] The Commission considered those comments in reviewing the CBOE proposal.[9]

II. Description of the Proposed Basket Product and Exemption Requests

CBOE's proposed market basket contract will enable CBOE members to trade standardized baskets of stocks at an aggregate price in a single execution on the Exchange's floor. A market basket trade will result in a transfer to the buyer of ownership of each of the component stocks. When the transaction is completed, the buyer will be entitled to all rights attending ownership of the basket stocks (including rights to vote and receive dividends), and will be free to sell or hold each stock separately. The CBOE proposes to trade market basket contracts based on the Standard & Poor's 100 Stock Price Index ("S&P 100") and the Standard & Poor's 500 Stock Price Index ("S&P 500").

The Exchange intends to disseminate quotation and last sale information for market basket contracts but not for the individual component stocks comprising the market basket.[10] This is, however, inconsistent with paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1, which require CBOE to disseminate transaction reports in individual reported securities. In addition, CBOE will not provide a mechanism for consolidating transaction volume in the individual reported securities, which is inconsistent with Rule 11Aa3–1(b)(2)(iv). That paragraph requires CBOE to disseminate transaction reports pursuant to a plan that provides for the consolidation of transactions in the same securities executed on other exchanges.[11] Further, the Options Price Reporting Authority ("OPRA"), which CBOE will use to disseminate last sale and quotation information, does not have the capacity to show sizes for bids and offers. This also is inconsistent with the Act, specifically Rule 11Ac1–1(b)(1), which requires that the Exchange disseminate the size associated with quotations published on the floor. The CBOE, therefore filed its request that the Commission grant exemptions from these requirements.

III. Discussion

As noted above, paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1 require the CBOE to disseminate last sale transaction reports for individual reported securities pursuant to an effective transaction reporting plan. Because CBOE proposes to trade reported securities only as part of standardized market basket contracts and not individually, the last sale information to be made available for market baskets will be limited to the price at which the basket last traded and the size of the trade. No last sale reports will be generated or disseminated for the individual component stocks comprising a market basket during the trading day. The CBOE proposes to disseminate basket last sale information and quotations through OPRA; thus providing ready access to market basket transaction reports and quotations to all market participants.[12] The Commission agrees with the Exchange that real-time last sale and volume reporting for the individual component stocks underlying a basket trade would not be appropriate in the market basket context. Pricing of the baskets is based on the aggregate value of the underlying securities and, thus, any assignment of a "price" to any of the component stocks in the basket would be derivative of the aggregated price.

Additionally, for the first six months of basket trading, the CBOE will not disseminate on a consolidated basis the total daily trading volume in individual securities represented by basket trades. Volume in market basket contracts will be reported over the OPRA system, as a result of reporting each market basket transaction as it takes place, and in the end-of-day message.[13] While the Commission is aware of the limited usefulness of price information on the underlying securities in the baskets, it believes that dissemination of the share volume in the underlying securities is important information and should be included in the daily consolidated volume for each of the underlying securities. Because this presents a number of technological difficulties for CBOE, CBOE has represented that it will evaluate trading in the baskets over a six-month period and, at the end of that period in consultation with the Commission, CBOE will reconsider whether its volume dissemination procedures should be modified.[14] Thus, the Commission has decided to grant CBOE a six-month exemption from the requirement. At the end of the exemption period, CBOE will be required to file with the Commission a proposal describing how it will consolidate the total daily trading volume for component stocks with volume from the other markets trading those securities, or submit to the Commission the reasons why its exemption should be extended.

Finally, the Exchange requested an exemption from Rule 11Ac1–1(b)(1), which requires that disseminated quotations include the size associated with the quote. Because OPRA, the facility through which CBOE basket quotes will be reported, cannot disseminate size, the Commission has agreed to grant a temporary exemption from the Rule for a six-month period.[15] It is important to note that other than the requirements to disseminate the size associated with quotations, all other requirements of Rule 11Ac1–1 will apply to market basket quotations; including, most notably, the requirement that quotations for baskets be firm. Thus, if basket market makers are disseminating quotes on the CBOE floor that are good for greater than one contract, regardless of the fact that this size will not be disseminated through OPRA, market makers will have to honor their size quotes.

The Commission believes that the CBOE market baskets will provide institutional investors with a cost-efficient means to make investment decisions based on the direction of standardized measures of stock market segments and the stock market as a whole, and may provide stock market participants several advantages over existing methods of effecting program trades of stocks and transactions in portfolios of securities. The Commission believes that appropriate conditional relief from Rules 11Aa3–1 and 11Ac1–1 is necessary and appropriate if the benefits of trading in market basket contracts are to be achieved.

IV. Conclusion

The Commission believes that the proposed transaction and quotation reporting mechanisms for trading market baskets on CBOE are designed to provide accurate, timely information on basket trading. Moreover, given the institutional character of stock portfolio trading for which market basket trading is designed, the Commission believes that the Exchange's chosen reporting mechanisms are consistent with the maintenance of fair and orderly markets and the protection of investors. Accordingly, based upon the aforementioned factors, the Commission finds that the requested exemptions under Rules 11Aa3–1 and 11Ac1–1 are consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 11A of the Act and Rules 11Aa3–1(g) and 11Ac1–1(d) thereunder, that the following exemptions be, and hereby are, granted: (1) an exemption from the requirement of paragraphs (c)(1) and (c)(2) of Rule 11Aa3–1 that the CBOE disseminate last sale transaction reports for individual reported securities pursuant to an effective transaction reporting plan; (2) a temporary exemption for a six-month period commencing on the date of this order, from the requirement of paragraph (b)(2)(iv) of Rule 11Aa3–1 that the CBOE provide for the dissemination of the total daily trading volume of the component stocks on a consolidated basis; and (3) a temporary exemption for a six-month period commencing on the date of this order from the requirement of paragraph (b)(1) of Rule 11Ac1–1 that the CBOE disseminate the quotation sizes associated with quotations on market basket contracts.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25600 Filed 10–30–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17186; 812–7359]

Boston Financial Qualified Housing Tax Credits L.P. V, a Limited Partnership and Arch Street IV, Inc.; Notice of Application

October 19, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Boston Financial Qualified Housing Tax Credits L.P. V, a Limited Partnership, a Massachusetts limited partnership (the "Partnership"), and its managing general partner, Arch Street V, Inc., a Massachusetts corporation ("Managing General Partner").

Relevant 1940 Act Sections: Exemption under Section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting the Partnership from all provisions of the 1940 Act and the rules thereunder to permit the Partnership to invest in other limited partnerships that in turn will engage in the development, rehabilitation, ownership, and operation of housing for low and moderate income persons.

Filing Date: The application was filed on July 18, 1989 and amended on October 16, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 13, 1989. Request a hearing in

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] The Commission approved the proposed rule change submitted by CBOE to establish the trading of market basket contracts in a separate order issued today. *See* Securities Exchange Act Release No. 27383.

[4] 17 CFR 240.11Aa3–1(g) and 240.11Ac1–1(d) (1989).

[5] *See* letter from Nancy R. Crossman, First Vice President and General Counsel, CBOE, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated October 11, 1989.

[6] *See* letter from Nancy R. Crossman, First Vice President and General Counsel, CBOE, to Teresa Fink, Attorney, Branch of National Market System Regulation, Division of Market Regulation, SEC, dated October 19, 1989.

[7] The substance of the proposed rule change was filed with the Commission in Amendment No. 2 to File No. SR–CBOE–88–20 on May 20, 1989.

[8] The New York Stock Exchange, Inc. ("NYSE") filed with the Commission a proposal that sets forth a framework for trading "Exchange Stock Portfolios", standardized baskets of stocks, on the floor of the NYSE. *See* Securities Exchange Act Release No. 26908 (June 8, 1989), 54 FR 25516 (June 15, 1989). Additionally, the Midwest Stock Exchange, Inc. ("MSE") filed with the Commission a proposal to establish a secondary trading session for the execution of transactions in portfolios of securities. *See* Securities Exchange Act Release No. 26887 (June 2, 1989), 54 FR 24779 (June 9, 1989).

[9] The Commission received comment letters from the Alliance of Floor Brokers ("AFB") on the NYSE proposal and the MSE proposal. The AFB comments regarding the NYSE proposal are discussed in Securities Exchange Act Release No. 27382, (October 26, 1989) at notes 62–63 and accompanying text. The AFB comments regarding the MSE proposal are discussed in Securities Exchange Act Release No. 27385, (October 26, 1989) at notes 21–24 and accompanying text.

[10] The transactions in each basket will be reported within 90 seconds of their occurrence. *See* letter from Robert P. Ackermann, Vice President, CBOE, to Mark McNair, Attorney, Options Branch, Division of Market Regulation, SEC, dated September 20, 1989.

[11] "Reported securities" are securities for which there is in effect a transaction reporting plan (*e.g.*, the Consolidated Tape Association Plan). The securities that make up the baskets that will trade on CBOE are all reported securities.

[12] OPRA collects from the options exchanges last sale and quotation information for all standardized options and disseminates that information to vendors and other subscribers.

[13] In addition, the end-of-day total number of shares of all component stocks represented by market basket trading and the number of shares of each individual component stock represented by market basket trading will be provided through the CBOE Newswire to the Associated Press, Dow Jones and Reuters, for the six-month period.

[14] *See* letter from Nancy R. Crossman, First Vice President and General Counsel, CBOE, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated October 11, 1989.

[15] The Commission intends to evaluate with the exchanges all aspects of quotation and last sale reporting for the three market basket proposals (*i.e.*, the CBOE, MSE and NYSE proposals) during this six-month period to assess the adequacy of the reporting mechanisms for all three.

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writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o The Boston Financial Group Incorporated, 101 Arch Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Partnership was organized on June 16, 1989, under the Uniform Limited Partnership Act of the Commonwealth of Massachusetts as a vehicle for equity investment in apartment complexes to be qualified, in the opinion of counsel, for the low income housing tax credit (the "Low Income Housing Credits') under the Internal Revenue Code of 1986, as amended ("Code"). It is anticipated that the Partnership will invest both in apartment complexes that receive operating and financing subsidies and in apartment complexes that do not receive such subsidies.

2. The Partnership will operate as a "two-tier" entity, *i.e.*, the Partnership, as a limited partner, will invest in other limited partnerships ("Local Limited Partnerships") which, in turn, will engage in the development, rehabilitation, ownership, and operation of apartment complexes in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"). The Partnership's investment objectives are: (i) to provide current tax benefits in the form of tax credits which Qualified Investors (defined herein) may use to offset their federal income tax liability; (ii) to preserve and protect the Partnership's capital; (iii) to provide limited cash distributions which are not expected to constitute taxable income during Partnership operations; and (iv) to provide cash distributions from sale or refinancing transactions, as defined in the Partnership's partnership agreement (the "Partnership Agreement").

3. The Partnership will normally acquire at least a 90% interest in the cash distributions, profits, losses and tax credits of the Local Limited Partnerships, with the balance remaining with the local general partners. However, in certain cases, at the discretion of the Managing General Partner, the Partnership may acquire a lesser interest in a Local Limited Partnership. Should the Partnership invest in any Local Limited Partnership in which it acquires less than 50% of the limited partnership interest, the Partnership Agreement will provide that the Partnership will have at least a 50% vote to: amend such partnership agreement of such Local Limited Partnership; dissolve such Local Limited Partnership; remove the local general partner and elect a replacement; and approve or disapprove the sale of substantially all of the assets of such Local Limited Partnership. In addition, the Partnership will require that the Local Limited Partnership agreements provide to the limited partners of the Local Limited Partnerships substantially all of the rights required by Section VII of the guidelines adopted by the North American Securities Administrators Association, Inc. ("NASAA").

4. On July 13, 1989, the Partnership filed a registration statement under the Securities Act of 1933 (the "Securities Act") for the sale of up to 100,000 units of limited partnership interest ("Units") at $1,000 per Unit with a minimum subscription of five units ($5,000) per investor.

5. Subscriptions for Units must be approved by the Managing General Partner, and such approval will be made conditional upon representations as to suitability of the investment for each subscriber. The form of subscription for Units provides that each subscriber will represent, among other things, that he meets the general investor suitability standards established by the Partnership and set forth in the Prospectus under the heading "Who Should Invest." Such general investor suitability standards provide, among other things, that investment in Partnership is suitable only for an investor (a "Qualified Investor") who meets the following requirements: (a) in the case of an investor that is a corporation, other than a corporation subject to Subchapter S of the Code, such corporation (a"C Corporation") has a net worth of not less than $75,000; (b) in the case of a noncorporate investor, such investor reasonably expects to have substantial unsheltered passive income or, if an individual, such investor reasonably expects to have adjusted gross income of *less* than $250,000 in the next twelve years and reasonably expects to have income tax liability during those years in respect of which the tax credits can be utilized and either (1) has a net worth (exclusive of home, furnishings, and automobiles) of at least $50,000 ($35,000, if such investor is a resident of New Hampshire) and an annual gross income of not less than $30,000 ($35,000, if such investor is a resident of New Hampshire) in the current year and estimates he will maintain these levels for the twelve succeeding years and that (without regard to investment in the Partnership) some part of his income for the current year and the twelve succeeding years will be subject to federal income tax at the rate of 28% or more, or (2) irrespective of annual taxable income, he has a net worth (exclusive of home, furnishings, and automobiles) of at least $75,000, or (3) is purchasing in a fiduciary capacity for a person or entity having such set worth and annual gross income as set forth in clause (1) or such net worth as set forth in clause (2); or (c) in the case of an investor that is a corporation subject to Subchapter S of the Code, each of its shareholders (or if a partnership each of its partners) meets the criteria applicable to non-corporate investors. Units will be sold in certain states only to persons who meet additional or alternative standards which will be set forth in the Prospectus, any supplement to the Prospectus, or the Subscription Agreement; *provided, however,* that in no event shall the Partnership employ any such suitability standard which is less restrictive than that set forth above. The Partnership Agreement also imposes certain restrictions on transfer and assignment of the Units, including that each proposed assignee must deliver to the Managing General Partner evidence of his suitability. The Partnership will not redeem or repurchase Units, does not anticipate formation of a public market for the Units, and thus believes purchases of Units should be considered illiquid investments.

6. The Partnership will be controlled by its general partners, the Managing General Partner and Arch Street V Limited Partnership (collectively, the "General Partners"). The Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. However, the majority in interest of the Limited Partners will have the right to amend the Partnership Agreement (subject to certain limitations), dissolve the Partnership, and remove any General Partner and elect a replacement therefor. In addition, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

7. The Partnership Agreement provides that certain significant actions cannot be taken by the Managing General Partner without the express consent of a majority in interest of the Limited Partners. Such actions include: (a) until the end of the 10-year period commencing on the date of the Prospectus, the sale in a 12-month period of Local Limited Partnership interests constituting more than 33% of the Partnership's then existing total investment in Local Limited Partnership interests; (b) the sale at any one time of all or substantially all of the assets of the Partnership, except for sales in connection with the liquidation and winding up of the Partnership's business upon its dissolution; (c) dissolution of the Partnership; and (d) causing the Partnership to merge or be consolidated with any other entity. The admission of a successor or additional General Partner would also require express consent under the Partnership Agreement.

8. Boston Financial Securities, Inc., an affiliate of the General Partners (the "Selling Agent"), will receive customary commissions and an underwriting advisory fee on the sale of the Units, together with an expense allowance to defray accountable due diligence activities. The Selling Agent may authorize other members ("Soliciting Dealers") of the National Association of Securities Dealers, Inc. (" NASD") to sell Units. The Selling Agent will pay a concession to each Soliciting Dealer on all sales of Units by such Soliciting Dealer and may reallow all or any portion of its underwriting advisory fee and expense allowance to such Soliciting Dealer. Such selling commissions and fees are customarily charged in securities offerings of this type and are consistent with NASD guidelines.

9. During the offering and organizational phase, the Managing General Partner and its affiliates (as defined in the Partnership Agreement) will receive from the Partnership reimbursement of organizational and offering expenses.

10. Acquisition phase fees payable to all persons, including the General Partners or their affiliates, in connection with the acquisition of interests in Local Limited Partnerships, will be limited by the guidelines adopted by NASAA. During the operating phase, the Partnership may pay additional fees or compensation to the General Partners or their affiliates including, without limitation, an asset management fee. Such asset management fee is paid in consideration of the administration of the affairs of the Partnership in connection with each Local Limited Partnership in which the Partnership invests. Such other fees may be paid in consideration of property management services rendered by the General Partners or their affiliates as the management and leasing agent for some of the Local Limited Partnerships and for consulting services rendered by the General Partners or their affiliates as consultants to some of the Local Limited Partnerships. All such fees shall be subject to the terms of the Partnership Agreement. In addition, the General Partners or their affiliates may receive amounts from Local Limited Partnerships to the extent permitted by applicable law and regulations. Such amounts shall be subject to the terms of the Partnership Agreement. Compensation to the General Partners or their affiliates during the liquidating stage will be in the form of distributions of the sale or refinancing proceeds of Local Limited Partnership projects or interests, or of real or personal property of the Partnership. In addition to the foregoing fees and interests, the General Partners and their affiliates will be allocated generally 1% of profits and losses of the Partnership for tax purposes.

11. All compensation to be paid to the General Partners and their affiliates is specified in the Partnership Agreement and Prospectus, and no compensation will be payable to the General Partners or their affiliates not so specified. The substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated through arm's length negotiations. Terms of all such compensation, however, will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. In addition, compensation in various forms will be paid to the local general partner of each Limited Partnership.

12. All proceeds of the public offering of Units will initially in an escrow account with Shaumut Bank, N.A. ("Escrow Agent"). Pending release of offering proceeds to the Partnership, the Escrow Agent will desposit escrowed funds in the "Shawmut Interest Bearing Account," a federally insured money market deposit account. The offering of Units will terminate not later than one year from the date upon which the Partnership's Registration Statement shall have been declared effective. If subscriptions for at least 5,000 Units have not been received by such termination date, no Units will be sold and funds paid by subscribers will be returned promptly, together with a pro rata share of any interest earned thereon. The Partnership will not admit any subscribers as Limited Partners to the Partnership until the exemptive order applied for herein is granted or the Partnership receives an opinion of counsel that it is exempt from registration under the 1940 Act. Upon receipt of the prescribed minimum number of subscriptions, funds in escrow will be released to the Partnership and held in trust pending investment in Local Limited Partnerships. Any net proceeds not immediately utilized to acquire Local Limited Partnership interests or for other Partnership purposes will be invented and held in highly liquid, non-speculative securities set forth in the application and which provide adequately for the preservation of capital ("Temporary Investments"). The Partnership intends to apply capital raised in its public offering to the acquisition of Local Limited Partnership interests as soon as possible and does not intend to trade or speculate in Temporary Investments.

13. The Partnership Agreement provides that, subject to certain limitations including negligence and misconduct, the Partnership shall indemnify the General Partners and certain affiliates for losses sustained by them or their affiliates in connection with the business of the Partnership. However, the Partnership has been advised in the opinion of the SEC indemnification for liabilities under the Securities Act is contrary to public policy as expressed in the Securities Act and is therefore unenforceable.

Applicant's Legal Conclusions

1. The exemption of the Partnership from all provisions of the 1940 Act is both necessary and appropriate in the public interest, because: (a) investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership structure provides the only means of bringing private equity capital into such housing; (c) the limited

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partnership form insulates each Limited Partner from personal liability and limits his financial risk to the amount he has invested in the program, while also allowing the Limited Partner to claim on his individual tax return his proportionate share of the tax credits, income and losses from the investment; (d) the limited partnership form of organization is incompatible with fundamental provisions of the 1940 Act, such as the requirement of annual approval by investors of a management contract and the requirements concerning election of directors and the termination of the management contract; and (e) real estate limited partnerships such as the Partnership generally cannot comply with the asset coverage limitations imposed by Section 18 of the 1940 Act. Also, an exemption from these basic provisions is necessary and appropriate so as not to discourage use of the two-tier limited partnership entity or frustrate the public policy established by the housing laws.

2. Interests in the Partnership will be sold only to, and transfers will be permitted only to, investors who meet specified suitability standards (as described above) which the Partnership believes are consistent with the requirements in Release No. 8456, with the guidelines of those states which prescribe suitability standards, and with the securities laws of all states where the Units will be sold. Such investors will receive extensive reports concerning the Partnership's business and operations. Although the interests of the General Partners and their affiliates may conflict in various ways with the interests of Limited Partners, Limited Partners are adequately protected through disclosures of all political conflicts in the Prospectus, including competition by Local Limited Partnerships with affiliates for properties and the participation by an affiliate as the Selling Agent for the offering. To address this conflict, the General Partners agree, in Section 5.7 of the Partnership Agreement, that each General Partner and each affiliate thereof, prior to entering into an investment which could be suitable for the Partnership or recommending such investment to others, must present to the Partnership the opportunity to enter into such investment and my not enter into such investment on its own behalf nor recommend it to others unless the Partnership has declined to enter into such investment. Further protection for the interests of Limited Partners is provided by the numerous provisions of the Partnership Agreement designed to prevent overreaching by the General Partners and to assure fair dealing by the General Partners vis-a-vis the Limited Partners. The Partnership will also file with the SEC and distribute certain financial documents and reports on its activities.

3. Release No. 8456 lists two conditions, designed for the protection of investors, which must be satisfied in order to quality for the type of exemptive relief which the Partnership seeks: (1) "interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be suitable * * *," and (2) "requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company." The Partnership will comply with these conditions and will otherwise operate in a manner deisigned to ensure investor protection.

4. The contemplated arrangement of the Partnership is not susceptible to abuses of the sort the 1940 Act was designed to remedy. The suitable standards described above, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Local Limited Partnership by various federal, state and local agencies, provide protection to investors in Units comparable to and in some respects greater than that provided by the 1940 Act. An exemption would therefore be entirely consistent with the protection of investors and the purposes and policies of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25500 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17187; 811-5481]

Templeton Constant Pay-Out Fund, Inc. (Formerly, Templeton Emerging Growth Stock Fund, Inc.); Application for Deregistration

October 20, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Templeton Constant Pay-Out Fund, Inc. ("Applicant").

Relevant 1940 Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

Filing Dates: The application on Form N-8F was filed on September 18, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 15, 1989, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 700 Central Avenue, St. Petersburg, Florida 33733-8030.

FOR FURTHER INFORMATION CONTACT: Patricia Copeland, Legal Technician, (202) 272-3009, or Karen L. Skidmore, Branch Chief, (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is an open-end diversified management investment company incorporated under the laws of the state of Maryland. On February 25, 1988, Applicant filed a Notification of Registration pursuant to Section 8(a) of the 1940 Act on Form N-8A. On that same date, Applicant filed a registration statement on Form N-1A (33-20320) with respect to an indefinite amount of common stock. The registration statement never became effective and was withdrawn by Applicant on March 21, 1989. Applicant has never made a public offering of its securities.

2. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25501 Filed 10-30-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2382 Amendment #1]

Territory of the Virgin Islands; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the Notice of Amendment to the President's declaration, dated September 20, 1989, to include Water Island, and other inhabited islands under the jurisdiction of the Territorial Government, as a disaster area as a result of damages caused by Hurricane Hugo which occurred on September 17-18, 1989.

All other information remains the same; i.e., the termination date for filing applications for physical damage is until such time as determined by the Federal Emergency Management Agency, and for economic injury until the close of business on June 20, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 23, 1989.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89-25608 Filed 10-30-89; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Public Meeting; Connecticut

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting at 8:00 a.m. on Monday, November 20, 1989, at the Days Inn, 900 East Main Street, Meriden, Connecticut, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Kenneth A. Silvia, Acting District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut 06106, phone (202) 240-4670.

Dated: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-25609 Filed 10-30-89; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Public Meeting; Hawaii

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, will hold a public meeting at 9:30 a.m. on Tuesday, November 21, 1989, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Conference Room 4113A, Honolulu, Hawaii, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Charles T.C. Lum, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850, phone (808) 541-2990.

Dated: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-25610 Filed 10-30-89; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Public Meeting; Iowa

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, will hold a public meeting at 10:00 a.m. on Tuesday, November 28, 1989, at the Golden Circle Incubator, Des Moines Area, Community College, 2010 South Ankeny Boulevard, Ankeny, Iowa, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Conrad Lawlor, District Director, U.S. Small Business Administration, 210 Walnut Street, Des Moines, Iowa 50309, phone (515) 284-4567.

Dated: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-25611 Filed 10-30-89; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Public Meeting; North Carolina

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Charlotte, will hold a public meeting at 10:00 a.m. on Tuesday, November 14, 1989, at the Kenan Center in Chapel Hill, North Carolina, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gary A. Keel, District Director, U.S. Small Business Administration, 222 South Church Street, Suite 300, Charlotte, North Carolina 28202, phone (704) 371-6561.

Dated: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-25612 Filed 10-30-89; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council Public Meeting; North Dakota

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, will hold a public meeting at 9:00 a.m. on Tuesday, November 14, 1989, at the Kelly Inn, Bismarck, North Dakota, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James J. Stai, District Director, U.S. Small Business Administration, 657-2nd Avenue North, Fargo, North Dakota 58102, phone (701) 239-5131.

Dated: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-25613 Filed 10-30-89; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council Public Meeting; Cancellation of Meeting; Pennsylvania

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, public meeting scheduled for 5:30 p.m., on Thursday, November 2, 1989, and 8:30 a.m., on Friday, November 3, 1989, at the Sheraton Harrisburg East, 800 East Park Drive, Harrisburg, Pennsylvania, has been canceled.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, Allendale Square, Suite 201, 475

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Allendale Road, King of Prussia, Pennsylvania 19406, phone (215) 962–3800.

Dated: October 25, 1989.

Joan M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–25614 Filed 10–30–89; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council Public Meeting; Utah

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, will hold a public meeting at 9:30 a.m. on Thursday, November 9, 1989, at the Board Room of Guardian State Bank, 142 East 200 South, Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration or others present.

For further information, write or call Stan Nakano, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138, phone (801) 524–5804.

Dated: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–25615 Filed 10–30–89; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council Public Meeting; Washington

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, will hold a public meeting at 10:00 a.m. on Thursday, November 9, 1989, in conference Room B101, Farm Credit Building, West 601 First Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert D. Wiebe, District Director, U.S. Small Business Administration, West 601 First Avenue, 10th Floor East, Spokane, Washington 99204, phone (509) 353–2808.

Date: October 25, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–25616 Filed 10–30–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89–079]

Omega Validation of the Indian Ocean

AGENCY: U.S. Coast Guard, Headquarters, Treasury.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. Coast Guard has completed a validation study of the Omega Radionavigation System coverage in the Indian Ocean. The study shows that the measured Omega system performance generally conforms to theoretical expectations and that the system provides continuous, all weather navigation coverage, with typical position fixing accuracy of 2 nautical miles, 95% of the time. The study also provides information about anomalies and model interference patterns in the region. The report of the study's findings is available through the National Technical Information Service, Springfield, Virginia 22161. The report is identified by Government Accession number AD–A194458.

DATE: The report is available after October 31, 1989.

ADDRESS: The address of the Coast Guard command responsible for the report and the Omega validation effort is: Commanding Officer, Omega Navigation System Center, 7323 Telegraph Road, Alexandria, Virginia 22310–3998.

FOR FURTHER INFORMATION CONTACT: Verbal inquiries may be made to Mr. Randolph J. Doubt, Signal Analysis Division, Omega Navigation System Center; telephone (703) 866–3880, FTS 398–0990.

SUPPLEMENTARY INFORMATION: Omega validations are intensive studies of radionavigation propagation in specified geographical regions. Actual signal data are collected, analyzed and compared to the theoretical coverage model for a respective region. The result of the comparison provides information as to the signal coverage and accuracy of the Omega system in the region.

Dated: October 19, 1989.

R.T. Nelson,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation, Safety and Waterway Services.

[FR Doc. 89–25545 Filed 10–30–89; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

National Highway Traffic Safety Administration

[FHWA Docket No. 89–18]

RIN 2125–AC39

Handicapped Parking Regulatory Negotiation Advisory Committee

AGENCY: Federal Highway Administration (FHWA) National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of public meetings.

SUMMARY: This notice announces the time and place of the next meetings of the Handicapped Parking Regulatory Negotiation Advisory Committee. These meetings are open to the public.

DATES: The meetings of the Handicapped Parking Regulatory Negotiation Advisory Committee will be held as follows:

Monday, October 30, 1989, noon to 5:00 p.m.

Tuesday and Wednesday, October 31 and November 1, 1989, 9:00 a.m. to 5:00 p.m.

Wednesday, November 29 through December 1, 1989, 9:00 a.m. to 5:00 p.m.

ADDRESS: The meetings of the advisory committee will be held at the Department of Transportation, Room 4200, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Agency contact: Mr. Vincent Nowakowski, FHWA, Office of Traffic Operations (202) 366–2146, Ms. Judith S. Kaleta, FHWA, Office of the Chief Counsel (202) 366–0764, or Mr. E. William Fox, NHTSA, Office of the Chief Counsel, (202) 366–1834, 400 Seventh Street, SW., Washington, DC 20590. *Mediator:* Robert Robertory, Deputy Chief Administrative Judge, Board of Contract Appeals, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–4305.

SUPPLEMENTARY INFORMATION: Pub. L. 100–641 directs the Secretary of Transportation to establish a uniform system for handicapped parking. This authority has been delegated to the FHWA and the NHTSA. To implement this law, the FHWA and the NHTSA have established an advisory committee for regulatory negotiation. 54 FR 24908 and 40770 (1989). The committee will develop a report concerning the establishment of a uniform system for handicapped parking to enhance the safety of persons with disabilities. This report will include a recommended rulemaking proposal and will be submitted to the Administrators of the FHWA and the NHTSA. After the agencies issue a notice of proposed rulemaking (NPRM), the committee will review any comments submitted to the rulemaking docket, and write a second report which will include a recommended final rule.

This advisory committee will consider the following issues:

1. The adoption of the International Symbol of Access (ISA) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps that limit or impair the ability to walk.

2. The issuance of license plates displaying the ISA for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk.

3. The issuance of removable windshield placards (displaying the ISA) to individuals with handicaps which limit or impair the ability to walk.

4. The fees charged for the licensing or registration of a vehicle used to transport individuals with handicaps.

5. The recognition of licenses and placards, which display the ISA and are issued by other States and countries.

We anticipate that this advisory committee will discuss matters that are ancillary to the issues set forth above.

In the notice of establishment of the advisory committee, which was published on October 3, 1989, 52 FR 40770, we noted that notices of the meetings will be published in the **Federal Register**, if time permits. We noted that publication may not be possible in cases when the committee decides to meet for a few days, break for a few days, and then resume negotiations. However, through this notice, we are attempting to advise all interested parties of the committee meetings.

Issued on: October 24, 1989.

E. Dean Carlson,

Acting Federal Highway Administrtor, Federal Highway Administration.

[FR Doc. 89–25513 Filed 10–30–89; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

[Number: 150–02]

Establishment of Certain Offices in the National Office of the Internal Revenue Service

October 12, 1989.

Subject: Establishment of certain offices in the national office of the Internal Revenue Service.

1. Authority. By the authority vested in me as Secretary of the Treasury by 31 U.S.C. 321(b); sections 7601(a), 7802 and 7803 of the Internal Revenue Code of 1986; and Reorganization Plan No. 1 of 1952, pursuant to section 7804(a) of the Internal Revenue Code, all offices in the National Office of the Internal Revenue Service continue uninterrupted except as follows:

a. The positions of Assistant Commissioner (Planning, Finance and Research), under the Deputy Commissioner (Planning and Resources), are abolished.

b. The Deputy Commissioner (Planning and Resources) is retitled Deputy Commissioner (Planning and Resources)/Chief Financial Officer (CFO). Three new positions are established under the Deputy Commissioner (Planning and Resources)/CFO. These are Assistant Commissioner (Finance)/Controller; Assistant Commissioner (Planning and Research); and Deputy Assistant Commissioner (Planning and Research).

c. A new position of Chief Information Officer is established under the Senior Deputy Commissioner. The Assistant Commissioner and Deputy Assistant Commissioner (Information Systems Development) are retitled Assistant Chief Information Officer and Deputy Assistant Chief Information Officer (Systems Design and Development); and the Assistant Commissioner and Deputy Assistant Commissioner (Computer Services) are retitled Assistant Chief Information Officer and Deputy Assistant Chief Information Officer (Systems and Applications Management). The Assistant Chief Information Officers will report to the Chief Information Officer.

2. Office of Commissioner of Internal Revenue. The Office of the Commissioner shall consist of the Commissioner, Senior Deputy Commissioner, Deputy Commissioner (Planning and Resources)/Chief Financial Officer, Deputy Commissioner (Operations), Chief Information Officer, Assistant Commissioner (Inspection), and Assistants to the Commissioner and Senior Deputy Commissioner. Except for the specific positions and titles in paragraphs 1. through 7. of this Order, the Commissioner may create, abolish, or modify offices and positions within the Internal Revenue Service as may be necessary to effectively and efficiently administer the tax laws or other responsibilities assigned to the Internal Revenue Service. The authority of the Commissioner to create, abolish, or modify offices under this delegation is subject only to limitations that exist by law or Department of Treasury rules and regulations.

3. Senior Deputy Commissioner. The Senior Deputy Commissioner serves as chief operating officer of the Service. This official is the highest career official in the Service and is responsible for the following activities.

a. Assists and acts for the Commissioner in planning, directing, coordinating, and controlling the policies, programs and other activities of the Internal Revenue Service.

b. Assists the Commissioner in establishing tax administration policy and developing strategic issues and objectives as a basis for strategic management of the Service.

c. Supervises the Deputy Commissioners, Chief Information Officer, and Assistants to the Commissioner and Senior Deputy Commissioner.

4. Deputy Commissioner (Operations). The Deputy Commissioner (Operations) is the principal advisor to the Commissioner and Senior Deputy Commissioner on policy and operational matters affecting field functions. The Deputy Commissioner is responsible for the following activities.

a. Serves as national spokesperson for the field operations functions which are:

(1) Assisting taxpayers in complying with the tax laws;

(2) Processing tax returns and information documents;

(3) Accounting for revenue collected by the Service;

(4) Collecting delinquent accounts;

(5) Investigating delinquent taxpayers;

(6) Investigating criminal tax fraud;

(7) Examining tax returns;

(8) Approving and examining employee plans and exempt organizations;

(9) Tax treaty administration; and

(10) Foreign tax administration assistance and disclosure.

b. Supervises the regional commissioners and the following assistant commissioners: Collection, Criminal Investigation, Employee Plans and Exempt Organizations, Examination, International, Returns Processing, and Taxpayer Services.

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c. As designated by the Commissioner, represents the Service to other Executive Branch agencies, the Congress, other tax authorities and the public on field operations and major cross-functional issues.

5. Deputy Commissioner (Planning and Resources)/Chief Financial Officer. The Deputy Commissioner (Planning and Resources)/Chief Financial Officer is the principal advisor to the Commissioner and Senior Deputy Commissioner on Servicewide planning and the management of human and financial resources. The Deputy Commissioner is responsible for the following activities.

a. Serves as national spokesperson for the planning and management of resources functions which are:

(1) Administering the Strategic Management System;

(2) Conducting research;

(3) Formulating budgets and controlling their execution; and

(4) Administering human resource policies, facilities and logistical support, and contracting.

b. Serves as the Service's chief financial officer and establishes practices, procedures, standards and controls for the Service's financial systems.

c. Supervises the following assistant commissioners: Finance/Controller; Human Resources Management and Support; and Planning and Research.

d. As designated by the Commissioner, represents the Service to other Executive Branch agencies, the Congress, other tax authorities, and the public on Servicewide planning, management of resources, and major cross-functional issues.

6. Chief Information Officer. The Chief Information Officer is the principal advisor to the Commissioner and Senior Deputy Commissioner on Servicewide information resources and technology management. The Chief Information Officer is responsible for the following activities.

a. Serves as the national spokesperson for the functions of strategic technology planning, data administration, technology standards, and telecommunications.

b. Establishes policies and standards affecting these functions and the development and acquisition of computer hardware and software.

c. Provides the focus for technology management within the Service and plays an essential role in shaping Servicewide technology goals and programs and fostering a shared commitment to them.

d. Supervises the following assistant chief information officers: Systems Design and Development, and Systems and Applications Management.

e. As designated by the Commissioner, represents the Service to other Executive Branch agencies, the Congress, other tax authorities, and the public on Servicewide information resources and technology management and major cross-functional issues.

7. Assistant Commissioner (Inspection). The Assistant Commissioner (Inspection) will, to ensure objectivity and integrity, report directly to the Commissioner.

8. The changes shall be implemented at a date determined by the Commissioner of Internal Revenue. Effective immediately, the Commissioner of Internal Revenue is authorized to effect, at appropriate times and in an orderly manner, such transfers of functions, personnel, positions, equipment and funds as may be necessary to implement the provisions of this Order.

9. The Chief Counsel. The Chief Counsel, pursuant to delegated authority from the General Counsel, is authorized to take necessary action on all personnel and administrative matters pertaining to the Office of Chief Counsel, including but not limited to those for the appointment, classification, promotion, demotion, reassignment, transfer or separation of officers or employees; however, all personnel and administrative matters concerning Senior Executive Service or Performance Management Recognition System employees in the Offices of Associate Chief Counsels (International) and (Technical) whose primary duties do not involve litigation, and the Office of National Director of Appeals, shall be approved by the Commissioner of Internal Revenue prior to implementation.

a. The National Director of Appeals is supervised by the Chief Counsel. The Commissioner of Internal Revenue exercises line supervision over the Chief Counsel for this function.

b. The Commissioner of Internal Revenue will exercise the Service's final authority concerning substantive interpretation of the tax laws as reflected in legislative and regulatory proposals, revenue rulings, letter rulings, and technical advice memoranda.

10. Cancellations. This Order supersedes the following:

a. Treasury Order 150-02, "Establishment of Certain Offices in the National Office of the Internal Revenue Service," dated July 2, 1987; and

b. Treasury Order 150-31, "Establishment of the Office of Assistant Commissioner (Taxpayer Services)," dated May 8, 1989.

Nicholas F. Brady,

Secretary of the Treasury.

[FR Doc. 89-25520 Filed 10-30-89; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Fiscal Service, Financial Management Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6-8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 9% for calendar year 1990.

DATES: The rate will be in effect for the period beginning on January 1, 1990 and ending on December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Division (Program Compliance Branch), Financial Management Service, Department of the Treasury, 401 14th Street SW., Washington, DC 20227 (Telephone: (202) 287-0745).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Public Law 95-147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for calendar year 1990 reflects the average investment rates for the 12-month period ended September 30, 1989.

Dated: October 25, 1989.

Michael T. Smokovich,

Assistant Commissioner Federal Finance.

[FR Doc. 89-25559 filed 10-30-89; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service (IRS)

Assistant Commissioner (EP/EO) Employee Plans Ad Hoc Group; Open Meeting

A meeting of the Assistant Commissioner (Employee Plans and Exempt Organizations) Employee Plans Ad Hoc Group will be held on December 7, 1989 at the IRS Baltimore District Office. The office is located at 31 Hopkins Plaza in the Fallon Federal Building, Baltimore, Maryland. The meeting will begin at 9:00 a.m. on Thursday, December 7, 1989. The agenda will include the following topics:

Discussion of Employee Plans Determination and Examination Programs.

Discussion of Service Center Processing Issues

Discussion of Employee Plans Technical Issues

Member Forum

Due to limited conference space, notification of intent to attend the meeting must be made with Jane Baniewicz, Staff Assistant to the Assistant Commissioner, no later than November 27, 1989. Ms. Baniewicz may be reached on (202) 566-9204 (not toll-free).

FOR FURTHER INFORMATION CONTACT: Jane Baniewicz, Staff Assistant to Assistant Commissioner (EP/EO), (202) 566-9204 (not toll-free).

Robert I. Brauer,

Assistant Commissioner (E).

[FR Doc. 89-25503 Filed 10-30-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF VETERANS AFFAIRS

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates and income limitations. These COLAs affect the pension and parents' dependency and indemnity compensation (DIC) programs. These adjustments are based on the rise in the Consumer Price Index (CPI) during the one year period ending September 30, 1989. VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in fiscal year 1990 which began on October 1, 1989.

DATES: These COLAs are effective December 1, 1989. The headstone or marker allowance rate is effective October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-3005.

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 3112 and section 306 of Public Law 95-588, VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations are also required to be published in the **Federal Register.**

The Social Security Administration has announced that there will be a 4.7 percent cost-of-living increase in social security benefits effective December 1, 1989. Therefore, applying the same percentage, the following increased rates and income limitations for the VA pension and parents' DIC programs will be effective December 1, 1989.

Table 1—Improved Pension

Maximum annual rates

(1) Veterans permanently and totally disabled (38 U.S.C. 521).
Veteran with no dependents, $6,767.
Veteran with one dependent, $8,864.
For each additional dependent, $1,150.

(2) Veterans in need of aid and attendance (38 U.S.C. 521).
Veteran with no dependents, $10,824.
Veteran with one dependent, $12,922.
For each additional dependent, $1,150.

(3) Veterans who are housebound (38 U.S.C. 521).
Veteran with no dependents, $8,271.
Veteran with one dependent, $10,368.
For each additional dependent, $1,150.

(4) Two veterans married to one another; combined rates (38 U.S.C. 521).
Neither veteran in need of aid and attendance or housebound, $8,864.
Either veteran in need of aid and attendance, $12,922.
Both veterans in need of aid and attendance, $16,977.
Either veteran housebound, $10,368.
Both veterans housebound, $11,873.
One veteran housebound and one veteran in need of aid and attendance, $14,424.
For each dependent child, $1,150.

(5) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 541).
Surviving spouse alone, $4,335.
Surviving spouse and one child in his or her custody, $5,941.
For each additional child in his or her custody, $1,150.

(6) Surviving spouses in need of aid and attendance (38 U.S.C. 541).
Surviving spouse alone, $7,254.
Surviving spouse with one child in his or her custody, $8,656.
For each additional child in his or her custody, $1,150.

(7) Surviving spouses who are housebound (38 U.S.C. 541).
Surviving spouse alone, $5,544.
Surviving spouse and one child in his or her custody, $6,947.
For each additional child in his or her custody, $1,150.

(8) Surviving child alone (38 U.S.C. 542), $1,150.

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 521, 541, and 542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this table shall be increased by $1,530. (38 U.S.C. 521(g))

Parents' DIC

DIC (dependency and indemnity compensation) shall be paid monthly to parents of a deceased veteran in the following amounts. (38 U.S.C. 415)

Table 2

One parent. If there is only one parent the monthly rate of DIC paid to such parent shall be $318 reduced on the basis of the parent's annual income according to the following formula:

The $318 monthly rate shall be reduced by	For each $1 of annual income: Which is more than	But not more than
$0.00	0	$600
.08	$600	7,697

No DIC is payable under this table if annual income exceeds $7,697.

One Parent Who Has Remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under table 2 or under table 4, whichever shall

result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining

The $214 monthly rate shall be reduced by	For each $1 of annual income: Which is more than	But not more than

(5) Child (no entitled veteran or surviving spouse), $8,291 (Pub. L. 95-588, section 306(a)).

(6) Spouse income exclusion (38 C.F.R. § 3.262), $2,454 (Pub. L. 95-588, section

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result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in table 3 apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $228 reduced on the basis of each parent's annual income, according to the following formula:

Table 3

For each $1 of annual income		
The $228 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.06	$800	900
.07	900	1,100
.08	1,100	7,697

No DIC is payable under this table if annual income exceeds $7,697.

Two parents living together or remarried parents living with spouses. The rates in table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $214 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

Table 4

For each $1 of annual income		
The $214 monthly rate shall be reduced by	Which is more than	But not more than
0.00	0	$1,000
.03	$1,000	1,500
.04	1,500	1,900
.05	1,900	2,400
.06	2,400	2,900
.07	2,900	3,200
.08	3,200	10,350

No DIC is payable under this table if combined annual income exceeds $10,350.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in table 2 for one parent.

Aid and attendance

The monthly rate of DIC payable to a parent under tables 2 through 4 shall be increased by $169 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate

The monthly rate of DIC payable to any parent under tables 2 through 4 shall not be less than $5.

Table 5—Section 306 Pension Income Limitations

(1) Veteran or surviving spouse with no dependents, $7,697 (Pub. L. 95–588, section 306(a)).

(2) Veteran with no dependents in need of aid and attendance, $8,197 (38 U.S.C. 521(d) as in effect on December 31, 1978)

(3) Veteran or surviving spouse with one or more dependents, $10,350 (Pub. L. 95–588, section 306(a))

(4) Veteran with one or more dependents in need of aid and attendance, $10,850 (38 U.S.C. 521(d) as in effect on December 31, 1978)

(5) Child (no entitled veteran or surviving spouse), $6,291 (Pub. L. 95–588, section 306(a)).

(6) Spouse income exclusion (38 C.F.R. § 3.262), $2,454 (Pub. L. 95–588, section 306(a)(2)(B)).

Table 6—Old-Law Pension Income Limitations

(1) Veteran or surviving spouse without dependents or an entitled child, $6,738 (Pub. L. 95–588, section 306(b)].

(2) Veteran or surviving spouse with one or more dependents, $9,716 (Pub. L. 95–588, section 306(b))

Headstone or Market Allowance

Under 38 U.S.C. 906(d) the VA may provide reimbursement for the cost of non-Government headstones or markers at a rate equal to the actual cost or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less.

The average actual cost of Government-furnished headstones and markers during any fiscal year is determined by dividing the sum of the VA costs during that fiscal year for procurement, transportation, Monument Service and miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by the VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for fiscal year 1989 under the above computation method was $85. Therefore, effective October 1, 1989, the maximum rate of reimbursement for non-Government headstones or markers purchased during fiscal year 1990 is $85.

Dated: October 25, 1989.

Edward J. Derwinski,

Secretary.

[FR Doc. 89–25492 Filed 10–30–89; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

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This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: On January 26, 1989, a notice (54 FR 3900) was published stating that no further regularly scheduled meetings of the Farm Credit Administration Board (Board) would be held due to lack of a quorum. A quorum has been constituted with the recent appointment of Harold B. Steele as Chairman of the Board. Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the regular meeting of the Board scheduled for November 7, 1989 will not be held and that a special meeting of the Board has been scheduled for Tuesday, November 21, 1989, starting at 10:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: October 26, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89–25753 Filed 10–27–89; 1:25 am]

BILLING CODE 6705–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 24, 1989, 54 FR 43214.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 25, 1989, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added to Item CAG–9 for the agenda of October 25, 1989:

Item NO., Docket No, and Company

CAG–9—RP89–46–000 and RP89–222–000, Transwestern Pipeline Company

Lois D. Cashell,

Secretary.

[FR Doc. 89–25677 Filed 10–26–89; 8:45 am]

BILLING CODE 6717–02–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 9:30 a.m., Friday, October 27, 1989.

The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed 1990 Federal Reserve Board officer and employee salary structure adjustments.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 27, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–25765 Filed 10–31–89; 3:25 pm]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 6, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 27, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–25766 Filed 10–27–89; 3:25 pm]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 43519, October 25, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, October 30, 1989.

CHANGES IN THE MEETING: Change in the time of the open meeting to 9:30 a.m., Monday, October 30, 1989.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–25683 Filed 10–27–89; 9:47 am]

BILLING CODE 6710–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 30, November 6, 13, and 20, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 30

Tuesday, October 31

8:30 a.m.
Collegial Discussion of Items of Commission Interest (Public Meeting)

Wednesday, November 1

10:00 a.m.
Briefing by General Electric on the Advanced BWR Standard Plant Review (Public Meeting)
11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
1:00 p.m.
Briefing by Combustion Engineering on ALWR System 80+ (Public Meeting)
2:30 p.m.
Briefing by Westinghouse on Advanced LWR SP 90 (Public Meeting)

Week of November 6—Tentative

Thursday, November 9

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 13—Tentative

Thursday, November 16

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Wednesday, November 22

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially requiring any Commission vote on this date. To verify the status of meetings call (recording)—(301) 492–0292

FOR FURTHER INFORMATION CONTACT: William Hill (301) 492–1661.

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Week of November 13—Tentative

Thursday, November 16

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 20—Tentative

Tuesday, November 21

10:00 a.m.

Briefing on Implementation of the U.S. Environmental Protection Agency's HLW Disposal Standards (Public Meeting)

Wednesday, November 22

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no time has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492–0292

FOR FURTHER INFORMATION CONTACT:

William Hill (301) 492–1661.

Dated: October 26, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89–25714 Filed 10–27–89; 12:39 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register

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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1137

[DA-89-035]

Milk in the Eastern Colorado Marketing Area; Order Suspending Certain Provisions

Correction

In rule document 89-23839 beginning on page 41437 in the issue of Tuesday, October 10, 1989, make the following correction:

On page 41438, in the second column, in the first and second lines immediately preceding the signature, the date should read "October 3, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ90-1-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-24639 appearing on page 42985 in the issue of Thursday, October 19, 1989, make the following correction:

In the first column, in the heading, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects; Rate Order

Correction

In notice document 89-24245 beginning on page 42025 in the issue of Friday, October 13, 1989, make the following corrections:

1. On page 42028, in the first column, in the fourth line from the bottom, "process" should read "product".

2. On page 42029, in the third column, in the line immediately preceding **Availability of Information**, "or" should read "nor".

3. On the same page, in the same column, under **Availability of Information**, in the eighth line, remove the comma following "Crossroads".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400035; FRL-3560-9]

Cadmium Sulfide and Cadmium Selenide; Toxic Chemical Release Reporting; Community Right-to-Know

Correction

In proposed rule document 89-24674 beginning on page 42962 in the issue of Thursday, October 19, 1989, make the following corrections:

1. On page 42962, in the second column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the second line, "(3)(1)" should read "(e)(1)".

2. On the same page, in the third column, under **SUPPLEMENTARY INFORMATION**, in the third complete paragraph, in the fifth line, "meeting" should read "melting".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[DA 89-767]

Private Radio Services; Editorial Amendments of Parts 90 and 94 of the Commission's Rules

Correction

In rule document 89-22056 beginning on page 38680 in the issue of Wednesday, September 20, 1989, make the following correction:

§ 90.241 [Corrected]

On page 38681, in the first column, in item 20., in the first line, "§ 90.241(c)" should read "§ 90.241(e)".

BILLING CODE 1505-01-D

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapters III and IV

Regulations Transferred From Federal Savings and Loan Insurance Corporation; Redesignation From Chapter V to Chapter III

Correction

In rule document 89-24539 beginning on page 42799 in the issue of Wednesday, October 18, 1989, make the following corrections:

1. On page 42800, in the second column, in the 12th line, "others" should read "orders".

2. On page 42801, in the first column, in the table, remove the third line from the bottom.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-09-4214-11; IDI-05384]

Proposed Continuation of Withdrawal; Idaho

Correction

In notice document 89-21149 beginning on page 37385 in the issue of Friday, September 8, 1989, make the following correction:

On page 37385, in the second column, under **EFFECTIVE DATE:**, "September" should read "December".

BILLING CODE 1505-01-D

INTERNATIONAL TRADE ADMINISTRATION

[A-475-084]

Spun Acrylic Yarn From Italy; Final Results of Antidumping Duty Administrative Review

Correction

In notice document 89-24107 beginning on page 42005 in the issue of Friday,

October 13, 1989, make the following correction:

On page 42008, in the third column, in the second column of the table, the margin for the first entry should read

Wednesday, September 27, 1989, make the following corrections:

§ 120.502-1 [Corrected]

1. On page 39518, in the third column,

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

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October 13, 1989, make the following correction:

On page 42008, in the third column, in the second column of the table, the margin for the first entry should read "- 0 -".

BILLING CODE 1505-01-D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN: 3245-AB85

Business Loan Policy

Correction

In rule document 89-22783 beginning on page 39517 in the issue of Wednesday, September 27, 1989, make the following corrections:

§ 120.502-1 [Corrected]

1. On page 39518, in the third column, in § 120.502-1, in the sixth line, "of" should read "and".

§ 120.502-2 [Corrected]

2. On page 39519, in the first column, in § 120.502-2(a), in the third line, "to" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 89-AEA-12]

Proposed Alteration and Revocation of Jet Routes

Correction

In proposed rule document 89-20853 beginning on page 36998 in the issue of Wednesday, September 6, 1989, make the following correction:

On page 36999, in the second column, in the first complete paragraph, in the eighth line, "12201" should read "12291".

BILLING CODE 1505-01-D

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Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Occupational Safety and Health Standards—Excavations; Final Rule

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-204]

RIN 1218-AA36

Occupational Safety and Health Standards—Excavations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) hereby amends its Construction Standards for Excavations, 29 CFR part 1926, subpart P.

The existing standards regulate the use of support systems, sloping and benching systems and other systems of protection as means of protection against excavation cave-ins. In addition, the standards regulate the means of access to and egress from excavations, and employee exposure to vehicular traffic, falling loads, hazardous atmospheres, water accumulation, and unstable structures in and adjacent to excavations.

The revised standard uses performance criteria where possible, rather than specification requirements; consolidates and simplifies many of the existing provisions; adds and clarifies definitions; reformats the standard to eliminate duplicate provisions and ambiguous language; provides a consistent method of soil classification; and gives employers added flexibility in providing protection for employees. This Final Rule is being issued after appropriate consultation with the Advisory Committee on Construction Safety and Health (ACCSH).

OSHA initiated this rulemaking action to establish clearly the requirements for protection of employees in excavations. The intended effect of this regulation is to increase safety for these workers.

EFFECTIVE DATE: January 2, 1990.

ADDRESS: In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of the standard, the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, Room S-4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION:

I. Background

A. History

Congress amended the Contract Work Hours Standards Act (CWHSA) (40 U.S.C. 327 et seq.) in 1969 by adding a new section 107 (40 U.S.C. 333) to provide employees in the construction industry with a safer work environment and to reduce the frequency and severity of construction accidents and injuries. The amendment, commonly known as the Construction Safety Act (CSA) (Pub. L. 91-54; August 9, 1969), significantly strengthened employee protection by providing for occupational safety and health standards for employees of the building trades and construction industry in Federal and federally-financed or federally-assisted construction projects.

Accordingly, the Secretary of Labor issued Safety and Health Regulations for Construction in 29 CFR part 1518 (36 FR 7340, April 17, 1971) pursuant to section 107 of the Contract Work Hours and Safety Standards Act. Included in these regulations were the existing safety standards for trenches and excavations.

The Occupational Safety and Health Act (the Act) (84 Stat. 1580; 29 U.S.C. 650 et seq.) was enacted by Congress in 1970, and authorized the Secretary of Labor to adopt established Federal Standards issued under other statutes, including the Construction Safety Act, as occupational safety and health standards. Accordingly, the Secretary of Labor adopted the Construction Standards in 29 CFR part 1518 as established Federal Standards in accordance with section 6(a) of the Act (36 FR 10466, May 29, 1971). Part 1518 was redesignated as part 1926 later in 1971 (36 FR 25232, December 30, 1971). The standards in existing subpart P of part 1926, titled § 1926.650—General Protection Requirements; § 1926.651—Specific Excavation Requirements; § 1926.652—Specific Trenching Requirements; and § 1926.653—Definitions Applicable to this subpart, were adopted as OSHA standards as part of this process.

The need for review and revision of §§ 1926.650 through 1926.653 has been recognized by OSHA since the earliest days of the Agency's existence. Consequently, after a Notice of Proposed Rulemaking (36 FR 19083, September 28, 1971) and after a review by the Advisory Committee on Construction Safety and Health (ACCSH), several amendments of a technical nature were made to subpart P (37 FR 3512, February 17, 1972). Subsequent to the adoption of those amendments, OSHA found it necessary to further amend the standard. After a Notice of Proposed Rulemaking (37 FR 15317, July 29, 1972) § 1926.652 was amended to require ladders as a means of access and egress in trenches greater than four feet (1.2 m) in depth—instead of three feet (.9 m) in depth (37 FR 24345, November 16, 1972).

In 1976, OSHA, in response to continued complaints concerning the adequacy of the standards in subpart P, engaged the National Bureau of Standards (NBS) to study the compatibility of the technical provisions in the regulations with actual construction practice. In addition, NBS was to examine the state of the knowledge in geotechnical and structural engineering; to review the field experience accumulated since the promulgation of the standards; and to recommend potential modifications that could improve the effectiveness of the standards.

Findings and preliminary recommendations of the NBS studies were presented and discussed at a federally-sponsored workshop in September 1978. Six reports were then completed as a result of NBS' work, and these were published in 1979 and 1980. Copies of these reports are part of the public record (Exs. 2-1 through 2-6).

As a result of the development of these recommended changes, private industry proposed and sponsored a series of five workshops in the spring and summer of 1981 to discuss and comment on ways to implement the NBS recommendations. An unpublished text was used at these workshops (Ex. 2-7). Final recommendations for technical changes to the standards incorporating the comments from the industry-sponsored workshops were prepared by NBS in May 1983 (Ex. 2-26).

Excavation-related accidents resulting in injuries and fatalities have continued to occur at construction sites despite the development and promulgation of the OSHA Construction Standards in 1971 and 1972. Based on a careful review of compliance problems and public comments received since 1972, OSHA believed that the present standard needed updating. Therefore, the Agency developed a proposed revision to the existing standard.

A draft of the proposed changes to the standard was reviewed by ACCSH in October 1982. Transcripts of this meeting are part of the public record (Ex. 2-8). The Committee's comments and recommendations, and those of

other interested parties, were carefully analyzed in connection with the proposed rulemaking. Many of the changes in the proposed standard reflected the recommendations and suggestions of these participants. Relevant ACCSH comments are discussed below in section III—"Summary and Explanation of the Final Rule." Committee discussions that were inconclusive have been considered, but are not discussed in this preamble. Several suggestions for changes to the draft standard were made by members of the ACCSH. OSHA sought more discussion on these suggestions and, therefore, raised individual points as issues in the preamble of the proposal.

On April 15, 1987, OSHA issued a notice of proposed rulemaking (NPRM) on excavations (52 FR 12288). The NPRM established a sixty day period, which ended June 15, 1987, for submission of written comments. Several commenters requested an extension of the written comment period. Therefore, on June 16, 1987 (52 FR 22799), the Agency extended the written comment period until October 14, 1987.

On August 5, 1987, OSHA consulted with the ACCSH for a second time, regarding the issues raised in the NPRM. In addition to making recommendations regarding these issues, the ACCSH suggested changes to the proposed regulations. The transcript of this meeting is part of the record of this rulemaking (Ex. 4-119).

During the extended comment period, OSHA received requests for an informal public hearing. On February 23, 1988, OSHA announced it would convene an informal public hearing on April 19, 1988, and extended the period for submitting testimony, documentary evidence, and additional comments until April 1, 1988 (53 FR 5280). The hearing was held on April 19, 1988, with Administrative Law Judge Michael Schoenfeld presiding. At the close of the hearing, Judge Schoenfeld set a period, ending May 20, 1988, for the submission of additional data, and a period ending June 20, 1988, for the submission of briefs and arguments.

At the request of one participant at the public hearing, Judge Schoenfeld extend the comment period until June 24, 1988, for the submission of additional data and until July 29, 1988, for the submission of additional views and arguments (Ex. 31).

On December 15, 1988 Judge Schoenfeld certified the hearing transcript and related submissions, closing the record for this proceeding.

OSHA received over 150 comments in response to its NPRM and hearing notice. A wide range of employers, businesses, labor unions, trade associations, state governments and other interested parties contributed to the development of this record. OSHA appreciates the efforts interested parties have made to help develop a rulemaking record which would provide a sound basis for the promulgation of a Final Rule.

B. Problems with the Existing Standards

OSHA's efforts to revise its excavation and trenching standards were initiated primarily because the Agency has experienced difficulty in enforcing the existing standards. Several of these problems are discussed in detail below.

(1) "Specific Excavation"/"Specific Trenching Requirements"

The first major problem with the existing standards is that because §§ 1926.651 and 1926.652 are two separate sections, one entitled "Specific Excavation Requirements" and the other "Specific Trenching Requirements," the standards are not clear as to whether the excavation requirements must also be followed when digging trenches. It was intended by OSHA that many of the excavation standards would also apply to trenches since a trench is a type of excavation, but that intention is not clearly stated.

The Occupational Safety and Health Review Commission (OSHRC), and two United States Court of Appeals, have sanctioned the application of the excavation standards in § 1926.651 to trenches (Dobson Brothers Construction Company, 3 BNA OSHC 2035 (R.C. 1976); *Texas Eastern Products Pipeline Co.* v. *OSHRC*, 827 F. 2d 46 (7th Cir. 1987); and *D. Federico Company, Inc.* v. *OSHRC and Usery*, 558 F. 2d 614 (1st Cir. 1977) 5 BNA OSHC 1528, respectively). However, other Courts of Appeals have held, to the contrary, that excavation standards cannot be applied to trenches (*Lloyd C. Lockrem, Inc.* v. *OSHRC*, 609 F. 2d 940 (9th Cir 1979) 8 BNA OSHC 1316; *Kent Nowlin Construction Co.* v. *OSHRC*, 593 F. 2d 388 (10th Cir. 1979)).

This Final Rule resolves the uncertainty left by these decisions and by the ambiguous language of the existing standards by establishing one set of requirements which are applicable to all excavations, including trenches. Where there are requirements intended to be applicable only to trenches—such as the requirement that ladders or equivalent means of egress be provided every 25 feet horizontally—the Final Rule makes it clear that the requirement applies only to those excavations which are also trenches (see § 1926.651(c)(2)).

(2) Excavations (Non-Trench)

A second major problem with the existing standards involves the requirements for protecting employees in non-trench excavations from the hazards of cave-ins. Existing § 1926.651(c) currently requires that "The walls and faces of all excavations in which employees are exposed to danger from moving ground shall be guarded by a shoring system, sloping of the ground, or some other equivalent means." The term "danger from moving ground" is not defined in the standard and, thus, the standard does not specify when an employer must take precautions to protect employees from a cave-in. Furthermore, the standard does not specify what degree of precaution an employer must take even when employees are exposed to a "danger from moving ground." Requirements contained in existing § 1926.651 (e), (f), (g), and (h), discuss employee protection again, however, only in very general terms.

The language was resolved somewhat when the OSHRC, in agreement with the Secretary of Labor, interpreted the standard to require shoring or sloping in accordance with Table P-1 of subpart P, whenever employees are exposed to unstable soil in excavation sides (M.J. Lee Construction Company, 7 BNA OSHC 1140 ((R.C. 1979)); Terra Motus Company, Inc., 5 BNA OSHC 1696 ((R.C. 1977)); D. Federico Company, Inc., 3 BNA OSHC 1970 ((R.C. 1976)) affirmed on other grounds 558 F. 2d 614 ((1st Cir. 1977)) 5 BNA OSHC 1528). However, this problem was revived by two OSHRC decisions which are inconsistent with the cases mentioned above. In the first case, Seaward Construction Company, Inc., 5 BNA OSHC 1422 ((R.C. 1977)), the OSHRC interpreted § 1926.651(c) to require sloping and shoring only if OSHA establishes that the ground to which employees are exposed is actually moving. In the second case, Pipe-Rite Utilities Ltd., Inc., 10 BNA OSHC 1289 ((R.C. 1982)), the OSHRC, relying on Seaward vacated a citation and did not address the other cases interpreting existing § 1926.651(c). These decisions reestablished the uncertainty as to when and to what degree an employer must slope, shore or otherwise protect employees in a non-trench excavation. OSHA has long maintained that employees exposed to potential cave-ins must be protected by shoring or sloping long before the excavation face is in imminent danger of collapse.

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Another problem with the existing standards for non-trench excavations (§ 1926.651) is that the degree of protection required is not always easily determined. With regard to sloping, the existing § 1926.651(g) provides that "All slopes shall be excavated to at least the angle of repose except for areas where solid rock allows for line drilling or presplitting." To find the angle of repose an employer must consult Table P–1, which appears at the end of § 1926.652, "Specific Trenching Requirements." Table P–1 is titled "Approximate Angle of Repose for Sloping of Sides of Excavations." The difficulty with table P–1 is that it describes the approximate angle of repose for various soil types in terms that are not the same as terms commonly used in the industry to classify soils. In addition, the terms are not defined in the standard. Thus, it is sometimes very difficult to determine what OSHA considers to be the appropriate degree of sloping from this table.

OSHA recognizes a problem with the term "angle of repose." The term is used in the standard in a manner which is inconsistent with its meaning in the civil engineering profession. In the American Society for Testing and Materials (ASTM) Standard D653–87, "Standard Definitions of Terms and Symbols Relating to Soil and Rock Mechanics," the term "angle of repose" is defined as follows: "The angle between the horizontal and maximum slope that a soil assumes through natural processes. For dry granular soils the effect of height is negligible; for cohesive soils the effect of height is so great that the angle of repose is meaningless." Thus, to talk in terms of a single "angle of repose" is technically inaccurate. The "angle of repose" for cohesive soil depends on the depth of the excavation, whereas the "angle of repose" for granular soil depends largely on its density and changes in environmental conditions of exposure, such as the drying process.

This Final Rule resolves the uncertainty created by the ambiguous language of the existing standard by establishing requirements for the sloping of all excavations that convey clearly when precautions must be taken to protect employees and the degree of protection that is necessary. The Final Rule uses terms that are consistent with both the civil engineering profession and the construction industry.

(3) Need for Clarification of Trench Requirements

OSHA learned from its enforcement experience with § 1926.652, "Specific Trenching Requirements" that much needed to be done to clarify the meaning and intent of these standards.

The key provisions of the current specific trenching standards are § 1926.652(b) (for trenches in soft or unstable material) and § 1926.652(c) (for trenches in hard or compact soil). The main difficulty with existing § 1926.652 (b) and (c) is that the terms "soft or unstable" soil and "hard or compact" soil do not, in some instances, provide sufficient guidance to employers as to the requirements applicable to digging a trench. The OSHRC has held that any trench requiring a slope less steep than 63 degrees from the horizontal under table P–1 must be considered to be in soft or unstable soil, within the meaning of § 1926.652(b). The OSHRC has ruled:

> Since § 1926.652(c) requires a slope of not steeper than ½ to 1 for hard or compact soil, it is evident that these materials listed in Table P–1 as having a less steep angle of repose must be considered soft or unstable, and are therefore regulated by § 1926.652(b). (*Connecticut Natural Gas Corporation*, 6 BNA OSHC 1796, (R.C. 1978)).

Although the OSHRC ruling harmonized the existing regulations, OSHA prefers employers to know which requirements they are subject to before determining the extent to which they must slope, rather than determining the slope first and then determining the regulation with which they must comply. In some instances, this determination is not a difficult problem under the current standard. For example, for many granular soils, an employer is not going to have a problem determining that a slope of ½ to 1 (approximately 63 degrees from the horizontal) is inadequate, and that § 1926.652(b) applies to the trenches excavated in such soil. Indeed, the OSHRC has ruled that there is a rebuttable presumption that predominately sandy soils, unless cemented, are soft or unstable within the meaning of 1926.652(b). (Duane Meyer d/b/a D.T. Construction Company, 7 BNA OSHC 1560 [(R.C. 1979)). However, there are situations in which under the existing standard it is not easily determined which sloping angle applies. For example, if a trench is excavated in previously disturbed cohesive soil, the existing standard gives little guidance as to which standard applies or what constitutes an adequate slope under table P–1. And, since the sloping requirements of § 1926.652 are contained in table P–1, the shortcomings of that table (previously discussed above under non-trench excavations) are also a problem with the existing standards regulating trenches. In addition to the technical misuse of the term "angle of repose," the table classifies soils in a manner that is difficult to relate to the soil descriptions used in § 1926.652(b) and (c), and the terms used are not the same as terms generally used in the construction industry.

The Final Rule rectifies these problems in two ways. First, it provides employers with a soil classification system in appendix A which describes the variables in soil composition an employer can encounter; and secondly, it sets forth sloping and shoring requirements in accordance with the types of soil, as determined with respect to the soil classification system. In OSHA's opinion, the soil classification system in appendix A will make it much easier for employers to determine whether their slopes comply with OSHA's requirements.

Paragraph 1926.652(c) has caused compliance problems in one other important respect. The standard requires sloping of at least ½ to 1 (horizontal to vertical), but requires only that sloping begin five feet (1.52 m) from the bottom of the trench. This standard has been interpreted as permitting a trench dug in hard or compact soil to be vertical for the first five feet (1.52 m) from the bottom, and sloped not more than 63 degrees from the horizontal beginning at the five feet (1.52 m) level (Horowitz Brothers, Inc., 3 BNA OSHC 1131 [(R.C. 1975)). OSHA believes that this interpretation is inadequate because it is, in most instances, dangerous to allow employees to work in a trench excavated in soils in which the sides are vertical for the bottom five feet (1.52 m) portion and then sloped starting at the five foot level. This is particularly true in a relatively deep trench in which the weight of cohesive soils adversely affects the stability of the trench side. OSHA has always interpreted and enforced this provision to require shoring or a trench shield in the unsloped, vertical sided portion of the trench.

The proposed standard required that trenches and excavations be sloped or benched from the bottom instead of from the five foot (1.52 m) level, unless a qualified person or qualified engineer designs an alternate configuration. Acceptable configurations for sloped excavations were illustrated in Figure B–1 of appendix B of the proposal.

OSHA still believes that sound engineering principles dictate that a five foot deep vertical-sided portion should be shored in most instances. The Agency notes that the National Bureau of Standards depicts a similar situation in Figure A–2 (Ex. 2–3), but recommends only a three foot maximum vertical-sided portion and a slope of not more than 1 horizontal: 1 vertical (45°). Additionally, Figure A–7 depicts another similar situation where the depth of the vertical-sided portion is approximately four feet deep, shored, and the slope is 1 horizontal : 1 vertical (45°). OSHA solicited comment on the appropriateness, and costs and benefits of the configurations discussed above with special emphasis on the OSHA interpretation.

The Final Rule addresses this situation by allowing employees to use trench configurations with a vertical portion in the bottom of the trench in accordance with the limitations that have been successfully used in the State of California, or with the approval of a registered professional engineer.

(4) Trench Boxes and Shields

The requirements for trench boxes and shields are contained in existing § 1926.652(k). The requirements are not clear as to their intent with regard to the design of shields. For example, the standard requires that such devices "shall be designed, constructed, and maintained in a manner which will provide protection equal to or greater than the sheeting or shoring required for the trench." In addition, the standard defines a trench shield as "A *shoring system* (emphasis added) composed of steel plates and bracing * * * which support the walls of a trench * * *." Shields may be constructed of steel, but need not be, and they may provide support to the side of a trench. However, shields are more often used in a manner where they do not support the side of a trench but rather act as a barrier in the event a cave-in occurs. Because of the restrictive nature of the existing definition, and since the design of sheeting and shoring is tied to the requirements for timber shoring and sheeting set forth in Table P–2 "Trench Shoring—Minimum Requirements," some observers have perceived a lack of flexibility on the part of OSHA regarding the design of trench shields.

Another problem with the existing requirements for trench shields is the lack of coverage addressing hazardous situations that arise out of the use of shields. Shields are used differently than shoring, and situations can arise when using shields that do not arise when using shoring. For example, shields are moved into position by sliding them along the trench bottom or by lowering them into position. Employees who are within the confines of a shield being repositioned by other than horizontal movement are subject to being injured if the shield suddenly shifts in an unintended way—a hazard not generally arising when timber shoring is used.

The requirements for trench boxes and shields in existing § 1926.652(k) were changed in the proposal to allow employers more flexibility in the design of trench shields. The Final Rule also clarifies the way in which an employer must assure that shields provide equivalent protection to sloping or shoring required by the standard. It allows an employer to use a trench box or shield that is either designed or approved by a registered professional engineer or that is based upon tabulated data prepared or approved by a registered professional engineer.

For manufactured rather than job-made trench boxes or shields, the revised standard requires that employers comply with all manufacturer's warnings and instructions which might affect the safety of employees. Because of concerns with product liability, the manufacturers typically include instructional materials that establish a method or methods which the manufacturer has determined will provide for safe installation and use of a product. The employer is on notice of the precautions set forth in these materials, and is responsible for implementing them. Additionally, requirements were added that address the hazardous situations that arise during the course of using a shield, but are not addressed in the existing standard. In OSHA's opinion, these requirements will assure that shield systems will adequately protect employees.

II. The Nature of Excavation Accidents

Accidents and Injuries

Studies show that excavation work is one of the most hazardous types of work done in the construction industry (Ex. 2–9 and Ex. 2–10). Accidents in excavation work occur more frequently than do accidents in construction in general. The primary type of accident of concern in excavation-related work is a cave-in. The actual number of cave-in accidents is not large when compared to the total number of accidents occurring in all of construction. However, those that do occur tend to be of a very serious nature. Cave-in accidents are much more likely to be fatal to the employees involved than other construction-related accidents.

The true extent of excavation-related injuries and deaths cannot be readily determined from available accident data such as those maintained by the Bureau of Labor Statistics (BLS). This is because a large number of cave-in accidents are classified under a general "accident-type" heading that does not specifically identify whether the accident involved a cave-in. For example, cave-in accidents are most likely to be recorded under the "accident-type" categories of "caught in, under, or between" or "asphyxiation," which encompass many accidents that are not excavation-related, such as those in which an employee becomes caught in the moving parts of machinery. There is no apparent way to separate out those accidents that are cave-ins. Furthermore, many cave-ins are not reported to BLS. OSHA received testimony at the public hearing asserting that the exemptions for small employers from the BLS reporting and recordkeeping requirements contributes significantly to the undereporting of excavation injuries and fatalities (Tr. 4/19/88 pp. 62–69).

Nevertheless, estimates of the number of injuries and fatalities occurring in excavations have been made. In a 1975 study, based primarily on a previous study of newspaper articles and other data made available from OSHA files, it was estimated that more than 100 persons were killed in excavation cave-ins each year (Ex. 2–11). In a recent report prepared by NIOSH, based on OSHA's inspection data, it was estimated that at least 73 persons were killed each year in cave-in accidents, and at least 97 persons were killed as a result of all excavation-related accidents (Exs. 2–24, 2–30, 2–31 and 2–32). Using the same inspection data, OSHA has estimated a fatality rate due to excavation-related work injuries of .318 per 1,000 full time workers for all SIC's involved and .508 per 1,000 full-time workers for SIC 1623. These rates are at least similar to, if not higher than the fatality rate of .248 per 1,000 full time workers due to all types of work injuries occurring in construction SIC's in general. The fatality rate for trenching work was estimated to be as high as 112 percent greater than the rate for construction in general.

Estimates of non-fatal injuries in excavation and trenching work have also been made. California has reported that the ratio of non-fatal, lost-time injuries to fatalities for all types of accidents in sewer, pipeline, and trenching work was 50 to 1. That is, one fatality occurred for every 50 non-fatal, lost time injuries. In contrast, the ratio for all contract construction was 174 to 1 (Ex. 2–9).

In another report specifically related to cave-ins, California reported that the ratio of lost-time injuries to fatalities due only to cave-in accidents was 17 to 1. In contrast the lost-time work injuries

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to fatalities for all types of accidents in all industries in California was 250 to 1 (Ex. 2–10).

As a measure of the seriousness of cave-in accidents, Thompson and Tannenbaum stated that ratios of injuries to fatalities due to cave-ins as high as 10 to 1 and 14 to 1 have been reported (Ex. 2–11).

OSHA has determined that the available accident and injury data clearly establish a significant risk to employees working in and around excavations. A high rate of injuries has continued to occur in excavations throughout the years since subpart P was first adopted by OSHA. OSHA believes that this revision of subpart P will help reduce the current accident toll associated with excavation work.

III. Summary and Explanation of the Final Rule

In order to solicit desired public comment, OSHA identified fifteen issues in the preamble of the proposal on which the Agency needed additional information. These issues, the comments received relating to these issues, and OSHA's determination on the appropriate way to address these issues are discussed below.

Issue 1, raised in the preamble of the proposed rule (52 FR 12293), solicited public input on the suggestion that OSHA include a "standard practice" in its revision of Subpart P in addition to those set forth in the appendices. These data, in the form of charts and tables, would be used to protect employees against cave-ins, and would be capable of being understood and used by the journeyman worker. As an alternative, the employer could have a qualified engineer design the protective system. These data (standard practice) would include generic tables and charts for metal hydraulic shoring, timber shoring, trench shields, protection for footing excavations (bell-bottom pier holes), and sloping and benching systems.

OSHA received 13 comments on this issue. Several commenters supported the incorporation of a standard practice and suggested that OSHA adopt the CAL–OSHA Title 8 standards as the National "standard practice" (Exs. 4–28, 4–35, 4–37, 4–82, 4–102, 4–106 4–109 and 4–115). Another commenter (Ex. 4–96) favored OSHA providing this type of data as an alternative to the use of an engineer, but made no suggestions as to a specific source that OSHA should use for these data.

On the other hand, several commenters disagreed with the incorporation of a standard practice. In particular, the Building and Construction Trades Department (BCTD) of the AFL–CIO (Ex. 4–17) noted that the approach was feasible, but not recommended because of the difficulty of making revisions, and the difficulty of incorporating the necessary flexibility. Union Electric Company (Ex. 4–35) commented that "We do not see the need for such charts and/or tables in addition to that already included." In addition, the National Utility Contractors of America (NUCA) (Ex. 3–91) contended that it would be inappropriate for OSHA to sponsor any particular set of charts or tables, and that this approach would not be feasible because regional work practices are different. NUCA also expressed support for the flexibility of the performance-oriented approach of the proposal.

The Washington Metropolitan Area Construction Safety Association (WMACSA) (Ex. 4–101) commented that "Standard practices appear to have been provided for by the options provided by OSHA." WMACSA also pointed out the difficulty of revision and in deciding, regionally, what was appropriate.

Finally, Lone Star Gas Company, (Ex. 4–105), commented that charts and tables need to incorporate flexibility and permit the option of individual design to meet unique circumstances.

OSHA notes that many responses to this issue included comments on other sections of the proposal. These comments will be addressed later in this preamble as appropriate.

Based on the above discussion, OSHA has determined that a "standard practice," in the context of Issue 1, would not be appropriate because it would limit flexibility and would not recognize regional work practices. The Agency believes that the current format, as revised, provides the necessary degree of flexibility; provides a mechanism for the recognition and use of regional shoring and sloping practices; and allows rapid introduction and use of new products and technology, while insuring that appropriate employee protection is provided.

OSHA believes that adoption of CAL–OSHA standards as the National "standard practice," as suggested by some commenters, would not be appropriate as those standards were developed regionally for local interests, and are not recognized nationally as appropriate for all regions. However, OSHA notes that the flexibility of the final rule permits California contractors to use any standard approved by a registered professional engineer, while contractors in other states may choose to use other standards which are equally effective, and which reflect the necessary regional differences in soils, climate, and work practices.

Therefore, with respect to this issue the agency makes no change and promulgates the standard as proposed.

In Issue 2 of the NPRM (52 FR 12294), OSHA requested comment on whether or not it should limit design responsibility to a "qualified engineer," which was defined in the proposal as "A person who has attained (through engineering education and experience) a special knowledge of mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design; and who, therefore, is qualified to practice engineering, i.e., apply the principles and methods of engineering analysis and design to specific problems." The proposal permitted design by either a "qualified person or a qualified engineer." The Agency also solicited information, opinion, and comment on costs; the rationale for requiring or not requiring a "qualified engineer;" situations which would require a "qualified engineer;" the proposed definition; criteria to evaluate experience; impacts on small businesses; the rationale for requiring or not requiring a "registered professional engineer;" and any evidence supporting or disproving that requiring a "qualified engineer" decreases the risk of injuries and fatalities.

OSHA received 30 comments on this issue, including input from the ACCSH (Tr. 8/5/87 pp. 456–470). Some comments supported the idea that a "qualified person" could properly perform design work. Several comments, like that of H. J. Schneider Construction, Inc. (Ex. 4–3), expressed support for "qualified person," but provided no rationale. Other commenters, like the Underground Construction Co. and the Associated Builders and Contractors, Inc. (ABC) (Exs. 4–57 and 4–78), argued that allowing only a "qualified engineer" to do design work would deprive contractors of the ability to use capable supervisors to do such work. However, ABC also stated that a qualified engineer would be appropriate in complex cases such as excavations under foundations and trenches deeper than 15 feet.

Several other commenters, such as W. M. Lyles Co., Kaweah Construction Co., ARB, Inc., and Herman Weissker, Inc. (Exs. 4–5 and 4–82, 4–13, 4–102 and 4–109), objected to the suggestion of limiting design responsibility to a "qualified engineer" because of severe cost implications; however, they supplied no specific cost data or supporting rationale. These commenters also objected to the suggested use of a registered professional engineer, stating that they felt experience and training were more important than registration as an engineer. However, the commenters did not indicate what amount of experience or training would qualify a person to do this type of work. In addition, these commenters apparently misinterpreted the proposal as requiring an engineer's involvement with every excavation because they also noted that their firms do not employ engineers to be involved with every excavation.

Three commenters (Exs. 4–82, 4–102 and 4–109) noted that the State of California has laws which require such design to be done by engineers, but they objected to this becoming a national standard. The three commenters argued that they knew of no evidence that requiring a "qualified engineer" to do design work would reduce the risk of fatality or injury. They also contended that the proposed definition of "qualified person" contained adequate criteria for evaluation of an individual's qualifications.

Union Electric Company (Ex. 4–35) objected to limiting design responsibility to engineers, noting that their designs were often developed in the field or adapted to field conditions on site, within accepted parameters. The Company also noted that the adequacy of their design was verified by company engineers.

The Carolina Branch of the Associated General Contractors (CBAGC) (Ex. 4–54) objected to limiting design responsibility to engineers in "routine situations." However, they noted that a "qualified engineer" should be required in complicated situations, such as excavations under foundations and trenches deeper than 15 feet. The CBAGC also stated that they have no evidence that a qualified engineer would improve safety.

The Laclede Gas Company (Ex. 4–88) commented that it was unnecessary to limit design responsibility to qualified engineers, considering the definition of "qualified person," and noted that field experience is as important as formal training.

The Public Service Electric and Gas Co. (Ex. 4–89) commented that company supervisors trained in the proper application of existing standards and aware of field conditions are their primary means of controlling on-the-job safety. The commenter recognized the need for a "qualified engineer" to do basic planning and design on large projects such as building construction, tunnel construction, and major infrastructure installation and noted that this is a current business practice. The commenter also stated that they knew of no evidence to support the fact that injuries and fatalities would decrease by the presence of a "qualified engineer" at the excavation site.

Lone Star Gas Company (Ex. 4–105) stated that limiting design responsibility to "qualified engineers" would exclude individuals who are fully capable of performing the required duties, but do not possess an engineering degree. Lone Star also noted that the risk of injury in an excavation designed by an unqualified engineer or person would be high, and that design of high risk excavation, i.e., excavations under the foundations of buildings, should very likely be performed by a "qualified engineer." Lone Star also emphasized experience, training, number of years of apprenticeship, and the type of soil in which these individuals gained their experience as being "objective criteria" to determine qualification. Lone Star commented that the cost would range from $30,000 on up for each job because each job would require an engineer on site at all times. Lone Star also commented that it knew of no evidence to support the conclusion that requiring a "qualified engineer" would decrease the risk of injuries and fatalities.

Underground Contractors, Inc. (Ex. 4–115), objected to limiting design responsibility to "qualified engineers," citing a financial burden. They estimated the cost for engineers would be $80 to $100 per hour. The commenter also objected to the use of "registered professional engineer" for the same reason. Underground Constructors, Inc. also suggested OSHA consider experience or specific safety training as proof of qualification for designing protective systems. As an example, the commenter suggested qualification requirements of 10–20 years experience, and noted that individuals who feel directly responsible for employees in the field may in fact be better suited to this duty and more safety conscious than an outside "card-carrying engineer."

One other commenter, Schield Construction Co. Inc. (Ex. 4–56), although not specifically addressing Issue 2, commented that a registered professional engineer would not always be more qualified than a contractor who has the experience with trench protective systems.

The Agency notes that many of the commenters opposed to a requirement limiting design responsibility to a "qualified engineer" misinterpreted the proposed requirement, and concluded, as evidenced by many of the above comments, that such a requirement would require an engineer to be on site at every excavation, and that experienced supervisors would no longer be able to determine the selection of protection systems. This was not OSHA's intent, and, as discussed later in the preamble, the Final Rule will clarify the point.

Most of the commenters on this issue, as well as the ACCSH, supported limiting design responsibility to an "engineer." However, many of the commenters, along with the ACCSH, recommended that the proposed "qualified engineer" be changed to "registered professional engineer." In order to solicit public input on a requirement for the use of a registered professional engineer, the Agency again raised this topic in its Notice of Informal Public Hearing (53 FR 5280).

Many of these commenters noted the shortcoming of allowing design by a "qualified person" and pointed out the difficulty of determining who is, in fact, qualified (Exs. 4–17, 4–27, 4–28, 4–37, 4–75, 4–91, 4–101, and 4–114). In particular, Granite Construction Company (Ex. 4–28) stated that "While there may be 'qualified persons' who by experience and/or education can perform design function, we feel the majority of people who may fit the broad definition of 'qualified person' lack the qualifications necessary for design of excavation protective systems, in the absence of standard practices." Granite did not support a requirement for a registered professional engineer, and noted that the cost for hiring a "qualified engineer" should not fall disproportionally on small businesses because it would be passed on to the consumer.

Griswald Machine and Engineering, Inc. (GME) (Ex. 4–27) noted that "a 'qualified person' is too subjective a level of expertise," and recommends that OSHA require that only a qualified engineer, or a person working under the direction of a qualified engineer, be allowed to do design work.

The Washington Metropolitan Area Construction Safety Association (WMACSA) (Ex. 4–101) pointed out that dropping "qualified person" from the standard "* * * would appear to be in the best interest of the industry. There is no way to decide if a person is in fact qualified. Anyone can say he or she is qualified by reason of extensive experience, knowledge, and training. The lack of any method to prove or disprove this could be very expensive to any employer." WMACSA also noted that under the proposal, if a company could not afford to hire an engineer, there were a great many other options available for providing protection which would not require the services of an

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engineer. WMACSA commented that it would be difficult to prove that requiring a "qualified engineer" would decrease injuries and fatalities. WMACSA also recommended that a "qualified engineer" be a professional engineer registered in the state where he or she works, because the registered engineer works with a license that can be withdrawn for cause. The commenter also pointed out the difficulty for OSHA to set standards for an individual designing protective systems and evaluate and certify candidates, and notes that this would be impractical. Finally, the commenter also noted that with all the options available, the use of an engineer should seldom, if ever, be required.

Speed Shore Corporation (Ex. 4–114) stated that allowing a "qualified person" to design an intricate, detailed safety system would provide a "loophole," explaining that terms such as "extensive knowledge, training and experience" are too general to use for properly qualifying individuals. Speed Shore strongly recommended that protective systems not utilizing the other more specific options should be designed by a qualified engineer who works under registration and a code of ethics applicable to his field.

The Building and Construction Trades Department (BCTD) of the AFL–CIO (Ex. 4–17) recommended eliminating "qualified person" from the standard because, in their view, there is no way to determine if a person is in fact qualified. They also supported the use of a registered professional engineer, noting that registration is a state prerogative, and that engineers are registered to protect the public for the same reasons and in the same manner as physicians and attorneys. BCTD argued that it would be hard to find "prima facie" evidence to support the conclusion that requiring an engineer would decrease the risk of injury and noted that it would be just as hard to prove that an attorney practicing at the bar decreases client risk. The commenter also pointed out the difficulty of incorporating criteria into the standard to define who would be qualified to design protective systems, and, as an example, suggested that OSHA consider the difficulty of incorporating a surgeon's education into a health standard. BCTD also notes that the options available in the standard would avoid the necessity for hiring engineers in most cases.

Rader, Addision and Story (Ex. 4–1) supported the use of "qualified engineer" but pointed out the potential controversy as to who is a qualified engineer. The commenters suggested that a qualified engineer should be a registered professional engineer, for legal reasons. The commenter noted that licensed engineers carry insurance which is negated if all applicable laws, ordinances, rules and regulations of any Federal, state or local government are not followed. Additionally, the commenter noted that improperly designed excavations can only be cured by proper design and accurate construction. The commenter also pointed out that solving design problems in the beginning (before digging begins) decreases costs.

Pacific Gas Transmission Co. (PGT) (Ex. 4–37) supported a requirement for design by a qualified engineer. The commenter noted that:

> While we respect the importance of qualified persons in the development of the area of trench protection, we feel it is now time to rely on the training and tools of the qualified engineer to provide this service. Both the qualified engineer and the qualified person have the same physical tools to work with: soil type, plasticity, water content, weight, compaction, etc. The difference is in how these tools are used. Through his training the engineer is able to apply sometimes complex engineering techniques to design a trench protection system. The qualified person gets his engineering training through trial and error. The preamble to the PRM indicates that this trial and error process is costing time and lives.

Although the commenter did not directly recommend the use of a registered professional engineer, several comments indicated that PGT did in fact support this concept. For example:

> First of all, if the qualified engineer is also a registered engineer, he is legally liable for his work. If he continues to provide faulty design he is no longer allowed to practice. And the preamble to this PRM indicates that the majority of excavation accidents result from the use of designs or systems selected, prepared or implemented by unqualified personnel.
>
> PGT feels that this responsibility should be given to qualified engineers. It should be noted that this responsibility may already be delegated to registered engineers in some states (e.g., California) and that under most extraordinary conditions it would be prudent for the employer to hire a consultant or use in-house engineers to protect his employees as well as avoiding damage to adjoining properties.
>
> In certain states only registered engineers may call themselves "engineer." The registration process is the only nationwide certification program in place that attests to the suitability, through education and experience, of a person to do the required work. As we said earlier, the registered engineer is legally liable for his work and in some states personally liable.

PGT also noted that an engineer would be required only if site conditions required specific expertise in evaluation, or if the employer felt that through special design he or she could realize a project savings. PGT further commented that in neither case would this requirement adversely impact small business, and that without such a requirement costly and fatal accidents would continue to occur.

The National Utility Contractors Association (NUCA) (Ex. 4–91) endorsed the use of a registered professional engineer or a person working under the direction of a registered professional engineer. NUCA pointed out the difficulty of proving or disproving the qualifications of a qualified person. NUCA also noted the liability consequences of using a qualified person. Cost figures provided by the commenter indicate total design of a protective system would cost approximately $3,000, but did not provide specfic details as to the type of system or size of project this cost represents. In addition, the commenter pointed out that small contractors do not bid work where such levels of expertise are necessary.

The Los Angeles Section of the American Society of Civil Engineers (LAASCE) (Ex. 4–75) supported the use of registered professional engineers. The commenter noted that under the California State Plan, an alternate shoring design (i.e., one not specifically permitted in the California standard) for excavations under 20 feet in depth, and all shoring designs for excavations over 20 feet in depth, must be prepared by a civil engineer registered in California. The commenter also noted that because of this requirement, the safety record of California has been exemplary compared to the rest of the nation. The LAASCE also commented that allowing design preparation by a "qualified person" would be considered a significant lowering of safety standards for the construction industry and also a possible undermining of professional engineering standards. The commenter also stated:

> We would prefer to see registration as a civil engineer a requirement in the definition. This would totally relieve OSHA of the responsibility of determining a person's qualifications to design shoring. Each State has its own criteria of what is acceptable to them for a person to practice engineering. It would also make enforcement by OSHA inspection personnel much easier when questioning the qualifications of the person responsible for a shoring design.
>
> Qualified engineers use the physical laws of nature to estimate applied loads and the strength of construction materials with

appropriate factors of safety to ensure against all possible failures of a proposed shoring system. A wealth of data is available to help a qualified engineer predict the behavior of a proposed shoring system. A person designing by "experience" has but one method to establish his limiting design criteria. That method is to encounter a design failure in actual practice and relate that to future designs. Unfortunately, the application of this design technique may come at a high price in injuries and lives. This method of design should be as totally unacceptable to OSHA as it is to us.

The commenter did not support including criteria for qualifications of persons designing protective systems, noting that it would require the establishment of an "OSHA Board of Registration." Such a board would duplicate State licensing boards, which are currently an adequate means of setting qualification criteria. Cost data supplied by the commenter indicated that the cost for shoring drawings for a typical $500,000 project would run about $800, and noted that often these cost were recovered by increased efficiency. Finally, the commenter raised the following legal issue:

> One other question not asked in your proposed rulemaking, but one that is certainly pertinent, is "Does the recognition of experience as a qualification for shoring design conflict with any existing laws?
>
> In the State of California, the practice of civil engineering requires that an individual be licensed with the Board of Registration for Professional Engineers. Other states have similar statutes which would be in conflict with your proposed rulemaking. In the event of a civil action regarding a trench bracing failure, what will be a defendant's position regarding compliance with the law if a workman is injured or killed while working in a trench shored in accordance with an unprofessionally prepared shoring plan?

The Structural Engineers Association of Southern California (Ex. 4–80) commented in support of the LASACE position, favoring the use of a registered professional engineer.

Consultant Services Institute, Inc. (CSI) (Ex. 4–64) was strongly opposed to the use of a qualified person, and recommended that the standard require a qualified civil or soils engineer licensed in the state where the work is being done.

Neyer, Tiseo and Mundo, Ltd. (Ex. 4–71) also opposed allowing design by anyone who is not an engineer. The commenter noted that design tables and charts should not be used by people who are unfamiliar with soil mechanics since the user must know how soils will behave in order to use the charts and tables properly.

The Associated General Contractors (AGC) of California (Ex. 4–108) endorsed the use of a "qualified engineer" for alternative design (anything other than a standard practice) and for any design for excavations deeper than 20 feet. The commenter stated that their organization could not cite any evidence that requiring designs by qualified engineers would decrease the risk of injuries and fatalities, but noted that they were not aware of any failures of engineered plans which were properly followed. The AGC of California did not support the use of a registered professional engineer, but noted the qualified engineer must have expertise and skill in structural design and soils mechanics. The commenter also confirmed the cost data supplied by the LASACE (Ex. 4–75) discussed above, citing hourly fees of $65 to $75, and complete shoring plans for small to medium projects at $200 to $800.

Other commenters, like the State of California, the Michigan Department of Labor, and Schield Construction (Exs. 4–4, 4–46 and 4–56) did not address Issue 2 directly, but supported limiting design responsibility to a "qualified engineer" or a registered professional engineer (California) in their comments on the standard.

The comments received prompted OSHA to seek additional information in the hearing notice (53 FR 5280) on the suggestion that a registered professional engineer be required instead of either a "qualified person" or "qualified engineer" for all original design work, for the development of all original tabulated data, and for determinations regarding the stability of adjacent structures. In response the Agency received the following comments:

Peoples Gas (Ex. 8–6) commented that most companies use qualified engineers from within the company to examine special cases.

The W.M. Lyles Co. (Ex. 8–7) objected to the suggested requirement for a registered professional engineer. The commenter's objection was basically the same as the previously discussed objections to a requirement for a "qualified engineer" (Exs. 4–5 and 4–62).

The Exxon Company (Ex. 8–10) commented that its procedure involved performing soil borings and laboratory analysis of soils, and based on the results, its "qualified engineers" apply previously developed equations to calculate a stable slope. Exxon noted that possession of an engineering license is not required to apply these equations safely.

The Milwaukee Construction Industry Safety Council and the Associated General Contractors of America (Exs. 8–14 and 8–18) commented that they did not support deletion of "qualified person" or "qualified engineer," nor the substitution of registered professional engineer.

The Associated General Contractors of California (Ex. 8–18) did not support the use of the term "registered professional engineer."

The Carolina Branch of the Associated General Contractors of America (Ex. 8–19) agreed with the use of a registered professional engineer in special situations, but recommended retention of the term "qualified person," because of the implied experience factor.

Several commenters (Exs. 8–21, 8–22, 8–26, and 8–29) responded to the hearing notice with objections to using the terms "qualified person" or "qualified engineer" for design work, but did not address the use of registered professional engineer. However, these commenters did not state clearly whether their comments were support for the use of a registered professional engineer or an objection to any limiting of design responsibility.

The South Dakota Engineering Society (Ex. 8–24) was in total support of the ACCSH recommendation to use a registered professional engineer.

Southern California Gas Company (Ex. 8–25) commented that the use of a registered professional engineer in lieu of "qualified person" or "qualified engineer" was unnecessary, but provided no rationale for this statement.

The Texas Department of Highway and Public Transportation (Ex. 8–27) recommended that OSHA not require a "registered professional engineer" to perform the work required in the standard, but did recommend "the most competent possible person be used to insure safety in excavation work."

Mr. William E. Patten (Ex. 8–3) did not specifically address this issue, but in his comments suggested design by a qualified engineer for any alternative means of protection.

In addition to the comments received specifically addressing Issue 2, OSHA also received comment on other provisions of the standard which relate to this issue and are discussed here in order to provide a complete discussion of this Issue in one place. The following comments were received on proposed § 1926.650(b)(14), which defined "qualified person."

Granite Construction (Ex. 4–28) agreed with the criticism of the definition of "qualified person," as discussed under Issue 2, and also raised an objection to allowing the competent person to choose among the options allowed in § 1926.652(b) and (c). The commenter noted that this could be dangerous

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because there was no limit on the depth of excavation for which this person was permitted to choose or to design protective systems.

The National Institute for

The Agency disagrees with those commenters who suggest that experience, per se, qualifies an individual to design protective systems. The principles of soil mechanics are too state, and would make enforcement by OSHA easier in regards to the qualifications of the person responsible for any design.

The wording of the Final Rule,

OSHA received 16 comments on this issue, and additional input from the ACCSH.

Several commenters (Exs. 4–5, 4–13, 4–28, 4–57, 4–82, 4–102, 4–106 and 4–109) disagreed with the concept. Many of

that, while there is no scientific basis to delineate short time exposure, time must be considered to some extent in the regulation because long term stresses are different from short term stresses. The Agency points to documents in the

with one of the other options provided, and, therefore, may use different slopes from those listed. The Agency realizes that the allowable slopes and required soil classification system in Appendix A

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because there was no limit on the depth of excavation for which this person was permitted to choose or to design protective systems.

The National Institute for Occupational Safety and Health (NIOSH) (Ex. 4–30) recommended tying the qualification of a "qualified person" to the opinion of a registered engineer with required documentation of that opinion. OSHA notes that the Final Rule recognizes this type of arrangement by not specifying who designs a set of plans or tabulated data, but requires that plans or data be approved by a registered professional engineer. The Agency does not require the documentation suggested by NIOSH but notes that the "responsibility" for the design rests with the registered professional engineer.

Exxon Pipeline Company (Ex. 4–53) recommended that OSHA allow the competent person to design less complex protective systems. The Agency notes that in the Final Rule the competent person is permitted to design protective systems under the limitations of the appendices, manufacturer's data, or other tabulated data without an engineer's approval. In addition, the competent person can develop original designs, but these designs must be approved (simply by stamping and signing the design) by the registered professional engineer before use.

Finally, the BCTD and WMACSA (Exs. 4–17 and 4–111) recommended elimination of the term, "qualified person" as they did in their direct response to Issue 2.

After careful consideration of the comments received, OSHA has determined that the term "qualified person" should be dropped from the standard. This decision is based on the evidence in the record which indicates that most of the individuals who fit this broad definition lack the qualifications necessary to do original design work and may often have insufficient incentive to provide adequate protection to employees. The Agency agrees with the many commenters who point out that the proposed definition of "qualified person" was so broad and subjective that almost anyone with construction experience would meet the requirements and, therefore, be permitted to design protective systems for excavations. The Agency's position is supported by commenters, like Johns Hopkins University (Ex. 4–11), who highlighted the frequency of accidents where experienced "qualified persons" dug unprotected excavations which caved in, resulting in unnecessary fatalities and injuries.

The Agency disagrees with those commenters who suggest that experience, per se, qualifies an individual to design protective systems. The principles of soil mechanics are too complex to learn on a trial and error basis. In addition, OSHA notes that many of the commenters that supported design by a "qualified person" conceded that engineers were necessary in some situations, or stated that field-developed designs were verified by engineers (Exs. 4–35, 4–54, 4–78, 4–105, and 8–6).

The Agency wants to emphasize that this decision does not limit the employer's ability to use supervisors who meet the criteria for competent persons to choose protective systems from the numerous other options available. OSHA notes that these persons are permitted to design protective systems using the appendices to Subpart P, manufacturers data, or other tabulated data, in accordance with this Final Rule. However, they may not develop original designs (i.e., those not based on any of the other options), unless the supervisor is also a registered professional engineer or has the design approved by a registered professional engineer.

The Agency also notes that this revision does not mean that an engineer must be on site at every excavation, as suggested by some commenters.

In addition, OSHA has determined that the term "qualified engineer" should be replaced by the term "registered professional engineer" in the final rule. This decision is based on evidence in the record which demonstrates the need for original designs to be developed by a person whose qualifications in this field have been demonstrated and are readily recognizable. The Agency agrees with the commenters who point out the difficulty OSHA would have in establishing criteria, evaluating individuals and certifying these individuals as qualified to develop original designs for protective systems. The commenters also note that such a process would be impractical and a duplication of state licensing boards. OSHA recognizes that the registration process is the only nationwide certification program in place that attests to the qualifications of a person to do the required work. OSHA also recognizes that registered professional engineers are legally liable for their work, work under a code of ethics, and have a license which can be withdrawn for cause. The Agency also notes that the current registration system allows each state to establish the criteria necessary to practice engineering in that state, and would make enforcement by OSHA easier in regards to the qualifications of the person responsible for any design.

The wording of the Final Rule, requiring approval of original designs by "a registered professional engineer" recognizes the industry practice where junior engineers, engineers-in-training, or non-engineers may, in fact, develop the actual design, but the design is verified and approved by a registered professional engineer.

Finally, OSHA agrees with the many commenters who recommended that excavations under foundations, excavations deeper than 20 feet, and excavations where unusual site conditions exist require the expertise of an engineer in all cases. The Agency has revised this final rule to reflect these concerns. Therefore, with respect to the issues, the agency has determined that revision of the standard is justified and promulgates the standard as revised.

Issue 3 of the proposed rule (52 FR 12294) sought to determine if OSHA should require specific visual or manual tests when using proposed appendix A to classify soils.

OSHA received 17 responses to this issue (Exs. 4–3, 4–5, 4–13, 4–17, 4–28, 4–35, 4–37, 4–57, 4–62, 4–88, 4–91, 4–101, 4–102, 4–105, 4–106, 4–109, and 4–115). Although the rationale expressed in these responses differed, almost all commenters agreed that a specific test(s) should not be required. One commenter, Union Electric Co. (Ex. 4–35), observed that mandated testing was unnecessary because most soils can be classified by visual analysis. OSHA disagrees with this observation because of the complexity of soil make-up and the number of conditions that affect soil stability. On the other hand, most commenters agreed that some type of soil testing is necessary, but that the method of testing should be left as an employer prerogative. OSHA agrees that soil testing is necessary, but has determined that mandating a specific test would lock in current procedures and discourage new development. Therefore, with respect to this issue, the Agency promulgates the standard as proposed. A complete discussion of acceptable tests is provided below in the summary and explanation of appendix A.

Issue 4 of the proposed rule (52 FR 12294) solicited public input on § 1926.652(b), which would permit employers to have a steep slope for excavations open less than 72 hours (short term), but which would require flatter slopes for excavations open longer than 72 hours (long term).

OSHA received 16 comments on this issue, and additional input from the ACCSH.

Several commenters (Exs. 4–5, 4–13, 4–28, 4–57, 4–82, 4–102, 4–106 and 4–109) disagreed with the concept. Many of these commenters assumed this provision would create a paperwork burden, and felt any time frame established would be arbitrary. They also pointed out that the effect of time on an excavation depends on the type of soil, and noted that weather, vibration, water, and superimposed loads must also be considered. In addition, these commenters pointed out that there is no technical or engineering basis for establishing any specific time frame to differentiate long term or short term, and that this concept should not be made part of the standard. One of these commenters, the AGC of California (Ex. 4–106), asserted that the proposed provision would be overly restrictive, and supported slope angles presented by R.T. Frankian which, for simple slopes, were somewhat similar to the short term slopes presented by OSHA in the proposal.

Another commenter, Underground Contractors, Inc. (Ex. 4–115), suggested that the passage of time should not be recognized in the standard, but provided no rationale.

One commenter, the Tennessee Valley Authority (Ex. 4–39), argued that only one set of slopes should apply to excavations, the ones that provide the greatest protection regardless of the time the excavation is open, while another commenter (Ex. 4–78) argued that protection should match site conditions, not time.

Another commenter, Lone Star Gas (Ex. 4–105), asserted that time definitely has an effect on the stability of an excavation, noting, however, that 72 hours may not be the appropriate dividing line. The commenter provided a qualified endorsement for a 24 hour cut off, but noted that the effects of the environment should be the basis for calculating time limitations.

Other commenters (Exs. 4–17 and 4–101) noted that the critical time is when the trench is first opened and recommended that "short term" should be considered to be 24 hours or less.

Two commenters (Exs. 4–27 and 4–91) endorsed the proposed handling of short term/long term as a necessary improvement, with one commenter (Ex. 4–91) enthusiastically supporting the 72 hour dividing time.

In addition, the ACCSH (Tr. 8/5/87 p. 520) suggested the time division be reduced to one work shift or eight hours.

After careful consideration of the entire record, OSHA has determined that, while there is no scientific basis to delineate short time exposure, time must be considered to some extent in the regulation because long term stresses are different from short term stresses. The Agency points to documents in the record (Ex. 2–1 p. 2–3 and pp. B–44 and B–47 and Ex. 2–5 pp. 20, 21, 28–30 and 70–71) which support the recognition and use of short term/long term time frames for sloping. One commenter (Ex. 41) submitted several studies to the record which support the use of this practice.

However, because of the great concern expressed by many commenters regarding soil type and environmental factors, the Agency has determined that it is appropriate to limit the use of steeper slopes for short term exposure to Type A soils, as defined in appendix A. These soils have the greatest strength, next to stable rock, and field experience has shown that these soils can stand on a slope steeper than ¾ horizontal:1 vertical (as prescribed in Table B–1 of the Final Rule) for short term exposures to a depth of 12 feet and still provide adequate employee safety.

OSHA disagrees with those commenters who believe this concept would create a paperwork burden. The Agency notes that no recordkeeping burden was required or implied in the proposal. The Agency believes the information needed to verify the amount of time the excavation is open can be readily obtained by questioning employees on site.

While the Agency accepts the argument that no specific time frame has scientific backing, and that selection of a time frame, to some extent, is arbitrary, OSHA believes the amount of time an excavation is open does play an important role in employee protection. The Agency raised this issue in order to determine a reasonable time frame for distinguishing between long term and short term excavations. OSHA also notes that this short term/long term concept must be used with the soil classification system in Appendix A, which recognizes other important conditions that affect soil stability. These other conditions were also noted by many commenters.

OSHA disagrees with the AGC of California (Ex. 4–106) position that a long term/short term concept is overly restrictive. The Agency notes that the slopes proposed by OSHA on that basis were less stringent in many cases than those already required by the State of California. In addition, OSHA notes that the use of long term/short term distinction is only one of the options available to employers under § 1926.652(b). The employer can comply with one of the other options provided, and, therefore, may use different slopes from those listed. The Agency realizes that the allowable slopes and required soil classification system in Appendix A may, in some instances, be conservative, but believes this is necessary since this option is intended for use by field personnel, without benefit of laboratory generated soils analysis.

OSHA has also determined that the time frame for differentiating long term from short term excavations in the case of Type A soil should be reduced to 24 hours. Although there was no clear consensus on a time frame, this period has more support in the record than the proposed 72 hours or the one work shift recommended by the ACCSH. This decision also is in line with the Agency's belief that it is best to have an excavation open for the shortest reasonable amount of time. OSHA believes that a period of time less than 24 hours could be disruptive and would not be appropriate, in light of the other requirements in subpart P, such as § 1926.651(k) which requires daily inspection of the excavation.

Therefore, based on the above discussion OSHA promulgates the standard, as revised, in regard to this issue.

Issue 5 of the proposed rule (52 FR 12295) raised ACCSH suggestions that design specifications for shields be available at the worksite, and that shields should be certified that they can withstand the specified maximum loads. The proposal also asked for information on the effects of such requirements on manufacturers and users, and for information on current industry practice.

OSHA received 14 comments on this issue. Eight commenters opposed a requirement for design specifications to be available on site. Four of these commenters (Exs. 4–82, 4–102, 4–106, and 4–109) argued that design specifications contain proprietary information and should not be available on site. These commenters did recommend that the design maximum load for the shield be displayed on the shield. Two other commenters (Exs. 4–35 and 4–115) recommended that these specifications should not be on site, but should be made available to OSHA upon request within a reasonable amount of time. Another commenter (Ex. 4–54) noted that "paper at the jobsite inhibits attention to productivity and safety." The last commenter (Ex. 4–57) to disagree with the proposed requirement for design specification availability at the worksite also noted that the specifications often contain certain proprietary information and would be of

minimal value on site. The commenter went on to state that what would be more important to have at the site are installation and placement instructions,

Another commenter (Ex. 4–105) stated that such a requirement would likely eliminate shop-built protection, and would require an engineer on each job.

Another commenter (Ex. 4–37) stated that the surface disturbance resulting from construction provides enough

The revised subpart M will also incorporate the fall protection requirements in existing § 1926.651(t).

Therefore, in respect to this issue, the agency promulgates the standard as

constantly for signs of danger when employees are in an excavation. This issue also solicited input on the extent to which such a requirement would

Several commenters (Exs. 4–5, 4–13, 4–37, 4–82, 4–88, 4–102, 4–106, and 4–109) noted that it is industry practice to have a "top person" in many situations, but

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minimal value on site. The commenter went on to state that what would be more important to have at the site are installation and placement instructions, drawings, allowable load restrictions, weights, lift points and maintenance instructions.

Three commenters (Exs. 4–27, 4–28, and 4–78) supported the suggestion to require shield design specifications to be available at the job site. Two other commenters (Exs. 4–101 and 4–105), in addition to supporting the suggestion, noted that manufactured shields usually have the load requirements stamped on them, and also noted that design specifications are easily obtained from the manufacturers. Finally, one commenter (Ex. 4–14) recommended that design specifications, which indicate the circumstances under which the shield can be used, should be on site to enable a competent person to know how to use the shield properly under changing soil conditions.

OSHA has determined that detailed drawings, which usually contain proprietary information, would be of little use on the job site because the Agency has no way to confirm certain criteria, such as the grade of steel used in a shield. However, as suggested by several commenters, the Agency will require that information necessary for the safe installation, placement, use, and removal of a shield must be on site. OSHA has also determined, based on the above comments and testimony presented at the informal public hearing (Tr. 4/19/88 p. 184), that most manufacturers already provide the above information with their product, and, therefore, such a requirement will not impose a significant burden. Therefore, with respect to this issue, the Agency is promulgating the standard as revised.

Issue 6 of the proposal (52 FR 12295) solicited input on a suggestion to require design specifications (a plan or drawing) and a statement of a support system's limitations to be available at the worksite. OSHA received 10 comments on this issue. Three commenters (Exs. 4–82, 4–102, and 4–109) stated that it would be unreasonable to require design specifications for support systems to be on site, but noted that the requirement should be for the employer to furnish the design specifications to OSHA, given reasonable notice. Two other commenters (Exs. 4–106 and 4–115) objected to the proposal that design specifications for *all* (emphasis added) support systems be maintained at the job site. These commenters noted that under CAL/OSHA, only alternate or special designs must be made available. Another commenter (Ex. 4–105) stated that such a requirement would likely eliminate shop-built protection, and would require an engineer on each job.

On the other hand, two commenters (Exs. 4–17 and 4–101) agreed that specifications necessary for the proper use of the support system should be on site while the system is in use, in order to enable the employer to make modifications to the system if necessary. These commenters also noted that reputable manufacturers already furnish this type of information for their product. This was also confirmed by testimony presented at the informal public hearing (Tr. 4/19/88, p. 184). Another commenter (Ex. 4–28) recommended that design plans and specifications for support systems be available at the job site for any unusual or alternate design.

One other commenter (Ex. 4–37) noted that if the system is designed by an engineer, the requirement would have little effect on the employer, since a set of drawings would be on site anyway.

Based on the record, OSHA has determined that the information necessary for the safe installation, placement, use, and removal of a support system must be available at the work site. Further, the Agency has determined that this information is usually supplied by the manufacturers of these support systems when the systems are delivered to the site or to the user. Therefore, with respect to this issue, the Agency is promulgating the standard as revised.

Issue 7 of the NPRM (52 FR 12295) solicited comments on an ACCSH recommendation that OSHA require some form of warning along the edges of excavations that are five feet or more in depth to warn employees who work adjacent to excavations, but who are not directly involved with the excavation activity, that a fall hazard exists.

The Agency received 17 comments on this issue. Two commenters (Exs. 4–54 and 4–101) supported such a requirement, but supplied no rationale. One of these commenters (Ex. 4–54) indicated that a barrier bank (the spoil pile) was itself an effective means of warning.

Other commenters (Exs. 4–37, 4–49, and 4–105) noted that a requirement for some kind of warning along the edges might be appropriate for some excavations but was impractical for larger (longer) excavations such as pipeline excavations. One commenter (Ex. 4–49) pointed out that most pipelines go through remote areas with little potential for unwarranted access. Another commenter (Ex. 4–37) stated that the surface disturbance resulting from construction provides enough delineation. A third commenter (Ex. 4–105) noted that it is present practice to provide such warnings except for trenches of great length.

Two commenters expressed strong support for such a requirement. The first commenter, BCTD (Ex. 4–17), recommended that this requirement be implemented at multiple contractor worksites because employees not directly involved with the excavation may not be aware of the specific location of the excavation. The second commenter (Ex. 4–39) noted that a warning system not only protects workers not directly involved in the excavation, but should help to maintain the stability of the excavation by keeping mobile equipment away from the edge of the excavation.

On the other hand, many other commenters disagreed with this type of requirement. Several commenters (Exs. 4–5, 4–13, 4–82, 4–102 and 4–109) implied that this type of requirement will not prevent falls into excavations, because most falls are the result of inattention. The commenters also noted that falls occur despite the fact that employees are aware that excavation activity is being undertaken. Another group of commenters (Exs. 4–57 and 4–115) noted that warning barriers would only result in more problems, because they would become additional obstacles in the work environment, and matérial, such as shoring, would have to be moved around, over or under these obstacles, creating other unspecified hazards.

Finally, several commenters noted that this type of requirement is impractical and unnecessary (Ex. 4–28) because many types of work, such as pipeline excavations, are completed or move from one area to another too fast for barricades to be effective (Ex. 4–91), and their use should be left to the discretion of the employers as site conditions require (Exs. 4–35 and 4–106). Additionally, one commenter (Ex. 4–19) noted that contractors working at one site for any length of time normally provide this type of protection as a matter of course.

OSHA appreciates the input received on this issue. However, the Agency has determined that this subject is more appropriately addressed in its Final Rule revising subpart M, "Safety Standards for Fall Protection in the Construction Industry," (Docket S–206) which is on OSHA's Regulatory calendar for publication in the **Federal Register** later this year. The proposal was published on November 26, 1986 (51 FR 42718).

The revised subpart M will also incorporate the fall protection requirements in existing § 1926.651(t).

Therefore, in respect to this issue, the agency promulgates the standard as proposed.

In Issue 8 of the proposed rule (52 FR 12295) OSHA solicited public comment on the ACCSH recommendation that a written log or record of all required inspections be kept at the job site. OSHA received 16 responses to this issue. An overwhelming majority of the commenters opposed such a requirement. Most of these commenters (Exs. 4–5, 4–13, 4–35, 4–57, 4–82, 4–91, 4–101, 4–102, 4–106, 4–109, and 4–115) stated that the benefit of a record to verify inspection was questionable, and that a record could be falsified. Further, they contended that the time spent by the competent person filling out a record of required inspections would be better spent maintaining and improving worker safety. Two commenters (Ex. 4–28 and 4–78), while disagreeing with the proposed requirement for a written log, noted that if other commenters established an overwhelming need for a written record, then a certification would be adequate. Other commenters, while not directly endorsing the recommended written log, noted that maintaining a log of inspections might not be necessary if the competent person were constantly vigilant (Ex. 4–17), but that keeping records and logs would not add a financial burden because the inspector is already on the job site (Ex. 4–105). Finally, one commenter (Ex. 4–37) suggested that a log be kept of conditions that vary from those for which the system was designed and of any subsequent actions taken to bring the system into compliance.

Based on the above comments, the Agency has determined that a written log or record of inspections is not necessary. OSHA agrees with the commenters who note the questionable value of a record in this situation. The information contained in a log can be obtained by other means, such as communicating with the competent person and with employees on the site, and by reviewing the elements of the protective system being used by the employer. Further, OSHA agrees that the time required to fill out a log could be better spent by the competent person ensuring worker safety. Therefore, in regard to this issue OSHA promulgates the final rule as proposed.

Issue 9 of the NPRM (52 FR 1295) solicited input on whether or not the Agency should require that a "top man" be present to observe work conducted within the excavation, and to watch constantly for signs of danger when employees are in an excavation. This issue also solicited input on the extent to which such a requirement would increase safety, on other duties that could be assigned to the "top man," on the responsibilities the "top man" should have; and on the cost of such a requirement.

OSHA received 20 comments on this issue, including input from the ACCSH (Tr. 8/5/87 p. 477). The ACCSH recommended that a "top person" (as opposed to "top man") be defined as "a person at the top of the excavation constantly in visual and oral contact with the workers in a trench or excavation, and able to recognize and respond to hazardous trenching or excavation conditions." Further discussion by the ACCSH indicated that the "top person" should not necessarily be the competent person required by proposed § 1926.651(k), but rather, could be someone with less experience who is still able to respond to hazardous conditions and effect a rescue. The rationale for this suggestion was that the competent person would be engaged in other activities (Tr. 8/5/87 p. 477–79.)

Three commenters fully supported the use of a "top person." In particular, the Building and Construction Trades Department of the AFL–CIO (BCTD) (Ex. 4–17) noted that a "top person" was essential for all trenches and for all excavations until a permanent protection system was in place. BCTD also commented that reputable contractors already provide a "top person," that the "top person" would logically be the competent person, and that the main responsibility of the "top person" would be the safety of the workers. A second commenter, the Washington Metropolitan Area Construction Safety Association (WMACSA) (Ex. 4–101), indicated that such a requirement would improve safety. WMACSA also noted that the logical "top man" would be the competent person, that the primary responsibility would be worker safety, and that many contractors currently have a "top man." A third commenter, Lone Star Gas (Ex. 4–105), noted that a "top man" is industry practice and serves to decrease the risk of injury. Lone Star also commented that the "top man" should not perform any duties that would prevent the performance of his or her safety function, and that the "top man's" responsibilities are to warn those in the excavation of danger and to remove workers in danger as quickly as possible.

Many other commenters objected, however, to a requirement for a "top person" for every excavation.

Several commenters (Exs. 4–5, 4–13, 4–37, 4–82, 4–88, 4–102, 4–106, and 4–109) noted that it is industry practice to have a "top person" in many situations, but that not every situation requires one. Most of these commenters also indicated that even when needed, a "top person" could perform other duties in many situations without detracting from the safety function. Additionally, three of these commenters (Exs. 4–82, 4–102, and 4–109) pointed out that limiting this person's functions could decrease rather than enhance safety because of boredom and the accompanying lack of attention.

Other commenters (Exs. 4–28, 4–37, 4–54, 4–78, 4–106, and 4–115) opposed this requirement, commenting that it was primarily the foreman's (competent person) responsibility, and a secondary responsibility of other workers, to watch for signs of danger.

Two commenters (Exs. 4–35 and 4–115) also pointed out that the job of a "top person" would be a boring job where concentration would waver, and really would not provide any effective protection or safety.

Two other commenters (Exs. 4–49, and 4–91) supported the need for an observer on excavations five feet or greater in depth. Additionally, one of these commenters (Ex. 4–49) supported the intent of this provision on the condition that the person be able to perform other responsibilities which do not impair the duty to watch for signs of danger. The other commenter (Ex. 4–91) opposed a mandatory "top person" as described in this issue.

After careful consideration of the comments on this issue, OSHA has determined that a requirement for a "top person" for every excavation is not appropriate. The Agency believes that the responsibilities of a "top person" are already adequately assigned to the competent person or his/her designee in the Final Rule. OSHA notes that the majority of the commenters supporting a specific requirement for a "top person" for all excavations agreed that most contractors, in fact, already have a "top person," who is also the competent person.

Issue 10 of the NPRM (52 FR 12295) solicited public input on a suggested fourth option for sloping, which would permit the use of tabulated data in the same manner as such data would be used in option three, which addresses shoring. The intent would be to allow the use of tabulated data, meeting specified requirements, in designing sloping or benching systems in a larger geographic area than the proposed

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sloping option three, which is site specific.

The Agency received 13 responses to this issue, with most commenters supporting the addition of a "tabulated data" option for sloping.

Two commenters, (Exs. 4–37 and 4–91), disagreed with the addition of another option for sloping. The National Utility Contractors Association (NUCA) (Ex. 4–91) commented that this option would add confusion to the inspection process, and that the proposal already provided enough latitude for the contractor to work outside the standard. In addition, Pacific Gas Transmission (PGT) (Ex. 4–37) commented that this option would not be appropriate given the variety of soil conditions in larger geographic areas. PGT also noted that seismic activity should be considered in design.

However, most commenters supported this suggestion (Exs. 4–28, 4–49, 4–78, and 4–101). Several other commenters (Exs. 4–82, 4–102, 4–106, 4–109, and 4–115), in addition to supporting a "tabulated data" option for sloping, noted that this type of data is already available in California. These commenters also recommended that, if the data meets the prescribed requirements in the standard, the only other restriction should be that the use is limited to the soil classifications and geographic areas specified. Another commenter (Ex. 4–105) suggested that restrictions should apply in areas of previous excavation and backfill, and where excavations are close to structures. One other commenter (Ex. 4–17) noted that in addition to the criteria listed in the issue, any tabulated data used for sloping should have either political or professional stature in the locality where it is being used.

After careful consideration of the comments, OSHA has determined that a "tabulated data" option for sloping is appropriate. The Agency believes that this addition will not add confusion to the inspection process, because an employer using this option would be required to provide the tabulated data, including instructions for the safe use of the data, to the inspector during the inspection. OSHA also notes that soil variations in larger geographic areas would be adequately addressed by the standard, since this sloping option would be required to be based on a recognized soil classification system which takes into account such variations. The Agency declines to require consideration of seismic activity, because the Agency has no data on the subject and the commenter did not submit any supporting data.

Issue 11 of the proposal (52 FR 12295) solicited comment on allowing employees to remain inside shields during repositioning of the shields. Proposed § 1926.652(g)(1)(iv) prohibits employees from being inside shields when the shields are being installed, removed, or relocated.

OSHA received 14 responses to this issue.

Twelve of the commenters (Exs. 4–5, 4–13, 4–17, 4–28, 4–78, 4–82, 4–91, 4–102, 4–105, 4–106, 4–109, and 4–115) endorsed permitting workers to remain in shields during repositioning. Two of these commenters, BCTD and ABC (Exs. 4–17 and 4–78), further stated that this practice is acceptable if the shield is only moved horizontally and is not lifted. Most of the other commenters stated that the increased risk of falls that would accompany the repeated exit and re-entry of a shield would make it safer to remain in the shield.

Two other commenters (Exs. 4–39 and 4–101) recommended retaining the prohibition on employees remaining in shields being repositioned, but supplied no rationale.

Based on the comments in the record, OSHA has determined that employees can remain safely inside a shield being repositioned, provided the movement of the shield is horizontal and the shield is not lifted. Additionally, the Agency agrees that repeated exiting and re-entry will increase the fall hazard to employees.

Therefore, OSHA has revised proposed § 1926.652(g)(1)(iv) to permit employees to remain inside shields being repositioned provided movement is horizontal and the shield is not lifted.

Issue 12 of the NPRM (52 FR 12295) solicited comment on a suggestion that hardpan and caliche be moved from a "Type A" soil classification to a "stable rock" classification.

OSHA received 13 responses to this issue. Most commenters supported this suggestion for a variety of reasons.

Several commenters (Exs. 4–5, 4–13, 4–57, 4–105, and 4–115) supported this change for at least some depth beyond five feet, citing a cost benefit. Other commenters (Exs. 4–37, 4–82, 4–102, 4–106, and 4–109) supported the suggestion, but noted that the hardpan or caliche must be consistent, uniform, and continuous for the full depth of the excavation; it must also be dry; and the depth of the excavation must be limited to 12 to 15 feet in depth. One other commenter (Ex. 4–35) expressed support, but provided no rationale for the support.

On the other hand, one commenter (Ex. 4–17) noted that these terms have too diverse a range of properties, and have a different meaning in different areas of the country. The commenter recommended allowing hardpan and caliche to be classified as stable rock locally, in accordance with the requirements of the standard. Another commenter (Ex. 4–101) made a similar recommendation.

After careful consideration of the comments, OSHA has determined that upgrading the classification of hardpan and caliche from "Type A" soil to stable rock, on a national basis, is not appropriate. The Agency notes that much of the support for this upgrade is tempered with recommended limitations. OSHA agrees with the comments that these terms have a wide range of meanings in different areas of the country. The Agency, however, does not preclude such a reclassification if done on a regional or site-specific basis, provided that the requirements of the standard are met. Specifically, this would require approval of a registered professional engineer, as required for the use of other tabulated data or site-specific designs. Appendix A does not permit this reclassification.

Therefore, in regard to this issue, OSHA promulgates the Final Rule as proposed.

Issue 13 of the NPRM (52 FR 12295) solicited comment on whether or not, in addition to § 1926.652(f), the Agency should provide more specific coverage for bell bottom pier holes under a separate section of subpart P, and if so, what a separate new section should address.

OSHA received nine comments on this issue. Three commenters (Exs. 4–82, 4–102, and 4–109) opposed having a separate section addressing bell bottom pier holes. Another commenter (Ex. 4–115) noted that bell bottom pier holes should not be included in this standard. On the other hand, several commenters (Exs. 4–17, 4–72, 4–91, 4–101, and 4–106) agreed that bell bottom pier holes should be addressed under a separate section of this standard. Only one of those commenters (Ex. 4–72) provided any input as to what should be addressed in a separate section.

Based on the comments received, the Agency believes a separate section covering bell bottom pier holes might be appropriate in the future, but does not have sufficient data and information at this time to propose or promulgate such regulations at present. Therefore, in regard to this issue the Agency promulgates the Final Rule, as proposed.

Issue 14 of the NPRM (52 FR 12295) requested public comment on a suggestion that OSHA allow the use of

established regional practices for the construction of protective systems. The Agency also solicited comment on the criteria to be used to ensure that these practices are effective.

OSHA received 14 comments on this issue, with most commenters supporting OSHA's recognition of regional practices for shoring or sloping.

Two commenters opposed the suggestion. One commenter (Ex. 4–91), while recognizing the importance of regional practices, recommended that these practices be subject to the existing variance procedure. The other commenter (Ex. 4–37) opposed the use of localized standards because they could result in non-uniform standards and practices, which could lead to on site conflict and misunderstanding.

Several commenters (Exs. 4–28, 4–35, 4–37, 4–78, and 4–101) expressed support for recognition of regional practices, but provided no criteria for evaluating these practices. Other commenters (Exs. 4–82, 4–102, 4–106, and 4–109) supported recognition of regional practices and suggested that evaluation criteria should include approval by local authorities and a proven safety record. However, they opposed as unrealistic the OSHA suggested requirement of five years of successful use without failure. Another commenter (Ex. 4–105) supported the suggestion, but noted that approval by local authorities may be difficult. One commenter (Ex. 4–115) supported the suggestion and agreed that approval of a local authority should be an evaluation criteria, but recommended that the authority be at a state or regional level. Another commenter (Ex. 4–17) agreed with the use of regional practices, noting that this is more likely to lead to voluntary compliance. However, the commenter also noted the difficulty of evaluating regional practices even if approved by a political entity, and suggested that these regional practices have the support of engineering analysis followed by a trial period.

After careful consideration of the comments, OSHA has determined that information on and evidence of recognition of regional practices should be considered to be "other tabulated data" on the practices in question, and, therefore, must meet the prescribed criteria required in the standard in order to be acceptable for use.

OSHA disagrees with the comment that these local practices should be subject to the variance procedure before they are recognized. The Agency notes that the criteria for "other tabulated data" will provide sufficient assurance that these regional practices will protect workers. The Agency also disagrees with the comment that non-uniform standards and practices could lead to on site conflict and misunderstanding. OSHA has no evidence which shows the recognition of other local standards would cause any problems or lessen employee protection. In fact, comment on this issue indicates that compliance would be more likely if OSHA permits the use of local standards and practices with which employees and employers are already familiar.

Finally, OSHA has determined that the most expeditious way to recognize these local standards and practices is to evaluate them using the same criteria required in the standard for "other tabulated data," because that criteria will ensure adequate employee protection.

Issue 15 of the NPRM (52 FR 12295) solicited comment on allowing a greater degree of employer flexibility in the design of protective systems. In addition, OSHA requested input on the type of information necessary to ensure design adequacy.

OSHA received 13 comments on this issue, and all of the commenters expressed support for the flexibility of the proposed amendment. Several commenters (Exs. 4–5, 4–13, 4–57, 4–82, 4–102, and 4–109) noted that some employers will be irresponsible no matter what the rules are. Four commenters (Exs. 4–82, 4–102, 4–106, and 4–109) also recommended that OSHA not specify factors to be considered in a design, but require instead that the designs be in accordance with accepted engineering practice.

Other commenters, in addition to supporting the flexibility allowed by the proposal, suggested several factors which should be included in the design of protective systems, in addition to soil tests and results, intended or expected load conditions, environmental considerations, and design limitations listed by OSHA in the proposal. These additional factors include the extent of vibration and depth of excavation (Ex. 4–105); surcharge, depth, and vibration (Ex. 4–17); and ground water elevations, materials specification, required monitoring devices, and dewatering requirements (Ex. 4–37). Another commenter (Ex. 4–28) suggested that such designs be made by a qualified engineer, using the criteria listed in the issue, and that such designs be available at the job site. The commenter also recommended that OSHA not recognize standard practices for trenches deeper than 20 feet.

Two commenters (Exs. 4–17 and 4–101) recommended dropping "qualified persons" from the standard. One of the commenters (Ex. 4–17) recommended the use of a registered professional engineer while the other (Ex. 4–101) used the term "qualified engineer" in its comment. Both recommended that OSHA require the same design specifications that are required for manufactured systems.

The last commenter (Ex. 4–115) supported the flexibility of the proposal and noted that it could eventually save millions of dollars.

After careful consideration of the comments received, OSHA has determined that employers should have some flexibility in choosing a protective system for employees, but notes that, as discussed under Issue 2, original design will now require the approval of a registered professional engineer. The Agency has also determined that specific information should be included on the design, in order to provide a minimum degree of safety, and additional guidance should be provided by the system designer to employers concerning the use proper of the design.

Therefore, in regard to this issue, OSHA promulgates the standard as revised.

Section 1926.650 Scope, Application and Definitions Applicable to this Subpart

Section 1926.650(a) states that this subpart applies to all open excavations made in earth surfaces and that excavations are defined to include trenches. Whenever the word "excavation" is used in the final standard, it applies to all excavations, including those also falling within the definition of a trench.

In the preamble of the proposed rule OSHA included a statement intended to clarify the Agency's jurisdiction with regard to excavations which fall under the authority of other Federal agencies. The statement noted that OSHA jurisdiction does not apply to working conditions which fall under the statutory authority of other Federal agencies to prescribe or enforce occupational safety or health regulations, if that authority is being exercised. This statement was directed primarily at excavations (surface mines) covered by the Mine Safety and Health Administration (MSHA), because MSHA does prescribe and enforce comprehensive regulations intended to ensure worker safety and health.

Almost half of the total number of comments received during the comment period were sent by companies involved in excavations related to natural gas pipelines. About 75 percent of these comments (e.g., Exs. 4–6, 4–8, and 4–14) expressed concern with two of the proposed paragraphs, § 1926.651(g)(1)(iii), hazardous

atmospheres, and § 1926.651(g)(2)(i), emergency rescue equipment. In general, these commenters stated that the proposed hazardous atmospheres

In considering the appropriate treatment of the preemption question, however, it must also be recognized that other agencies such as OPS may choose

in published literature, such as a textbook.

OSHA received six comments on this definition and on the suggestions set

The proposal defined "bell-bottom pier hole" as "a type of shaft or footing excavation, a portion of which is made larger than the cross section above to form a belled shape." OSHA received

entrap, bury, or otherwise injure and immobilize a person."

OSHA received two comments and an ACCSH recommendation (Tr. 8/5/87, pp. 449–450) on this definition. Both the

of identifying existing and predictable hazards in excavation work or taking prompt corrective measures.

The Agency received only one comment on the actual definition. The

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atmospheres, and § 1926.651(g)(2)(i), emergency rescue equipment. In general, these commenters stated that the proposed hazardous atmospheres provision was preempted by an existing Office of Pipeline Safety (OPS) (of the Department of Transportation) regulation which directly addresses the same subject. In addition, these commenters also stated that the proposed regulation for emergency rescue equipment was not appropriate for situations dealing with the repair or replacement of natural gas pipelines, since these were routine operations performed by trained personnel and not "emergencies" as understood in normal construction operations.

Other commenters however, asserted that the OSHA excavation regulations are preempted in their entirety by OPS regulations, even though those regulations provide very little guidance in the area of employee safety. OSHA raised this subject as an issue in the hearing notice (53 FR 5280) and received several comments (Exs. 8–11, 8–12, 8–13 and 8–17) and hearing testimony (Tr. 6/19/88 pp. 84–105) in response.

Whether an OSHA standard is preempted by a regulation of another agency, such as OPS, will depend on the nature and scope of that regulation, and the degree to which it regulates a working condition. For example, in *Columbia Gas of Pennsylvania, Inc.* v. *Marshall*, 636 F.2d 913 (3rd Cir., 1980), the U.S. Court of Appeals for the Third Circuit determined that existing paragraph (v) of § 1926.651, which required atmospheric testing in a trench where gaseous conditions are possible, was preempted under section 4(b)(1) of the OSH Act by an OPS regulation (49 CFR 192.751), which, in the Court's words, "envisions the working conditions faced by petitioner's employees" (636 F.2d at 916) in the trench. Where another Agency issues and enforces regulations covering a particular working condition involving employee safety, OSHA cannot enforce its own standard which would otherwise cover that working condition. However, the other agency's regulation will be preemptive of OSHA only insofar as it constitutes an exercise of statutory authority over employee safety and health. It should be noted that although OSHA does not concur with much of the court's rationale on the scope of preemption in Columbia Gas, the Agency acknowledges that current OPS regulations may well have a preemptive effect over some provisions of this final OSHA standard on excavations.

In considering the appropriate treatment of the preemption question, however, it must also be recognized that other agencies such as OPS may choose to revise or even revoke their regulations, and such actions would clearly affect the scope of any preemption. Were OPS to revoke a regulation which preempts an OSHA standard, OSHA authority would no longer be preempted with regard to the specific working condition. For these reasons, OSHA does not believe it appropriate to address preemption directly in the text of this final excavation standard. OSHA believes that preemption is more appropriately addressed in the enforcement context, in which specific claims of preemption can be evaluated and decided.

Section 1926.650(b) lists and defines all major words used in the Final Rule. Many of the definitions are the same as those in the existing standard and the proposed revision. Others have been revised based on the record, and these changes will be discussed below as appropriate.

Section 1926.650(b) defines "accepted engineering practices" as "those requirements which are compatible with standards of practice required by a registered professional engineer."

The existing definition, found in § 1926.653(a), has been in use since the standard was first promulgated in 1971, and reads as follows: "Those requirements or practices which are compatible with standards required by a registered architect, a registered professional engineer, or other duly licensed or recognized authority."

That definition was revised in the proposal to clarify its meaning, at the suggestion of the ACCSH, and also as suggested in the industry sponsored workshops (Ex. 2–26) discussed above. The proposed definition read as follows: "Those requirements which are compatible with standards of practice required by a registered professional engineer or other duly-licensed or recognized authority."

Prior to the publication of the proposed revision, OSHA received other suggestions concerning this definition. These included: dropping the words "other duly-licensed or recognized authority" because they are unclear and imply something broader and less demanding than the standards required by engineers; limiting "accepted engineering practices" to the standards of practice required by a registered professional engineer, not just compatible with those standards of practice; and defining accepted engineering practices as those described in published literature, such as a textbook.

OSHA received six comments on this definition and on the suggestions set forth above. Four commenters (Exs. 4–82, 4–102, 4–106, and 4–109) recommended retaining the words "compatible with" in the definition, and objected to defining accepted engineering practices as those described in published literature, because that source is ambiguous. Two commenters, Granite Construction and the Associated General Contractors (AGC) of California (Exs. 4–28 and 4–106), agreed with the suggestion to drop the words "or other duly-licensed or recognized authority" because of the ambiguity of the terms. Finally, the National Institute for Occupational Safety and Health (Ex. 4–30) suggested that OSHA provide examples of "other duly licensed or recognized authority," for clarification purposes.

Based on the above discussion and the Agency's desire to provide clear guidance to employers, OSHA is revising the definition to remove the phrase "or other duly licensed or recognized authority," which is ambiguous and confusing. However, the Agency is not adopting the suggestion to define these practices as those described in published literature because, as discussed above, doing so would add further ambiguity.

Section 1926.650(b) defines "aluminum hydraulic shoring" as "a pre-engineered shoring system comprised of aluminum hydraulic cylinders (crossbraces) used in conjunction with vertical rails (uprights) or horizontal rails (walers). Such a system is designed specifically to support the sidewalls of an excavation and prevent cave-ins." This new definition is included to clarify the provisions of the new Appendix D (Aluminum Hydraulic Shoring for Trenches) discussed in detail later in this preamble.

Section 1926.650(b) defines "bell-bottom pier hole" as "a type of shaft or footing excavation, the bottom of which is made larger than the cross section above to form a belled shape." The definition for this term replaces the definition for a similar term, "belled excavation" found in existing § 1926.653(d). Although defined, the term "belled excavation" is not used in the existing standards. Instead, the term "bell-bottom pier hole" is used in existing § 1926.652(f). OSHA proposed a new definition of "bell-bottom pier hole" to replace the term "belled excavations", in order to make the standard consistent.

The proposal defined "bell-bottom pier hole" as "a type of shaft or footing excavation, a portion of which is made larger than the cross section above to form a belled shape." OSHA received three comments on this definition. CAL/OSHA and the Associated Builders and Contractors Inc. (ABC) (Exs. 4–4 and 4–78) suggested the definition should read "the bottom of which" not "a portion of which", since that more accurately describes the situation. The other commenter, Talbert Corporation (Ex. 4–72), suggested a completely revised definition in conjunction with a new section on excavation of pier holes. The commenter's suggestions are discussed in detail under Issue 13 abcve. OSHA has determined that the amendment suggested by CAL/OSHA and ABC presents a more accurate description of the defined conditions.

Section 1926.650(b) defines "benching" as "a method of protecting employees from cave-ins by excavating the sides of an excavation to form one or a series of horizontal levels or steps, usually with vertical or near-vertical surfaces between levels." This term is not used in the existing standard and therefore was not previously defined. The definition in the final rule is virtually identical to the proposal, except that the word "from" has been substituted for "against," based on a general comment made by the ACCSH (Tr. 8/5/87, p. 448). No other comments were received on this definition.

Section 1926.650(b) defines "cave-in" as "the separation of a mass of soil or rock material from the side of an excavation, or the loss of soil from under a trench shield or support system, and its sudden movement into the excavation, either by falling or sliding, in sufficient quantity so that it could entrap, bury, or otherwise injure and immobilize a person." The existing standard did not use or define the term "cave-in," but used the terms "moving ground" and "hazardous ground movement" instead. However, neither of these terms was defined in the existing standard. In order to eliminate this deficiency and resolve the confusion as to what these terms mean, OSHA proposed to eliminate these two terms and replace them with a definition of "cave-in," which would accurately convey the intended concept of the hazard by describing the mechanism of the hazard and its results. The proposed definition stated that cave-in means, "The separation of a mass of soil or rock material from the side of the excavation and its sudden movement into the excavation, either by falling or sliding, in sufficient quantity so that it could entrap, bury, or otherwise injure and immobilize a person."

OSHA received two comments and an ACCSH recommendation (Tr. 8/5/87, pp. 449–450) on this definition. Both the ACCSH and the Building and Construction Trades Department of the AFL–CIO (Ex. 4–17) noted that the definition did not cover the loss of soil from under a shield or support system. The Agency agrees that the hazard noted by the commenters needs to be addressed and has revised the final rule to reflect this input. The Carolinas Branch of the Associated General Contractors of America (CBAGC) (Ex. 4–54) supported the proposed definition of cave-in, but recommended that the term "hazardous moving ground" be retained and properly defined. However, CBAGC did not suggest a definition for "hazardous moving ground" and did not explain the rationale for recommending the inclusion of another term which has a similar if not identical meaning to "cave-in." Therefore, with regard to this recommendation, the Agency declines to act.

Based on the above discussion, OSHA promulgates this definition as revised.

Section 1926.650(b) defines "competent person." This definition is identical to the definition in § 1926.32(f) of subpart C of the current Construction Safety and Health Standards. The term is used throughout existing subpart P, but was not defined within the subpart, and there were no references to the existing definition in subpart C. In the proposal, OSHA added the definition to subpart P to help those using the standard. In addition, an explanatory note was added at the end of the definition in order to clarify the Agency's intent that the "competent person can act as the employer's designee for the purpose of choosing a protective system from the options provided in § 1926.652 (b) and (c) below, but cannot take an original design responsibility allowed by § 1926.652 (b)(3), (c)(3) or (c)(4), unless otherwise qualified."

Although the definition of "competent person" in § 1926.650 has not been changed from the proposal and is the same as that in existing § 1926.32, it is important to note that what constitutes a "competent person" depends on the context in which the term is used. In order to be a "competent person" for the purposes of this standard one must have had specific training in, and be knowledgeable about, soils analysis, the use of protective systems, and the requirements of this standard. One who does not have such training or knowledge cannot possibly be capable of identifying existing and predictable hazards in excavation work or taking prompt corrective measures.

The Agency received only one comment on the actual definition. The Michigan Department of Labor (Ex. 4–46) recommended dropping the term from the standard and making a reference to either "qualified person or qualified engineer." OSHA declines to act on this suggestion. The "competent person," as defined, is the appropriate person to use whenever an assessment of working conditions must be made with respect to safety. By definition, a competent person is capable of recognizing hazards and has the authority to correct them. By contrast, a "qualified" person or engineer, as defined in § 1926.32(l) might have more technical expertise, but would not necessarily have expertise in hazard recognition or the authority to correct identified hazards.

OSHA did receive input from the ACCSH (Tr. 8/5/87, p. 450) concerning the explanatory note at the end of the definition. The ACCSH recommended deleting "or otherwise qualified" from the note because it is ambiguous and there is no other way to be qualified to develop original designs unless the person is a registered professional engineer. The Agency recognizes the potential confusion that could result if the note remained, and has decided to delete the explanatory note from the Final Rule.

Section 1926.650(b) defines "cross braces" as "the horizontal members of a shoring system installed perpendicular to the sides of the excavation, the ends of which bear against either uprights or wales." This definition is identical to the proposed definition, and replaces the existing definition "braces (trench)." In the proposal, the term "stringers" was dropped from the current definitions and replaced with the term "wales." The existing standard defines "wales" and "stringers" identically as "the horizontal members of a shoring system whose sides bear against the uprights or earth." OSHA believes use of the term "wales," which is more consistent with industry terminology, would improve the definition of "cross braces."

The Agency received no comment on this definition, and therefore, promulgates this definition as proposed.

Section 1926.650(b) defines "excavation" as "any man-made cut, cavity, trench, or depression in an earth surface, formed by earth removal." The existing definition in § 1926.653(f) defines "excavation" as "any man-made cavity or depression In the earth's surface including its sides, walls, or

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faces, formed by earth removal and producing unsupported earth conditions by reason of the excavation. If installed forms or similar structures reduce the depth-to-width relationship, an excavation may become a trench." In the proposal, the definition was revised to read "any man-made cut, cavity, trench, or depression in an earth surface, formed by earth removal, and producing unsupported earth conditions (sides, faces)."

OSHA received two comments (Exs. 4–17 and 4–91) on the definition, and a recommendation from the ACCSH (Tr. 8/5/87, p. 451–52). All the commenters recommended removing "and producing unsupported earth conditions (sides, faces)," because the phrase is confusing and is not necessary to the definition. The Agency agrees that this phrase could cause confusion and, therefore, promulgates this definition as revised.

Section 1926.650(b) defines "faces" or "sides" as "the vertical or inclined earth surfaces formed as a result of excavation work." This definition and the proposed definition are identical to existing § 1926.653(k), except that the term "walls" was dropped from the standard. The Agency received no comments on this definition and therefore promulgates it as proposed.

Section 1926.650(b) defines "failure" as "the breakage, displacement, or permanent deformation of a structural member or connection so as to reduce its structural integrity and its supportive capabilities." This definition is intended to apply to protective systems and to the members and connections of protective systems, where applicable. Use of the concept of "failure" introduces a measure for the performance of protective systems, their members, and their connections. Such a measure is not present in the existing standard. This concept will help clarify the intent of the standard and the duty of employers to provide adequate protective systems.

There is no definition of failure in the current standard. In the NPRM, OSHA proposed to define "failure" as "the breakage, displacement, or permanent deformation of a structural member or connection as to affect its supportive capabilities." The Agency received two comments on this definition. The Building and Construction Trades Department of the AFL–CIO (Ex. 4–17) merely noted that this was a narrow structural definition. However, CAL/OSHA (Ex. 4–4) suggested revising the definition to read "so as to *reduce* its *structural integrity* and its supportive capabilities" (emphasis added). The commenter felt the revision was necessary to explain more fully what constitutes failure. The Agency believes this revision will help clarify the regulatory intent and therefore promulgates this definition as revised.

Section 1926.650(b) defines "hazardous atmosphere" as "an atmosphere which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritating, oxygen deficient, toxic, or otherwise harmful, may cause death, illness, or injury." This definition is identical to the proposed definition, which was taken, with some modification, from the definition of "hazardous substance" in existing § 1926.32(k).

OSHA received seven comments on this definition (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–78, and 4–86). All commenters recommended removing the word "irritating" from the definition because irritating and hazardous are different. The Agency disagrees with these commenters because irritating substances can incapacitate employees to a point that would hamper escapeduring an emergency, or cause employees to rush jobs, thereby increasing the likelihood of mistakes and accidents. For example, OSHA notes that it is not uncommon to encounter hydrogen sulfide in excavations. This substance is anirritant at very low concentrations, deadens the sense of smell at or below 100 parts per million, and can be lethal in a very short time at concentrations of 400 parts per million or less. Therefore, OSHA declines to make the requested revisions and promulgates this definition as proposed.

Section 1926.650(b) defines "kickout" as "the accidental release or failure of a cross brace." This definition is identical to the proposed definition, which was taken from existing § 1926.653(i) with some modification. This definition was changed by substituting the new term "cross brace" for the current term "brace," and by dropping reference to the term "shore." The first change was made for purposes of consistency in the use of terms. The second change was made in order to clarify the definition. The term "shore," as used in the current definition of "kickout," is not defined. However, in accordance with accepted industry terminology, a "shore" is considered to be a vertical member, such as a post, or as defined in the current standard, an "upright." It is not OSHA's intention, however, to define "kickout" as failure of any vertical member. Therefore, use of the term "shore" was dropped in the proposed revisions of "kickout."

OSHA received no comment on this proposed revision and, therefore, promulgates this definition as proposed.

Section 1926.650(b) defines "protective system" as "a method of protecting employees from cave-ins, from material that could fall or roll from an excavation face or into an excavation, or from the collapse of adjacent structures. Protective systems include support systems, sloping and benching systems, shield systems, and other systems that provide the necessary protection." This term is not defined in the existing standard. References were made throughout the proposal to "protective systems." The approach taken in the proposed standard was to classify, under the term "protective system," all systems and methods of protecting employees from the hazards set forth in the definition.

OSHA received two comments (Exs. 4–17 and 4–91) and input from the ACCSH (Tr. 8/5/87 p. 456) recommending that "against cave-ins" be changed to "from cave-ins." The Agency agrees with this change and, therefore, promulgates this definition as revised.

Proposed § 1926.650(b)(13), which defined "qualified engineer" and proposed § 1926.650(b)(14), defining "qualified person," have both been deleted from the final rule. The rationale for these deletions were discussed in detail above, under Issue 2. Although the Agency received other comments on this definition, the points raised are more pertinent to other parts of the standard and will be discussed in the appropriate section of this preamble below.

Section 1926.650(b) of the Final Rule defines "ramp" as "an inclined walking or working surface that is used to gain access to one point from another, and is constructed from earth or from structural materials such as steel or wood." This definition is basically identical to proposed § 1926.650(b)(15) except for an editorial revision, moving "that is" from before "constructed" to before "used." The Agency received no comment on this definition and, therefore, promulgates this definition as revised.

Section 1926.650(b) of this Final Rule defines "registered professional engineer" as "a person who is registered as a professional engineer in the state where the work is to be performed. However, a professional engineer, registered in any state is deemed to be a 'registered professional engineer' within the meaning of this standard when approving designs for 'manufactured protective systems' or 'tabulated data' to be used in interstate commerce."

This definition is similar to the definition recommended by the ACCSH

(Tr. 8/5/87 p. 466) which was also proposed in the Notice of Informal Public Hearing (53 FR 5281). However, OSHA is deleting language from that definition which becomes unnecessary because the Agency intends to rely on state registration of professional engineers to demonstrate that the person approving designs is, in fact, qualified. In addition, the Agency is providing an exception to the requirement that a registered professional engineer within the meaning of this standard be licensed in the state in which work is being performed. A professional engineer registered in any state (as defined in section 3(7) of the OSH Act) who designs support systems, shield systems, or other protective systems that are to be manufactured and used in interstate commerce, or who prepared "tabulated data" to be used in interstate commerce, is deemed to be a "registered professional engineer" within the meaning of this standard. To limit such work to engineers licensed in the state in which the work is being performed would unduly burden the manufacturers of protective systems and may be counterproductive to employee safety. Moreover, the possibility of product liability actions if manufactured systems fail should assure that "manufactured protective devices" and "tabulated data" of general applicability will be designed prudently. The incentive to design manufactured systems safely to avoid such lawsuits is an adequate substitute for the incentive of an in-state engineer to avoid risking his or her professional license.

Section 1926.650(b) defines "sheeting" as "the members of a shoring system that retain the earth in position, and in turn are supported by other members of the shoring system." This definition contains some wording from the current definition of "sheet pile" (§ 1926.653(i)). The definition for "sheet pile" has been dropped since the term is not used in the final standard. "Sheeting" is a broader term. It includes all special types of sheeting, including sheet piles, where the purpose is to retain earth in position.

In the proposal, § 1926.650(b)(16) defined "sheeting" as "the members of a shoring system such as dimensional lumber uprights, plywood, or other materials that are driven or placed in contact with the earth, usually in a vertical position, for the purpose of retaining the earth in position and in turn being supported by other members of the shoring system."

OSHA received three comments on this definition and input from the ACCSH. Two commenters (Exs. 4–17 and 4–91) and the ACCSH (Tr. 8/5/87 p. 741) recommended deletion of "such as dimensional lumber uprights * * * for the purpose of * * *" The only other commenter (Ex. 4–111) noted that the standard did not include directions on the use of plywood, but made no suggestion as to what those directions should be.

The Agency has determined that the recommended deletion is appropriate, as the examples cited could give the false impression that only wood was acceptable as sheeting. The proposed definition contained the phrase "or other materials," in recognition of other equally effective materials, such as steel sheeting, but the Agency understands that the definition, as phrased, could be misinterpreted, and has made the recommended deletion.

In addition, the Agency recognizes that the standard does not include directions for the use of plywood, but notes that the use of tabulated data for protective systems which utilize plywood sheeting, or a design prepared by a registered professional engineer utilizing plywood sheeting, is acceptable under the standard. Additionally, OSHA does not believe it is necessary to provide directions for all variations of protective system design.

Therefore, based on the above discussion the Agency promulgates this definition as revised.

Section 1926.650(b) of the Final Rule defines "shield" as follows:

> A structure that is able to withstand the forces imposed on it by a cave-in and thereby protect employees within the structure. Shields can be permanent structures or can be designed to be portable and moved along as work progresses. Additionally, shields can be either premanufactured or job built in accordance with § 1926.652(c)(3) or (c)(4). Shields used in trenches are usually referred to as "trench boxes" or "trench shields."

The definition replaces existing § 1926.653(p) which defines "trench shield" as "a shoring system composed of steel plates and bracing, welded or bolted together, which support the walls of a trench from the ground level to the trench bottom and which can be moved along as work progresses," and it replaces the proposed definition § 1926.650(b)(17) which defined "shield" as:

> A structure that normally will not prevent a cave-in, but is able to withstand the forces imposed on it by a cave-in and thereby protect employees within the structure. Shields can be permanent or can be designed to be portable and moved along as work progresses. Additionally, shields can be either premanufactured or job-built, in accordance with § 1926.652 (c)(3) or (c)(4). Shields used in trenches are usually referred to as "trench boxes" or "trench shields."

The concept of a shield, as used in both the proposed and final standards, is different from the concept of a shield as defined in the existing standard. The major difference however, is the manner in which shields are defined with respect to how they provide protection. Unlike the current standard, the proposed and final standards do not refer to shields as devices which provide protection to employees by supporting the sides of an excavation and thereby preventing cave-ins. Instead shields generally do not prevent cave-ins, but, rather, protect employees from cave-ins that do occur. They provide a limited but safe, sheltered space in which employees work. In addition, the new definitions do not place any limits on the material from which a shield may be constructed.

Shields are one of several types of protective systems that may be used to guard employees from cave-ins and other hazards. Some shields are designed to be expandable. Once in place they can be altered such that their faces are pressed against and actually begin to support the sides of the excavation. In this configuration, depending on the degree of support provided, such a device may also be considered a support system.

OSHA received three comments and input from the ACCSH on this definition. Two commenters (Exs. 4–17 and 4–91) and the ACCSH (Tr. 8/5/87 p.474) recommended deletion of the phrase "normally will not prevent a cave-in but" because they felt the language was gratuitous and misleading. The third commenter (Ex. 4–111) suggested that the definition should read "not designed to prevent a cave-in." The Agency disagrees with the suggestion that shields are not designed to prevent a cave-in, and notes that some shields, in fact, are designed to be expandable, and can support the sides of excavations. On the other hand, the Agency agrees with the ACCSH and the other two commenters that the language noted above could be misleading and unnecessary and therefore, deleted this phrase. However, the Agency declines to delete the sentence stating that a shield could be either premanufactured or job-built, as recommended by ACCSH (Tr. 8/5/87 p. 474) and two commenters (Exs. 4–17 and 4–91). OSHA assumes the commenters opposed to this part of the definition interpreted this sentence as giving total discretion to employers in regard to job-built shields. However, the Agency's regulatory intent is that job-built shields must be built in

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accordance with the options provided in § 1926.652(c)(3) and (c)(4). The Final Rule has been revised to clarify this point.

Section 1926.650(b) of the Final Rule defines "shoring" (shoring system) as "a structure such as a metal hydraulic, mechanical, or timber shoring system that supports the sides of an excavation and which is designed to prevent cave-ins." This term is not defined in the existing standard, even though it is extensively used. The final definition is almost identical to the proposed definition in § 1926.650(b)(19), except that "metal hydraulic" shoring is included in the Final Rule, as recommended by the only commenter (Ex. 4–114). OSHA agrees that "metal hydraulic" shoring is used extensively and should be included in the definition as an example.

Section 1926.650(b) of the Final Rule defines "sides" by referring the reader to the definition of "faces."

Section 1926.650(b) of the Final Rule defines "sloping" (sloping system) as "a method of protecting employees from cave-ins by excavating to form sides of an excavation that are inclined away from the excavations as to prevent cave-ins. The angle of incline required to prevent a cave-in varies with differences in such factors as the soil type, environmental conditions of exposure, and application of surcharge loads." This definition is virtually identical to the proposed definition, except that "against cave-ins" was changed to "from cave-ins" as recommended by the ACCSH.

The definition of "slope" found in existing § 1926.653(1) was not used in the proposal because the concept in that definition was not applicable in the proposed standard. The existing definition states that "slope" means "the angle with the horizontal at which a particular earth material will stand indefinitely without movement."

The proposed and final definitions of "sloping" both address a broader concept of employee protection by referring to "systems" or "methods" of protection which prevent cave-ins. The definitions recognize that the slope or multiple slopes used in a sloping system can vary with the soil types involved and site conditions.

OSHA received one comment (Ex. 4–46) on this definition, other than the editorial comment by the ACCSH. The one commenter recommended that "sloping" should be called "angle of repose" and that OSHA should include a definition for "underpinning." OSHA disagrees with the suggestion to use the term "angle of repose" for the reasons discussed above in the section entitled "Problems with the Existing Standard." The Agency also declines to define the term "underpinning," because the Agency believes the term is already readily understood by the construction industry.

Section 1926.650(b) of the Final Rule defines "stable rock" as natural solid mineral material that can be excavated with vertical sides and will remain intact while exposed. Unstable rock is considered to be stable when the rock material on the side or sides of the excavation is secured against caving-in or movement by rock bolts or by another protective system that has been designed by a registered professional engineer.

The proposed definition of "stable rock," in paragraph (b)(21), was similar except that it did not use the phrase "natural solid mineral material" and the second sentence of the definition was an explanatory note; and design by a "qualified engineer or a qualified person" was permitted. There was no definition for rock or rock conditions in the existing standard. Reference was made to rock in the existing standard in the footnotes to Table P–2, "Trench Shoring—Minimum Requirements." The footnotes stated that "Shoring is not required in solid rock, hard shale, or hard slag."

It is recognized in the industry that excavations in rock normally do not present a cave-in hazard because of the inherent stability of rock, and the ability of rock to carry loads. However, rock varies to a great extent in its ability to remain intact while exposed, just as soil does. There are conditions that are found in some rock formations, such as fractures and seams of less stable material, that can present serious hazards. When such conditions are encountered in rock, such as shale which contains layers of clay, the rock cannot be considered stable.

The proposed definition for "stable rock" was developed from the definition that was proposed by the National Bureau of Standards (NBS) at the above discussed workshops. Originally, NBS used the term "unfractured rock," instead of "stable rock." However, many comments were made that it is impossible to excavate any rock without fracturing it in some way. The Construction Advisory Committee suggested that the definition be changed to "stable rock" (Ex. 2–8, p. 356). This recommendation was incorporated into the NBS definition.

Unstable rock, i.e. rock that cannot be excavated with vertical sides and remain intact while exposed, can be made stable if a proper system is used to support the excavation side. A note to this effect was placed at the end of the proposed definition of "stable rock" to alert the user to this possibility. Finally, OSHA has adopted the ASTM term "natural solid mineral matter" to define rock for clarity.

OSHA received two comments (Exs. 4–17 and 4–111) and input from the ACCSH (Tr. 8/5/87 p. 475), concerning the term "qualified person" in the proposed definition. All three commenters recommended deletion of "qualified person." One commenter (Ex. 4–17) and the ACCSH recommended changing "qualified engineer" to registered professional engineer, similar to the recommendations received on Issue 2, discussed above.

An editorial change has been made to incorporate the proposed explanatory note into the second sentence of the final definition.

Therefore, based on the record, OSHA promulgates this definition as revised.

Section 1926.650(b) of the Final Rule defines "structural ramp" as "a ramp built of steel or wood, usually for vehicle access. Ramps made of soil or rock are not considered structural ramps."

Proposed paragraph (b)(22) defined "structural ramps" as "ramps built of material other than soil or rock." The Agency received one comment (Ex. 4–106) which suggested the definition should be expanded to describe clearly a ramp of steel or wood for vehicle access. Since this is in line with the Agency's regulatory intent, the Agency agrees to amend the definition to express more clearly what OSHA considers to be a structural ramp.

Section 1926.650(b) defines "support system" as "a structure such as underpinning, bracing, or shoring, which provides support to an adjacent structure, underground installation, or the sides of an excavation." The proposed definition, paragraph (b)(23), is identical to this final definition. There is no definition of support system in the existing standard. However, examples of supporting systems are given in existing § 1926.651(f), such as "supporting system; i.e., piling, cribbing, shoring, etc., * * *" Theconcept of a support system as used in the proposed standard remained the same as in the existing standard. The definition was included to provide a more clearly defined concept.

A "support system" is one type of protective system. It should be noted that a "shoring system" is a type of support system. Support systems are more broadly defined than shoring systems to include structures that support adjacent structures or

underground facilities, whereas shoring systems are defined as systems that support the sides of an excavation.

The Agency received no comments on this definition. Therefore, the Agency promulgates this definition as proposed.

Section 1926.650(b) of the Final Rule defines "tabulated data" as "tables and charts approved by a registered professional engineer, and used to design and construct a protective system."

The definition of tabulated data in paragraph (b)(24) of the proposal did not recognize the use of local practices, and required preparation by a "qualified person" or "qualified engineer." The changes made to the Final Rule are based on the discussion of Issue 2 (qualified person/qualified engineer) and Issue 14 (regional practices). In addition, OSHA received two comments (Exs. 4–17 and 4–111) and input from the ACCSH (Tr. 8/5/87 pp. 475–76). All of these commenters recommended dropping "qualified person," and two commenters (Ex. 4–17 and the ACCSH) supported changing "qualified engineer" to "registered professional engineer."

The Agency believes that most tabulated data provides the flexibility necessary to make minor adjustments to the protective system without requiring the approval of an engineer provided those changes do not exceed the designlimitations of the data. The OSHA Tables in Appendix C, for example, provide flexibility by permitting two or more shoring configurations, in most case, for given site conditions. This allows the employer to choose the configuration that best fits the particular circumstances. Flexibility also is provided in that the spacing prescribed by some tabulated data is normally the maximum spacing permitted. Of course, an employer can always decrease the spacing of members and still be in compliance. For example an employer, using a configuration that allows a maximum horizontal spacing of six feet for uprights, could encounter a situation where the positioning of an upright at a six foot interval is not feasible due to an obstruction. In this situation, the employer could decrease the spacing for that upright or set of uprights whatever is necessary to address the situation. This type of change is within the limitations of the tabulated data, and would not require approval of a registered professional engineer. If, on the other hand, the employer wanted to increase the spacing to 6½ feet or more, that change would exceed the design limitations of the data and would require approval by a registered professional engineer. The approval is necessary to ensure that, in the event of a cave-in, the capacity of individual components would not be exceeded resulting in a failure of the system.

Section 1926.650(b) of the Final Rule defines "trench" (trench excavation) as "a narrow excavation (in relation to its length) made below the surface of the ground. In general, the depth is greater than the width, but the width of a trench (measured at the bottom) is not greater than 15 feet (4.6 m). If forms or other structures are installed or constructed in an excavation so as to reduce the dimension measured from the forms or structure to the side of the excavation to 15 feet (4.6 m) or less (measured at the bottom of the excavation), the excavation is also considered to be a "trench."

This definition is virtually identical to the definition proposed in § 1926.650(b)(25) except that the explanatory note has been incorporated into the text of the definition. This definition remains basically unchanged from the current definition in existing § 1926.653(n). The changes that have been made are for the purpose of clarifying the definition. For example, the words "trench excavation" have been added to indicate more clearly that trenches are considered to be excavations.

A note was added to the end of the definition of the word "trench" in the proposal. The substance of the note came from the second part of the existing definition of "excavation" found in existing § 1926.653(f) and addresses depth-to-width relationships in trenches. The wording was revised to indicate more clearly how a portion of a large excavation can become a trench, for purposes of the proposed standard, as a result of creating a relatively narrow space between the side of an excavation and a structure that has been constructed in the excavation.

The proposal and the Final Rule are formatted to indicate that most of the provisions of the standards apply to all types of excavations. However, some of the provisions of subpart P apply only to excavations that are trenches. Forexample, § 1926.651(c)(2) sets forth special requirements for means of access and egress in trenches, and § 1926.652(c)(1) sets forth the option of using Appendices A and C for determining the configuration of timber shoring in trenches. Those provisions in the proposal, and now the Final Rule, that apply only to trenches are clearly indicated by use of the word "trench" within the provision.

The only input OSHA received on this point was an ACCSH recommendation (Tr. 8/5/87 p. 480–482) to state specifically that the terms "trench" and "excavation" are interchangeable. The Agency declines to adopt this recommendation because those provisions which apply or are appropriate only for trenches cannot be clearly defined if the two terms are used interchangeably. Blurring this distinction would introduce uncertainty into the standard and would not provide clear guidance to employers as to what provisions apply.

Section 1926.650(b) defines "trench box" and "trench shield" and refers the reader to the definition of "shield." OSHA received no comment on these definitions and promulgates these definitions as proposed.

Section 1926.650(b) of the Final Rule defines "uprights" as "the vertical members of a trench shoring system placed in contact with the earth and usually positioned so that individual members do not contact each other. Uprights placed so that individual members are closely spaced, in contact with or interconnected to each other, are often called sheeting." This definition is virtually identical to the proposed definition in § 1926.650(b)(28), except that the explanatory note has been incorporated into the text of the definition.

This definition revises the definition in existing § 1926.653(r). The definition was changed in the proposal to be more consistent with definitions of other shoring system members that were in the proposed standard, and to expand the concept of the term.

The term "uprights," as used in the proposed standard, referred only to vertical members used in trench shoring systems. Such uprights are usually spaced some distance apart when in position. Normally uprights are referred to as "sheeting" when they are very closely spaced, in contact with adjacent uprights, or interconnected. This definition of "uprights" is intended to clarify the application of the proposal in each of these positions.

Section 1926.650(b) of the Final Rule defines "wales" as "horizontal members of a shoring system placed parallel to the excavation face whose sides bear against the vertical members of the shoring system or earth." This definition is identical to the proposed definition in paragraph (b)(29).

Section 1926.653(s) of the current standard refers the reader to existing § 1926.653(m) for the definition of "wales." That paragraph states that "stringers" (wales) are "the horizontal members of a shoring system whose sides bear against the uprights or earth." However, the term "stringers" is also referred to in existing § 1926.650(d) as

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the supports for plank steps, which is inconsistent with its definition.

OSHA addressed this problem by dropping use of the word "stringers." In the proposal, only the term "wales" was defined and used to refer to the horizontal members of a shoring system. The term "stringers" did not appear in the proposal nor does it appear in the Final Rule.

OSHA received no comment on the definition and, therefore, promulgates this definition as proposed.

For reasons to be discussed below, the following terms which are contained in the current standard are not used, and therefore need not be defined in the Final Rule: § 1926.653(b) "Angle of repose"; § 1926.653(c) "Bank"; § 1926.653(h) "Hard, compact soil"; § 1926.653(j) "Sheet pile"; § 1926.653(l) "Slope"; § 1926.653(m) "Stringers"; § 1926.653(o) "Trench jack"; § 1926.653(q) "Unstable soil"; and § 1926.653(t) "Walls."

The term "angle of repose," as defined in the existing standard, is not consistent with its use in the civil engineering field. The existing definition in § 1926.653(b) defines "angle of repose" as "the greatest angle above the horizontal plane at which a material will lie without sliding." The specific standards in existing § 1926.651(e), § 1926.651(g) and § 1926.651(h) speak of determining the "angle of repose," "excavating to the angle of repose," and flattening the "angle of repose," all of which suggest that a single "angle of repose" can be determined for any particular soil. However, in the American Society for Testing and Materials Standard D653–87, "Standard Definitions of Terms and Symbols Relating to Soil and Rock Mechanics," "angle of repose" is defined as follows:

> Angle between the horizontal and maximum slope that a soil assumes through natural processes. For dry granular soils the effect of height is negligible; for cohesive soils the effect of height of slope is so great that the "angle of repose" is meaningless.

What this essentially means is that there is no one "angle of repose" for a given type of soil, for in practice, most soils encountered have some degree of cohesion. In addition, while the "angle of repose" for granular soils is unaffected by the height of the cut, it does change in response to soil density, and in changes to environmental conditions or exposure.

The concept of "angle of repose," as used in the current standard, differs from that accepted by the civil engineering community and has led to confusion as to the meaning and intent of the standard. To eliminate this confusion, OSHA believes that use of the term "angle of repose" should not be continued. Therefore, it was not used in the proposed standard and it is not used in the final standard.

The term "bank" is defined in existing § 1926.653(c) as "a mass of soil rising above a digging level." The definition is not entirely clear in its meaning because the use of the term "digging level." The OSHRC has interpreted the term "digging level" to mean "the level at which digging is commenced" (2 BNA OSHC 1130). Under this interpretation, the sides of trenches would not be considered "banks" because the sides of trenches would be below "the digging level" rather than above it. However, the wording of existing § 1926.652(a) suggests that sides of trenches be included in the meaning of the term "bank." For example, existing § 1926.652 states:

"Banks more than five feet high shall be shored, laid back to a stable slope, or some other equivalent means of protection shall be provided where employees may be exposed to moving ground or cave-ins." The OSHRC interpretation does not conflict with the above wording. However, § 1926.652 goes on to state: "Trenches less than five feet in depth shall also be effectively protected * * *." Thus, the OSHRC interpretation is a contradiction to the wording of existing § 1926.652(a). In addition, existing § 1926.652(a) makes the statement: "Refer to Table P–1 as a guide in sloping of banks." Table P–1 is titled "approximate Angle of Repose for Sloping of Sides of Excavations." Thus, "banks" and "sides" are again equated.

OSHA is eliminating the use of the term "bank" to eliminate the problems discussed above.

The terms "hard, compact soil" and "unstable soil" were used in the existing standard to describe particular soil conditions. These terms were not used in the proposal,and are not found in the Final Rule. All soil conditions will now be defined in a completely new soil classification system which does not use the terms "hard, compact soil" or "unstable soil." (See discussion of appendix A, Soil Classification, below.)

The reasons for eliminating the definitions for "sheet pile," "slope," and "walls" have been discussed above.

The term "trench jack" was also not used in the proposed standard or in the Final Rule and needs not to be defined.

Section 1926.651 General Requirements

Section 1926.651 of the Final Rule contains requirements for the protection of employees against several different types of hazards of excavation-related work. The section is arranged with eleven major paragraphs, most of which are revisions of the current requirements in existing §§ 1926.650, 1926.651, and 1926.652. Changes have been made to clarify ambiguous language and eliminate redundant requirements. Some paragraphs have been reformatted to improve ease of understanding. Other revisions have been made to clarify OSHA's intentions as to the scope and application of current provisions. New requirements have been added to protect employees against known hazards where gaps in coverage currently exist.

Section 1926.651(a), "surface encumbrances," requires that "all surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees." This provision is similar to the proposed provisions which required that "Trees, boulders, and other surface encumbrances that are located so as to create a hazard to employees shall be made safe or removed." The proposal noted the hazard presented by surface encumbrances, including trees and boulders, primarily arises if excavation operations undermine or otherwise cause such encumbrances to become unstable and fall or collapse onto employees. Surface encumbrances can also impede smooth traffic flow on excavation sites. The wording of the proposed requirement is essentially the same as in existing requirement § 1926.651(b).

The requirement applies to all employees involved in construction activities at the worksite. The existing paragraph includes the wording "involved in excavation work or in the vicinity thereof at any time during operations." OSHA proposed to drop this additional wording as it is redundant.

The requirement that surface encumbrances be removed or made safe "before excavating is begun" did not appear in the proposal. In many instances, it is not feasible to remove all surface encumbrances from a site before excavating is begun simply because the site is too large. The proposal required such removal but implied that this action would be taken as the surface encumbrances are encountered.

OSHA received two comments (Exs. 4–4 and 4–46), and input from the ACCSH (Tr. 8/5/87 p. 482) on this provision. The ACCSH recommended eliminating the words "trees, boulders, and other" and replacing these examples with "all." One commenter, CAL/OSHA (Ex.4–4), suggested adding

"spoil pile" to the list of surface encumbrances. The other commenter, the Michigan Department of Labor (Ex. 4–46), recommended clarifying the phrase "shall be made safe" because it is ambiguous. The Agency has determined that the ACCSH recommendation best expresses OSHA's regulatory intent and also addresses the concern expressed by one commenter. In addition, the Agency has clarified the meaning of "shall be made safe" by defining what actions the employer must take. Therefore, based on the comments received OSHA promulgates § 1926.651(a), as revised.

Section 1926.651(b) of the Final Rule specifies requirements for dealing with existing utility and other underground installations that may be encountered during excavation operations. Underground installations include all types of utility lines either in service or abandoned. They also include foundations and underground storage tanks of all kinds.

Employees may be exposed to serious hazards as a result of damage to underground installations. Flooding, shock, asphyxiation, electrocution, fire, explosion, and collapse of undermined installations are some of the hazards that result when underground installations are damaged. These hazards can be eliminated if the locations of underground installations are properly identified prior to excavation, and if such installations are properly supported or protected when excavation takes place near them.

Paragraph (b)(1) of the Final Rule requires that "The estimated location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be determined prior to opening an excavation." This requirement is identical to the proposal. The proposal differed from the existing standard, § 1926.651(a), which required only that an effort be made to determine whether such installations will be encountered and, if so, where such underground installations are located.

At the suggestion of the ACCSH (Ex. 2–8, p. 358), the proposal was made more stringent than the existing rule by requiring the employer to determine the estimated location, at a minimum. OSHA believes that the revision is needed to prevent many of the accidents resulting from damage to underground installations. The proposed language was intended to insure that the effort to locate existing installations is carried to the point where, at the very minimum, an estimated location is determined.

OSHA recognizes that the existence of underground installations is not always readily apparent. However, in many locations there are features which would indicate the presence of underground installations. An example of this would be that in a housing subdivision where there are no utility poles, it could reasonably be assumed that certain utilities are underground in this situation. The proposal also recognized those situations in which underground installations are not known to exist beforehand, but can be determined through the exercise of reasonable diligence prior to excavating.

OSHA received one comment (Ex. 4–91) on this provision which supported the proposed language. OSHA also received ACCSH input (Tr. 8/5/87 pp. 483–486) which recommended removing the word "estimated" from the provision. The Agency declines to make this change, noting that it is not always possible to get an exact location of an underground utility installation prior to opening an excavation. The Agency believes that a reasonable determination of the estimated location, combined with notification of the affected utility, and a cautious determination of the exact location of the utility line when excavation approaches the estimated location, will provide adequate employee protection.

Therefore, OSHA promulgates § 1926.651(b)(1), as proposed.

Section 1926.651(b)(2) of the Final Rule requires that "Utility companies or owners shall be contacted within established or customary local response times, advised of proposed work, and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or owners cannot respond to a request to locate underground utility installations within twenty-four hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used."

This provision is similar to the proposal, but has been amended to clarify OSHA's regulatory intent and to address comments concerning coverage, as discussed below. The proposed provision was unchanged from the existing standard, which required, in § 1926.651(a) that "utility companies shall be contacted and advised of proposed work prior to the start of actual excavation."

OSHA received three comments and input from the ACCSH on the proposed provision. One commenter (Ex. 4–28) noted that not all underground installations are owned and operated by utility companies. OSHA agrees and has amended the final rule to reflect this point.

The ACCSH had an extensive discussion (Tr. 8/5/87 pp. 486–494) on a requirement recommended to the full committee by an ACCSH study group. This requirement would prohibit the start of an excavation until the utility company marked the exact location and depth of their underground installations. During the discussion, several participants noted the difficulty of determining the exact location of underground installations, and they related instances where detecting equipment was put on the bucket of a backhoe to locate installations that even the owners could not pinpoint. Other participants recommended differentiating between types of installation (water lines versus high voltage electrical lines) or between an excavation operation and an uncovering operation (used to locate utilities).

OSHA also received one comment from the Public Service Electric and Gas Co. (Ex. 4–89) noting the existence of "one call" programs and attesting to their effectiveness. Another commenter, NUCA (Ex. 4–91), supported the proposed provision but disagreed with any prohibition on starting work until the installation has been marked.

OSHA recognizes that some utility installations are privately owned, and has amended the Final Rule to reflect this point. The Agency also recognizes that the provision, as proposed, did not clearly require the employer to request all utility companies to establish the location of their underground utility installations. In order to clarify OSHA's regulatory intent, the Final Rule has been amended to state clearly that the employer must request the utility owner to locate the installations.

OSHA recognizes that in some cases the utility company cannot respond to contractor requests in a timely manner. The Agency notes that most "one call" or "Miss Utility" programs require a prescribed lead time, usually 24 to 48 hours prior to excavation. However, in areas with heavy construction activity, the utility company resources may not be able to respond as rapidly as desired. OSHA also notes that, for a number of reasons, the installation owner may not be able to provide an exact location. In each of these cases the employer might have to begin the work before the exact location is established. OSHA believes that, in those instances, the employer should be able to proceed with the

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excavation work, provided the employer locates these utility installations using caution and using detection equipment or other acceptable means.

In the Final Rule OSHA has specified that if a utility company or owner cannot respond to a request to locate underground utility installations within twenty-four hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations, the employer may proceed, provided certain precautions are taken. The specification of waiting period has been added to the Final Rule because it is not OSHA's intent to allow an employer to proceed with excavation work absent a concerted effort to have the utility determine the exact location of its installations.

The Agency recognizes that a prohibition on starting an excavation until utility installations are located may not be practical, but believes the suggestion put forward at the ACCSH meeting, permitting the use of an uncovering operation to locate these utilities, is the correct approach in the circumstance discussed above.

OSHA believes most utility owners respond to contractor requests to locate their utility's underground installations in the interest of maintaining service to their customers, and notes the increasing use of "one call" programs to respond to these contractor requests. However, in those circumstances where the utility cannot respond or cannot identify an exact location, the Agency believes it is appropriate to prescribe a course of action for the contractor to follow.

Therefore, based on the above discussion OSHA promulgates § 1926.651(b)(2) as revised.

Paragraph § 1926.651(b)(3) of the Final Rule requires that as the excavation approaches the estimated location of underground installations, the exact location must be determined by safe and acceptable means. This requirement is similar to the proposal, which was taken unchanged from the existing standard.

OSHA received two comments (Exs. 4–17 and 4–111) and input from the ACCSH (Tr. 8/5/87 p. 492) on this provision. All commenters recommended dropping "such as probing with hand-held tools" from the proposed provision, because this could create a hazard to employees by damaging the installation or its insulation.

The Agency agrees with these comments and, therefore, promulgates § 1926.651(b)(3) as revised.

Section 1926.651(b)(4) of the Final Rule requires that "While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees."

This language is almost identical to the proposed requirement, which was intended to prevent employee injuries resulting from damage to exposed installations, contact with energized lines, the collapse of unsupported installations, and other similar hazards. The existing standard requires only that installations be properly supported, and as such is insufficient to protect employees adequately because the type of installation, its location with regard to the excavation, or other site conditions could render this type of protection infeasible or ineffective. Removal or protection of exposed installations can, at times, be more appropriate ways of protecting employees.

OSHA received one comment (Ex. 4–25) on this provision. The commenter expressed concern that use of the term "removed" presupposes or technically requires damage to the facility. The commenter suggested amending the provision to list "protected" first in the sequences, and that "altered in a manner acceptable to the facility owner" be used in place of "removed."

In response, OSHA has changed the sequence of options, because the Agency has no preference for how employees are protected in these circumstances, as long as the protection is adequate to ensure the safety of the employees. OSHA emphasizes that "protected" is intended to safeguard employees, not to "protect" the facility from damage. If both concerns can be addressed at the same time, so much the better, but employee protection is the primary concern.

The Agency declines to revise the provision to limit employee protection to what is acceptable to the facility owner. OSHA notes that removal or alteration of an underground installation may be necessary to provide employee protection, and this may not be considered acceptable by a facility owner. Such situations will have to be resolved between the employer and the owner, but, as discussed above, employee protection is the primary concern.

Therefore, based on the above discussion OSHA promulgates paragraph (b)(4) as revised.

Section 1926.651(c) of this Final Rule sets forth the requirements for access to and egress from excavations. Similar requirements are found throughout the existing standard in §§ 1926.650 (b), (c), and (d), 1926.651(x), and 1926.652(h). These requirements address hazards resulting from inadequate design and construction of ramps and runways and from inadequate placement of exits in trenches.

Paragraph (c)(1) specifies five general requirements for the design and construction of ramps and runways. The first of these, under paragraph (c)(1)(i), states that "Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design."

This provision differs substantially from the proposal, which did not differentiate between ramps used solely for employee access and ramps used for equipment. The proposed paragraph was intended to address the hazard of structural ramps collapsing under heavy vehicle or personnel load conditions because of underdesigned members or connections. In some large excavations, ramps of steel or wood are provided for vehicle access and egress. More frequently, however, earthen ramps are used. These earthen ramps are created out of material that is left in place as the excavation is made. For this reason, the word "structural" was added to clarify when design of particular ramps by a qualified individual would be necessary. In addition, the existing provision, § 1926.651(x), required ramps to be designed and constructed by a qualified person in accordances with accepted engineering practices.

However, the actual construction of ramps is usually not spoken of in terms of engineering practices. Therefore, OSHA proposed to revise the existing language to maintain this distinction. The proposed language required that structural ramps be "constructed in accordance with their design" instead of in accordance with accepted engineering practice. As noted, the proposed rule required ramps to be designed by a "qualified person, a qualified engineer or a person under the direction of a qualified engineer."

In the proposal, the current requirement for design by a "qualified person" was changed so that the language used would be consistent with other language and requirements in the proposal. OSHA requested comment and data on whether or not structural ramps used by a limited number of employees (five or fewer) should be required to be designed by a qualified individual or, alternatively, should structural ramps be a certain height before design by a qualified individual is required?

OSHA received six comments and input from the ACCSH on this provision.

One commenter (Ex. 4–78) stated that earthen ramps should be allowed, and indicated that these would be prohibited by this provision. OSHA disagrees with this interpretation of the rule, noting that the provision applies to structural ramps only. Earthen ramps normally consist of dirt left in place during excavation, and are not required to be "designed." However, among other things, the competent person would be required to inspect these ramps to check for any hazards, as required by § 1926.651(k).

The ACCSH (Tr. 8/5/87 p.494) suggested requiring only that a "competent person," rather than a "qualified person," design structural ramps used solely by employees as a means of access or egress. Along the same lines, several of the commenters (Exs. 4–82, 4–102, 4–106, and 4–109) recommended that only ramps used for vehicle access and egress need to be designed by a qualified individual. Three commenters (Exs. 4–82, 4–102, and 4–109) recommended that design should not be required at all unless ramps are over 10 feet in height, but supplied no rationale for this recommendation. Another commenter (Ex. 4–111) recommended deleting "qualified person" from the proposed language. The sixth commenter (Ex. 4–91) recommended that the phrase "designed to prevent slipping or tripping" be added to the rule. That commenter did not specify who would develop the design.

Based on these comments, the Agency raised an issue in the hearing notice (53 FR 5281) concerning design of structural ramps. The Agency received 11 responses to this issue. Six commenters (Exs. 8–6, 8–14, 8–16, 8–18, 8–25, and 8–27) agreed with the recommendation that competent persons be allowed to design structural ramps used solely by employees. One commenter (Ex. 8–7) opposed any requirement for design unless the ramp was over 10 feet high and used for equipment. This commenter did not provide any rationale for this recommendation. Several other commenters (Exs. 8–21, 8–22, 8–26, and 8–29) objected to the use of a competent person to design structural ramps for the sole use of employees, but were unclear as to whether their objection was to having the competent person design these ramps, or whether they objected to a requirement for any design at all.

After careful consideration of the record, OSHA has determined that the proposed paragraph should be amended to address separately those structural ramps used only for employee access and those structural ramps used for vehicle and equipment access. However, the Agency declines to act on the recommendation to require the design of a ramp only if it is to be over 10 feet high. The Agency has no basis to impose a 10 foot limit since the commenters did not supply any rationale, and there are no technical reasons of which OSHA is aware that support this arbitrary limit. Therefore, OSHA promulgates § 1926.651(c)(1)(i) as revised.

Paragraphs (c)(1) (ii) through (v) of § 1926.651 address the hazards of slips, trips and falls, and replace the requirements in existing § 1926.650 (b), (c), and (d).

Paragraph (c)(1)(ii) of the Final Rule requires that "Ramps and runways constructed of two or more structural members shall have the structural members securely connected together to prevent displacement." This provision is virtually identical to the proposed rule except that the term "structural members" has replaced the term "planks" at the suggestion of the ACCSH (Tr. 8/5/87, p. 495). The Agency agrees with this recommendation because it recognizes that material other than wooden planks can serve as ramps and runways. OSHA also believes that this change will express more clearly its regulatory intent that ramps or runways constructed of two or more "members" must have these "members" securely connected together, regardless of what material these members are made.

OSHA received no other substantive comments on this provision. Therefore, based on the above discussion, OSHA promulgates § 1926.651(c)(1)(ii) as amended.

Paragraph (c)(1)(iii) of the final rule requires that "Structural members used for ramps and runways shall be of uniform thickness." This provision is virtually identical to the proposed rule, except that the term "structural members" has replaced the term "planks" at the suggestion of the ACCSH (Tr. 8/5/87, p. 495). The Agency rationale for making this change is the same as discussed above for paragraph (c)(1)(ii). The Agency received no other substantive comments on this provision. Therefore, OSHA promulgates § 1926.651(c)(1)(iii), as revised.

Section 1926.651(c)(1)(iv) of the Final Rule requires "cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping." This provision is similar to the proposed rule except that "planks" has been replaced with "structural members," as discussed above, and the phrase "or other appropriate means" has been added. OSHA added the new language in recognition of other acceptable means of securing both wooden structural members and structural members made of other materials. For example, metal structural members could be bolted or clamped together to prevent separation. In addition, the Agency has deleted the phrase "or be beveled," as discussed below.

OSHA received one comment on the issue of cleats. That commenter (Ex. 72) stated that attaching cleats and beveling cleats would require additional labor, and noted that the nails used to secure the cleats to the bottom would penetrate the plank and would have to be bent over, thereby creating a tripping hazard. The commenter also argued that beveled cleats (on the top of a runway) do not provide traction and noted that he was unaware of any tripping injury caused by unbeveled cleats.

OSHA recognizes that nails used to secure cleats to the bottom of the runway could penetrate the top surface of the plank and would have to be bent over. OSHA also notes that nails that are bent over and hammered flush would not cause the problem anticipated by the commenter.

In addition, upon reevaluation of the issue of "beveled" cleats, the Agency agrees with the commenter, and is dropping the requirement for "beveled cleats" from both this provision and § 1926.651(c)(1)(v) of the final rule. This decision is in line with the existing § 1926.650(d) which requires only the use of "cleats."

Therefore, based on the above discussion, OSHA promulgates paragraph (c)(1)(iv) as revised.

Section 1926.651(c)(1)(v) of the Final Rule requires "Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping." This provision is similar to the proposed rule except that it specifies "structural ramps" and recognizes the use of other surface treatments to prevent slipping. These changes were recommended by a majority of the 11 commenters on this provision (Exs. 4–21, 4–23, 4–30, 4–31, 4–40, 4–42, 4–54, 4–78, and 4–86). One commenter (Ex. 4–111) merely noted that the provision related to structural ramps. Another commenter (Ex. 4–72) suggested "beveled" be deleted for the same reasons as discussed above relating to paragraph (c)(1)(iv).

The Agency agrees with the majority of the commenters that it is appropriate to specify "structural ramp" in the context of this provision and to recognize other equally effective means

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of preventing slipping. In addition, the Agency is dropping "beveled," as discussed above under § 1926.651(c)(1)(iv). Therefore, based on the above discussion, OSHA promulgates § 1926.651(c)(1)(v) as amended.

Section 1926.651(c)(2) of the Final Rule requires that "A stairway, ladder, ramp, or other safe means of egress shall be located in trench excavations that are four feet (1.22 m) or more in depth, so as to require no more than 25 feet (7.62 m) of lateral travel for employees." This provision is virtually identical to the proposed rule except that the explanatory note allowing a negotiable slope to be used as a means of egress has been deleted. This provision is similar to existing § 1926.652(h) except that the final rule recognizes ramps and other safe means of egress.

OSHA received five comments on the proposed rule, and input from the ACCSH. The ACCSH (Tr. 8/5/87, pp. 495–496) suggested deleting the explanatory note and the word "trench" from the definition, so as to require this protection for all excavations. Two commenters (Exs. 4–17 and 4–91) also recommended deleting the explanatory note because the term "negotiable slope" is too subjective. Another commenter (Ex. 4–30) suggested that OSHA define "negotiable slope," and pointed out that its personnel have observed employees using sloped areas as access to trenches with the assistance of knotted rope lines. This commenter also noted that a knotted rope line would not provide "adequate and rapid escape for more than one employee" in case of an emergency.

One commenter (Ex. 4–46) agreed with the ACCSH recommendation for inclusion of all excavations in this provision, but provided no rationale for the comment.

Another commenter (Ex. 4–53) objected to the provision in its entirety. This commenter stated that its employees do the bulk of their work on the bank, and that they do not traverse trenches at 25-foot intervals. It also raised the issue of increased compliance costs that would result if required to provide crossings every 25 feet.

After careful consideration of the record, OSHA has determined that a safe means of egress every 25 feet is necessary in trench excavations, but not in every excavation. The Agency notes that egress during an emergency in a large excavation does not pose the same problem as it would in the confines of a trench excavation.

The Agency has also determined that the explanatory note, intended to provide additional guidance, could be misinterpreted to permit the situation described by one of the commenters (Ex. 4–30) above. That is not the Agency's intent, and in order to prevent any confusion as to what is necessary to protect employees, OSHA is deleting the explanatory note from this Final Rule.

OSHA disagrees with the commenter (Ex. 4–53) who objected to this provision in its entirety, and notes that the commenter apparently misunderstood the provision. OSHA points out that this requirement is intended to provide employees working down in a trench with a safe means of escape from the trench in case of an emergency. The provision does not require a safe means of crossing (traversing) a trench at 25-foot intervals. Therefore, if the work is done outside of a trench, as stated by the commenter, and no employees are required to enter the trench (i.e., there is no exposure to cave-in hazards), this provision would not apply.

Section 1926.651(d) of the Final Rule requires that "employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high visibility material." This is virtually identical to the proposed provision, except that the word "public" has been added to clarify OSHA regulatory intent.

The proposed requirement differed from the existing requirement in § 1926.650(f). The proposal required employees to "wear" vests, whereas the current standard states the "Employees * * * shall be instructed to wear * * *" The words "be instructed to" were deleted. This change, carried over into the Final Rule, is necessary to clarify the intent of the standard.

Employees, particularly those involved in trenching work, frequently work where vehicular traffic flow is maintained in close proximity to the excavation operations. Employees may be assigned to direct traffic flow adjacent to construction sites. These employees are exposed to the hazard of being struck by such vehicles. This hazard is increased during dark or near-dark periods of the day. The provisions of this paragraph are intended to reduce this hazard.

OSHA received 13 comments on this provision. Four commenters (Exs. 4–82, 4–102, 4–106, and 4–109) argued that this provision is not appropriately located in subpart P and should be addressed in another subpart. OSHA disagrees with these commenters and notes that the specific hazards addressed by the provision are not covered adequately in another subpart. (OSHA notes that § 1926.201(a)(4), for example, only applies to flag persons.) Eight commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–54, 4–72, and 4–86) recommended adding the word "public" to clarify the intent of the provision. OSHA recognizes that the provision, as proposed, could be misinterpreted to require all on-site employees to wear warning vests, because of exposure to on-site construction vehicular traffic. This is not OSHA's intent and, therefore, the agency is revising the provision to specifically state "public vehicular traffic."

Another commenter (Ex. 4–28) suggested revising the provision to require warning vests for all employees on foot exposed to mobile equipment or motor vehicle traffic. OSHA recognizes that almost every employee on a construction site is exposed to mobile equipment or on-site vehicular traffic at some time during the day, but does not believe all employees at a site should be required to wear warning vests. The Agency is concerned that employees be highly visible to public vehicular traffic which can be of relatively high speed and where the drivers are not aware of the presence of construction employees. These are not conditions which are common with construction traffic.

Therefore, based on the above discussion, OSHA promulgates § 1926.651(d), as amended.

Section 1926.651(e) of the final rule requires that "No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling material. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with § 1926.601(b)(6), to provide adequate protection for the operator during loading and unloading operations."

This requirement is virtually identical to the proposal, except that an explanatory note used in the proposal has been added directly to the provision. In addition, the basis for an operator exemption from this provision has been included to provide additional guidance to employers.

The proposed requirements were basically unchanged from the existing requirements in § 1926.650(h), except the words "power shovels, derricks, or hoists" were changed to "lifting or digging equipment." This change was made to make the requirements apply to all kinds of lifting or digging machines rather than be limited to those listed in the existing standard. In this way, backhoes and other such equipment are clearly included in these requirements.

In addition, the words "or unload" were added to the proposed provision. OSHA believes that the hazard to employees from loads falling during unloading is just as great as during loading.

A note within proposed paragraph (e) indicated that operators of vehicles may remain in cabs that provide adequate protection from falling loads during loading and unloading operations.

The Agency received 15 comments on this provision, including input from the ACCSH.

The ACCSH (Tr. 8/5/87, pp. 496–497) recommended deleting the explanatory note because it could cause problems, and because the hazard is covered elsewhere. OSHA declines to act on this recommendation because the note was intended to provide additional guidance to employers by making it clear that operators of vehicles meeting the requirements of § 1926.601(b)(6) may remain in the cab of those vehicles.

Two commenters (Exs. 4–17 and 4–91) suggested changing "equipped" to "designed." The Agency declines to act on this suggestion as the Agency believes that a requirement for "design" would not ensure that the cabs are unmodified. Another commenter (Ex. 4–46) suggested that the operator not be allowed in the cab of these vehicles. However, OSHA believes a requirement that the vehicles be equipped in accordance with existing § 1926.601(b)(6) provides the necessary safeguards.

Four commenters (Exs. 4–82, 4–102, 4–106, and 4–109) argued that this provision did not belong in subpart P because it is not appropriate in the excavation standard. Other commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–72, and 4–86) recommended revising this provision so it applies only to loads of excavated materials handled by digging equipment, noting that slung loads (material, pipe, etc.) must be guided into the excavation by employees who may be underneath the load at some point. The Agency recognizes that "slung loads" may have to be guided into excavations by employees, but does not accept the argument that employees must be under the load at some point. OSHA notes that this type of load could be guided from a safe position. In those instances where a load, such as pipe, must be positioned as closely as possible to its final location, the load can be lowered into the excavation to a height where it is not suspended over any employee. From there it can be guided into its final place by an employee without the danger of the load falling and injuring that employee. OSHA, therefore, declines to revise this provision to exclude "slung" loads.

Based on the above discussion, OSHA promulgates § 1926.651(e) as revised.

Section 1926.651(f) of the Final Rule requires that "When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation." This is virtually identical to the proposal except that the explanatory note has been merged directly into the text of the paragraph.

This paragraph (f) replaces the requirement in existing § 1926.651(s) which states "When mobile equipment is utilized or allowed adjacent to excavations, substantial stop logs or barricades shall be installed."

The language of the current standard is unclear because the word "substantial" makes it difficult for employers to determine if the intent of the rule is to provide for physical barriers which will prevent mobile equipment from going over the edge into an excavation, or if the intent is for the log or barricade merely to alert an operator not to proceed any further toward the edge of an excavation. OSHA's intent in this provision is for the stop logs or barricades to serve as a reminder to the operator of the proximity of excavations.

It is OSHA's opinion that there are several effective alternatives available to protect workers in and around excavations from the danger of mobile equipment. Therefore, the requirement both clarifies when warning systems are needed and identifies the types of warning systems that are acceptable to protect vehicle operators and workers in excavations. OSHA believes that signals from observers can be used effectively for the purpose of protecting employees against the hazard in question. Signals are currently specified in other existing standards (see § 1926.601(b)(4)) as an acceptable means of guiding mobile equipment which is backing up.

OSHA notes that the words "if possible the grade should be away from the excavation" currently appear at the end of the existing paragraph. Although the language is advisory it does provide an example of a safe practice to follow in addition to the required practices. Therefore, OSHA is maintaining this language in the Final Rule.

OSHA received one comment (Ex. 4–17) and input from the ACCSH (Tr. 8/5/87, p.497). Both comments merely noted a typographical error in the document.

Therefore, the Agency promulgates § 1926.651(f) as revised.

Section 1926.651(g) of the Final Rule addresses work in hazardous atmospheres. Paragraph (g)(1) presents the introductory text for requirements related to testing and controls. This provision states: "In addition to the requirements set forth in subparts D and E of this part (29 CFR 1926.50–1926.107) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:" This is identical to the proposed rule. OSHA received no comments on this provision and, therefore, promulgates paragraph (g)(1) as proposed.

Section 1926.651(g)(1)(i) of the Final Rule requires that "Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmosphere in the excavation shall be tested before employees enter excavations greater than four feet (1.22 m) in depth." This provision is identical to the proposed rule, except the sentence has been reordered to describe first when testing would be appropriate.

The proposed and Final Rule require testing for oxygen deficiency or gaseous conditions in excavations greater than four feet (1.2 m) in depth where these conditions exist or could reasonably be expected to exist. Further, the rules require that the testing be done before employees enter the excavation. This differs from the existing language in § 1926.651(v), which would appear to require that all excavations be tested regardless of employee exposure. The existing rule states: "In locations where oxygen deficiency or gaseous conditions are possible, air in the excavation shall be tested."

The definition of "confined" or "enclosed space" in existing § 1926.21(b)(6)(ii) includes "* * * open top spaces more than four feet in depth such as pits, tubs, vaults, and vessels." The four foot (1.2 m) depth requirement in proposed § 1926.651(g)(1)(i) was added to clarify where testing is required for excavations, and to be consistent with the above definition.

The existing language requiring that tests be performed "where oxygen deficiency or gaseous conditions are possible" was changed to a requirement that OSHA believes is more reasonable, but still provides appropriate employee

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protection. Taken literally, the conditions listed in the existing rule are possible in any given excavation if the proper circumstances are present. However, hazardous atmospheric conditions are more likely to exist or occur in some circumstances than in other circumstances. For example, work involving the extension or maintenance of sewer utility or gas utility systems, work near refineries or near areas where petroleum distillates are handled or stored, and work near landfills or hazardous waste dumps are situations where hazardous atmospheric conditions are likely to occur (Ex. 2–6, pp. 224–226, 369–370). Atmospheres in excavations in these types of situations must be tested.

However, it is OSHA's opinion that it is not reasonable to require that all excavations be tested routinely since there is limited potential for oxygen deficiency or gaseous conditions in the vast majority of situations. Where the conditions are such that these hazards could not reasonably be expected to occur, OSHA believes that routine testing should not be required. Accordingly, the final requirement is written to reflect what OSHA believes to be a more reasonable approach to testing.

The examples cited above of areas that are more likely than not to be hazardous are not intended to be a comprehensive list. There are many unique circumstances that could result in the formation of a hazardous atmosphere in excavation-related work. An excavation that is free of hazardous atmospheric conditions on any particular day may not be safe the following day. To ensure that employees are continually protected against the development of hazardous atmospheres in excavations, OSHA is requiring in § 1926.651(k)(1) that daily inspections (not necessarily involving air testing) for evidence of potentially hazardous atmospheric conditions be conducted by a competent person. It is intended that such inspections be conducted to identify areas or situations where hazardous atmospheric conditions exist, or could reasonably be expected to exist, during the course of work. Where such areas or situations are identified, the requirements of paragraph (g) apply.

OSHA received six comments and input from the ACCSH on this requirement. Two commenters (Exs. 4–25 and 4–67) objected to the requirement for testing the atmosphere, noting that the gas industry normally tests for hazardous atmospheres. Both commenters also contended that respiratory protection or ventilation should be permitted in lieu of testing.

OSHA notes that respiratory protection or ventilation is required by § 1926.651(g)(1)(ii) of this final rule, and the requirement for testing establishes what, if any, precautions or additional precautions are necessary. If an employer chooses to provide adequate employee protection in accordance with the appropriate regulations as a matter of procedure, the failure to test would be de minimis.

One of the commenters (Ex. 4–67) also recommended extending the four-foot level to six or seven feet. OSHA, however, is not convinced that the four-foot level should be increased. OSHA points out that the four-foot level is consistent with other regulations and notes again that the testing requirement does not apply to every excavation, only to those where oxygen deficiency or hazardous atmospheres can be reasonably anticipated. OSHA believes that the requirement, as proposed, provides adequate employee protection, without being unnecessarily burdensome.

Two other commenters (Exs. 4–17 and 4–111) suggested modifying paragraph (g)(1)(i) to reorder the sentence, putting the conditions which require testing first. Some commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, and 4–86) indicated that this whole paragraph (g)(1), as written, implied that respiratory protection and ventilation are required at all times when hazardous, flammable, and oxygen-deficient atmospheres exist. OSHA agrees with the suggested reformatting of this provision, but disagrees with the comments that interpret this provision to require respiratory protection and ventilation at all times. The requirement specifies when the atmosphere is or could be reasonably expected to be either oxygen-deficient (less than 19.5 percent oxygen) or otherwise hazardous, then testing must be done before employees enter.

Another commenter (Ex. 4–91) supported the provision and suggested a revision reading in part: "Where oxygen deficiency [exists] * * * the atmosphere in the excavation shall be tested * * *." OSHA sees merit in defining when testing would be required to alert employers that special precautions may be necessary, and therefore has made the recommended reordering of the sentence.

The ACCSH (Tr. 8/5/88, pp. 497–507) recommended treating all excavations four feet or more in depth as confined spaces. The Agency, lacking public input on this point, raised such an issue in the hearing notice (53 FR 5281).

OSHA received 11 comments on the hearing issue, and testimony at the public hearing. Seven commenters (Exs. 8–6, 8–7, 8–14, 8–16, 8–18, 8–19, and 8–25) disagreed with the ACCSH recommendation, most of them noting that excavations are open to the air or have adequate egress. Testimony at the public hearing (Tr. 4/19/88, pp. 73–74) also opposed this recommendation.

Four other commenters (Exs. 8–21, 8–22, 8–26, and 8–29) objected to excavations four feet or deeper being considered confined spaces, but provided no rationale for their objection.

Based on the comments received, the Agency declines to act on the ACCSH recommendation that all excavations four feet or deeper be considered confined spaces. The Agency believes that testing is only necessary when there is a likelihood of hazardous conditions, and that the requirement for inspection by the competent person provides continuing assurance that hazardous conditions will be recognized and addressed appropriately. In addition, the Agency does not have any other data to support a requirement that "every" excavation be considered a confined space.

Therefore, based on the above discussion, OSHA promulgates § 1926.651(g)(1)(i) as revised.

Section 1926.651(g)(1)(ii) of the Final Rule requires that "Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation in accordance with subparts D and E of this part respectively."

This provision is similar to the language of the proposed rule which was added to clarify when protection against exposure to oxygen deficiency is required, and to identify the precautions that are necessary to prevent such exposures. Oxygen deficiency is not specifically defined in the existing excavation standard. However, the existing requirements for air quality for "supplied air" in § 1910.134(d)(1) of the General Industry Standards, have been identified as applicable to the construction industry. § 1910.134(d)(1) states that "Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G–7.1–1966." This specification, as well as § 1910.94, denotes a concentration of 19.5 percent oxygen as the lower limit for synthesized air. Therefore, the 19.5 percent limit for oxygen was specifically identified in the proposed standard in order to be consistent with the existing requirements and to clarify when testing and protection are required.

The existing standard requires that employees subjected to oxygen deficiency be protected with approved respiratory protection as set forth in subpart D. However, the use of increased ventilation can be as effective or more effective in dealing with oxygen deficient atmospheres. Therefore, this type of protection was also identified as acceptable in the proposal.

OSHA received one comment on this provision. The commenter (Ex. 4–30) pointed out that the provision seemed to indicate that implementation of subparts D and E is only to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen. The commenter pointed out that subparts D and E are also intended to prevent employee exposure to materials and substances in the Z–1 tables of § 1910.1000 and other OSHA standards.

OSHA agrees with the observation, but received no other input which indicated confusion as to the intended application of subparts D and E. However, in order to clarify its' regulatory intent, the Agency has editorily revised this provision. The Agency notes that all construction employers must comply with subparts D and E to prevent employee exposure which exceed the prescribed permissible exposure limits.

The Agency, therefore promulgates paragraph § 1926.651(g)(1)(ii) as revised.

Paragraph § 1926.651(g)(1)(iii) of the Final Rule requires that "Adequate precautions shall be taken such as providing ventilation to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 20 percent of the lower flammable limit of the gas."

This provision is identical to the proposed rule which addressed the hazards posed by the accumulation of flammable gases. The proposed standard required that adequate precautions be taken to prevent employee exposure to atmospheres containing a concentration of flammable gas in excess of 20 percent of its lower flammable limit (LFL). This differs from the existing requirement which states in § 1926.651(v): "When flammable gases are present, adequate ventilation shall be provided or sources of ignition shall be eliminated."

As stated, the existing provision requires that ventilation be provided when a flammable gas exists in any concentration or, as an alternative, that sources of ignition be eliminated. OSHA believes that this requirement is too restrictive at low concentrations of flammable gas in the atmosphere, but not restrictive enough where high concentrations exist. By setting forth a limit for the allowable concentration of flammable gas, the proposal notified employers of the level of performance required to protect employees.

OSHA received a large number of comments on this provision, primarily from employers in the natural gas industry, and input from the ACCSH.

Many commenters (for example, Exs. 4–6, 4–8, 4–14 and 4–61) pointed out that this requirement would, in effect, prevent the repair of damaged or leaking gas pipelines without turning off the gas and disrupting service to customers. Many commenters also noted that the Office of Pipeline Safety (OPS) has regulations which specifically address this type of situation. They requested that OSHA place a specific exclusion to the standard to cover these situations.

It should be noted that the U.S. Court of Appeals for the Third Circuit has determined that under section 4(b)(1) of the OSHA Act, a particular OPS regulation, 49 CFR 192.751, preempts the current requirements in paragraph (v) of OSHA's excavation standard with regard to pipeline repair. (*Columbia Gas of Pennsylvania, Inc.* v. *Marshall*, 636 F.2d 913 (3d Cir. 1980). Since paragraph (g)(1)(iii) of the revised OSHA standard covers the same working condition as existing paragraph (v), OSHA assumes that the new paragraph would also be preempted. However, OSHA declines to place a specific reference to preemption into the standard itself, as noted earlier. Indeed, if OPS were to change or revoke its regulations, pipelines might once again fall within OSHA jurisdiction. The placement of an exemption within the OSHA standard would unduly restrict the standard's coverage in such situations. Therefore, no specific exemption is being incorporated into the standard.

The ACCSH (Tr. 8/5/87, p. 507) recommended adding the words "or explosive gas or vapor" after the word flammable. The Agency declines to make this change because the term "flammable gas" is a generic term which already includes "explosive gas or vapor."

Therefore, based on the above discussion OSHA promulgate § 1926.651(g)(1)(iii), as proposed.

Section 1926.651(g)(1)(iv) of the Final Rule requires that "When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe."

This provision is identical to the proposed rule. The proposed paragraph was a new requirement, added to clarify further the intention of the existing requirements for testing. Testing is not an effective method of preventing exposure to hazardous atmospheres if it is used only to detect hazardous conditions initially and then not used again. Therefore, the proposal required the employer to conduct additional testing to ensure that atmospheres remain safe whenever controls are used that are intended to reduce the levels of atmospheric contaminants to acceptable levels.

The Agency received input from the ACCSH (Tr. 8/5/87, p. 508) recommending continuous monitoring when employees are present. No other comments were received on this provision. The Agency has determined that continuous monitoring would not be appropriate in many situations. Further, even in those situations when it might be appropriate, the Agency believes it appropriate to permit the use of alternative monitoring methods which are also effective. For example, in trench situations where work is proceeding rapidly and the trench is being backfilled shortly after the work in a section is completed, installation and calibration of the continuous testing instruments may not be completed before employees move to another section. The provision is written so that adequate monitoring is required, regardless of the situation. This recognizes that in some instances continuous monitoring would be appropriate and would be required, however in other situations periodic monitoring would be more appropriate due to site conditions. Therefore the Agency declines to act on this recommendation, and promulgates § 1926.651(g)(1)(iv), as proposed.

Section 1926.651(g)(2)(i) of the Final Rule requires that "Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment shall be attended when in use."

This provision is similar to the proposed rule, which was identical to existing § 1926.651(v) except the requirement for the equipment to be "attended" was deleted in the proposal. The manner in which the word "attended" is used in the current standard implies that personnel must be

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with and responsible for the equipment even when the equipment is not in use. This is not the intent of the standard, and this word was dropped in the

Therefore the language of the proposal was changed to reflect this need.

The purpose of this requirement is to allow rapid rescue of an employee in the

Paragraph (h), "Protection from hazards associated with water accumulation," contains four provisions that address the control and removal of

information on a pipeline contractor who installed several miles of pipe in a trench where the water table was only three to four feet below the surface of

requirement. Therefore, OSHA declines to act on this suggestion.

Finally, the Agency has dropped the phrase "these conditions have been

Section 1926.651(h)(3) of the Final Rule requires that "If excavation work interrupts the natural drainage of surface water (such as streams),

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with and responsible for the equipment even when the equipment is not in use. This is not the intent of the standard, and this word was dropped in the proposal. However, it is the intent of the existing rule and the proposal that the equipment be attended while in use. Therefore, the Final Rule has been modified to make this intention explicit.

OSHA received a great many comments on this provision, primarily from companies in the natural gas pipeline industry. These commenters (for example, Exs. 4–6, 4–20, 4–66, 4–89, 4–113, and 4–117) pointed out that this regulation was inappropriate for situations involving natural gas pipeline repair or replacement, since these were routine operations performed by trained personnel and not emergencies as understood in normal construction operations. Several of these commenters (for example, Exs. 4–58, 4–112, and 4–116) noted that Office of Pipeline Safety (OPS) regulations already regulated equipment and material needed at the scene of emergencies in the gas industry.

As noted earlier, although OSHA disagrees with the rationale provided in Columbia Gas, we agree that paragraph (g)(2)(i) might well be preempted by OPS regulations, under the holding in that case. However, for reasons which have also been noted above, the Agency declines to add a specific exemption within the standard itself.

OSHA received no other input in this provision and, therefore, promulgates § 1926.651(g)(2)(i), as proposed.

Section 1926.651(g)(2)(ii) of the Final Rule requires that "Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a life-line securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation."

This provision is almost identical to the proposed rule, which was based on existing § 1926.652(f). In the Final Rule, OSHA clarified what was intended by "substantially" similar footing excavations.

The existing requirements in § 1926.652(f) apply only to bell-bottom pier holes. These holes are a special type of footing excavation into which employees descend to inspect the hole configuration. However, similar inspections are also necessary, at times, in similar deep and confined footing excavations that are not belled at the bottom. Employees in these excavations must be protected against the same hazards that can exist in bell-footings. Therefore the language of the proposal was changed to reflect this need.

The purpose of this requirement is to allow rapid rescue of an employee in the limited space of these special types of excavations without exposing other employees to the associated hazards. Because of the configuration and unusual depths of these types of excavations, an oxygen deficient or other hazardous atmosphere could occur very quickly, requiring rapid removal of any exposed employee.

The intent of the requirement that lifelines be "individually attended" is that while the lifeline is actually in use (attached to the employee), personnel be assigned to oversee the individual to whom the lifeline is attached.

The current standard provides that lifelines "shall be individually manned and be separate from any line used to remove materials excavated from the bell footing." The proposal revised this language to require that lifelines "shall be separate from any line used to handle materials * * *." This clarification is to indicate that the lifeline must be separate from any line used to remove or supply or otherwise handle any materials from or to the footing excavation.

OSHA received eight comments on this provision. Seven commenters (Exs. 4–21, 4–23, 4–30, 4–31, 4–40, 4–42, and 4–86) recommended deleting this provision from subpart P because, they asserted, these excavations are confined spaces and should be addressed in a confined space standard.

The Agency disagrees with these commenters concerning deleting this provision from subpart P. OSHA notes that bell-bottom pier holes and similar footing excavation require cave-in protection and other precautions related specifically to work in excavations. Consequently, it is appropriate to address these excavations in subpart P. However, this does not preclude these same excavations from being "confined spaces" which would require compliance with additional OSHA regulations (for example, § 1928.21(a)(6)). The rescue procedures required by this provision apply because of possible excavation hazards and because of possible confined space hazards. They do not apply just because of possible confined space hazards.

OSHA received another comment (Ex. 4–72) that suggested deleting this provision and promulgating another full section specifically to address bell-bottom pier holes. This recommendation is addressed in more detail earlier in this preamble in the discussion of Issue 13. Based on that discussion, the Agency declines to act on this recommendation.

Paragraph (h), "Protection from hazards associated with water accumulation," contains four provisions that address the control and removal of water from excavations. Water is present, or very likely to be present, during the course of work in many excavations. Water accumulation can result from rain or melting snow, or from leaking or damaged utilities such as water or sewer lines. Water creates muddy or slippery surfaces that expose employees to slips and falls. Rapid accumulation, such as from damaged water supply line, has even resulted in drownings (Ex. 2–9). The action of water against the sides of excavations can cause undermining and cave-ins. Accumulated water will saturate the sides of excavations and weaken them to the point where cave-ins are very likely to occur even in very shallow excavations. Further, where protective systems are in place, accumulated water can adversely affect the capacity of the systems.

The existing requirement in § 1926.651(p) states: "Water shall not be allowed to accumulate in a excavation." Taken literally, accumulated water in any amount, in any part of an excavation, violates the existing standard. However, OSHA does not intend that to be the case. At times, such as during sudden rain storms, for example, or when snow melts, OSHA realizes that it is impossible to keep some amount of water from accumulating. Additionally, in excavations which employees do not enter, but where there is accumulated water, there is no exposure to a hazard. Further, there are certain excavations, such as long trenches, where water accumulated in isolated sections would not pose a hazard if employees do not enter those sections.

OSHA proposed to revise the existing requirement to recognize that not all water accumulated in excavations poses a hazard. In addition, it is OSHA's opinion that it is not always necessary to remove all water from an excavation in which employees are expected to work. Paragraph (h)(1), as proposed, allowed employees to work in excavations in which there is accumulated water, or in which water is accumulating, but only under the circumstances where adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions could range from providing dewatering equipment to special cave-in protection.

Work can be conducted safely in excavations when there is accumulated water. For example, the record contains

information on a pipeline contractor who installed several miles of pipe in a trench where the water table was only three to four feet below the surface of the ground (Ex. 2–25). The work required the use of divers to place sections of pipe at depths of up to 18 feet. Employees were protected from cave-ins of the sides of the trench by the use of shields.

Depending on the amount of water, the precautions necessary to protect employees adequately will vary. Employers were alerted to this by the note following proposed paragraph (h)(1). The note identified several examples of the types of protection that might be necessary to provide an adequate level of protection. These include the use of special support or shield systems, dewatering to control the level of water, or the use of a safety harness and lifeline.

Section 1926.651(h)(1) of the final rule requires that "Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect employees from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline."

The final provision is virtually identical to the proposal except the word "and" used in the proposed explanatory note has been changed to "or" at the suggestion of several commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–54, and 4–86). The Agency agrees with these commenters that the word "and" could cause confusion regarding the use of options. OSHA has also reformatted this provision by including the explanatory note in the text of the provision.

The Agency also received input from the ACCSH (Tr. 8/5/87, p. 506), recommending retitling § 1926.651(h) to read: "Protection from hazards associated with water accumulation." Two commenters (Exs. 4–17 and 4–91) also suggested this change. Since the change clarifies the regulatory intent of this paragraph, the Agency has made the recommended revision. The ACCSH also recommended that OSHA require that "waterproof outerwear" be used in these situations. The ACCSH did not explain their rationale for this recommendation, and there is no other support in the record for this type of requirement. Therefore, OSHA declines to act on this suggestion.

Finally, the Agency has dropped the phrase "these conditions have been anticipated and * * *" because it added nothing to the standard. The Agency believes employees should be removed from excavations where water is accumulating unless adequate precautions have been taken, regardless of whether the water accumulation has been anticipated or not.

Based on the above discussion, OSHA promulgates § 1926.651(h)(1) as revised.

Section 1926.651(h)(2) of the final rule requires that "If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation."

This provision is identical to the proposal, which was intended to address the use of water removal equipment as a means to control the accumulation of water. The proposed rules required that such equipment be monitored by a competent person to ensure proper operation.

Water removal or control is generally undertaken to provide a dry work area. The process can also be used to contribute to improved stability of excavation sides, and it is done in emergencies when sudden inflows of water occur. When the equipment that is used to remove or control the flow of water into excavations malfunctions, hazards that were eliminated when the equipment was working can become significant.

The requirements in paragraph (h)(2) are new. The existing standard does not directly address water removal operations, however, as discussed above, it requires that water not be allowed to accumulate in excavations. The type of water removal equipment needed in any given circumstance will vary depending on the volume of water that must be removed or controlled. In a very large excavation, for example, failure of water removal equipment may affect only a portion of the area within the excavation. Therefore, the precautions to be taken will, of course, also vary in the event failure of the equipment occurs. Such precautions could involve removal of all employees to a safe area if they are all exposed. Where the problem is more isolated, only the employees in the area that are exposed to the added danger would have to be removed.

OSHA received no comment on this provision and, therefore, promulgates paragraph (h)(2) as proposed.

Section 1926.651(h)(3) of the Final Rule requires that "If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains require an inspection by a competent person and compliance with paragraphs (h)(1) and (h)(2) of this Section."

The requirement is virtually identical to the proposal, except that the explanatory note has been added to the text of the provision. The proposal was based on a minor revision of existing § 1926.651(p).

OSHA received no comment on this provision and, therefore, promulgates paragraph (h)(3) as reformatted.

Section 1926.651(i) of the Final Rule, "Stability of adjacent structures," contains three paragraphs that address the hazard of unstable structures adjacent to excavations. The collapse of unstable structures endangers employees in excavations and in the area around excavations. Structures can become unstable when excavation takes place close enough to the structures so as to reduce the ability of the soil to support them. The requirements of paragraph 1926.651(i) are intended to ensure that necessary employee protection, over and above that required by paragraph 1926.652, is provided when necessary.

Paragraph (i)(1) of the Final Rule requires that "Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees." The three examples of support systems generally used for this purpose—shoring, bracing and underpinning—are unchanged from the current standard. This provision is essentially the same as the proposed rule, which was unchanged from the existing standard in § 1926.651(o). However, the words "support systems" are included so that the provision is consistent with other provisions of the standard.

The Agency received no comment on this provision and, therefore, promulgates § 1926.651(i)(1) as proposed.

Section 1926.651(i)(2) of the Final Rule requires that

Excavation below the level of the base or footing of any foundation or retaining wall

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that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

The first two exceptions are essentially unchanged from the existing requirements in § 1926.651(n). The third and fourth exceptions are new and were proposed in similar form because the existing standard has been interpreted by some employers to apply only to excavation at and immediately below foundations or retaining walls. However, the loads imposed on the soil from an adjacent structure are not limited to the immediate area of the structure, but also extend some distance from the structure. This distance varies with the depth of the excavation. Generally, this distance can be estimated as being equal to the depth of the excavation. Thus, a critical plane is formed sloping up from the bottom of the excavation toward the structure at an angle of 45 degrees (one horizontal to one vertical or 1H:1V). If the footing or foundation remains completely below this plane, then the conventional assumption is that it probably will not be affected by excavation operations. The possibility remains, however, that the stability of the structure could be affected in some way. Calculating the effect that excavation activity has on the soil supporting a structure is a highly complex procedure involving expertise in soil mechanics, structural analysis, judgement, and experience. While the discussion above is in terms of generalities, each circumstance must be evaluated on the specifics of the situation.

The fourth exception to the prohibition against excavating adjacent to structures recognizes that some excavation activity will not present a hazard to employees. Such a situation could occur, for example, if a building were on a continuous concrete footing, and excavation was undertaken in a very limited area below the footing. Where the footing could safely span the excavation, no instability in the structure would occur. Again, each circumstance must be evaluated on the specifics of the situation.

As discussed under Issue 2 above, the Agency has determined that these types of determinations must be approved by a registered professional engineer.

OSHA also received two comments (Exs. 4–17 and 4–111) and an ACCSH recommendation (Tr. 8/5/87, p. 509) supporting the use of a registered professional engineer. The Agency received no other comments on this provision.

Therefore, based on the above discussion, OSHA promulgates § 1926.651(i)(2) as revised.

Section 1926.651(i)(3) of the Final Rule requires that "sidewalks, pavements, and appurtenant structures shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures." This provision is similar to the proposed rule except that "appurtenant structures" (that is, structures attached to sidewalks and pavements) have been added because of the danger they pose when undermined.

The proposed requirement revised the existing language of § 1926.650(a) that requires shoring sidewalks to carry a minimum live load of 125 pounds per square foot. The existing requirement does not protect employees adequately because it does not cover all pavements, only "sidewalks." Loads on pavements during construction operations frequently can exceed the minimum load specified. Therefore, the proposal covered pavements as well as sidewalks. In addition, the live load specification has been changed to a more performance-oriented requirement to be consistent with the overall approach taken in this revised standard. OSHA believes that the performance language provides the employer greater flexibility in determining the most effective means of protecting employees. The Agency notes that this provision is intended to apply not only to employees in the excavation, but to employees who may be required to use the sidewalk or pavement area.

OSHA received two comments (Exs. 4–17 and 4–91) and input from the ACCSH (Tr. 8/15/87, p. 518) on this provision. All commenters recommended adding "appurtenant structures" to this provision. OSHA recognizes that "appurtentant structures" must also be supported to protect employees, and that is the Agency's intent. In order to clarify this intent, OSHA is revising the provision to state clearly that any attached structures must also be supported. In addition, one commenter (Ex. 4–17) and the ACCSH suggested moving the words "is provided" to a position after the word "protection" in order to clarify this provision. The Agency agrees and has revised this provision accordingly.

Therefore, based on the above discussion, OSHA promulgates § 1926.651(i)(3) as revised.

Section 1926.651(j)(1) of the proposed rule has been relocated and combined with § 1926.652(a) of the Final Rule because they are related provisions. This change will be discussed in more detail later in this preamble.

Section 1926.651(j) of this Final Rule is entitled "Protection of employees from loose rock or soil." Paragraph (j)(1) of the Final Rule requires that "Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection."

This is almost identical to proposed paragraph (j)(2), except that the introductory language has been deleted because of the relocation of proposed paragraph (j)(1) mentioned above. In addition, the phrase "protect * * * against" has been changed to "protect * * * from" to be consistent with language suggested by the ACCSH and other commenters related to this requirement and similar requirements in other parts of this standard.

This provision addresses a hazard similar to cave-ins, although it is not of the same magnitude. Loose rock or soil can fall or roll from an excavation face and, if in sufficient volume, endanger an employee even when an adequate cave-in protective system is in place. For example, when a shield is used in conjunction with sloping, the possibility exists for material to loosen and slide down and over the top of the shield, thus endangering employees.

The existing standard, § 1926.651(j), addresses this hazard. It states: "Sides, slopes, and faces of all excavations shall meet accepted engineering requirements by scaling, benching, barricading, rock bolting, wire meshing, or other equally effective means." The proposed standard did not change the requirement other than to revise the language to improve clarity, and to remove the references to rock bolting and benching. Rock-bolting and benching are considered types of primary support systems intended to prevent cave-ins. They are not normally used to prevent material from falling into an excavation after the primary cave-in protective system is in place.

Section 1926.651(j)(2) of the Final Rule requires that "Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least two feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent material or equipment from falling or rolling into excavations, or by a combination of both as necessary."

This provision is identical to proposed paragraph (j)(3), which was based on existing § 1926.651(i). The proposal was rewritten from the existing standard in more concise language.

Existing § 1926.651(i)(1) states that "* * * material shall be effectively stored and retained * * *." Similarly, in existing § 1926.651(i)(2), it is stated that "* * * the employer may use effective barriers or other effective retaining devices * * *." Interested persons have expressed concern as to what these provisions require and have indicated that they should be clarified in the proposed revision. Consequently, the proposed language of paragraph (j)(3) was written in performance-oriented language and required "the use of retaining devices that are sufficient to prevent material or equipment from falling or rolling into excavations." The duty to provide protection is clearly stated, but the employer is allowed some discretion in determining the necessary capacity of the retaining devices by use of the word "sufficient." A device is "sufficient" (and "effective") if it can be shown to be able to resist any forces that may reasonably be expected to be applied to it.

The intent of this requirement is to protect employees from materials, equipment, and spoil piles which might fall into excavations. Obviously, materials such as excavated soil and stored construction supplies can superimpose loads on the walls of an excavation. Such loads can be the cause of cave-ins and must be considered when determining what protection is necessary to safeguard employees.

The application of the existing 2-foot setback requirement to trenching has been questioned in the past because the requirement only appears in existing § 1926.651 "Specific Excavation Requirements," and not in § 1926.652 "Specific Trenching Requirements." However, the requirements in § 1926.651 have always applied to all excavations, including trenches. The format changes in the proposal and in the Final Rule are made to clarify this point.

The langdage of the existing requirement in § 1926.651(i) is different from the language that was originally promulgated in 1971. The 1971 requirement originally promulgated under the Construction Safety Act was stated as follows: "Excavated or other material shall not be stored nearer than 4 feet from the edge of any excavation and shall be stored and retained as to prevent its falling back into the excavation" (36 FR 7389, April 17, 1971). Upon the recommendation of the ACCSH, it was proposed to change this provision to require that "In excavations which employees may enter, which are more than 5 feet in depth, excavated or other materials shall be stored and retained 4 feet or more from the edge of the excavation. In excavations which are 5 feet or less in depth, all materials shall be stored and retained at least 2 feet from the edge of the excavation" (36 FR 19088, Sept. 28, 1971).

This amendment was proposed "in order to allow more flexibility in storing and retaining excavated materials adjacent to an excavation, while at the same time ensuring the safety of those employees working in the excavation site" (37 FR 3513, Feb. 17, 1972). The comments in response to the 1972 proposal indicated that the proposed change was too rigid to allow employers digging shallow trenches (less than 5 feet in depth) and having narrow rights-of-way to meet the requirement. Alternative methods of storing and retaining such material were suggested which would provide equivalent employee protection.

The ACCSH considered the comments submitted in response to the proposal, and the suggestions made by the OSHA staff, and, as a result, recommended that the language be changed "to permit all appropriate alternative methods which will protect employees working in excavations from the hazards of falling materials" (37 FR 3515, Feb. 17, 1972). The ACCSH recommendations were adopted and the language was revised to become what is now the existing requirement in § 1926.651(i).

Prior to publication of the 1987 proposal OSHA received comments concerning the existing 2 foot (.61 m) set-back requirement. It was suggested that this requirement be changed to 1 foot (30.5 cm) for excavations 5 feet (1.52 m) or less in depth. No data to support this suggestion was submitted to OSHA other than the comment that such a requirement would be practical and adequate.

OSHA did not make that suggested change in the proposal. However, OSHA did request that specific comments regarding this issue be submitted during the comment period.

OSHA received 10 comments on this provision. Many commmenters (Exs. 4–4, 4–82, 4–88, 4–102, 4–106, 4–109, 4–113, and 4–115) expressed support for reducing the 2 foot clearance to 1 foot for excavations 5 feet or less in depth. Three commenters (Exs. 4–82, 4–102, and 4–109) noted that the practice was successful under CAL–OSHA. However, OSHA notes that comments received from CAL–OSHA (Ex. 4–4), while suggesting that the setback for excavated materials be reduced, provided other input which indicated that this practice was causing problems. This input, addressing proposed § 1926.651(a), is as follows:

> The Division feels that the subsection on surface encumbrances should be expanded by inserting the word "spoil," which is common to the industry to designate the earth removed from the excavation, *because it has been our experience that where a large boulder or a tree on the edge might readily be removed to reduce or eliminate the hazard, the "spoil" is frequently left in a condition where it is almost rolling back into the excavation. For this reason too, we believe the requirement to keep the spoil back at least two feet from the edge of the excavation should be in this section rather than in Subsection (j)(3).* (Emphasis added.)

OSHA concludes from this input that the reduced setback for excavations 5 feet or less in depth may be adequate and practical in theory, but not in actual practice.

Other commenters (Exs. 4–41, 4–88, and 4–113) noted that in some instances, space is limited, and compliance with a 2 foot setback is difficult. One commenter (Ex. 4–41) suggested keeping materials at "sufficient distances" rather than specifying a fixed setback.

The Agency disagrees with this approach because "sufficient distances" is too subjective, and does not provide appropriate employer guidance as to what the regulation requires.

Another commenter (Ex. 4–106) supported changing the setback requirement to one foot for excavations less than five feet deep, stating that the change is valid as far as the hazard from falling materials is concerned.

Another commenter (Ex. 4–46) supported the 2 foot setback for excavated materials, and recommended that equipment and materials be kept at least 10 feet from the edge of the excavation.

One commenter (Ex. 4–115) supported the reduced setback, but provided no rationale, and the ACCSH (Tr. 8/5/87, pp. 535–538) recommended increasing

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the spoil pile setback to 3 feet, but also gave no rationale.

After careful consideration of the record, OSHA concludes that the spoil pile setback distance should not be changed. The current requirement for a 2 foot setback has provided adequate protection for employees. The record contains no convincing evidence that increasing the setback to 3 feet or more is necessary, nor does it indicate that decreasing the setback to 1 foot for excavation 5 feet or less in depth, would maintain employee protection at the current level. The Agency also notes that employers who encounter site conditions that do not permit a 2 foot set-back must use retaining devices to prevent materials or equipment from falling into the excavation.

Therefore, based on the above discussion, OSHA promulgates paragraph (j)(2) as proposed and renumbered.

Section 1926.651(k) of the final rule sets out provisions for inspections and requires that:

(1) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(2) Where the competent person finds evidence of a situation that could result in possible cave-ins, indication of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous areas until the necessary precautions have been taken to ensure their safety.

These provisions are similar to the proposed rule, which consolidated requirements in existing §§ 1926.650(i) and 1926.651 (d) and (o).

The existing requirement in § 1926.650(i) states: "If evidence of possible cave-ins or slides is apparent, all work in the excavation shall cease until the necessary precautions have been taken to safeguard employees." This is the only requirement that specifically identifies what is necessary if a hazardous condition is identified, and it only applies to evidence of cave-ins or slides. It is OSHA's opinion that during the course of work in excavations, other hazardous conditions can develop, and that the object of daily inspections must be to identify these conditions as well as to take precautions to protect employees. Therefore, the proposed requirement was written with this intent.

The existing provision also requires that "all work in the excavation shall cease * * *." OSHA recognizes that in many instances a hazardous condition may be limited to only a small area of the excavation. For example, inspection might reveal a weakness in the support system which increases the possibility of a cave-in in a small area of a very large excavation. In such a situation, OSHA does not believe it is necessary to require that "all work" throughout the entire excavation cease until this isolated problem is repaired. Therefore, OSHA proposed to change the requirement to require that "exposed employees shall be removed from the hazardous areas until the necessary precautions have been taken to ensure their safety."

OSHA received three comments and ACCSH input on this provision. These commenters (Exs. 4–53, 4–88, and 4–91) agreed with the proposed requirement, but two commenters (Exs. 4–53 and 4–88) objected to any additional requirement for a written inspection log as suggested in Issue 8 in the preamble of the proposal (52 FR 12295). The ACCSH (Tr. 8/5/87, p. 519) supported creating an inspection certification to verify that the inspection was done. However, based on the discussion of Issue 8 above, the Agency will not require the keeping of a written inspection log.

OSHA, however, agrees with the ACCSH recommendation that the excavation should be inspected prior to the start of the work shift. This suggestion expresses the Agency's original regulatory intent more clearly, and therefore, OSHA has revised the standard to reflect this input.

Therefore, OSHA promulgates § 1926.651(k) as revised.

Section 1926.651 (l) and (l)(2) provide interim fall protection requirements for excavations. These provisions are unchanged from § 1926.651(w), and § 1926.651(t), respectively, in the existing standard. In the proposal, OSHA intended to redesignate these provisions into the fall protection requirements in revised subpart M. However, the revisions to subpart M are not yet completed. Therefore, for the time being, these provisions will be retained in subpart P. When the revised subpart M is issued, § 1926.651(l)(2) of this Final Rule will be revoked. The fall protection requirements contained therein will be covered in subpart M, and § 1926.652(e)(1)(vi) of this Final Rule addresses the requirement for backfilling excavations. Additionally, at the same time, § 1926.651(l)(1) of this Final Rule will be revised by the new subpart M to remove the fall protection requirements (51 FR 42735).

Section 1926.652 of this Final Rule details the requirements for protective systems. Paragraph (a)(1) of this Final Rule requires that "Each employee in an excavation shall be protected from cave-ins by an adequate protective system designed in accordance with paragraph (b) or (c) of this section except when:

"(i) Excavations are made entirely in stable rock; or

"(ii) Excavations are less than 5 feet (1.52 m) in depth and examination of the ground by a competent person provides no indication of a potential cave-in."

This provision is essentially identical to proposed § 1926.651(j)(1) except for editorial changes. This provision was moved from its location in proposed § 1926.651(a)(1) based on comments (Exs. 4–82, 4–102, 4–106 and 4–109) that it was more appropriate in § 1926.652, which specifically addresses employee protection in excavations.

Proposed paragraph (j)(1) required that employees in excavations be protected from cave-ins by the installation or use of an adequate protective system which meets the requirements of proposed § 1926.652, "Requirements of protective systems." This requirement was written in performance-oriented language, consistent with the approach of the overall proposed standard. This proposed paragraph consolidated and replaced several existing requirements and paragraphs. The existing paragraphs affected include §§ 1926.651 (c), (m), and (q), and 1926.652 (a), (b), (c), (e), (f), and (k).

The existing standard is arranged in a format consisting of § 1926.651, "Specific Excavation Requirements," and § 1926.652, "Specific Trenching Requirements." Each of these sections contains provisions designed to protect employees against cave-ins. The substantive requirements for "excavations" often overlap those for "trenches." Thus, an excavation employer may not always be sure which of the existing standards apply to a particular situation.

Some of the current requirements indicate when cave-in protection is required but provide little direct guidance as to how it is to be provided. For example, existing § 1926.651(c) states: "The walls and faces of all excavations in which employees are exposed to danger from moving ground shall be guarded by a shoring system, sloping of the ground, or some other equivalent means."

On the other hand, some provisions set forth specific means of compliance. For example, existing § 1926.652(f) states: "Employees entering bell-bottom pier holes shall be protected by the installation of removable-type casing of sufficient strength to resist shifting of the surrounding earth."

Some of the current requirements specify the earth conditions in which cave-in protection is required. For example, existing § 1926.652(b) states: "Sides of trenches in unstable or soft material, 5 feet or more in depth, shall be shored, sheeted, braced, sloped, or otherwise supported by means of sufficient strength to protect the employees working within them. (See Tables P–1, P–2 * * *.)"

In Table P–1, terms such as "compacted angular gravels," "compacted sharp sand," and "average soils" are used to describe the earth conditions. In Table P–2, terms such as "hard, compact," "likely to crack," and "soft, sandy, or filled" are used to describe the earth conditions.

Other existing requirements specify when special or additional precautions are necessary. For example, existing § 1926.651(m) states: "Special precautions shall be taken in sloping or shoring the sides of excavations adjacent to a previously backfilled excavation or a fill, particularly when the separation is less than the depth of the excavation. Particular attention also shall be paid to joints and seams of material comprising a face and the slope of such seams and joints."

The existing requirements do not appear in any specific order. In addition, it is not always clear when provisions apply to a given situation. However, the one common feature of all the existing requirements is that cave-in protection is required. Therefore, based on this central requirement, OSHA proposed to revise its existing standards to allow any of several types of protective systems to be used, provided that the system will provide protection against cave-ins. OSHA intended this revision to be more performance-oriented than the current standard, while providing greater clarity and guidance as to what steps the employer must take to protect employees from cave-ins.

OSHA believes that there is a potential for a cave-in in virtually all excavations. However, experience has shown that the probability of a cave-in depends upon the combined effects of many factors (Ex. 2–5). These factors include the depth of the excavation, the type of soil involved, the ability of the soil to resist stress imposed on the soil from the weight of the soil itself and from static and dynamic surcharge loads, and from changes in the ability of the soil to resist stress due to exposure to environmental conditions over a period of time. In recognition of the low probability of a cave-in occurring in certain circumstances, the proposal, as does the current standard, sets forth two exceptions to the requirement to provide cave-in protection.

Proposed paragraph (j)(1)(i) stated that excavations in stable rock are exempt from cave-in protection requirements. This proposed exception was consistent with the existing standard which states in Note (1) to Table P–2 that "shoring is not required in solid rock, hard shale, or hard slag." The term "stable rock" was used in the proposed standard instead of the above terms and was defined in § 1926.650(b)(20) of the proposal.

The second exception, which was stated in proposed paragraph (j)(1)(ii), allowed the suspension of the requirement to provide cave-in protection in excavations less than 5 feet (1.5 m) in depth, but only if a competent person first examined the ground and found no indication that a cave-in should be expected.

The exception in proposed paragraph (j)(1)(ii) continued the existing exception which applied to excavations less than 5 feet in depth. In addition, it clarified that cave-in protection would not be required for such excavations only after a competent person first examined the ground and found no evidence of a potential cave-in.

The existing standard in § 1926.652(a) states: "Trenches less than five feet in depth *shall also be effectively protected when examination of the ground* indicates hazardous ground movement is expected" (emphasis added). On its face this requirement does not seem to require that an examination first be conducted, or who must conduct it. However, existing § 1926.650(i) states: "Daily inspections of excavations shall be made by a competent person * * *." The proposal clarified that inspections must first be conducted before an employer could use the exception of not providing cave-in protection in excavations less than 5 feet in depth. There would be a presumption that excavations less than 5 feet deep need to be protected unless there is a determination by a competent person that such protection is not needed.

OSHA received four other comments on proposed § 1926.651(j)(1). One commenter (Ex. 4–28) recommended deleting the reference to the more specific § 1926.652 because it was inappropriate. Moving this provision to § 1926.652(a) of the Final Rule, as discussed above, adequately responds to the concern.

Another commenter (Ex. 4–46) suggested revising paragraph (j)(1)(ii) to specify that if there is evidence of moving ground in excavations 5 feet or less in depth, the excavation should be shored or sloped. The Agency believes this is not needed because § 1926.652(a) of this final rule requires a protective system unless the conditions of the exception are met.

An additional commenter (Ex. 4–30) recommended that OSHA allow a vertical 5 foot section at the bottom of all trenches since trenches with depths of 5 feet or less do not normally require shoring or sloping. This issue is discussed in detail later in the preamble under the discussion of Appendix B. One other commenter (Ex. 4–4) recommended requiring cave-in protection for excavations 5 feet or more deep, regardless of soil type (even stable rock), however, no supporting information was provided. Consequently, OSHA is not convinced that this recommendation is appropriate. As discussed above, experience has shown that there is such a very low probability of cave-in in stable rock that OSHA does not believe it warrants the use of cave-in protection.

Therefore based on the above discussion, OSHA promulgates § 1926.652(a)(1) as revised editorially and renumbered.

Section 1926.652(a)(2) of the Final Rule requires that "Protective systems shall have the capacity to resist without failure all loads that are intended or could reasonably be expected to be applied or transmitted to the system." This provision is virtually identical to proposed § 1926.652(a), but has been revised editorially and has been renumbered to accommodate format revisions as discussed above.

The existing standard does not contain a requirement directly addressing the capacity of protective systems. Such a requirement is necessary in order to clarify the design goal. However, consistent with the approach taken in the proposal, this requirement is written in performance-oriented language. As discussed earlier, proposed § 1926.651(j)(1) (§ 1926.652(a)(1) of this Final Rule) sets forth those situations requiring cave-in protection, and identifies the hazards from which employees are to be protected. Therefore, the employer must first select a protective system for these conditions and hazards. Once a protective system has been selected, this paragraph sets forth performance criteria that must be met by that system.

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The paragraphs immediately following this paragraph address different methods and approaches that can be used to provide the required level of protection.

OSHA received no comment on this provision and therefore promulgates paragraph (a)(2) as proposed and renumbered.

The introductory text of § 1926.652(b) of this Final Rule requires that "The slopes and configurations of sloping and benching systems shall be selected and constructed by the employer or his designee and shall be in accordance with the requirements of paragraph (b)(1); or, in the alternative, paragraph (b)(2); or, in the alternative, paragraph (b)(3); or, in the alternative, paragraph (b)(4), as follows". The provision is virtually identical to the proposed rule except that an option for sloping in accordance with tabulated data is provided as is discussed under Issue 10 above.

Paragraph (b) provides four alternative methods of protecting employees from cave-in, arranged in order of increasing degree of performance required, based upon the degree to which the employer performs soil classification analysis needed to do the alternative. Design of other types of cave-in protection is addressed in § 1926.652(c).

OSHA received no comments specifically directed to this provision. However, many commenters provided general input concerning all provisions under this paragraph (b), or input supporting incorporation of a fourth option for sloping as addressed by Issue 10. For example, several commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–54, and 4–86) suggested that OSHA use the terms "steeper than or flatter than" rather than "greater than or lesser than," with reference to slope angles in order to avoid confusion. OSHA agrees that the suggested wording would express the Agency's regulatory intent more clearly and has amended the language accordingly.

Other commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–78, and 4–86) supported the addition of a fourth option for sloping (See the discussion of Issue 10 above).

Based on the above discussion, OSHA promulgates the introductory text to paragraph (b) as revised.

Section 1926.652(b)(1) (i) and (ii) of this Final Rule provide requirements for sloping Option (1). These requirements state:

(1) *Option (1)—Allowable configurations and slopes.* (i) Excavations shall be sloped at an angle not steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal), unless the employer uses one of the other options listed below.

(ii) The slopes specified in paragraph (b)(1)(i) of this section shall be excavated to form configurations that are in accordance with the slopes shown for Type C soil in Appendix B to this Subpart.

This requirement is very different than the proposal. In addition to removing the element of short term/long term excavations, as discussed in Issue 4 above, "greater" has been replaced by "steeper" for clarity, as discussed above; and the reference to Figures B–1 through B–1.5 has been deleted because of another revision discussed below.

In this first option, employers who do not make any effort to classify the soil are required to cut excavation sides to an angle that is not steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal), as specified in paragraph (b)(1)(i).

In OSHA's opinion, the slope required by this paragraph is safe for virtually all soils. Since, under this option, the employer is not required to make any attempt to differentiate between more stable and less stable soil types, the slope required is conservative to ensure that employees will be protected adequately in those instances where poor soil conditions are encountered.

The required slope angle specified is identical to the slope angle that is required for the worst soil condition determined under Option (2) below. As will be explained below, the employer is required, under the second option, to differentiate between more stable and less stable soil types. Steeper slopes are allowed in soils determined to be more stable. By requiring a slope in Option (1) that is the same as the worst case under Option (2), a necessary level of consistency in the requirements is maintained. If a steeper slope were allowed under Option (1), the situation could arise where an employee might be required to slope an excavation to a greater degree after making an effort to determine the soil type than would be required if no soil classification had been made at all. Sloping is set at a worst case angle in Option (1) to assure that protection is provided even where the employer makes no determination of soil type or stability.

In paragraph (b)(1)(ii), the requirements state that the configurations of slopes excavated under Option (1) must conform to the configuration illustrated for Type C soils shown in appendix B to subpart P. This is to assure that slopes permitted under Option (1) are at least as protective as those set forth under the second design option in § 1926.652(b)(2).

OSHA received seven comments on the proposed provision and input from the ACCSH. One commenter (Ex. 4–17) suggested decreasing the short term/long term time from 72 hours to 24 hours, while another (Ex. 4–91) strongly supported the proposed 72 hours. Another commenter (Ex. 4–37) endorsed this provision as "fail safe" and further noted that it can be employed by anyone with a minimum of experience. Other commenters (Exs. 4–4, 4–28, and 4–53) objected for various reasons, including opposition to the short term/long term concept (Ex. 4–28); opposition to the title of this section, which the commenter implied required all trenches to be sloped (Ex. 4–53); and objection to the standard permitting compound slopes in referenced figure B–1.5 (Ex. 4–4). One commenter (Ex. 4–53) also recommended adding weather conditions to the criteria in determining configuration and slope.

Based on a review of the entire record on this subject (including specifically Issue 4), the Agency promulgates § 1926.652(b)(1) as revised.

Section 1926.652(b)(2) of this Final Rule provides the requirement for sloping Option (2), determination of slopes and configurations using Appendices A and B, which requires that "Maximum allowable slopes, and allowable configurations for sloping and benching systems, shall be determined in accordance with the conditions and requirements set forth in Appendices A and B to this Subpart." This provision is identical to the proposed rule.

In this second option, designs must be in accordance with the conditions and requirements set forth in appendices A and B to subpart P. In brief, Appendix A is a method of classifying soil and rock conditions, taking into account soil, environmental, and load conditions. Appendix A divides all soils into four classifications: Stable Rock, Type A, Type B and Type C. (See discussion for appendix A below.) Appendix B contains requirements specifying the maximum allowable slopes for each of the four classifications. In stable rock, vertical sides are allowed. For Types A, B, and C the maximum allowable slopes vary, with steeper slopes allowed for Type A. Appendix B also contains illustrations of sloping and benching configurations that are acceptable. (See discussion for appendix B below.)

OSHA received three comments on this provision. Two commenters (Exs. 4–28 and 4–84) opposed allowing the employer or the competent person to classify soil and choose a protective system. The other commenter (Ex. 4–37) supported this provision and considered

this option to be the "rule of thumb," which is based on site conditions as determined by the competent person. The Agency disagrees with the two commenters who oppose letting the competent person or the employer use Appendices A and B, noting that these appendices are actually intended for use by non-engineers. OSHA further notes that these appendices provide much more guidance than the current standard, which permits the competent person to determine the degree of protection necessary.

Therefore, based on the above discussion, OSHA promulgates § 1926.652(b)(2) as proposed.

New § 1926.652(b)(3) of the Final Rule adds another option for sloping, *Option (3)—Designs using other tabulated data* which requires that:

(i) Designs of sloping or benching systems shall be selected from and be in accordance with tabulated data, such as tables and charts.

(ii) The tabulated data shall be in written form and include all of the following:

(A) Identification of the parameters that affect the selection of a sloping or benching system drawn from such data;

(B) Identification of the limits of use of the data to include the magnitude and configuration of slopes determined to be safe;

(C) Explanatory information as may be necessary to aid the user in making a correct selection of a protective system from the data.

(iii) At least one copy of the tabulated data, which identifies the registered professional engineer who approved the data, shall be maintained at the jobsite during construction of the protective system. After that time the data may be stored off the jobsite, but a copy of the data shall be made available to the Secretary upon request.

This paragraph is new, and is based on input received on Issues 10 and 14 of the proposal. These issues are discussed in detail earlier in this preamble.

Section 1926.652(b)(4) of this Final Rule, *Option (4)—Design by a registered professional engineer*, requires that:

(i) Sloping and benching systems not utilizing Option (1), Option (2), or Option (3) under paragraph (b) of this section shall be approved by a registered professional engineer.

(ii) Designs shall be in written form and shall include at least the following:

(A) The magnitude of the slopes that were determined to be safe for the particular project;

(B) The configurations that were determined to be safe for the particular project; and,

(C) The identity of the registered professional engineer approving the design.

(iii) At least one copy of the design shall be maintained at the jobsite while the slope is being constructed. After that time the design need not be at the jobsite, but a copy shall be made available to the Secretary upon request.

These provisions are essentially the same as those in proposed paragraph (b)(3), except that "qualified person" has been deleted, and "qualified engineer" has been changed to "registered professional engineer" as discussed under Issue 2 above. In addition, the requirement that the design be made available to the Secretary has been revised slightly, as discussed below, and the explanatory note has been dropped from the language of paragraph (b)(4)(iii) of this Final Rule.

In this option, paragraph (b)(4) sets forth three requirements. The first, paragraph (b)(4)(i), requires that sloping and benching systems be approved by a registered professional engineer. However, a person under the direction of a registered professional engineer is also allowed to design sloping and benching systems under this option, because in this relationship, the registered professional engineer would still be responsible for and approve the design. This approval need be no more than a stamp indicating the identity of the registered professional engineer approving the design.

A second requirement under this option, paragraph (b)(4)(ii), is that designs be in written form and include, as a minimum, the following information: (a) The magnitude of the slopes that were determined to be safe for the particular project; (b) The configurations that were determined to be safe for the particular project; and, (c) The identity of the individual approving the design.

The third requirement, set forth in paragraph (b)(4)(iii), is that at least one copy of the design be maintained at the jobsite while the slope is being constructed. After that, the design need not be kept on the jobsite, but a copy must be made available to the Secretary upon request. In OSHA's opinion, these requirements are necessary to insure that adequate designs will be prepared. Under this option, the employer is allowed a wide range of discretion to determine the degree of the hazard and to determine the necessary level of protection against the hazard. It provides no specific restrictions as to maximum allowed slopes or configurations that a registered professional engineer might design or approve. Therefore, under the option, slopes steeper than those allowed under the other options could be used. Configurations different from those allowed under the other options could also be used. This fourth option is the most performance-oriented of the options provided; and relies heavily on the prudence, competence and expertise of the person selected by the employer to design the system.

The proposed requirements that original engineering design, and tabulated data (including manufacturer's data) be made available to the Secretary have been modified slightly. After a protective system is constructed, such data or designs need not be kept at the jobsite, but need only be made available to the Secretary on request. The proposal indicated that such data or designs must be made available only so long as an excavation is open or only during an inspection. In the Final Rule the requirement is more simply stated that such documentation must be provided upon request to the Secretary. This will insure that such data is also available when an excavation is no longer open, and after a physical inspection is concluded. If there is any issue as to what designs or data were utilized after the physical inspection of the worksite is concluded or after a cave-in, the Secretary must be able to obtain such information.

OSHA solicited opinion on whether or not additional information should be required on any design. The input received concerning this matter is addressed below at the end of the discussion of paragraph (b)(4) of this Final Rule.

Because of the wide discretion allowed, OSHA believes that stricter requirements are needed to verify that design requirements have been met. Therefore, OSHA is requiring that designs be in written form, and that they be made readily available to the Secretary upon request.

In OSHA's opinion, requiring that designs be in written form will not impose a significant burden upon employers. When an employer utilizes an individual to design a sloping and benching system, the results of the design effort must be communicated to the employer, and to those responsible for implementing the design, in some manner. Under current industry practice, this is not done orally, but by the preparation of a written plan.

OSHA is revising the portions of Subpart P relating to sloping for several reasons. The existing standard allows only one approach to be used to determine the degree of slope required to protect employees against cave-ins. This approach requires that excavations be sloped to the "angle of repose." As noted earlier, this term, as currently defined, does not conform to its use in civil engineering and has resulted in considerable confusion in the field. In

addition, the existing approach is not consistent with OSHA's desire to place greater emphasis on the use of

In the current § 1926.652, reference to sloping appears in existing § 1926.652 (b), (c), and (k). These requirements, in

imposed due to dynamic forces such as vibration from equipment, blasting, traffic, or other sources.

to OSHA during the inspection. The Agency disagrees with the position of these commenters because the design contains the information necessary for

Section 1926.652(c) (1) through (4) list the options allowed for design of support systems, shield systems, and other protective systems.

conditions for which their various products could be used.

A trend in the construction industry has been to rely more and more on

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addition, the existing approach is not consistent with OSHA's desire to place greater emphasis on the use of performance-oriented standards. More flexibility is possible by allowing the employer the choice to use any of several acceptable approaches to provide the required level of safety for employees.

OSHA is also revising the standard so as to provide greater clarity as to what is required of the employer. Interviews with contractors have indicated that some provisions in the existing standard relating to sloping are difficult to understand (Ex. 2–3).

This difficulty is due apparently to the present format in which specific requirements relating to sloping appear in various places in the standard but in no apparent order. It also results from the fact that the soil types currently specified in Table P–1 (compacted sharp sand, average soil, etc.) are not defined. The use and application of the terms "hard, compact soil" and "unstable or soft material" in the current standard have been the source of considerable confusion and have resulted in considerable litigation. In addition, there are other related format problems that have been discussed previously in this preamble.

It was stated earlier that the existing Subpart P is divided into two sections containing specific requirements. Section 1926.651 is titled "Specific Excavation Requirements;" and § 1926.652 is titled "Specific Trenching Requirements." In § 1926.651 there are several references to sloping. These references appear in existing § 1926.651 (c), (d), (g), (h), (j), and (m), and specify that sloping can be used as a method of protection against cave-ins. They require that when sloping is used "all slopes be excavated to at least the angle of repose * * *." In addition, it is required that adjustments be made to the angle of repose, i.e., flattening, when certain conditions are present. These requirements are not presented in a concise, logical order and there is no guidance given to the employer in existing § 1926.651 indicating either what the "angle of repose" is or to what degree it must be adjusted for the specific conditions mentioned. Although Table P–1 does give an indication of certain "angles of repose," this Table is located in existing § 1926.652; and no direct reference to the Table is made in § 1926.651. Further, as discussed earlier, there are technical problems with the use of the term "angle of repose." (See discussion above for § 1926.650—"Scope, Application, and Definitions Applicable to this Subpart.")

In the current § 1926.652, reference to sloping appears in existing § 1926.652 (b), (c), and (k). These requirements, in general, are intended to give more specific guidance to employers as to the degree of sloping required. Table P–1 is referenced in both existing § 1926.652 (a) and (b), but the language of the existing standard regarding the use of Table P–1 apparently has not been clear to some employers. For example, existing § 1926.652(a) states: "Refer to Table P–1 as a *guide* in sloping of banks." (Emphasis added.) Some employers have contended that the table is, therefore, not mandatory. However, existing § 1926.652(b) is phrased in a manner more consistent with its intended mandatory nature.

Other difficulties are noted that relate to specific terms used in the current standard. For example, 45 degrees is indicated in Table P–1 as the appropriate angle for sloping "average soils." "Average soil" is not defined in the existing standard, nor are the other terms used in Table P–1. Further, only two terms used in the standard itself to describe soils are presently defined. These terms are "hard compact soil" and "unstable soil." Neither term appears in Table P–1, and existing § 1926.652 (b) and (c) use the terms "unstable *or* soft" and "hard *or* compact." (Emphasis added.)

OSHA has concluded that these difficulties can be eliminated, and at the same time a more effective standard for sloping can be created, by revising the language and format of the current standard.

OSHA proposed a format allowing employers to choose from several design alternatives discussed above. These alternatives allow the employer flexibility to determine the degree to which excavation sides must be sloped to protect employees against cave-ins.

The calculation of the degree to which excavation sides must be sloped to protect employees against cave-ins can be a difficult task. This is because of the many factors that must be taken into account which can affect the stability of sloped excavation sides. These factors include: The soil type and its ability to resist stress; changes in the ability of the soil to resist stress due to the effects of exposure to environmental conditions such as freezing, thawing, or rain; loads imposed due to the particular configuration of the excavation; and loads imposed due to the presence of water, and the variation of the water content in the soil. Other factors include: Loads imposed by the presence of structures, equipment, overlying material or stored equipment; and loads imposed due to dynamic forces such as vibration from equipment, blasting, traffic, or other sources.

Soil is a difficult material to work with because there is no control over its structural quality. In addition, its properties vary from place to place, and they change with the passage of time due to environmental exposure. There is an infinite number of combinations of conditions and factors that can affect soil stability. Because of these variables, a great degree of caution must be exercised when relying on its strength in order to design and provide a sloping system with a desired level of protection.

There are practices that are accepted by the engineering community that can be followed to determine safe slopes for most situations. These practices include analyzing soil samples to determine properties of the soil; evaluating intended or expected load conditions and sequences; and considering the possible effects of environmental exposure. Soil analysis can be accomplished in the field, using simple field testing techniques. More extensive and accurate soil analysis can also be done in the laboratory. In addition, slope stability analysis is often used to predict the behavior of a slope. Full scale models have also been used to predict expected behavior.

In OSHA's opinion, however, it is not feasible or necessary to require a rigid soil exploration and analysis program, or a slope stability analysis, for every trench or other excavation that is made. To avoid such specifications in the standard, OSHA is allowing two options in which the required slope angles are specified. In the opinion of the Agency, these two approaches will serve the needs of the industry and provide safe working conditions for employees. OSHA also recognizes that the first two options could be unnecessarily restrictive in some situations. Thus, OSHA is permitting other design alternatives as discussed below, to allow the employer to determine the degree of protection required for any particular circumstance.

OSHA received 10 comments on proposed paragraph (b)(3) and input from the ACCSH. Several commenters (Exs. 4–4, 4–17, 4–28, and 4–37) and the ACCSH supported limiting this responsibility to at least "qualified engineers," or registered civil engineers. This is in line with the determination made on Issue 2 discussed above.

Other commenters (Exs. 4–82, 4–102, 4–106, 4–109, and 4–113) objected to the requirement that a copy of the design be maintained on site and made available

to OSHA during the inspection. The Agency disagrees with the position of these commenters because the design contains the information necessary for the construction and safe use of these protective system and should therefore, be available at all times. The ACCSH recommended maintaining at least one copy of the design at the excavation location and making it available to employees, employee representatives, or the Secretary upon request. OSHA believes the revised provision provides adequate assurance that the design will be available when necessary. OSHA notes that § 1926.21 requires that employees be trained in hazard recognition and avoidance, which means that they are to be informed as to how they are being protected against cave-ins.

Another commenter (Ex. 4–11) suggested the design should include other criteria such as limitations due to rain or groundwater or surcharge loads, and should indicate the means of access and egress. The Agency recognizes the significance of these concerns and notes that other specific provisions of the standard will adequately address these concerns.

The ACCSH (Tr. 8/5/87, pp. 520–521) recommended limiting design to a registered professional engineer, which the Agency has done, based on the input received on Issue 2. Additionally, the ACCSH recommended deleting "an indication of" from proposed § 1926.652(b)(3)(ii) (A) and (B) because the phrase is superfluous. The Agency agrees and has revised these provisions accordingly.

Section 1926.652(c) of the Final rule, "Design of support systems, shield systems, and other protective systems," states that "Designs of support systems, shield systems, and other protective systems shall be selected and constructed by the employer or his designee and shall be in accordance with the requirements of paragraph (c)(1); or, in the alternative, paragraph (c)(2); or, in the alternative, paragraph (c)(3); or, in the alternative, paragraph (c)(4) as follows." This introductory provision is identical to the proposed rule.

OSHA received no public input on this provision. However, the ACCSH (Tr. 8/5/87, p. 522) recommended that OSHA delete the reference to the "designee" because it is standard practice to consider the management representative to be the employer. The Agency believes the proposed language makes this point clear to those who may not follow the standard practice, and declines to act on this recommendation.

Section 1926.652(c) (1) through (4) list the options allowed for design of support systems, shield systems, and other protective systems.

Section 1926.652(c)(1) of the Final Rule sets out Option (1)—Designs using Appendices A, C and D, and requires that "Designs for timber shoring in trenches shall be determined in accordance with the conditions and requirements set forth in appendices A and C to this subpart. Design for aluminum hydraulic shoring shall be in accordance with § 1926.652(c)(2) below, but if manufacturer's tabulated data cannot be utilized, designs shall be in accordance with appendix D." This provision is identical to the proposal except for the inclusion of the requirements for the use of the new appendix D, which is dicussed in detail below.

The Agency received only one comment on this provision. That commenter (Ex. 4–28) pointed out that it appears that this provision in the proposal applied only to trenches. This is OSHA's regulatory intent, and, therefore, the Agency has not revised this provision.

Paragraph (c)(2) (i) through (iii) or § 1926.652 of the Final Rule set out Option (2)—*Designs using manufacturer's tabulated data*, and require that:

(i) Designs of support systems, shield systems, or other protective systems that are drawn from manufacturer's tabulated data shall be in accordance with all specifications, recommendations, and limitations issued or made by the manufacturer.

(ii) Deviation from the specifications, recommendations, and limitations issued or made by the manufacturer shall only be allowed after the manufacturer issues specific written approval.

(iii) Manufacturer's specifications, recommendations, and limitations, and manufacturer's approval to deviate from the specifications, recommendations, and limitations, shall be in written form at the jobsite, during construction of the protective system. After that time this data may be stored off the jobsite, but a copy shall be made available to the Secretary upon request.

These provisions are virtually identical to the proposed rule, except for the minor revision of the requirement to provide the data to the Secretary. The rationale for this change is discussed above under § 1926.652(b)(4).

This second option allows the use of designs based on or drawn from a manufacturer's tabulated data. The manufactured systems generally addressed by the paragraph include metal hydraulic shoring and shields. In the past, manufacturers have developed tabulated data that indicated the conditions for which their various products could be used.

A trend in the construction industry has been to rely more and more on protection systems that are manufactured products. The design of a particular product, such as a trench shield, can be highly complex and the final design can often be adapted to a variety of situations, but not to all situations. It is, therefore, incumbent on the employer to ascertain all criteria and limitations that the manufacturer specifies or recommends regarding the use of a particular product, and then to use the product accordingly.

An employer, then, is allowed a degree of discretion as far as choosing a particular product for use. OSHA believes the likelihood that manufactured products will be used in the manner intended will be enhanced if the specifications and recommendations that the employer uses to select such products, including the limitations set by the manufacturer on their use, are required to be at the jobsite while the system is being constructed, and made available to the Agency upon request.

OSHA received one comment on these provisions and input from the ACCSH. The commenter (Ex. 4–106) objected to the requirement for retention of the manufacturer's specifications at the jobsite. The Agency disagrees with this commenter for several reasons. First, OSHA is not convinced that these manufactured systems can be installed safely from memory. Second, OSHA believes this data must be available in a reasonable amount of time to the competent person if site conditions change. Finally, OSHA compliance staff cannot be familiar with every manufactured system that is on the market, and must have some readily available means to verify that the system is being used properly if such a question arises during an inspection.

The ACCSH (Tr. 8/5/87, pp. 522–523) recommended that these manufacturer's specifications be on site at all times while the excavation is open and be made available to employees, and employee representatives in addition to the Secretary. The Agency is not convinced that it is necessary for these specifications to be kept on-site at all times. OSHA believes that as long as a protective system is constructed in accordance with the specifications, and site conditions do not change, the specifications can be stored or used at another nearby site without decreasing employee safety.

Paragraphs (c)(3) (i) through (iii) of § 1926.652 of the final rule set out option

(3)—*Designs using other tabulated data* and require that:

(i) Designs of support systems, shield systems, or other protective systems shall be selected from and be in accordance with tabulated data, such as tables and charts.

(ii) The tabulated data shall be in written form and include all of the following:

(A) Identification of the parameters that affect the selection of a protective system drawn from such data;

(B) Identification of the limits of use of the data;

(C) Explanatory information as may be necessary to aid the user in making a correct selection of a protective system from the data.

(iii) At least one copy of the tabulated data, which identifies the registered professional engineer who approved the data, shall be maintained at the jobsite during construction of the protective system. After that time the data may be stored off the jobsite, but a copy of the data shall be made available to the Secretary upon request.

These provisions are essentially the same as those in the proposal except that "qualified person" has been deleted, "qualified engineer" has been replaced with "registered professional engineer," and the requirement to make the data available to the Secretary has been modified. The reasons for these changes are discussed under Issue 2 above or under § 1926.652(b)(4).

In this option, it is specified that designs can be selected from other tabulated data, such as tables and charts, that have been approved by a registered professional engineer. This paragraph is intended to allow employers to develop and use general designs that can be used repetitively and that meet the needs of their particular circumstances. OSHA recognizes that the design of protective systems can be a highly complex engineering procedure that involves elements of soil mechanics and structural engineering. Each excavation is unique. Therefore, repetitive use of a general design must be done with caution. Designs for general applications have limits that must not be exceeded, or else employees will be endangered. Tabulated data, therefore, can only be used safely when the necessary information is provided that explains the limitations of the data and demonstrates that the system is safe under prevailing soil, load, and environmental conditions.

OSHA has determined that the requirements for documentation are necessary to balance the wide discretion that is allowed employers when they provide a system of protection, and to assure that employees are adequately protected.

OSHA received nine comments and input from the ACCSH on these provisions. The ACCSH (Tr. 8/5/87, p. 523) and two commenters (Exs. 4–4 and 4–17) supported the use of a "registered professional engineer" as discussed under Issue 2 above.

Four commenters (Exs. 4–82, 4–102, 4–108 and 4–109) objected to the requirement that the tabulated data be retained on-site during the construction of the system and that it be provided during an inspection. OSHA again disagrees with these four commenters for the same reasons discussed above.

Paragraphs (c)(4) (i) through (iv) of § 1926.652 of the final rule require that:

(i) Support systems, shield systems, and other protective systems not utilizing Option (1), Option (2), or Option (3), above, shall be approved by a registered professional engineer.

(ii) Designs shall be in written form and shall include the following:

(A) A plan indicating the sizes, types, and configurations of the materials to be used in the protective system; and

(B) The identity of the registered professional engineer approving the design.

(iii) At least one copy of the design shall be maintained at the jobsite during construction of the protective system. After that time, the design may be stored off the jobsite, but a copy of the design shall be made available to the Secretary upon request.

These requirements are essentially the same as those of the proposal except that "qualified person" has been deleted, "qualified engineer" has been replaced with "registered professional engineer" (as discussed under Issue 2, above), and the explanatory note, defining OSHA's intended meaning for readily available, has been incorporated into the text of paragraph (c)(4)(iii) as a result of format changes.

This paragraph (c)(4) gives employers the flexibility to design protective systems for unique applications. There are no specific restrictions or limitations regarding the application of designs allowed under this option. The employer, through the registered professional engineer, is thus given wide latitude to judge the degree of the hazard present and to determine the degree of protection required.

OSHA recognizes, because such a wide latitude exists under this provision, that there is a possibility the intended goal will be missed. OSHA is, therefore, promulgating two requirements that are intended to increase the likelihood that the protective systems designed under this option will be adequate to protect employees. The first of these requirements, stated in paragraph (c)(4)(ii), requires that "Designs shall be in written form," and must, at a minimum, include "a plan indicating the sizes, types, and configurations of the materials to be used in the protective system," and "the identity of the registered professional engineer approving the design." The second requirement, stated in paragraph (c)(4)(iii), requires that "At least one copy of the design shall be maintained at the jobsite during the construction of the system, and the design shall be made available to the Secretary upon request."

These requirements are similar to those in § 1926.652(b)(4) for sloping and benching. The discussion of those requirements is equally applicable for the requirements proposed under this paragraph.

There are many paragraphs distributed throughout the existing standard that set forth requirements pertaining to the use of shoring and other protective systems. Existing paragraphs (c), (m), (o), and (q) of § 1926.651, and paragraphs (b), (c), (e), and (f) of § 1926.652 state when use of a protective system is required. Other existing paragraphs contain requirements pertaining to the design of such systems. These include paragraphs (e), (f), and (k) of § 1926.651; and paragraphs (d), (g), and (k) of § 1926.652. These existing requirements have been revised and reorganized to make the standard easier to follow and understand.

Some of the shoring requirements in the current standards have been criticized as being either too inflexible or too difficult to understand. For example, existing table P–2, "Trench Shoring—Minimum Requirements," has been criticized by contractors as too inflexible (Ex. 2–3). Table P–2 specifies timber sizes of shoring members, but generally only specifies one configuration of members for any particular case. Each case is defined by three parameters: Soil condition, trench depth, and width of trench. OSHA notes that interpreting the table as not allowing any deviation from the specified configurations is an inaccurate and overly restrictive reading of table P–2. The table only indicates certain configurations that will provide the required minimum protection. Other configurations that provide equivalent or greater protection are acceptable.

Another problem with existing table P–2 is that selection of a configuration is based on soil classifications and soil conditions that are not defined in the existing standard. The terms are not used in a manner that is consistent with the way other similar terms relating to soil conditions are used in the standard.

The current standard has also been criticized with regard to its coverage of protective systems other than timber shoring. Several such protective systems are in fact mentioned in the existing standard. These include shoring, sloping, use of shields, support systems, bracing, and sheet piling. In a footnote to table P–2, trench jacks and steel sheet piling are specifically indicated as being acceptable substitutes for wood members. However, the failure to mention other systems, particularly metal hydraulic shoring, has led to the mistaken impression among some interested persons that such systems are not allowed by the standard. OSHA emphasizes that this is not the case, either with the current standard or in this revision.

OSHA received eight comments and input from the ACCSH on these provisions. Four commenters (Exs. 4–4, 4–17, 4–28, and 4–30) and the ACCSH (Tr. 8/5/87, pp. 523–524) supported a "qualified engineer" or "registered professional engineer" to perform this original design work. These commenters also voiced their support in response to Issue 2.

Four other commenters (Exs. 4–82, 4–102, 4–108, and 4–109) objected to the requirement that the design be maintained on the site during construction of the protective system and that it be provided during an inspection. OSHA disagrees with these commmenters for the same reasons set forth in discussions above.

The ACCSH again recommended that this information be maintained on-site at all times and be available to employees and employee representatives as well as to the Secretary. OSHA believes it sufficient if designs are on site during construction and available upon request afterwards.

Therefore, based on the record, OSHA promulgates § 1926.652(c)(4) (i) through (iv) as revised.

Paragraphs (d) (1) through (3) of § 1926.652 of the Final Rule address materials and equipment and require that:

(1) Materials and equipment used for protective systems shall be free from damage or defects that might impair their proper function.

(2) Manufactured materials and equipment used for protective systems shall be used and maintained in a manner that is consistent with the recommendations of the manufacturer, and in a manner that will prevent employee exposure to hazards.

(3) When material or equipment that is used for protective systems is damaged, a competent person shall examine the material or equipment and evaluate its suitability for continued use. If the competent person cannot assure that the material or equipment is able to support the intended loads or is otherwise suitable for safe use, then such material or equipment shall be removed from service, and shall be evaluated and approved by a registered professional engineer before being returned to service.

These provisions are essentially the same as those in the proposal, except that paragraph (d)(3) has been revised to address a concern raised by the ACCSH which is discussed below.

The provisions in paragraph (d) address the hazard to employees resulting from the use of damaged or defective components of protective systems. The materials and equipment used for employee protection must be structurally sound. The loss of structural capability due to defects or damage can result in the failure of a protective system.

The existing requirements in §§ 1926.651(l) and 1926.652(d) address the condition of materials used for support structures and systems. These requirements have been consolidated into paragraph (d)(1), which covers all elements of protective systems and extends to other types of protective systems, such as shields.

The existing standard does not refer specifically to manufactured items. However, manufactured equipment such as shields and metal hydraulic shoring is used extensively in the industry today. However, to assure their safe use, these items must be used in strict accordance with the manufacturer's recommendations and instructions. In addition, the existing standard does not clearly address the problem of such items becoming damaged while in use. Often material and equipment used in temporary protective systems are designed with only a small factor of safety. If the equipment is damaged, there may be no margin of safety and employees could be in immediate danger. Paragraphs (d) (2) and (3) of the Final Rule address the need for employees to be protected in these circumstances.

OSHA received no public comment on these provisions. However, the ACCSH (Tr. 8/5/87, pp. 524–528) recommended that OSHA require a registered professional engineer to make the determinations required by paragraph (d)(3). The ACCSH argued that the competent person does not have the expertise to make these determinations.

The Agency agrees, in part, with the ACCSH. However, OSHA believes the competent person can be relied upon to make some determinations, especially when wooden shoring is used or when there is only superficial damage to manufactured systems. In situations where damage to manufactured systems is extensive, or where the competent person cannot assure the safe use of the system in the field, OSHA believes the prudent course of action is to require the equipment to be evaluated and approved by a registered professional engineer before the equipment is returned to service.

Section 1926.652(e)(1) of the Final Rule sets out the general provisions for the installation and removal of support system, and reads as follows:

(i) Members of support systems shall be securely connected together to prevent sliding, falling, kickouts, or other predictable failure.

(ii) Support systems shall be installed and removed in a manner that protects employees from cave-ins, structural collapses, or from being struck by members of the support system.

(iii) Individual members of support systems shall not be subjected to loads exceeding those which those members were designed to withstand.

(iv) Before temporary removal of individual members begins, additional precautions shall be taken to ensure the safety of employees, such as installing other structural members to carry the loads imposed on the support system.

(v) Removal shall begin at, and progress from, the bottom of the excavation. Members shall be released slowly so as to note any indication of possible failure of the remaining members of the structure or possible cave-in of the sides of the excavation.

(vi) Backfilling shall progress together with the removal of support systems from excavations.

This provision is virtually identical to the proposal except for some editorial changes to clarify the Agency's intent.

Installation and removal of support systems, which can involve significant material-handling activity, are particularly hazardous periods in excavation work. Additionally, partially completed support systems will not react to loads in the same manner as completed structures. Individual members can become overloaded and fail, leading to a general failure of other portions of the support system. Therefore, employees can be exposed to cave-ins, the collapse of adjacent structures, or collapse of the support system if the employees are not properly protected during installation and removal.

Paragraph (e)(1) contains six requirements that address these hazards. Four of these requirements (Final (e)(1) (i), (iv), (v) and (vi)) are based on existing requirements found in three existing §§ 1926.651(f), and 1926.652 (j) and (l). In the proposal and in the Final Rule, the existing provisions have been grouped into a more logical, easier-to-follow format under one

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paragraph heading. The requirements in existing § 1926.652 that currently apply only to specific trenching situations will be extended to cover all excavations because the hazard addressed by those requirements exist whenever and wherever support systems are being installed or removed.

The other two proposed requirements, (e)(1)(ii) and (e)(1)(iii) were new. These specifically require protection for employees from cave-ins, the collapse of structures, or from being struck by members of the support system. The proposal required, in addition, that individual members of support systems not be subjected to loads exceeding the design loads of those members.

OSHA received ten comments and input from the ACCSH on these provisions. Many commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–54, and 4–86) recommended adding the word "predictable" between "other" and "failures" to indicate that the design and installation of support systems take into account factors that can be reasonably anticipated. The Agency agrees that the word "predictable" should be inserted as recommended, and has revised the standard reformatting these provisions. However, the Agency sees no merit in the suggested reformatting, and declines to act on that recommendation.

The ACCSH (Tr. 8/5/87, pp. 528–529) recommended that OSHA revise the heading of paragraph (e) to read "Installation, modification, and temporary or permanent removal of support system." Additionally, the ACCSH recommended requiring that all installation, modification, changes, or removal be done in accordance with a plan supplied by a registered professional engineer or be done under the direct supervision of a registered professional engineer. The Agency has determined that the language requested in the first ACCSH suggestion is not necessary, and notes that these provisions are not intended to address modifications of the support system (see § 1926.652(c)).

OSHA also notes that there is no other evidence in the record to support the suggested requirement to have a registered professional engineer either plan or supervise the installation or removal of support systems. OSHA believes that it would be both impractical and unnecessary to have an engineer involved in installation and removal of support systems for every excavation.

The ACCSH also suggested language to clarify the intent of paragraphs (e)(1), (iv), and (v). The Agency has incorporated these suggestions.

OSHA received three other comments (Exs. 4–17, 4–91, and 4–111) basically agreeing with these provisions or suggesting clarifications that were already addressed by OSHA's incorporation of the ACCSH's suggested revisions.

Paragraph § 1926.652(e)(2) of the Final Rule, *Additional requirements for support systems for trench excavations,* requires that:

(i) Excavation of material to a level not greater than 2 feet (.61m) below the bottom of the members of a support system shall be permitted, but only if the system is designed to resist the forces calculated for the full depth of the trench, and there are no indications while the trench is open of a possible loss of soil from behind or below the bottom of the support system.

(ii) Installation of a support system shall be closely coordinated with the excavation of trenches.

These requirements are virtually identical to the proposal, except paragraph (e)(2)(i) contains language that allows excavation to a level not greater than 2 feet (.61 m) below the bottom of the members of a support system of a trench. It applies only to trenches. This provision, based upon recommendations made to OSHA by NBS (Ex. 2–6), helps to clarify what was meant by the phrase "installed so as to be effective to the bottom of the excavation" found in existing § 1926.652(d) of the current trenching standards. The revised provision recognizes that trench support systems in some instances need not always be installed to the bottom of the excavation. If designed to resist the forces calculated for the full depth of the excavation, the system can be fully effective, even if it does not extend to the bottom.

Paragraph (e)(2)(ii) requires that installation of support systems be closely coordinated with the excavation of trenches. This is a revision of existing § 1926.652(i). The ACCSH suggested that the existing and proposed requirements be dropped (Ex. 2–8, p. 400) because they seemed to apply to all trenches, even where there would be no employee exposure to cave-in hazards (i.e., where no employees enter the trenches). However, this paragraph is intended to apply only where employees are exposed to cave-in hazards. As with all OSHA standards, these provisions apply only where there is exposure of employees to hazards or potential hazards.

Coordination of installation of the support system with the excavation of the trench will reduce the possibility that a cave-in will occur. The longer a trench is open, the more likely it is to cave-in. Essentially, where employees will be expected to enter a trench, it is a safe work practice to install the support system as soon as possible after excavation. OSHA believes that this proposed requirement is necessary to assure employee safety in trenches.

OSHA received 10 comments and additional input from the ACCSH on these provisions. Several commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–78, 4–86, and 4–91) suggested that excavation more than 2 feet below the support system should be permitted if approved by a qualified person. The Agency notes that this 2-foot depth has support from NBS, as discussed above. However, the commenters who want to be able to dig deeper than 2 feet below the support system have not presented evidence to support their position for an "across the board" relaxation of this requirement.

Employers wishing to excavate deeper than 2 feet below the support system must comply with § 1926.652(c)(4), which requires design by a registered professional engineer. OSHA believes that while deviations from the two foot rule could be safe in some situations, in order to ensure employee safety, employers who dig deeper than 2 feet below a support system must have a protective system designed by a registered professional engineer.

Another commenter (Ex. 4–17) pointed out that the definition of "cave-in" is not quite appropriate, as used in this provision. OSHA agrees and has revised this requirement accordingly. An additional commenter (Ex. 4–111) merely noted that when sloping, a four-foot bench is allowed.

The ACCSH (Tr. 8/5/87, pp. 529–530) recommended eliminating the 2-foot depth, noting that OSHA should not allow excavation below the support system unless the system is so designed. Also, the ACCSH recommended eliminating "of trenches" in paragraph (e)(2)(ii) because trenches are excavations.

The Agency believes that the 2-foot limit, as proposed, provides adequate employee protection, and is supported by NBS. However, as discussed above, excavation deeper than 2 feet below a support system must be designed by a registered professional engineer. In addition, OSHA notes that paragraph (e)(2)(ii) is directed at trenches because prompt installation of the support system is more critical in trenches than in excavations in general.

Therefore, based on the record, OSHA promulgates § 1926.652(e)(2) as revised.

Section 1926.652(f) of the Final Rule requires that "Employees shall not be

permitted to work on the faces of sloped or benched excavations at levels above other employees except when the employees at the lower levels are adequately protected from the hazard of falling, rolling, or sliding material or equipment." This provision is identical to the proposal. OSHA received no comment on this requirement.

Paragraphs (g)(1), (i) through (iv) of § 1926.652 of the Final Rule set out the general provisions for shield systems and require that:

(i) Shield systems shall not be subjected to loads exceeding those which the system was designed to withstand.

(ii) Shields shall be installed in a manner to restrict lateral or other hazardous movement of the shield in the event of the application of sudden lateral loads.

(iii) Employees shall be protected from the hazard of cave-ins when entering or exiting the areas protected by shields.

(iv) Employees shall not be allowed in shields when shields are being installed, removed, or moved vertically.

These provisions are virtually identical to the proposal except that paragraph (g)(1)(iv) has been revised to permit employees to remain inside shields being moved horizontally. This revision is based on input received on Issue 11, discussed above. OSHA received 16 comments and ACCSH input on proposed paragraph (g)(1)(iv), all of which supported this decision.

Section 1926.652(g)(2) of the Final Rule requires that "Excavations of earth material to a level not greater than 2 feet (.61 m) below the bottom of a shield shall be permitted, but only if the shield is designed to resist the forces calculated for the full depth of the trench, and there are no indications while the trench is open of a possible loss of soil from behind or below the bottom of the shield."

This provision is virtually identical to the proposal except for editorial changes suggested by commenters to clarify the intent.

This provision allows excavation of earth material in certain circumstances to a level not greater than 2 feet (.61 m) below the bottom of shields. The reasoning behind this is identical to that discussed in paragraph (e)(2)(i) above.

OSHA received two comments (Exs. 4–17 and 4–111) and input from the ACCSH [Tr. 8/5/87, p. 530] on this provision. All input was of an editorial nature and was substantially the same as the input received on paragraph (e)(2)(i), discussed above.

Relocated and Deleted Paragraphs

The fall protection requirements in existing § 1926.651 (t) and (w) are retained in the revision of subpart P until the revised subpart M is issued. These provisions, which require fall protection at remotely located excavations and on walkways or bridges crossing over excavations, respectively, will be incorporated into subpart M—Fall Protection. This action is consistent with OSHA's intention to locate most of the provisions relating to fall protection in construction together under one subpart.

OSHA published a proposed revision of its fall protection standards in subpart M. (See 51 FR 42718, Nov. 25, 1986.) When this proposal is published as a Final Rule, the excavation fall protection provisions will be incorporated into new subpart M.

OSHA is deleting the following existing paragraphs: § 1926.650(e), which requires personal protective equipment as set forth in subpart E; § 1926.651(r), which requires that blasting be performed in accordance with subpart U; and § 1926.651(y), which requires that ladders be in accordance with the requirements of subpart L. These references are redundant in that they require nothing different or in addition to the requirements set forth in the respective subparts. In addition, they might mislead an employer into assuming that other subparts not referenced do not apply to excavations. The requirements of subparts E, U, and L remain applicable to employees working in and around excavations, as do the other subparts of part 1926.

OSHA is also deleting existing § 1926.652(g). This paragraph presently states: "Minimum requirements for trench timbering shall be in accordance with Table P–2." It also requires that compressive stresses in timber braces and diagonal shores not be in excess of certain allowable values as computed using the given formula. The requirements of this paragraph are not consistent with the approach taken in the Final Rule, which does allow the employer to select trench timbering from tables, but does not make the tables minimum requirements for all trench shoring.

In addition, OSHA believes that the equation set out in existing § 1926.652(g)(2), which is intended to be used for determining the maximum allowable compressive stress in braces and diagonal shores in a wood shoring system, is not appropriate for continuation in the standard. OSHA has determined that the equation is outdated and should not be carried forward. The use of the specified equation, in a slightly different form, was originally contained in the USA Standard A10.2—1944, "Safety Code for Building Construction." Since that time, new equations for determining allowable compressive loads have been developed. These newer equations are described in the "Timber Construction Manual" published by the American Institute of Timber Construction (Second edition, 1974.) The more modern equations take into account the shape of the member (i.e., square or round), and the kind of wood used to produce the member. Allowable stresses (i.e., the maximum stresses to which a member should be subjected) vary depending upon the species of wood being considered. The equation given in existing § 1926.652(g)(2) does not account for either of these factors.

However, OSHA does not believe that the newer improved equations should be specified in the revised standard. First, in OSHA's opinion, these equations do not need to be specified in the standard itself. As pointed out above, a particular equation is used only to determine the maximum allowable stress to which a certain structural member should be subjected. Today, such information generally is available in tabulated form for most species and grades of wood. Therefore, it is not necessary to use an equation in the standard to calculate maximum allowable stresses. Furthermore, knowing the maximum allowable stress alone is of little value. The actual stress to which a member is subjected or expected to be subjected must also be known and a comparison made between the actual and allowed stresses. If the actual stress were to exceed the maximum allowable, then the particular member could not be used.

Another reason why equations are not required to be used in the Final Rule is that they address only one type of load situation. For example, the current equation is only intended to be used to calculate the maximum allowable compressive stress for wood members acting as columns under axial compressive loads. However, members are often subject to eccentric loads or lateral loads that create bending stresses in them. These other stresses, alone or in combination with axial compressive forces, can be critical. Therefore, the maximum allowable and actual stresses for various load conditions need to be considered in addition to the one load condition currently specified in the standard.

A final reason why use of the existing equation is no longer required is that it applies only to wood members. Much less wood is used today than in 1944 when use of the equation was recommended. Other materials, primarily steel and aluminum, are used

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more frequently today, and different equations are used to calculate allowable stresses in members made of these materials.

In OSHA's opinion, the alternatives set forth in the appendices of the Final Rule for design of protective systems will provide added flexibility for the employer while increasing the degree of safety afforded the employees, thus eliminating the need for the existing equation.

OSHA is also deleting other existing regulations currently in subpart P. Two tables which are part of the present standard have been deleted and will be replaced by material contained in the Appendices to the standard. The contents of these Appendices are discussed in detail below. Existing Table P–1, "Approximate Angle of Repose for Sloping of Sides of Excavations," would, in effect, be replaced by appendices A and B, which provide a detailed soil classification scheme and sloping requirements for the employer who selects the second option for designing sloping system protection.

Similarly, existing Table P–2, "Trench Shoring-Minimum Requirements," will be replaced by material in appendices A and C.

Appendix A—Soil Classification

Appendix A details a method of classifying earth deposits, taking into account various environmental conditions, site-specific conditions, and soil-specific conditions. The results of the categorization of soils in accordance with this method would then be subsequently used to determine the level of protection from cave-ins that is required to protect employees.

It is not required in every instance that employers use this Appendix as the basis of classifying earth conditions. The standard provides two options for designing protective systems which involve the use of appendix A. First, § 1926.652(b)(2) provides for the use of appendix A to determine the requirements for sloping and benching. The second option, in § 1926.652(c)(2), uses appendix A to determine the requirements for timber shoring. This Appendix may also be necessary to determine the requirements for aluminum hydraulic shoring in accordance with appendix D. OSHA, however, prefers employer to use manufacturer's data (in accordance with § 1926.652(c)(2)) where possible, when using aluminum hydraulic shoring. Appendix D is intended for use in the absence of manufacturers data. It should be noted again that the employer is required to select one of the options set forth in paragraph § 1926.652(b) if using a sloping system, or in § 1926.652(c) if using shoring, shields, or another system. When an employer chooses an option where this appendix is to be used, the employer must then adhere faithfully to the requirements and provisions of the appendix. The appendix then becomes mandatory.

Appendix A may also be used in conjunction with appendix D to determine requirements for the use of aluminum hydraulic shoring in the absence of manufacturer's tabulated data permitted in § 1926.652(c)(2).

Appendix A is arranged into four major paragraphs. These are: (a) Scope and Application; (b) Definitions; (c) Requirements; and (d) Acceptable Visual and Manual Tests.

The first paragraph states the scope of the appendix and when it is applicable. Terms used throughout the appendix are defined in the second paragraph. The requirements for making soil classifications are set forth in the third paragraph and basically state that the classifications, as defined in the previous paragraph, shall be determined based on the results of visual and manual analyses. Acceptable visual and manual analyses are described in the fourth paragraph.

OSHA recognizes that all or none of the particular analyses described in the fourth paragraph may apply at any one time, and that other tests could be developed or used which would meet the intent of the standard. Therefore, these analyses are recommended, but not mandatory.

This soil classification system, as with all soil classification systems, is not intended for universal application. OSHA does not intend that the system be used to replace analysis and testing for engineering design. OSHA does not require sampling and testing for engineering design in the current standard, and for reasons discussed below is not requiring specific soil testing procedures in this Final Rule. The decision to conduct a more sophisticated soil sampling and testing program, as under the current standard, would be left to the employer's discretion. When an engineering analysis is desired, OSHA recommends that other presently accepted methods of soil sampling and testing be used. Methods, such as those adopted by the American Society for Testing and Materials (ASTM), are accepted methods.

This soil classification system is intended to address a deficiency in the existing standard. The existing standard does not rely on a consistent method of classifying soils, but relies on terms that cannot be easily quantified, such as "hard and compact" and "soft and unstable." Further, there is an inconsistency in the terminology currently found in subpart P. For example, one set of terms is used in Table P–1 which indicates recommended slopes in certain primarily granular materials. A different set of terms to describe soils is used as the basis of the divisions of Table P–2, which specifies minimum requirements for timber shoring in trenches.

This soil classification system is intended to eliminate this deficiency. It is intended to provide construction personnel and OSHA Compliance Officers with a common language that can be used to assess the requirements and adequacy of sloping and shoring systems used to prevent cave-ins.

The soil classification system that was proposed was developed by the National Bureau of Standards (NBS). The background of the system is explained in more detail in Exhibit 2–5. OSHA incorporated this classification system in the proposal based on the recommendations of NBS, after consultation with the ACCSH, and after a review by interested parties at the five industry-sponsored workshops. In addition, OSHA used several American Society for Testing and Materials (ASTM) Standards, as well as other sources, to obtain information that, in OSHA's opinion, was needed to supplement and clarify the NBS recommendations. The ASTM Standards included:

(1) Designation: D653–67 (Reapproved 1973)—"Standard Definitions of Terms and Symbols Relating to Soil and Rock Mechanics," (Ex. 2–27);

(2) Designation: D2487–69—"Standard Method for Classification of Soils for Engineering Purposes," (Ex. 2–28); and,

(3) Designation: D2488–69—Standard Recommended Practice for Description of Soils (Visual—Manual Procedure)," (Ex. 2–29).

OSHA used these sources to clarify and provide additional information in paragraph (b) of the appendix, "Definitions," and in paragraph (d), "Recommended Visual and Manual Tests."

One example of the use of supplemental information involved the development of the definition of "cemented soil." NBS made reference to cemented soil in its recommended definition of Type A soil, but provided no discussion as to what constitutes cemented soil other than to suggest that soils referred to as "hardpan" or "till" are examples of cemented soil.

Cemented soils are most commonly composed of granular, or coarse-grained particles. Carbonate salts—calcium carbonate being the most common—are the primary chemical agents that provide the cementation of the particles of soil. The action of the cementing agents adds to the strength of the soil by binding the particles together so that the soil can resist a greater degree of stress.

The quantity of the cementing agent in a soil sample can be estimated by subjecting a soil sample to a solution of dilute hydrochloric acid and visually noting the intensity of the reaction. Unfortunately, this test does not give a good indication of the strength of the cemented soil. However, a satisfactory estimate of the relative strength of a cemented soil can be made by conducting a dry strength test. This is a test that is conducted by crushing dry soil samples between the fingers. The dry strength test is used primarily for estimating the strength of fine-grained soils, i.e., clays which have cohesive qualities. Conducting this test on cemented coarse-grained soils, however, can give good estimates of relative strength that are equivalent to the strength estimates of fine-grained soils.

ASTM D2488 (Ex. 2–29) states, in a description of the dry strength test, that: "The presence of high-strength water soluble cementing materials, such as calcium carbonate, may cause exceptionally high dry strength * * *." In the dry strength test, "high" strengths are indicated if "the sample cannot be crushed to powder by finger pressure, even though the sample may be broken." "Very high" strength is indicated "if the sample cannot be broken between the thumb and a hard surface." In another reference ("Handbook of Soil Mechanics", Volume I, p. 98, by Arpad Kezdi) under a discussion of the dry strength test, it is stated: "If the sample resists crushing by finger pressure altogether, the soil is an inorganic clay of high plasticity, or a coarse-grained soil aggregate cemented by some high-strength binder (e.g., calcium carbonate or iron oxide)."

Based on the discussions of cemented soils in this literature, OSHA supplemented the NBS recommendations by developing a proposed definition of "cemented soil" with the intent of clarifying the NBS recommendations. The definition of "cemented soil" is intended to include those soils that exhibit strengths at least equivalent to the strengths required for Type A cohesive soil. The result of this was that some soils containing a slight amount of a cementing agent would not be considered as cemented soil, as such soil will not exhibit sufficient strength.

The soil classification system proposed had not been widely used in practice. However, in OSHA's opinion, use of this system will be a major improvement over the terminology and practices used in the existing standard.

The Agency received a great amount of comment on the proposed soil classification system and has revised this Appendix substantially, as discussed below.

Paragraph (a)(1), *Scope*, of appendix A of the Final Rule states "This Appendix describes a method of classifying soil and rock deposits based on site and environmental conditions, and on the structure and composition of the earth deposits. The Appendix contains definitions, sets forth requirements, and describes acceptable visual and manual tests for use in classifying soils."

The paragraph is nearly identical to the proposal except that "recommended" has been changed to "acceptable" for reasons discussed below.

The Agency received comment and testimony from the Associated General Contractors (AGC) of California (Ex. 8–18 and Tr. 4/19/88 p. 114) suggesting that "recommended" be changed to "acceptable" because they felt that "recommended" implied these tests were mandatory. OSHA is revising the Final Rule accordingly, noting that it was never the Agency intent that any of these tests be mandatory. (See 52 FR 12315.) The Agency is requiring only that one acceptable visual test and one acceptable manual test be performed in classifying soil in accordance with appendix A. These tests may include those listed in the Appendix or may include other generally recognized visual or manual tests.

Paragraph (a)(2), *Application*, of appendix A of the Final Rule states:

> This appendix applies when a sloping or benching system is designed in accordance with the requirements set forth in § 1926.652(b)(2) as a method of protection for employees from cave-ins. This appendix also applies when timber shoring for excavations is designed as a method of protection from cave-ins in accordance with appendix C to subpart P of part 1926 and when aluminum hydraulic shoring is designed in accordance with appendix D. This Appendix also applies if other protective systems are designed and selected for use from data prepared in accordance with the requirements set forth in § 1926.652(c), and the use of the data is predicated on the use of the soil classification system set forth in this Appendix.

The ACCSH (Tr. 8/5/87 p. 530–531) recommended changing "against cave-ins" to "from cave-ins" and changing "trenches" to "excavations." The Agency recognizes that for consistency and accuracy, the first change was appropriate, and has incorporated it into the Final Rule. However, as discussed above, the Agency declines to blur the distinction between trenches and excavations. OSHA has also clarified the reference to § 1926.652(b) by citing § 1926.652(b)(2) to be more specific, as recommended by NIOSH (Ex. 4–30). The Final Rule reflects these changes. OSHA received no other comments on this paragraph.

Paragraph (b) of appendix A of the Final Rule defines terms used in this appendix for soil classification. The Agency has added an introductory statement to this paragraph to identify and reference source documents so users of this appendix will know where to look if further clarification is needed. This revision is in line with suggestions made by the ACCSH (Tr. 8/5/87 p. 531), the Building and Construction Trades Department (BCTD) of the AFL–CIO (Ex. 4–17), and the National Utility Contractors Association (NUCA) (Ex. 4–91). In addition, the commenters demonstrated a clearer understanding of the proposed definitions which included examples of soils given in readily recognizable terms. Therefore, OSHA has modified several definitions by providing such examples.

Paragraph (b) defines "cemented soil" as "a soil in which the particles are held together by a chemical agent, such as calcium carbonate, such that a hand-size sample cannot be crushed into powder or individual soil particles by finger pressures."

This definition is identical to the proposal. OSHA received no comment on this provision and therefore promulgates this definition, as proposed.

Paragraph (b) of appendix A defines "cohesive soil"-as "clay (fine grained soil), or soil with a high clay content which has cohesive strength. Cohesive soil does not crumble, can be excavated with vertical sideslopes, and is plastic when moist. Cohesive soil is hard to break when dry and exhibits significant cohesion when submerged. Cohesive soils include clayey silt, sandy clay, silty clay, clay and organic clay."

This definition is identical to the proposal. OSHA received one specific comment on this definition from the BCTD (Ex. 4–17), which suggested that the ASTM definition might be of more value. OSHA notes that the proposed definition incorporated the ASTM definition and provided further guidance as to examples of cohesive soils. Therefore, the Agency has decided to keep the definition as proposed.

Paragraph (b) of appendix A defines "Dry soil" as "soil that does not exhibit visible signs of moisture content."

This definition is identical to the proposal. OSHA received no comment on this provision, and, therefore, carries the definition to the Final Rule

molded without cracking, or appreciable volume change."

This definition is almost identical to the proposal, except that the word

these two conditions and has revised the definition of "saturated soil" as discussed above. Additionally, the Agency is defining "submerged soil" as

provided they have an unconfined compressive strength of at least four tons per square foot (4 T/ft² or 8000 lbs/ft²).

OSHA recognizes that hardpan and

Paragraph (b) of appendix A of the Final Rule also defines the soil classifications used in this appendix.

OSHA has revised these definitions

Cohesive soils with an unconfined compressive strength of 1.5 tons per square foot (tsf) (144kPa) or greater. Examples of cohesive soils are: clay, silty clay, sandy clay, clay loam and, in some cases silty clay loam

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This definition is identical to the proposal. OSHA received no comment on this provision, and, therefore, carries the definition to the Final Rule unchanged.

Paragraph (b) of appendix A defines "Fissured" as "a soil material that has a tendency to break along definite planes of fracture with little resistance, or a material that exhibits open cracks, such as tension cracks, in an exposed surface."

This definition is identical to the proposal. OSHA received no comment on this definition, and, therefore promulgates it unchanged.

Paragraph (b) of appendix A defines "granular soil" as "gravel, sand, or silt, (coarse grained soil) with little or no clay content. Granular soil has no cohesive strength. Some moist granular soils exhibit apparent cohesion. Granular soil cannot be molded when moist and crumbles easily when dry."

This definition is similar to the proposal except that the phrase "and temporarily stand on a vertical slope but normally cannot be excavated with vertical sideslopes" has been deleted as suggested by the ACCSH (Tr. 8/5/87 p. 531) and the BCTD (Ex. 4–17). Both commenters believed that the phrase is misleading and confusing. OSHA recognizes that the phrase is subject to misinterpretation, and has deleted the phrase from the Final Rule.

Paragraph (b) of appendix A defines "layered system" as "two or more distinctly different soil or rock types arranged in layers. Micaceous seams or weakened planes in rock or shale are considered layered."

This definition is similar to the proposal, except the Agency has clarified that the definition does, indeed, include shale, and weakened planes in both shale and rock. This revision is in response to a question raised by the sole commenter on this provision (Ex. 4–111). The Agency feels that this revision is necessary in order to clarify its regulatory intent.

Paragraph (b) of appendix A defines "Moist soil" as "a condition in which a soil looks and feels damp. Moist cohesive soil can easily be shaped into a ball and rolled into small diameter threads before crumbling. Moist granular soil that contains some cohesive material will exhibit signs of cohesion between particles." This provision is identical to the proposal. OSHA received no comment on this definition, and therefore carries it forward in the Final Rule.

Paragraph (b) of appendix A defines "Plastic" as "a property of a soil which allows the soil to be deformed or molded without cracking, or appreciable volume change."

This definition is almost identical to the proposal, except that the word "crumbling" has been deleted. This deletion was suggested by the BCTD (Ex. 4–17) because the proposed definition was the ASTM definition with the word crumbling added. This commenter and others (Ex. 4–91, and the ACCSH) all recommended OSHA be consistent with existing soil classification systems. Therefore, OSHA is revising this definition because the word "crumbling" added nothing to the definition, and to be consistent with ASTM. OSHA received no other comment on this definition.

Paragraph (b) of appendix A defines "saturated soil" as "a soil in which the voids are filled with water." Saturation does not require flow. Saturation, or near saturation, is necessary for the proper use of instruments such as a pocket penetrometer or sheer vane."

This definition is substantially different from the proposal which defined "saturated soil" as:

> Submerged soil that is below the ground water table, and very wet soil such as soil that forms the sides of an excavation from which water can be seen seeping; soil that forms the sides of an excavation that has been flooded to more than one-half its depth and has not been drained for a least one day; and soil in which water is retained by a shoring system.

This change is based on the comments of the BCTD (Ex. 4–17) and is in line with current ASTM usage. The Agency notes that, while ASTM D–653–85 (Ex. 4–17 attachment) defines neither "saturated soil" nor "submerged soil" it does, in fact, differentiate between these two conditions under the definition of "unit weight."

OSHA has determined that the proposed definition could lead to confusion in that soil conditions at or near saturation, as defined in the Final Rule, are necessary for proper use of mechanical instruments sometimes used to measure soil strength. On the other hand, soils that are submerged, namely, actually underwater or seeping, present a different set of soil conditions and must be treated differently from "saturated soils." For example, beach sand that is saturated or nearly saturated, can be shaped to form sand castles, or other shapes and will hold those shapes until the sand dries out or is submerged by the incoming tide. At that time, the sand will return to its natural angle of repose (as used in current engineering practice) for the site conditions.

Therefore, OSHA has determined that it is appropriate to differentiate between these two conditions and has revised the definition of "saturated soil" as discussed above. Additionally, the Agency is defining "submerged soil" as "soil which is underwater or free seeping," and has added this new definition to appendix A of the Final Rule.

Paragraph (b) of appendix A defines "soil classification system" as follows:

> For the purpose of this Subpart, a method of categorizing soil and rock deposits in a hierarchy of Stable Rock, Type A, Type B, and Type C, in decreasing order of stability. The categories are determined based on an analysis of the properties and performance characteristics of the deposits and the environmental conditions of exposure.

The definition is virtually identical to the proposal except that the Agency notes that this definition is for the purpose of this subpart only. This revision was suggested by the BCTD (Ex. 4–17) to clarify that not all soil classification systems use the soil types used in this appendix. The Agency recognizes this distinction and has revised the Final Rule to incorporate this input.

Paragraph (b) of appendix A defines "stable rock" as "natural solid mineral matter that can be excavated with vertical sides and remain intact while exposed."

This definition is very similar to the proposed definition except that the ASTM definition for "rock" has been substituted in the proposed definition replacing the word "rock."

This change was made to address the concerns of Granite Construction Company (Ex. 4–28), which pointed out that the proposed definition could be misinterpreted by the competent person to include some other types of soils.

OSHA received other comments and hearing testimony arguing that hardpan and caliche soil should be included in the stable rock category.

Four commenters (Exs. 4–82, 4–102, 4–108 and 4–109) objected to the exclusion of hardpan and caliche from the stable rock classification. These commenters provided the same qualified recommendations, for allowing these soils to be excavated with vertical sides, as they presented under Issue 12, discussed above. In addition, these commenters were represented by the Associated General Contractors (AGC) of California at the informal public hearing (Tr. 4/19/88 pp. 108–165) and provided similar arguments at that forum. Mr. Richard Frankian, a consultant for the AGC of California, testified at the hearing (Tr. 4/19/88 p. 118) that hardpan and caliche could be included in the stable rock group

provided they have an unconfined compressive strength of at least four tons per square foot (4 T/ft² or 8000 lbs/ft²).

OSHA recognizes that hardpan and caliche can be excavated with vertical sides under some site conditions. However, as pointed out even by the advocates of this practice, there are many restrictions (see discussion of Issue 12) which must apply. Therefore, the Agency declines to include hardpan and caliche in the stable rock classification in all circumstances for the purpose of this appendix. OSHA wishes to restate and reiterate that even though appendix A does not allow for it, the employer has the option of using this practice if approved by a registered professional engineer, or if it is in accordance with tabulated data prepared by a registered professional engineer.

Finally, OSHA recognizes that soil with an unconfined compressive strength over four tons per square foot is, indeed, very stable. However, this measure of strength is only one factor that must be considered when classifying soils. (Other factors are discussed under Issue 12.)

Hardpan is defined in Exhibit 2–27 as "a layer of extremely dense *soil*" (emphasis added), and in ASTM D653–85 (Attachment to Ex. 4–17) as "a hard impervious layer, composed chiefly of clay, cemented by relatively insoluble materials, that does not become plastic when mixed with water and definitely limits the downward movement of water and roots." Caliche is defined in the New College Edition of the American Heritage Dictionary as "a hard *soil* layer cemented by calcium carbonate" (emphasis added). OSHA notes that all of these definitions recognize hardpan and caliche as a soil (clay is fine grained soil by definition), not as rock.

Exhibit 2–27 defines soil as "sediment or other *unconsolidated* accumulations of *solid particles* produced by physical and chemical disintegration of rocks, and may or may not contain organic matter" (emphasis added). Rock is defined in the same exhibit as "natural solid mineral matter occurring in large masses or fragments." These definitions also appear in the updated version of ASTM D653–85, attached to Exhibit 4–17.

Therefore, by definition, hardpan and caliche are not rock, and for the purpose of this Appendix are considered Type A soils.

The definition of "Submerged Soil" is new. "Submerged soil" is defined as "soil which is underwater or is free seeping." The rationale for this new definition is discussed above.

Paragraph (b) of appendix A of the Final Rule also defines the soil classifications used in this appendix.

OSHA has revised these definitions somewhat, based on the record, but has not added additional types of soil as requested by the AGC of California (Ex. 24 which was revised by Exs. 28B and 30), and at the public hearings (Tr. 4/19/88 p. 117).

OSHA believes that the additional soil types recommended by the AGC of California, while they appear to be valid, would complicate this soil classification and would require a degree of accuracy in soil type determination beyond the capabilities and limitations of this Appendix. OSHA notes that even the use of objective test procedures, such as the pocket penetrameter suggested by the commenter at the informal public hearing (Tr. 4/19/88 p. 117), or the torvane shear device, are still only estimates which are subject to error. One commenter (Ex. 42) points out that Spangler and Hardy, in their book "Soil Engineering," Harper and Row, pp. 101–3, 1982, estimate the pocket penetrometer has a ±20 to ±40 percent error, and the authors also discuss some limitations of the torvane shear device.

OSHA recognizes the limitations of these methods, as well as those methods described in appendix A. The Agency believes that any field estimated soil type must, by necessity, be based on a simple, conservative soil classification system. The A–B–C soil classification scheme given in this Appendix meets that need. A more complex system would require far more accurate methods of determining soil classification to provide sufficient employee protection.

OSHA also notes that two commenters (Exs. 36, and 37) and a late submission by Mr. William Winans of Allied Steel and Tractor Products, Inc. supported the use of the A–B–C soil classification, as proposed in appendix A.

OSHA emphasizes that the use of this appendix is only required in two of the eight options allowed by the Final Rule. In these options (§ 1926.652 (b)(2) and (c)(1)) the employer cannot substitute other soil classification systems. Employers wishing to use other legitimate soil classification schemes, in conjunction with tabulated data that is in accordance with the standard, or who wish to use the services of a registered professional engineer and laboratory testing, can do so under the other permissible options.

Paragraph (b) of appendix A defines "Type A" as:

> Cohesive soils with an unconfined compressive strength of 1.5 tons per square foot (tsf) (144kPa) or greater. Examples of cohesive soils are: clay, silty clay, sandy clay, clay loam and, in some cases silty clay loam and sandy clay loam. Cemented soils such as caliche and hardpan are also considered Type A.
>
> However, no soil is Type A if:
>
> (i) The soil is fissured; or
>
> (ii) The soil is subject to vibration from heavy traffic, pile driving, or similar effects; or
>
> (iii) The soil has been previously disturbed; or
>
> (iv) The soil is part of a sloped, layered system where the layers dip into the excavation on a slope of four horizontal to one vertical (4H:1V) or greater; or
>
> (v) The material is subject to other factors that would require it to be classified as a less stable material.

This definition is very similar to proposed paragraph (b)(12). However, as discussed above, the Agency has provided additional specific examples of soils that are considered Type A, to help the user. Additionally, OSHA has dropped the word "till" from the definition, because, as pointed out by one commenter (Ex. 4–17), its use in the proposal was inconsistent with the ASTM definition.

Paragraph (b) of appendix A defines "Type B" as:

> (i) Cohesive soil with an unconfined compressive strength greater than 0.5 tsf (48kPa) but less than 1.5 tsf (144kPa); or
>
> (ii) Granular cohesionless soils including: angular gravel (similar to crushed rock), silt, silt loam, sandy loam, and in some cases, silty clay loam and sandy clay loam.
>
> (iii) Previously disturbed soils except those which would otherwise be classed as Type C soil.
>
> (iv) Soil that meets the unconfined compressive strength or cementation requirements for Type A, but is fissured or subject to vibration; or
>
> (v) Dry rock that is not stable; or
>
> (vi) Material that is part of a sloped, layered system where the layers dip into the excavation on a slope less steep than four horizontal to one vertical (4H:1V), but only if the material would otherwise be classified as Type B.

This definition is very similar to proposed paragraph (b)(13), except that the Agency has added specific examples to this definition to assist the user, as discussed, and has clarified that most disturbed soils are Type B.

OSHA received comments from the AGC of California (Exs. 4–106, 24, 28B and 30) and testimony at the hearing (Tr. 4/19/88 p. 113) recommending at least one more intermediate soil classification between Type A and Type C. The Agency declines to act on this suggestion because, as discussed above, OSHA believes that this appendix does

not have the capabilities to determine soil type with the degree of accuracy that the addition of one or more soil types would require. Additionally, the

R. T. Frankian (Ex. 33), a consultant for the AGC of California, recommending that the only prudent course for Type C soil would be to require shoring with

This paragraph is essentially the same as the proposal except that the Agency has clarified that the tests in paragraph (d) are not mandatory and that other

(4) *Layered systems.* In a layered system, the system shall be classified in accordance with its weakest layer. However, each layer may be classified individually where a more stable layer lies under a less stable layer.

indications of potentially hazardous situations.

(iv) Observe the area adjacent to the excavation and the excavation itself for evidence of existing utility and other

quantitative as well as qualitative properties of soil and to provide more information in order to classify soil properly.

(i) *Plasticity.* Mold a moist or wet sample of soil into a ball and attempt

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not have the capabilities to determine soil type with the degree of accuracy that the addition of one or more soil types would require. Additionally, the Agency feels that incorporating a more complex system into this appendix would make the system less likely to be used properly. Again, OSHA reiterates that employers are allowed to use alternative soil classification systems in accordance with other options provided by this Final Rule.

The ACCSH (Tr. 8/5/87 handout) and the BCTD (Ex. 4–17) pointed out that some parts of the proposed definitions for both Type B and Type C soils were inconsistent with proposed table B–1. In particular they noted that the definition of Type B included "granular soil that can stand on a slope of three horizontal to one vertical," while table B–1 allowed a slope of 3/4:1 short term or 1:1 long term.

OSHA now recognizes that this criteria, although used in the NBS document (Ex. 2–5 p. 39), is inconsistent with the rest of this appendix and introduces ambiguity into this definition and other places in this Appendix. OSHA has therefore dropped this evaluation criteria and instead is providing examples of granular cohesionless soils.

Another commenter (Ex. 4–30) noted that the 4:1 ratio of sloped, layered systems discussed in proposed paragraph (b)(12)(iv) was somewhat restrictive. The Agency is of the opinion that, while restrictive, this degree of caution is necessary, because of the limits of this appendix, and declines to revise this provision.

Paragraph (b) of appendix A defines "Type C" as:

(1) Cohesive soil with an unconfined compressive strength of 0.5 tsf (48 kPa) or less; or
(ii) Granular soils including: gravel, sand, and loamy sand, or
(iii) Submerged soil or soil from which water is freely seeping; or
(iv) Submerged rock that is not stable; or
(v) Material in a sloped, layered system where the layers dip into the excavation or a slope of four horizontal to one vertical (4H:1V) or steeper.

This definition is very similar to proposed paragraph (b)(14) except that the criteria relating to the slope of three horizontal to one vertical has been replaced with examples of this type of soil, and "saturated" has been removed from proposed paragraph (b)(14)(iii). These changes have been made to be consistent with similar changes discussed above.

In addition to input from the ACCSH and the BCTD, discussed above under Type B, OSHA received a comment from R. T. Frankian (Ex. 33), a consultant for the AGC of California, recommending that the only prudent course for Type C soil would be to require shoring with solid sheeting or require an engineer to evaluate the situation and make recommendations. OSHA believes this is not necessary and notes that NBS (Ex. 2–5) felt that Type C soil, as defined, could be sloped safely to a maximum of 1½ horizontal to 1 vertical. OSHA also notes that no other commenters made similar recommendations to those of the AGC of California concerning Type C soils.

Paragraph (b) of appendix A defines "unconfined compressive strength" as "the load per unit area at which a soil will fail in compression. It can be determined by laboratory testing, or estimated in the field using a pocket penetrometer, by thumb penetration tests, and other methods."

This definition is identical to proposed paragraph (b)(15). OSHA received no comment on this definition and carries it forward in the Final Rule.

Paragraph (b) of this appendix defines "wet soil" as "soil that contains significantly more moisture than moist soil, but in such a range of values that cohesive material will slump or begin to flow when vibrated. Granular material that would exhibit cohesive properties when moist will lose those cohesive properties when wet."

This definition is identical to proposed paragraph (b)(16). OSHA received no comment on this definition and carries it forward in the Final Rule.

Paragraph (c)(1) of appendix A provides the requirements for classification of soil and rock deposits using this appendix. This paragraph states: "Each soil and rock deposit shall be classified by a competent person as Stable Rock, Type A, Type B, or Type C in accordance with the definitions set forth in paragraph (b) of this appendix."

This provision is identical to the proposal. OSHA received no comment on this provision and therefore carries it forward in the Final Rule.

Paragraph (c)(2) of appendix A details the basis for soil classification using this appendix. This paragraph states: "The classification of the deposits shall be made based on the results of at least one visual and at least one manual analysis. Such analyses shall be conducted by a competent person using tests described in paragraph (d) below, or in other recognized methods of soil classification and testing such as those adopted by the American Society for Testing Materials, or the U.S. Department of Agriculture textural classification system."

This paragraph is essentially the same as the proposal except that the Agency has clarified that the tests in paragraph (d) are not mandatory and that other recognized tests and classification are acceptable.

OSHA received four comments (Exs. 4–82, 4–102, 4–106, and 4–109) objecting to a requirement for any specific tests, and also objecting to the requirement for at least one visual and at least one manual analysis. These commenters argued that specific tests would be impractical because of the variety and subjectivity of such methods and the changing nature of soil conditions. One commenter, the AGC of California (Ex. 4–106), suggested that soil classification be based on an evaluation of soil condition and visible factors. OSHA recognizes that evaluation of soil condition is necessary, and has determined that this evaluation must include manual testing as well as visual analysis. Visual analyses alone are not sufficient to classify soil properly. Manual analyses are needed to confirm the findings of visual analyses and to provide additional information necessary for more accurate soil classification.

OSHA notes that neither the proposal nor the Final Rule requires specific tests/methods. Requiring at least one visual and at least one manual test leaves the employer a great deal of latitude as to which tests are used. In order to clarify this latitude the Agency has revised this provision to state specifically that other recognized method of analyses are acceptable, and gives examples of some of these other acceptable methods.

This revision is in line with the suggestion made at the public hearing by the AGC of California [Tr. 4/19/88 p. 114]. However OSHA has not deleted the requirement for at least one visual and at least one manual test, for reasons discussed above.

The only other commenter (Ex. 4–111) supported OSHA's requirement for both a visual and a manual test.

Paragraphs (c)(3) through (c)(5) of appendix A discuss visual and manual analyses, layered systems, and reclassification of soils using this appendix. These provisons state:

(3) *Visual and manual analyses.* The visual and manual analyses, such as those noted as being acceptable in paragraph (d) of this Appendix, shall be designed and conducted to provide sufficient quantitative and qualitative information as may be necessary to identify properly the properties, factors, and conditions affecting the classification of the deposits.

(4) *Layered systems.* In a layered system, the system shall be classified in accordance with its weakest layer. However, each layer may be classified individually where a more stable layer lies under a less stable layer.

(5) *Reclassification.* If after classifying a deposit, the properties, factors, or conditions affecting its classification change in any way, the changes shall be evaluated by a competent person. The deposit shall be reclassified as necessary to reflect the changed circumstances.

These provisions are virtually identical to the proposal except for an editorial change in paragraph (c)(3). That change, based on input from the AGC of California, revises the word "recommended" to "noted as being acceptable." The input from the AGC of California (Tr. 4/19/88 p. 114) was directed to another reference to "recommended" test, however, the Agency has also made the change here in order to be consistent.

OSHA received no other comments on these provisions and carries them forward in the Final Rule.

Paragraph (d) of appendix A lists some acceptable visual and manual tests. The title of this paragraph has been revised to read "Acceptable" rather than "Recommended" at the request of the AGC of California (Tr. 4/19/88 p. 114), who noted that "recommended" implied these were the only tests allowed. This was not OSHA's regulatory intent and therefore the Agency has made the requested change.

Paragraph (d)(1) of appendix A discusses and lists visual tests which are acceptable when using this appendix. This list is not intended to be all-inclusive and other recognized visual test are also acceptable. Paragraph (d)(1) reads as follows:

(d) *Acceptable visual and manual tests.* (1) *Visual tests.* Visual analysis is conducted to determine qualitative information regarding the excavation site in general, the soil adjacent to the excavation, the soil forming the sides of the opened excavation, and the soil taken as samples for excavated material.

(i) Observe samples of soil that are excavated and soil on the sides of the excavation. Estimate the range of particle sizes and the relative amounts of the particle sizes. Soil that is primarily composed of fine-grained material is cohesive material. Soil composed primarily of coarse-grained sand or gravel is granular material.

(ii) Observe soil as it is excavated. Soil that remains in clumps when excavated is cohesive. Soil that breaks up easily and does not stay in clumps is granular.

(iii) Observe the side of the opened excavation and the surface area adjacent to the excavation. Crack-like openings such as tension cracks could indicate fissured material. If chunks of soil spall off a vertical side, the soil could be fissured. Small spalls are evidence of moving ground and are indications of potentially hazardous situations.

(iv) Observe the area adjacent to the excavation and the excavation itself for evidence of existing utility and other underground structures, and to identify perviously disturbed soil.

(v) Observe the opened side of the excavation to identify layered systems. Examine layered systems to identify if the layers slope toward the excavation. Estimate the degree of slope of the layers.

(vi) Observe the area adjacent to the excavation and the sides of the opened excavation for evidence of surface water, water seeping from the sides of the excavation, or the location of the level of the water table.

(vii) Observe the area adjacent to the excavation and the area within the excavation for sources of vibration that may affect the stability of the excavation face.

These provisions are virtually identical to the proposal except as follows. Paragraph (d)(1)(i) has been revised to read "composed of fine-grained material." This change drops the word "clay" from the proposed language, which reads "fine-grained clay material." This change was made because two commenters, the ACCSH (Tr. 8/5/87 p. 533) and the BCTD (Ex. 4–17), pointed out that other fine-grained materials such as silt should be included. Based on these comments OSHA is deleting the word "clay" and thereby including all finegrained materials.

Paragraph (d)(1)(iii) of the proposal has been revised to indicate that tension cracks and small soil spalls do not necessarily mean the soil is fissured. This revision is based on input from the BCTD (Ex. 4–17). Additionally, another sentence has been added to alert the users of this Appendix that small spalls are miniature cave-ins and are indications of potentially hazardous situations.

Paragraph (d)(1)(vii) of the proposal which recommended one type of visual test, is being deleted. Several commenters (Exs. 4–17, 4–30, 4–91 and 4–111) and the ACCSH (Tr. 8/5/87 pp. 533–534) all recommended deleting this provision because it was vague, and therefore could be very misleading to the users of this appendix. OSHA agrees and is therefore deleting this provision, and renumbering proposed paragraph (d)(1)(viii) as paragraph (d)(1)(vii) of the Final Rule.

Paragraph (d)(2) of appendix A discusses and lists manual tests which are acceptable when using this appendix. This list is not intended to be all-inclusive and other recognized manual tests are also acceptable. Paragraph (d)(2) states:

(2) *Manual test.* Manual analysis of soil samples is conducted to determine quantitative as well as qualitative properties of soil and to provide more information in order to classify soil properly.

(i) *Plasticity.* Mold a moist or wet sample of soil into a ball and attempt to roll it into threads as thin as ⅛ inch in diameter. Cohesive material can be successfully rolled into threads without crumbling. For example, if at least a two inch (50 mm) length of ⅛ inch thread can be held on one end without tearing, the soil is cohesive.

(ii) *Dry strength.* If the soil is dry and crumbles on its own, or with moderate pressure into individual grains or fine powder, it is granular (any combination of gravel, sand or silt). If the soil is dry and falls into clumps which break up into smaller clumps, but the smaller clumps can only be broken up with difficulty, it may be clay in any combination with gravel, sand or silt. If the dry soil breaks into clumps which do not break up into small clumps, and which can only be broken with difficulty, and there is no visual indication the soil is fissured, the soil may be considered unfissured.

(iii) *Thumb penetration.* The thumb penetration test can be used to estimate the unconfined compressive strength of cohesive soils. (This test is based on the thumb penetration test described in American Society for Testing and Materials (ASTM) Standard designation D2488—"Standard Recommended Practice for Description of Soils (Visual—Manual Procedure).") Type A soils with an unconfined compressive strength of 1.5 tsf can be readily indented by the thumb, however, they can be penetrated by the thumb only with very great effort. Type C soils with an unconfined compressive strength of 0.5 tsf can be easily penetrated several inches by the thumb, and can be molded by light finger pressure. This test should be conducted on an undisturbed soil sample, such as a large clump of spoil, as soon as practicable after excavation to keep to a minimum the effects of exposure to drying influences. If the excavation is later exposed to wetting influences (rain, flooding), the classification of the soil must be changed accordingly.

(iv) *Other strength tests.* Estimates of unconfined compressive strength of soils can also be obtained by use of a pocket penetrometer or by using a hand-operated shearvane.

(v) *Drying test.* The basic purpose of the drying test is to differentiate between cohesive material with fissures, unfissured cohesive material, and granular material. The procedure for the drying test involves drying a sample of soil that is approximately one inch thick (2.54 cm) and six inches (15.24 cm) in diameter until it is thoroughly dry:

(A) If the sample develops cracks as it dries, significant fissures are indicated.

(B) Samples that dry without cracking are to be broken by hand. If considerable force is necessary to break a sample, the soil has significant cohesive material content. The soil can be classified as a unfissured cohesive material and the unconfined compressive strength should be determined.

(C) If a sample breaks easily by hand, it is either a fissured cohesive material or a granular material. To distinguish between the

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two, pulverize the dried clumps of the sample by hand or by stepping on them. If the clumps do not pulverize easily, the material is cohesive with fissures. If they pulverize easily into very small fragments, the material is granular.

These provisions are virtually identical to the proposal except for some clarifications suggested by the ACCSH (Tr. 8/5/87 p. 534) and the BCTD (Ex. 4–17).

OSHA received several other comments (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–54 and 4–86) suggesting that this section be deleted. All these commenters indicated that this type of analysis can only be done accurately in the laboratory, and not in the field. These commenters, however, did not indicate whether they supported a requirement for laboratory testing for all soil analysis or whether they merely opposed a manual testing requirement for use in the field.

OSHA has determined not to follow these suggestions, since all the acceptable tests listed and other accepted tests not discussed in the standard appear in published literature, and are recognized as methods of providing reasonable estimates of soil properties. OSHA does not believe it is feasible or necessary to require laboratory analysis of soils for every excavation where Appendix A is used, nor is it realistic to believe that visual analyses alone can provide sufficient information to classify soils.

OSHA recognizes the limitations of each of these testing methods, and has taken them into account in developing this Final Rule. The Agency stresses that the results of these tests must be closely tied to a simple, conservative soil classification system, the A–B–C system which OSHA has provided in this Appendix.

OSHA notes that with regard to manual analyses, that Mr. R.T. Frankian, a consultant for the AGC of California, testified at the public hearing (Tr. 4/19/88 pp. 145–146):

> • • • I think if you stick with A, B and C, you could probably do this only with a finger test. I think that would be perfectly okay.

In addition, with regard to appendix A, in general, a report by Mr. Frankian, submitted as an attachment to the AGC of California comments (Ex. 4–106) noted:

> The methods used to identify various soil groups include both visual and test parameters and include assessment based on performance characteristics. In general the methods appear to offer sound and readily understood instructions which should lead an experienced person to properly assess the engineering characteristics of earth materials. (p. 2–3)

And:

> The intent of the classification system is to provide a reasonably accurate and easily understood method of permitting an experienced person, who may not necessarily be an engineer, to assess the ability of the soil to stand at gradients specified in Table B–1. It is concluded that, in general, the proposed standards would serve that function. (p. 4)

OSHA believes that revised appendix A provides more guidance to the user and, therefore, will provide effective employee protection.

Appendix B—Sloping and Benching

Appendix B sets forth the requirements for sloping and benching when those methods are used for protecting employees against cave-ins.

Employers are not required in every instance to use this Appendix. Therefore, in this respect, it is not mandatory. This appendix is provided as one option that employers can use to meet the requirement to provide cave-in protection for employees. The option to use this appendix is stated in § 1926.652(b)(2). It is the second option employers may choose to follow to determine the requirements for sloping and benching protective systems. When this option is chosen by the employer, the provisions of this Appendix become mandatory.

The slopes required by this appendix vary, and are dependent upon the type of soil in which the excavation is made. To use this appendix, soils must first be classified in accordance with the provisions of appendix A to this Subpart—"Soil Classification."

Paragraph (a) of the appendix is a scope and application statement.

Paragraph (b) sets forth applicable definitions.

In this appendix, slopes are expressed as maximum allowable slopes. The maximum allowable slope is the steepest incline from the horizontal that will be acceptable under the most favorable site conditions for a particular type of soil. These slopes vary with the soil type in which the excavation is made. In addition, the depth of the excavation and the length of time that the excavation is open are specifically taken into account in only one instance. In Type A soils, the maximum allowable slope for the short-term (less than 24 hours) can may be used in excavations less than 12 feet (3.6 m) in depth.

The allowable slopes given for all other exposures in this appendix (in table B–1), coupled with the allowable configurations shown in figure B–1, should provide a greater level of protection to employees than is now provided by the existing standard.

Paragraph (c) of this appendix states the requirements for sloping and benching. Primarily, it is required that soil types be determined in accordance with appendix A; that the maximum allowable slopes be in accordance with table B–1 of this appendix B; and that the configurations of the sloping and benching systems be in accordance with the illustrations in figure B–1. Other requirements state when slopes less than the maximum allowable slope must be used.

This appendix is intended to replace table P–1 found in the existing standard. The difficulties associated with the use of table P–1, such as a lack of definitions of terms, are a major reason for replacing the table. Another reason for replacing the table is to provide a new set of provisions that are correlated with the soil classification system described in appendix A. The reasons for providing a new soil classification system have been addressed earlier in this preamble.

This new system is broader than the current standard in that more parameters must be considered when determining allowable slopes, and in that various allowable configurations of sloping and benching are illustrated. The system is based primarily on the recommendations made to OSHA by NBS (Ex. 2–6).

OSHA believes that this appendix will provide employers with a realistic and flexible approach to sloping and benching. In OSHA's opinion, the maximum allowable slopes will provide a safe work area for employees in excavations when the soils are properly classified and the slopes properly made.

OSHA received a great volume of comment on this appendix. However the vast majority of the comment was directed to proposed table B–1 and figures Bl.1 through Bl.5. Very little comment was received on paragraphs (a), (b) and (c) of this appendix.

Paragraphs (a), (b) and (c) of appendix B read as follows:

Sloping and Benching

(a) *Scope and application.* This appendix contains specifications for sloping and benching when used as methods of protecting employees working in excavations from cave-ins. The requirements of this appendix apply when the design of sloping and benching protective systems is to be performed in accordance with the requirements set forth in § 1926.652(b)(2).

(b) *Definitions.*

"Actual slope" means the slope to which an excavation face is excavated.

"Distress" means that the soil is in a condition where a cave-in is imminent or is likely to occur. Distress is evidenced by such phenomena as the development of fissures in

the face of or adjacent to an open excavation; the subsidence of the edge of an excavation; the slumping of material from the face or the bulging or heaving of material from the bottom of an excavation; the spalling of material from the face of an excavation; and ravelling, i.e., small amounts of material such as pebbles or little clumps of material suddenly separating from the face of an excavation and trickling or rolling down into the excavation.

"Maximum allowable slope" means the steepest incline of an excavation face that is acceptable for the most favorable site conditions as protection against cave-ins, and is expressed as the ratio of horizontal distance to vertical rise (H:V).

"Short term exposure" means a period of time less than or equal to 24 hours that an excavation is open.

(c) *Requirements.* (1) *Soil classification.* Soil and rock deposits shall be classified in accordance with appendix A to subpart P of part 1926.

(2) *Maximum allowable slope.* The maximum allowable slope for a soil or rock deposit shall be determined from Table B–1 of this appendix.

(3) *Actual slope.* (i) The actual slope shall not be steeper than the maximum allowable slope.

(ii) The actual slope shall be less steep than the maximum allowable slope when there are signs of distress. If that situation occurs, the slope shall be cut back to an actual slope which is at least ½ horizontal to one vertical (½H:1 V) less steep than the maximum allowable slope.

(iii) When surcharge loads from stored material or equipment, operating equipment, or traffic are present, a competent person shall determine the degree to which the actual slope must be reduced below the maximum allowable slope, and shall assure that such reduction is achieved. Surcharge loads from adjacent structures shall be evaluated in accordance with § 1926.651(i).

(4) *Configurations.* Configurations of sloping and benching systems shall be in accordance with Figure B–1.

These provisions are very similar to the proposal except that proposed paragraph (b)(3) "long term exposure" has been deleted, as discussed in Issue 4, above; proposed paragraph (b)(4) and (b)(5) have been renumbered (b)(3) and (b)(4), respectively, to accommodate the above discussed deletion; and, "short term exposure" has been redefined to mean 24 hours or less, as discussed under Issue 4.

In addition, OSHA received input from the ACCSH (Tr. 8/5/87 Attached handout), the BCTD (Ex. 4–17), and NIOSH (Ex. 4–30) recommending replacing competent person in paragraph (c)(3)(iii) of appendix B with registered professional engineer, particularly in regard to surcharge loads from adjacent structure. OSHA recognizes the potential hazards (collapse of structures or cave-ins) pointed out by the commenters and has revised this provision to direct the user to § 1926.651(i) in situations involving surcharge loads from adjacent structures.

Table B–1 of appendix B has been revised to eliminate, in most cases, different slopes for short term and long term excavations. (See Issue 4 for more discussion.) Table B–1 now requires:

Soil or rock type	Maximum allowable slopes (H:V) [1] for excavations less than 20 feet deep [3]
Stable rock	Vertical (90°).
Type A [2]	¾:1 (53°).
Type B	1:1 (45°).
Type C	1½:1 (34°).

Notes:

[1] Numbers shown in parentheses next to maximum allowable slopes are angles expressed in degrees from the horizontal. Angles have been rounded off.

[2] A short-term maximum allowable slope of ½ H:1 V (63°) is allowed in excavations in Type A soil that are 12 feet (3.67 m) or less in depth. Short-term maximum allowable slopes for excavations greater than 12 feet (3.67 m) in depth shall be ¾ H:1 V (53°).

[3] Sloping or benching for excavations greater than 20 feet deep shall be designed by a registered professional engineer.

This table is similar to proposed table B–1 except that in most cases "short term" slopes have been deleted. However, the maximum allowable slope for Type C soil has been changed to 1½ H to 1V which is in line with the slope suggested by NBS (Ex. 2–5 p. 39). An additional note has also been added limiting the use of this table to 20' as suggested by the AGC of California. This is discussed further below.

Several commenters (Ex. 4–28, 4–82, 4–102, 4–106, and 4–109) objected to different requirements for short term and long term excavations. One commenter, the AGC of California (Ex. 4–106), recommended that the reference to short term exposures be deleted and that the table be limited to a maximum depth of twenty feet, with deeper excavations planned by an engineer.

OSHA agrees with the suggestion to limit this table to excavations with a maximum depth of twenty feet. This was OSHA's original intent, as evidenced by the limitations on the shoring tables presented in appendix C, but was inadvertently left out of the proposal. The issue of short term versus long term excavations is discussed under Issue 4 above.

The AGC of California also introduced information concerning additional soil types which they felt should be added to appendix A. This suggestion is discussed earlier in the summary and explanation of appendix A.

Three of these commenters (Exs. 4–82, 4–102 and 4–109) objected to the permitted slopes and table B–1 as being too conservative, arguing that less conservative slopes were permitted in California. However, in this regard OSHA notes that Title 8 of the Construction Safety Orders of California requires at least a ¾ horizontal to 1 vertical slope in hard compact soil, the same as OSHA proposed for long term excavations in Type A soils which is comparable to hard compact soil. Short term excavations in Type A soils were proposed to allow a ½ horizontal to 1 vertical slope. The Title 8 Standards do not address short term exposures, rather they require a flatter slope if the soil is not stable, but provide no guidance as to what that slope should be.

OSHA received comment from Granite Construction (Ex. 428), and the AGC of California (Exs. 4–106 and 28) recommending that OSHA revise appendix B, based on a report by R.T. Frankian (Ex. 30). This recommended system, based primarily on a determination of unconfined compressive strength, would add a new soil Type, "AB", but would not address soils defined in the proposal as Type C (less than .5 TSF unconfined compressive strength). Mr. Frankian, in a separate comment (Ex. 33), recommended that Type C soil should be required to have shoring with solid sheeting or be evaluated by an engineer. The slopes and configurations suggested in this report are less conservative than those proposed by OSHA, and, indeed, are less conservative than those permitted under the California regulations (Title 8, Construction Safety Order) or under the Construction Safety Standards of the State of Michigan (Ex. 4–46). Appendix B of the final rule is more in line with these two proven systems.

The Agency sees merit in Mr. Frankian's suggested system, but not as a replacement for appendix B. The system is limited to use with cohesive soils, assumes a uniform soil strength for the full depth of the excavation, and would require a greater degree of accuracy in soil type determination than OSHA's appendices A and B. The Agency believes that the suggested system would be more appropriate for use under the new third option for sloping (§ 1926.652(b)(3)) or design by a registered professional engineer (§ 1926.652(b)(4)), provided it meets the requirements of these provisions. The slopes in final table B–1 based on the A–B–C system are more conservative in most cases than the suggested system. However, OSHA believes this is

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necessary in order to account for the limitations of soil testing methods and potential errors in soil classification which may result.

The slopes in table B–1 are not based on any one safety factor, as was suggested by Mr. Frankian at the public hearing (Tr. 4/19/88, p. 123). Instead, the slopes in table B–1 have varying safety factors, with higher factors for steeper slopes and lower factors for flatter slopes, because flatter slopes do not pose as much danger of a cave-in as steeper slopes. For example, a cave-in of a bank sloped at 34° (1½H:1 V) from the horizontal contains much less soil and will be less likely to entrap workers than a cave-in of a bank sloped at 54° (¾H:1 V). The Agency does not intend to spell out factors of safety either in this appendix or in the options requiring design by a registered professional engineer. The Agency believes that site conditions vary to such a degree that specifying a safety factor is inappropriate either for use of the appendices or for any of the other options requiring approval by a registered professional engineer. In particular, the Agency believes specifying safety factors would restrict the registered professional engineer from using his or her best judgement to design tabulated data or a sloping or benching system to provide adequate employee protection for given site conditions.

OSHA also notes that no slope is an absolute value. For example, use of appendices A and B, while taking into account many factors affecting soil stability and providing "maximum allowable slopes," also requires additional sloping when the soil shows signs of distress (appendix B paragraph (c)(3)(ii)). The same principle could also apply to slopes designed under the other options with a safety factor. If OSHA did specify a safety factor, designers might not accurately assess soil stability, the factors affecting that stability, and might assume that the safety factor would take care of the difference. On the other hand, OSHA believes it would be inappropriate to require a safety factor of two, for example, if a registered professional engineer determines that a safety factor of 1.2 is sufficient for the particular site conditions. In either case OSHA feels that safety factor designed into the system should be determined by the registered professional engineer. By not requiring a specific safety factor, the Agency believes the designer will accurately assess the site conditions and will provide a safety factor appropriate for those site conditions.

OSHA received a large volume of comment on the configuration in Figures B 1.2 and B 1.4, which were intended to clarify the Agency interpretation of existing § 1926.652(c).

The current standard, § 1926.652(c), has been interpreted by some individuals as permitting a trench dug in hard or compact soil to be vertical for the first five feet [1.52 m] level. However, OSHA has always interpreted and enforced this provision to require shoring or a trench shield in the unsloped vertical sided portion of the trench. The proposed rule, in appendix B, Figure B 1.4 was intended to clarify OSHA's intent. The Agency made special efforts to draw public attention and comment to this interpretation in the preamble of the proposed rule (52 FR 12291) and again in the notice of public hearing (53 FR 5281).

Many commenters (Ex. 4–5, 4–13, 4–25, 4–28, 4–57, 4–82, 4–102, 4–106, and 4–10) objected to Figures B–1.2 and B–1.4. All of these commenters noted that California permitted excavations to have an unshored vertical section of 3.5 feet, with the slope starting at the top of the vertical portion with no bench. OSHA recognizes that in some instances this configuration would be desirable in order to limit loading on pipes or other structures being installed. However, OSHA also notes that the California regulations limit the depth to which this configuration can be used, specify the slope depending on the prescribed depth limitations, and limit the use of the practice to hard, compact soil which is equivalent to Type A soil as defined in the proposal.

The responses to the hearing notice indicated that some commenters found the configuration proposed in Figure B–1 to be too complex to use (Ex. 8–6), or suggested allowing a 3.5 foot vertical portion as in California (Ex. 8–7). The AGC of California on the other hand supported deleting the requirement for shoring or shielding the vertical sided portion of the excavation. However, other commenters ((Ex. 8–14 (Milwaukee Construction Industry Safety Council) and 8–16, (AGC of America)) endorsed a requirement for the bottom portion of the trench in Figure B–1.4 to be supported unless the slope is figured from the toe of the entire excavation, and benched (Figure B–1.2), noting that not following this procedure increases the risk of collapses.

On the other hand, the State of Texas, and Southern California Gas (Exs. 8–25 and 8–27) also supported maintaining the requirement to support the vertical sided portion of the excavation, as proposed.

The suggested AGC of California revisions which were developed by R.T. Frankian (Ex. 30), would allow for unsupported vertical sided portions of excavations, ranging in depth from 5 feet in Type A soil, to 4 feet in Type AB soil and to 3 feet in Type B soil, based on the suggested revised soil classification system, and varying excavation depths.

OSHA has determined based on the whole record, that some modification to appendix B is appropriate. However, the revision does not go as far as suggested by the AGC of California.

The Agency is revising appendix B of the final rule to allow for certain excavations to have vertical sided bottom portions, with sloping starting at the top of the vertical sided portion. This Appendix will permit this configuration only in the same context as the Title 8, Construction Safety Orders of the State of California. OSHA has chosen this course because, unlike the suggested Frankian revision, the California standard has actually been in use successfully for several years. The Agency is not denigrating the suggested revision, and believes that its use may well be appropriate under § 1926.652(b)(3) of the Final Rule. The Agency feels that the slopes permitted under the suggested revision would require a more precise soil determination, and that any errors based on the suggested system could be more hazardous because that system would permit steeper slopes in most instances.

The slope depicted in proposed Figure B–1.2 is being retained in the Final Rule, because, as noted by several commenter (Ex. 8–25 and 8–27) it is a viable alternative method of sloping when a vertical sided portion of a trench is needed. However the format of all of Figure B–1 is being revised to provide more specific examples of acceptable configurations based on soil type, as suggested by the ACCSH and other commenters.

Finally, OSHA has determined that the required two foot set back for spoils will not be revised (See § 1926.651(j)(2).) The ACCSH (Tr. 8/5/87 p. 535) and the BCTD (Ex. 4–17) both recommended a minimum 3 foot setback, while NUCA (Ex. 4–91) supported the proposed 2 foot setback. OSHA has no data to support revising the setback as suggested by ACCSH and BCTD.

Therefore, based on the above discussion, OSHA promulgates appendix B, as revised.

Appendix C—Timber Shoring for Trenches

Appendix C contains information that can be used to provide timber shoring in trenches. Timber shoring is one of several methods that can be used to provide protection for employees against cave-in hazards.

Employers are not required in every instance to use the appendix. Therefore, in this respect, it is not mandatory. The appendix is provided as one option that employers can use the provide cave-in protection. The option to use this appendix is stated in § 1926.652(c)(1). When this option is chosen by the employer, the Appendix becomes mandatory.

The appendix is structured as follows:

Paragraph (a) discusses the scope of the appendix and its interrelationship with the requirements for protective systems in § 1926.652(b) or § 1926.652(c).

Paragraph (b) notes that the provisions of appendix A to subpart P must be followed for the purposes of soil classification. The configurations of timber shoring that can be selected using this Appendix are directly tied to the soil classifications described in appendix A.

Paragraph (c) describes the information is contained within appendix C.

Paragraph (d) describes the basis and limitations of the data contained in appendix C.

Paragraph (e) is a description of how to use the tables. Paragraph (f) contains examples to illustrate use of tables, and paragraph (g) contains notes that apply when using the tables.

Paragraph (g) is followed by six tables of data. There are two tables for each of the three soil types. Stable rock is exempt from shoring requirements. One table for each soil type provides shoring requirements in actual lumber size, while the other does so in nominal lumber size.

This appendix is intended to replace Table P–2, "Trench Shoring—Minimum Requirements," which is found in existing subpart P. This new approach is intended to address the problems detailed earlier in this Preamble concerning soil classification. It provides a shoring system that is correlated with the new soil classification system detailed in appendix A. This appendix, however, also provides a greater degree of flexibility than the current standard in that the tables can be used to select a greater number of configurations than is currently possible with Table P–2.

The tables in this appendix have been developed based primarily on recommendations and data provided to OSHA from NBS (Ex. 2–6), and public comment received during the rulemaking. Data in the tables not specifically recommended by NBS or by substantive comment are based on traditional practice. NBS could find no evidence that traditional timber practice, if properly executed, is unsafe (Ex. 2–6, p. 65).

OSHA received 15 comments and input from the ACCSH on appendix C. Most of these comments were directed at the proposed tables.

The text of appendix C is very similar to the proposal, except for minor explanatory and editorial changes suggested by the ACCSH (Tr. 8/5/87 pp. 539 and 540) and the BCTD (Ex. 4–17), and a revision of the text to incorporate the addition of shoring tables based on nominal size lumber as suggested by the AGC of California (Ex. 4–106).

The ACCSH and the BCTD questioned OSHA's use of a surcharge load of 20,000 pounds resulting from equipment used near excavations in paragraph (d)(2)(ii)(c) of appendix C. The Agency points out that the 20,000 pound weight limit is equivalent to a two foot spoil pile surcharge, and notes that shoring in accordance with the tables will withstand such a surcharge.

Several commenters (Exs. 4–21, 4–23, 4–31, 4–40, 4–42, 4–54 and 4–86) recommended that the Agency change the reference in the tables from "Width of trench" to "Length of Cross Brace," citing that this is the actual structural dimension that is of concern.

OSHA recognizes that the length of cross braces is the actual structural dimension, but notes that the current Table P–2 and the NBS recommendation are both designed using "width of trench." This, in fact, shortens the length of the cross brace because of the placement of other members of the shoring system, and therefore increases the amount of pressure necessary to cause significant deflection of the cross brace. This increases the strength of the shoring system. Therefore, OSHA declines to make the suggested change.

Several other commenters (Exs. 4–82, 4–102, 4–106 and 4–109) argued that the use of full size lumber was impractical and excessively expensive.

OSHA notes that these commenters are all from the West Coast and recognizes that standard practice in that area is to use nominal size lumber for shoring, while on the East Coast, full size lumber is normally used for shoring. OSHA also notes that other tables, such as those issued by the Corps of Engineers, Bureau of Reclamation, and the State of Wisconsin all use nominal size lumber. Therefore, OSHA has decided to incorporate the nominal tables recommended by the AGC of California (Ex. 32) in order to recognize that nominal size lumber is indeed an acceptable alternative to full size lumber under the Final Rule.

These commenters (Exs. 4–82, 4–102, 4–106, and 4–109) also argued that, based on their experience with the California Table, OSHA's proposed tables would result in overdesign of the system in some cases, and underdesign in others. However, OSHA notes that the California tables refer to the use of nominal size, Douglas fir lumber, which has a very high bending strength, about 1500 psi. OSHA, on the other hand, proposed tables based on the NBS data for the use of full size white oak or mixed oak, which has a bending strength in the 850 to 875 psi range. This difference accounts for the preceived "overdesign" or "underdesign" as addressed by the commenters.

At the public hearing (Tr. 4/19/88 p. 130–133), the AGC of California, suggested various revisions to the proposed timber shoring tables directed primarily at increasing the timber dimension of the uprights. OSHA has decided not to make these changes in the Final Rule. The Agency notes that the sizes of the uprights in the proposed tables in appendix C were based on the recommendations presented by NBS, and were reviewed by a series of workshops prior to the rulemaking. The criteria in the tables are comparable to existing Table P 2 in the OSHA standard and section 601 of the Wisconsin Administrative Code covering trenching and excavation, both of which have been used succcessfully for many years.

Several other commenters (Ex. 4–28, 4–106 and 4–114) suggested that OSHA expand the standard to address more specifically, hydraulic shoring and other forms of shoring which are in common use throughout the country. OSHA has decided to provide critera for use of hydraulic shoring systems in a new appendix D, discussed below. The Agency has also added statements to Appendix C noting that other forms of shoring (for example, hydraulic shoring, trench jacks, and pneumatic shores) are acceptable and may be substituted for wood if they possess equivalent strength.

Appendices D, E and F are new. Appendix D, "Aluminum Hydraulic Shoring for Trenches," contains criteria that can be used when aluminum hydraulic shoring is used as a method of protection in trenches that do not exceed 20 feet (6.1 m) in depth, in the absence of manufacturers' tabulated data. This appendix D is provided for

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those situations where manufacturers data, as permitted under § 1926.652(c)(2), has been lost or is otherwise not available. It must be used in conjunction with appendix A, Soil Classification. Additionally, when this appendix is selected, the user must also comply with the basis and limitations of this data as provided in paragraph (d) of appendix D.

These data were provided by the Trench Shoring and Shielding Association of America (Ex. 36) and are being incorporated by OSHA in response to several comments recommending that the Agency provide this type of data. OSHA notes that the State of California also provides very similar data.

OSHA received no similar information from this Association concerning trench jacks, pneumatic shores or shields. However, the Agency notes that air shore and trench jacks can be substituted for timber shoring members if they are of equivalent strength or as specified by the manufacturer. This would make generic tables for trench jacks or air shores unnecessary.

Shields, on the other hands, are usually designed for specific conditions and, as noted at the public hearing (Tr. 4/19/88 p. 77–79), the manufacturers provide data as to shield capacity, how to use the shield safely, and the soil conditions where the shield can be used. For this reason, the Agency believes that it would be impractical to provide "generic" tables for shield use.

Appendix E gives examples of acceptable alternatives to timber shoring, displayed graphically, to provide guidance to employers and to recognize explicitly that alternatives to timber shoring are acceptable means of complying with the requirements of this regulation.

This appendix provides illustrations of pneumatic shores, aluminum hydraulic shoring, trench jacks and trench shields. This appendix does not limit the use of other alternatives which may be developed, because any new alternative based on new technology can be used in accordance with § 1926.652(c)(2) of this Final Rule.

Appendix F of this Final Rule provide a "decision chart" for selection of protective systems. This chart is intended to assist the employer in choosing appropriate employee protection by showing all available options and giving accompanying references to appropriate sections of the standard.

Although the current standards for excavations and trenches require employers to implement protective measures such as sloping or shoring, most of the 90 cave-in fatalities occurring each year have happened because the employer did not provide any protection. In these instances, compliance with the current rules would have prevented the accidents. Similarly, the revised final rule published here today will provide protection only if employers comply with its requirements. OSHA anticipates that the increased clarity and flexibility of the revised standards will provide incentives for employers to provide the necessary protection rather than ignore them completely.

However, assuming that many accidents have been caused by employers who have consciously violated OSHA trenching and excavation rules, these and other employers may continue to put their workers at risk despite this revised final rule. If this assumption is correct, OSHA needs to examine ways of improving the rate of compliance with these regulations.

One way of improving compliance may include additional reporting requirements for excavation cave-ins. For example, OSHA could require that employers report all excavation cave-ins to OSHA within a limited time period. This reported information would enable OSHA to evaluate the so-called "near-misses" to determine whether the employer made an effort to comply with the standard. Such information should allow OSHA to identify those employers who routinely failed to shore or shield their trenches and excavations when it is needed.

However, a reporting requirement is only one way to increase the rate of compliance with these regulations. OSHA solicits comment on whether there are other means of increasing compliance. In addition, OSHA seeks comment on whether a cave-in reporting requirement should be proposed, and what elements should be contained in such a requirement. Comments should be sent to the Docket Officer, Docket S–204, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2634, Frances Perkins Building, Washington, DC 20210.

IV. Final Regulatory Impact Assessment

Introduction

The Occupational Safety and Health Administration (OSHA) has prepared this Final Regulatory Impact Assessment (RIA) in compliance with Executive Order 12291 and the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 [5 U.S.C. 60 et seq.]). In this assessment, OSHA has determined that the revised excavation standard (29 CFR part 1926, subpart P) is technologically and economically feasible and that the environmental impacts of the amendments are not significant.

The amendments are estimated to reduce the annual rate of worker fatalities by one and of lost workday injuries by 1,107, relative to the current standard. Further, they are estimated to reduce compliance costs by at least $36.0 million per year, relative to the current standard. These cost savings will arise principally by allowing firms the flexibility to select less costly methods of providing a safe workplace and therefore are consistent with the Administration's program to reduce unnecessary burdens on industry. As the net effect of the Subpart P amendment is less than $100 million, this regulatory action does not constitute a "major rule."

Regulatory History

The Construction Safety Act of 1969 (Pub. L. 91–54) amended the Contract Work Hours Standards Act (40 U.S.C. 333) by adding section 107. This section provided for occupational safety and health standards for construction employees working on federal, federally-financed, or federally-assisted projects. In 1971, pursuant to section 107, the Secretary of Labor issued safety and health regulations for construction in 29 CFR part 1518. The Occupational Safety and Health (OSH) Act (29 U.S.C. 650 et seq.), which was passed by Congress on December 29, 1970, and became effective 4 months later, ordered the Secretary of Labor to adopt established federal standards that were issued under other statutes. In accordance with section 6(a) of the OSH Act, in May 1971, the Secretary adopted the construction standards that had been issued under the Construction Safety Act in 29 CFR part 1518. Later in 1971, these standards were redesignated as part 1926. As part of this process, the regulations covering excavation (subpart P, §§ 1926.650–1926.653) were adopted as OSHA standards.

Need for Revision

The need to revise subpart P has been recognized since it was first incorporated as an OSHA standard. Consequently, after review by the Advisory Committee on Construction Safety and Health (ACCSH) and issuance of a Notice of Proposed Rulemaking (NPRM, 36 FR 19083, September 28, 1971), several

amendments were made to the standard in 1972 (37 FR 3512, February 17, 1972). After another NPRM in 1972 (37 FR 15317, July 29, 1972), the standard was further amended (37 FR 24345, November 16, 1972).

Complaints and controversy, however, continued to surround the standard. As a result, in 1976, OSHA commissioned the National Bureau of Standards (NBS) to study the standard's compatibility with actual construction practices and to recommend modifications that could improve the standard's effectiveness. The results of the NBS study were published in several reports during 1979 and 1980.

These studies, other OSHA and state data, and private sources of information revealed the need to modify the standard. Surveys of firms involved in excavation indicated widespread confusion regarding requirements of the standard. Many contractors were critical of the standard, claiming that it was confusing, sometimes inadequate, and often irrelevant. The tables on sloping and shoring procedures were described as confusing and inadequate. Contractors were also unsure about the acceptability of new safety techniques, such as freezing the ground rather than shoring. Morever, they generally believed that the standard was too rigid and was insufficiently performance oriented. In response, OSHA has revised the current standard to clarify and revise the regulatory language, and expects that these changes will facilitate compliance.

Industry Profile

Background

Excavation* projects vary in complexity. For example, a trench may be only a few feet deep and may be dug in less than one hour by one person using a backhoe. A small excavation may simply be a hole scooped out by a bulldozer. Alternatively, the construction of a stable 30-foot-deep trench requires a knowledge of engineering, geology, and soil mechanics.

The major occupational hazards of excavation work result from cave-ins, from exposure to underground utilities, and from material or equipment falling into the excavation. Precautions to protect against cave-ins include bracing, sloping, benching, using shields, or freezing. However, the proper use of these techniques requires an understanding of the importance of such factors as excavation depth and width, soil type, hydraulic pressure, and other specific conditions present at the worksite. In addition, some new technologies may result in fewer accidents by reducing the amount of time that workers are physically exposed to the hazards of trenching. Such equipment includes trenching machines that dig and lay cable, remote-controlled equipment that compacts the soil in the trench, and systems of "no dig" trenching, where equipment burrows to lay pipe without an open cut.

Trenching is performed primarily by utility contractors who construct gas, sewer, water, and utility lines. Much of this work is performed as a result of competitive bids from state and local governments or local utilities. Surveys indicate that 70 percent of utility contractors receive about 90 percent of their business through competitive bidding. Minimizing costs, including safety-related costs, is therefore very important to these contractors. Larger excavation work is performed for many kinds of construction, including buildings, bridges, towers, swimming pools, and port facilities.

A number of important economic and technical characteristics separate trenching from other excavation work and make trenching the more hazardous activity. For example, other excavations tend to be adjacent to buildings that would collapse if the excavation were not shored. The probability that damage suits would result from the collapse of these buildings provides a strong economic incentive to shore these excavations. Even where other structures are not adjacent, large excavations are typically so deep that the risk of incurring the expense of reexcavating following the collapse of an unbraced wall, gives sufficient incentive to contractors to brace the walls. In contrast, such incentives are greatly diminished for trenching work. Trenches are less likely to be in close proximity to other structures, structures adjacent to trenches are less likely to collapse, and the cost of redigging a collapsed trench is far lower than of reexcavating the foundation of a large building.

Industries and Economic Activity

Trenching and other excavation occur chiefly in the following 13 four-digit Standard Industrial Classifications (SIC):

SIC 1521 General Contractors—Single Family Houses.
SIC 1522 General Contractors—Residential Buildings Other than Single Family Houses
SIC 1541 General Contractors—Industrial Buildings and Warehouses.
SIC 1542 General Contractors—Non-Residential Buildings Other than Industrial Buildings and Warehouses.
SIC 1611 Highway and Street Construction Contractors.
SIC 1622 Bridge, Tunnel, and Elevated Highway Construction.
SIC 1623 Water, Sewer, Pipeline, Communication and Power Line Construction Contractors.
SIC 1629 Heavy Construction Contractors, Not Elsewhere Classified (NEC).
SIC 1711 Plumbing, Heating (Except Electrical) and Air Conditioning.
SIC 1771 Concrete Work.
SIC 1781 Water Well Drilling.
SIC 1794 Excavation and Foundation Work.
SIC 1799 Specialty Trade Contractors, NEC.

No published data exist that allow the estimation of either the total value of excavation work or the number of establishments and workers involved and no additional data has been submitted to the record on this point. Bureau of the Census data [1], however, do exist on the amount of contracted non-trenching excavation work by four-digit SIC code. The data demonstrate that most of such work occurs in SIC 1794 and that most contract work in SIC 1794 is non-trenching excavation work. Excavation work performed under another contract (e.g., as part of a high-rise apartment) would be included in another category. Thus, although most contracted non-trenching excavation work is performed in SIC 1794, it cannot be assumed that most non-trenching excavation work occurs in SIC 1794. Moreover, the Bureau of the Census publishes no data that specifically identify trenching as a category of business. For these reasons, OSHA has estimated trenching and other excavation activity in the following manner.

The Associated General Contractors of America (AGC) [2] conducted a survey of contractors whose work closely corresponded to that in SIC 1623. The results of this survey were used to estimate the percentage of revenues from excavation in SIC 1623. The 96 responding firms indicated that 38 percent of their revenues were from trenching. Another survey also conducted by AGC [3] on the practices of contractors engaged in excavation

* The term "excavation" includes trenches.

found that of the 22 firms responding, an average of 36.5 percent of their revenues were derived from excavation. The majority of these firms would probably

TABLE 1.—ESTIMATES OF EXCAVATION REVENUES BY INDUSTRY, 1987

			Trench-ing and

clarify the requirements and the applicability of the various provisions and appendices, and increase the use of some form of protective system.

general changes are those specifying alternative acceptable ways for contractors to comply with the requirements for protective systems. Although most of the existing standard's

statement that support systems must be designed by a qualified person according to accepted engineering

language, with respect to support systems, on timber shoring. Numerous commentors noted that hydraulic shoring is now more common than

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found that of the 22 firms responding, an average of 36.5 percent of their revenues were derived from excavation. The majority of these firms would probably be classified in SIC 1623, as most of their trenching work was for the construction of sewer and water lines. Based on these surveys, OSHA assumes that no more than 45 percent of the revenues in SIC 1623 are derived from excavation.

It becomes more difficult, however, to develop similar estimates for the other affected SIC categories, and their revenues are derived at a more aggregate level. For example, most of the excavation activity classified within SIC 15 involves the excavation of foundations for houses, offices, and warehouses. Foundation work for these types of structures ranges from 2 percent of the total costs for single-family houses to 12 percent for industrial buildings [4]. Because the foundation phase also includes all of the concrete costs not related to excavation, it is assumed that roughly 5 percent of the activity in SIC 15 would be affected by subpart P. For SIC 16, the major affected activity, other than that in SIC 1623, would be highway, bridge, and other heavy construction. To estimate the excavation activities for this SIC code, a number of bids for these types of jobs were examined [5]. The excavation component of these bids was in the range of 1–5 percent of the total project costs. Based on this information, 5 percent has been used as a conservative estimate of the percent of revenues in SIC 16 that are affected by subpart P. In SIC 17, the two main classifications affected are SIC 1711 (plumbing, heating and air conditioning) and SIC 1794 (excavation and foundation work). A best estimate of 1 percent of revenues was used for SIC 1711 based on average plumbing estimates from a construction estimation manual [6], where trenching and backfilling represented 0.7 percent of the total time required for the job. For SIC 1794, it was assumed that 45 percent of revenues are affected by subpart P. This was based on the assumption that although SIC 1794 almost exclusively represents firms doing excavations and foundation work, the actual excavation activity affected by subpart P is only one phase of the project. Once the walls are supported, laying the foundation, stripping, etc. are the other major cost factors. In sum, this approach results in a total industry revenue estimate of $20.07 billion for excavation work (see Table 1).

TABLE 1.—ESTIMATES OF EXCAVATION REVENUES BY INDUSTRY, 1987

Industry	Net revenues (dollars billions)	Proportion subpart P related	Trenching and excavation revenues (dollar billions)
SIC 15 (Except 1531)	78.5	.05	3.92
SIC 16 (Except 1623)	71.5	.05	3.57
SIC 1623	17.0	.40	6.79
SIC 1711	46.6	.01	.47
SIC 1794	11.8	.45	5.31
			20.07

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis.

The Revisions to the Standard

Introduction

This section discusses the revisions to OSHA's current excavation standard. The revisions are intended both to clarify and explain the requirements of the standard, and to eliminate discrepancies between requirements and current practices where there is no evidence that current practices pose a hazard to workers.

The following paragraphs describe only those changes that may have significant economic impacts.

Changes in Format

The current standard consists of four main sections: General Protection Requirements, Specific Excavation Requirements, Specific Trenching Requirements, and Definitions. The General Protection Requirements also apply to each section of the standard. The use and application of these provisions, however, are not clearly identified in the current standard and some users did not understand their intent [2, appendix D]. Consequently, the presentation and format of the standard have been revised in order to clarify the language and requirements of subpart P. The amended standard includes a section on Scope, Application and Definitions, followed by General Requirements, and then by the Requirements for Protective Systems. The existing standard contains two tables on sloping and shoring, whereas the revised standard contains six nonmandatory appendices that provide a soil classification system, describe tests for determining soil type, and provide designs for sloping, benching, timber shoring, aluminum hydraulic shoring, a pictorial representation of nontimber shoring methods, and a flow chart of compliance options. OSHA expects that this reorganization will clarify the requirements and the applicability of the various provisions and appendices, and increase the use of some form of protective system.

Changes in Provisions

Numerous changes have been made to specific provisions of the standard. In the following discussion, the changes are presented in broad groupings according to their expected effects, and important examples of these groupings are examined.

Specific Changes. The first group of changes are called specific changes because, individually, they affect specific requirements of the standard. A number of these specific changes are designed to bring the requirements of the standard into conformity with current industry practices when doing so would not compromise safe work practices. Some of the specific changes are simply definitional in nature. For example, the existing standard defines "belled excavations," and the revised standard defines and refers to "belled-bottom pier holes." Because belled excavations are actually called belled-bottom pier holes, the change simply brings the terminology of the standard into conformity with current usage.

The specific changes, however, involve more than just changes in wording; many change the actual requirements of the standard. For example, one change alters the definition of a trench shield by stating that it must protect employees from the hazards of cave-ins, but need not protect against the occurrence of cave-ins. In another case, the existing definition specifies that shields must be composed of steel plates and braces, whereas the revised standard allows shields to be made of wood or other materials.

Many of the specific changes that OSHA is implementing will lower costs of compliance without increasing worker risk. For example, the existing standard requires that work must be discontinued in excavations where water has accumulated. The revision would allow work to continue under some circumstances of water accumulation if proper precautions have been taken to protect employees. Another example of potential cost-savings results from modifying the existing provision for the use of emergency rescue equipment where adverse atmospheric conditions exist. The revised standard no longer requires the equipment to be physically "attended" by a worker.

General Changes. The general changes affect several provisions of the standard. Perhaps the most important general changes are those specifying alternative acceptable ways for contractors to comply with the requirements for protective systems. Although most of the existing standard's provisions allow the use of alternative means of protection, the availability of these options or alternatives was not generally appreciated. Michael Plank, of the Speed Shore Corporation observed:

> Everyday today if you read the current table P–2, you go to the bottom lines and read the footnotes, there's two footnotes that specifically leave you an option to use materials other than timber. But I'll promise you today, if I take hydraulics in a new part of the country where it's not currently being used, I will fight for weeks on end trying to get them convinced that aluminum is an accepted standard as an equivalent to this timber [8, p. 203].

In addition, there is some confusion about the minimum standards contractors must meet in order to be in compliance. The revisions to the requirements for protective systems clarify such requirements. Contractors who choose to use a support system, must follow one of four basic options: (1) They can slope the excavation at no more than 1½ horizontal to 1 vertical (34 degrees), (2) they may use OSHA's Appendices A and B for soil classification and supports, shields, or other systems prepared in accordance, (3) they can use other tabulated data prepared by or approved by a registered professional engineer, or (4) they can have the system designed by or approved by a registered professional engineer.

These requirements represent a substantial change to the existing standard. The existing standard does not clearly specify the function of Table P–1 on sloping and Table P–2 on timber shoring or indicate who may design sloping or support systems. For example, Table P–1 is required as "a guide" for trenches, which appears to imply that it is nonmandatory. Elsewhere, the standard states that trench banks are required to be "laid back to a stable slope," while excavations, which are defined to include trenches, are to be dug to the "angle of repose." In addition, there has been much ambiguity regarding what is the "angle of repose". These requirements are exceedingly vague. The existing Table P–2 on timber shoring is described as containing "minimum requirements," but it is unclear whether such requirements are to be interpreted as minimum performance requirements or as exact specifications. Similarly, although the standard defines a trench as a form of excavation, the section on "Specific Excavation Requirements" contains the statement that support systems must be designed by a qualified person according to accepted engineering practices. However, it is unclear if these requirements would allow a qualified person to design a different timber shoring system than that contained in Table P–2.

Changes in Tables. The final type of amendment that distinguishes the revised standard from the existing standard will clarify and broaden the applicability of the material contained in Tables P–1 and P–2 of the current standard. The set of tables in the existing standard not only are confusing (as noted above), but also lead to inflexibility in application. For example, they contain no information about benching, or the combined use of sloping and benching practices. Table P–1 on sloping contains the note that "clays, silts, loams or nonhomogeneous soils require shoring or bracing," thus apparently implying that sloping is inappropriate in such situations. In addition, although Table P–1 notes the importance of both soil type and environmental conditions in determining proper sloping, it contains no method for determining either soil type or environmental conditions. Finally, Table P–2 on timber shoring for trenches contains only one set of specifications for a given soil type and depth. The specifications in Table P–2 would be cost-effective only incidently because the relative prices of types and grades of lumber vary sharply both over time and geographic region.

In contrast, the new appendices are designed to elminate these problems. For example, the revised standard's appendix A on soil and environmental classification is applicable to field use. Appendix B on sloping clearly applies to all excavations including trenches, and sloping is allowed for clays, silts, and other soils. In the current standard these applications were not clearly identified. Benching and the combined use of sloping and benching are also discussed in this appendix. Appendix C on timber shoring is also more flexible than the requirements shown in Table P–2 of the current standard. This appendix contains as many as four sets of timber shoring procedures for a given soil classification and trench depth. Appendices E & F provide further clarification through visual displays and flowcharts. Finally, in the revised standard, the use of these appendices are nonmandatory, unless they are being employed as a compliance option.

In addition, while a nonmandatory appendix provides instruction on the proper assembly of timber shoring, the standard no longer centers its regulatory language, with respect to support systems, on timber shoring. Numerous commentors noted that hydraulic shoring is now more common than timber shoring, primarily because it is frequently more practical and is typically safer [7, 8]. OSHA has accordingly added nonmandatory Appendix D, which provides guidance for hydraulic shoring.

OSHA believes that, overall, these changes will significantly reduce the burden of compliance by increasing the flexibility, clarity, and usefulness of the standard.

Worker Risk

The hazardous nature of construction work, especially that related to excavation work, is well documented. The fatality rate in SIC 1623, which is dominated by trenching, was estimated by OSHA at 50.8 deaths per 100,000 workers per year for 1984–88, whereas for construction work generally, it was estimated at 24.8 deaths per 100,000 employees per year during 1982–86 [1, 9, 12]. Similarly, trenching cave-in fatalities have been estimated by NIOSH at 75 per year, and lost workday injuries due to cave-ins at 1000 per year [11]. The incidence rate for injury among construction workers, including those doing excavation work, is about two times the all industry average (i.e., 15.1 injuries per 100 workers in construction compared with 7.7 injuries per 100 workers in all industries [12]).

Both industry and labor representatives, as well as insurance firms, agree that shoring, shielding, and sloping to a sufficient angle eliminate or substantially diminish the risk of cave-ins. Yet, analysis of data from OSHA's case files indicate that about 78 percent of all fatalities in excavation came from cave-ins [10, 16, 36]. A central provision of subpart P is the requirement to provide protection against death or injuries resulting from cave-ins by using methods that are now in use in the industry and that were prompted by the original consensus standards.

A study by Johns Hopkins University of 306 trenching cave-in fatalities between 1974 and 1986 determined that 85 percent of them occurred in trenches that did not have shoring of the walls or in which the sides were not adequately sloped to prevent soil from sliding in [13]. In addition, NIOSH's National Occupational Fatality study found an average of 73 deaths per year from cave-ins [14]. The measures required to prevent deaths from excavation cave-ins have been known for more than 75 years, since the first English-language

study of this problem was commissioned by Winston Churchill in 1912 [14].

Recently, several states and localities have made significant progress in lowering cave-in deaths. California has activity in recent years. These states are also distinguished by their large geographic size, which increases the likelihood of encountering varied soil

The fatality/catastrophe reports used by ERG are not a comprehensive sample of accident records for the years represented since the reports were filed

Construction laborers are estimated to constitute one-fifth of the total construction workforce.

The BLS survey of construction workers provided two main indicators

catastrophe inspection reports from 1979–1981 and 48 fatalities from OSHA's Integrated Management Information System (IMIS) abstracts from 1983–1985)

asphyxiated or fatally injured by falling soil or rock.

The balance of preventable fatalities are associated with a variety of factors.

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study of this problem was commissioned by Winston Churchill in 1912 [14].

Recently, several states and localities have made significant progress in lowering cave-in deaths. California has been able to cut its number of cave-in fatalities by more than half [14]. Between 1974 and July 1979, the Milwaukee area had 20 fatalities associated with trench cave-ins, the highest in the region. With the cooperation of local contractors, they have managed since 1979 to avoid all cave-in fatalities [1*]. In the Dallas area, there has been a significant reduction in cave-in accidents since mid-1985 [15]. Clearly, there is significant room for progress in decreasing worker risk in excavation projects.

The primary purpose of the revisions is to clarify the requirements and to add flexibility so that firms can tailor their protective measures to their particular situations. Descriptions of 163 excavation fatalities were reviewed by Eastern Research Group (ERG) [10] in order to identify those which would have been prevented through compliance with the existing or revised standards. The analysis is based on accidents as they were described in accident inspection abstracts. As a preliminary indication of the types of accidents which occur, ERG summarized some of the basic characteristics of the sample of accident narratives. The data indicate that the majority of fatalities resulted from cave-ins. The effectiveness of the subpart P standards therefore largely depends on its effectiveness in preventing this type of accident. The other categories with more than one fatality include (1) "struck by" accidents, which typically resulted when workers were struck by pipe or other materials, (2) gas-related accidents (explosions and asphyxiations), (3) falls, and (4) electrocutions.

The pattern of injury incidence was quite similar to that for fatalities. This finding, however, reflects the fact that a large proportion of injuries in this sample was due to cave-ins because OSHA primarily investigates fatalities or catastrophes, and includes only the associated injuries in its data base. Thus, these data may not be representative of all injuries related to excavation activities.

Fatalities

Baseline Incidence Rates. ERG employed two separate approaches toward estimating the annual number of fatalities in excavations. The first approach relied on fatality data from California [17] and Texas [32]. Data from these two states account for a large proportion of national construction activity in recent years. These states are also distinguished by their large geographic size, which increases the likelihood of encountering varied soil types.

California and Texas reported annual averages for fatalities due to cave-ins of 5.3 and 9.3 respectively. The two states combined generate 23 percent, or nearly one-fourth, of national construction receipts as measured in the 1982 Census of Construction [1].

The cave-in fatalities in these states were extrapolated to the total fatalities from excavation work using a sample of excavation fatalities reported in the OSHA fatality/catastrophe reports. ERG reviewed a sample of accident reports to determine their preventability under the existing and proposed standards (this sample is described more fully below). The sample was judged to be a reliable indicator of the relative portion of fatalities in excavation work due to cave-ins and other causes. Using this sample, it was calculated that 78 percent of the fatalities were due to cave-ins. The average cave-in related fatalities for the California and Texas data were then increased by a factor of 1.3 (1.0 divided by 0.78) so that they would represent the total fatalities for trenching and excavation work. The combined state average for California and Texas was thus calculated at 19.0 (5.3 plus 9.3 times 1.3). Extrapolating to the national level with California and Texas representing 23 percent of national construction receipts in 1982, gives a national total of 83 fatalities.

The second estimation procedure was based on the number of fatalities recorded in the OSHA fatality/catastrophe reports. The data used in this study were derived from the years 1978 to 1980 (the most recent complete years for which IMIS data related to excavation activity could be retrieved when ERG did their analysis). The total number of fatalities for this time interval was 138 (39, 50 and 49). The more recent Johns Hopkins' analysis of OSHA's IMIS abstracts covering the period 1984 to 1986 found 52, 85 and 75 cave-in related fatalities annually for all states with the exception of California, Michigan and Washington [13].

Recent studies, however, have indicated that underreporting of accidents is significant in many areas [33, 34]. Companies sometimes choose not to report fatal accidents or are unaware of the requirement to do so, and OSHA personnel sometimes learn of accidents through news reports and other unofficial sources. Nevertheless, the extent of underreporting is not known with certainty and no adjustment to the data was attempted.

The fatality/catastrophe reports used by ERG are not a comprehensive sample of accident records for the years represented since the reports were filed only in states with federally operated safety and health programs. These states represent about one-half of all states. Assuming that the fatality/catastrophe reports represent half of all fatalities for the years covered, the numerical average for 1978–1980 was 92 deaths per year. The growth in construction employment over that period was calculated at 5 percent [35]. Applying a simple growth factor of 5 percent to the fatality estimate produces a revised figure of 97 fatalities per year.

ERG based their best estimate on an average of the two approaches. OSHA agrees and concludes that 90 fatalities per year represents a best estimate of the current baseline risk in excavation work.

Injuries

Cave-In Injuries. A National estimate of cave-in-related injuries was derived using data from a special study of California cave-ins [17]. Over a 22-year period, the California researchers identified 2,229 lost workday injuries and 193 fatalities due to cave-ins. The data indicate a ratio of 11.5 lost workday injuries for every cave-in fatality. This estimate was assumed to be representative of the relationship for the nation as a whole. An OSHA analysis of 221 trenching fatalities [10] has indicated that 78 percent of excavation fatalities are due to cave-ins. Therefore, given the projection of 90 excavation fatalities annually, OSHA estimated that there are 70 fatalities annually due to cave-ins. Extrapolating from the California incidence rates, OSHA estimates that there are 805 cave-in related lost-workday injuries annually in the United States.

The approximate range for this estimate was independently confirmed in a separate study by the National Institute for Occupational Safety and Health (NIOSH) [17]. These researchers reviewed accident reports of the Supplementary Data System of the Bureau of Labor Statistics for 1976 to 1981. The NIOSH researchers derived an estimate of approximately 1,000 lost workday injuries per year due to cave-ins, including 75 fatalities.

An estimate of the noncave-in related lost workday injuries occurring in excavation activities was developed using a special study of injuries to construction laborers prepared by the Bureau of Labor Statistics [18]. That study reviewed survey responses from 658 injured construction laborers.

Construction laborers are estimated to constitute one-fifth of the total construction workforce.

The BLS survey of construction workers provided two main indicators of the share of construction injuries occurring in excavation work. Specifically, the injured workers were asked questions on (1) the type of work being performed and (2) the location of the worker at the time of the accident. Numerous other questions were included but none allowed an accurate depiction of excavation work. The survey results indicated that for 6 percent of the injured workers, the type of work was identified as "laying sewer lines or other pipelines". (Other types of work included construction of homes, buildings, or other structures and roadways. Some of these, in turn, could have included excavation work. Workers may have selected these other activity categories even if they were actually doing excavation work related to them.) Further, 7 percent of workers reported their location at the time of injury as "in trench". None of the other categories allowed a worker to state that he was in an excavation.

Thus, the survey results suggest that at least 7 percent of injuries occurred during trenching work. Although it is possible that some injuries occurring in excavations have been reported in other categories that do not allow them to be identified, OSHA has relied on the 7 percent estimate, based on the location of workers, as the best indication of the proportion of injuries occurring during excavation work. Coincidentally, ERG's estimate of the value of excavation work as a share of the value of construction put in place is also approximately 7 percent. Thus the 7 percent estimate was judged to be a reasonably accurate estimate of the share of all construction injuries occurring in excavation work.

The number of lost workday injuries occurring among construction workers in 1986 was estimated at 326,800 based on incidence rates and employment data provided by the Bureau of Labor Statistics [12]. This estimate was derived using an employment level for construction workers in 1986 of 3,890,000 workers and a derived incidence rate for lost workday cases of 8.4 per 100 full-time workers. Applying the 7 percent estimate, the total lost workday injuries in excavation work was calculated at 22,876. Since 805 injuries have been identified as occurring during cave-ins, the remaining number of lost workday cases is calculated to be 22,071.

Prevention Rates. ERG reviewed a sample of 163 fatalities from 1979 to 1985 (115 fatalities from OSHA fatality/catastrophe inspection reports from 1979–1981 and 48 fatalities from OSHA's Integrated Management Information System (IMIS) abstracts from 1983–1985) for preventability under the existing and revised standards. Fifteen fatalities had to be eliminated because the accident narratives were incomplete or otherwise insufficient to allow classification. The remaining 148 fatalities were classified as either preventable or not preventable assuming full compliance with either the existing or revised standards.

These reports and abstracts had certain limitations as data sources because the amount and specificity of narrative information are inconsistent from report to report. For example, in some cases, information on trench or excavation dimensions, type of soil, and various contributing factors (e.g., water accumulation, digging in a backfilled area, lack or positioning of ladders) may be suggestive of rule violations, but may not be detailed enough to allow a firm judgment. This was particularly problematic in the analysis of cave-ins. ERG assumed that, where there was no support system, the cave-in was likely due to the lack of such a system, and that any support system in place at the time of a cave-in was by definition inadequate. In some of these cases, it is possible that the most likely cause of the cave-in was some other factor (such as water accumulation) that was not adequately described. ERG's assumption therefore may have biased their preventability assessment in favor of the sections of Subpart P that pertain to support systems, and against other sections of Subpart P.

Some of the accident narratives included a listing of the OSHA citations that were issued. In a number of cases, however, the relevance of the citation could not be unambiguously interpreted because the narratives did not correlate very well with the citation noted. For this reason, the listed citations were considered, but not totally relied upon, in making preventability judgments.

Fatalities that were judged by ERG as preventable accounted for 81.1 percent of the sample under the existing standard and 82.4 percent under the revised standard [16]. Cave-ins accounted for the largest percentage of preventable fatalities (72.3 percent under the existing standard and 73.0 percent under the revised standard). The relevant provisions deal with the lack of or inadequacies in support systems (e.g., sloping, shoring, trench jacks, boxes, and shields), and to a much smaller extent, with problems in installing or removing such systems. In these cases, workers were generally either asphyxiated or fatally injured by falling soil or rock.

The balance of preventable fatalities are associated with a variety of factors. For example, 2.7 percent of the fatalities that were judged preventable by compliance with the existing standard and 3.4 percent with the revised standard are associated with inadequate attempts to locate or support underground installations, such as water, fuel, and electric lines. These fatalities mainly occurred from drowning as a result of a water main breakage, from electrocution, or from inhalation of toxic fumes from broken gas mains.

Two percent of preventable fatalities under each standard were associated with failure to test (or adequately test) or provide adequate ventilation, or eliminate sources of ignition where there are dangerous gaseous conditions (lack of oxygen or presence of toxic gases). In these cases, workers were either asphyxiated or fatally injured as a result of explosions.

In 1.4 percent of the preventable fatalities under each standard, the stability of structures (generally building walls) adjoining the trench or excavation was not properly assured by appropriate support systems. In these cases, the walls gave way and fell on the workers.

Inadequate protection from unintended movement by mobile equipment accounted for a single preventable fatality under both the existing and revised standards. In this case, a piece of equipment struck and fatally injured the worker. Various other hazards accounted for the balance of the preventable fatalities.

Overall, ERG found both the existing and revised standards to be potentially effective for the prevention of most fatalities. The high rate of prevention is due primarily to the effectiveness of these requirements in preventing the most common type of fatality, those due to a cave-in. The revised standard was found to offer a slightly higher rate of accident prevention because it is more effective against fatalities resulting from the failure to locate underground installations and to safely install cave-in protection systems.

Using the earlier estimate of 90 fatalities and applying ERG's preventability estimates of 81.1 percent for the existing standard and 82.4 percent for the revised standard results in 73 fatalities avoided per year under the existing standard and 74 per year under the revised standard.

To estimate the preventability of nonfatal injuries, ERG reviewed 103

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injuries from OSHA fatality/catastrophe inspection reports from 1979–1981. They found a similar pattern to that of fatalities, with cave-ins accounting for most injuries under both standards. As noted previously, this sample of injury data includes primarily those injuries caused by cave-ins. Few accidents of other types have been included.

ERG found 74 of the injuries were due to cave-ins. For each standard, all but 3 of these injuries (96 percent) were preventable. For the three injuries not preventable, a cave-in occurred despite apparently correct sloping of a trench as described in the accident report. For all other classifiable injuries, 23 in total, the existing and revised standards would prevent 6 (26 percent) and 11 (48 percent) respectively. These injuries may not be representative of all noncave-in injuries since only the more serious accidents are investigated by OSHA. These more serious accidents are also more likely to be addressed by both the existing and revised standards. ERG therefore estimated that the existing standard would reduce all non-cave-in accidents by five percent and that the revised standard would reduce them by ten percent.

Based on the earlier baseline cave-in injury estimate of 805 annually and applying the 96 percent preventability estimate results in 773 preventable lost workday injuries per year due to cave-ins under either standard. For noncave-in related injuries it was estimated that the existing standard would prevent 1,104 (.05×22,071) and that the revised standard would prevent 2,207 (.1×22,071) lost workday injuries annually. The combined total is 1,909 lost workday injuries prevented per year or an overall injury prevention rate for the existing standard of 8.3 percent (based on a total of 22,676 injuries). Under the revised standard, the total reduction in lost workday injuries is 3,012 per year, or 13.2 percent.

Quantitative Estimation of Employee Benefits Due to Accident Reductions

The accident reductions attributable to a standard have a monetary value to the employee who would otherwise bear the occupational risk. This report uses estimates based on the willingness-to-pay approach to represent the dollar amount that employees would be willing to pay to reduce the statistical probability of a lost workday injury. Economic studies projecting these values show a high variability, but most estimates range between $23,000 and $64,000 [20]. OSHA has chosen $33,000 as a reasonable value for a lost workday injury [21, p. VI–10]. Based on the above injury preventability estimates the value of these lost workdays prevented would be approximately $33.0 million under full compliance with the existing standard and $99.4 million under full compliance with the revised standard.

Employer Benefits Due to Cost Savings from Accident Prevention

The elimination of a fatality or injury generates additional social benefits through the restoration of all productivity losses associated with an accident. These benefits are represented by the cost savings which occur to the firm which avoids the accident. The cost savings (or prevented losses) include the value of lost production time due to job interruption and delay, administrative, paperwork, and investigative costs associated with an accident, rehiring and retraining costs to replace a seriously injured or killed worker, medical costs, and costs of re-excavation (in the case of a cave-in) or other property loss. Estimates of these costs are presented in this section.

Several previous safety studies have examined the costs of work disruptions and other direct losses due to accidents. ERG selected one such study which is based on accident investigations in the construction industry. These research findings were used in estimating the cumulative benefits of the indirect benefits from accident reduction. The study selected was performed at The Construction Institute, Department of Civil Engineering, Stanford University (Levitt et al.) [31]. The authors studied 49 reports of lost workday and non-lost workday injuries. Only results for the former category are used here. Data were assembled on the following items:

1. Insurance company claims handling and administrative fees.
2. Cost of transporting the injured worker to a medical facility.
3. Wages paid to the injured worker for the time not worked.
4. Wages paid to other workers for the time not worked (work interrupted).
5. Cost of scheduling and funding overtime necessitated by the accident.
6. Cost of loss of crew efficiency.
7. Cost to train and orient a replacement worker.
8. Extra wage cost to rehabilitate the returning worker at a reduced capacity.
9. Costs to clean up, repair, or replace damage from the accident.
10. Cost of wages for supervision associated with the accident.
11. Costs for safety and clerical personnel to record and investigate the accident.

Costs of pain and suffering or other non-quantifiable elements were not included.

The work disruption costs and other losses were found to range from $90 to $24,900 for lost workday accidents. The mean losses for the lost workday injuries studied (25 of the sample of 49) was $5,380. Identical cost savings were assumed to apply to avoided fatalities. (It should be noted that even non-lost workday injuries, which have not been added to the totals here, have notable work disruption costs. The mean estimate of work disruption costs for a non-lost workday injury was $1,450.)

The cost savings attributable to the existing standard under an assumption of full compliance were estimated at $5,380 times 1,932 (the sum of 73 fatalities and 1,909 lost workday injuries), or $10.7 million. The cost savings for the revised standard were calculated at $5,380 times 3,086 (74 fatalities and 3,012 lost workday injuries), or $16.6 million.

Incremental Benefits of the Amended Standard

The benefits generated under the existing or revised standard consist of avoided fatalities, avoided lost workday injuries, and cost savings from avoided work disruptions due to accidents. Full compliance with the revised standard will prevent more fatalities (estimated at 1 per year), will prevent more lost workday injuries (estimated at 1,103 more per year) and will generate larger cost savings due to accident avoidance (estimated at $5.9 million in cost savings per year).

Incremental Costs

Preliminary Estimates

The changes to the current subpart P represent numerous clarifications and amendments that in most cases will increase the flexibility of and reduce the regulatory burden on private enterprise without impairing worker protection. On average, the amendment is expected to result in a net reduction in costs. However, particular provisions may result in cost increases for some firms.

There are few available published data on the safety costs related to excavation projects. Thus, for its Preliminary Regulatory Impact Assessment (PRIA) of the proposed standard, OSHA relied heavily upon the judgement of those people in the contracting business, since they would be in the best position to know the costs imposed by an OSHA regulation. These individuals clearly had no incentive to underestimate such costs. Cost questions were posed to the Associated General Contractors (AGC), who in turn queried a sample of its members (about two dozen contractors). None were able to provide precise estimates of either the absolute or relative costs of particular subpart P requirements. Similarly, a number of representatives of firms were contacted directly by OSHA and asked if they could estimate the percent of their excavating costs that stemmed directly from OSHA requirements; or conversely, how their costs would be affected were this particular regulation to disappear tomorrow. Once again, none could provide precise estimates, owing in part to the variety of jobs and circumstances. Only after further probing did industry representatives indicate that only under the most extreme circumstances would subpart P requirements account for 5 percent of total job costs.

In a further attempt to isolate these costs, all of the major publishers of construction industry cost indexes, as found in "Engineering News Record" [22], were contacted in an attempt to determine if either subpart P or safety costs generally were calculated separately in the compilation of costs. Of the 15 firms contacted, all stated that labor and materials costs were considered individually, but that all safety costs were absorbed within overhead costs and could not be separately identified. Items such as offsite wages, fringe benefits, financing costs, inventory, other administrative expenses, and profit are included in overhead costs. In addition, bids on major construction projects that had been published over several years in "Engineering News Record" [5] were examined to determine whether safety costs were a line item in the specifications. None were found. Based upon the above information, OSHA assumed that all safety costs do not exceed that portion of the costs represented by overhead. Moreover, the costs associated with subpart P are only one factor contributing to the total safety costs of an excavation job.

The most recent Deparment of Labor studies [23] of the distribution of construction contract costs for various types of construction projects found that for sewer line construction, overhead and profit accounted for 23.3 percent of the total contract costs. Before-tax profit alone accounts for over 10 percent of the total; all other overhead items account for the remaining 13 plus percent. From this remainder it was assumed that no more than 5 percent of the total project cost can be attributed to all safety items, only a portion of which is a direct result of complying with subpart P requirements.

There were approximately $12.42 billion in annual excavating revenues in 1982. OSHA assumed that 5 percent of this total represents costs imposed by the existing standard. Thus, OSHA's PRIA estimated that the cost of the existing standard was $621 million annually. Based on discussions with contractors and their representatives, OSHA's preliminary analysis estimated that the amendments would save between 2 and 7 percent of the current cost of subpart P. The estimated savings arising from the amendments therefore ranged between $12.42 million and $43.47 million to the economy as a whole.

Final Estimates

Under contract to OSHA, Eastern Research Group (ERG) [16] developed revised estimates of the cost of the existing and amended excavation standards based upon model projects. They examined sewer line installation trenching, utility hook-up trenching, foundation excavation for suburban office buildings and residential building excavation. They estimated the likely means of compliance under the two standards, and the soil types of these projects.

ERG estimated, based on Commerce Department data, that the total value of construction affected by the standard is $15.8 billion, the majority of which ($9.2 billion) is in sewer and highway trenches. Based upon OSHA inspection data, sewer and highway trenches were found to have the highest non-compliance rate with the existing standard. As shown in Table 2, they were estimated to have a 24 percent non-compliance rate, followed by utility hook-up trenches at 21 percent. ERG estimated that the greatest cost impact on non-complying firms would fall on suburban commercial and industrial building excavations, where a 26.5 percent cost increase would occur after complying with either the existing or the revised standard. After accounting for non-compliance rates, utility hook-ups as a group (complying firms included) were estimated to have the highest average percent increase in cost, at just under 3 percent. Costs in this sector were attributed to the relative inability to use sloping as a means of compliance with the standard, along with relatively little current usage of hydraulic shoring or trench boxes. Given the relative size of the sewer and highway trench sector, over half the costs of compliance for cave-in protection ($149 million per year) were expected to fall in this sector (see Table 3). Again, the majority of these costs were attributed to the added use of trench boxes, which reduce productivity. Suburban commercial and industrial building excavations were estimated to incur $79 million per year and utility hook-up projects $52 million per year in compliance costs to avoid cave-ins. In total, ERG estimated that cave-in protection would cost $332.0 million under the existing standard, and $289.0 under the revised standard.

TABLE 2.—AVERAGE PERCENTAGE COST INCREASES FOR ALL TRENCHING AND EXCAVATION PROJECTS

	Estimated non-compliance rate	Percentage cost increase for non-complying model projects		Average percentage increases for all projects	
		Existing standard	Revised standard	Existing standard	Revised standard
Sewer and highway trenches	0.24	8.7	6.7	2.0	1.5
Utility hook-ups	0.21	15.6	14.4	2.9	2.7
Suburban commercial and industrial building excavations and "other" excavations	0.10	26.5	26.5	2.1	2.1
Residential building excavations	0.05	21.3	21.3	0.9	0.9

Source: ERG estimates. The categories of urban building excavations, gas and other pipeline trenches, and shallow water line trenches were assumed to be in compliance.

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TABLE 3.—TOTAL COMPLIANCE COSTS FOR THE GENERAL CAVE-IN PROTECTION REQUIREMENTS

[$millions per year]

Project category	Estimated total value	Total cave-in protection compliance costs	
		Existing standard	Revised standard
Sewer and highway trenches [1]	9,200	[1] 188	[1] 149
Utility hook-ups	1,900	56	52
Suburban commercial and industrial building excavations and "other" excavations	3,700	79	79
Residential building excavations	1,000	9	9
Total	[2] 15,800	332	289

[1] Includes trenches for water systems greater than 5 ft. deep. Also includes $8 million in cave-in protection costs incurred due to soil compaction problems.

[2] The estimated total value shown here does not include the value of excavations for urban building projects, all of which were assumed to be in compliance.

Source: ERG estimates. The categories of urban building excavations, gas and other pipeline trenches, and shallow water line trenches were assumed to be in compliance.

ERG also estimated costs for the other provisions of the standard, including those related to inspections, hazardous atmospheres, warning systems for mobile equipment, traffic vests and means of access and egress from trenches. They estimated that these would cost $12.0 million to comply with the existing standard, and $17.0 million for the revised standard. Thus, as shown in table 4, ERG estimated that the total annual cost of compliance, figuring in current non-compliance, would be $344.0 million for the existing standard, and $306.0 million for the revised standard. ERG therefore estimated that the revised standard would save $38.0 million.

TABLE 4.—SUMMARY OF COMPLIANCE COSTS UNDER FULL COMPLIANCE WITH THE EXISTING AND PROPOSED STANDARD

[Dollar million per year]

Topic	Existing standard paragraphs(s) of part 1926	Annual cost [1]	Proposed standard paragraph(s) of part 1926	Annual costs [1]
Cave-in protection [2]	Various	332.0	Various	289.0
Access and egress; means of egress from trenches	652(u)	0.4	651(c)(2)	Neg.
Traffic vests	650(f)	0.1	651(d)	0.1
Exposure to suspended loads	650(u)	Neg	651(e)	Neg.
Warning system for mobile equipment	651(e)	1.1	651(f)	Neg.
Hazardous atmospheres	650(g), 651(v)	4.1	651(g)(1)	4.1
Store excavated materials 2 feet from edge	651(i)	Neg	651(j)(3)	Neg.
Inspections	650(f), 650(d)	6.3	651(a)	6.3
Paperwork	NA	0.0	Various	6.5
Total		344.0		306.0

[1] Includes some annualized equipment costs as derived for the general paragraph requirements.
[2] Includes incremental soil compaction costs.
Neg. = Negligible.
Source: ERG estimates.

In short, using a model, or 'micro' approach of estimating costs of compliance under both the existing and proposed standards, ERG projected a cost savings from the amendments to subpart P of approximately the same magnitude as the "high" preliminary estimate OSHA produced using an aggregate approach.

It should be noted, however, that ERG's analysis examined only the impact on firms that are out of compliance with the current and revised standards. It did not examine the potential for cost savings under the revised standard in firms already in compliance with the current standard. It is possible, therefore, that the revised standard may save more than $38.0 million.

In addition to these provisions, there was some concern expressed about the need to hire a certified engineer [24, 25, 26, 27]. The final standard, however, does not require the use of an engineer, but simply allows their participation as an alternative to using the tables provided in the standard. The rule therefore will impose no additional cost and will in fact generate cost savings for those firms that now use engineers.

Cost Effectiveness

Based on the cost estimates developed by ERG, the monetized savings of the revised standard to employers from less work disruption are estimated at $16.6 million, and the monetized benefits to employees from fewer non-fatal accidents are estimated at $99.4 million. To derive a cost-effectiveness ratio, these monetized benefits were subtracted from the total annualized costs of $306.0 million, and this total divided by the expected number of lives to be saved by the standard. Since full compliance with the revised standard is expected to save 74 lives per year, OSHA estimates that the net cost per life saved is about $2.6 million.

Feasibility

The above analysis indicates that compliance with the revised standard is easier and less expensive than compliance with the existing standard. Since the analysis also indicates that most firms are currently in compliance with the existing standard, OSHA concludes that compliance with the revised standard is both economically and technologically feasible for these firms.

OSHA indicates that additional contractors will comply with the revised standard for excavation work because of its increased flexibility and clarity as compared to the existing standard. Based upon the following analysis, OSHA also concludes that the aggregate economic impacts of achieving full compliance starting from a baseline of current industry practice are small, as are the impacts to representative excavation firms, and differential impacts on small firms.

Aggregate Economic Impacts

The aggregate economic impacts of enforcing full compliance with the subpart P regulations depend on the extent to which price hikes based on compliance cost increases would cause a decline in the demand for excavation services. Since excavation is an input in the production of construction activities, the demand for excavation services depends ultimately on the demand for construction output. Thus, unless cost-based price increases would result in a reduction in demand for construction outputs, no significant economic impacts will be borne by the affected industry.

Methodology. Increasing the price of excavation has two potential effects on the demand for such services. First, increasing the price of excavation relative to the price of other inputs may result in factor substitution away from excavation. The extent to which this would occur depends on the substitutability between excavation and other input factors used in the construction process. Second, an increase in excavation prices would result in an increase in the marginal costs of construction output and, therefore, an upward shift in the construction supply curve. This in turn would result in a higher equilibrium market price and, in general, a reduction in the market equilibrium level of output. Such a reduction in construction output would not result in a decline in the demand for excavation services.

It can be shown, in general, that the price elasticity of demand for excavation services depends directly on (1) the price elasticity of demand for construction output and (2) the share of the value of construction output accounted for by excavation; and varies inversely with the elasticity of substitution between excavation and other factors of production.

The degree of substitutability between inputs depends on the nature of the production function. In construction, the substitutability between excavation and other factors is quite low and, therefore, its impact on the demand elasticity for excavation is of a second order in magnitude. If the elasticity of substitution is assumed to be zero, the price elasticity of demand for excavation is equal to the price elasticity of demand for construction multiplied by the share of construction output accounted for by excavation activities.

This derived demand relationship is used to assess the economic impact of the estimated compliance cost increases. If the demand elasticity were zero, there would be no effect on output and industry revenues would increase in an amount equal to the cost increase projected in section 3. If the demand elasticity were greater than zero (in absolute value), output would decline and revenues would increase by less than the amount of the projected cost increases. The difference between those two levels represents the aggregate economic impact of full compliance. It represents the loss in revenues from that which would be necessary to support excavation work in a full compliance state at the existing level of activity.

Demand for construction. ERG [16] judged that several categories of excavation projects would be impacted by the subpart P regulations. These include work related to sewers, highways, and water supply systems, work associated with non-residential building construction and other non-building construction, and work associated with residential building construction. This category includes building excavations for basements and foundations and trenching for utility hook-ups. The demand characteristics of each of these three construction categories is considered below.

Highway, sewer, and water system construction. Expenditures for construction projects in this category are, as a rule, publicly financed. For this reason, decisions regarding the appropriate level of such investments are not made in the private marketplace. Any relationship between the price (cost) of such investments and the level of demand depends, therefore, more on political considerations than on the factors that determine demand for privately produced goods and services.

In the case of highways, no output price exists. Thus, no simple relationship can be specified between the level of construction expenditures and the price of such investments. The cost of sewers and water systems investments is often embodied in a sewer or water charge, which is in effect a "price". In the absence of a perfect political system, decisions regarding the level of water and sewer investments will not reflect a price influence in accordance with demand theory constraints.

These considerations imply that the effect of small cost changes on the level of construction investments in this category would not be significant, a conclusion reinforced by econometric analyses of expenditures for these types of construction. For example, the Brookings Econometric Model of the United States does not include any price or cost variables in its equations forecasting public expenditures for highways or sewer and water systems. For the purposes of their study on excavating, therefore, ERG concluded that the price elasticity of demand for these construction categories is not significantly different from zero.

Non-Residential Building Construction and Other Non-Building Construction. Included in this category are commercial and industrial building construction and "other" non-building construction (highways, sewer systems, water supply facilities, gas and other pipelines). In this case, the outputs of construction activity (e.g., commercial buildings) are themselves inputs into the production of other services (e.g., services that require commercial building space). Thus the elasticity of demand for the construction output is related to (1) the price elasticity of demand for the final service and (2) the importance of the costs of buildings or other construction in the total costs of the final service. Since the cost of the building is likely a small factor in affecting the demand for the service, the price elasticity of demand for these types of construction is likely to be small. For similar reasons, the derived demand for excavation activities will be another order of magnitude smaller. Thus, ERG concluded that changes in costs of excavation activities in the ranges projected in the cost analysis will not have significant impacts on the expenditures for construction projects falling within this category.

Residential Construction. Expenditures for this category of construction activities represent investments in the stock of single and multi-family housing. A number of studies have examined the price sensitivity of the demand for housing services. Depending on the data source and estimation methodology, these studies have estimated the price elasticity of demand for housing services at values ranging from −0.4 to −1.0 [28].

In the long run, it is reasonable to expect the demand for the stock of housing to reflect similar levels of price

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sensitivity. Depending on the rate of market adjustment, short-run price sensitivity should be lower. It is also important to consider that housing investments include modifications, renovation, and depreciation (negative investment) to the existing stock as well as new housing construction. For this reason, the elasticity of demand for new residential construction is likely to be lower than that for residential construction as a whole. Thus, for purposes of the economic impact analysis, ERG assumed a price elasticity of −0.5, which is at the lower end of the spectrum of estimated price elasticities.

Aggregate Economic Impacts. Based on the magnitude of the elasticity developed above, and the small portion of each construction activity composed of excavation work, ERG concluded that no significant impacts should be expected from compliance-related cost increases for trenches for sewers, highways, and water supply systems and for excavations for commercial and industrial buildings and other non-building excavations.

Only in the case of housing construction does the possibility of a significant impact exist for excavation work for basements and foundations and trench work for residential utility hook-ups. Excavation is estimated to represent 0.5 percent of residential construction and utility hook-ups are estimated to account for 1.0 percent of residential construction. Combining these shares with the estimated construction price elasticity of −0.5 suggests an elasticity of demand with respect to price of −.003 for residential construction excavations and −.005 for utility trenches.

Economic impacts on excavation contractors will occur to the extent that cost increases exceed revenue increases. The estimated changes in average project costs due to compliance are 0.9 percent for residential foundation excavations and 2.9 percent for utility hook-ups under the more costly existing standard. The revenues from residential foundation excavations and utility hook-up trenches are $1 billion and $1.35 billion, respectively. The project cost increases (at current levels of activity) will generate aggregate cost increases of $9.0 million and $39.2 million in these two sectors.

Revenue increases are derived by applying the revenue elasticity (which is equal to one plus the price elasticity) to the cost increases. This calculation indicates that the revenue increases fall short of the cost increases by approximately $27,000 in residential excavations and $198,000 in utility hook-up trenches.

Given the magnitude of these estimates in comparison to total industry revenues, OSHA believes that no significant impacts on the construction industry will result from enforcing full compliance with either version of the Subpart P standard. Only in residential construction does the possibility of measurable impacts exist. Even in this case, however, the estimated aggregate impacts are less than the value of the construction work performed by one typical excavation contractor. As a result, OSHA concludes that full compliance with the revised standard is economically feasible.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 95–353, 94 Stat. 1164 (5 U.S.C. 60 et seq.)), OSHA has assessed the impact of the revisions and concludes that they would not adversely affect a significant number of small entities.

As is generally known, the burden of regulation, especially the legal and paperwork burdens, can fall disproportionately on small enterprises. This occurs primarily because larger firms often have the legal and clerical support in place to handle the burdens imposed by government regulation. ERG concluded that the sector most likely to incur some revenue loss is residential construction. Firms providing excavation services for this sector are among the smallest firms in the construction industry. Nevertheless, ERG concluded that the impacts from revenue loss will be minor.

In general, the amended standard will not generate differential impacts on small firms, but there may be instances in which full compliance will be more difficult for smaller firms. Full compliance with the Subpart P standards will sometimes require contractors to utilize trench boxes or more expensive means of cave-in protection. This occurs when there is not sufficient space for sloping of the trench sides, or where uneven trench sides may make the use of hydraulic shores unwieldy. For the smallest contractors, compliance through these methods may be difficult because they lack adequate equipment capabilities, such as a backhoe of sufficient size to pull a trench box. These inequities among firms are ameliorated to the extent that firms are able to rent the necessary equipment. Technological impacts (e.g., light-weight trench boxes) also help. Rental costs may cut into profit margins, however, and as a result small firms may prefer not to participate in some excavation jobs. Overall, OSHA believes that these disadvantages are minor and will be less evident under full compliance with the revised standard than with the existing standard because of the additional flexibility permitted under the former.

The primary point of concern registered by smaller contractors dealt with the possibility of having to have a qualified engineer design cave-in protection. OSHA's **Federal Register** notice on June 16, 1987 asked "Should OSHA limit all design responsibility to a "qualified engineer?" In reponse, several commentors suggested this would place a disproportionate impact on small contractors. The Underground Contractors Association of Northern California stated that:

> We feel that the most severe impact of this requirement would be on small, minority and disadvantaged businesses. From a competitive standpoint, larger firms would hire someone in-house and would integrate the cost into their overhead more effectively than the small business who would be required to retain a consultant on a very expensive hourly contract rate [29, p. 3].

As stated earlier, however, employers have several options to choose from in selecting cave-in protection. The Washington Metropolitan Area Construction Safety Association correctly stated, "With all the options provided, the use of a [registered professional] engineer should seldom if ever be required" [30].

Other impacts of the revised standard will not create unusual compliance problems for small firms. The revised standard does not explicitly or implicitly require that small firms have substantial organizational infrastructure for providing training or other safety-oriented administrative controls. Nearly all compliance can be achieved without a change in normal operating procedures. The major compliance issue, cave-in protection, can clearly be provided by small firms in normal operating circumstances.

Similarly, it may be true that the larger excavating firms are less affected by the requirements than their smaller rivals because the very size of the larger firms may have prompted the adoption of companywide construction practices that meet or exceed the minimum requirements. It is therefore likely that the amendments, which serve principally to reduce the cost of compliance by increasing the flexibility of the regulations and clarifying their intent, will also benefit smaller firms. Thus, clarifying the standard and explicitly stating the flexibility and choice available to firms will reduce compliance costs to both small and large firms.

Some portion of these savings will pass through to the consumers or to the state and local governments that often are the purchasers of excavation projects. In sum, economy-wide savings from the revision are estimated to be $38.0 million. Thus, the overall effect on prices, output, and employment in the U.S. economy will be small, but favorable. For these reasons, OSHA concludes that the revised standard is unlikely to have an adverse impact on a significant number of small excavation companies.

Additional Impact Measures

Impacts on State and Local Governments. The value of new construction financed by state and local governments totaled approximately $55 billion in 1985 [27, Table S–7]. ERG estimated the incremental compliance cost expenditure on sewer and highway projects at $188 million under the existing standard. It will be slightly less under the revised standard. This equals 0.34 percent of state and local construction investments.

Employment. The employment impacts of achieving compliance with the existing or revised standard are dependent upon the general economic impacts discussed in previous sections. OSHA does not expect significant impacts for such firms and believes the employment impacts will be negligible.

Foreign Trade. Changes to the excavation standard or enforcement of full compliance with this standard will not impact U.S. foreign trade. The OSHA standard is applicable to excavation work performed in the U.S. and there is no possibility of substitution to lower cost foreign excavation services.

Environmental Impacts

The revisions to subpart P have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4231 et seq.), the Regulations of the Council on Environmental Quality (CEQ) (40 CFR part 1500), and OSHA's DOL NEPA Procedures (29 CFR part 11). As a result of this review, the Assistant Secretary for OSHA has determined that the amended standard would have no significant environmental impact.

Although safety standards rarely influence air, water, or soil quality, plant or animal life, or the use of land or other aspects of the environment, it is appropriate to examine whether the revisions to the OSHA standard on excavation (29 CFR part 1926, subpart P) will alter the environment external to the workplace. Excavation can have significant effects upon local environments. For example, erosion, runoff, and similar actions can result in environmental degradation. These potential impacts can be more or less severe depending upon how and where the excavation is dug, how long it is left open, the disposition of the earth that is removed, etc. OSHA has determined, however, that the revisions to subpart P consist primarily of clarifications in work practices and procedures and are unlikely to have significant impacts on any of these activities; therefore, these revisions will have no significant environmental effects.

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V. OMB Approval Under the Paperwork Reduction Act

This subpart contains a collection of information in § 1926.652(b) (3) and (4), and (c) (2), (3) and (4). These provisions require employers to maintain a copy of protective systems designs, including tabulated data and manufacturers data at the worksite and to make these designs or data available to the Secretary. OMB has reviewed these collections and approved them through September 30, 1992. The approval number is 1218–0137.

Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, Department of Labor, Room N–1301, 200 Constitution Avenue, NW., Washington, DC 20210; and to the Office of Management and Budget Paperwork Reduction Project (1218–0137), Washington, DC 20503.

VI. State Plan Standards

The 25 states with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of the publication date of the final rule or show OSHA why there is no need for action, e.g. because an existing standard covering this area is already "at least as effective" as the revised federal standard. These states are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for state and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington and Wyoming.

VII. Federalism

The Final Rule has been reviewed in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987) regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of state law only if there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt state laws relating to issues with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act; a state can avoid preemption only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan States must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Where such standards are applicable to products distributed or used in interstate commerce, they may not unduly burden commerce and must be justified by compelling local conditions, *see* section 18(c)(2).

The Federal standard on excavations addresses hazards which are not unique to any one state or region of the country. Nonetheless, states with occupational safety and health plans approved under section 18 of the OSH Act will be able to develop their own state standards to deal with any special problems which might be encountered in a particular state. Moreover, because this standard is written in general, performance-oriented terms, there is considerable flexibility for state plans to require, and for affect employers to use, methods of compliance which are appropriate to the working conditions covered by the standard.

In brief, this Final Rule addresses a clear national problem related to occupational safety and health in the construction industry. Those states which have elected to participate under section 18 of the OSH Act are not preempted this standard, and will be able to address any special conditions within the framework of the Federal Act while ensuring that the state standards are at least as effective as that standard.

VIII. Authority

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR part 1911, part 1926 to title 29 of the Code of Federal Regulations is amended as set forth below.

List of Subjects in 29 CFR Part 1926

Construction safety, Construction industry, Excavations, Occupational safety and health, Protective equipment, Safety.

Signed at Washington, DC, this 20th day of October, 1989.

Gerard F. Scannell,

Assistant Secretary of Labor.

Part 1926 of 29 CFR is amended as follows:

PART 1926—[AMENDED]

Subpart M—[Amended]

1. By revising the authority citation for subpart M of part 1926 to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable, and 29 CFR part 1911.

2. By revising subpart P of part 1926 to read as follows:

Subpart P—Excavations

Sec.

1926.650 Scope, application, and definitions applicable to this subpart.
1926.651 General requirements.
1926.652 Requirements for protective systems.

Appendix A to Subpart P—Soil Classification

Appendix B to Subpart P—Sloping and Benching

Appendix C to Subpart P—Timber Shoring for Trenches

Appendix D to Subpart P—Aluminum Hydraulic Shoring for Trenches

Appendix E to Subpart P—Alternatives to Timber Shoring

Appendix F to Subpart P—Selection of Protective Systems

Subpart P—Excavations

Authority: Sec. 107, Contract Worker Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable, and 29 CFR part 1911.

§ 1926.650 Scope, application, and definitions applicable to this subpart.

(a) *Scope and application.* This subpart applies to all open excavations made in the earth's surface. Excavations are defined to include trenches.

(b) *Definitions applicable to this subpart.*

Accepted engineering practices means those requirements which are compatible with standards of practice required by a registered professional engineer.

Aluminum Hydraulic Shoring means a pre-engineered shoring system comprised of aluminum hydraulic cylinders (crossbraces) used in conjunction with vertical rails (uprights) or horizontal rails (walers). Such system is designed, specifically to support the sidewalls of an excavation and prevent cave-ins.

Bell-bottom pier hole means a type of shaft or footing excavation, the bottom of which is made larger than the cross section above to form a belled shape.

Benching (Benching system) means a method of protecting employees from cave-ins by excavating the sides of an excavation to form one or a series of horizontal levels or steps, usually with vertical or near-vertical surfaces between levels.

Cave-in means the separation of a mass of soil or rock material from the side of an excavation, or the loss of soil from under a trench shield or support system, and its sudden movement into the excavation, either by falling or sliding, in sufficient quantity so that it could entrap, bury, or otherwise injure and immobilize a person.

Competent person means one who is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Cross braces mean the horizontal members of a shoring system installed perpendicular to the sides of the excavation, the ends of which bear against either uprights or wales.

Excavation means any man-made cut, cavity, trench, or depression in an earth surface, formed by earth removal.

Faces or *sides* means the vertical or inclined earth surfaces formed as a result of excavation work.

Failure means the breakage, displacement, or permanent deformation of a structural member or connection so as to reduce its structural integrity and its supportive capabilities.

Hazardous atmosphere means an atmosphere which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritating, oxygen deficient, toxic, or otherwise harmful, may cause death, illness, or injury.

Kickout means the accidental release or failure of a cross brace.

Protective system means a method of protecting employees from cave-ins, from material that could fall or roll from an excavation face or into an excavation, or from the collapse of adjacent structures. Protective systems include support systems, sloping and benching systems, shield systems, and other systems that provide the necessary protection.

Ramp means an inclined walking or working surface that is used to gain access to one point from another, and is constructed from earth or from structural materials such as steel or wood.

Registered Professional Engineer means a person who is registered as a professional engineer in the state where the work is to be performed. However, a professional engineer, registered in any state is deemed to be a "registered professional engineer" within the meaning of this standard when approving designs for "manufactured protective systems" or "tabulated data" to be used in interstate commerce.

Sheeting means the members of a shoring system that retain the earth in position and in turn are supported by other members of the shoring system.

Shield (Shield system) means a structure that is able to withstand the forces imposed on it by a cave-in and thereby protect employees within the structure. Shields can be permanent structures or can be designed to be portable and moved along as work progresses. Additionally, shields can be either premanufactured or job-built in accordance with § 1926.652 (c)(3) or (c)(4). Shields used in trenches are usually referred to as "trench boxes" or "trench shields."

Shoring (Shoring system) means a structure such as a metal hydraulic, mechanical or timber shoring system that supports the sides of an excavation and which is designed to prevent cave-ins.

Sides. See "Faces."

Sloping (Sloping system) means a method of protecting employees from cave-ins by excavating to form sides of an excavation that are inclined away from the excavation so as to prevent cave-ins. The angle of incline required to prevent a cave-in varies with differences in such factors as the soil type, environmental conditions of exposure, and application of surcharge loads.

Stable rock means natural solid mineral material that can be excavated with vertical sides and will remain intact while exposed. Unstable rock is considered to be stable when the rock material on the side or sides of the excavation is secured against caving-in or movement by rock bolts or by another protective system that has been designed by a registered professional engineer.

Structural ramp means a ramp built of steel or wood, usually used for vehicle access. Ramps made of soil or rock are not considered structural ramps.

Support system means a structure such as underpinning, bracing, or shoring, which provides support to an adjacent structure, underground

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installation, or the sides of an excavation.

Tabulated data means tables and charts approved by a registered professional engineer and used to design and construct a protective system.

Trench (Trench excavation) means a narrow excavation (in relation to its length) made below the surface of the ground. In general, the depth is greater than the width, but the width of a trench (measured at the bottom) is not greater than 15 feet (4.6 m). If forms or other structures are installed or constructed in an excavation so as to reduce the dimension measured from the forms or structure to the side of the excavation to 15 feet (4.6 m) or less (measured at the bottom of the excavation), the excavation is also considered to be a trench.

Trench box. See "Shield."

Trench shield. See "Shield."

Uprights means the vertical members of a trench shoring system placed in contact with the earth and usually positioned so that individual members do not contact each other. Uprights placed so that individual members are closely spaced, in contact with or interconnected to each other, are often called "sheeting."

Wales means horizontal members of a shoring system placed parallel to the excavation face whose sides bear against the vertical members of the shoring system or earth.

§ 1926.651 General requirements.

(a) *Surface encumbrances.* All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(b) *Underground installations.* (1) The estimated location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be determined prior to opening an excavation.

(2) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or owners cannot respond to a request to locate underground utility installations within 24 hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations, the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used.

(3) When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(4) While the excavation is open, underground installations shall be protected, supported or removed as necessary to safeguard employees.

(c) *Access and egress*—(1) *Structural ramps.* (i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(2) *Means of egress from trench excavations.* A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(d) *Exposure to vehicular traffic.* Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.

(e) *Exposure to falling loads.* No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with § 1926.601(b)(6), to provide adequate protection for the operator during loading and unloading operations.

(f) *Warning system for mobile equipment.* When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(g) *Hazardous atmospheres*—(1) *Testing and controls.* In addition to the requirements set forth in subparts D and E of this part (29 CFR 1926.50–1926.107) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation in accordance with subparts D and E of this part respectively.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 20 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(2) *Emergency rescue equipment.* (i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a life-line securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

(h) *Protection from hazards associated with water accumulation.* (1) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(2) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(3) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with paragraphs (h)(1) and (h)(2) of this section.

(i) *Stability of adjacent structures.* (1) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(2) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(3) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(j) *Protection of employees from loose rock or soil.* (1) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(2) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(k) *Inspections.* (1) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(2) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(l) *Fall protection.* (1) Where employees or equipment are required or permitted to cross over excavations, walkways or bridges with standard guardrails shall be provided.

(2) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.

§ 1926.652 Requirements for protective systems.

(a) *Protection of employees in excavations.* (1) Each employee in an excavation shall be protected from cave-ins by an adequate protective system designed in accordance with paragraph (b) or (c) of this section except when:

(i) Excavations are made entirely in stable rock; or

(ii) Excavations are less than 5 feet (1.52m) in depth and examination of the ground by a competent person provides no indication of a potential cave-in.

(2) Protective systems shall have the capacity to resist without failure all loads that are intended or could reasonably be expected to be applied or transmitted to the system.

(b) *Design of sloping and benching systems.* The slopes and configurations of sloping and benching systems shall be selected and constructed by the employer or his designee and shall be in accordance with the requirements of paragraph (b)(1); or, in the alternative, paragraph (b)(2); or, in the alternative, paragraph (b)(3), or, in the alternative, paragraph (b)(4), as follows:

(1) *Option (1)—Allowable configurations and slopes.* (i) Excavations shall be sloped at an angle not steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal), unless the employer uses one of the other options listed below.

(ii) Slopes specified in paragraph (b)(1)(i) of this section, shall be excavated to form configurations that are in accordance with the slopes shown for Type C soil in Appendix B to this subpart.

(2) *Option (2)—Determination of slopes and configurations using Appendices A and B.* Maximum allowable slopes, and allowable configurations for sloping and benching systems, shall be determined in accordance with the conditions and requirements set forth in appendices A and B to this subpart.

(3) *Option (3)—Designs using other tabulated data.* (i) Designs of sloping or benching systems shall be selected from and be in accordance with tabulated data, such as tables and charts.

(ii) The tabulated data shall be in written form and shall include all of the following:

(A) Identification of the parameters that affect the selection of a sloping or benching system drawn from such data;

(B) Identification of the limits of use of the data, to include the magnitude and configuration of slopes determined to be safe;

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(C) Explanatory information as may be necessary to aid the user in making a correct selection of a protective system from the data.

(iii) At least one copy of the tabulated data which identifies the registered professional engineer who approved the data, shall be maintained at the jobsite during construction of the protective system. After that time the data may be stored off the jobsite, but a copy of the data shall be made available to the Secretary upon request.

(4) *Option (4)—Design by a registered professional engineer.* (i) Sloping and benching systems not utilizing Option (1) or Option (2) or Option (3) under paragraph (b) of this section shall be approved by a registered professional engineer.

(ii) Designs shall be in written form and shall include at least the following:

(A) The magnitude of the slopes that were determined to be safe for the particular project;

(B) The configurations that were determined to be safe for the particular project; and

(C) The identity of the registered professional engineer approving the design.

(iii) At least one copy of the design shall be maintained at the jobsite while the slope is being constructed. After that time the design need not be at the jobsite, but a copy shall be made available to the Secretary upon request.

(c) *Design of support systems, shield systems, and other protective systems.* Designs of support systems shield systems, and other protective systems shall be selected and constructed by the employer or his designee and shall be in accordance with the requirements of paragraph (c)(1); or, in the alternative, paragraph (c)(2); or, in the alternative, paragraph (c)(3); or, in the alternative, paragraph (c)(4) as follows:

(1) *Option (1)—Designs using appendices A, C and D.* Designs for timber shoring in trenches shall be determined in accordance with the conditions and requirements set forth in appendices A and C to this subpart. Designs for aluminum hydraulic shoring shall be in accordance with paragraph (c)(2) of this section, but if manufacturer's tabulated data cannot be utilized, designs shall be in accordance with appendix D.

(2) *Option (2)—Designs Using Manufacturer's Tabulated Data.* (i) Design of support systems, shield systems, or other protective systems that are drawn from manufacturer's tabulated data shall be in accordance with all specifications, recommendations, and limitations issued or made by the manufacturer.

(ii) Deviation from the specifications, recommendations, and limitations issued or made by the manufacturer shall only be allowed after the manufacturer issues specific written approval.

(iii) Manufacturer's specifications, recommendations, and limitations, and manufacturer's approval to deviate from the specifications, recommendations, and limitations shall be in written form at the jobsite during construction of the protective system. After that time this data may be stored off the jobsite, but a copy shall be made available to the Secretary upon request.

(3) *Option (3)—Designs using other tabulated data.* (i) Designs of support systems, shield systems, or other protective systems shall be selected from and be in accordance with tabulated data, such as tables and charts.

(ii) The tabulated data shall be in written form and include all of the following:

(A) Identification of the parameters that affect the selection of a protective system drawn from such data;

(B) Identification of the limits of use of the data;

(C) Explanatory information as may be necessary to aid the user in making a correct selection of a protective system from the data.

(iii) At least one copy of the tabulated data, which identifies the registered professional engineer who approved the data, shall be maintained at the jobsite during construction of the protective system. After that time the data may be stored off the jobsite, but a copy of the data shall be made available to the Secretary upon request.

(4) *Option (4)—Design by a registered professional engineer.* (i) Support systems, shield systems, and other protective systems not utilizing Option 1, Option 2 or Option 3, above, shall be approved by a registered professional engineer.

(ii) Designs shall be in written form and shall include the following:

(A) A plan indicating the sizes, types, and configurations of the materials to be used in the protective system; and

(B) The identity of the registered professional engineer approving the design.

(iii) At least one copy of the design shall be maintained at the jobsite during construction of the protective system. After that time, the design may be stored off the jobsite, but a copy of the design shall be made available to the Secretary upon request.

(d) *Materials and equipment.* (1) Materials and equipment used for protective systems shall be free from damage or defects that might impair their proper function.

(2) Manufactured materials and equipment used for protective systems shall be used and maintained in a manner that is consistent with the recommendations of the manufacturer, and in a manner that will prevent employee exposure to hazards.

(3) When material or equipment that is used for protective systems is damaged, a competent person shall examine the material or equipment and evaluate its suitability for continued use. If the competent person cannot assure the material or equipment is able to support the intended loads or is otherwise suitable for safe use, then such material or equipment shall be removed from service, and shall be evaluated and approved by a registered professional engineer before being returned to service.

(e) *Installation and removal of support*—(1) *General.* (i) Members of support systems shall be securely connected together to prevent sliding, falling, kickouts, or other predictable failure.

(ii) Support systems shall be installed and removed in a manner that protects employees from cave-ins, structural collapses, or from being struck by members of the support system.

(iii) Individual members of support systems shall not be subjected to loads exceeding those which those members were designed to withstand.

(iv) Before temporary removal of individual members begins, additional precautions shall be taken to ensure the safety of employees, such as installing other structural members to carry the loads imposed on the support system.

(v) Removal shall begin at, and progress from, the bottom of the excavation. Members shall be released slowly so as to note any indication of possible failure of the remaining members of the structure or possible cave-in of the sides of the excavation.

(vi) Backfilling shall progress together with the removal of support systems from excavations.

(2) *Additional requirements for support systems for trench excavations.* (i) Excavation of material to a level no greater than 2 feet (.61 m) below the bottom of the members of a support system shall be permitted, but only if the system is designed to resist the forces calculated for the full depth of the trench, and there are no indications while the trench is open of a possible loss of soil from behind or below the bottom of the support system.

(ii) Installation of a support system shall be closely coordinated with the excavation of trenches.

(f) *Sloping and benching systems.* Employees shall not be permitted to work on the faces of sloped or benched excavations at levels above other employees except when employees at the lower levels are adequately protected from the hazard of falling, rolling, or sliding material or equipment.

(g) *Shield systems*—(1) *General.* (i) Shield systems shall not be subjected to loads exceeding those which the system was designed to withstand.

(ii) Shields shall be installed in a manner to restrict lateral or other hazardous movement of the shield in the event of the application of sudden lateral loads.

(iii) Employees shall be protected from the hazard of cave-ins when entering or exiting the areas protected by shields.

(iv) Employees shall not be allowed in shields when shields are being installed, removed, or moved vertically.

(2) *Additional requirement for shield systems used in trench excavations.* Excavations of earth material to a level not greater than 2 feet (.61 m) below the bottom of a shield shall be permitted, but only if the shield is designed to resist the forces calculated for the full depth of the trench, and there are no indications while the trench is open of a possible loss of soil from behind or below the bottom of the shield.

Appendix A to Subpart P

Soil Classification

(a) *Scope and application*—(1) *Scope.* This appendix describes a method of classifying soil and rock deposits based on site and environmental conditions, and on the structure and composition of the earth deposits. The appendix contains definitions, sets forth requirements, and describes acceptable visual and manual tests for use in classifying soils.

(2) *Application.* This appendix applies when a sloping or benching system is designed in accordance with the requirements set forth in § 1926.652(b)(2) as a method of protection for employees from cave-ins. This appendix also applies when timber shoring for excavations is designed as a method of protection from cave-ins in accordance with appendix C to subpart P of part 1926, and when aluminum hydraulic shoring is designed in accordance with appendix D. This Appendix also applies if other protective systems are designed and selected for use from data prepared in accordance with the requirements set forth in § 1926.652(c), and the use of the data is predicated on the use of the soil classification system set forth in this appendix.

(b) *Definitions.* The definitions and examples given below are based on, in whole or in part, the following: American Society for Testing Materials (ASTM) Standards D653-85 and D2488; The Unified Soils Classification System, The U.S. Department of Agriculture (USDA) Textural Classification Scheme; and The National Bureau of Standards Report BSS-121.

Cemented soil means a soil in which the particles are held together by a chemical agent, such as calcium carbonate, such that a hand-size sample cannot be crushed into powder or individual soil particles by finger pressure.

Cohesive soil means clay (fine grained soil), or soil with a high clay content, which has cohesive strength. Cohesive soil does not crumble, can be excavated with vertical sideslopes, and is plastic when moist. Cohesive soil is hard to break up when dry, and exhibits significant cohesion when submerged. Cohesive soils include clayey silt, sandy clay, silty clay, clay and organic clay.

Dry soil means soil that does not exhibit visible signs of moisture content.

Fissured means a soil material that has a tendency to break along definite planes of fracture with little resistance, or a material that exhibits open cracks, such as tension cracks, in an exposed surface.

Granular soil means gravel, sand, or silt, (coarse grained soil) with little or no clay content. Granular soil has no cohesive strength. Some moist granular soils exhibit apparent cohesion. Granular soil cannot be molded when moist and crumbles easily when dry.

Layered system means two or more distinctly different soil or rock types arranged in layers. Micaceous seams or weakened planes in rock or shale are considered layered.

Moist soil means a condition in which a soil looks and feels damp. Moist cohesive soil can easily be shaped into a ball and rolled into small diameter threads before crumbling. Moist granular soil that contains some cohesive material will exhibit signs of cohesion between particles.

Plastic means a property of a soil which allows the soil to be deformed or molded without cracking, or appreciable volume change.

Saturated soil means a soil in which the voids are filled with water. Saturation does not require flow. Saturation, or near saturation, is necessary for the proper use of instruments such as a pocket penetrometer or sheer vane.

Soil classification system means, for the purpose of this subpart, a method of categorizing soil and rock deposits in a hierarchy of Stable Rock, Type A, Type B, and Type C, in decreasing order of stability. The categories are determined based on an analysis of the properties and performance characteristics of the deposits and the environmental conditions of exposure.

Stable rock means natural solid mineral matter that can be excavated with vertical sides and remain intact while exposed.

Submerged soil means soil which is underwater or is free seeping.

Type A means cohesive soils with an unconfined compressive strength of 1.5 tsf per square foot (tsf) (144 kPa) or greater. Examples of cohesive soils are: clay, silty clay, sandy clay, clay loam and, in some cases, silty clay loam and sandy clay loam. Cemented soils such as caliche and hardpan are also considered Type A. However, no soil is Type A if:

(i) The soil is fissured; or

(ii) The soil is subject to vibration from heavy traffic, pile driving, or similar effects; or

(iii) The soil has been previously disturbed; or

(iv) The soil is part of a sloped, layered system where the layers dip into the excavation on a slope of four horizontal to one vertical (4H:1V) or greater; or

(v) The material is subject to other factors that would require it to be classified as a less stable material.

Type B means:

(i) Cohesive soil with an unconfined compressive strength greater than 0.5 tsf (48 kPa) but less than 1.5 tsf (144 kPa); or

(ii) Granular cohesionless soils including: angular gravel (similar to crushed rock), silt, silt loam, sandy loam and, in some cases, silty clay loam and sandy clay loam.

(iii) Previously disturbed soils except those which would otherwise be classed as Type C soil.

(iv) Soil that meets the unconfined compressive strength or cementation requirements for Type A, but is fissured or subject to vibration; or

(v) Dry rock that is not stable; or

(vi) Material that is part of a sloped, layered system where the layers dip into the excavation on a slope less steep than four horizontal to one vertical (4H:1V), but only if the material would otherwise be classified as Type B.

Type C means:

(i) Cohesive soil with an unconfined compressive strength of 0.5 tsf (48 kPa) or less; or

(ii) Granular soils including gravel, sand, and loamy sand; or

(iii) Submerged soil or soil from which water is freely seeping; or

(iv) Submerged rock that is not stable, or

(v) Material in a sloped, layered system where the layers dip into the excavation or a slope of four horizontal to one vertical (4H:1V) or steeper.

Unconfined compressive strength means the load per unit area at which a soil will fail in compression. It can be determined by laboratory testing, or estimated in the field using a pocket penetrometer, by thumb penetration tests, and other methods.

Wet soil means soil that contains significantly more moisture than moist soil, but in such a range of values that cohesive material will slump or begin to flow when vibrated. Granular material that would exhibit cohesive properties when moist will lose those cohesive properties when wet.

(c) *Requirements*—(1) *Classification of soil and rock deposits.* Each soil and rock deposit shall be classified by a competent person as Stable Rock, Type A, Type B, or Type C in accordance with the definitions set forth in paragraph (b) of this appendix.

(2) *Basis of classification.* The classification of the deposits shall be made based on the results of at least one visual and at least one manual analysis. Such analyses

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shall be conducted by a competent person using tests described in paragraph (d) below, or in other recognized methods of soil classification and testing such as those adopted by the America Society for Testing Materials, or the U.S. Department of Agriculture textural classification system.

(3) *Visual and manual analyses.* The visual and manual analyses, such as those noted as being acceptable in paragraph (d) of this appendix, shall be designed and conducted to provide sufficient quantitative and qualitative information as may be necessary to identify properly the properties, factors, and conditions affecting the classification of the deposits.

(4) *Layered systems.* In a layered system, the system shall be classified in accordance with its weakest layer. However, each layer may be classified individually where a more stable layer lies under a less stable layer.

(5) *Reclassification.* If, after classifying a deposit, the properties, factors, or conditions affecting its classification change in any way, the changes shall be evaluated by a competent person. The deposit shall be reclassified as necessary to reflect the changed circumstances.

(d) *Acceptable visual and manual tests.*—(1) *Visual tests.* Visual analysis is conducted to determine qualitative information regarding the excavation site in general, the soil adjacent to the excavation, the soil forming the sides of the open excavation, and the soil taken as samples from excavated material.

(i) Observe samples of soil that are excavated and soil in the sides of the excavation. Estimate the range of particle sizes and the relative amounts of the particle sizes. Soil that is primarily composed of fine-grained material is cohesive material. Soil composed primarily of coarse-grained sand or gravel is granular material.

(ii) Observe soil as it is excavated. Soil that remains in clumps when excavated is cohesive. Soil that breaks up easily and does not stay in clumps is granular.

(iii) Observe the side of the opened excavation and the surface area adjacent to the excavation. Crack-like openings such as tension cracks could indicate fissured material. If chunks of soil spall off a vertical side, the soil could be fissured. Small spalls are evidence of moving ground and are indications of potentially hazardous situations.

(iv) Observe the area adjacent to the excavation and the excavation itself for evidence of existing utility and other underground structures, and to identify previously disturbed soil.

(v) Observe the opened side of the excavation to identify layered systems. Examine layered systems to identify if the layers slope toward the excavation. Estimate the degree of slope of the layers.

(vi) Observe the area adjacent to the excavation and the sides of the opened excavation for evidence of surface water, water seeping from the sides of the excavation, or the location of the level of the water table.

(vii) Observe the area adjacent to the excavation and the area within the excavation for sources of vibration that may affect the stability of the excavation face.

(2) *Manual tests.* Manual analysis of soil samples is conducted to determine quantitative as well as qualitative properties of soil and to provide more information in order to classify soil properly.

(i) *Plasticity.* Mold a moist or wet sample of soil into a ball and attempt to roll it into threads as thin as ⅛-inch in diameter. Cohesive material can be successfully rolled into threads without crumbling. For example, if at least a two inch (50 mm) length of ⅛-inch thread can be held on one end without tearing, the soil is cohesive.

(ii) *Dry strength.* If the soil is dry and crumbles on its own or with moderate pressure into individual grains or fine powder, it is granular (any combination of gravel, sand, or silt). If the soil is dry and falls into clumps which break up into smaller clumps, but the smaller clumps can only be broken up with difficulty, it may be clay in any combination with gravel, sand or silt. If the dry soil breaks into clumps which do not break up into small clumps and which can only be broken with difficulty, and there is no visual indication the soil is fissured, the soil may be considered unfissured.

(iii) *Thumb penetration.* The thumb penetration test can be used to estimate the unconfined compressive strength of cohesive soils. (This test is based on the thumb penetration test described in American Society for Testing and Materials (ASTM) Standard designation D2488—"Standard Recommended Practice for Description of Soils (Visual—Manual Procedure).") Type A soils with an unconfined compressive strength of 1.5 tsf can be readily indented by the thumb; however, they can be penetrated by the thumb only with very great effort. Type C soils with an unconfined compressive strength of 0.5 tsf can be easily penetrated several inches by the thumb, and can be molded by light finger pressure. This test should be conducted on an undisturbed soil sample, such as a large clump of spoil, as soon as practicable after excavation to keep to a miminum the effects of exposure to drying influences. If the excavation is later exposed to wetting influences (rain, flooding), the classification of the soil must be changed accordingly.

(iv) *Other strength tests.* Estimates of unconfined compressive strength of soils can also be obtained by use of a pocket penetrometer or by using a hand-operated shearvane.

(v) *Drying test.* The basic purpose of the drying test is to differentiate between cohesive material with fissures, unfissured cohesive material, and granular material. The procedure for the drying test involves drying a sample of soil that is approximately one inch thick (2.54 cm) and six inches (15.24 cm) in diameter until it is thoroughly dry:

(A) If the sample develops cracks as it dries, significant fissures are indicated.

(B) Samples that dry without cracking are to be broken by hand. If considerable force is necessary to break a sample, the soil has significant cohesive material content. The soil can be classified as a unfissured cohesive material and the unconfined compressive strength should be determined.

(C) If a sample breaks easily by hand, it is either a fissured cohesive material or a granular material. To distinguish between the two, pulverize the dried clumps of the sample by hand or by stepping on them. If the clumps do not pulverize easily, the material is cohesive with fissures. If they pulverize easily into very small fragments, the material is granular.

Appendix B to Subpart P

Sloping and Benching

(a) *Scope and application.* This appendix contains specifications for sloping and benching when used as methods of protecting employees working in excavations from cave-ins. The requirements of this appendix apply when the design of sloping and benching protective systems is to be performed in accordance with the requirements set forth in § 1926.652(b)(2).

(b) *Definitions.*

Actual slope means the slope to which an excavation face is excavated.

Distress means that the soil is in a condition where a cave-in is imminent or is likely to occur. Distress is evidenced by such phenomena as the development of fissures in the face of or adjacent to an open excavation; the subsidence of the edge of an excavation; the slumping of material from the face or the bulging or heaving of material from the bottom of an excavation; the spalling of material from the face of an excavation; and ravelling, i.e., small amounts of material such as pebbles or little clumps of material suddenly separating from the face of an excavation and trickling or rolling down into the excavation.

Maximum allowable slope means the steepest incline of an excavation face that is acceptable for the most favorable site conditions as protection against cave-ins, and is expressed as the ratio of horizontal distance to vertical rise (H:V).

Short term exposure means a period of time less than or equal to 24 hours that an excavation is open.

(c) *Requirements*—(1) *Soil classification.* Soil and rock deposits shall be classified in accordance with appendix A to subpart P of part 1926.

(2) *Maximum allowable slope.* The maximum allowable slope for a soil or rock deposit shall be determined from Table B–1 of this appendix.

(3) *Actual slope.* (i) The actual slope shall not be steeper than the maximum allowable slope.

(ii) The actual slope shall be less steep than the maximum allowable slope, when there are signs of distress. If that situation occurs, the slope shall be cut back to an actual slope which is at least ½ horizontal to one vertical (½H:1V) less steep than the maximum allowable slope.

(iii) When surcharge loads from stored material or equipment, operating equipment, or traffic are present, a competent person shall determine the degree to which the actual slope must be reduced below the maximum allowable slope, and shall assure that such reduction is achieved. Surcharge loads from adjacent structures shall be evaluated in accordance with § 1926.651(i).

(4) *Configurations.* Configurations of sloping and benching systems shall be in accordance with Figure B–1.

TABLE B-1

MAXIMUM ALLOWABLE SLOPES

SOIL OR ROCK TYPE	MAXIMUM ALLOWABLE SLOPES (H:V) [1] FOR EXCAVATIONS LESS THAN 20 FEET DEEP [3]
STABLE ROCK TYPE A [2] TYPE B TYPE C	VERTICAL (90°) 3/4 : 1 (53°) 1:1 (45°) 1½: 1 (34°)

NOTES:

1. Numbers shown in parentheses next to maximum allowable slopes are angles expressed in degrees from the horizontal. Angles have been rounded off.
2. A short-term maximum allowable slope of 1/2H:1V (63°) is allowed in excavations in Type A soil that are 12 feet (3.67 m) or less in depth. Short-term maximum allowable slopes for excavations greater than 12 feet (3.67 m) in depth shall be 3/4H:1V (53°).
3. Sloping or benching for excavations greater than 20 feet deep shall be designed by a registered professional engineer.

Figure B–1

Slope Configurations

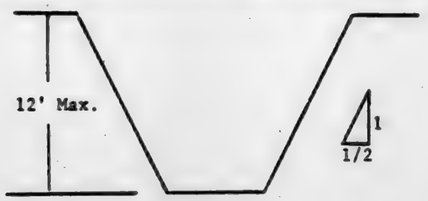
(All slopes stated below are in the horizontal to vertical ratio)

B–1.1 Excavations made in Type A soil.

1. All simple slope excavation 20 feet or less in depth shall have a maximum allowable slope of ¾:1.

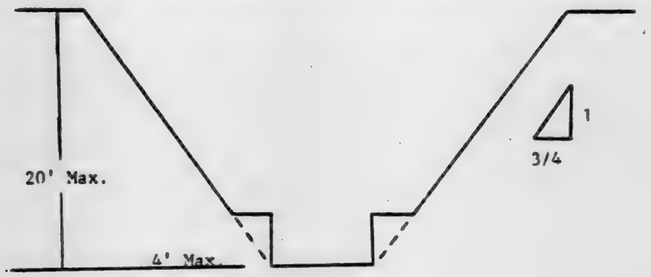
Simple Slope—General

Exception: Simple slope excavations which are open 24 hours or less (short term) and which are 12 feet or less in depth shall have a maximum allowable slope of ½:1.

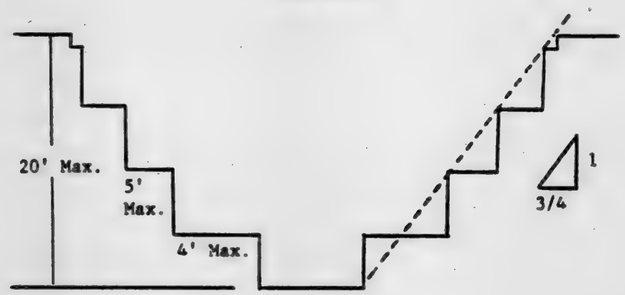


Simple Slope—Short Term

2. All benched excavations 20 feet or less in depth shall have a maximum allowable slope of ¾ to 1 and maximum bench dimensions as follows:

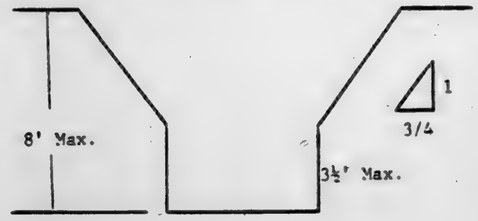


Simple Bench



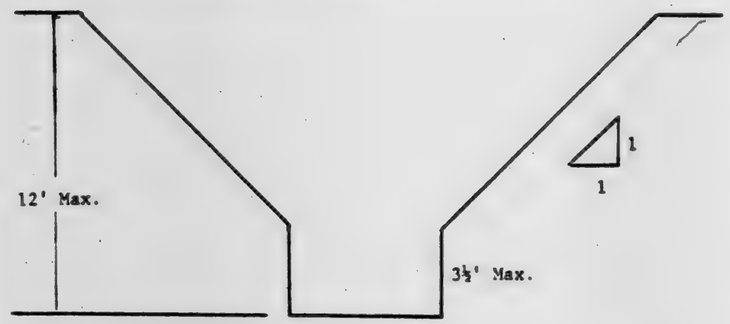
Multiple Bench

3. All excavations 8 feet or less in depth which have unsupported vertically sided lower portions shall have a maximum vertical side of 3½ feet.



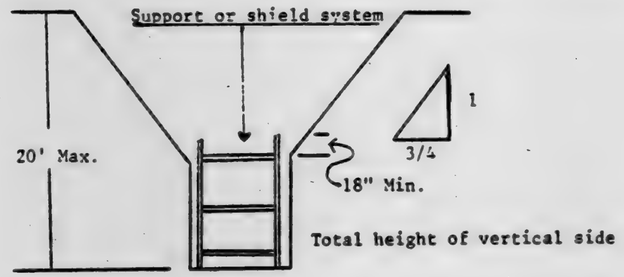
Unsupported Vertically Sided Lower Portion—Maximum 8 Feet in Depth

All excavations more than 8 feet but not more than 12 feet in depth which unsupported vertically sided lower portions shall have a maximum allowable slope of 1:1 and a maximum vertical side of 3½ feet.



Unsupported Vertically Sided Lower Portion—Maximum 12 Feet in Depth

All excavations 20 feet or less in depth which have vertically sided lower portions that are supported or shielded shall have a maximum allowable slope of ¾:1. The support or shield system must extend at least 18 inches above the top of the vertical side.

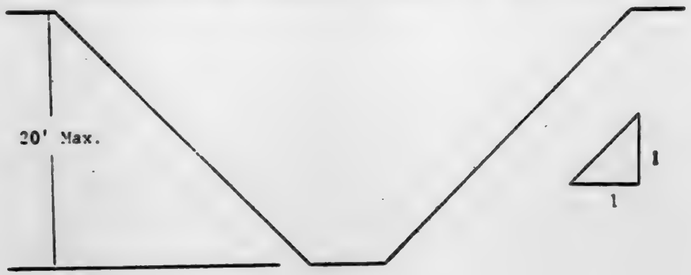


Suported or Shielded Vertically Sided Lower Portion

4. All other simple slope, compound slope, and vertically sided lower portion excavations shall be in accordance with the other options permitted under § 1926.652(b).

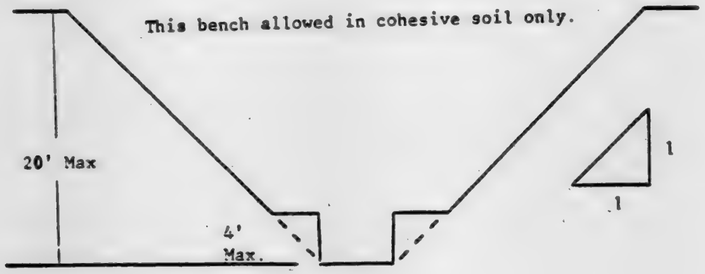
B–1.2 Excavations Made in Type B Soil

1. All simple slope excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1.

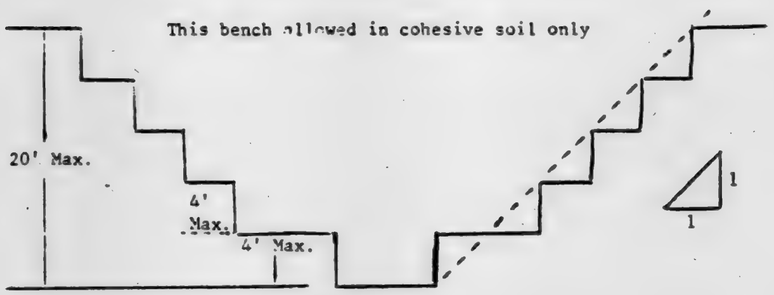


Simple Slope

2. All benched excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1 and maximum bench dimensions as follows:

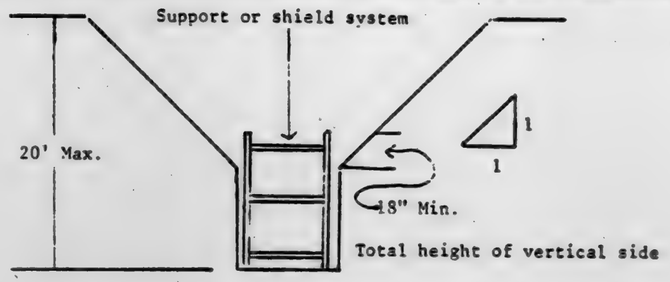


Single Bench



Multiple Bench

3. All excavations 20 feet or less in depth which have vertically sided lower portions shall be shielded or supported to a height at least 18 inches above the top of the vertical side. All such excavations shall have a maximum allowable slope of 1:1.



Vertically Sided Lower Portion

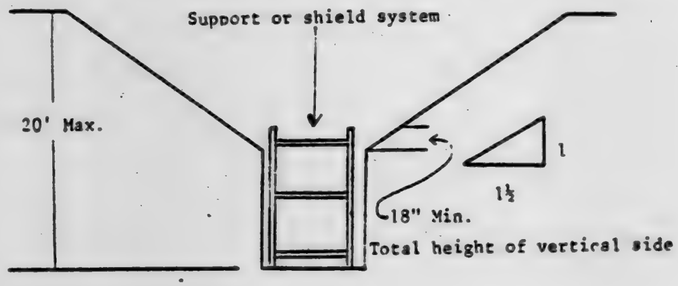
4. All other sloped excavations shall be in accordance with the other options permitted in § 1926.652(b).

B-1.3 Excavations Made in Type C Soil

1. All simple slope excavations 20 feet or less in depth shall have a maximum allowable slope of 1½:1.

Simple Slope

2. All excavations 20 feet or less in depth which have vertically sided lower portions shall be shielded or supported to a height at least 18 inches above the top of the vertical side. All such excavations shall have a maximum allowable slope of 1½:1.



Vertical Sided Lower Portion

3. All other sloped excavations shall be in accordance with the other options permitted in § 1926.652(b).

B-1.4 Excavations Made in Layered Soils

1. All excavations 20 feet or less in depth made in layered soils shall have a maximum allowable slope for each layer as set forth below.

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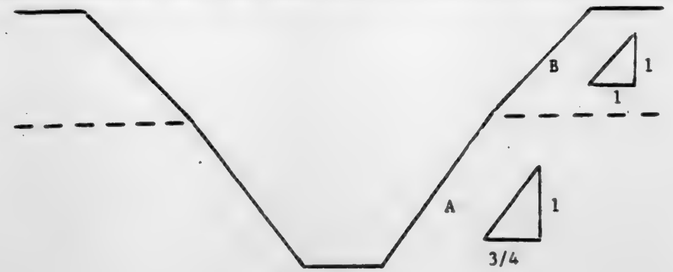
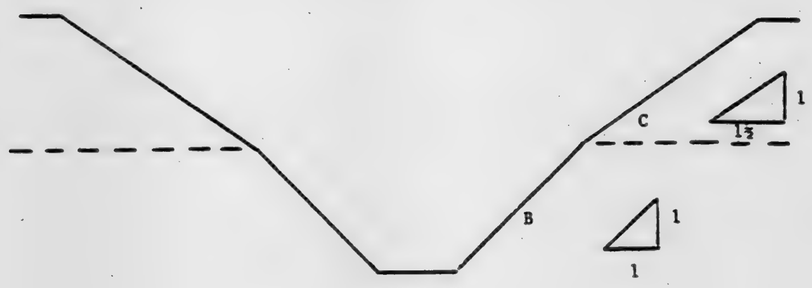
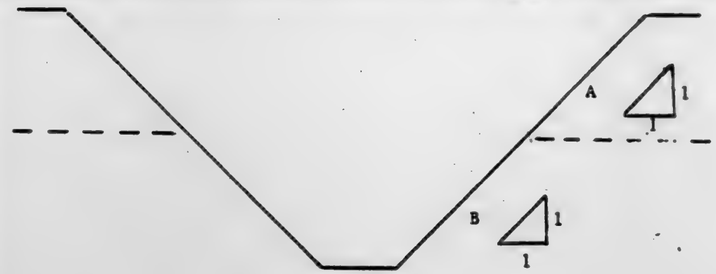


B OVER A

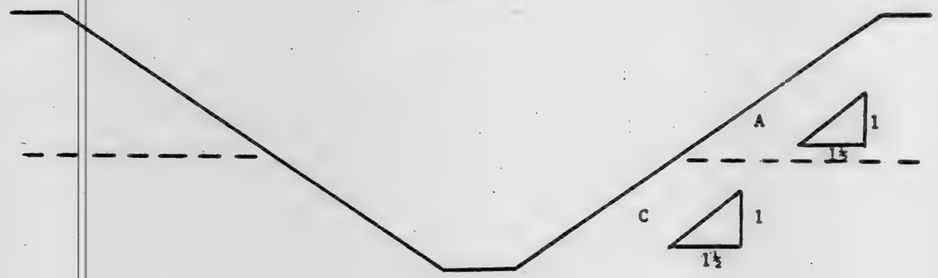
C OVER A



C OVER B



A OVER B



A OVER C

B OVER C

2. All other sloped excavations shall be in accordance with the other options permitted in § 1926.652(b).

Appendix C to Subpart P

Timber Shoring for Trenches

(a) *Scope.* This appendix contains information that can be used timber shoring is provided as a method of protection from cave-ins in trenches that do not exceed 20 feet (6.1 m) in depth. This appendix must be used when design of timber shoring protective systems is to be performed in accordance with § 1926.652(c)(1). Other timber shoring configurations; other systems of support such as hydraulic and pneumatic systems; and other protective systems such as sloping, benching, shielding, and freezing systems must be designed in accordance with the requirements set forth in § 1926.652(b) and § 1926.652(c).

(b) *Soil Classification.* In order to use the data presented in this appendix, the soil type or types in which the excavation is made must first be determined using the soil

classification method set forth in appendix A of subpart P of this part.

(c) *Presentation of Information.* Information is presented in several forms as follows:

(1) Information is presented in tabular form in Tables C–1.1, C–1.2, and C–1.3, and Tables C–2.1, C–2.2 and C–2.3 following paragraph (g) of the appendix. Each table presents the minimum sizes of timber members to use in a shoring system, and each table contains data only for the particular soil type in which the excavation or portion of the excavation is made. The data are arranged to allow the user the flexibility to select from among several acceptable configurations of members based on varying the horizontal spacing of the crossbraces. Stable rock is exempt from shoring requirements and therefore, no data are presented for this condition.

(2) Information concerning the basis of the tabular data and the limitations of the data is presented in paragraph (d) of this appendix, and on the tables themselves.

(3) Information explaining the use of the tabular data is presented in paragraph (e) of this appendix.

(4) Information illustrating the use of the tabular data is presented in paragraph (f) of this appendix.

(5) Miscellaneous notations regarding Tables C–1.1 through C–1.3 and Tables C–2.1 through C–2.3 are presented in paragraph (g) of this Appendix.

(d) *Basis and limitations of the data.*—(1) *Dimensions of timber members.* (i) The sizes of the timber members listed in Tables C–1.1 through C–1.3 are taken from the National Bureau of Standards (NBS) report, "Recommended Technical Provisions for Construction Practice in Shoring and Sloping of Trenches and Excavations." In addition, where NBS did not recommend specific sizes of members, member sizes are based on an analysis of the sizes required for use by existing codes and on empirical practice.

(ii) The required dimensions of the members listed in Tables C–1.1 through C–1.3 refer to actual dimensions and not nominal dimensions of the timber. Employers wanting to use nominal size shoring are directed to Tables C–2.1 through C–2.3, or have this choice under § 1926.652(c)(3), and are referred to The Corps of Engineers, The Bureau of Reclamation or data from other acceptable sources.

(2) *Limitation of application.* (i) It is not intended that the timber shoring specification apply to every situation that may be experienced in the field. These data were developed to apply to the situations that are most commonly experienced in current trenching practice. Shoring systems for use in situations that are not covered by the data in this appendix must be designed as specified in § 1926.652(c).

(ii) When any of the following conditions are present, the members specified in the tables are not considered adequate. Either an alternate timber shoring system must be designed or another type of protective system designed in accordance with § 1926.652.

(A) When loads imposed by structures or by stored material adjacent to the trench weigh in excess of the load imposed by a two-foot soil surcharge. The term "adjacent" as used here means the area within a horizontal distance from the edge of the trench equal to the depth of the trench.

(B) When vertical loads imposed on cross braces exceed a 240-pound gravity load distributed on a one-foot section of the center of the crossbrace.

(C) When surcharge loads are present from equipment weighing in excess of 20,000 pounds.

(D) When only the lower portion of a trench is shored and the remaining portion of the trench is sloped or benched unless: The sloped portion is sloped at an angle less steep than three horizontal to one vertical; or the members are selected from the tables for use at a depth which is determined from the top of the overall trench, and not from the toe of the sloped portion.

(e) *Use of Tables.* The members of the shoring system that are to be selected using this information are the cross braces, the uprights, and the wales, where wales are required. Minimum sizes of members are specified for use in different types of soil. There are six tables of information, two for each soil type. The soil type must first be determined in accordance with the soil classification system described in appendix A to subpart P of part 1926. Using the appropriate table, the selection of the size and spacing of the members is then made. The selection is based on the depth and width of the trench where the members are to be installed and, in most instances, the selection is also based on the horizontal spacing of the crossbraces. Instances where a choice of horizontal spacing of crossbracing is available, the horizontal spacing of the crossbraces must be chosen by the user before the size of any member can be determined. When the soil type, the width and depth of the trench, and the horizontal spacing of the crossbraces are known, the size and vertical spacing of the crossbraces, the size and vertical spacing of the wales, and the size and horizontal spacing of the uprights can be read from the appropriate table.

(f) *Examples to Illustrate the Use of Tables C–1.1 through C–1.3.*

(1) *Example 1.*

A trench dug in Type A soil is 13 feet deep and five feet wide.

From *Table C–1.1,* for acceptable arrangements of timber can be used.

Arrangement #1

Space 4×4 crossbraces at six feet horizontally and four feet vertically.
Wales are not required.
Space 3×8 uprights at six feet horizontally. This arrangement is commonly called "skip shoring."

Arrangement #2

Space 4×6 crossbraces at eight feet horizontally and four feet vertically.
Space 8×8 wales at four feet vertically.
Space 2×6 uprights at four feet horizontally.

Arrangement #3

Space 6×6 crossbraces at 10 feet horizontally and four feet vertically.
Space 8×10 wales at four feet vertically.
Space 2×6 uprights at five feet horizontally.

Arrangement #4

Space 6×6 crossbraces at 12 feet horizontally and four feet vertically.
Space 10×10 wales at four feet vertically.
Spaces 3×8 uprights at six feet horizontally.

(2) *Example 2.*

A trench dug in Type B soil in 13 feet deep and five feet wide. From Table C–1.2 three acceptable arrangements of members are listed.

Arrangement #1

Space 6×6 crossbraces at six feet horizontally and five feet vertically.
Space 8×8 wales at five feet vertically.
Space 2×6 uprights at two feet horizontally.

Arrangement #2

Space 6×8 crossbraces at eight feet horizontally and five feet vertically.
Space 10×10 wales at five feet vertically.
Space 2×6 uprights at two feet horizontally.

Arrangement #3

Space 8×8 crossbraces at 10 feet horizontally and five feet vertically.
Space 10×12 wales at five feet vertically.
Space 2×6 uprights at two feet vertically.

(3) *Example 3.*

A trench dug in Type C soil is 13 feet deep and five feet wide.

From Table C–1.3 two acceptable arrangements of members can be used.

Arrangement #1

Space 8×8 crossbraces at six feet horizontally and five feet vertically.
Space 10×12 wales at five feet vertically.
Position 2×6 uprights as closely together as possible.

If water must be retained use special tongue and groove uprights to form tight sheeting.

Arrangement #2

Space 8×10 crossbraces at eight feet horizontally and five feet vertically.
Space 12×12 wales at five feet vertically.
Position 2×6 uprights in a close sheeting configuration unless water pressure must be resisted. Tight sheeting must be used where water must be retained.

(4) *Example 4.*

A trench dug in Type C soil is 20 feet deep and 11 feet wide. The size and spacing of members for the section of trench that is over 15 feet in depth is determined using Table C–1.3. Only one arrangement of members is provided.

Space 8×10 crossbraces at six feet horizontally and five feet vertically.
Space 12×12 wales at five feet vertically.
Use 3×6 tight sheeting.

Use of Tables C–2.1 through C–2.3 would follow the same procedures.

(g) *Notes for all Tables.*

1. Member sizes at spacings other than indicated are to be determined as specified in § 1926.652(c), "Design of Protective Systems."

2. When conditions are saturated or submerged use Tight Sheeting. Tight Sheeting refers to the use of specially-edged timber planks (e.g., tongue and groove) at least three inches thick, steel sheet piling, or similar construction that when driven or placed in position provide a tight wall to resist the lateral pressure of water and to prevent the loss of backfill material. Close Sheeting refers to the placement of planks side-by-side allowing as little space as possible between them.

3. All spacing indicated is measured center to center.

4. Wales to be installed with greater dimension horizontal.

5. If the vertical distance from the center of the lowest crossbrace to the bottom of the trench exceeds two and one-half feet, uprights shall be firmly embedded or a mudsill shall be used. Where uprights are embedded, the vertical distance from the center of the lowest crossbrace to the bottom of the trench shall not exceed 36 inches. When mudsills are used, the vertical distance shall not exceed 42 inches. Mudsills are wales that are installed at the toe of the trench side.

6. Trench jacks may be used in lieu of or in combination with timber crossbraces.

7. Placement of crossbraces. When the vertical spacing of crossbraces is four feet, place the top crossbrace no more than two feet below the top of the trench. When the vertical spacing of crossbraces is five feet, place the top crossbrace no more than 2.5 feet below the top of the trench.

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TABLE C-1.1

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS *

SOIL TYPE A . P_a = 25 X H + 72 psf (2 ft Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (ACTUAL) AND SPACING OF MEMBERS **														
	CROSS BRACES							WALES		UPRIGHTS					
	HORIZ. SPACING (FEET)	WIDTH OF TRENCH (FEET)					VERT. SPACING (FEET)	SIZE (IN)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE	4	5	6	8
5 TO 10	UP TO 6	4X4	4X4	4X6	6X6	6X6	4	Not Req'd	---				2X6	
	UP TO 8	4X4	4X4	4X6	6X6	6X6	4	Not Req'd	---					2X8
	UP TO 10	4X6	4X6	4X6	6X6	6X6	4	8X8	4			2X6		
	UP TO 12	4X6	4X6	6X6	6X6	6X6	4	8X8	4				2X6	
10 TO 15	UP TO 6	4X4	4X4	4X6	6X6	6X6	4	Not Req'd	---				3X8	
	UP TO 8	4X6	4X6	6X6	6X6	6X6	4	8X8	4		2X6			
	UP TO 10	6X6	6X6	6X6	6X8	6X8	4	8X10	4			2X6		
	UP TO 12	6X6	6X6	6X6	6X8	6X8	4	10X10	4				3X8	
15 TO 20	UP TO 6	6X6	6X6	6X6	6X8	6X8	4	6X8	4	3X6				
	UP TO 8	6X6	6X6	6X6	6X8	6X8	4	8X8	4	3X6				
	UP TO 10	8X8	8X8	8X8	8X8	8X10	4	8X10	4	3X6				
	UP TO 12	8X8	8X8	8X8	8X8	8X10	4	10X10	4	3X6				
OVER 20	SEE NOTE 1													

* Mixed oak or equivalent with a bending strength not less than 850 psi.
** Manufactured members of equivalent strength may by substituted for wood.

TABLE C-1.2

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS *

SOIL TYPE B P_a = 45 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (ACTUAL) AND SPACING OF MEMBERS**													
	CROSS BRACES							WALES		UPRIGHTS				
	HORIZ. SPACING (FEET)	WIDTH OF TRENCH (FEET)					VERT. SPACING (FEET)	SIZE (IN)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE	2	3		
5 TO 10	UP TO 6	4X6	4X6	6X6	6X6	6X6	5	6X8	5			2X6		
	UP TO 8	6X6	6X6	6X6	6X8	6X8	5	8X10	5			2X6		
	UP TO 10	6X6	6X6	6X6	6X8	6X8	5	10X10	5			2X6		
	See Note 1													
10 TO 15	UP TO 6	6X6	6X6	6X6	6X8	6X8	5	8X8	5		2X6			
	UP TO 8	6X8	6X8	6X8	8X8	8X8	5	10X10	5		2X6			
	UP TO 10	8X8	8X8	8X8	8X8	8X10	5	10X12	5		2X6			
	See Note 1													
15 TO 20	UP TO 6	6X8	6X8	6X8	8X8	8X8	5	8X10	5	3X6				
	UP TO 8	8X8	8X8	8X8	8X8	8X10	5	10X12	5	3X6				
	UP TO 10	8X10	8X10	8X10	8X10	10X10	5	12X12	5	3X6				
	See Note 1													
OVER 20	SEE NOTE 1													

* Mixed oak or equivalent with a bending strength not less than 850 psi.
** Manufactured members of equivalent strength may by substituted for wood.

TABLE C-1.3

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS *

SOIL TYPE C P_a = 80 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (ACTUAL) AND SPACING OF MEMBERS**														
	CROSS BRACES									UPRIGHTS					
	HORIZ. SPACING (FEET)	WIDTH OF TRENCH (FEET)					VERT. SPACING (FEET)	SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET) (See Note 2)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE				
5 TO 10	UP TO 6	6X8	6X8	6X8	8X8	8X8	5	8X10	5	2X6				
	UP TO 8	8X8	8X8	8X8	8X8	8X10	5	10X12	5	2X6				
	UP TO 10	8X10	8X10	8X10	8X10	10X10	5	12X12	5	2X6				
	See Note 1													
10 TO 15	UP TO 6	8X8	8X8	8X8	8X8	8X10	5	10X12	5	2X6				
	UP TO 8	8X10	8X10	8X10	8X10	10X10	5	12X12	5	2X6				
	See Note 1													
	See Note 1													
15 TO 20	UP TO 6	8X10	8X10	8X10	8X10	10X10	5	12X12	5	3X6				
	See Note 1													
	See Note 1													
	See Note 1													
OVER 20	SEE NOTE 1													

* Mixed Oak or equivalent with a bending strength not less than 850 psi.

** Manufactured members of equivalent strength may be substituted for wood.

TABLE C-2.1

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS *
SOIL TYPE A P_a = 25 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (S4S) AND SPACING OF MEMBERS **														
	CROSS BRACES							WALES		UPRIGHTS					
	HORIZ. SPACING (FEET)	WIDTH OF TRENCH (FEET)					VERT. SPACING (FEET)	SIZE (IN)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE	4	5	6	8
5 TO 10	UP TO 6	4X4	4X4	4X4	4X4	4X6	4	Not Req'd	Not Req'd				4X6	
	UP TO 8	4X4	4X4	4X4	4X6	4X6	4	Not Req'd	Not Req'd					4X8
	UP TO 10	4X6	4X6	4X6	6X6	6X6	4	8X8	4			4X6		
	UP TO 12	4X6	4X6	4X6	6X6	6X6	4	8X8	4				4X6	
10 TO 15	UP TO 6	4X4	4X4	4X4	6X6	6X6	4	Not Req'd	Not Req'd				4X10	
	UP TO 8	4X6	4X6	4X6	6X6	6X6	4	6X8	4		4X6			
	UP TO 10	6X6	6X6	6X6	6X6	6X6	4	8X8	4			4X8		
	UP TO 12	6X6	6X6	6X6	6X6	6X6	4	8X10	4		4X6		4X10	
15 TO 20	UP TO 6	6X6	6X6	6X6	6X6	6X6	4	6X8	4	3X6				
	UP TO 8	6X6	6X6	6X6	6X6	6X6	4	8X8	4	3X6	4X12			
	UP TO 10	6X6	6X6	6X6	6X6	6X8	4	8X10	4	3X6				
	UP TO 12	6X6	6X6	6X6	6X8	6X8	4	8X12	4	3X6	4X12			
OVER 20	SEE NOTE 1													

* Douglas fir or equivalent with a bending strength not less than 1500 psi.
** Manufactured members of equivalent strength may be substituted for wood.

TABLE C-2.2

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS *

SOIL TYPE B P_a = 45 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (S4S) AND SPACING OF MEMBERS **													
	CROSS BRACES						WALES		UPRIGHTS					
	HORIZ. SPACING (FEET)	WIDTH OF TRENCH (FEET)					VERT. SPACING (FEET)	SIZE (IN)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE	2	3	4	6
5 TO 10	UP TO 6	4X6	4X6	4X6	6X6	6X6	5	6X8	5			3X12 4X8		4X12
	UP TO 8	4X6	4X6	6X6	6X6	6X6	5	8X8	5		3X8		4X8	
	UP TO 10	4X6	4X6	6X6	6X6	6X8	5	8X10	5			4X8		
	See Note 1													
10 TO 15	UP TO 6	6X6	6X6	6X6	6X8	6X8	5	8X8	5	3X6	4X10			
	UP TO 8	6X8	6X8	6X8	8X8	8X8	5	10X10	5	3X6	4X10			
	UP TO 10	6X8	6X8	8X8	8X8	8X8	5	10X12	5	3X6	4X10			
	See Note 1													
15 TO 20	UP TO 6	6X8	6X8	6X8	6X8	8X8	5	8X10	5	4X6				
	UP TO 8	6X8	6X8	6X8	8X8	8X8	5	10X12	5	4X6				
	UP TO 10	8X8	8X8	8X8	8X8	8X8	5	12X12	5	4X6				
	See Note 1													
OVER 20	SEE NOTE 1													

* Douglas fir or equivalent with a bending strength not less than 1500 psi.

** Manufactured members of equivalent strength may be substituted for wood.

TABLE C-2.3

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS *

SOIL TYPE C P_a = 80 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (S4S) AND SPACING OF MEMBERS **														
	CROSS BRACES							WALES		UPRIGHTS					
	HORIZ. SPACING (FEET)	WIDTH OF TRENCH (FEET)					VERT. SPACING (FEET)	SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)					
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE					
5 TO 10	UP TO 6	6X6	6X6	6X6	6X6	8X8	5	8X8	5	3X6					
	UP TO 8	6X6	6X6	6X6	8X8	8X8	5	10X10	5	3X6					
	UP TO 10	6X6	6X6	8X8	8X8	8X8	5	10X12	5	3X6					
	See Note 1														
10 TO 15	UP TO 6	6X8	6X8	6X8	8X8	8X8	5	10X10	5	4X6					
	UP TO 8	8X8	8X8	8X8	8X8	8X8	5	12X12	5	4X6					
	See Note 1														
	See Note 1														
15 TO 20	UP TO 6	8X8	8X8	8X8	8X10	8X10	5	10X12	5	4X6					
	See Note 1														
	See Note 1														
	See Note 1														
OVER 20	SEE NOTE 1														

* Douglas fir or equivalent with a bending strength not less than 1500 psi.

** Manufactured members of equivalent strength may be substituted for wood.

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Appendix D to Subpart P

Aluminum Hydraulic Shoring for Trenches

(a) *Scope.* This appendix contains information that can be used when aluminum hydraulic shoring is provided as a method of protection against cave-ins in trenches that do not exceed 20 feet (6.1m) in depth. This appendix must be used when design of the aluminum hydraulic protective system cannot be performed in accordance with § 1926.652(c)(2).

(b) *Soil Classification.* In order to use data presented in this appendix, the soil type or types in which the excavation is made must first be determined using the soil classification method set forth in appendix A of subpart P of part 1926.

(c) *Presentation of Information.* Information is presented in several forms as follows:

(1) Information is presented in tabular form in Tables D–1.1, D–1.2, D–1.3 and E–1.4. Each table presents the maximum vertical and horizontal spacings that may be used with various aluminum member sizes and various hydraulic cylinder sizes. Each table contains data only for the particular soil type in which the excavation or portion of the excavation is made. Tables D–1.1 and D–1.2 are for vertical shores in Types A and B soil. Tables D–1.3 and D1.4 are for horizontal waler systems in Types B and C soil.

(2) Information concerning the basis of the tabular data and the limitations of the data is presented in paragraph (d) of this appendix.

(3) Information explaining the use of the tabular data is presented in paragraph (e) of this appendix.

(4) Information illustrating the use of the tabular data is presented in paragraph (f) of this appendix.

(5) Miscellaneous notations (footnotes) regarding Table D–1.1 through D–1.4 are presented in paragraph (g) of this appendix.

(6) Figures, illustrating typical installations of hydraulic shoring, are included just prior to the Tables. The illustrations page is entitled "Aluminum Hydraulic Shoring; Typical Installations."

(d) *Basis and limitations of the data.*

(1) Vertical shore rails and horizontal wales are those that meet the Section Modulus requirements in the D–1 Tables. Aluminum material is 6061–T6 or material of equivalent strength and properties.

(2) Hydraulic cylinders specifications. (i) 2-inch cylinders shall be a minimum 2-inch inside diameter with a minimum safe working capacity of no less than 18,000 pounds axial compressive load at maximum extension. Maximum extension is to include full range of cylinder extensions as recommended by product manufaturer.

(ii) 3-inch cylinders shall be a minimum 3-inch inside diameter with a safe working capacity of not less than 30,000 pounds axial compressive load at extensions as recommended by product manufacturer.

(3) Limitation of application.

(i) It is not intended that the aluminum hydraulic specification apply to every situation that may be experienced in the field. These data were developed to apply to the situations that are most commonly experienced in current trenching practice. Shoring systems for use in situations that are not covered by the data in this appendix must be otherwise designed as specified in § 1926.652(c).

(ii) When any of the following conditions are present, the members specified in the Tables are not considered adequate. In this case, an alternative aluminum hydraulic shoring system or other type of protective system must be designed in accordance with § 1926.652.

(A) When vertical loads imposed on cross braces exceed a 100 Pound gravity load distributed on a one foot section of the center of the hydraulic cylinder.

(B) When surcharge loads are present from equipment weighing in excess of 20,000 pounds.

(C) When only the lower portion or a trench is shored and the remaining portion of the trench is sloped or benched unless: The sloped portion is sloped at an angle less steep than three horizontal to one vertical; or the members are selected from the tables for use at a depth which is determined from the top of the overall trench, and not from the toe of the sloped portion.

(e) *Use of Tables D–1.1, D–1.2, D–1.3 and D–1.4.* The members of the shoring system that are to be selected using this information are the hydraulic cylinders, and either the vertical shores or the horizontal wales. When a waler system is used the vertical timber sheeting to be used is also selected from these tables. The Tables D–1.1 and D–1.2 for vertical shores are used in Type A and B soils that do not require sheeting. Type B soils that may require sheeting, and Type C soils that always require sheeting are found in the horizontal wale Tables D–1.3 and D–1.4. The soil type must first be determined in accordance with the soil classification system described in appendix A to subpart P of part 1926. Using the appropriate table, the selection of the size and spacing of the members is made. The selection is based on the depth and width of the trench where the members are to be installed. In these tables the vertical spacing is held constant at four feet on center. The tables show the maximum horizontal spacing of cylinders allowed for each size of wale in the waler system tables, and in the vertical shore tables, the hydraulic cylinder horizontal spacing is the same as the vertical shore spacing.

(f) *Example to Illustrate the Use of the Tables:*

(1) Example 1:

A trench dug in Type A soil is 6 feet deep and 3 feet wide. From Table D–1.1: Find vertical shores and 2 inch diameter cylinders spaced 8 feet on center (o.c.) horizontally and 4 feet on center (o.c.) vertically. (See Figures 1 & 3 for typical installations.)

(2) Example 2:

A trench is dug in Type B soil that does not require sheeting, 13 feet deep and 5 feet wide. From Table D–1.2: Find vertical shores and 2 inch diameter cylinders spaced 6.5 feet o.c. horizontally and 4 feet o.c. vertically. (See Figures 1 & 3 for typical installations.)

(3) A trench is dug in Type B soil that does not require sheeting, but does experience some minor raveling of the trench face. The trench is 16 feet deep and 9 feet wide. From Table D–1.2: Find vertical shores and 2 inch diameter cylinder (with special oversleeves as designated by footnote #2) spaced 5.5 feet o.c. horizontally and 4 feet o.c. vertically, plywood (per footnote (g)(7) to the D–1 Table) should be used behind the shores. (See Figures 2 & 3 for typical installations.)

(4) Example 4: A trench is dug in previously disturbed Type B soil, with characteristics of a Type C soil, and will require sheeting. The trench is 18 feet deep and 12 feet wide. 8 foot horizontal spacing between cylinders is desired for working space. From Table D–1.3: Find horizontal wale with a section modulus of 14.0 spaced at 4 feet o.c. vertically and 3 inch diameter cylinder spaced at 9 feet maximum o.c. horizontally. 3×12 timber sheeting is required at close spacing vertically. (See Figure 4 for typical installation.)

(5) Example 5: A trench is dug in Type C soil, 9 feet deep and 4 feet wide. Horizontal cylinder spacing in excess of 6 feet is desired for working space. From Table D–1.4: Find horizontal wale with a section modulus of 7.0 and 2 inch diameter cylinders spaced at 6.5 feet o.c. horizontally. Or, find horizontal wale with a 14.0 section modulus and 3 inch diameter cylinder spaced at 10 feet o.c. horizontally. Both wales are spaced 4 feet o.c. vertically. 3×12 timber sheeting is required at close spacing vertically. (See Figure 4 for typical installation.)

(g) *Footnotes, and general notes, for Tables D–1.1, D–1.2, D–1.3, and D–1.4.*

(1) For applications other than those listed in the tables, refer to § 1926.652(c)(2) for use of manufacturer's tabulated data. For trench depths in excess of 20 feet, refer to § 1926.652(c)(2) and § 1926.652(c)(3).

(2) 2 inch diameter cylinders, at this width, shall have structural steel tube (3.5×3.5×0.1875) oversleeves, or structural oversleeves of manufacturer's specification, extending the full, collapsed length.

(3) Hydraulic cylinders capacities. (i) 2 inch cylinders shall be a minimum 2-inch inside diameter with a safe working capacity of not less than 18,000 pounds axial compressive load at maximum extension. Maximum extension is to include full range of cylinder extensions as recommended by product manufacturer.

(ii) 3-inch cylinders shall be a minimum 3-inch inside diameter with a safe work capacity of not less than 30,000 pounds axial compressive load at maximum extension. Maximum extension is to include full range of cylinder extensions as recommended by product manufacturer.

(4) All spacing indicated is measured center to center.

(5) Vertical shoring rails shall have a minimum section modulus of 0.40 inch.

(6) When vertical shores are used, there must be a minimum of three shores spaced equally, horizontally, in a group.

(7) Plywood shall be 1.125 in. thick softwood or 0.75 inch. thick, 14 ply, arctic white birch (Finland form). Please note that plywood is not intended as a structural member, but only for prevention of local raveling (sloughing of the trench face) between shores.

(8) See appendix C for timber specifications.

(9) Wales are calculated for simple span conditions.

(10) See appendix D, item (d), for basis and limitations of the data.

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ALUMINUM HYDRAULIC SHORING
TYPICAL INSTALLATIONS

FIGURE NO. 1
VERTICAL ALUMINUM HYDRAULIC SHORING (SPOT BRACING)

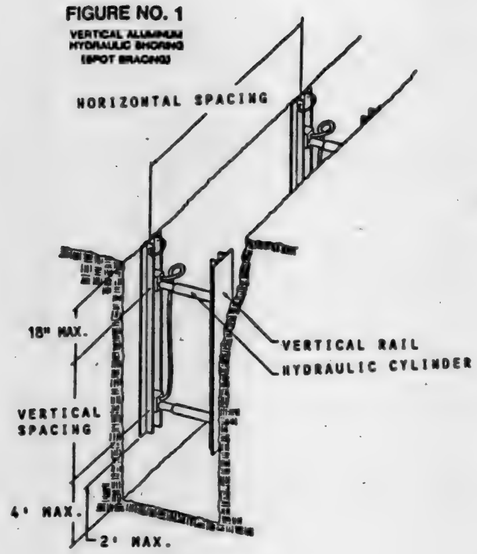

FIGURE NO. 2
VERTICAL ALUMINUM HYDRAULIC SHORING (WITH PLYWOOD)

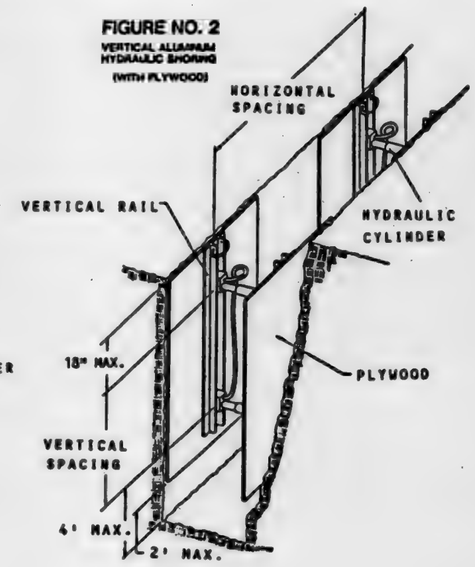

FIGURE NO. 3
VERTICAL ALUMINUM HYDRAULIC SHORING (STACKED)

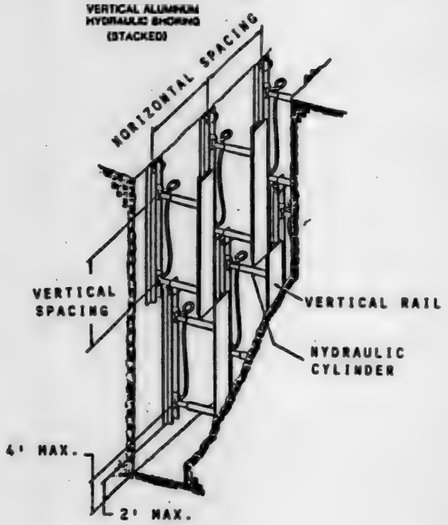

FIGURE NO. 4
ALUMINUM HYDRAULIC SHORING WALER SYSTEM (TYPICAL)

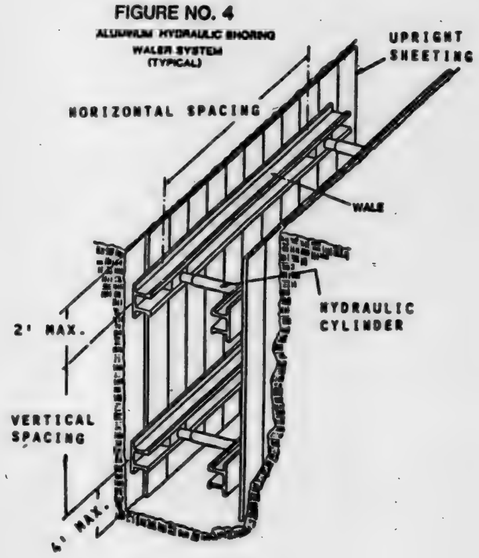

TABLE D - 1.1
ALUMINUM HYDRAULIC SHORING
VERTICAL SHORES
FOR SOIL TYPE A

DEPTH OF TRENCH (FEET)	HYDRAULIC CYLINDERS				
	MAXIMUM HORIZONTAL SPACING (FEET)	MAXIMUM VERTICAL SPACING (FEET)	WIDTH OF TRENCH (FEET)		
			UP TO 8	OVER 8 UP TO 12	OVER 12 UP TO 15
OVER 5 UP TO 10	8	4	2 INCH DIAMETER	2 INCH DIAMETER NOTE (2)	3 INCH DIAMETER
OVER 10 UP TO 15	8				
OVER 15 UP TO 20	7				
OVER 20	NOTE (1)				

Footnotes to tables, and general notes on hydraulic shoring, are found in Appendix D, Item (g)
Note (1): See Appendix D, Item (g) (1)
Note (2): See Appendix D, Item (g) (2)

TABLE D - 1.2
ALUMINUM HYDRAULIC SHORING
VERTICAL SHORES
FOR SOIL TYPE B

DEPTH OF TRENCH (FEET)	HYDRAULIC CYLINDERS				
	MAXIMUM HORIZONTAL SPACING (FEET)	MAXIMUM VERTICAL SPACING (FEET)	WIDTH OF TRENCH (FEET)		
			UP TO 8	OVER 8 UP TO 12	OVER 12 UP TO 15
OVER 5 UP TO 10	8	4	2 INCH DIAMETER	2 INCH DIAMETER NOTE (2)	3 INCH DIAMETER
OVER 10 UP TO 15	6.5				
OVER 15 UP TO 20	5.5				
OVER 20	NOTE (1)				

Footnotes to tables, and general notes on hydraulic shoring, are found in Appendix D, Item (g)
Note (1): See Appendix D, Item (g) (1)
Note (2): See Appendix D, Item (g) (2)

TABLE D - 1.3
ALUMINUM HYDRAULIC SHORING
WALER SYSTEMS
FOR SOIL TYPE B

DEPTH OF TRENCH (FEET)	WALES		HYDRAULIC CYLINDERS						TIMBER UPRIGHTS		
			WIDTH OF TRENCH (FEET)						MAX.HORIZ.SPACING (ON CENTER)		
	VERTICAL SPACING (FEET)	SECTION MODULUS (IN³) *	UP TO 8		OVER 8 UP TO 12		OVER 12 UP TO15		SOLID SHEET	2 FT.	3 FT.
			HORIZ. SPACING	CYLINDER DIAMETER	HORIZ. SPACING	CYLINDER DIAMETER	HORIZ. SPACING	CYLINDER DIAMETER			
OVER 5 UP TO 10	4	3.5	8.0	2 IN	8.0	2 IN NOTE(2)	8.0	3 IN	—	—	3x12
		7.0	9.0	2 IN	9.0	2 IN NOTE(2)	9.0	3 IN			
		14.0	12.0	3 IN	12.0	3 IN	12.0	3 IN			
OVER 10 UP TO 15	4	3.5	6.0	2 IN	6.0	2 IN NOTE(2)	6.0	3 IN	—	3x12	—
		7.0	8.0	3 IN	8.0	3 IN	8.0	3 IN			
		14.0	10.0	3 IN	10.0	3 IN	10.0	3 IN			
OVER 15 UP TO 20	4	3.5	5.5	2 IN	5.5	2 IN NOTE(2)	5.5	3 IN	3x12	—	—
		7.0	6.0	3 IN	6.0	3 IN	6.0	3 IN			
		14.0	9.0	3 IN	9.0	3 IN	9.0	3 IN			
OVER 20	NOTE (1)										

Footnotes to tables, and general notes on hydraulic shoring, are found in Appendix D, Item (g)
Notes (1): See Appendix D, item (g) (1)
Notes (2): See Appendix D, Item (g) (2)
* Consult product manufacturer and/or qualified engineer for Section Modulus of available wales.

TABLE D - 1.4
ALUMINUM HYDRAULIC SHORING
WALER SYSTEMS
FOR SOIL TYPE C

DEPTH OF TRENCH (FEET)	WALES		HYDRAULIC CYLINDERS						TIMBER UPRIGHTS		
			WIDTH OF TRENCH (FEET)						MAX.HORIZ SPACING (ON CENTER)		
			UP TO 8		OVER 8 UP TO 12		OVER 12 UP TO 15				
	VERTICAL SPACING (FEET)	SECTION MODULUS (IN^3)	HORIZ. SPACING	CYLINDER DIAMETER	HORIZ. SPACING	CYLINDER DIAMETER	HORIZ. SPACING	CYLINDER DIAMETER	SOLID SHEET	2 FT.	3 FT.
OVER 5 UP TO 10	4	3.5	6.0	2 IN	6.0	2 IN NOTE(2)	6.0	3 IN	3x12	—	—
		7.0	6.5	2 IN	6.5	2 IN NOTE(2)	6.5	3 IN			
		14.0	10.0	3 IN	10.0	3 IN	10.0	3 IN			
OVER 10 UP TO 15	4	3.5	4.0	2 IN	4.0	2 IN NOTE(2)	4.0	3 IN	3x12	—	—
		7.0	5.5	3 IN	5.5	3 IN	5.5	3 IN			
		14.0	8.0	3 IN	8.0	3 IN	8.0	3 IN			
OVER 15 UP TO 20	4	3.5	3.5	2 IN	3.5	2 IN NOTE(2)	3.5	3 IN	3x12	—	—
		7.0	5.0	3 IN	5.0	3 IN	5.0	3 IN			
		14.0	6.0	3 IN	6.0	3 IN	6.0	3 IN			
OVER 20	NOTE (1)										

Footnotes to tables, and general notes on hydraulic shoring, are found in Appendix D, Item (g)
Notes (1): See Appendix D, item (g) (1)
Notes (2): See Appendix D, Item (g) (2)
* Consult product manufacturer and/or qualified engineer for Section Modulus of available wales.

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Appendix E to Subpart P—Alternatives to Timber Shoring

Figure 1. Aluminum Hydraulic Shoring

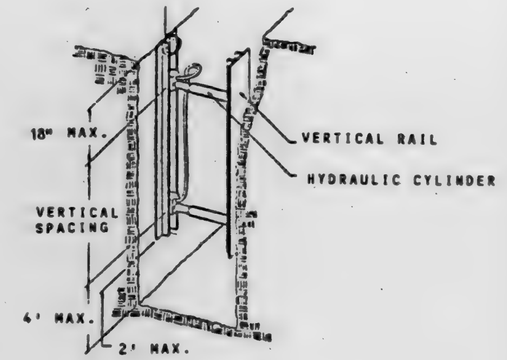

Figure 2. Pneumatic/hydraulic Shoring

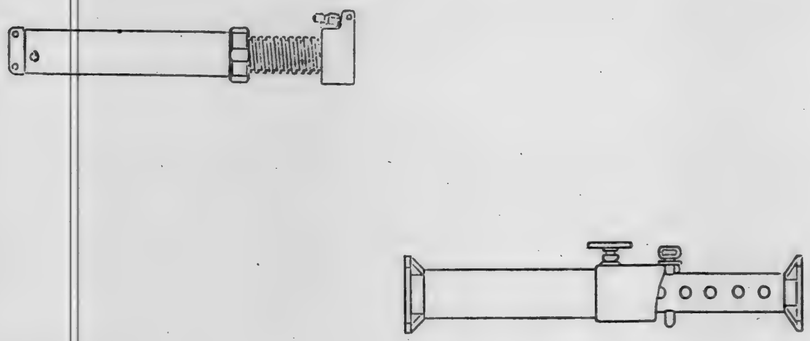

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Figure 3. Trench Jacks (Screw Jacks)

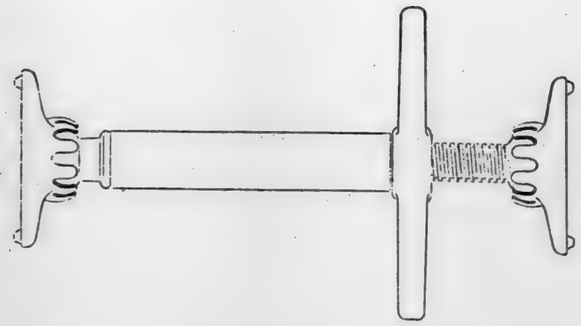
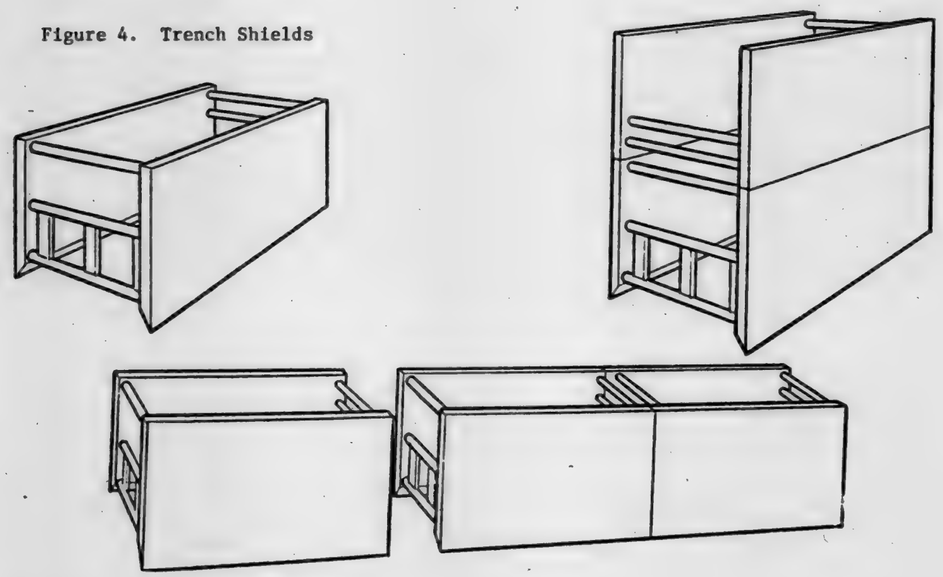


Figure 4. Trench Shields



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Appendix F to Subpart P—Selection of Protective Systems

The following figures are a graphic summary of the requirements contained in subpart P for excavations 20 feet or less in depth. Protective systems for use in excavations more than 20 feet in depth must be designed by a registered professional engineer in accordance with § 1926.652 (b) and (c).

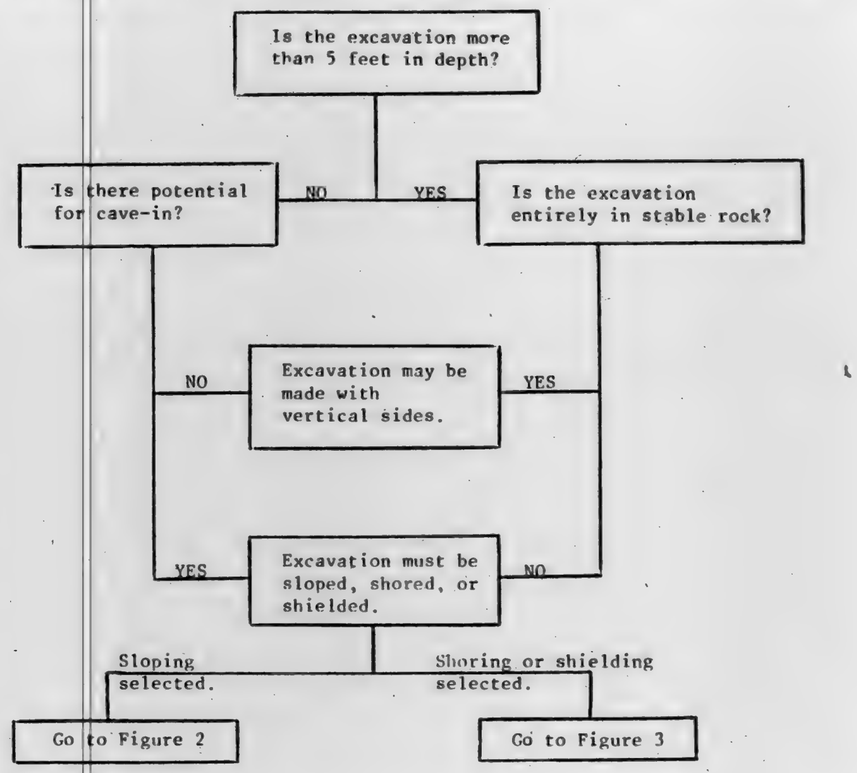

FIGURE 1 - PRELIMINARY DECISIONS

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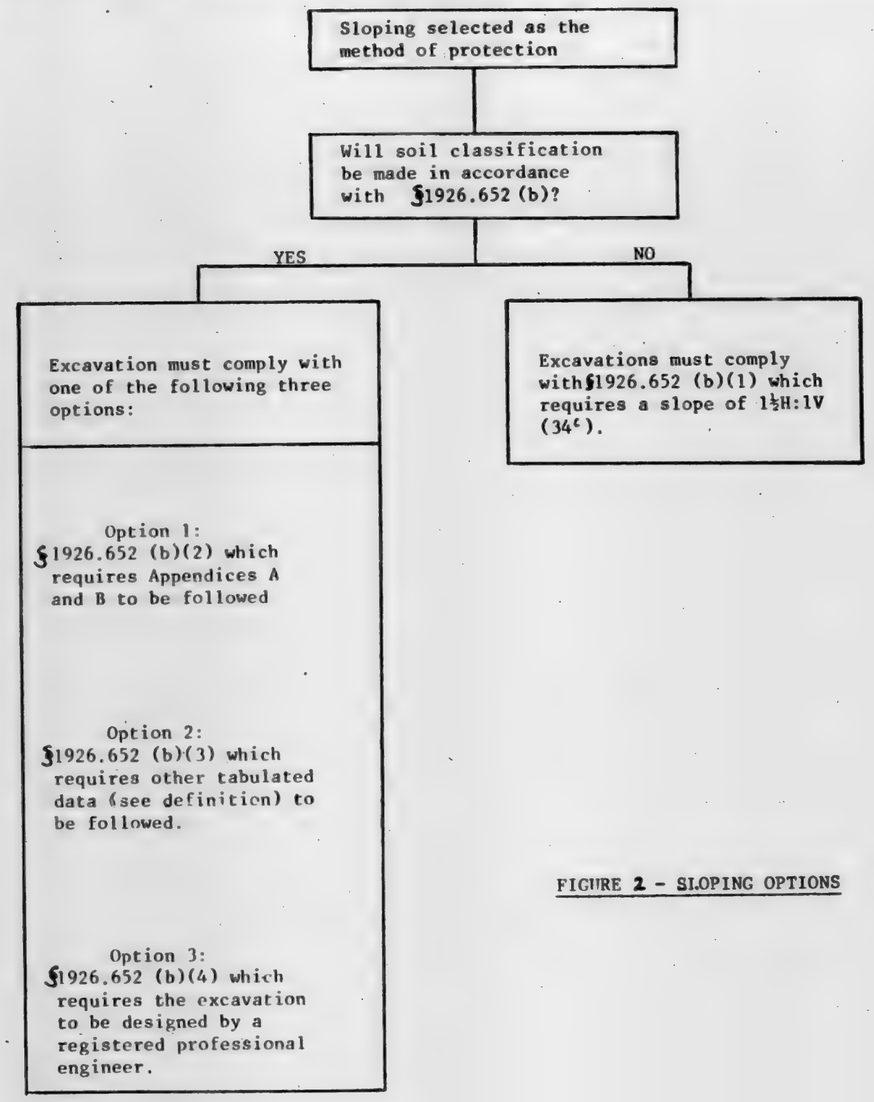

FIGURE 2 - SLOPING OPTIONS

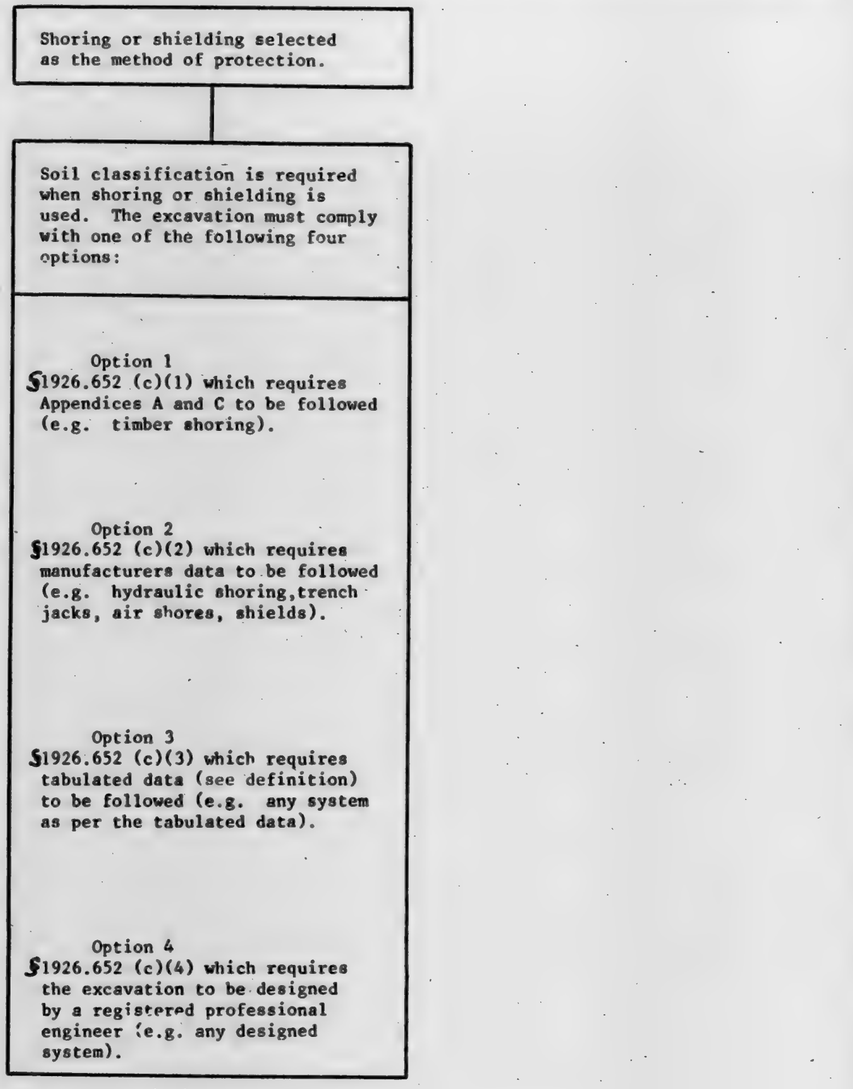

FIGURE 3 - SHORING AND SHIELDING OPTIONS

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Part III

Department of Education

34 CFR Part 668
Student Assistance General Provisions;
Notice of Proposed Rulemaking

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DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840-AB07

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the verification regulations contained in Subpart E of the Student Assistance General Provisions Regulations, 34 CFR Part 668, to conform them to certain new provisions in the Tax Reform Act of 1986 (Pub. L. 99–514), the Higher Education Amendments of 1986 (Pub. L. 99–498), the Higher Education Technical Amendments Act of 1987 (Pub. L. 100–50), Public Law 100–369, and the Compact of Free Association (Pub. L. 99–239), and to update data reporting requirements to reduce the administrative burden associated with verification requirements on applicants and schools. The verification regulations require institutions to have a system for verifying student aid application information reported by applicants for use in calculating expected family contributions (EFCs) for the Pell Grant, campus-based (Perkins Loan [National Defense/Direct Student Loan], College Work-Study (CWS), Supplemental Educational Opportunity Grant (SEOG)), need-based Income Contingent Loan (ICL), and Guaranteed Student Loan (GSL) programs.

DATE: Comments must be received on or before January 2, 1990.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Paula Husselmann, Chief, Verification Development Section, Student Verification Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue SW., [Regional Office Building 3, Room 4613] Washington, DC 20202. A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Lorraine Kennedy, Program Analyst, Telephone (202) 732–5579.

SUPPLEMENTARY INFORMATION: The Secretary is proposing these revised regulations to conform to certain new provisions in the Tax Reform Act of 1986, the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986, the Higher Education Amendments of 1987, and Public Law 100–369, and the Compact of Free Association. Each applicant's information, which is subject to the verification regulations, is used to calculate an EFC. The EFC is the amount that an applicant and the applicant's family can reasonably be expected to contribute toward the cost of attendance at an institution of higher education and is used to determine the applicant's financial need for assistance. The applicant's financial need is defined as the difference between the applicant's cost of attendance and the EFC. The applicant may receive assistance under most Title IV Higher Education Act programs upon demonstrating financial need for such assistance.

The Secretary proposes to amend Section s668.53(a)(3) to reduce burden placed on institutions to notify each applicant that completes the verification process of the results of verification. Instead, institutions would be required to notify verified applicants of the results of verification only if the applicant's expected family contribution and award or loan amount changes as a result of verification. An applicant's award letter may serve as this notification.

The Secretary proposes to amend § 668.54(a) to provide that an institution is not required to verify the information from more than 30 percent of its applicants for assistance under the Pell Grant, campus-based, need-based ICL, and GSL Programs in any award year. This proposed change is required by section 484(f) of the Higher Education Act of 1965, as amended.

Currently, the regulations give an institution the authority to require an applicant, selected for verification, to provide documentation to verify any data element it specifies. The Secretary proposes to amend § 668.54 and § 668.60 to require an applicant to provide the necessary documentation to verify any data element required by an institution or the Secretary.

Previously, citizens of the Trust Territory of the Pacific Islands were excluded from verification requirements, unless an institution had information conflicting with information reported by an applicant or otherwise had reason to believe information reported by an applicant to be incorrect. The Compact of Free Association (Pub. L. 99–239) conferred independent nation status on certain entities, formerly trust territories of the United States; these entities are now known as the Federated States of Micronesia and the Republic of the Marshall Islands. Therefore, the Secretary proposes to amend § 668.54 to update the references to these entities so that eligible Title IV aid applicants from these entities continue to be excluded from verification requirements. In anticipation of the enactment of a similar compact to create the Republic of Palau, these provisions are prospectively extended to eligible students of that Republic.

Section 668.54(b)(2)(vii) currently provides that under certain conditions a student transferring from one institution to another may be excluded from verifying data at the second school. The Secretary requests comment on how to notify the second school that it is not required to verify the student's data. The purpose of this notification is to relieve burden and improve delivery of aid. The Secretary requests comments on the use of the Electronic Student Aid Report (ESAR) to achieve this goal.

Section 668.55 is being amended to simplify and clarify the updating requirements. Currently, applicants must update or verify information as to the number of household members and the number of household members enrolled in postsecondary institutions, except for changes in marital status.

Currently, the regulations require an applicant to update information as to dependency status, except for changes in marital status, throughout the year. Also, an applicant is not permitted to update dependency status on a GSL application, if the institution has previously certified that application. To simplify the regulations and to make the updating requirements more consistent, the Secretary proposes to eliminate the marital status exception and require all applicants to update dependency status, including applicants for whom a loan has been certified. In the proposed regulations, applicants would be required to update information as to their household size, number of family members enrolled in a postsecondary educational institution, and dependency status throughout the year regardless of the reason for a change in the applicant's dependency status, for all Title IV programs. Household size, number of family members enrolled in a postsecondary educational institution, and dependency status, under these proposed regulations, must be updated as a result of an actual change in an applicant's marital status and may not be updated or changed because of a projected change in marital status.

Title IV Quality Control Studies indicate that there is significant misreporting by applicants of the number of family members enrolled in postsecondary educational institutions. These errors have resulted in incorrect awards and loans to students. Therefore, the Secretary proposes to

amend § 668.56 to provide that an institution must require an applicant selected for verification to verify the number of family members enrolled in postsecondary educational institutions, even though there was no change from information verified in the previous award year.

Section 668.56(a)(5) (formerly § 668.56(a)(6)) would be amended to delete data elements, listed in the verification regulations, that are no longer considered untaxed income as a result of the Tax Reform Act of 1986. Untaxed income is income that is excluded from Federal taxation by provisions of the Internal Revenue Code.

For the purpose of Title IV student financial assistance, untaxed income is considered in the formula used to determine the EFC toward the costs of postsecondary education. Except for Social Security benefits and child support, the Secretary relies on the information applicants, their spouses, and their parents report on their Federal tax returns to verify the receipt of untaxed income that is subject to the verification requirements. The Secretary intends to maintain untaxed income verification requirements that are consistent with Federal income tax reporting requirements for untaxed income items listed on the Federal tax return, except for Social Security benefits and child support.

To avoid publishing new regulations each time Federal income tax reporting requirements for untaxed income change, the Secretary proposes to follow Federal income tax reporting requirements in determining elements of untaxed income subject to verification. The Secretary, in § 668.56(a)(5)(vii), would require verification of all elements of untaxed income listed on the tax return without the use of additional schedules or attachments, beginning with the 1990–91 award year. The Secretary would publish in the Federal Register a list of categories of untaxed income subject to verification whenever Internal Revenue Service reporting requirements for untaxed income change.

Because of recent changes in Federal tax reporting requirements, § 668.56(a)(5) would be amended to delete references to unemployment compensation, which is now fully taxable, and to delete references to the married couple deduction and dividend exclusion, which have been discontinued. Similarly, references to capital gains would be deleted since these are now treated as taxable income and therefore no longer require a separate verification requirement. This section would also be amended to require interest on tax-free bonds to be verified as a part of untaxed income. Prior to 1987, taxpayers were not required to report interest on tax-free bonds on the 1040 and 1040A tax forms. The new IRS Forms 1040 and 1040A include these data as a line item.

Section 668.56(c) of the current Verification Regulations provides an exclusion for the verification of a dependent Pell applicant's base year income because, under the previous Student Aid Index (SAI) formula, estimated year earnings were often used to calculate the applicant's EFC, instead of base year adjusted gross income. The Higher Education Act of 1965, as amended, now requires the use of the dependent Pell applicant's base year income as a fixed data element in the current SAI formula used in calculating an applicant's EFC, unless the dependent student is classified as a dislocated worker by the appropriate State agency in accordance with Title III of the Job Training Partnership Act. Consequently, the Secretary is proposing to delete § 668.56(c) to, in effect, require verification of dependent student base year income. This change does not result in significant additional burden to financial aid administrators because dependent student base year income must already be verified beginning with the 1988–89 award year for the campus-based and Guaranteed Student Loan programs.

Public Law 100–369 requires income tax returns filed with the Commonwealth of Puerto Rico, the government of another U.S. territory or commonwealth, or the central government of a foreign country to be treated the same as U.S. income tax returns. Therefore, § 668.57 would be amended to consider an income tax return filed with a government of a U.S. territory or commonwealth, the Commonwealth of Puerto Rico, or a foreign government in the same manner as a U.S. income tax return.

Section 668.57(d), independent student status, would be deleted. The Higher Education Act requires that, for independent students within certain categories, no disbursal of an award may be made without documentation of independent student status. The Secretary has previously issued guidance on this subject in a "Dear Colleague Letter" and will not prescribe requirements to document independent student status in these regulations.

Section 668.59 is being amended to change the amount of the dollar tolerance option for the GSL and campus-based programs and also to delete one of the Pell Grant specific tolerance options: SAI Recalculation Option. A tolerance option is a dollar error level allowed on an applicant's application for which the recalculation of an applicant's EFC or SAI will not be required.

A $200 tolerance option would be proposed for all Title IV programs in place of the current $200 Pell and $600 GSL/campus-based programs tolerance options. It is appropriate to apply the tolerance previously used only for the Pell Grant Program to the campus-based, need-based ICL, and GSL programs because the Higher Education Act now provides a single formula for establishing need for campus-based and need-based ICL aid and Guaranteed Student Loans, similar to the formula for the Pell Grant Program. Previously, under the Uniform Methodology, allowable variances in calculating the EFC warranted a more liberal tolerance. Additionally, the use of a single tolerance amount will increase consistency among the Title IV programs. Therefore, the Secretary proposes to use the Pell Grant $200 tolerance figure to make all Title IV programs consistent.

Because changes in the Pell Grant formula made the Zero SAI Charts too complex, reference to the Zero SAI Charts would be deleted. An institution may continue to process the application of any applicant with a reported SAI of zero on his or her SAR without submitting that SAR to the Secretary for recalculation, if the institution determines that the applicant's SAI remains at zero on the basis of the verified information.

Section 668.58 is being amended to specify that a CWS recipient may be employed for the first sixty (60) consecutive days of the award year, prior to verification being completed, provided the institution has no information indicating that the aid application is inaccurate.

Several other minor changes have been made to the verification regulations to reflect changes in verification requirements resulting from the Higher Education Amendments of 1986.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a

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substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. The proposed regulations revise the verification items used to calculate an applicant's financial need. These changes are required by statutory amendments. There are several other minor changes in the regulations to update present policy.

Paperwork Reduction Act of 1980

Sections 668.53, 668.54, 668.55, 668.56, 668.57, and 668.59 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4613, ROB-3, 7th and D Streets, SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education loan programs—education, Grant programs—education, Report and recordkeeping requirements, Student aid.

Dated: October 23, 1989.

Lauro F. Cavazos,

Secretary of Education.

The Secretary proposes to amend part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Subpart E of part 668 is revised to read as follows:

Subpart E—Verification of Student Aid Application Information

Sec.

668.51 General.
668.52 Definitions.
668.53 Policies and procedures.
668.54 Selection of applications for verification.
668.55 Updating information.
668.56 Items to be verified.
668.57 Acceptable documentation.
668.58 Interim disbursements.
668.59 Consequences of a change in application information.
668.60 Deadlines for submitting documentation and the consequences of failing to provide documentation.
668.61 Recovery of funds.

Subpart E—Verification of Student Aid Application Information

§ 668.51 General.

(a) *Scope and purpose.* The regulations in this subpart govern the verification by institutions of information submitted by applicants for student financial assistance in connection with the calculation of their expected family contributions (EFC) for the Pell Grant, campus-based, need-based Income Contingent Loan (ICL) and Guaranteed Student Loan (GSL) programs.

(b) *Applicant responsibility.* If the Secretary or the institution requests documents or information from an applicant under this subpart, the applicant shall provide the specified documents or information.

(c) *Institutional Quality Control Pilot Project.* (1) For the 1988–89, 1989–90, and 1990–91 award years, the Secretary exempts institutions selected to participate in the institutional Quality Control Pilot Project from the requirements contained in the following sections:

(i) Section 668.53(a) (1) through (4).
(ii) Section 668.54(a) (2), (3), and (5).
(iii) Section 668.56.
(iv) Section 668.57, except that an institution shall require an applicant that it has selected for verification to submit to it a copy of the income tax return, if filed, of the applicant, his or her spouse, and his or her parents, if the income reported on the income tax return was used in determining the expected family contribution.
(v) Section 668.60(a).

(2) For the purpose of this section, the Institutional Quality Control Pilot Project is an experiment under which a participating institution develops and implements a quality control system in connection with its administration of the title IV, HEA programs. Under such a quality control system, the institution must evaluate its current procedures for administering the title IV, HEA programs ("management assessment component"), identify the errors that result from its current procedures ("error measurement process component") and design corrections to its procedures that will enable it to eliminate or significantly reduce those errors ("corrective actions process component").

(d) *Foreign schools.* The Secretary exempts from the provisions of this subpart institutions participating in the GSL Program that are not located in a State.

(Authority: 20 U.S.C. 1094)

§ 668.52 Definitions.

The following definitions apply to this subpart:

"Base year" means the calendar year preceding the first calendar year of an award year.

"Edits" means a set of pre-established factors for identifying—

(a) Student aid applications that may contain incorrect, missing, illogical, or inconsistent information; and

(b) Randomly selected student aid applications.

"Expected family contribution (EFC)" means the amount an applicant and his or her spouse and family are expected to contribute toward the applicant's cost of attendance.

"Need analysis servicer" means an agency or organization who has had its system for determining EFCs under the campus-based, GSL and need-based ICL programs certified by the Secretary for the applicable award year.

"Student aid application" means an application submitted by a person to have his or her EFC determined under the Pell Grant, campus-based, need-based ICL, or GSL programs.

(Authority: 20 U.S.C. 1094)

§ 668.53 Policies and procedures.

(a) An institution shall establish and use written policies and procedures for verifying information contained in a student aid application in accordance with the provisions of this subpart. These policies and procedures must include—

(1) The time period within which an applicant shall provide the documentation;

(2) The consequences of an applicant's failure to provide required documentation within the specified time period;

(3) The method by which the institution notifies an applicant of the results of verification if, as a result of verification, the applicant's EFC changes and results in a change in the applicant's award or loan;

(4) The procedures the institution requires an applicant to follow to correct application information determined to be in error; and

(5) The procedures for making referrals under § 668.14(g).

(b) The institution's procedures must provide that it furnish, in a timely manner, to each applicant selected for verification a clear explanation of—

(1) The documentation needed to satisfy the verification requirements; and

(2) The applicant's responsibilities with respect to the verification of application information, including the deadlines for completing any actions required under this subpart and the consequences of failing to complete any required action.

(Authority: 20 U.S.C. 1094)

§ 668.54 Selection of applications for verification.

(a) *General requirements.* (1) Except as provided in paragraph (b) of this section, an institution shall require an applicant to verify application information as specified in this paragraph.

(2) An institution shall require each applicant whose application is selected for verification on the basis of edits specified by the Secretary, to verify all of the applicable items specified in § 668.56, except that no institution is required to verify the applications of more than thirty (30) percent of its applicants for assistance under the Pell Grant, campus-based, need-based ICL, and GSL Programs in an award year. The Secretary may enter into agreements with need analysis servicers under which the Secretary provides the edits to the servicer and the servicer, once certified by the Secretary, indicates to institutions the applications selected for verification.

(3) The institution shall require each applicant to verify the applicable items specified in § 668.56 (except that no eligible institution is required to verify more than thirty (30) percent of the applications submitted in any award year), if—

(i) The applicant is selected by the institution to receive an award under the campus-based programs or requests the institution to certify his or her application for a GSL or need-based ICL loan; and

(ii) The institution does not receive—

(A) A Student Aid Report (SAR) for the applicant; or

(B) The output document generated on behalf of the applicant submitting an application to a certified need analysis servicer that has an agreement with the Secretary as described under paragraph (a)(2) of this section.

(4) If an institution has reason to believe that any information on an application used to calculate an EFC is inaccurate, it shall require that the applicant verify the information that it has reason to believe is inaccurate.

(5) If an applicant is selected to verify the information on his or her application under paragraph (a)(2) of this section, the institution shall require the applicant to verify the information as specified in § 668.56 on each additional application he or she submits for that award year, except for information already verified under a previous application submitted for the applicable award year.

(6) An institution or the Secretary may require an applicant to verify any data elements that the institution or the Secretary specifies.

(b) *Exclusions from verification.* (1) An institution need not verify an application submitted for an award year if the applicant dies during the award year.

(2) Unless the institution has reason to believe that the information reported by the applicant may be incorrect, it need not verify applications of the following applicants:

(i) An applicant who is—

(A) A legal resident of and, in the case of a dependent student, whose parents are also legal residents of the Commonwealth of the Northern Mariana Islands, Guam, or American Samoa; or

(B) A citizen of and, in the case of a dependent student, whose parents are also citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

(ii) An applicant who is incarcerated at the time at which verification would occur.

(iii) An applicant who is a dependent student, whose parents are residing in a country other than the United States and cannot be contacted by normal means of communication.

(iv) An applicant who is an immigrant and who arrived in the United States during either calendar year of the award year.

(v) An applicant who is a dependent student, both of whose parents are deceased or are physically or mentally incapacitated, or whose parents' address is unknown.

(vi) An applicant who does not receive assistance for reasons other than his or her failure to verify the information on the application.

(vii) An applicant who transfers to the institution, had previously completed the verification process at the institution from which he or she transferred, and applies for assistance on the same application used at the previous institution, if the current institution obtains—

(A) A letter from the previous institution stating that it has verified the applicant's information and, if relevant, the provision used in § 668.59 for not recalculating the applicant's EFC; and

(B) A copy of the verified application and, if the applicant applied for a Pell Grant, pages 1 and 3 of the applicant's SAR.

(3) An institution need not require an applicant to document spouse information or provide a spouse's signature if—

(i) The spouse is deceased;

(ii) The spouse is mentally or physically incapacitated;

(iii) The spouse is residing in a country other than the United States and cannot be contacted by normal means of communication; or

(iv) The spouse cannot be located because his or her address is unknown and cannot be obtained by the applicant.

(Authority: 20 U.S.C. 1091, 1094)

§ 668.55 Updating information.

(a) (1) Unless the provisions of paragraph (a)(2) of this section apply, an applicant is required to update the information contained in his or her application for assistance in an award year to reflect the applicant's current circumstances regarding—

(i) The number of family members in the applicant's household and the number of those household members attending postsecondary educational institutions, in accordance with provisions of paragraph (b) of this section; and

(ii) His or her dependency status in accordance with the provisions of paragraph (d) of this section.

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(2) An institution need not require an applicant to verify the information contained in his or her application for assistance in an award year if—

(i) The applicant previously submitted an application for assistance for that award year;

(ii) The applicant updated and verified the information contained in that application; and

(iii) No change in the information to be updated has taken place since the last update.

(b) If the number of family members in the applicant's household or the number of such household members attending postsecondary educational institutions changes—

(1) An applicant who is selected for verification shall update the information contained in his or her application regarding those factors so that the information is correct as of the day the applicant verifies the information; and

(2) An applicant for a Pell Grant who is not selected for verification shall update the information contained in his or her application regarding those factors and shall certify that the information is correct as of the day that the applicant submits his or her first SAR to the institution.

(c) If an applicant has received Pell Grant, campus-based, need-based ICL, or GSL program assistance for an award year, the applicant subsequently submits another application for assistance under any of those programs for that award year, and the applicant is required to update household size and number attending postsecondary educational institutions on the subsequent application, the institution—

(1) Is required to take that newly updated information into account when awarding for that award year further Pell Grant, campus-based, or need-based ICL program assistance or certifying a GSL loan application; and

(2) Is not required to adjust the Pell Grant, campus-based or need-based ICL program assistance previously awarded to the applicant for that award year, or any previously certified GSL loan application for that award year, to reflect the newly updated information unless the applicant would otherwise receive an overaward.

(d) If an applicant's dependency status changes after the applicant applies to have his or her EFC calculated for an award year, the applicant shall file a new application for that award year reflecting the applicant's new dependency status regardless of whether the applicant is selected for verification.

(Authority: 20 U.S.C. 1094)

§ 668.56 Items to be verified.

(a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, an institution shall require an applicant selected for verification under § 668.54 (a) (1) or (2) to submit acceptable documentation described in § 668.57 that will verify or update the following information used to determine the applicant's EFC:

(1) Adjusted gross income (AGI) for the base year if base year data was used in determining eligibility, or income earned from work if a non-tax filer.

(2) U.S. income tax paid for the base year.

(3)(i) For an applicant who is a dependent student, the aggregate number of family members in the household or households of the applicant's parents if—

(A) The applicant's parent is single, divorced, separated or widowed and the aggregate number of family members is greater than two; or

(B) The applicant's parents are married and the aggregate number of family members is greater than three.

(ii) For an applicant who is an independent student, the number of family members in the household of the applicant if—

(A) The applicant is single, divorced, separated, or widowed and the number of family members is greater than one; or

(B) The applicant is married and the number of family members is greater than two.

(4) The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions if that number is greater than one.

(5) The following untaxed income and benefits for the base year—

(i) Social security benefits if—

(A) Verification is required by a comment on the applicant's SAR; or

(B) The applicant does not receive an SAR and the institution has reason to believe that those benefits were received;

(ii) Child support if the institution has reason to believe that child support was received;

(iii) U.S. income tax deduction for a payment made to an individual retirement account (IRA) or Keogh account;

(iv) Interest on tax-free bonds;

(v) Foreign income excluded from U.S. income taxation if the institution has reason to believe that foreign income was received;

(vi) The earned income credit taken on the applicant's tax return.

(vii) All other untaxed income subject to U.S. income tax reporting requirements in the base year which are included on the tax return form without the use of additional schedules or attachments.

(b) If an applicant selected for verification submits a SAR to the institution, or the institution receives an output document as described in § 668.54(a)(3)(ii)(B) within 90 days of the date the applicant signed his or her application, or if an applicant is selected for verification under § 668.54(a)(2), the institution need not require the applicant to verify—

(1) The number of family members in the household; or

(2) The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions.

(c) If the number of family members in the household, the independent student status, or the amount of child support reported by an applicant selected for verification is the same as that verified by the institution in the previous award year, the institution need not require the applicant to verify that information.

(d) If the family members who are enrolled as at least half-time students in postsecondary educational institutions are enrolled at the same institution as the applicant, and the institution verifies their enrollment from its own records, the institution need not require the applicant to verify this information.

(e) If the applicant or the applicant's spouse, or in the case of a dependent student, the applicant's parents receive untaxed income or benefits from a Federal, State, or local government agency determining their eligibility for that income or benefits by means of a financial needs test, the institution need not require the untaxed income and benefits to be verified.

(Authority: 20 U.S.C. 1094, 1095)

§ 668.57 Acceptable documentation.

(a) *Adjusted Gross Income (AGI) and U.S. income tax paid.* (1) Except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section, an institution shall require an applicant selected for verification to verify AGI and U.S. income tax paid by submitting to it, if relevant—

(i) A copy of the income tax return of the applicant, his or her spouse, and his or her parents. The copy of the return must be signed by the filer of the return or by one of the filers of a joint return;

(ii) For a dependent student, a copy of each Internal Revenue Service (IRS) Form W–2 received by the parent whose income is being taken into account if—

(A) The parents filed a joint return; and

(B) The parents are divorced or separated or one of the parents has died; and

(iii) For an independent student, a copy of each IRS Form W–2 he or she received if the independent student—

(A) Filed a joint return; and

(B) Is a widow or widower, or is divorced or separated.

(2) If an individual who filed a U.S. tax return and who is required by paragraph (a)(1) of this section to provide a copy of his or her tax return does not have a copy of that return, the institution may require that individual to submit, in lieu of a copy of the tax return, a copy of the "IRS Listing of Tax Account Information."

(3) An institution shall accept, in lieu of an income tax return or an IRS Listing of Tax Account Information of a relevant individual, the documentation set forth in paragraph (a)(4) of this section if the relevant individual for the base year—

(i) Has not filed and is not required to file an income tax return;

(ii) Is required to file a U.S. tax return and has been granted a filing extension by the IRS; or

(iii) Has requested a copy of the tax return or a Listing of Tax Account Information and the IRS or a government of a U.S. territory or commonwealth or a foreign central government cannot locate the return or provide a Listing of Tax Account Information.

(4) An institution shall accept—

(i) For an individual described in paragraph (a)(3)(i) of this section, a statement signed by that individual certifying that he or she has not filed nor is required to file an income tax return for the base year and certifying for that year that individual's—

(A) Sources of income earned from work as stated on the application; and

(B) Amounts of income from each source;

(ii) For an individual described in paragraph (a)(3)(ii) of this section—

(A) A copy of the IRS Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," that the individual filed with the IRS for the base year, or a copy of the IRS's approval of an extension beyond the automatic four-month extension if the individual requested an additional extension of the filing time; and

(B) A copy of each IRS Form W–2 that the individual received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of adjusted gross income for the base year; and

(iii) For an individual described in paragraph (a)(3)(iii) of this section—

(A) A copy of each IRS Form W–2 that the individual received for the base year; or

(B) For an individual who is self-employed or has filed an income tax return with a government of a U.S. territory or commonwealth, or a foreign central government, a statement signed by the individual certifying the amount of adjusted gross income for the base year.

(5) An institution shall require an individual described in paragraph (a)(3)(ii) of this section to provide to it a copy of his or her completed income tax return when filed. When an institution receives the copy of the return, it may re-verify the adjusted gross income and taxes paid by the applicant and his or her spouse or parents.

(6) If an individual who is required to submit an IRS Form W–2 under this paragraph is unable to obtain one in a timely manner, the institution may permit that individual to set forth, in a statement signed by the individual, the amount of income earned from work as stated on the application, the source of that income, and the reason that the IRS Form W–2 is not available in a timely manner.

(7) For the purpose of this section, an institution may accept in lieu of a copy of an income tax return signed by the filer of the return or one of the filers of a joint return, a copy of the filer's return that has been signed by the preparer of the return or stamped with the name and address of the preparer of the return.

(b) *Number of family members in household.* An institution shall require an applicant selected for verification to verify the number of family members in the household by submitting to it a statement signed by the applicant and the applicant's parent if the applicant is a dependent student, or the applicant and the applicant's spouse if the applicant is an independent student, listing the name and age of each family member in the household and the relationship of each household member to the applicant.

(c) *Number of family household members enrolled in postsecondary institutions.* (1) Unless the institution has reason to believe that the information included on the application regarding the number of household members in the applicant's family enrolled on at least half-time basis in postsecondary institutions is inaccurate, the institution shall require an applicant selected for verification to verify that information by submitting to it a statement signed by the applicant and the applicant's parents if the applicant is a dependent student, or by the applicant and the applicant's spouse if the applicant is an independent student, listing—

(i) The name of each family member who is or will be attending a postsecondary educational institution as at least a half-time student in the award year;

(ii) The age of each student; and

(iii) The name of the institution attended by each student.

(2) If the institution has reason to believe that the information included on the application regarding the number of family household members enrolled in postsecondary institutions is inaccurate, the institution shall require—

(i) The statement required in paragraph (c)(1) of this section from the individuals described in paragraph (c)(1) of this section; and

(ii) A statement from each institution named by the applicant in response to the requirement of paragraph (c)(1)(iii) of this section that the household member in question is or will be attending the institution on at least a half-time basis, unless the institution the student is attending determines that such a statement is not available because the household member in question has not yet registered at the institution he or she plans to attend.

(d) *Untaxed income and benefits.* An institution shall require an applicant selected for verification to verify—

(1) Untaxed income and benefits described in § 668.56(a)(5) (iii), (iv), (v), and (vi) by submitting to it—

(i) A copy of the U.S. income tax return signed by the filer or one of the filers if a joint return, if collected under paragraph (a) of this section, or the IRS listing of tax account information if collected by the institution to verify adjusted gross income; or

(ii) If no tax return was filed or is required to be filed, a statement signed by the relevant individuals certifying that no tax return was filed or is required to be filed and providing the sources and amount of untaxed income and benefits specified in § 668.56(a)(5) (iii), (iv), (v), and (vi);

(2) Social security benefits—

(i) If an edit comment appears on the applicant's SAR indicating incorrect Social Security benefits, the applicant shall verify Social Security benefits, by submitting a document from the Social Security Administration showing the amount of benefits received in the appropriate calendar year by the applicant, applicant's parents, and any other children of the applicant's parents who are members of the applicant's

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household, in the case of a dependent student, or by the applicant, the applicant's spouse, and the applicant's children in the case of an independent student; or

(ii) If the applicant does not receive an SAR and the institution has reason to believe that the applicant has incorrectly reported Social Security benefits received by the applicant or any individual described in paragraph (d)(2)(I), the applicant shall verify Social Security benefits by submitting either the document described in paragraph (d)(2)(i) or, at the institution's option, a statement signed by both the applicant and the applicant's parent in the case of a dependent student or by the applicant in the case of an independent student certifying that the amount listed on the applicant's aid application is correct; and

(3) Child support received by submitting to it—

(i) A written statement signed by the applicant and the applicant's parent in the case of a dependent student, or by the applicant and the applicant's spouse in the case of an independent student, certifying the amount of child support received; and

(ii) If the institution has reason to believe that the information provided is inaccurate, the applicant must verify the amount of child support received by providing a document such as—

(A) A copy of the separation agreement or divorce decree showing the amount of child support to be provided;

(B) A statement from the parent providing the child support showing the amount provided; or

(C) Copies of the child support checks or money order receipts.

(Authority: 20 U.S.C. 1094)

§ 668.58 Interim disbursements.

(a)(1) If an institution has reason to believe that the information included on the application is inaccurate, until the applicant verifies or corrects the information included on his or her application, the institution may not—

(i) Disburse any Pell Grant or campus-based program funds to the applicant;

(ii) Employ the applicant in its CWS Program; or

(iii) Certify the applicant's GSL application or process GSL proceeds for any previously certified GSL application.

(2) If an institution does not have reason to believe that the information included on an application is inaccurate prior to verification, the institution—

(i) May withhold payment of Pell Grant, campus-based, and need-based ICL funds; or

(ii)(A) May make one disbursement of any combination of Pell Grant, Perkins Loan, NDSL, SEOG or need-based ICL funds for the applicant's first payment period; and

(B) May employ or allow an employer to employ an eligible student under the CWS Program for the first sixty (60) consecutive days of the award year in any award year; and

(iii)(A) May withhold certification of the applicant's GSL application; or

(B) May certify the GSL application provided that the institution does not process GSL proceeds.

(b) If an institution chooses to make disbursement under paragraph (a)(2)(ii)(A) or (B) of this section, it is liable for any overpayment discovered as a result of the verification process.

(c) An institution may not withhold any GSL proceeds from a student under paragraph (a)(2) of this section for more than forty-five (45) days. If the applicant does not complete the verification process within the forty-five day period, the institution shall return the proceeds to the lender.

(d) (1) If the institution receives GSL proceeds in an amount which exceeds the student's need for the loan based upon the verified information and the excess funds can be eliminated by reducing subsequent disbursements for the applicable loan period, the institution shall process the proceeds and advise the lender to reduce the subsequent disbursements.

(2) If the institution receives GSL proceeds in an amount which exceed the student's need for the loan based upon the verified information and the excess funds cannot be eliminated in subsequent disbursements for the applicable loan period, the institution shall return the excess proceeds to the lender.

(Authority: 20 U.S.C. 1094)

§ 668.59 Consequences of a change in application information.

(a) Except as provided in paragraph (b) of this section, if the information on an application used to determine Pell Grant eligibility changes as a result of the verification process, the institution shall require the applicant to resubmit his or her SAR to the Secretary if—

(1) The institution recalculates the applicant's SAI (student aid index), determines that the applicant's EFC changes, and determines that the change in the EFC changes the applicant's Pell Grant award; or

(2) The institution does not recalculate the applicant's EFC.

(b) An institution need not require an applicant to resubmit his or her SAR to the Secretary, need not recalculate his or her EFC, and need not adjust his or her Title IV award if, as a result of the verification process, the institution finds no errors in dollar items or finds errors reflecting a cumulative change in dollar items of $200 or less.

(c) If the applicant has received funds based on information that may be incorrect and the institution has made a reasonable effort to resolve the alleged discrepancy, but cannot, the institution shall forward the applicant's name, Social Security number, and other relevant information to the Secretary.

(Authority: 20 U.S.C. 1094)

§ 668.60 Deadlines for submitting documentation and the consequences of failing to provide documentation.

(a) An institution shall require an applicant selected for verification to submit to it, within the period of time it or the Secretary specifies, the documents set forth in § 668.57 that are requested by the institution or the Secretary.

(b) For purposes of the campus-based, GSL and need-based ICL programs—

(1) If an applicant fails to provide the requested documentation within a reasonable time period established by the institution or by the Secretary—

(i) The institution may not—

(A) Disburse any additional Perkins Loan, NDSL, SEOG or need-based ICL funds to the applicant;

(B) Continue to employ or allow an employer to employ the applicant under CWS;

(C) Certify the applicant's GSL application; or

(D) Process GSL proceeds for the applicant;

(ii) The institution shall return to the lender any GSL proceeds payable to the applicant; and

(iii) The applicant shall repay to the institution any Perkins Loan, NDSL, or SEOG, or need-based ICL payments received for that award year;

(2) If the applicant provides the requested documentation after the time period established by the institution, the institution may, at its option, award aid to the applicant notwithstanding the guidelines listed in paragraph (b)(1)(i) of this section; and

(3) An institution may not withhold any GSL proceeds from a student under paragraph (b)(1)(i)(D) of this section for more than forty-five (45) days. If the applicant does not complete verification within the forty-five (45) day period, the institution shall return the GSL proceeds to the lender.

(c) For purposes of the Pell Grant Program—

(1) An applicant may submit a verified SAR to the institution after the applicable deadline specified in 34 CFR 690.61 but within an established additional time period set by the Secretary through publication of a notice in the Federal Register. If a verified SAR is submitted to the institution during the established additional time period, and the SAIs on the two SARs are different, payment must be based on the higher of the two SAIs.

(2) If the applicant does not provide the requested documentation, and if necessary, a reprocessed verified SAR, within the additional time period referenced in paragraph (c)(1) of this section, the applicant—

(i) Forfeits the Pell Grant for the award year; and

(ii) Shall return any Pell Grant payments previously received for that award year to the Secretary.

(d) The Secretary may determine not to process any subsequent Pell Grant application, and an institution, if directed by the Secretary, may not process any subsequent application for campus-based, need-based ICL or GSL program assistance of an applicant who has been requested to provide information until the applicant provides the documentation or the Secretary decides that there is no longer a need for the documentation.

(e) If an applicant selected for verification for an award year dies before the deadline for completing the verification process without completing that process, and the deadline is in the subsequent award year, the institution may not—

(1) Make any further disbursements on behalf of that applicant;

(2) Certify that applicant's GSL loan application or process that applicant's GSL proceeds; or

(3) Consider any funds it disbursed to that applicant under § 668.58(a)(2) as an overpayment.

(Authority: 20 U.S.C. 1094)

§ 668.61 Recovery of funds.

(a) If an institution discovers, as a result of the verification process, that an applicant received under § 668.58(a)(2)(ii)(A) more than he or she was eligible to receive, the institution shall eliminate the overpayment by—

(1) Adjusting subsequent financial aid payments in the award year in which the overpayment occurred; or

(2) Reimbursing the appropriate program account by—

(i) Requiring the applicant to return the overpayment to the institution if the institution cannot correct the overpayment under paragraph (a)(1) of this section; or

(ii) Making restitution from its own funds, if the applicant does not return the overpayment, by the earlier of the following dates:

(A) Sixty days after the applicant's last day of enrollment.

(B) The last day of the award year in which the institution disbursed Pell Grant, Perkins Loan, NDSL, SEOG or need-based ICL funds to the applicant.

(b) If the institution determines as a result of the verification process that an applicant received for an award year a GSL of $200 or more in excess of the student's financial need for the loan, the institution shall notify the student and the lender of the excess amount within thirty (30) days of the institution's determination that the borrower is ineligible for the excess amounts.

(Authority: 20 U.S.C. 1094)

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October 31, 1989

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 5, 6, 19, and 52
Federal Acquisition Regulation (FAR); Competitive Thresholds; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

Opportunity Development Reform Act of 1988, Pub. L. 100-656, published in the Federal Register on August 21, 1989 (54 FR 34692).

case of a contract opportunity assigned a standard industrial classification code for manufacturing and $3,000,000 (including options) in the case of all other contract opportunities. In addition,

(3) Advising that eligibility to participate may be restricted to firms in either the developmental or transitional stage; and

(4) Encouraging interested 8(a) firms

Sec.
19.804-2 Agency offering.
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19.805 Competitive 8(a).

19.803 Selecting acquisitions for the 8(a) Program.

Through their cooperative efforts, the SBA and an agency match the agency's requirements with the capabilities of

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 6, 19, and 52

[Federal Acquisition Circ. 84-52]

RIN AD 31

Federal Acquisition Regulation (FAR); Competitive Thresholds

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84-52 amends Federal Acquisition Regulation (FAR) Parts 5, 6, 19, and 52 to implement sections 303(b) and 303(d) of the Business Opportunity Development Reform Act of 1988, Pub. L. 100-656.

EFFECTIVE DATE: November 30, 1989.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755. Please cite FAC 84-52.

SUPPLEMENTARY INFORMATION:

A. Background

Section 303(b) of the Business Opportunity Development Reform Act of 1988 requires that acquisitions offered for award pursuant to section 8(a) of the Small Business Act be awarded on the basis of competition restricted to eligible program participants if (a) there is a reasonable expectation that at least two eligible program participants will submit offers and that award can be made at a fair market price, and (b) the anticipated award price of the contract (including options) will exceed $5,000,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing and $3,000,000 (including options) in the case of all other contract opportunities.

Section 303(d) amends the current appeal authority of the Small Business Administration to permit appeals as to whether a requirement should be offered to the section 8(a) Program and as to whether the estimated fair market price as determined by the contracting agency is correct.

B. Regulatory Flexibility Act

The requirements of the Act were addressed by the Small Business Administration in the development of its regulations implementing the Business Opportunity Development Reform Act of 1988, Pub. L. 100-656, published in the **Federal Register** on August 21, 1989 (54 FR 34692).

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this rule does not impose any reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Public Comments

On June 28, 1989, a proposed rule was published in the **Federal Register** (54 FR 27310). Comments received were considered by the Councils in the development of this final rule.

List of Subjects in 48 CFR Parts 5, 6, 19, and 52

Government procurement.

Dated: October 25, 1989.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

[Number 84-52]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-52 is effective October 31, 1989.

Richard H. Hopf III,

Associate Director for Acquisition Policy

S.J. Evans,

Associate Administrator for Procurement, National Aeronautics and Space Administration.

Eleanor Spector,

Assistant Secretary of Defense for Procurement, Department of Defense.

Federal Acquisition Circular (FAC) 84-52 amends the Federal Acquisition Regulation as specified below:

Item-Competitive Thresholds

FAR parts 5, 6, subparts 19.2 and 19.8, and part 52 are amended to implement subsection 303(b) of the Business Opportunity Development Reform Act of 1988, Pub. L. 100-656, which requires that acquisitions offered for award pursuant to section 8(a) of the Small Business Act be awarded on the basis of competition restricted to eligible program participants if (a) there is a reasonable expectation that at least two eligible program participants will submit offers and that award can be made at a fair market price, and (b) anticipated award price of the contract (including options) will exceed $5,000,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing and $3,000,000 (including options) in the case of all other contract opportunities. In addition, Part 19 is revised to implement subsection 303(d) of Pub. L. 100-656 to permit appeals by SBA as to whether a requirement should be offered to the section 8(a) Program and as to whether the estimated fair market price as determined by the contracting agency is correct.

Therefore, 48 CFR Parts 5, 6, 19, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 5, 6, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 5—PUBLICIZING CONTRACT ACTIONS

2. Section 5.202 is amended by revising paragraph (a)(4) to read as follows:

5.202 Exceptions.

(a) * * *

(4) The contract action is expressly authorized or required by a statute to be made through another Government agency, including acquisitions from the Small Business Administration (SBA) using the authority of section 8(a) of the Small Business Act (but see 5.205(e)), or from a specific source such as a workshop for the blind under the rules of the Committee for the Purchase from the Blind and Other Severely Handicapped;

* * * * *

3. Section 5.205 is admended by adding paragraph (e) to read as follows:

5.205 Special situations.

* * * * *

(e) *Section 8(a) competitive acquisition.* When a national buy requirement is being considered for competitive acquisition limited to eligible 8(a) concerns under Supart 19.8, the contracting officer shall transmit a synopsis of the proposed contract action to the CBD in accordance with 5.207. The synopsis may be transmitted to the CDB concurrent with submission of the agency offering (see 19.804-2) to the Small Business Administration (SBA). The synopsis should also include information—

(1) Advising that the acquisition is being offered for competition limited to eligible 8(a) concerns;

(2) Specifying the Standard Industrial Classification (SIC) code;

(3) Advising that eligibility to participate may be restricted to firms in either the developmental or transitional stage; and

(4) Encouraging interested 8(a) firms to request a copy of the solicitation as expeditiously as possible since the solicitation will be issued without further notice upon SBA acceptance of the requirement for the section 8(a) Program.

PART 6—COMPETITION REQUIREMENTS

4. Section 6.204 is added to read as follows:

6.204 Section 8(a) competition.

(a) To fulfill statutory requirements relating to section 8(a) of the Small Business Act, as amended by Pub. L. 100-656, contracting officers may limit competition to eligible 8(a) contractors (see Subpart 19.8).

(b) No separate justification or determination and findings is required under this part to limit competition to eligible 8(a) contractors.

5. Section 6.302-5 is amended by revising paragraph (b)(4) to read as follows:

6.302-5 Authorized or required by statute.

(b) * * *

(4) Sole source awards under the 8(a) Program—15 U.S.C. 637 (see subpart 19.8).

* * * * *

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

6. Section 19.202-6 is amended by revising paragraph (b) to read as follows:

19.202-6 Determination of fair market price.

* * * * *

(b) For 8(a) contracts, both with respect to meeting the requirement at 19.806(b) and in order to accurately estimate the current fair market price, contracting officers shall follow the procedures at 19.807.

7. Subpart 19.8 is revised to read as follows:

Subpart 19.8—Contracting With the Small Business Administration (The 8(a) Program)

Sec.

19.800 General.
19.801 Definitions.
19.802 Selecting concerns for the 8(a) Program.
19.803 Selecting acquisitions for the 8(a) Program.
19.804 Evaluation, offering, and acceptance.
19.804-1 Agency evaluation.
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19.805-1 General.
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19.806 Pricing the 8(a) contract.
19.807 Estimating the fair market price.
19.808 Contract negotiation.
19.808-1 Sole source.
19.808-2 Competitive.
19.809 Preaward considerations.
19.810 SBA appeals.
19.811 Preparing the contracts.
19.811-1 Sole source.
19.811-2 Competitive.
19.811-3 Contract clauses.
19.812 Contract administration.

19.800 General.

(a) Section 8(a) of the Small Busines Act (15 U.S.C. 637(a)) established a program that authorizes the Small Business Administration (SBA) to enter into all types of contracts with other agencies and let subcontracts for performing those contracts to firms eligible for program participation. The SBA's subcontractors are referred to as "8(a) contractors."

(b) Contracts may be awarded to the SBA for performance by eligible 8(a) firms on either a sole source or competitive basis.

(c) When, acting under the authority of the program, the SBA certifies to an agency that the SBA is competent and responsible to perform a specific contract, the contracting officer is authorized, in the contracting officer's discretion, to award the contract to the SBA based upon mutually agreeable terms and conditions.

19.801 Definitions.

Local buy requirement, as used in this subpart, means a supply or service purchased to meet the specific needs of one user in one location.

National buy requirement, as used in this subpart, means a supply or service purchased to meet the needs of one or more locations where supply control, inventory management, or acquisition responsibility have been assigned to a central contracting activity.

19.802 Selecting concerns for the 8(a) Program.

Selecting concerns for the 8(a) Program is the responsibility of the SBA and is based on the criteria established in 13 CFR 124.101-113.

19.803 Selecting acquisitions for the 8(a) Program.

Through their cooperative efforts, the SBA and an agency match the agency's requirements with the capabilities of 8(a) concerns to establish a basis for the agency to contract with the SBA under the program. Selection is initiated in one of three ways—

(a) The SBA advises an agency contracting activity through a search letter of an 8(a) firm's capabilities and asks the agency to identify acquisitions to support the firm's business plans. In these instances, the SBA will provide at least the following information in order to enable the agency to match an acquisition to the firm's capabilities.

(1) Identification of the concern and its owners.

(2) Background information on the concern, including any and all information pertaining to the concern's technical ability and capacity to perform.

(3) The firm's present production capacity and related facilities.

(4) The extent to which contracting assistance is needed in the present and the future, described in terms that will enable the agency to relate the concern's plans to present and future agency requirements.

(5) If construction is involved, the request shall also include the following:

(i) The concern's capabilities in and qualifications for accomplishing various categories of maintenance, repair, alteration, and construction work in specific categories such as mechanical, electrical, heating and air conditioning, demolition, building, painting, paving, earth work, waterfront work, and general construction work.

(ii) The concern's capacity in each construction category in terms of estimated dollar value (e.g., electrical, up to $100,000).

(b) The SBA identifies a specific requirement for a particular 8(a) firm or firms and asks the agency contracting activity to offer the acquisition to the 8(a) Program for the firm(s). In these instances, in addition to the information in paragraph (a) of this section, the SBA will provide—

(1) A clear identification of the acquisition sought; e.g., project name or number;

(2) A statement as to how any additional needed facilities will be provided in order to ensure that the firm will be fully capable of satisfying the agency's requirements;

(3) If construction, information as to the bonding capability of the firm(s); and

(4) Either—

(i) If sole source request—

(A) The reasons why the firm is considered suitable for this particular acquisition; e.g., previous contracts for the same or similar supply or service;

independent review of the factors in 19.803(a) and other aspects of the firms' capabilities which would ensure the satisfactory performance of the requirement being considered for

(12) Identification of all known 8(a) concerns which have expressed an interest in this specific requirement as a result of self-marketing, response to sources sought, or publication of

19.804-4 Repetitive acquisitions.

In order for repetitive acquisitions to be awarded through the 8(a) Program, there must be separate offers and

upon whether the acquisition is a local or national buy requirement.

19.805-2 Procedures.

solicitation or proposed contract award. Any party with information concerning the eligibility of an 8(a) firm to continue participation in the 8(a) Program may

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(i) If sole source request—

(A) The reasons why the firm is considered suitable for this particular acquisition; e.g., previous contracts for the same or similar supply or service; and

(B) A statement that the firm is eligible in terms of SIC code, business support levels, and business activity targets; or,

(ii) If competitive, a statement that at least two 8(a) firms are considered capable of satisfying the agency's requirements and a statement that the firms are also eligible in terms of the SIC code, business support levels, and business activity targets. If requested by the contracting activity, SBA will identify at least two such firms and provide information concerning the firms' capabilities.

(c) Agencies may also review other proposed acquisitions for the purpose of identifying requirements which may be offered to the SBA. Where agencies independently, or through the self marketing efforts of an 8(a) firm, identify a requirement for the 8(a) Program, they may offer on behalf of a specific 8(a) firm, for the 8(a) Program in general, or for 8(a) competition.

19.804 Evaluation, offering, and acceptance.

19.804-1 Agency evaluation.

In determining the extent to which a requirement should be offered in support of the 8(a) Program, the agency should evaluate—

(a) Its current and future plans to acquire the specific items or work that 8(a) contractors are seeking to provide, identified in terms of—

(1) Quantities required or the number of construction projects planned; and

(2) Performance or delivery requirements, including required monthly production rates, when applicable.

(b) Its current and future plans to acquire items or work similar in nature and complexity to that specified in the business plan;

(c) Problems encountered in previous acquisitions of the items or work from the 8(a) contractors and/or other contractors;

(d) The impact of any delay in delivery;

(e) Whether the items or work have previously been acquired using small business set-asides; and

(f) Any other pertinent information about known 8(a) contractors, the items, or the work. This includes any information concerning the firms' capabilities. When necessary, the contracting agency shall make an independent review of the factors in 19.803(a) and other aspects of the firms' capabilities which would ensure the satisfactory performance of the requirement being considered for commitment to the 8(a) Program.

19.804-2 Agency offering.

(a) After completing its evaluation, the agency shall notify the SBA of the extent of its plans to place 8(a) contracts with the SBA for specific quantities of items or work. The notification must identify the timeframes within which prime contract and subcontract actions must be completed in order for the agency to meet its responsibilities. The notification must also contain the following information applicable to each prospective contract:

(1) A description of the work to be performed or items to be delivered, and a copy of the statement of work, if available.

(2) The estimated period of performance.

(3) The SIC code that applies to the principal nature of the acquisition.

(4) The anticipated dollar value of the requirement, including options, if any.

(5) Any special restrictions or geographical limitations on the requirement (for construction and services include the location of the work to be performed).

(6) Any special capabilities or disciplines needed for contract performance.

(7) The type of contract anticipated.

(8) The acquisition history, if any, of the requirement, including the names and addresses of any small business contractors which have performed this requirement during the previous 24 months.

(9) A statement that no solicitation for this specific acquisition has been issued as a small business set-aside or a small disadvantaged business set-aside, and that no other public communication (such as a notice in the Commerce Business Daily) has been made evidencing the contracting agency's clear intention to set aside the acquisition for small business or small disadvantaged business.

(10) Identification of any particular 8(a) concern designated for consideration, including a brief justification, such as—

(i) The 8(a) concern, through its own efforts, marketed the requirement and caused it to be reserved for the 8(a) Program; or

(ii) The acquisition is a follow-on or renewal contract and the nominated concern is the incumbent.

(11) Bonding requirements, if applicable.

(12) Identification of all known 8(a) concerns which have expressed an interest in this specific requirement as a result of self-marketing, response to sources sought, or publication of advanced acquisition requirements.

(13) Identification of all SBA district or regional offices which have asked for the acquisition for the 8(a) Program.

(14) A recommendation, if appropriate, as to whether the acquisition should be competitive or sole source; and

(15) Any other pertinent and reasonably available data.

(b) An agency offering a local buy requirement should submit it to the SBA Regional Office for the geographical area where the user is located. An agency offering a national buy requirement should submit it to the Office of Program Development, Office of Minority Small Business and Capital Ownership Development, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

19.804-3 SBA acceptance.

(a) Upon receipt of the contracting agency's offer, the SBA will determine whether to accept the requirement for the 8(a) Program. The SBA's decision whether to accept the requirement will be transmitted to the contracting agency in writing within 15 working days of receipt of the offer, unless the SBA requests, and the contracting agency grants, an extension.

(b) If the acquisition is accepted as a sole source, the SBA will advise the contracting activity of the 8(a) firm selected for negotiation. Generally, the SBA will accept a contracting activity's recommended source.

(c) If the acquisition is accepted for competition—(1) as a local buy requirement, the SBA will advise as to which of the SBA districts or regions the competition is restricted and provide the list of the 8(a) firms in those districts or regions which are eligible for the designated SIC code; or (2) as a national buy requirement, the SBA, if requested by the contracting activity, will identify at least two eligible sources and the contracting officer, in coordination with the small business specialist, will augment the source list based on results of the synopsis (see 5.205(e)) and other available information. The SBA will advise of any program participation stage restrictions. The SBA may limit competition to 8(a) concerns in the developmental stage of program participation; may limit competition to 8(a) concerns in the transitional stage; or may permit competition among firms in either stage.

19.804-4 Repetitive acquisitions.

In order for repetitive acquisitions to be awarded through the 8(a) Program, there must be separate offers and acceptances. This allows the SBA to revalidate a firm's eligibility, to evaluate the suitability of each acquisition as a competitive 8(a), and to determine whether the requirement should continue under the 8(a) Program.

19.805 Competitive 8(a).

19.805-1 General.

(a) Except as provided in paragraph (b) of this subsection, an acquisition offered to the SBA under the 8(a) Program shall be awarded on the basis of competition limited to eligible 8(a) firms if—

(1) There is a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers and that award can be made at a fair market price; and

(2) The anticipated award price of the contract, including options, will exceed $5,000,000 for acquisitions assigned manufacturing standard industrial classification (SIC) codes and $3,000,000 for all other acquisitions.

(b) Where an acquisition exceeds the competitive threshold, the SBA may accept the requirement for a sole source 8(a) award if—

(1) There is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price; or

(2) The SBA determines that an 8(a) concern owned and controlled by an economically disadvantaged Indian tribe is eligible and responsible and needs the acquisition for its business development.

(c) The SBA Association Administrator for Minority Small Business and Capital Ownership Development (AA/MSB&COD) may approve an agency recommendation for a competitive 8(a) award below the competitive thresholds. Such recommendations will be approved only on a limited basis and will be primarily granted where technical competitions are appropriate or where a large number of responsible 8(a) firms are available for competition. In determining whether a recommendation to compete below the threshold will be approved, AA/MSB&COD will, in part, consider the extent to which the requesting agency is supporting the 8(a) Program on a noncompetitive basis. Agency recommendations for competition below the threshold may be included in the offering letter or may be submitted by separate correspondence through the SBA region or headquarters, depending upon whether the acquisition is a local or national buy requirement.

19.805-2 Procedures.

(a) Competitive 8(a) acquisitions shall be conducted by contracting agencies by using sealed bids (see Part 14) or competitive proposals (see Part 15).

(b) Offers shall be solicited from those sources identified in accordance with the SBA instructions provided under 19.804-3.

(c) The SBA will determine the eligibility of the firms for award of the contract. Eligibility will be determined by the SBA as of the time of submission of initial offers which include price. Eligibility is based on section 8(a) Program criteria, e.g., whether the firm has the SIC code for the acquisition in its approved business plan, whether the firm is currently a small business under the SIC code, whether the firm is in the developmental or transitional stage (if the acquisition is restricted by stage), whether the firm is in conformance with the 8(a) support limitation set forth in its business plan, and whether the firm is in conformance with its 8(a) business activity targets.

(1) In sealed bid acquisitions, upon receipt of offers, the contracting officer will provide the SBA a copy of the solicitation, the estimated fair market price, and a list of offerors ranked in the order of their standing for award (i.e., first low, second low, etc.) with the total evaluated price for each offer, differentiating between basic requirements and any options. The SBA will consider the eligibility of the first low offeror. If the first low offeror is not determined to be eligible, the SBA will consider the eligibility of the next low offeror until an eligible offeror is identified. The SBA will determine the eligibility of the firms and advise the contracting officer within 5 working days after its receipt of the list of bidders. Once eligibility has been established by the SBA, the successful offeror will be determined by the contracting activity in accordance with normal contracting procedures.

(2) In negotiated acquisition, the SBA will determine eligibility when the successful offeror has been established by the agency and the contract transmitted for signature unless a referral has been made under 19.809, in which case the SBA will determine eligibility at that point.

(d) In any case in which a firm is determined to be ineligible, the SBA will notify the firm of that determination.

(e) The eligibility of an 8(a) firm for a competitive 8(a) award may not be challenged or protested by another 8(a) firm or any other party as part of a solicitation or proposed contract award. Any party with information concerning the eligibility of an 8(a) firm to continue participation in the 8(a) Program may submit such information to the SBA in accordance with 13 CFR 124.111(c).

19.806 Pricing the 8(a) contract.

(a) The contracting officer shall price the 8(a) contract in accordance with Subpart 15.8. If required by Subpart 15.8, the SBA shall obtain certified cost or pricing data from the 8(a) contractor. If the SBA requests audit assistance to determine the reasonableness of the proposed price in a sole source acquisition, the contracting activity shall furnish it to the extent it is available.

(b) An 8(a) contract, sole source or competitive, may not be awarded if the price of the contract results in a cost to the contracting agency which exceeds a fair market price.

(c) If requested by the SBA, the contracting officer shall make available the data used to estimate the fair market price.

(d) The negotiated contract price and the estimated fair market price are subject to the concurrence of the SBA. In the event of a disagreement between the contracting officer and the SBA, the SBA may appeal in accordance with 19.810.

19.807 Estimating fair market price.

(a) The contracting officer shall estimate the fair market price of the work to be performed by the 8(a) contractor.

(b) In estimating the fair market price for an acquisition other than those covered in paragraph (c) of this section, the contracting officer shall use cost or price analysis and consider commercial prices for similar products and services, available in-house cost estimates, data (including cost or pricing data) submitted by the SBA or the 8(a) contractor, and data obtained from any other Government agency.

(c) In estimating a fair market price for a repeat purchase, the contracting officer shall consider recent award prices for the same items or work if there is comparability in quantities, conditions, terms, and performance times. The estimated price should be adjusted to reflect differences in specifications, plans, transportation costs, packaging and packing costs, and other circumstances. Price indices may be used as guides to determine the changes in labor and material costs. Comparison of commercial prices for similar items may also be used.

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19.808 Contract negotiation.

19.808–1 Sole source.

(a) The SBA is responsible for initiating negotiations with the agency within the time established by the agency. If the SBA does not initiate negotiations within the agreed time and the agency cannot allow additional time, the agency may, after notifying the SBA, proceed with the acquisition from other sources.

(b) The 8(a) contractor should participate, whenever practicable, in negotiating the contract terms. When mutually agreeable, the SBA may authorize the contracting activity to negotiate directly with the 8(a) contractor. Whether or not direct negotiations take place, the SBA is responsible for approving the resulting contract before award and determining whether the 8(a) contractor shall be required to provide a performance bond.

19.808–2 Competitive.

In competitive 8(a) acquisitions subject to Part 15, the contracting officer conducts negotiations directly with the competing 8(a) firms.

19.809 Preaward considerations.

The contracting officer should request a preaward survey of the 8(a) contractor whenever considered useful. If the results of the preaward survey or other information available to the contracting officer raise substantial doubt as to the firm's ability to perform, the contracting officer should refer the matter to the SBA for its consideration in deciding whether SBA should certify that it is competent and responsible to perform. This is not a referral for Certificate of Competency consideration under Subpart 19.6. Within 15 working days of the receipt of the referral or a longer period agreed to by the SBA and the contracting activity, the SBA Assistant Regional Administrator for Minority Small Business and Capital Ownership Development in the regional office which services the 8(a) firm will advise the contracting officer as to the SBA's willingness to certify its competency to perform the contract using the 8(a) concern in question as its subcontractor. The contracting officer shall proceed with the acquisition and award the contract to another appropriately selected 8(a) offeror if the SBA has not certified its competency within 15 working days (or a longer mutually agreeable period.)

19.810 SBA appeals.

(a) The following matters may be submitted by the SBA Administrator for determination to the agency head if the SBA and the contracting officer fail to agree on them:

(1) The decision not to make a particular acquisition available for award under the 8(a) Program.

(2) The terms and conditions of a particular sole source acquisition to be awarded under the 8(a) Program.

(3) The estimated fair market price.

(b) Notification of a proposed referral to the agency head by the SBA must be received by the contracting officer within 5 working days after the SBA is formally notified of the contracting officer's decision. The SBA shall provide the agency Director for Small and Disadvantaged Business Utilization a copy of this notification. The SBA must provide the request for determination to the agency head within 20 working days of the SBA's receipt of the adverse decision. Pending issuance of a decision by the agency head, the contracting officer shall suspend action on the acquisition. Action on the acquisition need not be suspended if the contracting officer makes a written determination that urgent and compelling circumstances which significantly affect the interests of the United States will not permit waiting for a decision.

(c) If the SBA appeal is denied, the decision of the agency head shall specify the reasons for the denial, including the reasons why the selected firm was determined incapable of performance, if appropriate. The decision shall be made a part of the contract file.

19.811 Preparing the contracts.

19.811–1 Sole source.

(a) The contract to be awarded by the agency to the SBA shall be prepared in accordance with agency procedures and in the same detail as would be required in a contract with a business concern. The contracting officer shall use the Standard Form 26 as the award form, except for construction contracts, in which case the Standard Form 1442 shall be used as required in 36.701(b).

(b) The agency shall prepare the contract that the SBA will award to the 8(a) contractor in accordance with agency procedures, as if the agency were awarding the contract directly to the 8(a) contractor, except for the following.

(1) The award form shall cite 41 U.S.C. 253(c)(5) or 10 U.S.C. 2304(c)(5) (as appropriate) as the authority for use of other than full and open competition.

(2) Appropriate clauses shall be included, as necessary, to reflect that the contract is between the SBA and the 8(a) contractor.

(3) The following items shall be inserted by the SBA—

(i) The SBA contract number.

(ii) The effective date.

(iii) The typed name of the SBA's contracting officer.

(iv) The signature of the SBA's contracting officer.

(v) The date signed.

(4) The SBA will obtain the signature of the 8(a) contractor prior to signing and returning the prime contract to the contracting officer for signature. The SBA will make every effort to obtain signatures and return the contract, and any subsequent bilateral modification, to the contracting officer within a maximum of 10 working days.

(5) If the contract is for construction work, it shall include requirements of the Miller Act with respect to performance and payment bonds (see part 28).

(c) Except in procurements where the SBA will make advance payments to its 8(a) contractor, the agency contracting officer may, as an alternative to the procedures in 19.811–1(a) and (b), use a single contract document for both the prime contract between the agency and the SBA and its 8(a) contractor. The single contract document shall contain the information in 19.811–1(b) (1), (2), (3), and (5). Appropriate blocks on the Standard Form (SF) 26 or 1442 will be asterisked and a continuation sheet appended which includes the following:

(1) Agency acquisition office, prime contract number, name of agency contracting officer and lines for signature, date signed, and effective date.

(2) The SBA office, the SBA contract number, name of the SBA contracting officer, and lines for signature and date signed.

(3) Name and lines for the 8(a) contractor's signature and date signed.

(d) Prior to award of contract actions in excess of $100,000, the SBA shall provide the contracting activity with the competing contractor certifications required by 3.104–9 from its 8(a) contractor. The contracting activity's contracting officer shall maintain the list required by 3.104–9 and complete the contracting officer certification.

19.811–2 Competitive.

(a) The contract will be prepared in accordance with 14.407–1(d), except that appropriate blocks on the Standard Form 26 or 1442 will be asterisked and a continuation sheet appended which includes the following:

(1) The agency contracting activity, prime contract number, name of agency contracting officer, and lines for signature, date signed, and effective date.

(2) The SBA office, the SBA subcontract number, name of the SBA contracting officer and lines for signature and date signed.

(b) For contract actions in excess of $100,000, the contracting activity's contracting officer shall obtain the competing contractor certifications as required by 3.104–9 directly from the 8(a) firm(s). The contracting activity's contracting officer shall maintain the list required by 3.104–9 and complete the contracting officer certification.

(c) The process for obtaining signatures shall be as specified in 19.811–1(b)(4).

19.811–3 Contract clauses.

(a) The contracting officer shall insert the clause at 52.219–11, Special 8(a) Contract Conditions, in contracts between the SBA and the agency when the acquisition is accomplished using the procedures of 19.811–1(a) and (b).

(b) The contracting officer shall insert the clause at 52.219–12, Special 8(a) Subcontract Conditions, in contracts between the SBA and its 8(a) contractor when the acquisition is accomplished using the procedures of 19.811–1 (a) and (b).

(c) The contracting officer shall insert the clause at 52.219–17, Section 8(a) Award, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of 19.805 and in sole source awards which utilize the alternative procedure in 19.811–1(c).

(d) The contracting officer shall insert the clause at 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of 19.805.

(1) The clause at 52.219–18 with its Alternate I will be used when competition is to be limited to 8(a) concerns within one or more specific SBA districts/regions pursuant to 19.804–3.

(2) The clause at 52.219–18 with its Alternate II will be used when competition is to be limited to 8(a) concerns within a specific stage of 8(a) Program participation (i.e., developmental or transitional) pursuant to 19.804–3.

(e) the contracting officer shall insert the clause at 52.219–14, Limitations or Subcontracting, in any solicitation and contract resulting from this subpart.

19.812 Contract administration.

(a) The contracting officer shall assign contract administration functions, as required, based on the location of the 8(a) contractor (see DoD Directory of Contract Administration Services Components (DoD 4105.59–H)).

(b) The agency shall distribute copies of the contract(s) in accordance with Part 4. All contracts and modifications, if any, shall be distributed to both the SBA and the firm in accordance with the timeframes set forth in 4.201.

(c) To the extent consistent with the contracting activity's capability and resources, 8(a) contractors furnishing requirements shall be afforded production and technical assistance, including, when appropriate, identification of causes of deficiencies in their products and suggested corrective action to make such products acceptable.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Section 52.219–11 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place "(OCT 1989)"; by removing the words "Delegates to the . . . " and inserting "Except for novation agreements and advance payments, delegates to the . . ." in paragraph (c) of the clause; and by removing the derivation line following "(End of clause)" to read as follows:

52.219–11 Special 8(a) Contract Conditions.

As prescribed in 19.811–3(a), insert the following clause:

* * * * *

9. Section 52.219–12 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place "(OCT 1989)"; by revising paragraph (b)(2) of the clause; by removing the derivation line following "(End of clause)"; and by removing Alternate I to read as follows:

52.219–12 Special 8(a) Subcontract Conditions.

As prescribed in 19.811–3(b), insert the following clause:

* * * * *

(b)(2) That the SBA has delegated responsibility, except for novation agreements and advance payments, for the administration of this subcontract to the ..... [*insert name of contracting agency*] with complete authority to take any action on behalf of the Government under the terms and conditions of this contract.

* * * * *

10. Section 52.219–17 is added to read as follows:

52.219–17 Section 8(a) Award.

As prescribed in 19.811–3(c), insert the following clause:

Section 8(a) Award (Oct 1989)

(a) By execution of a contract, the Small Business Administration (SBA) agrees to the following:

(1) To furnish the supplies or services set forth in the contract according to the specifications and the terms and conditions by subcontracting with the Offeror who has been determined an eligible concern pursuant to the provisions of section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(2) Except for novation agreements and advance payments, delegates to the ..... (*insert name of contracting activity*) the responsibility for administering the contract with complete authority to take any action on behalf of the Government under the terms and conditions of the contract; *provided, however* that the contracting agency shall give advance notice to the SBA before it issues a final notice terminating the right of the subcontractor to proceed with further performance, either in whole or in part, under the contract.

(3) That payments to be made under the contract will be made directly to the subcontractor by the contracting activity.

(b) The offeror/subcontractor agrees and acknowledges that it will, for and on behalf of the SBA, fulfill and perform all of the requirements of the contract.

(End of clause)

11. Section 52.219–18 is added to read as follows:

52.219–18 Notification of Competition Limited to Eligible 8(a) Concerns.

As prescribed in 19.811–3(d), insert the following clause:

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS (OCT 1989)

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer—

(1) SIC code _____ • _____ is specifically included in the Offeror's approved business plan;

(2) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

(3) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(b) By submission of its offer, the Offeror certifies that it meets all of the criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made to the Small Business Administration, which will subcontract performance to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d) *Agreement.* A manufacturer or regular dealer submitting an offer in its own name

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agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns inside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands. However, this requirement does not apply in connection with construction or service contracts.

(End of clause)

(*Insert SIC code assigned to the acquisition by the contracting activity.)

Alternate I (OCT 1989). If the competition is to be limited to 8(a) concerns within one or more specific SBA regions or districts, add the following subparagraph (a)(4) to paragraph (a) of the clause:

(4) The offeror's approved business plan is on the file and serviced by _____* _____ (**Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by the SBA*).

Alternate II (OCT 1989). If the competition is to be limited to 8(a) concerns within a particular program participation stage, add the following subparagraph (a)(4) to paragraph (a) of the clause. When used in conjunction with Alternate I, this subparagraph should be renumbered (a)(5).

(4) The offeror is in the _____ *_____ stage of 8(a) Program participation. (**Contracting Officer completes by inserting the appropriate stage of participation as identified by SBA (i.e., developmental or transitional).)*

Alternate III (OCT 1989). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are not small business manufacturers in the Federal market in accordance with 19.502(b), substitute the following paragraph (d) for paragraph (d) of the basic clause:

(d) *Agreement.* A regular dealer submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands.

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Part V

Environmental Protection Agency

Superfund Response Action Contractor Indemnification; Proposed Policy; Request for Public Comment

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-3566-3]

Superfund Response Action Contractor Indemnification

AGENCY: Environmental Protection Agency.

ACTION: Proposed policy; request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a proposed guidance document to implement section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9619). Section 119 provides the President with discretionary authority to indemnify response action contractors (RACs) for negligent releases arising out of response action activities at sites on the National Priorities List (NPL) and removal action sites, and to indemnify certain other persons as provided expressly by statute. As delegated by the President, EPA may extend indemnification to RACs working at NPL or removal action sites for EPA, states (or a political subdivision), and potentially responsible parties (PRPs). EPA is publishing the proposed section 119 guidance document to solicit public comments.

DATES: Comments must be submitted on or before January 2, 1990.

ADDRESSES: An original and two copies of comments must be sent to Tom Gillis, U.S. Environmental Protection Agency, OS-510, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tom Gillis, 202-475-6771.

SUPPLEMENTARY INFORMATION: Pursuant to section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9619, (CERCLA), and E.O. 12580, the Environmental Protection Agency (EPA) is proposing guidelines to implement EPA's discretionary authority to indemnify Response Action Contractors (RACs) for negligent releases arising from response action activities conducted under CERCLA.

1.0 Background

This background section describes the pollution liability insurance availability problem that contributed to the impetus for enactment of section 119. Section 119 is summarized, and EPA interim guidance which has implemented section 119 since date of enactment of SARA is summarized. Sections two and three of this document outline the four general policy approaches considered by EPA, and the policy proposed in this Notice.

1.1 Background Information on the Pollution Liability Insurance Problem

The perceived need for EPA indemnification of Superfund RACs arose from the contractors' inability to purchase adequate and affordable pollution liability insurance. During the past few years, the Property & Casualty (P&C) insurance industry has been generally unwilling, with a few exceptions, to provide affordable and adequate pollution liability insurance coverage to businesses engaged in hazardous waste management or that have a potential for pollution liability. In addition to pollution liability, several other insurance lines have experienced similar availability and affordability problems during the recent restricted insurance market. For example, entities seeking coverage for directors' and officers' liability, municipal liability, professional liability, product liability, daycare liability, excess liability, etc., have experienced availability, affordability, and adequacy problems in the last four years.

The availability, affordability, and adequacy of commercial liability insurance is affected directly by internal and external economic forces that influence the P&C insurance industry. The P&C market, like other markets, is subject to business cycles. The business cycle in the insurance industry is known as the underwriting cycle. The P&C underwriting cycle behaved fairly predictably until the mid 1980s, with a normal cyclic duration of approximately six years. During the late 1970s and early 1980s, however, the U.S. economy experienced unprecedented high interest rates, altering the behavior of the underwriting cycle. The commercial liability insurance shortage that began in late 1984 was caused primarily by the high interest rates of the late 1970s and early 1980s.

From 1976 to 1983, many P&C insurers experienced record profits derived primarily from investment income. Insurers' profits arise from two sources: underwriting income and investment income. Underwriting income is the difference between premiums collected and claims paid by insurers. Investment income arises when insurers invest premium dollars prior to the payment of future claims. In response to the high interest rates of this period, many insurers abandoned traditional underwriting practices and instead relied more on investment income from increasing premium volume. During this period, insurance rates in many of the long-tail commercial liability insurance lines (i.e., insurance lines in which underwriting losses are expected many years after premiums are collected) did not adequately reflect the insured's loss potential, because of the insurer's practice of cashflow underwriting (that is, underwriting to maximize premium volume rather than underwriting income). Primary insurers and reinsures, competing for limited premium dollars, reduced insurance rates in many commercial liability insurance lines in order to increase their premium volume (i.e., cash flow). Insurers sought increased premium volume to increase their investment income, by investing premiums at high interest rates.

While they were practicing cashflow underwriting, many insurers experienced increasing insurance capacity (i.e., the financial ability to write insurance). This increased capacity was provided primarily by capital investors during the early eighties, and caused even further competition between insurers, resulting in further reductions in premium rates for insurance. The reduced rates and lax underwriting practices eventually led to record pretax underwriting losses in 1984 and 1985 ($21.5 and $24.7 billion respectively) for the P&C insurance industry.

Record P&C industry underwriting losses in 1984 and 1985, and withdrawal of the world reinsurance industry from perceived high risk liability lines, were the primary causes of the insurance capacity shortage in many different commercial liability insurance lines. When their financial capacity is limited, P&C insurers tend to withdraw from high risk liability lines (for example, pollution liability) and save their limited financial capacity for more traditionally profitable (and predictable) insurance lines. P&C insurers that perceived pollution liability insurance to be a high risk insurance line abandoned the pollution liability insurance market in 1984 and generally incorporated broad pollution exclusions into all commercial insurance lines. Even though the P&C insurance industry had become more stable by 1987, the market for pollution liability insurance has remained very limited.

In addition to the reasons cited above, insurers contend that several other problems have exacerbated the decline of the pollution liability insurance market. In October, 1985, an All-Industry

Research Advisory Council (AIRAC) report ("Pollution Liability: The Evolution of a Difficult Insurance Market") indicated that the pollution liability insurance market has declined because of the following developments:

- Some provisions and interpretations of Federal pollution laws make it difficult for the insurance mechanism to work. State pollution laws create similar difficulties in a few instances.
- Courts in key jurisdictions have imposed retroactive liabilities on insurers for pollution damages and cleanup costs that were never intended to be covered. Insurers are concerned that the courts will not respect the intent of future pollution contracts, no matter what language they use to describe the terms and limitations.
- The reinsurance market for gradual pollution insurance has virtually disappeared because of adverse loss experience and concerns over legal trends in the U.S.
- Demand for gradual pollution insurance has been confined mostly to entities with a high probability of sustaining large losses, causing problems for insurers in developing enough insurance capacity to handle the catastrophic risks involved. Insurers have yet to see the kind of broad demand that would be enable them to build and sustain a robust market for the coverage.
- The pollution hazard has turned out to be much more complex and expensive to underwrite than anticipated. Gearing up to underwrite this liability risk requires major commitments of time, dollars, as well as specialized expertise which typically is not available.

The problems of cashflow underwriting and those raised by the AIRAC combined to create a situation where reasonably priced pollution liability insurance was generally unavailable, and, for some contractors, unavailable at any price. Today, limited (although expensive) insurance coverage is available for most contractors at most sites.

1.2 Pre-1986 Indemnification of Superfund RACS

RACs have traditionally relied upon commercial liability insurance to offset their potential liability stemming from participation in the Superfund program. In addition, prior to the enactment of SARA, EPA provided indemnification to EPA RACs involved in the Superfund cleanup program (see 48 CFR 1528.3). Such indemnification was intended to be a supplement to commercially provided liability insurance. EPA's pre-SARA indemnification covered third party liability and cleanup costs not otherwise covered by commercial liability insurance or self-insurance, except for cases involving gross negligence or willful misconduct, and was based upon EPA's inherent contract authority (the contractor was required to maintain at least $1 million of comprehensive general liability coverage which, by 1986, generally excluded all pollution liability coverage). The RAC community viewed this EPA indemnification as inadequate because:

(1) EPA lacked explicit statutory authority to indemnify RACs;

(2) No source of indemnification funding was identified by statute; therefore indemnification was subject to availability of funds in the EPA budget; and

(3) The scope of coverage of EPA indemnification was inadequate (for example, EPA's indemnification extended only to RACs employed by EPA, and not to RACs employed by other parties such as other federal agencies, potentially responsible parties, and states).

During the Superfund reauthorization, the RAC community sought explicit indemnification assistance from Congress. They contended that their ability to participate in the Superfund cleanup program was impaired because the commercial insurance market was no longer willing to provide them affordable liability insurance coverage, and existing EPA indemnification was not an adequate substitute for commercial pollution liability insurance. They contended that the unavailability of pollution liability insurance for RACs may cause prudent qualified RACs to withdraw from the Superfund cleanup program.[1] In response to this concern, Congress incorporated section 119 into CERCLA to mitigate the potential withdrawal of qualified RACs from the Superfund program and to prevent delays and quality reductions in Superfund site cleanups.

1.3 Section 119

Section 119 of CERCLA addresses many of the concerns raised by the RAC community during the Superfund reauthorization debate. Section 119 includes the following major provisions:

- Exempts RACs from liability under all Federal laws for injuries, costs, damages, expenses, or other liability with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a vessel or facility except in cases of negligence, gross negligence, or intentional misconduct (i.e., no strict liability under Federal law).
- Provides EPA and other Federal agencies with discretionary authority to indemnify RACs who meet the requirements of section 119 against liability for releases arising out of the RAC's negligent performance in carrying out response activities unless such liability was caused by conduct of the contractor which was grossly negligent or which constituted intentional misconduct.
- Authorizes indemnification of RACs working for EPA, other Federal agencies, a state or political subdivision under a contract or cooperative agreement, or any potentially responsible party (PRP) carrying out an agreement under section 106 or section 122 of CERCLA.
- Indemnification can be provided only:

—For liability related to releases of hazardous substances or pollutants or contaminants as a result of RAC activities conducted under the Superfund program.

—When a RAC has made a diligent effort to obtain insurance from non-federal sources and has found that it is unavailable, inadequate, or unreasonably priced.

—As a comparable supplement or substitute for commercial insurance, to include deductibles and limits of indemnity, for adequate insurance when such insurance is either unavailable, insufficient, or unreasonably priced.

—As a comparable supplement or substitute for commercial insurance, to include deductibles and limits of indemnity, for adequate indemnification of RACs by PRPs, when such indemnification, as determined by EPA, is either unavailable or insufficient.

- Indemnification cannot be provided to owners or operators of facilities regulated under the Resource Conservation and Recovery Act (RCRA).
- Indemnification payments will be made from the Hazardous Substance Superfund (the Fund). If sufficient funds are unavailable from the Fund, or if the Fund is repealed, authorization is provided for such amounts to be appropriated as may be necessary to make such payments.
- Amounts expended under section 119 are considered governmental response costs for purposes of cost recovery.

[1] For example, see Poirot, James W., Chairman CH2M Hill, Testimony before the Committee on Environment and Public Works, U.S. Senate, April 3, 1985, pg. 212.

• Indemnification claim payments are exempted from the Anti-Deficiency Act.

• Payment of a claim under section 119 indemnification agreements for an RAC working for a PRP may be made only if the RAC exhausts all administrative, judicial, and common law claims for indemnification against PRPs participating in the response.

Section 119 is a discretionary temporary vehicle by which EPA and other Federal agencies can provide indemnification to RACs participating in the Superfund program if market conditions indicate the need for such indemnification.

1.4 Section 119 Indemnification Objectives

EPA's primary goal in the Superfund program is to protect human health and the environment by expeditiously and effectively cleaning up the maximum possible number of NPL and removal sites. To meet this primary EPA objective, Congress enacted section 119 to assure that qualified RACs would be available to keep the Superfund program operative during the commercial liability insurance crisis of the mid-eighties. EPA indemnification of Superfund program RACs under the authority of section 119 was clearly intended as an interim vehicle to assure that the Superfund program remained operative until the commercial liability insurance crisis of the mideighties was resolved. A review of the legislative history of SARA indicates that section 119 indemnification was never intended to be a permanent government solution or a complete risk transfer mechanism for RAC liability risk. For example, the Judiciary Committee of the House of Representatives in its Report on Superfund Amendments of 1985 states:

> The indemnification authority provided by this section may be offered in the discretion of the Administrator (EPA). The Committee strongly believes that such authority should be discretionary because:
>
> • Discretionary indemnification allows EPA to provide an interim solution to the lack of insurance until the insurance community restores financial stability and is capable and willing to provide prospective insurance for these contractors.
>
> • Discretionary indemnification, as opposed to mandatory indemnification, does not create a disincentive for insurers to provide prospective insurance by establishing the equivalent of a Federally intrusive insurance program.
>
> • Discretionary indemnification allows EPA to provide Federal indemnification with appropriate limits (i.e., to provide it in amounts equivalent to, but not in excess of, adequate insurance coverage; to include deductibles; to set limits of coverage; to require payment by contractors of a premium for indemnification coverage; and/or to offer it only as a supplement to available insurance, if available insurance is not adequate).[1]

The legislative history of section 119 reflects several objectives for section 119 indemnification:

• Provide RACs with a temporary comparable substitute for commercial pollution insurance, in the absence of affordable and adequate commercial insurance coverage or other viable private sector risk transfer mechanisms;

• Encourage the P&C insurance industry to provide RACs with adequate and affordable pollution insurance products;

• Encourage the development of other private sector mechanisms that provide RACs with adequate and affordable prospective pollution risk transfer mechanisms;

• Maintain EPA's fiduciary responsibility to ensure that Superfund monies are used to clean up sites to the maximum extent possible;

• Assure that an adequate pool of qualified RACs will be available to keep the Superfund program operative at SARA funding levels;

• Maintain strong RAC incentive to prevent and reduce RAC induced release incidents throughout a given Superfund response action contract; and

• Maintain strong RAC incentive to continue to seek commercial insurance coverages and/or develop alternative risk transfer mechanisms

EPA specifically incorporated those objectives into the development of section 119 guidelines.

1.5 EPA Interim Section 119 Indemnification Policy

Because of the complexity of section 119 indemnification issues, EPA has proceeded deliberately in implementing section 119. During this period from enactment of SARA on October 17, 1986, to issuance of final section 119 guidelines, EPA has provided and will continue to provide RACs with section 119 indemnification on an interim basis, using procedures outlined in its "Interim Guidance on Indemnification of Superfund Response Action Contractors Under section 119 of SARA" (OSWER Directive # 9835.5), which was issued on October 6, 1987. The Interim Guidance contains general policy guidelines, procedural guidance for EPA's contracting officers, and model indemnification agreements to be used with various classes of contractors. Interim section 119 guidelines and contract modifications were necessary to keep the Superfund program operative during the period when EPA analyzed the complex RAC indemnification issue, proposed, and finalized section 119 guidelines. An interim guideline approach, consistent with section 119 requirements, allowed EPA to comprehensively study the entire indemnification subject and to subject this proposal to public review, while the Superfund program remained operative. Ultimately, the interim guidance indemnification coverage offered by EPA to RACs will be amended to reflect the final guidelines.

In summary, the interim section 119 guidance was intended to provide a temporary indemnification policy, to be replaced in its entirety by policy reflected in more detailed guidelines, subject to public review and comment before finalization. The policy guidelines which are the subject of today's proposal, when released in final form, will supplant completely, not simply amend, the policy reflected in OSWER Directive 9835.5.

2.0 Proposed EPA Section 119 Indemnification Policy: Discussion of Alternative Approaches Considered

2.1 Alternatives Considered

EPA considered four broad options during development of the proposed indemnification policy. This section presents those four broad policy options, along with pro/con arguments for each.

The four options are:

A. No indemnification;

B. Provide indemnification subject to statutory requirements;

C. Offer indemnification with market incentives to purchase commercial insurance;

D. Provide reinsurance for a commercial insurance pool.

A. Provide No Indemnification

Summary. EPA's use of Option A would be based on the conclusion that indemnification of Superfund RACs may be neither appropriate nor necessary. EPA's goal in the Superfund program is to protect human health and the environment by expeditiously and effectively cleaning up the maximum number of NPL sites possible and conducting removal activities. In order to achieve this goal, EPA must expend its limited funding in areas most likely to yield cleanups. Under Option A, EPA would not agree to indemnify RACs, and thus would not commit itself to use the Superfund to fund contingent liabilities.

Arguments in Favor of Option A. The prime goal of the Superfund program is to protect human health and the environment by cleaning up hazardous waste sites and conducting removal actions. This goal must be accomplished by EPA (and states) with a limited amount of funding. As in any other government program, EPA must make choices as to where funds should be best expended in order to achieve its ultimate purpose. Funds unnecessarily expended in one area of the program detract from other areas of the program that could be improved with an infusion of funding. Therefore, EPA must choose whether section 119 indemnification is a necessary expense vital to the continued functioning of the Superfund program, or an expenditure of funds that could be put to better use in an area of the program that would more directly contribute to site cleanups.

Section 119 was included in SARA in part to address concerns that, without a viable risk transfer mechanism, RACs would not participate in the Superfund program. At that time, adequate and reasonably priced pollution liability insurance was not available to RACs. The section 119 legislative history indicates clearly that section 119 indemnification was to serve as a temporary risk transfer mechanism to ensure that the Superfund program was not delayed due to the unwillingness of qualified RACs to perform response actions. The House of Representatives Judiciary Committee Report (1985) states:

> Finally by simply authorizing EPA to provide indemnification, the Committee intends to allow for flexibility if regular market-place forces lead to the availability of insurance for response action contractors in the future. In this event, EPA should not agree to provide indemnification. [House of Representatives Report # 99-253, page 29]

EPA's experience during the past few years indicates that it is likely that Superfund sites will continue to be cleaned up and no program delays will result if EPA declines to provide indemnification to RACs. Although the failure to indemnify RACs could result in the withdrawal of some RACs from the market, it is likely that enough qualified RACs will remain available to perform Superfund program response actions so that the cleanup of sites will not be delayed.

Since the enactment of SARA, EPA has consulted other federal agencies that employ RACs to perform response actions at NPL sites. Through a series of informal consultations, EPA has found no other Federal agency, including the Department of Defense and the Department of Energy, that offers section 119 indemnification to Superfund RACs. RACs face similar risks performing response actions at NPL sites regardless of the Federal agency for which they are performing work. If RACs do not require Federal indemnification to perform essentially the same tasks for other Federal agencies, then they may not require indemnification to perform these tasks for EPA.

EPA has also informally consulted a number of states that employ RACs to perform response actions. In October 1988, EPA contacted all fifty states to determine the effect of state indemnification of RACs, or lack of state indemnification of RACs, on the states' ability to retain RACs. The informal survey indicated that eight states have statutory authority to indemnify RACs, while 13 states may require the RAC to indemnify the state. Five of those 13 states indicated that they had "some difficulty" procuring qualified RACs, and two of the 29 states that neither indemnify RACs nor require RAC indemnification of the state had "some difficulty" procuring qualified RACs. In general, the states were able to retain a sufficient number of qualified contractors to ensure the continued operation of their cleanup programs.

One might well conclude that, if RACs are willing to perform essentially the same response action activities for states without indemnification (and even in some cases indemnifying the state), then EPA should be able to obtain an adequate number of qualified RACs without Federal indemnification. Taking into consideration both EPA's limited resources and the experience of other Federal agencies and states, one must question whether indemnification is prerequisite to Superfund cleanups, and whether indemnification represents a judicious allocation of scarce financial resources.

Arguments Against Option A. If the commercial pollution liability insurance market does not fill any potential gap in coverage for Superfund RACs, then, absent EPA indemnification, these RACs could be left without an adequate risk transfer mechanism. If RACs do not possess such a risk transfer mechanism for their work in the Superfund program, it is possible that they may decide that the risks of performing Superfund response work outweigh any potential profits, and then may discontinue their participation in the program. The lack of an adequate number of qualified RACs to perform response actions could result in program delays for EPA.

A lack of indemnification or other viable risk transfer mechanisms could change the nature of competition in the RAC industry. The lack of an adequate risk transfer mechanism for RACs (either commercial pollution liability insurance or indemnification) may create a climate where many smaller, local firms are unwilling, or financially unable, to compete with larger companies. As a result, competition within the RAC industry may be decreased, causing an increase in the cost of response action work. A failure to offer indemnification could result in EPA being faced with a limited number of large RACs with the resources to self-insure who could demand a higher price for their services. More costly cleanups would result in fewer cleanups being performed given EPA's limited resources.

Alternatively, the absence of EPA indemnification may have just the opposite negative effect on competition in the RAC industry. EPA may be faced with a situation where only small RACs with few assets will be willing to perform response actions in the absence of commercial pollution liability insurance and indemnification. If such a small company with few assets and no risk transfer mechanisms were responsible for an injury to a third party, that third party would most likely be uncompensated for their injuries. While the section 119 indemnification program is not a victim's compensation program, public policy should not generally favor creating a situation which is likely to result in uncompensated injuries to third parties.

Another risk EPA faces if it does not offer indemnification is the possibility of subjecting the Superfund program to the uncertainties of the underwriting cycle. If section 119 indemnification is not available, it is uncertain how the commercial pollution liability insurance market would react to another hard swing in the P&C underwriting cycle. Commercial pollution liability insurance has become available from a small number of insurers in 1988 and 1989. This corresponds with a general softening of the P&C insurance market. Due to the predictably cyclical nature of the P&C industry, it is likely that another hard P&C insurance market will ensue in the next two to five years. If events transpire as they did during the last hard market, commercial P&C insurers may once again abandon perceived high risk lines such as pollution liability for Superfund RACs. If no alternative risk transfer mechanism such as section 119 indemnification is available, RACs may not wish to participate in the Superfund program. This situation could result in disruptive program delays for EPA's Superfund program.

Even if an absence of indemnification led to no reductions in the willingness of RACs to participate in the Superfund

[1] See Judiciary Committee of the House of Representatives Superfund Amendments Report of 1985, pg. 28.

program, it is possible that some RACs would be unable to continue to participate due to an unavailability of performance bonds. Most construction contractors are required to post a performance bond. Most RACs are not required to post performance bonds. Therefore, RACs may be able to continue to perform response actions without indemnification. Even if RACs are required to post performance bonds, RACs may be able to obtain performance bonds from sureties without indemnification. Sureties may be willing to provide performance bonds to RACs without indemnification because sureties may be willing to provide performance bonds at a price that RACs are willing to pay. Sureties may be willing to provide performance bonds at a price that RACs are willing to pay because sureties may be willing to accept the risk that RACs will perform adequately. Sureties may be willing to accept the risk that RACs will perform adequately because sureties may be able to mitigate the risk that RACs will perform inadequately by monitoring RAC performance. Sureties may be able to monitor RAC performance because sureties may be able to hire technical experts to monitor RAC performance. Sureties may be able to hire technical experts to monitor RAC performance because sureties may be able to obtain the services of technical experts at a reasonable cost. Sureties may be able to obtain the services of technical experts at a reasonable cost because sureties may be able to hire technical experts who are not employed by RACs. Sureties may be able to hire technical experts who are not employed by RACs because sureties may be able to hire technical experts who are employed by other companies. Sureties may be able to hire technical experts who are employed by other companies because sureties may be able to hire technical experts who are employed by companies that are not RACs. Sureties may be able to hire technical experts who are employed by companies that are not RACs because sureties may be able to hire technical experts who are employed by companies that are not involved in the Superfund program. Sureties may be able to hire technical experts who are employed by companies that are not involved in the Superfund program because sureties may be able to hire technical experts who are employed by companies that are not involved in the cleanup of hazardous waste sites. Sureties may be able to hire technical experts who are employed by companies that are not involved in the cleanup of hazardous waste sites because sureties may be able to hire technical experts who are employed by companies that are not involved in the generation, transportation, treatment, storage, or disposal of hazardous waste. Sureties may be able to hire technical experts who are employed by companies that are not involved in the generation, transportation, treatment, storage, or disposal of hazardous waste because sureties may be able to hire technical experts who are employed by companies that are not involved in the production of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the production of chemicals because sureties may be able to hire technical experts who are employed by companies that are not involved in the use of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the use of chemicals because sureties may be able to hire technical experts who are employed by companies that are not involved in the disposal of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the disposal of chemicals because sureties may be able to hire technical experts who are employed by companies that are not involved in the transportation of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the transportation of chemicals because sureties may be able to hire technical experts who are employed by companies that are not involved in the storage of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the storage of chemicals because sureties may be able to hire technical experts who are employed by companies that are not involved in the treatment of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the treatment of chemicals because sureties may be able to hire technical experts who are employed by companies that are not involved in the generation of chemicals. Sureties may be able to hire technical experts who are employed by companies that are not involved in the generation of chemicals

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program, it is possible that some RACs would be unable to continue to participate due to an unavailability of performance bonds. Most construction contractors are required to post a performance bond at the time that a bid is submitted. Sureties may be concerned that a contractor with no insurance coverage poses too great a risk; that is, without adequate liability insurance, a third party claim may bankrupt the contractor, leaving the surety responsible for completing the cleanup. Thus, it is possible that sureties may be unwilling to provide surety bonds if, in the opinion of the surety, adequate insurance and/or indemnification is not available to the contractor. Consequently, EPA indemnification may be necessary to ensure adequate competition on sealed bid construction contracts.

Finally, if EPA were unwilling to offer indemnification, EPA would almost certainly be required to expend additional funds. Most of EPA's Superfund contracts are cost-reimbursement contracts. Under such contracts, the reasonable costs of performing work assignments are reimbursed by EPA. If EPA does not indemnify its response contractors, then the RACs will be compelled to obtain insurance (or self-insure), the cost of which would be paid by EPA (as long as the cost is reasonable, as defined by the Federal Acquisition Regulations). A "reasonable" cost for insurance or self-insurance could be defined as the market price for insurance. It is entirely possible that the market price (i.e., premium) for insurance could exceed the present value of future claims, the risk of which are offset by the premium. Those Superfund dollars in excess of the expected present value of future claims which are expended on the purchase of liability insurance are resources that will not be available to clean up sites (except insofar as those costs are recovered from Responsible Parties).

In contrast, contractor indemnification may continue to reflect current claims history and generate few costs. Since the start of the Superfund program, EPA has included indemnification agreements in dozens of contracts, and those contractors have passed through the indemnification agreement to hundreds of subcontractors. As of September 15, 1989, EPA has been presented pollution liability claims totalling approximately $8,000, while saving millions of dollars by not having to reimburse contractors for the cost of pollution liability insurance (or self-insurance). While an indemnification program is unlikely to remain virtually costless forever, indemnifying RACs may save substantial Fund resources.

B. Provide Section 119 Indemnification Subject to Statutory Requirements When Adequate Insurance Is Not Available

Summary. Under this option, EPA would offer section 119 indemnification subject to statutory requirements. Implementation of this option would be based on the conclusion that, although it is likely that an EPA decision not to offer indemnification will not cause program delays, at this time EPA may not want to accept the risk of interrupting the operation of the Superfund program. The purpose of Option B indemnification would be to ensure that an adequate number of RACs are available for response activities in the event that RACs are once again left without an adequate commercial risk transfer mechanism. Moreover, due to the excellent loss history of RACs in the Superfund program, EPA indemnification could result in lower per site cleanup costs than would reimbursement by EPA of RACs' commercial insurance.

Arguments in Favor of Option B. Section 119 provides EPA with the statutory authority to indemnify RACs. According to its legislative history, section 119 indemnification was designed to serve as a discretionary interim risk transfer mechanism to ensure that the Superfund program remains operative. The House of Representatives Judiciary Committee Report on section 119 stated:

> Discretionary indemnification allows EPA to provide an interim solution to the lack of insurance until the insurance community restores financial stability and is capable and willing to provide prospective insurance for these contractors. Discretionary indemnification, as opposed to mandatory indemnification, does not create a disincentive for insurers to provide prospective insurance by establishing the equivalent of a Federally intrusive insurance program. Discretionary indemnification allows EPA to provide Federal indemnification with appropriate limits=(i.e., to provide it in amounts equivalent to, but not in excess of, adequate insurance coverage), to include deductibles, to require the payment by contractors of a premium for indemnification coverage, and/or to offer it only as a supplement to available insurance, if available insurance is not adequate. [House of Representatives Report #99-253, page 28]

An EPA decision not to offer indemnification would probably not cause program delays at this time. However, EPA may find it necessary at this time to retain the option of offering discretionary indemnification if EPA finds that such indemnification is necessary in order to avoid program delays in the future.

EPA does not want to create an intrusive federal program that interferes with private sector efforts to develop RAC liability insurance coverage. Also, EPA does not want to create an indemnification program that provides greater coverage (or other benefits) than would traditional commercial pollution liability insurance. Therefore, the section 119 indemnification under Option B would include reasonable limits and deductibles in order to encourage high quality work, and would be offered only if commercial insurance is not available at a fair and reasonable price.

In addition to being consistent with section 119 legislative history, Option B indemnification could save substantial Fund resources. As noted above in the "Arguments Against Option A", in the absence of EPA indemnification, RACs would be compelled to obtain insurance (or self-insure), the cost of which would be paid by EPA (as long as the cost is reasonable). It is entirely possible that the cost of available insurance (even when included as part of the indirect cost pool on a cost reimbursement contracts) would be far greater than the present value of future claims, in which case EPA could, under Option B, determine that the cost of insurance was unreasonable, and offer to indemnify the RACs. In effect, Option B gives EPA the opportunity to self-insure (and incur future costs rather than pay insurance premiums) in those instances where the expected present value of future claims is much less than the cost of insurance. Retaining the option to self-insure becomes especially important in light of the claims history of the Superfund program. As noted above, EPA has expended minimal funds on pollution liability claims, despite having entered indemnification agreements with hundreds of contractors and (indirectly) subcontractors over an eight year time period. Purchasing liability insurance in lieu of indemnification would have cost millions of Superfund dollars.

Finally, offering Option B indemnification could avoid subjecting the Superfund program to the uncertainties of the underwriting cycle. If section 119 indemnification were not available, it is uncertain how the commercial pollution liability insurance market would react to another hard swing in the P&C underwriting cycle. Commercial pollution liability insurance has become available from a small number of insurers, corresponding with a general softening of the P&C insurance market. Due to the predictably cyclical nature of the P&C industry, it is likely that another hard P&C insurance market will ensue in the next five years. If events transpire as they did during the last hard market, commercial P&C insurance may once again abandon perceived high risk lines such as pollution liability for Superfund RACs. If no alternative risk transfer mechanism such as section 119 indemnification is available, it is possible that RACs may not wish to participate in the Superfund program. This situation could result in disruptive program delays for EPA's Superfund program. Offering section 119 indemnification on a limited basis could deflect some of the impact of swings in the underwriting cycle from the Superfund program.

Arguments Against Option B. The prime goal of the Superfund program is to clean up hazardous waste sites. This goal must be accomplished by EPA (and states) with a limited amount of funding. As in any other government program, EPA must make choices concerning where funds should be best expended in order to achieve its ultimate purpose. Funds unnecessarily expended in one area of the program detract from those other areas of the program that could be improved with an infusion of funding. Therefore, EPA must decide whether section 119 indemnification is necessary to the continued functioning of the Superfund program, justifying the possible use of Superfund dollars for third-party liability claims (and administrative expenses) rather than in an area of the program that would more directly contribute to site cleanups.

Section 119 was included in SARA in part to address concerns that, without a risk transfer mechanism, RACs would not participate in the Superfund program. At that time, no adequate and affordable pollution liability insurance was available to RACs. Section 119 indemnification was designed to serve as a discretionary interim risk transfer mechanism to ensure that the Superfund program was not delayed due to a refusal by RACs to perform. If the entire Superfund program were to be delayed because of a lack of an adequate risk transfer mechanism, then expending funds for RAC indemnification may be justified. However, as noted above in "Arguments in Favor of Option A", Federal agencies other than EPA, as well as many states, have had little or no trouble retaining qualified RACs absent contractor indemnification. Consequently, it is reasonable to conclude that, since RACs are willing to perform essentially the same response action activities for states and other Federal agencies without indemnification (and even in some cases indemnifying the state), EPA would most likely be able to obtain an adequate number of qualified RACs without Federal indemnification.

C. Offer Indemnification with Market Incentives To Promote Purchase of Commercial Insurance

Summary. Rather than deciding on a case-by-case basis whether or not to offer indemnification (as would be done if option "B" were used), EPA could set up a system whereby the RACs themselves would decide whether they were to enter an indemnification agreement with EPA. Such a program would be identical to option "B", except that a cost would be associated with contractor indemnification. That is, a RAC would perceive that a financial cost must be borne (or, conversely, a financial benefit would be foregone) if the contractor were to enter into an indemnification agreement with EPA. The RAC would be free to choose whether to request indemnification (and bear the consequent cost) or use some other risk transfer mechanism (e.g., commercial insurance). EPA has identified three potential methods of setting up this "incentive-based" scheme:

1. EPA provides indemnification for a set price.
2. EPA offers to (a) indemnify, or (b) reimburse a set amount for pollution liability insurance (regardless of the actual cost of the insurance).
3. Indemnification and insurance cost reimbursement terms are determined during the competitive procurement process.

The three incentive-based approaches share a characteristic that distinguishes them as a group from option "B". All three require that EPA place an explicit price on EPA indemnification or the equivalent pollution liability insurance. The price would be in dollar terms, or, in the case of approach 3, the price would be converted to technical evaluation points for those contracts where the contract prices are negotiated and the choice of RAC depends on factors other than cost. The existence of an explicit price for indemnification gives RACs the incentive to seek pollution liability insurance that is less expensive than the EPA-priced indemnification (or insurance).

Incentive-based approach (1): Provide indemnification for a set price. The first market based incentive approach considered by EPA is a system whereby EPA would behave as if it were an insurer, and offer indemnification for a price. The price of indemnification would depend upon the work being performed by an RAC (for example, the price might be lower for an RAC performing a remedial investigation than it would be for a RAC performing a remedial action). All RACs would have the option of purchasing the indemnification from EPA. The cost of the indemnification, as well as the cost of any purchased insurance, would not be reimbursable. In effect, EPA would be setting the maximum price for RACs' pollution liability insurance: If the market price were less than the EPA indemnification price, then RACs would purchase commercial liability insurance (assuming that the terms of the commercial insurance are similar to those of EPA indemnification). Conversely, if the market price were greater than the EPA price, RACs would eschew commercial insurance, and would purchase EPA indemnification.

Similar types of government insurance programs have been established as a response to the inability or unwillingness of commercial insurers to assume a particular type of risk. Examples include the Federal Crop Insurance Program and the National Flood Insurance Program.

The Federal Crop Insurance Program was initially established in 1938 and replaced three times by updated versions. The current program was established as the Federal Crop Insurance Act of 1980. This Act established an all-risk[3] crop insurance program to be administered by the Department of Agriculture's Federal Crop Insurance Corporation (FCIC). The program utilizes commercial insurance companies as a delivery system and reimburses them for the costs associated with the coverage. Commercial insurers may enter the market at any time but, unlike the EPA insurance option, must price the coverage at the same level as the federal program.

The National Flood Insurance Program was established as part of the Housing and Urban Development (HUD) Act of 1968. Before this time flood insurance was generally considered unfeasible. The HUD Act established a national flood insurance program, which made flood insurance available to communities that adopted control measures designed to promote development away from flood prone areas. The program was initially established as a joint effort of the federal government and commercial

[3] "All-risk" insurance provides protection from loss arising out of any fortuitous cause other than those perils or causes specifically excluded by name. This is in contrast to other policies which name the peril or perils insured against.

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insurers. The most recent enactment of the program however, established the federal government as the risk bearer. Residents in eligible communities can purchase flood insurance from licensed agents and brokers.

Incentive-based approach (2): Provide indemnification, or reimburse a fixed amount for pollution liability insurance. The second "incentive-based" approach considered by EPA is identical to the first, except that, rather than "selling" indemnification to RACs, EPA would offer RACs a set price if the RACs purchase pollution liability insurance. In other words, EPA would "reimburse" the RAC if the RAC purchased pollution liability insurance, but the amount of the reimbursement would be EPA's valuation of the risk transfer, and would be independent of the actual cost of the insurance (thus, this approach differs from the interim indemnification policy, which calls for reimbursement of the actual cost of any EPA approved pollution insurance purchased by an RAC). The key characteristic of this approach is the independence of the reimbursement amount from the actual cost of purchased insurance. This gives RACs incentive to seek the least costly pollution liability insurance available. If no insurance is available at a reasonable cost, RACs would still have the option to self-insure (as an alternative to EPA indemnification), in which case EPA would "reimburse" to the RAC an amount identical to the amount that would have been "reimbursed" had the RAC purchased insurance. If the RAC were to self-insure under this scheme, it would have to demonstrate financial responsibility for the self-insured amount before EPA would "reimburse".

Incentive-based approach (3): Indemnification terms determined as part of the procurement process. The third "incentive-based" option that is being considered by EPA is to incorporate indemnification decisions into the procurement process. This approach is similar to the first two "incentive-based" approaches discussed in that it would require EPA to set explicit prices for insurance/indemnification, but it differs in that there is no direct payment or reimbursement for insurance/indemnification. Instead, the potential RAC's bid (or proposal, in the case of negotiated contracts) is adjusted by the procuring official to reflect EPA's valuation of the RAC's insurance or request for indemnification.

Under this "bid-adjustment" approach, EPA would include as part of an Invitation for Bid (IFB) or Request for Proposal (RFP) a price schedule for insurance/indemnification which would reflect EPA's valuation of various magnitudes of insurance/indemnification. Bidders (or Proposers) would be given the option of requesting EPA indemnification.

For sealed bid procurements, EPA would adjust the submitted bids by adding to the bid EPA's valuation of the requested indemnification. That valuation would reflect, to the extent possible, the real cost to EPA of providing indemnification, and would be based on a combination of the market price for insurance (the cost of which, presumably, EPA would be obliged to pay absent indemnification), and a subjective evaluation of the risk posed by the site in question. A contractor will be paid an amount equal to the submitted bid, not an amount equal to the adjusted bid. For example, assume that RAC X submits a bid of $5 million, and RAC Z submits a bid of $4.8 million. However, RAC Z requests indemnification valued by EPA at $0.4 million. For purposes of the selection process only, RAC Z is considered to have submitted a $5.2 million bid. RAC X is selected, and receives a $5 million contract. Under this approach, RACs are not reimbursed for the cost of insurance (except insofar as the cost of insurance is included in the bid). Presumably, those costs will be reflected in the bids.

The procedure with negotiated procurements is similar except, instead of adjusting bids, the technical evaluation of proposals is adjusted. For example, EPA would subtract evaluation points from (or not award as many points to) proposals which include a request for EPA indemnification. Once again, the cost of insurance is not reimbursable.

Argument in Favor of Option C. As noted above, Option C differs from Option B only insofar as Option C places a perceived cost on EPA indemnification. Thus, it would provide an incentive for RACs to search actively for pollution insurance coverage (or the equivalent) which is similar to EPA's indemnification but has a lower cost. Encouraging RACs to seek the least costly risk transfer mechanism will ultimately save EPA resources, since EPA ends up paying for the cost of commercial insurance either via a cost reimbursement contract, or when the cost of insurance is included in a fixed-price bid.

Creating incentives for RACs to seek reasonably priced commercial insurance is an important step in encouraging a viable commercial insurance market. The insurance industry is not likely to actively develop new pollution insurance products unless there is a strong enough demand for these products to make them profitable. When commercial insurers see enough demand, and create a product that ensures adequate coverage at a reasonable price, it will no longer be necessary for EPA to consider offering indemnification. As a condition of reimbursement, EPA could require submission of copies of insurance policies purchased (with evidence of premiums paid), thus monitoring the market price of insurance. Presumably, EPA would then be able to reset periodically the "fixed premium" it is willing to pay, based on the market information gathered in the previous period. In this way, government intervention in the market would be minimized, with EPA responding to market signals rather than distorting market prices.

The use of market incentives (through placing a cost on EPA indemnification) would relieve EPA of the burden of determining the level of "adequate indemnification" and, just as importantly, of determining the type of RACs that should be covered by EPA indemnification. Through the pricing mechanism, EPA would leave such determinations to RACs. In effect, any RAC that was willing to pay the EPA price would receive indemnification; each RAC would determine its own indemnification limit (that is, up to EPA's proposed maximum indemnity limit level), based on the risk it perceives and the price of additional indemnification.

Another advantage to this approach is that it makes it clear to RACs and to commercial insurers the value EPA puts on section 119 indemnification. Under the system currently in place (under the interim guidelines), EPA decides when insurance is reasonably priced (among other factors) and either reimburses the RAC for the insurance or rejects the insurance. After EPA rejects the insurance, the RAC and the insurer know that the price for the insurance is too high, but they do not know what price will be considered reasonable. Under the "market incentives" approach, RACs and insurers will know specifically what price will be considered reasonable by EPA without the trial and error inherent in the present system.

Arguments Against Option C. The primary argument against the first two approaches is that they place EPA unambiguously in the position of an insurer. EPA does not wish to foster the perception that its indemnification is a permanent alternative to commercial pollution liability insurance. These options could lead commercial insurers already active in the pollution liability market to withdraw if these insurers perceive their products as unable to compete with the price set for indemnification by the Federal government. Moreover, commercial insurers who were considering developing pollution liability insurance products could be discouraged from doing so if they perceive EPA's indemnity price is too low for them to compete with.

The third approach of incorporating the decision to indemnify into the procurement process also has its disadvantages. This approach has very little flexibility. For any given contract, the decision to request indemnification or seek liability insurance can be made only once, i.e., at the bidding (or proposing) stage. For example, if EPA inserts an indemnification clause into a fixed-price contract, and later determines that pollution liability insurance is generally available and fairly priced, EPA cannot withdraw its indemnification, since the RAC submitted (and EPA accepted) its contract bid on the condition that EPA provide indemnification throughout contract performance. Conversely, if EPA awards a contract to an RAC who has agreed to provide pollution liability insurance, EPA cannot later provide indemnification (if, for example, insurance becomes unavailable). To do so would be unfair to those potential RACs who were not awarded contracts, some of whom may have not been awarded the contract because they requested indemnification.

One disadvantage is common to all three of the incentive based approaches. Compared to Option A and Option B, these approaches are significantly more of an administrative burden to EPA. Calculating the value of transferring a portion of the RAC risk may place a substantial analytical and administrative burden on EPA. At this time EPA does not possess the resources to assess accurately the value of the RAC risk. Obtaining the resources to accomplish this task may add substantially to the cost of choosing this option.

D. Provide Reinsurance for a Commercial Insurance Pool

Summary. EPA has considered the option of acting as a reinsurer [4] above a programmed layer of commercial pollution insurance. Under such a plan, commercial insurers would provide primary pollution coverage with EPA acting as a reinsurer above this primary coverage up to a defined limit. This option could be established as a temporary measure until commercial insurers gain confidence in their ability to underwrite the RAC risk, thus allowing EPA to reduce or discontinue its role in the transfer of RAC risk.

When the Federal government has chosen to assist in specific insurance problems, the reinsurance option has been the method of choice in many circumstances. Since the ultimate aim of reinsurance is to spread the exposure and therefore the risk of loss, the public as represented by the Federal government has in some circumstances provided one avenue towards risk dispersal. Adoption of a reinsurance program could act as a catalyst for insurers' entry into the pollution insurance market by giving insurers experience in the market without the risk of paying out any large claims.

Similar types of government reinsurance programs have been established in several instances. Current programs include the Nuclear Energy Liability Insurance Program and the Federal Riot Reinsurance Program, among others. Both of these programs were established by the government as a response to the inability or unwillingness of commercial insurers to assume a particular type of risk. The majority of these and similar programs sought to include commercial insurers in the program in a way comparable to that described in this option.

The Nuclear Energy Liability Insurance Program was established in 1957 as an amendment to the Atomic Energy Act. This amendment, called the Price-Anderson Act, established a $560 million limit on liability arising out of a nuclear accident. The Price-Anderson Act required operators of nuclear reactors to purchase insurance up to this maximum limit or demonstrate the ability to retain all or a portion of the amount. Insurance pools formed by the commercial insurance industry currently provides for coverage up to $160 million per occurrence. The remaining limit is provided by contributions from individual operators. These contributions are limited to $5 million per operating license.

The Federal Riot Reinsurance Program was established to provide equal access to property insurance for inner-city property owners who were unable to obtain coverage from commercial insurers. The urban riots that occurred during the late 1960s made commercial insurers hesitant to provide coverage in those areas. Urban areas had always presented an increased risk to commercial insurers since the density to which most urban areas were developed increased the possibility of a conflagration. Intentionally ignited fires, like those that occurred during the riots, represented a risk that commercial insurers were unwilling to assume. A presidential committee was established to study the problem and made recommendations that led Congress to enact the Urban Protection and Reinsurance Act. This Act established the National Insurance Development Fund providing riot reinsurance to commercial insurers.

These programs establish precedent for the type of program that is being considered by EPA. Under this option, the EPA program would serve as a temporary measure, operating until such time as commercial insurers gain confidence in their ability to underwrite the RAC risk. As more primary insurers and reinsurers enter the market, the need for EPA reinsurance would disappear.

The method used to establish a reinsurance agreement varies. Between commercial insurers, two types of reinsurance agreements are generally implemented. The first is a "specific" agreement where coverage is optional to both the insurer and reinsurer in that neither party is universally obligated to provide insurance. Each contract is written on its own merit and negotiated individually. EPA could adopt this type of agreement and incorporate it into its proposal evaluation process. As commercial insurers enter the market they could be added to a list of potential insurers. Individual RACs could be provided this list as sources in order to obtain the primary layer of insurance. EPA could then negotiate a specific reinsurance agreement with the selected commercial insurer. The advantage of this approach is that as commercial insurers enter the market and gain underwriting experience, EPA could gradually withdraw by slowly changing the reinsurance agreements.

The second type of reinsurance agreement generally used by commercial insurers is called a treaty or automatic agreement. Under this type of agreement, the two parties agree in advance to the terms of coverage involving a designated class of risk. The liability of the reinsurer begins

[4] Reinsurance is the practice whereby one party, called the reinsurer, in consideration of a premium paid to him, agrees to indemnify another party, called the reinsured, for part or all of the liability assumed by the latter party under a policy or policies of insurance which it has issued. The reinsured may be referred to as the original or primary insurer, or the ceding company.

automatically when the original insurer accepts the risk. EPA could adopt this method by identifying insurers willing to provide the primary layer of insurance and establishing automatic agreements with these insurers. This list could then experience underwriting the RACs. EPA could then gradually withdraw from the market by reducing the amount of coverage offered. This could be done either by increasing the stipulated limit a permanent government insurance program.

2.2 Proposed Policy

EPA is proposing to offer Option C

determination concerning the amount of insurance that would have been purchased by a company following sound business practices. Insurance generally covers all of a company's operations. Generally, only an allocable the appropriate limit of coverage. The Agency used four approaches to attempt to estimate the amount of coverage that would be appropriate to offer. First, the Agency requested the RAC Review Panel (and other firms working in the included. Therefore, EPA is proposing to tie the size of the RAC's deductible to the size of the indemnification limit requested. Under such a scheme, an RAC most concerned with the size of the

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automatically when the original insurer accepts the risk. EPA could adopt this method by identifying insurers willing to provide the primary layer of insurance and establishing automatic agreements with these insurers. This list could then be provided to contractors who could choose primary coverage on the most favorable terms.

Specific and automatic reinsurance agreements also may use two basic methods of distributing the risk between the insurer and the reinsurer. The reinsurer agrees to accept either:

- A share of the amounts of risk which the primary insurer underwrites; or,
- An excess of the losses beyond certain established limits.

Reinsurance contracts that share the amounts of risk establish a ratio of insurance provided by the primary insurer and the reinsurer that is applied to every contract. For example, the primary insurer may retain one-fourth of the risk and the reinsurer assumes three-fourths of the risk. The reinsurer is entitled to three-fourths of the premium and would pay three-fourths of the losses. This form of reinsurance contract allows primary insurers to provide coverage in much larger amounts.

Reinsurance written as an excess of loss contract primarily provides protection against large losses. Under this type of contract, the reinsurer has no obligation until losses are in excess of the amount covered by the primary insurer. Some excess of loss contracts are written so that the primary insurer retains a share of the excess loss. Excess of loss is the usual way that a contract for catastrophic reinsurance is written.

Argument in Favor of Option D. This option would serve as a catalyst for commercial insurers to enter the pollution insurance market. Insurers could provide whatever level of insurance that they felt comfortable with. Even if the commercial layer of insurance does not provide a great deal of coverage, insurers will gain experience underwriting the RAC risk.

The reinsurance agreement and contract can be structured to provide constant encouragement to commercial insurers to assume greater portions of the risk. Particularly, if specific reinsurance is offered as a program, the amount of risk retained by the primary commercial insurer could be continuously under review and adjusted as allowed by market conditions. The variety of activities performed by RACs could also be part of the evaluation.

When capacity in the insurance industry expands, at least some commercial insurers will possess experience underwriting the RACs. EPA could then gradually withdraw from the market by reducing the amount of coverage offered. This could be done either by increasing the stipulated limit of primary insurance in an excess of loss contract or, by reducing the proportion of insurance carried in a risk sharing contract.

One of the biggest advantages of this option is that it will save EPA resources by putting the responsibility for administering claims upon commercial insurers. These insurers possess experience administering claims and could perform this task more efficiently than EPA. Employing this option would save the expense and time involved in creating a claims administration structure within EPA. At the same time whichever commercial insurers participate in insuring RACs to some extent will gain experience in the administration of RAC claims.

Arguments Against Option D. This option does not substantially reduce EPA's exposure to risk or expenditures for operating the section 119 indemnification. Under this system it is likely that commercial insurers will only write pollution insurance for companies with the best loss histories and least risk of claims against it. The "specific" reinsurance agreement is particularly susceptible to this adverse selection [5] since the agreement would be negotiated for every RAC contract. As a result EPA may still be forced to indemnify the marginal or bad risks. In addition, the cost of any insurance provided by commercial insurers will be reimbursed by EPA. Therefore, unless commercial insurers eliminate EPA's role as insurer completely, the savings of providing some commercial insurance is not that great.

Another factor working against this option is the past history of such government insurance programs. Some past efforts at cooperation between government and commercial insurers in providing insurance have not been a success. In particular, the National Flood Insurance Program was initially established as a cooperative effort between the federal government and the commercial insurance industry. This program has since been reestablished with the federal government acting as the insurer. This type of result would be unacceptable. Section 119 indemnification was enacted as an interim risk transfer mechanism and not a permanent government insurance program.

2.2 Proposed Policy

EPA is proposing to offer Option C indemnification in sealed bid procurements, and, specifically, is proposing to use the third incentive-based approach, where indemnification terms are decided as part of the procurement process. When submitting a bid, a bidder will request some combination of indemnification limit and deductible. For the purpose of selecting the lowest bidder, the submitted bids will be adjusted to reflect EPA's valuation of the requested indemnification. In effect, EPA will be procuring the bidder who requires the least compensation, where that compensation consists of dollar payments plus some amount of indemnification coverage from EPA.

EPA is proposing to offer Option B indemnification to other types of RACs (typically, cost-reimbursement RACs). Even though they are offered indemnification, RACs are required to make "diligent efforts" to obtain pollution liability insurance. Cost reimbursement contractors would be reimbursed the reasonable cost of purchased insurance.

3.0 Discussion of Proposal Details

3.1 Deductibles and Limits of Coverage Under Cost-Reimbursement Contracts

The reasonable cost of liability insurance is generally an allowable cost (thus reimbursable) under Federal Acquisition Regulations (FAR) section 31. Specifically, the cost of insurance is allowable under cost-reimbursement contracts if the insurance is "required or approved, and maintained by the contractor pursuant to the contract" [48 CFR 31.205-19(a)(1)]. Also, the cost of insurance is allowable if the types and extent of coverage follow sound business practice and if the premiums are reasonable [section 31.205-19(a)(2)]. One can infer from this set of FAR requirements (in combination with CERCLA section 119) that EPA has the responsibility to reimburse contractors for the allocable portion of the cost of insurance maintained by the contractor, or, if EPA determines that insurance is unreasonably priced or is unavailable, EPA may offer indemnification as a replacement for insurance that would have been purchased by a firm following "sound business practices" (had that insurance been available at "reasonable" prices).

For most types of insurance, it is not necessary for the government to make a

[5] "Adverse selection" is an imbalance in a risk exposure group, created when organizations that perceive a high probability of loss for themselves seek to buy insurance to transfer that risk.

determination concerning the amount of insurance that would have been purchased by a company following sound business practices. Insurance generally covers all of a company's operations. Generally, only an allocable portion of the cost of that insurance will be reimbursed by the government under a cost-reimbursement contract (unless the insurance cost is identified specifically and solely with the government contract as a direct cost). If a contractor purchases an amount of insurance greater than that required by "sound business practice", the government may agree to reimburse only the allocable portion of the extra premium payments. The contractor has an incentive not to purchase coverage in excess of that required by sound business practice. Consequently, although the government may make a more substantial evaluation of the contractor's costs, the government need only assume that its contractor is maintaining a "sound" amount of insurance, and pay the portion of the cost that is allocable to the contract.

Unfortunately, there is no sure way of knowing how much pollution liability insurance would be purchased by a contractor "following sound business practices". Most pollution liability insurance available today is written on either a project-specific or contract-specific basis, or covers operations performed almost exclusively under cost-reimbursement contracts with EPA. EPA may pay the entire cost of any pollution liability insurance purchased if it is a direct cost of the EPA contract. Consequently, there would be no incentive for a contractor to limit its insurance coverage to that required by sound business practice. If EPA paid the bill, the contractor would wish to purchase as much insurance as there was available.

Even in the absence of an incentive problem, EPA would be unable to rely on the contractor's purchased insurance being the amount of insurance required by sound business practice. Today, pollution liability insurance is available in limited amounts, and some contractors are unable to purchase any pollution liability insurance for the type of work they perform. Therefore, EPA cannot use the amount of purchased insurance as a guide to determine the "sound" amount of insurance.

Since the Agency could not depend on market forces to determine the appropriate amount of pollution liability insurance coverage (or the equivalent indemnification from EPA) for RACs, a primary task faced by the Agency was to use some other method to determine the appropriate limit of coverage. The Agency used four approaches to attempt to estimate the amount of coverage that would be appropriate to offer. First, the Agency requested the RAC Review Panel (and other firms working in the hazardous waste cleanup business) to supply information to EPA concerning their firms' risk transfer practices (for example, the EPA wanted an estimate of the amount of professional liability insurance carried by architect/engineering firms). The Agency received only 4 responses out of approximately 100 questionnaires distributed. Those that did respond carried $10–$20 million of professional liability insurance. Second, the Agency hired an actuarial firm to conduct a study of the risk faced by RACs, and to recommend an appropriate coverage limit. The actuarial firm was unable to make a recommendation based on its study. Third, the Agency conducted a study of the insurance coverage maintained by firms active in other high risk industries. That study indicated that coverage varied widely, and EPA was unable to infer from the study any general business practice that would be applicable to Superfund RACs. Finally, the Agency looked at the extent of indemnification coverage being offered to Superfund cleanup contractors by states and by other federal agencies. We found that, in general, states and other federal agencies did not offer indemnification, although some states offered limited coverage.

The information gathered by EPA is not adequate to determine the "sound" amount of insurance that any particular RAC should maintain, nor is it adequate to determine the extent to which indemnification should be offered to meet the Agency's objective (expeditious cleanup at least cost). Rather, the amount of insurance that would be purchased by an RAC following "sound business practices" depends on the type of work to be performed, the risk attendant at the sites at which the RAC will work, and the size and risk transfer practices of the RAC. Consequently, the Agency determined that the appropriate amount of insurance (or indemnification) needs to be determined on a contract-specific basis.

The indemnification limit and deductible scheme found in section 10 of the proposed guidance is based on the assumption that the RAC itself is best able to determine its required level of insurance or indemnification coverage. The RAC will, however, overstate its required indemnification limit unless a disincentive to overstatement is included. Therefore, EPA is proposing to tie the size of the RAC's deductible to the size of the indemnification limit requested. Under such a scheme, an RAC most concerned with the size of the deductible can request low limits of indemnification (and, consequently, be responsible for a small deductible amount), while an RAC most concerned about very large claims, while being relatively unconcerned about small (but more frequent) claims, can request large limits of indemnification (and, consequently, be responsible for a large deductible amount).

Today, deductible amounts of $100,000 to $250,000 are common in commercial pollution liability insurance policies, with liability limits of up to $5 million (in some cases, limits of up to $25 million may be available). Since section 119 indemnification is intended to supplement unavailable, inadequate, or unreasonably priced insurance, EPA chose to set a deductible amount that would be similar to that found in commercial pollution liability insurance policies. Section 10(e) of the guidance specifies that an RAC requesting an indemnification limit of $5 million will incur a $100,000 deductible, and an RAC requesting an indemnification limit of $10 million will incur a $250,000 deductible. RACs requesting a greater limit will incur a greater deductible, and RACs requesting a lesser limit will incur a lesser deductible.

EPA requests comment on the structure of its indemnification limits/deductibles scheme for cost reimbursement RACs, and the reasonableness of the specified limits and deductibles. Given the limited data which EPA has had available to it in shaping this scheme, the Agency is particularly interested in receiving further information that may support this or alternative schemes. The Agency will review its proposal in light of any such information received.

3.2 Indemnification Under Fixed Price Contracts

The Agency is not, in general, concerned with the amount of insurance carried by fixed-price contractors. Unlike the case of the cost reimbursement RAC, the Agency is unconcerned about a fixed-price RAC that carries "too much" insurance, since the cost of that insurance is not reimbursable. Presumably, the cost of extraneous insurance would be reflected in the RAC's bid. Thus, firms will have an incentive to not carry extraneous insurance, in order to be able to submit competitive bids.

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The Agency is concerned with the financial viability of a fixed-price contractor insofar as it affects the RAC's ability to complete the project. Generally, the Miller Act (40 U.S.C. indemnification of subcontractors must be provided by the prime contractors. The Agency may, however, agree to indemnify the prime contractor with respect to liability arising as a result of

The disadvantage of this approach is that it would require significant Agency administrative resources, and the time required to process subcontractor applications could reduce the pace of

govern general provisions. Accordingly, the detailed, specific statutory scheme of section 119 necessarily supplants and supercedes the broad, general contract authority that EPA relied on before the agreements with RACs. The Agency requests comment on the feasibility and advisability of using underwriting criteria, and on the varieties of criteria that should be used. Careful

individuals in the insurance industry and in the RAC community, the Agency is proposing a maximum limit of $50 million. The Agency is not suggesting that this maximum limit has been

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The Agency is concerned with the financial viability of a fixed-price contractor insofar as it affects the RAC's ability to complete the project. Generally, the Miller Act (40 U.S.C. 270a–270f) requires a construction contractor to post a performance bond, guaranteeing the government that the job will be completed. If the contractor fails to complete the project, the government can call on the surety to complete it. It is possible, however, that surety companies may be unwilling to bond some Superfund RACs without adequate third-party liability coverage, because the surety will be called on to complete the job if the RAC is sued and forced into bankruptcy as a result of inadequate third-party liability coverage. In that case, it may be in the Agency's interest to offer indemnification to fixed-price RACs, if adequate insurance may not be available.

The Agency is also concerned with the degree of competition in sealed-bid procurements. It is possible that some firms, in the absence of adequate and reasonably priced insurance, will refrain from bidding on Superfund fixed-price contracts (those firms may be unwilling to self-insure and include the cost of self-insurance in their bids). Therefore, even if the availability of surety bonds is not a problem, it may be in the Agency's interest to offer indemnification as a substitute for pollution liability insurance.

Section 11 of the proposed guidance includes an indemnification scheme for fixed-price contracts that is designed to discourage requests for indemnification unless the RAC requires coverage for pollution liability, but insurance is unavailable, inadequate, or unreasonably priced. Before requesting indemnification, a bidder must consider carefully its need for third-party liability coverage, the cost of commercial insurance to cover that liability (presumably, that cost would be included in the bid), the possibility of self-insurance, and EPA's evaluation of the cost of indemnification at that site. The bidder may find that a request for indemnification is the difference between a low bid and the second lowest bid.

3.3 *Indemnification of Subcontractors*

Under CERCLA section 119, both prime contractors and subcontrators are defined as RACs. Consequently, there is no distinction between the Agency's authority to agree to indemnify prime contractors and its authority to agree to indemnify subcontractors. Because the Agency does not have privity of contract with subcontractors, however, any indemnification of subcontractors must be provided by the prime contractors. The Agency may, however, agree to indemnify the prime contractor with respect to liability arising as a result of the prime's indemnification of the subcontractor. In effect, the Agency would be extending section 119 indemnification to the subcontractor. Section 9 of the Proposed Guidance outlines policies and procedures for such an extension of an indemnification agreement to subcontractors.

In order for the Agency to indemnify the prime contractor with respect to any liability arising as a result of an agreement between the prime contractor and subcontractor, the terms and conditions of that agreement must be consistent with the requirements of section 119. The Agency has considered three options for ensuring that indemnification agreements with subcontractors (through prime contractors) satisfy the requirements of section 119 (as well as any other conditions required of RACs by EPA). The first option would require prime contractors to enforce the requirements of section 119 and EPA policy. If a claim were to arise, the Agency would inspect the records maintained by the prime contractor to determine if the prerequisites to indemnification had been met by the subcontractor. This option has the advantage of economy of resources in that it minimizes EPA oversight of the prime contractor's administration of subcontracts. Its major disadvantage is that it would leave the prime contractor (and subcontractor) ignorant of whether EPA would actually provide indemnification if the subcontractor were faced with a claim. The contractor would be certain of EPA coverage only after EPA had reviewed the documentation collected by the prime contractor and determined that the documentation was not deficient in any way.

The second option considered by the Agency is reflected in section 9 of the Proposed Guidance. Under this option, EPA would review all subcontractors' requests for indemnification. The prime contractor would be able to "pass through" EPA indemnification only if EPA had determined that the subcontractor's indemnification request met all the requirements of section 119 and section 7 of the proposed guidance. The advantage of this approach is that it allows the Agency to exercise discretion in determining what subcontractors it will indemnify, and it allows the subcontractor to know the terms of its contract (i.e., the indemnification terms) before it enters into the contract.

The disadvantage of this approach is that it would require significant Agency administrative resources, and the time required to process subcontractor applications could reduce the pace of cleanups at Superfund sites.

The third subcontractor indemnification option is to not indemnify any subcontractors. Under this option the prime contractor would, of course, be free to include any indemnification terms in its subcontracts. The Agency, however, would not indemnify the prime contractor with respect to any liability arising from indemnification agreements in subcontracts (that is, EPA indemnification would not "pass through" to subcontracts). This option has the obvious advantage of eliminating government administrative cost, while posing the risk that the Agency may be unable to procure subcontractors at certain sites. Furthermore, the Agency would no longer retain the option of agreeing to indemnify subcontractors as a replacement for liability insurance if the Agency determines that the insurance is too expensive.

The Proposed Guidance reflects the second option under consideration by the Agency. Upon further consideration, the Agency may determine to include any one of the three options in the final indemnification guidance. The Agency is soliciting comment on each of the three proposed approaches to indemnifying subcontractors.

3.4 *Other Issues*

Application. Section 4 of the guidance defines the application of the EPA section 119 indemnification program by stating that the guidance applies to indemnification of all RACs (for work started after the date of enactment of SARA). No indemnification other than section 119 indemnification is to be used by EPA RACs.

Some RACs have suggested that EPA supplement its use of section 119 indemnification authority with other forms of indemnification, such as the indemnification called for by the insurance clauses at FAR section 52.228–7, EPAAR section 1552.228, or FAR section 52.250–1 (i.e., "Indemnification Under Public Law 85–804"). EPA has determined that CERCLA section 119 is the sole authority for RAC indemnification. In drafting SARA, Congress had the opportunity to authorize EPA to provide any form of indemnification, including those forms found in the FAR/EPAAR clauses mentioned above. It is a rule of statutory construction that specific provisions govern general provisions. Accordingly, the detailed, specific statutory scheme of section 119 necessarily supplants and supercedes the broad, general contract authority that EPA relied on before the enactment of SARA. Moreover, there is no indication in section 119 or its legislative history that Congress did not intend the provisions of section 119 to provide exclusive indemnification authority.

Indemnification Request. EPA indemnification is intended to provide a temporary substitute for pollution liability insurance when that insurance is inadequate, unavailable, or unreasonably priced. Section 119 requires RACs to make "diligent efforts" to obtain pollution liability insurance as a condition of federal indemnification. Because EPA indemnification provides the equivalent of "free insurance" to RACs, contractors have little incentive to look for insurance. A failure by the RACs to search for and purchase insurance would be contrary to the letter and spirit of section 119, and would leave EPA as the RACs' insurer for the indefinite future. Consequently, a requirement to search diligently for insurance coverage has been included as a prerequisite for EPA indemnification.

Section 7 of the guidance includes the specific steps that an RAC must take in order to be eligible for EPA indemnification. It should be noted that the RAC must submit the required information, and EPA must approve the request, before an indemnification clause will be included in the contract. For EPA RACs, this is a minor change from the procedures used under the interim indemnification policy, where standard indemnification language was routinely included in the contract, and RACs were required to submit the "diligent efforts" documentation within 30 days after signing the contract.

Section 7(h) of the guidance notes that EPA may decline to agree to indemnify an RAC even if the RAC satisfies all the requirements of section 119. This paragraph reflects the concern that EPA may become the insurer of last resort for RACs that are unable to satisfy the underwriting criteria of commercial insurers. That is, insurers may refuse to provide coverage for certain RACs because, for some reason, those RACs pose an unacceptably high risk. As a result of this process of adverse selection, the Agency may be left with providing coverage only for the very worst risks. Consequently, the Agency is considering using some sort of underwriting criteria when it considers entering into indemnification agreements with RACs. The Agency requests comment on the feasibility and advisability of using underwriting criteria, and on the varieties of criteria that should be used. Careful consideration should be given to how the indemnification process and underwriting criteria would be implemented in a sealed bid vs. a negotiated procurement, and how the indemnification process and underwriting criteria would be implemented in prime contracts and subcontracts.

Terms and Conditions. Section 8 of the guidance presents the general terms and conditions of EPA indemnification. These terms and conditions reflect the scope, requirements, and limitations of indemnification found in CERCLA section 119.

The definitions of limits and deductibles are similar to those found in commercial policies. The indemnification limit is a "contract aggregate" limit; EPA will pay claims and the cost of litigation until the contract aggregate is reached, regardless of the number of claims, whether the incidents leading to claims occurred at one site or many, and regardless of whether the claims all occur in one year or are spread out over a long time period (see "Coverage Term", however). Coverage at a particular site or for a particular firm is not necessarily limited to the contract aggregate amount. For a particular site, several EPA contracts may be involved (for example, a TAT contractor and an ERCS contractor may be present at a removal site), each of which has coverage up to its contract aggregate amount. A single RAC may have several contracts with EPA, each of which provides coverage up to the contract aggregate amount (each contract, of course, provides for indemnification for work conducted under that contract only).

EPA is proposing to set the maximum indemnification limit at $50 million. As noted above, the Agency has been unable to determine the amount of insurance that would be purchased by a firm following "sound business practice" under Superfund contracts (see "Indemnification under Cost Reimbursement Contracts", above). Consequently, the Agency was unable to infer from its research the maximum amount of insurance coverage required by Superfund contractors following "sound business practice". The Agency understands, however, that a maximum amount must be set, both to protect the Superfund and to satisfy the requirements of CERCLA section 119. Based on its consultations with individuals in the insurance industry and in the RAC community, the Agency is proposing a maximum limit of $50 million. The Agency is not suggesting that this maximum limit has been derived from formal actuarial studies, or from a statistical analysis or formal risk management analysis of any kind. Rather, it represents the informed professional judgment of EPA staff of the maximum reasonable amount of insurance/indemnification that would satisfy CERCLA section 119, protect the Superfund, and provide protection from the risk of pollution liability that is adequate to ensure that the Agency can attract qualified contractors to perform cleanup activities at Superfund sites.

The deductible amount (or "self-insured retention") is defined as a "per occurrence". That is, the RAC must incur a loss on each claim equal to the deductible amount before EPA will indemnify. There is, then, no logical upper limit to the potential loss that an RAC may incur; the loss is limited only by the number of occurrences.

Section 8(e) defines the coverage term of EPA indemnification. Today, commercial pollution liability policies generally have a coverage term extending at most two years beyond the policy period. The Agency recognizes that a two year "completed operations" or "extended reporting" period does not fit the entire liability exposure at a Superfund site. On the other hand, a very lengthy coverage term (of, for example, twenty or more years) may not be acceptable to the Agency because of the difficulties created by carrying contingent liability on its books for a period that far exceeds the life of the program as currently authorized. Furthermore, EPA indemnification is intended to be a temporary substitute for pollution liability insurance. It is unlikely that commercial insurers will offer a coverage period of greater than ten years anytime in the near future; if, then, EPA offers a coverage period of greater than ten years, any commercial insurance that is offered would not replace completely the broader EPA coverage. Consequently, the EPA indemnification program would not be a temporary substitute; instead, it would be at least a long-term supplement to commercial insurance. Therefore, the Agency is proposing to limit its coverage term to a ten year completed operations period; that is, the indemnification agreement will cover claims presented up to ten years after the completion of work at the site.

The Agency requests comment on the terms and conditions of its proposed indemnification agreements.

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Indemnification of PRP RACs. CERCLA section 119(c), through E.O. 12580, gives EPA the discretionary authority to agree to indemnify RACs working for PRPs, where the PRP is conducting the cleanup pursuant to a consent decree or an administrative order. The purpose of this authority is to ensure that a lack of pollution liability insurance does not eliminate the possibility of PRP cleanups. Section 119(c)(5)(C) imposes significant limitations on EPA's ability to indemnify PRP RACs. To indemnify a PRP RAC, the Agency must first determine that the combined financial resources of all PRPs at the site are inadequate to provide indemnification against the reasonable potential liability of the contractor at the site. Before the Agency can pay a claim, the contractor must exhaust all administrative, judicial, and common law claims for indemnification against the PRPs. Finally, section 119(c)(6) provides for recovery from the PRPs of all indemnification costs paid by EPA.

EPA's interim indemnification guidance included policies and procedures for EPA indemnification of RACs working for PRPs. Nevertheless, EPA has not indemnified any RAC working for a PRP, having received only one request, which was denied on the grounds that the PRP did not demonstrate that it had inadequate financial resources to provide indemnification to the RAC. Based on this experience, it is reasonable to conclude that EPA indemnification of PRP RACs is not prerequisite to PRP cleanup of sites. Section 17 of the Proposed Guidance, which asserts that EPA will not agree to indemnify RACs working for PRPs, follows from that conclusion.

Guidance Document—EPA Indemnification of Superfund Response Action Contractors—Introduction

This guidance fulfills the requirement of CERCLA section 119(c)(7) and E.O. 12580, which require EPA to develop guidelines to carry out subsection 119(c).

1. Purpose

The purpose of the section 119 guidance is to provide policies and procedures by which the Environmental Protection Agency (EPA) may indemnify response action contractors (RACs) for claims that result from a release of a hazardous substance, pollutant or contaminant due to RAC negligence arising out of response action activities at a National Priorities List (NPL) or removal action site.

2. Authority

These guidelines are required by section 119(c)(7) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601, *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99-499. In E.O. 12580, the President delegated to EPA the responsibility for issuing section 119 guidelines and regulations that establish an indemnification program funded by the Hazardous Substance Superfund (52 FR 2923 (Jan. 29, 1987)).

3. Scope

These guidelines govern indemnification by EPA of all RACs that work under contract at NPL or removal action sites for EPA, States (or political subdivisions) under cooperative agreement with EPA, and potentially responsible parties (PRPs) under a CERCLA administrative order or consent decree. EPA interprets section 119 to permit the Agency to provide indemnification to RACs working for federally recognized Indian tribes pursuant to a cooperative agreement with EPA. These guidelines also apply to EPA indemnification of SITE program vendors conducting field investigations pursuant to SARA section 311(b), recipients of training grants under SARA section 126, and of RACs working for other Federal agencies (such as the U.S. Army Corps of Engineers) at EPA-lead sites under a Memorandum of Understanding (MOU) or an Inter-Agency Agreement with EPA. Where other Federal agencies indemnify RACs under section 119, those indemnification agreements must not be inconsistent with the broad policies found in this guidance document.

4. Application

(a) These guidelines govern EPA's indemnification of RACs for work initiated after October 17, 1986, the date of enactment of SARA. These guidelines supercede OSWER Directive #9835.5, "EPA Interim Guidance on Indemnification of Superfund Response Action Contractors Under Section 119 of SARA".

(b) These guidelines will govern all RAC indemnification by EPA for future response action contracts.

(c) Contract indemnification terms (under EPAAR 1552.228-70) rather than these guidelines will apply to work performed at a site after the date of enactment of SARA only if response work at the site was initiated under an EPA contract prior to SARA's date of enactment. Indemnification terms under the SARA section 119 Interim Policy (as specified in OSWER Directive #9835.5) will be replaced, at the mutual consent of EPA and the contractor, with indemnification terms consistent with the policies found in this guidance document. Those terms will be applicable retroactively to the date of enactment of SARA, or to the starting date of the contract, whichever is later.

(d) Subject to all the requirements of these guidelines, any indemnification agreement provided by EPA to a prime contractor may be provided by the prime contractor to its subcontractors if the agreement is approved by EPA at the time of the award of the subcontract. That is, the prime contractor can agree to indemnify a subcontractor, and EPA may indemnify the prime contractor with respect to the prime contractor's obligations that may arise as a consequence of its indemnification of the subcontractor (see section 9, below).

5. Abbreviations

CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended)
EPAAR—EPA Acquisition Regulations
FAR—Federal Acquisition Regulations
NPL—National Priorities List
PRP—Potentially Responsible Party
RAC—Response Action Contractor
SARA—Superfund Amendments and Reauthorization Act of 1986

6. Definitions

Terms not defined in this section have the meaning given by CERCLA, as amended by SARA.

"Claim" means the receipt by the RAC of a written demand for money, naming the RAC and alleging a release from RAC response action activities.

"Indemnification", for the purpose of these guidelines, means an agreement under which EPA will compensate certain losses suffered by a RAC, and the actual payment of that compensation.

"Non-federal sources" means commercial insurance, PRP indemnification, state indemnification, or other alternative risk transfer mechanisms.

"Response Action Contractor", as provided in section 119(e)(2), means any person who enters into a response action contract to provide services directly related to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility, and any person hired or retained by such a person. It also includes recipients of cooperative agreements under section 311(b) and recipients of grants pursuant to section 126(g) of SARA.

"Response Action Contract", as provided in section 119(e)(1), means any written contract or agreement entered into by an RAC with the President, any Federal agency, a state or political subdivision under a cooperative agreement with EPA, or any PRP under an order or decree, to provide response action at an NPL or removal action site.

Indemnification Requirements, Terms, and Conditions

7. Indemnification Request

(a) EPA will not indemnify RACs that fail to meet the statutory requirements of section 119. EPA will not enter into an indemnification agreement with an RAC until the RAC submits the documentation described in section 119 and in this guidance document.

(b) To be eligible for indemnification by EPA, the RAC shall submit evidence of the following:

(i) That its potential third party liability is not covered by insurance available at a fair and reasonable price at the time the contract to perform a response action is entered into, and that adequate insurance is not generally available;

(ii) That it has made diligent efforts to obtain insurance coverage from non-federal sources (or, if it is a cost-reimbursement RAC, it has satisfied the minimum insurance requirements of 10(b), below);

(iii) And, under a multi-site contract, that the RAC also has made (or agrees to make) such diligent efforts (or, if it is a cost-reimbursement RAC, it will otherwise satisfy the requirements of 10(b)] every time it begins work at a new facility.

(c) Due to the variability of market conditions, EPA will determine on a case-by-case basis whether adequate insurance is available at a fair and reasonable price at the time indemnification documentation is submitted. This determination will be based on the documentation submitted in fulfillment of the diligent effort requirement, or on any other insurance market information available to EPA.

(d) To demonstrate that diligent efforts have been made to obtain non-federal pollution liability insurance coverage, an RAC must submit in writing:

(i) The names and addresses of at least three commercial insurers or alternative risk financiers to whom the RAC has submitted applications; and

(ii) A copy of each application submitted, insurance policies offered (including the declaration page), and any rejection letters received. If pollution liability insurance was offered by a commercial insurer, but not accepted by the RAC, an explanation of the reasons why such coverage was rejected must be included.

(e) The EPA will not enter into an indemnification agreement until the RAC has submitted the documentation required in (b) and (d). EPA will not enter into an indemnification agreement if it determines that the documentation submitted is insufficient, or if it determines that the RAC's efforts to obtain insurance were not sufficiently diligent.

(f) If the RAC is working under a multi-site contract, the "diligent effort" information must be updated and resubmitted within 30 days of the RAC beginning work at a new site (as part of the indemnification agreement, the RAC will have agreed to make such "diligent efforts" each time work is started at a new site (see 7(b)(iii), above)).

(i) If previously purchased insurance covers work at the new site, and the EPA has already determined that the purchase (and maintenance) of that insurance satisfies the diligent effort requirement for that contract, then there is no need to submit additional documentation for that site.

(ii) For certain types of contracts, where a search for insurance each time new site work starts is inappropriate or impractical, EPA may waive the requirement to search for insurance each time new site work starts. Where EPA has granted such a waiver, the RAC is required to resubmit "diligent efforts" documentation every 12 months. In any case, a RAC under a multi-site indemnification agreement must notify EPA before work (covered by the indemnification agreement) begins at a new site.

(g) EPA reserves the right to change the frequency and content of documentation submittal requirements, and also to direct indemnified RACs to purchase insurance from insurers identified by EPA.

(h) EPA may apply underwriting criteria in addition to the specific requirements of this section. That is, EPA may decline to enter into an indemnification agreement with an RAC even if the RAC meets all the requirements of the FAR, CERCLA section 119, and this guidance.

8. Indemnification Terms and Conditions

(a) Where EPA has agreed to indemnify an RAC, EPA will indemnify the RAC against third party liability (including the expenses of litigation or settlement) for negligence arising from the RAC's performance in carrying out the response action contract. Such indemnification shall apply only to liability not compensated by insurance or otherwise and shall apply only to liability which results from a release of a hazardous substance, pollutant, or contaminant if such release arises out of the response action activities of the contract.

(b) EPA indemnification is subject to limits and deductibles. For the purpose of determining the amount of the indemnification limit and deductible, the expenses of litigation or settlement are considered part of the liability covered by the indemnification agreement. That is, there is not a separate limit or deductible for expenses of litigation or settlement. The amount of the indemnification limit and deductible depends on the type of contract entered into (see below).

(i) The indemnification limit is defined as a contract aggregate limit.

(ii) The indemnification deductible is a per occurrence deductible. There is no aggregate limit to the deductible.*

(c) EPA indemnification will not cover liabilities (including the expenses of litigation or settlement) that were caused by the conduct of the RAC (including any conduct of its directors, managers, staff, representatives or employees) which was grossly negligent or constituted intentional misconduct. Nor shall the RAC be indemnified for liability arising under strict tort liability, or any basis of liability other than negligence.

(i) EPA indemnification will apply if the RAC is found to be not liable for alleged negligence, or if a negligence suit is settled. That is, EPA indemnification will cover the expenses of litigation or settlement subject to the terms and conditions of the indemnification agreement (such as limits and deductibles).

(ii) EPA indemnification will not apply if the RAC is found both strictly liable and negligent, and the cause of action is not divisible.

(d) If an RAC has an indemnification agreement with EPA, the RAC must promptly notify EPA of any claim or action against the RAC that may involve indemnification. Also, the RAC must promptly notify its insurers of any claim

* That is, the amount of deductible that must be incurred is limited only by the number of occurrences, whereas the total amount of indemnification payments per contract is limited by the defined "indemnification limit", which is invariant with respect to the number of occurrences.

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or action that may involve EPA indemnification, even if the RAC believes that its insurance is not applicable to the claim or action. Indemnification is conditional on prompt receipt from the RAC of copies of the complaint (or other claim), the notice to the insurer, and the insurer's response.

(i) For the purpose of this guidance, "prompt" action is defined as action within twenty days of the date when the RAC knew or should have known of the claim or event.

(e) Coverage Term: Subject to the other terms and conditions listed in this document, an EPA indemnification agreement will cover claims arising (and reported to EPA) during the period of performance of the contract, plus any time within ten years after the contract term. For multisite contracts, the coverage term, with respect to an individual site, is the ten year period following the RAC's completion of work (as specified in the Work Assignment or other relevant work order) at the site.

9. Subcontractors

(a) EPA will not agree to indemnify subcontractors directly. However, with the prior written permission of EPA, prime contractors can include subcontractors in their indemnification agreements with EPA. Thus, EPA will enter into no more than one indemnification agreement per contract, with that agreement affording coverage to the prime contractor, including any obligation the prime contractor may incur as a result of its indemnification agreements with its subcontractors. See also the approval requirement in (b), below.

(b) The prime contractor confers indemnification to the subcontractor by including in the subcontract an indemnification clause by which the prime contractor agrees to indemnify the subcontractor. That clause must have terms and conditions (except for limits and deductibles, see below) identical to those found in the clause by which EPA agrees to indemnify the prime contractor. EPA will indemnify the prime contractor with respect to any liability incurred by the subcontractor(s) pursuant to an indemnification agreement between the prime contractor and any subcontractor (subject to the indemnification limits and deductibles specified in the prime contract). EPA, however, must approve (in writing) the subcontract which contains the indemnification agreement between the prime contractor and subcontractor. Accordingly, no indemnification agreement shall be included in any subcontract without first obtaining EPA approval. This will avoid indemnifying subcontractors that are determined to present an adverse risk and to whom indemnification would be denied pursuant to paragraph 7(h).

(c) EPA indemnification limits and deductibles are unaffected by the number of subcontracts entered into by the prime contractor. That is, the limit of EPA's obligation and the deductible specified in an indemnification agreement with a prime contractor applies jointly to the prime contractor and all subcontractors.

(d) The prime contractor is free to include any limit or deductible in its contract with the subcontractor (for example, the prime contractor may wish to provide a small deductible for a small company). EPA's obligation, however, is governed by its indemnification agreement with the prime contractor.[7]

(e) Subcontractors are defined as RACs. Consequently, subcontractors are subject to all indemnification requirements, terms, and conditions. These applicable requirements include the reporting requirements of section 7, above. That is, the subcontractor must demonstrate that it has made diligent efforts to obtain pollution liability insurance, and agree to continue to make such efforts. The subcontractor should forward all documentation to the prime contractor, and the prime contractor should forward copies of the documentation to the contracting officer (or other appropriate official). The contracting officer (or other appropriate official) may consent to the subcontract including the indemnification clause (see paragraph 9(b), above) only if the contracting officer has determined, based on the documentation supplied by the subcontractor (through the prime contractor), that the subcontractor has satisfied the reporting requirements of section 7.

(i) A demonstration of diligent efforts by the prime contractor is not sufficient to demonstrate that, by implication, insurance is unavailable to the subcontractor.

Indemnification Terms and Conditions for Specific Contract Types

10. RACs Working for EPA Under Cost Reimbursement Contracts

(a) RACs working for EPA under cost reimbursement contracts must procure and maintain all insurance required by law or regulation including:

(i) Insurance required for cost reimbursement contracts by part 28 of the Federal Acquisition Regulations,

(ii) Commercial general liability insurance for bodily injury, death or loss of or damage to property of third persons in the minimum amount of $1,000,000 per occurrence, and

(iii) Any additional insurance EPA may require.

(b) Indemnification and Insurance: Any RAC working for EPA under a cost reimbursement contract who requests that EPA enter into an indemnification agreement must procure and maintain pollution liability insurance for bodily injury, death or loss of or damage to property of third persons in the minimum amount of $1,000,000 per occurrence (or self-insure for the same), or it must demonstrate that it has made diligent efforts to obtain such pollution liability insurance (and, despite such diligent efforts, has failed to procure reasonably priced insurance), and, under a multi-site contract, agrees to make such diligent efforts every time work begins at a new site. EPA will not agree to indemnify a RAC who does not either purchase the required insurance or demonstrate diligent efforts, nor will EPA make indemnification payments to an RAC who has entered into an indemnification agreement but has failed to demonstrate adequately that it has made diligent efforts each time work started at a new site (possible exception: *See* 7(f)(ii), above).

(i) The RAC must procure and maintain pollution liability coverage for professional liability and/or general liability, as appropriate.

(ii) The minimum amount of pollution liability insurance to be purchased will increase by 25% per year unless EPA determines that the increased amount of insurance is not generally available. Thus, where t is defined as the number of years elapsed since promulgation of this policy guidance, the minimum amount of pollution liability insurance required in year t is equal to:

$1 million *1.25^{t}

(iii) The demonstration of "diligent efforts" is defined in 7(d), above. Those diligent efforts must be deemed satisfactory by EPA.

(c) Reimbursement: RACs working for EPA under cost reimbursement contracts shall submit to the Contracting Officer for prior approval all insurance policies (or documentation of all self-insurance plans) for which reimbursement will be sought from EPA.

[7] For example, if the indemnification agreement between the prime contractor and subcontractor calls for a $50,000 deductible, and the agreement between EPA and the prime contractor calls for a $200,000 deductible, then, in the event of a claim for $300,000, the subcontractor incurs a $50,000 loss, the prime contractor incurs a $150,000 loss, and EPA incurs a $100,000 loss.

(i) Any cost incurred within the EPA indemnification deductible amount (see below) will not be reimbursed as either direct or indirect cost. The RAC may purchase insurance to cover the indemnification deductible amount, but the cost of that insurance is not reimbursable (nor is any portion of the deductible amount of that insurance reimbursable as either a direct or indirect cost).

(d) Self-Insurance: If an RAC proposes to self-insure against pollution liability, and seeks reimbursement for the cost of self-insurance or seeks to satisfy the "minimum insurance" requirement of section 10(b) through self-insurance, it must demonstrate to EPA financial responsibility for the amount of self-insurance proposed. Financial responsibility may be demonstrated by letter of credit, surety bond, trust fund, escrow account, or other method approved by the EPA Contracting Officer.

(i) A demonstration of financial viability, by itself, does not consitute an adequate demonstration of financial responsibility.

(ii) To be eligible for reimbursement of the cost of self-insurance, a RAC must satisfy the applicable requirements of 48 CFR Parts 28, 30, and 31, and 4 CFR Part 416.

(e) Limits and Deductibles: Where EPA has agreed to indemnify a cost reimbursement RAC working for EPA, the limit of indemnification included in the indemnification agreement shall be requested by the RAC. The limit must be not less than $1 million and not more than $50 million. The deductible to be incurred by the RAC will depend on the limit chosen. Both the indemnification limit and the deductible amount shall be specified in the indemnification agreement.

(i) For RACs requesting indemnification limits of $1 million, the deductible amount shall be equal to 1% of the indemnification limit (i.e., $10,000).

(ii) For RACs requesting indemnification limits of $5 million or less, but more than $1 million, the deductible amount shall be equal to 2% of the indemnification limit. That is:

.02 * L

Where L is the indemnification limit.

(iii) For RACs requesting indemnification limits of $10 million or less, but more than $5 million, the deductible amount shall be equal to 3% of the indemnification limit in excess of $5 million, plus $100,000. That is:

$100,000 + (.03 * (L − $5,000,000))

Where L is the indemnification limit.

(iv) For RACs requesting indemnification limits of $25 million or less, but more than $10 million, the deductible amount shall be equal to 5% of the indemnification limit in excess of $10 million, plus $250,000. That is:

$250,000 + (.05 * (L − $10,000,000))

Where L is the indemnification limit.

(v) For RACs requesting indemnification limits of $50 million or less, but more than $25 million, the deductible amount shall be equal to 10% of the indemnification limit in excess of $25 million, plus $1,000,000. That is:

$1,000,000 + (0.1 * (L − $25,000,000))

Where L is the indemnification limit.

Therefore, a cost reimbursement RAC requesting the maximum per contract indemnification limit of $50 million will be subject to a deductible of $3.5 million per occurrence.

(f) Limits, Deductibles, and Purchased Insurance: Any pollution liability insurance (or self-insurance), for the cost of which EPA reimbursed the RAC, reduces the limit of EPA indemnification on a dollar for dollar basis. Further, the RAC must exhaust both the available insurance coverage and the EPA deductible (found in the indemnification agreement) before EPA will make an indemnification payment. For example, if a RAC has an indemnification agreement with EPA that includes a $5 million limit (thus, a $100,000 deductible), and has $1 million of pollution liability insurance coverage, then the RAC must incur $1,100,000 before EPA will make indemnification payments, and EPA's obligation to indemnify is limited to $4 million ($5 million from the indemnification agreement, less $1 million purchased insurance). Any deductible amount on the commercial insurance policy (or self-insurance) is irrelevant to EPA's coverage trigger.

11. Indemnification of RACs Working for EPA with Firm Fixed Price (Sealed Bid) Contracts

(a) General: Although the Government is not ordinarily concerned with the contractor's insurance coverage if the contract is a fixed price contract, EPA recognizes that a RAC cleaning up a Superfund site may require insurance coverage against third-party liability, and that, in some cases, adequate insurance may not be available. In such cases, and from a bidder's perspective, EPA indemnification may be a prerequisite to cleanup activities at the site. Therefore, EPA will offer limited indemnification against third-party pollution liability to all firm fixed price RACs.

(b) RACs that seek EPA indemnification, and are working for EPA under fixed price contracts, including RACs working for the U.S. Army Corps of Engineers at EPA-lead sites, must procure and maintain all insurance required by the Contracting Officer.

(c) RACs working for EPA under fixed price contracts will not be reimbursed the cost of purchased insurance (except insofar as the cost of insurance may be reflected in the fixed price).

(d) All indemnification agreements must contain a limit of indemnification and a deductible amount. A firm fixed-price RAC may request any amount of indemnification coverage (not to exceed $50 million), and any deductible (with a minimum deductible of $10,000) as part of its bid.

(i) The Invitation For Bid (IFB) will include a "price schedule" for indemnification (with prices depending on the size of the limit and size of deductible amount). When EPA evaluates a bid, it will consider the requested indemnification coverage to be part of the bidder's requested remuneration. That is, when selecting the lowest bidder for a project, EPA will evaluate the "net bid", i.e. the bid plus the value (as reflected in the price schedule) of any requested indemnification. Consequently, bidders should consider carefully their estimation of the value of EPA indemnification before requesting such indemnification.

(ii) Model price schedules will be published in a supplement to this policy guidance.

(iii) Once included in the contract of a firm fixed-price RAC, indemnification terms and conditions cannot be modified.

(e) RACs working for EPA under firm fixed price contracts are deemed to have met the "diligent efforts" requirements of section 7, above. Because of the implicit "penalty" associated with indemnification of fixed-price RACs (through the bid evaluation scheme), it can be assumed that adequate "reasonably priced" insurance is not available if a fixed-price RAC requests indemnification.

12. Indemnification of RACs Working for EPA Under Negotiated Fixed Price Contracts

(a) For the purpose of indemnification, RACs working for EPA under negotiated fixed price contracts (including RACs under fixed rate contracts with some cost elements reimbursable, such as Time-and-Materials Contracts) will be considered cost reimbursement

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contractors. If a negotiated fixed price RAC requests indemnification, it will be subject to the same insurance requirements and indemnification terms and conditions as cost reimbursement contractors (see section 10, above).

13. Indemnification of SITE Program RACs

(a) Technology vendors participating in the SITE program are defined as RACs by CERCLA section 119(e). Thus, those vendors participating in the SITE program, under cooperative agreement with EPA, may be eligible to enter into an indemnification agreement with EPA.

(b) Before EPA will agree to enter into an indemnification agreement with a SITE program vendor, the vendor must satisfy the requirements of section 7 of this document (i.e., EPA must determine that reasonably priced pollution liability insurance is not available to SITE program RACs, or the vendor must demonstrate that it has made diligent efforts to obtain pollution liability insurance from non-federal sources). The cost of insurance purchased pursuant to section 7 will not be reimbursed by EPA. The vendor should be aware that indemnification coverage from EPA may be available only at a substantial cost (i.e., the cost of purchased insurance).

(c) The limit and deductible amounts of EPA indemnification will be determined as if the vendor were a cost-reimbursement contractor working for EPA (see section 10, above).

(d) EPA will not indemnify SITE program RACs with respect to facilities which receive waste for disposal, treatment (not including small-scale demonstration testing), or storage independently of the SITE technology demonstration.

(e) EPA will not indemnify SITE program RACs with respect to any work conducted at a Federal facility (as described in CERCLA section 120), unless the Federal agency in question is the EPA.

(f) If a SITE demonstration project is funded by a party other than EPA, then the SITE RAC will be considered, for the purpose of indemnification, a RAC employed by that party. For example, if a SITE Program RAC is conducting a demonstration funded at least in part by a PRP, then EPA will not indemnify the SITE Program RAC (see section 10, below).

14. Indemnification of RACs Receiving Grants Under SARA Section 126(g)

(a) RACs receiving SARA section 126(g) grants may be eligible to enter into an indemnification agreement with EPA. Before EPA will agree to enter into an indemnification agreement with a grantee, the grantee must satisfy the requirements of section 7 of this document (i.e., the grantee must demonstrate that it has made diligent efforts to obtain pollution liability insurance from non-federal sources).

(i) The cost of insurance purchased pursuant to section 7 will not be reimbursed by EPA. The grantee should be aware that indemnification coverage from EPA may be available only at a substantial cost (i.e., the cost of purchased insurance).

(b) The limit of EPA indemnification will be equal to the greater of the dollar amount of the grant, or $1 million. The maximum limit is $50 million. The deductible amount is computed as if the grantee were a cost-reimbursement contractor (see section 10(e), above).

15. Indemnification of RACs Employed by States or Political Subdivisions

(a) General: EPA has been granted discretionary authority to indemnify RACs employed by states, political subdivisions of states, or federally-recognized Indian tribes that have entered into a cooperative agreement with EPA for new work initiated at NPL or removal action sites after the date of enactment of SARA. If EPA agrees to indemnify a RAC employed by such entity, the indemnification agreement will be embodied in the cooperative agreement through insertion of a special condition.

(b) Requirements for EPA Indemnification: The procedures for entering into indemnification agreements with RACs working for states (or political subdivisions) or federally-recognized Indian tribes under cooperative agreements are identical to those for RACs working directly for EPA. In addition, before EPA will enter into an indemnification agreement, proof of the following must be supplied to EPA:

(i) The RAC's contract concerns new site work initiated at an NPL or removal action site after the date of enactment of SARA; and

(ii) The RAC's contract is directly related to site cleanup.

(c) Terms and Conditions: For the purpose of determining the terms and conditions of an indemnification agreement, a RAC working for a state (or political subdivision) or federally-recognized Indian tribe under cooperative agreement will be subject to the same provisions of this guidance as would an EPA RAC. For example, if a RAC is working for a state under a cost reimbursement contract, the terms and conditions found in section 10 of this guidance will apply.

(d) EPA will agree to indemnify a RAC working for a state (or political subdivision) or federally-recognized Indian tribe even if that entity has agreed to indemnify the RAC. Responsibility for making indemnification payments will be held jointly by the EPA and the state (or political subdivision or federally-recognized Indian tribe). Unless otherwise stated in the indemnification agreement(s), responsibility for making indemnification payments will be divided equally between EPA and the state (or political subdivision or federally-recognized Indian tribe). Any indemnification payments made by EPA, however, are subject to the limits and deductibles specified in the indemnification agreement.

(e) EPA may agree to indemnify a RAC which is required under the terms of its contract with a state (or political subdivision) or federally-recognized Indian tribe to indemnify and hold harmless such contracting entity from claims, damages, losses and expenses, including litigation costs, that arise out of the RAC's performance of the contract. However, any costs or expenses payable to the state (or political subdivision) or federally-recognized Indian tribe under such indemnification are the sole responsibility of the RAC and are not covered under EPA's indemnification of the RAC or otherwise an eligible expense of the cooperative agreement.

16. Indemnification of RACs Employed by Federal Agencies Other Than EPA

(a) General Rule: Under CERCLA section 119 (as implemented by E.O. 12580), other Federal agencies are granted discretionary authority to indemnify RACs they employ at NPL or removal action sites from the date of enactment of SARA. Other federal agencies that indemnify RACs under section 119 must use their own appropriations to fund their programs and pay all indemnification costs. Under CERCLA section 120(a)(2), if other federal agencies choose to indemnify their RACs under CERCLA authority, then that indemnification must not be inconsistent with these guidelines.

(b) Interagency agreements: RACs employed by other Federal agencies (e.g., the Army Corps of Engineers) at EPA-lead NPL or removal action sites, managed pursuant to an interagency agreement with EPA, are subject to the same provisions of this guidance as are RACs employed by EPA. Thus, the same indemnification terms and conditions offered to RACs employed by EPA may be offered to RACs employed by other agencies under interagency agreements with EPA.

17. Indemnification of RACs Employed by PRPs

CERCLA § 119(c)(5)(C) (as implemented by E.O. 12580) gives EPA the discretionary authority to enter into an indemnification agreement with a RAC employed by any potentially responsible party (PRP) which has entered into an agreement (such as a consent decree) with EPA. EPA will not exercise that discretionary authority, i.e., EPA will not agree to indemnify a RAC under contract with a PRP.

Other Issues

18. Exclusion of Facilities That Receive Waste

(a) EPA is prohibited (by CERCLA section 119(c)(5)(D)) from providing indemnification to owners or operators of facilities regulated under the Solid Waste Disposal Act, as amended, with respect to response activities performed at, or potential liability related to, those facilities.

(b) Under section 119, EPA will not agree to indemnify any owner or operator of a facility that receives solid or hazardous waste (for disposal, treatment, or storage), including publicly owned treatment works (POTWs), with respect to that facility. This applies to a facility regardless of whether or not it is subject to the permit-by-rule provisions, or any other provision of RCRA.

19. Other Terms and Conditions

(a) EPA will indemnify only RACs performing work directly related to site cleanup.

(b) At any time, EPA may cancel its indemnification of a RAC due to a material misrepresentation or a failure on the part of the RAC to provide necessary information.

(c) EPA reserves the right to add such additional terms and conditions to its RAC indemnification agreements as it deems necessary. Such terms and conditions will be consistent with CERCLA section 119.

20. Claims Notifications and Processing

(a) The RAC shall provide written notification to the contracting officer (or other EPA official designated in the indemnification agreement) immediately (i.e., within 20 days) upon receiving notice of any claim or action that may involve section 119 indemnification. EPA will not provide indemnification payments for costs incurred prior to its receipt of written notice from the RAC. Notice must include a copy of the complaint or other claim, or, if no written claim has been received, available information on the time, place, and circumstances involved and the names and addresses of the injured and of available witnesses.

(b) The RAC shall notify its insurers promptly (i.e., within 20 days) of any claim or action that may involve EPA indemnification, even if the RAC believes that its insurance is not applicable to the claim or action. The RAC shall provide to the contracting officer (or other designated person) a copy of any correspondence from the insurance company, including any notice of denial of coverage.

(c) The RAC shall furnish evidence or proof related to any claim that may involve indemnification payments in the manner and form required by EPA.

(d) The RAC shall furnish to EPA complete photocopies of all of the RAC's insurance policies that were in force at the time of the response action, and all those in force at the time of the notice of claim.

(e) EPA reserves the right to direct, control, or assist in the settlement or defense of any claim or action against an indemnified RAC.

(f) The RAC shall not admit liability or settle any claim without EPA's written consent.

(g) If EPA recommends settlement of a claim for an amount within the RAC's deductible, and the RAC refuses such settlement, EPA shall not be obligated to indemnify for any loss or obligation of the RAC relating to the claim in excess of the deductible.

(h) If EPA recommends settlement of a claim for a total amount in excess of the RAC's indemnification limit (as specified in the contract) and the RAC refuses such settlement, EPA's obligation for any loss shall be limited to that portion of the recommended settlement and the costs, charges, and expenses (as of the RAC's refusal) that exceeds the deductible and falls within the limit of liability.

(i) EPA reserves the right to make any claim payment either to the RAC or the claimant at its discretion.

21. Cost Recovery

Under section 119(c)(6), indemnification payments made by EPA to RACs are recoverable from PRPs as a response cost. EPA shall document any indemnification payments by following the same record-keeping and reporting procedures as for all other response costs.

22. Limitation

Nothing in this guidance shall be construed as a waiver of sovereign immunity by the United States. Nothing in this guidance shall be construed to establish the United States as a liable party, within the meaning of section 107 of CERCLA, for any release that has occurred or may occur in the course of any response action the United States undertakes pursuant to section 104 of CERCLA. In addition, EPA's agreement to indemnify any RAC, or EPA's payment of any money under an indemnification agreement, shall not be construed as a waiver of sovereign immunity by the United States, within the meaning of section 107 of CERCLA.

Jonathan Z. Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

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Part VI

United States Sentencing Commission

Notification of Miscellaneous Amendments; Notice

UNITED STATES SENTENCING COMMISSION

Notification of Miscellaneous Actions

AGENCY: United States Sentencing Commission.

cocaine base ("crack") and to the authority of courts to deny or terminate certain federal benefits to defendants convicted of controlled substances offenses.

New Policy Statement: Retroactive application of amendments to guideline sentencing ranges. Section 994(a)(2) of

availability of penalties under section 5301.

New Policy Statement: Retroactive application of amendments to guideline sentencing ranges. Section 994(a)(2) of

base, apply § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking) as if the defendant had been convicted of possession of that mixture or substance with intent to distribute.'".

Commentary

Application Note:

1. 'Federal benefit' is defined in 21 U.S.C. 853a(d) to mean 'any grant, contract, loan, professional license, or commercial license

Chapter One, Part B, is amended by inserting the following additional policy statement:

"1B1.10. Retroactivity of Amended

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UNITED STATES SENTENCING COMMISSION

Notification of Miscellaneous Actions

AGENCY: United States Sentencing Commission.

ACTION: Public notice of (1) promulgation of a temporary, emergency sentencing guideline amendment for possession of cocaine base ("crack"); (2) promulgation of a temporary, emergency guideline amendment concerning the statutory authority of judges to deny or terminate certain Federal benefits; (3) promulgation of a sentencing policy statement concerning the retroactive applicability of sentencing guideline amendments; and, (4) approval of miscellaneous technical and clarifying revisions to the Guidelines Manual.

SUMMARY: The Sentencing Commission hereby gives public notice of several actions taken pursuant to its authorities under section 21(a) of the Sentencing Act of 1987 (Pub. L. 100–182) and section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. § 994 (a) and (u)).

DATES: The effective date of the actions set forth below is November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director for the Commission, telephone (202) 662–8800.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent commission in the judicial branch of the United States Government. Section 21(a) of the Sentencing Act of 1987 (Pub. L. 100–182, Dec. 7, 1987) authorizes the U.S. Sentencing Commission to promulgate temporary, emergency guidelines or amend existing guidelines in certain circumstances, including "the creation of a new offense or amendment of an existing offense." Unlike regular amendments issued pursuant to 28 U.S.C. 994(p), amendments promulgated by the Commission under this authority are not required to be submitted to Congress for 180 days' review prior to their taking effect; nor is the Commission required to publish proposed temporary, emergency guideline amendments prior to promulgation, though it may do so if circumstances permit. However, section 21 emergency amendments are temporary; i.e., unless submitted to Congress as regular amendments in the next regular amendment report, they expire upon the disposition of that report.

The temporary amendments set forth below pertain to the possession of cocaine base ("crack") and to the authority of courts to deny or terminate certain federal benefits to defendants convicted of controlled substances offenses.

Possession of cocaine base ("crack"). Section 6371 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988), sets forth mandatory minimum terms of imprisonment for defendants possessing certain amounts of cocaine base ("crack"). On June 5, 1989, the Commission published in the **Federal Register** for comment three options for a proposed temporary, emergency sentencing guideline amendment incorporating the new statutory penalties. 54 FR 24073–24074 (1989). On July 18, 1989, the Commission reviewed its proposed temporary, emergency guideline amendments on simple possession and possession with intent to distribute. While it did not necessarily accept the view of some who submitted comments that the proposals were outside of its emergency guideline promulgation authority, the Commission decided to promulgate the narrow amendment set forth below as amendment 1. This amendment provides that convictions for possession of cocaine base ("crack") subject to the enhanced penalties created by section 6371 of the Anti-Drug Abuse Act of 1988 are to be treated as if the conduct constituted possession of the controlled substance with intent to distribute.

Denial of certain Federal benefits. On August 30, 1989, the President of the United States submitted a report to Congress concerning the implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988) pertaining to denial of Federal benefits for certain drug offenders. In that report, the President "ask[s] the United States Sentencing Commission to assist in the initial dissemination of information to the Federal courts" regarding section 5301. Further, the report states that "[p]rincipal responsibility will rest with the Sentencing Commission to disseminate all necessary information concerning section 5301 to Article III Judges and other appropriate Federal personnel." In response to discussions with the Office of Drug Policy and the Office of Management and Budget regarding this anticipated request of the President, and in preparation for the submission of his report to Congress, the Commission adopted the temporary, emergency guideline amendment on August 22, 1989, set forth below as amendment 2. The amendment informs judges, probation officers, and all recipients of the Guidelines Manual of the availability of penalties under section 5301.

New Policy Statement: Retroactive application of amendments to guideline sentencing ranges. Section 994(a)(2) of title 28, United States Code authorized the Commission to promulgate policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation. Unlike guideline amendments issued pursuant to 28 U.S.C. § 994(p), sentencing policy statements and amendments thereto promulgated by the Commission are not required to be submitted to Congress for 180 days' review prior to their taking effect.

Section 3582(c)(2) of title 18, United States Code provides that "the court may reduce the term of imprisonment [in the case of a defendant who has been sentenced to a term of imprisonment based upon a sentence range that has subsequently been lowered by the Sentencing Commission] * * * if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." Further, under section 994(u) of title 28, United States Code, the Commission is directed to "specify in what circumstances and by what amount the sentences of prisoners serving terms of imprisonment for the offense may be reduced" where it has lowered sentencing ranges applicable to an offense or group of offenses. In furtherance of these statutory mandates, on September 12, 1989, the Commission adopted a policy statement concerning the retroactive application of amendments that reduce guideline ranges set forth below as amendment 3.

Technical revisions to the Guidelines Manual. The Commission approved several miscellaneous technical and clarifying revisions to the Guidelines Manual as set forth below under Miscellaneous Matters.

Authority: Section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994(a) and (u)) and Section 21(a) of the Sentencing Act of 1987 (Pub. L. 100–182).

William W. Wilkins, Jr.,
Chairman.

Amendment 1

The Commission has promulgated the following temporary, emergency amendment to the guidelines and commentary implementing statutory minimum sentences for possession of cocaine base ("crack"):

Section 2D2.1 is amended by inserting the following additional subsection:

"(b) Cross Reference

(1) If the defendant is convicted of possession of more than 5 grams of a mixture or substance containing cocaine base, apply § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking) as if the defendant had been convicted of possession of that mixture or substance with intent to distribute.'".

The Commentary to § 2D2.1 captioned "Background" is amended by deleting the entire text as follows:

"Background: Absent a prior drug related conviction, the maximum term of imprisonment authorized by st... te is one year. With a single prior drug related conviction, a mandatory minimum term of imprisonment of fifteen days is required by statute and the maximum term of imprisonment authorized is increased to two years. With two or more prior drug related convictions, a mandatory minimum term of imprisonment of ninety days is required by statute and the maximum term of imprisonment authorized is increased to three years.",

and inserting in lieu thereof:

"Background: Mandatory minimum penalties for several categories of cases, ranging from fifteen days' to five years' imprisonment, are set forth in 21 U.S.C. 844(a). When a mandatory minimum penalty exceeds the guideline range, the mandatory minimum becomes the guideline sentence. § 5G1.1(b).

Section 2D2.1(b)(1) provides a cross reference to § 2D1.1 for possession of more than five grams of a mixture or substance containing cocaine base, an offense subject to an enhanced penalty under Section 6371 of the Anti-Drug Abuse Act of 1988. Other cases for which enhanced penalties are provided under Section 6371 of the Anti-Drug Abuse Act of 1988 (e.g., for a person with one prior conviction, possession of more than three grams of a mixture or substance containing cocaine base; for a person with two or more prior convictions, possession of more than one gram of a mixture or substance containing cocaine base) are to be sentenced in accordance with § 5G1.1(b).'".

Statement of Reasons: The purpose of this amendment is to reflect revisions in 21 U.S.C. 844(a) made by section 6371 of the Anti-Drug Abuse Act of 1988.

Amendment 2

The Commission has promulgated the following temporary, emergency guideline amendment concerning the statutory authority of judges to deny or terminate certain Federal benefits: Chapter Five, Part F, is amended by inserting the following additional section:

"§ 5F1.6. Denial of Federal Benefits to Drug Traffickers and Possessors

The court, pursuant to 21 U.S.C. 853a, may deny the eligibility for certain Federal benefits of any individual convicted of distribution or possession of a controlled substance.

Commentary

Application Note:

1. 'Federal benefit' is defined in 21 U.S.C. 853a(d) to mean 'any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States' but 'does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.'

Background: Subsections (a) and (b) of 21 U.S.C. § 853a provide that an individual convicted of a state or federal drug trafficking or possession offense may be denied certain federal benefits. Except for an individual convicted of a third or subsequent drug distribution offense, the period of benefit ineligibility, within the applicable maximum term set forth in 21 U.S.C. 853a(a)(1) (for distribution offenses) and (a)(2) (for possession offenses), is at the discretion of the court. In the case of an individual convicted of a third or subsequent drug distribution offense, denial of benefits is mandatory and permanent under 21 U.S.C. 853a(a)(1)(C) (unless suspended by the court under 21 U.S.C. 853a(c)).

Subsection (b)(2) of 21 U.S.C. § 853a provides that the period of benefit ineligibility that may be imposed in the case of a drug possession offense 'shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.'

Subsection (c) of 21 U.S.C. 853a provides that the period of benefit ineligibility shall be suspended 'if the individual (A) completes a supervised drug rehabilitation program after becoming ineligible under this section; (B) has otherwise been rehabilitated; or (C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.'

Subsection (e) of 21 U.S.C. 853a provides that a period of benefit ineligibility 'shall not apply to any individual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program.'".

Statement of Reasons: The purpose of this amendment is to reflect the enactment of 21 U.S.C. 853a by section 5301 of the Anti-Drug Abuse Act of 1988.

Amendment 3

The Commission has promulgated the following policy statement concerning the retroactive application of amendments to guideline sentencing ranges:

Chapter One, Part B, is amended by inserting the following additional policy statement:

"1B1.10. Retroactivity of Amended Guideline Range (Policy Statement)

(a) Where a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the guidelines listed in subsection (d) below, a reduction in the defendant's term of imprisonment may be considered under 18 U.S.C. 3582(c)(2). If none of the amendments listed in subsection (d) is applicable, a reduction in the defendant's term of imprisonment under 18 U.S.C. 3582(c)(2) is not consistent with this policy statement.

(b) In determining whether a reduction in sentence is warranted for a defendant eligible for consideration under 18 U.S.C. 3582(c)(2), the court should consider the sentence that it would have originally imposed had the guidelines, as amended, been in effect at that time.

(c) Provided, however, that a reduction in a defendant's term of imprisonment—

(1) is not authorized unless the maximum of the guideline range applicable to the defendant (from Chapter Five, Part A) has been lowered by at least six months; and

(2) May, in no event, exceed the number of months by which the maximum of the guideline range applicable to the defendant (from Chapter Five, Part A) has been lowered.

(d) Amendments covered by this policy statement are listed in Appendix C as follows: 126, 130, 156, 176, and 269.

Commentary

Application Note:

1. Although eligibility for consideration under 18 U.S.C. 3582(c)(2) is triggered only by an amendment listed in subsection (d) of this section, the amended guideline range referred to in subsections (b) and (c) of this section is to be determined by applying all amendments to the guidelines (i.e., as if the defendant was being sentenced under the guidelines currently in effect).

Background: Section 3582(c)(2) of Title 18, United States Code, provides: '[I]n the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.'

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This policy statement provides guidance for a court when considering a motion under 18 U.S.C. 3582(c)(2) and implements 28 U.S.C. 994(u), which provides: 'If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify in what circumstances and by what amount the sentences of prisoners serving terms of imprisonment for the offense may be reduced.'

Among the factors considered by the Commission in selecting the amendments included in subsection (d) were the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively.

The requirement in subsection (c)(1) that the maximum of the guideline range be lowered by at least six months for a reduction to be considered is in accord with the legislative history of 28 U.S.C. 994(u) (formerly 994(t)), which states: 'It should be noted that the Committee does not expect that the Commission will recommend adjusting existing sentences under the provision when guidelines are simply refined in a way that might cause isolated instances of existing sentences falling above the old guidelines or when there is only a minor downward adjustment in the guidelines. The Committee does not believe the courts should be burdened with adjustments in these cases.' S. Rep. 98–225, 98th Cong., 1st Sess. 180 (1983).".

Statement of Reasons: The purpose of this amendment is to implement the directive in 28 U.S.C. 994(u).

Miscellaneous Matters

The Commission has approved the following miscellaneous, technical, and clarifying revisions to the Guidelines Manual. The number of the amendment in Appendix C of the revised Manual containing the revision is shown following each revision.

The following additional application note is inserted in the Commentary to § 2B3.1 to complement the addition of a specific offense characteristic subdivision pertaining to "an express threat of death:"

"8. 'An express threat of death,' as used in subsection (b)(2)(D), may be in the form of an oral or written statement, act, gesture, or combination thereof. For example, an oral or written demand using words such as 'Give me the money or I will kill you', 'Give me the money or I will pull the pin on the grenade I have in my pocket', 'Give me the money or I will shoot you', 'Give me your money or else (where the defendant draws his hand across his throat in a slashing motion)', or 'Give me the money or you are dead' would constitute an express threat of death. The court should consider that the intent of the underlying provision is to provide an increased offense level for cases in which the offender(s) engaged in conduct that would instill in a reasonable person, who is a victim of the offense, significantly greater fear than that necessary to constitute an element of the offense of robbery.".

(Appendix C, amendment 110).

A typographical error in the amended § 2D1.1(c)(14) is corrected by revising "Schedule I or I Depressants" to read "Schedule I or II Depressants". No substantive change occurs because this result would be required by, and the intent of this subsection is clear from, the immediately preceding and following subsections. In addition, the Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 by deleting "Other Schedule I or II Substances" and inserting in lieu thereof "Schedule I or II Depressants" to conform to the revision in the guideline (Appendix C, amendment 125).

The Commentary to § 2D1.5 captioned "Application Notes" is amended in Note 2 by deleting "if the quantity of drugs substantially exceeds that required for level 36 in the drug quantity table,", and by deleting "is extremely" and inserting in lieu thereof "was extremely". This revision conforms this Commentary to the amendment of the Drug Quantity Table in § 2D1.1, which expanded the Drug Quantity Table itself to provide higher offense levels for extremely large drug quantities (Appendix C, amendment 139).

The Commentary to § 2F1.1 captioned "Application Notes" is amended in Note 1 by deleting "(b)(2)" and inserting in lieu thereof "(b)(3)", and by deleting "several" and inserting in lieu thereof "both" to conform to the revision of the guideline (Appendix C, amendment 156).

The Commentary to § 4B1.1 captioned "Application Note" is amended in Note 1 by deleting "felony conviction" and inserting in lieu thereof "two prior felony convictions" to make an editorial improvement (Appendix C, amendment 267).

The caption to § 4B1.2 is amended by deleting "Definitions" and inserting in lieu thereof "Definitions of Terms Used in § 4B1.1", and §§ 4B1.2 (1) and (2) are amended by deleting "as used in this provision" in each instance to make an editorial improvement (Appendix C, amendment 268).

Editorial improvements are made to the sentencing table in Chapter Five, part A, by inserting "(in months of imprisonment)" immediately under the title "Sentencing Table", by inserting "(Criminal History Points)" immediately following the caption "Criminal History Category", and by enclosing in parentheses each of the six sets of criminal history points displayed under that caption (Appendix C, amendment 270).

To conform to an amendment to § 5C1.1 authorizing the use of home detention as a substitute for imprisonment in certain circumstances, § 5B1.1(a)(2) is amended by deleting "or community confinement" and inserting in lieu thereof ", community confinement, or home detention". The Commentary to § 5B1.1 captioned "Application Notes" is amended in Note 1 by inserting ", home detention," immediately after "community confinement" wherever the latter appears. Chapter One, section 4(d) is amended in the third sentence of the third paragraph by deleting "or intermittent confinement" and inserting in lieu thereof ", intermittent confinement, or home detention", and in the fourth sentence of the third paragraph by inserting "or home detention" immediately following "of community confinement". These conforming revisions make no substantive change because § 5C1.1, as amended, is controlling in any event (Appendix C, amendment 271).

A revision to the amended Commentary of § 5G1.3, is made to clarify that the amended commentary recommends, rather than requires, the court apply the methodology described. The Commentary to § 5G1.3, as amended, is revised in the second sentence of the second paragraph by deleting "The court should impose" and inserting in lieu thereof "The court may consider imposing", and by inserting the following additional sentences at the end "Where the defendant is serving a term of imprisonment for a state offense, the information available may permit only a rough estimate of the total punishment that would have been imposed under the guidelines. It is not intended that the above methodology be applied in a manner that unduly complicates or prolongs the sentencing process." (Appendix C, amendment 289).

A typographical error in an amended statutory reference in the Statutory Index is corrected by revising "43 U.S.C. 1773(a)" to read "43 U.S.C. 1733(a)" (Appendix C, amendment 298).

In addition, the Commission inserted a "Historical Note" following each guideline section that contains the effective date of the section and the Appendix C reference number of each amendment to the section, and has made a number of additional minor editorial changes to improve the internal consistency and appearance of the Manual.

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Part VII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 29 and 52
Federal Acquisition Regulation (FAR); Raising Thresholds in FAR Tax Sections; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 29 and 52

Federal Acquisition Regulation (FAR); Raising Thresholds in FAR Tax Sections

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering revisions to FAR Parts 29 and 52 regarding taxes.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 2, 1990 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–73 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

As part of an ongoing review of various dollar thresholds in the FAR, the Councils have concluded that certain thresholds in Parts 29 and 52 pertaining to taxes should be changed.

Section 29.201 instructs Government contracting officers to solicit prices on a tax-exclusive basis when they know that the Government is exempt from the taxes and the exemption is at least $100. The Councils are proposing that the threshold be eliminated since it requires no additional effort by either the Government or offerors if prices are solicited on a tax-free basis, and if the Government is exempt from a tax it should not pay it.

The Councils are proposing to revise 29.401–3, 29.401–4, and 29.402–2 to consistently apply the policy that contract clauses relating to taxes generally are not applicable to procurements of less than $25,000. The clauses at 52.229–3, 52.229–4, 52.229–6, and 52–229–7 all state that no adjustments in contract price shall be made to contracts that contain the clauses unless the amount of the adjustment exceeds $100. The Councils believe that $100 is too low to justify a contract modification, and therefore are proposing to raise the figure to $250.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant cost or administrative impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et. seq., because it does not require any additional action on the part of contractors, and because the dollar amounts involved are relatively low. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments from small entities concerning the affected FAR subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite § 89–610 (FAR Case 89–73) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 29 and 52

Government procurement.

Dated: October 23, 1989.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 29 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 29 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 29—TAXES

2. Section 29.201 is amended by revising paragraphs (b) and (c) to read as follows:

29.201 General.

* * * * *

(b) Sometimes the law exempts the Federal Government from these taxes. Contracting officers should solicit prices on a tax-exclusive basis when it is known that the Government is exempt from these taxes, and on a tax-inclusive basis when no exemption exists.

(c) Executive agencies shall take maximum advantage of available Federal excise tax exemptions.

3. Section 29.401–3 is revised to read as follows:

29.410–3 Competitive contracts.

The contracting officer shall insert the clause at 52.229–3, Federal, State, and Local Taxes, in all solicitations and contracts if the contract is to be performed wholly or partly within the United States, its possessions, or Puerto Rico when a fixed-price contract is contemplated, and the contract is expected to exceed the small purchase limitation in 13.000, unless the clause at 52.229–4, Federal, State, and Local Taxes (Noncompetitive Contract), is included in the contract.

4. Section 29.401–4 is amended by revising the first sentence to read as follows:

29.401–4 Noncompetitive contracts.

The contracting officer shall insert the clause at 52.229–4, Federal, State, and Local Taxes (Noncompetitive Contract), in fixed-price noncompetitive contracts when the contract exceeds the small purchase limitation in 13.000 to be performed wholly or partly within the United States, its possessions, or Puerto Rico when satisfied (a) that the contract price does not include contingencies for State and local taxes and (b) that, unless the clause is used, the contract price will include such contingencies. * * *

29.402–1 [Amended]

5. Section 29.402–1 is amended in paragraph (a) by inserting the words "expected to exceed the dollar amount in 13.000" after the words "solicitations and contracts", and in paragraph (b) by inserting the words "that exceed the dollar amount in 13.000" after the words "solicitations and contracts".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.229–3 [Amended]

6. Section 52.229–3 is amended by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(OCT 1989)"; by removing in paragraph (f) the figure "$100" and inserting in its place the figure "$250"; and by removing the two derivation lines following "(End of clause)".

7. Section 52.229–4 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its

place the date "(OCT 1989)"; by removing in paragraph (f) the figure "$100" and inserting in its place the figure "$250"; and by removing the two derivation lines following "(End of clause)" to read as follows:

52.229–4 Federal, State, and Local Taxes (Noncompetitive Contract).

As prescribed in 29.401–4, insert the following clause:

* * * * *

52.229–6 [Amended]

8. Section 52.229–6 is amended by inserting a colon in the first sentence of the introductory text following the word "clause" and removing the remainder of the paragraph; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(OCT 1989)"; by removing in paragraph (g) the figure "$100" and inserting in its place the figure "$250"; and by removing the derivation line following "(End of clause)".

52.229–7 [Amended]

9. Section 52.229–7 is amended by inserting a colon in the first sentence of the introductory text following the word "clause" and removing the remainder of the paragraph; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(OCT 1989)"; by removing in paragraph (d) the figure "$100" and inserting in its place the figure "$250"; and by removing the derivation line following "(End of clause)".

[FR Doc. 89–25516 Filed 10–31–89; 8:45 am]

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PART VIII

The President

Proclamation 6057--Fire Safety at Home Day, 1989

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Title 3—

The President

Proclamation 6057 of October 27, 1989

Fire Safety at Home Day, 1989

By the President of the United States of America

A Proclamation

Sunday, October 29, 1989, is the date on which the Nation will return to Standard Time. In jurisdictions that observe daylight savings time, clocks will be set back 1 hour. We may use this adjustment of the clocks as a reminder to perform other simple actions—actions that can save lives by helping to make our homes safe from accidental fire.

All Americans can take simple steps such as checking to ensure that fire exit paths are clear, safely disposing of dangerous and flammable chemicals through means recommended by their local fire department, and verifying that home appliances are fire-safe. In particular, we can also take a few minutes to test our home smoke detectors, clean them, and change their batteries.

Smoke detectors are a proven lifesaver. The few minutes spent by each American in ensuring the proper operation of smoke detectors can help avert many senseless tragedies. Most of the 6,000 Americans who succumb to fire each year fall victim in their homes. Children, senior citizens, families in substandard housing, and persons with disabilities are particularly vulnerable. Information on the proper methods for cleaning and testing smoke detectors may be obtained from local fire departments.

The Congress, by Senate Joint Resolution 177, has designated October 29, 1989, as "Fire Safety at Home—Change Your Clock, and Change Your Battery Day" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 29, 1989, as Fire Safety at Home Day, 1989. I call upon all Americans to observe this day by taking steps to ensure that their homes are safe from fire.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-25705
Filed 10-30-89; 10:55 am]
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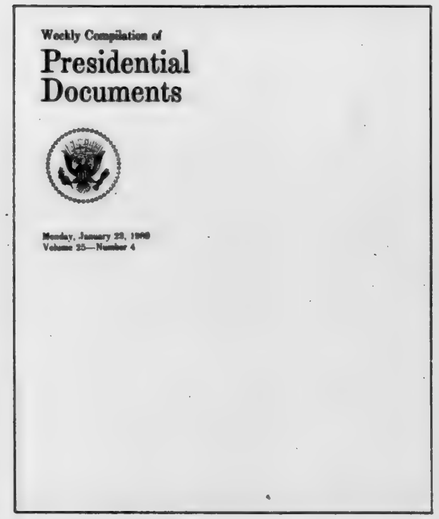
Administration of George Bush



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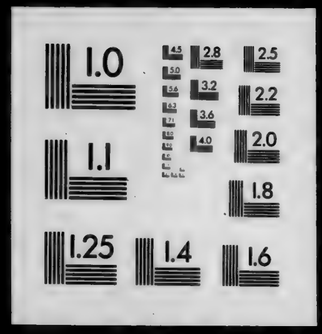

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For information on briefings in San Francisco, CA, and Seattle, WA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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WHO: The Office of the Federal Register.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHEN: November 29; at 9:00 a.m.
WHERE: Room 15138,
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RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center,
415–556–6600.

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WHEN: November 30; at 1:00 p.m.
WHERE: South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.
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Presidential Documents

Title 3—

The President

Notice of October 30, 1989

Continuation of Iran Emergency

On November 14, 1979, by Executive Order No. 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the **Federal Register**, most recently on November 9, 1988, dated November 8, 1988. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1989. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
October 30, 1989.

[FR Doc. 89-25688
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-ANE-04; Amdt. 39-6360]

Airworthiness Directives; Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive which requires repetitive inspections of the combustion chamber outer case. The AD replaces the mirror and white light and the borescope inspection techniques with an eddy current inspection. The AD also adds a reference to the JT8D-17 engine which was inadvertently omitted in one paragraph of the original amendment. The AD is needed to improve the effectiveness of the current inspection program by detecting combustion chamber outer case rear flange cracks which can go undetected and result in uncontained engine failure, inflight shutdown, engine cowl release, and airframe damage.

DATES: Effective—November 13, 1989.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 13, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable alert service bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7121.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-5619 (52 FR 19483; May 26, 1987), AD 87-11-07, which currently requires repetitive inspections to detect cracking of the combustion chamber outer case. The mirror and white light, and borescope inspection techniques for use on installed engines were developed and are included in AD 87-11-07 to provide an alternate inspection method for operator flexibility.

Since AD 87-11-07 was issued two incidents have occurred resulting in an uncontained rupture of the combustion chamber outer case. It has been determined that these ruptures were due to a crack which initiated from the case rear flange. Furthermore, one case rear flange had been inspected in accordance with AD 87-11-07, using the mirror and white light inspection technique while installed on the engine. The failure occurred well within the required reinspection interval, and analysis of the failed case indicates that the crack was of sufficient length to be detected at the last inspection.

The FAA has determined that AD 87-11-07 must be amended to replace the mirror and white light and the borescope inspection techniques for use on installed engines with an eddy current inspection. The mirror and white light and the borescope inspection techniques have been determined inadequate for detecting rear flange cracking of the combustion chamber outer case. Therefore, the FAA is amending Amendment 39-5619, by allowing only an eddy current inspection of the combustion chamber outer case rear flange on certain installed PW JT8D engines. Otherwise cracks could go undetected and result in uncontained engine failure, inflight shutdown, engine cowl release, and airframe damage. The amendment also adds the JT8D-17 engine model where it was inadvertently omitted in one paragraph of the original AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by

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amending Amendment 39-5619 (52 FR 19483; May 26, 1987), Airworthiness Directive (AD) 87-11-07, as follows:

(a) By revising the paragraph preceding paragraph (a) by deleting "Revision 1, September 24, 1986" and inserting in lieu thereof, "Revision 6, June 26, 1989".

(b) By revising paragraphs (b)(1) through (b)(8) by deleting "the effective date of this AD" and inserting in lieu thereof, "June 29, 1987".

(c) By adding to paragraph (c)(2), "-17," between "-15A," and "-17A,".

(d) By revising paragraphs (d)(1) through (d)(8) by deleting "the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676" and inserting in lieu thereof, "June 29, 1987; eddy current inspect in accordance with Appendix A of PW ASB 5676, Revision 6".

(e) By adding the following NOTE (7):

(7) The mirror and white light and borescope inspections for use on installed engines accomplished in accordance with AD 87-11-07, Amendment 39-5619, and PW ASB 5676, Revision 1, at the last inspection prior to the effective date of this AD, are considered to be in compliance with this AD. However, subsequent to the effective date of this AD, the only rear flange crack inspection technique for use on installed engines to be performed in compliance with this AD is the eddy current inspection referenced in Appendix A of PW ASB 5676, Revision 6.

The inspection procedures shall be done in accordance with PW ASB 5676, Revision 6, dated June 26, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC 20591.

This amendment becomes effective on November 13, 1989.

This amendment amends Amendment 39-5619 (52 FR 19483; May 26, 1987), AD 87-11-07.

Issued in Burlington, Massachusetts, on October 3, 1989.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate Aircraft Certification Service.

[FR Doc. 89-25726 Filed 10-31-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 89-ACE-18]

Alteration of Transition Areas—Emporia, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Emporia, Kansas, to provide additional controlled airspace for aircraft executing instrument approaches to the Emporia, Kansas, Municipal Airport. The existing transition area designation at this location delineates two extensions of 8 and 12.5 miles, respectively, but fails to contain a description of the radius surrounding the airport. The intent of this action is to include a 5-mile radius around the Emporia Municipal Airport in the Emporia, Kansas, 700-foot transition area description.

EFFECTIVE DATE: 0901 UTC, March 8, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis, G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On July 28, 1989, the FAA published a Notice of Proposed Rulemaking, which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to alter the transition area at Emporia, Kansas (54 FR 31346). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area at Emporia, Kansas. To enhance airport usage at the Emporia, Kansas Municipal Airport, additional controlled airspace is being provided for aircraft executing instrument approach procedures to this airport by the inclusion of a 5-mile radius surrounding the airport in the transition area designation. The intended effect of this action is to ensure segregation of aircraft using approach procedures under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Emporia, KS [Revised]

The airspace extending upward from 700 ft. above the surface within a 5-mile radius of the Emporia Municipal Airport (lat. 38°19'48" N., long. 96°11'21" W.) and within 2 miles either side of the Emporia VORTAC 134° radial, extending from the 5-mile radius to 8 miles southeast of the VORTAC and 5 miles either side of the 010° bearing from the airport extending from the 5-mile radius to 12.5 miles north.

Issued in Kansas City, Missouri, on October 17, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division Central Region.

[FR Doc. 89-25727 Filed 10-31-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ANM-10]

Description of Transition Area—McCall, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the McCall, Idaho, Transition Area. The McCall Very High Frequency Omnidirectional Radio Range and Tactical Air Navigation Aid (VORTAC) is not located on the McCall Airport. According to FAA guidelines, navigational aids (NAVAIDS) not located within the confines of the airport boundaries should not retain that airport's name. Therefore, the McCall VORTAC has been renamed DONNELLY VORTAC. This action amends the transition area description where "McCall VORTAC" appears to read "DONNELLY VORTAC.".

EFFECTIVE DATE: 0901 UTC, January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 89-ANM-10, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2536.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to part 71 of the Federal Aviation regulations (14 CFR part 71) is to amend the description of the McCall, Idaho Transition Area to read "DONNELLY VORTAC" where "McCALL VORTAC" appears. This amendment changes the description of the McCall, Idaho, Transition Area. The McCall Very High Frequency Omnidirectional Radio Range and Tactical Air Navigation Aid (VORTAC) is not located on the McCall Airport. According to FAA guidelines, navigational aids (NAVAIDS) not located within the confines of the airport boundaries should not retain that airport's name. Therefore, the McCall VORTAC has been renamed DONNELLY VORTAC. This action amends the transition area description where "McCall VORTAC" appears to read "DONNELLY VORTAC."

Because this amendment only changes the reference to the VORTAC, and does not alter the character or dimension of the McCall Transition Area, the FAA finds that prior notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a) 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.18 [Amended]

2. Section 71.181 is amended as follows:

McCall, Idaho [Amended]

By removing "McCall VORTAC" where it appears and substituting "DONNELLY VORTAC".

Issued in Seattle, Washington, on October 16, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-25728 Filed 10-31-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM89-53]

Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of November, December, 1989 and January, 1990. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix (202) 357-8622.

Order of the Director, OPPR

Issued: October 26, 1989.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November, December 1989, and January, 1990 are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to November, 1989 are found in the tables in §§ 271.101 and 271.102.

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List of Subjects in 18 CFR Part 271

Natural gas.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for part 271 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982).

§ 271.101 [Amended]

2. Section 271.101(a) is amended by adding the maximum lawful prices for November, December 1989, and January, 1990 in Tables I and II.

TABLE I.—NATURAL GAS CEILING PRICES (OTHER THAN NGPA §§ 104 and 106(a))

[Maximum lawful price per MMBtu for deliveries in]

Subpart of Part 271	NGPA Section	Category of Gas	Nov. 1989	Dec. 1989	Jan. 1990
B	102	New natural gas, certain OCS gas [1]	$5.480	$5.521	$5.553
C	103(b)(1)	New onshore production wells [2]	3.497	3.506	3.515
E	105(b)(3)	Intrastate existing contracts	5.246	5.274	5.300
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [3].	2.001	2.006	2.011
G	107(c)(5)	Gas produced from tight formations	6.994	7.012	7.030
H	108	Stripper gas	5.879	5.913	5.947
I	109	Not otherwise [4] covered	2.895	2.902	2.909

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See Part 272 of the Commission's regulations.)

[2] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 was deregulated. (See part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. The alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA §§ 104 AND 106(a) (SUBPART D, PART 271)

[Maximum lawful price per MMBtu for deliveries made in]

Category of natural gas	Type of sale or contract	Nov. 1989	Dec. 1989	Jan. 1990
Post-1974 gas [5]	All producers	$2.895	$2.902	$2.909
1973–74 Biennium gas	Small producer	2.444	2.450	2.456
	Large producer	1.872	1.877	1.882
Interstate rollover gas	All producers	1.075	1.078	1.081
Replacement contract gas or recompletion gas	Small producer	1.375	1.379	1.383
	Large producer	1.051	1.054	1.057
Flowing gas	Small producer	0.694	0.696	0.698
	Large producer	0.584	0.585	0.588
Certain Permian Basin gas	Small producer	0.819	0.821	0.823
	Large producer	0.723	0.725	0.727
Certain Rocky Mountain gas	Small producer	0.819	0.821	0.823
	Large producer	0.694	0.696	0.698
Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69	0.660	0.662	0.664
	Other contracts	0.611	0.613	0.615
Minimum rate gas [1]	All producers	0.359	0.360	0.361

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

[5] This price may also be applicable to other categories of gas (see § 271.402 and 271.602).

§ 271.102 [Amended]

3. Section 271.102(c) is amended by adding the inflation adjustment for the month of November, December 1989, and January, 1990 in Table III.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery 1989 and 1990	Factor by which price in preceding month is multiplied
Nov.	1.00255
Dec.	1.00255
Jan.	1.00255

[FR Doc. 89–25680 Filed 10–31–89; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket No. R–89–1966; FR 1637–C–06]

Manufactured Home Construction and Safety Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Technical amendment.

SUMMARY: This rule amends § 3280.309(d) in title 24 of the Code of Federal Regulations which contains a typographical error that references the Manufactured Home Consumer Manual Requirements in part 3282 instead of part 3283.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–7055. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since this technical amendment constitutes an internal administrative procedure which is categorically excluded under HUD regulations at 24 CFR 50.20(k).

List of Subjects in 24 CFR Part 3280

Fire prevention, Housing standards, Manufactured homes.

Accordingly, 24 CFR part 3280 is amended as follows:

PART 3280—[AMENDED]

1. The authority citation for part 3280 continues to read as follows:

Authority: Secs. 604 and 625 of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403 and 5424, and sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

2. Section 3280.309 is amended by revising paragraph (d) as follows:

§ 3280.309 Health notice on formaldehyde emissions.

* * * * *

(d) A copy of the Notice shall be included in the Consumer Manual (refer to part 3283—Manufactured Home Consumer Manual Requirements).

Dated: October 25, 1989.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 89–25650 Filed 10–31–89; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Regulatory Program; Diversions

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Indiana regulatory program (hereinafter referred to as the Indiana program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment modifies the Indiana rules concerning diversions and is intended to simplify those rules.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, 575 N. Pennsylvania Street, Room 301, Indianapolis, Indiana 46204; Telephone: (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of Amendment
III. Director's Findings
IV. Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Information regarding general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions taken with regard to the Indiana program and program amendments can be found in 30 CFR 914.10, 914.15, and 914.16.

II. Submission of Amendment

By letter dated September 28, 1988 (Administrative Record No. IND–0607), Indiana submitted a program amendment to modify the following rules of Title 310, Article 12 of the Indiana Administrative Code (IAC):12–5–18, 12–5–19, 12–5–84, and 12–5–85. The proposed amendment is the result of a State initiated revision of its rules and is intended to simplify the rules concerning diversions by departing from construction standards and incorporating performance standards substantively similar to the counterpart Federal regulations.

OSM announced receipt of the proposed amendment in the November 22, 1988, **Federal Register** (53 FR 47224) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendments.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at CFR 732.17, are the Director's findings concerning the proposed amendment.

1. 310 IAC 12–5–18 Diversions; General Requirements

(a) *Diverting Flow.* Indiana has deleted and replaced with new language most of the provisions of this section. New paragraph 310 IAC 12–5–18(a) states that flow may be diverted around disturbed areas through temporary or permanent diversions if approved by the commission or the director for: (1) Mined areas abandoned before May 3, 1978; (2) reclaimed areas which meet the criteria of 310 IAC 12–5–21(e) for siltation structure removal; (3) undisturbed areas; or (4) active surface coal mining operations after passing

through a siltation structure and meeting the applicable effluent limitations.

Three of the new provisions, 310 IAC 12–5–18(a) (1), (2), and (3), are substantively identical to the corresponding Federal regulations at 30 CFR 816.43(a)(1), (2), and (3). The fourth provision, 310 IAC 12–5–18(a)(4), requires that flow may be diverted around disturbed areas through temporary or permanent diversions if approved by the commission or the director for active surface coal mining operations after passing through a siltation structure and meeting the applicable effluent limitations. The Federal regulations at 30 CFR 816.43(a)(4) require that flow may be diverted around disturbed areas through temporary or permanent diversions if approved by the regulatory authority for active surface coal mining operations after passing through a siltation structure and meeting the applicable effluent limitations and the applicable requirements of 30 CFR 816.46. Because Indiana has not yet submitted its counterpart to 30 CFR 816.46, the Director is not approving 310 IAC 12–5–18(a)(4) at this time.

(b) *Design Capacity.* The proposed paragraph at 310 IAC 12–5–19(b)(2) states that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(2) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(3) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(3) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(4) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(4) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(5) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(5) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(6) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(6) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(7) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(7) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(8) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(8) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(9) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(9) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(10) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(10) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(11) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(11) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(12) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(12) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(13) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(13) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(14) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(14) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(15) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(15) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(16) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(16) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(17) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(17) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(18) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(18) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(19) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(19) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(20) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(20) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(21) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(21) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(22) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(22) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(23) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(23) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(24) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(24) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(25) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(25) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(26) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(26) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(27) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(27) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(28) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(28) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 30 CFR 816.43(c)(2)(i) and (ii) and that the certification be made by a qualified registered professional engineer.

The proposed paragraph at 310 IAC 12–5–19(b)(29) requires that the design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the channel of the unaltered stream flowing at the peak velocity of the runoff from a precipitation event of the magnitude specified in 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a qualified registered professional engineer. Therefore, the Director finds that the proposed paragraph at 310 IAC 12–5–19(b)(29) is no less effective than the Federal regulations at 30 CFR 816.43(b)(2) and 816.43(c)(2)(i) and (ii) which require that the design capacity of channels for temporary and perm

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through a siltation structure and meeting the applicable effluent limitations.

Three of the new provisions, 310 IAC 12–5–18(a) (1), (2), and (3), are substantively identical to the counterpart Federal rules at 30 CFR 816.43(a)(1). There is no Federal counterpart to the proposed rule at 310 IAC 12–5–18(a)(4) which allows flow from active surface coal mining operations to be diverted after passing through a siltation structure and meeting the applicable effluent limitations. The rule is not inconsistent with the Federal regulations concerning sediment control measures and siltation structures since the rule allows flow from active surface coal mining operations to be diverted only after passing through a siltation structure and meeting the applicable effluent limitations. The Director finds the amendment to be consistent with and no less effective than the Federal regulations.

(b) *Diversion design.* Paragraph 310 IAC 12–5–18(b) states that diversions shall be designed to: (1) Minimize adverse impacts to the hydrologic balance within the permit and adjacent areas; (2) prevent material damage to public or private property; and (3) assure the safety of the public. Two of the proposed provisions, 310 IAC 12–5–18(b) (1) and (3) are identical to the counterpart Federal rules at 30 CFR 816.43(a)(1). The Indiana rule at 310 IAC 12–5–18 (b)(2) differs from the counterpart Federal rule only in that the Indiana rule states that diversions shall be designed to prevent material damage to "public or private property," while the counterpart Federal rule states that diversions shall be designed to prevent material damage "outside the permit area." The Director finds that the language difference is not substantive, and that the proposed rule at 310 IAC 12–5–18(b) is no less effective than the Federal rules.

(c) *Diverting to Underground Mines.* The proposed rule at paragraph 310 IAC 12–5–18(c) is similar to the previously approved rule at 310 IAC 12–5–18(f) except that the words "constructed or operated" were deleted from the original language and replaced with the word "used." As modified, the proposed rule is substantively identical to and no less effective than the counterpart Federal rule at 30 CFR 816.43(a)(1).

(d) *Design, Construction, and Maintenance.* The proposed rule at paragraph 310 IAC 12–5–18(d) states that a diversion and its appurtenant structures shall be designed, located, constructed, maintained and used to be stable; provide protection against flooding and resultant damage to life and property; to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and to comply with all applicable local, state, and federal laws and regulations. The Director finds the rule at paragraph 310 IAC 12–5–18(d) to be identical to and no less effective than the counterpart Federal rules at 30 CFR 816.43(a)(2) and can be approved.

(e) *Temporary diversions.* Paragraph 310 IAC 12–5–18(e) specifies that temporary diversions shall be promptly removed and that the land disturbed by the removal process shall be restored in accordance with the approved reclamation plan and 310 IAC 12–5–5 through 310 IAC 12–5–71. The Director finds that this rule is substantively identical to and no less effective than the counterpart Federal provisions at 30 CFR 816.43(a)(3).

(f) *Downstream treatment facilities.* Paragraph 310 IAC 12–5–18(f) requires that before any diversion is removed, downstream treatment facilities previously protected by the diversion shall be modified or removed, as necessary, to prevent overtopping or failure of the facilities. The rule also states that this requirement does not relieve the permittee from maintaining water treatment facilities as otherwise required. The Director finds that this rule is substantively identical to and no less effective than the counterpart Federal rule at 30 CFR 816.43(a)(3).

(g) *Removal of diversions.* Paragraph 310 IAC 12–5–18(g) requires that permanent diversions or stream channels reclaimed after the removal of a temporary diversion shall be designed and constructed to restore or approximate the pre-mining characteristics of the original stream channel, including the natural riparian vegetation, to promote the recovery and the enhancement of the aquatic habitat. The Director finds that this rule is substantively identical to and no less effective than the counterpart Federal rule at 30 CFR 816.43(a)(3).

(h) *Design considerations.* Paragraph 310 IAC 12–5–18(h) requires that consideration during the design of diversions shall be given to the anticipated flow velocity, the erosion characteristics of the channel and side slopes, the need for adequate freeboard above the design water surface elevation, and the need for channel lining or energy dissipators. The Federal rule at 30 CFR 816.43(a)(2)(i) requires diversions to be stable. While there is no direct Federal counterpart to these design considerations, the Federal rule at 30 CFR 816.43(a)(4) states that the regulatory authority may specify design criteria for diversions to meet the requirements concerning diversions. The factors to be considered in the design of diversions are reasonable and not inconsistent with the Federal rules. The Director finds, therefore, that the proposed rule is no less effective than the Federal rules.

2. 310 IAC 12–5–19 Diversions; Stream Channel Diversions

This section supplements the requirements contained in 310 IAC 12–5–18 for diversions of perennial streams, intermittent streams with a watershed greater than one (1) square mile, and miscellaneous flows.

(a) *Perennial and intermittent streams.* Paragraph 310 IAC 12–5–19(b)(1) states that diversion of perennial streams, and intermittent streams with watershed greater than one (1) square mile may be approved by the commission after making a finding related to stream buffer zones that the diversions will not adversely affect the water quantity and quality and related environmental resources of the stream. The proposed language which requires the finding related to stream buffer zones is substantively identical to the counterpart Federal language to 30 CFR 816.43(b)(1).

Indiana's use of the term "intermittent streams with watershed greater than one (1) square mile" is not new to this section, but was approved by the Secretary of the Interior on July 26, 1982 (47 FR 32071). In that ruling the Secretary found that the Indiana definition of "intermittent stream" is no less effective than the Federal definition at 30 CFR 701.5.

The proposed rule has also deleted the phrase "within the permit area" from the language of the rule. The Federal rule at 30 CFR 816.43(b)(1) contains this phrase, and limits diversion to streams within the permit area. The approved Indiana definition of "permit area" at 310 IAC 12–1–3 states that the permit area shall include "all the areas which are or will be affected by the surface coal mining and reclamation operations during the term of permit." Diversions would, of course, affect the areas in which they are constructed. Therefore, under Indiana's definition of "permit area," all diversions have to be included within the permit area. The Director finds, therefore, that the deletion of the words "within the permit area" does not render the Indiana rule less effective than the counterpart Federal rules and that the amendment at proposed paragraph 310 IAC 12–5–19(b)(1) can be approved.

The proposed paragraph at 310 IAC 12–5–19(b)(2) states that the design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion. This language is identical to the Federal language at 30 CFR 816.43(b)(2).

Paragraph 310 IAC 12–5–19(b)(3) states that the requirements of 310 IAC 12–5–18(d)(2) shall be met when the temporary and permanent diversions for intermittent streams having a watershed greater than one (1) square mile and perennial streams are designed so that the combination of channel, bank, and floodplain configuration is adequate to pass safely the peak runoff of a ten-year, six-hour precipitation event for a temporary diversion and a one hundred-year, six-hour precipitation event for a permanent diversion. This language is substantively identical to and no less effective than the counterpart Federal language at 30 CFR 816.43(b)(3).

The proposed paragraph at 310 IAC 12–5–19(b)(4) states that stream channel diversions shall be designed under the supervision of qualified registered professional engineer in accordance with good engineering practices and the requirements of this section, and shall be certified after construction by the engineer as having been constructed in accordance with the approved plans. The Federal rule at 30 CFR 816.43(b)(4) states that the design and construction of all stream channel diversions of perennial and intermittent streams shall be certified by a qualified registered professional engineer as meeting the performance standards of this part (30 CFR part 816) and any design criteria set by the regulatory authority. The language of the proposed rule differs from the language of the counterpart Federal rule in two important ways.

In a letter dated June 16, 1989 (Administrative Record number IND–0650), OSM informed Indiana that the proposed rule does not require that a qualified registered professional engineer certify the design of stream channel diversions. Indiana responded by letter dated August 10, 1989 (Administrative Record number IND–0673). In that letter, Indiana stated that "while the proposed change to 310 IAC 12–5–19(b)(4) * * * does not specifically state that the design be certified by a qualified professional engineer, 310 IAC 12–3–39(m) does make this specific requirement." In a follow-up letter dated September 5, 1989 (Administrative Record number IND–0678), Indiana stated that the approved Indiana rule at 310 IAC 12–3–44(c) provides a more specific requirement for the certification of diversion plans.

Both of the rules cited by Indiana require that certifications be made by a "registered professional engineer or professional geologist." At first reading, however, it is not clear that, as is required by 30 CFR 816.43(b)(4), stream diversion designs be certified only by a qualified registered professional engineer. The proposed rule at 310 IAC 12–5–19(b)(4), however, is clear in that only qualified registered professional engineers can supervise the design of Indiana diversions and can certify their construction. Additionally, Indiana's letter to OSM dated August 10, 1989, specifically states that while the proposed change to 310 IAC 12–5–19(b)(4) does not specifically state that the design be certified by a qualified professional engineer, 310 IAC 12–3–39(m) "does make this specific requirement." Indiana has, therefore, affirmed that the approved rule at 310 IAC 12–3–39(m) specifically requires that a qualified registered professional engineer certify Indiana stream diversions designs. That is, the proposed rule at 310 IAC 12–5–19(b)(4) in concert with the approved rules at 310 IAC 12–3–39(m) and 310 IAC 12–3–44(c) require that all stream channel diversion designs be certified by a qualified registered professional engineer. Therefore, the Director finds that the proposed rule is no less effective than the Federal rules at 30 CFR 816.43(b)(4) which require that all stream channel diversion designs be certified by a qualified registered professional engineer.

The proposed rule at 310 IAC 12–5–19(b)(4) also states that the engineer must certify that a stream channel diversion was constructed in accordance with the approved plans. The Federal rule at 30 CFR 816.43(b)(4), however, requires that the design and construction of all stream channel diversions be certified as meeting the performance standards of the rules. In the June 16, 1989 letter to Indiana, OSM stated that, in order to be no less effective than the Federal rules, the Indiana rules should require that both the design and construction of stream channel diversions be certified as meeting the performance standards of the approved rules. Indiana responded in the August 10, 1989 letter by stating that a proposed plan must be capable of complying with the performance standards before it would be accepted and approved. Indeed, the approved Indiana rules at 310 IAC 12–3–51, concerning permit application requirements for reclamation and operations plans for diversions, require that each application contain descriptions, including maps and cross sections, of stream channel diversions to be constructed to achieve compliance with 310 IAC 12–5–18 and 310 IAC 12–5–19. As modified by this proposed amendment, the Indiana rules at 310 IAC 12–5–18 and 310 IAC 12–5–19 are Indiana's performance standards concerning diversions, and these rules are substantively identical to the counterpart Federal performance standards for diversions at 30 CFR 816.43. That is, permit application rules require that plans for stream channel diversions achieve compliance with the Indiana performance standards for stream channel diversions. In addition, in its letter to OSM dated August 10, 1989, Indiana attests that if an Indiana diversion is certified to be in accordance with the approved plan, the Indiana performance standards have already been addressed with the plan's original approval. Therefore, when qualified registered professional engineers certify that Indiana stream channel diversions have been designed or constructed in accordance with the approved plans, they are certifying that the plans and construction achieve compliance with the Indiana performance standards for diversions at 310 IAC 12–5–18 and 310 IAC 12–5–19. The Director, therefore, finds that the proposed rule at 310 IAC 12–5–19(b)(4) is no less effective than the Federal rules at 30 CFR 816.43(b)(4) which require that the design and construction of all stream channel diversions shall be certified by a qualified registered professional engineer as meeting the performance standards of the rules.

(b) *Miscellaneous flows.* Paragraph 310 IAC 12–5–19(c)(1) states that miscellaneous flows, which consist of all flows except those specified in subsection 310 IAC 12–5–19(b), may be diverted around disturbed areas if required and approved by the director. Miscellaneous flows include groundwater discharges, overland flow, ephemeral streams and intermittent streams having a watershed not greater than one (1) square mile. The Director finds that the language of this rule is substantively identical to and no less effective then the Federal rule at 30 CFR 816.43(c)(1).

Paragraph 310 IAC 12–5–19(c)(2) states that the design, location, construction, maintenance, and removal of diversions of miscellaneous flows shall meet all the performance standards set forth in 310 IAC 12–5–18. The Director finds that the proposed

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language is substantively identical to and no less effective than the counterpart Federal rules at 30 CFR 816.43(c)(2).

Proposed paragraph 310 IAC 12–5–19(c)(3) states that the requirements of 310 IAC 12–5–18(d)(2) shall be met when the temporary and permanent diversions for miscellaneous flows are designed so that a combination of channel, bank and floodplain configuration is adequate to pass safely the peak runoff of a two-year, six-hour precipitation event for a temporary diversion and a ten-year, six-hour precipitation event for a permanent diversion. The Director finds that the language of this proposed rule is substantively identical to and no less effective than the counterpart Federal rules at 30 CFR 816.43(c)(3).

3. *310 IAC 12–5–84 Underground mining; diversions; general requirements.* Indiana has deleted and replaced most of the language of the existing approved rule. This proposed rule contains language identical to the proposed rules for surface mines at 310 IAC 12–5–18 except for reference citations related specifically to underground mines. Therefore, all of the comments and findings at Finding 1 apply to the proposed amendments for 310 IAC 12–5–84, and those comments will not be repeated here. The Director finds that 310 IAC 12–5–84, as amended, is substantively identical to and no less effective than the Federal rules at 30 CFR 817.43.

4. *310 IAC 12–5–85 Underground mining; stream channel diversions.* Indiana has deleted and replaced most of the language of the existing approved rule. This proposed rule contains language identical to the proposed rules for surface mines at 310 IAC 12–5–19 except for reference citations related specifically to underground mines. Therefore, all of the comments and findings discussed at Finding 2 apply to the proposed amendments for 310 IAC 12–5–85, and those comments will not be repeated here. The Director finds that 310 IAC 12–5–85, as amended, is substantively identical to and no less effective than the Federal rules at 30 CFR 817.43.

IV. Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the November 22, 1988, **Federal Register** ended on December 22, 1988. One comment was received. The Indiana Coal Council, Inc., supported the amendment. A public hearing concerning this amendment was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to Section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Indiana program. The U.S. Fish and Wildlife Service commented that clauses and/or subsections should be added to 310 IAC 12–5–18, 12–5–19, 12–5–84, and 12–5–85 requiring that diversions not disrupt water circulation to downstream wetlands, protected natural areas, or other areas of high ecological significance; and that water circulation to such areas be reestablished after reclamation of a temporary diversion. In response, the Director notes that these concerns are addressed by existing Indiana regulations at 310 IAC 12–5–51 which provide for restoration, enhancement where practicable, or avoidance of disturbances to habitats of unusually high value for fish and wildlife. The proposed rules at 310 IAC 12–5–18(d)(4) require that diversions shall be designed, located, constructed, and maintained to comply with all applicable State and Federal laws and regulations. Indiana's proposed rules concerning diversions are no less effective than the counterpart Federal rules.

The U.S. Fish and Wildlife Service also commented that paragraph 310 IAC 12–5–18(g) [and 12–5–84(g)] should be expanded to specify that stream channel restoration include: "The original channel substrate and aquatic habitat structure." As discussed in Finding 1, paragraph (g) the proposed Indiana rule at 310 IAC 12–5–18(g) is substantively identical to and no less effective than the Federal rule at 30 CFR 816.43(a)(3). It should be noted that the proposed rule does require that stream channel restoration approximate the pre-mining characteristics of the original stream channel to promote the recovery and the enhancement of the aquatic habitat.

V. Director's Decision

Based on the above findings, the Director is approving the program amendment submitted by Indiana on September 28, 1988, amending the Indiana regulations at 310 IAC 12–5–18, 12–5–19, 12–5–84, and 12–5–85. The Federal regulations at 30 CFR Part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage states to bring their programs in conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 24, 1989.

David G. Simpson,

Acting Assistant Director, Eastern Field Operations.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 914.15, a new paragraph (w) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(w) The following amendments to the Indiana regulatory program, as submitted by letter dated September 28, 1988, are approved effective November 1, 1989: Revisions to the Indiana regulations concerning diversions at 310 IAC 12–5–18, 310 IAC 12–5–19, 310 IAC 12–5–84, and 310 IAC 12–5–85.

[FR Doc. 89-25644 Filed 10-31-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 316, 342, and 351

[Department of the Treasury Circulars No. 653, Tenth Revision; Public Debt Series No. 3–67, Second Revision; and No. 1–80, Second Revision]

U.S. Savings Bonds and Notes; Tables Reflecting Investment Yields and Maturity Periods

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Notice providing update of tables showing the redemption values and investment yields of United States Savings Bonds/Notes.

SUMMARY: This notice updates the tables set forth in the offering circulars for Series E/EE savings bonds and savings notes. The tables reflect the redemption values and investment yields for interest accrual dates occurring November 1, 1989 through April 1, 1990, for Series E/EE savings bonds and savings notes.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Jacqueline L. Jackson, Attorney Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Washington, DC 20239–0001, (202) 376–4320.

SUPPLEMENTARY INFORMATION: This notice, published semi-annually, updates the tables reflecting the investment yields of Series E/EE savings bonds and savings notes. Department of the Treasury Circulars No. 653 (Series E), No. 1–80 (Series EE) and Public Debt Series No. 3–67 (Saving Notes) are hereby supplemented by the addition of tables showing the redemption values and investment yields for interest accrual dates occurring November 1, 1989 through April 1, 1990. It should be noted that the values and yields contained in the tables apply through April 30, 1990. It should also be noted that the tables reflect the market-based variable yields described in the offering circulars at 31 CFR 316.8(b)(2)(C)(iii) for Series E savings bonds, 31 CFR 351.2(f)(2) for Series EE savings bonds, and 31 CFR 342.2a(b)(2) for savings notes. The values shown apply only where the securities are actually paid. They do not form the basis for future accruals.

Procedural Requirements

This notice is not a rulemaking document and, therefore, is not considered a "major rule" for purposes of Executive Order 12291.

A regulatory impact analysis, therefore, is not required. The notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rule-making is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 31 CFR Parts 316, 342, 351

Banks and banking, Federal Reserve System, Government securities.

Dated: October 27, 1989.

Marcus W. Page,

Deputy Fiscal Assistant Secretary.

Accordingly, pursuant to the authority of Department of the Treasury Circular No. 653, Tenth Revision (31 CFR part 316), Public Debt Series No. 3–67, Second Revision (31 CFR part 342), and No. 1–80, Second Revision (31 CFR part 351), the following updated tables are provided:

BILLING CODE 4810-40-M

U.S. SAVINGS BONDS, SERIES EE - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$5000.			
DENOMINATION	50.00	75.00	100.00	200.00	500.00	1000.00	5000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
1/80 THRU 4/80	1/1/90	58.82	88.23	117.64	235.28	588.20	1176.40	5882.00	11764.	9.65%	8.25%	9.65%
5/80 THRU 10/80	11/1/89	56.86	85.29	113.72	227.44	568.60	1137.20	5686.00	11372.	9.63%	8.25%	9.63%
11/80 THRU 4/81	11/1/89	54.94	82.41	109.88	219.76	549.40	1098.80	5494.00	10988.	9.57%	8.25%	9.57%
5/81 THRU 10/81	11/1/89	52.08	78.12	104.16	208.32	520.80	1041.60	5208.00	10416.	9.38%	8.29%	9.38%
11/81 THRU 4/82	11/1/89	50.56	75.84	101.12	202.24	505.60	1011.20	5056.00	10112.	9.43%	8.25%	9.43%
5/82 THRU 10/82	11/1/89	48.14	72.21	96.28	192.56	481.40	962.80	4814.00	9628.	9.29%	8.25%	9.29%
11/82 THRU 4/83	11/1/89	44.04	66.06	88.08	176.16	440.40	880.80	4404.00	8808.	8.25%	8.25%	7.50%
5/83 THRU 10/83	11/1/89	41.64	62.46	83.28	166.56	416.40	832.80	4164.00	8328.	8.01%	8.00%	7.51%
11/83 THRU 4/84	11/1/89	40.04	60.06	80.08	160.16	400.40	800.80	4004.00	8008.	8.01%	8.00%	7.51%
5/84 THRU 10/84	11/1/89	38.50	57.75	77.00	154.00	385.00	770.00	3850.00	7700.	8.01%	8.00%	7.51%
11/84 THRU 4/85	11/1/89	36.58	54.87	73.16	146.32	365.80	731.60	3658.00	7316.	7.76%	7.75%	7.51%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$7.50	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00
DENOMINATION	10.00	25.00	50.00	100.00	200.00	500.00	1000.00

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
11/49 THRU 11/49	11/1/89	58.09	145.23	290.46	580.92	1161.84	2904.60	5809.20	8.50%	8.25%	8.50%
12/49 THRU 4/50	12/1/89	58.82	147.06	294.12	588.24	1176.48	2941.20	5882.40	8.50%	8.25%	8.50%
5/50 THRU 5/50	11/1/89	56.97	142.43	284.86	569.72	1139.44	2848.60	5697.20	8.50%	8.25%	8.50%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

BEST COPY AVAILABLE

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE		$18.75	$37.50	$75.00	$150.00	$375.00	$750.00			
DENOMINATION		25.00	50.00	100.00	200.00	500.00	1000.00			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)						ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
6/50 THRU 10/50	12/1/89	144.39	288.78	577.56	1155.12	2887.80	5775.60	8.50%	8.25%	8.50%
11/50 THRU 11/50	11/1/89	139.85	279.70	559.40	1118.80	2797.00	5594.00	8.50%	8.25%	8.50%
12/50 THRU 12/50	12/1/89	141.93	283.86	567.72	1135.44	2838.60	5677.20	8.50%	8.25%	8.50%
1/51 THRU 4/51	1/1/90	141.93	283.86	567.72	1135.44	2838.60	5677.20	8.50%	8.25%	8.50%
5/51 THRU 5/51	11/1/89	137.47	274.94	549.88	1099.76	2749.40	5498.80	8.50%	8.25%	8.50%
6/51 THRU 6/51	12/1/89	139.50	279.00	558.00	1116.00	2790.00	5580.00	8.50%	8.25%	8.50%
7/51 THRU 10/51	1/1/90	139.50	279.00	558.00	1116.00	2790.00	5580.00	8.50%	8.25%	8.50%
11/51 THRU 11/51	11/1/89	135.09	270.18	540.36	1080.72	2701.80	5403.60	8.50%	8.25%	8.50%
12/51 THRU 12/51	12/1/89	137.06	274.12	548.24	1096.48	2741.20	5482.40	8.50%	8.25%	8.50%
1/52 THRU 4/52	1/1/90	137.06	274.12	548.24	1096.48	2741.20	5482.40	8.50%	8.25%	8.50%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.	
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.	

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)						ACCRUAL DATE	ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
5/52 THRU 5/52	1/1/90	136.54	273.08	546.16	1092.32	2730.80	5461.60	54616.	8.50%	8.25%	8.50%
6/52 THRU 8/52	2/1/90	136.85	273.70	547.40	1094.80	2737.00	5474.00	54740.	8.50%	8.25%	8.50%
9/52 THRU 9/52	11/1/89	132.54	265.08	530.16	1060.32	2650.80	5301.60	53016.	8.50%	8.25%	8.50%
10/52 THRU 10/52	12/1/89	134.20	268.40	536.80	1073.60	2684.00	5368.00	53680.	8.50%	8.25%	8.50%
11/52 THRU 11/52	1/1/90	134.20	268.40	536.80	1073.60	2684.00	5368.00	53680.	8.50%	8.25%	8.50%
12/52 THRU 2/53	2/1/90	134.55	269.10	538.20	1076.40	2691.00	5382.00	53820.	8.50%	8.25%	8.50%
3/53 THRU 3/53	11/1/89	128.13	256.26	512.52	1025.04	2562.60	5125.20	51252.	8.25%	8.25%	7.50%
4/53 THRU 4/53	12/1/89	129.72	259.44	518.88	1037.76	2594.40	5188.80	51888.	8.25%	8.25%	7.50%
5/53 THRU 5/53	1/1/90	129.72	259.44	518.88	1037.76	2594.40	5188.80	51888.	8.25%	8.25%	7.50%
6/53 THRU 8/53	2/1/90	130.04	260.08	520.16	1040.32	2600.80	5201.60	52016.	8.25%	8.25%	7.50%
9/53 THRU 9/53	11/1/89	125.93	251.86	503.72	1007.44	2518.60	5037.20	50372.	8.25%	8.25%	7.57%
10/53 THRU 10/53	12/1/89	127.53	255.06	510.12	1020.24	2550.60	5101.20	51012.	8.25%	8.25%	7.57%
11/53 THRU 11/53	1/1/90	127.53	255.06	510.12	1020.24	2550.60	5101.20	51012.	8.25%	8.25%	7.57%
12/53 THRU 2/54	2/1/90	127.87	255.74	511.48	1022.96	2557.40	5114.80	51148.	8.25%	8.25%	7.57%
3/54 THRU 3/54	11/1/89	123.85	247.70	495.40	990.80	2477.00	4954.00	49540.	8.25%	8.25%	7.64%
4/54 THRU 4/54	12/1/89	125.42	250.84	501.68	1003.36	2508.40	5016.80	50168.	8.25%	8.25%	7.64%
5/54 THRU 5/54	1/1/90	125.42	250.84	501.68	1003.36	2508.40	5016.80	50168.	8.25%	8.25%	7.64%
6/54 THRU 8/54	2/1/90	125.76	251.52	503.04	1006.08	2515.20	5030.40	50304.	8.25%	8.25%	7.64%
9/54 THRU 9/54	11/1/89	121.79	243.58	487.16	974.32	2435.80	4871.60	48716.	8.25%	8.25%	7.71%
10/54 THRU 10/54	12/1/89	123.41	246.82	493.64	987.28	2468.20	4936.40	49364.	8.25%	8.25%	7.72%
11/54 THRU 11/54	1/1/90	123.41	246.82	493.64	987.28	2468.20	4936.40	49364.	8.25%	8.25%	7.72%
12/54 THRU 2/55	2/1/90	123.71	247.42	494.84	989.68	2474.20	4948.40	49484.	8.25%	8.25%	7.71%
3/55 THRU 3/55	11/1/89	119.79	239.58	479.16	958.32	2395.80	4791.60	47916.	8.25%	8.25%	7.79%
4/55 THRU 4/55	12/1/89	121.35	242.70	485.40	970.80	2427.00	4854.00	48540.	8.25%	8.25%	7.78%
5/55 THRU 5/55	1/1/90	121.35	242.70	485.40	970.80	2427.00	4854.00	48540.	8.25%	8.25%	7.78%
6/55 THRU 8/55	2/1/90	121.67	243.34	486.68	973.36	2433.40	4866.80	48668.	8.25%	8.25%	7.79%
9/55 THRU 9/55	11/1/89	117.85	235.70	471.40	942.80	2357.00	4714.00	47140.	8.25%	8.25%	7.86%
10/55 THRU 10/55	12/1/89	119.43	238.86	477.72	955.44	2388.60	4777.20	47772.	8.25%	8.25%	7.86%
11/55 THRU 11/55	1/1/90	119.43	238.86	477.72	955.44	2388.60	4777.20	47772.	8.25%	8.25%	7.86%
12/55 THRU 2/56	2/1/90	119.73	239.46	478.92	957.84	2394.60	4789.20	47892.	8.25%	8.25%	7.86%
3/56 THRU 3/56	11/1/89	115.96	231.92	463.84	927.68	2319.20	4638.40	46384.	8.25%	8.25%	7.93%
4/56 THRU 4/56	12/1/89	119.22	238.44	476.88	953.76	2384.40	4768.80	47688.	8.25%	8.25%	7.93%
5/56 THRU 5/56	1/1/90	119.22	238.44	476.88	953.76	2384.40	4768.80	47688.	8.25%	8.25%	7.93%
6/56 THRU 8/56	2/1/90	119.49	238.98	477.96	955.92	2389.80	4779.60	47796.	8.25%	8.25%	7.93%
9/56 THRU 9/56	11/1/89	115.72	231.44	462.88	925.76	2314.40	4628.80	46288.	8.25%	8.25%	8.00%
10/56 THRU 10/56	12/1/89	117.06	234.12	468.24	936.48	2341.20	4682.40	46824.	8.25%	8.25%	8.00%
11/56 THRU 11/56	1/1/90	117.06	234.12	468.24	936.48	2341.20	4682.40	46824.	8.25%	8.25%	8.00%
12/56 THRU 1/57	2/1/90	117.74	235.48	470.96	941.92	2354.80	4709.60	47096.	8.25%	8.25%	8.00%
2/57 THRU 5/57	1/1/90	119.35	238.70	477.40	954.80	2387.00	4774.00	47740.	8.25%	8.25%	7.93%

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NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.			
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.			

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING (VALUES INCREASE ON FIRST DAY OF PERIOD)						ACCRUAL DATE	ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
6/57 THRU 6/57	11/1/89	116.09	232.18	464.36	928.72	2321.80	4643.60	46436.	8.25%	8.25%	8.00%
7/57 THRU 7/57	12/1/89	117.43	234.86	469.72	939.44	2348.60	4697.20	46972.	8.25%	8.25%	8.00%
8/57 THRU 11/57	1/1/90	117.43	234.86	469.72	939.44	2348.60	4697.20	46972.	8.25%	8.25%	8.00%
12/57 THRU 12/57	11/1/89	114.22	228.44	456.88	913.76	2284.40	4568.80	45688.	8.25%	8.25%	7.42%
1/58 THRU 1/58	12/1/89	115.58	231.16	462.32	924.64	2311.60	4623.20	46232.	8.25%	8.25%	7.43%
2/58 THRU 5/58	1/1/90	115.58	231.16	462.32	924.64	2311.60	4623.20	46232.	8.25%	8.25%	7.43%
6/58 THRU 6/58	11/1/89	112.41	224.82	449.64	899.28	2248.20	4496.40	44964.	8.25%	8.25%	7.60%
7/58 THRU 7/58	12/1/89	113.71	227.42	454.84	909.68	2274.20	4548.40	45484.	8.25%	8.25%	7.61%
8/58 THRU 11/58	1/1/90	113.71	227.42	454.84	909.68	2274.20	4548.40	45484.	8.25%	8.25%	7.61%
12/58 THRU 12/58	11/1/89	110.61	221.22	442.44	884.88	2212.20	4424.40	44244.	8.25%	8.25%	7.78%
1/59 THRU 1/59	12/1/89	111.93	223.86	447.72	895.44	2238.60	4477.20	44772.	8.25%	8.25%	7.78%
2/59 THRU 5/59	1/1/90	111.93	223.86	447.72	895.44	2238.60	4477.20	44772.	8.25%	8.25%	7.78%
6/59 THRU 7/59	3/1/90	111.61	223.22	446.44	892.88	2232.20	4466.40	44644.	8.25%	8.25%	7.42%
8/59 THRU 8/59	11/1/89	108.09	216.18	432.36	864.72	2161.80	4323.60	43236.	8.25%	8.25%	7.60%
9/59 THRU 9/59	12/1/89	109.31	218.62	437.24	874.48	2186.20	4372.40	43724.	8.25%	8.25%	7.60%
10/59 THRU 11/59	1/1/90	109.31	218.62	437.24	874.48	2186.20	4372.40	43724.	8.25%	8.25%	7.60%
12/59 THRU 1/60	3/1/90	109.54	219.08	438.16	876.32	2190.80	4381.60	43816.	8.25%	8.25%	7.61%
2/60 THRU 2/60	11/1/89	106.10	212.20	424.40	848.80	2122.00	4244.00	42440.	8.25%	8.25%	7.78%
3/60 THRU 3/60	12/1/89	107.32	214.64	429.28	858.56	2146.40	4292.80	42928.	8.25%	8.25%	7.78%
4/60 THRU 5/60	1/1/90	107.32	214.64	429.28	858.56	2146.40	4292.80	42928.	8.25%	8.25%	7.78%
6/60 THRU 7/60	3/1/90	107.49	214.98	429.96	859.92	2149.80	4299.60	42996.	8.25%	8.25%	7.78%
8/60 THRU 8/60	11/1/89	104.13	208.26	416.52	833.04	2082.60	4165.20	41652.	8.25%	8.25%	7.96%
9/60 THRU 9/60	12/1/89	105.33	210.66	421.32	842.64	2106.60	4213.20	42132.	8.25%	8.25%	7.96%
10/60 THRU 11/60	1/1/90	105.33	210.66	421.32	842.64	2106.60	4213.20	42132.	8.25%	8.25%	7.96%
12/60 THRU 1/61	3/1/90	105.52	211.04	422.08	844.16	2110.40	4220.80	42208.	8.25%	8.25%	7.96%
2/61 THRU 2/61	11/1/89	102.19	204.38	408.76	817.52	2043.80	4087.60	40876.	8.25%	8.25%	8.14%
3/61 THRU 3/61	12/1/89	103.37	206.74	413.48	826.96	2067.40	4134.80	41348.	8.25%	8.25%	8.14%
4/61 THRU 5/61	1/1/90	103.37	206.74	413.48	826.96	2067.40	4134.80	41348.	8.25%	8.25%	8.14%
6/61 THRU 7/61	3/1/90	103.67	207.34	414.68	829.36	2073.40	4146.80	41468.	8.25%	8.25%	8.14%
8/61 THRU 8/61	11/1/89	100.89	201.78	403.56	807.12	2017.80	4035.60	40356.	8.32%	8.29%	8.32%
9/61 THRU 9/61	12/1/89	102.01	204.02	408.04	816.08	2040.20	4080.40	40804.	8.32%	8.29%	8.32%
10/61 THRU 11/61	1/1/90	102.01	204.02	408.04	816.08	2040.20	4080.40	40804.	8.32%	8.29%	8.32%
12/61 THRU 1/62	3/1/90	102.30	204.60	409.20	818.40	2046.00	4092.00	40920.	8.32%	8.29%	8.32%
2/62 THRU 2/62	11/1/89	100.29	200.58	401.16	802.32	2005.80	4011.60	40116.	8.50%	8.25%	8.50%
3/62 THRU 3/62	12/1/89	101.01	202.02	404.04	808.08	2020.20	4040.40	40404.	8.50%	8.25%	8.50%
4/62 THRU 5/62	1/1/90	101.01	202.02	404.04	808.08	2020.20	4040.40	40404.	8.50%	8.25%	8.50%
6/62 THRU 7/62	3/1/90	101.26	202.52	405.04	810.08	2025.20	4050.40	40504.	8.50%	8.25%	8.50%
8/62 THRU 8/62	11/1/89	98.08	196.16	392.32	784.64	1961.60	3923.20	39232.	8.50%	8.25%	8.50%
9/62 THRU 9/62	12/1/89	98.77	197.54	395.08	790.16	1975.40	3950.80	39508.	8.50%	8.25%	8.50%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
10/62 THRU 11/62	1/1/90	98.77	197.54	395.08	790.16	1975.40	3950.80	39508.	8.50%	8.25%	8.50%
12/62 THRU 1/63	3/1/90	99.17	198.34	396.68	793.36	1983.40	3966.80	39668.	8.50%	8.25%	8.50%
2/63 THRU 2/63	11/1/89	96.06	192.12	384.24	768.48	1921.20	3842.40	38424.	8.50%	8.25%	8.50%
3/63 THRU 3/63	12/1/89	96.50	193.00	386.00	772.00	1930.00	3860.00	38600.	8.50%	8.25%	8.50%
4/63 THRU 5/63	1/1/90	96.50	193.00	386.00	772.00	1930.00	3860.00	38600.	8.50%	8.25%	8.50%
6/63 THRU 7/63	3/1/90	97.23	194.46	388.92	777.84	1944.60	3889.20	38892.	8.50%	8.25%	8.50%
8/63 THRU 8/63	11/1/89	94.17	188.34	376.68	753.36	1883.40	3766.80	37668.	8.50%	8.25%	8.50%
9/63 THRU 9/63	12/1/89	94.62	189.24	378.48	756.96	1892.40	3784.80	37848.	8.50%	8.25%	8.50%
10/63 THRU 11/63	1/1/90	94.62	189.24	378.48	756.96	1892.40	3784.80	37848.	8.50%	8.25%	8.50%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.			
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
12/63 THRU 1/64	3/1/90	95.22	190.44	285.66	380.88	761.76	1904.40	3808.80	38088.	8.50%	8.25%	8.50%
2/64 THRU 2/64	11/1/89	92.22	184.44	276.66	368.88	737.76	1844.40	3688.80	36888.	8.50%	8.25%	8.50%
3/64 THRU 3/64	12/1/89	92.66	185.32	277.98	370.64	741.28	1853.20	3706.40	37064.	8.50%	8.25%	8.50%
4/64 THRU 5/64	1/1/90	92.66	185.32	277.98	370.64	741.28	1853.20	3706.40	37064.	8.50%	8.25%	8.50%
6/64 THRU 7/64	3/1/90	93.27	186.54	279.81	373.08	746.16	1865.40	3730.80	37308.	8.50%	8.25%	8.50%
8/64 THRU 8/64	11/1/89	90.32	180.64	270.96	361.28	722.56	1806.40	3612.80	36128.	8.50%	8.25%	8.50%
9/64 THRU 9/64	12/1/89	90.77	181.54	272.31	363.08	726.16	1815.40	3630.80	36308.	8.50%	8.25%	8.50%
10/64 THRU 11/64	1/1/90	90.77	181.54	272.31	363.08	726.16	1815.40	3630.80	36308.	8.50%	8.25%	8.50%
12/64 THRU 1/65	3/1/90	91.35	182.70	274.05	365.40	730.80	1827.00	3654.00	36540.	8.50%	8.25%	8.50%
2/65 THRU 2/65	11/1/89	87.00	174.00	261.00	348.00	696.00	1740.00	3480.00	34800.	8.25%	8.25%	7.50%
3/65 THRU 3/65	12/1/89	87.42	174.84	262.26	349.68	699.36	1748.40	3496.80	34968.	8.25%	8.25%	7.50%
4/65 THRU 5/65	1/1/90	87.42	174.84	262.26	349.68	699.36	1748.40	3496.80	34968.	8.25%	8.25%	7.50%
6/65 THRU 7/65	3/1/90	87.89	175.78	263.67	351.56	703.12	1757.80	3515.60	35156.	8.25%	8.25%	7.50%
8/65 THRU 8/65	11/1/89	85.13	170.26	255.39	340.52	681.04	1702.60	3405.20	34052.	8.25%	8.25%	7.57%
9/65 THRU 9/65	12/1/89	85.57	171.14	256.71	342.28	684.56	1711.40	3422.80	34228.	8.25%	8.25%	7.57%
10/65 THRU 11/65	1/1/90	85.57	171.14	256.71	342.28	684.56	1711.40	3422.80	34228.	8.25%	8.25%	7.57%
12/65 THRU 12/65	12/1/89	85.83	171.66	257.49	343.32	686.64	1716.60	3433.20	34332.	8.25%	8.25%	7.50%
1/66 THRU 4/66	1/1/90	85.83	171.66	257.49	343.32	686.64	1716.60	3433.20	34332.	8.25%	8.25%	7.50%
5/66 THRU 5/66	11/1/89	83.14	166.28	249.42	332.56	665.12	1662.80	3325.60	33256.	8.25%	8.25%	7.57%
6/66 THRU 6/66	12/1/89	83.98	167.96	251.94	335.92	671.84	1679.60	3359.20	33592.	8.25%	8.25%	7.57%
7/66 THRU 10/66	1/1/90	83.98	167.96	251.94	335.92	671.84	1679.60	3359.20	33592.	8.25%	8.25%	7.57%
11/66 THRU 11/66	11/1/89	81.34	162.68	244.02	325.36	650.72	1626.80	3253.60	32536.	8.25%	8.25%	7.64%
12/66 THRU 12/66	12/1/89	82.24	164.48	246.72	328.96	657.92	1644.80	3289.60	32896.	8.25%	8.25%	7.64%
1/67 THRU 4/67	1/1/90	82.24	164.48	246.72	328.96	657.92	1644.80	3289.60	32896.	8.25%	8.25%	7.64%
5/67 THRU 5/67	11/1/89	79.63	159.26	238.89	318.52	637.04	1592.60	3185.20	31852.	8.25%	8.25%	7.72%
6/67 THRU 6/67	12/1/89	80.53	161.06	241.59	322.12	644.24	1610.60	3221.20	32212.	8.25%	8.25%	7.71%
7/67 THRU 10/67	1/1/90	80.53	161.06	241.59	322.12	644.24	1610.60	3221.20	32212.	8.25%	8.25%	7.71%
11/67 THRU 11/67	11/1/89	78.01	156.02	234.03	312.04	624.08	1560.20	3120.40	31204.	8.25%	8.25%	7.78%
12/67 THRU 12/67	12/1/89	78.95	157.90	236.85	315.80	631.60	1579.00	3158.00	31580.	8.25%	8.25%	7.79%
1/68 THRU 4/68	1/1/90	78.95	157.90	236.85	315.80	631.60	1579.00	3158.00	31580.	8.25%	8.25%	7.79%
5/68 THRU 5/68	11/1/89	76.46	152.92	229.38	305.84	611.68	1529.20	3058.40	30584.	8.25%	8.25%	7.86%
6/68 THRU 6/68	12/1/89	77.38	154.76	232.14	309.52	619.04	1547.60	3095.20	30952.	8.25%	8.25%	7.86%
7/68 THRU 10/68	1/1/90	77.38	154.76	232.14	309.52	619.04	1547.60	3095.20	30952.	8.25%	8.25%	7.86%
11/68 THRU 11/68	11/1/89	74.93	149.86	224.79	299.72	599.44	1498.60	2997.20	29972.	8.25%	8.25%	7.93%
12/68 THRU 12/68	12/1/89	75.97	151.94	227.91	303.88	607.76	1519.40	3038.80	30388.	8.25%	8.25%	7.93%
1/69 THRU 4/69	1/1/90	75.97	151.94	227.91	303.88	607.76	1519.40	3038.80	30388.	8.25%	8.25%	7.93%
5/69 THRU 5/69	11/1/89	73.58	147.16	220.74	294.32	588.64	1471.60	2943.20	29432.	8.25%	8.25%	8.00%
6/69 THRU 6/69	4/1/90	76.61	153.22	229.83	306.44	612.88	1532.20	3064.40	30644.	8.25%	8.25%	7.79%
7/69 THRU 7/69	11/1/89	74.18	148.36	222.54	296.72	593.44	1483.60	2967.20	29672.	8.25%	8.25%	7.86%

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NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.			
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
8/69 THRU 8/69	12/1/89	74.37	148.74	223.11	297.48	594.96	1487.40	2974.80	29748.	8.25%	8.25%	7.86%
9/69 THRU 11/69	1/1/90	74.37	148.74	223.11	297.48	594.96	1487.40	2974.80	29748.	8.25%	8.25%	7.86%
12/69 THRU 12/69	4/1/90	74.76	149.52	224.28	299.04	598.08	1495.20	2990.40	29904.	8.25%	8.25%	7.86%
1/70 THRU 1/70	11/1/89	72.41	144.82	217.23	289.64	579.28	1448.20	2896.40	28964.	8.25%	8.25%	7.92%
2/70 THRU 2/70	12/1/89	72.57	145.14	217.71	290.28	580.56	1451.40	2902.80	29028.	8.25%	8.25%	7.93%
3/70 THRU 5/70	1/1/90	72.57	145.14	217.71	290.28	580.56	1451.40	2902.80	29028.	8.25%	8.25%	7.93%
6/70 THRU 6/70	4/1/90	72.91	145.82	218.73	291.64	583.28	1458.20	2916.40	29164.	8.25%	8.25%	7.93%
7/70 THRU 7/70	11/1/89	70.62	141.24	211.86	282.48	564.96	1412.40	2824.80	28248.	8.25%	8.25%	8.00%
8/70 THRU 8/70	12/1/89	70.81	141.62	212.43	283.24	566.48	1416.20	2832.40	28324.	8.25%	8.25%	8.00%
9/70 THRU 11/70	1/1/90	70.81	141.62	212.43	283.24	566.48	1416.20	2832.40	28324.	8.25%	8.25%	8.00%
12/70 THRU 12/70	4/1/90	70.95	141.90	212.85	283.80	567.60	1419.00	2838.00	28380.	8.25%	8.25%	8.00%
1/71 THRU 1/71	11/1/89	68.73	137.46	206.19	274.92	549.84	1374.60	2749.20	27492.	8.25%	8.25%	7.42%
2/71 THRU 2/71	12/1/89	68.89	137.78	206.67	275.56	551.12	1377.80	2755.60	27556.	8.25%	8.25%	7.42%
3/71 THRU 5/71	1/1/90	68.89	137.78	206.67	275.56	551.12	1377.80	2755.60	27556.	8.25%	8.25%	7.42%
6/71 THRU 6/71	4/1/90	69.09	138.18	207.27	276.36	552.72	1381.80	2763.60	27636.	8.25%	8.25%	7.42%
7/71 THRU 7/71	11/1/89	66.90	133.80	200.70	267.60	535.20	1338.00	2676.00	26760.	8.25%	8.25%	7.61%
8/71 THRU 8/71	12/1/89	67.06	134.12	201.18	268.24	536.48	1341.20	2682.40	26824.	8.25%	8.25%	7.60%
9/71 THRU 11/71	1/1/90	67.06	134.12	201.18	268.24	536.48	1341.20	2682.40	26824.	8.25%	8.25%	7.60%
12/71 THRU 12/71	4/1/90	67.22	134.44	201.66	268.88	537.76	1344.40	2688.80	26888.	8.25%	8.25%	7.60%
1/72 THRU 1/72	11/1/89	65.11	130.22	195.33	260.44	520.88	1302.20	2604.40	26044.	8.25%	8.25%	7.78%
2/72 THRU 2/72	12/1/89	65.26	130.52	195.78	261.04	522.08	1305.20	2610.40	26104.	8.25%	8.25%	7.78%
3/72 THRU 5/72	1/1/90	65.26	130.52	195.78	261.04	522.08	1305.20	2610.40	26104.	8.25%	8.25%	7.78%
6/72 THRU 6/72	4/1/90	65.44	130.88	196.32	261.76	523.52	1308.80	2617.60	26176.	8.25%	8.25%	7.78%
7/72 THRU 7/72	11/1/89	63.40	126.80	190.20	253.60	507.20	1268.00	2536.00	25360.	8.25%	8.25%	7.96%
8/72 THRU 8/72	12/1/89	63.54	127.08	190.62	254.16	508.32	1270.80	2541.60	25416.	8.25%	8.25%	7.96%
9/72 THRU 11/72	1/1/90	63.54	127.08	190.62	254.16	508.32	1270.80	2541.60	25416.	8.25%	8.25%	7.96%
12/72 THRU 12/72	4/1/90	63.66	127.32	190.98	254.64	509.28	1273.20	2546.40	25464.	8.25%	8.25%	7.96%
1/73 THRU 1/73	11/1/89	61.65	123.30	184.95	246.60	493.20	1233.00	2466.00	24660.	8.25%	8.25%	8.14%
2/73 THRU 2/73	12/1/89	61.81	123.62	185.43	247.24	494.48	1236.20	2472.40	24724.	8.25%	8.25%	8.14%
3/73 THRU 5/73	1/1/90	61.81	123.62	185.43	247.24	494.48	1236.20	2472.40	24724.	8.25%	8.25%	8.14%
6/73 THRU 6/73	4/1/90	61.94	123.88	185.82	247.76	495.52	1238.80	2477.60	24776.	8.25%	8.25%	8.14%
7/73 THRU 7/73	11/1/89	60.29	120.58	180.87	241.16	482.32	1205.80	2411.60	24116.	8.32%	8.29%	8.32%
8/73 THRU 8/73	12/1/89	60.43	120.86	181.29	241.72	483.44	1208.60	2417.20	24172.	8.32%	8.29%	8.32%
9/73 THRU 11/73	1/1/90	60.43	120.86	181.29	241.72	483.44	1208.60	2417.20	24172.	8.32%	8.29%	8.32%
12/73 THRU 12/73	12/1/89	59.14	118.28	177.42	236.56	473.12	1182.80	2365.60	23656.	8.25%	8.25%	8.15%
1/74 THRU 4/74	1/1/90	59.14	118.28	177.42	236.56	473.12	1182.80	2365.60	23656.	8.25%	8.25%	8.15%
5/74 THRU 5/74	11/1/89	57.57	115.14	172.71	230.28	460.56	1151.40	2302.80	23028.	8.32%	8.29%	8.32%
6/74 THRU 6/74	12/1/89	57.70	115.40	173.10	230.80	461.60	1154.00	2308.00	23080.	8.32%	8.29%	8.32%
7/74 THRU 10/74	1/1/90	57.70	115.40	173.10	230.80	461.60	1154.00	2308.00	23080.	8.32%	8.29%	8.32%

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U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.			
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)								ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
11/74 THRU 11/74	11/1/89	56.56	113.12	169.68	226.24	452.48	1131.20	2262.40	22624.	8.50%	8.25%	8.50%
12/74 THRU 12/74	12/1/89	56.69	113.38	170.07	226.76	453.52	1133.80	2267.60	22676.	8.50%	8.25%	8.50%
1/75 THRU 4/75	1/1/90	56.69	113.38	170.07	226.76	453.52	1133.80	2267.60	22676.	8.50%	8.25%	8.50%
5/75 THRU 5/75	11/1/89	54.90	109.80	164.70	219.60	439.20	1098.00	2196.00	21960.	8.50%	8.25%	8.50%
6/75 THRU 6/75	12/1/89	55.03	110.06	165.09	220.12	440.24	1100.60	2201.20	22012.	8.50%	8.25%	8.50%
7/75 THRU 10/75	1/1/90	55.03	110.06	165.09	220.12	440.24	1100.60	2201.20	22012.	8.50%	8.25%	8.50%
11/75 THRU 11/75	11/1/89	53.30	106.60	159.90	213.20	426.40	1066.00	2132.00	21320.	8.50%	8.25%	8.50%
12/75 THRU 12/75*	12/1/89	53.42	106.84	160.26	213.68	427.36	1068.40	2136.80	21368.	8.50%	8.25%	8.50%
1/76 THRU 4/76	1/1/90	53.42	106.84	160.26	213.68	427.36	1068.40	2136.80	21368.	8.50%	8.25%	8.50%
5/76 THRU 5/76	11/1/89	51.74	103.48	155.22	206.96	413.92	1034.80	2069.60	20696.	8.50%	8.25%	8.50%
6/76 THRU 6/76	12/1/89	51.86	103.72	155.58	207.44	414.88	1037.20	2074.40	20744.	8.50%	8.25%	8.50%
7/76 THRU 10/76	1/1/90	51.86	103.72	155.58	207.44	414.88	1037.20	2074.40	20744.	8.50%	8.25%	8.50%
11/76 THRU 11/76	11/1/89	50.22	100.44	150.66	200.88	401.76	1004.40	2008.80	20088.	8.50%	8.25%	8.50%
12/76 THRU 12/76	12/1/89	50.35	100.70	151.05	201.40	402.80	1007.00	2014.00	20140.	8.50%	8.25%	8.50%
1/77 THRU 4/77	1/1/90	50.35	100.70	151.05	201.40	402.80	1007.00	2014.00	20140.	8.50%	8.25%	8.50%
5/77 THRU 5/77	11/1/89	48.77	97.54	146.31	195.08	390.16	975.40	1950.80	19508.	8.50%	8.25%	8.50%
6/77 THRU 6/77	12/1/89	48.90	97.80	146.70	195.60	391.20	978.00	1956.00	19560.	8.50%	8.25%	8.50%
7/77 THRU 10/77	1/1/90	48.90	97.80	146.70	195.60	391.20	978.00	1956.00	19560.	8.50%	8.25%	8.50%
11/77 THRU 11/77	11/1/89	46.54	93.08	139.62	186.16	372.32	930.80	1861.60	18616.	8.25%	8.25%	7.50%
12/77 THRU 12/77	12/1/89	46.67	93.34	140.01	186.68	373.36	933.40	1866.80	18668.	8.25%	8.25%	7.50%
1/78 THRU 4/78	1/1/90	46.67	93.34	140.01	186.68	373.36	933.40	1866.80	18668.	8.25%	8.25%	7.50%
5/78 THRU 5/78	11/1/89	43.17	86.34	129.51	172.68	345.36	863.40	1726.80	17268.	8.27%	8.25%	8.27%
6/78 THRU 6/78	12/1/89	43.28	86.56	129.84	173.12	346.24	865.60	1731.20	17312.	8.31%	8.25%	8.31%
7/78 THRU 10/78	1/1/90	43.28	86.56	129.84	173.12	346.24	865.60	1731.20	17312.	8.31%	8.25%	8.31%
11/78 THRU 11/78	11/1/89	42.12	84.24	126.36	168.48	336.96	842.40	1684.80	16848.	8.35%	8.25%	8.35%
12/78 THRU 12/78	12/1/89	42.23	84.46	126.69	168.92	337.84	844.60	1689.20	16892.	8.39%	8.25%	8.39%
1/79 THRU 4/79	1/1/90	42.23	84.46	126.69	168.92	337.84	844.60	1689.20	16892.	8.39%	8.25%	8.39%
5/79 THRU 5/79	11/1/89	41.11	82.22	123.33	164.44	328.88	822.20	1644.40	16444.	8.42%	8.25%	8.42%
6/79 THRU 6/79	12/1/89	41.20	82.40	123.60	164.80	329.60	824.00	1648.00	16480.	8.45%	8.25%	8.45%
7/79 THRU 10/79	1/1/90	41.20	82.40	123.60	164.80	329.60	824.00	1648.00	16480.	8.45%	8.25%	8.45%
11/79 THRU 11/79	11/1/89	40.09	80.18	120.27	160.36	320.72	801.80	1603.60	16036.	8.45%	8.25%	8.45%
12/79 THRU 12/79	12/1/89	40.09	80.18	120.27	160.36	320.72	801.80	1603.60	16036.	8.45%	8.25%	8.45%
1/80 THRU 4/80	1/1/90	40.09	80.18	120.27	160.36	320.72	801.80	1603.60	16036.	8.45%	8.25%	8.45%
5/80 THRU 5/80	11/1/89	39.03	78.06	117.09	156.12	312.24	780.60	1561.20	15612.	8.44%	8.25%	8.44%
6/80 THRU 6/80	12/1/89	39.03	78.06	117.09	156.12	312.24	780.60	1561.20	15612.	8.44%	8.25%	8.44%

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U.S. SAVINGS BONDS, NOTES - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING NOV 1, 1989 THRU APR 1, 1990

ISSUE PRICE	$20.25	$40.50	$60.75	$81.00
DENOMINATION	25.00	50.00	75.00	100.00

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)				ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
5/67 THRU 5/67	11/1/89	88.97	177.94	266.91	355.88	8.50%	8.25%	8.50%
6/67 THRU 6/67	12/1/89	89.38	178.76	268.14	357.52	8.50%	8.25%	8.50%
7/67 THRU 10/67	1/1/90	89.38	178.76	268.14	357.52	8.50%	8.25%	8.50%
11/67 THRU 11/67	11/1/89	86.55	173.10	259.65	346.20	8.50%	8.25%	8.50%
12/67 THRU 12/67	12/1/89	86.98	173.96	260.94	347.92	8.50%	8.25%	8.50%
1/68 THRU 4/68	1/1/90	86.98	173.96	260.94	347.92	8.50%	8.25%	8.50%
5/68 THRU 5/68	11/1/89	82.84	165.68	248.52	331.36	8.25%	8.25%	7.50%
6/68 THRU 6/68	12/1/89	84.18	168.36	252.54	336.72	8.25%	8.25%	7.50%
7/68 THRU 10/68	1/1/90	84.18	168.36	252.54	336.72	8.25%	8.25%	7.50%
11/68 THRU 11/68	11/1/89	81.54	163.08	244.62	326.16	8.25%	8.25%	7.57%
12/68 THRU 12/68	12/1/89	81.98	163.96	245.94	327.92	8.25%	8.25%	7.57%
1/69 THRU 4/69	1/1/90	81.98	163.96	245.94	327.92	8.25%	8.25%	7.57%
5/69 THRU 5/69	11/1/89	79.39	158.78	238.17	317.56	8.25%	8.25%	7.64%
6/69 THRU 6/69	12/1/89	79.76	159.52	239.28	319.04	8.25%	8.25%	7.65%
7/69 THRU 10/69	1/1/90	79.76	159.52	239.28	319.04	8.25%	8.25%	7.65%
11/69 THRU 11/69	11/1/89	77.27	154.54	231.81	309.08	8.25%	8.25%	7.71%
12/69 THRU 12/69	12/1/89	77.63	155.26	232.89	310.52	8.25%	8.25%	7.71%
1/70 THRU 4/70	1/1/90	77.63	155.26	232.89	310.52	8.25%	8.25%	7.71%
5/70 THRU 5/70	11/1/89	75.20	150.40	225.60	300.80	8.25%	8.25%	7.78%
6/70 THRU 6/70	12/1/89	75.53	151.06	226.59	302.12	8.25%	8.25%	7.79%
7/70 THRU 10/70	1/1/90	75.53	151.06	226.59	302.12	8.25%	8.25%	7.79%

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DEPARTMENT OF EDUCATION

34 CFR Parts 75, 76, 77, 78, 81, 200, 203, 204, 205, 208, 212, 222, 245, 246, 247, 250, 251, 252, 253, 254, 255, 256, 257, 258, 263, 280, 300, 303, 307, 345, 379, 425, 426, 432, 433, 434, 435, 436, 437, 438, 441, 548, 608, 654, 668, 682, 690, 745, 755, 757, 758, 785, 786, and 787

Announcement of Effective Dates

AGENCY: Department of Education.

ACTION: Notice of effective dates of final regulations and other regulatory documents.

SUMMARY: Section 431(d) of the General Education Provisions Act requires that most of the Department's rules and regulations be published in the Federal Register for forty-five (45) calendar days, or longer, if Congress takes certain adjournments, before the rules and regulations take effect. Since future congressional adjournments cannot be predicted with certainty when a rule or regulation is published, the Department cannot announce a specific effective date at the time of publication. This notice announces the effective dates for regulatory documents subject to the delayed effective date requirement of section 431(d).

DATES: For effective dates, see **"SUPPLEMENTARY INFORMATION."**

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, Acting Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB–6, 400 Maryland Avenue SW., Washington, DC 20202–2241. Telephone: (202) 732–2887.

SUPPLEMENTARY INFORMATION: The effective date provision for each of the regulatory documents included in this notice stated that the effective date would be announced in a notice published in the Federal Register. Accordingly, this notice announces the following effective dates:

PART 608—[AMENDED]

1. 34 CFR part 608, final regulations published April 6, 1989 (54 FR 14041).
Effective Date: June 9, 1989.

PART 690—[AMENDED]

2. 34 CFR part 690, final regulations published April 12, 1989 (54 FR 14788).
Effective Date: June 9, 1989.

PART 307—[AMENDED]

3. 34 CFR part 307, final regulations published April 17, 1989 (54 FR 15308).
Effective Date: June 9, 1989.

PART 300—[AMENDED]

4. 34 CFR part 300, final regulations published April 27, 1989 (54 FR 18248).
Effective Date: June 11, 1989.

PARTS 757 and 758—[AMENDED]

5. 34 CFR parts 757 and 758, final regulations published May 2, 1989 (54 FR 18840).
Effective Date: June 16, 1989.

PART 251—[AMENDED]

6. 34 CFR part 251, final regulations published May 4, 1989 (54 FR 19334).
Effective Date: June 18, 1989.

PART 548—[AMENDED]

7. 34 CFR part 548, final regulations published May 5, 1989 (54 FR 19488).
Effective Date: June 19, 1989.

PART 280—[AMENDED]

8. 34 CFR part 280, final regulations published May 5, 1989 (54 FR 19506).
Effective Date: June 19, 1989.

PART 81—[AMENDED]

9. 34 CFR part 81, final regulations published May 5, 1989 (54 FR 19512).
Effective Date: June 19, 1989.

PART 205—[AMENDED]

10. 34 CFR part 205, final regulations published May 9, 1989 (54 FR 20052).
Effective Date: June 23, 1989.

PARTS 250, 252, 253, 254, 255, 256, 257, and 258—[AMENDED]

11. 34 CFR parts 250, 252, 253, 254, 255, 256, 257, and 258, final regulations published May 11, 1989 (54 FR 20480).
Effective Date: June 25, 1989.

PART 263—[AMENDED]

12. 34 CFR part 263, final regulations published May 18, 1989 (54 FR 21576).
Effective Date: July 19, 1989.

PARTS 75, 76, 77, 78, 200, and 204—[AMENDED]

13. 34 CFR parts 75, 76, 77, 78, 200, and 204, final regulations published May 19, 1989 (54 FR 21752).
Effective date: July 19, 1989.

PART 212—[AMENDED]

14. 34 CFR part 212, final regulations published May 25, 1989 (54 FR 22728).
Effective date: July 19, 1989.

PARTS 668 and 682—[AMENDED]

15. 34 CFR parts 668 and 682, final regulations published June 5, 1989 (54 FR 24114).
Effective date: July 20, 1989.

PARTS 785, 786, and 787—[AMENDED]

16. 34 CFR parts 785, 786, and 787, final regulations published June 6, 1989 (54 FR 24648).
Effective date: July 23, 1989.

PART 654—[AMENDED]

17. 34 CFR part 654, final regulations published June 20, 1989 (54 FR 26006).
Effective date: August 4, 1989.

PART 303—[AMENDED]

18. 34 CFR part 303, final regulations published June 22, 1989 (54 FR 26306).
Effective date: September 4, 1989.

PART 222—[AMENDED]

19. 34 CFR part 222, final regulations published July 18, 1989 (54 FR 30039).
Effective date: September 4, 1989.

PART 203—[AMENDED]

20. 34 CFR part 203, final regulations published July 18, 1989 (54 FR 30192).
Effective date: September 4, 1989.

PART 345—[AMENDED]

21. 34 CFR part 345, final regulations published August 9, 1989 (54 FR 32770).
Effective date: September 23, 1989.

PART 208—[AMENDED]

22. 34 CFR part 208, final regulations published August 10, 1989 (54 FR 32936).
Effective date: September 24, 1989.

PART 755—[AMENDED]

23. 34 CFR part 755, final regulations published August 10, 1989 (54 FR 32946).
Effective date: September 24, 1989.

PARTS 425, 426, 432, 433, 434, 435, 436, 437, 438, and 441—[AMENDED]

24. 34 CFR parts 425, 426, 432, 433, 434, 435, 436, 437, 438, and 441, final regulations published August 18, 1989 (54 FR 34408).
Effective date: October 2, 1989.

PART 379—[AMENDED]

25. 34 CFR part 379, final regulations published August 31, 1989 (54 FR 36098).
Effective date: October 15, 1989.

PART 222—[AMENDED]

26. 34 CFR part 222, final regulations published September 7, 1989 (54 FR 37250).
Effective date: October 22, 1989.

PARTS 245, 246, 247, and 745—[AMENDED]

27. 34 CFR parts 245, 246, 247, and 745, final regulations published September 13, 1989 (54 FR 37874).
Effective date: October 28, 1989.

(20 U.S.C. 1232(d))

Dated: October 27, 1989.

Edward C. Stringer,

General Counsel.

[FR Doc. 89–25715 Filed 10–31–89; 8:45 am]
BILLING CODE 4000–01–M

34 Parts 435, 436, 437, and 438

RIN 1830–AA06

State-Administered Adult Education Programs and Secretary's Discretionary Programs of Adult Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR parts 435, 436, 437, and 438 to add Office of Management and Budget (OMB) control numbers to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Hanrahan, Acting Director, Division of Adult Education, Office of Vocational and Adult Education, U.S. Department of Education (Mary E. Switzer Building, Room 4428), 400 Maryland Avenue, SW., Washington, DC 20202–7240, Telephone: (202) 732–2270.

SUPPLEMENTARY INFORMATION: On August 18, 1989, final regulations implementing Title II, Part B of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297) were published in the Federal Register (54 FR 34408–34439). The effective date of certain sections of these regulations was delayed until information collection requirements contained in these sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has now approved the information collection requirements.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A) and the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest.

List of Subjects

34 CFR Part 435

Adult education, Bilingual education, Education, Grant programs, and Reporting and recordkeeping requirements.

34 CFR Part 436

Adult education, Bilingual education, Education, Foreign persons, Grant programs, Migrant labor, and Reporting and recordkeeping requirements.

34 CFR Part 437

Adult education, Elderly, Education, Grant programs, Reporting and recordkeeping requirements, and Volunteers.

34 CFR Part 438

Adult education, Education, Grant programs, and Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Numbers have not been assigned to National English Literacy Demonstration Program for Individuals of Limited English Proficiency, Adult Migrant Farmworker and Immigrant Education Program, National Adult Literacy Volunteer Training Program, State Program Analysis Assistance and Policy Studies Program)

Dated: October 26, 1989.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends parts 435, 436, 437, and 438 of title 34 of the Code of Federal Regulations as follows:

PART 435—NATIONAL ENGLISH LITERACY DEMONSTRATION PROGRAM FOR INDIVIDUALS OF LIMITED ENGLISH PROFICIENCY

1. The authority citation for part 435 continues to read as follows:

Authority: 20 U.S.C. 1211a(d), unless otherwise noted.

§ 435.21 [Amended]

2. Section 435.21 is amended by adding

(Approved by the Office of Management and Budget under control number 1830–0013)

following the section.

PART 436—ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION PROGRAM

3. The authority citation for part 436 continues to read as follows:

Authority: 20 U.S.C. 1213, unless otherwise noted.

§ 436.22 [Amended]

4. Section 436.22 is amended by adding

(Approved by the Office of Management and Budget under control number 1830–0013)

following the section.

PART 437—NATIONAL ADULT LITERACY VOLUNTEER TRAINING PROGRAM

5. The authority citation for Part 437 continues to read as follows:

Authority: 20 U.S.C. 1213a, unless otherwise noted.

§ 437.21 [Amended]

6. Section 437.21 is amended by adding

(Approved by the Office of Management and Budget under control number 1830–0013)

following the section.

PART 438—STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES PROGRAM

7. The authority citation for part 438 continues to read as follows:

Authority: 20 U.S.C. 1213b(a), unless otherwise noted.

§ 438.21 [Amended]

8. Section 438.21 is amended by adding

(Approved by the Office of Management and Budget under control number 1830–0013)

following the section.

[FR Doc. 89–25679 Filed 10–31–89; 8:45 am]
BILLING CODE 4000–01–M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

Cost of Living Adjustment of the Mechanical Royalty Rate

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal announces an adjustment of the mechanical royalty rate based on the change in the Consumer Price Index from September, 1987 to September, 1989. The rate is increased to either 5.7 cents, or 1.1 cent per minute of playing

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time or fraction thereof, whichever amount is larger.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, NW., Suite 450, Washington, DC 20036 (202) 653–5175.

SUPPLEMENTARY INFORMATION: In 1987, the Copyright Royalty Tribunal adopted the joint proposal submitted by the National Music Publishers' Association, The Songwriters Guild of America and the Recording Industry Association of America, Inc. to make adjustments every two years to the mechanical royalty rate based upon changes in the Consumer Price Index (CPI), except when the CPI declined, in which case the mechanical rate could go no lower than the rates in effect in 1986–1987, and except when the CPI increased by more than 25%, in which case the rate increase would be no greater than 25%. *1987 Adjustment of the Mechanical Royalty Rate,* 52 FR 22637 (June 15, 1987, as corrected, 52 FR 23546 (June 23, 1987).

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) is 8.7% (September, 1987's Index was 115.0 and September, 1989's Index was 125.0, with 1982–1984=100). The current mechanical rate is 5.25 cents, or 1 cent per minute of playing time or fraction thereof, whichever amount is larger. Adjusting that rate upward by 8.7% and rounding off the results to the nearest ½oth of a cent, the new rate, effective January 1, 1990, shall be 5.7 cents, or 1.1 cent per minute of playing time or fraction thereof, whichever amount is larger. Section 307.3 is revised as shown below.

List of Subjects in 37 CFR Part 307

Copyright, Music, Recordings.

For the reasons set forth in the preamble, the Tribunal amends 37 CFR part 307 as follows:

PART 307—[AMENDED]

1. The authority citation for part 307 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 804.

Section 307.3 is revised to read as follows:

§ 307.3 Adjustment of royalty rate.

(a) For every phonorecord made and distributed on or after January 1, 1983, the royalty payable with respect to each work embodied in the phonorecord shall be either 4.25 cents, or .8 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (b), (c), (d), (e) and (f) of this section.

(b) For every phonorecord made and distributed on or after July 1, 1984, the royalty payable with respect to each work embodied in the phonorecord shall be either 4.5 cents, or .85 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (c), (d), (e) and (f) of this section.

(c) For every phonorecord made and distributed on or after January 1, 1986, the royalty payable with respect to each work embodied in the phonorecord shall be either 5 cents, or .95 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (d), (e) and (f) of this section.

(d) For every phonorecord made and distributed on or after January 1, 1988, the royalty payable with respect to each work embodied in the phonorecord shall be either 5.25 cents, or 1 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (e) and (f) of this section.

(e) For every phonorecord made and distributed on or after January 1, 1990, the royalty payable with respect to each work embodied in the phonorecord shall be either 5.7 cents, or 1.1 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraph (f) of this section.

(f)(1) On November 1, 1991, and each November 1 biennially thereafter until November 1, 1995 (that is, November 1, 1993 and 1995), the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the percent change in the Consumer Price Index (all urban consumers, all items) (CPI) from the Index published for the September two years earlier to the Index published for the September of the year in which such notice is published, and the underlying calculations.

(2) On the same date as the notice is published pursuant to paragraph (f)(1) of this section, the CRT shall publish in the **Federal Register** revised compulsory license royalty rates which shall adjust the amounts then in effect in direct proportion to the percent change in the CPI determined as provided in paragraph (f)(1) of this section, rounded to the nearest ½oth of a cent; *Provided,* however, That:

(i) The adjusted rates shall be no greater than 25% more than the rates then in effect; and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (f) shall become effective for every phonorecord made and distributed on or after January 1 of the year following that in which such notice is published; that is, on January 1, 1992, 1994 and 1996, respectively.

Dated: October 27, 1989.

Mario F. Aguero,

Acting Chairman.

[FR Doc. 89–25551 Filed 10–31–89; 8:45 am]

BILLING CODE 1410–09–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E3403/R1040; FRL 3663–3]

Pesticide Tolerance for Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the nematacide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate (also referred to in this document as fenamiphos) and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity strawberries. The Inter-regional Research Project No. 4 (IR–4) petitioned EPA for this tolerance.

EFFECTIVE DATE: November 1, 1989.

ADDRESS: Written objections, identified by the document control number, [PP 6E3403/R1040], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section, Registration Division (H–7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 3, 1989 (54 FR 31971), in which it was announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 6E3403 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Stations of California, Florida, New Jersey, Maryland, and Washington.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the nematacide fenamiphos (ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate and its cholinesterase-inhibiting metabolites, ethyl 3-methyl-4-(methylsulfinyl)phenyl (1-methylethyl)phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl) phenyl (1-methylethyl)phosphoramidate) in or on the raw agricultural commodity strawberries at 0.6 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 29, 1989.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.349(a) is amended by adding and alphabetically inserting the raw agricultural commodity strawberries, to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio)phenyl(1-methylethyl) phosphoramidate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Strawberries	0.6
* * * * *	

[FR Doc. 89–25479 Filed 10–31–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 7E3493/R1041; FRL–3663–4]

Pesticide Tolerance For Fluvalinate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide (alpha RS,2R)-fluvalinate[(RS)-alpha-cyano-3-phenoxybenzyl(R)-2-[2-chloro-4-(trifluoromethyl)anilino]-3-methylbutanoate] (referred to in this document as fluvalinate) in or on the raw agricultural commodity coffee. The Interregional Research Project No. 4 (IR–4) petitioned EPA for this tolerance.

EFFECTIVE DATE: November 1, 1989.

ADDRESS: Written objections, identified by the document control number, [PP 7E3493/R1041], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section, Registration Division (H–7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 3, 1989 (54 FR 31972), in which it was announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 7E3493 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of Hawaii.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the insecticide fluvalinate in or on the raw agricultural commodity coffee at 0.01 part per million (ppm). This use of the pesticide is limited to Hawaii based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or

establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyfluthrin in or on the raw agricultural commodity fresh hops and the food

Information Section, at the address given above. Such objections should specify the provisions of the regulations deemed objectionable and the grounds for the objections. A hearing will be

Authority: 21 U.S.C. 346.

b. In § 185.1250, by adding new paragraph (d), to read as follows:

§ 185.1250 Cyfluthrin.

in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

EFFECTIVE DATE: As shown in fourth

construction of buildings in the Special Flood Hazard Area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5

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establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 29, 1989.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.427 is amended in the heading by adding the phrase "tolerances for residues," and by designating the current text and list of tolerances as paragraph (a), and by adding new paragraph (b), to read as follows:

§ 180.427 (Alpha RS,2R)-fluvalinate [(RS)-alpha-cyano-3-phenoxybenzyl(R)-2-[2-chloro-4-(trifluoromethyl)anilino]-3-methylbutanoate; tolerances for residues.

* * * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the insecticide (alpha RS,2R)-fluvalinate[(RS)-alpha-cyano-3-phenoxybenzyl(R)-2-[2-chloro-4-(trifluoromethyl)anilino]-3-methylbutanoate in or on the following commodities:

Commodities	Parts per million
Coffee	0.01

[FR Doc. 89-25480 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

Office of Pesticides and Toxic Substances

40 CFR Parts 180 and 185

[PP 9E3747 and FAP 9H5580/R1042; FRL-3663-5]

Pesticide Tolerances for Cyfluthrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyfluthrin in or on the raw agricultural commodity fresh hops and the food commodity dried hops. The regulations to establish maximum permissible levels for residues of the insecticide were requested pursuant to petitions by Mobay Corp., Agricultural Chemicals Division.

EFFECTIVE DATE: November 1, 1989.

ADDRESS: Written objections, identified by the document control number [PP 9E3747 and FAP 9H5580/R1042], may be submitted to: Public Docket and Freedom of Information Section, Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (H-7505C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-2400.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 16, 1989 (54 FR 33718), which announced that Mobay Corp., Agricultural Chemicals Division, P.O. Box 9413, Kansas City, MO 64120-0013, had submitted pesticide petition (PP) 9E3747 proposing to establish a tolerance for the insecticide cyfluthrin(cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate) in or on the raw agricultural commodity (RAC) fresh hops imported from Germany at 4.0 parts per million (ppm) and food additive petition (FAP) 9H5580 proposing to amend 40 CFR part 185 by establishing a tolerance for cyfluthrin in or on dried hops at 20.0 ppm.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by these regulations may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Public Docket and Freedom of Information Section, at the address given above. Such objections should specify the provisions of the regulations deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180 and 185

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 2, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.436, in the table therein, by adding and alphabetically inserting the commodity hops, to read as follows:

§ 180.436. Cyfluthrin; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Hops, fresh	4.0
* * * * *	

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346.

b. In § 185.1250, by adding new paragraph (d), to read as follows:

§ 185.1250 Cyfluthrin.

* * * * *

(d) A tolerance of 20.0 parts per million is established for residues of the insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate) in or on dried hops resulting from application of the insecticide to hops.

[FR Doc. 89-25477 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6854]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities were required to adopt floodplain management measures compliant with the NFIP revised regulations that became effective on October 1, 1986. If the communities did not do so by the specified date, they would be suspended from participation in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

EFFECTIVE DATE: As shown in fourth column.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding.

In addition, the Director of the Federal Emergency Management Agency has identified the Special Flood Hazard Areas in these communities by publishing a Flood Insurance Rate Map. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the Special Flood Hazard Area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on these participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for part 64 continues to reads as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, the suspension for each listed community has been withdrawn. The entry reads as follows:

§ 64.6 List of eligible communities.

State and community name	County	Community No.	Effective date
Regular Program Conversions			
North Dakota: Norway, township of	Traill	380643	Sept. 6, 1989. Suspension withdrawn.
South Dakota:			
Estelline, city of	Hamlin	460036	Do.
Westport, town of	Brown	460011	Do.
Utah:			
American Fork, city of	Utah	490152	Do.
Annabella, town of	Sevier	490122	Do.
Aurora, town of	Sevier	490123	Do.
Cache County	Unincorporated Areas	490012	Do.
Charleston, town of	Wasatch	490165	Do.
Clarkston, town of	Cache	490014	Do.
Elsinore, town of	Sevier	490125	Do.
Fairview, city of	Sanpete	490113	Do.
Garfield County	Unincorporated Areas	490065	Do.
Monroe, city of	Sevier	490129	Do.
Moroni, city of	Sanpete	490118	Do.
Newton, town of	Cache	490022	Do.
Panguitch, city of	Garfield	490070	Do.
Parawon, city of	Iron	490076	Do.
Richfield, city of	Sevier	490131	Sept. 15, 1989. Suspension withdrawn.
Richmond, city of	Cache	490027	Do.
Riverton, city of	Salt Lake	490104	Do.
Roy, city of	Weber	490223	Do.
Sanpete County	Unincorporated Areas	490111	Do.

State and community name	County	Community No.	Effective date
Wyoming:			
Afton, town of	Lincoln	560068	Do.
Carbon County	Unincorporated Areas	560008	Do.
Glenrock, town of	Converse	560014	Do.

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State and community name	County	Community No.	Effective date
Wyoming:			
Afton, town of	Lincoln	560068	Do.
Carbon County	Unincorporated Areas	560008	Do.
Glenrock, town of	Converse	560014	Do.
Kaycee, town of	Johnson	560028	Do.
Natrona County	Unincorporated Areas	560036	Do.
Ten Sleep, town of	Washakie	560055	Do.

Issued: October 20, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-25724 Filed 10-31-89; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 54, No. 210
Wednesday, November 1, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

17 CFR Part 1772

[REA Bulletin 345-13]

REA Specification for Aerial and Underground Cables, PE-22

AGENCY: Rural Electrification Administration, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications by issuing revised Bulletin 345-13, REA Specification for Aerial and Underground Telephone Cables, PE-22, to include the material and performance requirements for: (1) Service pairs in screened cables, (2) cables designed to operate on carrier systems with a 3.152 Mb/s bit rate (T1C), and (3) the raw materials used in insulating the conductors and jacketing the cables. This action will assist REA borrowers in that they will be able to choose from a wider variety of nonfilled telephone cables. It will also provide REA borrowers with an economic and efficient means of furnishing increased subscriber services using digital transmission technologies. This revision will not adversely affect cable manufacturers because no design changes in presently manufactured products will be required.

DATE: Public comments must be received by REA no later than January 2, 1990.

ADDRESS: Submit written comments to William F. Albrecht, Director, Telecommunications Staff Division, Rural Electrification Administration, room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500. Copies of the document are available upon request from the above address. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Garnett G. Adams, Chief, Outside Plant Branch, Telecommunications Staff Divison, Rural Electrification Administration, Washington, DC 20250-1500, telephone (202) 382-8667.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing revised Bulletin 345-13, REA Specification for Aerial and Underground Telephone Cables, PE-22. This incorporation by reference was approved by the Director of the Federal Register on December 30, 1983. This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets, and therefore, has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or record keeping requirement which requires approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. The reasons set forth in the Final Rule related Notice to 7 CFR part 3015, subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

REA has issued a series of publications entitled "bulletins" which serve to implement the policy, procedures, and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. In the bulletin series REA issues standards and specifications for the construction of telephone facilities financed with REA loan funds. REA is proposing to revise Bulletin 345-13, the REA Specification for Aerial and Underground Telephone Cables, PE-22. This specification was last issued in January 1983. The PE-22 designation is an arbitrary set of letters and numbers assigned by REA to identify telephone materials and equipment specifications.

Aerial and underground nonfilled telephone cables are used by REA telephone borrowers in the construction of outside plant facilities. The cables are used as the transport media for transmission of voice, data, pictures, and signals between telephone subscribers.

The current specification does not allow service pairs in screened cables because the majority of REA borrowers have a small subscriber base and have not needed the full carrier transmission capacity that a screened cable provides. Thus, all the cable pairs were not utilized for carrier transmission which allowed unused pairs to be used as service pairs. With REA borrowers' continuing growth, there is greater probability that all screened cable pairs will be used for carrier transmission necessitating REA approval of the use of service pairs for voice order and interrogation functions.

The current specification also does not include requirements for cables designed to transmit a digital line running at 3.152 million bits per second (this is the industry designated T1C carrier system). Up until now there was very little demand for transmission links on REA borrower systems that were capable of handling this high bit rate. Technology, however, is changing and so are the services that the REA borrowers are required to provide. Many of the subscribers are now asking for

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data communications, digital facsimile, and video teleconferencing tariffs. To be sure that cables used for current and future T1C installations are of the highest quality, REA is incorporating requirements into the specification for cables intended for T1C carrier applications.

The reason that raw material insulating and jacketing requirements are not in the existing specification is that these requirements are covered by REA Specifications PE–200 and –210. REA incorporated the raw material requirements covered by these two specifications into the revised REA Specification PE–22. REA will be incorporating the applicable raw materials requirements in PE–200 and PE–210 into all the wire and cable specifications as they are revised. When this has been accomplished, PE–200 and PE–210 will be withdrawn.

This action establishes requirements for a wider range of aerial and underground nonfilled telephone cables without affecting current designs or manufacturing techniques of cable manufacturers. This wider selection of cables will provide REA borrowers with an economic and efficient means of furnishing increased subscriber services using digital transmission technologies.

List of Subjects in 7 CFR Part 1772

Loan Programs—Communications, Telecommunications, Telephone.

In view of the above, REA is proposing to amend 7 CFR part 1772 by issuing a revised Bulletin 345–13.

PART 1772—[AMENDED]

1. The authority cited for part 1772 would continue to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. The table in § 1772.97 would be amended by revising the entry 345–13 to read as follows:

§ 1772.97 Incorporation by Reference of Telephone Standards and Specifications.

345–13	PE–22	REA Specification for Aerial and Underground Telephone Cables.

Dated: October 26, 1989.

Jack Van Mark,

Acting Administrator.

[FR Doc. 89–25757 Filed 10–31–89; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF ENERGY

10 CFR Part 764

Uranium Mill Tailings; Annotation of Land Records

AGENCY: U.S. Department of Energy.

ACTION: Proposed rule; rescheduled hearing and extension of comment period.

SUMMARY: On July 14, 1989, the U.S. Department of Energy (DOE) issued a proposed rule to clarify the obligations of certain states to annotate the local land records of certain properties at which DOE performed remedial action to remove uranium mill tailings.

In response to comments received by DOE's Uranium Mill Tailings Remedial Action Projects Office in Albuquerque, New Mexico, DOE decided to change the date and location of the public hearing and extend the comment period on the proposed rule. This action is intended to provide a more convenient opportunity for interested persons to attend the public hearing and express their views.

DATES: The new date for the public hearing is November 9, 1989. The hearing location is announced in the addresses section. At that time, interested persons will be provided an opportunity to express their views and provide oral presentation of data and arguments, if any. The comments period on the proposed rule will be further extended until November 28, 1989. Comments received on or before that date will be considered in the decision-making process on the final rule. Comments received after that date will be considered only to the extent feasible.

ADDRESSES: The hearing will be held at Two Rivers Plaza, Second Street and Main Street in Grand Junction, Colorado. Comments should be sent to: Ms. Joelene Garcia, Uranium Mill Tailings Project Office, U.S. Department of Energy, 5301 Central Avenue, N.E., S. 1700, Albuquerque, New Mexico 87108. Comments will be available for public review at the above address during regular business hours, 9:00 am–4:00 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

L.C. Brazley, Office of Nuclear Energy, NE–22, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585;

Steven R. Miller, Office of General Counsel, GC–11, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: DOE issued its proposed rule pursuant to section 109 of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*). Notice of the proposed rule was published in the **Federal Register** on Friday, July 14, 1989 (54 FR 29732).

Issued in Germantown, MD on October 23, 1989.

J.A. Coleman,

Acting Director, Office of Remedial Action and Waste Technology, U.S. Department of Energy.

[FR Doc. 89–25866 Filed 10–31–89; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–ACE–30]

Proposed Alteration of Control Zone—Offutt Air Force Base, Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT..

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to amend the Offutt Air Force Base Nebraska, control zone description to correct the airport coordinates and to add airspace necessary to protect the ILS approach to Runway 30.

DATES: Comments must be received on or before December 1, 1989.

ADDRESSES: Send comments on the proposal to' Federal Aviation Administration, Manage, Systems Management Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, System Management Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dale Carnine, Airspace Specialist, System Management Branch, Air Traffic Division, ACE–530, FFA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the System Management Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Knasas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, System Management Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to subpart F of part 71 of the Federal Aviation Regulations [14 CFR part 71 to altering the description of the control zone for Offutt Air Force Base, Nebraska. The Department of the Air Force has requested that action be taken to correct the airport coordinates and to add the additional airspace that is required to protect the ILS approach to Runway 30. This action is necessary to redefine controlled airspace to this location.

Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation ony involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrent preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS.

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854: 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Offutt AFB, NE [Revised]

Within a 5.5-mile radius of Offutt AFB (1at. 4°07'06"N., long. 95°54'44" W.), within 2 miles each side of the Offutt Runway 30 ILS localizer southeast course to a point 7.5 miles from the origin.

Issued in Kansas City, Missouri, on October 17, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division Central Region.

[FR Doc. 89–25729 Filed 10–31–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 89–ACE–33]

Proposed Alteration of Control Zone and Transition Area—Jefferson City, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the control zone and the 700-foot transition area at Jefferson City, Missouri. An additional instrument approach procedure is being developed for Jefferson City Memorial Airport, Jefferson City, Missouri, utilizing the NOAH nondirectional radio beacon (NDB) as a navigational aid. The intended effect of this proposed action is to provide additional controlled airspace for aircraft executing the new instrument approach procedures to the Jefferson City Memorial Airport.

DATES: Comments must be received on or before December 1, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Systems Management Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, System Management Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE–530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3406.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the System Management Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, System Management Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426–3408.

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Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to subpart F, section 71.171 of the Federal Aviation Regulations [14 CFR Part 71] and subpart G, section 71.181 of the Federal Aviation Regulations [14 CFR 71.181] by altering the control zone and 700-foot transition area at Jefferson City, Missouri. This proposed action is necessary in order to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 12 at the Jefferson City Memorial Airport. Therefore, the control zone and the transition area at this location would be altered as described in this proposed airspace action. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing this new instrument approach procedure. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a reguloatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, and Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Jefferson City, MO [Revised]

2. Section 71.171 is amended as follows:

§ 71.171 [Amended]

Within a 5-mile radius of Jefferson City Memorial Airport (lat. 30°35'28" N., long. 92°09'22" W.); and within 3 miles each side of the NOAH NDB (lat. 38°38'14" N., long. 92°14'40" W.) 303° bearing, extending from the 5-mile radius to 8 miles northwest of the NOAH NDB, and within 2.5 miles each side of the Memorial NDB (lat. 38°33'14" N., long. 92°04'40" W.) 122° bearing, extending from the 5-mile radius zone to 11.5 miles southeast of the Memorial NDB. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

3. Additionally, Section 71.181 is amended as follows:

Jefferson City, MO [Revised]

That airspace extending upward from 700 ft. above the surface within an 8.5-mile radius of the Jefferson City Memorial Airport (lat. 38°35'28" N., long. 92°09'22" W.) and within 3.5 miles each side of the NOAH NDB (lat. 38°38'14" N., long. 92°14'40" W.) 303° bearing, extending from the 8.5-mile radius area to 16.5 miles northwest of the airport, and within 4.5 miles each side of the Runway 30 localizer final approach course extending from the 8.5-mile radius to 12 miles southeast of the Memorial NDB (lat. 38°33'14" N., long. 92°04'40" W.).

Issued in Kansas City, Missouri, on October 17, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-25731 Filed 10-31-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-31]

Proposed Alteration of Transition Area—Omaha, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Omaha, Nebraska. This alteration is necessary to correct the airport coordinates for the airfield at Offutt Air Force Base and for Omaha Eppley Field.

DATES: Comments must be received on or before December 1, 1989.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Systems Management Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, System Management Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale Carnine, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the System Management Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, System Management Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) by altering the 700-foot transition area at Omaha, Nebraska. The Department of the Air Force has requested that the control zone for the airfield at Offutt Air Force Base be altered. As a result, this proposed action is necessary to redefine the 700-foot transition area at Omaha, Nebraska, in order to correct the coordinates for the Offutt Air Force Base Airfield. This action would also correct the coordinates for Eppley Field, Omaha, Nebraska.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

Omaha, NE [Amended]

On the second line change "41°18'00" N., Long. 95°53'36" W., to read 41°18'06" N., Long. 95°53'36" W." On the eighth line change "41°07'20" N., Long. 95°54'35" W." to read "41°07'06" N., Long. 95°54'44" W."

Issued in Kansas City, Missouri, on October 17, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division Central Region.

[FR Doc. 89-25730 Filed 10-31-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Fuel Oil Blending—Creation of a New and Different Product for the Purposes of the Coastwise Laws

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed change of position; solicitation of comments.

SUMMARY: The U.S. Customs Service is reviewing its current position on fuel oil blending operations as they relate to the coastwise laws. The current position is that a fuel oil blending operation which changes the original product in sulfur content, specific gravity, pour point, and viscosity creates a new and different product. Customs now believes that this policy may not be correct for all such blending operations. Whether a new and different product is created by such operations is significant because foreign-flag ships are prohibited from transporting merchandise (including oil) between ports in the U.S. under existing law unless prior to delivering the cargo to its U.S. port of destination it has been transformed into a new and different product from that which was laden in a U.S. port. Because this possible change of position could have an impact on certain members or the public, this notice invites public comments on the subject.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Glen Vereb, Carrier Rulings Branch, (202) 566-5706.

SUPPLEMENTARY INFORMATION:

Background

The Customs Service is reviewing its current position that a fuel oil blending operation which changes the original product in sulphur content, specific gravity, pour point, and viscosity generally creates a new and different product within the meaning of § 4.80b(a), Customs Regulations (19 CFR 4.80b(a)).

Whether a new product is created or not is particularly significant because of the implications associated with transportation of the product. Title 46, United States Code Appendix, section 883 (46 U.S.C. App. 883), commonly called the Jones Act, provides, in part, that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by citizens of the United States.

The case of *American Maritime Association* v. *Blumenthal*, 590 F. 2d 1156 (1978), involved the applicability of 46 U.S.C. App. 883 to the transportation of crude oil by a foreign-flag tanker from Valdez, Alaska, to the U.S. Virgin Islands, and the subsequent transfer of products refined from that oil from the Virgin Islands to the continental United States. The refining process turned the Alaska crude oil into eleven different products, each different in name, physical and chemical character, and use, both from each other and from the crude oil. Because of these processes, it was determined that refining created new and different products from the Alaskan crude, and therefore their transportation by foreign-flag vessels from the Virgin Islands to the United States did not violate section 883.

Section 4.80b was added to the Customs Regulations in 1979 in order to enunciate the Customs position that merchandise must undergo some manufacturing or processing at an offshore port or place which results in a new or different product to be exempt from the restrictions of the coastwise laws.

Historically, in determining whether a new or different product has occurred as the result of a particular fuel oil blending operation, Customs has looked to whether the resultant product differed from the original products in four characteristics: sulphur content, specific gravity, pour point, and viscosity. Additionally, Customs has held that merchandise manufactured or processed into a new and different product must

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be landed and processed at an intermediate port or place other than a coastwise point. The manufacturing or processing may not take place on board a vessel.

Customs has reviewed its current treatment of the oil blending process, and now is of the position that without specific data concerning the process and materials used, it is not possible to determine whether a new and different product has been manufactured or processed within the meaning of § 4.80b(a), Customs Regulations, as a result of blending of fuel oil. Customs believes that the process of refining whereby the actual chemical structure of the original product is altered creates a new and different product. Although blending changes some characteristics (i.e., sulphur content, specific gravity, pour point, and viscosity), these changes would have to be of significant proportions for a new and different product to be created within the meaning of § 4.80b(a), Customs Regulations.

Customs has suspended all rulings on this matter until the issue has been finally resolved. It is Customs view that, prior to reaching future determinations that a new and different product has in fact been created by a blending operation for purposes of § 4.80b(a), the procedures and specific data of such operations should be submitted by the party seeking such a determination. Customs will then review the data and make the necessary determination, which will form the basis for a decision regarding any possible violation of the coastwise laws.

Authority

Because a change of position, if implemented, will result in some operational changes in affected business entities, Customs is giving interested parties notice and an opportunity to comment in accordance with § 177.10(c)(2), Customs Regulations (19 CFR 177.10(c)(2)).

Request for Comments

Accordingly, Customs is requesting interested parties to submit comments on the extent to which the blending of fuel oil is necessary in order to create a new and different product within the meaning of § 4.80b(a), or whether some degree of refining is necessary to create such a product.

Before making a final determination in this matter, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW. Room 2119, Washington, DC 20229.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings; U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: October 25, 1989.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-25636 Filed 10-31-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Regulatory Program; Show Cause Orders

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed amendments to the Indiana regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments consist of proposed changes to the Indiana Surface Mining Rules concerning the suspension or revocation of permits. The amendments are intended to improve the operational efficiency of the rules.

This notice sets forth the times and locations that the Indiana program and the proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on December 1, 1989; if requested, a public hearing on the proposed amendments is scheduled for 1:00 p.m. on November 26, 1989; and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on November 16, 1989.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendments, a listing of any scheduled public meeting, and all written comments received in response to this notice will be available for public review at the addresses listed below, during normal business hours Monday through Friday, excluding holidays. Each requester may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Indianapolis Field Office:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204. Telephone: (317) 226-6166.

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, IN 46204. Telephone (317) 232-1547.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, (317) 226-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

The Secretary of the Interior conditionally approved the Indiana program, effective July 29, 1982.

Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of Amendments

The Indiana Department of Natural Resources (IDNR) submitted proposed amendments to the Indiana program at 310 Indiana Administrative Code (IAC) 12-6-6.5 (Administrative Record No. IND-0607). The proposed changes are briefly summarized below:

The existing language of paragraph 310 IAC 12-6-6.5(c) concerning requirements for providing public notice

of show cause orders is deleted, and is replaced by new language concerning public notice. Paragraph 310 IAC 12-6-6.5(d) concerning requests for a hearing and providing public notice of hearings is proposed to be deleted. Paragraph 310 IAC 12-6-6.5(e) concerning the requirements for the issuance of the Director's decision following a hearing is proposed to be deleted. Various reference citation changes and stylistic changes are made throughout 310 IAC 12-6-6.5.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by IDNR satisfy the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendments are deemed adequate, they will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business on November 16, 1989. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Indianapolis Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each meeting will be included in the Administrative Record.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 24, 1989.

David G. Simpson,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 89-25646 Filed 10-31-89; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 914

Indiana Regulatory Program; Water Replacement

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed amendments to the Indiana regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments consist of proposed changes to the Indiana Surface Mining Rules concerning hydrologic balance; water rights and replacement. The amendments are intended to improve the operational efficiency of the rules.

This notice sets forth the times and locations that the Indiana program and the proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on December 1, 1989; if requested, a public hearing on the proposed amendments is scheduled for 1:00 p.m. on November 26, 1989; and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on November 16, 1989.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendments, a listing of any scheduled public meeting, and all written comments received in response to this notice will be available for public review at the addresses listed below, during normal business hours Monday through Friday, excluding holidays. Each requester may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Indianapolis Field Office:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204. Telephone: (317) 226-6166.

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, IN 46204. Telephone (317) 232-1547.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, (317) 226-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

The Secretary of the Interior conditionally approved the Indiana program, effective July 29, 1982.

Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of Amendments

The Indiana Department of Natural Resources (IDNR) submitted proposed amendments to the Indiana program at 310 Indiana Administrative Code (IAC) 12-5-29 and 310 IAC 12-5-94 (Administrative Record No. IND-0663). The proposed changes are briefly summarized below:

The amendment to 310 IAC 12-5-29 adds the words "pursuant to a lawful order of an agency or court order under IC 13-2-2.5 or another state water rights law" to the first sentence which requires replacement of water rights. The words "within a reasonable time" are deleted from the first sentence following the word "replace". A new sentence is added to the rule which states: Water

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replacement rights are not determined by this article. The proposed amendments to 310 IAC 12–5–04 are identical to the proposed changes to 310 IAC 12–5–29 discussed above. Other changes to 310 IAC 12–5–29 and 310 12–5–04 are stylistic.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by IDNR satisfy the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendments are deemed adequate, they will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business on November 16, 1989. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Indianapolis Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be included in the Administrative Record.

List of Subjects in 30 CFR Part 914

Coal Mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 24, 1989.

David G. Simpson,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 89–25645 Filed 10–31–89; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 936

Oklahoma Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: On August 24, 1989, the State of Oklahoma submitted to OSM a proposed amendment to its abandoned mine land reclamation (AMLR) plan. The proposed amendment provides new procedures for the ranking of eligible reclamation projects affeced by surface and underground coal mining processes that qualify for funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* In addition, the amendment discusses how those projects that will be included in the State's annual reclamation grant request will be selected. OSM is seeking public comments on the proposed changes.

DATES: Written comments on the proposed rule must be received by 4:00 p.m. local time on December 1, 1989. Comments received after that date may not necessarily be considered in the decision document. If requested, a public hearing will be held at 10:00 a.m. local time on November 27, 1989 regarding the proposed rule. OSM reserves the right to cancel the hearing without further notice if insufficient requests are received. Requests to present oral testimony at the hearing must be received by 4:00 p.m. local time on November 16, 1989.

Public meetings: Scheduled on request only.

ADDRESSES: Written comments, requests to present oral testimony, and requests for a hearing should be mailed or hand carried to Mr. James H. Moncrief at the address listed below. Copies of the Oklahoma plan, the proposed amendment to the plan, and all written comments received in response to this notice will be available for public review and copying at the address listed below during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting, the OSM Tulsa Field Office.

Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135, (918) 581–6430

or

Oklahoma Conservation Commission, Room 160, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, (405) 521–2384.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Moncrief, Director, Tulsa Field Office, at the address listed in "**ADDRESSES,**" telephone number (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior (Secretary) approved the Oklahoma AMLR program submitted on June 30, 1981. Information pertinent to the general background, revisions, and amendment to the initial program submission, as well as the Secretary's findings and disposition of comments can be found in the January 21, 1982, **Federal Register** (47 FR 2991).

Information concerning the approved plan and the proposed amendment may be obtained from the agency offices listed under "**ADDRESSES.**"

The Secretary has adopted regulations that specify the content requirements of a State's reclamation plan and the criteria for plan approval (30 CFR part 884). The regulations provide that a State may submit to the Director of OSM proposed amendments or revisions to the approved reclamation plan. If the amendments or revisions change the scope of the plan or major policies followed by the State in the conduct of its reclamation program, the Director must follow the procedures set out in 30 CFR 884.14 in approving or disapproving the amendment or revision.

II. Discussion of Proposed Amendment

By letter dated August 8, 1989, Oklahoma submitted a reclamation plan amendment to OSM (Administrative Record No. AML–OK 42). The proposed amendment concerns the project selection criteria as specified in 30 CFR 884.13(c)(2). The Oklahoma Conservation Commission (OCC) has submitted revised project scoring criteria to ensure that projects involving threats to the public health and safety are addressed before lower priority problems.

Project ranking and selection procedures are described in general terms in 30 CFR 874.13. Specifically, reclamation projects should reflect the priorities set out in Section 403 of SMCRA and should be accomplished in accordance with OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FED. Reg. 14810–14819, March 6, 1980).

OSM regulations do not provide any specific methodology for selecting and ranking projects. However, OSM did develop a model AML plan to assist the States in developing their reclamation plans. As part of this model, a site evaluation matrix was designed together with an objective, quantifiable method for ranking specific priority problems. The site matrix contains certain environmental, socio-economic, programmatic, and technical factors. Each site has a specific priority; therefore, each site can be ranked numerically depending on the matrix score. The higher ranking projects within each priority are then selected for funding in a State's annual grant request.

For the purposes of AML project site selection, OCC has proposed two matrices. One matrix would be used to evaluate surface mine sites and the other for underground mines.

This was done because the hazards associated with the two types of mines are very different and difficult to compare.

OSM is requesting specific comments on the adequacy of Oklahoma's revised ranking and selection procedures.

III. Public Comment Procedures

In accordance with 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Oklahoma program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearings

Persons wishing to testify at the public hearing should contact Mr. James H. Moncrief by 4:00 p.m., local time on November 16, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested to assist the transcriber. Submission of a written statement in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, but who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting Mr. James H. Moncrief. The meeting will be open to the public and, if possible, notice of the meeting will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made part of the administrative record.

IV. Procedural Matters

OSM intends to continue to discuss the amendment with representatives of the State throughout the review process. All contacts between OSM personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with states published September 19, 1979 (44 FR 54444).

1. Federal Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 *et seq.*

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On October 4, 1985, OMB granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to apporval or disapproval of State reclamation plans or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No burden would be imposed upon entities operating in compliance with the Act.

3. Compliance With the National Environmental Policy Act

Approval of State AMLR plans and amendments is categorically excluded from compliance with the National Environmental Policy Act by the Department of the Interior's Manual, 516 DM 2. appendix 1.

List of Subjects in 30 CFR Part 936

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 25, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 89–25735 Filed 10–31–89; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AD94

Loan Guaranty; Pre-Foreclosure Waiver or Compromise of Debts

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulatory amendments.

SUMMARY: The Department of Veterans Affairs (VA) is proposing amendments to its loan guaranty regulations to establish a new procedure for the waiver and compromise of loan guaranty indebtedness. Under the new procedure, indebtedness could be waived or compromised prior to foreclosure, in which case a Veteran's debt could be reduced making it more likely to be collected.

DATES: Comments must be received on or before December 1, 1989. Comments will be available for public inspection until December 11, 1989.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this

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proposal to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in room 132, Veterans Services Unit, at the above address between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard A. Levy, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Benefits Administration, (202) 233–6376.

SUPPLEMENTARY INFORMATION: Under section 1810 of title 38, United States Code, VA guarantees a portion of the loan made to an eligible veteran to acquire or refinance a home, condominium, or manufactured home which is treated as real estate under State law, or to install certain energy conservation features or other home improvements. The guaranty is a promise by the Government to pay a portion of the veteran's indebtedness in the event of a loan default and eventual termination through foreclosure or other proceedings.

When a VA guaranteed loan goes into default and servicing efforts by the holder and VA fail, the holder proceeds with termination of the loan. Under 38 CFR 36.4323(e), any amounts paid by the Secretary or account of a VA guaranteed home loan constitute a debt owing to the United States by the veteran. Under 38 U.S.C. 1820, the Secretary has the authority to waive or compromise these debts or the right to collect these debts. Presently, the authority to waive debts is exercised, in appropriate cases, after a debt has been established against the veteran. The proceedings for waiver or compromise of a debt are generally held before a Committee on Waivers and Compromises which is constituted at the Regional Office level.

VA presently uses its authority to waive or compromise its right to collect debts before foreclosure when it is advantageous to the Government to do so. This occurs, for example, when VA accepts a deed in lieu of foreclosure or when VA authorizes a private sale of the property for less than the indebtedness and pays a partial claim. It can also occur when there is little or no likelihood that any debt established would be collectable, and VA therefore authorizes use of a foreclosure method which is more expeditious than an alternate method which would preserve the right to establishment of a debt.

The proposed regulatory amendments would expand VA's ability to waive or compromise its collection rights prior to the foreclosure. This could have significant advantages for veterans and VA. The number and size of debts established against veterans could be reduced and their collectability could be increased. Committee on Waiver and Compromise workloads could be reduced, as could the dollar amount of claims paid by VA.

VA proposes to use the following criteria in determining whether a waiver or compromise before foreclosure would be appropriate:

1. The veteran responded to VA outreach efforts and had personal contact with Loan Guaranty staff;
2. The veteran cooperated fully with VA in exploring all alternatives to foreclosure;
3. The default was not willful—there were no indications of fraud, material fault, misrepresentation or bad faith on the part of the veteran;
4. There were no realistic alternatives to foreclosure (or, VA and the veteran were able to take advantage of an alternative); and,
5. The veteran does not have the ability to repay the full amount of the anticipated debt after foreclosure within a reasonable period of time.

In such cases, it would be appropriate to fully or partially waive VA's collection rights prior to foreclosure depending on the benefits VA receives in connection with such action (e.g., obtaining a deed in lieu of foreclosure or a promissory note to secure repayment of an affordable amount of debt) and the veteran's estimated ability to repay a debt.

The Secretary hereby certifies that these proposed regulatory amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. These proposed regulations will affect the debts established against individual veterans, who are not small entities within the coverage of the Act. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory analysis requirements of sections 603 and 604.

The proposed regulatory amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulation changes. The regulations will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more; cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program Number is 64.114)

List of Subjects in 38 CFR Part 36

Condominium, Handicapped, Housing loan programs-housing and community development, Veterans.

These amendments are promulgated under authority granted the Secretary by sections 210(c), 1803(c)(1), and 1820 of title 38 United States Code, and the enabling legislation.

Approved: October 3, 1989.

Edward J. Derwinski,

Secetary of Veterans Affairs.

PART 36—[AMENDED]

In 38 CFR part 36, Loan Guaranty, § 36.4323 is proposed to be amended by adding paragraphs (e)(1) through (e)(4) to read as follows:

§ 36.4323 Subrogation and indemnity.

* * * * *

(e) * * *

(1) Prior to a liquidation sale, an official authorized to act for the Secretary under provisions of § 36.4342 of this part may approve a complete release of the Secretary's right to collect a debt owing to the United States under this paragraph and/or under paragraph (a) of this section provided such official determines:

(i) The loan default was caused by circumstances beyond the control of the obligor;

(ii) There are no indications of fraud, material fault, misrepresentation or bad faith on the part of the obligor in obtaining the loan or in connnection with the loan default;

(iii) The obligor cooperated with VA in exploring all realistic alternatives to termination of the loan through foreclosure; and, either

(iv) Review of the obligor's current financial situation and prospective earning potential and obligations indicates there are no realistic prospects that the obligor could repay all or part of the anticipated debt within six years of the liquidation sale while providing the necessities of life for himself or herself and his or her family; or,

(v) In consideration for a release of the Secretary's collection rights the obligor completes, or VA is enabled to authorize, an action which reduces the Government's claim liability sufficiently to offset the amount of the anticipated indebtedness which would otherwise be established pursuant to this paragraph and likely be collectable by VA after foreclosure in view of the obligor's financial situation; such actions would include termination of the loan by means of a deed in lieu of foreclosure, private sale of the property for less than the indebtedness with a reduced claim paid by VA for the balance due the loan holder or enabling VA to authorize the holder to elect a more expeditious foreclosure procedure when such an election would result in the legal release of the obligor's liability.

(2) Prior to a liquidation sale, an official authorized to act for the Secretary under provisions of § 4342 of this part may approve a partial release of the Secretary's right to collect a debt owing to the United States under this paragraph and/or under paragraph (a) of this section provided such official determines:

(i) The loan default was caused by circumstances beyond the control of the obligor;

(ii) There are no indications of fraud, material fault, misrepresentation or bad faith on the part of the obligor in obtaining the loan or in connection with the loan default;

(iii) The obligor cooperated with VA in exploring all realistic alternatives to termination of the loan through foreclosure;

(iv) Review of the obligor's current financial situation and prospective earning potential and obligations indicates there are no realistic prospects that the obligor could repay all of the anticipated debt within six years of the liquidation sale while providing the necessities of life for himself or herself and his or her family; and,

(v) The obligor executes a written agreement acknowledging his or her liability to VA under this paragraph and executes a promissory note which provides for regular amortized monthly payments of an amount determined by VA in accordance with paragraph (e)(3) of this section including interest on the total amount payable at the rate in effect for loan guaranty liability accounts at the time of execution, or, the obligor agrees to other terms of repayment acceptable to VA including payment of a lump sum in settlement of his or her obligation under this paragraph;

(3) For purposes of this paragraph a review of an obligor's financial situation will take into consideration:

(i) The obligor's current and anticipated family income based on employment skills and experience;

(ii) The obligor's current short-term and long-term financial obligations, including the obligation to repay the Government which must be afforded consideration at least equal to his or her consumer debt obligations;

(iii) A current credit report on the obligor;

(iv) The obligor's assets and net worth; and

(v) The required balance available for family support used in underwriting VA guaranteed loans in the area.

The amount of indebtedness established will be such that the obligor's financial situation permits repayment of the debt to the Government in regular monthly installments of principal plus interest over a five year period commencing within one year after the date the promissory note is executed, except in those cases in which a lump sum settlement appears to be in the best interest of the Government or in which it appears the obligor may reasonably expect significant changes in his or her financial situation which would permit higher payments to be made during later periods of the life of the note.

(4) Determinations made under paragraphs (e)(2) and (e)(3) of this section are intended for the benefit of the Government in reducing the amount of claim payable by VA and/or avoiding the establishment of uncollectable debts owing to the United States. Such determinations are discretionary on the part of VA and shall not constitute a defense to any legal action to terminate the loan nor vest any appellate right in an obligor which would require further review of the case.

(Authority: 38 U.S.C. 210(c), 1803(c)(1))

[FR Doc. 89–25696 Filed 10–31–89; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9E3737/P492; FRL3663–2]

Pesticide Tolerance for Fluazifop-Butyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide fluazifop-butyl in or on the raw agricultural commodity macadamia nuts. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 9E3737/P492], must be received on or before December 1, 1989.

ADDRESS:

By mail, submit written comments to: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M Street, SW., Washington, DC 20460.

In person, bring comments to: Room 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 9E3737 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of Hawaii.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide (R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (resolved isomer of fluazifop), both free and conjugated and of butyl(R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate (resolved isomer of fluazifop-p-butyl), all expressed as fluazifop, in or on the raw agricultural commodity macadamia

action amounts to an insignificant increase.

The nature of the residues is adequately understood and adequate analytical methods, high-pressure liquid

Dated: September 28, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Room 246, CM#2, 1921 Jefferson Davis Highway,

data considered in support of the proposed tolerance include:

1. A 2-year feeding study in dogs with a NOEL for cholinesterase inhibition

secondary residues in meat, milk, or eggs are expected since the commodity is not considered a livestock feed commodity. There are currently no

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(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate (resolved isomer of fluazifop-p-butyl), all expressed as fluazifop, in or on the raw agricultural commodity macadamia nuts at 0.10 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year chronic feeding/oncogenicity study in rats which was negative for oncogenic potential under the conditions of the study at all feeding levels of 0.1, 0.3, 1.0, and 3.0 milligram (mg) per kilogram (kg) of body weight (bw) per day (equivalent to 2, 6, 20, and 60 ppm) and a systemic no-observed-effect level (NOEL) of 1 mg/kg/day.

2. A 90-day rat feeding study with a NOEL of 0.5 mg/kg/day (equivalent to 10 ppm).

3. A 90-day dog feeding study with a NOEL of 25 mg/kg/day (equivalent to 1,000 ppm).

4. A rat oral lethal dose LD50 of 3,300 mg/kg.

5. A rat teratology study with a teratogenic and maternal toxicity NOEL of 10 mg/kg/day (equivalent to 200 ppm) and a NOEL for fetotoxicity of 1 mg/kg/day.

6. A rabbit teratology study with a maternal NOEL of 30 mg/kg/day and a NOEL for fetotoxicity of 10 mg/kg/day (equivalent to 330 ppm).

7. A two-generation rat reproduction study with a NOEL of 80 ppm (equivalent to 4 mg/kg/day).

8. A 1-year dog feeding study with a NOEL of 5 mg/kg/day.

9. An 18-month mouse chronic feeding/oncogenicity study with no observed oncogenic potential under conditions of the study at all feeding levels of 0.1, 0.3, 1.0, and 3.0 mg/kg/day and a NOEL for systemic toxicity of 1.0 mg/kg/day (equivalent to 7 ppm).

10. An Ames test (negative), a rat cytogenetic study (negative), and an in-vitro transformation assay (negative).

11. An acute delayed neurotoxicity study in hens (negative).

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 1.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.002100 mg/kg/day; the current action will increase the TMRC by less than 0.000001 mg/kg/day (0.05 percent). Published tolerances utilize 20.90 percent of the ADI; the current action amounts to an insignificant increase.

The nature of the residues is adequately understood and adequate analytical methods, high-pressure liquid chromatography using an ultraviolet detector, are available in the *Pesticide Analytical Manual*, Volume II (PAM–II), for enforcement purposes.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.411 would protect the public health. No secondary residues in meat, milk, poultry, or eggs are expected since macadamia nuts are not considered a livestock feed commodity.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 9E3737/P492]. All written comments filed in response to this petition will be available in the Public Docket and Freedom of Information Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 28, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.411(c), by adding and alphabetically inserting the raw agricultural commodity macadamia nuts, to read as follows:

§ 180.411 Fluazifop-butyl; tolerances for residues.

* * * * *

(c) * * *

Commodity	Parts per million
* * * * *	
Macadamia nuts	0.1
* * * * *	

[FR Doc. 89–25482 Filed 10–31–89; 8:45 am]

BILLING CODE 6560–50–M

Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Room 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Room 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 8E3618 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide azinphos-methyl in or on the raw agricultural commodity pomegranates at 0.1 part per million (ppm).

The petitioner proposed that this use of the pesticide be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year feeding study in dogs with a NOEL for cholinesterase inhibition (ChE) at 5 ppm (equivalent to 0.125 mg/kg/day).

2. An oncogenicity bioassay in Osborne-Mendel rats with feeding levels of 78 or 156 ppm (equivalent to 3.9 or 7.8 mg/kg/day) in male rats and 62.5 or 125 ppm (equivalent to 3.1 or 6.3 mg/kg/day) in female rats. Azinphos-methyl was administered in the diet of the rats for 80 weeks and then the rats were observed for an additional 34 to 35 weeks. The occurrence of neoplasms of the thyroid and pancreas in male rats suggested, but did not provide sufficient evidence of, oncogenicity owing to the wide range of spontaneous incidence of thyroid and pancreatic tumors in this strain of rats. A repeat rat oncogenicity study is required since the study in Osborne-Mendel rats is judged to be inadequate.

3. An oncogenicity study in B6C3F1 mice with no observed oncogenic potential under the conditions of the study at dosage levels of 31.3 or 62.5 ppm in male mice and 62.5 or 125 ppm in female mice.

4. A 2-year oncogenicity study in CD1 mice with no observed oncogenic potential under the conditions of the study at dosage levels of 0, 5, 20, or 40 ppm (equivalent to 0, 0.75, 3, or 6 mg/kg/day).

5. A two-generation rat reproduction study with NOEL's for maternal and reproductive effects at 5 ppm.

6. A rat teratology study with NOEL's for maternal and developmental effects greater than 2 mg/kg.

7. Genotoxicity studies including: An Ames *Salmonella* test, an unscheduled DNA synthesis test, and an *in vitro* cytogenic test in human lymphocytes (all negative except for the cytogenic test in human lymphocytes, which showed clastogenic effects with metabolic activation at 500 micrograms/mililiter).

The provisional acceptable daily intake (PADI), based on the 2-year feeding study in dogs (NOEL of 0.125 mg/kg/day) and using a 100-fold uncertainty factor, is calculated to be 0.0013 mg/kg of body weight (bw)/day. The tolerance for pomegranates, which will utilize less than 0.001 percent of the PADI, will result in a negligible incremental increase in risk.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. An analytical method for enforcing this tolerance has been published in the Pesticide Analytical Manual (PAM), Vol. II. No secondary residues in meat, milk, or eggs are expected since the commodity is not considered a livestock feed commodity. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.154 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8E3618/P495]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: October 5, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

In reaching this conclusion, the Toxicology Branch Peer Review Committee considered the following information:

1. The positive carcinogenic effects

herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in

Commodity	Parts per million
Kiwifruit	0.1

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PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.154 is amended by designating the current paragraph and list of tolerances as paragraph (a) and by adding new paragraph (b), to read as follows:

§ 180.154 O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate; tolerances for residues.

* * * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the insecticide *O,O*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate in or on the following commodity:

Commodity	Parts per million
Pomegranates	0.1

[FR Doc. 89-25483 Filed 10-31-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7E3566/P491; FRL 3663-1]

Pesticide Tolerance for Methidathion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the insecticide methidathion in or on the raw agricultural commodity kiwifruit. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 7E3566/P491], must be received on or before December 1, 1989.

ADDRESS:

By mail, submit written comments to: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Room 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 7E3566 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of California and the United States Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl-2-methoxy-1,3,4-thiadiazolin-5-one)) in or on the raw agricultural commodity kiwifruit at 0.1 part per million (ppm).

The petitioner proposed that this use of methidathion on kiwifruit be limited to use in California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 4 ppm (0.2 milligram (mg)/kilogram (kg)/day) and no indication of oncogenic potential at any dose tested (0, 4, 16 and 64 ppm).

2. A 2-year dog feeding study with a NOEL of 4 ppm (0.1 mg/kg/day).

3. A two-generation rat reproduction study with a reproductive NOEL of 5 ppm (0.25 mg/kg/day).

4. A rabbit teratology study with a maternal NOEL of 6 mg/kg/day and a developmental NOEL equal to or greater than 12/mg/kg/day.

5. A rat teratology study with a maternal NOEL of 1 mg/kg/day and a developmental NOEL of equal to or greater than 2.25 mg/kg/day.

6. A 2-year mouse feeding/oncogenicity study with a NOEL for systemic effects at 1.6 mg/kg/day (10 ppm) and liver tumors observed in male animals at 7.5 mg/kg/day (50 ppm) dose level.

7. Mutagenicity studies including gene mutation, chromosomal aberrations, and direct DNA damage tests were negative for mutagenic effects.

The Agency had previously reviewed another oncogenicity study in mice which was conducted by Industrial Biotest Laboratories. The study indicated statistically significant increases in the frequency of hepatocellular adenomas in male mice at the high-dose levels of 100 ppm (15 mg/kg/day). However, the study was determined to be invalid because of unacceptable methodologies, including partial degradation of methidathion in the diets, low survival of the animals, and deficiencies in animal husbandry. The Methidation Registration Standard issued in 1983 required two replacement oncogenicity studies. The replacement 2-year rat oncogenicity study indicated no increase in neoplastic lesions in either sex at any dose, but the results of the replacement 2-year mouse oncogenicity study did show an increase in the incidence of combined benign and malignant hepatocellular tumors in male mice at the high-dose level of 16.1 mg/kg/day (100 ppm). Based on the mouse study, the Agency has classified methidathion as a possible human carcinogen (Group C). This classification is based on the Agency's Risk Assessment, published in the Federal Register of September 24, 1986 (51 FR 33992). The evidence as a whole is not considered strong enough to warrant a quantitative estimation of human risk.

In reaching this conclusion, the Toxicology Branch Peer Review Committee considered the following information:

1. The positive carcinogenic effects were found in only one species, the mouse, and one sex, the male.

2. Tumors were discovered in animals exposed to very high doses. Adenomas (benign epithelial tumors) were only considered to be biologically significant at 16.1 mg/kg/day (HDT); carcinomas were increased at 7.5 mg/kg/day, but were significant only at 16.1 mg/kg/day; combined adenomas/carcinomas were significantly increased at 50 ppm (7.5 mg/kg/day) and 100 ppm (16.1 mg/kg/day).

3. The rat study was negative for oncogenic effects at all levels, i.e., 0, 4, 40, 100 ppm (equivalent to 0, 0.2, 2, or 5 mg/kg/day, respectively).

4. There are no close structural analogs with oncogenic concerns identified.

5. Methidation is not mutagenic in several acceptable studies (in vitro point mutation assays, both mammalian and bacterial; nuclear anomaly test; sister chromatid exchange; dominant lethal test).

The reference dose (RfD), based on the 2-year dog feeding study NOEL of 0.1 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.001 mg/kg/day. The anticipated residue contribution (ARC) from existing tolerances for the overall U.S. population is calculated to be 0.000641 mg/kg/day; the current action will increase the TMRC by 0.000000002 mg/kg/day (0.0003 percent). Published tolerances utilize 64 percent of the ADI; the current action will utilize an additional 0.002 percent.

The nature of the residues is adequately understood and an adequate analytical method is available in the Pesticide Analytical Manual, Volume II (PAM II), for enforcement purposes. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.298 would protect the public health. No secondary residues in meat, milk, poultry or livestock are expected since kiwifruit is not considered a livestock feed commodity. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 7E3566/P491]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: October 5, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.298, by adding new paragraph (c), to read as follows:

§ 180.298 Methidathion; tolerances for residues.

* * * * *

(c) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl-2-methoxy-1,3,4-thiadiazolin-5-one)) in or on the following raw agricultural commodity:

Commodity	Parts per million
Kiwifruit	0.1

[FR Doc. 89-25461 Filed 10-31-89; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 21

[OST Docket No. 19; Amdt. No. 21-4]

RIN 2105-AA02

Title VI Civil Rights Regulation

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of proposed rulemaking; Withdrawal.

SUMMARY: This action withdraws a proposal to revise the Department of Transportation's (DOT) rules that implement Title VI of the Civil Rights Act of 1964. The Department has concluded that the proposed revisions are unnecessary.

DATE: This withdrawal is effective November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-9306.

SUPPLEMENTARY INFORMATION: On January 19, 1981, the Office of the Secretary of the Department of Transportation (DOT) published a Notice of Proposed Rulemaking (46 FR 5587) proposing to add a new Title VI regulation and revise existing rules. It also would have gathered all then-existing DOT Title VI guidance and requirements affecting recipients and the public into one place for easier reference. The Department received sixteen comments in response to the NPRM. Most of these comments were from state or local agencies receiving DOT assistance. All the comments responded negatively to the NPRM. The comments mainly criticized the NPRM for being ambiguous and for placing unnecessary administrative and financial burdens on state and local units of government.

The Department has concluded that existing rules are adequate for implementing Title VI, and that the proposed revisions could have unnecessarily increased administrative burdens on DOT financial assistance

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recipients. Consequently, the Department has decided to withdraw the proposal and terminate the rulemaking. If the DOT decides that Title VI rules need to be revised in the future, the Department will issue a new Notice of Proposed Rulemaking at that time.

For these reasons, the January 19, 1981, proposal to revise the Department of Transportation's Title VI regulation is withdrawn.

Issued this 24th day of October, 1989, at Washington, DC.

Samuel K. Skinner,

Secretary.

[FR Doc. 89-25638 Filed 10-31-89; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 90920-9220]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, DOC.

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NOAA Fisheries) proposes to establish a system of performance standards for operators of U.S.-flag tuna purse seine fishing vessels that catch yellowfin tuna associated with marine mammals in the eastern tropical Pacific Ocean (ETP). The purpose of this proposal is to allow vessel operators with good records of marine mammal safety to continue fishing throughout the year. Operators with marine mammal mortality rates that are consistently and substantially higher than the fleet average rate would be required to have additional training. Operators whose rate of incidental taking reflects a lack of diligence or proficiency in the use of the best marine mammal safety techniques and equipment would be removed from the fishery to reduce the kill of marine mammals and prolong the availability of the quotas.

DATE: Comments on the proposed rule must be postmarked on or before December 1, 1989.

ADDRESS: Comments may be mailed to E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. A copy of the Environmental Assessment/Regulatory Impact Review may be obtained from this same address.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton (Director, Southwest Region, NMFS) telephone (213) 514-6196.

SUPPLEMENTARY INFORMATION:

Background

In 1988 Congress reauthorized the Marine Mammal Protection Act (MMPA) and amended it to require development and implementation of a system to identify vessel operators in the U.S. tuna purse seine fishery with a consistently and substantially higher marine mammal mortality rate than the average rate for the fleet as a whole. Depending on an identified operator's rate of kill, the operator's certificate of inclusion would be suspended or the operator would be required to undertake remedial training and be subject to supplemental observer obligations. If such remedial training did not improve an operator's performance to acceptable levels, the operator's certificate of inclusion would be suspended or revoked. These measures are intended to reduce the marine mammal mortality for the U.S.-flag tuna purse seine fleet and to allow vessel operators who are diligent and proficient in using marine mammal safety techniques and equipment to have the entire year to catch yellowfin tuna.

Performance Systems Considered

In developing this proposed performance system, NOAA Fisheries established several criteria which the system would have to meet and apply them to different various alternatives. First, the system selected would have to be understandable and predictable to those subject to it. Second, it must be based on credible data. Third it should be unambiguous and clear to avoid lengthy administrative process or litigation. Fourth, to the extent practicable, it must involve and rely upon the party or parties that have control over marine mammal mortality performance. The alternatives examined met these criteria in most cases. Some would be more expensive to administer than others due to the need to provide higher observer coverage rates than are necessary to estimate mammal mortality or the need to augment NOAA Fisheries' expertise by adding staff.

A primary consideration was how to separate the performance of the vessel operator from that of the vessel. A vessel-based performance standard would focus responsibility for vessel performance on the owner of the vessel. The owner controls aspects of the operation which the vessel operator does not. For example, the owner controls not only who operates the vessel but also the quality and maintenance of its equipment. Owners of tuna purse seine fishing vessels setting on marine mammals are required to obtain an annual vessel certificate of inclusion. If the gear requirements are met, and a fish captain with a valid operator certificate of inclusion is aboard, the vessel can set on marine mammals in compliance with the regulations if the quota has not been reached.

Vessel operators are issued annual certificates of inclusion by NOAA Fisheries after completing an initial skipper workshop on the Federal regulations and marine mammal safety procedures and attending any required supplemental reviews. The operator is the individual in charge of the fishing operation at sea and has immediate control over how a set is made and how marine mammals are removed from the net. He can choose whether to make a set in conditions that reduce or increase the probability of high marine mammal kill. With this control over day to day operations, an operator's performance is critical to the marine mammal safety performance on a trip.

A performance system that separately considers marine mammal safety performance of both the vessel and the operator would best recognize the respective responsibilities and control of the vessel owner and the operator. Because operators may change vessels, it would be necessary to keep records separately on vessels and operators. Such a system could assign responsibility for each marine mammal mortality to either the owner or the operator, depending on the cause for the mortality, or it could attribute all mortalities to both owner and operator. A system that assigns responsibility for dolphin mortality to the owner or the operator would require considerably more judgment and expertise to implement than a system that held both accountable for each mortality.

A variety of performance systems were considered including individual vessel quotas, vessel or operator performance ratings based on the kill of marine mammals per ton of yellowfin tuna caught in association with marine mammals, and a multiple-standard system for rating operator performance. For details on the alternative systems that were considered, refer to the Environmental Assessment (see **ADDRESS**) on this proposed rule

Description of the Proposed Rule

Vessel Certificate Holder's Performance

The vessel certificate holders will continue to be responsible for ensuring that the vessel has the required marine mammal safety gear and that it is maintained in seaworthy condition. Under current regulations if the required marine mammal safety gear is not available for use, sets involving marine mammals may not be made. Vessel certificate holders are subject to fines for violations resulting from their failure to properly equip their vessel(s) for fishing in association with marine mammals. This gear is inspected on every trip carrying a NOAA Fisheries observer. The results of the observer's inspection are provided to the vessel certificate holder after the trip is completed so that any potential deficiencies may be corrected before the next fishing trip. The observer records also are reviewed by NOAA enforcement agents to detect violations of the regulations. Whether or not a notice of gear deficiency is issued, the vessel certificate holder remains responsible for the required mammal safety equipment on the vessel.

Operator's Performance System

The proposed performance system would track individual operators and measure their performance against a kill-per-ton standard derived from an analysis of the data recorded on observed fishing trips during the most recent five-year period. The analysis would be completed and the certificated operators and vessel certificate holders notified of the results by July 1 of each year. Data through December 31 of the past year would be considered. The July date allows time for the completion of all trips that were at sea on December 31 and for the analysis of the observer records. The updated standards would then apply to fishing trips that begin between July 1, and June 30 of the following year.

Kill-per-ton was selected as the performance measure in this proposed rule because it is a meaningful performance measure within the fishing industry, was used in deriving the overall mortality quota, and as a fleet average it is less variable than kill-per-set or kill-per-day. Use of this performance rate is also consistent with regulations prohibiting sundown sets and governing yellowfin tuna importation. However, the ability of the observer to independently and accurately determine the amount of tuna caught in each set is critical under a system using kill per ton whereas a system measuring operator performance in terms of dolphins killed per set or dolphins killed per day would not rely on the observer's estimate of the tons of yellowfin in each set.

For any fishing trip during which one or more purse seine sets are made on marine mammals, an operator who has an observed mortality rate that exceeds five times the fleet average for the previous five-year period, measured in marine mammals killed per ton of yellowfin tuna caught in purse seine sets on marine mammals, will have his operator's certificate of inclusion suspended immediately for a period of six months. A factor of five times the fleet averge mortality rate is beyond the variation that would normally be expected in the fleet and indicates a serious problem in need of immediate correction. A lower factor would cause this strong response more frequently and certificate holders who should be identified for remedial training would have their certificates suspended. Without an upper limit on an operator's mortality rate, an operator with severe problems in marine mammal safety could continue fishing for one or two more trips before facing a suspension. Such a delay in suspending an operator with a high kill rate would be detrimental to the diligent and proficient operators who are regulated under the same marine mammal quota.

An operator whose certificate of inclusion is suspended under this provision may appeal to the NOAA Assistant Administrator for Fisheries who, in consultation with the General Permit holder, will review the operator's performance on the trip and may restore the operator's certificate of inclusion, if the high mortality rate for the trip was caused by an unforeseeable equipment breakdown. Excluding sets with unforeseeable equipment breakdowns from the computation of the kill rate best implements the statutory mandate to take action to suspend or revoke certificates when an operator's unacceptably high rate of incidental mortality reflects a lack of diligence or proficiency in the use of the best marine mammal safety techniques and equipment. If the operator's certificate is suspended, NOAA Fisheries will also require the operator to participate in remedial training to review marine mammal release and safety techniques before maing another trip as a certificated operator.

Fishing trips with five or fewer sets on marine mammals will not be subject to evaluation under the operator performance system if the mortality rate does not exceed five times the fleet average. A representative fishing trip for a U.S.-flage purse seine vessel in this fishery would include 50 or more purse seine sets. Therefore, five or fewer sets on marine mammals would likely account for less than 10 percent of the fishing effort on a trip. For this reason, trips with five or fewer marine mammal set will not be cvonsidered trips under the performance system for determining the operator's performance in consecutive trips.

For fishing trips during which more than five sets on marine mammals are made, the operator will not have met the performance standard for that trip if the marine mammal mortality exceeds 1.5 times the fleet average marine mammal kill-per-ton of yellowfin tuna caught. A mortality rate that exceeded the fleet average rate by more than 50 percent was reported for approximately 20 percent of the observed fishing trips between 1981 and 1988. The consequence of not meeting the standard for a trip depends upon the operator's performance on the previous two trips.

Should an operator fail to meet the performance standard on one trip, the NOAA Fisheries Regional Director will request that the General Permit holder review that records of that fishing trip and recommend to the operator corrective actions to reduce marine mammal mortality before the operator's next fishing trip. In conducting this review, it is expected that the General Permit holder will consult with the Expert Skippers' Panel and apply whatever other expertise may be appropriate. The General Permit holder will report to the Regional Director what actions were taken. The Regional Director will determine if the recommended actions are likely to improve the operator's performance to meet the standard on the next trip. If the Regional Director finds that the actions recommended by the General Permit holder are insufficient, he will return the recommendations to the General Permit holder, with the deficiencies noted, for further consideration or the Regional Director may require the operator to participate in additional training in marine mammal safety techniques. If the Regional Director finds that the actions recommended are sufficient, he will order the operator to implement the recommendations and to carry an observer on the next trip. Under the current schedule, an observer is assigned to every vessel departing on a trip. If a lesser observer coverage is required in the future, the operator would be required to be accompanied by an observer on his next trip whether or not the vessel had been scheduled to

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carry an observer. Should an operator refuse or fail to follow the remedial actions ordered by the Regional Director, the operator's certificate of inclusion will be suspended for six months.

If the operator meets the performance standard on the second trip, the record is cleared and no further action would be required. An operator who fails to meet the applicable standard on a second consecutive trip will be required to undergo full review once again by the General Permit holder and may be required by the Regional Director to participate in additional training related to mammal release and to carry on his next trip an experienced operator with particular expertise in reducing marine mammal mortality. The General Permit holder will provide the experienced operator. The operator must be accompained by an observer on that trip.

If the operator meets the standard on that third trip, the record is cleared and no further action is required. If the operator exceeds the mortality standard on a third consecutive trip, the operator's certificate of inclusion would automatically become invalid for a period of six months upon the Regional Director notifying the operator.

After a period of an operator's certificate of inclusion being suspended, the operator would be required to carry an observer on the first trip following the suspension. The operator's certificate of inclusion would become invalid for a period of one year if the operator's performance fell below standard on the first trip following a suspension or if an operator's certificate were suspended twice within a period of 36 months beginning with the first notice of suspension from the Regional Director to the operator. The potential harm to the diligent and proficient operators that can be caused by waiting an additional three trips to remove an operator with consistently high mortality rates outweighs the benefits of allowing an individual operator greater opportunity to demonstrate improved performance.

When determining whether an operator has exceeded the mortality standard for a second or third consecutive trip, the Regional Director may exclude from consideration one or more sets, if the operator in consultation with the General Permit holder establishes to the satisfaction of the Regional Director that the high kill in those sets was caused by an unforeseeable equipment breakdown that could not have been avoided by reasonable diligence in operating or maintaining the vessel. Such an exclusion will not be considered for the first trip exceeding the performance standard because careful review by the General Permit holder and NOAA Fisheries after such a trip is needed to ensure that any equipment problems are resolved.

When considering a petition to exclude a set, the Regional Director will examine observer records for an indication that one or more of the following equipment problems occurred during the set and was the cause of marine mammal mortality: failure of the main engine, net skiff, winch, power block, bow thruster, or breakage of the purse cable, towline cable, leadline, vang guy line, topping winch cable, bunchline, or corkline. Other equipment problems will be considered on a case-by-case basis and may allow for the exclusion of the set from calculations under this proposed performance system. Speed boat failure will not be an acceptable reason for excluding a set because multiple speed boats should be available when fishing on dolphin.

If an equipment malfunction occurred and was the cause of dolphin mortality in the set, the Regional Director will determine whether the equipment malfunction could have been foreseen or prevented. If the same or a related equipment failure occurred on previous sets, the set in question will not be excluded from calculating the operator's mortality rate.

Should exclusion of a set or sets cause the operator's performance to fall within the standard performance, that trip would not be counted as a trip for the purposes of the performance evaluation system. Such a trip would neither be counted as a consecutive trip which exceeded the standard nor would it be counted as a trip that fully met the performance standard. As a result, the operator would remain under scrutiny in the performance system, until the operator's performance on a trip fully meets the standards without the exclusion of a set.

The Regional Director in making these various determinations on performance will consider whatever information is provided by the operator, the vessel certificate of inclusion holder, and the General Permit holder, as well as NOAA's own records. Typically, half of the trips by certificated U.S.-flag tuna purse seine vessels are observed by technicians placed by the NOAA Fisheries and half by the Inter-American Tripical Tuna Commission (IATTC). The IATTC charter requires that data collected on tuna vessels be held in confidence and released only in aggregated form which does not allow for the identification of individual vessels or operators. In order to implement this performance system, data collected by observers on trips under the IATTC must be made available to NOAA Fisheries. Therefore, NOAA proposes to require the vessel certificate holder to obtain the observer logbooks from IATTC and provide them to NOAA Fisheries. Records submitted in this manner will be subject to verification by IATTC. This procedure will require that the vessel certificate holder obtain the vessel operator's permission for IATTC to release the observer's records. Because the NOAA Fisheries review and possibly General Permit holder review and remedial training must take place before the operator departs on his next trip, the timely delivery of observer data is critical. Vessel certificate holders will be required to deliver the observer data from IATTC trips within five days after the observer returns to IATTC in La Jolla, California at the conclusion of a fishing trip. The certificated fishing vessel cannot depart on its next trip until the vessel certificate holder delivers the required IATTC observer records to the NOAA Fisheries San Diego Field Office, 1520 State Street, Suite 200, San Diego California 92101.

NOAA Fisheries will review the observer records and notify the operator whether the performance standard was met and, if not, what steps must be taken within five days (excluding Saturdays and Sundays) after receiving the complete data in the Tuna/Porpoise Management Branch Office in San Diego, California. An operator cannot operate a vessel on a next trip until the Regional Director determines whether the operator met or failed to meet the performance standard on the previous trip.

The General Permit holder also will be notified of all failures to meet the standards. The Expert Skipper's Panel, now used by the General Permit holder to work with operators, is expected to continue its function for the General Permit holder of monitoring individual operator's performance throughout the year and offering assistance to operators who have marine mammal related problems before those operators become subject to the sanctions under the performance system.

Expected Impacts

The primary impact of this proposed regulation will be to increase the personal responsibility of individual tuna vessel operators for their marine mammal mortality. The fleet wide quota now allows poorly performing operators to continue fishing to the detriment of the skilled and conscientious operators.

Existence of an individual performance review by the General Permit holder and counseling by the Expert Skippers' Panel under the current situation has had a positive effect on the performance of some operators. The additional influence of NOAA Fisheries authority and the prospect of having the operator's certificate of inclusion suspended or revoked is expected to increase the willingness of operators to cooperate with the General Permit holder to reduce marine mammal mortalities.

The proposed performance standard system is not expected to result in suspending or revoking operators' certificates of inclusion on a routine basis. The system is expected to encourage operators to improve their personal marine mammal safety performance, thereby reducing the overall fleet mortality rate to the benefit of the marine mammal populations. If the proposed system were in effect during 1987 and 1988, twelve operators would have failed to meet the performance standard on one trip. Two operators would have failed to meet the standard on two consecutive trips and may have been required to carry an experienced operator with demonstrated skill in marine mammal release on their next trip. Based on the trips during that two year period, no operators would have exceeded the performance standard on three consecutive trips.

Marine mammal populations of the ETP will benefit from this proposed regulation but the benefits will accrue slowly. The performance system will be implemented over several fishing trips and the fleet performance standard is expected to improve due to the sundown set prohibition (see 54 FR 411, January 6, 1989) more than from the performance system itself. The magnitude of the reduction in marine mammal mortality related to the proposed performance system will depend on several factors. One key factor will be the variability of an operator's performance from one trip to the next. Though unlikely, an operator could alternate trips of high and low kill per ton and never have two or more consecutive trips that exceed the performance standard. Should such an operator exceed five times the five-year fleet average kill per ton, the operator's certificate of inclusion would be suspended for a six month period.

The impact on individual operators that may fail to meet the performance standard on one trip is expected to be minimal, requiring a meeting with the General Permit holder and the Expert Skippers' Panel and possibly some adjustments to marine mammal safety practices on the next trip. Unless there are delays in the delivery of the observer's records or in the processing of those data, there should be no delays in the operator's return to fishing.

An operator who fails to meet the performance standard on two consecutive trips will have the same impacts as after the first trip but also may be required to be accompanied by an experienced operator who has particular expertise in marine mammal release. Depending on the vessel, the requirement to carry an expert operator/consultant and an observer may reduce the crew available for fishing operations causing a potential reduction of efficiency which cannot be quantified at this time. In addition, the expense of the expert operator/consultant may be borne in part by the operator, depending on arrangements with the General Permit holder.

An operator who fails to meet the performance standard on three consecutive trips will have the operator's certificate of inclusion suspended for a period of six months. The suspension of the operator's certificate precludes that individual from serving as the certificated operator on a tuna purse seine vessel under the General Permit issued to the American Tunaboat Association. If the suspended operator does accompany a vessel on a fishing trip during the term of suspension, another individual holding a valid operator's certificate must direct the fishing operations. Since the number of certificated operators exceeds the number of certificated vessels by a factor of two, an operator under suspension would likely be replaced on the vessel for at least the period of suspension.

Classification

The NOAA Assistant Administrator for Fisheries has determined, based on an environmental assessment (EA) prepared by NOAA, that the modifications to the regulations being made at 50 CFR 216.24(c) and 216.24(d) will not have a significant impact on the environment. As a result of this determination, an environmental impact statement will not be prepared. The EA is available upon request (see **ADDRESS**).

The Administrator of NOAA has determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. NOAA Fisheries prepared a regulatory impact review as part of its EA which concluded that this rule will not result in (1) an annual major increase in costs or prices for consumers, individual industries or government agencies; (2) an annual effect on the economy of $100 million or more; or (3) significant adverse effect on competition, employment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The estimated economic impact of this rule on the U.S. tuna fishery in the ETP is expected to be approximately $50,000 for an estimated two trips by an expert operator/consultant with operators that fail to meet the performance standard on two consecutive trips. The General Permit holder (the American Tunaboat Association) has indicated that it will provide an expert operator when needed. How the costs related to that operator/consultant will be paid has not yet been determined, except that the U.S. Government will not bear the expense. If the costs were apportioned equally over the 28 currently certificated vessels, the cost per vessel would be approximately $1800 per year. A copy of the regulatory impact review is available upon request (see **ADDRESS**).

This proposed regulation will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act. In 1989, 28 vessels, which is less than half of the U.S.-flag tuna purse seiners larger than 400 tons carrying capacity, fished in the ETP for yellowfin tuna associated with marine mammals, and will be subject to the rule. These vessels all have essentially the same capabilities and would be affected similarly. The expected operating cost increase which may be as high as $1800 per vessel is not a significant increase for a U.S. tuna vessel operation. The EA prepared by NOAA Fisheries serves as an initial regulatory flexibility analysis for the purposes of the Regulatory Flexibility Act.

This proposed rule contains collection of information requirements subject to the Paperwork Reduction Act of 1980 (44 USC 3501 *et seq.*). The collection, which is subject to the Act, is found at 50 CFR 216.24(d)(2)(iii)(D), which requires that the vessel certificate holder deliver to NOAA Fisheries records that are collected by observers on fishing trips that are placed by the IATTC or other international marine mammal observer program which cannot provide observer records to the Government in a form that can be used for enforcement of the U.S. regulations. This information collection has been submitted to the Office of Management and Budget (OMB) with a request for review.

Public reporting burden for this collection of information is estimated to

average 1.5 hours per fishing trip carrying an IATTC or other international marine mammal program observer including the time providing releases to the IATTC or international

National Marine Fisheries Service of all data collected by observers aboard during fishing trips under the Inter-American Tropical Tuna Commission observer program or any other

mammals resulting in a kill per ton for a fishing trip which exceeds five times the fleet average mortality rate for the previous five calendar-year period. Such suspension shall be effective upon

or failed to meet the applicable performance standard on the previous observed trip. The Southwest Regional Director will make the determination within five days (excluding Saturdays,

Regional Director and the General Permit holder for the purpose of determining the causes of higher than acceptable mortality, must participate in supplemental marine mammal safety

(l) If an operator does not meet the mortality performance standard for a subsequent trip within three years of reinstatement, the Regional Director shall immediately suspend the

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average 1.5 hours per fishing trip carrying an IATTC or other international marine mammal program observer including the time providing releases to the IATTC or international program and arranging for the delivery of the observer records to the NOAA Fisheries Office in San Diego, California. Based on the current fleet of 28 certificated vessels and an average of four trips per year half of which carry IATTC observers, approximately 56 responses to this requirement are expected. The total reporting burden on tuna vessel certificate holders will be 84 hours to ensure the NOAA receives IATTC observer data. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the National Marine Fisheries Service (F/PR1), 1335 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: Paperwork Reduction Act Project 0648–XXXX).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: October 25, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble to this rulemaking, section 50 CFR part 216 is proposed to be amended as follows:

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise stated.

§ 216.24 [Amended]

2. In § 216.24 paragraph (c)(4)(ii) is amended by removing the old address, and adding in its place the words "National Marine Fisheries Service, Southwest Region, 1520 State Street, Suite 200, San Diego, California 92101."

3. In § 216.24 a new paragraph (c)(9) is added to read as follows:

(c) * * *

(9) By accepting an operator or vessel certificate of inclusion under the Category 2 general permit, the certificate holder authorizes the release to the National Marine Fisheries Service of all data collected by observers aboard during fishing trips under the Inter-American Tropical Tuna Commission observer program or any other international observer program in which the United States may participate. The certificate holder must furnish the international observer program all release forms required to provide the observer data to the National Marine Fisheries Service. Data obtained under such releases will be used for the same purposes as data collected directly by National Marine Fisheries Service observers and will be subject to the same standards of confidentiality.

4. In § 216.24 paragraphs (d)(2)(ii)(C), (iii)(A) and (v)(B) are amended by removing the old address, and adding in its place the words "National Marine Fisheries Service, Southwest Region, 1520 State Street, Suite 200, San Diego, California 92101, telephone 619–557–6540."

5. In § 216.24 paragraph (d)(2)(iii)(D) is revised and a new paragraph (d)(2)(ix) is added to read a follows:

(d) * * *

(2) * * *

(iii) * * *

(D) The vessel certificate holder must deliver to the National Marine Fisheries Service Office in San Diego, California (1520 State Street, Suite 200, San Diego, California 92101) all records made by an observer on board the vessel under the Inter-American Tropical Tuna Commission or other international marine mammal program, if such records cannot be provided to National Marine Fisheries Service directly by the international program. Observer records must be delivered within five days (excluding Saturdays, Sundays and Federal holidays) after the observer returns to San Diego, California from the fishing trip.

* * * * *

(ix) *Operator Certificate of Inclusion Holder Performance Requirements.* (A) The National Marine Fisheries Service will determine the average rate of kill of marine mammals per ton of yellowfin tuna caught by U.S.-flag purse seine vessels in sets on marine mammals in the ETP during the most recent five calendar-year period. This mortality rate will be provided to certificate of inclusion holders on or before July 1 of each year and will apply to fishing trips beginning between July 1 and the following June 30.

(B) The National Marine Fisheries Service Southwest Regional Director shall immediately suspend the certificate of inclusion of any operator who makes one or more sets on marine mammals resulting in a kill per ton for a fishing trip which exceeds five times the fleet average mortality rate for the previous five calendar-year period. Such suspension shall be effective upon notification and shall be for a period of six months. If the operator exceeds five times the fleet average for a subsequent trip within three years of reinstatement, the Regional Director shall immediately suspend the certificate. Such suspension shall be effective upon notification and shall be for a period of one year. If the operator exceeds five times the fleet average for a subsequent trip within five years of the second reinstatement, the Regional Director shall immediately revoke the certificate. The revocation, shall be effective upon notification and shall be permanent. An operator who is subject to a suspension or revocation under this paragraph may appeal that suspension or revocation to the Assistant Administrator as provided in § 216.24(d)(2)(ix)(J).

(C) Fishing trips with five or fewer sets on marine mammals and a kill-per-ton of less than five times the fleet average for the previous five calendar-year period are not subject to further action under the operator performance system. Such trips neither count as trips meeting the performance standard nor as failing to meet the performance standard for the purpose of determining actions based on performance in consecutive fishing trips.

(D) Fishing trips with more than five sets on marine mammals are subject to review under the operator performance system as follows:

(*1*) The operator's kill of marine mammals and the catch of yellowfin tuna in sets on marine mammals will be determined from observer records.

(*2*) The kill-per-ton will be determined by dividing the total kill of marine mammals by the weight of yellowfin tuna caught in sets involving marine mammals during the fishing trip.

(*3*) If the calculated kill-per-ton for the trip is equal to or less than 1.5 times the five-year fleet average performance, the operator has met the performance standard and is not subject to further action under the performance system based on the current trip.

(*4*) If the calculated kill-per-ton for the trip exceeds 1.5 times the five-year average fleet performance, the operator failed to meet the mortality performance standard and is subject to further action under the performance system.

(E) An operator shall not serve as a certifcated operator until the Southwest Regional Director has determined under this subpart that the opesator's marine mammal mortality rate performance met or failed to meet the applicable performance standard on the previous observed trip. The Southwest Regional Director will make the determination within five days (excluding Saturdays, Sundays and Federal holidays) after receiving the observer data from the trip.

(F) An operator who does not meet the mortality performance standard for a trip must have observer data and other pertinent records reviewed by the Southwest Regional Director and the General Permit holder for the purpose of determining the causes of higher than acceptable mortality, must participate in supplemental marine mammal safety training as ordered by the Southwest Regional Director and must comply with actions recommended for reducing marine mammal mortality which may be offered by the General Permit holder and ordered by the Southwest Regional Director. The operator must carry an observer on the next trip for which he serves as the certificated operator. If the Southwest Regional Director determines that the required training or other ordered action has not been completed satisfactorily, the Regional Director shall suspend the operator's certificate of inclusion for six months.

(G) An operator who does not meet the mortality performance standard on two consecutive trips must have observer data and other pertinent records reviewed by the Southwest Regional Director and the General Permit holder for the purpose of determining the causes of higher than acceptable mortality, must participate in supplemental marine mammal safety training as ordered by the Southwest Regional Director and must comply with recommendations for reducing marine mammal mortality which may be offered by the General Permit holder and ordered by the Southwest Regional Director. The operator must carry an expert fisherman, if required to do so by the Southwest Regional Director, to assist in perfecting marine mammal safety techniques and must also carry an observer on the next trip for which he serves as the certificated operator. The expert fisherman will be provided by the General Permit holder. The operator must carry an observer assigned by National Marine Fisheries Service on the next trip for which he serves as the certificated operator. If the Southwest Regional Director determines that the required training or other ordered action has not been completed satisfactorily, the Regional Director shall suspend the operator's certificate of inclusion for six months.

(H) If an operator exceeds the performance standard kill rate of three consecutive trips, the Regional Director shall immediately suspend the operator's certificate of inclusion for six months, effective upon notification to the operator.

(I) If an operator does not meet the mortality performance standard for a subsequent trip within three years of reinstatement, the Regional Director shall immediately suspend the operator's certificate of inclusion for one year, effective upon notification to the operator.

(J) An operator may appeal suspension or revocation of a certificate of inclusion to the Assistant Administrator. The Assistant Administrator will reinstate an operator's certificate within thirty days of receiving an appeal if the cause of the high kill rate is determined to have been due to unforeseeable equipment breakdown beyond the operator's control, based on observer records, the advice of the General Permit holder, and whatever other information is presented to the Southwest Regional Director by the operator or the General Permit holder.

(K) An operator must carry an observer on the operator's first trip after a suspension under this performance system has expired.

(L) A person obtaining an operator certificate of inclusion for the first time must carry an observer on the operator's first trip.

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Notices

Federal Register

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Wednesday, November 1, 1989

common to the 1990 wheat, feed grain, cotton (extra long staple and upland), and rice price support and production adjustment programs. Any comments that were received with respect to such notice which are applicable to the 1990

provides that the Secretary shall permit a producer to repay a loan at a level that is the lesser of (1) the loan level determined for such crop or (2) the higher of the loan level multiplied by 70

available to producers for the 1990 crop of rice in an amount computed by multiplying (1) the payment rate, by (2) the individual from program acreage, by (3) the farm program payment yield.

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 27, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) or Public Law 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Revision

- *National Agricultural Statistics Service*

Agricultural Surveys Program
None
Monthly; Quarterly; Annually
Farms; 412,600 responses; 91,882 hours; not applicable under 3504(h)
Larry Gambrell, (202) 447-7737

Extension

- *Extension Service*

Application for Authorization to Use the 4-H Club Name and/or Emblem
None
On occasion
Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 30 responses; 15 hours; not applicable under 3504(h)
V. Milton Boyce, (202) 447-6527

- *Agricultural Marketing Service*

Grain Market News Reports and Molasses Market News
LS-177, LS-383, LS-388
Monthly
Businesses or other for-profit; 2,628 responses; 471 hours; not applicable under 3504(h)
James A. Ray, (202) 477-6231

Larry K. Roberson,
Acting Departmental Clearance Officer.
[FR Doc. 89-25755 Filed 10-31-89; 8:45 am]
BILLING CODE 3410-01-M

Commodity Credit Corporation

Proposed Determinations With Regard to the 1990 Rice Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1990 crop of rice: (a) The loan and purchase level; (b) loan rate adjustments; (c) whether the Secretary should require producers to purchase marketing certificates as a condition of permitting loan repayment at a reduced level; (d) whether the Secretary should make loan deficiency payments available to producers; (e) established (target) price level; (f) whether an acreage limitation program (ALP) should be implemented and, if so, the percentage reduction under such ALP; (g) whether an optional land diversion program (LDP) should be established and, if so, the percentage of diversion under the program; (h) the national program acreage (NPA); (i) whether a voluntary reduction percentage should be proclaimed and, if so, the level of such percentage; (j) whether a portion of the deficiency or diversion payments should be made in the form of commodity certificates or other in-kind compensation; (k) the provisions of a marketing certificate program; (l) whether an inventory reduction program (IRP) should be implemented; and (m) other related determinations. These determinations are to be made in accordance with the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act"), the Food Security Act of 1985, as amended, and the Commodity Credit Corporation Charter Act, as amended.

EFFECTIVE DATE: Comments must be received on or before December 5, 1989 in order to be assured of considerations.

ADDRESS: Bruce R. Weber, Director, Commodity Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gene Rosera, Agricultural Economist, Commodity Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, DC 20013 or call (202) 447-7923. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and the impacts of implementing each option is being prepared and will be available soon.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal assistance programs to which this notice applies are: Title-Rice Production Stabilization: Number 10.065 and Title-Commodity Loans and Purchases: Number 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject of this notice.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

On April 5, 1989, (54 FR 13706) a notice of proposed determinations was published which set forth provisions common to the 1990 wheat, feed grain, cotton (extra long staple and upland), and rice price support and production adjustment programs. Any comments that were received with respect to such notice which are applicable to the 1990 crop of rice and any comments received with respect to this notice of proposed determinations will be reviewed in determining the provisions of the 1990 Rice Program.

Accordingly, the following program determinations with respect to the 1990 crop of rice are to be made by the Secretary.

Proposed Determinations

a. *Loan and Purchase Level:* Section 101A(a) of the 1949 Act provides that the Secretary shall make loans and purchases available to producers for the 1990 crop of rice at a level that is not less than the higher of: (1) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or (2) $6.50 per hundredweight. Under that subsection the loan level for a crop of rice may not be reduced by more than 5 percent from the loan level determined for the preceding crop. Further, section 101A(a) requires that the Secretary determine and announce the loan and purchase level for the 1990 crop of rice not later than January 31, 1990. A loan shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

Comments are requested as to the level of the loan and purchase rate for the 1990 crop of rice.

b. *Loan Rate Adjustments:* Section 403 of the 1949 Act provides that appropriate adjustments may be made in the level of the support price for rice for differences in grade, type, quality, location, and other factors. Section 403 further provides that such adjustments shall, insofar as practicable, be made in such manner that the average support price will, on the basis of the anticipated incidence of such factors, equal the statutory support level.

Comments, along with supporting data, are requested as to: (1) The loan and purchase rate for different classes of whole kernels; (2) the loan and purchase rate for broken kernels; (3) appropriate State or national average milling outturns for use in determining class loan rates; and (4) appropriate grade discounts.

c. *Marketing Loan Certificates:* Section 101A(a)(5)(A) of the 1949 Act provides that the Secretary shall permit a producer to repay a loan at a level that is the lesser of (1) the loan level determined for such crop or (2) the higher of the loan level multiplied by 70 percent of the loan level or the prevailing world market price for rice, as determined by the Secretary. Further this section provides that as a condition of permitting a producer to repay a loan, the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment. Such certificates shall be negotiable and shall be redeemable for rice owned by the CCC valued at the prevailing market price, as determined by the Secretary. If CCC-owned rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable for cash. If any such certificate is not presented for marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges shall be deducted from the value of the certificate.

Comments are requested on whether the Secretary should require producers to purchase certificates and, if so, for what percentage of the difference in value between the loan level and the loan repayment rate.

d. *Loan Deficiency Payments:* Section 101A(b)(1) of the 1949 Act provides that the Secretary may make payments available to producers who, although eligible to obtain a loan or purchase agreement, agree to forgo obtaining such loan or agreement in return for such payments.

Such payments shall be computed by multiplying (1) the loan payment rate by (2) the quantity of rice the producer is eligible to place under loan. The quantity of rice eligible to be placed under loan may not exceed the product obtained by multiplying the individual farm program acreage for the crop by the farm program payment yield established for the farm. The loan payment rate is the amount by which the loan level determined for such crop exceeds the level at which a loan may be repaid.

Comments are requested with respect to whether loan deficiency payments should be made available.

e. *Established (Target) Price:* Section 101A(c)(1)(A) of the 1949 Act provides that the Secretary shall make payments available to producers for the 1990 crop of rice in an amount computed by multiplying (1) the payment rate, by (2) the individual from program acreage, by (3) the farm program payment yield.

Section 101A(c)(1)(C) provides that the payment rate for the 1990 crop of rice shall be the amount by which the established (target) price for the crop exceeds the higher of (1) the national average market price received by producers during the first five months of the marketing year for such crop or (2) the loan level for such crop.

Section 101A(c)(1)(D) of the 1949 Act provides that the established (target) price for rice shall be not less than $10.71 per hundredweight for the 1990 crop.

Comments are requested as to the level of the established price for 1990-crop rice.

f. *Acreage Limitation Program:* Section 101A(f)(1)(A) of the 1949 Act provides that if the Secretary determines that the total supply of rice, in the absence of an ALP, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may implement an ALP. The section provides that in making such a determination the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985. If the Secretary elects to implement an ALP for 1990, the Secretary shall announce any such program not later than January 31, 1990.

The Secretary shall, to the maximum extent practicable, carry out an ALP for a crop of rice in a manner that will result in a carryover of 30 million hundredweight of rice. If an ALP is announced for a crop of rice such reduction in production shall be achieved by applying a uniform percentage reduction (not to exceed 35 percent) to the rice crop acreage base for the crop for each rice-producing farm. Except as provided under the IRP, producers who knowingly produce rice in excess of the permitted rice acreage for the farm, shall be ineligible for rice loans, purchases, and payments with respect to that farm.

Comments are requested with respect to the need for an ALP, the appropriate level of reduction under an ALP, and other provisions of such program.

g. *Land Diversion Program:* Section 101A(f)(4)(A) of the 1949 Act provides that the Secretary may make land diversion payments to producers of rice,

whether or not an ALP is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such determination shall be based on the following factors:

1. Estimated domestic use, 1990/91.	87.3 million cwt.
2. Plus estimated exports, 1990/91.	85.0 million cwt.
3. Equals total estimated use, 1990/91.	172.3 million cwt.
4. Plus desirable ending stocks, 1990/91.	30.0 million cwt.
5. Equals total desirable supply, 1990/91.	202.3 million cwt.
6. Less estimated beginning stocks, 1990/91.	32.3 million cwt.
7. Equals total desirable production, 1990/91.	170.0 million cwt.
8. Divided by estimated yield, 1990/91.	6,400 pounds per acre.
9. Equals total desirable harvested acreage, 1990/91.	5.31 million acres.
10. Divided by estimated planted acreage, 1990/91.	5.90 million acres.
11. Equals desirable harvested/planted ratio, 1990/91.	0.90.

Comments are requested as to the appropriate level of land diversion under an ALP, and other provisions of such program.

h. *National Program Acreage:* Section 101A(f)(2)(A) of the 1949 Act provides that the Secretary shall establish a national program acreage (NPA) for the 1990 crop of rice. The NPA shall be the number of acres that the Secretary determines will be sufficient to produce the quantity of rice needed to meet domestic and export requirements and to maintain reasonable and adequate carryover stocks of rice.

Comments are requested as to the appropriate level of the NPA.

i. *Voluntary Reduction Percentage:* Section 101A(f)(2)(B) of the 1949 Act provides that the Secretary may proclaim a voluntary reduction percentage for the 1990 crop of rice. Such percentage shall be the percentage by which the Secretary determines that the total acreage of rice planted for harvest should be reduced in order to meet the NPA. Such percentage may not exceed 35 percent.

Comments are requested as to the appropriate level of the voluntary reduction percentage.

j. *Commodity Certificates:* Section 101A(f)(3)(A) of the 1949 Act provides that the Secretary may make land diversion payments in the form of commodity certificates or other in-kind compensation.

Comments are requested as to the appropriate form of land diversion payments.

k. *Marketing Certificate Program:* Section 101A(g) of the 1949 Act provides that the Secretary may implement a marketing certificate program for the 1990 crop of rice. Under such program, the Secretary may make available to producers marketing certificates that may be redeemed for rice owned by the CCC valued at the prevailing market price, as determined by the Secretary. If CCC-owned rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable for cash. If any such certificate is not presented for marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges shall be deducted from the value of the certificate.

Comments are requested as to whether the Secretary should implement a marketing certificate program and, if so, for what percentage of the difference in value between the loan level and the loan repayment rate.

l. *Inventory Reduction Program:* Section 101A(h) of the 1949 Act provides that the Secretary may implement an IRP for the 1990 crop of rice. Under such program, the Secretary may make available to producers marketing certificates that may be redeemed for rice owned by the CCC valued at the prevailing market price, as determined by the Secretary. If CCC-owned rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable for cash. If any such certificate is not presented for marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges shall be deducted from the value of the certificate.

Comments are requested as to whether the Secretary should implement an IRP and, if so, for what percentage of the difference in value between the loan level and the loan repayment rate.

m. *Other Related Determinations:* Comments are requested as to other related determinations that should be made with respect to the 1990 crop of rice.

(3) do not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under the announced ALP. Such payments shall be made in the form of rice owned by CCC valued at the prevailing market price, as determined by the Secretary. If CCC-owned rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable for cash. If any such certificate is not presented for marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges shall be deducted from the value of the certificate.

Comments are requested as to whether the Secretary should make such payments and, if so, for what percentage of the difference in value between the loan level and the loan repayment r

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whether or not an ALP is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made available to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community. Any acreage reduction under an LDP would be at a producer's option.

Comments are requested with respect to the need for an optional paid LDP, appropriate payment rates, and the other provisions of such program.

h. *National Program Acreage:* Section 101A(d) of the 1949 Act provides that the Secretary shall proclaim an NPA for the 1990 crop of rice not later than January 31, 1990. The NPA shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year 1990/91. If the Secretary determines that carryover stocks of rice are excessive or that an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the NPA by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks. The Secretary may later revise the NPA if the Secretary determines it to be necessary based upon the latest information. If an ALP is implemented for the 1990 crop of rice, the NPA shall not be applicable to such crop. If required, the likely NPA for the 1990 crop of rice would be:

1. Estimated domestic use, 1990/91.	87.3 million cwt.
2. Plus estimated exports, 1990/91.	85.0 million cwt.
3. Minus imports	6.0 million cwt.
4. Plus stock adjustment.	8.0 million cwt.
5. Divided by national weighted average Farm Program Payment yield.	48.00 cwt./acre.
6. Equals 1990-crop NPA.	3.63 million acres.

Comments on the NPA and the appropriate carryover level for the 1990 crop of rice, along with supporting data, are required.

i. *Whether a Voluntary Reduction Percentage Should Be Proclaimed and, if so, the level of Such Voluntary Reduction Percentage.* Section 101A(d)(3)(B) of the 1949 Act provides that the 1990 individual farm program acreage of rice may not be further reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer voluntarily reduces the acreage of rice planted for harvest on the farm from the 1990-crop rice acreage base established for the farm by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1990 crop.

If an ALP is implemented for the 1990 crop of rice, the voluntary reduction percentage shall not be applicable to such crop. If required, the likely national recommended voluntary reduction percentage for the 1990 crop of rice would be:

1. 1990 established rice acreage base.	4.10 million acres
2. Minus 1990 preliminary NPA.	3.63 million acres
3. Equals acreage reduction needed from acreage base.	.47 million acres
4. Divided by 1990 rice acreage base.	4.10 million acres
5. Equals 1990-crop recommended voluntary reduction percentage.	11.5 percent

Comments from interested persons with respect to the voluntary reduction percentage, if any, are requested.

j. *Commodity Certificates:* Section 107E of the 1949 Act provides that, in making in-kind payments under any rice program, other than those programs which provide for payments in the form of negotiable marketing certificates, the Secretary may (1) acquire and use commodities that have been pledged to CCC as security for price support loans, including loans made to producers under the farmer-owned reserve program and (2) use other commodities owned by CCC.

The Secretary may make such in-kind payments by: (1) Delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary; (2) the transfer of negotiable warehouse receipts; (3) the issuance of certificates which CCC shall redeem for a commodity; and (4) such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

Accordingly, comments are required with respect to the use of commodity certificates in making payments under the 1990 rice program.

k. *Marketing Certificates:* Section 603 of the Food Security Act of 1985 provides that whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary of Agriculture, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, under such regulations as the Secretary may prescribe, CCC shall make payments to persons who have entered into an agreement with CCC to participate in the program established by this section. Such payments shall be made in the form of negotiable marketing certificates. Such certificates shall be in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices.

The value of each certificate shall be based on the difference between the loan repayment rate for the class of rice and the prevailing world market price for the class of rice, as determined by the Secretary.

Comments are requested with respect to the provisions of the marketing certificate program for rice.

l. *Inventory Reduction Program:* Section 101A(g) of the 1949 Act provides that the Secretary may make payments available to producers who: (1) Agree to forgo obtaining a loan or purchase agreement; (2) agree to forgo receiving deficiency and disaster payments; and (3) do not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under the announced ALP. Such payments shall be made in the form of rice owned by CCC and shall be subject to the availability of such rice. Payments under this program shall be determined in the same manner as loan deficiency payments.

Comments are requested on whether the IRP should be implemented for the 1990 crop of rice.

m. *Other Related Provisions:* A number of other determinations such as commodity eligibility and other provisions must be made in order to carry out the rice loan and purchase programs.

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

Authority: 7 U.S.C. 1441-1, 1441-1a, 1445c; 15 U.S.C. 714b and 714c.

Signed at Washington, DC on October 20, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-25732 Filed 10-31-89; 8:45 am]

BILLING CODE 3410-05-M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date and Time: November 30, 1989—8:30 a.m.–5:00 p.m.; December 1, 1989—8:30 a.m.–5:00 p.m.

Place: U.S. Department of Agriculture, Room 338C, Aerospace Building, Washington, DC 20250-2200.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. John A. Naegele, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 328, Aerospace Building, Washington, DC 20250-2200, Telephone: 202-447-4587.

Done at Washington, DC this 25th day of October 1989.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 89-25756 Filed 10-31-89; 8:45 am]

BILLING CODE 3410-22-M

Federal Grain Inspection Service

Request for Comments on the Designation Applicant in the Geographic Area Currently Assigned to the Columbus (OH) Agency

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to Columbus Grain Inspection, Inc. (Columbus).

DATE: Comments must be postmarked on or before December 18, 1989.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090-6454.

Telemail users may respond to [LLEBAKKEN/FGIS/USDA] telemail.

Telex users may respond as follows: TO: Lewis Lebakken, TLX:7807351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the September 1, 1989, **Federal Register** (54 FR 36365). Applications were to be postmarked by October 2, 1989. Columbus was the only applicant for designation in that area, and applied for the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicant for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 20, 1989.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89-25662 Filed 10-31-89; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants to Provide Official Services in the Geographic Area Currently Assigned to the Chattanooga Grain Inspection Company, Inc. (TN) Agency

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agency. The official agency is Chattanooga Grain Inspection Company, Inc. (Chattanooga).

DATE: Applications must be postmarked on or before December 1, 1989.

ADDRESS: Applications must be submitted to James R. Conrade, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

BEST COPY AVAILABLE

FOR FURTHER INFORMATION CONTACT: James R. Conrade, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act

concerning the designation renewal of Amarillo was received. No comments concerning Wisconsin were received.

The Service evaluated all available

Conservationist, has determined that the preparation and review of an Environmental Impct Statement are not needed for this measure.

This critical area treatment measure

Matters To Be Considered:

Update on Americans With Disabilities Act (ADA); Fiscal Year 1990 Budget Reprogramming; Board 1990 Retreat; complaint status report;

the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

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FOR FURTHER INFORMATION CONTACT: James R. Conrade, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Chattanooga, located at Judd Road, Chattanooga, TN 37416, was designated under the Act as an official agency on May 1, 1987, to provide official inspection and Class X or Y weighing functions.

The official agency's designation terminates on April 30, 1990. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than teriennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Chattanooga, in the State of Tennessee, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Tennessee State line for Sumner County east;

Bounded on the East by the eastern Tennessee State line southwest;

Bounded on the South by the sourthern Tennessee State line west to Interstate 65; and

Bounded on West by Interstate 65 north to the northern Williamson County line; the northern Williamson County line east; the western Rutherford, Wilson and Sumner county lines north.

Interested parties, including Chattanooga, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning May 1, 1990, and ending April 30, 1993. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 20, 1989.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89–25663 Field 10–31–89; 8:45 am]

BILLING CODE 3410–EN–M

Designation Renewal of the Amarillo (TX) Agency and the State of Wisconsin (WI)

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Amarillo Grain Exchange, Inc. (Amarillo) and the Wisconsin Department of Agriculture, Trade and Consumer Protection (Wisconsin), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: December 1, 1989.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Amarillo's and Wisconsin's designations terminate on November 30, 1989, and requested applications for official agency designation to provide official services within specified geographic areas in the June 1, 1989, **Federal Register** (54 FR 23498). Applications were to be postmarked by July 3, 1989. Amarillo and Wisconsin were the only applicants for designation in their area and each applied for designation renewal in the entire area currently assigned to that agency. The Service announced the applicant names in the August 1, 1989, **Federal Register** (54 FR 31712) and requested comments on the applicants for designation. Comments were to be postmarked by September 15, 1989. One favorable comment concerning the designation renewal of Amarillo was received. No comments concerning Wisconsin were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Amarillo and Wisconsin are able to provide official services in the geographic areas for which the Service is renewing their designations. Effective December 1, 1989, and terminating November 30, 1992, Amarillo is designated to provide official inspection functions and Wisconsin is designated to provide official inspection and Class X or Y weighing functions in their specified geographic areas, as previously described in the June 1 **Federal Register**.

Interested persons may obtain official services by contacting the agencies at the following telephone numbers: Amarillo at (806) 372–8511 and Wisconsin at (608) 266–7100.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 20, 1989.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89–25661 Filed 10–31–89; 8:45 am]

BILLING CODE 3410–EN–M

Soil Conservation Service

Carbon Arroyo Critical Area Treatment RC&D Measure, Colorado

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Carbon Arroyo Critical Area Treatment RC&D Measure, Las Animas County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, USDA—Soil Conservation Service, 655 Parfet Street, Rm E200C, Lakewood, Colorado 80215–5517, telephone (303) 236–2886.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impct Statement are not needed for this measure.

This critical area treatment measure concerns a plan to prevent erosion and sediment damage to the Community Center site. The planned works of improvement include grading and shaping two acres, rock lining five gullied areas, installing two rock diversions, and top-soiling and seeding one acre.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy request. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone. No Administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: October 20, 1989.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive order 12372 which requires intergovernmental consultation with state and local officials.)

Sheldon G. Boone,

State Conservationist.

[FR Doc. 89–25691 Filed 10–31–89; 8:45 am]

BILLING CODE 3410–16–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting of the Access Board

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB or Access Board) has scheduled a business meeting to take place from 3:00 p.m. to 5:00 p.m., on Tuesday, November 14, 1989, at the Westin Galleria Hotel, Houston, Texas; and a public forum from 1:00 p.m. to 5:00 p.m., on Wednesday, November 15, 1989, at the Houston Metropolitan Multi-Service Center, 1475 West Gray, Houston, Texas.

DATE: Tuesday, November 14, 1989—3:00 p.m. to 5:00 p.m. (Business Meeting); Wednesday, November 15, 1989—1:00 p.m. to 5:00 p.m. (Public Forum).

Matters To Be Considered:

Update on Americans With Disabilities Act (ADA); Fiscal Year 1990 Budget Reprogramming; Board 1990 Retreat; complaint status report; resolution on providing access to meetings and information for the public; Americans With Disabilities Act implementation plan: proposed amendments to the Architectural Barriers Act (ABA); proposed amendments to the Board's Statement of Operating Procedures (SOP) and Authorities and Delegations (A&D); proposed amendments to the Board's Ethics Regulations; and, approval of January 1990 Board meeting agenda.

The ATBCB will hold a public forum from 1:00 to 5:00 p.m., on Wednesday, November 15. Public participation is invited to discuss issues relevant to the Architectural Barriers Act and the Access Board. Individuals or organizations interested in testifying must contact Larry Allison, Special Assistant for External Affairs, (202) 653–7834.

FOR FURTHER INFORMATION CONTACT: For information regarding committee meetings and the business portion of the Board meeting, contact Barbara A. Gilley, Executive Officer. For information regarding the public forum, contact Larry Allison. Both individuals may be reached at (202) 653–7834 (voice or TDD).

SUPPLEMENTARY INFORMATION: All Committee meetings will be held on Tuesday, November 14, 1989, at the Westin Galleria Hotel, Houston, Texas. The schedules are as follows: Planning and Budget Committee: 9:00 a.m.–10:00 a.m.; Technical Programs Committee: 10:00 a.m.–12 noon; Executive Committee: 1:00 p.m.–3:00 p.m.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 89–25657 Filed 10–31–89; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Order No. 443

Resolution and Order Approving the Application of the Puerto Rico International Distribution Center and Free Zone, Inc. for a Foreign Zone in Ponce, Puerto Rico; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Puerto Rico International Distribution Center and Free Zone, Inc., a non-profit corporation involving the City of Ponce and the Ponce Chamber of Commerce, filed with the Foreign-Trade Zones Board (the Board) on January 20, 1988, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Ponce, Puerto Rico, within the Ponce Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority; To Establish, Operate, and Maintain a Foreign-Trade Zone in Ponce, Puerto Rico

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Puerto Rico International Distribution Center and Free Zone, Inc., (the Grantee) has made application (filed January 20, 1988, FTZ Docket 4–88, 53 FR 3411) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Ponce, Puerto Rico, within the Ponce Customs port of entry;

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Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 163, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 18th day of October, 1989, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Robert A. Mosbacher,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25703 Filed 10-31-89; 8:45 am]

BILLING CODE 3510-DS-M

Foreign-Trade Zones Board

[Order No. 444]

Approval for Expansion of Foreign-Trade Zone 62, Brownsville, TX

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), the Foreign-Trade Zones Board adopts the following Resolution and Order:

Whereas, the Brownsville Navigation District, Grantee of Foreign-Trade Zone No. 62, has applied to the Board for authority to expand its general-purpose zone to include two sites near Valley International Airport in Harlingen, Texas, within the Brownsville Customs port of entry;

Whereas, the application was accepted for filing on February 24, 1988, and notice inviting public comment was given in the **Federal Register** on March 8, 1988 (Docket 12-88, 53 FR 7382);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Brownsville-Harlingen area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed February 24, 1988. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 24th day of October 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25702 Filed 10-31-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Certain Textiles and Textile Products From Argentina Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen garments. Interested parties who object to this revocation must submit their comments in writing not later than November 30, 1989.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Anne D'Alauro, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1978, the Depatment of Commerce ("the Department") published a countervailing duty order on certain textiles and textile products from Argentina (48 FR 53421). The Department has not received a request to conduct an administrative review of the countervailing duty order on certain textiles and textile products from Argentina for four consecutive annual anniversary months. This is the fifth anniversary.

The Department may revoke an order if the Secretary of Commerce concludes that an order is no longer of interest to interested parties. Accordingly, as required by § 355.25(d)(4) of the Commerce Department's regulations published in the **Federal Register** of December 27, 1988 (53 FR 50358) (to be codified at 19 CFR 355.25(d)(4)), the Department is notifying the public of its intent to revoke this order.

Opportunity to Object

Not later than November 30, 1989, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC. 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by November 30, 1989, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with § 355.25(d) of the Department's regulations.

Dated: October 30, 1989.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 89-25680 Filed 10-31-89; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review; Application for Amendment

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1223H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 85-2A015."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 85-00015, which was issued on January 27, 1986 (51 FR 3996, January 31, 1986) and amended December 22, 1987 (52 FR 49183, December 30, 1987).

Summary of Application

Applicant: California Dried Fruit Export Trading Company ("CDFETC"), 64 North Fulton Street, P.O. Box 12148, Fresno, California 93776. Contact: Kermit W. Almstedt, Legal Counsel. Telephone: 202/383/5300.

Application No.: 85-2A015.

Date Deemed Submitted: October 23, 1989.

Request For Amended Conduct: CDFETC seeks to amend its Certificate to:

1. Add "Dole Dried Fruit and Nut Company" of Bakersfield, California as a "Member" of the Certificate.

2. Delete each of the following companies as a "Member" of the Certificate: "Bonner Packing Company" (acquired by Dole Dried Fruit and Nut Company August 31, 1988), and "California Prune Packing Company."

Dated: October 25, 1989.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-25640 Filed 10-31-89; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Public Hearings on the Draft Environmental Impact Statement and Draft Management Plan for the Proposed Chesapeake Bay National Estuarine Research Reserve in Maryland

AGENCY: Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Public hearing notice.

SUMMARY: Notice is hereby given that the Marine and Estuarine Management Division, of the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments of the Draft Environmental Impact Statement and Draft Management Plan (DEIS/DMP) prepared on the proposed designation of Jug Bay and Otter Point Creek as additional components of the Chesapeake Bay National Estuarine Research Reserve in Maryland. The initial component, Monie Bay in Somerset County was designated in May 1985.

A public hearing will be held with regard to the Monie Bay component since it is being incorporated into this DEIS/DMP as part of the multi-site reserve which will total three components.

The Office of Ocean and Coastal Resource Management will hold public hearings at the following times and places:

Tuesday, November 14, 1989 at 7:00 p.m.—Somerset County Building Complex (Old Washington High School), 424 North Somerset Avenue, Room 109, Princess Anne, Maryland 21853.

Wednesday, November 15, 1989 at 7:00 p.m.—Prince Georges County Administration Building, Council Hearing Room, First Floor, Upper Marlboro, Maryland 20772.

Thursday, November 16, 1989 at 7:00 p.m.—Harford County Council Chambers, Harford County Courthouse, Level A, 20 West Courtland Street, Bel Air, Maryland 21014.

The views of interested persons and organizations on the adequacy of the DEIS/DMP are solicited, and may be expressed orally and/or in written

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statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of five (5) minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. All comments received at the hearing will be considered in the preparation of the Final Environmental Impact Statement (FEIS) and Draft Management Plan.

The comment period for the DEIS/DMP will end on Monday, November 27, 1989. All written comments received by this deadline will include in the FEIS.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Graham, (202) 673–5122, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Room 714, Washington, DC 20235. Copies of the draft environmental impact statement/draft management plan are available upon request to the Marine and Estuarine Management Division.

(Federal Domestic Assistance Catalog Number 11.420 Coastal Zone Management Estuarine Sanctuaries)

Dated: October 27, 1989.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89–25754 Filed 10–31–89; 8:45 am]

BILLING CODE 3510–08–M

Groundfish of the Gulf of Alaska, Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of intent to prepare a supplemental environmental impact statement (SEIS) and request for scoping comments.

SUMMARY: NOAA announces its intention to prepare an SEIS to assess the potential effects of allocating groundfish harvests between inshore and offshore processors. Such action would be achieved by amending the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area (FMPs). If such amendments to the FMPs are approved by the Secretary of Commerce (Secretary), implementation of such action is expected no sooner than January 1991.

In addition, NOAA announces a public process for determining the scope of issues to be addressed and for identifying the significant issues relating to allocating a public fishery resource. The intended effect of this notice is to alert the interested public of the commencement of a scoping process and to provide for public participation. This action is necessary to comply with Federal environmental documentation requirements.

DATE: Scoping comments are invited until December 8, 1989, when the scoping process will end at the conclusion of the December Council meeting.

ADDRESS: Send scoping comments to Steven Pennoyer, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668. Information on times and locations of scoping meetings may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, or telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter, Fishery Management Biologist, Alaska Region, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The commercial harvest of groundfish in the U.S. exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands Area is governed by Federal regulations at 50 CFR 611.92 and 611.93, and 50 CFR parts 672 and 675, which implement the FMPs.

The FMPs and their accompanying environmental impact statements (EISs) were developed by the North Pacific Fishery Management Council and approved by the Secretary under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Under the National Environmental Policy Act of 1969 (NEPA) and NOAA policy, a fishery management regulatory action which significantly affects the human environment requires preparation of an EIS or SEIS. This notice of intent to prepare an SEIS complies with NEPA implementing regulations at 40 CFR 1508.22. In addition, this notice announces a scoping process pursuant to 40 CFR 1501.7 and 1508.25.

The Problem: Domestic harvesting and processing capacity in the groundfish fishery currently exceeds available fish for all species in the Gulf of Alaska and most species in the Bering Sea. The seafood industry is composed of different geographic, social, and economic components which have differing needs and capabilities, particularly within the inshore and offshore components of the industry. These components may be defined as follows: (1) Inshore: includes fishing vessels that deliver product for processing to inshore and offshore (stationary or minimally mobile) processing facilities, and small catcher/processor vessels which may be dependent upon frequent shoreside logistical support. (2) Offshore: includes highly mobile fishing vessels which have onboard facilities to process their own catch, mothership processors which are sufficiently mobile to pursue groundfish species throughout their ranges, and those processors which do not depend upon frequent shoreside logistical support.

The finite availability of fishery resources, combined with current and projected levels of harvesting and processing capacity, and the differing capabilities of the inshore and offshore components of the industry, have generated concern for the future ecological, social, and economic health of the resource and the industry. These concerns include, but are not limited to, localized depletion of stocks or other behavioral impacts to stocks, shortened seasons, increased waste, harvests which exceed the TAC, and possible pre-emption of one industry component by another with the attendant social and economic disruption.

The Council must determine whether or not to address these concerns through the adoption of appropriate measures while protecting the conservation needs of the groundfish resources in the North Pacific.

The public is hereby notified that the NMFS, in cooperation with the Council, intends to prepare an SEIS on the potential effects of amending the FMPs to provide for allocating groundfish resources between inshore and offshore processors. This action is not intended to prejudice a decision by the Council on whether to recommend any change in the FMPs to the Secretary, but instead is designed to provide the Council with the best scientific information on which to base such a decision.

The Proposed and Possible Alternative Actions: The proposed action is to amend the FMPs to provide authority to allocate groundfish resources between inshore and offshore processors. Alternatives to this action include: (1) Status quo with no change in regulations to address the problem. (2) Allocate the total allowable catch (TAC) between inshore and offshore components of the industry. This could be done with or without specific operational areas. (3) A. Prohibit fishing by factory/trawlers in the Gulf of Alaska. In the Bering Sea/Aleutian Islands, allocate a portion of the TAC between inshore and offshore components of the industry and define operational areas. B. Prohibit fishing by

catcher/processors in the Gulf of Alaska. In the Bering Sea/Aleutian Islands, allocate a portion of the TAC between inshore and offshore components of the industry and define operational areas. C. Prohibit fishing by factory/trawlers in the Gulf of Alaska except as specifically provided for by the Council. In the Bering Sea/Aleutian Islands, prohibit factory/trawlers from the area between 165° and 163°W. longitude and south of 56°N. latitude except as specifically provided for by the Council. D. In addition to the above, at the discretion of the Council, provide for future management options for disadvantaged communities. (4) Use traditional management tools including, but not limited to: trip limits, periodic allocations, super-exclusive registration areas, and gear sizes.

Scoping Process: Because of extensive public testimony at the June and September 1989 Council meetings, public participation at several committee meetings, and a call for proposals, the Council has already initiated the amendment process for the inshore-offshore issue. Additionally, the Council's Fishery Planning Committee will meet on November 8, 1989 (time and location to be announced), to further discuss the problem statement and suggested alternatives. The public may provide comments relevant to these issues at that time. All persons affected by or otherwise interested in a decision to amend the FMPs to provide for allocations of groundfish resources between inshore and offshore components of the industry are invited to participate in determining the scope and the significant issues to be analyzed in the SEIS by submitting written comments to the above address. Scope consists of the range of actions, alternatives, and impacts to be considered in the SEIS. Actions include those which may be closely related, cumulative, or similar. Alternatives include the no action alternative, other reasonable courses of action, and mitigation measures. Impacts may be direct, indirect, and cumulative. The scoping process also will identify and eliminate from detailed study issues which are not significant or which have been covered in prior environmental review. This scoping process will end on December 8, 1989, at the conclusion of the December Council meeting.

Timetable for SEIS Preparation and Decisionmaking

The Council has adopted a tentative amendment preparation, review, and approval schedule for the inshore-offshore issue. Under this schedule, the draft SEIS is planned for completion prior to the Council's June 1990 meeting. If an acceptable draft is completed, the Council would decide at this meeting whether to submit the draft SEIS for public review. Oral comments to the Council on their decision could be made at that meeting. If the Council's decision is affirmative, public review of the draft SEIS would occur during 45 days in July and August 1990. At its September 1990 meeting, the Council would decide whether to recommend inshore-offshore allocations to the Secretary. Again, oral comments on this decision could be made to the Council at that meeting. If the Council's decision is affirmative, the SEIS would be made final and submitted with the amendment recommendation and other rulemaking documents to the Secretary for review and approval. The Council reserves the right to modify or abandon this schedule if determined necessary.

Under the Magnuson Act, Secretarial review and approval of a proposed amendment is completed in 95 days and includes concurrent public comment periods on the amendment and proposed rule. If approved by the Secretary under this schedule, inshore-offshore allocations and final implementing rule would be effective early in 1991.

Dated: October 25, 1989.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–25649 Filed 10–31–89; 8:45 am]

BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of the Florida/Alabama Habitat Protection Advisory Panel on November 16, 1989, from 9 a.m. to 4 p.m. The meeting will be held at the Council's office (address below). The panel will discuss: (1) Sea grass problems in Florida and Tampa Bays; (2) National Marine Fisheries Service (NMFS) sea grass restoration efforts; (3) National Oceanic and Atmospheric Administration (NOAA) responsibility in handling hazardous spills into marine waters; (4) water quality standards in Alabama estuaries from point and non-point discharges; (5) sea level rise and impact on resource agencies' policies; (6) nutrification impact on fishery habitats; (7) issues surrounding Canal C–111 and the South Florida Water Management District's role, responsibility, and actions concerning Canal C–111; and (8) the live rock collecting issue—the extent of reefs and state actions in the Gulf of Mexico.

For more information contact Wayne F. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228–2815.

Dated: October 24, 1989.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–25650 Filed 10–31–89; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Fishery Planning Committee will hold a public meeting and a group of invited fishery economists will hold a one-day public workshop.

On November 15, 1989, at 9 a.m., P.s.t., the Fishery Planning Committee will meet at the Alaska Fisheries Science Center, National Marine Fisheries Service, 7600 Sand Point Way NE., Building 4, Room 2039, Seattle, WA. The Committee will review public comments on the draft inshore/offshore problem statement, and discuss management alternatives. The Committee also will develop recommendations for the North Pacific Council on further development of the subject, and design a work schedule.

On November 21 at 10 a.m., P.s.t., a group of invited fishery economists will hold a public workshop to discuss analytical issues associated with the inshore/offshore management issue. The group also will review the problem statement and the alternatives presented by the Fishery Planning Committee, and provide advice on how the alternatives might be analyzed. The workshop will be held at the Alaska Fisheries Science Center, National Marine Fisheries Service, 7600 Sand Point Way NE., Building 4, Room 2079, Seattle, WA.

For more information contact Steve Davis, North Pacific Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501; telephone: (907) 271–2809.

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Dated: October 25, 1989.
David S. Crestin,
Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 89-25651 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will hold a public meeting of the Shark Advisory Panel, at the Council's headquarters (address below), on November 8, 1989, from 8:30 a.m., to 5 p.m. The Panel will review the draft Secretarial Shark Fishery Management Plan.

A detailed agenda will be available to the public on or about October 31, 1989. For more information contact Carrie R.F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: October 25, 1989.
David S. Crestin,
Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 89-25652 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Closed Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will hold a closed meeting of the Scientific and Statistical Selection Committee, on November 9, 1989, from 1:30 p.m., to 3:30 p.m., at the Council's headquarters (address below). The Committee will discuss employment matters relating to membership on the Scientific and Statistical Selection Committee.

A general agenda will be available to the public on or about October 31, 1989. For more information contact Carrie R.F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: October 25, 1989.
David S. Crestin,
Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 89-25653 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of its Scientific and Statistical Committee (SSC) on November 15-16, 1989, at the Holiday Inn—Tampa International Airport Hotel, 4500 West Cypress Street, Tampa, FL. On November 15 the Committee will begin meeting at 9 a.m., and recess at 5 p.m. On November 16 the meeting will reconvene at 9 a.m., and adjourn at 4 p.m. The SSC will review the draft Secretarial Shark Fishery Management Plan (FMP), and Amendment #5 to the Coastal Migratory Pelagics (mackerels) FMP, as well as discuss the Swordfish Stock Assessment Review Panel Report and Council proposals.

For more information contact Wayne F. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228-2815.

Dated: October 25, 1989.
David S. Crestin,
Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 89-25654 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will meet on November 13-17, 1989, at the Red Lion Inn-Columbia River, 1401 North Hayden Island Drive, Portland OR. Except as noted below, the meetings are open to the public.

The Council will meet on November 15 at 8 a.m., to address anchovy and groundfish management, and halibut allocation. The Council will reconvene on November 16 at 8 a.m., in closed session (not open to the public), to discuss litigation and personnel matters. The open session will start at 9 a.m., and the Council will continue consideration of groundfish management issues for the remainder of the day. On November 17 the Council will address habitat matters, salmon management, and administrative matters.

With regard to anchovy management, the Council will review preliminary options for a plan amendment that would provide for a limited reduction fishery at low spawning biomass levels. The halibut discussions will focus on development of a proposed harvest sharing agreement for 1990 that will be distributed for public review.

Groundfish management issues are numerous and include: (1) Limited entry; (2) Canadian groundfish management in 1990; (3) adoption of harvest levels for 1990; (4) necessary management measures for 1990; (5) long-term sablefish management; (6) measures to extend the joint venture whiting season; (7) adoption of a plan amendment for public review; (8) scoping for a future plan amendment, and (9) discussion of other matters. Principal salmon management agenda items include: (1) Klamath River chinook salmon spawning escapement goal; (2) deviations from the non-treaty harvest allocation north of Cape Falcon; (3) preseason process for adopting management measures; (4) Washington, coho salmon escapement estimation methodologies; (5) inseason regulation adjustment proposal; (6) scoping for a future plan amendment, and (7) discussion of other matters.

The *Scientific and Statistical Committee* will meet on November 13 at 11 a.m., to address scientific issues on the Council's agenda, and will reconvene on November 14 at 8 a.m.

The *Groundfish Select Group* will meet on November 13 at 8 a.m., and the *Groundfish Advisory Subpanel* will meet on November 14 at 8 a.m., to address certain groundfish items on the Council's agenda.

Enforcement consultants will meet on November 13 at 1 p.m., to discuss enforcement issues related to Council fishery management plans.

The *Budget Committee* will meet on November 14 at 1 p.m., to review the status of the 1989/90 Council budgets.

The *Habitat Committee* will meet on November 14 at 3 p.m., to consider timely and relevant habitat matters impacting fisheries within the Council's jurisdiction.

The *Halibut Select Group* will meet on November 14 to consider allocation between sport and commercial halibut fisheries in 1990.

The *Salmon Advisory Subpanel* will meet on November 16 at 8 a.m., and the *Salmon Technical Team* will meet on November 16 at 1 p.m., to address salmon items on the Council's agenda.

Detailed agendas for the above meetings will be made available to the public after November 2, 1989. For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management council, 2000 SW., First Avenue, Room 420, Portland, OR 97201; telephone: (503) 326-6352.

Dated: October 24, 1989.
David S. Crestin,
Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 89-25655 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Closed Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce

The South Atlantic Fishery Management Council will hold a closed meeting of the Advisory Panel Selection Committee on November 9-10, 1989, at the Council's headquarters (address below). On November 9 the Committee will begin the meeting at 4 p.m., and will adjourn on November 10 at 5 p.m. The Committee will discuss employment matters relating to membership on the Billfish, King and Spanish Mackerel, Law Enforcement, Shark, Snapper/Grouper, Spiny Lobster, Swordfish, Habitat, and Environmental Protection Advisory Panels.

A general agenda will be available to the public on or about October 31, 1989. For more information contact Carrie R. F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: October 25, 1989.
David S. Crestin,
Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 89-25656 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Cotton, Wool and Man-Made Fiber Sweaters Assembled in Guam from Imported Parts

October 26, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for a new agreement year.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The provision for sweaters assembled in Guam from imported parts and exported from Guam to the United States is being continued for the period November 1, 1989 through October 31, 1990. The limit established for the previous period is being increased to 188,926 dozen.

A certification will continue to be required and will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A facsimile of the certification stamp was published in the **Federal Register** on March 4, 1985 (50 FR 8649).

For those sweaters properly certified, no export visa or license will be required from the country of origin of the merchandise, and imports entered under this procedure will not be charged to limits established for exports from the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess of 188,926 dozen, will require the appropriate visa or export license from the country of origin and will be subject to any other applicable restriction.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 44063, published on November 1, 1988.

Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 26, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner:

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 1, 1989, you are directed to permit entry or withdrawal from warehouse for consumption in the United States of 188,926 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646, the product of any foreign country of foreign territory, as determined under Customs Regulation Part 12, Section 12.130 and which have been certified as assembled in Guam and exported to the United States during the twelve-month period beginning on November 1, 1989 and extending through October 31, 1990. You are directed not to require any otherwise applicable export visa or license and not to charge against any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A facsimile of the certification stamp has been provided.

Imports of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 assembled in Guam, but not of Guam origin, which are not accompanied by a certification and those in excess of 188,926 dozen exported during the twelve-month period beginning on November 1, 1989 and extending through October 31, 1990 will require the appropriate visa or export license from the country of origin and will be charged to any applicable quota.

Imports charged to the category limit for the period November 1, 1988 through October 31, 1989 shall be charged against the level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-25706 Filed 10-31-89; 8:45 am]
BILLING CODE 3510-DR-M

Establishment of an Import Limit for Certain Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the Socialist Republic of Romania

October 27, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce,

(202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on

Sincerely,

Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-25704 Filed 10-31-89; 8:45 am]

U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted

has been on the decline, falling from 19,643,000 dozen in 1982 to 13,287,000 dozen in 1988, a decline of 33 percent. Production of the year ending March 1989 at 13,005,000 dozen was down 12

1. Discussion of the performance of markets and systems during October 13-16, 1989;

2. Discussion of large order execution systems and proposals;

to be held from 8:30 a.m. to 5:00 p.m. on November 16-17, 1989. The meeting will be held at the DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia 31401. The purpose of the meeting is to review

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(202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of section 204 of the Agricultural Act of 1956 and the current bilateral textile agreement between the Governments of the United States and the Socialist Republic of Romania, a limit is being established for silk blend and other vegetable fiber textile products in Category 844.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** Notice 53 FR 44937, published on November 7, 1988). Also see 53 49344, published on December 7, 1988.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 27, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner:

This directive amends, but does not cancel, the directive issued to you on December 2, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 3, 1989, the directive of December 2, 1988 is being amended further to establish a limit of 155,556 numbers [1] for silk blend and other vegetable fiber textile products in Category 844 in Group I. Category 844 shall remain subject to the group limit.

Import charges already made to Group I for Category 844 shall be applied to the limit established in this directive. In addition, you are directed to charge 40,104 numbers, for goods exported in 1988, to the limit established in this directive for Category 844.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–25704 Filed 10–31–89; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of a Request for Bilateral Consultations with the Government of Bangladesh on Certain Cotton and Man-Made Fiber Textile Products

October 27, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On September 28, 1989, under the terms of Article 3 of the Arrangement Regarding International Trade in Textiles, the Government of the United States requested consultations with the Government of Bangladesh regarding textile products in Categories 336/636, produced or manufactured in Bangladesh.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Bangladesh, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 336/636, produced or manufactured in Bangladesh and exported during the twelve-month period which began on September 28, 1989 and extends through September 27, 1990, at a level of 160,566 dozen.

A summary market statement concerning Categories 336/636 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 336/636, or to comment on domestic production or availability of products included in Categories 336/636, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affars function of the United States."

The United States remains committed to finding a solution concerning Categories 336/636. Should such a solution be reached in consultations with the Government of Bangladesh, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Bangladesh, September 1989.

Summary and Conclusions

U.S. imports of cotton and man-made fiber dresses (Category 336/636) from Bangladesh reached 142,495 dozen during the year ending June 1989, 41 percent above the 101,011 dozen imported a year earlier. During the first six months of 1989, imports of cotton and man-made fiber dresses (Category 336/636) from Bangladesh reached 120,121, 44 percent over the January–June 1988 level and 13 percent above the 106,043 dozen imported in calendar year 1988.

The sharp and substantial increase in Category 336/636 imports from Bangladesh is disrupting the U.S. market for cotton and man-made fiber dresses.

U.S. Production and Market Share

U.S. production of cotton and man-made fiber dresses (Category 336/636) has been on the decline, falling from 19,843,000 dozen in 1982 to 13,287,000 dozen in 1988, a decline of 33 percent. Production of the year ending March 1989 at 13,005,000 dozen was down 12 percent from the year ending March 1988 level. The domestic manufacturers' share of the cotton and man-made fiber dress market declined 20 percentage points since 1982, falling from 91 percent in 1982 to 71 percent in 1988. The domestic market share continued to decline, falling to 70 percent for the year ending March 1989.

U.S. Imports and Import Penetration

U.S. imports of cotton and man-made fiber dresses (Category 336/636) almost tripled, increasing from 1,933,000 dozen in 1982 to 5,493,000 dozen in 1988. Imports continued to increase in 1989, reaching 3,477,000 dozen in the first six months of 1989, 6 percent above the level imported during the same period in 1988. The ratio of imports to domestic production quadrupled, rising from 10 percent in 1982 to 41 percent in 1988. The import to production ration increased further, reaching 43 percent in the year ending in March 1989.

Duty-Paid Value and U.S. Producers' Price

Approximately 82 percent of Category 336/636 imports from Bangladesh during the first six months of 1989 entered under HTSUSA numbers 6204.42.3050—women's cotton woven dresses, other than of yarn dyed fabric and 6104.43.2010—women's man-made fiber knit dresses. These dresses entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable dresses.

[FR Doc. 89–25705 Filed 10–31–89; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting on Friday, November 17, 1989 at the Longworth House Office Building, Room 1302, Independence Avenue, S.W., Washington, D.C. The meeting will be held between 10:00 a.m. and 3:30 p.m. The agenda consists of the following:

1. Discussion of the performance of markets and systems during October 13–16, 1989;
2. Discussion of large order execution systems and proposals;
3. Discussion of proposed amendment to rule 4.5 to extend the exemption from pool registration for certain risk management purposes;
4. Discussion of the Division of Economic Analysis dual trading study; and
5. Discussion of any other business that may properly come before the Committee.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth at 54 FR 18923 (May 3, 1989).

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Robert R. Davis, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee, Jay Geldermann, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements also should inform Jay Geldermann in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued in Washington, DC, the 25th day October 1989, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–25639 Filed 10–31–89; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 5:00 p.m. on November 16–17, 1989. The meeting will be held at the DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia 31401. The purpose of the meeting is to review the Department of Defense's computer adaptive testing efforts, Student Testing Program, and equating plans for the Armed Services Vocational Aptitude Battery Forms 18 and 19. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. A. R. Lancaster, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Force Management and Personnel), Room 2B271, the Pentagon, Washington, DC 20301–4000, telephone (202) 697–9271, no later than November 10, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 27, 1989.

[FR Doc. 89–25752 Filed 10–31–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Military Traffic Management Command; Military/Industry Mobile Homes Symposium; Open Meeting

Announcement is made of meeting of the Military/Industry Mobile Homes Symposium. This meeting will be held on 16 November 1989 at Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 0930 hours and adjourn at approximately 1600 hours.

Proposed Agenda: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation, DOD 4500.34R, and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, *ATTN:* MTPP–M, at telephone number 756–1600, between 0800–1530 hours. Topics to be discussed should be received on or before 6 November 1989.

Kenneth L. Denton;

Alternate Army Liaison Officer with the Federal Register.

[FR Doc. 89–25618 Filed 10–31–89; 8:45 am]

BILLING CODE 3710–08–M

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Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 20-21 November 1989.

Time of Meeting: 0900-1800 hours.

Place: Aberdeen Proving Ground, Maryland.

Agenda: The Army Science Board Ad Hoc Subgroup on the US Army Chemical, Research, Development and Engineering Center will meet to review the draft report of the panel's findings. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-25602 Filed 10-31-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.003A and 84.003E]

Bilingual Education and Minority Languages Affairs; Direct Grant Programs

AGENCY: Department of Education.

ACTION: Extension of deadline date for transmittal of applications for new awards for fiscal year 1990 under the Transitional Bilingual Education Program and the Special Alternative Instructional Program.

Deadline for Transmittal of Applications: The deadline date for applications is extended from November 3, 1989, to November 17, 1989.

On June 30, 1989, a notice was published that established the deadline date for transmittal of applications for the fiscal year 1990 competition for new awards under the Transitional Bilingual Education Program and the Special Alternative Instructional Program (54 FR 27672-27675). Detailed information concerning this competition was included in that notice. The purpose of this notice is to extend the deadline date for transmittal of applications because potential applicants may not have sufficient time to develop their proposals due to the disruption caused by the recent earthquake in California.

For Applications or Information Contact: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue SW., Room 5086, Switzer Building, Washington, DC 20202-6510. Telephone: (202) 732-1843.

Program Authority: 20 U.S.C. 3291(a)(1) and 3291(a)(3)

Dated: October 20, 1989.

Rita Esquivel,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 89-25678 Filed 10-31-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9230-002 Connecticut]

Jewett City Electric Light Plant; Availability of Environmental Assessment

October 25, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Pachaug River Hydroelectric Project located on the Pachaug River in New London County near Jewett City, Connecticut, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25676 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2610-002 Wisconsin/Michigan]

Northern States Power Co.; Availability of Environmental Assessment

October 25, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the existing Saxon Falls Hydroelectric Project located on the Montreal River near Hurley, Wisconsin in Iron County, Wisconsin and Gogebic County Michigan and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the project and has concluded that approval of a new license for the project, with appropriate enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25675 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-83-000 et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filing

Take notice that the following filings have been made with the Commission.

1. United Gas Pipe Line Co.

[Docket Nos. CP90-83-000]

October 24, 1989.

Take notice that on October 20, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-83-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of Loutex Energy, Inc. (Loutex), a producer and marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it would transport a maximum daily quantity of 480,236 MMBtu for Loutex pursuant to an Interruptible Gas Transportation Agreement, dated November 17, 1988, as amended May 22, 1989, between United and Loutex. United further states that it would receive the natural gas at existing points of receipt in offshore Louisiana and in the states of Louisiana, Mississippi and Texas and would redeliver the natural gas at existing points of delivery in the states of Alabama, Florida, Louisiana and Mississippi. United indicates that the estimated average day and annual quantities to be transported for Loutex would be 480,236 MMBtu and 175,286,140 MMBtu, respectively.

United states that it commenced the transportation of natural gas for Loutex on June 5, 1989, as reported in Docket No. ST90-62-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: December 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipeline Co.

[Docket No. CP90-57-000]

October 24, 1989.

Take notice that on October 13, 1989, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-57-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport, on an interruptible basis, 5,970 dth per day of natural gas under its blanket certificate issued in Docket No. CP88-532-000 for Steelcase, Inc. (Steelcase), a marketer, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that it would receive the gas at its' existing points of receipt located in the states of Louisiana, Kentucky, Indiana, Ohio and Michigan and the Offshore Louisiana and Texas gathering areas and redeliver the gas for the account of Steelcase at existing interconnections located in the state of Michigan. ANR indicates that it commenced service on August 21, 1989, for Steelcase under § 284.223 as reported in Docket No. ST90-46-000.

ANR states that peak day and average day deliveries would be 5,970 dth and annual deliveries would be 2,179,000 dth.

Comment date: December 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Co.

[Docket No. CP90-68-000]

October 24, 1989.

Take notice that on October 17, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-68-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon partially sales service to CNG Transmission Corporation (CNG), an existing jurisdictional sales customer, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states that on June 9, 1989, CNG requested that conversion of 55,000 dt per day of its current firm sales entitlements under Tennessee's Rate Schedule CD-3 to firm transportation pursuant to § 284.10 of the Commission's Regulations, effective August 9, 1989. Tennessee further states that this will result in a revised firm sales entitlement of 173,660 dt per day of natural gas and a firm transportation quantity of 55,000 dt of natural gas per day for CNG at the Cornwell interconnection in Kanawha County, West Virginia.

Comment date: November 14, 1989 in accordance with Standard Paragraph F at the end of the notice.

4. United Gas Pipe Line Co.

[Docket No. CP90-84-000]

October 24, 1989.

Take notice that on October 20, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-84-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of LEDCO INC. (LEDCO), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it would transport a maximum daily quantity of 480,236 MMBtu for LEDCO pursuant to an Interruptible Gas Transportation Agreement, dated November 17, 1988, as amended July 27, 1989, between United and LEDCO. United further states that it would receive the natural gas at existing points of receipt in offshore Louisiana and in the states of Louisiana, Mississippi and Texas and would redeliver the natural gas at existing points of delivery in the states of Alabama, Florida, Louisiana and Mississippi. United indicates that the estimated average day and annual quantities to be transported for LEDCO would be 480,236 MMBtu and 175,286,140 MMBtu, respectively.

United states that it commenced the transportation of natural gas for LEDCO on September 7, 1989, as reported in Docket No. ST90-81-000, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: December 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Gas Transmission Corp.

[Docket No. CP90-85-000]

October 25, 1989.

Take notice that on October 23, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-85-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of EnTrade Corporation (EnTrade), under Texas Gas' blanket certificate issued in Docket No. CP86-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 300,000 MMBtu per day for EnTrade. Texas Gas states that construction of facilities would not be required to provide the proposed service.

Texas Gas further states that the maximum day, average day, and annual transportation volumes would be approximately 300,000 MMBtu, 30,000 MMBtu and 109,500,000 MMBtu respectively.

Texas Gas advises that service under § 284.223(a) commenced September 16, 1989, as reported in Docket No. ST90-11.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Niagara Mohawk Power Corp.

[Docket Nos. CP89-1571-000 and CP89-1571-001

October 25, 1989.

Take notice that on June 5, 1989, Niagara Mohawk Power Corporation (Niagara Mohawk), 300 Erie Boulevard West, Syracuse, New York 13202, filed an application in Docket No. CP89-1571-000 pursuant to §§ 153.10 through 153.12 of the Commissions Regulations for a Presidential Permit and on October 17, 1989, filed an application in Docket No. CP89-1571-001 pursuant to section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717(b), and Executive Order No. 10485, as amended by Executive Order No. 12038 and Delegation Order No. 0204-112 of the Secretary of Energy. Niagara Mohawk seeks the issuance of a Presidential Permit to connect a natural gas facility at a point of entry on the

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United States/Canadian border near the Town of Clayton, New York. Niagara Mohawk also seeks NGA section 3 authorization from the Commission to construct, operate and maintain such facilities at the point of entry for the importation of natural gas. All as more fully set forth in the application which is on file with the Commission and open to public inspection.

Niagara Mohawk proposes to purchase 51,000 Mcf of natural gas per day from TransCanada Pipelines Limited (TransCanada). Niagara Mohawk further proposes to import such gas through the Trans York Extension it proposes to build as an extension of its local distribution system within the state of New York from the United States/Canadian border near the Town of Clayton, Jefferson County, New York to Watertown, New York. The Trans York Extension will interconnect at the border with the facilities of TransCanada known as the Gananoque Extension.

Niagara Mohawk states that the proposed facilities are essential for Niagara Mohawk to import natural gas from Canada under its contract with TransCanada. Under that contract Niagara Mohawk will purchase up to 51,000 Mcf per day on a firm basis to enhance Niagara Mohawk's ability to meet its system requirements.

Comment date: November 15, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. United Gas Pipe Line Co.

October 25, 1989.

[Docket No. CP90-89-000]

Take notice that on October 17, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed a request with the Commission in Docket No. CP90-89-000 pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to add an Alabama delivery point for service to Mobile Gas Service Corporation (Mobile), under the blanket certificate issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act (NGA), all as more fully set forth in the request which is open to public inspection.

United proposes to add the existing Bayou La Batre, Alabama, city gate station as a delivery point for its natural gas service to Mobile, which purchased the Bayou La Batre gas system. United proposes to deliver 5,208 Mcf on peak days and 257 Mcf on average days, and 113,015 Mcf per year at the Bayou La Batre delivery point. United would provide service to Mobile's Bayou La Batre gas system under its Rate Schedule DG-N. United states that its tariff permits the addition of delivery points. United also states that Mobile's total certificated entitlements would not increase under this proposal.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Panhandle Eastern Pipe Line Co.

October 25, 1989.

[Docket No. CP90-97-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP90-97-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to transport natural gas on an interruptible basis for Associated Natural Gas, Inc. (Associated). Panhandle explains that service commenced September 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4803. Panhandle explains that the peak day quantity would be 100,000 Dt., the average daily quantity would be 100,000 Dt., and that the annual quantity would be 36,500,000 dekatherms. Panhandle explains that it would receive natural gas for Associated's account at various existing receipt points on its system. Panhandle states that it would redeliver the gas to Haven Pool in Reno County, Kansas.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Co.

October 25, 1989.

[Docket No. CP90-82-000]

Take notice that on October 19, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP90-82-000 an applicant pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon natural gas sales service to Central Illinois Light Company (CILCO), an existing jurisdictional sales customer, all as more fully set forth in the application on file with the Commission and open to public inspection.

Panhandle states that it has entered into a sales agreement dated September 20, 1989, with CILCO which reduces the sales contract demand (CD) level effective January 1, 1990. Specifically, Panhandle seeks authority for partial abandonment of CILCO's current sales CD, to be effective January 1, 1990. The proposed abandonment will reduce the annualized total CD from 49,498,840 Mcf to 35,845,663 Mcf under Rate Schedule G-2.

Comment date: November 15, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. CNG Transmission Corp.

[Docket No. CP90-89-000]

October 25, 1989.

Take notice that on October 20, 1989, CNG Transmission Corporation (CNG) 445 West Main St., Clarksburg, West Virginia 26302-2450, filed in Docket No. CP90-89-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to provide transportation service for various shippers under CNG's blanket certificate issued in Docket No. CP86-311-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG proposes to transport gas for shippers on an interruptible basis from various receipt points on its system to various interconnections between CNG and certain local distribution companies and pipelines. CNG lists for each shipper the receipt and delivery points, the maximum daily, average daily and annual volumes, as well as the docket number related to the 120-day transportation service initiated by CNG (see attached appendix).

Docket No.	Shipper customer	Commence date	Max. daily DT; Avg. daily DT; Est. annual DT	Receipt point	Delivery point or LDC
ST90-95	1. Central Allied Enterprises	9-2-89	500 93 33,945	C	EOG
ST90-93	2. Koski Const.	9-2-89	500 93 33,945	C	EOG
ST90-94	3. PSI, Inc.	9-2-89	100,000 102 37,230	D	Tenn.
ST90-92	4. O & R Energy	9-1-89	15,000 4,170 1,522,050	D	NIMO

Legend of Local Distribution Companies (LDC) Delivery Points
EOG—East Ohio Gas Company.
NIMO—Niagara Mohawk Power Corporation.
Tenn.—Tennessee Gas Pipeline Company.
Legend of Receipt Points:
C—Various interconnects between Texas Gas Transmission Corp. and CNG.
D—Various interconnects between Texas Eastern Transmission Corporation and CNG.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Viking Gas Transmission Co.

[Docket No. CP90-79-000]

October 25, 1989.

Take notice that on October 19, 1989, Viking Gas Transmission Company (Viking), 1010 Milam, Houston, Texas 77002, filed in Docket No. CP90-79-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Poco Petroleum Ltd. (Poco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Viking proposes to transport on an interruptible basis up to 207,450 dt equivalent of natural gas per day for Poco in order to enable Poco to meet its existing market requirements and anticipated market growth. It is stated that Viking would receive the gas for Poco's account at an interconnection with TransCanada Pipelines Ltd. at the U.S.-Canada border near Emerson, Manitoba, and would deliver equivalent volumes for Poco's account at an interconnection with ANR Pipeline Company (ANR) near Marshfield, Wisconsin. It is asserted that Viking would charge Poco the rate set forth in Viking's Rate Schedule IT-2. It is explained that existing facilities would be used for the transportation service and that no construction of additional facilities would be required. It is asserted that Poco has the necessary authorization to import gas from Canada into the United States. It is further asserted that the authorization for any downstream transportation by ANR would be provided under either section 311 of the Natural Gas Policy Act or pursuant to ANR's blanket certificate.

Comment date: November 15, 1989 in accordance with Standard Paragraph F at the end of the notice.

12. Mississippi River Transmission Corp.

October 25, 1989.

[Docket No. CP90-78-000

Take notice that on October 16, 1989, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis Missouri 63124, filed in Docket No. CP90-78-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing MRT to provide increased firm gas sales service for Associated Natural Gas Company (Associated) and Pfizer Pigments, Inc. (Pfizer) and to provide new firm gas sales service for ASARCO, Inc. (ASARCO), GAF Corporation (GAF) Amoco Petroleum Additives Company (Amoco) and River Cement Company (River Cement), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT states that Associated, a local distribution company, currently purchases firm natural gas service under MRT's Rate Schedule SGS-1. MRT states that Associated's existing service agreement with MRT provides for a contract demand of 2,190 Mcf per day (Mcfd). Under its new service agreement, MRT states that Associated's firm contract demand under Rate Schedule SGS-1 would be increased to 3,000 Mcfd. MRT avers that the new service agreement will be effective until December 31, 1993, unless extended by mutual agreement of the parties. MRT states that the additional contract demand is required by Associated to serve the current peak day firm requirements of its existing residential, commercial and industrial customers. MRT further states that since 1985, the number of customers served by Associated has increased by eight percent, and peak day requirements are currently in excess of Associated's existing contract demand.

MRT states that Pfizer is a non-jurisdictional direct sales customer of MRT which currently purchases firm natural gas service from MRT up to a maximum daily volume (MDV) of 950 Mcf. Under its amended contract with MRT, it is stated that Pfizer's firm service MDV would be increased to 3,600 Mcf.

MRT indicates that ASARCO, GAF, Amoco and River Cement are all non-jurisdictional direct sales customers of MRT which currently purchase natural gas only on an interruptible basis from MRT. MRT states that it has negotiated new firm sales contracts with these customers which provide for the following maximum daily volumes: ASARCO—1,300 Mcf, GAF—1,500 Mcf, Amoco—2,000 Mcf, and River Cement—2,000 Mcf.

MRT states that firm service proposed herein for ASARCO, GAF, Amoco and River Cement, and the additional firm service for Pfizer, will provide these customers with a secure supply of natural gas for that portion of each company's industrial's needs which cannot be met economically with any other energy source. According to MRT, these companies require gas supply security to ensure the continuance of their plant production capabilities. Absent such security, MRT states that these plants rely instead on increasingly risky interruptible gas supplies. MRT states that in the past, the risk of lengthy

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disruptions of plant production has been minimal. However, MRT states that these companies now view the uncertainty of both the cost and availability of fuel supplies as creating an unacceptable risk to continued, uninterrupted operation, and so desire the firm service proposed herein.

MRT states that it will not install any new facilities to provide the 10,280 Mcfd of service contemplated by the new agreements, and that the new service will have no effect on MRT's service to any of its existing firm customers. In that regard, MRT states that it has total firm gas deliverability which will be more than sufficient to meet MRT's systemwide demands after the new agreements take effect. MRT state that it has contracted for a substantial amount of firm transportation capacity with upstream pipelines, and that it also has access to additional gas through its West Line which provides MRT direct access to a variety of gas producers in North Louisiana and East Texas. MRT adds that it has also contracted with United Gas Pipe Line Company for firm purchases for system supply. Finally, MRT states that its deliveries can be supplemented by withdrawals from its existing storage facilities. Moreover, the volumes of gas included in these service agreements are only one percent of MRT's system delivery capability of approximately one Bcf per day.

Comment date: November 15, 1989, in accordance with Standard Paragraph F at the end of this notice.

13. Stingray Pipeline Co.

[Docket No. CP90-110-000]

October 25, 1989.

Take notice that on October 23, 1989, Stingray Pipeline Company (Stingray), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-110-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for EP Operating Company (EP), a producer, under the blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89-70-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Stingray states that pursuant to a transportation service agreement dated July 17, 1989, under its Rate Schedule ITS, it proposes to receive up to 20,000 Mcf per day from EP at a specified point located in the East Cameron Area, offshore Louisiana and to redeliver the gas at specified points located in Louisiana and offshore Texas. Stingray estimates that the peak day, average day, and annual volumes would be 20,000 million Btu, 10,000 million Btu, and 3,650,000 million Btu, respecitvely. It is stated that on September 1, 1989, Stingray initiated a 120-day transportation service for EP under § 284.223(a), as reported in Docket No. ST90-17-000.

Stingray further states that no facilities need be constructed to implement the service. Stingray states that the service would continue on a month-to-month basis until terminated by 30 days written notice. Stingray proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Tennessee Gas Pipeline Co.

[Docket No. CP90-90-000]

October 25, 1989.

Take notice that on October 23, 1989, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam, Houston, Texas 77002, filed in Docket No. CP90-90-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for American Central Gas Marketing Company (American Central), a marketer of natural gas, under Tennessee's blanket certificate, issued in Docket No. CP87-115-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport, on an interruptible basis, up to 200,000 dt equivalent of natural gas on a peak day, 200,000 dt equivalent on an average day and 73,000,000 dt equivalent on an annual basis. It is stated that Tennessee would receive the gas for American Central's account as designated points on Tennessee's system in Louisiana, Texas, offshore Louisiana, offshore Texas, Mississippi, Alabama, New Jersey, West Virginia, Kentucky, Massachusetts, New York, Pennsylvania, Connecticut, Ohio and Arkansas and would deliver equivalent volumes at designated points on Tennessee's system in Texas, Louisiana, Alabama, Tennessee, Mississippi, Kentucky, West Virginia, Ohio, Pennsylvania, New York, New Jersey, Massachusetts and Connecticut. It is asserted that the transportation service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the service commenced September 29, 1989, under the self-implementing authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-156.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. Texas Gas Transmission Corp.

[Docket No. CP90-94-000]

October 25, 1989.

Take notice that on October 23, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-94-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Brooklyn Interstate Natural Gas Corporation (Brooklyn Interstate), under Texas Gas's blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that pursuant to a transportation agreement dated September 8, 1989, it proposes to receive up to 100,000 million Btu of natural gas per day from Brooklyn Interstate at specified points located in offshore and onshore Louisiana, Texas, Illinois, Indiana, Ohio, Arkansas, and Kentucky and redeliver the gas at three specified points located in Acadia Parish, Louisiana. Texas Gas estimates that the peak day volumes, average day volumes, and annual volumes would be 100,000 million Btu, 40,000 million Btu, and 36,500,000 million Btu, respectively. It is stated that on September 16, 1989, Texas Gas commenced a 120-day transportation service for Brooklyn Interstate under § 284.223(a), as reported in Docket No. ST90-14-000.

Texas Gas further states that no facilities need be constructed to implement the service. Texas Gas states that the contract term would continue on a month-to-month basis until terminated by either party on thirty days written notice. Texas Gas proposes to charge rates and abide by the terms and conditions of its Rate Schedule IT.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Tennessee Gas Pipeline Co.

[Docket No. CP90-67-000]

October 25, 1989.

Take notice that on October 17, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-67-000 an application pursuant to section 7(b) of the Nautral Gas Act for permission and approval to abandon partially sales service to Columbia Gas Transmission Corporation (Columbia), an existing jurisdictional sales customer, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states that on April 28, 1989, Columbia indicated that it desired to convert 385,860 dt per day of its current firm slaes entitlements under Tennessee's Rate Schedules CD-2, CD-3, and CD-4 to firm transportation pursuant to § 284.10 of the Commission Regulations, effective September 1, 1989. Tennessee further states that this will result in a revised firm sales entitlement of 10,425 dt per day of natural gas and an annual firm sales quantity of 3,805,125 dt of natural gas for Columbia, based on the revised firm sales entitlements pending in Docket No. CP89-1253-000.

Comment date: November 15, 1989 in accordance with Standard Paragarph F at the end of the notice.

17. Williams Natural Gas Company

[Docket No. CP90-2188-000]

October 25, 1989.

Take notice that on September 28, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP90-2188-000, as supplemented October 20, 1989, pursuant to § 157.205 of the Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for PSI, Inc. (PSI), a natural gas marketer, under WNG's blanket certificate issued in Docket No. CP89-631-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

WNG proposes an interruptible natural gas transportation service for PSI of 20,000 Mcf on average and peak days, and 7,300,000 Mcf per year. WNG would receive PSI's gas at various receipt points on its system in Colorado, Kansas, Missouri, Oklahoma, Texas, and Wyoming and would deliver equivalent volumes to PSI at the Transok delivery point in McClain County, Oklahoma. WNG states that it originally installed the Transok delivery point under the provisions of section 311(a) of the Natural Gas Policy Act of 1978. WNG also states that it has not begun to transport for PSI under the self-implementing authorization provisions of § 284.223 of the Commission's Regulations.

Comment Date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25065 Filed 10-31-89; 8:45 am]

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[Docket Nos. PR89-9B-007 and RP89-133-004]

Colorado Interstate Gas Co.; Compliance Filing

October 25, 1989.

Take Notice that Colorado Interstate Gas Company ("CIG"), on October 23, 1989, tendered for filing the following tariff sheets to revise its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 61G9
Second Revised Sheet No. 61G11

CIG states that the above-referenced tariff sheets are being filed in compliance with the Commission's Order issued September 22, 1989. Specifically, the filing reflects the elimination of all costs associated with transportation discounts as included in Docket No. RP89-98-000 and the elimination of the associated annual reconciliation procedures.

CIG states that copies of the filing were served upon all of the parties to this proceeding and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons who are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[Docket No. TQ89-1-51-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 25, 1989.

Take notice that on October 23, 1989, Great Lakes Gas Transmission Company ("Great Lakes") tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

October 1, 1989
Second Substitute Twenty-Fourth Revised Sheet No. 12

November 1, 1989
Second Substitute Twenty-Fifth Revised Sheet No. 12

Great Lakes states that the purpose of this filing is to track rate changes attributable to its purchased gas cost adjustment provisions for the period November 1, 1989 through December 31, 1989.

Great Lakes states that the above tariff sheets reflect a decrease in the commodity rate of 0.0 cents per dekatherm and a decrease in the GRI surcharge of 0.0 cents per dekatherm.

Great Lakes states that copies of the filing were served upon its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

Memorandum of Understanding dated June 5, 1989 which sets forth, among other things, the basic principles upon which definitive agreements shall be reached with respect to the purchase,

to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before November 16, 1989. Copies of the

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filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25668 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-6-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

October 25, 1989.

Take notice that on October 20, 1989, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission Twenty-Ninth Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1 for effectiveness on October 20, 1989.

According to Granite State, the changes in rates reflect an increase in projected gas costs because of recent increases in the cost of spot market gas purchased for system supply that were not anticipated when Granite State filed its prior purchased gas cost adjustment for effectiveness October 1, 1989 (Docket No. TA90-1-4). It is stated that the costs for Granite State's spot market purchases have recently increased approximately $0.27 from an average of $2.04, reflected in the prior filing, to an average of $2.31, reflected in the instant filing.

Granite State further states that copies of its filing were served upon its customers, Bay State Gas Company and Northern Utilities, Inc., and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure [18 CFR 385.211, 385.214]. All such motions or protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25669 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-51-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Purchased Gas Adjustment Clause Provisions

October 25, 1989.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on October 20, 1989 tendered for filing First Revised Second Substitute Twenty-Fourth Revised Sheet Nos. 57(i) and 57(ii), Third Revised Third Substitute Tenth Revised Sheet No. 57(v) and Substitute Second Revised Third Substitute Tenth Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1.

First Revised Second Substitute Twenty-Fourth Revised Sheet Nos. 57(i) and 57(ii) and Third Revised Third Substitute Tenth Revised Sheet No. 57(v) reflected revised current PGA rates for the month of October, 1989. The tariff sheets were filed as an Out of Cycle PGA to reflect the latest estimated gas cost as provided to Great Lakes by its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"). These pricing arrangements were the result of contract renegotiation between each of Great Lakes' resale customers and the supplier.

Substitute Second Revised Third Substitute Tenth Revised Sheet No. 57(v) was filed to reflect the addition of an interruptible transportation service for Northern Minnesota Utilities under Rate Schedule T-26. Initial tariff sheets reflecting Rate Schedule T-26 were filed on October 9, 1989.

Great Lakes requested waiver of the notice requirements of the provisions of § 154.039 of the Commission's Regulations and any other necessary waivers so as to permit the above tariff sheets to become effective October 1, 1989, in order to implement the gas pricing agreements between Great Lakes' resale customers and TransCanada on a timely basis.

And person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25671 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-34-009]

Northwest Alaskan Pipeline Co., Extension of Tariff Provisions

October 25, 1989.

Take notice that on October 24, 1989, Northwest Alaskan Pipeline Company ("Northwest Alaskan") tendered for filing in Docket No. RP87-34-009 the following tariff sheets:

Rate schedule	Tariff sheets No.
X-3	Original Sheet No. 308BBB.2. Original Sheet No. 308FFF.2. Original Sheet No. 358VV.2. Original Sheet No. 358AAA.2.

Northwest Alaskan proposed that these tariff sheets be effective on November 1, 1989.

Northwest Alaskan states that these tariffs sheets would continue in effect certain aspects of the current interim agreement among Northwest Alaskan, United Gas Pipe Line Company ("United") and Pan-Alberta Gas Ltd. ("Pan-Alberta"), which would otherwise expire on Octobers 31, 1989, from November 1, 1989 through December 31, 1989 (the "Extended Interim Period"). The current interim agreement (the "Interim Agreement") consists of the Tenth Amendment to the Gas Purchase Agreement between United and Northwest Alaskan, the Twentieth Amending Contract to the Gas Sales Contract between Northwest Alaskan and Pan-Alberta, and the Marketing and Transportation Agreement between United and Pan-Alberta, which are contained in Northwest Alaskan's FERC Gas Tariff Original Volume No. 2, Rate Schedule X-3 at tariff sheets numbered 30800 through 308FFF and 356HH through 358AAA.

Northwest Alaskan states that the provisions of the Interim Agreement to be extended for the Extended Interim Period are paragraphs 5(b), 7, 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(h), 7(i), 8, 9, 9(b), 11, 12, 13, 14, 17 and 18 of the Tenth Amendment and the Twentieth Amending Contract and paragraphs 3(a), 3(b), 5(a), 5(b), 6, 7, and 8 of the Marketing and Transportation Agreement.

Northwest Alaskan states that United and Pan-Alberta have entered into a Memorandum of Understanding dated June 5, 1989 which sets forth, among other things, the basic principles upon which definitive agreements shall be reached with respect to the purchase, sale and transportation of Canadian gas subsequent to the expiration of the Interim Agreement.

The purpose of the requested extension is to preserve the status quo and to grant the parties an opportunity to finalize and obtain necessary approvals of those definitive agreements.

Northwest Alaskan has requested that the Commission approve the requested extension of the Interim Agreement provisions of Northwest Alaskan's tariff to be effective on November 1, 1989 and find that the extension is in the public interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25666 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-55-001]

Questar Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 25, 1989.

Take notice that on October 20, 1989, Questar Pipeline Company (Questar Pipeline) tendered for filing the following substitute tariff sheets to revise First Revised Volume No. 1 of its FERC Gas Tariff to be effective as noted. These tariff sheets are submitted to replace those originally filed on September 29, 1989, in this same docket, and are proposed to be effective as follows:

July 1, 1989

Substitute Original Sheet No. 17-D

September 1, 1989

Second Substitute Twenty-Third Revised Sheet No. 12

October 1, 1989

Second Substitute Twenty-Fourth Revised Sheet No. 12

November 1, 1989

Twenty-Fifth Revised Sheet No. 12

Questar Pipeline also requested that the following tariff sheets, filed September 29, 1989, in this proceeding be withdrawn:

First Revised Sheet No. 17-D
Fiet Revised Substitute Twenty-Second Revised Sheet No. 12
Substitute Twenty-Third Revised Sheet No. 12
Substitute Twenty-Fourth Revised Sheet No. 12

Questar Pipeline states that these substitute tariff sheets are being filed solely to establish corrected effective dates to track buyout and buydown costs charged to Questar Pipeline from Northwest Pipeline Corporation previously discussed in the September 29, 1989, filing. Question Pipeline is not proposing to revise the level of its proposed pipeline supplier charges.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before Nov. 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25667 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA88-13-003, et al.]

Valero Interstate Transmission Co., et al.; Filing of Pipeline Refund Reports

October 26, 1989.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before November 16, 1989. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

APPENDIX

Filing date	Company	Docket No.
5-22-89	Valero Interstate Transmission Company.	SA88-13-003
8-22-89	East Tennessee Natural Gas Company.	RP85-47-007
9-7-89	Transcontinental Gas Pipe Line Corporation.	RP82-55-045
9-25-89	Northwest Pipeline Corporation.	RP72-154-021
9-25-89	Paiute Pipeline Company.	TQ89-3-41-001

[FR Doc. 89-25673 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-121-001

West Texas Gathering Co.; Proposed Changes in FERC Gas Tariff

October 26, 1989.

Take notice that on October 23, 1989, West Texas Gathering Company (West Texas) tendered for filing its First Revised Sheet No. 93c to revise Original Volume No. 1 of its FERC Gas Tariff to be effective as noted.

West Texas states that its tariff sheet is being filed solely to implement a 1980-1985 base period in West Texas' Order No. 500 buyout/buydown cost recovery proposal, as required by Commission order dated September 22, 1989.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene. Copies of this filing

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are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25672 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-179-003]

Western Gas Interstate Co.; Compliance Filing

October 25, 1989.

Take notice that on October 20, 1989, Western Gas Interstate Company ("Western"), in compliance with the Commission's Order in this proceeding of June 21, 1989 (47 FERC Para. 61,423) filed Eighteenth Revised Sheet No. 10 and Tenth Revised Sheet No. 11 to First Revised Volume No. 1 of its FERC Gas Tariff. The proposed effective date of the tariff sheets is November 21, 1989.

Western states that the filing proposes new rates for service under Rate Schedules G–N and G–S. The rates which appear on the filed tariff sheet are three-part demand/commodity rates and are derived using the same cost of service, volumes and allocation and rate of return which formed the basis of Western's original filing in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons who are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25674 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-43-000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 25, 1989.

Take notice that Williams Natural Gas Company (WNG) on October 18, 1989, tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Revised First Revised Sheet Nos. 6B-6D
Second Revised Sheet Nos. 6B-6D

The proposed effective date of Revised First Revised Sheet Nos. 6B–6D is August 1, 1989. The proposed effective date of Second Revised Sheet Nos. 6B–6D is November 1, 1989.

WNG states that Revised First Revised Sheet Nos. 6B–6D are being filed to reflect the revised deficiency allocation made by Transwestern Pipeline Co. on September 1, 1989 in Docket Nos. RP88-198-004 and 005, *et al.* Transwestern extended its deficiency period to include the first six months of 1989.

WNG states that Second Revised Sheet Nos. 6B–6D are being filed to reflect the allocation of additional take-or-pay settlement costs to WNG by Arkla Energy Resources made in a September 1, 1989 filing in Docket Nos. TQ90-1-31-000 and TM90-1-31-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25670 Filed 10-31-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3677-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected costs and burdens; where appropriate, they include the actual data collection instructions.

DATE: Comments must be submitted on or before December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Evaluation of Utility Boiler Life Extension/Repowering as pertains to NSPS Determinations. (ICR # 1545.01). This is a new collection.

Abstract: Owners or operators of utility steam generating units that were built before 1975 and use coal or No. 6 fuel oil as their primary fuel, are asked to provide information regarding the life extension of the units achieved by reboilering, restoring, rehabilitating, or repowering. EPA uses the information to determine if any violations of the modification or reconstruction provision of the Clean Air Act have occurred.

Burden Statement: The public reporting burden for this collection of information is estimated to average 14.25 hours per response. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners/operators of utility steam generating units.

Estimated No. of Respondents: 233.

Estimated Total Annual Burden on Respondents: 3320 hours.

Frequency of Collection: One time only.

Title: Survey of Car Owners in the On-Board Diagnostics Program. (ICR # 1546.01). This is a new collection.

Abstract: The Office of Mobile Sources (OMS) is conducting this telephone survey of a sample of the principal operators of automobiles with on-board diagnostic equipment, to evaluate this equipment as a means of reducing emissions. The operators will provide information about their use of the automobiles and their experiences with the equipment. EPA will use these data to determine regulatory directions and to examine the Agency's Inspection and Maintenance (I&M) program.

Burden Statement: The public reporting burden for this collection of information is estimated to average 3 minutes.

Respondents: Individual car owners.

Estimated No. of Respondents: 2500.

Estimated Total Annual Burden on Respondents: 125 hours.

Frequency of Collection: One time only.

Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burdens, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: October 27, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-25741 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50692; FRL-3657-1]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

275–EUP–83. Issuance. Abbott Laboratories, Chemical and Agricultural Products Division, 1400 Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 2,250 grams of the plant growth regulator gibberellic acid on 476 acres of rice to evaluate emergence and stand of semit-dwarf cultivars of rice. The program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, and Texas. The experimental use permit is effective from April 3, 1989 to April 3, 1990. A temporary tolerance is not necessary since the application rate of the active ingredient is less than 20g a.i./A, and gibberellins fit the Subpart M Biorational Pesticide definition of biological origin. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

275–EUP–84. Issuance. Abbott Laboratories, Chemical and Agricultural Products Division, 1400 Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 41.2 pounds of the plant growth regulator gibberellins on 250 acres of apples to evaluate the control of russetting in golden delicious apples and improve typiness of red delicious apples. The program is authorized only in the States of New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia. The experimental use permit is effective from April 13, 1989 to April 13, 1990. A permanent tolerance for residues of the active ingredient in or on apples has been established (40 CFR 180.234(b)). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

275–EUP–85. Issuance. Abbott Laboratories, Chemical and Agricultural Products Division, 1400 Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 11,355 grams of the plant growth regulator gibberellic acid on 760 acres of peppermint and spearmint to evaluate its ability to delay maturity of mint. The program is authorized only in the States of Idaho, Oregon, and Washington. The experimental use permit is effective from June 1, 1989 to June 1, 1990. A temporary tolerance is not necessary since the application rate of the active ingredient is less than 20g a.i./A, and gibberellins fit the subpart M Biorational Pesticide definition of biological origin. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

241–EUP–120. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 830 pounds of the hybridizing agent potassium 3,4-dichloro-5-isothiazolecarboxylate on 350 acres of cotton to evaluate its effects as an hybridizing agent. The program is authorized only in the States of Arizona. The experimental use permit is effective from April 12, 1989 to April 12, 1990. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

42545–EUP–1. Extension. Agrolinz, Inc., 1755 North Kirby Parkway, Suite 300, Memphis, TN 38119–4367. This experimental use permit allows the use of 5,456.25 pounds of the herbicide O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate on 3,900 acres of corn to evaluate the control of broadleaf weeds. The program is authorized only in the States of Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Virginia, Washington, and Wisconsin. The experimental use permit is effective from May 1, 1989 to May 1, 1990. A temporary tolerance for residues of the active ingredient in or on corn (fodder, forage, grain, and silage) has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

42545–EUP–2. Extension. Agrolinz, Inc., 1755 North Kirby Parkway, Suite 300, Memphis, TN 38119–4367. This experimental use permit allows the use of 7,125 pounds of the herbicide O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate on 3,800 acres of peanuts to evaluate the control of broadleaf weeds. The program is authorized only in the States of Alabama, Florida, Georgia, New Mexico, North Carolina, Texas, and Virginia. The experimental use permit is effective from May 1, 1989 to May 1, 1990. A temporary tolerance for residues of the active ingredient in or on peanuts (hay, hulls, and meat) has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

7969–EUP–26. Extension. BASF Corporation, Chemicals Division, Agricultural Chemicals Group, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 21 pounds of the herbicide 2-[(1-ethoxyimino)butyl]-5-[(ethylthio)propyl]-3-hydroxyl-2-cyclohexen-1-one on 150 acres of rice to evaluate the control of weeds. The program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas. The experimental use permit is effective from March 30, 1989 to April 30, 1990. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

239–EUP–113. Issuance. Chevron Chemical Company, P.O. Box 4010, San Pablo, CA 94804-0010. This experimental use permit allows the use of 284 pounds of the growth regulator uniconazole-P on 14,200 trees to evaluate the retardation of undesirable regrowth. The program is authorized only in the States of Nebraska, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 28, 1989 to March 1, 1990. This permit is issued with the limitation that fruit-bearing trees and trees that could be tapped for sugar not be treated. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

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100–EUP–83. Issuance. Ciba-Geigy Corporation, Agricultural Division, P.O. Box 18300, Greensboro, NC 27419. This experimental use permit allows the use of 1,200 pounds of the insecticide 0-(5-chloro-1-[methylethyl]-1H-1,2,4-triazol-3-yl) 0,0-diethy phosphorothioate on 2,400 acres of corn to evaluate avian toxicity in corn fields. The insecticide is intended for the control of corn rootworms, cutworms, seedcorn maggots, and wireworms. The program is authorized only in the States of Iowa, Ohio, and Wisconsin. The experimental use permit is effective from April 11, 1989 to December 31, 1990. Temporary tolerances for residues of the active ingredient in or on corn (fodder, forage, grain, and silage) have been established. (William Miller, PM 16, CM#2, Rm. 211, CM#2 (703–557–2600))

352–EUP–150. Issuance. E.I. duPont deNemours and Company, Inc., Agricultural Products Department, Barley Mill Plaza, Walker's Mill Building, Wilmington, DE 19880–0038. This experimental use permit allows the use of 76.25 pounds of the insecticide phosphorothioic acid, 0,0-diethyl 0-(1,2,2,2,-tetrachloroethyl) ester on 305 acres of corn to evaluate the control of corn rootworms, cutworms, seedcorn maggots, white grub, and wireworms. The program is authorized only in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from April 10, 1989 to April 15, 1990. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Dennis H. Edwards, Jr., PM 12, Rm. 202, CM#2 (703–557–2386))

352–EUP–151. Issuance. E.I. duPont deNemours & Company, Inc., Agricultural Products Department, Barley Mill Plaza, Walker's Mill Building, Wilmington, DE 19880–0038. This experimental use permit allows the use of 25 pounds of the herbicide 3-pyridinecarboxamide,2-(((((4,6-dimethoxypyrimidin-2-yl)aminocarbonyl))aminosulfonyl))-N,N,-dimethyl on 400 acres of corn to evaluate the control of weeds. The program is authorized only in the States of Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin. The experimental use permit is effective from May 11, 1989 to May 11, 1990. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

279–EUP–107. Renewal. FMC Corporation, 200 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 202.2 pounds of the insecticide/miticide 2-methyl[1,1'-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate on 260 acres of various crops to evaluate various insects. The program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Louisiana, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Caolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin. The experimental use permit was previously effective from November 10, 1986 to November 10, 1987; the permit is now effective from March 17, 1989 to March 17, 1990. This permit is renewed with the limitation that all treated crops are destroyed or used for research purposes only. (George LaRocca, PM 15, Rm. 204, CM#2 (703–557–2400))

524–EUP–70. Issuance. Monsanto Agricultural Company, 800 North Lindberg Boulevard, St. Louis, MO 63167. This experimental use permit allows the use of 54,900 pounds of the herbicide N-(phosphonomethyl) glycine, in the form of isopropylamine salt on 7,320 acres of forestry and right-of-ways to evaluate its use at higher dosage rates to control woody plants. The program is authorized in the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Michigan, Mississippi, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The experimental use permit is effective from April 13, 1989 to April 13, 1991. (Robert Taylor, PM 25, Rm. 245, CM#2 (703–557–1800))

45639–EUP–33. Extension. Nor-Am Chemical Company, 3509 Silverside Road, P.O. Box 7495, Wilmington, DE 19803. This experimental use permit allows the use of 412.5 pounds of the miticide 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine on 1,650 acres of almonds, peaches, and nectarines to evaluate the control of various mites. The program is authorized only in the States of California, Illinois, Indiana, Michigan, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, and West Virginia. The experimental use permit is effective from April 5, 1989 to April 5, 1990. Temporary tolerances for residues of the active ingredient in or on almond hulls, almont nutmeat, nectarines, and peaches have been established. (Dennis Edwards, Jr., PM 12, Rm. 200, CM#2 (703–557–2386))

34704–EUP–9. Extension. Platte Chemical Company, P.O. Box 667, Greeley, CO 80632. This experimental use permit allows the use of 8,700 pounds of each of the insecticides ethoprop and phorate on 2,900 acres of potatoes to evaluate the control of aphids, flea beetle larvae, leaf hoppers, leaf miners, psyllids, early session Colorado potato beetles and the reduction of flea beetle adults. The program is authorized in the States of California, Colorado, Idaho, Maine, Michigan, Minnesota, New York, North Carolina, North Dakota, Oregon, Washington, and Wisconsin. The experimental use permit is effective from March 1, 1989 to October 1, 1989. Permanent tolerances for residues of the active ingredients in or on potatoes have been established (40 CFR 180.206 and 180.262). (William Miller, PM 16, Rm. 211 CM#2 (703–557–2600))

34704–EUP–10. Issuance. Platte Chemical Company, Box 667, Greeley, Co 80632. This experimental use permit allows the use of 3,261.56 pounds of each of the insecticides ethoprop and phorate on 2,995 acres of corn to evaluate control of corn rootworm larvae, cutworms, mites, nematodes, seedcorn beetles, symphylans, wireworms, and the suppression of white grubs. The program is authorized only in the States of Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Texas, and Wisconsin. The experimental use permit is effective from March 23, 1989 to March 23, 1990. Permanent tolerances for residues of the active ingredients in or on corn have been established (40 CFR 180.206 and 180.262) (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

34704–EUP–11. Issuance. Platte Chemical Company, P.O. Box 667, Greeley, CO 80632. This experimental use permit allows the use of 6,728 pounds of the insecticide fonofos and 10,092 pounds of the insecticide phorate on potatoes to evaluate control of aphids, flea bettle larvae, leafhoppers, lead miners, psyllids, wireworms, and the reduction of flea beetle adults and early season Colorado potato beetles. The program is authorized only in the States of California, Colorado, Idaho, Maine, Michigan, Minnesota, New York, North Carolina, North Dakoa, Oregon, Washington, and Wisconsin. The experimental use permit is effective from April 21, 1989 to April 21, 1990. Permanent tolerances for residues of the active ingredients in or on potatoes have been established (40 CFR 180.206 and 180.221). (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

11312–EUP–33. Extension. U.S. Department of Agriculture, Tropical Fruits and Vegetable Research Laboratory, Agricultural Research Service, Honolulu, HI 96804. This experimental use permit allows the use of 250 pounts of the insecticide malathion and 1,000 pounds of the insecticide cue lure on 21,250 acres on the Island of Rota to evaluate the control of the melon fly. (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

11312–EUP–34. Extension. U.S. Department of Agriculture, Tropical Fruits and Vegetable Research Laboratory, Agricultural Research Service, Honolulu, HI 96804. This experimental use permit allows the use of 250 pounts of the insecticide malathion and 1,000 pounds of the insecticide cue lure on 21,250 acres on the Island of Rota to evaluate the control of the melon fly. This program and the one above are only authorized on the Island of Rota, a commonwealth of the Northern Mariana Islands. Both experimental use permits are effective from September 30, 1988 to September 30, 1989. The permits will use the same active ingredients but different formulations. (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

239–EUP–112. Issuance. Valent USA Corporation, P.O. Box 8025, Walnut Creek, CA 94596–8025. This experimental use permit allows the use of 767 pounds of the fungicide diniconazole on 1,130 acres of apples and peanuts to evaluate the control of powdery mildew and cedar apple rust for apples and early leafspot, late leafspot, limb rot, rust, white mold, and southern blight for peanuts. The program is authorized only in the States of Alabama, California, Florida, Georgia, Michigan, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, and Washington. The experimental use permit is effective from May 5, 1989 to May 5, 1991. A temporary tolerance for residues of the active ingredient in or on apples and peanuts has been established. (Susan Lewis, PM 21, Rm. 227, CM#2, (703–557–1900))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: September 19, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–25738 Filed 10–31–89; 8:45 am]

BILLING CODE 6560–50–M

[PP 4G3047 and PP 9G3217/T506; FRL–3663–8]

Extension of Temporary Tolerances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA is correcting a notice that renewed temporary tolerances for residues of the herbicide pyridate to reinstate an inadvertently omitted entry.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H–7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–1000).

SUPPLEMENTARY INFORMATION: In the Federal Register of August 2, 1989 (54 FR 31880), EPA issued an extension of temporary tolerances for residues of the herbicide pyridate [O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate] derived from its application in or on corn grain, corn silage, and corn fodder at 0.03 part per million (ppm). The raw agricultural commodity corn forage was inadvertently omitted from the list of commodities, and this notice hereby reinstates corn forage at 0.03 ppm.

Authority: 21 U.S.C. 346(j).

Dated: September 30, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–25688 Filed 10–31–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180815; FRL–3662–8]

Emergency Exemptions; Colorado et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 18 States as listed below, and 11 crisis exemptions were initiated by various States. These exemptions, issued during the months May, June, and July, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons:

By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Colorado Department of Agriculture for the use of bifenthrin on field corn to control mites; July 26, 1989, to August 31, 1989. (Jim Tompkins)

2. Idaho Department of Agriculture for the use of chlorpyrifos on hops to control hop aphids; July 28, 1989, to September 15, 1990. (Robert Forrest)

3. Kansas State Board of Agriculture for the use of bifenthrin on field corn to control Banks and two-spotted spider mites; July 3, 1989, to September 30, 1989. (Jim Tompkins)

4. Kansas State Board of Agriculture for the use of bifenthrin on field corn to control mites; July 30, 1989, to September 15, 1989. (Jim Tompkins)

5. Louisiana Department of Agriculture and Forestry for the use of clomazone on sweet potatoes to control annual broadleaf weeds; July 18, 1989, to September 30, 1989. (Libby Pemberton)

6. Mississippi Department of Agriculture and Commerce for the use of clomazone on sweet potatoes to control annual broadleaf weeds; July 18, 1989, to September 30, 1989. (Libby Pemberton)

7. Montana Department of Agriculture for the use of fenvalerate on wheat and barley to control Russian wheat aphids and on small grains to control army and pale western cutworms; July 12, 1989, to October 10, 1989. Montana had initiated a crisis exemption for the use of cutworms only. (Libby Pemberton)

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8. Montana Department of Agriculture for the use of fluvalinate on alfalfa for seed to control grasshoppers, spotted alfalfa aphids, and lygus bugs; July 5, 1989, to August 31, 1989. (Robert Forrest)

9. Nebraska Department of Agriculture for the use of bifenthrin on field corn to control Banks grass mites and two-spotted spider mites; July 3, 1989, to September 15, 1989. (Jim Tompkins)

10. New Jersey Department of Environmental Protection for the use of clomazone on squash to control broadleaf weeds; July 13, 1989, to October 31, 1989. (Libby Pemberton)

11. New Jersey Department of Environmental Protection for the use of linuron on parsley to control broadleaf weeds; July 6, 1989, to September 15, 1989. (Jim Tompkins)

12. New Jersey Department of Environmental Protection for the use of linuron on parsley to control broadleaf weeds; July 6, 1989, to September 15, 1989. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination under review was returned to registration for processing. (Jim Tompkins)

13. New Mexico Department of Agriculture for the use of bifenthrin on field corn to control mites; July 26, 1989, to August 31, 1989. (Jim Tompkins)

14. North Dakota Department of Agriculture for the use of mancozeb on sunflowers to control Puccinia helianthi; July 26, 1989, to August 31, 1989. North Dakota had initiated a crisis exemption for this use. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination is under review and a PD 2/3 is being drafted. (Jim Tompkins)

15. Ohio Department of Agriculture for the use of linuron on parsley to control broadleaf weeds; July 6, 1989, to September 15, 1989. EPA completed a rebuttable presumption against registration (RPAR) for this chemical; the final determination under review was returned to registration for processing. (Jim Tompkins)

16. Ohio Department of Agriculture for the use of linuron on parsley to control broadleaf weeds; July 6, 1989, to September 15, 1989. (Jim Tompkins)

17. Oklahoma Department of Agriculture for the use of DCNA (Botran) on peanuts to control sclerotinia blight; July 26, 1989, to October 30, 1989. (Susan Stanton)

18. Oregon Department of Agriculture for the use of chlorpyrifos on hops to control hop aphids; July 26, 1989, to September 5, 1990. (Robert Forrest)

19. Texas Department of Agriculture for the use of DCNA (Botran) on peanuts to control sclerotinia blight; July 26, 1989, to October 21, 1989. (Susan Stanton)

20. Virginia Department of Agriculture and Consumer Services for the use of clomazone on sweet potatoes to control various weeds; July 13, 1989, to September 30, 1989. (Libby Pemberton)

21. Washington Department of Agriculture for the use of vinclozolin on snap beans to control botrytis gray mold and sclerotinia white mold; July 13, 1989, to September 30, 1989. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. Indiana State Chemist and Seed Commissioner on June 19, 1989, for the use of thiodicarb on no-till corn to control slugs. This program has ended. (Jim Tompkins)

2. Kansas State Board of Agriculture on May 26, 1989, for the use of metsulfuron-methyl as a harvest aid on winter wheat. This program has ended. (Jim Tompkins)

3. Kansas State Board of Agriculture on June 19, 1989, for the use of diquat dibromide as a harvest aid on winter wheat. This program has ended. (Jim Tompkins)

4. Minnesota Department of Agriculture on July 17, 1989, for the use of fenvalerate on wildlife management areas to control the grasshopper. This program has ended. (Libby Pemberton)

5. North Dakota Department of Agriculture on June 23, 1989, for the use of benomyl on canola to control sclerotinia. This program has ended. (Libby Pemberton)

6. Ohio Department of Agriculture on June 8, 1989, for the use of thiodicarb on no-till corn to control slugs. This program has ended. (Jim Tompkins)

7. Oklahoma Department of Agriculture on May 31, 1989, for the use of metsulfuron-methyl as a harvest aid on winter wheat. This program has ended. (Jim Tompkins)

8. Oklahoma Department of Agriculture on June 15, 1989, for the use of diquat dibromide as a harvest aid on winter wheat. This program has ended. (Jim Tompkins)

9. Pennsylvania Department of Agriculture on June 23, 1989, for the use of thiodicarb on corn to control slugs. This program has ended. (Jim Tompkins)

10. Texas Department of Agriculture on June 19, 1989, for the use of diquat dibromide as a harvest aid on winter wheat. This program has ended. (Jim Tompkins)

11. Wisconsin Department of Agriculture, Trade, and Consumer Protection on June 11, 1989, for the use of sethoxydim on processed peas to control various annual and perennial grasses. This program has ended. (Susan Stanton)

Authority: 7 U.S.C. 136.

Dated: October 17, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89-25486 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

[PF-525; FRL-3663-7]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS:

By mail, submit written comments to:

Public Docket and Freedom of Information Section, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Attention: Product Manager (PM) named in the petition, Environmental Protection Agency, Office of Pesticide Programs, 401 M Street, SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone No.	Address
Dennis Edwards (PM 12).	Rm. 202, CM #2, 703-557-2386.	1921 Jefferson Davis Hwy., Arlington, VA.
George LaRocca (PM 15).	Rm. 204, CM #2, 703-557-2400.	Do.
Bill Miller (PM 16).	Rm. 211, CM #2, 703-557-2600.	Do.
Phil Hutton (PM 17).	Rm. 207, CM #2, 703-557-2690.	Do.
Susan Lewis (PM 21).	Rm. 227, CM #2, 703-557-1900.	Do.
Joanne Miller (PM 23).	Rm. 237, CM #2, 703-557-1830.	Do.
Robert Taylor (PM 25).	Rm. 237, CM #2, 703-557-1800.	Do.
Hoyt Jamerson (PM 43).	Rm. 716, CM #2, 703-577-7700.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food/feed additive (FAP) petitions as follows proposing the establishment and/or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 9F3766.* Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL 60018, proposes to amend 40 CFR 180.356 by establishing a regulation to permit the residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(*alpha, alpha, alpha*-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone) and its desmethyl metabolite 4-chloro-5-(amino)-2-(*alpha, alpha, alpha*-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone in or on alfalfa forage at 3.0 ppm, alfalfa hay at 5.0 ppm, alfalfa seed at 0.1 ppm, and asparagus at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 23)

2. *PP 9F3770.* Coopers Animal Health, Inc., P.O. Box 419167, Kansas City, MO 64141-0167, proposes to amend 40 CFR part 180 by establishing a regulation to permit the residues of the insecticide lambda-cyhalothrin in or on cattle fat at 1.0 ppm and cattle meat and meat byproducts at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 15)

3. *PP 9F3772.* Nor-Am Chemical Co., 3509 Silverside Rd., (Wilmington, DE 19803, proposes to amend 40 CFR 180.287 by establishing a regulation to permit the residues of the insecticide amitraz [*N*'-[2,4-dimethylphenyl]-*N*-[[(2,4-dimethyl-phenyl)imino]methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethylaniline moiety (calculated as parent compound) in or on sheep meat and meat byproducts at 0.3 ppm, sheep fat at 0.5 ppm, goat meat and meat byproducts at 0.3 ppm, and goat fat at 0.5 ppm. The proposed analytical method for determining residues is gas liquid chromatography. (PM 12)

4. *PP 9F3773.* Chevron Chemical Co., 15049 San Pablo Ave., P.O. Box 4010, Richmond, CA 94804-0010, proposes to amend 40 CFR 180.215 by establishing a regulation to permit the residues of the insecticide naled (1,2,-dibromo-2,2-dichloro-ethyl dimethylphosphate) and its metabolite, dichlorvos (2,2-dichloroethenyl dimethylphosphate), in or on alfalfa (forage) at 5.0 ppm and alfalfa (hay) at 1.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 16)

5. *PP 9F3775.* Monsanto Co., 1101 17th St. NW., Washington, DC 20036, proposes to amend 40 CFR 180.249 by establishing a regulation to permit the residues of the herbicide alachlor (2-chloro-2',6'-diethyl-*N*-(methoxymethyl)acetanilide) and its metabolites (calculated as alachlor) in or on sunflower seed at 1 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 25)

6. *PP 9F3776.* Monsanto Co., 1101 17th St. NW., Washington, DC 20036, proposes to amend 40 CFR 180.249 by establishing a regulation to permit the residues of the herbicide alachlor (2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) and its metabolites (calculated as alachlor) in or on soybean grain at 1 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 25)

7. *PP 9F3782.* BASF Corp., Chemicals Division, Parsippany, NJ 07054, proposes to amend 40 CFR 180.355 by establishing a regulation to permit the combined residues of the herbicide bentazon (3-isopropyl 1*H*-2,1,3-benzothiadiazin-4(3*H*)-one-2, 2-dioxide) and its 6- and 8-hydroxy metabolites in or on beans, dried, vine hay (except soybeans) at 8.0 ppm; beans, forage (except soybeans) at 8.0 ppm; beans, dried (except soybeans) at 1.0 ppm; peas, dried, vine hay at 8.0 ppm; peas, forage at 8.0 ppm; peas, dried at 1.0 ppm; soybeans, forage at 8.0 ppm; and soybeans, hay at 8.0 ppm. The proposed analytical method for determining residues is a multistep procedure involving extraction, hydrolysis of conjugates and derivatization by quantitation by gas chromatography. (PM 25)

8. *PP 9F3787.* Merck Sharp & Dohme Research Laboratories. Division of Merck & Co., Inc., Hillsborough Rd., Three Bridges, NJ 08887, proposes to amend 40 CFR 180.449 by establishing a regulation to permit the combined residues of avermectin B1 and its 8,9-isomer in or on pears at 0.035 ppm. The proposed analytical method for determining residues is HPLC. (PM 15)

9. *PP 9F3788.* BASF Corp., Chemicals Division, Parsippany, NJ 07054, proposes to amend 40 CFR 180.380 by establishing a regulation to permit the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on almond nuts at 0.2 ppm and almond hulls at 3.0 ppm. The proposed analytical method for determining residues is BWC method number 25F. (PM 21)

10. *PP 9F3793.* NOR-AM Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, proposes to amend 40 CFR 180.446 by establishing a regulation to permit the residues of the herbicide clofentezine (3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine) in or on walnuts at 0.02 ppm, almond nutmeat at 0.5 ppm, and almond hulls at 5.0 ppm, and combined residues of clofentezine (3,6-bis (2-chlorophenyl)-1,2,4,5-tetrazine) and the 4-hydroxyclofentezine metabolite in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm, cattle liver at 0.2 ppm, and milk at 0.01 ppm. The proposed analytical method for determining residues is HPLC. (PM 12)

11. *PP 9F3794.* Monsanto Co., 1101 17th St. NW., Washington, DC 20036, proposes to amend 40 CFR 180.314 by establishing a regulation to reexpress the tolerances as written to include the metabolite 2,3,3-trichloro-2-propene-sulfonic acid (TCPSA) and propose tolerances with regional registrations. In addition, Monsanto proposes to amend the tolerance level for residues of S-2,3,3-trichloroallyl diisopropylthiocarbamate and its TCPSA metabolite in barley, straw to 0.5 ppm; peas, forage to 1.0 ppm; peas, hay to 1.0 ppm; wheat, straw to 0.5 ppm; and wheat, forage to 0.5 ppm. (PM 25)

12. *FAP 9H5573.* Zoecon Corp., A Sandoz Company, 12200 Denton Drive, Dallas, TX 75234, proposes to amend 40 CFR part 185 by establishing a regulation to permit residues of the insecticide hydroprene in food commodities exposed during treatment of food-handling establishments at 1.5 ppm. (PM 17)

13. *FAP 9H5586.* Rutgers, The State University of New Jersey, Cook College, Office of IR-4, New Brunswick, NJ 08903-0231, proposes to amend 40 CFR

parts 185 and 186 by establishing a regulation to permit the residues of the insecticide permethrin [(3-phenoxyphenyl) methyl 3-(2,2-dichloro-ethenyl)-2,2-

5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 53 such PMNs and provides a

DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information

Use/Import. (G) Functional component of solder mask resin solution. Import range: Confidential.

P 89-1102

Chemical. (G) Modified hydroxy functional acrylic resin.

Use/Production. (S) Coatings. Prod. range: Confidential.

Chemical. (G) Modified hydroxy functional acrylic resin.

Use/Production. (S) Coatings. Prod. range: Confidential.

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parts 185 and 186 by establishing a regulation to permit the residues of the insecticide permethrin [(3-phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] when used in accordance with the following conditions:

A. On the outer ply of multiwall paper bags of 50 pounds or more capacity consisting of an outer permethrin-coated ply, followed by one ply of greaseproof paper weighing 54.5g/m², and one or more plies of paper or polymer film. Amounts of permethrin on the outer ply cannot exceed 50 milligrams per square meter of paper. Such treated bags are to be used only for the storage of dried foods and feeds.

B. Residues in foods and feeds resulting from this use shall not exceed 0.05 ppm for the residues of the insecticide permethrin [(3-phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2, 2-dimethylcyclopropanecarboxylate] in or on dried foods and feeds when used on the outer ply of multiwall paper bags of 50 pounds or more capacity containing a greaseproof liner. (PM 43)

14. *FAP 9H5588.* Zoecon Corp., A Sandoz Company, 12005 Ford Rd., Suite 800, LB 44, Dallas, TX 75234-7296, proposes to amend 40 CFR 185.4150 by establishing a regulation to permit the residues of the insecticide (*S*)-methoprene (isopropyl (2*E*,4*E*,7*S*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in food commodities exposed during treatment of food-handling establishments at 3 ppm. (PM 17).

Authority: 7 U.S.C. 136a.

Dated: October 5, 1989.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-25467 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51741; FRL-3661-5]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 53 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 89-1096, 89-1097, 89-1098, 89-1099, 89-1100, 89-1101, 89-1102, 89-1103, 89-1104, 89-1105, December 16, 1989.
P 89-1106, December 17, 1989.
P 89-1107, December 20, 1989.
P 89-1108, 89-1109, 89-1110, 89-1111, 89-1112, 89-1113, 89-1114, 89-1115, 89-1116, 89-1117, 89-1118, 89-1119, 89-1120, 89-1121, 89-1122, 89-1123, 89-1124, 89-1125, December 19, 1989.
P 89-1126, December 9, 1989.
P 89-1127, December 20, 1989.
P 89-1128, 89-1129, 89-1130, 89-1131, 89-1132, December 23, 1989.
P 89-1134, 89-1135, 89-1136, 89-1137, 89-1138, 89-1141, 89-1142, 89-1143, 89-1144, 89-1145, December 24, 1989.
P 89-1146, 89-1147, December 25, 1989.
P 89-1148, December 26, 1989.
P 89-1149, December 24, 1989.
P 89-1150, December 27, 1989.
P 90-1, December 30, 1989.

Written comments by:

P 89-1096, 89-1097, 89-1098, 89-1099, 89-1100, 89-1101, 89-1102, 89-1103, 89-1104, 89-1105, November 16, 1989.
P 89-1106, November 17, 1989.
P 89-1107, November 20, 1989.
P 89-1108, 89-1109, 89-1110, 89-1111, 89-1112, 89-1113, 89-1114, 89-1115, 89-1116, 89-1117, 89-1118, 89-1119, 89-1120, 89-1121, 89-1122, 89-1123, 89-1124, 89-1125, November 19, 1989.
P 89-1126, November 9, 1989.
P 89-1127, November 20, 1989.
P 89-1128, 89-1129, 89-1130, 89-1131, 89-1132, November 23, 1989.
P 89-1134, 89-1135, 89-1136, 89-1137, 89-1138, 89-1141, 89-1142, 89-1143, 89-1144, 89-1145, November 24, 1989.
P 89-1146, 1147, November 25, 1989.
P 89-1148, November 26, 1989.
P 89-1149, November 24, 1989.
P 89-1150, November 27, 1989.
P 90-1, November 30, 1989.

ADDRESS: Written comments, identified by the document control number "(OPTS-51741)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Room L-100, Washington, DC 20460 (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 89-1096

Importer. Confidential.
Chemical. (G) Silicone imide black copolymer.
Use/Import. (G) Electronics, separation membrane, coating. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 89-1097

Manufacturer. Miranol Inc.
Chemical. (S) Pentaerythritol, partial esters with lauric/myristic acid blend, oligopolymerized.
Use/Production. (S) Waterless hand cleaner ingredient. Prod. range: 20,000-50,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 20 g/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: moderate species (Rabbit).

P 89-1098

Manufacturer. Confidential.
Chemical. (G) Modified cresol/formaldehyde resin.
Use/Production. (G) Coating resin for electronic applications. Prod. range: Confidential.

P 89-1099

Manufacturer. Baker Performance Chemical, Inc.
Chemical. (G) Quaternary salt of adipamide.
Use/Production. (S) This compound is to be used as a demulsifier to aide oil and water separation in oil field applications. Prod. range: Confidential.

P 89-1100

Importer. Ciba-Geiey Corp.
Chemical. (G) Iron arene antimonate complex.
Use/Import. (G) Functional component of solder mask resin solution. Import range: Confidential.

P 89-1101

Importer. Ciba-Geigy Corp.
Chemical. (G) Iron arene sulfonate complex.

Use/Import. (G) Functional component of solder mask resin solution. Import range: Confidential.

P 89-1102

Manufacturer. E.I. du Pont de Nemours & Co., Inc.
Chemical. (G) Siloxytitanate.
Use/Production. (G) Surface coating. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat). Static acute toxicity LC50 > 1,000 mg/1 time 96h species (Fathead Minnow). Skin irritation: negligible species (Rabbit).

P 89-1103

Manufacturer. E.I. du Pont de Nemours & Co., Inc.
Chemical. (G) Merocyanine dye.
Use/Production. (G) Sensitizing dye. Prod. range: Confidential.

P 89-1104

Manufacturer. Confidential.
Chemical. (G) Acidified epoxy resin.
Use/Production. (G) Epoxy intermediate use in manufacture a coating for printing circuits. Prod. range: Confidential.

P 89-1105

Importer. Confidential.
Chemical. (G) Polycaprolacetone modified with epoxy resin.
Use/Import. (G) Resin coating. Import range: Confidential.

89-1106

Importer. Nagase America Corporation.
Chemical. (G) Partially crosslinked polymer of styrene-butadiene rubber and a block polyer of polybutadiene and substituted acrylates.
Use/Import. (S) Binder of printing plates for flexography. Import range: 10,000-30,000 kg/yr.

P 89-1107

Manufacturer. Florasynts Inc.
Chemical. (G) Helional-methyl anthranitrile schiff base.
Use/Production. (G) Additive to fragrances. Prod. range: 2,500-4,000 kg/yr.
Toxicity Data. Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Guinea pig).

P 89-1108

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1109

Manufacturer. Confidential.

Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1110.

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1111

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1112

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1113

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1114

Manufacturer. Confidential.
Chemical. (G) Modified hydroxyl functional resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1115

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1116

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1117

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1118

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1119

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1120

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1121

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1122

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1123

Manufacturer. Confidential.
Chemical. (G) Modified hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89-1124

Importer. Huls America Inc.
Chemical. (G) Hexanedioic acid, 2,2,4 (or 2,4,4) -trimethyl-, bis(decyl)ester.
Use/Import. (S) Synthetic lubricants. Import range: 10,000-50,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 3,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 89-1125

Importer. Confidential
Chemical. (G) Aryl substituted bis(hydroxyphenyl)ether.
Use/Import. (G) Additive for thermal imaging papers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 89-1126

Manufacturer. Stockhausen Inc.
Chemical. (G) Polyacrylic acid, grafted, sodium salt unsaturated carboxylic acid, polymer, sodium salt.
Use/Production. (G) Degress of containment nondispersive use (textile). Prod. range: Confidential.

P 89-1127

Manufacturer. Akzo Coatings, Inc.
Chemical. (G) Polyester resin solution.

Use/Production. (G) Resin for coatings. Prod. range: Confidential.

P 89-1128

Manufacturer. Kenrich Petrochemical, Inc.
Chemical. (G) Titanium IV-bis-(2-ethyl) hexanolato, bis-(2,4-pentanedionato).
Use/Production. (S) Silicone curative, hydrophobe and process aid. Prod. range: Confidential.

P 89-1129

Manufacturer. Confidential.
Chemical. (G) Styrenated polyacrylate polymethacrylate.
Use/Production. (G) Dispersively applied coating. Prod. range: 160,000-470,000 kg/yr.

P 89-1130

Manufacturer. E.I. du Pont de Nemours & Co. Inc.
Chemical. (G) Acrylic polyelectrolyte.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89-1131

Importer. Rohm and Haas Company.
Chemical. (G) Modified styrene/divinylbenzene copolymer.
Use/Import. (G) For use with aqueous solution in a contained use. Import range: Confidential.

P 89-1132

Importer. Pacific Anchor Chemical Corporation.
Chemical. (G) Polymer of tetraethylenepentamine, fatty aminoamides and epoxy resins.
Use/Import. (S) Curing agent for epoxy resin coating. Import range: Confidential.

P 89-1134

Importer. Basf Corporation.
Chemical. (G) Sulfonated crude naphthalene oil, condensed with formaldehyde.
Use/Import. (G) Dispersing agent. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 89-1135

Manufacturer. Confidential.
Chemical. (S) Tricyclo(5.2.1.-2,6(decane-3,8(or 3,9 or 4,8)-diyldimethyl dicarylate.
Use/Production. (S) Reactive diluent used in radiation curable coatings. Prod. range: 800-8,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rat). Static acute toxicity: LC50 2.3 mg/1 time 48 h species(Killifish). Skin irritation: slight species (Rabbit).

P 89-1136

Importer. Huls America, Inc.
Chemical. (S) Hexanedioic acid, trimethyl-, decyl dodecyl ester.
Use/Import. (S) Synethetic lubricant. Import range: 10,000-50,000 kg/yr.

P 89-1137

Importer. Huls America Inc.
Chemical. (S) Hexanedioic acid, trimethyl- decyl octylester.
Use/Import. (S) Synthetic lubricants. Import range: 10,000-50,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 3,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 89-1138

Manufacturer. Confidential.
Chemical. (G) Polymeric alpha, omega-bis-oxirane.
Use/Production. (G) Epoxy toughener. Prod. range: Confidential.

P 89-1141

Manufacturer. Confidential.
Chemical. (S) Oxyalkylated glycol ester.
Use/Production. (G) An additive for the energy production industry. Prod. range: Confidential.

P 89-1142

Manufacturer. Confidential.
Chemical. (G) Oxyalkylated glycol ester.
Use/Production. (G) An additive for the energy production industry. Prod. range: Confidential.

P 89-1143

Manufacturer. Confidential.
Chemical. (G) Polyester polyol.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-1144

Manufacturer. Confidential.
Chemical. (G) Grignard.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 89-1145

Manufacturer. Confidential.
Chemical. (G) Poly(hydroxy ether)salt.
Use/Production. (S) Vehicle for water-based coating formulations. Prod. range: Confidential.

P 89-1146

Importer. Sumitomo Corporation of America.
Chemical. (S) Vinyl chloride; allyl glycidyl ether; hydroxy propyl methacrylate; vinyl acetate.
Use/Import. (G) Binder resin. Import range: 20,000-60,000 kg/yr.
Toxicity Data. Mutagenicity: negative.

P 89-1147

Manufacturer. Monsanto Chemical Co.
Chemical. (G) Polyolefin modified polyamide.
Use/Production. (S) Tubing/automotive parts. Prod. range: Confidential.

P 89-1148

Importer. Dow Corning Corporation.
Chemical. (G) Amide-functional polydimethylsiloxane.
Use/Import. (S) Silicone fabric finish. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 15 g/kg species(rat). Mutagenicity: negative. Skin sensitization: negative species(Guinea pig).

P 89-1149

Manufacturer. Confidential.
Chemical. (G) Poly(hydroxy ether)salt.
Use/Production. (S) Vehicle for water-based coating formulations. Prod. range: Confidential.

P 89-1150

Manufacturer. Confidential.
Chemical. (G) Rubber modified polyamide.
Use/Production. (G) Multi-use high impact polyamide. Prod. range: Confidential.

P 90-1

Manufacturer. Confidential.
Chemical. (G) Polymer of 2,2-dimethyl-1,3- propanediol; dodecanedioic acid mono and difunctional acids.
Use/Production. (S) Intermediate for industrial coating. Prod. range: Confidential.

Dated: October 17, 1989.

Steven D. Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-25736 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59977; FRL-3664-7]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 4 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:
Y 89-225, 89-226, October 10, 1989.
Y 89-227, October 15, 1989.
Y 89-228, October 16, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 89-225

Importer. King Industries.
Chemical. (G) Fatty acid polyether polyester.
Use/Import. (G) Additive for paint and ink. Import range: Confidential.

Y 89-226

Manufacturer. King Industries, Inc.
Chemical. (G) Polymeric sulfonic acid ester.
Use/Production. (S) Coatings additive. Prod. range: Confidential.

Y 89-227

Manufacturer. Confidential.
Chemical. (G) Copolymer of acrylic and methacrylic esters.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

Y 89-228

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (S) Class "A" automotive sheet molding compound. Prod. range: Confidential.

Dated: October 19, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-25737 Filed 10-31-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Revision of 3067-0123.

Title: State and Local Emergency Operations Plans.

Abstract: The Federal Emergency Management Agency (FEMA) administers the Civil Defense Program which implements the Civil Defense Act of 1950, as amended. The program provides a system of civil defense for the protection of life and property in the United States from attack and from natural disasters. The responsibility for civil defense is vested jointly in the Federal Government and the States and their political subdivisions. The Act authorizes FEMA to make financial contributions to the States for administrative expenses, on the basis of approved plans * * * for the civil defense of the States. Section 205(a) of the Act states that "plans submitted under this section shall * * * (3) provide for the development of State and local civil defense operations plans, pursuant to the standards approved by the Director;" The Emergency Management Assistance and Population Protection Planning program elements, which are funded through FEMA's Comprehensive Cooperative Agreement, are designed to fund personnel, administrative expenses, and plan development and maintenance. To fulfill FEMA's mission to guide the development and maintenance of a national system for civil defense, FEMA must collect, review, and recommend necessary corrections to State and local Emergency Operations Plans, which are necessary to facilitate a coordinated and effective response and recovery from major natural, technological, and attack-related hazards.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 402,780.

Number of Respondents: 959.

Estimated Average Burden Hours Per Response: 420.

Frequency of Response: Other. During the update cycle, plans will be submitted once every 4 years.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: October 10, 1989.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 89-25720 Filed 10-31-89; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Reinstatement of 3067-0018.

Title: National Flood Insurance Program Annual Report (Biennial Report).

Abstract: The Federal Emergency Management Agency (FEMA) requires that communities participating in the National Flood Insurance Program submit a biennial report on progress made in local floodplain management, including implementation and enforcement of floodplain management regulations. The use of three simple, standard formats facilitate FEMA's reporting of response, thus enhancing the reports value as a management tool. The report enables FEMA to be more responsive to the on-going changes

which occur in each participating community; to evaluate the effectiveness of a community's floodplain management activities; to assist in allocating scarce program resources to

application form will enable FEMA to continue to rapidly process new community applications and to thereby more quickly provide flood insurance

increased to $10,400 for all disasters declared after October 1, 1989.

Notice is also hereby given that the amount of any grant made to the State,

Mayra N. Cruz, Contracts Supervisor, Autoridad De Los Puertos De P.R., G.P.O. Box 2829, San Juan, Puerto Rico 00936.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois [illegible]

Board of Governors of the Federal Reserve System, October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

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which occur in each participating community; to evaluate the effectiveness of a community's floodplain management activities; to assist in allocating scarce program resources to the eligible participating communities; and to assess floodplain development on a national scale, for allocating resources and for establishing priorities.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 7,637.

Number of Respondents: 17,132.

Estimated Average Burden Hours Per Response: .4457.

Frequency of Response: Biennially.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: October 10, 1989.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 89–25721 Filed 10–31–89; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Extension 3067–0020.

Title: Application for Participation in the National Flood Insurance Program

Abstract: The Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program provides Federally-backed flood insurance to those communities which make the commitments to adopt and enforce land use control measures that will guide land development in flood-prone areas in order to avoid or reduce future flood damage. The data collected on FEMA Form 81–64, Application for Participation in the National Flood Insurance Program, is the minimum information necessary to establish eligibility for a community. This application form will enable FEMA to continue to rapidly process new community applications and to thereby more quickly provide flood insurance protection to the residents of the communities.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 400.

Number of Respondents: 100.

Estimated Average Burden Hours Per Response: 4.

Frequency of Response: One-time.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: October 11, 1989.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 89–25722 Filed 10–31–89; 8:45 am]

BILLING CODE 6718–01–M

Adjustment of Disaster Grant Amounts

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended by Public Law 100–707, prescribes that grants made under section 411, Individual and Family Grant Programs, and grants made under section 422, Simplified Procedure, relating to the Public Assistance program, shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

NOTICE: Notice is hereby given that the maximum amount of any grant made to an individual or family for disaster-related serious needs and necessary expenses under section 411 of the Act, with respect to any single disaster, is increased to $10,400 for all disasters declared after October 1, 1989.

Notice is also hereby given that the amount of any grant made to the State, local government, or the owner or operator of an eligible private nonprofit facility, under section 422 of the Act, is increased to $36,500 for all disasters declared after October 1, 1989.

The increase is based on a rise in the Consumer Price Index for All Urban Consumers of 4.3 percent for the prior 12-month period. The information was published by the Department of Labor on October 19, 1989.

(Catalog of Federal Domestic Assistance No. 83–516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89–25723 Filed 10–31–89; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Puerto Rico Ports Authority Terminal

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.7 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200298.

Title: Puerto Rico Ports Authority Terminal Agreement.

Parties:

Puerto Rico Ports Authority,
Luis Ayala Colon Sucrs., Inc.

Filing Party:

Mayra N. Cruz, Contracts Supervisor, Autoridad De Los Puertos De P.R., G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Synopsis: The Agreement provides for the five-year lease of 22,800 square feet at Pier "C", Puerto Nuevo to be used for the berthing, loading and discharging of vessels, the handling and temporary storage of cargo and the handling of passengers.

By Order of the Federal Maritime Commission.

Dated: October 27, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–25701 Filed 10–31–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bankers Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 23, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) Liberty Street, New York, New York 10045:

1. *Bankers Corp.*, Perth Amboy, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Bankers Savings, Perth Amboy, New Jersey.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSelle Street, Chicago, Illinois 60690:

1. *First State Bancorp of Princeton, Illinois, Inc.*, Princeton, Illinois; to acquire 88.50 percent of the voting shares of First Bank and Trust Company of Gridley, Gridley, Illinois.

2. *Lincoln Financial Corporation*, Fort Wayne, Indiana; to acquire 100 percent of the voting shares of Signal Bancorp, Monticello, Indiana, and thereby indirectly acquire State and Savings Bank, Monticello, Indiana.

3. *Security Chicago Corp.*, Chicago, Illinois; to acquire 88.50 percent of the voting shares of First Bank and Trust Company of Gridley, Gridley, Illinois.

4. *Valley Bancorporation*, Appleton, Wisconsin; to acquire 100 percent of the voting shares of First National Bank of Chippewa Falls, Chippewa Falls, Wisconsin.

5. *Valley Bancorporation*, Appleton, Wisconsin; to acquire 100 percent of the voting shares of Peoples State Bank, Three Lakes, Wisconsin.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Malden Bancshares, Inc.*, Malden, Missouri; to become a bank holding company by acquiring at least 95.8 percent of the voting shares of First National Bank of Malden, Malden, Missouri. Comments on this application must be received by November 17, 1989.

2. *FMS Bancorp, Inc.*, Poplar Bluff, Missouri; to become a bank holding company by acquiring at least 99.9 percent of the voting shares of First Missouri State Bank, Poplar Bluff, Missouri. Comments on this application must be received by November 17, 1989.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Columbian Financial Corporation*, Overland Park, Kansas; to acquire 100 percent of the voting shares of The Columbian Trust Company, Overland Park, Kansas, which proposes to convert to a commercial bank charter from its existing trust company charter. Comments on this application must be received by November 16, 1989.

2. *Northern Missouri Bancshares, Inc.*, Unionville, Missouri; to acquire 100 percent of the voting shares of Harrison County Bancshares, Inc., Bethany, Missouri, and thereby indirectly acquire The First National Bank of Bethany, Bethany, Missouri.

Board of Governors of the Federal Reserve System, October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–25684 Filed 10–31–89; 8:45 am]

BILLING CODE 6210–01–M

Huntington Bancshares Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 17, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Huntington Bancshares Incorporated*, Columbus, Ohio; to acquire Farragut Mortgage Co., Inc.,

Waltham, Massachusetts, and thereby engage in making, acquiring, and servicing loans or other extensions of credit pursuant to §225.25(b)(1) of the Board's Regulation Y.

Massachusetts, for a total of 19.88 percent, and thereby indirectly acquire Neworld Bank for Savings, Boston, Massachusetts.

B. Federal Reserve Bank of

Francisco, California ("SPLC"), or any of SPLC's subsidiaries, in certain leasing activities involving the leasing of personal property, and/or acting as agent, broker, or advisor in leasing such

the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n*

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Waltham, Massachusetts, and thereby engage in making, acquiring, and servicing loans or other extensions of credit pursuant to §225.25(b)(1) of the Board's Regulation Y.

B. **Federal Reserve Bank of Richmond** (Lloyd W., Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation,* Charlotte, North Carolina; to acquire First Union Futures Corporation, Charlotte, North Carolina, and thereby engage in acting for nonaffiliated persons as a futures commission merchant registered with the Commodities Futures Trading Commission in order to execute and clear options on bullion, foreign exchange, U.S. Government securities and money market instruments on established commodity exchanges, and options on futures in such commodities and instruments; and providing advisory services to institutional customers consisting of general research and advice on market conditions and trading strategies, client account information and reconciliation of trades, and communication linkages between clients and commodity exchange floors in connection with the proposed futures commission merchant activities pursuant to §§ 225.25(b)(18) and (b)(19) of the Board's Regulation Y. These activities will be conducted in Charlotte, North Carolina.

Board of Governors of the Federal Reserve System, October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25665 Filed 10-31-89; 8:45am]

BILLING CODE 6210-01-M

Integra Financial Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 1989.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Integra Financial Corporation,* Pittsburg, Pennsylvania; to engage *de novo* through its subsidiary, Integra Leasing Company, Washington, Pennsylvania, in nonbanking activities permissible pursuant to § 225.25(b)(5) of the Board's Regulation Y. Specifically, the Company will engage in commercial equipment leasing which is the functional equivalent of an extension of credit. The Company intends to engage in such transactions in amounts up to $5,000,000. The leases will be originated by Integra Leasing Company or acquired from brokers and other third parties. All property held by the Company will be acquired specifically for a leasing transaction or will have been acquired specifically for an earlier leasing transaction. All leases held by the Company will be non-operating leases. At the inception of any lease, the Company's return will compensate it for not less than its full investment in the property plus the estimated total cost of financing the property over the term of the lease taking into account the items enumerated in § 225.25(b)(5)(iv) of the Board's Regulation Y. The Company expects that most of its leases will have terms of three (3) to ten (10) years; however, in no event will the term of any lease exceed forty (40) years. At the expiration of its leases (including any renewals or extensions with the same lessee), all of the Company's interest in leased property will be either liquidated or released on a non-operating basis as soon as practicable but in no event later than two years from the expiration of any lease. In no case, will the Company retain any interest beyond fifty (50) years after its acquisition of the property.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ford Bank Group, Inc.,* Lubbock, Texas; to engage *de novo* in providing a single line of credit to an unaffiliated company for the purpose of purchasing distressed loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. *United New Mexico Financial Corporation,* Albuquerque, New Mexico; to engage *de novo* through its subsidiary, United New Mexico Fin Corp., Albuquerque, New Mexico, in providing a single line of credit to an unaffiliated company for the purpose of purchasing distressed loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25666 Filed 10-31-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices, Acquisitions of Shares of Banks or Bank Holding Companies; John A. Kaneb et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 15, 1989.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *John A. Kaneb,* Chelsea, Massachusetts; to acquire an additional 8.87 percent of the voting shares of Neworld Bancorp, Inc., Boston, Massachusetts, for a total of 19.88 percent, and thereby indirectly acquire Neworld Bank for Savings, Boston, Massachusetts.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 191095:

1. *John W. Troxell, Jr.,* Allentown, Pennsylvania; to acquire an additional 1.35 percent of the voting shares of First Bath Corp, Bath, Pennsylvania, for a total of 11.30 percent, and thereby indirectly acquire First National Bank of Bath, Bath, Pennsylvania.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 239 South LaSalle Street, Chicago, Illinois 60690:

1. *Timothy J. Brown,* Storm Lake, Iowa; John C. Brown, Storm Lake, Iowa; F. Day Welterlen, Edgewood, Iowa; and Robert A. Mullen, West Des Moines, Iowa; to acquire at least 81.025 percent of the voting shares of The Commercial Trust & Savings Bank, Storm Lake, Iowa.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Bingman Trust,* John and Sally Bingman, Co-trustees, Sapulpa, Oklahoma; to acquire an additional 0.62 percent of the voting shares of Security National Bancshares of Sapulpa, Sapulpa, Oklahoma, for a total of 13.10 percent, and thereby indirectly acquire Security National Bank of Sapulpa, Sapulpa, Oklahoma.

2. *Robert W. Moore,* Oklahoma City, Oklahoma; to acquire an addtional 14.4 percent of the voting shares of Founders Bancorporation, Inc., Oklahoma City, Oklahoma, for a total of 17.9 percent, and thereby indirectly acquire Founders Bank & Trust Company, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25667 Filed 10-31-89; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp., Los Angeles, CA; Application to Engage in Leasing Activities

Security Pacific Corporation, Los Angeles California, ("Security Pacific"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo,* directly or indirectly, through its existing subsidiary Security Pacific Leasing Corporation, San Francisco, California ("SPLC"), or any of SPLC's subsidiaries, in certain leasing activities involving the leasing of personal property, and/or acting as agent, broker, or advisor in leasing such property, pursuant to the Board's Regulation Y (12 CFR 225.25(b)(5)). These activities will be conducted nationwide.

Security Pacific has also applied, pursuant to section 4(c)(13) of the BHC Act and § 211.5 of the Board's Regulation K (12 CFR 211.5)) to engage in certain leasing activities with respect to foreign leasing subsidiaries. Security Pacific currently engages in leasing activities through SPLC for which it has received prior Board approval under Regulation Y and Regulation K. (12 CFR 225.25(b)(5) and 211.5).

In this application, Security Pacific proposes to expand its leasing activities to include leasing transactions that comply with all of the conditions of Regulation Y except as set out below. Security Pacific is requesting the Board's prior approval to engage in leasing transactions the terms of which will allow SPLC to rely for its compensation on the estimated residual value of the property at the expiration of the initial term of the lease up to 100 percent of the acquisition cost of the property. Security Pacific has stated that it will limit such leases with estimated residual values in excess of 25 percent of acquisition cost to no more than 10 percent of Security Pacific's total consolidated assets. Security Pacific will also limit leases with estimated residual values in excess of 70 percent of acquisition cost to no more than the lesser of (1) 0.5 percent of Security Pacific's total consolidated assets, or (2) 10 percent of Security Pacific's consolidated net worth. Regulation Y currently limits residual value reliance to no more than 20 percent of the acquisition cost of the property to the lessor. 12 CFR 225.25(b)(5)(iv)(C).

Security Pacific has committed to conform its leasing activities to any future Board rulemaking regarding leasing.

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity which the Board has determined to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors,* 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y 49 FR 806 (1984).

Security Pacific believes that its proposed leasing activities, including the less restrictive residual value requirement, are closely related to banking, and cites as authority for this the expanded statutory authority for national banks to engage in leasing transactions on a net lease basis. 12 U.S.C. 24 (Tenth). The Office of the Comptroller of the Currency has interpreted this provision as authorizing national bank leases that rely on a residual value of up to 70 percent of the original cost of the property to the lessor.

In determining whether an activity meets the second, or proper incident to banking test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices."

Security Pacific contends that SPLC's conduct of the proposed activities will result in significant public benefits that will outweigh any possible adverse effects. Security Pacific states that such public benefits will take the form of increased competition in the leasing industry, improved services to leasing customers, increased safety and soundness through strengthening of Security Pacific's portfolio and increased earnings, and gains in efficiency.

Comments regarding the application must be received at the offices of the Board of Governors not later than November 24, 1989.

Board of Governors of the Federal Reserve System, October 26, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25668 Filed 10-31-89; 8:45 am]

BILLING CODE 6210-01-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Drug Abuse Advisory Committee; Efficacy Guidelines Subcommittee

Date, time and place. November 22, 1989, 10 a.m., Maryland Room, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 10 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 4 p.m.; Thomas E. Nightingale, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs which possess stimulant, depressant, or analgesic properties including those aspects of safety related to the potential of these drugs to produce dependence and to be abused.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before November 7, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the development of guidelines for the clinical evaluation of medications for the treatment of drug addiction.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. I), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 25, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25899 Filed 10-31-89; 8:45 am]

BILLING CODE 4160-01-M

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11989). A similar notice listing all currently certified laboratories will be published bi-monthly, and updated to include laboratories which subsequently apply and complete the certification process. If any listed laboratory fails to maintain its certification, it will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Division of Applied Research (formerly the Office of Workplace Initiatives), National Institute on Drug Abuse, Room 9A-53, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections. In accordance with subpart C of the Guidelines, the following laboratories meet the standards set forth in the Guidelines:

(Submitted for publication in the Federal Register on November 1, 1989)

American BioTest Laboratories, Inc., 3350 Scott Boulevard, Building 15, Santa Clara, CA 95054, 408-727-5525

American Medical Laboratories, 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703-691-9100

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801-583-2787

Bio-Analytical Technologies, 2356 North Lincoln Ave., Chicago, IL 60614, 312-880-6900

Center For Human Toxicology, 417 Wakara Way, Rm. 290, University Research Park, Salt Lake City, UT 84108, 801-581-5117

Chem-Bio Corporation, 140 E. Ryan Road, Oak Creek, WI 53154, 800-365-3840

CompuChem Laboratories, Inc., Western Division, 600 West North Market Boulevard, Sacramento, CA 95834, 916-923-0840 (name changed: formerly ChemWest Analytical Laboratories, Inc.)

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919-549-8263

Doctors and Physicians Laboratory, 801 E. Dixie Ave., Leesburg, FL 32748, 904-787-9006

DrugScan, Inc., 1119 Mearns Road, P.O. Box 2969, Warminster, PA 18974, 215-674-9310

ElSohly Laboratories, Inc., 1215-1/2 Jackson Avenue, Oxford, MS 38655, 601-236-2609

Environmental Health Research & Testing Inc., 1075 South 13th Street, Birmingham, AL 35205-9998, 205-934-0965

Harris Medical Laboratory, 1401 Pennsylvania Avenue, P.O. Box 2981, Fort Worth, TX 76104, 817-878-5600

Laboratory of Pathology of Seattle, Inc., 1229 Madison Street, Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206-386-2672

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504-392-7961

Laboratory Specialists, Inc., P.O. Box 4350, Woodland Hills, CA 91365, 818-781-0115, (name changed: formerly Abused Drug Laboratories)

Med Arts Lab, 5419 South Western, Oklahoma City, OK 73109, 800-251-0069 ext. 433 (name changed: formerly Med Arts/South Community Hospital)

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, Tennessee 38175, 901-795-1515

MedTox Laboratories, Inc., 402 West County Road D, St. Paul, MN 55112, 612-636-7466

MetPath, Inc., 1355 Mittle Boulevard, Wood Dale, IL 60191, 312-595-3888

MetPath, Inc., One Malcolm Ave., Teterboro, NJ 07608, 201-393-5000

National Center for Forensic Science (A Division of Maryland Medical Laboratory, Inc.), 1901 Sulphur Spring Road, Baltimore, MD 21227, 301-247-9100 (name changed: formerly Maryland Medical Laboratories, Inc.)

National Psychopharmacology Lab, Inc., 9320 Park West Boulevard, Knoxville, TN 37923, 800-615-251-9492/615-690-8101

Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800-842-4657/714-661-8000 (name changed: formerly Nichols Institute)

Northwest Toxicology, Inc., 1141 East 3900 South, Salt Lake City, UT 84124, 800-322-3361

PDLA, Inc., 100 Corporate Court, South Plainfield, NJ 07080, 201-769-8500

PharmChem Laboratories, Inc., 1505-A O'Brien Drive, Menlo Park, CA 94025, 800-446-5177/415-328-6200

Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619-279-2600

Roche Biomedical Laboratories, 6370 Wilcox Road, Dublin, OH 43017, 614-889-1061

Roche Biomedical Laboratories, Inc., 1801 First Avenue South, Birmingham, AL 35233, 205-581-3537

Roche Biomedical Laboratories, Inc., 1447 York Court, Burlington, NC 27216, 919-584-5171

SmithKline Bio-Science Laboratories, 2201 W. Campbell Park Drive, Chicago, IL 60612, 312-885-2010 (name changed: formerly International Toxicology Laboratories, Inc.)

SmithKline Bio-Science Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301 (name changed: formerly International Clinical Laboratories)

SmithKline Bio-Science Laboratories, 400 Egypt Road, Norristown, PA 19403, 800-523-5447

SmithKline Bio-Science Laboratories, 1777 Montreal Circle, Tucker, GA 30084, 404-934-9205

South Bend Medical Foundation, Inc., 530 North Lafayette Blvd., South Bend, IN 46601, 219-234-4176

Southgate Medical Laboratory, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137, 800-338-0166

Richard A. Millstein,

Deputy Director, National Institute on Drug Abuse.

[FR Doc. 89-25875 Filed 10-31-89; 8:45 am]

BILLING CODE 4160-20-M

Health Resources and Services Administration

Final Funding Priorities for Grants for Faculty Development in General Internal Medicine and General Pediatrics

The Health Resources and Services Administration announces the final funding priorities for Fiscal Year 1990 Grants for Faculty Development in General Internal Medicine and General Pediatrics authorized under the authority of section 784 of the Public Health Service Act, as amended by Public Law 100-607.

Section 784 of the Public Health Service Act authorizes Federal assistance to schools of medicine and osteopathic medicine, public or private nonprofit hospitals or other public or private nonprofit entities for planning, developing and operating programs for the training of physicians who plan to teach in general internal medicine or general pediatrics training programs. These grants are intended to promote the development of faculty skills in physicians who are currently teaching or who plan teaching careers in general internal medicine or general pediatrics training programs. These grants also provide financial assistance in meeting the cost of supporting physicians who are trainees in such programs.

In addition, section 784 authorizes the award of grants to support general internal medicine or general pediatrics residency training programs. A separate grant program exists for this purpose.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion

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consistent with the needs of the programs as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

To receive support, applicants must meet the requirements of final regulations as specified in 42 CFR part 57, subpart FF.

Review Criteria

The review of applications will take into consideration the following criteria:

(1) The degree to which the applicant demonstrates a commitment to general internal medicine or general pediatrics;
(2) The degree to which the proposed project adequately provides for the project requirements;
(3) The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;
(4) The qualifications of the proposed staff and faculty; and
(5) The potential of the project to continue on a self-sustaining basis.

Special Consideration

Special consideration will be given to applicants demonstrating a commitment to general internal medicine or general pediatrics.

Proposed funding priorities were published in the **Federal Register** of July 5, 1989 (FR 54 28122), for public comment.

No comments were received during the 30-day comment period. The funding priorities as proposed will be retained as follows:

Final Funding Priorities for Fiscal Year 1990

In determining the order of funding of approved applications, a funding priority will be given to the following:

1. Projects which satisfactorily demonstrate enrollment of underrepresented minorities in proportion to or greater than their percentage in the general population or can document an increase in the number of underrepresented minorities (i.e., Black, Hispanic and American Indian/Alaskan Native minority trainees);
2. Applications proposing to develop faculty competence for teaching ambulatory and inpatient case management of those with HIV infection-related diseases; and
3. Applications designed to develop faculty competence for teaching quality assurance/risk management activities, monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

This program is listed at 13.900 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372 Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

Dated: October 26, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-25632 Filed 10-31-89; 8:45 am]

BILLING CODE 4160-15-M

Final Funding Priority for Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds

The Health Resources and Services Administration announces the final funding priority for Fiscal Year 1990 Grants for Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds, authorized under section 827 of the Public Health Service Act, as amended by Public Law 100-607.

Section 827 of the Public Health Service Act authorizes grants to increase opportunities for individuals from disadvantaged backgrounds to pursue a nursing education. This provision was previously provided under Purpose 1, Nursing Special Projects, section 820 of the PHS Act.

Grants may be awarded to eligible applicants to meet the costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Review Criteria

The review of applications will take into consideration the following criteria:

(1) The national or special local need which the particular project proposes to serve;
(2) The potential effectiveness of the proposed project in carrying out such purposes;
(3) The administrative and managerial capability of the applicant to carry out the proposed project;
(4) The adequacy of the facilities and resources available to the applicant to carry out the proposed project;
(5) The qualifications of the project director and proposed staff;
(6) The reasonableness of the proposed budget in relation to the proposed project; and
(7) The potential of the project to continue on a self-sustaining basis after the period of grant support.

The following funding priority was proposed in the **Federal Register** of May 12, 1989 (54 FR 20642) for public comment: Priority will be given to schools that have a minority and low income student enrollment of 35 percent or more, or can document a 20 percent annual increase in the number of minority and low income students matriculating into the nursing major for the past three years.

Two comments were received during the 30-day comment period.

One comment was in support of the funding priority, urging the Administration to make funds available for this program.

The second comment did not suport the funding priority because the respondent felt that if applied, it would support only those nursing programs that were already serving a high percentage of minority or low income students and would fail to recognize those nursing schools with lower disadvantaged student enrollment percentages, but with a firm commitment to recruit and enroll more minority and low income students.

The Department recognizes the respondent's concern. However, the funding priority has been retained as proposed in order to motivate those schools which have not yet succeeded in signifcantly increasing their enrollment and graduation of minority and low income students. The Administration has determined that these population groups continue to be underrepresented in the nursing profession. Their representation should be increased to ensure equitable opportunities for a career in nursing.

Dated: October 26, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-25633 Filed 10-31-89; 8:45 am]

BILLING CODE 4160-15-M

Program Announcement for Grants for Two-Year Programs of Schools of Medicine or Osteopathic Medicine

The Health Resources and Services Administration announces that applications for Fiscal Year 1990 Grants for Two-Year Programs of Schools of Medicine or Osteopathic Medicine are now being accepted under the authority of section 788(a), Public Health Service Act and section 631 of Public Law 100-607.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any changes in this policy.

Section 788(a) authorizes the award of grants to maintain and improve schools which provide the first or last two years of education leading to the degree of doctor of medicine or osteopathic medicine. Grants provided under this authority to schools that were in existence on September 30, 1985, may also request support for construction and purchase of equipment.

To be eligible for a grant under this authority, the applicant must be a public or nonprofit private school providing the first or last two years of education leading to the degree of doctor of medicine or osteopathic medicine and be accredited or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purposes by the Secretary of Education.

Review Criteria

Approval of all applications will be based on an analysis of the following factors:

(1) The extent to which the project meets the intent of section 788(a) legislation;
(2) The administrative and management ability of the applicant to carry out grant supported objectives in a cost effective manner;
(3) The adequacy of the qualifications and experience of the staff and faculty;
(4) The relative effectiveness of the proposed project in improving the quality of and/or access to medical education; and
(5) The extent to which the project is effective in its recruitment and retention of minority and disadvantaged students.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

3. Special consideration—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

The Administration is proposing no funding preferences or special considerations in the review of applications for the grant program in Fiscal Year 1990.

Funding Priority for Fiscal Year 1990

The following funding priority was established in Fiscal Year 1989 and the Administration is extending this priority in Fiscal Year 1990.

In determining the order of funding of approved applications, a funding priority will be given to: Projects which satisfactorily demonstrate an enrollment of underrepresented minorities in proportion to or greater than their percentage in the general population or can document an increase in the number of underrepresented minorities (i.e., Black, Hispanic, American Indian, Alaskan Native minority trainees) that have been recruited, retained and completed training.

Requests for application materials, questions regarding grants policy and completed applications should be directed to: Grants Management Officer (D-31), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6960.

Should additional programmatic information be required, please contact: Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-18, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-3614.

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number if 0915-0060.

The application deadline is December 15, 1989. Applications shall be considered as meeting the deadline if they are either: 1. *Received on* or before the deadline date, or 2. *Postmarked on* or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

This program is listed at 13.149 in the *Catalog of Federal Domestic Assistance*. Applications submitted in response to this announcement that request construction assistance are subject to the Intergovernmental Review under provisions of Executive Order 12372, as supplemented by 42 CFR part 100, Intergovernmental Review of Federal Programs. Applications submitted for program support only are not subject to intergovernmental review under these provisions.

Dated: October 6, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-25631 Filed 10-31-89; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Center for Nursing Research; Meeting: Nursing Science Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Nursing Science Review Committee, National Center for Nursing Research, November 7-9, 1989, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20892.

Due to unforeseen complications, this notice is not being published within the 15 day timeframe.

This meeting will be open to the public on November 7 from 9 a.m. to 10 a.m. Agenda items to be discussed will include the NCNR Director's Report and the Chairman's Report.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d)) of Public Law 92–463, the meeting will be closed to the public on November 7, 10 a.m., to adjournment on November 9 for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Janet Heinrich, Director, Division of Extramural Programs, National Center for Nursing Research, National Institutes of Health, Building 31, Room 5B09, Bethesda, Maryland 20892, (301) 496–0523, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: October 27, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–25871 Filed 10–31–89; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Filing of Annual Report of Federal Advisory Committee

AGENCY: Public Health Service, HHS.

ACTION: Notice.

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Office of the Assistant Secretary for Health Federal Advisory Committee has been filed with the Library of Congress:

A copy of the National Vaccine Advisory Committee Annual Report is available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 133, James Madison Memorial Building, Second Street and Independence Avenue, SE., Washington, DC. A copy is also available at the Department of Health and Human Services, Department Library, Wilbur Cohen Federal Building, Room G–619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245–6791.

Copies may be obtained from: The National Vaccine Advisory Committee, Yuth Nimit, Ph.D., Executive Secretary, Room 13A–53, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–0843.

Dated: October 23, 1989.

Yuth Nimit,

Scientist Administrator, National Vaccine Program and Executive Secretary, National Vaccine Advisory Committee.

[FR Doc. 89–25642 Filed 10–31–89; 8:45 am]

BILLING CODE 4160–17–M

Committee on Nutrition Components of Food Labeling of the Institute of Medicine's Food and Nutrition Board; Public Meeting

AGENCY: Office of the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services.

ACTION: Notice of public meeting.

SUMMARY: As part of contract No. 282–88–0022 jointly sponsored by the Department of Health and Human Services and the Department of Agriculture, the Committee on Nutrition Components of Food Labeling of the Institute of Medicine's Food and Nutrition Board will hold a public meeting to solicit scientific information and comments pertaining to current nutrition and relation information used in food labeling. The Committee will assess the implications for nutrition labeling of current knowledge of nutrition and health, determine the most appropriate content and format of food labels, and examine the implications for changes in the current legislative and regulatory statutes. Registration for the meeting is free and no preregistration is required.

DATES: The meeting will be held on December 4, 1989, at 10 a.m. Individuals who wish to make a presentation or submit material for the Committee's consideration should forward written statements by November 10, 1989.

ADDRESSES: The meeting will be held at the National Academy of Sciences, 2101 Constitution Avenue NW., Washington, DC 20418. Attendees are asked to register at the C Street entrance (parking unavailable).

Written statements should be sent to Dr. Donna V. Porter at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Donna V. Porter, 202–334–2587.

James A. Harrell,

Deputy Director, Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health.

[FR Doc. 89–25643 Filed 10–31–89; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–89–2075; FR2702–N–01]

Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of application deadline for funds under the CDBG Program for Indian tribes and Alaskan Native Villages for fiscal year 1990.

SUMMARY: This Notice sets the deadline dates for filing applications for funds under the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages for Fiscal Year 1990. Applications are required in order to provide HUD with the information necessary to rate the proposed project(s) and to assure HUD that the necessary citizen participation has taken place.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy P. Gonnella, Office of Program Policy Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6092. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This Notice sets the deadline dates for submitting applications for the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages. HUD will use the information furnished in these applications to rate the proposed project(s) and to assure the Department that there has been the necessary citizen participation. These dates apply only to applications submitted by Indian Tribes and Alaskan Native Villages for Fiscal Year 1990.

The field responsibility for the administration of the program is divided among the following offices: Region V Office of Indian Programs (OIP) in Chicago, responsible for all HUD Indian program activities within Regions I–V, pluys the State of Iowa; Oklahoma City Office, responsible for all HUD Indian program activities in the States of Arkansas, Texas, Oklahoma, Kansas, Louisiana, and Missouri; Region VIII OIP in Denver, responsible for all HUD Indian program activities in Region VIII, plus the State of Nebraska; Region IX OIP in Phoenix, responsible for all HUD Indian program activities in Region IX, plus the State of New Mexico; Region X OIP in Seattle, responsible for all HUD Indian program activities in Region X, with the exception of the State of Alaska; and the Anchorage Office, responsible for all HUD Indian and Alaskan Native program activities in the State of Alaska.

Applications will be accepted by HUD as of the publication date of this Notice.

FINAL DATES FOR SUBMISSION OF APPLICATIONS

Offices	Applications must be submitted no later than
Anchorage Office	Nov. 30, 1989.
Oklahoma City Office	Nov. 30, 1989.
Region X, OIP	Jan. 10, 1990.
Region VIII, OIP	Jan. 19, 1990.
Region V, OIP	Feb. 05, 1990.
Region IX, OIP	Feb. 23, 1990.

Applications must be received or postmarked no later than the closing date specified above. Applications received or postmarked after the deadline will not be considered.

Tribes and Villages submitting applications for this program must do so on HUD forms approved by the Office of Management and Budget under OMB Control Number 2506–0043. These forms request information which assures HUD that the necessary citizen participation has taken place. Forms will be provided by the appropriate HUD Field Offices.

Authority: Sec. 107, Housing and Community Development Act of 1974 (42 U.S.C. 5307); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 20, 1989.

Anna Kondratas,

Assistant Secretary, Community Planning and Development.

FR Doc. 29–25656 Filed 10–31–89; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Closure Modification of Public Lands to Camping and Off-Road Vehicle Use; Painted Rocks State Park Area, Arizona

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Closure Modification Re: AZ–020–4332–01 Published in the Federal Register Vol. 53, No. 165, August 25, 1988.

SUMMARY: This notice is to inform the public that the Bureau of Land Management (BLM) will limit off-road vehicle use to existing roads, and/or designated trails and vehicle routes located on the following public lands:

T. 4 S., R. 7 W.,
secs. 30, 31, 32
T. 4 S., R. 8 W.,
secs. 13, 14, 24, 25
T. 5 S., R. 7 W.,
secs. 5, 6, 7, 8, 17, 20
T. 5 S., R. 8 W.,
secs. 1, 2, 3, 10, 11, 12.

Public camping on the previously described lands will be limited to the BLM designated areas on the following public lands:

T. 5 S., R. 7 W.,
secs. 5, 8, 17, 20
T. 4 S., R. 7 W.,
secs. 31, 32, 33.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Hamilton, Area Manager, Lower Gila Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

SUPPLEMENTARY INFORMATION: Authority for this action is contained in 43 CFR 8364.1. This action is being taken to provide additional recreation opportunities for existing and increased recreation visitor needs.

Dated: October 24, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89–25695 Filed 10–31–89; 8:45 am]

BILLING CODE 4310–32–M

[AK–919–00–4830–02–ADVB]

Fairbanks Support Center; Northern Alaska Advisory Council

The Northern Alaska Advisory Council will hold will a public meeting Dec. 6, 1989, at BLM's Fairbanks Office Building, 1150 University Ave., Fairbanks, Alaska. The meeting will begin at 8:30 a.m., public comment will be taken from 1 to 2 p.m., and the meeting will end at 5 p.m..

Topics of discussion will be (1) resource management planning in the Arctic District, (2) Recreation 2000 plans for the three districts in northern Alaska (3) the changing face of BLM public service in northern Alaska, (4) residential occupancy on federal mining claims, and (5) Kobuk District's automated resource data project.

For information contact the Public Affairs Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709, telephone (907) 474–2231.

Dated: October 25, 1989.

Roger Bolstad,

Designated District Manager, Northern Alaska Advisory Council.

[FR Doc. 89–25681 Filed 10–31–89; 8:45 am]

BILLING CODE 4310–84–M

[OR–050–4212–13: GPO–033]

Prineville District, Oregon; Realty Action

October 24, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under sec. 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian

T. 15 S., R. 12 E.,
Sec. 14: Lots 1 and 2, NW¼NW¼, S½ NW¼, W½SW¼;
Sec. 15: S½NE¼, SE¼;
Sec. 22: N½NE¼, SE¼NE¼;
Sec. 23: Lot 2.

The area described aggregates approximately 653 (±) acres in Deschutes County, Oregon.

In exchange for these lands, the Federal Government will acquire the following described private lands from William Smith Properties, Inc.:

Willamette Meridian

T. 5 S., R. 19 E.,
Sec. 5: Those portions of the SE¼ and the SE¼SW¼ lying west of the John Day River;
Sec. 8: Those portions of the SW¼NW¼, the E½NW¼, the NE¼SW¼ and the SE¼ lying west of the John Day River;
Sec. 15: N½, N½S½, S½SW¼, SE¼SE¼;
Sec. 16: That part of the N½ lying east of the John Day River, W½SW¼, SE¼;
Sec. 22: N½, N½S½, S½SE¼;
Sec. 27: W½NE¼, E½NW¼, NW¼NW¼.

The area described above aggregates approximately 2,101 (±) acres in Sherman and Wheeler Counties, Oregon.

A portion of the land described below will be used to equalize values and will also be acquired by the Federal Government.

T. 10 S., R. 19 E.,
Sec. 13: S½S½;
Sec. 24: All;
T. 10 S., R. 20 E.,
Sec. 18: Lot 4, N½NE¼, SE¼NE¼, E½ SW¼, SE¼;
Sec. 19: All;
Sec. 20: W½;
Sec. 30: N½.

The area described above aggregates approximately 2,718 acres in Wheeler County, Oregon.

The purpose of the land exchange is to

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–281]

Business Information" at the top. All submissions requested confidential treatment must conform to the requirements of § 201.6 of the

[Investigation No. 337–TA–295]

Certain Novelty Teleidoscopes; Initial Determination Terminating Respondent on the Basis of

U.S. International Trade Commission, telephone 202–252–1805.

By order of the Commission.

Issued: October 25, 1989.

directed to the Secretary to the Commission and must include a full statement of the reason why confidential treatment should be

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The area described above aggregates approximately 2,718 acres in Wheeler County, Oregon.

The purpose of the land exchange is to facilitate resource management opportunities in the John Day River area, as identified in the Two Rivers Resource Management Plan. The private lands being offered have very important values for recreation, wildlife, habitat, watershed and fisheries management. The public interest will be highly served by making this exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted to equalize the values upon completion of the final appraisal.

The exchange will be subject to:

1. The reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Oil and gas rights may be reserved in the final patent. All existing oil and gas leases will remain in effect until expiration.

3. All other valid existing rights, including but not limited to, any right-of-way, easement or lease of record.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws including the mining laws. As provided by the regulations of 43 CFR 2201.1(b) any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange is available for review at the Prineville District Office, 185 E. Fourth Street, Prineville, OR 97754.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Prineville District Manager at the above address.

Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 24, 1989.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 89-25696 Filed 10-31-89; 8:45 am]

BILLING CODE 4310-33-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-281]

Estimated Tariff Equivalents of U.S. Quotas on Agricultural Imports and Analysis of Competitive Conditions in U.S. and Foreign Markets for Sugar, Meat, Peanuts, Cotton, and Dairy Products

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt on September 21, 1989, of a request from the U.S. Trade Representative pursuant to authority delegated by the President, the Commission instituted investigation No. 332-281 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing the following:

(1) A calculation of the tariff equivalents of U.S. import quotas on dairy products, peanuts, cotton and sugar and sugar-containing products for the individual years 1986, 1987, and 1988;

(2) A calculation of the tariff equivalent of the voluntary export restraint agreements the United States negotiated on meat imports in 1987 and 1988; and

(3) An analysis of competitive and economic factors affecting the performance of the sugar, meat, peanut, cotton, and dairy industries in the domestic market and in foreign markets.

The USTR requested that the Commission furnish such advice not later than February 28, 1990.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: For information on other than the legal aspects of the study, contact Roger Corey (202-252-1327) or David Ingersoll (202-252-1309), Agriculture Division, Office of Industries, U.S. International Trade Commission. For information on the study's legal aspects, contact William Gearhart (202-252-1091), Office of the General Counsel, U.S. International Trade Commission. Hearing-impaired persons can obtain information on this study by contacting our TDD terminal on (202) 252-1810.

Written submission: Interested persons may submit written statements concerning the investigation. To be assured of consideration, written statements must be received by the close of business on December 29, 1989. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requested confidential treatment must conform to the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

By order of the Commission.

Issued: October 26, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-25711 Filed 10-31-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-297]

Certain Cellular Radiotelephones and Subassemblies and Component Parts Thereof; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Thomas L. Jarvis, Esq., of the Office of Unfair Import Investigations has been designated as the Commission investigative attorney in the above-cited investigation instead of T. Spence Chubb, Esq.

The Secretary is requested to publish this notice in the **Federal Register.**

Respectfully submitted,

Dated: October 23, 1989.

Jeffrey R. Whieldon,

Acting Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

[FR Doc 89-25709 Filed 10-31-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-298]

Certain Low Friction Drawer Supports, Components Thereof, and Products Containing Same; Notice of Prehearing Conference

Notice is hereby given that the prehearing conference in this matter will commence at 9:00 a.m. on October 30, 1989, in Courtroom C, U.S. International Trade Commission Building, 500 E St. SW., Washington, DC, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Dated: October 24, 1989.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 89-25710 Filed 10-31-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determiation from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Imperial Toy Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 26, 1989.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reason why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

By order of the Commission.

Issued: October 25, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-25707 Filed 10-31-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Importoys, Inc. ("Importoys").

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 27, 1989.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reason why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

By order of the Commission.

Issued: October 27, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-25706 Filed 10-31-89; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 16, 1989, a proposed Consent Decree in *United States* v. *NVF Company,* Civ. Action No. 89-561 was lodged with the United States District Court for the District of Delaware. The Consent Decree requires defendant to pay $1.175 million in response costs incurred and to be incurred by the United States with respect to environmental cleanup at the Tybouts Corner Landfill Site in New Castle County, Delaware.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments shall be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *NVF Company,* DOJ Ref. 90-7-1-143A.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Federal Building, 844 King Street, Wilmington, Delaware 19801 and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail

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from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

George W. VanCleve,

Acting Assistant Attorney General, Land and Natural Resources Division

[FR Doc. 89-25750 Filed 10-31-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984 Applicance Industry-Government CFC Replacement Consortium, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Appliance Industry-Government CFC Replacement Consortium, Inc. ("the Corporation"), has filed a written notification on September 19, 1989, simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Corporation and (2) the nature and objectives of the Corporation. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Corporation and its general areas of planned activity are given below.

The parties to the Corporation are: Association of Home Appliance Manufacturers, 20 North Wacker Drive, Chicago, Illinois 60606; White Consolidated Industries, 11770 Berea Road, Cleveland, Ohio 44111; GE Appliances, Appliance Park, Louisville, Kentucky 40225; Maytag Corporation, One Dependability Square, Newton, Iowa 50208; Amana Refrigeration, Inc., subsidiary of Raytheon Company, Amana, Iowa 42204; W.C. Wood Company Limited, 5 Arthur Street South, Guelph, Ontario, Canada N1H6L9; Whirlpool Corporation, Benton Harbor, Michigan 49022; and, Sub-Zero Freezer Company, Inc., Box 4130, Madison, Wisconsin 53711. The United States Environmental Protection Agency and the United States Department of Energy have each signed a memorandum of understanding to cooperate with the Corporation in accomplishing its goals.

The purpose of the Corporation is to provide an organization through which manufacturers of refrigerators, refrigerator-freezers and freezers ("refrigerator/freezers") marketed in the United States may cooperate with allied industries, government agencies, public and private laboratories and other institutions or organizations concerned with the replacement of two chlorofluorocarbons ("CFC"), CFC 11 and 12, to identify, test and develop safe, reliable and environmentally preferable replacements for CFC 11 and 12 in refrigerator/freezers.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-25751 Filed 10-31-89; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Availability

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to establish baseline information regarding arts education for each of the 56 states and U.S. territories to serve as a standard against which to measure future changes, and as a guide or starting point for responsible planning in order to effect intelligent, qualitative change for arts education in American schools. The specific tasks are to research, develop, and compile comprehensive state-by-state arts education profiles. The profile data (to be collected and set up in such a fashion to be able to be periodically updated) will establish trend lines concerning the extent to which education programs in each of the arts are in fact established in state and school districts and the quality of materials, supplies, equipment, facilities, and personnel support for arts education. Those interested in receiving the Solicitation package should reference Program Solicitation PS 90-02 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 90-02 will be available approximately November 8, 1989 with proposals due on December 8, 1989.

ADDRESS: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, Room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Anna Mott or William L Hummel, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW Washington, DC 20506, (202/682-5482).

William L Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 89-25864 Filed 10-31-89 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Intention to Prepare a Supplemental Environmental Impact Statement on the U.S. Antarctic Program and to Conduct a Public Scoping Meeting

AGENCY: National Science Foundation (NSF).

AUTHORITY: Executive Order 12114 of January 4, 1979, at 44 FR 1957, 3 CFR, 1979 Comp., p. 356.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (EIS) on the U.S. Antarctic Program.

SUMMARY: The National Science Foundation announces its intention to prepare a supplemental EIS in accordance with the Antarctic Treaty, its recommendations, and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions. The supplemental EIS will update the original EIS on the U.S. Antarctic Program published in 1980, and will concentrate on activities and impacts in the Antarctic Treaty Area. Marine and air operations to and from the Antarctic Treaty Area and removal of wastes from the Treaty Area will be taken into account. The supplemental EIS will describe primary and secondary impacts and will identify situations where sufficient information is unavailable.

DESCRIPTION OF PROPOSED ACTION: The proposed action is to continue the U.S. Antarctic Program with environmental protection increased to a level necessary to comply with international law, the Antarctic Conservation Act, other clearly applicable U.S. environmental laws and regulations, and sound environmental practices.

ALTERNATIVES TO THE PROPOSED ACTION: Alternatives to the proposed action that are being considered for evaluation in the Supplemental EIS include the following: (1) No action: continue the U.S. Antartic Program with no change in the level of environmental protection (all provisions of the Antartic Treaty would continue to be met); (2) implement an improved program tailored to meet the intent of international law, the Antarctic Conservation Act, other clearly applicable U.S. environmental laws and regulations, and sound environmental practices to the extent that available resources, existing technology and antarctic conditions permit; and, (3) completely remove and cleanup all U.S. Antarctic Program facilities and operations so that no environmental impacts would occur in the future and past environmental contamination would be removed (this alternative would require terminating the current U.S. Antarctic Program and removing all facilities on the continent and restoring the environment).

IDENTIFICATION OF ENVIRONMENTAL ISSUES: The following environmental issues have been identified for evaluation in the supplemental EIS: (1) Impacts of discharging wastewater; (2) effects of solid waste disposal, including the use of open burning, incineration, retrograding, and ocean dumping; (3) impacts of spills from transportation, storage, handling, and use of fuels; (4) impacts of air emissions; (5) the conduct of environmental monitoring; (6) effects of human activities on specially designated protected areas and near-pristine areas; and, (7) effects of past human activities in the areas where U.S. facilities are located and in areas where research activities are conducted.

DESCRIPTION OF THE SCOPING PROCESS: A scoping process, guided by the Council on Environmental Quality's regulations at 40 CFR 1501.7, will be implemented to involve Federal, state, and local agencies and other interested parties in determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action. A scoping meeting will be held in Washington, DC, on December 13, 1989, to solicit comments on the scope of the supplemental EIS and on the significant environmental issues that should be addressed in that document. Written comments can be submitted to NSF at the scoping meeting or within 30 days of the scoping meeting. A draft supplemental EIS will be published in early July 1990, for agency and public comment, and a final supplemental EIS containing responses to those comments will be published in early December 1990.

ADDRESS: Questions about the proposed action and the supplemental EIS should be directed to: Dr. Sidney Draggan, Office of Safety, Environment and Health, Division of Polar Programs, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: 202/357-7766.

Sidney Draggan,

Environmental Officer.

[FR Doc. 89-25641 Filed 10-31-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses

comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set

matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A

notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in

requirements of TS Table 4.1-1, Item 42, for clarity and to achieve consistency with the Arkansas Nuclear One, Unit 2 (ANO-2) TS requirements. The proposed

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 6, 1989 through October 20, 1989. The last biweekly notice was published on October 18, 1989 (54 FR 42855).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 1, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to

matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: August 9, 1989

Description of amendment request: The proposed amendment would (1) add the Seismic Monitoring Instrumentation with a measurement range of 0.01 to 1.0 g to Technical Specifications (TS) Section 3.5.1, Operational Safety Instrumentation; (2) add a basis and an appropriate FSAR reference to the corresponding TS basis section; (3) add the specific instrumentation required (Triaxial Time-History Accelerographs, Triaxial Peak Accelerographs and Triaxial Response-Spectrum Recorders) to TS Table 3.5.1-1 (with the annotation, "with Unit 1 control room indication/or alarm" and "with one or more seismic monitoring instruments inoperable for more than 30 days, prepare and submit a Special Report to the Commission pursuant to Specification 6.12.2 within the next 10 days outlining the cause of the malfunction and the plans for restoring the instrument(s) to Operable status. The provisions of Specifications 3.0.3 and 3.0.4 are not applicable."); and (4) change the current surveillance requirements of TS Table 4.1-1, Item 42, for clarity and to achieve consistency with the Arkansas Nuclear One, Unit 2 (ANO-2) TS requirements. The proposed Technical Specification change will upgrade the ANO-1 Technical Specifications to be consistent with the revision of Regulatory Guide 1.12 applicable to ANO-2 and NUREG-0800.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. Arkansas Power and Light Company (AP&L) has reviewed the proposed change and has determined that it involves no significant hazards consideration, in that operation of the facility in accordance with the proposed amendment would not:

(1) Involve a Significant Increase in the Probability or Consequence of an Accident Previously Evaluated. This change adds a Limiting Condition for Operation and reporting requirements not previously included in the ANO-1 Technical Specifications. The changes proposed to testing requirements are consistent with ANO-2 requirements, vendor recommendations, and NUREG-0800. This will not impact the accident-initiating events described in Chapter 14 of the ANO-1 SAR. The proposed change simply adds reporting requirements for inoperability and provides testing consistent with vendor recommendations designed to extend the instrument lifetime.

(2) Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated. The proposed amendment will not change the overall design and system function of the Seismic Monitoring Instrumentation. The proposed change simply adds a Limting Conditon for Operation (LCO) and reduces the possibility of a missed surveillance by providing consistency in testing with ANO-2 surveillance requirements. The surveillance for systems that have only a passive monitoring function does not create the possibility of a new or different kind of accident.

(3) Involve a Significant Reduction in a Margin of Safety. This change does not involve a significant reduction in the margin of safety; rather, it constitutes an additional LCO requirement not

proposed change and has determined that it involves no significant hazards considerations, in that operation of the facility in accordance with the proposed amendment would not:

Description of amendment request: The proposed amendment would modify Technical Specification Section 3/4.9, "Auxiliary Electrical System," by adding

7.2 states that the power of each of the two reactor protection trip systems is supplied, via a separate bus, by its own high-inertia, a-c motor generator set. The inertia is provided

North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800

not initiators of any previously analyzed accidents. The new battery chargers are operated in a similar manner to the existing chargers which were previously

(3) Involve a Significant Reduction in a Margin of Safety. This change does not involve a significant reduction in the margin of safety; rather, it constitutes an additional LCO requirement not presently included in the ANO-1 TS. The changes to testing frequency in accordance with vendor recommendations will increase the margin of safety by reducing the potential of the equipment being damaged.

The staff has reviewed AP&L's no significant hazards consideration determination analysis and agrees with its conclusion. Therefore, the staff proposed to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: September 26, 1989

Description of amendment request: The proposed amendment would restore the limit on maximum steady state reactor core power level to the originally licensed value of 2568 megawatts thermal (100% of full power). Power has been limited since May 16, 1989, to 80% of full power (Amendment No. 120) because of a design error in the High Pressure Safety Injection (HPI) System. The proposed amendment presumes that a pending modification will restore the HPI system capabilities to within the assumptions of the previous safety analysis.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. Arkansas Power and Light Company (AP&L) has reviewed the proposed change and has determined that it involves no significant hazards considerations, in that operation of the facility in accordance with the proposed amendment would not:

(1) Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated. The modified HPI System will satisfy the emergency core cooling system flow requirements of 100% power, which are bounded by previously evaluated accident assumptions. Since the reactor will still trip from the established setpoint for 100% full power, the effect on previously analyzed accidents will remain unchanged.

(2) Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated since the HPI system performance is not adversely affected but, instead, improved to provide enhanced HPI injection flow distribution during postulated events at full power operation. The HPI modifications will be installed and post-installation testing will be performed in accordance with applicable ASME Code requirements. The testing will verify the system-level HPI performance analysis assumptions.

(3) Involve a Significant Reduction in a Margin of Safety. The proposed change does not involve a significant reduction in a margin of safety since the margins of safety associated with the proposed increase in power level remain consistent with the margins of safety which were determined by the previous safety analyses and accepted in the original licensing of Arkansas Nuclear One, Unit 1.

The staff has reviewed AP&L's no significant hazards consideration determination analysis and agrees with its conclusion. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: September 11, 1989

Description of amendment request: The proposed amendment would modify Technical Specification Section 3/4.9, "Auxiliary Electrical System," by adding Sections 3.9.A.7 and 4.9.A.4. These sections include limiting conditions of operations and surveillance requirements reflecting the installation of Electrical Protection Assemblies to the Reactor Protection System power supplies at the Pilgrim Nuclear Power Station. The bases for Section 3/4.9 are also modified to reflect the proposed changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

A modification to Pilgrim installed redundant Class 1E Electrical Protection Assemblies (EPAs) between the non-Class 1E Reactor Protection System (RPS) power supplies and the Class 1E RPS power supplies. These EPAs consist of a contactor that is opened by (1) an overvoltage greater than or equal to 132 volts, (2) an undervoltage less than or equal to 106 volts, or (3) an underfrequency less than or equal to 57Hz.

The cabinets and conduits for the EPAs are located in a seismic Category 1 structure providing protection from the effects of tornadoes, tornado missiles, and external floods. The components of each monitoring system are also seismically qualified for Class 1E application as required by General Design Criterion (GDC) 2.

There are two physically independent and fully redundant circuit interrupters provided for each RPS bus, including the alternate supply, complying with GDC 21 requirements. This redundancy provides single failure protection in case one EPA does not function properly, and also provides sufficient reliability to ensure the RPS performs its intended safety function.

The Pilgrim Nuclear Power Station (PNPS) Final Safety Analysis Report (FSAR) Section 7.2 states that the power of each of the two reactor protection trip systems is supplied, via a separate bus, by its own high-inertia, a-c motor generator set. The inertia is provided by a high inertia flywheel. The inertia is sufficient to maintain voltage and frequency within 5% of rated values and a frequency of not less than 55 Hz for at least 1.0 second following total loss of power to the MG set. The selection of the proposed EPA trip level settings at 2710% of nominal voltage and -5% of nominal frequency allows the MG set to function within its intended and designed time, voltage and frequency range before the EPAs trip. These settings support the design and function of the high-inertia MG sets, and therefore, support the assumptions made in the FSAR.

Therefore, the design, trip level settings, and intended function of the EPAs are both bounded and support the current PNPS FSAR accident analysis.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not effect the operation or intended function of any currently installed safety related equipment. If all the EPAs at one MG fail to open, the redundant train of RPS is still available to mitigate any design basis accident. The EPAs themselves do not perform any specific safety function, however, they provide additional assurance the RPS can preform its safety function; therefore, their failure is bounded by the current Pilgrim Final Safety Analysis.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

As noted, the EPAs provide no direct safety functions. They isolate non-Class 1E RPS power supplies form Class 1E power distribution buses upon detection of overvoltage, undervoltage, or underfrequency at the RPS power supplies.

Incorporating surveillance requirements for the EPAs into Technical Specifications does not involve a significant reduction in a margin of safety because the surveillances are performed to ensure the EPAs are operable and calibrated to specified values. Ensuring operability and calibration provides confidence that the EPAs can perform their intended function of protecting RPS components from degradation due to overvoltage, undervoltage or underfrequency. Confidence in the EPAs operability increases overall assurance that the RPS can perform its intended safety function. Increasing confidence in an intended safety function being properly performed does not reduce the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. As the result of this review, the staff agrees with the licensee's analysis. Therefore, based on its review, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199

NRC Project Director: Richard H. Wessman

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199

NRC Project Director: Richard H. Wessman

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: May 8, 1989, as supplemented September 20, 1989

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) to: (1) add operability and associated surveillance requirements for battery chargers, (2) add provision of an action statement and clarify surveillance requirements related to the station batteries, and (3) provide editorial clarifications in Section 3.7.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. Carolina Power & Light Company has reviewed the subject TS change request in accordance with the standards set forth in 10 CFR 50.92 and determined that this change does not constitute a significant hazard based upon the following considerations:

1. Operation of the facility, in accordance with the proposed amendment, would not involve a significant increase in the probability or consequences of an accident previously analyzed.

Addition of battery chargers to the TSs will not increase the probability of an accident as the battery chargers are not initiators of any previously analyzed accidents. The new battery chargers are operated in a similar manner to the existing chargers which were previously reviewed during initial licensing. The availability of the new backup chargers would, therefore, tend to decrease the probability of a malfunction of the charging system from impacting the battery mitigating safety function. Accident consequences would not increase since the battery mitigation function would be enhanced by the new TSs in that the new specifications provide limits on unavailability of the charger where no previous limits existed. The addition of backup chargers would further limit charger unavailability thereby enhancing battery availability for its accident mitigation function.

The existing TS required both batteries to be available for criticality. With no specific action statement for loss of a battery, the action required would be that of TS 3.0, i.e., place the unit in hot shutdown within the next 8 hours and cold shutdown within the next 30 hours. Specifically calling this action out at TS 3.7 only clarifies the required action.

Regulatory position C.5 of Regulatory Guide 1.93, December 1974, "Availability of Electric Power Sources" provides the NRC's bases for allowing a 2-hour unavailability time for redundant DC power supplies. This position is the industry standard basis for redundant DC electrical power supply out-of-service times. Since the new action statement incorporated the presently existing shutdown requirement, and the regulatory position is that a 2-hour unavailability for a redundant train is acceptable, no increase in the probability of occurrence or consequences of an accident exists. Since this is a restatement of an existing shutdown requirement for existing equipment, no malfunction of equipment can be introduced.

The proposed TS 4.6.3.5 and 4.6.3.6 imposes the requirement to load test the battery and perform a service test to assess the battery design duty cycle following a battery change or a significant load change. The accepted standard guidance for this test is IEEE 450-1980 and was committed to by CP&L. The procedures implementing these TSs conform to that guidance. Since they are performed based on an accepted standard, there is no increase in the probability of occurrence or consequences of an accident or malfunction of equipment important to safety previously analyzed.

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2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The new chargers are operated in a manner similar to the existing chargers which were previously reviewed. Therefore, no accident or malfunction of a different type than previously evaluated is created.

As noted in 1 above, an existing shutdown requirement is restated in a different place for clarification. The unavailability time is that allowed by NRC per Regulatory Guide 1.93. Since this is a restatement of an existing shutdown requirement for existing equipment. This item can not create the possibility for an accident or malfunction of a different type.

For the same reasons stated in 1 above, this item cannot create the possibility for an accident or malfunction of a different type.

3. Operation of the facility, in accordance with the proposed amendment, would not involve a significant reduction in a margin of safety.

The TSs Bases state the margin of safety as follows: "One battery charger shall be in service so that the batteries will always be at full charge in anticipation of a loss-of-AC power incident. This ensures that adequate DC power will be available for emergency uses." In addition, "station batteries will deteriorate with time, but precipitous failure is extremely unlikely. The surveillance specified is that which has been demonstrated over the years to provide an indication of a cell becoming unserviceable...."

The changes to the TS as proposed provide limiting conditions and actions where none previously existed or clarify the testing to be performed to assure adequacy. The margin of safety as expressed above is embodied in the 1-hour duty cycle of the batteries and the capability of the plant to be shut down with one of the redundant batteries unavailable as documented in the FSAR.

A recent modification assured that the backup chargers provided were adequately sized to supply the duty cycle noted. Carolina Power & Light Company's commitment to IEEE 450-1980 assures the testing performed will assess the capacity of the batteries. Since none of the changes noted diminish the duty cycle nor the plant's shutdown capability, the margin of safety is preserved.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: August 24, 1989

Description of amendment request: The request amendment the Technical Specifications (TS) Figures 3.10-4 and 3.10-5. The proposed amendment to those Figures would result in less restrictive power distribution limitations. The proposal would incorporate the results of analyses using new three dimensional analytical technique that more explicitly models the plant-specific core power distributions.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. Carolina Power & Light Company (the licensee) has reviewed the subject TS change request in accordance with the standards set forth in 10 CFR 50.92 and determined that this change does not constitute a significant hazards consideration based upon the following:

A. Evaluation of Figure 3.10-4, V(Z) Curves

1. Would the operation of the facility involve a significant increase in the probability or consequences of an accident previously evaluated?

a. Operation of the reactor using the PDC-3 V(Z) curves illustrated in Figure 3.10-4 insures compliance with all previously established limitations assumed in Chapter 15 on power distribution. Specifically, the proposed V(Z) curves predict the potential increase in FQ(Z) due to normal routine, Technical Specification-allowed, core maneuvers and as a result of accumulated exposure effects.

As in the NRC-approved PDC-II methodology, application of V(Z) to the steady state values of FQ(Z), obtained via monthly flux maps, assures that the UFSAR Chapter 15 post-accident peak clad temperatures will not exceed 2200° F. Since implementation of the new PDC-3 V(Z) curves will not compromise compliance with limits on the maximum FQ(Z), the consequences of a previously evaluated accident will not be increased.

b. Implementation of the PDC-3 V(Z) curves will involve no changes in equipment, systems, or setpoints used in determining the probability of an evaluated accident. Therefore, no increase in the probability of a previously evaluated accident will result.

2. Would the operation of the facility create the possibility of a new or different kind of accident from any accident previously evaluated?

Implementation of the PDC-3 V(Z) curves will not allow operation of the plant outside any of the parameters or conditions assumed in UFSAR Chapter 15 analyses. No changes in equipment, systems, or setpoints designed to prevent and/or mitigate accidents will be made. Also, no changes in the plant design basis are made. Therefore, the possibility of a new or different kind of accident is not created.

3. Would the operation of the facility involve a significant reduction in the margin of safety?

The margins to safety are defined by TS limits on power distribution, specifically FQ(Z), as developed by the Chapter 15 safety analysis. The V(Z) curves currently in the TSs were developed using the NRC-approved PDC-2 methodology; the proposed V(Z) curves were developed using PDC-3 methodology. The differences in the two PDC versions is [sic] due to the analytic method of generating data. PDC-2 is based on synthesis of 1-D axial and radial power distributions while PDC-3 is based upon 3-D simulations of core power distributions. Additionally, PDC-2 is based on evaluations of the behavior of a generic PWR core. The results were determined to bound H. B. Robinson. The proposed PDC-3 curves were generated by a plant-specific analysis and the conservatisms necessary to make PDC-2 generic were not included in PDC-3.

As a result of these differences, the PDC-2 V(Z) curves were found to over predict the potential increases in FQ(Z) during allowed core maneuvers. The over predictions prevent the use of available operating margin and, therefore, could unnecessarily restrict plant operations. Quantitatively, the PDC-3 V(Z) penalties in the central and upper axial regions of the core will be reduced by about 3.5% for the 275% axial flux difference bands and by 2.5% to 3.0% for the 273% bands. This reduction in penalty allows for greater utilization of the 275% axial flux difference bands which will provide improved capability to respond to plant transient and off normal behavior.

Since the PDC-3 V(Z) curves are less restrictive than the PDC-2 V(Z) curves, an expanded set of core transient maneuvers (relative to PDC-2) was used to develop the new curves. This expanded set was run to insure the less restrictive curve remained conservative relative to the margin of safety.

As a direct result of the reduction in penalties, PDC-3 will allow operation with slightly higher total peaking factors (relative to PDC-2) during steady state operation. However, the power distribution limitations provided by PDC-3 insure compliance with the 2.32 power adjusted Technical Specification limit on total peaking factor FQ(S) during all allowed plant maneuvers. Since PDC-3 is related to LOCA analyses through the total peaking factor limit, and since PDC-3 continues to show compliance with the present thermal limits, the existing Chapter 15 LOCA analyses remain valid. This provides the basis for the determination the the margin of safety has not been significantly reduced.

B. Evaluation of Figure 3.10-5, Target Flux Difference

1. Would the operation of the facility involve a significant increase in the probability or consequences of an accident previously evaluate?

a. PDC-3 procedures, like PDC-2, allow operation outside the 273 or 275% bands for a limited amount of time for power levels at 90% or below. The increased operational flexibility is due to the increase in TS FQ(Z) limits as power decreases. For power levels between 50 and 90% (inclusive), the deviation outside the target bands is defined by the "doghouse" curves illustrated in Figure 3.10-5. The magnitudes of the allowed variations are set so that the resulting reduced power V(Z) curves are still bounded by the full power curves, that is, the expected increases in FQ(Z) at lower power levels are bounded by the expected increases at full power. These variations are necessarily determined for both the 273% and 275% bands. Consistent with current TSs, operation outside the target bands is limited to one hour cumulative in any 24-hour period, after which corrective actions are required. The one-hour time limit is imposed to preserve the equilibrium xenon distribution and avoid axial xenon oscillations which may induce power distribution oscillations that cause unacceptable peaking.

As with the V(Z) curves, Figure 3.10-5 was developed using the 3-D XTG Nodal Simulator, the expanded set of core transient maneuvers, and the specific characteristics of H. B. Robinson as opposed to a generic plant. Also, since the Chapter 15 analyses define the thermal peaking margins to safety, and the limitations on variations outside the target bands insure compliance with thermal limits, the consequences of an accident previously evaluated will not be increased.

b. Implementation of PDC-3 Figure 3.10-5 will involve no changes in equipment, systems, or setpoints used in determining the probability of an evaluated accident. Therefore, no increase in the probability of a previously evaluated accident will occur.

2. Would the operation of the facility create the possibility of a new or different kind of accident from any accident previously evaluated?

Implementation of the PDC-3 Figure 3.10-5 curves will not allow operation of the plant outside any of the parameters or conditions assumed in Chapter 15 analyses, particularly those dealing with power distribution limitations. No changes in equipment, systems or setpoints designed to prevent and/or mitigate accidents will be made. Also, no changes in the plant design basis are made. Therefore, the possibility of a new or different kind of accident is not created.

3. Would the operation of the facility involve a significant reduction in the margin of safety?

The curves illustrated in Figure 3.10-5 were developed using the improved PDC-3 methodology described earlier. The margins to safety are defined by Chapter 15 analyses related to power distribution and are defined in terms of thermal peaking limits, specifically F [delta] H and FQ(Z). PDC-3 methodology is designed to insure compliance with FQ(Z) limits by controlling the variation in axial offset about a target, thus controlling the axial power distribution, and by preserving the equilibrium axial xenon distribution, to prevent localized power perturbations. Compliance with F [delta] H limits is controlled by TSs unrelated to PDC-3.

At power levels at and below 90% additional flexibility in plant operations beyond the target, bands is needed to allow for tests and calibrations. The "doghouse" curves in Figure 3.10-5 provide this flexibility while limiting its duration. In Figure 3.10-5, the maximum allowable deviations outside the target bands are illustrated for both the 273% and 275% target bands. Basically, the curves indicate that axial flux differences outside the target bands, but within the "doghouse" curves, will not result in unacceptable axial power distributions and will not initiate unacceptable xenon oscillations if the AFD is returned to the target bands within one hour. Note that thermal limits on FQ(Z) increase with decreasing power and that the one-hour time limit is cumulative for any 24-hour period.

Since the curves in Figure 3.10-5 insure compliance with FQ(Z) limits as defined in Chapter 15, they were developed with improved PDC-3 analyses, and they are based on PDC-3 V(Z) curves, which were shown not to significantly reduce the margin of safety, no significant reductions in the margins to safety will occur because of their implementation.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: February 22, 1989, as supplemented June 7, 1989, August 22, 1989 and October 11, 1989

Brief description of amendment: The amendment changes the Shearon Harris Power Plant, Unit 1, (Harris) Surveillance Requirement (SR) 4.9.8.2 which is part of Technical Specification (TS) 3.9.8.2, Refueling Operations - Low Water Level. The existing surveillance requirement covers operation over the

entire range of low water levels encountered for refueling operations. The requested change would divide the existing SR into two separate surveillances and reduce the minimum

Accident initiating events where snubbers must keep systems operable are independent of the frequency of performing visual inspection of the

Therefore, based upon the above analysis, the staff concludes that the proposed amendment to the Technical Specification does not involve a

The licensee has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a). The Commission has reviewed the licensee's evaluation and agrees

50.92(c) would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from

Mode 6 (refueling) operation, when the Reactor Coolant System (RCS) is partially drained, from greater than or equal to 3000 gpm to greater than or equal to 1000 gpm, (2) add a Surveillance

entire range of low water levels encountered for refueling operations. The requested change would divide the existing SR into two separate surveillances and reduce the minimum flow requirement when the water level is below the top of the reactor vessel flange in Mode 6 (refueling).

Date of issuance: October 18, 1989
Effective date: October 18, 1989
Amendment No. 14

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 19, 1989 (54 FR 15823) and renoticed on September 26, 1989 (54 FR 39485) The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration is contained in a Safety Evaluation dated October 18, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket No. 50-454, Byron Station, Unit No. 1 Ogle County, Illinois

Date of application for amendment: October 13, 1989

Description of amendment request: These amendments would allow a one-time extension of the interval for performance of the visual inspection of inaccessible snubbers.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92, a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. This proposed amendment involves a one-time extension of the Technical Specification surveillance interval for performing the inaccessible snubbers visual inspection on Unit 1. This amendment would permit the visual inspection to be performed during the third refueling outage rather than within 12 months 2725% from the last time the surveillances were performed.

Accident initiating events where snubbers must keep systems operable are independent of the frequency of performing visual inspection of the snubbers. Therefore, extending the surveillance interval does not affect the probability of an accident occurring. The consequences of an accident should not be significantly increased for several reasons. The extensions to the surveillance interval is short so the probability of a seismic or transient event occurring that requires snubber response is extremely small. Prior to startup after the last refueling, all Unit 1 snubbers were determined operable as required by the Technical Specification surveillances. Since startup, containment access has been limited so damage from personnel in containment is minimized. Also, the snubbers are early in their design life of approximately 40 years so their operation is anticipated to be reliable. The Station is not aware of any seismic or transient events since the last refueling that may have made any snubbers inoperable. Therefore, there is a high degree of confidence that the snubbers should be capable of performing their intended safety function during the short surveillance extension period.

The extension of the snubber inspection surveillance interval does not involve any equipment additions or modifications at the station or cause the station to be operated in a different manner. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

The purpose of installed snubbers is to ensure structural integrity of the system following a seismic event or other events initiating dynamic loads. Since the probability of a seismic or transient event occurring during the surveillance extension period is remote, and the probability that a snubber will not function and impact system integrity is small, the proposed Technical Specification amendment has minimal impact on the safe operation of the plant. The snubbers were determined operable following their last inspection interval and no events have occurred at the plant to suspect they may be inoperable. The possibility of a common mode failure or serious degradation in snubber performance which would affect more than one component or system is highly unlikely. The plant is designed to mitigate the consequences of an accident with a single failure of a component or a system. Therefore, the proposed amendment should not significantly impact the margin of safety.

Therefore, based upon the above analysis, the staff concludes that the proposed amendment to the Technical Specification does not involve a significant hazards consideration.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Attorney to licensee: Michael Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Paul C. Shemanski, Acting

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 12, 1988, supplemented on September 22, 1989 and September 25, 1989

Description of amendment request: The proposed amendment would revise certain provisions in the Palisades Plant Technical Specifications (TS) relating to the Primary Coolant System (PCS) operable components, PCS heatup and cooldown rates, PCS pressure/temperature limits, PCS overpressure protection system set points and operating requirements, and Emergency Core Cooling System (ECCS) operability requirements.

Additionally, it is proposed to modify certain surveillance requirements associated with certain of the above changes. Specifically, the proposed amendment would modify TS Sections 3.1.2, 3.1.6, 3.3.1, 3.3.2, 4.1.1, and 4.6.1, and Figures 3-1, 3-2, 3-3, and 3-4. These changes are proposed to permit the operation of a variable set point control system for low-temperature overpressure protection system, and to account for the use of Regulatory Guide 1.99 (Rev. 2) for the determination of reactor vessel heatup and cooldown limits. Additionally, the revised curves permit extending the range of operability of the ECCS.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92(c) this means that the operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a). The Commission has reviewed the licensee's evaluation and agrees with it. The licensee concluded that:

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated in (10 CFR 50.92(c)(1)). The previously postulated conditions which could result in exceeding the limits of 10 CFR Part 50, Appendix G are mass injection by the charging and/or high pressure safety injection pump(s) or heat injection by startup of an idle loop while the steam generator temperature is higher than the PCS cold-leg temperature. Analyses of these conditions assuming the proposed TS changes are in effect show that the Appendix G limits are not exceeded. Furthermore, although the range of operability of the ECCS has been extended, inadvertent operation of the high pressure safety injection pump(s) will not violate Appendix G limits.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed changes only alter the PCS temperature/pressure relationships in specified temperature ranges and allows for extending the operability range of the ECCS.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the required margins for safety are specified by Appendix G and are unchanged by the proposed amendment.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John O. Thoma, Acting.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: July 24, 1989

Description of amendment request: Amend the license to reflect the purchase by Detroit Edison of Wolverine Power Supply Cooperative, Inc's ownership in Fermi-2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility in accordance with 10 CFR 50.92(c) would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the requirements of 10 CFR 50.92. We have reviewed the licensee's evaluation and concur with it. The licensee concluded that:

1. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because there will be no physical changes to the facility and all operating procedures, limiting conditions for operation, limiting safety system settings, and safety limits currently delineated in the Technical Specifications remain unchanged.

2. The change does not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated (10 CFR 50.92(c)(2)) because neither plant operation or design are affected by the proposed change. The proposed amendment creates no new accident scenario.

3. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because there will be no physical changes to the facility and the requirements delineated in the current Technical Specifications for limiting conditions for operation, limiting safety system settings, and safety limits remain unchanged.

On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: John O. Thoma, Acting.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 6, 1989, as supplemented September 6, 1989

Description of amendment request: The proposed amendments would revise Technical Specifications (TSs) 3/4.9.8.1 and 3/4.9.8.2, and their associated Bases to: (1) reduce the required Residual Heat Removal (RHR) system flow rate during Mode 6 (refueling) operation, when the Reactor Coolant System (RCS) is partially drained, from greater than or equal to 3000 gpm to greater than or equal to 1000 gpm, (2) add a Surveillance Requirement to ensure that the RCS temperature is maintained below 140° F, and (3) provide the technical justification for the revision in TS Bases 3/4.9.8.

The RHR flow rate ensures sufficient cooling capacity is available to remove decay heat and maintain the water in the reactor vessel below 140° F as required during refueling. The flow rate also ensures sufficient coolant circulation is maintained through the core to minimize the effect of a boron dilution incident and prevent boron stratification.

On October 17, 1988 the NRC issued Generic Letter (GL) 88-17 to licensees. The GL program enhancement recommended that licensees identify and submit appropriate changes to TSs that restrict or limit the safety benefit of actions identified in GL 88-17. Allowing the flow rates to be reduced will aid in preventing vortexing and air entrainment into the RCS and RHR system. As long as an RHR pump is running, even at flow rates as low as 1000 gpm, there is enough mixing in the flow to ensure no boron stratification occurs in the RCS.

The licensee also reviewed the proposed TS amendments with regard to the concerns raised by NRC Bulletin 88-04, "Potential Safety-Related Pump Loss". Specifically, operating the RHR pumps at flow rates less than 3000 gpm will increase the stress on the pump lower bearings. The licensee will monitor the bearing wear and will replace the bearings if inspection reveals significant degradation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated because

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the reduction in flow will not keep the RHR system from fulfilling its safety functions. The system will continue to remove enough residual heat to maintain the RCS below 140° F, and prevent boron dilution and boron stratification. Two RHR trains will still be required operable when there is less than 23 feet of water above the reactor vessel flange. This will ensure that a single failure of the operating RHR train will not result in a complete loss of system capability. This revision will also reduce the probability of losing the RHR system due to vortexing or air entrainment.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated because the lower flow rates would still allow the RHR system to fulfill its intended safety functions. Also, the requested revision would not introduce any new modes of operation and would not affect the design of the facility.

The proposed amendments would not involve a significant reduction in a margin of safety because the proposed revision would still allow the RHR system to fulfill its intended safety functions and would reduce the probability of rendering the RHR system inoperable.

Based on the above considerations, the Commission proposes to determine that the requested revision does not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: September 25, 1989, as supplemented October 18, 1989

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to account for minor changes in power peaking and control rod worths resulting from the Oconee Unit 3 core reload. These TS changes are necessary to support operation of Oconee Unit 3 Cycle 12 at full rated power. In addition, the use of the VIPRE thermal hydraulic code would be referenced and all specifications associated with two reactor coolant pump operations would be deleted. The VIPRE code was previously approved by the NRC for use at Oconee Units 1, 2 and 3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In regard to the proposed amendments, the licensee provided an evaluation of the proposed changes with respect to these three standards:

(1) The effect of the Oconee Unit 3 Cycle 12 reload on each accident analysis addressed in the Oconee Final Safety Analysis Report (FSAR) is bounded by previously accepted analyses. Section 7 of the Oconee Unit 3 Cycle 12 Reload Report provides an analysis for accidents and transients for this core reload. This analysis determined that the proposed changes will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The deletion of specifications associated with two reactor coolant pump operations results in more stringent requirements than the present TS requirements. Incorporation of the VIPRE thermal hydraulic code into TS references is an administrative change only. As such, these changes will not involve an increase in the probability or consequences of any accident previously evaluated.

(2) The fuel assemblies proposed for this reload are not significantly different from those previously found acceptable to the NRC nor significantly different to previous cores at Oconee Unit 3. The analyses performed in support of this reload were done in accordance with NRC guidance and were determined to be bounded by previously accepted analyses. As such, the proposed changes will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

The deletion of TS associated with two reactor coolant pump operation results in more stringent operating requirements than are presently in the TS, while incorporation into TS references of the VIPRE thermal hydraulic code is an administrative change only. The VIPRE code has been previously reviewed and approved by the NRC. Thus, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The value limits and margins in the areas of fuel system design, nuclear design and thermal hydraulic design are well within allowable limits and requirements. Sections 4, 5, and 6 of the Oconee Unit 3 Cycle 12 Reload Report address these design areas. Therefore, these TS changes do not involve a significant reduction in a margin of safety.

Changes which delete provisions for two pump operation result in additional limitations not presently in the TS, while incorporation of the VIPRE thermal hydraulic code is administrative in nature. As such, these changes will not result in a significant reduction in a margin of safety.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Bishop, Lieberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: October 2, 1989

Description of amendment request: The proposed amendment would revise Technical Specifications Table 4.4-5 and Bases Section 3/4.4.9 to change the reactor vessel material surveillance capsule removal schedule to comply with the requirements of ASTM E 185-82. The current surveillance program in use at Unit 1 is based on the requirements of ASTM E 185-73 which was the edition in effect when the reactor vessel was purchased. Appendix H to 10 CFR Part 50 requires that the requirements of ASTM E 185-82 be met, to the extent practical, for capsule withdrawals after July 26, 1983. This amendment application revises the surveillance program schedule for

removal of capsules to comply with the requirements of ASTM E 185-82. As proposed by the licensee, the revised surveillance program will result in better predictions of reactor vessel material embrittlement.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee provided the following no significant hazards consideration analysis that addressed the above three criteria:

Criterion 1

Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current St. Lucie Unit 1 surveillance capsule withdrawal schedule is based upon the original licensing withdrawal schedule. Subsequently, ASTM E 185-82 has been developed which recommends capsule removal numbers and intervals which are more representative of the reactor pressure vessel embrittlement at the 1/4 T and inner diameter (ID) locations. The proposed amendment will result in better predictions of reactor vessel material embrittlement in accordance with the requirements of 10 CFR 50 Appendix H. Additionally, the same number of surveillance capsules will be removed in the proposed removal schedule as are currently required to be removed. Accordingly, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment revises the St. Lucie Unit 1 surveillance capsule withdrawal schedule to more accurately represent vessel embrittlement at the 1/4 T and ID locations. This improved schedule follows the recommendations of ASTM E 185-82 and meets the requirements of 10 CFR 50 Appendix H. Additionally, the same number of surveillance capsules will be removed in the proposed removal schedule as are currently required to be removed. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

Criterion 3

Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The revised surveillance capsule withdrawal schedule provides for more realistic determination of reactor pressure vessel material embrittlement at the 1/4 T and ID locations. These determinations result in more refined evaluations of material transition temperature shifts to meet the requirements of 10 CFR 50 Appendix H. The more refined removal interval takes into account current neutron fluence projections which were not available at plant licensing 13 years ago. This results in a program meeting the recommendations of ASTM E 185-82. Additionally, the same number of surveillance capsules will be removed in the proposed removal schedule as are currently required to be removed. Therefore, the proposed amendment does not involve a reduction in a margin of safety.

Based on the above, we have determined that the amendment request does not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the probability of an new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety, and therefore does not involve a significant hazards consideration.

The NRC staff has reviewed the proposed changes and the licensee's no significant hazards consideration analysis and finds them acceptable. Therefore, the staff proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: June 22, 1989, as amended on July 31, 1989, and October 4, 1989.

Description of amendment request: The amendments would modify the Technical Specifications (TS) for Units 1 and 2 to:

1. Replace the values of cycle-specific parameter limits in core-related specifications with a reference to a Core Operating Limits Report which will contain the values of these limits. This change also would modify the Definitions sections of the TS to include a definition of the Core Operating Limits Report, and would modify the Administrative Controls sections of the TS to require that cycle-specific parameter limits be established and documented in the Core Operating Limits Report;

2. Reduce from 20% to 10% the rated thermal power level below which Control Rod Program Control function is required; and

3. Revise the Bases and Definitions to permit use of NRC-approved transition boiling correlations other than GEXL.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee's June 22, 1989, submittal provided an evaluation of the proposed changes with respect to these three standards, as follows:

[Proposed Change 1] would revise Technical Specifications 3.3.F, 3.11.A, 3.11.C, 4.11.C, and associated Bases of the Unit 1 Technical Specifications and 3.1.4.3, 3/4.2.1, 3/4.2.3, and associated Bases of the Unit 2 Technical Specifications to replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report which contains the values of those limits. In addition, the Core Operating Limits Report has been included in the Definitions Section of the Technical Specifications to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes that the values of these cycle-specific parameter limits are to be determined in accordance with Specification 6.9.1.11. This Specification requires that the Core Operating Limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. Finally, this report and any mid-cycle revisions shall be provided to the NRC upon issuance. Generic Letter 88-16 dated October 4, 1988, from the NRC provided guidance to licensees on requests for removal of the values of cycle-specific parameter limits from the Technical Specifications. This proposed change is in reponse to Generic Letter 88-16. This

proposed change does not involve a significant hazards consideration for the following reasons:

1. The proposed change on the removal of the values of cycle-specific limits does not involve a significant increase in the probability or consequences of an accident previously evaluated. Establishment of these limits in accordance with an NRC-approved methodology and the incorporation of these limits into the Core Operating Limits Report will ensure that proper steps will be taken to establish the values of these limits. Furthermore, the submittal of the Core Operating Limits Report will allow the NRC to continue to trend the values of these limits.

2. The revised specifications with the removal of the values of cycle-specific parameter limits and the addition of the referenced report for these limits does not create the possibility of a new or different kind of accident from those previously evaluated.

3. The revised specifications also do not involve a reduction in the margin of safety, since this change does not alter the methods used to establish the cycle-specific parameter limits.

[Proposed Change 2 would] revise Unit 1 Technical Specifications 3.3.G and 4.3.G and Unit 2 Technical Specifications 3.1.4.1, 3/4.1.4.2, 3/4.10.2, and associated Bases to reduce the core power level below which operation of a Control Rod Program Control (CRPC) is required from 20 percent to 10 percent of rated thermal power. The change will also revise Unit 2 Technical Specifications for other plant systems which refer to this power level (i.e., Technical Specifications 4.1.3.1, 3.1.4.3, 3/4.3.5, and associated Bases) to clarify and maintain conservative operability or surveillance requirements for those systems. Appropriate changes are proposed for the Technical Specifications Bases.

This proposed change does not involve a significant hazards consideration for the following reasons:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because it pertains to operability requirements for equipment that blocks control rod movement (except for scrams) when conditions warrant. None of the accidents previously evaluated can be initiated as a result of any action or lack of action by that equipment. Analyses have shown that the consequences of accidents previously analyzed, including the design basis Rod Drop Accident (RDA), would not be significantly increased as a result of this change.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously analyzed, because the change in plant operation associated with this change is insignificant in this respect. No accidents can be initiated as a result of any action or lack of action by the equipment involved in this change.

3. The proposed change does not involve a significant reduction in the margin of safety, because the acceptance criteria for the design basis RDA are met even when this change is implemented.

[Proposed Change 3 would] revise the Technical Specifications Definitions (Unit 2) and Bases (Units 1 and 2), replacing the references to the GEXL transition boiling correlation with references to "an NRC-approved critical power (or transition boiling) correlation." This change is intended to permit the use of approved correlations other than GEXL for determination of the Minimum Critical Ratio (MCPR).

This proposed change does not involve a significant hazards consideration for the following reasons:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because NRC-approved methods will continue to be applied to demonstrate compliance of Hatch fuel to all Specific Acceptable Fuel Design Limits.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The use of other approved correlations may facilitate operation with more efficient fuel loading configurations. However, core operation will be similar enough to current practices that no new accidents could result.

3. The proposed change does not involve a significant reduction in the margin of safety because this change does not involve a change in any fuel safety or design limits.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and, therefore, proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: October 20, 1989

Description of amendment request: The amendments would modify the Technical Specifications (TS) to: (1) add a definition of end-of-cycle recirculation pump trip (EOC-RPT) system response time to the Unit 2 TS as well as increase the response time acceptance criteria; and (2) add the EOC-RPT system response time acceptance criteria to the Unit 1 TS with a note defining EOC-RPT system response time.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee's October 20, 1989, submittal provided an evaluation of the proposed changes with respect to these three standards. In that submittal, the licensee states that Proposed Changes 1 would add a modified Standard Technical Specification (STS) definition of EOC-RPT reponse time to the Unit 2 TS, and change the EOC-RPT response time acceptance criteria from 135 milliseconds (ms) to 155 ms for the test associated with Turbine Stop Valve (TSV) closure and to 175 ms for the test associated with Turbine Control Valve (TCV) fast closure.

They further state that the changes do not involve a significant hazards consideration because:

1. They do not involve a significant increase in the probability or consequences of an accident previously evaluated because the RPT system will not be altered in any way and will continue to function and respond as described in Unit 2 Final Safety Analysis Report (FSAR) Sections 5.5.16 and 15.1.1.1.2. The proposed changes, which are based on the STS, will result in testing that verifies the pump trip system response as currently described in the Unit 2 FSAR (Section 15.1.1.1.2). The proposed changes will result in a more complete, accurate, and meaningful test.

2. They do not create the possibility of a new or different kind of accident from any accident previously evaluated because the RPT system will not be altered by the changes. The trip system will continue to respond (trip) on the present signals at the present trip setpoints. The result of its response to a trip signal will continue to be as described in the FSAR. No other response or function will be possible because these changes will not result in physical changes to the logic system, its inputs, or its outputs.

3. They do not involve a reduction in the margin of safety because the proposed test definition and acceptance criteria match those given in Unit 2 FSAR Section 15.1.1.1.2 within the limitation of the actual EOC-RPT response time measurement. The test definition is taken from the STS and the acceptance criteria are based on the defined test. The proposed changes actually result in better and more meaningful testing of EOC-RPT. The proposed testing would better verify the RPT system's ability to perform its intended function in its intended manner as defined in the TS Bases and the Unit 2 FSAR.

The licensee also states that Proposed Change 2 would add the EOC-RPT response time acceptance criteria of 175 ms for the test associated with the TCV and 155 ms for the test associated with the TSV to the Unit 1 TS, along with a note defining EOC-RPT system response times. The note includes specification of the surveillance frequency for consistency with the Unit 2 TS and the BWR/4 STS. Further, they state that the change does not involve a significant hazards consideration because:

1. It does not involve a significant increase in the probability or consequences of an accident previously evaluated because the addition of test acceptance criteria does not reflect any changes in the physical arrangement or function of the RPT logic. The change provides additional requirements not presently in the TS and clarifies the surveillance frequency for consistency between the Unit 1, Unit 2, and BWR/4 STS requirements.

2. It does not create the possibility of a new or different kind of accident from any accident previously evaluated because the RPT system will not be altered by the change. The trip system will continue to respond (trip) on the present signals at the present trip setpoints. The result of its reponse to a trip signal will continue to be as described in the FSAR. No other response or function will be possible because this change will not result in physical changes to the logic system, its inputs, or its outputs.

3. It does not involve a reduction in the margin of safety because the EOC-RPT acceptance criteria are consistent with that currently assumed in the FSAR and subsequent reload analyses. Adding the acceptance criteria constitutes an additional limitation not presently included in the TS and clarifies the surveillance frequency allowing consistency between the testing requirements for both units.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and, therefore, proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of amendment request: September 18, 1989

Description of amendment request: The amendment would modify the Technical Specifications (TS) for Unit 2 to reduce the Minimum Critical Power Ratio (MCPR) Safety Limit from the current value of 1.07 to 1.04 for two-loop operation (TLO) and from 1.08 to 1.05 for single-loop operation (SLO). In addition, the associated Bases sections will also be revised.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee's September 18, 1989, submittal provided an evaluation of the proposed changes with respect to these three standards. In that submittal, the licensee states that the proposed change would reduce the MCPR Safety Limit from the current value of 1.07 to 1.04 for two-loop operation (TLO) and from 1.08 to 1.05 for single-loop operation (SLO). They further state that the change does not involve a significant hazards consideration because:

1. It does not involve a significant increase in the probability or consequences of an accident previously evaluated because the use of high bundle R-factor fuel results in increasing conservatism with respect to the current MCPR Safety Limit. Consequently, removal of this added conservatism translates into a MCPR reduction that allows for higher energy cycles and more efficient fuel utilization without compromising plant safety.

2. It does not create the possibility of a new or different kind of accident from any accident previously evaluated because it does not involve any change in plant equipment design or function.

3. It does not involve a reduction in the margin of safety because NRC-approved codes and methods were used to determine that the proposed 1.04 MCPR Safety Limit will conservatively ensure that 99.9% of the fuel rods will avoid transition boiling during the worst abnormal operational occurrence if the core contains two successive reloads of high R-factor fuel. Additional confirmatory evaluations determined that the corresponding SLO MCPR Safety Limit is 1.05.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission has determined that the requested amendment meets the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: July 28, 1989

Description of amendment request: The proposed amendments would revise Technical Specification 3.4.9, "Pressure/Temperature Limits," and the associated bases concerning the applicable number of effective full power years (EFPY) of plant operation for Vogtle Unit 1. Based upon an analysis performed by Westinghouse Electric Corporation in response to Generic Letter 88-11, the applicability of the Unit 1 heatup and

cooldown curves decreased from 16 EFPY to 13 EFPY.

Basis for proposed no significant hazards consideration determination:

and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B.

introduced by the change, a new or different kind of accident cannot result.

3. The proposed change does not

not increase, and may reduce the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or

an accident previously evaluated. The proposed revisions to the MTC, and Allowable LHR limits preserve the existing acceptance criteria for the design basis accidents of concern and maintains the

Requirements on Primary Coolant Iodine Spikes," dated September 27, 1985.

Basis for proposed no significant hazards consideration determination:

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cooldown curves decreased from 16 EFPY to 13 EFPY.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In regard to the proposed amendments, the licensee has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change in the number of effective full power years only indicates the length of time the curves in the Technical Specifications are applicable. The actual heatup and cooldown curves are not changed. As long as the heatup and cooldown curves are adhered to, there is no danger of non-ductile failure to the reactor vessel or reactor coolant system.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. There is no change to the existing heatup or cooldown curves. Since a new failure mode, or non-conservative curve is not introduced by the change, a new or different kind of accident could not result.

3. The proposed change does not involve a significant reduction in a margin of safety. The margin of safety is provided in the heatup and cooldown curves. The number of applicable effective full power years only indicates the number of years that the heatup and cooldown curves can be utilized. Operating within the existing curves does not reduce the level of protection.

The Commission's staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of amendment request: July 31, 1989

Description of amendment request: The proposed amendment would add two phrases which were incorrectly omitted from the Unit 1 Antitrust License Conditions. The changes would revise paragraph (1)(a) of Appendix C to Facility Operating License NPF-68 as follows: insert "owning, operating or proposing to own or operate equipment" in line 3 before the phrase "or facilities within the State..."; and insert "or rate schedule on file with and subject to the regulation" in line 10 before the phrase "of the Public...".

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In regard to the proposed amendment, the licensee has determined the following:

1. The proposed change does not involve an increase in the probability or consequences of an accident previously evaluated. The change concerns the Antitrust License Conditions and therefore does not affect any plant equipment or the manner in which the plant is operated. Consequently, the proposed change can have no effect on the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not introduce any new equipment or require existing equipment to operate in a manner different from that in which it was designed to operate. Since no new failure modes are introduced by the change, a new or different kind of accident cannot result.

3. The proposed change does not involve any reduction in margin of safety. No safety limits or limiting safety system settings are involved. Furthermore, the proposed change does not affect any other parameter which appears in the Technical Specifications. Therefore, margin of safety is not affected.

The Commission's staff has reviewed the licensee's analysis and concurs with the analysis.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: September 15, 1989

Description of amendment request: The proposed request would revise the Technical Specification criteria for Once Through Steam Generator (OTSG) tube inspections by adopting the guidelines published in August 1988 by the Electric Power Research Institute (EPRI). The proposed program would increase the initial inspection scope from 3% to 20% per OTSG each refueling outage and would employ plant-specific and industry-wide experience and degradation history as the basis for expanding the scope of the testing in the event that degradation is detected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), GPU Nuclear Corporation performed an analysis of the requested amendment and concluded that they do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. Increasing the number of tubes inspected so that 100% inspection of every OTSG tube occurs at least once every 5 refueling outages and knowing their condition and implementing appropriate action, as applicable, will not increase, and may reduce the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. This activity primarily changes the quantity of OTSG tubes tested during cold shutdown periods, using standard industry accepted technology.

3. Involve a significant reduction in a margin of safety. The current method calls for inspecting fewer OTSG tubes and does not guarantee 100% inspection of all tubes. The proposed method will lead to more tubes being inspected each outage and 100% of all tubes inspected over 5 refueling outages. Therefore, the overall condition of the tubes will be known and appropriate action taken, if needed, providing reasonable assurance that the margin of safety is not reduced.

The staff has reviewed the proposed amendment and agrees with the licensee's conclusion that it does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: October 4, 1989

Description of amendment request: The proposed change would raise the Technical Specification (TS) limits on Moderator Temperature Coefficient (MTC) and linear heat rate (LHR) and make minor administrative changes to various TS and their bases. These changes would provide additional flexibility for future core designs within the assumptions and acceptance criteria of the Final Safety Analysis Report (FSAR) and 10 CFR Part 50.

Basis for proposed no significant hazards consideration determination: GPU Nuclear Corporation has determined that this proposed TS change poses no significant hazards considerations as defined in 10 CFR 50.92. That determination was as follows:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The proposed revisions to the MTC, and Allowable LHR limits preserve the existing acceptance criteria for the design basis accidents of concern and maintains the existing ECCS acceptance criteria. Therefore, operation in accordance with the proposed amendment does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated. The proposed amendment ensures the plant will be operated in accordance with limits that maintain existing accident analysis and ECCS acceptance criteria and margins of safety, and is unrelated to the possibility of creating a new or different kind of accident.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed revisions to the MTC and the Allowable LHR limits preserve the existing margins of safety defined in the TMI-1 FSAR Chapter 14 Accident Analyses and Technical Specification Bases. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the GPU Nuclear Corporation determination and agrees with their analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: October 6, 1989

Description of amendment request: The proposed changes to the Technical Specifications would reduce the reporting requirements in Section 3.6.C.1.a for iodine spiking from a short-term report to inclusion in the plant Annual Report (TS Section 6.9.1.5) and eliminate the requirement to shutdown the plant if primary coolant iodine activity limits are exceeded for 800 hours in a 12-month period. These changes are in conformance with Generic Letter 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes," dated September 27, 1985.

Basis for proposed no significant hazards consideration determination: NNECO has reviewed the proposed changes, in accordance with 10 CFR 50.92, and has concluded that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, in that they do not affect the allowed plant operating conditions. Therefore, this change does not invalidate the assumptions made in the design basis analysis for the calculation of off-site dose. These proposed changes will not result in physical changes to the plant r changes in the way the plant is operated. Based on current fuel technology, the probability of operating at greater than 0.2 micro Ci/gm Dose Equivalent I-131 for more than eight hundred (800) hours/year is negligibly small such that a Technical Specification limit is no longer necessary. The probability of a main steam line break with a pre-existing iodine spike is not increased by this amendment request; therefore, there is no effect on the probability or consequences of any accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed . The change affects only the reporting requirements and not the plant operating requirements as related to primary coolant iodine spikes. Existing reporting requirements (10 CFR 50.72(b)(1)(ii)) will ensure that appropriate actions are taken.

3. Involve a significant reduction in a margin of safety. Based on current fuel technology, the probability of excessive reactor coolant iodine levels is negligible. In addition, 10 CFR 50.72 requires NRC notification of any event or condition during operation that results in the condition of the nuclear power plant, including its principal safety barriers, being seriously degraded. This would bring attention to a fuel performance problem long before exceeding the present limit.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

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Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: September 25 and October 16, 1989 (Reference LAR 89-13)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to incorporate organizational changes into Section 6.0, "Administrative Controls." The specific TS changes proposed are as follows:

(1) TS 6.2.3, "Onsite Safety Review Group," would be revised to change Manager, Nuclear Operations Support, to Manager, Nuclear Safety Assessment and Regulatory Affairs. This change is consistent with Nuclear Power Generation (NPG) organizational changes and consolidation of activities related to independent assessments of plant safety.

(2) TS 6.5.3.2, "GONPRAC Composition," would be revised to change the Chairman from Vice President, Nuclear Power Generation, to Manager, Nuclear Safety Assessment and Regulatory Affairs; change the Vice Chairman from Assistant to the Vice President, Nuclear Power Generation, to Manager, Nuclear Operations Support; and delete the Director, Nuclear Administration and Support Services, as a GONPRAC member. These changes are consistent with the NPG organizational changes made to consolidate and strengthen activities related to independent technical assessments of plant safety.

(3) TS 6.5, "Review and Audit," and 6.7, "Safety Limit Violation," would be revised to change reference to the President to reference to the Vice President, Nuclear Power Generation. These changes are consistent with the changes proposed for TS 6.5.3.2 regarding the composition of GONPRAC.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee, in its submittals of September 25, 1989, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes are administrative in nature and do not affect the probability or consequences of any accident identified in the Diablo Canyon FSAR Update.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature and do not affect any plant systems, plant operations, or the type of accidents that might occur at Diablo Canyon.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature and do not affect margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC Staff has reviewed the proposed changes and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the Staff proposes to determine that these changes do not involve significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Philadelphia Electric Company, Docket No. 50-353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of amendment request: October 10, 1989

Description of amendment request: The proposed amendment revises the Plant Systems Snubber Technical Specification (TS) Surveillance Requirement (SR) 4.7.4.b. The proposed change reduces the period of time between commencement of power operation and the initial visual inspection of the snubbers.

The snubbers' current Surveillance Requirement for visual inspections requires "the first inservice visual inspection of each type of snubber shall be performed after 4 months but within 10 months of commencing Power Operation and shall include all snubbers." Limerick Generating Station, Unit 2 (LGS-2) received its full power operating license on August 25, 1989, and began Power Operation on September 1, 1989. Therefore, the first visual inspection of snubbers is required between January 1, 1990 and July 1, 1990.

The Startup Testing Program for LGS-2 originally scheduled startup testing, other than the warranty run, to be completed after January 1, 1990 and the first snubber visual inspections to be completed subsequent to that testing and before the end of the ten month window. The Startup Testing Program is currently proceeding at a pace which projects a completion of the testing, other than the warranty run, during the first week in December. This rapid completion of the testing program has also led PECo to re-evaluate the most efficient use of its resources to accomplish the necessary surveillances at LGS-2. This evaluation indicates that an outage immediately following completion of the testing, other than the warranty run, is the appropriate time to conduct the first visual inspection of the snubbers. Since this outage could begin as early as the first week of December, 1989, a change to the Technical Specifications is necessary. The basis for requiring the initial visual inspection of snubbers after four months of commencing Power Operation is to provide the snubbers a sufficient opportunity to experience various modes of operation (i.e., startups, shutdowns, transients and steady-state). Subjecting the snubbers to these various modes of operation establishes an operating history from which any major operational concerns can be identified. Since LGS Unit 2 will have completed its Startup Testing Program, the snubbers will have experienced these various modes of operation, established an operating history, and fulfilled the basis for performing the initial visual inspection within three months of commencing Power Operation instead of four months as required by TS. Changing the minimum interval for snubber visual inspection to three months eliminates one month of what would probably be steady state operation or shutdown from the operational experience of the snubber population. Since steady state operation or shutdown does not significantly affect the visual inspection results for a snubber population early in life, one month of additional inspection time is unlikely to add to the effectiveness of this requirement. This proposed change does not alter any other TS requirement. Therefore, any system that experiences an unexpected potentially damaging transient will be inspected in accordance with TS 4.7.4.d.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis as to whether the proposed amendment involves a significant hazards consideration. The licensee's analysis is summarized as follows:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision only revises a surveillance inspection schedule. The revision does not affect the design or operation of equipment which is necessary to function to prevent an accident or to function following an accident. The snubbers in question will not be altered in any manner, nor will their required surveillances be changed. The visual inspection will be conducted in a calendar time frame consistent with the bases of the current surveillance requirement.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously considered.

The proposed revision does not add any new equipment, new procedures or new tests or experiments. It also does not affect the design or operation of equipment important to safety. The snubbers will remain capable of performing their function and will be verified Operable through performance of the visual inspection.

(3) The proposed change does not involve a significant reduction in a margin of safety.

The visual inspections of the snubbers are intended to be conducted as soon as practical following a sufficient period of operation for the snubbers to experience various modes of operation. The reduction of the calendar time frame from four (4) months to three (3) months will not affect the margin of safety as long as the snubbers have experienced sufficient various modes of operation. Completion of the testing program, other than the warranty run, will allow the snubbers to experience multiple startups and shutdowns, various transients and periods of steady-state operation. These various modes of operation are sufficient to establish an operating history for these snubbers and identify any major operational concerns through visual inspection.

The staff has reviewed the licensee's submittal and significant hazards consideration analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: March 1, 1988

Description of amendment request: Changes are proposed to the Trojan Technical Specifications (TTS) surveillance requirements to ensure primary containment integrity. More specifically, the following changes are proposed.

1. Surveillance Requirement 4.6.1.1:

Part a.1 would be revised to include those portions of penetrations inside containment in the exception. A new Surveillance Requirement 4.6.1.1.c would be added to describe the necessary surveillance for those portions of penetrations inside containment.

2. Surveillance Requirement 4.6.3.1.1:

Surveillance Requirement 4.6.3.1.1 would be modified to clarify that some containment isolation valves do not have a required isolation time (only automatic valves have required isolation times).

3. Table 3.6-1, "Containment Isolation Valves:" Each change proposed to be made to this table is described below.

a. The steam generator sample and blowdown valves would be moved from the heading "Containment Isolation" to the heading "Steamline Isolation".

b. Footnote psi would be added to Valve MO 8105 (normal charging isolation valve) to indicate that this valve closes on a safety injection signal.

c. Normal Charging Isolation Valve MO 8106 would be deleted from, and Normal Charging Check Valve 8381 would be added to, TTS Table 3.6-1.

d. Air Lock Test Line Valves SV 6991 and SV 6992 would be added to TTS Table 3.6-1.

e. Component Cooling Water Valves MO 3291, 3292, 3346, and 3290 would be moved from the heading "Containment Isolation" to the heading "Non-Automatic Power Operated Isolation Valves".

f. Footnote (s) would be changed to footnote phi and would be moved to the end of Table 3.6-1.

g. Footnote would be added to Containment Sump Valves MO 2069A and MO 2069B.

h. The following manual valves would be added to TTS Table 3.6-1:

1. 10610A&B, 10611A&B - Integrated Leak Rate Test (ILRT) instrument line isolation valves.

2. LD001 and LD003 - 45-foot elevation air lock test line isolation valves.

i. Identifying numbers would be added for the demineralized water and reactor coolant drain tank nitrogen supply Containment isolation valves.

j. Chemical and Volume Control System (CVCS) Letdown Relief Valve PSV 8117 and RHR Suction Relief Valve PSV 8708 would be added to TTS Table 3.6-1.

k. Safety Injection Test Line Valve CV 8843 would be added to TTS Table 3.6-1.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility

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of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

1. Revising TTS 4.6.1.1.a to exclude those portions of penetrations inside Containment from being verified closed every 31 days does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is an administrative change which clarifies the TTS. As presently written, the TTS could be interpreted to require verification of valve position by making a Containment entry and physically checking valve position every 31 days. This would result in unwarranted radiation exposure to personnel. Instead, administrative controls have been established as an alternate means of controlling valve position without making a Containment entry. This is accomplished via Administrative Order (AO) 3-13, "Control of Locked Valves and Engineered Safety Features Equipment", which is used to control the manipulation and status of these valves, in lieu of physically verifying the status of these valves every 31 days. Excluding the valves inside Containment from being verified closed every 31 days as proposed will eliminate ambiguity in the present TTS wording. No change to the administrative controls in use is proposed.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. The surveillance on these valves is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change only clarifies the TTS as to what is presently done, and does not propose an actual change in surveillance, there is no reduction in a margin of safety.

2. Adding a new TTS 4.6.1.1.c which describes the surveillance required for those portions of penetrations inside Containment does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change requires that valves which are located inside Containment be verified as closed during each cold shutdown, except that such verification need not be performed more often than once per 92 days. This change constitutes an additional restriction not presently included in the TTS, and will provide greater assurance that isolation valves inside Containment are closed.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. The additional surveillance on these valves is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change constitutes an additional restriction not presently included in the TTS, a reduction in a margin of safety is not involved. This new surveillance is consistent with the W-STS, NUREG-0452, Revision 4.

3. The addition of the words "if applicable" to the verification of Containment isolation valve isolation time required by TTS 4.6.3.1.1 does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is an administrative change which clarifies the TTS. TTS Table 3.6-1 identifies several Containment isolation valves for which no isolation time is required. Therefore, the words "if applicable" were added to Surveillance Requirement 4.6.3.1.1 in recognition that not all Containment isolation valves have a required isolation time. No change is proposed to the actual testing of isolation valves.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. The surveillance on these valves is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change only clarifies the TTS as to what is presently done, and does not propose an actual change in surveillance, there is no reduction in a margin of safety.

4. Moving the steam generator sample and blowdown valves in TTS Table 3.6-1 to the heading "Steamline Isolation" does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is merely administrative and will ensure that all steamline isolation valves are grouped into one portion of TTS Table 3.6-1.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided for accident mitigation and are not related to accident creation.

c. Involve a significant reduction in a margin of safety.

The relocation of valves in TTS Table 3.6-1 is done to improve readability and has no impact on safety margins.

5. The addition of footnote [phi] to Valve MO 8105 does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is an administrative change which clarifies the TTS. Valve MO 8105 closes on a safety injection signal to isolate normal charging flow, to allow flow to be diverted to the boron injection tank. However, TTS 4.6.3.1.2.a requires that this valve be tested on a Containment isolation test signal. The addition of footnote [phi] will clarify that this valve is actually tested on a safety injection signal.

No change is proposed to the actual testing of this valve.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. The surveillance on this valve is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change only clarifies the TTS as to what is presently done, and does not propose an actual change in surveillance, there is no reduction in a margin of safety.

6. Revising TTS Table 3.6-1 to delete Valve MO 8106 and add Check Valve 8381 does not:

a. Involve a significant increase in the probability or consequences of accident.

General Design Criterion (GDC) 56 of Title 10, Code of Federal Regulations, Part 50 (10 CFR 50), Appendix A provides acceptable Containment isolation configurations. One of these configurations is an automatic isolation valve inside Containment and an automatic isolation valve outside Containment. Final Safety Analysis Report (FSAR) Table 6.2-1, Penetration P-8, lists a check valve (8381) as the inner valve, but lists two valves (MO 8105 and 8106) as the outer valves. Two valves outside Containment exceed the requirements of GDC 56 and, therefore, Valve MO 8106 is being deleted from the TTS. Valve 8381 is being added to the TTS not only for consistency with the FSAR, but also to satisfy the requirements of GDC 56. Since this change results in two valves still being identified as Containment isolation valves in the TTS, but in a configuration that complies with GDC 56, there is no significant increase in the probability or consequences of an accident involved.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided for accident mitigation and are not related to accident creation.

c. Involve a significant reduction in a margin of safety.

This change deletes a valve from the TTS that is not required by GDC 56 to be a Containment isolation valve. In addition, it adds Valve 8381 which is listed in the FSAR as a Containment isolation valve, but was not listed in the TTS. Since this change merely corrects an inconsistency, a reduction in a margin of safety is not involved.

7. The addition of Valves SV 6991 and SV 6992 to TTS Table 3.6-1 does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change corrects the TTS to identify two Containment isolation valves which were not listed in Table 3.6-1. The change constitutes an additional restriction not presently included in the TTS, and will ensure that the TTS are consistent with regulatory requirements.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. Adding two Containment isolation valves to TTS Table 3.6-1 which are already in the design is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change constitutes an additional restriction not presently included in the TTS, a reduction in a margin of safety is not involved.

8. Moving the component cooling water (CCW) valves in TTS Table 3.6-1 to the heading "Non-Automatic Power Operated Isolation Valves" does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is merely administrative and will ensure that all non-automatic power operated isolation valves are grouped into one portion of TTS Table 3.6-1.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided for accident mitigation and are not related to accident creation.

c. Involve a significant reduction in a margin of safety.

The relocation of valves in TTS Table 3.6-1 is done to improve readability and has no impact on safety margins.

9. Changing footnote (a) to footnote [phi], and moving it to the end TTS Table 3.6-1 does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is merely administrative and will ensure that all footnotes are grouped into one portion of TTS Table 3.6-1.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided for accident mitigation and, therefore, moving a footnote associated with these valves is not related to accident creation.

c. Involve a significant reduction in a margin of safety.

The relocation of this footnote in TTS Table 3.6-1 is done to improve readability and has no impact on safety margins.

10. Addition of footnote to Containment Sump Valves MO 2069A and 2069B does not:

a. Involve a significant increase in the probability or consequences of an accident.

Footnote excludes these valves from local leak testing. Valves MO 2069A&B would be open following a LOCA for operation in the recirculation mode. Since these valves would be open, local leak testing is irrelevant. In addition, since the penetrations associated with these valves would be filled with water following a LOCA, these penetrations would not provide a Containment atmosphere leak path.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided for accident mitigation. Therefore, excluding Valves MO 2069A&B from leak testing is irrelevant to accident creation.

c. Involve a significant reduction in a margin of safety.

The change will exclude Valves MO 2069A&B from local leak testing. This change is consistent with the exclusions presently allowed for other penetrations with a similar function following a LOCA, and so does not involve a significant reduction in a margin of safety.

11. Addition of Valves 10610A&B, 10611A&B, and LD601 and 603 do not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is an administrative change in that it corrects the TTS to identify Containment isolation valves which were not listed in Table 3.6-1. This change constitutes an additional restriction not presently included in the TTS, and will ensure that the TTS are consistent with regulatory requirements.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. Adding Containment isolation valves to TTS Table 3.6-1 which are already in the design is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change constitutes an additional restriction not presently included in the TTS, a reduction in a margin of safety is not involved.

12. Adding identifying numbers for the demineralized water and reactor coolant drain tank nitrogen supply valves does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is merely administrative and will ensure that the demineralized water and reactor coolant drain tank nitrogen supply valves are correctly identified.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. The addition of identifying numbers for these valves is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

The addition of identifying numbers to these valves in TTS Table 3.6-1 is done to improve readability and has no impact on safety margins.

13. Addition of Relief Valves PSV 8117 and PSV 8708 does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is an administrative change in that it corrects the TTS to identify Containment isolation valves which were not listed in Table 3.6-1. This change constitutes an additional restriction not presently included in the TTS, and will ensure that the TTS are consistent with regulatory requirements.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. Adding Containment isolation valves to TTS Table 3.6-1 which are already in the design is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change constitutes an additional restriction not presently included in the TTS, a reduction in a margin of safety is not involved.

14. Addition of Valve CV 8843 to TTS Table 3.6-1 does not:

a. Involve a significant increase in the probability or consequences of an accident.

This change is an administrative change in that it corrects the TTS to identify a Containment isolation valve which was not listed in Table 3.6-1. This change constitutes an additional restriction not presently included in the TTS, and will ensure that the TTS are consistent with regulatory requirements.

b. Create the possibility of a new or different kind of accident.

Containment isolation valves are provided to mitigate the consequences of an accident. Adding a Containment isolation valve to TTS Table 3.6-1 which is already in the design is not relevant to accident creation.

c. Involve a significant reduction in a margin of safety.

Since this change constitutes an additional restriction not presently included in the TTS, a reduction in a margin of safety is not involved.

In the March 6, 1986 Federal Register, the NRC provided certain examples of amendments that are considered not likely to involve significant hazards considerations. Example (i) is a purely administrative change to Technical Specifications, for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. Example (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, eg. a more stringent surveillance requirement. The changes proposed within fall within these examples.

Based on the above evaluation, these changes do not pose a significant hazard.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: George W. Knighton

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: July 24, 1989

Description of amendment request: The proposed amendment would eliminate the Technical Specification (TS) requirements related to the Rod Sequence Control System (RSCS) and its restraints on control rod motion, lower the Rod Worth Minimizer (RWM) cutout setpoint from 20% to 10% reactor power, require control rod movement sequences equivalent to the Banked Position Withdrawal Sequence and add more limiting operability requirements for the RWM. Additional changes, of an administrative and editorial nature, would correct minor errors and improve the legibility of Sections 3.3 and 4.3 of the TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or

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consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a

established by the proposed TS amendment. Therefore, no new failure modes are created nor are any unanalyzed conditions made possible by deletion of the RSCS or reduction of the

margin of safety. In accordance with 10 CFR 50.92 the licensee has reviewed the proposed changes and has concluded as follows that they do not involve a significant hazards consideration:

assure that the acoustic monitor's setpoint accurately reflects the actual SR/V in service and as a result, this change does not involve a significant increase in the probability or consequences of an accident previously

hazards consideration and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards

inoperable the affected penetration must be isolated. This isolation can be accomplished by either deactivating at least one automatic valve, closing at least one manual valve or installing a blind flange in the affected

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consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The staff has reviewed the licensee's submittal and concludes:

Operation of the FitzPatrick Plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92 since it would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The NRC has previously evaluated the probability for a Design Basis Rod Drop Accident (RDA) which results in unacceptable consequences of approximately 10^{-13} per reactor year with neither a Rod Sequence Control System (RSCS) nor a Rod Worth Minimizer (RWM) in use (as described in the NRC letter and enclosure from B. C. Rusche, NRR, to R. Fraley, ACRS, "Generic Item IIA-2 Control Rod Drop Accident (BWRs)," dated June 1, 1976). This extremely low accident probability was the basis for the NRC not requiring an RSCS on later reactors. Replacing the hard-wired RSCS with the implementation of sequences equivalent to the Banked Position Withdrawal Sequence (BPWS) as programmed in the RWM along with tighter administrative controls on the RWM at FitzPatrick cannot significantly increase the probability of this event.

Analyses performed for the NRC and by the General Electric Co. have demonstrated that an RDA above 10% rated reactor power cannot result in an unacceptable peak fuel enthalpy. Reducing the RWM cutout setpoint from 20% to 10%, therefore, cannot increase the consequences of the accident.

The probability of the RDA itself is dependent upon the design of the control blade, its mechanical coupling to the control rod drive, and operator vigilance in detecting a potentially stuck control rod. None of these factors is changed by the proposed amendment and therefore the probability of occurrence of a RDA is not increased.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The RSCS or RWM setpoint reduction are not accident initiators. The RSCS and RWM restrict control rod motion such that if a control rod drop accident were to occur, its consequence in terms of peak fuel enthalpy, would not be unacceptable. These functions will be retained by the RWM enforcing control rod sequences equivalent to the Banked Position Withdrawal Sequence (BPWS) and the added RWM controls established by the proposed TS amendment. Therefore, no new failure modes are created nor are any unanalyzed conditions made possible by deletion of the RSCS or reduction of the RWM cutout setpoint.

(3) Involve a significant reduction in a margin of safety. For the purpose of the design basis RDA analysis, an acceptable margin of safety exists when the accident results in a peak fuel enthalpy of less than 280 cal/gm. As stated above, the proposed changes do not result in an unacceptable peak fuel enthalpy. The proposed changes maintain the existing margin of safety through implementation of control rod withdrawal patterns and sequences equivalent to the BPWS. These sequences are enforced by the RWM. Tighter administrative controls will reduce the amount of time the plant is operated without the RWM and also assure conformance with the sequences programmed into the RWM even if the RWM were to become inoperable. No reduction in any margin of safety results from the proposed deletion of the RSCS or reduction of the RWM cutout setpoint.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: September 25, 1989

Description of amendment request: Revise Technical Specifications to delete references to and certain conditions permitted during the startup test program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92 the licensee has reviewed the proposed changes and has concluded as follows that they do not involve a significant hazards consideration:

Significant Hazards Consideration Evaluation

The proposed changes to the Hope Creek Generating Station (HCGS) Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

A. Changes 2a, 4, 6, 7, 8, 9, 10, 11, and 12 involve the deletion of footnotes which either permitted various modes of operation during some or all of the Startup Test Program or identified a setpoint as an initial value with the final value to be determined during the Startup Test Program. These conditions were permitted for the brief time associated with startup in order for the performance of testing or to determine the actual long-term operating conditions for the plant. Since these footnotes only applied during the Startup Test Program, which was completed in December 1986, they are no longer applicable and can be removed. In the case of initial versus final setpoint values, the existing Technical Specification values have been confirmed as correct and can be considered final. Accordingly, the deletion of the subject footnotes does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. Changes 1, 2b, 2c, and 3 involve the revision of setpoints, currently identified as initial values, as a result of actual plant conditions measured during the Startup Test Program and the completion of updated calculations. These changes are similar to those identified in Item A above; however, the initial setpoints do not reflect plant conditions and should be revised. The existing Technical Specifications recognized this possibility by stating in the footnote accompanying these values that final setpoints would be developed as a result of the Startup Test Program. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

C. Change 5 involves the continued use of a footnote originally developed for the Startup Test Program. Namely, an acoustic monitor is provided for each Safety/Relief Valve (SRV) to monitor whether the valve is open based on noise levels. These monitors indicates the valve is open when a noise level of 30% of the valve's full open noise level is detected. A footnote is provided which permits adjustment of the full open noise level, and hence the setpoint, during the Startup Test Program. However, during the course of the operational life at HCGS, SRVs must be removed, replaced with spares and tested in accordance with Surveillance requirement 4.4.2.2.

In order to accommodate slight variances in replacement SR/Vs, it may be necessary to adjust the acoustic monitors setpoint as a result of different full open noise levels associated with different SR/Vs. Therefore, the existing footnote is being revised to permit this adjustment. This change will assure that the acoustic monitor's setpoint accurately reflects the actual SR/V in service and as a result, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

A. Changes 2a, 4, 6, 7, 8, 9, 10, 11, and 12

The removal of footnotes associated with conditions which no longer apply has no bearing on an accident analysis. Similarly, the removal of footnotes which indicate that a certain setpoint is an initial value which has subsequently been confirmed as the final value do not affect any accident analyzes. These changes are strictly administrative revisions to the Technical Specifications and involve no changes to the plant or procedures. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

B. Changes 1, 2b, 2c, and 3

These changes involve the revision of setpoints based on results from the Startup Test Program. These final setpoints support system operation and satisfy the purpose of the Startup Test Program, namely to accurately test the plant for identification of the correct operational mode. Actual system function is not changing and therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. Change 5

This change does not affect the ability of the SR/V to function nor affect the ability of the monitor to measure the SR/V noise level. Therefore, this changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

These changes are necessary to reflect the results of the Startup Test Program. The changes are either administrative in nature, in that certain TS footnotes are no longer applicable, or represent revisions based upon the completion of the construction and startup testing of HCGS. In the case of the SR/V acoustic monitor setpoint, the change permits the necessary operational flexibility to accommodate variances among spare SR/Vs. Accordingly, these changes do not involve a significant reduction in a margin of safety.

As discussed above, PSE&G has concluded that the proposed changes to the Technical Specifications do not involve a significant hazards consideration since the changes (i) do not involve a significant increase in the probability or consequences of an accident previously evaluated, (ii) do not create the possibility of a new or different kind of accident from any accident previously evaluated, and (iii) do not involve a significant reduction in a margin of safety.

The staff reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: September 28, 1988 and supplemented on July 21, 1989

Description of amendment request: This amendment would revise Technical Specifications to resolve inconsistencies regarding allowable out-of-service times for inoperable primary containment isolation valves and their associated position indication instrumentation. This amendment was previously published in the Federal Register on November 16, 1988 (53 FR 46158) but the supplement dated July 21, 1989 (NLR-N89102) (LCR 88-02, Rev. 1) contained substantive changes to the original submittal, hence, publication is being repeated.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92 the licensee has reviewed the proposed changes and has concluded as follows that they do not involve a significant hazards consideration:

Significant Hazards Consideration Evaluation

The proposed change to the Hope Creek Generating Station (HCGS) Technical Specifications:

1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As required by ACTION (a) of Technical Specification 3.6.3, should a primary containment isolation valve be declared inoperable the affected penetration must be isolated. This isolation can be accomplished by either deactivating at least one automatic valve, closing at least one manual valve or installing a blind flange in the affected penetration. Furthermore, the system for which the inoperable valve provides containment isolation must also be declared inoperable and the appropriate ACTION statements for that system performed. Assuming that the plant can continue to operate under these conditions, the concern which must be addressed as a result of this proposed change is whether or not the probability or consequences of an accident previously evaluated are significantly increased when the position indication instrumentation for an otherwise inoperable containment isolation valve is permitted to remain inoperable longer than the currently imposed 30 or 7 days, per ACTION 62(a) and 82(b) of Technical Specification Table 3.3.7.5-1, respectively.

The requirement to isolate the affected penetration due to an inoperable valve establishes containment isolation for that penetration. This action establishes a safe configuration for continued operation assuming of course that the affected system is not required to remain OPERABLE. For those systems which can be isolated without jeopardizing continued safe operation, the need for monitoring containment isolation is no longer necessary as isolation has already been achieved.

Therefore, it can be concluded that if the provisions of Technical Specification 3.6.3, ACTION a.2 or a.3 are in effect:

i) the penetration is in a safe configuration with regards to the provisions for containment isolation - closed,

ii) spurious movement of the valve is precluded by either the lack of power, the need for local manual operation, or the presence of an installed blind flange, and

iii) administrative controls and surveillance requirements exist to assure continued containment isolation.

The current requirements of ACTION 82 of Technical Specification Table 3.3.7.5-1 regarding AOT for primary containment isolation valve position indication instrumentation serve no purpose with regard to assurance of containment integrity if and only if the associated penetration is isolated pursuant to Technical Specification 3.6.3, ACTION a.2 or a.3. This function is adequately controlled under the auspices of Technical Specifications 4.6.1.1 and the administrative controls already in place. Consequently, extending the AOT for inoperable position indication in penetrations isolated as described above does not represent an increase in the probability or consequences of a previously evaluated accident since containment isolation (the accident function of concern) is already achieved and assured.

2) Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not negate the requirement for containment integrity or isolation but simple makes use of the existing Technical Specifications which require such.

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By (sic) extending the provisions for isolated penetrations to the required actions for associated inoperable position indication simply takes advantage of the physical constraints and administrative controls already imposed.

Furthermore, the proposed change does not require any plant modification nor (sic) design change but merely permits a specific case of inoperability to exist while plant operation continues. This condition is well bounded in terms of the extent to which inoperability is permitted. Additionally, the flexibility provided by this proposed change will not result in a change to the operational characteristic of any system or process. The inoperability of primary containment isolation valve position indication instrumentation is already permitted for the currently identified AOT. This change simply extends the AOT as long as other compensating measures are in effect.

Therefore, it can be concluded that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) Does not involve a significant reduction in a margin of safety.

The increase in AOT for an inoperable primary containment isolation valve position indication instrument from either 7 or 30 days to an unlimited time does not decrease the margin of safety since a more restrictive compensating measure is in effect, namely the subject penetration is in the safe configuration with regard to containment isolation provisions - closed. Therefore, the margin of safety remains the same as that permitted by Technical Specification 3.6.3, ACTION a.2 or a.3. With the penetration in an isolated position and the assurances available that such a position will be maintained, the maximum margin of safety has been achieved, i.e. the penetration has been placed in the post accident configuration.

The length of time that either or both position indication instrumentation channels for either or both containment isolation valves remain inoperable has no bearing on the position of the valves in the subject penetration. Realizing that the information provided by the position indication instrumentation is simply indication only, i.e. no automatic isolation or actuation function results from loss of or change in position indication, further substantiates the proposed change. Therefore, it can be concluded that the proposed change does not involve a significant reduction in a margin of safety.

The staff reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County California

Date of amendment request: September 11, 1989

Description of amendment request: The licensee has requested to revise San Onofre Units 2 and 3 Radiological Effluent Technical Specifications (RETS) in accordance with the guidance provided in Generic Letter 89-01. The proposed change allows for the implementation of programmatic controls for the Radiological Effluent Technical Specifications and Radiological Environmental Monitoring Program in the administrative controls section of the Technical Specifications and the relocation of procedural details of the current RETS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination which is quoted below:

1. Will operation of the facility in accordance with the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The proposed Technical Specifications amendment does not reduce the level of radiological effluent control. Rather, it will provide programmatic controls for RETS consistent with regulatory requirements and allow relocation of the procedural details of the current RETS to the ODCM or PCP. These procedural details are not required to be included in the Technical Specifications by 10 CFR 50.36a. Future changes to these procedural details will be controlled by the ODCM, PCP or Administrative Controls sections of the Technical Specifications. Records of reviews performed for changes made to the ODCM an [sic] PCP will be documented and retained for the duration of the operating license. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change does not modify the configuration of the facility or its mode of operation. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously identified.

3. Will operation of the facility in accordance with the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change does not affect the operation of the facility nor modify any method of radiological effluent monitoring or analysis. Therefore, the proposed change will not involve a reduction in a margin of safety.

The NRC staff has reviewed this analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: George W. Knighton

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: October 5, 1989 (TS 89-36)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify Section 3/4.2.4, Quadrant Power Tilt Ratio, and Table 3.3-1, Reactor Trip System Instrumentation, of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to revise the action statements in Table 3.3-1 for quadrant power tilt ratio monitoring when power range instrumentation is inoperable to provide a consistent set of actions to be taken when the quadrant power tilt ratio is not monitored or confirmed in accordance with either Surveillance Requirement (SR) 4.2.4.1 or 4.2.4.2. This would add two action statements to TS 3/4.2.4. TVA also requested a change to SR 4.2.4.2 to allow a full core map using the incore detector system, instead of only the currently required four pairs of symmetric thimble locations, to confirm the normalized symmetric power distribution in the core.

Basis for proposed no significant hazards consideration determination: TVA provided the following information in its submittal to support the proposed changes to the TS:

An NRC resident inspector identified the possibility of multiple interpretations for the actions to be taken when the quadrant power tilt ratio is not monitored or confirmed in accordance with SRs 4.2.4.1 and 4.2.4.2. This condition was identified to TVA on July 28, 1989. TVA evaluated the situation and confirmed that the SQN TSs are in general conformance with NRC's standard TSs.

TVA further evaluated the situation and identified that TS 3.2.4 does not contain specific actions to address the situation when either SR 4.2.4.1 or 4.2.4.2 cannot be performed in the timeframe specified. Possible interpretations to determine action timeframes can lead to the application of TS 3.0.3 or the most limiting action in TS 3.2.4. The final power level is not clearly specified. Possible interpretation on final power level can include power levels below which TS 3.2.4 is not applicable or power levels below which the individual SR is not applicable.

TVA also evaluated Action 2 in Table 3.3-1 for multiple interpretations. Action 2.d appears to be redundant to SR 4.2.4.2. Action 2.c has two options to perform, one of which appears to apply different requirements than 2.d when reactor power is below 75 percent. Action 2.c has also been interpreted by the NRC resident inspector to require power reduction *and* recalibration within 4 hours when Action 2.d cannot be met. TVA has interpreted the TSs that TS 3.0.3 applies when Action 2.d cannot be met because none of the conditions in Action 2 specifically address the situation. This interpretation is based on consideration of the specific wording in Action 2.c (the use of "restricted") as meaning something different from the wording in similar actions for TS 3.2.4 (the use of "reduce"). In addition, similar actions in TS 3.2.4 specify separate times for power reduction and recalibration while Action 2.c appears to assume that power is already at or below 75 percent.

Chang[ing] SR 4.2.4.2 to allow the use of a full core map to confirm power distribution will preclude an unnecessary plant derating in the event one of the thimbles, comprising the four symmetric pairs, becomes inoperable.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to the action statements for TS 3.2.4, "Quadrant Power Tilt Ratio," and Action 2 of Table 3.3-1 for the reactor trip system power range channels are simply a reformatting of existing requirements in a user-friendly format to eliminate the potential for misinterpretation. Use of a full core map to confirm normalized power distribution provides information pertaining to quadrant power tilt ratio that is equivalent to that obtained using the four pairs of symmetric thimbles. These changes have no impact on the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed revisions to the action statements for TS 3.2.4, "Quadrant Power Tilt Ratio," and Action 2 of Table 3.3-1 for the reactor trip system power range channels are simply a reformatting of existing requirements in a user-friendly format to eliminate the potential for misinterpretation. Use of a full core map to confirm normalized power distribution provides information pertaining to quadrant power tilt ratio that is equivalent to that obtained using the four pairs of symmetric thimbles. These changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed revisions to the action statements for TS 3.2.4, "Quadrant Power Tilt Ratio," and Action 2 of Table 3.3-1 for the reactor trip system power range channels are simply a reformatting of existing requirements in a user-frie dly format to eliminate the potential for misinterpretation. Use of a full core map to confirm normalized power distribution provides information pertaining to quadrant power tilt ratio that is equivalent to that obtained using the four pairs of symmetric thimbles. These changes do not involve a reduction in any margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: October 5, 1989 (TS 89-39)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify Sections 1.0, Definitions, and 3/4.6.1, Primary Containment, of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). These proposed changes are to revise the definition of containment integrity and the Surveillance Requirements (SRs) 4.6.1.1.b and 4.6.1.2.f. The proposed changes would modify the requirements for containment air locks to be consistent with Revision 5 of NRC's NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors" (W STS). The containment air locks would be required to be "in compliance with the requirements of Specification 3.6.1.3" instead of being required to be "operable per Specification 3.6.1.3."

Basis for proposed no significant hazards consideration determination: TVA provided the following information in its submittal to support the proposed changes to the TS:

The definition of containment integrity and SRs 4.6.1.1.b and 4.6.1.2.f used in the SQN TSs contain the requirement that the containment air locks be operable. This wording is consistent with Revision 4 of the W STS. The wording used in Revision 5 of the [NRC's] W STS for these same TSs requires compliance with TS 3.6.1.3 for the containment air locks.

The [current] specific wording of SQN TS 3.6.1.1 may lead to an interpretation that precludes the use of the action provisions in TS 3.6.1.3 when an air lock is inoperable but still within the allowed leakage limits of TS 3.6.1.2. On the other hand, the specific wording in Revision 5 of the W STS allows the use of the action provisions in TS 3.6.1.3. The proposed change modifies the SQN TS to conform with Revision 5 of the W STS and eliminates the potential for misinterpretation.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendments will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

As described in Section 6.2 of the Final Safety Analysis Report (FSAR), the containment structure is designed to ensure that an acceptable upper limit of leakage of radioactive material is not exceeded under

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design basis accident conditions. The containment air locks, which provide personnel access to both upper and lower containment, were designed and constructed and are tested to ensure that the allowable leakage limits for containment are maintained. The proposed changes to the definition of containment integrity and SRs 4.6.1.1.b and 4.6.1.2.f are made to clarify the use of the action provisions of TS 3.6.1.3. The actual acceptance criteria for primary containment and air lock leakage rates remain unchanged. As such, the proposed change[s are] administrative in nature and serves to eliminate the potential for misinterpretation of the TS requirements. The proposed change[s do] not increase the probability of a previously evaluated accident because the primary containment and air lock leakage rates are not associated with the initiation of any design basis accident. Because the acceptable limits on the primary containment and air lock leakage rates remain unchanged, the consequences of a previously evaluated accident are not increased.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

As described above, the proposed changes to the definition of containment integrity and SRs 4.6.1.1.b and 4.6.1.2.f are made to clearly allow the use of the action provisions of TS 3.6.1.3. The acceptance criteria for primary containment and air lock leakage rates remain unchanged. Thus, no radiological consequence analysis assumptions are changed. The proposed changes are administrative in nature and serve to eliminate the potential for misinterpretation of the TS requirements. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety.

The proposed changes to the definition of containment integrity and SRs 4.6.1.1.b and 4.6.1.2.f are made to clarify the use of the action provisions of TS 3.6.1.3. The proposed changes are administrative in nature and serve to eliminate the potential for misinterpretation of the TS requirements. The actual acceptance criteria for primary containment and air lock leakage rates are not changed. As such, the assumptions and, consequently, the results of SQN's radiological consequences analyses remain unchanged, and the bases of TSs 3.6.1.1 and 3.6.1.3 are not altered. Therefore, the proposed changes do not reduce the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: October 5, 1989 (TS 89-40)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify Section 3/4.4.11, Reactor Coolant System Vents, of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to revise the reactor coolant system (RCS) vent path TS and make corresponding changes to the index and affected bases of the TS. The proposed changes are to restrict the specifications in Section 3/4.4.11 to only those for the vent path for the head of the RCS pressure vessel. There are existing specifications in Section 3/4.4.3.2 on the power-operated relief valves (PORVs), which are the other RCS vent path.

Basis for proposed no significant hazards consideration determination: TVA provided the following information in its submittal to support the proposed changes to the TS:

The present RCS vent TS contains inconsistencies between the requirements in the limiting condition for operation (LCO) (with [the] footnote) and the bases with respect to the required vent paths. The RCS vent TS contains inconsistent language in the LCO, the footnote, and the bases regarding "paths" and "systems"; inconsistent action requirements with respect to removing power from the valve actuators on inoperable vent paths; and duplicate and inconsistent requirements for the pressurizer power-operated relief valve (PORV) vent paths. For example, a pressurizer PORV may be inoperable for TS 3.4.3.2, satisfy the conditions of Action a for TS 3.4.3.2, and be considered operable as an RCS vent path for TS 3.4.11.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

SQN Final Safety Analysis Report (FSAR) Section 5.5.15 describes the RCS head vent. The head vent system is designed to remove noncondensible gases or steam from the reactor vessel head through the remote manual operations from the control room. The head vent system is connected above the reactor vessel to one of the upper head injection system discharge pipes (FSAR Figure 6.3.2-10). The head vent system discharges to the pressurizer relief tank (FSAR Figure 5.1-1). Similarly, the pressurizer PORVs provide a vent path from the RCS through the pressurizer. The PORVs also discharge to the pressurizer relief tank (FSAR Figure 5.1-1).

The proposed changes to TS 3.4.11 are made to clarify the RCS head vent requirements. The deletion of the PORV vent path requirements from TS 3.4.11 will not increase the probability or consequences of any previously evaluated accidents because the requirements of TS 3.4.3.2 for PORV operability are more restrictive than those imposed by the current TS 3.4.11. The revised bases for TS 3.4.3.2 clearly identify that the PORVs provide a vent path from the pressurizer. The remaining changes to TS 3.4.11 and its bases section make the wording of the TS specific to the RCS head vent. The requirements for system operability in the revised TS are consistent with the current wording. As such, the balance of the changes to TS 3.4.11 will not increase the probability or consequences of any previously evaluated accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to TS 3.4.11, its bases, and the bases of TS 3.4.3.2 are made to clarify the requirements for the RCS head vent. The proposed changes do not conflict with or relax the current requirements for the PORVs or the RCS head vent. The changes are administrative in nature by removing ambiguous wording and duplicate requirements. The function and operation of the PORVs and the RCS head vent system remain unchanged. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety.

As described above, the proposed revisions to TS 3.4.11 and the associated bases changes are made to clarify the requirements for the RCS head vent. The requirements of TS 3.4.3.2 for PORV operability are more restrictive than the current requirements of TS 3.4.11. Additionally, the revised bases for TS 3.4.3.2 clearly identify that the PORVs provide a vent path through the pressurizer. The other changes to TS 3.4.11 and its bases make TS 3.4.11 specifically address the requirements for the RCS head vent. This serves to remove ambiguity and duplication from the TS requirements. The revised TS 3.4.11 is consistent with the current requirements for the RCS head vent. The function and operation of both the head vents and the PORVs remain unchanged. Therefore, the proposed changes do not reduce the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: September 6, 1989.

Description of amendment request: The proposed changes would relocate the existing procedural details of the current Radiological Effluent Technical Specifications (RETS) to the Offsite Dose Calculation Manual (ODCM), and procedural details for the solid radioactive wastes to the Process Control Program (PCP). In all cases, the programmatic controls would be incorporated into the Administrative Controls section of the Technical Specifications (TS).

Basis for proposed no significant hazards consideration determination: The proposed changes would simplify the TS, while maintaining the regulatory requirements, and would be consistent with the Commission's goals for Technical Specification Improvement and with Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administration Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program." Operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because relocating the Radiological Effluent Technical Specifications (RETS) to the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP) is strictly an administrative change that does not reduce or modify any existing safety requirement or procedure; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident scenario is created and no previously evaluated accident scenario is changed by relocating procedural requirements from one controlled document to another; or

(3) Involve a significant reduction in a margin of safety because no modification of any plant structure, system, component or operating procedure is associated with this administrative change so all safety margins remain unchanged.

The staff, therefore, proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: September 1, 1989

Description of amendment requests: The proposed amendment to Facility Operating License Nos. DPR-32 and DPR-37 for Surry Power Station, Units 1 and 2, will correct an error associated with reactor trip bypass breaker testing. This proposed action, in the form of a Technical Specification change to Table 4.1-1, Item 36: "Reactor Trip Bypass Breaker," will replace the "automatic shunt trip" device test with an "automatic undervoltage trip" device test on a refueling basis. Also in the same item, the word "local" is being replaced with the word "remote" to describe the location for initiation of the monthly test of the bypass breaker prior to placing it in service. These changes would accurately reflect testing conditions as they currently apply to the bypass breakers, unlike the current Technical Specification, which mistakenly incorporated the "automatic shunt trip" attachment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee has reviewed the proposed changes against the criteria of 10 CFR 50.92 and has concluded that the request does not involve significant hazards consideration in that it would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident or malfunction of equipment which is important to safety and which has been evaluated in the UFSAR.

The existing design has been reviewed and approved by the NRC in a letter dated November 25, 1984. The plant design does not include an automatic shunt trip feature for the bypass breakers. The bypass breaker trip devices are being [tested] in accordance with the Generic Letter 85-09, i.e. the undervoltage trip device is tested remotely prior to the bypass breaker being placed being placed [sic] in service for the monthly surveillance testing of the reactor trip breaker and an automatic actuation test of the undervoltage trip device is performed on a refueling frequency. The reactor protection system has not been further modified nor has system operation been changed. Eliminating test requirements which are not applicable and replacing them with applicable testing requirements does not increase the probability or the consequences of any accident or malfunction previously evaluated.

2. Create the possibility of a new or different type of accident from those previously evaluated in the safety analysis report.

The existing design has been reviewed and approved by the NRC in a letter dated November 15, 1984. As discussed above, proper testing of Surry's bypass breaker configuration is being performed. Removing testing requirements which are not applicable will not create a new or different kind of accident than previously evaluated.

3. Involve a significant reduction in the margin of safety.

The reactor trip and bypass breakers are being tested in accordance with the guidance of the Generic Letter 85-09. The test interval and the time allowed for testing have not changed, therefore,

the margin of safety has not been changed.

Based on the staff's review of the licensee's evaluation, the staff agrees with the licensee's conclusions as stated

Expiration date of individual notice: October 26, 1989

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh

Brief description of amendment request: These amendments revise the implementation schedule for License Amendments Nos. 101 and 78 for Salem, Units 1 and 2, respectively. The licensee

Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

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the margin of safety has not been changed.

Based on the staff's review of the licensee's evaluation, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 22, 1989, as supplemented June 7, 1989

Brief description of amendment request: The amendment changes the Harris Surveillance Requirement (SR) 4.9.8.2., which is part of Technical Specification (TS) 3.9.8.2., Refueling Operations - Low Water Level. The existing SR covers operation over the entire range of low water levels encountered for refueling operations. The requested change would divide the existing SR into two separate surveillances and reduce the minimum flow requirement to 900 gpm when the water level is below the top of the reactor vessel flange.

Date of publication of individual notices in Federal Register: September 26, 1989 (54 FR 39465)

Expiration date of individual notice: October 26, 1989

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren, County, Michigan

Date of amendment request: April 3, 1989

Brief description of amendment: The proposed amendment would revise Technical Specifications (TS) related to the applicability of limiting conditions for operation and surveillance requirements of TS Tables 3.17.1, 4.1.1, 4.1.2, and Section 4.0. The proposed change is based in part on recommendations provided by the staff in Generic Letter 87-09. Specifications 4.0.3 and 4.3 would be revised to consolidate and strengthen requirements for inservice inspection of ASME Code Class 1, 2, and 3 components. In addition, relevant Basis statements would be revised and several changes of an administrative nature would be made.

Date of Publication of Individual Notice in the Federal Register: September 13, 1989 (54 FR 37852).

Expiration Date of Individual Notice: October 13, 1989.

Local Public Document Room Location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: August 9, 1989.

Brief description of amendment: This amendment extends, on a one-time basis, the interval for conducting a full-load test of the Emergency Diesel Generators.

Date of publication of individual notice in Federal Register: September 29, 1989 (54 FR 40221)

Expiration date of individual notice: Comment period expired October 16, 1989. Hearing period expires October 30, 1989.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: October 4, 1989

Brief description of amendment request: These amendments revise the implementation schedule for License Amendments Nos. 101 and 78 for Salem, Units 1 and 2, respectively. The licensee proposes that License Amendments Nos. 101 and 78 be implemented prior to their respective reactor startup following the next plant shutdown to Mode 3, Hot Standby.

Date of publication of individual notice in Federal Register: October 12, 1989 (54 FR 41887)

Expiration date of individual notice: Comment period expired October 27, 1989; Notice period expires November 13, 1989

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters,

Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of applications for amendment: June 15, 1989

Brief description of amendment: The amendment modified the Technical Specification related to control element assembly drop time requirements.

Date of issuance: October 12, 1989

Effective date: October 12, 1989

Amendment No.: 100

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 26, 1989 (54 FR 31101) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of applications for amendment: June 13, 1989

Brief description of amendment: The amendment deleted Section 4.3.1.1.4 of the Technical Specifications. The change removed a surveillance requirement for Core Protection Calculator isolation equipment based on hardware changes being made during the current refueling outage.

Date of issuance: October 17, 1989

Effective date: October 17, 1989

Amendment No.: 101

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 26, 1989 (54 FR 31100) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Carolina Power & Light Company, et al., Docket No. 50-324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: March 28, 1989

Description of amendment: The amendment changes the Technical Specifications to implement an expanded operating domain. The expansion of the operating domain allows the fuel cycle economics to be enhanced through implementation of flow control spectral shift operation and increased core flow coast down capability.

Date of issuance: October 12, 1989

Effective date: October 12, 1989

Amendment No.: 166

Facility Operating License No. DPR-62: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: August 9, 1989 (54 FR 32706) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: December 17, 1989

Brief description of amendment: The amendment makes administrative changes to the Technical Specifications for minor corrections and clarification.

Date of issuance: October 11, 1989

Effective date: October 11, 1989

Amendment No. 13

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 11, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: February 22, 1989, as supplemented June 7, 1989, August 22, 1989 and October 11, 1989

Brief description of amendment: The amendment changes the Shearon Harris Power Plant, Unit 1, (Harris) Surveillance Requirement (SR) 4.9.8.2 which is part of Technical Specification (TS) 3.9.8.2, Refueling Operations - Low Water Level. The existing surveillance requirement covers operation over the entire range of low water levels encountered for refueling operations. The requested change would divide the existing SR into two separate surveillances and reduce the minimum flow requirement when the water level is below the top of the reactor vessel flange in Mode 6 (refueling).

Date of issuance: October 16, 1989

Effective date: October 18, 1989

Amendment No. 14

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 19, 1989 (54 FR 15823) and renoticed on September 26, 1989 (54 FR 39485) The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration is contained in a Safety Evaluation dated October 18, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: April 17, 1989, as supplemented June 29, 1989, July 13, 1989, and October 2, 1989.

Brief description of amendment: The amendment changes the Technical Specifications to allow refueling and operation with Vantage 5 fuel design.

Date of issuance: October 18, 1989

Effective date: October 18, 1989

Amendment No. 15

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 12, 1989 (54 FR 29399). The July 13, 1989 and October 2, 1989 letters provided clarifying information that did

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not change the initial determination of no significant hazards consideration as published in the Federal Register. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 18, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: July 11, 1989 as supplemented August 14, 1989.

Brief description of amendments: Revision of Technical Specifications in accordance with Generic Letter 88-16 to replace core specific operating limits with references to a Core Operating Limits Report.

Date of issuance: October 20, 1989

Effective date: October 20, 1989

Amendment Nos.: 120 and 116

Facility Operating License Nos. DPR-29 and DPR-30. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37042) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 20, 1989

Significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: July 26, 1989

Brief description of amendment: This amendment removes Figures 6.2-1, Corporate Organization, and 6.2-2, Facility Organization, from the TS and replaces them with narrative descriptions. It also removes the requirement that members of the Plant Review Committee have specific job titles and replaces it with a requirement that they be supervisors from various disciplines.

Date of issuance: October 10, 1989

Effective date: October 10, 1989

Amendment No.: 122

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37046) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 10, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 9, 1989.

Brief description of amendment: The amendment extended, on a one-time basis, the interval for conducting a full-load test of the Emergency Diesel Generators.

Date of issuance: October 17, 1989

Effective date: October 17, 1989

Amendment No.: 123

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (54 FR 40221 dated September 29, 1989). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The Notice provided for an opportunity to request a hearing (by October 30, 1989), but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1989.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: July 28, 1989

Brief description of amendment: This amendment adds operability, action and surveillance requirements for core exit Thermocouples and the Reactor Coolant Inventory Tracking System to the TS. The licensee inadvertently included requirements for a monthly channel check of the Reactor Coolant Inventory Tracking System. These requirements have been deleted. This action was discussed with and agreed to by members of the licensee's staff.

Date of issuance: October 17, 1989

Effective date: October 17, 1989

Amendment No.: 124

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37045) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: June 12, 1989, as supplemented July 17 and September 25, 1989

Brief description of amendments: The amendments modified the Technical Specifications to increase the maximum enrichment of reload fuel.

Date of issuance: October 10, 1989

Effective date: October 10, 1989

Amendment Nos.: 24 and 5

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 9, 1989 (54 FR 32711) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 10, 1989 and an Environmental Assessment dated August 14, 1989 (54 FR 34265, August 18, 1989).

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: October 13, 1987

Brief description of amendment: The amendment revised the TS Table 3.2-B to reflect a new containment high pressure trip level setting and to modify the remarks section regarding the new trip level setting.

Date of issuance: October 6, 1989

Effective date: October 6, 1989

Amendment No.: 163

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1989 (54 FR 35104) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 6, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: August 25, 1987

Brief description of amendment: This amendment revises Technical Specification Table 3.2.7. The proposed amendment would (1) increase the maximum operating (closure) time of the Emergency Cooling System high vent isolation valves to 10 seconds, (2) add the Emergency Cooling System drain line vent isolation valves with a maximum operating (closure) time of 10 seconds, (3) designate more accurately the motive power of the isolation valves.

Date of issuance: October 4, 1989

Effective date: October 4, 1989

Amendment No.: 110

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27232) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendments: May 19, 1989

Brief description of amendments: The amendment removes reference to a non-existing primary containment continuous leak rate monitoring system.

Date of issuance: October 2, 1989

Effective date: October 2, 1989

Amendment Nos.: 139

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27236) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: May 9, 1988, as supplemented June 9, 1988, December 20, 1988, May 26, 1989 and September 15, 1989.

Brief description of amendment: Revises the Technical Specifications to allow for the expansion of the spent fuel pool storage capacity from the current 840 fuel assemblies to the proposed 1345 fuel assemblies. This change also increases the fuel enrichment from 4.3 w/o U-235 to 4.5 w/o U-235.

Date of issuance: October 12, 1989

Effective date: October 12, 1989

Amendment No.: 90

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 5, 1989 (53 FR 25222) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1989 and a Environment Assessment dated October 4, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: August 2, 1989 as supplemented September 12, 1989

Brief description of amendments: These amendments grant interim approval to facilitate modifications to the service water piping at the Surry Facilities. This interim approval will expire no later than March 31, 1990 or upon completion of the piping modifications whichever comes first.

Date of issuance: October 5, 1989

Effective date: October 5, 1989

Amendment Nos. 134 & 134

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 16, 1989 (54 FR 33788) The September 12, 1989 submittal provided additional clarifying information and did not change our initial determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: April 14, 1989

Brief description of amendment: This amendment changes the section of the technical specification concerning operability and surveillance requirements for the Control Room Emergency Air Cleaning System.

Date of issuance: October 17, 1989

Effective date: October 17, 1989

Amendment No.: 125

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications and/or License.

Date of initial notice in Federal Register: The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

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Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By December 1, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: September 29, 1989, as supplemented by two letters dated September 29, 1989, and a letter dated October 4, 1989.

Brief description of amendments: The amendments revised Technical Specification 4.4.1, Table 4.4-1, to require Type C (local) leak rate testing of containment penetrations 39 and 53 and to specify when Type A (integrated) and Type C testing for these penetrations is required.

Date of Issuance: October 6, 1989

Effective date: October 6, 1989

Amendments Nos.: 176, 176, and 173

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 6, 1989

Attorney for licensee: J. Michael McGarry, III, Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

NRC Project Director: David B. Matthews

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: September 28, 1989

Description of amendment request: The amendment allows repair of Weld No. 10-14-884A on the "B" Core Spray test line without having to perform a Type A, Type B, or Type C Leak Rate Test per Appendix J to 10 CFR Part 50 prior to startup from the 1989 mid-cycle maintenance outage. This amendment is effective until the end of the next refueling outage, presently scheduled to start in March 1990.

Date of issuance: October 4, 1989

Effective date: October 4, 1989

Amendment No.: 140

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, consultation with the State, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 4, 1989.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (54 FR 40759).

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

Dated at Rockville, Maryland, this 24th day of October, 1989.

For the Nuclear Regulatory Commission

John A. Zwolinski,

Acting Director, Division of Reactor Projects - III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 89-25562 Filed 10-31-89; 8:45 am]

BILLING CODE 7590-01-D

[Docket Nos. 50-259/260/296]

Tennessee Valley Authority; Browns Ferry Nuclear Power Station; Temporary Closing of Local Public Document Room

Notice is hereby given that the Athens Public Library, Athens, Alabama, which serves as the local public document room (LPDR) for the Tennessee Valley Authority's Browns Ferry Nuclear Power Station, will be temporarily closed from November 16, 1989, through January 7, 1990, in order that asbestos can be removed from the building.

Persons interested in using the LPDR collection during this period are asked to contact the NRC LPDR staff for assistance, at toll-free telephone number (800) 638-8081. Every effort will be made to meet the informational needs of patrons.

Patrons outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 2120 L Street, NW., Lower-Level, Washington, DC 20555, telephone number (202) 634-3273.

Questions concerning the NRC's LPDR program or the availability of documents pertaining to the Browns Ferry Nuclear Power Station should be addressed to Ms. Teresa D. Linton, Information Services Librarian, Freedom of Information Act/Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (800) 638-8081.

Dated at Bethesda, Maryland, this 26th day of October, 1989.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 89-25712 Filed 10-31-89; 8:45 am]

BILLING CODE 7590-01-M

VOL 54 ISS 210 NO 1 1989 UMI

System Energy Resources, Inc.; Louisiana Power & Light Co., Arkansas Power & Light Co.—Requests for Amendments To Designate New Operating Company Time For Filing Comments On Antitrust Matters

[Docket Nos. 50-416A; 50-417A; 50-382A; and 50-368A]

On August 15, 1989, System Energy Resources, Inc. (SERI), Arkansas Power and Light Company (AP&L) and Louisiana Power and Light Company (LP&L) submitted proposed license amendments to designate a new company, Entergy Operations, Inc. (EOI), as the licensed operator for Grand Gulf Nuclear Station Unit 1, Arkansas Nuclear One Units 1 and 2 and Waterford Steam Electric Station, Unit 3 repectively.* AP&L, LP&L and SERI are wholly-owned subsidiaries of Entergy Corporation (Entergy), formerly known as Middle South Utilities, Inc. EOI will also become a wholly-owned subsidiary of Entergy. Entergy plans for EOI to become its system-wide nuclear operating company by assuming operating and management responsibility for all of the nuclear plants currently operated by the captioned licensees.

Any person who wishes to express views pursuant to antitrust issues raised by any of these amendment requests should submit said views within 30 days of the initial publication of this notice in the **Federal Register** to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland this 25th day of October 1989.

For the Nuclear Regulatory Commission.

Eileen M. McKenna,

Acting Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 89-25713 Filed 10-31-89; 8:45 am]

BILLING CODE 7590-01-M

* A similar amendment request was submitted by SERI on August 21, 1989, to designate EOI as the entity licensed to possess and construct Grand Gulf Nuclear Station Unit 2.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27376; File No. SR-CBOE-87-22]

Self-Regulatory Organizations; The Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to RAES Eligibility Standards for Individuals and Groups in the Standard & Poor's 100 Index ("OEX") Option

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Commission on May 8, 1987, a proposed rule change to amend the eligibility standards for individuals and groups to participate in the CBOE's Retail Automatic Execution System ("RAES" or "System") [3] for options on the Standard and Poor's 100 Index ("OEX").[4] A second amendment to the proposed rule change was filed with the February 2, 1989, that addresses issues raised in the original proposal.[5]

Currently, the eligibility requirements in effect allow all market makers registered with the Exchange to participate in RAES trading in OEX, either in an individual capacity or as a member of a group account.[6] The Index Floor Procedure Committee ("IFPC"), however, may limit the number of market makers in any one group. The proposed rule change would amend these eligibility standards on a six-month pilot basis by restricting participation in RAES to market makers who are members of the OEX or Standard & Poor's 500 Index option ("SPX") trading crowds. Moreover, the proposed pilot program establishes standards to limit the size of eligible groups and includes provisions to ensure adequate market maker participation in the System.

II. Description of the Proposed Rule Change

The CBOE proposes to amend the participation and eligibility requirements imposed on its market makers for RAES in OEX and clarify the authority of the IFPC to administer RAES in OEX.

The proposed rule change will restrict RAES participation in OEX to OEX and SPX market makers by requiring that an eligible market maker execute 50% of its market maker contracts for the preceding quarter in OEX or SPX, and execute 25% of these trades in person.[7] A member must meet these requirements before the member can participate in RAES individually or as a member of a group. Moreover, the IFPC may bar, restrict or condition a group account's participation in RAES if any member of the group fails to meet the OEX/SPX market maker requirements.

Additionally, the proposed rule change modifies the eligibility requirements for group accounts operating on RAES and imposes additional obligations on group accounts. Specifically, the proposed rule change prohibits the "purchasing" of RAES rights from an OEX or SPX market maker, and requires that all group participants be afforded a reasonable participation in the group's profits and losses. As a guideline in determining whether a RAES right has been purchased, the proposed rule change states that no RAES group participant may receive a flat fee. Moreover, with respect to the sharing of profits and losses, the minimum participation level of any group member is one quarter of an equal distribution to all group members.[8] In addition, no

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] RAES has operated since February 1, 1985, in selected OEX series. It automatically executes public customer market and marketable limit orders of ten contracts or less against participating market makers in the CBOE trading crowd at the best bid or offer reflected in the CBOE's quotation system. For a more detailed description of the System, *see* Securities Exchange Act Release Nos. 21605 (January 28, 1985), 50 FR 4823, and 22015 (May 8, 1985), 50 FR 19832.

[4] The proposal was noticed in Securities Exchange Act Release No. 24561 (June 5, 1987), 52 FR 22871. Amendment No. 1 to the proposed rule change, filed with the Commission on October 6, 1987, contained technical clarifications to the proposed rule change only and, accordingly, was not published for notice and comment.

[5] *See* Securities Exchange Act Release No. 26573 (February 24, 1989), 54 FR 9115.

[6] The eligibility standards presently recognize three ways in which a market maker may participate as a contra-broker in RAES: as an individual, as a member of a joint account, or as the nominee of a member organization. These classifications will continue to exist under the proposed rule change. The latter two types of participants generally are referred to herein as group participants, group accounts, or groups. *See* Securities Exchange Act Release No. 23180 (April 28, 1986), 51 FR 16785 (File No. SR-CBOE-85-10).

[7] In addition, a market maker must obtain a letter of guarantee from a clearing organization and maintain its principal business on the CBOE as a market maker.

[8] For example, if there are ten group participants, a minimum participation level would be a 2.5% share in profits and losses.

member may participate directly or indirectly in more than one group, and a group only may be managed by a member of the group. Therefore, a manager of a group is limited to managing only that group.[9]

The proposed rule change also specifies the maximum number of allowable participants in any one RAES group account, and clarifies the authority of the IFPC to limit group size. The proposal states that in no event may the IFPC set a maximum number higher than 50 RAES participants in any one group account, or 25% of the average number of RAES participants for the prior quarter, whichever is smaller. The IFPC must provide groups one month notice if a reduction in group size becomes necessary due to the application of this size limit. The IFPC, however, may establish lower limits on group size and impose these limits at any time.

Under the current pilot, group account members are obligated to remain on RAES for the duration of the week in which the account was logged onto the System, and are placed automatically on the System for the entire week containing the next expiration Friday. The proposed rule change increases this obligation by requiring all members of a group account to remain on RAES until the next monthly OEX expiration, once the account has been logged onto the System.[10] Moreover, under the proposed rule change, group participants may be relieved of their RAES obligations only upon approval of the IFPC. The IFPC may condition the granting of such relief upon the imposition of time periods during which applicants for relief (including all members of a group account) will be precluded from participating in RAES.

The Exchange amended its proposal in February 1989 in several respects. First, with regard to group accounts, the amended CBOE proposal provides the IFPC with the power to establish a sign off fee of $500.00 per member when the account improperly signs off the System.[11] In addition, the proposal provides the IFPC with additional authority to ensure adequate RAES participation in OEX. Specifically, if the IFPC believes there is inadequate RAES participation in OEX, the IFPC may require market makers who are members of the OEX trading crowd to log on RAES, absent reasonable justification or excuse for nonparticipation.[12] In addition, if there continues to be inadequate RAES participation, the IFPC may request participation of all market makers whether or not they are members of the OEX trading crowd.

Additionally, the Exchange proposes a phased-in implementation of the new eligibility standards. Members currently using OEX RAES will be given a period of at least two months but not more than three months from the effective date of the rule to satisfy the eligibility standards.

III. Summary of Public Comments

The Commission received four comment letters from the Fossett Corporation ("Corporation" or "Fossett"), two on the original proposal and two on the revised proposal, that state the commentator's objections to the proposed rule change.[13] In general, the Corporation believes the proposed eligibility criteria "would markedly weaken the RAES system, particularly in periods of market volatility, would reduce competition in the OEX RAES system without counter balancing benefits, and are, in short, motivated exclusively by the self-interest of the RAES system at the expense of equity market makers who helped make the system profitable." [14] Fossett viewed the amended proposal as containing minor changes that did not affect their earlier comments to the proposed eligibility criteria. Following is a summary of Fossett's criticisms of the proposed rule change.

First, the Corporation argues that the proposed rule change, by excluding non-OEX market makers, will produce unnecessary and unjustifiable burdens on competition in the OEX market, in violation of sections 6(b)(5) and 6(b)(8) of the Act. Specifically, Fossett argues that the proposed rule change will reduce competition in RAES by reducing the number of participants on the System.[15] Fossett also maintains that the proposal could lessen competition in the equity options markets by reducing the incentives to equity options traders to remain in their less active crowds.[16]

Second, Fossett argues that the proposed rule change will weaken the overall quality of trading markets at the CBOE. In particular, Fossett argues that the proposal drastically will reduce the number of OEX RAES participants.[17] According to Fossett, this reduction in the number of market participants will deprive the OEX market of needed capital and market-making expertise, and substantially increases the risk of system shutdown during periods of market volatility.[18] In addition, Fossett argues that elimination of non-OEX market makers from RAES would increase the potential for OEX market makers to seek wider spreads in the OEX market.[19] Finally, Fossett contends

[9] The IFPC may prohibit any group from participating in RAES where its appears to the Committee that such group has purchased RAES rights from members of the group, does not afford each group participant a reasonable participation in profits and losses, or is managed by a person who is not a member of the group or who has a financial interest in another group.

[10] Individual market makers who sign onto RAES are obligated to log onto the System on the next Friday prior to Expiration, to the extent that the market maker is in the OEX pit on that date. This requirement remains the same under the proposed rule change.

[11] If the Exchange decides to require sign off fees in excess of $500 per member, such a proposal would require prior review by the Commission pursuant to section 19(b) of the Act.

[12] Members who fail to abide by a request by the IFPC to participate may be subject to disciplinary action under, among others, Rule 6.20 Chapter XVII of the Exchange Rules. Such failure also may be the subject of remedial action by the IFPC, including, but not limited to, suspending a member's eligibility for participation on RAES and such other remedies as may be appropriate and allowed under Chapter VIII of the Exchange Rules.

[13] *See* letters from J. Stephen Fossett, President, Fossett Corporation, to Jonathan G. Katz, Secretary, SEC dated July 6, 1987 and October 19, 1987 ("Fossett letters No. 1 and No. 2," respectively). The revised proposal noticed in Securities Exchange Act Release No. 26573, *supra* note 5, elicited two additional letters from Fossett. *See* letters from J. Stephen Fossett, President, Fossett Corporation, to Jonathan G. Katz, Secretary, SEC, dated March 23, 1989 and July 12, 1989 ("Fossett letters No. 3 and No. 4," respectively). At the time of the comment letters, Fossett was engaged in market making at all U.S. options exchanges.

[14] Fossett letter No. 3, at 1.

[15] Fossett letter No. 3, at 4.

[16] *Id.* at 5.

[17] Specifically, the Corporation argues that, based on the CBOE's calculations in March 1989, approximately one-half of OEX RAES participants will be automatically disqualified under the proposed requirements. Moreover, the Corporation believes that the changes in joint account requirements will drive additional joint account traders from the System because they will no longer enjoy guarantees against unlimited losses. Fossett letter No. 4, at 2.

[18] Fossett letter No. 3, at 2. With regard to the increased likelihood of system shutdown during extreme market conditions, the Corporation argued that two near-collapses of OEX RAES were avoided in the past because of participation by non-OEX market makers and that, therefore, elimination of this "safety net" would substantially increase the probability of system failure during periods of extreme market volatility. Specifically, Fossett cites the 72% decrease in the number of market makers on RAES during January 26, 1987, a day on which the Dow Jones Industrial Average fell over 110 points, and the experience of October 1987 when market maker participation on OEX RAES declined 83%. Fossett letter No. 4, at 1.

[19] Fossett letter No. 1, at 3 and Fossett letter No. 2, at 6.

that the quality of the Exchange's equity options trading markets likely would be reduced as a result of the proposed rule change because it would impose a disincentive for non-OEX market makers to remain at or join equity posts in need of additional liquidity.[20]

Third, Fossett asserts that an in-person requirement is only necessary to establish and maintain an efficient two-sided market. Fossett, therefore, argues that an in-person requirement for OEX RAES participants is not necessary because the OEX market is well-established and currently provides public customers with efficiently priced markets.[21]

Fourth, Fossett argues that there is no justification for imposing maximum limits on group sizes and that "market forces should be free to operate." [22] In particular, the Corporation argues that it is "highly unlikely that any individual or entity would want to dominate OEX RAES, or could even if they desired to." [23] Moreover, the Corporation maintains that "simply managing RAES trades, as well as position limits, puts an effective ceiling on how large a group could become." [24] In fact, Fossett argues that there is "safety in numbers" and that "the more capital that stand[s] behind the RAES system, the more likley it is to withstand major market swings." [25] Further, the Corporation argues that the limitation on group size is designed to exclude successful groups from the System.

Fifth, the Corporation argues that the CBOE proposal to bolster OEX RAES participaton during periods of market stress will not be effective. Specifically, the Corporation argues that "forcing a group to remain on the system after it has exhausted its capital provides no protection to public investors."[26] The Corporation also believes that requiring OEX market maker participation in RAES will not be helpful during periods of severe market stress because once the system begins to fail it is simply too late for the IFPC to start seeking new participants. Additionally, the Corporation argues that the $500 sign off fee will not disuade RAES participants from logging off during major market swings, but may discourage some participants from signing-on. Moreover, the Corporation argues that after-the-fact disciplinary sanctions against members will not help investors whose transactions are not executed.[27]

Sixth, Fossett argues that the proposed rule change reflects the personal interest and bias of the IFPC, a committee which the Corporation contends is composed almost entirely of OEX and SPX traders with a direct financial interest in limiting and controlling access to RAES. Fossett maintains that the proposed rule change grants too much discretion and power to the IFPC by authorizing it to set group account size limits, disallow groups that "purchase" RAES if a single member does not meet the OEX/SPX market maker requirements.

Fossett also suggested that further study is required before taking action on the CBOE's proposal. Specifically, the Corporation stated that additional data is required to determine the percentage of current OEX participants that would be automatically ineligible under the proposal and the percentage of current joint accounts that would fail to satisfy the proposed requirements. In addition, Fossett suggested that further research on other potential anti-competitive effects of the proposed rule change should be undertaken, such as the potential defection of market makers from other pits to the OEX pit.

Finally, the Corporation maintained that, in the event the Commission approves the CBOE proposal, the current OEX RAES participants should be "grandfathered in." The Corporation believes that such an accommodation to current market makers would produce only a minimal impact on OEX RAES trading and permit the System to absorb the long-term consequences of the new eligibility requirements over a period of time.

The CBOE responded to Fossett's comments on both the original proposal [28] and the amended proposal.[29] In general, the CBOE believes that the proposed eligibility standards are designed to enhance the quality of the OEX market, while assuring the availability of an adequate number of market makers on RAES in OEX.[30]

Specifically, the CBOE disagreed with Fossett's arguments that the requirements will have a detrimental effect on the quality of the Exchange's options markets. While the Exchange recognizes that certain individuals and groups will be disqualified under the new standards, the CBOE believes that there still would be sufficient participants to accommodate the System.[31] Further, the CBOE asserts that even if the number of OEX RAES participants were to decrease, the CBOE under the revised standards would have the authority to increase the number of RAES participants by requiring the paticipation of OEX market makers and, if required, allow non-OEX market makers to participate. In addition, the Exchange does not agree with Fossett's assertion that the CBOE's equity options markets will deteriorate due to the migration of equity options market makers to the OEX pit. The Exchange argues first that it is skeptical that such migration will occur, and second that it has ample regulatory authority to ensure the continued quality and viability of its equity options markets.

With regard to Fossett's argument that market makers in the OEX market may seek wider spreads due to the elimination of "independent" non-OEX market makers from RAES, the CBOE's response was that the idea of "500 traders * * * act[ing] in concert to manipulate a system that executes less than 10 percent of the customer volume in OEX is preposterous." [32]

The Exchange also belives that the proposed rule change is not anti-competitive and that it will not produce unnecessary or unjustifiable burdens on competition. The CBOE noted that any member of the Exchange can participate in OEX RAES if it chooses to become a member of the OEX trading crowd. In this regard, the Exchange stated that "if the rule were in effect today, approximately 260 market-makers would be on the system. The Exchange does not believe such numbers reflect a burden on competition." [33] With respect to the limitation on group size, the Exchange believes this restriction is justified because "appropriate regulatory assurances against

[20] Fossett letter No. 1, at 3.

[21] Fossett cites the narrow bid-ask spreads in the OEX market, the large number of traders in the OEX pit (approximately 400 daily), and the high volume of OEX trading as evidence that no additional requirements are needed to promote OEX trading.

[22] Fossett letter No. 1, at 6.

[23] *Id.*

[24] *Id.*

[25] Fossett letter No. 4, at 3.

[26] Fossett letter No. 3, at 2.

[27] Fossett letter No. 4, at 3.

[28] *See* letter from Frederick M. Krieger, Associate General Counsel, CBOE, to Jonathan G. Katz, Secretary, SEC, dated August 7, 1987 ("CBOE letter No. 1").

[29] *See* letter from Nancy R. Crossman, General Counsel and First Vice President, CBOE, to Jonathan G. Katz, Secretary, SEC, dated May 16, 1989 ("CBOE letter No. 2"); and letter from Robert P. Ackerman, Vice President, Legal Services, CBOE, to Jonathan G. Katz, Secretary, SEC, dated July 20, 1989.

[30] CBOE letter No. 2, at 1.

[31] CBOE letter No. 2, at 3. Moreover, the CBOE notes that Fossett has modified one of its group accounts to satisfy the new standards.

[32] CBOE letter No. 2, at 3. The Exchange also said that there was no evidence suggesting that market makers in OEX have widened or would widen quotes due to RAES. Moreover, the Exchange said that there was no evidence that the presence of non-OMEX market makers had resulted in tighter OEX spreads. *See* CBOE letter No. 1, at 6–7.

[33] CBOE letter No. 2, at 4.

domination [Of OEX RAES] must be in place" [34] and because it is critical that the System not be put in jeopardy due to the withdrawal of a small number of large groups.

In addition, the CBOE disagreed with Fossett's argument that the proposal will increase the risk of System shutdown during extreme market conditions because of the safeguards in place that would ensure adequate market participation. In particular, the Exchange notes that, under the proposal: (1) Groups may not elect to leave the System during an expiration cycle once logged on; (2) a sign-off fee will be imposed on individuals who fail to meet their obligations; and (3) the IFPC, if there is inadequate RAES participation in OEX, will have the authority to require participation in OEX RAES of OEX market makers and, if there continues to be inadequate RAES participation in OEX, to allow non-OEX market makers to participate.[35]

The Exchange also disagreed with Fossett's assertion that the proposal was motivated by the self interest of members of the IFPC. The CBOE argued that the composition of the IFPC is representative of all segments of the CBOE population and that the Office of the Chairman and the Exchange Board of Directors reviewed the proposal several times. Moreover, the Exchange believed it is appropriate to provide the IFPC with broad authority over the operation of OEX RAES because the IFPC is in the best position to determine whether market maker obligations are satisfied or additional participants are necessary to RAES.

Finally, the Exchange believed it is inappropriate to "grandfather in" existing OEX RAES participants that do not choose to meet the revised requirements. The Exchange argued that the participation of such members is not necessary for the performance of RAES.

IV. Discussion

The Commission has considered carefully the opinions of the commentator and the CBOE, and finds, for the following reasons, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

The Commission believes that the proposed rule change is rationally designed to ensure adequate market maker participation in RAES while limiting the system to those market makers necessary for its operation. The Commission recognizes that the proposal may result, after the phase-in period, in an immediate reduced level of market maker participation in OEX RAES. As the Fossett Corporation pointed out, and the CBOE conceded, there is a strong likelihood that the total number of market makers who both are eligible and elect to participate in RAES will decline, perhaps by as much as one-third, as a result of the exclusion of non-OEX market makers from the System. The Commission does not believe that this potential reduction, however, will be so severe as to impact negatively the efficient functioning of the System, given the anticipated total number of market makers who still will be eligible to participate in RAES.

There are over 400 market makers in the OEX/SPX pits, providing an extremely large pool of eligible market markers. On an average day there are over 200 market makers signed onto RAES, of which two-thirds would continue to be eligible under the proposed rule change. In the past this has proven to be more than adequate to ensure the continued smooth operation of OEX RAES.

The Commission, however, has been concerned that market maker participation in automatic execution systems remain adequate during periods of market volatility. [36] In this regard, the Commission does not believe the CBOE's conclusion that the proposed rule change will ensure sufficient market maker participation in OEX RAES during volatile periods is unreasonable. In particular, the CBOE has chosen to provide the IFPC with discretion to act in a variety of ways to alleviate inadequate market maker participation. Specifically, under the proposal, the IFPC has the authority to ensure the continued operation of the System, including during periods of extreme market volatility, by requesting participation from members of the OEX trading crowd, imposing sign-off fees, and requesting participation by members outside the OEX trading crowd. Moreover, the proposed RAES eligibility standards will require all members of group accounts to remain on RAES through the next expiration cycle and relief from this obligation may be conditioned upon the imposition of restrictions on all members of a group account from further access to RAES for time periods to be determined by the IFPC. The Commission believes that this sanction, coupled with the sign-off fees, is sufficiently severe so as to deter participating RAES market makers from abandoning their commitment to the System for other than good cause. In sum, the Commission believes these Exchange proposals are reasonably designed to provide for System participation during volatile market conditions.[37] Moreover, these proposals stress the affirmative obligation of the OEX trading crowd to OEX RAES and the interrelationship between the integrity of the OEX trading crowd and the System.

In addition, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) and 6(b)(8) of the Act.[38] First, the Commission does not believe the proposal is anti-competitive because the proposed rule does not impose any restrictions on CBOE market makers becoming OEX or SPX market makers. Second, even if the proposal imposes a burden on competition, the Commission still believes that any such effect is necessary because the proposal is in furtherance of another purpose of the Act, the protection of investors and the maintenance of fair and orderly markets.[39] Specifically, the Commission finds that the proposed rule change protects investors by ensuring the continued availability of RAES to public customers.[40] Moreover, as the

[34] CBOE letter No. 1, at 6.

[35] CBOE letter No. 2, at 1.

[36] *See* Division of Market Regulation, *The October 1987 Market Break* (February 1988).

[37] On Friday, October 13, 1989, the Dow Jones Industrial Average dropped 190 points, with most of the decline coming in the last hour of trading. On Monday, October 16, there were over 200 market markers on OEX RAES, of which ¾ were OEX/SPX market makers. If the proposed rule change were in place during that period, at a minimum there would have been sufficient market maker participation for the System (and perhaps even more participation due to the proposal's requirements).

[38] Section 6(b)(5) prohibits an exchange from engaging in "unfair discrimination between customers, issuers, brokers, or dealers * * *." Section 6(b)(8) provides that the rules of an exchange should not impose a "burden on competition not necessary or appropriate in furtherance of the purposes of [the Act]."

[39] In the legislative history to the Securities Act Amendments of 1975, Congress directed "the Commission to remove existing burdens on competition and to refrain from imposing, or permitting to be imposed, any new regulatory burden on competition 'not necessary or appropriate in furtherance of the purposes' of the Act." The legislative history also states that the Commission is not required to justify its actions as being the least anti-competitive manner of achieving a regulatory objective. *See* Senate Comm. on Banking, Housing & Urban Affairs, *Report to Accompany S. 249*, S. Rep. No. 94–75, 94th Cong., 1st Sess. 13, reprinted in 1975 U.S. Code Cong. & Ad. News 179. *See also Silverman* v. *SEC*, 890 F.2d 193, 195–200 (7th Cir. 1979); and *Bradford Nat. Clearing Corp.* v. *SEC*, 590 F.2d 1085, 1105 (D.C. Cir. 1978).

[40] This approval order is consistent with prior orders approving rule changes submitted by the CBOE and the American Stock Exchange to create an in-person requirement as a prerequisite for participation in an automatic execution system. *See* Securities Exchange Act Release Nos. 22305 (August 9, 1985), 50 FR 32930 and 22610 (November 6, 1985), 50 FR 47480.

Commission has said previously in an order approving revised market maker eligibility standards for RAES for SPX and equity options:

The Commission also does not agree with Fossett's argument that the limitation on group size to a maximum of 50 participants is unjustified or that it

Finally, the Commission does not believe it is appropriate to "grandfather in" current participants who would not satisfy the new eligibility standards. The

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change of MCC

versus an internal MCC processing account. MCC will next establish the Participant's CNS value position in the distributed or new security via a CNS

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

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Commission has said previously in an order approving revised market maker eligibility standards for RAES for SPX and equity options:

We believe an exchange reasonably may differentiate for certain purposes between those broker-dealers who regularly accommodate customer order flow and perform other market making responsibilities in a particular options class—*i.e.*, crowd market makers—from those who do not regularly perform these functions for that class. It is consistent with the Act for an exchange to accord to, and demand from, the former group certain privileges and responsibilities such as access to and trading with, orders entered through its automatic execution facilities, when there is a legitimate goal to be furthered thereby. In the present case we find such a purpose in the Exchange's need to ensure levels of in-person market maker participation sufficient to accommodate customer order flow in its RAES system.[41]

The Commission also does not believe, as argued by Fossett, that the proposed rule change is inconsistent with the Act because it may negatively effect the liquidity of the Exchange's equity options markets by drawing market makers to the OEX crowd. The Commission has not been presented with any evidence to indicate that this would in fact occur. In addition, the size of the OEX crowd is related directly to the order flow in that option class, and the availability of an automatic execution system would have at most a minimal effect on this relationship.

The Commission does not believe that the exclusion of non-OEX/SPX market makers from RAES will, in and of itself, result in the development of wider bid-ask spreads in the OEX market. Fossett argues that the participation of "independent" equity traders in RAES would help prevent this possibility. There is no evidence, however, to support that OEX quote spreads are positively or negatively effected by non-OEX market makers. Further, the Commission does not believe it is likely that approximately 400 OEX traders would act in concert to widen quote spreads in the OEX market to increase their profits from RAES trades, especially when only 7.8 percent of total OeX contract volume is executed through RAES.[42]

The Commission also does not agree with Fossett's argument that the limitation on group size to a maximum of 50 participants is unjustified or that it is proposed solely for the purpose of excluding successful groups. The Commission believes this limitation is justified by the CBOE's need to prevent the domination of RAES by any one group or groups and limit the risk of a System failure should a dominant group or several groups depart from the System.[43] The Commission also believes, for the same reasons, that the CBOE is justified in seeking authority to increase and decrease group size limits within the parameters imposed by the proposed rule change.[44]

Moreover, the Commission does not find that the proposed rule change is motivated by the self-interest of the index option traders on the IFPC. The CBOE has represented to the Commission that the IFPC is composed of a diverse range of CBOE members.[45] In addition, the Commission notes that the proposed rule change was duly considered, modified, and approved by the CBOE Board of Directors, a body including representatives of all CBOE constituencies, as well as public members.

The Commission does not believe that any further studies are required before the Exchange's proposal is adopted. The Exchange has provided data indicating that after the proposed changes are effective there will be sufficient OEX participants, including joint accounts, to maintain the continued performance of the System. The Commission also believes it is inappropriate to withhold approval of the pilot program so that studies can be conducted on the potential anti-competitive effects of defections of market makers from other pits to the OEX pit. The Commission notes that this proposal is being approved for only a six-month pilot basis period. During this period, the CBOE will monitor the program to determine if any of the problems highlighted by Fossett do in fact occur. In the event complications do arise, then the CBOE would need to address such problems before the pilot could be extended or approved on a permanent basis.

Finally, the Commission does not believe it is appropriate to "grandfather in" current participants who would not satisfy the new eligibility standards. The Commission believes their inclusion is not necessary for the successful operation of the System. Moreover, the Exchange proposal provides such individuals with a phase-in period to meet the new eligibility requirements if they desire to continue their participation in OEX RAES.

V. Conclusion

The Commission has reviewed carefully the proposed rule change and has concluded that the rule provides for adequate and proper regulation of RAES and the OEX market. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of section 6.[46]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[47] that the proposed rule change (SR–CBOE–87–22) be and hereby is approved for a six-month period.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[48]

Dated: October 24, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25742 Filed 10–31–89; 8:45 am]

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[41] Securities Exchange Act Release No. 25995 (August 15, 1988). In accord with *Clement* v. *SEC*, 674, F.2d 641 (7th Cir. 1982), the Commission has considered the competitive aspects of the proposed rule change and balanced them against the need for ensuring adequate participation on OEX RAES. For the reasons contained in this order, the Commission believes that not only are any competitive concerns of the proposed rule change minimal, but that the goals of ensuring adequate OEX RAES participation far outweigh any burdens on competition.

[42] CBOE Statistics, June 1989.

[43] *See In the Matter of the Application of Fossett Corporation,* Securities Exchange Act Release No. 27125 (August 10, 1989).

[44] The CBOE has indicated that changes in group size will not be made arbitrarily. The IFPC will consider factors such as domination of RAES by a particular group, position limits, and financial risk.

[45] According to the CBOE, of the 18 members of the IFPC, 8 are individual market makers in OEX, 4 are nominees of firms that make markets in numerous option classes, 4 are floor brokers for member firms, and 2 are independent floor brokers.

[46] 15 U.S.C. 78f (1982).

[47] 15 U.S.C. 78s(b)(2) (1982).

[48] 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-27380; File No. SR-MCC-89-8]

Self-Regulatory Organizations; Midwest Clearing Corporation; Filing of Proposed Rule Change Establishing Procedures Regarding the Processing of Valued Positions on Mandatory and Non-Mandatory Reorganizations

October 25, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 3, 1989, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[1]

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[1] Subsequently, MCC amended the filing to provide for Commission review under section 19(b)(2) of the Act and to request accelerated approval of the proposal. Letter from Jeffrey E. Lewis, Associate Counsel, MCC, to Esther Severoon, Jr., Branch Chief, Division of Market Regulation, Commission, dated October 20, 1989.

Continued

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change of MCC establishes procedures regarding the processing of valued positions on mandatory and non-mandatory reorganizations.

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to implement procedural changes regarding the processing of value positions on mandatory and non-mandatory reorganizations. The changes clarify MCC's current procedures in changing the status of an item from Continuous Net Settlement ("CNS") to Trade-for-Trade eligible because of the fact that the item is undergoing a reorganization. In the case of non-transferring bankruptcies (e.g., items either bankrupt or undergoing bankruptcy) or other non-transferring issues (e.g., items non-transferable because, among other reasons, of the lack of a valid transfer agent), MCC will designate positions in these items as eligible for clearance but "frozen", unless MCC possesses the required denominational breakdown to withdraw such positions to Participants. Once these items are cleared and securities are finally withdrawn, MCC will change the eligibility status from frozen to ineligible.

In the case of any reorganization involving the distribution of (or a CUSIP or item name change) an existing CNS eligible security, MCC will clear the Participant's original security via a CNS next-day settling trade (for no money) versus an internal MCC processing account. MCC will next establish the Participant's CNS value position in the distributed or new security via a CNS next-day settling trade (for no money) versus the same internal processing account. As a result of this internal processing, Participants will then have a position in the *distributed* or *new* security.

If the distributed or new security is not or will not be made CNS eligible, MCC will designate this security eligible for clearance in the Trade-for-Trade only. MCC will establish the Trade-for-Trade status similar to the procedures outlined above and the Participant's position in such security will be established via a trade versus MCC's internal processing account. (The value of the trade will be established based on the value of the original underlying securities as reflected on the prior business days' Net Position Report). MCC will also apply these procedures if it determines to change the eligibility status of a security from CNS eligible to Trade-for-Trade eligible only.

As a result of the foregoing internal processing, Participants will have a position in the security in the Trade-for-Trade System, rather than CNS. (However, if the Participant's position was originally entered and reported in the CNS System, MCC's existing Trade Guarantee Policy (dated June 26, 1987) will apply even though the position is later designated as Trade-for-Trade eligible only).

The proposed rule change also provides similar procedures relating to the processing of (i) non-mandatory reorganization offers involving the potential future distribution of a presently unknown money amount and, (ii) securities undergoing reorganization. With regard to the latter, MCC will clear the item from CNS to Trade-for-Trade through trades processed through MCC's internal processing account. As in the case of mandatory distributions or CUSIP or name changes, MCC will continue to monitor the resulting Trade-for-Trade positions and may mark such positions to the market.

MCC believes that the proposed rule changes are consistent with Section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of securities value positions undergoing reorganizations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

MCC has not received any comments from Participants on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or,

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to file number SR–MCC–89–8 and should be submitted by November 22, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonthan G. Katz,

Secretary.

[FR Doc. 89–25744 Filed 10–31–89; 8:45 am]

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[Release No. 34-27361; File No. SR-NSCC-89-10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Temporary Approval of a Proposed Rule Change Concerning Telecommunications Systems

October 25, 1989.

On July 19, 1989, the National Securities Clearing Corporation ("NSCC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), filed a proposed rule change to allow NSCC to operate its telecommunications services which facilitates the automated transmission of data between members and the computer system operated by Securities Industry Automation Corporation ("SIAC"), NSCC's facilities manager. On August 15, 1989, the Commission published notice of the proposed rule change to solicit comment from interested persons.[1] No comments were received. This order approves the proposal on a temporary basis until March 31, 1990.

I. Description

The proposal would authorize NSCC to operate a data communications service, which establishes a communications link between the member's main frame computer or personal computer (PC) and SIAC's main frame computer. For members using main frame computers, NSCC will prescribe the input and output formats for the transmission or receiving of information to or from SIAC. Members may also access SIAC's main frame computer using NSCC's PC Access System for direct access between SIAC and the NSCC member [2] or the IBM information exchange communications ("information exchange") system, for input and output of data. The information exchange is a centralized service bureau that allows NSCC members to communicate with SIAC's computers by collecting data from information exchange users for retransmission to NSCC and by collecting data from NSCC for retransmission to information exchange users.

An NSCC member may connect to the SIAC computer through: (1) A dedicated telephone line, which is installed directly between the member's system and a SIAC telecommunications port and provides direct communication access; (2) a dial-up capability which allows the member to dial directly to a SIAC port dedicated to that member at SIAC; or (3) a dial-up capability that allows the member to dial into a SIAC telecommunications device that allocates the connection to one of five telecommunications ports. NSCC will allocate twenty-five members electing the last communication option to each device, known as a hunt group. Only five of twenty-five members may be connected at any point in time. Each member is provided a telephone number of his group. The call will hunt to one of four other numbers associated with the other ports in the hunt group if the first port is being utilized. In the event that a member is unable to connect with one of the ports in the hunt group because all ports are being utilized, the member may call the SIAC Help Desk and SIAC will provide temporary access to a different port, or the member may redial at a later time.

In an effort to secure access to the system, NSCC has developed a four-tier system of intruder blocks for dial-up users which prevent unauthorized access into NSCC's system. As outlined below, each block must be passed before data can actually be entered:

(a) *Level One:* (Physical Connection) There must be a match between the physical connection of the member's main frame computer of PC (modem type, line speeds and protocol) and the SIAC port accessed by the telephone number.

(b) *Level Two:* (Computer Operating System Connection) Each member is provided a unique communication ID (identifying the communication link) when first connected to SIAC's main frame. This ID is checked each time the member tries to access the SIAC Computer. The member will not be able to enter Job Control Language (JCL) (which is a programming language used to communicate with a main frame), unless this ID is correct.

(c) *Level Three:* (Job Entry System "JES" Identification) The member's system sends a unique JES identification ID and a unique password in JCL in order to log onto JES. Each member has his own version of JCL in order to define himself to the SIAC system. The JES identification ID and JCL password are checked for validity and cross checked against the communication ID stored in the SIAC system. The JES identification ID and JCL password and JES identification will only allow the member to enter JES. JES is a set of codes which allows a member to transmit data for subsequent processing or receive data that has already been processed. The member will be locked out of other SIAC systems which might allow for other tasks. Once the member is logged onto JES he can inform the system that data is forthcoming or request transmission of data to him.

(d) *Level Four:* (Data Entry) Another unique password identifying the member to the application programs is entered with this JCL and then used to allow the member access to SIAC's Datatrak system. Datatrak routes data to the appropriate application program for subsequent processing. In addition, Datatrak checks certain key data elements to assure that it contains the proper date and ID and data format. Finally, Datatrak checks the total number of records sent and compared it with a masterfile of the usual number of records sent by a particular member. If any of the information is incorrect, the data will either be rejected or held in abeyance and sent to a Datatrak control desk, where the member is contacted to investigate the problem and determine further action.

If a member fails to connect at any level in the process after three attempts, his communication ID will be invalidated and all access denied. To access the system thereafter, the member must contact SIAC security staff. Once the problem is resolved, the member will be re-activated by SIAC security.

II. NSCC's Rationale

NSCC believes the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions by providing members with automated, secure and cost effective access to NSCC's services. NSCC also believes that its data communications system provides adequate safeguards to ensure safety and security of the system and to prevent unauthorized access. Therefore, NSCC believes that the proposed rule filing is consistent with the requirements of section 17A the 1934 Act.

III. Discussion and Conclusion

The Commission has preliminarily determined that the proposal facilitates the prompt and accurate clearance and settlement of securities transactions consistent with section 17A of the Act. Moreover, section 17A(a)(1) of the Act expressly encourages the use of automated systems to make the processing of securities transactions more prompt and efficient.

Use of dial-up connections will allow greater appreciation in NSCC's automated communications system. The use of dial-up connections, however, raises safety and security concerns. Therefore, in order to assess the adequacy of NSCC's data communications service the Commission is approving the proposal on a temporary basis until March 31, 1990.

It is therefore ordered, that NSCC's proposed rule change (NSCC-89-10) be, and is hereby approved on a temporary basis until March 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-25743 Filed 10-31-89; 8:45 am]
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[1] *See* Securities Exchange Act Release No. 27143 (August 15, 1989) 54 FR 34845 (August 22, 1989).

[2] NSCC's PC Access System is a PC communication linkage which will eliminate the IBM information exchange so that data will pass directly between SIAC and the member's PC. Members are currently being converted from the IBM information exchange to NSCC PC Access. Members can utilize most types of main frame computers, but the PCs, if used, must be either IBM or IBM clones.

[Rel. No. 34-27394; File No. SR-OCC-89-12]

Self-Regulatory Organizations; Proposed Rule Change by Options Clearing Corporation Relating to the Use of the Theoretical Intermarket Margin System for Equity Options

October 26, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow OCC to utilize the Theoretical Intermarket Margin System, which OCC currently uses to calculate margin for non-equity options, to calculate margin for equity options. The proposed rule change would also allow OCC to eliminate the 50% haircut for product group margin credits in firm and market-marker/specialist/registered trader accounts.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

General

The purpose of the proposed rule change is to permit OCC to implement two of the recommendations made in the special study entitled "The Backup System," conducted by a Subcommittee (referred to herein as the "Subcommittee") of the Margin Committee of OCC's Board of Directors. The first recommendation is that OCC margin stock options using the same system (called the "Theoretical Intermarket Margin System" or "TIMS") that it currently uses for non-equity options.[1] (As applied to stock options, TIMS is sometimes referred to herein as "Equity TIMS" and, as applied to non-equity options, TIMS is sometimes referred to herein as "Non-Equity TIMS.") This recommendation is based on the Subcommittee's conclusion that the performance of Non-Equity TIMS was superior to the performance of OCC's current equity margin system during the market break of October 1987, among other reasons because Non-Equity TIMS generated a better assessment of OCC's risk exposure, with less propensity to either over- or under-margin positions.[2]

The second recommendation of the Subcommittee that would be implemented by this proposed rule change is that OCC eliminate the 50% haircut for product group margin credits in firm and market-marker/specialist/registered trader accounts. This recommendation is further described below in the discussion of rule 602(c)(3) (as redesignated).

OCC installed TIMS for non-equity options in April 1986. At that time, constraints in OCC's processing systems prohibited the nightly computation of equity option margins using TIMS in a timely and efficient manner. Those systems constraints have since been eliminated, so that OCC's systems are now capable of efficiently performing TIMS calculations for equity options overnight.

Equity TIMS would treat all of the stock options in an account as an integrated portfolio, use options price theory to project the cost of liquidating the portfolio in the event of an assumed "worst-case" change in the price of the underlying securities, and set the margin requirement at a level sufficient to cover that cost. In all of these respects, Equity TIMS is analytically identical to Non-Equity TIMS. However, Equity TIMS is less complex than Non-Equity TIMS, because all stock option class groups (a "class group" of options consists of all puts and calls relating to the same underlying asset) are combined into a single product group (a "product group" consists of all class groups whose underlying assets exhibit price correlation), whereas Non-Equity TIMS, because it is applied to a more diverse range of products, accommodates class groups that are not assigned to any product group, and also accommodates several product groups.

Equity TIMS is described in OCC's rules in a new rule 601, which would replace existing rules 601 ("Margins on Short Positions in Stock Options") and 602 ("Margins on Exercised Stock Option Contracts"). Non-Equity TIMS is described in existing rule 602A, and that Rule would be redesignated as Rule 602 as part of this rule change.

Operation of Rule 601

Revised Rule 601 is structured to parallel Rule 602 (as redesignated). Rule 601(a) contains a general statement to the effect that each Clearing Member, on each business day, must deposit margin calculated in accordance with Rule 601 on the stock option positions in each of its OCC accounts.

Paragraph (b) sets forth definitions of terms used in Rule 601. The definitions of "stock option product group" in

[1] OCC proposed to amend its rules to implement TIMS for non-equity options in File No. SR-OCC-86-21. That proposed rule change and the Commission's Release No. 34-23167 (April 22, 1986) approving the proposed rule change contain general descriptions of the operation of TIMS, and a similar description is not included in this filing.

The "Theoretical Intermarket Margin System" methodology is "theoretical" because it relies on options price theory, and "intermarket" because its focus on price movements in underlying assets permits it to margin as a single integrated portfolio all option, commodity future, and stock positions in an account. The application of TIMS to stock options, however, does not involve any intermarket margining.

[2] A more complete comparison of Non-Equity TIMS and OCC's current equity margin system is set out on pages 23-29 of "The Backup System."

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subparagraph (b)(3) and "additional margin" in subparagraph (b)(7) are simplified in comparison to their Rule 602 counterparts because all stock option class groups are classified in one product group, as noted above. The definitions of "premium margin" in subparagraph (b)(4) and "marking price" in subparagraph (b)(6) are simplified in comparison to their Rule 602 counterparts because they need address only stock options, rather than options on several different underlying assets. The definition of "offsetting assigned short contract" is based upon the definition in existing Rule 601(a).

Rule 601(c) describes the calculation of margin for firm and market-maker/specialist/registered trader accounts. The paragraph differs from Rule 602(c) because all stock option class groups are combined into one stock option product group. A separate subparagraph describing "Class Group Margin" is therefore unnecessary, as is a sentence describing the summation of margin credits and requirements for the various product groups and class groups parallel to the first sentence of Rule 602(c)(3).

Subparagraph 601(c)(2) provides that any margin credit for the stock option product group may be applied, without a haircut, against any non-equity option margin requirement of the Clearing Member in the same account. This provision is further discussed below in the discussion of changes to Rule 602.

Rule 601(d) describes additional provisions that apply to the calculation of margin in customers' accounts and firm non-lien accounts. The paragraph contains no counterpart to Rule 602(d)(4), since there is only one stock option product group, but otherwise parallels Rule 602(d).

Subparagraph 601(d)(4) is intended to clarify that exercised options will be deemed for margin calculation purposes to be segregated (*i.e.*, not subject to an OCC lien, and so not entitled to margin credit) on and after the business day following the date of exercise, unless there are offsetting assigned short contracts in the same account. This provision is intended to assure that OCC gives no margin credit for long positions whose value might not be available to OCC if OCC were to suspend the Clearing Member prior to settlement.

Rule 601(e) states that the margin requirement for stock options terminates when OCC receives satisfactory evidence of completion of broker-to-broker settlement, or on the exercise settlement date for settlements effected through stock clearing corporations, as applicable.

Rule 601(f) provides that no margin credit will be extended in respect of pledged long positions.

Interpretation .01 to Rule 601 parallels Interpretation .01 to Rule 602. Interpretation .02 parallels Interpretation .02 to Rule 602, but reflects OCC's determination that the price correlation among stocks requires a 70% haircut of any additional margin credit calculated for a stock option class group before the credit may be taken into the calculation of the overall additional margin requirement for the stock option product group. Interpretation .03 sets out the provisions relating to "cash options" currently set out in Interpretation .01 to Rule 601.

Changes in Rule 602 (As Redesignated)

Rule 602(c)(3) is amended to implement the Subcommittee's recommendation to eliminate the 50% haircut that is currently applied to any non-equity product group margin credit before the credit is taken into the calculation of the overall non-equity margin requirement for a firm or market-maker/specialist/registered trader account. The reason for the change is that any excess long option value at the product group level has already been subjected to haircutting, in the course of combining the component class groups into the product group, to account for market risk. The haircut at the product group level is therefore unnecessary to account for market risk, and results in over-margining of accounts. Rule 602(c)(3) as amended would also permit 100% of any overall non-equity margin credit to be applied to any equity margin requirement, again because the excess long option value reflected in the margin credit has already been subjected to haircutting to account for market risk. New Rule 601(c)(2) (which addresses only the application of an Equity TIMS margin credit to a Non-Equity TIMS margin requirement, because Equity TIMS has only one product group) parallels revised Rule 602(c)(3) by permitting 100% of any overall equity margin credit to be applied to any non-equity margin requirement.

The changes in Rule 602(d)(2) are primarily to clarify that the deemed segregation described therein is effective for margin deposited from and after the opening of business on the business day after exercise, not simply for margin calculated from and after the opening of business on the business day after exercise. Subparagraph (d)(2) of new Rule 601 parallels revised subparagraph (d)(2) of Rule 602.

Changes in the By-Laws and Other Rules

Paragraph (111) of Article I, section 1 of the By-Laws is changed to conform the paragraph to the changes in Rules 602(d)(2) described above.

References in other Rules to Rule 602A are changed to reflect the redesignation of the Rule as Rule 602.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because I would enhance OCC's system of safeguards and further the public interest by applying TIMS, which OCC's experience has shown to generate a more accurate assessment of OCC's risk exposure and to have less propensity to over- or under-margin option positions, to stock options. In addition, by eliminating the 50% haircut at the product group level, the proposed rule change would reduce the margin requirements of Clearing Members without significantly diminishing the protection afforded to OCC by its margin system.

B. Self-Regulatory Organization's Statement of Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change and none has been received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above (File No. SR-OCC-89-12) and should be submitted by November 22, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-25745 Filed 10-31-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17195; 812-7280]

California Portfolio et al.; Application

October 25, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

Applicants: California Portfolio ("Muni California Portfolio") and New York Portfolio ("Muni New York Fund"), each a series of The Muni Bond Funds; American Capital California Tax-Exempt Trust ("American Capital Trust"); New York Municipal Portfolio ("American Capital Portfolio"), a series of American Capital Tax-Exempt Trust; Mutual Management Corp. ("Mutual"); and American Capital Asset Management, Inc. ("ACAM") (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 17(b) of the Act from the provisions of section 17(a) of the Act.

Summary of Application: Applicants seek an order of exemption to the extent necessary to permit (1) Muni California Portfolio to acquire all or substantially all the assets of American Capital Trust in exchange for shares of Muni California Portfolio; and (2) Muni New York Fund to acquire all or substantially all the assets of American Capital Portfolio in exchange for shares of Muni New York Fund.

Filing Dates: The application was filed on March 24, 1989, and was amended and restated on September 25, 1989.

Hearing of Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 17, 1989, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing the the SEC'S Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o Smith Barney, Harris Upham & Co., Incorporated, 1345 Avenue of the Americas, New York, New York 10105, Attention: Christina T. Sydor.

FOR FURTHER INFORMATION CONTACT: Stuart Horwich, (202) 272-3035, or Karen L. Skidmore, Branch Chief, (202) 272-3033 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Muni California Portfolio and Muni New York Fund ("Acquiring Funds") are two of four series of The Muni Bond Funds, a Massachusetts business trust registered under the Act as an open-end, non-diversified, management investment company. Muni California Portfolio seeks to pay its shareholders as high a level of monthly income exempt from Federal income taxes and from California personal income taxes as is consistent with prudent investing. Muni New York Fund seeks to pay its shareholders as high a level of monthly income exempt from Federal income taxes and from the personal income taxes of New York State as is consistent with prudent investing. Mutual serves as the investment adviser for each of the Acquiring Funds.

2. American Capital Trust is a Massachusetts business trust registered under the Act as an open-end, diversified, management investment company. American Capital Trust seeks as high a level of income exempt from Federal and California personal income tax as is consistent with its investment policies. American Capital Portfolio (together with American Capital Trust, "Acquired Funds") is one of four series of American Capital Tax-Exempt Trust, a Massachusetts business trust registered under the Act as an open-end, diversified, management investment company. American Capital Portfolio is a non-diversified portfolio that seeks as high a level of income exempt from New York State, New York City and Federal incomes taxes as is consistent with its investment policies. ACAM serves as the investment adviser for each of the Acquiring Funds.

3. Mutual, which is registered with the Commission as an investment adviser, is a majority-owned subsidiary of Smith Barney, Harris Upham & Co. Incorporated ("SBHU") with the remaining minority interest owned by Smith Barney Inc. ("SBI"), parent company of SBHU. SBI is a wholly-owned subsidiary of Primerica Corporation ("Primerica").

4. ACAM, which is also a registered investment adviser, is a wholly-owned subsidiary of American Capital Management & Research, Inc. ("ACMR"). Approximately 83 percent of ACMR's outstanding stock is owned by Associated Madison Companies, Inc., a wholly-owned subsidiary of Primerica, and the remaining 17 percent is publically-held and traded on the New York Stock Exchange. As a result of these relationships, Mutual and ACAM are under the common control of Primerica.

5. Each Acquiring Fund proposes to acquire all or substantially all of the assets of its corresponding Acquired Fund in exchange for shares of the Acquiring Fund. The Acquired Funds will endeavor to discharge all of their known liabilities and obligations prior to the closing date, as defined in the Agreement and Plan of Reorganization. Neither of the Acquiring Funds has unamortized organizational expenses; however, each Acquired Fund presently has unamortized organizational expenses as an asset. The investment adviser of each Acquired Fund will redeem the initial shares issued at a price that will be reduced by the unamortized organizational expenses, so that immediately prior to the mergers neither the Acquiring or the Acquired Funds will have any unamortized organizational expenses. Each Acquiring Fund will assume all liabilities, expenses, costs, charges and reserves or

obligations or the corresponding Acquired Fund reflected on an unaudited statement of assets and liabilities of the corresponding Acquired

well as the performance of similar funds; (6) the terms and conditions of the Reorganizations and whether the Reorganizations would result in dilution

a majority of the outstanding shares of the Acquired Fund.

Applicants' Legal Analysis

a. The Trustees of the Acquiring Funds and the Acquired Funds, including a majority of the Trustees who are not interested persons of the Acquiring or Acquired Funds shall have determined:

Hearing requests also should be accompanied by proof of service on the Applicant in the form of affidavits or, for lawyers, certificates of service. Requests

significantly lower than would otherwise have been the case, and the remaining shareholders of the Applicant would be harmed. Following discussions

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obligations or the corresponding Acquired Fund reflected on an unaudited statement of assets and liabilities of the corresponding Acquired Fund as of the close of business on the closing date. Each Acquiring Fund will assume only those liabilities reflected in that unaudited statement of assets and liabilities and will not assume any other liabilities, whether absolute or contingent, known or unknown, accrued or unaccrued. The investment adviser to the Acquired Funds will be responsible for all liabilities, if any, not assumed by the Acquiring Funds. Each of these transactions (individually, a "Reorganization," and collectively, the "Reorganizations") is a separate transaction that is unaffected by whether the other Reorganization is consummated.

6. A form of the Plan, including the consideration to be paid or received by the funds involved, has been reviewed by the Trustees of the Acquiring and Acquired Funds, including the non-interested Trustees, and they have approved going forward with the Reorganization proposals presented to them. Each of the Trustees of the Acquiring and Acquired Funds, with respect to their fund, has also concluded that the Reorganization is in the best interests of the shareholders of the fund and will not result in the dilution of the interest of any of the existing shareholders of the fund. These findings and the bases therefor have been recorded fully in the minutes of each Acquiring and Acquired Fund.

7. In determining whether to recommend approval of the Reorganizations to shareholders of the Acquired Funds and in approving the terms of the proposed Reorganizations, the Trustees of the Acquiring Funds and the Acquired Funds (including the non-interested Trustees, with the advice and assistance of independent legal counsel) made an inquiry into a number of matters and considered the following factors, among others: (1) The capabilities and resources of each Acquiring Fund's investment adviser and principal underwriter in the areas of investment management and marketing; (2) the compatibility of the funds' investment objectives, policies and restrictions, as well as service features available to shareholders in the respective funds; (3) expense ratios and published information regarding the fees and expenses of the Acquiring and the Acquired Funds; (4) sales charges, distribution fees and methods of distribution of the funds; (5) the comparative investment performance of each Acquiring and Acquired Fund, as well as the performance of similar funds; (6) the terms and conditions of the Reorganizations and whether the Reorganizations would result in dilution of shareholder interests; (7) the advantages to the Acquiring and Acquired Funds as well as to Mutual and ACAM and their respective affiliates; (8) the costs of the Reorganizations to be borne by the respective investment advisers; and (9) the tax consequences of the Reorganizations.

8. The number of shares to be issued to the Acquired Fund will be determined by dividing the aggregate value of the Acquired Fund's net assets by the net asset value per share of the Acquiring Fund computed as of the close of business on the closing date. Portfolio securities of the Acquired Fund will be valued in accordance with the valuation practices of the Acquiring Fund on the basis of bid prices provided by a pricing service.

9. As soon as practicable after the closing date, an Acquired Fund will liquidate and distribute pro rata to its shareholders of record as of the close of business on the closing date the shares of the Acquiring Fund received by the Acquired Fund in the Reorganization. As promptly as practicable after the liquidation of the Acquired Fund, and in no event later than twelve months from the date of the Plan, each Acquired Fund will be terminated pursuant to the provisions of the Agreement and Declaration of Trust.

10. The Acquiring and Acquired Funds will not bear any expenses of the Reorganizations. The respective investment advisers of the Acquiring and Acquired Fund parties to a Reorganization will each bear their respective expenses of the Reorganization. The Reorganizations are intended to be a plan of reorganization within the meaning of section 368(a)(1)(C) of the Internal Revenue Code of 1986.

11. Shareholders of each Acquired Fund will be sent a prospectus/proxy statement describing the proposed Reorganization; such prospectus/proxy statement will disclose succinctly the fees and expenses that will be borne by the shareholders of the Acquired Fund after the Reorganizations as shareholders of the Acquiring Fund. In addition, this statement will disclose the projected expense ratios of the combined funds based upon the Acquiring Fund's internally developed estimates as of a recent date. Consummation of each Reorganization is contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding shares of the Acquired Fund.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits purchases and sales between a registered investment company and affiliated persons. It was included to protect shareholders by prohibiting a purchase or sale transaction when a party to the transaction has both the ability and a pecuniary incentive to influence the actions of the investment company. In Investment Company Act Release No. 10666 (Oct. 3, 1979), the staff expressed the view that where two investment companies have in common an investment adviser, directors, or officers, the companies may be considered to be under common control and, therefore, affiliated persons of each other; thus their merging, consolidating or combining could be considered to be a prohibited purchase or sale under section 17(a) of the Act.

2. Rule 17a–8 generally exempts from the prohibitions of section 17(a) mergers involving registered investment companies that are affiliated persons solely by reason of having a common investment adviser, provided certain findings are made. However, while the Acquired and Acquiring Funds have investment advisers that are under common control, they have no common directors, officers or investment advisers, and therefore, the exemption provided by Rule 17a–8 is not available. Nevertheless, the elements which make the combinations specifically contemplated by Rule 17a–8 consistent with the policies of the Act exist with respect to the proposed Reorganizations and Applicants note that the Trustees of each fund party to these Reorganizations, including the non-interested Trustees, have made all the findings required by Rule 17a–8 and are in compliance with that rule.

3. Applicants respectfully submit that the proposed Reorganizations satisfy the standards set forth in section 17(b). The Trustees of the Acquiring and Acquired Funds have reviewed the consideration paid for the shares and concluded that the terms are fair and do not involve overreaching, and that the proposed Reorganizations are consistent with the policies of each of the funds.

Applicants' Conditions

Applicants agree to the following conditions if the requested order is granted:

1. The transactions described in the application will conform to the requirements of Rule 17a–8 under the Act, as follows:

a. The Trustees of the Acquiring Funds and the Acquired Funds, including a majority of the Trustees who are not interested persons of the Acquiring or Acquired Funds shall have determined:

(i) That participating in the transaction is in the best interests of the Acquiring and Acquired Funds; and

(ii) That the interests of existing shareholders of the Acquiring and Acquired Funds shall not be diluted as a result of effecting the transaction.

b. Such findings, and the basis upon which the findings were made, shall have been recorded fully in the minute books of the Acquiring and Acquired Funds.

2. The Acquiring and Acquired Funds shall not bear any expenses of the Reorganizations. The respective investment advisers of the Acquiring and Acquired Fund parties to a Reorganization shall each bear their respective expenses of the Reorganization, either as a result of expense undertakings or the voluntary assumption of such expenses by the respective investment advisers.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25746 Filed 10–31–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17194; 811–4162]

The OTC–100 Fund, Inc.; Application for Deregistration

October 25, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: The OTC–100 Fund, Inc.

Relevant 1940 Act Sections: Deregistration under section 8(f) and Rule 8f–1.

Summary of Application: The Applicant seeks an order declaring that it has ceased to be an investment company subject to the 1940 Act.

Filing Date: The application on Form N–8F was filed on September 29, 1989. Supplementary information was submitted by letter of counsel dated October 20, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing the SEC's Secretary and serving the Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 17, 1989, and should state the nature of the requester's interest, the reason for the request, and the issues contested. Hearing requests also should be accompanied by proof of service on the Applicant in the form of affidavits or, for lawyers, certificates of service. Requests for notification of a hearing may be made by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Five Piedmont Center, Atlanta, Georgia 30305.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Cathey Baker (202) 272–3033 or Branch Chief Karen L. Skidmore (202) 272–3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee. One may obtain a copy by going to the SEC's Public Reference Branch or by telephoning the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. The Applicant was organized as a corporation under Maryland law on November 13, 1984. The Applicant intends to file Articles of Dissolution with the State of Maryland as soon as practicable.

2. The Applicant registered under the 1940 Act as an open-end, diversified management investment company and filed a registration statement on Form N–8b–1 pursuant to section 8(b) on November 21, 1984. On that date, Applicant registered an indefinite number of shares of capital stock, $.10 par value, pursuant to a registration statement on Form N–1A filed under the Securities Act of 1933. The registration statement and pre-effective amendments thereto became effective on April 26, 1985, and the initial public offering commenced on May 1, 1985.

3. The liquidation of the Applicant was precipitated by its receipt on March 1, 1989 of redemption requests related to two separate shareholder accounts controlled by CIBA–GEIGY Corporation ("CIBA–GEIGY") as fiduciary. The accounts represented approximately 80% of the shares of the Applicant outstanding as of February 28, 1989. Because many of the Applicant's portfolio stocks were thinly traded at the time, the manager of the Applicant, Astrop Funds Advisor, Inc., advised that a disposition of the stocks for the purpose of obtaining cash proceeds to meet the redemption requests within seven days, as required by section 22(e) of the 1940 Act, would likely have a detrimental effect upon the market prices of the stocks. If so, the net asset value of the remaining shares of the Applicant outstanding would be significantly lower than would otherwise have been the case, and the remaining shareholders of the Applicant would be harmed. Following discussions between the Board of Directors of the Applicant and CIBA–GEIGY, the latter agreed to rescind the two redemption requests to enable the Applicant to raise redemption proceeds in an orderly manner. The agreement was conditioned upon assurances that CIBA–GEIGY would receive the net proceeds related to its shares prior to the end of March 1989, and that the Applicant would take steps to assure that its other shareholders would not redeem shares before the CIBA–GEIGY accounts.

4. The Applicant accordingly sought and obtained the order under sections 6(c) and 22(e)(3) of the 1940 Act issued in Investment Company Act Release No. 16866 (March 15, 1989), which permitted a suspension of the right of redemption through March 22, 1989 for the protection of shareholders. The order enabled the Applicant to effect an orderly sale of assets in contemplation of a liquidation and dissolution, and to distribute the proceeds of the sale to shareholders, after payment of liabilities and expenses.

5. On March 1, 1989, the Board of Directors of the Applicant unanimously approved a proposed plan of liquidation and dissolution of the Applicant ("Plan"). The Board also determined that if shareholder approval of the Plan were obtained, it would be appropriate to deregister the Applicant under the 1940 Act and to terminate its existence as a Maryland corporation. Under the Plan, the Applicant was required to forego any business activity (except for the purpose of winding up its business, preserving the value of its assets, and distributing assets to shareholders after the payment or reservation of assets for payment of all creditors of the Applicant) and to dissolve following performance of all other actions required by the Plan.

6. Definitive proxy materials concerning the proposal to liquidate and dissolve the Applicant were provided to the ten shareholders of the Applicant of record as of March 8, 1989. Preliminary copies of the proxy materials were filed with the Commission on March 3 and definitive copies were filed on March 13, 1989. At a special meeting held on March 21, 1989, the shareholders of the Applicant approved the Plan by the requisite vote.

7. Prior to shareholder approval of the Plan, the Applicant converted substantially all portfolio securities and other assets into cash proceeds, in anticipation of a liquidation. The

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portfolio securities and other assets were disposed of in open market, arm's length transactions in which the best available market prices were sought. The Applicant's portfolio transactions were placed exclusively with dealers who make a market in the securities involved, with the result that the Applicant paid no brokerage commissions in connection with such transactions. A portion of the proceeds, approximately $99,175, was used to satisfy outstanding liabilities. The remaining amount of $3,286,721 was applied to the liquidation distribution to shareholders described below.

8. Pursuant to the Plan, distribution of the Applicant's assets was made in two payments. On March 22, 1989, the Applicant distributed approximately 95% of its assets to its shareholders. The amount of the first distribution was $12.19 per share, aggregating $68,331,644. As of March 31, 1989, the Applicant had 5,606,255 shares of common stock, $.10 par value, outstanding. Net asset value per share at that date was $.58, aggregating $3,248,331. After payment of expenses or reservation of assets for payment, the Applicant distributed the remaining assets to shareholders on May 22, 1989. The second distribution was $.5863 per share, aggregating $3,286,721.

9. Pursuant to the Plan, the Applicant has borne the fees and expenses associated with the liquidation. Consulting, legal and auditing fees, and certain miscellaneous expenses (including custodian and transfer agency fees and expenses and filing fees) are expected to aggregate approximately $20,000, $35,000, $28,000 and $15,000, respectively.

10. There are no shareholders of the Applicant to whom distributions in complete liquidation have not been made. The Applicant has retained $10,000 in order to pay any remaining expenses that may arise after the date of filing of the application. The retained assets are currently invested in money market securities. It is not expected that remaining expenses will exceed $10,000, with the possible exception of compensation payable to officers of the Applicant for continuing services. The officers have agreed to waive any compensation which exceeds the amount remaining after other expenses are paid. Any assets remaining after payment of expenses and officers' compensation will be distributed pro rata to shareholders of the Applicant as of the date of liquidation. No person or entity is obligated to pay any expenses other than officers' compensation which exceed $10,000. The Applicant terminated its relationship with Astrop Funds Advisor, Inc. on March 22, 1989, the date of payment of the initial liquidation distribution.

11. The Applicant is in good standing under the laws of the State of Maryland. To its knowledge, the Applicant has no debt or other liabilities outstanding. The Applicant is not a party to any litigation or administrative proceeding, and is engaged only in those business activities necessary for the winding-up of its affairs.

12. The Applicant will continue to file all reports required by Rules 30a–1 and 30b–1 under section 30 of the 1940 Act until the requested order is granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25747 Filed 10–31–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24975]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 26, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 20, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

System Energy Resources, Inc. (70–7534)

System Energy Resources, Inc. ("SERI"), Echelon One, 1340 Echelon Parkway, Jackson, Mississippi 39213, a subsidiary of Entergy Corporation, a registered holding company, has filed an amendment pursuant to section 12(c) of the Act and Rule 42 thereunder, restating its declaration filed pursuant to sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder. A notice of the declaration was issued on October 20, 1988.

SERI proposes to acquire and retire from time to time through December 31, 1992, by means of tender offers, open market, negotiated or other forms of purchases, in whole or in part, prior to their respective maturities, one or more series of SERI's outstanding first mortgage bonds ("Bonds"). SERI proposes to use cash available to it from time to time from internally generated funds to acquire all or a portion of one or more series of Bonds. SERI estimates that it would acquire not in excess of $400 million of Bonds in the period ending December 31, 1992.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25748 Filed 10–31–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel No. IC–17193; 811–3525]

Ziegler U.S. Government Securities Trust, Series I; Application for Deregistration

October 24, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Ziegler U.S. Government Securities Trust, Series I ("Applicant").

Relevant 1940 Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

Filing Dates: The application on Form N–8F was filed on August 7, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1989, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 215 North Main Street, West Bend, Wisconsin 53095.

FOR FURTHER INFORMATION CONTACT: Patricia Copeland, Legal Technician, (202) 272–3009, or Max Berueffy, Branch Chief, (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is organized under the laws of the State of Wisconsin by a Trust Indenture and Agreement between B. C. Ziegler and Company as Depositor and First Wisconsin Trust Company as Trustee. On July 23, 1982, Applicant registered as a unit investment trust under the 1940 Act. On the same date, Applicant filed a registration statement under the Securities Act of 1933 to register 5,000 Units of Applicant's securities for primary distribution. Also, Applicant registered 2,500 Units to cover possible resales by the Depositor of Units sold in primary distribution. Applicant's registration statement never became effective. Applicant never made a public offering of its securities.

2. Applicant states that it has no outstanding debts, is not a party to any litigation or administrative proceeding and its assets will not be invested in securities. The Applicant is neither engaged nor proposes to engage in any business activities, other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25749 Filed 10–31–89; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–89]

Japanese Barriers to the Provision of Architectural, Engineering, and Construction Services, and Related Consulting Services

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment.

SUMMARY: The United States Trade Representative ("USTR") is seeking further public comment on acts policies and practices of the Government of Japan affecting the offering or performance in Japan by United States persons of architectural, engineering, and construction services, and related consulting services, and in particular whether such practices are unreasonable and burden or restrict United States commerce, and if so, what responsive action, if any, should be taken pursuant to section 301 of the Trade Act of 1974, as amended ("the Trade Act").

DATE: Written comments from interested persons are due November 20, 1989.

ADDRESS: Comments should be addressed to the Chairman, section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street NW., Washington, DC. 20506.

FOR FURTHER INFORMATION CONTACT: Bonnie Richardson, Special Assistant for Services, (202) 395–7271, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: On November 21, 1988, pursuant to section 1305 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. No. 100–418, 102 Stat. 1182), the United States Trade Representative initiated an investigation under section 302 of the Trade Act of 1974, as amended, regarding those acts, policies and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance in Japan by United States persons of architectural, engineering and construction services, and related consulting services.

By **Federal Register** notice dated November 28, 1988 (53 FR 47897), USTRA invited written public comment on these barriers. In addition, on March 13, 1989, USTR held a public hearing on the Japanese government practices at issue (54 FR 6349), and heard testimony on practices which interested persons consider are unreasonable and a burden or restriction on U.S. commerce. Following the hearing, the United States held consultations with the Government of Japan on this matter. To date, no mutually satisfactory solution has been reached, but consultations are continuing, with the hope of resolving the issue before November 21, 1989.

Section 304 of the Trade Act requires the USTR in this case to determine by November 21, 1989, whether the Japanese practices are unreasonable and burden or restrict U.S. commerce. If that determination is affirmative, the USTR must determine what action, if any, to take under section 301 in response.

Public Comment

The USTR invites all interested persons to provide written comments on the required determinations. Comments will be considered in recommending any determination or action under section 301 to the USTR. Written and oral comments previously provided by interested persons in response to the November 28, 1988, **Federal Register** notice, or at the March 13, 1989, public hearing, need not be resubitted and will be treated as though they were provided in response to this notice unless they are modified or withdrawn.

All written submissions must be filed in accordance with 15 CFR 2006.8. Submissions are to be made in twenty (20) copies, in English, by noon on Monday, November 20, 1989, to: Chairman, Section 301 Committee, Office of the U.S. Trade Representative, Room 222, 600, 17th Street NW., Washington, DC 20506.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 89–25840 Filed 10–30–89; 12:28 pm]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 46438]

U.S.-Japan Service Case; Order of Administrative Law Judge

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on November 14, 1989, at 10:00 a.m. (local time), in Room 5332, Nassif Building, 400 Seventh Street SW., Washington, DC, before Administrative Law Judge Ronnie A. Yoder.

Dated: October 25, 1989.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 89–25837 Filed 10–31–89; 8:45 am]

BILLING CODE 4910–62–M

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Federal Aviation Administration

Flight Service Station at Alexandria Airport, Alexandria, Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of closing.

SUMMARY: Notice is hereby given that on October 17, 1989, the Flight Service Station (FSS) at Alexandria, Minnesota was closed. Services to the aviation public in the Alexandria flight plan area, formerly provided by Alexandria FSS, are being provided by the automated flight service station (AFSS) at Princeton, Minnesota. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 75 ; 49 U.S.C. 1354)

Dated: October 19, 1989.

Edward J. Phillips,
Acting Regional Administrator, Great Lakes Region.

[FR Doc. 89-25733 Filed 10-31-89; 8:45 am]
BILLING CODE 4910-13-M

Flight Service Station at Findlay Airport, Findlay, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of closing.

SUMMARY: Notice is hereby given that on October 10, 1989, the Flight Service Station (FSS) at Findlay, Ohio was closed. Services to the aviation public in the Findlay flight plan area, formerly provided by Findlay FSS, are being provided by the automated flight service station (AFSS) at Cleveland, Ohio. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Edward J. Phillips,
Acting Regional Administrator, Great Lakes Region.

[FR Doc. 89-25734 Filed 10-31-89; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Counties of Santa Barbara and Ventura, State of California

AGENCY: Federal Highway Administration (FHWA) DOT.
ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Santa Barbara and Ventura Counties, California.

FOR FURTHER INFORMATION CONTACT: Mr. John Schultz, District Engineer, Federal Highway Administration, P.O. box 1015, Sacramento, California 95809, Telephone: (916) 551-1140.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to replace two narrow, aging bridges and improve the alignment of a 0.9 mile segment of Highway 150 from 1.0 to 1.9 miles east of Highway 101 near Carpinteria. Alternatives under consideration include a range of highway and bridge widths, and the no project alternative. An Environmental Assessment (EA) was prepared and circulated for comment, and a public hearing was held in April of 1989. The decision to prepare an EIS was based upon input received from several of the agencies that responded to the EA circulation. No further scoping meetings are planned. To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction: The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on October 24, 1989.

John Schultz,
District Engineer, Sacramento, California.

[FR Doc. 89-25694 Filed 10-31-89; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 29-89, Treasury Notes, Series AF-1991]

Washington, October 25, 1989.

The Secretary announced on October 24, 1989, that the interest rate on the notes designated Series AF-1991, described in Department Circular—Public Debt Series—No. 29-89 dated October 19, 1989, will be 7⅝ percent. Interest on the notes will be payable at the rate of 7% percent per annum.

Marcus W. Page,
Acting Fiscal Assistant Secretary.

[FR Doc. 89-25647 Filed 10-31-89; 8:45 am]
BILLING CODE 4810-40-M

Internal Revenue Service

1990 Magnetic Tape Filing; Form 1040NR, Income Taxes

AGENCY: Internal Revenue Service, Treasury.
ACTION: Form 1040NR, Magnetic Tape Filing.

SUMMARY: The Internal Revenue Service will again conduct a program during the 1990 filing period for 1040NR Returns (U.S. Nonresident Alien Income Tax Returns) with schedules D and E and Form 4797 due June 15, 1990, to be filed via magnetic tape. This program will be available without geographic limitation, although all processing will be centralized at the Internal Revenue Service Center in Philadelphia, Pennsylvania. Participants must have secured prior authorization from the Internal Revenue Service (IRS). Interested parties can obtain copies of the draft revenue procedures by writing or calling the IRS. Comments on the program are welcome.

DATES: Expressions of interests are requested by December 1, 1989. Applications to participate must be received by December 31, 1989.

ADDRESS: Director, Internal Revenue Service, Philadelphia Service Center, P.O. Box 245, Drop Point 102D, Bensalem, PA 19020. Attention: Form 1040NR Magnetic Tape Coordinator. Telephone: 215-969-2234 (not toll-free number).

SUPPLEMENTARY INFORMATION: The Internal Revenue Service is receiving an increasing number of computer prepared returns, and is exploring methods to use the flexibility provided by computer preparation to achieve efficiencies of processing. Magnetic tape filing eliminates most of the manual processes required by IRS to handle paper documents, which will increase the quality of the final product, speed up the processing and reduce unnecessary correspondence.

For those filers who file Form 1040NR returns due June 15, 1990 and are interested in participarting in the program, the draft revenue procedures should be available by November 1, 1989. However, subsequent changes to record formats may be required due to Congressional legislation on capital gains. Test tape for acceptance must be submitted at least 60 days before the due date of the returns.

Generally, the revenue procedures will call for the filing of returns on magnetic tape of all the data currently supplied on the paper return, including those schedules and forms which usually accompany the return. Additionally, filers will be required to send to the IRS a separate form with certain key information from the return and the signatures of the taxpayer and preparer. A consolidated form has been approved by the IRS enabling preparers/filers to transmit the required information covering multiple returns with a single set of signatures.

Beverly Monaco,
Assistant Director, Returns Processing and Accounting Division.

[FR Doc. 89-25630 Filed 10-31-89; 8:45 am]
BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Exchanges of Students with USSR, Central and Eastern Europe, and Yugoslavia

The United States Information Agency (USIA) invites applications from U.S. educational cultural and other not-for-profit institutions to conduct exchanges of students and young people with the Soviet Union (including the Baltic States) and Central and Eastern Europe (Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania) and Yugoslavia. These exchanges represent part of the activities of the Samantha Smith Memorial Exchange Program and are subject to the availability of funding and to final legislation for the Fiscal Year 1990 program.

Overall authority for these exchanges is contained in the Mutual Educational and Cultural Exchanges Act of 1961, Public Law 87-256 [Fulbright-Hays Act]. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and people of other countries; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world." Programs under the authority of the Act should be balanced and representative of the diversity of American political, social and cultural life. Programs and projects must conform with all Agency requirements and guidelines and are subject to the requirements of the USIA contracting officer.

Summary

The Bureau of Educational and Cultural Affairs of the United States Information Agency announces a program of support for educational and cultural exchanges of students and young people between the U.S. and the USSR and between the U.S. and Yugoslavia, as well as the countries of Central and Eastern Europe, through a wide variety of substantive bilateral activities. USIA seeks to encourage participation of a broad range of sectors, institutions and geographic areas in the U.S. and in the exchange countries. Grants will be awarded to support projects of up to two years duration within the funding ceilings described below. Preference will be given to projects that expand the range of existing exchanges by scope, field of focus or institutional base, although support for ongoing activities will not be excluded.

Support is offered for two categories of exchange programs: Category A supports exchanges of undergraduate students under the age of 26 in academic programs between the U.S. and USSR, Central and Eastern Europe, and/or Yugoslavia for academically focused programs of generally no less than 3 months duration; Category B supports exchanges of young people under the age of 21 with the USSR and the countries of Central and Eastern Europe and Yugoslavia. Both existing and new projects are eligible.

Applications must be received by USIA no later than 5:00 p.m. EST on Monday, January 15, 1990.

Category A: Academic Exchanges

Grant funding under this category is intended to enhance and expand the scope of U.S. academic exchanges with the USSR, Central and Eastern Europe and Yugoslavia for undergraduate students under the age of 26. Projects should complement existing exchange programs with these countries.

Applications for substantive undergraduate academic exchange activities will be accepted from accredited, degree-granting U.S. universities or colleges and from not-for-profit organizations engaged in international educational exchange at the undergraduate level. Participants must be citizens either of the U.S. or of the partner country.

Preference will be given to exchanges with institutions located outside the capital cities overseas. New contacts with institutions under the jurisdiction of ministries or other organizations that do not usually participate in academic exchanges with U.S. institutions are also encouraged.

Priority will be given to the following areas of the arts, humanities, and social sciences: Study of the performing and visual arts (music, dance, painting, sculpture, etc.); study of the languages and literatures of the USSR (including the Baltic states), Bulgaria, Czechoslovakia, the GDR, Hungary, Poland, Romania, and Yugoslavia; environmental studies (conservation, industrial pollution problems, etc.); anthropology and archeology; cultural and historic preservation; communications (journalism, film, TV and radio); business management and finance; sociology and political science; area studies; international studies and foreign affairs.

Language Qualifications: It is desirable, but not required, that undergraduate students have sufficient fluency in the language of the country to be visited to pursue university study in that language and to converse with citizens of the country without the aid of interpreters.

Allowable Cost for Category A Projects: Project awards will be made in a wide range of amounts but will not normally exceed $75,000. Grant-funded items of expenditure will be limited to the following categories:

—International travel
—Domestic travel
—Maintenance and per diem
—Academic program costs
—Orientation costs (speaker honoraria are not to exceed $150 per day per speaker)
—Enrichment programs
—Cultural expenses
—Administration (salaries, benefits, other direct and indirect costs) may not not exceed 20 percent of the total funds requested; administrative expenses may be cost-shared.

It is expected that applications will demonstrate substantial cost sharing, including tuition waivers where applicable.

Category B. Youth Exchange

Grant funding for projects submitted under this category is intended to encourage the exchange of young people under the age of 21 between the U.S. and the USSR/the countries of Eastern and Central Europe and Yugoslavia. High school-based exchanges are eligible for

support. Programs may involve the U.S. in partnership with one or two more countries.

Organizations must document at least

—Language qualifications—Speaking ability in the language of the host country for both American and foreign participants is desirable, but not

Agency, 301 4th Street SW. Washington, DC 20547, *Telephone:* 202-485-1927

Dated: October 24, 1989.

Csaba T. Chikes,
Director, Youth Exchange Staff.

Donna M. Culpepper,

Book and Library Advisory Committee on Wednesday, November 15, 1989, 1:00 p.m.-4:00 p.m. in room 600, USIA Headquarters, 301 Fourth Street SW.,

assist USIA with its book and library programs abroad.

For additional information call Louise G. Wheeler or Patricia Gribbon at 485

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support. Programs may involve the U.S. in partnership with one or two more countries.

Organizations must document at least one of the following qualifications: (1) Three years or more experience in conducting youth exchanges; (2) three years or more experience in sponsoring substantive activities for young people; (3) experience conducting youth or adult exchanges with the Soviet Union; (4) three years or more experience arranging programs for foreign students or visitors in the U.S.

In addition, organization should be able to demonstrate an adequate resource base for conducting programming in more than one location, if the project requires it. Organizations other than schools seeking funds for a year or semester high school study program model must be designated by USIA under the "Criteria for Teenager Exchange Visitors Progams" (which may be obtained by writing to the Youth Exchange Staff at the address listed below).

The purpose of non-academic exchange is interaction and interchange between foreign and American youth. Consequently, extensive interaction is a requirement. Proposals should demonstrate how foreign and American youth will interact in a way that encourages the interchange of ideas in the structured program.

Preference is given for project activities that exhibit the following features:

—Thematic focus— Eligible foci may include, but are not limited to: the arts (theater, dance, music, literature, fine arts, folklore, and film/video); language and culture; conservation and the environmental; historic preservation; museum training; political, social, and economic issues; business administration/management; math and science; agriculture (rural or farm-based exchanges); and traditional youth activities. Projects requesting support for tours of performing groups and/or sports competitions (games, meets, etc.) are ineligible.

—Orientation programs—introduction to the program theme, administrative procedures, and substantive issues likely to be raised by their U.S. or foreign counterparts.

—Minimum stay of four weeks—USIA has a preference for programs in which the duration of stay in country is longer than four weeks. Consideration will be given to those projects which for reasons or requirements of the partner country or countries, are shorter, but the length of stay in country must be no less than three weeks.

—Language qualifications—Speaking ability in the language of the host country for both American and foreign participants is desirable, but not required. Ideally some participants in each incoming delegation should be conversant in English, and some participants in each outgoing delegation should be conversant in the host country language.

—Adequate lead/planning time to ensure a successful exchange.

—Evidence that the US organization has the commitment of a counterpart organization in the host country to engage in the proposed activities.

—Two-way exchange—Proposals should provide detailed information on programming in both the sending and receiving countries.

Allowable costs for Category B projects: The average grant award will be in the range of $25,000–50,000. The primary objective of grant funding is to expand or enhance exchange programs along the lines described above. Therefore, grant-funded items of expenditure will generally be limited to the following categories:

—In-country travel and per diem.

—Orientation or preparation costs; briefing materials.

—Speaker honoraria (not to exceed $150 per day per speaker).

—Cultural enrichment allowance (not to exceed $150 per participant).

—Conference/seminar registration fees and other program admission fees.

—International travel, normally limited to partial support for Americans traveling to the USSR or East Europe, and East Europeans traveling to the U.S.; it is assumed that Soviet participants' travel will be paid from Soviet sources.

—Administration (salaries, benefits, other direct and indirect costs) may not exceed 20% of the total funds requested; administrative expenses may be cost-shared.

—It is expected that applications will demonstrate substantial cost sharing in both program and administrative expenses.

Requirements for Application [Both Categories]

Interested U.S. organizations should write or call the offices listed below to request detailed application packets, which include award criteria, all necessary forms and guidelines for preparing proposals.

For Category A Proposals

The Samantha Smith Memorial Exchange Program, Office of Academic Programs, (E/AEE) Room 208, United States Information Agency, 301 4th Street SW. Washington, DC 20547, *Telephone*: 202–485–1927

For Category B Proposals

The Samantha Smith Memorial Exchange Program, Youth Exchange Staff, E/YX Room 357, United States Information Agency, 301 4th Street SW., Washington, DC 20547, *Telephone*: 202–485–7299.

1. *Review process:* USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Eligible proposals will be forwarded to committees of USIA officers for advisory review in conformity with the criteria set forth herein and in the guidelines for preparing proposals prior to funding decisions by delegated officials. All proposals will also be reviewed by the Agency's Office of the General Counsel as well as other Agency offices.

Completed applications in both categories will be reviewed according to the following criteria:

a. Quality of proposed activities and approaches.

b. Feasibility of the program plan.

c. Applicants' experience relevant to program goals.

d. Multiplier effect/impact—the likely impact of the exchange experience on the individual participants, their schools, and communities.

e. Contribution to expanding the range of U.S.-USSR/Central and Eastern European and Yugoslav exchanges. If the proposal is for support for an established activity, it should provide evidence of how USIA support would enhance the exchange relationship.

f. Cost effectiveness—Greatest return on each grant dollar.

g. Geographic and program balance—Proportional distribution of grant funds between the USSR and Central and Eastern Europe/Yugoslavia; also between categories A and B.

2. *Deadline:* Complete proposal packages must be received by USIA on or before January 15, 1990, 5:00 p.m. e.s.t. Applicants are responsible for the submission of complete applications. All required items must be received in one package by deadline.

3. *Notification:* All applicants will be notified of the results of the review process on or about April 30, 1990. Funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: October 24, 1989.

Csaba T. Chikes,

Director, Youth Exchange Staff.

Donna M. Culpepper,

Branch Chief, Academic Exchanges, Europe.

[FR Doc. 89–25635 Filed 10–31–89; 8:45 am]

BILLING CODE 8230–01–M

Book and Library Advisory Committee Meeting

The United States Information Agency announces an open meeting of the USIA Book and Library Advisory Committee on Wednesday, November 15, 1989, 1:00 p.m.–4:00 p.m. in room 800, USIA Headquarters, 301 Fourth Street SW., Washington, DC.

Newly formed subcommittees: Donated Books, Eastern European Initiative, International Publishing Development, Libraries, and Rights and Permissions will meet from 10:00 p.m.–12 noon. The full Committee will convene from 1:00 p.m.–4:00 p.m. to report on subcommittee recommendations to assist USIA with its book and library programs abroad.

For additional information call Louise G. Wheeler or Patricia Gribben at 485–8890.

Copies of minutes can be obtained by calling 485–8889.

Dated: October 10, 1989.

Douglas Wertman,

Committee Management Officer.

[FR Doc. 89–25634 Filed 10–31–89; 8:45 am]

BILLING CODE 8230–01–M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 210
Wednesday, November 1, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m. Tuesday, November 7, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 205940.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Highway Accident Report: Collapse of the S.R. 675 Bridg Spans over the Pocomoke River, Pocomoke, Maryland, August 17, 1988.

NEWS MEDIA CONTACT (202) 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: Octobr 27, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89-25707 Filed 10-30-89; 1:17 pm]

BILLING CODE 7535-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [54 FR 42885 October 18, 1989].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, October 13, 1989.

CHANGES IN THE MEETING: Deletion.

The following item was not considered at an open meeting on Wednesday, October 25, 1989, at 4:00 p.m.

Consideration of an application filed by T. Rowe Price Associates, Inc. on behalf of T. Rowe Price Spectrum Fund, Inc. for a conditional order of the Commisson under sections 6(c), 17(b), and 17(d) and Rule 17d-1 of the Investment Company Act of 1940 to permit the Spectrum Fund to acquire shares of funds within the T. Rowe Price group of funds in excess of the limitations imposed by Sections 12(d)(1) and to permit certain affiliated transactions otherwise prohibited by sections 17(a) and 17(d). For further information, please contact Bibb L. Strench at (202) 272-2856.

Commission Schapiro, as duty officer, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Barbara Green at (202) 272-2000.

Dated: October 27, 1989.

Jonathan G. Katz.

Secretary.

[FR Doc. 89-25861 Filed 10-30-89; 1:18 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of October 30, 1989.

A closed meeting will be held on Tuesday, October 31, 1989, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 31, 1989, at 2:30 p.m., will be:

Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Consideration of *amicus* participation.
Regulatory matter regarding financial institution.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel O. Hirsch at (202) 272-2100.

Dated: October 27, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25862 Filed 10-30-89; 1:18 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 210
Wednesday, November 1, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1762

RIN 0572-AA20

Standard Forms of Telecommunications Contracts REA Form 525-Central Office Equipment Contract (Including Installation)

Correction

In proposed rule document 89-24965 beginning on page 43429 in the issue of Wednesday, October 25, 1989, make the following correction:

On page 43430, in the first column, in the table, 5 asterisks should appear above and below "525".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AGL-29]

Establishment of Transition Area; Spearfish, SD

Correction

In rule document 89-24008 beginning on page 41822 in the issue of Thursday, October 12, 1989, make the following correction:

On page 41823, in the first column, under "**Spearfish, SD [New],** in the last line, "(lat. 44°49'00")" should read "(lat. 44°29'00")".'

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D.8264]

RIN 1545-AK26

Temporary Regulations Under Section 383 of the Internal Revenue Code of 1986; Use of Pre-Change Attributes

Correction

In rule document 89-22108 beginning on page 38664 in the issue of Wednesday, September 20, 1989, make the following corrections:

1. On page 38665, in the third column, in the second complete paragraph, in the 14th line, "carryforward" should read "carryforwards".

2. On page 38666, in the third column, in amendatory instruction "Par.3", Section 1.383-2T" should read "Section 1.382-2T".

§ 1.383-1T [Corrected]

3. On page 38670, in the first column, in Example (1), paragraph (ii), in the second line from the bottom, " 382(1)(2)" should read " 383(l)(2)".

4. On the same page, in the second column, in item 8, in the last line "150" should read "150, 000".

5. On the same page and column, in Item 13, in the fourth line, "0.93" should read "0.39".

6. On the same page, in the third column, in item 8., in the fourth line and in paragraph (g), in the second line from the bottom, "382(1)(2)" should read "382(l)(2)".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900-AE09

Evaluation of Studies Relating to Health Effects of Dioxin and Radiation Exposure

Correction

In rule document 89-23175 beginning on page 40388 in the issue of Monday, October 2, 1989, make the following correction:

§ 1.17 [Corrected]

On page 40391, in the third column, in § 1.17(d)(3), in the last line, "subgroups" should read "subgroup".

BILLING CODE 1505-01-D

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federal register

Wednesday
November 1, 1989

Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Study to Evaluate Conditions in Juvenile Detention and Correctional Facilities; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Stage 3—Data Analysis and Preparation of Reports: A series of reports on the existing conditions of

a single day in the approximately 3,300 public and private juvenile residential facilities serving juvenile courts

reviewing those conditions. The ultimate goal is to improve the operation of those facilities and the delivery of appropriate services to juveniles.

of conditions of confinement, including but not limited to:

- Intake and release criteria;
- Judicial case review;

2. Collect data on the conditions within juvenile detention and correctional facilities.

3. Analyze the data on the conditions

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DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Study to Evaluate Conditions in Juvenile Detention and Correctional Facilities

AGENCY: Office of Juvenile Justice and Delinquency Prevention.

PROGRAM ANNOUNCEMENT: Study to evaluate conditions in juvenile detention and correctional facilities.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to section 248(a)(1) of the juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1988, subtitle F of title VII of Public Law 100-690, November 18, 1988, announces a new research initiative to evaluate conditions in juvenile detention and correctional facilities, to determine the extent to which such facilities meet recognized national standards, and to make recommendations to improve the conditions in these facilities.

The purpose of this initiative is to review systematically the conditions of confinement in juvenile detention and correctional facilities in the United States and to determine the extent to which those conditions comply with existing recognized national standards. A major product of this project will be a summary of the results for OJJDP to use in preparing a report to the Congress of the United States on the conditions existing within juvenile detention and correctional facilities, including recommendations for the improvement of those conditions. This summary must be completed and submitted to OJJDP by September 15, 1991.

This is a research effort composed of three incremental stages:

Stage 1—Research Design: The research design should clearly articulate the problem, objectives, methodology, measures, sampling strategy and analysis plans for reviewing the conditions of confinement within juvenile detention and correctional facilities.

Stage 2—Data Collection and Data Processing: This stage involves the implementation of the design developed in Stage 1. The following tasks are to be completed: (1) Preparation of the data collection plan; (2) pilot tests of the data collection instrument(s); (3) data collection; (4) data processing; and (5) preparation of data tapes for analysis.

Stage 3—Data Analysis and Preparation of Reports: A series of reports on the existing conditions of confinement in juvenile detention and correctional facilities will be prepared. These reports will include a description and a summary of the results of the study as well as recommendations for improving conditions of confinement for juveniles.

OJJDP invites public and private agencies and organizations, or combinations thereof, to submit competitive applications to conduct the research outlined in this solicitation.

Up to $800,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, with an initial budget period of 18 months. This research program will consist of three stages (Design, Implementation, and Analysis). The initial award will provide support for stages I and II. One or more noncompeting continuation awards will be considered to complete a 30 month project period. Applicants should include in their proposal a plan to complete the analysis of the data collected for this project as well an estimate and justification of the amount required to complete the analysis.

The deadline for receipt of applications is January 8, 1990.

FOR FURTHER INFORMATION CONTACT: Douglas W. Thomas, Research and Program Development Division, (202) 724-5929. OJJDP, Room 784, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background
II. Program Goals and Objectives
III. Program Strategy
IV. Dollar Amount and Duration
V. Eligibility Requirements
VI. Application Requirements
VII. Procedures and Criteria for Selection
VIII. Deadline for Receipt of Applications
IX. Civil Rights Compliance

I. Introduction and Background

In 1986, there were approximately 716,608 admissions of juveniles to public and private residential programs housing delinquent or status offenders. These residential programs provide for the care and custody of youths placed by courts with juvenile court jurisdiction for delinquent offenses, non-criminal misbehavior, or neglect and abuse. They include detention centers, shelter care facilities, training schools, camps and ranches, group homes and community-based correctional centers. On any given day one may find many thousands of youths housed within these residential settings. Indeed, a 1987 census of Children in Custody revealed that 91,646 juveniles were in custody on a single day in the approximately 3,300 public and private juvenile residential facilities serving juvenile courts throughout the United States. (Office of Juvenile Justice and Delinquency Prevention, *OJJDP Fact Sheet on Children in Custody: 1987 Census of Public and Private Juvenile Facilities.*)

Inadequate conditions of confinement within juvenile detention and correctional facilities present major obstacles to the provision of individualized justice and effective services to meet the needs of youth in custody. At best, inadequate conditions can be counter-productive to the growth and development of juveniles in custody. At worst, they can be destructive and dehumanizing.

The JJDP Act provides for the development of comprehensive strategies to deal with the problems of juvenile delinquency and other issues pertaining to the administration of juvenile justice in the United States. A major purpose of the JJDP Act is "to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards." (Sec. 102(a)(5)).

The 1988 amendment to the JJDP Act directly addresses the issue of conditions of confinement for juveniles by requiring that the Office of Juvenile Justice and Delinquency Prevention conduct a study to review the conditions in juvenile detention and correctional facilities and assess the extent to which those conditions meet recognized national professional standards. The review of conditions in juvenile detention and correctional facilities is to result in a series of reports on the conditions existing within juvenile custodial facilities (see Stage III). This material will be used by OJJDP in preparing a report to the Congress of the United States summarizing the results of the study, and in making recommendations for improving the conditions in those facilities.

The study outlined herein is a response to this recent amendment to the JJDP Act as well as a continuation of previous efforts by the Office of Juvenile Justice and Delinquency Prevention to encourage the adoption and utilization of national juvenile justice standards. For this study, existing nationally recognized standards addressing the conditions of confinement for juveniles in custody are to be used as a basis for defining the conditions and developing the evaluation criteria to be used in

reviewing those conditions. The ultimate goal is to improve the operation of those facilities and the delivery of appropriate services to juveniles.

In addressing the extent to which conditions in juvenile detention and correctional facilities meet recognized national standards, the full range of available standards should be assessed. The legal literature, as it relates to the rights of institutionalized persons, should also be reviewed to determine the extent to which conditions of confinement have been addressed in the courts.

Standards provide a focal point for the assessment and improvement of the process of justice for juveniles by guiding policy and informing administrative actions. Standards related to the conditions of confinement in juvenile detention and correctional facilities can provide specific and measurable objectives, help define tasks to assist the accomplishment of goals, and provide guidance in developing policies and procedures to improve service delivery.

Previous efforts to establish national standards for the administration of juvenile justice have been carried out by various national professional organizations and prominent national advisory committees. Included among these efforts are the following:

(1) The Institute of Judicial Administration/American Bar Association Joint Commission on Juvenile Justice Standards (IJA/ABA).

(2) The National Advisory Committee on Criminal Justice Standards and Goals Task Force on Juvenile Justice and Delinquency Prevention (Task Force).

(3) National Advisory Committee for Juvenile Justice and Delinquency Prevention: Standards on the Administration of Juvenile Justice (NAC).

(4) American Correctional Association/Commission on Accreditation (ACA/CAC).

The standards prepared by the IJA/ABA, the Task Force, and the NAC are comprehensive and cover a wide range of issues including intervention in the lives of children, delinquency prevention, court roles and procedure, the police, planning and evaluation, as well as other areas. The standards promulgated by the ACA focus upon corrections and include community residential services, probation and aftercare, detention facilities and services, and training schools.

One of the major activities of this program is to select and operationally define the "conditions" that will be used as the evaluation criteria for this study. Applicants are to address a wide range of conditions of confinement, including but not limited to:

- Intake and release criteria;
- Judicial case review;
- Mail, telephone use, and visitation;
- Access to religious services;
- Access to legal assistance;
- Dress and personal property;
- Educational, training and treatment programs;
- Exercise and recreation;
- Medical services;
- Mental health care;
- Isolation;
- Diet and Nutrition;
- Staff qualifications and numbers;
- Sanitation, safety, and hygiene;
- Physical environment and living conditions;
- Resident rights, sanctions, and grievance procedures;
- Monitoring and reporting behavior of residents.

Standards promulgated by Federal agencies, professional organizations and national advisory committees do not, necessarily, obligate states, local jurisdictions, or private agencies to comply with those standards. It is expected, however, that the policies, procedures, and practices established at the state and local level for juvenile detention and correctional facilities will reflect, to varying degrees, recognized national standards. This study, therefore, will involve the identification of local detention and State correctional policies, procedures, practices and programs and the determination of the extent to which they are consistent with nationally recognized standards.

II. Program Goals and Objectives

A. Goals

1. To review recognized national professional standards for juvenile detention and correctional facilities for the purpose of defining conditions and developing evaluation criteria for the review of conditions in confinement.

2. To assess conditions in juvenile detention and correctional facilities and determine the extent to which those conditions meet recognized national standards.

3. To make recommendations for improving the conditions of confinement in juvenile detention and correctional facilities through the identification of model policies, procedures, practices and programs that are consistent with recognized national standards.

B. Objectives

1. Develop a research strategy to conduct an assessment of conditions of confinement in juvenile detention and correctional facilities.

2. Collect data on the conditions within juvenile detention and correctional facilities.

3. Analyze the data on the conditions of confinement within juvenile detention and correctional facilities, report on the analysis and develop specific recommendations for improving the conditions of confinement.

III. Program Strategy

OJJDP's planning and program development activities are guided by a framework that specifies four (4) sequential phases of program development: research, development, demonstration, and dissemination. This framework guides the decision-making process regarding the funding of future stages of the program.

This program is a research initiative. The purpose of the research initiative is to conduct and support research on issues that relate to the administration of juvenile justice and to the prevention of delinquency in the United States. The program will be conducted in three discrete incremental stages: (I) The research design stage, which involves the development of a research methodology for the assessment of conditions of confinement in juvenile detention and correctional facilities; (II) The data collection stage, in which data will be collected, processed and prepared for analysis using the methodology developed in the previous stage; and (III) The data analysis and reporting stage, which involves the analysis of the data and the preparation of reports that summarize the results of the study and provide recommendations for improving conditions of confinement in juvenile detention and correctional facilities.

All technical and subject matter portions of the program will be guided by recommendations of an independent project advisory committee established specifically for the program and approved by OJJDP. The project advisory committee will provide comments and recommendations regarding the strategies and activities for this program. It may be necessary to change or supplement project advisory committee members for different stages of the program. However, the objective will be to select technical and subject matter experts capable of addressing issues related to each of the program stages.

The project advisory committee members should have combined expertise in juvenile corrections, criminal/juvenile justice research and evaluation, and standards pertaining to the administration of juvenile justice,

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particularly as they relate to juvenile corrections.

Each stage of the program development process detailed below is designed to result in a complete and publishable product (*e.g.*: a research design that includes a review of existing recognized national standards, the research strategy, and reports to be prepared), and a dissemination strategy to inform the field of the development of the program and the results and products of each stage. A decision to continue or to terminate the program is made at the end of each stage based on the availability of funds and the quality and utility of program products.

A. Stage I—Research Design

The first stage of the program consists of developing the research design. The research should be designed to produce recommendations that can guide the development of programs to improve the conditions within detention and correctional facilities. This will involve the identification and review of recognized national standards for detention and correctional facilities and the development of clear, well justified definitions of "conditions" and "detention and correctional facilities."

The research design should provide for the selection of an appropriate sampling strategy for each type of facility, a plan for data collection, and a plan for the dissemination of information. It is expected that site visits will be a primary component of the data collection strategy.

1. Activities

Applicants must describe how the following major activities will be undertaken:

a. Establishment of a project advisory committee;

b. Development of a research design plan;

c. Review of the literature;

d. Development of the research design;

e. Project advisory committee review; and

f. Development of a dissemination strategy to inform the field of the status of the project.

2. Products

The products to be completed during this stage are:

a. A plan for developing the research design that includes:

(1) Research objectives;

(2) Description of activities, including an integrated time/task plan; and

(3) Staff assignments.

b. A research design that specifies:

(1) Objectives;

(2) Definition of key concepts—including, but not limited to: "conditions," "secure detention and correctional facilities," and "recognized national standards";

(3) Operationalization and measurement of key concepts;

(4) Well conceived and clearly articulated sampling strategy;

(5) Data collection plan;

(6) Data analysis plans;

(7) Anticipated reports;

(8) Time/task plan for implementation; and

(9) Dissemination strategy to inform the field of the status of the program.

B. Stage II—Data Collection and Data Processing

This stage involves the collection of data on the conditions of confinement using the methodology and instruments developed in the previous stage. The data collection instruments should be pilot tested and the project advisory committee should review the results of the pilot tests. It is expected that a preliminary report on the results of the pilot tests, including comments from the project advisory committee, will be prepared and appropriate revisions to the instrument will be made.

This stage also includes the preparation of the data for analysis. Data processing involves the preparation and application of appropriate data coding strategies and entry of the data into an automated data processing system. The applicant should address how each of the activities in Stage II will be accomplished.

1. Activities

Applicants must describe how the following major activities will be undertaken:

a. Preparation of a data collection plan;

b. Pilot test of the data collection instrument(s);

c. Project advisory committee review of the results of the pilot test and appropriate adjustments to methodology and/or instrument(s);

d. Data collection;

e. Data processing; and

f. Preparation of data file for analysis.

2. Products

The major products to be completed during this stage are:

a. Data collection plan to include a detailed data collection protocol;

b. Report on results from pilot test of data collection instruments and final instruments;

c. Data tape prepared for analysis, to include all necessary documentation; and

d. Dissemination strategy to inform the field of the status of the program.

C. Stage III—Data Analysis and Reporting

The final stage of this initiative will involve the analysis of the data collected and the preparation of reports. Applicants should include a proposed set of reports that will communicate the results to a variety of audiences including policy makers, practitioners, and researchers in the juvenile justice system. These reports are to describe the study, summarize the results, and provide recommendations as they relate to improving conditions of confinement existing in juvenile detention and correctional facilities.

1. Activities

Applicants must describe how the following major activities will be undertaken:

a. Preparation of a plan for report development and dissemination;

b. Analysis of data;

c. Preparation of draft reports on analyses related to the research objectives;

d. Project advisory committee review of analysis and draft reports; and

e. Preparation of reports on existing conditions in juvenile detention and correctional facilities and the extent to which they meet existing recognized national standards, which include recommendations for policy and program development.

2. Products

The products to be completed under this stage are:

a. Plan for data analysis and preparation of reports that identifies the report or series of reports to be prepared and the purpose and audience for each report;

b. Draft reports, including a summary of the results to be used by OJJDP in preparing a report to the Congress;

c. Final report; and

d. Dissemination strategy to inform the field of the results of the program.

IV. Dollar Amount and Duration

Up to $800,000 has been allocated for the initial award.

One cooperative agreement will be awarded competitively, with an initial budget period of eighteen (18) months. This research program will consist of three stages (Design; Data Collection; and Analysis and Reporting). The initial award will provide support for stages I and II. One or more noncompeting continuation awards will be considered

to complete the thirty month project period.

Noncompetitive continuation awards for the additional budget periods may be withheld for justifiable reasons. They include: (1) The results of stage I and II do not justify further program activity; (2) the recipient is delinquent in submitting required reports; (3) adequate grantor agency funds are not available to support the project; (4) the recipient has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; (5) a recipient's management practices have failed to provide adequate stewardship of grantor agency funds; (6) outstanding audit exceptions have not been cleared; and (7) any other reason that would indicate continued funding would not be in the best interest of the Government.

V. Eligibility Requirements

Applications are invited from public and private agencies and organizations. In order to expand the pool of eligible candidates, applications will be accepted from for-profit agencies as long as they agree to waive their profit fee and accept only allowable costs.

Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such.

Applicants and co-applicants must demonstrate that they have prior experience in the design and implementation of large scale, multiple site research on the juvenile justice system; and demonstrated knowledge of issues associated with juvenile corrections and conditions of confinement within juvenile detention and correctional facilities.

The applicants must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Application Requirements

All applicants must submit a completed Application for Federal Assistance (Standard Form 424), including a program narrative, a detailed budget, and budget narrative. All applications must include the information outlined in this section of the solicitation (Section VI) in Part IV, Program Narrative of the application (SF–424). The program narrative of the application should not exceed 70 double-spaced pages in length.

In accordance with Executive Order 12549, 28 CFR 67.510, applicants must also provide a certification that they have not been debarred (voluntarily or involuntarily) from the receipt of Federal funds. Form 4062/2, which will be supplied with the application information package, must be submitted with the application.

In addition, applicants must provide a Certification Regarding Drug-Free Workplace Requirements which meets the requirements of the Drug Free Workplace Act of 1988 (Public Law 100–690, Title V, Subtitle D). Form 4061/3, which will be supplied with the application information package, must be submitted with the application.

In submitting applications that contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations that describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicant. Under this arrangement, each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF–424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicant.

Applications that include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

The following information must be included in the application:

(A) *A Statement of the Problem to be Addressed*—Applicants must include the review of the literature and a discussion of the potential contribution of this research to the field.

(B) *Program Goals and Objectives*—A succinct statement of the applicants' understanding of the goals and objectives of the program must be included, and specification of key research questions to be addressed.

(C) *Research Design and Strategy*—Applicants must describe the proposed approach for achieving the goals and objectives of the research program. Applicants must include a detailed discussion of how each of the activities in the three stages of the program will be accomplished, including a detailed discussion of the process for product preparation.

(D) *Products*—Applicants must concisely describe the interim and final products of each stage of the program, and must address the purpose, audience, and usefulness to the field of each product.

(E) *Program Implementation Plan*—Applicants must prepare a plan that outlines the major activities involved in implementing the program, describe how they will allocate available resources to implement the program, and how the program will be managed. Given the important methodological and substantive issues inherent in this study, applicants must identify key project personnel with documented skills in research design, implementation, and analysis; juvenile corrections; and juvenile justice standards.

VII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria.

In general, all applications received will be reviewed in terms of their responsiveness to the program application requirements, organizational capability, goals, objectives and program strategy described in the RFP, and thoroughness and innovation in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 28 CFR part 34, subpart B, published August 2, 1985, at 50 FR 31366–31367. The selection criteria and their point values (weights) are as follows:

(A) The problem to be addressed by the project is clearly stated. This criterion includes—clear, concise, well justified statement of the problem. (5 Points)

(B) The objectives of the proposed project are clearly defined. This criterion includes—succinct statement of the goals and objectives of the project; operational definitions of "nationally recognized standards," "juvenile detention and correctional facilities," and "conditions of confinement"; a clearly articulated statement described how this research will improve the operation of juvenile correctional and detention facilities and assist in the provision of effective services to meet the needs of youth in custody. (10 Points)

(C) The project design is sound and contains a program elements directly linked to the achievement of project objectives. This criterion includes—

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appropriateness and technical adequacy of the approach to the activities and products of each stage of the program for meeting the goals and objectives; and potential utility of proposed products. (25 Points)

(D) The project management structure is adequate to the successful conduct of the project. (30 Points): This criterion includes—(1) Adequacy and appropriateness of the activities and the project management structure, and the feasibility of the time-task plan (15 Points); (2) the qualifications of staff identified to manage and implement the program including staff to be hired through contracts, the clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan. (15 Points)

(E) Organizational capability is demonstrated at a level sufficient to successfully support the project. This criterion includes—the extent and quality of organizational experience in the development, delivery and coordination of research programs that have been national in scope. (15 Points)

(F) Budgeted costs are reasonable, allowable, and cost effective for the activities proposed to be undertaken. This criterion includes—completeness, reasonableness, appropriateness and cost-effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished. (15 Points)

Applications will be evaluated by a peer review panel. The results of peer review will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These will be based on numerical values assigned by individual peer reviewers. Peer review ratings, in conjunction with the results of internal review and any necessary supplementary reviews, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Deadline for Receipt of Applications

Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications will be provided upon request.

Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. e.s.t. on January 8, 1990. No applications, sections, or subsections of applications will be accepted after 5:00 p.m. e.s.t. on that date. Those applications sent by mail should be addressed to: NIJJDP/OJJDP, United States Department of Justice, 633 Indiana Avenue, NW, Washington, DC 20531. Hand delivered applications must be taken to the NIJJDP, Room 784, 633 Indiana Avenue, NW, Washington, DC, between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding.

IX. Civil Rights Compliance

(A) All recipients of OJJDP assistance, including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973 as amended; title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR part 42, subparts C, D, E, and G).

(B) In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination, after a due process hearing, on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights (OCR) of the Office of Justice Programs.

(C) Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person shall be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary financial assistance to any other recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any award.

Dated: October 3, 1989.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Wednesday
November 1, 1989

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 14

Implementation of Equal Access to Justice Act; Interim Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 14

[Docket No. 25958]

RIN 2120-AD17

Implementation of Equal Access to Justice Act

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Interim final rule.

SUMMARY: The Federal Aviation Administration (FAA) is publishing this interim final rule to implement the Equal Access to Justice Act (Pub. L. 96–481, 94 Stat. 2325, 5 U.S.C. 504 *et seq.*), as amended (Pub. L. 99–80, 99 Stat. 183) (EAJA or Act). This interim final rule will remain in effect until such time as the Department of Transportation (DOT) promulgates updated, department-wide EAJA regulations which will incorporate, for the first time, the adversary adjudications conducted by the FAA pursuant to the Civil Penalty Assessment Demonstration Program and the Rules of Practice thereunder. The updated department-wide regulations will also reflect the above-cited amendment to the Act. These interim regulations set uniform procedures under the Act for any adversary adjudication conducted pursuant to section 554 by the FAA.

EFFECTIVE DATE: This interim final rule is effective on November 1, 1989.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel, Litigation Division (AGC–400), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, (202) 267–3661.

SUPPLEMENTARY INFORMATION:

Availability of Interim Final Rule: Any person may obtain a copy of this interim final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center (APA–230), 800 Independence Avenue SW., Washington, DC 20951, or by calling (202) 267–3484. Requests must include the part number identified in this final rule. Persons interested in being placed on a mailing list for future rulemaking actions should request a copy of Advisory Circular 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background: The EAJA provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to administrative proceedings before government agencies and who prevail over the government. These proceedings are conducted under section 554 of the Administrative Procedure Act (APA). 5 U.S.C. 554. Eligible prevailing parties are entitled to awards of attorney fees and other expenses, unless the adjudicative officer or judge of the proceeding finds that the position of the United States is substantially justified or that special circumstances make an award unjust.

The FAA is adopting EAJA regulations at this time because it is now, for the first time, conducting proceedings to which the EAJA applies. On August 31, 1988, the FAA implemented the provisions of section 204(g) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100–223) by issuing the Rules of Practice for FAA Civil Penalty Actions (53 FR 34646; September 7, 1988). Such regulations provide the procedural framework for the FAA to assess civil penalties (not to exceed $50,000) for violations arising under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1471 *et seq.*), or a rule, regulation, or order issued thereunder, after written notice and a finding of violation by an FAA Decisionmaker. Under these regulations, which were enacted to provide for effective enforcement of the FAA's safety regulations, the FAA conducts proceedings required to be conducted in accordance with section 554 of the APA. The FAA's EAJA regulations apply to those proceedings required to be brought pursuant to the FAA's "Civil Penalty Assessment Demonstration Program," as codified in 14 CFR 13.201(a)(1), and to those proceedings brought for violations of title V, or a rule, regulation, or order issued thereunder, pursuant to 49 U.S.C. App. 1471(a)(3).

On July 10, 1989, the Federal Aviation Administration (FAA) issued a Notice of Proposed Rulemaking (NPRM) requesting comments, within 30 days, on the agency's proposed EAJA regulations (54 FR 29978; July 17, 1989). Four comments were received, one of which was filed late. The agency considered, and will respond herein, to all four comments.

Separation of Functions: All four commenters express concern that the separation of functions set up in the Rules of Practice, which applies to the adjudication of EAJA applications, does not adequately safeguard the separation of prosecutorial and decisionmaking functions within the agency. The commenters fear that the separation of functions required in the Rules of Practice will impede, rather than facilitate, objective EAJA awards. The FAA recognizes that commenters have used this opportunity to once again express their general displeasure over the Rules of Practice adopted last year by the FAA. Very few of the adverse comments to this NPRM are addressed to provisions of the proposed rule; those that are ignore the similarity of the proposed rule with every other EAJA regulation in place for Federal government agencies. In fact, their displeasure seems more accurately directed at the law which authorized the Demonstration Program.

In its March 17, 1989 disposition of comments to the Rules of Practice (54 FR 11914; March 22, 1989), the FAA went to great lengths to address the concerns of eight commenters who felt that the separation of functions provisions provided in the Rules of Practice are inadequate. Based on the comments received on the proposed EAJA regulations, there remains some fundamental misunderstanding of the agency's procedural regulations, and an equal amount of misunderstanding of the Equal Access to Justice Act. In light of this continuing concern and misunderstanding, the FAA will use this opportunity once again to attempt to alleviate the fears of those individuals who believe that the Rules of Practice, in one or more respects, violate the Constitution or the APA.

All four commenters refer to the Assistant Chief Counsel for Litigation as the "FAA decisionmaker" and express doubt that he could make an objective decision on an EAJA application or the underlying civil penalty proceeding in light of his traditional role as an advocate for the agency. This position is factitious. At the outset, the FAA points out what should be obvious: the Rules of Practice designate the FAA Administrator, not the Assistant Chief Counsel for Litigation, as the FAA decisionmaker. The Administrator is to be advised on legal matters arising from his role as the FAA decisionmaker by the Chief Counsel. To the extent that the Chief Counsel requires assistance in advising the decisionmaker, he may receive such assistance from the Assistant Chief Counsel for Litigation and his staff. (See the FAA Announcement of Separation of Functions, 54 FR 1335; January 13, 1989). Consequently, the Assistant Chief Counsel for Litigation does not rule upon either an EAJA application or an enforcement action, but rather only advises the Administrator in his ruling when asked to do so by the Chief Counsel. The Assistant Chief Counsel for Litigation has no authority to decide either an EAJA award or the underlying adjudication on the merits.

All four commenters express concern that the Assistant Chief Counsel for Litigation is physically located not far from agency enforcement attorneys who will be defending the agency's enforcement action in an application for an award of attorney fees under EAJA. (Contrary to one commenter's allegation, however, the Assistant Chief Counsel for Litigation and the Manager of the Enforcement Policy Branch do not share a single office, or even have adjacent offices.) It is asserted that their proximity to one another, in and of itself, constitutes a failure to provide adequate separation of functions between those attorneys in the prosecutorial and adjudicative functions of EAJA and enforcement actions.

As noted in the disposition of comments of the Rules of Practice, "the practice of housing within one agency the functions of prosecutor, adjudicator, and decisionmaker is well-established, widespread throughout the Executive Branch of the Federal Government, and was expressly contemplated by the drafters of the APA in 1946. In fact, this practice is the rule rather than the exception." (54 FR 11914, 11915.) In addition, the FAA points out that the EAJA also contemplates that decisions on EAJA applications be made within the same agency that brought the underlying action that is the basis for the application. Other federal agencies that have EAJA regulations, including the Department of Transportation and the Department of Justice, provide for the defense and adjudication of EAJA claims to be made within the agency. The fact that individuals acting in prosecutorial and adjudicative roles are both employed by the same agency and may also have offices in the same building or on the same floor, in no way creates a conflict of interest or invalidates the separation of functions required by law. The commenters refer to no judicial decision, and we have discovered none, that has found objectionable the mere physical proximity of prosecutor and decisionmaker. So long as the required separation of functions is established within the agency by written standards, it may be assumed that federal officials adhere to those standards, at least in the absence of any specific allegation that they have been breached. Propinquity in and of itself is simply inconsequential.

One commenter suggests that the role of the Assistant Chief Counsel for Litigation to defend tort claims brought under the Federal Tort Claims Act (FTCA) prejudices any legal advice he may give to the Administrator with regard to an EAJA application or any underlying enforcement action. This commenter suggests that where a particular factual incident gives rise both to a civil penalty action by the government and a tort claim against the government, the Assistant Chief Counsel for Litigation and his staff have a vested interest in the outcome of the enforcement action or EAJA application which interferes with the objectivity necessary to consider the matter fairly. This comment is without merit, for the reasons stated below.

First, an agency final decision on an EAJA application cannot benefit the government's defense of a tort claim because the EAJA decision cannot affect the underlying enforcement action. To the extent that an application for an EAJA award is reviewed by the Assistant Chief Counsel for Litigation, a determination has already been made that there was no violation of the Federal Aviation Regulations (FAR) and that the only remaining legal issue to be decided is whether the agency was "substantially justified" in bringing the enforcement action in the first instance. Even if it is assumed that the Assistant Chief Counsel for Litigation had some interest in the initiation and resolution of an enforcement action, such action would necessarily have been decided before the filing of an EAJA application.

Second, the commenter exaggerates the role of the Assistant Chief Counsel for Litigation in the defense of tort claims against the government. Just as the Assistant Chief Counsel for Litigation is not the decisionmaker in the underlying enforcement action, so also he is not the decisionmaker in the defense of tort claims litigation. That role is exercised by the Department of Justice.

Third, with regard to enforcement actions prosecuted under the Rules of Practice, the FAA is confident that its obligations do not conflict so as to invalidate the procedural rules. Under 28 U.S.C. 515–519, Congress has obligated the Department of Justice through the Attorney General to attend to the interests of the United States in litigation, which includes the defense of claims under the FTCA. In furtherance of this obligation, the FAA assists the Justice Department in the defense of aviation accident litigation. Congress has also obligated the FAA to investigate, prosecute and, under Public Law 100–223, render decisions on violations of the FAR. These two obligations are independent of one another, even in those situations where the same factual incident results in both a tort claim against the government and an enforcement action prosecuted by the government. There is no inherent or impermissible conflict of interest in the FAA's performance of these separate functions.

Conflict of interest standards exist in part to ensure the individual loyalty of an attorney to one's client. Where the vigor of an attorney's representation is questionable as a result of the attorney's representation of another client with varying or conflicting interests, or where an attorney is in a position to use privileged information concerning the other side obtained as a result of another representation, the attorney is faced with a conflict of interest which would disqualify him from continuing to represent his client. No conflict exists, however, where an agency represents the Federal government's interests on two separate matters, even if those matters arise from the same factual incident, and even if the government has varying or conflicting interests. While disqualification guidelines for conflict of interest are strictly construed in the private bar, where a client can always find other representation, courts have held that the policy considerations behind those guidelines do not apply to government attorneys since they represent only one client, the Federal government. *In the Matter of the Grand Jury Subpoena of Jean Ford* v. *United States*, 756 F.2d 249, 254 (1985). The Supreme Court has held "[T]he Government cannot follow the fastidious standards of a private fiduciary, who would breach his duties to his single beneficiary solely by representing potentially conflicting interests without the beneficiary's consent. The Government does not 'compromise' its obligation to one interest that Congress obliges it to represent by the mere fact that it simultaneously performs another interest that Congress has obligated it by statute to do." *Nevada* v. *United States et al.*, 463 U.S. 110, 128 (1983). The law and ethical standards leave it to the Federal government to resolve any conflict of interest internally. The FAA is satisfied that it can execute its responsibilities without compromising their integrity. The above-cited court decisions support the FAA position in this regard.

Fourth, to the extent that a party who has received a final agency decision from the FAA decisionmaker believes that such decision was unduly affected by prejudiced advice, that party may raise that challenge in a petition for review of the decision in the court of appeals. In this regard, it is well-

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established that courts more closely examine administrative decisions in cases where the agency head reverses the initial decision of an ALJ. Consequently, even assuming that the FAA decisionmaker arbitrarily and without basis reverses an ALJ decision, a party can be well assured of an objective and thorough review of such decision by the court of appeals.

Fifth, the fact that the agency decision under EAJA or the underlying civil penalty proceeding may be challenged in the courts also serves as an incentive for the FAA decisionmaker, and those who advise the decisionmaker, to faithfully execute their role, since the decision will be reviewed on the merits.

Sixth, if, for some reason, the Chief Counsel or Assistant Chief Counsel for Litigation or a staff attorney assisting them is called upon to advise the FAA decisionmaker on a matter about which he believes he could not be objective, he can and would recuse himself from that case.

Finally, the attorneys working for the FAA are subject to the standards of conduct promulgated by the Executive Branch and Department of Transportation. Should an agency attorney violate the ethical or professional standards he/she is sworn to uphold, official sanction could result.

EAJA Actions Subject to This Part: Two commenters express concern that individuals who prevail in FAA enforcement actions would not be as likely to receive EAJA awards from the FAA decisionmaker as they would from the National Transportation Safety Board (NTSB) or the Federal courts. The FAA notes that this rule applies only to civil penalty proceedings authorized by Congress to be adjudicated administratively; it does not apply to certificate actions. The NTSB has no authority to determine an application for a fee award under EAJA arising out of civil penalty proceedings. NTSB procedural regulations, as well as its EAJA provisions, continue to apply only to FAA certificate actions.

Similarly, one commenter requests that the FAA not promulgate EAJA regulations because, "absent an implementation of EAJA by the Agency, a pilot has the right to file a lawsuit in Federal District Court to seek an award of attorney's fees under EAJA as implemented in 28 U.S.C. 2412." With regard to whether the FAA should implement EAJA regulations at all in light of 28 U.S.C. 2412, the FAA does not have any discretion in this area. The EAJA mandates that agencies that conduct hearings pursuant to § 554 of the Administrative Procedure Act (APA) establish procedures for the submission and consideration of EAJA applications (5 U.S.C. 554(c)(1)). This is not at all surprising, for Congress, in enacting the Administrative Procedure Act of 1946, previously recognized and sanctioned administrative adjudication of disputes. Any concern that the FAA decisionmaker will dispose of EAJA applications impartially or unreasonably, in contrast (per the commenter) to the NTSB or Federal court, is eliminated by the prospect of judicial review of EAJA decisions. In any event, 28 U.S.C. 2412 by its terms applies only to EAJA awards for the legal fees associated with court review of an agency decision of the adversary adjudication. Consequently, that section cannot be used to obtain reimbursement for legal fees incurred while the matter was still before the agency decisionmaker.

Standard of Judicial Review: One commenter asserts that the FAA on its own may not provide the standard of judicial review of EAJA decisions made by the agency (§ 14.29). The standard of review to which the commenter refers was not prescribed by this regulation, but was prescribed by Congress in the EAJA (5 U.S.C. 554(c)(2)). This standard applies to all EAJA claims brought throughout the Federal government.

Standards for Awards: One commenter expresses concern that the proposed standards for awards provision, § 14.4, includes language which is not contained in other agencies' EAJA regulations. The commenter does not object to the language, but points out that it was not contained in other EAJA regulations. As stated in the NPRM, the FAA EAJA regulations incorporate the 1985 amendment to the EAJA, as it must. The language in question was taken directly from that amendment and clarifies the meaning of the term "substantially justified." The FAA has decided to adopt § 14.4 as is to comport with the law and in the absence of any specific objection to the language.

Review by FAA Decisionmaker: One commenter expresses concern that proposed § 14.28 permits the FAA decisionmaker to review an underlying EAJA decision on this own initiative. This provision is a standard EAJA provision which is included in the EAJA regulations of the Department of Transportation, the National Transportation Safety Board and the Justice Department. We do not anticipate that the FAA decisionmaker will regularly choose to review an EAJA initial decision of an administrative law judge *sua sponte*, simply because there is little chance that the Administrator will give his attention to such a matter unless one party appeals the decision. Because this provision has been adopted by many agencies, including the Department of Transportation, the National Transportation Safety Board, and the Justice Department, and because this provision apparently has not posed any problems in those agencies, the FAA will retain this provision.

What EAJA Awards Cover: One commenter suggests that proposed § 14.5(e), which states that legal fees may be awarded for work performed after the designation of a proceeding, needs to be clarified. (This provision was taken directly from the Department of Transportation and the Department of Justice EAJA regulations.) The commenter questions whether the FAA will consider a proceeding designated, for purposes of this regulation, after an Order of Civil Penalty is issued. The commenter urges the FAA to recognize that a party will be likely to have incurred legal expenses in an adversary proceeding subject to the Rules of Practice prior to the issuance of an Order. While the FAA recognizes that legal advice and associated expenses may begin to accrue as early as when a party receives a letter of investigation, the EAJA authorizes reimbursement for legal expenses incurred only in connection with an "adversary adjudication," which is defined in the EAJA as "an adjudication under section 554 of this title[.]" 5 U.S.C. 504(b)(1)(C). A section 554 adjudication is one "required by statute to be determined on the record after opportunity for an agency hearing." 5 U.S.C. 554(a). The eligibility for an EAJA award, therefore, is triggered when the party in question is offered the opportunity for an agency hearing. In terms of the FAA Rules of Practice, the opportunity for a hearing arises only when the FAA issues an Order of Civil Penalty, which serves as the complaint and which begins the adversary adjudication. Consequently, legal expenses that are incurred before that time are not incurred in connection with an adversary adjudication and thus not covered by the EAJA and this regulation. The FAA acknowledges the commenter's point that § 14.5(e) is ambiguous in its use of the term "designation of a proceeding." In order to clarify that EAJA awards are available only for legal expenses incurred after the issuance of an Order of Civil Penalty, § 14.5(e) has been changed to read as follows: "Fees may be awarded only for work performed after the issuance of an Order of Civil Penalty."

After consultation with the Department of Justice, the FAA is changing the applicability section of the EAJA rules as it was proposed by deleting paragraphs (b) and (c) of § 14.02. The FAA received no comments on these paragraphs from the public. Although an agency does not have the descretion to designate APA-type proceedings as covered by EAJA, thereby unilaterally extending the applicability of EAJA beyond that authorized by Congress, those paragraphs are included in model EAJA rules to recognize that an agency is in the best position to determine, consistent with its statutory authority, which proceedings are adversary adjudications covered by EAJA. The FAA conducts such adversary adjudications only in cases where a civil penalty may be assessed pursuant to express statutory authority. While those model EAJA paragraphs may be needed for other agencies, they are unnecessary and inappropriate for the FAA. Thus, proposed § 14.02 is changed by deleting paragraphs (b) and (c) by redesignating the remaining paragraphs, and by adding to paragraph (a) the applicable statutory citations.

Omitted Language: One commenter notes that certain language was inadvertently omitted in § 14.11(b). The FAA has remedied that omission. Section 14.11(b) now reads, "The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth *ceiling. If there were no such* transactions, the applicant shall so state." (The italicized portion of the sentence was omitted in the NPRM.) The commenter also states that proposed § 14.4 does not contain the standard EAJA regulation language that an EAJA award could be received for a "significant and discrete substantive portion" of a covered proceeding. This language was included verbatim in the NPRM and is also in the final rule.

In sum, many of the comments to which this preamble has responded reflect the fundamental disagreement of the commenters with the Civil Penalty Assessment Demonstration Program authorized by Congress. The FAA proposed an EAJA regulation that in all material respects is similar to all other EAJA regulations within the federal government and is consistent with with Equal Access to Justice Act, as amended.

Reason for Immediate Adoption: The FAA's Rules of Practice, issued on August 31, 1988, enable the FAA to conduct proceedings to which the EAJA applies. Because of the need to immediately facilitate the application and award of attorney and other legal fees available pursuant to EAJA, good cause exists to make these procedural rules effective in less than 30 days.

The FAA has determined to issue this rule as an interim final rule. This rule will be superseded by the department-wide DOT EAJA regulation when the latter is updated to conform to the EAJA amendment and to include the FAA Demonstration Civil Penalty Assessment Demonstration Program, as noted in the summary.

Paperwork Reduction Act

Information collection requirements in part 14, subpart B, have been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). When these requirements are approved, a notice and the assigned OMB control number will be published in the **Federal Register.**

Economic Impact

The rule sets out procedures which eligible prevailing parties must follow to apply for EAJA awards. The rule facilitates filing applications for EAJA awards and, consequently, reduces costs to the applicant. Since this rule does not impose any costs on applicants, the impact of the rule is minimal and no full Regulatory Evaluation is necessary.

Trade Impact Assessment

The rule has no impact on international trade. The subject of the rule is unrelated to the manufacture or distribution of aviation-related products and services either by United States-based manufacturers and air carriers or foreign-based manufacturers and air carriers.

Regulatory Flexibility Determination

Additionally, the rule does not have a significant economic impact on the operating costs of those small entities filing applications for EAJA awards with the FAA. There may be some small benefit to small entities by facilitating filing for awards, but this will not be substantial. Therefore, the rule does not have a significant economic impact, positive or negative. Accordingly, a regulatory flexibility analysis is not required.

Federalism Impact

The regulations herein do not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

To the extent that this rule has an economic effect on regulated persons, it will only be a minimally beneficial one since it will facilitate the filing for EAJA awards. Therefore, the FAA has determined that this proposal involves a regulation which is not major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For this same reason, it is certified that under the criteria of the Regulatory Flexibility Act the rule does not have a significant economic impact, positive or negative, on a substantial number of small entities. Because of the absence of any costs attendant with the rule, the FAA has determined that the expected impact of the regulations is so minimal that they do not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Part 14

Equal access to justice, Lawyers.

The Amendment

Accordingly, the Federal Aviation Administration hereby adds part 14 of the Federal Aviation Regulations (14 CFR part 14) to read as follows:

PART 14—RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT OF 1980

Subpart A—General Provisions

Sec.
14.01 Purpose of these rules.
14.02 Proceedings covered.
14.03 Eligibility of applicants.
14.04 Standards for awards.
14.05 Allowable fees and expenses.

Subpart B—Information Required From Applicants

14.01 Contents of application.
14.11 Net worth exhibit.
14.12 Documentation of fees and expenses.

Subpart C—Procedures for Considering Applications

14.20 When an application may be filed.
14.21 Filing and service of documents.
14.22 Answer to application.
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14.24 Comments by other parties.
14.25 Settlement.
14.26 Further proceedings.
14.27 Decision.
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14.29 Judicial review.
14.30 Payment of award.

Authority: Equal Access to Justice Act (Pub. L. 96-481, 94 Stat. 2325) as amended (Pub. L. 99-80, 99 Stat. 183), (5 U.S.C. 504(c)(1); 49 U.S.C. 1354 (a) and (c) (Revised, 49 U.S.C. 106(g)).

Subpart A—General Provisions

§ 14.01 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (the Act), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (adversary adjudications) before the Federal Aviation Administration (FAA). An eligible party may receive an award when it prevails over the FAA, unless the agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the FAA Decisionmaker will use to make them. As used hereinafter, the term "agency" applies to the FAA.

§ 14.02 Proceedings covered.

(a) The Act applies to certain adversary adjudications conducted by the FAA. These are adjudications under 5 U.S.C. 554 in which the position of the FAA is represented by an attorney or other representative who enters an appearance and participates in the proceeding. This subpart applies to proceedings under 49 U.S.C. App. 1475 and 49 U.S.C. App. 1471(a).

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

(c) Fees and other expenses may not be awarded to a party for any portion of the adversary adjudication in which such party has unreasonably protracted the proceedings.

§ 14.03 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions or eligibility set out in this subpart and in subpart B of this part.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $2 million at the time the adversary adjudication was initiated;

(2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees at the time the adversary adjudication was initiated;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees at the time the adversary adjudication was initiated; and

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees at the time the adversary adjudication was initiated; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $7 million and not more than 500 employees at the time the adversary adjudication was initiated.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interest.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the administrative law judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge may determine that financial relationships of the applicant, other than those described in this paragraph, constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible if not itself eligible for an award.

§ 14.04 Standards for awards.

(a) A prevailing applicant may receive an award for attorney fees and other expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. Whether or not the position of the FAA was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which was made in the civil action for which fees and other expenses are sought. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency counsel, who may avoid an award by showing that the agency's position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 14.05 Allowance fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents, and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75 per hour. No award to compensate an expert witness may exceed the highest rate at which the agency pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the administrative law judge shall consider the following:

(1) If the attorney, agent, or witness is in private practice, his or her customary fee for similar services, or if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(e) Fees may be awarded only for work performed after the issuance of an Order of Civil Penalty.

Subpart B—Information Required From Applicants

§ 14.10 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the agency in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates) at the time the adversary adjudication was initiated. However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), or in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney for the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(f) If the applicant is a partnership, corporation, association, organization, or sole owner of an unincorporated business, the application shall state that the applicant did not have more than 500 employees at the time the adversary adjudication was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

§ 14.11 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates when the proceeding was initiated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The administrative law judge may require an applicant to file additional information to determine the eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the administrative law judge in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the administrative law judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the FAA's established procedures under the Freedom of Information Act as implemented by 49 CFR part 7, appendix C of the FAA's rules.

§ 14.12 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceedings by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The administrative law judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

Subpart C—Procedures for Considering Applications

§ 14.20 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding, but in no case later than 30 days after the FAA Decisionmaker's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the later of:

(1) The date on which an unappealed initial decision becomes

affidavits or a request for further proceedings under § 14.26.

§ 14.24 Comments by other parties.

justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

adjudication has been sought by the applicant or any other party to the proceeding.

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(c) For purposes of this rule, final disposition means the later of:

(1) The date on which an unappealed initial decision becomes administratively final;

(2) Issuance of an order disposing of any petitions for reconsideration of the FAA Decisionmaker's Final order in the proceeding;

(3) If no petition for reconsideration is filed, the last date on which such a petition could have been filed; or

(4) Issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

§ 14.21 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 14.11(b) for confidential financial information.

§ 14.22 Answer to application.

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of the section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the administrative law judge upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 14.26.

§ 14.23 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 14.26.

§ 14.24 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the administrative law judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 14.25 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 14.26 Further proceedings.

(a) Ordinarily the determination of an award will be made on the basis of the written record; however, on request of either the applicant or agency counsel, or on his or her own initiative, the administrative law judge assigned to the matter may order further proceedings, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 14.27 Decision.

The administrative law judge shall issue an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 14.28 Review by FAA decisionmaker.

Either the applicant or the FAA counsel may seek review of the initial decision on the fee application in accordance with subpart G of part 13 of the Federal Aviation Regulations, specifically 14 CFR 13.233. Additionally, the FAA Decisionmaker may decide to review the decision on its own initiative. If neither the applicant nor the agency counsel seeks review within 30 days after the decision is issued, it shall become final. Whether to review a decision is a matter within the discretion of the FAA Decisionmaker. If review is taken, the FAA Decisionmaker will issue a final decision on the application or remand the application to the administrative law judge who issued the initial fee award determination for further proceedings.

§ 14.29 Judicial review.

If an applicant is dissatisfied with the determination of fees and other expenses made under this subsection, pursuant 5 U.S.C. 504(c)(2), that applicant may, within thirty (30) days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the FAA adversary adjudication. The court's determination on any appeal heard under this paragraph shall be based solely on the factual record made before the FAA. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.

§ 14.30 Payment of award.

An applicant seeking payment of an award shall submit to the disbursing official of the FAA a copy of the FAA Decisionmaker's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. Applications for award grants in cases involving the FAA shall be sent to: The Office of Accounting and Audit, AAA-1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

Issued in Washington, DC, on October 27, 1989.

James B. Busey,

Administrator.

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Part IV

General Services Administration

Public Buildings Service

41 CFR Part 101–17
Assignment and Utilization of Space; Proposed Rule

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–17

Assignment and Utilization of Space

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would provide revised procedures concerning the assignment and utilization of space in Federal facilities under the custody and control of GSA. It would supersede the provisions of FPMR Temporary Regulation D–73 of February 11, 1987. FPMR Temporary Regulation A–29, Supplement 2, "Physical Fitness Facilities," would also be superseded, and its requirements included in this regulation.

DATES: Comments due by: Agencies comments should be submitted on or before January 2, 1990.

ADDRESS: Comments should be submitted to the General Services Administration, Public Buildings Service (PQ), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Robert E. Ward, Director, Real Estate (202–566–1025).

SUPPLEMENTARY INFORMATION: Authority for issuing this regulation is contained in the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), in Executive Order 12411, and in Executive Order 12512.

The purpose of this regulation is to refine GSA's space assignment criteria and to modify and/or clarify certain space-related policies and requirements.

Having operated for over two years under Temporary Regulation D–73 (Quality Workplace Environment), GSA has had the opportunity to assess the results and impacts of the program. Federal agencies have shown a commitment to improving the quality and efficiency of their workplace, and through close cooperation, GSA and Executive agencies have effected substantial improvement in space usage. By applying the guidelines and criteria in FPMR D–73, significant utilization rate imorovement has been accomplished. This has occurred primarily because cooperative efforts have allowed us to meet the goal of 135 square feet or less per workstation, including support space, for new space assignments. In addition, revised leasing requirements, the increased use of furniture systems, and greater attention to agency needs in planning and designing spacc have resulted in improved space quality and efficiency.

The new criteria contained in the present regulation is designed to build upon these efforts and to focus attention on the portion of the office space—the Primary Area—where further space improvement can be effected. The primary (personnel-occupied) areas in most GSA-controlled offices are similar in use and configuration; thus, uniformity and consistency of space assignments within these areas should be readily attainable. GSA's aim is to make sure we do not exceed what we have already attained at the 135 level under D–73, and to focus on making new primary office space assignments for agencies in GSA-controlled space at a rate not to exceed an average of 125 square feet per person. This rate plus the 22 percent allowed for support space compares favorably with the amount of space we are currently providing, and will enable us to keep up the momentum established over the past few years for improving the utilization of Government space.

The 125 square foot target rate for new assignments will apply to all space actions submitted to GSA under part 101–17. It is separate from, and should not be confused with, any target rates established under FPMR part 101–16 for Governmentwide inventory management. Progress toward the Governmentwide target(s) will be reported in accordance with guidance contained in FPMR part 101–16. However, the aim of both the GSA and Governmentwide target rates will be to maintain the control over the growth of the Federal space inventory that was begun under Temporary Regulation D–73.

Changes from the previous regulation (D–73) include:

—Modification of the strict numeric criteria for assignment of space; emphasis on professional space analysis, programming and planning.
—Redefinition of office space to recognize its essential components: Primary (personnel-occupied) area and support area.
—Focus on primary area utilization rate (square footage primary area divided by personnel).
—Support space allowance of 22 percent of primary area.
—Clarification of the policy on the location of Federal facilities and space.
—Revision of the GSA policy on agency moves.
—Revision of the space classifications for GSA-controlled space.
—Changes to the standard alterations in GSA-controlled space.
—Amended definition of occupiable space.
—Revision of the Standard Form 81 and 81A, and inclusion of a Space Requirements Questionnaire to assist in the space planning process.
—Inclusion of criteria on physical fitness facilities and child care centers.
—Modification of telecommunications policy.

Prior to deregulation of the telephone industry in 1984, Federal agencies paid for the cost of telephones and full telephone service as part of a monthly tariff charged by the telephone company. When forced moves of Government agencies by the Public Buildings Service (PBS) took place, PBS only paid for connect and disconnect charges and move of the telephone instrument, which at that time included dial tone service. The telephone company owned the telephone equipment as well as all other components of the telecommunications system, and was financially responsible for moving its equipment and related component parts.

After deregulation, the telephone industry considered the telephone instrument and hookup from the wire closet to be the personal property and financial responsibility of the user. As a result of this change, the monthly tariff paid to the telephone company no longer included rental of the telephone instrument and the costs associated with wiring from the wire closet. At this time, PBS attempted to approximate in forced moves what it previously provided (i.e., paying for the connect and disconnect charges for the telephone instrument and physically moving the instrument to the agency's new location).

In order to be consistent with the changes that had taken place in the telephone industry, GSA developed a telecommunications policy on February 25, 1988, whereby agencies would be responsible for customer telecommunications equipment and related costs thereof. This policy was to be phased in on a case-by-case basis based on an agency's ability to pay, and by October 1, 1989 (the beginning of Fiscal Year 1990), the agencies would be fully responsible for budgeting all costs related to telecommunications.

Recently, some concern has been raised by agencies whether GSA has allocated the appropriate share of the telecommunications costs between PBS and the user agencies. GSA is studying the problem and is coming close to resolution. It appears that some adjustment to GSA's policy may be necessary. In that regard, the telecommunications policy discussed in this FPMR is under review. As an example, some of the issues being considered are who would be the appropriate party to pay for the cost of dial tone service in a GSA directed move, and the appropriateness of having PBS provide "like service" at the new location in GSA directed moves. "Like service" is defined as the existing telephone service in the existing space. When this proposed policy revision is completed it will be published in the **Federal Register** with a 30 day comment period.

GSA has determined that this rule is not a major rule for purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Before issuing a Final Rule, GSA will make all necessary evaluations of economic effects, major cost to consumers or others, and significant adverse effects.

List of Subjects in 41 CFR Part 101–17

Administrative practices and procedures, Federal buildings and facilities, Government property management.

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

Accordingly, it is proposed to amend 41 CFR Chapter 101 as follows:

1. The appendix to subchapter A of 41 CFR chapter 101 is amended by removing FPMR Temporary Regulation A–29.

2. The appendix to subchapter D of 41 CFR chapter 101 is amended by removing FPMR Temporary Regulation D–73.

3. Part 101–17 is revised to read as follows:

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

Sec.
101–17.000 Scope of part.
101–17.001 Authority.

Subpart 101–17.1—Basic Policy

101–17.100 Scope of subpart.
101–17.101 Policies.
101–17.102 Definition of terms.

Subpart 101–17.2—Assignment of Space

101–17.200 The space assignment process—agency development of need and GSA determination of requirements.
101–17.201 Exception to submitting requests for space.
101–17.201–1 General exceptions.
101–17.201–2 Delegation of authority.
101–17.201–3 Action when existing space is not available.
101–17.202 Space for Short-term use.
101–17.203 Space requirements for ADP, office automation and telecommunications equipment.
101–17.204 Location of space.
101–17.205 Move policy.
101–17.206 Applications of socioeconomic considerations.
101–17.207 Standard alterations.
101–17.208 Wellness/physical fitness facilities.
101–17.209 Child care centers.
101–17.210 Centralized services in Federal buildings.
101–17.211 Reviews and appeals of space assignments.
101–17.211–1 Formal review.
101–17.211–2 Initial appeal.
101–17.211–3 Final appeal.

Subpart 101–17.3—Utilization of Space

101–17.300 Responsibility of GSA.
101–17.301 Responsibility of agencies.
101–17.302 Procedures for agency-initiated relinquishment of space.

Subpart 101–17.4—Space Programming, Layout, and Design Services

101–17.400 Initial layout services.
101–17.401 Other services.
101–17.402 Provision of services.

Subpart 101–17.5—Annual Census

Subpart 101–17.6—Exhibits

101–17.600 Illustration of office support space.
101–17.601 Space classifications and standard alterations.
101–17.602 Space for data processing, office automation, and telecommunications equipment.

Subparts 101–17.7—101–17.47 [Reserved]

Subpart 101–17.48—GSA Regional Offices

101–17.4800 Scope of subpart.
101–17.4801 GSA regional offices.

Subpart 101–17.49—Forms

101–17.4900 Scope of subpart.
101–17.4901 Standard forms.
101–17.4902 GSA forms.

Appendix A to Part 101–17 Space Classification and Standard Alterations

Appendix B to Part 101–17 Wellness/Physical Fitness Facilities

Appendix C to Part 101–17 Child Care Centers

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

PART 101–17—ASSIGNMENT AND UTILIZATION OF GSA SPACE

§ 101–17.000 Scope of part.

This part prescribes policies and procedures for the assignment and utilization of space in GSA controlled facilities. The term "United States" as used in this subchapter, means the 50 States of the United States, the District of Columbia and the Commonwealths, territories, and possessions of the United States. See Part 101–16 for policies and procedures governing the management of all Federal space.

§ 101–17.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377); the Act of July 1, 1898 (40 U.S.C. 285); the Act of April 28, 1902 (40 U.S.C. 19); the Act of August 27, 1935 (40 U.S.C. 304(c)); the Public Buildings Act of 1959, as amended (40 U.S.C. 601–619); Public Buildings Amendments of 1972 (86 Stat. 219), as amended; the Rural Development Act of 1972 (86 Stat. 674); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490, note); the Federal Urban Land Use Act (40 U.S.C. 531–535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321); Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201–4244, 40 U.S.C. 531–535); Public Buildings Cooperative Use Act of 1976, as amended (90 Stat. 2505); Executive Order 12072 of August 16, 1978 (43 FR 36869); Executive Order 12411 of March 29, 1983 (48 FR 13391); and Executive Order 12512 of April 29, 1985 (50 FR 18453); and the Public Buildings Amendments of 1988 (102 Stat. 4049).

Subpart 101–17.1 Basic Policy

§ 101–17.100 Scope of subpart.

This subpart describes the basic policies that govern the assignment and utilization of GSA space, and defines terms used in part 101–17.

§ 101–17.101 Policies.

(a) Federal real property is an asset that has a value to the Government. This

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asset shall be managed and maintained in a manner that enhances its value.

(b) Federal work space is a costly resource and should be acquired and used in the essential minimum amounts needed to support agency mission requirements.

(c) Federal work space should support and improve the productivity of the workers and programs that are housed. Professional standards and practices for space planning and programming, requirements development, furniture use, design and layout shall be used to achieve this goal.

(d) It is GSA policy to provide agencies a quality workplace environment that supports program operations; preserves the value of real property assets; and reduces Federal work space to essential minimum requirements. This includes the provision of child care and physical fitness facilities in the workplace when adequately justified.

(e) Federal space needs will be satisfied in Government-owned space to the maximum extent practical. Available space in buildings under the custody and control of the U.S. Postal Service should also be given priority consideration.

(f) Each agency shall determine the appropriate geographic area for its space facilities and certify that its locational decision is consistent with the requirements of the Rural Development Act of 1972 (86 Stat. 674), Executive Order 12072, and the GSA–USDA Memorandum of Understanding on the location of Federal facilities (1979). See § 101–17.204 regarding application of the locational policy.

(g) The GSA move policy is implemented to require agencies to relinquish all or a portion of assigned space if this action is in the best interest of the Government and would not unreasonably interfere with the agency's performance of its mission. GSA will fund standard alterations and agencies will pay telecommunication expenses and reimburse GSA for the cost of above standard requirements. See § 101–17.205.

(h) Agencies will be assigned space by GSA based on a detailed analysis of workspace and support space requirements. The purpose will be to achieve the optimum use of space for each assignment at the minimum cost to the Government. The best opportunity for space efficiency occurs with new assignments. Therefore, GSA will employ professional methods and techniques of space analysis, planning, and programming in developing space requirements. Utilization rates will be held to the minimum square footage per person for the particular activity. Any utilization rate goal(s) established for new space assignments will apply to all actions involving more than 8 personnel. New assignments for 8 or fewer personnel will be processed on a case-by-case basis and will be housed as efficiently as possible. GSA will implement policies and procedures to ensure that assignment of workstation and support space is consistent throughout its regional offices. (See § 101–17.200, The space assignment process—agency development of need and GSA determination of requirements.)

(i) Officials of GSA client agencies shall be familiar with the policies governing the acquisition, use, assignment, and management of GSA space. These officials shall cooperate with and support GSA in implementing and furthering these policies.

(j) Federal work space should be acquired and occupied in a timely and expeditious manner. GSA shall use professional planning techniques to assist agencies in preparing the Standard Form 81, Request for Space, and support documentation and shall provide technical assistance at an early stage in the requirements development process. This will ensure the acquisition and use of space that supports mission needs at a minimum cost.

(k) GSA will make full and efficient use of Government-controlled space for housing Federal agencies. Space for which there is no current foreseeable Federal need will be disposed of when practicable and prudent to do so. GSA will make every effort to maximize the productive use of an otherwise unused resource through out-granting (i.e., outlease, permit, license).

(l) Space requests for the U.S. Postal Service will be processed in accordance with the "Agreement between GSA and the U.S. Postal Service Covering Real Property Relationships."

§ 101–17.102 Definition of terms.

(a) *"Acceptance of space"* means a certification from and commitment from an agency to occupy space. Based on agency acceptance GSA may commit to the use of Government funds to award a lease, make a commitment for initial alterations, and/or establish a date of occupancy. Agencies are financially responsible for losses incurred by the Government caused by any failure to fulfill a commitment to accept space.

(b) *"Acquisition of work space"* means the process of obtaining work space by purchase, lease, donation, exchange, eminent domain, construction, or by any other means permissible by law.

(c) *"Agency-controlled space"* means federally owned, leased, or controlled space acquired or used by Federal agencies under any authority other than the Federal Property and Administrative Services Act of 1949, as amended. It also includes space for which authorities for acquisition, use, or disposal have been delegated to other agencies by GSA.

(d) *"Cost-effective"* means justified by an analysis which evaluates alternatives in terms of expenses incurred by the Government.

(e) *"Delineated area"* means the specific boundaries within which space will be obtained to satisfy an agency space requirement.

(f) *"Excess holdings"* means any work space or related furnishings which are not essential to a Federal agency's existing or planned programs.

(g) *"Federal agency"* means any department, agency, or independent establishment in the Government, including any wholly-owned corporation.

(h) Federally owned, leased, or controlled work space":

(1) *"Federally owned"* means work space, the title to which is vested, or will become vested pursuant to existing agreement, in the United States Government.

(2) *"Federally leased"* means work space for which the United States Government has a right of occupancy by virtue of having acquired a leasehold interest.

(3) *"Federally controlled"* or *"Government-controlled"* means work space for which the United States Government has a right of occupancy by ownership, by lease, or by any other means, such as by contract, barter, license, easement, permit, requisition, or condemnation, whether or not paid for. This does not include space owned or leased by private sector entities performing work on Government contracts.

(i) *"General purpose space"* means space which is determined by GSA to be suitable for the general use of agencies. General purpose space is categorized as office, storage or special. The physical characteristics are the basis for determining the proper space category.

(j) *"GSA-controlled space"* means space assigned to an agency by GSA by authority of the Federal Property and Administrative Services Act of 1949, as amended, or by authority of any other statute. It includes any space for which an agency pays GSA directly.

(k) *"Initial space layout"* means the specific placement of workstations, furniture and equipment for new space assignments. These initial services are provided by GSA at no cost to the agencies, upon agency request.

(l) *"Inventory"* means a summary, survey, or itemized list of the space, assets, or materials under the control of a Federal agency.

(m) *"Joint-use space"* means occupiable space, such as cafeterias, conference rooms, credit unions, snack bars, and certain wellness/physical fitness facilities and child care centers, which is available for common use by personnel of any Federal agency.

(n) *"Measurement of space"*; (1) *"Gross square footage"* means all floor area (including all openings in floor slabs) measured to the outer surfaces of exterior or enclosing walls, and includes all floors, mezzanines, halls, vestibules, stairwells, service and equipment rooms, penthouses, enclosed passages and walks, finished usable space with sloping ceilings (such as attic space) having 5 feet or more headroom, and appended covered shipping or receiving platforms at truck or railroad car height. Also included in gross floor area, but calculated on one-half of actual floor area, are covered open porches, passages and walks, with appended uncovered receiving and shipping platforms at truck or railroad car height.

(2) *"Net usable space"* means the area to be leased for occupancy by personnel and/or equipment. It is determined by:

(i) Computing the inside gross area of the space by measuring from the normal inside finish of exterior walls, or the room side finish of fixed corridor and shaft walls, or the center of tenant separating partitions.

(ii) Making no deductions for the columns and projections enclosing the structural elements of the building.

(iii) Deducting from the gross area the following, including enclosing walls when applicable:

(A) Toilets and lounges
(B) Stairwells
(C) Elevators and escalator shafts
(D) Building equipment and service areas
(E) Entrance and elevator lobbies
(F) Stacks and shafts
(G) Fully enclosed convectors when the housing rests on the floor, each end abuts a column or wall, and the convector occupies at least 50 percent of the length of the exterior wall.

(3) *"Occupiable area"* means that portion of the gross area which is available for use by an occupant's personnel or furnishings, as well as space which is available jointly to the various occupants of the buildings, such as auditoriums, health units, and snack bars. Occupiable area includes that space available for an occupant's personnel and furnishings which is used to provide circulation, whether or not defined by ceiling high partitions. Occupiable area does not include that space in the building which is devoted to its operations and maintenance, including craft shops, gear rooms, and building supply storage and issue rooms. Occupiable area is computed by measuring from the occupant's side of ceiling-high corridor partitions or partitions enclosing mechanical, toilet, and/or custodial space to the inside finish of permanent exterior building walls or to the face of the convector if the convector occupies at least 50 percent of the length of the exterior wall. When computing occupiable area separated by partitions, measurements are taken from the center line of the partitions.

(o) *"Non Federal organizations"* means organizations such as credit unions, concessions operated by the blind and handicapped, and organizations under the direct sponsorship of a Federal agency such as grantees and contractors.

(p) *"Office support area"* means all secondary/shared workstations, extraordinary circulation space, and those specific and discrete areas constructed as office space and used to meet mission needs outside the agency's requirements for housing personnel, such as public-oriented or centralized reception, hearing or meeting facilities, service, inspection, distribution, storage or processing activities. Such space is most cost-effectively collocated with normal office space. Illustrations are contained in § 101–17.6.

(q) *"Office support area allowance"* is the percentage of office space, over and above the primary office area requirement, allocated for office support functions.

(r) *"Personnel"* means the peak number of persons to be housed during a single 8-hour shift, regardless of how many workstations are provided for them. In addition to permanent employees of the agency, personnel includes temporaries, part-time, seasonal, and contractual employees and budgeted vacancies. Employees of other agencies and organizations who are housed in the space assignment are also included in the personnel total.

(s) *"Primary office area"* is the personnel-occupied area in which an activity's normal operational functions are performed.

(t) *"Primary office area utilization rate"* is an indicator of the efficiency with which the primary office area is used. It is calculated by dividing the total occupied primary office area square footage by the total number of people in that area.

(u) *"Request for space"* or *"space requests"* means a written document upon which an agency provides GSA with the information necessary to assign space. A request for space shall be submitted on Standard Form 81 and Standard Form 81–A, and the Space Requirements Questionnaire. (See §§ 101–17.4901–81 and 101–17.4901–81A, Standard forms.) The request shall, at a minimum, contain descriptions of the amount of space, personnel to be housed, geographic area, time period required and funding availability.

(v) *"Secondary/shared workstations"* are nondedicated workstations used more than 50 percent of the time by two or more persons occupying a space assignment during an 8-hour shift. They function in support of the occupancy agency's mission and are distinct from the primary personnel-occupied workstations.

(w) *"Space"* means space in buildings, and land incidental to the use thereof, which is under the custody and control of a Federal agency.

(x) *"Space allocation standard"* means an agreement between GSA and an agency, written in terms which permit nationwide application, used as a basis for establishing that agency's space requirements. These standards identify the specific amount of space an agency will be allocated, and establish exceptions to general guidelines for GSA and agency responsibility in initial tenant funding.

(y) *"Space assigned by GSA"* means space in buildings, and land incidental to its use, which is under the custody and control of GSA; space made available by the U.S. Postal Service; or space for which a permit for use has been issued to GSA by another agency.

(z) *"Space assignment"* means an administrative action by GSA which authorizes the occupancy and use of space by a Federal agency or other eligible entity.

(aa) *"Space inspection"* means a reconnaissance-type evaluation of the manner in which assignments are being utilized to determine whether a utilization survey is warranted.

(bb) *"Space planning"* means the process of using recognized professional techniques of space programming, planning, layout and interior design to determine the best location and the most efficient configuration for agency facilities.

(cc) *"Space requirements program"* means the statement of an agency's space needs as expressed on Standard Form 81–A, Space Requirements Worksheet, Space Requirements Questionnaire and additional supporting

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documentation such as adjacency diagrams, and summarized on Standard Form 81, Request for Space. (See §§ 101–17.4901–81 and 101–17.4901–81A, Standard forms.)

(dd) *"Space typicals"* means examples of workspace and support space allocations based on functional analysis.

(ee) *"Space utilization survey"* means the process of employing recognized professional techniques to determine how efficiently an agency is utilizing its workspace, and to verify that space is being used in accordance with this regulation.

(ff) *"Special purpose space"* means workspace which is or has been constructed and predominantly utilized for the special purpose of an agency and is not generally suitable for the use of other agencies. This includes, but is not limited to, schools, hospitals, mints, embassies, and consulates.

(gg) *"Standard alterations (SA's)"* are those alterations necessary to prepare an agency's space to meet a particular classification, i.e., office, storage, or special, and permit occupancy of the space. (See § 101–17.207).

(hh) *"Unique agency space"* means any general purpose space which either consists of more than 50 percent special-type space not likely to be needed by another agency, or space of any type located in an area where it would be impractical to house another agency. (See § 101–17.302(d).)

(ii) *"Work space"* means federally-controlled space in buildings and structures (permanent, semipermanent, or temporary) which provides an acceptable environment for the performance of agency mission requirements by employees or by other persons occupying it. It is further classified as "office space", "storage space", or "special space". (Also, see § 101–17.601, Space classifications and standard alterations).

(1) *"Office space"* means space which provides an environment suitable in its present state for an office operation.

(2) *"Storage space"* means space generally consisting of concrete, wood block, or unfinished floors; bare block or brick interior walls; unfinished ceilings; and similar construction containing minimal lighting and heating. It includes attics, basements, sheds, parking structures and other unfinished building areas.

(3) *"Special space"* means space which has unique architectural/construction features, requires the installation of special equipment or requires varying sums to construct, maintain and/or operate as compared to office and storage space.

(jj) *"Workstation"* means a location within an office space assignment that provides a working area for one or more persons during a single 8-hour shift. Secondary or shared workstations; are part of office support area.

Subpart 101–17.2 Assignment of Space

§ 101–17.200 The space assignment process—agency development of need and GSA determination of requirements.

(a) This section discusses the process for determining and documenting an agency's space needs and identifying the technical requirements and specifications that describe this need. These requirements are included in the lease and/or construction/alteration contract to ensure that all offerors are responding to the same need and to place the Government in the best possible competitive advantage.

(b) Requirements development is a joint GSA-agency responsibility. The agency understands its mission and program function needs. GSA has the professional and technical knowledge and abilities to translate these needs into technical real estate requirements and deliver space that supports the agency's ability to execute the mission. It is the agency's responsibility to ensure that GSA has the information necessary to develop requirements in a timely manner. It is GSA's responsibility to provide the technical expertise necessary for timely requirements development.

(c) The space assignment process is designed to shorten and simplify the space delivery; to promote a positive working relationship between GSA and client agencies, based on early joint planning; and deliver the optimum amount of space at the minimum cost to the Government. In this process, GSA assumes an early active role in the development of client agency requirements, and provides assistance in the preparation of the Request for Space (SF–81). The goal is to eliminate the need for changes to requirements once the acquisition process has begun. This is accomplished by ensuring that requirements: Are developed accurately, using professional space planning standards and techniques; reflect the true needs of the client agency; and are agreed to by GSA and the client agency early in the process.

(d) GSA has the responsibility to assign and reassign space in an efficient manner using professional space management techniques. In making its space assignments, each GSA regional office will consider the prudent and judicious use of Government funds and resources and will base its decision on local market conditions, available vacant space, restrictions imposed by furniture and equipment, professional space management principles, and agency mission needs. Whenever possible, GSA will satisfy new space requests through the reassignment of vacant available space in the inventory. GSA will advise agencies when the space requested has been determined to be unique agency space.

(e) Agencies requiring space shall contact the appropriate GSA regional office. Within two weeks of the initial contact, GSA will formally acknowledge the initial contact via letter, and will identify a GSA point of contact.

(f) Agencies will be asked to assemble preliminary information and to notify the GSA contact when the information is available.

(g) GSA and the agency will jointly develop space requirements through the completion of the Space Requirements Worksheet (SF–81A), a Space Requirements Questionnaire and a Request for Space (SF–81). (See § 101–17.4901 and § 101–17.4901–81A, Standard Forms). In the requirement development process, GSA will place major emphasis on planning and programming to assure that the final space request accurately reflects the needs of the agency.

(h) In developing space requirements, the analysis will center on the two components of general purpose office space: the primary (or personnel-occupied) area, and the office support area. The requirements development process will define the functions of the space to be designed; identify special agency requirements; review existing conditions; analyze spatial relationships and adjacency requirements; and, through application of the accumulated data, formulate the total space need. Strong emphasis will be placed on agency documentation of all support area requirements including secondary/shared workstations. The resultant office space will reflect the optimum square footage required for the activity involved at the least possible cost to the Government.

(i) Since the primary personnel-occupied areas in most GSA-controlled offices are similar in use and configuration, uniformity and consistency of space assignments within these areas should be readily attainable. Therefore, in assessing utilization rates for its space assignments, GSA will focus on the square footage per person within the primary office area. The utilization rate for new assignments in the primary area will be an average of 125 square feet per person.

(j) The space allowance for the support area will be developed on the basis of professional standards and practices, and normally should not exceed 22 percent of the primary office requirement. (The specific amount of support space will be established during the analysis and planning process.) Support space requirements exceeding 22 percent allowance will be subject to further analysis, and, possibly, higher level review within the GSA region. The support area will be comprised of the areas described in § 101–17.600, and will include secondary (or shared) workstation areas. Space requests within 125 square feet per person for primary office space plus 22 percent for support space will be subject only to minimal review.

(k) Use of Standard Forms 81 and 81A, the forms identified in paragraph (g) of this section, is mandatory for all space requests to GSA. The Space Requirements Questionnaire must also be used, except in those cases where GSA determines that the size of the space need or the degree of complexity of the requirement does not demand the level of detail the form provides. Agencies may prepare the documents themselves (i.e., without GSA assistance) if they desire. Those so submitted will still be subject to thorough analysis by GSA to verify requirements. Agencies will be encouraged to obtain GSA assistance in preparation of the GSA Space Requirements Questionnaire.

(l) To assure uniform action on the part of GSA regional offices, GSA will use the data developed in the requirements development process to establish workstation typicals, support space typicals, test case precedents, and space allocation standards. These will all be used in developing subsequent space requirements in conjunction with the agencies or in reviewing requirements prepared by the agencies. Agencies interested in developing a space allocation standard should contact GSA's Office of Real Property Development (PQ), Washington, DC 20405. All standards negotiated since January 1, 1987, will remain in effect.

Note: Normal horizontal circulation is included in the space typicals developed by GSA. If, in GSA's judgment, there is an extraordinary circulation requirement (e.g., for safety, code, or security purposes) which exceeds the normal allowance, the excess amount will be regarded as support space.

(m) Upon completing assembly of all preliminary documentation including the SF–81A, the Space Requirements Questionnaire and all support data, the client agency and GSA shall complete the SF–81. This is a summary document that incorporates and summarizes all information gathered. In signing the SF–81 the client agency certifies: The need for the space requested; that funds are available to pay for the space and alterations; that the delineated area was designated in accordance with appropriate laws and executive orders and meets agency mission needs; and that an agency representative (by name) is available to accompany GSA on the market survey.

(n) Even though the SF–81 formally identifies an agency's space requirement, the space process starts when an agency informs GSA it has a need for space. The purpose of the new requirements development process is to facilitate the delivery of space. It is GSA's aim that both formal and informal processes be completed as quickly as possible and both the requirements development and acquisition phases will be monitored for timeliness throughout the entire effort. GSA and the agency will jointly develop a space delivery schedule for each project.

(o) When appropriate, GSA will request agencies to submit GSA Form 144, Net Space Requirements for Future Federal Building Construction (see § 101–17.49 Forms).

(p) Agencies will be financially responsible for losses incurred by the Government as a result of any failure to fulfill a commitment to accept space. Agencies are also financially responsible for any additional costs resulting from changes to space requirements made by the agency after a lease or alteration contract has been awarded.

§ 101–17.201 Exception to submitting requests for space.

§ 101–17.201–1 General exceptions.

Standard Form 81 need not be filed by Federal agencies when the space desired or to be acquired is:

(a) General purpose office space of 2,500 square feet or less falling within the geographical area where leasing authority has been delegated to the agency (see § 101–18.104).

(b) Special purpose space (see § 101–17.102(ff)) of 2,500 square feet or less irrespective of geographical location.

(c) Space acquired by the U.S. Postal Service.

(d) Space for short-term conference and meetings (see § 101–17.202).

Note: Agencies are reminded of the need to maximize the use of vacant available Government-controlled space to meet their space requirements.

101–17.201–2 Delegation of authority.

(a) Upon written request from an agency head, the Administrator may delegate authority to acquire space by lease when, in GSA's sole opinion, the delegation is in the best interests of the requesting agency and the Government. GSA will specify the terms and conditions of any delegation in writing at the time the delegation is made.

Note: An authorization to procure parking is not a delegation of leasing authority but rather an authorization for an agency to use its own procurement authority to acquire parking by service contract. This determination can be made at the regional level and does not require the authorization of the Administrator of General Services.

(b) Agencies acting under delegations shall make every reasonable effort to utilize existing Government-controlled facilities before acquiring new space. Agencies shall make inquiries to GSA regional offices regarding the availability of Government-controlled space, and the agencies shall document their lease files if such space is not available. This documentation shall include the date of contact and the name and position of the GSA individual contacted.

(c) Agencies acting under delegation from GSA are required to comply with all relevant sections of this part 101–17, other pertinent portions of subchapter D—Public Buildings and Space, and the Federal Acquisition Regulations.

§ 101–17.201–3 Action when existing space is not available.

(a) If no suitable federally-controlled space is available, GSA will advise the requesting agency by returning a signed copy of the Standard Form 81, showing the action to be taken.

(b) When the agency has acquisition authority or has been delegated such authority by GSA, it may proceed to acquire the requested space consistent with existing laws and regulations. The signed copy of the Standard Form 81, if required, shall be attached to the leasing or related instrument made available to the General Accounting Office.

(c) At the agency's option, GSA may take necessary action to acquire space for agencies having acquisition authority when the latter so requests.

§ 101–17.202 Space for short-term use.

Agencies having a need for facilities for short-term use (such as conferences and meetings, judicial proceedings, and emergency situations) shall utilize available Government-owned or -leased facilities. Agencies shall make inquiries regarding availability to GSA regional offices and document such inquiries as

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outlined in § 101–17.201–2(b). If no suitable Government-controlled facilities are available, an agency may arrange for the use of privately owned facilities for a period not to exceed 180 days. Extensions beyond 180 days must be approved by GSA.

§ 101–17.203 Space requirements for ADP, office automation and telecommunications equipment.

Agencies requiring space for the installation of specialized equipment shall provide information as described in § 101–17.602. This information should be forwarded to GSA in sufficient time in advance of equipment delivery so that space can be provided in a timely and efficient manner. This information shall be incorporated into the delivery schedule developed in connection with the preparation of the Standard Form 81. (See § 101–17.200(n).)

§ 101–17.204 Location of space.

(a) Each Federal agency is responsible for determining the delineated area where its facilities are to be located and certifying and documenting that these location decisions are in compliance with the Federal Property Management Regulation; the Rural Development Act of 1972; Executive Order 12072, August 16, 1978; and the Competition in Contracting Act (CICA) of 1984.

(b) In identifying the delineated area, most agencies housed in General Services Administration (GSA) space have mission requirements that are satisfied in the central business district area (CBA) or in locations which permit maximum use of existing federally-controlled facilities. When the agency selects the CBA or a portion of the CBA as the delineated area in accordance with paragraph (a) of this section, no additional supporting documentation to justify the location decision is necessary.

(c) It is recognized that there are agency missions and circumstances which dictate non-CBA locations. These include situations where the client population is located outside the CBA or the agency mission requires the agency to be located at airports, border stations or other such non-CBA locations. It is the client agency's responsibility to provide GSA with adequate justification to support these location decisions.

(d) GSA is responsible for reviewing an agency's delineated area to confirm that where appropriate there is maximum use of existing Government-controlled space and that established boundaries provide competition as defined in the Competition in Contracting Act (CICA), which amends the Federal Property and Administrative Services Act of 1949. In addition, in cases where the agency's delineated area is a non-CBA location, GSA will review the agency's justification to confirm that the agency has adequately supported its location decision. When the agency's delineated area includes both CBA and non-CBA locations, the CBA will be given first consideration over other locations, the CBA will be given first consideration over other locations when all other factors are equal.

(e) For the National Capital Region (NCR), location decisions shall be based on consideration of the most cost-effective alternative in conjunction with regional policies established by the National Capital Planning Act of 1959 (66 Stat. 781), as amended, and the requirements of the Competition in Contracting Act of 1984.

§ 101–17.205 Move policy.

The situations which cause an agency to move and the responsibility for the relocation costs are indicated below. GSA is responsible for determining the most beneficial alternative course of action in each situation.

(a) *Lease expiration.* GSA will determine if it is cost-effective to the Government to seek alternative leased space. Generally, this will be done 18–24 months prior to lease expiration (or earlier for prospectus level projects) so that agencies have time to budget for expenses associated with above-standard alterations and telecommunications.

(b) *Agency expansion.* New requirements may generate the need for additional space. This can be provided at the existing location as contiguous expansion space; at a new location by separating the existing assignment from the new requirement; or by relocating the existing assignment and collocating with the expansion requirement at a new location. Acquisition of expansion space shall be scheduled to coincide with lease expiration to the maximum extent practicable. Responsibility for the costs of providing expansion space are as follows:

(1) GSA will pay for all expansion SA's (see § 10117.207);

(2) The expanding agency will pay for all of its above-standard requirements and telecommunications.

(3) When an expanding agency has a justifiable need for contiguous expansion space and has to displace a neighboring agency, the expanding agency shall pay for its own moving costs and the displaced agency's moving cost and replication of the current above-standard alterations. The displaced agency shall pay for the cost of relocating its telecommunications equipment and services.

(c) *Consolidation.* It is Federal Government and GSA policy to continually review the opportunities for consolidating several locations into one location. GSA shall prepare an economic analysis that demonstrates the cost of consolidation. To the maximum extent practicable, agency consolidation shall be planned to coincide with lease expiration in order to keep costs to a minimum and reduce adverse impacts on agencies. When a multiple agency consolidation is GSA directed and does not coincide with lease expiration, GSA will pay for SA's, above-standard alterations, and moving costs. However, regardless of when a single agency consolidation occurs, the agency will be responsible for paying for the replication of its above-standard alterations and telecommunication services.

(d) *Emergency relocation.* An emergency relocation results from an extraordinary event such as a fire, natural disaster, or immediate threat to the health and safety of occupants of the space which renders the current space unusable and requires that it be vacated. In these cases, it is necessary to act swiftly and expeditiously to react to the emergency. This may require obtaining approvals and funding authorizations from OMB and Congress. It is best to have a central coordinator for such a task and GSA is suited for this role. GSA will be responsible for paying SA's, above-standard alterations, and moving costs for emergency relocations. The agency will pay for the cost of relocating its telecommunications equipment and services. A summary of relocation situations and identification of the responsible part (GSA or agency) is as follows:

Move situations	SA's	Above standard	Moving costs	Telecommunications
Lease Expiration	GSA	Agency	GSA	Agency
Agency Expansion—				
1. Avail Contiguous	GSA	Agency	GSA	Agency
2. Unavail Contiguous	GSA	Agency	GSA	Agency
3. Split Assignment	GSA	Agency	GSA	Agency
4. Displaces agency				
A. Expanding Agency	GSA	ExpAgc	ExpAgc	ExpAgc
B. Displaced Agency	GSA	ExpAgc	ExpAgc	DispAgc
Consolidation				
1. At Lease Expiration	GSA	Agency	GSA	Agency
2. GSA Directed	GSA	GSA	GSA	Agency
Emergency Relocation	GSA	GSA	GSA	Agency

§ 101–17.206 Applications of socioeconomic considerations.

When actions are proposed to accomplish the reassignment or utilization of space through the relocation of an existing major workforce, the impact on employees with low and moderate incomes and minority employees shall be considered. Under these circumstances, the requesting agency shall consult the Department of Housing and Urban Development in accordance with the memorandum of understanding between the Department of Housing and Urban Development and the General Services Administration. (See § 101–19.4800 for text).

§ 101–17.207 Standard alterations.

(a) Standard Alterations (SA's) are those alterations necessary to prepare an agency's space to meet a particular classification, i.e., office, storage, or special space, and permit occupancy of the space. Consistent with its responsibility to provide commercially comparable space, GSA will fund the cost of SA's. The alterations necessary to provide space at the classification requested by an agency are indicated in Appendix A of this part. Also shown are examples of items that are above-standard for the classification.

(b) There are situations when an agency's requirements exceed the standard level for a particular classification of space. In such cases, the requesting agency shall submit a GSA Form 2957, Reimbursable Work Authorization (RWA), to GSA to pay for the cost of the above-standard items including design work. GSA will provide technical assistance to agencies in developing these costs. GSA cannot obligate funds for the acquisition or alteration of space without the RWA.

(c) In situations where GSA alteration funds are unavailable within the timeframe requested by the agency, if the work is funded reimbursably and results in a higher cost space classification, the RENT rate per square foot will not be increased until the beginning of the fiscal year immediately following the first full fiscal year after the start of the alterations project. This will permit the requesting agency to budget for the increased RENT rate. If the alterations result in a lower cost space classification, the reduced RENT rate per square foot will be effective upon completion of the alterations.

§ 101–17.208 Wellness/physical fitness facilities.

Appendix B of this part sets forth the standard alterations provided by GSA for wellness/physical fitness facilities, and establishes criteria for the establishment of such facilities in GSA-controlled space.

§ 101–17.209 Child care centers.

Pursuant to 40 U.S.C. 490(b), GSA is authorized to allot child care centers in GSA-controlled space. Federal agencies are responsible for determining their respective child care needs and then requesting the appropriate space from GSA. Upon receipt of such a request, along with the results of a needs assessment survey indicating sufficient employee interest, GSA will provide the standard alterations for the center. (See Appendix C of this part).

§ 101–17.210 Centralized services in Federal buildings.

See 41 CFR 101–5, regarding the establishment of centralized services in multi-occupant Federal buildings.

§ 101–17.211 Reviews and appeals of space assignments.

§ 101–17.211–1 Formal review.

A request for a formal review of a space assignment or space acquisition action shall initially be submitted to the appropriate GSA regional office by the agency official authorized to sign the Standard Form 81, Request for Space. A request for a formal review shall be in writing and shall include all pertinent information and supporting documentation. The GSA Real Estate Division will verify the data, perform additional investigations, as necessary, and issue a decision.

§ 101–17.211–2 Initial appeal.

(a) Within 15 calendar days after receiving the decision, the regional agency head or his/her designee may submit an appeal of the decision to the Regional Administrator, GSA. In the appeal, the agency official shall state, in writing, the basis for the request for formal review.

(b) Within 15 calendar days, the Regional Administrator, GSA, will notify the agency of his/her decision. In cases requiring more detailed analysis than can be accomplished in 15 days, the Regional Administrator will notify the agency and establish a date on which his/her decision will be rendered.

§ 101–17.211–3 Final appeal.

Within 15 calendar days after the agency has been notified of the Regional Administrator's decision, a final appeal may be filed by the agency head with the Administrator of General Services. The Administrator will render the agency's final decision within 30 calendar days of receipt of the appeal whenever possible; if additional time is required, the Administrator shall notify the agency of the date a decision will be made.

Subpart 101–17.3 Utilization of Space

§ 101–17.300 Responsibility of GSA.

(a) GSA shall conduct space inspections and space utilization surveys to promote and ensure efficient utilization, recapturing for release or reassignment any space the agencies do not justify as being required. The agency will be provided with a written summary of significant findings and recommendations, together with data concerning improvements which are planned by the agency, and those which are planned by GSA.

(b) GSA will maximize the use of vacant space in its inventory. All new requests for space will be carefully screened against vacant available space. GSA, in consultation with the requesting agency, will determine whether the request will be satisfied through the reassignment of suitable vacant space before action is taken to acquire new space.

(c) GSA will be responsible for promptly correcting an agency's assignment records, and for providing

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the agency a timely record reflecting that the change has been made.

§ 101–17.301 Responsibility of agencies.

Agencies shall cooperate with GSA in the assignment and utilization of space. Agencies shall:

(a) Furnish information regarding the use of assigned space;

(b) Furnish data on personnel consistent with budget submissions to the Office of Management and Budget and with existing appropriations;

(c) Continually study and survey space occupied to ensure efficient and economical utilization of office space consistent with the minimum amount required to perform the agency mission; and

(d) Promptly report to GSA any space which is excess to their needs for assignment to other agencies.

§ 101–17.302 Procedures for agency-initiated relinquishment of space.

(a) An agency occupying GSA-controlled space shall notify the appropriate GSA regional office as soon as possible, but at least 120 calendar days before vacating, whenever space is no longer needed. Notification shall be in writing, giving a description of the space, a floor plan, and the estimated date of release.

(b) When a portion of space is relinquished, that space shall be consolidated, accessible, and readily assignable or marketable. Expenses required to alter the space to these conditions shall be borne by the agency. Agencies should contact the GSA regional office to determine alteration requirements prior to initiating such alterations under their own authority.

(c) The agency shall be responsible for space charges until the date of release specified in the notification, or until the date space is actually vacated, whichever occurs later. When an agency has not made timely notification to GSA, that agency shall be responsible for space charges for a period of 120 calendar days following the date of notification or until the space has been reassigned, or terminated, whichever occurs first.

(d) When the space relinquished is "unique agency space", the agency shall also be responsible for space charges for a period of 120 days following notification. Further, beyond 120 days the agency shall be responsible for actual expenses incurred by GSA until:

(1) The space is assigned or otherwise disposed of by GSA, or

(2) The expiration of the term specified on the most recent Standard Form 81 applicable to the area in question.

(e) Agencies who commit to occupy space but never occupy that space are responsible for space charges for 120 days from the day they notify GSA that the space is not required. If the space is unique agency space, the provisions of paragraph 101–17.302(d) shall apply.

(f) When an agency is responsible for the operation, maintenance, and protection of Government-owned space assigned by GSA, and the agency determines that this space is no longer needed, the agency shall so notify GSA at least six months before relinquishing the space. The operation, maintenance, and protection of the space shall continue to be the responsibility of the agency until the beginning of the next fiscal quarter following the end of the 6-month period.

Subpart 101–17.4 Space Programming, Layout, and Design Services

§ 101–17.400 Initial layout services.

(a) GSA recognizes that professional space programming and layout are necessary preconditions to achieving optimum space usage at a minimum cost to the Government and for the successful accomplishment of standard alterations and modifications to existing space.

(b) GSA will provide space programming and/or layout services for an initial space assignment, for expansion of an existing assignment, or for a GSA initiated move at no cost to the agency. All requests shall be made to the appropriate GSA regional office.

(c) Agencies may also request other services in conjunction with initial layouts, such as master planning, macro-level programming, and interior design. GSA will consult with the agency to determine the scope of assistance required. Such services will be provided on a reimbursable basis. Agencies must certify the availability of funding before performance of services.

§ 101–17.401 Other services.

Agencies may request space programming, layout and interior design services for space actions other than initial layouts, such as reconfigurations of existing assignment, alterations, reductions, consolidations, requested relocations, and as-built drawings. Such services will be provided on a reimbursable basis. Agencies must certify the availability of funding before performance of services.

§ 101–17.402 Provision of services.

(a) No Federal agency occupying GSA-controlled space shall contract for these services without first consulting GSA. GSA may provide requested services through use of in-house professional staff or contracted professional space planning firms. If necessary to meet contractual commitments, avoid duplicated services and/or ensure cost-effectiveness, GSA may require agencies to use existing GSA space planning contracts or new contracts awarded by GSA.

(b) In the event that GSA is unable to provide requested services, either in-house or by contract, agencies may request a project waiver from the provisions of paragraph (a) of this section to procure such services on their own authority. The request should be made to the GSA regional Public Buildings Service and should document the unavailability of GSA-provided services, the basic scope of service required, and the name, location, and size of the project. If the request is approved by the regional office, the agency shall consult with GSA on contract scope, tasks, and deliverables.

(c) Regardless of the method used to provide these services, work performed on an agency's behalf in GSA-controlled space will be reviewed and approved by GSA to ensure that no adverse impacts on mechanical or utility systems, structural integrity, fire and safety requirements, or assignment management considerations would result.

(d) Requests for services which apply across GSA regional boundaries, such as development of nationwide bureau-level space allocation standards, shall be made to the GSA Central Office, Office of Real Property Development, (PQ), Washington, DC 20405.

(e) GSA will provide services on a reimbursable basis and on request for agency-controlled space as resources permit; however, priority must be given to requests from agencies occupying GSA-controlled space.

Subpart 101–17.5 Annual Census

GSA will conduct an annual census to determine space efficiency. A computer printout will be distributed for each agency assignment by the GSA regional office. Verification of the data requires an agency representative to provide the peak number of personnel to be housed during the fiscal year. This printout is to be returned to the appropriate GSA regional office within 30 days of receipt.

Subpart 101–17.6 Exhibits

§ 101–17.600 Illustration of office support space.

The following list describes the types of space included in the support area component of general purpose office space.

Support area	Description
Reception/waiting area.	Identifiable (i.e., individually distinct) area of the office used for walk-in patron/clientele traffic and/or specific waiting area associated with conference room.
Hearing/meeting/interview areas.	Identifiable area(s)/room(s) established specifically for one or more of the listed purposes.
File areas	Centralized files of material primarily from outside the operational unit (e.g., job applications, mortgage applications, etc.); official personnel files maintained by a central personnel office; active files of cases under adjudication that must be maintained in compliance with legal requirements or mission demands. All such files must be housed in a distinct area separated from other files.
Central storage areas.	Separate areas used for central storage of supplies (may be physically secured with restricted access). Limited to one such space per operational unit site.
Processing area	Space dedicated to a machine or process, including copier rooms, mail rooms, microfiche areas, computer terminal areas, dry labs.
Library/reference area.	Areas dedicated to functions normally associated with libraries; library/reference areas required by statutes, regulation, or mission. Libraries with no special features.
Secondary/shared workspace.	Nondedicated workstations used more than 50 percent of the time by two or more persons occupying a space assignment during an 8-hour shift. It functions in support of the occupant agency's mission and is housed outside primary personnel-occupied office area.
Extraordinary circulation space.	Horizontal circulation space which GSA determines must be provided to meet such needs as safety, security, and code requirements, and which exceeds the normal circulation included in GSA's space typicals.

§ 101–17.601 Space classifications and standard alterations.

Appendix A outlines the various classifications of general purpose office and related space and their associated standard alterations. Also shown are examples of items that are above-standard for the classification.

§ 101–17.602 Space for data processing, office automation and telecommunications equipment.

This section contains the information required on space requests for these specialized functions.

(a) Agencies requiring space for the installation of such equipment must provide the following information in addition to the requirements of § 101–17.203:

(1) Type of equipment (including make, model number, manufacturer, and number of units of each);

(2) Space and environmental requirements, including:

(i) Floor weight (lbs.);

(ii) Machine dimensions (width, depth, and height in inches);

(iii) Service clearance (front, rear, right and left sides);

(iv) Power in voltage and kv.-a, (starting loads and operating loads);

(v) Heat dissipation in B.T.U./hr. and air flow (c.f.m.); and

(vi) Need for raised floor, acoustic ceiling, and air-conditioning.

(3) Related requirements, such as storage space for supplies, tapes, and disks; work space, including desk and aisle space; and future expansion needs;

(4) Agency responsibility for funding; and

(5) Required occupancy date.

(b) The above information should be provided as separate supplemental data to Standard Form 81, Request for Space, and forwarded to the GSA regional office. The space requirements indicated on Standard Form 81 must include the space requirements for all components of Automated Data Processing, Office Automation and Telecommunications Equipment. The supplier should be consulted prior to establishing space needs in order to ascertain any specific or peculiar space requirements of the equipment involved.

(c) It is essential that this information regarding the requirement for such space be transmitted to GSA as far as possible in advance of delivery of equipment (preferably 18 months or more) so that space can be provided in a timely and economical manner.

Subparts 101–17.7—101–17.47 [Reserved]

Subpart 101–17.48 GSA Regional Offices

§ 101–17.4800 Scope of subpart.

This subpart identifies the regional offices of GSA, describes the geographical areas of jurisdiction, and lists the office address.

§ 101–17.4801 GSA regional offices.

GSA Region	Area served	Mailing address
2	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey but (all 6 southern counties), New York, Rhode Island, Vermont, Puerto Rico, U.S. Virgin Islands.	General Services Administration, 26 Federal Plaza, New York, NY 10278.
3	Delaware, Maryland (except NCR area), Pennsylvania, Virginia (except NCR area), West Virginia, 6 southern counties of New Jersey.	General Services Administration, Ninth and Market Streets, Philadelphia, PA 19107.
4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	General Services Administration, 75 Spring Street, SW., Atlanta, GA 30303.
5	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	General Services Administration, 230 South Dearborn Street, Chicago, IL 60604.
6	Iowa, Kansas, Missouri, Nebraska.	General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131.
7	Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, South Dakota, Oklahoma, Texas, Utah, Wyoming.	General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.
9	Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington; Guam, Trust Territory of the Pacific Islands, American Samoa.	General Services Administration, 525 Market Street, San Francisco, CA 94105.
NCR	Washington, DC and nearby metropolitan area of Maryland and Virginia.	General Services Administration, 7th and D Streets, SW., Washington, DC 20407.

Subpart 101–17.49 Forms

§ 101–17.4900 Scope of subpart.

This subpart contains information on forms that pertain to the assignment and utilization of space and instructions in their use.

§ 101–17.4901 Standard forms.

(a) Forms referenced to this § 101–17.4901 are Government standard forms. The subsection numbers in this section

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correspond with the standard form numbers.

(b) Supplies of standard forms can be obtained from the nearest GSA supply

carpet standards used for schedule purchases.

Ceilings—must be structurally sound, and be at least 8' 0", and no more than 11' 0' clear

Fire & Safety—Building shall conform with the criteria cited in FPMR 101–20.105.

Typical above-standard office space alterations, which must be justified by the

Floors—Sealed concrete, wood block, or other material adequate for general storage.

Ceilings—Unfinished.

Partitioning—No additional partitioning or

1. *Laboratory and Clinic Area (SP–1)*—Space containing built-in equipment and utilities required for the qualitative or quantitative analysis of matter,

f. Table areas in cafeterias (with supplementary HVAC or other special features), and

g. Mini-computer/mega frame equipment

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correspond with the standard form numbers.

(b) Supplies of standard forms can be obtained from the nearest GSA supply distribution facility.

§ 101–17.4902 GSA forms.

(a) Forms referenced to this § 101–17.4902 are GSA forms. The subsection numbers in this section correspond to the GSA form number.

(b) Agencies may obtain their initial supply of GSA forms from GSA National Forms and Publications Center, Box 17550, 819 Taylor Street, Fort Worth, TX 76102–0550. Agency field offices should submit all future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (CAR), Washington, DC 20405.

Appendix A to Part 101–17—Space Classification and Standard Alterations

Classification

A. *Office Space* (Space which provides a suitable environment in its present state for an office operation, and which includes, among other features, adequate lighting, heating and ventilation, floor covering, finished walls, and accessibility.) The following represent uses of office space:

(1) General purpose office space,
(2) Private corridors,
(3) Meeting rooms (without special equipment and additional heating, ventilation, and air-conditioning (HVAC)),
(4) Training rooms (without special equipment and HVAC),
(5) Libraries (without extensive built-in stacks and special floor loading),
(6) Dry laboratories,
(7) Storage in office space,
(8) Credit unions (without fixed equipment),
(9) Lounges (other than toilet areas),
(10) Reception areas,
(11) Hearing rooms (without special equipment and HVAC),
(12) Mail rooms,
(13) Health rooms (without special equipment), and
(14) Table areas in cafeterias (without supplementary HVAC or other special features),
(15) File areas (without increased floorload),
(16) Wellness/physical fitness facilities (exercise and/or locker areas finished to office standards, and
(17) Child care facilities (except toilets and kitchen areas).

Standard Alterations (SA's)

SA's are those alterations necessary to prepare an agency's space to meet the basic requirements for the particular classification of space:

A. *Office Space.*

Floors—either resilient flooring or carpeting of a grade and type specified in the Standard Solicitation for Offers (SFO) or by the most recent Federal Supply Service (FSS) carpet standards used for schedule purchases.

Ceilings—must be structurally sound, and be at least 8' 0", and no more than 11' 0' clear from finished floor to the lowest obstruction. STC rating of 40.

Partitions—new and/or existing ceiling high interior partitions shall be provided to a maximum of one linear foot for each 10 square feet of occupiable office type space. STC rating of 40.

Wall Treatment—Paint or vinyl wall covering as is the building standard. (Vinyl will not be less than 13 oz. per square yard. Government approved wood, rubber, vinyl, or carpet base, will be provided as part of the initial tenant buildout (per building standard).

Window Treatment—Building standard. Any deviation will be considered reimbursable.

HVAC—Heating, ventilation, and air-conditioning (HVAC) capable of maintaining an *acceptable* operating environment.

Lighting—Must provide a minimum of 50-foot candles at work surface.

Electrical Outlets—Electrical outlets will be provided to a maximum of two duplex or one quadruplex electrical outlet for each 100 sq. ft., or in the case of systems furniture, 1 base feed for every 100 sq. ft. of occupiable office type space. Workstation outlets shall be wired so that no more than four workstations are on one 20 AMP circuit. Convenience outlets (outlets mounted on columns or permanent walls or in private offices, conference rooms, libraries, or file/supply rooms) shall be wired to accommodate no more than 8 receptacles to one 20 AMP circuit. Special copier or printer outlets shall be provided at the rate of 1 outlet for every 10,000 sq. ft.

Telecommunications Requirements—Conduits and ducts will be provided for tenant agencies telecommunications based on a standard planning assumption of one telephone and one data instrument for every 100 square feet of occupiable office space. In those building areas where the utilization rate is less than 100 square feet of occupiable office space, that lesser rate will be standard. Any requirements above this level are above-standard and are to be reimbursed to GSA. (For additional information, see "GSA Telecommunications Procedures", February 10, 1988.)

Computer Local Area Network (LAN) System Cable Installation—Conduit and/or raceway to accommodate LAN cable installation on a floor or between floors shall be installed as part of the standard tenant buildout. All LAN cable must be purchased by the tenant agency and furnished to a lessor or a contractor for installation (lessor or contractor will specify amount of cable required based on Government layout). Installation instructions and diagrams must be provided by the tenant agency's computer vendor to the lessor or contractor along with the approved space (design intent) layout. Cable installation shall be done by the lessor contractor with the assistance and/or advice of the tenant agency's computer vendor. The computer vendor must be hired and funded by the tenant agency. Cable installation (excluding installation of connectors for the machines) will be done as a part of the standard tenant buildout.

Fire & Safety—Building shall conform with the criteria cited in FPMR 101–20.105.

Typical above-standard office space alterations, which must be justified by the agency, include the following:

- Folding partitions and structural support work required to support them.
- Nonstandard lighting (decorative lights, spot lights, etc.). Parabolic light fixtures shall be considered as standard lighting if they are installed as a standard feature of a building.
- Observation windows in private offices, side light glass panels installed for decorative purposes.
- Dutch doors (agency to pay the difference in cost between a standard door and a dutch door).
- Glass pass-through windows installed in standard office space.
- Glass doors or double doors except for main (central) reception doors or doors to large supply or forms areas where shipments come in from dock areas.
- Digital security locks, magnetic (Card Key or Kastle System) locks.
- STC ratings greater than 40 in walls and ceilings (unless otherwise indicated in an agency SAS).
- Alarm systems; if not required by GSA risk assessment.
- Single electrical outlets on one 20 AMP circuit, unless specified in approved GSA-agency Space Allocation Standards.
- Sound masking.
- Interior private or semiprivate office door locks (standard private or semiprivate shall have passage set hardware) conference and supply rooms may have locks.

Provision of the above will be on a reimbursable basis.

Classification

B. *Storage Space* (All storage space will be classified under subset of general storage area, inside parking area, or warehouse.)

1. General Storage Areas (ST–1). Storage in general purpose buildings generally consisting of unfinished floors, walls, ceilings, and adequate HVAC and lighting, including:
a. Basements,
b. Attics,
c. Supply rooms (not finished to office standards),
d. Storerooms (not finished to office standards), and
e. File rooms (not finished to office standards).

2. *Inside Parking (ST–2)*—Inside parking areas include:
a. Garage,
b. Parking areas (including rooftops and decks), and
c. Motor pool parking.

3. *Warehouse Areas (ST–3)*—Space specifically designed for materials storage and handling operations consisting of features which include, but are not limited to, concrete or *wood block* floors, unfinished ceiling, heavy live floor load capacity (over 200 pounds psf), high ceiling (over 14 feet), and industrial lighting.

Standard Alterations (SA'S)

B. *Storage Space*

1. *General Storage Areas.*

Floors—Sealed concrete, wood block, or other material adequate for general storage.

Ceilings—Unfinished.

Partitioning—No additional partitioning or wall finish except for required firewalls and agency separating partitions. Door openings shall be wide enough to allow the passage of hand trucks. Doors and jambs shall be installed with protective plates to prevent damage.

Heating and Ventilation—Capable only of maintaining an operating environment with a temperature between 65° and 85°.

Lighting—Maintain 30 foot candles at floor level.

Fire and Safety—Buildout shall conform to the criteria cited in FPMR 101–20.105.

Typical above-standard alterations for general storage areas include:

- Dead bolt locks on interior room doors. The entry door can be secured with a deadbolt lock.
- Interior security/safety partitioning. Subdivision of tenant areas by wire mesh partition is adequate when security is not a major consideration.
- Above-standard levels of lighting (above 30-foot candles).
- Special fire protection features for flammable materials.

2. *Inside Parking.*

—Adequate identification of parking areas will be provided.

—Sprinkler protection (Fire and safety—buildout features shall conform to the criteria specified in FPMR 101–20.105.)

3. *Warehouse Areas.*

Floors—Sealed concrete, wood block, or other material adequate for warehousing service.

Ceilings—Unfinished.

Partitioning—No additional partitioning or wall finish except required firewalls and agency separation partitions.

Heating and ventilation—Capable of only of maintaining an operating environment.

Lighting—Maintain a minimum of 10-foot candles.

Toilet Facilities—On a case-by-case basis.

Electrical Service—As required, and including normal hookup to agency warehousing equipment. No telephone outlets will be provided.

Exterior Building Features—Features, such as covered loading docks, power operated doors, dock-levelers, and railroad sidings available for use will be provided when justified by agency and approved by GSA.

Typical above-standard alterations for warehouse areas include:

- Plumbing (excluding toilets).
- Load levelers.
- Loading ramp.
- Floor drains with sediment trap and sump.
- Special fire protection features for flammable materials.

Classification

C. *Special Space*—(Space that necessitates the expenditure of additional or varying sums to construct, maintain, and/or operate as compared with the amount spent for office and storage space. This space is further defined according to one of the following subsets:

1. *Laboratory and Clinic Area (SP–1)*—Space containing built-in equipment and utilities required for the qualitative or quantitative analysis of matter, experimentation, the processing of materials, and/or the physical welfare of employees or the public including:
a. Wet laboratories,
b. Clean laboratories,
c. Photographic laboratories,
d. Clinics,
e. Health units and rooms (with special equipment),
f. Private toilets,
g. Wellness/physical fitness facility shower rooms, and
h. Child care facility toilets.

2. *Food Service Areas (SP–2)*—Space in buildings devoted to the preparation and dispensing of foodstuffs including:
a. Cafeterias (kitchens, related storage and service areas),
b. Snack bars,
c. Mechanical vending areas (where plumbing is provided), and
d. Private kitchens with plumbing (including kitchens in child care facilities).

3. *Structurally Changed Areas (SP–3)*—Areas having architectural features differing from normal office or storage areas, such as sloped floors, high ceilings, increased floor loading, steel mesh within partitioning, sound conditioning over Sound Transmission Coefficient (STC)–40 rating including:
a. Auditoriums,
b. Gymnasiums,
c. Libraries (with special stacks and floor loading),
d. Target ranges,
e. Courtrooms,
f. Security vaults,
g. Secured Compartmented Information Facility (SCIF), and
h. Detention cells.

4. *Automatic Data Processing (ADP) Area (SP–4)*—Areas having special features such as humidity and/or temperature control, raised flooring, and ceiling heights exceeding office standard; and extensive power requirements (requiring its own power panels, etc., including:
a. Computer rooms, telecommunication (PBX) rooms with special environmental requirements;
b. Computer support areas with special flooring and/or wiring and (with humidity and/or temperature control); and
c. Computer tape vaults.

5. *Conference and Classroom/Training Facilities (SP–5)*—Areas used for conferences, training, library, hearings or mini-computer use with supplemental HVAC and/or built-in special equipment such as blackout curtains, lighting controls, projection booths and sounding conditioning, in addition to office finishes:
a. Conference rooms (with special equipment and/or HVAC),
b. Hearing rooms (with special equipment and/or HVAC),
c. Classroom/training rooms (with special equipment and/or HVAC),
d. Exhibit areas (with special equipment and/or HVAC),
e. Courtrooms (no structural changes but with special equipment),
f. Table areas in cafeterias (with supplementary HVAC or other special features), and
g. Mini-computer/mega frame equipment rooms adjacent to office area requiring supplemental HVAC and minor special buildout such as deadbolt locks, dedicated electrical service, LAN cable distribution access, etc. (rooms requiring substantially less than SP–4 buildout).
6. *Light Industrial Areas (SP–6)*—Areas which may have some or all of the characteristics of warehouse space but, in addition, may be provided with one or more of the following features: air-conditioning, humidity control; special power, and a light level equal to or slightly less than that provided for office space including:
a. Records storage (with humidity control);
b. Storage type space (with air-conditioning);
c. Printing plants;
d. Product classifying laboratories;
e. Motor pool service areas;
f. Postal workrooms, swingrooms, locker rooms, mailing vestibules and platforms, and lock box lobbies;
g. Shop (other than PBS);
h. Loading docks and shipping platforms;
i. Canopy areas (if included in occupiable area);
j. Vertical improved mail system areas; and
k. Telephone frame rooms and unattended switchboards (for specific agency use).
7. *Quarters and Residential Housing*—Quarters and residential housing areas (housing and quarters that do not logically fall in the other categories).

Standard Alterations (SA's)

C. *Special Space.*

1. *Laboratory and Clinic Area*—Alterations will be provided in accordance with the levels specified for office space. In addition, they may include the installation of special building equipment to meet the environmental requirements of the laboratory and/or clinic as shown below:

Floors—As reqdired special floors such as quarry tile, grating, etc., will be provided by GSA.

Plumbing and sewage—As required, special building equipment such as special piping and associated water treatment equipment, special sewerage disposal systems, and water, gas, compressed air, and vacuum systems will be provided by GSA. Normal hookup will be provided to the space perimeter consistent with architectural, mechanical, electrical, and structural limitations.

Electrical distribution—Electrical service, including normal hookup, will be provided consistent with architectural, mechanical, electrical, and structural limitations.

Heating, ventilation, and air-conditioning—As required, special building equipment to treat and exhaust to the atmosphere noxious or offensive gases produced by agency program equipment will be provided. In addition, fresh air suitable to meet the special requirements, up to 100 percent fresh air, temperature control +/−2 degrees within the design range, and humidity control +/−5 percent within the

design range will be provided. HVAC services will be provided for an 11 hour day, 5 days a week (excluding holidays). Service required beyond normal work hours or on weekends and holidays are reimbursable.

lighting and other agency program equipment).

SA's for courtrooms are as follows:

Floors—Acceptable grades of commercial carpeting suitable for heavy traffic or the

Federal judges and magistrates or other court personnel will be designed, furnished, and installed, at the courts' expense, whether provided through new construction in an existing building or by modification of

c. Supplemental, separately zoned heating, ventilation, and air-conditioning in *conformance* with *GSA standards*; all duct penetrations into the room shall be baffled so as not to compromise the STC requirement of

(4) Sound attenuation to provide a minimum sound transmission class of 40 (STC 40).

(5) Adequate lighting to maintain acceptable levels of illumination.

within the agency. For guidance on the development of health service programs, agencies may consult the PHS, Department of Health and Human Services.

Appendix C to part 101–17—Child Care

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design range will be provided. HVAC services will be provided for an 11 hour day, 5 days a week (excluding holidays). Service required beyond normal work hours or on weekends and holidays are reimbursable.

* * * * *

Typical above-standard alterations for laboratory and clinic space:

- Fumes hoods.
- Emergency showers.
- Eye wash station.
- Revolving dark room doors.
- NOTE: Laboratory casework is considered to be furniture and will not be provided or installed by GSA. GSA will, however, prepare floors, ceilings, and/or walls as necessary to permit the installation of casework.

2. *Food Service Areas*—Food service areas will be provided with initial alterations in accordance with the levels specified for office space, with additions or exceptions as follows:

Floors with nonslip tile or quarry tile with cove base molding in large commercial type kitchen areas;

Smooth surface, washable *ceilings, partitions,* and *walls* in food preparation areas;

Heating, ventilation, and *air-conditioning* capable of maintaining an acceptable operating environment in food preparation areas, vending machine rooms, and other concession areas having heat generating equipment;

GSA will provide *electrical service,* including normal hookup, consistent with architectural, mechanical, electrical and structural limitations and the provision and installation of *conduit* for telephone distribution. Telephone *service* will not be provided by GSA in concession or blind operated facilities;

Plumbing as required, water, gas, and waste systems, including normal hookup, consistent with architectural, mechanical, electrical, and structural limitations; and

Special equipment as determined by GSA on a case-by-case basis.

Fire & Safety—Buildout shall be in accordance with the criteria cited in FPMR 101–20.105.

C. *Special Space*—Structurally changed areas will be provided with initial alterations at levels required to provide standard features normally associated with the type of space being provided. Determination of the normal level will be made by GSA on a case-by-case basis using both industry and GSA-recognized standards.

Courtrooms. Courtrooms and other court related space will be prepared in accordance with current design criteria.

All raised ceiling courtrooms are included in the category of Structurally Changed Areas. Office type court facilities will be finished to a quality equivalent to those supplied for general-use office space in Federal buildings.

In submitting their space requirements for new or additional court and court-related facilities, the courts shall, as a minimum, stipulate that court funds will be made available to GSA for reimbursement for the cost of known special requirements (i.e., security features, counters, emergency lighting and other agency program equipment).

SA's for courtrooms are as follows:

Floors—Acceptable grades of commercial carpeting suitable for heavy traffic or the equivalent will be provided in all areas;

Ceiling—Ceiling systems will be determined on a case-by-case basis depending on existing or proposed architectural features, acoustical requirements (N.R.C. 0.65–0.80 range), electrical distribution and HVAC systems. However, standard level ceiling materials are limited to those which are readily available in the building supply market and do not involve unusual cost to provide, install, and maintain.

Walls—Construction in conformance with applicable GSA criteria for courtrooms, vaults, holding cells, etc.

Lighting—Conventional standards for illumination levels will apply. Lighting fixtures for standard alterations are limited to commercially available units which do not involve unusual cost to provide, install, and maintain;

Window treatment—Building standard.

HVAC—Conventional standards for HVAC systems will apply. Court space may be furnished with HVAC by a supplemental system in conformance with GSA standards;

Electrical distribution—Standard electrical connections will be supplied as required and will be provided consistent with architectural, mechanical, and structural limitations;

Telecommunications requirements—Conduits and ducts will be provided for courts' telecommunications requirements, but not to exceed a standard of one telephone and one data instrument for every 100 square feet of space. Any requirements above this level are above-standard and are to be reimbursed to GSA.

Sound systems—Only required wiring and related conduits will be provided;

Toilets—Toilets in detention cells are treated as a part of the overall cost of providing this special facility. Detention cells will be assigned to the requesting agency (U.S. Courts or Department of Justice);

Security systems—All security measures and systems are considered above-standard alterations and therefore, reimbursable. This includes: armor for the judge's bench, closed-circuit TV, warning signals, and communications systems; and

Furnishings—All courtroom furnishings whether fixed or movable shall be funded by the Courts. This includes the judge's bench, jury box, witness box, railings, and public seating.

Standard space alterations for judge's chambers—will be provided in accordance with current court design guide criteria;

Private toilets—Judges, bankruptcy judges, and magistrates may be provided private toilets in locations where court is held on a full-time basis. In locations where court is held only on a part-time basis, private toilet facilities will be provided only for the District Court judges. Circuit Court judges will also be provided private toilets at their official stations. Private toilets are classified as laboratory and clinic space (SP–1)

Elevators—Special elevators for use by the marshals service for prisoner movement or by Federal judges and magistrates or other court personnel will be designed, furnished, and installed, at the courts' expense, whether provided through new construction in an existing building or by modification of existing elevators.

New buildings built by GSA for use by court activities shall include elevator service designed to facilitate the secure movement of judicial officials and/or Federal prisoners within the building.

Fire and Safety—Buildout of facilities shall be in accordance with the provisions cited in FPMR 101–20.105.

4. *Automatic Data Processing (ADP) Area*—Automatic data processing areas will be provided with initial alterations in accordance with levels specified for office space, with additions or exceptions as follows:

(a) *Raised floors,* if required, installed to provide space for electrical and/or HVAC service for ADP equipment;

(b) As determined by GSA, *ceilings* acoustically treated and sound conditioned to meet the conditions and environmental requirements of each location. Ceiling STC shall not be less than 40.

(c) *Heating, ventilation, and air-conditioning* capable of maintaining an operating environment for the ADP equipment compatible with the manufacturer's recommendation; (NOTE: HVAC services will be provided on a standard eleven hour shift five day week, excluding holidays and weekends. Services beyond this standard will be provided on a reimbursable basis.)

(d) *Electrical distribution and electrical services,* including normal hookup to a power panel within the ADP room. (NOTE: Electrical services will be provided on a standard eleven hour shift five day week, excluding holidays and weekends. Services beyond this standard will be provided on a reimbursable basis.)

(e) West pipe *sprinkler protection* in all electronic equipment and tape storage areas. All other fire and safety criteria cited in FPMR 101–20.105 shall be met.

Typical above-standard alterations for ADP areas includes:

- Isolation transformers.
- Emergency shutdown control switches.
- Uninterruptible power supplies.
- Audible and visual alarms.
- Special security locks.
- Supplemental Halon fire suppression system.

5. *Conference and Classroom/Training Facilities*—Classrooms and training areas will be provided standard alterations in accordance with levels specified for office space, with additions or exceptions as follows:

a. Structural floor slab to structural ceiling slab walls with a minimum sound transmission class (STC) of 45. Walls shall be constructed to accommodate agency furnished blackboards, projection screens or similar items.

b. As determined by GSA, ceilings acoustically treated to provide a minimum sound transmission coefficient of 40 (STC 40);

c. Supplemental, separately zoned heating, ventilation, and air-conditioning in *conformance* with *GSA standards;* all duct penetrations into the room shall be baffled so as not to compromise the STC requirement of the wall.

d. Special features normally associated with the subcategories of space under this classification are determined by GSA on a case-by-case basis. These include such features as electrical service and normal hookup to agency equipment, blackout curtains, lighting controls, telephone and data lines and projections booths. In case of small courtrooms, guidelines adopted by the Judicial Conference of the United States will be the accepted reference.

e. *Fire and Safety*—Buildout shall be done in accordance with the criteria cited in FPMR 101–20.105.

6. *Light Industrial Areas*—Light industrial areas will be provided with initial alterations at levels required to provide standard architectural, mechanical, electrical, and structural features normally associated with this type of space. Determination of the normal level will be made by GSA on a case-by-case basis using commercial standards.

7. *Quarters and Residential Housing*—Initial alterations will place quarters and residential housing in an occupiable and satisfactory condition.

Appendix B to Part 101–17—Wellness/Physical Fitness Facilities

1. *Space for wellness/fitness facilities.* Exercise equipment, lockers, and nonstandard interior finishes (purchase and installation) are the responsibility of the tenant agencies. In a multiple tenancy building, a lead agency should be identified to be the focus of actions relating to a fitness facility and to request its establishment. Normally, the lead agency would be the major occupant in the building. Physical fitness facilities in multiple tenant buildings will be assigned as a joint-use space.

a. *Exercise rooms.* Exercise rooms will be treated the same as conventional office space and provided building standard features as follows:

(1) Floor covering such as vinyl tile or equivalent or acceptable grades of commercial carpet.

(2) Ceilings structurally sound and finished.

(3) Ceiling-high interior partitions.

(4) Heating, ventilation, and air-conditioning (HVAC) capable of maintaining the temperature as specified in FPMR 101–20.107.

(5) Sound attenuation to provide a minimum sound transmission class of 40 (STC 40).

(6) Adequate lighting to maintain acceptable levels of illumination.

b. *Locker rooms*—Locker rooms will be treated as conventional office space and provided building standard features as follows:

(1) Ceilings that are structurally sound and finished.

(2) Floors that are concrete or finished with other non-slip material.

(3) Heating, ventilation, and air-conditioning (HVAC) capable of maintaining the temperature as specified in FPMR 101–20.107.

(4) Sound attenuation to provide a minimum sound transmission class of 40 (STC 40).

(5) Adequate lighting to maintain acceptable levels of illumination.

(6) Walls that are wallboard or moisture resistant wallboard, as appropriate, and finished and painted or equivalent.

c. *Shower rooms*—Shower rooms will be treated as Lab and Clinic space (SP–1) and provided building standard features as follows:

(1) Ceilings that are moisture resistant wallboard or equivalent.

(2) Floors with non-slip finishes.

(3) Plumbing and fixtures as required, including water and waste, shower stalls, toilets, and sinks in such numbers as is consistent with the number or facility users and square footage available in the shower rooms.

(4) Adequate lighting to maintaining acceptable levels of illumination.

(5) Heating, ventilation, and air-conditioning (HVAC) capable of maintaining the temperature as specified in FPMR 101–20.107.

(6) Walls that are moisture resistant wallboard and finished and painted, or equivalent.

2. *Criteria for establishing fitness programs.* Agencies shall submit to the appropriate GSA regional office a Standard Form 81, Request for Space, and a plan for the proposed fitness program. Agencies may contact the President's Council on Physical Fitness and Sports for assistance in developing their plan. The plan should set forth the scope and goals of the proposed program and include the following elements as outlined by the President's Council on Physical Fitness and Sports:

(1) A survey indicating employee interest in the program;

(2) A 3 to 5 year implementation plan demonstrating long-term commitment to physical fitness/health for employees;

(3) A health related orientation, including screening procedures, individualized exercise programs, identification of high-risk individuals, and appropriate follow-up activities;

(4) Identification of a person skilled in prescribing exercise to direct the fitness program;

(5) An approach which will consider key health behavior related to degenerative disease, including smoking and nutrition;

(6) A modest facility that includes only the essentials necessary to conduct a program involving cardiovascular and muscular endurance, strength activities, and flexibility;

(7) Provision for equal opportunities for men and women, and all employees, regardless of grade level.

Depending on the scope and goals of the proposed program, one or more of the above elements may not apply or may apply only partially or indirectly. However, every attempt should be made to show that each of the above has been considered in the planning effort or are already provided under existing programs and activities sponsored by the agency personnel office, Public Health Service (PHS) health unit, employee association, or other official organization within the agency. For guidance on the development of health service programs, agencies may consult the PHS, Department of Health and Human Services.

Appendix C to part 101–17—Child Care Centers

A. *Basic policy.* Pursuant to 40 U.S.C. 490(b), GSA is authorized to provide child care centers in GSA-controlled space. Federal agencies are responsible for determining their respective child care needs and then requesting the appropriate space from GSA. Upon receipt of such a request, along with the result of a needs assessment survey indicating sufficient agency interest, GSA will provide the standard of alterations for the center as defined in Appendix A. The cost of any other features not specified in Appendix A will be fully reimbursed to GSA by the user/tenant agency(ies) except as noted in paragraph (f) below.

Agency(ies) will sponsor child centers for their employees, submit space requests for their requirements, allocated space under license or other appropriate authorization document to either the provider of child care services for an employee user group, and pay RENT to GSA for the assigned space.

The provider will occupy the designated space pursuant to an assignment authorizing the sponsoring agency or lead agency (the agency which issues the Standard Form 81, Request for Space in cases involving a joint-use assignment) to allocate the space to the provider of child care services or an employee user group.

B. *Leasing space for a child care center.* When necessary, GSA will acquire leased space to house a child care center or to relocated agency activities displaced by a child care facility established in GSA-controlled space. When leasing space specifically for a child care center, the lease term should not exceed 5 years unless otherwise determined by the contracting officer to be in the best interest of the Government. In the event the space for a child care center is part of a larger space acquisition for an agency or agency(ies), the lease term for the center should be coterminous with the other space leased by the Government in the building.

C. *Developing a child care facility out of existing assigned space.* When a portion of an agency's existing assigned space is made available by the agency for child care center use, the cost of alterations to the space will be fully reimbursable to GSA. However, if any of the alterations result in a higher space classification, GSA will fund the alterations for the upgrading of the space to be classified.

D. *New construction or use of modular buildings for child care.* Space solely for the purpose of providing a child care center will not be made available by GSA through new construction nor through the purchase or lease of modular buildings. However, in special circumstances, where no other space can be economically developed and made available for child care use, modular buildings can be considered. In such circumstances, all expenses associated with site preparation and the purchase or lease of

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modular buildings, including design services, water and sewer, and utility service installation costs shall be paid by the sponsoring agency(ies).

E. *Space classification.* Space in child care centers will be classified in accordance with the standards specified in Appendix A.

F. *Special buildout considerations.* In addition to the standard alterations (SA's) specified in Appendix A, child care center space will have all built-in features such as kitchen counters, shelves, cabinets, bookcases, closets, mailboxes, sinks and basins required throughout the center furnished and installed as part of the normal buildout. All restrooms which will be utilized by children from the center should contain child-size toilets, handicapped accessible toilets and child accessible drinking fountains.

Floors in child care centers shall be covered with an acceptable grade of anti-static carpet or tile as appropriate.

All landscaping required to prepare outdoor play areas will be covered by GSA as a part of the standard alterations for a child care center. The purchase and installation of playground equipment will be the responsibility of the sponsoring agency(ies).

G. *Special cleaning provisions.* For reasons of safety and health, the entire child care center will be cleaned in the same manner as clinical (i.e., Health Unit) space, regardless of the space classification.

H. *Compliance with State and local requirements.* To the maximum extent practical, GSA will comply with State and local laws and regulations relating to the development of facilities for use as child care centers.

I. *Special safety and environmental considerations.* Every effort shall be made to minimize safety and environmental hazards in the child care center space and play areas as well as in adjacent areas of a building frequented by children. Construction work on a center shall be done in a manner which will minimize sharp corners, tripping hazards, or other problems which may increase the potential for injury to children.

All lead base paint, even lead base paint in layers below existing coats, shall be removed from all surfaces in space to be utilized as a child care center. All other applicable Federal safety and environmental regulations or requirements as outlined in FPMR 101-20 must also be met.

Dated: October 25, 1989.

William C. Coleman,

Commissioner.

[FR Doc. 89-25554 Filed 10-31-89; 8:45 am]

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CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Last List October 30, 1989

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 2978/Pub. L. 101-131

Flag Protection Act of 1989. (Oct. 28, 1989; 103 Stat. 777; 1 page) Price: $1.00

Upon expiration of the 10-day period prescribed by the Constitution of the United States, H.R. 2978 became law on Oct. 28, 1989, without the President's signature.

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1989

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 2	October 17	November 1	November 16	December 1	January 2
October 3	October 18	November 2	November 17	December 4	TOO FAR
October 4	October 19	November 3	November 20	December 4	TOO FAR
October 5	October 20	November 6	November 20	December 4	TOO FAR
October 6	October 23	November 6	November 20	December 5	TOO FAR
October 10	October 25	November 9	November 24	December 11	TOO FAR
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October 24	November 8	November 24	December 8	December 26	TOO FAR
October 25	November 9	November 24	December 11	December 26	TOO FAR
October 26	November 13	November 27	December 11	December 26	TOO FAR
October 27	November 13	November 27	December 11	December 26	TOO FAR
October 30	November 14	November 29	December 14	December 29	TOO FAR
October 31	November 15	November 30	December 15	January 2	TOO FAR

New edition .... Order now !

For those of you who must keep informed about **Presidential Proclamations and**

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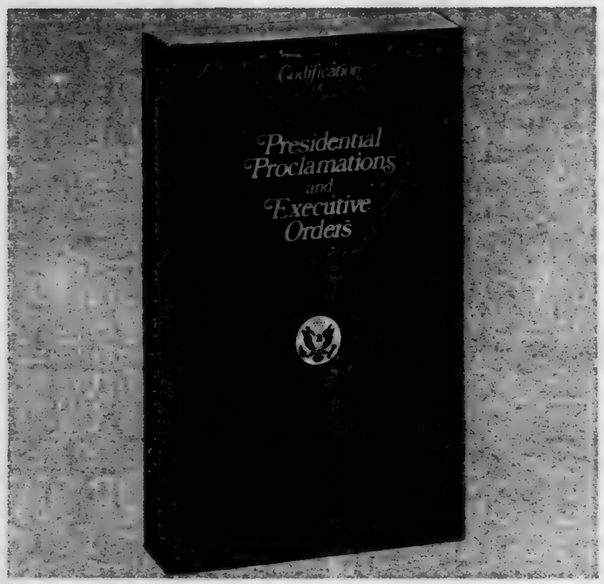

For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV-89-070FR]

Olives Grown in California; Change in Procedures for Nominating Producer Members To Serve on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes mail balloting procedures used to nominate producer members and alternate producer members to serve on the California Olive Committee (Committee). The change allows producers who are interested in serving on the Committee, but are unable to attend meetings at which candidates are selected for nomination, to submit their names to the Committee to be included on the mail ballot. Thus, more producers will be able to participate in the nomination process.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530-S, Washington, DC 20090-6456, telephone (202) 475-3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 932 (7 CFR 932) regulating the handling of olives grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RAF), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately seven handlers of California olives regulated under this marketing order each season, and approximately 1,390 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Most, but not all, of the olive producers and none of the olive handlers may be classified as small entities.

The Committee works with the Department in administering the marketing order. The Committee consists of 16 members and alternates. Eight members represent producers and eight members represent handlers.

The producer member positions are apportioned among four districts within the State of California. Four handler members represent handlers who are cooperative handler organizations, and four represent handlers who are not cooperative handler organizations.

Section 932.129 of the rules and regulations implementing the order (7 CFR 932.106-932.161) specifies that producer members and alternates may be nominated by mail ballot or at nomination meetings as the Committee may determine. When mail ballot voting is used in lieu of nominating meetings, the Committee is required to schedule a meeting in each producing district for the purpose of selecting candidates for member and alternate member nominations. The mail ballot voting procedures set forth in paragraph (a)(1) of § 932.129 do not permit a producer who is not present at a candidate selection meeting and who is not recommended as a candidate by a producer in attendance at such a meeting to be included on a nomination ballot.

Experience has shown that there are instances where producers are unable to attend these meetings but would like to offer themselves as candidates for nomination. It is the Committee's view that all producers interested in serving on the Committee should be provided an opportunity to be considered by their fellow producers for nomination, and that circumstances preventing a producer from attending a meeting should not be cause for denying that producer a chance to be nominated to serve on the Committee.

At its June 6, 1989, meeting, the Committee unanimously recommended that provision be added to paragraph (a)(1) to allow producers who are unable to attend the candidate selection meeting in their respective districts to submit their name to the Committee office, no later than seven days after such meeting, to be placed on the ballot as a candidate for a member or an alternate member position. The change is made in § 932.129(a)(1) by redesignating paragraph (iv) as paragraph (v) and adding a new paragraph (iv) specifying that in the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district.

Notice of this action was published in the **Federal Register** on September 6, 1989 (54 FR 36985). The comment period ended October 6, 1989. No comments were received.

The change will not impose any additional costs on producers or handlers. Furthermore, the change is for the benefit of producers and will provide an opportunity for greater producer participation in the Committee nomination process. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, the Committee's recommendation and other available

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information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Lists of Subjects in 7 CFR Part 932

California, marketing agreements and orders, olives.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

Note: These sections will be published in the Code of Federal Regulations.

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Paragraph (a)(1)(iv) of § 932.129 is redesignated as paragraph (a)(1)(v) and a new paragraph (a)(1)(iv) is added to read as follows:

§ 932.129 Nomination procedures for producer members.

(a) * * *

(1) * * *

(iv) In the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district and request that the producer's name be included on the ballot.

* * * * *

Dated: October 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25847 Filed 11–1–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1230

[No. LS–104]

Pork Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: AMS is correcting three numbers in the table listing assessments for Pork and Pork products which appeared in the September 21, 1989, Federal Register (54 FR 38813). The ninth number in the first column of the second table is revised to read 0203.29.20008; the 16th number in the first column of the second table is revised to read 0210.12.00404; and the 17th number in the first column of the second table is revised to read 0210.19.00005.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch—202/447–2650.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 89–22281, the Pork Promotion and Research final rule to decrease the amount of assessments per pound due on imported pork and pork products subject to assessment under the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801–4819) published in the September 21, 1989, Federal Register (54 38813):

§ 1230.110 [Amended]

1. In § 1230.110, the following three numbers in the first column of the second table on page 38814 change as listed below:

The ninth number "0203.90.20008" changes to "0203.29.20008."

The 16th number "0201.12.00404" changes to "0210.12.00404."

The 17th number "0201.19.00005" changes to "0210.19.00005."

Done at Washington, DC, on October 27, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89–25776 Filed 11–1–89; 8:45 am]

BILLING CODE 3410–02–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final amendments.

SUMMARY: The National Credit Union Administration ("NCUA") Board, as part of its periodic review of its regulations, is publishing the final amendments to § 701.31—Nondiscrimination Requirements. Section 701.31 summarizes the prohibitions on discrimination in real estate lending. Section 701.31 was not in need of major revision. The Board's final amendments simplify and clarify the regulation by making several technical changes as proposed. Changes to the Federal Fair Housing Act and the Department of Housing and Urban Development's regulations required minor amendments to § 701.31 and to NCUA's Equal Housing Lender poster.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Roy DeLoach, NCUA, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, telephone: (202) 682–9630.

SUPPLEMENTARY INFORMATION:

On May 22, 1989, the NCUA Board published proposed amendments to § 701.31 of the NCUA's Rules and Regulations—Nondiscrimination Requirements. (*See* 54 FR 21963.) Only minor changes to the regulation were proposed. The NCUA last amended § 701.31 on August 31, 1979 (*See* 44 FR 51191). Section 701.31 is designed to summarize in one place the prohibitions on discrimination in real estate lending activities contained in: (1) The Federal Fair Housing Act (42 U.S.C. 3601 et seq.) and Department of Housing and Urban Development regulations issued thereunder; and (2) the Equal Credit Opportunity Act (15 U.S.C. 1691) and the Federal Reserve Board's Regulation B (12 CFR Part 202) issued thereunder. NCUA is not required by either the Fair Housing Act or the Equal Credit Opportunity Act to promulgate regulations. However, the Board believes it helpful to Federal credit unions to have the nondiscrimination regulation in place. Comments were due on August 21, 1989. Five comment letters were received. Two national credit union trade associations, one state credit union league, one Federal credit union, and one savings and loan interest group commented. All five commenters agreed with the proposed changes.

In the interest of keeping this section simple to use and understand, the NCUA Board is making only minor technical changes and changes required by the Fair Housing Amendments Act of 1988 ("the Amendments Act") as proposed. The substantive changes required by the Amendments Act expand prohibited housing practices to include handicap and familial status (having children under the age of 18). These two classes have been added to paragraphs (b)(1), (b)(2), (c)(1), (c)(2) and (e)(1). The NCUA's Equal Housing Lender poster has also been revised to include these changes. (*See* paragraph (d)(3).) Lastly, current paragraph (e)(1) references two Supreme Court cases concerning discrimination. The Board believes the cited cases do not clarify nondiscrimination requirements for Federal credit unions and, as proposed, has deleted the references. The rest of the regulation remains unchanged.

Regulatory Procedures

This final rule makes no substantive changes to the current rule. Neither a Regulatory Flexibility Analysis nor Paperwork Reduction Act analysis are required.

Executive Order 12612

This regulation explains the law and sets forth previously established guidelines for Federal credit unions; it adds no new obligations. Although Federal statutes prohibiting discrimination (Fair Housing Act and Equal Opportunity Act) apply to state-chartered credit unions as well, this regulation does not apply to them.

List of Subjects in 12 CFR Part 701

Credit unions, Discrimination in real estate lending.

By the National Credit Union Administration Board on October 17, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulation as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.31 is also authorized by 15 U.S.C. 3801–3610.

2. Section 701.31 is revised to read as follows:

§ 701.31 Nondiscrimination requirements.

(a) *Definitions.* As used in this part, the term:

(1) *Application* carries the meaning of that term as defined in 12 CFR 202.2(f) (Regulation B), which is as follows: "An oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested";

(2) *Dwelling* carries the meaning of that term as defined in 42 U.S.C. 3602(b) (Fair Housing Act), which is as follows: "Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof"; and

(3) *Real estate-related loan* means any loan for which application is made to finance or refinance the purchase, construction, improvement, repair, or maintenance of a dwelling.

(b) *Nondiscrimination in Lending.* (1) A Federal credit union may not deny a real estate-related loan, nor may it discriminate in setting or exercising its rights pursuant to the terms or conditions of such a loan, nor may it discourage an application for such a loan, on the basis of the race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18) of:

(i) Any applicant or joint applicant;

(ii) Any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant;

(iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested;

(iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate-related loan is requested.

(2) With regard to a real estate-related loan, a Federal credit union may not consider a lending criterion or exercise a lending policy which has the effect of discriminating on the basis of race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18). Guidelines concerning possible exceptions to this provision appear in paragraph (e)(1) of this section.

(3) Consideration of any of the following factors in connection with a real estate-related loan is not necessary to a Federal credit union's business, generally has a discriminatory effect, and is therefore prohibited:

(i) The age or location of the dwelling;

(ii) Zip code of the applicant's current residence;

(iii) Previous home ownership;

(iv) The age or location of dwellings in the neighborhood of the dwelling;

(v) The income level of residents in the neighborhood of the dwelling. Guidelines concerning possible exceptions to this provision appear in paragraph (e)(2) of this section.

(c) *Nondiscrimination in appraisals.* (1) A Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of the race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18) of:

(i) Any applicant or joint applicant;

(ii) Any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant;

(iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested;

(iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate-related loan is requested.

(2) With respect to a real estate related loan, a Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of a criterion which has the effect of discriminating on the basis of race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18). Guidelines concerning possible exceptions to this provision appear in paragraph (e)(1) of this section.

(3) A Federal credit union may not rely upon an appraisal that it knows or should know is based upon consideration of any of the following criteria, for such criteria generally have a discriminatory effect, and are not necessary to a Federal credit union's business:

(i) The age or location of the dwelling;

(ii) The age or location of dwellings in the neighborhood of the dwelling;

(iii) The income level of the residents in the neighborhood of the dwelling.

(4) Notwithstanding paragraph (c)(3) of this section, it is recognized that there may be factors concerning location of the dwelling which can be properly considered in an appraisal. If any such factor(s) is relied upon, it must be specifically documented in the appraisal, accompanied by a brief statement demonstrating the necessity of using such factor(s). Guidelines concerning the consideration of location factors appear in paragraph (e)(3) of this section.

(5) Each Federal credit union shall make available, to any requesting member/applicant, a copy of the appraisal used in connection with that member's real estate-related loan application. The appraisal shall be available for a period of 25 months after the applicant has received notice from the Federal credit union of the action taken by the Federal credit union on the real estate-related loan application.

(d) *Nondiscrimination in advertising*—(1) *Advertising notice of nondiscrimination compliance.*

(i) No Federal credit union may directly or indirectly engage in any form of advertising of real estate-related loans which implies or suggests that the Federal credit union discriminates in violation of the provisions of the Fair Housing Act or of this section. Advertisements of such loans shall include a facsimile of the following:

EQUAL HOUSING
LENDER

We Do Business in Accordance With the Federal Fair Housing Law and the Equal Credit Opportunity Act

(ii) Advertisements of real estate-related loans which are broadcast on the radio shall contain the following statement: "The (insert name) Federal Credit Union is an equal housing lender."

(2) *Lobby notice of nondiscrimination compliance.* Every Federal credit union which engages in real estate-related lending shall conspicuously display in the public lobby of such credit union and in the public area of each office where such loans are made, in a manner so as to be clearly visible to the general public entering such lobby or area, a notice that incorporates a facsimile of the logotype and notice appearing in paragraph (d)(3) of this section. Posters containing this notice and logotype may be obtained from the Regional Offices of the National Credit Union Administration.

(3) *Logotype and notice of nondiscrimination compliance.* The logotype and text of the notice required in paragraph (d)(2) of this section shall be as follows:

BILLING CODE 7535-01-M

EQUAL HOUSING
LENDER

We Do Business in Accordance With
Federal Fair Lending Laws

UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL, ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP, OR FAMILIAL STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or deny any loan secured by a dwelling; or
- Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan, or in appraising property.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing & Urban Development
Washington, D.C. 20410
For processing under the Federal Fair Housing Act
and to:
National Credit Union Administration
Office of Examination and Insurance
Washington, D.C. 20456
For processing under NCUA Regulations

****

UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS ILLEGAL TO DISCRIMINATE IN ANY CREDIT TRANSACTION:

- On the basis of race, color, national origin, religion, sex, marital status, or age,
- Because income is from public assistance, or
- Because a right was exercised under the Consumer Credit Protection Act.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

National Credit Union Administration
Office of Examination and Insurance
Washington, D.C. 20456

NCUA 1552 (Rev. 3/89)

BILLING CODE 7535-01-C

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(e) *Guidelines.* (1) Compliance with the Fair Housing Act is achieved when each loan applicant's creditworthiness is evaluated on an individual basis, without presuming that the applicant has certain characteristics of a group. If certain lending policies or procedures do presume group characteristics, they may violate the Fair Housing Act, even though the characteristics are not based upon race, color, sex, national origin, religion, handicap, or familial status. Such a violation occurs when otherwise facially nondiscriminatory lending procedures (either general lending policies or specific criteria used in reviewing loan applications) have the effect of making real estate-related loans unavailable or less available on the basis of race, color, sex, national origin, religion, handicap, or familial status. Note, however, that a policy or criterion which has a discriminatory effect is not a violation of the Fair Housing Act if its use achieves a legitimate business necessity which cannot be achieved by using less discriminatory standards. It is also important to note that the Equal Credit Opportunity Act and Regulation B prohibit discrimination, either per se or in effect, on the basis of the applicant's age, marital status, receipt of public assistance, or the exercise of any rights under the Consumer Credit Protection Act.

(2) Paragraph (b)(3) of this section prohibits consideration of certain factors because of their likely discriminatory effect and because they are not necessary to make sound real estate-related loans. For purposes of clarification, the prohibited use of location factors in this section is intended to prevent abandonment of areas in which a Federal credit union's members live or want to live. It is not intended to require loans in those areas that are geographically remote from the FCU's main or branch offices or that contravene the parameters of a Federal credit union's charter. Further, this prohibition does not preclude requiring a borrower to obtain flood insurance protection pursuant to the National Flood Insurance Act and Part 760 of NCUA's Rules and Regulations, nor does it preclude involvement with Federal or state housing insurance programs which provide for lower interest rates for the purchase of homes in certain urban or rural areas. Also, the legitimate use of location factors in an appraisal does not constitute a violation of the provision of paragraph (b)(3) of this section, which prohibits consideration of location of the dwelling. Finally, the prohibited use of prior home ownership does not preclude a Federal credit union from considering an applicant's payment history on a loan which was made to obtain a home. Such action entails consideration of the payment record on a previous loan in determining creditworthiness; it does not entail consideration of prior home ownership.

(3)(i) Paragraph (c)(3) of this section prohibits consideration of the age or location of a dwelling in a real estate-related loan appraisal. These restrictions are intended to prohibit the use of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the age of a dwelling or the physical or economic characteristics of an area. Appraisals should be based on the present market value of the property offered as security (including consideration of specific improvements to be made by the borrower) and the likelihood that the property will retain an adequate value over the term of the loan.

(ii) The term "age of the dwelling" does not encompass structural soundness. In addition, the age of the dwelling may be used by an appraiser as a basis for conducting further inspections of certain structural aspects of the dwelling. Paragraph (c)(3) of this section does, however, prohibit an unsubstantiated determination that a house over X years in age is not structurally sound.

(iii) With respect to location factors, paragraph (c)(4) of this section recognizes that there may be location factors which may be considered in an appraisal, and requires that the use of any such factors be specifically documented in the appraisal. These factors will most often be those location factors which may negatively affect the short range future value (up to 3–5 years) of a property. Factors which in some cases may cause the market value of a property to decline are recent zoning changes or a significant number of abandoned homes in the immediate vicinity of the property. However, not all zoning changes will cause a decline in property values, and proximity to abandoned buildings may not affect the market value of a property because the cause of abandonment is unrelated to high risk. Proper considerations include the condition and utility of the improvement and various physical factors such as street conditions, amenities such as parks and recreation areas, availability of public utilities and municipal services, and exposure to flooding and land faults.

[FR Doc. 89–25035 Filed 11–1–89; 8:45 am]
BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–AWA–5]

Establishment of the Memphis Terminal Control Area and Revocation of the Memphis International Airport, Airport Radar Service Area; TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description of Area B of the Memphis, TN, Terminal Control Area (TCA). The boundaries of Area B should begin at the Memphis VORTAC 037° radial 13-mile fix, in lieu of, "a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial." This action corrects that error, which appeared in the final rule, published on September 22, 1989.

EFFECTIVE DATE: 0901 UTC, November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9252.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 89–22410 was published on September 22, 1989, establishing the Memphis International Airport TCA and revoking the Memphis International Airport, Airport Radar Service Area (54 FR 39112). Due to an administrative error, the airspace description of the Area B boundaries of the Memphis TCA incorrectly began at a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial. The boundary of Area B should begin at the Memphis VORTAC 037° radial 13-mile fix. Current charts depicting the Memphis International Airport TCA were described correctly using the Memphis VORTAC for Area B. No correction to

current TCA charts are necessary. Additionally, no additional airspace is added by this correction. This action corrects the aforementioned error.

Correction to Final Rule

§ 71.501 [Corrected]

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 89–22410, as published on page 39116 of the **Federal Register** on September 22, 1989, (54 FR 39112) is corrected as follows:

Memphis, TN [Corrected]

In Area B by removing the words "beginning at a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial," and substituting the words "beginning at the Memphis VORTAC 037° radial 13-mile fix.".

Issued in Washington, DC, on October 26, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89–25785 Filed 11–1–89; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 234, 235, and 240

[Docket No. R–89–1410, FR–2434]

Single Family Mortgage Instruments

CFR Correction

In Title 24 of the Code of Federal Regulations, Parts 200 to 499, revised as of April 1, 1989, the following sections were incorrectly followed by effective date notes:

§ 200.163	§ 213.501	§ 222.10
§ 203.17	§ 213.507	§ 234.1
§ 203.43c	§ 213.530	§ 234.25
§ 203.43h	§ 220.101	§ 234.70
§ 203.43i	§ 221.5	§ 235.20
§ 203.44	§ 221.50	§ 235.22
§ 203.251	§ 221.65	§ 240.16
§ 204.251		

The amendments to these sections were effective October 6, 1988, as published at 53 FR 40221, October 14, 1988.

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 51

[DoD Directive 1350.2]

Department of Defense Military Equal Opportunity Program

AGENCY: Military Equal Opportunity Policy Directorate.

ACTION: Final rule.

SUMMARY: 32 CFR part 51 (DoD Directive 1350.2), "The Department of Defense Military Equal Opportunity Program," establishes policy, procedures, and guidance for Equal Opportunity (EO) Programs within the Department of Defense. These policies and procedures as outlined in DoD Directive 1350.2, are applicable to all Military Departments.

The operations and support of the Defense Equal Opportunity Management Institute (DEOMI), to include facilities and staffing, are provided for by this part.

The Defense Equal Opportunity Council (DEOC) is a review board chaired by the Assistant Secretary of Defense for Force Management and Personnel (ASD(FM&P)) and serves to monitor the progress of program elements, advises the Secretary of Defense on policies for EO matters, assists in developing policy guidance for education and training in EO and human relations for DoD personnel.

The Board of Visitors (BOV) for DEOMI is established as an advisory body to the ASD(FM&P). The BOV serves as an external source of expertise to ensure periodic review of the objectives, policies, and operations of DEOMI.

EFFECTIVE DATE: December 23, 1988.

FOR FURTHER INFORMATION CONTACT: SFC D.A. Jeczala, Office of the Assistant Secretary of Defense (Force Management and Personnel), the Pentagon, Washington, DC 20301–4000, telephone (202) 697–6381.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 51

Civil rights; Education; Equal employment opportunity; Military personnel.

Accordingly, title 32, chapter I, is amended to add part 51 as follows:

PART 51—THE DEPARTMENT OF DEFENSE MILITARY EQUAL OPPORTUNITY PROGRAM

Sec.
51.1 Purpose.
51.2 Applicability and scope.
51.3 Definitions.
51.4 Policy.
51.5 Responsibilities.
51.6 Information requirements.

Appendix A—Military Equal Opportunity Reporting Requirements

Appendix B—Organizations and Functions

Authority: Pub. L. 92–261, sec. 301, 80 Stat. 379 (5 U.S.C. 301, 10 U.S.C. 133).

§ 51.1 Purpose.

This part:

(a) Regulates the Department of Defense Military Equal Opportunity (EO) Program and assigns responsibilities for ensuring DoD-wide compliance with the broad program objectives outlined in DoD Human Goals Charter, March 21, 1988.

(b) Provides for education and training in EO and human relations.

(c) Prescribes the functions of the Defense Equal Opportunity Council (DEOC), the Defense Equal Opportunity Management Institute (DEOMI), and the Board of Visitors (BOV) to DEOMI.

§ 51.2 Applicability and scope.

This part:

(a) Applies to all military members of the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

(b) Applies to DoD contracted organizations that provide services to military personnel and their families.

(c) Does not apply to civilian personnel, except as noted in paragraph (b) of this section.

§ 51.3 Definitions.

Affirmative Action. Methods used to achieve the objectives of the EO program. Processes, activities, and systems designed to identify, eliminate, prevent, and work to overcome the effects of discriminatory treatment as it affects the upward mobility and quality of life for DoD personnel.

Discrimination. Illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or gender.

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DoD Military Equal Opportunity (EO) Program. The DoD-wide military program of equal opportunity that is accomplished through efforts by DoD Components. It provides an environment in which every member of the total force is ensured an opportunity to rise to as high a level of responsibility as possible in the military profession, dependent only on merit, fitness, and capability.

Equal Opportunity (EO). The right of all persons to participate in and benefit from programs and activities for which they are qualified. These programs and activities shall be free from social, personal, or institutional barriers that prevent people from rising to as high a level of responsibility as possible. Persons shall be evaluated only on individual merit, fitness, and capability, regardless of race, color, gender, national origin, age, or handicap except as prescribed by statute, or DoD/Service policy.

Ethinic Group. A segment of the population that possesses common characteristics and a cultural heritage based to some degree on the following:

(a) Common geographic origin;
(b) Race;
(c) Language or dialect;
(d) Religious faith or faiths;
(e) Shared traditions, values, or symbols;
(f) Literature, folklore, or music;
(g) An internal sense of distinctiveness; and/or
(h) An external perception of distinctiveness.

Ethnic and Racial Categories. The basic racial and ethnic categories for DoD reporting are defined as follows:

(a) *American Indian or Alaskan Native.* A person having origins in the original peoples of North America.

(b) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.

(c) *Black (Not of Hispanic Origin).* A person having origins in any of the original peoples of Africa.

(d) *Hispanic.* A person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, or Central or South America, or of other Spanish cultures, regardless of race.

(e) *White (Not of Hispanic Origin).* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

National origin. An individual's or ancestor's place of origin. Also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

Race. A division of humans identified by the possession of traits that are transmissible by descent and that are sufficient to characterize as a distinctive human type.

Religion. A personal set or institutionalized system of attitudes, moral or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by ardor and faith, and generally evidenced through specific religious observances.

Sexual Harassment. A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

§ 51.4 Policy.

It is DoD policy to:

(a) Support the military EO program as an integral element in total force readiness, as defined in the Secretary of Defense Memorandum and enforce at all levels of activity the EO provisions of this part in developing operating EO policies and programs.

(b) Use the chain of command to promote, support, and enforce the military EO program. The chain of command is the primary and preferred channel for correcting discriminatory practices and for ensuring that human relations and EO matters are enacted.

(c) Ensure the Military Services (to include the Reserve components) maintain military EO and affirmative action programs. Discrimination that adversely affects persons or groups based on race, color, religion, gender, age, or national origin, and that is not supported legally, is contrary to good order and discipline, and is counterproductive to combat readiness and mission accomplishment. Discrimination of this nature shall not be condoned or tolerated.

(d) Provide education and training in EO and human relations at installation and fleet unit commands, Military Service accession points, and throughout the professional military education (PME) system, as part of the overall effort to achieve equal opportunity.

(e) Provide for an environment that is free from sexual harassment by eliminating this form of discrimination in the Department of Defense.

(f) Ensure that all on-base activities and, to the extent of the ability of DoD, any off-base activities available to military personnel are open to all military personnel and their authorized family members regardless of race, color, religion, age, physical or mental handicap, gender, or national origin, as called for by the DoD Human Goals Charter.

(1) Organizations or activities that do not meet this requirement shall be denied the use of military facilities and resources in accordance with 32 CFR part 237. This policy applies equally to those organizations that may discriminate based on the content of their constitutions, bylaws, rules or regulations, as well as to those which, in the judgment of the responsible commander(s), are engaging in de facto discrimination regardless of the content of their constitutions, bylaws, rules or regulations.

(2) Organizations that use on-base facilities, whether on a reimbursable basis or otherwise, must satisfy the responsible area or activity commander that they do not discriminate through their actual membership practices or in any of their activities.

(g) Oppose discrimination in off-base housing directed against military personnel and their authorized family members. Each commander shall take actions to overcome such discrimination and to impose off-limits sanctions in housing cases, as required by 32 CFR part 301.

(h) Impose, as required, the off-limits sanction according to the Armed Forces Disciplinary Control Board as stated in the Joint Regulation, in cases of discrimination involving places of public accommodations outside military installations.

§ 51.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall:

(1) Represent and advise the Secretary of Defense in military EO matters consistent with 32 CFR part 384.

(2) Chair the Defense Equal Opportunity Council.

(3) Provide guidance on developing all DoD programs to ensure equal opportunity for military personnel in the total force.

(4) Develop, execute, and monitor the effectiveness of military EO policies in support of national security objectives.

(5) Ensure that DoD Components fulfill the requirements of this part.

(6) Provide policy direction to DEOMI and select the Commandant of DEOMI from Military Service nominations.

(7) Establish categories and monitor specific goals to be included in the affirmative action programs and annual military EO assessments of each DoD Component.

(8) Review and act on (or refer to appropriate Military Service) all complaints of discrimination arising under this part (to include sexual harassment) referred to the Secretary of Defense.

(9) Ensure fair, impartial and timely investigation, resolution, and follow-up of all complaints of discrimination arising under this part.

(10) Establish a program to recognize individuals and organizations for outstanding achievement in one or more of the major EO areas covered by this part.

(b) The *Heads of DoD Components* shall be responsible for equal opportunity within their respective jurisdictions (to include their Reserve components) and shall:

(1) Ensure that all DoD EO policies and programs are understood and executed at all levels of military command.

(2) Establish affirmative action programs that identify and resolve EO problems through formulating, maintaining, and reviewing affirmative action plans (AAPs) with established objectives and milestones and including accountability in personnel management consistent with DoD Instruction 1350.3.[1]

(3) Forward a fiscal year report to the ASD(FM&P) outlining the progress being made to achieve the established military EO objectives of the AAP. This report shall be due each year on February 1, and is described further in DoD Instruction 1350.2.

(4) Establish policies that include specific actions to be taken against any individual who commits an act of discrimination, as defined in § 51.3.

(5) Rewrite documents and change practices that discriminate against military personnel based on race, religion, color, gender, or national origin. This requirement does not apply to those Military Service documents that implement statutes or DoD/Service policy requiring different treatment of military personnel based on age or gender.

(6) Establish policies and procedures to prevent sexual harassment and to ensure that appropriate action is taken against individuals who commit sexual harassment offenses, in accordance with the Secretary of Defense Memorandums.

(7) Ensure that all military personnel, including command-selectees and flag and general officers, receive training in equal opportunity, human relations, and prevention of sexual harassment on a recurring basis, and at all levels of PME.

(8) Establish and fill sufficient full-time staff positions and allocate sufficient resources to conduct all EO programs. Equal opportunity staff personnel shall be placed at a level that enables them to communicate effectively the goals and objectives of the program and obtain the understanding, support, and commitment of the organization's leaders.

(9) Ensure that all discrimination complaints are investigated in a fair, impartial, and prompt manner.

(10) Ensure that consideration of EO program support is included in the instructions that guide rating officials in preparing efficiency reports and/or evaluations on their subordinates.

(11) Develop management information and reporting systems to determine the progress for each AAP goal consistent with DoD Instruction 1350.3.

(12) Establish EO awards programs to recognize individuals and organizational units for outstanding achievement in any of the EO areas covered by this part or Military Service-unique programs.

§ 51.6 Information requirements.

An annual report is required and is assigned Report Control Symbol DD-FM&P(A)1760. Reporting requirements are contained in appendix A to this part and further amplified in DoD Instruction 1350.3.

Appendix A—Military Equal Opportunity Reporting Requirements

Each DoD Component shall submit an annual Military Equal Opportunity Assessment (MEOA) for the period ending September 30 to the ASD(FM&P) no later than February 1 of the following year. The report shall include the following information:

A. An executive summary, providing an overall assessment of each DoD Component's AAPs and EO Programs.

B. An assessment of each affirmative action in the following 10 categories shall be made an enclosure to the report. The assessment in each category should include quantitative data in the basic race/ethnic classifications for officers and enlisted personnel broken down by gender.

1. Recruiting/Accessions
2. Composition
3. Promotions
4. Professional Military Education (PME)
5. Separations
6. Augmentation/Retention
7. Assignments
8. Discrimination/Sexual Harassment Complaints
9. Utilization of Skills
10. Discipline

C. Requirements are further explained in DoD Instruction 1350.3.

Appendix B—Organizations and Functions

1. *The Defense Equal Opportunity Council (DEOC) shall:*

a. Coordinate policy and review the military and civilian EO programs.

b. Monitor progress of program elements.

c. Advise the Secretary of Defense on policies for EO matters.

d. Assist in developing policy guidance for education and training in EO and human relations for DoD personnel.

2. *The DEOC is Chaired by the Assistant Secretary of Defense/Force Management and Personnel (ASD(FM&P)).* Other members are the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)); the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (ASAF(M&RA)); the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(MRA)); the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN(M&RA)); and the Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD).

3. *DEOMI is a DoD Field Activity Operating Under the Supervision, Direction, and Policy Guidance of the ASD(FM&P).* Located as a tenant on an established military installation, DEOMI shall be supported administratively and logistically by the Military Department responsible for the host installation.

a. The mission of DEOMI is to enhance combat and/or operational readiness through improved leadership by functioning as the DoD center of excellence in all facets of military EO and human relations education and training to include the following:

(1) Providing primary training for all DoD military and civilian personnel assigned to military EO billets (to include the U.S. Coast Guard), and staff officers who directly manage EO and human relations programs.

(2) Performing EO and human relations research in conjunction with the Military Services and acting as a clearing house to monitor and disseminate research findings on EO and human relations.

(3) Providing assistance or consultation services in DoD organizations in developing

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

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specific curricula and training for EO and human relations education, and particular training for the PME systems within the Military Services; and serving in an advisory capacity to other Agencies in education, industry, and the private sector, as determined by the Commandant.

(4) Disseminating educational training materials to assist EO advisors and human relations instructors in remaining current in the EO subject area and in otherwise developing professionally.

(5) Performing special research-related projects in support of the DEOC.

(6) Operating and administering the Defense EO Electronic Bulletin Board to support EO advisors and specialists throughout the Military Services.

(7) Serving as a focal point and depository for data and research on the EO climate and sexual harassment in the Military Services.

b. The following applies to appointments to DEOMI:

(1) The Commandant shall be appointed by the ASD(FM&P). This position shall rotate among representatives nominated by the Departments of the Army, Navy, and Air Force.

(2) The ASD(FM&P) shall establish criteria for assigning officers and enlisted personnel from the Military Departments, including the Coast Guard, National Guard, and Reserves to faculty and staff positions at DEOMI.

4. The *DEOMI BOV is an Advisory Body to the ASD(FM&P).* The Board is established by charter and serves as an external source of expertise to ensure periodic review of the objectives, policies, and operations of DEOMI.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-25865 Filed 11-1-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD11 89-19]

Safety Zone Regulations; Outer Continental Shelf; Santa Barbara Channel

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Santa Barbara Channel around position 34-21-00.8N 120-16-44.7W. The zone is needed to protect the public and transiting vessels from safety hazards associated with the installation of oil platform Heritage. Entry into this zone is prohibited unless authorized by the Commander, Eleventh Coast Guard District.

EFFECTIVE DATES: This regulation becomes effective on October 13, 1989. It terminates on March 1, 1990 unless extended or sooner terminated by the Commander, Eleventh Coast Guard District. Comments on this regulation must be received on or before December 15, 1989.

ADDRESS: Comments should be mailed to Commander(m), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822-5399. The comments will be available for inspection and copying in the Union Bank Building, Room 709, 400 Oceangate, Long Beach, California 90822-5399. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Commander Scott Porter, Eleventh Coast Guard District Marine Safety Division, Long Beach, California. Telephone number (213) 499-5330.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying the regulation's effective date would be contrary to the public interest since immediate action is needed to minimize the hazards to vessels caused by the installation activity.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESS"** in this preamble. Commenters should include their name and address, identify the docket number (CGD11 89-19) for the regulation, and give reasons for their comments. Based upon the comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Commander N.S. Porter, project officer for the Eleventh Coast Guard District Commander, and Lieutenant Commander G.R. Wheatley, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

On October 7, 1989 the jacket for oil platform Heritage was launched, upended, and positioned on the seabed in the Santa Barbara Channel off Gaviota, California. Over the next five months, Heerema Marine Contractors will continue the installation process by permanently affixing the platform to the ocean floor. Installation of the platform jacket will involve extensive pile driving operations. A semi-submersible crane vessel and several pile barges and attendant tugs will support and/or conduct those operations. A number of offshore supply vessels will also be operating in the area. The crane vessel will be anchored by twelve wire cables which extend out in all directions. These cables will be above, at, and below the water surface. Furthermore, the tugs and barges will frequently be attached to each other and the crane vessel by the use of cables. All of these activities present significant safety risks to vessels which might enter the area. A safety zone of 500 meters is considered necessary to minimize these risks.

This regulation is issued pursuant to 43 U.S.C. 1333(d)(1) as set out in the authority citation for all of part 147.

List of Subjects in 33 CFR Part 147

Outer Continental Shelf, Marine Safety, Navigation (water), Safety measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 147 of title 33, Code of Federal Regulations, is amended as follows:

PART 147—[AMENDED]

1. The authority citation for Part 147 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1); 49 CFR 1.46.

2. A new § 147.T1192 is added to read as follows:

§ 147.T1192 Platform Heritage safety zone.

(a) *Description.* All waters of the Pacific Ocean enclosed by a line drawn 500 meters around position 34-21-00.8N 120-16-44.7W.

(b) *Effective dates.* This regulation becomes effective on October 13, 1989. It terminates on March 1, 1990 unless extended or sooner terminated by the Commander, Eleventh Coast Guard District.

(c) *Regulations.* No vessel may enter or remain in this safety zone except for the following: (1) An attending vessel as defined in 33 CFR 147.1101 or (2) a vessel authorized by the Commander, Eleventh Coast Guard District.

Dated: October 13, 1989.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 89-25777 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 90374-9161]

RIN 0651-AA38

Amendments to Patent and Trademark Rules To Implement Trademark Law Revision Act; Miscellaneous Trademark Rule Amendments

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The Patent and Trademark Office is correcting errors in the final rule which appeared in the **Federal Register** on Monday, September 11, 1989 (54 FR 37562).

1. On page 37565, in the second column, fifth full paragraph, "914" should read "904".

2. On page 37573, in the second column, in the seventh line, "an amendment" should read "a statement".

3. On page 37577, in the second column, the third line from the bottom should read "applicants to pay an additional fee".

4. On page 37581, in the third column, in the 19th line, "of" should read "or".

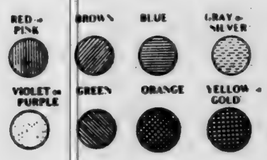
5. On page 37584, in the second column, in paragraph (6) the ninth line should read "statement of use or prior to the expiration of the time".

§ 2.33 [Corrected]

6. In § 2.33 on page 37589, in the second column, in the eight line of paragraph (b)(1) "entity" should read "entity,".

§ 2.52 [Corrected]

7. In § 2.52 on page 37591, in the color chart in paragraph (e) in the center of the page, the lines within the circles representing "RED or PINK", "BROWN", and "GREEN" should be solid lines, as follows:



§ 2.53 [Corrected]

8. In § 2.53 on page 37591, in the first column, remove the colon after the word "Sheet" in the fourth line.

Dated: October 25, 1989.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 89-25697 Filed 11-1-89; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN: 2900-AD75

National Service Life Insurance: Verbal Authorization of Premium Deduction Actions

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations to reflect that an insured under a National Service Life Insurance (NSLI) policy may verbally authorize VA to establish, adjust or cancel a monthly deduction of premiums from VA benefits or military service retired pay. Currently such action may only be taken pursuant to a written authorization from an insured. By amending regulations in this manner insured veterans will be able to utilize the VA Insurance Service's toll-free telephone service to expedite their premium deduction action reports.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Koons, Assistant Director for Insurance, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, (215) 951-5360.

SUPPLEMENTARY INFORMATION: On page 18550 of the **Federal Register** (54 FR 18550) of May 1, 1989, VA published proposed regulatory amendments providing that insured veterans may verbally authorize the establishment, adjustment or discontinuance of a premium deduction from their VA benefits or military service retired pay. Interested parties were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulatory amendments.

One written comment was received during the comment period. The comment, dated May 22, 1989, agrees with the proposed regulations. The commenter suggests, however, that procedures be developed and put into place to verify the identity of callers. The Insurance Service does in fact already have a verification process in place. In addition, all Insurance Service phone operators have received training in this area.

The Secretary hereby certifies that these final regulations will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b) these final regulations are, therefore, exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these final regulations will affect only certain NSLI policyholders. They will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

VA has also determined that these final regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic effects.

(The Catalog of Federal Domestic Assistance program number for this regulation is 64.101.)

List of Subjects in 38 CFR Part 8

Life insurance, Veterans.

Approved: October 6, 1989.

Edward J. Derwinski,

Secretary.

38 CFR Part 8, National Service Life Insurance, is amended to read as follows:

PART 8—[AMENDED]

1. In § 8.8, paragraphs (a) and (c) are revised and an authority citation is added at the end of the section to read as follows:

§ 8.8 Deduction of insurance premiums from compensation, retirement pay, or pension.

* * * * *

(a) The authorization may be made by an insured or the insured's legal representative. If the authorization is made by the insured's legal representative, it must be in writing over the signature of the representative and forwarded to the Department of Veterans Affairs along with a copy of the document which evidences the individual's authority to act on behalf of the insured. If an insured is incompetent and has no legal representative and has a spouse to whom benefits are being paid pursuant to section 3202(f) of title

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38, United States Code, and § 13.57 of this chapter, the spouse may authorize payment of insurance premiums through the deduction system. If an insured is incompetent and has no legal representative and an institutional award has been made in his or her behalf, the authorization may be executed by the Director of the field facility in which the insured is hospitalized or receiving domiciliary care, and in appropriate cases by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

* * * * *

(c) The authorization may be cancelled by the insured at any time. Such cancellation will be effective on the first day of the month following the month in which it is received by the Department of Veterans Affairs.

* * * * *

(Authority: 38 U.S.C. 708)

2. Section 8.9 is revised and an authority citation is added to read as follows:

§ 8.9 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension, to be acceptable for the payment of insurance premiums, must be received by the Department of Veterans Affairs while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is received by the Department of Veterans Affairs, unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Department of Veterans Affairs regulations, the Department of Veterans Affairs will make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

(Authority: 38 U.S.C. 708)

[FR Doc. 89-25767 Filed 11-1-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3676-6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving amendments to rule 10 CSR 10-2.230 as a revision to the Air Pollution Control State Implementation Plan (SIP) of the state of Missouri. The purpose of this rule is to control the emissions of volatile organic compounds (VOC) from industrial surface coating operations in the Kansas City area. VOCs react in the atmosphere to form ozone. A reduction in VOC emissions is necessary for the Kansas City area to meet the National Ambient Air Quality Standards for ozone. EPA's approval will make the rule requirements federally enforceable.

EFFECTIVE DATE: This action is effective December 4, 1989.

ADDRESSES: The state submittal and EPA's technical support document are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101; Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION: The state of Missouri has submitted amendments to rule 10 CSR 10-2.230 as a SIP revision. This rule controls VOC emissions from industrial surface coating operations in the Kansas City, Missouri ozone nonattainment area. EPA's approval of these rule amendments will provide federal enforceability, which will ensure progress toward attainment nd maintenance of the ozone air quality standard in the Kansas City area.

On December 18, 1987, the state submitted corrections to its VOC control rules applicable to the Kansas City area; corrections to the industrial surface coating rule, 10 CSR 10-2.230, were included in this submittal. On June 30, 1988, EPA published a proposal to approve the Kansas City VOC rule corrections (53 FR 24735). Subsequent to this proposal, however, the state adopted further amendments to the surface coating rule and submitted these amendments to EPA on December 19, 1988. Therefore, EPA prepared a new proposed rulemaking, addressing both the original and subsequent surface coating rule amendments, which was published on May 12, 1989 (54 FR 20613). For a complete discussion of the rule amendments, the reader is referred to the above mentioned May 12, 1989, **Federal Register** notice.

No public comments were received on EPA's May 12, 1989, proposal. EPA did receive surface coating comments on its June 30, 1988, proposal. The rule amendments in the state's December 19, 1988, submittal addressed the commenters' concerns. Because no comments were received on the May 12 proposal, the surface coating comments on EPA's previous proposal (June 30) are no longer pertinent and, therefore, are not addressed herein.

EPA Action

In today's notice, EPA takes final action to approve Missouri's December 18, 1987, and December 19, 1988, submittals of amendments to rule 10 CSR 10-2.230.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by January 2, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, and Ozone.

Note. Incorporation by reference of the State Implementation Plan for the state of Missouri was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 30, 1989.

Morris Kay,

Regional Administrator.

40 CFR Part 52, Subpart AA, is amended as follows:

PART 52—[AMENDED]

Subpart AA—Missouri

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1320 is amended by adding paragraph (c)(70) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(70) The Missouri Department of Natural Resources submitted amendments to rule 10 CSR 10-2.230 on December 18, 1987, and December 19, 1988. The rule controls volatile organic compound emissions from industrial surface coating facilities in the Kansas City area. EPA approves these rule amendments with the following interpretations. The New Source Performance Standards commitment in note (2) does not supersede a more stringent emission limit which might be required in accord with the state's new source review rule, 10 CSR 10-6.060. In rule 10 CSR 10-2.230, the test method for determining the volatile and solids content of the coatings is 40 CFR Part 60, Appendix A, Reference Method 24. Compliance with the emission limits in rule 10 CSR 10-2.230 can be demonstrated: on a daily weighted average per coating line basis; through equivalency using a daily weighted average of VOC per gallon of coating solids per coating line; and through an alternative compliance plan whereby compliance is determined by a daily weighted average of emissions from a single or combination of source operations. Any such alternative compliance plans must be submitted and approved by EPA as individual SIP revisions. In the absence of such approval, the enforceable requirements of the SIP would be the emission limits stated in the rules.

(i) Incorporation by reference.

(A) Revision to rule 10 CSR 10-2.230, Control of Emissions from Industrial Surface Coating Operations, effective December 24, 1987, with amendments effective November 24, 1988.

[FR Doc. 89-25564 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3673-3]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a site-specific revision to the Wisconsin State Implementation Plan (SIP) for ozone. The revision provides for a compliance date extension from December 31, 1985, until December 31, 1987, for Union Camp Corporation's (Union Camp) Tomah facility, which is located in Monroe County, Wisconsin. This SIP revision allows Union Camp additional time to reformulate to low solvent inks for use on flexible packaging materials. Under this SIP revision, the Tomah facility must comply with the emission limits contained in Section NR 154.13(4)(l) by December 31, 1987. This action is taken in response to an April 7, 1986, request from the Wisconsin Department of Natural Resources (WDNR).

USEPA is approving this revision because: (1) The Tomah facility is located in an attainment area for ozone; and (2) approval of the extension will not affect the maintenance of the ozone standard.

EFFECTIVE DATE: This final rulemaking becomes effective on December 4, 1989.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

A copy of today's revision to the Wisconsin SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031, FTS 886-6031.

SUPPLEMENTARY INFORMATION: On April 7, 1986, the WDNR submitted a proposed site-specific SIP revision to its ozone SIP for VOC emissions from Union Camp's four flexographic printing presses at the Tomah facility, located in Monroe County, Wisconsin. This revision consists of a compliance date extension from December 31, 1985, to December 31, 1987, for meeting the VOC emission limits contained in Wisconsin SIP regulation, NR 154.13(4)(l). USEPA has reviewed Wisconsin's request with respect to whether the compliance date extension affects the attainment and maintenance of the ozone National Ambient Air Quality Standard [1] (NAAQS) in Monroe County, Wisconsin.

Union Camp is a diversified extruder and converter of flexible packaging materials. Numerous grades of polyethylene are extruded, printed, and converted for packaging such items as ice, produce, baby formula, and a wide variety of industrial products. In addition, a variety of purchased laminated and co-extruded films are printed and converted. These include various combinations of foil, paper, cellophane, polyester, polypropylene and polyethylene.

Under the existing federally-approved SIP, each flexographic printing press is subject to the control requirements contained in Section NR 154.13(4)(l) of the Wisconsin Administrative Code. Section NR 154.13(4)(l) limits the VOC content of any ink, as applied, to 25 percent or less by volume of the volatile content or 40 percent or less by volume of the total content. USEPA approved this rule as meeting the reasonably available control technology (RACT) requirements under Part D of the Clean Air Act (Act) for non-attainment areas on June 21, 1982 (47 FR 26822).

Union Camp is located in Monroe County, an area designated attainment for ozone (40 CFR 81.350) under Section 107 of the Act. Since approval of this proposed SIP revision will not cause an increase in actual emissions, maintenance of the NAAQS will not be affected by the compliance date extension. USEPA, is therefore,

[1] The NAAQS were established to protect public health and welfare under Section 109 of the Clean Air Act.

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approving this SIP revision extending the compliance schedule.[2]

In a February 27, 1987, **Federal Register** (52 FR 6007), USEPA proposed to approve Union Camp's compliance date extension until December 31, 1987. The notice explained that the revision would constitute a RACT relaxation in an ozone attainment/unclassified area, which would result in the removal of the accomodative ozone SIP for Monroe County.

During the 30-day public period, Union Camp submitted comments on the notice of proposed rulemaking. These comments are summarized below and are followed by USEPA's response.

Comment 1: Union Camp states that the revision should be approved as a site-specific RACT determination rather than a relaxation from RACT, because Union Camp progressed as quickly as possible in the development of complying inks.

USEPA Response: In order for an area to retain its accommodative SIP, the State must demonstrate that it is implementing RACT as expeditiously as practicable. USEPA policy guidance for evaluating whether or not a compliance schedule is expeditious is contained in an August 7, 1986, memorandum dealing with compliance date extensions in nonattainment areas (see the Illinois Georgia-Pacific November 6, 1988, (53 FR 45103) **Federal Register** notice, Appendix A). Therefore, although this source is not strictly subject to the requirements of the August 7, 1986, policy, USEPA is using the criteria contained in that policy to determine whether this compliance schedule is expeditious. The present VOC emissions from Union Camp's flexographic printing operations do not indicate a RACT-level of control, nor has Union Camp demonstrated to USEPA's satisfaction that development of complying coatings has progressed as expeditiously as practicable.

Comment 2: Union Camp states that if the accommodative SIP must be removed for Monroe County, it should only be removed for the duration of the variance.

USEPA Response: Because the revision is a temporary relaxation, the accommodative SIP is being removed for the duration of the relaxation and will be reinstated once the source demonstrates compliance with the RACT emission limits contained in Section NR 154.13(4)(1).

USEPA is approving this SIP revision as a temporary relaxation from RACT. Such a relaxation will eliminate the accommodative SIP for Monroe County for the period covered by the revision.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Incorporation by Reference, Ozone, Hydrocarbons, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 13, 1989.

William K. Reilly,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Wisconsin

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

Subpart YY—Wisconsin

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2570 is amended by adding a new paragraph (c)(48) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(48) On April 7, 1988, the WDNR submitted a site-specific revision to its ozone SIP for VOC emissions from Union Camp's four flexographic printing presses at the Tomah facility, located in Monroe County, Wisconsin. It consists of a compliance date extension from December 31, 1985, to December 31, 1987, for meeting the VOC emission limits contained in Wisconsin SIP regulation, NR 154.13(4)(1).

(i) Incorporation by reference.

(A) January 8, 1988, RACT Variance Review for Union Camp Corporation 501 Williams Street, Tomah, Wisconsin 54660.

[FR Doc. 89-25476 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-M

[2] Since Monroe County is designated attainment for ozone, today's proposal is being evaluated primarily with respect to the Clean Air Act's requirement under Section 110 that a revision must assure the attainment and maintenance of the NAAQS.

40 CFR Part 60

[AD-FRL-3619-3]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Amendments to the Introduction and Methods 6, 6C, 7A, 8, and 10A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the Introduction and Methods 6, 6C, 7A, 8, and 10A of Appendix A of 40 CFR part 60. Method 6 is amended by adding procedures for testing in the presence of ammonia; Method 6C is amended to expand the allowable ranges for the mid- and high-range calibration gases. Methods 7A and 10A are amended to revise inaccurate wording describing the sample storage times, and Method 8 is amended to add quality assurance (QA) and quality control (QC) procedures. These amendments will update portions of Appendix A to make them more applicable to current testing needs. These amendments were proposed in the **Federal Register** on October 31, 1988 (53 FR 33508).

DATES: *Effective date:* November 2, 1989.

Judicial Review: Under Section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A–88–21, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M–1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger Shigehara, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, the rulemaking would simply amend existing test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

The opportunity to hold a public hearing on September 21, 1988 at 10:00 a.m. was presented in the proposal notice, but no one desired to make an oral presentation. The public comment period was from August 31, 1988 to November 14, 1988.

III. Significant Comments and Changes to the Proposed Rulemaking

No comment letters were received from the proposal of the rulemaking. Minor changes based on comments received by telephone were made to the Method 6 amendment. This change will add clarity to the new procedure for handling ammonia and will list a source for the needed probe filter which may be difficult to locate otherwise.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated test method revisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a RFA analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have an impact on small entities because no additional costs will be incurred.

This rule does not change any information collection requirements currently approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information requirements contained in 40 CFR part 60, Appendix A are cleared under OMB control number 2060–0022.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Petroleum refineries, Kraft pulp mills, Reporting and recordkeeping requirements, and Incorporation by reference.

Dated: October 2, 1989.

William K. Reilly,

Administrator.

PART 60—[AMENDED]

40 CFR part 60, Appendix A is amended as follows:

1. The authority for 40 CFR part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

Appendix A—[Amended]

2. By revising the title of Appendix A from "Reference Methods" to read "Test Methods."

3. By amending the introduction which follows the list of test methods as follows:

a. By revising the first sentence of the second paragraph to read as follows:

Within each standard of performance, a section title "Test Methods and Procedures" is provided to: (1) Identify the test methods to be used as reference methods to the facility subject to the respective standard and (2) identify any special instructions or conditions to be followed when applying a method to the respective facility.

b. By revising the last sentence of the second paragraph to read as follows:

Similarly, for sources subject to emission monitoring requirements, specific instructions pertaining to any use of a test method as a reference method are provided in the subpart or in Appendix B.

c. By removing the word "reference" wherever it occurs, and in its place, inserting the word "test" in the following places:

(1) First paragraph, first and second sentences.

(2) Second paragraph, second sentence.

(3) Fourth paragraph, first sentence.

(4) Fifth paragraph, first, second, and fourth sentences.

(5) Sixth paragraph, first and fifth sentences, and second from last sentence.

4. By amending Method 6 as follows:

a. By removing the last sentence in Section 1.2 and inserting, in its place, the following sentence: "If free ammonia is present (this can be determined by knowledge of the process and the presence of white particulate matter in the probe and isopropanol bubbler), the alternative procedures in Section 7.2 shall be used."

b. In Section 3.1.1, by adding a sentence at the end of the section to read as follows:

"Unless otherwise specified, this water shall be used throughout this method."

c. By removing the words "deionized, distilled" or "distilled", wherever they occur in the following places:

(1) Section 3.1.2, first and third sentences.

(2) Section 3.1.3, first sentence.

(3) Section 3.1.4, first sentence.

(4) Section 3.2.2, first sentence.

(5) Section 3.3.3, first sentence.

(6) Section 3.3.4, first sentence.

(7) Section 4.2, fourth sentence.

(8) Section 4.3, second paragraph, first sentence.

d. By revising Section 3.2.1 to read as follows:

3.2.1 Water. Same as in Section 3.1.1.

e. By revising Section 3.3.1, to read as follows:

3.3.1 Water. Same as in Section 3.1.1.

f. By adding a new Section 3.3.7 to read as follows:

3.3.7 Hydrochloric Acid (HCl) Solution, 0.1 N (for use in Section 7.2). Carefully pipette 8.6 ml of concentrated HCl into a 1-liter volumetric flask containing water. Dilute to volume with mixing.

g. By adding new Sections 7.3 and 7.3.1 through 7.3.3 to read as follows:

7.3 *Elimination of Ammonia Interference.* The following alternative procedures shall be used in addition to those specified in the method when sampling at sources having ammonia emissions.

7.3.1 *Sampling.* The probe shall be maintained at 275 °C and equipped with a high-efficiency in-stack filter (glass fiber) to remove particulate matter. The filter material

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shall be unreactive to SO_2. Whatman 934AH (formerly Reeve Angel 934AH) filters treated as described in Citation 10 of the Method 5 bibliography is an example of a filter that has been shown to work. Where alkaline particulate matter and condensed moisture are present in the gas stream, the filter shall be heated above the moisture dew point but below 225 °C.

7.3.2 *Sample Recovery.* Recover the sample according to Section 4.2 except for discarding the contents of the midget bubbler. Add the bubbler contents, including the rinsings of the bubbler with water, to the polyethylene bottle containing the rest of the sample. Under normal testing conditions where sulfur trioxide will not be present significantly, the tester may opt to delete the midget bubbler from the sampling train. If an approximation of the sulfur trioxide concentration is desired, transfer the contents of the midget bubbler to a separate polyethylene bottle.

7.3.3 *Sample Analysis.* Follow the procedures in Section 4.3, except add 0.5 ml of 0.1 N HCl to the Erlenmeyer flask and mix before adding the indicator. The following analysis procedure may be used for an approximation of the sulfur trioxide concentration. The accuracy of the calculated concentration will depend upon the ammonia to SO_3 ratio and the level of oxygen present in the gas stream. A fraction of the SO_2 will be counted as sulfur trioxide as the ammonia to SO_3 ratio and the sample oxygen content increases. Generally, when this ratio is 1 or less and the oxygen content is in the range of 5 percent, less than 10 percent of the SO_2 will be counted as sulfur trioxide. Analyze the peroxide and isopropanol sample portions separately. Analyze the peroxide portion as described above. Sulfur trioxide is determined by difference using sequential titration of the isopropanol portion of the sample. Transfer the contents of the isopropanol storage container to a 100-ml volumetric flask, and dilute to exactly 100 ml with water. Pipette a 20-ml aliquot of this solution into a 250-ml Erlenmeyer flask, add 0.5 ml of 0.1 N HCl, 80 ml of 100 percent isopropanol, and two to four drops of thorin indicator. Titrate to a pink endpoint using 0.0100 N barium perchlorate. Repeat and average the titration volumes that agree within 1 percent or 0.2 ml, whichever is larger. Use this volume in Equation 6–2 to determine the sulfur trioxide concentration. From the flask containing the remainder of the isopropanol sample, determine the fraction of SO_2 collected in the bubbler by pipetting 20-ml aliquots into 250-ml Erlenmeyer flasks. Add 5 ml of 3 percent hydrogen peroxide, 100 ml of 100 percent isopropanol, and two to four drops of thorin indicator, and titrate as before. From this titration volume, subtract the titrant volume determined for sulfur trioxide, and add the titrant volume determined for the peroxide portion. This final volume constitutes V_t, the volume of barium perchlorate used for the SO_2 sample.

5. By revising Sections 5.3.1 and 5.3.2 of Method 6C to read as follows:

5.3.1 High-Range Gas. Concentration equivalent to 80 to 100 percent of the span.

5.3.2 Mid-Range Gas. Concentration equivalent to 40 to 60 percent of the span.

6. In Method 7A, by deleting the word "analysis" in the last sentence of Section 4.2 and inserting, in its place, the word "recovery."

7. In Method 6, by adding new Sections 3.3.6, 4.4, 4.5, and 6.10 to read as follows:

3.3.6 Quality Assurance Audit Samples. Same as in Method 6, Section 3.3.6.

* * * * *

4.4 Quality Control Procedures. Same as in Method 5, Section 4.4.

4.5 Audit Sample Analysis. Same as in Method 6, Section 4.4.

* * * * *

6.10 Relative Error (RE) for QA Audit Samples. Same as in Method 6, Section 6.4.

8. In Method 10A, by deleting the word "month" in the last sentence of Section 1.5.3 and inserting, in its place, the word "week."

[FR Doc. 89–23962 Filed 11–1–89; 8:45 am]
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40 CFR Part 60

[AD–FRL–3615–9]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Amendments to Methods 15 and 16

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends Methods 15 and 16 of Appendix A of 40 CFR Part 60 by revising obsolete portions and updating the test methods to reflect current technology. The revisions will add simplicity to total reduced sulfur testing at petroleum refineries and kraft pulp mills when these methods are used. These amendments were proposed in the **Federal Register** on September 7, 1988 (53 FR 34551).

DATES: *Effective Date:* November 2, 1989.

Judicial Review: Under Section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A–88–01, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M–1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger Shigehara, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, the rulemaking would simply amend two existing test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

The opportunity to hold a public hearing on October 24, 1988, at 10:00 a.m., was presented in the proposal notice, but no one desired to make an oral presentation. The public comment period was from September 7, 1988, to November 21, 1988.

III. Significant Comments and Changes to the Proposed Rulemaking

Three comment letters were received from the proposal of the rulemaking. The major comments and responses are summarized in this preamble. The comment letters contained multiple comments. The significant comments and subsequent method changes are listed here.

1. Several comments centered around the proposed repositioning of the scrubber behind the probe which would also serve as a moisture trap and allow deletion of the heated sample line and dilution system. It was felt that a variety of alternative methods of moisture removal such as the traditional heated sample system, dilution with dry air to lower the dew point, or permeation dryers should be included to preclude making the methods overly restrictive. One commenter suggested that references to sample dilution and moisture content in the procedures, diagrams, and calculations be retained for those testers who prefer to continue to use a dilution system.

The repositioning of the scrubber was intended to add sampling convenience by eliminating unnecessary components which themselves could introduce sampling errors. In addition to its removal of interferences and moisture at an initial sampling point, the added benefits include neither having to heat the sample line, use a dilution system, nor determine moisture. Notwithstanding, some testers, due to equipment that is already in place, may prefer the traditional practice of preventing moisture condensation during sampling with subsequent sample correction for its presence. This procedure is still acceptable. Alternative methods are also allowed provided other criteria within the methods are met. This is stated in the introductory paragraph to the method. To make this acceptability criteria more specific, the paragraph will be amended to require that alternative equipment and procedures meet the calibration and post-test criteria stated in each methods. References throughout the methods to sample dilution and moisture content will be deleted except where critical to sampling and calculation needs.

2. Two commenters thought the specifications for the citrate scrubber were unnecessarily restrictive and may be rigidly enforced by regulatory agency observers. It was felt that most scrubbers made with glass or Teflon impingers in series, with the first two containing citrate buffer, would be capable of removing interferences. The mention of monitoring the scrubber pH between 5.4 and 5.6 was thought to be unnecessary.

The introductory paragraphs to the methods allow acceptable variations to the scrubber design. It should be noted, however, that sample losses may be incurred from using glass impingers. Deviations from the prescribed scrubber volumes and impinger sizes may also hinder performance and result in unacceptable post-test checks. We agree that the statement mentioning pH monitoring should be deleted. The scrubber is normally replaced after each 3-hour run, and drastic pH variations are not anticipated for the duration of single run. Unusual cases of sample losses due to pH increase from alkali mist and moisture collection would be detected in the line-loss test after the run.

3. All commenters questioned the availability of "NBS-traceable" line-loss gas and "certified" permeation devices proposed for calibration. It was preferred that permeation devices "of known permeation rates" be used for calibration and line-loss gases be calibrated against these devices or by the procedure in Section 7 of Method 16A.

We agree with the commenters on these points since no standardized NBS-traceable gases or certified permeation devices currently exist.

4. It was brought to our attention that passing diluent air over hydrogen sulfide (H_2S) permeation tubes causes oxidation of liquid H_2S inside the tubes. This, in turn, affects the measured permeation rate. It was also noted that calibration gases of H_2S in air are unstable. These will be remedied by specifying that nitrogen be used in place of air as the diluent for permeation devices and standard gases.

5. The revision to remove the need for recalibration if a subsequent line-loss test is 10 percent or less was criticized. It was felt that system recovery and instrument calibration drift should remain as separate measurements of system accuracy. This way, any periodic sample losses caused by component interactions and changes in analyzer sensitivity due to detector gas flows or column degradation can be separately accounted for. It was also recommended that the calibration drift specification cover periods shorter than 24 hours. This would prevent confusion and inaccuracy in those cases where recalibration is needed at shorter intervals.

We agree that calibration drift and line-loss tests should remain as separate tests. This would also eliminate the possibility of achieving an acceptable combined test when the individual drift and line-loss errors are unacceptable but of comparable magnitude and direction. It will be stated that calibration drift measurements be made after each run or series of runs within a 24-hour period.

6. The commenters felt the components used in the dilution system and rotary gas valves should be composed of inert materials instead of strictly Teflon. Although Teflon is relatively inert, it offers poor dimensional stability when used in the dilution system, especially when heated. This could potentially lead to leaks and changes in flow rates. Rotary valves made of Teflon were not believed to be commercially available.

This change will be made with the dilution system for the stated reasons. A study of the sample dilution system has indicated that glass and stainless-steel component parts are acceptable. Teflon-lined rotary valves are commercially available and should be used.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated test method revisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have an impact on small entities because no additional costs will be incurred.

This rule does not change any information collection requirements currently approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information requirements contained in 40 CFR part 60, Appendix A are cleared under OMB Control Number 2060–0022.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Petroleum refineries, Kraft pulp mills, Reporting and recordkeeping requirements, and Incorporation by reference.

Dated: October 2, 1989.

William K. Reilly,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Appendix A is amended as follows:

1. The authority for 40 CFR part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

Appendix A—[Amended]

5. * * *

5.1 Sampling (Figure 15–1).

5.1.1 Probe. The probe shall be made of Teflon or Teflon-lined stainless steel and heated to prevent moisture condensation. It shall be connected directly to the scrubber.

5.5 Calibration System (Figure 15–3). The gas chromatograph shall be calibrated with the sample loop used for sample analysis.

* * * * *

$$\text{Average } SO_2 \text{ equivalent} = \frac{\sum_{i=1}^{N} SO_2 \text{ equiv}_i}{N}$$

3. In Method 15, by removing "(approximately 0.05 to 1.0 ppm)" from the first sentence of Section 8.3 and adding in its place, "(approximately 0.5

6. In Method 15, by removing Sections 12 and 12.1 through 12.4 and redesignating Sections 13 and 13.1 through 13.6 as Sections 12 and 12.1

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

Appendix A—[Amended]

2. In Method 15 of Appendix A, the Introduction, Sections 3.1, 3.3, 4.2, 5.1, 5.1.1, 5.1.2, 5.1.3, 5.2, 5.3, 5.5.1, 5.5.2, 5.5.3, 9.2.2, and 11.3 are revised; new Sections 3.4, 3.5, 5.1.3.1, 5.1.3.2, 5.1.4, 5.1.5, 5.3.4.4, 5.5, 6.6, and 6.7 are added; Section 5.5.4 is removed, and a sentence is added to the end of the paragraphs in Sections 7.1.1 and 8.4 as follows:

Method 15—Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions From Stationary Sources

Introduction

The method described below uses the principle of gas chromatographic separation and flame photometric detection (FPD). Since there are many systems or sets of operating conditions that represent useable methods of determining sulfur emissions, all systems which employ this principle, but differ only in details of equipment and operation, may be used as alternative methods, provided that the calibration precision and sample-line loss criteria are met.

* * * * *

3. * * *

3.1 Moisture Condensation. Moisture condensation in the sample delivery system, the analytical column, or the FPD burner block can cause losses or interferences. This potential is eliminated by heating the probe, filter box, and conncections, and by maintaining the SO_2 scrubber in an ice water bath. Moisture is removed in the SO_2 scrubber and heating the sample beyond this point is not necessary provided the ambient temperature is above 0°C. Alternatively, moisture may be eliminated by heating the sample line, and by conditioning the sample with dry dilution air to lower its dew point below the operating temperature of the GC/FPD analytical system prior to analysis.

* * * * *

3.3 Elemental Sulfur. The condensation of sulfur vapor in the sampling system can lead to blockage of the particulate filter. This problem can be minimized by observing the filter for buildup and changing as needed.

3.4 Sulfur Dioxide (SO_2). Sulfur dioxide is not a specific interferent but may be present in such large amounts that it cannot be effectively separated from the other compounds of interest. The SO_2 scrubber described in Section 5.1.3 will effectively remove SO_2 from the sample.

3.5 Alkali Mist. Alkali mist in the emissions of some control devices may cause a rapid increase in the SO_2 scrubber pH to give low sample recoveries. Replacing the SO_2 scrubber contents after each run will minimize the chances of interference in these cases.

4. * * *

4.2 Calibration Drift. The calibration drift determined from the mean of three injections made at the beginning and end of any run or series of runs within a 24-hour period shall not exceed ±5 percent.

* * * * *

5. * * *

5.1 Sampling (Figure 15–1).

5.1.1 Probe. The probe shall be made of Teflon or Teflon-lined stainless steel and heated to prevent moisture condensation. It shall be designed to allow calibration gas to enter the probe at or near the sample point entry. Any portion of the probe that contacts the stack gas must be heated to prevent moisture condensation. The probe described in Section 2.1.1 of Method 16A having a nozzle directed away from the gas stream is recommended for sources having particulate or mist emissions. Where very high stack temperatures prohibit the use of Teflon probe components, glass or quartz-lined probes may serve as substitutes.

Note.—Mention of trade names or specific products does not constitute an endorsement by the Environmental Protection Agency.

5.1.2 Particulate Filter. 50-mm Teflon filter holder and a 1- to 2-micron porosity Teflon filter (available through Savillex Corporation, 5325 Highway 101, Minnetonka, Minnesota 55343). The filter holder must be maintained in a hot box at a temperature of at least 120° C (248°F).

5.1.3 SO_2 Scrubber.

5.1.3.1 Three 300-ml Teflon segment impingers connected in series with flexible, thick-walled, Teflon tubing. (Impinger parts and tubing available through Savillex.) The first two impingers contain 100 ml of citrate buffer, and the third impinger is initially dry. The tip of the tube inserted into the solution should be constricted to less than 3-mm (⅛-in.) ID and should be immersed to a depth of at least 5 cm (2 in.). Immerse the impingers in an ice water bath and maintain near 0° C. The scrubber solution will normally last for a 3-hour run before needing replacement. This will depend upon the effects of moisture and particulate matter on the solution strength and pH.

5.1.3.2 Connections between the probe, particulate filter, and SO_2 scrubber shall be made of Teflon and as short in length as possible. All portions of the probe, particulate filter, and connections prior to the SO_2 scrubber (or alternative point of moisture removal) shall be maintained at a temperature of at least 120 C° (248 °F).

5.1.4 Sample Line. Teflon, no greater than 1.3-cm (½-in.) ID. Alternative materials, such as virgin Nylon, may be used provided the line loss test is acceptable.

5.1.5 Sample Pump. The sample pump shall be a leakless Teflon-coated diaphragm type or equivalent.

5.2 Dilution System. The dilution system must be constructed such that all sample contacts are made of Teflon, glass, or stainless-steel. It must be capable of approximately a 9:1 dilution of the sample.

5.3 Gas Chromatograph (Figure 15–2). The gas chromatograph must have at least the following components:

* * * * *

5.3.4.4 Rotary Gas Valves. Multiport Teflon-lined valves equipped with sample loop. Sample loop volumes shall be chosen to provide the needed analytical range. Teflon tubing and fittings shall be used throughout to present an inert surface for sample gas. The gas chromatograph shall be calibrated with the sample loop used for sample analysis.

* * * * *

5.5 Calibration System (Figure 15–3). The calibration system must contain the following components.

5.5.1 Flow System. To measure air flow over permeation tubes within ±2 percent. Each flowmeter shall be calibrated after a complete test series with a wet-test meter. If the flow measuring device differs from the wet-test meter by more than 5 percent, the completed test shall be discarded. Alternatively, the tester may elect to use the flow data that will yield the lowest flow measurement. Calibration with a wet-test meter before a test is optional. Flow over the permeation device may also be determined using a soap bubble flowmeter.

5.5.2 Constant Temperature Bath. Device capable of maintaining the permeation tubes at the calibration temperature within 0.1 °C.

5.5.3 Temperature Gauge. Thermometer or equivalent to monitor bath temperature within 0.1 °C.

6. * * *

6.6 Citrate Buffer. Dissolve 300 g of potassium citrate and 41 g of anhydrous citric acid in 1 liter of water. Alternatively, 284 g of sodium citrate may be substituted for the potassium citrate. Adjust the pH to between 5.4 and 5.6 with potassium citrate or citric acid, as required.

6.7 Sample Line Loss Gas (Optional). As an alternative, H_2S cylinder gas may be used for the sample line loss test. The gas shall be calibrated against permeation devices having known permeation rates or by the procedure in Section 7 of Method 16A.

7. * * *

7.1.1 * * * As an alternative to the initial leak-test, the sample line loss test described in Section 10.1 may be performed to verify the integrity of components.

* * * * *

8. * * *

8.4 * * * Alternatively, a least squares equation may be generated from the calibration data using concentrations versus the appropriate instrument response units.

* * * * *

9. * * *

9.2.2 Observation for Clogging of Probe or Filter. If reductions in sample concentrations are observed during a sample run that cannot be explained by process conditions, the sampling must be interrupted to determine if the probe or filter is clogged with particulate matter. If either is found to be clogged, the test must be stopped and the results up to that point discarded. Testing may resume after cleaning or replacing the probe and filter. After each run, the probe and filter shall be inspected and, if necessary, replaced.

* * * * *

11. * * *

11.3 Average SO_2 Equivalent. This is determined using the following equation. Systems that do not remove moisture from the sample but conditions the gas to prevent condensation must correct the average SO_2 equivalent for the fraction of water vapor present.

$$\text{Average } SO_2 \text{ equivalent} = \frac{\sum_{i=1}^{N} SO_2 \text{ equiv}_i}{N}$$

Eq. 15-3

where:

Average SO_2 equivalent = Average SO_2 equivalent in ppm, dry basis.

Average SO_2 equivalent$_i$ = SO_2 in ppm as determined by Equation 15–2.

N = Number of analyses performed.

* * * * *

3. In Method 15, by removing "(approximately 0.05 to 1.0 ppm)" from the first sentence of Section 8.3 and adding in its place, "(approximately 0.5 to 10 ppm for a 1 = ml sample)".

4. In Method 15, by removing the word "four" in the first sentence of Section 8.3 and inserting in its place, "three."

5. In Method 15, by revising the seventh sentence in Section 10.1 to read as follows: "Alternatively, cylinders of hydrogen sulfide mixed in nitrogen and verified according to Section 6.7 may be used."

6. In Method 15, by removing Sections 12 and 12.1 through 12.4 and redesignating Sections 13 and 13.1 through 13.6 as Sections 12 and 12.1 through 12.6.

7. In Method 15, by revising Figure 15–1 as set forth below and placing it at the end of Section 5.2.

8. In Method 15, by transferring Figure 15–2 to the end of Section 5.3.4.3 and by transferring Figure 15–3 to the end of Section 5.5.4.

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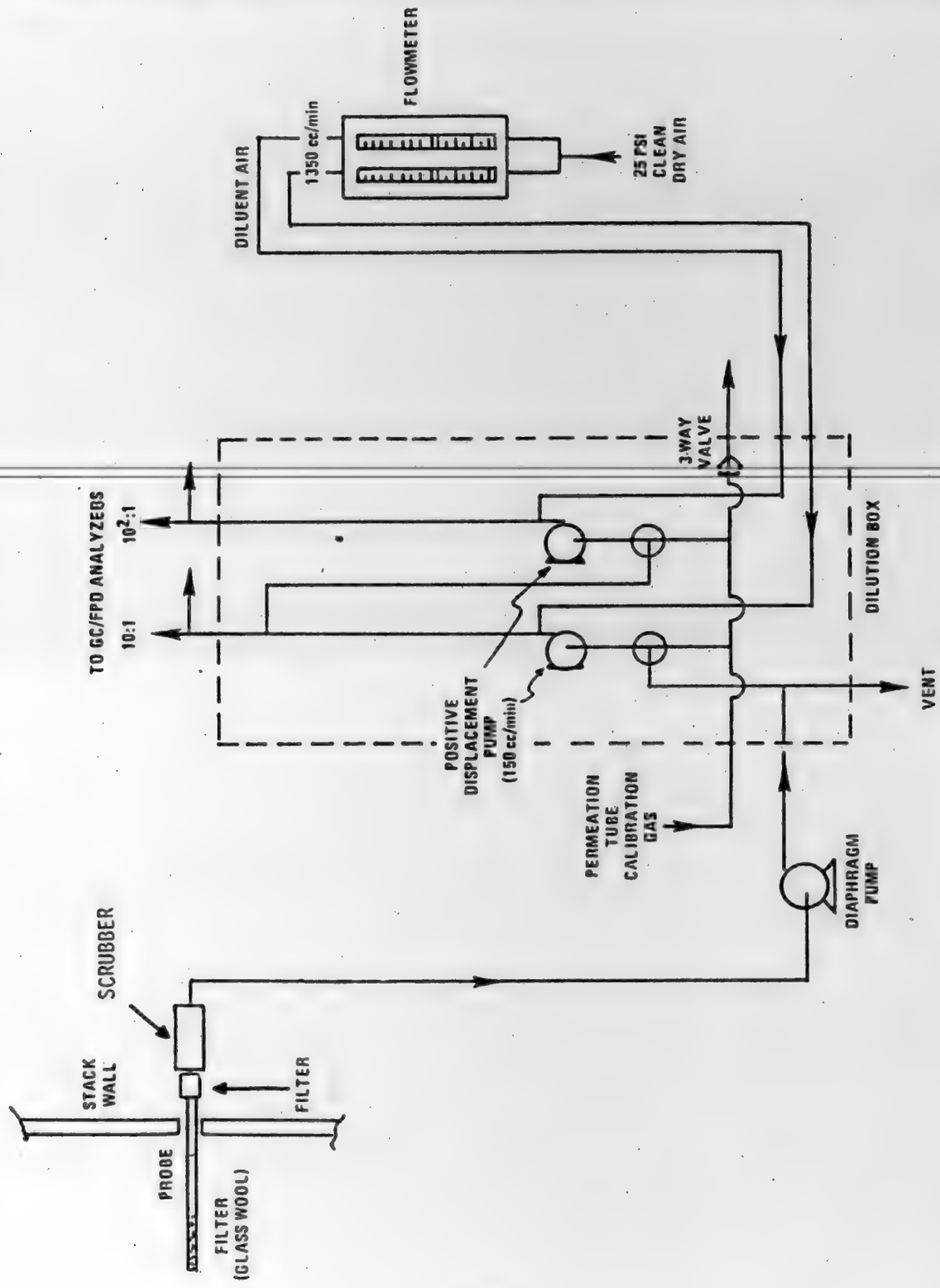

Figure 15-1. Sampling and dilution apparatus.

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9. In Method 16, the Introduction, Sections 1.1, 2.1, 3.1, 3.4, 4.2, 5.1.1, 5.1.2, 5.1.3, 5.2, 6.4, 8.3, 9.1, 9.2, 9.2.2, and 10.2 are revised; new Sections 5.1.1.1, 5.1.1.2, 5.1.1.3, 5.1.3.1, 5.1.3.2, 5.1.4, 5.1.5, 5.4.4.4 and 6.7 are added; and new sentences are added to the end of the paragraphs in Sections 6.6, 7.1.1, and 8.4 as follows:

METHOD 16—SEMICONTINUOUS DETERMINATION OF SULFUR EMISSIONS FROM STATIONARY SOURCES

Introduction

The method described below uses the principle of gas chromatographic separation and flame photometric detection (FPD). Since there are many systems or sets of operating conditions that represent useable methods of determining sulfur emissions, all systems which employ this principle, but differ only in details of equipment and operation, may be used as alternative methods, provided that the calibration precision and sample line loss criteria are met.

1. * * *

1.1 *Principle.* A gas sample is extracted from the emission source and an aliquot is analyzed for hydrogen sulfide (H_2S), methyl mercaptan (MeSH), dimethly sulfide (DMS), and dimethyl disulfide (DMDS) by gas chromatographic (GC) separation and flame photometric detection (FPD). These four compounds are know collectively as total reduced sulfur (TRS).

* * * * *

2. * * *

2.1 *Range.* The analytical range will vary with the sample loop size. Typically, the analytical range may extend from 0.1 to 100 ppm using 10 to 0.1-ml sample loop sizes. This eliminates the need for sample dilution in most cases.

* * * * *

3. * * *

3.1 *Moisture Condensation.* Moisture condensation in the sample delivery system, the analytical column, or the FPD burner block can cause losses or interferences. This is prevented by maintaining the probe, filter box, and connections at a temperature of at least 120°C (248°F). Moisture is removed in the SO_2 scrubber and heating the sample beyond this point is not necessary provided the ambient temperature is above 0°C. Alternatively, moisture may be eliminated by heating the sample line, and by conditioning the sample with dry dilution air to lower its dew point below the operating temperature of the GC/FPD analytical system prior to analysis.

* * * * *

3.4 *Sulfur Dioxide (SO_2).* Sulfur dioxide is not a specific interferent but may be present in such large amounts that it cannot be effectively separated from the other compounds of interest. The SO_2 scrubber described in Section 5.1.3 will effectively remove SO_2 from the sample.

* * * * *

4.2 *Calibration Drift.* The calibration drift determined from the mean of three injections made at the beginning and end of any run or series of runs within a 24-hour period shall not exceed ±5 percent.

* * * * *

5. * * *

5.1.1 Probe.

5.1.1.1 *Teflon or Teflon-lined stainless steel.* The probe must be heated to prevent moisture condensation. It shall be designed to allow calibration gas to enter the probe at or near the sample point entry. Any portion of the probe that contacts the stack gas must be heated to prevent moisture condensation.

5.1.1.2 Figure 16–1 illustrates the probe used in lime kilns and other sources where significant amounts of particulate matter are present. The probe is designed with the deflector shield placed between the sample and the gas inlet holes to reduce clogging of the filter and possible adsorption of sample gas. As an alternative, the probe described in Section 2.1.1 of Methods 16A having a nozzle directed away from the gas stream may be used at sources having significant amounts of particulate matter.

5.1.1.3 Note: Mention of trade names or specific products does not constitute an endorsement by the Environmental Protection Agency.

5.1.2 Particulate Filter. 50-mm Teflon filter holder and a 1- to 2-micron porosity Teflon filter (available through Savillex Corporation, 5325 Highway 101, Minnetonka, Minnesota 55343). The filter holder must be maintained in a hot box at a temperature of at least 120 °C (248 °F).

5.1.3 SO_2 Scrubber.

5.1.3.1 Three 300-ml Teflon segmented impingers connected in series with flexible, thick-walled, Teflon tubing. (Impinger parts and tubing available through Savillex.) The first two impingers contain 100 ml of citrate buffer and the third impinger is initially dry. The tip of the tube inserted into the solution should be constricted to less than 3-mm (⅛-in.) ID and should be immersed to a depth of at least 5 cm (2 in.). Immerse the impingers in an ice water bath and maintain near 0 °C. The scrubber solution will normally last for a 3-hour run before needing replacement. This will depend upon the effects of moisture and particulate matter on the solution strength and pH.

5.1.3.2 Connections between the probe, particulate filter, and SO_2 scrubber shall be made of Teflon and as short in length as possible. All portions of the probe, particulate filter, and connections prior to the SO_2 scrubber (or alternative point of moisture removal) shall be maintained at a temperature of at least 120 °C (248 °F).

5.1.4 *Sample Line.* Teflon, no greater than 1.3-cm (½-in.) ID. Alternative materials, such as virgin Nylon, may be used provided the line loss test is acceptable.

5.1.5 *Sample Pump.* The sample pump shall be leakless Teflon-coated diaphragm type or equivalent.

5.2 *Dilution System. Needed only for high sample concentrations. The dilution system must be constructed such that all sample contacts are made of Teflon, glass, or stainless steel.*

* * * * *

5.4.4.4 *Rotary Gas Valves.* Multiport Teflon-lined valves equipped with sample loop. Sample loop volumes shall be chosen to provide the needed analytical range. Teflon tubing and fittings shall be used throughout to present an inert surface for sample gas. The gas chromatograph shall be calibrated with the sample loop used for sample analysis.

* * * * *

6. * * *

6.4 *Diluent (If required).* Air containing less than 50 ppb total sulfur compounds and less than 10 ppm each of moisture and total hydrocarbons.

* * * * *

6.6. * * * Adjust the pH to between 5.4 and 5.6 with potassium citrate or citric acid, as required.

6.7 *Sample Line Loss Gas (Optional).* As an alternative to permeation gas, H_2S cylinder gas may be used for the sample line loss test. The gas shall be calibrated against permeation devices having known permeation rates or by the procedure in Section 7 of Method 16A.

7. * * *

7.1.1 * * * As an alternative to the initial leak-test, the sample line loss test described in Section 10.1 may be performed to verify the integrity of components.

* * * * *

8. * * *

8.3 *Calibration of Analysis System.* Generate a series of three or more known concentrations spanning the linear range of the FPD (approximately 0.5 to 10 ppm for a 1-ml sample) for each of the four major sulfur compounds. Inject these standards into the GC/FPD analyzer and monitor the responses. Three injects for each concentration must not vary by more than 5 percent from the mean of the three injections. Failure to attain this precision is an indication of a problem in the calibration or analytical system. Any such problem must be identified and corrected before proceeding.

8.4 * * * Alternatively, a least squares equation may be generated from the calibration data using concentrations versus the appropriate instrument response units.

* * * * *

9. * * *

9.1 *Sampling.* Insert the sampling probe into the test port making certain that no dilution air enters the stack through the port. Begin sampling. Condition the entire system with sample for a minimum of 15 minutes prior to commencing analysis.

9.2 *Analysis.* Aliquots of sample are injected into the GC/FPD analyzer for analysis.

9.2.1 * * *

9.2.2 *Observation for Clogging of Probe or Filter.* If reductions in sample concentrations are observed during a sample run that cannot be explained by process conditions, the sampling must be interrupted to determine if the probe or filter is clogged with particulate matter. If either is found to be clogged, the test must be stopped and the results up to that point discarded. Testing may resume after cleaning or replacing the probe and filter. After each run, the probe and filter shall be inspected and, if necessary, replaced.

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10. Post-Test Procedures

10.1 * * *

10.2 *Recalibration.* After each run, or after a series of runs made within a 24-hour period, perform a partial recalibration using the procedures in Section 8. Only H_2S (or other calibration gas) need be used to recalibrate the GC/FPD analysis system (Section 6.3).

* * * * *

10. In Method 16, by deleting "9:1" from the first sentence in Section 3.2.

11. In Method 16, by revising the second sentence in Section 3.3 to read as follows: "This interference is eliminated by using the Teflon filter after the probe."

12. In Method 16, be revising the title of Section 4.1 to read as follows: "GC/FPD Calibration Precision."

13. In Method 16, by removing Section 5.3.

14. By redesignating Sections 5.4 through 5.4.4.4 as 5.3 through 5.3.4.4.

15. In Method 16, by redesignating Section 5.5 as 5.4 and revising the third sentence in the second paragraph of newly designated section 5.4 to read as follows: "Baseline separation is defined as a return to zero ±5 percent in the interval between peaks.".

16. In Method 16, by redesignating Sections 5.6 and 5.6.1 as 5.5 and 5.5.1, respectively, and adding "(Figure 16–2)" to the end of the last sentence of newly designated Section 5.5.

17. In Method 16, by redesignating Section 5.6.2 as 5.5.2 and adding the following sentence to the end of the newly redesignated section 5.5.2: "Flow over the permeation device may also be determined using a soap bubble flowmeter."

18. In Method 16, by redesignating Sections 5.6.3 and 5.6.4 as 5.5.3 and 5.5.4, respectively.

19. In Method 16, by adding "(if applicable)" to the end of the first sentence in Section 8.1.

20. In Method 16, by removing Section 8.5.

21. In Method 16, by revising the first two sentences in the first paragraph of section 10.1 to read as follows:

A known concentration of hydrogen sulfide at the level of the applicable standard, ±20 percent, must be introduced into the sampling system at the opening of the probe in sufficient quantities to ensure that there is an excess of sample which must be vented to the atmosphere. The sample must be transported through the entire sampling system to the measurement system in the normal manner. (See figure 16–1).

22. In Method 16, by revising the fifth sentence in the second paragraph of Section 10.1 to read as follows:

Alternatively, cylinders of hydrogen sulfide mixed in nitrogen and certified according to Section 6.7 may be used.

23. In Method 16, by removing "wet basis" and adding "dry basis" in the line beginning "TRS=" of Section 11.2.

24. In Method 16, by redesignating Eq. 16–3 as Eq. 16–4.

25. In Method 16, by removing Sections 12 and 12.1 through 12.4.1.2 and redesignating Sections 13 and 13.1 through 13.6 as Sections 12 and 12.1 through 12.6.

26. In Method 16, Figure 16.1 is transferred to the end of Section 5.1.1.

27. In Method 16, by revising Figure 16–2 as set forth below and placing it at the end of Section 10.1.

28. In Method 16, by removing Figures 16–3 through 16–5.

BILLING CODE 6560-50-M

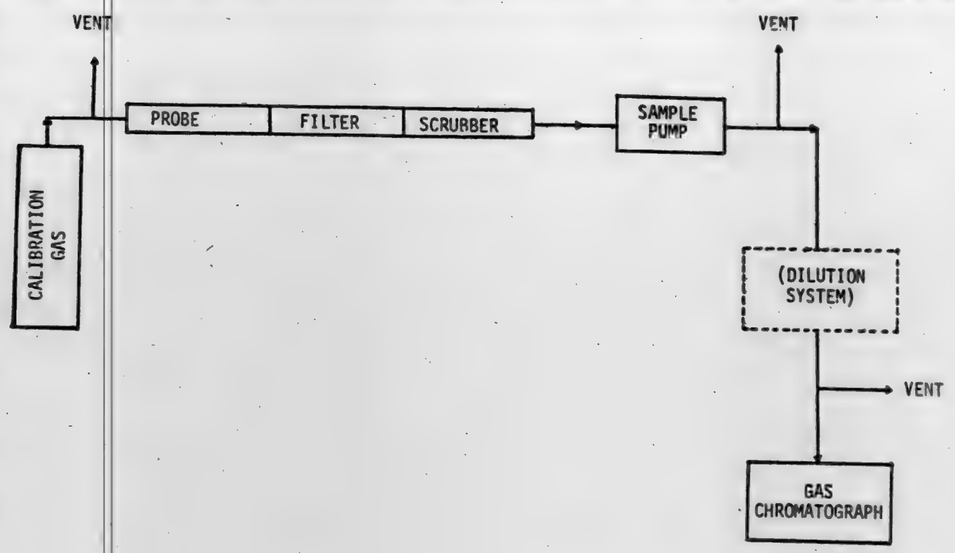

Figure 16-2. Determination of sample line loss.

* * * * *

[FR Doc. 89-23963 Filed 11-1-89; 8:45 am]
BILLING CODE 6560-50-C

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–40

executive agencies) for prescribing policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as transportation and

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 101–40.001 is revised to read as follows:

moves. The agency shall furnish the GSA such pertinent information concerning the proposed relocation as origin, destination, moving date, an

should contact the General Services Administration, Traffic and Travel Services Zone Office (6FBT), 4400 College Boulevard, Suite 175, Overland

8. Section 101–40.207 is amended by revising paragraph (b) to read as follows:

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–40

[FPMR Amdt. G–92]

Transportation and Traffic Management

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) amends 41 CFR part 101–40, Transportation and Traffic Management, by updating certain references which have become outdated due to organizational and regulatory changes. This amendment also implements the provisions of Public Law 100–565 which increased the maximum amount the United States may pay in settlement of a claim against the United States by a member of the uniformed services or by an officer or employee of the Government, and clarifies the contracting requirements in arranging local office relocation services.

EFFECTIVE DATE: November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Boyce Steiner, Transportation Management Division, Freight Management Branch (FBXF), FTS 557–7978 or commercial 703–557–7978.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), details GSA's responsibility (with respect to executive agencies) for prescribing policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as transportation and traffic management.

The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property management, Moving of household goods, Office relocation, Transportation.

For the reasons set forth in the preamble, 41 CFR part 101–40 is amended as follows:

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

1. The authority citation for part 101–40 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 101–40.001 is revised to read as follows:

§ 101–40.001 Definitions.

"GSA Central Office" means the General Services Administration (GSA), Federal Supply Service, Office of Transportation and Property Management, Transportation Management Division, Freight Management Branch (FBXF), Washington, DC 20406.

"GSA regional office" means the GSA Traffic and Travel Services Zone Office(s), Federal Supply Service Bureau, specified in § 101–40.101–1(a).

SUBPART 101–40.1—GENERAL PROVISIONS

3. Section 101–40.101–1 is amended by revising paragraph (a) to read as follows:

§ 101–40.101–1 Freight transportation management assistance.

(a) Executive agencies may obtain traffic management assistance in the transportation of goods (other than household goods moving from, to, and between foreign countries) by contacting the following GSA zone offices serving agencies located within the jurisdictional areas noted:

Zone	Jurisdiction	Address and telephone
Eastern	AL, CT, DE, FL, GA, KY, MA, MD (note A), ME, MS, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, TN, VY, VA (note B), Virgin Islands, WV.	GSA, Attn: 4FBT, 75 Spring Street, SW., Atlanta, GA 30303. FTS 242–5121, CML 404–331–5121.
Central	IA, IL, IN, KS, MI, MN, MO, NE, OH, WI	GSA, Attn: 6FBT, 4400 College Blvd., Suite 175, Overland Park, KS 66211. FTS 757–2510, CML 913–236–2510.
Southwestern	AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, WY	GSA, Attn: 7FBT, 819 Taylor Street, Fort Worth, TX 76102. FTS 334–2737, CML 817–334–2737.
Western	AK, American Samoa, AZ, CA, GU, HI, ID, NV, Northern Mariana Islands, OR, Pacific Trust Territories, WA.	GSA, Attn: 9FBT, 525 Market Street, San Francisco, CA 94105. FTS 484–8012, CML 415–744–8012.
National Capital Region (NCR).	DC, MD (note C), VA (note D)	GSA, Attn: WFBT, 7th & D Streets, SW., Washington, DC 20407. [1] FTS 472–1626, [1] CML 202–472–1626, [2] FTS 472–1944, [2] CML 202–472–1944.

[1] Other than household goods/office relocation.
[2] Household goods/office relocation only.
Note A—Except for counties under NCR jurisdiction as listed in note C.
Note B—Except for cities and counties under NCR jurisdiction as listed in note D.
Note C—Counties of Prince Georges and Montgomery only.
Note D—Cities of Alexandria, Fairfax, Manassas, and Manassas Park, and counties of Arlington, Fairfax, Loudoun, and Prince William only.

* * * * *

4. Section 101–40.109–2 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101–40.109–2 Office relocation contracts.

(a) Prior to entering into office relocation contracts, agencies should ensure they are complying with the provisions of FPMR Temp. Reg. D–73, or reissues thereof. (See 41 CFR Appendix to Subchapter D.) Compliance assistance may be obtained from the respective regional directors of the GSA Public Buildings Service, Real Estate Division.

(b) An agency may either enter into its own office relocation contracts or request the appropriate GSA regional office to enter into office relocation contracts on the agency's behalf. Requests to GSA should be made as soon as possible and at least 120 calendar days before the proposed date of the move for local office relocation moves. The agency shall furnish the GSA such pertinent information concerning the proposed relocation as origin, destination, moving date, an itemized inventory of property to be moved, and the name and telephone number of the agency relocation coordinator.

(1) Arrangements for moving services, other than local office relocation moves, will be contracted for using competitive procedures or other appropriate relocation arrangements including Government tenders pursuant to section 10721 of the Interstate Commerce Act (49 U.S.C. 10721).

(2) Local office relocation moves must be acquired by contract, since such moves qualify as transportation within "commercial zones or terminal areas" and are excepted from rate regulation by the Interstate Commerce Commission. Neither the statutory exemption provided for in paragraph (3) of section 7 of the McNamara-O'Hara Service Contract Act of 1965 (Service Contract Act) (41 U.S.C. 351 *et seq.*) exempting "any contract for the carriage of freight or personnel * * * where published tariff rates are in effect" nor the administrative exemption for contracts for the carriage of freight or personnel subject to rates covered by section 10721 of the Interstate Commerce Act is applicable. (See 29 CFR 4.123.) The Service Contract Act applies to local office relocation moves where transportation costs (such as packing, crating, handling, loading, and/or storage of goods prior to or following line-haul transportation) are incidental to the principal purpose of the contract. (See 29 CFR 4.118.)

* * * * *

Subpart 101–40.2—Centralized Household Goods Traffic Management Program

5. Section 101–40.202 is revised to read as follows:

§ 101–40.202 The General Services Administration Household Goods Tender of Service (TOS) agreement.

As part of the centralized household goods traffic management program, GSA has developed a master household goods tender of service (TOS) agreement. This agreement establishes carrier service and performance standards which participating carriers agree to provide. Commercial carriers desiring to participate in this program must enter into individual TOS agreements with GSA, acting on behalf of executive agencies. Carriers that desire to enter into a TOS agreement or agencies desiring additional information should contact the General Services Administration, Traffic and Travel Services Zone Office (6FBT), 4400 College Boulevard, Suite 175, Overland Park, KS 66211.

6. Section 101–40.203–3 is revised as follows:

§ 101–40.203–3 The commuted rate system.

The commuted rate system is the method whereby employees who are authorized to transport their household goods at Government expense make their own shipping arrangements and are reimbursed by the Government according to the commuted rate allowances published in the GSA Commuted Rate Schedule. In addition to transportation allowances, the commuted rate schedule includes allowances for various related accessorial expenses, such as packing and crating, storage-in-transit, carrier labor charges, appliance servicing, and piano/organ handling. Under the commuted rate system, employees shipping via commercial carriers are responsible for making all arrangements with the carrier, filing loss and damage claims with the carrier, and making payment to the carrier after the shipment has been completed. Under the commuted rate system, the shipment is moved using commercial documents, or employees may elect to transport their household goods in a rental vehicle or by private conveyance. The use of household goods rate tenders (see § 101–40.203–1) is not authorized when household goods are shipped under the commuted rate system.

7. Section 101–40.203–4 is amended by revising paragraph (a) to read as follows:

§ 101–40.203–4 Cost comparisons.

(a) Under the centralized household goods traffic management program, agencies shall obtain cost comparisons between the GBL method and the commuted rate system from the appropriate GSA regional office. Section 302–8.3(c)(4)(i) of the Federal Travel Regulation (41 CFR chapters 301 through 304) provides that the commuted rate system shall be used for individual employee transfers without consideration being given to the GBL method, except that the GBL method may be used if the actual transportation costs (including the costs of packing and other accessorial services) to be incurred by the Government are predetermined and can be expected to result in a real saving to the Government of $100 or more.

* * * * *

8. Section 101–40.207 is amended by revising paragraph (b) to read as follows:

§ 101–40.207 Household goods loss and damage claims.

* * * * *

(b) Under 31 U.S.C. 3721 (the Military Personnel and Civilian Employees' Claims Act of 1964, as amended), employees who sustain a loss or damage to their household goods (transported incident to service) that exceeds the amount recovered from a carrier in settlement of a claim may file claim against the United States for the difference. Pursuant to Public Law 100–565, agencies may compensate employees up to $40,000 on claims arising on or after October 31, 1988. When it is the policy of the agency not to compensate its employees under the Act, the agency should advise employees of the options available to them for insuring their household goods against greater monetary loss. (See § 101–40.206(b) of this subpart.)

* * * * *

Dated: October 16, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–25624 Filed 11–1–89; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6852]

List of Communities Eligible for the Sale of Flood Insurance; Michigan et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities has applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a

publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the

State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
North Dakota: Souris, city of, Bottineau County	380010	Aug. 12, 1977, Emerg.; Mar. 18, 1986, Reg.; July 4, 1989, Susp.; Sept. 18, 1989, Rein.	Do.

(NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insuance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., . Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
New Eligibles—Emergency Program			
Michigan: Vernon, township of, Isabella County	260825	Sept. 7, 1989	
Arkansas: Beaver, town of, Carroll County	050585	Sept. 7, 1989, Emergency	
Louisiana: Sabine Parish, unincorporated areas	220366	Sept. 13, 1989	Jan 24, 1978.
Kansas: Eskridge, city of, Wabaunsee County	200493	Sept. 15, 1989	Aug. 22, 1975.
Ohio: Senecaville, village of, Guernsey County	390858	Sept. 15, 1989, Emergency	Oct. 6, 1978.
Arkansas: Grant County, unincorporated areas	050434	Sept. 19, 1989	May 10, 1977.
Kentucky: Madison County, unincorporated areas	210342	Sept. 19, 1989, Emergency	Aug. 26, 1977.
Texas: Rocksprings, city of, Edwards County	481116	Sept. 19, 1989, Emergency	July 23, 1976.
Nebraska: Mitchell, city of, Scotts Bluff County	310390	Sept. 20, 1989	
West Virginia: Gauley Bridge, town of, Fayette County	540294	Sept. 22, 1989	
Michigan: Coldwater, township of, Branch County	260826	Sept. 26, 1989	
Texas: Kaufman County, unincorporated areas	480411	Sept. 26, 1989, Emergency	Nov. 13, 1981.
New Eligibles—Regular Program			
California:			
Solana Beach, city of, San Diego County	060725	Sept. 19, 1989	June 3, 1988.
Mission Viejo, city of, Orange County	060735	Sept. 26, 1989	Sept. 15, 1989.
Dana Point, city of, Orange County	060736	Sept. 26, 1989, Emergency	Do.
Reinstatements—Regular Program			
Oklahoma: Taft, town of Muskogee County	400128	June 24, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 25, 1987, Rein.	Aug. 1, 1987.
Colorado: San Juan County, unincorporated areas	080267	Oct. 25, 1974, Emerg.; Sept. 1, 1978, Reg.; June 19, 1989, Susp.; Sept. 1, 1989, Rein.	Sept. 1, 1978.
Kentucky: California, city of, Campbell County	210036	July 3, 1975, Emerg.; Apr. 3, 1978, Reg.; Sept. 30, 1988, Susp.; Sept. 6, 1989, Rein.	Apr. 3, 1978.
Wyoming:			
Saratoga, town of Carbon County	560012	Aug. 1, 1975, Emerg.; Oct. 1, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 7, 1989, Rein.	Oct. 1, 1986
New Castle, town of, Weston County	560057	Apr. 17, 1975, Emerg.; May 1, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 7, 1989, Rein.	May 1, 1986.
Pine Bluffs, town of, Laramie County	560031	Mar. 25, 1975, Emerg.; May 1, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 7, 1989, Rein.	Do.
New York:			
Millport, village of, Chemung County	360155	Aug. 26, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.; Sept. 8, 1989, Rein.	June 15, 1988.
Round Lake, village of, Saratoga County	360726	July 29, 1975, Emerg.; Jan. 5, 1984, Reg.; June 15, 1988, Susp.; Sept. 8, 1989, Rein.	Jan. 5, 1984.
Fair Haven, village of, Cuyuga County	360109	Apr. 20, 1989, Emerg.; Feb. 1, 1978, Reg.; Sept. 16, 1988, Susp.; Sept. 8, 1989, Rein.	Feb. 1, 1978.
Oklahoma: Maysville, town of, Garvin County	400402	Feb. 27, 1978, Emerg.; Sept. 30, 1981, Reg.; Sept. 30, 1981, Susp.; Sept. 13, 1989, Rein.	Sept. 2, 1981.
Wisconsin: Montreal, city of, Iron County	550184	Apr. 3, 1975, Emerg.; Nov. 4, 1988, Reg.; Nov. 4, 1988, Susp.; Sept. 13, 1989, Rein.	Nov. 4, 1988.
Montana: Browning, town of, Glacier County	300030	Apr. 28, 1975, Emerg.; Mar. 16, 1988, Reg.; July 17, 1989, Susp.; Sept. 15, 1989, Rein.	Mar. 16, 1988.

State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
North Dakota: Souris, city of, Bottineau County	380010	Aug. 12, 1977, Emerg.; Mar. 16, 1988, Reg.; July 4, 1989, Susp.; Sept. 16, 1989, Rein.	Do.
Ohio:			
Wapakoneta, city of, Auglaize County	390023	June 17, 1975, Emerg.; Sept. 6, 1989, Reg.; Sept. 6, 1989, Susp.; Sept. 19, 1989, Rein.	Sept. 6, 1989.
McDonald, village of, Trumbull County	390538	July 7, 1975, Emerg.; Aug. 8, 1979, Reg.; Aug. 3, 1989, Susp.; Sept. 19, 1989, Rein.	Aug. 8, 1979.
Madison, village of, Lake County	390316	Aug. 26, 1975, Emerg.; Dec. 4, 1979, Reg.; July 4, 1989, Susp.; Sept. 19, 1989, Rein.	Dec. 4, 1979.
Oregon: Wheeler County, unincorporated areas	410245	Sept. 25, 1975, Emerg.; July 17, 1989, Reg.; July 17, 1989, Susp.; Sept. 21, 1989, Rein.	July 17, 1989.
Montana: Circle, town of, McCone County	300108	Apr. 9, 1976, Emerg.; Apr. 15, 1986, Reg.; July 17, 1989, Susp.; Sept. 21, 1989, Rein.	Apr. 15, 1986.
South Dakota: Westport, town of, Brown County	460011	Mar. 21, 1978, Emerg.; Aug. 5, 1986, Reg.; Sept. 6, 1989, Susp.; Sept. 21, 1989, Rein.	Aug. 5, 1986.
Utah: Spanish Fork, city of, Utah County	490241	May 4, 1983, Emerg.; Feb. 19, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 25, 1989, Rein.	Feb. 19, 1986.
Maryland: Secretary, town of, Dorchester County	240129	June 13, 1975, Emerg.; Dec. 19, 1980, Reg.; May 4, 1989, Susp.; Sept. 27, 1989, Rein.	Dec. 19, 1980.
Pennsylvania:			
Berwick, borough of, Columbia County	420338	June 20, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp.; Sept. 27, 1989, Rein.	Aug. 3, 1989.
Curwensville, borough of, Clearfield County	420302	Apr. 7, 1975, Emerg.; July 4, 1989, Reg.; July 4, 1989, Susp.; Sept. 27, 1989, Rein.	July 4, 1989.
West Virginia: Ceredo, town of, Wayne County	540232	Sept. 25, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.; Sept. 27, 1989, Rein.	May 17, 1989.
New York: Mamaroneck, town of, Westchester County	360917	May 12, 1972, Emerg.; Dec. 1, 1977, Reg.; Sept. 15, 1989, Susp.; Sept. 25, 1989, Rein.	Sept. 15, 1989.
Tennessee: Martin, city of, Weakley County	470202	Jan. 26, 1975, Emerg.; Sept. 15, 1989, Reg.; Sept. 15, 1989, Susp.; Sept. 22, 1989, Rein.	Do.
Regular Program Conversions—Suspension Withdrawn			
Region III			
Pennsylvania:			
Barnesboro, borough of, Cambria County	420227	Sept. 15, 1989, suspension withdrawn	Do.
Hopewell, borough of, Bedford County	420120	do	Do.
Virginia: Appalachia, town of, Wise County	510319	do	Do.
Region IV			
Georgia: Burke County, unincorporated areas	130022	do	Do.
Mississippi:			
Lawrence County, unincorporated areas	280272	do	Do.
Leake County, unincorporated areas	280293	do	Do.
Mt. Olive, town of, Covington County	280048	do	Do.
Neshoba County, unincorporated areas	280276	do	Do.
Pike County, unincorporated areas	280278	do	Do.
Region VI			
Oklahoma: Goldsby, town of, McClain County	400102	do	Do.
Region IX			
California:			
Cypress, city of, Orange County	060217	do	Do.
Napa County, unincorporated areas	060205	do	Do.
Region X			
Idaho: Cascade, city of, Valley County	160161	do	Do.
Oregon:			
Paisley, city of, Lake County	410117	do	Do.
Wasco, city of, Sherman County	410195	do	Do.
Region II			
New York:			
Middlesex, town of, Yates County	360960	Sept. 29, 1989, suspension withdrawn	Sept. 29, 1989.
St. Johnsville, village of, Montgomery County	360457	do	Do.
Region III			
Virginia: Floyd County, unincorporated areas	510199	do	Do.
Region IV			
Alabama:			
Houston County, unincorporated areas	010098	do	Do.
St. Clair County, unincorporated areas	010290	do	Do.
Georgia:			
Cartersville, city of, Bartow County	130209	do	Do.
Millen, city of, Jenkins County	130119	do	Do.
Kentucky:			
Bellerd County, unincorporated areas	210268	do	Do.
Hartford, city of, Ohio County	210357	do	Do.
Ohio County, unincorporated areas	210183	do	Do.
Mississippi:			
Adams County, unincorporated areas	280209	do	Do.
Lauderdale County, unincorporated areas	280224	do	Do.
Marion, town of, Lauderdale County	280095	do	Do.

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State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
Vicksburg, city of, Warren County	280178	....do	Do.
Region V			
Illinois:			
Clinton, city of, DeWitt County	170193	....do	Do.
DeWitt County, unincorporated areas	170192	....do	Do.
Michigan:			
Vassar, city of, Tuscola County	260208	....do	Do.
Darke County, unincorporated areas	390137	....do	Do.
Fulton County, unincorporated areas	390182	....do	Do.
Gallia County, unincorporated areas	390185	....do	Do.
Greenville, city of, Darke County	390139	....do	Do.
Lawrence County, unincorporated areas	390325	....do	Do.
Wisconsin:			
Barron County, unincorporated areas	550568	....do	Do.
Barron, city of, Barron County	550010	....do	Do.
Brodhead, city of, Green County	550160	....do	Do.
Rosendale, village of, Fond Du Lac County	550141	....do	Do.
Region VII			
Missouri: Independence, city of, Clay and Jackson Counties	290172	....do	Do.
Region VIII			
Colorado:			
Dolores, town of, Montezuma County	080122	....do	Do.
Gunnison County, unincorporated areas	080078	....do	Do.
Logan County, unincorporated areas	080110	....do	Do.
Monument, town of, El Paso County	080064	....do	Do.
Morgan County, unincorporated areas	080129	....do	Do.
Pueblo County, unincorporated areas	080147	....do	Do.
Routt County, unincorporated areas	080156	....do	Do.
Sterling, city of, Logan County	080294	....do	Do.
Medora, city of, Billings County	380006	....do	Do.
Tooele, city of, unincorporated areas	490145	....do	Do.
Region IX			
Arizona:			
Litchfield Park, city of, Maricopa County	040128	....do	Do.
Maricopa County, unincorporated areas	040037	....do	Do.
Wickenburg, town of, Maricopa County	040056	....do	Do.
California:			
Butte County, unincorporated areas	060017	....do	Do.
Hesperia, city of, San Bernardino County	060733	....do	Do.
Highland, city of, San Bernardino County	060732	....do	Do.
Redding, city of, Shasta County	060360	....do	Do.
Shafter, city of, Kern County	060082	....do	Do.
Nevada:			
Clark County, unincorporated areas	320003	....do	Do.
Region X			
Washington:			
Auburn, city of, King County	530073	....do	Do.
Kent, city of, King County	530080	....do	Do.
King County, unincorporated areas	530071	....do	Do.
Redmond, city of, King County	530087	....do	Do.
Renton, city of, King County	530088	....do	Do.

[1] The reinstatement for the town of Taft was erroneously omitted from publication in August 1987.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: October 17, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-25106 Filed 11-1-89; 8:45 am]

BILLING CODE 6718-21-M

Federal Insurance Administration

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local

circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Date and name of the newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama	Jefferson (Docket No. FEMA-6961).	Unincorporated Areas.	June 10, 1989, June 17, 1989.	The Honorable David Orange, President, Jefferson County Board of Commissioners, Jefferson County Courthouse, 716 North 21st Street, Birmingham, Alabama 35263-0005.	June 2, 1989	010217
Kansas	Sedgwick (Docket No. FEMA-6958).	Unincorporated Areas.	June 15, 1989, June 22, 1989, *The Daily Reporter.*	The Honorable Paul W. Hancock, Chairman, Board of County Commissioners, Sedgwick County, 525 North Main, 3rd Floor, Wichita, Kansas 67203.	May 31, 1989	200321
Kansas	Sedgwick (Docket No. FEMA-6958).	City of Wichita	June 15, 1989, June 22, 1989, *The Daily Reporter.*	The Honorable Sheldon Kamen, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	May 31, 1989	200328
Texas	Comal and Guadalupe (FEMA Docket No. 6958).	City of New Braunfels.	May 26, 1989, June 2, 1989, *New Braunfels Herald Zeitung.*	The Honorable Douglas Miller, Mayor of the City of New Braunfels, P.O. Box 311596, New Braunfels, Texas 78131.	May 15, 1989	485463

Issued: October 11, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-24947 Filed 11-1-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Petition No. P2-89; Docket No. 89-22]

Cruise Lines International Association; Application for Section 16 Exemption

Served: October 30, 1989.

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This exempts membership changes in certain passenger vessel operator agreements from the notice and waiting period requirements of section 6 of the Shipping Act of 1984 and the Information Form, notice and waiting period requirements of 46 CFR part 572. This exemption, which was requested by Cruise Lines International Association, will enable such membership changes to become effective upon filing with the Federal Maritime Commission.

EFFECTIVE DATE: November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Director, Bureau of Trade Monitoring, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5787.

SUPPLEMENTARY INFORMATION: On July 11, 1989, Cruise Lines International Association ("CLIA") [1] filed an Application for an exemption pursuant to section 16 of the Shipping Act of 1984, 46 U.S.C. app. 1715 ("1984 Act") and the implementing regulations of the Federal Maritime Commission ("Commission"),

[1] CLIA is a cooperative working agreement (Federal Maritime Commission Agreement No. 003-010071) among passenger vessel operators to meet and discuss matters of common interest, including marketing strategies for ocean cruise travel, and to train, bond and deal with travel agents.

46 CFR 572.301. CLIA seeks an exemption from the notice and waiting period requirements of section 6 of the 1984 Act, 46 U.S.C. app. 1705, and the Information Form, notice and waiting

discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

The Commission has determined that this Final Rule is not a "major rule" as

and sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. 1704, 1715, 1716, in order to exempt membership changes in certain passenger vessel discussion agreements from certain requirements of

can be allotted to Fort Madison, Iowa, in compliance with the Commission's minimum distance separation requirements and can be used at Station KBKB(FM)'s present transmitter site.

47 CFR Part 73

[MM Docket No. 87-597, RM-5875 and RM-6309]

Radio Broadcasting Services;

47 CFR Part 73

[MM Docket No. 89-42; RM-6505]

Radio Broadcasting Services; Bolivar,

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46 CFR 572.301. CLIA seeks an exemption from the notice and waiting period requirements of section 6 of the 1984 Act, 46 U.S.C. app. 1705, and the Information Form, notice and waiting period requirements of 46 CFR Part 572, for membership changes to passenger vessel discussion agreements open to all passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling or joint service authority. The exemption would enable membership changes in such agreements to become effective upon filing with the Commission.

By Notice published in the **Federal Register** on July 25, 1989 (54 FR 30939), the Commission announced CLIA's Application and requested comments from interested persons. No comments on CLIA's Application were received. After consideration of CLIA's Application, the Commission has determined to grant the essential exemption requested by CLIA, with some modifications.

The scope of the exemption sought by CLIA is limited to exclude membership changes in passenger vessel operator agreements containing ratemaking, pooling or joint service authority. However, CLIA's Application did not address the proposed exemption's treatment of membership changes in passenger vessel operator agreements containing sailing or space chartering authority. The passenger vessel operator agreements currently on file with the Commission do not contain sailing or space chartering authority. However, were any such agreement to become effective under the 1984 Act, the Commission believes that membership changes should be reviewed under the 1984 Act's standards before they become effective, as is now the case with membership changes in non-passenger vessel operator agreements containing such authority. Accordingly, the scope of this rule's exemption has been further limited to exclude membership changes in passenger vessel operator agreements containing sailing or space chartering authority, in addition to those containing ratemaking, pooling or joint service authority. Other, less substantive changes have also been made to the text proposed by CLIA to improve the exemption's clarity and definiteness.

In accordance with section 16 of the 1984 Act, the Commission finds that the exemption granted herein will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

The Commission has determined that this Final Rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Acting Chairman of the Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions. The primary economic impact of this rule will be on passenger vessel operating ocean common carriers, which generally are not small entities. A secondary impact may fall on passengers and travel agents, some of whom may be small entities, but that impact is not considered to be significant.

The Commission has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

The Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply to this Final Rule because the amendment to part 572 of title 46, Code of Federal Regulations, does not impose any additional reporting or recordkeeping requirements or change the collection of information from members of the public which require the approval of the Office of Management and Budget.

The Commission has determined that this rule is excepted from the 30-day effective date requirement of 5 U.S.C. 553 because it grants an exemption and relieves a restriction from existing requirements.

Lists of Subjects in 46 CFR Part 572

Antitrust, Contracts, Maritime carriers, Administrative practice and procedure, Rates and fares.

Therefore, pursuant to 5 U.S.C. 553, and sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. 1704, 1715, 1716, in order to exempt membership changes in certain passenger vessel discussion agreements from certain requirements of the 1984 Act, and the Commission's implementing regulations thereof, part 572 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 572—[AMENDED]

1. The authority citation to Part 572 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. Section 572.309 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 572.309 Miscellaneous modifications to agreements—exemptions.

(a) * * *

(2) * * *

(i) *Article 3*—Parties to the agreement (limited to conference agreements, and discussion agreements among passenger vessel operating ocean common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89–25867 Filed 11–1–89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–29, RM–5594; RM–5685]

Radio Broadcasting Services; Fort Madison, IA; Louisiana, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Talley Broadcasting Company, substitutes Channel 269C2 for Channel 269A at Fort Madison, Iowa, and modifies its license for Station KBKB(FM) to specify operation on the higher powered channel. In addition, Channel 271A is substituted for Channel 269A at Louisiana, Missouri, and the license of Foxfire Communications, Inc. is modified accordingly. Channel 269C2 can be allotted to Fort Madison, Iowa, in compliance with the Commission's minimum distance separation requirements and can be used at Station KBKB(FM)'s present transmitter site. The coordinates for this allotment are North Latitude 40–39–30 and West Longitude 91–16–20. This allotment requires Good News Broadcasters, Inc. to amend its pending application for Channel 268A at Augusta, Illinois, to specify a non-shortspaced transmitter site. Channel 271A can be allotted to Louisiana, Missouri, in compliance with the Commission's minimum distance separation requirements and can be used at Station KJFM's present transmitter site. The coordinates for Channel 271A at Louisiana, Missouri, are North Latitude 39–26–29 and West Longitude 91–02–19. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 87–29, adopted September 29, 1989, and released October 27, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended for Fort Madison, Iowa, by removing Channel 269A and adding Channel 269C2. The entry for Louisiana, Missouri, is amended by removing Channel 269A and adding Channel 271A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25855 Filed 11–1–89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–597, RM–5875 and RM–6309]

Radio Broadcasting Services; Hayesville and Santa Claus, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 277A to Santa Claus, Indiana, as that community's first FM service, in response to comments and a counterproposal filed by Santa Claus Radio Company. Coordinates used for Channel 277A at Santa Claus are 38–09–41 and 86–58–47. With this action, the proceeding is terminated.

DATES: Effective December 11, 1989; The window period for filing applications on Channel 277A at Santa Claus, will open on December 12, 1989, and close on January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634–6530. Questions related to the window application filing process at Santa Claus, should be addressed to the Audio Service Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 87–597, adopted September 29, 1989, and released October 27, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of Allotments, is amended under Indiana by adding Santa Claus, Channel 277A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25854 Filed 11–1–89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89–42; RM–6508]

Radio Broadcasting Services; Bolivar, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 234A to Bolivar, Tennessee, as that community's second local FM service, at the request of Opel J. Shaw. See 54 FR 8767, March 2, 1989. Channel 234A can be allotted to Bolivar in compliance with the Commission's minimum distance separation requirements at the city reference coordinates, which are 35–15–30 and 88–59–30. With this action, this proceeding is terminated.

DATES: Effective December 11, 1989. The window period for filing applications will open on December 12, 1989, and close on January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–42, adopted September 29, 1989, and released October 27, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. § 73.202(b), the Table of FM Allotments is amended under Tennessee, by adding Channel 234A at Bolivar.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25853 Filed 11–1–89; 8:45 am]

BILLING CODE 6712-01-M

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. T86-01; Notice 9]

RIN 2127-AC32

Insurer Reporting Requirements; List of Insurers Required To File Reports in October 1989

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: Title VI of the Motor Vehicle Information and Cost Savings Act requires each passenger motor vehicle insurer to file annual reports with NHTSA, unless the agency exempts the insurer from filing such reports. The law stipulates that NHTSA can exempt those insurance companies whose market share is below certain percentages in each individual State and for the nation as a whole. To carry out these statutory provisions, the agency has exempted those insurance companies that are lawfully eligible to be exempted and is hereby publishing an updated listing of those insurance companies subject to the reporting requirements. Those insurance companies included on the list are required to file reports for the 1988 calendar year not later than October 25, 1989. Any insurance company omitted from this list is not required to file a report for the 1988 calendar year.

EFFECTIVE DATE: The final rule on this subject will be effective December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara A. Kurtz, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Kurtz's telephone number is (202) 366-4808.

SUPPLEMENTARY INFORMATION:

Background

Section 612 of the Motor Vehicle Information and Cost Savings Act (the Act)(15 U.S.C. 2032) requires each insurer to file an annual report with NHTSA unless the agency exempts the insurer from filing such reports. The reports include information about thefts and recoveries of motor vehicles, the rating rules used by the insurers to establish premiums for comprehensive coverage, the actions taken by insurers to reduce such premiums, and the actions taken by insurers to reduce or deter theft.

Section 612(a)(5) provides that the agency shall exempt small insurers from the reporting requirements if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information collected and compiled in the reports, either nationally or on a State-by-State basis. The term "small insurer" is defined in section 612(a)(5)(C) as an insurer whose premiums account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all forms of motor vehicle insurance issued by insurers within a particular State, such an insurer must report the required information about its operations in that State.

To implement these statutory criteria for exempting small insurers, NHTSA has used the data voluntarily supplied by insurance companies to A.M. Best to determine the insurer's market shares nationally and in each State. The A.M. Best data base was chosen because it is both accurate and timely, and because its use imposes no additional burdens on any party.

After examining the A.M. Best data, NHTSA has determined, first, that the report data to be provided by the large insurance companies will be sufficient for NHTSA to carry out its activities and responsibilities under title VI of the Act, and, second, that exempting all those insurance companies that qualify as small insurers will not affect the validity and usefulness of the information collected and compiled under this section, either nationally or on a State-by-State basis.

In the final rule for insurer reports published January 2, 1987, (52 FR 59), the agency listed, as Appendix A, the 20 insurance companies that had premiums that accounted for 1 percent or more of all motor vehicle insurance premiums paid nationally. Those companies were required to report on their operations for every State in which they did business. In Appendix B, the agency listed the eleven insurance companies with premiums that accounted for 10 percent or more of the total motor vehicle insurance premiums within a particular State or States. Such companies were required to report on their operations only for those States in which their premiums accounted for 10 percent or more of the total premiums.

The market shares for each of the insurance companies listed in the January 2, 1987, final rule were derived from the A.M. Best data for 1984, the most recent year for which the A.M. Best data were available as of the date the final rule was published. In issuing the rule, NHTSA stated that it would update the appendices as revised listings become available. Since that time, A.M. Best data for more recent calendar years have become available.

Accordingly, the agency published a Notice of Proposed Rulemaking (NPRM) on May 30, 1989 (54 FR 22921), proposing an updated listing of insurance companies that must provide annual insurer reports to the agency for the 1988 calendar year. That NPRM used the A.M. Best data for 1987 to determine which insurance companies are statutorily required to file reports by October 25, 1989. The notice proposed that all insurance companies that were statutorily eligible for an exemption from these reporting requirements should be exempted.

No comments were received on the proposed rule. For the reasons set forth above and in the NPRM, this final rule adopts the proposed listings for both Appendix A and Appendix B.

This rule is effective 30 days after publication in the **Federal Register**. As noted earlier in this preamble, section 612 of the Cost Savings Act (15 U.S.C. 2032) imposes a statutory duty on insurers that were not exempted from these reporting requirements to file a report for the 1988 calendar year no later than October 25, 1989.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. This final rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. On the other hand, those companies that are not statutorily eligible for an exemption are expressly required to file reports.

NHTSA does not believe that this rule, reflecting more current A.M. Best data, affects the impacts described in the final regulatory evaluation prepared for 49 CFR part 544. Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the final regulatory evaluation for part 544, the agency estimates that it will cost any company that is added to Appendix B about $20,000. Therefore, the net total impact of these changes is estimated to be a cost increase of approximately $20,000 for insurance companies. This is well below the threshold of $100 million for classifying a rulemaking action as "major" under the Executive Order.

As noted above, a full regulatory evaluation was prepared for the final rule establishing 49 CFR part 544. Interested persons may wish to examine that evaluation in connection with this rule. Copies of that evaluation have been placed in Docket No. T86-01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling at (202) 366-4949.

2. Paperwork Reduction Act

The information collection requirements in this rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through July 31, 1990 (OMB approval number 2127-0547).

3. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Section 612(a)(5)(C) defines "small insurer" in part as any insurer whose premiums for motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. None of the 28 companies listed in Appendices A or B is a self-insured motor vehicle rental or leasing company and all these companies exceed the "small insurer" standards outlined in section 612(a)(5)(C). Therefore, I certify that the final rule will not have a significant economic impact on a substantial number of small entities.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this rule and determined that it will not have a significant impact on the quality of the human environment.

List of Subjects in 49 CFR Part 544

Crime insurance, insurance, insurance companies, motor vehicles, reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is amended as follows:

PART 544—[AMENDED]

1. The authority citation for part 544 would continue to read as follows:

Authority: 15 U.S.C. 2032; delegation of authority at 49 CFR 1.50.

2. Appendix A to part 544 is revised to read as follows:

Appendix A—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

State Farm Group
Allstate Insurance Group
Farmers Insurance Group
Nationwide Group
Aetna Life & Casualty Group
Liberty Mutual Group
Travelers Insurance Group
Hartford Insurance Group
USAA Group
United States F & G Group
Geico Corporation Group
American International Group
CIGNA Group
Continental Group
Fireman's Fund Group
CNA Insurance Companies
California State Auto Association
American Family Group
Progressive Group
Crum & Forster Companies

3. Appendix B to part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Island Insurance Group (Hawaii)
Kentucky Farm Bureau Group (Kentucky)
Commercial Union Assurance Group (Maine)
Auto Club of Michigan Group (Michigan)
Southern Farm Bureau Group (Mississippi)
Amica Mutual Insurance Company (Rhode Island)
Concord Group Insurance Company (Vermont)

Issue date: October 27, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-25781 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Parts 567 and 571

[Docket No. 88-08; Notice 2]

RIN: 2127-AC85

Motor Vehicle Safety Standards; Vehicle Identification Number; Basic Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), (DOT).

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA changes vehicle identification number and certification requirements for motor vehicles that were not originally manufactured for sale in this country, do not comply with the Federal motor vehicle safety standards, and are imported into the United States by businesses unaffiliated with the original manufacturer. This final rule would make it clear that the importer of such vehicles would be required to use one of the unique coding identifiers that the original manufacturer assigned to the vehicle, in lieu of using the 17-character U.S. vehicle identification number (VIN) required to be placed on vehicles originally manufactured for sale in this country. The direct importer must place the original manufacturer's identifier on a plate that would appear inside the passenger compartment of the motor vehicle, so that the number may be observed through the glazing, and adjacent to the left windshield pillar.

EFFECTIVE DATE: The changes made in this rule become effective December 4, 1989 for vehicles imported after that date.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Rutland, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Mr. Rutland's telephone number is (202) 366-5267.

SUPPLEMENTARY INFORMATION:

Background

Under section 108(b)(3) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1397(b)(3)), a vehicle that does not conform with applicable safety standards may nonetheless enter the United States under "such terms and conditions" as the Secretaries of Transportation and Treasury prescribe. Title 19 CFR 12.80 is a joint Transportation/Treasury regulation setting forth those terms and conditions. Subparagraph (b)(1)(iii) of that regulation requires that a person seeking to bring a nonconforming import (direct import vehicle) into the United States file a declaration that the vehicle

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will be modified so as to conform with applicable Federal Motor Vehicle Safety Standards. Among those Standards is 115, *Vehicle Identification Number—Basic Requirements.*

In order to comply with Standard 115 requirements, many direct importers have been applying a "homemade" VIN plate to their imported vehicles. The VINs added by direct importers are so different in appearance from VINs on similar vehicles manufactured for sale in the United States that law enforcement officials have mistaken them for altered VINs. Other concerns presented by these "homemade" VIN plates are identification problems that have been created for insurance investigators and encoding errors that compromise the integrity of the VIN system.

This rulemaking arose when the agency granted a petition submitted by the National Automobile Theft Bureau (NATB or petitioner) to amend Standard 115 to address problems arising when direct importers create a VIN and a VIN plate using an identification number and plate production process other than the ones which the original vehicle manufacturer uses. Among problems noted by the NATB were an increased prospect of encoding errors in a homemade VIN, law enforcement officials mistaking homemade VIN plates for altered plates, and the resulting risk that individuals lawfully possessing direct import vehicles may be subjected to criminal charges.

The petitioner recommended that NHTSA take action to prevent the direct importer from creating its own VIN. In place of its own VIN, the importer would be required to follow one of two alternative means of identifying a vehicle. First, if the original manufacturer had placed any kind of identification number plate in the passenger compartment where Standard 115 would otherwise require a 17-character VIN plate, the importer would retain the original manufacturer's plate as the vehicle's VIN plate. Among the original-manufacturer identification numbers that one might use in place of the United States VIN are the European vehicle identification number (EuroVIN), the World Market vehicle identification number (WorldVIN), the chassis number, or the vehicle serial number. Second, if the original manufacturer had not affixed a plate of the type and in the location described at S4.6 of Standard 115 (49 CFR 571.115), then the importer would be required to affix a plate in that location stating that the vehicle is "partially exempt" from Standard 115. This plate would refer a person to the driver's door post, where the importer would be required to affix a label with information that cited the joint Transportation/Treasury regulation under which a person directly imports a noncomplying vehicle, identified the location on the vehicle of the original manufacturer's number to be used in lieu of the 17 character VIN, gave the name and address of those bringing the vehicle into compliance with Standard 115, stated the date of importation and of certification, and gave the name and address of the person who made the certification.

Notice of Proposed Rulemaking

In the notice of proposed rulemaking (NPRM) published May 13, 1988 (53 Federal Register 17088), the agency acknowledged the problems with VINS on direct import vehicles and proposed to amend Standard 115 so that a direct importer need not create a VIN or VIN plate in order to comply with United States vehicle identification requirements under Standard 115. NHTSA could not agree that any extant original manufacturer identifier in the S4.6 location would obviate the need for some notice that the vehicle is partially exempt from Standard 115.

The agency believed it would be a relatively simple matter to affix a plate informing an interested person that a vehicle is partially exempt, and refer the person to another label on the door post that would specify the unique identifying number for the vehicle. The agency therefore proposed to require such a plate on any vehicle that did not have the 17-character United States VIN. Because of this proposed approach, the agency believed it was unnecessary to consider NATB's suggestion that a EuroVIN, WorldVIN, chassis, or serial number be exempted from the readability and location requirements in S4.6.

A second way in which NHTSA's proposal varied from the NATB petition was that the agency did not propose to require a lengthy label with a citation to 19 CFR 12.80, and information about the person performing work to bring the vehicle into compliance with Standard 115. The agency proposed instead to require a simplified label that stated where an interested person could find the unique manufacturer identifying number that would be used in lieu of the United States VIN. Further, for consistency, the agency proposed to include labeling requirements under Part 567. It was proposed that paragraph (k) of section 567.4 be deleted and that sections 567.5, 567.6 and 567.7 be redesignated as sections 567.6, 567.7, and 567.8, respectively. Under a new section 567.5 (for the most part former section 567.4(k)), the language regarding labeling requirements for high theft lines imported into the United States would be retained, with minor changes, as section 567.5(a). The proposed section 567.5(b) outlined a requirement for a label for direct import vehicles that would be affixed in one of three locations. This label would state: "Original Manufacturer's Identification Number Substituting for U.S. VIN is located," and direct the reader to the location on the vehicle where the original manufacturer's identification number, placed by the original manufacturer, could be found.

NHTSA also sought comment, particularly from law enforcement officials, on two issues:

(1) Whether the proposed changes could, in some circumstances, increase the fraudulent use of VINs or impede law enforcement actions. As an example, the agency noted that in certain circumstances, vehicles with the proposed FMVSS 115 exemption label would no longer have a VIN visible through the glazing. NHTSA requested comment on whether this situation would create a law enforcement problem by precluding the inspection of VINs on parked and locked vehicles.

(2) Whether the proposal could lead to improper use of VIN exemption plates (e.g., replacing a legitimate VIN), since, under certain circumstances, it would allow an exemption plate where the VIN would be if it had been a passenger car built for the U.S. market.

The Comments and the Agency Response

The agency received eight responses to the NPRM. Four commenters addressed the first question presented in the NPRM, concerning using an exemption plate in lieu of a VIN or other identification number in the S4.6 location. The Automobile Importers of America, Inc. (AIA), Porsche, the International Association of Auto Theft Investigators (IAATI), and the National Automotive Theft Bureau (NATB) recommended that NHTSA require each vehicle to have an identification number visible from the outside of the vehicle. In response to these comments, the agency has adopted a requirement for a plate or label containing the original manufacturer's identification number in the S4.6 location, with a reference to Standard 115.

The agency believes that this solution addresses the agency's initial concern about the possibility of transcription errors while at the same time maintaining an identification number in the place where law enforcement officials are accustomed to see it. In cases where the original manufacturer's identification number is in the S4.6 location and does not conform to part 565, the presence of the identifying notice alongside it will serve to inform law enforcement personnel that the vehicle is a direct import vehicle that has been modified to conform to U.S. safety standards. Any transcription errors would be immediately evident, since the number on the identifying notice should be identical to the original number alongside it. Where the original manufacturer's identification is located elsewhere, the identifying notice will provide the number and also alert an investigating officer that the number is a substitute for the number ordinarily required by FMVSS 115.

Further investigation by the agency has not found any evidence indicating that direct importers have been using a 17-character VIN that they have created themselves; conformity bonds are not released if they do. However, they do create another plate using the original manufacturer's identification number that they install behind the windshield, in the S4.6 location. In the interest of clarity and to the extent direct imports have been a problem to theft investigators and other interested parties, the requirement is being amended. Also, in the NPRM, the notice in the S4.6 location was proposed to read: "FMVSS 115 EXEMPT VEHICLE. SEE DRIVER'S SIDE DOOR POST." After reevaluation, the agency has determined that the wording "FMVSS 115 EXEMPT VEHICLE" may imply that direct importers are being exempted from all aspects of FMVSS 115. It is more accurate to state that the original manufacturer's identification number is used as a substitute for a VIN, required by FMVSS 115.

The following language will therefore be required in the final rule:

SUBSTITUTE FOR U.S. VIN: _____.

SEE FMVSS 115.

With this alternative, law enforcement officials would also know that the passenger car in question does not have a U.S. VIN.

The second question raised in the NPRM, whether the proposal would lead to improper use of VIN exemption plates, was addressed by one commenter. The NATB expressed a belief that it would be very important to prevent any VIN exemption plate from being overlaid on the original manufacturer's identifier in the S4.6 position. NATB commented: "Unless there is a specific anti-overlayment provision included in FMVSS 115 it is a virtual certainty that organized theft perpetrators will take advantage of the situation and affix the VIN exemption notice over the location of the legitimate VIN plate." NATB suggested that the notice be required to be affixed in a location other than the location used by the vehicle's original manufacturer for affixing VIN plates in the same or similar vehicle lines. The agency agrees, and has accordingly adopted the following language in the final rule as paragraph S4.9(c) to ensure the original manufacturer's identification number will not be covered, obscured, or overlaid:

(c) The plate or label required by (b) shall be permanently affixed in a location that conforms to S4.6, in such manner as not to cover, obscure, or overlay any part of any identification number affixed by the original manufacturer, and shall conform to S4.7 and S4.8.

Two commenters expressed concern about the lack of a check digit in the original manufacturer's identification number. Besides noting that lack of a check digit could be a problem, AIA cited errors in transcription which are not caught despite a check digit system, resulting in vehicles with incorrect VINs. AIA suggested that the solution to this problem is to ensure that all entries are transcribed correctly, and that all other regulations are complied with.

In noting that original manufacturer's identification numbers from various makes would not have the benefit of a check digit, Porsche asserted that "[t]his lack of a check-digit negates another of the prime features of the current VIN—the ability to rapidly check for transcription mistakes." Although the agency believes that a check-digit is useful in preventing transcription errors, it regards the risk of error from "home made" VINs as significantly greater. It has therefore concluded that the original manufacturer's identification number should be retained by the direct importer.

Besides the comments summarized above, AIA pointed out to the agency that there is no concept of "model year" in Europe. AIA believed that for this reason, "gray market importers cannot possibly discern a model year to put on the label." NHTSA has accepted this comment from AIA. Accordingly, § 567.4(k)(4)(i) has been amended to read: "Model year (if applicable) or year of manufacture, and line of the vehicle as reported by the manufacturer that produced or assembled the vehicle." Also included is a statement that " 'Model year' is used as defined in § 565.3(h) of this chapter."

IAATI also recommended a separate label that would provide information on the person who performed the work bringing the vehicle into compliance with Standard 115. The rationale for this recommendation is that it would give an investigator a starting point to trace the vehicle through the person performing the compliance work and back to the original manufacturer. The agency believes it is already requiring enough information, on as many as three labels at the door post or alternate positions, without requiring this information also. In the few instances where law enforcement officers or other investigators need this information, they would obtain information about who did the compliance work by contacting the direct importer or NHTSA.

In addition to the comments recommending specific changes in the final rule, the agency also received several comments from Allstate Insurance Company and the Highway Loss Data Institute in general support of the rulemaking. The National Automobile Dealers Association supported the NHTSA proposal and urged NHTSA "to consider the need to readily and clearly identify these vehicles as being direct imports." They believed that the proposed amendments to the VIN standards would "serve to establish a nationally recognized gray market identifier on each vehicle."

Volkswagen of America, Inc. encouraged NHTSA to "promote enforcement of the safety standards for all vehicles regardless of who the manufacturer or importer may be." They noted that although the proposal would eliminate encoding errors in "homemade" VINs, the same result could be had by enforcement of the existing regulation requiring display of the correct VIN on all vehicles.

The agency is aware that this rule will be more effectual for original manufacturer identifiers utilizing Roman letters or Arabic numerals than for manufacturer identifiers which may be used in countries with non-Roman letters. If the use of non-Roman letters becomes a source of confusion, the agency may undertake further remedial action.

Other Changes in the Final Rule

Redesignation of Sections in Part 567

The NPRM proposed that § 567.4(k) be dropped, that §§ 567.5, 567.6, and 567.7 be redesignated as §§ 567.6, 567.7, and 567.8, respectively, and that a new § 567.5 *Special requirements for motor vehicles admitted under 19 CFR 12.80* be added. Upon reevaluation, the agency has decided that rather than redesignating existing provisions in part

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567, and adding new sections with whole paragraphs that are identical to old paragraphs, the same end would be accomplished more simply by adding a

fewer than 3000 vehicles imported per year that will be subject to this rule.

The amendment requires a plate or label on the dash in lieu of the 17-

Federal action significantly affecting the quality of the human environment.

E. Executive Order 12612

CFR 12.80(b)(1)(iii) or 49 CFR part 591 which does not have an identification number that complies with paragraph S4.2, S4.3, and S4.7 of 49 CFR 571.115 at the time of importation, the importer

49 CFR Part 571

[Docket No. 67-08; Notice 5]

RIN 2127-AD12

FOR FURTHER INFORMATION CONTACT:
Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, Room 5320, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 [202-366-

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567, and adding new sections with whole paragraphs that are identical to old paragraphs, the same end would be accomplished more simply by adding a new § 567.4(1) (that would require identification on the vehicle of the original manufacturer's number) after § 567.4(k). This new § 567.4(1) is the same in substance as § 567.5(b) in the notice of proposed rulemaking.

High Theft Lines

49 CFR Part 541 requires that 14 major parts of designated passenger motor vehicle lines be marked with Vehicle Identification Numbers, even if the vehicle was not originally manufactured for the U.S. market. FMVSS 115 does not exempt importers of vehicles not manufactured for sale in the U.S. from complying with the parts-marking requirements of 49 CFR Part 541 for the car lines listed in Appendix A to Part 541. As a result of the agency's decision to require retention of the original manufacturer's VIN, the fourteen designated major parts (§ 541.5(a)) must be marked with the original VIN assigned to the car by its original manufacturer. The subject vehicle *must* be in compliance with the theft prevention standard before it is imported into the United States. The markings must be affixed or inscribed in accordance with the target area requirements designated by the manufacturer that is the original producer who installs or assembles the covered major parts on a line.

Section 567.5(k) applies to direct import high theft lines. § 567.5(1) refers to direct import vehicles without 17-character U.S. VINs. Therefore, if there should be high theft lines that are brought to the U.S. by direct importers, they would have to have three labels in the positions in the passenger car designated in § 567.4(c), namely, the certification label required by § 567.4(a), the compliance with Federal motor vehicle theft prevention standard label required by § 567.4(k), and the label designating where the original manufacturer's identification number may be found, as required by § 567.4(1).

Impact Assessments

A. Executive Order 12291

NHTSA has considered costs and other factors associated with this rule, and concludes that this rule is non-major under Executive Order 12291. The agency expects this rule to affect a small segment of the automotive community: those who import nonconforming vehicles into the United States under a promise to bring them into compliance. NHTSA estimates that there will be fewer than 3000 vehicles imported per year that will be subject to this rule.

The amendment requires a plate or label on the dash in lieu of the 17-character VIN plate the Standard previously required, and a statement informing an interested person where to look for the original manufacturer's unique identifying number that is used in place of the 17 character United States VIN. NHTSA estimates that the per vehicle cost of implementing this amendment will not be significant, i.e., the amount expended by importers for the labels designating where the original manufacturer's identification number may be found, as required by § 567.4(1).

The rule therefore would not have an annual effect on the economy of $100 million; would not result in a major increase either in motor vehicle production costs or prices; and would not have significant adverse impacts on competition or market incentives.

B. Department of Transportation Procedures for Improving Government Regulations

For the reasons set out in the preceding discussion, the agency has determined that this rule is not significant under DOT procedures. Further, the costs associated with this final rule, would be so minimal that preparation of a full regulatory evaluation is unwarranted.

C. Small Business Impact

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. A substantial number of direct importers are individuals importing cars for their own use. There are small entities in the direct import business. However, NHTSA finds that when this rule goes into effect, it will not create a new net cost increase since under existing regulations, importers must create a plate with a vehicle identification number. Therefore, the final rule should not result in other than nominal costs either to small direct import businesses, or to small entities that may purchase vehicles from any such business. For the preceding reasons, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Environmental Impact

Under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this final rule, and has determined that this final rule would not be a major Federal action significantly affecting the quality of the human environment.

E. Executive Order 12612

The agency has analyzed this action under the principles and criteria of Executive Order 12612, and has determined that this rule does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

F. Paperwork Reduction Act

The information collection requirements in this rule have been submitted to and approved by the Office of Management and Budget (OMB), pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The OMB control number is 2127–0510, and the information collection authority has been approved through November 30, 1991.

List of Subjects

49 CFR Part 567

Labeling, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, title 49 CFR part 567, *Certification,* and 49 CFR part 571, *Federal Motor Vehicle Safety Standards,* are amended as follows:

PART 567—[AMENDED]

1. The authority citation for part 567 is revised to read as follows:

Authority: 15 U.S.C. 1392, 1397, 1401, 1403, and 1407; 15 U.S.C. 1912 and 1915; 15 U.S.C. 2021, 2022, and 2026; delegation of authority at 49 CFR 1.50.

2. Paragraph (k)(4)(i) of § 567.4 is revised to read as follows:

§ 567.4 [Amended]

* * * * *

(k) * * *

(4) * * *

(i) Model year (if applicable) or year of manufacture and line of the vehicle, as reported by the manufacturer that produced or assembled the vehicle. "Model year" is used as defined in § 565.3(h) of this chapter. "Line" is used as defined in § 541.4 of this chapter.

* * * * *

3. A new paragraph (l) is added to § 567.4 as follows:

* * * * *

(l)(1) In the case of a passenger car imported into the United States under 19 CFR 12.80(b)(1)(iii) or 49 CFR part 591 which does not have an identification number that complies with paragraph S4.2, S4.3, and S4.7 of 49 CFR 571.115 at the time of importation, the importer shall permanently affix a label to the vehicle in such a manner that, unless the label is riveted, it cannot be removed without being destroyed or defaced. The label shall be in addition to the label required by paragraph (a) of this section, and shall be affixed to the vehicle in a location specified in paragraph (c) of this section.

(2) The label shall contain the following statement, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, with the location on the vehicle of the original manufacturer's identification number provided in the blank: ORIGINAL MANUFACTURER'S IDENTIFICATION NUMBER SUBSTITUTING FOR U.S. VIN IS LOCATED _____.

PART 571—[AMENDED]

4. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.115 [Amended]

5. S.2 is amended by adding the words "or 49 CFR 591" after the words "19 CFR 12.80(b)(1)(iii)."

6. A new paragraph S4.9 is added to § 571.115 to read as follows:

* * * * *

S4.9(a) A passenger car imported into the United States under 19 CFR 12.80(b)(1)(iii) or 49 CFR part 591 shall retain any identification number affixed by the original manufacturer.

(b) A vehicle described in paragraph (a) of this section shall have a plate or label that contains the following statement in characters with a minimum height of 4 mm, with the identification number assigned by the original manufacturer provided in the blank: SUBSTITUTE FOR U.S. VIN: _____. SEE FMVSS 115.

(c) The plate or label required by paragraph (b) of this section shall be permanently affixed in a location that conforms to S4.6, in such manner as not to cover, obscure, or overlay any part of any identification number affixed by the original manufacturer, and shall conform to S4.7 and S4.8.

Issued on: October 26, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-25782 Filed 11-1-89; 8:45 am]

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49 CFR Part 571

[Docket No. 87-09; Notice 5]

RIN 2127-AD12

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a new requirement for lap/shoulder safety belts to be installed in all forward-facing rear outboard seating positions in convertible passenger cars, light trucks and multipurpose passenger vehicles (e.g., passenger vans and utility vehicles), and small buses. Rear-seat lap/shoulder belts are estimated to be even more effective than rear-seat lap-only belts in reducing fatalities and moderate-to-severe injuries. As safety belt use in the rear seat of these vehicle types increases, the greater effectiveness of rear-seat lap/shoulder belts should yield progressively greater safety benefits. NHTSA also anticipates that this rule will achieve benefits by helping to increase safety belt use in rear seating positions of these vehicle types, by providing rear-seat occupants with maximum safety protection when they buckle up.

This rule also establishes a requirement for lap/shoulder belts to be installed at the driver's seat and at any other front outboard seating position in small buses. NHTSA believes that lap/shoulder safety belts in these small buses will offer the same benefits as lap/shoulder belts in those positions offer to occupants of passenger cars, light trucks, and light multipurpose passenger vehicles.

DATES: The amendments of S7.1.1.3 and S7.1.1.5 are effective on September 1, 1991. All the other amendments made by this rule take effect on May 1, 1990. These requirements apply to convertible passenger cars, light trucks, light multipurpose passenger vehicles, and small buses manufactured on or after September 1, 1991. Convertible passenger cars, light trucks, light multipurpose passenger vehicles, and small buses manufactured before September 1, 1991 may also comply with these requirements.

Any petitions for reconsideration of this rule must be received by NHTSA no later than December 4, 1989.

ADDRESS: Any petitions for reconsideration should refer to Docket No 87-09; Notice 5 and be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, Room 5320, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background

On January 1, 1968, the initial Federal Motor Vehicle Safety Standards took effect. One of those standards was Standard No. 208, Occupant Crash Protection (49 CFR 571.208), which required the installation of lap/shoulder safety belts at the driver's and right front passenger's seating positions of passenger cars, and either lap-only or lap/shoulder safety belts at every other designated seating position. Another of the initial safety standards that took effect on January 1, 1968 was Standard No. 210, Seat Belt Assembly Anchorages (49 CFR 571.210), which specified location and strength requirements for the anchorages used to hold the safety belts to the passenger car during a crash. Standard No. 210 required passenger car manufacturers to provide anchorages for lap/shoulder belts for each forward-facing front and rear outboard seating position in all cars other than convertibles. NHTSA subsequently amended both of these standards to extend their applicability to trucks, multipurpose passenger vehicles (MPVs), and buses. However, when Standard No. 210 was extended to these additional vehicle types, NHTSA did not require the manufacturers to provide upper torso (i.e., shoulder belt) anchorages for rear outboard seating positions in these other vehicle types or in convertible passenger cars.

Studies of occupant protection from 1968 forward show that the lap-only safety belts installed in rear seating positions are effective in reducing the risk of death and injury. See, for example, the studies cited in the ANPRM on this subject; 52 FR 22820, June 16, 1987. However, the agency believes that rear-seat lap/shoulder safety belts would be even more effective. NHTSA estimates that rear-seat lap-only belts reduce the risk of death by 24–40 percent, while rear seat lap/shoulder belts reduce that risk by 32–50 percent. The somewhat greater effectiveness of lap/shoulder belts vs. lap-only belts in the rear seat results in progressively greater actual safety benefits for rear-seat occupants, to the extent that those safety belts are, in fact, used. As recently as 1981–82, only two percent of rear-seat occupants used their safety belts. At that level of belt use, there are very few safety benefits from

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requiring rear-seat lap/shoulder belts instead of lap-only belts. However, belt use in the rear seat has steadily risen, with 16 percent of rear seat occupants buckling up in 1987. As rear-seat belt use continues to rise, the incremental benefits of rear-seat lap/shoulder belts can be realized.

The increase in belt use in rear seats was one of the factors reflected in the agency's decision to grant a petition by the Los Angeles Area Child Passenger Safety Association asking NHTSA to establish a requirement for rear-seat lap/shoulder safety belts. After granting this petition, NHTSA published an advance notice of proposed rulemaking (ANPRM) on June 16, 1987 (52 FR 22818). Thirty-four commenters responded to the ANPRM's request for comments on the need for rulemaking action to require lap/shoulder safety belts in rear seating positions.

After considering these comments, NHTSA concluded that several factors had changed since the agency had previously examined this issue and determined that it was appropriate to give vehicle manufacturers the option of installing either lap-only belts or lap/shoulder belts in rear seats. Among the changed factors were the substantial increase in rear seat safety belt use and the substantial decrease in costs of a requirement for rear-seat lap/shoulder belts, because of manufacturers voluntarily equipping more and more of their vehicles with rear seat lap/shoulder belts. After analyzing the effects of these changed factors and the comments on the ANPRM, NHTSA tentatively determined that a requirement for lap/shoulder belts would now be appropriate. Accordingly, NHTSA published a notice of proposed rulemaking (NPRM) on November 29, 1988 (53 FR 47982).

This NPRM was a comprehensive proposal that proposed requirements for passenger cars and light trucks, MPVs, and small buses to be equipped with lap/shoulder safety belts at all forward-facing rear outboard seating positions. Additionally, the NPRM proposed that these lap/shoulder safety belts be equipped with a particular type of retractor, that such belts be integral (i.e., the shoulder belt could not be detachable from the lap belt), and that such belts comply with some of the comfort and convenience requirements specified in section S7.4 of Standard No. 208.

More than 70 comments were received on this NPRM. The issue of whether passenger cars other than convertibles should be equipped with rear seat lap/shoulder belts was straightforward and noncontroversial, with only two commenters suggesting some modifications of the agency's proposal to require all 1990 and subsequent model year passenger cars to be equipped with rear seat lap/shoulder belts. To ensure the earliest possible implementation of a requirement for rear-seat lap/shoulder belts in passenger cars, on June 14, 1989, NHTSA published a final rule addressing only those vehicles (54 FR 25275). That rule requires rear-seat lap/shoulder belts in all passenger cars manufactured on or after December 11, 1989.

This rule addresses all of the other issues that were presented in the November, 1988 NPRM on this topic. For the convenience of the reader, this rule uses the same organization and format as the NPRM did.

Requirements of this Rule

1. Seating Positions Subject to These Requirements

The NPRM proposed that lap/shoulder belts be required in rear seats at outboard seating positions only. Some commenters suggested that technologies and designs are available to provide lap/shoulder belts at rear center seating positions, and that NHTSA should further examine this issue. The agency explained in the NPRM that there are more technical difficulties associated with any requirement for lap/shoulder belts at center rear seating positions, and that lap/shoulder belts at center rear seating positions would yield small safety benefits and substantially greater costs, given the lower center seat occupancy rate and the more difficult engineering task. Accordingly, this rulemaking excluded further consideration of a requirement for center rear seating positions. None of the commenters presented any new data that would cause the agency to change its tentative conclusion on this subject that was announced in the NPRM.

The NPRM also noted that seating positions adjacent to aisleways in some vans might not be "outboard designated seating positions" as defined at 49 CFR 571.3, because those aisle seats could be more than 12 inches from the inside of the vehicle. General Motors (GM) stated its belief that this discussion showed the agency's intent to exclude seats that border aisleways from the lap/shoulder belt requirement. GM suggested that the reasons for excluding these seating positions from the lap/shoulder belt requirement were the costs and/or practical difficulties that would be presented if aisleway seating positions were required to be equipped with lap/shoulder belts. Specifically, GM stated that locating the anchorage for the upper end of the shoulder belt on the aisle side of the vehicle would stretch the shoulder belt across the aisleway and cause entry and exit problems for occupants of seating positions to the rear of the aisleway seating position. To avoid such difficulties, the anchorage for the upper end of the shoulder belt could be moved to the roof of the vehicle. However, roof structural modifications would have to be made to accommodate the anchorage, and these modifications would impose disproportionately high costs. GM stated in its comments that these reasons would apply with equal force to all seats adjacent to aisleways, regardless of whether such seats were more than or less than 12 inches from the inside of the vehicle.

NHTSA has determined that these comments have merit. The agency did not mean to suggest that shoulder belts should be required at seating positions where they would obstruct an aisle designed to give access to rear seating positions. Accordingly, this rule has been modified from the proposal to specify that these rear-seat lap/shoulder belt requirements apply to rear outboard seating positions except any outboard seating positions that are adjacent to a walkway located between the seat and the side of the vehicle to allow access to more rearward seating positions. Of course, in those cases where manufacturers are able to design and install lap/shoulder belts at seating positions adjacent to aisleways without interfering with the aisleway's purpose of allowing access to more rearward seating positions. NHTSA encourages the manufacturers to do so. It should also be noted that those rear seating positions at which lap/shoulder belts are not installed voluntarily or in response to a regulatory requirement are required by Standard No. 208 to be equipped with lap-only safety belts, which have been proven effective in reducing the risk of death and injury.

2. Types of Rear Seats Subject to These Requirements

The NPRM proposed limiting these requirements to forward-facing rear outboard seats, because the agency is unaware of any data showing that occupants of center-facing or rear-facing seating positions would be significantly better protected by lap/shoulder belts than by lap-only belts. The NPRM also referred to an April 8, 1988 letter to Mr. Ohdaira of Isuzu Motors, in which NHTSA stated that S7.1.1 of Standard No. 208 requires safety belts on swivel seats installed at front outboard seating positions to adjust to fit occupants "with the seat in any position." Because the same regulatory language would apply to swivel seats installed at rear outboard seating positions if the proposal were adopted as a final rule, the NPRM proposed to add express regulatory language to S7.1.1 to codify the interpretation.

Three commenters responded to this discussion in the NPRM. Ford, Nissan, and Toyota raised substantially the same points in their comments. These commenters all suggested that the agency ought to require swivel seats to provide lap/shoulder belts for occupants when the seats are forward-facing, but permit occupants to be restrained by lap-only belts when the swivel seats are adjusted to some position other than forward-facing. These manufacturers argued that the overall protection of upper torso restraints (i.e., shoulder belts) on occupants of center-facing seating positions is unclear. For example, in certain instances, the design standard in Australia prohibits manufacturers from providing upper torso restraints at center-facing seating positions. Further, these manufacturers stated that they knew of no crash data suggesting the need for such a requirement. According to these commenters, the absence of demonstrable safety benefits associated with such a requirement combined with the demonstrable technological problems and costs associated with such a requirement should lead the agency to require only lap belts when swivel seats are adjusted to a position other than forward-facing.

NHTSA was persuaded by these comments. Indeed, as Ford noted in its comments, just as the NPRM stated that no data show that occupants of center-facing or rear-facing seats would be significantly better protected by lap/shoulder belts instead of lap-only belts, no data show that occupants of swivel seats adjusted to the center-facing or rear-facing positions would be significantly better protected by lap/shoulder belts instead of lap-only belts. Accordingly, this final rule adds language to Standard No. 208 that requires swivel seats to provide lap/shoulder belts for occupants when the seat is adjusted to the forward-facing position and permits swivel seats to provide lap-only belts for occupants when the seat is adjusted to some position other than forward-facing. The Ohdaira interpretation is, therefore, overruled to the extent that it is inconsistent with this new language in Standard No. 208.

In its comments, Ford indicated that it would be appropriate for this preamble to discuss a type of seat Ford is considering installing in future vehicle models. This seat was described as a bench seat that converts from forward-facing to rear-facing. Under the language added to Standard No. 208 by this rule, all seats that can be adjusted to a forward-facing position and some other position, regardless of whether such seats are swivel seats, convertible seats of the sort described in Ford's comment, or any other such seat, must provide lap/shoulder belts when in the forward-facing position and may provide lap-only belts when adjusted to some position other than forward-facing.

3. Vehicle Types Subject to These Requirements

a. Passenger Cars

In the NPRM, the agency proposed to make the requirement for rear seat lap/shoulder belts apply to all passenger cars, including convertibles. As previously discussed, the requirements for passenger cars other than convertibles were published in a June 14, 1989 final rule (54 FR 25275). The NPRM proposed that rear seat lap/shoulder belts be required on convertible passenger cars manufactured on or after September 1, 1991.

In its comments, Volkswagen asked for an additional year of leadtime, until September 1, 1992, before rear seat lap/shoulder belts must be installed in convertible passenger cars. According to this commenter, the convertible version of its Golf model (the Cabriolet) is not currently equipped with rear seat lap/shoulder belts, was not originally designed to accommodate such belts, and will need substantial modifications to its current design if the car is to accommodate such belts.

No change has been made in response to this comment. The NPRM noted that it was more difficult to install rear seat lap/shoulder belts in convertibles than in other passenger cars, but that, in spite of these difficulties, at least three different manufacturers had rear-seat lap/shoulder belts in their 1988 model year convertibles. Accordingly, the agency proposed to require convertible passenger cars to be equipped with rear seat lap/shoulder belts, but to allow two years more leadtime than was proposed for other passenger cars, in recognition of the greater technical difficulties. Volkswagen's comment appears to be that more than two years of additional leadtime is needed to overcome the greater technical difficulties associated with convertibles, although the comment does not include any explanation or analysis of why this is so. A manufacturer's unsubstantiated desire for additional leadtime is not a sufficient basis for the agency to postpone the proposed September 1, 1991 effective date for rear seat lap/shoulder belts in convertibles. Therefore, this rule adopts the proposed requirement.

b. Light Multipurpose Passenger Vehicles

This vehicle type consists primarily of passenger vans with a seating capacity of 10 persons or less and utility vehicles and other off-road vehicles. None of the commenters suggested any particular problems that a requirement for rear-seat lap/shoulder belts would impose on MPVs in general. Toyota repeated its position that the voluntary installation of rear-seat lap/shoulder belts by manufacturers in all vehicle types made it unnecessary for NHTSA to proceed with this rulemaking. NHTSA responded at length to similar comments by the vehicle manufacturers in the preamble to the NPRM; *see* 53 FR 47984.

Ford did not object to the proposed general requirement for rear-seat lap/shoulder belts in light MPVs, but asked that open-body type MPVs be excluded from the requirement. Ford explained its comment by stating that its Bronco II utility vehicle has a removable roof over the rear passenger and cargo area. According to Ford's comments, "Because the removable roof on this vehicle extends below the shoulder reference point, it would be impossible to obtain a good shoulder belt fit if the shoulder belt anchorages were to be located on the non-removable side panels of the vehicle." For these reasons, Ford suggested that open-body type MPVs be exempted from these requirements or that the proposed requirements be revised to make clear that rear-seat lap/shoulder belts are not required in open-body type MPVs when the roof is removed.

NHTSA agrees with Ford's assertions that open-body type MPVs present greater technical difficulties for the installation of rear seat lap/shoulder belts than other MPVs or convertible passenger cars. For example, the rear seats are closer to the rear of the vehicle and the rear seats are higher in relation to the vehicle floor and sides in most open body type MPVs than in most convertible passenger cars. The agency concurs with Ford's assertion that these factors tend to make the shoulder belt geometry more difficult in open-body type MPVs. However, the agency does not believe that these factors present insurmountable engineering difficulties. Instead, NHTSA believes that these problems can be solved in a relatively

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straightforward manner. While manufacturers cannot use the exact same designs used for convertible passenger cars on open-body type MPVs, the convertible passenger car designs can be modified for use in open-body type MPVs. NHTSA concludes that if it is practicable to offer the increased protection of shoulder belts at rear outboard seating positions, and the added costs are comparable to the costs for other MPVs and convertible passenger cars, there is no reason to exclude open-body type MPVs from the requirement for rear seat lap/shoulder belts in MPVs. Hence, no change has been made to the proposed requirements for MPVs in response to this comment by Ford.

The agency notes that this means that lap/shoulder belts will be required in the rear outboard seats of open-body type MPVs, while lap-only belts will be permitted in front outboard seats of those vehicles. (In practice, however, manufacturers have voluntarily provided front-seat lap/shoulder belts in these vehicles.) NHTSA is in the process of re-examining the occupant protection requirements for the front seating positions in open-body type MPVs and other light trucks and vans, with particular consideration of whether automatic occupant protection should be required in these vehicles. NHTSA will address the discrepancy between the regulatory requirements for front and rear seat occupant protection in open-body type MPVs in the course of that re-examination.

c. Light Trucks and Small Buses

All commenters that addressed the proposed requirements for rear-seat lap/shoulder belts in light trucks supported the proposal. Similarly, no commenters raised any objections to the proposed rear seat lap/shoulder belt requirements in small buses other than school buses. Thus, those proposed requirements are adopted, for the reasons explained in the NPRM.

However, several commenters, primarily school bus manufacturers and operators, objected to the proposed requirements for rear-seat lap/shoulder belts in small school buses. Thomas Built, a school bus manufacturer, questioned the effectiveness of rear-seat lap/shoulder belts in certain small school buses ("body on chassis" buses). The Connecticut Operators of School Transportation Association (COSTA) also questioned the effectiveness of lap/shoulder belts in small school buses, by voicing concerns about how the additional stress on the side walls of a small school bus would affect its compliance with Standard No 221, School Bus Body Joint Strength (49 CFR 571.221). Thomas Built also raised the issue of different levels of safety protection for passengers on small school buses, with lap/shoulder belts for outboard seating positions and lap-only belts for the inboard seating positions. The National School Transportation Association (NSTA) likewise objected to the different levels of occupant protection that would result if some seating positions were equipped with lap/shoulder belts while others were equipped with lap-only belts. Blue Bird, another school bus manufacturer, raised similar objections, claiming that NHTSA occupant protection standards for school buses are "disorganized and confusing," and suggested that the agency undertake rulemaking to separate the occupant protection requirements for school buses from the occupant protection standards for passenger cars and light trucks. Additionally, Blue Bird argued the requirements proposed in the NPRM would require too many varieties of occupant protection for small school buses.

NHTSA is concerned if Blue Bird or any other school bus manufacturer is having difficulty understanding the occupant protection requirements applicable to the different types of vehicles that can be used to transport school children. A brief summary of those requirements might be helpful. If school systems use a nine or fewer passenger vehicle to transport school children, that vehicle is not a "school bus" for the purposes of the Federal motor vehicle safety standards. Accordingly, that vehicle is not subject to any of the requirements in Standard No. 222, School Bus Passenger Seating and Crash Protection (49 CFR 571.222). Instead, that vehicle would have to comply with the applicable requirements in Standard No. 208. As a result of this rule published today and the agency's previous rulemakings, all front and rear outboard seating positions in nine-passenger light vehicles must be equipped with lap/shoulder safety belts, irrespective of whether the nine-passenger light vehicle is classified as a passenger car, truck, or an MPV.

If the vehicle used to transport school children can accommodate 10 or more passengers, the vehicle is a "school bus" for the purposes of the Federal motor vehicle safety standards. Every vehicle that is a "school bus" must comply with the occupant protection requirements of Standard No. 222. In the case of school buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds, no safety belts are required at seating positions other than the driver's seat. Instead, Standard No. 222 sets forth requirements that protect occupants of rear seating positions in large school buses by means of a concept called "compartmentalization." Persons interested in learning more about the concept of compartmentalization and occupant protection in large school buses may wish to review the agency's notice terminating rulemaking to specify installation requirements for voluntarily installed safety belts on large school buses. This notice was published March 22, 1989 at 54 FR 11765.

In the case of school buses with a GVWR of 10,000 pounds or less, Standard No. 222 requires that occupants be protected both by safety belts at seating positions other than the driver's seat and by most of the features of compartmentalization. This double means of occupant protection reflects the more severe "crash pulse" or deceleration experienced by lighter vehicles as compared with heavier vehicles in similar collisions. Section S5(b) of Standard No. 222 requires that small school buses meet the requirements of Standard No. 208 as those requirements apply to MPVs. The provisions of Standard No. 208 currently require MPVs (and small school buses, since the requirements for these two vehicle types are linked) to be equipped with lap/shoulder safety belts at front outboard seats and either lap/shoulder belts or lap-only belts at all other seating positions.

Upon further consideration, NHTSA has determined that the occupant protection requirements for small school buses should be considered separately, not as an aspect of this rulemaking action. In the past, NHTSA has recognized the special importance of issues related to school buses by examining many of those issues in rulemaking actions focused exclusively on school buses, instead of examining those issues as one part of a rulemaking addressing many types of vehicles. This policy has allowed both the agency and the public to consider fully the implications of any proposed action on school bus safety. NHTSA believes it is appropriate to continue following this policy. Accordingly, this rule continues to permit small school buses to be equipped with either lap-only or lap/shoulder safety belts at all rear seating positions, but small school buses must also comply with most of the compartmentalization requirements for large school buses. All other small buses will be required to be equipped with rear-seat lap/shoulder safety belts, but will not be required to comply with the compartmentalization requirements.

The NPRM acknowledged that small buses other than school buses are not currently required to have lap/shoulder safety belts at front outboard seating positions, even though front seats generally present a more hostile crash environment than rear seats. As noted above, small school buses are subject to the occupant protection requirements for MPVs, and small MPVs have long been required to have lap/shoulder safety belts at front outboard seating positions. No commenters suggested any reasons why front-seat lap/shoulder belts should not be required in small buses, just as they are required in small school buses. This rule adopts such a requirement.

4. Vehicle Types Not Subject to These Requirements

a. Vehicles with a GVWR of More Than 10,000 Pounds

NHTSA has traditionally used GVWRs as dividing lines for the purposes of applying occupant crash protection standards. These groupings reflect the differences in the vehicles' functions and crash responses and exposure. The NPRM proposed to use such a dividing line by limiting the rear seat lap/shoulder belt requirements to vehicles with a GVWR of 10,000 pounds or less. No commenters addressed this issue, and this rule adopts the proposal.

b. Motor Homes

The NPRM proposed to exclude vehicles that are "motor homes" from the rear-seat lap/shoulder belt requirements, because lap/shoulder belts at rear seating positions might interfere with the residential purposes of those seats and because the agency had no evidence of significant potential benefits from lap/shoulder belts, instead of the currently permitted option for lap/shoulder or lap-only belts, at these seating positions. The NPRM also proposed a specific definition of "motor home." These proposed requirements are adopted in this rule.

5. Retractor Types Required for Rear Seat Lap/Shoulder Belts

Retractors at driver's seat in small buses. The NPRM proposed to require that the lap/shoulder belt assembly installed at the driver's seating position of small buses include an anti-cinch automatic locking retractor (ALR) on the lap belt portion. Both Ford and Chrysler objected to this proposed requirement, stating that it would preclude the use of the continuous loop lap/shoulder belt system in small buses. The continuous loop system, currently used on most manual lap/shoulder belt systems in passenger cars, uses a single emergency locking retractor (ELR) on one end of the belt system and the other end of the belt system is fixed. The ELR then retracts both the lap and shoulder belt portions of the belt system. Ford and Chrysler each commented that they currently use a continuous loop system for the lap/shoulder belts that they voluntarily install at the front outboard seating positions of their small buses, and that they knew of no safety justification for a requirement that would prohibit the use of continuous loop system in small buses, as the proposed requirement for an ALR for the lap belt would have the effect of doing. NHTSA was persuaded by these comments. This rule has been amended to permit the belt systems at front outboard seating positions in small buses to be equipped with either an ELR or an anti-cinch ALR for the lap belt portion.

Retractors for rear seats and child safety seats. The NPRM contained a detailed discussion of the agency's previous statements on this subject, and repeated the agency's previous conclusion that only ELRs should be permitted as the retractor for the lap belt portion of the lap/shoulder belt system. *See* 53 FR 47987–47989; November 29, 1988 The agency's conclusion was based on the fact that ELRs for the lap belt made the belt system more comfortable and convenient for adult occupants, thereby tending to increase use of the belt system. Although active children can make some child restraint systems unstable if the child restraint is secured by a lap belt that incorporates an ELR, NHTSA knew of no data to show that this potential instability would affect the safety performance of the child restraint in motor vehicle crashes. Those parents that wanted to eliminate the potential instability of child restraints, even if the instability did not have any demonstrable effect on safety, could purchase locking clips. These locking clips can prevent movement of belts equipped with an ELR.

NHTSA received many comments on this discussion and the accompanying proposal. Many pediatricians and other medical professionals, as well as advocates of child safety, associations representing the insurance industry, and manufacturers of child safety seats, commented that it was important that the belt system in the vehicle be capable of tightly securing a child seat, without resort to any additional hardware like locking clips. The commenters suggested differing means of achieving this end. Some of these commenters advocated that this rule should specify the use of only ALRs in the lap belt portion, because ALRs automatically tighten down to secure the child seat. Other of these commenters, such as the Los Angeles Area Child Passenger Safety Association, urged the agency to draft this rule to require the use of convertible retractors similar to those installed in some General Motors vehicles. These convertible retractors function as ELRs normally, to ensure comfort for adult occupants. When the belt webbing is fully extended, however, the retractors convert to ALRs, to tightly secure child seats. Other of these commenters suggested that the agency could ensure that these rear-seat lap/shoulder belt systems would tightly secure child seats by following the course of action being considered for recommendation by a Society of Automotive Engineers (SAE) Task Force. That task force may recommend that safety belts which incorporate ELRs in the lap belt or lap belt portion of a belt assembly shall include a means for locking the lap belt when it is used with a child seat. Instead of specifying the use of some specific technology, like ALRs or convertible retractors, this approach sets forth the desired goal and permits manufacturers to use any available technology to achieve that goal.

Some of the vehicle manufacturers, such as Nissan and Toyota, believe that there is no need for any further requirements. According to these commenters, any persons wishing to secure a child seat at a seating position whose lap belt is equipped with an ELR can cause the retractor to perform like an ALR simply by using a locking clip. Volvo commented that the agency ought to permit the use of a continuous loop lap/shoulder belt. Volvo asserted that its design of the continuous loop system uses friction at the loop in the buckle to achieve an effect similar to that which would be obtained by using a locking clip. In Volvo's opinion, this lap/shoulder belt system is the best means of both securing child safety seats and ensuring comfort for other occupants of the belt system. Chrysler commented that it was considering modifications to the buckle latchplate as a means of accomplishing the same effect as would locking clips for its belt assemblies equipped with ELRs.

NHTSA has reached the following conclusions after reexamining the available information in light of these comments. Nothing in these comments or the available information shows that low-speed movement of child safety seats actually reduces to any significant extent the effectiveness of those seats in crashes. However, the low-speed

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movement of child safety seats held by lap belts that use an ELR seems to have given rise to questions and concerns about the safety and effectiveness of child seats when used with a belt that incorporates an ELR. Even if these questions and concerns have not been substantiated, the public may not be as likely to use child safety seats if there are perceived questions about the effectiveness of those seats. NHTSA has concluded that it is appropriate to take action to remove these perceived questions, so as to maintain public trust and confidence in the efficacy of child seats.

The agency was persuaded by the comments asserting that it would be unnecessarily restrictive to require the use of ALRs on the lap belt portion of rear seat lap/shoulder belts, because there are design features other than incorporating an ALR that are as effective in ensuring that the belt system can tightly secure a child safety seat and because such a feature could reduce safety belt use by adult occupants. NHTSA has devised an approach in this final rule that will ensure comfort for adult occupants and tight securing of child safety seats. First, this rule requires that any lap belt or lap belt portion of a lap/shoulder belt installed at an outboard designated seating position in compliance with Standard No. 208 shall be equipped with an ELR. This requirement will take effect on September 1, 1991 for passenger cars, as well as the vehicle types addressed in this rule.

Second, this final rule requires that safety belts that incorporate an ELR in the lap belt or lap belt portion of a lap/shoulder belt shall provide some means other than an external device that requires manual attachment or activation that will prevent any further webbing from spooling out until that means is released or deactivated. This requirement will also take effect on September 1, 1991 for passenger cars and the vehicle types addressed in this rule. The purpose of this requirement is to ensure that child safety seats can be tightly secured. This requirement will not allow vehicle manufacturers to provide "locking clips" to comply with this requirement. However, any means that can function without additional manual actions can satisfy this requirement. For instance, the convertible retractors on some GM vehicles would comply with this requirement. Additionally, devices like Volvo's are acceptable if those devices do not require any further manual actions to prevent webbing spool out. This approach is intended to allow vehicle manufacturers the freedom to choose whatever approach they prefer to prevent webbing spool out for ELRs, while ensuring that whatever approach is chosen will be effective.

6. The Requirements With Which Rear Seat Lap/Shoulder Belts Must Comply

The NPRM did not propose to require any crash testing requirements for rear-seat lap/shoulder belts, for several reasons. First, neither dummy positioning procedures nor testing procedures for rear seat occupants have yet been developed. In fact, the rear seats are generally removed from vehicles when conducting compliance testing for occupant protection for the front seating positions, to allow the specified weight distribution to be more easily achieved and to permit the installation of additional instrumentation. Second, the rear seating positions offer a generally more benign crash environment than the front seating positions. Accordingly, the agency concluded that it could not justify delaying a proposal for rear-seat lap/shoulder belts until it was able to propose a requirement for dynamic testing of those safety belts. Several commenters stated that they agreed with the agency's decision not to delay this rulemaking, but suggested that the agency ought to move expeditiously to establish crash testing requirements for rear seat occupants. NHTSA will consider these comments when it establishes its priorities for future activities in the area of occupant protection.

As an adjunct to the decision not to require crash testing of rear-seat lap/shoulder belts, the agency proposed to require that rear-seat lap/shoulder belts be integral. Section S4.1.2.3.1 of Standard No. 208 specifies that manual safety belts installed at front outboard seating positions must be either (a) integral lap/shoulder belts or (b) crash-tested lap-only belts such that the car complies with the occupant protection requirements with test dummies restrained only by the lap belts. However, since the agency cannot at this time promulgate any crash testing requirements for rear-seat safety belts, NHTSA believes it is appropriate to require that rear-seat lap/shoulder belts installed in compliance with this rule be integral; i.e., the lap belt must not be detachable from the shoulder belt.

Several commenters suggested that the requirement for integral lap/shoulder belts should not apply to certain types of seats or vehicles, because of special difficulties posed for those seats or vehicles. In response to these comments, NHTSA has carefully reexamined its proposal to require that all rear seat lap/shoulder belts installed in compliance with this rule be integral. The agency prefers to retain the proposed requirement, for the same reasons that the requirement was proposed. That is, to the extent that the lap belt is detachable from the shoulder belt and the lap belt is used without the shoulder belt, the enhanced safety protection offered by lap/shoulder belts will not be achieved. The agency's responses to the comments suggesting that there are some seating positions or vehicles in which rear outboard lap/shoulder belts should not be required to be integral are as follows:

a. *Convertible Passenger Cars.* ASC, Inc., a company that converts hardtops into convertibles, commented that it did not believe that rear-seat lap/shoulder belts installed in convertibles should be required to be integral. According to ASC's comments, a detachable shoulder belt that is not buckled would still offer the occupant the protection of the lap-only belt. While this comment is true, the purpose of this rulemaking is to ensure that rear-seat occupants will enjoy even greater safety protection than is afforded by lap-only belts. Detachable shoulder belts would not serve this purpose.

ASC's comment then asserted that "the detachability feature is essential for ASC to continue to manufacture at a competitive price a majority of its present convertible production which is already equipped with three point lap-shoulder safety belts." Accordingly, ASC believed that a requirement for integral rear-seat lap/shoulder belts would have a "significant negative impact on its business." The agency has previously stated that it is typically more difficult to install rear-seat lap/shoulder belts in convertibles than in sedans or coupes. However, the 1988 convertible models produced by BMW, Mercedes-Benz, and Saab were all equipped with integral lap/shoulder belts at rear outboard seating positions. These voluntary actions by convertible manufacturers showed that the technical difficulties associated with integral rear seat lap/shoulder belts in convertibles can be overcome. It may well cost ASC, Inc. or other converters more to equip a convertible with integral rear-seat lap/shoulder belts than it would cost a high volume manufacturer. However, ASC provided no data or cost estimates that would permit the agency to estimate the cost differential for rear-seat lap/shoulder belts installed by high volume manufacturers and converters. Based on the available information, NHTSA concludes that it is unlikely that any such cost differential would have more than an insignificant effect on the demand for convertibles produced by converters.

NHTSA repeats its previous acknowledgements that that it will cost manufacturers more to equip convertibles with integral rear seat lap/shoulder belts than it will cost to equip sedans and coupes with those safety belts. In its comments, Volkswagen stated that it would have to incur tooling costs of $1.2 million to install integral rear-seat lap/shoulder belts in its convertibles, with variable costs of an additional $60 per vehicle to install integral lap/shoulder belts instead of lap-only belts. NHTSA estimates that these costs would result in a consumer cost increase of $90 per vehicle. Even accepting these costs as accurate, NHTSA does not believe that a $90 cost increase for convertibles, which already cost substantially more than the hardtop version of the same vehicle, will have any significant negative impacts on the demand for convertibles, even those produced by converters.

To the extent that these costs result in some relatively minor economic impacts, the agency concludes that those costs and impacts are reasonable. The occupants of rear seating positions in convertibles are exposed to at least the same degree of risk of death and injury in a motor vehicle crash as occupants of rear seating positions in other light vehicles. In these circumstances, NHTSA has concluded it is appropriate to provide those occupants with the same amount of safety protection. Therefore, a requirement that convertible passenger cars manufactured on or after September 1, 1991 be equipped with integral lap/shoulder belts at rear outboard seating positions is adopted as proposed.

Fiat filed comments on behalf of Ferrari to the effect that it was possible to comply with the requirement for integral lap/shoulder belts for convertibles that were designed to include those safety belt systems. However, Fiat asserted that the steps needed to modify an existing convertible design to accept the upper anchorages for rear seat lap/shoulder belts "would be financially intolerable." Fiat asked that this final rule be structured to provide an exemption for at least two years for existing convertible designs "which cannot be made to comply without extreme economic and technical hardships." NHTSA has not done so. Section 123 of the Safety Act (15 U.S.C. 1410) and 49 CFR part 555 set forth procedures for obtaining temporary exemptions from any of the generally applicable requirements set forth in the safety standards. If Fiat is statutorily eligible for such an exemption and can make the requisite showings, it can obtain the temporary exemption it seeks in accordance with those statutory and regulatory requirements.

b. *Readily Removable Seats.* In the NPRM for this rule, the agency summarized Ford's comment to the ANPRM asserting that lap/shoulder belts installed for readily removable seats should be permitted to be nonintegral, since that would be more convenient for persons using the vehicle especially with the seats removed. NHTSA concurred with this assertion, but noted that permitting detachable shoulder belts would result in lower usage of the shoulder belts and lower safety benefits for this rule. The agency suggested that manufacturers are capable of designing an integral lap/shoulder belt system that is nearly as convenient as safety belt systems with nonintegral shoulder belts. The NPRM suggested: "For instance, a shoulder belt that is readily detachable at the anchorage could be used for the outboard seating positions." 53 FR 47990, November 29, 1988.

Both Ford and GM suggested in their comments that permitting belts to be detachable at the upper anchorage would ease the problems of providing integral lap/shoulder belts at outboard seating positions of readily removable seats. However, both these commenters also stated that a March 1, 1985 interpretation letter from NHTSA's Chief Counsel to Mr. Hiroshi Shimizu of Tokai Rika Co. appeared to state that the provisions of Standard No. 208 forbid the use of a lap/shoulder safety belt that is detachable at the upper anchorage.

Mr. Shimizu provided a diagram with his letter that illustrated the safety belt design in question. This diagram showed two reasons why this design would not comply with the requirements of Standard No. 208. First, because of the location of the retractor and the separate buckles for the lap and shoulder belt portions of this belt system, an occupant could release the shoulder belt buckle and use this system solely as a lap belt with no dangling shoulder belt webbing to alert the occupant to the need to fasten the shoulder belt buckle. Alternatively, an occupant could release the lap belt buckle and use the system solely as a shoulder belt with no dangling webbing to alert the occupant to the need to fasten the lap belt buckle. NHTSA stated that this design would not satisfy the requirement in S4.1.2.3.1 and S4.2.2 of Standard No. 208 that nondetachable shoulder belts be provided on some belt assemblies.

Second, section S7.2 of Standard No. 208 requires that the latch mechanism of seat belt assemblies shall release both the lap and shoulder belt simultaneously and release at a single point by a pushbutton action. When both the lap and shoulder belt portions of Mr. Shimizu's design were buckled, the occupant would have to release both buckles to get out of the belt system. Hence, this belt system could not comply with Standard No. 208 because the release from the lap and shoulder belt would not be simultaneous, nor would it be at a single point.

NHTSA does not believe that the Shimizu interpretation forecloses all safety belt system designs that detach at the upper anchorage. The language of section S7.2 plainly requires that any such safety belt system must use a single, pushbutton buckle that releases the occupant from the lap belt and shoulder belt simultaneously. There is nothing inherent in the design of a safety belt system detachable at the upper anchorage that makes it impossible to comply with these requirements. Similarly, a shoulder belt could be detachable at the upper anchorage without incorporating an additional point at which the belt could be released by the seat occupant, such as the buckle in Mr. Shimizu's design. For example, manufacturers could install some type of spring operated "dog leash" device that would not be equipped with a push button release mechanism. By a "dog leash" device, NHTSA is referring to a device that does not use any form of push button release. Such devices rely on other actions such as a slide button or slide collar to mechanically uncouple the belt system from the upper anchorage. Such a design would not be prohibited by Standard No. 208 nor anything in the Shimizu interpretation. To make this more clear, this rule adopts language in Standard No. 208 expressly stating that vehicles with readily removable rear seats may use a shoulder belt that detaches at the upper anchorage point to meet the requirements for an integral rear-seat lap/shoulder belt.

c. *Swivel seats.* As previously noted, swivel seats and other seats that can be adjusted to be forward-facing and to face some other direction will be required to provide lap/shoulder belts only when in the forward-facing position and may provide lap-only belts when adjusted to face other directions. The agency had to consider the question of

what requirements should be specified for the detachable shoulder belt. NHTSA could have required those belts to be detachable at the upper anchorage determine compliance with the comfort and convenience provisions with reference to a test dummy. Additionally, the NPRM announced that the agency owner's manual to include an explanation of how the tension-relieving device works and a recommendation of the maximum amount of slack to be

passenger van has a sliding door on the right side of the vehicle that is designed as the means of entry and egress for all rear seat passengers, slack for rear-seat assembly (lap/shoulder belt) shall be installed for each forward-facing outboard designated seating position in passenger cars other than convertibles, requirements included a requirement that rear-seat lap/shoulder belts be integral and that the upper anchorage for the rear-seat lap/shoulder belt

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what requirements should be specified for the detachable shoulder belt. NHTSA could have required those belts to be detachable at the upper anchorage point, by establishing requirements such as were established for readily removable seats. However, that would have left the occupant of the swivel seat with webbing in his or her lap every time the occupant adjusted the seat to some position other than forward-facing. The shoulder belt webbing could become soiled, so that the occupant of the swivel seat would not use either the lap belt alone or the belt as a lap/shoulder belt.

To prevent this, NHTSA has decided that seats that adjust to be forward-facing and to face in some other direction are the only rear outboard seating positions that will not be required to be equipped with integral lap/shoulder belts. Instead, those seating positions may be equipped with a shoulder belt that is detachable at the latchplate.

However, this rule establishes an additional requirement that any such non-integral shoulder belt portion be equipped with an ELR, so that the shoulder belt portion will be available for use by all occupants of the seat in its retracted position, and will be less likely to become soiled. This will ensure that those occupants of adjustable seating positions that want the added protection of a lap/shoulder belt in these seating positions will have that protection.

The agency acknowledges that this requirement is likely to result in lower shoulder belt use at these seating positions than at other rear outboard seating positions. However, the agency concludes that belt use at these adjustable seating positions would be lower still if the agency were to require that the lap/shoulder belts be integral and the shoulder belt webbing were in the occupant's lap or on the floor of the vehicle. On balance, the agency concludes that the interests of occupants of adjustable rear seating positions will be best served by permitting the shoulder belt portion of the lap/shoulder belt system to be detachable at the buckle, i.e., non-integral, while including a requirement for a shoulder belt retractor so that a lap/shoulder belt will always be available for those persons.

7. Comfort and Convenience

The NPRM stated that compliance with the provisions in S7.4.2(a), S7.4.3, S7.4.4, and S7.4.5 of Standard No. 208 is determined with reference to a test dummy for the front seating positions. As noted above, there are no dummy positioning procedures for the rear seating positions, so the agency cannot determine compliance with the comfort and convenience provisions with reference to a test dummy. Additionally, the NPRM announced that the agency has not yet developed any alternative surrogate measurements for comfort and convenience in rear seating positions. As was the case with crash testing requirements discussed above, NHTSA did not believe it would be appropriate to delay this rulemaking to allow the agency to develop a full set of comfort and convenience requirements.

NHTSA noted that the requirements in S7.4.6 for seat belt guides and hardware would apply to rear-seat lap/shoulder belts without proposing any changes to accomplish that. No commenters objected to this result, so safety belts installed in compliance with this rule are subject to those requirements.

The remaining issue in this area concerned tension-relieving devices on rear-seat lap/shoulder belts. In the NPRM, the agency expressed its tentative conclusion that the same considerations should apply to rear seating positions with tension-relieving devices on safety belts as already apply to front seating positions with tension-relieving devices on the safety belts. That is, tension-relieving devices are permitted to be installed on front seat safety belts if vehicles that have tension-relieving devices at those seating positions comply with certain special conditions intended to reduce the likelihood of misuse of the tension-relieving devices. Those special conditions are set forth in S7.4.2 as follows:

1. The vehicle owner's manual must include an explanation of how the tension-relieving device works and recommend a maximum amount of slack that should be introduced into the belt under normal circumstances (S7.4.2(b));
2. The vehicle must comply with the injury criteria specified in S5.1 of Standard No. 208 during a barrier crash test with the shoulder belt webbing adjusted to introduce the maximum amount of slack recommended by the manufacturer (S7.4.2(a)); and
3. The vehicle must have an automatic means to cancel any shoulder belt slack introduced into the belt system by a tension-relieving device (S7.4.2(c)).

The NPRM explained that the second requirement listed above could not be applied to rear-seat lap/shoulder belts, because the agency could not develop dynamic testing procedures for the rear seating positions at this time. However, the notice proposed to apply the other two requirements listed above to rear-seat lap/shoulder belts equipped with tension-relieving devices.

None of the commenters addressed the proposal to require the vehicle owner's manual to include an explanation of how the tension-relieving device works and a recommendation of the maximum amount of slack to be introduced into the safety belt. Hence, that requirement is adopted as proposed, for the reasons explained in the NPRM.

In its comments, GM objected to the proposed requirement for automatic cancellation of slack. GM indicated that automatic cancellation of slack in front-seat lap/shoulder belts is accomplished by either of two means. If the retractor is mounted on the floor or on the pillar near the adjacent door, the manufacturer generally uses a simple cable, which operates when the door is opened to cancel the slack. If there are dual spool retractors on the safety belt system, a simple mechanical device triggered by retraction of the lap belt is used to cancel the slack in the shoulder belt. According to GM, "cable routing concerns" make it difficult to use a cable and the current size of dual spool retractors precludes the use of that technology in rear seating positions. This comment concluded by alleging that only "complex, expensive mechanisms" could be used for slack cancellation in rear seating positions. Ford also suggested in its comments that it would be very complex to develop an automatic means for slack cancellation. Ford stated that all of its slack cancellation mechanisms are activated by opening the adjacent door. Ford also stated that electric slack cancellation mechanisms would be impracticable for rear-seat lap/shoulder belts.

In response to these comments, NHTSA has reexamined its proposal. That proposal was that slack be automatically cancelled either when the belt is unbuckled or when the adjacent door is opened. Although not expressly stated by either GM or Ford, the manufacturers' concern appears to be that there is no adjacent door for rear seating positions in many of the vehicles that will be subject to these requirements. The effect of the proposal, then, would be to force manufacturers that chose to install tension-relieving devices in rear-seat lap/shoulder belts for passenger vans, extended cab pickups, and the like, to cancel the slack every time the latchplate was unbuckled, because there is no door adjacent to those seating positions.

The agency did not intend such a result. Instead, the agency's intent was to permit the slack to be cancelled either every time the latchplate was unbuckled or each time the door is opened that is designed to allow the occupant of the seating position in question entry and egress to and from the seat. Thus, if a passenger van has a sliding door on the right side of the vehicle that is designed as the means of entry and egress for all rear seat passengers, slack for rear-seat lap/shoulder belts in that van must be cancelled either when that sliding door is opened or when the belt latchplate is unbuckled. Similarly, if a two-door convertible has tension-relieving devices for its rear-seat lap/shoulder belts, slack in the rear-seat lap/shoulder belts must be cancelled either when the latchplate is unbuckled or when the door is opened on the same side of the vehicle as the rear outboard seating position.

This approach will permit manufacturers to use, with appropriate modifications, the same slack cancellation mechanism that is activated by the opening of an adjacent door in seating positions that are not immediately adjacent to the door. The agency is not aware of any reasons why cable routing concerns would present any insuperable difficulties for slack cancellation for rear seat lap/shoulder belt systems that are not adjacent to a door. Accordingly, S7.4.2(c) of Standard No. 208 has been amended to provide that slack must be cancelled automatically either when the latchplate is unbuckled or when the door that is designed to provide entry and egress for that seating position is opened.

Both Ford and GM also commented that there was no safety need for automatic cancellation of slack in rear-seat lap/shoulder belts. GM stated that it was not aware of any data showing a safety need for automatic slack cancellation. Ford commented that there was no possibility of safety belts getting tangled in the door when there was no door adjacent to the seating position at which the tension-relieving device is installed.

NHTSA has previously explained the safety need for automatic slack cancellation in belts equipped with tension-relieving devices. Persons interested in reviewing those discussions may examine 50 FR 14560; April 12, 1985 and 54 FR 29047; July 11, 1989. Ford and GM did not raise any new arguments that have not already been considered and rejected by the agency. Accordingly, this rule incorporates a requirement for automatic slack cancellation. NHTSA notes that it is currently reviewing a petition that asks the agency to prohibit tension-relieving devices altogether.

8. Relationship of This Rule to Standard No. 210

As noted in the NPRM, section S4.1.1 of Standard No. 210 provides that seat belt anchorages for a Type 2 seat belt assembly (lap/shoulder belt) shall be installed for each forward-facing outboard designated seating position in passenger cars other than convertibles, and for each designated seating position for which a Type 2 seat belt assembly is required by Standard No. 208 in vehicles other than passenger cars. The NPRM proposed to delete Standard No. 210's exemption for convertibles, because the agency was proposing to amend Standard No. 208 to require rear-seat lap/shoulder belts in convertibles. Obviously, there would be lesser benefits from requiring rear-seat lap/shoulder belts in convertibles if those lap/shoulder belts are not required to be effectively anchored to the vehicle. No commenter objected to this proposal, so it is adopted as proposed.

No amendment is needed to ensure that the rear-seat lap/shoulder belts required in other vehicle types covered by this rule will be effectively anchored to the vehicle. As explained above, the existing language of S4.1.1 of Standard No. 210 automatically requires anchorages for lap/shoulder belts to be provided at seating positions required by Standard No. 208 to have lap/shoulder belts.

9. Timing for Applying These New Requirements

Some of the requirements specified in this rule apply to both the vehicle types addressed exclusively in this rule (convertible passenger cars, light trucks, MPVs, and small buses) and to the vehicle type previously addressed in NHTSA's June 14, 1989 final rule (passenger cars other than convertibles). These requirements include the types of retractors that can be installed on rear-seat lap/shoulder belts and special performance requirements for tension-relieving devices installed on rear seat-lap/shoulder belts.

The NPRM proposed that these general requirements, as well as the new requirement that rear-seat lap/shoulder belts be installed, apply to the vehicle types addressed exclusively in this rule for all such vehicles manufactured on or after September 1, 1991. None of the commenters has provided any evidence demonstrating that amount of leadtime would be inadequate. Accordingly, the requirements in this rule will apply to convertible passenger cars, light trucks, MPVs, and small buses as of September 1, 1991, as was proposed. Earlier compliance is also permitted and encouraged.

With respect to passenger cars, the June 14, 1989 final rule established certain general requirements applicable to cars manufactured on or after September 1, 1990. These general requirements included a requirement that rear-seat lap/shoulder belts be integral and that the upper anchorage for the rear-seat lap/shoulder belt comply with the location requirements of Standard No. 210. The general requirements of this rule for rear-seat lap/shoulder belts (retractor type and special requirements for tension-relieving devices) will apply on or after September 1, 1991, the same date as the other requirements mandated by this rule take effect. The general requirements of this rule will require greater changes, and thus longer leadtime, than the general requirements announced in the June 14, 1989 rule. Accordingly, passenger cars manufactured on or after September 1, 1991 must comply with the retractor type and tension-relieving device requirements set forth in this rule.

Economic and Other Impacts of This Rule

NHTSA has analyzed this rule and determined that it is not major within the meaning of Executive Order 12291, but that it is significant within the meaning of the Department of Transportation regulatory policies and procedures because of the public interest in this rule. Because the rule is significant, NHTSA has prepared a Final Regulatory Evaluation (FRE), and a copy of the FRE has been placed in the docket for this rulemaking action. A copy of the FRE may be obtained by writing to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590.

Additionally, the agency has analyzed the effects of this rule on small entities, in accordance with the Regulatory Flexibility Act. Based on this analysis, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. To the extent that any vehicle manufacturers qualify as small entities, their number would not be substantial. These requirements will not affect the manufacturing process of any safety belt manufacturers that are small entities, nor will it significantly affect the retail price of vehicles purchased by any small organizations or small governmental units.

The agency has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant effect on the human environment.

This rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rule does not have sufficient

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federalism implications to warrant the preparation of a Federalism Assessment.

As noted in the NPRM, the requirements for vehicle owner's manuals to include information about tension-relieving devices on rear seat lap/shoulder belts are information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. Pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the information collection requirements in this rule have been submitted to and approved by OMB. The approval number is OMB #2127–0541, and the approval is valid through March 31, 1992.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

571.208 [Amended]

2. S4.1.4 of Standard No. 208 is revised to read as follows:

S4.1.4 *Passenger cars manufactured on or after September 1, 1989.*

S4.1.4.1 Except as provided in S4.1.4.2, each passenger car manufactured on or after September 1, 1989 shall comply with the requirements of S4.1.2.1. Any passenger car manufactured on or after September 1, 1989 and before September 1, 1993 whose driver's designated seating position complies with the requirements of S4.1.2.1(a) by means not including any type of seat belt and whose right front designated seating position is equipped with a manual Type 2 seat belt so that the seating position complies with the occupant crash protection requirements of S5.1, with the Type 2 seat belt assembly adjusted in accordance with S7.4.2, shall be counted as a vehicle complying with S4.1.2.1. A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not know in the exercise of due care that such vehicle is not in conformity with this standard.

S4.1.4.2 (a) Each passenger car, other than a convertible, manufactured before December 11, 1989 may be equipped with, and each passenger car, other than a convertible, manufactured on or after December 11, 1989 and before September 1, 1990 shall be equipped with a Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed pursuant to this provision shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1.1 of this standard.

(b) Except as provided in S4.1.4.2.1, each passenger car other than a convertible manufactured on or after September 1, 1990 and each convertible passenger car manufactured on or after September 1, 1991 shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.1.4.2.1 Any rear outboard designated seating position with a seat that can be adjusted to be forward-facing and to face some other direction shall either:

(i) Meet the requirements of S4.1.4.2 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(ii) When the seat is in its forward-facing position, have a Type 2 seat belt assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms with Standard No. 209 (49 CFR 571.209), which upper torso restraint may be detachable at the buckle, and, when the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.1.4.2.2 Any rear outboard designated seating position with a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) shall meet the requirements of S4.1.4.2. and may use an upper torso belt that detaches, at the upper anchorage point to meet those requirements.

3. A new S4.2.4 is added to Standard No. 208, to read as follows:

S4.2.4 *Trucks and multipurpose passenger vehicles manufactured on or after September 1, 1991 with a GVWR of 10,000 pounds or less.* Except as provided in S4.2.4.2, each truck and each multipurpose passenger vehicle, except a motor home, manufactured on or after September 1, 1991 that has a gross vehicle weight rating of 10,000 pounds or less shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.2.4.1 As used in this section—

(a) *Motor home* means a motor vehicle with motive power that is designed to provide temporary residential accommodations, as evidenced by the presence of at least four of the following facilities: cooking; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a potable water supply system including a faucet and a sink; and a separate 110–125 volt electrical power supply and/or an LP gas supply.

(b) *Rear outboard designated seating position* means any "outboard designated seating position" (as that term is defined at 49 CFR 571.3) that is rearward of the front seat(s), except any designated seating positions adjacent to a walkway located between the seat and the side of the vehicle, which walkway is designed to allow access to more rearward seating positions.

S4.2.4.2 Any rear outboard designated seating position with a seat that can be adjusted to be forward-facing and to face some other direction shall either:

(i) Meet the requirements of S4.2.4 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(ii) When the seat is in its forward-facing position, have a Type 2 seat belt assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms with Standard No 209 (49 CFR 571.209), which upper torso restraint may be detachable at the buckle, and, when the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.2.4.3 Any rear outboard designated seating position with a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) shall meet the requirements of S4.2.4, and may use an upper torso belt that detaches at the upper anchorage point to meet those requirements.

4. A new S4.4.3 is added to Standard No. 208, to read as follows:

S4.4 *Buses.*

* * * * *

S4.4.3 *Buses manufactured on or after September 1, 1991.*

S4.4.3.1 Each bus with a gross vehicle weight rating of more than 10,000 pounds shall comply with the requirements S4.4.2.1 or S4.4.2.2.

S4.4.3.2 Except as provided in S4.4.3.2.2, each bus with a gross vehicle weight rating of 10,000 pounds or less, except a school bus, shall be equipped with an integral Type 2 seat belt assembly at the driver's designated seating position and at the front and every rear forward-facing outboard designated seating position, and with a Type 1 or Type 2 seat belt assembly at all other designated seating positions. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.4.3.2.1 As used in this section, a "rear outboard designated position" means any "outboard designated seating position" (as that term is defined at 49 CFR 571.3) that is rearward of the front seat(s), except any designated seating positions adjacent to a walkway located between the seat and the side of the vehicle, which walkway is designed to allow access to more rearward seating positions.

S4.4.3.2.2 Any rear outboard designated seating position with a seat that can be adjusted to be forward-facing and to face some other direction shall either:

(i) Meet the requirements of S4.4.3.2 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(ii) When the seat is in its forward-facing position, have a Type 2 seat belt assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms with Standard No. 209 (49 CFR 571.209), which upper torso restraint may be detachable at the buckle, and, when the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.4.3.2.3 Any rear outboard designated seating position with a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) shall meet the requirements of S4.4.3.2, and may use an upper torso belt that detaches at the upper anchorage point to meet those requirements.

S4.4.3.3 Each school bus with a gross vehicle weight rating of 10,000 pounds or less shall be equipped with an integral Type 2 seat belt assembly at the driver's designated seating position and at the right front passenger's designated seating position (if any), and with a Type 1 or Type 2 seat belt assembly at all other designated seating positions. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. The lap belt portion of a Type 2 seat belt assembly installed at the driver's designated seating position and at the right front passenger's designated seating position (if any) shall include either an emergency locking retractor or an automatic locking retractor, which retractor shall not retract webbing to the next locking position until at least ¾ inch of webbing has moved into the retractor. In determining whether an automatic locking retractor complies with this requirement, the webbing is extended to 75 percent of its length and the retractor is locked after the initial adjustment. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

5. S7.1.1 of Standard No. 208 is amended by revising S7.1.1.3 and by adding a new S7.1.1.5, to read as follows:

S7.1 *Adjustment.*

* * * * *

S7.1.1.3 A Type 1 lap belt or the lap belt portion of any Type 2 seat belt assembly installed at any outboard designated seating position of a vehicle with a gross vehicle weight rating of 10,000 pounds or less to comply with a requirement of this standard, except walk-in van-type vehicles and school buses, shall meet the requirements of S7.1 by means of an emergency locking retractor that conforms to Standard No. 209 (49 CFR 571.209).

* * * * *

S7.1.1.5 Seat belt assemblies installed at a seating position other than the driver's position that incorporate an emergency locking retractor in the lap belt or the lap belt portion of a Type 2 seat belt assembly shall provide some means other than an external device that requires manual attachment or activation to lock the lap belt or lap belt portion, by preventing additional webbing from spooling out, so that the seat belt assembly can be used to tightly secure a child restraint system.

6. S7.4.2 of Standard No. 208 is amended by revising the introductory text and S7.4.2(c), to read as follows:

S7.4.2 *Webbing tension-relieving device.* Each vehicle with an automatic seat belt assembly or with a Type 2 manual seat belt assembly that must meet the occupant crash protection requirements of S5.1 of this standard installed at a front outboard designated seating position, and each vehicle with a Type 2 manual seat belt assembly installed at a rear outboard designated seating position in compliance with a requirement of this standard, that has either automatic or manual tension-relieving devices permitting the introduction of slack in the webbing of the shoulder belt (e.g., "comfort clips" or "window-shade" devices) shall:

* * * * *

(c) Have, except for open-body vehicles with no doors, an automatic means to cancel any shoulder belt slack introduced into the belt system by a tension-relieving device. In the case of an automatic safety belt system, cancellation of the tension-relieving device shall occur each time the adjacent vehicle door is opened. In the case of a manual seat belt required to meet S5.1, cancellation of the tension-relieving device shall occur, at the manufacturer's option, either each time the adjacent door is opened or each time the latchplate is released from the buckle. In the case of a Type 2 manual seat belt assembly installed at a rear outboard designated seating position, cancellation of the tension-relieving device shall occur, at the manufacturer's option either each time the door designed to allow the occupant of that

seating position entry and egress of the vehicle is opened or each time the latchplate is released from the buckle. In the case of open-body vehicles with no

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

fisheries has averaged about 10 percent. However, recently joint venture vessels have moved into areas where they have encountered rates as high as 40 percent.

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seating position entry and egress of the vehicle is opened or each time the latchplate is released from the buckle. In the case of open-body vehicles with no doors, cancellation of the tension-relieving device may be done by a manual means.

§ 571.210 [Amended]

7. S4.1.1 of Standard No. 210 is revised to read as follows:

S4.1.1 Seat belt anchorages for a Type 2 seat belt assembly shall be installed for each forward-facing outboard designated seating position in passenger cars other than convertibles and for each designated seating position for which a Type 2 seat belt assembly is required by Standard No. 208 (49 CFR 571.208) in vehicles other than passenger cars. Seat belt anchorages for a Type 2 seat belt assembly shall be installed for each rear forward-facing outboard designated seating position in convertible passenger cars manufactured on or after September 1, 1991.

§ 571.222 [Amended]

8. S5(b) of Standard No. 222 is revised to read as follows:

S5. *Requirements.* * * *

(b) Each vehicle with a gross vehicle weight rating of 10,000 pounds or less shall be capable of meeting the following requirements at all seating positions other than the driver's seat:

(1)(A) In the case of vehicles manufactured before September 1, 1991, the requirements of §§ 571.208, 571.209, and 571.210 as they apply to multipurpose passenger vehicles; or

(B) In the case of vehicles manufactured on or after September 1, 1991, the requirements of S4.4.3.3 of § 571.208 and the requirements of §§ 571.209 and 571.210 as they apply to school buses with a gross vehicle weight rating of 10,000 pounds or less; and

(2) The requirements of S5.1.2, S5.1.3, S5.1.4, S5.1.5, and S5.3 of this standard. However, the requirements of §§ 571.208 and 571.210 shall be met at W seating positions in a bench seat using a body block as specified in Figure 2 of this standard, and a particular school bus passenger seat (i.e., a test specimen) in that weight class need not meet further requirements after having met S5.1.2 and S5.1.5, or after having been subjected to either S5.1.3, S5.1.4, or S5.3 of this standard or § 571.210.

Issued on October 27, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-25601 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 81131-9019]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of rescinding prohibition on receipt of groundfish.

SUMMARY: NOAA announces the rescission of the closure to directed fishing for rock sole by joint venture processing (JVP). This action, taken under provisions of the fishery management plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), is necessary to assure optimum use of groundfish in that area. It is a conservation and management measure intended to promote fishery objectives of the North Pacific Fishery Management Council (Council).

DATES: This notice is effective October 27, 1989. Comments will be accepted through November 13, 1989.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675.

Earlier this year, NOAA announced the prohibition of receipt by foreign processors of rock sole taken in a directed fishery (54 FR 7933, February 24, 1989). A later action (54 FR 37112, September 7, 1989) apportioned sufficient amounts of rock sole (25,000 metric tons) to JVP to provide bycatch amounts for additional amounts of pollock, yellowfin sole, and "other flatfish" which were apportioned to JVP by the same action. The prohibition of receipt by foreign processors of rock sole taken in a directed fishery remained in effect.

During the fall joint venture fishery, the bycatch rate of rock sole in the yellowfin sole and "other flatfish" fisheries has averaged about 10 percent. However, recently joint venture vessels have moved into areas where they have encountered rates as high as 40 percent. Under the definition of directed fishing, vessels cannot retain on board an amount of rock sole equal to or greater than 20 percent of the total amount of fish or fish products on board (as calculated in round weight equivalents). As a result, large amounts of rock sole are being discarded and wasted by vessels which receive groundfish catches composed of more than 20 percent rock sole. This wastage is contrary to Council and NMFS policy.

To date, only 48,557 metric tons of the originally specified total allowable catch (TAC) for rock sole (90,762 metric tons) has been taken by domestic processing (DAP) and JVP fisheries combined. Allowing foreign processors to receive rock sole taken in directed fisheries will not result in overfishing of rock sole stocks because more than sufficient tonnage remains in TAC to provide for anticipated catches by DAP and JVP fisheries during the remainder of the year.

Therefore, foreign processors may receive rock sole taken in directed fisheries, effective noon, Alaska Daylight Time, October 27, 1989.

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to avoid wastage of amounts of rock sole discarded in order to avoid the threshold established for directed fishing. However, interested persons are invited to submit comments in writing to the address through November 13, 1989.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-25704 Filed 10-27-89; 4:14 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 211
Thursday, November 2, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV-89-111PR]

1989-90 Expenses and Assessment Rate Under Marketing Order No. 989 Raisins Produced From Grapes Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 989 for the 1989-90 fiscal year established under the federal marketing order for raisins produced from grapes grown in California. Authorization of this budget would allow the Raisin Administrative Committee (Committee) to incur reasonable and necessary expenses to administer the marketing order program. Funds for the program would be derived from assessments on handlers of California raisins.

DATE: Comments must be received by November 13, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Room 2525-S, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Order No. 989 (7 CFR Part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 23 handlers of California raisins subject to regulation under this marketing order and approximately 5,000 producers of California raisins. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The minority of handlers and the majority of producers of raisins may be classified as small entities.

The federal marketing order for California raisins requires that the assessment rate for a particular marketing year shall apply to all assessable raisins handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the U.S. Department of Agriculture (Department) for approval. The members of the Committee are handlers and producers of regulated raisins. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings, so that all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of assessable raisins. That rate is applied to actual shipments to produce sufficient income to pay the Committee's expected expenses. The budget of expenses and rate of assessment are usually recommended by the Committee shortly after the season starts. Expenses are incurred on a continuous basis; therefore, the budget of annual expenses and assessment rate approval must be expedited so that the Committee will have funds to meet its obligations.

The Committee met on October 5, 1989, as required by the marketing order, and unanimously recommended 1989-90 marketing order expenditures of $483,405 and an assessment rate of $1.50 per assessable ton of raisins. In comparison, 1988-89 marketing year budgeted expenditures were $435,000, and the assessment rate was 1.50 per ton. Assessment income for 1989-90 is estimated at $483,405 based on 322,270 tons of assessable raisins.

While this action would impose some additional costs on handlers of California raisins, including small entities, the costs are in the form of uniform assessments on all handlers. Any costs to handlers are expected to be more than offset by benefits derived from the operation of the marketing order. Therefore, the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for this program needs to be expedited. The Committee must have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 989

California, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, it is proposed that § 989.340 be added as follows:

1. The authority citation for 7 CFR

to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500.

Accordingly, FR Doc. 89-25236, published in the **Federal Register** issue of Thursday, October 26, 1989 (54 FR 43594), is corrected as follows:

§ 3.1 [Corrected]

For the foregoing reason, the Department of Veterans Affairs hereby corrects FR Doc. 89-23249 in the issue of

be inspected during normal business hours at the following addresses: [It is recommended that you telephone Randolph O. Cano at (312) 886-6036 before visiting the Region V office.]

Federal assistance funds under certain circumstances. These circumstances include where: (1) an area has not attained a primary ambient air quality

For the reasons set forth in the preamble, it is proposed that § 989.340 be added as follows:

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 989.340 is added to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

§ 989.340 Expenses and assessment rate.

Expenses of $483,405 by the Raisin Administrative Committee are authorized and an assessment rate payable by each handler in accordance with § 989.80 of $1.50 per ton of assessable raisins is established for the crop year ending July 31, 1990. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: October 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25848 Filed 11–1–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 882 and 887

[Docket No. R–89–1452; FR–2662–C–02]

RIN 2502–AE70

Section 8 Certificate Program, Moderate Rehabilitation Program and Housing Voucher Program; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the public comment due date for the proposed rule concerning the denial or termination of assistance for drug-related or violent criminal activities, which was published on October 26, 1989, at 54 FR 43594, to provide a 30-day comment period instead of a 60-day comment period. The corrected public comment due date is November 27, 1989.

DATE: Comment due date: November 27, 1989.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755–2575. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via the FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk, ((202) 755–7084). (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Lawrence Coldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 755–5720. Hearing- or speech-impaired individuals may call HUD's TDD number, (202) 426–0015. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On October 26, 1989, the Department published a proposed rule (54 FR 43594), which proposed to revise the Certificate Program, Moderate Rehabilitation Program, and Housing Voucher Program regulations to permit a Public Housing Agency (PHA) (including an Indian Housing Authority) to deny or terminate assistance to applicants and participants in these programs if family members are engaging in drug-related criminal activities or in violent criminal activities. Because the purpose of this proposed rule is to further the government's war against drugs and violent crime, and to ensure the provision of decent and safe housing for eligible families and for individuals residing near assisted families, it is in the public interest to promulgate a final effective rule as rapidly as possible. Accordingly, it was the Department's intention to provide an abbreviated 30-day public comment period. The proposed rule, as published, however, inadvertently provided the normal 60-day comment period.

Accordingly, FR Doc. 89–25236, published in the **Federal Register** issue of Thursday, October 26, 1989 (54 FR 43594), is corrected as follows:

1. The respective authority citations for part 882 and part 887 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. The public comment due date which was December 26, 1989, is corrected to read as follows:

Date: Comment due date: November 27, 1989.

Dated: October 27, 1989.

Peter Monroe,

Acting General Deputy Assistant Secretary for Housing—Deputy, Federal Housing Commissioner.

[FR Doc. 89–25796 Filed 11–1–89; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AD71

Definition of Former Prisoner of War

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule; correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting previously published information concerning the definition of former prisoner of war.

FOR FURTHER INFORMATION CONTACT: Bill Leonard, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, (202) 233–3005.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 3, 1989, (54 FR 40688), VA published a proposed amendment to its adjudication regulation defining former prisoner of war (POW) and establishing criteria for deciding such status. In that proposed regulation a word was inadvertently misspelled and is hereby corrected.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Donald R. Howell,

Acting Chief, Directives Management Division.

§ 3.1 [Corrected]

For the foregoing reason, the Department of Veterans Affairs hereby corrects FR Doc. 89–23249 in the issue of October 3, 1989, to read as follows:

1. On page 40687, first column, paragraph (y)(2)(i), 7th line, change the word "detailed" to "detained".

2. On page 40687, second column, paragraph (y)(2)(ii), 3rd and 6th lines, change the word "detailed" to "detained".

[FR Doc. 89–25706 Filed 11–1–89; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3677–3]

Federal Assistance Limitations; State of Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: USEPA proposes to limit certain Federal highway funding assistance for Cook, Lake, Kane, and DuPage Counties, Illinois. These limitations apply to funds provided under Title 23 of the United States Code. The USEPA is taking action pursuant to Section 176(a) of the Clean Air Act (Act), because the State of Illinois has failed to adopt and submit to USEPA a vehicle inspection and maintenance (I/M) program commensurate with the severity of the ozone problem in the Chicago area. USEPA believes that enhancement of the existing I/M program is necessary to help bring the area into attainment of the ozone National Ambient Air Quality Standard (NAAQS) and that such an I/M program is a critical component of the "reasonable efforts" Illinois must make under Section 176(a). Thus, USEPA has concluded that the conditions under which the Agency must propose to impose Federal highway funding restrictions under Section 176(a) have been met in Cook, Lake, Kane, and DuPage Counties, Illinois.

DATES: USEPA will schedule a public hearing on its proposed actions regarding Federal highway funding restrictions in the future. A notice of this public hearing will be published in the **Federal Register**. The public comment period will remain open until 30 days after the public hearing.

ADDRESSES: Copies of all materials related to USEPA's proposed action may be inspected during normal business hours at the following addresses: (It is recommended that you telephone Randolph O. Cano at (312) 886–6036 before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION

A. Background

Congress amended the Clean Air Act in 1977 to address the major health problems posed by the States' failures to attain the National Ambient Air Quality Standards (NAAQS) for criteria pollutants. Congress required States to revise their State Implementation Plans (SIPs) to provide for attainment of the standards by December 31, 1982, and to submit the revised plans to USEPA by January 1, 1979. Provisions for an extension to December 31, 1987, were available if a State could demonstrate that, despite the implementation of all reasonably available control measures, the December 31, 1982, attainment deadline could not be met for ozone and/or carbon monoxide (CO). (See Section 172(a)). In return for this extension, Congress required the States to submit additional air pollution control measures in their 1979 SIP revisions (Section 172(b)(11)). One such additional measure was a commitment to implement an I/M program on an expeditious schedule.

To ensure that Federal funds do not further contribute to the already serious air pollution problems, and to encourage State cooperation, Congress also adopted Section 176(a). Section 176(a) of the Act prohibits the Administrator of USEPA and the Secretary of Transportation from awarding certain Federal assistance funds under certain circumstances. These circumstances include where: (1) an area has not attained a primary ambient air quality standard; (2) transportation control measures are necessary to attain that primary ambient air quality standard; and (3) the USEPA Administrator determines that the State has failed to submit, and is not making reasonable efforts to submit, a plan which considers each of the elements of Section 172 of the Act, including the requirement for I/M. On April 10, 1980 (45 FR 24692), after prior notice and public comment, USEPA and the Department of Transportation (DOT) published final policies and procedures for imposing funding restrictions under Section 176(a).

In the case of Illinois, in June 1979 the State of Illinois submitted its 1979 ozone and CO plan for the Chicago area.[1] As part of this plan, Illinois requested an extension of the ozone attainment deadline to 1987 for Cook, Lake, Kane, and DuPage Counties. USEPA approved this request on February 21, 1980 (45 FR 11472). The State subsequently implemented an I/M program on May 1, 1986.[2]

[1] The original Illinois ozone nonattainment counties for the Chicago area consisted of all of Air Quality Control Region 67, i.e., Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties. See 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On May 16, 1983 (48 FR 21947), USEPA redesignated Grundy, Kankakee, Kendall, McHenry and Will counties to attainment. On June 8, 1988 (53 FR 20722), USEPA proposed to redesignate Grundy, Kendall, McHenry, and Will Counties to nonattainment for ozone under the provisions of the Mitchell-Conte Amendment of December 22, 1987, (while renewing the ozone nonattainment designations of Cook, DuPage, Kane, and Lake Counties). This proposal was based on the concept that all portions of a Consolidated Metropolitan Statistical Area (CMSA) contribute to an ozone problem, and all of these Illinois counties are within the chicago CMSA.

[2] Illinois' I/M program is a contrator operated, centralized network of testing facilities for gasoline powered vehicles and trucks registered in all of Cook County, the eastern third of Lake County and the eastern half of DuPage County. Vehicles are tested for hydrocarbon and CO emissions. A probe is inserted into the vehicle tailpipe and the exhaust is analyzed for emissions. If the vehicle passes the test, and annual sticker is issued that indicates compliance with the law. If the vehicle fails to pass the test, the vehicle owner is required to make necessary repairs and submit the vehicle for a retest. If the vehicle is unable to pass the retest, a 1 year waiver is available under certain conditions.

Enforcement of the program is accomplished through a combination of computerized matching and sticker enforcement. The primary enforcement mechanism is the suspension of the drivers' licenses of vehicle owners and suspension of the vehicles' registrations. The suspensions are made automatically by a computer system which tracks vehicles required to be tested and actual test data.

Continued

The December 31, 1987, ozone attainment deadline has now passed, and the Chicago area still has not

USEPA has been evaluating available control measures necessary to bring the Chicago area into attainment of the

implemented in Wisconsin's I/M program, and the State of Indiana has enacted legislation requiring the

various enhancements. The State representatives pointed out that they wuld have to obtain direction and authorization from the legislature before

States Code, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance.

imposition of the funding restrictions in Section 176(a) is automatic and mandatory whenever the USEPA determines that a State has not

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The December 31, 1987, ozone attainment deadline has now passed, and the Chicago area still has not attained the ozone NAAQS. Because the State's ozone SIP did not provide for attainment of the NAAQS by that date or any near-term date thereafter, on October 17, 1988, USEPA announced in the **Federal Register** its disapproval of the Chicago portion of the Illinois Ozone SIP (53 FR 40415). On January 18, 1989, the United States District Court for the Eastern District of Wisconsin ordered USEPA to promulgate Federal Implementation Plans (FIPs) for this area and for northwestern Indiana within 14 months, or by March 18, 1990.[3] In a July 11, 1989 (54 FR 29063), Advance Notice of Proposed Rulemaking (ANPR), USEPA gave advance notice of several elements of the FIPs. Among those elements were the emissions inventory for the area and the required degree of emission reduction to attain and maintain the ozone NAAQS. Mobile sources account for approximately 50 percent of the Illinois volatile organic compound (VOC) emissions inventory. Further, USEPA stated that it believes a 72 percent reduction in VOC emissions from 1988 levels is necessary to bring the area into attainment of the ozone NAAQS *Id.*

USEPA has been evaluating available control measures necessary to bring the Chicago area into attainment of the ozone primary NAAQS. Obviously, transportation control measures will be a necessary component of any plan designed to obtain a 72 percent emission reduction and assure attainment and maintenance of the ozone standard in the Chicago area. Additionally, USEPA believes that enhancement of the current I/M program is an available and essential element of any attainment plan for the Chicago area,[4] and hence is a critical component of the "reasonable efforts" Illinois must make under Section 176(a) to avoid the imposition of Federal highway funding restrictions for the nonattainment counties of Cook, Lake, Kane, and DuPage. Enhancement of the I/M program is a control measure USEPA has identified at the current time as a critical component of "reasonable efforts".

USEPA has been required by the Court to develop a plan to bring the Chicago area into attainment of the health based ozone NAAQS. In addition, under the Act, the State of Illinois is under a continuing obligation to create its own plan. USEPA believes it is reasonable and necessary for the State of Illinois to implement enhancements to its I/M program at this time. The level of enhancements Illinois should implement has already been implemented in Wisconsin's I/M program, and the State of Indiana has enacted legislation requiring the implementation of the enhancements beginning in January 1990.

In the Chicago area, continuing violations of the ozone NAAQS are occurring, transportation control measures will be necessary in any plan designed to achieve attainment and maintenance of the ozone standard, and Illinois has failed to submit an I/M program commensurate with the severity of the ozone problem in the Chicago area, which is a critical component of the "reasonable efforts" Illinois must make under Section 176(a). Thus, the criteria listed under Section 176(a) have been met, and for this reason USEPA is proposing imposition of Federal highway funding restrictions in Cook, Lake, Kane, and DuPage Counties.

On August 4, 1989, USEPA notified the State and the Federal Highway Administration (FHWA) that the USEPA/DOT procedures for imposing the funding limitations under Section 176(a) were being initiated.[5] These letters inititated the 30-day consultation period outlined in the April 10, 1980 (45 FR 24692), **Federal Register** guideline for the Section 176(a) process. If the State enacts and implements adequate enhancements to it I/M program which achieve a level of performance equivalent to the enhanced I/M program design cited above, then USEPA would not impose sanctions for this reason.

The consultation period ended September 4, 1989. A description of all further correspondence and meetings which have occurred after August 4, 1989, follows.

In an August 31, 1989, letter to the Regional Administrator, Illinois requested a consultation meeting. On September 26, 1989, a consultation meeting was held. Representative from the Illinois Environmental Protection Agency (IEPA), the Illinois Department of Transportation, the Regional and District Offices of FHWA, USEPA's Office of Mobile Sources, and Region V of USEPA were present.

During the meeting, Region V discussed the rationale for pursuing Federal highway funding restrictions in Illinois. Representatives from the State of Illinois posed several questions related to enhancement of the State's I/M program and expressed their view on various enhancements. The State representatives pointed out that they wuld have to obtain direction and authorization from the legislature before any enhancements could be implemented. The representatives indicated their intent to provide more information regarding specific enhancements at a future time.

USEPA discussed the procedures which would be followed regarding imposition of Federal highway funding restrictions. USEPA informed the State that it would proceed with the process to propose the imposition of funding restrictions and would hold a public hearing regarding the proposed action. USEPA also notified the State that the State legislature would have an opportunity to enact measures to enhance the I/M program before a final decision is made on whether to impose the funding restrictions.

On October 6, 1989, IEPA submitted several enhanced I/M program alternatives for review by USEPA. These alternatives were intended to meet USEPA's performance standard for enhanced I/M. The submittal included possible enhanced I/M scenarios, the MOBILE 4 printouts from which the vehicle emission rates were derived, and a discussion of the input parameters used by IEPA in the model runs. IEPA committed to develop a formal enhanced I/M proposal by October 30, 1989, based on USEPA's response.

B. Proposed Findings and Actions

One available measure that USEPA has identified which Illinois could implement to help bring the area into attainment of the ozone NAAQS is to enhance the existing I/M program. Because USEPA believes that the State of Illinois has not used reasonable efforts to submit all measures necessary to attain and maintain the ozone NAAQS in the Chicago area,[6] USEPA proposes to impose Federal highway funding restrictions in Cook, Lake, Kane, and DuPage Counties under Section 176(a) of the Act.

During the public comment period, USEPA will consider any comments on this issue. If Illinois fails to remedy this situation before USEPA takes final action, the resulting funding limitations become effective on the date that the final rulemaking is published in the **Federal Register**. Upon final rulemaking, the Secretary of Transportation will not approve any projects or award any grants in Cook, Lake, Kane, and DuPage Counties under Title 23 of the United States Code, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance.

C. Opportunity for Public Hearing

USEPA will schedule a public hearing on its proposed actions regarding Federal highway funding restrictions in the future. A notice of this public hearing will be published in the **Federal Register.**

D. Request for Public Comment

Interested parties are invited to comment on all aspects of the proposed findings including USEPA's proposed action to impose Federal highway funding restrictions. USEPA will consider all testimony received at the public hearings. Additionally, USEPA is keeping the public comment period open for 30 days after the public hearing date, to provide an opportunity for submission of rebuttal information and supplementary information.

E. Regulatory Impact

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b), this requirement may be waived if the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdictions over populations of less than 50,000.

If USEPA takes final action and finds that the State has failed to submit, and is not making reasonable efforts to submit, a SIP that considers each of the elements required by Section 172, certain highway construction funds under Title 23 of the United States Code will be withheld. Thus, some small entities may be affected by final USEPA action.

USEPA cannot reliably predict the impact of Clean Air Act restrictions under Section 176(a) because of the exemptions authorized for certain highway projects. Careful review and evaluation of each project is necessary to determine whether or not a project is exempt. Consequently, USEPA is making no quantified assessment of the potential economic impact on small entities that may result from today's proposal.

Furthermore, although USEPA believes that a final action might have some impact on small entities this impact cannot affect the Agency's actions. Under the Clean Air Act, the imposition of the funding restrictions in Section 176(a) is automatic and mandatory whenever the USEPA determines that a State has not submitted, or is not making reasonable efforts to submit, a SIP which considers each of the elements of Section 172.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA, and any USEPA response, are available for public inspection at the USEPA Region V office listed above.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental Protection, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: September 5, 1989.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 89–25780 Filed 11–1–89; 8:45 am]

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Motorists are also subject to fines based on operating a vehicle with an expired or missing sticker.

USEPA's evaluation of the State's I/M program is contained in technical support documents dated June 6, 1988, February 16, 1987, October 20, 1987, and June 5, 1989. These documents are available from the Region V Office listed above. On April 24, 1989 (54 FR 16372), USEPA proposed to approve the Illinois I/M program as meeting current USEPA policy requirements for 1982 ozone SIP approval. USEPA will take final action on this program in a future **FEDERAL REGISTER** notice.

[3] In April 1987 the State of Wisconsin filed a suit under Section 304 of the Act in the United States District Court for the Eastern District of Wisconsin against Lee M. Thomas, then USEPA Administrator (Civil Action No. 87–C–395, now *Wisconsin v. Reilly*). Two counts of the complaint alleged that USEPA had failed to perform a non-discretionary duty to approve or disapprove the greater Chicago area ozone SIPs of Illinois and Indiana. Two other counts requested the Court to order USEPA to develop FIPs for the northeastern Illinois and northwestern Indiana portions of the Chicago-Gary-Lake County (IL), IL–IN–WI Consolidated Metropolitan Statistical Area (CMSA) within 6 months. The complaint also sought an injuction compelling USEPA to impose and enforce a moratorium on the construction and modification of major stationary sources in the Illinois and Indiana portions of the CMSA. While the litigation was in progress, USEPA published final disapprovals of the ozone SIP for Illinois on October 17, 1988, and for Indiana on November 18, 1988, thereby making the construction moratorium effective as to VOC sources in both areas. The Court, on January 18, 1989, ordered USEPA to develop FIPs for the Illinois and Indiana portions of the Chicago area within 14 months. USEPA is in the process of developing such FIPs.

[4] An appropriate level of performance which could be achieved through changes to the I/M program would be that which is equivalent in performance (but not necessarily identical) to an enhanced I/M program containing the following features:

—centralized biennial inspection;

—20 model years of passenger cars and light trucks;

—20 percent stringency for pre-1981 vehicles;

—idle tests;

—207(b) emission standards for 1981 and newer vehicles

—catalyst, inlet, and lead deposit inspections on 1981 and newer vehicles;

—five percent waiver on the emission short test.

The computer model Mobile 4 must be used to show equivalency in performance to the above design by using national or local inputs of tampering/misfueling rates, vehicle type mix, average speed, etc.

Possible enhancements Illinois could implement to achieve the level of performance of the above enhanced I/M program design would be to require the inspection of the gas cap, fuel inlet restrictor, and catalytic converter. If the fuel inlet restrictor test is failed the catalytic converter must be replaced. In addition to this enhancement, the geographic coverage of the I/M program could be expanded or other program changes such as reducing the waiver rate could be made to achieve the performance standard. All of these measures have been successfully implemented in other I/M program; therefore, USEPA considers them available for implementation. Any program design, that USEPA determines is equivalent in performance level to the enhanced I/M program outlined above would be acceptable.

[5] The USEPA Region V Regional Administrator, Valdas V. Adamkus, notified the FHWA Regional Administrator, Herbert R. Teets, and the Governor of Illinois, by letters, that the State of Illinois had failed to submit an ozone attainment plan which considers each element of Section 172 of the Act.

[6] On October 17, 1988, USEPA disapproved the Chicago portion of the Illinois Ozone SIP (53 FR 40415).

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 89–23]

Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule.

SUMMARY: The Federal Maritime Commission proposes to remove the membership size limitation in its exemption of membership changes in certain passenger vessel operator agreements from the notice and waiting period requirements of section 6 of the Shipping Act of 1984 and the Information Form, notice and waiting period requirements of 46 CFR part 572. This will enable such membership changes to become effective upon filing with the Federal Maritime Commission, regardless of the membership size of the involved agreement.

EFFECTIVE DATE: Comments due by December 4, 1989.

ADDRESSES: Comments (original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Director, Bureau of Trade Monitoring, Federal Maritime

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Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5787.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission ("Commission"), in a seperate order issued concurrently with this notice, has revised 46 CFR 572.309(a)(2)(i) to exempt membership changes in certain passenger vessel operator agreements from certain procedural requirements of the Shipping Act of 1984, 46 U.S.C. app. 1701, *et seq.* ("1984 Act") and the Commission's rules thereunder, 46 CFR part 572. The exemption allows such membership changes to become effective upon filing with the Commission. Petition No. P2–89, *Cruise Lines International Association—Application for Section 16 Exemption* (Docket No. 89–22). This exemption is being granted in response to an Application filed by Cruise Lines International Association ("CLIA"), which requested that membership changes in passenger vessel operator discussion agreements open to all passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling or joint service authority, be exempted from the notice and waiting period requirements of section 6 of the 1984 Act, and the Information Form, notice and waiting period requirements of 46 CFR part 572.

The Commission is granting the essential exemption requested by CLIA, with some modifications to narrow the exemption's scope to also exclude membership changes in passenger vessel operator agreements containing sailing or space chartering authority and to otherwise improve the exemption's clarity and definiteness.

The Commission has also determined to propose an expansion of the exemption's scope to remove the membership size limitation, thus, affording uniform treatment of membership changes in all passenger vessel discussion agreements, regardless of the size of the agreement's membership. The membership size limitation issue was outside the scope of Petition No. P2–89 and could not, therefore, be addressed in that proceeding. It appears that the expanded exemption will comply with the requirements of section 16 of the 1984 Act in that it would be unlikely to substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Acting Chairman of the Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions. The primary economic impact of this rule will be on passenger vessel operating ocean common carriers, which generally are not small entities.

The Commission has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

The Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply to this Proposed Rule because the amendment to part 572 of Title 46, Code of Federal Regulations, does not impose any addition reporting or recordkeeping requirements or change the collection of information from members of the public which require the approval of the Office of Management and Budget.

List of Subjects in 46 CFR Part 572

Antitrust, Contracts, Maritime carriers, Administrative practice and procedures, Rates and fares.

Therefore, pursuant to 5 U.S.C. 553, and sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. 1704, 1715, 1716, in order to exempt membership changes in certain passenger vessel discussion agreements from certain requirements of the 1984 Act, and the Commission's implementing regulations thereof, the Commission proposes to amend part 572 of title 46 of the Code of Federal Regulations as follows:

PART 572—[AMENDED]

1. The authority citation to part 572 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. Section 572.309 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 572.309 Miscellaneous modifications to agreements—exemptions.

(a) * * *

(2) * * *

(i) *Article 3*—Parties to the agreement (limited to conference agreements, and discussion agreements among passenger vessel operating ocean common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89–25868 Filed 11–1–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–460, RM–6982]

Radio Broadcasting Services; Minneapolis, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Ruby J. Hoeflicker, requesting the allotment of FM Channel 224A to Minneapolis, Kansas, as that community's first FM broadcasting service. The coordinates for Channel 224A are 39–07–30 and 97–42–18.

DATES: Comments must be filed on or before December 7, 1989, and reply comments on or before December 22, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Tom W. Davidson, Sidley & Austin, 1722 Eye Street NW., Wahington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–460, adopted October 2, 1989, and released October 16, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Wahington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 22037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25821 Filed 11–1–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–464, RM–6859]

Radio Broadcasting Services; Lynchburg, VA

AGENCY: Federal Communications Commission.

ACTION: Proposd rule.

SUMMARY: This document requests comments on a petition by CRS Communications, Inc., licensee of Station WXYU(FM), Channel 289A, Lynchbury, Virginia, proposing the substitution of Channel 289C3 for Channel 289A at Lynchburg, and the modification of its station's license to specify operation on the higher powered channel. A site restriction of 20.1 kilometers (12.5 miles) east of the city is proposed. The coordinates are 37–25–37 and 78–55–00. The proposal could provide the Lynchburg with its first wide coverage area FM service.

DATES: Comments must be filed on or before December 7, 1989, and reply comments on or before December 22, 1989.

ADDRESSES: Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Jerry V. Haines, Esquire, Edward A. Yorkgitis, Jr., Wiley, Rein & Fielding, 1776 K Street NW., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–464, adopted September 26, 1989, and released October 16, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25822 Filed 11–1–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89–22; Notice 01]

RIN 2127–AD13

Federal Motor Vehicle Safety Standards; Roof Crush Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard No. 216, Roof Crush Protection—Passenger Cars, to extend its requirements to light trucks. (For the purpose of this notice, the term "light trucks" includes vans and other multipurpose passenger vehicles (MPV's), as well as trucks and buses, with a gross vehicle weight rating of 10,000 pounds or less.) This proposal is part of the agency's effort to ensure that occupants of light trucks are adequately protected, particularly in rollover events. NHTSA notes that the sales of light trucks are increasing and that those vehicles are being used increasingly to transport people instead of or in addition to property.

DATES: *Comment closing date:* Comments on this notice must be received by NHTSA not later than January 2, 1990.

Proposed effective date: NHTSA proposes to apply these requirements to multipurpose passenger vehicles, trucks and buses that have a gross vehicle weight rating of 10,000 pounds or less, manufactured on or after September 1, 1991.

ADDRESS: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4:00 p.m. Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, Room 5320, NHTSA, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366–4804.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 216 is intended to reduce deaths and injuries due to the crushing of the roof into the passenger compartment in rollover crashes. To that end, the standard currently establishes strength requirements for the forward portion of the roof (i.e., the area most likely to sustain severe damage in a rollover crash) of passenger cars, to increase the resistance of the roof to intrusion and crush. The roof of a stationary vehicle is subjected to a force of 1½ times the unloaded weight of the vehicle or 5,000 pounds, whichever is less. This force is gradually applied by a rigid test device in a static test. During the test, the device may not depress the roof structure more than five inches.

BEST COPY AVAILABLE

In addressing light truck safety, including the possible extension of roof crush resistance requirements to light trucks, buses and multipurpose passenger vehicles, the agency submitted two reports to Congress. The first of these is entitled, "Light Truck and Van Safety," (May 1987). The second, an April 1988 update to the 1987 report, is entitled, "Safety Programs for Light Trucks and Multipurpose Passenger Vehicles." As noted in the following discussion, these reports set forth much of the agency's view of light truck safety.

Standard No. 216 currently applies to passenger cars, but not to light trucks, for the reasons set forth in NHTSA's April 1988 light truck report to Congress:

> In the early years of NHTSA's existence, the regulatory and research approach was based on a clear distinction between the design and intended purpose of passenger cars and light trucks. Unlike passenger cars, light trucks were designed and used primarily as cargo carrying vehicles rather than as people-carrying vehicles. In addition, because light trucks were structurally different than passenger cars, the agency anticipated that occupants of light trucks would not be as vulnerable to injuries as passenger car occupants. Also, car occupants suffered far more deaths and injuries than did occupants of light trucks. Thus, the initial standards concentrated on requirements for passenger cars so that the agency could reduce deaths and injuries in those vehicles.
>
> (April 1988, page two.)

From 1967 to 1982, the number of light trucks being used to transport passengers, instead of or in addition to property, significantly increased. The Census Bureau's "Truck Inventory and Use Survey" shows that the percentage of pickup truck use for personal transportation purposes increased from 51 percent in 1967 to 66 percent in 1982 and that the percentage of use for agricultural purposes decreased from 26 percent to 12 percent in the same time period. NHTSA's May 1987 Light Truck and Van Safety report to Congress found that, in general, light trucks and vans have been capturing an increased share of the light duty market (including passenger cars), rising from 14.9 percent in 1971 to 28.7 percent in 1985. The report also found that (1) in 1977, only 10.2 percent of light truck sales were compact vehicles, while in 1985, the figure was 52.6 percent; (2) pickup trucks were a declining portion of light truck sales, dropping from 66.8 percent in 1977 to 59.3 percent in 1985; (3) van sales slightly increased from 21.3 percent of light truck sales to 22.7 percent; and (4) there was a large shift within the population of new vans from conventional cargo vans toward compact passenger vans. The agency noted that the greater use of light trucks as passenger carrying vehicles was leading to increases in the number of light trucks and vans on the road, the number of persons transported in such vehicles, and consequently, the number of persons exposed to crashes in those vehicles.

Safety Need

There has thus been a convergence between light trucks and passenger cars, both in their structure (with many trucks in the compact size range) and in their use (with many trucks used for personal transportation rather than cargo). These changes point strongly toward the need to reevaluate the standards applicable to light trucks. NHTSA has responded to these changes regarding light trucks by evaluating the degree to which occupant safety in light trucks can be improved through the extension of existing standards to those vehicles. In conducting this evaluation, this agency was mindful that it is required by the National Traffic and Motor Vehicle Safety Act to ensure that each standard is appropriate for the vehicle type to which it applies.

In the case of Standard No. 216, the agency has observed a significantly greater incidence of rollover crashes per registered vehicle involving light trucks, compared to passenger cars. NHTSA believes that rollover protection requirements are especially important for light trucks in view of traffic crash data which show that the light truck fatality rate (per registered vehicle) in rollovers is approximately twice that for passenger cars. As the agency stated in its April 1988 report to Congress:

> In rollover crashes, the multipurpose passenger vehicle fatality rate was 196 percent (1985) and 153 percent (1986) above the average fatality rate for all light trucks and passenger cars combined. The fatality rate for small pickups was 118 percent (1985) above average and is 107 percent (1986) above average. The standard pickup rate was 51 percent (1985) above average and is 47 percent (1986) above average. Higher fatality rates for the above vehicles are largely a consequence of their greater propensity for rollover as compared to passenger cars; state accident data indicate pickups roll over 1.5 times more often than passenger cars, and multipurpose passenger vehicles roll over two to three times more often.
>
> (April 1988, p. 10.)

An update of these data for 1987 and 1988 indicated that in rollover crashes, the multipurpose passenger vehicle fatality rate was 137 percent (1987) and 98 percent (1988) above the average for light trucks and passenger cars combined. The fatality rate for small pickups was 103 percent (1987) and 104 percent (1988) above average. The standard pickup fatality rate was 63 percent (1987) and 65 percent (1988) above average. While the fatality rates for multipurpose passenger vehicles and small pickups have shown declines since 1985, the rates are still generally above the average light duty vehicle rate.

Crash data indicate that during the period 1985–1988, the number of fatalities involved in light truck rollover events were 2,995 (1985); 3,387 (1986); 3,658 (1987); and 3,815 (1988). The agency believes that the number of light truck occupants killed in rollover crashes can be significantly reduced by reducing the number of occupants ejected in those crashes. This belief is based on the finding in NHTSA's May 1987 light truck and van safety report that a principal cause of the high fatality rate in light truck rollover crashes is occupant ejection; over two thirds of light truck rollover fatalities are ejectees. Accordingly, increased use of safety belts and improvements to other features (e.g., glazing) may reduce rollover fatalities by reducing ejection and holding occupants in place within the passenger compartment during rollovers.

However, the agency believes that the benefits from these ejection-prevention measures will be fully realized only if adequate protection is provided to guard against the collapse of the passenger compartment roof in a rollover crash. NHTSA tentatively concludes that amending Standard No. 216 to set roof-crush requirements for light trucks will complement regulatory actions that are directed toward reducing ejections and the accompanying risk of injury and fatality in rollovers. NHTSA also notes that this agency is currently conducting research on ways to reduce the likelihood of rollover involvement.

NHTSA is proposing to require light trucks to withstand a force 1½ times their weight, without the 5,000-pound limit applicable to passenger cars. The agency included the 5,000-pound ceiling for cars primarily to avoid requiring the redesign of large cars that could not meet the limits on roof crush when tested at 1½ times their weight. At that time, the agency believed that requiring the redesign of large cars would be unnecessary in view of their lower rollover tendency.

NHTSA has tentatively determined that there is no equivalent reason why there should be a 5,000-pound limit on the force that light truck roofs must withstand. In light of their high rollover involvement and fatality rates, NHTSA tentatively concludes that light trucks should meet a force crush limit of 1½

times their weight and that a force ceiling should not be provided. NHTSA believes this action will help ensure the crashworthiness of light trucks in rollover crashes. However, the agency requests comments from the industry and public regarding the advantages and disadvantages of a weight ceiling for light trucks.

NHTSA also specifically requests comments relating to the possible impacts of this proposed rule on final-stage manufacturers and alterers, and whether those impacts should be reduced by applying the standard only to MPV's and trucks having a GVWR of 8,500 pounds or less. This issue is further discussed in NHTSA's preliminary regulatory evaluation for this proposal, copies of which have been placed in the agency's rulemaking docket. (A copy of the evaluation can be obtained by writing to: Docket Section, NHTSA, Room 5109, 400 Seventh St., SW., Washington, DC 20590.)

This proposed extension of Standard No. 216 excludes school buses from the category of light truck to which this NPRM is addressed. The reason for this is that school buses must already comply with their own roof crush and other rollover crash protection requirements which generally are the same as the requirements proposed in this notice. Standard No. 220, School Bus Rollover Protection (49 CFR 571.220), limits roof crush to not more than 5⅛ inches upon the application of vertical downward force to the bus roof of 1½ times the vehicle's unloaded weight. Similar to the rule proposed in this notice, Standard No. 220 does not set a 5,000-pound or other weight limit on the applied force, other than limiting the force to 1½ times the unloaded weight. Given the similarity in requirements of Standards 220 and 216, NHTSA believes school bus safety would not be significantly improved by extending Standard No. 216 to those vehicles.

Voluntary Compliance

NHTSA obtained information from light truck manufacturers showing that there appears to be widespread voluntary compliance with the requirements set forth in Standard No. 216 for cars. (This information has been placed in Docket No. 67–11, Notice 1.) Information available to NHTSA also indicates that the majority of light trucks meet the roof crush displacement limits of the standard when tested at 1½ times the vehicle's unloaded vehicle weight, even though the resulting force may exceed the 5,000 pound limit for passenger cars.

In past regulatory matters involving widespread voluntary compliance, the agency has generally concluded that there is no compelling safety need for it to act when vehicle manufacturers are voluntarily taking the desired steps absent any Federal requirement to do so. In those circumstances, NHTSA has frequently determined that rulemaking would impose a burden on the agency by requiring it to develop appropriate requirements, conduct a rulemaking proceeding, and use some of its enforcement budget to monitor compliance. Such rules would also impose additional paperwork burdens on the manufacturers, even though they would take the desired action in any case. Those burdens would be imposed without a commensurate safety benefit for the public, and would therefore represent unnecessary burdens.

However, on occasion, the agency proceeds with rulemaking in such situations, particularly when a standard of major importance is involved. For example, NHTSA recently issued a final rule requiring installation of lap/shoulder belts in the rear seats of cars, although most models were already voluntarily slated to be so equipped within the next few years.

NHTSA tentatively concludes that it is similarly appropriate to extend Standard No. 216 to light trucks, notwithstanding the current level of apparent voluntary compliance. The roof-crush protection represented by the standard is clearly important for light truck occupant safety, given the rollover rate for many of them. Further, although most manufacturers believe that their vehicles would comply with the standard's requirements for passenger cars, and information available to the agency indicates that most light trucks can comply when tested to 1½ times the unloaded vehicle weight, some manufacturers apparently do not meet the proposed standard for their entire light truck fleet. As light trucks continue to grow in popularity and sales, NHTSA believes it is important to ensure that all such vehicles meet at least the minimum standards specified in Standard No. 216. Moreover, the agency believes it is important to ensure that any new entrants to the light truck market will follow the lead of their competitors in meeting the proposed requirements. NHTSA therefore tentatively concludes that amending Standard No. 216 as proposed in this notice will satisfy a safety need by ensuring uniform safety performance for all affected vehicles.

Leadtime

NHTSA proposes that the requirements for light trucks become effective September 1, 1991. The agency tentatively concludes that the widespread voluntary compliance with Standard No. 216 demonstrates the availability of the engineering and manufacturing resources needed to implement this proposal by that date. Comments are requested on the leadtime necessary to comply with the proposal, if a final rule is adopted.

Costs and Benefits

NHTSA has analyzed this proposal and determined that it is not "major" within the meaning of Executive Order 12291. Given the already substantial level of voluntary compliance with the proposed requirements, adoption of those requirements would have limited cost implications. NHTSA estimates this cost would be well below the $100 million costs that are needed to classify a rule as "major" under Executive Order 12291.

However, the costs of altering light trucks to meet the proposed requirements are not definitely known. A 1982 NHTSA evaluation of changes made to passenger cars in 1974 indicated that the cost for component changes in some models was $11 in 1988 dollars. However, it is uncertain whether this estimate would be applicable to light trucks. Potentially more costs may be incurred for vehicles that are built on chassis by final-stage manufacturers for commercial or recreational use, and for vehicles that are modified by alterers for these uses. Because of the proliferation of vehicle types, these manufacturers and alterers could face higher compliance costs. Based on previous tests conducted for NHTSA, an FMVSS 216 certification test should cost approximately $1,500 per test. Because of the need for more specific cost information, comments are requested from the industry and public regarding: (1) The number of vehicles that would not meet the standard; (2) the costs and weight increases associated with bringing these vehicles up to the standard; (3) the number of vehicles that would have to be tested; and (4) the total cost of testing and certification.

This proposal is "significant" within the meaning of the Department of Transportation's regulatory policies and procedures because of the public interest in this rule. As noted above, NHTSA has prepared a preliminary regulatory evaluation for this proposed rule, which can be obtained from NHTSA's Docket Section.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. NHTSA has examined the potential impacts of this

rule on small entities and has described those possible impacts in the preliminary regulatory evaluation, a portion of which contains the discussion

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In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

particular vehicle need not meet further requirements after being tested at one location.

within 120 seconds. Guide the test device so that throughout the test it moves, without rotation, in a straight

reaching a force of 1½ times the unloaded vehicle weight of the tested vehicle. Complete the test within 120

rule on small entities and has described those possible impacts in the preliminary regulatory evaluation, a portion of which contains the discussion required of an initial regulatory flexibility analysis. To summarize that evaluation, there are a number of final-stage manufacturers, many of whom are small businesses, which install truck bodies and/or work-related equipment on chassis. These manufacturing processes may involve the roof structure on vehicles. Also, there are a number of alterers involved in modifying (e.g., raising) the roof structure. The potential impact of this proposed rule on these entities depends on the number of different models that are produced by them, the amount of testing done to determine compliance with the roof crush standard, and the ability of vehicles to conform with the standard. NHTSA tentatively believes that the task which these manufacturers and alterers would face in certifying compliance of their vehicles or alteration to the proposed requirements would not differ significantly from the tasks they face currently in certifying compliance with other standards. However, the agency believes it will be able to further analyze the impacts of the rule on small entities after receiving comments on the potential costs and other impacts of the proposed rule

Small organizations and governmental units would not be significantly affected. While there might be a relatively small price increase for those vehicles which have to be modified to achieve compliance, NHTSA does not anticipate any significant impacts for any small entity interested in purchasing such vehicles.

Environmental effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Information Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency s confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.216 [Amended]

2. The title of the heading of Standard No. 216, Roof Crush Resistance—Passenger Cars, would be revised to read as follows: "Standard No. 216; Roof Crush Resistance".

3. Paragraph S3 would be revised to read as follows:

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less. However, it does not apply to school buses. It also does not apply to vehicles that conform to the rollover test requirements (S5.3) of Standard No. 208 (§ 571.208) by means that require no action by vehicle occupants. This standard also does not apply to convertibles, except for optional compliance with the standard as an alternative to the rollover test requirements in S5.3 of Standard No. 206.

4. Paragraph S4 would be revised to read as follows:

S4. *Requirements.*

S4.1 Passenger cars. A test device as described in S5 shall not move more than 5 inches, measured in accordance with S6.4, when it is used to apply a force of 1½ times the unloaded vehicle weight of the vehicle or 5,000 pounds, whichever is less, to either side of the forward edge of a vehicle's roof in accordance with the procedures of S6. Both the left and right front portions of the vehicle's roof structure shall be capable of meeting the requirements, but a particular vehicle need not meet further requirements after being tested at one location.

S4.2 Multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 1991. A test device as described in S5 shall not move more than 5 inches, measured in accordance with S6.4, when it is used to apply a force of 1½ times the unloaded vehicle weight of the vehicle to either side of the forward edge of a vehicle's roof in accordance with the procedures of S6. Both the left and right front portions of the vehicle's roof structure shall be capable of meeting the requirements, but a particular vehicle need not meet further requirements after being tested at one location.

5. Paragraph S6.3 would be revised to read as follows:

S6.3.1 Passenger cars. Apply force in a downward direction perpendicular to the lower surface of the test device at a rate of not more than one-half inch per second until reaching a force of 1½ times the unloaded vehicle weight of the tested vehicle or 5,000 pounds, whichever is less. Complete the test within 120 seconds. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S6.2(a) through S6.2(d).

S6.3.2 Multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 1991. Apply force in a downward direction perpendicular to the lower surface of the test device at a rate of not more than one-half inch per second until reaching a force of 1½ times the unloaded vehicle weight of the tested vehicle. Complete the test within 120 seconds. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S6.2(a) through S6.2(d).

Issued on October 27, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-25800 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

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Notices

Federal Register
Vol. 54, No. 211
Thursday, November 2, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Revision to the George Washington National Forest Land and Resource Management Plan, Alleghany, Amherst, Augusta, Bath, Botetourt, Frederick, Highland, Nelson, Page, Rockbridge, Rockingham, Shenandoah, and Warren Counties, Virginia, and Hampshire, Hardy, Monroe, and Pendleton Counties, West Virginia

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement to revise the George Washington National Forest Land and Resource Management Plan pursuant to 16 U.S.C. 1604(f)(5) and 36 CFT 219.12.

The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice that a full environmental analysis and decisionmaking process will occur on the proposal so that interested and affected people are aware of how they may participate in, and contribute to, the final decision.

DATE: Comments concerning the scope of the analysis should be received in writing by December 15, 1989, to ensure timely consideration.

ADDRESSES: Send written comments to George W. Kelley, Forest Supervisor, George Washington National Forest, PO Box 233, Harrison Plaza, Harrisonburg, VA 22801.

FOR FURTHER INFORMATION CONTACT: Steve Parsons, Planning Staff Officer (703) 433–2491.

SUPPLEMENTARY INFORMATION: The George Washington Land and Resource Management Plan (LRMP) was approved September 9, 1986. There were 18 administrative appeals of the decision to select Alternative 7 as the LRMP to be implemented. On August 6, 1987, the Regional Forester directed the Forest Supervisor to perform a supplemental analysis based on issues raised in the appeals by interested and affected publics.

On October 9, 1987, at the request of the Regional Forester, the Chief suspended the unresolved appeals until August 1, 1989, to allow the Forest to conduct supplemental analysis to resolve the issues. The Notice of Intent to prepare a significant amendment to the George Washington National Forest LRMP was published in the **Federal Register** on March 9, 1988, (53 FR 7545; hereby cancelled) inviting comments on the scope of the analysis and stating the draft supplement would be available for review in August 1989 and the final in April 1990. Due to delays in the process, on August 1, 1989, the Regional Forester requested an extension to complete the supplemental analysis. On September 6, 1989, Forest Service Chief F. Dale Robertson denied the request for extension and directed the Regional Forester to revise the Plan. The Chief believed the need to address certain issues warranted revision to the Plan.

The Forest Plan as approved on September 9, 1986, will remain in effect and continue to be implemented, as modified by the Chief's September 6, 1989, letter. The following interim direction will be effective until the revised Plan is issued: (1) The annual timber sales offered may not exceed 38 million board feet per fiscal year. This figure is based on a review of the GWNF's sold and planned data for fiscal years 1986 to 1990; (2) The use of either even-aged or uneven-aged management in the harvesting of timber will be determined and documented during project-level analysis. This determination will be based on the management area goals and objectives as stated in the Plan. Management prescriptions that prescribe the silvicultural system will be revisited with each timber sale (or group of sales). Clearcutting may be selected as the appropriate harvest method only when it is determined to be the optimum method. Additional management direction on clearcutting can be found in the Chief's letter of September 8, 1988. In that letter, the Chief directed the Regional Foresters to "seek opportunities to reduce clearcutting when other alternatives will meet our land management objectives;" and (3) Notify all appellants, and give them an opportunity to comment, on proposed surface-distrubing projects involving timber sales and road building. The Forest Supervisor must consider any comments and whether the project decision should be postponed until the LRMP revision is completed.

Since October 1987, public participation activities have included presentations to various public groups, individual meetings and phone calls, and requests for written comments on various planning documents. During environmental impact statement preparation for the LRMP revision, public involvement will continue. The Forest proposes to have periodic public meetings at various locations. The interested and affected people will be notified in advance through letters and news releases of the times and locations.

The following issues will be addressed in the environmental analysis, as well as those significant issues identified during the scoping process: (1) What primitive recreation opportunities should the Forest provide and possible locations; (2) how much all-terrain vehicle (ATV) use will be allowed and possible locations for that use; (3) what level of wildlife emphasis will be allowed, including what standards and guidelines are necessary for wildlife management; (4) what type of transportation system for the Forest is necessary; (5) how much timber should the Forest offer; (6) how can the timber sale program be managed more efficiently; (7) what should be the mix of uneven-aged and even-aged management systems to produce timber and where will each be permitted; (8) what lands should be identified as suited for timber production; and (9) what rivers will be recommended for inclusion in the Wild and Scenic Rivers System.

In preparing the environmental impact statement, the Forest Service will develop, as a minimum, a range of alternatives that: (1) increase and/or decrease timber harvest and road construction levels, analyze various mixes of timber harvest methods, and analyze various mixes of nontimber and timber activities for producing recreation and wildlife benefits; (2) provide timber harvesting at levels where direct timber revenues exceed direct costs, as well as alternatives where timber harvesting is economically efficient considering the contribution harvesting makes to providing other resource benefits; (3) emphasize different mixes of recreation, wildlife, and timber resources which may or may not meet demand for those resources; and (4) provide recommendations for different rivers to be included in the Wild and Scenic Rivers System.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by March 1991. At that time EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 90 days from the date the EPA notice of availability appears in the **Federal Register**. It is very important that those interested in the management of the George Washington National Forest participate at that time. To be most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553, (1978).* Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.,* v. *Harris, 490 F. Supp. 1334, (E.D. Wis. 1980).* The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the draft environmental impact statement, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by October 1991. In the final environmental impact statement the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal under 36 CFR 217.

The responsible official is John E. Alcock, Regional Forester, Southern Region, 1720 Peachtree Road NW., Atlanta, Georgia 30367.

October 23, 1989.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 89-25814 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-11-M

Modoc National Forest; Hayden Hill Gold Mine Operation

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, as a cooperating agency with the Bureau of Land Management, Department of Interior, will prepare an environmental impact statement for the proposed open pit gold mine operation located in the Hayden Hill area of the Big Valley Ranger District of the Modoc National Forest. The lead Federal Agency will be the Susanville District of the Bureau of Land Management. In addition, Lassen County will be jointly preparing an environmental impact report, as directed by the California Environmental Quality Act, (CEQA). The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by January 15, 1990.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Thomas Harbour, District Ranger, Big Valley Ranger District, P.O. Box 159, Adin, California 96006.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Joyce Coakley, District Resource Officer, Big Valley Ranger District Office, P.O. Box 159, Adin, California 96006 or phone 916–299–3210.

SUPPLEMENTARY INFORMATION: Hayden Hill Operating Company, a joint venture of AMAX Gold and U.S. Gold, has filed a plan of operation with the Bureau of Land Management, for an open pit gold mine in the Hayden Hill area. The project area is approximately 1280 acres and consists of an open pit, waste rock disposal site processing plants, heap leach systems, mill and tailing ponds, gold recovery processing plant and ancillary facilities and access roads. The present plan of operation proposes the waste rock site and tailings pond to be adjacent to National Forest System lands. The plan proposes to have access and some ancillary facilities on National Forest System Lands. The Forest Service will issue an approval of the plan of operation or permits, for those activities occurring on National Forest System Lands, based upon the Record of Decision.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternatives for this site. One of these will be no development of the site. Other alternatives will consider relocation of the access route, waste rock and or tailing ponds.

Douglas G. Smith, Forest Supervisor, Modoc National Forest, Alturas California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preperation of the draft environmental impact statement (DEIS). The scoping processing includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The Forest Service and the Bureau of Land Management will hold a public scoping meeting at the Adin Community Hall, Adin, California, from 3 p.m. till 9:30 p.m., Thursday, November 30, 1989.

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The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by May 1990. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the Hayden Hill area participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implemeting the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final EIS is scheduled to be completed by July 1990. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Dated: October 24, 1989.

Douglas G. Smith,

Forest Supervisor.

[FR Doc. 89-25815 Filed 1-1-89; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: Arms Control and Disarmament Agency.

ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, DC 20451, (202) 647-2034.

The following are the names and present titles of the individuals appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency during the period beginning on the effective date of this notice and ending when a new register is published in approximately one year. Specific Performance Review Boards will be established as needed from this register.

These appointment supercede those in the announcement published at 53 FR 49338 on December 7, 1988.

Name and Title

Stephen Read Hanmer, Jr.—Deputy Director
Mariner G. Cox—Executive Assistant
Manfred Eimer—Assistant Director, Verification and Intelligence Bureau
Robert Summers—Chief, Verification Division, Verification and Intelligence Bureau
Alfred Lieberman—Chief, Operations Analysis Division, Verification and Intelligence Bureau
Kathleen Bailey—Assistant Director, Nuclear and Weapons Control Bureau
Norman Wulf—Deputy Assistant Director, Nuclear and Weapons Control Bureau
Robert Rochlin—Chief Scientist, Nuclear and Weapons Control Bureau
Michael Rosenthal—Chief, International Nuclear Affairs Division, Nuclear and Weapons Control Bureau
Joerg Menzel—Chief, Nuclear Safeguards and Technology Division, Nuclear and Weapons Control Bureau
David Clinard—Deputy Assistant Director, Multilateral Affairs Bureau
O. James Sheaks—Chief, Science and technological Policy Division, Multilateral Affairs Bureau
R. Lucas Fischer—Deputy Assistant Director, Strategic Programs Bureau
Stanley Riveles—Chief, Strategic Affairs Division, Strategic Programs Bureau
Karin Lawson—Chief, Threater Affairs Division, Strategic Programs Bureau
Michael Guhin—Counselor
William Montgomery—Administrative Director
Thomas Graham, Jr.—General Counsel
Mary Elizabeth Hoinkes—Deputy General Counsel
Norman Clyne—Deputy for Long Range Planning
William Staples—Deputy for Policy Analysis
Albert M. Christopher—Special Counsel
William Shepard—Director of Congressional Affairs
Edward Lacey—Principal Deputy of the On-Site Inspection Agency.

William J. Montgomery,

Administrative Director.

[FR Doc. 89-25812 Filed 11-1-89; 8:45 am]

BILLING CODE 6820-32-M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee to the United States Commission On Civil Rights Agenda and Notice Of Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will be convened at 7:15 p.m., on November 30, 1989, in Room 413 of the Waterman Building, University of Vermont, Prospect and College Streets, Burlington, Vermont. The purposes of the meeting include the holding of a forum to examine the topic, "Civil Rights Issues Related to Recruiting and Hiring the Aged."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Eloise R. Hedbor (802/372-6917) or John I. Binkley, Director of the Eastern Regional Division at (202/523-5264, TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Divison at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC, October 26, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89-25810 Filed 11-1-89; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Shark Fishery for the Atlantic Ocean

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a draft fishery management plan, notice of scheduled public hearings on the plan, and requests for comments.

SUMMARY: NOAA issues this notice that NMFS, acting on behalf of the Secretary of Commerce (Secretary), has developed a draft Fishery Management Plan for the Shark Fishery of the Atlantic Ocean (FMP) and request comments.

DATES: Written comments will be accepted until December 31, 1989. See **"SUPPLEMENTARY INFORMATION"** for dates, times, and locations of the hearings.

ADDRESS: Comments should be sent to Paul J. Leach, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702. Mark envelope "Shark Fishery". Copies of the draft FMP may be obtained from NMFS at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Paul J. Leach, 813-893-3322.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) provides for the preparation of a fishery management plan by the Secretary when a fishery requires conservation and management and the appropriate Regional Fishery Management Council(s) cannot prepare a plan in a reasonable period of time. The five Councils covering the east coast, Gulf of Mexico, and the Caribbean areas requested the Secretary to prepare the FMP because of the identified need for immediate management measures to protect shark resources and their acknowledgement of the significant amount of time required for preparing a Council FMP.

Public comments on the draft FMP are requested at the public hearings either in written or verbal form. NMFS will consider the public comments in preparing a final FMP. The final FMP and proposed implementing regulations will also be available for public comment before final Secretarial adoption and promulgation of final regulations. The notice of availability of the final FMP and proposed implementing rule will also be published in the **Federal Register.**

Shark resources are valuable to many user groups—including consumers of shark meat in the United States, consumers of sharkfin soup in the Orient, recreational fishermen who enjoy catching sharks on rod and reel, commercial fishermen whose income is dependent to varying degrees on a shark fishery, and medical researchers using shark-derived substances in studying cancer. Shark resources are in need of conservation and management primarily because of a combination of the unique aspects of shark biology and the intensive fishing pressures. Sharks, unlike most fish, are generally slow-growing, take many years to reach maturity, and produce few young (2-25 pups per year) after long gestation periods. Many species of sharks are highly migratory, ranging extensively across wide ocean areas and crossing state and national jurisdictional boundaries. Stocks of shark are fished by many nations. The maximum sustainable yield (MSY) in U.S. waters (the exclusive economic zone and State waters) covering the east coast, Gulf of Mexico, and Caribbean, is estimated to be 16,250 metric tons (mt) yearly. Over the past 10 years, total shark mortality in U.S. waters has exceeded the MSY by approximately 5,900 mt annually. The total fishing mortality is attributable to fish caught in a growing commercial fishery serving an expanding market for shark meat and fins, dead sharks discarded in commercial fisheries for swordfish, tuna, and shrimp, and fish caught and not released alive in the recreational fishery. If the intense fishing pressures are not controlled, the east coast and Gulf shark fisheries could collapse as has occurred in other overexploited shark fisheries. If a fishery collapse occurs, it could take decades before the shark resources will recover to healthy levels capable of sustaining recreational and commercial fisheries. Such a fishery collapse has not yet occurred despite high exploitation levels, probably because of the large unexploited biomass existing prior to the period of rapidly growing interest in sharks.

FMP management measures are proposed to achieve four major objectives: (1) Prevent overfishing; (2) encourage management of shark stocks throughout their ranges: (3) establish a data collection, research, and monitoring program; and (4) optimize the benefits to the United States from shark resources while minimizing resource waste. Specific measures proposed would: (1) Establish an annual quota for commercial landings of 5,800 mt; (2) establish a recreational bag limit of one shark per person per day; (3) establish a procedure for adjusting annual commercial quotas and bag limits for recreational fishermen; (4) prohibit "finning" by allowing fins to be landed only in proportion to carcasses, (i.e., no more than four fins per carcass); (5) prohibit sale of sharks caught under the bag limit; (6) require annual permits for commercial fishermen and dealers; and (7) require monthly data reports by permitted fishermen and dealers and by persons conducting shark fishing tournaments. In summary, the intended effects of the FMP are to reduce fishing mortality on sharks and to increase understanding of the condition of the shark resources and shark fishery.

NMFS will hold 22 public hearings on the draft FMP in order to obtain public comments. The dates, times, and locations are scheduled as follows:

November 16, 1989, 7:00 p.m.
Sonesta Inn, 157 High Street, Portland, Maine.
November 28, 1989, 7:00 p.m.
Howard Johnson, Downtown, 250 Spring Street, Charleston, South Carolina.
November 29, 1989, 7:00 p.m.
Florida Community College, 501 W. State Street, 4th Floor, Administration Building, Jacksonville, Florida.
November 30, 1989, 7:00 p.m.
City Hall, 300 Municipal Drive, Madeira Beach, Florida.
December 4, 1989, 7:00 p.m.
Community Center, 408 N. Alister, Port Arkansas, Texas.
December 5, 1989, 7:00 p.m.
Holiday Inn, Pavilion Room, 400 E. First Street, Thibodaux, Louisiana
December 6, 1989, 7:00 p.m.
Holiday Inn, Airport Boulevard, Mobile, Alabama.
December 7, 1989, 7:00 p.m.
Holiday Inn, 2001 Cove Boulevard, Mall Room A&C, Panama City, Florida.
December 11, 1989, 7:00 p.m.
Commission Chambers, 2300 Virginia Avenue, 3rd Floor, New Administration Building, Ft. Pierce, Florida.
December 12, 1989, 7:30 p.m.
Freeport Yacht Club, Guy Lombardo Avenue, Freeport, Long Island, New York.
December 13, 1989, 7:00 p.m.
City Commission Chambers, 525 Angela Street, Key West, Florida.
December 13, 1989, 7:30 p.m.
Holiday Inn, Exit 72, Long Island Expressway & Route 25, Riverhead, Long Island, New York.
December 15, 1989, 1:00 p.m.
Hotel Villa Parguera, La Parguera, Puerto Rico.
December 15, 1989, 7:00 p.m.
Dutch Inn, Great Island Road, Galilee, Rhode Island.

December 18, 1989, 7:00 p.m.
Wall Township Fire Hall, West Atlantic Avenue at Route 34, Wall, New Jersey.

invitations to bid and erroneous NSN assignment and is in consonance with the intent of title 10, U.S. Code, chapter 145.

may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

scoping meetings. The purpose of the scoping meetings is to identify significant issues and alternatives to be considered in the EIR/EIS.

the Analysis and Dissemination Committee of the National Assessment Governing Board. This notice also describes the functions of the Board.

inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC from 8:30

December 18, 1989, 7:00 p.m.
Wall Township Fire Hall, West Atlantic Avenue at Route 34, Wall, New Jersey.
December 18, 1989, 7:00 p.m.
Legislature Building, Beside Ft. Christian Museum, St. Thomas, Virgin Islands.
December 19, 1989, 7:00 p.m.
Cape May Extension Office, Cape May Court House, Dennisville Road, Cape May, New Jersey.
December 20, 1989, 7:00 p.m.
Sheraton Ocean Park Inn, Route 6, Eastham, Massachusetts.
December 21, 1989, 7:00 p.m.
Skipper Motor Inn, Route 6, Fairhaven, Massachusetts.
December 27, 1989, 7:00 p.m.
Carousel Hotel, 118th Street, Coastal Highway, Ocean City, Maryland.
December 28, 1989, 7:00 p.m.
Radisson Hotel, 700 Settler Landings Road, Hampton Virginia.
December 29, 1989, 7:00 p.m.
Duke Auditorium, Duke Marine Lab, Pivers Island, Beaufort, North Carolina.

Dated: October 27, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-25763 Filed 10-27-89; 4:14 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

The Department of Defense has sumitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Government Industry Reference Data Edit and Review (GIRDER); DLSC Form 1690; and OMB Control 0704-0135.

Type of Request: Reinstatement.

Average Burden Hours/Minutes Per Response: 22.7 hours.

Frequency of Response: Annually.

Number of Respondents: 100

Annual Burden Hours: 2,270.

Annual Responses: 100

Needs and Uses: The GIRDER report is the only method available to verify manufacturers' names and part numbers which are associated with National Stock Numbers (NSNs) in the Federal Catalog System (FSC). This FSC maintenance avoids erroneous invitations to bid and erroneous NSN assignment and is in consonance with the intent of title 10, U.S. Code, chapter 145.

Affected Public: Businesses or other for profit; Small businesses or organizations.

Frequency: Continuing.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: October 30, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-25850 Filed 11-1-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Names of the committee: Army Science Board (ASB), Army, DOD.

Date of Meeting: 27-29 November 1989.

Time of Meeting: 1300-1700 hours, 27 November; 0730-1700 hours, 28 November; 0730-1300 hours, 29 November.

Place: Fort Bliss, Texas, 27 November; Fort Huachuca, Arizona, 28-29 November.

Agenda: The Army Science Board Ad Hoc Subgroup on Software in the Army will meet for discussions focused on problems facing the Army in software development and to review past and ongoing efforts to improve the process. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-25817 Filed 11-1-89; 8:45 am]

BILLING CODE 3710-8-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed North Coyote Valley Industrial Area Project, Regulatory Permit Application No. 16507S92, Santa Clara, CA.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. Proposed Action

The City of San Jose, California has applied for a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) to develop an industrial park in the northern end of Coyote Valley, San Jose, California. The project consists of 1,500 gross acres with 1215 net acres to be developed into a low intensity use industrial park characterized by large parcel sizes for individual users and a campus-like setting. The San Francisco District, Corps of Engineers and the City of San Jose will prepare a joint federal/state environmental impact document (Environmental Impact Report/Environmental Impact Statement (EIR/EIS)) for the proposed project pursuant to the National Environmental Policy Act and the California Environmental Quality Act.

2. Alternatives

The alternatives being considered by the City of San Jose at this time are:

a. Applicant's preferred plan as described in "1" above.
b. Reduced project plan on-site.
c. Alternative land use on-site.
d. Alternative site.
e. No action (permit denial).

Additional alternatives identified during the scoping process would also be considered in the EIR/EIS.

3. Scoping Process

a. A scoping meeting will be held on Wednesday, December 6, 1989 at the City Council Chambers, City Hall, 2nd Floor, 801 North 1st Street, San Jose, California, at 7 p.m. Public and private interest groups, and the public are invited to participate in the scoping process by attending the evening scoping meetings. The purpose of the scoping meetings is to identify significant issues and alternatives to be considered in the EIR/EIS.

Any person may also participate in the scoping process by submitting written comments to the Corps of Engineers. Comments should be addressed to the District Engineer, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California, 94105-1905 and received within 30 days of the date of this notice.

b. The significant issues which have been identified to date and which would be analyzed in the EIR/EIS include impacts on:

(1) Water quality and hydrology
(2) Flood control
(3) Air quality
(4) Wildlife and habitat
(5) Noise conditions
(6) Aesthetics
(7) Traffic conditions
(8) Land Use
(9) Cultural Resources
(10) Growth Inducement

Additional significant issues identified during the scoping process would also be analyzed in the EIR/EIS.

c. Environmental review and consultation as required by Section 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 AND 1344); Section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order 11988, "Floodplain Management", 24 May 1977; Executive Order 11990, "Protection of Wetlands", 24 May 1977; and other applicable statutes or regulations will be conducted concurrently with the EIR/EIS process.

Dated: 27 October 1989.

Jack E. Farlow,

Deputy District Engineer, Project Manager

[FR Doc. 89-25798 Filed 11-1-89; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Analysis and Dissemination Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: Wednesday, November 15, 1989.

TIME: 10:00 a.m. (e.s.t.) until adjournment.

PLACE: National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC, 20005-4013, Telephone: (202) 357-6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III-C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), (20 U.S.C. 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Analysis and Dissemination Committee of the National Assessment Governing Board will meet via teleconference on Wednesday, November 15, 1989 from 10:00 a.m. until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The proposed agenda includes discussion of the plans for the Press Conference to release the results of the reading and writing assessments, consideration of the recommendations from the State by State panel regarding the comparison of States' performance on the NAEP tests and other matters pertaining to the Committee's charge.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC from 8:30 a.m. to 5:00 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89-25783 Filed 11-1-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 89-68-NG]

Vermont Gas Systems, Inc.; Application To Amend Authorization To Import Natural Gas From Canada and Issuance of an Emergency Order Granting Interim Authority To Increase the Volume Being Imported

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application to amend authorization to import Canadian natural gas and issuance of an emergency order granting interim authority to increase the volume being imported.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 4, 1989, of an application filed by Vermont Gas Systems, Inc. (Vermont Gas), to amend its existing authorization to import Canadian natural gas by increasing the maximum daily import volumes to 32,000 Mcf for the remainder of the import term and extending the expiration date of its authority for one year from October 31, 1991, to October 31, 1992. No new facilities will be needed for the importation and transportation of gas under the proposed amendments.

Vermont Gas requested waiver of the DOE's notice requirements (10 CFR 590.205(a)) to the extent necessary to assure that the requested authorization would be issued by October 30, 1989. Alternatively, Vermont Gas requested that if a final order could not be issued by October 30, 1989, it be given temporary emergency authority to import the additional volumes beginning on that date, and continuing until a final decision on the application is made so that there are sufficient gas supplies to meet the expected winter heating season requirements of its customers.

The application is filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to

intervene, notices of intervention, and written comments are invited.

By this notice, the DOE is establishing a 30-day comment period to provide all

On May 1, 1989, Vermont Gas entered into a letter of agreement with Western Gas Marketing Limited (WGML), TransCanada's affiliate (acting on its

establishes new criteria to be used in the event of any arbitration.

In support of its application, Vermont Gas states that the terms of the 1985

notice of amendments to its guidelines for compliance with NEPA. In that notice the DOE added to its list of categorical exclusions the approval or

and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate

Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type

intervene, notices of intervention, and written comments are invited.

By this notice, the DOE is establishing a 30-day comment period to provide all interested persons the opportunity to submit comments in response to Vermont Gas' request to amend its import authorization. The DOE also gives notice at this time of its decision to issue an emergency interim order, under 10 CFR 590.403, authorizing Vermont Gas to import the additional volumes, on which comments may be filed within the same 30-day public comment period.

DATE: Protests, motions to intervene, notices of interventions, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., December 4, 1989.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6116;

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Vermont Gas is a local distribution company that receives its total supply of natural gas from TransCanada PipeLines Limited (TransCanada) under a gas purchase contract dated November 26, 1985, as amended (1985 contract). The delivery point is at the international boundary near Highgate Springs, Vermont. Vermont Gas sells and distributes this gas supply entirely within the State of Vermont. Vermont Gas cannot obtain any domestic natural gas supplies since it is not connected to any other pipelines than TransCanada.

In DOE Opinion and Order No. 143, issued September 5, 1986 (1 ERA Para. 70,666), Vermont Gas was authorized to increase incrementally from 25,600 Mcf per day to 32,000 Mcf per day the firm volumes of gas imported from TransCanada over a three-year period ending October 31, 1989. Beginning November 1, 1989, absent approval of this application, Vermont Gas' authorized import quantity would revert to 25,600 Mcf per day in accordance with DOE Opinion and Order No. 39 (Order 39), issued March 1, 1982 (1 ERA Para. 70,544). Order No. 39 expires October 31, 1991.

On May 1, 1989, Vermont Gas entered into a letter of agreement with Western Gas Marketing Limited (WGML), TransCanada's affiliate (acting on its own behalf and as agent for TransCanada), concerning a new contract for the purchase of gas on a firm, long-term basis after October 31, 1989. Subsequently, on July 31, 1989, Vermont Gas applied in FE Docket No. 89–50–NG to amend its import authorization to incorporate the terms contained in the May 1, letter of agreement. However, the new contract was not executed because it failed to receive approval by the producers of the gas and the earlier application was withdrawn contemporaneously with the filing of the present application.

Absent the new contract, Vermont Gas and WGML agreed on September 29, 1989, subject to producer approval, to amend the quantity and pricing provisions of the 1985 contract for the remaining term of that contract which expires October 31, 1992. Specifically, the maximum daily contract demand under the 1985 contract would be increased to 32,000 Mcf. In addition, the September 29, agreement provides that commencing November 1, 1989, the import price would consist of a demand and commodity charge. The monthly demand charge would be equal to the monthly demand toll per Mcf for transportation of the gas on TransCanada's system from the Province of Alberta to the point of delivery at Highgate Springs, Vermont. The demand charge would be subject to certain credits during the summer months (April through October) for any excess capacity that TransCanada or WGML may be able to use for sales to other parties. The commodity charge would be computed under a formula starting with a base price of $1.92 (U.S.) per MMBtu for gas that is delivered to Vermont Gas' firm customers and $1.55 (U.S.) per MMBtu for gas delivered to interruptible customers. The commodity charge would be recalculated annually on November 1 based on changes in the published average price of No. 2 fuel oil and No. 6 residual oil in Albany, New York. In an October 13 letter, Vermont Gas indicated that at 100 percent load factor the average delivered price at the international border for November 1989 would be $2.79 (U.S.) per Mcf.

The 1985 contract provides for price renegotiation at regular intervals during the contract period and for arbitration if the parties are unable to agree. The September 29 agreement redefines when renegotiation may be requested, adds a further basis for renegotiation in the event of certain market events, and establishes new criteria to be used in the event of any arbitration.

In support of its application, Vermont Gas states that the terms of the 1985 contract, as amended by the September 29 agreement, provide for a secure supply of natural gas at a price which is competitive with alternate fuels in Vermont. Vermont Gas asserts that the continued importation of up to 32,000 Mcf of gas per day, as was authorized to be imported over the past year, is needed to meet its firm market requirements.

To avoid the adverse consequences of having an insufficient supply to meet the demand for gas in its service area during the upcoming winter heating season, Vermont Gas requested that authorization be granted by October 30, 1989. In the event a final order could not be issued by that time, Vermont Gas requested an emergency interim import authorization. It is clear that the DOE could not extend a full 30-day comment period and still issue a permanent decisional order in this docket by the end of October. In view of the above considerations and the facts asserted by Vermont Gas, the DOE concluded that issuing an emergency interim order is not inconsistent with the public interest. This order, DOE/FE Opinion and Order No. 344, issued October 26, 1989, amends Order 39 to authorize Vermont Gas to import a maximum of 32,000 Mcf of gas per day, in accordance with the provisions of the September 29 agreement between Vermont Gas and WGML, until a final determination is made on the application.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is competitive, needed, and its gas source will be secure. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, including the interim order, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motion to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protest, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties, written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for an oral presentation should identify the substantial question or fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice in accordance with 10 CFR 590.316.

A copy of Vermont Gas' application is available for inspection and copying from the Office of Fuels Programs Docket Room, Room 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 26, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25759 Filed 11–1–89; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Public Law 96–511, 44 U.S.C. 3501 et seq.).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, Office of Statistical Standards (EI–70), Energy Information Administration, M.S. 1H–023, 1000 Independence Avenue SW., Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–519
3. 1902–0082
4. Disposition of Facilities, Mergers, and Acquisitions of Securities
5. Reinstatement
6. On occasion
7. Mandatory
8. Businesses or other for-profit
9. 30 respondents
10. 30 responses annually
11. The estimated average hours per response for each of the respondents is 85 burden hours
12. The estimated total reporting hours are 2,550
13. The FPA requires that public utilities file for approval of dispositions of

jurisdictional facilities, mergers of such facilities with other such facilities owned by another person, or acquisitions of securities of other

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents, and other interested

Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2165. Information on the availability of single, blank information

PART I.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

(utilizing structured forms)

jurisdictional facilities, mergers of such facilities with other such facilities owned by another person, or acquisitions of securities of other public utilities. Supporting data is required to determine if transactions are consistent with public interest.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Public Law No. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, October 26, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-25760 Filed 11-1-89; 8:45 am]

BILLING CODE 6450-01-M

Inventory of Current DOE Reporting and Record-Keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of inventory of current Department of Energy energy information collections, including reporting and record-keeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents, and other interested parties, of an inventory of current energy information collections (including reporting and record-keeping requirements) which are approved by the Office of Management and Budget (OMB). Management and procurement collections are the responsibility of DOE's Office of Management and Administration and are not included in these notices.

The listing that follows this notice includes energy information collections that have OMB approval, as of October 1, 1989. Part I lists, for each information collection utilizing a structured form, the current DOE control or form number, the title of the requirement, the OMB control number, and the OMB approval expiration date. Part II lists those information collections (including reporting or record-keeping requirements) not utilizing structured forms and the appropriate Code of Federal Regulations citations.

FOR FURTHER INFORMATION CONTACT: Etta Harris (EI-73), Energy Information Administration, Mail Stop 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2165. Information on the availability of single, blank information copies of those collections utilizing structured forms can be obtained by contacting the National Energy Information Center, EI-231, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 586-8800.

SUPPLEMENTARY INFORMATION: In an effort to keep respondents, users, and other interested parties informed concerning the status of these information collections, which are subject to clearance by the OMB under the Paperwork Reduction Act, the EIA will publish a Notice of Change to the Inventory in the **Federal Register** on a quarterly basis throughout the current fiscal year.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Public Law No. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, October 26, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

October 1, 1989 Inventory

PART I.—DOE ACTIVE INFORMATION COLLECTIONS

(utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration date
	Civilian Radioactive Waste Management		
NWPA-830R-G	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Quarterly Report—Standard Remittance Advice—Annex A.	19010260	12/31/89
RW-859	Nuclear Fuel Data	19010287	12/31/90
	Conservation and Renewable Energy		
CE-63A/B	Annual Solar Thermal Collector Manufacturers Survey and Annual Photovoltaic Module Manufacturers Survey	19010292	12/31/89
	Economic Regulatory Administration		
ERA-424D	Tertiary Project Annual Prepaid Expenses Report Form	19030069	03/31/90
	Energy Information Administration		
EIA-1	Weekly Coal Monitoring Report—General Industries and Blast Furnaces (Standby)	19050167	03/31/92
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants	19050167	03/31/92
EIA-4	Weekly Coal Monitoring Report—Coke Plants (Standby Form)	19050167	03/31/92
EIA-5	Coke Plant Report—Quarterly	19050167	03/31/92
EIA-6	Coal Distribution Report	19050167	03/31/92
EIA-7A	Coal Production Report	19050167	03/31/92
EIA-14	Refiners' Monthly Cost Report	19050174	09/30/90
EIA-20	Weekly Telephone Survey of Coal Burning Utilities (Standby Form)	19050167	03/31/92
EIA-23	Annual Survey of Domestic Oil and Gas Reserves	19050057	12/31/91
EIA-23P	Oil and Gas Well Operator List Update Report	19050057	12/31/91
EIA-28	Financial Reporting System	19050149	12/31/90
EIA-64A	Annual Report of the Origin of Natural Gas Liquids Production	19050057	12/31/91
EIA-176	Annual Report of Natural and Supplemental Gas Supply and Disposition	19050175	12/31/90
EIA-182	Domestic Crude Oil First Purchase Report	19050174	09/30/90
EIA-191	Underground Natural Gas Storage Report	19050175	12/31/90
EIA-213	Typical Net Monthly Bills	19050129	12/31/89
EIA-254	Semiannual Report on Status of Reactor Construction	19050160	06/30/91
EIA-412	Annual Report of Public Electric Utilities	19050129	12/31/89
EIA-457A	Residential Energy Consumption Survey—Housing Unit Record Sheet	19050092	05/31/90
EIA-457B	Residential Energy Consumption Survey—Household Questionnaire	19050092	05/31/90

PART I.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

(utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration date
EIA-457C	Residential energy Consumption Survey—Rental Agents	19050092	05/31/90
EIA-457D	Residential Energy Consumption Survey—Liquefied Petroleum Gas Suppliers	19050092	05/31/90
EIA-457E	Residential Energy Consumption Survey—Electric Utilities	19050092	05/31/90
EIA-457F	Residential Energy Consumption Survey—Natural Gas Suppliers	19050092	05/31/90
EIA-457G	Residential Energy Consumption Survey—Fuel Oil Suppliers	19050092	05/31/90
EIA-627	Annual Quantity and Value of Natural Gas Report	19050175	12/31/90
EIA-714	Annual Electric Power System Report	19050161	12/31/90
EIA-759	Monthly Power Plant Report	19050129	12/31/89
EIA-782A	Monthly Petroleum Product Sales Report	19050174	09/30/90
EIA-782B	Reseller/Retailer's Monthly Petroleum Product Sales Report	19050174	09/30/90
EIA-782C	Montly Report of Petroleum Products Sold Into States for Consumption	19050174	09/30/90
EIA-800	Weekly Refinery Report	19050165	04/30/92
EIA-801	Weekly Bulk Terminal Report	19050165	04/30/92
EIA-802	Weekly Product Pipeline Report	19050165	04/30/92
EIA-803	Weekly Crude Oil Stocks Report	19050165	04/30/92
EIA-804	Weekly Imports Report	19050165	04/30/92
EIA-806	Weekly Crude Watch Report	19050165	04/30/92
EIA-810	Monthly Refinery Report	19050165	04/30/92
EIA-811	Monthly Bulk Terminal Report	19050165	04/30/92
EIA-812	Monthly Product Pipeline Report	19050165	04/30/92
EIA-813	Monthly Crude Oil Report	19050165	04/30/92
EIA-814	Monthly Imports Report	19050165	04/30/92
EIA-816	Monthly Natural Gas Liquids Report	19050165	04/30/92
EIA-817	Monthly Tanker and Barge Movement Report	19050165	04/30/92
EIA-818	International Energy Agency Imports/Stocks-at-Sea Report	19050165	04/30/92
EIA-820	Annual Refinery Report	19050165	04/30/92
EIA-821	Annual Fuel Oil and Kerosene Sales Report	19050174	09/30/90
EIA-825	Petroleum Facility Operator Identification Survey	19050165	04/30/92
EIA-826	Monthly Electric Utility Sales and Revenue Report with State Distributions	19050129	12/31/89
EIA-846A/D	Manufacturing Energy Consumption Survey	19050169	04/30/91
EIA-851	Domestic Uranium Mining Production Report	19050160	06/30/91
EIA-856	Monthly Foreign Crude Oil Acquisition Report	19050174	09/30/90
EIA-857	DOE Monthly Report of Natural Gas Purchases and Deliveries to Consumers	19050175	12/31/90
EIA-858	Uranium Industry Annual Survey	19050160	06/30/91
EIA-860	Annual Electric Generator Report	19050129	12/31/89
EIA-861	Annual Electric Utility Report	19050129	12/31/89
EIA-863	Petroleum Product Sales Identification Survey	19050174	09/30/90
EIA-871A/F	Commercial Buildings Energy Consumption Survey	19050145	05/31/92
EIA-876A/C	Residential Transportation Energy Consumption Survey	19050068	09/30/90
	Environment, Safety and Health		
EIA-767(2)	Steam Electric Plant Operation and Design Report	19010267	12/31/89
	Federal Energy Regulatory Commission		
EIA-714(1)	Annual Electric Power System Report	19020140	12/31/90
EIA-767(1)	Steam-Electric Plant Operation and Design	19020034	12/31/89
FERC-1	Annual Report of Major Electric Utilities, Licensees, and Others	19020021	09/30/90
FERC-1-F	Annual Report of Nonmajor Public Utilities and Licensees	19020029	09/30/90
FERC-2	Annual Report for Major Natural Gas Companies	19020028	09/30/90
FERC-2A	Annual Report of Nonmajor Natural Gas Companies	19020030	09/30/90
FERC-6	Annual Report of Oil Pipeline Companies	19020022	09/30/90
FERC-8	Underground Gas Storage Report	19020026	06/30/92
FERC-11	Natural Gas Pipeline Company Monthly Statement	19020032	06/30/90
FERC-15	Interstate Pipeline's Annual Report of Gas Supply	19020037	06/31/90
FERC-16	Report of Gas Supply and Requirements	19020025	09/30/92
FERC-73	Service Life Data	19020019	10/31/89
FERC-121	Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act of 1978	19020038	10/31/91
FERC-423	Monthly Report of Cost and Quality of Fuels for Electric Plants	19020024	09/30/90
FERC-531	Gas Producer Certificates: New Service/Amendments	19020052	09/30/92
FERC-561	Annual Report of Interlocking Positions	19020099	07/31/92
FERC-560	Fuel Purchase Practices	19020137	03/31/90
FPC-14	Annual Report for Importers and Exporters of Natural Gas	19020027	09/30/92
	Fossil Energy		
FE-166	Public Utility Regulatory Policies Act (PURPA) Annual Report on Electric and Gas Utilities	19010293	04/30/91
FE-748	Enhanced Oil Recovery Annual Report	19010291	06/30/92
FE-781R	Annual Report of International Electrical Export/Import Data	19010296	08/31/91
	International Affairs and Energy Emergencies		
IE-411	Coordinated Regional Bulk Power Supply Program Report	19010286	07/31/90
IE-417R	Major Electric Power System Emergency Report	19010298	05/31/92

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PART II.—DOE ACTIVE INFORMATION COLLECTIONS

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DOE No.	Title	OMB Control No.	Expiration Date	CFR Citations
	Civilian Radioactive Waste Management			
NWPA-830R	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Contract.	19010260	12/31/89	10 CFR 961.
NWPA-830R-A-F	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Annual Report.	19010260	12/31/89	10 CFR 961.
	Economic Regulatory Administration			
ERA-796R	Recordkeeping Requirements of DOE's General Allocation and Price Rules	19030073	09/30/90	10 CFR 210.1, 211.69, 213.6, 221.36.
	Federal Energy Regulatory Commission			
FERC-16A	Monitoring (Omnibus) Report (stand-by authority)	19020105	10/31/89	By FERC Order.
FERC-16AT	Interstate Pipeline Curtailment (Telephone) Survey	19020139	11/30/89	By FERC Order.
FERC-80	Licensed Hydropower Development Recreation Report	19020106	11/30/89	18 CFR 8.11, 141.14.
FERC-314A	Application For Small Producer Exemption	19020006	02/28/91	18 CFR 157.40(b)(4), 250.10.
FERC-500	Application For License for Hydropower Projects Greater Than 5MW	19020058	08/31/92	18 CFR 4.30, 4.32, 4.33, 4.38, 4.40, 4.41, 4.50, 4.51, 4.200-.202.
FERC-505	Application for License for Water Projects 5MW or Less	19020115	08/31/92	18 CFR 4.61, 4.71, 4.92, 4.93, 4.107, 4.108, 4.112, 4.113, 4.201-.202.
FERC-510	Application for Surrender of Electric License	19020068	11/30/91	18 CFR 6.1, 6.3.
FERC-511	Application for Transfer of Electric License	19020069	10/31/91	18 CFR 9.1, 9.2, 9.10.
FERC-512	Application for Preliminary Permit	19020073	07/31/91	18 CFR 4.31-.33, 4.81-.82.
FERC-515	Hydropower License—Declaration of Intention	19020079	07/31/91	18 CFR 24.1.
FERC-516	Electric Rate Schedule Filings	19020096	04/30/92	18 CFR 35, Subpart A, 35.12-.16, 35.26, 35.30, 35.31, 292, 301.
FERC-521	Headwater Benefits	19020087	07/31/92	18 CFR 11.16, 11.26-11.31, 13.1.
FERC-523	Application for Authorization of The Issuance of Securities or the Assumption of Liabilities.	19020043	10/31/89	18 CFR 20, 34, 36, 131.43 and 131.50.
FERC-525	Financial Audits	19020092	03/31/92	18 CFR 101, 201.
FERC-530	Gas Producer Certificate: Abandonment/Termination	19020051	09/30/90	18 CFR 2.64, 157.30, 250.7.
FERC-532	Gas Producer Rate: Filing	19020055	03/31/91	18 CFR 2.56(a), 154.91-.110, 157.301, 250.8-.9, 250.14.
FERC-534	Gas Producer Rates: Application for Production-Related Costs	19020057	07/31/92	18 CFR 154.94(K), 270.271 (Subpart K).
FERC-537	Gas Pipeline Certificates: Construction, Acquisition & Abandonment	19020060	04/30/92	18 CFR 2.79, 157.5-.21, .100, .201-.218, 159.1, 284.107, .127, .221.
FERC-538	Gas Pipeline Certificate: Initial Service	19020061	12/31/90	18 CFR 156.3-.5.
FERC-541	Gas Pipeline Certificate: Curtailment Plan	19020066	03/31/91	18 CFR 2.78, 281.
FERC-542A	Tracking and Recovery of Alaska Natural Gas Transportation System	19020129	12/30/90	18 CFR 154.201-154.213.
FERC-543	Gas Pipeline Rates: Purchased Gas Adjustment Tracking	19020152	01/31/91	18 CFR 154.38.
FERC-544	Gas Pipeline Rates: Rate Change (Formal)	19020153	02/28/91	18 CFR 154.63-154.67.
FERC-545	Gas Pipeline Rates: Rate Change (Non-Formal)	19020154	04/30/90	18 CFR 154.62-154.67.
FERC-546	Gas Pipeline Rates: Certificated Rate Filings	19020155	02/22/91	18 CFR 154.62-154.67.
FERC-547	Gas Pipeline Rates: Refund Obligations	19020064	03/31/91	18 CFR 154, 270, 273.
FERC-548	Staff Adjustment Under Natural Gas Policy Act Section 502(c)	19020085	10/31/91	18 CFR 270-277, 281, 282, 284, 385, Subpart K.
FERC-549	Gas Pipeline Rates: Natural Gas Policy Act Title III Transactions	19020066	05/30/91	18 CFR 284 Sub. A/D/E/F/H, 284.7-.11, .102, .105, .106, .122, etc.
FERC-550	Oil Pipeline Rates: Tariff Filings	19020089	05/31/89	18 CFR 340-345 and 347.
FERC-555	Records Retention Requirements	19020098	05/31/92	18 CFR 125, 158, 160.1, 225, 276.108, 277.210 and 356.
FERC-556	Cogeneration and Small Power Production	19020075	10/31/91	18 CFR 292.
FERC-557	PURPA Section 133: Cost of Service Data	19020042	10/31/89	18 CFR 290.
FERC-558	Format of Contract Summary for Applications for Certificates of Public Convenience and Necessity.	19020109	07/31/90	18 CFR 250.5.
FERC-559	Independent Producer Rate Change or Initial Billing Statement	19020036	06/30/90	18 CFR 250.14.
FERC-566	Report of Utility's Twenty Largest Purchasers	19020114	02/29/92	18 CFR 46.3.
FERC-567	Gas Pipeline Certificates: Annual Reports of System Flow Diagrams and System Capacity.	19020005	09/30/90	18 CFR 260.8, 284.12.
FERC-568	Well Category Determinations	19020112	01/31/90	18 CFR 271.703, 274, 275.
FERC-569	Establishment of Deadlines for 1st Sellers to Make and Report Refunds Refund Obligation (producers).	19020111	10/31/90	18 CFR 270.101(e), 271.805(f), 273.302.

PART II.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

(not utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration Date	CFR Citations
FERC-570	Recordkeeping Requirements for Certain Sales of Natural Gas	19020124	10/31/91	18 CFR 271.503, 271.603, 271.903.
FERC-574	Gas Pipeline Certificates—Hinshaw Exemption	19020116	12/31/89	18 CFR 152.
FERC-576	Report by Certain Natural Gas Companies on Service Interruptions	19020004	06/30/92	18 CFR 260.9.
FERC-577	Gas Pipeline Certificates: Environmental Impact Statement	19020128	07/31/92	18 CFR 2.80, 2.82, 157.14.
FERC-581	Management and Procurement Reporting and Recordkeeping Requirements	19020130	02/28/90	48 CFR Subtitle A, Chapter 9.
FERC-582	Oil, Gas, and Electric Fees and Annual Charges	19020132	06/31/90	18 CFR 381.106, 382.105(A), 382.201(B)(4).
FERC-583	Hydroelectric Fees and Annual Charges	19020136	06/30/90	18 CFR 11.01-.04, 11.06, 11.20-.22, 11.24, 131.70.
FERC-585	Reporting of Electric Energy Shortages & Contingency Plans Under PURPA 206	19020138	09/30/90	18 CFR 294.
FERC-588	Emergency Natural Gas Sale, Transportation and Exchange Transactions	19020144	06/30/91	18 CFR 284, Subpart I.
FERC-590	Wellhead Pricing: Pricing Investigations	19020147	09/30/92	None.
FERC-592	Marketing Affiliates of Interstate Pipelines	19020157	13/31/89	18 CFR 161, 250.
	Fossil Energy			
FE-329R	Regulatory Reporting and Recordkeeping Requirements Pursuant to 10 CFR 500, 501, 503, and 504.	19010297	03/31/92	10 CFR 500, 501, 503, 504, 505, 508, 515.
FE-746R	Imports and Exports of Natural Gas	19010294	01/31/90	10 CFR 205, 590.
FE-750R	Annual compilation of Proposed and Final List of Utilities Covered by Public Utility Regulatory Policies Act and National Energy Conservation Policy Act.	19010295	04/30/91	10 CFR 463.

[FR Doc. 89-25761 Filed 11-1-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-26-000, et al.]

American Electric Power Service Corp., et al.; Electric rate, Small power production, and Interlocking Directorate filings

Take notice that the following filings have been made with the Commission:

1. American Electric Power Service Corp.

[Docket No. ER90-26-000]

October 24, 1989.

Take notice that American Electric Power Service Corp. on October 18, 1989 tendered for filing a Transmission and Unit Power Supply Agreement, requesting the Commission designate it an Initial Rate Schedule on behalf of its affiliates, Appalachian Power Company, and Indiana Michigan Power Company (AEP) parties, affiliated operating subsidiaries of the American Electric Power Company.

The Transmission and Unit Power Supply Agreement among Appalachian Power Company (APCO), Indiana Michigan Power Company (I&M), and Carolina Power & Light Company (CP&L), dated December 14, 1988, provides for two new interconnections between APCO and CP&L and Unit Power service from I&M to CP&L. The new interconnections between APCO and CP&L are planned for completion in 1992 and 1997. The Unit Power service arrangement for a nominal 250 MW of capacity is based on I&M's cost for Rockport Unit No. 2, and is to begin on the later of January 1, 1990 or upon commercial operation of Rockport Unit No. 2.

AEP has requested an effective date of January 1, 1990.

Copies of the filing were served upon the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Tennessee Public Service Commission.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. AEP Generating Company

[Docket No. ER89-470-000]

October 24, 1989.

Take notice that on October 19, 1989, AEP Generating Company (AEGCO) field with the Commission, in compliance with the Commission's order of September 22, 1989 in Docket No. ER89-470-000, an equity reopener provision applicable to a unit power agreement between AEGCO and Indiana Michigan Power Company, and two related unit power agreements.

The change is proposed to be effective upon the commercial operation date of Rockport 2, presently expected to occur in December, 1989. Copies of the filing were served upon the public service commissions on the states of Kentucky, Indiana and Michigan and the parties in Docket No. ER89-470-000.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Arkansas Power & Light Company

[Docket No. ER90-28-000]

October 24, 1989.

Take notice that Arkansas Power & Light Company (AP&L) filed on October 19, 1989 a Transmission Service Agreement with the City of Hope, Arkansas, requesting an effective date of October 1, 1989. The Agreement provides the basis upon which AP&L will wheel power from Southwestern Electric Power Company to Hope's North Substation.

The proposed Agreement supercedes AP&L's FERC Rate Schedule No. 100, whose cancellation was accepted by the Commision on August 15, 1989.

Copies of the Transmission Service Agreement and supporting workpapers were served on the City of Hope, Arkansas. Copies also were served on the Arkansas Public Service Commission.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Tucson Electric Power Company

[Docket No. ER90-25-000]

October 24, 1989.

Take notice that on October 10, 1989, Tucson Electric Power Company (Tucson) tendered for filing a notice of cancellation of Rate Schedule FERC No. 73 between Tucson and Arizona Public Service Company (Arizona).

Tucson requests an effective date of October 1, 1989.

Comment date: November 9, 1989, in accordance with Standard Paragraph E end of this notice.

5. Canal Electric Company

[Docket No. ER90-29-000]

October 24, 1989.

Take notice that on October 20, 1989 Canal Electric Company (Canal) tendered for filing a Power Contract (the Power Contract) between itself, Cambridge Electric Light Company and Commonwealth Electric Company and a Capacity Acquisition Commitment (the "Commitment"). The Power Contract implements the terms of the Capacity Acquisition Agreement (FERC Rate Schedule No. 21) and the Commitment. Such Power Contract recognizes the purchase of demand and energy by Canal from Connecticut Light and Power Company, a subsidiary of Northeast Utilities, and from United Illuminating Company over the time period October 1, 1989 to April 30, 1990 and the sale of such power to Cambridge Electric Light Company and Commonwealth Electric Company. Canal has requested that the Commission's notice requirements with respect to the Power Contract and the Commitment be waived pursuant to Section 35.11 of the Commission's regulations in order to allow the tendered Power Contract to become effective as of October 1, 1989.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Indianapolis Power & Light Company

[Docket No. ER90-30-000]

October 24, 1989.

Take notice that Indianapolis Power & Light Company on October 20, 1989, tendered for filing Modification No. 8 to the Interconnection Agreement dated December 2, 1968, (the 1968 Agreement) between Indianapolis Power & Light Company (IPL) and Southern Indiana Gas and Electric Company (SIGECO). The 1968 Agreement is designated as Rate Schedule FPC No. 6.

Modification No. 8 provides equitable compensation as between IPL and SIGECO for the delivery of emergency service, interchange energy, short term power and energy, limited term power, and specific transmission services.

Copies of the filing were mailed to Southern Indiana Gas and Electric Company, Inc. and to the Indiana Utility Regulatory Commission.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. UNITIL Power Corp.

[Docket No. ER89-607-000]

October 24, 1989.

Take notice that on October 4, 1989, UNITIL Power Corp. (UNITIL) filed with the Commission a revision of its Electric Tariff No. 3, Sale of Electric Generating Capacity and Energy, for the sale of capacity and associated energy from UNITIL's excess capacity entitlements in various generating plants, filed with the Commission on August 15, 1989.

UNITIL states that it is revising its original filing by submitting Revised Sheet No. 2 and Second Revised Sheet No. e for the tariff and Second Revised page 1 of Attachment A (Service Agreement). The purpose of the revision is to specify the rate, and the derivation thereof, more clearly in the tariff and to eliminate any reference to a specific rate from the Service Agreement.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Georgia Power Company

[Docket No. ER89-618-000]

October 24, 1989.

Take notice that on October 20, 1989, Georgia Power Company (Georgia Power) tendered for filing additional information in support of a Coordination Services Agreement (the "Agreement") dated as of August 21, 1989, between Georgia Power and Oglethorpe Power Corporation (An Electric Membership Generation & Transmission Corporation) (OPC).

Georgia Power states that the Agreement has been executed to facilitate a power purchase by OPC from Big Rivers Corporation. Georgia Power seeks waiver of the Commission's notice requirements and seeks an effective date of August 21, 1989. The Agreement will terminate on May 31, 1992. The additional information allegedly justifies Georgia Power's scheduling fee of $15.00 per hour per transaction.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER90-27-000]

October 24, 1989.

Take notice that Wisconsin Service Corporation (the "company") on October 17, 1989, tendered for filing an executed service agreement to transfer, effective January 10, 1990, its all requirements customer, the Washington Island Electric Cooperative, Wisconsin, from all requirements service under a contract (FERC Rate Schedule Number 40) to the same service under the company's all requirements tariff, Original Volume no. 2. The filing does not affect the rate charged to the Washington Island Electric Cooperative, nor the revenues paid by the cooperative to the company. The company makes this change so that service will be under a tariff which is generally applicable to all customers.

Copies of the filing were served upon the Washington Island Electric Cooperative and the Public Service Commission of Wisconsin.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Kansas Gas and Electric Company

[Docket No. ES90-3-000]

October 25, 1989.

Take notice that on October 18, 1989, Kansas Gas and Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204 of the Federal Power Act, to issue not more than 1,500,000 shares of its common stock, without par value, pursuant to its Long-Term Incentive Plan.

Comment date: November 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Chevron U.S.A. Inc.

[Docket No. QF90-9-000]

October 25, 1989.

On October 12,1989, Chevron U.S.A. Inc., (Applicant) of P.O. Box 3725, Houston, Texas 77253-3725, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Ewa Beach, Hawaii. The facility will consist of three (3) combustion gas turbine generators and three (3) heat recovery steam generators. Thermal Energy recovered from the facility will be consumed in refinery process equipment, such as heaters, reboilers, vaporizers,

distillation columns and pumps. The electric power production capacity will be 9,100 kilowatts. The primary energy source will be refinery process gas. Construction of the facility began in September 1989 and start-up is scheduled to begin in July 1990.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25771 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-102-000 et al.]

Trunkline Gas Company, et al.; Natural Gas Certificate Filings

October 26, 1989.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP90-102-000]

Take notice that on October 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-102-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Texpar Energy, Inc. (Texpar), a shipper and marketer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP 86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline States that pursuant to a Transportation Agreement (Agreement) dated July 17, 1989, between Trunkline and Texpar, it would transport up to 100,000 dekatherms (Dt.) per day equivalent of natural gas, on an interruptible basis, for Texpa. Trunkline indicates that the Agreement provides for Trunkline to receive the natural gas from various existing points of receipt in the states of Illinois, Louisiana, Tennessee and Texas, from the Panhandle Eastern Pipe Line Company (Panhandle) receipt point at Douglas County, Illinois and from the areas of offshore Louisiana and offshore Texas. Trunkline would then transport and redeliver the natural gas, less fuel and unaccounted-for line loss, to Panhandle in Douglas County, Illinois.

Trunkline States that the estimated daily and estimated annual quantities that would be transported would be 100,000 Dt. and 36,500,000 Dt., respectively.

Trunkline states that it commenced the transportation of natural gas for Texpar on September 1, 1989, as reported in Docket No. ST90-5-000 for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP90-104-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company, (Panhandle) P.O. Box 1642, Houston, Texas, 77251-1642 filed in Docket No. CP89-104-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Boyd Rosene and Associates, Inc. (Boyd Rosene), under its blanket authorization issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle would perform the proposed interruptible transportation service for Boyd Rosene, a shipper and marketer of natural gas, pursuant to a transportation agreement for firm service under Rate Schedule PT dated September 1, 1989 (Contract No. P-PLT-2997). The term of the transportation agreement is for a primary term of one year from the initial date for service and shall continue in effect until terminated by Panhandle or Boyd Rosene upon at least six months prior notice to the other party. Panhandle proposes to transport on a peak day up to 19,815 dekatherm equivalent; on an average day up to 19,815 dekatherm equivalent; and on an annual basis 7,232,475 dekatherm equivalent of natural gas for Boyd Rosene. Panhandle proposes to receive gas from the firm point of receipt located in Haven Pool Point, Reno County, Kansas. Panhandle would then transport and redeliver the subject gas, less fuel used and unaccounted for line loss, Mich-Con Detroit in Wayne County, Michigan. Panhandle avers that no new facilities nor expansion of existing facilities are rquired to provide the proposed service.

It is explained that the proposed service is currently being performed puusuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Panhandle commenced such self-implementing service on September 1, 1989, as reported in Docket No. ST89-4788-000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP90-88-000]

Take notice that on October 23, 1989,[1] Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-88-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of one or more portable compressors to be used from time to time at various locations on Tennessee's mainline, all as more fully detailed in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to install and operate the portable compressor(s) for short periods of time as a substitute for existing compressors that are temporarily out of service because they require repairs or maintenance. It is stated that there would be no increase in actual operating horsepower. It is further stated that the proposal would not involve any increase in service to Tennessee's customers. It is asserted that the portable compressor(s) would be installed within the boundaries of existing rights-of-way or compressor station sites.

[1] The application was tendered for filing on October 20, 1989; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until October 23, 1989. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

Comment date: November 16, 1989, in accordance with Standard Paragraph F at the end of this notice.

explains that service commenced September 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4779.

Docket No. CP90-81-000 an application pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for

transport 6,000 MMBtu on an average day and 2,555,000 MMBtu annually.

Comment date: December 11, 1989, in accordance with Standard Paragraph G

NGA, all as more fully set forth in the application which is open to public inspection.

Panhandle proposes an interruptible

12. Trunkline Gas Company

[Docket No. CP90-103-000]

Take notice that on October 23, 1989,

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Comment date: November 16, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Trunkline Gas Company

[Docket No. CP89-101-000]

Take notice that on October 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-101-000 a request pursuant to § 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Enron Gas Marketing, Inc. (Enron), a shipper and marketer of natural gas, under its blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for Enron would be 75,000 dt equivalent of natural gas, 75,000 dt equivalent of natural gas and 27,375,000 dt equivalent o natural gas, respectively.

Trunkline states that it would transport natural gas for Enron from various receipt points in Illinois, Louisiana, offshore Louisiana, Texas, offshore Texas and Tennessee to a delivery point in Vermillion Parish, Louisiana.

Trunkline indicates that in a filing made with the Commission in Docket ST90-8, it reported that transportation service for Enron commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Panhandle Eastern Pipe Line Company

[Docket No. CP90-99-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP90-99-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to transport natural gas on a firm basis for Eli Lilly and Company (Eli Lilly). Panhandle explains that service commenced September 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4779. Panhandle explains that the peak day quantity would be 150 Dt., the average daily quantity would be 150 Dt., and that the annual quantity would be 54,750 dekatherms. Panhandle explains that it would receive natural gas for Eli Lilly's account at firm points of receipt located in Kansas and Oklahoma. Panhandle states that it would also receive gas on an interruptible basis, pursuant to § 6.13 of Rate Schedule PT-Firm, at various points of receipt on its system. Panhandle states that it would redeliver the gas to Citizens Gas & Coke in Marion County, Indiana.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Texas Gas Transmission Corporation

[Docket No. CP90-122-000]

Take notice that on October 24, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-122-000 an application pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Bishop Pipeline Corporation (Bishop), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 50,000 MMBtu per day for Bishop. Texas Gas states that construction of facilities would not be required to provide the proposed service.

Texas Gas further states that the maximum day, average day, and annual transportation volumes would be approximately 50,000 MMBtu, 15,000 MMBtu and 5,475,000 MMBtu respectively.

Texas Gas advises that service under § 284.223(a) commenced September 6, 1989, as reported in Docket No. ST89-4733.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Gas Transmission Corporation

[Docket No. CP90-81-000]

Take notice that on October 24, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-81-000 an application pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Brooklyn Interstate Natural Gas Corporation (Brooklyn), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 100,000 MMBtu per day for Brooklyn. Texas Gas states that construction of facilities would not be required to provide the proposed service.

Texas Gas further states that the maximum day, average day, and annual transportation volumes would be approximately 100,000 MMBtu, 30,000 MMBtu and 10,950,000 MMBtu respectively.

Texas Gas advises that service under § 284.223(a) commenced September 7, 1989, as reported in Docket No. ST89-4734.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Gas Transmission Corporation

[Docket No. CP90-80-000]

Take notice that on October 19, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-80-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Fina Oil and Chemical Company (Fina), under the blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that pursuant to a transportation agreement dated July 20, 1989, it proposes to transport up to 10,000 MMBtu per day equivalent of natural gas for Fina. Texas Gas states that it would transport the gas from multiple receipt points as shown in Exhibit "B" of the transportation agreement and would deliver the gas at delivery points in High Island 573 "B" offshore Texas, as shown in Exhibit "C" of the agreement.

Texas Gas advises that service under § 284.223(a) commenced September 8, 1989, as reported in Docket No. ST90-12. Texas Gas further advises that it would transport 6,000 MMBtu on an average day and 2,555,000 MMBtu annually.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP90-98-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP90-98-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Gulf Ohio Corporation (Gulf Ohio), a shipper and marketer of natural gas, pursuant to Panhandle's blanket certificate issued in Docket No. CP86-585-000 and section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Specifically, Panhandle requests authority to transport up to 2,500 Dt. per day on an interruptible basis on behalf of Gulf Ohio pursuant to a Transportation Agreement dated July 20, 1989 between Panhandle and Gulf Ohio (Agreement). The Agreement provides for Panhandle to receive gas from various existing points of receipt located in Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma, Texas and Wyoming. Panhandle will then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to CIPS-Mattoon in Douglas County, Missouri.

The shipper states that the estimated daily and estimated annual quantities would be 250 Dt. and 73,000 Dt., respectively. Service under § 284.223(a) commenced on September 1, 1989, as reported in Docket No. ST89-4805-000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Panhandle Eastern Pipe Line Company

[Docket No. CP90-107-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed an application with the Commission in Docket No. CP90-107-000 pursuant to 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Sunnybrook Transmission, Inc. (Sunnybrook), a natural gas marketer and shipper, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the NGA, all as more fully set forth in the application which is open to public inspection.

Panhandle proposes an interruptible natural gas transportation service for Sunnybrook of up to 20,000 dt equivalent on peak and average days, and 300,000 dt equivalent per year. Panhandle states that it would receive gas for Sunnybrook's account at various Colorado, Kansas, Oklahoma, and Texas receipt points and deliver equivalent volumes for Sunnybrook's account to Haven Pool in Reno County, Kansas. Panhandle also states that it would use existing facilities to provide the proposed service. Panhandle advises that it commenced transporting natural gas for Sunnybrook on September 1, 1989, under § 284.223(a) of the Regulations as reported in Docket No. ST90-22.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP90-105-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed an application with the Commission in Docket No. CP90-105-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Entrade Corporation (Entrade), a natural gas marketer and shipper, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the NGA, all as more fully set forth in the application which is open to public inspection.

Panhandle proposes an interruptible natural gas transportation service for Entrade of up to 100,000 dt equivalent per peak day, 75,000 dt equivalent per average day, and 36,500,000 dt equivalent per year. Panhandle states that it would receive gas for Entrade's account at various Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma, Texas, and Wyoming receipt points and deliver equivalent volumes for Entrade's account to Michigan Gas Storage in Oakland County, Michigan. Panhandle also states that it would use existing facilities to provide the proposed service. Panhandle advises that it commenced transporting natural gas for Entrade on September 1, 1989, under § 284.223(a) of the Regulations as reported in Docket No. ST89-4807.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Trunkline Gas Company

[Docket No. CP90-103-000]

Take notice that on October 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-103-000 a request pursuant to §§ 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Associated Natural Gas, Inc. (Associated), a shipper and marketer of natural gas, under its blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for Associated would be 50,000 dt equivalent of natural gas, 50,000 dt equivalent of natural gas and 18,250,000 dt equivalent of natural gas, respectively.

Trunkline states that it would transport natural gas for Associated from various receipt points in Illinois, Louisiana, offshore Louisiana, Texas, offshore Texas and Tennessee to a delivery point in Douglas County, Illinois.

Trunkline indicates that in a filing made with the Commission in Docket ST90-9, it reported that transportation service for Associated commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. ANR Pipeline Company

[Docket No. CP90-118-000]

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-118-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Equitable Resources Marketing Company (Equitable), a marketer, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that pursuant to an agreement dated July 3, 1989, it proposes to transport up to 200,000 dt equivalent

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of natural gas per day for Equitable. ANR states it would receive the gas at specified points located both offshore and onshore Louisiana and redeliver the

convience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

protests should be filed on or before November 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies

purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection

of natural gas per day for Equitable. ANR states it would receive the gas at specified points located both offshore and onshore Louisiana and redeliver the gas at specified points in Louisiana, Indiana, Illinois, Kentucky, Ohio, and Michigan. ANR estimates that the maximum and average day volumes would be 200,000 dt equivalent of natural gas, and that the annual volumes would be 73,000,000 dt equivalent of natural gas. It is stated that on September 1, 1989, ANR initiated a 120-day transportation service for Equitable under § 284.233(a), as reported in Docket No. ST90-59-000.

ANR further states that no facilities need be constructed to implement the service. ANR indicates that the primary term of the transportation agreement would expire on July 31, 1990, but that the service would continue on a month-to-month basis until terminated by either party on 30 days written notice. ANR proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own view of the matter finds that a grant of the certificate is required by the public convience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25772 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

Docket No. TM90-1-84-001

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 26, 1989.

Take notice that on October 23, 1989, Caprock Pipeline Company (Caprock) tendered for filing the following substitute tariff sheets to revise its Revised Original Volume No. 3 of its FERC Gas Tariff to be effective as noted. These tariff sheets are submitted to replace those originally filed on October 3, 1989, in this same docket.

Substitute Third Revised Sheet No. 4
Substitute Third Revised Sheet No. 5

Caprock states that these tariff sheets are being filed solely to modify Caprock's ACA surcharge provision to reflect changes consistent with Caprock's discussions with Commission Staff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25773 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-24-001]

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

October 26, 1989.

Take notice that Equitrans, Inc. (Equitrans) on October 20, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, effective October 1, 1989:

Eleventh Revised Sheet No. 10
Tenth Revised Sheet No. 14

In accordance with the Commission's Letter Order and Staff request the rates filed in Docket No. TM90-1-24-000 have been revised to comply with the conditions of the August 31, 1989 Letter Order. These rates were based on Equitrans' Annual Purchased Gas Adjustment (PGA) filing in Docket No. TA89-1-24-000 and Interim Purchased Gas Adjustment filing in Docket No. TF89-3-24-000 which were subject to refund and subject to Equitrans refiling its tariff sheets as mandated in the Commission's Letter Order issued August 31, 1989.

Equitrans states that a copy of its filing has been served upon its purchasers, interested state commissions, and upon each party on the service list of Docket No. CP86-676-000.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25774 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

Docket Nos. CP89-1227-000 and CP89-1951-000

Northern Natural Gas Co., a Division of Enron Corp.; Informal Settlement Conference.

October 26, 1989.

Take notice that a conference will be convened in the above-captioned proceeding on November 7 and 8, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Andrew S. Katz at (202) 357-8458 or Donald Williams at (202) 357-5743.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25775 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59277; FRL-3662-2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES:

Written comments by:

T 89-27, October 20, 1989.

ADDRESS: Written comments, identified by the document control number "(OPTS-59277)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 89-27

Close of Review Period. November 3, 1989.

Manufacturer. Confidential.

Chemical. (G) Rosin, polymer with dibasic, ester with polyols.

Use/Production. (S) Ink resin. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5.0 g/kg species (Rat). Skin irritation: negligible species (Rabbit).

Dated: October 30, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-25860, Filed 11-1-89; 8:45am]

BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 23, 1989

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0370

Title: Part 32—Uniform System of Accounts for Telecommunications Companies.

Action: Revision.

Respondents: Businesses or other for-profit.

Frequency of Response: Recordkeeping requirements and on occasion.

Estimated Annual Burden: 239 Responses; 68 Recordkeepers; 2,643,468 Hours.

Needs and Uses: The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulated telecommunications operations of less than $100 million are designated as Class B companies and are subject to a less detailed accounting system than those designated as Class A companies. The information contained in the various reports submitted to the Commission by the carriers provides necessary detail to enable this Commission to fulfill its regulatory responsibilities.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-25819 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 24, 1989.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0164
Title: Section 25.390—Communications—Satellite Developmental Applications
Action: Extension
Respondents: Businesses (including small businesses)
Frequency of Response: On occasion
Estimated Annual Burden: 40 Responses; 960 Hours
Needs and Uses: Applicants seeking authority for developmental licenses must submit information pursuant to 47 CFR 25.390. The information is used by the FCC, other licensees of the spectrum and the public to assure that part 25 developmental licensees are operating in accordance with the authorizations and the rules.

OMB Number: 3060–0065
Title: Application for New or Modified Radio Station Authorization Under Part 5 of FCC Rules Experimental Radio Service (Other Than Broadcast)
Form No.: FCC 442
Action: Extension
Respondents: State or local governments, and businesses (including small businesses)
Frequency of Response: On occasion
Estimated Annual Burden: 700 Responses; 2,800 Hours.
Needs and Uses: FCC 442 is required to be filed by part 5 of the FCC rules and regulations by applicants requiring an FCC license to operate a new or modified experimental radio station. The data supplied by this form is used by applications examiners and engineers of the FCC to determine if the applicant is eligible for an experimental license, to determine the purpose and ensure compliance with the requirements of part 5 of the Rules, and if the proposed operations will cause interference to existing operations.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89–25820 Filed 11–1–89; 8:45 am]
BILLING CODE 6712–01–M

Comments Invited on Mississippi Regional Public Safety Plan

October 26, 1989.

The Commission has received the public safety radio communications plan for the Mississippi area (Region 23).

In accordance with the Commission's Report and Order in General Docket 87–112 impelementing the Public Safety National Plan, parties are hereby given thirty days from the date of **Federal Register** publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 23 consists of the State of Mississippi. General Docket 87–112, 3, FCC Rcd 2113 (1988).)

Comments should be clearly identified as submissions to General Docket 89–478, Mississippi—Region 23, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632–6497, or Fred Thomas, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89–25858 Filed 11–1–89; 8:45 am]
BILLING CODE 6712–01–M

Low Power Television and Television Translator Filing Window From December 4, 1989 Through December 8, 1989

Released: October 27, 1989.

AGENCY: Federal Communications Commission.

ACTION: Notice of filing window.

SUMMARY: This action gives notice of an application filing window for the tendering of applications for new construction permits and for major changes in existing facilities for low power television and television translator stations. This notice sets forth the filing procedures, including when and where to file and the applicable application form to be used, and information concerning application filing fees.

DATES: December 4, 1989 through December 8, 1989.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau (202) 632–3894.

SUPPLEMENTARY INFORMATION: Commencing December 4, 1989, and continuing to and including December 8, 1989, the Commission will permit the filing of applications for new construction permits and for major changes in existing facilities for low power television and television translator stations. These applications must be filed at the below specified locations.

No more than five (5) applications for new low power television or television translator stations may be tendered for filing by any applicant, or by any individual or entity having an interest of one percent (1%) or greater in any applicant(s) filing in the December 4–December 8, 1989, window. This restriction does not apply to major change applications.

All applications must be "complete and sufficient" when tendered for filing, in accordance with Section 73.3564 of the Commission's rules. As noted below, a fee of $375.00 must accompany each application. Further, applicants filing during this window period must use the February 1988 edition of FCC Form 346. See 53 FR 15225 (April 28, 1988). All applications filed on obsolete editions will be returned as defective and unacceptable for filing. FCC Form 346 can be obtained from the FCC's Operations Support Division, Services and Supply Branch, Room B–10, 1919 M Street, NW., Washington, DC 20554, telephone number (202) 632–7272.

In this window application filing process, the Commission will utilize the facilities of a Treasury Department lockbox bank. Window application filings can be made, either by mail or by person, at the following locations *ONLY:*

If mailed—Federal Communications Commission, Low Power Television Window Filing, P.O. Box 371994, Pittsburgh, PA 15259–1994

If hand-delivered—Federal Communications Commission, Low Power Television Window Filing, Union Trust Building (Two Mellon Bank Center), 444 Oliver Avenue, Pittsburgh, PA 15259–0001.

Hand-carried or couriered applications can be delivered daily at the Union Trust Building location during normal business hours (8:30 a.m. to 5:00 p.m.). Detailed instructions to get to this location are included in this Public Notice as Attachment I. Submissions tendered after close of business (5:00 p.m.) on Friday, December 8, 1989, will not be accepted. Mailed applications must be actually received no later than December 8th. Window applications filings WILL NOT be accepted at the offices of the Federal Communications Commission in Washington, DC.

An original and two copies of the application and all required exhibits must be filed. To facilitate the initial processing of these applications, all applicants are requested to enclose in a single envelope the original and duplicate copies of the application, with each duplicate copy clearly denoted as such by the applicant. Where more than one new station or major change application is being filed, separate envelopes enclosing the individual application (*i.e.*, an original and two copies) can be mailed in a single package. Receipts will not be provided by the lockbox bank facility. However, for mailed window application filings, a "return copy" of the application can be furnished provided the applicant clearly identifies the "return copy" and attaches to it a stamped, self-addressed envelope. For hand-carried or couriered applications delivered to the Union Trust Building location, bank personnel, if requested in person, will date stamp as received a proffered copy of the application and return it to the requestor.

Generally, applicants seeking to construct a new low power television or television translator station or to make a major change in the facilities of an existing low power television or television translator station are required to pay and submit a fee with the filing of the application. A separate fee payment of $375.00, attached to each original application, must be submitted for each new station or major change application filed during this window; a single fee payment for multiple applications will *not* be accepted. Payment of the required fee can be made by check, bank draft or money order payable to the Federal Communications Commission.

Applications submitted with insufficient payments or without any payments will be dismissed and returned, along with the insufficient payment, to the applicant without processing. See § 1.1107 of the Commission's rules. Following the fee review process, applications that are found to be patently defective, not "complete and sufficient," or filed on an obsolete edition of FCC Form 346 will be rejected and returned to the applicant.

Governmental entities are exempt from the $375.00 fee. As defined by the Commission's rules, governmental entities include "any possession, state, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected and/or duly appointed public officials exercising sovereign direction and control over their respective communities or programs." Also exempted from this fee are noncommercial educational FM and full service television broadcast station licensees seeking to make major changes in the facilities of their existing low power television or television translator stations or to construct new low power television or television translator stations, provided those stations operate or will be operated on a noncommercial educational basis. See Section 1.1112 of the Commission's Rules. To avail itself of any fee exemption an applicant must indicate its eligibility by checking the appropriate box on page 1 of FCC Form 346 (February 1988 edition).

Applicants are advised that on April 21, 1988, the Commission adopted a Policy Statement providing for limited consideration of terrain shielding in the evaluation of television translator and low power television applications. 3 FCC Rcd 2664, recon. granted in part, 3 FCC Rcd 7105 (1988). In the Policy Statement the Commission described the limitations on its consideration of requests for waiver of its low power television service application acceptance requirements concerning interference protection standards and provided guidance for the submission of these waiver requests.

For further information concerning the filing window, contact Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau at telephone number (202) 632–3894.

Federal Communications Commission.
Donna R. Searcy,
Secretary.

Attachment I—Directions to Union Trust Building (Two Mellon Bank Center)

From Greater Pittsburgh International Airport and Interstate 79

Proceed east on Parkway (Interstate 279) towards downtown Pittsburgh. Go through the Fort Pitt tunnels and across the Fort Pitt bridge to Liberty Avenue. From Liberty Avenue, turn right onto the Boulevard of the Allies. Travel approximately 3–4 blocks to Smithfield Street. Turn left onto Smithfield and proceed approximately 5 blocks to Oliver Avenue. Turn right onto Oliver. Proceed one block. The Union Trust Building is on the right side of the street. Enter the building at 444 Oliver Avenue. This address is a specific office location where applications will be received.

From Pennsylvania Turnpike

Take Exit 6 (Monroeville) to Parkway (Interstate 376). Go west on Parkway to the Grant Street Exit (Exit 3).

Proceed on Grant Street to Fifth Avenue (approximately 4 blocks). Turn left onto Fifth Avenue and travel 2 blocks to Smithfield Street. Turn right onto Smithfield Street and travel 1 block to Oliver Avenue. Turn right onto Oliver Avenue. Proceed one block. The Union Trust Building is on the right side of the street. Enter the building at 444 Oliver Avenue. This address is a specific office location where applications will be received.

[FR Doc. 89–25850 Filed 11–1–89; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–011213–011.
Title: Spain-Italy/Puerto Rico Island Pool Agreement.
Parties:
Compania Trasatlantica Espanola, S.A.
Nordana Line AS
Sea-Land Service, Inc.
Synopsis: The proposed amendment would extend the termination date of the present pool period from October 31, 1989 to December 31, 1989. This modified pool period will be followed by four pool periods of six months each.

Agreement No: 224–010631–002
Title: Port of Oakland Terminal Agreement.
Parties:
City of Oakland
Matson Terminals, Inc.
Synopsis: The proposed amendment would extend the termination date of the agreement from December 31, 1989 to December 31, 1990.

Agreement No: 224–004067–006
Title: Port of Oakland Terminal Agreement.
Parties:
City of Oakland
Matson Terminals, Inc.
Synopsis: The proposed amendment would extend the termination date of the agreement from December 31, 1989 to December 31, 1990.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or

are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for

1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking

the present pool period from October 31, 1989 to December 31, 1989. This modified pool period will be followed by four pool periods of six months each.

Agreement No.: 232-011251-001.
Title: IGSL/UAL Westbound/Eastbound Space Charter Agreement.
Parties:
Interglobal Shipping Company Limited
Universal Africa Lines N.A. (N.A.)

Synopsis: The proposed amendment would clarify the Agreement's purpose and make an administrative change in the wording of the Agreement's authority provisions.

Agreement No.: 232-011254.
Title: Lykes/Constellation Reciprocal Charter and Coordinated Sailing Agreement.
Parties:
Lykes Bros. Steamship Co., Inc.
Pharos Lines, S.A.,
D/B/A Constellation Line.

Synopsis: Agreement No. 232-011254 proposes to establish space charter and coordinated sailing arrangements between Constellation Line and Lykes Bros. Steamship Co., Inc. in the trade between the U.S. and all ports in the Mediterranean, Black Sea and North Africa (excluding ports in Italy, Spain, France, Portugal, the Canary Islands and the Azores Islands).

By Order of the Federal Maritime Commission.

Dated: October 30, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-25689 Filed 11-1-89; 8:45 am]
BILLING CODE 6730-01-M

Agreement(s) Filed; Port of Oakland Terminal

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-010631-002

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
Hanjin Shipping Company (Hanjin).

Synopsis: The Agreement amends the basic agreement to provide for the temporary transfer of Hanjin's operations from the 7th Street Terminal to the Sea-Land Terminal due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-003314-004

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland (Port)
Sea-Land Service, Inc.

Synopsis: The Agreement amends the basic agreement to provide Hanjin Shipping Company with the temporary use of the Sea-Land Terminal due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-002758-006

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
American President Lines (APL).

Synopsis: The Agreement amends the basic agreement to provide Star Shipping A/S the temporary use of certain terminal facilities at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-002490-005

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
American President Lines (APL).

Synopsis: The Agreement amends the basic agreement to provide Star Shipping A/S the temporary use of certain terminal facilities at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-002805-005

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
American President Lines (APL).

Synopsis: The Agreement amends the basic agreement to provide Star Shipping A/S the temporary use of certain terminal facilities at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-004067-006

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
Stevedoring Services of America (SSA).

Synopsis: The Agreement amends the basic agreement to provide Mitsui O.S.K. Lines, Ltd. and Italia-d'Amico Line with the temporary use of the Outer Harbor Terminal, Berth 22, due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-010744-002

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
Mitsui O.S.K. Lines, Ltd. (Mitsui).

Synopsis: The Agreement amends the basic agreement to provide for the temporary transfer of Mitsui's operations from the 7th Street Terminal to the Outer Harbor Terminal, Berth 22, due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-200290-001

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland (Port):
Italia S.P.A. di Navigazione and
d'Amico Societa de Navigazione per Azioni operating as a joint service under the name Italia-d'Amico Line.

Synopsis: The Agreement amends the basic agreement to provide for the temporary transfer of Italia-Amico Line's operation from the 7th Street Terminal to the Outer Harbor Terminal, Berth 22, due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-200261-001

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
Star Shipping A/S (Star).

Synopsis: The Agreement amends the basic agreement to provide for Star's temporary transfer of operations to certain terminals at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

By Order of the Federal Maritime Commission.

Dated: October 27, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-25770 Filed 11-1-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. § 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 16, 1989.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Barbara Lee Bacich,* Anna Maria, Florida; to acquire an additional 3.45 percent of the voting shares of Little Mountain Bancshares, Inc., Monticello, Minnesota, for a total of 14.03 percent, and thereby indirectly acquire First National Bank of Monticello, Monticello, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Barbi Corp.—D.G. Council,* Kaufman, Texas; to acquire 2.44 percent of the voting shares of Kaufman Bancshares, Inc., Kaufman, Texas, and thereby indirectly acquire Farmers & Merchants National Bank, Kaufman, Texas.

Board of Governors of the Federal Reserve System, October 27, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-25790 Filed 11-1-89; 8:45am]
BILLING CODE 6210-01-M

Brotherhood Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 22, 1989.

A. Federal Reserve Bank of Kansas (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brotherhood Bancshares, Inc.,* Kansas City, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Brotherhood Bank and Trust Company, Kansas City, Kansas.

2. *International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers,* Kansas City, Kansas; to acquire 47.5 percent of the voting shares of Brotherhood Bancshares, Inc., Kansas City, Kansas, and thereby indirectly acquire Brotherhood Bank and Trust Company, Kansas City, Kansas.

Board of Governors of the Federal Reserve System, October 27, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-25791 Filed 11-1-89; 8:45 am]
BILLING CODE 6210-01-M

Norwest Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under section 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 1989.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Corporation,* Minneapolis, Minnesota; to merge with First Interstate Corporation of Wisconsin, Kohler, Wisconsin, and thereby indirectly acquire First Interstate Bank of Wisconsin, Sheboygan, Wisconsin; First Interstate Bank of Wisconsin, N.A. (Green Bay), Green Bay, Wisconsin; First Interstate Bank of Wisconsin-Northeast, Green Valley, Wisconsin; First Interstate Bank of Wisconsin, N.A., (Eau Claire), Eau Claire, Wisconsin; First Interstate Bank of Wisconsin-Southeast, New Berlin, Wisconsin; First Interstate Bank of Wisconsin (Appleton), Appleton, Wisconsin; First Interstate Bank of Wisconsin (Waupun), Waupun, Wisconsin; First Interstate Bank Northern Indiana, N.A., South Bend,

Indiana; and acquire 100 percent of the voting shares of First Illini Bancorp, Inc., Galesburg, Illinois, and thereby

in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C.

Indiana; and acquire 100 percent of the voting shares of First Illini Bancorp, Inc., Galesburg, Illinois, and thereby indirectly acquire First Galesburg National Bank and Trust Company, Galesburg, Illinois; Abingdon Bank and Trust Company, Abingdon, Illinois; Madison Park Bank, Peoria, Illinois; and Community Bank and Trust Company of Canton, Canton, Illinois.

In connection with this application, Applicant also proposes to acquire First Interstate Trust Company of Wisconsin, Sheboygan, Wisconsin, and thereby engage in trust company activities pursuant to §225.25(b)(3); First Brokerage Services, Sheboygan, Wisconsin, and thereby engage in brokerage activities pursuant to § 225.25(b)(15); First Interstate Commercial Corporation of Wisconsin, Milwaukee, Wisconsin, and thereby engage in commercial finance activities, included, but not limited to, asset-based lending activities (the making, acquiring or servicing of loans or other extensions of credit for the company's account or for the account of others) pursuant to § 225.25(b)(1); and First Interstate Management Services of Wisconsin, Inc., Sheboygan, Wisconsin, and thereby engage in providing data processing services for financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y.

First Interstate Bank of Wisconsin, Sheboygan, Wisconsin, conducts general insurance activities. Norwest anticipates that the bank will continue to conduct this activity after consummation of the proposal. Norwest has been previously authorized to conduct insurance activities pursuant to section 4(c)(8)(6) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, October 27, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25792 Filed 11-1-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons comtemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
Rhone-Poulenc Inc. UCB S.A. Radcure Specialties SA	89-2686	10/03/89
Rhone-Poulenc S.A. The TRZ Corporation plc Interchem Inc.	89-2688	10/03/89
Albert W. Lawrence Hyperion Partners L.P. United Republic Reinsurance Company	89-2742	10/03/89
Koch Industries, Inc. Lone Star-Technologies, Inc. John Zink Company,	89-2790	10/03/89
Western Investment Real Estate Trust Theodore W. Connolly Eagle Station Associates	89-2796	10/03/89
Western Investment Real Estate Trust Thomas P. Raley Eagle Station Associates	89-2797	10/03/89
Advantage Trust Liberty Mutual U.S. Government Guaranteed Securities Liberty Mutual U.S. Government Guaranteed Securities	89-2801	10/03/89
The News Corporation Limited Howtek, Ltd. Howtek, Ltd.	89-2822	10/03/89
Chicago Holdings, Inc. M.L. Salkin and Marlene B. Salkin Salkin & Linoff, Incorporated	89-2826	10/03/89
The B. F. Goodrich Company Mashulam Riklis Arrowhead Industrial Water, Inc.	89-2680	10/04/89
British Aerospace Public Limited Company Reflectone, Inc. Reflectone, Inc.	89-2809	10/04/89
Legent Corporation Business Software Technology, Inc. Business Software Technology, Inc.	89-3830	10/04/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
American Cyanamid Company Praxis Biologics, Inc. Praxis Biologics, Inc.	89-2037	10/05/89
Ford Motor Company Jaguar plc Jaguar plc	89-2789	10/05/89
Sumitomo Rubber Industries, Ltd. Stanley B. Hanin Allied Tire Sales, Inc.	89-2621	10/05/89
Cencom Cable Income Partners II, L.P. Unum Corporation PCI of Anderson County LP & PCI Travelers Rest, LP	89-2525	10/06/89
General Electric Company Space Master Enterprises, Inc. Space Master International, Inc.	89-2749	10/06/89
Pembridge Associates, Inc. DRG plc DRG plc	89-2751	10/06/89
Tampella Ltd. Dorr-Oliver Ventures Incorporated Dorr-Oliver Ventures Incorporated	89-2758	10/06/89
Framatome, S.A. McDermott International, Inc. B & W Nuclear, Inc.	89-2774	10/06/89
Legend Capital Group, L.P. Legend Capital Group, L.P. Long John Silver's Holdings, Inc.	89-2619	10/06/89
USGI Holdings, Inc. Merrill Lynch & Co., Inc. Merrill Lynch MBS Inc.	89-2631	10/06/89
Eli S. Jacobs Fred K. Pelone Rosenbalm Aviation Inc.	89-2637	10/06/89
General Electric Company Commercial Federal Corporation Commercial Federal Savings & Loan Association	89-2641	10/06/89
Public Service Enterprise Group Incorporated Southdown, Inc. Pelto Oil Company	89-2648	10/06/89
Boral Limited Weyerhaeuser Company Weyerhaeuser Company	89-2662	10/06/89
Coniston Partners, c/o Gollust, Tierney and Oliver TW Holdings, Inc. TW Holdings, Inc.	89-2670	10/06/89
Coniston Institutional Investors TW Holdings, Inc. TW Holdings, Inc.	89-2671	10/06/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
The Equitable Life Assurance Society of the U.S. TW Holdings, Inc. TW Holdings, Inc.	89-2872	10/06/89
Maxwell Communication Corporation plc Paramount Communications Inc. Prentice-Hall, Inc.	89-2745	10/10/89
Lee M. Bass Sensormatic Electronics Corporation Sensormatic Electronics Corporation	89-2755	10/10/89
Sid R. Bass Sensormatic Electronics Corporation Sensormatic Electronics Corporation	89-2756	10/10/89
Finmeccanica Societa Finanziaria per Azioni McDermott International, Inc. Bailey Controls Company Division, Electronic	89-2768	10/10/89
Richard L. Kramer Robert J. Tomsich Blaw Knox Corporation (Hupp Company Division)	89-2804	10/10/89
Paramount Communications, Inc. Salomon Inc. Newtel, Inc.	89-2828	10/10/89
Paramount Communications, Inc. Salomon Inc. TVX Broadcast Group Inc.	89-2829	10/10/89
Valeo Volkswagen A.G. Volkswagen of America, Inc.	89-2857	10/10/89
Teledyne, Inc. Union National Life Insurance Company Union National Life Insurance Company	89-2861	10/10/89
InterMedia Partners The Hearst Trust Hearst CableVision of California, Inc.	89-2875	10/10/89
A.A. Emmerson Fibreboard Corporation Fibreboard Corporation	89-2706	10/11/89
Yates Petroleum Corporation Mesa Limited Partnership Mesa Operating Limited Partnership	89-2906	10/11/89
Caroline Hunt Trust Estate Mesa Limited Partnership Mesa Limited Partnership	89-2823	10/11/89
Jersey Healthcare Services Alexian Brothers of America, Inc. Alexian Brothers of Elizabeth, Inc.	89-2802	10/12/89
Secom Co., Ltd. H.M.S.S., Inc. H.M.S.S., Inc.	89-2873	10/12/89
Paramount Communications Inc. First Interstate Bancorp First Interstate Bancard Company, N.A.	89-2850	10/13/89
Bell Atlantic Corporation Commercial Federal Corporation Systems Marketing, Inc.	90-0004	10/13/89

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Federal Trade Commission, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3199.

By Direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 89-25811 Filed 11-1-89; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. 9229]

Outdoor World Corporation; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In partial settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a membership campground promoter, based in Bushkill, PA, from misrepresenting in promotional mailings that named consumers have won specified prizes when the consumers had not won the specified prizes. Also, the proposed order would require respondent to retain accurate records, for three years, of advertising and promotional materials concerning prizes and gifts awarded.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Eileen Harrington, FTC/H-238, Washington, DC 20580. (202) 326-3127.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

In the matter of Outdoor World Corp., a corporation: agreement in partial settlement containing consent order to cease and desist.

Outdoor World Corporation, by its duly authorized officer ("respondent") and counsel for the Federal Trade Commission enter into this agreement in partial settlement in accordance with the Commission's rules governing consent order procedures. The parties agree that:

1. Outdoor World Corporation is a Pennsylvania corporation with its principal office and place of business located at Route 209, Bushkill, Pennsylvania 18324.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violations of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

3. Respondent admits all the jurisdictional facts set forth in the Commission complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it

will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (a) issue its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to case and desist shall have the same force and effect and my be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered that respondent, Outdoor World Corporation, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing, directly or by implication, that a consumer has won a specified prize, award, gift, bonus, premium, or any other good or service which is similarly described when in fact the consumer has not won the specified prize, gift, bonus, premium, or other good or service similary described.

II.

It is further ordered that respondent, its successors and assigns shall for three years the date the representation was last made maintain and upon request make available to the Federal Trade Commission for inspection and copying accurate records of (1) all advertising, promotional or sales materials containing representations regarding prize or gift offerings and (2) all prizes or gifts awarded pursuant to such offerings.

III.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

IV.

It is further ordered that respondent shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with all requirements of this order.

Analysis of Proper Consent Order to Aid Public Comment

[File No. 892 3213 (JO1)]

The Federal Trade Commission has accepted an agreement for a proposed consent order from Outdoor World Corporation which would partially settle the case. Outdoor World Corporation is a seller and promoter of membership campgrounds. Its principal place of business is located at Route 209, Bushkill, Pennsylvania 18324.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments of interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that in numerous instances, Outdoor World Corporation has made false and misleading representations that a named consumer has won one or more specified prices. The proposed consent order would prohibit Outdoor World Corporation from representing that a consumer has won a specified prize when he or she has not won the specified prize.

The complaint also alleges that in numerous instances, Outdoor, World Corporation has made false and misleading representations that consumers will receive one or more prizes at no cost, where additional costs must be paid by consumers. This issue is not being settled and remains part of the case to be adjudicated.

The proposed order would require Outdoor World Corporation to retain accurate records for three (3) years of all advertising and promotional materials containing representations regarding prize or gift offerings, and records of all prizes and gifts awarded. The proposed order would require Outdoor World Corporation to notify the Commission of any proposed change in the corporation which may affect compliance with the order, and to file a compliance report within 60 days after service of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-25810 Filed 11-1-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Current Status of the Restructured Vessel Sanitation Program and Experience to Date with Pogram Operations; Meeting

The Center for Environmental Health and Injury Control (CEHIC) of the Centers for Disease Control (CDC) announces the following meeting.

Name: Current Status of the Restructured Vessel Sanitation Program and Experience to Date with Program Operations—Public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Place: Miami Port Authority Passenger Terminal No. 10, 1007 North American Way, Miami, Florida.

Time and Date: 9 a.m.—5 p.m. Wednesday, December 13, 1989.

Status: Open.

Matters To Be Discussed: Current status of the restructured Vessel Sanitation Program and experience to date with program operations. During the past 3 years, as part of the revised Vessel Sanitation Program, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties. This meeting is a continuation of that series of public meetings.

For a period of 15 days following the meeting, through December 28, 1989, the official record of the meeting will remain open so that additional material or comments may be submitted to be made part of the record of the meeting.

The meeting will be open to the public for participation, comment, and observation, limited only by space available. The meeting room accommodates approximately 100 people.

Contact Person for Further Information: Additional information concerning the meeting may be obtained from: Linda Anderson, Chief, Special Programs Group (F29), CEHIC, CDC, 1600 Clifton Road, N.E., Atlanta, GA 30333. Telephones: FTS: 236-4595, Commercial: (404) 488-4595.

Dated: October 26, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-25787 Filed 11-1-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89N-0360]

Biological Products; Ex-Vivo Activated Mononuclear Leukocytes for Administration to Humans; Points To Consider; Request for Comments, Data, and Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft "points to consider" document entitled "Points to Consider in the Collection, Processing, and Testing of Ex-Vivo Activated Mononuclear Leukocytes for Administration to Humans." FDA is also announcing the continued availability of five other "points to consider" documents concerning in vitro monoclonal antibody products, in vivo monoclonal antibody products, recombinant deoxyribonucleic acid (DNA) products, characterization of cell lines, and interferon products. The availability of the latter five "points to consider" documents has been previously announced in the Federal Register.

FDA is also requesting comments, data, and recommendations from the public on these documents. The agency eventually may develop these documents into guidelines or regulations to help ensure the safety, purity, potency, and effectiveness of biological products, new drugs, or other products regulated under the Federal Food, Drug, and Cosmetic Act or under the Public Health Service Act.

DATES: Comments by January 2, 1989.

ADDRESSES: Submit written requests for single copies of the "points to consider" documents to the Congressional and Public Affairs Staff (HFB-140), Food and Drug Administration, Park Bldg., Rm. 158, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the "points to consider" documents to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this notice. Requests and comments for the "points to consider" documents previously announced should be identified with the docket numbers specified below in brackets. Copies of the "points to consider" documents and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda Dujack, Center for Biologics Evaluation and Research (HFB-800), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-8245.

SUPPLEMENTARY INFORMATION: Ex-vivo activated mononuclear leukocyte products currently present a potential for major advances in medical therapy. This new technology poses unique quality control and safety problems that must be thoroughly considered and overcome before any such products are marketed. FDA's Center for Biologics Evaluation and Research has developed a draft "points to consider" document concerning such products, entitled "Points to Consider in the Collection, Processing, and Testing of Ex-Vivo Activated Mononuclear Leukocytes for Administration to Humans." FDA is issuing this document to provide useful guidance to manufacturers engaged in the production of activated mononuclear leukocyte products. FDA is announcing the availability of this "points to consider" document and is inviting public comment.

In addition to the above document, FDA also is announcing the continued availability of five other "points to consider" documents that have been previously announced in the Federal Register of January 9, 1984 (49 FR 1138), June 6, 1984 (49 FR 23456), and April 4, 1988 (53 FR 10940). The five previously issued "points to consider" documents with the latest dates of revision are as follows:

1. "Points to Consider in the Manufacture of in Vitro Monoclonal Antibody Products Subject to Licensure" (draft of June 20, 1983) [Docket No. 83N-0363];

2. "Points to Consider in the Manufacture of Monoclonal Antibody Products for Human Use" (draft of June 1, 1987) [Docket No. 83N-0363];

3. "Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology" (draft of April 10, 1985) [Docket No. 83N-0363];

4. "Interferon Test Procedures: Points to be Considered in the Production and Testing of Interferon Intended for Investigational Use in Humans" (draft of July 28, 1983) [Docket No. 83N-0363];

5. "Points to Consider in the Characterization of Cell Lines Used to Produce Biologicals" (draft of November 16, 1987) [Docket No. 84N-0154].

FDA requests comments, data, and recommendations concerning any of the draft documents, particularly on the most recent "points to consider" on ex-vivo activated mononuclear leukocytes for adminsitration to humans. FDA may develop each of these documents into guidelines under 21 CFR 10.90(b)(1) or into regulations as needed to help ensure the safety, purity, potency, and effectiveness of biological products, new drugs, or other products regulated under the Federal Food, Drug, and Cosmetic Act or under the Public Health Service Act. Because these new technologies are changing and improving constantly, FDA may revise the draft documents several times and place the revisions on display at the Dockets Management Branch (address above).

Dated: October 26, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25789 Filed 11-1-89; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Meeting of the Division of Research Grants Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Division of Research Grants Advisory Committee, December 1, 1989, Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9:00 a.m. to 4:30 p.m. The one-day meeting will include: an orientation to the history, current structure and functions of the Division of Research Grants; and a discussion of study section procedures and practices, especially as related to priority scores and percentile rankings. Attendance by the public will be limited to space available.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496–7534, will furnish a summary of the meeting and a roster of the committee members.

Dr. Samuel Joseloff, Executive Secretary of the Committee, Westwood Building, Room 449, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7441, will provide substative program information upon request.

Dated: October 26, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–25806 Filed 11–1–89; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program, Board of Scientific Counselors' Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park, North Carolina, on November 30 and December 1, 1989.

The meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on November 30. The preliminary agenda topics with approximate times are as follows:

9:00 a.m.–10:00 a.m.—Program Orientation for New Board members

10:00 a.m.–12:30 p.m.—Program Progress and Concept Reviews—NIEHS Division of Toxicology Research and Testing (DTRT):

A. General Toxicology;

B. Reproductive and Development Toxicology;

C. Immunotoxicology;

1:30 p.m.–4:00 p.m.—Program Progress and Concept Reviews—DTRT cont.

D. Carcinogenesis;

E. Genetic Toxicology;

4:00 p.m.–5:00 p.m.—Review of Chemicals Nominated for NTP Studies.—The nominations of six chemicals will be reviewed. The chemicals were evaluated by the NTP Chemical Evaluation Committee on August 2, 1989, and are (with CAS Nos. in parentheses): (1) 4-Acetylaminofluorene (28322–02–3); (2) p-Aminobenzoic Acid (150–13–0); (3) Elmiron (37319–27–8); (4) Ethanol (64–17–1); (5) Monochloroacetone (78–95–5); and (6) Propylene Glycol Monomethyl Ether (107–98–2).

The meeting on December 1 will be open to the public from 9:00 a.m. until adjournment. The preliminary agenda topics with approximate times are as follows:

9:00 a.m.–9:15 a.m.—Report of the Director, NTP

9:15 a.m.–9:45 a.m.—Update on Activities of the Technical Reports Review Subcommittee (Peer Review Panel);

9:45 a.m.–10:45 a.m.—DTRT Poster Session

10:45 a.m.–11:15 a.m.—Update on Activities of the Reproductive and Developmental Toxicology Program Review Subcommittee

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971; FTS 629–3971, will have available a roster of Board members and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: October 29, 1989.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 89–25807 Filed 11–1–89; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–89–2079]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 27, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Actions to Reduce Losses in FHA Programs, FR–2491.

Office: Housing.

Description of the need for the Information and its proposed use: This rule would require a mortgagee, when notified by the FHA Commissioner that the mortgagee had a higher than normal rate of early serious defaults and claims in the preceeding year, to submit a report to the Commissioner; and, if applicable, a plan and timetable for necessary corrective actions.

Form Number: None.

Respondents: Individuals or Households, Businesses or other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Information Collection	200		1		40		8,000

Total Estimated Burden Hours: 8,000.

Status: Reinstatement.

Contact: Andrew Zirneklis, HUD (202) 755–6824; John Allison, OMB (202) 395–6880.

Dated: October 27, 1989.

[FR Doc. 89–25793 Filed 11–1–89; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–89–2078]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 26, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Requisition For Development Or Modernization Funds.

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: The Housing Act of 1937, as amended, authorizes the Department to assist Public Housing Authorities (PHAs) and Indian Housing Authorities (IHAs) in the development and rehabilitation of lower income housing. The financial assistance is obtained by the PHA/IHA submitting to the Department an approved form HUD–5402A, Requisition for Development and Modernization Funds.

Form Number: HUD–5402A.

Respondents: State or Local Governments.

Frequency of Submission: Other.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–5402A	2,300		25		.5		28,750

Total Estimated Burden Hours: 28,750.

Status: Extension.

Contact: Stephanie Avery-Boyd, HUD, (202) 755–7920; John Allison, OMB, (202) 395–6880.

Dated: October 26, 1989.

Proposal:

1. Schedule of Subscribers and GNMA II Contractu al Agreement (to include Recordkeeping Requirements Contained in the GNMA MBS Guide (5500.2)) and
2. Schedule of Subscribers Addendum for Construction Loan Certification.

Office: Government National Mortgage Association (GNMA).

Description of the Need for the Information and Its Proposed Use: The forms will be used to provide GNMA with a listing of subscribers and other necessary information to prepare mortgage-backed securities and to provide the contractural agreement between the issuer and GNMA under the GNMA II program.

Form Number: HUD–11705, 1735.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

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	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-11705	1,250		16.6		.17		3,954
HUD-1735	100		5.84		.17		100

Total Estimated Burden Hours: 4,054.
Status: Extension.
Contact: Brenda Countee, HUD, (202) 755-5535; John Allison, OMB, (202) 395-6880.

Dated: October 26, 1989.

[FR Doc. 89-25794 Filed 11-1-89; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service,

Klamath Fishery Management Council Meeting

AGENCY: Fish and Wildlife Service Department of the Interior.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9:00 a.m to 5:00 p.m. Wednesday, November 1, 1989; from 9:00 a.m. to 4:00 p.m. on Thursday, November 2, 1989; and from 8:00 a.m. to 12:00 Noon on Friday, November 3, 1989.

Place: The meeting will be held at the Red Lion Inn, 1929 4th Street, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1030 South Main), Yreka, California 96097-1006, telephone (916) 842-5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

On November 1, the Council will consider reports on proposed legislation, 1989 salmon fisheries, and technical advances in harvest management. The Council will also discuss the proposed Tenth Amendment to the Salmon Framework Plan of the Pacific Fishery Management Council. November 2nd and 3rd will be devoted to development of a long-term plan and policy for managing the in-river and ocean harvests of anadromous fish stocks of the Klamath River basin.

Dated: October 16, 1989.

W.E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 89-25626 Filed 11-1-89; 8:45 am]
BILLING CODE 4310-55-M

Bureau of Land Management

[ID-943-00-4214-12; I-1639, I-2448]

Partial Termination of Classification for Multiple Use Management; Idaho

October 25, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

1. The land description in FR Doc. 89-9187, published on page 15562 in the issue of Tuesday, April 18, 1989, is corrected as follows:

The land description in the third column which reads, tps. 1, 13 and 14 N., R. 28 E., should read, tps. 12, 13 and 14 N., R. 28 E.

2. The land description in FR Doc. 89-9517, published on page 15999 in the issue of Thursday, April 20, 1989, is corrected by adding the following descriptions to paragraph one:

T. 11 N., R. 32 E.,
Sec. 1, E½;
Sec. 12, NE¼;
Secs. 25 to 27, inclusive, except E½NE¼ sec. 25;
Secs. 33 to 36, inclusive.
T. 12 N., R. 33 E.
All unappropriated land in township, except NE¼NW¼ sec. 22.
T. 11 N., R. 34 E.
Secs. 2 to 11, inclusive;
Secs. 16 to 21, inclusive, except NW¼NW¼ sec. 17, NE¼NE¼ sec. 18;
Secs. 28 to 33, inclusive.

Dated: October 25, 1989.

Delmar D. Vail,

State Director.

[FR Doc. 89-25831 Filed 11-1-89; 8:45 am]
BILLING CODE 4310-CG-M

[AZ 020-41-5410-10; AZA-24035 & AZA-24036]

Receipt of Conveyance of Mineral Interest Applications; Arizona

ACTION: Notice of receipt of conveyance of mineral interest applications.

Notice is hereby given that:

Pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Lake Pleasant Christian Convention Center has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,
Sec. 23, S½NW¼, NW¼NW¼.
Containing 120 acres, more or less.

Pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Pleasant Acres Development Corporation has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,
Sec. 22, N½;
Sec. 23, NE¼, NE¼NW¼.
Containing 520 acres, more or less.

Additional information concerning this application may be obtained from the Area Manager, Phoenix Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, September 13, 1989, whichever occurs first.

Dated: October 25, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89-25834 Filed 11-1-89; 8:45 am]
BILLING CODE 4310-32-M

[OR-943-00-5410-ZHAA; GPO-032; OR 45325]

Filing of Conveyance of Mineral Interest Application; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 43 U.S.C. 1719, Tidewater Barge Lines, Inc., has applied for conveyance of the mineral estate owned by the United States described as follows:

Willamette Meridian, Oregon

T. 3 N., R. 20 E.,
Sec. 32, Portions of the E½NE¼, NW¼, SW¼ and SE¼ described by metes and bounds.

FOR FURTHER INFORMATION CONTACT: Robert E. Mollohan, BLM Oregon State Office, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208, 503-231-2174.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the mineral interests owned by the United States in the land described above shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance to such mineral interests, upon final rejection of the application, or 2 years from the date of filing of the application, which ever occurs first.

Dated: October 26, 1989.

Catherine H. Crawford,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-25829 Filed 11-1-89; 8:45 am]
BILLING CODE 4310-33-M

[CA-940-00-5420-10-ZBGF; CACA 25712]

California; Proposed Issuance of a Recordable Disclaimer of Interest

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This document proposes to issue a disclaimer of interest from the United States to the City of Oceanside, California.

EFFECTIVE DATE: Comments should be received by (90 days from the publication date).

ADDRESS: Comments should be sent to the Chief, Lands Section, Branch of Adjudication and Records, California State Office, Bureau of Land Management, E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Lavonia C. Silva, California State Office, (916) 978-4820.

Pursuant to section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), the City of Oceanside has filed application CACA 25712 for issuance of a recordable disclaimer of interest by the United States, affecting the following land:

San Bernardino Meridian

T. 11 S., R. 5 W.,
Sec. 27, NE¼, portions of the right-of-way.
Acreage involved contains approximately 9.95 acres in San Diego County.

1. The above described land was conveyed by Certificate No. 1045, issued June 20, 1883 to Andrew J. Myers. The City of Oceanside is seeking clear title to portions of the railroad right-of-way which was granted in accordance with the General Railroad Right-of-Way Act of 1875 (43 U.S.C. 934). A title search revealed a reservation regarding the United States' right to enforce the terms of the General Railroad Right-of-Way Act of 1875. The applicant wishes to remove this cloud on the title.

2. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments or objections in connection with the proposed disclaimer may present their views in writing to the undersigned.

Dated: October 24, 1989.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 89-25833 Filed 11-1-89; 8:45 am]
BILLING CODE 4310-40-M

[ID-030-09-4212-13]

Amendment of Little Lost/Birch Creek Management Framework Plan/Realty Action, I-23235; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Action—Amendment of the Little Lost/Birch Creek Management Framework Plan (MFP)/ Notice of Realty Action (NORA), Exchange of Public Land in Clark County, Idaho

Notice: Notice is hereby given that the BLM has amended the Little Lost/Birch Creek MFP to allow for the transfer of certain public lands in exchange for privately owned lands in Butte County, Idaho. The exchange will include surface and mineral estates.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for transfer by land exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Public lands to be transferred are described as:

Boise Meridian, Idaho

T. 9 N., R. 30 E.,
Sec. 4, Lot 6, SE¼SW¼NW¼, W½SW¼ SE¼, W½E½SW¼SE¼.
Sec. 5, Lots 6 and 7.
Sec. 9, Lot 2.
Comprising 122.73 acres.

Non-federal lands to be acquired are described as:

Tract 1, Boise Meridian, Idaho

Beginning at the Northwest Corner of Section 9, T. 9 N., R. 30 E., and running North along section line into Section 4 a distance of 365 feet more or less to a fence on the West right-of-way line of Highway 28; thence South 23 degrees 22' East, along said right-of-way line 400 feet more or less to the North line of said Section 9; thence continuing along said right-of-way line 1,436 feet more or less to the South line of the NW¼NW¼ of said Section 9; thence West along said South line 725 feet more or less to the West line of Section 9; thence North along said section line 1,322 feet more or less to the point of beginning.

Tract 2. Boise Meridian, Idaho

Beginning at the Southwest Corner of the NE¼SW¼ of Section 9, T. 9 N., R. 30 E., and running thence North along West side of said ½th line 1,262 feet more or less to a fence on the West right-of-way line of Highway 28; thence South 23 degrees 22' East, along said right-of-way line 1,373 feet more or less to the South line of the NE¼SW¼; thence West along said South line 543 feet more or less to the point of beginning.

Comprising 21.9 acres.

The purpose of this exchange is to acquire the non-federal lands which have high public values for prime riparian habitat, important fisheries and access to Birch Creek.

The lands were appraised and the value of the lands to be exchanged are equal.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: ditches and canals (Act of August 30, 1890—43 U.S.C. 945) and road right-of-way BL-053972 to the Idaho

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State Transportation Department. Continued use of the land by valid right-of-way holders is proper, subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the land exchange can be obtained by contacting Barbara Klingenberg, Realty Specialist, at (208) 529–1020.

Planning Protest

Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action only as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 "C" Street, NW., Washington, DC 20240, within 30 days of this notice.

Land Exchange Comments

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the land exchange to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any planning protests or objections regarding the land exchange, this realty action will become the final determination of the Department of the Interior and the planning amendment will be in effect.

Dated: October 27, 1989.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 89–25825 Filed 11–1–89; 8:45 am]

BILLING CODE 4310-GG-M

[ID–030–09–4212–14]

Public Lands in Bonneville, Clark and Jefferson Counties, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: The following described public lands have been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Parcel designation	Case No.	Legal description	Acreage	Appraised value
		Boise Meridian, Idaho		
A	I–26609	T. 7 N., R. 35 E. Sec. 27, NE¼NE¼	40	$4,000
B	I–26608	T. 7 N., R. 36 E. Sec. 33, SE¼SW¼	40	4,000
C	I–26610	T. 7 N., R. 36 E. Sec. 34, NW¼SW¼	40	4,000
D	I–26738	T. 9 N., R. 33 E. Sec. 25, W½SW¼	80	8,000
E	I–19736	T. 1 N., R. 44 E. Sec. 17; S½NW¼SE¼SE¼	5	6,000
F	I–27203	T. 1 N., R. 44 E. Sec. 17, W½SW¼SW¼SE¼	5	6,500
G	I–27204	T. 1 N., R. 44 E. Sec. 17, E½SW¼SW¼SE¼	5	6,500
H	I–27205	T. 1 N., R. 44 E. Sec. 17, W½NW¼SW¼SE¼	5	7,000

The mineral estates of the lands described above have no known mineral values, and will be sold under section 209(b) of FLPMA. A bid will also constitute an application for conveyance of those mineral interests offered for conveyance in the sale. A nonrefundable $50.00 filing fee will be required.

The following parcels will be offered for direct sale to the following parties based on historic use and ownership: Parcel A, Joseph Marty Family Trust, 1775 E. 1500 N., Hamer, Idaho 83425; Parcel C. Loren McGarry Ranches, HC 69, Box 1070, Hamer, Idaho 83425; and Parcel D, Sauer Enterprises, 5566 W. 49th N., Idaho Falls, Idaho 83402. Failure or refusal of the parites named above to submit a bid for the required amount by 9:00 a.m., January 10, 1990, will result in cancellation of the sale. The lands will then be offered for competitive sale through July 11, 1990.

Three landowners will be given a preference to bid on Parcel B on the basis of their ownership of adjacent land. These landowners are as follows: (1) Cook Farms, c/o Karl Cook, 1898 N. 2250 E., Hamer, Idaho 83425; (2) Loren McGarry Ranches, HC 69, Box 1070, Hamer, Idaho 83425; and (3) Ronald Torgerson, HC 69, Box 1040, Hamer, Idaho 83425. Failure or refusal of the parties named above to submit a bid of at least fair market value of 9:00 a.m., January 10, 1990, will result in perference bidding privileges being forfeited. The land will then be offered for sale to the public, using competitive procedures, through July 11, 1990.

Parcels E, F, G and H will be offered for competitive sale at public auction at no less than the appraised value. Sealed bids will be accepted until 9:00 a.m., January 10, 1990. At that time all bids will be opened and the highest bids will be announced. If two or more highest bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. Any unsold parcels will be offered for competitive sale through July 11, 1990.

Sealed bids for unsold parcels will be opened at 9:00 a.m. each Wednesday subsequent to the initial offering date until July 11, 1990.

Patents for the parcels, when issued, will contain the following reservations.

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A right-of-way described under Serial Number BL–053505 for a highway issued under section 17 of the Act of November 9, 1921 (42 Stat. 212; 23 U.S.C. 18) on Parcels G and H.

3. A right-of-way described under Serial Number I–06116 for a highway issued under section 17 of the Act of November 9, 1921 (42 Stat. 212; 23 U.S.C. 18) on Parcel D.

4. A right-of-way described under Serial Number I–23546 issued under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) on Parcel E.

5. A right-of-way described under Serial Number I–27212 for roadway purposes issued under the Act of October 21, 1976 (90 Stat. 2781; 43 U.S.C. 1767) on Parcels F and G.

6. A right-of-way described under Serial Number I–27213 for roadway purposes issued under the Act of October 21, 1976 (90 Stat. 2781; 43 U.S.C. 1767) on Parcel H.

The patent for Parcel E will also be issued subject to:

1. A right-of-way described under Serial Number I–21989 for a road issued under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Upon the expiration of the right-of-way on July 7, 2015, the holder of the right-of-way must negotiate new terms with the landowner.

Publication of this Notice will segregate the subject lands from all appropriations under public lands laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or 270 days from the date of this Notice, or upon publication of a notice of termination.

DATE: The first opening of sealed bids for the lands described above will be held at 9:00 a.m., Wednesday, January 10, 1990.

ADDRESS: The sale will be held at the Bureau of Land Management, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION: Additional information concerning these tracts, the terms and conditions of the sale and bidding instructions may be obtained from Jon Freeman or Juldy Fry at the above address, or by calling (208) 529–1020.

Detailed information concerning the sale, including the environmental assessments, is available for review at the Idaho Falls District, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

For a period of 45 days from the date of publication of this notice interested parties may submit comments to the District Manager, Idaho Falls District, at the above address. In the absence of timely objections, this proposal shall become the final determiantion of the Department of the Interior.

Dated: October 24, 1989.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 89–25832 Filed 11–1–89; 8:45 am]

BILLING CODE 4310-GG-M

[OR–943–00–4214–11; GPO–035; OR–39468]

Conveyance of Public Land; Order Providing for Opening of Land; Oregon; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action corrects the notice published in the **Federal Register** on August 13, 1987, by adding an additional paragraph in the Conveyance of Public Land; Order Providing for Opening of Land; Oregon.

EFFECTIVE DATE: September 23, 1987.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

SUPPLEMENTARY INFORMATION: In FR Doc. 87–18458, published at page 30259 in the issue of August 13, 1987, make the following correction:

"4. At 8:30 a.m., on *September 23, 1987,* the land described in paragraph 2 will be open to applications and offers under the mineral leasing laws."

Dated: October 26, 1989.

Catherine H. Crawford,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89–25830 Filed 11–1–89; 8:45 am]

BILLING CODE 4310-33-M

[OR–942–00–4730–2; GPO–034]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 28 S., R. 8 W., accepted 10/13/89
T. 28 S., R. 12 W., accepted 10/20/89
T. 32 S., R. 1 E., accepted 10/20/89
T. 25 S., R. 13 E., accepted 10/13/89
T. 26 S., R. 13 E., accepted 10/13/89

Washington

T. 5 N., R. 25 E., accepted 10/20/89

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protests(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissed affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 25, 1989.

Catherine H. Crawford,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89–25827 Filed 11–1–89; 8:45 am]

BILLING CODE 4310-33-M

[ID–942–00–4730–12]

Idaho: Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., October 24, 1989.

The plat representing the dependent resurvey of portions of the First Guide Meridian West (west boundary), north boundary, subdivisional lines and original meanders of Priest Lake in section 6; the subdivision of section 6, an informative traverse, and the survey of new meanders of Priest Lake and a partition line in section 6, T. 60 N., R. 4 W., Boise Meridian, Idaho, Group No. 728, was accepted July 25, 1989.

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This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: October 24, 1989.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-25828 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-GG-M

[AZ-931-09-4214-11, AR-010997]

Proposed Modification and Continuation of Withdrawal; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years Public Land Order No. 3263, which withdrew lands in the Coconino National Forest for the Fort Valley and Long Valley Experimental Forest Research Areas. This notice pertains only to the lands in the Research Area Withdrawal. Other notices will be published at a later date for other lands covered by Public Land Order 3263. The land continues to be utilized for the purpose for which it was withdrawn, that of protecting the surface from activities detrimental to forest research actions. It is anticipated there will be no change in land use with the exception of 320 acres located in T. 22 N., R. 8 E., the west half of section 22, as the proposal is to terminate the withdrawal in that section. The Forest Service proposes that the land will remain closed to operations under the mining laws only.

DATE: Comments to this notice should be received by January 31, 1989.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241-5509.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Public Land Order 3263, withdrawing lands from mining claim location for an indefinite period of time, be modified and continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands in the State of Arizona:

Gila and Salt River Meridian

T. 22 N., R. 5 E.,
Sec. 24, S½, S½N½.
T. 22 N., R. 6E.,
Sec. 13, S½;
Sec. 22, All;
Sec. 23, ptn. NE¼;
Sec. 24, All;
Sec. 25, E/½, ptn. NW¼;
Sec. 27, ptn. NE¼, NW¼, N½SW¼.
T. 19 N., R. 7E.,
Sec. 23, ptn. NE¼;
Sec. 24, E½ and W½NW¼.
T.22 N., R. 7 E.,
Sec. 19, All;
Sec. 30, All.
T. 14 N., R. 9 E.,
Sec. 36, All.
T. 14 N., R. 10 E.,
Sec. 31, All.

Area proposed for termination.

T. 22 N., R. 8 E.,
Sec. 22, W½.

The areas described contained 6211.59 acres in Coconino County, of which 5891.59 acres will remain in withdrawal status. The purpose of the withdrawal is to protect the area from surface disturbing activities and allow forest and range experiments to continue without the threat of being disturbed. For periods of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Beaumont C. McClure,

Deputy State Director, Lands & Renewable Resources.

[FR Doc. 89-25670 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-32-M

Mineral Management Service

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463). The Gulf of Mexico RTWG meeting will be held December 4, 1989, 1:00 p.m. to 4:45 p.m. at the Doubletree Hotel, Crescent Room, 300 Canal Street, New Orleans, Louisiana.

The RTWG business meeting will be held in conjunction with the Information Transfer Meeting. Agenda items for the business meeting include:

Gulf of Mexico Current Activities
Presentation on Amoco Cadiz Spill
Status of University Initiatives
Presentation of Minerals Management Service Inspection Program

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736-2589 by November 27, 1989. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A taped cassette transcript and complete minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: October 25, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-25835 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Chairmen of the Subsistence Resource Commissions for Kobuk Valley National Park and Cape Krusenstern National Monument and the Superintendent of Northwest Alaska Areas announce a joint meeting of the two Subsistence Resource Commissions on November 20, 1989 in Kotzebue, Alaska.

The following agenda items will be discussed:

(1) Introduction of Commission members and guests.
(2) Review of minutes from last meeting.
(3) Management update for Kobuk Valley National Park and Cape Krusenstern National Monument.
(4) Work on subsistence hunting plan recommendations
a. Review of past recommendations.
b. Discussion of new recommendations.
(5) Old and new business.

DATE: The meeting will begin at 9:00 a.m. on November 20, 1989 and will conclude the afternoon of the same day.

ADDRESS: The meeting will be held at the National Guard Armory Building in Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Management Assistant, National Park Service, P.O. Box 1029, Kotzebue, Alaska 99752 (phone (907) 442-3890).

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Boyd Evison,

Regional Director.

[FR Doc. 89-25758 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made within 30 days directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1006-0003), Washington, DC 20503, telephone 202-395-5897.

Title: Procedure to Process and Recover Value of Rights-of-Use and Administrative Costs.

OMB approval number: 1006-0003.

Abstract: Applicants for a right to use land under the jurisdiction of the Bureau of Reclamation must provide certain specified information. The required information will accompany the application and is the basic information necessary to enable the Bureau of Reclamation to determine whether or not the use can be granted. The information to be collected consists of the applicant's name and address, a description of the land on which the use is desired, the use to which the land will be put, the length of time the use will be in effect, and a map or drawing showing the area on which the desired use is to be located. If the use involves construction, the applicant may also be required to provide detailed construction plans, information needed by Reclamation to meet any environmental or cultural resource requirements, and additional information necessary to assure Reclamation that the proposed use will not conflict with the purpose for which Reclamation administers the land.

Bureau form number: No forms are involved.

Frequency: On occasion.

Description of respondents: Individuals, firms and agencies desiring to use Bureau of Reclamation-administered land for any purpose.

Estimated completion time: 2 hours.

Annual respondents: 400.

Annual burden hours: 800.

Bureau clearance officer: Nancy C. Smith, 303-236-6769.

Dated: September 11, 1989.

Terry P. Lynott,

Acting Deputy Commissioner, Bureau of Reclamation.

[FR Doc. 89-25836 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Ninety-Seventh Meeting of the Board for International Food and Agricultural Development (BIFAD) on November 16 and 17, 1989.

The purposes of the Meeting are: (a) To hear an update on the Food and Agriculture 2000, (b) to hear a report on the Africa Natural Resources Program, (c) to hear a report on the Peanut CRSP, (d) to hear an update on Sustainable Agriculture, (e) to hear BIFAD Recommendations to Africa Bureau, and (f) to hear a report on S&T Rural Development Program.

The November 16-November 17, 1989 Meetings will be held in the Department of State, Room 5951, 2201 C Street, Washington, DC 20523. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent the time available for the meeting permits.

Curtis Jackson, Bureau of Science and Technology, Office of University Relations, Agency for International Development is designated as A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, Rm 309, SA 18, Washington, DC 20523, or telephone him on (703) 875-4005.

Dated: October 25, 1989.

Lynn Pesson,

Executive Director, BIFAD.

[FR Doc. 89-25762 Filed 11-1-89; 8:45 am]

BILLING CODE 6116-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Folk Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel to the National Council on the Arts will be held on December 5-7, 1989, from 9:00 a.m.-6:00 p.m. and on December 8, 1989, from 9:00 a.m.-5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 7, 1989, from 11:00 a.m.-12:30 p.m. The topic for discussion will be policy issues.

The remaining portions of this meeting on December 5-6, 1989, from 9:00 a.m.-6:00 p.m. and December 7, 1989, from 9:00 a.m.-11:00 a.m. and from 12:30 p.m.-6:00 p.m. and December 8, 1989, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the

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determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Dated: October 23, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25837 Filed 11-1-89; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Opera-Musical Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (New American Works Section) to the National Council on the Arts will be held on November 27-December 1, 1989, from 9:00 a.m.-6:00 p.m. in Rooms M07 and M09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on November 27, 1989, from 9:00 a.m.-9:45 a.m. and on December 1, 1989, from 10:00 a.m.-12:00 noon. The topic for discussion is to be announced.

The remaining portions of this meeting on November 27, 1989, from 9:45 a.m.-6:00 p.m. and on November 28-30, 1989, from 9:00 a.m.-6:00 p.m. and on December 1, 1989, from 9:00 a.m.-10:00 a.m. and from 12:00 noon-6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Dated: October 24, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25838 Filed 11-1-89; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of RI 78-11 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to extend the use of form RI 78-11, Medicare Part B Certification, OPM currently uses RI 78-11 to determine whether annuitants, their spouses, and survivor annuitants are covered by Part B of Medicare.

Approximately 300 RI 78-11 forms are processed annually; each requires approximately ⅙ hour to complete, for a total public burden of 50 hours. For copies of this proposal, call Larry Dambrose, on (202) 632-0199.

DATES: Comments on this proposal should be received by December 4, 1989.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89-25786 Filed 11-1-89; 8:45 am]

BILLING CODE 4325-01-M

POSTAL RATE COMMISSION

Order No. 852

Commission Order and Notice Initiating Proceedings and Setting Dates for Filing Initial Testimony; Advo-System, Inc.

Issued October 30, 1989.

In the Matter of a Complaint of Advo-System, Inc., Docket No. C89-3, Advo Local Saturation Subclass Proposal, Docket No. MC89-1, MOAA Catalog Subclass Proposal, Docket No. C89-4.

Before Commissioners: Henry R. Folsom, Vice Chairman; John W. Crutcher; W.H. "Trey" LeBlanc, III; Patti Birge Tyson

After considering the above-referenced filings of Advo-System, Inc. (Advo) and the Mail Order Association of America (MOAA) and related Postal Service answers, the Commission has determined that the complaints may be justified and has decided to initiate formal proceedings designed to explore issues relevant to (i) the Advo complaint; (ii) the Advo local saturation subclass alternatives; and (ii) the MOAA catalog complaint.[1] As our rules make clear, our decision to proceed in this fashion is preliminary in the sense that a final determination with respect to the merits of the complaints and the related classification proposals will await completion of a hearing on the record.

Other Procedural Matters. In light of earlier representations by Advo and MOAA as to the amount of time needed to prepare and file their evidence, the Commission directs Advo to file its direct evidence by December 6, 1989 and directs MOAA to file by January 24, 1990. MOAA is encouraged to file its evidence sooner if possible. Persons who have filed requests to be placed on the Commission's service list in the Advo Local Saturation Subclass Proposal, Docket No. MC89-1, are automatically granted intervenor status in the other proceedings. Other persons interested in participating in these cases

[1] *See* July 10, 1989 Petition of Advo-System, Inc. and related July 17, 1989 Commission Notice; *See* July 10, 1989 Advo Complaint and related July 17, 1989 Commission Notice and Order; *see also* August 18, 1989 Complaint of Mail Order Association of America and August 31, 1989 Commission Notice and Order. The Postal Service filed answers to the Advo Complaint on August 9, 1989 and to the MOAA Complaint on September 18, 1989.

should file notices of intervention in accordance with Commission rule 20 (39 CFR 3001.20) no later than December 1, 1989. Stephen A. Gold, Director of the Commission's Office of the Consumer Advocate, who was designated to represent the interests of the general public in the MOAA case by operation of Order No. 843, is directed to assume that duty in the other proceedings as well. Further scheduling decisions, including any decision on consolidation of the cases, will be made at a later date. *It Is Ordered:*

(1) The Commission hereby initiates formal proceedings in Docket Nos. MC89-1, C89-3 and C89-4.

(2) Advo's prepared testimony in Docket Nos. MC89-1 and C89-3 is to be filed no later than December 6, 1989; MOAA's prepared testimony in Docket No. C89-4 is to be filed no later than January 24, 1990.

(3) Intervenor status in these cases is extended to persons whose names are on the Commission's servcie list in Docket No. MC89-1, Advo Local Saturation Subclass; other persons interested in intervening in these cases are to file notices of intervention no later than December 1, 1989;

(4) Stephen A. Gold, Director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public in Docket Nos MC89-1 and Docket No. C89-3.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 89-25846 Filed 11-1-89; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-19839]

Application and Opportunity for Hearing; Union Tank Car Company

October 25, 1989.

Notice is hereby given that Union Tank Car Company (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. (the "Bank") under an indenture dated October 1, 1971 (the "1971 Indenture") between the Company and the Bank which was heretofore qualified under the Act and under a proposed indenture (the "1989 Indenture") between the Company and the Bank which will be qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bank from acting as trustee under either of these indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the 1971 Indenture, the Company has outstanding $2,600,000 aggregate amount of its 7¾% Equipment Trust Certificates due October 1, 1991 (the "1971 Certificates"). The 1971 Certificates were registered under the Securities Act of 1933 (the "1933 Act") and the 1971 Indenture was qualified under the Act.

(2) Pursuant to the 1989 Indenture, the Company will issue $100,000,000 aggregate principal amount of Equipment Trust Certificates (the "1989 Certificates"). The 1989 Certificates will be registered under the 1933 Act and the 1989 Indenture will be qualified under the Act.

(3) The Company is not in default under the 1971 Indenture. The Company's obligations under the 1971 Indenture and the 1989 Indenture will rank *pari passu inter se.* The 1971 Indenture is and the 1989 Indenture will be secured by a separate group of specifically indentified rail cars.

(4) The provisions of the 1971 Indenture and the 1989 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under said Indentures.

The Company has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File No. 22-19839, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested persons may, no later than November 20, 1989, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25849 Filed 11-1-89; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, as amended by Public Law 99-591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collection Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), as amended by Public Law 99-591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone, number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395-3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, Edney Building 4W 13B, Chattanooga, Tn 37402; (615) 751-2523.

Type of Request: Regular submission.

Title of Information Collection: Electric Load Research Questionnaire.

Frequency of Use: On occasion.

BEST COPY AVAILABLE

Type of Affected Public: Individuals or households, state or local governments, farms businesses or other for-profit, non-profit institutions, and small businesses or organizations.

immunized by prior Department orders approving IATA tariff coordination procedures.

FOR FURTHER INFORMATION CONTACT:

this first public hearing the Commission is interested in hearing from members of the public who are concerned with the Commission's mandate from the President, as set forth below.

Chief, United States European Command.

Issued in Washington, DC, on October 30, 1989.

Federal Highway Administration

[FHWA Docket No. MC-89-17]

Driver Fatigue Research; Public

Law 84-759, but has been renewed by Public Law 100-324.

FOR FURTHER INFORMATION CONTACT: Bruce J. Carlton, Director, Office of

Type of Affected Public: Individuals or households, state or local governments, farms businesses or other for-profit, non-profit institutions, and small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 1,190.

Estimated Total Annual Burden Hours: 397.

Estimated Average Burden Hours Per Response: .33.

Need For and Use of Information: The information is required to evaluate the effects of demographic and other characteristics on the use patterns of electricity. This information is vital as input into TVA's ratemaking, cost-of-service studies, and load forecasting.

Louis S. Grande,

Vice President, Information Services, Senior Agency Official.

[FR Doc. 89-25839 Filed 11-1-89; 8:45am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 89-10-52, Dockets 46210 and 46411]

Agreements Among Members of the International Air Transport Association Regarding Cargo Services Matters

AGENCY: Department of Transportation.

ACTION: Notice.

SUMMARY: The Department approved and granted antitrust immunity to most of the agreements, which consisted of resolutions and recommended practices involving documentation, handling and technical procedures for processing cargo shipments. However, the Department disapproved various provisions revising the Conditions of Contract printed on the standard air waybill as being inconsistent with the Warsaw Convention and U.S. policy thereunder.

The Department disapproved paragraph II of Resolution 600b, Notice Concerning Carrier's Limitation of Liability, and paragraphs 2.3 4.1, 4.2, and 6 of the Conditions of Carriage in Resolution 600b, as well as the corresponding paragraphs in Recommended Practice 1600b, Publication of the Air Waybill and Conditions of Contract in French.

The Department also approved and granted antitrust immunity to various related agreements, rejecting IATA's contention that they were already immunized by prior Department orders approving IATA tariff coordination procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Myers, Office of the General Counsel, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9183.

Dated: October 27, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-25842 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-62-M

Fitness Determination of Conquest Airlines Corp.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—Order 89-10-56, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Conquest Airlines Corp. fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation s tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Lawyer, Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, (202) 366-1064.

Dated: October 30, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-25843 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-62-M

President's Commission on Aviation Security and Terrorism; Public Meeting

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of public meeting of the President's Commission on Aviation Security and Terrorism.

SUMMARY: The President's Commission on Aviation Security and Terrorism will be holding its first public hearing. At this first public hearing the Commission is interested in hearing from members of the public who are concerned with the Commission's mandate from the President, as set forth below. Subsequent hearings will be scheduled, including a hearing of representatives of Federal agencies and a hearing focused on detection equipment and technology. Interested members of the public are invited to attend. Persons wishing to address or submit a written statement to the Commission should contact the person below at least three days before the hearing. Oral submissions to the Commission will be limited to 20 minutes each.

DATE: Friday, November 17, 1989, 10:00 a.m. ET.

ADDRESS: Reserve Officers Association, Fifth Floor, One Constitution Avenue, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Commission on Aviation Security and Terrorism, 1825 K Street, NW., Suite 519, Washington, DC 20036, (202) 254-3166.

SUPPLEMENTARY INFORMATION: By Executive Order 12686, August 4, 1989, the President established the Commission on Aviation Security and Terrorism to examine policy regarding the threat of terrorism to civil aviation, specifically options for preventing aviation terrorism and handling terrorist threats, including prior notification to the public, and policies, practices, and laws regarding treatment of families of the victims of terrorism. In these areas, the Commission is specifically to focus on the destruction of Pan American flight 103 over Lockerbie, Scotland, on December 21, 1988.

The members of the Commission are:

1. Ann Dore McLaughlin, former Secretary of Labor, Chair.
2. Senator Frank Lautenberg (D-NJ), Chair of the Senate Appropriations Subcommittee on Transportation.
3. Senator Alfonse M. D'Amato (R-NY), Ranking Minority Member of the Senate Appropriations Subcommittee on Transportation.
4. Representative James N. Oberstar (D-MN), Chair of the House Public Works and Transportation Subcommittee on Aviation.
5. Representative John Paul Hammerschmidt (R-AR), Ranking Minority Member of the House Committee on Public Works and Transportation.
6. Edward Hidalgo, Esq., former Secretary of the Navy.
7. General Thomas Richards, USAF (Ret.), former Deputy Commander in Chief, United States European Command.

Issued in Washington, DC, on October 30, 1989.

Harry R. Van Cleve,

Commission General Counsel.

[FR Doc. 89-25929 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 89-091]

Meeting of the Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) will hold a meeting on Tuesday, November 28, 1989, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 4:30 p.m. The Committee will consider comments received during the comment period for the Notice of Proposed Rulemaking (NPRM) for Marine Vapor Control Systems published on October 6, 1989 (54 FR 41366).

The agenda is as follows:

1. Call to order.
2. Opening remarks.
3. Consideration of comments received on NPRM for Marine Vapor Control Systems.
4. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Those wishing to present oral statements should notify the Executive Director of CTAC, Captain J.C. Maxham, (202) 267-2967, no later than the day before the meeting. A summary of comments received in response to the NPRM will be available from the contact given below.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R.H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1217.

Dated: October 27, 1989.

J.D. Sires,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-25778 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

[FHWA Docket No. MC-89-17]

Driver Fatigue Research; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that there will be a public meeting at 9:00 a.m., Wednesday, November 29, 1989, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC.

The purpose of the meeting is to provide a briefing on a research contract that the FHWA recently awarded to the Essex Corporation, Goleta, California, to examine the problem of commercial motor vehicle fatigue and driver alertness, and to identify and examine potential countermeasures. In addition, a short review of all fatigue-related research currently underway within the FHWA will be provided.

The Essex Corporation will outline the proposed plan for its research, including methodology and technical equipment that will be applied. Participants are encouraged to provide comment on the proposal.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Davis (202-366-2997) or Mr. Stanley Hamilton (202-366-0665), Office of Motor Carriers, Federal Highway Administration, 400 Seventh Street NW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., EST, Monday through Friday.

Issued on October 27, 1989.

T.D. Larson,

Administrator.

[FR Doc. 89-25766 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Merchant Marine Decorations and Medals

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: This notice is issued pursuant to Maritime Administration regulations governing the award of authorized merchant marine decorations and medals (46 CFR part 350) to reflect the recently enacted authority given to the Maritime Administration to again accept applications for original issuance of World War II merchant marine decorations and medals to mariners who served during that period. That authority had previously been rescinded by Public Law 94-759, but has been renewed by Public Law 100-324.

FOR FURTHER INFORMATION CONTACT: Bruce J. Carlton, Director, Office of Maritime Labor and Training, Maritime Administration, MAR 250, Room 7302, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Tel. (202) 366-5755.

SUPPLEMENTARY INFORMATION: Under Public Law 759, 84th Congress, the authority of the Maritime Administration to issue merchant marine decorations and medals for World War II service was repealed. The Maritime Administration has had no authority to accept an original request made by a merchant mariner for World War II decorations and medals since 1956. Public Law 84-759 authorized the Maritime Administration only to replace those previously awarded merchant marine decorations and awards lost, destroyed, or rendered unfit for use.

With the enactment of Public Law 100-324, the Merchant Marine Decorations and Medals Act of May 30, 1988, the Maritime Administration has again been authorized to "award decorations and medals of appropriate design for individual acts or service in the United States merchant marine." This Act provides the authority for the Maritime Administration to accept requests for the original issuance of merchant marine decorations and medals for service during World War II, and the Maritime Administration will now accept and process such applications.

The following awards were established to recognize merchant seamen for their service in World War II. (Also listed are awards for the Korean and Vietnam Wars.) In determining an applicant's eligibility for these merchant marine decorations and medals, the service criteria associated with each of these awards must be fully met by the applicant. The award for which original applications are again being accepted are:

(a) The Atlantic War Zone Bar, awarded to crew members of ships operated by or for the War Shipping Administration who served in the Atlantic War Zone, including the North Atlantic, South Atlantic, Gulf of Mexico, Caribbean, Barents Sea, and the Greenland Sea, during the period December 7, 1941, to November 8, 1945;

(b) The Pacific War Zone Bar, awarded to crew members of ships operated by or for the War Shipping Administration who served in the Pacific War Zone which included the North Pacific, South Pacific, and the Indian Ocean east of 80

degrees east longitude, during the period December 7, 1941, to March 2, 1946;

(c) The Mediterranean-Middle East War Zone Bar, awarded to crew members of ships operated by or for the

[The Merchant Marine Distinguished Service Medal, Meritorious Service Medal, Gallant Ship Award and Mariner's Medal awarded for outstanding conduct or service in the

MAR 250, Department of Transportation, Washington, DC 20590.

If an applicant is found to be eligible for a merchant marine decoration and award, an authorization card(s) will be

exemption from three Federal Motor Vehicle Safety Standards. The basis of the grant is that an exemption would facilitate the development and field evaluation of a low emission motor

characteristics, affecting time to obtain operating temperature and the total power output rating. Petitioner raises the possibility that this change may actually improve performance of the heater when

2. Electric vehicles will help reduce dependency upon foreign oil.
3. Electric vehicles may help to reduce the incidence of vehicle fires.

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degrees east longitude, during the period December 7, 1941, to March 2, 1946;

(c) The Mediterranean-Middle East War Zone Bar, awarded to crew members of ships operated by or for the War Shipping Administration who served in the zone including the Mediterranean Sea, Red Sea, Arabian Sea, and Indian Ocean west of 80 degrees east longitude, during the period December 7, 1941, to November 8, 1945; (d) The Defense Bar, awarded to crew members of U.S. merchant ships for service prior to Pearl Harbor, during the period September 8, 1939, to December 7, 1941; (e) The Combat Bar, awarded to crew members who served on a ship which at the same time of service was attacked or damaged by an instrumentality of war during the period December 7, 1941, to July 25, 1947. A star is attached if the crew member was forced to abandon ship. For each additional abandonment a star is added; (f) The Philippine Defense Ribbon, awarded to crew members of ships operated by or for the War Shipping Administration who served in Philippine water for not less than 30 days during the period December 8, 1941, to June 15, 1942; (g) The Philippine Liberation Ribbon, awarded to crew members of ships operated by or for the War Shipping Administration who served in Philippine waters for not less than 30 days during the period October 17, 1944, to September 3, 1945; (h) The Merchant Marine Emblem, an identifying insigne that was issued to active merchant seamen for service during the period December 7, 1941, to July 25, 1947; (i) The Victory Medal, awarded to crew members of ships owned by, or operated by, or for the account of the War Shipping Administration for 30 days during the period December 7, 1941, to September 3, 1945; (j) The Honorable Service Button, awarded to crew members of ships owned by or operated by the War Shipping Administration for 30 days during the period December 7, 1941, to September 3, 1945; and, (k) The Presidential Testimonial Letter, awarded to crew members of ships owned by or operated by the War Shipping Administration for 30 days during the period December 7, 1941, to September 3, 1945. In addition, applications continue to be accepted and processed for the Korean Service Bar, awarded for service in the U.S. merchant marine during the period June 30, 1950, to September 30, 1953, in waters adjacent to Korea; and the Vietnam Service Bar, awarded for service in the U.S. merchant marine during the period July 4, 1965, to August 15, 1973, in waters adjacent to Vietnam. (The Merchant Marine Distinguished Service Medal, Meritorious Service Medal, Gallant Ship Award and Mariner's Medal awarded for outstanding conduct or service in the U.S. merchant marine are processed in accordance with Maritime Administrative Order 550–3, Merchant Marine Awards Committee, and are not the subject of this notice.)

An individual who believes his service in the merchant marine during World War II meets the above-described eligibility criteria for one or more of these awards is invited to apply for the award(s). The following information must be provided by all applicants with any request for original issuance of World War II awards: (1) The applicant's full name and present mailing address; (2) a copy of the applicant's DD Form 214, "Certificate of Release or Discharge from Active Duty," with continuation sheet, if provided. (Do not send the original form.) The DD Form 214 will be used to verify the applicant's World War II merchant marine service and to identify the ship(s) on which the applicant served. Applicants who do not have a DD Form 214 should apply for one by completing a DD Form 2168, "Application for Discharge of Member or Survivor of Member of Group Certified to have Performed Active Duty with the Armed Force of the United States," and mailing it to the appropriate address on the form. In brief, to receive consideration for the DD Form 214, a merchant mariner would have had to serve satisfactorily as a crew member during the period of armed conflict, December 7, 1941, to August 15, 1945, aboard merchant vessels in oceangoing service or foreign waters. Merchant marine applicants who wish further information on how to obtain a DD Form 214 should contact their local Department of Veterans Affairs office. No application for an award under this Notice can be processed until the applicant has been issued a DD Form 214; (3) The applicant's identification number(s) (i.e., Z or book number), and his World War II home address, if available; (4) a brief summary of the applicant's World War II sailing history including ships sailed on, theatre(s) of operation (for example, Pacific War Zone, Atlantic War Zone), and the applicant's ports of discharge; and (5) any available supporting documentation to substantiate the application for an award.

All requests and inquiries on merchant marine decorations and medals should be forwarded to: Office of Maritime Labor and Training, Maritime Administration, Room 7302, MAR 250, Department of Transportation, Washington, DC 20590.

If an applicant is found to be eligible for a merchant marine decoration and award, an authorization card(s) will be supplied to the applicant with which the decoration may be purchased from either of the Maritime Administration's authorized vendors. (These vendors are the Ship's Service Store, United States Merchant Marine Academy, Kings Point, L.I., NY 11024, and The Quartermaster Uniform Company, 750 Long Beach Blvd., Long Beach, CA 90813.) The vendors will provide merchant marine service ribbon bars at cost, including postage and handling fees.

Those merchant seamen who have previously been awarded decorations for their service in World War II, Korea and/or Vietnam, but whose awards have been lost, destroyed, or rendered unfit for use, may obtain replacements of their merchant marine service ribbon bars by contacting the Maritime Administration at the above address. Those merchant marine service ribbon bars which may be replaced upon authorization by the Maritime Administration are: Atlantic War Zone Bar, Pacific War Zone Bar, Mediterranean-Middle East War Zone Bar, Combat Bar, Defense Bar, Philippine Liberation Ribbon, Philippine Defense Bar, Victory Medal Bar, Korean Service and Vietnam Service Bar. The following decorations are provided at cost, again upon authorization by the Office of Maritime Labor and Training, Maritime Administration: Victory Medal, Honorable Service Button, Merchant Marine Emblem, Mariner's Medal, Gallant Ship Unit Citation Bar, Meritorious Service Medal and Distinguished Service Medal.

By order of the Maritime Administrator.

Dated: October 27, 1989.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 89-25779 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX89-2; Notice 2]

Conceptor Industries, Inc.—Grant of Petition for Temporary Exemption From Three Federal Motor Vehicle Safety Standards

This notice grants the petition by Conceptor Industries, Inc., of Richmond Hill, Ontario, Canada, for a temporary

exemption from three Federal Motor Vehicle Safety Standards. The basis of the grant is that an exemption would facilitate the development and field evaluation of a low emission motor vehicle, and that an exemption would not unreasonably degrade the safety of such vehicle. The exemption is for a period of one year.

Notice of receipt of the petition was published on February 23, 1989, and an opportunity afforded for comment (54 FR 7910).

Conceptor has not heretofore manufactured motor vehicles. In conjunction with the Electric Vehicle Development Corporation and the Electric Power Research Institute, and several U.S. electric utility companies, Conceptor is modifying G-Vans produced by General Motors Corporation. These modifications include substitution of an electric propulsion system for the internal combustion propulsion system with which the vehicle is originally manufactured. Specific components that are removed by GM include the engine, exhaust system, coolant system, transmission, and drive shaft. Conceptor replaces them with an electric traction motor, 16 monoblock batteries in a tray, an electrical controller, and a smaller transmission and drive shaft. These modifications result in a vehicle that is 1,000 pounds heavier than the original G-Van produced by GM. The modified vehicle would have an all new frontal structure, the addition of the battery tray to the underlying structure, and the relocation of the power train to the rear. The net result of the modifications is not only to change the crash characteristics of the original G-VAn, but also potentially to affect compliance with some Federal safety standards which do not contain a barrier impact test procedure.

Petitioner stated that it did not know that its modifications will actually result in noncompliances, but it sought a 2-year exemption from several standards that may be affected. In the meantime, it will conduct such testing and make such modifications as may be required to ensure that the compliance of the vehicles it produces after the exemption period. It will not produce more than 2500 vehicles in any 12-month period in which the exemption is in effect, as its current plans are to sell no more than 200 exempted vehicles overall.

The standards from which Conceptor sought exemption, and its reasons for so doing, were:

1. Standard No. 103, Windshield Defrosting and Defogging Systems. The heater unit is a new diesel power one with different power output characteristics, affecting time to obtain operating temperature and the total power output rating. Petitioner raises the possibility that this change may actually improve performance of the heater when tested according to the Standard.

2. Standard No. 105, Hydraulic Brake Systems. The increased curb weight, the change in center-of-mass location, new weight distribution, new mode of power for the brake-hydraulic system and the introduction of regenerative braking will require the G-Van's braking system to be recalibrated for the new vehicle configuration. Petitioner requests exemption from the stopping distance requirements of the third effectiveness test (paragraph S5.1.1.3), the partial failure requirements (S5.1.2), and the inoperative brake power assist unit or brake power unit requirements (S5.1.3).

3. Standard No. 124, Accelerator Control Systems. The electric G-Van will incorporate an all-new accelerator mechanism. Testing is at present needed to determine its compliance with the standard.

4. Standard No. 208, Occupant Restraint Systems. In the absence of any information to the contrary, NHTSA assumes that the restraint systems installed by General Motors will remain in place. However, their continued compliance with the standard has not been demonstrated in the absence of barrier impact testing, for which the petitioner requests exemption.

5. Standard No. 212, Windshield Mounting.

6. Standard No. 219, Windshield Zone Intrusion.

Petitioner wishes to demonstrate compliance with these standards also through barrier impact testing, and exemption is therefore requested.

7. Standard No. 301, Fuel System Integrity. The Electric G-Van incorporates a new fuel tank used in the diesel powered heater unit. Compliance will be demonstrated through impact testing, which has not been conducted, and an exemption is therefore requested.

Petitioner stated that, during the time of the temporary exemption, the technical and economic feasibility of the Electric G-Van will be evaluated. It argued that an exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act for the following reasons:

1. The evaluation period afforded by the exemption could lead to the greater commercialization of low-emission motor vehicles, and concomitant improvement in the air quality of urban areas.

2. Electric vehicles will help reduce dependency upon foreign oil.

3. Electric vehicles may help to reduce the incidence of vehicle fires.

The only commenter was General Motors Corporation, which supported the petition. GM explained that it supplies Conceptor with "shells", i.e., an aggregation of components and sub-systems derived from the "G" Van. In addition to the components listed by Conceptor as omitted from the shell, GM stated that it also does not provide a fuel system and significant portions of the electrical system. For these reasons, GM will specify in its contract with Conceptor that the petitioner alone bears the responsibility for certification of compliance with the Federal motor vehicle safety standards, except for those components requiring certification as motor vehicle equipment. GM commends Conceptor's efforts "to develop, certify, and market an electrically propelled vehicle."

Before considering whether the petitioner has sufficiently justified its request, the agency notes that an exemption is not needed with respect to Standards Nos. 103 and 208. The General Motors G-Van, from which the Conceptor is derived, is certified as a multipurpose passenger vehicle ("MPV"), and not as a passenger car. Thus, the Conceptor will be certified also as an MPV. The only requirement that Standard No. 103 imposes for an MPV is that it be equipped with a defroster and defogging system. Performance requirements for those systems are specified only for passenger cars. NHTSA understands that Conceptor will continue to provide the required systems, uncertain though it may be as to its performance capabilities. Similarly, with respect to Standard No. 208, a vehicle other than a passenger car is not currently subject to any requirement for which a barrier crash is specified in the standard as the means of determining compliance. Pursuant to S4.2.2., and S4.1.2.3, an MPV like the Conceptor may be equipped with a Type 2 lap and shoulder belt system that meets the requirements of Standard No. 209. Conceptor has informed NHTSA that it intends to leave the GM restraint systems in place. Finally, after the end of the comment period, Conceptor informed the agency that it had determined that it would comply with Standards Nos. 212 and 219, and that therefore no exemption was needed.

Sections 123(a)(1)(C) and (a)(2) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1410(a)(1)(C)) provide that a petitioner may be granted

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a temporary exemption upon a finding that "such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle", and "that such temporary exemption would be consistent with the public interest and the objectives of the Act." In view of increasing concerns about environmental problems and about the need to import petroleum to fuel this country's motor vehicles, NHTSA deems it important to encourage the search for propulsion systems that are viable alternatives to the internal combustion engine. Electrical propulsion is one such system. To date, such systems have not proven competitive with internal combustion systems to the extent that they are alternatives, except for a limited number of vehicle applications in urban environments, such as postal vans and delivery trucks. Even here, electric vehicle usage appears to be more of a sporadic, experimental nature than a program of incremental improvements in technology from one year to the next. The experience of Conceptor, with the encouragement and support of General Motors, could add to the sum of knowledge of electric vehicle technology. The agency believes that these factors would justify a finding that a temporary exemption will facilitate the development and field evaluation of a low-emission motor vehicle. Similarly, given that development of safety systems suitable for electrically propelled vehicles to meet the requirements of the Federal safety standards will continue while the exemption is in effect, NHTSA believes that a finding that an exemption is in the public interest, and consistent with the objectives of the Vehicle Safety Act would be justified.

In order to grant a low emission vehicle exemption, the Administrator is also required by the Act to find that such an exemption would not unreasonably degrade the safety of the exempted vehicle. To enable the agency to make this finding, a petitioner must either attempt to show that its noncompliances involve narrow, comparatively insignificant safety requirements or, attempt to show, through tests in accordance with the procedures in the affected standards, mathematical modeling, engineering analysis or other means, that the extent of its noncompliances are not unreasonable. The judgment as to reasonableness would be based on a variety of considerations including the potential safety risk and the vehicle design choices necessary to accommodate the production and marketing of a low emission vehicle.

In response to requests from NHTSA, Conceptor supplemented its original petition with additional information on August 24 and September 5, 1989, some of which is discussed below.

Standard No. 105: Conceptor's electric G-Van has the same GVWR as GM's certified G-Van. The electric G-Van has the identical braking system as the certified G-Van, including the hydraulic accumulator capable of several braking stops, except that an electric motor dedicated to the task replaces the internal combustion engine as the power-assist source. The electric G-Van also has a regenerative braking system which provides a third means of stopping should the power assist and/or the mechanical brakes fail. This effect occurs when the driver's foot is removed from the brake pedal, and, if the brakes are applied, the regenerative braking goes to maximum output.

The paragraphs of Standard No. 105 from which exemption is requested involve tests conducted at curb weight. The electric G-Van's curb weight is approximately 1,600 pounds greater than that of GM's G-Van. Because of the existence of regenerative braking, Conceptor believes that its product will stop more quickly in the partial failure test. Overall, it believes that the final testing of its product will demonstrate that its brake system is superior to that of the original G-Van.

Standard No. 124: Conceptor's G-Van has basically the same accelerator control system as the original G-Van, except that it contains a potentiometer which converts the mechanical position from the accelerator cable to electrical resistance. Two stainless steel extension return springs are located on the range selector end of the accelerator cable to return the motor speed controller (throttle) to motor shut-down (idle) as required by S5.1. The potentiometer, which replaces the throttle, also contains a return spring. Should the potentiometer lever fail, this spring will return the potentiometer to idle, thereby cutting off power to the electric drive motor. Conceptor also points out that in operation, when pressure is removed from the throttle, regenerative braking begins to slow the vehicle.

Standard No. 301: Although Conceptor's G-Van is not powered by an internal combustion engine, diesel fluid is carried to power the heater unit. The fuel tank has been replaced with a smaller one of approximately 8 gallons for this purpose, and one fuel line, now unnecessary, has been removed. The filler, vent, and sending systems remain the same as in GM's G-Van. Since the date of the original petition, Conceptor has conducted a front impact test on its van, and found that it complied. The remaining tests have not been completed, but petitioner believes that it should comply, and that the insertion of the battery pack should provide additional protection at least on side impact.

The agency has reviewed Conceptor's arguments, and has found them persuasive that an exemption for a period of one year would not unduly degrade the safety of the vehicle. However, on the basis of the information presented, the agency is unable to provide an exemption for a longer period. Regenerative braking should aid in complying with Standard No. 105, and in achieving the intent of Standard No. 124, but petitioner has not demonstrated how significant the braking effect is before application of the service brakes, or, once the brakes are applied, how much regenerative braking will add to the braking effect of the service brakes. During the year the exemption is in effect, petitioner will be able to determine whether it in fact complies, or whether an extension is needed. On the basis of its test, Conceptor argues that its vehicle meets the frontal impact requirements of Standard No. 301, and, because of its configuration, should meet the lateral moving barrier test. The reduced amount of fuel carried in the vehicle, and the elimination of one fuel line should enhance its ability to comply with the rear moving barrier test. The year that the exemption is in effect will allow time to conduct further tests to determine compliance with Standard No. 301.

Accordingly, Conceptor Industries, Inc. is hereby granted NHTSA Exemption No. 89–2 from paragraphs S5.1.1.3, S6.1.2, and S5.1.3 of 49 CFR 571.105 Motor Vehicle Safety Standard No. 105 *Hydraulic Brake Systems*, 49 CFR 571.124 Motor Vehicle Safety Standard No. 124 *Accelerator Control Systems*, and paragraphs S6.2/S6.4, and S6.3/S6.4 of 49 CFR 571.301 Motor Vehicle Safety Standard no. 301 *Fuel System Integrity*, expiring November 1, 1990.

(15 U.S.C. 1410; delegation of authority at 49 CFR 1.50)

Issued on: October 27, 1989.

Jeffrey R. Miller,
Acting Administrator.

[FR Doc. 89–25805 Filed 11–1–89; 8:45 am]
BILLING CODE 4910-59-M

[Docket No. EX89–5; Notice 1]

Ferrari S.p.A.; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

Ferrari S.p.A. of Modena, Italy, has petitioned for a temporary exemption from the passive restraint requirements of Motor Vehicle Safety Standard No. 208 *Occupant Restraint Systems* for its model F40, for a period of 1 year. The basis of the petition is that compliance would cause substantial economic hardship.

This notice of receipt of the petition is published in accordance with the regulations of the National Highway Traffic Safety Administration (49 CFR Part 555), and does not represent any agency decision or other exercised of judgment concerning the merits of the petition.

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production does not exceed 10,000, as determined by the NHTSA Administrator (15 U.S.C. 1410(d)(1)). Ferrari's total production "is about 4000", of which approximately 25% are manufactured for sale in the United States. However, Fiat S.p.A., a major vehicle manufacturer now holds a 90% interest in Ferrari. The threshold of eligibility would be exceeded if the production total of Fiat were added to that of Ferrari.

As discussed below, NHTSA has tentatively determined that the threshold of eligibility is not exceeded. The agency believes that there are two general issues concerning whether Ferrari's eligibility is affected by its relationship with Fiat. The first issue is whether Ferrari can be considered the manufacturer of any vehicles other than the 4,000 units cited above, with the possible result that the 10,000 unit limit is exceeded. This question can be answered in the negative. It is only the manufacturer of vehicles bearing the Ferrari nameplate.

The second and more difficult issue is whether persons other than Ferrari can be considered to manufacture the 4,000 units. The National Traffic and Motor Vehicle Safety Act does not include any provision indicating that a person is a manufacturer of a vehicle by virtue of ownership or control of another person that is a manufacturer.

NHTSA has stated, however, that a person may be a manufacturer of a vehicle manufactured by another person if the first person has a sufficiently substantial role in the manufacturing process that it can be deemed the sponsor of the vehicle. The agency considers the statutory definition of "manufacturer" (15 U.S.C. 1391(5) to be sufficiently broad to include sponsors, depending on the circumstances. See 50 FR 14596, April 12, 1985, and a letter of September 18, 1987, to General Motors. In the present instance, the F40 bears no resemblance to any motor vehicle designed or manufactured by Fiat, and the agency understands that the F40 was designed and engineered without assistance from Fiat. Further, the agency understands that such assistance as Ferrari may receive from Fiat relating to use of test facilities and the like is an arms length transaction for which Ferrari pays Fiat. Accordingly, NHTSA concludes that Fiat is not a manufacturer of Ferrari vehicles by virtue of being a sponsor.

According to Ferrari, its F40 "is a vehicle designed primarily for competition and truly capable of being utilized for racing." Aware, however, that its purchasers would use it on the public roads, Ferrari has attempted to develop a US version of the vehicle "in full compliance of all safety and emission applicable standards notwithstanding the great difficulties posed by the sophisticated composite production, the performance of the vehicle and the extremely low production volume." To that end "the economic evaluation of the costs sustained by Ferrari for the adaptation * * * to the USA specifications is well over $6,000,000".

Ferrari had anticipated that the F40 would comprise 20% of its 1989 US sales, with production beginning in the summer of 1988 and completion a year later. It had intended producing 200 units in this period. But because of difficulties in obtaining electronic engine controls necessary to meet emission standards, and composite body panels, it could not meet this schedule. Realizing that any F40 manufactured for the US market on or after September 1, 1989, would have to comply with the passive restraint requirements of Standard No. 208, it contracted with its supplier preparing systems for its other vehicles, AutoLiv-Klippan, "to develop a passive belt system also for the F40 model." Although the design system has been completed, AutoLiv cannot deliver the system to Ferrari before the summer of 1990 due to its commitments to Ferrari on its other US models, and to other manufacturers as well.

The petitioner has advised that the F40 cannot be retrofitted with an airbag system. Neither can it be retrofitted with an automatic redundant belt system, which would require "substantial modifications not only to the outside fitting but also to the structure as: A pillar, roof structure, B pillar, etc.". As further evidence of its good faith attempts to conform, it submits that is has "promptly installed on its vehicles during the Phase-In period many more passive restraint systems than required by law, accumulating a large number of 'credits', to the number of 523. It regards this number as "especially high in consideration of a US production of just over 1000 vehicles per year."

Cognizant that many manufacturers who have petitioned the agency for hardship exemptions have had balance sheets showing continuing losses (Ferrari projects an income for 1989 of over $10,000,000 without US F40 sales), Ferrari basis its hardship argument on the need to begin to recover at the earliest possible time the $6,000,000 it has expended on developing the US version of the F40. A denial would force it to scrap "or rework a great number of vehicles already partially assembled and not being able to readily manufacture the vehicle with passive belts." In addition, $300,000 of parts and materials for active belts for the US cars would be wasted. It also believes that its dealers, who have invested in facilities dedicated to the F40, would also suffer economic losses.

Ferrari argues that an exemption would be in the public interest and consistent with the objectives of the Act. It believes that if an exemption is not granted, F40s that it has not manufactured to conform to US Federal safety and emission standards will be imported through the gray market. It argues that "curbing speculations and reducing the exposure of the public to questionable modified vehicles is in the public interest." It cites NHTSA's own statement (54 FR 35556) that one of the objectives of the Act was to afford a continuing wide choice of vehicles to the motoring public.

Interested persons are invited to submit comments on the petition of Ferrari described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment date indicated below will be considered. The petition and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will be considered to the extent practicable. Notice of final action on the petition will

be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 4, 1989.

(15 U.S.C. 1410; delegations of authority at 49

Maine's Attorney General's Office asserts that it did not receive the application until the day the comment period was to end. To ensure that all interested parties have an adequate

Public Comments: Comments should be limited to the issues of whether Maine's above-described statutes and regulations, requiring a license for transportation of hazardous materials

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be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 4, 1989. (15 U.S.C. 1410; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 27, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-25804 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

[Docket No. IRA-48]

Reichhold Limited Application for Inconsistency Ruling Concerning State of Maine Regulations for the Transportation of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Extension of Comment and Rebuttal Comment Periods.

SUMMARY: Reichhold Limited has applied for an administrative ruling determining whether Maine's regulations requiring a license for the transportation of hazardous materials are inconsistent with the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) issued thereunder and, therefore, preempted under section 112(a) of the HMTA. RSPA has expanded the proceeding to include Maine's licensing and enforcement statute concerning such transportation, and its fee statute for hazardous materials transported by railroad.

A public notice and invitation to comment on that application was published at 54 FR 37764, on September 12, 1989. It provided for a comment period ending October 20, 1989, and a rebuttal comment period ending December 8, 1989. Although RSPA has been in contact with other State of Maine officials concerning this matter, Maine's Attorney General's Office asserts that it did not receive the application until the day the comment period was to end. To ensure that all interested parties have an adequate opportunity to comment, this Notice extends the comment and rebuttal comment periods on that application.

DATES: The comment period is hereby extended to December 1, 1989, and the rebuttal comment period is extended to January 5, 1990. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, Room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number, IRA-48. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Mr. G.R. Beasant, Reichhold Limited, Mississauga Executive Centre, Four Robert Speck Parkway, Suite 700, Mississauga, Ontario, Canada L4Z 1S1, and to Mr. Garry R. Hinkley, Director, Commercial Vehicle, Secretary of State, Motor Vehicles Division, Station No. 29, Augusta, Maine 04333, and that fact certified to at the time each comment is submitted to the Dockets Unit. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Mr. Beasant and Mr. Hinkley at the addresses specified in the **Federal Register**.").

FOR FURTHER INFORMATION CONTACT: Mr. Edward H. Bonekemper, III, Senior Attorney, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590-0001, telephone number 202-366-4400.

Public Comments: Comments should be limited to the issues of whether Maine's above-described statutes and regulations, requiring a license for transportation of hazardous materials and imposing a fee on hazardous materials transported by railroad, are inconsistent with the HMTA and the HMR. They should specifically address the "dual compliance" and "obstacle" tests described in the September 12, 1989 Notice.

Persons intending to comment on the application should examine the complete application in the RSPA Dockets Unit, the September 12, 1989 Notice (including Appendices A and B thereto), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201-107.211).

Issued in Washington, DC on October 27, 1989.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-25844 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Health-Related Effects of Herbicides; Renewal

This gives notice under the Federal Advisory Committee Act [Pub. L. 92-463) of October 6, 1972, that the Department of Veterans Affairs Advisory Committee on Health-Related Effects of Herbicides has been renewed for a two year period beginning June 26, 1989 through June 25, 1991.

Dated: October 23, 1989.

By direction of the Secretary.

Sylvia C. Long,

Committee Management Officer.

[FR Doc. 89-25789 Filed 11-1-89; 8:45am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

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This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY

National Heritage Corridor

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, November 9, 1989.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 p.m. at the Central Falls Library, 205 Central Street, Central Falls, Rhode Island for the following reasons:

1. Report of the Chairman.
2. Report of the Executive Director.
3. Report of the Treasurer.
4. Committee Reports.
5. Report on the Cultural Heritage and Land Management Plan.
6. Report on Preservation Awards Program.
7. Discussion of 1990 Action Plan.
8. Reports on 2nd Annual National Conference on Historic Canals.
9. Report on Heritage Tourism conference.
10. Report of Scholar-In-Residence.
11. Report on Interpretive Tours—Bus, Rail, Canoe.
12. Public Comments.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

Shirley Cleaves,

Acting Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 89-25980 Filed 10-31-89; 2:00 pm]

BILLING CODE 4310-70-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO. 89-25421

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 2, 1989, 10:00 a.m.

THE FOLLOWING ITEM WAS DELETED FROM THE AGENDA:

Draft AO 1989-21:
Elaine Sandra Abramson on behalf of Create-A-Craft

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA:

Drug-Free Workplace Program

DATE AND TIME: Tuesday, November 7, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 9, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinions:
Draft AO 1989-21:
Ms. Elaine Sandra Abramson on behalf of Create-A-Craft
Draft AO 1989-23:
Mr. David T. Wright on behalf of Coopers & Lybrand
Affiliation & Earmarking Regulations:
Announcement of Effective Date
Explanation & Justification of the Foreign National Regulations:
11 C.F.R. § 110.4
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-26007 Filed 10-31-89; 3:39 pm]

BILLING CODE 6715-01-M

FEDERAL ENERGY REGULATORY COMMISSION

Notice of Closed Meeting

October 26, 1989.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-4109), 5 U.S.C. 552b:

DATE AND TIME: November 2, 1989, 11:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *American Gas Association* v. *Federal Energy Regulatory Commission*, No. 87-1586 (DC Cir. October 16, 1989).

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 357-8400.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25899 Filed 10-30-89; 4:38 pm]

BILLING CODE 6717-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m., November 20, 1989.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of last meeting.
2. Budget for National Finance Center.
3. Thrift Savings Plan activities report by the Executive Director.
4. Quarterly review of investment performance.
5. Audit status report.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: October 27, 1989.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 89-25993 Filed 10-31-89; 2:51 pm]

BILLING CODE 6760-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, November 8, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street

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entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Discussion of Voluntary Guide to Conduct for Senior Officials of the Federal Reserve System.
2. Request by the General Accounting Office for Board comment on a draft report regarding Fedwire System vulnerability.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–2808 Filed 10–31–89; 3:54 pm]

BILLING CODE 6210–01–M

federal register

Thursday
November 2, 1989

Part II

Department of Transportation

Office of the Secretary

14 CFR Ch. I et al.

Alcohol Abuse Prevention Program for the Transportation Industry; Advance Notice of Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I and III

23 CFR Chs. I, II, III, and IV

33 CFR Ch. I

46 CFR Chs. I and III

49 CFR Subtitle A, Chs. II, III, IV, V and VI

[OST Docket No. 46574, Notice No. 89-22]

RIN 2105-AB52

Alcohol Abuse Prevention Program for the Transportation Industry

AGENCY: Office of the Secretary, DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Department of Transportation is exploring the need to adopt additional regulations for the transportation modes it regulates to prevent employees from performing sensitive safety- and security-related functions while under the influence of alcohol. This ANPRM solicits public comment on the scope of the problem, the need for additional action and the feasibility and scope of several possible options, if further action is deemed necessary.

DATE: Comments on the ANPRM must be received on or before January 31, 1990.

ADDRESS: Comments on the ANPRM should be mailed to Documentary Services Division, C–55, Department of Transportation, Room 4107, Docket 46574, 400 Seventh Street, SW., Washington, DC 20590. In order to provide a copy for each modal administration's docket and to facilitate the Department's review, we request that an original and seven additional copies of the comments be submitted. Because of the size and complexity of the document, we also ask commenters to designate the section letters and numbers to which their comments refer. Comments will be available for review by the public at this address from 9:00 a.m. through 5:00 p.m., Monday through Friday. Persons wishing the agency to acknowledge receipt of their comments should include a stamped, self-addressed postcard with their comments. The Documentary Services Division will time and date-stamp the card and return it to the commenter. The comments will be reviewed and, in the event that further action is taken, they will be furnished to those modal administrations that are responsible for taking the action.

FOR FURTHER INFORMATION CONTACT: Neil Eisner, Assistant General Counsel for Regulations and Enforcement, or Gwyneth Radloff, Attorney, Department of Transportation, (202) 366–9305, 400 7th Street SW., Washington, DC 20590.

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I. Introduction

A. Background

The Department of Transportation (DOT or Department) is comprised of the Office of the Secretary (OST) and nine separate modal administrations: The Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), the Maritime Administration (MARAD), the National Highway Traffic Safety Administration (NHTSA), the Research and Special Programs Administration (RSPA), the St. Lawrence Seaway Development Corporation (SLSDC), the Urban Mass Transportation Administration (UMTA), and the United States Coast Guard (USCG).

Each of the modal administrations operates under different statutory authority; for example, some extensively regulate actions by persons within their mode of transportation, while others do not. As discussed below in greater detail, the Department, through its modal administrations, already has implemented several programs designed to address the use and abuse of alcohol by transportation workers. The states also are active in combating the use and abuse of alcohol; some of these efforts are funded through the Department.

Six of the Department's modes (USCG, FAA, FHWA, FRA, RSPA, and UMTA) recently issued drug testing rules for members of their regulated industries (53 FR 47002 et. seq., Nov. 21, 1988). The rules apply to persons performing sensitive safety- and security-related functions in commercial operations.

During the drug testing rulemakings, the Department noted on numerous occasions that alcohol is a drug. The Department recognized its wide use, its addictive nature, and the number of transportation-related deaths and injuries that result every year from its abuse. However, the Department also realized that, for numerous reasons, the solution to the alcohol abuse problem may be very different from that concerning other drugs, such as cocaine or marijuana. For that reason, with one exception, the modal administrations did not include alcohol among the list of substances to be tested for under the drug testing regulations. (Pursuant to a statutory mandate, the Coast Guard required post-accident alcohol testing, in an amendment to an existing rule permitting that testing. FRA had previously included alcohol in its post-accident testing mandate and had authorized alcohol testing for reasonable cause and pre-employment.) In announcing the drug testing rules, then Secretary of Transportation, Jim Burnley, stated that he had directed his General Counsel's Office to review the Department's existing alcohol regulations to determine if they were sufficient. The extensive press coverage of and public interest in the possible involvement of alcohol in the Exxon Valdez oil spill heightened the governmental interest in this area.

In his June 15, 1989, testimony before the Senate Committee on Commerce, Science and Technology, Secretary Skinner committed the Department to exploring further the need for additional regulations on alcohol use. This ANPRM is intended to elicit public comment on whether the Department's current regulatory requirements and programs are sufficient to respond to the hazards of alcohol use and abuse in DOT-regulated transportation industries and what additional action, if any, should be taken.

If further rulemaking action is necessary, the Department could consider a number of options that could improve safety by reducing alcohol abuse in DOT-regulated transportation industries. The list that follows is not all-inclusive and options may be combined. The options include:

1. Requiring employers to establish Employee Assistance Programs (EAP) that provide education on the dangers of alcohol abuse and training to detect alcohol use or impairment on the job;

2. Requiring employers to set up self- and peer-referral programs designed to identify alcohol abusers and get them into rehabilitation programs, with the understanding that the identified abusers, if rehabilitation is successfully completed, could retain their jobs;

3. Requiring alcohol testing of transportation employees similar in whole or in part to our drug testing rules, summarized in Appendix B (e.g., preemployment, periodic, reasonable cause, post-accident and random testing);

4. Requiring pre-performance testing prior to permitting an employee to operate a vehicle or perform safety- or security-related duties (e.g., a pilot could be tested before entering the cockpit to fly an airplane); and/or

5. (A nonrulemaking option) encouraging the states to implement safety programs directed at alcohol abuse and to increase their enforcement efforts.

If further regulatory action is deemed necessary after a review of the comments on this ANPRM, separate dockets will be set up and notices of proposed rulemakings will be developed by each of the affected modal administrations.

B. Major Issues

The Department particularly desires public comment on the following issues. This list is intended only to serve as a focal point and is not exhaustive. Following the list, there is an extensive discussion of these and other issues, and readers will note many questions throughout the document.

1. Are Additional Measures Necessary To Control Alcohol Abuse Among Transportation Workers?

How well are existing regulations and programs working? We have anecdotal reports that alcohol use is more widespread among transportation workers than other drug abuse, but are there supportive data? Are further regulations needed or would other actions such as increased enforcement of existing rules be more effective?

2. What Should Be Prohibited?

If we decide that new prohibitions or new testing for alcohol is appropriate, an important issue is what use of alcohol to prohibit. Unlike some other drugs, alcohol is a legal substance with legally and socially acceptable uses, at least for persons over 21 years of age. The Department already has made some decisions on what to prohibit. Most of the modes regulating commercial transportation (FAA, FHWA, FRA and Coast Guard) have selected a .04 percent blood alcohol concentration (BAC) level as the standard for determining whether a commercial operator is under the influence of alcohol, and prohibit any use of alcohol on the job. Some modes (USCG, FAA and FHWA) subject commercial operators to pre-duty abstinence periods. FHWA rules require that commercial vehicle operators with any measurable BAC level be placed out-of-service for a 24-hour period. Recreational boaters are prohibited only from being intoxicated, which correlates generally to a BAC of .10 percent. The BAC level is a ratio of the number of grams of alcohol per 100 milliliters of blood; for the purpose of determining BAC through an analysis of the breath, the amount of alcohol in one part of blood is presumed to equal the amount of alcohol in 2100 parts of expired breath sample (by volume).

Should the department undertake to make the transportation industries alcohol-free? Is this practicable, given the fact that alcohol is a legal substance? Or should the Department target impairment on the job, which poses the greatest danger? If so, where should the line be drawn? Should there be differences in this respect for different industries or occupations?

3. If Further Action Is Necessary, What General Forms Should It Take?

a. *Education.* Should the Department mandate employer-provided alcohol abuse training? Should educational efforts focus on convincing abusers to seek treatment or on training supervisors to identify problem drinkers? Are there data to validate the success of alcohol education programs? What elements are necessary for a successful program? Should educational

efforts be coupled with self- and peer-referral rehabilitation programs? Are educational programs more successful if coupled with increased enforcement efforts?

4. What Should Be the Consequences for an Employee Identified as Using Alcohol on the Job, Being Under the Influence While on the Job, or Improperly Using Alcohol Prior to Work?

Many of the words relating to alcohol are used interchangeably in our society, which may cause some confusion. In this document, we use the terms "intoxication", "driving while

alcohol appears to enter the blood stream at different rates in different people (Zero Alcohol, 1987). In another study, subjects were given controlled doses and had equal amounts of food in

we cannot take action. Rather, it means merely that a wide variety of factors must be weighed as we reevaluate our current requirements and consider new ones.

the investigators' objective measurements. (American Journal of Psychiatry, December 1986). BAC tests in the above situation would be

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efforts be coupled with self- and peer-referral rehabilitation programs? Are educational programs more successful if coupled with increased enforcement efforts?

b. *Enforcement.* Are the federal and state penalties for alcohol use sufficient? Are effective actions being taken to ensure compliance with alcohol restrictions? What enforcement strategies are likely to be most effective? What should be the roles of employers and the Federal, state and local governments?

c. *Alcohol Testing.* Mandatory testing programs are costly and inevitably controversial. The Department's recent experience with imposing mandatory drug tests may provide some guidance, but we recognize that alcohol testing may involve different problems.

To what extent do our current drug rules serve as a viable model for alcohol testing? What changes would be necessary to account for the differences between alcohol and other drugs? Does widespread mandatory alcohol testing make sense if we choose to prohibit intoxication or impairment as a distinct from all use of alcohol? The signs of alcohol intoxication are much more widely recognized among the general population than the indicators of drug use. On the other hand, "functional" alcoholics can often mask signs of intoxication. Further, moderate levels of alcohol can impair certain faculties without constituting "intoxication." Would it be cost-effective to randomly test for alcohol intoxication? If not, should the Department require, at a minimum, post accident and reasonable cause testing for alcohol intoxication, where not already required?

d. *State Programs.* State and local governments have extensive experience in dealing with alcohol impairment. Testing for the presence of alcohol has traditionally been done by State enforcement personnel (usually as part of a stop of an individual on the highways). Some States have laws against boating while intoxicated and some states have laws against flying while intoxicated. Under FAA rules, crewmembers must submit to state tests upon request by a state law enforcement officer. The ability to test generally is predicated upon establishing reasonable suspicion to stop, probable cause to test, followed by an arrest if warranted, and finally, conducting a second and more sophisticated test (which would be used as evidence). In what areas can the Department make use of the states' resources and expertise?

4. What Should Be the Consequences for an Employee Identified as Using Alcohol on the Job, Being Under the Influence While on the Job, or Improperly Using Alcohol Prior to Work?

Should all who are found to be under the influence be removed from safety- and security-related jobs until they are rehabilitated? Should the function they were performing when under the influence be relevant? (e.g., filling out paperwork at a desk?) Should an opportunity for rehabilitation be required? Are there distinctions that warrant a federal role in mandating at least one opportunity for rehabilitation for alcohol abuse in light of DOT's position that such a role was inappropriate in the drug area? Rehabilitation may be more successful for alcohol users than for at least some kinds of drug use. Use of alcohol is also legal for persons aged 21 and older. Should either or both of these factors influence how we treat persons identified as alcohol abusers? What is the success rate of existing programs? Should the circumstances of use (on the job, for example) be a factor in determining whether an employee should have a right to rehabilitation? What about the circumstances of identification? Should self-identified problem users be treated differently? Should the level of consumption be a consideration? Should it matter whether the abuse was a cause of an accident? Should a job be held open in the event an employee takes advantage of an opportunity for rehabilitation?

C. General Information and Definitions

Throughout this notice, we have generally relied on or referred to the results of many studies concerning alcohol. Parenthetical references to these studies are included in the text; their full names are listed alphabetically in a bibliography in Appendix A. Copies of all of these studies have been placed in the rulemaking docket. It is important to note that the data we have are not complete; often the database includes only those tests that were performed. Tests are performed after some accidents, but not others depending upon current regulatory requirements, the availability of state enforcement personnel and location and timing of accidents. Also, data are not comparable among the transportation modes, because of differences in reporting requirements, databases and time periods. In addition, the referenced studies generally used different parameters and are not comparable to each other. We welcome the submission of additional data from commenters.

Many of the words relating to alcohol are used interchangeably in our society, which may cause some confusion. In this document, we use the terms "intoxication", "driving while intoxicated" (DWI) and "driving under the influence" (DUI) to refer to the same thing: violation of State and/or Federal BAC standards defining intoxication. "Zero tolerance" refers to a 0.00 BAC standard. "Impairment" and "under the influence" mean affected by alcohol ingestion, without regard to a specific BAC level. An "active alcoholic" is an current problem drinker. Some active alcoholics can successfully mask the effects of drinking and function in their jobs without detection for long periods of time; these people are often referred to as "functional alcoholics", but may still be safety risks in transportation.

II. The Problem of Alcohol Use and Abuse

A. Effect of Alcohol

The potential effects of alcohol abuse are substantial in terms of lives lost and environmental damage. It claims at least 100,000 lives annually, 25 times as many as all illegal drugs combined. In 1988, slightly over 47,000 deaths occurred on our nation's highways, of which 39 percent involved an intoxicated driver or non-occupant (with BAC over 0.10%), and another 11 percent where at least some alcohol was involved. (National Highway Traffic Safety Administration, "Drunk Driving Facts," July 1989).

Ethanol (the psychoactive component beverages) is a central nervous system depressant. It has been widely recognized for years that consumption of alcohol can degrade human performance of demanding or delicate tasks. However, there is somewhat less agreement about how much alcohol must be ingested before there is a significant deterioration in performance. Studies have indicated that the effects of alcohol vary among individuals, and, even for a given individual, alcohol will have varying effects depending on such factors as motivation, fatigue, and previous experience with alcohol (Zero Alcohol, 1987; Ryder, 1981; Landauer, 1983; Lister, 1983). One reason for the substantial variation among individuals is that ingestion of a specified quantity of alcohol will not necessarily produce the same BAC in two different people, even if they have the same body weight (Zero Alcohol, 1987).

In one study, for example, it was found that a particular body-weight-adjusted dose of ethanol could produce a range of BAC levels of .036 to .095 percent (O'Neill, 1983). In addition,

alcohol appears to enter the blood stream at different rates in different people (Zero Alcohol, 1987). In another study, subjects were given controlled doses and had equal amounts of food in their system. Nevertheless, the time required to reach the peak BAC level varied from 15 to 90 minutes after ingestion (Wilson, 1984).

ALCOHOL LEVELS BY WEIGHT

[Here are blood alcohol levels based on one's weight and the amount of alcohol consumed within an hour.]

	Weight			
	100	140	180	220
Beer:				
1 glass	.05	.04	.03	.02
2 glasses	.08	.06	.05	.05
3 glasses	.11	.09	.08	.07
Wine:				
1 glass	.03	.03	.02	.02
2 glasses	.06	.05	.04	.03
3 glasses	.08	.06	.04	.04
Distilled spirits:				
1 ounce	.04	.03	.02	.02
2 ounces	.07	.05	.04	.03
3 ounces	.09	.07	.06	.05

Source National Safety Council.

There are also performance differences between individuals that are unrelated to the blood alcohol concentration. It appears, for example, that highly skilled professionals may be better able to compensate for the physiological effects of alcohol than persons who are less skilled, particularly at lower BAC levels. In two studies comparing the effect of alcohol on the performance of racing drivers and ordinary drivers on a closed track, the skill of the ordinary drivers showed some deterioration at a BAC of .05 percent, while the racing drivers showed no impairment until they had substantially higher BAC levels (Forney, 1961; Lovibond, 1970). Similarly, in a comparison of nonprofessional and professional pilots at BAC's of .04, .08, and .12 percent, the nonprofessionals made numerous errors in tracking, while the professionals' tracking ability did not decrease even at the highest BAC levels. (Billings, 1972) (However, the study noted that the professional pilots committed more procedural errors than normal after alcohol consumption. There may also be compounding factors, such as fatigue, that could affect results in a real-world situation.)

Under the circumstances, it must be recognized that a uniform standard will necessarily have nonuniform effects when measured against the behavior of specific individuals. However, this has not limited the states' ability to define and enforce driving-under-the-influence (DUI) standards and does not mean that we cannot take action. Rather, it means merely that a wide variety of factors must be weighed as we reevaluate our current requirements and consider new ones.

Most States have adopted a BAC of .10 percent as the definition of intoxication in connection with laws on driving under the influence. Some use it as a rebuttable presumption of a violation; others as a *per se* violation. (Several states are considering lowering their BAC standards to .08; and a number of states are in the process of considering adoption of the FHWA BAC standard for commercial drivers of .04.) States with BAC standards for operating vessels of aircraft typically use .10 percent.

However, as indicated above, a number of laboratory studies have shown that performance on some tasks can begin to deteriorate at BAC levels well under .10 percent (Moskowitz, 1973; Drew, 1959; Landauer, 1983). Some studies have suggested that performance deteriorates in a linear fashion, beginning with the lowest levels tested (Moskowitz, 1985; Drew, 1959). BAC's lower than .05 percent have been associated with increases in errors in tasks requiring divided attention, and it appears that cognitive performance is decreased for most individuals at BAC's of .04 percent or less (Zero Alcohol, 1987; Evans, 1974). Low BAC levels have also been shown to affect a driver's stopping distance and to increase errors in steering (Laurell, 1977). There is no definitive answer to how much the risk of accident occurrence increases as a result of the performance deficit, but some relationship can be assumed. Those administrations in the Department that have set allowable BAC levels for transportation workers (FAA, FHWA, FRA and Coast Guard) generally have used .04 percent as the maximum.

In addition, there is some evidence that serious impairment may continue after alcohol has been eliminated from a person's blood. National Institute on Alcohol Abuse and Alcoholism-supported researchers found that "handover effects" seriously impaired the performance of ten pilots on a flight simulator for as long as fourteen hours after they consumed enough alcohol to render them legally intoxicated in most states. They showed an inability to prevent the plane from veering away from a straight course and to hold the plane straight on landings. The researchers found no correlation between the pilots' degree of flight experience or their subjective interpretation of their performance and the investigators' objective measurements. (American Journal of Psychiatry, December 1988). BAC tests in the above situation would be negative.

A common problem is multiple substance abuse, impairment by a combination of alcohol and other drugs. The tendency of drug or alcohol abusers to abuse other substances poses a serious danger to the travelling public and complicates the treatment of the abuser. Combinations of substances can have unforeseeable synergistic effects, resulting in greater impairment. We also are concerned about the propensity of users to switch from abusing one substance to abusing another depending upon what is being tested for.

B. The Alcohol Problem—Generally

The National Institute on Alcohol Abuse and Alcoholism (NIAAA) reported in 1987 that, in the United States, two in every three adults drink, but 10 percent of those drinkers consume half of the nation's beer, wine, and liquor. An estimated 17 million U.S. adults are alcoholics, which is about six times higher than the number of cocaine users. (NIDA study, 1989).

C. Costs of Alcohol Abuse to Society

While it is difficult to estimate the precise cost to society from alcohol abuse, there is no doubt that the cost is enormous. The potential effects of alcohol abuse are substantial in terms of lives lost, personal injuries, property damage, business losses (lost productivity, absenteeism, etc.) and environmental damage.

According to a Research Triangle Institute study performed for the Department of Health and Human Services, the overall economic cost to American society from alcohol abuse was $89.5 billion in 1980. This amount represents direct costs, such as medical treatment, and indirect costs, such as lost wages and reduced productivity. In 1987, the NIAAA estimated the economic costs to society of alcohol abuse to be nearly $117 billion a year, including $18 billion from premature deaths, $66 billion in lost productivity, and $13 billion for rehabilitation. Assuming the base numbers are still the same, inflation presumably has increased the cost in current dollars.

D. Alcohol Abuse in the Transportation Industry

1. General

Generally, the Department's anti-alcohol abuse efforts have focused on alcohol as it affects an individual's medical qualifications; prohibitions on

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on-duty use and operating while under the influence, and, in certain cases, use during defined pre-duty periods; and sanctions for violations of the Federal regulatory scheme, as well as sanctions for violations of State alcohol laws. Thus, alcohol testing, with limited exceptions, is left to State enforcement personnel. (Coast Guard and FRA rules provide for post-accident and reasonable cause testing. As noted above, the FAA requires crewmembers to submit to state tests upon request.) Each of the following sections briefly describes the existing federal rules by mode of transportation; Appendix B describes them in additional detail. The following sections also contain data that the Department has on the alcohol problem in each mode.

We specifically invite commenters to provide any additional relevant data or statistics about the alcohol problem in the different modes of transportation.

2. Aviation

The FAA regulations prohibit a person from acting or attempting to act as an aircraft crewmember if he or she is under the influence of alcohol, or has consumed any alcoholic beverage within 8 hours of reporting for duty. They also prohibit crewmembers from flying with a BAC of .04 or higher. If a history of drug dependence, alcoholism, or mental problems is discovered, the FAA may disqualify the pilot. In 1987, the Department's Inspector General's office checked the National Driver Register (NDR) and records in the Florida Department of Motor Vehicles; they found that nearly 8,000 FAA-certified pilots in Florida had been convicted of drunk-driving offenses. The FAA was unaware of these DUI convictions because the pilots had not reported them to the FAA as required. The FAA recently issued a DUI enforcement policy and an NPRM that includes, among other matters, a process for examining driving records.

There has never been an accident involving a transport-category U.S. air carrier in which the probable cause was attributed to alcohol use. However, starting in the early seventies, the Air Line Pilots Association and the major airlines, in cooperation with the FAA, developed a program to identify alcoholic pilots, so that they could be treated and, if appropriate, returned to duty. More than 1,200 pilots have been through this program, with a relapse rate of less than 15 percent. Since the program provides for stringent surveillance of treated pilots, there has been no compromise of safety. Nevertheless, the existence of this extensive a program demonstrates that the air carrier industry is not immune to the problem of alcohol abuse. We do not have any data, however, on the costs of alcohol abuse in terms of such things as lost productivity and increased medical expenses.

The number of general aviation accidents that can actually be attributed to the use of alcohol is uncertain. In the past, general aviation accidents have usually not been investigated by the National Transportation Safety Board (NTSB) to determine cause. FAA accident investigations are intended merely to be fact-finding and do not make a finding of probable cause. We do know, however, that in 3,949 general aviation accidents occurring between 1978 and 1987, 239 or 6 percent of the pilots involved had BAC levels above .04 percent. However, the general pattern over those ten years improved; the incidence of alcohol among private pilots involved in accidents actually declined by 36 percent over the course of the period, from 8.3 percent of all general aviation accidents in 1978 to 5.5 percent of such accidents in 1987.

3. Motor Carriers

It is a criminal offense to operate a commercial motor vehicle (CMV), or any vehicle subject to the Federal Motor Carrier Safety Regulations (FMCSRs) under the influence of alcohol or drugs. FHWA regulations prohibit the use of alcoholic beverages within 4 hours of reporting to work and also prohibit a driver from working while having any measured BAC or any detected presence of alcohol in his or her system. This effectively amounts to a zero alcohol threshold for CMV operators. A driver will not be considered physically qualified to drive a motor vehicle if, among other things, the driver is currently an active alcoholic. On October 4, 1986, FHWA issued requirements that states must adopt regulations, whereby a commercial motor vehicle (CMV) operator convicted of having a BAC level of .04 or above will be deemed to be DUI and subject to a disqualification of at least one year, or they will lose a percentage of federal-aid highway funds. These BAC regulations are integral to the commercial driver's license (CDL) program, a nationwide restructuring (under FHWA and state auspices) of testing, licensing, and disqualification procedures for CMV operators. Mandated by the Commercial Motor Vehicle Safety Act of 1986, the CDL program includes a national clearinghouse through which states will exchange commercial drivers' record information, including BAC violation histories.

Accident statistics indicate that nearly half of the fatally injured noncommercial motor vehicle drivers had a measurable amount of alcohol in their blood (usually .01 percent or more) compared to about 15 percent of fatally injured drivers of medium and heavy trucks. Moreover, as the chart below indicates, for those truck drivers who had been drinking prior to an accident, the highest accident rate was among those consuming the most alcohol. Drivers of heavy and medium trucks with positive BAC's are involved in about 750 fatal crashes annually, along with another 7,700 crashes resulting in personal injuries and 4,750 crashes involving only property damage (Zero Alcohol, 1987).

	Percentage of all fatal truck accidents	Percentage of the 15 percent of truck drivers who had alcohol in their blood
No truck driver use of alcohol	85.0	—
BAC = .10 or more	9.1	60
BAC = .04-.10	2.7	18
BAC = .03 or less	3.2	21
Total	100	

(Zero Alcohol, 1987)
(FARS data tapes, 1982–1985)

The NTSB is in the process of studying alcohol (and other drug) use by motor carrier operators in fatal accidents. We hope to have the results for consideration at the next stage of this rulemaking. We do know, however, that the cost of accidents to employers is substantial, over and above the lives lost, whether these accidents are caused by alcohol or something else. The National Safety Council estimates that an on-the-job accident is four times more costly than one that occurs in a personal vehicle, with an average cost to employers of $168,000 for a fatal accident and $6,900 for a nonfatal accident. To the extent alcohol use increases on-the-job accidents, its cost impact could be quite significant.

4. Rail

The FRA regulations prohibit on-the-job use of, possession of, or impairment by alcohol or any controlled substance. They also prohibit railroad employees subject to the Hours of Service Act from having a BAC level of .04 or more while on the job. This is a per se violation; however, it is used for civil, and not criminal purposes. Following innovations such as an industry program called "Operation Redblock" and the FRA's testing and rehabilitation program, alcohol use among railroad workers, which has always been a serious problem for the industry, may be in decine.

However, we recognize that problems continue in this area. From February 1986, when mandatory post-accident blood testing for alcohol began, through the end of 1988, 13 employees tested positive for alcohol (0.6 percent of employees tested). In five accidents/incidents, involving two deaths, two injuries, and $3.16 million in property damage, alcohol appears to have played a causal role. In one, the engineer tested positive at a BAC level of .16, and alcohol was found by the NTSB to be a contributing factor in the accident, which caused $1.58 million damage and the death of the engineer. In another accident, which is still under investigation, eight injuries and $194 thousand in damage were caused, and a dispatcher tested positive at .15 percent BAC. Three additional accidents so far in 1989 also involved four employees who tested positive for alcohol.

Reasonable cause breath testing under the FRA program (triggered by rule violations, less serious accidents and injuries, or reasonable suspicion) has produced the following results: 11 of 348 persons tested positive in 1986 (3.2 percent); 24 of 593 tested positive in 1987 (4.2 percent) and 46 of 1005 tested positive in 1988 (4.6 percent). FRA regulations define a "positive" breath test as one indicating a BAC level of .02 percent or above. The significance of these results with respect to prevalence in the population is difficult to determine, since a number of the tests were performed because of reasonable cause, and it should be expected that a high percentage of reasonable cause tests would be positive since prohibited use or impairment has already been identified or is suspected.

5. Maritime

Coast Guard regulations prohibit persons from operating a vessel while intoxicated, and merchant mariners from drinking on duty or assuming duties within 4 hours of consuming alcohol. In accordance with a statutory requirement, the regulations established Federal behavioral and BAC intoxication standards for both commercial and recreational vessel operators. Either the behavorial or BAC standard can be used independently to determine intoxication. The rule applies a .04 percent BAC standard to operators of all commercial vessels, including fishing vessels. For recreational boaters, the Federal BAC standard is .10 percent. For recreational boaters, this BAC standard and the Federal behavioral standard apply only in the absence of existing State BAC and behavioral standards or outside of State territorial waters. The Coast Guard regulations also require post-accident testing for alcohol and other drugs.

In its 1986 NPRM on operating a vessel while intoxicated, the Coast Guard stated that alcohol use has had an adverse effect on marine safety. It examined commercial vessel casualty records, which indicated that 44 deaths, 3 persons missing, and 33 injuries were attributable to alcohol during the period of January 1981 through May 1986. During the period 1982 through 1984, the Coast Guard took suspension and revocation action against 72 seamen for alcohol-related incidents.

Recreational boating casualties are much higher than commercial vessel casualties, second only to U.S. highway deaths as a cause of transportation deaths. They have been dropping in recent years, due to increased efforts in the cooperative safety programs of the Coast Guard, the states, and volunteer safety organizations. In 1988, 946 boating fatalities occurred, down from the previous record low of 1,037 in 1987. (Coast Guard report, "Boating Statistics 1988"). Studies conducted by the Coast Guard and the NTSB indicated that up to 50 percent of all recreational boating fatalities may have been alcohol-related.

6. Pipeline

RSPA has no specific regulations on alcohol. It does have a general regulation on health of pipeline workers at liquified natural gas plants. Pipeline operators must look for any physical condition that would impair performance, including any observable disorder or condition that is discoverable by a professional examination. We have no specific data on alcohol-related accidents or lost productivity data in this area; however, a number of the commenters in the anti-drug rulemaking seemed to believe that alcohol was a more pervasive problem than drugs. We are also aware that many companies in the industry are known to have alcohol prevention programs, but we do not have statistics or data on the prevalence of the problem in the industry. Although we recognize that most accidents are caused by excavation workers (people not regulated by RSPA) digging into pipelines, we would like to gather data on whether alcohol abuse does or can cause safety problems in the pipeline industry.

7. Mass Transportation

UMTA does not have any regulations concerning alcohol. However, many of UMTA's grantees are subject to other Federal requirements on alcohol use. All commuter rail lines funded by UMTA, for example, are subject to FRA regulations. All drivers of UMTA-funded motor vehicles that are capable of carrying more than 15 passengers, including the driver, are subject to the FHWA DUI standards which are enforced by the states.

Data available to UMTA indicate that approximately 50 commuter train accidents in the last 13 years have been attributed to drug-or alcohol-impaired workers, and, in the last three years, 15 percent of employees tested following commuter train accidents tested positive for drugs or alcohol. (The data do not provide separate figures for alcohol alone.) In informal implementation discussions following adoption of the UMTA anti-drug rulemaking, some industry members have indicated that they believe alcohol is a more serious problem than drugs. One of the few surveys taken indicated that, between 1982 and 1985, only five out of 1,210 bus drivers tested positive for alcohol following a fatal accident. However, information originating from industry sources indicates that transit bus drivers are heavier drinkers than the general population (U.S. Census Bureau, 1984b). One survey is reported to have found that 57 percent drink at least weekly, with an average consumption of nine drinks per week; the national median is six drinks per week (U.S. Census Bureau, 1984b). No information is available about drinking on the job (Zero Alcohol, 1987).

At this time, we do not have any useful data on the other costs of alcohol abuse, such as lost productivity and absenteeism, and we again invite commenters to supply information on these matters. We specifically request additional data relating to the problem of alcohol abuse and use in each mode of transportation. We particularly want commenters to address whether the current rules and programs are sufficient and, if not, why. We welcome suggestions on areas where further action is necessary.

III. Legal Authority/Issues

An analysis of the Department's authority to adopt any of the options discussed in this ANPRM would vary with the specific option.

The option that may be considered the most intrusive would be a requirement to conduct alcohol testing. For that

reason, we discuss that option here. If further rulemaking is deemed warranted, in subsequent documents, our analysis will address the option or options selected.

As a general matter, the legal authority, both statutory and constitutional, to mandate any alcohol testing would be the same as that relied upon to issue the drug testing rules, except the Coast Guard also has a statutory mandate to conduct post-accident alcohol testing. Although the existing case law addressing the constitutionality of employee alcohol testing programs is more sparse than that with regard to drug testing, the Department believes that the available precedent supports rulemaking efforts that may require alcohol testing in the regulated transportation industries.

As courts have held with regard to government drug testing of employees, alcohol testing mandated by the government is considered a search within the meaning of the Fourth Amendment of the U.S. Constitution. See, *Schmerber* v. *California*, 384 U.S. 757, 767–768 (1966) ("compelled intrusions into the body for blood to be analyzed for alcohol content" must be considered a Fourth Amendment search); *Skinner* v. *Railway Labor Executives' Association*, 489 U.S. , , 109 S.Ct. 1402, 1412 (1989) ("Subjecting a person to a breathalyzer test, which generally requires the production of alveolar or 'deep lung' breath for chemical analysis * * * implicates similar concerns about bodily integrity and, like the blood-alcohol test * * * considered in Schmerber, should also be deemed a search.")

In determining whether a particular search comports with Fourth Amendment requirements, courts must establish that under all the particular circumstances the search itself is "reasonable." As the leading case on bodily fluid testing, *Skinner* v. *Railway Labor Executives' Association*, makes clear, issuance of a warrant or the existence of probable cause or individualized suspicion is not a minimum essential requirement in establishing the reasonableness of a search under an administrative testing program.

In Skinner, the Supreme Court upheld regulations issued by the Federal Railroad Administration governing drug and alcohol post-accident and reasonable cause testing of railroad employees (49 CFR part 219). The Court concluded that the testing procedures and methods of procuring blood, breath, or urine samples for testing as set forth in Subparts C and D of the FRA regulations "pose only limited threats to the justifiable expectations of privacy of covered employees." 489 U.S. at , 109 S.Ct. at 1417, 1419. By contrast, the Court found that the government's interests in seeking to determine the cause of an accident or incident, deterring alcohol and illegal drug use by rail employees, and safeguarding the general public are compelling. Under these circumstances, the Court held that alcohol and drug testing pursuant to the FRA regulations are reasonable within the meaning of the Fourth Amendment.

Also, the lack of a demonstrated substance abuse problem among the workforce in a particular industry should not, of itself, pose insurmountable constitutional impediments to a testing program for that workforce. This point was made clear by the Supreme Court in *National Treasury Employees Union* v. *Von Raab*, 489 U.S. , , 109 S.Ct. 1384 (1989), which was decided the same day as Skinner. In Von Raab, the Court upheld urinalysis testing for illegal drugs of U.S. Customs Service employees slated for promotions into positions that involved either interdicting illegal drugs or carrying a firearm. Despite the Commissioner of Customs' stated belief that "Customs is largely drug-free," the Court concluded that there was little reason to suspect that the Customs Service was "immune" from society's pervasive drug abuse problem and held that the testing program was constitutionally defensible as a means to ensure that employees promoted to these sensitive positions are drug-free. *Id.*, 489 U.S. at , , 109 S.Ct. at 1387, 1395.

Pre-Skinner court decisions addressing the constitutionality of various employee alcohol testing programs have also concluded that such testing comports with the Fourth Amendment. Thus, a state regulation requiring jockeys to submit to mandatory warrantless breath alcohol tests on each racing day was found to be constitutionally permissible. *Shoemaker* v. *Handel*, 795 F.2d 1136 (3d Cir.), *cert. denied*, 479 U.S. 986 (1986). Similarly, alcohol and drug testing during a pre-employment physical examination, work-related examination, return to work after unscheduled absence, or on the basis of reasonable suspicion or involvement in an accident or incident was upheld in the case of mass transit employees directly involved in the operation, maintenance and decisionmaking of a public transit system. *Amalgamated Transit Union, Local 933* v. *City of Oklahoma City*, 710 F. Supp. 1321 (W.D. Okla. 1988). *Accord, Amalgamated Transit Union, Division 1279* v. *Cambria County Transit Authority*, 691 F. Supp. 898 (W.D. Pa. 1988) (mandatory drug and alcohol testing during annual physical examination does not violate Fourth Amendment).

Also, DOT is aware of at least one recent Federal appellate court case upholding employee alcohol testing in the wake of Skinner. In that case, the U.S. Court of Appeals for the Third Circuit upheld, *inter alia*, random breathalyzer testing of mass transit operating employees. *Transport Workers Union, Local 234* v. *Southeastern Pennsylvania Transportation Authority*, 863 F.2d 1110 (3d Cir. 1988), *vacated and remanded*, 109 S.Ct. 3209 (1989), *aff'd on remand sub nom. United Transportation Union* v. *Southeastern Pennsylvania Transportation Authority*, 884 F.2d 709 (3d Cir. 1989).

Consistent with the Supreme Court's analysis in Skinner and Von Raab and lower court decisions, if the Department determines that there is a need for properly-administered alcohol testing to ensure that employees in transportation industries are not impaired while performing sensitive safety- or security-related functions, that need would outweigh the privacy interests of these employees and, thus, would be constitutionally permissible.

IV. International Issues

We are aware that any decision to issue regulations requiring alcohol testing or some of the other options discussed in this ANPRM is certain to raise questions about compatibility with the laws of foreign countries. Our drug testing requirements have already resulted in government-to-government consultations, which we believe will ultimately result in mutually satisfactory arrangements. Nevertheless, it would be useful, even at this early stage of our analysis, to understand more about how other countries whose transportation industries operate in the U.S. or perform sensitive safety or security-related work for U.S. operators outside the U.S. view the problem of alcohol use and abuse among transportation employees, how they respond to the problem, whether they conduct any alcohol testing and how those programs operate. We specifically invite comments on those situations where our regulations might have an international effect. Among other things, it should be noted that Annex 2 to the Convention on International Civil Aviation (the Chicago Convention), section 2.5, states that no person shall pilot or act as a flight crewmember while under the influence of an intoxicating liquor or any

narcotic drug "by reason of which his capacity to so act is impaired." It is the U.S. government's intention to work with foreign governments to resolve potential conflicts in a manner that accommodates their concerns while ensuring the necessary level of safety by those we regulate.

V. Questions of Approach

A. Introduction

If we determine that further action against alcohol abuse is necessary, there are several alternative approaches that we are considering. They could be adopted singly or in combination. As a preliminary matter, we first discuss who should be covered by any program we set up, which is relevant to all but the enforcement options. A discussion of each alternative and questions that each poses then follows. We welcome public comments on these alternatives. We also welcome public comment on any other approaches that the Department could take to address the alcohol problem in the transportation industry.

B. Covered Employees

Our modal drug rules generally cover persons who perform sensitive safety- or security-related functions in commercial transportation. They affect approximately 4 million persons and include, for example, commercial truck drivers, pilots, pipeline operators, licensed and documented mariners and others serving on board a vessel with a licensed operator, mass transit operators, and railroad workers subject to the Hours of Service Act. (See the end of Appendix B for a short summary of the drug regulations.) The Department's existing alcohol regulations cover a somewhat different population. Chart 1 provides a general description of the types of people covered by the drug regulations.

The basis for imposing any requirements concerning alcohol abuse would be sensitive safety- or security-related functions. It would appear that the same employees who could cause safety problems if they are on drugs could cause problems through misuse of alcohol.

What, if any, rationale is there for covering a different population for alcohol testing than drug testing? In addition, we would like public comment on whether the line we drew between commercial operations and private operations for the drug rules should be changed with respect to alcohol? If so, why? Would the answers to these questions be different if the Department required action other than testing? Why?

C. The Options

The specific options include:

1. Education

a. *General.*

CHART 1—PERSONS COVERED BY DRUG RULES

FRA	UMTA	USCG	RSPA	FAA	FHWA
Engineers, Brakemen, Dispatchers, Block Operators, Signal Maintainers, Conductors.	Vehicle Controllers, Vehicle Operators, Mechanics.	Licensed/documented persons and persons serving under such lic/doc persons in a sensitive safety position, including for example: licensed officers, mates, (chief, first-third), and chief/assistant engineers; documented oilers, wipers, quarter masters, able and ordinary seamen. Includes persons on inspected vessels (deep draft, passenger & small passenger, off shore supply, & mobile offshore drilling units) and uninspected vessels (inland, Great Lakes, Ocean & Harbor tow boats, passenger & fishing boats).	Operations, Maintenance, Emergency Response.	Pilots, Flight Navigators, Aircraft Dispatchers, Mechanics, Repairmen, Flight and Ground Instructors, Flight Attendants, Air Traffic Controllers, Aviation Security, Screening Personnel, Ground Security, Coordinators, Flight Engineers.	Drivers (interstate) of vehicles of: 26,001 or more pounds, 15 + passengers, hazardous material (placarded).

One approach would be to emphasize education to increase employee perception of the risks of performing duties or operating a vehicle under the influence of alcohol. There is some disagreement about the respective effectiveness of education vis-a-vis enforcement. Some researchers claim that education is more effective in preventing alcohol abuse than apprehension of the abuser. The American Automobile Association Foundation for Traffic Safety compared eight states that adopted tougher drunk driving laws with six that did not. The new laws had no effect at all on traffic fatalities. The Foundation attributes the overall decline in U.S. traffic-related deaths between 1980 and 1985 to public awareness campaigns by such groups as Mothers Against Drunk Driving (MADD). A Boston University researcher similarly concluded that social pressure and publicity "may be as important as government regulations in reducing drunk driving and fatal crashes." (Both quoted in USA Today, Wednesday, August 3, 1988.) However, would social pressure have less effect on commercial operators who face economic pressures to complete their jobs?

These studies have been criticized as poorly designed and misleading, since education programs were never isolated as an independent variable for comparison. NHTSA believes that the most effective programs are those that combine education and enforcement. Public information and education programs, in the absence of enforcement or sanctions activities, have never been shown to impact alcohol-related fatal crashes. Conversely, scores of studies have found that programs involving enhanced enforcement, roadside sobriety checkpoints and the use of sanctions such as license suspensions frequently have resulted in significant reductions of alcohol-related fatalities. Although there is disagreement on the effectiveness of education alone, it appears that using education as an adjunct to deterrent measures would make them more effective.

Education may be less effective for illegal drugs, because the users have already decided to do something illegal. Having crossed over that line, they may be less susceptible to educational efforts. For that reason, alcohol abuse may warrant a different response from the approach the Department took to illegal drug use.

b. *Employee Assistance Programs.* One method of preventing, as well as

encouraging the voluntary cessation of, alcohol abuse is to establish an Employee Assistance Program (EAP). An EAP can have education, training

Should alcohol be treated as an entirely separate issue requiring separate programs? What, if any, are the problems associated with

Department encouraged, but did not mandate, rehabilitation?

c. *Expansion of Rehabilitation Programs Like "Operation Redblock" to*

the opportunity for treatment will be offered. If an individual knows that he or she automatically will be provided rehabilitation after testing positive, he

professional? Are there distinctions between the necessary qualifications for an MRO in the drug area and one in the alcohol area? The MRO could be a

perceived higher enforcement levels in areas where checkpoints were used than in areas where they were not used, even though actual arrest rates were

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encouraging the voluntary cessation of, alcohol abuse is to establish an Employee Assistance Program (EAP). An EAP can have education, training and rehabilitation components that benefit both management and employees and can be positive factors in determining the employee acceptance of and success of an anti-alcohol abuse program. The Department's own EAP offers education and training for its employees and supervisors. The drug testing rules all require companies regulated by the Department to provide information to employees on the dangers of drug use and the consequences of that use. In addition, supervisors are required to be trained in the detection of drug use among employees. Similar requirements could be imposed with respect to alcohol use and abuse.

We would expect to find that the additional cost of adding information about alcohol to the existing drug prevention programs would be relatively small. We ask for public comment on whether this would be a useful approach. Also, how often should training be required and for whom? It would be helpful if any data on the success or failure of educational efforts could be provided. Finally, we would like any data on costs, especially for programs that are added to existing drug programs.

c. *Drug Free Workplace Programs.* The Federal government recently enacted rules (54 FR 4946, January 31, 1989) that apply to its contractors and grantees as a result of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D). These rules require that grantees and contractors (1) certify that they will provide a drug-free work environment; (2) establish a written drug-free workplace policy; (3) inform employees about the consequences of drug use and about any resources to assist those employees with drug abuse problems; (4) notify the government if an employee is convicted of a criminal drug offense occuring in the workplace; (5) take action (disciplinary action or rehabilitation) with respect to a convicted employee.

Given the fact that the Department already requires a drug free workplace for its grantees and contractors, could a similar program for alcohol be initiated for companies regulated by the Department? (Many of our regulated companies would also be covered by the drug free workplace requirements if they also are contractors or grantees of federal agencies.) What should the elements of such a program be? Could alcohol easily be added to existing industry drug-free workplace programs? Should alcohol be treated as an entirely separate issue requiring separate programs? What, if any, are the problems associated with implementation? For grantees that also are regulated by the Department (e.g., UMTA grantees), could this serve as a cost effective program? Would it be cost effective for persons and companies not now subject to the drug free workplace rules? Who should be subject to such a requirement? Would the rule be enforceable? Effective? In some regulated industries, such a certification would be viable; in others it may not. Commenters should address how it could work or would not work in particular industries. Is a conviction reporting requirement practical?

2. Rehabilitation

a. *General.* We believe that both employers and employees benefit from the availability of rehabilitation programs. The opportunity for rehabilitation can encourage employees to seek help and increase their overall acceptance of an anti-alcohol program. Employers benefit from greater productivity, fewer accidents, and lower turnover costs if employees are rehabilitated.

b. *Employer-mandated Programs.* One approach would be to encourage or require employers to offer rehabilitation opportunities to their employees. The Department decided that it would be inappropriate for the federal government to mandate employer-provided drug rehabilitation in its modal drug testing rules and that this issue should be worked out between employers and employees. However, as an employer, the Department provides such services. It offers a one-time opportunity for rehabilitation (usually paid for by the employee's health insurance) for employees who test positive under its internal drug testing program. The employees eventually can be reinstated if they successfully complete rehabilitation and undergo subsequent monitoring. Counseling and rehabilitation opportunities are also provided to any DOT employees who seek help for alcohol problems.

Is there any justification for requiring employers to provide rehabilitation for alcohol abusers, but not for drug users? If so, please explain why. Should rehabilitation be offered to those who volunteer or those who get caught or both? Would required rehabilitation, by removing the incentive for self-referral, only ensure that the alcohol abuse continues until the violator is caught or causes an accident? Would education work effectively without rehabilitation? Would education work if the Department encouraged, but did not mandate, rehabilitation?

c. *Expansion of Rehabilitation Programs Like "Operation Redblock" to Other Modes.* To be effective, it appears that "providing an opportunity for rehabilitation" means holding the same or similar job open for the employee. The railroad industry's voluntary program called "Operation Redblock" is designed to identify substance abusers and get them into rehabilitation programs, with the understanding that persons who complete the program successfully will retain their jobs. The program relies on voluntary self-referral (where the employee agrees to seek help before an on-duty alcohol violation, based on his or her own initiative or an EAP contact by a family member or other concerned person), and peer-referral (where the co-worker notes on-the-job alcohol use and identifies the user as unsafe to work with). Employees have a natural reluctance to report on a friend when it means that the friend could lose his or her job. Because Operation Redblock allows employees to bypass disciplinary rules, one important aspect of the program is that it helps overcome this reluctance. Operation Redblock also includes an opportunity for treatment even where the employee's alcohol or drug use is detected through management action; but this is a special "incentive provision" offered in exchange for employees' active participation, through prevention committees, in rule enforcement. As such, it may be more appropriate for negotiation between employer and employee than as a regulatory requirement.

A somewhat similar alcohol prevention program for airline pilots is run by the Air Line Pilots Association and many of the major airlines. Also, Coast Guard regulations allow licensed personnel to voluntarily deposit their license, certificate or document and seek drug or alcohol rehabilitation prior to being subjected to a suspension or revocation proceeding for intoxicant-related incompetence. (This option is unavailable if the person caused an accident.) The document will not be returned until the individual successfully completes a rehabilitation program and participates in a post-rehabilitation monitoring program.

Through some combination of regulation and promotion of voluntary efforts, these types of programs could be used in all transportation industries in order to encourage more people to step forward and receive help. It is more likely to result in the employee seeking early treatment. A critical issue is when the opportunity for treatment will be offered. If an individual knows that he or she automatically will be provided rehabilitation after testing positive, he or she may have no incentive to volunteer before being detected or causing an accident. Of course, peer referral may not be possible in some transportation operations (e.g., segments of the trucking industry). We ask for public comment on how successful this approach is in the industries where it is used. Is it appropriate for all modes of transportation? For small companies as well as large? What could be done for owner-operators? Would this approach be successful with respect to persons who abuse both alcohol and other drugs? Would it be appropriate for the Department to require such a program in light of the fact that it did not think it appropriate to do so in the drug testing rules? We are especially interested in data on current rehabilitation efforts by transportation employers: the cost of the program, the success rate, specific implementation problems, and so forth.

d. *Implementation Issues.* If we pursued the rehabilitation option, should we mandate the particulars of a rehabilitation program? Who should pay for inpatient rehabilitation and the subsequent monitoring program? Should an employee continue to be paid while undergoing rehabilitation? What would be the economic costs of holding the job open? Would this be an impossible option for small companies? Should they be exempt or would that have adverse effects? How much time should an employee be allowed to complete a rehabilitation program, taking into account how long it may take an employee to be admitted into one? We are interested in comments on how to implement opportunities for rehabilitation among small companies and owner-operators.

e. *Medical Review Officers.* The kind of rehabilitation program needed (inpatient, outpatient or counseling/abatement) will necessarily vary from case to case. Who should make that determination? Under the drug rules, employers are required to appoint or designate a Medical Review Officer (MRO) to review the results of the employer's drug testing program, interpret each confirmed positive test result, and evaluate an individual who has undergone rehabilitation before he or she can return to the job. Should a similar requirement be included in any alcohol rule requiring or permitting rehabilitation? How would an MRO "verify" a positive in an alcohol case? Should an MRO have to be a licensed medical doctor or other substance abuse professional? Are there distinctions between the necessary qualifications for an MRO in the drug area and one in the alcohol area? The MRO could be a currently employed company physician or could be a private physician who performs MRO service for the employer on a contractual basis.

D. Enforcement

1. General.

The Department relies mainly on the states to enforce its highway and maritime regulations against persons operating while intoxicated. In recent years, it has encouraged greater enforcement efforts by the states against alcohol and other drug abuse. NHTSA has several programs to provide financial and technical assistance to states for improving laws and programs to combat alcohol- and drug-impaired driving. As discussed in Appendix B, FHWA and NHTSA have regulations that require states to adopt minimum BAC standards for commercial motor vehicle operators and to implement the minimum age 21 drinking age law, respectively, or face the loss of some federal funding.

2. Effectiveness of Deterrent Actions

Enforcement is the most important deterrent activity, when accompanied by sufficient public visibility. For example, if motor vehicle DWI offenders are not arrested, no sanctions can be imposed and no deterrence can occur. However, even if there is an increase in enforcement, this does not ensure that deterrence will result, since the public may not be sufficiently aware of such efforts.

The effectiveness of enforcement efforts has been recently summarized by Voas and Lacey (1988) and the effectiveness of roadside checkpoint operations has been summarized by Dickman (1987). Highly visible enforcement, particularly the frequent use of roadside sobriety checkpoints, has frequently, but not always, resulted in reductions in alcohol-related fatal crashes or in surrogate measures. Many of the examples of such reductions have been in foreign countries (Ross 1973; Ross 1984; Homel 1986; Ross 1988). In the United States, positive results have been documented for programs in Largo/Clearwater, Florida (Lacey et al. 1986); Charlottesville, Virginia (Voas, Rhodenizer and Lynn 1985); Arizona (Epperlein 1988); Stockton, California (Voas and Hause 1987) and Bergen County, New Jersey (Levy, Shea and Asch 1987). Additional evidence for the deterrent effects of roadside checkpoints has been provided by Williams and Lund (1984), who found that drivers perceived higher enforcement levels in areas where checkpoints were used than in areas where they were not used, even though actual arrest rates were sometimes higher in the latter. As a rule, 15–30 percent reductions in alcohol-related fatal crashes have been documented in the above studies. Most of the observed reductions were temporary in nature, primarily because the enforcement efforts, themselves, were short-term. However, it would be improper to criticize enforcement programs for providing only temporary reductions when these programs have more frequently resulted in "bottom-line" reductions in crashes than any other approach. Further, the ongoing roadside checkpoint program in New South Wales, Australia (Homel, Carseldine and Kearns 1988) has demonstrated that long-term reductions in alcohol-related fatal crashes can be effected with long-term enforcement emphasis.

The deterrent effects of sanctions have been reviewed by Voas (1986), Peck, Sadler and Perrine (1985) and by Nichols and Ross (1988). Nichols and Ross reviewed studies of the specific and general deterrent effects of confinement, license suspensions, fines and, to some extent, treatment programs. They concluded that all sanctions provided some evidence of impact but that license actions provided consistent evidence of both specific and general deterrence effects. With regard to the effectiveness of license suspensions on offenders who receive them, several controlled studies found that license suspensions have a significant impact on a variety of traffic safety measures, including subsequent total convictions, total crashes, alcohol-related crashes, non-alcohol-related crashes and serious injury and fatal crashes (e.g. Hagen 1977; Popkin et al. 1983; Blomberg, Preusser and Ulmer 1987; and Preusser, Blomberg and Ulmer 1988). In addition, several controlled studies provided evidence of a general deterrent impact, as reflected by population-wide reductions in alcohol-related fatal crashes (e.g. Blomberg, Preusser and Ulmer 1987; Ross 1987; Zador et al. 1988; Klein 1989). The results of these studies provide reasonably sound evidence that the deterrent effects of license suspensions extend beyond those offenders who are caught and sanctioned. Nichols and Ross speculated that this was at least partially because license actions are feared more by DWI offenders than any other sanctions. Nearly all of the studies that found reductions in crashes following an increase in the use of

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license sanctions were studies of administrative license suspension laws. This suggests that the certainty of imposing license actions is also likely to be an important factor.

In summary, it is likely that the effect of the arrest itself results in reduced drunk driving among those offenders who are caught. Further, enhanced enforcement efforts can extend such deterrent effects beyond offenders who are caught. In addition, it appears that the imposition of license sanctions (and to a lesser extent jail sentences) on offenders who are caught results in reductions in their recidivism rates beyond those caused by arrest. Much of the reduction in recidivism among offenders receiving license actions appears to be due to reduced exposure, rather than deterrence itself. However, since frequently-imposed license sanctions, like high visibility enforcement, have been shown to reduce alcohol-related fatal crashes on a population-wide basis, a significant element of deterrence must also be operative.

3. The National Driver Register

The National Driver Register (NDR) is a central, computerized index of state reports on drivers whose driving privileges have been denied, suspended or revoked. Applications for driver licenses in many states are routinely checked against the NDR to screen for potential problem drivers. In 1986, Congress enacted legislation to require a uniform national commercial driver's license to end a driver's ability to obtain a license in one state after losing one in another. The Commercial Driver's License Information System, which is tied in with the NDR, enables the states to check commercial driver's licenses by computer.

Recent legislation has expanded the role of the NDR to allow FAA and the rail industry to use it to locate and review individual driving records to screen qualifications of airline pilots and locomotive engineers. The information would be used as an indication of a possible alcohol abuse problem, as well as evidence of any misrepresentation on their FAA medical applications. The FAA and FRA are currently considering regulations that will implement this legislation. The Department also has proposed legislation that would authorize the Coast Guard to use the NDR to obtain information on driving-records violations of merchant mariners.

Should the Department seek access to the NDR for the other modes of transportation? Would information on convictions be useful for identifying possible alcohol abusers in sensitive safety jobs not requiring a Federal license? Are there additional steps that the Department could and should take to increase enforcement of the existing regulations? Should additional legislation be sought as incentives for additional state or local action in lieu of or as a supplement to the other alternatives discussed in this ANPRM? What would be the advantages of such an approach and what would its impact be on federalism? How can the Department best make use of the states' expertise and position in the field to increase enforcement?

E. Alcohol Testing Program

Under this option, employers would be required to institute alcohol testing programs, perhaps similar to our drug testing programs. However, the drug programs focus on illicit use and controlled substances, and thus present different issues than would an alcohol testing program. In some ways, the issues raised by an alcohol program could prove to be more difficult than those of drug testing. They are more complicated simply because alcohol is a legal substance.

Below, we discuss a series of issues and raise questions for commenters to address. These are relevant to pursuing this option.

1. What to Prohibit?

An important issue is what use of alcohol to prohibit. In addition to current restrictions, the Department could prohibit: (1) Any use affecting work, reflected by the presence of any alcohol in a covered employee's blood during working hours; or (2) impairment and/or intoxication on the job, as expressed by given BAC levels or behavior; or (3) a combination of both for different employees or different situations.

Drug testing rules target drug usage by employees, regardless of whether the use occurred on- or off-duty. This makes sense because the drugs we test for are illegal and no one yet has developed the capability to determine, based exclusively on a chemical test, at what level a particular drug impairs the user's performance of a particular function and can have devastating safety consequences. Our current alcohol rules target both use and impairment by prohibiting the employee from drinking on the job or just prior to reporting to work, or from performing a safety-related function under the influence of alcohol identified by a certain BAC level. Data relating body fluid concentrations of alcohol to performance decrements is more extensive than that available for drugs.

Should we expand testing for alcohol beyond the current FRA, Coast Guard, and FAA (consent to testing) rules? If we decide to test, would the approach we took with our modal drug rules be appropriate? That is, should the Department undertake to make transportation workers alcohol-free? Is this practicable, given the fact that alcohol is a legal substance? Is it necessary, or does the accident record indicate that an absolute prohibition would be a case of over-regulation? If "zero" is an unrealistic or unnecessary goal, where should the line be drawn? We would like to hear from companies that prohibit alcohol consumption by their employees on how they enforce this prohibition and whether their programs are successful.

The issue of being under the influence of, or impaired by, alcohol is more complicated than simply having drugs in one's system. To be legally relevant, the use or impairment must occur in the context of job performance. Drinking during most off-duty periods may or may not impinge upon a person's ability to function well in the job, but generally by itself is not illegal. Focusing our efforts on detection of alcoholics would not be sufficient to address the problem. Drinking that causes on-the-job impairment poses a serious danger whether or not the drinker is an alcoholic.

What function the person is performing is important. Finding a BAC level of .04 in an aircraft pilot who is on duty but simply filling out administrative paperwork in an office may be irrelevant to safety; i.e., the effects on his ability to perform paperwork are not related to safety. Therefore, we might only want to test pilots when they are about to enter or leave the cockpit as opposed to when they are performing administrative duties. Such a requirement could complicate the logistics of testing, especially for those people that move in and out of safety-sensitive functions during the workday.

Should testing be limited to those times when the employee is about to perform or is performing a safety function? What are the likely implementation problems? Would it be too difficult to set up a program to randomly test pilots, for example, when they were about to perform or were performing sensitive safety functions?

Do different functions demand different standards? For example, should we continue to have different rules for commercial versus private operators? What about different job categories—should a pilot be held to a higher standard (i.e., a lower BAC) than a flight attendant or a dispatcher?

2. What is a Positive?

If the Department were to require industry testing programs for alcohol, one of the most difficult issues to decide would be what blood level of alcohol would constitute a "positive" test. The consensus of DOT rules and practice would appear to support, as a measure of intoxication, a *per se* prohibited level of .04 percent. (It should be noted that FRA leaves a conservative margin of error of about .01 percent for field testing. Thus, the effective *per se* level is .05 percent.) However, some current rules imply a tighter standard. For example, FAA prohibits crewmembers from drinking less than eight hours before flight. To enforce this rule, the FAA might want to set a lower BAC on a "positive" level, on the theory that someone at a given BAC level had imbibed within the eight-hour period.

Others might argue that .04 is too strict a standard, that it would have the effect of outlawing alcohol since it is difficult to establish with certainty how long alcohol will stay in a particular individual's system. Still others would argue that the permissible level needs to vary depending on, for example, whether an individual is about to fly an aircraft or fill out paperwork.

In its comments on the FHWA rulemaking that established the .04 BAC standard for driver disqualification, the NTSB recommended that a zero BAC level be used as the standard, because lower BAC levels have some impairment effects. FHWA accommodated this position by requiring that commercial motor vehicle operators with any measured BAC standard be placed out-of-service for the next 24 hours. We do not intend to reopen the issue of whether specific modal standards established for use within the existing regulatory framework should be revisited. However, in the context of considering additional regulatory action, including the possibility of additional testing requirements, we do believe that it is necessary to consider the appropriate BAC level to be used under the different alternatives.

What constitutes impairment? What impairment effects do hangovers have? How can we detect this type of impairment? Should we try? Moreover, how can we avoid establishing a program that encourages "binge" drinking a sufficient number of hours before work to avoid positive BAC tests, but then results in the adverse effects of hangovers? Commenters should address how a program should be structured and what BAC cutoff should be applied. Commenters should also discuss whether sanctions should differ for different BAC levels.

3. Treatment of Positives

Finding alcohol abuse by an individual performing a safety-sensitive function raises questions about how to treat that individual. Because alcohol is a legal substance, the questions may warrant different answers from the ones that would be given concerning a similar individual who had used drugs. The answers also would depend upon what use of alcohol we prohibit. The major issues that would have to be confronted include: Should any action taken against an individual who tests positive depend on—or vary with—whether the individual is performing sensitive safety functions when tested? Should the consequences of testing positive be different for persons known to be chronic abusers versus persons caught under the influence one time? How could dependency on alcohol be accurately determined? Should the employee merely be kept out of the sensitive safety job until sober? Or should rehabilitation be required for every person testing "positive" before that person could be returned to the job? Should action vary depending on how high the BAC level is? How should we treat persons who suffer from multiple addiction to both alcohol and drugs?

4. Occasions/Grounds for Testing

a. *General.* In the Department's drug testing rules, we required preemployment, periodic, reasonable cause, post-accident and random tests (special testing also is required for rehabilitated employees). Depending upon what use we prohibit, alcohol testing, unlike drug testing, may not be the most effective means of detecting abuse in all circumstances. The presence of alcohol is relatively easier to detect from physical symptoms (e.g., breath) or behavior (e.g., inability to walk a straight line) than drug use (although alcohol symptoms often can be successfully masked), and people are more familiar with the symptoms of alcohol intoxication. Also, the time-frame for testing is limited, because the body processes alcohol within hours of ingestion. If we decide to prohibit impairment, rather than use, the time frame for testing would be further limited to the time the job performance. For that reason, certain types of testing may not be as useful for alcohol as they are in testing for drugs. Along with comments on the utility and need for alcohol testing in general, we specifically invite comment on the suitability for alcohol testing of the different types of drug tests (preemployment, periodic, reasonable cause, post-accident and random). Commenters also should address the utility of each type of test. In this regard, we invite comments as to whether different types of tests are called for in different circumstances, such as blood testing only following an accident.

b. *Preemployment Testing.* Preemployment tests (for job applicants or current employees transferring into covered positions) may or may not be relevant, because testing normally would occur when the applicant is not performing any sensitive safety function. However, they may provide helpful information for use by a medical officer in determining whether an individual has a problem.

Drinking prior to interviewing with a potential employer is not illegal even though it might be imprudent. Therefore, there are legitimate questions about the significance of a positive test. On the other hand, it is possible that it could be used, along with other indicators, as a warning signal about alcohol dependency. It might also be useful as one tool among many for an employer to determine whether an applicant can be expected to perform reliably in a safety-related function. For example, the presence of alcohol may indicate the need to ask follow-up questions of the applicants to determine whether there would be a potential safety problem. Would such a test provide sufficient benefits to warrant requiring it? Would it be necessary to limit the use of any positive results; i.e., should we prohibit rejecting an applicant solely on the basis of a positive test?

c. *Periodic Testing.* As with preemployment testing, a primary purpose of periodic testing (at required, scheduled physicals) would be to identify persons who may have an alcohol problem. Periodic testing often occurs during off-duty hours when the fact that the employee may be under the influence is not necessarily relevant to his or her job performance. Unless we determine to prohibit employees from having any alcohol content during a physical examination, the primary purpose of such a test would be as a means of alerting employers to someone who may be a candidate for referral to an EAP or otherwise evaluated for substance dependency. Adding an alcohol test to the regimen for a required physical might be beneficial because the examination might not otherwise identify the employee's problem. If a blood sample is already taken and could

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be used, it could lessen any legal or cost obstacles. Would this type of test provide sufficient benefits to warrant requiring it? As with preemployment testing, should we limit the use of any positive results?

d. *Reasonable Cause Testing.* Reasonable cause testing would be useful to determine impairment during job performance. It would be based, as in drug testing, on a rule violation (e.g., FRA rule now provides for this) and/or on a reasonable suspicion by one or more supervisors that an employee appeared to be under the influence. (The standard for triggering a test would differ depending on whether the substantive prohibition of alcohol abuse went only to intoxication on the job or to any measurable BAC while the employee was working.)

Because alcohol use often (at least at higher levels) results in more observable symptoms (and because more research has been done on how to train people to make these observations), this test may be more valuable for alcohol than for drugs. Although a supervisor may not know if the behavior is alcohol-related, whatever its cause it could support a decision to refuse to let the person operate in a sensitive safety position. Supervisor observation would not be a complete solution, however; "practiced" drinkers can appear normal (e.g., they can walk a straight line) and avoid detection. Also, supervisors may have reasons to overlook employee alcohol use (e.g., sympathy for employee and dealing with problem is too much trouble). The Army has found that supervisors have a tendency to underreport alcohol involvement in accidents (The Alcohol and Accidents Guide, February 1987). Commenters also should address how to reduce the possibility of harassment. Would procedures similar to those for our drug testing rules (generally requiring two supervisors, etc.) be appropriate? Also, would this test be especially valuable in conjunction with reasonable cause testing for drugs? If an individual's behavior raises suspicion and the person tests negative on an alcohol breathalyzer, some enforcement personnel might suggest performing a drug test.

e. *Post-Accident Testing.* Post-accident testing is already required by federal regulation in some modes, and serves as a valuable accident investigation and enforcement tool. States also conduct post-accident tests, depending upon the circumstances. Post-accident testing at remote locations might be more difficult to accomplish than drug testing, because alcohol passes from the blood and breath more quickly than most drugs. Delays for transportation of trained personnel to a test site could result in negative or inconclusive tests. Requiring a blood test, for example, to be conducted within a very limited time could raise the costs tremendously by requiring expensive forms of transportation in some instances. Therefore, it may be necessary to use preliminary breath testing. This also may require the use of trained people and special equipment. Commenters are invited to address this question, including the additional cost that may be involved and any special problems that field breath testing would present in terms of the integrity of the test process.

The drug rules require employers to test employees involved in an accident as soon as possible, but not later than specified maximum time limits (generally 32 hours). For the FRA, the average period of time is about 5 hours to get blood, but railroads run on track and accidents occur within limited areas, unlike aviation or maritime accidents. Within what period of time after the accident should an employee be tested for alcohol? Should we arrange with state enforcement and/or investigative personnel to carry out such testing if the accident occurs in a remote area? They may be the first government officials able to get to the scene and are sometimes equipped to conduct field alcohol breath tests.

f. *Random Testing.* Under the Department's drug rules, companies must conduct random drug tests at a 50 percent annualized rate; that is, the number of annual random tests conducted should equal half the number of the testable population. Because alcohol is rapidly eliminated from the body, random testing might be less effective for employees who, for example, do not work close to a place where a test can be conducted. The deterrent effect of random testing might be reduced for the same reason. Commenters are requested to focus on how the objectives of random alcohol testing (e.g., deterrence) could be accomplished. Should we use a higher than 50 percent annualized random testing rate? Because alcohol is generally eliminated from the body within hours, can these tests be effectively administered? Is it too expensive and inefficient a means of identifying abusers? Does it make sense if we only prohibit impairment on the job, rather than any alcohol use? As discussed earlier, must any random testing be limited to the specific times an employee is performing a sensitive safety- or security-related function? If so, how would this complicate implementation of a testing program? If alcohol misuse is more easily uncovered through observation and reasonable cause testing, will random testing add enough more deterrent effect to an overall program to meet constitutional muster?

g. *Pre-Performance Tests*—(1) General. Pre-performance testing could potentially be used in lieu of other forms of alcohol testing. Depending upon the industry, supervised testing could be conducted before a covered person assumed his or her duties on board a plane or ship, or unsupervised self-testing-type systems could be used to prevent a vehicle from operating if a person failed a test.

The advantage of pre-performance testing is that it detects an employee's impairment at the time he or she begins to perform sensitive safety- or security-related functions in a job where it is illegal to be under the influence of alcohol. Of all the kinds of testing, pre-performance tests may offer the most direct nexus to improving safety. They also could provide a strong deterrent. However, pre-performance testing may not be feasible for certain industries. Furthermore, technological and cost issues have not been resolved for some types of tests.

(2) *Pre-Performance Testing: Under Supervision.* An individual could be given a BAC test prior to performing a sensitive safety- or security-related function. This type of test is now being done in Alaska by Alyeska Pipeline Service Company. All crewmembers are tested prior to being allowed to work. Crewmembers that fail the test are not permitted to work until a test is passed.

This same system, or a variation, could be employed in other industries where an individual reports to a specific station before operating a commercial vehicle. For example, in some segments of the trucking industry, drivers report to a central dispatch facility every day and return at the end of the day. Most commercial pilots also report to a central location prior to flying. In such instances, supervised BAC testing may be feasible. In other segments of the two industries noted above, supervised BAC testing could be impractical and unmanageable. However, the system eventually decided upon by the Department to check for alcohol would not need to be uniform in every respect and in every segment of each of the regulated industries, if circumstances warrant different approaches. This may make the rules more complex, but could provide necessary flexibility to companies. In addition, it might be appropriate to give companies the option of conducting either a pre-performance test or a random test.

Commenters should address how such a system could be developed for each industry, and the costs of such a system. We are also interested in the experience gained by the use of such tests in the U.S., as well as in other countries. What are the benefits of a pre-performance test? How would such benefits compare with a random test? How should a pre-performance positive test be treated? Any rule implemented would prohibit an individual from operating a commercial vehicle (aircraft, vessel, etc.) if a test were failed. However, commenters should address the need for regulations that mandate what additional action should be taken upon a positive test? Are sanctions needed, or should such steps be addressed by individual companies? Would alternative alcohol testing requirements (e.g., pre-performance vs. random) provide flexibility to companies? Is flexibility needed? To be effective, must pre-performance tests be conducted before all operations, or could they be done on a random basis? How often? Should tests be performed at a central meeting place prior to an employee's assumption of duties or should the test be attached to the vehicle's ignition system (discussed below)? Could an employee simply start drinking after passing the pre-performance test?

(3) *Pre-Performance Testing: Unsupervised.* The Department, through NHTSA, began to investigate the use of in-vehicle alcohol test devices (ignition interlock devices, referred to as "IID's") in 1968. The types of devices developed over the years have focused on breath and performance type tests; generally, if a driver does not pass the test, the vehicle will not operate or, under some systems, if operated, the emergency flashers or horn will automatically go off.

A recent report submitted to Congress describes the effectiveness and potential for application of ignition interlock devices to prohibit operation of motor vehicles by intoxicated drivers. ("Potential for Application of Ignition Interlock Device to Prohibit Operation of Motor Vehicles by Intoxicated Individuals: A Report to Congress".) NHTSA also performed laboratory testing for commercially available in-vehicle test devices. ("Further Laboratory Testing of In-Vehicle Alcohol Test Devices.")

Initially, attempts to develop IID's based on breath alcohol tests were hampered by technological limitations and concerns that they were too susceptible to circumvention or cheating. At this point, however, the NHTSA report notes that these problems have been partially or completely solved. The new devices are more reliable and accurate, and are designed to prevent or detect many forms of tampering and circumvention. NHTSA tests have indicated that the devices are more difficult to circumvent, but relatively uncomplicated strategies can still be used to "fool" these devices (e.g., use of bogus air samples or filters). In spite of these evasive practices, improvements are possible that would further address potential circumvention. NHTSA also noted that IID's are now being used by a specific population group (those subject to court supervision because they are convicted of driving under the influence) in passenger vehicles. Their placement in general use would likely meet public resistance due to costs. It should also be noted that the experience gained thus far has been in passenger motor vehicles only. What would the costs be to install comparable devices in commercial vehicles? What about vehicles used in other modes of transportation?

(a) *Performance Tests.* Early research on IID's had focused on performance tests as well as breath tests. However, research and development work have indicated that while performance tests may be operationally feasible, a useful device does not yet exist.

The Canadian transportation ministry funded research that compared one performance test, the Critical Tracking Tester (CTT), with another, the Tracometer. The CTT requires a driver to keep a pointer centered on a dial by appropriate movements of the steering wheel. The device generates random movements of the pointer at an increasing rate, requiring the driver to make corrective movements at an increasing speed. The Tracometer requires a driver to align a pointer with one of five targets that are randomly illuminated, requiring the driver to turn the wheel in the opposite direction of the desired pointer direction. The research concluded that the Tracometer provided better discrimination than did the CTT in detecting BAC limits (0.08 in Canada). However, the researchers concluded that while the Tracometer appeared to be promising, further work was necessary before a practical device would be available.

The NHTSA report concludes that a useful device does not yet exist and thus more work is needed. For example, the CTT's are least accurate at moderate BAC levels (0.05–0.10). The report also notes that there is apparently little development work currently being done on performance-based systems.

(b) *Breath Tests Using Ignition Interlock Devices.* With respect to breath alcohol testing, there are currently three IID's available on the market. Basically the devices are a simple form of a portable breath tester, but are not as sophisticated as evidential quality breath tests used by the police. The three IID's are fairly similar. Each has three components: an alcohol breath test unit, an electronic control device, and a connector to the vehicle's ignition and electrical system. The alcohol sensor is a breath test unit that is a hand-held unit and requires the driver to blow into the device. Only if the driver passes the test can the car be started. The devices use different sensors (pressure and/or temperature) to reduce the likelihood of circumvention.

The IID's currently are marketed primarily to traffic courts for use with drivers convicted of DWI/DUI. Such drivers may be required by the court to install a device on their car. (Manufacturers envision further use of the devices, such as by fleet owners or commercial vehicles.) Nine states have passed legislation authorizing the use of IID's with convicted DUI offenders. In California, for example, a two-year program was initiated and terminates at the end of 1989, when an evaluation will be made. (California's interlocks prevent persons with a BAC of 0.03 or above from starting the vehicle.) Other states are also considering legislation.

Based on the information available to date, the NHTSA report reached a series of general conclusions about the new breath test ignition interlock devices. These conclusions are listed in Appendix C.

Commenters should address the feasibility of implementing such a program of IID's for a particular company or industries, and specify the potential problems if such an approach were adopted. Would these devices have any application to types of vehicles other than motor vehicles? Will employees accept such devices? What are the practical problems of such devices? Will such a system be effective in cutting down the use of alcohol in the transportation industry? If used in the context of preperformance testing, what staffing problems would this cause? How will it affect accident rates? What are the costs? What are the ways of getting around the system? Even if the systems are not 100 percent tamper-proof, will the fact that such machines are in place make employees more aware of the need to stay sober? Are the devices cost-effective if this is the case? Finally, IID's are accurate in detecting low BAC levels. Would the usefulness of the tests be affected if we prohibited

any positive BAC level?

What should happen to a person who tests positive after completing rehabilitation? During the post-rehabilitation period, should we prescribe the minimum and/or

devices as *per se* determinants of intoxication.

Perhaps most significant in the context of workplace testing, breath testing, unlike blood and urine tests,

are many laboratories that can perform these tests competently, although there is no certification program comparable to that offered by the Department of Health and Human Services for drug

Compared to blood testing, urinalysis is less invasive physically, although it may be considered more of a privacy invasion. Of all the types of tests, it has the advantage of requiring the least skill

A different device consists of a tube filled with chemical crystals. After breaking an internal ampul containing the crystals, the person being tested

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devices cost-effective if this is the case? Finally, IID's are accurate in detecting low BAC levels. Would the usefulness of the tests be affected if we prohibited any positive BAC level?

NHTSA estimated that the one-year lease costs for one IID could be as high as $400–$500. Would IID's be cost effective? How would IID costs compare to random testing costs, for example?

We welcome public comment on any additional new technological devices that are accurate and reliable.

h. *Post-Rehabilitation Testing.* Another approach would be to improve the follow-up of alcohol abusers who receive treatment and re-enter the work force. Alcohol testing could be useful as part of post-rehabilitation monitoring. Once an employee has undergone rehabilitation, there is a need to ensure continued disassociation from alcohol. However, many substance abusers do not restrict themselves to one type of drug; they often combine drugs, including alcohol. Alcohol testing could become a useful part of the follow-up testing of rehabilitated substance abusers.

Is there any data that shows alcohol use rises when drug use declines, or vice-versa? Should we require post-rehabilitation monitoring and a recommendation for reinstatement from the MRO or EAP counselor before an employee can be returned to the job? If not, who should make the decision on what kind of rehabilitation the employee needs? Who should make the determination that the employee has established control over the substance abuse problem and has a good prognosis for recovery? Should there be procedures by which the employee can contest a determination that he or she is not ready to return to work?

Should there be a uniform testing period after rehabilitation, or should this be determined on a case-by-case basis? If we adopt a uniform post-rehabilitation period, how long should it be? Should the length of the follow-up period depend on the BAC level that was detected? Should it depend on the severity of the individual's alcohol problem, as indicated by the kind of treatment that was found to be necessary? (For example, should someone undergoing inpatient rehabilitation be subject to post-rehabilitation testing for a longer time than someone who needs only abatement counseling?) Who should decide? Recognizing that alcoholism may be a lifetime disease, is there a period of time after the initial phase of rehabilitation when a relapse is most likely and during which testing would be valuable? If so, how long is that period? What should happen to a person who tests positive after completing rehabilitation? During the post-rehabilitation period, should we prescribe the minimum and/or maximum number of tests to be administered? We would want to ensure that any necessary tests would be given frequently enough to ensure that the employee is not abusing alcohol. At the same time, however, we do not want alcohol testing to become an instrument of harassment.

One alternative, on which we also invite comments, is a specified post-rehabilitation testing period that would apply only if the employee, the MRO, the EAP counselor, and perhaps the employer failed to agree on an individualized program. Such a fall-back system could provide, for example, for up to four additional tests during the 12 months following rehabilitation.

VI. Means of Alcohol Testing

A. Introduction

This section contains a discussion of the principal methods for conducting tests for the consumption of alcohol, including a list of some of the advantages and disadvantages of each methodology. Comments are requested concerning the cost and practicality of the various methodologies. Commenters should give references to specific studies in support of their comments.

B. Breath Testing

There are two types of breath testing devices: (1) The preliminary breath testing (PBT) device, discussed above in the preperformance section, a hand-held device that is useful as a screening tool; and (2) the evidentiary breath testing device (EBT), generally a larger machine found in police stations, that can provide results allowed as evidence in legal proceedings. The FRA allows the use of PBTs exclusively as a screening technique and requires evidentiary testing to follow.

In the breath alcohol test, often used by police agencies to test suspected drunk drivers, the subject blows into a machine that makes a chemical analysis of the expelled breath. The machine provides a reading expressed in terms of blood alcohol concentration. Breath tests, although they may be considered somewhat invasive, may nevertheless be less invasive and thus more acceptable to some people than other forms of tests. They provide a reasonably accurate measure of BAC, at least if they meet NHTSA specifications for accuracy and are properly calibrated. Many states accept the results of evidentiary breath testing devices as *per se* determinants of intoxication.

Perhaps most significant in the context of workplace testing, breath testing, unlike blood and urine tests, provides an immediate response, so that follow-up action can be instituted promptly. In addition, it does not require elaborate chain of custody procedures for collection or laboratory analysis, since no specimens have to be sent to a laboratory for analysis.

On the other hand, breath testing requires specific training and a quality control program to ensure proper administration of the test and calibration of the device. Calibration requires proper use of a breath alcohol simulator, which in turn may require that the unit be set up by a chemist following a specified procedure. The initial costs of EBT's (between about $400 and $5,000), as well as the costs of calibration, are substantial.

Comments are requested on procedural standards for conducting a breath test. We note that no nationally accepted standards exist, although the FRA, for example, has developed guidance materials for its programs. Each state, however, has its own standards for police administration of breath tests, and these standards vary considerably.

One potential problem with breath testing is that no sample remains after the test for retesting in the event of a challenge. This is of particular concern if the test is administered by the employer, because some employees may question the neutrality of the test; in such cases blood tests might be necessary in order to confirm a "positive" breath test result. What qualifications should people have to administer a breath alcohol test? Is there any need to confirm a breath alcohol test? We request comment on whether any have used this approach and had problems.

C. Blood Testing

In this approach, a blood sample is taken from the individual, by normal medical procedures for taking blood samples. The sample is sent to a laboratory where it is analyzed for blood alcohol concentration. Measurement is thus made of the actual blood alcohol concentration and the test does not rely on breath/blood partition or on interpolation from the urine concentration. Blood testing is accepted in all jurisdictions as evidence concerning whether the tested individual is or is not intoxicated. While the test must be conducted in a laboratory, the medical technology required is not especially great; there are many laboratories that can perform these tests competently, although there is no certification program comparable to that offered by the Department of Health and Human Services for drug testing. (DOT's Transportation Systems Center does conduct a voluntary program of laboratory proficiency testing. Laboratories that sign up for the program are given blood samples with known quantities of alcohol; if the lab provides an inaccurate test result, it is notified so that it can correct its procedures or equipment.)

Nevertheless, blood testing is the most physically invasive of all forms of alcohol testing, and some people may be afraid of having blood drawn. In addition, taking a blood sample, while relatively simple, is still a medical procedure, and should be performed only by a qualified professional or technician and only at a suitable physical location. It may not be feasible to conduct field sampling of employees' blood. We seek comment on how those who have used this procedure have handled employee fear and other implementation problems.

Blood tests have the same problems as any other test that must be sent to a laboratory (including the drug tests required by the Department). That is, the results of the test are not immediately available, so there would inevitably be a delay before employers would be able to identify the need for further action. And it would be necessary to establish collection, chain of custody and laboratory procedures analogous to those for urine testing. We ask for comment on whether any acceptable procedures exists.

D. Urine Testing

In this approach, employees would give a urine sample, just as in the case of drug testing. The simplest method of administering a urine test would involve collecting a single sample. This would provide evidence with respect to prior alcohol use, but would not give a reliable indication of the current BAC level. A more elaborate two-step process can indicate current alcohol levels. In the first step, the test subject voids. The collector then waits until the subject can give a second sample, typically at least one-half hour. The second sample, since it includes only newly excreted fluids, can be interpolated to calculate the approximate blood alcohol concentration. The success of this method requires that the initial void be complete. The double void will take more employee time than the single void needed for urine drug testing, thus increasing costs.

Compared to blood testing, urinalysis is less invasive physically, although it may be considered more of a privacy invasion. Of all the types of tests, it has the advantage of requiring the least skill to perform the on-site steps. In addition, since urine samples are already being taken for drugs, a requirement to institute alcohol tests might require no additional personnel or on-site equipment. This could be a significant cost advantage.

The disadvantages of urinalysis parallel those of drug testing. The delay necessary between the time of collection and the time results are available means a corresponding delay before corrective action or rehabilitation can be begun, where necessary.

In addition, there is no uniform cut-off parallel to BAC and, except for the Transportation Systems Center's limited and voluntary laboratory proficiency program, there is no nationally-recognized system of regulation for laboratories performing alcohol tests. There is no question that a urine test, particularly a two-step test, can determine whether an individual has recently consumed measurable amounts of alcohol. Thus, if the Department were to establish a permissible alcohol level of "zero," there is little doubt that urinalysis could be a useful tool. Some might argue, however, that the correlation between alcohol concentration in urine and its concentration in blood is insufficiently precise to be used as a measurement for higher cutoffs, such as .04 or .10. However, we note that FRA authorizes the use of urinalysis for alcohol (with a conservative assumption that the urine concentration is 1.5 times the blood alcohol level), and some recent literature has also endorsed it. The use of conservative conversion factors may result in underestimation of the BAC.

E. Other Techniques

There are less-expensive means of determining approximate blood alcohol concentration. We specifically request public comment on the feasibility of using the following devices or other similar ones separately or in conjunction with other methods of testing.

There are strips that turn various colors when wet with saliva mixed with an enzyme. The colors indicate saliva-alcohol concentration, which statistically is a close approximation of blood alcohol concentration. According to a NHTSA study, this method appears to give highly variable results with a high incidence of false positives. However, it could be used by individuals to determine if they can safely drive.

A different device consists of a tube filled with chemical crystals. After breaking an internal ampul containing the crystals, the person being tested expels breath into the tube. The crystals change color to indicate the amount of alcohol in the subject's breath. The device does not accurately measure blood alcohol concentration, but it is useful to indicate the presence of alcohol in the individual's system, and has been marketed for use by private individuals who want to determine whether it is safe for them to drive.

One device now in use by some police agencies is the Passive Alcohol Sensor (PAS), an electronic device which tests ambient air in front of a driver's mouth for the presence of alcohol. It must be placed within six inches of the subject's mouth. The device gives false positives about 10 percent of the time, and temperature and wind conditions affect its accuracy. The more sophisticated PBT's are more accurate, but are also subject to environmental variations from cold, wind, subject's cooperativeness, etc.

These and similar devices could not be used as tests upon which legally effective determinations of intoxication could be made. However, it could be possible, if a blood or urine test were the method of choice, to use such devices as a means of screening employees. That is, if an employee showed no evidence of alcohol on one of these screening tests, a more costly and invasive blood or urine test might not be necessary. To use these devices for this screening purpose, it would be necessary to determine, as well, whether they tend to give false negative readings. We would appreciate public comment on this. We note that the concerns that the Department had with respect to the use of screen test results to make permanent employment decisions also apply to alcohol testing.

One other promising method for identifying people who may be under the influence of alcohol may be behavioral sobriety tests. NHTSA has developed a Standardized Field Sobriety Test (SFST), which comprises three psychophysical tests. The three tests are: Walk and Turn (walking a straight line and back again); One-Leg Stand (one stage of which requires the subject to stand on one leg and count from "one thousand and one" to "one thousand and thirty"); and Horizontal Gaze Nystagmus. The first two tests measure a person's balance, muscular coordination and ability to concentrate on two activities. The horizontal nystagmus technique, which is used by some police departments as part of a

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roadside screening, relies on identifying the tendency of the eyes to jerk involuntarily as they move back and forth. This tendency becomes more pronounced with increased consumption of alcohol; depending upon the individual, usually the first clues of impairment occur at BAC levels of .05–.08. It is difficult to fake normal nystagmus and the horizontal gaze nystagmus test is reported to be the most accurate method of detecting alcohol use without breath analysis or other specialized equipment. However, significant training and practice is required to master and retain this "testing" skill. We specifically invite commenters to address the utility of increased training in this and/or other methods of identifying persons who have consumed alcohol.

VII. Other Practical Problems

If alcohol testing is proposed, there are a myriad of implementation questions that will need to be addressed. In many cases, they are the same as, or analogous to, questions that were addressed and resolved in the drug testing rules or the "Procedures for Transportation Workplace Drug Testing Programs" (49 CFR part 40). However, there may also be differences, and we invite commenters to address any practical problems they foresee, including recommended solutions.

One problem has been alluded to already: while we have limited the performance of drug tests to laboratories certified by the Department of Health and Human Services, there is no fully-comparable program to certify laboratories performing alcohol tests. Of course, some tests (i.e., breath) do not require laboratory analysis, so this may not be a problem. In addition, it may be that alcohol testing is sufficiently simple that no special certification is necessary. On the other hand, if we were to require testing, we would want to take whatever measures are necessary to ensure the accuracy of test results. A related question involving laboratories is capacity. A mandatory alcohol testing program would undoubtedly increase demand for laboratory services greatly. Is there sufficient capacity in the industry to accommodate such a demand?

The role of a Medical Review Officer (MRO) would be another area of controversy. Should an MRO have to certify results before they are reported, as is done for drug testing? One important function of the MRO in connection with drug testing is to ascertain whether there is a legitimate explanation for the presence of drugs in the employee's system (e.g., ingestion of cough syrup). Does this consideration have relevance for alcohol? A legal explanation for the presence of drugs results in a negative finding. However, if an individual exceeds an established BAC level should it matter that it resulted from legal medication; i.e., if the person is under the influence of alcohol while performing a safety function, is it necessary to know more? Does the question turn on the level of alcohol prohibited? Even if an MRO would not be necessary to consider the circumstances of alcohol ingestion, would it not still be necessary to have an independent review of the chain of custody?

What are the costs associated with different types of testing? What kinds of calibration or other standards do we need for different types of tests?

VIII. Regulatory Process Matters

It is not clear at this preliminary point what the annual effect of any rule or program will be on the economy. To the extent the Department is aware of costs or benefits, it has provided that data in this document. However, there are too many variables and possible permutations of alternatives for the Department to provide an overall cost benefit analysis. Upon review of the comments, the Department will assess the costs and benefits if further regulatory action is deemed appropriate. We do not anticipate at this point that the annual effect on the economy will be $100 million or more for any particular mode. If it becomes apparent at a later stage in this rulemaking that the impact on the economy will be major, then we will prepare a regulatory impact analysis. Otherwise we will prepare an economic evaluation in accordance with the Department's Regulatory Policies and Procedures. Commenters should submit any relevant cost data.

This ANPRM is significant under the Department's Regulatory Policies and Procedures, because it involves matters of significant public and Congressional interest.

For the reasons noted above, at this time, we do not know whether there would be a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis will be prepared if we determine that this rulemaking would have such an impact. At this stage, we cannot determine whether this rule will impose any reporting or paperwork requirements under the Paperwork Reduction Act.

Federalism

Depending upon what action we determine to take, this rulemaking may have substantial effects on the states or on the relationship between the national government and the states. One option under consideration is to rely on increased state enforcement to combat the alcohol problem. Because of the many possibilities and permutations, at this time, we do not have enough information to determine whether a Federalism Assessment will be necessary in accordance with Executive Order 12612. We specifically request that commenters consider the impact on federalism of any of their comments or proposals.

List of Subjects

Alcohol abuse, Safety, Transportation.

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Samuel K. Skinner,

Secretary of Transportation.

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X. Appendix B—Existing DOT Regulations

A. Alcohol

1. Introduction

As a general matter, the Department's alcohol efforts have focused on alcohol as it affects an individual's medical qualifications; prohibitions on on-duty use and, in certain cases, use just prior to reporting to work; and sanctions for violations of the Federal regulatory scheme. With limited exceptions, alcohol testing is left to State enforcement personnel. (Coast Guard and FRA rules provide for post-accident and reasonable cause testing. FAA requires crewmembers to submit to tests upon request.) The Department has nine operating administrations. A brief description of their general functions and their specific responses to the problem of alcohol use or abuse follow.

2. Current Modal Administration Regulations

a. *U.S. Coast Guard.* The Coast Guard carries out a number of functions including commercial vessel and recreational boating safety, search and rescue missions, enforcement of maritime law, bridge administration, port and environmental safety, regulation of deepwater ports, marine environmental responses, icebreaking operations, and aids to navigation. In addition, in conjunction with other agencies, the Coast Guard carries out drug interdiction actions aimed at stopping the importation of drugs into the U.S. through its coastal waters.

The Coast Guard has broad authority for commercial vessel safety. The Coast Guard issues licenses and merchant mariner documents to merchant seamen. It also investigates marine casualties and can and does proceed against licenses or documents for violation of dangerous drug laws or for negligent acts while under the influence of alcohol. The Coast Guard also has been taking action against licenses and merchant mariner's documents of seamen who have been found to be either in the possession of intoxicating liquor or intoxicated by alcohol.

The Coast Guard Authorization Act of 1984 established civil and criminal penalties for operating a vessel while intoxicated, as determined under standards developed by the Coast Guard. In addition to establishing penalties for operating a vessel while intoxicated, the Act requires future reports of marine casualties to include information concerning whether the use of alcohol contributed to the casualty. The Coast Guard issued a final rule, effective January 13, 1986, implementing the directive in the 1984 Authorization Act. It established Federal behavioral and blood alcohol concentration (BAC) intoxication standards for both commercial and recreational vessel operators. Either the behavioral or BAC standard can independently be used to determine intoxication. The behavioral standard is useful, because blood tests may be refused or not taken in a timely manner.

The rule applies a .04 percent BAC standard to operators of all commercial vessels, including fishing vessels. For recreational boaters, the Federal BAC standard is .10 percent. This and the Federal behavioral standard apply only in the absence of existing State BAC and behavioral standards or outside of State territorial waters. For example, if a State has only a behavioral standard, the Federal .10 percent BAC level would also apply to recreational boaters. The rule does not preempt enforcement by a State of its applicable laws and regulations concerning operating a recreational vessel while intoxicated or limit more stringent employer-sponsored programs.

The rule requires employers to ensure that intoxicated individuals are not permitted on

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duty. Crewmembers are prohibited from operating a vessel while intoxicated, drinking on duty or assuming duties within four hours of consuming alcohol. The rule covers U.S. vessels operating anywhere, foreign vessels operated in U.S. waters and individuals with an essential role in operating a vessel, but not when they are on shore. It provides for licensed personnel to seek voluntary rehabilitation prior to being subject to a suspension or revocation proceeding for intoxicant-related incompetence; allows Coast Guard officers to terminate the use of certain vessels when the operator appears to be under the influence of an intoxicant so that further operation creates an unsafe condition; and requires employers' reports on marine casualties to include specific information on the role of intoxicants in the accident.

The rule allows post-accident and reasonable cause testing for intoxicants by employers and State law enforcement officials. Where practicable, the marine employer's determination of reasonable cause should be based on observation of the individual's behavior and demeanor by two persons. Refusal by commercial mariners to submit to a test is presumptive of intoxication (if State law permits such a presumption; this is true for recreational boaters as well). Individuals determined to be intoxicated will have the opportunity during judicial or administrative hearings to dispute the charge.

In addition, the Coast Guard has instructed its casualty investigators to be closely attuned to the possibility of drug or alcohol involvement in marine casualties and is training investigators to look for and recognize alcohol or drug ties to accidents. The Coast Guard, in cooperation with the National Association of State Boating Law Administrators, and the National Transportation Safety Board (NTSB), has developed and distributed to the states a set of guidelines for states to use in developing state legislation addressing the drug and alcohol problem. Among other concerns, the guidelines address restrictions and prohibitions that should be considered, testing, evidentiary requirements, penalties, and education.

Independent of present regulations, the master of a vessel traditionally has had plenary disciplinary authority aboard his vessel. Even today, a master may, and often does, deal with alcohol-related problems by logging individuals who are intoxicated and docking their pay.

Upon completion of the voyage, a Coast Guard marine investigator reviews the ship's log. In addition to the shipboard punishment imposed by the master, the investigator normally will charge a mariner with misconduct for failure to perform due to intoxication, subjecting the mariner to a suspension and revocation proceeding before an Administrative Law Judge. Depending on the circumstances of the incident, the mariner may be given a letter of admonishment, a suspension under probation, or outright suspension or revocation of his license and/or document. The Administrative Law Judge also may direct the mariner to enter a rehabilitation program.

The Coast Guard also has internal procedures that address alcohol problems and drug use by its military employees.

b. *Federal Aviation Administration.* The Federal Aviation Administration (FAA) is charged with regulating air commerce. This includes programs governing safety, airspace and air traffic management, air navigation facilities, research, engineering, development, testing and evaluation of systems needed for a safe and efficient system, airport development and aircraft registration.

FAA alcohol regulations cover pilots, flight engineers, and other crewmembers. For example, they prohibit any pilot from acting or attempting to act as a crewmember if he or she is under the influence of alcohol, or has consumed any alcoholic beverage within 8 hours of reporting for duty. FAA regulations also prohibit a pilot from flying with a blood alcohol concentration (BAC) of .04 or higher. The FAA can suspend or revoke a certificate or assess penalties for failure to comply with its regulations.

The FAA requires pilots to have medical examinations (private and recreational pilots—once every 2 years; commercial pilots—once every year; airline transport pilots—once every 6 months). If a history of drug dependence, alcoholism, or mental problems is discovered, the FAA may disqualify the pilot. The FAA also uses a "driving while intoxicated" (DWI) or a "driving under the influence" (DUI) conviction as an indication of a possible alcohol or drug problem. The FAA recently issued a notice of proposed rulemaking designed to identify those pilots that are convicted of driving while intoxicated or driving under the influence and review their medical qualifications in light of such convictions.

Finally, the FAA requires crewmembers to submit to an alcohol test on request of a law enforcement officer who has a reasonable basis to believe that the crewmember may have violated state alcohol rules. The law enforcement officer must be authorized under State or local law to obtain such tests. State law and practices vary; only six states give explicit authority to obtain such tests.

It is also important to note the role of international conventions in this area. Annex 2 to the Convention on International Civil Aviation (the Chicago Convention), section 2.5, of which the United States is a contracting state, provides that no person shall pilot or act as a flight crewmember while impaired by an intoxicating liquor or narcotic drug.

c. *Federal Highway Administration.* The Federal Highway Administration (FHWA) is involved in a variety of areas such as financial assistance, highway construction and motor carrier safety. It has the authority to establish medical/physical qualification requirements for truck and bus drivers and has had regulations on this subject for over 30 years. Within the context of a comprehensive, nationwide revamping of testing, licensing and disqualification procedures for commercial motor vehicle (CMV) operators, the FHWA recently established stringent regulations defining driving under the influence of alcohol (DUI) for commercial drivers. However, enforcement of the DUI standard continues to be primarily the responsibility of the States in the motor carrier field.

FHWA regulations require that commercial drivers submit to a medical examination once every two years. A driver will not be considered physically qualified to drive a motor vehicle if, among other things, the driver is currently a practicing alcoholic.

FHWA regulations prohibit the use of alcoholic beverages within four hours of reporting to work, and prohibit a driver from working while having any measured BAC or any detected presence of alcohol in his or her system. These and related infractions carry a 24-hour out-of-service penalty.

The CDL regulations and the FMCSRs also require that a driver be disqualified for one year if the driver is convicted of a DUI offense at the .04 percent BAC level or greater, or for a drug offense. The offenses must have occurred while the driver was driving a CMV or a vehicle subject to the FMCSRs. Second offenses, or offenses involving the movement of hazardous materials, carry longer disqualification penalties, ranging from three years to life.

The Commercial Driver's License Information System (CDLIS), implemented under the Commercial Motor Vehicle Safety Act of 1986, will constitute a useful tool for identifying and removing from the road problem drinkers who drive CMVs. After March 31, 1992, every driver of a CMV nationwide will be required to hold a CDL from his or her state of domicile, issued according to FHWA standards. Since the CDLIS will be the nationwide clearinghouse for driving record information for all CDL holders, and since states must check with the CDLIS to yield important highway safety benefits in the alcohol area.

On October 4, 1988, FHWA issued regulations whereby a commercial motor vehicle (CMV) driver found to have a blood alcohol concentration level of .04 or above will be deemed to be DUI. States are required to adopt this standard for CMV operators, or face the loss of highway funding. They also require commercial motor vehicle operators with any measured BAC to be placed out-of-service for a 24 hour period.

The new DUI standard has not as yet been applied by the States. Under the statutory mandate that authorized the Department to set the DUI standard, Congress recognized that it would take some time for the States to implement the program. Therefore, States have until September 30, 1993 to adopt these standards. The States are rapidly enacting legislation to implement the entire CDL program, including its BAC provisions; over half the States had enacted the .04 percent BAC level for CMV drivers by late summer 1989. The FHWA program thus establishes a DUI standard for a CMV driver, and sets penalties, which are to be enforced by the States. Currently, alcohol testing is done by the States, but the new provisions mandate a lower and uniform BAC, as well as penalties.

d. *Federal Railroad Administration.* The Federal Railroad Administration (FRA) is involved in areas such as railroad safety, financial assistance, and national rail transportation policy. Since 1970, FRA has had statutory authority to regulate all fields of railroad safety, including employee qualifications as they relate to safety. Historically, FRA encouraged rail management and labor to work together on alcohol and drug prevention programs, especially employee assistance programs. However, such programs were not required.

In 1985, FRA issued a final rule governing the conduct of railroads and employees subject to the Hours of Service Act (engine, train and yard crews, dispatchers and train order operators, and signal employees). The final rule prohibits on-the-job use, possession of or impairment by alcohol or any controlled substance as well as having a BAC level of .04 or more.

The rule mandates full toxicological testing (blood and urine) after certain accidents that involve significant public interest or a high likelihood of human failure (approximately 200 events per year). Railroads also are authorized to conduct breath and urine tests: (1) On reasonable suspicion of impairment; (2) after a human factor accident/incident; and (3) after other specified operating/safety rule violations. Effective March 1, 1986, railroads were required to institute pre-employment drug screening for potential employees, which may include alcohol analysis. The rule further requires railroads to have "voluntary referral" policies, thereby allowing workers to enroll in assistance programs.

e. *Maritime Administration.* The Maritime Administration (MARAD) administers programs to aid the development, promotion, and operation of the U.S. merchant marine. MARAD also administers of U.S. Merchant Marine Academy, which has an enrollment of approximately 1,100 people. The Academy regulations strictly forbid the use and possession of controlled substances and the use and possession of alcohol on Academy grounds. (Consumption of alcohol for special events can be authorized.) Entering freshman at the Academy must submit to urinalysis as part of the admissions process. For good cause, a midshipman can be sent to the infirmary for urine or blood tests for drug or alcohol use. Confirmation of a drug or alcohol rule violation leads to automatic explusion. A full administrative hearing procedure is available. There is also an active counseling program on campus.

f. *National Highway Traffic Safety Administration.* The National Highway Traffic Safety Administration (NHTSA) carries out programs relating to the safety performance of motor vehicles and related equipment, motor vehicle drivers and pedestrains, a national maximum speed limit, and a national minimum drinking age, among other things.

NHTSA is actively involved in developing programs to reduce alcohol and other drug use by all motorists, including operators of commercial vehicles. NHTSA's programs include providing technical and financial assistance to the states.

Under the section 402 program, NHTSA provides for a variety of State highway safety programs. In a joint final rule, published in April 1988, NHTSA and FHWA identified national priority program areas; included among them are alcohol and other drug counter-measures such as enforcement, education and public information and improvement of records and court systems. NHTSA provides technical assistance to states for DUI enforcement, such as the development and promotion of the use of its Standardized Field Sobriety Test (SFST), SFST training and SFST instructor training. The SFST consists of three psycophysical tests that are used to detect drug and alcohol impairment. The three tests are: Walk and Turn (walking a straight line and back again); One-Leg Stand (one stage of which requires the subject to stand on one leg and count from "one thosand and one" to "one thousand and thirty"); and Horizontal Gaze Nystagmus. The first two tests measure a person's balance, muscular coordination and ability to concentrate on two activities. The horizontal nystagmus technique, which is used by some police departments as part of a roadside screening, relies on identifying the tendency of the eyes to jerk involuntarily as they move back and forth.

The section 408 alcohol incentive grant program provides funds to States that have improved laws and programs to reduce traffic safety problems involving drivers under the influence of alcohol or a controlled substance. The program is available to all qualifying States—21 have currently qualified. Through the 408 program, NHTSA also awards grants to States that have programs that satisfy certain supplemental criteria established by regulation, or that enact tough sentencing laws for individuals convicted of driving under the influence of alcohol.

Finally, a joint NHTSA/FHWA regulation implements the Federal statute that requires that certain Federal highway funds be withheld from States that permit the purchase or public possession of alcohol by those under the age of 21. The law provides for a five percent total withholding in FY87 and a ten percent withholding in all succeeding fiscal years.

g. *Research and Special Programs Administration.* The Research and Special Programs Administration (RSPA) regulates the safety of transportation of hazardous materials and the transportation of natural gas and hazardous liquids by pipeline, collects air carrier economic data, and conducts multimodal transportation research and development.

RSPA has no specific regulations on alcohol. It does have a general regulation on health of pipeline workers at liquified natural gas plants. Pipeline operators must look for any physical condition that would impair performance, including any observable disorder or condition that is discoverable by a professional examination.

h. *St. Lawrence Seaway Development Corporation.* The St. Lawrence Seaway Development Corporation (SLSDC) is responsible for the development, operation and maintenance of that portion of the St. Lawrence Seaway that falls within the territorial limits of the U.S.

No specific legislation or SLSDC regulation covers alcohol and other drug use, but a general regulation allows the Corporation to prohibit the transit of a vessel if the crew is incompetent or inadequate and to board the vessel to determine this. The U.S. Coast Guard regulations apply to U.S. pilots, crewmen and vessels.

i. *Urban Mass Transportation Administration.* The Urban Mass Transportation Administration (UMTA) assists in developing improved mass transportation facilities, planning and financing of such systems, and encouraging private sector involvement in local mass transit systems.

The UMTA grant statutes prohibit the agency from making grants unless recipients have the legal, technical, and financial capability to carry out UMTA-assisted projects, including the ability to provide safe transit services. Grantees must exercise satisfactory continuing control over UMTA-assisted facilities and equipment. UMTA has no current regulations concerning alcohol. Even so, many of UMTA's grantees are subject to other Federal requirements on alcohol use. All commuter rail lines funded by UMTA, for example, are subject to FRA regulations. All drivers of UMTA-funded vehicles that are capable of carrying more than 15 passengers, including the driver, are subject to the FHWA DUI standards. However, other grantees, small transit systems, for example, and all UMTA-funded rail systems other than commuter rail, are not subject to Federal requirements on alcohol use.

B. Drugs

On November 21, 1988, six modal administrations of the Department of Transportation published final rules that require the commercial transportation operators they regulate to test employees in sensitive safety- and security-related occupations for drugs and to develop employee assistance programs (EAP) to provide information and training. The rules cover approximately 4 million persons in the aviation, highway, railroad, pipeline, mass transit and maritime industries. The employers are required to conduct preemployment, periodic (physicals), post-accident, reasonable cause, random, and return to duty drug tests and to test for five classes of drugs: marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates. The testing must be conducted in accordance with DOT-wise regulations based on the Department of Health and Human Services Guidelines (HHS), which are designed to protect the privacy and dignity of the individuals tested. A positive initial screening test is followed by a more specific gas chromatography/mass spectrometry confirmation test. Persons who confirm positive must be removed from their sensitive safety- or security-related position. They can be reinstated only upon successful completion of a rehabilitation program and a return to duty test. The rules encourage, but do not require employers to establish rehabilitation programs. Most testing will begin in December 1989. Small companies have an extra year to imlement drug testing.

XI. Appendix C—NHTSA Conclusion on IID's

• Ignition interlock technology based on breath alcohol test devices for detecting and

preventing alcohol-impaired driving does appear feasible at this time. Devices that measure a driver's BAC level are currently being marketed and used.

- Laboratory tests have shown the current breath test ignition interlock devices, when set to interlock at 0.03 percent BAC, to be relatively accurate in detecting low (i.e., 0.04 percent BAC) as well as high driver BAC levels. The accuracy and reliability of these devices under real-world conditions is unknown. There is no apparent reason why any operational problems cannot easily be overcome.
- The devices contain anti-tampering and circumvention measures that appear to reduce the likelihood of many forms of tampering and circumvention. Such activity by users is not impossible, but operational experience and testing will indicate the extent to which tampering and circumvention will be a problem.
- Current interest has focused on applying this technology to convicted DWI offenders as a condition of probation or to obtain a restricted driving privilege. Critical information necessary to estimate the potential effectiveness of these devices in this application is lacking. This includes whether the devices function properly under real-world conditions and evidence that persons required to use the devices do not tamper or circumvent their use and do not elect to operate other vehicles when drinking.
- There is not yet enough evidence available to judge how effective these devices will be in deterring alcohol-impaired driving and related crashes.
- It is not appropriate for these devices to be used in lieu of other sanctions that have evidence of beneficial effects (e.g., license suspension). Use of this technology as an additional condition of probation or for reinstatement of a restricted driving privilege does appear appropriate.
- The use of these devices with other populations may be feasible (e.g., fleet owners could install them, commercial and public transportation vehicles could be equipped, and individuals interested in this protection could pay for their installation). Widespread use of this type would have to overcome resistance due to the costs, liability issues, and public acceptability issues. Also, considerable research is needed to ascertain the practicality of these uses of the devices.
- Ignition interlock technology for detecting and preventing drug-impaired driving does not appear feasible at this time. There is no easy or feasible in-vehicle test method currently known to detect the use of drugs. In addition, the cost and complexity of testing for different drugs thought to impair driving skill (including legal as well as illegal drugs), makes such an approach even more impractical.

The most immediate issues outstanding regarding the use of breath test ignition interlock technology with convicted DWI offenders are:

- Their operational performance in the real world (i.e., their accuracy, reliability, maintenance and calibration requirements);
- The extent to which the devices are tampered with, circumvented, or non-equipped vehicles are used by persons ordered to only drive cars with ignition interlock devices installed;
- The effectiveness of these devices in reducing alcohol-impaired driving; and
- The certification standards adopted by the states authorizing use of the devices.

NHTSA research will help address these needs:

- NHTSA is currently initiating a project to develop model performance guidelines and test procedures that states can use in developing their own certification standards.
- NHTSA is providing grant funds to California to support their ongoing evaluation of their ignition interlock program.
- NHTSA will provide technical assistance to states or local communities interested in evaluating the effectiveness of their ignition interlock program.

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Thursday
November 2, 1989

Part III

The President

Proclamation 6058—To Amend the Generalized System of Preferences

Proclamation 6058 of October 31, 1989

TO AMEND THE GENERALIZED SYSTEM OF PREFERENCES

2

5. Section 201(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (the Implementation Act)

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Proclamation 6058 of October 31, 1989

TO AMEND THE GENERALIZED SYSTEM OF PREFERENCES

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. Section 1903 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (Public Law No. 100-418, 102 Stat. 1313) amends section 503(c)(1)(B) of the Trade Act of 1974 (the 1974 Act) (19 U.S.C. 2463(c)(1)(B)) to provide for the continued exclusion of watches as eligible articles under the Generalized System of Preferences (GSP) except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

2. Pursuant to Title V of the 1974 Act, as amended (19 U.S.C. 2461 et seq.), the President may designate specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the GSP when imported from designated beneficiary developing countries.

3. Pursuant to section 503(c)(1)(B) of the 1974 Act, as amended, I have determined that the addition of certain specified watches (HTS subheadings in Annex I to this Proclamation) as articles eligible for preferential treatment under the GSP will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

4. Pursuant to sections 501 and 503(a) of the 1974 Act (19 U.S.C. 2461 and 2463(a)), I have determined, after taking into account information and advice received under section 503(a) of the 1974 Act, that it is appropriate to designate certain specified watches provided for in the HTS as eligible for preferential treatment under the GSP.

5. Section 201(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (the Implementation Act) (Public Law No. 100-449, 102 Stat. 1851) authorizes the President to proclaim such modifications or continuance of any existing duties, such continuance of existing duty-free or excise treatment, or such additional duties, as the President determines are necessary or appropriate to carry out Article 401 of the United States-Canada Free-Trade Agreement and the schedule of duty reductions with respect to goods originating in the territory of Canada set forth in Annexes 401.2 and 401.7 to the Agreement.

6. Pursuant to section 201(a) of the Implementation Act, I have determined that it is necessary to provide for the continued staged reduction in duties on certain goods originating in the territory of Canada.

7. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other Acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Title V and section 604 of the 1974 Act, and section 201 of the Implementation Act, do proclaim that:

(1) In order to provide benefits under the GSP to specified designated eligible articles when imported from any designated beneficiary developing country, the HTS is modified as provided in Annex I to this Proclamation.

(2) In order to provide for the continued staged reductions on Canadian goods in particular HTS subheadings modified in Annex I to this Proclamation, effective with

respect to certain goods originating in the territory of

ANNEX I

(a) Chapter 91 of the Harmonized Tariff Schedule of the United States is modified as follows:

Notes:

respect to certain goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex II to this Proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn followed by the symbol "CA" in parentheses for each of the HTS subheadings enumerated in such Annex II shall be deleted and the rate of duty provided in such Annex shall be inserted in lieu thereof.

(3) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this Proclamation are hereby superseded to the extent of such inconsistency.

(4) (a) The amendments made by Annex I of this Proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the date that is 14 days after the publication of this Proclamation in the Federal Register.

(b) The amendments made by Annex II of this Proclamation shall be effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in such Annex.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

Billing code 3195-01-C

ANNEX I

(a) Chapter 91 of the Harmonized Tariff Schedule of the United States is modified as follows:

Notes:

1. Bracketed matter is included to assist in the understanding of proclaimed modifications.

2. The following supersedes matter now in the Harmonized Tariff Schedule of the United States (HTS). The subheadings and superior descriptions are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Effective as to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 14 days after the publication of this Proclamation in the Federal Register.

1. Subheading 9101.12.00 is superseded by:

	[Wrist watches,...:]			
	[Wrist watches,...:]			
"9101.12	With opto-electronic display only: Straps, bands or bracelets entered with watches of subheading 9101.12.80 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:			
9101.12.20	Of textile material or of base metal, whether or not gold- or silver-plated.....	3.9%	Free (E,IL) 3.5% (CA)	35%
9101.12.40	Other.....	3.9%	Free (A,E,IL) 3.5% (CA)	35%
9101.12.80	Other.....	3.9% on the movement and case + 5.3% on the battery	Free (A,E,IL) 3.5% on the movement and case + 4.7% on the battery (CA)	35%"

2. Subheading 9101.21.40 is superseded by:

	[Wrist watches,...:]			
	[Other wrist...:]			
	[With automatic...:]			
	"Having over 17 jewels in the movement: Straps, bands or bracelets entered with watches of subheading 9101.21.50 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:			
9101.21.10	Of textile material or of base metal, whether or not gold- or silver-plated.....	6.25%	Free (E,IL) 5.6% (CA)	80%
9101.21.30	Other.....	6.25%	Free (A,E,IL) 5.6% (CA)	80%
9101.21.50	Other.....	$2.30 each + 6.25% on the case	Free (A,E,IL) $2.07 each + 5.6% on the case (CA)	$11.50 each + 45% on the case"

ANNEX I (con.)
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3. Subheading 9101.29.40 is superseded by:

ANNEX I (con.)
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4. Subheading 9101.91.00 is superseded by:

	[Wrist watches,...:]			
	[Other wrist...:]			
	[With automatic...:]			
	"Having over 17 jewels in the movement: Straps, bands or bracelets entered with watches of subheading 9101.91.50 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:			
9101.91.10	Of textile material or of base metal, whether or not gold- or silver-plated.....	6.25%	Free (E,IL) 5.6% (CA)	80%
9101.91.30	Other.....	6.25%	Free (A,E,IL) 5.6% (CA)	80%
9101.91.50	Other.....	$2.30 each + 6.25% on the case	Free (A,E,IL) $2.07 each + 5.6% on the case (CA)	$11.50 each + 45% on the case"

5. Subheading 9101.99.00 is superseded by:

	[Wrist watches,...:]			
	[Other wrist...:]			
	[With automatic...:]			
	"Having over 17 jewels in the movement: Straps, bands or bracelets entered with watches of subheading 9101.99.50 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:			
9101.99.10	Of textile material or of base metal, whether or not gold- or silver-plated.....	6.25%	Free (E,IL) 5.6% (CA)	80%
9101.99.30	Other.....	6.25%	Free (A,E,IL) 5.6% (CA)	80%
9101.99.50	Other.....	$2.30 each + 6.25% on the case	Free (A,E,IL) $2.07 each + 5.6% on the case (CA)	$11.50 each + 45% on the case"

ANNEX I (con.)
2 of 3

3. Subheading 9101.29.60 is superseded by:

	[Wrist watches,...:]				
	[Other wrist...:]				
	[Other:]				
	"Having over 17 jewels in the movement:				
	Straps, bands or bracelets entered with watches of subheading 9101.29.90 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:				
9101.29.70	Of textile material or of base metal, whether or not gold- or silver-plated.....	6.25%	Free (E,IL) 5.6% (CA)	80%	
9101.29.80	Other.....	6.25%	Free (A,E,IL) 5.6% (CA)	80%	
9101.29.90	Other.....	$2.30 each + 6.25% on the case	Free (A,E,IL) $2.07 each + 5.6% on the case (CA)	$11.50 each + 45% on the case"	

4. Subheading 9102.12.00 is superseded by:

	[Wrist watches,...:]				
	[Wrist watches,...:]				
"9102.12	With opto-electronic display only:				
	Straps, bands or bracelets entered with watches of subheading 9102.12.80 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:				
9102.12.20	Of textile material or of base metal, whether or not gold- or silver-plated.....	3.9%	Free (E,IL) 3.5% (CA)	35%	
9102.12.40	Other.....	3.9%	Free (A,E,IL) 3.5% (CA)	35%	
9102.12.80	Other.....	3.9% on the movement and case + 5.3% on the battery	Free (A,E,IL) 3.5% on the movement and case + 4.7% on the battery (CA)	35%"	

ANNEX I (con.)
3 of 3

5. Subheading 9102.29.05 is superseded by:

	[Wrist watches,...:]				
	[Other wrist...:]				
	[Other:]				
	[Having no...:]				
	"With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated:				
9102.29.02	Straps, bands or bracelets entered with watches of subheading 9102.29.04 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry.....	14%	Free (E*,IL) 12.6% (CA)	110%	
9102.29.04	Other.....	40¢ each + 6% on the case	Free (A,E*,IL) 36¢ each + 5.4% on the case (CA)	$1.70 each + 45% on the case"	

(b) For the following HTS subheadings, in the Rates of Duty 1-Special subcolumn, insert in the parentheses the symbol "A," immediately before the "E" in each such subheading:

9101.91.20	9101.99.60	9102.99.20
9101.91.40	9101.99.80	9102.99.40
9101.91.80	9102.29.10	9102.99.60
9101.99.20	9102.91.20	9102.99.80
9101.99.40		

Annex II

Effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the following tabulation.

For each of the following subheadings created by Annex I of this Proclamation, the rate of duty in the Rates of Duty 1-Special subcolumn in the HTS that is followed by the symbol "CA" in parentheses is deleted and the following rates of duty inserted in lieu thereof on the date specified below.

HTS Subheading	January 1, 1990	January 1, 1991	January 1, 1992	January 1, 1993	January 1, 1994	January 1, 1995	January 1, 1996	January 1, 1997	January 1, 1998
9101.12.20	3.1%	2.7%	2.3%	1.9%	1.5%	1.1%	0.7%	0.3%	Free
9101.12.40	3.1%	2.7%	2.3%	1.9%	1.5%	1.1%	0.7%	0.3%	Free
9101.12.80	3.1% on the movement, and case + 4.2% on the battery	2.7% on the movement, and case + 3.7% on the battery	2.3% on the movement, and case + 3.1% on the battery	1.9% on the movement, and case + 2.6% on the battery	1.5% on the movement, and case + 2.1% on the battery	1.1% on the movement, and case + 1.5% on the battery	0.7% on the movement, and case + 1% on the battery	0.3% on the movement, and case + 0.5% on the battery	Free
9101.21.10	5%	4.3%	3.7%	3.1%	2.5%	1.8%	1.2%	0.6%	Free
9101.21.30	5%	4.3%	3.7%	3.1%	2.5%	1.8%	1.2%	0.6%	Free
9101.21.50	$1.84 each + 5% on the case	$1.61 each + 4.3% on the case	$1.38 each + 3.7% on the case	$1.15 each + 3.1% on the case	92¢ each + 2.5% on the case	69¢ each + 1.8% on the case	46¢ each + 1.2% on the case	23¢ each + 0.6% on the case	Free
9101.29.70	5%	4.3%	3.7%	3.1%	2.5%	1.8%	1.2%	0.6%	Free
9101.29.80	5%	4.3%	3.7%	3.1%	2.5%	1.8%	1.2%	0.6%	Free
9101.29.90	$1.84 each + 5% on the case	$1.61 each + 4.3% on the case	$1.38 each + 3.7% on the case	$1.15 each + 3.1% on the case	92¢ each + 2.5% on the case	69¢ each + 1.8% on the case	46¢ each + 1.2% on the case	23¢ each + 0.6% on the case	Free
9102.12.20	3.1%	2.7%	2.3%	1.9%	1.5%	1.1%	0.7%	0.3%	Free
9102.12.40	3.1%	2.7%	2.3%	1.9%	1.5%	1.1%	0.7%	0.3%	Free
9102.12.80	3.1% on the movement, and case + 4.2% on the battery	2.7% on the movement, and case + 3.7% on the battery	2.3% on the movement, and case + 3.1% on the battery	1.9% on the movement, and case + 2.6% on the battery	1.5% on the movement, and case + 2.1% on the battery	1.1% on the movement, and case + 1.5% on the battery	0.7% on the movement, and case + 1% on the battery	0.3% on the movement, and case + 0.5% on the battery	Free
9102.29.02	11.2%	9.8%	8.4%	7%	5.6%	4.2%	2.8%	1.4%	Free
9102.29.04	32¢ each + 4.8% on the case	28¢ each + 4.2% on the case	24¢ each + 3.6% on the case	20¢ each + 3% on the case	16¢ each + 2.4% on the case	12¢ each + 1.8% on the case	8¢ each + 1.2% on the case	4¢ each + 0.6% on the case	Free

[FR Doc. 89-26140
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H.R. 801/Pub. L. 101–132

To designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, as the "Elbert P. Tuttle United States Court of Appeals Building". (Oct. 30, 1989; 103 Stat. 778; 1 page) Price: $1.00

H.J. Res. 380/Pub. L. 101–133

Designating October 18, 1989 as "Patient Account Management Day". (Oct. 30, 1989; 103 Stat. 779; 1 page) Price: $1.00

S. 1792/Pub. L. 101–134

To amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes. (Oct. 30, 1989; 103 Stat. 780; 2 pages) Price $1.00

S.J. Res. 177/Pub. L. 101–135

To designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day". (Oct. 30, 1989; 103 Stat. 782; 1 page) Price: $1.00

Note: The "Table of Effective Dates and Time Periods—October 1989" inadvertently appeared in the November 1, 1989, **Federal Register**. The table for November appears below.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1989

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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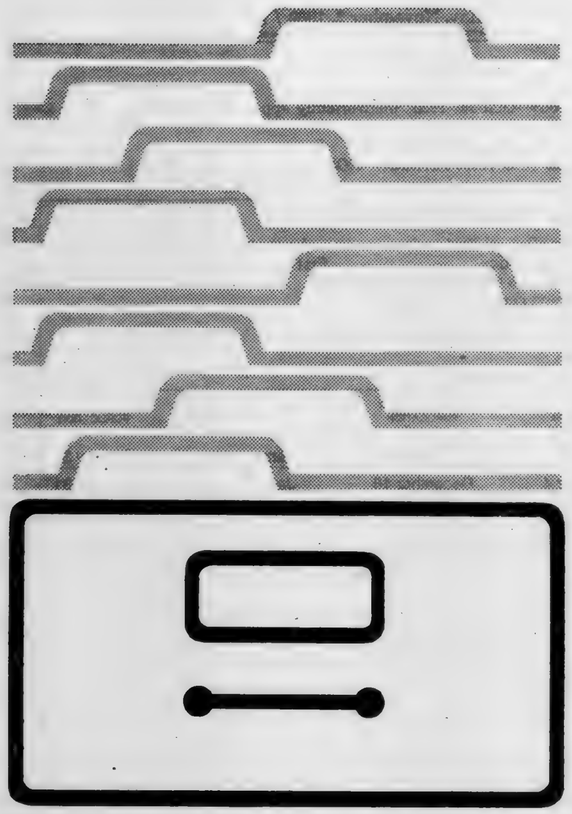

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in the Code of Federal Regulations (CFR)

Revised January 1, 1989

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3. The important elements of typical Federal Register documents.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHEN: December 7, at 9:00 a.m.
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Presidential Documents

Title 3—

The President

Proclamation 6059 of November 1, 1989

Gaucher's Disease Awareness Week, 1989

By the President of the United States of America

A Proclamation

Gaucher's disease is the most common of a group of inherited disorders known as lipid storage diseases, in which the body fails to produce a sufficient quantity of an enzyme crucial to the breakdown and removal of fatty substances. These substances, called lipids, are key structural components of living cells. However, their buildup in the body tissues of Gaucher's victims can lead to an enlarged spleen and liver, as well as bone pain and fractures. In rare cases, severe neurological complications may occur.

Gaucher's disease is usually diagnosed during childhood. It most commonly afflicts individuals of Eastern European Jewish descent—one in every 2,500 persons in this group has the disorder. Currently, no cure exists for the more than 20,000 Americans suffering from Gaucher's.

Scientists do know that Gaucher's disease results from a defective recessive gene. Children who inherit a defective gene from each parent develop Gaucher's; those who inherit only one defective gene do not develop the disease, but become carriers and threaten their offspring in turn.

Although a cure remains elusive, remarkable progress has been made in understanding the cause of Gaucher's disease. Investigators at the Federal Government's National Institute of Neurological Disorders and Stroke (NINDS) have discovered the enzyme that is absent in victims of Gaucher's disease. This finding has led the way to the development of diagnostic and carrier tests for the disease. Scientists working in the field of genetics have also gained valuable insight into the nature of Gaucher's disease.

While these advances offer great hope to the victims of Gaucher's disease, much work remains to be done. Cooperating with the NINDS are voluntary health agencies such as the National Gaucher Foundation. These agencies not only conduct valuable research but also provide helpful information and services to Gaucher's patients and their families. This week, as we call attention to this mysterious disease, we also recognize and salute the many dedicated men and women who are working to find a cure for it.

To enhance public awareness of Gaucher's disease, the Congress, by Senate Joint Resolution 73, has designated the week of October 29, 1989, as "Gaucher's Disease Awareness Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 29, 1989, as Gaucher's Disease Awareness Week and call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

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IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-26146
Filed 11-1-89; 3:07 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6060 of November 1, 1989

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to section 502 (a), (b), and (c) of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2462 (a), (b), and (c)), and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Hungary as a beneficiary developing country for purposes of the Generalized System of Preferences (GSP).

2. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (the HTS) the substance of the provisions of that Act, and of other Acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to sections 502 and 604 of the 1974 Act, do proclaim that:

(1) General note 3(c)(ii)(A) to the HTS, listing those countries whose products are eligible for benefits of the GSP, is modified by inserting in alphabetical order in the list of independent countries "Hungary".

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this Proclamation are hereby superseded to the extent of such inconsistency.

(3) The amendments made by this Proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the date of publication of this Proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 692]

Navel Oranges Grown in Arizona and Designated Parts of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 3 through November 9, 1989. Consistent with program objectives, such action is needed to balance the supplies of fresh navel oranges with the demand for such oranges during the period specified. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

DATES: Regulation 692 (7 CFR part 907) is effective for the period from November 3 through November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR part 907) as amended, regulating the handling of navel oranges grown in Arizona and designated parts of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,065 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented 85 percent of the total production in 1988–89. District 2 is located in the southern coastal area of California and represented 13 percent of 1988–89 production; District 3 is the desert area of California and Arizona, and it represented approximately 1 percent; and District 4, which represented approximately 1 percent, is northern California. The Committee's estimate of 1989–90 production is 73,350 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 70,633 cars during the 1988–89 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona navel oranges. The Committee estimates that about 68 percent of the 1989–90 crop of 73,350 cars will be utilized in fresh domestic channels (49,500 cars), with the remainder being exported fresh (10 percent) or processed (22 percent). This compares with the 1988–89 total of 45,581 cars shipped to fresh domestic markets, about 64 percent of the crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Although information available on the current season is limited, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are incurred by handlers of navel oranges. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for navel oranges tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits to growers, particularly smaller growers. Therefore, if a "significant economic impact on a substantial number of small entities" would be present, this impact would be positive rather than adverse.

At the beginning of each marketing year, the Committee submits a

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marketing policy to the U.S. Department of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Schlatter. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate. A "Notice of Marketing Policy" (notice), which summarized the Committee's marketing policy was prepared by the Department and published in the October 19, 1989, issue of the **Federal Register** (54 FR 42966). The purpose of the notice was to allow public comment on the Committee's marketing policy and the impact of any regulations on small business activities.

The notice provides a 30-day period for the receipt of comments from interested persons. That comment period will end on November 20, 1989. The Department will analyze all comments received, and the analysis will be made available to interested persons. That analysis will assist the Department in evaluating the marketing policy and considering the issuance of weekly volume regulations.

This action is consistent with the 1989–90 marketing policy adopted by the Committee. The Committee met publicly on October 31, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of seven to two with two abstentions, that 1,100,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. This amount is 100,000 cartons less than estimated in the tentative shipping schedule adopted by the Committee on October 3, 1989. Of the 1,100,000 cartons, 1,056,000 are alloted for District 1, and 44,000 are allotted for District 3. Districts 2 and 4 are not regulated as they do not have a sufficient quantity of fruit available for current shipment.

During the week ending on October 28, 1989, shipments of navel oranges to fresh domestic markets, including Canada, totaled 323,000 cartons compared with 110,000 cartons shipped during the week ending on October 27, 1988. Export shipments totaled 26,000 cartons compared with 1,000 cartons shipped during the week ending on October 27, 1988, and processing and other uses accounted for 78,000 cartons compared with 35,000 cartons shipped during the week ending on October 27, 1988.

Fresh domestic shipments to date this season total 456,000 cartons compared with 146,000 cartons shipped by this time last season. Export shipments total 30,000 cartons compared with 1,000 cartons shipped by this time last season. Processing and other use shipments total 122,000 cartons compared with 47,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on October 28 was $9.88 per carton based on a reported sales volume of 205,000 cartons compared with last week's average of $11.77 per carton on 72,000 cartons. The season average f.o.b. shipping point price to date is $10.53 per carton. Average f.o.b. shipping point prices for comparable periods last season are not available.

The Committee reports that the market is good for larger sizes (72's and larger) and weak for smaller sizes (113's and smaller). Committee members also stated that there is a large amount of fruit available for shipment and that some price discounting is occurring.

According to the National Agricultural Statistics Service, the 1988–89 season average fresh equivalent on-tree price for California-Arizona navel oranges was $3.86 per carton, 65 percent of the season average parity equivalent price of $5.98 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the point estimate of the 1989–90 season average fresh on-tree price would be $4.30 per carton. This is equivalent to 66 percent of the projected season average fresh on-tree parity equivalent price of $6.54 per carton. It is currently estimated that there is less than a one percent probability that the 1989–90 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of navel oranges that may be shipped during the period from November 3 through November 9, 1989, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market. By using provisions contained in the navel orange marketing order, handler shipments could exceed 1,320,000 cartons during the week.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until October 31, 1989, and this action needs to be effective for the regulatory week which begins on November 3, 1989. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers have been apprised of the provisions of this rule and the effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Arizona, California, Marketing agreements and orders, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.992 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 907.992 Navel Orange Regulation 692.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 3 through November 9, 1989, is established as follows:

(a) District 1: 1,056,000 cartons;
(b) District 2: unlimited cartons;

(c) District 3: 44,000 cartons;
(d) District 4: unlimited cartons.

Dated: November 1, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89–26129 Filed 11–2–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 690]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 690 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 293,088 cartons during the period from November 5 through November 11, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 690 (7 CFR part 910) is effective for the period from November 5 through November 11, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989–90. The Committee met publicly on October 31, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is moderate.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.990 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.990 Lemon Regulation 690.

The quantity of lemons grown in California and Arizona which may be handled during the period from November 5, 1989, through November 11, 1989, is established at 293,088 cartons.

Dated: November 1, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89–26128 Filed 11–2–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1036

[DA–89–036]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Temporary Revision of Supply Plant Shipping Percentages and Cooperative Association Delivery Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action increases temporarily the percentage of producer milk receipts that must be shipped by pool supply plants operated by both proprietary and cooperative association handlers under the Eastern Ohio-Western Pennsylvania milk order (Order 36). The action increases the percentage of milk that must be shipped by pool supply plants to fluid milk processing plants from 40 percent to 45 percent during the remaining portion of October and for November 1989, and from 30 percent to 35 percent in the months of December 1989-February 1990. The action also increases the percentage of producer milk marketed by a cooperative association that must be delivered to distributing plants to qualify plants operated by the cooperative association for pool status from 35 percent to 40 percent for the remaining portion of October through February 1990. Increases of 10 percentage points in the minimum performance standards for pool supply plants were requested by two proprietary handlers who need more

milk for their fluid milk processing plants that are pooled under Order 36. The more conservative increases of 5 percentage points for the remaining portion of October and for the months of

Statement of Consideration

This action increases by 5 percentage points the shipping and delivery percentages for pool supply plants and

fluid milk requirements beginning with the end of that month. Proponents estimated that their supply shortfalls would amount to approximately 10–20 percent of their total Grade A milk

could obtain adequate milk for their packaging operations if they were willing to pay competitive prices. Certain of these market suppliers indicated that they had offered to sell

months for which data is available [May–August 1989] were 5.0 percent below the same four months of 1988 while Class I use by regulated handlers in such 4-month period was 5.1 percent

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

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milk for their fluid milk processing plants that are pooled under Order 36. The more conservative increases of 5 percentage points for the remaining portion of October and for the months of November 1989 through February 1990 are deemed adequate to assure consumers in that area of an adequate supply of fluid milk products.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Shipping Percentages and Cooperative Association Delivery Requirements: Issued September 18, 1989; published September 22, 1989 (54 FR 38999).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action provides greater assurance that an adequate supply of fresh fluid milk will be available to consumers.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of § 1036.7(f) of the order.

Notice of proposed rulemaking was published in the **Federal Register** (54 FR 38999) concerning a proposal to increase the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations. An increase of 10 percentage points in shipping requirements was proposed to be effective for an indefinite period beginning with the month of October 1989. The public was afforded the opportunity to comment on the proposal by submitting written data, views and arguments by September 29, 1989. Comments were received from several interested parties and they are dealt with in the following statement of consideration.

Statement of Consideration

This action increases by 5 percentage points the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations. The higher standards would apply for the remaining portion of the month of October 1989 and for the months of November 1989-February 1990. Specifically, the pool supply plant shipping percentages would be increased from 40 percent to 45 percent for the remaining portion of the month of October and for November 1989, and from 30 percent to 35 percent for the months of December 1989-February 1990. Similarly, for the remaining portion of October through February 1990, the percentage of a cooperative association's member producer milk that must be shipped to distributing pool plants or to nonpool plants for Class I purposes if the plants operated by such cooperative are to be considered pool plants would be increased from 35 percent to 40 percent. A cooperative would be permitted to meet the higher delivery requirement on the basis of its deliveries in the current month or during the immediately preceding 12-month period.

Section 1036.7(f) of the Eastern Ohio-Western Pennsylvania milk order allows the Director of the Dairy Division to increase the order's shipping and delivery requirements by up to 10 percentage points for any month for which he finds that such an adjustment is necessary to obtain needed shipments of milk.

United Dairy, Inc. and Hillside Dairy Company, Inc., two proprietary handlers who operate pool distributing plants under the Eastern Ohio-Western Pennsylvania order, requested that the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations be increased by 10 percentage points as soon as possible to enable handlers to provide consumers with an adequate supply of fluid milk products. Proponents asked that the pooling standards be adjusted upward by the maximum allowable amount (10 percentage points). They also proposed that the upward revisions be effective as soon as possible. The request specified no ending date for such higher standards.

Proponents receive the majority of their milk supplies from Milk Marketing, Inc. (MMI), a cooperative association that markets about 40 percent of the milk pooled under Order 36. In mid-August, the cooperative informed proponents that MMI would be unable to supply all of the handlers' Class I fluid milk requirements beginning with the end of that month. Proponents estimated that their supply shortfalls would amount to approximately 10-20 percent of their total Grade A milk requirements. Since the handlers were unable to replace this milk on an economic basis with receipts from other sources, they requested this action.

Several interested parties responded to the notice which invited comments on the handlers' proposal to increase the minimum pooling standards for supply plants and plants operated by cooperative associations. There were wide differences of opinion as to whether the higher standards are warranted and, if so, for how long they should apply.

Three distributing plant operators, Dean Dairy Products Company, Reiter Dairy, Inc., (a subsidiary of Dean Foods) and Superior Dairy, Inc., supported the proposed revision. These handlers stated that they are short of milk now, either because of MMI's supply cutbacks or because the market's current supply/demand situation is unusually tight, and favor the higher performance standards. The handlers believe the temporary revision would make more milk available for their fluid processing operations. They argued that it is difficult, if not impossible, to replace or obtain additional milk at this time because area processors manufacturing Class II and III products are not willing to make local supplies available to fluid milk plants. The handlers stated that recently they have had to purchase supplemental milk from distant sources in Indiana, Michigan and Kentucky to meet their packaging needs. According to the handlers, such supplemental milk purchases have added considerably to their overall raw product costs.

Three supply plant operators (Brewster Dairy, Inc., Miceli Dairy Products Company and Middlefield Cheese), a distributing plant operator and a cooperative association opposed the upward revision of shipping standards. The supply plant operators generally opposed the higher standards because shipping more of their milk supplies to fluid processors would leave less milk available for their manufacturing operations. These handlers argued that since only slightly more than one-half of the market's milk is being used for Class I purposes, there is plenty of milk available for fluid processing.

The supply plant operators stated that the real issue in this particular situation is pricing, not pooling standards. In their comments, the supply plant operators took the position that fluid processors could obtain adequate milk for their packaging operations if they were willing to pay competitive prices. Certain of these market suppliers indicated that they had offered to sell milk to proponents who refused to buy it, apparently because the price was too high.

Oberlin Farms, the distributing plant, stated that it had been able to satisfy all of its milk requirements and saw no reason to revise the order's shipping standards. North Shore Milk Producers, a cooperative association that qualifies its members' milk for pooling through Brewster Dairy, stated that the proposed temporary revision would reduce the volume of milk Brewster Dairy would be able to qualify for pooling, and result in financial harm to the cooperative's members.

The market's primary supplier of raw milk (MMI) supported the handlers' proposal to increase the percentage of milk that pool supply plants must deliver to distributing plants. In its comments, MMI stated that the cooperative has recently received numerous requests for additional milk from Order 36 distributing plants. MMI took the position that the proposed upward revisions in the performance standards are supported by the market's current supply/demand conditions. MMI delivered 62 percent of its Order 36 producer milk to pool distributing plants during August 1989. Such percentage exceeds the percentage of the market's producer milk used in Class I, and is considerably above the 35-percent minimum delivery requirement, which applies in each month for pool plants operated by cooperative associations. Also, it is considerably above the 30-percent minimum shipping standard for August, which applies to pool supply plants that have not qualified for automatic pool plant status on the basis of shipments in previous months. MMI expressed a belief that other supply plants are meeting only minimal shipping requirements.

The National Farmers Organization (NFO) took the position that current marketing conditions may warrant a temporary increase in the pooling standards for supply plants and plants operated by cooperative associations. The producer organization argued that the amount and duration of any increase in the shipping and delivery percentages must be carefully evaluated to avoid causing an adverse and depressing effect on prices paid for producer milk.

As MMI and NFO pointed out in their comments, supply-demand conditions for the Order 36 market have tightened considerably. For instance, receipts of milk from producers during the last four months for which data is available (May-August 1989) were 5.0 percent below the same four months of 1988 while Class I use by regulated handlers in such 4-month period was 5.1 percent above last year. In August 1989, 57.6 percent of the market's producer milk was used for Class I purposes compared with 53.5 percent in August 1988 and 51.7 percent in August 1987. It is also noteworthy that the foregoing comparisons of production and fluid sales reflect information for months when, generally, marketwide Class I sales are lowest and production is highest. If the current production and sales trends continue, it is reasonable to anticipate even tighter supply/demand relationships in the upcoming months when less milk is available and the need for milk for use in fluid products is greater. In view of the foregoing, an upward revision of the shipping percentages is justified. However, based on comments received and other available information, an increase of 5 rather than 10 percentage points in the shipping standards for pool supply plants and delivery standards for pool plants operated by cooperative associations is deemed adequate. These revisions should divide the delivery obligations to fluid processors among the market's suppliers more fairly and equitably than those obligations are divided at present, without requiring greater deliveries than needed.

NFO commented that the upward revisions in the pooling standards should not continue beyond February 1990, while MMI asked that they apply through March 1990. Superior Dairy, Inc., recommended that the higher standards apply until the Director is able to determine that the Class I needs of handlers can be serviced with the order's present pooling standards for supply plants and plants operated by cooperative associations. It is reasonable to limit the applicability of the higher shipping and delivery percentages through February 1990, as NFO suggested. During the months of March through August, supply plants are given automatic pool status if they have met the shipping requirements during the immediately preceding months of September through February. Accordingly, the pooling standards for supply plants and plants operated by cooperative associations are revised upward by 5 percentage points for the remaining portion of October 1989 through February 1990.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this document in the **Federal Register.**

List of Subjects in 7 CFR Part 1036

Dairy products, Milk, Milk marketing orders.

It is therefore ordered, that the following provisions of § 1036.7 (b) and (d) of the Eastern Ohio-Western Pennsylvania order are hereby revised for the remainder of the month of October 1989 through February 1990.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. The authority for 7 CFR part 1036 continues to read as follows:

Authority: (Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

§ 1036.7 [Amended]

2. In § 1036.7(b), the provision "40 percent" is revised to "45 percent" and the provision "30 percent" is revised to "35 percent".

3. In § 1036.7(d), the provision "35 percent" is revised to "40 percent".

Signed at Washington, DC, on: October 30, 1989.

W. H. Blanchard,

Director, Dairy Division.

[FR Doc. 89-25888 Filed 11-2-89; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

RIN 3064-AA65

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is amending part 309 of its regulations

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regarding the disclosure of information to conform to changes required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). In the grant of new regulatory authority to the FDIC over savings associations formerly under the supervisory jurisdiction of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, FIRREA has amended the Federal Deposit Insurance Act to define banks and savings associations collectively as "depository institutions." *See* section 204(c)(1), Pub. L. No. 101–73, 103 Stat. 183 (1989). The changes in nomenclature that are being made are required to comply with the provisions of FIRREA.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: M. Jane Williamson, Assistant Executive Secretary (Operations), Office of the Executive Secretary, (202) 898–3713, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Reason for Adoption Without Prior Notice and Comment

Immediate adoption of this final rule is necessary to conform the existing rule to the provisions of FIRREA, which provides the FDIC with certain authority over savings associations. Because the changes in part 309 of the FDIC's regulations occasioned by the enactment of FIRREA merely involve changes of nomenclature, the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553) are not applicable. The FDIC finds, for the same reason, that it is in the public interest to dispense with the 30-day deferred effective date requirement.

Background

In the grant of new regulatory authority to the FDIC over savings associations formerly under the supervisory jurisdiction of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, FIRREA has amended the Federal Deposit Insurance Act to define banks and savings associations collectively as "depository institutions." *See* section 204(c)(1), Pub. L. No. 101–73, 103 Stat. 183 (1989). Thus, "depository institution" has been substituted in part 309 wherever the term "bank" appears, with a few technical exceptions.

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required under section 553 of the Administrative Procedure Act or any other law, the Regulatory Flexibility Act (5 U.S.C. 601–602) does not apply.

List of Subjects in 12 CFR Part 309

Authority delegations (Government agencies), Disclosure requirements; Freedom of information, Privacy.

For the reasons set out above, 12 CFR part 309 is amended as set forth below.

PART 309—DISCLOSURE OF INFORMATION

1. The authority citation for Part 309 is revised to read as follows:

Authority: 12 U.S.C. 1819 "Seventh" and "Tenth"; 5 U.S.C. 552

2. In 12 CFR 309.2, paragraph (d) is revised to read as follows:

§ 309.2 Definitions.

* * * * *

(d) The term "examination" includes, but is not limited to, formal and informal investigations of irregularities involving suspected violations of Federal or State civil or criminal laws, or unsafe and unsound practices as well as such other investigations as may be conducted pursuant to law;

* * * * *

§§ 309.4 and 309.7 [Amended]

3. In 12 CFR 309.4(a) introductory text and § 309.7(a), remove "Office of Information" and add "Office of Corporate Communications". In § 309.4(a) introductory text remove "(202) 389–4221" and add "202–898–6996". In § 309.7(a) remove "202–389–4221" and add "202–898–6996".

4. In 12 CFR 309.4(f), remove the phrase "commercial and mutual savings banks" and add, in its place, the phrase "commercial banks and state savings banks".

5. In 12 CFR 309.6(c)(3), remove the phrase "the Federal Home Loan Bank Board, any Federal Home Loan Bank" and add, in its place, "the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal Home Loan Bank".

6. In 12 CFR 309.6, the introductory text of paragraph (c)(7)(iii) is revised to read as follows:

§ 309.6 Disclosure of exempt records by FDIC personnel.

* * * * *

(c) * * *

(7) * * *

(iii) Any subsidiary depository institution of a bank holding company or a savings and loan holding company may reproduce and furnish a copy of any report of examination of the subsidiary depository institution to the parent holding company without prior approval of the Director of the Division of Supervision and any depository institution may reproduce and furnish a copy of any report of examination of the disclosing depository institution to a majority shareholder if the following conditions are met:

* * * * *

§§ 309.4 and 309.6 [Amended]

7. In 12 CFR part 309, remove the words "Division of the Bank Supervision" each place they appear and add, in their place, the words "Division of Supervision" in the following places:

(a) Section 309.4(c) introductory text; and

(b) Section 309.6(c) introductory text, (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3), (c)(4)(ii), (c)(4)(iii), (c)(4)(iv), (c)(4)(iv)(B)(*1*), (c)(5) introductory text, (c)(6) introductory text, (c)(7)(i), (c)(7)(ii), (c)(7)(iii) introductory text, (c)(7)(iii)(B)(*3*), (c)(7)(iv), and (c)(11).

§§ 309.2, 309.4, 309.5, 309.6 [Amended]

8. Other than as amended above, in 12 CFR part 309, remove the term "bank" or "banks" each place such term appears (except where any such term is capitalized or preceded by "foreign" or "nonmember") and add, in its place, "depository institution" or "depository institutions" respectively in the following places:

(a) Section 309.2 (a), (f), and (h);

(b) Section 309.4 (a)(1), (d) introductory text (d)(2)(i), (e)(1), and (e)(2);

(c) Section 309.5(h); and

(d) Section 309.6(c)(1) title, (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3), (c)(4)(i), (c)(4)(ii), (c)(4)(iii), (c)(4)(iv)(C), (c)(5) title, (c)(5) introductory text, (c)(6) introductory text, (c)(6)(ii), (c)(7) title (c)(7)(i), (c)(7)(iii) introductory text, (c)(7)(iii)(A), (c)(7)(iii)(B), (c)(7)(iii)(D), and (c)(7)(iv).

By order of the Board of Directors.

Dated at Washington, DC, this 24th day of October, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89–25639 Filed 11–3–89; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-14-AD; Amendment 39-6381]

Airworthiness Directives; Beech Models 19A, B19, M19A, 23, A23, A23A, A23–19, A23–24, B23, C23, A24, A24R, and B24R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Beech Models 19A, B19, M19A, 23, A23, A23A, A23–19, A23–24, B23, C23, A24, A24R, and B24R airplanes, which requires installation of provisions for lubrication and inspection of the aileron push rods. There have been several reports of failure of the aileron push rod forward bearings on Beech Models A23–19, B24R, and C23 airplanes. This action is necessary to prevent failures of these rod ends and possible loss of aileron control.

DATES: *Effective Date:* December 4, 1989.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin No. 2198, dated April 1989, applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Rules Docket at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the cutting of an inspection hole in the wing skins and inspecting the aileron push rods for corrosion and freedom of movement on certain Beech Models 19A, B19, M19A, 23, A23, A23A, A23–19, A23–24, B23, C23, A24, A24R, and B24R airplanes was published in the Federal Register on July 31, 1989 (54 FR 31536). The proposal resulted from several reports of the forward aileron push rod bearings failing. An injury accident was caused by a rod end that failed either before or during take off when the aileron became locked down and lateral control could not be maintained with the remaining aileron. The probable cause of the rod end failure was the lack of adequate lubrication of the push rod bearings. Beech Service Bulletin 2198, dated April 1989, provides a kit to facilitate examination and lubrication of aileron push pull rod ends. The Service Bulletin also calls for a one-time inspection of the rod ends for corrosion with replacement as necessary, and lubrication of the rod end bearings.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change except for minor editorial clarifications.

The FAA has determined that this regulation involves 3500 airplanes at an approximate cost of $370 for each airplane. The total cost is estimated to be $1,295,000. The cost of this modification will not have a significant economic impact on affected owners and operators.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption Of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Beech: Applies to the airplanes listed below, certificated in any category:

Models	Serial Numbers
A23–19, 19A, M19A, B19	MB–1 through MB–818, except MB–814
23, A23, A23A, B23, C23	M–1 through M–1675, except M–1675
A23–24, A24	MA–1 through MA–368
A24R	MC–2 through MC–150
B24R	MC–152 through MC–451, except MC–311 and MC–449

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent the possibility of separation of aileron push rods and possible loss of aileron control, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS), accomplish the following in accordance with Beech Service Bulletin No. 2198, dated April 1989:

(1) Install inspection openings in the wing lower skins.

(2) Inspect the aileron rod ends for corrosion and freedom of movement. If serviceable, lubricate the rod end bearings. If corrosion is evident, prior to further flight replace the rod end with a new P/N 169–380082–3 rod end as specified in the above service bulletin. Corrosion is evident by restriction of movement of the rod ends.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety, may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946–4400.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

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Issued in Kansas City, Missouri, on October 24, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25923 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-226-AD; Amdt 39-6388]

Airworthiness Directives; Boeing Model 727-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727-200 series airplanes, which requires a one-time visual inspection to detect cracks and/or corrosion of the fuselage skin adjacent to stringer (S) 28L and S-28R from body station (BS) 700 to BS 720, and repair, if necessary. This amendment is prompted by a report of a 48-inch crack in the fuselage skin adjacent to S-28 and the failure of an adjacent frame. This condition, if not corrected, could result in rapid decompression of the airplane.

EFFECTIVE DATE: November 20, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Recently, an operator reported a 48-inch corrosion crack on a Boeing 727-200 airplane, line number 964, during a "C" check. The crack was detected adjacent to stringer (S) 28R from body station (BS) 660 to BS 700 and running under the wing to body fairing. Removal of the fairing disclosed that the crack ran an additional 40 inches to BS 720A. Further inspection revealed that the frame at BS 720 was broken.

The crack originated between BS 700 and BS 720, and S-28 and an intercostal. The crack resulted from extensive corrosion and fast fracture of the skin. The airplane had accumulated 46,843 hours and 32,654 cycles. This is the first report of a crack in this area. This condition, if not corrected, could result in rapid decompression of the airplane.

The design of this portion of the fuselage is unique to the Model 727-200 series airplanes.

Airworthiness Directive 76-13-01, Amendment 39-2666, currently requires inspection of this general area on airplanes, line numbers 001 through 765, for corrosion and cracking. The airplanes that have installed the terminating modification specified in that AD are not currently required to be inspected in this area, but are susceptible to this new corrosion and cracking problem.

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-53A0203, dated October 20, 1989, which describes the procedures for a visual inspection to detect cracks and corrosion of the fuselage skin, and repair, if necessary.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time visual inspection of the fuselage skin adjacent to S-28L and S-28R from BS 700 to BS 720, and repair, if necessary, in accordance with the service bulletin previously described. This is considered to be interim action until final action has been identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 727-200 series airplanes, except line numbers 001 through 765 which are currently being subject to the inspection requirements of AD 76-13-01 inspection adjacent to stringer (S) 28L and S-28R from body station (BS) 700 to BS 720), certificated in any category. Compliance is required within the next 15 days after the effective date of this AD, unless previously accomplished within the last 6 months.

To prevent rapid decompression of the airplane, accomplish the following:

A. Conduct an external detailed visual inspection for cracks and corrosion of the fuselage skin adjacent to S-28L and S-28R from BS 700 to BS 720, in accordance with Boeing Alert Service Bulletin 727-53A0203, dated October 20, 1989. Any cracks or corrosion detected must be repaired prior to further flight, in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 20, 1989.

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25920 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-104-AD; Amdt. 39-6389]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection for cracks of the fuselage between body station (BS) 940 and BS 1000 body crown crease beam and the intercostal structure, and repair, if necessary. Investigation has shown that the earlier-produced airplanes are designed differently in this area and are not subject to the addressed cracking. This amendment deletes airplanes, line number 001 through 065, from the applicability of the existing rule.

EFFECTIVE DATE: November 3, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206)431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by revising AD 89-06-03, Amendment 39-6183 (54 FR 13875; April 6, 1989), applicable to Boeing Model 747 series airplanes, to delete airplanes, line number 001 through 065, from the applicability of the existing rule, was published in the **Federal Register** on August 21, 1989 (54 FR 34527).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The Air Transport Association (ATA) of America, commenting on behalf of its members, supported the proposed amendment.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Since this amendment relieves a restriction, it is made effective upon publication in the **Federal Register.**

There are approximately 65 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 48 airplanes of U.S. registry will be affected by this AD, that the actions required by the existing AD will take approximately 16 manhours per airplane to accomplish, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators will be reduced by $30,720.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by amending AD 89-06-03, Amendment 39-6183 (54 FR 13875; April 6, 1989), by revising the applicability statement to read as follows:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-53-2297, dated June 30, 1988, certificated in any category, except line number 001 through 065. Compliance required as indicated, unless previously accomplished.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment amends Amendment 39-6183, AD 89-06-03.

This amendment becomes effective November 3, 1989.

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25922 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-212-AD; Amdt. 39-6382]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

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ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires a one-time inspection and replacement, if necessary, of the horizontal stabilizer hinge fitting backup structure fasteners. This action is prompted by reports that airplanes may have been delivered with undersized fasteners in the horizontal stabilizer hinge fitting back up structure. This condition, if not corrected, could result in detachment of longitudinal braces from the backup fitting with resultant hinge fitting movement adversely affecting airplane controllability.

EFFECTIVE DATE: November 20, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Certain Boeing Model 747 series airplanes may have been delivered with undersized fasteners in the horizontal stabilizer hinge fitting backup structure aft of the body station (BS) 2598 bulkhead. The affected fasteners attach the stabilizer backup fittings to support structure aft of the BS 2598 bulkhead. Undersized or missing fasteners could result in detachment of longitudinal braces from the backup fitting, with resultant hinge fitting movement adversely affecting airplane controllability.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-53A2314, dated July 31, 1989, which describes procedures for inspection of the fastener locations for undersized or missing fasteners, and replacement, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, this AD requires a one-time inspection to determine the presence and proper installation of the horizontal stabilizer hinge fitting backup structure fasteners and replacement, if necessary, in accordance with the service bulletin previously described. Undersized fasteners must be replaced with fasteners of the required diameter prior to further flight.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency resolution under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Alert Service Bulletin 747-53A2314, dated July 31, 1989, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished.

To ensure structural integrity of the horizontal stabilizer hinge fitting backup structure and to prevent possible detachment of longitudinal braces from the backup fitting with resultant hinge fitting movement adversely affecting airplane controllability, accomplish the following:

A. Conduct a one-time inspection for undersized and missing fasteners, in accordance with Boeing Alert Service Bulletin 747-53A2314, dated July 31, 1989. If any fastener is undersized or missing, prior to further flight, install a new fastener in accordance with that service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 20, 1989.

Issued in Seattle, Washington, on October 25, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25024 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-80-AD; Amdt. 39-6384]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-8-100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC-8-100 series airplanes, which requires modification of the propeller alternate feather system. This amendment is prompted by a report of inadvertent operation of both alternate feather switches in lieu of the standby hydraulic pressure switches. This condition, if not corrected, could lead to unexpected loss of thrust and altitude in a critical flight regime.

EFFECTIVE DATE: December 11, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pat Perrotta, Manager, Propulsion Branch, ANE-174, New York Aircraft Certification Office, Engine Propeller Directorate, Federal Aviation Administration, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain de Havilland Model DHC-8-100 series airplanes, which requires modification of the propeller alternate feather system, was published in the **Federal Register** on June 14, 1989 (54 FR 25284).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the intent of the rule, but suggested supplemental descriptive information be included in the Airplane Flight Manual (AFM) regarding the flight crew's operation of the airplane and the microswitches' purpose. The FAA does not concur. Upon further investigation, the FAA has determined that the modification will have no impact on the flight crew's operation of the airplane. The condition lever is to be pulled into feather before selecting alternate feather. The microswitches are solely to prevent inadvertent operation of the alternate feather system, and, therefore, this type of information is inappropriate to be included in the AFM. The system description is in the maintenance manual and pilots' operating handbook.

The commenter also suggested that information should be provided regarding procedures to determine if the microswitches are in operating condition. The FAA does not concur. Functional checks are part of routine maintenance "A" checks.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 91 Model DHC-8-100 series airplanes of the affected design in the worldwide fleet. It is estimated that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The modification kit will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,040.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing of Canada, Ltd., de Havilland Division: Applies to Model DHC-8-100 series airplanes, Serial Numbers 1 through 91, certificated in any category. Compliance is required within the next 400 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent unwanted propeller feathering due to inadvertent activation of the alternate feather switches, accomplish the following:

A. Modify the alternate feather system, in accordance with the Accomplishment Instructions of Boeing of Canada, Ltd., de Havilland Division, Service Bulletin No. 8-61-10, Revision A, dated August 5, 1988.

B. An alternate means of compliance or adjustment of the compliance time which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, New York Aircraft Certification Office.

C. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective December 11, 1989.

Issued in Seattle, Washington, on October 25, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25025 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-10-AD; Amdt. 39-6395]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, which requires inspection of the Number 1 and 3 engine aft mount support fittings, and repair or replacement, if necessary. This amendment is prompted by reports of cracks in the aft engine mount support fittings. This condition, if not corrected, could result in an engine separating from the airplane.

EFFECTIVE DATE: December 11, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Airframe Branch, ANM-120S; telephone (206) 431-1525. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 727 series airplanes, which requires inspection of the Number 1 and 3 engine aft mount support fittings, and repair or replacement, if necessary, was published in the **Federal Register** on July 24, 1989 (54 FR 30721).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters requested the use of an eddy current inspection combined with a visual inspection as an alternative to the proposed detailed visual inspection, in order to eliminate the need to remove the heat exchanger. Since specific inspection guidelines were not presented with the comment, the FAA does not concur with the request. However, as provided by paragraph E., operators may present alternate inspection guidelines to the FAA for consideration as an alternate means of compliance with the AD.

Five commenters requested the initial compliance threshold be extended beyond the proposed 1,000 flight cycles to as much as 3,000 flight cycles. These requests were based on the opinion that service history does not support the 1,000-flight cycle threshold and the proposed threshold does not fit into the normal inspection cycle. The FAA does not concur with the commenters' requests. The 1,000-flight cycle threshold is based on the service history of 18 cracked fittings, including one fitting which was almost completely severed. The commenters provided no technical justification to increase the threshold.

One commenter stated that, in the past, repair data and spare parts were inadequate. The FAA does not consider this to be a problem currently. The manufacturer has advised the FAA that it has increased its spare parts inventory to support this AD. Additionally, paragraph D. of the AD has been revised to identify specific FAA-approved repair drawings.

One commenter requested the proposal be revised to indicate that the repairs be made in accordance with the service bulletin. The FAA does not concur. The Boeing service bulletin specified in this AD does not contain repair procedures. However, as previously mentioned, a list of approved Boeing Repair Drawings has been added to paragraph D. of the AD to provide specific sources for repair information and procedures.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. This change will neither increase the scope of the rule nor increase the economic burden on any operator.

There are approximately 1,710 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,143 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $548,640.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracking in the Number 1 or 3 engine aft mount support fitting, accomplish the following:

A. Conduct a detailed visual inspection for cracks of the Number 1 and Number 3 engine aft mount support fittings, in accordance with Section III.D and Figure 1 of Boeing Service Bulletin 727-54-0017, dated December 22, 1988, in accordance with the following schedule:

1. For airplanes with engine aft mount support fittings made of 7079-T6 material: within the next 1,000 flight cycles or 1 year, after the effective date of this AD, whichever occurs first, unless previously accomplished within the last 2,000 flight cycles.

Note: 7079-T6 material is used in the aft support fitting on the Number 1 engine strut on airplanes line numbers 001 through 883, and the Number 3 engine strut on airplanes line numbers 001 through 880.

2. For airplanes with engine aft support fittings made of 7075-T73 material: prior to the accumulation of 40,000 flight cycles, or within the next 1,000 flight cycles after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 2,000 flight cycles.

Note: 7075-T73 material is used in the aft support fitting on the Number 1 engine strut on airplanes line number 884 and all later airplanes, and the Number 3 engine strut on airplanes line number 881 and all later airplanes.

B. For the initial inspection required in paragraph A., above, as an option to the detailed visual inspection, perform an eddy current inspection of the support fittings outboard of the body skins, and a detailed visual inspection of the support fittings inboard of the body skins, in accordance with Section III.A and Figure 1 of Boeing Service Bulletin 727-54-0017, dated December 22, 1988.

C. Repeat the detailed visual inspection required in paragraph A., above, at intervals not to exceed 3,000 flight cycles.

D. If cracked fittings are found as a result of the inspections required by this AD, prior to further flight, accomplish one of the following:

1. Repair in accordance with Boeing Repair Drawings 65C34829, 65C34830, 65C34993, 65C34581, 65C35114, or 65C34998; or

2. Repair in accordance with a procedure approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; or

3. Replace the cracked fittings.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 11, 1989.

Issued in Seattle, Washington, on October 25, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25926 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-79-AD; Amdt. 39-6393]

Airworthiness Directives; McDonnell Douglas Model DC-10-30 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 89-20-09, applicable to certain McDonnell Douglas Model DC-10-30 and KC-10A (Military) series airplanes, which requires an inspection of the auxiliary hydraulic pump electrical connector sockets to determine if the correct connector sockets are installed, and if not, they must be replaced with sockets of the correct part number. This action corrects the applicability statement published in the **Federal Register** to limit the AD to aircraft listed in McDonnell Douglas Service Bulletin A29-127.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5355.

SUPPLEMENTARY INFORMATION: On September 12, 1989, the FAA issued AD 89-20-09, Amendment 39-6328 (54 FR 39346; September 26, 1989), applicable to McDonnell Douglas Model DC-10-30 and KC-10A (Military) series airplanes, which requires an inspection and change, if necessary, of the auxiliary hydraulic pump electrical connector sockets. The applicability statement should have stated that the affected airplanes are listed in McDonnell Douglas Service Bulletin A29-127, dated March 3, 1989. However, the applicability statement, as published in the **Federal Register**, omitted this important qualifying statement. Therefore, this correction inserts a qualifying statement in the applicability portion of the final rule.

Since this action only corrects an error in the final rule, it has no adverse economic impact and imposes no additional economic burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration corrects § 39.19 of part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By correcting the applicability statement of Amendment 39-6328 (54 FR 39346; September 26, 1989), AD 89-20-09 as follows:

McDonnell Douglas: Applies to Model DC-10-30 and KC-10A (Military) series airplanes, as listed in McDonnell Douglas Service Bulletin A29-127, dated March 3, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

This amendment becomes effective November 3, 1989.

Issued in Seattle, Washington, on October 25, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25921 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ASO-36]

Revision of Transition Area, Lakeland, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Lakeland, FL, Transition Area in the vicinity of the Plant City Airport. The notice of proposed rulemaking mistakenly referred to the Plant City Municipal Airport. The correct name is Plant City Airport. A new Standard Instrument Approach Procedure (SIAP) has been developed to serve Runway 9 based on the Plant City Nondirectional Radio Beacon (NDB). The radius of the existing transition area around the Plant City Airport is increased from 5 to 6.5 miles and an arrival area extension is added west of the airport. The additional controlled airspace is required for protection of Instrument Flight Rules (IFR) aircraft executing the NDB Runway 9 SIAP to the Plant City Airport. Also, minor corrections have been made to the geographic position

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coordinates of the Bartow Municipal, Lakeland Municipal and Winter Haven's Gilbert Airports.

EFFECTIVE DATE: 0901 U.T.C., March 6, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On August 22, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Lakeland, FL, Transition Area (54 FR 34788). The proposed action would enlarge the transition area in the vicinity of the Plant City Airport by increasing its radius from 5 to 6.5 miles and adding an arrival area extension west of the airport. This action was necessary to provide controlled airspace for IFR aircraft executing a recently developed NDB Runway 9 SIAP to the Plant City Airport. Also, minor corrections would be made to the geographic position coordinates of the Bartow Municipal, Lakeland Municipal and Winter Haven's Gilbert Airports. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Lakeland, FL, Transition Area by enlarging the area around the Plant City Airport and adding an arrival area extension west of the airport. This action will provide required airspace protection for IFR aircraft executing a new NDB Runway 9 SIAP to the Plant City Airport. Also, minor changes are made in the geographic position coordinates of the Bartow Municipal, Lakeland Municipal and Winter Haven's Gilbert Airports.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Lakeland, FL [Revised]

That airspace extending upward from 700 feet above the surface within an 6.5-mile radius of Lakeland Municipal Airport (Latitude 27°59'18" N./Longitude 82°00'56"); within a 7-mile radius of Bartow Municipal Airport (Latitude 27°56'36" N./Longitude 81°47'02" W.); within a 6.5-mile radius of Plant City Airport (Latitude 28°00'00" N./Longitude 82°09'40" W.); within three miles each side of the 286° bearing from the Plant City NDB (Latitude 28°00'08" N./Longitude 82°09'23" W.), extending from the 6.5-mile radius area to 8.5 miles west of the NDB; within a 6.5-mile radius of Winter Haven's Gilbert Airport (Latitude 28°03'25" N./Longitude 81°45'25" W.); within 2.5 miles each side of the Lakeland VORTAC 071° radial, extending from the 6.5-mile radius area to the Winter Haven's Gilbert Airport 6.5-mile radius area.

Issued in East Point, Georgia, on October 18, 1989.

Dan Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–25927 Filed 11–2–89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89–AEA–05]

Proposed Revocation of Transition Area; Rehoboth Beach, Delaware

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice cancels the 700 foot Transition Area at the Rehoboth Beach Airport, Rehoboth Beach, DE. As a result of the closure of the Rehoboth Beach Airport, Rehoboth Beach, DE, the Federal Aviation Administration no longer finds it necessary to retain that amount of controlled airspace which was required to accommodate Instrument Approach Procedures to the airport.

EFFECTIVE DATE: 0901 u.t.c. January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917–0857.

SUPPLEMENTARY INFORMATION:

History

On July 7, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the Transition Area at Rehoboth Beach, DE (54 FR 31704). The proposed action would return that controlled airspace which was necessary to contain procedures to that airport. In addition, this airport is closed and is no longer used as a charted reference.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the 700 foot Transition Area for Rehoboth Beach, DE. As a result of the closure of the Rehoboth Beach Airport and the removal of this airport from all charted references, the Federal Aviation Administration finds that the associated Transition Area airspace is no longer required.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation

as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Rehoboth Beach, Delaware [Removed]

By removing the description of the Rehoboth Beach, Delaware Transition Area in its entirety as follows:

"That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (lat. 38°43'10" N., long. 75°07'35" W.) of Rehoboth Aircrafters Airport, Rehoboth Beach, DE, and within 2 miles each side of the Waterloo, DE, VORTAC 144° radial extending from the 5-mile radius area to the VORTAC. This transition area is effective from sunrise to sunset, daily."

Issued in Jamaica, New York, on September 28, 1989.

John D. Canoles,

Manager, Air Traffic Division.

[FR Doc. 89–25928 Filed 11–2–89; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33–6846A; 34–27261A; 35–24954A; 39–2227A; IC–17146A; IA–1205A]

Organization, Functions and Authority Delegations

AGENCY: Securities and Exchange Commission.

ACTION: Technical amendment and correction.

SUMMARY: A technical amendment to § 200.312, specific exemptions, was inadvertently published in the Federal Register at p. 40862 on October 4, 1989. The correct version was published in the Federal Register at p. 24329 on June 7, 1989, and is hereby reinstated by this correction.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Carol K. Scott, Assistant General Counsel (202–272–2472), or Fran L. Paver (202–272–2453), Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure.

Text of Amendments

1. The authority citation for part 200, subpart H, continues to read as follows:

Authority: Pub. L. 93–579, sec. (f), 5 U.S.C. 552a(f), unless otherwise noted.

Section 200.312 is also issued under Pub. L. 93–579, sec. k, 5 U.S.C. 552a(k).

2. Section 200.312 is amended by revising paragraph (a)(8) to read as follows:

§ 200.312 Specific exemptions.

* * * * *

(a) * * *

(8) Rule 2(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission.

* * * * *

3. Amendatory paragraph 5 published on October 4, 1989, at p. 40863 in the first column is removed.

* * * * *

Dated: October 30, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25956 Filed 11–2–89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 38

RIN 1076–AB92

Education Personnel

July 21, 1989.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing a final rule which amends existing regulations that establish requirements of employment, discharge, voluntary services and payment of teachers and other personnel in Bureau of Indian Affairs' operated schools and agency education positions. This action is taken by BIA to establish a basic compensation rate for teachers and counselors in BIA-operated schools in accordance with the Augustus F. Hawkins-Robert T. Stafford Elementary and School Improvement Amendments of 1988 (Pub. L. 100–297).

EFFECTIVE DATE: These regulations shall become effective December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Larry D. Holman, Office of Indian Education Programs, Eastern Navajo Agency, Bureau of Indian Affairs, Department of the Interior, P.O. Box 328, Crownpoint, New Mexico 87313; Telephone (505) 786–6152.

SUPPLEMENTARY INFORMATION: The authority for issuing this rule is Public Law 95–561, the "Education Amendments of 1978" (25 U.S.C. 2011), as amended by Public Law 98–511, Public Law 99–89 and Public Law 100–297. This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The BIA has inserted the amendments required by Public Law 100–297. Specifically, these amendments (1) redesignate 38.6 paragraphs (c) through (e) as paragraphs (d) through (f); (2) add a new paragraph (c); and (3) amend the first sentence in the newly-designated section (d)(1) to comply with section 5114(a) of Public Law 100–297.

Public Law 100–297 requires the Department of the Interior to adopt for teachers and counselors pay rates established under the Defense Department Overseas Teachers Pay and Personnel Practice Act. Therefore, the amendments to this rule, acknowledging the adoption of these pay rates, are mandated by law and to publish for public comment would be impractical and unnecessary. Therefore, the Department concludes under 5 U.S.C. 553(b) that prior publication and public comment are not required.

The Department of the Interior has determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The amendments in this rule contain no information collection or recordkeeping requirement under the Paperwork Reduction Act of 1980 (44

U.S.C. 3501 et seq.). The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The primary author of this document is Larry D. Holman, Agency Superintendent for Education, Eastern Navajo Agency.

List of Subjects in 25 CFR Part 38

Indians-education, Teachers.

For the reasons set forth in the preamble, part 38 of title 25, chapter I of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for 25 CFR part 38 continues to read as follows:

Authority: Sec. 1131 and 1135 of the Act of November 1, 1987 (92 Stat. 2322 and 2327, 25 U.S.C. 2011 and 2015); Secs. 511 and 512 of Pub. L. 98–511; and Secs. 8 and 9 of Pub. L. 99–89 (Indian Education Technical Amendments Act of 1985) and Title V of Pub. L. 100–297 (Indian Education Amendments of 1988).

2. In § 38.6, paragraphs (c) through (e) are redesignated as paragraphs (d) through (f), a new paragraph (c) is added and newly redesignated paragraph (d)(1) introductory text is revised to read as follows:

§ 38.6 Basic compensation for educators and education positions.

* * * * *

(c) *Schedule of compensation rates for teachers and counselors.* The basic compensation for teachers and counselors, including dormitory counselors and homeliving counselors, shall be determined in accordance with rates set by the Defense Department Overseas Teachers Pay and Personnel Practices Act. The schedule used shall be the current published schedule for the school year beginning on or after July 1 of each year.

* * * * *

(d) *Adjusting employee basic compensation rates.* (1) Except for employees occupying positions of teachers and counselors, including dormitory counselors and homeliving counselors, adjustments in an employee's basic compensation made in connection with each contract renewal will be based on the following:

* * * * *

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89–25074 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8269]

RIN 1545-AB47

Installment Method Reporting by Dealers in Personal Property; Change From Accrual to Installment Method Reporting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document supplements final regulations relating to installment method reporting by dealers in personal property published elsewhere in this issue. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980. These regulations affect dealers in personal property and provide them with the guidance necessary to comply with the law.

DATES: The regulations are effective for taxable years ending after October 19, 1980.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Foster, Internal Revenue Service, Attn: CC:CORP:T:R (IA–146–81), Room 4429, Washington, DC 20224. Telephone 202–343–0328 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–0963. The estimated annual burden associated with the collections of information in this final rule is 1 hour per recordkeeper.

This estimate is an approximation of the average time expected to be necessary for a collection of information. It is based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, TR:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (1545–0963), Washington, DC 20503.

Background

On July 28, 1986, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 453A of the Internal Revenue Code and to the Table of OMB Control Numbers (26 CFR Part 602) were published in the **Federal Register** (51 FR 26909). The amendments, which related to the rules applicable to changes from the accrual method to the installment method of accounting by dealers in personal property, were proposed to reflect the modification of those rules by section 2 of the Installment Sales Revision Act of 1980 (Pub. L. No. 96–471, 94 Stat. 2251). No written comments or requests for a public hearing were received with respect to the proposed amendments. Accordingly, this Treasury Decision adopts the proposed amendments with minor revisions.

Availability of the Installment Method

Section 10202 of the Revenue Act of 1987 (Pub. L. No. 100–203, 101 Stat. 1330) amended the rules relating to installment sales by dealers. The amendment, which applies to obligations arising from dispositions made after December 31, 1987, provides that sections 453A and 453C shall not apply (with certain exceptions) to dealer dispositions of personal and real property. Accordingly, the final regulations provide that sales by a dealer may be treated as sales on the installment plan only for sales made on or before December 31, 1987.

Special Analyses

It has been determined that this final rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.441–1 through 1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set out in the preamble, parts 1 and 602 of the Code of Federal Regulations are amended as set forth below.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.453A–3 also issued under 26 U.S.C. 453A.

§§ 1.453–7 and 1.453–8 [Removed]

Par. 2. Sections 1.453–7 and 1.453–8 are removed.

Par. 3. New § 1.453A–3 is added at the appropriate place to read as follows:

§ 1.453A–3 Requirements for adoption of or change to installment method by dealers in personal property.

(a) *In general.* A dealer (within the meaning of § 1.453A–1(c)(1)) may adopt or change to the installment method for a type or types of sales on the installment plan (within the meaning of § 1.453A–1(c)(3) and (d)) in the manner prescribed in this section. This section applies only to dealers and only with respect to their sales on the installment plan.

(b) *Time and manner of electing installment method reporting*—(1) *Time for election.* An election to adopt or change to the installment method for a type or types of sales must be made on an income tax return for the taxable year of the election, filed on or before the time specified (including extensions thereof) for filing such return.

(2) *Adoption of installment method.* A taxpayer who adopts the installment method for the first taxable year in which sales are made on an installment plan of any kind must indicate in the income tax return for that taxable year that the installment method of accounting is being adopted and specify the type or types of sales included within the election. If a taxpayer in the year of the initial election made only one type of sale on the installment plan, but during a subsequent taxable year makes another type of sale on the installment plan and adopts the installment method for that other type of sale, the taxpayer must indicate in the income tax return for the subsequent year that an election is being made to adopt the installment method of accounting for the additional type of sale.

(3) *Change to installment method.* A taxpayer who changes to the installment method for a particular type or types of sales on the installment plan in accordance with this section must, for each type of sale on the installment plan for which the installment method is to be used, attach a separate statement to the income tax return for the taxable year with respect to which the change is made. Each statement must show the method of accounting used in computing taxable income before the change and the type of sale on the installment plan for which the installment method is being elected.

(4) *Deemed elections.* A dealer (including a person who is a dealer as a result of the recharacterization of transactions as sales) is deemed to have elected the installment method if the dealer treats a sale on the installment plan as a transaction other than a sale and fails to report the full amount of gain in the year of the sale. For example, if a transaction treated by a dealer as a lease is recharacterized by the Internal Revenue Service as a sale on the installment plan, the dealer will be deemed to have elected the installment method assuming the dealer failed to report the full amount of gain in the year of the transaction.

(c) *Consent.* A dealer may adopt or change to the installment method for sales on the installment plan without the consent of the Commissioner. However, a dealer may not change from the installment method to the accrual method of accounting or to any other method of accounting without the consent of the Commissioner.

(d) *Cut-off method for amounts previously accrued.* An election to change to the installment method for a type of sale applies only with respect to sales made on or after the first day of the taxable year of change. Thus, payments received in the taxable year of the change, or in subsequent years, in respect of an installment obligation which arose in a taxable year prior to the taxable year of change are not taken into account on the installment method, but rather must be accounted for under the taxpayer's method of accounting in use in the prior year.

(e) *Effective date.* This section applies to sales by dealers in taxable years ending after October 19, 1980, but generally does not apply to sales made after December 31, 1987. For sales made after December 31, 1987, sales by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(l)(2) for certain exceptions to this rule.) For rules relating to sales by dealers in taxable years ending before October 20, 1980, see 26 CFR 1.453–7 and 1.453–8 (rev. as of April 1, 1987).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.10 [Amended]

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.453A–3 * * * 1545–0963".

Approved: August 31, 1989.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–25504 Filed 11–2–89; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 1 and 602

[T.D. 8270]

RIN 1545-AF71

Installment Method Reporting by Dealers in Personal Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to installment method reporting by dealers in personal property. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980 and the Tax Reform Act of 1986. These regulations affect dealers in personal property and provide them with the guidance necessary to comply with the law.

DATES: The regulations are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

FOR FURTHER INFORMATION CONTACT: Paulette C. Galanko, Internal Revenue Service, Attn: CC:CORP:T:R (IA–141–83), room 4429, Washington, DC 20224. Telephone 202–566–3802 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final rule have been

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reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1134. The estimated average burden associated with the collections of information in this final rule is 10 hours per recordkeeper.

This estimate is an approximation of the average time expected to be necessary for a collection of information. It is based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer TR:FP, Paperwork Reduction Project, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (1545-1134), Washington, DC 20503.

Background

On July 28, 1986, proposed amendments to the Income Tax Regulations (26 CFR part 1) providing rules under section 453A of the Internal Revenue Code were published in the Federal Register (51 FR 26903). These amendments related to installment method reporting by dealers in personal property and were proposed to reflect the addition of section 453A to the Code by the Installment Sales Revision Act of 1980 (Pub. L. No. 96-471, 94 Stat. 2247). A public hearing was not held as no written requests for a public hearing were received with respect to the proposed amendments. Accordingly, this Treasury Decision adopts the proposed amendments with the two changes discussed below and certain other minor revisions.

Availability of the Installment Method

Section 10202 of the Revenue Act of 1987 (Pub. L. No. 100-203, 101 Stat. 1330) amended the rules relating to installment sales by dealers. The amendment, which applies to obligations arising from dispositions made after December 31, 1987, provides that sections 453A and 453C shall not apply (with certain exceptions) to dealer dispositions of personal and real property. Accordingly, the final regulations provide that sales by a dealer may be treated as sales on the installment plan only for sales made on or before December 31, 1987.

Revolving Credit Sales

Section 812 of the Tax Reform Act of 1986 (Pub. L. No. 99-514, 100 Stat. 2085) amended the rules relating to sales under a revolving credit plan. The amendment, which applies for taxable years beginning after December 31, 1986, provides that section 453A shall not apply to any disposition of personal property under a revolving credit plan and that all payments to be received with respect to such dispositions are to be treated as received in the year of disposition. Accordingly, the final regulations provide that sales under a revolving credit plan may be treated as sales on the installment plan only for taxable years beginning on or before December 31, 1986.

Income to be Reported

The proposed regulations inadvertently omitted portions of former § 1.453-3 that should have been included in the regulations under section 453A. The omitted paragraphs, relating to determinations of the amount of income to be reported, other permissible accounting methods, and recordkeeping requirements, have been included in § 1.453A-1 of the final regulations.

Special Analyses

It has been determined that this final rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553 (b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.44-1 through 1.483-2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set forth in the preamble, parts 1 and 602 of title 26 of the Code of Federal Regulations are amended as set forth below.

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Sections 1.453A-1 and 1.453A-2 also issued under 26 U.S.C. 453A.

Par. 2. Sections 1.453-1 and 1.453-2 are removed and the following new §§ 1.453A-0 through 1.453A-2 are added in the appropriate place:

§ 1.453A-0 Table of contents.

This section lists the paragraphs and subparagraphs contained in §§ 1.453A-1 through 1.453A-3.

§ 1.453A-1 Installment method of reporting income by dealers in personal property.

(a) In general.
(b) Effect of security.
(c) Definition of dealer, sale, and sale on the installment plan.
(d) Installment plans.
(1) Traditional installment plans.
(2) Revolving credit plans.
(e) Installment income of dealers in personal property.
(1) In general.
(2) Gross profit and total contract price.
(3) Carrying charges not included in total contract price.
(f) Other accounting methods.
(g) Records.
(h) Effective date.

§ 1.453A-2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.

(a) In general.
(b) Coordination with traditional installment plan.
(c) Revolving credit plans.
(d) Effective date.

§ 1.453A-3 Requirements for adoption of or change to installment method by dealers in personal property.

(a) In general.
(b) Time and manner of electing installment method reporting.
(1) Time for election.
(2) Adoption of installation method.
(3) Change to installment method.
(4) Deemed elections.
(c) Consent.
(d) Cut-off method for amounts previously accrued.
(e) Effective date.

§ 1.453A-1 Installment method of reporting income by dealers on personal property.

(a) *In general.* A dealer (as defined in paragraph (c)(1) of this section) may elect to return the income from the sale of personal property on the installment method if such sale is a sale on the installment plan (as defined in paragraphs (c)(3) and (d) of this section). Under the installment method of accounting, a taxpayer may return as income from installment sales in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when the property is paid for bears to the total contract price. For this purpose, gross profit means sales less cost of goods sold. See paragraph (d) of this section for additional rules relating to the computation of income under the installment method of accounting. In addition, see § 1.453A-2 for rules treating revolving credit plans as installment plans for taxable years beginning on or before December 31, 1986.

(b) *Effect of security.* A dealer may adopt (but is not required to do so) one of the following four ways of protecting against loss in case of default by the purchaser:

(1) An agreement that title is to remain in the vendor until performance of the purchaser's part of the transaction is completed;

(2) A form of contract in which title is conveyed to the purchaser immediately, but subject to a lien for the unpaid portion of the selling price;

(3) A present transfer of title to the purchaser, who at the same time executes a reconveyance in the form of a chattel mortgage to the vendor; or

(4) A conveyance to a trustee pending performance of the contract and subject to its provisions.

(c) *Definitions of dealer, sale, and sale on the installment plan.* For purposes of the regulations under section 453A—

(1) The term "dealer" means a person who regularly sells or otherwise disposes of personal property on the installment plan;

(2) The term "sale" includes sales and other dispositions; and

(3) Except as provided in paragraph (d)(2) of this section, the term "sale on the installment plan" means—

(i) A sale of personal property by the taxpayer under any plan for the sale of personal property, which plan, by its terms and conditions, contemplates that each sale under the plan will be paid for in two or more payments; or

(ii) A sale of personal property by the taxpayer under any plan for the sale of personal property—

(A) Which plan, by its terms and conditions, contemplates that such sale will be paid for in two or more payments; and

(B) Which sale is in fact paid for in two or more payments.

(d) *Installment plans*—(1) *Traditional installment plans.* A traditional installment plan usually has the following characteristics:

(i) The execution of a separate installment contract for each sale or disposition of personal property; and

(ii) The retention by the dealer of some type of security interest in such property.

Normally, a sale under a traditional installment plan meets the requirements of paragraph (c)(3)(i) of this section.

(2) *Revolving credit plans.* Sales under a revolving credit plan (within the meaning of § 1.453A-2(c)(1))—

(i) Are treated, for taxable years beginning on or before December 31, 1986, as sales on the installment plan to the extent provided in § 1.453A-2, which provides for the application of the requirements of paragraph (c)(3)(ii) of this section to sales under revolving credit plans; and

(ii) Are not treated as sales on the installment plan for taxable years beginning after December 31, 1986.

(e) *Installment income of dealers in personal property*—(1) *In general.* The income from sales on the installment plan of a dealer may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which the gross profit realized or to be realized on the total sales on the installment plan made during each year bears to the total contract price of all such sales made during that respective year. However, if the dealer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, the income from such sales may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which either:

(i) The gross profit realized or to be realized on the total credit sales made during each year bears to the total contract price of all credit sales during that respective year, or

(ii) The gross profit realized or to be realized on all sales made during each year bears to the total contract price of all sales made during that respective year.

A dealer who desires to compute income by the installment method shall maintain accounting records in such a manner as to enable an accurate computation to be made by such method in accordance with the provisions of this section, section 446, and § 1.446-1.

(2) *Gross profit and total contract price.* For purposes of paragraph (e)(1) of this section, in computing the gross profit realized or to be realized on the total sales on the installment plan, there shall be included in the total selling price and, thus, in the total contract price of all such sales.

(i) The amount of carrying charges or interest which is determined at the time of each sale and is added to the established cash selling price of such property and is treated as part of the selling price for customer billing purposes, and

(ii) In the case of sales made in taxable years beginning on or after January 1, 1960, the amount of carrying charges or interest determined with respect to such sales which are added contemporaneously with the sale on the books of account of the seller but are treated as periodic service charges for customer billing purposes.

Any change in the amount of the carrying charges or interest in a year subsequent to the sale will not affect the computation of the gross profit for the year of sale but will be taken into account at the time the carrying charges or interest are adjusted. The application of this paragraph (e)(2) to carrying charges or interest described in paragraph (e)(2)(ii) of this section may be illustrated by the following example:

Example. X Corporation makes sales on the traditional installment plan. The customer's order specifies that the total price consists of a cash price plus a "time price differential" of 1½ percent per month on the outstanding balance in the customer's account, and the customer is billed in this manner. On its books and for purposes of reporting to stockholders, X Corporation consistently makes the following entries each month when it records its sales. A debit entry is make to accounts receivable (for the total price) and balancing credit entries are made to sales (for the established selling price) and to a reserve account for collection expense (for the amount of the time price differential). In computing the gross profit realized or to be realized on the total sales on the installment plan, the total selling price and, thus, the total contract price for purposes of this paragraph (e) would, with respect to sales made in taxable years beginning on or after January 1, 1960, include the time price differential.

(3) *Carrying charges not included in total contract price.* In the case of sales by dealers in personal property made during taxable years beginning after December 31, 1963, the income from which is returned on the installment method, if the carrying charges or interest with respect to such sales is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

(f) Other accounting methods. If the vendor chooses as a matter of consistent practice to return the income from installment sales on an accrual method (,) such a course is permissible.

(g) Records. In adopting the installment method of accounting the seller must maintain such records as are necessary to clearly reflect income in accordance with this section, section 446 and § 1.446–1.

(h) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but generally does not apply to sales made after December 31, 1987, in taxable years ending after such date. For sales made after December 31, 1987, sales made by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(l)(2) for exceptions to this rule.)

§ 1.453A–2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.

(a) *In general.* If a dealer sells or otherwise disposes of personal property under a revolving credit plan—

(1) Such sales will be treated as sales on the installment plan to the extent provided in paragraph (c) of this section;

(2) Income from sales treated as sales on the installment plan under paragraph (c) of this section may be returned on the installment method; and

(3) Income returned on the installment method is computed in accordance with § 1.453A–1, except that—

(i) The gross profit on such sales is computed without regard to § 1.453A–1(e)(2);

(ii) Under the circumstances described in paragraph (c)(6)(vi) of this section, the taxpayer may, in computing income for a taxable year, treat all such sales as sales made in such taxable year for purposes of applying the gross profit percentage; and

(iii) The rule contained in § 1.453A–1(e)(3) is applied in accordance with paragraph (c)(6)(v) of this section.

(b) *Coordination with traditional installment plan.* A dealer who makes sales of personal property under both a revolving credit plan and a traditional installment plan (1) may elect to report only sales under the traditional installment plan on the installment method, (2) may elect to report only sales under the revolving credit plan on the installment method, or (3) may elect to report both sales under the revolving credit plan and the traditional installment plan on the installment method.

(c) *Revolving credit plans.* (1) To the extent provided in this paragraph (c) sales under a revolving credit plan will be treated as sales on the installment plan. The term "revolving credit plan" includes cycle budget accounts, flexible budget accounts, continuous budget accounts, and other similar plans or arrangements for the sale of personal property under which the customer agrees to pay each billing-month (as defined in paragraph (c)(6)(iii) of this section) a part of the outstanding balance of the customer's account. Sales under a revolving credit plan do not constitute sales on the installment plan merely by reason of the fact that the total debt at the end of a billing-month is paid in installments. The terms and conditions of a revolving credit plan do not contemplate that each sale under the plan will be paid for in two or more payments and thus do not meet the requirements of § 1.453A–1(c)(3)(i). In addition, since under a revolving credit plan payments are not generally applied to liquidate any particular sale, and since the terms and conditions of such plan contemplate that account balances may be paid in full or in installments, it is generally impossible to determine that a particular sale under a revolving credit plan is to be or is in fact paid for in installments so as to meet the requirements of § 1.453A–1 (c)(3)(ii). However, paragraphs (c) (2) and (3) of this section provides rules under which a certain percentage of charges under a revolving credit plan will be treated as sales on the installment plan. For purposes of arriving at this percentage, these rules, in general, treat as sales on the plan those sales under a revolving installment credit plan: (i) Which are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments and (ii) Which are charged to accounts on which subsequent payments indicate that such sales are being paid for in two or more installments.

(2)(i) The percentage of charges under a revolving credit plan which will be treated as sales on the installment plan shall be computed by making an actual segregation of charges in a probability sample of the revolving credit accounts and by applying the rules contained in paragraph (c)(3) of this section to determine what percentage of charges in the sample is to be treated as sales on the installment plan. (See paragraph (c)(5) of this section for rules to be used if some of the sales under a revolving credit plan are nonpersonal property sales (as defined in paragraph (c)(6)(iv) of this section).) Such segregation shall be made of charges which make up the balances in the sample accounts as of the end of each customer's last billing-month ending within the taxable year. (See paragraph (c)(6)(v) of this section for rules to be used in determining which charges make up the balance of an account.) However, in making such segregation, any account to which a sale is charged during the taxable year on which no payment is credited after the billing-month within which the sale is made (hereinafter called the "billing-month of sale") and on or before the end of the first billing-month ending in the taxpayer's next taxable year shall be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan. In order to obtain a probability sample, the accounts shall be selected in accordance with generally accepted probability sampling techniques. The appropriateness of the sampling technique and the accuracy and reliability of the results obtained must, if requested, be demonstrated to the satisfaction of the district director. If the district director is not satisfied that the taxpayer's sample is appropriate or that the results obtained are accurate and reliable, the taxpayer shall recompute the sample percentage or make appropriate adjustments to the original computations in a manner satisfactory to the district director. The taxpayer shall maintain records in sufficient detail to show the method of computing and applying the sample.

(ii) For taxable years ending before January 31, 1964, a taxpayer who has reported for income tax purposes all or a portion of sales under a revolving credit plan as sales on the installment method may apply the percentage obtained for the first taxable year ending on or after such date in determining the percentage of charges under a revolving credit plan for such prior taxable year (or years) which will be treated as sales on the installment plan. However, in computing the percentage to be applied in determining the percentage of charges under a revolving credit plan which will be treated as sales on the installment plan for such prior taxable year (or years), the rule stated in § 1.453A–1(e)(3) shall not apply. See paragraph (c)(6)(v) of this section for rules relating to the application of payments to finance charges for such prior taxable years.

(3) For the purpose of determining the percentage described in paragraph (c)(2) of this section, a charge under a revolving credit plan will be treated as a sale on the installment plan only if such charge is a sale (as defined in paragraph (c)(6) of this section) and meets the following requirements:

(i) The sale must be of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. If the aggregate of sales charged during a billing-month to an account under a revolving credit plan exceeds the required monthly payment, then all sales during such billing-month shall be considered to be of the type which the terms and conditions of such plan contemplate will be paid for in two or more installments. The required monthly payment shall be the amount of the payment which the terms and conditions of the revolving credit contract require the customer to make with respect to a billing-month. If the amount of such payment is not fixed at the date the contract is entered into, but is dependent upon the balance of the account, then such amount shall be the amount that the customer is required to pay (but not including any past-due payments) as shown on the statement either:

(A) For the last billing-month ending within the taxpayer's taxable year or

(B) For the billing-month of sale, whichever method the taxpayer adopts for all accounts. A taxpayer shall not change such method of determining the required monthly payment based upon the balance of the account without obtaining the consent of the district director. In any case where the required monthly payment is not set in accordance with a consistent method used during the entire taxable year, the district director may determine the required monthly payment in accordance with the method used during the major portion of such taxable year if the use of such method is necessary in order to reflect properly the income from sales under a revolving credit plan. The requirements stated in this paragraph (c)(3)(i) may be illustrated by the following examples:

Example (1). Under the terms of a revolving credit plan the required monthly payment to be made by customer A is $20. During the billing-month ending in December, sales aggregating $80 are charged to customer A's account, and during the next billing-month, ending in January, sales aggregating $19.95 and finance charges of $.00 are charged to A's account. Since the aggregate of sales charged to customer A's account during the billing-month ending in December ($80) exceeds the required monthly payment ($20), the terms and conditions of the plan contemplate that the sales charged during such billing-month are of the type which will be paid for in two or more installments. Since the aggregate of sales charged to customer A's account during the billing-month ending in January ($19.95) does not exceed the required monthly payment, the sales making up the aggregate of sales in such billing-month are not of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments.

Example (2). The terms of a revolving credit plan require a payment of 20 percent of the balance of the customer's account as of the end of the billing-month for which the statement is rendered. A customer makes purchases aggregating $25 in the customer's next to the last billing-month ending within the taxpayer's taxable year, and the balance at the end of that month is $150. At the end of the customer's last billing-month ending within the taxpayer's taxable year, the balance of the account has decreased to $110. If the taxpayer determines the required monthly payment by reference to the payment required on the statement for the last billing-month ending within the taxable year and applies such method consistently to all accounts, then the sales making up the $25 aggregate of sales are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. Although such aggregate was less than the $30 payment (20%×$150) required on the statement rendered for the billing-month of sales. It was more than the $22 (20%×$110) that the customer was required to pay on the statement rendered for his last billing-month ending within the taxable year, and thus meets the requirements of this paragraph (c)(3)(i). If, however, the taxpayer determines the required monthly payment by reference to the payment required on the statement for the billing-month of sale, then the sales making up the aggregate of sales during such billing-month do not meet the requirements of this paragraph (c)(3)(i) because such aggregate was less than the $30 payment required on the statement rendered for such month.

(ii) The sale must be charged to an account on which the first payment after the billing-month of sale indicates that the sale is being paid in installments. The first payment after the billing-month of sale indicates that the sale is being paid in installments if, and only if, such payment is an amount which is less than the balance of the account as of the close of the billing-month of sale. For purposes of this paragraph (c)(3)(ii), such balance shall be reduced by any return or allowance credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited to the account, unless the taxpayer demonstrates that the return or allowance was attributable to a charge made in a month subsequent to the billing-month of sale. The requirements stated in this paragraph (c)(3)(ii) may be illustrated by the following examples, in which it is assumed that the taxpayer's annual accounting period ends on January 31.

Example (1). Customer A's revolving credit account shows the following sales and payments:

Month ending	Aggregate sales in month	Payments	Balance
December 20	$150	0	$150
January 20	75	$30	195
February 20	0	195	0

All sales made in the billing-month ending December 20 meet the requirements of this paragraph (c)(3)(ii) because the first payment on the account after such billing-month ($30) was less than the balance of the account as of the close of such billing-month ($150); and none of the sales made in the billing-month ending January 20 meets the requirements of this paragraph (c)(3)(ii) because the balance of the account as of the end of such billing-month was liquidated in one payment. By application of the rules of paragraph (c)(6)(v) of this section, the balance in the account as of the last billing-month ending in the taxable year ($195) consists of $120 of the $150 of sales made in the billing-month ending December 20 and all of the $75 of sales made in the billing-month ending January 20. Therefore, $120 of the account balance meets the requirements of this paragraph (c)(3)(ii) and $75 does not.

Example (2). Customer B's revolving credit account shows the following sales and payments:

Month ending	Aggregate sales in month	Payments	Balance
December 20	$ 50	0	$ 50
January 20	100	0	150

Month ending	Aggregate sales in month	Payments	Balance
February 20	0	$50	100

None of the sales made in the billing-month ending December 20 meets the requirements of this paragraph (c)(3)(ii) because the first payment credited to the account after such billing-month ($50) is not less than the balance of the account as of the close of such month ($50). All of the sales made in the billing-month ending January 20 meet the requirements of this paragraph (c)(3)(ii) because the first payment after such billing-month ($50) is less than the balance of the account as of the close of such month ($150).

Example (3). Customer C's revolving credit account shows the following purchases and credits:

Month ending	Item	Charges	Credits	Balance
January 20	Coat	$55		
	Dress	40		
	Shirt	5		$100
February 20	Return		$5	
	Payments		95	0

None of the sales made in the billing-month ending January 20 meets the requirements of this paragraph (c)(3)(ii) because the first payment credited to the account after such billing-month ($95) was equal to the balance of the account as of the end of such billing-month, $95. For this purpose, the balance of $100 is reduced by the $5 return which was credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited.

(4) The provisions of paragraphs (c)(2) and (3) of this section may be illustrated by the following examples in which it is assumed that the taxpayer is a dealer whose annual accounting period ends on January 31.

Example (1). Customer A's revolving credit ledger account shows the following:

Month ending	Aggregate sales in month [1]	Returns and allowances	Payments	Finance charges	Balance
January 20	$15.00	0	0	0	$15.00
February 20	0	0	0	$0.15	15.15

[1] Including sales of personal property and nonpersonal property sales.

For purposes of the segregation provided for in paragraph (c)(2)(i) of this section, customer A's account will be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan because no payment was credited to that account after the billing-month of sale and on or before February 20.

Example (2). This example is applicable with respect to sales made during taxable years beginning before January 1, 1964. Under the terms of corporation X's revolving credit plan, payments are required in accordance with the following schedule:

Unpaid balance:	Required monthly payment
0 to $99.99	$20
$100 to $199.99	40
$200 to $299.99	60

Customer B's revolving credit ledger account for the period beginning on September 21, 1963, and ending February 20, 1964, shows the following:

Month ending	Aggregate sales in month [1]	Returns and allowances	Payments	Finance charges	Balances
October 20	$55.00	0	0	0	$55.00
November 20	45.00	0	$20.00	$0.35	80.35
December 20	20.00	0	20.00	.60	80.95
January 20	26.00	$5.00	20.00	.51	82.56
February 20	0	10.00	72.56	0	0

[1] Including sales of personal property and nonpersonal property sales.

The three $20 payments and the $5 return or allowance made in the billing-months ending in the taxable year are applied under the rules in paragraph (c)(6)(v) of this section to liquidate the earliest outstanding charges, first to the $55 aggregate of sales in the billing-month ending October 20 and next to $10 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing-month ending January 20, $82.56, is made up as follows:

Remainder of sales in billing-month ending Nov. 20 ($45–$10)	$35.00
Finance charges for billing-month ending Nov. 20	0.35
Sales for billing-month ending Dec. 20	20.00
Finance charge for billing-month ending Dec. 20	0.60
Sales for billing-month ending Jan. 20	26.00
Finance charge for billing-month ending Jan. 20	0.61
Total	82.56

The sales of $35 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of paragraph (c)(3)(i) of this section because the aggregate of sales charged during such billing-month ($45) exceeds the required monthly payment ($20), and such sales meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after the billing-month of sale ($20) is an amount less than the balance of the account as of the close of such month ($80.35). Therefore, $35 of sales will be treated as sales on the installment plan. The $20 aggregate of sales charged during the billing-month ending December 20 does not meet the requirements of paragraph (c)(3)(i) of this section because it is in an amount which does not exceed the required monthly payment ($20). (The finance charge of $0.60 added in the billing-month does not enter into the determination of the aggregate of sales for the month because the term "sales" (as defined in paragraph (c)(6)(i) of this section does not include finance charges). The $26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after such billing-month ($72.56) was equal to the balance of the account as of the close of such billing-month ($72.56). For this purpose, the balance of $82.56 is reduced by the $10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the $82.56 balance of B's account as of the close of the last billing-month ending within corporation X's taxable year, $35 will be treated as sales on the installment plan for purposes of determining the percentage provided for paragraph (c)(2) of this section.

Example (3). This example is applicable with respect to sales made during taxable years beginning after December 31, 1963. Assume the facts in example (2), except that Customer B's revolving credit ledger account is for the period beginning on September 21, 1964 and ending February 20, 1965. Since payments received are first used to liquidate any outstanding finance charges under the rule in paragraph (c)(6)(v) of this section, the $20 payment in December liquidated the $0.35 finance charge accrued at the end of the November billing-month and the $20 payment in January liquidated the $0.60 finance charge accrued at the end of the December billing-month. The balance of the three $20 payments ($59.05) and the $5 return or allowance are applied (under the rules in paragraph (c)(6)(v) of this section) to liquidate the earliest outstanding sales, first to the $55 aggregate of sales in the billing-month ending October 20 and next to $9.05 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing-month ending January 20, $82.56, is made up as follows:

Remainder of sales in billing-month ending Nov. 20 ($45–$9.05)	$35.95
Sales for billing-month ending Dec. 20	20.00
Sales for billing-month ending Jan. 20	26.00
Finance charge for billing-month ending Jan. 20	0.61
Total	82.56

The sales of $35.95 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of paragraph (c)(3)(i) of this section because the aggregate of sales charged during such billing-month ($45) exceeds the required monthly payment ($20), and such sales meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after the billing-month of sale ($20) is an amount less than the balance of the account as of the close of such month ($80.35). Therefore, $35.95 of sales will be treated as sales on the installment plan. The $20 aggregate of sales charged during the billing-month ending December 20 does not meet the requirements of paragraph (c)(3)(i) of this section because it is in an amount which does not exceed the required monthly payment ($20). The $26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after such billing-month ($72.56) was equal to the balance of the account as of the close of such billing-month ($72.56). For this purpose, the balance of $82.56 is reduced by the $10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the $82.56 balance of B's account as of the close of the last billing-month ending within corporation X's taxable year $35.95 will be treated as sales on the installment plan for purposes of determining the percentage provided for in paragraph (c)(2) of this section.

(5) Sales under a revolving credit plan which are nonpersonal property sales (as defined in paragraph (c)(6)(iv) of this section) do not constitute sales on the installment plan. Therefore, the charges under a revolving credit plan must be reduced by the nonpersonal property sales, if any, under such plan, before application of the sample percentage as provided for in paragraph (c)(2)(i) of this section. The taxpayer may treat as the nonpersonal property sales under the plan for the taxable year an amount which bears the same ratio to the total sales under the revolving credit plan made in the taxable year as the total nonpersonal property sales made in such year bears to the total sales made in such year.

(6) For purposes of this paragraph (c)—

(i) The term "sales" includes sales of services, such as a charge for watch repair, as well as sales of property, but does not include finance or service charges.

(ii) The term "charges" includes sales of services and property as well as finance or service charges.

(iii) A billing-month is that period of time for which a periodic statement of charges and credits is rendered to a customer.

(iv) The term "nonpersonal property sales" means all sales which are not sales of personal property made by the taxpayer. Thus, sales of a department leased by the taxpayer to another are nonpersonal property sales. Likewise, charges for services rendered by the taxpayer are nonpersonal property sales unless such services are incidental to and rendered contemporaneously with the sale of personal property, in which case such charges shall be considered as constituting part of the selling price of such property.

(v) Except as otherwise provided in this paragraph (c)(6)(v), each payment received from a customer under a revolving credit plan before the close of the last billing-month ending in the taxable year shall be applied to liquidate the earliest outstanding charges under such plan, notwithstanding any rule of law or contract provision to the contrary. For purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in the taxable year, the taxpayer may apply returns and allowances which are credited before the close of the last billing-month ending in the taxable year either (A) to liquidate or reduce the charge for the specific item so returned or for which an allowance is permitted, or (B) to liquidate or reduce the earliest outstanding charges. The method so selected for applying returns and allowances shall be followed on a consistent basis from year to year unless the district director consents to a change. Additionally, finance or service charges which are computed on the basis of the balance of the account at the end of the previous billing-month (usually reduced by payments during the current billing-month) are accrued at the end of the current billing-month and are therefore considered, for purposes of determining the earliest outstanding charges, as charged to the account after any sales made during the current billing month. However, for purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in a taxable year which began after December 31, 1963, payments received during such year shall be applied first against any finance or service charges which were outstanding at the time such payment was received. The preceding sentence

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shall not apply with respect to a computation made for purposes of applying the rule described in paragraph (c)(2)(ii) of this section.

(vi) The taxpayer shall allocate those sales under a revolving credit plan which are treated as sales on the installment plan to the proper year of sale in order to apply the appropriate gross profit percentage as provided for in § 1.453A–1(e). This allocation shall be made on the basis of the percentages of charges treated as sales on the installment plan which are attributable to each taxable year as determined in the sample of accounts described in paragraph (c)(2) of this section. However, if the taxpayer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, all sales may be considered as being made in the taxable year for purposes of applying the gross profit percentage.

(7) The provisions of this paragraph (c) may be illustrated by the following example:

Example. Corporation X is a dealer and has elected to report on the installment method those sales under its revolving credit plan which may be treated as sales on the installment plan. Corporation X's taxable year ends on January 31, and the total balance of all its revolving credit accounts as of January 31, 1984, is $2,000,000. The total sales made in the taxable year are $10,000,000 of which $500,000 are nonpersonal property sales. The gross profit percentage realized or to be realized on all sales made in the taxable year is 40 percent. The amount of the gross profit contained in the year-end balance of $2,000,000 which may be deferred to succeeding years is computed as follows:

(i) In order to reduce the charges appearing in the year-end balance of revolving credit accounts receivable by the nonpersonal property sales contained therein, corporation X determines the amount of such nonpersonal property sales under the method permitted in paragraph (c)(5) of this section. Corporation X first determines the ratio which total nonpersonal property sales made during the year ($500,000) bears to total sales made during the year ($10,000,000), and then applies the percentage (5 percent) thus obtained to the year-end balance of revolving credit accounts receivable ($2,000,000). The nonpersonal property sales thus determined ($100,000) is subtracted from such year-end balance to obtain the charges under the revolving credit plan appearing in the year-end balance ($1,900,000) to which the sample percentage is to be applied.

(ii) In accordance with generally accepted sampling techniques, the taxpayer selects a probability sample of all revolving credit accounts having balances for billing-months ending in January 1984. The technique employed results in a random selection of accounts with total balances of $100,000.

(iii) Analysis of these sample accounts discloses that of the $100,000 of balances, $10,000 of balances are in accounts on which no payment was credited after a billing-month of sale and on or before the end of the first billing-month ending in the taxable year beginning February 1, 1984. These balances are, therefore, disregarded and not taken into account in the determination of what percentage of sales in the sample is to be treated as sales on the installment plan. Of the remaining $90,000 of balances, the taxpayer determines, by analyzing the ledger cards in the sample, that $63,000 of balances are composed of sales which meet the requirements of paragraphs (c)(3) (i) and (ii) of this section and are thus treated as sales on the installment plan. The remaining $27,000 of balances either did not meet the requirements of paragraphs (c)(3) (i) and (ii) of this section or were not sales (as defined in paragraph (c)(6)(i) of this section). The percentage of charges in the sample treated as sales on the installment plan is, therefore, 70 percent ($63,000 ÷ $90,000).

(iv) The charges in the year-end balance which are to be treated as sales on the installment plan, $1,330,000, are computed by multiplying the charges to which the sample percentage is applied ($1,900,000) by the sample percentage (70 percent).

(v) The deferred gross profit attributable to sales under the revolving credit plan for the taxable year, $532,000, is determined by multiplying the amount treated as sales on the installment plan ($1,330,000), by the gross profit percentage (40 percent). (Corporation X will be able to demonstrate to the satisfaction of the district director that (A) since the gross profit percentage for all sales does not vary materially from the gross profit percentage for all sales made under the revolving credit plan, (B) since only an insubstantial amount of sales included in year-end account balances was made prior to the taxable year, and (C) since the prior year's gross profit percentage does not vary materially from the gross profit percentage for the taxable year, income from sales on the installment plan will be clearly reflected by applying the current year's gross profit percentage for all sales under the revolving credit plan treated as sales on the installment plan.)

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but does not apply for any taxable year beginning after December 31, 1986. For taxable years beginning after December 31, 1986, sales under a revolving credit plan shall not be treated as sales on the installment plan.

OMB Control Numbers Under the Paperwork Reduction Act (26 CFR Part 602)

PART 602—[AMENDED]

Par 3. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par 4. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 1.453A–1 * * * 1545–0152" and "§ 1.453A–2 * * * 1545–0152".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: August 31, 1989.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–25505 Filed 11–2–89; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 301

[T.D. 8271]

RIN 1545–AN01

Disclosure of Information

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending the Income Tax Regulations relating to the disclosure, under section 6103(n) of the Internal Revenue Code, of returns and return information, in connection with the procurement of property and services for purposes of tax administration. These amendments give to the Tax Division, Department of Justice, the authority to make these disclosures under section 6103(n) for Federal tax administration purposes. These amendments affect all disclosures by the Tax Division, Department of Justice, made to any person(s) described in section 6103(n). These amendments apply to all disclosures made after the effective date of this amended regulation.

EFFECTIVE DATE: These amendments to the regulations are effective November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Margo L. Stevens of the Disclosure Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC 20224 (Attention: CC:D:Executive Assistant, Room 3560) (202) 566–3074 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending the Income Tax Regulations relating to the disclosure of returns and return information under section 6103(n) of the Internal Revenue Code (26 CFR 301.6103(n)–1). The Internal Revenue Service published proposed amendments to the Income Tax Regulations relating to the disclosure of returns and return information on January 3, 1989 (54 FR

39). The Internal Revenue Service received one written comment and two telephone inquiries pertaining to the proposed amendments. All three commentators inquired into the type of litigation support that the Tax Division would utilize and about the safeguards to protect against redisclosure of the returns and return information. The Service explained that the Tax Division contemplated the use of outside contractors to process pleadings, correspondence, and the voluminous amounts of documentary evidence involved in large tax cases. These documents would be input into computers and would become part of a data base of case-related documents. This support would enhance the retrievability of the documents for use in the preparation and actual trial of these large tax cases. The Service acknowledged that the proposed amendments were drafted in a way that would allow the Tax Division to utilize outside contractors for other tax administration purposes authorized by 26 U.S.C. 6103(n), although no such other uses are currently contemplated. It was also explained that the proposed amendments included a conforming amendment to § 301.6103(n)–1(d) which already provided for the safeguarding of returns and return information disclosed under section 6103(n). Because no request for a public hearing was received, no hearing was scheduled.

Explanation of Provisions

Section 6103(n) of the Code authorizes the disclosure, pursuant to Treasury regulations, of returns and return information to the extent necessary and in connection with the processing, storage, transmission, and reproduction of returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration. Section 6103(b)(4) of the Code defines "tax administration" to include litigation arising under the internal revenue laws.

Existing § 301.6103(n)–1 of the regulations authorizes disclosures to third parties under section 6103(n) only by officers or employees of the Treasury Department, a State tax agency, or the Social Security Administration, for tax administration purposes. Under the current regulations, the Tax Division, Department of Justice, cannot make disclosures to third parties. These amendments give disclosure authority to the Tax Division, Department of Justice, in order to allow the Tax Division to disclose tax returns and return information for purposes of obtaining litigation support services during the course of litigation arising under the Code. This authority is necessary to enable the Tax Division to procure services from outside contractors in connection with the Tax Division's tax litigation responsibilities.

Special Analyses

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by 5 U.S.C. 553 since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore, a final Regulatory Flexibility Act Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6) and the delayed effective date requirement of 5 U.S.C. 553(d) does not apply.

Drafting Information

The principal author of these amendments to the regulations is James N. Beyer of the Disclosure Litigation Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service, the Office of Chief Counsel, and the Treasury Department participated in developing these amendments to the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate tax, Excise taxes, Filing requirements, Gift tax, Income taxes, Investigations, Law enforcement, penalties, Pensions, Statistics, Taxes.

Accordingly, title 26, part 301 of the Code of Federal Regulations, is amended as follows:

PART 301, PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority for part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * section 301.6103(n)–1 also issued under 26 U.S.C. 6103(n).

§ 301.6103 [Amended]

Par. 2. Section 301.6103(n)–1 is amended as follows:

1. The first sentence of paragraph (a) is amended by removing the language "or" immediately following the phrase "State tax agency", and by adding, immediately following the phrase "the Social Security Administration", the language ", or the Tax Division, Department of Justice,".

2. The first full sentence of the flush language following paragraph (a)(2) is amended by removing the language "or" immediately following the phrase "State tax agency", and by adding, immediately following the phrase "the Social Security Administration", the language ", or the Tax Division, Department of Justice,".

Par. 3. Section 301.6103(n)–1 is amended as follows:

The second sentence for paragraph (d) is amended by removing the language "or" immediately following the phrase "State tax agency", and by adding, immediately following the phrase "the Social Security Administration", the language ", or the Tax Division, Department of Justice,".

Par. 4. Section 301.6103(n)–1 is further amended as follows:

Paragraph (d)(2) is amended by adding, immediately following the phrase "State tax agency,", the language "or to the Tax Division, Department of Justice,".

Dated: October 13, 1989.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–25991 Filed 11–2–89; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Regulatory Program; Reclamation in Lieu of Cash Payment for Civil Penalties

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of an amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment provides the Pennsylvania Department of Environmental Resources (DER) with the discretionary authority to accept reclamation in lieu of cash payment to satisfy civil penalty debts. The amendment is intended to give greater

discretion to the State regulatory authority while maintaining consistency with the corresponding Federal regulations.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings

reclamation work not meet established standards or not be completed.

Paragraph C of the proposed amendment requires that reclamation sites be chosen from a list of

payable upon expiration of the time allowed to request a hearing. The revised amendment provides the operator a 30-day timeframe for cash payment following a determination by

penalty payment. As previously stated, paragraph D of the revised amendment requires that reclamation value be based either on engineering cost estimates prepared by the Monitoring

documents required to implement reclamation as payment need not be part of the program submission.

The Environmental Policy Institute, National Wildlife Federation and Sierra

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discretion to the State regulatory authority while maintaining consistency with the corresponding Federal regulations.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Third Floor, Suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Submission of Amendment
III. Director's Findings
IV. Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Pennsylvania Program

The Secretary of the Interior conditionally approved the Pennsylvania program on July 31, 1982. Information on the background of the Pennsylvania program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of Amendment

By letter dated August 21, 1986 (Administrative Record No. PA 609), the Pennsylvania DER submitted to OSM a proposed amendment to revise the Pennsylvania program. The proposal would change the civil penalty program by providing DER with the option of accepting reclamation of lands affected by mining as legal tender from persons owing civil penalties in lieu of sum certain cash payments. OSM published a notice announcing receipt of this amendment and the opening of a public comment period in the October 3, 1986, **Federal Register** (51 FR 35370). OSM's review of this proposed amendment identified several problems that were communicated to the State in a February 6, 1987, letter (Administrative Record No. PA 633). The DER addressed these problems and submitted a revised proposed amendment on July 26, 1988 (Administrative Record No. PA 698). On October 7, 1988, OSM announced receipt of changes to the amendment and invited public comment on their adequacy (53 FR 39489).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the program amendment submitted on August 21, 1986, and revised on July 26, 1988.

The revised amendment consists of Pennsylvania DER Program Guidance Manual Section I:3:9, Reclamation in Lieu of Cash Payments for Civil Penalties. The amendment provides DER with authority and procedures for accepting reclamation of abandoned mine lands in place of cash payment of civil penalty debts. Specifically, the amendment sets forth qualifications for operator participation, criteria for abandoned mine site selection, methods for determining the value of proposed reclamation, contents of the operator's reclamation proposal, proposal review criteria, Consent Order and Agreement provisions and requirements for inspection and documentation of the work accomplished.

The revised amendment restricts participation to operators who do not own or control mining operations with a demonstrated pattern of willful violations as to indicate an intent not to comply with SMCRA or the approved State program. Although an operator who owes civil penalties is permitted to do reclamation work to pay those penalties, such reclamation does not relieve the original operator who abandoned the site of his liability. DER will continue to pursue enforcement actions against the operator who mined but failed to reclaim the site. These actions include the collection of civil penalties, repayment for reclamation work completed, and listing on DER's Violation Docket and in OSM's Applicant Violator System (Administrative Record No. PA–785).

In a January 29, 1987, letter to the Pennsylvania DER and other state regulatory authorities, OSM established minimum criteria for approval of state program amendments concerning reclamation in lieu of cash payments for civil penalties (Administrative Record No. PA 641). To be approved, a state program amendment must:

1. Identify categories of sites that qualify for reclamation under the program amendment,
2. Specify the criteria and procedures for determining the dollar value of reclamation work to be performed,
3. Contain a plan for evaluating the performance of the reclamation work,
4. Contain timeframes for completion of the reclamation work, and
5. Specify the recourse available to the state regulatory authority should the reclamation work not meet established standards or not be completed.

Paragraph C of the proposed amendment requires that reclamation sites be chosen from a list of reclaimable sites maintained by DER's Bureau of Mining and Reclamation (BMR).

DER will add sites to the list only when further enforcement action is not expected to achieve compliance. Operators may propose sites for approval by BMR's Division of Monitoring and Compliance which are not on the list. In no case will sites that are owned or controlled by the operator or in which the operator has a financial interest be considered for reclamation. Furthermore, enforcement action involving the site must have progressed through bond forfeiture and collection.

Paragraph D of the proposed amendment specifies how the value of the reclamation work will be determined. The calculated value of the reclamation work to be performed must be equal to or more than the amount of the assessed cash penalty. Value calculations must be based either on engineering cost estimates or the cost for bid as determined by DER's Bureau of Abandoned Mine Reclamation.

Paragraph I of the proposed amendment sets forth a plan for evaluating the performance of the reclamation work. Photographs of the reclamation area must be taken by DER personnel before and after the reclamation work is accomplished. Once work is started the site must be inspected on the same schedule as active mining sites. An inspection report must be used to document each inspection. The final inspection report must state that the project is completed and provide details on the work accomplished.

Paragraph G of the proposed amendment requires DER and the operator to execute a Consent Assessment that establishes a date when all parties agree that the reclamation work must be completed. Failure to accomplish specified reclamation by the date certain results in a formal order requiring cash payment of the civil penalty. In the event the operator fails to pay the civil penalty as ordered, DER will implement approved program provisions pertaining to collection of outstanding civil penalties.

The civil penalty provisions at section 518 of SMCRA and the Federal rules at 30 CFR 845.20 do not specify the method of payment for assessed penalties. The Act and Federal rules state that the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing. The revised amendment provides the operator a 30-day timeframe for cash payment following a determination by DER that the specified reclamation has not been achieved. The Pennsylvania program provides a 30-day period to request a formal hearing on all DER actions. The 30-day timeframe to make payment is consistent with the Federal rule and Act which require payment upon expiration of time allowed to request a hearing.

The Director finds that the July 26, 1988, revised amendment satisfies the minimum criteria for approval set forth in his January 29, 1987, letter and incorporates civil penalties and sanctions consistent with section 518 of SMCRA and the requirements at 30 CFR 845.20.

IV. Disposition of Comments

OSM solicited public comment on the proposed amendment as originally submitted on August 21, 1986, and as revised on July 26, 1988. All substantive comments pertained to the amendment as originally submitted. One commenter who commented on the original submission also provided similar comment on the revised amendment. OSM's response to comments is based on the July 26, 1988, revised amendment.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from Federal agencies with an actual or potential interest in the Pennsylvania program. The U.S. Department of Interior's Fish and Wildlife Service (FWS) and the Soil Conservation Service of the U.S. Department of Agriculture (SCS) responded.

The FWS recommended that criteria be included in the Pennsylvania program to ensure that procedures used to implement reclamation in lieu of cash payment are applied in a uniform manner and in such a way that they accomplish the objectives of the civil penalty program. No further explanation was provided by the commenter. OSM agrees that any process to collect payment of assessed penalties must provide the same deterrent value as cash payment. Paragraph D of the amendment requires that the calculated value of the reclamation must be equal to or exceed the assessed cash penalty. Thus, the broad objective of deterring future violations will be achieved. Furthermore, the amendment contains specific procedures which if followed should result in uniform implementation.

The SCS wanted to know how and who would determine the value of reclamation necessary to satisfy civil penalty payment. As previously stated, paragraph D of the revised amendment requires that reclamation value be based either on engineering cost estimates prepared by the Monitoring and Compliance Section in DER District Offices or the cost for bid as determined by the Bureau of Abandoned Mine Reclamation. OSM believes these methods of value determination will ensure compensation equal to or of higher value than the assessed penalty. The SCS also expressed concern that reclamation be conducted in accordance with an erosion and sedimentation control plan. OSM agrees that reclamation must be conducted in a manner that will not adversely impact the surrounding area. Paragraph E(4) of the revised amendment requires that each operator's reclamation proposal include a description of erosion and sedimentation controls. Under paragraph H, reclamation work must conform to the standards and contract specifications applicable to reclamation projects approved under Pennsylvania's Abandoned Mine Reclamation Program.

The SCS recommended that operators participating in the reclamation in lieu of cash payment for civil penalties program be required to sign a statement that they have no present or expected future financial interest in the site to be reclaimed. Paragraph (c) of the revised amendment prohibits the selection of any sites where the operator has a financial interest. Furthermore, the proposed amendment specifically disallows arrangements whereby an operator gains financially by reducing royalty payments to the landowner on different property being mined. OSM believes that these restrictions address the commenters concerns and that the use of a signed statement to enforce the provision is discretionary. This is a matter of State law because SMCRA does not prohibit such an arrangement between operators and landowners.

Several comments were received from organizations representing the coal industry and environmental groups. The Mining and Reclamation Council of America and the Pennsylvania Coal Mining Association (PCMA) supported Pennsylvania's proposal to allow reclamation as payment for assessed civil penalties. The PCMA urged OSM not to include the model Consent Order and Agreement (Exhibit II) as part of the amendment because such documents are subject to frequent change. Following consultation with OSM, DER revised the amendment to include the content and format requirements for Consent Order and Agreement documents. The Director agrees that the language of negotiated settlement documents required to implement reclamation as payment need not be part of the program submission.

The Environmental Policy Institute, National Wildlife Federation and Sierra Club (EPI, et al.) commented on the proposed amendment as a group. EPI, et al. believed the amendment should clearly prohibit the extraction of coal during the reclamation of abandoned mine sites. OSM agrees that there is no statutory authority to allow coal extraction during reclamation and that if it were allowed, such a practice would undermine title V of SMCRA. Paragraph H of the revised amendment specifically requires that the Consent Order and Agreement contain provisions to prohibit the extraction of coal or other marketable material from the reclamation site.

EPI, et al., commented that only those operators who have abated all outstanding violations should be eligible to substitute reclamation for cash payment of assessed penalties. OSM disagrees that eligibility must be contingent upon the abatement of outstanding violations. Federal rules at 30 CFR 845.20 do not require abatement of outstanding violations as a condition for payment of assessed penalties. Paragraph B of the revised amendment specifies operator eligibility based upon a history of timely compliance with previous consent orders and the satisfaction of backfilling obligations on permits held by the operator. Additionally, no qualified applicant can have a demonstrated pattern of willful violations indicating an intent or ability not to comply with the Federal act or State program requirements. OSM believes that these restrictive provisions in the amendment provide adequate assurance that reclamation will be completed and that the amendment is consistent with section 518 of SMCRA.

EPI, et al., stated that the Pennsylvania proposal did not provide a uniform measure of reclamation to be achieved when accepting reclamation work as payment for assessed penalties. OSM agrees that reclamation standards are needed. Paragraph H of the revised amendment states:"* * * reclamation work must conform to the standards and contract specifications applicable to reclamation projects approved under Pennsylvania's Abandoned Mine Land Reclamation Program." Thus Pennsylvania is adopting the same reclamation standards as applied to all other abandoned mine land reclamation projects done by the State.

EPI, et al., stated that the proposal did not specify enforcement sanctions for failure to comply with reclamation

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specified in the agreement. Paragraph G(1) of the revised amendment specifies that failure to perform reclamation as contained in the agreement shall result in cash payment being due 30 days following DER notification. Failure to make payment subjects the operator to the enforcement provisions provided for all penalty debts. OSM finds these requirements consistent with section 516 of SMCRA.

EPI, et al., stated that Pennsylvania's proposal did not provide any meaningful participatory role for the public. OSM disagrees that there is a need for public participation in arranging payment of civil penalties beyond what is already provided under the Pennsylvania program. The Pennsylvania program provides public participation in the civil penalty assessment process by requiring the posting of the time and place of assessment conferences and providing any person the right to attend and speak on matters relative to violation correction, penalty amount and/or payment.

EPI, et al., stated there is potential for abuse when reclamation is allowed as a substitute for cash payment of civil penalties and recommended that OSM undertake a special study of the first twelve months of the program. The amendment under consideration must be evaluated on its merit. OSM believes there are sufficient safeguards to prevent abuse and will evaluate the amendments implementation through current oversight activities.

V. Director's Decision

For the reasons discussed in the finding above, the Director is approving the amendment as submitted to OSM on August 21, 1986, and revised on July 26, 1988.

The Federal rules at 30 CFR part 938 codifying decisions concerning the Pennsylvania program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB.

The Department of Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 26, 1989.

David G. Simpson,

Acting Assistant Director, Eastern Field Operations.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 938—PENNSYLVANIA

1. The authority citations for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 938.15, paragraph (r) is added to read as follows:

§ 938.15 Approval of regulatory program amendments.

* * * * *

(r) The following amendment to the Pennsylvania program as submitted on August 21, 1986, and revised on July 26, 1988, is approved effective November 3, 1989: Pennsylvania Policy Statement entitled Reclamation in Lieu of Cash Payment for Civil Penalties found in Department of Environmental Resources Program Guidance Manual at Section I:3:9, dated July 1, 1988.

[FR Doc. 89-25681 Filed 11-2-89; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3657-3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Reasonably Available Control Technology for Cranston Print Works Co., Webster, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from Cranston Print Work Company, Webster Division Facility located in Webster, Massachusetts. The intended effect of this action is to approve a source-specific RACT determination made by the Commonwealth of Massachusetts in accordance with commitments made in its ozone attainment plan approved by EPA on November 9, 1983 (48 FR 51480). This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on December 4, 1989.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building., Room 2313, Boston, MA 02203; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Lynne A. Hamjian, (617) 565-3250; FTS 835-3250.

SUPPLEMENTARY INFORMATION: On February 2, 1989 (54 FR 5247), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. Using parallel processing rulemaking procedures, EPA proposed approval of two conditional Plan Approvals issued by the Massachusetts Department of Environmental Protection (DEP) which imposed and defined VOC control methods as RACT for Cranston Print Works Company, Webster Division Facility (Cranston) located in Webster, Massachusetts. This final rulemaking action approves the final, formal SIP revision submitted by the Massachusetts DEP on July 18, 1989. This notice is divided into four parts:

I. Background Information
II. Summary of SIP Revision Including the Changes Made to Secure Final EPA Approval
III. Public Comments
IV. Final Action

I. Background Information

On November 9, 1983 (48 FR 51480), EPA approved Massachusetts Regulation 310 CMR 7.18(17), "Reasonably Available Control Technology (RACT)," as part of the Commonwealth of Massachusetts 1982 ozone attainment plan. This regulation requires the Massachusetts DEP to determine and impose RACT on all facilities with the potential to emit one hundred tons per year (TPY) or more of VOC that are not already subject to Massachusetts' regulations developed pursuant to the EPA Control Techniques Guideline (CTG) documents.

On February 4, 1988 and February 29, 1988, the Massachusetts DEP submitted a SIP revision for Cranston to EPA for parallel processing. This SIP revision was composed of two Plan Approvals for Cranston which imposed VOC control requirements as RACT. On February 2, 1989 (54 FR 5247), EPA proposed approval of the two Plan Approvals with the understanding that the Massachusetts DEP would amend the Plan Approvals and submit additional documentation as outlined in the NPR prior to final rulemaking. On July 18, 1989, the Massachusetts DEP formally submitted an amended Plan Approval, dated and effective June 20, 1989, which supercedes the February 1988 Plan Approvals and incorporates all the provisions required by EPA's NPR.

II. Summary of the SIP Revision Including the Changes Made to Secure Final EPA Approval

Cranston is a fabric printing company. It prints fabrics which are used primarily in the high-fashion apparel industry. Its VOC emissions result from two processes, the acid ager process and the fabric printing process.

Acid Ager Process

The acid ager process is controlled by a scrubber which achieves 99% efficiency. The acid ager process and the details of the RACT plan were outlined in the NPR and will not be restated here. EPA's NPR required five changes to the Massachusetts DEP's SIP submittal prior to final rulemaking. How the Massachusetts DEP's July 18, 1989 submittal satisfies the requirements of the NPR for the acid ager process is summarized below:

1. The June 20, 1989 Plan Approval requires that Cranston maintain an overall scrubber efficiency greater than or equal to 99% at all times.
2. The June 20, 1989 Plan Approval requires that the acid ager emissions shall not exceed 0.6 lb/hr.
3. The June 20, 1989 Plan Approval contains additional operating limitations, monitoring provisions, and recordkeeping requirements to ensure that the 99% efficiency of the scrubber is maintained at all times.
4. The Massachusetts DEP formally submitted, and EPA has approved, a revision to the Massachusetts SIP requiring all non-CTG RACT sources subject to 310 CMR 7.18(17) to use EPA-approved test methods (54 FR 9212).
5. The Massachusetts DEP has certified that the inclusion of the acid ager line in the June 20, 1989, Plan Approval is a reasonable outgrowth of the RACT proposal which went to the public hearing on October 7, 1986.

For further details on these changes please refer to the Technical Support Document prepared for this revision which may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Fabric Printing Process

The fabric printing process employs five roller and four rotary screen printing machines. The primary source of VOC emissions from this process was the mineral spirits print paste used on the roller printing machines. Cranston has reduced VOC emissions from its fabric printing operations by reformulation, changes in production schedules, and replacement of the roller printers with screen printers. The RACT emission limit imposed in the February 1988 Plan Approvals was 82.5 lb VOC/1000 lb fabric printed (averaged over 24 hours). The fabric printing process and the details of the RACT plan were outlined in the NPR and will not be restated here. EPA's NPR required that the Massachusetts DEP submit additional documentation prior to final rulemaking. The documentation was required to support that 82.5 lb VOC/1000 lb fabric printed was RACT for this process. The NPR required that the Massachusetts DEP justify why Cranston could not achieve a 65% reduction with add-on control technology, or could not use print pastes with equivalent formulations to those set forth in the Massachusetts SIP's Graphic Arts Regulation. Cranston now complies with limitations equivalent to the SIP's Graphic Arts RACT limitation by using low-solvent print paste formulations. The June 20, 1989, amended Plan Approval requires Cranston to use print pastes which comply at all times with the limits the Massachusetts SIP Graphic Arts Regulation. EPA's NPR required additional changes prior to final rulemaking. How the Massachusetts DEP's July 18, 1989, submittal satisfies the NPR's requirements for the Fabric Printing Process is briefly summarized below:

1. Cross-line averaging is not allowed.
2. The Massachusetts DEP has submitted, and EPA has approved, a SIP revision requiring non-CTG RACT sources subject to 310 CMR 7.18(17) to use EPA-approved test methods (54 FR 9212).
3. The Plan Approval requires Cranston to record the density of the mineral spirits on a daily basis.

For further details on these changes please refer to the Technical Support Document prepared for this revision which may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

III. Public Comments

EPA received a letter of public comment on its proposed approval of the Massachusetts DEP's SIP submittal. The comment letter was submitted by Cranston. The majority of the comments were on the feasibility of compliance with the Massachusetts Graphic Arts Regulation. These comments are no longer relevant because Cranston now complies with coating limits equivalent to Massachusetts Graphic Arts Regulation, and the June 20, 1989, imposes such limits. The two remaining comments are addressed below.

Comment: Cranston commented on EPA's statement that the reduction in VOC emissions from the fabric roller printers is 8% on a daily basis. Cranston claims that EPA compared a 1988 maximum daily emission rate (in the Plan Approval) of 82.5 lb VOC/1000 lb fabric printed with the yearly average emission rate in 1980 of 89.8 lb VOC/1000 lb fabric printed (8% reduction). Cranston states that the correct comparison is to compare the two averages of 89.8 lb VOC/1000 lb fabric printed in 1980 with the average of 38.6 lb VOC/1000 lb fabric printed in 1987. Cranston states that this comparison shows a decrease of 57%.

Response: The average emission rate of 38.6 lb VOC/1000 lb fabric printed was not included as an enforceable condition of the Massachusetts DEP's Plan Approvals. EPA agrees that the reduction (as averaged over a year) was 57%. However, this was not an

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enforceable reduction achieved by Cranston on every day of operation. Cranston could have emitted up to 82.5 lb VOC/lb fabric printed under the previous Plan Approvals; there was no enforceable limit in the Plan Approvals to ensure compliance with a limit of 38.6 lb VOC/lb fabric printed. The Massachusetts DEP's June 20, 1989, revised Plan Approval requires Cranston to use print paste formulations equivalent to those set forth in the Massachusetts Graphic Arts Regulation. This meets the RACT requirements outlined in EPA's NPR and results in an enforceable 69% reduction in the VOC content of the volatile portion of the ink.

Comment: The Company asked for the use of 25% VOC print paste on the screen printers to ensure product quality and to remain competitive in the industry.

Response: The Massachusetts DEP's June 20, 1989, revised Plan Approval requires Cranston to comply with a limitation of 5.4% or less by volume VOC in the volatile portion of the print paste for each print paste formulation. Since the revised Plan Approval still requires a significant overall VOC reduction at the plant, the Massachusetts DEP believes that it is reasonable to allow Cranston to use low-solvent print pastes on the screen printers to give the Company some flexibility in its day-to-day printing operations. The Massachusetts DEP demonstrated that a 93% reduction is still achieved by installation of screen printers (which use low-solvent print pastes rather than no VOC print pastes). EPA concurs with this determination.

IV. Final Action

EPA is approving the Massachusetts DEP's June 20, 1989, Amended Plan Approval imposing RACT on Cranston Print Works Company as a revision to the Massachusetts SIP.

The NPR also required the Massachusetts DEP to submit additional documentation to support the proposed limit of 82.5 lb VOC/1000 lb fabric printed as RACT for the fabric printing process. The NPR stated that EPA would provide the opportunity for comment on the additional documentation submitted by the Massachusetts DEP prior to final approval of this revision. The Massachusetts DEP did not submit additional documentation; it imposed the more stringent Graphic Arts print paste limits on Cranston. Therefore, no additional opportunity for comment is necessary and this action will become effective 30 days from the date of publication.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 12, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

Subpart W, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1120 is amended by adding paragraph (c)(81) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(81) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Quality Engineering on July 18, 1989.

(i) *Incorporation by reference.* (A) Letter from the Massachusetts Department of Environmental Quality Engineering dated July 18, 1989 submitting a revision to the Massachusetts State Implementation Plan.

(B) RACT Approval Addendum for Cranston Print Works Company, Webster Division Facility in Webster, Massachusetts dated and effective June 20, 1989.

(ii) *Additional materials.* Nonregulatory portions of the State submittal.

§ 52.1167 [Amended]

3. Table 52.1167 is amended by adding an additional entry to 310 CMR 7.18(17) to read as follows:

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TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/ subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.18(17)	RACT	6/20/89	11/3/89	[FR citation from published date]	81	RACT for Cranston Print Works Company dated June 20, 1989

[FR Doc. 89–25740 Filed 11–2–89; 8:45 am]

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INTERNATIONAL DEVELOPMENTAL COOPERATION AGENCY

Agency for International Development

48 CFR Parts 706, 714, 715, 716, 731, 732, 736, and 752

[AIDAR Notice 89–6]

Miscellaneous Amendments to Acquisition Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to provide additional guidance and information on the use of AID's special noncompetitive authority (impairment of foreign assistance objectives); use of prior government or prior overseas experience as an evaluation factor; and application of overseas recruitment incentives. In addition, a new requirement for prior approval by the Procurement Executive for use of a cost-sharing contract with an educational institution has been added; and several editorial changes correcting terminology and references, updating office titles, clarifying application, consolidating similar versions of clauses, and insuring internal consistency have been made.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mr. James M. Kelly, Room 1600I, SA–14, Agency for International Development, Washington, DC 20523–1435. Telephone: (703) 875–1534.

SUPPLEMENTARY INFORMATION: The new requirement for prior Procurement Executive approval for use of a cost-sharing contract with an educational institution responds to AID's concern that any cost-sharing requirement fully meet FAR standards and requirements, and not disadvantage those institutions which cannot undertake cost-sharing. The remaining amendments clarify existing policies or procedures based on operating experience over the last few years or make editorial changes correcting, consolidating and clarifying existing coverage; there is no change in basic policy or procedure.

The changes being made by this Notice are not considered significant rules subject to FAR 1.301 or subpart 1.5. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 706, 714, 715, 716, 731, 732, 736, and 752

Government procurement.

For the reasons set out in the Premable, chapter 7 of title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citations in parts 706, 714, 715, 716, 731, 732, 736, and 752 continue to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 706—COMPETITION REQUIREMENTS

Subpart 706.3—Other Than Full and Open Competition

2. Section 706.302–70 is amended by adding a new paragraph (c)(3) to read as follows:

706.302–70 Impairment of foreign aid programs.

* * * * *

(c) * * *

(3) The authority in 706.302–70(b)(3)(i) shall be used only when no other authority provided in FAR 6.302 or AIDAR 706.302 is suitable. The specific foreign assistance objective which would be impaired must be identified and explained in the written determination and finding. Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written determination and finding, and this consultation must be reflected in the determination and finding.

Subpart 706.5—Competition Advocates

706.501 [Amended]

3. Section 706.501, requirement, is amended by removing all references to the "AID senior procurement executive" and replacing them with "AID Procurement Executive".

PART 714—SEALED BIDDING

Subpart 714.4—Opening of Bids and Award of Contract

714.406–3 [Amended]

4. Section 714.406–3, other mistakes disclosed before award, is amended by removing the reference to "Head of the Agency" and replacing it with "Procurement Executive".

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.6—Source Selection

5. Section 715.605–70 is revised to read as follows:

715.605–70 AID specific evaluation factors.

(a) Use of prior AID or other U.S. governmental experience as an evaluation factor is not usually appropriate. If such a criterion is proposed, its use must be approved by the Head of the Contracting Activity; no numerical value may be assigned, nor may such factor be listed as a significant evaluation factor or subfactor without the approval of the Head of the Contracting Activity.

(b) Prior overseas experience and experience in the region or country concerned is often a significant evaluation factor; when it is used, both organizational experience and experience of proposed personnel should be considered. When using prior overseas/regional/country experience as an evaluation factor, it is not to be a controlling factor and may not be assigned a value greater than 10% (e.g., 10 points in a 100 point matrix) without the approval of the cognizant Assistant Administrator or Mission Director.

PART 716—TYPES OF CONTRACTS

Subpart 716.3—Cost Reimbursement Contracts

in excess of the maximum payable annual or daily rate for a Foreign Service Officer Class FS–1, as set forth in the Uniform State/AID/USIA

10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI

establishing an LOC; and § 732.406–70–5, Revocation of the LOC, are amended by removing all references to "M/FM/ PAFD", and replacing them with "PFM/

responsible for both the total AID program in the cooperating country including certain administrative responsibilities set forth in this contract, and for advising AID regarding

752.7019 Participant Training.

For use in any AID direct contract involving training of AID participants.

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PART 716—TYPES OF CONTRACTS

Subpart 716.3—Cost Reimbursement Contracts

6. Section 716.303 is added to read as follows:

716.303 Cost-sharing contracts.

(a) and (b) [Reserved]

(c) *Limitations.* In addition to the limitations specified in FAR 16.301–3, prior approval of the AID Procurement Executive (see 702.170–13) is required in order to use a cost-sharing contract with an educational institution.

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.2—Contracts With Commercial Organizations

7. Section 731.205–6 is amended by revising paragraph (a)(3)(i) to read as follows:

731.205–6 Compensation for personal services.

(a) * * *

(3) * * *

(i) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee's tour of duty overseas. The Contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

* * * * *

Subpart 731.3—Contracts With Educational Institutions

8. Section 731.371 is amended by revising paragraph (a) and paragraph (c)(1) to read as follows:

731.371 Compensation for personal services.

(a) *Salary.* (1) Specific limitations on compensation for personal services are set forth in the contract clauses specified in subsection 752.7007. Contracting Officer approval of salaries in excess of the maximum payable annual or daily rate for a Foreign Service Officer Class FS–1, as set forth in the Uniform State/AID/USIA Regulation, as from time to time amended, will be based upon a memorandum from the technical office and approved by the Assistant Administrator or Mission Director having program responsibility for the project in support of which the contract is written. The technical office is responsible for evaluating the reasonableness of the proposed salary, taking into account such factors as the degree of technical competence required, the scope of supervisory responsibilities involved, the relationship of the proposed salary level to the contractor's customary salary level, and other pertinent information. Copies of all memoranda approved by the Assistant Administrator or Mission Director will be furnished to the Procurement Support Division, Office of Procurement.

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year preceding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

* * * * *

(c) * * *

(1) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas service; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

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Subpart 731.7—Contracts With Nonprofit Organizations

9. Section 731.772 is amended by revising paragraph (c)(1) to read as follows:

731.772 Compensation for personal services.

* * * * *

(c) * * *

(1) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS secion 911 exemption.

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PART 732—CONTRACT FINANCING

Subpart 732.4—Advance Payments

732.406–70–2 [Amended]

10. Paragraph (c) of § 732.406–70–2, Circumstances for use of an LOC, is amended by removing the reference to "Program Accounting and Finance Division (M/FM/PAFD)", and replacing it with "Cash Management and Payment Division (PFM/FM/CMP)".

732.406–70–3 and 732.406–70–5 [Amended]

11. Paragraphs (a), (b) introductory text, (b)(7), (c) introductory text, (d),(e)(1) (ii) and (iii) and (e)(2) introductory text of § 732.406–70–3, establishing an LOC; and § 732.406–70–5, Revocation of the LOC, are amended by removing all references to "M/FM/PAFD", and replacing them with "PFM/FM/CMP".

PART 736—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 736.6—Architect-Engineer Services

12. Section 736.602–2 is revised to read as follows:

736.602–2 Evaluation boards.

(a) and (b) [Reserved]

(c) each evaluation board will include a representative of the Contracting Officer and, as appropriate, the cognizant bureau.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.232–70 [Amended]

13. The contract clause in § 752.232–70, Letter of Credit Advance Payment, is amended as follows:

a. The contract clause date is revised from "(AUG 1984)" to "(OCT 1989)";

b. The reference to "Program Accounting and Finance Division (M/FM/PAFD)" in paragraph (a) of the contract clause is removed and replaced with "Cash Management and Payment Division (PFM/FM/CMP)"; and

c. The references to "M/FM/PAFD" in paragraphs (b) and (d) of the contract clause are removed and replaced with "PFM/FM/CMP".

Subpart 752.70—Texts of AID Contract Clauses

14. Section 752.7013 is revised to read as follows:

752.7013 Contractor-Mission Relationships.

For use in all AID contracts involving performance overseas. Note that paragraph (f) of this clause is applicable only in contracts with an educational institution.

Contractor-Mission Relationships (Oct 1989)

(a) The Contractor acknowledges that this contract is an important part of the United States Foreign Assistance Program and agrees that its operations and those of its employees in the Cooperating Country will be carried out in such a manner as to be fully commensurate with the responsibility which this entails.

(b) The Mission Director is the chief representative of AID in the Cooperating Country. In this capacity, he/she is responsible for both the total AID program in the cooperating country including certain administrative responsibilities set forth in this contract, and for advising AID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. Although the Contractor will be responsible for all professional, technical, and administrative details of the work called for by the contract, it shall be under the guidance of the Mission Director in matters relating to foreign policy. The Chief of Party shall keep the Mission Director currently informed of the progress of the work under the contract.

(c) In the event the conduct of any Contractor employee is not in accordance with the preceding paragraphs, the Contractor's Chief of Party shall consult with the Mission Director and the employee involved and shall recommend to the Contractor a course of action with regard to such employee.

(d) The parties recognize the right of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the discharge from this contract of any third-country national or cooperating-country national when, at the discretion of the Ambassador, the interests of the United States so require. Under these circumstances termination of an employee and replacement by an acceptable substitute shall be at no cost to AID.

(e) If it is determined that the services of such employee shall be terminated, the Contractor shall use its best efforts to cause the return of such employee to the United States or point of origin as appropriate.

[The following paragraph (f) is applicable if the contract is with an educational institution:]

(f) It is understood by the parties that the Contractor's responsibilities shall not be restrictive of academic freedom. Notwithstanding these academic freedoms, the Contractor's employees, while in the Cooperating Country, are expected to show respect for its conventions, customs, and institutions, to abide by applicable laws and regulations, and not to interfere in its internal political affairs.

[End of clause]

752.7018 [Amended]

15. The contract clause in section 752.7018, Health and Accident Coverage for AID Participant Trainees, is amended as follows:

a. The contract clause date is revised from "(AUG 1984)" to "(OCT 1989)";

b. The reference to "M/FM/PAFD" in paragraph (d) introductory text of the contract clause is removed and replaced with "PFM/FM/CMP"; and

c. The reference to "Program Accounting and Finance Division" in paragraph (d)(1) of the clause is removed and replaced with "Cash Management and Payment Division".

16. Section 752.7019 is revised to read as follows:

752.7019 Participant Training.

For use in any AID direct contract involving training of AID participants. Note that paragraphs (d) through (g) of this clause are applicable only when the contract is with an educational institution.

Participant Training (Oct 1989)

(a) *Definitions.* (1) Participant training is the training of any foreign national outside of his or her home country, using AID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her country.

(b) *Applicable regulations.* Proposals for contracts involving training of AID participants, and participant training conducted under an AID contract shall follow the policies established in AID Handbook 10—"Participant Training," except to the extent that specific exceptions to AID Handbook 10 have been provided in this contract. (Handbook 10 may be obtained by submitting a request to the Office of International Training, at the address specified in paragraph (c) of this section.)

(c) *Reporting requirement.* Once each month the Contractor shall submit three copies of form AID 1361–4, "Participant Data Form" to the Office of International Training, AID, Washington, DC 20523.

[The following paragraphs (d) through (g) are applicable if this contract is with an educational institution.]

(d) To the extent foreign country national training is authorized in the schedule of this contract, the contractor shall be reimbursed for the following reasonable and allocable costs incurred in providing training and observation to participants in the United States or other approved location:

(1) Customary tuition and fees of the institution in which the training takes place, as published in catalogs and announcements.

(2) Typing of papers and allowances for required textbooks, the titles of which will be approved by the Contractor.

(3) Travel within the United States or other countries (other than the country of the participant), as approved by the Contractor, including the cost of travel from port of entry into the United States to Contractor's campus to port of embarkation from the United States.

(4) Subsistence while in the United States or in third countries not to exceed maximum AID rates established in AID Handbook 10, as from time to time amended.

(5) Other direct costs authorized in the operational plan or otherwise determined by the Contracting Officer to be allowable in accordance with the general provisions clause of this contract entitled "Allowable Cost and Payment".

(e) Health and accident coverage for foreign-country nationals is governed by the clause of this contract entitled "Health and Accident Coverage for AID Participant Trainees."

(f) For participants assigned to the Contractor for whom specifically-designed courses not otherwise covered in paragraph (d)(1) of this clause are authorized, the

Contractor shall be paid the following in lieu of the costs authorized in paragraph (d)(1) of this clause.

(1) For not exceeding 20 instructional days (days on which such courses are scheduled to meet and are actually conducted):

(i) One participant: $150 for the first day, and $50 per day for each additional day, up to 19 days.

(ii) Groups up to and including 10 participants: for the first day, $150 for the first participant, and $50 for each additional participant. For each additional day, up to 19 days, $50 for each participant.

(2) For more than 20 instructional days or more than 10 participants: The Contractor shall submit a proposal including supporting cost and pricing data to the Contracting Officer for approval.

(g) The Contractor shall prepare and submit to the Office of International Training a non-obligating Project Implementation Order/Participant, AID Form 1380–1, on all participants trained under this contract, in either the United States or a third country.

[End of clause]

17. Section 752.7026 is revised to read as follows:

752.7026 Reports.

For use in all AID contracts for technical or professional services.

Reports (Oct. 1989)

(a) *Reports required.* The Contractor shall prepare the following reports:

(1) A semi-annual, substantive report submitted within 45 days of the end of the period being covered, covering the status of the work under the contract, indicating progress, setting forth plans for the ensuing period, and including recommendations covering the current needs in the fields of activity covered under the terms of this contract.

(2) [This paragraph (a)(2) is applicable to cost reimbursement contracts only.] A semi-annual, administrative report submitted within 45 days of the end of the period being covered, covering expenditures by contract budget category, personnel employed under the contract, and foreign nationals being trained under the contract (if any).

(3) A final report which summarizes the accomplishments of the assignment, methods of work used, and recommendations regarding unfinished work and/or program continuation. The final report shall be submitted within 60 days after completion of the work hereunder unless required date of submission is extended by the Contracting Officer.

(4) Any other reports specified in the Schedule of this contract.

(b) *Distribution of reports.* Copies of reports required under paragraph (a) shall be distributed as follows:

(1) 3 copies to the Contracting Officer;

(2) 4 copies to the Project Officer; and

(3) 2 copies to the Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division, addressed as follows: PPC/CDIE/DI, ACQUISITIONS, Room 209, SA–18, Agency for International Development, Washington, DC 20523.

(c) *General.* (1) The title page of all reports shall include a descriptive title, the author's name(s), contract number, project number and title, contractor's name, name of the AID project office, and the publication or issuance date of the report.

(2) When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

[End of clause]

18. Section 752.7031 is revised to read as follows:

752.7031 Leave and Holidays.

For use in all AID cost-reimbursement contracts for technical or professional services.

Leave and Holidays (Oct. 1989)

(a) *Vacation leave.* (1) The Contractor may grant to its employees working under this contract vacations of reasonable duration in accordance with the Contractor's practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding 26 work days per annum. Reimbursement for vacation leave is limited to the amount earned by employees while serving under this contract.

For regular employees during their tour of duty in the Cooperating Country, vacation leave is provided under this contract primarily for purposes of affording necessary rest and recreation. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve-month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this clause will be forfeited unless the requirements of the project precluded the employee from taking such leave, and the Contracting Officer (with the endorsement of the Mission) approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this section, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve-month period.

(b) *Sick Leave.* Sick leave is earned by employees in accordance with the Contractor's usual practice but not to exceed 13 work days per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately-succeeding tour of duty under this contract. The use of home leave authorized under this clause shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this contract.

(c) *Home leave.* (1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (c)(4) of this clause, under this contract and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 calendar days for each such year of service overseas, provided that such regular employee agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for a shorter period of not less than 1 year of overseas service under the contract if the Mission Director has approved in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States; any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2) or paragraph (c)(3) of this clause shall include the actual days spent in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for salary payments made during home leave if in spite of the undertaking of the new appointment the regular employee, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at home office/campus or at AID/Washington before returning to their post of duty. Consultation at locations other than AID/Washington or home office/campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(7) Except as provided in the schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for TCN or CCN employees.

(d) *Holidays.* Holidays for Contractor employees serving in the United States shall be in accordance with the Contractor's established policy and practice. Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

(e) *Military leave.* Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual practice to each regular employee whose appointment is not limited to 1 year or less and who is a reservist of the United States Armed Forces, provided that such military leave has been approved in advance by the cognizant Mission Director or Assistant Administrator. A copy of any such approval shall be provided to the Contracting Officer.

(f) *Leave Records.* The Contractor's leave records shall be preserved and made available as part of the contractor's records which are required to be preserved and made available by the Examination of Records by the Comptroller General and Audit clauses of this contract.

[End of Clause]

Dated: October 24, 1989.

John F. Owens,

Procurement Executive.

[FR Doc. 89–25963 Filed 11–2–89; 8:45 am]

BILLING CODE 6116–01–M

VOL 54 ISS 212 NO 3 1989 UMI

Proposed Rules

Federal Register
Vol. 54, No. 212
Friday, November 3, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the third quarter, July through September, of 1989. The agenda is issued to provide the public with information about NRC's rulemaking activities. Each issue of the agenda includes information for one quarter of the calendar year. The agenda briefly describes and gives the status for each rule that the NRC is considering, has proposed, or has published with an effective date. It also describes and gives the status of each petition for rulemaking that the NRC is considering.

ADDRESS: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 8, No. 3, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 275–2060 or (202) 275–2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7758, toll-free number (800) 368–5642

Dated at Bethesda, Maryland, this 24th day of October 1989.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 89–25050 Filed 11–2–89; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 89–14]

Minimum Capital Ratio

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is proposing to amend its capital regulation in 12 CFR part 3. Primarily, this amendment would (1) make the definition of capital in 12 CFR 3.2 and in the OCC's risk-based capital guidelines consistent by replacing the definitions of primary and secondary capital with Tier 1 and Tier 2 capital, respectively and (2) change the minimum capital requirement in 12 CFR 3.6 to 3.0% Tier 1 capital-to-total assets (the leverage ratio). The new minimum leverage ratio would operate in conjunction with the OCC's risk-based capital guidelines and would limit the amount of leverage a national bank can undertake. The intended effect of this amendment is to ensure the continued safety and soundness of the national banking system. Certain technical amendments to Interpretive Ruling 3.100 are also proposed in this notice.

DATE: Comments must be submitted on or before January 2, 1990.

ADDRESS: Comments should be mailed or delivered to Docket No. 89–14, Communications Division, 5th Floor, 490 L'Enfant Plaza East, SW., Washington, DC 20219, Attention: Jacqueline England. Comments will be available for inspection and photocopying at this address.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Kelly, National Bank Examiner, Supervision Policy/Research Division, (202) 447–1164; Mark D. Winer, Senior Financial Economist, Economic and Policy Analysis Division, (202) 447–1924; or Robert J. Roth, Attorney, Legal Advisory Services Division, (202)447–1880.

SUPPLEMENTARY INFORMATION:

Background

Since the early 1980s, the OCC has analyzed the capital adequacy of national banks using minimum ratios of primary and total capital to total assets. Similar standards are used by the other Federal bank regulatory agencies. In early 1989, the OCC, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System adopted a risk-based capital standard for all commercial banks. The OCC's final risk-based capital guidelines were published on January 27, 1989 (54 FR 4168). That standard becomes effective for all national banks on December 31, 1990.

When the OCC published its risk-based capital proposal on March 15, 1988, (53 FR 8550), it raised the possibility that the existing minimum capital requirements in 12 CFR part 3 would be replaced by an 8.0 percent minimum risk-based capital standard. However, the OCC stated that, if it determined that a minimum leverage ratio should be retained in addition to risk-based capital, the definition of capital might be modified to be consistent with the one contained in the risk-based capital guidelines. *Id.*

The OCC received 122 comments in response to the risk-based capital proposal. Sixteen commenters discussed whether a minimum leverage ratio should remain in place alongside the new risk-based capital standard. That is, these commenters addressed the issue of whether there should be "tandem capital ratios," with one ratio calculated as a percentage of total assets and the other ratio based on a bank's risk-weighted assets. Most commenters stated that the existing capital requirements should be phased out as quickly as possible to avoid what they perceived as a potentially burdensome dual system of capital maintenance. These commenters stated that retaining a leverage constraint might decrease the incentive offered by

the risk-based capital system to minimize credit risk. They argued that the risk-based test is a superior measure of capital adequacy and, in order to operate effectively, it must not be constrained by the imposition of a separate minimum leverage ratio.

One commenter suggested that some minimum amount of capital should be required in response to the hypothetical possibility of a zero capital requirement. The commenter stated that some capital protection is needed against losses that might result from errors in management judgment, or from any number of other risks not recognized by risk-based capital—*e.g.*, fiduciary liability, underwriting liability, or employee dishonesty. Several commenters addressed the concern about the potential for a zero capital requirement and pointed out that the lower yields associated with relatively riskless assets serve as an inherent constraint against unrestricted growth.

On a related point, another commenter mentioned that, even if the OCC eliminated the present capital adequacy requirements, it should continue using the existing definition of capital for lending limits and other statutory and/or regulatory limits that are based on a bank's capital and/or capital and surplus. The rationale behind this comment was that the existing definition allows banks to include the entire amount of their allowance for loan and lease losses ("ALLL") in capital. The commenter stated that the full ALLL should be included for these purposes, because it is all available to meet risks associated with these statutory and regulatory limitations.

When the final risk-based capital guidelines were published on January 27, 1989, the OCC announced its decision to supplement risk-based capital with a minimum leverage ratio for the following reasons. First, the 8.0 percent minimum risk-based capital standard is designed principally as a measure of credit risk; therefore, there are a number of other banking risks that it does not address—*e.g.*, interest rate risk, operational risk and asset concentrations. Second, the leverage ratio, because it is based upon total, rather than risk-adjusted, assets, will eliminate the possibility for significant leverage that exists under the risk-based capital guidelines.

In order to implement that decision, the OCC, in this notice, is proposing to change the definition of capital in Part 3 to be consistent with the risk-based capital guidelines and adjust the minimum leverage ratio required by 12 CFR part 3. (The definitions of Tier 1 and Tier 2 capital are in § 3.2 of the attached amendments section.) The OCC believes that the changes in the definition of capital, the implementation of a risk-based capital standard, and the proposed minimum leverage ratio together will ensure sufficient capital for national banks. Therefore, the OCC is proposing that the revised leverage ratio become effective concurrent with risk-based capital guidelines on December 31, 1990. Until that date, the current capital requirements based on primary and total capital will remain effective.

This notice of proposed rulemaking also includes technical changes to the OCC's Interpretive Ruling 3.100 (*See* 12 CFR 3.100), which interprets the statutory terms "capital" and "surplus." However, it is not envisioned that these changes would have any substantive impact on those definitions. Thus, it is not intended that this rulemaking would have any effect on the lending limit or other activities that are limited by statute or regulation as a percentage of "capital" and/or "surplus."

Proposed Amendments

Minimum Capital Requirements

The OCC, like other domestic and foreign bank regulators, believes that a bank's capital requirement should be related to the risk associated with its assets and off-balance sheet activities, along with appropriate consideration of other relevant factors. Therefore, the risk-based capital standard, when it becomes effective on December 31, 1990, will be the OCC's primary focus in evaluating the adequacy of a national bank's capital. However, in addition to the minimum risk-based capital requirement, the OCC is proposing to retain a minimum leverage ratio. Under this proposal, a bank would have to meet both the minimum risk-based capital standard and the minimum leverage ratio. A bank that satisfies one minimum requirement, but not the other, would have to raise capital or adjust its portfolio so that it meets both of the requirements. Taken together, the tandem capital requirements establish a coherent, rational approach to bank capital regulation.

Illustration of Tandem Capital Requirements

The clearest way to demonstrate the combined effect of the risk-based capital guidelines and the proposed leverage ratio is with the assistance of some simple illustrations. The data needed to calculate capital ratios for three sample banks are presented in table 1.

TABLE 1.—CAPITAL AND ASSET DATA FOR ILLUSTRATIVE BANKS

[In millions of dollars]

	Bank #1	Bank #2	Bank #3
Tier 1 Capital	500	10	2
Tier 2 Capital	250	[1].875	[2].3
Risk Weighted Assets	10,000	70	25
Total Assets	10,000	100	100

[1] The actual allowance for loan and lease losses is 1 million dollars or one percent of total assets (.01×100=1). However, one-eighth of this is ineligible for inclusion in Tier 2 capital because it exceeds 1.25 percent of risk-weighted assets. These percentages are representative of the average community bank.

[2] In this case, 70 percent of the allowance for loan and lease losses is ineligible for Tier 2 capital because it exceeds 1.25 percent of risk-weighted assets.

Bank #1 is a hypothetical multinational bank. This bank has significant Tier 2 capital made up of the allowance for loan and lease losses, subordinated debt, and preferred stock. The bank also has significant off-balance sheet activities. The inclusion of off-balance sheet activities makes the risk adjusted assets approximately equal to total assets.

Bank #2 is a typical community bank. It has no Tier 2 capital other than the allowance for loan and lease losses. The risk-weighted assets are significantly lower than total assets because (1) many of the bank's assets are in the 50 percent or 20 percent risk-weight categories and (2) almost all of the bank's off-balance sheet activities receive a zero percent conversion factor.

Bank #3 is also a community bank. It is assumed that this bank is trying to minimize its capital levels. It has adopted a two-part strategy of reducing its capital level and rearranging its balance sheet into extremely low risk-weighted assets. The OCC does not expect banks to respond to the risk-based capital guidelines in this fashion. If a bank were to structure its assets in this manner, the proposed leverage ratio is designed to insure adequate capital.

TABLE 2.—CAPITAL RATIOS

	Bank #1 (percent)	Bank #2 (percent)	Bank #3 (percent)
Tier 1 Capital: Risk-Weighted Assets	5.0	14.3	8.0
Tier 1+Tier 2: Risk-Weighted Assets	7.5	15.5	9.2
Tier 1 Capital: Total Assets	5.0	10.0	2.0

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The multinational bank does not meet the minimum capital requirements, even though it meets the minimum leverage ratio. It does not have sufficient capital to meet the 8.0 percent minimum total capital to risk-weighted assets ratio. The bank would have to increase Tier 1 capital, increase Tier 2 capital, decrease its assets or off-balance sheet activities, or rearrange its portfolio into lower risk weight categories to meet the minimum capital requirements. Because the risk-based capital requirements only account for credit risk, this bank also would likely be required to increase its capital levels beyond the 8.0 percent minimum to provide sufficient protection from the other risks inherent in the bank's activities.

Bank #2 has sufficient capital to meet all regulatory requirements. Like most community banks, it is currently operating well above minimum regulatory requirements. We would not expect such a bank to decrease its capital levels solely in response to the new minimum capital requirements.

The second community bank has significantly decreased its capital levels, but, because of changes in its portfolio, the bank continues to meet the risk-based capital requirements. However, it does not meet the minimum leverage ratio requirement. This bank would be forced to shrink its asset size or increase its Tier 1 capital to meet minimum capital requirements. In addition, because many of the items in the low-risk-weight categories may have significant interest rate risk (*e.g.*, mortgage-backed securities), this bank would likely be required to increase its capital levels well above the regulatory minimums.

Improved Capital Standards

Taken as a whole, the new capital framework is designed to strengthen capital in the national banking system by making two important changes. First, risk-based capital provides a refined methodology for relating capital adequacy to the individual risk profile of a particular bank. Second, the new definitions of capital utilized in both the risk-based capital guidelines and the proposed minimum leverage ratio reflect a more stringent capital standard with a strong emphasis on the purest forms of equity capital. This approach significantly reduces the ability of banks to use "soft" capital in fulfilling their capital requirements.

The minimum leverage ratio (capital-to-total assets) is in 12 CFR part 3. The OCC is proposing to amend the minimum capital ratio contained in 12 CFR 3.6 to a level that reflects the impact of the change in the definition of capital and the fact that it will be operating in tandem with the risk-based capital standard. The OCC, in evaluating this issue, contemplated several alternatives to the current minimum capital ratios found in 12 CFR 3.6.

After evaluating the alternatives, the OCC is proposing that, as of December 31, 1990, a national bank will have to satisfy both the minimum risk-based capital standard (7.25 percent until December 31, 1992 and thereafter, 8.0 percent) and the 3.0 percent Tier 1 capital-to-total assets.[2]

Capital standards must provide adequate protection against insolvency. They become counterproductive when they become so burdensome that they deny a bank the ability to compete or to provide a sufficient return to attract investors. The combination of risk-based capital and the proposed leverage ratio together with the new definition of capital provide an adequate level of capital protection for national banks.

Because of the significant changes in the definition of capital, the existing primary and total capital standards are not directly comparable to the proposed 3.0 percent leverage ratio. The definition of Tier 1 capital emphasizes equity capital by not including a number of items that are presently included in primary capital. For example, the allowance for loan and lease losses, cumulative perpetual preferred stock, and mandatory convertible debt which are included in primary capital, are not included in Tier 1 capital. Therefore, one cannot state categorically whether a 3.0 percent leverage ratio is more or less stringent than the current capital requirements. Furthermore, since the proposed leverage ratio would operate in conjunction with risk-based capital, it is inappropriate to view the proposed 3.0 percent Tier 1 requirement as the sole determination of capital adequacy. In fact, in most instances, the amount of capital required under the risk-based capital guidelines will exceed the amount required by the proposed 3.0 percent leverage ratio.

The OCC expects that many more banks will have more difficulty attaining the minimum capital requirements under the new tandem system than under the existing system and that overall, more capital will be required in the national banking system for all banks to meet minimum capital requirements.

The OCC considered, among other options, proposing to maintain the current 6.0 percent capital standard (consisting of 5.5 percent primary capital and 0.5 percent secondary capital), while substituting the new definitions of Tier 1 and Tier 2 capital for primary and secondary capital respectively. On the surface, a 6.0 percent minimum leverage ratio appears to resemble the current total capital requirement. However, because the new capital definitions place several restrictions on particular components that do not exist in the current capital requirements, a revised 6.0 percent leverage ratio using the new definitions would be significantly more severe than the current capital requirements. As a result, maintaining the minimum leverage ratio at 6.0 percent would have two undesirable effects. First, it would require a number of adequately capitalized banks to raise additional capital. Second, it, rather than the risk-based capital standard, would become the operative capital standard for most banks. This is contrary to the OCC's intention for the risk-based capital standard to be the primary focus in the evaluation of capital adequacy.

By limiting the minimum leverage ratio to Tier 1 capital, the OCC would require banks to have pure equity that is readily available to absorb losses. This approach is consistent with the OCC's recently proposed rule on equity insolvency that would change the definition of net worth for the purpose of declaring a national bank insolvent. *See* 54 FR 28072 (July 5, 1989). At present, the OCC declares a bank insolvent under the net worth standard when its primary capital is depleted. As proposed, the OCC would declare a bank insolvent when its equity capital, as opposed to primary capital, is exhausted. The major difference between the use of primary capital and equity capital as the insolvency standard is the exclusion from capital of the bank's allowance for loan and lease losses ("ALLL").

In addition to the capital standards prescribed by the OCC, every national bank must maintain an ALLL that adequately covers the reasonably anticipated losses in its loan portfolio. The OCC will continue to assess the adequacy of a bank's ALLL, relative to the quality of its assets, as part of the normal regulatory supervision of each institution. Thus, the ALLL provides an additional cushion that is available to supplement the protection offered by

[2] The total assets figure, used as the denominator of the leverage ratio, would be calculated by making the following adjustments to the average total assets figure reported in the bank's most recent Call Report. The period-end balance of the allowance for loan and lease losses would be added to the bank's average total assets, which does not include the allowance, and any intangible assets that have been deducted from Tier 1 capital, would also be deducted from average total assets.

both the risk-based capital standard and the proposed leverage ratio.

The minimum leverage ratio represents a floor below which capital may not decrease; the actual capital a bank will be required to hold will be at least as great as the amount that meets the risk-based capital standard and the leverage ratio. However, it is important to note that these capital requirements are minimums. As they have in the past, many banks, on their own initiative, will maintain capital levels that exceed the minimums. Additionally, the OCC will continue to assess both the quality of risk management systems and the level of overall risk in individual banks through the supervisory process and, as at present, will require additional capital as warranted. In other words, the OCC's final supervisory judgment on a bank's capital adequacy, in terms of both risk-based capital and the minimum leverage ratio, will still be based on an assessment of the relevant factors present in each bank and, in the case of most banks, will be higher than the regulatory minimums.

Transition Period

The transition period, announced upon adoption of the risk-based capital guidelines, provides banks with adequate time to raise additional capital or to make changes in the volume or structure of their assets and off-balance sheet activities in anticipation of the new capital standards. If adopted, these amendments to 12 CFR part 3 would become effective on December 31, 1990, and would coincide with the effective date of the risk-based capital guidelines. Therefore, as of that date, banks would be required (1) to comply with the provisions of the risk-based capital guidelines and, (2) to maintain a minimum leverage ratio of at least 3.0 percent Tier 1 capital-to-total assets.

Other Changes

The OCC is also proposing to add a new paragraph prior to paragraph (a) of § 3.100 and to make a few minor, technical corrections in that interpretive ruling. Paragraphs (a) and (c) of § 3.100 are the regulatory provisions interpreting the statutory terms "capital" and "surplus" respectively. The new paragraph, as proposed, will clarify that the definitions of § 3.100 are solely for use in determining statutory limits that are based on the amount of a bank's "capital," and/or "surplus," not its risk-based capital or minimum leverage ratios. Therefore, the proposal will not have any effect on either a bank's lending limit or the size of transactions a bank can permissibly conduct with its affiliates—the two most widely used limits calculated as a percentage of a bank's capital and surplus.

The proposal also amends certain other provisions of 12 CFR part 3 to make the risk-based capital guidelines an essential component in the process of establishing a bank's required minimum capital level. For example, a specific reference to Appendix A of part 3 (risk-based capital guidelines) has been added to § 3.8. That section gives the OCC the authority to establish a higher minimum capital requirement for an individual bank. The proposal makes Appendix A to part 3 an integral component of the formalized establishment of minimum capital ratios for an individual bank under subpart C of 12 CFR part 3. The incorporation of the risk-based capital guidelines into 12 CFR part 3 does not represent a substantive change as Appendix A is binding on national banks when it becomes effective.

Issues for Specific Comment

The OCC is seeking comments on all aspects of the proposed amendments to 12 CFR part 3. The agency especially invites comments on the following issues:

1. The proposed amendments set the minimum leverage ratio at 3.0 percent Tier 1 capital-to-total assets. The OCC is seeking comment on whether a different minimum leverage ratio, for example, 3.0 percent Tier 1 capital-to-total assets *and* 6.0 percent total (Tier 1 plus Tier 2) capital-to-total assets, would be more effective.

2. The proposed amendments do not envision making any substantive changes in the current definition of capital and surplus for the purposes of various statutory limits, such as the lending limit. The OCC is seeking comment on whether it should adjust the definition of capital and surplus in order to have a consistent regulatory definition of capital.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Executive Order 12291

The OCC has determined that this proposal does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a Regulatory Impact Analysis will not be required on the grounds that this revision (1) would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in the cost of bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign or domestic), employment, investment, productivity, or innovation.

List of Subjects in 12 CFR Part 3

National banks, Capital, Leverage, Risk.

Authority and Issuance

For the reasons set forth in the preamble, title 12, chapter I, part 3 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—[AMENDED]

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a, 161, 1818; and 12 U.S.C. 3907 and 3909.

2. Section 3.1 is revised to read as follows:

§ 3.1 Authority.

This part is issued under the authority of 12 U.S.C. 1 *et seq.*, 93a, 161, 1818; and the International Lending Supervision Act of 1983 (Pub. L. 98-181, Title IX, 97 Stat. 1153), 12 U.S.C. 3907 and 3909.

2. Section 3.2, paragraphs (a), (c), (d) and (e) are revised to read as follows:

§ 3.2 Definitions.

For the purposes of this part:

(a) *"Adjusted total assets"* means the average total assets figure required to be computed for and stated in a bank's most recent quarterly "Consolidated Report of Condition and Income" (Call Report), plus the end-of-quarter allowance for loan and lease losses, minus end-of quarter intangible assets that are deducted from Tier 1 capital. The OCC reserves the right to require a bank to compute and maintain its capital ratios on the basis of actual, rather than average, total assets when necessary to carry out the purposes of this regulation.

(b) • • •

(c) *"Tier 1 capital"* means the sum of paragraphs (c) (1), (2), (3) and (4) of this section.

(1) Common stockholders' equity;

(2) Noncumulative perpetual preferred stock and related surplus, excluding preferred stock issues where the dividend rate is reset periodically based upon current market conditions and the bank's current credit rating, including but not limited to Dutch auction, money market or remarketable preferred stock; and

(3) Minority interests in the equity accounts of consolidated subsidiaries.

(4) Deductions from Tier 1 capital:

(i) Unidentifiable intangibles, (*e.g.*,

instruments must meet the following criteria:[1]

(i) The instrument must be unsecured,

Tier 1 capital until December 31, 1992. However, when combined with other qualifying intangible assets, these intangibles are limited to 25 percent of

minimum capital ratios for an individual bank above the ratios that would otherwise be applicable to the bank under § 3.6 or appendix A to this part. The Comptroller is authorized under 12

appropriate, including the issuance of a Directive pursuant to subpart E of this part, other enforcement action, assessment of civil money penalties,

contained in § 3.2 or appendix A to this part.

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(3) Minority interests in the equity accounts of consolidated subsidiaries.

(4) Deductions from Tier 1 capital:

(i) Unidentifiable intangibles, (*e.g.*, goodwill), subject to the transition rules contained in § 3.3.

(ii) Identifiable intangible assets, unless they meet the following criteria:

(A) The intangible asset must be able to be separated and sold apart from the bank or from the bulk of the bank's assets;

(B) The market value of the intangible asset must be established on an annual basis through an identifiable stream of cash flows, and there must be a high degree of certainty that the asset will hold this market value notwithstanding the future prospects of the bank; and

(C) The bank must demonstrate that a market exists which will provide liquidity for the intangible asset;

(5) Intangibles which are not deducted from Tier 1 capital are limited to 25 percent of total Tier l capital; amounts in excess of 25 percent of total Tier I capital must be deducted from Tier 1 capital.

(6) Intangibles not deducted from Tier 1 capital must be valued, for capital adequacy purposes, at the lower of either their current amortized book value or their current market value established as part of the bank's annual audit.

(d) *"Tier 2 capital"* means the sum of paragraphs (d) (1), (2), (3) and (4) of this section, up to 100 percent of the bank's Tier 1 capital.

(1) Allowance for loan and lease losses, up to a maximum of 1.25 percent of risk-weighted assets; however, a national bank may deduct reserves for loan and lease losses in excess of the amount permitted to be included as capital, as well as allocated transfer risk reserves and reserves held against other real estate owned, from the gross sum of risk-weighted assets in computing the denominator of its total risk-based capital ratio;

(2) Cumulative perpetual preferred stock, long-term preferred stock, convertible preferred stock, and any related surplus, if the issuing national bank has the option to defer payment of dividends on these instruments. For long-term preferred stock, the amount that is eligible to be included as Tier 2 capital is reduced by 20 percent of the original amount of the instrument (net of redemptions) at the beginning of each of the last five years of the life of the instrument;

(3) Hybrid capital instruments, *i.e.*, those instruments that combine certain characteristics of debt and equity. To be included as Tier 2 capital, these instruments must meet the following criteria:[1]

(i) The instrument must be unsecured, subordinated to the claims of depositors and general creditors, and fully paid-up;

(ii) The instrument must not be redeemable at the option of the holder prior to maturity, except with the prior approval of the OCC;

(iii) The instrument must be available to participate in losses while the issuer is operating as a going concern (in this regard, the instrument must automatically convert to common stock or perpetual preferred stock, if the sum of the retained earnings and capital surplus accounts of the issuer shows a negative balance); and

(iv) The instrument must provide the option for the issuer to defer principal and interest payments, if

(A) The issuer does not report a net profit for the most recent combined four quarters, and

(B) The issuer eliminates cash dividends on its common and preferred stock.

(4) Term subordinated debt instruments, and intermediate-term preferred stock and related surplus are included in Tier 2 capital, but only to a maximum of 50 percent of Tier 1 capital. To be considered Tier 2 capital, term subordinated debt instruments must meet the requirements of § 3.100(f)(1). Also, at the beginning of each of the last five years of the life of either type of instrument, the amount that is eligible to be included as Tier 2 capital is reduced by 20 percent of the original amount of that instrument (net of redemptions).

(e) *"Total capital"* means the sum of Tier 1 capital and qualifying Tier 2 capital, less the following items:

(1) Investments, both equity and debt, in unconsolidated banking and finance subsidiaries that are deemed to be capital of the subsidiary—the OCC may require deduction of investments in other subsidiaries and associated companies, on a case-by-case basis; and

(2) Reciprocal holdings of bank capital instruments.

3. Section 3.3 is revised to read as follows:

§ 3.3 Transition rules.

Intangible assets, other than those that meet the criteria contained in § 3.2(c)(4)(ii), purchased prior to April 15, 1985, and accounted for in accordance with the instructions of the OCC, do not have to be deducted from Tier 1 capital until December 31, 1992. However, when combined with other qualifying intangible assets, these intangibles are limited to 25 percent of Tier 1 capital. After December 31, 1992, only those intangible assets that meet the criteria contained in § 3.2(c)(4)(ii) will not be deducted from Tier 1 capital.

4. Section 3.4 is revised to read as follows:

§ 3.4 Reservation of authority.

Notwithstanding the definitions of "Tier 1 capital" and "Tier 2 capital" in § 3.2 (c) and (d), the OCC may find that a particular type of purchased intangible asset or newly developed or modified capital instrument constitutes or may constitute "Tier 1 capital" or "Tier 2 capital", and the OCC may permit one or more banks to include all or a portion of such intangible asset or funds obtained through such capital instruments as Tier l or Tier 2 capital, permanently or on a temporary basis, for the purposes of compliance with this Part or for other purposes. Similarly, the OCC may find that a particular asset or Tier 1 or Tier 2 capital component has characteristics or terms that diminish its contribution to a bank's ability to absorb losses, and the OCC may require the discounting or deduction of such asset or component from the computation of Tier 1 or Tier 2 capital.

5. Section 3.6 is revised to read as follows:

§ 3.6 Minimum capital ratio.

National banks must have and maintain Tier 1 capital in an amount equal to at least 3.0 percent of adjusted total assets.

6. Section 3.7 is revised to read as follows:

§ 3.7 Plan to achieve minimum capital ratios.

Any bank having capital ratios less than the minimums set forth in § 3.6 and Appendix A to this part shall, within 60 days of December 31, 1990, submit to the OCC a plan describing the means and schedule by which the bank shall achieve the minimum capital ratios. The plan may be considered acceptable unless the bank is notified to the contrary by the OCC. A bank in compliance with an acceptable plan to achieve the minimum capital ratios will not be deemed to be in violation of § 3.6 or Appendix A.

7. Section 3.9 is revised to read as follows:

§ 3.9 Purpose and scope.

The rules and procedures specified in this subpart are applicable to a proceeding to establish required minimum capital ratios for an individual bank above the ratios that would otherwise be applicable to the bank under § 3.6 or appendix A to this part. The Comptroller is authorized under 12 U.S.C. 3907(a)(2) to establish such minimum capital requirements for a bank as the OCC, in its discretion, deems necessary or appropriate in light of the particular circumstances of the bank. Proceedings under this subpart also may be initiated to require a bank having capital ratios above those set forth in § 3.6, appendix A or other legal authority, to continue to maintain capital at those levels or higher levels.

8. Section 3.10 introductory text and paragraph (d) are revised to read as follows:

§ 3.10 Applicability.

Higher minimum capital ratios may be required for an individual bank when the OCC believes that the bank's capital is or may become inadequate in view of its circumstances. For example, higher capital ratios may be appropriate for:

* * * * *

(d) A bank exposed to a high degree of asset depreciation or interest rate, funding, transfer, or similar risks; or having a low level of liquid assets in relation to short term liabilities;

* * * * *

9. Section 3.12, paragraph (a) is revised to read as follows:

§ 3.12 Procedures.

(a) *Notice.* When the OCC determines that minimum capital ratios above those set forth in § 3.6, Appendix A to this part or other legal authority, are necessary or appropriate for a particular bank, the OCC will notify the bank in writing of the proposed minimum capital ratios and the date by which they should be reached (if applicable), and will provide an explanation of why the ratios proposed are considered necessary or appropriate for the bank.

* * * * *

10. Section 3.14 is revised to read as follows:

§ 3.14 Remedies.

A bank that does not have or does not maintain the minimum capital ratios applicable to it, whether established in Subpart B of this part, Appendix A to this part, in a decision pursuant to subpart C of this part, in a written agreement or temporary or final order under 12 U.S.C. 1818 (b) or (c), or in a condition for approval of an application, or a bank that has failed to submit or comply with an acceptable plan to attain those minimum capital ratios will be subject to such administrative action or sanctions as the OCC considers appropriate, including the issuance of a Directive pursuant to subpart E of this part, other enforcement action, assessment of civil money penalties, and/or the denial, conditioning, or revocation of applications. Failure to achieve or maintain these minimum capital ratios may also be the basis for an action by the Federal Deposit Insurance Corporation to terminate federal deposit insurance. *See* 12 CFR part 325.

11. Section 3.15 is revised to read as follows:

§ 3.15 Purpose and scope.

This subpart is applicable to proceedings by the OCC to issue a directive under 12 U.S.C. 3907(b)(2). A directive is an order issued to a bank that does not have or does not maintain capital at or above the minimum ratios set forth in § 3.6 or Appendix A, or established for the bank under Subpart C of this part, by a written agreement under 12 U.S.C. 1818(b), or as a condition for approval of an application. A directive may order the bank to:

(a) Achieve the minimum capital ratios applicable to it by a specified date;

(b) Adhere to a previously submitted plan to achieve the applicable capital ratios;

(c) Submit and adhere to a plan acceptable to the OCC describing the means and time schedule by which the bank shall achieve the applicable capital ratios;

(d) Take other action, such as reduction of assets or the rate of growth of assets, or restrictions on the payment of dividends, to achieve the applicable capital ratios; or

(e) A combination of any of these or similar actions.

A directive issued under this rule, including a plan submitted under a directive, is enforceable in the same manner and to the same extent as an effective and outstanding cease and desist order which has become final as defined in 12 U.S.C. 1818(k). Violation of a directive may result in assessment of civil money penalties in accordance with 12 U.S.C. 3909(d).

12. In § 3.100, introductory text is inserted immediately following the section heading and preceding paragraph (a), and paragraphs (e)(5) and (f) (1) introductory text, (2) and (3) are revised to read as follows:

§ 3.100 Capital and surplus.

For purposes of determining statutory limits that are based on the amount of a bank's "capital" and/or "surplus," the provisions of this section are to be used, rather than the definitions of capital contained in § 3.2 or appendix A to this part.

* * * * *

(e) * * *

(5) *"Mandatory convertible debt"* means subordinated debt instruments which unqualifiedly require the issuer to exchange either common or perpetual preferred stock for such instruments by a date at or before the maturity of the instrument. The maturity of these instruments must be 12 years or less. In addition, the instrument must meet requirements of paragraph (f)(1)(i) through (v) of this section for subordinated notes and debentures or other requirements published by the OCC.

* * * * *

(f) * * *

(1) *Requirements.* Issues of limited life preferred stock and subordinated notes and debentures (except mandatory convertible debt) must have original weighted average maturities of at least five (5) years to be included in the definition of "surplus." In addition, a subordinated note or debenture must also:

* * * * *

(2) *Restrictions.* The total amount of mandatory convertible debt not included in paragraph (c)(3) of this section, limited life preferred stock, and subordinated notes and debentures considered as surplus is limited to 50 percent of the sum of paragraphs (a) and (c) (1), (2) and (3) of this section.

(3) *Reservation of Authority.* In exigent circumstances, the OCC expressly reserves the authority to waive the minimum maturity requirement and the percentage restriction set forth in paragraphs (f) (1) and (2) of this section, in order to allow the inclusion of other limited life preferred stock, mandatory convertible notes and subordinated notes and debentures in the capital base of any national bank for capital adequacy purposes. The OCC further expressly reserves the authority, in exigent circumstances, to impose more stringent conditions than those set forth in paragraphs (f) (1) and (2) of this section in order for any component of Tier 1 or Tier 2 capital to be included, in whole or in part, as part of a national banking association's capital and surplus for any purpose.

Dated: October 30, 1989.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 89-25895 Filed 11-2-89; 8:45 am]

BILLING CODE 4810-33-M

[1] Mandatory convertible debt instruments that meet the requirements of 12 CFR 3.100(e)(5), or that have been previously approved as capital by the OCC, are treated as qualifying hybrid capital instruments.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-201-AD]

Airworthiness Directives; Boeing Model 737-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 737-300 series airplanes, which would require a one-time inspection of the engines' nacelle strut firewall duct assemblies for proper application of firewall sealant. This proposal is prompted by a manufacturer's production report that firewall sealant may not have been applied to all the mating surfaces of the engines' nacelle strut firewall door assemblies. This condition, if not corrected, could compromise the integrity of the engines' nacelle strut firewall seal.

DATES: Comments must be received no later than December 26, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-201-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen S. Bray, Propulsion Branch, ANM-140S; telephone (206) 431-1969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-201-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

A recent manufacturer's factory inspection revealed that firewall sealant was not applied to all the mating surfaces of the engines' nacelle strut firewall door assemblies. There must not be gaps, holes, or voids in an engine's firewall seal. This condition, if not corrected, could compromise the integrity of the engines' nacelle strut firewall seal.

The FAA has reviewed and approved Boeing Service Bulletin 737-54-1028, dated August 17, 1989, which provides instructions for the inspection of the engines' nacelle strut firewall door assemblies for proper application of the firewall sealant and application of sealant, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require a one-time inspection of the engines' nacelle strut firewall door assemblies for proper application of the firewall sealant, and application of sealant, if necessary, in accordance with the service bulletin previously described. Additionally, this AD would require operators to report the findings of their inspection to the FAA.

There are approximately 50 Model 737-300 series airplanes of the affected design in the worldwide fleet. It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,600.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub.L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 737-300 series airplanes, listed in Boeing Service Bulletin 737-54-1028, dated August 17, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the integrity of the engines' nacelle strut firewall seal, accomplish the following:

A. At the next engine removal or within one year after the effective date of this AD, which ever occurs sooner, inspect the engines' nacelle strut door assemblies for proper application of firewall sealant in accordance with Boeing Service Bulletin 737-54-1028, dated August 17, 1989. The door assemblies are located between nacelle stations 200.00 and 235.00 and attached to the underside of the strut and spar web at approximately nacelle waterline 132.00. If there are gaps, holes, or voids in the firewall sealant, apply sealant prior to further flight, in accordance with the service bulletin.

B. Within 10 days after completion of the inspection required by this AD, submit a report of findings, positive or negative, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. The report must include the line number of the airplane inspected and the findings.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25917 Filed 11-2-89; 8:45 am]

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14 CFR Part 39

[Docket No. 89-NM-208-AD]

Airworthiness Directives; Boeing Model 737-300 and 737-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 737-300 and 737-400 series airplanes, which currently requires the inspection of the left and right outboard flap inboard track forward support fitting attach bolts and the replacement of all titanium bolts with steel parts. This action would require the inspection of the nuts and replacement, if necessary, with the proper steel nuts. This proposal is prompted by a report that titanium bolts with aluminum nuts instead of steel bolts and nuts may have been used to attach the outboard flap inboard track forward support fitting to the wing structure. This condition, if not corrected, could result in separation of the outboard flap from the airplane, which could adversely affect controllability.

DATES: Comments must be received no later than December 26, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-208-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Shardul R. Panchal, Airframe Branch, ANM-120S; telephone (206) 431-1954. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-208-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On August 25, 1989, the FAA issued Telegraphic AD T89-18-51, applicable to certain Boeing Model 737-300 and -400 series airplanes, to require the inspection of the left and right outboard flap inboard track forward support fitting attach bolts at wing body line (WBL) 254.0 and the replacement of titanium bolts and aluminum nuts with A286 corrosion resistant (CRES) steel parts. That action was prompted by a report by the manufacturer, which indicated that titanium bolts with aluminum nuts instead of A286 CRES steel bolts and nuts may have been used to attach the outboard flap inboard track forward support fitting to the wing structure. Analysis shows that titanium bolts and aluminum nuts do not meet the strength requirements at this location and could result in failure of all four fasteners. This condition, if not corrected, could result in separation of the outboard flap from the airplane, which could adversely affect controllability.

The FAA did not require immediate inspection of the nuts in the above referenced Telegraphic AD because the probability of finding an aluminum nut on a steel bolt was sufficiently remote as to enable the FAA to allow the public an opportunity to comment; nonetheless, because such a combination could exist, however remote, this proposed action is considered necessary.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737-57A1202, dated August 24, 1989, which describes procedures for the inspection, removal, and replacement of the left and right outboard flap inboard track forward fitting attach bolts and nuts.

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Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede Telegraphic AD T89-18-51 with a new airworthiness directive that, in addition to the inspection of the bolts required by AD T89-18-51, would require the inspection of the nuts (even if the part number of the bolt has been determined to be correct), in accordance with the service bulletin previously described.

This inspection would not be required if it was previously accomplished during the bolt inspection and replacement required by the existing AD.

There are approximately 763 Model 737-300 and 737-400 series airplanes of the affected design in the worldwide fleet. It is estimated that 350 airplanes of U.S. registry would be affected by this AD, that it would take approximately 50 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $700,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Telegraphic AD T89-18-51, issued on August 25, 1989, with the following new airworthiness directive:

Boeing: Applies to Model 737-300 and 737-400 series airplanes, line numbers 1001 through 1762, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent separation of the outboard flap from the airplane, accomplish the following:

A. Within the next 30 days after August 25, 1989 (the issuance date of Telegraphic AD T89-18-51), inspect the bolts used to secure track forward support fitting of the inboard tracks to determine the bolt head designation.

B. If a bolt other than A286 CRES steel, Boeing part number BACB30LE, is installed, replace it with a proper bolt and nut prior to next flight, in accordance with Boeing Alert Service Bulletin 737-57A1202, dated August 24, 1989. Ensure that the replacement nut is Boeing Part Number BACN10HR.

C. Within the next 1,500 cycles or 6 months after the effective date of this amendment, whichever occurs first, inspect the nuts used to secure track forward support fitting of the inboard track for proper part number designation and material, in accordance with Boeing Alert Service Bulletin 737-57A1202, dated August 24, 1989.

Note: Inspection of nuts must be accomplished even if the part numbers of the bolts were previously determined to be correct.

D. If a nut other than A286 CRES steel, Boeing part number BACN10HR, is installed, replace it with a proper nut, prior to further flight, in accordance with Boeing Alert Service Bulletin 737-57A1202, dated August 24, 1989.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25918 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-204-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, and -30 Series Airplanes Equipped With a Non-ventral Aft Pressure Bulkhead

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9-10, -20, and -30 series airplanes, which would require more explicit aft pressure bulkhead emergency exit (tailcone exit hatch) opening instructions to be displayed on the aft side of the exit hatch. This proposal is prompted by a report of an accident in which passenger evacuation through the aft pressure bulkhead emergency exit was delayed because the opening instructions on the outside of the exit were inadequate. This condition, if not corrected, could result in delayed passenger evacuation during an emergency situation.

DATES: Comments must be received no later than December 26, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-204-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90801, Attention: Director of Publication, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Los Angeles Aircraft Certification Office, Systems and Equipment Branch, ANM 131L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5355.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-204-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

In one reported accident involving a Model DC-9 series airplane, impact damage and debris in the area of the aft tailcone exit hatch delayed passenger evacuation. Contributing to the delay was the fact that outside rescuers were hampered by limited visibility around the exit hatch area. The only instruction printed on the outside of the exit hatch was the word "Pull" on a placard near the exit hatch release handle. The exit hatch must be unlocked and then moved into the cabin to clear the evacuation route. After reviewing the Model DC-9 aft pressure bulkhead emergency exit installation and opening instructions, the FAA has determined that more complete opening instructions are necessary. This situation, if not corrected, could result in delay of passenger evacuation during an emergency situation.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin 52-167, dated August 31, 1989, which describes procedures for installing a placard with proper exit opening instructions on the aft side of the aft pressure bulkhead emergency exit. The new placard states, "Pull handle to unlock/push door to open."

Since this situation is likely to exist on other airplanes of this same type design, an AD is proposed which would require a placard with explicit opening instructions to be installed on the aft side of the aft pressure bulkhead emergency exit, in accordance with the service bulletin previously described.

There are approximately 280 McDonnell Douglas Model DC-9-10, -20, and -30 series airplanes of the affected design in the worldwide fleet. It is estimated that 183 airplanes of U.S. registry would be affected by this AD, that it would take approximately 0.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Each airplane would require one placard, at an estimated cost of $29 per placard. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,997.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-10, -20, and -30 series airplanes, equipped with a non-ventral aft pressure bulkhead, as listed in McDonnell Douglas Service Bulletin 52-167, dated August 31, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent delayed passenger evacuation through the aft pressure bulkhead emergency exit during an emergency evacuation, accomplish the following:

A. Within three months after the effective date of this AD, install a placard with exit opening instructions, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin 52-167, dated August 31, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199, to operate to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90801-0001, ATTN: Director of Publications, C1-L00 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

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Issued in Seattle, Washington, on October 24, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25916 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-113-AD]

Airworthiness Directives; SAAB-Scania Model SF-340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Rulemaking (NPRM); Reopening of Comment Period.

SUMMARY: This notice proposes to amend an earlier proposed airworthiness directive (AD), applicable to certain SAAB-Scania Model SF-340A series airplanes, that would have required inspection of the AC generators for modification status, and replacement of the AC generators, if necessary. This action revises the proposal to add Model SAAB 340B series airplanes to the AD applicability.

DATES: Comments must be received no later than November 30, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-113-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submited will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-113-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive which would have required inspection of AC generators on SAAB-Scania Model SF-340A series airplanes, and replacement, if necessary, was published as Notice of Proposed Rulemaking (NPRM) in the Federal Register on July 18, 1989 (54 FR 30062). That NPRM was prompted by numerous reports of failure of the AC generators due to inadequate anti-drive end bearing support. This condition, if not corrected, could result in loss of ice protection for the one engine inlet; and when combined with the loss of the other AC generator output (engine or generator system failure), could result in loss of ice protection for both engine inlets, windshields, pitot systems, alpha systems, and propeller.

Since the issuance of the proposal, SAAB-Scania has issued Service Bulletin SF340-24-016, Revision 1, dated August 28, 1989, to include Model SAAB 340B series airplanes in the effectivity. The Swedish Airworthiness Authority has classified the revised service bulletin as mandatory, and has issued Swedish Airworthiness Directive No. 1-033, Revision A, to include the additional model.

Further, two comments were received in response to the original proposal. Both commenters supported the rule, but one commenter noted that the proposed rule should be made appliable to the newly certified Model SAAB 340B series airplanes.

The FAA has determined that Model SAAB 340B series may also be subject to the unsafe condition addressed by this action. Therefore, the applicability statement in this Supplemental NPRM has been revised to include this model. Additionally, the proposed rule has been revised to require inspection of the AC generator, P/N 31342-001, for modification status, and replacement of the generator, if necessary, in accordance with SAAB-Scania Service Bulletin SF340-24-016, Revision 1, dated August 28, 1989.

Since these changes expand the scope of the proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional time for public comment.

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

It is estimated that by December 1989, 83 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,960.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11-89.

2. By revising the Notice of Proposed Rulemaking, Docket No. 89-NM-113-AD, FR Doc. 89-16742, published in the Federal Register on July 18, 1989 (54 FR 30062), as follows:

SAAB-Scania: Applies to Model SF-340A and SAAB 340B series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the loss of certain ice protection systems due to AC generator failures, accomplish the following:

A. Inspect the AC generators, P/N 31342-001, for the modification status.

1. If the modification status blocks are X-stamped in the D (or later) modification status block, no further action is required.

2. If the modification status blocks are X-stamped in the A, B, or C modification status block, prior to further flight, replace the AC generator with one X-stamped in the D (or later) modification status block, in accordance with SAAB Service Bulletin SF340-24-016, Revision 1, dated August 28, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania AB, Product Support, S-581.99, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 25, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25918 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF STATE

22 CFR Part 35

[Public Notice 1131]

RIN 1400-AA13

Program Fraud Civil Remedies Regulations

AGENCY: Department of State.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of State proposes rules to implement the Program Fraud Civil Remedies Act of 1986. The Department proposed to establish administrative procedures for imposing the statutorily authorized civil penalties and assessments against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the Department.

DATES: Comments must be submitted on or before December 4, 1989.

ADDRESSES: Comments should be sent to Jean Bailly, Office of the Legal Adviser, Room 4427A, Department of State, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Jean Bailly (202) 647-2350.

SUPPLEMENTARY INFORMATION: The Program Fraud Civil Remedies Act established a new administrative procedure as a remedy against those who knowingly make false claims or statements. The statute requires Federal agencies to follow certain procedures to recover penalties, and assessments against persons who file false claims or statements. It provides for designated investigative and reviewing officials, an administrative hearing process, and an agency appeal procedure with limited judicial review. The President's Council on Integrity and Efficiency developed draft model regulations in order to facilitate and promote uniformity in implementing the new procedure. The State Department, with minor variations, has adopted the model regulations. Consistent with the statute's requirements, the Department's proposed regulations provide that the Office of Inspector General will act as the Investigating Official; the Comptroller of the Department will act as Reviewing Official; an administrative law judge will be the Presiding Official; and the Deputy Secretary or his designee will act as Authority Head on appeals. The new administrative process should serve to deter fraud in cases where costs of litigation formerly made it uneconomical to press such claims, and should give the Department an effective remedy against persons submitting false claims to the Department.

The proposed rules would have no direct effect on the economy, or on Federal or State expenditures, and thus do not constitute a "major rule" within the meaning of section 1(b) of Executive Order 12291. Consequently, we have concluded that an initial regulatory impact analysis is not required. Nor do the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b) apply. The proposed rules contain no information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1978, and fall within the exceptions to coverage.

List of Subjects in 22 CFR Part 35

Administrative practice and procedure, Claims, Fraud, Penalties.

Accordingly, title 22, chapter I of the Code of Federal Regulations is proposed to be amended to add part 35 to read as follows:

PART 35—PROGRAM FRAUD CIVIL REMEDIES

Sec.

35.1 General.
35.2 Definitions.
35.3 Basis for civil penalties and assessments.
35.4 Investigation.
35.5 Review by the reviewing official.
35.6 Prerequisites for issuing a complaint.
35.7 Complaint.
35.8 Service of complaint.
35.9 Answer.
35.10 Default upon failure to file an answer.
35.11 Referral of complaint and answer to the ALJ.
35.12 Notice of hearing.
35.13 Parties to the hearing.
35.14 Separation of functions.
35.15 Ex parte contacts.
35.16 Disqualification of reviewing official or ALJ.
35.17 Rights of parties.
35.18 Authority of the ALJ.
35.19 Prehearing conferences.
35.20 Disclosure of documents.
35.21 Discovery.
35.22 Exchange of witness lists, statements and exhibits.
35.23 Subpoenas for attendance at hearing.
35.24 Protective order.
35.25 Fees.
35.26 Form, filing and service of papers.
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35.30 The hearing and burden of proof.
35.31 Determining the amount of penalties and assessments.
35.32 Location of hearing.
35.33 Witnesses.
35.34 Evidence.
35.35 The record.
35.36 Post-hearing briefs.
35.37 Initial decision.
35.38 Reconsideration of initial decision.
35.39 Appeal to authority head.
35.40 Stays ordered by the Department of Justice.
35.41 Stay pending appeal.
35.42 Judicial review.
35.43 Collection of civil penalties and assessments.
35.44 Right to administrative offset.
35.45 Deposit in Treasury of United States.
35.46 Compromise or settlement.
35.47 Limitations.

Authority: 31 U.S.C. 3801–3812.

§ 35.1 General.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. No. 99–509, secs. 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents; and specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

(c) *Special considerations abroad.* Where a party, witness or material evidence in a proceeding under these regulations is located abroad, the investigating official, reviewing official or ALJ, as the case may be, may adjust the provisions below for service, filing of documents, time limitations, and related matters to meet special problems arising out of that location.

§ 35.2 Definitions.

(a) *ALJ* means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

(b) *Authority* means the United States Department of State.

(c) *Authority head* means the Under Secretary for Management.

(d) *Benefit* means, in the context of "statement," anything of value, including but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(e) *Claim* means any request, demand, or submission—

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants, loans, insurance or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services or money.

(f) *Complaint* means the administrative complaint served by the reviewing official on the defendant under § 35.7.

(g) *Defendant* means any person alleged in a complaint under § 35.7 to be liable for a civil penalty or assessment under § 35.7 to be liable for a civil penalty or assessment under § 35.3.

(h) *Department* means the Department of State.

(i) *Government* means the United States Government.

(j) *Individual* means a natural person.

(k) *Initial decision* means the written decision of the ALJ required by § 35.10 or § 35.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(l) *Investigating official* means the Inspector General of the Department of State or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(m) *Knows or has reason to know* means that a person, with respect to a claim or statement—

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

(n) *Makes,* wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, making or made, shall likewise include the corresponding forms of such terms.

(o) *Person* means any individual, partnership, corporation, association or private organization, and includes the plural of the term.

(p) *Representative* means an attorney who is a member in good standing of the bar of any state, territory, or possession of the United States, or of the District of Columbia, or the Commonwealth of Puerto Rico.

(q) *Reviewing official for the Authority* means the Counsel to the Inspector General.

(r) *Reviewing official* means the Comptroller of the Department or his designee who is—

(1) Not subject to supervision by, or required to report to, the investigating official;

(2) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(3) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(s) *Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for)—

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan or benefit from, the authority, or any state, political subdivision of a state, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such state, political subdivision, or party for any portion of the money or property under such contract of for such grant, loan, or benefit.

§ 35.3 Basis for civil penalties and assessments.

(a) *Claims* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know the following shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim:

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission, and

(C) Is a statement in which the person making the statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed—

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of the authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompained by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of the authority.

(c) No proof of specific intent to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 35.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued (and, in the case of a subpoena to be served outside the jurisdiction of the United States, the basis for such service), and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefore, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 35.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 35.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 35.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 35.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 35.3;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information indicating that the person may be unable to pay such an amount.

§ 35.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 35.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 35.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or

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requested in violation of § 35.3(a) does not exceed $150,000.

(b) For purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant loan, application, or contract) that are submitted simultaneously as part of a single request, demand or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person's claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 35.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 35.8

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 35.10.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

§ 35.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt;

(3) Written acknowledgment of receipt by the defendant or his representative; or

(4) In case of service abroad authenticated in accordance with the Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters.

§ 35.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 35.10. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 35.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 35.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 35.8, a notice that an initial decision will be issued under the section.

(c) If the defendant fails to answer, the ALJ shall assume the facts alleged in the complaint to be true, and, if such facts established liability under § 35.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 35.38.

(h) The defendant may appeal to the authority head, the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

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§ 35.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 35.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 35.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Authority.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 35.13 Parties of the hearing.

(a) The parties to the hearing shall be the defendant and the Authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 35.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragrah (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 35.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 35.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affadavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f) If the ALJ—

(1) Determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice;

(2) Disqualifies himself or herself, the case shall be reassigned promptly to another ALJ; or

(3) Denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 35.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 35.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas to be served within the United States requiring the attendance of witnesses and the production of documents at depositions or at hearings. Subpoenas to be served outside the jurisdiction of the United States shall state on their face the authority therefore;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to find treaties and other international agreements or federal statutes or regulations invalid.

§ 35.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact

§ 35.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of

shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

an individual under the control of a party may be served within the United States by first class mail.

mileage need not accompany the subpoena.

alleged, and shall be filed with the ALJ and served on all other parties.

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 35.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 35.4(b) are based, unless such materials are subject to a privilege under federal law or classified pursuant to Executive Order. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 35.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 35.9.

§ 35.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 35.22 and 35.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) Motions for discovery. (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 35.24.

(3) The ALJ may grant a motion for discovery only if he finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged or classified information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 35.24.

(e) Depositions. (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 35.6.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 35.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 35.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 35.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefore not less than 15 days before the day fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witness to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 35.6. A subpoena on a party or upon an individual under the control of a party may be served within the United States by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 35.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with on one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, classified material, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 35.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in the United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 35.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, a designation of the paper (*e.g.*, motion to quash subpoena), and shall be in English or accompanied by an English translation.

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing, shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 35.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government shall be excluded from the computation.

(c) Where a document has been served or issued by mail, or by airmail abroad, an additional five days will be added to the time permitted for any response.

§ 35.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 35.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or

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other document which is not filed in a timely fashion.

§ 35.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 35.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 35.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a state, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 35.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place within the United States as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 35.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 35.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence in order to make—

(1) The interrogation and presentation effective for the ascertainment of the truth;

(2) To avoid needless consumption of time; and

(3) To protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 35.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.*, to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is classified or otherwise privileged under Federal law.

(f) Evidence concerning offers or compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 35.24.

§ 35.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 35.24.

§ 35.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 35.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 35.3; and

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 35.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 35.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail within the United States, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration of the initial decision, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the authority head in accordance with § 35.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head in accordance with § 35.39.

§ 35.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b) (1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 35.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The authority head may extend the initial 30-day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head and the time for filing motions for reconsideration under § 35.38 has expired, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of the defendant to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 35.3 is final and is not subject to judicial review.

§ 35.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 35.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 35.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 35.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 35.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 35.42 or § 35.43, or any amount agreed upon in a compromise or settlement under § 35.46, may be collected by administrative offset under 31 U.S.C. 3717, except that an administrative offset may not be made under this subsection against a refund of an overpayment of federal taxes, then or later owing by the United States to the defendant.

§ 35.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 35.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 35.42 or during the pendency of any action to collect penalties and assessments under § 35.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 35.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 35.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 35.8 within six years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of notice under § 35.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Dated: October 30, 1989.

Jill E. Kent,

Acting Under Secretary for Management.

[FR Doc. 89-25935 Filed 11-2-89; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Reg. 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to CHAMPUS Peer Review Organization Program; Accommodation of Voluntary Discounts Under Provider Reimbursement Methods

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would make a series of revisions to the CHAMPUS (PRO) Program, including the addition of procedures pertinent to preauthorization of some hospital admissions. The proposed rule would also clarify the authority of CHAMPUS to accommodate discounts from health care providers under provider reimbursement methods, including voluntary discounts from prospectively determined DRG based or per diem based payment rates.

DATE: Written comments on this proposed rule are due by December 4, 1989.

ADDRESS: Comments should be sent to: Office of the Assistant Secretary of Defense for Health Affairs (Health Program Management), The Pentagon, Washington, DC 20301-1200.

FOR FURTHER INFORMATION CONTACT: With respect to the PRO program: Nancy Gidley at (202)695 5016; and with respect to the accommodation of discounts: LCDR Arthur Miller, USN, at (202)695-3331.

SUPPLEMENTARY INFORMATION:

I. Introduction

This proposed rule has two substantive parts: the first proposes to make a series of refinements to the CHAMPUS Peer Review Organization (PRO) program, and the second proposes to clarify authority of OCHAMPUS to accommodate voluntary discounts from health care providers under provider reimbursement methods. These are discussed below in turn.

II. Peer Review Organization (PRO) Program Refinements

A. Background

When CHAMPUS instituted its DRG-based payment system at the beginning of fiscal year 1988, it also created authority in the CHAMPUS regulation for a program of utilization of quality review of hospital care covered by the DRG system. On March 6, 1989, CHAMPUS issued a final rule supplementing the rules and procedures initially established with a series of provisions essentially designed to flesh out the CHAMPUS PRO program in ways conforming to the operations of the Medicare PRO program.

The provisions of this proposed rule concerning the PROs represent a next step in the process of refining the program, with the major theme continuing to be to maintain consistency with the rules and procedures of the Medicare PRO program. This key theme is based on our continued belief that it is in the best interest of beneficiaries, hospitals, providers, PROs and CHAMPUS for us to take advantage of the requirements and procedures that have been worked out by Congress and the Department of Health and Human Services for the Medicare PRO program.

This policy has recently been endorsed by the Senate in a provision pending final Congressional approval. It states:

> The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO program as the Secretary determines appropriate.

H.R. 3072, section 9091 (Senate version).

This provision, based on a legislative proposal of the Department of Defense, will, if enacted, provide statutory endorsement of our program and reinforce our statutory authority.

B. Provisions of Proposed Rule

The specific provisions of this proposed rule are in the nature of refinements to our existing regulation. There are no major new policy directions. A summary of the various changes follows.

1. *Limitation on financial liability in certain cases.* Currently, the regulation (section 199.4(h)) includes provisions, like those applicable to Medicare, under which beneficiaries are generally protected from financial liability for medical care determined by the PRO to have been provided unnecessarily. In some cases, providers may also be protected if they had not learned of the PRO's review standards or otherwise could not reasonably have been expected to know the care provided was excludable as unnecessary care. The proposed revision to section § 199.4(h)(1) clarifies that these limitations on liability rules apply only to the PRO program activities; they do not apply to normal medical benefit coverage issues that occur from time to time.

This clarification conforms with the Medicare rule (see 42 CFR 466.86(c)). It recognizes the distinction between those matters on which the controlling issue for CHAMPUS payment is the PRO's determination—based on medical judgment of medical necessity—versus those cases in which the controlling issues are CHAMPUS rules and interpretations regarding what care is covered by the CHAMPUS program.

2. *Recodification of Provisions regarding PRO Program.* The regulatory provisions pertinent to the operations of the PRO program have been set forth as a part of the group of provisions in section 199.14, Provider Reimbursement Methods, pertaining to the DRG based payment system. To more accurately reflect the applicability of dimensions of the PRO program and to facilitate comprehension of the regulation, we propose to recodify the existing PRO regulatory provisions, set forth as paragraph (a)(1)(iv) of § 199.14, as a new § 199.15 of the CHAMPUS regulation. The description of the proposed revisions, below, refers to the new section designation and, where applicable, the old.

3. *Regulatory guidance.* In the introductory paragraph applicable to the PRO program (new § 199.15(a); old § 199.14(a)(1)(iv)), we propose to add a general statement that in applying the rule, we will be guided by established Medicare PRO rules and procedures. This is consistent with the approach we have taken since initiating the PRO program. We hope that including this statement in the regulation will provide useful guidance to interested parties.

4. *Preadmission review procedures.* Our regulation had previously not referenced those provisions of Medicare's regulation governing cases subject to preadmission review by the PRO. We propose, in new § 199.15(c)(5), to incorporate by reference the provisions of Medicare's 42 CFR 466.78(b) (5)-(7). In summary, these provisions establish that for cases covered by any PRO preadmission review requirements: hospitals have a responsibility to obtain preadmission approval; hospitals agree that if they fail to obtain preadmission approval for care the PRO later determines was unnecessary, the hospital will generally be financially liable; and hospitals agree that if they fail to obtain preadmission approval, the care is subject to PRO prepayment review. Adoption of these Medicare procedures is reasonable and appropriate to establish ground rules for the initiation of a preadmission review activity under the CHAMPUS PRO program.

It is our view that preadmission review of selected inpatient admissions, and perhaps some other services, will be preferable to retrospective review. It is preferable from the standpoint of beneficiaries because it protects them from unnecessary hospital stays or procedures and it provides independent verification of the necessity of approved care. It is better for providers because it protects them from incurring costs for care that may later be denied and it provides continuous education on what is appropriate and what is not. Preadmission review is less expensive for the PROs than retrospective review. And from the viewpoint of CHAMPUS, it is likely to be more effective in assuring the provision of necessary care while discouraging care that may not be necessary or could be provided at a level more economical for both the beneficiary and the program.

As a result of instituting preadmission review, we expect CHAMPUS will move more into line with increasingly strong trends in the medical community of shifting some selected types of care from expensive hospitalizations to the more economical outpatient care setting. Medicare has also moved in this direction, now requiring each PRO to conduct preadmission review on at least 10 procedures. At this time, the precise dimensions of our preadmission review activity are under development. We expect to provide detailed information about this activity later this fall and expect to have it become operational beginning early next year. For purposes of this proposed rule, however, the focus is on the establishment of the basic ground rules that will apply.

5. *PRO review of non-DRG covered services.* Our current PRO program regulatory provisions are perhaps less clear than they might be on PRO review of services not covered by the DRG-based payment system. Consistent with the context of the initial development of the PRO program, as well as its continuing emphasis, much of our PRO program regulation is addressed to review of DRG covered hospital care. Other provisions of our regulation, such

as those applicable to sanction procedures, apply to all providers.

However, just as the Medicare program has moved into PRO review of

such technical or procedural adjustments must maintain substantive comparability with the regular procedures.

are simply changing our reference from the Medicare statute to the appropriate Medicare regulation. Consistent with our intent regarding many other

Participating Providers, meaning that they will, at a minimum, always accept the CHAMPUS allowable payment rates and will handle the claims paperwork

of OCHAMPUS may establish uniform terms, conditions and limitations for this payment method in order to avoid

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Military personnel.

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as those applicable to sanction procedures, apply to all providers.

However, just as the Medicare program has moved into PRO review of other types of care, such as certain ambulatory procedures, our policy is to have in place the basic regulatory authorities and procedures to permit PRO review of all CHAMPUS services, allowing PRO review to be activated when necessary and appropriate. This policy recognizes that the underlying substantive requirement of assuring consistency with prevailing standards of quality and medical necessity applies to all CHAMPUS care; the PRO program is one procedural system to implement that requirement. To clarify this basic approach, we propose to add to our regulation a provision (new § 199.15(f)) stating that if the Director of OCHAMPUS decides to activate PRO program review (using the same PROs or other similar organizations) of services not covered by the DRG based payment system, the basic rules and procedures of the regulations will apply. To the extent some technical or procedural provisions would need to be adapted to the circumstances of that type of health care service, that could be done as long as substantive comparability with the regular DRG-related provisions is maintained. Similarly, the proposed provision further states that some services that are covered by the DRG-based payment system, but that also have other special circumstances, could be the subject of technical or procedural adjustments.

To illustrate the purpose and effect of this section, if OCHAMPUS decides to activate PRO program review of certain ambulatory surgical procedures, all the basic requirements concerning PRO authorities, applicable remedies, limitations on financial liability, due process rights and the like would be applicable. However, certain procedural steps applicable to DRG-covered hospital care, such as expedited review procedures to protect against premature discharges, would not be necessary. As another example, medical care services being provided under a special set of circumstances, such as a model similar to a pre-paid health care system (for example, a Health Maintenance Organization), could raise a different set of quality and utilization issues, even if covered by the DRG based hospital payment system. The proposed regulatory provision would clarify the authority and intent of CHAMPUS to adopt procedural adjustments appropriate to the circumstances presented. But again, by way of securing all substantive rights and obligations, all such technical or procedural adjustments must maintain substantive comparability with the regular procedures.

6. *Appeals and hearings.* Our current regulation [old § 199.14(a)(1)(iv)(G)] states that providers (unlike beneficiaries) may not appeal to OCHAMPUS reconsidered determinations of PROs. In adopting this provision, we intended to follow the Medicare practice. We failed to note, however, that under Medicare (42 CFR 473.14(c)(2)), providers may appeal adverse decisions on an issue of whether the provider knew or could reasonably have been expected to know the services were excludable by the PRO in connection with limitation of liability decisions. This is not inconsistent with the underlying policy thrust of accepting PRO reconsidered determinations on matters of medical judgment; this type of issue involves, not medical judgments, but administrative matters, such as reasonable notice and the like.

We propose (new § 199.15(i)(2)&(3)) to adopt the same approach as applies under Medicare: PRO reconsidered determinations regarding limitations of liability are appealable by providers to OCHAMPUS.

7. *Qualified immunity for peer reviewers.* Under our current regulation (old § 199.14(a)(1)(iv)(H)), a person who performs CHAMPUS PRO functions has the same qualified civil immunity, as applies to the external civilian peer review program that reviews care in military hospitals. This is pursuant to 10 U.S.C. 1102, which provides for confidentiality of records and qualified immunity under all DoD quality assurance program activities.

As additional authority for assuring immunity for good faith PRO program participation, we propose to add to our regulation adoption of the requirement of section 1157 of the Social Security Act (42 U.S.C. 1320c–6), the federal statute assuring immunity under the Medicare PRO program. This is set forth in our proposed new § 199.15(k).

8. *Obligations, sanctions and procedures.* Our current regulation (§ 199.14(a)(1)(iv)(J)) incorporates by reference the provisions of section 1156(a) of the Social Security Act (42 U.S.C. 1320c–5(a)) regarding provider obligations, sanctions and procedures under the Medicare PRO program. Without changing the effect of the regulation, we propose to revise this provision (new § 199.15(m)) to incorporate the Medicare regulation, 42 CFR 1004.1–1004.80, corresponding to the statutory provision. In other words, we are simply changing our reference from the Medicare statute to the appropriate Medicare regulation. Consistent with our intent regarding many other provisions of our regulation, our hope is that this will facilitate understanding of the CHAMPUS PRO procedures.

In addition, we propose to add to our provision regarding obligations and sanctions an obligation comparable to 42 U.S.C. 1395ww(f)(2). That section states that, under Medicare, if a hospital is determined through the PRO program to be attempting to circumvent the PPS system, payments may be denied or other corrective actions required. Our proposed new paragraph § 199.15(m)(2) would establish the same rule for CHAMPUS. Any hospital affected by this provision has appeal rights to OCHAMPUS.

III. Accommodation of Discounts

A. *Background.* As discussed above, at the beginning of Fiscal Year 1988, CHAMPUS began to pay for most inpatient hospital care on the basis of diagnosis related groups (DRGs). In fiscal year 1989, the DRG based payment system was extended to several additional categories of care and a separate prospective payment method, one using set per diem rates, was instituted for reimbursing psychiatric hospitals and units. Under these payment systems, even if a provider's billed charges would be greater than the set payment amounts, reimbursement under CHAMPUS will be at the applicable established payment amount.

Questions have recently arisen regarding whether providers may seek reimbursements *less than* the prospectively determined rates, whether DRG-based, per diem or other system, as part of a program to offer discounted rates. One context in which this has arisen is in connection with the Air Force "Health Care Finder" program, under which providers are asked to, at a minimum, accept assignment for all CHAMPUS claims. Some providers, including institutional providers normally paid on the basis of pre-set standard rates, have indicated an interest in an arrangement whereby they would provide CHAMPUS services at a rate less than the applicable DRG or per diem rate Presumably, such providers would see their number of CHAMPUS patients increase.

The Department of Defense is developing plans to expand programs similar to the Health Care Finder by establishing a DoD-wide "Participating Provider Program." Under this program, individual and institutional providers will be given the opportunity to become Participating Providers, meaning that they will, at a minimum, always accept the CHAMPUS allowable payment rates and will handle the claims paperwork for the beneficiaries. Military facility Health Benefits Advisors, CHAMPUS Fiscal Intermediaries and others will make lists of Participating Providers widely available to beneficiaries.

We expect that in connection with the Participating Provider Program, some providers, including institutional providers, would welcome the opportunity to offer discounts below the usual fixed rate (for example, DRG or per diem rate) or prevailing charge level (such as for physicians' fees). It is in recognition of this that we propose this amendment to the CHAMPUS regulation.

B. Provisions of Proposed Rule

The proposed rule would simply clarify, in proposed new § 199.14 (a)(4) and (i), the authority of the Director of CHAMPUS to reimburse a provider, including an institutional provider, at an amount below the amount usually paid under the regulation's provider reimbursement methods when, under a program approved by the Director, the provider has agreed to the lower amount. In the case of physicians and other noninstitutional providers, the normal rule is the allowed charge is the lesser of the billed charge or the prevailing charge level. If a discounted fee is below the provider's normal billed charge and the normal prevailing charge level, the discounted fee will be deemed to be the true billed charge. In the case of institutional providers normally paid on the basis of a pre-set amount (such as DRG-based amount or per-diem amount), reimbursement will be at the lower amount as an exception to the usual rule that the pre-set rate is paid regardless of the institutional provider's normal billed charges.

The proposed rule would also clarify, in proposed new § 199.4(f)(8), that in cases in which special discount arrangements are recognized for purposes of provider reimbursements, they may be comparably recognized for purposes of the beneficiary's cost-sharing amount. In other words, the Director of OCHAMPUS will have authority to assure that beneficiaries also benefit from any discount arrangements that might be made.

These new authorities only apply to circumstances when both the provider and the Director have agreed to the discounted payment rate The Director's agreement may be in the context of approval of a program (such as the Participating Provider Program) that allows for such discounts. The Director of OCHAMPUS may establish uniform terms, conditions and limitations for this payment method in order to avoid administrative complexity.

As an example of the operation of this proposed rule, suppose a hospital and all the individual providers affiliated with that hospital decide, under an official DoD program approved by the Director of OCHAMPUS, to offer a 10% discount for CHAMPUS care. Regarding the hospital payment, assume that for the inpatient care of a retired member the normal DRG-based payment amount would be $8,000 for the admission and the normal beneficiary copayment (based on the copayment per diem amount times the number of days of care) would be $2,000. Regarding the professional fees, assume the total billed charges are $2,900 and the prevailing charge levels for all of the procedures performed total to $3,000.

Applying the discounts would result in a payment amount of $7,200 (rather than $8,000) to the hospital. The beneficiary's copayment for the hospital charges would be $1,800 (the normal copayment of $2,000, reduced by the discount percentage of 10%). Regarding the professional fees, taking 10% off the prevailing charge levels produces a total maximum payment of $2,700. Because these fees are lower than the usual billed charges, the lower amounts are treated as the actual billed charges and become the basis for payments (both the CHAMPUS share and beneficiary share) to the professional providers.

The proposed rule would allow discounts such as these to be offered by providers and be accommodated within the CHAMPUS provider reimbursement methods as exceptions to the usual calculations.

IV. Regulatory Procedures

With respect to regulatory procedures, this proposed rule involves primarily a series of refinements and clarifications. Therefore, it is not a major rule within the scope of Executive Order 12291. In addition, we certify that this proposed rule will not have a significant impact on small entities within the scope of the Regulatory Flexibility Act. Also, there are no Paperwork Reduction Act implications concerning this proposed rule.

We welcome public comments on this proposed rule. We are simultaneously seeking comments from other interested components of DoD and other agencies. We anticipate publication of a final rule in approximately 60 days, which would take effect 30 days thereafter.

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Military personnel.

For the reasons set forth in the preamble, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.4 is amended by adding at the end of paragraph (f) a new paragraph (8), by revising the first sentence of paragraph (h)(1), and by adding a new sentence at the end of paragraph (h)(1), to read as follows:

§ 199.4 Basic Program Benefits.

* * * * *

(f) *Beneficiary or sponsor liability.*

* * *

(8) *Cost-sharing for services provided under special discount arrangements—*(i) *General rule.* With respect to services determined by the Director, OCHAMPUS (or designee) to be covered by § 199.14(i), the Director, OCHAMPUS (or designee) has authority to establish, as an exception to the cost-sharing amount normally required pursuant to this section, a different cost-share amount that appropriately reflects the application of the statutory cost share to the discount arrangement.

(ii) *Specific applications.* The following are examples of applications of the general rule; they are not all inclusive.

(A) In the case of services provided by individual health care professionals and other noninstitutional providers, the cost-share shall be the usual percentage of the CHAMPUS allowable charge determined under § 199.14(i).

(B) In the case of services provided by institutional providers normally paid on the basis of a pre-set amount (such as DRG-based amount under § 199.14(a)(1) or per diem amount under § 199.14(a)(2)), if the discount rate is lower than the pre-set rate, the cost-share amount that would apply for a beneficiary other than an active duty dependent pursuant to the normal pre-set rate would be reduced by the same percentage by which the pre-set rate was reduced in setting the discount rate.

* * * * *

(h) *Payment and liability for certain potentially excludable services under the Peer Review Organization program—*(1) *Applicability.* This subsection provides special rules that apply only to services retrospectively determined under the Peer Review

Organization (PRO) program (operated pursuant to section 199.15) to be potentially excludable (in whole or in part) from the basic program under

provider's billed charges or other factors.

(3) *Procedures.* (i) This paragraph only applies when both the provider and the

including their appeal rights. A hospital which does not cooperate in this activity shall be subject to termination as a CHAMPUS authorized provider.

(ii) CHAMPUS admissions to a hospital or hospital unit subject to the CHAMPUS DRG-based payment system

OCHAMPUS shall be subject to focused review.

(e) *Actions as a result of review—(1)*

review (using the same PROs or other similar organizations) of services not covered by the DRG-based payment

Organization (PRO) program (operated pursuant to section 199.15) to be potentially excludable (in whole or in part) from the basic program under paragraph (g) of this section. * * * This paragraph does not apply to coverage determinations made by OCHAMPUS or the fiscal intermediaries which are not based on medical necessity determinations made under the PRO program.

* * * * *

3. Section 199.14 is amended by adding a new paragraph (a)(4) by redesignating the second paragraph (h) as paragraph (j), by redesignating paragraph (i) and newly redesignated paragraph (j) as paragraphs (j) and (k), and by adding a new paragraph (i), to read as follows:

§ 199.14 Provider Reimbursement Methods.

(a) *Hospitals.* The CHAMPUS determined allowable cost for reimbursement of a hospital shall be determined on the basis of one of the following methodologies.

* * * * *

(4) *CHAMPUS discount rates.* The CHAMPUS-determined allowable cost for authorized care in any hospital may be based on discount rates established under paragraph (i) of this section.

* * * * *

(i) *Accommodation of discounts under provider reimbursement methods*—(1) *General rule.* The Director, OCHAMPUS (or designee) has authority to reimburse a provider at an amount below the amount usually paid pursuant to this section when, under a program approved by the Director, the provider has agreed to the lower amount.

(2) *Special applications.* The following are examples of applications of the general rule; they are not all inclusive.

(i) In the case of individual health care professionals and other noninstitutional providers, if the discounted fee is below the provider's normal billed charge and the prevailing charge level (see paragraph (g) of this section), the discounted fee shall be the provider's actual billed charge and the CHAMPUS allowable charge.

(ii) In the case of institutional providers normally paid on the basis of a pre-set amount (such as DRG based amount under paragraph (a)(1) or per-diem amount under paragraph (a)(2) of this section), if the discount rate is lower than the pre-set rate, the discounted rate shall be the CHAMPUS-determined allowable cost. This is an exception to the usual rule that the pre-set rate is paid regardless of the institutional provider's billed charges or other factors.

(3) *Procedures.* (i) This paragraph only applies when both the provider and the Director have agreed to the discounted payment rate. The Director's agreement may be in the context of approval of a program that allows for such discounts.

(ii) The Director of OCHAMPUS may establish uniform terms, conditions and limitations for this payment method in order to avoid administrative complexity.

* * * * *

4. Section 199.14 is further amended by removing paragraph (a)(1)(iv).

5. A new § 199.15 is added to read as follows:

§ 199.15 Peer Review Organization Program

(a) *General.* This section establishes rules and procedures applicable to the CHAMPUS Peer Review Organization (PRO) program for utilization and quality review of services, especially services provided in hospitals for which the hospital care is covered by the CHAMPUS DRG-based payment system. In implementing the provisions of this section, OCHAMPUS will be guided by the general policy of following Medicare PRO program requirements and procedures, with appropriate adaptations.

(b) *Objectives of review system.* There are four required functions:

(1) A review of the completeness, adequacy and quality of care provided;

(2) A review of the reasonableness, necessity and appropriateness of hospital admissions under CHAMPUS DRG reimbursement;

(3) A validation of diagnoses and procedural information that determines CHAMPUS reimbursement; and

(4) A review of the necessity and appropriateness of care for which payment is sought on an outlier basis.

(c) *Hospital cooperation.* All hospitals which participate in CHAMPUS and submit CHAMPUS claims are required to provide all information necessary for CHAMPUS to properly process the claims. In order for CHAMPUS to be assured that services for which claims are submitted meet quality of care standards, hospitals are required to provide the Peer Review Organization (PRO) responsible for quality review with all the information, within timeframes to be established by OCHAMPUS, necessary to perform the review functions required by this paragraph. Additionally, all participating hospitals shall provide CHAMPUS beneficiaries, upon admission, with information about the admission and quality review system including their appeal rights. A hospital which does not cooperate in this activity shall be subject to termination as a CHAMPUS authorized provider.

(1) Documentation that the beneficiary has received the required information about the CHAMPUS PRO program must be maintained in the same manner as is the notice required for the Medicare program by 42 CFR 466.78(b).

(2) The physician attestation and physician acknowledgement required for Medicare under 42 CFR 412.40 and 412.46 are also required for CHAMPUS as a condition for payment and may be satisfied by the same statements as required for Medicare, with substitution or addition of "CHAMPUS" when the word "Medicare" is used.

(3) Participating hospitals must execute a memorandum of understanding with the PRO providing appropriate procedures for implementation of the PRO program.

(4) Participating hospitals may not charge a CHAMPUS beneficiary for inpatient hospital services excluded on the basis of § 199.4(g)(1) (not medically necessary), § 199.4(g)(3) (inappropriate level), or § 199.4(g)(7) (custodial care) unless all of the conditions established by 42 CFR 412.42(c) with respect to Medicare beneficiaries have been met with respect to the CHAMPUS beneficiary. In such cases in which the patient requests a PRO review while the patient is still an inpatient in the hospital, the hospital shall provide to the PRO the records required for the review by the close of business of the day the patient requests review, if such request was made before noon. If the hospital fails to provide the records by the close of business, that day and any subsequent working day during which the hospital continues to fail to provide the records shall not be counted for purposes of the two day period of 42 CFR 412.42(c)(3)(ii).

(5) With respect to cases subject to preadmission review, the provisions of 42 CFR 466.78(b)(5)–(b)(7) shall apply to CHAMPUS cases as those provisions apply to Medicare cases.

(d) *Areas of review*—(1) *Admissions.* The following areas shall be subject to review to determine whether inpatient care was medically appropriate and necessary, was delivered in the most appropriate setting and met acceptable standards of quality. This review may include preadmission or prepayment review when appropriate.

(i) Transfers of CHAMPUS beneficiaries from a hospital or hospital unit subject to the CHAMPUS DRG-based payment system to another hospital or hospital unit.

(ii) CHAMPUS admissions to a hospital or hospital unit subject to the CHAMPUS DRG-based payment system which occur within a certain period (specified by OCHAMPUS) of discharge from a hospital or hospital unit subject to the CHAMPUS DRG-based payment system.

(iii) A random sample of other CHAMPUS admissions for each hospital subject to the CHAMPUS DRG-based payment system.

(iv) CHAMPUS admissions in any DRGs which have been specifically identified by OCHAMPUS for review or which are under review for any other reason.

(2) *DRG validation.* The review organization responsible for quality of care reviews shall be responsible for ensuring that the diagnostic and procedural information reported by hospitals on CHAMPUS claims which is used by the fiscal intermediary to assign claims to DRGs is correct and matches the information contained in the medical records. In order to accomplish this, the follcwing review activities shall be done.

(i) Perform DRG validation reviews of each case under review.

(ii) Review of claim adjustments submitted by hospitals which result in the assignment of a higher weighted DRG.

(iii) Review for physician certification as to the major diagnoses and procedures and the physician's acknowledgment of annual receipt of the penalty statement as contained in the Medicare regulations at 42 CFR 412.40 and 412.46.

(iv) Review of a sample of claims for each hospital reimbursed under the CHAMPUS DRG-based payment system. Sample size shall be determined based upon the volume of claims submitted.

(3) *Outlier review.* Claims which qualify for additional payment as a long-stay outlier or as a cost-outlier shall be subject to review to ensure that the additional days or costs were medically necessary and appropriate and met all other requirements for CHAMPUS coverage. In addition, claims which qualify as short-stay outliers shall be reviewed to ensure that the admission was medically necessary and appropriate and that the discharge was not premature.

(4) *Procedure review.* Claims for procedures identified by OCHAMPUS as subject to a pattern of abuse shall be the subject of intensified quality assurance review.

(5) *Other review.* Any other cases or types of cases identified by OCHAMPUS shall be subject to focused review.

(e) *Actions as a result of review— (1) Findings related to individual claims.* If it is determined, based upon information obtained during reviews, that a hospital has misrepresented admission, discharge, or billing information, or is found to have quality of care defects, or has taken an action that results in the unnecessary admissions of an individual entitled to benefits, unnecessary multiple admission of an individual, or other inappropriate medical or other practices with respect to beneficiaries or billing for services furnished to beneficiaries, the PRO, in conjunction with the fiscal intermediary, shall, as appropriate:

(i) Deny payment for or recoup (in whole or in part) any amount claimed or paid for the inpatient hospital and professional services related to such determination.

(ii) Require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

(iii) Advise the provider and beneficiary of appeal rights, as required by section 199.10.

(iv) Notify OCHAMPUS of all such actions.

(2) *Findings related to a pattern of inappropriate practices.* In all cases where a pattern of inappropriate admissions and billing practices that have the effect of circumventing the CHAMPUS DRG-based payment system is identified, OCHAMPUS shall be notified of the hospital and practice involved.

(3) *Revision of coding relating to DRG validation.* The following provisions apply in connection with the DRG validation process set forth in paragraph (d)(2) of this section.

(i) If the diagnostic and procedural information attested to by the attending physician is found to be inconsistent with the hospital's coding or DRG assignment, the hospital's coding on the CHAMPUS claim will be appropriately changed and payments recalculated on the basis of the appropriate DRG assignment.

(ii) If the information attested to by the physician as stipulated under paragraph (e)(2) of this section is found not to be correct, the PRO will change the coding and assign the appropriate DRG on the basis of the changed coding.

(f) *Procedures regarding certain services, including services not covered by the DRG-based payment system.* Paragraphs (b) through (e) of this section are directed to the context of services covered by the CHAMPUS DRG-based payment system. The Director, OCHAMPUS may activate PRO program review (using the same PROs or other similar organizations) of services not covered by the DRG-based payment system. For any such review activity designated by the Director, OCHAMPUS, the provisions of paragraphs (g) through (m) of this section shall apply. In addition, the Director, OCHAMPUS may establish procedures, appropriate to the types of services to be reviewed, substantively comparable to those applicable to services covered by the DRG-based payment system pertaining to obligations of providers to cooperate in PRO program review activities, authority to require precertification of services proposed to be required and authorities to require appropriate corrective actions. The Director, OCHAMPUS may also establish such procedures for review of services which, although covered by the DRG based payment system, are also affected by some other special circumstances concerning payment method, nature of care or other potential quality or utilization issue.

(g) *Procedures regarding initial determinations.* The CHAMPUS PROs shall establish and follow procedures for initial determinations that are substantively the same or comparable to the procedures applicable to Medicare under 42 CFR 466.83 to 466.104. In addition, these procedures shall provide that a PRO's determination that an admission is medically necessary is not a guarantee of payment by CHAMPUS; normal CHAMPUS benefit and procedural coverage requirements must also be applied.

(h) *Procedures regarding reconsiderations.* The CHAMPUS PROs shall establish and follow procedures for reconsiderations that are substantively the same or comparable to the procedures applicable to reconsiderations under Medicare pursuant to 42 CFR 473.15 to 473.34, except that the time limit for requesting reconsideration (see 42 CFR 473.20(a)(1)) shall be 90 days. A PRO reconsidered determination is final and binding upon all parties to the reconsideration except to the extent of any further appeal pursuant to paragraph (i) of this section.

(i) *Appeals and hearings.* (1) Beneficiaries may appeal a PRO reconsideration determination to OCHAMPUS and obtain a hearing on such appeal to the extent allowed and under the procedures set forth in section 199.10(d).

(2) Except as provided in paragraph (i)(3) of this section, a PRO reconsidered determination may not be further appealed by a provider.

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(3) A provider may appeal a PRO reconsideration determination to OCHAMPUS and obtain a hearing on such appeal to the extent allowed under the procedures set forth in section 199.10(d) if it is a determination pursuant to section 199.4(h) that the provider knew or could reasonably have been expected to know that the services were excludable.

(4) For purposes of the hearing process, a PRO reconsidered determination shall be considered as the procedural equivalent of a formal review determination under § 199.10.

(5) The provisions of § 199.10(e) concerning final action shall apply to hearings cases.

(j) *Acquisition, protection and disclosure of peer review information.* The provisions of 42 CFR part 476, except § 476.108, shall be applicable to the CHAMPUS PRO program as they are to the Medicare PRO program.

(k) *Limited immunity from liability for participants in PRO program.* The provisions of section 1157 of the Social Security Act (42 U.S.C. 1320c–6) are applicable to the CHAMPUS PRO program in the same manner as they apply to the Medicare PRO program. Section 1102(g) of title 10, United States Code also applies to the CHAMPUS PRO program.

(l) *Additional provision regarding confidentiality of records*—(1) *General rule.* The provisions of 10 U.S.C. 1102 regarding the confidentiality of medical quality assurance records shall apply to the activities of the CHAMPUS PRO program as they do to the activities of the external civilian PRO program that reviews medical care provided in military hospitals.

(2) *Specific applications.* (i) Records concerning PRO deliberations are generally nondisclosable quality assurance records under 10 U.S.C. 1102.

(ii) Initial denial determinations by PROs pursuant to paragraph (a)(1)(i)(E) of this section (concerning medical necessity determinations, DRG validation actions, etc.) and subsequent decisions regarding those determinations are not nondisclosable quality assurance records under 10 U.S.C. 1102.

(iii) Information the subject of mandatory PRO disclosure under 42 CFR part 476 is not a nondisclosable quality assurance record under 10 U.S.C. 1102.

(m) *Obligations, sanctions and procedures.* (1) The provisions of 42 CFR 1004.1–1004.80 shall apply to the CHAMPUS PRO program as they do the Medicare PRO program, except that the functions specified in those sections for the Office of Inspector General of the Department of Health and Human Services shall be the responsibility of OCHAMPUS.

(2) The provisions of 42 USC section 1395ww(f)(2) concerning circumvention by any hospital of the applicable payment methods for inpatient services shall apply to CHAMPUS payment methods as they do to Medicare payment methods.

(3) The Director, or a designee, of CHAMPUS shall determine whether to impose a sanction pursuant to paragraphs (m)(1) and (m)(2) of this section. Providers may appeal adverse sanctions decisions under the procedures set forth in § 199.10(d).

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 24, 1989.

[FR Doc. 89–25586 Filed 11–2–89; 8:45 am]

BILLING CODE 3810–01–M

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32 CFR Part 297

[DoD Instruction 5120.4]

RIN 0790–AA56

DoD Newspapers and Civilian Enterprise Publications

AGENCY: American Forces Information Services, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed amendment incorporates administrative and memorandum changes to DoD Instruction 5120.4 and adds a review civilian publishers requirement for DoD newspapers. It prohibits civilian publishers DoD civilian enterprise (CE) publications from accepting political advertising. It permits the addition of a telephone directory section in CE base guides. A new section, Appendix F, establishes a review and reporting system for DoD newspapers.

DATE: Forward comments to Department of Defense, American Forces Information Service (ATTN: PMP&P), 601 North Fairfax Street, #311, Alexandria, VA 22314–2007, no later than December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Col. H. Baker, USAF, telephone (703) 274–4868.

SUPPLEMENTARY INFORMATION: In FR Doc. 50–32851 appearing in the **Federal Register** on August 15, 1985, the Office of the Secretary of Defense published a final rule reissuing policies on DoD newspapers and CE publications. OSD proposes to make minor revisions to these policies and establish certain internal reporting requirements.

List of Subjects in 32 CFR Part 297

Government publications, Newspapers and magazines.

Accordingly, 32 CFR part 297 is proposed to be amended as follows:

PART 297—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 10 U.S.C. 121 and 133.

2. The table of contents is proposed to be amended:

a. By adding a new appendix F as follows:

Appendix F to Part 297—DoD Command Newspaper Review System

b. By revising the titles of enclosures 1 through 5 as follows:

"Enclosure 1–Funded Newspapers" to "Appendix A to Part 297–Funded Newspapers"

"Enclosure 2–Civilian Enterprise Publications" to "Appendix B to Part 297–Civilian Enterprise Publications"

"Enclosure 3—*Stars and Stripes*" to "Appendix C to Part 297—*Stars and Stripes*"

"Enclosure 4–Mailing of DoD Newspapers and Civilian Enterprise Publications Other Than Newspapers; Sales and Distribution of Non–DoD Publications" to "Appendix D to Part 297–Mailing of DoD Newspapers and Civilian Enterprise Publications Other Than Newspapers; Sales and Distribution of Non–DoD Publications"

"Enclosure 5–American Forces Press and Publications Service" to "Appendix E to Part 297—American Forces Press and Publications Service"

3. Part 297 is proposed to be amended by changing the following references throughout the text to read as follows:

a. "Enclosure 1" to "Appendix A".
a. "Enclosure 2" to "Appendix B".
c. "Enclosure 3" to "Appendix C".
d. "Enclosure 4" to "Appendix D".
e. "Enclosure 5" to "Appendix E".

§ 297.2 [Amended]

4. Section 297.2 is proposed to be amended by removing the words "Organization of the" and replacing them with "Joint Staff,"

5. Section 297.5 is proposed to be amended as follows:

a. Paragraph (b)(8), after the word "may" appears a second time, add the word "not"

b. Redesignating paragraph (d)(6) as (d)(5)(i)

c. Adding a new paragraph (5)(ii)

d. Redesignating paragraph (d)(7) as (d)(6)

e. Amending paragraph (e) by changing the words "§ 297.5(d)(1)(i)(F)" to "§ 297.5(d)(5)(i)"

f. Adding a new paragraph (i).

§ 297.5 Procedures.

* * * * *

(d) * * *

(5) * * *

(ii) This provision is not intended to prohibit the headquarters of a geographically dispersed command that receives its local coverage in the host-installation newspaper from publishing a command-wide newspaper; nor is it intended to prohibit a command that has information needs that are significantly different from the majority of the host-installation audience from publishing a separate newspaper, when authorized by the designated approving authority (see section C., appendix F).

* * * * *

(i) *DoD Command Newspaper Review System.* See appendix F.

7. Newly redesignated appendix A is proposed to be amended by revising paragraph D as follows:

Appendix A to Part 297—Funded Newspapers

* * * * *

D. Masthead

The masthead shall include the names of the commanding officer and the public affairs officer (PAO), and the names and editorial titles of the staff of the newspaper.

* * * * *

8. Newly redesignated Appendix B is proposed to be amended as follows:

a. Revising paragraph A

b. Amending paragraph D. by changing the words "§ 297.5(b)(5)" to "§ 297.5(b)(6)"

c. Amending paragraph F.4., second sentence, by adding the words "public affairs," after the word "include"

d. Removing the sentence: The public affairs officer shall serve as executive secretary and advisor.

e. Revising paragraph I.

Appendix B to Part 297—Civilian Enterprise Publications

* * * * *

A. Purpose

Civilian Enterprise (CE) publications consist of newspapers, guides and maps. They support command internal communications. The command provides the editorial content. Commercial publishers sell advertising to cover costs and secure earnings, print the publications, and may make all or part of the distribution. Periodically, commercial publishers compete for contracts to publish these publications. Appropriated or non-appropriated funds may not be used to pay for any part of a commercial publisher's costs incurred in publishing a CE publication.

* * * * *

I. Civilian Enterprise Guides and Maps

1. The name of the publication may include the name and emblem of the command or installation.

2. At the discretion of the commander, an installation official telephone directory may be included as a section of a CE guide. The telephone section shall be integral to the guide and not separable. (Separate CE telephone directories are not authorized). Required communication security (COMSEC) information shall be printed on the first page of the telephone section and not on the cover of the guide. The cover of the guide may notify users that the publication contains the official telephone directory. Publishing contracts shall establish a firm delivery date and ensure control of distribution by the command executing the contract.

3. A CE mission and services pocket guide for transient personnel that contains advertising from businesses in the community whose services may be needed by transients may be contracted for in addition to the installation guide. Normally, these pocket guides will be procured as a part of the installation guide contract.

* * * * *

Appendix E to Part 297—[Amended]

9. Newly redesignated Appendix E is proposed to be amended as follows:

a. Removing the word "monthly" in paragraphs A.1. and A.2.

b. Amending paragraph D.1. by changing the address to "601 North Fairfax Street, Room 311, Alexandria, VA 22314–2007"

c. Removing paragraph E.

10. Appendix F is proposed to be added as follows:

Appendix F to Part 297—DoD Command Newspaper Review System

A. Purpose

The purpose of the DoD command newspaper review system is to assist commanders in establishing and maintaining cost-effective internal communications essential to mission accomplishment. The system also enables internal information managers to assess the cost and effective use of resources devoted to command newspapers and to provide requested reports.

B. Policy

DoD newspaper (except those covered by Appendix C) shall be reviewed and reported biennially. The review process is not intended to replace day-to-day quality assurance procedures or established critique prorams.

C. Approving Authorities

1. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) shall be the approving authority for newspapers published by DoD Components, less the Military Department.

2. Within the Military Departments, the Secretary or a designated representative shall be the approving authority. This authority may be delegated no lower than the major command or equivalent level.

D. Review Criteria

1. Each newspaper shall be evaluated on the basis of mission essentiality, communication effectiveness, cost effectiveness, and compliance with applicable regulations.

2. In implementing the requirement that only one newspaper is authorized at each installation, any competing needs of an installation and its tenant commands shall be considered (see paragraphs 297.5(d)(5)(i) and (ii) of this part).

E. OSD Command Newspaper Review Board

The OSD Command Newspaper Review Board shall be chaired by the Director, American Forces Information Service (AFIS). Members shall be senior personnel representing functional areas of the command communication process (public affairs, editorial, design and layout, production, etc.). Members shall be drawn from OSD and Defense Agencies, nominated by office and agency heads at the invitation of the chair. A technical advisory panel of relevant specialties (printing, postal, distribution, contracting, legal, etc.) may be established at the discretion of the chair.

1. Recommendations may include the establishement, disestablishment, or continuance of a newspaper; changes in volume, frequency, format, or paper stock; and cost reduction measures.

2. Recommendations shall have the concurrence of two-thirds of the voting board members.

F. Military Department Command Newspaper Review

Military Departments shall establish appropriate procedures to accomplish command newspaper review and reporting requirements.

G. Appeals

Appeals shall be made within 30 calendar days of the approving authority's decision if publishing activities have new information to present. Representatives of a publishing activity may make presentations to a board and respond to questions during open sessions of the board.

H. Reporting Requirements

1. DoD Components (less the Military Departments) shall forward, by January 31 of each even numbered year, the information indicated on attachment 1 of this Appendix for each newspaper published, and four recent copies of the newspaper to: Director, American Forces Information Service, ATTN:

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Print Media Plans and Policy, 601 North Fairfax Street, #311, Alexandria, VA 22314–2007.

Requests for approval of new newspapers may be submitted at any time, using the format at attachment 1 of this Appendix.

2. No later than April 15 of each even numbered year, the Secretary, or designee, of each Military Department shall forward to the ASD(PA) (ATTN: Director, AFIS) a report of the Department's review of newspaper. A cover memorandum shall include summary data on total number of newspapers, number eliminated, and total cost for the year being reported, along with a listing of the information indicated on attachment 2 of this Appendix.

3. One information copy of each issue of all DoD newspapers shall be forwarded on publication date to the address in paragraph H.1. of this Appendix.

4. Information copies of CE newspaper contracts shall be forwarded to the address in paragraph H.1. of this Appendix.

5. Administrative Instructions shall be issued by the Director, AFIS, for the biennial review and reporting of newspapers.

I. Report Control Requirement

The information requirements prescribed in this Appendix are assigned Report Control Symbol DD PA(B1) 1638.

Attachment 1 to Appendix F—Request for Continuation or Establishment of DoD Newspaper

As required by Section H. of this appendix, the following information shall be provided biennially on newspapers published by DoD Components (less Military Departments), and when requesting approval for a new newspaper:

A. Name of newspaper.
B. Publishing command and mailing address.
C. Printing arrangement:
1. Government equipment.
2. Government contract with commercial printer.
3. CE contract with commercial printer (give name and mailing address of commercial printer).
D. Frequency and number of issues per year.
E. Number of copies printed and estimated readership.
F. Paper size (metro, tabloid, or magazine/newsletter) and average number of pages per issue.
G. Size of newspaper staff, listed as full time and part time.
H. Annual costs:
1. Editorial and administrative.
2. Supply and equipment.
3. Printing (funded only).
4. Distribution and mailing.
5. Staff transportation.
I. Attach four recent copies of newspaper.
J. For requests for approval of new newspapers:
1. Provide comprehensive statement of the necessity for the newspaper, including, if a tenant command, why host installation newspaper does not serve the needs of the requester's audience.
2. Attach four recent copies of newspapers published by host and any other tenants.

Attachment 2 to Appendix F—Military Department Newspaper Data

As required by section H., paragraph 2., of this appendix, the following information shall be provided biennially on each newspaper published by the Military Departments.

A. Name of newspaper.
B. Publishing command and mailing address.
C. Printing arrangement:
1. Government equipment.
2. Government contract with commercial printer.
3. CE contract with commercial printer (give name and mailing address of commercial printer).
D. Frequency and number of issues per year.
E. Number of copies printed and estimated readership.
F. Paper size (metro, tabloid, or magazine/newsletter) and average number of pages per issue.
G. Size of newspaper staff, listed as full time and part time.
H. Annual costs:
1. Editorial and administrative.
2. Supply and equipment.
3. Printing (funded only).
4. Distribution and mailing.
5. Staff transportation.

Dated: October 30, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 89–25651 Filed 11–2–89; 8:45 a.m.]

BILLING CODE 3810–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AA91

Cape Cod National Seashore; Off-Road Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed Rule; Withdrawal.

SUMMARY: On January 6, 1989 (54 FR 429), the Department of the Interior published a proposed rule in the **Federal Register** to modify the existing off-road vehicle (ORV) regulations at Cape Cod National Seashore. The rulemaking proposed minor revisions in the current restrictions that apply to ORV use. Of the 4,722 public comments received in response to the proposed rule, 98% indicated opposition to the proposal in some manner. The National Park Service (NPS) has determined that further review is warranted prior to any change in the current ORV regulations. The NPS will continue to evaluate the current regulations in terms of their effectiveness. The Service intends to address ORV use as one of the elements to be considered in the comprehensive planning process initiated in 1989 that will lead to the development of a General Management Plan for Cape Cod National Seashore. For these reasons, the National Park Service is withdrawing the proposed rule.

DATE: The proposed rule is withdrawn as of November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Anthony Bonanno, Chief Ranger, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone: (508) 349–3785.

Dated: October 27, 1989.

Constance B. Harriman,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–25663 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3677–8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On August 14, 1989 (54 FR 33245), EPA proposed approval of a revision submitted by the Commonwealth of Massachusetts for the Acushnet Company, Plant A. On October 13, 1989, Acushnet Company requested a second extension of the public comment period. EPA has evaluated this request and is hereby granting a thirty (30) day extension of the public comment period. This will be the final extension request granted for this action.

DATES: Comments should be received on or before November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene; (617) 565–3244; FTS 835–3244.

Authority: 42 U.S.C. 7401–7642.

Dated: October 24, 1989.

Paul Keough,

Acting Regional Administrator, Region I.

[FR Doc. 89–25952 Filed 11–2–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 307

[FRL–3677–6]

Response Claims Procedures for the Hazardous Substance Superfund; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: EPA is correcting errors in the preamble and regulatory text of the proposed Response Claims Procedures for the Hazardous Substance Superfund which appeared in the **Federal Register** on September 13, 1989 (54 FR 37892).

FOR FURTHER INFORMATION CONTACT: William O. Ross at (FTS or Commercial) (202) 382–4645.

SUPPLEMENTARY INFORMATION: On September 23, 1989, EPA proposed regulations to establish the procedures for filing, evaluating, and resolving claims for response costs incurred for responding to releases of hazardous substances, pollutants, or contaminants asserted against the Hazardous Substance Superfund established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 *et seq.* In addition, this proposed regulation would establish procedures for notifying concerned parties regarding limitations on the payment of response claims. The proposed regulation is consistent with EPA's proposed revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (53 FR 51394 *et seq.*). The proposed regulation contained errors which are discussed briefly below and are corrected by this notice.

Dated: October 26, 1989.

Robert Wayland,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

The following corrections are made in FRL–3399–6, the Response Claims Procedures for the Hazardous Substance Superfund published in the **Federal Register** on September 13, 1989 (54 FR 37892).

1. On page 37892, first column, under the heading "**FOR FURTHER INFORMATION CONTACT,**" line 2, change "(WH–220)" to "(OS–220)".

2. On page 37895, first column, line 21, change "(See 40 CFR part 35, subpart O regarding assurances from Indian Tribes.)" to "(see 40 CFR part 35, subpart O regarding assurance from Indian Tribes.)".

3. On page 37895, third column, line 5, change the subsection number "(1)" in "111(1)" to lower case letter "(l)".

4. On page 37897, first column, line 62, change "(b)(5)" to "(b)(4)".

5. On page 37899, the first sentence of the third full paragraph, second column, line 66, which reads, "For sites that are on the NPL, EPA will consider applications for preauthorization of remedial actions where the Agency does not in the near future intend: (1) To bring an enforcement action against responsible parties; (2) to initiate a Fund-financed response through contracts or cooperative agreements with States; or (3) where the Agency finds it desirable to allow claims in addition to one or more of the above mechanisms (e.g., mixed funding)." is revised to read as follows:

"For sites that are on the NPL, EPA will consider applications for preauthorization of remedial actions where the Agency: (1) does not in the near future intend to bring an enforcement action against responsible parties; (2) does not intend to initiate a Fund-financed response through contracts or cooperative agreements with States; or (3) finds it desirable to allow claims in addition to one or more of the above mechanisms (e.g., mixed funding)."

6. On page 37900, first column, line 57, change "§ 307.21(g)" to "§ 307.21(h)".

7. On page 37900, second column, line 37, change "§ 307.21(f)" to "§ 307.2l(g)".

8. On page 37900, second column, line 55, change "§ 307.21(g)" to "§ 307.21(h)".

9. On page 37900, second column, line 66, change "§ 307.21(g)" to "§ 307.21(h)".

10. On page 37900, third column, first paragraph under the heading, "2. Elements of the Application for Preauthorization", line 5, change "for" to "from".

11. On page 37901, first column, line 13, change "the" to "that".

12. On page 37901, first column, line 34, change "sities" to "sites".

13. On page 37901, first column, line 38, change "or" to "of".

14. On page 37901, third column, line 7, the comma following the word "revision" should be deleted.

15. On page 37901, third column, line 23, the sentence that reads, "Section 300.430(e)(70)(iii) (300.68(i) except for paragraph (iv), regarding waivers) on selection of the remedy." is revised to read as follows:

"Section 300.430(f)(3) (except for the waivers in paragraph (iv)) (300.68(i)) on selection of the remedy.".

16. On page 37901, third column, line 59, change "section 300.430(e)" to "§ 300.430(e)(2)–(6)".

17. On page 37901, third column, line 64, the sentence that reads, "The proposed remedy must also have been selected from the alternatives in accordance with proposed § 300.430(f)(3) (§ 300.68(i) except for the waivers in paragraph (iv) of the 1985 NCP." is revised to read as follows:

"The proposed remedy must also have been selected from the alternatives in accordance with proposed § 300.430(f)(3) (except for the waivers in paragraph (iv)) (§ 300.68(i) of the 1985 NCP)."

18. On page 37902, first column, line 46, change "employes" to "employs".

19. On page 37903, second column, line 15, change "may be reflect" to "may reflect".

20. On page 37906, third column, line 2, add a comma after the word "actions".

21. On page 37907, first column, first paragraph under the heading, "4. State and Indian Tribe Consultation", line 13, change "(see Section IV.D.2.f)." to "(see Section IV.D.2.g.).".

22. On page 37907, second column, line 63, delete the word "the".

23. On page 37909, second column, line l, change "§ 307.32(i)" to "§ 307.32(h)".

24. On page 37909, third column, line 18, change "or" to "of".

§ 307.21 [Corrected]

25. Section 307.21(e) on page 37913, second column, line 46 is correctly revised to include the word "transactions" after the word "procurement".

§ 307.22 [Corrected]

26. Section 307.22(b) on page 37914, first column, line 19, replace the period after the word "available" with a colon.

27. Section 307.22(b)(5) on page 37914, first column, line 49, change "section" to "§".

28. Section 307.22(e)(9) on page 37914, third column, line 5, is revised to read, "Takes into account Appendix D ' (methods of remedying releases) (section 300.70 of the existing 40 CFR).".

§ 307.23 [Corrected]

29. Section 307.23(b)(10) on page 37915, second column, line 54, add a comma after the word "study".

§ 307.30 [Corrected]

30. Section 307.30(c) on page 37916, second column, line 36, change "§ 307.20(d)" to "§ 307.20(c)".

§ 307.32 [Corrected]

31. Section 307.32(1) on page 37917, second column, line 13, change the

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subsection letter from the number "(1)" to the letter "(i)".

Appendix D to Part 307—[Corrected]

32. Appendix D on page 37925, third column, line 8, change "consisent" to "consistent".

[FR Doc. 89-25845 Filed 11-2-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 372

[OPTS-400036; FRL-3665-1]

Decabromodiphenyl Ether; Toxic Chemical Release Reporting; Community Right-to-Know Denial of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying a petition to delete decabromodiphenyl ether (DBDPE) from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The decision is based on evidence that the chemical can be reasonably anticipated to cause developmental and chronic toxicological effects in humans. As a result of the review of the petition, EPA will consider initiating a rulemaking to add octabromodiphenyl ether (OBDPE) to the EPCRA section 313 list because of evidence that the chemical can be reasonably anticipated to cause developmental toxicological effects in humans. OBDPE was included in the petition review because it is a photolysis product of DBDPE and health and hazard assessment information of OBDPE was included in the documentation on DBDPE.

DATES: Written comments must be submitted on or before January 2, 1990.

ADDRESSES: Written comments should be submitted in triplicate to: OTS Docket Clerk, TSCA Public Docket Office (TS-793), Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460. Attention: Docket Control Number OPTS-400036.

FOR FURTHER INFORMATION CONTACT: Robert J. Israel, Petitions Coordinator, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M St. SW., Washington, DC 20460, Toll free: 800-535-0202, In Washington, DC and Alaska, 202-479-2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The denial is issued under section 313 (d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (Pub. L. 99-499, "EPCRA" or the "Act"). EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

B. Background

Section 313 of EPCRA requires certain facilities that manufacture, process, or otherwise use toxic chemicals to report annually their environmental releases of such chemicals. Section 313 establishes an initial list of toxic chemicals that is composed of more than 300 chemicals and chemical categories. Any person may petition the Agency to add chemicals to or delete chemicals from the list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. EPA must respond to petitions within 180 days either by initiating a rulemaking or by issuing an explanation of why the petition is denied.

II. Description of Petition

On May 15, 1989, EPA received a petition from Great Lakes Chemical Corporation to delete decabromodiphenyl ether (DPDPE) from the EPCRA section 313 list of toxic chemicals. The petition was based on Great Lakes' contention that DBDPE does not meet the EPCRA section 313 criteria for listing. The statutory deadline for EPA's response is November 11, 1989.

III. EPA's Review of Decabromodiphenyl Ether

A. Chemistry Profile

DBDPE, which is also known as decabromodiphenyl oxide (DBDPO), is a white solid. DBDPE is synthesized by treating diphenyl ether with bromine in the presence of a Friedel-Crafts catalyst. DBDPE melts at 300 to 310 °C, has a vapor pressure of less than 1 torr at 250 °C, and a solubility in water of 30 parts per billion.

1. *Photolysis.* Photolysis of DBDPE in organic solvents under ultraviolet (UV) light (using a mercury lamp) or artificial sunlight rapidly yields the lesser brominated congeners, including octabromodiphenyl ether (OBDPE), and polybrominated dibenzofurans (PBDFs). The formation and distribution of photoproducts by sunlight were similar to those by UV irradiation. It appears that debromination occurs more rapidly than cyclization which gives the dibenzofurans. The half-life for photodegradation in octanol under artificial sunlight is 4 hours. Photolysis in hexane-benzene-acetone (8:1:1) under artificial sunlight is 18 minutes. The half-life for photolysis under UV light is 100 minutes. The amount of PBDFs formed by photolysis in sunlight is substantial, about a 10 percent yield for 16 hours of irradiation. The amount of PBDFs formed after irradiation with UV light for 16 hours is 20 percent.

DBDPE also undergoes photolysis in water. Photohydroxylation, in which bromine is replaced by hydroxyl and yields phenolic derivatives, is the favored route. The degradation products decompose rapidly via increased UV absorption, due to the hydroxyl groups, resulting ultimately in the rupture of the aromatic ring.

Photodegradation may therefore occur in surface waters, in the atmosphere, or on soil surfaces exposed to sunlight.

2. *Thermal degradation.* Data has been submitted to EPA under section 8(e) of the Toxic Substances Control Act (TSCA) which demonstrates that under certain conditions brominated dibenzofurans may be formed during thermal processing of polyester resins (polybutylene terephthalate) which contain DBDPE. The data suggest that PBDFs may be formed at temperatures as low as 200 °C.

B. Toxicity Evaluation

Information on the most significant health and environmental hazards likely to be associated with DBDPE was assessed. All readily available data were received, including those provided by studies retrieved from a search of the recent literature, and documents prepared by EPA. Included in the materials researched were hazard and health assessments of the lesser brominated diphenyl ethers, such as OBDPE, which is known to be in production in the U.S. Thus, readily available information on the most significant health hazards associated with OBDPE (all isomers), which is a photolysis product of DBDPE, was also assessed.

Decabromodiphenyl Ether

1. *Developmental toxicity.* DBDPE can be reasonably anticipated to cause developmental toxicity in humans.

A standard teratology study performed in Sprague-Dawley rats showed an increased incidence of resorptions after treatment with doses as low as 10 mg/kg of DBDPE, and

increased incidence of subcutaneous edema and delayed ossification of portions of the calvarium after treatment with doses of 1,000 mg/kg of DBDPE. The lowest observed adverse effect level (LOAEL) for this study was 10 mg/kg/day and a no observed adverse effect level (NOAEL) was not established.

2. *Chronic toxicity.* DBDPE can be reasonably anticipated to cause chronic toxicity in humans.

Chronic exposure to DBDPE may cause liver toxicity in humans based on a repeated dose 30-day study in Sprague-Dawley rats. In that sudy, marked liver toxicity was seen at 80 and 800 mg/kg/day. In addition, there is some liver toxicity which was observed in the chronic bioassay which utilized Fischer rats; this heptatoxicity, however, was observed at much higher dose levels. The data from these studies indicate that the liver is the major target organ in the rat and there is a strain difference in the susceptibility to the effects of DBDPE. The liver was found to be the target organ for toxicity in carcinogenesis bioassays in both Fischer rats and $B_6C_6F_1$ mice.

In 14 to 30-day repeated dose studies in three strains of rats and one mouse strain, the greatest toxicity was evident in a 30-day study of DBDPE at doses of 0, 8, 80, or 800 mg/kg/day in Sprague-Dawley rats. The mixture of DBDPE used in that study consisted of 77.4 percent DBDPE, 21.8 percent nonabromodiphenyl ether (NBDPE), and 0.8 percent OBDPE. Treatment-related effects of DBDPE in Sprague-Dawley rats were found in the liver, spleen, thyroid, and kidneys. The effects observed in the liver included increased absolute and relative liver weight, liver enlargement at gross necropsy, and centrilobular hypetrophy with vacuolation. The effects observed in the spleen included increased absolute and relative weight, but it is not clear whether the spleen was examined microscopically. Hyperplasia was observed in the thyroid and hyaline droplet degenerative changes were observed in the kidneys. The lowest dose at which a treatment-related effect, specifically increased absolute and relative spleen weight, occurred in this study was at 8 mg/kg/day, which was also the lowest dose tested. In contrast to the positive findings in the 30-day study in Sprague-Dawley rats, no treatment related effects were found in the following studies: a 28-day study in Charles River CD rats using a mixture of DBDPE of unstated purity at a maximum dose of 100 mg/kg/day; several 14-day studies in F344/N rats using a mixture of DBDPE of 99 percent purity (2 unidentified impurities) at a maximum dose of 5,100 mg/kg/day; and a study in $B_6C_6F_1$ mice using a mixture of DBDPE of 99 percent purity (2 unidentified impurities) at a maximum dose of 15,500 mg/kg/day.

Administration of high doses of DBDPE in the diet of $B_6C_6F_1$ mice for 2 years produced treatment-related nonneoplastic lesions in males in the liver and thyroid. Centrilobular hypertrophy with vacuolation was observed in the liver and follicular cell hyperplasia was observed in the thyroid. In that 2-year study, the mixture of DBDPE used was of 94 to 97 percent purity, with 2 impurities identified as isomers of NBDPE and 2 unidentified impurities. In males, the LOAEL based upon all these lesions is 3,200 mg/kg/day, which was the lowest dose tested; a NOAEL was not established. No treatment-related nonneolastic lesions were reported in females when a maximum dose of 7,780 mg/kg/day was administered.

The chronic oral (diet) LOAEL for DBDPE, derived from studies on F344/N rats and $B_6C_6F_1$ mice, is much higher than the lowest doses that produced treatment-related effects in the 30-day dietary study in Sprague-Dawley rats. Compared to the Sprague-Dawley rats, F344/N rats and $B_6C_6F_1$ mice appeared relatively insensitive to toxic effects from prolonged oral exposure to DBDPE. This may be due to strain/species difference and/or to the higher purity or different compositions of the DBDPE tested. Data are not available to eliminate strain/species differences as a basis for this apparent sensitivity difference. However, it is clear that purity or the proportion of lesser brominated diphenyl ethers may play a role. In equivalent 28-day feeding studies of 100 or 1,000 ppm of DBDPE of unstated purity or OBDPE of unstated purity in Charles River CD rats, OBDPE produced toxic effects at both doses whereas DBDPE did not (See the discussion of OBDPE studies below). These studies did not include information on organ weights.

Octabromodiphenyl Ether

1. *Developmental toxicity.* OBDPE can be reasonably anticipated to cause developmental toxicity in humans.

A pilot and standard teratology study of OBDPE showed maternal toxicity (decreased weight gain) at doses as low as 50 mg/kg and developmental toxicity at doses as low as 10 mg/kg. Signs of developmental toxicity included increased incidence of resorptions, decreased fetal body weight, increased incidence of malformations such as shortened or bent leg bones, and increased incidence of delayed ossification of the axial skeleton at doses as low as 25 mg/kg and decreased fetal body weight at doses as low as 10 mg/kg. The LOAEL for this study was 10 mg/kg/day and the NOAEL was 2.5 mg/kg/day.

2. *Chronic toxicity.* OBDPE can be reasonably anticipated to cause chronic toxicity in humans.

There have been a number of studies carried out on OBDPE. Every study had some deviations from standard test guidelines, which precluded a full evaluation of the potential chronic toxicity of OBDPE.

Following repeated oral exposure of rodents to DBDPE or OBDPE, common target organs included the liver, thyroid, and kidney. Compared to DBDPE, the number of alterations produced in these organs by OBDPE appeared to be more extensive. Although treatment-related spleen and stomach effects were noted in studies of DBDPE but not OBDPE, the studies of the latter were inadequate to determine whether or not the spleen or stomach may be a target organ for OBDPE. Treatment-related effects produced by OBDPE included decreased body weight, hypoglycemia, and hematologic changes including reduced hemoglobin, hematocrit, and erythrocyte count. The lowest dose at which treatment related effects such as increased liver weight and liver lesions occurred was 10 mg/kg/day. These effects were seen as the result of prolonged exposure to OBDPE in 28-day and 13-week studies in Charles River CD rats.

C. Use, Release, and Exposure

1. *Production and use.* DBDPE is currently manufactured domestically by the Great lakes Chemical Corporation in El Dorado, AR, the Ethyl Corporation in Magnolia, AR, and Dow Chemical Company in Midland, MI. DBDPE is processed by Quabaug Corporation in North Brookfield, MA, Thermofil, Incorporated in Brighton, MI, and General Felt Industries in Philadelphia, PA, for on-site processing and use. Total domestic consumption in 1989 is estimated to be 13.5 million kilograms.

DBDPE is currently being imported by Lamtec Corporation in Flanders, NJ, and by the Nassau Chemical Corporation in Trenton, NJ. No information is available on the quantity of DBDPE imported.

DBDPE is used as a non-reactive flame retardant in plastics, resins, foams, and textiles. It is incorporated during the thermal molding process or physically blended in. Its major application is in thermoplastics, such as

high impact polystyrene for use in television cabinets, radios and phonographs, and business plastics such

EPA is to use in section 313(d) when modifying the list of toxic chemicals. When denying a petition, EPA must

base (100-year) flood elevations previously published at 20150 on May 10, 1989. This correction notice provides

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

specific fishing regulations in 50 CFR part 33. Refuge-specific fishing regulations are issued only after the

the determinations required by these Acts are made prior to the addition of the refuge to the list of areas open to

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high impact polystyrene for use in television cabinets, radios and phonographs, and business plastics such as computer housings.

2. *Exposure and release.* Exposure and release data were obtained from the Toxic Chemical Release Inventory (TRI). For the 1987 reporting year, 47 Form Rs were submitted under section 313 of EPCRA.

The largest release of DBDPE was 59,990 kg/yr to air from the Great Lakes plant in El Dorado, AR. The Industrial Source Complex Long-Term and Short-Term (ISCLT, ISCST) dispersion models were used to estimate fenceline exposures. The maximum annual average concentration was estimated to be 21.8 $\mu g/m^3$. The maximum short-term concentration was estimated to be 1,092 $\mu g/m^3$.

The largest releases of DBDPE to surface waters were 5,083 kg/yr from the White Chemical Company's Newark, NJ, facility, 3,773 kg/yr from the Tanner Corporation's Greenville, SC, facility, and 1,364 kg/yr from the Walsh Chemical Company's facility in Philadelphia, PA. The maximum drinking water exposure, 0.164 mg/yr, was estimated to result from the Tanner Corporation facility. Exposure resulting from DBDPE that has been landfilled was not estimated because the chemical is expected to remain bound to the soil and should not leach into the groundwater.

DBDPE has been found in samples of air particulates, soil, and sediments taken from the vicinity of the Great Lakes facility in El Dorado, AR, and the Ethyl Corporation facility in Magnolia, AR. Sediment samples collected near the Great Lakes facility were found to contain maximum concentrations of 1,000 mg/kg of DBDPE. Ambient air samples collected at this facility contained maximum levels of 98.1 $\mu g/m^3$. DBDPE levels of 5 $\mu g/kg$ have been detected in composite samples of human hair from barber shops in the two Arkansas towns. Based on these studies, it was estimated that a minimum of 5 percent of the population in each town had detectable levels of DBDPE.

IV. Explanation for Proposed Denial

A. General Policy

EPA has broad discretion in determining whether to grant or deny petitions under section 313 of EPCRA. When granting a petition, EPA has an obligation to show how the granting of the petition fulfills the statutory criteria EPA is to use in section 313(d) when modifying the list of toxic chemicals. When denying a petition, EPA must issue an explanation of why the petition is denied.

B. Reasons for Denial

EPA is denying the petition submitted by Great Lakes Chemical Corporation to delete DBDPE from the EPCRA section 313 list of toxic chemicals. The decision to deny the petition is based on evidence that DBDPE can be reasonably anticipated to cause developmental and chronic toxicity in humans. EPA's consideration of initiating action to add OBDPE to the EPCRA section 313 list is based on evidence that the chemical can be reasonably anticipated to cause developmental toxicity in humans. The effects noted for these chemicals are in accordance with the criteria in section 313(d)(2)(B) of EPCRA.

V. Administrative Record

The record supporting this decision is contained in docket control number OPTS-400036. All documents, including an index of the docket are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, room NE-G004, 401 M Steet SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: October 30, 1989.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 89-25953 Filed 11-2-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6956]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 20158 on May 10, 1989. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Tolland, Hampden County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Tolland, previously published at 20158 on May 10, 1989, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR part 67.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

On page 20158, in the May 10, 1989 issue of **Federal Register**, the entries under Massachusetts Tolland (Town), Hampden County, are corrected to read as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
. . . . .	
West Branch Farmington River:	
Approximately 2.5 miles downstream of Old State Route 8	*725
Approximately 1.6 miles upstream of Alan Road	*1,120
. . . . .	

Issued: October 27, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-25948 Filed 11-2-89; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

RIN 1018-AA50

Refuge-Specific Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) would amend certain regulations in 50 CFR part 33 that pertain to fishing on individual national wildlife refuges (NWRs). Refuge fishing programs are reviewed annually to determine whether the regulations governing fishing on individual refuges should be modified. Changing environmental conditions, state and Federal regulations and other factors affecting fish populations and habitats may warrant such amendments. The modifications would ensure the continued compatibility of fishing with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge fishing programs consistent with state regulations.

DATES: Comments must be received on or before December 4, 1989.

ADDRESS: Send comments to: Assistant Director, Refuges and Wildlife, U.S. Fish and Wildlife Service, 18th and C Streets, NW., MS 670-ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Larry LaRochelle, Division of Refuges, Fish and Wildlife Service, 18th and C Streets NW., MS 670-ARLSQ, Washington, DC 20240; Telephone 703-358-2043.

SUPPLEMENTARY INFORMATION: 50 CFR part 33 contains the provisions that govern fishing on NWRs. Fishing is regulated on refuges to (1) ensure compatibility with primary refuge purposes, (2) properly manage the fishery resource and (3) protect other refuge values. On many refuges, the Service policy of adopting state fishing regulations is an adequate way of meeting these objectives. On other refuges it is necessary to supplement state regulations with refuge-specific fishing regulations which will ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." These regulations may list the seasons, methods of taking fish, descriptions of open areas and other provisions. The Service has previously issued refuge-specific fishing regulations in 50 CFR part 33. Refuge-specific fishing regulations are issued only after the final publication of the opening of a wildlife refuge to fishing.

This proposed rule would amend and supplement certain refuge-specific regulations in 50 CFR part 33, §§ 33.6 through 33.51, which pertain to fishing on individual refuges in their respective alphabetically listed state.

The policy of the Department of the Interior (Department) is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding the proposed amendments to refuge-specific fishing regulations. Accordingly, interested persons may submit written comments concerning this proposal to the Assistant Director, Refuges and Wildlife (address above), by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act (RRA) of 1962 (16 U.S.C. 460k) govern the administration and public use of NWRs. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior (Secretary), under such regulations as he may prescribe, to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations and access when he determines that such uses are compatible with the major purposes for which such areas were established.

The RRA authorizes the Secretary to administer refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the area was established. The RRA also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Fishing plans are developed for each fishing program on a refuge prior to its opening to fishing. In many cases, refuge-specific fishing regulations are included as part of fishing plans to ensure the compatibility of the fishing programs with the purposes for which the refuge was established. Compliance with the NWRSAA and RRA is ensured when fishing plans are developed and the determinations required by these Acts are made prior to the addition of the refuge to the list of areas open to fishing in 50 CFR part 33. Continued compliance is ensured by annual review of fishing programs and regulations.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific fishing regulations would make relatively minor adjustments to existing fishing programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, state or local governments, agencies or geographic regions. The benefits accruing to the public are expected to exceed the costs of administering this rule. Accordingly, the Department has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval No.
Economic and public use permits	1018-0014

Public reporting burden for this form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and

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reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) is ensured when fishing plans are developed and the determinations required by these Acts are made prior to the addition of refuges to the list of areas open to sport fishing in 50 CFR part 33. Refuge-specific fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular refuge. The changes proposed in this rulemaking would not significantly alter the existing uses of the refuges involved.

Information regarding the conditions that apply to individual refuge fishing programs, any restrictions related to public use on the refuge and a map of the refuge are available at refuge headquarters. This information can also be obtained from the regional offices of the Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1002 NE Holladay Street, Portland, Oregon 97232; Telephone (503) 231–6214.
Region 2—Arizona, New Mexico, Oklahoma and Texas:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.
Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.
Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico, Tennessee and the Virgin Islands:
Assitant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street SW, Atlanta, Georgia 30303; Telephone (404) 331–0633.
Region 5—Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965–5222.
Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.
Region 7—Alaska:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786–3538.

Larry LaRochelle, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this proposed rulemaking document.

List of Subjects in 50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

PART 33—[AMENDED]

Accordingly, it is proposed to amend part 33 of chapter I of title 50 of the Code of Federal Regulations as set forth below:

1. The authority citation for part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460K, 664, 668dd and 715[s].

2. Section 33.4 would be amended to reflect a name change by deleting the Columbian White-tailed Deer National Wildlife Refuge and adding the Julia Butler Hansen Refuge for the Columbian White-tailed Deer in alphabetical sequence under the State of Washington as follows:

§ 33.4 List of open areas; sport fishing

* * * * *

Washington

* * * * *

Julia Butler Hansen Refuge for the Columbian White-tailed Deer.

* * * * *

3. Section 33.8 would be amended by revising paragraph (a) introductory text and adding paragraph (a)(6) as follows:

§ 33.8 Arkansas.

(a) *Big Lake National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(6) Frogging is permitted from the beginning of the State frogging season through October 31. The use of archery equipment for taking frogs is not permitted.

* * * * *

4. Section 33.13 would be amended by removing paragraph (h); redesignating paragraphs (a) through (g) as (b) through (h) and adding a new paragraph (a) as follows:

§ 33.13 Florida.

(a) *Arthur R. Marshall Loxahatchee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only from sunrise to sunset on all areas of the refuge except the management impoundments and those areas marked by signs as closed to public entry or fishing.

(2) Only the use of rods and reels or poles and lines is permitted, and this fishing equipment must be attended at all times.

(3) Commercial fishing or the taking of frogs or turtles is not permitted.

(4) The possession or use of trotlines, gigs, jugs, seines, castnets or other fishing devices not described above is not permitted.

* * * * *

5. Section 33.17 would be amended by revising paragraph (b)(4) and the heading of paragraph (d) as follows:

§ 33.17 Illinois.

* * * * *

(b) *Crab Orchard National Wildlife Refuge.* * * *

* * * * *

(4) Largemouth bass under 15" in length may not be taken from A–41, Bluegill or Blue Huron Ponds, Crab Orchard Lake or Managers or Honkers Ponds.

* * * * *

(d) *Upper Mississippi River National Wildlife and Fish Refuge.* * * *

* * * * *

6. Section 33.19 would be amended by revising the heading of paragraph (d) as follows:

§ 33.19 Iowa.

* * * * *

(d) *Upper Mississippi River National Wildlife and Fish Refuge.* * * *

* * * * *

7. Section 33.22 would be amended by revising paragraph (e), redesignating paragraphs (g) as (h) and (f) as (g); adding new paragraph (f) and revising newly designated paragraph (g)(4) as follows:

§ 33.22 Louisiana.

(e) *Lacassine National Wildlife Refuge.* Fishing and crayfishing are permitted on designated areas of the refuge subject to the following condition:

Fishing is permitted from 1 hour before sunrise until 1 hour after sunset during the period of March 15 through October 15.

(f) *Lake Ophelia National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and public access is permitted from one-half hour before sunrise until one-half hour after sunset only from March 1 through October 15 in areas posted by refuge signs and/or designated in refuge brochures.

(2) Fishing and public access is permitted year-round from one-half hour before sunrise until one-half hour after sunset in areas posted by refuge signs and/or designated in refuge brochures.

(3) Access to refuge fishing areas is restricted to those roads and trails posted by refuge signs and/or designated by refuge brochures.

(4) Only nonmotorized boats, boats with electric motors, and boats with motors of 25 horsepower or less are permitted in refuge wates. Boats may not be left on the refuge overnight.

(5) The ends of trotlines must consist of a length of cotton line that extends from the point of attachment into the water.

(g) *Sabine National Wildlife Refuge.* * * *

* * * * *

(4) All other refuge waters are open to fishing, crabbing, crayfishing and shrimping from March 15 through October 15 only.

* * * * *

8. Section 33.26 would be amended by revising paragraph (a)(2)(i); removing paragraph (a)(2)(ii) and redesignating paragraphs (a)(2)(iii) through (v) as paragraphs (a)(2)(ii) through (iv) as follows:

§ 33.26 Michigan.

(a) *Seney National Wildlife Refuge.* * * *

* * * * *

(2) *Summer fishing.* (i) Fishing is permitted from May 15 through September 30 during daylight hours only.

* * * * *

9. Section 33.27 would be amended by revising paragraph (b) and the heading of paragraph (f) as follows:

§ 33.27 Minnesota.

* * * * *

(b) *Minnesota Valley National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Only bank fishing is permitted.

(2) Ice fishing is permitted when ice conditions are safe.

(3) Ice fishing shelters must be removed from the refuge following each day's fishing activity.

* * * * *

(f) *Upper Mississippi River National Wildlife and Fish Refuge.* * * *

10. Section 33.32 would be amended by revising paragraphs (a) (1) through (3); revising paragraph (b)(2), adding paragraphs (b) (4) through (8) as follows:

§ 33.32 Nevada.

(a) *Pahranagat National Wildlife Refuge.* * * *

(1) Fishing is permitted year-round with the exception of North Marsh which is closed annually during the waterfowl hunting season.

(2) Only non-motorized boats and boats with electric motors are permitted on Upper Lake, Middle Pond, and Lower Lake.

(3) The use of boats, rubber rafts or other flotation devices is not permitted on North Marsh.

(b) *Ruby Lake National Wildlife Refuge.* * * *

* * * * *

(2) Only dike fishing is permitted in the areas north of the Brown Dike and east of the Collection Ditch with the exception that fishing by wading and from personal flotation devices (float tubes) is permitted in Unit 21 and portions of Unit 10.

* * * * *

(4) Beginning June 15 annually and continuing until December 31 annually, motorless boats with battery powered electric motors are permitted only on the South Sump.

(5) Beginning August 1 annually and continuing until December 31 annually, boats propelled with a motor or combination of motors in aggregate not to exceed 10 horsepower rating are permitted on the South Sump.

(6) Boats may be launched only from designated landings.

(7) No boats of any kind may be stored on the refuge from January 1 through March 31.

(8) Fishing is prohibited from the west bank of the Collection Ditch between Bressman Cabin and Passey Springhole, in the hatchery rearing and brooding from the dike between Units 14 and 20 as posted.

* * * * *

11. Section 33.34 would be amended by revising paragraphs (a)(2) and (a)(3) as follows:

§ 33.34 New Jersey.

(a) *Edwin B. Forsythe National Wildlife Refuge.* * * *

* * * * *

(2) Boat and bank fishing are permitted in and along Lily Lake. Boat ramp facilities are not available; only cartop launches will be permitted.

(3) Fishing, clamming and crabbing are not permitted from land or on any waters within tract 122X locally known as the AT&T properties. This area is closed to all public use.

* * * * *

12. Section 33.53 would be amended by revising paragraph (d) as follows:

§ 33.53 Wisconsin.

* * * * *

(d) *Upper Mississippi River National Wildlife and Fish Refuge.* Fishing is permitted subject to the following condition:

(1) Only hand powered boats or boats with electric motors are permitted on Mertes' Slough in Buffalo County, Wisconsin.

Dated: September 22, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89–25975 Filed 11–3–89; 8:45 am]
BILLING CODE 4310–55–M

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VOL 54 ISS 212 NO 3 1989 UMI

Notices

Federal Register
Vol. 54, No. 212
Friday, November 3, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 89-026N]

National Advisory Committee on Microbiological Criteria for Foods; Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Microbiological Criteria for Foods, will be held on Monday, Tuesday, and Wednesday, November 27–29, 1989, at the Marriott Key Bridge Hotel, 1401 Lee Highway, Arlington, VA 22209. On Monday, November 27, 1989, the Meat and Poultry and the Seafood Working Groups will meet from 1:00 p.m. to 5:00 p.m. to prepare for the full committee discussions on Tuesday and Wednesday. The full committee will meet from 9:00 a.m. to 5:00 p.m. on November 28 and 29.

The committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

The Agenda for this meeting follows:

(1) Approval of Meeting Agenda,
(2) Approval of the June 21–23, 1989, Meeting Minutes,
(3) Presentation of the Seafood Subcommittee Recommendations,
(4) Presentation of the Meat and Poultry Subcommittee Recommendations,
(5) Presentation of the HACCP Subcommittee Recommendations,
(6) Committee Discussions of Recommendations,
(7) New Business, and
(8) Future Assignments.

The Committee meetings are open to the public on a space available basis. Comments of interested persons may be filed prior to or after the meeting and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. In submitting comments, please reference the docket number appearing in the heading of this notice. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447–9150.

Done at Washington, DC on: October 30, 1989.

Lester M. Crawford,

Chairman.

[FR Doc. 89-25897 Filed 11-2-89; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Warren E. Thompson; Order

In the matter of Warren E. Thompson, 1064 Gridley Street, Bayshore, New York 11706, Respondent.

On October 10, 1989, then-Acting Assistant Secretary for Export Enforcement Skidmore signed an Order in the above-captioned matter which denied the export privileges of Warren E. Thompson (Thompson). 54 FR 42969, October 19, 1989. Through inadvertence, that Order did not include Thompson's address.

In view of the foregoing, I am hereby amending the October 10, 1989 Order by inserting in line five of the second full paragraph of that Order, after the word "[Thompson]", the following address: 1064 Gridley Street, Bayshore, New York 11706.

Entered this 27th day of October, 1989.

Kenneth A. Cutshaw,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 89-25873 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Order No. 447]

Approval for Expansion of Foreign-Trade Zone 83; Huntsville, AL

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board adopts the following Resolution and Order:

Whereas, the Huntsville-Madison County Airport Authority, Grantee of Foreign-Trade Zone No. 83, has applied to the Board for authority to expand its general-purpose zone at the Huntsville International Airport, within the Huntsville Customs port of entry;

Whereas, the application was accepted for filing on December 22, 1988, and notice inviting public comment was given in the **Federal Register** on January 9, 1989 (Docket 39–88, 54 FR 650);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Huntsville area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 22, 1988. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 30th day of October, 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25981 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 445]

Approval for Expansion of Foreign-Trade Zone 23; County of Erie, NY

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

Whereas, the County of Erie, New York, Grantee of Foreign-Trade Zone No. 23, has applied to the Board for authority to expand its general-purpose zone at the Gateway Trade Center in Buffalo and Lackawanna, New York, within the Buffalo Customs port of entry;

Whereas, the application was accepted for filing on December 16, 1987, and notice inviting public comment was given in the **Federal Register** on December 24, 1987 (Docket 45–87, 52 FR 48732);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Buffalo area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 16, 1987. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 30th day of October, 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25982 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 21-89]

Foreign-Trade Zone 141—Monroe County, NY; Application for Subzone Hickey-Freeman Apparel Plant, Rochester, NY

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, New York, grantee of FTZ 141, requesting special-purpose subzone status for the apparel manufacturing plant of Hickey-Freeman Company, Inc. (a subsidiary of Hartmarx Corporation), in Rochester, New York, within the Rochester Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 25, 1989.

The Hickey-Freeman plant (6 acres) is located at 1155 Clinton Avenue North, Rochester. The facility employs some 1,200 persons and is used to manufacture men's suits. The primary material is woven worsted wool fabric, which is purchased mostly from foreign sources. Within the activated zone area, material would be inspected, sprayed, shrunk and cut under zone procedures, resulting in unfinished shells. The shells would be sewn and finished into men's suits elsewhere at the plant outside the activated zone area.

Zone procedures would allow Hickey-Freeman to accelerate its claims for drawback on products to be exported. On domestic sales, the company would be able to choose the duty rate on cut suit shells (15.5%), whereas the duty rate on woolen fabric is 36.1 percent. The application indicates that subzone status will result in savings that will help the plant compete with foreign plants, which are increasing shipments to the United States.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Edward A. Goggin, Deputy Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 10 Causeway Street, Boston, Massachusetts 02222; and Colonel Hugh F. Boyd IV, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 8, 1989.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, Branch Office, 121 East Avenue, Rochester, New York 14604;
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2835, Washington, DC 20230.

Dated: October 27, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25909 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 23-89]

Foreign-Trade Zone 78—Nashville, TN; Extension of Time Limit for Subzone 78D, Global Power Company Equipment Storage Facility, Phipps Bend, TN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Metropolitan Nashville Port Authority (Port Authority), grantee of FTZ 78, requesting an extension of the time limit on Subzone 78D (to 10–25–93) at the Global Power Company's nuclear equipment storage facility in Phipps Bend, Tennessee. Global Power Company (Global), a Delaware Corp., (an affiliate of Park Co.) replaced the Tennessee Valley Authority (TVA) as operator in January 1989. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 23, 1989.

Subzones 78C and 78D were approved by the Board on March 30, 1984, to allow TVA to defer duties on certain foreign-sourced nuclear power plant equipment purchased for power plants that were never built (Board Order 246, 49 FR 13562). Approval was granted for five

years (3–30–89), during which time TVA had expected to sell the equipment. In 1988, TVA executed an agreement with Global and its affiliate Park Company (Park), pursuant to which Park purchased the equipment and Global applied to become operator. Park planned to sell the equipment to foreign customers. Based on a request from the Port Authority on behalf of Park, the Board approved a time extension of subzone status until December 31, 1989 for Subzone 78D, and October 25, 1993 for Subzone 78C (Board Order 413, 53 FR 51575). The Port Authority is now requesting that the time limit for Subzone 78D be extended to October 25, 1993. This would give Park additional time to sell the equipment at that site.

The examiners committee which will review the request consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, New Orleans, Louisiana 70130–2341; and, Colonel James P. King, District Engineer, U.S. Army Engineer District Nashville, P.O. Box 1070, Nashville, TN 37202–1070.

Comments concerning the proposed time extension are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 24, 1989.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Suite 1114 Parkway Towers, 404 James Robertson Parkway, Nashville, TN 37219–1505;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

Dated: October 26, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–25910 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–583–008]

Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 16, 1988, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. The review covers four manufacturers and/or exporters of this merchandise to the United States for the period May 1, 1986 through April 30, 1987.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in our preliminary results of review for one of the four manufacturers.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 46102) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan (49 FR 19369, May 7, 1984). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS number(s).

Imports covered by this review are shipments of certain circular welded carbon steel pipes and tubes. The Department defines such merchandise as welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, and 0.375 inch or more but not over 4.5 inches in outside diameter, which were classified under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243 and 610.3252 of the Tariff Schedules of the United States Annotated ("TSUSA"); this merchandise is currently classified under HTS item number 7306.30.50. The TSUSA and HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive.

The review covers four manufacturers/exporters of certain Taiwan circular welded carbon steel pipes and tubes and the period May 1, 1986 through April 30, 1987.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from the petitioner, the standard pipe subcommittee of the Committee on Pipe and Tube Imports, and one respondent, An Mau Steel Company ("An Mau").

Petitioner's Comment 1

Petitioner contends that the Department's tentative decision to revoke the antidumping duty order with respect to Yieh Hsing Enterprise ("Yieh Hsing") was inappropriate, since such a decision may only be made pursuant to a review under section 751(b) of the Tariff Act, subsequent to a section 751(a) finding of no sales at less than fair value. Petitioner cites as authority for this claim the decision of the Court of Appeals for the Federal Circuit in *Oregon Steel Mills, Inc.* v. *United States*, Slip Op. 88–1242 (November 23, 1988).

Department's Position

We disagree. Under the statute, a section 751(c) revocation can be made pursuant to either a section 751(a) or 751(b) review. Petitioner misplaces its reliance on *Oregon Mills*, which held that a section 751(b) review, by itself, is adequate to authorize 751(c) revocation, not that both 751(a) and 751(b) reviews are necessary.

Petitioner's Comment 2

Petitioner faults the Department for failing to honor petitioner's withdrawal of its request for a review of the respondent, Kao Hsing Chang Iron and Steel ("Kao Hsing Chang"), stating that nothing in section 751(a) of the Tariff Act gives the Department the authority to continue an administrative review without a valid request on the record. The petitioner cites similar instances where the Department has terminated a review following the withdrawal of the sole request by the requester after a substantial period of time has passed and after the questionnaire response has been received.

Department's Position

As the Department stated in its preliminary results of review, the petitioner withdrew its request for review with respect to Kao Hsing Chang on July 25, 1988, 404 days after initiation of the review. The length of time in this case far exceeds the time elapsed in the examples cited by the petitioner in which the Department has terminated a case upon withdrawal of a request. The Department's new regulations now permit a party to withdraw a request for review no later than 90 days after the date of publication of the notice of initiation, although the Secretary may extend this time limit if the Secretary decides it is reasonable to do so (§ 353.22(a)(5) of the Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22(a)(5)). Although the Department's prior regulations did not address this question, we determine that 404 days is an excessive length of time after initiation to withdraw a request and terminate a review; therefore, we have not terminated the review of Kao Hsing Chang.

Petitioner's Comment 3

Petitioner questions a U.S. price change reported by Yieh Hsing and requests the Department to obtain documentation to verify the revised price.

Department's Position

The Department was able to confirm through U.S. Customs that the price change reported by Yieh Hsing is accurate.

Petitioner's Comment 4

Petitioner comments that it is unclear from Yieh Hsing's response whether its reported home market price included value added tax ("VAT"). If Yieh Hsing did not include VAT in its reported home market prices, the VAT adjustment made in the preliminary results of review should not be made in the final results.

Department's Position

The Department received confirmation from Yieh Hsing that VAT was not included in the home market selling price reported. We have deleted the adjustment for VAT in these final results

Petitioner's Comment 5

The petitioner argues that the Department should decline to grant Yieh Hsing a circumstance of sale adjustment since its home market credit experience was insufficiently documented.

Department's Position

We disagree. Yieh Hsing provided complete credit information on the home market transactions specifically selected by the Department and on which the Department has reasonably relied as support for Yieh Hsing's home market credit experience.

Petitioner's Comment 6

Petitioner argues that costs associated with the discontinuation of An Mau's pipe producing operations should be included in the constructed value of its pipe and tube sold during the period of this review.

Department's Position

We disagree. Costs associated with the dismantling and disposal of the pipe mill equipment were not incurred in the course of producing pipes and tubes for sale. Since all scheduled depreciation was included in the production costs corresponding with sales made during the period of review, the subsequent nonoperating expenses of retiring equipment should not be included in the calculation of constructed value.

An Mau's Comments

An Mau 's Comment 1

An Mau argues that the Department should not be relying on production costs incurred after August 1986 in its constructed value calculations, since from September 1986 until January 1987, An Mau was in the process of shutting down production, and as a result of this cessation of normal production, An Mau's fixed factory overhead and labor costs per metric ton of pipe produced increased substantially. Such artificially inflated costs during this latter period do not represent costs incurred "at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business," as required by section 773(e)(1)(A) of the Tariff Act. Alternatively, should the Department conclude that constructed value can be based on costs incurred for producing merchandise during September 1986–January 1987, such production costs should only be utilized for merchandise actually produced during these months. Merchandise produced prior to September 1986 cannot be compared to costs incurred in this subsequent period of time.

Department's Position

In its final results of review, the Department has weight averaged the costs of production used in determining constructed value throughout the review period. Although the costs of production for the September 1986–January 1987 period are included in the average, the quantities produced within that period are significantly smaller than the quantities of merchandise produced earlier and, as a result, are not distortive. By using the weighted-average costs of production in this case, the Department is relying on the actual costs incurred in a manner which is representative of production costs throughout the period of review.

Comment 2

An Mau argues that depreciation associated with three idle forming machines that were never put into production should be excluded from constructed value. In particular, An Mau alleges that these three machines are no longer useful, were designed to produce furniture tubing, and could not have been used to produce merchandise exported to the United States.

Department's Position

An Mau never previously indicated that the forming machines in question could not have been used to produce merchandise it exported to the United States even though the issue was discussed and treated similarly in the previous review (See *Final Results of Antidumping Duty Administrative Review, Certain Circular Welded Carbon Steel Pipes and Tubes*, 53 FR 41219, October 20, 1988). An Mau failed to provide any evidence in the course of this review to support this assertion and only raised the issue following the preliminary results of review. Therefore, An Mau has not provided adequate factual or sufficiently timely information to enable the Department to evaluate this claim. For these reasons, we have continued to include the depreciation associated with these three machines as a cost of production in our calculation of constructed value.

Comment 3

An Mau requests the Department to correct two errors it made in its U.S. sales listing. The corrections cited involve an incorrect pipe designation for one transaction as well as an incorrect U.S. price for a second transaction.

Department's Position

We consider these corrections submitted by An Mau subsequent to the preliminary results to be untimely. We

will not allow respondents to selectively amend responses to their advantage unless the errors are so obvious they

and § 353.22 of the Department's regulations.

We verified in Japan and in the United States the questionnaire responses submitted by Sharp Corporation and

and Japanese brokerage fees, Japanese customs clearance fees, export license fees, forwarding and handling charges,

warranties, advertising, royalties, physical characteristics of the merchandise, and packing. We made

respect to Toshiba (48 FR 44101). We preliminarily find margins for Toshiba in this review. If we determine that

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will not allow respondents to selectively amend responses to their advantage unless the errors are so obvious they can be corrected without additional information. An Mau had ample time between the submission of its response in October 1987 and the preliminary results in November 1988 to correct any errors in its U.S. sales data.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results and determine that the following margins exist for the period May 1, 1986 through April 30, 1987:

Manufacturer	Margin (percent)
An Mau	.66
Yieh Hsing	0
Kao Hsing Chang	[1] 0
Far East Machinery Co	[1] 0

[1] No shipments during the period. Rates noted are from the preceding antidumping duty administrative review.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above for An Mau. The Department will issue appraisement instructions directly to the Customs Service.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin will be required for An Mau. Because there was no margin for Yieh Hsing, Kao Hsing Chang, and Far East Machinery Co., no cash deposit shall be required for those companies. For shipments from the remaining known manufacturer not covered by this review, the cash deposit will continue to be at the rate established in the final results of antidumping duty administrative review for this firm (51 FR 43948, December 5, 1986). For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after April 30, 1987 and who is unrelated to any previously reviewed firm, a cash deposit of .66 percent shall be required. These deposit requirements and waivers are effective for all shipments of certain circular pipes and tubes from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: October 30,1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25063 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-015]

Television Receivers, Monochrome and Color, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by two domestic parties to the proceeding and two respondents, the Department of Commerce (the Department) has conducted an administrative review of the antidumping finding on television receivers from Japan. The review covers four manufacturers/exporters of this merchandise to the United States and various periods from April 1, 1981, through February 28, 1989. As a result of the review, the Department has preliminarily determined the dumping margins for these firms to range from zero to 28.29 percent.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: J.E. Downey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/ 4733.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1989, the Department published in the **Federal Register** (54 FR 35517) the final results of its last administrative review of the antidumping finding on television receivers from Japan. Two domestic parties to the proceeding and two respondents requested in accordance with 19 CFR 353.53a(a) of the Commerce Regulations (1988) that we conduct these administrative reviews. We published notices of initiation of the antidumping duty administrative reviews on November 27, 1985, April 18, 1986, July 9, 1986, and April 28, 1988. As required by section 751 of the Tariff Act of 1930 (the Tariff Act), we have now conducted these administrative reviews.

We verified in Japan and in the United States the questionnaire responses submitted by Sharp Corporation and Toshiba Corporation. Sharp failed to provide supplementary model match data that we requested for the fifth, sixth, and seventh administrative reviews. NEC did not respond to our questionnaire for the tenth review period.

For Sharp's fifth, sixth, and seventh administrative reviews, we used the highest rate for any firm from each respective period as BIA. We used NEC's rate from the ninth review period (54 FR 13917, April 6, 1989) as BIA for its tenth review period.

Scope of Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combination television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

This review covers four manufacturers/exporters of Japanese television receivers, monochrome and color, and various periods from April 1, 1981 through February. 28, 1989.

On November 27, 1985 (50 FR 48852), the Department initiated reviews for Toei Electronics Co., Ltd. for the periods April 1, 1981 through March 31, 1982 and April 1, 1982 through March 31, 1983. Since Toei did not have sales of merchandise included in the scope of the antidumping finding during these periods, we preliminarily determine to terminate those reviews.

United States Price

In calculating United States price, we used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, where appropriate. PP and ESP were based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made adjustments, where appropriate, for discounts, rebates, commissions to unrelated parties, royalties, ocean freight, marine insurance, U.S. and Japanese inland freight, inland freight insurance, U.S. and Japanese brokerage fees, Japanese customs clearance fees, export license fees, forwarding and handling charges, export selling expenses incurred in Japan, and the U.S. subsidiaries, selling expenses. We accounted for taxes imposed in Japan, but rebated or not collected by reason of the exportation of the merchandise to the United States, by multiplying the ex-factory price of the televisions sold in the United States by the tax rate and adding the result to the U.S. price.

Foreign Market Value

In calculating foreign market value (FMV), we used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. For Sharp, when the quantities of such or similar merchandise sold in the home market were insufficient to provide a basis for comparison, we used constructed value. A domestic party to the proceeding, Zenith, alleged sales below cost in the home market by Toshiba during the fifth review. We considered those allegations sufficient to warrant a below-cost investigation of that firm for that period.

Toshiba's response to our production cost questionnaire was inadequate in various respects. For example, it did not explain its cost accounting system, its calculation of labor costs, its calculation of factory overhead, its treatment of assists, or its production capacity, nor did it furnish adequate data on its general and administrative expenses, as requested in our questionnaire. As best information available (BIA) for Toshiba, we used the company's incomplete response data to derive constructed value in the partial fifth review period. Those data were adverse to Toshiba.

We calculated constructed value as the sum of material and fabrication costs, general expenses, profit, and the cost of U.S. packing. Since Toshiba's actual general expenses were greater than the statutory minimum of ten percent of the sum of materials and fabrication costs, we used its actual general expenses. Since Sharp's actual general expenses were lower than ten percent, we used the statutory minimum of ten percent, as provided by section 773 of the Act. We used Sharp's and Toshiba's actual profits because their actual profits were above the statutory minimum.

Home market price was based on the packed, ex-factory or delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for discounts, inland freight, differences in credit expenses, warranties, advertising, royalties, physical characteristics of the merchandise, and packing. We made further adjustments in ESP calculations, where appropriate, for indirect selling expenses to offset U.S. commissions and U.S. indirect selling expenses, but not exceeding the amount of those U.S. expenses. Finally, we made circumstance-of-sale adjustments for commodity tax differences, where appropriate.

For Toshiba, we made no adjustments to constructed value because our calculations were based on BIA.

No other adjustments were claimed or allowed for any firm.

Preliminary Results of Review

As a result of our review, we preliminarily determine the margins to be:

Manufacturer	Review No.	Period of review	Margin (percent)
Funai	10	03/01/88-02/28/89	[1] 21.93
NEC	10	03/01/88-02/28/89	26.94
Sharp	3	04/01/81-03/31/82	0.00
	4	04/01/82-03/31/83	1.59
	5	04/01/83-03/31/84	16.21
	6	04/01/84-02/28/85	7.37
	7	03/01/85-02/28/86	7.16
Toshiba	Partial		
	5	04/01/83-09/27/83	28.29
	9	03/01/87-02/29/88	[1] 28.29

[1] No shipments during the period; rate from last review in which there were shipments.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as is convenient for the parties but not later than 30 days after the date of publication or the first workday thereafter. Pre-hearing briefs from interested parties may be submitted not later than 9 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the initial round of comments, may be filed not later than 7 days after the submission of the initial round of comments. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

On September 27, 1983, the Department published in the **Federal Register** a tentative determination to revoke in part the antidumping finding on Japanese television receivers with respect to Toshiba (48 FR 44101). We preliminarily find margins for Toshiba in this review. If we determine that Toshiba has higher than *de minimis* margins in the final results of this review, we will not consider Toshiba further for revocation.

The Department will determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins will be required for the above firms. For any shipments of this merchandise manufactured by Fujitsu General Ltd., Hitachi Ltd., Matsushita Electric Industrial Corporation, Mitsubishi Electric Corporation, Sanyo Electric Company, Ltd., or Victor Company of Japan, the cash deposit will continue to be the same as the rates published in the final results of the last administrative review for these firms (Fujitsu General, Hitachi, and Sanyo: 54 FR 35517, August 28, 1989; Matsushita, and Victor: 54 FR 13917, April 6, 1989; Mitsubishi: 53 FR 4050, February 11, 1988).

For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments of this merchandise occurred after February 28, 1989 and which is unrelated to any reviewed firm or any previously reviewed firms, a cash deposit of 26.94 percent shall be required. This is the rate for Matsushita in the eighth review (54 FR 13917, April 6, 1989). These deposit requirements are effective for all shipments of Japanese television receivers, monochrome or color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: October 31, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26033 Filed 11-2-89; 8:45 am]

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[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Determination Not To Revoke Antidumping Finding in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of determination not to revoke antidumping finding in part.

SUMMARY: On August 28, 1989, the Department of Commerce published the final results of its review of the antidumping finding on television receivers, monochrome and color, from Japan. In that review, we found antidumping margins for Sharp Corporation for the period April 1, 1980 through March 30, 1981. Based on those results, we determine not to revoke in part the antidumping finding on Japanese television receivers with respect to Sharp.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: J.E. Downey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/4733.

SUPPLEMENTARY INFORMATION: On August 18, 1983, the Department of Commerce ("the Department") published a tentative determination to revoke in part the antidumping finding with respect to Sharp (48 FR 37508) based on all sales at not less than fair value, or sales resulting in *de minimis* weighted-average margins, during the period April 1, 1979 through March 31, 1981. On August 28, 1989, the Department published the final results of its review of the antidumping finding on television receivers, monochrome and color, from Japan (54 FR 35517). In that review, we found antidumping margins for Sharp Corporation for the period April 1, 1980 through March 31, 1981. Since we found higher than *de minimis* margins for Sharp, we determine not to revoke in part the antidumping finding on Japanese television receivers with respect to Sharp.

This notice and determination are in accordance with section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) and, because the tentative revocation for Sharp was published prior to the effective date of the Commerce Regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.25), this notice and determination are in accordance with 19 CFR 353.54 (1988).

Dated: October 31, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import/Administration.

[FR Doc. 89-26034 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-059]

Pressure Sensitive Plastic Tape From Italy; Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke in Part

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke in Part.

SUMMARY: In response to requests by the petitioner and respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on pressure sensitive plastic tape from Italy. The review covers three manufacturers and/or exporters of this merchandise to the United States and generally the period October 1, 1987 through September 30, 1988. We preliminarily determine the dumping margins to be zero, 8.67 percent, and 0.14 percent for Manuli S.p.A. ("Manuli"), Boston S.p.A. ("Boston"), and NAR S.p.A. ("NAR"), respectively. We also intend to revoke the finding with respect to Boston.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1989, the Department published in the **Federal Register** (54 FR 13091) the final results of its last administrative review of the antidumping finding on pressure sensitive plastic tape from Italy (42 FR 56110, October 21, 1977). We published a tentative determination to revoke with respect to Boston on August 5, 1988 (53 FR 29507). We published a notice of initiation of the antidumping duty administrative review on December 5, 1988 (53 FR 48951). The petitioner, Minnesota Mining and Manufacturing ("3M"), and one respondent, NAR, requested in accordance with 19 CFR 353.53a(a) (1988) that we conduct an administrative review. The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 et. seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of pressure sensitive plastic tape measuring over 1⅜ inches in width and not exceeding 4 mils in thickness. During this review period such merchandise was classified under items 790.5530, 790.5545, and 790.5555 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS items 3919.90.20 and 3919.90.50. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers three manufacturers and/or exporters to the United States of Italian pressure sensitive plastic tape and generally the period October 1, 1987 through September 30, 1988.

United States Price

In calculating United States price, we used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, c.i.f. price to unrelated purchasers in the United States. We made adjustments, where applicable, for brokerage fees, ocean freight, foreign inland freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, we used home market price, as defined in section 773 of the Tariff Act, because sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, ex-factory or delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, differences in credit expenses, discounts, rebates, differences in packing, and differences in merchandise. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine the dumping margins to be:

Manufacturer/Exporter	Time period	Margin (percent)
NAR	10/1/87-9/30/88	0.14
Manuli	10/1/87-9/30/88	[1] 0
Boston	10/1/87-8/05/88	[1] 8.67

[1] No shipments during the period; margin from last review in which there were shipments.

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. Since the margin for NAR is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties on entries for this firm. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be the rate published in the final results of the last administrative review for these firms (54 FR 13091, March 30, 1989). For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after September 30, 1988 and who is unrelated to the reviewed firms or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Italian pressure sensitive plastic tape entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Boston made no shipments of the subject merchandise to the United States for more than four years. We published a tentative determination to revoke the antidumping finding with respect to Boston on August 5, 1988 (53 FR 29507). Boston has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding under circumstances specified in the written agreement.

Therefore, we intend to revoke in part the antidumping finding on pressure sensitive plastic tape from Italy with respect to Boston. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Boston and entered, or withdrawn from warehouse, for consumption on or after August 5, 1988.

This administrative review, intent to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.22 and 353.25 of the Department's new regulations, published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22 and 353.25).

Dated: October 27, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25906 Filed 11-2-87; 8:45 am]

BILLING CODE 3510-DS-M

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Publication of quarterly update of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in the last quarterly update to our January 1, 1989 annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: October 25, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

Appendix—Quota Cheese Subsidy Programs

Country	Program(s)	Gross [1] subsidy (cents per lb.)	Net [2] subsidy (cents per lb.)
Belgium	European Community (EC) Restitution Payments	36.1	36.1
Canada	Export Assistance on Certain Types of Cheese	29.3	29.3
Denmark	EC Restitution Payments	44.5	44.5
Finland	Export Subsidy	144.9	144.9
	Indirect Subsidies	21.2	21.2
		166.1	166.1
France	EC Restitution Payments	41.0	41.0
Greece	EC Restitution Payments	0.0	0.0
Ireland	EC Restitution Payments	54.1	54.1
Italy	EC Restitution Payments	60.7	60.7
Luxembourg	EC Restitution Payments	36.1	36.1
Netherlands	EC Restitution Payments	37.0	37.0
Norway	Indirect (Milk) Subsidy	16.9	16.9
	Consumer Subsidy	38.1	38.1
		55.0	55.0
Portugal	EC Restitution Payments	36.6	36.6
Spain	EC Restitution Payments	39.0	39.0
Switzerland	Deficiency Payments	88.3	88.3
United Kingdom	EC Restitution Payments	40.2	40.2
West Germany	EC Restitution Payments	44.1	44.1

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 89-25984 Filed 11-2-89; 8:45 am]
BILLING CODE 3510-DS-M

[C-549-804]

Preliminary Affirmative Countervailing Duty Determination: Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Thailand of carbon steel butt-weld pipe fittings ("pipe fittings") as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 2.85 percent *ad valorem* for all manufacturers, producers or exporters in Thailand of pipe fittings.

We are directing the U.S. Customs Service to suspend liquidation of all entries of pipe fittings from Thailand that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond on entries of these products in an amount equal to 2.85 percent *ad valorem*.

If this investigation proceeds normally, we will make a final determination on or before January 10, 1990.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Kay Halpern or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0192 or 377-3217.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- Short-Term Loans Provided under the Export Packing Credits Program
- Tax Certificates for Exports
- Business Tax and Import Duty Exemptions for Machinery under Section 28 of the Investment Promotion Act

The estimated net bounty or grant is 2.85 percent *ad valorem*.

Case History

Since publication of the Notice of Initiation in the **Federal Register** (54 FR 35914, August 30, 1989), the following events have occurred. On September 5, 1989, we presented a questionnaire to the Government of Thailand (GOT) in Washington, DC, concerning petitioner's allegations. On October 11, 1989, after granting an extension, we received responses from the GOT and from the three respondent companies, Awaji Sangyo Co., Ltd. (AST), Thai Benkan Co., Ltd. (TBC), and TTU Industrial Corp., Ltd. (TTU). On October 19, 1989, we issued a supplemental/deficiency questionnaire to the GOT and the respondent companies, and received responses on October 25, 1989. We issued an additional questionnaire to the respondent companies on October 25, 1989, for which responses are due November 1, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), and all merchandise entered or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number. The Department is providing both the appropriate Tariff Schedules of the United States Annotated (TSUSA) item number and the appropriate HTS item number with its product descriptions for convenience and Customs purposes. The Department's written description of the product under investigation remains dispositive as to the scope of the products covered by this investigation.

The product covered by this investigation is carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). The product is classified under HTS subheading 7307.93.30 and was formerly classifiable under TSUSA item 610.88.00.

Analysis of Programs

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1988, which corresponds to the fiscal year of all three respondent companies. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following programs:

A. Short-Term Loans Provided Under the Export Packing Credits Program

Export packing credits (EPCs) are short-term loans used for either pre-shipment or post-shipment financing. Exporters apply to commercial banks for EPCs. The commercial banks, in turn, must submit an application for approval to the Bank of Thailand (BOT). Under the "Regulations Governing the Purchase of Promissory Notes Arising from Exports" (B. E. 2528), effective January 2, 1986, the BOT repurchases promissory notes issued by creditworthy exporters through commercial banks. To qualify for the repurchase arrangement, promissory notes must be supported by a letter of credit, sales contract, purchase order, usance bill or warehouse receipt. The notes are available for up to 180 days, and interest is paid on the due date of the loan rather than the date of receipt.

The BOT charges an interest rate of five percent per annum to commercial banks on repurchased packing credits issued in connection with exports of goods specified in categories one and two of the "Notification of the Board of Investment No. 40/2521." The commercial banks are permitted to charge exporters no more than seven percent per annum for the purchase of such notes.

On the due date of the loan, the BOT debits the commercial bank's account for the principal amount and the interest charged the commercial bank. If the terms of the loan are not met, the BOT charges the commercial bank a penalty, retroactive to the first day of the loan.

Similarly, on the due date of the loan, the commercial bank debits the exporter's account for the principal amount and the maximum of seven percent interest charged the exporter. If the exporter has not met the terms of the loan, the commercial bank passes on the penalty charge over the term of the loan.

The penalty is refunded to the commercial bank by the BOT and by the commercial bank to the exporter if the company can prove shipment of the goods took place within 60 days after the due date (in the case of pre-shipment loans), or the foreign currency was received within 60 days after the due date (in the case of post-shipment loans). Otherwise, the penalty is not refunded. The purpose of the penalty charge is to ensure that companies take out EPC loans only to finance actual export sales.

On October 1, 1988, the GOT issued new regulations that coexisted with the prior regulations until December 31, 1988. On January 1, 1989, the new regulations completely replaced the former ones. Until January 1, 1989, exporters could still receive EPC loans under the terms of the program described above. Under the new regulations, the maximum rate commercial banks can charge exporters was raised from seven to ten percent. In addition, the BOT now rediscounts only up to 50 percent of the loan amount, whereas under the previous program the BOT could rediscount the full value of the loan.

According to the responses, TBC and TTU received EPC loans on which interest was paid during the review period. Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

As the benchmark for short-term loans, it is our practice to use the predominant form of short-term financing or a national average commercial interest rate. In the absence of a predominant form of short-term financing in the Thai economy, we are using the weighted-average interest rate charged by commercial banks on domestic loans, bills and overdrafts during 1988, and, where loans were issued in 1987, the weighted-average interest rate of the same composition for 1987. This is the benchmark that we have applied in all previous Thai cases, most recently in Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order: Ball Bearings and Parts Thereof from Thailand; Final Negative Countervailing Duty Determinations: Antifriction Bearings (Other Than Ball or Tapered Roller Bearings) and Parts Thereof from Thailand, (54 FR 19130, May 3, 1989) (Bearings).

Comparing the weighted-average interest rates for 1987 and 1988, as reported in the GOT response, to the rate charged on EPCs, as reported in the company responses, we find that the rate on EPCs is preferential and, therefore, confers a bounty or grant on exports of pipe fittings.

To calculate the benefit from the EPC loans on which interest was paid during the review period, we followed the short-term loan methodology which has been applied consistently in our past determinations (see, for example, Bearings) and which is described in more detail in the Subsidies Appendix attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (49 FR 18006, April 26, 1984); see also, *Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT, 1985).

We compared the amount of interest actually paid during the review period to the amount that would have been paid at the benchmark rate. Because the responses specified which EPC loans were tied to exports to the United States, we calculated the amount of interest that would have been paid on such loans at the benchmark rate and subtracted the amount of interest that was actually paid. We then divided the result by the respondents' exports to the United States during the review period to obtain an estimated net bounty or grant of 0.14 percent *ad valorem*.

TTU has argued that, in addition to subtracting the interest actually paid from the interest that would have been paid at the benchmark rate, we should also subtract an interest cost to the company associated with penalty payments which were subsequently refunded. TTU argues that because it had to forego use of these funds, the company had to borrow money and,

therefore, incurred increased financing costs. TTU has calculated the increase in its financing costs by using the national average benchmark described

determined that each company used this program during the review period. We also preliminarily determine that, because this program is available only

investigations involving products from Thailand, the most recent of which was Bearings, we undertook the analysis described above and reiterated that

The value of all domestically produced finished goods, as shown in the I/O tables, is an ex-factory value. However, because the rebate is applied

II. Programs Preliminarily Determined Not to Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being

banks by the BOT is five percent per annum. According to the responses, none of the respondents participated in this program during the review period.

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therefore, incurred increased financing costs. TTU has calculated the increase in its financing costs by using the national average benchmark described above. We are not subtracting the cost due to subsequently refunded penalty payments for purposes of our preliminary determination because we are not convinced that TTU's calculation is appropriate. We are seeking more information and will continue to examine this issue for purposes of our final determination.

B. Tax Certificates for Exports

The GOT issues to exporters tax certificates which are freely transferable and which constitute a rebate of indirect taxes and import duties used to produce exports. This rebate program is provided for in the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act" (Tax and Duty Act). The rebate rates under the Tax and Duty Act are computed on the basis of an Input/Output (I/O) study published in 1980, based on 1975 data, and updated in 1985 using 1980 data.

Using the I/O study, the Thai Ministry of Finance computes the value of total inputs (both imports and local purchases) used in a discrete range of sector-specific products at ex-factory prices. It also calculates the import duties and indirect taxes on each input. The Ministry then calculates two rebate rates. The "A" rate includes both import duties and indirect taxes. The "B" rate includes only indirect domestic taxes. The "B" rate is claimed when firms participate in Thailand's customs duty drawback program or duty exemption program on imported raw materials, or when firms do not use imported materials in their production process. New rebate rates, announced on February 5, 1988, were computed using the study published in 1985. Since 1988, the "A" rate applicable to exports of pipe fittings has been 8.11 percent and the "B" rate has been 4.98 percent. The "A" or "B" rate, as appropriate, is then applied to the FOB value of the export to determine the amount of rebate that will be provided.

Under the Tax and Duty Act, the rebates are paid to companies through tax certificates which can be used to pay other tax liabilities. These tax certificates can also be transferred to other companies which can use them to pay their tax liabilities.

According to the responses, only TTU actually received tax certificates during the review period.

However, all three respondent companies earned the "B" rate on exports made during the review period. Therefore, we have preliminarily determined that each company used this program during the review period. We also preliminarily determine that, because this program is available only to exporters, it is countervailable to the extent that it confers an overrebate of indirect taxes.

To determine whether an indirect tax rebate system confers an overrebate and, therefore a bounty or grant, we must apply the following analysis. First, we examine whether the system is intended to operate as a rebate of both indirect taxes and import duties. Next, we analyze whether the government properly ascertained the level of the rebate. This includes a review of a sample from the I/O study used by the Government to quantify the rebate. We analyze the documentation supporting the study to determine the accuracy of the sample on input coefficients, the import prices and rates of duty on imported inputs, the ratio of imported inputs to domestically produced inputs (when, for a given imported input, there is also domestic production of the input), and the exchange rates used to convert import prices denominated in a foreign currency to the local currency. Finally, we review whether the rebate schedules are revised periodically in order to determine whether the rebate amount reasonably reflects the amount of duty and indirect taxes paid.

When the study upon which the indirect tax and import duty rebate system is based is shown to bear a reasonable relation to the actual indirect tax rebate incidence, the Department will consider that the system does not confer a bounty or grant unless the amount rebated for duties and indirect taxes on physically incorporated inputs exceeds the fixed amount set forth in the rebate schedule for the exported product. When the system rebates duties and indirect taxes on both physically incorpated and non-physically incorporated inputs, we find a bounty or grant exists to the extent that the fixed rebate exceeds the allowable rebate on physically incorporated inputs.

In the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Apparel from Thailand (50 FR 9818, 9820, March 12, 1985), we examined Thailand's rebate system under the Tax and Duty Act. We found that the program was intended to rebate indirect taxes and import duties and that the rebate rates had been reasonably calculated. However, to the extent that the program rebates indirect taxes and import duties on non-physically incorporated inputs, we found that the remissions are excessive. In subsequent investigations involving products from Thailand, the most recent of which was Bearings, we undertook the analysis described above and reiterated that these rebates are countervailable only to the extent that the remissions are excessive. In the present investigation, we will verify whether rebates under this program continue to reasonably reflect the incidence of indirect taxes and import duties on inputs.

For purposes of our preliminary determination, to determine whether, and the extent to which, the tax certificates confer an excessive remission of indirect taxes, we calculated the indirect taxes and import duties paid on physically incorporated inputs according to the most recent I/O table. We divided the tax incidence on all items physically incorporated into all products classified in the secondary steel products sector, which includes carbon steel butt-weld pipe fittings, by the value of all domestically produced finished goods in this sector. Given that the aggregated data used in the I/O study is broken down only by sector, and that each sector covers many individual products, it is impossible to isolate the value of domestically produced pipe fittings.

Although the methodology described above is a deviation from that used in previous investigations involving products from Thailand (see, for example, Bearings), we believe that it more accurately reflects the amount of allowable rebate. Furthermore, unlike previous investigations in which respondents either failed to provide a comprehensive list of all items physically incorporated into the sector, or failed to provide such information prior to verification, respondents in the present investigation have provided the necessary information in a timely manner.

We recognize that, by using the tax incidence on all physically incorporated inputs into secondary steel products, we may be including the tax incidence on inputs used in the production of pipe fittings but not physically incorporated into pipe fittings. We have determined, however, that for purposes of this preliminary determination the inclusion of this tax incidence provides the most accurate measure of the allowable rebate percentage for secondary steel products and, as such, the most reasonable calculation of the allowable percentage for pipe fittings. However, because this is a significant change in methodology with respect to this program, we will continue to examine this issue for purposes of our final determination.

The value of all domestically produced finished goods, as shown in the I/O tables, is an ex-factory value. However, because the rebate is applied to the FOB value of a company's exports, we had to adjust the ex-factory value to reflect an FOB value. We did this by dividing the wholesale margin and transportation costs for all domestically produced finished goods in the sector, including exports, by the ex-factory value and then multiplying the ex-factory value by this ratio. We added the result to the ex-factory value in order to obtain the FOB-adjusted value.

In order to obtain the allowable rebate rate, we divided the tax incidence on all items physically incorporated into secondary steel sector products by the FOB-adjusted value of all domestically produced finished goods in the secondary steel sector. We then compared the authorized rebate rate of 4.98 percent, which is based on both physically and non-physically incorporated inputs, to the allowable rebate rate and found that there is an excessive remission of indirect taxes to exporters of pipe fittings. The difference between the two rebate rates equals the net overrebate. On this basis, we calculated an estimated net bounty or grant of 0.94 *ad valorem*.

C. Tax and Duty Exemptions Under Section 28 of the Investment Promotion Act

The Investment Promotion Act (IPA) of 1977 provides incentives for investment to promote development of the Thai economy. Administered by the Board of Investment, the IPA authorizes, among other incentives, the exemption of import duties and certain taxes with respect to qualifying projects. Section 28 provides for exemption from payment of import duties and business taxes on machinery. All three respondent companies received exemptions under section 28 that became effective during the review period. According to the responses, all three respondent companies are required to export a certain percentage of their output as a condition for receipt of benefits under this program.

Because benefits to the respondent companies under this program are contingent upon their export performance, we preliminarily determine that it is countervailable.

We divided the total amount of exemptions received by respondents during the review period by the respondents' total export sales during the review period. On this basis, we calculated an estimated net bounty or grant of 1.77 *ad valorem*.

II. Programs Preliminarily Determined Not to Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following program:

IPA Section 36(1)

Section 36(1) of the IPA authorizes exemptions from import duties and business taxes on "raw and necessary materials." All three respondent companies received exemptions under this section of the IPA during the review period. According to the responses, all exemptions were received for items physically incorporated into exported goods.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs were not used by manufacturers, producers, or exporters in Thailand of pipe fittings during the review period:

A. Electricity Discounts for Exporters

The Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority, and the Provincial Electricity Authority provide discounts on electricity rates charged to producers of export products. According to the responses, this program provides discounts of 20 percent of the cost of electricity consumed to produce exports. Any producer that consumes electricity in manufacturing products that are eligible to receive tax certificates for exports is eligible for the electricity discount. Once a producer has qualified for the electricity discount and has completed an export transaction involving eligible products, it may apply to the electricity authority from which it receives its electricity bill. The authority then calculates the amount of the discount and credits a deduction on a subsequent electricity bill. According to the responses, none of the respondents received benefits under this program during the review period.

B. Rediscount of Industrial Bills

The BOT authorizes rediscounts for short-term promissory notes arising from industrial activity. The BOT's "Regulations Governing the Rediscount of Promissory Notes Arising from Industrial Undertakings" permit commercial banks to rediscount short-term promissory notes for industrial purchases. Commercial banks may charge their industrial customers a maximum of seven percent per annum, while the rate charged to commercial banks by the BOT is five percent per annum. According to the responses, none of the respondents participated in this program during the review period.

C. International Trade Promotion Fund

This fund is used to finance export promotion activities, such as marketing research and trade fairs. According to the responses, none of the respondents applied for, or received, benefits under this program during the review period.

D. Export Processing Zones

Under the Industrial Estates Authority of Thailand Act, firms located in designated export processing zones and industrial estates receive tax and import duty exemptions on: (1) Machinery used for factory construction and operation; (2) goods imported for use in the production of exports; (3) items produced for export; and (4) items imported for re-export. According to the responses, none of the respondents have facilities located in government-sponsored export processing zones or industrial estates.

E. Additional Incentives Under the IPA

Petitioner alleges that the following incentives are available to manufacturers, producers and exporters of pipe fittings:

- *Section 31* of the IPA provides a three-to-eight year exemption from payment of corporate income tax on profits derived from promoted activities, as well as deductions from net profits for losses incurred during the tax exemption period.
- *Section 33* of the IPA provides a five-year tax exemption for goodwill and royalty payments.
- *Section 34* provides an additional deduction from taxable income for dividends paid on promoted activities.
- *Section 36(2)* provides an exemption of import duties and business taxes on items imported for re-export.
- *Section 36(3)* provides an exemption of export duties and business taxes on products produced or assembled by promoted firms.
- *Section 36(4)* provides a deduction from assessable income of an amount equal to five percent of the increased income over the previous year derived from exports.

According to the responses, none of the respondent companies received benefits under any of these sections of the IPA during the review period.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S.

[C-469-004]

Stainless Steel Wire Rod From Spain; Preliminary Results of Countervailing

merchandise is currently classifiable under item numbers 7221.00.0020 and 7221.00.0040 of the Harmonized Tariff

(2) Other Programs

We also examined the following programs and preliminarily determine

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purposes as each is intended to be used, was being manufactured in the United States at the time the instrument was

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Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation on all entries of pipe fittings from Thailand which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry equal to 2.85 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations published in the **Federal Register** on December 27, 1988 (54 FR 52306, to be codified at 19 CFR § 355.38), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination on December 15, 1989 at 10:30 a.m., at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than December 8, 1989. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than December 13, 1989. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with § 35.38 of the Commerce Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: October 27, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25980 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-004]

Stainless Steel Wire Rod From Spain; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on stainless steel wire rod from Spain. We preliminarily determine the net subsidy for the period January 1, 1988, through December 31, 1988, to be 0.19 percent *ad valorem*, a rate we consider *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 26826) the final results of its last administrative review of the countervailing duty order on stainless steel wire rod from Spain (48 FR 52; January 3, 1983). On January 31, 1989, a Spanish exporter, Roldan S.A., requested an administrative review of the order in accordance with section 355.22 of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (55 FR 52354) (to be codified at 19 CFR 355.22). We published the initiation on March 8, 1989 (54 FR 9868). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Spanish stainless steel wire rod, which includes coiled, semifinished, hot-rolled stainless steel products of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, whether or not tempered or treated or partly manufactured. During the review period, such merchandise was classifiable under item numbers 607.2600 and 607.4300 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under item numbers 7221.00.0020 and 7221.00.0040 of the Harmonized Tariff Schedule.

The review covers the period January 1, 1988 through December 31, 1988 and five programs.

Analysis of Programs

(1) Long Term Loans

Under the Concerted Action Program established by Royal Decree 689/74, the Spanish government directs banks to make long-term loans to steel companies at below market rates. Such loans are provided for approximately ten years. Roldan received a long-term loan for financing new plant and equipment that had an outstanding balance during the review period. The loan was received in multiple disbursements from 1977 to 1981. Because the loans under the Concerted Action Program are provided to a specific industry at rates and terms inconsistent with commercial considerations, we preliminarily determine that this loan confers a countervailable domestic subsidy.

Roldan did not obtain any comparable commercial loans in the year in which it received the preferential long-term loan. Therefore, we used as our long-term commercial benchmark the "free" long-term (three or more years) lending rate published by the Bank of Spain in its Boletin Estatistico. We treated the multiple disbursements as individual loans.

To calculate the benefit, we found the difference between the annual amounts of principal and interest Roldan actually paid and the annual amounts of principal and interest Roldan would have paid if it had received each disbursement at our commercial benchmark rate. We then calculated the "grant equivalent" of each disbursement by determining present value (at the time the preferential loan was made) of the difference in annual payments that would occur during the life of the loan. Using our declining balance methodology with the long-term commercial benchmark as the discount rate, we allocated the grant equivalents over the life of the loan. We then totaled the benefits allocated to the review period for each disbursement.

Since these loans benefit a company's total production, we allocated the benefit over the company's total sales during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.19 percent *ad valorem* during the review period.

(2) Other Programs

We also examined the following programs and preliminarily determine that Roldan did not use them during the review period:

A. Operating Capital Loans
B. Capital Grants
C. Regional Incentives Program
D. Prefinancing of Exports

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy for the period January 1, 1988 through December 31, 1988 to be 0.19 percent *ad valorem*. The Department considers any rate less than 0.50 percent to be *de minimis*.

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1988 and on or before December 31, 1988.

The Department also intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.22 of the Commerce Regulations.

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25985 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

Michigan Department of Public Health; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket number: 89-131. *Applicant:* Michigan Department of Public Health, Lansing, MI 48909. *Instrument:* Mass Spectrometer System, Model TS-250. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended use:* See notice at 54 FR 21090, May 16, 1989.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an air-core magnet capable of 10 scans per second and a cycle time of 0.4 second for magnetic selected ion recording (SIR). The National Intitutes of Health advises in its memorandum dated August 29, 1989 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-25902 Filed 11-02-89; 8:45 am]

BILLING CODE 3510-DS-M

National Institutes of Health, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, was being manufactured in the United States at the time the instrument was ordered.

Docket number: 89-042. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Nuclear Magnetic Resonance Spectrometer, Model AM-500. *Manufacturer:* Bruker Instruments, West Germany. *Intended use:* See notice at 52 FR 48851, December 28, 1987. *Reasons:* The foreign instrument provides a S/N with 0.1% ethylbenzene of 650:1; 16-bit digitization over a range of 50 kHz and a 24-bit computer word length. *Order date:* June 30, 1987. *Advice submitted by:* National Bureau of Standards, March 22, 1988.

Docket numbers: 88-208R and 88-212R. *Applicant:* USDA-ARS, Athens, GA 30613 and Fargo, ND 58105. *Instrument:* NMR Spectrometers, Model MSL-300 (System E and System F). *Manufacturer:* Bruker Analytische Messtechnik, West Germany. *Intended use:* See notices at 53 FR 22685, June 17, 1988. *Reasons:* The foreign instrument provides (1) a sensitivity (S/N) of 53/1 for the alpha carbon of glycine and (2) demonstrated and guaranteed resolution of 20 μm for microimaging. *Order Dates:* September 11 and 16, 1987. *Advice submitted by:* National Institutes of Health, August 3, 1989.

The National Bureau of Standards and National Institutes of Health advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to any of the foreign instruments for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to any of the foreign instruments being manufactured at the time it was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-25903 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

University of California, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room

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2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket number: 89–181. *Applicant:* University of California at Davis, Davis, CA 95616.

Docket number: 89–188. *Applicant:* University of Michigan, Ann Arbor, MI 48109–1063.

Instrument: Mass Spectrometer, MAT 251. *Manufacturer:* Finnigan MAT, West Germany. *Intended use:* See notices at 54 FR 34541 and 34542, August 21, 1989. *Reasons:* The foreign instrument provides high precision automated analysis of small samples (0.006°/oo for CO_2 with a 40 bar μl sample size, 0.006°/oo for N_2, SO_2 and SF_6 and 0.080°/oo with a 100 bar μl sample size).

Docket number: 89–184. *Applicant:* University of North Carolina, Chapel Hill, NC 27599–1100.

Docket number: 89–185. *Applicant:* Lehigh University, Bethlehem, PA 18015.

Docket number: 89–193. *Applicant:* University of California, Davis, CA 95616.

Instrument: FTIR Interferometer System, Model DA3.16.

Manufacturer: Bomem, Canada. *Intended use:* See notices at 54 FR 34541 and 34543, August 21, 1989. *Reasons:* The foreign instrument provides an unapodized resolution of 0.026 cm^{-1}.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25904 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 89–164. *Applicant:* University of Illinois at Chicago, Chicago, IL 60680. *Instrument:* Excimer Laser, Model 201F MSC. *Manufacturer.* Lambda Physik, West Germany. *Intended Use:* See notice at 54 FR 30788, July 24, 1989.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (October 27, 1988).

Reasons: The foreign article provides a 10 mJ pulse energy and a maximum pulse rate of 60 Hz. This capability is pertinent to the applicant's intended purpose and we know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25905 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

University of Michigan; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 89–189. *Applicant:* University of Michigan, Ann Arbor, MI 48109–1063. *Instrument:* Mass Spectrometer, Model MAT Delta S. *Manufacturer:* Finnigan MAT, West Germany. *Intended Use:* See notice at 54 34542, August 21, 1989.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (September 30, 1988).

Reasons: The foreign instrument includes an automated carbonate reaction system, a six Faraday cup multi-element collector and automated changeover from CNOS to HD providing precise isotope ratio data.

These capabilities are pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of comparable instrument it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25906 Filed 11–02–89; 8:45 am]

BILLING CODE 3510–DS–M

Utah State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 2841, U.S. Department of Commerce, 14th and

Constitution Avenue, NW., Washington, DC.

Docket Number: 89–116. *Applicant:* Utah State University, Logan, UT 84322–8300. *Instrument:* Rapid Kinetic Spectrometer Accessory with Pneumatic Drive Unit, Model RX–1000. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 54 FR 18689, May 2, 1989.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated August 29, 1989 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25907 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

Comments Must Be Received on or Before December 4, 1989.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3500.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Commodities

Bag, Cargo
1670–00–587–3421
Folder, IRS Tax Form
IRS Document No. 6982
IRS Document No. 6983

Services

Commissary Shelf Stocking & Custodial, Fort Stewart, Georgia.
Commissary Shelf Stocking & Custodial, White Sands Missile Range, White Sands, New Mexico.

Jeffrey R. Kurtz,

Management Analyst.

[FR Doc. 89–25933 Filed 11–2–89; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

National Guard Bureau

Availability of a Draft Environmental Impact Statement; Camp Shelby Army National Guard Training Site, Mississippi

AGENCY: National Guard Bureau/ Mississippi Military Department, DOD.

ACTION: Notice of availability of a draft environmental impact statement: proposed mission expansion/multiple construction at Camp Shelby Army National Guard Training Site, Mississippi.

Background

Camp Shelby is a state operated, federally funded Army National Guard Training Site located near the town of Hattiesburg, Mississippi. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Guard Bureau and the Mississippi Military Department have, acting as co-lead agencies, prepared a Draft Environmental Impact Statement on the proposed master plan mission expansion/multiple construction at Camp Shelby, Mississippi. On July 22, 1988, a Notice of Intent to prepare an Environmental Impact Statement was published in the Federal Register. A scoping meeting (in accordance with the Council on Environmental Quality Regulations (40 CFR 1500–1506)) was conducted on July 30, 1988, at Hattiesburg, Mississippi, to identify significant issues related to the proposed master plan mission expansion/multiple construction at Camp Shelby.

Action

The proposed action includes renovation and rehabilitation of existing facilities, construction of new facilities, range improvements, and a potential for increased training site utilization. The Draft Environmental Impact Statement addresses direct and indirect environmental impacts, both beneficial and detrimental. Environmental impacts addressed include those affecting air quality, noise, physical setting, natural resources, land use, waste disposal, water resources, cultural resources, and social and economic resources.

This draft Environmental Impact Statement pertains only to master plan construction projects. Any contemplated land transfer or real estate action associated with Camp Shelby will be evaluated in a separate document in accordance with the National Environmental Policy Act.

Document Availability

The identification of preferred alternatives in the Draft Environmental Impact Statement does not constitute a final decision. The Draft EIS and any comments received will be used by the Army National Guard to prepare a Final Environmental Impact Statement and Record of Decision. Copies of the Draft EIS may be obtained from: Mississippi Military Department, The Adjutant General's Office, ATTN: LTC Samuel K. McLellan, Facilities Management Office, P.O. Box 5027, Jackson, Mississippi 39216–1027.

Lewis D. Walker,

Deputy for Environmental, Safety, and Occupational Health, OASA (I.L. & E).

[FR Doc. 89–25945 Filed 11–2–89; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

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DATES: Interested persons are invited to submit comments on or before December 4, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 30, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Planning, Budget, and Evaluation

Type of Review: New.
Title: Design for a Study of the Provision of Chapter 1 Services to Limited English Proficient Students.
Frequency: One time.
Affected Public: State of local governments.
Reporting Burden:
Responses: 344.
Burden Hours: 127.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: The purpose of this study is to provide the Department with detailed information about elementary and secondary schools on Chapter 1 programs serving limited English proficient students. The Department will use this information to assess the accomplishments of program goals and objectives and to aid in effective program management.

[FR Doc. 89-25914 Filed 11-2-89; 8:45 am]
BILLING CODE 4000-1-M

Office of Elementary and Secondary Education

Intent To Repay to the Oregon State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the U.S. Secretary of Education (Secretary) intends to repay to the Oregon State Department of Education, the State educational agency (SEA), an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determinaiton. This notice describes the SEA's plan, submitted on behalf of Central Linn School District, the local educational agency (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATE: All written comments must be received on or before December 4, 1989.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2043), Washington, DC 20202-6132.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane. Telephone: (202) 732-4692.

SUPPLEMENTARY INFORMATION:

A. Background

The Department recovered $38,045 from the Oregon SEA in satisfaction of a final audit determination issued to the LEA by the SEA on March 30, 1987. This claim arose from an audit conducted under the requirements of the Single Audit Act of 1984 of the LEA's administration of Federal programs during fiscal year (FY) 1986. Specifically, the LEA had a balance of $38,045 of FY 1985 funds on hand and the availability period for the use of FY 1985 funds had expired. The FY 1985 funds were available for obligation from July 1, 1984, to September 30, 1985. Section 412(b) of GEPA provides that funds that remain unobligated at the end of the year for which they were appropriated shall remain available for obligation and expenditure during the succeeding fiscal year. With this additional year of availability, FY 1985 funds remained available for obligation through September 30, 1986. The LEA was unable to support its claim that FY 1985 funds had been obligated in a timely manner for allowable program costs, and that timely obligations were not reflected because of inefficient bookkeeping practices.

Of the lapsed FY 1985 funds, an amount of $28,641 was from Chapter 1 of the Education Consolidation and Improvement Act of 1981, a program that addressed the special educational needs of educationally deprived children in areas with high concentrations of children from low-income families. The remaining $9,404 of the funds was from Part B of the Education of the Handicappped Act (EHA).

B. Authority for Awarding a Grantback

Section 456(a) of GEPA provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arranged to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) The SEA or LEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA the SEA has applied for a grantback of $21,480, which is 75 percent of the Chapter 1 funds recovered by the Department. No request was made for a grantback on behalf of the EHA funds. The SEA has submitted a plan on behalf of the LEA for the use of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended. According to the plan, the LEA would use the grantback funds during school year 1989-90 to purchase supplies and equipment to enhance its regular Chapter 1 program. The LEA is located in an economically deprived area where funds for educational purposes are limited. Furthermore, the LEA's allocation for its regular Chapter 1 program is only sufficient to pay salaries and benefits for two teachers, who provide services to approximately 63 students in reading and mathematics at the LEA's only two elementary schools. The LEA would purchase two computers, printers, software, and other instructional supplies and materials with the grantback funds to expand and supplement the regular Chapter 1 program. In the regular Chapter 1 program, the educationally deprived children in grades 1-4 receive 30 minutes of extra instruction in reading or mathematics each day. Each child is provided an individual program designed to address his or her special educational needs. The grantback funds would provide materials and equipment that would encourage and facilitate learning at the Chapter 1 center.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon the review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Oregon SEA under a grantback arrangement. The grantback award would be in the amount of $21,480, which is 75 percent—the maximum percentage authorized by the statute—of the Chapter 1 funds recovered by the Department as a result of the audit.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1990, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) Not later than January 1, 1991, the SEA will submit, on behalf of the LEA, a report to the Secretary which—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditure of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: October 27, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89-25912 Filed 11-2-89; 8:45 am]
BILLING CODE 4000-01-M

Office of Intergovernmental and Interagency Affairs

Procedures for Requesting Authoritative Guidance Under Part E of the General Education Provisions Act

AGENCY: Department of Education.

ACTION: Amended notice of procedure for requesting authoritative guidance under part E of the General Education Provisions Act.

In the May 5, 1989 issue of the **Federal Register**, the Secretary of Education issued a notice of the procedure to be used by certain recipients of funds in requesting authoritative guidance from Department of Education officials under part E of the General Education Provisions Act (54 FR 19523, corrected May 19, 1989 (54 FR 21726)). The Secretary amends that notice to increase the number of officials who may provide authoritative guidance and reissues the notice in its entirety.

Final regulations implementing the core provisions of part E were published in the **Federal Register** on May 5, 1989 (54 FR 19512, corrected May 19, 1989 (54 FR 21622, 21726)). Section 81.23 of those regulations provides that a State or local educational agency that has received a grant or cooperative agreement under an applicable program and that has made an unallowable expenditure or otherwise failed to account properly for funds is not required to return any amount that is attributable to certain "mitigating circumstances."

Section 81.23 (b) of the regulations, relating to erroneous written guidance from the Department of Education, provides in relevant part as follows:

(b) Mitigating circumstances exist if it would be unjust to compel the recovery of funds because the recipient's violation was caused by erroneous written guidance from the Department. To prove mitigating circumstances under this paragraph, the recipient shall prove that—

(1) The guidance was provided in response to a specific written request from the recipient that was submitted to the Department at the address provided by notice published in the **Federal Register** under this section; [and]

(2) The guidance was provided by a Departmental official authorized to provide the guidance, as described by that notice[.]

Section 81.23(c) of the regulations, relating to the Department's failure to

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provide timely guidance, provides in relevant part as follows:

(c) Mitigating circumstances exist if it would be unjust to compel the recovery of funds because the recipient's violation was caused by the Department's failure to provide timely guidance. To prove mitigating circumstances under this paragraph, the recipient shall prove that—

(1) The recipient in good faith submitted a written request for guidance with respect to the legality of a proposed expenditure or practice; [and]

(2) The request was submitted to the Department at the address provided by notice published in the **Federal Register** under this section[.]

Requests for guidance referred to in § 81.23(b) and (c) must be submitted to the following address: U.S. Department of Education, Box 4799, Washington, DC 20202–4799.

Department officials who are authorized to provide guidance under § 81.23 (b)(2), quoted above, are listed below:

Office of Management: Deputy Under Secretary for Management; Comptroller; Director, Grants and Contracts Service; Director, Financial Management Service.

Office of Elementary and Secondary Education: Assistant Secretary for Elementary and Secondary Education; Deputy Assistant Secretary for Elementary and Secondary Education; Deputy Assistant Secretary for Regulations, Innovation, and Development; Director, Compensatory Education Programs; Director, Office of Migrant Education; Director, Office of Indian Education; Director, School Improvement Programs.

Office of Postsecondary Education: Assistant Secretary for Postsecondary Education.

Office of Educational Research and Improvement: Assistant Secretary for Educational Research and Improvement; Commissioner, National Center for Education Statistics; Director, Library Programs; Director, Programs for the Improvement of Practice; Director, Fund for the Improvement and Reform of Schools and Teaching; Director, Office of Research.

Office of Special Education and Rehabilitative Services: Assistant Secretary for Special Education and Rehabilitative Services; Commissioner, Rehabilitation Services Administration; Director, National Institute on Disability and Rehabilitation Research; Director, Office of Special Education Programs.

Office of Vocational and Adult Education: Assistant Secretary for Vocational and Adult Education; Director, Division of Vocational-Technical Education; Director, Division of National Programs; Director, Division of Adult Education.

Office of Bilingual Education and Minority Languages Affairs: Director, Office of Bilingual Education and Minority Languages Affairs.

EFFECTIVE DATE: The regulations implementing part E and the notice that was published with the regulations took effect on June 19, 1989. The amendments to the notice in this document take effect November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Barry W. Stevens, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue SW., Room 4091 FOB–6, Washington, DC 20202; Telephone: (202) 732–2730.

Dated: October 30, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–25911 Filed 11–2–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Idaho Operations Office; Research and Development of Nickel/Cadmium (Ni/Cd) Alkaline Batteries

AGENCY: Idaho Operations Office, DOE.

ACTION: Solicitation for Financial Assistance Applications No. DE–PS07–90ID12873 for Research and Development of Nickel/Cadmium (Ni/Cd) Alkaline Electric Vehicle Batteries.

SUMMARY: "Research and Development of Nickel/Cadmium (Ni/Cd) Alkaline Batteries." The U.S. Department of Energy (DOE), Idaho Operations Office (ID), is seeking applications on the basis of open competition, for cost-sharing research and development of Nickel/Cadmium (Ni/Cd) alkaline batteries in support of its Electric and Hybrid Vehicle (EV) Program. The statutory authority for this action is the Electric Vehicle and Hybrid Vehicle Research, Development and Demonstration Act of 1976. This announcement is the complete solicitation document and no other document for this work is available. The objective of this program is to execute one or more cooperative agreements to evaluate currently available fiber-electrode technologies and identify those which possess the potential for advancing nickel/cadmium batteries for Electric Vehicle traction applications. A cooperative agreement is the anticipated instrument because, in accordance with the DOE financial assistance rules, 10 CFR part 600.202, DOE will be substantially involved in the project. The substanital involvement between DOE and the awardee and DOE's authorities and responsibilities under this agreement shall be as follows: (1) DOE will monitor project status and expenditures, and counsel the awardee if significant variance with plans and budgets occur. DOE will convene periodic project reviews, at a time and place agreeable to the awardee, to permit review of the project status by DOE and/or DOE contractor personnel. The reviews will determine if satisfactory progress towards the goals of the project are being met and determining whether to continue funding the project, redirecting the research efforts, or canceling support of the project. (2) Within 30 days of any project review meeting or within 30 days of receipt of any technical progress report, DOE will inform the awardee of any required changes or additions. (3) DOE review and approval is required prior to building any cells and prior to testing for cells. (4) DOE will recommend technology transfer activities for consideration by the awardee as part of the activities. DOE will review and approve all technology transfer activities planned by the awardee to ensure that the activities will be effective in helping development and commercial acceptance of the technology. All projects will be cost-shared by DOE and the Participant and project duration is expected to be approximately 36 months. Applicants should be aware that any awardee will be required to have a cost-share of not less than 10% (ten percent). No fee or profit will be paid to the Participant. DOE anticipates that approximately $130,000 will be available for support of activities during the first year, and $150,000 to $300,000 for each of the following two years. Negotiation, award, and administration will be in accordance with DOE Financial Assistance Regulations (10 CFR part 600). The Catalog of Federal Assistance number for this program is 81.086. Profit making entities, individuals, educational institutions, nonprofit institutions and other entities are eligible to submit applications in response to the solicitation. Federal agencies and/or laboratories owned, operated, or under the cognizance of the Federal Government are not eligible for award and should not submit applications. Applications which anticipate participation of such a laboratory by subcontract, use agreement, or other arrangement must include satisfactory evidence of specific authorization from the cognizant Federal agency.

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Background

Public Law 94–413, enacted on September 17, 1976, then modified by Public Law 95–238, authorized the U.S. Department of Energy (DOE) to conduct a program of research, development and demonstration designed to promote electric and hybird vehicle technologies to commercial feasibility. Basic and applied research on batteries for electric and hybrid vehicles were among the activities specified by the legislation. Over the past ten years DOE has searched for the battery type that would be the breakthrough for electric vehicle transportation. The search goes on with static electrolyte, flowing electrolyte and solid electrolyte types. Progress toward achievement of the long range goals is as elusive as ever. Several battery types, in their earliest stages of development, have exhibited high promise, but that promise has become more and more modest as research turns up additional problems of a practical nature. Currently only two battery types show field operational capability: Lead/acid and nickel/iron (Ni/Fe). Research work on the nickel/cadmium (Ni/Cd) battery for EV traction has focused on the non-sintered nickel electrode, in an effort to produce a low cost Ni/Cd battery. However, the power limitation of this technology has always been a concern. This limitation is perhaps fundamental. At issue is internal "resistance" versus pore structure as an explanation for the battery's poorer performance when compared with the lead/acid battery of the same ampere/hour rating. This is a paradox, because standard rechargeable Ni/Cd batteries are popular because of their high power with high voltage cranking ability. The non-sintered nickel electrode technology has a rapid temperature-rise characteristic at high discharge rates. The high internal heat generation causes graphite oxidation, cell swelling, and loss of cell capacity of each cycle following a high rate demand. The standard Ni-Cd battery technology possesses two characteristics which make it attractive as an improved power source of EV traction. It is a high power delivery device, as described above, and exhibits better operating characteristics at cold ambient temperatures than the lead-acid battery. Thermal management is required on battery types that lose their capability at low ambient temperatures. Thermal management is a complication in the system that elevates cost, adds bulk and weight to the vehicle, and requires energy from the battery to maintain its operating temperature which reduces the energy available for powering the vehicle.

Scope

This technology evaluation program is designed to refocus the Ni/Cd efforts along more conventional lines. First it is designed to evaluate available fiber-electrode technologies and identify the best technology. Assuming that this evaluation identifies a technology that possesses the potential to reduce cost without sacrificing performance and live, the next effort would be directed at identification of a suitable cadmium recombination electrode technology. If successful on both counts, this project could lead to a cost-reduced Ni/Cd battery technology with low maintenance requirements. This technology would offer significant advantages over Ni/Fe batteries, which possess no known potential for gas recombination and require almost daily watering.

The applicant is to provide a concise but definitive scope of work for inclusion into any resulting agreement. The individual key tasks are to be defined and listed in logical sequence. It is the responsibility of the applicant to include all items in the scope of work that are required to accomplish the stated purpose of the project. Each task is to be priced separately. DOE may choose none, all, or some combination of the tasks to be funded. As a minimum, the following tasks should be included and discussed in the statement of work:

1. Perform a survey of all fiber nickel and cadmium electrode technologies (without carbon or graphite additivies) available for both foreign and domestic battery developers. Using 50 Wh/kg (at 3-hour discharge rate) as the specific energy, 120 W/kg (at 50% depth of discharge) as the peak specific power, and −20 to +60 °C as the operating temperature range as targets, the surveyed technologies shall be ranked and current status documented.

2. Build three sample cells each, of the top three rated electrode combinations (20 Ah minimum size). Charge-discharge performance shall be established at five different temperatures within the range of interest (room temperature being one point).

A second series of tests shall be performed with the cells charged at room temperature and then discharged at each of the five temperatures previously chosen. Room temperature charging shall be at the 5- to 6-hour rate, with all discharging at the one-hour rate. When operating at temperatures other than room temperature, the charging rates shall be established at the gassing threshold for each temperature. These thresholds will be reported as part of the cell characteristics.

3. Identify the best technologies from task 2 to perform life cycle tests. Eight cells (20 Ah minimum size) are to be built. Four cells are to be cycled at the one-hour discharge rate using a water bath to control temperature. The Simplified Federal Urban Driving Cycle (SFUDC) is to be run at regular intervals (i.e., every 50 cycles) to determine if any degradation of the dynamic characteristics is occurring. The objective is to determine if the best fiber nickel electrode, in combination with the best cadmium electrode, can achieve or exceed 1000 cycles. The life testing requirement is to extract 70% of the maximum one-hour rate energy from the battery. Beginning-of-life performance is to be established after 20 break-in or conditioning cycles. End-of-life is to be determined when the voltage under load drops below the cutoff voltage before the specified energy is delivered; or when the acceleration fails to meet the driving cycle requirements on two consecutive cycles or twice during the same cycle on the SFUDC regime. Cutoff voltage may not be defined lower than sixty percent (60%) of the open circuit voltage. The remaining four cells are to be sent to an independent testing facility designated by DOE.

4. Survey the available cadmium recombination electrode technologies and report on the feasibility of using one or more of these technologies to build sealed or low maintenance batteries. The objective is to prove the potential for one-year (minimum) maintenance-free operation in an EV traction application. Noble metal catalysts are not an acceptable alternative to a recombining electrode technology.

5. Build eight cells (20 Ah minimum size) of the type from Task 3 and include the best cadmium recombination electrode, if the recombination technology shows promise. Establish a test plan and test four cells to show the effectiveness of the recombination electrode. Testing shall include an initial charge current equivalent to a 5- to 6-hour discharge rate, with allowance for taper current charging after 80% SOC. The data must be usable to define the maximum taper charge current that the recombination electrode can accommodate. The applicant will send the remaining four cells to a test facility designated by DOE.

6. Demonstrate scale-up of the chosen technologies: (1) Build six full-size EV cells (150–200 Ah capacity) and (2) upon approval from DOE, build eight full-size 6-volt modules for delivery.

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7. Prepare a detailed weight and cost analysis of the technology used in tasks 3 and 5. The analysis shall highlight costly materials and manufacturing areas. This analysis shall identify and address the high-cost aspects of mass production; e.g., inherent materials costs and/or high-cost steps in the production process (due to high labor requirements, expensive equipment, low production rates, and/or low yields).

Note: Any hazardous waste produced or the handling of hazardous material must be handled in accordance with applicable EPA and/or OSHA regulations. The proposal must reference applicable EPA regulations and your procedures on how the waste will be treated or disposed, and how hazardous material is to be handled.

Evaluation Criteria

All timely proposals received will be evaluated and point scored in accordance with the technical evaluation criteria listed below.

The criteria are listed in descending order of importance.

Technical Proposal Evaluation Criteria

The Technical Evaluation Criteria are weighted in the following manner: Criterion A is weighted approximately equal to Criterion B and three times as much as Criterion C. Subcriterion A.1 is weighted about one and one-fourth as much as subcriterion A.2. Subcriterion B.1 is weighted equal to subcriterion B.2. Subcriterion C.1 is weighted twice as much as subcriteria C.2.

Criterion A: Statement of Objectives and Facility Description

1. The statement of work will be evaluated for technical quality, merit of proposed approach, and probability of achieving positive results.

2. The facility description will be evaluated to determine the capabilities of the facility to build and test NiCd cells and batteries, to handle hazardous material and dispose of hazardous waste.

Criterion B: Qualification and Capabilities

1. Key personnel will be evaluated as to their work experience in the required technology areas and understanding of the technology involved, as demonstrated by education, publications, inventions and work experience in the required technology areas.

2. The proposing organization, including subcontractor's, capabilities will be evaluated relative to (1) experience and expertise in the required technology areas, (2) the ability to manage the proposed effort, (3) past technical performance, and (4) ability to handle hazardous material and hazardous waste.

Criterion C: Project Management Plan

1. Quality of the management plan provisions for technical, quality, and administrative controls, to assure appropriate project maintenance and overall management for the building and testing of cells and batteries.

2. Cost effectiveness of building and testing cells and batteries as required.

Applications shall be responsive to all the above criteria. Cost considerations will not be point scored or adjectively rated. In making the selection decision, the apparent advantages of individual technical applications will be weighed against the evaluated probable cost to the Government (including cost sharing) to determine whether better applications, excluding cost considerations are worth the evaluated probable cost differentials over other applications. If applications are very closely ranked and the Source Selection Official determines that the superiority in the technical aspects of the higher related application(s) is not meaningful when viewed in relationship to lower rated applications, evaluated probable costs to the Government may form the basis for selection.

Instructions

Each application in response to this solicitation should be prepared in one volume. One original and seven copies of each application is required. Applications shall exclude material not essential to evaluation of the proposal. Applications shall be as short as possible consistent with completeness, clearly and concisely written and neat and logically assembled. The importance of supplying full and completely responsive information for each of the evaluation criteria cannot be overemphasized. If the offer is submitted under a joint venture arrangement, this fact must be clearly set forth. In conducting the evaluation of applications, the Government may utilize assistance and advice from non-Government personnel. Applicants that do not consent to the use of non-Government personnel in evaluating their application(s) are required to make that statement on the cover of their application(s). Applicants are further advised that DOE may be unable to give full consideration to an application submitted without such consent. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in 10 CFR part 600.18. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this solicitation. DOE may require applications to be clarified or supplemented either through additional written submissions or oral presentations; however, the award may be made solely on the information contained in the application. Unsuccessful applications will not be returned but will be destroyed by DOE. DOE is under no obligations to pay for any costs associated with preparation or submission of applications of an award is not made. If an award is made, such costs may be allowable as provided in the applicable cost principles. Further, costs incurred prior to the signing of a cooperative agreement are not reimbursable. The cost principles that shall apply will depend on the type of awardee(s): FAR 31.2 shall apply to commercial organizations, OMB Circular A–21 shall apply to educational institutions; OMB Circular A–87 shall apply to state and local governments; and OMB Circular A–122 shall apply to nonprofit organizations. Reporting under any agreement awarded will be in accordance with DOE Order 1332.2 "Uniform Reporting System for Federal Assistance." The awardee(s) must have an accounting system capable of accumulating costs by project. All applicants are required to provide in their proposal the nine-digit Taxpayer Identification Number (TIN) assigned by the U.S. Internal Revenue Service. Applications should be submitted to the contact given below.

Applications must include a completed Standard Form 424 "Application for Federal Assistance," a 424A "Budget Information," and 424B "Assurances," including the Drug-Free Workplace Certification. These may be obtained from the Contract Specialist named below. The specific reporting requirements, prepared in accordance with DOE Order 1332.2 "Uniform Reporting System for Federal Assistance," are also obtainable from the Contract Specialist. Notice of Possible Availability of Loans for Bid Proposal Preparation by Minority Business Enterprises Seeking DOE Contracts and Assistance section 211(e)(1) of the DOE Act (Public Law 95–91 as amended by Public Law 95–619) authorizes the Department of Energy (DOE) to provide financial assistance to minority business enterprises to assist them in their efforts to participate in DOE acquisition and assistance programs. Financial assistance is in the form of direct loans to enable the preparation of bids or proposals for DOE contracts and assistance awards, subcontracts with DOE operating contractors, and contracts with subcontracts of DOE operating contractors. The loans are limited to 75 percent of the costs involved. Availability of these loans is subject to annual appropriation of funds and the remaining availability of funds from such appropriations. DOE does not warrant that such assistance can be made available in sufficient time to prepare an application for this solicitation. DOE does point out that the program includes provisions for a preliminary review in advance of a specific loan request. Information regarding loan availability, eligibility critieria, and how to apply may be obtained from: San Francisco Operations Office, U.S. DOE, ATTN: Minority Loan Program Office, 1333 Broadway, Oakland, CA 94612, (415) 273–6403.

The closing date and time will be : 4:00 p.m., Idaho Falls, Idaho local time, on December 7, 1989. Be aware that the applications must be submitted no later than the closing date and time, according to the criteria of 10 CFR Part 600.13 entitled "Application Deadlines." Evaluation of the applications will commence approximately one week after the closing date. Late applications will be handled in accordance with 10 CFR part 600.13. Prospective applicants who intend to submit an application in response to this solicitation should so notify the contact below in writing.

Questions regarding this solicitation should also be submitted to the contact below in writing and postmarked prior to November 10, 1989. Questions and answer will be issued in writing by amendment to this solicitation. Copies of all amendments to this solicitation will be sent only to those notifying this office of their intent to submit an application. Selection and award are expected to be made within four months of the closing date of this solicitation.

CONTACT: James P. McGowan, Contract Specialist, Contracts Management Division, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402.

Issued this 28th day of September at Idaho Falls, Idaho.

J. Roger Gonzales,

Director, Contracts Management Division.

[FR Doc. 89–25146 Filed 11–2–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER90-36-000, et al.]

Florida Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 27, 1989.

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. ER90-36-000]

Take notice that on October 24, 1989, Florida Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Seven to Agreement to Provide specified Transmission Service Between Florida Power & Light Company and City of Tallahassee, Florida (Rate Schedule FERC No. 47).

FPL states that under Amendment Number Seven, FPL will transmit power and energy for City of Tallahassee, Florida as is required in the implementation of its interchange agreement with the Utility Board of the City of Key West, Florida.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that a copy of the filing was served on City of Tallahassee, Florida.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Company

[Docket No. ER90-35-000]

Take notice that Southwestern Public Service Company (Southwestern) on October 23, 1989, tendered for filing a supplemental filing to change the rate schedules for full requirements electric power service to Central Valley Electric Cooperative, Inc., Farmers' Electric Cooperative, Inc., of New Mexico Lea County Electric Cooperative, Inc., and Roosevelt County Electric Cooperative, Inc.

The supplemental filing was made to clarify certain provisions of the new rate schedules and to correct a rate rider so that it is consistent with the currently effective rider.

Copies of the supplemental filing were served upon the four customers and the New Mexico Public Service Commission.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company UNITIL Power Corporation

[Docket No. ER90-32-000]

Take notice that Bangor Hydro-Electric Company ("Bangor") and UNITIL Power Corporation (UNITIL) on October 23, 1989 tendered for filing as an Initial Rate Schedule, an Electric Generating Capability Agreement. The Agreement provides for the sale by Bangor to UNITIL of 10,000 kw of electric generating capability during November 1, 1989 through October 31, 1990 and the total output associated therewith.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

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[Docket No. ER90-35-000]

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The supplemental filing was made to clarify certain provisions of the new rate schedules and to correct a rate rider so that it is consistent with the currently effective rider.

Copies of the supplemental filing were served upon the four customers and the New Mexico Public Service Commission.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company UNITIL Power Corporation

[Docket No. ER90-32-000]

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Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

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4. Arizona Public Service Company

[Docket No. ER89-649-000]

Take notice that on October 24, 1989, Arizona Public Service Company ("APS" or "Company") tendered for filing an amended filing revising the methodology used in developing the proposed purchased power adder pursuant to Commission Staff's recommendations.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. ER90-31-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on October 23, 1989, tendered for filing pursuant to § 35.13 of the regulations under the Federal Power Act, as a rate schedule, an agreement with New England Power Company (NEP). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to NEP. Service under this agreement will commence on October 31, 1989 and shall terminate on April 30, 1990 unless extended in writing by mutual agreement.

NYSEG has filed a copy of this filing with New England Power Company with the Massachusetts Department of Public Utilities, and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that October 31, 1989 be allowed as the effective date of the filing.

Comment date: November 13, 1989, in accordance with Standard Paragraph E end of this notice.

6. Connecticut Light and Power Company

[Docket No. ER90-33-000]

Take notice that on October 23, 1989, Northeast Utilities Service Company (NUSCO) as agent for Connecticut Light and Power Company (CL&P) tendered for filing Notices of Termination of the following rate schedules:

Sales Agreement with respect to slice-of-system units between CL&P and Boston Edison Company, dated January 1, 1969 (CL&P Rate Schedule FERC 424).

Sales Agreement with respect to slice-of-system units between CL&P and Public Service Company of New Hampshire, dated August 1, 1968 (CL&P Rate Schedule FERC 409).

Sales Agreement with respect to slice-of-system units between CL&P and the United Illuminating Company, dated August 1, 1968 (CL&P Rate Schedule FERC 410).

NUSCO states that the schedules are to be terminated in accordance with their own terms. NUSCO requests that the Commission allow the terminations for each of the Agreements to take effect on October 31, 1989.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Iowa Power and Light Company

[Docket No. ES90-4-000]

Take notice that on October 24, 1989, Iowa Power and Light Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue on or before December 31, 1991, bank notes maturing not more than one year after date of issue and commercial paper notes maturing not more than nine months after the date of issue in principal amounts not exceeding $135,000,000 of which up to an amount not exceeding twenty-five percent (25%) of the Company's gross revenues during the preceding twelve (12) months of operations in the aggregate at any one time may be issued as commercial paper, and that the Company may issue and sell commercial paper either directly to buyers, insofar as allowed by state law, or through established commercial paper dealers.

Comment date: November 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of Indiana, Inc.

[Docket No. ER89-672-000]

Take notice that on October 24, 1989, Public Service Company of Indiana, Inc. (PSI or the Company) submitted an amendment to its filing in the above captioned docket of proposed rate Schedule FS-1. The Company's original filing requests authorization to provide long-term firm power sales at negotiated rates to certain unaffiliated customers. Should such authorizations be granted, PSI has committed to file a Transmission Service Tariff with the Commission that would cover Transmission Service on PSI's transmission system. The Amendments to the initial filing clarify that PSI's authorization to make such sales to a customer would be suspended in the event PSI is unable to construct facilities necessary to provide transmission service to such customer consistent with its transmission tariff, which PSI filed as a *pro forma* tariff to its rate schedule.

Copies of the Amendments to the initial filing have been served on the Indiana Utility Regulatory Commission, the Attorney General of the State of Indiana, the Utility Consumer Counselor, the Indiana Municipal Power Agency, the Wabash Valley Power Association, the City of Logansport, Indiana, PSI's existing wholesale customers who purchase under Rate MUN and Rate REMC-1, and upon persons who have intervened in this docket.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-24901 Filed 11-2-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-91-000 et al.]

ANR Pipeline Co., et al.; Natural Gas Certificate Filings

October 27, 1989.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP90-91-000]

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-91-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Coastal Gas Marketing (Coastal), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 150,000 dt equivalent of natural gas on a peak day, 150,000 dt equivalent on an average day and 54,750,000 dt equivalent on an annual basis for Coastal. ANR states that it would perform the transportation service for Coastal under ANR's Rate Schedule ITS. ANR indicates that it would transport the gas from receipt points in Oklahoma, Texas and Kansas, to a delivery point located in Roberts County, Texas.

It is explained that the service commenced September 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-67. ANR indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Algonquin Gas Transmission Company

[Docket No. CP90-134-000]

Take notice that on October 26, 1989, Algonquin Gas Transmission Company (Algonquin) 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP90-134-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing sales and transportation services for certain customers and for authority to abandon sales services to certain specified customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Algonquin states that its application is the end result of extensive negotiations between Algonquin and its firm sales customers for over three years regarding the terms and conditions of new services to replace Algonquin's existing Rate Schedules F-1 and F-4. Algonquin further states that the primary goal of those negotiations has been to flow through, to the extent permitted by Algonquin's operating situation, to Algonquin's customers the benefits resulting from the restructuring of service by Texas Eastern Transmission Corporation (Texas Eastern).[1] Algonquin states that it has been able to offer this comprehensive restructuring to its F-1 and F-4 customers only because Texas Eastern and Algonquin have agreed to restructure Texas Eastern's existing service obligations to Algonquin in accordance with the terms and conditions of Texas Eastern's approved new Rate Schedules CD-1, CD-2, and FT-1 which became effective as of August 1, 1989 under Texas Eastern's restructuring program.[2] Algonquin states that it has executed new service agreements for sales service under Rate Schedules CD-1 and CD-2 and firm transportation under Rate Schedule FT-1. According to Algonquin, these new agreements with Texas Eastern reflect Algonquin's customers nominations for new service proposed herein.

Algonquin states that its restructuring proposal involves no increase in the aggregate contractual quantities of service to existing customers. Rather, it simply replaces the existing firm sales service under Rate Schedules F-1 and F-4 with a comparable level of firm transportation, sales and standby sales services which will be rendered in accordance with the terms and conditions of Rate Schedules AFT-1 and ATAP, as modified herein (Rate Schedule ATAP is currently pending acceptance in Docket No. RP89-241-000).

Algonquin alleges that approval of its proposal to restructure its services will have the effect of enhancing competition in the market place since its customers will have the opportunity to convert existing sales service to new firm sales services and/or firm transportation. Consequently, such customers will be able to purchase supply directly from multiple sources. Further, Algonquin proposes to implement a transportation assignment program for shippers under Algonquin's Rate Schedule AFT-1. Algonquin proposes to allow AFT-1 shippers to assign on either a firm or interruptible basis their firm transportation service to third parties, provided such shippers submit a notice in writing to Algonquin indicating their desire to engage in the assignment of transportation service. Algonquin further states that assignees who have been assigned rights on a firm basis may also reassign these firm rights on either a firm or interruptible bases. Algonquin's instant proposal includes mechanisms to flow through gas supply inventory charges from Texas Eastern should they be incurred as a result of purchase patterns of Algonquin's customers. Algonquin requests that the Commission expeditiously approve its proposal with an effective date of December 1, 1989, in order to provide the benefits of Algonquin's proposal to its customers during the upcoming winter heating season.

Algonquin also requests authority to modify its Rate Schedules STB and SS-III to allow customers under those rate schedules to inject gas from supply sources other than Algonquin. Currently, Algonquin states that Rate Schedule STB and SS-III customers must purchase Algonquin Rate Schedules F-1 and/or I-1 supply for injection into storage. Algonquin states that customers will benefit from this change if they are able to purchase supply form sources other than Algonquin. Algonquin also requests authorization to receive such third party gas for injection at points of receipt under these storage rate schedules corresponding to the points of delivery under Rate Schedule ATAP.

Specifically, Algonquin requests that the Commission issue a certificate authorizing a comprehensive restructuring of its existing service obligations by permitting Algonquin (a) to render to existing firm sales customers under Rate Schedules F-1 and F-4 a firm sales and firm standby sales service in accordance with the terms and conditions to proposed new Rate Schedules ACD-1 and ACD-4, (b) to establish for each firm sales customer under Rate Schedules ACD-1, ACD-4, F-1 and F-4 a gas supply inventory cost provision pursuant to which Algonquin will recover from those customers, on a quarterly basis, the monthly costs billed to Algonquin by Texas Eastern pursuant to Texas Eastern's Gas Supply Inventory Reservation Charge, (c) to modify existing Rate Schedule AFT-1 to reflect the impact of standby sales service under Rate Schedules ACD-1 and ACD-4 proposed in its application and to reflect a transportation assignment program for Algonquin's Rate Schedule AFT-1 shippers, (d) to modify Algonquin's Rate Schedule ATAP as filed on September 25, 1989, to reflect the impact of standby sales service under Rate Schedules ACD-1 and ACD-4 and (e) to implement certain tariff provisions set forth in the pro forma General Terms and Conditions set forth Exhibit P to the application. In addition, Algonquin requests that to the extent customers elect to convert to services under Rate Schedules ACD-1, ACD-4, ATAP and AFT-1, Algonquin requests permission and approval of the related abandonment of its sales services obligations to such customers under Algonquin's Rate Schedules F-1 and F-4.

Comment date: November 13, 1989 in accordance with Standard Paragraph F at the end of the notice.

[1] Algonquin states that, historically, the gas purchased from Texas Eastern has been resold under Rate Schedules F-1, F-4 and WS-1. It is states that the instant application contemplates a restructuring of Algonquin's Rate Schedules F-1 and F-4. Algonquin states that it anticipates filing a comprehensive restructuring of its Rate Schedule WS-1 in the near future.

[2] See *Texas Eastern Transmission Corporation*, 47 FERC ¶61,100 (1989), and 48 FERC ¶61,133 (1989).

3. ANR Pipeline Company

[Docket No. CP90-62-000]

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-62-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Santanna Natural Gas Corp. (Santanna), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 75,000 dt equivalent of natural gas on a peak day, 75,000 dt equivalent on an average day and 27,375,000 dt equivalent on an annual basis for Santanna. ANR states that it would perform the transportation service for Santanna under ANR's Rate Schedule ITS. ANR indicates that it would transport the gas from receipt points in Louisiana, Oklahoma, Texas, Kansas, Wisconsin, offshore Texas, and offshore Louisiana, to delivery points located in Wisconsin.

It is explained that the service commenced September 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-52. ANR indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Canyon Creek Compression Company

[Docket No. CP90-86-000]

Take notice that on October 20, 1989, Canyon Creek Compression Company (Canyon), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-86-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Chevron USA, Inc. (Chevron), a producer of natural gas, under Canyon's blanket certificate issued in Docket No. CP89-1497-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Canyon proposes to transport on an interruptible basis up to 100,000 MMBtu of natural gas on a peak day, 50,000 MMBtu on an average day and 18,250,000 MMBtu on an annual basis for Chevron. Canyon states that consistent with Canyon's Rate Schedule ICS, Chevron may request and Canyon may agree to accept additional quantities as overrun gas. Canyon indicates that it would transport the gas from two receipt points in Uinta, Wyoming to two delivery points in Uinta, Wyoming.

It is explained that the service commenced September 21, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-183. Canyon indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP90-49-000]

Take notice that on October 11, 1989, Natural Gas Pipeline Company of America (Natural) 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1430-000 a request, as supplemented October 17, 1989, pursuant to § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to operate an existing tap for the sale, delivery, and transportation of natural gas to Iowa Electric Light and Power Company (Iowa Electric), an existing customer of Natural's, for resale to Green Valley Chemical Company (Green Valley) in Union County, Iowa, under its blanket authorization issued in Docket No. CP82-402-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural avers that it recently discovered that a certificate of public convenience and necessity had apparently never been issued for the construction and operation of the facilities required for delievery to Green Valley. This delivery point was constructed in 1966 at the request of Iowa Electric and is listed on Natural's currently effective Seventh Revised Sheet No. 402 of Third Revised Volumes No. 1, as well as Natural's "Annual Report of System Flow Diagrams", Format No. FERC 567. It is alleged that Iowa Electric is an existing sales customer of Natural's receiving such service under Natural's Rate Schedule DMQ-1. Natural received authority to provide resale service to Iowa Electric in an order issued October 13, 1942, in Docket No. G-235.

The sales deliveries at the Green Valley meter station enables Iowa Electric to service the end use needs of Green Valley, which are the manufacture of anhydrous ammonia for fertilizer and dry ice for food processing. It is averred that it is not necessary for Iowa Electric to increase its total entitlements form Natural in order to provide this sales service for Green Valley. Natural contends that this action was not, and is not, prohibited by Natural's tariff, and Natural had and has sufficient capacity to provide this service without detriment or disadvantage to any other customers.

Natural asserts that it received authority in Docket Nos. G-651 and G-1423, pursuant to orders issued May 10, 1946, and August 8, 1950, respectively, to construct and operate one two-inch lateral approximately 6.7 miles long and one three-inch lateral approximately 6.7 miles long (Creston Laterals), extending from connections to Natural's mainlines in Adair County, Iowa, to the City of Creston located in Union County, Iowa, in Docket Nos. G-651 and G-1423, pursuant to orders issued May 10, 1946 and August 8, 1950, respectively. Natural states that it received authority to replace the two-inch lateral with a four-inch lateral in Docket No. CP62-229. In 1966, Iowa Electric requested that Natural install two three-inch taps, 311 feet of three-inch lateral and one four-inch meter to connect Green Valley to the Creston Laterals in order to provide a new sales and delivery point for Iowa Electric. Natural contends that the physical work was completed on April 28, 1966, and that the total cost of the facilities was $10,331.

It is stated that Iowa Electric has been purchasing natural gas from Natural and selling this natural gas to Green Valley at the Green Valley meter station since 1966. The Green Valley meter station is the only delivery point on Natural's system connected to Green Valley, an enduser. It is also stated that Natural has also been transporting natural gas for the account of Green Valley since 1966.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP90-87-000]

Take notice that on October 20, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-87-000 a request pursuant to § 157.205 of the Commission's Regulation under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Midcon Marketing Corporation (Midcon), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a tranportation agreement dated March 23, 1989, as amended, Natural requests authority to transport up to 100,000 MMBtu of gas per day (plus any additional volumes accepted pursuant to the overrun provisions of its Rate Schedule ITS), on an interruptible basis, for Midcon. Natural states that the agreement provides for it to receive the gas at various existing points of receipt along its system and to deliver the gas to various existing points of delivery located in Texas, offshore Texas, Louisiana, offshore Louisiana and Illinois. Midcon has informed Natural that it expects to have only 50,000 MMBtu of gas transported on an average day and, based thereon, Natural estimates that 18,250,000 MMBtu of gas would be transported annually. Natural advises that the transportation service commenced on August 23, 1989, as reported in Docket No. ST90-185-000 pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP90-96-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipeline Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-96-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Panhandle Trading Company (PTC), a shipper and marketer of natural gas, pursuant to Panhandle's blanket certificate issues in Docket No. CP86-585-000 and section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Panhandle requests authority to transport up to 50,000 DT per day on an interruptible basis on behalf of PTC pursuant to a transportation agreement dated May 2, 1988, between Panhandle and PTC. It is stated that the agreement provides for Panhandle to receive gas from various existing points of receipt located in Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma and Texas. Panhandle would then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to Union Gas in Wayne County, Michigan, it is stated. It is further stated that the estimated annual quantities would be 20,000 Dt and 7,300,000 Dt, respectively. Panhandle states that service under § 284.223(a) commenced on September 1, 1989, as reported in Docket No. ST89-4780.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Canyon Creek Compression Company

[Docket No. CP90-114-000]

Take notice that on October 23, 1989, Canyon Creek Compression Company (Canyon), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90-114-000 a request pursuant to the notice procedure in §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport and compress, on an interruptible basis, for MidCon Marketing Corporation (MMC), a marketer of natural gas, under Canyon's blanket certificated issued in Docket No. CP89-1497-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Canyon Creek, pursuant to an agreement dated August 14, 1989, proposes to transport and compress for MMC on an interruptible basis from receipt points and delivery points in Uinta County, Wyoming. It is stated that the volumes to be transported on a peak day is up to a maximum of 193,000 MMBtu (plus any additional volumes accepted pursuant to the overrun provisions of Canyon's Rate Schedule ICS) for MMC, on an average day approximately 100,000 MMBtu, and on an annual basis approximately 36,500,000 MMBtu.

Canyon Creek states that service commenced on September 1, 1989, as reported in Docket No. ST90-19-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP90-106-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-106-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Entrade Corporation (Entrade), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 100,000 dekatherms (dt) of natural gas equivalent per day on an interruptible basis on behalf of Entrade pursuant to a transportation agreement dated July 24, 1989, between Panhandle and Entrade. Panhandle would receive the gas at various existing points of receipt on its system in Texas, Oklahoma, Kansas, Colorado, Illinois, Michigan, Ohio and Wyoming and deliver equivalent volumes, less fuel used and unaccounted for line loss, to various points of redelivery in Missouri.

Panhandle states that the estimated daily and annual quantities would be 100,000 dt and 36,500,000 dt, respectively. Service under § 284.223(a) commenced on September 1, 1989, as reported in Docket No. ST89-4802-000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Moraine Pipeline Company

[Docket No. CP90-112-000]

Take notice that on October 23, 1989, Moraine Pipeline Company (Moraine), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90-112-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Carnation Company (Carnation), under Moraine's blanket certificate issued in Docket No. CP86-492-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Moraine requests authorization to transport, on an interruptible basis, up to a maximum of 1,700 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Moraine's Rate Schedule ITS) for Carnation from a receipt point located in Illinois to a delivery point located in Wisconsin. Moraine anticipates transporting, on an average day 1,500 MMBtu and an annual volume of 547,500 MMBtu.

Moraine states that the transportation of natural gas for Carnation commenced September 17, 1989, as reported in Docket No. ST90-102-000, for a 120-day period pursuant to § 284.223(a) of the

Commission's Regulations and the blanket certificate issued to Moraine in Docket No. CP86-492-000.

authorized Transco to render a firm, long-term winter season transportation service (November 15-March 31) for the

filed with the Commission will be considered by it in determining the appropriate action to be taken but will

The Committee members will be chosen to ensure appropriately balanced membership, taking into account: (1) The

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Commission's Regulations and the blanket certificate issued to Moraine in Docket No. CP86-492-000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP90-100-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-100-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Centran Corporation (Centran), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated April 27, 1989, Panhandle requests authority to transport up to 5,800 Dt. of natural gas per day, on an interruptible basis, on behalf of Centran. Panhandle states that the agreement provides for it to receive gas from various existing points of receipts along its system and to redeliver the gas, less fuel used and unaccounted for line loss, to Northern Indiana Public Service Company at an existing point of delivery in Fort Wayne, Adams County, Indiana. Centran has informed Panhandle that it expects to have only 4,000 Dt. transported on an average day and, based thereon, Centran estimates that the annual transportation quantity would be 1,825,000 Dt. Panhandle advises that the transportation service commenced on September 1, 1989, as reported in Docket No. ST89-4806, pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Panhandle Eastern Pipe Line Company

[Docket No. CP90-102-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-102-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Unicorp Energy Inc. (Unicorp), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated July 18, 1989, Panhandle requests authority to transport up to 150,000 Dt. of natural gas per day, on an interruptible basis, on behalf of Unicorp. Panhandle states that the agreement provides for it to receive gas from various existing points of receipts along its system and to redeliver the gas, less fuel used and unaccounted for line loss, to Haven Pool at an existing point of delivery in Reno County, Kansas. Unicorp has informed Panhandle that it expects to have the full 150,000 Dt. transported on an average day and, based thereon, estimates that the annual transportation quantity would be 54,750,00 Dt. Panhandle advises that the transportation service commenced on September 1, 1989, as reported in Docket No. ST89-4804, pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25606 Filed 11-2-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-431-000]

Transcontinental Gas Pipe Line Corp.; Application

October 26, 1989.

Take notice that on October 25, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing Transco to utilize a pipeline loop segment which was certificated as part of the SS-2 storage project to render firm transportation service for the Associated PennEast customer group (APEC) [1] during a narrowly defined interim period, all as more fully described in the application which is on file with the Commission and open to public inspection.

In an order issued June 7, 1989 (47 FERC ¶ 61,341), the Commission authorized Transco to render a firm, long-term winter season transportation service (November 15-March 31) for the APEC customers totalling 170,000 Mcf per day. Pursuant to such order, firm certificated service is scheduled to commence on November 15, 1989 to enable the APEC customers to receive delivery of their winter season volumes. In the order issued by the Commission approving the APEC service, Transco was authorized, *inter alia*, to construct an additional 12,600 horsepower of compression at existing Station No. 520. Transco has been unable to serve the APEC customers as of yet since the authorized compressor station upgrade is awaiting subsequent environmental approval. Without this additional compression, Transco cannot effectuate the previously authorized firm service.

In this application, Transco seeks authorization to utilize, on a temporary basis, 3.39 miles of 36-inch pipeline loop, which was certificated by the Commission in an order issued July 27, 1989 (48 FERC ¶ 61,223) as part of the SS-2 storage project, in order to render the firm transportation service for the APEC customers. Transco proposes that the temporary authorization sought herein expire on the earlier of (1) March 31, 1990 (the end of the APEC service "winter period"), or (2) the date on which the 12,600 horsepower compression upgrade is ready for service.

Transco states that the proposal does not involve any request for new facilities, but instead reflects Transco's desire for Commission approval to utilize a pipeline loop segment which was certificated as part of the SS-2 project to provide the APEC service during a narrowly defined interim period. Additionally, this request reflects a change in the previously authorized APEC firm transportation service by delaying the commencement of service to South Jersey Gas Company until November 1, 1990.[2]

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 OR 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25600 Filed 11-2-89; 8:45 am]

BILLING CODE 6717-01-M

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[1] APEC is comprised of Public Service Electric & Gas Company, The Brooklyn Union Gas Company, Long Island Lighting Company, New Jersey Natural Gas Company, Elizabethtown Gas Company and South Jersey Gas Company.

[2] Transco states that on October 5, 1989, South Jersey Gas Company agreed to a one year delay in the commencement of the delivery of its 10,000 Mcf per day entitlement of the APEC firm transportation volumes.

Office of Energy Research

Fusion Policy Advisory Committee; Establishment

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA), (Pub. L. 92-463) and in accordance with 41 CFR 101-6.10, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Fusion Policy Advisory Committee has been established.

This Committee will, on a one-time basis, review the new draft fusion policy covering both magnetic and inertial confinement, and provide its recommendation for a fusion policy for the Department of Energy. The review will focus on the technical basis for, and the likely effectivness of, the proposed policy. The final written report will provide advice on how to structure the fusion programs—either by the proposed policy, some specific modifications to it, or some totally different approach.

The Committee members will be chosen to ensure appropriately balanced membership, taking into account: (1) The scientific disciplines to be represented, such as magnetic and inertial confinement plasma physics, laser and ion beam physics, and high-power technology; (2) the types of institutions needed to carry out the research, such as universities, national laboratories and industry; and (3) appropriate geographic distribution. Membership and representation of all interests will be determined in accordance with the requirements of FACA, section 624(b) of the Department of Energy Organization Act (Pub. L. 95-91) and implementing regulations.

The establishment of the Fusion Policy Advisory Committee has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of FACA, the Department of Energy Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this Advisory Committee may be obtained from Elinor Donnelly at 586-3448.

Issued at Washington, DC on October 31, 1989.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 89-25977 Filed 11-2-1989; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 89-82-NG]

Suncor Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the United States Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to import natural gas from Canada to Suncor Inc. (Suncor). The order authorizes Suncor to import up to 54.75 Bcf of Canadian natural gas over a two-year term beginning on January 1, 1990, through December 31, 1991.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056,

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Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25976 Filed 11–2–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3677–9]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed October 23, 1989 Through October 27, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890292, Draft, SCS, IL, Upper Crab Orchard Creek Watershed, Flood Damage Reduction Plan, Funding and Implementation, Williamson County, IL, Due: December 18, 1989, Contact: John Eckes (217) 398–5267.

EIS No. 890293, Draft, FHW, KY, US 27 Construction, Camp Nelson to Nicholasville Bypass, Funding and 404 Permit, Jessamine County, KY, Due: December 22, 1989, Contact: Robert E. Johnson (502) 227–7321.

EIS No. 890294, Final, EPA, REG, Coke By-Product Recovery Plants, Revised Proposed Standards for Benzene Emissions, Implementation, Due: December 4, 1989, Contact: Fred Dimmick (919) 541–5625.

EIS No. 890295, Final, EPA, REG, Fluid Catalytic Cracking Unit Regenerators, Sulfur Oxides Emissions Standards, Due: December 4, 1989, Contact: Robert Ajax (919) 541–5578.

EIS No. 890296, FSuppl, COE, MN, Bassett Creek Watershed Flood Control Plan, Implementation, Hennepin County, MN, Due: December 4, 1989, Contact: Gary Palesh (612) 220–0294.

EIS No. 890297, Final, USA, TT, Kwajalein Atoll Ongoing and Strategic Defense Initiative Activities, Test Range Facility Construction and Support Services, Republic of the Marshall Islands, Due: December 4, 1989, Contact: LtC. Ronald Kaglovits (205) 895–3616.

EIS No. 890298, Draft, COE, CO, Adam's Rib Recreation Area Resort Development, 404 Permit and Approval, Eagle County, CO, Due: December 18, 1989, Contact: Larry Vinzant (916) 551–2261.

EIS No. 890299, Final, FHW, WA, WA–18 Improvements, Auburn-Black Diamond Road to I–90, Funding and 404 Permit, King County, WA, Due: December 4, 1989, Contact: Barry Morehead (206) 753–2120.

EIS No. 890301, Final BLM, MT, Powder River Resource Area, Wilderness Study Areas (WSAs), Wilderness Recommendations, Designation or Nondesignation, Zook Creek WSA and Buffalo Creek WSA, Rosebud and Powder River Counties, MT, Due: December 4, 1989, Contact: Gene Kolkman (406) 232–7000.

EIS No. 890302, Draft, BLM, MT, Bull Mountains Land Exchange, Federal Coal Lands for High Values Recreation and Wildlife Lands, Carbon County, MT, Due: January 5, 1990, Contact: Bill Matthews (406) 232–7000.

EIS No. 890303, Draft, USA, MS, Camp Shelby Annual Training Facilities, Construction, Implementation, Forrest, Perry, and Greene Counties, MS, Due: December 18, 1989, Contact: LTC. Samuel K. McLellan (601) 949–6229.

EIS No. 890304, Draft, FHW, AL, Patton Island Bridge and Approach Roads Construction, crossing the Tennessee River and connecting the cities of Florence and Muscle Shoals, Funding, 404 Permit, TVA Permit, and CGD Bridge Permit, Colbert and Lauderdale Counties, AL, Due: December 29, 1989, Contact: Joe Wilkerson (205) 223–7370.

Amended Notices

EIS No. 870393, Draft, SFW, NY, VT, Lake Champlain Sea Lamprey Control Temporary Program, Use of Lampricides and an Assessment of Effects on Certain Fish Populations and Sport Fisheries, Implementation, Clinton, Essex and Washington Counties, NY and Addison and Chittenden Counties, VT, Due: December 1, 1989, Contact: Ralph Abele, Jr (617) 965–5100. Published FR 11/14/87—Review period extended.

Dated: October 31, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc 89–25988 Filed 11–2–89; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3678–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 16, 1989 through October 20, 1989 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D1–AFS–J65134–WY, Rating EC2, Threemile Area Timber Sale and Road Construction, Medicine Bow National Forest Land and Resource Management Plan, Medicine Bow National Forest, Carbon County, WY.

Summary

EPA has concerns with the cumulative impacts of the proposed action upon wildlife in the area, especially as similar actions are planned for adjacent areas.

Additionally, the EPA requests for information on the anticipated effects of global climate change, cumulative impacts, and increased water yield, and monitoring programs.

ERP No. D–AFS–J65154–CO, Rating EC2, Hatchet Park Timber Sale, Implementation, Arapaho National Forest, Sulphur Ranger District, Grand County, CO.

Summary

EPA expressed concerns about the project's potential for cumulative water quality impacts. EPA requested that the final EIS include additional information on cumulative impact, global climate changes, water yield, and monitoring.

ERP No. D–FHW–J40117–CO, Rating EC2, CO–82 Improvement, East of Basalt to 7th and Main Streets in Aspen, Funding and Section 404 Permit, Pitkin County, CO.

Summary

EPA expressed environmental concerns due to the uncertainty of the final design right-of-way and impacts to wetlands. EPA recommended that the final EIS includes additional information on wetland mitigation.

ERP No. DS–MMS–A02116–00, Rating EC2, Mid 1987–Mid 1992 Outer Continental Shelf (OCS) Oil and Gas Lease Sales, 5 Year Program, Cumulative Impacts of OCS Development on Migratory Species, Lease Offerings, Offshore the Alaska and Pacific Regions, AK, WA, CA and OR.

Summary

EPA had two primary concerns about this document. The cumulative impact level definitions were too broad including failure to make any distinction between threatened and endangered species and nonendangered species. Also, the analysis did not fully address additive or synergistic responses to exposure to multiple activities.

Final EISs

ERP No. F–AFS–L65019–OR, Tepee Butte Fire Recovery Project, Implementation, August thru September 1988 Tepee Butte Fire Damage Recovery Land Management Plan, Hells Canyon National Recreation Area, Wallowa-Whitman National Forest, Wallowa County, OR.

Summary

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. F–BLM–L65122–ID, Idaho Statewide Small Wilderness Study Areas (WSAs), Wilderness Recommendations, Designation or Nondesignation, Box Creek, Lower Salmon Falls Creek, Henry's Lake, Worm Creek, Goldbury, Borah Peak, Boulder Creek, Little Wood River and Black Butte WSAs', Valley, Twin Falls, Fremont, Bear Lake, Custer, Blaine and Lincoln Counties, ID.

Summary

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

Regulations

ERP No. R–USN–A86233–00, 32 CFR part 775; Procedures for Implementing the Procedural Provisions of the National Environmental Policy Act (54 FR 36816).

Summary

EPA finds the Navy's proposed rule revising its regulation for implementing procedural provisions of the National Environmental Policy Act would make several changes to the list of categorical exclusions contained in 32 CFR 775.6(c). EPA objected to the proposed categorical exclusions for the preparation of planning documents (32 CFR 775.6(c)(7)) and the identification, characterization, and clean-up of hazardous waste sites (32 CFR 775.6(c)(19)) and recommended their deletion.

Dated: October 31, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89–25989 Filed 11–2–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

California; Amendment to Notice of a Major Disaster Declaration

[FEMA–845–DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the state of California (FEMA–845–Dr), dated October 18, 1989, and related determinations.

DATED: October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice

The notice of a major diaster for the State of California, dated October 18, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 18, 1989:

Contra Costa County for Individual Assistance and Public Assistance.
Marin County for Individual Assistance only.

Grant C. Peterson,

Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 89–25946 Filed 11–2–89; 8:45 am]

BILLING CODE 6718–02–M

Office of Training

Board of Visitors for the Emergency Management Institute; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the Emergency Management Institute (EMI).

Dates of Meeting: November 29–December 1, 1989.

Place: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, Maryland 21727.

Time: November 29—8:30 a.m. to 5:00 p.m.; November 30—8:30 a.m. to 5:00 p.m.; December 1—8:30 a.m. to Agenda Completion.

Proposed Agenda: The Board will continue preparation of their 1989 Annual Report, finalize a draft statement expressing their support of the FEMA's adoption of the Incident Command System (ICS) concept, discuss health issues as they relate to curriculum content, and continue discussions relative to FEMA/EMI's role in hazardous materials training.

The meeting will be open to the public with approximately ten seats available on a first-come, first serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301–447–1251) on or before November 15.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: October 20, 1989.

Dave McLoughlin,

Director, Office of Training.

[FR Doc. 89–25947 Filed 11–2–89; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title

46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-004147-002

Title: South Carolina State Ports Authority Terminal Agreement.

Parties: South Carolina State Ports Authority, International Paper Company.

Synopsis: The Agreement extends the basic agreement for an additional five-year term. All other terms and conditions remain unchanged.

By Order of the Federal Maritime Commission.

Dated: October 30, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25932 Filed 11-2-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200057-002

Title: Tampa Port Authority Terminal Agreement.

Parties: Tampa Port Authority, Tampa Bay International Terminals, (TBIT).

Synopsis: The Agreement extends the term of the basic agreement (Agreement No. 224-200057) from November 1, 1989, through December 31, 1989. TBIT's rent shall be $4,166.67 per month and the minimum annual guarantee (MAG) per month will be assessed at 1/12th of the MAG, calculated at $27,083.34 per month.

Agreement Nos.: 224-000060-010, 224-000060-011, 224-000060-012

Title: Port of New Orleans Terminal Agreement.

Parties: Board of Commissioners of the Port of New Orleans (Port), Coastal Cargo Company (Coastal).

Synopsis: The Agreements modify the basic lease (Agreement No. 224-000060) to re-let thirty (30) sections (sections 51 through 60, Agreement No. 224-000060-010; sections 61 through 70, Agreement No. 224-000060-011; and sections 71 through 80, Agreement No. 224-000060-012) of the leased premises which are located at the Galvez Street Wharf. The Agreements also proportionally increase the rent as specified in the basic agreement.

Agreement No.: 224-200156-001

Title: State of Hawaii Terminal Agreement.

Parties: State of Hawaii, Matson Terminals, Inc.

Synopsis: The Agreement restates paragraph 7 of the basic agreement to provide that the annual rental as determined under paragraph 9 of the basic agreement shall be set forth in amendments filed with the FMC and effective under the Shipping Act of 1984.

Agreement No.: 224-200155-001

Title: State of Hawaii Terminal Agreement.

Parties: State of Hawaii, Matson Terminals, Inc.

Synopsis: The Agreement restates paragraph 7 of the basic lease agreement to provide that the annual rental for subsequent years as determined under paragraph 10 of the basic agreement shall be set forth in amendments filed with the FMC and effective under the Shipping Act of 1984.

By Order of the Federal Maritime Commission.

Dated: October 30, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25915 Filed 11-2-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

[File No. 892-3051]

Black & Decker (U.S.) Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Towson, MD based manufacturer of small appliances from representing that any consumer products are endorsed by a person, group or organization that is an expert, unless the endorser has the expertise that is represented and the endorsement is supported by a valid evaluation or test.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S-4002, Washington, DC 20580. (202) 326-3153.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Black & Decker (U.S.) Inc., a corporation, and it now appearing that Black & Decker (U.S.) Inc., hereinafter referred to as proposed respondent, is willing to enter into an agreement containing and order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Black & Decker (U.S.) Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Black & Decker (U.S.) Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business at 701 East Joppa Road, in the City of Towson, State of Maryland.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint as attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

For the purposes of this order, "consumer product" shall mean any product advertised, offered for sale, sold, or distributed to consumers for their personal or household use, and not for commercial or industrial use.

I

It is ordered, That respondent Black & Decker (U.S.) Inc., a corporation; its successors and assigns; and its officers, representatives, agents and employees; directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any consumer product sold under the "Black & Decker" trademark, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such product has been endorsed by a person, group or organization that is an expert with respect to the endorsement message unless:

A. The endorser's qualifications give it the expertise that the endorser is represented as possessing with respect to the endorsement; and

B. The endorsement is supported by an objective and valid evaluation or test using procedures generally accepted by experts in that science or profession to yield accurate and reliable results.

II

It is further ordered, That for three (3) years from the date that the representations to which they pertain are last disseminated, respondent shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this Order; and

B. All test reports, studies, surveys or other materials in its possession or control or of which it has knowledge that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation, including complaints from consumers.

III

It is further ordered, That respondent shall forthwith distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation and placement of advertisements or other such sales materials covered by this Order.

IV

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations under this Order.

V

It is further ordered, That respondent shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted subject to final approval an agreement to a proposed consent order from Black & Decker (U.S.) Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This action arises from advertisements claiming that the Black & Decker Automatic Shut-Off iron is "exclusively endorsed by the National Fire Safety Council, Inc." The Commission's complaint alleges that Black & Decker's advertisements falsely represent that the National Fire Safety Council, Inc. is an organization with expertise in the evaluation and testing of appliance fire safety and that it conferred its exclusive endorsement on the Black & Decker Automatic Shut-Off iron on the basis of independent, objective and valid evaluation or testing of the iron using procedures generally accepted in the field of appliance fire safety.

Under the terms of the proposed consent order, Black & Decker has agreed to cease and desist from

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representing that any Black & Decker consumer product has the endorsement of any expert individual or group unless the endorser's qualifications give it the expertise that the endorser is represented as possessing with respect to the endorsement, and the endorsement is supported by an objective and valid evaluation or test using procedures generally accepted by experts in that science or profession.

The proposed order also requires Black & Decker to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to certain company officials and employees, to notify the Commission of any changes in corporate structure that may affect its compliance with the order, and to file one or more reports detailing its compliance with the order, and to file one or more reports detailing its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-25954 Filed 11-2-89; 8:45 am]

BILLING CODE 6750-01-M

[File No. 861 0035]

New Jersey Movers Tariff Bureau, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Highland Park, NJ based movers from entering into or maintaining any agreement to fix, maintain, or interfere with the prices charged by movers. The order would also prohibit respondent from discussing or formulating agreements among movers concerning intrastate prices to be charged for the transportation of property or related services.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments should be directed to: FTC/OFFICE of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael J. Bloom, New York Regional Office, Federal Trade Commission, 150 William St., 13th Floor, New York, NY. 10038. (212) 264-8290.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the New Jersey Movers Tariff Bureau, Inc., a corporation, and the New Jersey Warehousemen and Movers Association, a corporation (hereinafter sometimes referred to as "Tariff Bureau" or "Movers Association," respectively, or as "proposed respondents," collectively), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between the Tariff Bureau, by its duly authorized officer, the Movers Association, by its duly authorized officer, their attorney, and counsel for the Federal Trade Commission that:

(1) Proposed respondent New Jersey Movers Tariff Bureau, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey. Proposed respondent New Jersey Warehousemen and Movers Association is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey. Both proposed respondents have their offices and principal places of business located at 24 North Third Avenue, Highland Park, New Jersey, 08904.

(2) Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint attached hereto.

(3) Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

(4) This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

(5) This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

(6) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postsal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(7) Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

(A) "*Household goods*" means personal effects, fixtures, equipment, stock and supplies, or other property usually used in or as part of the stock of a dwelling.

(B) "*Intrastate transportation*" or "*intrastate moves*" means the pickup or receipt, transportation and delivery of property for compensation within the State of New Jersey by a mover authorized by state law to engage therein.

(C) "*Member*" means any mover or other person which pays dues or belongs to the New Jersey Movers Tariff Bureau, Inc. or to the New Jersey Warehousemen and Movers Association, or to any successor corporation.

(D) "*Office goods*" means personal effects, fixtures, furniture, equipment, stock and supplies, or other property usually used in or as part of the stock of any office, or commercial, institutional, professional, or other type of establishment.

(E) "*Person*" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, lessee, or personal representative of any person herein defined.

(F) "*Mover*" means any person engaged in the transportation of household goods, office goods, or special commodities by motor vehicle for compensation in intrastate commerce between points in the State of New Jersey.

(G) "*Special commodities*" means uncrated or unboxed works of art, fixtures, appliances, business machines, electronic equipment, displays, exhibits, home, office, store, theatrical or show equipment, musical instruments, or other articles.

(H) "*Tariff Bureau*" means the New Jersey Movers Tariff Bureau, Inc.

(I) "*Movers Association*" means the New Jersey Warehousemen and Movers Association.

(J) "*Tariff*" means a publication stating the prices charged by movers for services rendered in the transportation of household goods, office goods, and special commodities, within the State of New Jersey.

II

It is ordered, That respondents Tariff Bureau and Movers Association, their successors and assigns, and their directors, officers, committees, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the transportation of property, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, jointly and indivdually, do forthwith cease and desist from:

A. Entering into, adhering to, or maintaining, directly or indirectly, any contract, agreement, understanding, plan, program, combination, or conspiracy to construct, fix, stabilize, raise, maintain, or otherwise interfere or tamper with the prices charged by movers;

B. Suggesting, urging, encouraging or persuading in any way movers to charge, file, or adhere to any existing or proposed tariff provision, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided;

C. Inviting, coordinating, or providing a forum for any discussion or agreement between or among movers concerning intrastate prices charged or proposed to be charged by movers for the intrastate transportation of property or related services, goods, or equipment; and

D. Formulating, compiling, filing, or maintaining any tariff derived in whole or in part from price information that respondents or others have collected on forms that contain pre-selected prices or that use or refer to tables of prices.

Provided, however, That nothing contained in subpart II. D. of this Order shall prevent respondents from collecting and publishing individual tariffs or tariff information that movers have communicated to respondents on forms, other than forms devised, established or circulated to movers by respondents that contain pre-selected prices or that use or refer to tables of prices, in which each mover inserts or sets forth prices that are unilaterally determined by the mover, for the purpose of facilitating each mover's satisfaction of the tariff filing requirements of the State of New Jersey. And provided further that, after a period of one year from the effective date of this Order, nothing contained in this subpart shall prevent respondents from presenting to state regulatory authorities tariff filings that contain a tabularized or consolidated display of unilaterally determined mover prices.

III

It is further ordered, That respondents Tariff Bureau and Movers Association each shall:

(A) At the first opportunity after this order becomes final, but in no case later than six (6) months thereafter, cancel all tariffs and any supplements thereto on file with the Director of the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety that establish prices for transportation of property or related services, goods, or equipment by movers in New Jersey and take such action as may be necessary to effectuate cancellation and withdrawal.

(B) Within thirty (30) days after this order becomes final, distribute a copy of the order to each of their members.

(C) Within thirty (30) days after this order becomes final, amend their by-laws, rules and regulations, and other of their materials to conform to the provisions of this order and provide each of their members with a copy of the amended by-laws, rules and regulations, and other materials.

(D) Within thirty (30) days after this order becomes final, amend their by-laws to require each of their members to observe the substantive provisions of the order as a condition of their membership.

(E) At the first opportunity after this order becomes final, but in no case later than six (6) months thereafter, terminate all previously executed powers of attorney and tariff service agreements between the Tariff Bureau and any mover utilizing its services that authorizes the publication and/or filing of intrastate tariffs within the State of New Jersey; provided, however, that nothing contained in this subpart shall prevent any new executions of such agreements or powers of attorney.

(F) For a period of three (3) years after this order becomes final, furnish a copy of the order to each of their new members within thirty (30) days of each new member's admission.

IV

It is further ordered, that respondents Tariff Bureau and Movers Association each shall:

(A) Within sixty (60) days after this order becomes final, file a verified written report with the Federal Trade Commission setting forth in detail the manner and form in which the

respondent has complied and is complying with this order.

(B) In addition to the report required by paragraph IV(A), annually for a period of three (3) years on or before the anniversary date on which this order becomes final, and at such other times as the Federal Trade Commission or its staff may by written notice to respondent require, file a verified written report with the Federal Trade Commission setting forth in detail the manner and form in which the respondent has complied and is complying with this order.

(C) For a period of five (5) years after this order becomes final, maintain and make available to the Commission staff for inspection and copying, upon reasonable notice, all documents that relate to the manner and form in which the respondent has complied and is complying with this order.

(D) Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the respondent that may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the New Jersey Movers Tariff Bureau, Inc., and the New Jersey Warehousemen and Movers Association (hereafter referred to as "Tariff Bureau" or "Movers Association," respectively, or as "respondents," collectively). The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint that the Commission would issue along with the proposed order alleges that the Tariff Bureau and the Movers Association have conspired with at least some of their members to restrain unreasonably price and service competition in the intrastate transportation of household goods, office goods, and special commodities. The complaint charges that respondents, in furtherance of the conspiracy, created and operated a joint tariff setting the prices their member movers charge for their transportation services, and that these acts and practices violated section 5 of the Federal Trade Commission Act.

According to the complaint, during much of the 1970's, respondent Tariff Bureau filed for its members a joint and common tariff; that tariff was subject to the approval of the Board of Public Utilities. In 1978, however, after the Board determined that the Tariff Bureau had acted anticompetitively and injured consumers, public movers who had been members of the Tariff Bureau began to file their rates individually instead of through a joint and common tariff. The State of New Jersey thereafter decided to move away from rate regulation and, although it now requires each mover to file tariffs semiannually with state authorities, New Jersey allows each mover to choose the rates on its tariff.

According to the complaint, in 1982, respondent Movers Association corresponded with its members and members of the Tariff Bureau, inviting them to stop filing their tariffs individually and to participate in the filing of a new joint tariff that would be designed and implemented by a newly reactivated Tariff Bureau. The Tariff Bureau then acted in conjunction with the Movers Association to design and implement a joint tariff in a manner that had the natural tendency and effect of raising the prices of moving services.

The complaint charges that, in furtherance of the alleged conspiracy, respondents and their members engaged in various acts and practices that restrained competition. Specifically, according to the complaint, beginning in the fall of 1982, respondents surveyed their membership concerning the rates that members wanted to have published in the new joint tariff, but then rejected the price preferences of their members reflected in the survey results. Instead respondents created a joint tariff containing menus of rates in tabular form and invited their members to select from among the rate tables.

The complaint further states that, although respondents' joint tariff allowed movers to select rates and terms of service that the tables did not reflect by "taking exception," in general, however, respondents designed and operated the tariff, including the exception process, in a way that discouraged movers' from taking exceptions to implement their individual pricing decisions.

According to the complaint, in the fall of 1987, the Tariff Bureau modified several of the tariff tables. In general, the modifications eliminated lower rates and added higher rates. The Tariff Bureau eliminated tables containing lower rates from the fall 1987 tariff even where the lower rates had been, during the most recent tariff period, movers' most popular choice of rates for their moving services. Thereafter, as the complaint charges, movers' rate selections revealed a marked price increase for several categories of moving services. Movers who had previously selected lower rates that were now no longer presented as rate options in the tariff generally did not seek to use the exception process to continue charging lower rates. In addition, the complaint states that the Tariff Bureau often ignored movers' requests for the same rates that they had selected in the previous tariff, and assigned them to the new higher rate tables.

The effects of these practices, as alleged in the complaint, are to restrain price competition in the intrastate transportation of household goods, office goods, and special commodities, and to deprive consumers of the benefits of price and service competition.

The Proposed Order

The proposed order would prohibit respondents from entering into or maintaining, directly or indirectly, any agreement or understanding to fix, stabilize or maintain, or otherwise interfere with the prices charged by movers. The proposed order prohibits respondents from suggesting or encouraging, in any way, movers to charge, file, or adhere to any existing or proposed tariff provision, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided. The proposed order also precludes respondents from inviting, coordinating, or providing a forum for any discussion or agreement between or among movers concerning intrastate prices charged or proposed to be charged by movers for the intrastate transportation of property or related services, goods, or equipment.

The proposed order further prohibits respondents from collecting price information from movers through a process that restricts the ability of movers to make individual and independent determinations as to the price each mover desires to charge for services rendered. Specifically, the proposed order contains a provision (paragraph II.D.) that precludes respondents from formulating, compiling, filing, or maintaining any tariff derived in whole or in part from price information that respondents or others have collected on forms that contain pre-selected prices or that use or refer to tables of prices.

A proviso contained in the proposed order expressly states that paragraph II.D. does not preclude respondents from collecting and publishing individual tariffs or tariff information that movers have communicated to respondents on forms that do not contain pre-selected prices or use or refer to tables of prices. Thus, II.D. does not prevent respondents from functioning as a pure compiler of individually-determined mover prices, where those prices are communicated to respondents on forms that are in accordance with the terms of the order. Each mover may convey price information to respondents using permissible forms to insert or set forth prices or price determinations that are unilaterally selected by the mover, for the purpose of facilitating each mover's satisfaction of the tariff filing requirements of the State of New Jersey.

The proviso further states that, after one year, paragraph II.D. shall not prevent respondents from presenting to state regulatory authorities tariff filings that contain a tabularized or consolidated display of unilaterally determined mover prices. In essence then, for a one-year period, the order precludes respondents from presenting to the state a consolidated or tabularized display of mover prices.

The proposed order would also require respondents to inform their members about the consent order; to conform their by-laws and rules to the order; to file compliance reports; to maintain and make available to the Federal Trade Commission staff certain documents; and to give advance notice of any change in respondents that may affect their compliance obligations. The proposed order further requires that, within six months after the order becomes final, respondents' existing tariff be canceled and withdrawn and all previously executed powers of attorney and tariff service agreements between the respondent Tariff Bureau and any member mover be terminated. The order, however, would permit the execution of new agreements and powers of attorney.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order nor to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-25955 Filed 11-2-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment; Extramural Science Advisory Board

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, and the Anti-Drug Abuse Act of 1986, Public Law 99-570, section 4003, 100 Stat. 3207-106 as amended by the Drug Abuse Treatment Technical Corrections Act of 1989, section 3(f), 103 Stat. 611, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the establishment, effective October 23, 1989 of the following committee:

Extramural Science Advisory Board, NIDA

The duration of this committee is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Dated: October 30, 1989.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89-25876 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-20-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on October 20, 1989. (Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Food Labeling Cost Survey—NEW—The proposed survey will obtain information from a sample of food manufacturers regarding food labeling costs, such as number of products, types of labels, and printing costs. In conjunction with other data, survey results will contribute to a data base for determining the costs of forthcoming FDA Labeling initiatives. The data also will be used in a microcomputer model that will enable the user to rapidly assess potential cost of a proposed regulation. *Respondents:* Businesses or other for-profit, small businesses or organizations; *Number of Respondents:* 1,459; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 2.6 hours; *Estimated Annual Burden:* 3,794 hours.

2. Respiratory Protective Devices—30 CFR part 11—Regulation—0920-0109—Part 11 prescribes requirements and procedures which must be met in filing applications for joint approval by the Mine Safety and Health Administration and National Institute for Occupational Safety and Health of respirators and modifications of respirators. Applications contents, quality control plans and quality control records are required. *Respondents:* Businesses or other for-profit.

	No. of respondents	No. of hours per response	No. of responses per respondent
Application	40	74.42	13
Recordkeeping	40	322.53	1

Estimated Annual Burden..... 51,599 hours

3. Allergenic Products; List of Source Materials—0910-0161—The purpose of this information collection requirement is to ensure that allergenic source materials are of a suitable quality or purity for production of products intended for use as human injectable drugs. *Respondents:* Businesses or other for-profit, small businesses or organizations; *Number of Respondents:* 19; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1.5 hours; *Estimated Annual Burden:* 29 hours.

4. Patterns of Care Study in Radiation Oncology—New—The National Cancer Institute will perform a Patterns of Care Study in radiation oncology to (a) obtain a census of radiotherapy facilities and document types of equipment; (b) conduct a long-term follow-up study of patients with cancers of the prostate, cervix, and breast and Hodgkin's disease; and (c) conduct a study of patterns of fractionation where widely varying dose schedules and overall treatment times are routinely used. *Respondents:* State and local government, businesses or other for-profit, Federal agencies or employees, non-profit institutions.

	No. of respondents	No. of hours per response	No. of responses per respondent
Facility Master List	625	0.763	1

	No. of respondents	No. of hours per response	No. of responses per respondent
Physician Master List	1,000	0.763	1
Total	1,625	0.763	1

collected on the form SSA-721 is used by the Social Security Administration to verify the death of an individual insured

office in processing your requests. The June 1989 revision of the guidelines is available for public examination in the

Dated: October 26, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

Toric (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The spherical lenses are indicated for daily wear and extended wear from 1 to 7

U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of

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	No. of respondents	No. of hours per response	No. of responses per respondent
Long Term Follow-Up	667	3.1	1
Patterns of Fractionation	5	44	3

Estimated Annual Burden.....3,205 hours

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Date: October 27, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-25864 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on October 27, 1989.

Social Security Administration

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. SSA/DDS Cost-Effectiveness-Measurement System Data Reporting Form—0960-0384—The information collected on the form SSA-1461 is used by the Social Security Administration to assure effective and uniform administration of the disability program, assist in making payment decisions and measure the operating costs of State agencies on a per-case basis. The affected public consists of State Disability Determination Agencies.

Number of Respondents: 52.
Frequency of Response: Quarterly.
Average Burden Per Response: 5 hours.
Estimated Annual Burden: 1,040 hours.

2. Statement of Death by Funeral Director—0960-0142—The information collected on the form SSA-721 is used by the Social Security Administration to verify the death of an individual insured under the Social Security Act and to determine if there is a survivor eligible for a lump sum death payment. The affected public is comprised of funeral directors with knowledge of the death of a Social Security insured individual.

Number of Respondents: 900,000.
Frequency of Response: 1.
Average Burden Per Response: 3.5 minutes.
Estimated Annual Burden: 52,500 hours.

OMB Desk Officer: Justin Kopca.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: October 30, 1989.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 89-25936 Filed 11-2-89; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

[Docket Nos. 81D-0214 and 83D-0305]

Target Animal Safety Revised Guidelines; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Veterinary Medicine (CVM) is announcing the availability of the June 1989 revision of its "Target Animal Safety Guidelines for New Animal Drugs." The previous target animal safety guidelines had been in use approximately 5 years The revision is based on numerous comments, a need for editorial modification and clarification, and a need for adding certain provisions for optional procedures.

ADDRESSES: Submit written requests for single copies of the June 1989 revision of the "Target Animal Safety Guidelines for New Animal Drugs" to the Industry Information Branch (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, Rm. 7-81, 5600 Fishers Lane, Rockville, MD 20857. Requests should be identified with the docket numbers found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. The June 1989 revision of the guidelines is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Larry D. Rollins, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: CVM is announcing the availability of the June 1989 "Target Animal Safety Guidelines for New Animal Drugs." The revised guidelines reflect the following: CVM's position regarding use of experimental animals and animal welfare; FDA's position regarding the LD_{50} test; clarification of an experimental unit, need for statistical analyses, and presentation of data; addition of a requirement for a complete description of diet in the final report; use of the breed of animals as a factor when selecting test animals; a preferred option of using a 10X dosing regimen for the drug tolerance test; information on when a drug tolerance test is needed; removal of a requirement of extensive animal skin testing in dogs, cats, and horses of certain topical drugs known to be very irritating or caustic and intended for use on limited surface areas; addition of a table to assist in the evaluation of skin reactions on dogs, cats, and horses; emphasis on the need for FDA and the sponsor to agree to the number of animals to test as a subset; deletion of addendum number 1a, clinical observations, because of redundancy (see addendum number 1); addition of fecal examination measurements for presence of parasites, fecal color, consistency, and quantity; addition of lactate dehydrogenase with isoenzymes determination to the list of clinical pathological tests to consider for dogs and cats; deletion of addendum number 4 for horses and replacement of it with a table for evaluating skin reactions; an updated reference for examining bulls for breeding soundness; addition of a reference for examining boars for breeding soundness; revision of poultry guidelines to include the intermittent drug administration/skip-a-day programs; clarification of duration of testing for certain classes of poultry; addition of recommendation that young birds be sedated when blood samples are collected if sedation will not interfere with the experiment.

Dated: October 29, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25936 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0437]

Salvatori Ophthalmics, Inc.; Premarket Approval of SOF-Form 55 Spherical (Methafilcon A) Soft Hydrophilic Contact Lenses and Sof-Form 55 Toric (Methafilcon A) Soft Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Salvatori Ophthalmics, Inc., Sarasota, FL, for premarket approval, under the Medical Device Amendments of 1976, of the SOF-FORM 55 Spherical (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the SOF-FORM 55 Toric (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with Kontur Kontact Lens Co., Inc., Richmond, CA, which has authorized Salvatori Ophthalmics, Inc., to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 28, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 4, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr. Rockville, MD 20850, 301-427-1060.

SUPPLEMENTARY INFORMATION: On July 18, 1989, Salvatori Ophthalmics, Inc., Sarasota, FL 34234, submitted to CDRH an application for premarket approval of the SOF-FORM 55 Spherical (Methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the SOF-FORM 55 Toric (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The spherical lenses are indicated for daily wear and extended wear from 1 to 7 days between removals for cleaning and disinfection as recommended by the eye-care practitioner. The lenses are indicated for the correction of visual acuity in not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The spherical lenses are indicated in a power range of −20.00 D to +10.00 D. The toric lenses are indicated for daily wear for the correction of visual acuity in not-aphakic person with nondiseased eyes that are myopic or hyperopic and have astigmatism up to 5.00 D and can obtain satisfactory visual acuity. These toric lenses range in spherical powers from −20.00 D to +10.00 D and cylinder powers from 0.75 D to 5.00 D. These lenses are to be disinfected using a chemical lens care system. The application includes authorization from Kontur Kontact Lens Co., Inc., Richmond, CA 94804, to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lens.

On September 28, 1989, CDRH approved the application by letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the SOF-FORM 55 Spherical (Methafilcon A) Soft Hydrophilic Contact Lenses and SOF-FORM 55 Toric (methafilcon A) Soft Hydrophilic Contact Lenses states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the person who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 14, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 26, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-25877 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending December 31, 1989"

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human

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Services to establish a Federal program of student loan insurance for graduate students in health profession schools.

Section 60.13(a)(4) of the program's Assistance Act of 1985 (Pub. L. 99-129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent.

and telephone number are listed below each committee.

Name of Committee: Minority Programs Review Committee

Name of Subcommittee: Minority Biomedical Research Support Subcommittee

Executive Secretary: Dr. Lorrita Watson,

from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS,

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Services to establish a Federal program of student loan insurance for graduate students in health profession schools.

Section 60.13(a)(4) of the program's implementing regulations (42 CFR part 60, previously 45 CFR part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1989, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅝ percent. Using the regulatory formula (45 CFR 126.13(a)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (8.12 percent), and rounding the result (11.62 percent) upward to the nearest ⅛ percent (11⅝ percent).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending December 31, 1989, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅛ percent for the quarter ending March 31, 1989; 12⅜ percent for the quarter ending June 30, 1989; and 12¼ percent for the quarter ending September 30, 1989.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 11⅝ percent. Using the regulatory formula (42 CFR 60.13(a)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.12 percent); adding 3.50 percent (11.62 percent); and rounding that figure to the next higher one-eighth of 1 percent (11⅝ percent).

3. For fixed rate loans executed during the period of October 1, 1989 through December 31, 1989, and for variable rate loans executed on or after October 22, 1985, the interest rate is 11⅛ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99-129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.12 percent); adding 3.0 percent (11.12 percent) and rounding that figure to the next higher one-eighth of 1 percent (11⅛ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 27, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-25878 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-15-M

National Institute of Health

National Institutes of General Medical Sciences; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for November 1989.

The meetings will be open to the public to discuss administrative details to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Minority Programs Review Committee

Name of Subcommittee: Minority Access to Research Careers, Review Subcommittee

Executive Secretary: Dr. George Hayden, Rm. 949, Westwood Building, Telephone: 301-496-7585

Dates of Meeting: November 2-3, 1989

Place of Meeting: Holiday Inn, Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland

Open: November 2, 1989, 8:30 a.m.-10:30 a.m.

Closed: November 2, 1989, 10:30 a.m.-5:00 p.m. November 3, 1989, 8:30 a.m.-adjournment

Name of Committee: Genetic Basic of Disease Review Committee.

Executive Secretary: Dr. Marion Zatz (Acting) Room 950, Westwood Building, Telephone: 301-496-7125

Dates of Meeting: November 9, 1989

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland

Open: November 9, 1989, 8:30 a.m.-10:30 a.m.

Closed: November 9, 1989, 10:30 a.m.-adjournment

Name of Committee: Pharmacological Sciences Review Committee

Executive Secretary: Dr. Rodney Ulane, Room 952, Westwood Building, Telephone: 301-496-4772

Date of Meeting: November 13, 1989

Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland

Open: November 13, 1989, 8:30 a.m.-10:30 a.m.

Closed: November 13, 1989, 10:30 a.m.-adjournment

Name of Committee: Cellular and Molecular Basis of Disease Review Committee

Executive Secretary: Dr. Carole Latker, Room 950, Westwood Bldg., Telephone: 301-496-7125

Dates of Meeting: November 14-15, 1989

Place of Meeting: Ramada Inn, Bethesda, 8400 Wisconsin Avenue, Bethesda, Maryland

Open: November 14, 1989, 8:30 a.m.-10:30 a.m.

Closed: November 14, 1989, 10:30 a.m.-6:00 p.m. November 15, 1989, 8:30 a.m.-adjournment

Name of Committee: Minority Programs Review Committee

Name of Subcommittee: Minority Biomedical Research Support Subcommittee

Executive Secretary: Dr. Lorrita Watson, Room 10A18, Westwood Bldg., Telephone: 301-496-4390

Dates of Meeting: November 16-17, 1989

Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland

Closed: November 16, 1989, 8:30 a.m.-5:00 p.m.

Open: November 17, 1989, 9:00 a.m.-12:00 p.m.

(Catalog of Federal Domestic Assistance Program No. 13-859, 13-862, 13-863, 13-880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: October 30, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-89-1917; FR-2606-N-44]

Underutilized and Unutilized Federal Buildings and Real Property Determined by HUD To Be Suitable for Use for Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: November 3, 1989.

ADDRESS: For further information, contact James Forsberg, Room 7226, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 755-6300; TDD number for the hearing- and speech-impaired (202) 755-5965. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the Federal Register identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Finally, in lieu of declaring any particular property as excess, the landholding agency may decide to make the property available to the homeless for use on an interim basis.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, Room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's Federal Register Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405 (202) 535-7067; U.S. Army: HQ-DA, Attn: DAEN-ZCI-P-Robert Conte; Room 1E671 Pentagon, Washington, DC 20360-2600 (202) 693-4583.

Dated: October 30, 1989.

Stephen A. Glaude,

Deputy Assistant Secretary for Program Management.

Suitable Building (by State)

(Number of Properties [ ])

California

Madera Emp. Trng. Cntr. & Sewage Lagoon [36]
19500 Road 28⅛
Madera County, CA
Landholding Agency: GSA
Location: GSA #GR-(1)-CA-664 (excess)
Comment: 40.87 acres w/bldgs. adjoins 4.58 acre sewage lagoon; possible asbestos

Oklahoma

Fort Sill [8]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location: T4512, TO4531, TO4580, TO2786, PO1619, PO4634, PO4635, PO4633
Comment: misc deteriorated small bldgs, structural problems, no utilities
Fort Sill [8]
various on-base locations

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Lawton, OK
Landholding Agency: ARMY
Location: TO6484, T4557, T4551, T4544, TO3548, TO2931, TO1471, 1277
Comment: Range from 256 sq ft to 825 sq ft; some without utilities
Fort Sill [36]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location: TO2538, TO2539, TO2541, TO2542, TO2543, TO2544, TO2545, TO2546, TO2547, TO0931, TO2529, TO2531, TO2532, TO2532, TO2534, TO2535, TO2536, TO2537, TO2549, TO2550, TO2551, TO2552, TO2555, TO2556, TO2557, TO2558, TO2559, TO2561, TO2562, TO2563, TO2564, TO2565, TO2566, TO2567, TO2568, TO2601
Comment: barracks, administrative, mess halls, guest quarters, classrooms, etc.
Fort Sill [36]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location 2761, TO3503, TO3508, TO3524, TO3527, TO3529, TO3532, TO3533, TO3534, TO3638, TO3760, TO3767, TO3769, TO3770, TO3772, TO3773, TO3776, TO3777, TO3788, TO4360, TO4361, TO4362, TO4363, TO4364, TO4365, TO4366, TO4374, TO4383, TO4384, TO4385, TO4386, TO4387, TO4388, TO4489, T4500, T4501
Comment: barracks, administrative, mess halls, guest quarters, classrooms, etc.
Fort Sill [39]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location T4503, T4504, T4506, T4507, T4508, T4509, T4510, T4511, T4513, T4514, T4523, T4520, T4524, T4525, T4526, T4527, T4528, T4530, T4531, T4533, T4541, T4542, T4543, T4546, T4547, T4552, T4553, T4554, T4555, T4556, T4521, T4540, T4558, T4559, T4502, TO4375, TO3781, TO3549, TO2780
Comment: barracks, administrative, mess halls, guest quarters, classrooms, etc.
Fort Sill [3]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location TO0826, TO2548, TO2560
Comment: barracks, administrative, mess halls, classrooms, guest quarters, etc.

Virginia

Dunn Loring RCAG Facility [1]
Central Ave. and Judy Witt Lane
Vienna, VA
Landholding Agency: GSA
Location GSA #4–U–VA–683 (excess)
Comment: 840 sq ft; radio towers; no public water/sanitation facilities

Unsuitable Land (by State)

(Number of Properties [ ])

Missouri

Portions of Harry S. Truman Dam & Reser. [1]
Bates, Henry and St. Clair Counties
see above, MO
Landholding Agency: GSA
Location (excess)
Reason: Floodway
Comment: 8 noncontiguous tracts totalling 736 acres

Unsuitable Building (by State)

(Number of Properties [ ])

Louisiana

Bayou D'Arbonne Recreation Area [1]
see below
Union Parish, LA
Landholding Agency: GSA
Location: #7–D–LA–539; 17 miles NW of West Monroe, Louisiana and 2.5 miles from Highway 143 in Pleasant Hill (excess)
Reason: Floodway
Comment: 17.28 acres; no utilities

Oklahoma

Fort Sill [8]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location: TO3530, PO2510, TO2505, T4515, TO4377, TO4376, TO4373, TO4372
Reason: Other
Comment: latrines, detached structures.

[FR Doc. 89–25937 Filed 11–2–89; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

New School Facilities Construction Application

October 26, 1989.

AGENCY: Office of Construction Management, Interior.

ACTION: Notice that applications for new school construction may be submitted for consideration for fiscal year 1992.

SUMMARY: Applications for New School Facilities Construction may be submitted for evaluation and ranking using the guidelines entitled, "Instructions and Application for New School Construction," made available through the Office of Construction Management (OCM), as noticed in 53 FR 3080, February 3, 1987. All new school construction applications will be evalauted and considered for priority ranking based on criteria developed by OCM in accordance with the guidelines, as noticed in 53 FR 12470–12471, April 14, 1988. Highly ranked projects will be considered for advance planning and design in accordance with availability of funds. A validation study will be made to analyze the cost benefits of replacement versus renovation and other project justification information.

Applications must be received by OCM by November 15, 1989, to be considered for Fiscal Year 1992. Incomplete applications or applications received without a supporting Tribal resolution will not be ranked.

The "Instructions and Application for New School Construction" is available upon request through the Office of construction Management and from the Bureau of Indian Affairs (BIA) Area and Agency office and the BIA Facilities Management and Construction Center, P.O. 1248, Albuquerque, NM 87103.

FOR FURTHER INFORMATION CONTACT: Arthur M. Love, Jr., Director, Office of Construction Management, Department of the Interior, 18th and C Streets NW., Mail Stop 2415, Washington, DC 20240, (202) 343–3403.

Lou Gallegos,
Deputy Assistant Secretary, Policy, Budget and Administration.

[FR Doc. 89–25880 Filed 11–2–89; 8:45 am]
BILLING CODE 4310–RK–M

Bureau of Indian Affairs

Increase to the Blackfeet Irrigation Project, Operation and Maintenance Rates

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

Purpose: Increase to the Blackfeet Irrigation Project Operation and Maintenance Rates.

SUMMARY: The Bureau of Indian Affairs is proposing to increase the operation and maintenance rate of the Blackfeet Irrigation Project from $7.50 to $7.75 per assessable acre. Congressional Cost of Living and operation cost have increased in 1989 and are anticipated to increase in 1990.

The projects annual operation and maintenance charges are based on the estimated normal operating cost of the project for one Fiscal Year. Copies of the proposed budget may be acquired from the Superintendent of the Blackfeet Agency, Bureau of Indian Affairs, Browning, Montana 59417. A self addressed manila envelope with postage must be included when making your request.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

Interest and/or penalty fees will be assessed on all (Trust, and Fee assessed lands) delinquent operation and maintenance charges as prescribed in the 42 Bureau of Indian Affairs Manual and the Code of Federal Regulations, chapter 4, part 102. Government agencies, such as Federal, State and Tribal Governments are exempted from interest and/or penalty fees.

This notice will be published and posted at the following locations:

U.S. post offices	Newspaper
Browning, Mt. 59417	Glacier Reporter
Cut Bank, Mt. 59427	Browning, Mt. 59417
Valier, Mt. 59486	

Bureau of Indian Affairs

Blackfeet Agency
Browning, Mt. 59417

Comments: All comments concerning the operating and maintenance charges for the Blackfeet irrigation project must be in writing and addressed to the Superintendent of the Blackfeet Agency before the close of business on December 8, 1989.

Appeal Process: Chapter 25, part 2 of the Code of Federal Regulations outlines the appeal process for this administrative action. Appeals must be received by the Billings Area Director, Bureau of Indian Affairs, 316 North 26th St., Billings, Montana 59101 via the Superintendent of the Blackfeet Agency, before the close of business on December 8, 1989.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Code of Federal Regulations, chapter 25, part 171 under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior [Departmental Manual, chapter 3, part 230, (3.1 & 3.2)].

Richard Whitesell,
Billings Area Director.

[FR Doc. 89–25883 Filed 11–2–89; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[CA–050–00–4130–12]

Emergency Closure of Certain Public Lands in Butte County, CA

AGENCY: Bureau of Land Management, United States Department of the Interior.

ACTION: Emergency closure of certain public lands to motorized vehicle use in Butte County, California.

SUMMARY: In accordance with title 43, Code of Federal Regulations, §§ 8364.1 and 8341.2, notice is hereby given that all the below listed lands and roads therein, administered by the Bureau of Land Management, have been closed to all motorized vehicle use; except for emergency vehicles, fire suppression and rescue vehicles, BLM operation and maintenance vehicles, law enforcement vehicles and other motorized vehicles specifically approved by an authorized officer of the Bureau of Land Management.

This closure affects all of the public lands and roads located within the following area of Butte County, California:

T. 24 N., R. 3 E., M.D.M., Section 8; SW¼. A total of 160 acres.

DATES: This emergency closure action goes into effect immediately and will remain in effect until the Authorized Officer determines it is no longer needed.

SUPPLEMENTARY INFORMATION: This emergency closure is required to mitigate the impacts of unregulated vehicle use on a steep, poorly constructed and highly erosive road system on the subject land.

This road system provides access to Big Chico Creek and the Minnie-Ha-Ha placer mine. Considerable adverse impacts to the public land and resources have occurred and include the following: Excessive soil erosion and loss, vegetation damage, fisheries degradation, water pollution in Big Chico Creek, illegal trash dumping, and road damage.

Any future mining activities, including motorized vehicluar access, on the subject land will require an approved plan of operation as per 43 CFR 3809.1–4(b)(5).

The authority for this closure and rule making is 43 CFR 8341.2 and 43 CFR 8364.1. Any person who fails to comply with a closure order or rule-making is subject to arrest and fines of up to $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Mark T. Morse, Area Manager, Bureau of Land Management, Redding Resource Area, 355 Hemstad Drive, Redding, California 96002, (916) 246–5325.

Dated: October 19, 1989.
Mark T. Morse,
Area Manager.

[FR Doc. 89–25884 Filed 11–2–89; 8:45 am]
BILLING CODE 4310–40–M

[MT–930–08–4332–09]

Availability of the Final Environmental Impact Statement for Bitter Creek, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The final Bitter Creek Wilderness Environmental Impact Statement assesses the environmental consequences of managing the 59,660 acre wilderness study area as wilderness or nonwilderness. The alternatives assessed include: (1) A "No Wilderness Alternative," (2) an "All Wilderness Alternative," (3) a "Bitter Creek East Alternative," and (4) an "Enhanced Wilderness Manageability Alternative."

The proposed action for the study area is to not designate the area as wilderness.

The Bureau of Land Management wilderness proposal will ultimately be forwarded by the Secretary of the Interior to the President and by the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Terry Hueth, Area Manager, BLM Valley Resource Area, Route 1–4775, Glasgow, Montana, 59230, 406–228–4316.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Lewistown District, Bureau of Land Management, P.O. Box 1160, Lewistown, Montana 59457–1160. Copies are also available for inspection at Montana State University, Roland R. Renne Library, Bozeman, Montana 59717; Eastern Montana College Library, 1500 North 30th, Billings, Montana 59101; Maureen and Mike Mansfield Library, University of Monatna, Missoula, Montana 59812; Colorado State University Library, Fort Collins, Colorado 80253; Glasgow Public Library, 408 3rd Avenue South, Glasgow, Montana 59230; and in the following locations:

Department of the Interior, Bureau of Land Management, 18th and C Streets NW., Washington, DC 20240;

Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107;
Lewistown District Office, Bureau of Land Management, Airport Road, P.O. Box 1160, Lewistown, Montana 59457–1160.

Dated: October 27, 1989.

Jonathan P. Deason,

Director, Office of Environmental Project Review.

[FR Doc. 89-25718 Filed 11-3-89; 8:45 am]

BILLING CODE 4310-DN-M

[MT-020-00-4120-09]

Availability of Draft Bull Mountains Exchange Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Bull Mountains Exchange Environmental Impact Statement.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a draft Environmental Impact Statement (EIS) has been prepared for the proposed Bull Mountains exchange of selected Federal coal lands for high value recreation and wildlife private lands offered by Meridian Minerals Company. The EIS describes and analyzes the proposed exchange (BLM's preferred alternative) as well as two coal for coal alternatives, a leasing alternative and a no action alternative. It addresses the impact of development of the coal as a small room and pillar underground mine producing 0.5 million tons of coal per year as the most likely development scenario. A 3.0 million tons of coal per year longwall underground mine is analyzed as the maximum development scenario. A generic railroad to haul the coal is also addressed under this development scenario

Copies of the EIS will be available at each public library located in Musselshell, Yellowstone, Rosebud, Madison, Custer, Beaverhead, Deer Lodge and Carbon counties. In addition, copies will be available at libraries in Billings, Worden, Butte, Ennis, Colstrip, Forsyth, Helena, Miles City and Roundup. Copies will be available upon request from the Miles City District Office, P.O. Box 940, Miles City, Montana, 59301; Telephone (406)232–4331. Public reading copies will be available for review at the following BLM locations:

Bureau of Land Management
Office of Public Affairs
Main Interior Building, Room 5600
18th and C Streets, N.W.
Washington, D.C. 20240

Bureau of Land Management
Public Affairs Office
Montana State Office
222 North 32nd Street
Billings, Montana 59107

Bureau of Land Management
Miles City District Office
West of Miles City
Miles City, Montana 59301

Bureau of Land Management
Butte District Office
106 North Parkmont
Butte, Montana 59702

Bureau of Land Management
Dillon Resource Area
Obey Building
Dillon, Montana 59725

Bureau of Land Management
Garnet Resource Area
3255 Fort Missoula Road
Missoula, Montana 59801

Bureau of Land Management
Billings Resource Area
810 East Main Street
Billings, Montana 59105

Background information and maps used in developing the EIS are available at the Montana State Office, the Miles City and Butte District Offices, and the Big Dry, Billings, Headwaters and Dillon Resource Area Offices.

DATES: Written comments on the draft EIS must be submitted or postmarked no later than January 5, 1990, or sixty days following publication of the Environmental Protection Agency's Notice of Availability in the Federal Register, whichever date is later. Oral and/or written comments may also be presented at three public meetings to be held.

November 27, 1989—7 p.m. MDT—Central School Multipurpose Room, Sixth Avenue and Second Street, Roundup, Montana
November 28, 1989—7 p.m. MDT—Eastern Montana College, Ball Room, 1500 North 30th Street, Billings, Montana
December 4, 1989—7 p.m. MDT—Bureau of Land Management, Butte District Office, 106 North Parkmont, Butte, Montana.

ADDRESS: Written comments on the document should be addressed to: Mat Millenbach, District Manager, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana 59301.

FOR FURTHER INFORMATION CONTACT: Bill Matthews, Project Manager, Miles City District Office, P.O. Box 940, Miles City, Montana 59301; telephone (406) 232–7000.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes the proposed action, i.e., the exchange of selected Federal coal lands to Meridian Minerals Company for high-value recreation and wildlife offered lands. The proposed action is BLM's preferred alternative. Two coal-for-coal exchange alternatives, a leasing alternative and a no-action alternative are also addressed.

The proposed action (Preferred-Alternative A) is to exchange 3,674.36 acres of BLM administered Federal coal for 9,008.49 acres of high-value recreation and wildlife lands offered by Meridian Minerals Company. The Federal coal reserves in the exchange application total 54.5 million tons of which 43.6 million tons are recoverable by a longwall mining operation and 27.3 million tons are recoverable by a room and pillar mining operation. The fair market value of the Federal coal is $730,000. In return for the Federal coal under consideration for exchange, BLM selected six top priority acquisition lands with a fair market value of $1,138,800. The top six priority lands have a minimum value that BLM would accept in an exchange for the Federal coal.

Under the mirror image coal for coal exchange (Alternative B), the Federal and Meridian coal in the project area would be split into two logical mining units of approximately equal size and value. Meridian would get one unit, BLM would get the other unit. About 32.7 million tons of in-place Federal coal in the southern half of the project area would be exchanged for 30.5 million tons of in-place Meridian coal in the northern half of the project area. This alternative would provide a block of private coal of 70.8 million tons in the south half and a block of Federal coal of 60.2 million tons in the north half.

Alternative C considers the option of exchanging the Federal coal in the Bull Mountains for Meridian coal in the Peabody Big Sky Mine Area B south of Colstrip, Montana. Under this proposal, selected Federal coal in the Bull Mountains and Meridian offered coal in the Peabody Big Sky Mine Area B would be appraised and exchanged on an equal cash value basis. The Federal coal in the Bull Mountains has a fair market value of $730,000. An appraisal of the Meridian offered coal in the Peabody Big Sky Mine is being prepared and will be available for the final EIS. The amount of coal that BLM could acquire through this alternative depends on the appraised value of the Meridian offered coal. Since the appraisal is pending, a possible range of the amount of coal that BLM might acquire was developed with 7.0 million tons of coal as a lower limit and all of the Meridian offered coal as an upper limit (575 acres underlaid by 21.2 million tons of coal).

Under the leasing alternatives (Alternative D), BLM evaluated the Federal coal being considered for exchange as well as some State and other Federal coal lands. the Federal coal being considered for exchange could be leased competitively. Leasing could occur through a regional coal lease sale within the regional activity planning process or, if the Coal Production Region is decertified or partially decertified, through the lease by application process. An emergency coal lease would also be issued under certain conditions.

Current market conditions indicate that the bull Mountains coal would not become economically feasible for development until market conditions approached a $20 to $30 minimum selling price (1990 dollars). This would not occur until twenty to forty years in the future. Using a mid range of these values ($25 and 2020), royalty stream flows were calculated. A 0.5 million tons of coal underground mine would generate $13,307,592 in royalty payments over a forty year period with a discounted value of $176,941 (1990 dollars). A 3.0 million tons of coal underground mine would generate $76,622,000 in royalty payments over the forty year period with a discounted value fo $1,008,208 (1990 dollars).

If BLM were able to lease the Federal coal immediately and it was developed, a 0.5 million tons of coal per year underground mine would generate $7,985,628 in royalty payments over the forty year period with a discounted value of $1,675,763 (1990 dollars). A 3.0 million tons of coal per year underground mine generates $45,773,000 in royalty payments over the same forty year period with a discounted value of $9,554, 192 (1990 dollars).

The No Action (Alternative E) would continue present management as it exists now for all the lands. It is in essence a two-part no action alternative, i.e., denial of the exchange(s) and denial of the leasing. There would be no development of the Federal coal under this alternative.

Should BLM deny the exchanges, the Bull Mountains Federal coal lands included in the exchange application would remain in public ownership and would not be developed in the foreseeble future. The offered recreational properties would remain in private ownership as would the private coal.

Should BLM deny leasing in the Bull Mountains, the Federal coal lands would still remain in public ownership for development by future generations. There would be no immediate coal developent unless it was done on private coal lands.

Public participation has occurred throughout the EIS process. A Notice of Intent was filed in the Federal Register in May 1988. Scoping was completed and public meetings are scheduled for comment on the Draft EIS.

Mathew N. Millenbach,

District Manager, Miles City District.

[FR Doc. 89-25247 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-84-M

[MT-930-08-4332-09]

Notice of Availability of the Final Environmental Impact Statement for the Powder River Resource Area, Montana.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The final Powder River Resource Area Wilderness Environmental Impact Statement assesses the environmental consequences of managing two wilderness study areas as wilderness or nonwilderness. The alternatives assessed include: (1) A "No Wilderness Alternative" for each wilderness study area, and (2) an "All Wilderness Alternative" for each wilderness study area.

The names of the wilderness study areas, their total acreages, and the proposed actions for each are as follows:

Buffalo Creek—5,650 acres (all unsuitable)
Zook Creek—8,438 acres (all unsuitable)

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior and the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Gene Kolkman, Area Manager, BLM Powder River Resource Area, Miles City Plaza, Miles City, Montana 59301, 406–232–7000.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301–0940. Copies are also available for inspection at Montana State University, Roland R. Renne Library, Bozeman, Montana 59717; Eastern Montana College Library, 1500 North 30th, Billings, Montana 59101; Maureen and Mike Mansfield Library, University of Montana, Missoula, Montana 59812; Colorado State University Library, Fort Collins, Colorado 80523; at the Powder River Public Library, 102 South Lincoln, Broadus, Montana 59317; and the Rosebud County Public Library, Ninth and Cedar, Forsyth, Montana 59327; and in the following locations.

Department of the Interior, Bureau of Land Management, 18th and C Streets, NW. Washington, DC 20240;
Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107;
Bureau of Land Management, Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301–0940

Dated: October 27, 1989.

Jonathan P. Deason,

Director, Office of Environmental Project Review.

[FR Doc. 89-25719 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-DN-M

[CA-060-00-4410-04-ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Friday, December 1, 1989, from 3:00 p.m. to 5:30 p.m., and Saturday, December 2, 1989, from 8:30 a.m. to 5:00 p.m., at the Wyndham Palm Springs, 888 East Tahquitz Way, in Palm Springs, California.

On Friday, December 1, from 7:15 a.m. to 2:00 p.m., Council members will participate in a field trip to the proposed Santa Rosa Mountains National Scenic Area and the Coachella Valley Preserve. The Santa Rosa Mountain tour will be provided through BLM's contractor, Desert Off-Road Adventures. Since Desert Off-Road Adventures is the only entity with legal permission to enter the area, members of the public may not follow this portion of the tour. If space is available, members of the public can be included on the tour if they are willing to cover the cost ($75.00 per person). Anyone interested in participating should contact the Bureau of Land Management's California Desert District at (714) 351–6383. Members of the public may participate in the Coachella Valley Preserve walking tour. The Council anticipates arriving at the Preserve at approximately 12:00 p.m. for lunch and a

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briefing about the Preserve, followed by the tour. Members of the public are welcome to bring their own lunch and join in the tour.

Agenda items for the formal meetings will include:

—The proposed Santa Rosa Mountains National Scenic Area: briefing, discussion, and recommendation;
—1989 proposed amendment #1 to the California Desert Conservation Area Plan: discussion of options;
—Wind energy update: background, current status, and activities of wind energy task force;
—Desert landfill and hazardous material site proposals: Eagle Mountain (Riverside County), Blue Canyon (San Diego County), Broadwell Lake and Hidden Valley (San Bernardino County);
—Off-highway vehicle competitive events: current status, and
—Desert tortoise issues (Council will meet as the Desert Tortoise Coordinating Committee): review of the final 1990 tortoise budget, consultations with the U.S. Fish and Wildlife Service, quarantine status, ongoing research, ongoing projects, and desert tortoise category map.

All formal Council meetings are open to the public, with time allocated for public comments, such time made available by the Council Chairman during presentations of various agenda items.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Mr. David Fisher, c/o Bureau of Land Management, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507. Written comments are also accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507; (714) 351–6383.

Dated: October 27, 1989.

Ron Yokota,

Acting District Manager.

[FR Doc. 89-25866 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-40-M

[OR130-9310-02; GPO-045]

Coos Bay Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and 43 CFR, part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Thursday, December 7, 1989, beginning at 9:00 a.m. The meeting will include a tour of BLM lands on the Coos Bay Shorelands, and a review of proposed agency actions there. The meeting will begin at the Coos Bay District Office, and the tour will depart from there. (Note: this will be the new Coos Bay District office facility at 1300 Airport Lane, North Bend, OR).

AGENDA: The agenda for the meeting will include:

1. An update on the progress of the draft management plan for the Coos Bay Shorelands, the closely related proposed land exchange with the Oregon International Port of Coos Bay, and the proposed boat launch facility on the North Spit.
2. A tour of portions of the Coos Bay Shorelands, viewing and discussing proposed developments there.
3. Acceptance of comments or recommendations from the Advisory Council to the District Manager on the Coos Bay Shorelands draft management plan.
4. Plans for the next meeting.

The meeting is open to the public and news media, but no transportation arrangements will be made for other than members and staff. Interested persons may make oral statements to the council between 9:00 a.m. and 9:30 a.m. on Thursday, December 7, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business Wednesday, November 22, 1989 (Telephone 503–756–0100).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 1300 Airport Lane, North Bend, OR 97459.

Minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Date: October 27, 1989.

Cary Osterhaus,

Assistant District Manager, Resources.

[FR Doc. 89-25865 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-40-M

[OR-010-09-4333-06; GPO-043]

Lakeview District Multiple Use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a meeting of the Lakeview District Multiple Use Advisory Council.

SUMMARY: The Lakeview District Multiple Use Advisory Council will be meeting to consider information pertaining to the Eligibility and Suitability Report for the Upper Klamath River Wild and Scenic River Study.

DATE: Thursday, December 7, 1989, 10:00 a.m. until 3:00 p.m.

ADDRESS: Klamath County Commissioners Hearing Room, 305 Main Street, Klamath Falls, Oregon.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Public Affairs Officer, Lakeview District, Bureau of Land Management, P.O. Box 151, Lakeview, OR 97630, (503) 947–6110.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes presentations by an array of specialists designed to highlight the issues involved in the upper Klamath River Wild and Scenic River Study.

The meeting will be open to the public. However, the opportunity for public comment will be limited to one five minute presentation per person between the hours of 1:00 and 2:00 p.m. Scheduling will be on a first come first served basis. Anyone wishing to make an oral statement must notify the Lakeview District Manager by December 5, 1989. Additional comments may be submitted in writing.

Robert G. Bolton,

Acting District Manager.

[FR Doc. 89-25868 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-40-M

[AK-060-00-4111-10]

Request for Public Comments on Competitive Leasing; National Petroleum Reserve in Alaska (NPR-A)

The Public is requested to give comments on its interest in competitive leasing in the National Petroleum Reserve in Alaska (NPR–A) during the calendar year 1990 for the purpose of determining a general and relative level of interest. Specific public comments are requested regarding a proposed leasing area and future NPR–A lease sales:

1. The Bureau of Land Management proposes to offer for competitive lease an onshore area in the north central NPR–A bounded by Cape Simpson on the east, private subsurface on the north, and the Chukchi Sea to the West.

a. If a 1990 lease sale were scheduled in the NPR–A, would you submit a bid at such a sale?

b. Please comment on whether the general area of the 1990 Proposed Lease Sale area is of interest to you.

c. Please comment on any other areas of specific interest: Such as the tracts selected to be offered in the 1985 sale, which was not held, tracts which have not been previously offered, or tracts which you would like to have re-offered in 1990.

2. What is your timing preference for the next NPR–A lease sale?

a. If not in the year 1990 or 1991, when might leasing in the NPR–A be most preferable?

b. Past lease sales have been scheduled during the summer (July). The summer lease sale date was selected to provide sufficient sale preparation time for both industry and the Bureau of Land Management. Present policy is to notify industry of preliminary lease tracts and proposed stipulations 7 months prior to a sale (December), in the belief that this timing will provide sufficient opportunity for gathering and analyzing geophysical data specific to the proposed tracts. Does this practice provide such an opportunity or should BLM's NPR–A leasing process be adjusted to reflect a different schedule?

5. What priority would you place on NPR–A leasing relative to other leasing opportunities in Alaska?

6. Are there any terms, conditions, stipulations or other factors currently imposed on NPR–A lease sales and leases that you would like to see changed if a sale were offered in 1990?

Comments that contain proprietary information should be so marked, and, to the extent possible under the Freedom of Information Act, will be treated confidentially.

Maps of the NPR–A and the Proposed area of lease sale are available at the Public Rooms of the Bureau of Land Management's Alaska State Office, Anchorage, Alaska and the Fairbanks Support Center, Fairbanks, Alaska as well as the address below.

Comments will be accepted for a period of 30 days from the date of publication of this Request for Comments in the Federal Register.

ADDRESSES: Direct written questions and responses to: M. Thomas Dean, Arctic District Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709–3844.

FOR FURTHER INFORMATION CONTACT: Donald C. Meares, Natural Resource Specialist, at the address given above or telephone 907/474–2300.

M. Thomas Dean,

Manager, Arctic District.

[FR Doc. 89-25864 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-84-M

[MT-930-00-4212-12; MTM-73159]

Conveyance and Order Providing for Opening of Public Land in Beaverhead and Madison Counties; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.* (FLPMA), to the operation of the public land laws, including the mining laws and the mineral leasing laws, as specified. It also informs the public and interested state and local governmental officials of the issuance of the conveyance document.

EFFECTIVE DATE: 9 a.m. on January 3, 1990.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that pursuant to section 206 of FLPMA, the following described surface and mineral estate was transferred to the State of Montana:

Principal Meridian, Montana

T. 13 S., R. 1 W.,
Sec. 1, lot 1–4, inclusive, S½N½, SE¼;
Sec. 2, lots 1–4, inclusive, S½N½;
Sec. 3, lots 1–4, inclusive, S½N½;
Sec. 4, lots 1–3, inclusive, S½NE¼, SE¼NW¼;
Sec. 7, lots 1, 2, 7–11, inclusive, E½SW¼;
Sec. 18, lots 1–4, inclusive, E½E¼;
Sec. 19, E½.
T. 13 S., R. 2 W.,
Sec. 12, lot 19, SE¼;
Sec. 13, lots 1–6, inclusive, NE¼E½NW¼.
T. 1 S., R. 3 W.,
Sec. 28, NE¼, SW¼;
T. 13 S., R. 5 W.,
Sec. 1, lot 6, 7, W½;SE¼;
Sec. 5, SE¼SE¼;
Sec. 8, E½NE¼, SE¼;
Sec. 10, SW¼SW¼, E½SW¼, SE¼;
Sec. 11, S½;
Sec. 12, lots 1–4, inclusive, E½, W½W½;
Sec. 13, N½;
Sec. 14, all;
Sec. 15, lots 1–4, inclusive, E½, W½W½;
Sec. 21, N½NE¼.
T. 12 S., R. 6 W.,
Sec. 10, NE¼NW¼;
Sec. 24, NE¼NW¼;
T. 11 S., R. 10 W.,
Sec. 35, SE¼SW¼; SW¼SE¼.
T. 12 S., R. 10 W.,
Sec. 2, lots 2, 3, SE¼NW¼;
Sec. 36, SW¼.

Total Federal acreage transferred: 7,216.01 acres.

2. In exchange for the above selected land, the United States acquired 6,874.01 acres of surface and mineral estate from the State of Montana. The lands and respective estates acquired are described as follows:

A. Surface and Mineral Estate:

Principal Meridian, Montana

T. 13 S., R. 2 W.,
Sec. 6, lots 4, 5 and 6.
T. 13 S., R. 10 W.,
Sec. 16, all.
Sec. 16, all.
T. 13 S., R. 11 W.,
Sec. 2, SW¼W¼SE¼;
Sec. 11, all;
Sec. 12, SW¼SW¼;
Sec. 13, NW¼;
Sec. 14, N½ N½SW¼m NW¼SE¼;
T. 14 S., R. 11 W.,
Sec. 6, lots 4 and 5, S½SE¼;
Sec. 8, NE¼NW¼;
Sec. 9, SW¼NW¼;
Sec. 10, NE¼NE¼; W½W¼;
Sec. 25, E½;
Sec. 36, all.
T. 15 S., R. 11, W.,
Sec. 1, lot 4, S½N½, N½S½.

B. *Surface and All Minerals Except Oil and Gas* (Oil and Gas rights reserved to the State of Montana until existing leases terminate or expire):

Principal Meridian, Montana

T. 12 S., R. 11 W.,
Sec. 36, all.
T. 13 S., R. 12 W.,
Sec. 16, NE¼;
Sec. 36, all.

C. Restricted Surface and Mineral Estate (Not open to public land laws, mining laws, or mineral leasing laws):

Principal Meridian, Montana

T. 7. S., R. 11 W.,
Sec. 7, SE¼SE¼;
Sec. 18, NW¼NE¼.
T. 14 S., R. 1 E.,
Sec. 36, all.
T. 14 S., R. 3 W.,
Sec. 36, all.
T. 15 S., R. 2 W.,
Sec. 16, lots 1 and 2.

3. The value of the federal public land were appraised at $767,000 and the values of the state land were appraised at $750,000. The $37,000 balance due to the United States was applied to another land exchange with the State of Montana that was recently completed.

4. At 9 a.m. on January 3, 1990, the lands described in paragraphs 2.A and 2.B above that were conveyed to the United States will be opened to the

operation of the public land laws generally, and to location under the United States mining laws, subject to valid existing rights and the requirements of applicable law. All

Sec. 8, W½W½;
Sec. 18, E½SE¼, SW¼SE¼;
Sec. 19, NE¼, N½SE¼;
Containing 3,080 acres.

sec. 35, N¼, N½N½SW¼.

The above description aggregates 2,560 acres.

In exchange, the United States will

(1984) for the Grand Teton National Park, and the *Buffalo Resource Area Resource Management Plan* (1985). Public involvement and participation

FOR FURTHER INFORMATION CONTACT: Mr. John Lloyd, Area Manager, Arcata Resource Area, 1125 16th Street, Room 219, P.O. Box 1112, Arcata, California

Use of Shallow Seismic Data in Relief Well Planning.

J.E. Booth, Mobil Exploration and Production Services, Inc.

operation of the public land laws generally, and to location under the United States mining laws, subject to valid existing rights and the requirements of applicable law. All valid applications under the public land laws received at or prior to 9 a.m. on January 3, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest on rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

5. At 9 a.m. on January 3, 1990, the lands described in paragraph 2.A above will be opened to applications and offers under the mineral leasing laws.

6. At 9 a.m. on January 3, 1990, the lands described in paragraph 2.B above will be opened to applications and offers under the mineral leasing laws for leasable minerals other than oil and gas.

7. The lands described in paragraph 2.C above are not open to any of the public land laws, mining laws, or mineral leasing laws.

Dated: October 26, 1989.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 89-25887 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-DN-M

Realty Action; Exchange of Public Lands in Elko County, NV

The following described public lands administered by the Bureau of Land Management are being considered for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Mount Diablo Meridian, Nevada

T. 30 N., R. 59 E.,
Sec. 11, E½, E½W½, W½SW¼;
Sec. 12, W½W½;
Sec. 13, N½, N½S½, SW¼SW¼;
Sec. 14, All;
Sec. 15, E½, E½W½;
Sec. 23, N½N½, SE¼NE¼;
Sec. 24, W½NW¼, NW¼SW¼.
T. 30 N., R. 60 E.,
Sec. 8, W½W½;
Sec. 18, E½SE¼, SW¼SE¼;
Sec. 19, NE¼, N½SE¼;
Containing 3,080 acres.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), subject to valid existing rights, publication of this Notice shall segregate the affected public lands from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, and from any subsequent land exchange proposals filed by any proponent other than Ken Jones or his nominee.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of 45 days from the date of first publication, interested parties may submit comments to the District Manager, Elko District Office, P.O. Box 831, Elko, NV 89801.

Dated: October 25, 1989.

Rodney Harris,

District Manager.

[FR Doc. 89-25966 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service

[WY-060-09-4920-10-4335; WYW97410 FD and PT]

Realty Action; Exchange; Wyoming

AGENCY: National Park Service, Interior; Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, exchange of Federal coal interest in Sheridan County for a conservation easement in Teton County.

SUMMARY: The following Federal coal interest has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716:

Sixth Principal Meridian

T. 58 N., R. 84 W.,
sec. 22, E½SW¼, SE¼;
sec. 23, SW¼, W½SE¼, SE¼SE¼;
sec. 25, SW¼NE¼, S½NW¼, S½;
sec. 26, all;
sec. 27, E½, E½W½;
sec. 34, N½NE¼, NE¼NW¼;
sec. 35, N¼, N½N½SW¼.

The above description aggregates 2,560 acres.

In exchange, the United States will acquire the following conservation easement within the JY Ranch:

Sixth Principal Meridian

T. 42 N., R. 116 W.,

The conservation easement is described by metes and bounds but lies within parts of sections 4, 5, 6, and 8.

The above description aggregates 1,106.49 acres.

FOR FURTHER INFORMATION CONTACT: All comments and any further information should be addressed to: James W. Monroe, District Manager, Casper District Office, Bureau of Land Management (BLM), 1701 East "E" Street, Casper, Wyoming 82601, phone (307) 261-7600.

SUPPLEMENTARY INFORMATION: Specifically, in this exchange, the Federal Government will acquire a conservation easement within the JY Ranch in Teton County, Wyoming for approximately 200 million tons of recoverable Federal coal from portions of the Youngs Creek and Ash Creek coal tracts together referred to as the Youngs Creek Area in Sheridan County, Wyoming.

The purpose of this exchange is to fulfill recommendations of the approved *Land Protection Plan* (1984) for the Grand Teton National Park which states that "Conservation easements should be obtained through a combination of purchases, donations, or exchanges."

On August 9, 1985, Mr. Laurance S. Rockefeller and former Secretary of the Interior, Donald P. Hodel signed an agreement to pursue an exchange of public lands for a conservation easement on Rockefeller's JY Ranch.

In April of 1986, Mr. Rockefeller, the exchange proponent, followed with a formal exchange proposal to the Bureau of Land Management offering the conservation easement in exchange for Federal mineral rights (coal).

In December of 1987, Mr. Rockefeller donated this conservation easement to Sloan-Kettering Institute for Cancer Research. The Sloan-Kettering Institute is the exchange proponent of record.

This exchange will be for an amount of Federal coal equal in value to the conservation easement.

This exchange is consistent with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The exchange is consistent with the approved *Land Protection Plan* (1984) for the Grand Teton National Park, and the *Buffalo Resource Area Resource Management Plan* (1985). Public involvement and participation were in conformance with current regulations (43 CFR 2203, 1988). The public interest factors were considered for this action according to BLM Manual 2200.06B. The National Park Service and the Bureau of Land Management have determined that the public interest will be served by completion of this exchange.

For a period of forty-five (45) days from the date of issuance of this Notice, interested parties may submit comments to the Bureau of Land Management, District Manager, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become final.

Dated: October 26, 1989.

James W. Monroe,

District Manager.

[FR Doc. 89-25889 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-22-M

Bureau of Land Management

Availability of Proposed Resource Management Plan and Final Environmental Impact Statement for the Arcata Resource Area, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability, proposed resource management plan and environmental impact statement.

SUMMARY: Notice is hereby given that the Bureau of Land Management, Ukiah District has issued for review the Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Arcata Resource Area.

The final RMP/EIS was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality regulations (40 CFR 1500-1508) and Bureau of Land Management Manual 1600, Planning Guidelines.

DATE: A protest period on the RMP/EIS will extend until November 27, 1989. All protests must be submitted in writing to the Director by that date.

ADDRESS: Protests should be sent to the Director (202), Bureau of Land Management, 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John Lloyd, Area Manager, Arcata Resource Area, 1125 16th Street, Room 219, P.O. Box 1112, Arcata, California 95521, or Mr. Al Wright, District Manager, Bureau of Land Management, Ukiah District Office, 555 Leslie Street, Ukiah, California 95482.

Dated: October 24, 1989.

Alfred W. Wright,

District Manager.

[FR Doc. 89-25890 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

International Well Control Symposium/Workshop

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) is cosponsoring the subject symposium/workshop which will be administered by Louisiana State University and held on November 28-29, 1989, at the Hilton Hotel in Baton Rouge, Louisiana. The advance registration fee is $100.

The agenda for the workshop follows:

Tuesday, November 28, 1989

Session 1—Shallow Gas Well Control

8:30 a.m.-11:30 a.m.

Title	Author
A Unique Approach for Confirming Shallow Gas in a New Offshore Exploration Area.	J.G. Guignon, Mobil Oil, Indonesia
Inspection and Testing of Subsea Well Control Equipment.	Michael E. Montgomery, West Hou, Inc.
Analysis of Events, Leading to an Offshore Shallow Gas Blowout by History Matching Field Data Using an Advanced Gas Kick Simulator.	A.L. Podio, University of Texas, Pal Skalle, University of Trondheim, An-Ping Yang, University of Texas
Abnormally Pressured Gas Accumulation under Deep Water-A Field Case History.	Decio Fabricio Oddone Da Costa, Samir Passos Awad, Andre Lima Cordeiro, Petrobas
Method for Determining the Feasibility of a Dynamic Kill of a Diverted Well.	William L. Koederitz, Louisiana State University
Use of Shallow Seismic Data in Relief Well Planning.	J.E. Booth, Mobil Exploration and Production Services, Inc.

Session 2—Modeling of Well Control Operations

1:30 p.m.-4:30 p.m.

Title	Author
An Overview of Kicking Well Computer Codes.	D.J. Element, L.M. Wickens, T.D. Butland, AEA Technology, U.K.
A New Two Phase Flow Model of Kick Control.	Shohei Kato, Japan Drilling Company, Ltd.
Experimental Determination of Gas Migration Velocities.	D.B. White, A. Johnson, Schlumberger Cambridge Research
The Volumetric Properties of Methane and Oil Based Mud Mixtures: Effects on Surface Observations During Kicks.	B.W. Swanson, B.P. Research International
Experimental Bench Mark Data for Testing Well Control Computer Methods.	V. Casariego, Louisiana State University
Blowout Control Methods.	Rob Wesson, Cudd Pressure Controls, Inc.; R.D. Grace, Grace, Shurson, Moore & Assoc.
Gas Slip Velocities in an Inclined Annulus.	Edson Nakagawa, Louisiana State University

Session 3—MWD Applications to Well Control

8:00 a.m.-9:45 a.m.

Title	Author
Prevention or Cure? Kick Avoidance and Detection using MWD in an Integrated Wellsite Information Management System.	Michael R. Taylor, Andrew R. Morley, Exlog
A Computer Assisted Well Control Safety System for Deep Ocean Well Control.	O. Allen Kelly, Louisiana State University
Real Time Pore Pressure Evaluation Options.	Jean-Louis Alixant, Louisiana State University
Evaluation of Downhole Kick Detection Tools.	Jesse L. Holster, Exxon Production Research

Workshop 1: *Equipment Inspection Training*

10:00 a.m.-11:30 a.m.

Baton Rouge, Louisiana 70803-6423 (504) 388-5215.

The meeting will be held at: Baton Rouge Hilton, 5500 Hilton Avenue, Baton

Dated: October 20, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management, Minerals Management Service.

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

The meeting is open to the public. Persons wishing to receive the Environmental Assessment for the Bay Area Discovery Museum should contact

Arlene Jennings, 800 Peach Glen-Idaville Road, Peach Glen, PA 17306-1199

Noreta R. McGee,

Secretary.

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Workshop 1: *Equipment Inspection Training*

10:00 a.m.–11:30 a.m.

Title	Author
Chevron BOP Inspection Training and Surface and Subsea Stack Applications.	J.D. Combes, T.M. Windham, Chevron
Errors Inherent in Rig Measurements of Drillpipe and Casing Pressure.	W.R. Holden, Louisiana State University
Plastic Packing Injection Systems and Lead Targets for Choke and Kill Line Piping.	Michael E. Montgomery, West Hou, Inc.

Workshop 2: *Changes in Regulations*

1:30 p.m.–3:30 p.m.

Title	Author
New Training Requirements in U.S. (Subpart 0).	Jerry Richard, MMS
New Regulations in U.K.	To Be Announced
Well Control Training Requirements-Operator's Perspective.	To Be Announced
Well Control Training Requirements-Contractor's Perspective.	Ralph McTaggert, Global Marine

Workshop 3: *Recommendations for Research*

1:30 p.m.–3:30 p.m.

Title	Author
The Development of a Well Control Research Project.	J.W. Peel, D.I. Redman, U.K. Dept. of Energy
Progress Report on Current Projects Underway at the LSU/MMS Research Well Facility.	A.T. Bourgoyne, Louisiana State University
Recommended Well Control Research Priorities.	Panel of representatives from AADE, IADC, API, and DOE-UK

DATES: November 28–29, 1989—See agenda for times.

ADDRESSES: The registration form with complete agenda may be obtained from the following office: Dr. A.T. Bourgoyne, Chairman, Petroleum Engineering Department, Louisiana State University, Baton Rouge, Louisiana 70803–6423 (504) 388–5215.

The meeting will be held at: Baton Rouge Hilton, 5500 Hilton Avenue, Baton Rouge, Louisiana 70808.

FOR FURTHER INFORMATION CONTACT: Mr. John B. Gregory, MMS, 381 Elden Street, Herndon, Virginia, 22070–4817, telephone (703) 787–1559.

Dated: October 26, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 89–25891 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–MR–M

Offshore Oil Spill Response Technology Seminar

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) will hold the subject seminar for the public at no charge on December 13, 1989, at its offices in Herndon, Virginia. Because of increased interest in oil spill containment and cleanup technology since the tanker oil spill in Prince William Sound, and particularly as a result of the many related inquiries received by the Department of the Interior, this seminar will be conducted by MMS research program personnel to discuss the status of the technology.

Sessions will be held, with audience participation, as follows:

1. General response requirements—Edward Tennyson, MMS;

2. Mechanical containment and cleanup—Edward Tennyson, MMS;

3. Chemical treating agents (including dispersants)—Mervin Fingas, Environment Canada;

4. Burning oil on the ocean surface—Dr. David Evans, National Institute of Standards and Technology.

DATE: December 13, 1989, at 8:30 a.m.

ADDRESS: Parkway Atrium Building, 381 Elden Street, Herndon, Virginia 22070–4817.

FOR FURTHER INFORMATION CONTACT: For planning purposes, it is requested that persons who wish to attend telephone or write to Mr. John B. Gregory, Technology Assessment and Research Branch, 381 Elden Street, Herndon, Virginia 22070–4817, telephone (703) 787–1550. An agenda with directions will be sent.

Dated: October 26, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 89–25892 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

John Muir National Historic Site; Amendment to General Management Plan

SUMMARY: The National Park Service is preparing an amendment to the General Management Plan for John Muir National Historic Site, Contra Costa County, California. An amendment is necessary at this time because of the passage of legislation in January, 1988 (Public Law 100–563) expanding the Site's boundary by over three hundred acres. Major issues to be addressed with respect to the added lands include management objectives, visitor use facilities, land protection, access to the John Muir Gravesite, and cooperative management with the East Bay Regional Park District. Additionally, the amendment will update the plan for the lands initially included in the historic site. Issues in this area include the scale and location of visitor and administration facilities and protection of the historic scene.

An environmental assessment will be prepared in combination with the management plan amendment.

Initial contact has been made with local, State and Federal agencies and private individuals and organizations in scoping the plan amendment. Any other parties not contacted are encouraged to provide any views or specific suggestions they may have regarding the future management directions of the Site. Please address any such comments and/or any requests for additional information to the Superintendent, John Muir National Historic Site, 4203 Alhambra Avenue, Martinez, California 94553. Any comments regarding plan considerations should be received within 60 days of the publication of this Notice.

The draft General Management Plan Amendment/Environmental Assessment is expected to be released for public review in January, 1990.

Dated: October 24, 1989.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 89–25907 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–70–M

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area (GGNRA) and Point Reyes National Seashore (PRNS) Advisory Commission will be held at 7:30 p.m. (PST) on Thursday, December 7, 1989, at the Tamalpais High School, Mill Valley, California. The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The main agenda item at this public meeting will be a review of the Environmental Assessment on the proposed Bay Area Discovery Museum at East Fort Baker. A presentation to the Advisory Commission and public on the plans to build the Bay Area Discovery Museum in an area of vacant and underutilized historic structures at East Fort Baker in the Marin Headlands was first presented at a February 12, 1987 public meeting. A Marin Committee Resolution of April 4, 1987 on this project was presented for public comment and adopted by the GGNRA Advisory Commission at the June 30, 1987 meeting. This resolution called for a public presentation of completed plans for the museum.

Also included at this meeting will be a Superintendent's Report which will include a status report on two Marin County issues, the Stinson Pony Pasture permit and the Tinker property, and an update on other major issues impacting the GGNRA.

The meeting is open to the public. Persons wishing to receive the Environmental Assessment for the Bay Area Discovery Museum should contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or telephone (415) 556–4484.

This meeting will be recorded for documenttion and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after December 28, 1989. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: October 24, 1989.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 89–25987 Filed 11–3–89; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Perform Interstate Transportation for Certain Nonmembers

Date: October 31, 1989.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Knouse Foods, Inc, 800 Peach Glen-Idaville Road, Peach Glen, PA 17306–1199

(2) 800 Peach Glen-Idaville Road, Peach Glen, PA 17306–1199

Arlene Jennings, 800 Peach Glen-Idaville Road, Peach Glen, PA 17306–1199

Noreta R. McGee,

Secretary.

[FR Doc. 89–25943 Filed 11–3–89; 8:45 am]

BILLING CODE 7035–01–M

Ilent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Tenneco Inc., a Delaware corporation, 1010 Milam Street, (P.O. Box 2511), Houston, TX 77252.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(a) Tennessee Gas Pipeline Company, a Delaware corporation

(b) Tennessee Gas Inc., a Delaware corporation

(c) East Tennessee Natural Gas Company, a Tennessee corporation

(d) Midwestern Gas Transmission Company, a Delaware corporation

(e) Tenngasco Corporation, a Delaware corporation

(f) J. I. Case Company, a Delaware corporation

(g) J. I. Case Canada, a division of Tenneco Canada Inc., an Ontario corporation

(h) Steiger Tractor, Inc., a Delaware corporation

(i) Pryor Foundry, Inc., an Oklahoma corporation

(j) Monroe Auto Equipment Company, a Delaware corporation

(k) Brake Pro Systems, Inc., a Delaware corporation

(l) Bloor Automotive, Inc., a Delaware corporation

(m) Walker Manufacturing Company, a Delaware corporation

(n) Packaging Corporation of America, a Delaware corporation

(o) Albright & Wilson Americas Inc., a Delaware corporation

(p) Newport News Shipbuilding and Dry Dock Company, a Virginia corporation

(q) Greenville Metal Manufacturing, Inc., a Virginia corporation

(r) Newport News Industrial Corporation, a Virginia corporation

(s) Sperry Marine Inc., a Delaware corporation

(t) Asheville Industries Inc., a North Carolina corporation

(u) Tenneco Minerals Company, a Delaware corporation

(v) Tenneco Minerals Company—Nevada, a Delaware corporation

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

Dated: October 27, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain

Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest

Bacon and Related Acts" are listed by Volume State and page number(s).

(u) Tenneco Minerals Company, a Delaware corporation

(v) Tenneco Minerals Company—Nevada, a Delaware corporation

(w) Tenneco Minerals Company—Utah, a Delaware corporation

(x) Tenneco Soda Ash Company, a Delaware corporation

(y) Tenneco Canada Inc., an Ontario corporation

(z) Tenneco Realty, Inc., a Delaware corporation

Norsta R. McGee,
Secretary.

[FR Doc. 89-25944 Filed 11-2-89; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 31535]

Chicago Central and Pacific Railroad Co.—Lease and Operation Exemption—North Central Railway Association, Inc.

Chicago Central and Pacific Railroad Company (CC) has filed a notice of exemption to lease and operate a line of railroad acquired by North Central Railway Association, Inc. (NCRA), from the Chicago and North Western Transportation Company (CNW). The line extends between milepost 184.75, at Hampton, and milepost 212.0, at Steamboat Rock, in Hardin and Franklin Counties, IA, a distance of approximately 27.25 miles.[1] Since 49 U.S.C. 10905(f)(4) prohibits transfer of the line by NCRA within 2 years after its purchase, this notice does not embrace acquisition of the line by CC, but exempts only the lease and operation.

Any comments must be filed with the Commission and served on applicant's representative: T. Scott Bannister, Hanson, Bjork & Russell, 1300 Des Moines Building, Des Moines, IA 50309.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any tme. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 30, 1989.

[1] CNW was authorized to abandon this line in Docket No. AB-1 (Sub-No. 217), *Chicago and North Western Transportation Company—Abandonment—Between Steamboat Rock and Hampton in Hardin and Franklin Counties, IA* (not printed), served February 10, 1988. The State Historical Society of Iowa has indicated here that its determination in that proceeding that that proposal would not affect historic resources applies to the instant transaction as well.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Norsta R. McGee,
Secretary.

[FR Doc. 89-25942 Filed 11-2-89; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 89-21]

Luis L. Galang, New London; Hearing

Notice is hereby given that on March 22, 1989, the Drug Enforcement Administration, Department of Justice, issued to Luis L. Galang, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AG9170490, and any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, November 7, 1989, commencing at 9:30 a.m., at the Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin.

Dated: October 27, 1989.

John C. Lawn,
Administrator, Drug Enforcement Administration.

[FR Doc. 89-25976 Filed 11-2-89; 8:45 am]
BILLING CODE 4410-09-M

[Docket No. 89-27]

Wyeth Hardy Worley, Bossier City, Hearing

Notice is hereby given that on March 30, 1989, the Drug Enforcement Administration, Department of Justice, issued to Wyeth Hardy Worley, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your Application for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, October 31, 1989, commencing at 9:00 a.m., at the United States Courthouse, 1100 Commerce Street, 16th Floor, Room 16F17, Dallas, Texas.

Dated: October 27, 1989.

John C. Lawn,
Administrator, Drug Enforcement Administration.

[FR Doc. 89-25979 Filed 11-2-89; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions.

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary or Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3504, Washington, DC 20210.

New General Wage Determinations Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume State and page numbers(s).

Volume I		
Virginia	VA89-89	p.1188ZZZ-13 p.1188zzz-14

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I:		
Delaware	DE89-2 (Jan. 6, 1989)	p. 93 pp. 94-95, 97
Florida	FL89-17 (Jan. 6, 1989)	p. 141 pp. 142-143
Massachusetts	MA89-2 (Jan. 6, 1989)	p. 387 p. 391
Volume II:		
Arkansas	AR89-1 (Jan. 6, 1989)	p. 3 p. 4
Arkansas	AR89-8 (Jan. 6, 1989)	p. 20a p. 20b
Indiana	IN89-2 (Jan. 6, 1989)	p. 257 p. 258
Missouri	MO89-9 (Jan. 6, 1989)	p. 693 pp. 694, 697
Ohio	OH89-29 (Jan. 6, 1989)	p. 869 p. 877
Volume III:		
Alaska	AK89-1 (Jan. 6, 1989)	p. 1 p. 3
Idaho	ID89-1 (Jan. 6, 1989)	p. 145 pp. 146-147, 153
Montana	MT89-1 (Jan. 6, 1989)	p. 171 pp. 172-173 pp. 175-184
Montana	MT89-2 (Jan. 6, 1989)	p. 189 p. 190
Oregon	OR89-1 (Jan. 6, 1989)	p. 307 pp. 306-310, 315
Washington	WA89-1 (Jan. 6, 1989)	p. 363 pp. 365-366, 368 pp. 372, 379-380
Washington	WA89-2 (Jan. 6, 1989)	p. 389 pp. 390-392
Washington	WA89-5 (Jan. 6, 1989)	p. 411 p.412
Washington	WA89-7 (Jan. 6, 1989)	p. 417 p. 418
Washington	WA89-8 (Jan. 6, 1989)	p. 423 p. 424
Washington	WA89-9 (Jan. 6, 1989)	p. 427 pp. 428-432

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts,

Signed at Washington, DC this 27th day of October 1989.

Ethel P. Miller,
Acting Director, Division of Wage

determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

[TA-W-23,236]

Niki-Lu Hialeah, FL; Termination of Investigation

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify

in accordance with expenditure reports submitted to the Secretary by the States pursuant to Training and Employment Information Notice No. 30-88, dated

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 27th day of October 1989.

Ethel P. Miller,

Acting Director, Division of Wage Determinations.

[FR Doc. 89–25784 Filed 11–2–89; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 23rd day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Al Gor Shoe Co., Inc. (Company)	Rochester, NH	10/23/89	10/11/89	23,515	Ladies' Shoes.
AT&T Microelectronics (CWA)	Lee's Summit, MO	10/23/89	10/11/89	23,516	Microelectronics.
ARBEKA Webbing Co. (ACTWU)	Pawtucket, RI	10/23/89	10/10/89	23,517	Bandages, Webbing, Knitted Braces.
Airfoil Textron (UAW)	Lima, OH	10/23/89	10/5/89	23,518	Compressor Blades.
Apache Lease Serv. Inc. (Company)	Alice, TX	10/23/89	10/10/89	23,519	Oil and Gas.
Cape Cod-Cricket Lane, Inc. (CSEA)	W. Bridgewater, MA	10/23/89	10/5/89	23,520	Women's Sports-Wear.
Comtel Mfg. Co. (Company)	Joplin, MO	10/23/89	10/1/89	23,521	Electronic FAX Telephone.
Crescent Pipe & Supply Co	Tulsa, OK	10/23/89	10/11/89	23,522	Oil and Gas.
DeBourgh Mfg. Co. (UE)	Bloomington, MN	10/23/89	10/10/89	23,523	Fabrication.
Dur-O-Lite, Inc. (URW)	Melrose Park, IL	10/23/89	10/11/89	23,524	Writing Instruments.
Eason Oil Co. (Workers)	Tulsa, OK	10/23/89	10/11/89	23,525	Oil and Gas.
Great Northern Paper Co. (Company)	Millinocket, ME	10/23/89	10/6/89	23,526	Paper.
Horizon Embroidery (Workers)	Fairview, NJ	10/23/89	10/6/89	23,527	Schiffli Embroidery.
Hawkins Oil & Gas Inc. (Workers)	Tulsa, OK	10/23/89	10/9/89	23,528	Oil and Gas.
Leecock & Co. (Company)	Washington, NJ	10/23/89	10/12/89	23,529	Table Linen.
Longview Mfg. Inc. (Company)	Longview, TX	10/23/89	10/6/89	23,530	Ladies' Robes.
Orion Industries (Workers)	Odessa, TX	10/23/89	9/17/89	23,531	Oil Field Machinery.
Philips Lighting (Workers)	Lynn, MA	10/23/89	10/11/89	23,532	Lamps.
Power Resources (formerly Everest Minerals Corp.)	Casper, WY	10/23/89	10/13/89	23,533	Uranium.
Quanex Corp. Michigan Seamless Tube Div. (USWA)	South Lyon, MI	10/23/89	10/10/89	23,534	Steel Tubing.
Royal Conversions, Inc. (Workers)	Brainerd, MN	10/23/89	10/12/89	23,535	Vehicles.
Spicer Transmission (UAW)	Toledo, OH	10/23/89	10/11/89	23,536	Truck Transmission and Component parts.
Transcontinent Oil Co. (Workers)	Denver, CO	10/23/89	10/11/89	23,537	Oil and Gas.
Visionetics Corp. (Workers)	Brookfield, CT	10/23/89	10/4/89	23,538	Automated Optical Inspection Equip.
Zeller Corp. (UAW)	Defiance, OH	10/23/89	10/6/89	23,539	Universal Joints for Motor Vehicles.

[FR Doc. 89–25968 Filed 11–2–89; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-23,236]

Niki-Lu Hialeah, FL; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 9, 1989 in response to a worker petition which was filed on August 9, 1989 on behalf of workers at Niki-Lu, Hialeah, Florida. The workers produced ladies' jackets and sportswear.

The investigation revealed that subject firm Niki-Lu, Hialeah, Florida is out of business. Niki-Lu closed in January 1989. No further information is available to complete the investigation to make a determination for eligibility under section 221 of the Trade Act of 1974. Since no further information is available to complete the investigation, the investigation has been terminated.

Signed at Washington, DC this 16th day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89–25969 Filed 11–2–89; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-23,122]

Santa Fe Energy Co., Amarillo, TX; Notice of Affirmative Determination Regarding Application for Reconsideration

Several former workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for former workers of the Santa Fe Energy Company, Amarillo, Texas. The negative determination was issued on September 1, 1989 and published in the **Federal Register** on October 3, 1989 (54 FR 40755).

The former workers stated, among other things, that the Department should have compared revenues for the years 1987 and 1988 instead of only the first five months of 1989 compared to the same period in 1988. The former workers stated that they met all the criteria earlier and were certified under TA–W–17, 731 and should be reconsidered for benefits under the Trade Act as amended by the Omnibus Trade and Competitiveness Act of 1988.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 24th day of October 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–25970 Filed 11–2–89; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act; Employment and Training Assistance for Dislocated Workers; Reallotment of Title III Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information the Job Training Partnership Act Title III (Employment and Training Assistance for Dislocated Workers) funds identified by States for reallotment, and the amount to be reallotted to eligible States.

EFFECTIVE DATES: November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N–4469, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–535–0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title III of the Job Training Partnership Act (JTPA or the Act), as amended by the Economic Dislocation and Worker Adjustment Assistance (EDWAA) Act, directs the Secretary of Labor (Secretary) to deobligate funds from States identified pursuant to section 303(b) of the Act, and to reallot and reobligate such funds by a Notice of Obligation (NOO) adjustment to current year funds to "eligible States" and "eligible high unemployment States" as set forth in sections 303 (a), (b), and (c) of JTPA. 29 U.S.C. 1653. The reallotment process was described in Training and Employment Guidance Letter No. 4–88, dated November 25, 1988, Subject: Reallotment and Reallocation of Funds under Title III of the Job Training Partnership Act (JTPA), as Amended. 53 FR 48737 (December 2, 1988).

NOO adjustments are being issued to adjust the Program Year (PY) 1989 (July 1, 1989–June 30, 1990) formula allotments in accordance with expenditure reports submitted to the Secretary by the States pursuant to Training and Employment Information Notice No. 30–88, dated May 18, 1989, Subject: Job Training Partnership Act (JTPA) Title III Financial Data. Department of Labor Regional Offices reviewed and confirmed that adequate backup documentation was available to reasonably support the reported expenditures.

Pursuant to the provisions of section 303(b) of JTPA and the limitations on carry-over imposed by section 6305(e) of the Omnibus Trade and Competitiveness Act (OTCA), the funds reallotted are an amount equal to the sum of unexpended funds in excess of 30 percent of the PY 1988 formula allotments and all unexpended funds made available by formula for PY 1987. 29 U.S.C. 1653(b); Sec. 6305(e), Pub. L. 100–418 (August 23, 1988). Such reallotted funds are from PY 1989 allotments made available by formula and, as stated above, result in either upward or downward adjustments to PY 1989 allotments.

Unemployment Data

The unemployment data used in the formula for reallotments, relative numbers of unemployed, and relative numbers of excess unemployed were for the July 1988 through June 1989 period. Long-term unemployment data used were for calendar year 1988. The determination of "eligible high unemployment States" for the reallotment of excess unexpended funds was also based on unemployment data for the period July 1988 through June 1989, with all average unemployment rates rounded to the nearest tenth of one percent. The unemployment data were provided by the Bureau of Labor Statistics, based on the Current Population Survey.

The table below is a distribution of the net changes to PY 1989 formula allotments.

Explanation of Table

Column 1: This column shows each State's unemployment rate for the 12 months ending June 1989.

Column 2: This column shows the amount of excess funds (unexpended PY 1988 funds in excess of 30 percent of the State's PY 1988 allotment and/or unexpended PY 1987 formula-allotted funds), which are subject to reallotment. PY 1989 funds in an amount equal to the excess funds identified will be deobligated and distributed as discussed below.

Column 3: This column shows total excess funds distributed among all "eligible States" by applying the regular Title III formula. "Eligible States" are those States that had no excess funds, according to the reports submitted.

Column 4: Eligible States with unemployment rates higher than the national average, which was 5.4 percent for the 12-month period, are "eligible high unemployment States." These eligible high unemployment States receive amounts equal to their share of the excess funds (the amounts shown in column 3) according to the regular Title III formula. This is Step 1 of the reallotment process. These amounts are shown in column 4.

Column 5: The remaining share of available funds ($3,361,200) for eligible States with unemployment rates less than or equal to the national average is distributed among all eligible States, again using the regular Title III allotment formula. This is Step 2 of the reallotment process. These amounts are shown in column 5.

Column 6: Net changes in PY 1989 formula allotment are presented. This column represents the decreases in Title III funds shown in column 2, and the increases in Title III funds shown in columns 4 and 5. NOOs in the amounts shown in column 6 are being issued to the States and other jurisdictions listed.

Equitable Procedures

Pursuant to section 303(d) of the Act, Governors of States required to make funds available for reallotment shall prescribe equitable procedures for making funds available from the State and substate grantees. 29 U.S.C. 1663(d).

Distribution of Funds

Funds are being reallotted by the Secretary in accordance with sections 303(a), (b), and (c) of the Act and section 6305(e) of the OTCA, using the factors described in section 302(b) of the Act. 29 U.S.C. 1652(b) and 1653(a), (b), and (c); Sec. 6305(e), Pub. L. 100-418 (August 23, 1988). Distribution of funds within States and other jurisdictions shall be in accordance with sections 302(c) and (d) of the Act (29 U.S.C. 1652(c) and (d)), and the JTPA regulations at 20 CFR 631.12(d), 54 FR 39118, 39140 (September 22, 1989).

Signed at Washington, DC this 31 day of October, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION
PY 1989 JTPA TITLE III REALLOCATION TO STATES
27 Oct-89

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Alabama	7.3	0	298,052	298,052	119,557	418,489
Alaska	8.7	0	51,966	51,966	20,784	72,750
Arizona	6.0	0	164,649	164,649	65,851	230,500
Arkansas	7.5	502,633	0	0	0	(502,633)
California	5.2	0	966,193	0	386,427	386,427
Colorado	6.3	0	204,925	204,925	81,959	286,884
Connecticut	3.1	0	51,488	0	20,592	20,592
Delaware	3.1	40,140	0	0	0	(40,140)
District of Columbia	5.2	0	22,181	0	8,871	8,871
Florida	5.3	4,412,762	0	0	0	(4,412,762)
Georgia	5.4	0	262,728	0	105,078	105,078
Hawaii	3.2	0	14,389	0	5,755	5,755
Idaho	5.4	0	36,065	0	14,426	14,426
Illinois	6.1	0	670,992	670,992	268,342	939,334
Indiana	4.7	0	136,113	0	54,438	54,438
Iowa	4.1	0	65,418	0	26,164	26,164
Kansas	4.6	0	58,189	0	23,273	23,273
Kentucky	7.1	0	272,133	272,133	108,839	380,972
Louisiana	10.4	0	570,982	570,982	228,383	799,365
Maine	3.7	0	19,252	0	7,700	7,700
Maryland	6.1	0	95,869	0	38,334	38,334
Massachusetts	3.5	0	89,689	0	35,863	35,863
Michigan	7.0	0	706,296	706,296	282,481	988,777
Minnesota	4.3	0	94,888	0	37,598	37,598
Mississippi	8.9	0	242,859	242,859	97,131	339,990
Missouri	5.6	0	235,781	235,781	94,300	330,081
Montana	6.3	0	49,944	49,944	19,975	69,919
Nebraska	3.2	0	25,227	0	10,089	10,089
Nevada	5.0	0	35,902	0	14,359	14,359
New Hampshire	2.7	0	12,300	0	4,920	4,920
New Jersey	3.8	0	137,984	0	55,187	55,187
New Mexico	7.1	0	104,625	104,625	41,845	146,470
New York	4.7	0	439,444	0	175,768	175,768
North Carolina	3.5	0	102,840	0	41,031	41,151
North Dakota	4.6	0	17,051	0	6,819	6,819
Ohio	5.6	0	516,898	516,898	206,452	722,510
Oklahoma	6.2	0	185,321	185,321	74,119	259,440
Oregon	5.5	0	116,146	116,146	46,452	162,598
Pennsylvania	4.6	0	518,445	0	127,361	127,361
Puerto Rico	14.4	64,586	0	0	0	(64,586)
Rhode Island	3.8	0	12,983	0	5,193	5,193
South Carolina	4.3	0	64,395	0	25,834	25,834
South Dakota	4.0	0	15,223	0	6,088	6,088
Tennessee	5.7	0	204,817	204,817	81,916	286,733
Texas	6.2	3,576,999	0	0	0	(3,576,999)
Utah	4.5	0	32,762	0	13,095	13,095
Vermont	3.0	0	6,652	0	2,661	2,661
Virginia	3.9	0	104,486	0	41,789	41,789
Washington	5.9	0	228,693	228,693	91,385	319,878
West Virginia	8.8	0	188,862	188,862	75,938	264,797
Wisconsin	4.1	0	123,766	0	49,499	49,499
Wyoming	6.4	0	28,077	28,077	11,229	39,306
NATIONAL TOTAL	5.4	8,404,098	8,404,098	5,042,898	3,361,200	0

[FR Doc. 89-25871 Filed 11-2-89; 8:45 am]
BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 89-96; Exemption Application No. D-8005 et al.]

Grant of Individual Exemptions; Consolidated Lumber Co., Inc. Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 21, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Consolidated Lumber Company, Inc. Profit Sharing Plan (the Plan), Located in Overland Park, Kansas

[Prohibited Transactions Exemption 89-96; Exemption Application No. D-8005]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a proposed cash sale by the Plan to the Consolidated Lumber Company, Inc., a party in interest with respect to the Plan of interests (the Interests) in the Krupp Commercial Properties Limited Partnership, provided the Plan receives the greater of $30,000 or the fair market value of the Interests as determined at the time of the sale by an independent, qualified appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 14, 1989 at 54 FR 38008.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523-8194. (This is not a toll-free number.).

Ameritrust Company National Association (Ameritrust), Located in Cleveland, Ohio

[Prohibited Transaction Exemption 89-97; Exemption Application Nos. D-7833 and L-7834]

Exemption

The restrictions of section 406 (b)(2) or (b)(3) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(F) of the Code, shall not apply to the receipt of fees by Ameritrust from Financial Reserves Fund (the Fund), an open-ended investment company for which Ameritrust performs services, in connection with the investment of funds through a daily automated sweep arrangement of certain employee benefit trusts sponsored by certain incorporated and unincorporated businesses.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Notice) published on August 30, 1989, at 54 FR 35946.

Written Comments: The Department received no requests for a hearing but did receive two comment letters with respect to the Notice. One commentator, a participant in a Keogh for which Ameritrust serves as the investment manager, expressed opposition to the grant of the exemption on the grounds: (1) That Ameritrust would be paid twice for the same service, and (2) that Ameritrust would receive an additional fee of .25% of the amount of the Keogh assets invested in the Fund. In response to this comment, Ameritrust indicated that the Fund is used only for the investment of cash. Therefore, the decision to invest in the Fund is made solely by account holders (the Account Holders) of the Keoghs after such Account Holders have received and read the most recent prospectus of the Fund and have stated in a letter that they are aware of the fees Ameritrust receives from the Fund and have authorized the use of the Fund for cash management in their Keoghs. In addition, with respect to those Keoghs for which Account Holders have waived the right to direct investments, Ameritrust will reduce its investment management fee by offsetting an amount equal to the annual fee of .25% of assets managed with respect to any of the Keoghs' assets invested in the Fund for the entire period of such investment.

The other comment was filed by representatives of the applicant on behalf of Ameritrust. The content of this comment indicates that in the first paragraph of the Notice, employee benefit trusts sponsored by both incorporated and unincorporated businesses are referred to as Keoghs or as a Keogh. Ameritrust indicates that a Keogh is an employee benefit trust which is sponsored by an unincorporated business which covers one or more self-employed individuals. Accordingly, the employee benefit trusts involved in the transactions which are sponsored by incorporated business are not Keoghs and should not have been referred to as such.

In Item 2 of the Summary of Facts and Representations (the Summary), the individual Account Holders who direct their own investments are described as those who have not waived their right to direct the investment of assets in the Keoghs. Ameritrust comments that this statement is accurate as to those

individuals who have adopted a Keogh or who participate in a Keogh adopted by their employer under a prototype Keogh plan, as described in Item 1 of the Summary. Ameritrust represents that the Account Holders are provided with a copy of the Fund's prospectus and are informed that they may withdraw from the Fund at any time. Ameritrust represents that the Account Holders are aware of the fees Ameritrust receives from the Fund and have authorized the use of the Fund for cash management in their Keoghs. Ameritrust represents that the Account Holders have received and read the most recent prospectus of the Fund and have stated in a letter that they are aware of the fees Ameritrust receives from the Fund.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 14, 1989 at 54 FR 38010.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Westchester Teamsters Pension Fund (the Plan) Located in Elmsford, New York

[Prohibited Transaction Exemption 89-98; Exemption Application No. D-8006]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of a parcel of real property (the Property) to Liberty House Development Corporation, a party in interest with respect to the Plan, provided that the Plan receives the greater of $1,000,000 or the fair market value of the Property as determined by an independent, qualified appraiser at the time of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 14, 1989 at 54 FR 38012.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Signed at Washington, DC, this 31st day of October, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to

Applicant is the Plan's trustee and administrator. He is also the owner of 60% of the issued and outstanding common stock of Liberty House

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individuals who have adopted a Keogh or who participate in a Keogh adopted by their employer under a prototype Keogh plan, as described in Item 1 of the Summary. However, Ameritrust represents that there is another group of employee benefit trusts (the Trusts), not described in the Notice, over which Ameritrust or banks affiliated with Ameritrust (the Affiliated Banks or Bank) exercise no investment discretion. These Trusts are sponsored by both incorporated and unincorporated businesses. Such Trusts are not established under a prototype plan, but are individually designed Trusts for which Ameritrust or the Affiliated Bank act as custodians or directed trustees. The reason Ameritrust or an Affiliated Bank have no investment discretion with respect to these Trusts is that the sponsors of such Trusts limited the appointment of Ameritrust or the Affiliated Banks to the role of custodian or directed trustee and not because Account Holders retain the right to direct their own investments.

Ameritrust further represents that, as with the directed prototype Keoghs, Ameritrust and the Affiliated Banks charge a custodial fee based on a range of .1% to .3% of the market value of the assets held in these Trusts. For such Trusts either: (1) The individual Account Holders direct their own investments, or (2) the sponsors of such Trusts have appointed investment managers who are unaffiliated with Ameritrust, the Affiliated Banks, or the manager or distributor of the Fund. It is represented that neither Ameritrust or any Affiliated Bank, as applicable, has discretionary control or responsibility with respect to the investment of the assets of such Trusts, not does Ameritrust or any Affiliated Bank, as applicable, render any investment advice with respect to such assets. It is represented that the unaffiliated fiduciary who has investment responsibility will make any decision to invest in the Fund for such Trusts, following disclosure to such fiduciaries of Ameritrust's relationship with the Fund. For these reasons, Ameritrust requests that the Trusts, as described herein, be included in the exemption.

Accordingly, after consideration of the entire record and subject to the above-described modifications, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Westchester Teamsters Pension Fund (the Plan) Located in Elmsford, New York

[Prohibited Transaction Exemption 89-93; Exemption Application No. D-7931]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchase by the Plan from Local 456 Holding Corp. (the Corp.), a corporation owned by members of Teamsters and Chauffeurs Local 456, of approximately three acres of undeveloped land (the Land), and (2) the extension of credit by the Corp. to the Plan for up to 90 days after the closing date of the purchase pursuant to a non-interest bearing note in the amount of half of the purchase price, provided that the purchase price is not more than the fair market value of the Land on the date of the purchase, and further provided that the independent fiduciary to the Plan with respect to these transactions, Howard Lieberman, monitors these transactions on behalf of the Plan and takes all appropriate actions necessary to safeguard the interests of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 8, 1989, at 54 FR 32539.

Written Comments: The Department received two comment letters. One of these states that the commentator believes the proposed transaction to be a sound investment but would perfer to have at least some of the funds needed for the proposed purchase applied first to annual cost-of-living increases in pension benefits. The other comment letter expresses concern that the proposed investment may jeopardize pension benefits.

In response to these letters, the applicant states that the monies that would be invested in the proposed purchase are in addition to, and would not endanger, the reserves that the Plan maintains, as required under the Code, to fund pension benefits. The applicant explains that the purpose of the proposed purchase is to increase the Plan's assets and that the Plan fiduciaries have consulted professionals who have assured them that the proposed purchase is a sound investment which will diversify the Plan's asset base. The applicant asserts that the decision to invest a portion of the Plan's assets in real estate at this time, instead of using these assets to provide a cost-of-living increase for retired participants, is intended to insure the Plan's ability both to continue paying the pensions of retired participants and also to pay benefits to active participants when they retire.

After considering the entire record, including both written comments, the Department has determined to grant the exemption as proposed.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-25972 Filed 11-2-89; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7968] et al.

Proposed Exemptions; Liberty House Restaurant Corporation Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Liberty House Restaurant Corporation Profit Sharing Plan (the Plan), Located in Atlanta, Georgia

Application No. D-7968

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Plan's proposed cash sale (the Sale) of certain improved real property (the Property) located in Atlanta, Georgia to Richard Lewis (the Applicant), a party in interest with respect to the Plan; provided that the cash consideration paid on the date of the sale by the Applicant to the Plan is the greater of either the appraised fair market value of the Property or the Plan's aggregate cost of acquisition, financing and holding of the Property as of the date of the Sale.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 52 participants as of September 14, 1988 and assets totalling $1,256,567.31 as of April 30, 1989. The Applicant is the Plan's trustee and administrator. He is also the owner of 60% of the issued and outstanding common stock of Liberty House Restaurant Corporation (the Employer), the Plan's sponsor, and a member of the Employer's board of directors.

2. The Property is located at 788 West Paces Ferry Road in the Buckhead section of Atlanta, Fulton County, Georgia. The Property consists of a luxury residence with the swimming pool situated on a heavily-landscaped acre lot in an Atlanta residential neighborhood.

3. The Plan acquired the Property on August 20, 1987 from Richard and Ellen Clapp (the Clapps). The Applicant represents that the Clapps are unrelated to any employee of the Employer, or the Applicant; have never been employed by the Employer; and have had no business relationships with either the Employer, or the Applicant. The Plan paid the Clapps $465,000 for the Property, which was encumbered by a $265,000 mortgage from the Buckhead Bank (the Bank).

4. Beginning on August 20, 1987, the date of the Plan's purchase of the Property, the Applicant directed extensive construction and renovation (the Improvements) to the Property. The Plan has paid $627,167.15 for the Improvements through March 1989. In order to finance the Improvements directed by the Applicant, the Property was additionally encumbered by a $235,000 construction loan from the Bank.

5. The Plan has leased the Property to the Applicant under a written lease (the Lease) dated July 1, 1988.[1] The Lease provides that, in addition to the Applicant, another employee of the Employer, a party in interest with respect to the Plan, may reside at the Property. The Lease term is thirty-six months and permits two optional renewals for five years each. The base monthly rental is $6,000. In addition to the base rent, the Applicant is responsible for utilities, including garbage, water, sewage, electricity and gas. The Applicant has represented that all amounts due under the Lease have been paid.

[1] The Department is not, in this notice, proposing to grant exemptive relief for any prior prohibited transactions involving the Property, including the Lease or any use of the Plan's assets to benefit a party in interest. In this regard, the Applicant has represented that a Form 5330, Return of Initial Excise Tax Relating to Pension and Profit Sharing Plans, will be filed with the Internal Revenue Service and that applicable excise tax in connection with any prior prohibited transactions will be paid by the Applicant within 90 days of the Department's grant of an exemption.

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6. Joseph L. Walker, S.R.A., M.A.I., of Joseph L. Walker and Associates, Inc., real estate appraisers and consultants in Atlanta, Georgia, reviewed the monthly rental payment of $8,000 for the Property as of April 7, June 21 and July 13, 1989. He found the Applicant's payment to the Plan to represent the fair market rental value of the Property.

7. The Applicant now proposes to purchase the Property for cash at a price which will be the greater, on the date of the Sale, of either the aggregate cost of the Plan's acquisition, financing and holding of the Property or its appraised fair market value. The Applicant will also pay all fees, commissions and expenses in connection with the Sale.

8. During the course of its ownership of the Property, the Applicant represents that the aggregate cost to the Plan for the acquisition, financing and holding of the Property through April 20, 1989 amounts to $1,191,706.70.

9. The Property was appraised by Terrence L. Love, M.A.I., of the firm of Land Development Analysts. Mr. Love determined the fair market value of the Property to be $1,130,000 as of June 20, 1989.

10. In summary, the Applicant represents that the transaction meets the statutory criteria of section 408(a) of the Act because: (a) The Sale will be a one-time transaction; (b) The Sale will be consumated for cash; (c) The Plan will pay no fees, commissions or expenses in connection with the Sale; (d) The Plan will receive the greater, on the date of the Sale, of either the aggregate cost to the Plan of the acquisition, financing and holding of the Property or its appraised fair market value; (e) The Sale will enable the Plan to divest itself of the Property and pursue alternative investments; and (f) The Applicant will file Form 5330, Return of Initial Excise Tax Relating to Pension and Profit Sharing Plans, with the Internal Revenue Service and pay applicable excise tax in connection with past prohibited transactions concerning the Property within 60 days of the grant of this proposed exemption.

FOR FURTHER INFORMATION CONTACT: Mrs. B.S. Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Howard Simon and Associates, Inc. Profit Sharing Plan (the Plan), Located in Deerfield, IL

[Application No. D-7964]

Proposed exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the purchase, by the individually-directed accounts (the Rollover Accounts) in the Plan of Mr. Howard Simon (Mr. Simon) and his spouse, Mrs. Elizabeth M. Simon (Mrs. Simon) of certain computer equipment (the Equipment), for the total cash consideration of $14,625; (2) the leasing (the Lease) of the Equipment by the Rollover Accounts to Dudley Enterprises, Inc. (DEI), a party in interest with respect to the Plan; (3) the guarantee of rental payments under the Lease by Mr. and Mrs. Simon; and (4) the future sale of the Equipment by the Rollover Accounts to DEI pursuant to an option to purchase (the Purchase Option), provided the terms of the transactions are at least as favorable to the Rollover Accounts as those obtainable in arm's length transactions with unrelated parties.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with total assets of $121,944 as of March 31, 1989. As of August 14, 1989, the Plan had ten participants. The trustees of the Plan (the Trustees) are Mr. and Mrs. Simon and Mr. Mark Schwechter.

2. Both Mr. and Mrs. Simon have regular accounts (the Regular Accounts) and rollover accounts in the Plan, the latter of which were merged into the Plan from a predecessor plan. As of March 31, 1989, Mr. and Mrs. Simon had $21,001 and $576, respectively, in their Regular Accounts. Also as of March 31, 1989, Mr. and Mrs. Simon had total assets of $55,649 and $2,929, respectively, in their Rollover Accounts. Although Mr. and Mrs. Simon are permitted to direct investments in their Regular Accounts, they and the other participants have elected to have the Trustees make decisions involving Plan investments in the Regular Accounts. Mr. and Mrs. Simon, may, however, direct investments in their Rollover Accounts. Mr. and Mrs. Simons' Rollover Accounts are the only accounts that will be involved in the subject transactions and are described below.

3. Howard Simon and Associates, Inc. (HSAI) is the sponsor of the Plan. HSAI is an actuarial consulting firm that maintains its principal place of business at 425 Huehl Road, Building No. 20, Northbrook, Illinois. DEI, which is located in Des Plaines, Illinois, is in the video rental business. DEI is 100 percent owned by Mrs. Simon.

4. In May 1989, HSAI purchased certain IBM computer hardware and related network items for $33,275 from an unrelated party, Unique Business Systems Corporation of Santa Monica, California. The purchase was made in three separate installments, all of which were related to the delivery of the Equipment. At present, HSAI is not indebted to the seller.

5. To provide the Rollover Accounts with a higher income-yielding investment, HSAI proposes to sell the following Equipment to the Rollover Accounts for cash: 1 IBM PS/2 Model 70, 60 MB Hard Disk, IBM Ram, 1.44 MB Floppy; 3 IBM 8512 Color Monitors; 1 Bar Code Reader; 1 Cash Drawer; 1 Okidata 182 & Printer w/Cable; 1 IBM DOS 3.3; 1 80386 Memory Expansion; 1 Novell ELS Network Software (4-User Limit); 1 Puredata ArcNet Card; 1 RG62 25' Cable; 1 Continuous Power Supply (450 watt); 1 Maynard External Tape Backup (60MB); 1 Hayes 2400 Baud Internal Modem; 2 IBM PS/2 Model 286 W/1 MB RAM, 1.44 MB Floppy. The total sales price for the Equipment will be $14,625. This amount reflects the fair market value of the Equipment as determined on August 15, 1989 by Mr. James Sherwood (Mr. Sherwood), an independent computer dealer who is affiliated with Technical Software Development Company of Des Plaines, Illinois. Both Rollover Accounts will hold proportionate interests in the Equipment and such interests will not exceed 25 percent of the assets that are contained in each account. Thus, Mr. Simon's Rollover Account will invest $13,894 for a 95 percent interest in the Equipment and Mrs. Simon's Rollover Account will invest $731 for a 5 percent interest in the Equipment. In addition, neither Rollover Account will be required to pay any fees or commissions in connection therewith.

6. Following the acquisition, the Rollover Accounts will lease the Equipment to DEI under the provisions of a written lease. The terms of the Lease will be those that are commonly used by commercial leasing companies and will provide for an arm's length dealings between the Rollover Accounts and DEI. The Lease will be for a duration of five years and at a monthly rental of $308 in accordance with Mr. Sherwood's determination of the fair market rental value of such Equipment. The Lease will require that DEI give the Plan a security deposit that will be equal to one month's rent. In addition, the Lease will require that DEI maintain adequate insurance on the Equipment and designate the Rollover Accounts as the loss payees of such insurance. Further, the Lease will provide that DEI bear all costs that are incidental to the repair and maintenance of the Equipment. In the event DEI makes any improvements to the Equipment, the Lease will provide that such improvements belong to the Rollover Accounts. Finally, because DEI is a start-up business, Mr. and Mrs. Simon propose to guarantee rental payments under the Lease should a rental delinquency or default occur on the part of DEI. As of February 15, 1989, Mr. and Mrs. Simon had a combined net worth that was in excess of $2.3 million.

7. At the end of the Lease term, DEI will have an option to purchase the Equipment, for cash, from the Rollover Accounts. The proposed sales price for the Equipment will be the greater of the fair market value of the Equipment as determined by a qualified, independent appraiser or $1,232 representing the Equipment's salvage value. In calculating the fair market value of the Equipment, the independent appraiser will consider the value of any improvements that are affixed to the Equipment. The Rollover Accounts will not be required to pay any fees or commissions in connection with the Purchase Option transaction. In the event DEI does not exercise the Purchase Option, the Rollover Accounts will sell the Equipment to an unrelated party.

8. In addition to calculating the fair market value and fair market rental value of the Equipment, Mr. Sherwood represents that the Equipment would be a very sound investment for the Rollover Accounts and have a maximum potential resale value. Mr. Sherwood also states that the salvage value of the equipment would equal four months rent.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Rollover Accounts will purchase the Equipment from HSAI for cash; (b) the sales price for the Equipment that will be acquired by the Rollover Accounts will be based on the independently appraised value of the Equipment as determined by Mr. Sherwood; (c) the Rollover Accounts will receive rent under the Lease that is based upon the fair market rental value of the Equipment as determined by Mr. Sherwood; (d) Mr. and Mrs. Simon will guarantee rental payments under the Lease in the event of a rental default or delinquency by DEI; (e) DEI will purchase the Equipment, for cash, at the conclusion of the Lease pursuant to the Purchase Option for the greater of the Equipment's fair market value as determined by a qualified, independent appraiser or $1,232, representing the Equipment's salvage value; (f) the Rollover Accounts will not be required to pay any fees or commissions in connection with the sale or the exercise of the Purchase Option; and (g) Mr. and Mrs. Simon, who are the only participants in the Plan whose accounts will be affected by the transactions proposed herein, have determined that the proposed transactions will be in the interest of their Rollover Accounts and they desire that such transactions be consummated.

Notice to interested persons: Because Mr. and Mrs. Simon are the only participants in the Plan whose individual accounts will be affected by the proposed transactions, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Therefore, written comments and requests for a public hearing are due 30 days from the date of publication of this notice of proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Ocmulgee Fields, Inc. Profit Sharing Plan and Trust (the Plan) Located in Macon, Georgia

[Application No. D-7966]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406 (a) and (b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Plan's proposed cash sale (the Sale) ot Ocmulgee Fields, Inc. (the Employer), the Plan's sponsor and, as such, a party in interest with respect to the Plan, of a certain parcel of improved real property (the Property) located in Macon, Georgia; provided that the terms and conditions of the proposed Sale are at least as favorable to those obtainable by the Plan in an arm's-length transaction between unrelated parties.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with approximately 100 participants. As of May 31, 1988, the Plan held total assets of $1,198,535. The trustee (the Trustee) of the Plan is Charles H. Jones, who is also an officer and director of the Employer. He is also the father of Jeff Jones, the president of the Employer. The Employer is in the business of buying, selling, developing and managing real property with a specialization in hotel, motel, restaurant, and convention center developments. The Employer is currently the owner, developer, and manager of several different hotel and motel properties.

2. The Property is located on the western side of Holiday North Drive in Macon, Georgia, and is legally described as Land Lot 346 of the Thirteenth Land District of Bibb County. The Property consists of 7.148 acres of unimproved land. The Employer currently owns two hotels and a conference center on land adjacent to the Property.

3. The Property was purchased by the Plan on October 10, 1985 for a total consideration of $607,580.00 from Clarence S. and Linton S. Lundy, who, the applicant, represents are unrelated parties. The Property was purchased by the Plan as part of a development strategy to create a hotel/motel/conference center complex. The Property has produced no income and the Trustee repesents that it has not been used by any party-in-interest with respect to the Plan. Since its acquisition, the Plan has incurred $129,239.82 in interest costs; $7,479.03 in taxes; $22,736.50 for engineering, legal closing costs, clearing and grading. The Plan's aggregate cost of acquisition and holding the Property $767,037.35 as of July 19, 1989.

4. Robert H. Gerhardt, MAI, SREA, CPM of Gerhardt and Contemporaries, in Macon, Georgia, and his associate James L. Green, (the Appraisers) have appraised the Property. The Appraisers repesent that they are independent of the Trustee, the Employer and the Plan. The Appraisers determined that, as of February 28, 1989, the fair market value of the Property was $715,000.00.

Because the Property is contiguous to other real estate owned by the Employer, Mr. Gerhardt performed an updated appraisal to determine the special value of the Property to the Employer. Mr. Gerhardt determined that, as of May 19, 1989, a special value reflecting an additional 25% premium to the Sale price should be added to the earlier appraisal. Accordingly, the resultant appraised value of the

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Property, including the special value to the Employer, totals $893,500 pursuant to Mr. Gerhardt's updated report of July 26, 1989. At its appraised special value, the Property currently constitutes approximately 66% of Plan assets.

5. The Employer now proposes to purchase the Property from the Plan for cash at the greater of $893,500 or the appraised value (including special value to the Employer) as of the date of the Sale. No fees, commissions or expenses will be paid by the Plan in connection with the Sale. The Trustee has determined that the highest and best use of the Property would be development into commerical property and that it is in the Plan's best interest to sell the Property to the Employer rather than attempt to have the Plan develop the Property itself. The Employer intends to build a hotel on the Property.

6. In summary, the Applicant represents that the proposed transaction will meet the statutory criteria of section 408(a) of the Act because: (1) The Sale will be a one-time transaction; (2) The Sale will be consummated for cash; (3) The Plan will receive the greater of $893,500 or the value of the Property (including special value to the Employer) as determined by a qualified independent appraiser as of the date of Sale; (4) The Plan will pay no fees commissions or expenses in connection with the Sale; (5) The Plan will divest itself of an investment which constitutes approximately 66% of Plan assets; and (6) The Trustee has decided that the Sales is in the best interest of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Mrs. B.S. Scott of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Yehudi M. Felman, M.D., P.C. Defined Benefit Pension Plan (the Plan) Located in Brooklyn, New York

[Application No. D–8023]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption if granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase of certain shares in a cooperative corporation by the Plan from Yehudi M. Felman, M.D., P.C. (the Employer), a disqualified person with respect to the Plan, and the subsequent lease of an apartment from the Plan to the Employer, provided that the terms of the transactions are no less favorable than the Plan could obtain in arm's-length transactions with an unrelated party and that the transactions represent no more than 25 percent of the assets of the Plan at the time of purchase.[1]

Summary of Facts and Representations

1. The Employer is a professional corporation, having subchapter S status under the Code, engaged in the practice of medicine since 1971. The Plan is a defined benefit plan having assets of $1,389,841 as of June 30, 1989. Yehudi Felman (Felman) is the sole owner of the Employer and is also a trustee of the Plan. Felman and his wife, Brenda Felman, are the only participants in the Plan.

2. The Employer has entered into a subscription agreement with Bay Parkway Owners Corp. (Bay Parkway), a cooperative corporation owning an apartment building, for the purchase of 1,815 shares of Bay Parkway allocated to a professional apartment. The apartment consists of eight rooms and approximately 1,400 square feet. The subscription price under the agreement is $205,000. The apartment is presently leased to the Employer.

3. The Plan proposes to purchase the 1,815 shares of Bay Parkway by assumption of the subscription agreement for the subscription price of $205,000. The purchase will not account for more than 25 percent of the assets of the Plan at the time of the transaction. The Plan will pay no more than fair market value for the shares at the time of purchase, based on an independent appraisal of the shares to be updated at the time of closing.

The Plan obtained an appraisal on the apartment from Anthony Giuliano (Giuliano), a real estate broker located in Brooklyn, New York. The applicant represents that Giuliano is independent of the Plan and the Employer. According to Giuliano, the fair market value of the apartment as of November 2, 1988, was the same as the subscription price of $205,000. The $205,000 purchase price will be paid in cash by the Plan and no indebtedness will be involved in the purchase. Also, the Plan will pay no fees or commissions in regard to the purchase.

4. Following the purchase of the shares by the Plan, the Plan proposes to lease the apartment to the Employer. The Employer will pay no less than fair market rent as established by independent appraisal. The lease will be net of expenses to the Plan. The initial lease will be for three years, with renewals every three years based on an updated independent appraisal as to fair market rent. The total lease tem will be for nine years, with two renewal options of three years each to be exercised by the Employer. In a letter dated August 31, 1989, Giuliano stated that two comparable facilities to the apartment currently rented for $30 and $25 per square foot. Accordingly, the applicant proposes that the initial lease of the apartment to the Employer will be for no less than $27.70 per square foot, which is a weighted average of the two comparable leases.

5. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 4975(c)(2) of the Code because: (1) The Plan will pay no more than fair market value for the 1,815 shares of Bay Parkway at the time of purchase; (2) the fair market value of the shares and the fair market rent of the apartment will be established by an appraiser who is independent of the Plan and the Employer; (3) the transactions will account for no more than 25 percent of the assets of the Plan; and (4) the purchase of the shares will be entirely for cash and the Plan will pay no fees or commissions in regard to the transactions.

Notice to Interested Persons: Because Felman is the applicant and he and his wife are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Great Southern Printing and Manufacturing Company Profit Sharing Plan and Trust (the Plan), Located in Frederick, MD

[Application No. D–8093]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section

[1] Because Yehudi Felman is the sole shareholder of the Employer and he and his wife, Brenda Felman, are the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

408(a), 408 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain improved real property (the Property) to Great Southern Printing and Manufacturing Company (the Employer), for $143,000, provided the amount paid for the Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 225 participants and total assets of $3,597,040 as of December 31, 1988. The trustee of the Plan (the Trustee) is Mr. George B. Delaplaine, Jr., who is an officer of the Employer. Investment decisions for the Plan are made by an administrative committee comprised of eight employee/participants among whom include the Trustee. The Employer, which maintains its headquarters at 438 West Patrick Street, Frederick, Maryland, is engaged, through its various subsidiaries, in newspaper publishing as well as in the provision of cable television services to subscribers in Maryland, West Virginia and Pennsylvania.

2. On April 12, 1978, the Plan purchased, for investment purposes, certain residential property located at 704 East Patrick Street, Frederick, Maryland. The Property, which is contiguous to other unimproved property owned by the Employer, consists of a 12,599 square foot parcel of land on which is situated a two-story masonry dwelling that has been subdivided into two apartments. Also comprising the Property are a small brick building at the rear of the dwelling, a wood frame barn, an asphalt driveway and a chain link fence. The Plan purchased the Property at a public auction from the Estate of Ada Nusbaum, an unrelated party. The Plan paid the seller $35,000 in cash. At present, the Property is not encumbered by a mortgage.

3. Since the Plan has owned the Property, it has incurred operating expenses in excess of $29,000 and it has expended approximately $50,000 in capital improvements, none of which have been financed. Also since the time of acquisition, the Plan has leased the Property to unrelated parties and there has been no use of such Property by parties in interest. With respect to the leasing of the Property, the Plan has received rental income of approximately $60,205. At present, Ms. Louis Anne Morley and Mrs. Eve Tagalang occupy the demised premises and they pay the Plan $320 and $290, respectively, in monthly rent.

4. The Trustee realizes that the Plan's assets that are invested in the Property would be enhanced if they were placed in other investment vehicles. Accordingly, the Trustee requests an administrative exemption from the Department in order to sell the Property to the Employer for the total cash consideration of $143,000. It is believed that the proposed sale will enable the Employer to expand its operations, increase its future revenues and permit greater contributions to the Plan.

5. The Property was appraised by Mr. Leslie U. Hutzell (Mr. Hutzell), Realtor-Appraiser and Certified Appraiser/Senior, an independent appraiser, who is affiliated with Hutzell's Realty Associates and Appraisal Service of Frederick, Maryland. On February 11, 1989, Mr. Hutzell placed the fair market value of the Property at $130,000. In an addendum to the appraisal dated August 25, 1989, Mr. Hutzell represented that the Property would have no unique or special value to the Employer by reason of its proximity to other property owned by the Employer.[2]

6. To evidence the proposed sale transaction, the Plan and the Employer will enter into an agreement of purchase and sale (the Agreement). The Agreement provides that the Property will be sold to the Employer in an "as is" condition for $143,000. The Agreement also requires the Employer to make a $5,000 downpayment and pay the balance of the purchase price in cash, certified check or title company check at closing which will occur within 60 days after the Plan and the Employer execute the Agreement. At the time of closing, the Plan will give exclusive possession of the Property to the Employer. The Agreement further requires the Plan to convey good and merchantable title to the Employer; states that the Employer will accept the existing leases on the Property and insure the premises; and stipulates that real estate taxes, water, rent, sewer charges and other public charges will be apportioned as of the closing. Finally, the Agreement provides that the Employer will pay all expenses and commissions that are associated with the proposed sale.

7. In summary, it is represented that the proposed sale will satisfy the criteria for an administrative exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Property has been appraised by Mr. Hutzell, a qualified, independent appraiser; (c) the sales price for the Property will be greater than the fair market value of the Property as determined by Mr. Hutzell; (d) the Plan will not be required to pay any real estate fees or commissions in connection with such sale; and (e) the proposed transaction will allow the Plan to reinvest its assets in higher-yielding investment vehicles.

[2] The applicant represents that the amount by which the purchase price for the property exceeds its fair market value, if treated as an Employer contribution to the Plan when added to the balance of the annual additions to such Plan, will not exceed the limitation prescribed by section 425 of the Internal Revenue Code.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the Plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

FOR FURTHER INFORMATION CONTACT: Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Bi-County Radiology Medical Group, Inc. Profit Sharing Plan and Trust (the Plan), Located in Yuba City, California

[Application No. D–8113]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of certain real property (the Property) by the Plan to Bi-County Radiology Medical Group, Inc., (the Employer), a party in interest with respect to the Plan, provided the Plan receives the greater of $149,000 or the fair market value as determined at the time of the sale by an independent qualified appraiser.

Summary of Facts and Representations

1. The Plan, established on February 1, 1970, is a defined contribution profit sharing plan, which as of September 30, 1988, had 21 participants and $3,413,640 in net assets. The current trustees are

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Robert Wallace, M.D., Lynn Frink, M.D., Robert Wankmiller, M.D., Owen Van Kirk, M.D., and Henry Reimers, CPA (the Trustees). The Trustees, except for Robert Wallace, M.D., and Henry Reimers, CPA are also twenty percent owners of the Employer. The Employer is a California corporation engaged in the practice of radiology.

2. On July 10, 1987, the Plan bought the Property for $145,000 from an unrelated third party The Property consists of three contiguous parcels of unimproved vacant land located in Yuba City, California, and was originally purchased in order to diversify the Plan's investment portfolio and to increase the return to the Plan. The Property is adjacent to property owned by the Employer, however, the applicant maintains that the Property has not been used by any parties in interest since its acquisition by the Plan.

3. The applicant proposes to sell the Property to the Employer for cash with no expenses related to the transfer to be paid by the Plan. An appraisal of the Property was prepared on March 31, 1989, by Forrest C. Geary, M.A.I. (Mr. Geary), an independent and qualified real estate appraiser and consultant. Mr. Geary determined that the fair market value of the Property as of March 16, 1989, was $149,000. An update to this appraisal, prepared on September 1, 1989 also by Mr. Geary, concluded that the adjacency of the Property to the Employer's property does not merit a premium above the fair market value of the original three contiguous parcels.

4. The applicant represents that the transaction is desirable for the Plan as the sale will increase the liquidity of the Plan's investment portfolio. The transaction is protective of the Plan because the fair market value of the Property was determined by a qualified independent appraiser. The applicant maintains that economic hardship will result if the transaction is denied as the Plan will forego an opportunity to invest in vehicles with a higher return.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time cash transaction;

(b) The price paid to the Plan will be the greater of $149,000 or the fair market value as determined at the time of the sale by an independent qualified appraiser;

(c) The Plan will pay no expenses associated with the sale;

(d) The sale will allow the Plan to liquidate its assets and will provide cash for investments with a higher yield.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department telephone (202) 523-8194. (This is not a toll-free number.)

Ed Miller & Sons, Inc. Profit Sharing Plan (the PS Plan) and Ed Miller & Sons, Inc. Money Purchase Pension Plan (the MP Plan; together, the Plans), Located in Omaha, Nebraska

[Application Nos. D-8160 and D-8161]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loans (the Proposed Loans) of up to 25% of the assets of the PS Plan and of the MP Plan to Miller Developments (the Partnership), a party in interest with respect to the Plans, under the terms and conditions described in this notice of proposed exemption, provided such terms and conditions are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

Temporary nature of exemption: If the proposed exemption is granted it will be effective as to loans entered into within four years from the date of granting of this exemption.

Summary of Facts and Representatives

1. The Plans are both defined contribution plans which are sponsored by Ed Miller & Sons, Inc. (Miller), a corporation engaged in the construction business in Omaha, Nebraska. Each Plan currently has ten participants. As of April 30, 1988, the PS Plan had assets of $1,914,122 and the MP Plan had assets of $514,426.

2. The Proposed Loans are to be made to the Partnership, a Nebraska general partnership, for the purpose of developing real estate. The Partnership is composed of Miller, which has a 55% interest, and three individuals who are officers, directors and employees of Miller. The Partnership is thus a party in interest with respect to the Plans.

3. The applicants have requested an exemption which would permit the Plans to loan up to 25% of their assets to the Partnership. The Proposed Loans will require semi-annual payments of principal and interest such that the loans will be fully repaid over a 15 year term. The interest rate for the first of the Proposed Loans is expected to be at 10% per annum, as this has been determined to be the current fair market rate of interest by the Plans' independent fiduciary (see rep. 6, below). The independent fiduciary will review and, if necessary, renegotiate the interest rate for each of the Proposed Loans at the time such loan is actually made, in order that each Proposed Loan will be at the fair market interest rate.

4. Each Plan participant will be given the opportunity to participate in this investment. Each participant will initially be offered the opportunity to invest a pro rate portion of his or her account balance in the Proposed Loan, up to 25% of his or her account balance. If any participants decline, their share will be offered to those participants who wish to invest, provided that no participant in either plan will be permitted to invest more than 25% of his or her account balance in the Proposed Loans.

5. The Proposed Loans will be secured by a First Trust Deed on improved real property in the Horizon West Industrial Park located at 156th Street and Center Road, Omaha, Nebraska (the Property). The Property consists of three Lots, Lots 10, 11 and 12. Lot 12 has been appraised by Mr. Leon F. Black, an independent real estate appraiser in Omaha, Nebraska, as having a fair market value of $760,000 as of July 22, 1989. The first of the Proposed Loans will be secured by a First Deed of Trust on Lot 12. The applicants represent that the fair market value of Lot 12 as appraised by Mr. Black represents more than 150% of the Proposed Loan on Lot 12. As Lots 10 and 11 are developed, appraisals will be made of those Lots, and the appraised value of the Lots will represent more than 150% of the value of any Proposed Loans with respect to those Lots. The First Trust Deeds will be recorded and otherwise perfected under local law.

6. Norwest Bank Nebraska, N.A. (the Bank) presently acts as trustee of the Plans and has agreed to continue to act as the independent fiduciary for the Plans with respect to the Proposed Loans for their duration and will undertake all actions to protect the Plans and safeguard their interests. Mr. John Atkins is a trust officer with the Bank and has had more than 10 years experience as a plan fiduciary. Mr. Atkins represents that he understands his responsibilities, duties and liabilities as a fiduciary under the Act. The Bank will have the authority to monitor the collateral to ensure that its value remains at least 150% of the outstanding balance of the Proposed Loans, and the Bank will act on behalf of the Plans to require additional collateral should the existing collateral decrease in value below the 150% limit. The applicants represent that the Bank is independent of Miller, the Partnership and its individual partners, and that less than 1% of the net receipts of the Bank are derived from Miller, the Partnership and its individual partners.

7. Mr. Atkins has reviewed the terms of the Proposed Loans and has determined that the transactions are appropriate for the Plans and in the best interests of the Plans. Mr. Atkins represents that the Proposed Loans would provide a prudent diversification of the Plans' assets and that the interest rate on the Proposed Loans would be at fair market terms and would be favorable to the Plans. Mr. Atkins represents that the Proposed Loans will be adequately secured based upon Mr. Black's appraisal, and because the Property is in a viable commercial area.

8. Mr. John Pearson is a vice president with the Bank and has reviewed the Proposed Loans in his capacity as an experienced loan manager for the Bank. Mr. Pearson represents that the interest rate and other terms of the Proposed Loans, and the security provided, are fair market terms. Mr. Pearson represents that based upon his experience as a corporate bank loan officer of the Bank, he would grant a loan with similar terms and conditions.

9. Prior to the Plans' entering into each of the Proposed Loans, the Bank's trustee and loan officer will each certify by letter to the Plans that such loan would be an appropriate investment for the Plans, and that the terms of each loan are equal to or better than those which the Plans could receive in dealing with an unrelated party. Each loan made will be required to satisfy the terms and conditions described in this notice of proposed exemption.

10. In summary, the applicants represent that the Proposed Loans satisfy the criteria of section 408(a) of the Act because: (1) The Proposed Loans will at no time represent more than 25% of the assets of either of the Plans or of any individual account of any participant in either of the Plans; (2) the Proposed Loans will be adequately secured at all times by property having an appraised value of at least 150% of the amount of the loans; (3) the Plans' independent fiduciary, the Bank, has reviewed the terms of the Proposed Loans and determined that it would make a loan under similar terms and conditions, (4) the Bank has determined that the Proposed Loans are appropriate for the Plans and in the best interests of their participants and beneficiaries; and (5) the Bank will monitor the Proposed Loans and will take whatever action is necessary to protect the Plans' rights under the loans.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Vinings Chemical Company, Inc. Profit Sharing Plan and Trust (the Vinings Profit Sharing Plan) and Vinings Industries, Inc. Section 401(k) Retirement Savings Plan and Trust (the Vinings 401(k) Plan; collectively, the Vinings Plans), Located in Atlanta, Georgia

[Application Nos. D-8201 through D-8203]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) by the Vinings Plans of certain securities (the Securities) to Laporte, Inc., a party in interest with respect to the Vinings Plans, provided that the consideration paid for the Securities is either the greater of the original consideration paid by the Vinings Plans for the acquisition of the Securities or the fair market value of Securities on the date of the Sale.

Summary of Facts and Representations

1. The Vinings Plans are qualified defined contribution plans with the Vinings Profit Sharing Plan having 49 participants and possessing total assets of $1,470,000, as of December 31, 1988, and the Vinings 401(k) Plan having 46 participants and possessing total assets of $1,300,000, as of December 31, 1988. Vinings Industries, Inc. (Vinings) is the sponsor of the Vinings Plans. Mr. J. Robert Carpenter is president of Vinings and the trustee of the Vinings Plans (the Trustee). He has exclusive authority to manage, control, and invest the assets of the Vinings Profit Sharing Plan. As the trustee of the Vinings 401(k) Plan, Mr. Carpenter must invest its assets in accordance with general investment guidelines set forth in the documents and instruments of the Vinings 401(k) Plan. These general investment guidelines provide the Trustee with the authority to buy and sell the assets of the Vinings Plans.

2. Prior to January 31, 1987, Vinings, a Georgia corporation, operated under the corporate and trade name of Vinings Chemical Company, Inc. Its principal offices are located in Atlanta, Georgia and it is engaged in the manufacture and sale of various chemical products to the pulp and paper industry, primarily in the southeastern part of United States. Pursuant to a merger agreement, dated September 1, 1987, Vinings was acquired by Laporte, Inc. (Laporte), a Delaware corporation, which owns 100 percent of Vinings outstanding shares. Laporte has a number of subsidiaries in the United States which are engaged in diverse businesses, involving the manufacture and sale of chemicals, cement products, silicon wafers, and various industrial seafants. Laporte's principal offices are located in Charlotte, North Carolina.

3. On January 1, 1989, Laporte established a qualified profit sharing plan (the Laporte Profit Sharing Plan) and a qualified money purchase plan (collectively, the Laporte Plans) for its employees and the employees of some of its subsidiaries, including Vinings. At the same time Laporte established a master trust agreement (the Master Trust) for the purpose of holding for investment the assets of the Laporte Plans and the assets of retirement plans maintained by certain subsidiaries of Laporte. As a consequence of these activities by Laporte, effective as of January 1, 1989, Vinings became a participating affiliate in the Laporte Plans. Thus, as soon as practicable, Vinings intends to merge the Vinings Plans into the Laporte Profit Sharing Plan in order to maximize administrative efficiency and to assure compliance with the participation requirements of the Code. In anticipation of the pending merger, both Laporte and the Trustee request an exemption for the Sale so as to avoid retaining certain securities in the portfolio of the Vinings Plans that have declined significantly in value since their acquisition. There is a concern by the applicants that the Securities will adversely affect the value of the assets of the Laporte Profit Sharing Plan when commingled in the Master Trust upon the merger. The proposed Sale is designed to avoid a diminution of the value of the benefits which will be available for distribution to the participants and beneficiaries of the Vinings Plans.

4. The Securities that the Vinings Plans propose to discontinue holding and selling to Laporte include certificates of a .05 percent interest in a

limited partnership designated as Enex Program I Partners, L.P. (Enex LP) in which the total sum of $44,446 was invested by the Vinings Profit Sharing

American Stock Exchange on the date of the Sale; (c) the Vinings Plans will pay no commissions nor incur any expenses in connection with the proposed Sale;

including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or

applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be

6:30 p.m., November 29—9:00 a.m.–9:00 p.m., November 30—9:00 a.m.–10:00 p.m., December 1—9:00 a.m.–7:30 p.m., December 2—9:00 a.m.–3:30 p.m., in

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC

limited partnership designated as Enex Program I Partners, L.P. (Enex LP) in which the total sum of $44,446 was invested by the Vinings Profit Sharing Plan, and 12,658 shares of Landsing Pacific Funds (LPF), a real estate investment trust whose shares are traded on the American Stock Exchange, in which the total sum of $326,473 was invested by the Vinings Plans. Enex LP is engaged in the oil and gas businesses, owning wells and gas processing plants in the South and Southwest. LPF holds a variety of real property that is broadly distributed geographically and which includes office buildings, shopping malls, and industrial parks. The Securities have been appraised by a qualified, independent appraiser, Robert A. Stanger & Co., L.P. of Shrewsbury, New Jersey, and determined to have a fair market value, as of September 19, 1989, of $10,000 for the Enex LP certificates and $115,513 for the LPF shares, respectively. The value of the LPF shares was determined by their closing price on the American Stock Exchange.

5. It is represented by the applicants that the proposed Sale of the Securities is in the best interests of the participants and beneficiaries because the Sale will protect their separate accounts from a decline in value and enable the liquid funds received from the Sale to be invested in better quality and higher yielding assets. The Sale will be a one-time transaction with the full purchase price paid in cash by Laporte on the date of the Sale. No commissions or other costs will be incurred by the Vinings Plans with respect to the Sale. For federal income tax purposes, if the consideration for the Sale is greater than the current fair market value of the Securities on the date of the Sale, Laporte intends to treat the difference as a special ocntribution to the Laporte Plans.[4]

6. In summary, the proposed Sale will satisfy the statutory criteria of section 408(a) of the Act because (a) the proposed Sale will be a one time transaction for cash; (b) the Vinings Plans will receive as consideration the greater of either their total investment in acquiring the Enex LP certificates or the current fair market value of the Enex LP certificates on the date of the Sale as determined by a qualified, independent appraiser and the consideration the Vinings Plans will receive for the LPF shares will be the greater of either the total investment in acquiring the LPF shares or the closing price on the American Stock Exchange on the date of the Sale; (c) the Vinings Plans will pay no commissions nor incur any expenses in connection with the proposed Sale; and (d) the separate accounts for the participants and beneficiaries of the Vinings Plans will avoid retaining the Securities which have significantly declined in value.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or an affiliate thereof) results in the plan either paying less or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan, and therefore must be examined under the applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404, and 415.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the follow:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan soley in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-25973 Filed 11-2-89; 8:45 am]

BILLING CODE 4510-29-M

[4] The applicants represent that the proposed contribution will not cause a violation of section 415 of the Code.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts in Education Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (Arts in Schools Basic Education Grants/ Planning section) to the National Council on the Arts will be held on November 29, 1989, from 1:00 p.m.-5:00 p.m. and on November 30, 1989, from 9:00 a.m.-2:20 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 30, 1989, from 9:00 a.m.-2:30 p.m. The topic for discussion will be FY 1991 guidelines, program evaluation and policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

The remaining portion of this meeting on November 29, 1989, from 1:00 p.m.-5:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the pulbic pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained form Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director Council and Panel Operations National Endowment for the Arts.

[FR Doc. 89-25969 Filed 11-2-89; 8:45 am]

BILLING CODE 7537-01-M

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Review Committee for Dance on Tour section) to the National Council on the Arts will be held on November 16, 1989, from 9:00 a.m.-6:00 p.m. in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be issues/draft of national plan for regional component of Dance on Tour.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25902 Filed 11-2-89; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on November 28, 1989—9:00 a.m.-6:30 p.m., November 29—9:00 a.m.-9:00 p.m., November 30—9:00 a.m.-10:00 p.m., December 1—9:00 a.m.-7:30 p.m., December 2—9:00 a.m.-3:30 p.m., in Rooms M14 and M09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 2, 1989, from 1:30 p.m.—3:30 p.m. The topic for discussion will be FY 1991 Music Ensembles guidelines and policy issues. The remaining portions of this meeting on November 28, 1989—9:00 a.m.-6:30 p.m., November 29—9:00 a.m.-9:00 p.m., November 30—9:00 a.m.-10:00 p.m., December 1—9:00 a.m.-7:00 p.m., December 2—9:00 a.m.-1:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-25902 Filed 11-2-89; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On September 25, 1989, the National Science Foundation published a notice in the Federal Register of permit applications received. Permits were issued to the following individuals on October 26, 1989: David F. Parmelee, Lowell E. Starr, Anne M. Grimm, R.M. Harler.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 89-25879 Filed 11-2-89; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Memphis, TN; Bridge Collapse

In connection with the investigation of the collapse of the U.S. 51 bridge spans over the Hatchie River near Covington, Tennessee, April 1, 1989, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time), on Tuesday, November 28, at the Omni Memphis Hotel, Tennessee Grand Ballroom, 939 Ridge Lake Boulevard, Memphis, Tennessee 38119. For more information contact Drucella Anderson, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue SW., Washington, DC 20594, telephone (202) 382-6600.

Dated: October 30, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc 89-25931 Filed 11-2-89; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-029]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-3 issued to Yankee Atomic Electric Company (the licensee) for operation of the Yankee Nuclear Power Station (YNPS) located in Franklin County, Massachusetts.

Environmental Assessment

Identification of Proposed Action

The licensee is proposing to change its

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27397; File No. SR-MSTC-89-

Programs Limited Representative ("Series 22") qualifications examination.

Notice of the proposed rule change together with its terms of substance was

rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations

Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth

Environmental Assessment

Identification of Proposed Action

The licensee is proposing to change its Technical Specifications by eliminating the cycle-specific operating limits from various sections of the YNPS Technical Specifications; listing the approved methods; and describing the Core Operating Limits Report (COLR), which will contain the cycle-specific limits. The changes were in response to the NRC Generic Letter 88–16, which encouraged all licensees and applicants to eliminate the cycle-specific limits from the Technical Specifications.

The proposed action is in accordance with the licensee's application for amendment dated September 14, 1989.

The Need for the Proposed Action

The licensee presently generates the cycle-specific limits for each cycle using NRC-approved methods. For each cycle, the licensee generates and the NRC reviews a proposed Technical Specification change to the cycle-specific limits. This is an administrative burden on the NPC staff and Yankee because the limits are similar and the methods are the same for each cycle. The NRC recognizes this burden and has recommended that all licensees eliminate the cycle-specific limits from their Technical Specifications. Therefore, the licensee proposes these changes following the recommendations in Generic Letter 88–16.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions remove cycle-specific operating limits form the various sections of the YNPS Technical Specifications. The proposed changes do not increase the probability or consequences of any accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environment impact.

With regard to potential non-radiological impacts, the proposed change to the Technical Specifications involves systems located within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 13, 1989. No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in not meeting NRC requirements.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in previous reviews for the Yankee Nuclear Power Station. The plant was licensed prior to the requirement for issuance of a Final Environmental Statement.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated September 14, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 27th day of October 1989.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,

Acting Director, Project Directorate I–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–25949 Filed 11–2–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27397; File No. SR–MSTC–89–01]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Withdrawal of a Proposed Rule Change Regarding Limited Purpose Membership

October 27, 1989.

On April 6, 1989, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] a proposed rule change that would establish a new limited category of MSTC participants who join MSTC for the sole purpose of facilitating settlement at another clearing agency through its Regional Interface Organizations.

Notice of the proposed change was published on April 18, 1989 to solicit comment from interested persons.[2] No letters of comment were received by the Commission. On September 18, 1989, MSTC withdrew the proposal.[3]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25757 Filed 11–2–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27396; File No. SR–NASD–89–29]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Examination Specifications and Study Outline for the Direct Participation Programs Limited Representative ("Series 22") Qualifications Examination

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 11, 1989, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend the Examination Specifications and Study Outline for the Direct Participation

[1] 15 U.S.C. 78s(b)(1).

[2] See Securities Exchange Act Release No. 26744 (April 18, 1989 54 FR 18080 (April 28, 1989).

[3] Letter from Jeffrey Lewis, Associate Counsel, MSTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, Commission, dated September 14, 1989.

Programs Limited Representative ("Series 22") qualifications examination.

Notice of the proposed rule change together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 37065, July 26, 1989) and by publication in the **Federal Register** (54 FR 31907, August 2, 1989). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned proposed rule change be, and hereby is, approved, effective January 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: October 27, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25959 Filed 11–2–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27403; File No. SR–NASD–89–28]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Examination Specifications and Study Outline for the Direct Participating Programs Limited Principal ("Series 39") Qualifications Examination

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 11, 1989, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend the examination specifications and study outline for the Direct Participation Programs Limited Principal ("Series 39") qualifications examination.

Notice of the proposed rule change together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 27066, July 26, 1989) and by publication in the **Federal Register** (54 FR 31908, August 2, 1989). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved, effective January 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: October 30, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25958 Filed 11–2–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Under Secretary for Economic and Agricultural Affairs

[Public Notice 1139]

Receipt of Application for a Permit for a Pipeline To Be Constructed and Maintained on the Borders of the United States

AGENCY: Department of State.

The Department of State has received an application from Boise-Cascade Corporation for a permit, pursuant to Executive Order 11423 of August 16, 1968, to construct, connect, operate and maintain at the United States/Canada border one pipeline, in addition to three existing pipelines crossing the Rainy River between International Falls, Minnesota, and Fort Francis, Ontario. Boise-Cascade is a Delaware Corporation having its principal office located in Boise, Idaho. The pipeline to be constructed would be used for the transport of pulp paper.

Dated: October 19, 1989.

Richard T. McCormack,

Under Secretary of State for Economic and Agricultural Affairs.

[FR Doc 89–25934 Filed 11–2–89; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 27, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46565.

Date filed: October 24, 1989.

Due Date for Answers. Conforming Applications, or Motion to Modify Scope: November 21, 1989.

Description: Application of Mayacarga Internacional, SA. De C.V., pursuant to section 402 of the Act and subpart Q of the Regulations seeks authority to provide charter foreign air transportation of property and mail between Merida, Yucatan, Mexico and Miami, Florida with possible intermediate points in Mexico and the United States and, subject to the regulations of the Department, between points in the United States and other points worldwide.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89–25930 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSSI–89–1, Notice No. 1]

Special Safety Inquiry; Railroad Reporting Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Special Safety Inquiry.

SUMMARY: FRA is initiating a Special Safety Inquiry to examine FRA-imposed railroad safety reporting requirements. The inquiry is meant to explore whether the reporting process results in accurate data and whether there are methods of improving the process.

DATES: (1) A public hearing will be held at 10:00 a.m. on January 16, 1990, in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, DC. Any person who desires to make an oral statement at the hearing is requested to notify the Docket Clerk at least five working days prior to the hearing, by phone or by mail and must submit three copies of the oral statement that he or she intends to make at the hearing.

(2) Written comments must be received no later than January 11, 1990. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

(2) A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, DC. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202–366–0628) or by writing to the Docket Clerk at the address above.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Chief, Office of Safety Analysis, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202–366–0522), or Mark Tessler, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION: FRA's primary function is to promote safety within the railroad industry. In order to protect railroad employees, travelers, and the public at large, FRA must have an accurate picture of the safety situation within the industry. FRA's safety mission can only be effective if its regulations and enforcement activities are geared towards real problems, rather than ones merely perceived. Thus, accurate safety data is the cornerstone of an effective rail safety program. Because of that, various FRA rail safety regulations require that reports be filed with the agency, some on a periodic basis, and others upon the occurrence of a specified event.

The General Accounting Office (GAO) recently issued a report (GAO/RCED–89–109 Railroad Safety) regarding the accuracy of railroad injury and accident data and FRA efforts for ensuring the accuracy of that data. GAO has pointed out important areas in need of improvement and FRA plans to make necessary improvements. Towards that end, FRA will, in the very near future, be initiating a separate rulemaking proceeding focusing exclusively on improvements in the accident/injury reporting systems.

This inquiry is being initiated because FRA is concerned that issues similar to those raised by the GAO in the accident reporting context may extend to other required railroad safety-related reports. GAO's concern about accident reporting led it to recommend that FRA: require that railroads establish injury and accident reporting internal control procedures; include an analysis of railroads' internal control procedures for reporting in FRA's inspections; and provide inspectors with the authority to take enforcement actions against railroads with inadequate internal control procedures.

Our paramount concern is that the information received by FRA be accurate and complete. We also want to ensure that only those reporting requirements necessary for the proper performance of FRA's safety function are imposed on the railroads, while minimizing the cost to the railroad of providing the information. If the information is not needed, we should not collect it. Similarly, if the information, while valuable, can be collected and reported on either a different schedule or through a different, less expensive means, we want to know about it.

We urge interested parties to share their views regarding safety-related reporting requirements listed in the Appendix to this notice. As noted above, accident reporting requirements will be the subject of a separate rulemaking in the near future and thus will not be considered in this inquiry. Similarly, because alcohol and drug test reporting is currently the subject of a separate rulemaking (49 FR 39646, September 27, 1989), it will not be addressed in this proceeding.

We encourage interested parties to comment on the following questions and on any other issue falling within the scope of this inquiry—the following list is illustrative, not all-inclusive. Where appropriate, please identify the specific reporting requirement you are referring to.

1. Do the FRA reporting requirements summarized in the Appendix promote the submission of accurate data to FRA? If not, how can the system be improved? What costs would be associated with your suggested improvements?

2. If there are inaccuracies in the reporting system, what improvements in railroads' internal control procedures would reduce or eliminate the problem?

3. Should FRA impose specific internal control procedures on the railroads to assure proper reporting? What should those internal procedures consist of? What additional costs would be incurred?

4. Should deviations from such prescribed procedures render the railroads liable for civil penalties?

5. Intstead of specific, prescribed procedures for internal control, would you favor FRA-established, generic standards for such procedures that would apply regardless of the differences among railroads?

6. A railroad is given a specific period of time to report after the occurrence of an event requiring FRA notification. Are these periods long enough for the railroad to collect accurate information? Are they too long? Please be specific regarding the reporting requirement you are addressing.

7. Should there be a two-tier reporting process, with an initial report followed up by a later, ostensibly more accurate, individual report? Or should there be a later more complete report which consolidates the data of the early individual reports?

8. Are FRA's instructions for filing required data clear and informative? If not, how could the instructions be improved to eliminate any confusion? Please be as specific as possible.

9. Could the method of reporting data to the FRA be improved? How?

10. What is your view as to the availability of electronic transfer of data. Would there be compatibility problems, and if so, how could they be overcome? How would such data transfer affect the speed and accuracy of a railroad's reporting? What would be the short term and long term effect of electronic transfers on the costs required to fulfill the reporting requirements?

11. Would electronic data transfer affect the ability of FRA to determine compliance with the reporting requirements?

Appendix

One-Time Reports

49 CFR part 215—Report regarding freight cars used in dedicated service.
49 CFR part 216—Report when freight cars, locomotives, or track is returned to service following Special Notice for Repairs.
49 CFR part 217—File copy (and each amendment) of operating rules;
File program (and each amendment) for operational testing; and
File program (and each amendment) for instruction on operating rules.

49 CFR part 220—Report (both telephone and written confirmation) of accident due to a locomotive failure or coming into contact with an electrically energized part.
49 CFR part 233—Report within 24 hours of accident/incidents arising from signal system failure.
Report within 15 days of signal system failure.

Periodic Reports

49 CFR part 217—Annual reports regarding operational tests and inspections.
49 CFR part 228—Monthly reports of excess service.
49 CFR part 233—Annual signal system report.

Issued in Washington, DC, on October 27, 1989.

Gilbert E. Carmichael,

Administrator.

[FR Doc. 89–25694 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–06–M

[Order 89–10–62, Docket 46577]

Order Instituting Chicago-Prestwick/Glasgow Service Proceeding

AGENCY: Department of Transportation.

ACTION: Institution of the *Chicago-Prestwick/Glasgow Service Proceeding.*

SUMMARY: By Order 89–9–52, the Department invited applications from U.S. carriers to provide scheduled foreign air transportation between the United States and Prestwick/Glasgow, Scotland. United Air Lines and American Airlines have responded to Order 89–9–52 expressing their interest in serving between Chicago, Illinois, and Prestwick/Glasgow, Scotland. Pursuant to the U.S.–U.K. Air Services agreement, only one U.S. carrier may be designated on the route. Accordingly, the Department has decided to institute the *Chicago-Prestwick/Glasgow Service Proceeding*, Docket 46577, to select a primary and a backup carrier to provide scheduled combination service in the Chicago-Prestwick/Glasgow, Scotland market. The Department has also placed at issue the public convenience and necessity of renewing the certificate authority of Northwest Airlines to serve the Chicago-Glasgow market. The Department has set an expedited schedule for processing this case to facilitate commencement of service in summer 1990.

DATES: Petitions for leave to intervene, and petitions for reconsideration of Order 89–10–62, should be filed by November 7, 1989. Answers should be filed by November 13, 1989.

ADDRESSES: Petitions for leave to intervene, petitions for reconsideration, etc. should be filed in Docket 46577, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW, Room 4107, Washington, DC 20590, and should be served on all parties in Docket 46577, as well as the Office of Hearings, Room 9228, at the same address.

Date: October 31, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89–26069 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89–61, 1989–21 I.R.B. 25, of petitions requesting that *2-ethyl hexanol, bisphenol-A,* and *alpha-methylstyrene* be added to the list of taxable substances in section 6472(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be delivered or mailed by January 2, 1990.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, Attention: CC:CORP:T:R (Petition), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). Telephone 202–566–4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on August 18, 1989. The petitioner is Aristech Chemical Corporation, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

2-Ethyl Hexanol

Harmonized Tariff System number: 290516 0010
Schedule B number: 290516 0010
Chemical Abstract Service number: 104–76–7

This substance is derived from the taxable chemical *propylene.* 2-ethyl hexanol is produced by the oxo process.

The stoichiometric material consumption formula for this substance is:

$2\ C_3H_6$ propylene $+ 2\ CO$ carbon monoxide $+ 4\ H_2$ hydrogen $\rightarrow C_4H_9CHC_2H_4CH_2OH$ 2-ethyl hexanol $+ H_2O$ water

According to the petition, taxable chemicals constitute 59.2 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.90 per ton. This is based upon a conversion factor for propylene of 0.80.

Bisphenol-A

Harmonized Tariff System number: 290723 0000
Schedule B number: 290723 0000
Chemical Abstract Service number: not given

This substance is derived from the taxable chemicals *benzene* and *propylene.* Bisphenol-A is produced by the acid catalyzed reaction of phenol with acetone.

The stoichiometric material consumption formula for this substance is:

$2\ C_6H_6$ benzene $+ 2\ C_3H_6$ propylene $+ 2\ O_2$ oxygen $\rightarrow C_{15}H_{16}O_2$ bisphenol-A $+ C_3H_6O$ acetone $+ H_2O$ water

According to the petition, taxable chemicals constitute 78.8 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.63 per ton. This is based upon a conversion factor for benzene of 0.885 and a conversion factor for propylene of 0.476.

Alpha-methylstyrene

Harmonized Tariff System number: 290290 0000
Schedule B number: 290290 0000
Chemical Abstract Service number: not given

This substance is derived from the taxable chemicals *benzene* and *propylene.* Alpha-methylstyrene is recovered as a byproduct from the cumene oxidation process for the production of phenol-acetone.

The stoichiometric material consumption formula for this substance is:

C_6H_6 benzene $+ C_3H_6$ propylene $+ \frac{1}{2}\ O_2$ oxygen $\rightarrow C_9H_{10}$ alpha-methylstyrene $+ H_2O$ water

According to the petition, taxable chemicals constitute 79.5 percent by weight of the materials used to produce

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this substance. The rate of tax for this substance would be $4.97 per ton. This is based upon a conversion factor for benzene of 0.66 and a conversion factor for propylene of 0.36.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-25874 Filed 1-2-89; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 212
Friday, November 3, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 44005.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., Thursday, November 2, 1989.

CHANGE IN THE MEETING: The Commission has postponed the closed meeting to discuss a rule enforcement review until 11:30 a.m., Friday, November 3, 1989.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26134 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 21, 1989.

PLACE: 2033 K St., NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Applications for contract market designations submitted by Chicago Mercantile Exchange to trade British Pound Sterling, West German Deutschemark, and Japanese Yen Differential options

Application for contract designation submitted by AMEX Commodity Corporation to trade Two-Year Treasury Notes futures

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26135 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., Tuesday, November 28, 1989.

PLACE: 2033 K St., NW, Washington, DC., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Program Objectives, Second Quarter, FY 1990.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26136 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, November 28, 1989.

PLACE: 2033 K St., NW., Washington, DC, 6th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26137 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, November 28, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26138 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

FEDEAL ELECTION COMISSION

"FEDERAL REGISER" NO. 89-36001

PREVIOUSLY ANNOUNCED DATES AND TIMES:

By direction of the Federal Election Commission, the following meetings have been cancelled:

Tuesday, November 7, 1989—Closed Meeting

Thursday, November 9, 1989—Open Meeting

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-26107 Filed 11-1-89; 12:51 pm]

BILLING CODE 6715-01-M

LEGAL SERVICES CORPORATION

Board of Directors; Meeting

TIME AND DATE: The Board of Directors meeting will be held on November 10, 1989. The meeting will commence at 9:00 a.m. and continue until all official business is completed.

PLACE: Old Town Holiday Inn, Ballroom Brent I, 840 King St., Alexandria, VA 22314.

STATUS OF MEETING: Open [A portion of the meeting may be closed subject to the recorded vote of a majority of the Board of Directors to discuss privileged or confidential, personal, investigatory and litigation matters under the Government in the Sunshine Act [5 U.S.C. 552b (c) (4), (5), (7), and (10) and 45 CFR 1622.5 (c), (d), (f), and (h)].

MATTERS TO BE CONSIDERED: The meeting may be partly closed for reasons cited above, subject to an advance recorded vote of a majority of the Board of Directors.

1. Approval of Agenda.
2. Approval of Minutes.
   —June 13, 1989
3. Report on President Wear's trip to address the California Legal Services Trust Fund Commission.
4. Report and Accounting of the Use of Outside Law Firms by Corporation Staff.
5. Report and Accounting of the Pursuit of Lobbying Activities by Corporation Staff.
6. Discussion and Approval of Fiscal Year 1991 Budget Mark.
7. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: November 1, 1989.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 89-26147 Filed 11-1-89; 3:41 pm]

BILLING CODE 7050-01-M

RESOLUTION TRUST CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

the Resolution Trust Corporation's Board of Directors will meet in open session at 2:30 p.m. on Tuesday, November 7, 1989, to consider the following matters:

Minority and Women Outreach Contracting Program

This program implements provisions of FIRREA to ensure that minority-and women-owned companies or individuals are given

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at (202)

Corrections

Federal Register
Vol. 54, No. 212
day, November 3, 1989

the Resolution Trust Corporation's Board of Directors will meet in open session at 2:30 p.m. on Tuesday, November 7, 1989, to consider the following matters:

Resolution Program for Minority Institutions

This program implements provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") to encourage the continued minority ownership of failed minority-owned thrift institutions.

Minority and Women Outreach Contracting Program

This program implements provisions of FIRREA to ensure that minority-and women-owned companies or individuals are given the opportunity to participate fully in all contractual activities that the Corporation enters into for the goods and services required to manage and dispose of assets acquired from failed thrift institutions.

The meeting will be held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at (202) 898–3804.

Dated: October 31, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89–26032 Filed 10–31–89; 4:47 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 54, No. 212
day, November 3, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 31

Leverage Transactions

Correction

In rule document 89-23452 beginning on page 41068 in the issue of Thursday, October 5, 1989, make the following corrections:

§ 3.33 [Corrected]

1. On page 41078, in the second column, in the fifth line, "For7-R"should read "Form 7-R".

2. On page 41080, in the first column, in amendatory instruction 14, in the fifth and eighth lines, "bold-face" should read "bold-faced".

§ 31.11 [Corrected]

3. On page 41080, in § 31.11(a)(1), in the first line, "bold-face" should read "bold-faced".

4. On the same page, in the same column, in § 31.11(e)(2), in the first line, "Submit" should read "Subject".

§ 31.12 [Corrected]

5. On page 41081, in the second column, in § 31.12(h), in the 10th line, insert "rules," following "bylaws,".

§ 31.29 [Corrected]

6. On page 41084, in the first column, in § 31.29, in the 12th line, insert "or any employee of a member leverage transaction merchant" following "merchant".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Notice of Annual List of Labor Surplus Areas

Correction

In notice document 89-25020 beginning on page 43353 in the issue of Tuesday, October 24, 1989, make the following corrections:

1. On page 43354, in the third column, under **ARIZONA**, in the left hand column insert "Flagstaff City" after "Balance of Coconino County".

2. On page 43360, in the first column, under "Eligible labor surplus areas" and "Civil jurisdictions included", insert "Wright County" as the last entry.

3. On page 43361, in the third column, under **PUERTO RICO**, after the 29th entry in both columns, insert "Guayama Municipio".

4. On page 43362, in the table, in the third and fourth columns, under **TEXAS**, the fourth entry (in both columns) should read, "Aransas County".

5. On page 43364, the file line at the end of the document was omitted and should have appeared as follows:

[FR Doc. 89-25020 Filed 10-23-89; 8:45am]

BILLING CODE 1505-01-D

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federal register

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November 3, 1989

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 200, 215, 221, 236, 247, 290, 760, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960

Income Verification Procedures for Applicants and Participants in HUD Programs; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 215, 221, 236, 247, 290, 760, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 950

[Docket No. R-89-1445; FR-2588-P-01]

RIN No. 2501-AA80

Income Verification Procedures for Applicants and Participants in HUD Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would govern the collection and use of wage and claim information and the collection of employee income information about applicants and participants in HUD's assisted housing programs. This rule would require these applicants and participants to sign and submit consent forms when they apply for participation in a program subject to this rule, or when their continuing eligibility to participate in a program is determined. These consent forms would permit (1) HUD, the Public Housing Agency (PHA), or the owner responsible for determining eligibility for or level of benefits to verify employee income information with previous or current employers, and (2) HUD or the PHA to request wage and claim information from the State agency responsible for the administration of the State unemployment law (State Wage Information Collection Agency [SWICA]). Failure of any applicant or participant to sign the required consent form would constitute grounds for denying eligibility, or continuing eligibility, under the program involved. The rule would help decrease the incidence of fraud, waste, and abuse in these programs. Covered programs would include housing assistance programs under 24 CFR chapter II, Subchapter B; and the section 8 and Public and Indian Housing programs under 24 CFR chapters VIII and IX.

This rule would provide protections for applicants and participants in HUD programs from improper use of wage and claim information obtained from a SWICA by HUD or a PHA by restricting the use of the information to official purposes. This rule would also prohibit termination, denial, suspension, or reduction of benefits unless the information is independently verified and the applicant or participant has an opportunity to contest adverse findings. This rule would also provide criminal and civil penalties in certain circumstances.

DATES: Comments must be received by January 2, 1990.

ADDRESSES: Comments on the rule: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection by interested persons during regular business hours (7:30 a.m. to 5:00 p.m. weekdays) in the Office of the Rules Docket Clerk at the address listed above.

FOR FURTHER INFORMATION CONTACT: For the Section 8 programs administered by the Assistant Secretary for Housing: James Tahash, Director of Planning and Procedures, Office of Multifamily Housing Management, room 6182, 451 7th St., SW., Washington, DC 20410, telephone number (202) 426-3944 (TDD number (202) 755-0455). For the 202 Elderly and Handicapped program administered by the Assistant Secretary for Housing: Robert Wilden, Director, Assisted Elderly and Handicapped Division, room 6116, 451 7th St., SW., Washington, DC 20410, telephone number (202) 426-8730. For the Public Housing program administered by the Assistant Secretary for Public and Indian Housing: Edward C. Whipple, Chief, Occupancy Branch, Office of Public Housing, room 4206, 451 7th St., SW., Washington, DC 20410, telephone number (202) 426-0744 (TTD number (202) 245-0850). For the Indian Housing program administered by the Assistant Secretary for Public and Indian Housing: Dom Nessi, Director, Office of Indian Housing, room 4232, 451 7th St., SW., Washington, DC 20410, telephone number (202) 755-1015 (TDD number (202) 426-0744). For questions concerning the submission and use of consent forms: Dennis Raschka, Director, Fraud Control Division, Office of Inspector General, room 8254, 451 7th St., SW., Washington, DC 20410, telephone (202) 426-8493 (TDD number (202) 426-0015). None of these telephone numbers are toll-free.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755-2575. (This is not a toll-free number.) Only public comments of six or fewer *total* pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will *not* be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk at (202) 755-7084.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act of 1980

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information, and filling out the consent forms. Information on the estimated public reporting burden is provided later in this preamble under the subheading, "Findings and Certifications." Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 7th St., SW., room 10276, Washington, DC 20420; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

II. Statutory Basis

This proposed rule would implement section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) ("McKinney Amendments") for a number of HUD programs.

Section 904(a), Definitions, requires HUD to define the terms "applicant" and "participant" by regulation. It specifies, however, that the terms shall include members of an applicant's or participant's household, but not include persons acting purely in their official capacity, such as State or local government officials or officers of lending institutions.

Section 904(b), Applicant and Participant Consent, permits HUD to require applicants and participants (and members of their households) in any HUD program involving initial and periodic review of an applicant's or participant's income, to sign a consent

form authorizing (1) HUD, the PHA, or the owner to verify employee income information from current or previous employers; and (2) HUD or the PHA to request a SWICA to release wage and claim information. This subsection specifies that the consent may not be used to request taxpayer information protected by section 6103 of the Internal Revenue Code of 1986. Signing the consent form is made an explicit condition of initial or continuing eligibility for participation in the covered programs. This requirement is designed to ensure correct determinations of eligibility for and level of benefits are made under these programs.

Section 904(c)(1), Amendments to Social Security Act, adds a new section 303(i) to the Social Security Act, which requires SWICAs to disclose wage and claim information to HUD and PHAs with respect to individuals who are applying for or participating in any covered HUD assisted housing program and who have signed an appropriate consent form. Regulations prescribed by the Secretary of Labor will govern how often and in what form this information may be disclosed. The Department of Labor is required, after notice and hearing, to terminate further payments under the Social Security Act to a State where a SWICA has failed to substantially comply with a request for information. The new subsection 303(i) will expire on October 1, 1994, unless extended.

Section 904(c)(2), Applicant and Participant Protections, protects applicants and participants from the improper use by HUD or a PHA of information obtained under section 303(i) of the Social Security Act by restricting the use of the information to (1) verifying an applicant's or participant's eligibility for or level of benefits, or (2) informing the owner that the applicant's or participant's eligibility is uncertain and needs to be verified. This section prohibits the termination, denial, suspension, or reduction of benefits without prior independent verification of the wage and claim information. The applicant or participant must also be notified of adverse findings and be given an opportunity to contest them.

Section 904(c)(3), Penalty, provides that any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA under this authority or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. This penalty applies to officers or employees of HUD, to officers or employees of PHAs, and to any owner (or employee of an owner) responsible for determining eligibility for or level of benefits. This subsection also gives applicants and participants a right of action for damages and other relief against an officer or employee of any public housing agency or owner (or employee of an owner) if the applicant or participant is affected by (1) a negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about such person by the officer or employee of the PHA or the owner (or employee of an owner) which is not authorized by section 904, section 303(i), or any implementing regulation or (2) any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation.

Section 904(d), Effective Date, provides for this section to take effect no earlier than September 30, 1989 with one exception. This exception gives a State or an agency of a State, with the approval of the Secretary of Labor, the option of implementating the provisions governing the collection of wage and claim information on any date which is after February 5, 1989 (90 calendar days after November 7, 1988, the date of enactment of the McKinney Amendments), but before September 30, 1989. In the case of any State legislature which has not been in session for at least 30 calendar days (consecutive or not) between November 7, 1988 and September 30, 1989, the provisions governing the collection of wage and claim information shall take effect 30 calendar days after the first day on which the legislature is in session on or after September 30, 1989.

III. Structure of Rule

This proposed rule would implement the requirements governing the collection and use of wage and claim information obtained from a SWICA and of employee income information, including requirements pertaining to the signing and submission of consent forms, through two independent, but parallel, provisions. These are:

1. 24 CFR part 200, subpart V: This subpart would cover the Rent Supplement program; the section 221(d)(3) BMIR and 236 programs; and activity under 24 CFR part 280, Management and Preservation of HUD Multifamily Projects.

2. 24 CFR part 760: This part would cover the public housing and section 8 housing assistance programs administered by HUD under 24 CFR chapters VIII and IX.

The remainder of the rule contains conforming changes that are designed to incorporate the proposed consent form requirements into the existing regulatory provisions to which the rule would apply. Readers should review these changes carefully to determine matters such as the timing and context of the required signing of consent forms and the effect upon eligibility, or continued eligibility, caused by a failure to meet the requirements.

A. Programs Covered by the Rule

The information collection requirements, including consent form requirements, contained in this proposed rule would apply to the following programs:

1. 24 CFR part 200, subpart V, as follows:

(a) Rent Supplement Payments under part 215.

(b) Low Cost and Moderate Income Mortgage Insurance for Below Market Interest Rate (BMIR) Mortgages under part 221.

(c) Mortgage Insurance and Interest Reduction Payments for Rental Projects under part 236.

(d) Management of HUD-Owned Multifamily Housing Projects under part 290.

2. 24 CFR part 760. The Section 8 and Public and Indian Housing programs, as follows:

(a) Section 8 Housing Assistance Payments for New Construction under part 880.

(b) Section 8 Housing Assistance Program for Substantial Rehabilitation under part 881.

(c) Section 8 Housing Assistance Payments for Housing Certificates and Moderate Rehabilitation under part 882.

(d) Section 8 Housing Assistance Payments, State Housing Agencies, under part 883.

(e) Section 8 Housing Assistance Payments, New Construction Set-Aside for section 515 Rural Rental Housing Projects under part 884.

(f) Loans for Housing for the Elderly or Handicapped under part 885.

(g) Section 8 Housing Assistance Payments, Special Allocations under part 886, subpart A (Loan Management) and subpart C (Property Disposition).

(h) Section 8 Housing Vouchers under part 887.

(i) Section 23 Housing Assistance Payments, New Construction and Substantial Rehabilitation, under part 900.

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(j) Low Rent Housing Homeownership Opportunities under part 904.

(k) Indian Housing under part 905.

(l) Admission to, and Occupancy of,

the successful completion of the transaction. Thus, these entities do not have a sufficiently strong link to the transaction to justify execution of

section 904 of the McKinney Amendments. (See the definition of "wage information.") Paragraph (c) of the definition is also properly included

or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the

covered by this rule, to disclose their Social Security Numbers (SSNs) or Employer Identification Numbers (EINs). SSNs obtained under that final rule

information, or to monitor compliance with equal opportunity requirements.

This regulation is in no way intended to interfere with HUD's current

(j) Low Rent Housing Homeownership Opportunities under part 904.
(k) Indian Housing under part 905.
(l) Admission to, and Occupancy of, Public Housing under part 960.

B. "Applicants" Subject to the Rule

The following is a complete list of "applicants" who would be covered under the rule:

1. 24 CFR part 200, subpart V: An individual or family that seeks assistance under part 215, 221 (BMIR), 236, or 290.
2. 24 CFR part 760.
(a) An individual or family wishing to participate, or to receive assistance, as appropriate, under part 880, 881, 882, 883, 884, 885, 886, 887, and 900.
(b) A prospective homebuyer under part 904.
(c) A prospective tenant or homebuyer under part 905.
(d) A prospective tenant under part 960.

C. "Participants" Subject to the Rule

The following is a complete list of "participants" who would be covered under the rule:

1. 24 CFR part 200, subpart V: A tenant or qualified tenant under part 215, 221 (BMIR), 236, or 290.
2. 24 CFR part 760.
(a) A family receiving assistance under parts 880, 881, 882, 883, 884, 885, 886, 887, and 900.
(b) A homebuyer under part 904.
(c) A homebuyer or tenant under part 905.
(d) A tenant under part 960.

D. Exclusion of Certain Individuals and Entities from the Rule's Coverage

Section 904 of the McKinney Amendments excludes from its coverage those persons whose participation in a covered program is limited to their official capacity, such as State or local government officials or officials of lending institutions. The Department believes that this provision is designed to exclude individuals whose sole function with respect to a transaction under a covered program is to *facilitate* the objective of the transaction.

Thus, using the statutory examples, officials and employees of a State Housing Finance Agency that is serving as contract administrator under the Section 8 State Agency program (Part 883) would not have to sign consent forms for purposes of carrying out their responsibilities for the Agency.

These statutory exclusions reflect the fact that the State or local agencies and private owners, as well as their officials, do not *participate* in the program involved: their role is limited to aiding the successful completion of the transaction. Thus, these entities do not have a sufficiently strong link to the transaction to justify execution of consent forms.

The rule would also exclude from the consent requirements public housing agencies (PHAs) that participate in any covered program, irrespective of whether the PHA is acting as a facilitator (for example, as a section 8 contract administrator), or as an actual participant (as where the PHA is a section 8 project owner or the owner or operator of public housing). The rule would also exclude from the consent requirements any "entity applicant" (including its officers or employees) under the covered programs, such as any partnership, corporation, or any other association or entity, either non-profit or for profit, that seeks to participate as a private owner in any of the programs contained in 24 CFR part 215, 221, 236, 880, 881, 882, 883, 884, 885, 886, or 887. It would also exclude any individual who seeks to participate as a private owner in any of the programs contained in 24 CFR part 221, 236, 880, 881, 883, 884, 886, or 887. However, any employee of one of the aforementioned entities who is an applicant for or participant in a covered program would still be subject to the consent form requirements.

The exclusions cited above are based upon the discretion accorded the Department by section 904(a) of the McKinney Amendments to define the terms "applicant" and "participant." The Department does not believe the collection of wage and claim information or employee income information from the officers and employees of these entities or from private owners will be sufficiently useful in combatting fraud, waste, and abuse to justify HUD requiring these persons to sign consent forms.

E. Other Definitions

1. *Claim information.* "Claim information" would be defined as information regarding:
(a) Whether an individual is receiving, has received or has applied for unemployment compensation;
(b) The amount of compensation the individual is receiving or is entitled to receive; and
(c) The period or periods when, or with respect to which, the individual actually received such compensation.
This definition is consistent with the description of information, other than wage information, that HUD or a PHA is explicitly authorized to request from a State agency under section 303(i) of the Social Security Act, as amended by section 904 of the McKinney Amendments. (See the definition of "wage information.") Paragraph (c) of the definition is also properly included as part of the definition since section 904(c)(1)(B) of the McKinney Amendments prohibits the termination, denial, suspension, or reduction of benefits for applicants or participants, as applicable, based on wage and claim information without first independently verifying, among other things, information relating to the period or periods when or with respect to which, the applicant or participant actually received unemployment compensation benefits.

2. *Computer Matching.* "Computer matching" would be defined as the automated comparison of data bases containing records about individuals.

3. *Computer Matching Agreement.* "Computer matching agreement" would be defined as the agreement which describes the responsibilities and obligations of the parties regarding a computer match.

4. *Consent form.* "Consent form" would be defined as a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from SWICAs. These consent forms may also be used to collect other information, including information which may be obtained under other laws, regulations, and handbooks.

5. *Employee income information.* "Employee income information" would be defined as all the information known to current or previous employers which HUD or the processing entity determines to be necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

6. *HUD.* "HUD" would be defined as the United States Department of Housing and Urban Development.

7. *Owner.* "Owner" would be defined as the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

8. *Public Housing Agency (PHA).* "Public Housing Agency (PHA)" would be defined as any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families under 24 CFR Chapters VIII or IX. The term includes Indian housing authorities.

9. *Processing entity.* "Processing entity" would be defined as the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the covered programs. Examples of "processing entity" would include private owners, PHA owners, or management agents under the Section 8 program; PHAs or Indian housing authorities (IHAs) that own and operate Public or Indian Housing projects; PHAs or IHAs that act as section 8 contract administrators for the Certificate, Moderate Rehabilitation, and Housing Voucher programs and owners of section 236, 221(d)(3) BMIR, or Rent Supplement projects.

10. *State Wage Information Collection Agency (SWICA)* means the State agency receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, to be as effective and timely in providing employment related income and eligibility information.

11. *Wage information.* "Wage information" would be defined as information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

This definition is adopted from the definition of "wage information" used by the Department of Labor for purposes of the income and eligibility verification system required under section 303(f) of the Social Security Act (see 20 CFR 603.2(b)). We have not included the part of that definition which provides an alternative definition for "wage information" for States in which wages are not required to be reported under the unemployment compensation law. That part of the definition is not applicable to section 303(f)(1)(A) of the Social Security Act, which only requires disclosure of information contained in the records of SWICAs.

F. Interaction with the Social Security Number Regulation

This proposed rule would operate in conjunction with the final rule which implements section 165 of the Housing and Community Development Act of 1987 ("1987 Act") (54 FR 39060; September 27, 1989). Section 165 of the 1987 Act authorizes HUD to require applicants and participants in certain HUD programs, including the ones covered by this rule, to disclose their Social Security Numbers (SSNs) or Employer Identification Numbers (EINs). SSNs obtained under that final rule would be used in computer matching programs to compare income information provided by the family with wage and claim information maintained by SWICAs, the disclosure of which would be authorized by this proposed rule. HUD anticipates that computer matching programs will be the primary method by which HUD and PHAs obtain wage and claim information from SWICAs, although requests relating to one or a few families may be possible depending on the matching agreements entered into between SWICAs and HUD or between SWICAs and individual PHAs. This proposed rule incorporates the changes made by the final SSN regulation.

G. Information to be Covered by Consent Forms

Section 760.3 and § 200.1203 would specify that the information covered by consent forms signed by applicants and participants under this rule would be (a) employee income information; and (b) wage and claim information from a SWICA. The rule would explicitly prohibit the use of the consent forms for requesting taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986. The consent forms could be designed to cover the collection of the information specified in item (a) or item (b) above, or both. Moreover, the consent forms could be used to collect other information which can be obtained under other laws, regulations, and handbooks. General authority to obtain information relating to eligibility is provided in the program specific regulations for the assisted housing programs contained in 24 CFR Chapter II, Subchapter B. More specific guidance is provided through administrative instructions in program handbooks. For the section 8 and Public Housing programs, respectively, 24 CFR 813.109(b) and 24 CFR 913.109(b) authorizes, as a condition of eligibility or continuing eligibility, applicants and participants in the Section 8 and Public Housing (including Indian Housing) programs to sign consent forms authorizing any depository or private source of income, or any Federal, State, or local agency, to furnish or release to the PHA or owner and to HUD such information as the PHA, owner, or HUD determines to be necessary. Information is determined to be necessary if it is to be used to determine or audit a family's eligibility to receive housing assistance, to determine the Family's Adjusted Income or Tenant Rent, to verify related information, or to monitor compliance with equal opportunity requirements.

This regulation is in no way intended to interfere with HUD's current authority to obtain information, including employee income information and wage and claim information, necessary to determine an applicant's or participants eligibility for or level of benefits. Section 904, instead, provides explicit authority to obtain wage and claim information in order to preempt certain State privacy acts which limit the ability of HUD and PHAs to collect wage and claim information from SWICAs. These State privacy acts interfere with HUD's ability to ensure that scarce Federal housing assistance is being provided in the correct amounts to the beneficiaries for which it is intended. Section 904 also explicitly authorizes the collection of employee income information so that wage and claim information can be independently verified before an applicant's or participant's benefits are terminated, denied, suspended, or reduced based on wage and claim information obtained from a SWICA.

H. Consent by Applicants and Participants

Applicants for and participants in the covered programs would have to sign consent forms and submit them to the processing entity. (See § 760.10 and § 200.1210.) Applicants and participants would also be responsible for the signing and submission of consent forms by members of their families. Members of the family under the age of 18 would not be required to sign consent forms, unless that member is the family head or his or her spouse. The consent forms would permit (a) HUD, the PHA, or the owner to verify employee income information; and (b) HUD or the PHA to request a SWICA to release wage and claim information. All applicants, including members of their families, would have to sign the consent forms at the time when the eligibility of the applicant under any of the covered programs is being determined.

Participants, including members of their families, who were not required to sign the consent forms as applicants (*i.e.*, those whose participation was initiated before the effective date of the rule) would have to sign the consent forms at the first regularly scheduled income reexamination held after the effective date of the final rule. Once a participant has signed and submitted a consent form as an applicant or participant, that participant would still have to sign a subsequent consent form at each regularly scheduled income

reexamination to ensure that all consents are timely dated to facilitate their use.

Subsequent consent forms would also be required to be signed at the next

I. Penalties for Failing To Sign Consent Forms

This rule would permit HUD to require applicants and participants, as

§ 200.1220. The provisions of the Privacy Act apply to records on individual U.S. citizens (or aliens lawfully admitted for permanent residence) that are maintained by HUD in a "system of

current or previous employers and wage and claim information obtained from SWICAs.

HUD would not be responsible for the

Under this rule, a PHA could enter into a computer matching agreement to obtain wage and claim information with a SWICA separately from HUD or

applicant and participant data, including social security numbers. The IG would code the social security numbers onto a separate disk and send it to a SWICA

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reexamination to ensure that all consents are timely dated to facilitate their use.

Subsequent consent forms would also be required to be signed at the next interim or regularly scheduled income reexamination under the following circumstances:

(1) Where there has been a change in the composition of the participant's family, any new member of the family would have to sign and submit a consent form at the next interim or regularly scheduled income reexamination.

(2) When a member of a family turns 18 years of age, that member would have to sign and submit a consent form at the next interim or regularly scheduled income reexamination.

(3) Such other circumstances as HUD (and in the case of the Public Housing program, or the Section 8 Certificate, Housing Voucher, or Moderate Rehabilitation program, the PHA) may prescribe in administrative instructions. Examples of these other circumstances might include situations where the consent form has been lost, the signature by the applicant or participant is illegible, or an employer requires a consent form with an original signature before he or she will disclose information.

As noted above, members of a family under 18 years of age would not be required to sign consent forms, unless that member of the family is the family head or his or her spouse. There is no reason for minors, who are not family heads or spouses, to sign consent forms since their income is excluded for purposes of calculating the annual income of a family under the covered programs.

HUD believes that the requirements relating to the signing of consent forms at interim income reexaminations and regularly scheduled income reexaminations are not burdensome and reflect the Department's concern that signing of consent forms be required only where necessary to produce information helpful to its efforts to mitigate abuse in HUD programs.

The exact context for applicants and participants to sign the consent forms would be governed by the specific rules for the program involved. Readers should review the proposed amendments to individual program regulations subject to this rule for more information.

As discussed in the next section, failure to sign consent forms constitutes grounds for denying eligibility of an applicant, or for terminating assistance or tenancy (or both) of a participant, under the covered program.

I. Penalties for Failing To Sign Consent Forms

This rule would permit HUD to require applicants and participants, as well as members of their households, to sign consent forms as a condition of eligibility, or continuing eligibility, for the covered programs. (See § 200.1215 and § 760.15). The Department believes that full implementation of the authority under section 904 for the covered programs is essential to achieve the legislative objective of controlling fraud, waste, and abuse in HUD programs. Each of the individuals required under the rule to sign consent forms are receiving assistance from HUD, thereby justifying the Department's interest in ensuring that they are appropriate program beneficiaries or that they receive the proper level of benefits.

For applicants, the rule would provide that the failure to sign consent forms would be grounds for denying eligibility for the covered program.

For participants, failure to sign consent forms would be grounds for termination of assistance under the covered program and, if authorized under the program, termination of the participant's tenancy. Whether termination of tenancy is authorized depends on the program involved. In some cases, termination of assistance would also require that the family be evicted from the project (see, for example, the Public and Indian Housing programs).

In others, such as the tenant-based Certificate and Housing Voucher programs, assistance can be terminated without terminating the participant's tenancy: the participant simply pays an unsubsidized rental. In still others, failure to meet the proposed rules signing of consent form requirements not only could result in termination of assistance, but also would specifically be made a substantial violation of the lease for which termination of tenancy is the appropriate remedy (see, for example, the Section 8 New Construction and Substantial Rehabilitation programs, as amended by this proposed rule). Readers should carefully review the program-specific amendments to this rule, as well as existing regulatory and administrative guidance for the existing programs, to determine the effects of the proposed rule.

J. Privacy Act Protections

The collection, maintenance, use, and dissemination of information obtained pursuant to this rule may be subject to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a. See § 760.20 and § 200.1220. The provisions of the Privacy Act apply to records on individual U.S. citizens (or aliens lawfully admitted for permanent residence) that are maintained by HUD in a "system of records" whereby information is retrieved by the name of the individual or other identifying number or symbol. Records concerning applicants and participants in most of the housing programs listed in part 760 are maintained in Privacy Act systems of records. (a complete listing of the Department's Privacy Act systems is published in the **Federal Register's** Privacy Act Issuance: 1986 Compilation.)

As noted above, HUD would collect employee income information and wage and claim information about applicants for, or participants in, HUD programs, for purposes of ensuring that they are income-eligible for the covered program and that the level of benefits provided is appropriate. The income information would be used to decrease the incidence of fraud, waste, and abuse in HUD programs.

HUD may disclose information obtained pursuant to this rule and maintained in Privacy Act systems of records only as permitted by the Privacy Act and section 904 of the McKinney Amendments. In general, the information may be disclosed outside the agency to facilitate the administration of the applicable program. (However, as discussed later, this rule would provide specific limitations on the collection, use, and dissemination of wage and claim information.) Permissible routine uses of the information subject to the Privacy Act are listed in the individual Privacy Act notices for each system of records published by the **Federal Register** in its Privacy Act Issuances: 1986 Compilation. Requests for information not contained in a Privacy Act system of records will be governed by the Freedom of Information Act, 5 U.S.C. 552 (FOIA). FOIA permits HUD to withhold information concerning individuals where disclosure would constitute a clearly unwarranted invasion of personal privacy.

For the most part, the Privacy Act applies only to Federal agencies, and does not govern the collection, maintenance, use, or disclosure of information by the processing entity or by other entities or persons. The rule would make it clear that employee income and wage and claim information is subject to all applicable Federal, State and local laws. State and local laws concerning the protection of personal privacy may restrict the use of employee income information obtained from

current or previous employers and wage and claim information obtained from SWICAs.

HUD would not be responsible for the further use of employee income information and wage and claim information that has been properly disclosed outside the Department. However, the requirements of the Privacy Act are applicable to other Federal agencies that may receive the employee income information and wage and claim information from HUD, and that maintain the information in a Privacy Act system of records.

This rule would also provide specific additional limitations on the use of wage and claim information obtained from a SWICA. The rule would also provide criminal penalties for the wrongful collection and use of the wage and claim information, and also provide civil penalties for certain negligent or knowing actions concerning wage and claim information and employee income information. These limitations and penalties are discussed in the following sections.

K. Request for Wage and Claim Information from SWICAs and Restrictions on the Use of the Information

Section 904 explicitly permits HUD to require applicants for and participants in HUD programs to sign consent forms authorizing HUD or the PHA to request wage and claim information from a SWICA. The signed consent forms would be physically maintained by the processing entity. Congress also prescribed certain restrictions on the collection and use of the wage and claim information. The information which could be obtained from SWICAs would be limited to wage and claim information. See § 200.1225 and § 760.25. The Secretary of Labor would prescribe how often and in what form wage and claim information would be obtained from a SWICA.

It is anticipated that HUD and PHAs will obtain wage and claim information from SWICAs subject to individual computer matching agreements between the parties. Computer matching is a term used to describe the automated comparison of data bases containing records about individuals. Computer matching agreements would describe the responsibilities and obligations of the parties to an agreement regarding the computer match. After July 19, 1989, computer matches in which HUD participates will be conducted in conformance with the requirements of the Computer Matching and Privacy Protection Act of 1988.

Under this rule, a PHA could enter into a computer matching agreement to obtain wage and claim information with a SWICA separately from HUD or request HUD to perform the PHA's match request. If the PHA wants to perform the match itself, it must submit the proposed matching agreement with the SWICA to HUD for review and approval. This is to ensure that matching agreements are in compliance with this part and the Department of Labor regulations, and are not burdensome on the SWICAs. The matching agreements would specify, among other things, the purpose and legal authority for the match, a description of the records to be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of the records, duplication and redisclosure restrictions, and the amount a SWICA will charge HUD or a PHA for processing a request.

The Office of the Inspector General (IG) at HUD would be responsible for coordinating initial implementation of computer matches under the regulation. The IG intends to encourage groups of PHAs or individual PHAs who have the capacity to perform computer matches to enter into computer matching agreements with SWICAs. Computer matches subject to these agreements could take several forms. For example, some States are willing to allow PHAs on-line access to their SWICA's wage and claim databases. Subject to any restrictions established by the Department of Labor, these PHAs could perform front-end verification by checking the income of an applicant before he or she becomes a tenant by matching the applicant's Social Security Number with the SWICA's wage and claim database. These PHAs could also verify a participant's wage and claim information in this manner.

PHAs, without on-line access but with computer matching capability, would also be encouraged to enter into computer matching agreements with SWICAs. The IG would be available to provide technical assistance. PHAs without the capability to handle computer matching could request HUD to perform the computer match for them. The IG would be responsible for determining how and when these matches would be performed. In these case, PHAs would be expected to provide the IG with a computer tape or diskette containing all relevant applicant and participant data, including social security numbers. The IG would code the social security numbers onto a separate disk and send it to a SWICA for the computer match. Once a match is completed, the IG would compare the data received from the SWICA with the applicant and participant data received from the PHA. No PHA would be required to perform a computer match itself.

PHAs which currently receive wage and claim information from SWICAs in less formal ways, such as by individual written request or telephone call, would not be prohibited from continuing these practices. However, *all* collection and use of wage and claim information by PHAs from SWICAs would be subject to the Department of Labor regulations and the restrictions and penalties of this part.

In the case of owners where there is no PHA operating as a section 8 contract administrator, the IG would be responsible for establishing computer matching agreements with SWICAs. The IG would also be responsible for accomplishing independent verification with regard to such owners.

HUD and PHAs would only be able to use wage and claim information obtained from a SWICA (1) to verify an applicant's or participant's eligibility for or level of benefits; or (2) to inform the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. Verification would include the procedures for independent verification discussed in the next section. Neither HUD nor a PHA would be permitted to disclose wage and claim information obtained from a SWICA to an owner.

L. Procedures for Termination, Denial, Suspension, or Reduction of Benefits based on Information Obtained from a SWICA

Section 200.1230 and § 760.30 would permit a Federal, State, or local agency, a PHA, or an owner, as applicable, to terminate, deny, suspend, or reduce any benefits of an applicant or participant based on wage and claim information obtained from a SWICA by HUD or a PHA if (1) the agency takes steps to independently verify wage and claim information relating to (i) the amount of wages or unemployment compensation involved, (ii) whether the applicant or participant actually has (or had) access to the wages or benefits for his or her own use; and (iii) the period or periods when or with respect to which the applicant or participant actually received the wages or benefits; and (2) the applicant or participant has been

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given an opportunity to contest any adverse findings. The regulation would not permit an owner to perform independent verification of wage and claim data since section 904 prohibits HUD or a PHA from disclosing wage and claim information to an owner. Moreover, section 552a(p)(1) of title 5, U.S.C., as added by the Computer Matching and Privacy Protection Act of 1988, requires that "an officer or employee" of the Federal agency or non-Federal agency involved to independently verify information obtained through a computer match which may be used as the basis for an adverse determination involving the individual.

The rule would establish separate procedures to meet the requirements of independent verification depending on whether HUD or a PHA is responsible for determining an applicant's or participant's eligibility for or level of benefits or whether an owner has that responsibility.

Where a PHA is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program, HUD or the PHA would compare the information received from a SWICA with information about a family's income which is obtained from the applicant or participant or from his or her employer. HUD would compare the information where it has performed the computer match; PHAs would compare the information where they have performed the match. A "hit" occurs where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from information received from the applicant or participant or from his or her employer. HUD or the PHA would request the undisclosed employer or other employer disclosed by the "hit" to furnish, in writing to HUD or the PHA, any information HUD or the PHA determines to be necessary to establish an applicant's or participant's eligibility for or level of benefits in a covered program. (In most cases, the employer request letter would ask the employer to provide the information to the responsible PHA.) HUD or the PHA would not be expected to pursue these verification procedures where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of benefits. Neither HUD nor a PHA would be permitted to disclose wage and claim information obtained from a SWICA to an owner.

Where an owner is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program, HUD or a PHA, as the section 8 contract administrator, would be responsible for requesting wage and claim information from a SWICA. Where there is no PHA involved as contract administrator, HUD would be solely responsible for requesting wage and claim information from a SWICA. Upon receiving the wage and claim information, HUD or the PHA, as applicable, would compare the information with the information about a family's income obtained by the owner from the applicant or participant or from his or her employer. Where the wage and claim information reveals a "hit," HUD or the PHA would request the undisclosed employer or other employer to furnish, in writing to the owner, any information that HUD or the PHA determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of benefits in the covered program. Again, HUD or the PHA would not be expected to pursue these verification procedures where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of benefits. HUD or the PHA could not directly disclose to the owner wage and claim information received from a SWICA.

HUD or the PHA could inform an owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. The owner would then reverify the applicant's or participant's income information by checking the accuracy of the information with the employer or directly with the family. However, before any benefits could be terminated, denied, suspended, or reduced, HUD or the PHA would have to independently verify the wage and claim information obtained from a SWICA. Neither HUD nor a PHA would be permitted to disclose wage and claim information obtained from a SWICA to any owner.

In addition, HUD or the PHA would be able to independently verify wage and claim information obtained from a SWICA by checking the accuracy of information with the applicant or participant directly in cases where verification cannot be obtained from any other source.

Before any benefits could be terminated, denied, suspended, or reduced, HUD, PHAs and owners would be required to promptly notify any applicant or participant in writing of any adverse findings determined on the basis of the independent verification of the wage and claim information. The applicant or participant would then be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable programs. Termination, denial, suspension, or reduction of benefits shall be determined according to the standards, including income standards, applicable to each covered program. Readers should review the requirements of specific programs for more information.

M. Criminal and Civil Penalties

Sections 200.1235 and 760.35 would set forth criminal and civil penalties for certain wrongful or negligent actions under this part.

As for criminal penalties, this section would provide that any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this section would include an officer or employee of HUD, an officer or employee of any PHA, and any owner (or employee of an owner) responsible for determining eligibility for or level of benefits.

In the case of civil penalties, any applicant or participant affected by (1) a negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or (2) any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any PHA or owner (or employee of an owner) responsible for the unauthorized action. Jurisdiction of such a case would be in the applicable United States District Court for the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. (This last grant of jurisdiction appears to be a mistake on the part of the draftors of section 904. What was probably intended was to provide jurisdiction to the U.S. District Court for the district where an individual alleged to be responsible for the unauthorized action resides. The proposed regulation, however, follows the statutory language.) Appropriate relief that may be ordered by the district court would include reasonable attorney's fees and other litigation costs. These civil penalties would apply to certain actions with regard to both employee income information and wage and claim information. However, section 904 does not provide any restrictions on the use of employee income information. Nor does it describe unauthorized disclosure or inconsistent use of such information. Consequently, any lawful use of this information is authorized use and should be considered consistent with section 904 and this part. Lawful use is any use of employee income information determined by HUD, PHAs, or owners to be necessary for determining eligibility for or level of benefits and not prohibited by any Federal or State law.

N. Federal Preemption of State Privacy Acts

The doctrine of Federal preemption of State law recently summarized by the United States Supreme Court, as follows:

> It is familiar and well-established principle that the Supremacy Clause, U.S. Const., Art. VI, cl.2, invalidates state laws that "interfere with, or are contrary to" federal law. *Gibbons* v. *Ogden*, 9 Wheat I, 211 (1824) (Marshall, C.J.). Under the Supremacy Clause, Federal law may supersede state law in several different ways. First, when acting within constitutional limits, Congress is empowered to preempt state law by so stating in express terms. *Jones* v. *Rath Packing Co.*, 430 U.S. 519, 525 (1977). In the absence of express preemptive language, Congress' intent to pre-empt all state law in a particular area may be inferred where the scheme of Federal regulation is sufficiently comprehensive to make reasonable the inference that Congress "left no room" for supplementary state regulation. *Rice* v. *Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). Pre-emption of a whole field also will be inferred where the field is one in which "the Federal interest is so dominant that the Federal system will be assumed to preclude enforcement of state laws on the same subject." *Ibid;* see *Hines* v. *Davidowitz*, 312 U.S. 52 (1941).
>
> Even where Congress has not completely displaced state regulation in a specific area, state law is nullified to the extent that it actually conflicts with Federal law. Such a conflict arises when "compliance with both Federal and state regulations is a physical impossibility," *Federal Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132, 142–143 (1963), or when State law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Hines* v. *Davidowitz*, *supra* at 67. (*Hillsborough County, Florida* v. *Automated Medical Laboratories, Inc.*, 471 U.S. 707, 712–13 (1985)).

Under section 4 of Executive Order 12612, *Federalism*, HUD will construe a Federal statute to preempt State law only when (1) the Federal statute in question contains an express preemption provision; (2) there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law; or (3) the exercise of State authority directly conflicts with the exercise of Federal authority under the statute. (*See* Implementation of Executive Order 12612, *Federalism*, 53 FR 31926 (August 22, 1988).)

Section 904 of the McKinney Amendments provides explicit Federal authority with regard to the collection and use of employee income information and wage and claim information by HUD and PHAs. However, certain State privacy acts limit the ability of HUD and PHAs to collect wage and claim information from SWICAs. Although section 904 does not contain an express preemption provision, it is clearly intended to preempt these State privacy acts under the two other tests noted above.

Under the "firm and palpable" evidence test, the Department will infer preemption where (1) the scheme of Federal regulation is sufficiently comprehensive to provide firm and palpable evidence that Congress intended to leave no room for State regulation, or (2) the field is one in which the Federal interest is sufficiently dominant to provide firm and palpable evidence that Congress intended to preclude enforcement of State laws on the same subject. Here, the Federal interest is sufficiently dominant to provide firm and palpable evidence that Congress intended to preclude the enforcement of State privacy acts which interfere with the collection of wage and claim information from SWICAs by HUD and PHAs. Section 904 of the McKinney Amendments gives the Federal government a paramount interest in the collection and review by HUD and PHAs of wage and claim information about applicants and participants in HUD programs. Section 904's stated purposes are to ensure that scarce Federal housing assistance is being provided in the correct amounts to the beneficiaries for which it is intended, and to help decrease the incidence of fraud, waste, and abuse in these programs.

Thus, section 904 provides compelling evidence that its purposes are to be achieved without interference from State law. State privacy acts must also give way to section 904 under the "direct conflict" test, described above. The Department cannot carry out its responsibilities under section 904 if State privacy acts prevent HUD and PHAs from obtaining the wage and claim information called for under that provision.

Section 904, therefore, preempts any State privacy acts, including restrictions and penalties provided in the acts, to the extent they prohibit the release of wage and claim information to HUD or a PHA or otherwise conflict with section 904.

The proposed regulation has been carefully reviewed to ensure that the extent of preemption is the minimum necessary to accomplish the goals of section 904 in the collection of wage and claim information. Affected officials and organizations should carefully review the proposed regulation as to the effect and the extent of Federal preemption under it.

The proposed rule does not attempt to preempt any Indian tribal law since, in almost all cases, wage and claim information as it relates to members of Indian tribes is covered by State law.

O. Effective Date

For applicants, the proposed rule would apply to all applicant eligibility determinations initiated on or after the date HUD established as the effective date of the rule, which can be no earlier than September 30, 1989. For participants, the rule would apply to each regularly scheduled review of participant income initiated on or after the effective date as established by HUD, and to each future review.

Section 904 also gives a State or an agency of a State, with the approval of the Secretary of Labor, the option of implementing the provisions governing the collection of wage and claim information on any date which is after February 5, 1989 (90 days after November 7, 1988, the date of enactment of the McKinney Amendments) but before September 30, 1989. In the case of any State in which the legislature has not been in session for at least 30 calendar days (whether or not consecutive) between November 7, 1988 and September 30, 1989, the provisions authorizing the obtaining of information from a SWICA would take effect 30 calendar days after the first day on which the legislature is in session on or after September 30, 1989. This rule would not address these provisions. We believe that certain of section 904's

(7:30 a.m. to 5:00 p.m. weekdays) in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room

are covered by the Order are PHAs and SWICAs. PHAs would be affected in their role as "processing entities." Since PHAs already perform significant

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which the legislature is in session on or after September 30, 1989. This rule would not address these provisions. We believe that certain of section 904's provisions are too complex to be implemented before the regulation is made effective and that the effective date of the regulation will be no earlier than September 30, 1989. Moreover, as of the effective date of the regulation, all State legislatures will have been in session the required length of time.

P. Indian Housing Authorities

For purposes of brevity, this rule encompasses Indian Housing authorized by title II of the 1937 Act under proposed 24 CFR part 760, and provides that PHAs include Indian Housing Authorities.

On June 29, 1988, President Reagan signed into law the Indian Housing Act of 1988 (Indian Housing Act) (Pub. L. 100–358), which created a separate title for Indian Housing under title II of the 1937 Act. Section 201(b)(2) of the Indian Housing Act requires that any provision modifying the public housing program under title I of the 1937 Act must explicitly apply to the Indian Public Housing Program if it is to cover that program. The McKinney Amendments was enacted on November 7, 1988 and is subject to the requirements of the Indian Housing Act. Although the McKinney Amendments modifies the public housing program, HUD believes that section 904 of the McKinney Amendments does not come within coverage of the Indian Housing Act exclusion because it is not a law which specifically modifies the public housing program under title I of the 1937 Act. Section 904 is general legislation modifying all HUD programs, including title I. The requirements of section 904 would, therefore, be applicable to Indian Public Housing Program.

HUD has published a proposed rule to consolidate all Indian Housing regulations from 24 CFR Chapter IX into a revamped part 905. When this rule is made final, appropriate amendments will be inserted in the appropriate place in the reconstituted part 905.

IV. Findings and Certifications

Environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5:00 p.m. weekdays) in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Major rule. This rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act. In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule would require applicants and participants in certain HUD programs to sign consent forms permitting (1) HUD, the PHA, or the owner to verify employee income information, and (2) HUD or the PHA to request wage and claim information from a SWICA. The costs of complying with this requirement and collection of the information would be slight since verification of family income is already required.

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule would not (if implemented) have federalism implications and, thus, are not subject to review under the Order. Although section 904 preempts certain State privacy acts which interfere with the ability of HUD and PHAs to collect wage and claim information about applicants and participants in HUD programs from SWICAs, the extent of the preemption is the minimum necessary to accomplish the goals of section 904 in the collection of the information. A full discussion of Federal preemption of State privacy acts by section 904 can be found under paragraph N. of the preamble. Moreover, the only entities subject to the rule that are covered by the Order are PHAs and SWICAs. PHAs would be affected in their role as "processing entities." Since PHAs already perform significant functions in this role with respect to providing HUD assistance to applicants and participants, the additional burden of requiring applicants and participants to sign consent forms and of collecting information pursuant to the consent would appear to be insubstantial. SWICAs would be required to provide wage and claim information to HUD and PHAs. Since HUD anticipates the information will be collected through a computer matching program, the burden on the SWICAs should be small. SWICAs would also be reimbursed for this activity.

Executive Order 12606, the Family. The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. Applicants and participants, and members of their families, would be required to sign consent forms authorizing the verification or collection of certain information necessary for determining eligibility for or level of benefits under the covered programs. Consent forms to permit verification of information provided by the family are already required. This rule would add an insignificant additional burden for applicants and participants, and will help ensure that scarce housing assistance will be targeted to the truly needy.

Semiannual agenda of regulations. This rule was listed as item number 900 in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16709) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance. The catalog of Federal Domestic Assistance program numbers are 14.103, 14.135, 14.137, 14.149, 14.150, 14.157, 14.177, 14.850, 14.851, and 14.852.

Information collection requirements. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Virtually all of the sections of this proposed rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN [1] INCOME VERIFICATION PROCEDURES FOR APPLICANTS AND PARTICIPANTS IN HUD PROGRAMS

Description of information collection response	Section of 24 CFR affected hours	Number of respondents	Number of responses per respondent	Total annual	Hours per response	Total
Consent form allowing: (1) HUD or Public Housing Authority (PHA) or owner to verify employee income information with previous or current employees; (2) HUD or the PHA to request wage and claim information from the State Wage agency responsible for the administration of the State Unemployment Law State Wage Information Collection Agency (SWICA) (2502–0204)	200, 215, 221, 225, 247, 290, 760, 883, 884, 885, 886	2,171,256	4	8,685,024	.016	138,960
Consent form allowing: (1) HUD or PHA or owner to verify employee income information with previous or current employers; (2) HUD or the PHA to request wage and claim information from State Wage Agency responsible for the administration of the State Unemployment Law (SWICA) (2577–0083)	760, 813, 882, 887, 900, 904, 905, 913, 960	2,640,000	4	10,560,000	.016	168,960
OIG request for SWICA to provide wage and claim information (includes computer match agreement and running magnetic tape against State Wage database)		52	1	53	16	848
Total annual burden						308,768

[1] The annual reporting burden for OMB clearance numbers (2502–0204) and (2577–0083) on this table was included in the calculation of annual burden at the most recent approval of each and therefore does not represent an increase in the HUD information collection inventory.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Housing standards, Loan programs: housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

24 CFR Part 215

Grant programs: housing and community development, Rent subsidies.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

24 CFR Part 247

Low and moderate income housing, Public housing, Tenant eviction.

24 CFR Part 290

Mortgage insurance, Low and moderate income housing.

24 CFR Part 780

Certain housing assistance programs, Income verification procedures.

24 CFR Part 813

Low and moderate income housing.

24 CFR Part 880

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing, New construction.

24 CFR Part 881

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 882

Grant programs: housing and community development, Housing, Mobile homes, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs: housing and community development, Rent subsidies, New construction and substantial rehabilitation, Low and moderate income housing.

24 CFR Part 884

Grant programs: housing and community development, Rent subsidies, Rural areas, Low and moderate income housing.

24 CFR Part 885

Grant programs: housing and community development, Aged, Handicapped, Loan programs: housing and community development.

24 CFR Part 886

Grant programs: housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 887

Grant programs: Housing and community development, Housing, Rent subsidies, Low and moderate income housing.

24 CFR Part 900

Housing assistance payments: new construction and substantial rehabilitation, Guaranteed/insured loans.

24 CFR Part 904

Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 905

Grant programs: housing and community development, Grant programs: Indians, Indian Housing, Loan programs: Indians, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 913

Public housing, Indian housing.

24 CFR Part 960

Public housing.

Accordingly, 24 CFR Parts 200, 215, 221, 236, 247, 290, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960 would be amended, and new 24 CFR part 760 would be added, to read as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 would be revised to read as follows:

Authority: Titles I, II, National Housing Act (12 U.S.C. 1701–1715z–16); sec. 7(d), Department of Housing and Urban Development Act (12 U.S.C. 3535(d)). Subpart V is also issued under sec. 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544), sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and sec. 203, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–11).

2. Part 200 is amended by adding new subpart V, to read as follows:

Subpart V—Income Verification Procedures for Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs

Sec.

200.1201 Summary, purpose, and Federal preemption.
200.1203 Applicability.
200.1205 Definitions.
200.1210 Consent by applicants and participants.
200.1215 Penalties for failing to sign consent forms.
200.1220 Compliance with the Privacy Act and other requirements.
200.1225 Request for wage and claim information from SWICAs and restrictions on the use of the information.
200.1230 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.
200.1235 Criminal and civil penalties.
200.1240 Implementation.

§ 200.1201 Summary, purpose, and Federal preemption.

(a) *Summary.*

(1) This part implements section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ("McKinney Amendments") as it pertains to the assisted mortgage and loan insurance and related programs administered by the Department of Housing and Urban Development under Subchapter B of this Chapter. The programs covered by this subpart include the following: Rent Supplements under 24 CFR part 215; management of HUD-acquired multifamily properties under 24 CFR part 290; and the rental assistance programs under sections 221(d)(3)(BMIR) and 236 of the National Housing Act. Section 904 is implemented for most of the housing assistance programs administered by HUD under 24 CFR Chapters VIII and IX, at 24 CFR part 760.

(2) This part requires applicants and participants in the covered programs to sign consent forms authorizing:

(i) HUD or the owner to verify employee income information; and

(ii) HUD to request a SWICA to release wage and claim information. The failure of any person to sign these consent forms constitutes grounds for denial of eligibility, or termination of assistance or tenancy (or both), for the covered program.

(3) This part restricts the use of information received by HUD from a SWICA to

(i) Verifying an applicant's or participant's eligibility for or level of benefits; or

(ii) Informing the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. This part prohibits termination, denial, suspension, or reduction of benefits without prior independent verification of wage and claim information obtained from a SWICA. The applicant or participant shall then be notified of any adverse findings and given an opportunity to contest them.

(4) This part provides criminal and civil penalties for certain wrongful or negligent actions under this part.

(b) *Purpose.* The purpose of this part is to enable HUD to obtain employee income information and wage and claim information about applicants and participants in the covered programs in order to verify an applicant's or participant's eligibility for or level of benefits and help decrease the incidence of fraud, waste, and abuse in these programs.

(c) *Federal Preemption.* This part preempts any State law, including restrictions and penalties, which governs the collection and use of employee income information and wage and claim information to the extent it is inconsistent with this part.

§ 200.1203 Applicability.

(a) *Information to be Covered by Consent Forms.* The information covered by consent forms described in this part involves employee income information and wage and claim information from a SWICA. In addition, consent forms may authorize the collection of other information, including information which can be obtained under other laws, regulations, and handbooks.

(b) *Programs Covered.* This part applies to the following housing assistance programs contained in subchapter B of this Chapter:

(1) Part 215, Rent Supplement Payments.

(2) Part 221, Low Cost and Moderate Income Mortgage Insurance (BMIR).

(3) Part 236, Mortgage Insurance and Interest Reduction Payments for Rental Projects.

(4) Part 290, Management and Disposition of HUD-Owned Multifamily Housing Projects.

§ 200.1205 Definitions.

As used in this part:

Applicant has the following meaning for the programs referred to in § 200.1203: An individual or family that seeks assistance under 24 CFR part 215, 221 (BMIR), 236, or 290.

Claim information means information regarding:

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

HUD means the United States Department of Housing and Urban Development.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant has the following meaning for the programs referred to in § 200.1203: A tenant or a qualified tenant under 24 CFR part 215, 221 (BMIR), 236, or 290.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in § 200.1203.

Scheduled income reexamination has the following meaning for the programs referred to in § 200.1203.

(a) *Parts 215, 221(BMIR), and 236.* The regularly scheduled reexamination of participant income.

(b) *Part 290.* Income certification as provided by § 290.17(e).

State Wage Information Collection Agency (SWICA) means the SWICA receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

§ 200.1210 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* The following individuals shall sign consent forms authorizing HUD or the owner to verify employee income information, and HUD to request a SWICA to release wage and claim information:

(1) Each applicant under a program referred to in § 200.1203, including each family head and spouse regardless of age, and every other member of the household of the applicant who is at least 18 years of age; and

(2) Each participant in a program referred to in § 200.1203, including each family head and spouse regardless of age, and every other member of the participant's household who is at least 18 years of age.

(b) *Consent authorization: To whom and when—*

(1) Consent by applicants. Applicants shall sign the consent forms and submit them to the processing entity when their eligibility under a program referred to in § 200.1203 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by members of their household.

(2) Initial consent by participants. If participation for a program referred to in § 200.1203 was initiated before the effective date of the part, participants, including members of their family, shall sign and submit consent forms at the next interim or regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by members of their households.

(3) Subsequent consent forms to be signed at each regularly scheduled income reexamination. Participants who have signed initial consent forms under this section. Once a participant has submitted signed consent forms as an applicant or as a preexisting participant, subsequent consent forms are required to be signed and submitted at each regularly scheduled income reexamination.

(4) Subsequent consent forms to be signed at the next interim or regularly scheduled income reexamination—special cases. Consent forms are required under the following circumstances:

(i) Where there has been a change in the composition of the participant's family, any new member of the family shall sign and submit a consent form at the next interim or regularly scheduled reexamination.

(ii) When a member of a family turns 18 years of age, that member shall sign and submit a consent form at the next interim or regularly scheduled reexamination; and

(iii) Such other circumstances as HUD may prescribe in administrative instructions.

§ 200.1215 Penalties for failing to sign consent forms.

(a) *Denial of Eligibility.* The processing entity shall deny the eligibility of an applicant, in accordance with the provisions governing the program involved, if the applicant, or any member of the applicant's household, does not sign and submit the consent forms as required in § 200.1210.

(b) *Termination of assistance or tenancy.* It shall be considered grounds for termination of assistance, and (as provided by the individual program covered by this part) the tenancy of a participant, in accordance with the provisions governing the program involved, if the participant, or any member of the participant's household, fails to sign and submit the consent forms as required in § 200.1210.

(c) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs referred to in § 200.1203 for further information on the use of employee income information and wage and claim information in determining the eligibility of applicants and the continued eligibility of participants.

§ 200.1220 Compliance with the Privacy Act and other requirements.

Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of employee income information and wage and claim information under this part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

§ 200.1225 Request for wage and claim information from SWICAs and restrictions on the use of the information.

(a) *Information Available from SWICA—to whom and what.* HUD may, after signed consent forms have been submitted to the processing entity by an applicant or participant, request wage and claim information from a SWICA. Regulations prescribed by the Secretary of Labor govern how often and in what form information may be disclosed by a SWICA.

(b) *Restrictions on Use of Wage and Claim Information Obtained from SWICA.* HUD may only use wage and claim information obtained from a SWICA:

(1) To verify an applicant's or participant's eligibility for or level of benefits; or

(2) In the case of an owner, to inform the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified.

§ 200.1230 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.

(a) *Termination, Denial, Suspension, or Reduction of Benefits.* A Federal, State, or local agency or an owner may terminate, deny, suspend, or reduce any benefits of an applicant or participant based on wage and claim information obtained from a SWICA if:

(1) the agency has taken the steps contained in paragraph (b) of this section to independently verify wage and claim information relating to—

(i) The amount of the wages or unemployment compensation involved;

(ii) Whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use; and

(iii) The period or periods when, or with respect to which, the applicant or participant actually received the wages or benefits; and

(2) The applicant or participant has been given an opportunity to contest any adverse findings in accordance with paragraph (c) of this section.

(b) *Procedures for Independent Verification.*—(1) *Verification by HUD.* Upon receiving wage and claim information from a SWICA, HUD shall compare this information with the information about a family's income obtained by the owner from the

applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD may request the undisclosed employer or other employer to furnish, in writing to the owner, any information HUD determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of benefits in a covered program. Based on the wage and claim information, HUD may inform an owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. The owner shall then reverify the applicant's or participant's income information by checking the accuracy of the information with the employer or directly with the family. However, before any benefits are terminated, denied, suspended, or reduced, HUD shall independently verify the accuracy of the wage and claim information obtained from a SWICA as described in this paragraph. HUD may not disclose wage and claim information directly to an owner.

(2) *Verification by Applicant or Participant.* Where independent verification cannot be obtained from any other source, HUD may independently verify wage and claim information obtained from a SWICA by checking the accuracy of the information with the applicant or participant directly.

(c) *Opportunity to Contest.* HUD or the owner shall promptly notify any applicant or participant, in writing, of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. Termination, denial, suspension, or reduction of benefits shall be determined according to the standards, including the income standards, applicable to the individual covered program. The applicant or participant shall be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable housing assistance program.

§ 200.1235 Criminal and civil penalties.

(a) *Criminal Penalties.* Any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this paragraph shall include an officer or employee of HUD and any owner (or employee of an owner) responsible for determining eligibility for or level of benefits.

(b) *Civil Penalties.* Any applicant or participant affected by:

(1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or

(2) Any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any owner (or employee of an owner) responsible for any such unauthorized action. Authorized use of employee income information includes any use of the information determined by HUD or an owner to be necessary for determining eligibility for or level of benefits in a covered program and not prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. Appropriate relief that may be ordered by the district court shall include reasonable attorney fees and other litigation costs.

§ 200.1240 Implementation.

(a) *Applicants.* The provisions of this part, and the conforming changes made with respect to consent forms in the regulations governing the programs referred to in § 200.1203 apply to all applicant eligibility determinations initiated on or after the effective date of this rule.

(b) *Participants.* The provisions of this part and the conforming changes made with respect to the execution of consent forms for participants in the regulations governing the programs referred to in § 200.1203 apply to:

(1) Each interim or regularly scheduled reexamination of the income of a participant initiated by the processing entity on or after the effective date of this rule; and

(2) Each such reexamination thereafter.

PART 215—RENT SUPPLEMENT PAYMENTS

3. The authority citation for part 215 would continue to read as follows:

Authority: Sec. 101(g), Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. In § 215.20, paragraph (b)(2) would be revised to read as follows:

§ 215.20 Qualified tenant.

* * * * *

(b) * * *

(2) For requirements covering the disclosure and verification of Social Security Numbers by individuals and families, see part 200, subpart T, of this chapter. For requirements covering the signing and submitting of consent forms by individuals and families, see part 200, subpart V, of this chapter.

* * * * *

5. Section 215.55 would be revised to read as follows:

§ 215.55 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and family composition of all Qualified Tenants at least once every 12 months. After consultation with the Qualified Tenant and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with § 215.45 and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Rent Supplement payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the Qualified Tenant to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter, and to sign and submit consent forms, as provided by part 200, subpart V, of this chapter.

(b) *Interim reexaminations.* The Qualified Tenant must comply with provisions in its lease regarding interim reporting of changes in income or family composition. If the owner receives information concerning a change in the Qualified Tenant's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the Qualified Tenant and make adjustments determined to be appropriate. Any change in the Qualified Tenant's income or other circumstances that would result in an adjustment in the Total Tenant Payment, Tenant Rent, and the Rent Supplement Payment must be verified. At the time of the interim reexamination, the owner must require the Qualified Tenant to sign and submit consent forms, as required by part 200, subpart V of this chapter. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers for interim reexaminations involving new family members.

(c) *Termination of assistance.* A Qualified Tenant's eligibility for Rent Supplement Payments continues until the Total Tenant Payment equals the Gross Rent. The rent charged at that point may not exceed the market rent approved by the Secretary. The termination of eligibility at such point will not affect the Qualified Tenant's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, assistance also may be terminated in accordance with any requirements of the lease or with HUD requirements, including the failure of the Qualified Tenant to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter, and the failure of the Qualified Tenant to sign and submit consent forms, as provided by part 200, subpart V of this chapter.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

6. The authority citation for part 221 would continue to read as follows:

Authority: Secs. 211, 221 National Housing Act (12 U.S.C. 1715b, 1715l; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 221.544(a)(3) is also issued under sec. 201(a), National Housing Act (12 U.S.C. 1707(a)).

7. In § 221.537, a new paragraph (f) would be added, to read as follows:

§ 221.537 Additional occupancy requirements; preferred purchasers or tenants.

* * * * *

(f) *Signing of Consent Forms for Income Verification.* Upon determining an individual's or family's eligibility for initial occupancy under paragraph (a) of this section, and at any subsequent reexamination of a tenant's income for continued occupancy under paragraph (b) of this section, the mortgagor must require the individual or family, or the tenant (as appropriate), to sign and submit consent forms as provided by part 200, subpart V, of this chapter. Failure of the individual or family, or the tenant (as appropriate), to meet such requirements will constitute grounds for denying its eligibility for initial occupancy, or for terminating its tenancy, in accordance with the Commissioner's administrative instructions and, if applicable, part 200, subpart V, of this chapter.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

8. The authority citation for part 236 would continue to read as follows:

Authority: Secs. 211, 236, National Housing Act (12 U.S.C. 1715b, 1715z–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. In § 236.70, paragraph (a)(1) would be revised to read as follows:

§ 236.70 Occupancy requirements.

(a)(1) In processing applications for admission, the housing owner will

(i) Establish to the satisfaction of the Commissioner that it qualifies as a group practice unit, as that term is defined in 24 CFR 244.1(c);

(ii) Meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by part 200, subpart U, of this chapter; and

(iii) Meet the requirements for the signing and submitting of consent forms as provided by part 200, subpart V, of this chapter.

* * * * *

10. Section 236.80 would be revised to read as follows:

§ 236.80 Reexamination of income.

(a) *Regular reexaminations.* The owner must reexamine the income and family composition of all Qualified Tenants at least once every 12 months. After consultation with the Qualified Tenant and upon verification of the information, the owner must make appropriate adjustments in the Tenant Rent (or Total Tenant Payment for tenants receiving the benefit of Rental Assistance Payments) in accordance with § 236.55 or § 236.735, and determine whether the Qualified Tenant's unit size is still appropriate. The owner must adjust Tenant Rent and the Rental Assistance Payment, if applicable, to reflect any change in Total Tenant Payment, and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to sign and submit consent forms, as provided by part 200, subpart V, of this chapter.

(b) *Interim reexaminations.* The Qualified Tenant must comply with provisions in its lease regarding interim reporting of changes in income or family composition. If the owner receives information concerning a change in the Qualified Tenant's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the Qualified Tenant and make adjustments determined to be appropriate. Any change in the Qualified Tenant's income or other circumstances that would result in an adjustment in the Rental Assistance Payment or Tenant Rent must be verified. At the time of the interim reexamination, the owner must require the Qualified Tenant to sign and submit consent forms, as required by part 200, subpart V of this chapter.

(c) *Termination of assistance.* A Qualified Tenant loses eligibility for assistance when the Tenant Rent (Total Tenant Payment for tenants receiving the benefit of Rental Assistance Payments) equals the Basic Rent (Gross Rent for RAP tenants). The termination of eligibility at such point will not affect the Qualified Tenant's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the contract. However, assistance or eligibility to pay below Market Rent also may be terminated in accordance with any requirements of the lease or with HUD requirements, including failure to sign consent forms, as provided by part 200, subpart V, of this chapter.

11. Section 236.710 would be revised to read as follows:

§ 236.710 Qualified tenant.

The benefits of rental assistance payments are available only to an individual or a family renting a dwelling unit in a project that is subject to a contract under this subpart or occupying such a dwelling unit as a cooperative member. To qualify for such benefits, the individual or family must satisfy the definition of Qualified Tenant found in § 236.2 of subpart A. In order to receive rental assistance under this Subpart, it must have been determined that the income of the individual or family is too low to permit the individual or family to pay the approved Gross Rent with 30 percent of such individual's or family's Adjusted Monthly Income, as defined in subpart A. For requirements concerning the signing and submitting of consent

forms, see part 200, subpart V, of this chapter.

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

12. The authority citation for Part 247 would continue to read as follows:

Authority: Sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); secs. 211, 221, 236, National Housing Act (12 U.S.C. 1715b, 1715*l*, 1715z–1); sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

13. In § 247.3, paragraph (c) would be revised to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

* * * * *

(c) *Material noncompliance.* The term "material noncompliance with the rental agreement" includes:

(1) One or more substantial violations of the rental agreement;

(2) Repeated minor violations of the rental agreement that:

(i) Disrupt the livability of the project,

(ii) Adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities,

(iii) Interfere with the management of the project, or

(iv) Have an adverse financial effect on the project;

(3) Failure of the tenant to timely supply all required information on the income and composition, or eligibility factors, of the tenant household (including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 200, subpart T, or 24 CFR part 750 (as appropriate), or failure to sign and submit consent forms, as provided by 24 CFR part 200, subpart V, or 24 CFR part 760 (as appropriate)) will constitute a substantial violation of the rental agreement; and

(4) Non-payment of rent or any other financial obligation due under the rental agreement (including any portion thereof) beyond any grace period under State law, except that the payment of rent or any other financial obligation due under the rental agreement after the due date, but within the grace period permitted under State law, constitutes a minor violation.

PART 290—MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

14. The authority citation for part 290 would continue to read as follows:

Authority: Secs. 202, 203, 204, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1b, 1701z–11, 1701z–12); secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

15. In § 290.17, a new paragraph (h) would be added, to read as follows:

§ 290.17 Rental rates during ownership by HUD.

* * * * *

(h) *Signing of consent forms for income verification.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the signing and submitting of consent forms, as provided by part 200, subpart V, of this chapter.

16. 24 CFR chapter VII would be amended by adding a new part 760, to read as follows:

PART 760—INCOME VERIFICATION PROCEDURES FOR APPLICANTS AND PARTICIPANTS IN HUD'S SECTION 8 AND PUBLIC HOUSING PROGRAMS

Subpart A—General

Sec.
760.1 Summary, purpose, and Federal preemption.
760.3 Applicability.
760.5 Definitions.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

760.10 Consent by applicants and participants.
760.15 Penalties for failing to sign consent forms.
760.20 Compliance with the Privacy Act and other requirements.
760.25 Request for wage and claim information from SWICA and restrictions on the use of the information.
760.30 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.
760.35 Criminal and civil penalties.

Subpart C—Implementation

760.40 Effective date of rule.

Authority: Sec. 904, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544), sec. 3, 6, 8, 205, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437f, 1437ee); sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 760.1 Summary, purpose, and Federal preemption.

(a) *Summary.* (1) This part implements section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ("McKinney Amendments") as it pertains to the section 8 Housing Assistance Payments program and the Public and Indian Housing programs. Section 904 is implemented for the assisted mortgage and loan insurance and related programs administered by HUD under 24 CFR chapter II, subchapter B, at 24 CFR part 200, subpart V.

(2) This part requires applicants and participants in the covered programs to sign consent forms authorizing:

(i) HUD, the PHA, or the owner to verify employee income information; and

(ii) HUD or the PHA to request a SWICA to release wage and claim information.

The failure of any person to sign these consent forms constitutes grounds for denial of eligibility, or termination of assistance or tenancy (or both), for the covered program.

(3) This part restricts the use of information received by HUD or a PHA from a SWICA to:

(i) Verifying an applicant's or participant's eligibility for or level of benefits; or

(ii) In the case of an owner, informing the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified.

This part prohibits termination, denial, suspension, or reduction of benefits without prior independent verification of wage and claim information obtained from a SWICA. The applicant or participant shall then be notified of any adverse findings and given an opportunity to contest them.

(4) This part provides criminal and civil penalties for certain wrongful or negligent actions under this part.

(b) *Purpose.* The purpose of this part is to enable HUD and PHAs to obtain employee income information and wage and claim information about applicants and participants in the covered programs in order to verify an applicant's or participant's eligibility for or level of benefits and help decrease the incidence of fraud, waste, and abuse in these programs.

(c) *Federal Preemption.* This part preempts any State law, including restrictions and penalties, which governs the collection and use of employee income information and wage and claim information to the extent it is inconsistent with this part.

§ 760.3 Applicability.

(a) *Information to be Covered by Consent Forms.* The information covered by consent forms described in this part involves employee income information, and wage and claim information from a SWICA. In addition, consent forms may authorize the collection of other information, including information which can be obtained under other laws, regulations, and handbooks.

(b) *Programs Covered.* This part applies to the following housing assistance programs contained in Chapters VIII and IX of this title:

(1) Part 880, Section 8 Housing Assistance Payments for New Construction.

(2) Part 881, Section 8 Housing Assistance Payments for Substantial Rehabilitation.

(3) Part 882, Section 8 Housing Assistance Payments Program for Housing Certificates and Moderate Rehabilitation.

(4) Part 883, Section 8 Housing Assistance Payments Program for State Housing Agencies.

(5) Part 884, Section 8 Housing Assistance Payments Program, New Construction Set-aside for Section 515 Rural Rental Housing Projects.

(6) Part 885, Loans for Housing for the Elderly or Handicapped.

(7) Part 886, Section 8 Housing Assistance Program Special Allocations (Subpart A, Loan Management, and Subpart C, Property Disposition).

(8) Part 887, Housing Vouchers.

(9) Part 900, Section 23 Housing Assistance Payments Program—New Construction and Substantial Rehabilitation.

(10) Part 904, Low Income Housing Homeownership Opportunities.

(11) Part 905, Indian Housing.

(12) Part 960, Admission to, and Occupancy of, Public Housing.

§ 760.5 Definitions.

As used in this part:

Applicant has the following meaning for the programs referred to in § 760.3:

(a) 24 CFR parts 880, 881, 882, 883, 884, 885, 886, 887 and 900: An applicant for assistance or participation, as appropriate, under the covered program.

(b) 24 CFR part 904: A prospective homebuyer.

(c) 24 CFR part 905: A prospective tenant or homebuyer under the program.

(d) 24 CFR part 960: A prospective tenant.

Claim information means information regarding:

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Computer match means the automated comparison of data bases containing records about individuals.

Computer matching agreement means the agreement which describes the responsibilities and obligations of the parties regarding a computer match.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

HUD means the United States Department of Housing and Urban Development.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant has the following meaning for the programs referred to in § 760.3.

(a) 24 CFR parts 880, 881, 882, 883, 884, 885, 886, 887, and 900: A family receiving assistance under the covered program.

(b) 24 CFR part 904: A homebuyer under the program.

(c) 24 CFR part 905: A tenant or homebuyer under the program.

(d) 24 CFR part 960: A tenant under the program.

Public Housing Agency (PHA) means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families under 24 CFR chapters VIII or IX. The term includes Indian housing authorities.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in 24 CFR 750.3.

State Wage Information Collection Agency (SWICA) means the SWICA, including any Indian tribal agency, receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

§ 760.10 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* The following individuals shall sign consent forms authorizing HUD, the PHA, or the owner to verify employee income information, and HUD or the PHA to request a SWICA to release wage and claim information:

(1) Each applicant under a program referred to in § 760.3, including each family head and spouse regardless of age, and every other member of the household of the applicant who is at least 18 years of age; and

(2) Each participant in a program referred to in § 760.3, including each family head and spouse regardless of age, and every other member of the participant's household who is at least 18 years of age.

(b) *Consent authorization: to whom and when—*

(1) Consent by applicants. Applicants shall sign the consent forms and submit them to the processing entity when their eligibility under a program referred to in § 760.3 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by members of their household.

(2) Initial consent by participants. If participation for a program referred to in § 760.3 was initiated before the effective date of the part, participants, including members of their family, shall sign and submit consent forms at the next regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by members of their households.

(3) Subsequent consent forms to be signed at each regularly scheduled income reexamination by participants who have signed initial consent forms.

§ 760.15 Penalties for failing to sign consent forms.

(a) *Denial or termination of assistance or tenancy.* If any person who is required to sign a consent form described in this part fails to do so within 10 days after receiving a request to do so, the PHA or owner shall deny or terminate assistance or tenancy (or both), for the covered program.

(b) *Notice and opportunity for hearing.* The PHA or owner shall provide the person with written notice of the proposed denial or termination of assistance or tenancy, and a brief statement of the reasons for the proposed denial or termination. The notice shall offer the person an opportunity to request a hearing before a final action is taken.

§ 760.20 Compliance with the Privacy Act and other requirements.

Compliance with the Privacy Act. The

§ 760.30 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Computer match means the automated comparison of data bases containing records about individuals.

Computer matching agreement means the agreement which describes the responsibilities and obligations of the parties regarding a computer match.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

HUD means the United States Department of Housing and Urban Development.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant has the following meaning for the programs referred to in § 760.3.

(a) 24 CFR parts 880, 881, 882, 883, 884, 885, 886, 887, and 900: A family receiving assistance under the covered program.

(b) 24 CFR part 904: A homebuyer under the program.

(c) 24 CFR part 905: A tenant or homebuyer under the program.

(d) 24 CFR part 960: A tenant under the program.

Public Housing Agency (PHA) means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families under 24 CFR chapters VIII or IX. The term includes Indian housing authorities.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in 24 CFR 750.3.

State Wage Information Collection Agency (SWICA) means the SWICA, including any Indian tribal agency, receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

§ 760.10 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* The following individuals shall sign consent forms authorizing HUD, the PHA, or the owner to verify employee income information, and HUD or the PHA to request a SWICA to release wage and claim information:

(1) Each applicant under a program referred to in § 760.3, including each family head and spouse regardless of age, and every other member of the household of the applicant who is at least 18 years of age; and

(2) Each participant in a program referred to in § 760.3, including each family head and spouse regardless of age, and every other member of the participant's household who is at least 18 years of age.

(b) *Consent authorization: to whom and when—*

(1) Consent by applicants. Applicants shall sign the consent forms and submit them to the processing entity when their eligibility under a program referred to in § 760.3 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by members of their household.

(2) Initial consent by participants. If participation for a program referred to in § 760.3 was initiated before the effective date of the part, participants, including members of their family, shall sign and submit consent forms at the next regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by members of their households.

her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and

independently verify wage and claim information obtained from a SWICA by checking the accuracy of the information with the applicant or participant

prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the

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(3) Subsequent consent forms to be signed at each regularly scheduled income reexamination by participants who have signed initial consent forms under this section. Once a participant has submitted signed consent forms as an applicant or as a preexisting participant, subsequent consent forms are required to be signed and submitted at each regularly scheduled income reexamination.

(4) Subsequent consent forms to be signed at the next interim or regularly scheduled income reexamination—special cases. Consent forms are required under the following circumstances:

(i) Where there has been a change in the composition of the participant's family, any new member of the family shall sign and submit a consent form at the next interim or regularly scheduled income reexamination;

(ii) When a member of a family turns 18 years of age, that member shall sign and submit a consent form at the next interim or regularly scheduled reexamination; and

(iii) Such other circumstances as HUD (and in the case of the Public Housing program, or the Section 8 Certificate, Housing Voucher, or Moderate Rehabilitation program, the PHA) may prescribe in administrative instructions.

§ 760.15 Penalties for failing to sign consent forms.

(a) *Denial of Eligibility.* The processing entity shall deny the eligibility of an applicant, in accordance with the provisions governing the program involved, if the applicant, or any member of the applicant's household, does not sign and submit the consent forms as required in § 760.10.

(b) *Termination of assistance or tenancy.* It shall be considered grounds for termination of assistance, and (if provided by the individual program covered by this part) the tenancy of a participant, in accordance with the provisions governing the program involved, if the participant, or any member of the participant's household, fails to sign and submit the consent forms as required in § 760.10.

(c) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs referred to in § 760.3 for further information on the use of employee income information and wage and claim information in determining the eligibility of applicants and the continued eligibility of participants.

§ 760.20 Compliance with the Privacy Act and other requirements.

Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of employee income information and wage and claim information under this part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

§ 760.25 Request for wage and claim information from SWICA and restrictions on the use of the information.

(a) *Information Available from SWICA—to whom and what.* HUD or the PHA may, after signed consent forms have been submitted to the processing entity by an applicant or participant, request wage and claim information from a SWICA. Regulations prescribed by the Secretary of Labor govern how often and in what form information may be disclosed by a SWICA. Wage and claim information will generally be obtained through computer matching agreements between HUD or a PHA and a SWICA, as described in paragraph (c) of this section.

(b) *Restrictions on Use of Wage and Claim Information Obtained from SWICA.* HUD or a PHA may only use wage and claim information obtained from a SWICA:

(1) To verify an applicant's or participant's eligibility for or level of benefits; or

(2) In the case of an owner, to inform the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified.

(c) *Computer Matching Agreements between PHAs and SWICA.* Before entering into a computer matching agreement with a SWICA for wage and claim information, the PHA shall submit the agreement to HUD for review and approval. Computer matching agreements shall specify, among other things, the purpose and the legal authority for the match, a description of the records to be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of records, duplication and redisclosure restrictions, and the amount a SWICA will charge HUD or a PHA for processing a request.

§ 760.30 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.

(a) *Termination, Denial, Suspension, or Reduction of Benefits.* A Federal, State, or local agency, a PHA or an owner may terminate, deny, suspend, or reduce any benefits of an applicant or participant based on wage and claim information obtained from a SWICA if:

(1) The agency or owner has taken the steps contained in paragraph (b) to independently verify wage and claim information relating to—

(i) The amount of the wages or unemployment compensation involved;

(ii) whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use; and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received the wages or benefits; and

(2) the applicant or participant has been given an opportunity to contest any adverse findings in accordance with paragraph (c) of this section.

(b) *Procedures for Independent Verification.*

(1) *Where HUD or a PHA is responsible for determining eligibility for or level of benefits.* The following procedure constitutes independent verification for purposes of paragraph (a) of this section where a PHA is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program.

(i) Where HUD receives wage and claim information from a SWICA, HUD shall compare the information with applicant and participant information about a family's income provided by the PHA to HUD. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD shall have the PHA request the undisclosed employer or other employer to furnish in writing to the PHA any information necessary to establish an applicant's or participant's eligibility for or level of benefits in a covered program. Neither HUD nor the PHA may disclose wage and claim information to an owner.

(ii) Where a PHA receives wage and claim information from a SWICA, the PHA shall compare the information with applicant and participant information about a family's income provided by the applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, the PHA shall request the undisclosed employer or other employer to furnish in writing to the PHA any information necessary to establish an applicant's or participant's eligibility for or level of benefits in a covered program. Neither HUD nor the PHA may disclose wage and claim information to an owner.

(2) *Where an owner is responsible for determining eligibility for or level of benefits.* The following procedure constitutes independent verification for purposes of paragraph (a) of this section if an owner is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program. Upon receiving wage and claim information from a SWICA, HUD or the PHA, as applicable, shall compare the wage and claim information with the information about a family's income obtained by the owner from the applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD or the PHA shall request the undisclosed employer or other employer to furnish in writing to the owner any information HUD or the PHA determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of benefits in a covered program. Based on the wage and claim information, HUD or the PHA may inform an owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. The owner shall then reverify the applicant's or participant income information by checking the accuracy of the information with the employer or directly with the family. However, before any benefits are terminated, denied, suspended, or reduced, HUD or the PHA shall independently verify the wage and claim data obtained from a SWICA as described in this paragraph. Neither HUD nor the PHA may disclose wage and claim information to an owner.

(3) *Verification by Applicant or Participant.* Where independent verification cannot be obtained from any other source, HUD or a PHA may independently verify wage and claim information obtained from a SWICA by checking the accuracy of the information with the applicant or participant directly.

(c) *Opportunity to Contest.* HUD, the PHA, or the owner shall promptly notify any applicant or participant in writing of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. Termination, denial, suspension, or reduction of benefits shall be determined according to the standards, including income standards, applicable to each individual program. The applicant or participant shall be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable housing assistance program.

§ 760.35 Criminal and civil penalties.

(a) *Criminal Penalties.* Any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this paragraph shall include an officer or employee of HUD, an officer or employee of any PHA, and any owner (or employee of an owner) responsible for determining eligibility for or level of benefits.

(b) *Civil Penalties.* Any applicant or participant affected by:

(1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act, about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or

(2) Any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any PHA or owner (or employee of an owner) responsible for any such unauthorized action. Authorized use of employee income information includes any use of the information determined by HUD, a PHA, or an owner to be necessary for determining eligibility for or level of benefits in a covered program and not prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. Appropriate relief that may be ordered by the district court shall include reasonable attorney fees and other litigation costs.

Subpart C—Implementation

§ 760.40 Effective date of rule.

(a) *Applicants.* The provisions of this part, and the conforming changes made with respect to consent forms in the regulations governing the programs referred to in § 760.3, apply to all applicant eligibility determinations initiated on or after the effective date of this rule.

(b) *Participants.* The provisions of this part, and the conforming changes made with respect to the execution of income verification consent forms for participants in the regulations governing the programs referred to in § 760.3, apply to:

(1) Each interim or regularly scheduled reexamination of the income of a participant initiated by the processing entity on or after the effective date of the rule; and

(2) Each such reexamination thereafter.

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AND RELATED PROGRAMS

17. This authority citation for part 813 would continue to read as follows:

Authority: Secs. 3, 5(b), 8, 18, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, 1437n); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

18. In § 813.109, paragraph (a) would be revised to read as follows:

§ 813.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The owner or PHA shall be responsible for determination of eligibility for admission; for determination of Annual Income, Adjusted Income and Total Tenant Payment; and for reexamination of Family income and composition at least annually, as provided in pertinent

program regulations and handbooks (see, *e.g.*, part 880, subpart F and part 881, subpart F which for purposes of this part shall apply (as appropriate) to projects developed under 24 CFR part 885, subpart B; 24 CFR part 882, subparts B and E; 24 CFR part 883, subpart C; 24 CFR part 884, subpart B; 24 CFR part 885, subpart C; 24 CFR part 886, subpart A and C; 24 CFR part 887, subpart H; 24 CFR part 750 for the disclosure and verification of Social Security Numbers; and 24 CFR part 760 for the signing and submission of consent forms). As used in this Part, the "effective date" of an examination or reexamination refers to

(1) In the case of an examination for admission, the effective date of initial occupancy; and

(2) In the case of a reexamination of an existing tenant, the effective date of the redetermined housing assistance payment with respect to the Housing Voucher program (24 CFR part 887) and the effective date of the redetermined Total Tenant Payment.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

19. The authority citation for 24 CFR Part 880 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

20. In § 880.601, paragraph (b) would be revised to read as follows:

§ 880.601 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 880.613, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms from families (as provided by 24 CFR part 760), reexamination of family income, evictions and other terminations of tenancy, and collection of rents and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

21. In § 880.603, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), would be revised to read as follows:

§ 880.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal selection preference in accordance with § 880.613.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because of failure by an applicant to sign and submit consent forms (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference under § 880.613 are contained in paragraph (k) of that section.

* * * * *

(c) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least every 12 months. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

22. In § 880.607, paragraph (b)(3) would be revised to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the

building or have an adverse financial effect on the building.

Failure of the family to timely submit all required information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, failure to sign and submit consent forms, as provided by 24 CFR part 760, or knowingly providing incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

23. The authority citation for part 881 would be revised to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

24. In § 881.601, paragraph (b) would continue to read as follows:

§ 881.601 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 881.613, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms from families (as provided by 24 CFR part 760), reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

25. In § 881.603, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), would be revised to read as follows:

§ 881.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal selection preference in accordance with § 881.613.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because the applicant fails to sign and submit consent forms (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference under § 881.613 are contained in paragraph (k) of that section.

* * * * *

(c) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in income between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

26. In § 880.607, paragraph (b)(3) would be revised to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building; or have an adverse financial effect on the building. Failure of the family to timely submit all required

information on family income and composition or eligibility factors (including failure to disclose and verify

29. In § 882.118, paragraph (a)(1) would be revised to read as follows:

§ 882.118 Obligations of the Family.

the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as

for determining income eligibility and the amount of the assistance payments. The PHA is also responsible for giving a Federal selection preference in

HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification

because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because of failure to

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information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers (as provided by 24 CFR part 750), failure to sign and submit consent forms (as provided by 24 CFR part 760), or knowingly provide incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

27. The authority citation for part 882 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

28. In § 882.116, paragraphs (c) and (m) would be revised to read as follows:

§ 882.116 Responsibilities of the PHA.

* * * * *

(c) Receipt and review of applications for Certificates of Family Participation; provision of a Federal preference in selecting applicants for participation in accordance with § 882.219; verification of family income and other factors relating to eligibility and amount of assistance (including obtaining and verifying Social Security Numbers submitted by families, as provided by 24 CFR part 750, and requiring families to sign and submit consent forms, as provided by 24 CFR part 760); and maintenance of a waiting list in accordance with this part;

* * * * *

(m) Reexamination of family income, composition, and extent of medical or child care expenses; redeterminations, as appropriate, of the amount of Total Tenant Payment and amount of housing assistance payment in accordance with part 813 of this chapter; obtaining and verifying Social Security Numbers submitted by families, as provided by 24 CFR part 750; and requiring families to sign and submit consent forms, as provided by 24 CFR part 760;

* * * * *

29. In § 882.118, paragraph (a)(1) would be revised to read as follows:

§ 882.118 Obligations of the Family.

(a) The family must:

(1) Supply such certification, release, information, or documentation as the PHA or HUD determine to be necessary, including the submission of Social Security Numbers and verifying documentation (as provided by 24 CFR part 750), the submission of signed consent forms (as provided by 24 CFR part 760), and submissions required for an annual or interim reexamination of family income and composition.

* * * * *

30. In § 882.209, paragraph (a)(2) would be revised to read as follows:

§ 882.209 Selection and participation.

(a) * * *

(2) The PHA must determine whether an applicant for participation:

(i) Qualifies as a family;

(ii) Has disclosed and verified Social Security Numbers, as provided by 24 CFR part 750;

(iii) Has signed and submitted consent forms, as provided by 24 CFR part 760; and

(iv) Is income-eligible.

* * * * *

31. In § 882.210, new paragraph (e) would be added:

§ 882.210 Grounds for denial or termination of assistance.

* * * * *

(e) The PHA shall deny the eligibility of an applicant, if the applicant, or any member of the applicant's household does not sign and submit consent forms as provided by 24 CFR 760. It shall be considered grounds for termination of assistance, if the participant, or any member of the participant's household fails to sign and submit consent forms, as provided by 24 CFR 760.

32. In § 882.212, paragraphs (a), (b), and (c) would be revised to read as follows:

§ 882.212 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

* * * * *

33. In § 882.514, paragraph (a)(1) would be revised to read as follows:

§ 882.514 Family participation.

(a) *Initial determination of family eligibility.* (1) The PHA is responsible for receipt and review of applications, and determination of family eligibility for participation in accordance with HUD regulations (see 24 CFR parts 812 and 813, and 24 CFR parts 750 and 760). The PHA is responsible for verifying the sources and amount of the family's income and other information necessary

for determining income eligibility and the amount of the assistance payments. The PHA is also responsible for giving a Federal selection preference in accordance with § 822.517.

* * * * *

34. Section 882.515 would be revised to read as follows:

§ 882.515 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

35. The authority citation for Part 883 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

36. In § 883.702, paragraph (b) would be revised to read as follows:

§ 883.702 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 883.714, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms (as provided by 24 CFR part 760), reexamination of family income, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

37. In § 883.704, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), would be revised to read as follows:

§ 883.704 Selection and admission of tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal preference in accordance with § 883.714.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because of failure to sign and submit consent forms (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request a review by the Agency and HUD of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference are contained in § 883.714(k).

* * * * *

(c) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or

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other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR

due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

§ 884.216 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

43. The authority citation for part 885 would continue to read as follows:

scheduled reexaminations, the Borrower must consult with the family and make any adjustments determined to be appropriate. At the time of the interim

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other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

36. In § 883.706, paragraph (b)(3) would be revised to read as follows:

§ 883.706 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building; or have an adverse financial effect on the building or project. Failure of the family to timely submit all required information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, failure to sign and submit consent forms, as provided by 24 CFR part 760, or knowingly provide incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

39. The authority citation for part 884 would continue to read as follows:

Authority: Secs. 3, 5, 6, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

40. In § 884.116, paragraphs (a)(3) and (a)(7) would be revised to read as follows:

§ 884.116 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families, including verification of income, provision of federal selection preferences in accordance with § 884.226, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 750), obtaining signed consent forms from applicants (as provided by 24 CFR part 760), and other pertinent requirements; and determination of eligibility and amount of tenant rent in accordance with HUD-established schedules and criteria.

* * * * *

(7) Reexamination of family income and composition; redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 813; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 750; and obtaining signed consent forms from participants, as provided by 24 CFR part 760.

* * * * *

41. Section 884.216 would be revised to read as follows:

§ 884.216 Termination of tenancy.

The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies must be as set forth in § 884.108(c)(1). Failure of the family to sign and submit consent forms, as provided by 24 CFR part 760, shall be grounds for termination of tenancy.

42. Section 884.218 would be revised to read as follows:

§ 884.218 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions of its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent, or until the family loses eligibility for continued occupancy under Farmer's Home Administration regulations. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

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PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

43. The authority citation for part 885 would continue to read as follows:

Authority: Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 8, United States Housing Act of 1937 (42 U.S.C. 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

44. In § 885.950, paragraphs (a) and (c) would be revised to read as follows:

§ 885.950 Selection and admission of tenants.

(a) *Application for admission.* The Borrower must accept applications for admission to the project in the form prescribed by HUD. Applicant families applying for assisted units (or residential spaces in a group home) must complete a certification of eligibility as part of the application for admission. Applicant families must meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750. Applicant families must sign and submit consent forms, as provided by 24 CFR part 760. Both the Borrower and the applicant family must complete and sign the application for admission. On request, the Borrower must furnish copies of all applications for admission to HUD.

* * * * *

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* If the family occupies an assisted unit (or residential space in a group home), the Borrower must reexamine the income and composition of the family at least every 12 months. Upon verification of the information, the Borrower shall make appropriate adjustments in the Total Tenant Payment in accordance with 24 CFR part 813, as modified by § 885.5 and determine whether the family's unit size is still appropriate. The Borrower must adjust Tenant Rent and the Project Assistance Payment and must carry out any unit transfer in accordance with HUD standards. At the time of the annual reexamination of family income and composition, the Borrower must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* If the family occupies an assisted unit (or residential space in a group home) the family must comply with provisions in the lease regarding interim reporting of changes in income. If the Borrower receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Borrower must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Borrower must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Project Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of project assistance payment.* (i) A family occupying an assisted unit (or residential space in a group home) shall remain eligible for Project Assistance Payment until the Total Tenant Payment equals or exceeds the Gross Rent (or a pro rata share of the Gross Rent in a group home). The termination of subsidy eligibility will not affect the family's other rights under its lease. Project Assistance Payment may be resumed if, as a result of changes in income, rent or other relevant circumstances during the term of the PAC, the family meets the income eligibility requirements of 24 CFR part 813 (as modified in § 885.5) and project assistance is available for the unit or residential space under the terms of the PAC. The family will not be required to establish its eligibility for admission to the project under the remaining requirements of paragraph (b) of this section.

(ii) A family's eligibility for Project Assistance Payment also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750) or failure to sign and submit consent forms (as provided by 24 CFR part 760).

45. In § 885.955, paragraph (a)(2) would be revised to read as follows:

§ 885.955 Obligations of the family.

(a) * * *

(2) Supply such certification, release, information or documentation as the Borrower or HUD determines to be necessary, including information relating to the disclosure and verification of Social Security Numbers, as provided by 24 CFR part 750, and the signing and submission of consent forms, as provided by 24 CFR part 760.

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

46. The authority citation for part 886 would continue to read as follows:

Authority: Sections 3, 5, and 6, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

47. In § 886.119, paragraphs (a)(3) and (7) would be revised to read as follows:

§ 886.119 Responsibilities of owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families, verification of income, provision of Federal selection preferences in accordance with § 886.132, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 750), obtaining signed consent forms from applicants (as provided by 24 CFR part 760), and other pertinent requirements; and determination of eligibility and amount of Tenant Rent in accordance with part 813 of this chapter.

* * * * *

(7) Reexamination of family income and composition, redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with Part 813; collection of rent; obtaining and verifying participant Social Security Numbers, as provided by 24 CFR part 750; and obtaining signed consent forms from participants, as provided by 24 CFR part 760.

* * * * *

48. Section 886.124 would be revised to read as follows:

§ 886.124 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign

and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the Family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Owner must require the Family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A Family's eligibility for housing assistance payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with program requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

49. In § 886.318, paragraphs (a)(3) and (a)(6) would be revised to read as follows:

§ 886.318 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families in accordance with the owner's tenant selection factors approved by HUD and the Federal preferences in accordance with § 886.337; obtaining and verifying Social Security Numbers submitted by applicants, as provided by 24 CFR part 750; obtaining signed consent forms from applicants, as provided by 24 CFR part 760; verification of income and other pertinent requirements; and determination of eligibility and amount of tenant rent in accordance with part 813 of this chapter;

* * * * *

(6) Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses; redeterminations, as appropriate, of the amount of Tenant Rent and amount of housing assistance payment in accordance with part 813 of the chapter; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 750; and obtaining signed consent forms from participants, as provided by 24 CFR part 760.

* * * * *

50. Section 886.324 would be revised to read as follows:

§ 886.324 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

PART 887—HOUSING VOUCHERS

51. The authority citation for part 887 would continue to read as follows:

Authority: Secs. 3, 5, 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

52. In § 887.105, paragraph (b)(1) is revised to read as follows:

§ 887.105 PHA responsibilities.

* * * * *

(b) * * *

(1) Publish and disseminate information concerning the availability and nature of housing assistance for lower income families (see § 887.107); invite owners to make units available for leasing in the program and develop working relationships with real estate associations and other appropriate groups (see § 887.109); explain program procedures to owners, including those who have been approached by housing voucher holders; obtain and verify Social Security Numbers submitted by families, as provided by 24 CFR part 750; obtain signed consent forms from families, as provided by 24 CFR part 760; comply with equal opportunity requirements, including efforts to provide opportunities for recipients to seek housing outside areas of economic and racial concentration.

* * * * *

53. In section 887.355, paragraph (a) would be revised to read as follows:

§ 887.355 Regular reexamination of family income and composition.

(a) The PHA must reexamine family income and family size and composition at least annually, and in accordance with Part 813 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

* * * * *

54. Section 887.357 would be revised to read as follows:

§ 887.357 Interim reexamination of family income and composition.

A family may request a redetermination of the housing assistance payment at any time, based on a change in the family's income, adjusted income, size or composition. At the time of interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

55. In § 887.401, paragraph (a)(1) would be revised to read as follows:

§ 887.401 Family responsibilities.

(a) * * *

(1) Supply any certificate, release, information, or documentation that the PHA or HUD determines to be necessary in the administration of the program (including the disclosure and verification of Social Security Numbers (as provided by 24 CFR part 750) and the signing and submitting of consent forms (as provided by 24 CFR part 760)), and other information required for use by the PHA in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements;

* * * * *

56. In § 887.403, new paragraph (d) would be added:

§ 887.403 Grounds for PHA denial or termination of assistance.

* * * * *

(d) *Requirement to sign consent forms.* The PHA must deny eligibility of applicant's admission to participate in the Housing Voucher program, if the applicant, or any member of the applicant's household, does not sign and submit the consent forms, as provided by 24 CFR part 760. With respect to a current participant a PHA may terminate housing voucher assistance payments, refuse to issue another housing voucher for a move to another unit, approve a new lease, or execute a new housing voucher contract, if the participant, or any member of the participant's household, fails to sign and submit consent forms, as provided by 24 CFR part 760.

PART 900—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

57. The authority citation for Part 900 would continue to read as follows:

Authority: Sec. 10(b), United States Housing Act, of 1937 (42 U.S.C. 1410(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

58. In section 900.103, paragraphs (i) and (j) would be revised to read as follows:

§ 900.103 Basic policies.

* * * * *

(i) *Responsibilities of the LHA.* The LHA is responsible for determining family eligibility for assistance in accordance with provisions of 24 CFR parts 912 and 913, and family eligibility and continuing eligibility for assistance in accordance with 24 CFR parts 750 and 760; determining the amount of adjusted income, the amount of rent payable by the family, and housing assistance payments in accordance with 24 CFR part 913; issuing Certificates of Family Participation to eligible families; notifying families determined eligible; approving owner-family leases; making housing assistance payments on behalf of eligible families; reexamining family eligibility at least annually; inspecting units before leasing, and at least annually thereafter, to determine that the units are maintained in decent, safe and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); authorizing evictions; and complying with equal opportunity requirements. The LHA must provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination, in an affirmative manner to further the policies of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

(j) *Responsibilities of the family.* A family receiving housing assistance under this program is responsible for fulfilling all its obligations under both the lease with the owner and the Certificate of Family Participation issued to it by the LHA: for cooperating with reexamination requirements; for disclosing and verifying Social Security Numbers, as provided by 24 CFR part 750; and for signing and submitting consent forms at the time that the family's eligibility is determined and at the time of any interim or regularly scheduled income reexamination, as provided by 24 CFR part 760.

* * * * *

59. In § 900.202, paragraphs (d)(3) and (f)(2)(iii) would be revised to read as follows:

§ 900.202 Project operation.

* * * * *

(d) * * *

(3) That the request cannot be approved because the family is not eligible (including ineligibility caused by the family's failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760), or the dwelling unit or the proposed lease does not meet program requirements.

* * * * *

(f) * * *

(2) * * *

(iii) The LHA determines that the family continues to be eligible for such assistance (including continued eligibility under 24 CFR parts 750 and 760).

* * * * *

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

60. The authority citation for part 904 would continue to read as follows:

Authority: United States Housing Act of 1937 (42 U.S.C. 1437–1437(r); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

61. In section 904.104, paragraph (c) would be revised to read as follows:

§ 904.104 Eligibility and selection of homebuyers.

* * * * *

(c) *Determination of eligibility and preparation of list.* The LHA, without participation of a recommending committee (see paragraph (e)(1) of this section), must determine the eligibility of each applicant family in respect to the income limits for the development (including the requirement that the applicant family disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and sign and submit consent forms, as provided by 24 CFR part 760), and must then assign each eligible applicant its appropriate place on a waiting list for the development, in sequence based upon the date of the application, suitable type or size of unit, qualification for a Federal preference in accordance with § 904.122, and factors affecting preference or priority established by the LHA's regulations. Notwithstanding the fact that the LHA

may not be accepting additional applications because of the length of the waiting list, the LHA may not refuse to place an applicant on the waiting list if

Housing and Urban Development Act (42 U.S.C. 3535(d)).

64. In § 905.302, a new paragraph (b)(2)(vi) would be added, to read as

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

68. The authority citation for 24 CFR

between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be

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may not be accepting additional applications because of the length of the waiting list, the LHA may not refuse to place an applicant on the waiting list if the applicant is otherwise eligible for participation and claims that he or she qualifies for a Federal preference as provided in § 904.122(c)(2), unless the LHA determines, on the basis of the number of applicants who are already on the waiting list and who claim a Federal preference, and the anticipated number of admissions to housing under Turnkey III, that—

(1) There is an adequate pool of applicants who are likely to qualify for a Federal preference, and

(2) It is unlikely that, on the basis of the LHA's system for applying the Federal preferences, the preference or preferences that the applicant claims, and the preferences claimed by applicants on the waiting list, the applicant would qualify for admission before other applicants on the waiting list.

* * * * *

62. In § 904.107, paragraph (m)(1) would be revised to read as follows:

§ 904.107 Responsibilities of homebuyer.

* * * * *

(m) *Termination by LHA.* (1) If the homebuyer breaches the Homebuyers Ownership Opportunity Agreement by failure to make the required monthly payment within 10 days after its due date, by misrepresentation or withholding of information (including the failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or the failure to sign and submit consent forms as provided by 24 CFR part 760) in applying for admission or in connection with any subsequent reexamination of income and family composition, or by failure to comply with any of the other homebuyer obligations under the Agreement, the LHA may terminate the Agreement. No termination under this paragraph may occur less than 30 days after the LHA gives the homebuyer notice of its intent to do so in accordance with paragraph (m)(3) of this section.

* * * * *

PART 905—INDIAN HOUSING

63. The authority citation for 24 CFR Part 905 would continue to read as follows:

Authority: Secs. 201, 202, 203, 205, United States Housing Act of 1937 (42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee); sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

64. In § 905.302, a new paragraph (b)(2)(vi) would be added, to read as follows:

§ 905.302 Admission policies.

* * * * *

(b) * * *

(2) * * *

(vi) To achieve compliance with 24 CFR part 760, which requires applicants and participants to sign and submit consent forms at the time eligibility is determined and at later income reexaminations.

65. In § 905.406, a new paragraph (a)(4) would be added to read as follows:

§ 905.406 Selection of MH homebuyers.

(a) * * *

(4) All admissions under this part are subject to the signing and submission of consent form requirements, as provided by 24 CFR part 760.

* * * * *

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS

66. The authority citation for part 913 would continue to read as follows:

Authority: Secs. 3, 6, 16, 201, 202, 203, 205, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437n, 1427aa, 1437bb, 1437cc, 1437ee); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

67. In § 913.109, paragraph (a) would be revised to read as follows:

§ 913.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The PHA is responsible for determination of eligibility for admission; for determination of Annual Income, Adjusted Income and Total Tenant Payment, and for reexamination of family income and composition at least annually, as provided in pertinent program regulations and handbooks (24 CFR part 960, Subpart B, and 24 CFR parts 750 and 760). As used in this part, the "effective date" of an examination or reexamination refers to:

(1) In the case of an examination for admission, the effective date of initial occupancy, and

(2) In the case of a reexamination of an existing tenant, the effective date of the redetermined Total Tenant Payment.

* * * * *

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

68. The authority citation for 24 CFR part 960 would continue to read as follows:

Authority: Secs. 3, 5, 6, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437d, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

69. In § 960.204, paragraph (c)(5) would be revised to read as follows:

§ 960.204 PHA tenant selection policies.

* * * * *

(c) * * *

(5) Be in compliance with State, local and Federal laws and regulations, including the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, the provisions of the ACC, and 24 CFR parts 750 and 760.

* * * * *

70. In § 960.206, paragraph (a) would be revised to read as follows:

§ 960.206 Verification procedures.

(a) *General.* Adequate procedures must be developed to obtain and verify information with respect to each applicant. (See part 913 of this chapter and 24 CFR parts 750 and 760.) Information relative to the acceptance or rejection of an applicant or the grant or denial of a Federal preference under section 960.211, must be documented and placed in the applicant's file.

* * * * *

71. Section 960.209 would be revised to read as follows:

§ 960.209 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all tenant families at least once every 12 months and determine whether the family's unit size is still appropriate. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment and Tenant Rent in accordance with part 913 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances

between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in adjustment in the Total Tenant Payment or Tenant Rent must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

* * * * *

Dated: August 22, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-25285 Filed 11-02-89; 8:45 am]

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Part III

Department of Education

34 CFR Part 668
Student Assistance General Provisions; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840-AB19

HEA program training offered by the Secretary. This change applies to any institution applying for participation in a title IV, HEA program for the first time. There is only one significant change

eligible to participate in the Pell Grant Program but is seeking to participate in a campus-based program would have to send staff for the training.

Discussion: The Secretary is

that training as employees of other institutions. The commenters suggested that an institution be exempted from the training requirement if the appropriate individuals received such training at a

discrimination. Another commenter stated that only the individual responsible for administering the title IV, HEA program in which the institution has applied to participate

administering the title IV, HEA programs at an institution should also be required to agree to complete training offered by any guarantee agency that guarantees loans authorized under part

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DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840-AB18

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends § 668.12 of the Student Assistance General Provisions regulations. These amendments help implement the Secretary's initiative to reduce the potential for abuse in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). They require that certain officials of educational institutions seeking to begin participation in a title IV, HEA program for the first time complete appropriate training provided by the Secretary.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. A document announcing the effective date will be published in the Federal Register. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Ms. Sibyl K. Bowie, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 4318), Washington, DC 20202. Telephone number: (202) 732-4888.

SUPPLEMENTARY INFORMATION: On March 17, 1989, the Secretary published a notice of proposed rulemaking for the regulations governing Institutional Eligibility under the HEA and the Student Assistance General Provisions regulations in the Federal Register (54 FR 11354-11358). These final regulations are being published separately from the final regulations corresponding to other provisions in the NPRM so that they will be effective for the 1989-90 award year. Final regulations corresponding to other provisions contained in the NPRM will be published at a later date.

These final regulations require that in order for an institution to begin participation in a title IV, HEA program, both (1) the institution's chief administrator or, except for a for-profit institution, another administrative official designated by the chief administrator, and (2) the designated individual who will be responsible for administering that title IV, HEA program at that institution must complete title IV. HEA program training offered by the Secretary. This change applies to any institution applying for participation in a title IV, HEA program for the first time. There is only one significant change between the NPRM and these final regulations, based upon public response to the proposed regulations in the NPRM. The regulations have been modified to provide that if either one of the two individuals designated under § 668.12(a)(1)(ii) of the Student Assistance General Provisions has previously completed title IV, HEA program training offered by the Secretary, the institution may elect to request an on-site certification review instead of requiring that individual to complete again the title IV, HEA program training.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, twenty-one parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject.

Support of Training Requirement

Comments: Most commenters supported the Secretary's initiative to reduce the potential for abuse in the student aid programs administered by the Department of Education by requiring certain institutional officials to complete training offered by the Secretary prior to participation in a new title IV, HEA program. However, one commenter stated that the training requirement was time consuming and costly, adding that requiring an institution to complete training each time the institution wishes to begin participation in a program seems inefficient.

Discussion: The Secretary appreciates the positive response from the commenters and believes that the merit of the knowledge to be gained by the training will far outweigh the factors of additional time and financial costs that may be incurred by institutions.

Changes: None.

Clarification of Training Requirement

Comment: One commenter suggested that the training be required only in the case of an institution applying for initial participation in the title IV, HEA programs, but not for an institution that has participated in one title IV, HEA program and is seeking to begin participation in another. Another commenter asked for clarification on whether an institution that is currently eligible to participate in the Pell Grant Program but is seeking to participate in a campus-based program would have to send staff for the training.

Discussion: The Secretary is concerned that many institutional personnel that have not previously participated in a specific title IV, HEA program may lack experience and adequate knowledge concerning the administration of that program. The Secretary believes that the requirement that certain institutional administrators complete training offered by the Secretary will ensure that the institution will have knowledgeable personnel to properly administer the title IV, HEA programs. Further, the Secretary recognizes the similarities that exist among the campus-based programs and believes that the personnel of an institution participating in one campus-based program can acquire the knowledge and proficiency to administer another campus-based program without completing additional training. However, since there are major differences among the Pell Grant Program, the campus-based programs, and the title IV, part B programs [Stafford Loan (formerly Guaranteed Student Loan (GSL)), Supplemental Loans for Students (SLS), and PLUS] an institution participating, for example, only in the Pell Grant Program must satisfy the training requirement in order to begin participation in one of the campus-based programs. If the institution would like to begin participation in the Stafford Loan, SLS, and PLUS programs at a later date, that institution must also satisfy the training requirement for those programs because of the major differences in administration of those programs as compared with the Pell Grant Program.

Changes: Paragraph (a)(2) has been modified to allow institutions participating in one campus-based program to begin participation in another campus-based program without additional training. Another modification to paragraph (a)(2) reflects the fact that an institution that participates in one of the programs authorized under part B of title IV of the HEA is considered to be a participant in all of the programs authorized under part B.

Duplication of Effort

Comments: Two commenters expressed concern that due to the high rate of turnover in the financial aid profession, it is possible that financial aid administrators may be required to be trained under this provision even though they may already have received

that training as employees of other institutions. The commenters suggested that an institution be exempted from the training requirement if the appropriate individuals received such training at a previous institution. Another commenter suggested that persons who have completed the training be certified as having been trained by the Department to administer title IV, HEA program funds.

Discussion: The Secretary enters into a written participation agreement with an institution in order for that institution to participate in a title IV, HEA program. The Secretary does not regulate the activities of individuals, since the Department does not have contractual agreements with individuals. Accordingly, it would be inappropriate for the Secretary to issue regulations governing these individuals. However, to ensure that an institution seeking to participate in a title IV, HEA program for the first time is institutionally capable of administering the title IV, HEA program properly, the final regulations require that the institution send certain personnel to complete training offered by the Department, unless that individual previously completed title IV, HEA program training provided by the Secretary.

Changes: In response to these comments, these final regulations have been modified to provide the institution with an option if either one of the two individuals designated under § 668.12 of the Student Assistance General Provisions has previously received title IV, HEA program training offered by the Secretary. The institution may either satisfy the training requirement or may elect to request an on-site certification review in lieu of the training requirement. If the institution requests the on-site certification review, it may not begin participation in the new title IV, HEA program or programs until the Secretary conducts the review and notifies the institution that it is in compliance with title IV, HEA statutory and regulatory requirements.

Personnel Required To Complete Training

Comments: Although most commenters agreed that training in the proper administration of the title IV, HEA programs is essential, commenters differed with regard to which institutional personnel should be required to complete the training. One commenter questioned why for-profit institutions have been singled out as being required, without exception, to have the chief administrator complete the training offered, stating that this provision appears to constitute discrimination. Another commenter stated that only the individual responsible for administering the title IV, HEA program in which the institution has applied to participate should be required to complete training. Several commenters concurred that the institution's chief administrator as well as the financial aid administrator should receive that training.

Discussion: The majority of institutions that are seeking to participate in the title IV, HEA programs for the first time are for-profit institutions. These institutions frequently do not have the third-party oversight (*e.g.*, State department of education, Board of Trustees) that is found in the nonprofit and public sectors. In addition, the chief administrator of a for-profit institution is often actively involved in the decision-making process concerning the financial management of the institution. Further, for-profit institutions receive a significant percentage of their total revenue from the title IV, HEA programs. Accordingly, a failure to properly administer the title IV, HEA programs, resulting in an institution owing a substantial liability to the Secretary, could jeopardize the solvency of the institution. The Secretary therefore believes that it is imperative that the chief administrator of these institutions, as well as the financial aid administrator, be cognizant of the institution's responsibilities to properly administer the title IV, HEA programs.

Changes: None.

Expansion of Training Requirement

Comments: While two commenters suggested that the training requirement be expanded to include all financial aid officers or all professional employees responsible for matters related to the administration of the title IV, HEA programs at an institution, one of those commenters suggested that the training requirement not be limited to institutions participating in a title IV, HEA program for the first time. Another commenter suggested that the chief fiscal officer of the institution or a designee of the chief fiscal officer also be required to complete the training offered by the Secretary. One commenter suggested that the Secretary require that the individuals responsible for the administration of title IV, HEA programs at an institution be required to demonstrate competency every five years by completing training; and another commenter stated that refresher courses should be required every two years for continued program participation. One commenter suggested that the individuals responsible for administering the title IV, HEA programs at an institution should also be required to agree to complete training offered by any guarantee agency that guarantees loans authorized under part B of title IV of the HEA within the institution's State.

Discussion: Although the Secretary supports training for all institutional personnel, he believes that to require all institutions participating in the title IV, HEA programs to complete training or to require individuals other than the financial aid administrator and chief administrator at the institution to complete training would be overly burdensome. The Secretary does encourage financial aid administrators and other institutional officials to attend training sessions offered by the Department, guarantee agencies, and professional associations. Furthermore, the Secretary does not believe that it is necessary at this time to require refresher courses or updated training for financial aid personnel and chief administrative officers.

Logistics of Training

Comments: Eight commenters expressed concerns regarding the logistics of the training sessions, raising questions regarding the availability, frequency and location of training, and regarding whether the training would be professionally developed.

Discussion: The Secretary plans to offer training several times a year at various locations across the country. Professionals within the Department with expertise in training techniques and policies governing the Title IV, HEA programs are developing the training.

Changes: None.

Timing of Completion of Training Requirement

Comments: One commenter was concerned that compliance with the training requirement might delay an institution's certification for participation in the title IV, HEA programs and therefore prove to be a disservice to needy students. Two commenters suggested that the Department allow institutions to begin participation, but specify the deadline by which the designated individuals from the institution must have completed the training program.

Discussion: Training is one step in the process an institution must complete in order to participate in a title IV, HEA program. An institution may satisfy the training requirement during the period that the application for participation is being processed. However, the Secretary believes that it would be a

disservice to students to allow an institution to begin participation in a title IV, HEA program and subsequently for the Secretary to withdraw the

regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the

(i) The Secretary determines that the institution meets the standards established in this subpart;

(ii) Except as provided in paragraph

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disservice to students to allow an institution to begin participation in a title IV, HEA program and subsequently for the Secretary to withdraw the institution's participation agreement because the institution failed to complete the training requirement.

Changes: None.

Mandatory Training

Comment: One commenter asked whether an institution would be denied participation in the programs if the institution's officials did not complete the training offered by the Secretary.

Discussion: An institution will be denied participation in a new title IV, HEA program if it fails to comply with the requirement that certain institutional officials complete the training offered by the Secretary.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: August 1, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Supplemental Educational Opportunity Grant Program; 84.032 Guaranteed Student Loan Program; 84.032 PLUS Program; 84.032 Supplemental Loans for Students Program; 84.033 College Work-Study Program; 84.038 Perkins Loan Program; 84.038 Income Contingent Loan Program; 84.063 Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.185 Robert C. Byrd Honors Scholarship Program)

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Section 668.12 is amended by revising paragraph (a) to read as follows:

§ 668.12 Institutional participation agreement.

(a)(1) An institution may participate in any title IV, HEA program, other than the SSIG Program, only if—

(i) The Secretary determines that the institution meets the standards established in this subpart;

(ii) Except as provided in paragraph (a)(2) of this section, in the case of an institution seeking to participate for the first time in the Pell Grant Program, or the campus-based programs, or the GSL, SLS, or PLUS programs, the institution requires the following individuals to complete title IV, HEA program training provided by the Secretary:

(A) The individual designated by the institution under § 668.14(a); and

(B)(*1*) In the case of a for-profit institution, the chief administrator of the institution; or

(*2*) In the case of an institution other than a for-profit institution, the chief administrator of the institution, or another administrative official of the institution designated by the chief administrator; and

(iii) The institution enters into a written participation agreement with the Secretary, on a form approved by the Secretary.

(2) If either one of the two individuals who is otherwise required to complete training under paragraph (a)(1)(ii) of this section has previously completed title IV, HEA program training provided by the Secretary, the institution may elect to request an on-site title IV, HEA certification review by the Secretary instead of requiring that individual to complete again the title IV, HEA program training provided by the Secretary. If the institution requests the on-site review, it may not begin participation in the new title IV, HEA program or programs until the Secretary conducts the review and notifies the institution that it is in compliance with title IV, HEA statutory and regulatory requirements.

* * * * *

[FR Doc. 89-25913 Filed 11-2-89; 8:45 am]
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federal register

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Part IV

Committee for Purchase From the Blind and Other Severely Handicapped

Procurement List 1990; Notice of Establishment

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Establishment

The Committee for Purchase From the Blind and Other Severely Handicapped was established by Public Law 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objectives of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the **Federal Register** a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by sections 102 and 105 of title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to section 2 of the Act that Procurement List 1990 is established as set forth below. Procurement List 1990 supersedes Procurement List 1989, November 15, 1988 (53 FR 46018) and subsequent changes thereto through October 31, 1989.

Any proposed additions or deletions to Procurement List 1989 pending on this date shall be considered as pending and applicable to Procurement List 1990.

By the Committee.

Jeffrey R. Kurtz,

Management Analyst.

Assignment Codes

Central nonprofit agency	Code
National Industries for the Blind	1B
National Industries for the Severely Handicapped.	5H

Class 1005

Adapter Kit, Top Sling (IB)
1005-00-408-1570

Cover, Spare Barrel (SH)
1005-00-659-1031

Firing Attachment, Blank (SH)
1005-00-118-8192

Index, Elevation (IB)
1005-01-134-3621

Sling, Adjustable, Small Arms (IB)
1005-01-216-4510

Sling, Padded, Adjustable (IB)
1005-00-312-7177

Swab, Small Arms Cleaning (IB)
1005-00-912-4248
1005-00-286-3565

Class 1015

Staff Section (SH)
1015-00-699-0033

Class 1025

Staff Section (SH)
1025-00-563-7232
1025-01-044-2587

Class 1055

Webbing (SH)
1055-01-141-5205

Class 1080

Assembly of Kit Camouflage Support System (IB)
1080-00-108-1173
1080-00-179-6024
1080-00-179-6025
1080-00-556-4954

Lanyard, Camouflage (IB)
1080-00-571-5015

Class 1095

Case, Revolver (SH)
1095-00-401-8467

Scabbard, Bayonet-Knife (IB)
1095-00-508-0339

Class 1220

Case, Carrying (IB)
1220-00-765-5870
1220-00-937-0286

Class 1260

Back Pack, Tripod (SH)
1260-01-046-2840

Pouch, Cover (SH)
1260-01-244-2833

Class 1350

Arming Wire (SH)
1350-00-589-8165

Class 1420

Cover, Protective (SH)
1420-01-049-5358

Class 1430

Strap, Webbing (SH)
1430-01-164-4930
1430-01-174-5095

Bag, Storage (SH)
1430-01-133-8435

Cover, Protective (SH)
1430-00-992-9254
1430-00-994-3086

Cover, Telescope Mounting (SH)
1430-00-773-2030

Insulation (SH)
1430-01-134-7893

Class 1440

Cover, Protective (SH)
1440-01-132-7799

Bag, Shroud Assembly (SH)
1440-00-078-1641

Cover, Fire Extinguisher (SH)
1440-00-410-2296

Kit, Tiedown (SH)
1440-01-132-9719

Straps (SH)
1440-00-478-0334

Tarpaulin (SH)
1440-01-126-8966

Class 1450

Strap, Webbing (SH)
1450-00-001-1266
1450-01-147-3366

Class 1560

Cover Assembly, Pitot (SH)
1560-01-206-7831

Maintenance Kit, Window (SH)
1560-00-450-3622

Class 1660

Harness Assembly (SH)
1660-00-066-2078

Class 1670

Bag, Cargo (SH)
1670-01-065-3748

Harness, Parachutist (SH)
1670-01-227-7982

Message Dropper (SH)
1670-00-717-4495

Strap, Quick Release (SH)
1670-01-074-1210

Class 1680

Belt, Aircraft Safety (SH)
1680-00-725-8927
1680-00-407-5335

Strap Assembly, Litter (SH)
1680-00-678-0964

Wire Bundle Assemblies (SH)
1680-00-681-4215
1680-00-684-0409
1680-00-894-3991
1680-01-125-0648
1680-00-619-3708
1680-00-683-4487
1680-00-222-3876
1680-00-628-7752
1680-00-974-5275
1680-00-974-5276
1680-00-998-8594

Class 1730

Chock Wheel, Codit Reflecting (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A 2×4×8" STD
1730-00-NIB-001B 6×8×18" STD
1730-00-NIB-001C 6×8×76" STD
1730-00-NIB-001D (8×12") U-SHAPED
1730-00-NIB-001E (10×20") U-SHAPED

Chock Wheel, Painted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") STD
1730-00-NIB-001B (6×8×18") STD
1730-00-NIB-001C (6×8×76") STD
1730-00-NIB-001D (8×12" U-SHAPED)
1730-00-NIB-001E (10×20") U-SHAPED

Chock Wheel, Reflective Tape (IB)
1730-00-291-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") STD
1730-00-NIB-001B (6×8×18") STD
1730-00-NIB-001C (6×8×76") STD
1730-00-NIB-001D (8×12") U-SHAPED
1730-00-NIB-001E (10×20") U-SHAPED

Chock Wheel, Unpainted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") STD
1730-00-NIB-001B (6×8×18") STD
1730-00-NIB-001C (6×8×76") STD
1730-00-NIB-001D (8×12") U-SHAPED
1730-00-NIB-001E (10×20") U-SHAPED

Class 2090

Weight, Canvas Bag (IB)
2090-00-845-9150

Class 2510

Side Rack, Vehicle (SH)
2510-00-535-6797
2510-00-860-0517
2510-00-860-0523

Class 2540

Belt, Automobile, Safety (IB)
2540-00-894-1273
2540-00-894-1275
2540-00-894-1274
2540-00-894-1276

Cover, Cushion Assembly (SH)
2540-01-245-2524
2540-01-245-2525
2540-01-245-2526
2540-01-246-6212

Cushion Assembly, Back Rest (SH)
2540-00-737-3308

Cushion Assembly, Seat Back (SH)
2540-01-065-6288

Cushion Seat, Vehicular (SH)
2540-00-808-3611
2540-00-904-5680
2540-01-074-6363
2540-00-831-6948

Cushion, Seat Back, Vehicular (SH)
2540-00-880-3625
2540-01-065-6289

Kit, Deep Water Fording (SH)
2540-00-473-0111
2540-00-780-0644
2540-00-161-6109

Mirror and Bracket Assembly (SH)
2540-00-575-8392
2540-00-575-8391

Strap Assembly, Webbing (SH)
2540-00-894-6545

Class 2990

Starter Rope, Engine (SH)
2990-00-672-7950

Class 3510

Net, Laundry (IB)
3510-00-273-6736
3510-00-273-6739

Class 3740

Trap, Roach, Monitor (SH)
3740-01-096-1632

Class 3930

Truck, Hand (IB)
3920-00-847-1305

Class 3990

Pallet, Material Handling (SH)
3990-01-M00-0075 Pine Bluff Arsenal, AR only
3990-00-892-4394 Mechanicsburg, PA; Memphis, TN; Richmond, VA and Columbus, OH Depots only

Pallet, Wood (SH)
3990-00-X77-1721 New Cumberland Army Depot Only
3990-00-NSH-0001 48×40×36' Social Security Administration, Baltimore, MD only
3990-00-NSH-0005 24×20' New Cumberland Army Depot only
3990-00-366-6806

Pallet, Corrugated Fiberboard, Material Handling (SH)
3990-00-L77-0044 Navy Ships Parts Control Center, Mechanicsburg, PA only

Class 4130

Filter, Air Conditioning (IB)
4130-00-870-8796
4130-00-274-7800
4130-00-541-3220
4130-00-756-1840
4130-00-720-4143
4130-00-249-0905
4130-00-203-3318
4130-00-203-3321
4130-00-543-4482
4130-00-650-4734
4130-00-756-0978
4130-00-951-1208

Class 4240

Bag, Waterproofing (IB)
4240-00-377-9401

Harness, Head (SH)
4240-00-961-1064
4240-01-M14-0174

Modification Kit, Head Harness (SH)
4240-01-220-3201

Winterization Kit (SH)
4240-00-005-0319 (40% of Gov't Rqmt)

Class 4610

Bag, Drinking Water Storage (SH)
4610-00-268-9890
4610-01-117-8371

Class 4730

Fitting Kit (SH)
4730-00-470-6625

Class 4820

Valve, Ball (SH)
4820-00-052-4651
4820-00-052-4653

Class 4910

Creeper, Mechanic's (SH)
4910-00-251-6061
4910-00-106-7834
4910-00-NSH-0001

Class 4935

Strap, Webbing (SH)
4935-00-784-0118
4935-00-889-5595
4935-00-922-3480
4935-00-928-5097
4935-00-956-4489

Strap Set, Webbing (SH)
4935-00-778-2724
4935-00-805-3522
4935-00-824-5469

Strap, Assembly (SH)
4935-00-888-7207
4935-00-784-0141

Strap, Set (SH)
4935-00-806-7208

Class 5120

Screwdriver Set, Cross Tip (SH)
5120-00-357-7175
5120-00-580-0334

Screwdriver, Cross-Tip (SH)
5120-00-080-2004
5120-00-820-2995
5120-00-224-7370
5120-00-227-7293
5120-00-542-3436
5120-00-224-7375

Screwdriver, Flat-Tip (SH)
5120-00-287-2504
5120-00-278-1287
5120-00-285-7803
5120-00-278-1270
5120-00-227-7356
5120-00-596-8502
5120-00-082-0813
5120-00-293-3311
5120-00-293-0315
5120-00-227-7377
5120-00-236-2140

Vise, Multiposition (SH)
5120-00-991-1907

Wrench, Pipe (IB)
5120-00-277-1485
5120-00-277-1486
5120-00-277-1461

Class 5140

Bag, Tool (IB)
5140-00-772-4142

Bag, Tool (Satchel) (SH)
5140-00-473-8256

Belt, Tool, Repairman's (SH)
5140-00-529-2517
5140-00-529-2694
5140-00-529-2691

Tool Box, Portable (SH)
5140-00-289-6911
5140-00-289-6910

Class 5340

Clamp, Loop (SH)
5340-00-103-2945
5340-00-104-5060
5340-00-500-0403
5340-00-254-5025
5340-01-156-5483
5340-00-375-2091
5340-01-160-0396
5340-01-156-5462

MSL TECH-INTEG-PDAMS (SH)
5340-00-NSH-0004

Panel, Side Flex (SH)
5340-00-NSH-0005

Strap (SH)
5340-00-235-4433

Strap, Webbing (SH)
5340-00-286-5895
5340-00-477-3700
5340-00-494-8238
5340-00-494-8239
5340-00-NSH-0006
5340-00-938-7062
5340-01-130-6020
5340-01-139-3197
5340-01-219-2887
5340-01-231-3750
5340-01-246-2119

Class 5350

Cloth, Abrasive (IB)
5350-00-187-6270
5350-00-187-6275
5350-00-187-6272
5350-00-187-6269
5350-00-187-6268
5350-00-187-6286
5350-00-187-6285
5350-00-187-6284
5350-00-187-6283
5350-00-187-6281
5350-00-187-6280
5350-00-187-6297
5350-00-187-6296
5350-00-229-3008
5350-00-229-3005
5350-00-187-6295
5350-00-187-6294
5350-00-187-6293
5350-00-187-6292
5350-00-187-6291
5350-00-274-6209
5350-00-187-6290
5350-00-187-6289
5350-00-187-7986
5350-00-229-3097
5350-00-229-3094
5350-00-229-3095
5350-00-229-3080
5350-00-229-3081
5350-00-229-3092
5350-00-192-9325

Mat, Abrasive (IB)
5350-00-967-5089
5350-00-967-5093
5350-00-967-5092

Class 5440

Ladder, Extension (Wood) (IB)
5440-00-223-6025
5440-00-242-1000
5440-00-223-6026
5440-00-242-0998
5440-00-223-6027

Ladder, Straight (Wood) (IB)
5440-00-242-7151
5440-00-816-2585
5440-00-814-5084
5440-00-242-0995
5440-00-816-2575
5440-00-223-6029
5440-00-223-6030

Stepladder (IB)
5440-00-514-4483
5440-00-514-4485
5440-00-171-9636
5440-00-514-4487
5440-00-227-1592
5440-00-227-1593
5440-00-227-1594
5440-00-227-1595
5440-00-227-1596
5440-00-531-2589

Class 5510

Lath, Wood (SH)
5510-00-NSH-0002 (⅜×1½×36')
5510-00-NSH-0003 (⅜×½×48')
BLM and U.S. Forest Service in Washington and Oregon only

Stake, Wood (SH)
5510-00-NSH-0001
BLM at 5 Oregon locations only U.S. Forest Service in Washington and Oregon only

Stakes, Wood, Hub (SH)
5510-00-171-7733
5510-00-171-7732

Stakes, Wood, Location (SH)
5510-00-171-7701
5510-00-171-7700
5510-00-171-7734

Wedge, Wood (SH)
5510-00-840-8237

Class 5660

Fasteners, Fence Post (SH)
5660-00-148-7251

Stay, Fence (SH)
5660-00-043-9827
5660-00-804-8023
5660-00-807-0386
5660-00-607-0287

Class 5680

Weather Strip (SH)
5680-01-227-7577

Class 5831

Amplifier Subassembly (SH)
5831-00-087-3408

Class 5855

Strap Assembly (SH)
5855-00-137-7767
5855-00-125-0762
5855-00-125-0713

Class 5940

Adapter, Battery Terminal (SH)
5940-00-549-6583
5940-00-549-6581

Class 5975

Rod, Ground (SH)
5975-00-678-3791

Class 6115

Cover, Generator Set (IB)
6115-00-960-2703
6115-00-945-7545
6115-00-941-1855

Class 6130

Cable Assembly, Electrical (IB)
6150-01-027-0125 (50% of Gov't Rqmt)

Class 6210

Fixture, Lighting Industrial (IB)
6210-00-686-4929

Class 6230

Flashlight (SH)
6230-00-163-1856
6230-00-781-3671

Lantern, Electric, Head (SH)
6230-00-843-3512

Light, Desk (SH)
6230-00-296-7771
6230-00-682-3423

Light, Marker, Distress (SH)
6230-00-862-5192

Light-Marker, -Distress (without pouch) (SH)
6230-00-936-1778

Light-Marker, Distress (with pouch) (SH)
6230-00-067-5209

Class 6260

Candle, Illuminating (IB)
6260-00-840-8375

Class 6505

Ammonia Inhalant Solution, Aromatic (SH)
6505-00-106-0875

Class 6508

Shampoo, Medicated (SH)
6508-00-116-1362
6508-00-116-1367

Class 6510

Dressing, First Aid, Field, White (SH)
6510-00-065-5573

Bandage, Gauze, Compressed, Camouflaged (SH)
6510-00-200-3180
6510-00-200-3190

Bandage, Gauze, Elastic (SH)
6510-00-913-7906

Bandage, Muslin, Compressed Camouflaged (SH)
6510-00-201-1755

Compress and Bandage, Camouflaged (SH)
6510-00-200-3075
6510-00-200-3080

Compress and Skullcap, Head Dressing (SH)
6510-00-201-7680

Cotton, Purified (SH)
6510-00-201-3000

Dressing, First Aid, Field, Camouflaged (SH)
6510-00-201-7425
6510-00-201-7430
6510-00-159-4583

Sponge, Surgical, Gauze, Compressed (SH)
6510-00-926-9082

Class 6515

Bag, Tube Feeding (SH)
6515-00-461-2049

Case, Ear Plug (SH)
6515-01-212-9452 (80 percent of Government's Requirement)

Kit, Suture Removal (IB)
6515-00-690-6911

Surgical Pack, Disposable (IB)
6515-00-100-6650

Tourniquet, Non-Pneumatic (IB)
6515-00-383-0585

Class 6530

Bag, Urine Collection (SH)
6530-00-057-0953
6530-00-781-0932
6530-00-781-0936
6530-01-074-6600

Cover, Litter (IB)
6530-00-764-1250

Drape, Surgical (IB)
6530-00-299-9608
6530-00-299-9607
6530-00-299-9605
6530-00-299-9604

Drape, Surgical, Disposable (IB)
6530-01-032-4089

Kit, Shaving Surgical Preparation (IB)
6530-00-676-7372

Litter, Folding (IB)
6530-00-783-7905 (Canvas Cover)
6530-00-783-7905 (Nylon Cover)

Pad, Cooling, Chemical (SH)
6530-00-133-4299

Pad, Litter (IB)
6530-00-137-3016

Pad, Pre-Operative Preparation (IB)
6530-00-457-6193

Paper Sheeting, Examination Table (IB)
6530-01-092-3914
6530-00-299-3598
6530-00-796-4790

Spineboard (SH)
6530-01-119-0011
6530-01-119-0012

Spreader Bar and Stirrups, Litter (IB)
6530-00-764-3450

Strap, Webbing Patient Securing (IB)
6530-00-784-4205

Strap, Webbing, Litter Securing (IB)
6530-00-784-4335

Surgical Dressing Set (IB)
6530-00-105-5826

Surgical Pack, Disposable (IB)
6530-01-174-8844

Towel Pack, Surgical (IB)
6530-00-110-1854

Urinal, Incontinent (IB)
6530-01-004-8969
6530-00-290-8292
6530-01-061-5303
6530-01-061-5304

Urinary Drainage Set (SH)
6530-01-056-3659

Wrapper, Sterilization (IB)
6530-00-299-9603
6530-00-197-9223
6530-00-197-9283
6530-00-928-4902
6530-00-928-4903
6530-00-928-4904
6530-00-296-4905
6530-00-197-9228
6530-01-245-1935
6530-01-246-4813
6530-01-244-2776
6530-01-244-9946
6530-01-246-0156

Class 6532

Cap—Operating, Surgical (SH)
6532-00-250-5042
6532-00-083-6545
6532-00-250-5041
6532-00-122-0468

Clothing, Operating Room (SH)
6532-00-173-3509
6532-00-172-3507
6532-00-172-3506
6532-00-158-9090
6532-00-009-7174

Coat, Women's Pajama (SH)
6532-01-216-3199
6532-01-215-8093
6532-01-222-6565
6532-01-222-3116

Gown, Hospital (SH)
6532-00-104-9995

Gown, Hospital, Patient's Bedshirt (SH)
6532-01-005-8411
6532-01-005-8412

Gown, Hospital, Personnel (SH)
6532-01-045-5380
6532-01-045-5381

Gown, Operating, Surgical (SH)
6532-00-009-2034
6532-00-009-2035

Gown, Patient Examining (SH)
6532-00-421-7826

Gown, Operating, Surgical (IB)
6532-01-058-2518
6532-01-058-2519
6532-01-058-2520
6532-01-058-2521
6532-01-058-2522
6532-01-058-2523
6532-01-058-2524
6532-01-058-2525

Pillowcase—Disposable (IB)
8532-01-125-3269

Robe, Dressing, Men's (SH)
6532-01-215-7963
6532-01-215-7964

Robe, Dressing, Women's (SH)
6532-01-215-7966
6532-01-215-7965

Shirt, Operating, Surgical (IB)
6532-00-299-9627
6532-00-299-9634
6532-00-299-9633
6532-00-299-9632

Shirt, Operating, Surgical (SH)
6532-00-149-0322
6532-00-149-0323
6532-00-149-0324
6532-00-149-0325

Smock, Man's Dental Operating (SH)
6532-00-159-4881
6532-00-926-9964
6532-00-926-9975
6532-00-926-9976

Suit, Convalescent (SH)
6532-01-076-8684
6532-01-076-8683
6532-01-076-7369
6532-01-076-9769

Trousers, Operating, Surgical (SH)
6532-00-299-9625
6532-00-299-9629
6532-00-299-9630
6532-00-299-9631

Trousers, Operating, Surgical (SH)
6532-00-149-0327
6532-00-149-0328
6532-00-149-0329
6532-00-149-0330

Trousers, Women's Pajama (SH)
6532-01-218-3425
6532-01-218-2428
6532-01-228-2961
6532-01-228-2962

Class 6540

Case, Spectacles (IB)
6540-01-131-7919
6540-01-131-7918

Class 6545

First Aid Kit, Eye Dressing (SH)
6545-00-853-6309

Medical Packet, Individual Survival Kit, Airman's (SH)
6545-00-231-9421

Class 6625

Test Set, Lead (SH)
6625-00-553-1442
6625-00-305-8313
6625-01-121-0510
(50% of Gov't Rqmt)

Class 6630

Micro Bleeder (IB)
6630-01-NIB-0002

Tube, Bleeding (IB)
6630-01-NIB-0001

Class 6645

Clock, Wall (IB)
6645-00-514-3523
6645-00-530-3342
6645-01-046-5646
6645-01-046-5640

Class 6665

Sampling Kit, Spectrometric Oil Analysis (IB)
6665-01-045-9820

Class 6840

Disinfectant, Detergent (IB)
6840-00-587-7904
6840-00-584-3129
6840-00-551-8346

Class 6850

Sea Marker, Fluorescein Dye (IB)
6850-00-270-9956

Class 6920

Enclosure, Ballistic Protective (SH)
6920-01-080-4401

Class 7105

Assembly, Support Panel (SH)
7105-00-NSH-0004

Base, Grooming Unit (SH)
7105-01-019-0375
7105-01-007-1830
7105-01-019-0376
7105-01-019-0379
7105-00-NSH-0001

Bookcase, Drop-Lid (SH)
7105-01-005-8409
7105-01-005-8406
7105-01-007-1760
7105-01-009-2567
7105-01-047-3559
7105-01-047-3557

Bookcase, Open-Shelf (SH)
7105-01-007-9798
7105-01-047-3558
7105-01-047-3556

Box, Vanity (SH)
7105-01-007-1831

Bracket, Overchest Support (SH)
7105-00-NSH-0003

Chest, Five-Drawer (SH)
7105-01-011-6397
7105-01-005-8403
7105-01-005-8404
7105-01-007-9797
7105-01-047-3555

Chest, Six-Drawer (SH)
7105-01-005-8407
7105-01-005-8405
7105-01-023-4636
7105-01-005-8408
7105-01-049-9587

Chest, Stereo (SH)
7105-01-019-0378
7105-01-005-8474
7105-01-017-6104
7105-01-019-0377
7105-01-047-3575
7105-01-047-3573

Chest, Three-Drawer (SH)
7105-01-046-5655

Frame, Picture (SH)
7105-00-053-0170
7105-00-061-5834
7105-00-052-8697
7105-00-052-8695
7105-00-465-6199
7105-00-297-3398
7105-00-903-1842
7105-00-903-1843
7105-00-149-1282
7105-00-149-1281
7105-00-641-4385
7105-00-297-3397
7105-00-052-8698
7105-00-149-1276
7105-00-051-1212
7105-00-052-8696
7105-00-052-8698
7105-01-282-0630
7105-01-282-0631
7105-01-282-0632
7105-01-282-0633

Mirror, Glass (SH)
7105-00-496-9898
7105-00-133-4846

Overchest (SH)
7105-01-005-8475
7105-01-047-3576
7105-01-047-3574

Table, Coffee (SH)
7105-00-139-7573
7105-00-139-7601

Table, End (SH)
7105-00-139-7595

Table, Lamp (SH)
7105-00-139-7600

Top, Grooming Unit (SH)
7105-01-005-8476

Class 7110

Blackboard (IB)
7110-00-132-8650
7110-00-843-7917

Blackboard (SH)
7110-00-132-8651

Bookcase, Steel, Contemporary (SH)
7110-00-601-9623
7110-00-149-1621

Bookcase, Wood, Executive (SH)
7110-00-073-5127

Credenza (SH)
7110-00-763-3513
7110-00-128-0096
7110-00-128-0546

Table Leg (SH)
7110-00-NSH-0023

Table, Office, Wood (SH)
7110-00-958-0780
7110-00-823-7675
7110-00-903-3061
7110-00-902-3052

Table, Steel (SH)
7110-00-113-0448
7110-00-113-0454
7110-00-149-2044
7110-00-149-2045
7110-00-149-2046

Class 7125

Cabinet, Storage (SH)
7125-00-449-6662
7125-00-378-4261 (50% of Gov't Rqmt)
7125-00-603-4352

Class 7195

Bulletin Board (IB)
7195-00-989-2370
7195-00-844-9036
7195-00-989-2371
7195-00-844-9037
7195-00-909-2372
7195-00-844-9038
7195-00-890-0615
7195-00-843-7938

Costumer, Wood, Executive (SH)
7195-00-132-6642

Class 7210

Bedspread (SH)
7210-00-728-0180
7210-00-728-0181
7210-00-728-0182
7210-00-728-0183
7210-00-728-0184
7210-00-728-0185

Bedspring (IB)
7210-00-728-0186
7210-00-728-0187
7210-00-728-0188
7210-00-728-0189
7210-00-728-0190
7210-00-728-0191
7210-00-728-0173
7210-00-728-0175
7210-00-728-0176
7210-00-728-0177
7210-00-728-0178
7210-00-728-0179
7210-00-408-2800

Bedspring (IB)
7210-00-582-7540
7210-00-582-0984
7210-00-110-8104
7210-00-582-7541
7210-00-110-8105

Blanket, Bed (SH)
7210-00-177-4986

Blanket, Bed/Bath (Flame Resistant) (IB)
7210-01-141-2458

Boxspring (IB)
7210-01-228-5735
7210-01-228-5736
7210-01-228-5737
7210-01-228-5738
7210-01-291-9511
7210-01-291-9512

Cover, Bed (IB)
7210-01-116-7860
7210-01-120-0679
7210-01-116-7858
7210-01-116-7859
7210-01-118-4085
7210-01-116-7855
7210-01-116-7856
7210-01-116-7857
7210-01-116-7854
7210-01-116-7853
7210-01-120-8015
7210-01-124-7526
7210-01-120-8013
7210-01-120-8014
7210-01-120-8011
7210-01-120-8010
7210-01-122-5015
7210-01-120-8012
7210-01-125-9250
7210-01-120-8009
7210-01-123-5148
7210-01-120-8017
7210-01-120-8021
7210-01-120-8022
7210-01-120-8018
7210-01-124-8303
7210-01-120-8019
7210-01-120-8020
7210-01-123-5149
7210-01-120-8016

Cover, Mattress (IB)
7210-00-205-3083
7210-00-291-8419
7210-00-205-3082
7210-00-067-7969
7210-00-998-7745
7210-00-883-8492
7210-00-140-4231
7210-00-140-4234
7210-00-543-8001
7210-00-171-1091
7210-00-935-6819
7210-00-230-1041
7210-00-241-9718
7210-00-543-8002
7210-00-140-4233
7210-01-245-4392
7210-01-245-4393
7210-00-082-2081
7210-00-715-9130

Cover, Mattress (Plastic) (IB)
7210-00-082-5739

Insect Bar, Cot (SH)
7210-00-266-9740

Insect Bar, Nylon (SH)
7210-00-266-9736

Mattress, Innerspring (Nonappropriated Fund) (IB)
7210-01-228-5726
7210-01-228-5727
7210-01-228-5728
7210-01-228-5729
7210-01-292-2561
7210-01-292-2552

Mattress, Cotton-Felt (IB)
7210-00-139-6517
7210-00-139-6555
7210-00-139-6538

Mattress, Foam (IB)
7210-00-290-8300
7210-00-275-5873
7210-00-275-5874
7210-00-290-8296
7210-00-290-8297
7210-00-052-7327
7210-00-889-3733
7210-00-290-8299
7210-00-682-6503
7210-00-682-6504
7210-01-244-9734
7210-01-244-9735

Mattress, Innerspring (IB)
7210-00-205-3585
7210-00-139-6424
7210-00-716-0706
7210-00-138-6411
7210-00-205-3534
7210-00-139-6434
7210-00-138-6428
7210-00-110-8102
7210-00-110-8103
7210-01-177-3627
7210-01-177-3628
7210-01-177-1491
7210-01-177-1492
7210-01-177-1494
7210-01-177-1495
7210-01-177-1496
7210-01-177-1497
7210-01-177-1498
7210-01-177-1499
7210-01-177-1500
7210-01-177-1501
7210-01-177-1503
7210-01-177-1504
7210-01-177-1505
7210-01-177-1506
7210-01-177-1507
7210-01-177-1508
7210-01-177-1509
7210-01-177-1510
7210-01-177-1512
7210-01-177-1513
7210-01-177-1514
7210-01-177-1515
7210-01-076-9031
7210-01-076-1087
7210-01-076-2593
7210-01-076-1082
7210-01-076-1089
7210-01-076-9029
7210-01-076-1083
7210-01-076-1085
7210-01-076-8730
7210-01-076-1086
7210-01-077-9358
7210-01-075-8358
7210-01-076-1088

7210-01-078-8359
7210-01-078-1084
7210-01-078-9030

Mattress, Plastic Coated Innerspring (IB)

7210-00-995-1093
7210-00-682-7146
7210-00-529-3709
7210-01-138-8177

Pad, Mattress (IB)

7210-00-227-1526
7210-00-753-3042

Pillow, Bed (IB)

7210-00-753-6225
7210-01-035-3342
7210-00-894-1144
7210-01-015-5190
7210-00-119-5358

Pillow, Bed (Feather) (IB)

7210-00-205-3205

Pillow, Passenger, Headrest (IB)

7210-00-582-8601

Pillowcase (SH)

7210-00-119-7357
7210-01-030-5311

Pillowcase, Cotton/Cotton Polyester (IB)

7210-00-054-7910
7210-00-258-9005
7210-00-258-9006
7210-00-119-7356
7210-00-231-2373
7210-00-259-9004
7210-00-258-8807
7210-00-081-1380

Pillowcase, Disposable (IB)

7210-00-883-8494
7210-00-852-3417

Pole, Folding Cot Insect Bar (SH)

7210-00-267-5641

Protector, Hospital Bed, Pillow (IB)

7210-00-958-9118

Protector, Mattress, Hospital Bed (IB)

7210-00-761-1471
7210-00-761-1470

Sheet, Bed (IB)

7210-00-229-9611

Sheet, Bed—Disposable (SH)

7210-00-144-6082

Sheet, Bed, Disposable (IB)

7210-00-496-0512
7210-00-139-6376
Memphis, TN and Tracy, CA Depots only

Tablecloth (SH)

7210-00-492-8381

Towel, Bath, Disposable (IB)

7210-01-029-0370

Washcloth (IB)

7210-01-013-2824

CLASS 7220

Mat, Floor (IB)

7220-00-205-3192
7220-00-205-3182
7220-00-151-8518
7220-00-457-8046
7220-00-457-8054

Mat, Floor (IB)

7220-00-205-3099
7220-00-224-6487
7220-00-238-6852
7220-00-224-6486
7220-00-238-6854
7220-00-165-7020
7220-01-023-9489

CLASS 7230

Curtain, Blackout (SH)

7230-00-997-1466
7230-01-138-7054

Curtain, Shower (IB)

7230-00-205-1762
7230-00-247-1200
7230-00-849-9836
7230-00-849-9839

CLASS 7290

Cover, Ironing Board (IB)

7290-00-130-3271

CLASS 7330

Pad, Bakery (IB)

7330-00-379-4439

Peeler, Potato, Hand (IB)

7330-00-238-8316

Tongs, Food Serving (SH)

7330-00-616-0997
7330-00-616-0998
7330-00-616-1000

CLASS 7340

Flatware, Plastic, Heavy Duty (IB)

7340-00-022-1315
7340-00-022-1316
7340-00-023-1317
7340-00-401-8041

Flatware, Plastic, Picnic (IB)

7340-00-170-8374
7340-00-205-3187
7340-00-205-3342

Medium Weight Plastic Cutlery (IB)

7340-00-NIB-0005
7340-00-NIB-0006
7340-00-NIB-0007
7340-00-NIB-0008
Army and Air Force Exchange Service only

Spoon, Picnic, Plastic (IB)

7340-00-J19-1300

CLASS 7360

Dining Packet (IB)

7360-00-935-8407
7360-00-935-8408
7360-00-935-8409
7360-00-935-8410
7360-00-935-8411
7360-00-935-8412
7360-00-935-8413
7360-01-J19-2026
7360-01-J19-2030

Dining Packet (Dietetic) (IB)

7360-00-177-4958
7360-00-177-4959
7360-00-177-4960
7360-00-177-4961
7360-00-177-4962
7360-00-177-4963
7360-00-935-8416
7360-00-935-8417
7360-00-935-8420
7360-00-935-8421

Dining Packet, Inflight (IB)

7360-00-660-0526
7360-01-167-2610

Flatware Set, Plastic (IB)

7360-00-634-4800

CLASS 7510

Binder, Awards Certificate (IB)

7510-00-115-3250
7510-00-482-2994
7510-00-755-7077
7510-01-056-1927

Binder, Looseleaf, (Pressboard) (IB)

7510-00-281-4309
7510-00-281-4314
7510-00-582-4201
7510-00-281-4310
7510-00-281-4311
7510-00-281-4313
7510-00-281-4315
7510-00-286-7792
7510-00-286-7794
7510-00-582-5480
7510-00-286-7791
7510-00-582-3807

Binder, Looseleaf, Flight Crew (SH)

7510-00-766-4299
7510-00-240-6012

Binder, Looseleaf, Presentation (IB)

7510-00-582-5398
7510-00-582-5399
7510-00-582-5400

Binder, Looseleaf, Three Ring (IB)

7510-00-782-2663
7510-00-409-8646
7510-00-409-8647
7510-00-984-5787

Binder, Looseleaf, Printout (IB)

7510-00-965-3443

Binder, Looseleaf, Three Ring (SH)

7510-00-889-3494

Binder, Note Pad (IB)

7510-00-286-6954
7510-00-145-0296
7510-00-728-8080
7510-01-053-5501

Board, Wall Calendar (IB)

7510-00-789-2455

Calendar Pad (SH)

7510-01-225-9214 (1990)
7510-01-225-9215 (1991)

Clip, Binder (SH)

7510-00-283-9201

7510-00-223-0807
7510-00-285-5985

Clip, Paper (SH)

7510-00-161-4282

Correction Fluid (IB)

7510-01-020-2606

Envelope, Crystal Clear Vinyl (IB)

7510-00-NIB-0003
7510-00-NIB-0004
7510-00-NIB-0005
7510-00-NIB-0006

Envelope, Transparent (IB)

7510-00-782-5274
7510-00-782-5275
7510-00-782-5276

Eraser, Blackboard (IB)

7510-00-244-0145

Eraser, Mechanical Pencil (IB)

7510-00-307-7885

File Back (IB)

7510-00-NIB-0002

File Backer, Paper (IB)

7510-00-285-2567

File Front (IB)

7510-00-NIB-0001

Inking Pad, Rubber Stamp (SH)

7510-00-224-7876
7510-00-526-1741

Pad, Typewriter (IB)

7510-00-257-2576
7510-00-530-5412
7510-00-849-1137

Paperweight, Shotfilled (IB)

7510-00-286-6985

Pencil (IB)

7510-00-286-5757
7510-00-281-5234
7510-00-281-5235

Pencil, Fine-Line Writing (IB)

7510-00-286-5755
7510-00-286-5750
7510-00-286-5751

Pencil, Woodcased, with Imprinting (IB)

7510-050-SLP-6521

Pocket Planning Set (SH)

7510-01-228-2954 (1990)
7510-01-228-2955 (1991)

Portfolio, Double Pocket (IB)

7510-00-584-2489
7510-00-584-2490
7510-00-584-2491
7510-00-584-2492

Portfolio, Plastic Envelope (IB)

7510-00-558-1572
7510-00-558-1573
7510-00-995-4856
7510-00-995-4853

Refill, Ballpoint Pen (IB)

7510-00-543-6792
7510-00-543-6793
7510-00-754-2687
7510-00-543-6795
7510-00-754-2688
7510-00-754-2689
7510-00-754-2690
7510-00-754-2691

Sheath, Pen and Pencil (IB)

7510-00-052-2664

Solvent, Correction Fluid (IB)

7510-01-013-9215

CLASS 7520

Arch Board File (IB)

7520-00-240-5496
7520-00-191-1075
7520-00-255-7061

Ballpoint Pen (IB)

7520-00-935-7136
7520-00-935-7135
7520-00-543-7149

Ballpoint Pen, Stick-type (IB)

7520-01-058-9978
7520-01-058-9977
7520-01-058-9976
7520-01-058-4125
7520-01-060-5820
7520-01-058-9975
7520-01-060-6519
7520-01-060-5821

Ballpoint Pen, with Imprinting (IB)

7520-00-SLP-6520

Book Ends (IB)

7520-00-264-5479
7520-00-139-6158

Box, Filing (SH)

7520-00-285-3147
7520-00-285-3142
7520-00-285-3144
7520-00-285-3145
7520-00-285-3146
7520-00-285-3148
7520-00-139-3734
7520-00-240-4830
7520-00-240-4831
7520-00-139-3743
7520-00-240-4839

Case, Maintenance & Operational Manuals (IB)

7520-00-559-9618

Clipboard File (IB)

7520-00-254-4610
7520-00-281-5918
7520-00-240-5503

Easel, Display & Training (IB)

7520-00-579-7013

File, Horizontal Desk (SH)

7520-00-139-4869
7520-00-728-5761

File, Work Organizer (SH)

7520-00-286-1722
7520-00-286-1723
7520-00-633-7343

Holder, Desk Memorandum (IB)

7520-00-139-3802
7520-00-290-8445

Marker, Tube Type, Broad Tip (IB)

7520-00-973-1059
7520-00-973-1060
7520-00-079-0285
7520-00-973-1061
7520-00-079-0286
7520-00-079-0287
7520-00-973-1062
7520-00-079-0288
7520-00-904-4476
7520-00-558-1501

Marker, Tube Type, Fine Tip (IB)

7520-00-904-1255
7520-00-904-1256
7520-00-935-0979
7520-00-904-1257
7520-00-935-0981
7520-00-935-0982
7520-00-904-1256
7520-00-935-0980
7520-00-051-5031
7520-00-051-5035
7520-00-116-2588
7520-00-051-5036
7520-00-116-2586
7520-00-116-2589
7520-00-051-5033
7520-00-116-2587
7520-00-138-7981

Pad, Desk, Paperboard (SH)

7520-00-224-7238

Pen Set, Desk (IB)

7520-00-106-9840

Pencil, Mechanical (IB)

7520-00-223-6672
7520-00-223-6673
7520-00-288-9915
7520-00-223-6675
7520-00-223-6676
7520-00-285-5820
7520-00-285-5822
7520-00-285-5823
7520-00-161-5664
7520-00-164-8950
7520-00-288-9915
7520-00-288-9916
7520-00-724-5806
7520-00-580-1878
7520-01-132-4996

Perforator, Paper, Desk (SH)

7520-00-138-4101
7520-00-283-3425

Stamp, Rubber (SH)

7520-00-NSH-0004
7520-00-NSH-0001
7520-00-NSH-0002
7520-00-NSH-0003
7520-00-NSH-0005
7520-00-NSH-0008
7520-00-NSH-0007
7520-00-NSH-0006
7520-00-NSH-0009
7520-00-NSH-0010
7520-00-NSH-0011
7520-00-NSH-0012
7520-00-NSH-0013
7520-00-NSH-0014
7520-00-NSH-0015

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7520-00-NSH-0016
7520-00-NSH-0017

Stand, Calendar Pad (IB)

7530-00-244-7458
7530-00-238-4319
7530-00-949-2787
7530-00-238-4331

Jacket, Filing, Wallet (IB)

7530-00-285-2913
7530-00-285-2914
7530-00-285-2915

7530-00-286-7766
7530-00-019-7837
7530-00-019-7849
7530-00-019-7850

7910-00-685-3906
7910-00-685-3914
7910-00-685-4239
7910-00-685-4240

Brush, Scrub (IB)

7920-00-240-7174
7920-00-951-8795
7920-00-282-2470, Tampico Fibers

7520-00-NSH-0016
7520-00-NSH-0017

Stand, Calendar Pad (IB)

7520-00-182-8153
7520-00-162-8158
7520-00-139-4277
7520-00-139-4341

Tray, Desk (SH)

7520-00-232-8828
7520-00-286-5801
7520-00-285-5043

Trimmer, Paper (IB)

7520-00-224-7620, Rgns 1,2,3,W,4,5,6,7
7520-00-224-7021
7520-00-163-2568
7520-00-634-4675
7520-00-282-2137

CLASS 7530

Book, Memorandum (IB)

7530-00-286-6952

Card Set, Guide, File (IB)

7530-00-989-0698
7530-00-989-0697
7530-00-989-0683
7530-00-082-2635
7530-00-989-0684
7530-00-989-0686
7530-00-989-0692
7530-00-989-0694
7530-00-989-0693
7530-00-989-0695
7530-00-249-5909
7530-00-261-3813
7530-00-261-3601
7530-00-261-3804
7530-00-261-3818
7530-00-261-3819
7530-00-861-1263
7530-00-861-1270
7530-01-175-1553
7530-00-861-1272
7530-00-861-1275
7530-00-574-7172

Card, Guide, File (IB)

7530-00-989-0184
7530-00-989-2425
7530-00-988-6541
7530-00-988-6542
7530-00-988-6543
7530-00-988-6549
7530-00-988-6550
7530-00-988-6551
7530-00-988-6544
7530-00-988-6545
7530-00-988-6546
7530-00-988-6547
7530-00-988-6548
7530-00-988-6515
7530-00-988-6516
7530-00-988-6520
7530-00-988-6521
7530-00-988-6517
7530-00-988-6518
7530-00-988-6522

Card, Index (IB)

7530-00-238-4316
7530-00-244-7453
7530-00-244-7456
7530-00-244-7451
7530-00-244-7459
7530-00-238-4319
7530-00-949-2787
7530-00-238-4331
7530-00-243-9436
7530-00-247-0310
7530-00-281-1315
7530-00-247-0318
7530-00-264-3723
7530-00-247-0311
7530-00-244-7447
7530-00-247-0315
7530-00-243-9437

Envelope, Wallet (IB)

7530-00-281-5976
7530-00-281-4844
7530-00-281-4840
7530-00-266-3993

Folder, File (IB)

7530-00-985-7097

Folder, File (SH)

7530-00-205-3613
7530-00-290-2009
7530-00-634-1785
7530-00-985-7009
7530-00-985-7010

Folder, File, Kraft (IB)

7530-00-889-3555
7530-00-559-4512
7530-00-281-5907
7530-00-281-5906
7530-00-926-8976
7530-00-920-8980

Folder, File, Manila (IB)

7530-00-273-9645

Folder, File, Pressboard (IB)

7530-00-926-8961
7530-00-286-6924
7530-00-926-8982
7530-00-926-8983
7530-00-926-8984
7530-00-043-1194
7530-00-739-7723
7530-00-990-8884
Chicago, IL Supply Distribution Facility only

Folder, File, Military Personnel Records Jacket (IB)

7530—DA Form 201

Folder, File, Special-Purpose (IB)

7530-00-811-7169

Folder-Set, File, Pressboard (IB)

7530-00-286-6923
7530-00-286-7080
7530-00-286-7244
7530-00-286-7253
7530-00-286-7286
7530-00-286-7287
7530-00-286-6570
7530-00-286-6571
7530-00-286-6925
7530-00-286-6926

Index Sheet Set, Looseleaf Binder (IB)

7530-00-160-6476
7530-00-160-6474
7530-00-160-6475
7530-00-959-4441

Jacket, Filing, Wallet (IB)

7530-00-285-2913
7530-00-285-2914
7530-00-285-2915

Notebook, Stenographer's (IB)

7530-00-223-7939

Pad, Writing Paper (Repositionable) (IB)

7530-01-116-7865
7530-01-116-7866
7530-01-116-7867

Pad, Writing Paper (IB)

7530-00-285-3090
7530-00-239-6479
7530-01-131-1689
7530-01-124-5660, W, 1, 3, 4, 5, 6, 7, 8, 9, 10&NC
7530-01-131-0091, W, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10&NC
7530-01-124-7632, Rgns W, 1, 2, 3, 4, 5, 6, 7

Pad, Writing Paper (Easel) (IB)

7530-00-619-8880

Paper Set, Manifold and Carbon (IB)

7530-00-401-6910 Rgns W, 4, 6
7530-01-072-2536 Rgns W, 4, 6
7530-01-072-2537 Rgns W, 4, 6
7530-01-072-2538 Rgns W, 4, 6
7530-01-072-2539 Rgns W, 4, 6

Paper, Looseleaf, Blank (IB)

7530-00-286-6983
7530-00-286-6984

Paper, Carbon, Typewriter (IB)

7530-00-244-4035 Rgns 1, 2, 3, 6, 7, 8

Paper, Looseleaf, Blank (IB)

7530-00-286-5777
7530-00-286-5778
7530-00-286-5782
7530-00-286-5780
7530-00-286-5781
7530-00-286-5779

Paper, Looseleaf, Ruled (IB)

7530-00-286-6366
7530-00-286-4332
7530-00-286-4331
7530-00-286-4333
7530-00-286-4334
7530-00-286-4335
7530-00-196-6265
7530-00-286-4336
7530-00-286-4337
7530-00-286-4338
7530-00-286-4339

Paper, Teletypewriter, Roll (IB)

7530-00-019-6674
7530-00-019-6931
7530-00-019-7267
7530-00-019-7463
7530-00-223-7968
7530-01-056-2900
7530-00-721-9691
7530-00-223-7969
7530-00-282-9178
7530-00-142-9037
7530-00-943-7076
7530-00-272-9811
7530-00-285-3054
7530-00-285-5030

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7530-00-286-7766
7530-00-019-7837
7530-00-019-7849
7530-00-019-7850
7530-00-019-8608
7530-00-019-8610
7530-00-142-9038

Paper, Writing (IB)

7530-00-285-5836
7530-01-047-3738

Refill, Appointment Book (SH)

7530-01-228-9703 (1990)
7530-01-231-6226 (1991)

Tape, Paper, Computing Machine (IB)

7530-00-286-9052
7530-00-222-3455
7530-00-286-9053
7530-00-286-9054
7530-00-238-8352
7530-00-222-3456
7530-00-286-9055

Tape, Postage Meter (IB)

7530-00-912-3924
7530-00-912-3925

CLASS 7670

Microfiche, Subject Headings & Name Authorities (SH)

7670-00-NSH-0001
Library of Congress only

CLASS 7690

Microfiche Programs (SH)

7690-00-NSH-0007 B212-S
7690-00-NSH-0008 B214-S
Library of Congress only

Pamphlets (3229-S) (SH)

7690-00-NSH-0010, Government Printing Office, Philadelphia, Pennsylvania DLA Requisitions only

CLASS 7910

Innerspring Mattress Rehab (w/o handles) (IB)

Group I: Less than 36" wide
Group II: 36" to 41" wide
Group III: Over 41" to 49" wide
Group IV: Over 49" wide

Innerspring Mattress Rehabilitation (w/ handles) (IB)

Group I: Less than 36" wide
Group II: 36" to 41" wide
Group III: Over 41" to 49" wide
Group IV: Over 49" wide

CLASS 7910

Pad, Floor Polishing Machine (IB)

7910-00-865-6666
7910-00-865-6667
7910-00-865-3908
7910-00-865-6671
7910-00-865-3909
7910-00-865-6672
7910-00-865-3910
7910-00-865-6656
7910-00-865-6657
7910-00-865-3912
7910-00-865-6659
7910-00-865-3915
7910-00-865-6660
7910-00-865-3914
7910-00-865-4239
7910-00-865-4240
7910-00-865-4242
7910-00-865-4243
7910-00-865-4241
7910-00-865-4244
7910-00-865-4245
7910-00-820-7991
7910-00-820-7989
7910-00-820-7990
7910-00-820-9928
7910-00-820-9925
7910-00-820-9924
7910-00-820-9896
7910-00-820-7997
7910-00-820-7998
7910-00-820-9903
7910-00-820-9904
7910-00-820-9905
7910-00-820-9900
7910-00-820-9901
7910-00-820-9899
7910-00-820-9922
7910-00-820-9918
7910-00-820-9917
7910-00-820-9916
7910-00-820-9915
7910-00-820-9914
7910-00-820-9913
7910-00-820-9912
7910-00-820-9911
7910-00-820-9910

CLASS 7920

Applicator, Wax (SH)

7920-00-533-8774

Broom, Push (IB)

7920-00-267-2967

Broom, Upright (IB)

7920-00-292-4371
7920-00-292-4375
7920-00-292-4372
7920-00-291-8305

Broom, Whisk (IB)

7920-00-240-6350

Brush, Chassis and Running Gear (IB)

7920-00-255-7536

Brush, Cleaning, Aircraft (IB)

7920-00-051-4384

Brush, Dusting (IB)

7920-00-178-6315

Brush, Floor Sweeping (IB)

7920-00-243-3407
7920-00-292-2363
7920-00-292-2367
7920-00-264-4636
7920-00-292-2362
7920-00-292-2365

Brush, Plater's, Hand (IB)

7920-00-267-1215
7920-00-267-1213

Brush, Sanitary (IB)

7920-00-772-5800
7920-00-234-9317

Brush, Scrub (IB)

7920-00-240-7174
7920-00-051-8795
7920-00-282-2470, Tampico Fibers
7920-00-282-2470, Styrene Fibers
7920-00-297-1511
7920-00-061-0038

Brush, Shoe and Stove (IB)

7920-00-852-8170

Brush, Wire, Scratch (IB)

7920-00-291-5815
7920-00-282-9246
7920-00-246-8501
7920-00-223-7649
7920-00-289-1259
7920-00-255-5135
7920-00-269-0933

Brush, Wire, Stainless Steel (IB)

7920-00-958-1157

Brush-Set, Shoe and Stove (IB)

7920-00-205-0200

Cloth, Polishing (IB)

7920-00-205-1656

Cloth, Wiping ("Jean Cotton") (SH)

7920-LL-L01-0013
7920-LL-L01-0014
Portsmouth Naval Shipyard, Portsmouth, NH only

Handle, Mop (IB)

7920-00-205-1165
7920-00-267-1218
7920-00-205-1167
7920-00-550-9902
7920-00-550-9911
7920-00-550-9912
7920-00-998-2485
7920-00-998-2486
7920-00-851-0140
7920-00-851-0142
7920-00-246-0930
7920-00-205-1170

Handle, Paint Roller (IB)

7920-00-682-6512

Handle, Wood (IB)

7920-00-177-5106
7920-00-141-5452
7920-00-263-0328

Kit, Aircraft Cleaning (IB)

7920-00-490-6046

Mop, Dusting, Cotton (IB)

7920-00-305-0481
7920-00-305-0483
7920-00-305-0484

Mop, Wet (IB)

7920-00-324-8726

Mop, Wet, Cellulose (Sponge Refill) (IB)

7920-00-471-2876

Mop, Wet, Cellulose, Complete (IB)

7920-00-432-7117

Mophead, Dusting, Cotton (IB)

7920-00-998-2482
7920-00-998-2483

7920-00-998-3464
7920-00-205-0485
7920-00-851-0141
7920-00-205-0487
7920-00-205-0488

Mophead, Wet (IB)

7920-00-205-0425
7920-00-205-0426
7920-00-141-5549
7920-00-171-1148
7920-00-141-5550
7920-00-141-5547
7920-00-141-5548
7920-00-141-5544
7920-00-926-5492
7920-00-926-5493
7920-00-926-5494
7920-00-926-5495
7920-00-926-5496
7920-00-926-5497
7920-00-926-5498
7920-00-926-5499
7920-00-926-5501
7920-00-926-5502

Pad, Scouring (IB)

7920-00-753-5242
7920-00-151-6120

Pad, Wax Applicator (SH)

7920-00-633-9274

Rag, Wiping (SH)

7920-00-205-1711
Warner Robins, Georgia only

Scraper and Squeegee (IB)

7920-00-045-3556

Sponge, Cellulose (IB)

7920-00-161-6219
7920-00-633-9928
7920-00-240-2559
7920-00-884-1116
7920-00-884-1115
7920-00-633-9905
7920-00-240-2555
7920-00-633-9906

Sponge, Plastic (IB)

7920-00-633-9908
7920-00-633-9911
7920-00-633-9915
7920-00-685-4152

Squeegee (SH)

7920-00-224-8339

Squeegee, Window-Cleaning (IB)

7920-00-577-4744
7920-00-577-4745
7920-00-577-4746

Towel, Machinery Wiping (IB)

7920-00-260-1279

Towel, Paper (IB)

7920-00-823-9772
7920-00-823-9773

CLASS 7930

Cloth, Wiping (SH)

7930-LL-COO-3782, Mare Island Naval Shipyard, CA only
7930-LL-COO-2768, Mare Island Naval Shipyard, CA only
7930-00-NSH-0003, (w/o Lanyard) Charleston Naval Supply Center, SC only
7930-00-NSH-0004, (w/ Lanyard) Charleston Naval Supply Center, SC only
7930-00-NSH-0003, (w/o Lanyard) Pearl Harbor Naval Shipyard, HI only
7930-00-NSH-0004, (w/ Lanyard) Pearl Harbor Naval Shipyard, HI only

Detergent, General Purpose (IB)

7930-00-926-5280
7930-00-357-7386
7930-00-068-1069
7930-00-055-6122
7930-00-177-5243
7930-00-985-6945
7930-00-985-9646
7930-00-530-8067
7930-00-527-1207
7930-00-527-1237
7930-01-055-6121
7930-00-282-9700
7930-00-282-9699
7930-00-985-6911

Detergent, General-Purpose (IB)

7930-00-531-9715
7930-00-531-9716

Detergent, Laundry (IB)

7930-01-045-3515
7930-01-045-3517

Dishwashing Compound, Hand (IB)

7930-00-880-4454
7930-01-055-6136
7930-00-899-9534

Glass Cleaner (IB)

7930-00-664-6810

Rinse Additive, Dishwashing (IB)

7930-00-619-9573
7930-00-619-9575

CLASS 8010

Aerosol Paint, Lacquer (IB)

8010-00-721-9742
8010-00-079-2754
8010-00-141-2952
8010-00-721-9743
8010-00-584-3148
8010-00-721-9479
8010-00-141-2950
8010-00-721-9744
8010-00-721-9745
8010-00-965-2389
8010-00-079-2756
8010-00-141-2951
8010-00-584-3149
8010-00-584-3154
8010-00-721-9483
8010-00-883-5329
8010-00-965-2390
8010-00-965-2392
8010-00-721-9746
8010-00-721-9747
8010-00-721-9748
8010-00-721-9753
8010-00-141-2955
8010-00-721-9749
8010-00-721-9750
8010-00-721-9754
8010-00-835-7215
8010-00-965-2391
8010-00-280-6983
8010-00-290-6964
8010-00-582-5382
8010-00-584-3150
8010-00-721-9487
8010-00-721-9751
8010-00-721-9752
8010-00-515-2487
8010-00-958-8147
8010-00-958-8148
8010-00-958-8151
8010-00-598-5455
8010-00-936-8369
8010-00-936-8371

Aerosol Paint, Primer Coating (IB)

8010-00-067-5434
8010-00-616-9181

Enamel (B)

8010-00-067-5436
8010-00-067-5437
8010-00-079-2750
8010-00-079-2752
8010-01-203-7803
8010-01-203-7804
8010-00-079-3750
8010-00-079-3752
8010-00-079-3754
8010-00-079-3756
8010-00-079-3758
8010-00-079-3760
8010-00-079-3762
8010-00-079-3764
8010-00-159-4519
8010-00-159-4520
8010-00-159-4521
8010-00-159-4522
8010-01-060-6461
8010-00-935-7156

Enamel, Alkyd (IB)

8010-00-948-7388

Enamel, Lacquer (IB)

8010-00-664-1914
8010-00-702-1053
8010-00-582-4743
8010-00-851-5525
8010-00-941-8712
8010-00-133-5901
8010-00-181-7791
8010-00-935-8609
8010-00-935-7064
8010-00-935-7075
8010-00-935-7079
8010-00-935-7065
8010-00-598-5936
8010-00-846-5117
8010-00-852-9033
8010-00-852-9034
8010-00-968-1458
8010-00-764-8434
8010-00-848-9272
8010-00-878-5761
8010-00-910-8154
8010-01-167-1139
8010-00-348-7715
8010-00-616-9143
8010-00-616-9144
8010-00-782-9356
8010-00-181-7371
8010-00-936-8366
8010-00-936-8367
8010-00-936-8370

Enamel, Primer Coating (IB)

8010-00-584-2426
8010-00-159-4518
8010-00-297-0593
8010-00-899-8825

Lacquer (SH)

8010-00-085-0559

CLASS 8105

Bag, Assembly, Crew Relief (IB)

8105-00-922-9469

Bag, Cloth (IB)

8105-00-282-6183

Bag, Cotton (IB)

8105-00-183-6981
8105-00-281-3824
8105-00-183-6982
8105-00-179-0089
8105-00-271-1511
8105-00-183-6985
8105-00-174-0836
8105-00-183-6989
8105-00-290-3360

Bag, Currency (IB)

8105-00-NIB-0006
Bureau of Engraving and Printing, Washington, DC

Bag, Evidence (IB)

8105-00-NIB-0001
8105-00-NIB-0002
8105-00-NIB-0003
8105-00-NIB-0004
8105-00-NIB-0005

Bag, Motion Sickness (IB)

8105-00-935-7212

Bag, Plastic (IB)

8105-00-837-7753
8105-00-837-7754
8105-00-837-7755

Coin Bags (SH)

8105-00-NSH-0005
8105-00-NSH-0006
8105-00-NSH-0008
8105-00-NSH-0009
8105-00-NSH-0010
8105-00-NSH-0011
8105-00-NSH-0012

CLASS 8115

Box, Set-Up, Mailing Dental (IB)

8115-00-511-5750

Box, Shipping (IB)

8115-00-787-2142
8115-00-787-2147
8115-00-101-7647
8115-00-101-7838
8115-00-787-2146
8115-00-787-2148
8115-01-019-4085
8115-01-019-4084
8115-01-057-1244
8115-01-057-1243
8115-01-057-1245
8115-00-192-1603
8115-00-192-1604
8115-00-192-1605
8115-01-093-3730

Box, Wood (SH)

8115-00-935-5887
8115-00-935-5525
8115-00-935-5526
8115-00-935-5527
8115-00-935-5528
8115-00-935-5530
8115-00-935-5532
8115-00-935-5531

Box, Wood, Nailed (SH)

8115-01-M00-0061
Pine Bluff Arsenal, AR only

Wood Container (SH)

8115-L1-599-7220
8115-L1-599-7320
8115-L1-599-8020
8115-L1-599-7920
8115-L1-465-1020
Robins Air Force Base, Georgia only

Block, Currency Packing (IB)

BEP Stock #L-1391

CLASS 8135

Chipboard (IB)

8135-00-290-0336
8135-00-782-3948
8135-00-782-3951
8135-00-579-9457

CLASS 8140

Pallet Assembly (SH)

8140-01-050-9789

Strap Assembly (SH)

8140-01-134-8654

CLASS 8305

Cloth, Filter (SH)

8305-LL-N01-7278
Naval Supply Center, WA only

CLASS 8315

Buckle, Belt (SH)

8315-00-598-6278
8315-00-864-9126
8315-01-069-4982
8315-00-275-4513
8315-01-075-1818

Sewing Kit (SH)

8315-01-090-5823
8315-01-222-0680
8315-01-222-0679

CLASS 8340

Tarpaulin (SH)

8340-00-485-3012

Cover, Tent (SH)

8340-00-262-2397

Line, Tent (SH)

8340-00-263-0254
8340-00-263-0255
8340-00-252-2268
8340-00-252-2271
8340-00-252-2273
8340-00-252-2291
8340-00-556-9689
8340-00-252-2280
8340-00-252-2282
8340-00-252-2297
8340-00-252-2293

Pin, Tent, Aluminum (SH)

8340-00-281-9749

Pin, Tent, Metal (SH)

8340-00-985-7461

Pin, Tent, Wood (SH)

8340-00-281-9750
8340-00-281-9751

Pole Section, Tent (SH)

8340-00-223-7849

Shelter Half, Tent, Incomplete (SH)

8340-00-577-4188

Shelter Half, Tent, Complete (SH)

8340-01-026-6096

CLASS 8345

Case, Flag, Interment (IB)

8345-00-782-3010

Flag, Signal (IB)

8345-00-935-0588
8345-00-935-0589
8345-00-935-0590
8345-00-935-0591
8345-00-935-0592
8345-00-935-0594
8345-00-935-0595
8345-00-935-0597
8345-00-935-0598
8345-00-935-0599
8345-00-935-0602
8345-00-935-0604
8345-00-935-0607
8345-00-935-0608
8345-00-935-0633
8345-00-935-1840
8345-00-935-0634
8345-00-935-0638
8345-00-935-0639
8345-00-935-0640
8345-00-926-9977
8345-00-926-9218
8345-00-926-9978
8345-00-926-6804
8345-00-926-6806
8345-00-926-9979
8345-00-926-6807
8345-00-926-6809
8345-00-926-9980
8345-00-926-9219
8345-00-935-0582
8345-00-926-9984
8345-00-926-6003
8345-00-926-9985
8345-00-935-0619
8345-00-935-1839
8345-00-935-0620
8345-00-935-0623
8345-00-935-0409
8345-00-935-0624
8345-00-935-0445
8345-00-926-6803
8345-00-935-0446
8345-00-926-6805
8345-00-935-0447
8345-00-926-9987
8345-00-935-0448
8345-00-926-6810
8345-00-926-9988

8345-00-935-0450
8345-00-935-0451
8345-00-935-0453
8345-00-926-6002
8345-00-926-6814
8345-00-926-6815
8345-00-926-6816
8345-00-926-6817
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8345-00-935-0450
8345-00-935-0451
8345-00-935-0453
8345-00-926-6002
8345-00-926-6814
8345-00-935-0436
8345-00-935-0437
8345-00-935-0438
8345-00-935-0408
8345-00-935-0441
8345-00-935-0442
8345-00-935-0464
8345-00-935-0465
8345-00-935-0466
8345-00-935-0467
8345-00-935-0468
8345-00-935-0470
8345-00-935-0471
8345-00-935-0473
8345-00-935-0474
8345-00-935-0475
8345-00-935-0478
8345-00-935-0480
8345-00-935-0483
8345-00-935-0484
8345-00-935-0626
8345-00-935-1838
8345-00-935-0627
8345-00-935-0407
8345-00-935-0630
8345-00-935-0631

Flag, Signal, Vehicle, Danger Red (IB)

8345-00-260-2724

Flagstaff, Wood (SH)

8345-00-242-3650

Panel Marker, Aerial Liaison (SH)

8345-00-174-6865

Pennant, Signal, and Special Flags (IB)

8345-00-935-0420
8345-00-935-0317
8345-00-935-4755
8345-00-825-1847
8345-00-935-3201
8345-00-935-4750
8345-00-935-0522
8345-00-914-6088
8345-00-935-4753
8345-00-935-4754
8345-00-935-0404
8345-00-935-0514
8345-00-825-1866
8345-00-935-0406
8345-00-935-0509
8345-00-926-5988
8345-00-935-0512
8345-00-021-4497
8345-00-935-3199
8345-00-825-1839
8345-00-935-0526
8345-00-914-6076
8345-00-914-6080
8345-00-914-6083
8345-00-935-0524
8345-00-926-5987
8345-00-926-5989
8345-00-935-0539
8345-00-926-5991
8345-00-825-1840
8345-00-935-0521
8345-00-914-6087
8345-00-926-6026
8345-00-935-0403
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8345-00-926-6210
8345-00-926-6213
8345-00-926-6028
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8345-00-926-6212
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8345-00-926-6207
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8345-00-935-0410
8345-00-935-0525
8345-00-914-6075
8345-00-914-6077
8345-00-914-6081
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8345-00-935-0416
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8345-00-935-0540
8345-00-935-0541
8345-00-926-6211
8345-00-935-0499
8345-00-935-0500
8345-00-935-0501
8345-00-825-1818
8345-00-935-0497
8345-00-935-0504
8345-00-935-1841
8345-00-935-0418
8345-00-825-1819
8345-00-926-1551
8345-00-935-0503
8345-00-935-0534
8345-00-935-1843
8345-00-926-1548
8345-00-926-1549
8345-00-926-1552

Streamer, Warning, Aircraft (IB)

8345-00-863-9170

CLASS 8405

Cap, Utility, Camouflage (SH)

8405-01-246-4176
8405-01-246-4177
8405-01-246-4178
8405-01-246-4179
8405-01-246-4180

Cover, Service Cap (IB)

8405-01-046-8544
8405-01-046-8545

Liner, Poncho, Wet Weather (IB)

8405-00-889-3683

Memphis, TN Depot only

Poncho, Wet Weather (SH)

8405-01-100-0976

CLASS 8410

Pants, Woman's (SH)

8410-01-189-9909
8410-01-189-9910
8410-01-189-9911
8410-01-189-9912
8410-01-189-9913
8410-01-189-9914
8410-01-189-9915
8410-01-189-9919
8410-01-189-9920
8410-01-189-9921
8410-01-189-9916
8410-01-189-9917
8410-01-190-9274
8410-01-190-9271
8410-01-190-9272
8410-01-190-9273
8410-01-190-9276
8410-01-190-9277
8410-01-189-9918
8410-01-189-9922
8410-01-189-9923
8410-01-189-9924
8410-01-189-9925
8410-01-190-4257
8410-01-190-9278
8410-01-190-9279
8410-01-190-9280
8410-01-190-9281
8410-01-189-9926
8410-01-190-9275
8410-01-189-9927
8410-01-189-9928
8410-01-189-9929
8410-01-189-9930
8410-01-189-9931
8410-01-189-9932

Shirt, Woman's (SH)

8410-01-104-7947
8410-01-104-7948
8410-01-104-7949
8410-01-104-7950
8410-01-104-7951
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8410-01-069-6627

Skirt, Woman's (SH)

8410-01-187-1415
8410-01-187-1416
8410-01-187-1417
8410-01-187-1418
8410-01-187-1419
8410-01-187-1420
8410-01-187-1421
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8410-01-187-1437
8410-01-187-1438
8410-01-187-1439
8410-01-187-1440
8410-01-187-1441

Slacks, Utility, Woman's (SH)

8410-01-074-6193
8410-01-074-6194
8410-01-074-6195
8410-01-074-6196
8410-01-074-6197
8410-01-074-6198
8410-01-074-6199
8410-01-074-6200
8410-01-074-7868
8410-01-074-7869
8410-01-074-7870
8410-01-074-7871
8410-01-074-7872
8410-01-074-7873
8410-01-074-7874
8410-01-074-7003
8410-01-074-7004

Slacks, Woman's (SH)

8410-01-029-6690
8410-00-591-1165
8410-00-591-1181
8410-00-591-1182
8410-00-591-1185
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8410-00-591-1356

Topper, Woman's (SH)

8410-01-187-9636
8410-01-187-9637
8410-01-187-9628
8410-01-187-9629
8410-01-187-9630
8410-01-187-9631
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8410-01-187-9681
8410-01-187-9701
8410-01-187-9702
8410-01-187-9703
8410-01-187-9704

CLASS 8415

Apron, Construction Worker's (IB)

8415-00-205-3695
8415-00-257-4280

Apron, Food Handler's (IB)

8415-00-255-5577
8415-00-634-0205
8415-00-051-1173
8415-01-045-0587

Apron, Food Handler's (SH)

8415-00-899-3026

Apron, Impermeable (SH)

8415-00-082-6108

Apron, Laboratory (SH)

8415-00-634-5023

Band, Helmet, Camouflage (IB)

8415-01-110-9961

Cap, Food Handler's (IB)

8415-00-234-7677
8415-00-234-7678
8415-00-234-7679

Cover, Helmet (IB)

8415-00-105-0605

Cover, Helmet, Camouflage Pattern (IB)

8415-01-092-7514
8415-01-092-7515
8415-01-303-8945

Cover, Helmet, Chemical Protective (IB)

8415-01-111-9028 (75,000 each annually)

Cover, Helmet, Desert Camouflage (SH)

8415-01-103-1349
8415-01-103-1350

Cover, Toxicological Agents Protective (SH)

8415-00-261-6443

Coveralls, Disposable (SH)

8415-00-601-0792
8415-00-601-0793
8415-00-601-0794
8415-00-601-0797
8415-00-601-0801
8415-00-601-0802

Drawers, Cold Weather (SH)

8415-01-227-9542
8415-01-227-9543
8415-01-227-9544
8415-01-227-9545
8415-01-227-9546

Hood, Anti-Flash, Flame Resistant (SH)

8415-01-266-3473

Hood, Spray Painter's Protective (SH)

8415-00-NSH-0001
Pearl Harbor Naval Shipyard, HI only

Liner, Flyer's Jacket (IB)

8415-00-844-9811
8415-00-844-9812
8415-00-844-9813
8415-00-844-9814

Liner, Coat, Cold Weather (IB)

8415-00-782-2886
8415-00-782-2887
8415-00-782-2888
8415-00-782-2889
8415-00-782-2890
8415-01-062-0679
Mechanicsburg, PA Depot only

Liner, Flyer's Trousers (IB)

8415-00-844-9815
8415-00-844-9816
8415-00-844-9817
8415-00-844-9818

Liner, Trousers, Cold Weather (IB)

8415-01-180-0370
8415-01-180-0371
8415-01-180-0372
8415-01-180-0373
8415-01-180-0374
8415-01-180-0375
8415-01-180-0376
8415-01-180-0377

Mask, Extreme Cold Weather (SH)

8415-01-000-3466

Pad, Helmet, Flight Deck Crewman's (IB)

8415-00-176-6830
8415-00-176-6831

Smock, General Purpose (SH)

8415-00-117-7467
8415-00-117-7542
8415-00-117-7543
8415-00-117-7546

Socks, Extreme Cold Weather (SH)

8415-00-177-7992
8415-00-177-7993
8415-00-177-7994
8415-01-057-3503

Sweatpants (IB)

8415-01-234-4409
8415-01-234-4410
8415-01-234-4411
8415-01-234-4412
8415-01-234-4413

Sweatshirt (IB)

8415-01-234-4420
8415-01-234-4421
8415-01-234-4422
8415-01-234-4423
8415-01-234-4424

Traffic Safety Clothing (See Class 8465 also) (IB)

8415-00-177-4976
8415-00-177-4974

Undershirt, Cold Weather (SH)

8415-01-227-9547
8415-01-227-9548
8415-01-227-9549
8415-01-227-9550
8415-01-227-9551

CLASS 8430

Footwear Cover (IB)

8430-01-196-8394
8430-00-580-1205
8430-00-580-1206
8430-00-591-1359
8430-01-162-4453

Slide Fastener Unit, Laced Boot (IB)

8430-00-465-1888
8430-00-465-1889
8430-00-465-1890

CLASS 8440

Belt, Coat (IB)

8440-00-261-4965
8440-00-261-4966

Belt, Trousers (IB)

8440-00-270-0535

8440-00-573-1666
8440-01-052-9738
8440-00-634-5632
8440-00-270-0541
8440-00-270-0536
8440-00-573-1765
8440-01-052-9739
8440-00-577-6177
8440-00-270-0542
8440-01-175-7850
8440-01-204-3810
8440-01-181-4410
8440-01-175-7851
8440-01-175-7854
8440-00-270-0537
8440-00-573-3727
8440-01-052-9740
8440-00-577-6178
8440-00-270-0543

Handkerchief, Man's (SH)

8440-00-261-4246
8440-01-288-3178

Neckerchief (IB)

8440-01-198-8175

Neckerchief, Camouflage, Desert (IB)

8440-01-148-4542

Necktie (IB)

8440-01-156-0373
8440-01-171-7571
8440-01-190-0086
8440-00-555-7194

Scarf, Man's, Wool (SH)

8440-01-005-2558
8440-00-180-6843
8440-00-823-7520

Suspenders, Trousers (IB)

8440-00-221-0852

CLASS 8445

Belt, Trousers, Cotton (IB)

8445-01-056-8330
8445-01-056-8340
8445-01-075-0013
8445-01-075-0014
8445-01-075-0015

Scarf, Neckwear (IB)

8445-00-540-5363

CLASS 8455

Brassard, Army, Military (SH)

8455-01-236-1174

Decoration Sets (SH)

8455-00-880-0617
8455-01-122-0120

Holder, Identification (IB)

8455-00-696-9730

Medal (SH)

8455-00-391-4901

Medal Sets (SH)

8455-00-082-5528
8455-00-390-5781
8455-00-390-5783
8455-00-390-5788
8455-00-390-5784
8455-00-390-5782

Scarf, Branch of Service (IB)

8455-00-916-8308
8455-00-605-2294
8455-00-965-7336
8455-01-078-0745

CLASS 8460

Briefcase (SH)

8460-01-193-9769

Case, Map and Photograph (SH)

8460-00-368-4281

Cover, Map (SH)

8460-00-287-2137
8460-00-287-2140

Kit Bag, Flyer's (IB)

8460-00-606-8360

CLASS 8465

Bag, Soiled Clothes (IB)

8465-00-122-0362
8465-00-122-0363
8465-00-122-0364

Bag, Barrack (IB)

8465-00-530-3692

Bag, Chemical Protective Clothing Outfit (IB)

8465-01-216-8259

Bag, Laundry (SH)

8465-00-916-9576

Bag, Laundry, Self-Closing, Ropeless (SH)

8465-00-656-0816

Bag, Personal Effects (SH)

8465-00-174-0808

Bag, Sleeping, Firefighter's (IB)

8465-00-061-0798

Bag, Soiled Clothes (SH)

8465-00-122-3869

Bag, Soiled Clothes, Submarine (IB)

8465-00-782-7671

Belt, Individual, Equipment, Nylon, LC-1 (IB)

8465-00-001-6487
8465-00-001-6488
8465-01-120-0674
8465-01-120-0675

Belt, M.P. (IB)

8465-00-527-6843

Binding, Snowshoe, Universal (IB)

8465-00-965-2175

Canteen, Water, Plastic (IB)

8465-01-115-0026
Mechanicsburg, PA; Tracy, CA; & Oakland, CA DLA Depots only

Carrier, Intrenching Tool (IB)

8465-00-001-6474

Case, Field, First Aid (IB)

8465-00-935-6814

Case, Maintenance Equipment, Small Arms (IB)

8465-00-781-9564

Clipboard, Pilot's (SH)

8465-01-012-9174

Clothes Stop (IB)

8465-00-377-5701

Cover, Field Pack, Camouflage (IB)

8465-01-103-0659

Cover, Field Pack, Camouflage, White (SH)

8465-00-001-6471

Cover, Water, Canteen (IB)

8465-00-118-4956

Fieldpack, Canvas (SH)

8465-00-305-3493

Kit, Maintenance (SH)

8465-00-753-6335

Lanyard, Pistol (SH)

8465-00-282-5237
8465-00-965-1705

Mat, Sleeping, Cold Weather (SH)

8465-01-109-3369

Necklace, Personnel, Identification (SH)

8465-00-281-6629

Pack, Personal Gear (SH)

8465-01-141-2321

Pocket, Ammunition Magazine (IB)

8465-00-782-2239
8465-00-281-4963

Protector, Trousers, Pistol Holster (IB)

8465-00-882-6741

Sheath, Ax (SH)

8465-01-110-2078

Sheath, Brush Hook (Bush) (SH)

8465-01-136-4720

Sheath, McLeod Tool (SH)

8465-01-136-4716

Sheath, Pulaski Tool (SH)

8465-01-067-9999

Sheath, Shovel, Hand (SH)

8465-01-136-4719

Stand, Canteen Cup (IB)

8465-01-250-3632

Strap, Shoulder, Quick Release, Right Hand (IB)

8465-01-078-8282
Mechanicsburg, PA & Richmond, VA Depots only

Strap, Waist, with Pad, LC-2 (IB)

8465-01-075-8164

Strap, Webbing, Cargo, Tie-Down (IB)

8465-00-001-6477

Strap, Webbing, Frame Attaching (IB)

8465-01-151-2801

Strap, Webbing, Waist, LC-1 (IB)

8465-00-260-0481

Strap, Shoulder, Quick Release, Left Hand (IB)
8465-00-286-0462
Richmond, VA Depot only

Suspenders, Individual Equipment Belt (IB)
8465-00-001-6471

Traffic-Safety Clothing (IB)
8465-00-177-4975
8465-00-177-4976
8465-00-177-4977

Water Bag, Nylon Duck (SH)
8465-01-185-5511

Whistle, Ball, Plastic (IB)
8465-00-254-8003

CLASS 8470

Headband, Ground-Troop/Parachutists' Helmet (IB)
8470-01-092-8493
8470-01-092-8492

Neckband, G.T., Helmet Liner (IB)
8470-00-753-8166

Pad, Parachutists' Helmet (IB)
8470-01-092-8494

Strap, Chin, Parachutist Steel Helmet (IB)
8470-00-032-2737

Strap, Retention, Parachutists' Helmet (IB)
8470-01-092-7524

Strap, Soldier's Steel Helmet M-1 (IB)
8470-00-030-8003

Strap, Chin, Ground Troops/Parachutists Helmet (IB)
8470-01-092-7534

Suspension—Assembly, GT/Parachutist (IB)
8470-01-092-7516
8470-01-092-7517
8470-01-092-7518
8470-01-092-7519
8470-01-303-8947

Suspension Assembly, Liner, Helmet (IB)
8470-00-880-8814

CLASS 8520

Soap, Toilet (IB)
8520-00-228-0598
8520-01-058-7463
8520-00-141-2519

CLASS 8540

Paper, Toilet Tissue (IB)
8540-00-530-3770 GSA Zone 1 only
8540-01-053-8094
8540-00-J19-1421

CLASS 8915

Potatoes, White, Fresh (SH)
8915-00-456-6111 Whole
8915-00-225-1945 Diced
DLA in North Carolina & South Carolina only

CLASS 9905

Holder, Card-Label (IB)
9905-00-866-0334

Plate, Marking, Blank (SH)
9905-00-473-6336

Sign-Kit, Vehicle (SH)
9905-00-565-6267

Tag, Key (SH)
9905-00-245-7826

Tag, Marker (SH)
9905-00-537-8954
9905-00-537-8955
9905-00-537-8956
9905-00-537-8957

Tree Shade (SH)
9905-00-NSH-0001 8" x 12"
9905-00-NSH-0153 8" x 16"
BLM and U.S. Forest Service, Washington and Oregon only

CLASS 9920

Ash Receiver, Tobacco (IB)
9920-00-682-6757

Cleaner, Tobacco Pipe (SH)
9920-00-292-9946

Divider, Separation (SH)
P.S. #01037-A
P.S. #01037-B

Lead Seal with Cord Attachment (SH)
P.S. #0815

Marker, I.D., Plastic (SH)
P.S. #01036
P.S. #01036-A
P.S. #01036-B
P.S. #01036-C
P.S. #01036-D
P.S. #01036-E
P.S. #01036-F

Pad, Shoulder Strap (SH)
P.S. #D-1212

Pallet, P.S., Material Handling (SH)
3990-00-NSH-0008 (62 x 48")
Postal Service, Western Area Supply Center only

Pocket, Imitation Leather (SH)
P.S. #D-1200-G

Safety Guard (SH)
P.S. #1075-B

Seal, Metal Band (SH)
P.S. #0816-A
P.S. #0816-B

Seat Assembly, Complete (SH)
P.S. #054-A

Seat Cover (SH)
P.S. #054-B

Stool (SH)
P.S. #127-A
P.S. #127-B
P.S. #127-C
P.S. #127-D

Strap, Mail Tray (IB)
P.S. Item #01067

Strap, Tie, Mail Carrier's, with buckle (IB)
P.S. #D1216-D
P.S. #D1216-E
P.S. #D1216-F

Tray, Fiberboard, Three-Sided (SH)
P.S. #D-3915

Military Resale Commodities

Procedures for ordering military resale commodities are contained in Section 51-5.6, Code of Federal Regulations, Title 41.

Item No. and Item name:

020 Mouse pad, computer
040 Pen, twist action, black ink (IB)
041 Pen, twist action, blue ink (IB)
060 Roller ball pen, red (IB)
061 Roller ball pen, blue (IB)
062 Roller ball pen, black (IB)
063 Retractable pen, black (IB)
064 Retractable pen, blue (IB)
065 Ultra fine tip marker, red (IB)
066 Ultra fine tip marker, blue (IB)
067 Ultra fine tip marker, black (IB)
068 Pencil, mechanical, 0.5 mm lead (IB)
204 Cleaner, tobacco, pipe (SH)
500 Room air freshener (IB)
501 Deodorizer, toilet bowl (IB)
503 Bowl deodorizer (IB)
504 Bowl deodorizer (IB)
506 Air deodorizer, push-up type, floral spring (IB)
507 Air deodorizer, push-up type, lemon (IB)
510 Cleaner, all purpose (IB)
519 Fabric softener sheets, reusable, 8¾ x 4" (60 count) (IB)
520 Fabric softener sheets, reusable, 8¾ x 4" (40 count) (IB)
521 Candle, air freshening, fruit (IB)
522 Candle, air freshening, holiday (IB)
523 Candle, air freshening, floral (IB)
524 Candle, air freshening, berry (IB)
525 Candle, air freshening, forest (IB)
526 Candle, air freshening, carnival (IB)
527 Candle, air freshening, festival (IB)
528 Candle, air freshening, herbal (IB)
529 Candle, air freshening, assorted scents with holders (IB)
541 Scrubber, bathroom, with handle (IB)
542 Scrubber, kitchen, with handle (IB)
543 Scrubber, grill & garage, with handle (IB)
544 Scrubber, nylon net over polyurethane pad (IB)
554 Scrubber, nylon, rectangular (IB)
555 Scrubber, kitchen, 4⅝ x 3⅛ x 1⅝" (IB)
556 Scrubber, Cookware, 4⅝ x 3⅛ x 1⅝" (IB)
557 Scrubber, general household, 6⅜ x 3⅛ x 1" (IB)
559 Scrubber, bathroom
563 Scrubber, plastic, for teflon (IB)
564 Scrubber, stainless steel (IB)
568 Board, ironing, table top (IB)
570 Clothespins, plastic (IB)
574 Clothesline, plastic, rayon reinforced, 100-ft. (IB)
575 Sponge, cellulose, 5½ x 3⅝ x 1⅜" (IB)
576 Sponge, cellulose, 7⅜ x 4 x 1¾" (IB)
577 Sponge, cellulose, 5½ x 3⅝ x 1" (IB)
578 Sponge, cellulose, 5½ x 3⅝ x ⅝" (IB)
581 Flatware, assorted, PG of 24 (IB)
583 Flatware, forks, PG of 24 (IB)
584 Flatware, spoons, PG of 24 (IB)
593 Sponge, bath, circular (IB)
594 Swatter, fly, plastic (IB)

596 Cutlery set, plastic, heavy duty (8 ea knives, forks, spoons) (IB)
597 Knives, plastic, heavy duty (IB)
598 Forks, plastic, heavy duty (IB)
599 Spoons, plastic, heavy duty (IB)
620 Vest, safety, joggers, small (IB)
621 Vest, safety, joggers, medium (IB)
622 Vest, safety, joggers, large (IB)
650 Dryer, sweater (IB)
721 Paint roller cover, economy, 9" (IB)
723 Paint roller cover, all purpose, 9" (IB)
727 Paint roller cover, high pile, 9" (IB)
730 Paint roller cover, for rough surfaces, 9" (IB)
750 Desk, lap
754 Pillow, Standard, 20" x 26" (IB)
755 Pillow, Queen, 20" x 30" (IB)
756 Pillow, King, 20" x 36" (IB)
820 Opener, can and bottle (IB)
824 Slicer, cheese (IB)
826 Peeler, vegetable (IB)
828 Cutter, pizza (IB)
832 Spatula, plate and bowl (IB)
834 Spoon, basting, plastic
835 Spoon, slotted, plastic
836 Fork, Plastic
837 Turner, small, plastic
838 Turner, large, plastic
839 Server, spaghetti, plastic
840 Scoop, ice cream, plastic
845 Bag clip, plastic
850 Bib, baby, cotton (IB)
860 Hooks, laundry, plastic (IB)
862 Brush, lint, plastic (IB)
901 Broom, mixed fiber (IB)
902 Broom, push, indoor/outdoor, 54" handle (IB)
903 Broom, parlor, corn, medium weight (IB)
904 Broom, corn, plastic cap (IB)
905 Broom, plastic filament, flagged ends (IB)
906 Broom, push, 18", indoor/outdoor (IB)
907 Broom, plastic filament, angle cut (IB)
908 Broom, plastic filament, angle tilt (IB)
909 Broom, whisk, corn (IB)
912 Brush, lint, plastic filament (IB)
914 Brush, barbecue, with scraper (IB)
915 Brush, counter, plastic (IB)
916 Brush, bowl, sanitary, nylon filament (IB)
918 Brush, scrub, household (IB)
919 Brush, scrub, plastic block, vinyl filament (IB)
920 Handle, mop, spring lever, for wet mopheads (IB)
921 Mop, anglematic (IB)
922 Applicator, wax, foam block (IB)
923 Mop, automatic, block sponge (IB)
924 Mop, block sponge, with scrub strip brush (IB)
925 Mop, dusting, nylon (IB)
926 Mop, stick, orlon/rayon yarn, wet (IB)
927 Mop, stick, rayon yarn, wet (IB)
928 Mop, stick, cotton yarn, wet (IB)
929 Mop, stick, foam/nonwoven
931 Refill, for #921 (IB)
933 Refill, mop, automatic, block sponge, for 923 (IB)
934 Refill, mop, block sponge, for 924 (IB)
936 Mophead, orlon/rayon yarn, wet (IB)
937 Mophead, cotton yarn, wet (IB)
941 Cloth, dish, knitted cotton (IB)
943 Towel, modern design (IB)
944 Dish cloth, modern design (IB)
945 Towel, kitchen, cotton (IB)
946 Potholder, quilted, cotton (IB)
947 Oven mitt, modern design (IB)
948 Potholder, modern design (IB)
949 Mitt, oven, quilted, cotton (IB)
950 Mop, dish and bottle, wood handle (IB)
955 Brush, vegetable/utility, plastic filament (IB)
956 Brush, bottle, nylon filament (IB)
957 Brush, dish and pan, nylon filament (IB)
959 Brush, pastry and basting (IB)
962 Cover, ironing board, silicone and pad, poly foam (IB)
964 Cover, ironing board, silicone, double coated (IB)
965 Cover, ironing board, color coated (IB)
970 Bag, washing machine, nylon with zipper (IB)
971 Towel, dish, traditional design (IB)
972 Dish cloth, traditional design (IB)
973 Towel, contemporary design (IB)
974 Dish cloth, contemporary design (IB)
975 Oven mitt, traditional design (IB)
977 Oven mitt, contemporary design (IB)
978 Pot holder, contemporary design (IB)
979 Pot holder, traditional design (IB)
980 Cloth, all purpose, cotton (IB)
981 Towel, fashion design (IB)
982 Potholder, fashion design (IB)
983 Cloth, dusting (IB)
986 Cloth, wash, face (IB)
995 Dustpan, plastic (IB)

Services

Administrative Services

Department of Commerce: Herbert Hoover Building, 14th & Constitution Avenue, NW., Washington, DC (SH)
Department of Defense: DCASR Building B-95, 805 Walker Street, Marietta, Georgia (SH)
Department of Transportation: Library and Distribution Services, 400 7th Street, SW., Washington, DC (SH)
FAA Regional Office, East Point, Field Facilities and Accounting Office, Hapeville, Georgia (SH)
Environmental Protection Agency: 1860 Lincoln Street, Denver, Colorado (SH)
Marfair/Fairchild Building, Washington, DC (SH)
Waterside Mall Complex, Washington, DC (SH)
345 Courtland Street, NE., Atlanta, Georgia (SH)
General Services Branch, 230 South Dearborn Street, Chicago, Illinois (SH)
26 Federal Plaza, New York, New York (SH)
6th and Walnut Street, Philadelphia, Pennsylvania (SH)
Crystal Mall Complex, Arlington, Virginia (SH)

Assembly

Department of Army: Kit Camouflage Support System, U.S. Army Troop Support Command, St. Louis, Missouri (IB)
Kit Camouflage Support System, Red River Army Depot, Texarkana, Texas (IB)
Department of Defense: Belt, Trousers (IB)
Food Packet, Survival, Abandon Ship (8970-00-299-1365) (IB)
Food Packet, Survival, General-Purpose, Individual (8970-00-082-5065) (IB)
General Services Administration: Belt Weather Kit (8660-01-024-3636) (SH)
Canteen, Water Disposable (8465-01-082-5554) (SH)
Dinnerware Kit (7360-00-198-0460) (SH)
Living Kit, Basic and Supplemental (SH)

Mop-up Kit, Lateral Line (4210-01-029-0369) (SH)

Brick Joint Cleaning

Department of the Army: Andersonville National Historic Site, Andersonville, Georgia (SH)

Bursting and Packaging of Commemorative Stamps

U.S. Postal Service: Washington, DC (SH)

Cage Cleaning

Department of Health and Human Services: Food and Drug Administration, Federal Office Building #8, 200 C Street SW., Washington, DC (SH)

Cardboard and Paper Scrap Recovery

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)
Department of Energy: Bonneville Power Administration, Portland, Oregon (SH)

Carpet Cleaning

General Services Administration: Portland, Oregon, plus 10-mile radius (SH)

Carwash

Department of Interior: Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon (SH)

Catering Service

Department of Air Force: Military Entrance Processing Station, Jackson, Mississippi (SH)
Department of Army: New Cumberland Army Depot, Military Entrance Processing Station, Building 521, New Cumberland, Pennsylvania (SH)

Commissary Shelf Stocking

Department of Navy: Naval Air Station, Alameda, California (SH)
Naval Outlying Landing Field, Imperial Beach, California (SH)
Naval Air Station, Long Beach, California (SH)
Naval Air Station, Miramar, San Diego, California (SH)
Naval Air Station, North Island, San Diego, California (SH)
Naval Station, San Diego, California (SH)
Naval Training Center, San Diego, California (SH)
Mare Island Naval Shipyard, Vallejo, California (SH)
Naval Air Station, Cecil Field, Florida (SH)
Commissary Branch Store, Mayport, Florida (SH)
Naval Air Station, Pensacola, Florida (SH)
Naval Air Station, Barbers Point, Oahu, Hawaii (SH)
Naval Base, Pearl Harbor, Hawaii (SH)
Naval Training Center, Great Lakes, Illinois (SH)
Naval Air Station, Brunswick, Maine (SH)
U.S. Naval Academy, Annapolis, Maryland (SH)
Naval Air Station, Patuxent River, Maryland (SH)
Naval Administrative Unit, Scotia, New York (SH)
Naval Station, Roosevelt Roads, Puerto Rico (SH)

Naval Education Training Center, Newport, Rhode Island (SH)
Naval Station and Naval Weapons Station, Charleston, South Carolina (SH)
Branch Commissary Store, Little Creek Naval Amphibious Base, Virginia Beach, Virginia (SH)
Naval Air Station, Whidbey Island, Oak Harbor, Washington (SH)
Naval Air Station, Memphis, Millington, Tennessee (SH)
Naval Air Station, Meridian, Mississippi (SH)
Naval Air Station, Corpus Christi, Texas (SH)
Naval Air Station, Kingsville, Texas (SH)
Naval Air Station, Chase Field, Beeville, Texas (SH)
Naval Air Station, Whiting Field, Milton, Florida (SH)
Naval Air Station, Oceana, Virginia Beach, Virginia (SH)
Naval Air Station, Norfolk, Virginia (SH)
Naval Air Station, Patuxent River, Maryland (SH)
Naval Air Station, Jacksonville, Florida (SH)
Naval Air Station, Key West, Florida (SH)
Naval Air Station, Lemoore, California (SH)
Naval Air Station, Fallon, Nevada (SH)
Naval Air Station, Point Mugu, California (SH)
Naval Air Station, Alameda, California (SH)
Naval Air Station, Moffett Field, California (SH)
Naval Air Station, Barbers Point, Oahu, Hawaii (SH)
Naval Air Station, Agana, Guam (SH)
Naval Air Station, Cubi Point, Philippines (SH)
Naval Air Station, Atsugi, Japan (SH)
Naval Air Station, Iwakuni, Japan (SH)
Naval Air Station, Sigonella, Sicily (SH)
Naval Air Station, Keflavik, Iceland (SH)
Naval Air Station, Rota, Spain (SH)
Naval Air Station, Lajes, Azores (SH)
Naval Air Station, Brunswick, Maine (SH)
Naval Air Station, Glenview, Illinois (SH)
Naval Air Station, Willow Grove, Pennsylvania (SH)
Naval Air Station, Quonset Point, Rhode Island (SH)
Naval Air Station, Adak, Alaska (SH)
Naval Air Station, Barbers Point, Oahu, Hawaii (SH)
Naval Air Station, Kodiak, Alaska (SH)
Naval Air Station, Moffett Field, California (SH)
Naval Air Station, Whidbey Island, Oak Harbor, Washington

Naval Education Training Center, Newport, Rhode Island (SH)
Naval Station and Naval Weapons Station, Charleston, South Carolina (SH)
Branch Commissary Store, Little Creek Naval Amphibious Base, Building 3324, Norfolk, Virginia (SH)
Naval Station, Norfolk, Virginia (SH)
Branch Commissary Store, Building 350, Norfolk Naval Shipyard, Portsmouth, Virginia (SH)
Naval Air Station, Oceana, Virginia Beach, Virginia (SH)
Naval Submarine Base, Bangor, Washington (SH)
Naval Air Station, Whidbey Island, Oak Harbor, Washington (SH)
Naval Support Activity, Sand Point, Seattle, Washington, (SH)

Commissary Shelf Stocking and Custodial Service

Department of Air Force: Gunter Air Force Station, Alabama (SH)
Maxwell Air Force Base, Alabama (SH)
Eielson Air Force Base, Alaska (SH)
Elmendorf Air Force Base, Alaska (SH)
Little Rock Air Force Base, Arkansas (SH)
George Air Force Base, California (SH)
Lowry Air Force Base, Colorado (SH)
Homestead Air Force Base, Florida (SH)
Hickam Air Force Base, Hawaii (SH)
Mountain Home Air Force Base, Idaho (SH)
Scott Air Force Base, Illinois (SH)
Nellis Air Force Base, Nevada (SH)
Kirtland Air Force Base, New Mexico (SH)
Griffiss Air Force Base, New York (SH)
Minot Air Force Base, North Dakota (SH)
Altus Air Force Base, Oklahoma (SH)
Shaw Air Force Base, South Carolina (SH)
Goodfellow Air Force Base, Texas (SH)
Lackland Air Force Base, Texas (SH)
Langley Air Force Base, Virginia (SH)
Francis E. Warren Air Force Base, Wyoming (SH)
Department of Army: Fort Gillem, Georgia (SH)
Fort Benjamin Harrison, Indiana (SH)
Fort Monumouth, New Jersey (SH)
Fort Bragg and Maloree Village, Fayetteville, North Carolina (SH)
Fort Sam Houston, Texas (SH)
Department of Navy: Branch Commissary Store, Naval Support Activity, New Orleans, Louisiana (SH)

Commissary Warehousing Service

Department of Air Force: Little Rock Air Force Base, Arkansas (SH)
Mountain Air Force Base, Idaho (SH)
Columbus Air Force Base, Mississippi (SH)
Minot Air Force Base, North Dakota (SH)
Altus Air Force Base, Oklahoma (SH)
Shaw Air Force Base, South Carolina (SH)
Langley Air Force Base, Virginia (SH)
Francis E. Warren Air Force Base, Wyoming (SH)

Commissary Shelf Stocking/Custodial/ Warehousing

Department of Air Force: McClellan Air Force Base, California (SH)
Robins Air Force Base, Georgia (SH)
McConnell Air Force Base, Kansas (SH)
Cannon Air Force Base, New Mexico (SH)
Ellsworth Air Force Base, South Dakota (SH)
Randolph Air Force Base, Texas (SH)
Sheppard Air Force Base, Texas (SH)
Hill Air Force Base, Utah (SH)
Department of Air Force: Robins Air Force Base, Georgia (SH)

Computer Tape Verification

Department of Air Force: Tinker Air Force Base, Oklahoma (SH)

Currency Packaging

Department of Treasury: Bureau of Engraving and Printing, Washington, DC (SH)

Document Destruction

Department of Treasury: Internal Revenue Service, Cincinnati Service Center, 200 West Fourth Street, Covington, Kentucky (SH)

Drill Sharpening

Department of Navy: Naval Supply Center, San Diego, California (SH)

Elevator Operation Service

General Services Administration: Wyoming Valley Veterans Building, 19 North Main Street, Wilkes-Barre, Pennsylvania (SH)

File Maintenance

Department of the Treasury: Bureau of Public Debt, Parkersburg, West Virginia (SH)

Food Service:

Department of Air Force: Sheppard Air Force Base, Texas (SH)

Food Service Attendant

Department of Air Force: Little Rock Air Force Base, Arkansas (SH)
Homestead Air Force Base, Florida (SH)
914th Tactical Airlift Group (AFRFES), Niagara Falls International Airport, Niagara Falls, New York (SH)
Department of Army: Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia (SH)
Seneca Army Depot, Romulus, New York (SH)

Forms/Publication Storage and Distribution

Department of Agriculture: Landover, Maryland (SH)
Department of Treasury: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC (SH)

Furniture Rehabilitation (Metal)

Department of Navy: Naval Ordnance Station, Louisville, Kentucky (IB)

Grounds Maintenance

Department of Air Force: 26 Buildings, 1 Area, and 4 Athletic Fields, Edwards Air Force Base, California (SH)
Mare Island Naval Complex and Roosevelt Terrace, (Except the Combat Systems Technical School Command), Mare Island Naval Shipyard, Vallejo, California (SH)
Hill Air Force Base, Utah (SH)
Naval Weapons Station, Areas 13–22, Yorktown, Virginia (SH)
Air Route Traffic Control Center, Auburn, Washington (SH)
Department of Army: 5 Buildings and 6 Fields, Fort Ord, California (SH)
Lewiston Levee Parkway, Nez Perce County, Idaho (SH)
Bonneville Lock and Dam, Bonneville, Oregon (SH)
U.S. Army Reserve Facility—Portland (South), Sears Hall, 2731 SW Multnomah Boulevard, Portland, Oregon (SH)
U.S. Army Reserve Facility—Portland (West), Sharff Hall, 8601 N. Chautauqua Boulevard, Portland, Oregon (SH)
Asotin Recreation Area, Asotin County, Washington (SH)
Cemetery Grounds (includes opening and closing of graves), Fort Lawton, Washington (SH)
U.S. Army Reserve Facility, Building 4306, Grant County Airport, Moses Lake, Washington (SH)
U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington (SH)
U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
Department of Commerce: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington (SH)
Department of Energy: Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior: Wheeler National Wildlife Refuge, Decatur, Alabama (SH)
Ash Woods, French Drive & Independence Avenue to 17th Street & Independence Avenue, Washington, DC (SH)
National Park Service, LBJ Memorial Grove, Constitution Gardens, Washington, DC (SH)
Department of Navy: Marine Corps Air Station, Yuma, Arizona (SH)
Naval Weapons Center, China Lake, California (SH)
Mare Island Naval Shipyard, Combat Systems Technical School Command, Vallejo, California (SH)
Naval Air Station Miramar, 15 Parcel Areas, San Diego, California (SH)
U.S. Naval Security Activity, Skaggs Island, Sonoma, California (SH)
Naval Ordnance Station, Nonindustrial Area, Indian Head, Maryland (SH)
Naval Weapons Station, 2 Parks, 5 Buildings, and 7 Areas, Yorktown, Virginia (SH)
Naval Air Station, Whidbey Island, Washington (SH)
Department of Transportation: Federal Aviation Administration, AFSFO, 55 Midway Avenue, Daytona Beach, Florida (SH)
Federal Aviation Administration, Airway Facilities Sector, 1100 South Service Road, Atlanta, Georgia (SH)
Federal Aviation Administration, Air Route Traffic Control Center, Ronkonkoma, New York (SH)
Federal Aviation Administration, New York TRACON Facility, Westbury, New York (SH)
Federal Aviation Administration, Air Route Traffic Control Center, Leesburg, Virginia (SH)
Department of Treasury: U.S. Secret Service, Special Training Building and Complex, Beltsville, Maryland (SH)

General Services Administration: Federal Center, 620 Central Avenue, Alameda, California (SH)
Federal Building and U.S. Post Office, 11000 Wilshire Boulevard, Los Angeles, California (SH)
U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California (SH)
Federal Building, 2800 Cottage Way, Sacramento, California (SH)
U.S. Court of Appeals, 7th and Mission Streets, San Francisco, California (SH)
Social Security Administration Complex, 6401 Security Boulevard, Baltimore, Maryland (SH)
Social Security Administration Computer Center, 6201 Security Boulevard, Baltimore, Maryland (SH)
Internal Revenue Service Center, 310 Lowell Street, Andover, Massachusetts (SH)
Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)
Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)
U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)
Wyatt Federal Building, 1220 S.W. Third, Portland, Oregon (SH)
Federal Building, 500 West 12th, Vancouver, Washington (SH)
National Aeronautics and Space Administration: Goddard Space Flight Center, Greenbelt, Maryland (SH)
U.S. Postal Service: 1086 Nandino Boulevard, Lexington, Kentucky (SH)
Veterans Administration: Medical Center, Palo Alto, California (SH)

Grounds Maintenance and Sprinkler System Maintenance

Department of the Air Force: Part 2 Bldgs: 1250, 1260, 1853, 2410, 2419, 2453, 2500, 2850, 3535 offsite, 3950, 5601, 6441, 6443, 6459, 8251, 8252, 8255, T–38 and 1200 Parking Islands
Part 3 Bldgs: 2500, 2665, 3535, 5600, 5602, 5603, 5604, 5605, 6445, 6447, 420, 6000, 7220, 2421, 5211, Desert Villa Complex, Edwards Air Force Base, California (SH)

Janitorial/Custodial

Department of Agriculture: Forest Service, Coeur d'Alene Nursery, 3600 Nursery Road, Coeur d'Alene, Idaho (SH)
Forest Service, Fernan Ranger Station, 2502 E. Sherman Avenue, Coeur d'Alene Idaho (SH)
Wallace Ranger District of the Panhandle National Forest, Coeur d'Alene, Idaho (SH)
Targhee National Forest Supervisor's Office Building, 420 North Bridge Street, St. Anthony, Idaho (SH)
National Finance Center, NASA Facility, 13800 Old Gentilly Road, Building 350, New Orleans, Louisiana (SH)
The Rexnord Building, 4277 Poche Court West, New Orleans, Louisiana (SH)
Umpqua National Forest-Radio Shop, 2691 N.E. Diamond Lake Boulevard, Roseburg, Oregon (SH)
Umpqua National Forest, Supervisor's Office, 2900 N.W. Stewart Parkway, Roseburg, Oregon (SH)
Department of Air Force: Buildings 46, 228 and 993, Robins Air Force Base, Georgia (SH)
Newark Air Force Base, Ohio (SH)
910 Tactical Airlift Group (AFRES), Except Building 540, Youngstown Municipal Airport, Vienna, Ohio
Buildings 280 and 281, Area A, Wright-Patterson Air Force Base, Ohio (SH)
911th Tactical Airlift Group (AFRES), Greater Pittsburgh International Airport, Pittsburgh, Pennsylvania (SH)
5 Buildings, Bergstrom Air Force Base, Texas (SH)
Ellsworth Air Force Base, South Dakota (SH)
Fairchild Air Force Base, Washington (excluding USAF Hospital, Air National Guard and Commissary) (SH)
Griffiss Air Force Base, New York, exept for buildings 3, 104, 105, 106, 120, 240, 247, 248, 346, 510. All RADC Test Sites, and building 112 (other than the Biological Environmental Office and the hallway leading to that office) (SH)
Building 891, Logistics Systems Operations Center, Hill Air Force Base, Utah (SH)
Building 1293, Hill Air Force Base, Utah (SH)
Building 1400, Hill Air Force Base, Utah (SH)
Department of Army: Pueblo Army Depot Activity, Colorado (SH)
New Castle U.S. Army Reserve Center, New Castle, Delaware (SH)
Kirkwood U.S. Army Reserve Center, Wilmington, Delaware (SH)
National Defense University, Health Fitness, Fort McNair, Washington, DC (SH)
Pentagon Officers Athletic Center, The Pentagon, Washington, DC (SH)
Southern Maryland Memorial USAR Center, Dower House Road, Washington, DC (SH)
Fort Gillem, Georgia (SH)
Lexington Blue Grass Army Depot at the following locations: Lexington Activity, Avon, Kentucky (SH)
Blue Grass Activity, Richmond, Kentucky (SH)
Prince Georges County Memorial USAR Center, 6600 Baltimore Avenue Riverdale, Maryland (SH)
U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)
U.S. Army Reserve Center, Belmont & Manley Streets, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)
U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)
U.S. Army Reserve Center, Fort Snelling, Minnesota (SH)
U.S. Readiness Group, Fort Snelling, Minnesota (SH)
Waterways Experiment Station, Vicksburg, Mississippi (SH)
U.S. Army Reserve Center #1, 4350 Kingshighway Boulevard, St. Louis, Missouri (SH)
U.S. Army Reserve Center #3, 4301 Goodfellow Boulevard, St. Louis, Missouri (SH)
U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)
U.S. Army Reserve Center, Burrstone Road, Utica, New York (SH)
U.S. Army Reserve Center, Watertown, New York (SH)
U.S. Army Reserve Facility, Salem, Oregon (SH)
U.S. Army Reserve Center, 2501 Ford Road, Bristol, Pennsylvania (SH)
U.S. Army Reserve Center, 500 W. 24th Street, Chester, Pennsylvania (SH)
U.S. Army Reserve Center, DePace Building, Boot and Chestnut Streets, Downingtown, Pennsylvania (SH)
U.S. Army Reserve Center, 6th & Kedron Avenue, Folsom, Pennsylvania (SH)
U.S. Army Reserve Center, 2907 North 2nd Street, Harrisburg, Pennsylvania (SH)
U.S. Army Reserve Center, RD3, Rt. 22 East, Huntington, Pennsylvania (SH)
U.S. Army Reserve Center, Lock Haven, Pennsylvania (SH)
U.S. Army Reserve Center, 7 West Delaware Avenue, Marcus Hook, Pennsylvania (SH)
U.S. Army Reserve Center, 1020 Sandy Street, Norristown, Pennsylvania (SH)
U.S. Army Reserve Center, 1522–24 E. Wingohocking Street, Philadelphia, Pennsylvania (SH)
U.S. Army Reserve Center, 5200 Wissahickon Avenue, Philadelphia Pennsylvania (SH)
U.S. Army Reserve Center, 2830–98 Woodhaven Road, Philadelphia, Pennsylvania (SH)
U.S. Army Reserve Center, 547 Philadelphia Avenue, Reading, Pennsylvania (SH)
U.S. Army Reserve Center, 1250 Fox Hollow Road, State College, Pennsylvania (SH)
Lycoming Memorial USARC, 1605 Four Mile Drive, Williamsport, Pennsylvania (SH)
U.S. Army Reserve Center, Potshop and Berks Road, Worchester, Pennsylvania (SH)
U.S. Army Reserve Center, 3273rd U.S. Army Reserve Hospital, Suites B & C, 1003 Grove Road, Greenville, South Carolina (SH)
U.S. Army Reserve Center, Center No. 1, 2301 Laurens Road, Greenville, South Carolina (SH)
U.S. Army Reserve Center, Kukowski-Donaldson Center, Perimeter Road, Greenville, South Carolina (SH)
U.S. Army Reserve Center, 360 West California Avenue, Memphis, Tennessee (SH)
U.S. Army Reserve Center, 2562 Avery Avenue, Memphis, Tennessee (SH)
Headquarters, Building 1001, Fort Hood, Texas (SH)
Lewisville Lake Park, Lewisville, Texas (SH)
Fort Belvoir Billeting Building #505, Forth Belvoir, Virginia (SH)
Resources Management Office Building, 400 Riverside Drive, Clarkston, Washington (SH)
U.S. Army Reserve Facility, Grant County Airport, Moses Lake, Washington (SH)
U.S. Army Reserve Facility, 14631 S.E. 1092nd Street, Renton, Washington (SH)
Hiram M. Chittenden Locks, Seattle, Washington (SH)
U.S. Army Reserve Facility, Mann Hall, North 4415 Market Street, Spokane, Washington (SH)
U.S. Army Reserve Facility, 3800 North Sullivan Road, Trentwood, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
U.S. Army Corps of Engineers at the following Yakima, Washington locations:

Port Lewis Resident Office (SH), Project Office adjacent to Building 610 (SH), Yakima Firing Center (SH)
Departments of Army and Air Force: Army Building 3504, Naval Amphibious Base, Little Creek, Norfolk, Virginia (SH)
Naval Amphibious Base, Little Creek, (except Building 3504), Norfolk, Virginia (SH)
U.S. Court of Appeals and Post Office, 7th and Mission Streets, San Francisco, California (SH)
Denver Federal Center, Building 85, Denver,

Federal Building, U.S. Post Office and Courthouse, 330 Shawnee, Leavenworth, Kansas (SH)
U.S. Post Office-Courthouse, 601 Broadway, Louisville, Kentucky (SH)
Federal Building, 601 East 12th Street, Kansas City, Missouri (SH)
Federal Records Center, 2700 Bray Boulevard, Lenexa, Kansas (SH)
Social Security Administration Building, Main and Second, Joplin, Missouri (SH)
Federal Building, 601 East 12th Street, Kansas City, Missouri (SH)
Federal Records Center, 2700 Bray Boulevard, Lenexa, Kansas (SH)
Alfred P. Murrah Federal Building, 200 North West Fifth Street (SH)
Federal Parking Facility, 200 North West Fifth Street (SH)

Port Lewis Resident Office (SH), Project Office adjacent to Building 410 (SH), Yakima Firing Center (SH)
Departments of Army and Air Force: Army and Air Force Exchange System, Fort Bliss Exchange, Main Store, Building 1735, Fort Bliss, Texas (SH)
Army and Air Force Exchange, Alamo Exchange Region, 5315 Summit Parkway, San Antonio, Texas (SH)
Waco Distribution Center, 1801 Exchange Park, Waco, Texas (SH)
AAFES Distribution Center, Newport News, Virginia (SH)
Department of Defense: DCASR Building B-95, 2 Buildings, Marietta, Georgia (SH)
Department of Energy: The Computer Sciences Building (CSC), 1155 Foote Drive, Idaho Falls, Idaho (SH)
The Technical Support Building (TSB), 1580 Sawtelle, Idaho Falls, Idaho (SH)
The Technical Support Addition (TSA), 1520 Sawtelle, Idaho Falls, Idaho (SH)
Airport Building, 9120 NE 47th, Portland, Oregon (SH)
Bonneville Power Administration, 710 NE Hassalo Street, 5840 NE Hassalo Street, Portland, Oregon (SH)
Ross Complex, 5411 NE Highway 99, Vancouver, Washington (SH)
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Health and Human Services: Roth Building, Social Security Administration Complex, 5538 Caswell Road, Baltimore, Maryland (SH)
Social Security Administration, Operations Building, Third and Fourth Floors, 6401 Security Boulevard, Baltimore, Maryland (SH)
Social Security Administration Computer Center, 6201 Security Boulevard, Woodlawn, Maryland (SH)
National Institute for Occupational Safety and Health, 3505 Ridge Avenue, Cincinnati, Ohio (SH)
National Institute for Occupational Safety and Health, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio (SH)
Department of Interior: Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana (SH)
Bureau of Land Management, District Building, Roseburg, Oregon (SH)
Bureau of Land Management, Salem District Office, 1717 Fabry Road, SE., Salem, Oregon (SH)
Department of Navy: Marine Corps Air Station, Yuma, Arizona (SH)
Naval Weapons Station, Concord, California (SH)
Naval Air Facility, El Centro, California (SH)
12 Buildings, Naval Research Laboratory, Washington, DC (SH)
Naval Communications Unit (Cheltenham), Washington, DC (SH)
Commissary Store, Naval Air Station, Pensacola, Florida (SH)
Naval Resale and Support Office, Fort Wadsworth, Staten Island, New York (SH)
Naval Propulsion Training Unit Complex (NPTU), Naval Weapons Station, Charleston, South Carolina (SH)
Naval and Marine Corps Reserve Center, Newport News, Virginia (SH)
Building 3594, Naval Amphibious Base, Little Creek, Norfolk, Virginia (SH)
Naval Amphibious Base, Little Creek, (except Building 3504), Norfolk, Virginia (SH)
Building 1019, Marine Corps Combat Development Command, Quantico, Virginia (SH)
Marine Corps Development and Education Command, Quantico, Virginia for All Family Housing Units and 38 Buildings (SH)
Marine Corps Development and Education Command, MCCDPA Building 3041A, SABRS Annex, Quantico, Virginia (SH)
Marine Corps Development and Education Command, Buildings 2094, 2079, 2035, 3098, and 3400, Quantico, Virginia (SH)
Puget Sound Naval Shipyard, Equipment Maintenance Shops, Bremerton, Washington (SH)
Building 2700, Naval Air Station, Whidbey Island, Washington (SH)
Naval Air Station, 37 Buildings, Whidbey Island, Washington (SH)
Department of Transportation: Federal Aviation Administration, Air Traffic Control Tower, Atlanta, Georgia (SH)
Federal Aviation Administration Facilities, Air Route Traffic Control Center, Hampton, Georgia (SH)
Federal Aviation Administration Facilities, Albany County Airport, Albany, New York (SH)
Federal Aviation Administration, TRACON Facility, Westbury, New York (SH)
FAA Facility, Williamsport Lycoming Airport, Montoursville, Pennsylvania (SH)
Federal Aviation Administration Facilities, 7 Buildings, Spokane, Washington (SH)
Department of Treasury: Bureau of Engraving and Printing, Annex Building, 14th & C Streets, SW., Washington, DC (SH)
Bureau of Engraving and Printing, Main Building, 14th & C Streets, SW., Washington, DC (SH)
General Services Administration: Federal Building, 3rd Avenue and 1st Street, Calhoun, Alabama (SH)
Federal Building, 109 St. Joseph Street, Mobile, Alabama (SH)
GSA Motor Pool and Parking Garage, St. Joseph Street, Mobile, Alabama (SH)
John A. Campbell U.S. Courthouse, 113 St. Joseph Street, Mobile, Alabama (SH)
Federal Building and U.S. Courthouse, 15 Lee Street, Montgomery, Alabama (SH)
Federal Building, 4th and F Street, Anchorage, Alaska (SH)
Federal Building, 115 South Denver Street, Russellville, Arkansas (SH)
Henry R. Koen Federal Building, W. Main and Fargo Street, Russellville, Arkansas (SH)
Federal Building, 55 East Broadway, Tucson, Arizona (SH)
U.S. Post Office and Courthouse, Sixth and Rogers Avenue, Fort Smith, Arkansas (SH)
U.S. Post Office, Courthouse and Social Security Administration District Office, Hot Springs, Arkansas (SH)
Federal Building and U.S. Courthouse, 1130 Oll Street, Fresno, California (SH)
Federal Building, 801 I Street, Sacramento, California (SH)
John E. Moss Federal Building, 650 Capitol Mall, Sacramento, California (SH)
U.S. Court of Appeals and Post Office, 7th and Mission Streets, San Francisco, California (SH)
Denver Federal Center, Building 85, Denver, Colorado (SH)
Central, East and South Buildings, 2490 E Street, NW., Washington, DC (SH)
Federal Building, 1724 F Street, NW., Washington, DC (SH)
Potomac Annex Buildings 1–7, 23rd & E Streets, NW., Washington, DC (SH)
Federal Building—U.S. Courthouse, 401 SE. First Avenue, Gainesville, Florida (SH)
Brickell Plaza Federal Building, Miami, Florida (SH)
Federal Building, 51 SW First Avenue, Miami, Florida (SH)
Federal Building, U.S. Courthouse, U.S. Post Office, 601 North Florida Avenue, Tampa, Florida (SH)
Federal Building, 355 Hancock Avenue, Athens, Georgia (SH)
Federal Building, 275 Peachtree Street, NE., Atlanta, Georgia (SH)
U.S. Court of Appeals, Forsyth & Walton Streets, Atlanta, Georgia (SH)
U.S. Courthouse, Ford and Walker Streets, Augusta, Georgia (SH)
IRS Center, 4800 Buford Highway, Chamblee, Georgia (SH)
Federal Building—U.S. Courthouse, 125 Bull Street, Savannah, Georgia (SH)
Juliette Gordon Low Federal Buildings, Building A—120 Bernard Street, Building B—124 Bernard Street, Building C—100 W. Oglethorpe Avenue, Savannah, Georgia (SH)
Federal Building, U.S. Post Office and U.S. Courthouse, Thomasville, Georgia (SH)
Federal Regional Center, Pinetree Boulevard, Thomasville, Georgia (SH)
U.S. Courthouse, 300 Ala Moana Boulevard, Honolulu, Hawaii (SH)
Federal Building, U.S. Post Office, 304 N. 6th, Boise, Idaho (SH)
Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho (SH)
Federal Building, 536 South Clark Street, Chicago, Illinois (SH)
Federal Supply Service Depot, 4100 West 76th Street, Chicago, Illinois (SH)
Federal Parking Facility, 430 South Federal Street, Chicago, Illinois (SH)
Interagency Motor Pool, 701 South Clinton Street, Chicago, Illinois (SH)
U.S. Customhouse, 610 South Canal Street, Chicago, Illinois (SH)
OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)
Federal Building and U.S. Courthouse, 121 W. Spring Street, New Albany, Indiana (SH)
Federal Building and U.S. Courthouse, 101 First Street, SE., Cedar Rapids, Iowa (SH)
Federal Building and U.S. Courthouse, 131 East Fourth Street, Davenport, Iowa (SH)
Federal Building, 210 Walnut Street, Des Moines, Iowa (SH)
Leased Spaced, 603–11 East 2nd Street, Des Moines, Iowa (SH)
U.S. Courthouse, 123 East Walnut Street, Des Moines, Iowa (SH)
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)

Federal Building, U.S. Post Office and Courthouse, 330 Shawnee, Leavenworth, Kansas (SH)
U.S. Post Office-Courthouse, 601 Broadway, Louisville, Kentucky (SH)
Federal Building and Interagency Motor Pool, Louisville, Kentucky (SH)
Federal Building, U.S. Post Office, U.S. Courthouse, Frederica and 5th Streets, Owensboro, Kentucky (SH)
Hale Boggs Federal Building and U.S. Courthouse, 500 Camp Street, New Orleans, Louisiana (SH)
Federal Building and U.S. Courthouse, 500 Fannin Street, Shreveport, Louisiana (SH)
Federal Building and U.S. Post Office, 40 Western Avenue, Augusta, Maine (SH)
Garmatz Courthouse and Federal Building, 101 W. Lombard Street, Baltimore, Maryland (SH)
Social Security Complex, Woodlawn Annex and Supply Buildings, 6401 Security Boulevard, Baltimore, Maryland (SH)
Phillips Building Complex, 7900 and 7920 Norfolk Avenue, 4915 St. Elmo Avenue, Bethesda, Maryland (SH)
Washington National Records Center Complex, Suitland and Silver Hill Roads, Suitland, Maryland (SH)
John F. Kennedy Federal Building-Low Rise, Boston, Massachusetts (SH)
John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts (SH)
U.S. Appraiser's Stores, 408 Atlantic Avenue, Boston, Massachusetts (SH)
Philip J. Philbin Federal Building, 865 Main Street, Fitchburg, Massachusetts (SH)
Springfield Federal Building, Main and Bridge Streets, Springfield, Massachusetts (SH)
Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts (SH)
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)
Federal Building, 600 Church Street, Flint, Michigan (SH)
Gerald R. Ford Museum, 303 Pearl Street, N.W., Grand Rapids, Michigan (SH)
U.S. Border Station, International Bridge Plaza, Sault Ste. Marie, Michigan (SH)
Federal Building, 212 3rd Avenue South, Minneapolis, Minnesota (SH)
Federal Building and U.S. Courthouse, 110 S. 4th Street, Minneapolis, Minnesota (SH)
Social Security Building, 1611 Chicago Avenue South, Minneapolis, Minnesota (SH)
Federal Building and U.S. Courthouse, 316 N. Robert Street, St. Paul, Minnesota (SH)
Federal Building, U.S. Post Office, and U.S. Courthouse, Main and Poplar Streets, Greenville, Mississippi (SH)
Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi (SH)
William M. Colmer Federal Building-Courthouse, 701 Main Street, Hattiesburg, Mississippi (SH)
Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)
U.S. Post Office and U.S. Courthouse, 245 East Capitol Street, Jackson, Mississippi (SH)
Durward G. Hall Federal Building and Courthouse, 302 Joplin Street, Joplin, Missouri (SH)
Social Security Administration Building, Main and Second, Joplin, Missouri (SH)
Federal Building, 601 East 12th Street, Kansas City, Missouri (SH)
Federal Records Center, 9700 Page Boulevard, Overland, Missouri (SH)
Federal Building, Post Office and Courthouse, 200 East Broadway, Missoula, Montana (SH)
Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebraska (SH)
Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)
Social Security Administration District Office Building, 686 Nye Avenue, Irvington, New Jersey (SH)
Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)
Federal Building, 20 Washington Place, Newark, New Jersey (SH)
Federal Building, 3rd & Hill Avenue, Gallup, New Mexico (SH)
Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)
U.S. Post Office and Courthouse, 455 Broadway, Albany, New York (SH)
Federal Building and U.S. Courthouse, 15 Henry Street, Binghamton, New York (SH)
Federal Building, 111 West Huron, Buffalo, New York (SH)
U.S. Courthouse, 68 Court Street, Buffalo, New York (SH)
Internal Revenue Service, 120 Church Street, New York, New York (SH)
Jacob K. Javits Federal Building, including U.S. Court of International Trade, 26 Federal Plaza and Centre Street Garage, 203–209 Centre Street, New York, New York (SH)
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
U.S. Courthouse, 40 Foley Square, New York, New York (SH)
U.S. Mission to the United Nations, 799 U.N. Plaza, New York, New York (SH)
Kenneth B. Keating Federal Building and U.S. Courthouse, 100 State Street, Rochester, New York (SH)
Federal Building, 45 Bay Street, Staten Island, New York (SH)
U.S. Courthouse and Federal Building, Broad and Catherine Streets, Utica, New York (SH)
Federal Building, U.S. Post Office and Courthouse, Bryson City, North Carolina (SH)
Federal Building, 401 West Trade Street, Charlotte, North Carolina (SH)
Social Security Administration Building, 215 West Third Avenue, Gastonia, North Carolina (SH)
U.S. Courthouse and Customhouse, 1716 Spielbusch Avenue, Toledo, Ohio (SH)
Federal Building, 125 South Main Street, Muskogee, Oklahoma (SH)
Federal Building and Courthouse, 5th and Okmulgee, Muskogee, Oklahoma (SH)
Federal Building Complex in the following Oklahoma City, Oklahoma locations:
U.S. Post Office/U.S. Courthouse, 215 Dean A. McGee Avenue (SH)
Federal Building/U.S. Courthouse, 200 North West Fourth Street (SH)
Alfred P. Murrah Federal Building, 200 North West Fifth Street (SH)
Federal Parking Facility, 200 North West Fifth Street (SH)
Federal Building, U.S. Courthouse, 211 East 7th Avenue, Eugene, Oregon (SH)
Edith-Green-Wendell Wyatt Federal Building, 1220 SW 3rd Avenue, Portland, Oregon (SH)
Federal Building, 511 N.W. Broadway, Portland, Oregon (SH)
Federal Building, Bonneville Power Administration, 1002 N.E. Holladay Street, Portland, Oregon (SH)
Federal Warehouse, 2760 NW Yeon Avenue, Portland, Oregon (SH)
Lloyd Group Buildings, 5 locations, Portland, Oregon (SH)
Pioneer Courthouse, 520 SW Morrison, Portland, Oregon (SH)
U.S. Courthouse, Broadway and Maine, Portland, Oregon (SH)
U.S. Customs House, 220 NE 8th Avenue, Portland, Oregon (SH)
Federal Building, 6th & State Streets, Erie, Pennsylvania (SH)
Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania (SH)
William J. Green, Jr. Federal Building, 600 Arch Street, Philadelphia, Pennsylvania (SH)
Federal Building, 240 West Third Street, Williamsport, Pennsylvania (SH)
L. Mendel Rivers Federal Building, 334 Meeting Street, Charleston, South Carolina (SH)
U.S. Post Office-Courthouse, Broad and Meeting Street, Charleston, South Carolina (SH)
C.F. Haynesworth Federal Building and U.S. Courthouse, 300 East Washington Street, Greenville, South Carolina (SH)
Federal Building/U.S. Courthouse, 515 9th Street, Rapid City, South Dakota (SH)
Federal Building-U.S. Courthouse, 400 South Phillips Street, Sioux Falls, South Dakota (SH)
Armed Forces Examining Station and Bureau of Mines Building, 1100 Filmore Street, Amarillo, Texas (SH)
J. Marvin Jones Federal Building and U.S. Courthouse, 205 E. 5th Street, Amarillo, Texas (SH)
3 Bridges and 1 Building, El Paso, Texas (SH)
U.S. Courthouse, 511 E. San Antonio Avenue, El Paso, Texas (SH)
Federal Building, U.S. Post Office and Courthouse, 211 West Ferguson Avenue, Tyler, Texas (SH)
Forest Service Building, 507 25th Street, Ogden, Utah (SH)
Federal Executive Institute, Route #29 North, Charlottesville, Virginia (SH)
U.S. Customs House, 101 E. Main Street, Norfolk, Virginia (SH)
U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia (SH)
Federal Building, 400 N. 8th Street, Richmond, Virginia (SH)
U.S. Courthouse Annex, 1100 East Main Street, Richmond, Virginia (SH)
U.S. Courthouse, 10th and Main Streets, Richmond, Virginia (SH)
GSA Center, 2 Buildings, Auburn, Washington (SH)

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Food & Drug Administration Laboratory, Canyon Park Business Center, Bothell, Washington (SH)
Federal Building, 3002 Colby Avenue, Everett, Washington (SH)
Federal Center, 25th and Dovet Streets, Moses Lake, Washington (SH)
Federal Building, U.S. Post Office, 403 West Lewis Street, Pasco, Washington (SH)
Federal Building, U.S. Post Office and Courthouse, 825 Jadwin Avenue, Richland, Washington (SH)
Federal Archives and Records Center, 6125 Sandpoint Way, Seattle, Washington (SH)
Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)
Federal Center South, 4735 E. Marginal Way, Seattle, Washington (SH)
U.S. Courthouse, 1010 Fifth Avenue, Seattle, Washington (SH)
Federal Building, U.S. Post Office, W. 904 Riverside, Spokane, Washington (SH)
U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington (SH)
Federal Building, 500 W. 12th Street, Vancouver, Washington (SH)
Federal Center, 14 Buildings, Walla Walla, Washington (SH)
U.S. Courthouse, 120 North Henry Street, Madison, Wisconsin (SH)
Federal Building, 500 Quarrier Street, West Virginia (SH)
Federal Office Building, 225 W. King Street, Martinsburg, West Virginia (SH)
Federal Office Building and Joseph C. O'Mahoney Federal Center, Cheyenne, Wyoming (SH)
Smithsonian Institution: National Zoological Park, Washington, DC (SH)
Smithsonian Institution Service Center, 1111 North Carolina Street, NE., Washington, DC (SH)
Paul E. Garber Complex, 3004 Old Silver Hill Road, Suitland, Maryland (SH)
U.S. Postal Service: Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois (SH)
Veterans Administration: Domiciliary Buildings 8A, 10A, 14 A&B, 18 A&B, 25 and 34, VA Medical Center, Dublin, Georgia (SH)
Veterans Administration Medical Center, Building #32, Dublin, Georgia (SH)

Janitorial/Grounds Maintenance

Department of Navy: Naval Aviation Depot, Naval Air Station, Jacksonville, Florida (SH)

Janitorial/Mechanical

General Services Administration: The Carter Presidential Library, Atlanta, Georgia (SH)
Federal Office Building, 591 Park Avenue, Idaho Falls, Idaho (SH)

Janitorial/Elevator Operator

Department of Treasury: Bureau of Engraving and Printing, Public Debt Building, Washington, DC (SH)
General Services Administration: 3 Buildings, Navy Yard Annex, 2nd and M Streets, SE., Washington, DC (SH)
Navy Yard Annex, Buildings 74, 198, 167, 101, 197 and 202, Washington, DC (SH)
Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)
Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
Federal Building, 201 Varick Street, New York, New York (SH)
Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)

Laundry

Department of Air Force: Hill Air Force Base, Utah (Wiping Rags only) (SH)
Department of Army: U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)
Department of Health and Human Services: (Excluding Dry Cleaning and Rental), Uniformed Services, University of the Health Sciences, F. Hebert School of Medicine, Bethesda, Maryland (SH)
Acoma/Canoncito/Laguna PHS Indian Hospital, Acomita, New Mexico (SH)
Zuni PHS Indian Hospital, Zuni, New Mexico (SH)
Department of Navy: Naval Training Center, Great Lakes, Illinois (SH)

Litter Pick-Up

Department of Air Force: Edwards Air Force Base, California (SH)
Tinker Air Force Base, Oklahoma (SH)

Machining Parts

Department of Navy: Naval Supply Center, Charleston, South Carolina (IB)

Mailing

Department of Agriculture: Washington, DC (Metropolitan area) (SH)
Department of Commerce: National Oceanic and Atmospheric Administration, 5 Offices, Rockville, Maryland (SH)
National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia (SH)
Department of Defense: Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 1117 N. 19th Street, Arlington, Virginia (SH)
Department of Education: Office for Civil Rights, Office of Program Review & Assistance, 300 C Street, SW., Washington, DC (SH)
Department of Energy: Distribution, 12th & Pennsylvania, NW., Washington, DC (SH)
Department of Health and Human Services: Office of the Secretary, Washington, DC (SH)
National Institutes of Health, Bethesda, Maryland (SH)
Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)
Food and Drug Administration, Rockville, Maryland (SH)
Health Resources Administration, Rockville, Maryland (SH)
Health Services Administration, Rockville, Maryland (SH)
Office of Assistant Secretary for Health, Rockville, Maryland (SH)
Department of Housing and Urban Development: Washington, DC (SH)
Department of Interior: 18th & C Streets, NW., Washington, DC (SH)
U.S. Geological Survey, 2 Divisions, Reston, Virginia (SH)
Department of Labor: 200 Constitution Avenue, NW., Washington, DC (SH)
Manpower Administration, Washington, DC (SH)
President's Committee on Employment of the Handicapped, Washington, DC (SH)
Department of Transportation: National Highway Traffic Administration, 400 7th Street, SW., Washington, DC (SH)
Office of the Secretary, Distribution Unit, 400 7th Street, SW., Washington, DC (SH)
Department of Treasury: Bureau of Public Debt, 14th & C Streets, SW., Washington, DC (SH)
Architectural and Transportation Barriers Compliance Board: 330 C Street, SW., Washington, DC (SH)
Bureau of Public Debt, Parkersburg, West Virginia (SH)
Environmental Protection Agency: Specialized Procurement Unit, 401 M Street, SW., Washington, DC (SH)
Federal Election Commission: 1325 K Street, NW., Washington, DC (SH)
Federal Trade Commission: Pennsylvania Avenue & 6th Street, NW., Washington, DC (SH)
General Services Administration: National Archives & Records Services, 7th & Pennsylvania Avenue, NW., Washington, DC (SH)
Library of Congress: Washington, DC (SH)
Merit Systems Protection Board: Office of Special Counsel, 1120 Vermont Avenue, NW., Washington, DC (SH)
National Credit Union Administration: Printing Service, 1375 K Street, NW., Washington, DC (SH)
National Endowment for the Humanities: 1100 Pennsylvania Avenue, NW., Room 202, Washington, DC (SH)
National Science Foundation: 1800 G Street, NW., Washington, DC (SH)
Office of Personnel Management: 1900 E Street, NW., Washington, DC (SH)
Smithsonian Institution: Supply Division, Washington, DC (SH)
U.S. Commission on Civil Rights: 1211 Vermont Avenue, NW., Washington, DC (SH)
U.S. Consumer Product Safety Commission: Washington, DC (SH)
U.S. Information Agency: 400 C Street, SW., Washington, DC (SH)

Mailroom service

Department of Defense: Defense Logistics Agency-DCASR, 495 Summer Street, Boston, Massachusetts (SH)
Department of the Interior: U.S. Geological Survey, Sunrise Valley Drive, Reston, Virginia (SH)

Mattress and Box Spring Rehabilitation

General Services Administration: Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions W,2,3,4,5,6,7 and 8 only. (IB)

Microfiche Reproduction

Department of Navy: Headquarters, USMC (Navy Annex), Washington, DC (SH)

Microfilming and Related Services

Department of the Treasury: Internal Revenue Service, Western Region, Seattle, Washington (SH)

Microfilm reproduction

Department of Navy: Naval Submarine Base Bangor, Silverdale, Washington (SH)

Operation of USDA Central shipping and receiving facility

Department of Agriculture: South Building, 12th & C Streets, SW., Washington, DC (SH)

Operation of the Postal Service Center

Department of Air Force: Maxwell Air Force Base, Alabama (SH)
Elmendorf Air Force Base, Alaska (SH)
Barksdale Air Force Base, Louisiana (SH)
Minot Air Force Base, North Dakota (SH)
Sheppard Air Force Base, Texas (SH)
Gunter Air Force Base, Alabama (SH)

Operation of Visitors Center Gift Shop

Department of Treasury: Bureau of Engraving and Printing, 14th & C Streets, SW., Washington, DC (SH)

Packaging of Solicitations

Department of the Army: Little Rock District, U.S. Army Corps of Engineers, Little Rock, Arkansas (SH)

Pallet Repair

Department of Navy: Naval Supply Center, Norfolk, Virginia (SH)
Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Parts Sorting

Department of Air Force: McClellan Air Force Base, California (SH)
Robins Air Force Base, Georgia (SH)
Kelly Air Force Base, Texas (SH)
Hill Air Force Base, Utah (SH)

Photocopying

Department of Agriculture: National Agricultural Library Building, Beltsville, Maryland (SH)

Preservation and Packaging

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)

Publications Distribution

Department of Navy: Naval Construction Battalion Center, Gulfport, Mississippi (SH)

Rehabilitation of Recorder Covers

Department of Interior: U.S. Geological Survey, Bay St. Louis, Mississippi (SH)

Removal of Tool Identification Numbers

Department of Air Force: Tinker Air Force Base, Oklahoma (SH)

Repair and Maintenance of Electric Typewriters Only

General Services Administration: Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only

General Services Administration: Federal Court House Building, Syracuse, New York (SH)

Repair of Air Cargo Pallet Top and Side Nets

Department of Air Force: Norton Air Force Base, California (SH)
Wright-Patterson Air Force Base, Ohio (SH)

Repair of Small Hand Tools

Department of Air Force: Robins Air Force Base, Georgia (SH)

Repair of Tool Box and Rollaway

Department of Air Force: Robins Air Force Base, Georgia (SH)

Repair Service

Department of Air Force: Strap, Air Cargo (1670-00-725-1437), Robins Air Force Base, Georgia (SH)
Department of Army: Bag, Sleeping (8465-00-242-7855 and 8465-01-048-0062), Fort Bliss, Texas (SH)
Case, Sleeping Bag (8465-00-237-8719), Fort Bliss, Texas (SH)
Liner, Field Jacket (8415-00-782-2868), Fort Bliss, Texas (SH)
Bag, Barracks (8465-00-530-3692), Fort Bliss, Texas (SH)
Bag, Duffel (8465-00-141-0932), Fort Bliss, Texas (SH)
Department of Navy: Electrode Holder Assemblies, Bremerton, Washington (SH)

Reproduction Service

Department of Army: Army Materiel Command Headquarters, Alexandria, Virginia (SH)
Department of Navy: Headquarters, U.S. Marine Corps, Clarendon Square Office Building, 3033 Wilson Boulevard, Arlington, Virginia (SH)

Restocking Parts

Department of Air Force: Kelly Air Force Base, Texas (SH)

Sewing

Department of Army: Redstone Arsenal, Alabama (Provide specified end items produced through use of customized, heavy-duty sewing service) (SH)

Sponge Rubber Mattresses Rehabilitation

General Services Administration: Requirements for GSA Region 3 (SH)

Tape Cleaning

Department of Air Force: Robins Air Force Base, Georgia (SH)
Wright-Patterson Air Force Base, Ohio (SH)

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Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 90
Comprehensive Homeless Assistance Plan; Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 90

[Docket No. R-89-1455; FR-2385-F-05]

RIN 2506-AA06

Comprehensive Homeless Assistance Plan

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule codifies the requirements for the Comprehensive Homeless Assistance Plan, as authorized by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act). The rule applies to Plan submissions made after its effective date.

The Plan requirements govern the provision of assistance for each of title IV's homeless assistance authorities that are administered by HUD. These are the Emergency Shelter Grants (ESG) program, the Supportive Housing Demonstration program (both the Transitional Housing and the Permanent Housing for the Handicapped Homeless programs), the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program, and the section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless. Under subtitle A of the McKinney Act, HUD may not make assistance available under any of these authorities to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities or counties), unless the jurisdiction has a HUD-approved Plan. In addition, applications for assistance under these programs must include certifications from the relevant State or ESG formula cities or counties that the proposed activities are consistent with the Plan.

The Plan provisions also apply to States receiving assistance under the Department of Labor's Job Training for the Homeless authority under subtitle C of title VII of the McKinney Act. These States are required to describe how they will coordinate job training projects with other services for the homeless assisted under the Act.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress that occurs after the date on which the rule is published. HUD will publish a Notice announcing the effective date of this rule after the completion of the session-day waiting period. Whether or not the statutory waiting period has expired, the rule will not become effective until HUD's separate Notice announcing the effective date is published.

FOR FURTHER INFORMATION CONTACT: For provisions administered by HUD under title IV of the Stewart B. McKinney Homeless Assistance Act: James N. Forsberg, Coordinator; Special-Needs Assistance Programs; Department of Housing and Urban Development; Room 7228; 451 Seventh Street SW.; Washington, DC 20410; telephone (202) 755-6300.

Hearing or speech impaired individuals may call HUD's TDD number: (202) 755-5965.

None of the telephone numbers listed above are toll-free.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The collection of information requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The requirements have been assigned OMB control number 2506-0093, expiration date January 31, 1992. Public reporting burden for the collection of information requirements contained in this final rule include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, "Information of collection requirements." Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development; Rules Docket Clerk; 451 Seventh Street SW; Room 10276; Washington, DC 20410; and to the Office of Regulatory Affairs; Office of Management and Budget; Washington, DC 20503.

Background

Subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11361) establishes requirements for the Comprehensive Homeless Assistance Plan (the Plan). The Plan requirements govern the provision of assistance under the four homeless assistance authorities administered by HUD under title IV of the McKinney Act. These are:

(1) The Emergency Shelter Grants (ESG) program under subtitle B of title IV of the Act (42 U.S.C. 11371 *et seq.*) (24 CFR part 576);

(2) The Supportive Housing Demonstration program under subtitle C of title IV of the Act (42 U.S.C. 11381 *et seq.*) (24 CFR part 577 (Transitional Housing) and part 578 (Permanent Housing for Handicapped Homeless Persons));

(3) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subtitle D of title IV of the Act (42 U.S.C. 11391 *et seq.*); and

(4) The Section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act (42 U.S.C. 11401).

Under subtitle A of the McKinney Act, HUD may not make assistance available under any of these authorities to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities or counties), unless the jurisdiction has a HUD-approved Plan. In addition, applications for assistance under these programs must include a certification from the State or ESG formula city or county that the proposed activities are consistent with the Plan.

Subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) (the 1988 Amendments) made a number of changes to the Plan requirements originally enacted in the McKinney Act. These changes provide for:

(1) Annual submission of the Plan;

(2) Sharing of information copies of the Plan among States and ESG formula cities and counties;

(3) Consideration of available facilities to assist the homeless in preparing the Plan;

(4) Identification of a contact point for information on the contents of the jurisdiction's Plan;

(5) An assurance in the Plan that the State or ESG formula city or county will carry out a policy to ensure that facilities assisted under the Act are free from the illegal use, possession, or distribution of drugs and alcohol;

(6) A substantive response by the State or ESG formula city or county to timely HUD recommendations on the annual Plan performance report; and

(7) Information from Federal agencies to help coordinate State homeless efforts.

Section 485 of the 1988 Amendments required the Department to publish a Notice in the Federal Register by January 9, 1989 to implement the revisions made to the Plan by the 1988 Amendments. The provisions of the Notice would govern the Plan's requirements until publication of a final rule based on the Notice—required by section 485 to be published no later than November 7, 1989.

On December 28, 1988, the Department published the required Notice in the Federal Register (53 FR 52800). The Notice stated that it had two purposes: to announce the Plan requirements, as amended by the 1988 Amendments; and to request public comments on the requirements. This final rule completes the Department's implementation of section 485 of the 1988 Amendments, and codifies the Plan's requirements.

Readers should be aware that the Department is reviewing the Plan requirements contained in this final rule, and intends to undertake notice and comment rule making in the near future to revise the Plan requirements in this final rule. The proposed rule will address a number of areas, including the content, timing, and review/approval of the Plan and the annual performance report.

Job Training for the Homeless

For the job training for the homeless provisions administered by the Department of Labor (Title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act) the public is advised to contact: John D. Heinberg, Office of Strategic Planning and Policy Development; Employment and Training Administration; Room N-5629; Frances Perkins Building; 200 Constitution Avenue; Washington, DC 20210; telephone (202) 535-0682.

Discussion of Public Comments

The Department received two public comments on the December 28, 1988 Notice: One from a State Department of Social Services, the other from a handicapped advocacy group. A summary of the comments follows, along with the Department's disposition of them.

The State Department of Social Services suggested that the performance report required by section 401(d)(2) of the McKinney Act be included in the annual CHAP submission, instead of being a separate submission. Under the December 28, 1988 Notice, HUD must receive all CHAP submissions for the upcoming year by Octobr 1. Performance reports are due by May 31 of each year, and must cover the one-year period ending on April 30 of the year in question. The commenter stated that this change would significantly reduce the administrative burden on CHAP jurisdictions.

As noted above, the Department intends to issue a proposed rule revising the Plan requirements, including the content and timing of the annual performance report, its review by the Department, and its relationship to the Plan. The commenter's concerns will be addressed in the proposed rule.

The same commenter urged that each CHAP submission after the initial approved CHAP include only information relevant to the period ending with the last CHAP submission. Under the December 28, 1988 Notice, annual CHAP submissions must include a complete CHAP that addresses each of the required elements. Submissions in the nature of amendments to existing CHAPS are permitted only after approval of the entire CHAP. The commenter argued that moving to an "amendment" approach after the initial CHAP approval would clearly delineate the most current information and activities, and would ease the time required to prepare, review, and approve CHAP submissions.

The Department does not believe that the McKinney Act authorizes the "amendment" approach suggested by the commenter. Section 401(a)(1) of the McKinney Act requires the annual submission of a "comprehensive homeless assistance plan." Section 401(b) specifies that each Plan must contain all the required elements. Section 401(c)(2) of the McKinney Act refers to Plan "amendments," but only if the Department has disapproved a Plan submission. The Department believes that these provisions make clear that the Plan submission requirement can only be met if the Plan addresses each of the required elements.

In addition, the Plan is designed to reflect a comprehensive approach to the jurisdiction's homelessness problem, by setting forth its homeless needs and resources, and a strategy for addressing its unmet needs. The "amendment" process suggested by the commenter would tend to fragment the Plan's elements, thereby undercutting the Plan's comprehensive nature. Finally, section 401(a)(2) of the McKinney Act requires Plan jurisdictions to share their Plans with other Plan jurisdictions. The "amendment" approach would make it difficult for the receiving jurisdictions to integrate the "amendments" into a complete Plan. This would tend to frustrate the statute's very purpose in requiring the sharing of Plans.

The commenter also requested HUD guidance as to the level of detail necessary to comply with the statutory requirement that the CHAP contain a brief inventory of facilities and services that assist the homeless population within the jurisdiction. The commenter argued that given the large number of shelter and service providers in its State, HUD's policy of requiring an "itemized listing" of the services and facilities places an unnecessary administrative burden on the State. It also noted that because of the changing population of providers, an "itemized listing" at best affords a snapshot of the provider universe at only one time, and urged that the inventory provided not be treated as the total universe of entities eligible to receive McKinney Act funds. The Department intends to address in the proposed rule referred to earlier, the level of detail that the required inventory of homeless facilities and services will have to provide.

Finally, the commenter requested clarification on two points. First, section 401(b)(8) of the McKinney Act requires that each recipient and project sponsor administer, in good faith, a policy designed to ensure that assisted homeless facilities are free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries. The commenter expressed support for this requirement, but asked HUD to make clear that it does not preclude serving or sheltering individuals and family members who demonstrate an alcohol or substance abuse problem. The commenter stated that these individuals are in critical need of intensive, specialized services in order to be stabilized. Unless shelters are allowed to accept these persons into their facilities, the commenter contended that the most logical point of crisis intervention would be lost.

The Department agrees with the commenter. The mere demonstration of a drug or alcohol problem does not, in and of itself, preclude the person from participating in the McKinney Act programs administered by the Department.

Second, the commenter asked clarification of section 103(c) of the McKinney Act. This provision excludes from the terms "homeless" or "homeless individual"

an individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

The commenter asked the Department to make clear that this exclusion does not apply to former prison inmates who are

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otherwise "homeless persons" under section 103.

Again, the Department agrees with the commenter. Former prison inmates who otherwise meet the definition of a

IV of the McKinney Act is subject to section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 CFR part 8. Part 8 contains the

Docket Clerk; Office of the General Counsel; Department of Housing and Urban Development; Room 10270, 451 Seventh Street, SW.; Washington, DC 20410

TABULATION OF ANNUAL REPORTING BURDEN; FINAL RULE—COMPREHENSIVE HOMELESS ASSISTANCE PLAN—Continued

Description of information collection	Section of final rule affected	Number of respondents	Number of responses per	Total annual reponses	Hours per response	Total hours

otherwise "homeless persons" under section 103.

Again, the Department agrees with the commenter. Former prison inmates who otherwise meet the definition of a "homeless person" are eligible to participate in the McKinney Act programs administered by the Department.

The handicapped advocacy organization made two recommendations. The first concerned section 401(b)(3)(B) of the McKinney Act. This provision requires CHAPs to contain a strategy to recognize the special needs of the various types of homeless individuals, particularly families with children, the elderly, the mentally ill, and veterans. The commenter suggested that because of their special needs, severely mobility-impaired individuals be added to the provision's preferred categories.

Section 401(b)(3)(B) of the McKinney Act requires Plan jurisdictions to formulate a strategy that recognizes "the special needs of the various types of homeless individuals," and lists several areas of special need to be accorded particular recognition. The Department shares the commenter's belief that Plan jurisdictions should consider and, as appropriate, include the special needs of the severely mobility impaired in their homeless strategies, and strongly encourages them to do so. However, given the fact that the statute does not require that the severely mobility impaired be provided special recognition, the Department is reluctant to alter the congressionally mandated system of priority areas by imposing such a requirement on Plan jurisdictions in the final rule.

Second, the commenter expressed concern over the pace of existing efforts to ensure the accessibility of emergency shelters for the homeless. As a way of focusing additional attention on this need, the commenter suggested that the CHAP contain an assessment of the accessibility problems in the facilities covered by the CHAP, and set forth a transition plan to make all assisted facilities barrier-free.

It should be noted that each of the homeless authorities contained in Title IV of the McKinney Act is subject to section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 CFR part 8. Part 8 contains the rules governing the steps to be taken to ensure that facilities funded under Title IV are accessible to the handicapped. The Department believes that part 8 sets forth a reasoned approach to the accessibility of federally assisted structures, and that accessibility issues for facilities funded under Title IV should be governed solely by part 8. Accessibility questions for facilities beyond the reach of part 8 are best addressed by the jurisdiction involved.

In addition, each of the authorities contained in title IV of the McKinney Act is subject to provisions of the Fair Housing Act, as amended, 42 U.S.C. 3601–19, and the implementing regulations published on January 23, 1989 at 54 FR 3283 (to be codified at 24 CFR part 100). For the benefit of handicapped persons, these provisions include reasonable modification and accommodation requirements for existing premises and design and construction requirements for accessibility in certain new dwellings.

Other Matters

The final rule sets the following Plan submission dates:

—July 15 of each year, beginning with July 15, 1990, for ESG formula cities and counties; and

—August 30 of each year, beginning with August 30, 1990, for States. This reflects the changed Plan submission dates announced in a Notice in the **Federal Register** (54 FR 35430, published August 25, 1989).

Findings and Certifications

Environmental Requirements

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk; Office of the General Counsel; Department of Housing and Urban Development; Room 10276, 451 Seventh Street, SW.; Washington, DC 20410.

Regulatory Impact

This rule does not constitute a major rule as that term is defined in Section 1(b) of Executive Order 12291, Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual impact on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or (3) have a significant adverse impact on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), HUD certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule's requirements do not impose significant burdens on any covered jurisdiction, and in any event, the rule is based almost exclusively on statutory requirements.

Semiannual Agenda of Regulations

This rule was listed as item number 902 in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16709) under Executive Order 12291 and the Regulatory Flexibility Act.

Information Collection Requirements

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980, and have been assigned OMB control number 2506–0093. The following provisions of the rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN; FINAL RULE—COMPREHENSIVE HOMELESS ASSISTANCE PLAN

Description of information collection	Section of final rule affected	Number of respondents	Number of responses per respondents	Total annual reponses	Hours per response	Total hours
Annual submission of CHAPs	90.10	375	1	375	31.00	11,625.00
Sharing of information copies of CHAPs	90.10(a)(2)	375	1	375	.75	281.25
Assurance of drug-free homeless facility	90.20(g)	375	1	375	.25	93.75
Annual performance report	90.40(a)	375	1	375	16.00	6,000.00

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TABULATION OF ANNUAL REPORTING BURDEN; FINAL RULE—COMPREHENSIVE HOMELESS ASSISTANCE PLAN—Continued

Description of information collection	Section of final rule affected	Number of respondents	Number of responses per respondents	Total annual reponses	Hours per response	Total hours
Substantive response to HUD recommendations on annual performance report	90.40(b)	375	1	125	3.00	375.00
Total burden hours						18,375.00

Federalism and Family Impacts

The General Counsel, as the designated official for Executive Orders 12612, Federalism, and 12606, The Family, has determined that the provisions of this rule do not raise significant issues under either Order. For the justification for this finding, see the December 28, 1988 Notice at 53 FR 52807.

Catalog of Federal Domestic Assistance Programs

The Catalog of Federal Domestic Assistance Programs numbers are 14.178 and 14.231.

List of Subjects in 24 CFR Part 90

Grant programs: Housing and Community Development, Emergency shelter grants, Reporting and recordkeeping requirements.

Accordingly, title 24, Code of Federal Regulations, is amended by adding a new part 90, to read as follows:

PART 90—COMPREHENSIVE HOMELESS ASSISTANCE PLANS

Subpart A—General

Sec.
90.1 Scope and applicability.
90.3 Definitions.
90.5 Waivers.

Subpart B—Prohibition of Assistance

90.10 Plan approval as a condition of assistance.

Subpart C—Content of the Plan

90.20 Required elements of the Plan.

Subpart D—Submission, Review, and Approval of the Plan

90.30 Plan submission.
90.32 Plan review and approval.
90.34 Plan amendment and resubmission.

Subpart E—Performance Under the Plan

90.40 Plan performance.
90.42 Coordination.

Subpart F—Relationship Between the Plan and Applications for Homeless Assistance

90.50 Relationship between the Plan and applications for assistance.

Authority: Sec. 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11301 *note*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 90.1 Scope and applicability.

(a) This part establishes the requirements for the Comprehensive Homeless Assistance Plan, as authorized by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361).

(b)(1) The requirements of this part govern the provision of assistance for each of the homeless assistance authorities administered by the Department under title IV of the Act. These authorities are—

(i) The Emergency Shelter Grants (ESG) program under subpart B of title IV of the Act,

(ii) The Supportive Housing Demonstration program under subpart C of title IV of the Act (Transitional Housing and Permanent Housing for Handicapped Homeless Persons),

(iii) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subpart D of title IV of the Act, and

(iv) The Section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act.

HUD may not make assistance available under any of these programs to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities and counties), unless the jurisdiction has a HUD-approved CHAP. In addition, HUD may not approve an application for assistance under the authorities of title IV of the Act, unless the public official responsible for submitting the CHAP for the jurisdiction in which the proposed activities are to be located certifies that the activities are consistent with the Plan.

(2) The provisions of this part also apply to States receiving assistance under the Job Training for the Homeless authority administered by the Secretary of Labor pursuant to subtitle C of title VII of the Act. Participating States must describe how they will coordinate job training projects with other services for the homeless under the Act.

§ 90.3 Definitions.

For purposes of this part:

Act means the Stewart B. McKinney Homeless Assistance Act.

Authorities of Title IV of the Act means:

(a) The Emergency Shelter Grants (ESG) program under subtitle B of title IV of the Act (42 U.S.C. 11371 *et seq.*) (24 CFR part 576);

(b) The Supportive Housing Demonstration program under subtitle C of title IV of the Act (42 U.S.C. 11381 *et seq.*) (24 CFR part 577 (Transitional Housing) and part 578 (Permanent Housing for Handicapped Homeless Persons));

(c) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subtitle D of title IV of the Act (42 U.S.C. 11391 *et seq.*); and

(d) The Section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act (42 U.S.C. 11401).

CHAP or *Plan* means the Comprehensive Homeless Assistance Plan authorized by subtitle A of title IV of the Act (42 U.S.C. 11361).

CHAP jurisdiction. A State or an ESG formula city or county.

ESG. Emergency Shelter Grants (ESG).

ESG formula city or county means a metropolitan city or an urban county that is eligible to receive a formula allocation of emergency shelter grants under 24 CFR 576.43.

Homeless or *homeless individual* includes—

(a) An individual who lacks a fixed, regular, and adequate nighttime residence; and

(b) An individual who has a primary nighttime residence that is—

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate

shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The terms do not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

HUD or *Department* means the United States Department of Housing and Urban Development.

Indian tribe means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) or under chapter 67 of title 31, United States Code.

State means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau, Trust Territory of the Pacific, and any other territory or possession of the United States. For purposes of the Job Training for the Homeless authority administered by the Secretary of Labor under subtitle C of title VII of the Act (42 U.S.C. 11441 *et seq.*), *State* means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

§ 90.5 Waivers.

The Secretary of HUD may waive any requirement of this part that is not required by law, whenever it is determined that undue hardship will result from applying the requirement, or where application of the requirement would adversely affect the purposes of this part.

Subpart B—Prohibition of Assistance

§ 90.10 Plan approval as a condition of assistance.

(a) *In general.* Except as provided by paragraph (c) of this section, HUD may not make assistance available under any of the authorities of title IV of the Act:

(1) To a State or to an ESG formula city or county, or

(2) Within the jurisdiction of a State or of an ESG formula city or county, unless—

(i) The jurisdiction annually submits and receives HUD approval of a CHAP, in accordance with §§ 90.30 and 90.32; and

(ii) At the time of submission of the CHAP to HUD for approval—

(A) A State submits an information copy of the CHAP to each ESG formula city and county located in the State; or

(B) An ESG formula city or county submits an information copy of the CHAP to the State in which it is located.

(b) *Area covered by State CHAP.* The CHAP for States must cover the entire geographic area of the State, including areas within the jurisdiction of ESG formula cities and counties.

(c) *Special rules for certain nonprofit organizations.* HUD may provide assistance under 24 CFR part 577 (Transitional Housing) or the Supplemental Assistance for Facilities to Assist the Homeless program to a private nonprofit organization that proposes to locate a project in an ESG formula city or county that does not have a CHAP approved under this part, as long as the State in which the project is to be located has an approved CHAP.

(d) *Indian tribes.* The requirements of paragraph (a) of this section do not apply to an Indian tribe seeking assistance under 24 CFR part 577 (Transitional Housing) or the Supplemental Assistance for Facilities to Assist the Homeless program for a project to be located within its reservation. These requirements, and the certification of consistency with the CHAP contained in § 90.50(a), apply to an Indian tribe seeking such assistance for a project to be located outside its reservation.

(e) **Federal Register** Notice of CHAP jurisdictions. The Department will provide and update lists of CHAP jurisdictions by Notice in the **Federal Register** at such times as the Department deems appropriate.

(Approved by the Office of Management and Budget under control number 2506-0093.)

Subpart C—Content of the Plan

§ 90.20 Required elements of the Plan.

The CHAP must include the following elements:

(a) *Need for assistance.* A statement describing the need, or lack thereof, in the CHAP jurisdiction for assistance provided under each of the authorities of title IV of the Act.

(b) *Inventory of facilities and services.* A brief inventory of facilities and services that assist the homeless population in the CHAP jurisdiction.

(c) *Needs/resources strategy.* A strategy:

(1) To match the needs of the homeless population with available facilities and services in the CHAP jurisdiction; and

(2) To recognize the special needs of various types of homeless individuals, particularly families with children, the elderly, the mentally ill, and veterans.

(d) *Relation between assistance under the Act and other available resources.* An explanation of how assistance under each of the authorities of title IV of the Act will complement and enhance the available facilities and services.

(e) *Contact point.* An identification of the appropriate person or agency in the CHAP jurisdiction to contact for information on the contents of the CHAP, including the address and telephone number of the person or agency.

(f) *Information copies.* A certification from the CHAP jurisdiction that it has submitted the information copies of its CHAP in accordance with § 90.10(a)(2).

(g) *Assurance of drug- and alcohol-free facilities.* (1) *Assistance to CHAP jurisdictions.* In the case of assistance under any of the authorities of Title IV of the Act that is made available to a CHAP jurisdiction, an assurance that the CHAP jurisdiction will administer, in good faith and for the period for which the facility must be used as a homeless facility under the applicable program regulations, a policy for drug- and alcohol-free facilities, irrespective of whether the facilities are operated by the CHAP jurisdiction or another entity.

(2) *Assistance to other jurisdictions.* In the case of assistance under any of the authorities of title IV of the Act that is made available to an entity that is not a CHAP jurisdiction, an assurance that the CHAP jurisdiction will take such steps as may be necessary to ensure that the grantee or recipient will administer, in good faith and for the period for which the facility must be used as a homeless facility under the applicable program regulations, a policy for drug- and alcohol-free facilities. The steps must include, at a minimum, an assurance that the CHAP jurisdiction will satisfy itself that the grantee or recipient will adhere to the policy for drug- and alcohol-free facilities as a condition of providing the certification of consistency with CHAP, as provided by in § 90.50(a).

(3) *Definition.* For purposes of this paragraph (g), a "policy for drug- and alcohol-free facilities" is one that is designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

(h) *Coordination.* If a State designates an agency or person to coordinate homeless assistance efforts in the State, an identification of the person or agency, along with the address and telephone number of the contact.

(i) *Department of Labor Job Training Demonstrations.* In the case of States, a description of how the jurisdiction will coordinate job training demonstration projects for the homeless under subtitle C of title VII of the Act with other services for the homeless assisted under the Act.

(Approved by the Office of Management and Budget under control number 2506-0093.)

Subpart D—Submission, Review, and Approval of the Plan

§ 90.30 Plan submission.

CHAPs must be sent to the responsible HUD Field Office. CHAPs from ESG formula cities and counties must be received or postmarked no later than July 15 of each year, beginning with July 15, 1990. CHAPs from States must be received or postmarked no later than August 30 of each year, beginning with August 30, 1990.

§ 90.32 Plan review and approval.

(a) *In general.* HUD will approve a CHAP, unless HUD determines that it plainly fails to address each of the elements referred to in § 90.20(a) through (g), including the need for, and effect of, assistance under paragraphs (a) and (d) of that section for each of the authorities of title IV of the Act.

(b) *Job training element.* Failure of a State plainly to address the job training element referred to in § 90.20(i) will not result in disapproval of an otherwise approvable CHAP. It may, however, affect the State's participation in the Job Training for the Homeless authority in subpart C of title VII of the Act. Questions regarding § 90.20(i), and the effect of failing plainly to address that provision in the CHAP, should be referred to the Department of Labor.

(c) *Failure to carry out drug/alcohol assurance.* If HUD determines that a drug- and alcohol-free assurance under § 90.20(g) has not been carried out in accordance with the requirements of that paragraph, HUD may require the CHAP jurisdiction to take additional actions, or to provide further assurances, before approving subsequent CHAP submissions.

(d) *Notice of approval.* HUD will provide written notification to each jurisdiction whose CHAP is approved within 30 days after HUD receives it.

(e) *Notice of disapproval.* If HUD determines to disapprove a CHAP, it will notify the jurisdiction of the disapproval within 15 days of the determination. The notification will inform the jurisdiction of the reasons for the disapproval, as well as the steps needed to be taken to make the CHAP approvable.

(f) *Effect of failure to notify of disapproval.* If HUD fails to notify a CHAP jurisdiction of the disapproval of its CHAP within the 15 days referred to in paragraph (e) of this section, the CHAP will be deemed approved. In all cases, a CHAP jurisdiction may assume that its CHAP has been approved if it has not received notification of disapproval from HUD within 45 days after HUD received the CHAP.

§ 90.34 Plan amendment and resubmission.

HUD will permit amendments to, or the resubmission of, any CHAP, including a CHAP that has been disapproved. The provisions of § 90.32 govern CHAP amendments and resubmissions.

Subpart E—Performance under the Plan

§ 90.40 Plan performance.

(a) *Performance reports.* Each jurisdiction that has an approved CHAP must conduct an annual review of its progress in carrying out its CHAP. The jurisdiction must report the results of its review to HUD no later than May 31 of each year. The reporting period must cover the 12-month period ending with April 30 of the year in which the report is due.

(b) *Responses to recommendations.* Each jurisdiction that has submitted a performance report under paragraph (a) of this section must provide a substantive response to any recommendations that HUD makes on the report, provided that the jurisdiction receives the recommendations by July 31 of the year in which the report is submitted.

(c) *Effect of failure to report or respond.* HUD may not make assistance under any of the authorities of Title IV of the Act available to, or within the jurisdiction of, any CHAP jurisdiction that fails to—

(1) Review and report its performance to HUD, in accordance with paragraph (a) of this section; or

(2) Make a substantive response to HUD's recommendations, in accordance with paragraph (b) of this section.

(Approved by the Office of Management and Budget under control number 2506-0093.)

§ 90.42 Coordination.

If a State CHAP designates a State agency or a State contact person to coordinate homeless assistance efforts in the State, HUD will provide the designee with such program information as HUD deems appropriate to facilitate the coordination.

Subpart F—Relationship Between the Plan and Applications for Homeless Assistance

§ 90.50 Relationship between the Plan and applications for assistance.

(a) *Certification of consistency with CHAP.* Any application for assistance under the authorities of title IV of the Act must contain, or be accompanied by, a certification by the public official responsible for submitting the CHAP for the jurisdiction in which the proposed activities are to be located, that the activities are consistent with the CHAP. For further information on this requirement, the regulations for each of the authorities of title IV of the Act should be consulted.

(b) *Indication of need for assistance in Plan.* If a CHAP fails to indicate a need (as required by § 90.20(a)) for assistance under any of the authorities of Title IV of the Act, a subsequent application for assistance under any such authority will be disapproved on grounds that it is inconsistent with the CHAP.

Dated: October 26, 1989.

Jack Kemp,

Secretary.

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Part VI

Oversight Board

Strategic Plan for the Resolution Trust Corporation

OVERSIGHT BOARD

Strategic Plan for the Resolution Trust Corporation

Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe the strategic plan established for the RTC

such specific procedures are developed by the RTC, the Oversight Board has directed the RTC to operate in accordance with existing FDIC procedures

questions posed by the Oversight Board. Public comment should contribute to a more effective strategic plan. It is hoped that publication of an early and preliminary draft of the strategic plan

16. Guidelines for conveyance of assets to state and local government agencies for use in HUD urban homesteading programs.
17. Policies and procedures for avoiding

impose on the financial and real estate markets, it is important to carefully consider the process by which these institutions are resolved. Furthermore, given that institutional, financial, and

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OVERSIGHT BOARD

Strategic Plan for the Resolution Trust Corporation

AGENCY: Oversight Board.

ACTION: Proposed Strategic Plan.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, requires the Oversight Board to develop a strategic plan for the Resolution Trust Corporation's functions and activities. The Oversight Board is seeking public comment on the proposed strategic plan for the Resolution Trust Corporation. The strategic plan establishes overall goals and objectives for the RTC in six areas: case resolution, asset disposition, affordable housing, conflicts of interest and ethical standards, external relations, and administration.

DATES: Comments must be submitted on or before December 4, 1989. The strategic plan must be submitted to Congress by December 31, 1989.

ADDRESSES: Comments may be mailed to the Policy and Financial Analysis Unit, Oversight Board, Room 906, 1825 Connecticut Avenue NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: Johathan L. Fiechter, the Policy and Financial Analysis Unit, Oversight Board, 202–376–5464.

SUPPLEMENTARY INFORMATION:

Background and Statutory Requirements

The Resolution Trust Corporation (RTC) and the Oversight Board of the Resolution Trust Corporation (Oversight Board) were established as instrumentalities of the United States on August 9, 1989, by the enactment of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) as added thereto by section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101–73, section 501(a), 103 Stat. 183, 363–393). Throughout this document, all references to section 21A are to section 21A of the Federal Home Loan Bank Act as amended by section 501(a) of FIRREA.

FIRREA requires the Oversight Board, in consultation with the RTC, to develop a strategic plan for the RTC's functions and activities, and to submit the plan to Congress no later than December 31, 1989. FIRREA establishes the minimum contents required for the strategic plan, which are listed in the Appendix to this Preamble. FIRREA further requires the Oversight Board to appear with the RTC, by January 31, 1990, before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe the strategic plan established for the RTC.

At its public meeting on September 21, 1989, the Oversight Board determined that it would be beneficial at an early stage in the development of the strategic plan to make a draft available for public comment. Accordingly, this preliminary, draft strategic plan is being published for comment. The Oversight Board wishes to emphasize that this is an early draft that will be revised in response to comments received and in the course of the Board's own further review and deliberation. The Board recognizes that certain aspects of this preliminary draft might be regarded by some as controversial or that others might recommend the inclusion of matters that are omitted. That is, of course, the purpose of soliciting comment on this proposed strategic plan. The Board will consider all comments received as it shapes the final plan for submission to Congress.

Duties of Resolution Trust Corporation and Oversight Board

The mission of the RTC is to carry out a program, under the general oversight of the Oversight Board, to manage and resolve institutions that come under its jurisdiction and to dispose of any residual assets in a manner that:

- Maximizes return and minimizes loss;
- Minimizes the impact on local real estate and financial markets; and
- Maximizes the preservation of the availability and affordability of residential property for low- and moderate-income individuals.

The duties of the Oversight Board are to oversee and be accountable for the RTC. The Oversight Board is required, in consultation with the RTC, to develop and establish overall strategies, policies, and goals for the RTC's activities, including the RTC's overall financial goals, plans and budgets. The Oversight Board is also required to review the overall performance of the RTC on a periodic basis, including its work, management activities, and internal controls and the performance of the RTC relative to approved budget plans pursuant to the terms of FIRREA.

Purpose and Contents of the Strategic Plan

The purpose of the strategic plan is to set forth the RTC's goals and objectives in support of its mission. The RTC will develop specific procedures for implementing the general guidance provided by the strategic plan. Until such specific procedures are developed by the RTC, the Oversight Board has directed the RTC to operate in accordance with existing FDIC procedures.

The strategic plan elaborates on the mission of the RTC through goals, objectives, and implementation procedures. The strategic plan's goals establish broad, general direction for the RTC in six areas: Case resolution, asset disposition, conflicts of interest and ethical standards, external relations, and administration.

The strategic plan's objectives provide more specific statements with respect to the goals set forth. Subject to the review of the Oversight Board, the RTC is responsible for adopting the rules, regulations, standards, policies, procedures, guidelines, and statements necessary to implement the strategic plan established by the Oversight Board.

The strategic plan will be refined and strengthened through experience and ongoing review. Additionally, the National and Regional Advisory Boards will provide input to the policies and procedures developed by the Oversight Board and RTC for the sale or disposition of real property assets.

Strategic Plan Development

The strategic plan was developed by Oversight Board staff in consultation with the staff of the RTC. At its first meeting, on August 9, 1989, the Oversight Board established a Joint Policy Development Task Force with staff from both the Oversight Board and the RTC to make recommendations to the Oversight Board on overall strategies, policies and goals for the RTC and the strategic plan.

In addition, the strategic plan reflects input from staff of the Treasury Department, the Department of Housing and Urban Development, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

Furthermore, the strategic plan incorporates individual policies that have been adopted by the Oversight Board during the period between the Oversight Board and the RTC's creation on August 9, 1989, and publication of this proposed strategic plan.

Request for Comment

At its September 21, 1989 Board meeting, the members of the Oversight Board decided unanimously to invite public participation in the development of the strategic plan before submitting it to Congress. The Oversight Board is seeking comments on all aspects of the strategic plan, and particularly on the questions posed by the Oversight Board. Public comment should contribute to a more effective strategic plan. It is hoped that publication of an early and preliminary draft of the strategic plan will promote participation in formulating the RTC's goals, objectives and implementation procedures.

In addition, the Board wants the strategic plan to reflect expertise available in the private as well as the public sector. The private sector has extensive expertise in matters of loan workouts, asset management and disposition, which would be invaluable to the Oversight Board in formulating the strategic plan. Furthermore, FIRREA requires the RTC to utilize the private sector in carrying out its duties, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, to the extent that those services are available and their utilization by the RTC would be practicable and efficient. Because it is expected that the RTC will utilize the private sector in carrying out its mission, the Oversight Board believes it is important to receive comment from that sector in developing the strategic plan.

Appendix to the Preamble—FIRREA-Mandated Contents of the Strategic Plan

Section 21A(a)(14)(B) requires the strategic plan and implementing policies and procedures to contain, at a minimum, the following:

1. Factors for determining the order of resolutions.
2. Standards to select the type of resolution.
3. Factors to consider in deciding treatment of nonperforming assets in assisted acquisitions.
4. Plan for the disposition of assets.
5. Management objectives for measuring progress.
6. Plan for organizational structure, staffing, and use of third-party contracts.
7. Consideration of incentives to promote efficient asset management.
8. Standards for competition among and fair treatment of offerors.
9. Standards to prohibit discrimination in solicitation and consideration of offers.
10. Procedures for active solicitation of offers from minorities and women.
11. Procedures for notification of rejected offers.
12. Procedures for establishing the market value of assets.
13. Procedures requiring timely evaluation of purchase offers.
14. Procedures for bulk sales and auction marketing of assets.
15. Guidelines for determining which assets have no reasonable recovery value and may, therefore, be considered for public purposes.
16. Guidelines for conveyance of assets to state and local government agencies for use in HUD urban homesteading programs.
17. Policies and procedures for avoiding political favoritism and undue influence in contracts and decisions made by the Oversight Board and RTC.

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I. Mission Statement

The Resolution Trust Corporation should carry out a program, under the general oversight of the Oversight Board, to manage and resolve institutions that come under the jurisdiction of the RTC and to dispose of any residual assets in a manner that:

- Maximizes return and minimizes loss;
- Minimizes the impact on local real estate and financial markets; and
- Maximizes the preservation of the availability and affordability of residential property for low- and moderate-income individuals.

II. Background

A. Case Resolution

FIRREA gives the Resolution Trust Corporation (RTC or the Corporation) the responsibility for managing and resolving all cases involving depository institutions previously insured by the Federal Savings and Loan Insurance Corporation (FSLIC) for which a conservator or receiver is appointed from January 1, 1989 through August 8, 1992. As of September 30, 1989 there were 256 institutions holding $101 billion in assets under RTC jurisdiction. Additional insolvent institutions are expected to be transferred to the RTC over the next three years.

Resolution Schedule

Given the expected costs associated with resolving the institutions under RTC jurisdiction, the large backlog of insolvent institutions and the potential disruption these resolutions could impose on the financial and real estate markets, it is important to carefully consider the process by which these institutions are resolved. Furthermore, given that institutional, financial, and human resource constraints preclude simultaneous resolution of insolvent institutions presently under RTC jurisdiction, it is important to establish a prioritization schedule for case resolutions. FIRREA stipulates that the strategic plan for the RTC will include the "factors the Corporation shall consider in deciding the order in which failed institutions or categories of failed institutions will be resolved."

There are numerous factors to consider in deciding which institutions to resolve first. For example, of primary importance is the deterioration at an institution, a measure of the cost savings the RTC could achieve by resolving an institution immediately. As such, institutions with the highest operating losses (both in absolute terms and relative to the expected cost of resolution) should be given first priority in order to save the RTC these additional losses.

Additionally, the estimated loss in franchise value due to eroding customer bases and the loss of key personnel and systems is important in determining deterioration and therefore, should also be evaluated in deciding the priority of resolutions. Likewise, the ongoing risk exposure to the RTC should be considered. Institutions posing the greatest risk to the RTC should be given priority. Also, the order of resolutions should reflect the most efficient use of RTC resources and staff. The strategic plan requires the RTC to evaluate all of these factors in establishing a case resolution schedule.

Many of the factors that need to be considered in establishing a priority schedule are not easily quantified. It would not be cost effective, however, to devote inordinate time and resources to developing a precise priority schedule if such an effort delays the resolution process. Therefore, in evaluating the various factors, the RTC may consider establishing priority deciles or quartiles rather than attempting to establish the order of resolution for each institution.

Method of Resolution

In addition to establishing resolution priorities, the RTC will need to select a method of resolution for each institution. Resolutions generally take the form of either liquidations accompanied by the payment of insured deposits, or assisted acquisitions. In paying insured deposits, the FDIC has generally paid cash to depositors, either directly, or indirectly

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through a "paying agent." An insured depositor may choose to take the cash or use it to open a deposit account with the paying agent. The RTC may use the same techniques. Use of a paying agent is often referred to as an insured deposit transfer.

In an assisted acquisition, the acquiring entity assumes some portion of the assets and liabilities of the failed institution. The RTC provides sufficient cash to the acquiring institution to offset the difference between the amount of liabilities assumed and the market value of assets acquired from the failed institution—net of any premium paid by the acquiring institution. To the extent the acquiring institution acquires substantially all of the assets of the failed institution, the transaction is termed a "whole thrift" purchase and assumption. If the acquiring institution acquires only the "good" assets (e.g., cash, securities, and performing loans), the transaction is termed a "clean thrift" purchase and assumption.

There is no precise line of demarcation between a whole-thrift transaction and a clean-thrift transaction. Rather, they run on a continuum. In fact, the results of a deposit transfer can be similar to a purchase and assumption transaction. For example, if in its role as the paying agent, an institution is able to attract and retain the deposits from the failed institution and uses the deposits to purchase the good assets of the failed institution, the net result resembles a clean-thrift purchase and assumption. If the paying agent further purchases the problem assets, the net result resembles a whole-thrift purchase and assumption.

In selecting a method of resolution, FIRREA, by cross referencing the Federal Deposit Insurance Act, prohibits the RTC from providing assistance in an amount in excess of that required to liquidate an institution, unless the RTC determines that the continued operation of the institution is essential to provide adequate banking services in its community. FIRREA also stipulates that the RTC conduct its operations in a manner which "maximizes the net present value return from the sale or other disposition of institutions," and "minimizes the amount of any loss realized in the resolution of cases." Finally, FIRREA stipulates that the RTC's strategic plan and its implementing policies and procedures must include "standards the Corporation shall use to select the appropriate resolution action for a failed institution," and "factors the Corporation shall consider in deciding whether nonperforming assets of the failed institution will be transferred to the acquiring institution rather than retained by the Corporation for management and disposal." This latter requirement regarding the treatment of nonperforming assets draws attention to the whole-thrift versus clean-thrift decision. The strategic plan requires the RTC to consider each of these statutorily imposed criteria in selecting the preferred method of resolution.

One policy issue that arises in the selection of a resolution method is whether the RTC should sell an individual institution as a whole or in parts. For example, some have suggested that the RTC could obtain a higher price if it were to sell individual branches to separate acquirers rather than attempting to sell all the branches to one acquirer. It has been further argued that selling smaller pieces, such as individual branches, might also increase the pool of eligible bidders, thereby increasing the competitiveness of the bidding. A counter to these arguments is the amount of time and administrative costs associated with attempting to evaluate and compare multiple combinations of offers. Also, in deciding whether to pursue the sale of individual branches, consideration must be given to the effect of this policy on cash outlays, the expected volume of assets to be liquidated and the disruption payoffs of insolvent branches could cause.

Financial Assistance

Another area of policy debate is the type of assistance that the RTC may provide in order to facilitate an assisted acquisition. In the past, various forms of assistance have been used including, but not limited to, cash, notes, yield-maintenance agreements, capital-loss coverage, asset puts, and regulatory forbearances.

Yield maintenance was sometimes given to an acquirer that accepted problem assets (or assets with below market contract rates due to interest rate changes) in lieu of immediately paying the institution for the capital losses on the assets. The guaranteed yield for these assets was generally based on a cost-of-funds index, plus a spread to cover operating expenses associated with managing the asset and, in some cases, a profit margin. Capital-loss coverage effectively guarantees that the acquiring institution will not sustain any further capital losses on specified or "covered" assets after the sale of these assets to the institution. When capital loss coverage is offered in conjunction with yield maintenance, the provider (e.g., the RTC) effectively retains all the risks associated with problem assets and the acquiring institution may have disincentives to minimize the losses in the assets.

Asset-puts as a form of assistance can be used when the acquirer has not had sufficient time to evaluate the condition of all the assets in the portfolio or mark them to market. If an asset that has been sold to an institution becomes "bad" or non-performing, does not have clear title, or there is some litigation liability, the association may sell or "put" the asset back to the RTC in exchange for cash or other assets. An "asset-put" provision reduces the discount a purchaser would otherwise require on accepting assets of unknown quality and allows for more expedient disposition of institutions with problem assets. Asset-puts can be thought of as a form of capital loss coverage and, like the capital loss coverage and yield maintenance, creates a financial contingent liability for the RTC and reduces the incentive for acquiring institutions to maximize recoveries.

Ownership interests in resolved institutions allow the RTC to protect its interests when at the time of resolution there is continued uncertainty regarding the value of the resolved institution and, therefore, the appropriate amount of assistance. This uncertainty creates the potential for large upside gains for the acquirer. Equity participations, such as common stock, give the RTC a direct ownership position in a thrift and allow the RTC to share in upside gains. Equity participations, however, may create a conflict if the RTC assumes a controlling position and thereby becomes a competitor with other financial institutions. Warrants are passive equity instruments that allow the RTC to share in the profits of a resolved institution, but if structured properly, can avoid the control issue.

Regulatory forbearances occur when a merging institution is granted non-cash assistance by having the regulator abstain from enforcing certain regulatory requirements. In the past, regulators have granted forbearances from complying with capital requirements, liquidity requirements, and asset restrictions. In most, but not all, situations, forbearances do not reduce the requirement but merely preclude the regulator from taking action as a result of noncompliance. Forbearances were usually granted only for a limited period of time. Granting forbearances may reduce the resolution cost to the RTC and unlike other forms of assistance, often do not involve a direct financial outlay or immediate risk to the RTC. They may, however, transfer

risk to the insurance funds and are inherently difficult to value.

Each of these forms of assistance entails different costs and levels of ongoing risk exposure for the RTC. The Oversight Board has already adopted policies that: (1) Limit the period of assistance involving a financial contingency (e.g., asset-puts, asset guarantees, capital loss coverage, yield maintenance guarantees) for the RTC to the lesser of 6 months or the time necessary to complete due diligence; and (2) limit the RTC from taking an active equity positions in resolved institutions. The strategic plan requires the RTC to develop written guidelines for the use of various forms of financial assistance.

Bidding Procedures

A significant way to reduce the cost of resolutions is to encourage active participation in the resolution process by all qualified bidders. Also, FIRREA explicitly requires the RTC to develop standards for fair, non-discriminatory treatment and competition among prospective bidders and requires the RTC to encourage the active participation of women and minorities.

These requirements can best be fulfilled by having an open and widely publicized bidding procedure and a broad dissemination of information regarding institutions being marketed and the terms of previous transactions. This need for openness has been highlighted by the public reaction to the transactions completed by the Federal Home Loan Bank Board in December 1988. In addition, providing sufficient time to disseminate the pertinent information to a wide range of bidders and allowing adequate time for carefully constructing competitive bids, should assure that the RTC receives the best offer. Finally, the fair and consistent evaluation of all bids and the timely notification of rejected bids should encourage continued participation in future marketing efforts by prospective purchasers. The strategic plan identifies each of these items as an area for the RTC to develop implementation procedures.

Use of Private Sector

FIRREA requires the RTC to use the services of private persons if such services are available and the RTC determines that the utilization of such services are practicable and efficient. While the statute appears to presume that this will occur primarily in the asset disposition process, the RTC might use the services of private sector entities in activities related to the resolution of institutions. These services could include managing institutions or performing due diligence for the RTC. The strategic plan directs the RTC to identify areas where private sector services could be used in resolving institutions.

B. Asset Disposition

Assets not sold as a part of a thrift institution resolution will have to be disposed of separately by the RTC. The volume of assets the RTC will dispose of is uncertain and will depend in part on the method chosen by the RTC to resolve thrift institutions.

Whatever the eventual volume, most of the assets under RTC jurisdiction will fall into one of three categories: (1) Cash and readily marketable loans, servicing rights, and securities; (2) high risk or otherwise undesirable, but performing, loans; or (3) real estate owned and nonperforming loans, including loans in foreclosure. Most of the policy issues relate to the disposition of the second and third groups; accordingly, these assets are the focus of this section.

The task facing the RTC for asset disposition is unprecedented in magnitude and complexity. The RTC will need to try alternative approaches, learning from experience what works and what does not work. Nothing in this plan is intended to preclude that flexibility.

Use of the Private Sector to Maximize Net Present Value

The sheer number of assets to be worked out will require that the RTC rely heavily on private sector contractors for the management and disposition of these assets, subject to general oversight and audit by the RTC. In addition, the private sector's expertise and the opportunity for the RTC to utilize incentive-based contracts argue for the RTC to use private contractors whenever practicable and efficient, as called for in FIRREA.

The RTC should develop and employ incentive structures tailored to maximizing the net present value of the assets to the RTC. While the RTC staff will be monitoring its contractors, it will be the contractors who, in most instances, manage the assets and negotiate their disposition, subject to appropriate RTC approval. The RTC should, therefore, rely on incentive schemes for contractors as a means of assuring that the government receives the maximum net present value return on its assets. No incentive structure, however, can eliminate the need for managerial oversight by RTC staff.

Neither the eventual proceeds from asset disposition nor the interim operating returns will be known to the RTC or the contractor at the time the assets are placed under private control. Therefore, when practical, the RTC should enter into contracts that have the RTC and the contractor sharing in better-than-expected returns, as well as sharing the risk that net proceeds will fall short of expectations (i.e., yielding the contractor less than a market rate of return).

Competitive Procurement

Depending on the structure of the contract, a variety of procurement designs may be appropriate for promoting competition consistent with the objective of maximizing net present value. In all instances, the RTC must make available, in writing and to all requesting parties, its procurement policies and procedures.

Sales Methods

As a general rule, bulk contracts for management and disposition of a large block of assets should be used if the RTC deems that this is the strategy that will maximize the net present value of the proceeds. Furthermore, the administrative constraints on the number of separate transactions that can be directly executed by the RTC suggests that bulk transactions may be an efficient method for disposing of assets. The RTC should experiment with alternative methods of structuring bulk transactions. In bulk sales, modest discounting in price may be appropriate because of the reduction in the RTC's sales costs per unit.

The RTC can delegate many of the decisions regarding choice of disposition methods to private contractors, subject to guidelines established by the RTC. However, there may be instances in which the RTC should override the recommendation of its contractors. For example, using large-volume auctions to dispose of single-family homes or raw land in distressed areas may maximize near-term returns to the RTC but could have adverse market effects that could be avoided through an alternative sales method.

Continuing RTC Involvement with Assets

As with resolutions of insolvent thrifts, the RTC should avoid retaining long-term equity interests in assets under its jurisdiction. These assets should be sold expeditiously following orderly and thorough marketing. The RTC should explore ways, however, in which it can participate in any extraordinary gains realized at the time of disposition.

The RTC will have to develop criteria that must be met for the RTC to undertake major capital improvements (i.e., buildouts of incomplete properties

region of the country and buy properties in another.

Asset Disposition in Distressed Areas

future developments not reflected in the current market values of properties.

The ongoing resolution of insolvent thrift institutions during the next several

of this initial marketing or right of first refusal period. Eligible properties are to be offered to qualifying households, public agencies, or nonprofit

Marketing

Marketing eligible residential properties may require special

The costs that can be avoided through an expedited sale include, but are not limited to, foregone real estate taxes, insurance, maintenance expenses,

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The RTC will have to develop criteria that must be met for the RTC to undertake major capital improvements (i.e., buildouts of incomplete properties and major rehabilitation of completed structures) prior to marketing. There may be some special cases in which the net present value of properties to the RTC will be enhanced by capital improvements prior to sale, but in most instances properties should be sold in "as is" condition (exclusive of minor cosmetic repairs).

Financing of Asset Sales

If the RTC were to provide financing of asset sales, it should do so only when necessary to complete transactions that maximize the present value return to the RTC, net of the value of any concessions provided in the financing. Unless directed otherwise by the Oversight Board, the RTC should, in general, offer financing only as a marketing tool. If private sector lenders are unwilling to finance a proposed purchase on terms as favorable to the buyer as those offered by the RTC, then the RTC is providing a subsidy that should be recouped through a higher purchase price.

Data Base Development

To assure the RTC's capability to respond to future data requests, the database system developed to inventory RTC assets should be flexible and contain as many descriptors of assets as is practicable. As required by FIRREA, the data base should identify those properties with natural, cultural, recreational, or scientific values of special significance. Compliance with this requirement will be difficult, but the RTC should develop procedures and guidelines for determining these designations as quickly as practicable.

Ethics and Conflicts of Interest

Ongoing enforcement of ethics and conflicts of interest requirements will complement the incentive schemes and regular audits as methods of assuring that contractors promote the objectives of the RTC. The interim statement of Principles of Ethical Conduct for Independent Contractors to the RTC, on which public comment has been solicited, will be succeeded by regulations on this subject.

The ethics standards should not preclude asset managers from acting in more than one capacity for the RTC, if the RTC determines that no conflicts or potential conflicts of interest exist with respect to the services performed for the RTC by RTC contractors. For example, if appropriate, asset managers should be allowed to sell RTC properties in one region of the country and buy properties in another.

Asset Disposition in Distressed Areas

RTC will be a significant holder of real estate in some local real estate markets already beset by economic problems and experiencing declining real estate values. FIRREA notes this fact and calls for special asset disposition procedures to protect against the dumping of assets while not restricting the flexibility RTC needs to make sound business decisions. The RTC will consider providing seller financing in distressed areas.

FIRREA specifies that in distressed areas the RTC should not sell at less than a specified minimum disposition price. The legislation sets this price at 95 percent of market value and gives the RTC Board of Directors the authority to change this percentage if a change is deemed consistent with the overall objectives of the RTC. Outside of distressed areas, the RTC should strive as well to sell only at prices at or near market value, unless otherwise directed by the Oversight Board. The term "market value" is defined in FIRREA to mean "the most probable price which a property should bring in a competitive and open market if: (1) All conditions requisite to a fair sale are present, (2) the buyer and seller are acting prudently and are knowledgeable, and (3) the price is not affected by any undue stimulus."

Thorough marketing of properties will be particularly important in distressed areas for the RTC to secure offers near market value. But even with careful and comprehensive marketing, market value and, therefore, the disposition price of RTC properties in distressed areas may often be a small fraction of book value.

The RTC should avoid deferring the marketing of properties, subject to the right of first refusal marketing provisions in FIRREA. Holding properties off the market for an extended period of time will generally not serve the interests of either the local community or the taxpayer.

The uncertainty caused by an overhang of properties held off the market may depress local property values more than would their sale. Furthermore, holding rental housing off the market increases rents and, therefore, may place renters at a disadvantage. Properties held off the market especially vacant properties—can deteriorate and lose value, raising the cost to the RTC and ultimately to the taxpayer. Even properties that do not deteriorate impose carrying costs on the RTC. The RTC should not attempt to "outguess the market" by speculating on future developments not reflected in the current market values of properties.

The ongoing resolution of insolvent thrift institutions during the next several years, together with delays in securing clear title to properties that come under the RTC's control, will result in the disposition of RTC's assets over a multi-year period, even if individual properties are marketed expeditiously. If the RTC were to delay disposition of currently marketable properties, it would only concentrate the peak load problem, and place pressure on local markets in years to come.

While the RTC should dispose of properties expeditiously following thorough marketing, in some instances certain marketing methods may have adverse consequences for local property values that could be avoided. For example, in areas where the RTC is a large holder of similar properties, including raw land, disposition according to a pre-advertised multi-month marketing schedule may be preferable to disposing of a large number of properties by auction on a single day.

Keep the Market Informed

The RTC should keep market participants and other interested parties fully informed, to the extent practical, on RTC's plans for asset sales. Uncertainty increases the risk of investing in real estate and thereby depresses real estate values. The "overhang" of RTC properties in local real estate markets increases uncertainty and depresses real estate values for two reasons: (1) Market participants do not know the RTC's plans for these properties, and (2) even if RTC's plans were known, the resulting market effects are uncertain. RTC can eliminate at least part of this uncertainty by providing as much information as practical about its inventory and general policies and strategies for asset disposition to all interested parties in the local market areas where RTC has properties.

C. Affordable Housing Provisions

FIRREA mandates maximizing the preservation of the availability and affordability of residential real property for low and moderate-income individuals. One mechanism that FIRREA provides for meeting this mandate is to require a specified right of first refusal period for qualified purchasers of certain eligible single and multi-family properties.

The RTC's implementing procedures for housing disposition should be designed to maximize the effectiveness

of this initial marketing or right of first refusal period. Eligible properties are to be offered to qualifying households, public agencies, or nonprofit organizations so that the properties may be available for purchase or occupancy by lower-income families. To assure that its disposition strategies for low and moderate income housing are effectively implemented, the RTC should consult on an ongoing basis with local and state housing finance agencies, other governmental agencies, and local and national nonprofit organizations with specialized knowledge of low-income housing.

No later than March 30, 1990, the RTC will submit to the Oversight Board comprehensive guidelines and procedures to implement the low- and moderate-income housing provisions of FIRREA. (The specific coverage of these guidelines and procedures is detailed in a subsequent section of this strategic plan.) To avoid keeping needed housing off the market and to avoid any further deterioration of the eligible properties involved while comprehensive guidelines are developed by the RTC and reviewed by the Oversight Board, the RTC may sell eligible properties in accordance with the housing provisions of FIRREA prior to the delivery to the Oversight Board of these comprehensive guidelines. Prior to commencing such disposition, however, the RTC will prepare interim guidelines for disposition that are in accordance with the lower- and moderate-income housing provisions of FIRREA. The RTC will provide its interim guidelines to the Oversight Board and will keep the Board apprised of its disposition procedures. (Public comment is specifically invited on whether the RTC should begin disposing of eligible properties prior to development of comprehensive housing program guidelines.)

In order to facilitate the Oversight Board's review of the low- and moderate-income housing program as it evolves and to assist in identifying any areas needing special attention, the RTC will keep records on eligible properties and their disposition. As the RTC begins marketing eligible properties, it will compile data on the number of eligible properties offered for sale, the number of these properties that are purchased for low- and moderate-income housing, and any other pertinent data related to the effectiveness of the initial marketing period in meeting the FIRREA's housing goals. The RTC will report regularly to the Oversight Board on its experience in meeting its low- and moderate-income housing objectives under FIRREA, including providing any relevant data.

Marketing

Marketing eligible residential properties may require special techniques that differ from the RTC's normal marketing methods. The RTC should develop marketing strategies in consultation with state housing finance agencies, other government agencies, and non-profit organizations for implementation, either directly or through contractors (including government agencies and non-profit organizations). The RTC should also consider assigning low-income housing specialists to its field offices.

Clearinghouses

FIRREA requires that the RTC shall provide information on eligible properties to clearinghouses to make such information available to public agencies, non-profit organizations, and qualifying households. FIRREA authorizes state housing finance agencies and the Federal Housing Finance Board to act as clearinghouses. The RTC can also authorize national non-profit organizations as clearinghouses. The RTC shall develop guidelines for entering into contracts or other arrangements with clearinghouses to carry out their responsibilities.

To assure a maximum level of operating efficiency by all clearinghouses, RTC personnel should work with organizations, including the FHFB, to develop general strategies, including agreement on both the form and content of the information the RTC will provide regarding eligible properties. The information provided should be in a form suitable for immediate dissemination by the clearinghouses to eligible purchasers and include as much information as necessary to assure the most informed possible basis for judgement by the eligible purchasers.

The RTC should also investigate the extent to which information about eligible properties may be provided to clearinghouses before the RTC has clear title to the properties.

Disposition of Eligible Properties

FIRREA directs the RTC to determine a market value for each eligible residential property and sell eligible properties at the net realizable market value. The net realizable market value is the price below the market value that takes into account any reduction in certain holding and transactions costs resulting from expedited and direct sale of a property. Consequently, the price reduction represents an economic discount, not a price subsidy.

The costs that can be avoided through an expedited sale include, but are not limited to, foregone real estate taxes, insurance, maintenance expenses, security costs and the loss of use of its funds as well as the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals usually involved in the sale of property.

The RTC should consider selling eligible properties in bulk to capable non-profit organizations and state and local housing finance agencies. The reduction in transaction costs to the RTC resulting from a bulk sale may permit the RTC to sell properties at a below-market price and still maximize net present value.

Subsidies

FIRREA authorizes the RTC to provide subsidies such as concessionary financing and price discounts in the furtherance of FIRREA's housing objectives. If subsidies are deemed necessary to meet the housing objectives, the appropriate form of the subsidies, as well as the total amount of subsidy provided for this program, will be determined by the Oversight Board. Under section G of this strategic plan, Specific Questions for Public Comment, the staff of the Oversight Board specifically seek comment on subsidies and other issues related to the affordable housing provisions in FIRREA.

Qualifying Purchasers

The legislation specifies which households and organizations are eligible to bid on properties during the right of first refusal period. The RTC should investigate the feasibility of contracting for the service of qualifying households and institutions, in light of the relevant experience outside the RTC that could be drawn upon from such agencies and organizations as state housing finance agencies, other government agencies, and non-profit organizations.

Competing Bids

When selling single family properties, the RTC may have to choose between substantially similar competing offers from low- and moderate-income households. In the case of multi-family housing, the conference report directs the RTC to give preference to offers that propose to house more lower income families for longer periods of time and the RTC will establish guidelines to implement this directive. Given the RTC's mandate to maximize the affordability and availability of low-

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income housing, the RTC will establish guidelines that among substantially similar offers for single family properties give preference to bids from lower-income families.

Consultation with Other Agencies

FIRREA directs the Secretary of Housing and Urban Development and the Secretary of Agriculture to expedite the processing of applications for assistance under a number of specified programs, including FHA mortgage insurance. To the extent practical, the RTC should consult with those parties, as well as with other organizations that can financially assist qualified households and organizations in purchasing and renting housing. These organizations include the federally sponsored housing credit agencies and corporations, and state and local housing finance agencies.

The legislation requires the Federal Housing Finance Board (FHFB) to establish an Affordable Housing Program to subsidize interest rates on advances to member savings institutions for lending for low- and moderate-income owner occupied and rental housing. The RTC should work with the FHFB as the FHFB designs its Affordable Housing Program to maximize the mutual effectiveness of the RTC's and FHFB's respective programs.

Use of Secondary Market Agencies

As required in FIRREA, the RTC shall, in consultation with the Secretary of HUD, explore opportunities to work with secondary market entities to provide housing for lower- and moderate-income households. The Secretary of HUD is authorized to work with the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

Enforcement of Low-Income Residency Requirements

FIRREA requires purchasers of qualifying multi-family property to make available a certain number of units for low- and very low-income residents during the remaining useful life of the property. (The requirements may be reduced for a temporary period if HUD or the applicable state housing finance agency determines that compliance is no longer financially feasible.) The residency requirements must be recorded in a deed or other legal instrument. FIRREA provides that the lower-income occupancy requirements shall be judicially enforceable against the purchasers of property by affected very low- and lower-income families.

Regional Advisory Boards

FIRREA directs the Oversight Board to select members of the regional advisory boards who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters. These groups can advise the RTC about implementation strategies in specific regions.

D. Conflicts of Interest and Ethical Standards

Conflicts of Interest

Within 180 days from the date of enactment, FIRREA requires the RTC to promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities and use of confidential information. The RTC has adopted an interim statement of principles establishing minimum standards of ethical conduct applicable to independent contractors retained by the RTC. The RTC has also been charged with the obligation to utilize the private sector to the maximum extent possible. The RTC is facing a monumental task and will have to rely heavily on third party contractors to successfully accomplish that task. Accordingly, it is important that any conflicts of interest standards will not preclude participation by a significant proportion of the private sector.

If the standards established are too restrictive, the RTC will have difficulty hiring sufficient contractors to accomplish its mission. On the other hand, if the standards are too liberal or lax, they may not provide sufficient protection against unethical conduct by the RTC employees, contractors, and agents.

Proposed regulations concerning the conduct of the RTC's independent contractors are expected to be published for public comment in the near future. The proposed regulations are intended to require the RTC to preserve the integrity of the system while allowing it the flexibility needed to meet its statutory mandate.

Political Favoritism

FIRREA also requires that measures be taken to avoid political favoritism and undue influence with respect to the activities of the RTC. Until specific policies and procedures are developed, the RTC will draw upon current FDIC policies. The FDIC has attempted to guard against undue political pressure by having policies that allow them to investigate and provide information to those in political office in response to an inquiry, complaint or concern. The policies do not permit FDIC personnel to discuss the substance of pending decisions with respect to specific actions. In addition, the policies do not allow the FDIC personnel to alter or change an FDIC decision, policy or procedure at the request of any outside party.

However, the RTC will be operating in a more diverse and complex environment than the FDIC. Due to the greater number of special interest groups involved and the greater range of activities the RTC will be undertaking, the RTC may be subject to more political pressure. The policies the FDIC has in place may not be adequate to address the complexity of the RTC's mission.

Staff of the Oversight Board invites comments on how to most effectively implement the mandates of FIRREA regarding avoiding political favoritism in contracts and decisions made by the RTC.

E. External Relations

As a new instrumentality of the U.S., it is critical for the RTC to establish and maintain good relationships and open communications with other entities. The RTC must be responsive to Congressional inquiries and cooperate with other government offices. The nature of the mission of the RTC also makes imperative a positive relationship with the public. The External Relations section of the strategic plan provides guidance on RTC activities designed to establish and enhance the RTC's reputation as an efficient and capable agency in achieving its mission.

Communications with the Public

The National and Regional Advisory Boards, which will be established by the Oversight Board, will play an important role in maintaining open communications with the public regarding the RTC's policies and procedures for the sale or disposition of real property assets. The National and Regional Advisory Boards will bring local expertise and concerns to the attention of the RTC and the Oversight Board and will provide a means for the RTC and Oversight Board to improve public understanding of the RTC's activities.

Questions or concerns may also be raised by the public through mechanisms that will be developed by the RTC for accepting general complaints and complaints of discrimination on the basis of race, sex or ethnic group in the solicitation and consideration of offers. FIRREA requires that the strategic plan and its implementing policies and procedures include standards that prohibit discrimination. The complaint mechanism established by the RTC will provide a means for the public to provide input on the RTC's performance in this area.

Congressional Reports

FIRREA imposes two reporting periods on the RTC: (1) Semiannual reports covering the October 1–March 31 and April 1–September 30 periods; and (2) an annual report covering the January 1–December 31 period. In addition, FIRREA requires semiannual appearances by the Oversight Board before the House and Senate Banking Committees to report on RTC progress in certain areas. The specific information requested by Congress is somewhat different for the semiannual reports, the annual report, and the semiannual Congressional appearances by the Oversight Board. These reporting requirements as well as other reporting and disclosure obligations concerning the RTC's operations, which are required by Title V of FIRREA, are listed in the Appendix to this strategic plan.

F. Administration

The Oversight Board oversees and is accountable for the RTC. In its oversight capacity, the Board must periodically review the overall performance of the RTC including its work, management activities, internal controls, and performance relative to its approved budget plans. The Administration section of the strategic plan sets forth objectives and strategies to assure that the RTC has sufficient and effectively managed resources to achieve its mission.

Planning and Budgeting

The Administration section contains guidelines for the RTC's budgeting, planning, and staffing activities. FIRREA requires the strategic plan and implementing policies and procedures to contain management objectives and a plan for the organizational structure and staffing of the RTC. The section also includes guidelines to ensure fiscal responsibility. FIRREA requires the RTC to provide the Oversight Board with periodic financing requests for Oversight Board approval.

At the Oversight Board's first meeting, it adopted a policy regarding procedures and documentation for approving RTC financing requests. These procedures require the RTC, in advance, to support the need for authorization of disbursements of funds by the Oversight Board for case resolutions, working capital requests, high cost funds replacement, liquidity advances, and operating expenditures.

This has evolved into a two-step process.

The first step is the RTC's submission to the Oversight Board of a general business plan that describes its projected use of funds over succeeding weeks and requests a general authorization to spend the projected amount. After Board staff review, its recommendation and the RTC's request are submitted to the Oversight Board for a general authorization to spend all or part of the requested funds.

The Oversight Board's general authorization does not release the funds, however. That comes during the second step of the process, when the RTC submits a written request for funds needed for specific transactions that are consistent with the general authorization. The request is reviewed to determine if it includes all the required information, is signed by the Certifying Officer, and conforms with the uses of funds permitted by FIRREA and Oversight Board policies. If the Oversight Board has authorized sufficient funds to meet the request, a staff memorandum including recommended action is prepared and sent to the Oversight Board CEO. Only upon his approval are funds actually transferred to the RTC account.

Working Capital

In order for the RTC to effectively accomplish its goal of resolving institutions in an expeditious manner, it is important to develop a mechanism through which the RTC can raise working capital. The need for working capital arises from timing differences that occur in the case resolution process. For example, when the RTC liquidates an institution, the RTC must make up-front payments to depositors. This cash advance, however, does not represent the actual cost of resolution. The RTC will ultimately sell the assets of the failed institution and recover the fair market value of the assets. Since the sale of these assets takes time, but depositors must be paid up front, the resources provided by FIRREA could quickly be tied up in the illiquid assets acquired for resolved institutions. Working capital allows the RTC to proceed with case resolutions while continuing the orderly disposition of these assets. The strategic plan requires the RTC to establish the necessary systems and procedures for implementing a working capital program.

Reporting Requirements

FIRREA authorizes the Oversight Board to require from the RTC any reports, documents, and records it deems necessary to carry out its oversight responsibilities. Furthermore, FIRREA imposes reporting requirements on the RTC, including reports to Congress. The RTC, in consultation with the Oversight Board and Congress, will streamline the process for responding to the various reporting requirements imposed on the RTC by Congress, the Oversight Board, and others, to the extent possible.

Independent Audits and Other Appraisals of Operations

FIRREA established an Inspector General (IG) for the RTC. The Inspector General Act of 1978, as amended, requires the IG/RTC to prepare, by April 30 and October 31 of each year, semiannual reports containing certain information for the six-month periods ending on March 31 and September 30, respectively, for submission to Congress. FIRREA also requires the Comptroller General to annually audit the financial statements of the RTC unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that it will not perform an audit for that fiscal year. In that event, the Oversight Board must contract with an independent certified public accountant to perform the annual audit. (GAO, however, has indicated that agency will conduct an annual report of RTC's financial statement.)

The strategic plan requires the RTC to appraise its operations, including cooperating fully in audits such as those performed by the Inspector General, Comptroller General, and Oversight Board to assist its Board of Directors and management in ensuring an efficient, economical, and effective application of its resources.

G. Specific Questions for Public Comment

While the Oversight Board invites comments on all aspects of the proposed strategic plan, comment on the following key issues is especially requested.

1. The strategic plan identifies four factors that the RTC should consider in establishing its schedule for case resolutions: (1) Deterioration, (2) risk, (3)

recovery of franchise value, and (4) efficient use of staff. How should each of these factors be measured? For example, should deterioration be

services to be practicable and efficient. The Oversight Board staff requests public comment on the extent to which it is practicable and efficient for the

particular circumstances, including but not limited to price discounts or concessionary financing, as well as alternative program designs, (4) the

• The provisions in FIRREA regarding the continuation of minority-owned institutions.

Implementation Procedures: A. By

Objective 4. Establish computer systems and record keeping and reporting procedures necessary to keep the Oversight Board, the President,

Boards and revise written guidelines on an ongoing basis as necessary.

D. By December 29, 1989, develop record keeping requirements to facilitate

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recovery of franchise value, and (4) efficient use of staff. How should each of these factors be measured? For example, should deterioration be measured as an absolute level (e.g., total operating losses) or on a relative basis (e.g., operating losses relative to expected cost of resolution or relative to total assets)? Are there other factors that should also be considered? What is the relative importance of each factor?

2. As noted in the background section, there are a number of policy questions regarding the method by which institutions are resolved. What factors should the RTC consider in selecting a particular method of resolution? For example, should the RTC attempt to sell individual branches? What are the advantages and disadvantages of selling the individual components of a thrift association versus selling the thrift as a total unit. Do the costs of administering a piecemeal liquidation approach outweigh the potential benefits of attracting a wider group of interested bidders?

3. There are a variety of forms of financial assistance available for the resolution of insolvent thrift institutions. The Oversight Board has adopted a policy limiting the maturity on assistance creating a financial contingency for the RTC to no greater than six months. Will limiting the terms of such assistance significantly discourage potential acquirers? What types of factors should the Oversight Board and the RTC consider is establishing policies and procedures regarding the use of financial assistance?

4. What methods are available to ensure that all interested bidders are fully informed regarding the bidding procedure and the institutions being marketed?

5. Asset management and disposition involve a number of services, including: property management, loan servicing and workout, accounting and legal services, capital improvements to completed or partially built structures, marketing of loans and properties, and negotiating the terms of sale of these assets. A distinction can be made between asset managers and property managers. Asset managers in the private sector have responsibility for overseeing all of these services on behalf of the owners of portfolios of loans and properties. FIRREA directs the RTC to utilize the private sector for such services—both the overall asset management function and its component services, including property management—if such services are available in the private sector and the RTC determines utilization of such services to be practicable and efficient. The Oversight Board staff requests public comment on the extent to which it is practicable and efficient for the RTC to utilize the private sector for the overall asset management function, rather than for RTC staff to serve as asset managers and contract directly with providers of the component services.

6. FIRREA calls for the RTC to utilize "clearinghouses" to serve as sources of information on eligible residential properties (i.e., properties held by the RTC that are subject to the special marketing provisions specified in the statute). FIRREA permits the following organizations to serve as clearinghouses: state housing finance agencies, the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and any national nonprofit organizations that the RTC determines to have the capacity to act as a clearinghouse for information. The Oversight Board staff requests public comment on other functions, in addition to information dissemination, that might be performed for the RTC by these organizations (e.g., qualifying the bidders for eligible residential properties) and the advantages these organizations have in providing these services.

7. FIRREA contains several provisions relating to the objective of maximizing the preservation of the availability and affordability of residential real property for low- and moderate-income individuals. For example, provisions in FIRREA require a right of first refusal for qualified purchasers of eligible properties. FIRREA authorizes the RTC to provide subsidies to qualified purchasers of eligible residential properties to the extent necessary to facilitate purchases of properties by lower income families and to help public agencies and non-profit organizations to meet lower income occupancy requirements for properties which these entities wish to purchase.

The Oversight Board staff specifically requests public comment on strategies for and approaches to implementing the low and moderate income housing provisions of FIRREA. Comments are requested on (1) methods for implementing the FIRREA's right of first refusal provisions, (2) alternative approaches to providing subsidies to enable eligible individuals and public agencies to purchase properties for lower-income housing while at the same time providing maximum return to the Government, (3) the extent and nature of the subsidies that would be most useful, singularly or in combination, under particular circumstances, including but not limited to price discounts or concessionary financing, as well as alternative program designs, (4) the proposed role of government and nongovernment entities, including but not limited to national and regional nonprofit organizations, clearinghouses and other entities in carrying out FIRREA's housing objectives, and (5) the nature of Government assistance to best facilitate the program, *e.g.*, assistance to aid capacity building for nongovernment entities.

III. Goals, Objectives, and Implementation Procedures

A. Case Resolution

Goal: Resolve institutions under RTC jurisdiction in a timely and cost effective manner, while minimizing the negative effects on local financial and real estate markets.

Objective 1. Reduce resolution costs by establishing a resolution schedule for institutions under RTC jurisdiction that to the extent practicable:

- Gives priority to institutions with relatively high rates of deterioration;
- Minimizes the ongoing risk exposure to the RTC;
- Maximizes the recovery of franchise value; and,
- Makes the most efficient use of RTC resources and staff.

Implementation Procedures: A. By November 30, 1989, develop written guidelines and procedures for evaluating each institution under RTC jurisdiction.

B. By December 15, 1989, develop prioritization schedules for institutions to be resolved after January 1, 1990, and update thereafter at least 30 days before the end of each calendar quarter.

Objective 2. Establish procedures for the selection of the preferred method of resolution that is consistent with:

- The requirements in FIRREA that the RTC conduct its operations in a manner that maximizes the net present value of return from the sale or other disposition of institutions and minimizes the amount of any loss realized in the resolution of cases;
- Section 13(c)(4) of the Federal Deposit Insurance Act that prohibits providing assistance in an amount in excess of that required to liquidate an institution unless the RTC determines that the continued operation of the institution is essential to provide adequate banking services in its community;
- Minimizing the ongoing risk exposure to the RTC;
- Minimizing the effects on local real estate and financial markets: and,

- The provisions in FIRREA regarding the continuation of minority-owned institutions.

Implementation Procedures: A. By November 30, 1989, develop written guidelines for the "cost test" calculation required by Section 13(c)(4) of the FDI Act and the loss minimization criteria in FIRREA.

B. By December 15, 1989, identify the factors the RTC will consider in deciding whether non-performing assets of a failed institution will be transferred to the acquiring institution rather than retained by the RTC;

C. By December 15, 1989, develop written policies and procedures consistent with the provisions of FIRREA regarding the continuation of minority-owned institutions.

D. By January 31, 1990, establish written guidelines on the use of various forms of financial assistance available from the RTC.

Objective 3. Develop and implement bidding procedures for selling institutions under RTC jurisdiction that:

- Encourage active participation by all qualified bidders, including minorities and women;
- Provide sufficient time for bidders to file necessary applications and for the chartering, regulatory and insurance agencies to process and evaluate the applications;
- Provide for fair, nondiscriminatory treatment and competition among prospective bidders; and,
- Enable the RTC to notify bidders of a rejected bid within 30 days.

Implementation Procedures: A. As soon as possible, but not later than November 15, 1989, establish and publicize the criteria and procedures for qualifying bidders.

B. By December 29, 1989, develop written plans for soliciting bids from all interested qualified buyers without preference to type of organization, including procedures for encouraging the active participation in the bidding process by women and minorities.

C. By December 29, 1989, develop written procedures for:

- Making available to all interested qualified bidders, to the extent practical, full and consistent information on institutions under RTC jurisdiction and the terms of previous transactions;
- The timely and nondiscriminatory evaluation and selection of offers; and,
- Notifying rejected bidders within 30 days.

D. By March 30, 1990, establish written procedures for accepting and investigating complaints of discrimination or unfair treatment in the consideration of offers.

Objective 4. Establish computer systems and record keeping and reporting procedures necessary to keep the Oversight Board, the President, Congress and the general public informed of the case resolution process.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and the Congress, determine the extent of information required to be reported under the provisions of FIRREA and for full and complete disclosure of the case resolution process.

B. By March 30, 1990, develop and implement, to the extent possible, quarterly and other periodic reports that present all required information in clear and consistent formats.

Objective 5. To the extent practicable and efficient, use private sector entities for the management and disposition of institution under RTC jurisdiction.

Implementation Procedures: A. By December 29, 1989, identify areas where private sector entities could be used to facilitate the management and disposition of institutions.

B. Asset Disposition

Goal: To dispose of real estate and other assets in such a way as to maximize the net present value to the RTC while also minimizing the effect of these transactions on local real estate and financial markets.

Objective 1. Maximize the net present value recovery to RTC by establishing appropriate policies, procedures and/or guidelines concerning:

- appropriate methods of disposition;
- asset marketing of pools of assets;
- preserving and enhancing values during the asset management process;
- distressed area designations;
- establishing and defining market values;
- keeping market participants and other interested parties fully informed, to the extent practical, on RTC's inventory and plans for asset sales;
- the active solicitation of offers from minorities and women; and
- the prohibition of discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

Implementation Procedures: A. By March 30, 1990, establish comprehensive performance standards and written guidelines on overall asset disposition strategies.

B. By December 29, 1989, provide the Oversight Board with issues and alternatives for providing financing for assets sold.

C. Consult with the Oversight Board and the National and Regional Advisory Boards and revise written guidelines on an ongoing basis as necessary.

D. By December 29, 1989, develop record keeping requirements to facilitate the orderly disposition of assets and to comply with the required semi-annual reporting of RTC's national inventory of real property assets.

E. By December 29, 1989, develop policies and procedures for notifying rejected bidders within 30 days.

F. By December 29, 1989, develop policies and procedures for actively soliciting offers for assets from minorities and women.

G. By December 29, 1989, develop policies and procedures prohibiting discrimination on the basis of race, sex or ethnic group in the solicitation and consideration of offers.

H. By March 30, 1990, establish written procedures for accepting and investigating complaints of discrimination or unfair treatment in the consideration of offers of services to the RTC.

Objective 2. To the extent practicable and efficient, place assets under private control for management and disposition under a program that:

- Employs incentive schemes tailored to maximizing the net present value of the assets to the RTC;
- Assures compliance by contractors with the ethics and conflicts of interest provisions of FIRREA; and
- Assures open and fair competition for asset management and disposition contracts.

Implementation Procedures: A. By December 29, 1989, establish guidelines concerning contracting with public and private entities for performance of asset management and disposition functions.

B. By December 29, 1989, establish guidelines concerning incentive schemes in asset management and disposition contracts.

C. By December 29, 1989, establish procedures to assure compliance by contractors with the ethics and conflicts of interest provisions of FIRREA.

D. By December 29, 1989, establish guidelines to assure open and fair competition for asset management and disposition contracts.

E. By March 30, 1990, establish performance standards for asset management and disposition contracts.

F. By December 29, 1989, provide the Oversight Board with issues and alternatives for implementing the statutory mandates for minority contractors.

Objective 3. Minimize the impact of RTC transactions on local real estate and financial markets.

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Implementation Procedures: A. By March 30, 1990, establish written guidelines for determining market values of assets based upon market analysis valuation techniques and sound asset appraisal practices.

B. By March 30, 1990, establish written general guidelines for acceptable disposition prices in non-distressed areas.

C. By March 30, 1990, develop guidelines for designating distressed areas and modifying the "95%-of-market value" rule for minimum disposition prices in distressed areas.

D. Establish an informal working group to consult with other federal agencies that are selling assets in the same geographical markets, as directed by Oversight Board Policy 11, "Interagency Consultation on Asset Sales".

Objective 4. Fully document asset management and disposition activities to ensure compliance with all relevant statutory requirements.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and the Congress, determine the extent of information required to be reported under the provisions of FIRREA and for full and complete disclosure of the asset disposition process.

B. By March 30, 1990, develop and implement, to the extent possible, semiannual and other periodic reports that present information in clear and consistent formats.

C. Affordable Housing Provisions

Goal: To dispose of qualifying single and multi-family residential properties in such a way as to maximize the availability and affordability of residential real property for low- and moderate-income households.

Objective 1. Implement the housing and public use provisions of FIRREA in order to maximize the preservation and affordability of housing for low- and moderate-income individuals.

Implementation Procedures: A. By March 30, 1990, establish guidelines for determining which national non-profit organizations have the capacity to act as clearinghouses; develop strategies to ensure the effective and efficient dispersal of information by the clearinghouses, including guidelines for contracting with clearinghouses.

B. By March 30, 1990, develop written guidelines to assure that adequate information, and access to properties, is made available to clearinghouses and eligible buyers on a timely basis.

C. By March 30, 1990, develop a strategy for actively marketing eligible properties for sale to qualifying individuals and organizations.

D. By March 30, 1990, develop and implement procedures for qualifying low- and moderate-income households, non-profit organizations, and for-profit entities for eligibility as preferred bidders on low-income properties.

E. By March 30, 1990, develop guidelines for determining the net realizable market value of eligible properties.

F. By March 30, 1990, develop and implement guidelines for choosing among substantially similar competing bids for single-family properties, consistent with the objectives of the low-income housing provisions and with the statutory directive that the RTC should choose among substantially similar bids for multifamily properties those offers that propose to house more lower income families for longer periods of time.

G. By March 30, 1990, develop procedures for coordinating RTC disposition of eligible residential properties with programs at HUD (including FHA and GNMA), the Farmers Home Administration, and other government agencies and organizations.

H. By June 29, 1990, in consultation with HUD, develop written guidelines for conveyance of assets to state and local government agencies and other agencies and organizations participating in HUD's urban homesteading programs.

I. By June 29, 1990, in consultation with HUD and state housing finance agencies, establish procedures to assure compliance of multi-family residential property owners with the low-income occupancy requirements.

J. By March 30, 1990, provide the Oversight Board with issues and alternatives regarding financing the purchase of low- and moderate-income housing.

K. Consult with the national and regional advisory boards about strategies for meeting the low-income housing goal.

L. Consult with the Federal Housing Finance Board about methods for coordinating, to the extent practical, the affordable housing program and the Community Reinvestment Program.

M. By March 30, 1990, establish guidelines for determining whether eligible properties should be sold individually or in bulk, including an evaluation of savings on disposition costs that may justify price discounts on bulk sales.

N. By March 30, 1990, establish written guidelines for determining if the value of an asset is so low that no reasonable recovery is anticipated. In such cases, the RTC may consider potential public uses, such as housing for lower-income families (including the homeless), urban open space, day care centers for the children of low- and moderate-income families, and other public purposes designated by the Secretary of Housing and Urban Development.

Objective 2. Fully document affordable housing activities to ensure compliance with all relevant statutory requirements.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and the Congress, determine the extent of information required to be reported under the provisions of FIRREA and for full and complete disclosure of affordable housing activities.

B. By March 30, 1990, develop and implement, to the extent possible, semiannual and other periodic reports that present information in clear and consistent formats.

D. Conflicts of Interest and Ethical Standards

Goal: Adopt conflicts of interest and ethical standards for RTC employees, officers, advisory board members, contractors, and agents.

Objective 1. Develop regulations and procedures that:

- Govern conflicts of interest, ethical responsibilities, post-employment restrictions and use of confidential information for RTC employees, officers, advisory board members, contractors, and agents and
- Ensure that RTC employees, officers, advisory board members, contractors, and agents meet appropriate competence, experience, integrity, and fitness standards.

Implementation Procedure: Final regulations should be promulgated within 180 days of enactment of FIRREA.

Objective 2. Develop policies and procedures for avoiding political favoritism and undue influence in RTC activities and decisions.

Implementation Procedure: By March 30, 1990, the RTC will develop specific written policies and procedures that draw upon current FDIC policies and that delineate internal operating procedures and methods for responding to inquiries from those who are or have been in political office.

E. External Relations

Goal: Establish and maintain open communications with the Congress, other government offices, and the public to increase understanding of RTC policies and actions.

Objective 1: Promote public understanding of the RTC's policies and actions.

Implementation Procedures: A. As soon as possible, but no later than March 30, 1990, develop written policies and procedures concerning:

- providing timely responses to public inquiries;
- the RTC's working relationship with the National and Regional Advisory Boards;
- mechanisms for accepting general complaints and mechanisms for accepting complaints of discrimination on the basis of race, sex or ethnic group in the solicitation and consideration of offers, as required by FIRREA.

B. Report to Congress on the operations of the RTC as required. The Congressionally-mandated reporting requirements included in Title V of FIRREA are listed in the Appendix to this plan.

C. Prepare other reports requested by the Congress on a timely basis.

Objective 2: As necessary, consult with other government offices in developing policies and procedures.

Implementation Procedures: As needed, create or participate on interagency working groups to resolve interagency issues.

F. Administration

Goal: Assure that the RTC has sufficient and effectively managed human and financial resources to achieve the mission and the goals of the agency.

Objective 1: Assure that the RTC's resources are effectively managed to respond properly and promptly to the agency's needs and priorities.

Implementation Procedures: A. Annually, develop and present to the Oversight Board an operating plan and budget, including a staffing plan, for the upcoming calendar year. The operating plan and budget for 1990 must be submitted to the Oversight Board 60 calendar days from the issuance date of this strategic plan. Subsequent annual budgets shall be presented to the Oversight Board by November 30.

B. Quarterly, the RTC will reassess the allocation of resources and make adjustments.

Objective 2: Ensure fiscal responsibility for operations.

Implementation Procedures: A. As required by FIRREA, provide the Oversight Board with periodic financing requests for prior approval that detail: a) anticipated funding requirements for operations including, case resolutions, high cost funds replacement, liquidity advances, administrative expenses and asset disposition; b) anticipated payments on previously issued notes, guarantees, other obligations, and related activities; and c) any proposed use of notes, guarantees or other obligations. Such financing requests shall be submitted on a quarterly basis or such other period as the Oversight Board determines necessary.

B. Manage assets under RTC jurisdiction and working capital in order to allow case resolutions to proceed at a rate that minimizes the net present value cost to the RTC and the American taxpayer.

C. As soon as practicable, after approval by the Oversight Board, establish the systems and procedures to implement the working capital program.

Objective 3: Respond to required reports in a timely and efficient manner.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and Congress, streamline the process for responding to the various reporting requirements imposed on the RTC by Congress, the Oversight Board, and others, to the extent possible.

B. As required by FIRREA, respond to requests from the Oversight Board for any reports, documents, and records that it deems necessary to carry out its oversight responsibilities.

Objective 4: Appraise operations within the RTC, including cooperating fully in independent audits, to assist the Board of Directors and management in ensuring an efficient, economical, and effective application of resources.

Implementation Procedures: A. By March 30, 1990, the RTC Board of Directors and senior management should develop management processes designed to ensure compliance with policies, laws, rules and regulations. At a minimum, these processes should address planning, policy making, personnel, administration, and management information systems.

B. Cooperate fully in the audits performed by the Inspector General.

C. Cooperate fully in the annual audit performed by the Comptroller General, or other independent certified public accountant selected by the Oversight Board, as required by FIRREA.

D. Cooperate fully in periodic reviews and audits of RTC activities performed by the Oversight Board in fulfilling its responsibility for reviewing the overall performance of the RTC, including its work, management activities, and internal controls, and the performance of the RTC relative to approved budget plans as required by FIRREA.

E. Within 60 days of receiving any audit or review, develop follow-up procedures to ensure that deficiencies and recommendations cited in audits and reviews by the Inspector General, Comptroller General, Oversight Board, public accounting firms or others, receive appropriate corrective action.

Appendix to the Strategic Plan—FIRREA, Title V Reporting and Disclosure Obligations for the Resolution Trust Corporation

The following reporting requirements are from Title V of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. No. 101-73, Section 501, 103 Stat. 183, 363-94) ("FIRREA"). All references to Section 21A, are to Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a), as added by Section 501(a) of FIRREA.

Section 21A(k)(2) (A), (B), and (C)

1. The RTC shall make available to the public:

- Any agreement by the RTC relating to a transaction that provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act ("section 13(c)"), not later than 30 days after the first meeting of the Oversight Board after such agreement is entered into; and
- All agreements relating to the RTC's review of prior cases pursuant to subsection (b)(11)(B) of 21A.

"Agreement" includes: (a) All documents that effectuate the terms and conditions of the assisted transaction; (b) a comparison by the RTC of the estimated cost of the transaction with the estimated cost of liquidating the insured institution, and (c) a description of any economic or statistical assumptions on which such estimates are based.

The Oversight Board may withhold public disclosure if it determines by a unanimous vote that disclosure would be contrary to the public interest. A written report containing a full explanation of the reasons for such a determination must be published in the Federal Register and transmitted to the House and Senate Banking Committees.

Section 21A(k)(2) (A), (B), and (C)

2. The RTC shall make available to the House and Senate Banking Committees any agreement by the RTC relating to a transaction for which the RTC provides section 13(c) assistance not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into. This requirement is in addition to the RTC's obligation to make such agreements publicly available.

Section 21A(k)(3)(A)

3. The RTC shall submit a report to the Oversight Board and the Congress not later than March 30 of the year following the calendar year for which the report is made, but not later than June 30 of the year following that calendar year. The report shall include:

- The total amount expended on private contractors for the management and disposition of assets;
- The total amount expended on private contractors for the management and disposition of assets for each of the following categories:
  - (a) managing assets;
  - (b) managing or disposing of such assets;
- The total amount expended on private contractors for the management and disposition of assets for each of the following categories:
  - (a) managing assets;
  - (b) managing or disposing of such assets;

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Section 21A(k)(3)(A)

3. The RTC shall submit a report to the Oversight Board and the Congress containing the results and conclusions of the review of 1988 and 1989 FSLIC transactions (pursuant to subsection (b)(11)(B) of 21A) and recommendations for legislative action that the RTC may determine to be appropriate.

Section 21A(k)(3)(B)

4. The RTC's Real Estate Asset Division shall publish before January 1, 1990 an inventory of real property assets of institutions subject to the jurisdiction of the RTC. The inventory must be updated semiannually and must identify properties with natural, cultural, recreational, or scientific values of special significance.

Section 21A(b)(12)(F)

5. Annually, the Comptroller General shall audit the financial statements of the RTC unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that it will not perform an audit for that fiscal year. In that event, the Oversight Board must contract with an independent certified public accountant to perform the annual audit. All books, records, accounts, reports, files, and property belonging to or used by the RTC, or the Oversight Board, or by an independent certified public accountant retained to audit the RTC's financial statement, shall be made available to the Comptroller General.

Sections 21A(k)(1) (A) and (B)

6. The Inspector General of the RTC shall comply with the reporting requirements imposed on the Inspector General pursuant to the Inspector General Act of 1978, as amended.

Section 501(b) of FIRREA

7. The RTC shall: (i) Document decisions made in the solicitation and selection process and the reasons for the decisions; and (ii) maintain such documentation in the offices of the RTC, as well as any other documentation relating to the solicitation and selection process.

Section 21A(b)(13)(C)

8. The Oversight Board and the RTC shall annually submit a full report of their respective operations, activities, budgets, receipts, and expenditures for the preceding 12-month period. The RTC shall submit the annual report to Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following that calendar year. The report shall include:

- Audited statements and such information as is necessary to make known the financial condition and operations of the RTC in accordance with generally accepted accounting principles;
- The RTC's financial operating plans and forecasts (including budgets, estimates of actual and future spending and cash obligations) taking into account the Corporation's financial commitments, guarantees, and other contingent liabilities;
- The number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors; and
- A list of the properties sold to State housing finance authorities (as such term is defined in section 1301 of FIRREA), the individual purchase prices of such properties, and an estimate of the premium paid by such authorities for such properties.

Sections 21A(k)(4) (A), (B), and (C)

9. The Oversight Board and the RTC shall submit to Congress not later than April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the RTC, the FDIC, and the Oversight Board for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted. The report shall include the following information with respect to the RTC's assets and liabilities and to the assets and liabilities of institutions for which the RTC is or has been the conservator or receiver:

- The total book value of all assets held or managed by the RTC at the beginning and end of the reporting period;
- The total book value of assets that are under contract to be managed by private persons and entities at the beginning and end of the reporting period;
- The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board at the beginning and end of the reporting period;
- The total amounts expended on employee wages, salaries, and overhead, during such period that are attributable to: (a) contracting with, supervising, or reviewing the performance of private contractors, or (b) managing or disposing of such assets;
- The total amount expended on private contractors for the management of such assets;
- The efforts of the RTC to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the RTC or the Federal Deposit Insurance Corporation;
- The total book value and total proceeds from such assets disposed of during the reporting period;
- Summary data on discounts from book value at which such assets were sold or otherwise disposed of during the reporting period.
- A list of all of the areas that carried a distressed area designation during the reporting period (including a justification for removal of areas from or addition of areas to the list of distressed areas);
- An evaluation of market conditions in distressed areas and a description of any changes in conditions during the reporting period;
- Any change adopted by the Oversight Board in the minimum disposition price and the reasons for such change; and,
- The valuation method or methods adopted by the Oversight Board or the RTC to value assets and the reasons for selecting such methods.

Sections 21A(k)(5) (A) and (B)

10. Before January 31, 1990, the Oversight Board and the RTC shall appear before the House and Senate Banking Committees to:

- Describe the strategic plan established for the operations of the RTC;
- Describe the policies and procedures established or proposed to be established for the RTC, including specific measures taken to avoid political favoritism or undue influence with respect to the activities of the RTC;
- Provide any regulation proposed to be prescribed by the RTC; and
- Provide the proposed case resolution schedule.

Sections 21A(k)(7) (A) and (B)

Daniel P. Kearney,
President and Chief Executive Officer.
[FR Doc. 89-25660 Filed 11-2-89; 8:45 am]
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federal register

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Part VII

The President

Executive Order 12695—Delegation of Debt Relief Authority

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Presidential Documents

Title 3—

The President

Executive Order 12695

Delegation of Debt Relief Authority

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Assistance Act of 1961, as amended, and section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268), and in order to delegate certain relief authority to the Administrator of the Agency for International Development, it is hereby ordered as follows:

Section 1. *Delegation of Presidential Authority under Section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989.* Section 1-102(a) of Executive Order No. 12163, as amended, is further amended by (A) deleting "and" at the end of subsection (9), (B) deleting the period and inserting "; and" at the end of subsection (10), and (C) adding a subsection (11) as follows:

"(11) section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), to be exercised by the Administrator of the Agency for International Development within IDCA, with the concurrence of the Development Coordination Committee, as established by section 640B of the Act and as provided for herein.".

Sec. 2. *Effective Date.* This order shall take effect immediately.

THE WHITE HOUSE,
November 1, 1989.

[FR Doc. 89-26182
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WHEN: December 7, at 9:00 a.m.
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First Floor Conference Room,
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Presidential Documents

Title 3—

The President

Memorandum of October 26, 1989

Determination Under Subsections 402(a) and 409(a) of the Trade Act of 1974—Emigration Policies of the Republic of Hungary

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974 (Public Law 93–618, hereinafter "the Act"), I determine that the Republic of Hungary is not in violation of paragraph (1), (2), or (3) of Subsection 402(a) of the Act, 19 U.S.C. 2432 (a), or paragraph (1), (2), or (3) of Subsection 409(a) of the Act, 19 U.S.C. 2439(a).

You are authorized and directed to publish this Determination in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, October 26, 1989.

[FR Doc. 89-26236
Filed 11-2-89; 4:20 pm]
Billing code 3195-01-M

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Presidential Documents

Memorandum of October 31, 1989

Actions Concerning the Generalized System of Preferences

Memorandum for the United States Trade Representative

Pursuant to subsection 504(d)(1) of the Trade Act of 1974, as amended (the Act) (19 U.S.C. 2464(d)(1)), I have determined to modify the application of duty-free treatment under the Generalized System of Preferences (GSP) currently being afforded to beneficiary developing countries. Specifically, I have determined, pursuant to subsection 504(d)(1) of the Act, that the limitation provided for in subsection 504(c)(1)(B) of the Act should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on January 3, 1985. Such articles are provided for in the following Harmonized Tariff Schedule of the United States (HTS) subheadings:

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This determination shall be published in the **Federal Register.**

THE WHITE HOUSE,
Washington, October 31, 1989.

[FR Doc. 89-26212
Filed 11-2-89; 2:23 pm]
Billing code 3195-01-M

Rules and Regulations

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 89-180]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by adding or removing commuted traveltime allowances for various locations in California, Minnesota, and Texas. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted taveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Paul R. Eggert, Director, Resource Management Support, PPQ, APHIS, USDA, room 623, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animal and animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by adding or removing commuted traveltime allowances for various locations in California, Minnesota, and Texas. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conforming with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowance appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevent information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

Commuted Traveltime Allowances	
	Hours

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Remove:			
* * * * *			
Texas:			
Point Comfort	Corpus Christi		6
Port Lavaca	Corpus Christi		4
* * * * *			
Add:			
* * * * *			
California:			
San Jose	San Francisco		4
* * * * *			
Minnesota:			
Duluth	Minneapolis		6
* * * * *			
Texas:			
Point Comfort	Victoria		2
* * * * *			

Done in Washington, DC, this 31st day of October, 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-26094 Filed 11-3-89; 8:45 a.m.]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-89-095IR]

Oranges, Grapefruit, Tangerines, and Tangelos Crown in Florida; Handling Requirement Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule makes conforming changes in the handling requirements issued as informal rules under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. These changes are necessary to bring the handling requirements into conformity with a recent marketing order amendment which reclassified Canada and Mexico as export rather than domestic markets for the purposes of grade, size and other regulatory activity. The amendment was effective September 8, 1989.

DATES: The conforming changes become effective November 6, 1989. Comments which are received by December 6, 1989, will be considered prior to issuance of the final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 orange, grapefruit, tangerine, and tangelo producers in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers may be classified as small entities.

Marketing Order No. 905 was amended on September 8, 1989, (54 FR 37290). Under that amendment, §§ 905.9 and 905.52 were changed to classify Canada and Mexico as export markets to better meet the needs of buyers in those markets. Before the amendment, Canada and Mexico, along with the United States, were defined as the domestic market, and current handling regulations under the order were issued on that basis. The marketing order provides for different requirements for domestic and export shipments.

Minimum grade and size requirements are now in effect for several varieties of fresh Florida oranges, grapefruit, tangerines, and tangelos under § 905.306 of the order. Paragraph (a) of that section specifies the requirements for shipments to domestic market (United States, Canada, and Mexico). Paragraph (b) specifies the requirements for all other shipments (exports). This action amends § 905.306, so all Florida citrus fruit shipped to Canada and Mexico is regulated under paragraph (b) as exports, rather than under paragraph (a) as domestic shipments. Section 905.9 of the order was amended by changing the term "continental United States" to "contiguous 48 States and the District of Columbia of the United States". This change is incorporated in § 905.306. Some minor, non-substantive changes are also made for clarity.

This action will enable Florida citrus handlers to ship fruit to Canada and Mexico which meets the grade and size requirements for export shipments in conformance with the recent order amendment. Canada is an important market for Florida grapefruit, and this action will enable handlers to ship smaller sized grapefruit to Canada, which is in demand in that country.

Section 905.400 of the rules and regulations contains provisions which interpret the provisions of paragraph (d) in § 905.52. These provisions pertain to fruit incidentally packed as part of a lot for export when shipping holiday regulations are in effect for domestic shipments. Since the order amendment changed paragraph (d) in § 905.52 by deleting the reference to Canada and Mexico, this rule will make a corresponding changes in § 905.400, as well as several minor, non-substantive changes for clarity.

Both §§ 905.306 and 905.400 are effective on a continuing basis subject to change, suspension, or termination by the Secretary.

The Department's view is that the impact of this action upon handlers and producers will be beneficial because it will enable handlers to provide fruit consistent with the demand conditions in the domestic and export markets. Acceptable grades and sizes of Florida citrus fruit have been shipped to fresh markets over the past several years because handling requirements have been in effect under the marketing order.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented and other available information, it is found that this rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary and contrary to the public interest to give notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action changes the handling requirements for Florida citrus to conform with the recently amended marketing order; (2) Florida citrus growers approved the order amendment which classified Canada and Mexico as export markets; (3) a majority of the Florida citrus handlers have signed the amended marketing agreement; (4) the 1989-90 Florida citrus shipping season began in early September, and the handling regulations should be changed as soon as possible to be of maximum benefit to the industry; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, grapefruit, oranges, tangelos, tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. The provisions of § 905.306 are amended by revising the text of paragraphs (a) and (b) preceding Tables I and II to read as follows:

Note: This action will be published in the Code of Federal Regulations.

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) During the period specified in column (2) of Table I, no handler shall ship between the production area and any point outside thereof, in the 48 contiguous States and the District of Columbia of the United States, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (3) and (4) of such table.

* * * * *

(b) During the period specified in column (2) of Table II, no handler shall ship to any destination outside the 48 contiguous States and the District of Columbia of the United States any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (3) and (4) of such table.

* * * * *

3. Section 905.400 is revised to read as follows:

§ 905.400 Interpretation of certain provisions.

(a) In interpreting the provisions of paragraph (d) of § 905.52, the limitation on shipment of any variety of fruit regulated pursuant to paragraph (a)(3) of that section, which was prepared for market during the effective period of such regulation, shall not be deemed to apply to shipment of such variety which was prepared for market incidentally as part of a lot packed for export and shipped following the period of regulation.

(b) Prior to shipment of any variety of fruit so prepared, the handler shall provide the Citrus Administrative Committee or its designated agent a copy of the shipping manifest applicable to such shipment with a notation thereon that the fruit was packed incidentally as part of a lot packed for export.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26092 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 905

[Docket No. FV-89-106IR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Dancy Tangerine Minimum Size Relaxation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule temporarily reduces the minimum size requirements for domestic shipments of Florida Dancy tangerines from 2 9/16 inches in diameter to 2 5/16 inches in diameter. This action is based on an analysis of the size composition, maturity level, and current prospective market demand conditions for the 1989-90 Florida Dancy tangerine crop. The Florida Dancy tangerine size relaxation is effective for the period November 27, 1989 through August 19, 1990.

DATES: Effective November 27, 1989. Comments which are received by December 6, 1989, will be considered prior to issuance of the final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMD, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regultion 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the

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Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of Florida citrus handlers and a majority of the producers may be classified as small entities.

Section 905.306 of the rules and regulations (7 CFR 905.306) specifies minimum grade and size requirements for Florida Dancy tangerines for both the domestic and export markets. The domestic market requirements are specified in that section in Table I of subsection (a). The domestic market is defined as the 48 contiguous States and the District of Columbia of the United States by an amendment to the marketing order (54 FR 37290, September 8, 1989), which revised §§ 905.9 and 905.52. Section 905.306 has been amended by an interim final rule, published in the Federal Register concurrently with this interim final rule, which reflects these changes to the order.

This action reduces the minimum size requirements for domestic shipments of Florida Dancy tangerines to 2 4/64 inches in diameter from 2 9/64 inches for the period November 27, 1989 through August 19, 1990. This follows the practice of prior years of lowering size requirements for Dancy tangerines each season once the smaller fruit reaches an acceptable level of flavor and maturity. Dancy tangerine shipments normally start by mid-November and peak in mid-December. This action is designed to maximize shipments to fresh market channels. The increased shipments should result in an economic benefit to the handlers and producers.

The Citrus Administrative Committee (committee) unanimously recommended this action based on expected market conditions and a projection of the expected maturity, flavor level, and size composition of that portion of the 1989-90 crop remaining for shipment after November 26. Prior to that date smaller Dancy tangerines are typically too hard and sour to be acceptable to most consumers. Shipment of such fruit could result in consumer disappointment and reduced late season demand for tangerines. By November 27 of this season, the committee expects 2 4/64 inch Dancy tangerines to reach the level of maturity and flavor which consumers prefer.

The reduced size requirements for Dancy tangerines are effective only for the 1989-90 shipping season, and the tighter minimum requirements will resume on August 20, 1990, for 1990-91 season shipments. The resumption of tighter requirements recognizes that smaller Dancy tangerines are not sufficiently flavorful early in the season, and is based upon the anticipated maturity, size, quality, and flavor characteristics of the fruit early in the shipping season.

The committee, which administers the marketing order locally, met September 19, 1989, and unanimously recommended this action based on an analysis of current and prospective marketing conditions and the 1989-90 season crop. The committee meets prior to and during each season to review the handling requirements effective, on a continuous basis for each regulated citrus fruit. Committee meetings are open to the public, and interested persons may express their views at these meetings. The U.S. Department of Agriculture reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling requirements would tend to effectuate the declared policy of the Act.

Some Florida citrus fruit shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provision. Also, handlers may ship up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base is not subject to the handling requirements.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes size requirements currently in effect for Florida Dancy tangerines; (2) Florida Dancy tangerine handlers are aware of this action which was recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1989-90 season Florida Dancy tangerine crop will be underway by November 27, 1989; and (4) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Florida, Grapefruit, Marketing agreements and orders, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. The provisions of § 905.306 are amended by revising the entry for Dancy variety of tangerines to read as follows:

Note: This action will be published in the Code of Federal Regulations.

§ 905.306 Oranges, Grapefruit, Tangerines, and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
*	* *	*	*
Tangerines— Dancy	11/27/89-8/19/90.	U.S. No. 1	2 4/64
	On and after 8/20/90.	U.S. No. 1	2 9/64
*	* *	*	*

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Deputy Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26093 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 906

[Docket No. FV-89-100FR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; 1989-90 Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule authorizes expenditures and establishes an assessment rate for the 1989-90 fiscal period for the Texas Valley Citrus Committee (committee), established under Marketing Order No. 906. This action is needed by the committee to enable it to pay marketing order expenses, collect assessments from handlers to pay those expenses, and perform its other duties under the order.

EFFECTIVE DATES: August 1, 1989, through July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone 202-475-3916.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 906, both as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 115 handlers subject to regulation under the marketing order for oranges and grapefruit grown in Texas, and about 2,500 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The marketing order for Texas oranges and grapefruit, administered by the U.S. Department of Agriculture (Department), requires that the assessment rate for a particular fiscal period shall apply to all of the assessable commodities handled from the beginning of such period. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of Texas oranges and grapefruit. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the expected shipments of Texas oranges and grapefruit in 7/10-bushel cartons. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

The committee met on September 5, 1989, and unanimously recommended approval of expenditures of $1,498,634 for the 1989-90 fiscal period. In comparison, budgeted expenditures were $1,376,634 for 1988-89. Major expenditure items for 1989-90 compared with 1988-89 (in parentheses) are as follows: Program Administration—$150,000 ($153,000); Mexican Fruit Fly Program—$143,634; and Advertising and Promotion—$1,203,000 ($1,080,000). The expenditures for administration are generally comparable to those for the last fiscal period.

The committee also unanimously recommended approval of an assessment rate of $0.12 per 7/10-bushel carton of oranges and grapefruit shipped during the 1989-90 fiscal period. This same rate was in effect during the last fiscal period. Assessment income is estimated at $961,600 based on 8,015,000 cartons of assessable fruit shipped during 1989-90. Interest income is estimated at $30,000 for 1989-90. Also, the committee has $126,000 in prepaid advertising available and it expects its promotion and advertising effort to generate $98,000 from sales of promotional material. In addition, the committee contemplates withdrawing $282,834 from its reserve.

The committee further unanimously recommended that unexpended funds from the 1988-89 fiscal period be placed in its reserve fund. The committee's current reserve, which amounted to $706,486 on August 1, 1989, is well within the maximum authorized under the order.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds new § 906.229 and is based on the committee's recommendations and other information. A proposed rule concerning this action was published in the Federal Register (54 FR 41249, October 6, 1989). Comments on the proposed rule were invited from interested persons until

October 16, 1989. No comments were received.

After consideration of the information and recommendations submitted by the committee and other available

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of

October 16, 1989. No comments were received.

After consideration of the information and recommendations submitted by the committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the committee needs sufficient funds to pay its expenses, which are incurred on a continuous basis during the entire fiscal period. In addition, handlers are aware of the action, which was recommended by the committee at a public meeting. Therefore, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements and orders, Oranges, Texas.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 906.229 is added to read as follows:

Note: This section prescribes the annual budget and assessment rate and will not be published in the Code of Federal Regulations.

§ 906.229 Expenses and assessment rate.

Expenses of $1,496,634 by the Texas Valley Citrus Committee are authorized, and an assessment rate of $0.12 per 7/10-bushel carton of assessable oranges and grapefruit is established for the fiscal period ending July 31, 1990. Unexpended funds from the 1988–89 fiscal period may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26095 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 926

[Docket No. FV–89–104]

California Tokay Grapes; Increase in Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate under Marketing Order 926, California Tokay grapes, for the 1989–90 fiscal period. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: April 1, 1989 through March 31, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 93 and Marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 10 handlers of California Tokay grapes under this marketing order, and approximately 20 California Tokay grape producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989–90 fiscal year was prepared by the Tokay Industry Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of grapes. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Tokay grapes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. A recommended budget and rate of assessment is usually acted upon by the committee before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

On August 15, 1989, expenses of $13,575 by the Tokay Industry Committee were approved and an assessment rate of 6 cents per 23-pound lug of grapes was established for the fiscal period ending March 31, 1990 (54 FR 34483). The committee conducted a telephone poll on September 6, 1989, and unanimously recommended increasing the assessment rate established for the 1989–90 fiscal year from 6 cents to 7 cents per 23-pound lug. The reason for the assessment rate increase is that Tokay grape production for this season will be less than anticipated. Severe heat and heavy rains have contributed to a large number of Tokay grapes failing to meet fresh market requirements because of sunburn and decay. While fresh market shipments for the 1989 season were projected at 200,000 23-pound lugs, the estimate has been reduced to 175,000 lugs. The original assessment rate would have yielded $12,000 in assessment income if the level of expected fresh market shipments was achieved. With the reduced estimate, such income will fall about $1,500 short of the amount anticipated. Revenues would therefore be $3,075 less than the committee's budgeted expenses of $13,575. However, the committee does not have adequate funds in its reserve to meet this need. The assessment rate increase would yield $1,750 in additional income if the revised level of fresh market shipments is met.

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on October 6, 1989 (54 FR 41251). That document contained a proposal to increase the assessment rate under M.O. 926. That rule provided that interested persons could file comments through October 16, 1989. No comments were received.

It is found that the 1989–90 fiscal period assessment rate increase, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989–90 fiscal period began in April, and the marketing order requires that the assessment rate apply to all assessable Tokay grapes handled during the fiscal period. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 926

California, Marketing agreements and orders, Tokay grapes.

For the reasons set forth in the preamble, 7 CFR part 926 is amended as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 926 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 926.228 is revised to read as follows:

Note: This section prescribes an assessment rate increase and will not be published in the Code of Federal Regulations.

§ 926.228 Expenses and assessment rate.

Expenses of $13,575 by the Tokay Industry Committee are authorized and an assessment rate of $0.07 per 23-pound lug of grapes is established for the fiscal year ending March 31, 1990. Unexpended funds may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26096 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 948

[Docket No. FV–89–080]

Irish Potatoes Grown in Colorado; Amendment to Establish Pack Requirements for Small Sized Potatoes and Revise Handling Requirements for Potatoes for Export

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes pack requirements to permit the shipment of potatoes with a minimum diameter of 1 inch and a maximum diameter of 1¾ inches, that otherwise grade at least U.S. No. 1, to fresh domestic and export markets. The objective of this action is to facilitate the movement of such potatoes to meet current consumer demand. This rule also establishes a minimum grade requirement and revises the minimum size requirement for potatoes for export. The intent of this action is to require that all Colorado Area 2 potatoes, regardless of destination, meet the same minimum quality and size requirements established under the marketing order.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 (7 CFR part 948), both as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of Colorado Area 2 potatoes under this marketing order, and approximately 290 potato producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

Shipments of the 1988 Colorado Area 2 potato crop through June, 1989 totalled 13.5 million hundredweight. Typically, about 97 percent of total shipments are to fresh markets and 3 percent to processors.

By far, the majority of the potatoes shipped from the production area are of the Centennial Russet variety, which generally accounts for about 70 percent of the total. Approximately 24 percent is Russet Burbanks, five percent red varieties, and one percent other varieties.

The grade composition of fresh market shipments averages about 65 percent U.S. No. 1, 20 percent U.S. Commercial, 10 percent U.S. No. 2, and five percent U.S. No. 1/Size B.

The handling requirements for fresh market shipments of Colorado Area 2 potatoes are specified in 7 CFR 948.386 (as amended at 53 FR 8145, March 14, 1988; 54 FR 805, January 10, 1989; 54 FR 961, January 11, 1989; and 54 FR 11490, March 21, 1989) and, with the exception of the maturity requirements, are in effect all year long. The current minimum grade, size, and maturity requirements provide that fresh potatoes be shipped under the following conditions. Round variety potatoes must grade at least U.S. No. 2 and be at least 2 inches in diameter. All long type potatoe varieties, except Centennial Russets, must grade at least U.S. No. 2 and be at least 1⅞ inches to diameter. Centennial Russets must grade U.S. No. 2 or better and be at least 2 inches in diameter or 4 ounces in weight. All

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varieties of potatoes may be size B if they otherwise grade U.S. No. 1 or better. Size B potatoes have a minimum diameter of 1⅛ inches and a maximum diameter of 2¼ inches. All varieties of potatoes being exported must be at least 1⅛ inches in diameter, and are not subject to a minimum grade requirement. Maturity requirements during the period August 25 through October 31 specify that potatoes grading U.S. No. 2 cannot be more than "moderately skinned" and potatoes grading other than U.S. No. 2 cannot be more than "slightly skinned".

This rule revises current requirements to permit the shipment of potatoes ranging in size from 1 inch to 1¾ inches in diameter if such potatoes otherwise grade at least U.S. No. 1. This action also requires potatoes shipped for export to meet the same quality and size requirements as those shipped domestically. These changes were unanimously recommended at a meeting held June 15, 1989, by the Colorado Potato Administrative Committee, San Luis Valley Office (Area 2) (committee), which is responsible for local administration of the marketing order.

In recent years, consumer demand for high quality, small-sized potatoes as a specialty food item has grown significantly. There is a specific market for high quality potatoes that are smaller than a size B, which range in size from 1⅛ to 2¼ inches in diameter. These smaller potatoes are referred to as "creamers", and when available, often command premium prices. Consumer demand has continued to strengthen for these high quality, smaller potatoes particularly for those that are red-skinned. Virtually all round potatoes grown in Colorado Area 2 are red-skinned, which typically account for approximately five percent of the total crop. Centennial Russets and Russet Burbanks (long white varieties) are the other dominant varieties. There are minimal shipments of round white potatoes from this area.

Given the changing market requirements, the committee has concluded that handlers should be provided the opportunity to ship "creamers", which range in size from 1 to 1¾ inches in diameter if they otherwise grade at least U.S. No. 1. This rule revises the handling regulation accordingly. These "creamers" will have to be segregated from potatoes of larger size, and cannot be commingled in the same container with those larger potatoes. This pack requirement will enable shippers to fill specific orders for the small, high quality potatoes, without adversely affecting the market for larger potatoes.

Currently, potatoes shipped to export markets are required to be at least 1⅛ inches in diameter and are not subject to a minimum grade requirement. The committee reports that export opportunities for Colorado shippers are limited, but that some production area potatoes are exported to Mexico. Problems have arisen in recent seasons when ungraded potatoes, often of marginal quality, were destined for Mexico but were subsequently diverted and actually sold in U.S. markets. The committee unanimously recommended that potatoes for export meet the same quality and size requirements as are imposed on potatoes sold in domestic markets. This action will provide assurance that only potatoes of acceptable quality and size enter commercial fresh market channels.

Quality assurance is very important to the Colorado Area 2 potato industry. Providing the public with quality potatoes which are appealing and responsive to consumer trends is necessary in order to maintain market share. This rule is expected to foster increased consumption and benefit Colorado Area 2 potato growers and handlers.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area.

In the case of potatoes, the current import regulation (7 CFR 980.1) specifies that import requirements for long types be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheaur County, Oregon (7 CFR part 945) during each month of the year. The import requirements for round white types are based on those in effect for potatoes grown in Southeastern States from June 5 to July 31 (7 CFR part 953), and on those in effect for potatoes grown in Colorado Area 3 for the remainder of the year (7 CFR part 948).

The quality standards imposed upon imports of red-skinned, round type potatoes are based on that type grown in Washington during the months of July and August (7 CFR part 946). During the remainder of the year, the import requirements are based upon those in effect for potatoes grown in Colorado Area 2 (7 CFR part 948).

Because this rule establishes a mininum size requirement of 1 inch in diameter for all Colorado Area 2 potatoes grading at least U.S. No. 1, and since import requirements for red-skinned varieties are based on those established for potatoes grown in Colorado Area 2, this change is also applicable to imports of red-skinned, round type potatoes from September 1 to June 30 each season.

No change is required in the language of § 980.1 or § 948.386(h) Applicability to imports or the findings and the determinations made therein.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Notice of this action was given in the August 21, 1989, **Federal Register** (54 FR 34524) providing interested persons until September 20, 1989, to file written comments. No comments were received.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season for Colorado Area 2 potatoes has already begun and this rule, in order to be of maximum benefit, should apply to as many shipments as possible. Additionally, interested persons were provided a 30-day comment period with which to respond to the proposed rule.

List of Subjects in 7 CFR Part 948

Colorado, Marketing agreements and orders, Potatoes.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 948.386 is amended by revising paragraph (a)(5) and adding a new paragraph (a)(6) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 948.386 Handling regulation.

* * * * *

(a) * * *

(5) All varieties. 1-inch minimum diameter to 1¾ inches maximum diameter, if at least U.S. No. 1 grade.

(6) None of the above categories of potatoes identified in paragraphs (a)(1) through (a)(5) of this section may be comingled in the same bag or other container.

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25101 Filed 11–3–89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 955

[Docket No. FV–89–101]

Georgia Vidalia Onions; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 955 for the 1989–90 fiscal period. Authorization of this budget will allow the Vidalia Onion Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: September 16, 1989 through September 15, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 955 and Marketing Order No. 955 (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 160 handlers and 260 producers of Vidalia onions in that portion of Georgia covered under this marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989–90 fiscal year was prepared by the Vidalia Onion Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of Vidalia onions. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Vidalia onions. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on August 31, 1989, and unanimously recommended a 1989–90 budget of $157,808. Last season's budget was $150,000. Major expenses items include increases in committee staff salaries and marketing development and production research projects.

The committee also unanimously recommended an assessment rate of $0.10 per 50-pound bag, the same rate as last season's. This rate, when applied to anticipated shipments of 1.5 million 50-pound bags of onions, would yield $150,000 in assessment revenue. This amount when added to $7,808 from the reserve fund would be adequate to cover budgeted expenses.

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on October 6, 1989 (54 FR 41252). That document contained a proposal to add § 955.202 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through October 16, 1989. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989–90 fiscal period began in mid-September, and the marketing order requires that the rate of assessment apply to all assessable Vidalia onions handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 955

Georgia, Marketing agreements and orders, Vidalia onions.

For the reasons set forth in the preamble 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

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Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 955.202 is added to read as follows:

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this

programs, office rent and social security taxes.

The committee also unanimously recommended an assessment rate of

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR

674), hereinafter referred to as the "Act."

This final rule has been reviewed under Executive Order 12291 and

each crop year, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 955.202 is added to read as follows:

Note: This section prescribes the annual expenses and assessment rate and will not be published in the Code of Federal Regulations.

§ 955.202 Expenses and assessment rate.

Expenses of $157,808 by the Vidalia Onion Committee are authorized and an assessment rate of $0.10 per 50-pound bag of Vidalia onions is established for the fiscal period ending September 15, 1990. Unexpended funds may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25997 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 966

[Docket No. FV–89–102]

Florida Tomatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 966 for the 1989–90 fiscal period. Authorization of this budget will allow the Florida Tomato Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1989 through July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966 [7 CFR part 966], regulating the handling of tomatoes grown in Florida. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers and 180 producers of Florida tomatoes covered under this marketing order. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989–90 fiscal year was prepared by the Florida Tomato Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of tomatoes. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on September 7, 1989, and unanimously recommended a 1989–90 budget of $1,613,500. Last season's budget was $1,537,000. The major expense allocation is for education and promotion projects, which at a total of $1,098,000 accounts for about 70 percent of the budget. Other major expense items include increases for production research projects, committee staff salaries, employee health insurance and retirement programs, office rent and social security taxes.

The committee also unanimously recommended an assessment rate of $0.025 per 25-pound container, the same rate as last year's. This rate, when applied to anticipated shipments of 58.2 million 25-pound containers, would yield $1,455,000 in assessment revenue. This amount when added to $45,000 of other income (e.g., interest revenue) and $113,500 from the reserve would be adequate to cover budgeted expenses. Additional reserve funds may be used to meet any deficit in assessment income.

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the Federal Register on October 6, 1989 [54 FR 41253]. That document contained a proposal to add § 966.227 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through October 16, 1989. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989–90 fiscal period began in August, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable tomatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register [5 U.S.C. 553].

List of Subjects in 7 CFR Part 966

Florida, Marketing agreements and orders, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new section 966.227 is added to read as follows:

Note: This section prescribes the annual expenses and will not be published in the Code of Federal Regulations.

§ 966.227 Expenses and assessment rate.

Expenses of $1,613,500 by the Florida Tomato Committee are authorized and an assessment rate of $0.025 per 25-pound container of tomatoes is established for the fiscal period ending July 31, 1990. Unexpended funds may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–25998 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

[FV–89–069FR]

Expenses and Assessment Rate for Almonds Grown in California

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate for the 1989–90 crop year under the marketing agreement and order for California almonds. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the Almond Board of California (Board), which is responsible for local administration of the order, to have sufficient funds to meet the expenses of operating the program. Expenses are incurred on a continuous basis.

EFFECTIVE DATES: July 1, 1989, through June 30, 1990.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456; telephone: (202) 475–3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 981 [7 CFR part 981], both as amended, regulating the handling of almonds grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674), hereinafter referred to as the "Act."

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of California almonds, and there are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of almond handlers and producers may be classified as small entities.

The marketing order for California almonds requires that the assessment rate for a particular crop year shall apply to all assessable almonds handled from the beginning of such year. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture (USDA) for approval. The members of the Board are handlers and producers of regulated almonds. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of assessable almonds. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Board shortly after July 1 of each crop year, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Board will have funds to pay its expenses.

The Board met on July 21, 1989, and unanimously recommended 1989–90 marketing order program expenditures of $12,339,618 and an assessment rate for the 1989–90 crop year of 2.75 cents per pound (kernelweight basis). The Board also recommended that handlers should be eligible to receive credit for their own marketing promotion activities for up to 2.50 cents of this 2.75-cent-per-pound assessment rate.

The 2.75-cent-per-pound 1989–90 assessment rate compares with a 1988–89 assessment rate of 2.65 cents per pound. While the 2.50-cent-per-pound creditable rate is the same as the 1988–89 rate, the 0.25-cent-per-pound non-creditable portion of the total assessment, which handlers must pay to the Board, is 0.10 cent higher than the 0.15-cent-per-pound 1988–89 rate.

Projected expenses of $12,339,618 for 1989–90 compare with 1988–89 budgeted expenses of $16,130,309. Budget categories for 1989–90 are $890,200 for administrative expenses, $352,018 for production research, $937,700 for public relations, and $59,700 for the 1990 crop estimate. Comparable actual expenditures for the 1988–89 crop were $779,561, $197,101, $996,900, and $56,800, respectively. The remaining $10,100,000 of proposed 1989–90 expenses is the estimated amount which handlers would spend on their own marketing promotion activities based on a projected 1989–90 marketable California almond production of 404,000,000 kernelweight pounds and assumes that all handlers receive full credit against their 2.50-cent-per-pound creditable assessment obligations. For the 1988–89 crop year, $13,925,000 was budgeted for handler marketing promotion activities based on a projected marketable production of 557,000,000 kernelweight pounds. An actual figure is not yet available because handlers have until December 31, 1989, to complete marketing promotion activities for which they may receive credit toward their 1988–89 crop year creditable assessment obligations.

While this final action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. Further, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not

have a significant economic impact on a substantial number of small entities.

This action adds a new § 981.336 and is based on Board recommendations and

List of Subjects in 7 CFR Part 981

Almonds, California, and Marketing agreements and orders.

PART 981—ALMONDS GROWN IN

Program Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, (USDA) P.O. Box 2415, Washington, DC 20013. Telephone (202) 447–7673.

and Executive Order 11338. Authority to implement the program is delegated to the Administrator, Agricultural Stabilization and Conservation Service. The Bureau of Indian Affairs (BIA),

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have a significant economic impact on a substantial number of small entities.

This action adds a new § 981.336 and is based on Board recommendations and other available information. A proposed rule was published in the Federal Register on August 23, 1989 (54 FR 35000). Comments on the proposed rule were invited from interested persons until September 5, 1989. One comment was received from Brian C. Leighton, counsel to Cal-Almond, Inc. Mr. Leighton objected to the proposed rule for several reasons as discussed below.

Mr. Leighton stated that the length of the 10-day comment period provided in the proposed rule was insufficient due to the fact that considerable objection was expressed at the July 20, 1989, meeting of the Board's Public Relations and Advertising Committee concerning the 2.5-cent-per-pound creditable portion of the recommended assessment rate. However, the minutes of the July 20, 1989, meeting of the Public Relations and Advertising Committee meeting reflect that only three individuals indicated dissatisfaction with the 2.5-cent-per-pound creditable rate or the creditable promotion and advertising program, two of which were Mr. Leighton and his client, Cloyd F. Angle of Cal-Almond, Inc. On the other hand, the 2.5-cent-pound rate was unanimously recommended by both the Public Relations and Advertising Committee and the full Board.

Mr. Leighton also indicated that the 10-day comment period did not meet the requirements of either the Administrative Procedure Act (APA) or USDA's Departmental Regulation 1512–1. However, the APA only requires that a comment period be provided and does not require that the comment period be of any specific length. Departmental Regulation 1512–1 provides that a comment period of less than 30 days may be used when an emergency or other good reason exists. A finding was included in the proposed rule that a comment period of less than 30 days was appropriate because the Board must have sufficient funds to pay its expenses, which are incurred on a continuous basis. The board normally sends out its first assessment notice to handlers in November of each crop year, and this final rule should be in effect as soon as possible.

Concerning the individual budget categories discussed in the proposed rule, Mr. Leighton indicated that USDA did not attempt to analyze whether these expenses are reasonable and necessary. This is incorrect. While USDA relied on the Board, whose members are familiar with the costs for goods, services, and personnel in their local area, to recommend an appropriate budget, USDA carefully reviewed all recommended expenses on a line-by-line basis. For example, the administrative portion of the Board's 1989–90 recommended budget contained 33 separate items, including items such as salaries, rent, postage, and publications. Also, itemized budget sheets were submitted by the Board for each individual production research project and for the public relations program. USDA reviewed these items on a line-by-line basis to determine that all recommended expenses were reasonable and necessary for the maintenance and functioning of the Board and for activities authorized under the order.

In his comment, Mr. Leighton contested the order's creditable promotion and advertising program, providing for expenditures by handlers for domestic promotion and advertising. Mr. Leighton submitted a table which indicated that from the 1982–83 crop year through the 1988–89 crop year, creditable assessments totaled $74,693,350. Mr. Leighton stated that of this amount, $58,754,680 was spent on domestic advertising. Mr. Leighton's table also indicated that domestic shipments during that period increased by a cumulative total of 71 million pounds for all years over an annual base of 128 million pounds—the amount of almonds shipped domestically during the 1982–83 crop year. Mr. Leighton concluded that the industry has spent over 80.00 cents per pound for each increased pound sold domestically since 1982.

This analysis looks only at the increase in domestic shipments over the 1982–83 base year and ignores total domestic shipments. The analysis also does not consider how domestic shipments would have been affected if there was no creditable advertising and promotion program. Also, it should be noted that the 71-million-pound increase in domestic shipments has been achieved while the creditable assessment rate has remained constant at 2.5 cents per pound.

Mr. Leighton stated that assessments paid to the Board by handlers in lieu of receiving credit are not used by the Board to advertise almonds. This statement is inaccurate. In fact, all of the money paid by handlers under the creditable assessment rate has been used by the Board to promote almonds. The order provides authority for marketing promotion activities, including paid advertising, and handlers may receive credit against the creditable portion of their assessments for their own marketing promotion activities, including paid advertising. While the Board has chosen to spend the money paid to it to promote almonds by means other than paid media advertising, it nevertheless has used these assessment funds for marketing promotion activities.

Mr. Leighton also quoted from an appendix to USDA's "Marketing Agreement and Order Operations Manual" which stated that USDA is not opposed to Federal legislation authorizing domestic food commodity research and promotion programs containing provisions whereby assessments collected from producers are refunded to those producers who do not wish to participate. Mr. Leighton requested that USDA comply with its own policy statement and permit Cal-Almond, Inc., an exemption from the 1989–90 crop year creditable advertising assessment or a refund on that assessment. However, that appendix quoted by Mr. Leighton reflected the legislative guidelines that applied to proposed legislation for commodity research and promotion programs. The almond marketing order is established pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and this Act does not provide for refunding assessments to handlers who do not wish to participate in the program.

Finally, Mr. Leighton contended in his comment that any provisions of the order assessing handlers for the purpose of advertising almonds or provisions of the order allowing handlers to promote or advertise almonds on their own in lieu of paying assessments to the Board are a violation of the First Amendment rights of Cal-Almond, Inc. It is USDA's position that all provisions of the order are authorized under the Act and that the order in no way infringes upon the First Amendment rights of Cal-Almond, Inc.

For the reasons stated above, Mr. Leighton's objections are denied.

After consideration of the information and recommendations submitted by the Board and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This action should be expedited because the Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action, which was recommended by the Board at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (15 U.S.C. 553).

List of Subjects in 7 CFR Part 981

Almonds, California, and Marketing agreements and orders.

PART 981—ALMONDS GROWN IN CALIFORNIA

For the reasons set forth in the preamble, 7 CFR part 981 is amended a follows: [This section will not appear in the code of Federal Regulations.]

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674

2. Section 981.336 is added to read as follows:

§ 981.336 Expenses and assessment rate.

Expenses of $12,339,618 by the Almond Board of California are authorized for the crop year ending June 30, 1990. An assessment rate for that crop year payable by each handler in accordance with § 981.81 is fixed at 2.75 cents per pound of almonds (kernelweight basis) less any amount credited pursuant to § 981.41, but not to exceed 2.50 cents per pound of almonds (kernelweight basis).

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26099 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1475

Emergency Livestock Assistance

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This action adopts as a final rule a proposed rule published in the Federal Register on May 19, 1989 (54 FR 21625), which proposed amendments to the Emergency Livestock Assistance Regulations to allow eligible Indian livestock owners to participate in the livestock feed programs at the same time as they are receiving donated Commodity Credit Corporation grain under the Indian Acute Distress Donation Program (IADDP). Previously, eligible Indians could receive assistance under either the livestock feed programs or the IADDP but not under both programs at the same time.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Clarence B. Domire, Program Specialist, Emergency Operations and Livestock Program Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, (USDA) P.O. Box 2415, Washington, DC 20013. Telephone (202) 447–7673.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more. The title and number of the Federal Assistance Program to which this final rule applies are Title—Commodity Loans and Purchases, Number 10.051 as found in the Catalog of Federal Domestic Assistance.

An Environmental Evaluation with respect to the livestock feed programs has been completed. It has been determined that this action is not expected to have any significant impact on the quality of human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed. This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Background

The regulations at 7 CFR part 1475 currently set forth the regulations used to administer the livestock feed programs. These programs are authorized by the Agricultural Act of 1949 (the 1949 Act) as amended by the Disaster Assistance Act 1988 (Public Law 100–387). Sections 605, 606, and 607 of the 1949 Act provide that the Secretary of Agriculture shall make one or more of certain specified programs available to eligible livestock producers if a livestock emergency exists in a State, county, or area. These programs include the Emergency Feed Program (EFP) whereby livestock producers receive cost-share payments on purchased feed and the Emergency Feed Assistance Program (EFAP) whereby livestock producers can purchase Commodity Credit Corporation (CCC)-owned grain at reduced prices.

The Indian Acute Distress Donation Program (IADDP) is administered in accordance with section 407 of the 1949 Act; the CCC Charter Act, as amended; and Executive Order 11336. Authority to implement the program is delegated to the Administrator, Agricultural Stabilization and Conservation Service. The Bureau of Indian Affairs (BIA), Department of the Interior, may request the program be implemented upon a determination that the economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard or other uncontrollable catastrophe affecting land utilized by members of such tribe for grazing livestock. Assistance is in the form of donated CCC-owned feed grains with freight and handling paid by CCC to transport the grain to one or more central distribution points. The program is administered at the local level by the Tribal Council under the supervision of local authorities of the BIA, Department of the Interior.

Previously, Indian livestock owners who were eligible to receive assistance under both EFP or EFAP and the IADDP had to choose to participate in the IADDP or in the EFP or EFAP. Under the recently revised EFP or EFAP regulations, eligible livestock owners have a choice of two options. Under one option, livestock owners will: (a) Include all their eligible livestock, (b) have their loss reduced by, and their feed on hand increased by, the feed value of any payment received from Federal Crop Insurance Corporation (FCIC) crop insurance, (c) have a maximum daily feed allowance of 10 pounds feed grain equivalent (FGE) per day per animal unit, and (d) receive an EFP cost-share rate of 50 percent not to exceed 5 cents per pound FGE for purchased feed. Under the other option, livestock owners will: (a) Choose whether to include or exclude nongrazing livestock on their application, (b) not have their application adjusted for any benefits received from FCIC crop insurance payments, (c) have a maximum daily feed allowance of 12.5 pounds FGE per day per animal unit, and (d) receive an EFP cost-share rate of 42.5 percent not to exceed 5 cents per pound FGE for purchased feed. If the livestock owner elects to purchase CCC-owned grain under the EFAP, the remaining allowance will be reduced by the result of multiplying the pounds of feed grain purchased times 1.176. Grain purchased under the EFAP will continue to be purchased at 50 percent of the posted county price. All other provisions of the EFP and EFAP will be treated the same under both options. Under the IADDP, eligible Indian livestock owners can receive 4 pounds of donated CCC-

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owned feed grain per day per animal unit.

This final rule provides that eligible Indian livestock owners can receive 4 pounds of feed grain under the IADDP and can also receive a maximum 6 pounds FGE under Option 1 or 8.5 pounds FGE under Option 2 under the revised EFP or EFAP provided they meet the eligibility requirements for both programs. With this combination, eligible Indian livestock owners can obtain a maximum of 10 or 12.5 pounds FGE per animal unit per day depending on the option elected, including 4 pounds of donated feed grain under the IADDP and a maximum 6 or 8.5 pounds FGE under the EFP or EFAQP depending on the option chosen.

Comments

A total of 5 comments were received concerning the proposed rule. All comments were in favor of the proposed rule. Comments were received from a Senator, an area office of the Bureau of Indian Affairs, 2 representatives of Indian reservations, and an individual Indian.

The information collection requirements of this subpart has been approved by the Office of Management and Budget (OMB) for the purposes of the Paperwork Reduction Act and OMB Number 0560-0029 has been assigned to 7 CFR part 1475.

List of Subjects in 7 CFR Part 1475

Assistance grant programs—agriculture livestock.

Final Rule

Accordingly, the proposed rule published on May 19, 1989 (54 FR 21625), is adopted as a final rule with the following changes:

PART 1475—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for part 1475 is revised to read as follows:

Authority: 7 U.S.C. 1427, and 1471–1471j; 15 U.S.C. 714b and 714c.

2. Section 1475.3 is amended by revising the following definition to read as follows:

§ 1475.3 Definitions.

* * * * *

"Daily allowance" means for all livestock, except fish for food, 10 pounds or 12.5 pounds of FGE (6 or 8.5 pounds for eligible Indian-owned livestock if the eligible Indian owner is receiving grain from CCC under the Indian Acute Distress Donation Programs) per day per animal unit as provided in § 1475.6 of this subpart, or lesser amount as determined by the State or county ASC committee, except that for the 1989 and subsequent years; livestock feed crop losses due to a natural disaster, the producer may elect to take one and only one of the options available.

* * * * *

3. Section 1475.6 is amended by revising paragraphs (d)(5), (e)(13) and (g)(1)(i)(A) to read as follows:

§ 1475.6 Application and approval.

* * * * *

(d) * * *

(5) Any loss of production otherwise computed shall be reduced due to the receipt of other government benefits, except as provided in paragraph (c)(3)(iii)(A)–(E) of this section for FCIC crop insurance indemnity payments and 1988 and 1989 crop disaster payments which are paid the owner with respect to livestock feed normally grown by the owner provided no reduction shall be made for CCC-owned grain that is donated to eligible Indian livestock owners under the Indian Acute Distress Donation Program. * * *

(e) * * *

(13) Any donated feed on hand except for feed grain donated by CCC under the Indian Acute Distress Donation Program.

* * * * *

(g)(1)(i) * * *

(A) The smaller of 10 or 12.5 pounds, of FGE (6 or 8.5 pounds for eligible Indian owned livestock if the eligible Indian owner is receiving donated grain from CCC under the Indian Acute Distress Donation Programs) per day per animal unit, as applicable, in accordance with paragraph (c) of this section, or a lesser quantity determined to be adequate by the State or county ASC committee, times:

* * * * *

Signed at Washington, DC on October 31, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-26130 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 73

[Order No. 1373-89]

Notification of Obligations of Agents of Foreign Governments

AGENCY: Department of Justice.

ACTION: Notice of final rulemaking.

SUMMARY: The regulations define the notification obligations of agents of foreign governments under 18 U.S.C. 951. They set forth the date, place, time, manner and contents of the notification required by the statute, and provide specific guidance for foreign law enforcement personnel and other agents requiring special attention. In FR Doc. 89-17344 (54 FR 30910, July 25, 1989), the Department of Justice published a Notice of Proposed Rulemaking for public notice and comment.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph E. Clarkson, Chief, Registration Unit, Internal Security Section, Criminal Division, United States Department of Justice, 1400 New York Avenue NW., Washington, DC 20530, telephone (202) 786-4923.

SUPPLEMENTARY INFORMATION: The regulations provide guidance to agents of foreign governments who must notify the Attorney General of their agency status, and the date, place, time, manner and content of the required notification. The regulations specify the custodian of these records in a manner calculated to assure timely notice to the Departments and Agencies most concerned.

This is not a major rule within the meaning of Exec. Order No. 12291. It will not have a significant effect on a substantial number of small businesses.

List of Subjects in 28 CFR Part 73

Foreign relations.

Accordingly, title 28, chapter I, of the Code of Federal Regulations is amended by adding a new part 73 to read as follows:

PART 73—NOTIFICATIONS TO THE ATTORNEY GENERAL BY AGENTS OF FOREIGN GOVERNMENTS

Sec.

73.1 Definition of terms.
73.2 Exceptions.
73.3 Form of notification.
73.4 Partial compliance not deemed compliance.
73.5 Termination of notification.
73.6 Relation to other statutes.

Authority: 18 U.S.C. 951, 28 U.S.C. 509, 510.

§ 73.1 Definition of terms.

(a) The term "agent" means all individuals acting as representatives of, or on behalf of, a foreign government or official, who are subject to the direction or control of that foreign government or official, and who are not specifically excluded by the terms of the Act or the regulations thereunder.

(b) The term "foreign government" includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been regarded by the United States as a governing authority.

(c) The term "prior notification" means the notification letter, telex, or facsimile must be received by the addressee named in § 73.3 prior to commencing the services contemplated by the parties.

(d) When used in 18 U.S.C. 951(d)(1), the term "duly accredited" means that the sending State has notified the Department of State of the appointment and arrival of the diplomatic or consular officer involved, and the Department of State has not objected.

(e) When used in 18 U.S.C. 951(d) (2) and/or (3), the term "officially and publicly acknowledged and sponsored" means that the person described therein has filed with the Secretary of State a fully-executed notification of status with a foreign government; or is a visitor, officially sponsored by a foreign government, whose status is known and whose visit is authorized by an agency of the United States Government; or is an official of a foreign government on a temporary visit to the United States, for the purpose of conducting official business internal to the affairs of that foreign government; or where an agent of a foreign government is acting pursuant to the requirements of a Treaty, Executive Agreement, Memorandum of Understanding, or other understanding to which the United States or an agency of the United States is a party and which instrument specifically establishes another mechanism for notification of visits by agents and the terms of such visits.

(f) The term "legal commercial transaction," for the purpose of 18 U.S.C. 951(d)(4), means any exchange, transfer, purchase or sale, of any commodity, service or property of any kind, including information or intellectual property, not prohibited by federal or state legislation or implementing regulations.

§ 73.2 Exceptions.

(a) The exemption provided in 18 U.S.C. 951(d)(4) for a "legal commercial transaction" shall not be available to any person acting subject to the direction or control of a foreign government or official where such person is an agent of the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania or Cuba; or has been convicted of or entered a plea of nolo contendere to any offense under 18 U.S.C. 792–799, 831 or 2381, or under section 11 of the Export Administration Act of 1979, 50 U.S.C. App. 2410.

(b) The provisions of 18 U.S.C. 951(e)(2)(A) do not apply if the Attorney General, after consultation with the Secretary of State, determines and reports to Congress that the national security or foreign policy interests of the United States require that these provisions do not apply in specific circumstances to agents of such country.

(c) The provisions of 18 U.S.C. 951(e)(2)(B) do not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere.

§ 73.3 Form of notification.

(a) Notification shall be made by the agent in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of the Registration Unit of the Criminal Division, except for those agents described in paragraphs (b) and (c) of this section. The document shall state that it is a notification under 18 U.S.C. 951, and provide the name or names of the agent making the notification, the firm name, if any, and the business address or addresses of the agent, the identity of the foreign government or official for whom the agent is acting, and a brief description of the activities to be conducted for the foreign government or official and the anticipated duration of the activities. Each notification shall contain a certification, pursuant to 28 U.S.C. 1746, that the notification is true and correct.

(b) Notification by agents engaged in law enforcement investigations or regulatory agency activity shall be in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of Interpol-United States National Central Bureau. Notification by agents engaged in intelligence, counterintelligence, espionage, counterespionage or counterterrorism assignment or service shall be in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of the nearest FBI Legal Attache. In case of exceptional circumstances, notification shall be provided contemporaneously or as soon as reasonably possible by the agent or the agent's supervisor. The letter, telex, or facsimile shall include the information set forth in paragraph (a) of this section.

(c) Notification made by agents engaged in judicial investigations pursuant to treaties or other mutual assistance requests or letters rogatory, shall be made in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of the Office of International Affairs, Criminal Division. The letter, telex, or facsimile shall include the information set forth in paragraph (a) of this section.

(d) Any subsequent change in the information required by paragraph (a) of this section shall require a notification within 10 days of the change.

(e) Notification under 18 U.S.C. 951 shall be effective only if it has been done in compliance with this section, or if the agent has filed a registration under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*, which provides the information required by paragraphs (a) and (d) of this section.

§ 73.4 Partial compliance not deemed compliance.

The fact that a notification has been filed shall not necessarily be deemed full compliance with 18 U.S.C. 951 or these regulations on the part of the agent; nor shall it indicate that the Attorney General has in any way passed on the merits of such notification or the legality of the agent's activities; nor shall it preclude prosecution, as provided for in 18 U.S.C. 951, for failure to file a notification when due, or for a false statement of a material fact therein, or for an omission of a material fact required to be stated therein.

§ 73.5 Termination of notification.

(a) An agent shall, within 30 days after the termination of his agency relationship, advise the Attorney General of such change.

(b) All notifications pursuant to this part will automatically expire five years from the date of the most recent notification.

(c) An agent, whose notification expires pursuant to (b) above, must file a new notification within 10 days if the relationship continues.

§ 73.6 Relation to other statutes.

The filing of a notification under this section shall not be deemed compliance with the requirements of the Foreign

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Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*, nor compliance with any other statute.

Dated: October 26, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-26062 Filed 11-3-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-012A]

RIN 1218-AA53

Control of Hazardous Energy (Lockout/Tagout)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; suspension of effective date.

SUMMARY: OSHA's final rule on Control of Hazardous Energy (Lockout/Tagout), which was issued on September 1, 1989 (54 FR 36644), was originally scheduled to become effective 60 days after publication, or October 31, 1989. For reasons set forth below, OSHA is hereby suspending the effective date of that final rule until January 2, 1990 to provide an extension of time for employers to come into compliance with the final rule.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Room N3649, U.S. Department of Labor, Washington, DC 20210, (202)-523-8148.

SUPPLEMENTARY INFORMATION: On September 1, 1989 (54 FR 36644), OSHA issued its final rule on Control of Hazardous Energy (Lockout/Tagout), 29 CFR 1910.147. The final rule was scheduled to become effective 60 days after publication, or October 31, 1989. The paperwork requirements of the final rule had not been approved by the Office of Management and Budget (OMB) at the time the final rule was issued. OMB received OSHA's request for review of the paperwork requirements on September 21, 1989, and issued its approval on September 26, 1989. OSHA published a supplemental notice to that effect on October 17, 1989 (54 FR 42498). Because the OMB approval was received prior to the original effective date of the final rule, the effective date of October 31, 1989 was not affected.

Since the final rule was published, OSHA has received several requests for extension of the period for compliance, together with at least one petition for a temporary variance from the standard. After carefully evaluating these requests, and in consideration of the information discussed below, OSHA has determined that there is good cause to further delay the effective date of the final rule.

As was noted in the September 1, 1989 final rule, the lockout/tagout standard requires employers to develop and utilize an energy control program and documented procedures, and to provide employees with training in the utilization of these energy control measures. Because this is a "generic" rule, which applies to a wide range of machines and equipment, the employer must tailor the general provisions of the standard to the particular energy control situations encountered in that employer's workplace. In addition, the final rule adds various hardware requirements for lockout and tagout devices. Because of the breadth of the rule and the elements necessary for developing and implementing an effective energy control program, OSHA now believes that the original October 31, 1989 effective date has not provided adequate time for employers to come into compliance with the standard, and that an additional two month delay in the effective date is warranted.

Although the effective date of the standard has been delayed, as noted above, OSHA will still require employees to be protected from the unexpected energization or start up of machines and equipment during servicing and maintenance operations, and will enforce this employer obligation under section 5(a)(1) of the Occupational Safety and Health Act (the "general duty clause" of the Act). This provision of the Act requires the employer to provide a workplace and place of work which is free from recognized hazards which are, or are likely, to cause death or serious physical harm.

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It is issued under the authority of sections 4, 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR part 1911.

Accordingly, the requirements of the Lockout/Tagout standard, 29 CFR 1910.147, are suspended until January 2, 1990.

Signed at Washington, DC, this 31st day of October 1989.

G.F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 89-26022 Filed 11-3-89; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 159a

[DoD 5200.1-R]

Information Security Program Regulation; Correction

AGENCY: Department of Defense.

ACTION: Final rule; correction.

SUMMARY: This document corrects an administrative error in a final rule on information security program regulation previously published in the **Federal Register** on June 27, 1989 (54 FR 26958). It incorrectly designated paragraph 159a.57(c), "Confidential Information". The correct designation is paragraph 159a.57(d).

FOR FURTHER INFORMATION CONTACT: Ms. L. M. Bynum, Correspondence and Directives Directorate, Pentagon, Washington, DC 20301-1155, telephone (202) 697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 159a

Classified information; Security.

Accordingly, 32 CFR part 159a is amended as follows:

PART 159a—[AMENDED]

1. The authority citation for part 159a continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 159a.57 is amended by redesignating paragraph 159a.57(c), "Confidential Information" as paragraph 159a.57(d).

Dated: October 31, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26003 Filed 11-3-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AC66

Health Professional Scholarship Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; Correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting previously published information concerning the Health Professional Scholarship Program.

EFFECTIVE DATE: May 20, 1988.

FOR FURTHER INFORMATION CONTACT: Charlotte Beason, Ed.D., Director, Health Professional Scholarship Program (14N), Office of Academic Affairs, Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3588.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 7, 1989 (54 FR 28673), VA published a final regulation amending 38 CFR 17.600-17.611 concerning the amendments to the law governing the VA health professional scholarship program made by the Veterans' Benefits and Services Act of 1988. In that final regulation, in § 17.610 a formula was inadvertently misstated and is hereby corrected.

Dated: October 27, 1989.

Donald R. Howell,

Acting Chief, Directives Management Division.

PART 17—[AMENDED]

In 38 CFR Part 17, MEDICAL, the formula in § 17.160(c) is correctly revised to read as follows:

§ 17.610 Failure to comply with terms and conditions of participation.

* * * * *

(c) * * *

$$A = 30 \left(\frac{t - s}{t} \right)$$

* * * * *

[FR Doc. 89-25994 Filed 11-3-89; 8:45 am]

BILLING CODE 3320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3628-9]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: In a September 14, 1988, (53 FR 35527) notice of proposed rulemaking, USEPA proposed to approve a submission by the State of Indiana as a revision to the Indiana State Implementation Plan (SIP) for ozone. This revision provides for an alternative compliance schedule for Uniroyal Plastics Company, Incorporated (Uniroyal), which is located in St. Joseph County, Mishawaka, Indiana. This SIP revision extended the compliance for Uniroyal from December 31, 1986, until November 7, 1987, allowing time for Uniroyal's reformulation of its coatings for two fabrics coaters and four vinyl printers.

Today's notice is approving this revision because the State has demonstrated that Uniroyal's compliance date extension is expeditious and will not interfere with reasonable further progress toward attainment.

DATE: This action will be effective December 6, 1989.

ADDRESSES: Copies of the SIP revision and technical support documents are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604,

Office of Air and Management Department of Environmental Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206-6015.

A copy of today's revision to the Indiana SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On July 23, 1987, the Indiana Department of Environmental Management submitted to USEPA a request for a site-specific revision to Indiana's ozone SIP. This revision consists of compliance date extensions until November 7, 1987, for Uniroyal's two fabric coaters and four vinyl printers at its Mishawaka plant, located in St. Joseph County, Indiana. St. Joseph County is designated as an urban nonattainment area for ozone.

Under the existing federally approved SIP, each coater and each vinyl printer is subject to VOC control requirements contained Rule 325 IAC 8-2-12. Rule 325 IAC 325 8=1.1-3 requires compliance with the limits by December 31, 1986. USEPA approved these rules as meeting the reasonably control technology (RACT) requirements of the Clean Air Act on February 10, 1986 (51 FR 4912).

Compliance Date Extension Policy

USEPA's August 7, 1986, memorandum, "Policy of SIP Revisions Requesting Compliance Date Extension for VOC Sources", from J. Craig Potter, then Assistant Administrator for Air and Radiation, states that a compliance date extension must be as expeditious as practicable in order to be approved.

In addition, this policy requires the State to demonstrate that the extension will not interfere with the timely attainment and maintenance of the ozone standard and, where relevant, "Reasonably Further Progress" (RFP) towards timely attainment.

USEPA Action

There were no Comments on the September 14, 1988, notice. USEPA has determined that the compliance date extension for Uniroyal is expeditious and will not interfere with RFP toward the ozone standard. Therefore, USEPA is approving the revision. The Office of Management and Budget has exempted this rule form the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in the proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each

request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

40 CFR Part 52

[FRL 3677-7]

North Carolina SO_2 Regulations

Copies of the permit and correspondence are available at the EPA Region IV Office. Contact Rosalyn Hughes at the aforementioned address.

Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

positive net air quality benefit are also contained in Regulation 401 KAR 51:052 which was referenced prior to the amendment being approved today. Therefore, adverse effects on any

implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and

request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table Two and Three SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Ozone, Hydrocarbon, Carbon monoxide, Incorporation by reference, Intergovernmental Offices.

Note: Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Basil G. Constantelos,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter 1, part 52, is amended as follows:

PART 52—[AMENDED]

Subpart P—Indiana

1. The authority citation of part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

2. Section 52.770 is amended by adding paragraph (c)(74) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(74) On July 23, 1987, the Indiana Department of Environmental Management submitted to USEPA a request for a site-specific revision to Indiana's ozone SIP. This revision consists of compliance date extensions until November 7, 1987, for Uniroyal's two fabric coaters and four vinyl printers at its Mishawaka plant, located in St. Joseph County, Indiana.

(i) Incorporation by reference.

(A) Air pollution Operation Permits Numbers: U 2 33–15A, U 2 34–23, U 2 33–14C, U 2 34–3C, U 2 33–16, U 2 33–18, Date issued December 1, 1988, and Date Expires December 1, 1990.

[FR Doc. 89–26018 Filed 11–3–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL 3677-7]

North Carolina SO_2 Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; clarification of state implementation plan.

SUMMARY: On December 7, 1982 (47 FR 54934) EPA approved for all but 24 sources a revision to the North Carolina regulation 15 NCAC 2D.0516 which relaxed the sulfur dioxide (SO_2) limit for fuel burning sources from 1.6 pounds per million BTU heat input (lb/MBTU) to 2.3 lb/MBTU. Some of these sources are undergoing additional analysis in order for EPA to approve the relaxed limit. However, the Hoechst Celanese Corporation (formerly Fiber Industries) will remain at 1.6 lb/MBTU by permit restrictions.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Environmental Management, North Carolina Department of Environment, Health and Natural Resources, 512 N. Salisbury Street, Raleigh, North Carolina 27611–7687.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, Region IV at the above address and telephone number (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On December 7, 1982 (47 FR 54939), EPA approved, for all but 24 sources in the State of North Carolina, a revision to State regulation 2D.0516 which relaxed the SO_2 limit for fuel burning sources. The original version of 2D.0516 prescribed a stepdown in SO_2 emissions for all fuel-burning sources from 2.3 lb/MBTU to 1.6 lb/MBTU by July 1, 1980. Air quality dispersion modeling submitted by the State indicated that removal of the SO_2 stepdown requirement was approvable for all but 24 sources.

The notice indicated if future modeling could show the relaxation to 2.3 lb/MBTU adequately protected the National Ambient Air Quality Standards (NAAQS), the stepdown requirement could be eliminated for other sources as well. This notice serves to inform the public that the Hoechst Celanese Corporation (formerly Fiber Industries) in Cleveland County will remain at the 1.6 lb/MBTU limit.

Copies of the permit and correspondence are available at the EPA Region IV Office. Contact Rosalyn Hughes at the aforementioned address.

Dated: October 24, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 89–25951 Filed 11–3–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL-3676-1; KY-051]

Approval and Promulgation of Implementation Plans, Kentucky; Prevention of Significant Deterioration of Air Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves as a State Impelementation Plan (SIP) revision an amendment to Kentucky Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality. This amendment deletes the reference to Kentucky Regulation 401 KAR 51:052, Review of New Sources in or Impacting Upon Non-attainment Areas, contained in section 12(e) of Regulation 401 KAR 51:017 and replaces it with a reference to 40 CFR part 51, appendix S, section IV. In its prior approval of Regulation 401 KAR 51:017, EPA deferred action on section 12(e) regarding ozone monitoring requirements since the section referenced Regulation 401 KAR 51:052 which is not currently a part of the federally-approved State Implementation Plan (SIP). EPA requested that this deletion and addition be made in order for Kentucky's SIP for the Prevention of Significant Deterioration of Air Quality to be fully approvable.

DATE: This action will be effective on January 5, 1990 unless notice is received within 30 days that someone wishes to submit adverse or critical comments. Such notice may be submitted to Richard Schutt at the EPA Regional Office address listed below.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Richard Schutt of the EPA Region IV Air Programs Branch at the above address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On February 9, 1988, the Commonwealth of Kentucky submitted an amendment to Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality. A public hearing was held to receive comments on Regulation 401 KAR 51:017 on November 30, 1987. EPA had requested that the amendment discussed herein be made in order for Kentucky's SIP for the Prevention of Significant Deterioration of Air Quality to be fully approvable.

Regulation 401 KAR 51:017 applies to major stationary sources and major modifications constructing in areas which are designated as attainment or unclassified. Section 12(e) of this regulation is being amended to delete the reference to Kentucky Regulation 401 KAR 51:052, Review of New Sources in or Impacting Upon Non-attainment Areas. In its prior approval of Regulation 401 KAR 51:017 (September 1, 1989 at 54 FR 36307), EPA deferred action on section 12(e) since the section referenced Regulation 401 KAR 51:052 which is not currently a part of the federally-approved SIP. The reference to Regulation 401 KAR 51:052 is being replaced with a reference to 40 CFR part 51, appendix S, section IV by the amendment being approved today.

Section 12(e) of Regulation 401 KAR 51:017 applies to an owner or operator of a proposed stationary source or modification of volatile organic compounds who wishes to provide post-construction monitoring data for ozone in lieu of providing preconstruction monitoring data. The owner or operator of such a source or modification will be allowed to provide post-construction monitoring data under section 12(e) if the conditions contained in 40 CFR part 51, Appendix S, section IV are satisfied. This monitoring option is also contained in 40 CFR 51.166(m)(1)(v). The conditions contained in 40 CFR part 51, Appendix S, Section IV which require the owner or operator of such a source to meet the lowest achievable emission rates, to certify that the course is in compliance with all applicable emission standards, to obtain offsets, and to certify that the offsets will provide a positive net air quality benefit are also contained in Regulation 401 KAR 51:052 which was referenced prior to the amendment being approved today. Therefore, adverse effects on any affected sources are not anticipated to result due to the previously discussed amendment. The meaning of Regulation 401 KAR 51:017 has not been changed.

Final Action: The amendment to section 12(e) of Kentucky Regulation 401 KAR 51:017 which replaces the reference to Kentucky Regulation 401 KAR 51:052 with a reference to 40 CFR part 51, appendix S, section IV, has been requested by EPA in order for Kentucky's SIP for the Prevention of Significant Deterioration of Air Quality to be fully approvable. Since the amendment is consistent with EPA policy and requirements, the amendment is hereby approved.

EPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective January 5, 1990 unless, within 30 days of its publication, notice is received that adverse or critical comment will be submitted. If such notice is received, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 29, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

PART 52—[AMENDED]

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(56) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(56) A revision to Kentucky Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality, submitted on February 9, 1988, by the Kentucky Natural Resources and Environmental Protection Cabinet. The revision to section 12(1)(e) replaces the reference to Regulation 401 KAR 51:052 with a reference to 40 CFR part 51, Appendix S, section IV. This revision became State-effective on December 11, 1987.

(i) Incorporation by reference.

(A) Kentucky Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality, section 12(1)(e), which became State-effective on December 11, 1987.

(ii) Other material.

(A) Letter of February 9, 1988, from the Kentucky Natural Resources and Environmental Protection Cabinet.

* * * * *

[FR Doc. 89–26048 Filed 11–3–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 424

[BPD-811-CN]

RIN 0938-AE07

Medicare Program; Physician Involvement in Physical Therapy and Speech Pathology Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of interim final rule with comment.

SUMMARY: This document corrects a technical error in the interim final rule with comment that was published in the Federal Register on September 20, 1989 (54 FR 38677) on Medicare conditions of participation concerning physician involvement in physical therapy and speech pathology services.

FOR FURTHER INFORMATION CONTACT: William A. Roskey, (301) 966-4677.

SUPPLEMENTARY INFORMATION: In Federal Register document 89-22170, on page 38679 in the issue of September 20, 1989, make the following correction:

In the next to the last line of the third column, revise "424.25(e)" to read "424.25(e)(1)".

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: October 31, 1989.

James E. Larson,

Deputy Assistant Secretary for Information and Resources Mangement.

[FR Doc. 89-26078 Filed 11-3-89; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-17; RM-6543; RM-6732; RM-6733]

Radio Broadcasting Services; Warren Grove, Tuckerton, and Manahawkin, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of SD Radio Partners, allots Channel 259A to Tuckerton, New Jersey, as the community's first local radio service, and, at the request of Jersey Shore Broadcasting Corporation, allots Channel 289B1 to Manahawkin, New Jersey, as its second local FM service. Channel 259A can be allotted to Tuckerton in compliance with the Commissions' minimum distance separation requirements with a site restriction of 9.9 kilometers (6.2 miles) southeast to avoid a short-spacing to Station WJRZ(FM), Channel 261A, Manahawkin, at coordinates North Latitude 39-33-24 and West Longitude 74-14-30. Channel 289B1 can be allotted to Manahawkin in compliance with the Commissions' minimum distance separation requirements with a site restriction of 11.7 kilometers (7.3 miles) east to avoid a short-spacing to Station WBNJ, Channel 288A, Cape May, New Jersey, Station WQSR, Channel 289B, Catonsville, Maryland, and Station WNWK, Channel 290B1, Newark, New Jersey, at coordinates North Latitude 39-43-30 and West Longitude 74-07-40. With this action, this proceeding is terminated.

DATES: Effective December 15, 1989. The window period for filing applications will open on December 18, 1989, and close on January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-17, adopted October 6, 1989, and released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Tuckerton, Channel 259A, and amending the entry for Manahawkin, New Jersey, by adding Channel 289B1.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26068 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-12; RM-6545]

Radio Broadcasting Services; Oakes, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of CERM Broadcasting Corporation, substitutes Channel 223C1 for Channel 222C2 at Oakes, North Dakota, and modifies its license for Station KDDR-FM to specify the higher powered channel. Channel 223C1 can be allotted to Oakes in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 46-08-12 and West Longitude 98-05-36. Canadian concurrence has been received since Oakes is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 15, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-12, adopted October 6, 1989, and released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation of part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended for Oakes, North Dakota, by removing Channel 222C2 and adding Channel 223C1.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26067 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-11; RM-6553]

Radio Broadcasting Services; Mount Gilead, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ohio Bible Study Group, allots Channel 236A to Mount Gilead, Ohio, as its first local FM service. Channel 236A can be allotted to Mount Gilead in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) northeast to avoid a short-spacing to Stations WSNY, Channel 234B, Columbus Ohio, and WKTN, Channel 237A, Kenton, Ohio. The coordinates for this allotment are North Latitude 40-34-16 and West Longitude 82-49-00. Canadian concurrence has been received. With this action, this proceeding is terminated.

DATES: Effective December 14, 1989. The window prior for filing applications will open on December 15, 1989, and close on January 16, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-11, adopted October 6, 1989, and released October 30, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1.The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments, is amended by adding the following entry, Mount Gilead, Ohio, Channel 236.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26077 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-13; RM-6547]

Radio Broadcasting Services; Gleneden Beach, Sweet Home and Toledo, Oregon

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Galaxy Broadcast Partners, substitutes Channel 296C2 for Channel 296A at Sweet Home, Oregon, and modifies its license for Station KNKN to specify operation on the higher powered channel. Channel 296C2 can be allotted to Sweet Home in compliance with the Commission's minimum distance separation requirements and can be used at Station KNKN's present transmitter site. The coordinates for the Sweet Home allotment are North Latitude 44-26-05 and West Longitude 122-42-23. In addition, Channel 264A is substituted for Channel 296A at Toledo, Oregon, and the license of Station KTDO-FM is modified accordingly. Channel 264A can be allotted to Toledo in compliance with the Commission's minimum distance separation requirements and can be used at Station KTDO-FM's present transmitter site at North Latitude 44-38-40 and West Longitude 124-00-52. Channel 248C2 is substituted for unoccupied but applied for Channel 264C2 at Gleneden Beach, Oregon, Channel 248C2 can be allotted to Gleneden Beach in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at North Latitude 44-52-53 and West Longitude 124-02-57. Channel 248C2 can also be used at the transmitter sites specified in the pending applications of Linn and Fowler, BPH-880118MA and BPH-880118MB, respectively. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-13, adopted October 6, 1989, and released October 30, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by amending the entry for Gleneden Beach, Oregon, by adding Channel 248C2 and removing Channel 264C2; amending the entry for Sweet Home, Oregon, by adding Channel 296C2 and removing Channel 296A; and amending the entry for Toledo, Oregon, by adding Channel 264A and removing Channel 296A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26075 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-4; RM-6565; RM-6730]

Radio Broadcasting Services; Mansfield, PA, Vestal, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Kennedy Broadcasting, Inc., allots Channel 222A to Mansfield, Pennsylvania, as the community's first local FM service. Channel 222A can be allotted to Mansfield in compliance with the Commission's minimum distance separation requirements with a site

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restriction of 9.7 kilometers (6 miles) north to avoid a short-spacing to unoccupied but applied for Channel 222A at Riverside, Pennsylvania, and to the proposed allotment of Channel 222A to Lewisburg, Pennsylvania. The coordinates for the Mansfield allotment are North Latitute 41–53–35 and West Longitude 77–05–47. This action also grants the request of David G. Mitchell to substitute Channel 277B1 for Channel 2771 at Vestal, New York, and modify its construction permit for Station WMXW accordingly. Channel 277B1 can be allotted to Vestal in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.1 kilometers (6.9 miles) southeast to accommodate petitioner's desired transmitter site. The coordinates for the Vestal allotment are North Latitude 42–00–00 and West Longitude 75–59–00. Canadian concurrence in both allotments has been received. With this action, this proceeding is terminated.

DATES: Effective December 14, 1989. The window period for filing applications for Channel 222A at Mansfield, Pennsylvania, will open on December 15, 1989, and close on January 16, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–4, adopted October 6, 1989, and released October 30, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments, is amended by adding the following entry, Mansfield, Pennsylvania, Channel 222A, and amending the entry for Vestal, New York, by adding Channel 277B1 and removing Channel 277A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allications Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26076 Filed 11–3–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–232]

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Final rule.

SUMMARY: The Assistant Secretary for Administration has delegated authority to the OST Director of Financial Management to approve OST employee claims allowable under 31 U.S.C. 3721 for amounts of $500 or less.

EFFECTIVE DATE: October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Robert W. Gordon, Office of Financial Management, M–80, (202) 366–5628, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under 31 U.S.C. 3721 the head of an agency may approve claims of agency employees for damage to, or loss of, personal property incident to Federal service. The Secretary of Transportation has delegated this authority for OST employees to the Assistant Secretary for Administration under § 1.59(c)(4), DOT 1100.60A, Department of Transportation Organization Manual. When amounts of $500 or less are involved, the Assistant Secretary for Administration has redelegated this authority for OST employees to the OST Director of Financial Management.

The Code of Federal Regulations does not reflect this delegation, therefore, a change is necessary.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment are unnecessary, and it may be made effective in fewer than thirty days after publication in the **Federal Register**. The delegation is effective immediately.

List of Subjects

Authority delegations (Government agencies), Organization and functions (government agencies).

In accordance with the Assistant Secretary's authority, the following change is made.

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.59a is amended by adding a new paragraph (c)(6) to read as follows:

§ 1.59a Redelegations by the Assistant Secretary for Administration.

* * * * *

(c) * * *

(6) Approve claims of OST employees allowable under 31 U.S.C. 3721 for amounts of $500 or less.

Issued on: October 2, 1989.

Melissa Jane Allen,

Deputy Assistant Secretary for Administration.

[FR Doc. 89–26070 Filed 11–3–89; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–116]

RIN 2125–AA79

Controlled Substances Testing; Implementation Dates

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; deferred implementation of random and mandatory post-accident testing requirements; interpretation.

SUMMARY: On November 21, 1988, the FHWA issued a final rule requiring motor carriers to have an anti-drug program. This program includes drug testing drivers who operate commercial motor vehicles (CMV) in interstate commerce. The final rule set forth the classes of controlled substances, the types of tests to be conducted, the dates for implementation of testing and, through reference to 49 CFR part 40, Procedures for Transportation Workplace Drug Testing Programs, the procedures for testing and reporting of the test results.

This notice states FHWA's policy regarding implementation in view of a preliminary injunction issued on January 6, 1989, enjoining the FHWA from implementing random and certain mandatory post-accident testing of CMV drivers. This notice also clarifies the types of testing that must be implemented by December 21, 1989.

DATES: This final rule is effective November 6, 1989. Implementation of the random and certain mandatory post-accident testing provisions of the final rule will be deferred until further notice; other types of testing required by the final rule will be implemented as specified in the rule.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–2981, or Mr. Thomas P. Holian, Office of Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA published a final rule on November 21, 1988, setting forth regulations requiring motor carriers who operate CMV in interstate commerce to establish and maintain anti-drug programs, including testing of CMV drivers for the use of controlled substances. 53 FR 47134. Testing under this regulation must be conducted prior to employment/use, periodically, upon reasonable cause, after a reportable accident, and randomly. Generally, interstate drivers of CMV, which are defined as vehicles with gross vehicle weight ratings (GVWR) of more than 26,000 pounds, vehicles transporting hazardous materials that are required to be placarded, or vehicles designed to transport more than 15 passengers, including the driver, are covered by this rule.

On the same date, November 21, 1988, the Office of the Secretary, Department of Transportation (OST), published an interim final rule, "Procedures for Transportation Workplace Drug Testing Programs," setting forth the testing and reporting procedures applicable to the FHWA rule. 53 FR 47002.

Six lawsuits have been filed challenging the FHWA's controlled substances testing regulation. In *Owner-Operators Indep. Drivers Ass'n (OOIDA)* v. *Burnley*, 705 F. Supp. 481 (N.D. Cal. 1989), the court granted plaintiff OOIDA a preliminary injunction on January 6, 1989, enjoining the FHWA from implementing random and certain mandatory post-accident testing of CMV drivers. *Id.* at 485.

On August 1, 1989, the court in *OOIDA* denied the Government's motion for judgment on the pleadings on the ground of lack of subject matter jurisdiction. The court, however, certified the question of jurisdiction for interlocutory appeal under 28 U.S.C. 1292(b). On August 11, 1989, the Government filed a petition for interlocutory appeal in the Ninth Circuit Court of Appeals. Case No. 89–80273. The Court of Appeals granted the petition October 17, 1989, setting an expedited briefing schedule. Meanwhile, by order issued August 21, 1989, the district court stayed further proceedings; however, the injunction against random and certain mandatory post-accident testing remains in effect.

In addition, the other challenges to the FHWA's controlled substances testing regulation have been consolidated in the Ninth Circuit under the name *International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, et al.* v. *U.S. Department of Transportation*, No. 89–70165. No petitioner in that consolidated proceeding contests the jurisdiction of the court of appeals; however, OOIDA has been granted amicus status to brief and argue the jurisdictional question (Order, July 17, 1989); and the Ninth Circuit has indicated that it will decide the jurisdictional question with the merits. June 6, 1989, Order. An expedited briefing schedule for this consolidated case has been set, but a resolution before December 21, 1989, now appears unlikely.

In view of the rapidly approaching date for implementation of testing by larger carriers, and the uncertainty of the timing of judicial resolution of this matter, the FHWA is hereby providing notice to motor carriers nationwide that implementation of random testing and certain mandatory post-accident testing, now preliminarily enjoined, is deferred until further notice. If the Government prevails before the Ninth Circuit, the preliminary injunction will be dissolved; and the FHWA will publish a **Federal Register** Notice advising motor carriers of the implementation dates for random and mandatory post-accident testing, which we expect to be approximately 90 days after publication of such Notice.

In deferring implementation of random and certain mandatory post-accident testing, the agency emphasizes that motor carriers nationwide must implement pre-employment or pre-use, periodic, reasonable cause, and unenjoined post-accident drug testing in accordance with the implementation schedule set forth in the November 21, 1988, final rule. The agency intends to enforce these requirements.

With respect to this required implementation, the FHWA advises that unenjoined post-accident testing permitted under the terms of the preliminary injunction is defined as testing when there is any reasonable suspicion of drug usage, or reasonable cause to believe a driver has been operating a vehicle while under the influence of drugs, or reasonable cause to believe the driver was at fault in the accident and drug usage may have been a factor. Accordingly, the FHWA expects motor carriers to instruct their drivers that drug testing will be required after accidents under certain conditions, and to require their drivers to submit to such testing.

The FHWA also takes this opportunity to further clarify the duty of motor carriers to comply with the requirements of this rule:

1. Motor carriers with 50 or more "drivers subject to testing" on December 21, 1989, must implement a testing program for controlled substances by December 21, 1989. Motor carriers must evaluate their employment records, driver contracts, and all other related documents as of December 21, 1989, to determine if they meet the size threshold requiring implementation of testing by December 21, 1989. This requirement is applicable regardless of the size of a motor carrier on any other date. In determining the number of "drivers subject to testing," the drivers at all terminals and other facilities operated by that carrier must be considered, regardless of whether the carrier has obtained divided record authority under 49 CFR 395.8(k)(2).

2. Motor carriers with fewer than 50 "drivers subject to testing" on December 21, 1989, must begin testing no later than December 21, 1990.

3. Motor carriers required to implement testing on December 21, 1989, for those drivers who meet the requirements of "drivers subject to testing," as defined in the rule, must test new employee-drivers and drivers under contract for more than 90 days during the period December 21, 1989, through December 21, 1990. This requirement will provide drivers who are not regularly used by a carrier ample time to join a motor carrier's or consortium's testing program. This provision also is consistent with the two-tiered implementation phase-in currently in the final rule regarding smaller carriers.

4. All CMV drivers employed or used by motor carriers must be participating in a controlled substances testing program that meets the requirements of subpart H by December 21, 1990. This includes those drivers for motor carriers who were required to implement testing by December 21, 1989, but who were not defined as "drivers subject to testing."

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Regulatory Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the amendment contained in this document is being issued to clarify the existing rule, further public comment is considered unnecessary. Further notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information. Therefore, the FHWA finds good cause to make the amendment final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Accordingly, this amendment is effective upon publication in the **Federal Register.**

To the extent that any economic impacts exist, the amendment will lessen regulatory burdens by increasing the time available to comply with existing regulatory requirements. For this reason, a full regulatory evaluation is not required. For the same reason, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Controlled substances, Drug testing, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: October 31, 1989.

T. D. Larson,

Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, subtitle B, chapter III, part 391 as set forth below:

PART 391—QUALIFICATIONS OF DRIVERS

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

Subpart H—Controlled Substance Testing

2. In § 391.93, paragraphs (b) and (c) are revised to read as follows:

§ 391.93 Implementation schedule.

* * * * *

(b) Motor carriers with 50 or more "drivers subject to testing" on December 21, 1989, are required to implement a controlled substance testing program which meets the requirements of this subpart by:

(1) December 21, 1989, for "drivers subject to testing," and

(2) December 21, 1990, for all commercial motor vehicle drivers. (c) Motor carriers with less than 50 "drivers subject to testing" on December 21, 1989 are required to implement a controlled substance testing program by December 21, 1990, for all commercial motor vehicle drivers.

* * * * *

[FR Doc. 89-26084 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1054

[Ex Parte No. MC-29; Sub-No. 5]

Incidental Charter Rights; Simplification of Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules, as set forth below, governing the exercise by motor passenger carriers of incidental charter rights under 49 U.S.C. 10932(c) and 49 CFR part 1054. A notice of proposed rules was published in the **Federal Register** on June 12, 1989 at 54 FR 24918. The revised rules simplify and broaden somewhat the present rules, which had become practically obsolete as a consequence of the statutory amendments in the Bus Regulatory Reform Act of 1982, Public Law 97-261, 96 Stat. 1102 (1982).

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: James L. Brown, (202) 275-7898, or Richard B. Felder, (202) 275-7691. (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: The revised rules: (1) Clarify the applicability of the rules; (2) broaden the territorial scope of existing incidental charter rights to permit service between any points and places in the United States (including Alaska and Hawaii); and (3) specify certain exceptions to the exercise of incidental charter rights.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services at (202) 275-1721.)

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We affirm our prior certification. The rules we are adopting simplify the regulations applicable to incidental charter rights, eliminate a number of obsolete requirements, and broaden the territorial scope of incidental charter authority to that typically authorized in certificates specifically authorizing charter operations. Very few, if any, carriers actually use incidental charter rights at this time. Most small entities that do not hold qualifying regular-route authorities already have or can easily obtain specific charter authority through "fitness-only" application procedures. As a consequence, although all discernible impacts of this action are positive, no significant impact is anticipated on any small entities.

List of Subjects in 49 CFR Part 1054

Buses, Motor carriers.

Decided: October 30, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1054 of the Code of Federal Regulations is revised to read as follows:

PART 1054—INCIDENTAL CHARTER RIGHTS

Sec.

1054.1 Applicability.
1054.2 Authority.
1054.3 Exceptions.

Authority: 5 U.S.C. 553 and 559 and 49 U.S.C. 10321, 10922, and 10932.

§ 1054.1 Applicability.

The regulations in this part apply to incidental charter rights authorized under 49 U.S.C. 10932(c). These regulations do not apply to interpreting authority contained in a certificate to transport passengers in special and/or charter operations.

§ 1054.2 Authority.

Motor carriers transporting passengers, in interstate or foreign commerce, over regular routes authorized in a certificate issued as a result of an application filed before January 2, 1967, may transport special or chartered parties, in interstate or foreign commerce, between any points and places in the United States (including Alaska and Hawaii). The term "special or chartered party" means a group of passengers who, with a common purpose and under a single contract, and at a fixed charge for the vehicle in accordance with the carrier's tariff, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination or for a particular itinerary.

§ 1054.3 Exceptions.

(a) Incidental charter rights do not authorize the transportation of passengers to whom the carrier has sold individual tickets or with whom the carrier has made separate and individual transportation arrangements.

(b) Service provided under incidental charter rights may not be operated between the same points or over the same route so frequently as to constitute a regular-route service.

(c) Passenger transportation within the Washington Metropolitan Area Transit District (as defined in the Washington Metropolitan Area Transportation Regulation Compact, Pub. L. No. 86-794, 74 Stat. 1031 (1960), as amended by Pub. L. No. 87-767, 76 Stat. (1962) is not authorized by these regulations, but is subject to the jurisdiction and regulations of the Washington Metropolitan Area Transportation Commission.

(d) A private or public recipient of governmental assistance (within the meaning of 49 U.S.C. 10922(c)(1)(F)) may provide service under incidental charter rights only for special or chartered parties originating in the area in which the private or public recipient provides regularly scheduled mass transportation services under the specific qualifying certificate that confers its incidental charter rights.

[FR Doc. 89-26090 Filed 11-3-89; 8:45am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 81131-9019]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual processing (DAP) portion of the domestic annual harvest (DAH). This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), is necessary to assure optimum use of groundfish in that area. It is a conservation and management measure intended to promote fishery objectives of the North Pacific Fishery Management Council.

DATES: Effective October 31, 1989. Comments will be accepted through November 21, 1989.

ADDRESS: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett (Resource Management Specialist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675.

Initial specifications for DAH, DAP and joint venture processing (JVP) for 1989 were published at 54 FR 3605 (January 25, 1989). The same notice established a 15 percent non-specific reserve and then apportioned amounts from that reserve to JVP in order to provide bycatch amounts for JVP fisheries.

Some of the DAP amounts were revised in September (54 FR 37112, September 7, 1989) based on new information about DAP potential. This information indicated some amounts excess to DAP needs in 1989, as well as DAP amounts that could require supplementation. Amounts that may be needed to supplement DAP were retained in the non-specific reserve, to be apportioned to DAP if the need arose later in the year. Amounts in DAP and reserve in excess of DAP requirements were apportioned to JVP.

Later in September (54 FR 38666, September 20, 1989) the DAP for Atka mackerel was supplemented by 3,043 mt of the non-specific reserve, and in October (54 FR 41977, October 13, 1989) the DAP for Greenland turbot was supplemented by 1,200 mt of the non-specific reserve.

Reapportionment

The following actions are taken by this notice to reapportion groundfish from the non-specific reserve (see table 1). To the Bering Sea and Aleutian Islands DAPs for sablefish:

Effective February 3, 1989, the entire sablefish total allowable catch (TAC) in the Bering Sea subarea was set aside as bycatch to support other target groundfish fisheries (54 FR 6134, February 3, 1989). Sablefish directed fishing was allowed in the Aleutian Islands subarea until July 30, 1989 (54 FR 31842, August 2, 1989), at which time directed fishing was terminated to provide adequate bycatch amounts to support other directed groundfish fisheries. The Director, Alaska Region, NMFS, later determined that only minimal amounts are expected to be needed to support other directed groundfish fisheries during the remainder of the fishing year, and the directed fisheries for sablefish in the Bering Sea and Aleutian Islands subareas recommenced on October 20, 1989 (54 FR 39741, September 28, 1989). At current effort levels, the DAP quotas for sablefish in the Bering Sea and Aleutian Islands subareas (2,380 mt and 2,890 mt, respectively) will be reached shortly.

Rather than require sablefish to be discarded, as would occur if the DAP quota were reached, the DAP for sablefish is increased from the non-specific reserve by 420 mt in the Bering Sea subarea, and 510 mt in the Aleutian Islands subarea.

These apportionments do not result in overfishing of sablefish, as the resulting TAC amounts do not exceed the acceptable biological catches (ABC's).

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Classification

This action is taken under the authority of § 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit domestic fishermen who otherwise would be required to terminate a fishery earlier than necessary. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: November 1, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC (ALL VALUES ARE IN METRIC TONS)

		Current	This Action	Revised
Sablefish Bering Sea	DAP	2,380	+420	2,800
TAC=2,800; ABC=2,800	JVP	0	0	0
Sablefish Aleutian Islands	DAP	2,890	+510	3,400
TAC=3,400; ABC=3,400	JVP	0	0	0
TOTAL (TAC=2,000,000)	DAP	1,349,557	+930	1,350,487
	JVP	604,089	0	604,089
	Reserves	46,354	−930	45,424

[FR Doc. 89-26121 Filed 11-1-89; 3:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 213
Monday, November 6, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AD23

Federal Employees Health Benefits Program—Opportunity for Certain Annuitants to Reenroll

AGENCY: Office of Personnel Management.

ACTION: Notice of withdrawal of proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is withdrawing its proposal to revise the Federal Employees Health Benefits (FEHB) Program regulations to permit reenrollment for certain annuitants who are entitled to part B of Medicare and cancel their FEHB coverage to enroll in a Medicare risk or cost contract under section 1876 of the Social Security Act. The proposed regulations, issued on August 8, 1988 (53 FR 29886), would have limited this reenrollment opportunity to annuitants who: (1) Were previously enrolled in FEHB, (2) dropped the FEHB coverage to enroll in a Medicare risk or cost plan, and (3) subsequently lost the Medicare risk or cost plan coverage due to either a move out of the plan enrollment area or discontinuance of the plan. In July of 1989, Public Law 101-76 was enacted, which includes a provision requiring OPM to submit to the Congress by February 1990 recommendations to reform the FEHB Program. In light of the likely reform of the Program, it would be untimely to pursue a change of this significance now. Any further consideration of this issue is being deferred until further study during the FEHB reform process.

FOR FURTHER INFORMATION CONTACT: Bill Smith, (202) 632-4634.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89-26127 Filed 11-3-89; 8:45 am]

BILLING CODE 3325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-89-105PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Proposed Handling Requirement Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes changes in the handling requirements effective under the marketing order for fresh oranges, grapefruit, tangerines, and tangelos grown in Florida. These proposed changes would reduce the minimum size requirement for domestic and import shipments of pink seedless grapefruit, and increase the minimum size requirements for export shipments of early and midseason oranges, navel oranges, Valencia and similar late maturing oranges, tangelos, temple oranges, and Robinson tangerines. This proposed action is based on an analysis of the 1989-90 season Florida citrus crop and current and prospective market conditions.

DATES: Comments must be received by November 16, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 producers of these citrus fruits in Florida, and about 26 importers who import grapefruit into the United States. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers and importers may be classified as small entities.

Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for most varieties of Florida oranges, grapefruit, tangerines, and tangelos for both the domestic and export markets. The requirements for the domestic markets are specified in that section in Table I of paragraph (a) and for export markets in Table II of paragraph (b). The domestic markets were redefined as the 48 contiguous States and the District of Columbia of the United States and export markets as

any destination other than the 48 contiguous States and the District of Columbia of the United States by an amendment to the marketing order (54 FR 37290, September 8, 1989), which

the 1989-90 season crop. The committee meets prior to and during each season to review the handling requirements, effective on a continuous basis, for each

imported pink seedless grapefruit. An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed ⅘-

2. The provisions of § 905.306 are amended as follows:

Note: This action will be published in the Code of Federal Regulations.

Tangelos			
Tangelos.....	On and after [1].	U.S. No. 1.....	2¼

[1] Insert date of publication of the final rule in the FEDERAL REGISTER.

would amend the regulations concerning quarantine facilities for animals imported into the United States. The proposed rule would (1) establish requirements for approval of permanent

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any destination order than the 48 contiguous States and the District of Columbia of the United States by an amendment to the marketing order (54 FR 37290, September 8, 1989), which revised §§ 905.9 and 905.52. Section 905.306 has been amended by an interim final rule, published in the Federal Register concurrently with this proposed rule, which reflects these changes to the order.

This proposed action would reduce the minimum size requirements for domestic shipments of pink seedless grapefruit to 3⁹⁄₁₆ inches in diameter from 3⁹⁄₁₆ inches in diameter. The Citrus Administrative Committee (committee) reports that this season's grapefruit crop is maturing earlier, that the fruit is smaller than normal, and that a multiple bloom will require spot picking during most of the season. The committee recommended this action due to these current crop conditions, since it would permit domestic shipments of smaller fruit early in the season. The committee requested this relaxation for the period October 16, 1989 through October 21, 1990. Eleven committee members voted in favor of this action. Two members voted against the action because they wanted to wait until early or mid-winter to release the smaller size 56 grapefruit, as the industry has done in the past. Two members abstained because they represent districts which ship mostly oranges, tangerines, and tangelos.

This proposed action would also increase the minimum size requirements for export shipments of early and midseason oranges, navel oranges, Valencia and similar late maturing oranges, tangelos, and temple oranges to 2⁹⁄₁₆ inches in diameter from 2⁹⁄₁₆ inches, and Robinson tangerines to 2⁹⁄₁₆ inches in diameter from 2⁹⁄₁₆ inches. Canada is a major export market for Florida oranges, tangerines, and tangelos and shipments of these fruits to that market have historically been limited to the larger sizes consistent with market requirements. The order provisions were amended September 8, 1989, to designate Canada as an export market rather than a domestic market. This proposal would change minimum size requirements for export shipments of oranges, tangerines and tangelos to the same requirements that were applicable to shipments to Canada prior to the amendment.

The committee, which administers the program locally, met September 19, 1989, and recommended these actions based on the analysis of the current and prospective marketing conditions and the 1989–90 season crop. The committee meets prior to and during each season to review the handling requirements, effective on a continuous basis, for each regulated citrus fruit. Committee meetings are open to the public, and interested persons may express their views at these meetings. The U.S. Department of Agriculture (Department) reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling requirements would tend to effectuate the declared policy of the Act.

Some Florida citrus fruit shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provison. Also, handlers may ship up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including oranges and grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and appply the regulations for that area to the imported commodity.

Grapefruit import requirements are specified in § 944.106 (7 CFR part 944), and are effective under section 8e of the Act. That section requires that grapefruit imported into the United States must meet the same minimum grade and size requirements as those specified for the various varieties of Florida grapefruit in Table I of paragraph (a) in § 905.306. Since this action reduces minimum size requirements for domestically produced Florida pink seedless grapefruit, the reduced size requirements also apply to imported pink seedless grapefruit. An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed ⅘-bushel cartons exempt from the import requirements.

Orange import requirements are specified in § 944.312 (7 CFR part 944), and are effective under section 8e of the Act. That section requires that oranges imported into the United States must meet the same minimum grade and size requirements as those established in § 906.365 for Texas oranges under M.O. 906 (7 CFR part 906). Accordingly, the findings and determinations for imported oranges contained in part 944 would not be changed by this proposed action and no changes to these provisions of Part 944 would be necessary. Thus, orange import requirements would continue to be based upon the Texas orange requirements under M.O. 906.

This proposed action reflects the committee's and the Department's appraisal of the need to make the proposed handling requirement changes. The Department's view is that this proposed action would have a beneficial impact on producers and handlers since it would allow Florida citrus handlers to ship those sizes of fruit needed to meet buyer requirements consistent with this season's crop and market conditions.

Based on the above, the Administrator of the AMS has determined that this proposed action would not have have a significant economic impact on a substantial number of small entities.

It is found and determined that a comment period of less than 30 days is appropriate because this action, if adopted, would need to become effective promptly, so that it would apply to as much as possible of this season's shipments, which have already begun.

List of Subjects in 7 CFR Part 905

Florida, Grapefruit, Marketing agreements and orders, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR Part 905 is proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The provisions of § 905.306 are amended as follows:

Note: This action will be published in the Code of Federal Regulations.

A. In paragraph (a), Table I, the entry for seedless pink grapefruit is revised to read as set forth below.

B. In paragraph (b), Table II, the entries for all varieties of oranges, for Robinson tangerines, and for tangelos are revised to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 5.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum (Diameter inches)
(1)	(2)	(3)	(4)
* * *	* *		
Grapefruit Seedless, pink.	[1] 10/21/90	Improved No. 2 (External, U.S. No. 1 (Internal).	3⁹⁄₁₆
	On and after 10/22/90.	Improved No. 2 (External). U.S. No. 1 (Internal).	3⁹⁄₁₆

[1] Insert date of publication of the final rule in the FEDERAL REGISTER.

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum (Diameter inches)
(1)	(2)	(3)	(4)
Oranges			
Early midseason.	On and after [1].	U.S. No. 1	2⁹⁄₁₆
Navel	On and after [1].	U.S. No. 1 Golden.	2⁹⁄₁₆
Valencia and other late type.	On and after [1].	U.S. No. 1	2⁹⁄₁₆
Temple	On and after [1].	U.S. No. 1	2⁹⁄₁₆
* *	* * *		
Tangerines			
Robinson	On and after [1].	U.S. No. 1	2⁹⁄₁₆
* *	* * *		
Tangelos			
Tangelos	On and after [1].	U.S. No. 1	2⁹⁄₁₆

[1] Insert date of publication of the final rule in the FEDERAL REGISTER.

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Deputy Acting Director, Fruit and Vegetable Division.

[FR Doc. 89–26091 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 89–195]

Horse Quarantine Facility Standards; Collection of Fees at Animal Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: We are extending the comment period for our proposal to amend the regulations concerning quarantine facilities for horses being imported into the United States, and concerning the collection of fees at animal quarantine facilities. This extension will provide interested persons with additional time to prepare comments on the proposed rule.

DATE: Consideration will be given only to written comments on Docket No. 85–061 received on or before January 5, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 85–061. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7885.

SUPPLEMENTARY INFORMATION: On September 6, 1989, we published in the Federal Register (54 FR 36986–36990, Docket No. 85–061) a proposed rule that would amend the regulations concerning quarantine facilities for animals imported into the United States. The proposed rule would (1) establish requirements for approval of permanent, privately operated quarantine facilities for horses; (2) add new requirements to those already in the regulations for approval of temporary, privately operated quarantine facilities for horses; and (3) specify that the government collect payment from each privately operated quarantine facility for services the government provides at that facility. Comments on the proposed rule were required to be received on or before November 6, 1989.

During the comment period for the proposed rule, we received two requests that we extend that comment period. One of the requests was from the American Horse Council (AHC), which stated that it would like to have the proposed rule discussed at the annual convention of the American Association of Equine Practitioners (AAEP), to be held December 3–6, 1989. The AHC requested that we extend the comment period to a date past the AAEP convention, to allow its members to comment on the proposed rule in light of discussion at the convention. The second request was from a representative of a brokerage firm, who requested that we extend the comment period 60 days beyond its scheduled closing date, to allow the equine industry additional time to notify its members of the proposed rule, and to provide additional time for comments from that industry.

In response to these requests, we are extending the comment period for Docket No. 85–061, in order to allow for comments following the AAEP convention, and to allow the equine industry additional time to notify its members of the proposed rule. We will consider all written comments received on or before January 5, 1990. This action will allow the requestors and all other interested persons additional time to prepare comments.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 31st day of October, 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–26010 Filed 11–3–89; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AD19

Stabilization and Decontamination Priority, Trusteeship Provisions, and Amount of Property Insurance Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission proposes to amend the provisions of its property insurance regulations applicable to commercial power reactor licensees. The changes are proposed to (1) clarify the scope and timing of the stabilization and decontamination processes after an accident at a covered reactor; (2) specify that the insurance is required to ensure that commercial power reactor licensees will have sufficient funds to carry out their obligation to clean up and decontaminate after an accident; and (3) eliminate the requirement that insurance proceeds after an accident are paid to an independent trustee. In addition, Chairman Carr and Commissioner Rogers support the staff proposal to solicit comments on the appropriate level of required insurance in view of inflation of decontamination and cleanup costs. This proposed rule responds to issues raised in three petitions for rulemaking.

DATES: The comment period expires January 5, 1990. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Hand deliver comments to: 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. (Telephone (301) 492–1960). Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–1280.

SUPPLEMENTARY INFORMATION:

I. Background

On August 5, 1987, the Commission published in the **Federal Register** (52 FR 28963) a final rule that amended 10 CFR 50.54(w). The rule increased the amount of onsite property damage insurance required of commercial power reactor licensees. The purpose of the rule was to provide an assured source of funds for onsite decontamination and cleanup of a power reactor facility after an accident. In particular, the 1987 amendments required licensees to obtain insurance policies in which any proceeds from such policies are to be used for stabilization of a reactor after an accident and then for decontamination of the facility before any other purpose. The rule also required that any insurance proceeds be paid to a trustee, who would be required to disburse funds according to the decontamination priority. The Commission believed that these provisions would effectively protect insurance proceeds from claims by bondholders or their representatives or, in the event of licensee default or bankruptcy, by other creditors. The Commission based this belief on comments submitted by the Association of the Bar of the City of New York (hereinafter referred to as NYC Bar). (See comment number 12 in response to the 1984 proposed rule (49 FR 44645, November 8, 1984)).

Subsequent to publication of the 1987 final rule, the NRC received three petitions for rulemaking that sought (1) clarification of the scope and timing of the stabilization process after an accident at a covered reactor; (2) clarification of the procedures by which the NRC determines and approves expenditures of funds necessary for decontamination and cleanup, and clarification of how such procedures affect both insurers' needs to secure appropriate proofs of loss and when payments may be made for non-cleanup purposes; (3) a change in the terminology of the required insurance from "property" insurance to "decontamination liability" insurance so as to better forestall claims to insurance proceeds by a licensee's bondholders; and (4) rescission of the provision that proceeds of the required insurance are to be paid to an independent trustee, who will disburse the proceeds for decontamination and cleanup of the facility before any other purpose.

Notice of receipt of the three petitions for rulemaking was published on September 19, 1988 (53 FR 36335). These petitions are (1) Petition for Rulemaking (PRM–50–51) dated June 3, 1988, from Linda S. Stein, Steptoe & Johnson, counsel to American Nuclear Insurers and MAERP Reinsurance Association (ANI/MAERP); (2) Petition for Rulemaking (PRM–50–51A) dated June 21, 1988, from J. B. Knotts, Jr., Bishop, Cook, Purcell & Reynolds, counsel to the Edison Electric Institute (EEI), the Nuclear Utility Management and Resources Council (NUMARC) and several power plant licensees; and (3) Petition for Rulemaking (PRM–50–51B), received July 18, 1988, from Peter D. Lederer, Baker & McKenzie, counsel to Nuclear Mutual Limited and Nuclear Electric Insurance Limited (NML and NEIL–II). Interested persons may examine and copy for a fee the above letters and petitions for rulemaking at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

Four comments were received on the petitions for rulemaking, all of which supported the amendments recommended in the petitions. In addition, NYC Bar submitted on June 30, 1988, a clarification and revision of its comments on the earlier property insurance rulemakings and called for rescinding the trusteeship provision that it had supported previously. The NYC Bar's submission was docketed as comment number 36 under the 1984 proposed rule (49 FR 44645, November 8, 1984).

II. Analysis of and Response to Issues Raised by Petitioners

A. Clarification of the scope and timing of the stabilization process after an accident at a covered reactor.

Petitioners' Concerns

Petitioners believe that the stabilization process should be defined and clarified in the rule. Insurers are concerned that, because the existing rule requires a priority on insurance proceeds first for stabilizing a reactor after an accident and then for decontaminating the reactor, and because proceeds for decontamination but not stabilization are to be paid to an independent trustee, there could be confusion regarding when, to whom, and in what amount proceeds for stabilization should be paid. In addition, petitioners believe that the stabilization priority should not be invoked until the estimated costs of stabilization and decontamination exceed a threshold of $100 million and that this priority should only last for 30 days unless extended by the NRC. These changes would prioritize use of insurance proceeds for relatively more serious accidents in which there would be concern about the availability of adequate funds to protect public health and safety. Petitioners believe that placing a threshold and time limit on the stabilization priority, when coupled with a procedure for estimating and authorizing expenditures for decontamination and cleanup after stabilization has been completed, would simplify the claims payment process and reduce the likelihood that insurance proceeds for cleanup would be tied up while claims by competing parties are being resolved.

NRC Response

The NRC believes that petitioners' recommendations with respect to clarifying the stabilization priority generally merit incorporation in the rule. During the process that culminated in the 1987 rulemaking, the Commission believed, and continues to believe, that stabilization is a relatively brief process occurring in the immediate aftermath of an accident where quick and effective response is necessary. For that reason, the NRC chose not to make stabilization subject to the trusteeship provision. For the same reasons, the Commission did not define the stabilization process in the rule itself. However, petitioners believe that protection of public health and safety would be better served by more explicit treatment of the stabilization process in the NRC's regulations.

The NRC has no reason to dispute petitioners' views and believes that petitioners' proposals in this area do not substantively change the Commission's policy as expressed in the preamble to the 1987 final rule. Consequently, the NRC proposes to accept in large measure petitioners' recommendations, but also proposes to further clarify the stabilization process beyond petitioners' recommended wording. Also, because in certain circumstances initial stabilization could take more than 30 days, the NRC proposes an initial stabilization period not to exceed 60 days, with extensions up to 60 days each, if necessary.

B. Clarification of the procedures by which the NRC determines and approves estimates and expenditure of funds necessary for stabilization, decontamination and cleanup. Clarification of how such procedures affect both insurers' needs to secure appropriate proofs of loss and when payments may be made for non-cleanup purposes.

Petitioners' Concerns

Petitioners expressed several related concerns with respect to the operation of the decontamination priority within the overall coverage of the policy. Petitioners are particularly concerned that the insurance proceeds not needed for stabilization, decontamination, or cleanup would be tied up until cleanup was completed. This could occur both for any coverage exceeding the $1.06 billion that NRC requires and for coverage falling within the $1.06 billion required but in excess of the amount needed for stabilization, decontamination, and cleanup after a particular accident. Thus, once it is determined that a particular accident will require, for example, $500 million for stabilization, decontamination and cleanup, licensees may need early access to the remaining insurance proceeds. Early access to these funds would help the licensee to better cope with any adverse financial effects of the accident and would reduce the likelihood that a licensee's financial hardship would havean adverse impact on the protection of public health and safety. Additionally, insurers believe that by specifically incorporating in the rule the flexible release of insurance proceeds not needed for accident cleanup without regard to whether such insurance is part of the primary or excess layers being offered[1] they will avoid problems with timing of proof of loss required under the insurance policies and the potential adverse effect such timing could have on the payment of stabilization, decontamination, and cleanup costs. By specifying a mechanism in the rule by which the NRC can approve stabilization, decontamination, and cleanup cost estimates, these problems can be avoided.

NRC Response

Although the NRC is not convinced that petitioners' proposed amendments are essential to the efficient payment of stabilization, decontamination, and cleanup costs, petitioners' recommendations in this area are being proposed by the NRC because they are consistent with NRC policy as expressed in the August 5, 1987 rulemaking. As stated in that rulemaking (52 FR 28963 at 28970),

> Obviously, the NRC would not interpret a priority in so rigid a manner as to preclude prudent practices necessary to an orderly decontamination, such as equipment purchases, stabilization activities, etc. The decontamination priority was not meant to be applied sequentially in that all expenditures on cleanup would have to be made before any others. The priority has been worded to allow licensee flexibility, particularly after a reactor has been stabilized after an accident. Despite possible utility reluctance, the priority should be compatible with the broadest range of actions necessary to protect public health and safety. Further, the decontamination priority is meant to be invoked only when there would be serious concern over the availability of funds for decontamination.

The NRC has proposed modifying petitioners' suggested amendatory language so that NRC responsibilities and concerns are more clearly presented.

C. A change in the terminology of the required insurance from "property insurance" to "decontamination liability" insurance so as to better forestall claims to insurance proceeds by a licensee's bondholders and other possible creditors.

Petitioners' Concerns

Petitioners continue to believe that the NRC decontamination priority directly conflicts with indenture language that requires "property" insurance to be maintained for the benefit of those owning the indentures issued to finance the facility. To effect this requirement, bondholders are to be named the "loss payee" of any property insurance held on the bonded property. Thus, NRC's requirement for "property" insurance directly conflicts with provisions to protect bondholders' interests in the mortgage indentures. The insurers believe that this conflict places them in a position of having to choose to whom to pay the proceeds with the result that they will likely make any insurance proceeds payable jointly to the independent trustee representing the NRC interest in protecting public health and safety and the trustee representing bondholders' interests. Such action could result in extensive litigation and delay in cleanup.

Petitioners recommend a way out of this dilemma. They propose that NRC require "hybrid" insurance policies similar to those currently offered by NEIL–II. A hybrid policy combines a licensee's obligation to stabilize, decontaminate, and clean up its reactor facility with the physical damage loss coverage of traditional property insurance. Because the hybrid policy would incorporate a stabilization and decontamination priority in the amount required by the NRC and because bondholders would not be entitled to proceeds under the stabilization and decontamination obligation portion of the coverage, petitioners believe that claims would be paid for stabilization and decontamination expenses without being challenged by bondholders. Although this hybrid policy currently is in effect only for NEIL–II excess

[1] Primary insurance covering the first $500 million in damages is offered by NML or ANI/MAERP. Insurance in excess of the first $500 million in damages is offered by NEIL–II ($825 million) and ANI/MAERP ($400 million). One of the primary policies and both excess policies may be combined for total coverage of $1.725 billion. *NRC Response*

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coverage, representatives for ANI/MAERP and NML indicate that they would be willing to offer similar coverage.

NRC Response

NRC has been aware that a hybrid policy similar to that offered by NEIL–II would eliminate the potential problem of claims by bondholders against the stabilization and decontamination portion of insurance proceeds. NRC had been informed of this possibility in comments submitted in the 1984 rulemaking (see particularly comment number 12 from the NYC Bar, (49 FR 44645)). However, the NRC's expressed policy has been not to mandate the terms and conditions of insurance policies unless agreed to by insurers. At the time of the 1987 rulemaking it was not clear that insurers other than NEIL–II and perhaps NML would be willing to offer a hybrid policy. Further, NRC believed that the preamble of the 1987 rule made it clear that it was decontamination insurance that was being required, notwithstanding the general reference to "property" insurance. Thus, the NRC declined to require it explicitly.

However, because hybrid insurance polices now apparently will be available from all insurers and offer a reasonable likelihood of sheltering proceeds for stabilization and decontamination expenses from bondholders' claims, the NRC proposes to clearly require insurance to cover stabilization and decontamination of the reactor and the reactor station site. Hybrid policies discussed above would satisfy this requirement.

D. Rescission of the requirement that proceeds of the required insurance are to be paid to an independent trustee, who will disburse the proceeds for decontamination and cleanup of the facility before any other purpose.

Petitioners' Concerns

Petitioners believe that the trustee provision contained in 10 CFR 50.54(w)(4) is "unworkable, unnecessary, ineffective and will likely be counterproductive" (PRM–50–51A, p. 5.) (Other petitioners expressed similar thoughts.) According to petitioners, by requiring that insurance proceeds for decontamination and cleanup be disbursed by a bondholders' trustee, NRC is adding a further burden to an already complex process.

As explained in II.C. above, because of mortgage indenture provisions and because petitioners construe NRC as requiring "property" insurance, the independent trustee could be in conflict with the bondholders' trustee and might be reluctant to pay out funds for decontamination and cleanup until such conflict is resolved. Avoiding this conflict—one primary purpose for the trustee (i.e., to protect against claims by bondholders)—would be accomplished by NRC's requiring a hybrid policy.

In its comments, the NYC Bar indicated that it no longer recommends that NRC require an independent trustee. (The NRC relied extensively on NYC Bar's comments in the 1987 rulemaking.) Rather, a combination of the hybrid policy, explicit procedures for payment of claims, and recent decisions in bankruptcy cases may more effectively protect decontamination and cleanup expenses from competing claims. Short of bankruptcy, the hybrid insurance policy by itself will protect proceeds for use for stabilization, decontamination, and cleanup.

The NYC Bar believes, along with other petitioners, that insurance policy proceeds can be protected from claims of creditors in a bankruptcy or pre-bankruptcy situation if—

(1) the insurance policy contains a priority for the payment of decontamination expenses, (2) the policy provides coverage for decontamination expenses only as they are incurred, and (3) the policy requires the utility to use the proceeds received for payment of the decontamination expenses it has incurred. The utility would then have a contractual obligation to use the insurance proceeds for decontamination and not for other purposes. These restrictions should only apply to the extent necessary to protect public health and safety.

In a pre-bankruptcy situation, the licensee would be bound by the terms of its insurance contract. If the policy contains a decontamination priority, it will not be possible to divert the insurance proceeds to other purposes. In addition, if the policy so provided the proceeds for decontamination would not be payable until decontamination expenses were actually incurred, thus the licensee would need to make suitable arrangements for the work to be done before submitting its claim for insurance. Finally, once it were to receive the insurance proceeds, the licensee would be required by its contract to use the proceeds to pay the expenses which form the basis of its insurance claim.

In the post-bankruptcy situation, the trustee in bankruptcy or its equivalent may, subject to court approval, assume or reject executory contracts such as the insurance policy * * *. Once the trustee assumes the insurance contract (Since the trustee's right to receive up to $1.06 billion of insurance proceeds would depend upon an assumption of the contract, we regard it as unlikely that any trustee would reject it.), it too would be bound by the terms of the insurance agreement and would be required to use the insurance proceeds in a manner consistent with that agreement * * *. Creditors of the bankrupt licensee would have no claim on the insurance proceeds since the utility's right to the proceeds would be conditioned both on its incurring decontamination expenses and on its using the proceeds to pay the expenses which form the basis of its claim * * *. (We do not think, particularly in the pre-bankruptcy situation, that it is likely third party contractors would be concerned about reimbursement for work undertaken by them. As noted above, payment of the proceeds would be conditioned upon their use to pay the expenses on which the insurance claim is based. It is also likely that a licensee would assign its interest in the insurance proceeds to a contractor, in advance of the bankruptcy, in exchange for the contractor's agreement to perform the cleanup work. The assignment should effectively remove the insurance proceeds from the estate of the bankrupt.) (See comment number 36, 49 FR 44645, pp. 11–13. Parenthetical statements are footnotes in the original text.)

Petitioners also cite recent decisions by bankruptcy courts that tend to support the view that, notwithstanding the procedural remedies outlined above, expenditures to protect public health and safety would take priority over many other types of claims. In a memorandum attached to PRM–50–51A, petitioner argues that:

A debtor in possession or a trustee may make expenditures to comply with an agency's regulations or orders if the expenditure is necessary to comply with an action by the agency to enforce its police or regulatory power * * *. Agency enforcement actions to protect public health and safety or the environment constitute valid police powers, and such actions are exempt from the automatic statutory stay of proceedings against the debtor * * *. Moreover, the Supreme Court has made it clear that a debtor in possession or trustee may not abandon its obligations to comply with laws which are reasonably designed to protect public health or safety * * *. Proceeds of property insurance are normally part of the bankrupt estate and are treated like any other cash collateral. (Memorandum, pp. 2–3.)

Finally, petitioners maintain that it may be impossible to find someone to act as trustee. Petitioners have assured the NRC that they have made a good-faith effort to obtain trustees but have been unsuccessful. They believe that the reason for their lack of success is twofold. First, trustees with sufficient expertise and resources to manage over $1 billion in insurance proceeds are currently acting as bondholders' trustees. This situation results in a conflict of interest in which potential trustees would be ethically constrained from engaging. Second, trustees are apparently averse to assuming responsibility for disbursing potentially over $1 billion in insurance proceeds and the resulting exposure to possible litigation for wrongful disbursement. Because the trust would only be funded in the event of an accident and because

trustees' fees are usually based in part on the amount of assets under management, trustees would only be eligible for modest fees. These fees apparently would be insufficient to compensate trustees for the risk they believe they would be assuming.

NRC Response

The NRC has no evidence to contradict petitioners' assertions that they cannot find persons both willing and able to act as trustees. The NRC also acknowledges that in most, but perhaps not all, situations, the need for a trustee would be mitigated by using a hybrid insurance policy and by recent developments in bankruptcy case law.

At the same time, however, the NRC notes that, if the other proposed changes to 10 CFR 50.54(w) are adopted, some of the potential trustees' concerns should be reduced. For example, the hybrid policy, if it operates as petitioners suggest, would largely eliminate questions of whom to pay and thus should lower the risk of wrongful disbursement. Although for some potential trustees the problems of conflict of interest and inadequate fees would remain, the proposed changes might encourage others to assume the duties of trustee.

The NRC is not as sanguine as petitioners that recent developments in bankruptcy law have eliminated all likelihood of competing claims to insurance proceeds. For example, the recent decision of "In re Smith-Douglass, Inc." (Nos. 87–1683, –1684 (4th Circuit, September 6, 1988)) allowed unconditional abandonment of a hazardous waste site that violated State environmental laws because the estate had no unencumbered assets and the site did not pose any serious public health and safety risks. The court did indicate that it would have found differently if unencumbered assets were available. But the decision does raise again the issues of whether insurance proceeds would be considered unencumbered assets and whether a court would take it upon itself to decide what level of accident cleanup constitutes a "less-than-serious" public health and safety risk.

The NRC concludes that requiring an independent trustee to hold and disburse insurance proceeds may still be warranted in some circumstances. Nevertheless, given the reality of lack of trustee availability, the NRC proposes to eliminate, at least temporarily, the trustee requirement. The Commission retains the authority to impose such requirements in individual cases, if warranted. At the same time, the NRC will seek authority to receive and retain such funds itself. If the NRC obtains such authority, it will consider whether to exercise such authority and the best method of implementing such authority. The NRC may reinstitute the trusteeship requirement.

III. Level of Insurance

Although not raised by petitioners, the NRC staff believes that this rule should also address the issue of how much insurance should be required. Chairman Carr and Commissioner Rogers agree with the staff proposal and consequently request public comment on this issue.

In the 1987 rulemaking, the NRC concluded that it found no effective way to determine future costs of accident stabilization, decontamination, and cleanup other than by periodic updates of the study from which the current $1.06 billion requirement was derived.[2] The Commission believed that a general index of inflation such as the Consumer Price Index or even the Handy-Whitman construction cost index was too general for escalating the cost of accident cleanup. Subsequent to the 1987 amendments to 10 CFR 50.54(w), the Commission has issued its final decommissioning regulations (53 FR 24018, June 27, 1988). Those regulations, in part, adopted formulas for estimating decommissioning cost based on reactor size and type and future decommissioning costs based on a weighted index of three major decommissioning cost components—labor, energy, and waste burial costs. Inflation estimates for the labor and energy components will be derived from producer price indices published annually by the Bureau of Labor Statistics of the U.S. Department of Labor. Waste burial charge estimates will be derived from an NRC-published report.

Although decommissioning costs and accident cleanup costs are not strictly equivalent, many activities are common to both. The precise formula adopted for estimating future decommissioning costs may not be appropriate for accident cleanup costs; nevertheless, the staff concludes that the methodology used in the decommissioning inflation formula may be appropriate for accident cleanup inflation. Although no specific formula is being proposed at this time, Chairman Carr and Commissioner Rogers are requesting comments on the appropriateness of the methodology and any suggestions for the factors and weights that could be used.

IV. Environmental Assessment and Finding of No Significant Environmental Impact

If adopted, these proposed amendments would (1) clarify the sequence of events covered by required accident cleanup insurance during the period of stabilization and decontamination after an accident; (2) make explicit the requirement for a combined accident decontamination obligation and physical damage loss insurance policy; and (3) rescind the existing requirement that insurance proceeds be paid to and disbursed by an independent trustee. In addition, this notice of proposed rulemaking seeks comments on establishing a methodology for estimating future accident cleanup costs. This action is required to increase the effectiveness of the accident cleanup insurance required under 10 CFR 50.54(w) so that public health and safety is not adversely affected during the cleanup process. The alternative to this action is to maintain the existing rule without change.

Neither this action nor its alternative has any significant impact on the environment. Although changes in insurance requirements may affect the financial arrangements of licensees and may have economic and social consequences, they will not, if adopted, alter the environmental impact of the licensed activities. The alternative to the proposed action likewise would not have any significant impact on the environment. Accordingly for the foregoing reasons, the Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement is not required. No other agencies or persons were contacted for this proposed action, and no other documents related to the environmental impact of this proposed action exist. The foregoing constitutes the environmental assessment and finding of no significant impact for this proposed rule.

V. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule will be submitted to the Office of Management and Budget for review and

[2] "Technology, Safety and Costs of Decommissioning Reference Light Water Reactors Following Postulated Accidents," (NUREG/CR–2601) Pacific Northwest Laboratory, November 1982. This report is available for purchase from the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082.

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approval of the paperwork requirements.

VI. Regulatory Analysis

On August 5, 1987, the NRC published in the Federal Register (52 FR 28963) a final rule amending 10 CFR 50.54(w). The rule increased the amount of onsite property damage insurance required to be carried by NRC's commercial power reactor licensees. The rule also required these licensees to obtain insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the 1987 rule, the NRC received three petitions for rulemaking that sought clarification of the stabilization and decontamination priority provisions and rescission of the trusteeship provision. The petitions further stated that the trusteeship provisions may actually have an effect counter to their intended purpose by delaying the payment of claims and thus possibly the cleanup process. The proposed rule developed in response to the petitions for rulemaking should help clarify the mechanism by which accident cleanup funds may be assured to be used for their intended purpose. Even without formal stabilization and decontamination priority and trusteeship provisions, NRC has authority to take appropriate enforcement action to order cleanup in the unlikely event of an accident.

Chairman Carr and Commissioner Rogers request public comment on the appropriateness and need for developing formulas that would both base the required amountof accident cleanup insurance on reactor size and type and establish a mechanism for changing future insurance amounts to reflect changes in major accident cleanup cost components. Although the effect of these formulas, if developed and adopted, would be to increase the required amount of insurance for some licensees, there should be little impact on insurance costs to licensees because almost all licensees buy the maximum amount of insurance available. Additionally, by rescinding the trusteeship requirement, the Commission would be eliminating licensees' costs to obtain trustee services. Thus, the proposed rule will not create substantial costs for licensees.

The proposed rule will not have significant impacts on state and local governments and geographical regions, on the environment, or create substantial costs to the NRC or other Federal agencies. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

VII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant impact upon a substantial number of small entities. The proposed rule affects approximately 113 power reactor licenses. None of the holders of these licenses could be considered small entities.

VIII. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule because the proposed rule, if adopted, would not impose a backfit as defined in § 50.109(a)(1). Therefore, a backfit analysis is not required for this proposed rule.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 50.

PART 50— DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec.234, 83 Stat. 1224, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201 as amended, 202, 206, 68 Stat. 1242, as amended 1244, 1246 (42 U.S.C. 5841, 5842, 5846). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13 and 50.54(dd) also issued under Sec. 108, 68 Stat. 939 as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 through 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955(42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.46(a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.7(a), 50.10 (a)–(c), 50.34 (a) and (e), 50.44 (a)–(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54 (a), (i), (i)(1), (1)–(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a (a),(c)–(s), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h), and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71 (a)–(c) and (e), 50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.54 is amended by revising paragraph (w) to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(w) Each electric utility licensee under this part for a production or utilization facility of the type described in § 50.21(b) or § 50.22 shall take reasonable steps to obtain insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the licensee's obligation, in the event of an accident at the licensee's reactor, to stabilize and decontaminate the reactor and the reactor station site at which the reactor experiencing the accident is located, Provided that:

(1) The insurance required by paragraph (w) of this section must have a minimum coverage limit for each reactor station site of either $1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. The required insurance must clearly state that, as and to the extent provided in paragraph (w)(4) of this section, any proceeds must be payable first for stabilization of the reactor and next for decontamination of the reactor and the reactor station site. If a licensee's coverage falls below the required minimum, the licensee shall within 60 days take all reasonable steps to restore its coverage to the required minimum. The required insurance may, at the option of the licensee, be included within policies that also provide coverage for other risks, including, but not limited to, the risk of direct physical damage.

(2)(i) With respect to policies issued or annually renewed on or after [insert a date one year after the effective date of the rule] the proceeds of such required insurance must be dedicated, as and to the extent provided in this paragraph, to reimbursement or payment on behalf of the insured of reasonable expenses incurred or estimated to be incurred by the licensee in taking action to fulfill the licensee's obligation, in the event of an accident at the licensee's reactor, to ensure that the reactor is in, or is returned to, and maintained in, a safe and stable condition and that radioactive contamination is removed or controlled such that personnel exposures are consistent with the occupational exposure limits in 10 CFR part 20. These actions must be consistent with any other obligation the licensee may have under this chapter and must be subject to paragraph (w)(4) of this section. As used in this section, an "accident" means an event that involves the release of radioactive material from its intended place of confinement within the reactor or on the reactor station site such that there is a present danger of release offsite in amounts that would pose a threat to public health and safety.

(ii) The stabilization and decontamination requirements set forth in paragraph (w)(4) of this section must apply uniformly to all insurance policies required under paragraph (w) of this section.

(3) The licensee shall report to the NRC on April 1 of each year the current levels of this insurance or financial security it maintains and the sources of this insurance or financial security.

(4)(i) In the event of an accident at the licensee's reactor, whenever the estimated costs of stabilizing the licensed reactor and of decontaminating the reactor and the reactor station site exceed $100 million, the proceeds of the insurance required by paragraph (w) of this section must be dedicated to and used, first, to ensure that the licensed reactor is in, or is returned to, and can be maintained in, a safe and stable condition so as to prevent any significant risk to public health and safety and, second, to decontaminate the reactor and the reactor station site in accordance with the licensee's cleanup plan as approved by order of the Director of the Office of Nuclear Reactor Regulation. This priority on insurance proceeds shall remain in effect for 60 days or, upon order of the Director, for such longer periods, in increments not to exceed 60 days except as provided for activities under the cleanup plan required in paragraphs (w)(4) (iii) and (iv), as the Director may find necessary to protect the public health and safety. Actions needed to bring the reactor to and maintain the reactor in a safe and stable condition may include one or more of the following, as appropriate:

(A) Shutdown of the reactor;

(B) Establishment and maintenance of long-term cooling with stable decay heat removal;

(C) Maintenance of sub-criticality;

(D) Control of radioactive releases; and

(E) Securing of structures, systems, or components to minimize radiation exposure to onsite personnel or to the offsite public or to facilitate later decontamination or both.

(ii) The licensee shall inform the Director of the Office of Nuclear Reactor Regulation in writing when the reactor is and can be maintained in a safe and stable condition so as to prevent any significant risk to the public health and safety. Within thirty (30) days after the licensee informs the Director that the reactor is in this condition, or at such earlier time as the licensee may elect or the Director may for good cause direct, the licensee shall prepare and submit a cleanup plan for the Director's approval. The cleanup plan must identify and contain an estimate of the cost of each cleanup operation that will be required to decontaminate the reactor sufficiently to permit the licensee either to resume operation of the reactor or to apply to the Commission under § 50.82 of this part for authority to decommission the reactor and to surrender the license voluntarily. Cleanup operations may include one or more of the following, as appropriate:

(A) Processing any contaminated water generated by the accident and by decontamination operations to remove radioactive materials;

(B) Decontamination of surfaces inside the auxiliary and fuel handling buildings and the reactor building to levels consistent with the Commission's occupational exposure limits in 10 CFR part 20, and decontamination or disposal of equipment;

(C) Decontamination or removal and disposal of internal parts and damaged fuel from the reactor vessel; and

(D) Cleanup of the reactor coolant system.

(iii) Following review of the licensee's cleanup plan, the Director will order the licensee to complete all operations that the Director finds are necessary to decontaminate the reactor sufficiently to permit the licensee either to resume operation of the reactor or to apply to the Commission under § 50.82 for authority to decommission the reactor and to surrender the license voluntarily. The Director shall approve or disapprove, in whole or in part for stated reasons, the licensee's estimate of cleanup costs for such operations. Such order may not be effective for more than 1 year, at which time it may be renewed. Each subsequent renewal order, if imposed, may be effective for not more than 6 months.

(iv) Of the balance of the proceeds of the required insurance not already expended to place the reactor in a safe and stable condition pursuant to paragraph (w)(2)(i) of this section an amount sufficient to cover the expenses of completion of those decontamination operations that are the subject of the Director's order shall be dedicated to such use. Provided that, upon certification to the Director of the amounts expended previously and from time to time for stabilization and decontamination and upon further certification to the Director as to the sufficiency of the dedicated amount remaining, policies of insurance may provide for payment to the licensee or other loss payees of amounts not so dedicated, and the licensee may proceed to use in parallel (and not in preference thereto) any insurance proceeds not so dedicated for other purposes.

* * * * *

Dated at Rockville, Maryland, this 27th day of October, 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89–25606 Filed 11–3–89; 8:45 am]

BILLING CODE 7590-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AE25

Exchange Rates for Foreign Currencies

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations to establish a procedure for converting foreign currencies into U.S. dollar equivalents. This action is necessary because some beneficiaries receive income, or pay expenses affecting their entitlement, in foreign currencies. The intended effect

of this amendment is to establish a regulatory method for calculating the rates or amounts due those beneficiaries.

DATES: Comments must be received on

accrued benefits as reimbursement from the person who bore the expenses of a deceased beneficiary's last illness or burial, we propose to use the rate for the quarter in which the expenses were paid

(3) It will not have significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

of the claim were paid. If the claim is filed by an unpaid creditor, however, the quarterly rate for the quarter in which the veteran died shall apply. When entitlement originates during a quarter

Reilly, No. C826850 RPA, northern district of California). A settlement agreement was negotiated between the EPA and the plaintiffs which the court

SUMMARY: On April 6, 1988, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (53 FR 11440) advising

of this amendment is to establish a regulatory method for calculating the rates or amounts due those beneficiaries.

DATES: Comments must be received on or before December 6, 1989. Comments will be available for public inspection until December 16, 1989. This change is proposed to be effective 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Service Unit, room 132, at the above address and only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 18, 1989.

FOR FURTHER INFORMATION CONTACT: Donald England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration (202) 233-3005.

SUPPLEMENTARY INFORMATION: Under the income-based programs administered by VA, benefit amounts are determined according to formulas which allow adjustments to countable income based on medical expenses paid by the claimant. The amounts payable for burial, plot and headstone allowances, or for claims filed by someone other than a surviving spouse or dependent child for accrued benefits due a deceased beneficiary, are determined from the amount of expenses borne by the claimant. Entitlement to these benefits is calculated assuming that all financial transactions are in U.S. dollars, but some beneficiaries living outside of the United States receive income, or pay expenses, in the currency of the country in which they reside. We are proposing a method for converting income received or expenses paid in a foreign currency into U.S. dollar equivalents for the purpose of determining entitlement to VA benefits.

We propose to perform these calculations using quarterly exchange rates established by the Department of the Treasury. The quarterly Treasury rates are averages of daily rates obtained from State Department disbursing officers, and the rates are available to the public. We propose to implement this procedure by adding new § 3.32 to Title 38, Code of Federal Regulations.

In claims for burial, plot and headstone allowances and claims for accrued benefits as reimbursement from the person who bore the expenses of a deceased beneficiary's last illness or burial, we propose to use the rate for the quarter in which the expenses were paid or, if the claim is filed by an unpaid creditor, for the quarter in which the veteran died. In any claim where entitlement originated during a quarter for which an exchange rate has not yet been published, the most recent quarterly rate would be used.

Since exchange rates fluctuate and cannot be predicted in advance, the most recent quarterly exchange rate would also be used to project payment rates in improved pension or parents' dependency and indemnity compensation (DIC) claims. Retroactive adjustments required by fluctuations in exchange rates would be performed annualy when the Eligibility Verification Report (EVR) is submitted and would be calculated using the exchange rate obtained by averaging the four most recent quarterly rates. Unusual medical expenses may be reported up to one year after the close of an EVR period, and adjustments to prior EVR periods would be calculated using the average of the four quarterly rates which were the most recent available as of the closing date of the twelve-month EVR period in question.

This method was chosen because it minimizes the administrative burdens as well as the complexity of the mathematical computations involved. Although other methods, such as one using daily bank rates, were considered, they are not being proposed because they would impose unreasonable administrative burdens while offering little or no additional benefit to claimants.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.104, 64.105 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pension, Veterans.

Approved: October 13, 1989.

Edward J. Derwinski,

Secretary.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is proposed to be amended by adding § 3.32 to read as follows:

§ 3.32 Exchange rates for foreign currencies.

When determining the rates of pension or parents' DIC or the amounts of burial, plot or headstone allowances or accrued benefits to which a claimant or beneficiary may be entitled, income received, or expenses paid, in a foreign currency shall be converted into U.S. dollar equivalents employing quarterly exchange rates established by the Department of the Treasury.

(a) *Pension and parents' DIC.* (1) Because exchange rates for foreign currencies cannot be determined in advance, rates of pension and parents' DIC shall be projected using the most recent quarterly exchange rate and shall be adjusted retroactively based upon actual exchange rates when an annual eligibility verification report is filed.

(2) Retroactive adjustments due to fluctuations in exchange rates shall be calculated using the average of the four most recent quarterly exchange rates. If the claimant reports income and expenses for a prior reporting period, the retroactive adjustment shall be calculated using the average of the four quarterly rates which were the most recent available on the closing date of the twelve-month period for which income and expenses are reported.

(b) *Burial, plot or headstone allowances and accrued benefits.* Payment amounts for burial, plot or headstone allowances and claims for accrued benefits as reimbursement from the person who bore the expenses of a deceased beneficiary's last illness or burial shall be determined using the quarterly exchange rate for the quarter in which the expenses forming the basis of the claim were paid. If the claim is filed by an unpaid creditor, however, the quarterly rate for the quarter in which the veteran died shall apply. When entitlement originates during a quarter for which the Department of the Treasury has not yet published a quarterly rate, amounts due shall be calculated using the most recent quarterly exchange rate.

(Authority: 38 U.S.C. 210(c))

Cross-References: *Accrued benefits.* See § 3.1000. *Accrued benefits payable to foreign beneficiaries.* See § 3.1006.

[FR Doc. 89-25995 Filed 11-3-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-3678-3]

Assessment of Visibility Impairment; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of comment period extension.

SUMMARY: This notice extends for 30 days the initial comment period for the proposed visibility regulations published on September 5, 1989 (54 FR 36964). The EPA is extending the deadline at the request of the Salt River Project, the operator and joint owner of Navajo Generating Station (NGS)—one of the sources potentially affected by the proposed regulations.

DATES: The public comment period will now end on December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Denise Scott at telephone number (919) 541-0870 or FTS 629-0870.

SUPPLEMENTARY INFORMATION: On December 2, 1980, EPA promulgated required visibility regulations (45 FR 80084 codified at 40 CFR 51.300 et seq.). Among other things, these regulations required 36 States listed in § 51.300(b) to develop a program to assess and remedy visibility impairment from new and existing sources. For various reasons, most of these States, including Maine, Arizona, and Utah, failed to submit revised State implementation plans (SIP's) to EPA addressing visibility protection in Class I areas. In December of 1982, the Environmental Defense Fund and other environmental groups sued EPA for failing to promulgate Federal implementation plans (FIP's) for the 35 affected States which failed to submit revised SIP's to EPA (*EDF* v. *Reilly*, No. C826850 RPA, northern district of California). A settlement agreement was negotiated between the EPA and the plaintiffs which the court approved by order on April 20, 1984. This agreement placed EPA on a schedule to promulgate FIP's for the affected States. Among other things, EPA was required to address certified visibility impairments in seven Class I areas. The settlement agreement was revised several times, most recently by court order dated July 6, 1988, in order to allow EPA time to collect and analyze data on the visibility impairments in these Class I areas. On September 5, 1989, EPA proposed actions for three Class I areas. In the September 5, 1989 Federal Register notice, EPA proposed not to revise the regulations for the States of Maine and Utah to address visibility impairments in Moosehorn Wilderness and Canyonlands National Park. Also in this notice, EPA proposed to attribute a significant portion of the visibility impairment observed during the winter months in Grand Canyon National Park to the NGS. The settlement agreement requires proposal of new emission limits for NGS by February 1, 1990.

The Salt River Project, which operates the NGS, has filed a motion with the court to delay the present deadlines. A court hearing on the motions is scheduled for November 9, 1989. In order to provide comments following the court hearing, the Salt River Project requested a 30-day extension of the comment period. The EPA is granting Salt River Project's request for a comment period extension to December 6, 1989.

Dated: November 1, 1989.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 89-26106 Filed 11-3-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 174

[CGD 87-094]

RIN 2115-AC87

Dry Cargo Ship Subdivision and Damage Stability Regulations

AGENCY: Coast Guard, DOT.

ACTION: Advance Notice of Proposed Rulemaking; reporting of the comment period.

SUMMARY: On April 6, 1988, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) in the Federal Register (53 FR 11440) advising the public that the Coast Guard was considering regulations to require new, oceangoing, foreign and domestic cargo ships greater than 330 feet (100 meters) in length and of 500 gross tons or over entering U.S. ports to meet a minimum standard of subdivision and damage stability. Draft regulations were included as an appendix and public comment was solicted. Since the publication of the ANPRM, the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO), revised the draft standard proposed by the IMO Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF), which was the basis for the Coast Guard's draft regulations. The Coast Guard is revising its draft regulations to conform to the proposed international standard and is reopening the comment period of the ANPRM.

DATES: Comments on this revision to the advance notice must be received on or before January 5, 1990.

ADDRESSES: Comments should be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600), (CGD 87-094), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001. The comments and materials referenced in this notice will be available for examination and copying between 8 a.m. and 3 p.m., Monday through Friday, except holidays, at the Marine Safety Council, Room 3600, Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Randall R. Gilbert, Office of Marine Safety, Security, and Environmental Protection (G-MTH-3/13), Room 1308, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202) 267-2988.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice as CGD 87-094 and the specific sections of the proposal to which their comments apply, and give reasons for the comments. If acknowledgment of receipt of a comment is desired, a stamped self-addressed postcard or envelope should

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be enclosed. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Informing

The principal persons involved in the drafting of this proposal are Lieutenant Randall R. Gilbert, Project Manager, Office of Marine Safety, Security, and Environmental Protection, and Lieutenant Commander Don M. Wrye, Project Attorney, Office of Chief Counsel.

Discussion

The United States has been pressing for an international agreement on Dry Cargo Ship Subdivision since the 1960 SOLAS Convention. In 1985, the MSC instructed the SLF technical sub-committee to develop a subdivision and damage stability standard based on the probabilistic analysis method. The SLF draft standard was studied by all countries for two years. At the SLF meeting in September 1987 (SLF 32), the SLF draft standard was agreed upon and sent to the MSC for their review of the level of subdivision which should be required. In April 1988, shortly after the ANPRM was published, the MSC approved publication of the SLF draft standard and circulated it for one year in order to gain experience so the level of the required subdivision index (the "R" formula) could be determined.

The SLF standard was studied, and many countries, including the United States, submitted results of their calculations to the MSC so they could set the level of required subdivision and finalize the regulations. At the MSC meeting in April 1989 (MSC 57) there were detailed discussions concerning the level of safety indicated by the "R" formula, particularly for certain ships with difficulties in meeting the safety level which is represented by the "R" formula. An alternative formula was adopted which was just slightly lower than the formula published in the ANPRM on April 6, 1988.

This notice reflects changes to the SLF draft standard, which have been made and approved by the IMO Maritime Safety Committee, and which will be referred to now as the IMO standard. The IMO standard is now being circulated as a draft amendment to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 74/83), and is scheduled to be adopted in May 1990. If adopted as an amendment to SOLAS 74/83, the IMO standard would apply to oceangoing dry cargo vessels greater than 330 feet (100 meters) in length and 500 gross tonnage or over constructed on or after February 1, 1992.

The purpose of reopening this ANPRM is to solicit comments on both the technical merits and the probable economic effect of the revised Required Subdivision Index formula. Comments from the maritime community and any other interested parties are requested. All comments received will be considered in preparing the Notice of Proposed Rulemaking.

Specific Change to the Draft Regulations

Appendix 2—Draft Rules for the Subdivision and Damage Stability of Dry Cargo Ships

The Required Subdivision Index formula ("the 'R' formula") in Regulation 3 of the SLF draft standard published as Appendix 1 to the ANPRM, and in § XXX.210 in the Coast Guard's draft regulations published as Appendix 2 to the ANPRM, was as follows:

$$R = (C_1 + C_2 L_s)^{1/3}$$

where:
$C_1 = 0.0$
$C_2 = 0.0003048$, if L_s is in feet
$C_2 = 0.001$, if L_s is in meters

The amendment to the draft standard revises the coefficients C_1 and C_2 to read as follows:

$C_1 = 0.002$
$C_2 = 0.000274$, if L_s is in feet
$C_2 = 0.0009$, if L_s is in meters

The complete IMO standard, as amended, is detailed in MSC 57/WP.17, a copy of which may be obtained by contacting the person identified in **"FOR FURTHER INFORMATION CONTACT"** above. The setting of the Required Subdivision Index formula is the only significant change to the SLF draft standard published as Appendix 1 in the ANPRM. The other changes are either editorial in nature or add sections concerning the maintaining of the watertight integrity of the ship and its bulkheads.

Dated: September 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Maine Safety, Security and Environmental Protection.

[FR Doc. 89-26066 Filed 11-3-89; 8:45 am]
BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-93, RM-6372]

Radio Broadcasting Services; Imboden, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Jim Atkinson, requesting the allotment of Channel 289A to Imboden, Arkansas. See 54 FR 16557, May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 89-93, adopted September 29, 1989, and released October 30, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26066 Filed 11-3-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-583, RM-6429]

Radio Broadcasting Services; Meeker, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by James H. Hicks, requesting the allotment of Channel 233A to Meeker, Colorado. See 54 FR 01196, January 3, 1989. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 88-583, adopted September 29, 1989, and released October 30, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26065 Filed 11-3-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-469, RM-6815]

Radio Broadcasting Services; Naples Park and Solana, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Wodlinger Broadcasting of Naples Inc., licensee of Station WIXI(FM), Channel 288A at Naples Park, Florida, proposing the substitution of Channel 288C3 for Channel 288A at Naples Park and modification of its license to specify operation on the higher class co-channel. In order to accomplish the Naples Park substitution, the substitution of Channel 285A for Channel 287A at the current site of the construction permit (BPH-880827MB) at Solana, Florida, is required. The coordinates for Channel 288C3 at Naples Park are North Latitude 28-13-56 and West Longitude 81-45-10, and the coordinates for Channel 285A at Solana are North Latitude 26-50-41 and West Longtitude 82-02-15. We are herein issuing Wayne L. Dilucente, permittee of construction permit (BPH-880827MB) at Solana, Florida, an *Order to Show Cause* regarding the proposal to change his channel.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20544.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Michael R. Miller, Southmayd, Powell & Taylor, 1764 Church Street, NW. Washington, DC 20036 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-469, adopted October 6, 1989, and released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26062 Filed 11-3-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-466, RM-6906]

Radio Broadcasting Services; Oil City, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Stephen M. Olszowka seeking the allotment of Channel 242A to Oil City, Pennsylvania, as the community's second local FM service. Channel 242A can be allotted to Oil City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 41-25-30 and West Longitude 79-42-24. Canadian concurrence is required since Oil City is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Stephen M. Olszowka, WKQW Radio, 234 Elm Street, P.O. Box 1222, Oil City, Pennsylvania 16301 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-466, adopted October 6, 1989, and released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26061 Filed 11-3-89; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-467, RM-7092]

Radio Broadcasting Services; Fairfield, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Fairfield Broadcast Partners, requesting the substitution of FM Channel 228C3 for Channel 227A at Fairfield, Maine, and modification of its construction permit to specify the new channel. Canadian concurrence will be obtained for this allotment. The coordinates for Channel 228C3 are 44-45-00 and 69-41-15.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Smithwick and Belendiuk, P.C., 2033 M Street NW., Suite 207, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Proposed Rule Making, MM Docket No. 89-467, adopted October 6, 1989, and released October 31, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26083 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-468, RM-6869]

Radio Broadcasting Services; Aberdeen, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Tenn-Tom Broadcasting Corp. proposing the substitution of FM Channel 287C3 for Channel 287A at Aberdeen, Mississippi. Petitioner also requested modification of its license for Station WWZQ-FM, Channel 287A, to specify operation on Channel 287C3. The coordinates for Channel 287C3 are 33-50-20 and 88-18-30.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jim Buffington, President, Tenn-Tom Broadcasting Corp., P.O. Box 1240, Aberdeen, Mississippi 39730.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-468, adopted October 6, 1989, and released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26084 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-465, RM-6905]

Radio Broadcasting Services; Norwich, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Craig L. Fox seeking the allotment of Channel 237A to Norwich, New York, as the community's second local FM service. Channel 237A can be allotted to Norwich in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) south to avoid a short-spacing to unoccupied but applied for Channel 235B at Frankfort, New York. The coordinates for this allotment are North Latitude 42-28-39 and West Longitude 75-33-55. Canadian concurrence is required since Norwich is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 9, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Craig L. Fox, 1213 Madison Street, Syracuse, New York, 13210-2027 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-465, adopted October 6, 1989, and released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26079 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-420, RM-6845]

Radio Broadcasting Services; Brockport, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Commission corrects the Notice of Proposed Rule Making proposing the allotment of a second local FM service to Brockport, New York, by amending the class of Channel 288 to specify Class A rather than the incorrect Class B1. This proceeding was initiated at the request of John Rosenkrans.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the commission's Erratum MM Docket No. 89-420, released October 31, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26080 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-No. 41)]

Practices of Motor Common Carriers of Household Goods; Limitations of Liability

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to revise its regulation at 49 CFR Part 1056 to permit motor common carriers of household goods to file released rates that will limit their liability for loss or damage to items of "extraordinary" or "unusual" value under certain circumstances.

The present rule at 49 CFR Part 1056.12, which restricts a household goods mover's ability to limit its cargo liability, was prescribed in *Practices of Motor Common Carriers of Household Goods (Limitations of Liability)*, 124 M.C.C. 395 (1976), *aff'd. sub nom. Household Goods Carriers' Bureau* v. *I.C.C.*, 584 F.2d 437 (D.C. Cir. 1978) to protect the interests of consumers and to eliminate the ambiguities surrounding the application of the term "extraordinary" value by household goods movers. Adoption of the proposed rule would require shippers to list all items of extraordinary value or be subject to a reduction in payment of claims.

DATES: Comments are due on December 6, 1989.

ADDRESSES: Send comments (an original and 10 copies) referring to Ex Parte No. MC-19 (Sub-No. 41) to: Interstate Commerce Commission, Office of the Secretary, Case Control Branch, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Heber P. Hardy (202) 275-7148

or

John W. Fristoe (202) 275-7844 [TDD for hearing impaired (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to the Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street and Constitution Ave., NW., Washington, DC 20423, or call (202) 275-7428 [assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters].

Energy and Environmental Considerations

We preliminarily conclude that the proposed rule revision will not affect significantly either the quality of the human environment or the conservation of energy resources

Regulatory Flexibility Analysis

We preliminarily conclude that this action will not have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1056

Moving of household goods, Consumer protection.

Decided: October 27, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1056 of the Code of Federal Regulations is proposed to be amended as follows:

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PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. The authority citation for part 1056 continues to read as follows:

Authority: 49 U.S.C. 10321, 11109, and 11110; and 5 U.S.C. 553.

§ 1056.12 [Amended]

2. Section 1056.12 is proposed to be amended in paragraph (b) introductory text by substituting the word "instances" for the word "instance" in the last line of the introductory text and by adding a new paragraph (b)(2) to read as follows:

§ 1056.12 Liability of carriers.

* * * * *

(b) * * *

(2) Liability for loss of or damage to articles of extraordinary value may be limited to the declared value per pound for each pound of the lost or damaged article, unless the shipper specifically identifies in writing to the carrier that any currency, coin, precious metals, precious or semiprecious stones or gems, furs or fur garments, antiques, rare collectible items, computer software programs, and manuscripts or other rare documents, or other articles, not listed above, that have a value per pound of $100.00 or more, will be included in a shipment.

* * * * *

[FR Doc. 89-26069 Filed 11-3-89; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 54, No. 213
Monday, November 6, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-89-018]

Notice of Public Hearing Regarding the Conway and Loris, South Carolina, Tobacco Markets; Cancellation

ACTION: Notice of Cancellation.

SUMMARY: This notice announces the cancellation of the notice of public hearing previously published in the Federal Register October 24, 1989, (54 FR 43308) scheduled to be held at Conway, South Carolina, on November 7, 1989, to consider an application to consolidate the two markets. This action is taken at the request of the applicants.

Dated: November 2, 1989.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 89-26223 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

1989 Crop Soybeans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determinations with respect to 1989 Crop Soybeans.

SUMMARY: The purpose of this notice is to affirm the announcement that the level of price support for the 1989 soybean crop is $4.53 per bushel. This announcement is made pursuant to section 201(i) of the Agricultural Act of 1949, as amended (the "1949 Act"). In accordance with section 1009 of the Food Security Act of 1985, as amended, any determinations with respect to implementation of cost reduction options will be made at a later date.

EFFECTIVE DATE: September 22, 1989.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Commodity Analysis Division, ASCS-USDA, P.O. Box 2415, Washington, DC 20013, Telephone (202) 447-4417. An impact analysis has been prepared and is available from the above named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under Department of Agriculture procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 1017 of the Food Security Act of 1985 provides that the Secretary of Agriculture shall determine the rate of loans, payments and purchases under a program established under the Agricultural Act of 1949 (the "1949 Act") for any of the 1986 through 1990 crops without regard to the requirements for notice and public participation. Accordingly, public comments are not required with respect to the level of loans and purchases under the price support program for the 1989 crops of soybeans.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation is not required by 5 U.S.C. or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Section 201(i)(1)(A) of the 1949 Act provides that the price of soybeans for each of the 1986 through 1990 marketing years shall be supported through loans and purchases. Section 201(i)(1)(B) provides that the support price for the 1986 and 1987 crops of soybeans shall be $5.02 per bushel. Section 201(i)(1)(C) provides that the support price for each of the 1988 through 1990 crops shall be established at a level equal to 75 percent of the simple average price received by producers for soybeans in the preceding 5 marketing years excluding the years with highest and lowest prices, except that the level of support may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel. Calculating 75 percent of the simple average market price received by producers for soybeans for the 5 marketing years preceding the 1989 marketing year, excluding the years with the highest and lowest prices, results in a price of $4.19 per bushel. Since this price is more than 5 percent below the level of price support established for the preceding crop of soybeans (i.e. $4.77 per bushel), prior to any adjustments, the level of support for the 1989 crop of soybeans using this formula is $4.53.

If the Secretary of Agriculture determines in accordance with section 201(i)(2) that the price support level for soybeans determined for a marketing year would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the price support level for soybeans by the amount the Secretary determines necessary to maintain domestic and export markets for soybeans, except that the price support level cannot be reduced by more than 5 percent in any year nor below $4.50 per bushel. Any reduction made in accordance with section 201(i)(2) in the price support level for soybeans shall not be considered in determining the price support level for soybeans for subsequent years.

Section 201(i)(5) of the 1949 Act provides that the Secretary shall make a preliminary announcement of the level of price support for a crop of soybeans not earlier than 30 days prior to September 1, the beginning of the soybean marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement is applicable.

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Since the final level of support cannot be less than that of the preliminary announcement, and the preliminary level of support has not been reduced, the preliminary and final levels of price support for the 1989-crop of soybeans are both established at $4.53 per bushel.

Section 201(i)(3) of the 1949 Act provides that, if the Secretary determines that such action will assist in maintaining the competitive relationship of soybeans in domestic and export markets after taking into consideration the cost of producing soybeans, supply and demand conditions, and world prices for soybeans, the Secretary may permit a producer to repay a loan for a crop at a level that is the lesser of (1) the announced loan level for such crop or (2) the prevailing world market price for soybeans, as determined by the Secretary. If the Secretary permits a producer to repay a loan as described above, the Secretary shall prescribe by regulation (1) a formula to define the prevailing world market price for soybeans and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for soybeans.

Section 1009(a) of the Food Security Act of 1985 provides that, whenever the Secretary determines that an action authorized by section 1009 (c), (d) or (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small and medium sized producers participating in such programs, the Secretary shall take such action with respect to that commodity program. These actions include: (1) The commercial purchases of commodities by the Secretary; (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount and accumulated interest, but not less than the principal amount, if such action will result in: (A) Receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, and (C) elimination of storage, handling and carrying charges on the forfeited loan collateral; and (3) the reopening of a production control or loan program established for a crop at any time prior to harvest of such crop for the purpose of accepting bids from producers for the conversion of acreage planted to a program crop to diverted acreage in return for in-kind payments if the Secretary has determined that: (1) Changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop and (2) without action to further adjust production, the Federal Government and producers will be faced with a burdensome and costly surplus. Such payments are not subject to the maximum payment limitation provision of section 1001 of the Food Security Act of 1985 but are limited to $20,000 per year per producer for any one commodity.

A press release was issued on August 29, 1989, which made an announcement of the loan and purchase level for the 1989 crop of soybeans of $4.53 per bushel. Since the level of support has not been reduced, this establishes the preliminary and final announcement of loan and purchase level for the 1989 crop of soybeans. The purpose of this notice is to affirm that determination.

Determinations

A. Loan and Purchase Level

The announcement with respect to the price support level for the 1989 crop of soybeans is that it shall be $4.53 per bushel.

B. Cost Reduction Options

The decision to implement any cost reduction will be made at a later date.

Authority: Section 201 of the Agricultural Act of 1949, as amended, 63 Stat. 1052, as amended (7 U.S.C. 1446(i)).

Signed at Washington, DC, on October 31, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-26103 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 24-89]

Foreign-Trade Zone 70, Detroit, Michigan; Application for Subzone Alps Auto Parts Plant, Auburn Hills, MI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, requesting special-purpose subzone status for the testing and distribution facility of Alps Electric (USA), Inc., (Alps) (a subsidiary of Alps Electric Company, Ltd., Japan) located in Auburn Hills, Michigan, adjacent to the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 27, 1989.

The Alps facility (10 acres) is located at 1500 Atlantic Boulevard in Metro North Technology Park, Auburn Hills, Michigan, some 20 miles north of Detroit. The facility is used for the storage and distribution as well as testing of electronic components for automobiles, such as electro-mechanical switches and resistors. Most of the components are shipped to U.S. auto assembly plants.

Zone procedures would exempt Alps from Customs duty payments on merchandise that is reexported. On shipments into the Customs territory, Alps would pay duties at the rate on components (3.1 to 6.0 percent). Shipments to U.S. auto assembly plants with subzone status would qualify for the duty rate that applies to autos (2.5 percent), as if the components had been shipped directly from abroad. The application indicates that subzone status will help Alps compete with foreign facilities that ship products directly to U.S. auto subzones.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; William L. Morandini, District Director, U.S. Customs Service, North Central Region, 2nd Floor, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226; and Colonel John D. Glass, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 18, 1989.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Room 565, 1140 McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2835, Washington, DC 20230

Dated: October 31, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-26131 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-427-001]

Sorbitol From France; Preliminary Results of Antidumping Duty; Administrative Review

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In reponse to a request by a manufacturer/exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on sorbitol from France. The review covers the one known manufacturer/exporter of this merchandise to the United States and the period April 1, 1987 through March 31, 1988. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Robin Gray or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-1130/3601.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 21506) the final results of its last administrative review of the antidumping duty order on sorbitol from France (47 FR 15391, April 9, 1982). Roquette Freres requested in accordance with 19 section 353.53a(a) (1988) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation on May 23, 1988 (54 FR 18324). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

On September 19, 1988, Roquette Freres asked for revocation from the antidumping duty order and agreed to reinstatement of the order should the Department find future sales at margin. Pursuant to § 353.25 of the Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.25), we preliminarily determine that Roquette Freres does not qualify for revocation because it has not demonstrated at least three consecutive years of sales at not less than foreign market value.

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of French crystalline sorbitol. Crystalline sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is used in the production of sugarless gum, candy, groceries, and pharmaceuticals. During the review period such merchandise was classifiable under item 493.6820 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 2905.44.00. The review covers the one known French manufacturer/exporter of crystalline sorbitol to the United States, Roquette Freres, and the period April 1, 1987 through March 31, 1988.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, duty-paid, f.o.b. U.S. port price to unrelated purchasers in the United States. We made deductions, where applicable, for foreign inland freight, ocean freight, marine insurance, U.S. Customs duties, and brokerage fees. We made an addition for an import levy imposed by the European Community on corn which was not collected by reason of exportation of the sorbitol to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed delivered price to unrelated purchasers in the home market. We made adjustments, where applicable, for inland freight and differences in credit costs and packing. We disallowed claimed adjustments for warehousing and inventory carrying costs.

We found that any warehousing expenses that were incurred pursuant to the warehousing contract with one customer were incurred by the customer, not Roquette Freres, since the merchandise was stored in the customer's warehouse. In addition, any inventory carrying costs or interest expenses were incurred prior to the reported date of sale, and Roquette Freres failed to prove that any such presale inventory carrying costs were directly related to, or a condition of, the sales under review. Thus, the claimed expenses would have been borne regardless of whether the particular sales under review were made.

With respect to another customer, Roquette Freres also claimed that it incurred presale inventory carrying expenses or interest expenses. Roquette Freres maintains a sixty-day supply of merchandise in a separate silo in anticipation of future sales to this particular customer. Roquette Freres, however, failed to prove that such expenses were directly related to, or a condition of, the sales under review.

No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that a margin of .94 percent exists for the period April 1, 1987 through March 31, 1988.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written

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comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in such comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by § 353.22(c)(10) of our antidumping regulations, published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22(c)(10)), a cash deposit of estimated antidumping duties of .94 percent shall be required for all shipments of French sorbitol entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. Since the basis for Roquette Frere's revocation request was the absence of shipments for several years and no sales at margin in this administrative review period, and since our new regulations, effective April 27, 1989, do not permit revocation based on the absence of shipments, we will not further consider the firm for revocation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's new regulations (54 FR 12742, March 28, 1989) (to be codified at 19 CFR 353.22).

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26132 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty finding on tuners (of the type used in consumer electronic products) from Japan. The review covers one exporter of this merchandise to the United States, Kanematsu-Gosho Ltd., and the period December 1, 1987 through November 30, 1988. There were no known shipments of the merchandise to the United States covered by the finding during the period

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On February 7, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 5994) the final results of its last administrative review of the antidumping duty finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 18914, December 12, 1970). An exporter, Kanematsu-Gosho Ltd., requested in accordance with 19 CFR 353.53a(a) (1988) that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of tuners (of the type used in consumer electronic products) consisting primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly in the consumer electronic product for which they were designed. The term "consumer electronic product" includes television sets, radios, and other electronic products of the type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners. During the review period, such merchandise was classifiable under items 685.0200 and 685.3300 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS items 8529.90.10 and 8529.90.50. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one exporter of Japanese tuners to the United States, Kanematsu-Gosho Ltd., and the period December 1, 1987 through November 30, 1988.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that there were no shipments of merchandise to the United States by Kanematsu-Gosho, Ltd. covered by the finding during the period December 1, 1987 through November 30, 1988, because all such merchandise was produced and sold for export to the United States by Alps Electric Co., Ltd. which was revoked from the finding on February 23, 1987 (52 FR 5478).

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

As provided for by section 751(a)(1) of the Tariff Act, no cash deposit of estimated antidumping duties shall be required on entries of tuners sold by Kanematsu-Gosho, Ltd., if the merchandise is produced by Alps Electric Co., Ltd. A cash deposit of estimated antidumping duties of 23.66 percent shall be required on entries of tuners sold by Kanematsu-Gosho, Ltd., if the merchandise is produced by any manufacturer other than Alps Electric Co., Ltd. For any future shipments of this merchandise from the remaining known manufacturers/exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1988, and who is unrelated to any of the reviewed firms, or any previously reviewed firms, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese tuners (of the type used in consumer electronic products) entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22(a) of the Commerce Department's revised regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22(a).

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26133 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Environmental Assessment of the Office of Ocean and Coastal Resource Management (OCRM) Section 306A Low-cost Land Acquisition and Construction Projects

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, Commerce.

ACTION: Notice of availability of an environmental assessment.

SUMMARY: Notice is hereby given that the OCRM has available an environmental assessment of the section 306A low-cost land acquisition and construction projects. This analysis reveals OCRM's determination that the majority of section 306A projects are small scale (under $100,000) and that any potential environmental impacts associated with these projects are minimal, and thus qualify as categorical exclusions (CEs) under the requirements of the NOAA's National Environmental Policy Act (NEPA) Directive 02.10. With regard to all future section 306A projects, OCRM maintains the option of reviewing projects that are not typical or not consistent with the kinds of projects that are described in this environmental assessment and therefore are not covered by the categorical exclusion determination as concluded in this document. OCRM maintains overview responsibilities of section 306A NEPA compliance requirements through the CZMA section 312 Evaluation reviews.

Comments on the Environmental Assessment should be made within 30 days of the date of this Notice. Address comments to: James P. Burgess, Chief, Coastal Programs Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673-5161.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration

Dated: October 24, 1989.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89-26139 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Halibut Select Group will hold a public meeting on November 9, 1989, at 5 p.m., at the Oregon Department of Fish and Wildlife, Commission meeting room, 506 S.W. Mill Street, Portland, OR. The Group, composed of representatives of the sport and commercial halibut fisheries in Washington, Oregon, and California, will discuss allocation for 1990 of the Pacific halibut resource between non-Indian sport and commercial fishermen, and among various fishing areas south of British Columbia.

FOR MORE INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 S.W. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: October 31, 1989.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-26124 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-22-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on November 29, 1989 at 2:00 p.m. at the Tokyo American Club, Board Room, Tokyo, Japan.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of Minutes
III. Outlook for Tourism
IV. Review of Far East Opportunities and Strategies
V. Rural Tourism Study
VI. Update on revision of National Tourism Policy Act
VII. 1990 Berlin Meeting
VIII. 1989 Annual Report Secretarial Recommendations
IX. Miscellaneous
X. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-0140) will respond to public requests for information about the meeting.

Rockwell A. Schnabel,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 89-26055 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-11-M

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COMMISSION ON RAILROAD RETIREMENT REFORM

Meeting; Discussion of Benefit Analysis Study

ACTION: Meeting.

SUMMARY: The Commission on Railroad Retirement Reform ("the Commission") will hold a meeting on Tuesday, November 21, 1989. The Commission was established by section 2101 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, enacted December 22, 1987.

Date, Time, and Place: November 21, 1989, 9:30 a.m.–3:30 p.m., Association of American Railroads, 50 F Street NW., Washington, DC (4th Floor Conference Center).

Status: The first hour of the meeting will be closed to discuss personnel and contract matters.

Agenda: The open portion of the meeting will include a discussion of the benefit analysis study conducted by Hay/Huggins, Inc., the coverage of divorced spouses under the Railroad Retirement Act, and a presentation by the Regional Railroad Association.

FOR ADDITIONAL INFORMATION: Contact Maureen Kiser, 202–254–3223, Commission on Railroad Retirement Reform, 1111 18th Street NW., Washington, DC 20036.

SUPPLEMENTARY INFORMATION: See Federal Register, volume 54 FR, No. 40, Thursday, March 2, 1989, Page 8856.

Kenneth J. Zoll,

Executive Director.

[FR Doc. 89–26071 Filed 11–3–89; 8:45 am]

BILLING CODE 8820–63–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

October 31, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6498. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories in Group I and the Group II limit are being increased, variously, for carryforward and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50438, published on December 15, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 12, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 1, 1989, the directive of December 12, 1988 is amended further to increase the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Pakistan:

Category levels in group I	Adjusted 12-month limit [1]
225/313	89,505,506 square meters.
315	50,977,107 square meters.
336	3,415,432 dozen.
339	783,866 dozen.
340	181,453 dozen.
341	313,746 dozen.
347/348	408,259 dozen.
363	29,500,575 numbers.
369–R [2]	6,036,229 kilograms.
Group II: 300, 301, 314, 317, 326, 330, 332, 333, 345, 349, 350, 353, 354, 359, 360–362, 369–S [3] and 369–O [4], as a group.	69,043,210 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369–R, only HTS number 6307.10.2020.

[3] In Category 369–S, only HTS number 6307.10.2005.

[4] In Category 369–O, all HTS number except 6302.60.0010, 6302.91.0005 and 6302.91.0045 in Category 369–D; 6307.10.2020 in Category 369–R; and 6307.10.2005 in Category 369–S.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26052 Filed 11–3–89; 8:45 am]

BILLING CODE 3510–DR–M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

October 31, 1989.

AGENCY: Committee for the Implementation of Textile Agreement (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–6736. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Singapore agreed to increase the current designated consultation level for Category 659–O.

Also, the current limit for Group II and certain categories in Groups I and II are being adjusted, variously, for swing, special shift and decreased carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50440, published on December 15, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 8, 1989 the directive of December 12, 1988 is being amended further to adjust the current limits for the following categories, as provided by the current agreement between the Governments of the United States and Singapore:

Category levels in group I	Adjusted 12-month limit [1]
239	334,401 kilograms.
331	324,580 dozen pairs.
335	132,226 dozen.
338/339	937,833 dozen of which not more than 535,345 dozen shall be in Category 338 and not more than 602,766 dozen shall be in Category 339.
341	122,012 dozen.
347/348	841,836 dozen of which not more than 521,783 dozen shall be in Category 347 and not more than 407,471 dozen shall be in Category 348.
435	2,051 dozen.
604	89,558 kilograms.
631	177,381 dozen pairs.
635	131,406 dozen.
638	596,923 dozen.
639	3,387,204 dozen.
640	95,130 dozen.
645/646	129,025 dozen.
647	362,089 dozen.
648	1,517,261 dozen.
Group II: 200–229, 237, 300/301, 313–330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359–369, 400–434, 436, 438, 439, 440–444, 445/446, 447, 448, 459–469, 600–603, 606, 607, 611–630, 632, 636, 642–644, 649, 650, 659–S [2], 659–V [3], 659–O [4], and 665–670, as a group.	36,714,813 square meters equivalent.
Sublevel in Group II	
237	99,008 dozen.
659–O	150,000 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 659–S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[3] In Category 659–V, only HTS numbers 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0060.

[4] In Category 659–O, all HTS numbers except 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 in Category 659–S; and 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2049, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0060 in Category 659–V.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26053 Filed 11–3–89; 8:45 am]

BILLING CODE 3510–DR–M

Implementation of Certain Import Restraint Limits Based on Date of Entry

October 31, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold and Diana Solkoff, International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The purpose of this notice is to advise the public that, effective January 1, 1990, CITA reserves the right to implement all import restraint limits resulting from article 3 and section 204 calls based on date of entry rather than date of export for countries with agreements that have expired or will expire after November 6, 1989.

Consequently, the Chairman of CITA shall direct the Commissioner of Customs to charge to the appropriate level those goods which are entered into the United States for consumption, and withdrawn from warehouse for consumption, during the established retraint period, regardless of the date of export. Customs shall prohibit entry of goods entered during the restraint period in excess of the restraint limit.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26054 Filed 11–3–89; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contract.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has applied for designation as a contract market in options on Long-Term Japanese Government Bond futures. For this proposed futures option contract, the CBT's application also contains a petition for an exemption from the volume requirement for the underlying futures contract specified in the Commission's rules. The Director of the Division of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation § 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before December 6, 1989.

BEST COPY AVAILABLE

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ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT Long-Term Japanese Government Bond option.

FOR FURTHER INFORMATION CONTACT: Please contact Steven Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, at (202) 254–7227.

SUPPLEMENTARY INFORMATION: In addition to requesting comment on the terms and conditions of the proposed option contract, the Division also is requesting comment on the merits of a petition filed by the CBT pursuant to § 33.11 of the Commission's rules. For the proposed Long-Term Japanese Government Bond option, the petition requests exemptive relief from the trading volume tests set forth in the Commission's rules. In that regard, § 33.4(a)(5)(iii) of the Commission's rules requires, as a condition of designation for proposed options on futures contracts, that the exchange demonstrate that:

> * * * the volume of trading in all contract months for futures delivery of the commodity for which the option designation is sought has averaged at least 3,000 contracts per week on such board of trade for the 12 months preceding the date of application for option contract market designation, or alternatively, that such futures contract market, based on its trading history, substantially meets this total volume requirement in less than the 12 months preceding the date of application. . . .

The Division notes that the CBT Long-Term Japanese Government Bond futures contract which will underlie the proposed option contract has not been listed for trading.[1] Therefore, the futures trading volume requirement for the proposed option contract has not been met.

As discussed in more detail in previous **Federal Register** notices (see, for example, 52 FR 41755, October 30, 1987), the Commission has stated that it believes that, at the minimum, a petition for exemption from the trading volume tests may be granted only if the underlying cash market for the commodity exhibits a high level of liquidity. Cash market liquidity would be evidenced by extensive and frequent trading activity, a large number of participants in the market, and tight bid/ask spreads. Further, the terms of the futures contract should ensure the opportunity for arbitrage and close alignment between the cash and futures markets. In combination, the liquidity of the underlying cash market and the opportunities for arbitrage are major factors in determining the extent to which a less liquid futures contract could be disrupted by the exercise of options and the alternatives available to those exercising the options. In addition, to enable position holders to evaluate accurately the value of their option positions in the absence of active trading in the underlying futures contract, the Commission stated its belief that there should exist an accurate and widely available price series which would be representative of values of the commodity underlying the future.[2]

In requesting comment on the CBT's proposed option on Long-Term Japanese Government Bond futures, the Division is seeking specific comment on whether it should grant the CBT's request for an exemption from the requirements of § 33.4(a)(5)(iii) for the proposed contract. Commenters are requested to consider the issues noted above. Also, commenters are requested to address whether, if the petition were granted, additional surveillance activities and expiration reviews, particularly at the outset of trading, should be implemented by the CBT for the proposed contract.

Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or argument on the terms and conditions of the proposed option contract, or with respect to other materials submitted by the CBT in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC on October 31, 1989.

Steven Manaster,

Director.

[FR Doc. 89–26050 Filed 11–3–89; 8:45 am]

BILLING CODE 6351-01-M

[1] The CBT was designated as a futures contract market in Long-Term Japanese Government Bonds on November 22, 1986

[2] The Division notes that in those cases where the underlying futures contract fails to develop a sufficient level of trading volume, the option on the futures contract would become subject to the delisting criteria set forth in § 5.4 of the Commission's rules. Specifically, if the volume in the underlying futures contract market falls below an average weekly volume of 1,000 contracts for all months listed for the six-month period following designation of the option contract, no new option contract months may be listed until the volume in the underlying futures contract rises above an average of 2,000 contracts per week for all trading months listed for a period of three consecutive months.

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of Change 2 to DoD 5025.1–I, DoD Directives System Annual Index

ACTION: Notice.

SUMMARY: This notice is to inform the public and U.S. Government Agencies other than the Department of Defense of the availability of Change 2 to DoD 5025.1–I, January 1989 edition. The Change may be purchased from the following organizations:

National Technical Information (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, Telephone number (703) 487–4600,

or

U.S. Naval Publications and Forms Center (NPFC), 5801 Tabor Avenue, Attention: Code 1062, Philadelphia, Pennsylvania 19120–5099, Telephone number (215) 697–3321.

Change 2 supersedes Change 1 of the Index. The NTIS accession number for Change 2 is PB89 100705; NPFC identifies it as Change 2 to DoD 5025.1–I.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Correspondence and Directives Directorate, Directives Division, Room 2A286, the Pentagon, Washington, DC 20301–1155, telephone number (202) 697–4111.

Dated: October 31, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–26005 Filed 11–3–89; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 5, 1989; Tuesday, December 12, 1989; Tuesday, December 19, 1989; and Tuesday, December 26, 1989 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Dated: October 31, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–26004 Filed 11–3–89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 24, 1989.

The USAF Scientific Advisory Board Space Subpanel of the Strategic Cross-Matrix Panel will meet on 28–30 November 1989, from 8:00 a.m. to 5:00 p.m., at Rockwell, Los Angeles, CA; McDonnell Douglas, St. Louis, MO; and General Dynamics, Fort Worth, TX.

The purpose of this meeting will be to gather information on space-related technologies. The meeting at Rockwell, McDonnell Douglas, and General Dynamics will involve discussions of classified defense matters listed in section 552b(c) of title 5, United State Code, specifically subparagraph (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–26057 Filed 11–3–89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of the Meeting: 28 November 1989.

Time: 0800–1700 hours.

Place: US Army Signal Center, Fort Gordon, Georgia.

Agenda: The Army Science Board 1989 Summer Study on Maintaining State-of-the-Art in the Army Command and Control System (ACCS) will meet to investigate the role of the Signal Center in ACCS with emphasis on the tactical communication systems being developed and fielded to support the Army Tactical Command and Control System. This meeting will be closed to the public in accordance with section 55(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., Appendix 2, subsection 10(d). Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202)–695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–26056 Filed 11–3–89; 8:45 am]

BILLING CODE 3710-8-M

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for Alternate Transportation Route for Munitions at Naval Weapons Station Concord, CA

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council of Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for creating an alternate transportation route for munitions that are moved from storage to outload facilities at Naval Weapons Station (NWS), Concord, California.

The NWS is composed of two main areas connected by a railroad and an access road. At present, it is necessary for munition trains and trucks to cross Port Chicago Highway at grade in order to get from the inland area to the tidal area. This movement necessitates a substantial law enforcement effort, involving Navy, Contra Costa County, and California Highway Patrol personnel in order to allow safe crossing of Port Chicago Highway. The purpose of the proposed action is to alleviate the problems associated with the transportation of munitions across Port Chicago Highway.

Alternatives identified thus far include:

1. Port Chicago Highway underpass at the main gate.
2. Navy railroad and tidal area access road overpass.
3. Relocation of the railroad and access road east of the town of Clyde.
4. Port Chicago overpass at the main gate.
5. Navy control of the section of Port Chicago Highway traversed during freight shipments between the inland and tidal areas.
6. No action.

Alternatives that are identified during the public scoping and review process will also be addressed in the EIS.

To determine the scope of issues related to this action, the Navy will hold a public scoping meeting on November 28, 1989 at 7 p.m., in the Contra Costa County Water District Board Room, 1331 Concord Avenue, Concord, California.

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This meeting will be advertised in the Concord and Contra Costa County newspapers. A formal presentation will precede the request for public comments. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting, to be most helpful, the scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements should be mailed no later than December 15, 1989 to Commanding Officer, Western Division, Naval Facilities Engineering Command, Attn: Mr. Louis Rivero, P.O. Box 727, San Bruno, California 94066-0720.

Dated: November 2, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-26173 Filed 11-3-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133E]

Office of Special Education and Rehabilitation Services' National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for A New Award Under the Rehabilitation Engineering Center Program for Fiscal Year 1990

Purpose of Program: A consolidated application package (CAP) for several programs sponsored by the National Institute on Disability and Rehabilitation Research (NIDRR) was published in the Federal Register at 54 FR 27570 on June 29, 1989. The CAP announced closing dates and other information for priorities that were published in the Federal Register on April 25, 1989 at 54 FR 17898. No applications were received for a Rehabilitation Engineering Center on Applications of Technology to the Rehabilitation of Children with Orthopedic Disabilities. However, the Department is convinced that this remains an important priority area. The purpose of this notice is to establish a new closing date for applications under this priority. Potential applicants should use the forms included in the CAP and refer to the notice of final funding priorities.

Deadline for Transmittal of Applications: February 12, 1990

Available Funds: $500,000

Estimated Number of Awards: One

Estimated Average Size of Award: $500,000

Applicable Regulations: The following regulations apply to this program: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, and 85, and (b) the program regulations in 34 CFR parts 350 and 353.

Note: The Department of Education is not bound by any estimates in this notice, except as otherwise provided by statute.

FOR FURTHER INFORMATION CONTACT: Peer Review Unit, National Institute on Disability and Rehabilitation Research, (202) 732-1207.

Authority: 29 U.S.C. 760-762.

Dated: October 31, 1989.

Robert R. Davila,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 89-26031 Filed 11-3-89; 8:45 am]

BILLING CODE 4000-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; State of Hawaii

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-011005-001

Title: State of Hawaii Terminal Agreement.

Parties: State of Hawaii, Matson Terminals, Inc.

Synopsis: The Agreement restates paragarph 5 of the basic agreement to provide that the annual rental as determined under section 24B of Exhibit A of the basic agreement shall be set forth in amendments filed with the FMC and effective under the Shipping Act of 1984.

By Order of the Federal Maritime Commission.

Dated: October 31, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25906 Filed 11-3-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

ABN/LaSalle North America, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a) (2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 24, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

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1. ABN/LaSalle North America, Inc., Chicago, Illinois; A.B.N.-Stichting, Amsterdam, The Netherlands; Algemene Bank Nederland N.V., Amsterdam, The Netherlands; and LaSalle National Corporation, Chicago, Illinois; to acquire Union Realty Mortgage Co., Inc., Chicago, Illinois, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire Union Planters Investment Bankers Corporation, Memphis, Tennessee, and thereby engage in underwriting and dealing in obligations of the United States, general obligations of the states and their political subdivisions, and other obligations, including bankers' acceptances and certificates of deposit, pursuant to § 225.25(b)(16); providing portfolio investment advice and research and furnishing general economic statistical forecasting services and industry studies in connection with and incident to the proposed bank-eligible securities activities, pursuant to § 225.25(b)(4); acting as a futures commission merchant in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for government securities, certificates of deposit, and other money market instruments that a bank may buy or sell in the cash market for its own account pursuant to § 225.25(b)(18); providing investment advice, including counsel, publications, written analyses and reports in connection with and incident to its activities as a futures commission merchant and as a commodity trading advisor, pursuant to § 225.25(b)(19); providing securities brokerage services, related securities credit activities, and incidental activities such as individual retirement accounts, pursuant to § 225.25(b)(15); acquiring and servicing loans or other extensions of credit for its own account or for the accounts of others, such as would be made by consumer finance companies, credit card companies, mortgage companies, commercial finance companies, and factoring companies pursuant to § 225.25(b)(1); and acquiring leases of personal property, subject to, and in accordance with prescribed restrictions pursuant to § 225.25(b)(5) of the Board's Regulation Y. These activities will be conducted out of the main office in Memphis, Tennessee, and out of branch offices in Schaumberg, Illinois; Little Rock, Arkansas; Sarasota, Florida; Seattle, Washington; and Houston, Texas.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Peoples National Bancshares of Checotah, Inc., Checotah, Oklahoma; to acquire a *de novo* subsidiary, Peoples Credit Insurance Agency, Inc., Checotah, Oklahoma, and thereby engage in credit-related insurance under § 225.25(b)(8)(i); and to acquire Cantwell Insurance Agency, Inc., Checotah, Oklahoma, and thereby engage in the sale of general insurance only in the town of Checotah, Oklahoma, which has a population of approximately 3,500 pursuant to § 225.25(b)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26044 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

Auburn National Bancorporation; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted through the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a haring, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be agtgrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Auburn National Bancorporation, Auburn, Alabama; to engage *de novo* through its subsidiary, ANB Systems, Inc., Auburn, Alabama, in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the states of Alabama, Florida, and Georgia.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26045 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

DBT Holding Co., et al.; Formations of Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 24, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. DBT Holding Company, Vidalia, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Darby Bank and Trust Company, Vidalia, Georgia.

2. First American Corporation, Nashville, Tennessee; to acquire 100 percent of the voting shares of First American Trust Company, N.A., Nashville, Tennessee.

3. Merchant Bankshares Group, Inc., Fort Myers, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Merchant National Bank, Fort Myers, Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 LaSalle Street, Chicago, Illinois 60690:

1. First Mid-America Bancorp, Inc., Davenport, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of The State Bank of Annawan, Annawan, Illinois.

2. Goodenow Bancorporation, Wall Lake, Iowa; to acquire 80 percent of the voting shares of First Trust & Savings Bank, Armstrong, Iowa.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Financial Bancshares, Inc., St. Louis, Missouri; to acquire at least 30.2 percent of the voting shares of First Bank of East Prairie, East Prairie, Missouri.

2. First Eldorado Bancshares, Inc., Eldorado, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of First State Bank of Eldorado, Eldorado, Illinois.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26046 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 17, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Kenneth J. Torsoe, Suffern, New York, to acquire 14.38 percent of the voting shares of U.S.B. Holding Co., Inc., Nanuet, New York, and thereby indirectly acquire Union State Bank, Nanuet, New York.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Barbara Forster, Wayzata, Minnesota; to acquire 92.2 percent of the voting shares of Eagle Agency, Inc., Eagle, Colorado, and thereby indirectly acquire First Bank of Eagle County, Eagle, Colorado.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26047 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement No. 005]

Cooperative Agreements for Minority Community-Based Human Immunodeficiency Virus (HIV) Prevention Projects

Introduction

The Centers for Disease Control (CDC) announces the availability of Fiscal Year 1990 funds for cooperative agreements for Human Immunodeficiency Virus (HIV) Prevention Projects for minority community-based organizations (CBOs) serving populations with and at risk of HIV infection and acquired immunodeficiency syndrome (AIDS). This supplements Announcements Number 908, **Federal Register**, January 9, 1989, [54 FR 663], (corrections January 24, 1989) [54 FR 3557] and February 16, 1989 [54 FR 7089], by expanding eligibility to 4 additional metropolitan statistical areas.

Authority

This program is authorized under the Public Health Service Act: section 301(a) [42 U.S.C. 241(a)], as amended and section 317 (42 U.S.C. 247b), as amended.

Eligible Applicants

Eligible applicants are nonprofit minority community-based organizations (MCBO), located in the Metropolitan Statistical Areas (MSAs) with minority communities most heavily affected by HIV infection/AIDS. Congress has authorized funds to provide direct financial and technical assistance to MCBOs in those areas where minority populations have been most heavily affected by the HIV epidemic so that they may work in their own communities to achieve a reduction of the risky behavior that leads to HIV transmission. In July 1989, MCBOs in 27 MSAs were awarded funds. This announcement extends eligibility to 4 additional MSAs where minority populations have been heavily affected by the HIV epidemic. These additional areas, as defined by cumulative number of AIDS cases in minority populations reported to CDC and entered into the CDC surveillance database as of June 1, 1988, are: Connecticut: Bridgeport-Milford, New Haven-Meriden; New Jersey: Middlesex-Hunterdon-Sommerset Counties; and Texas: San Antonio. Only MCBOs in these four MSAs are eligible under this announcement.

Eligible applicants located in the above MSAs must be nonprofit corporations or associations whose net earnings in no part lawfully accrue to the benefit of any private shareholder or individual and which represent and serve minority persons and whose governing body is composed of more than 50% racial and/or ethnic minority group members (Asians, blacks, Latinos/Hispanics, Native Americans, and Pacific Islanders).

Any of the following is acceptable evidence of nonprofit status:

A. A reference to the applicant organization's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code;

B. A copy of a currently valid IRS tax exemption certificate;

C. A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net

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earnings accrue to any private shareholders or individuals;

D. A certified copy of the organization's certificate of incorporation or similar document that clearly establishes nonprofit status; or,

E. Any of the above proof for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

This proof must be included in the application. No award will be made without proof of nonprofit status.

Availability of Funds

It is expected that approximately $600,000 will be available in Fiscal Year 1990 to support approximately 4 projects. Awards will range from $20,000 to $200,000 with an average award of $150,000. Priority will be given to supporting at least one project in each of the eligible MSAs.

Awards will be made for a 12-month budget period within a 1 to 3 year project period. (Budget Period is the interval of time into which the project period is divided for funding and reporting purposes. Project Period is the total time for which a project has been programmatically approved.) Continuation awards for new budget periods within an approved project period are made on the basis of satisfactory performance and availability of funds. No funds will be provided for patient treatment or care. These funds may not be used to supplant existing funds. Funding estimates outlined above may vary and are subject to change.

Purpose

The purpose of this program is to provide assistance to minority CBOs to: (1) develop and implement innovative community-based HIV prevention programs related to achieving national goals, (2) establish collaboration among community organizations, HIV education/prevention service agencies, and public organizations including local and State health departments, and (3) evaluate the effectiveness of HIV prevention programs for which support is provided.

Cooperative Activities

Recipient Activities

1. Needs Assessment

Applicants should assess the need for the proposed program by:

A. Contacting their State or local health department AIDS Coordinators to obtain information on HIV prevalence in the target populations and HIV/AIDS related baseline knowledge, attitudes, beliefs, and, when available, behavior data and other information relevant to the needs of the target population;

B. Idenifying other organizations and agencies providing services to the target populations which are related to or supportive of the activities being proposed by the applicant; and briefly listing the services which these organizations and agencies are providing; and

C. Identifying gaps in HIV prevention activities directed to the target populations.

2. Health Education/Risk Reduction

Based on the needs assessment:

A. Develop specific, time-phased, and measurable program objectives.

B. Target these programs to racial and ethnic minority individuals whose behavior places them at increased risk of HIV transmission, including:

(1) infected persons;

(2) men who have or have had sex with men;

(3) individuals who exchange sex for drugs or money;

(4) intravenous drug users who share paraphernalia;

(5) persons with sexually transmitted diseases; and,

(6) persons who are or were sex or needle sharing partners of those listed above, especially female partners.

C. Develop and conduct culturally sensitive and language specific HIV prevention education programs to reduce or eliminate risky behavior. In addition, some members of the target population may have disabilities which hinder learning and which may require special approaches to communication.

D. Address the need for prevention and treatment of other sexually transmitted diseases in carrying out HIV prevention programs.

3. Collaboration

In implementing programs:

A. Plan and conduct program activities in collaboration and coordination with State/local health departments.

B. Collaborate and coordinate activities with other organizations involved in HIV prevention and education programs serving the target population in the local area, whenever possible. Such organizations would include, as appropriate:

(1) community groups/organizations, including churches and religious groups, especially those with a racial/ethnic minority membership and focus, and those that serve populations at increased risk;

(2) AIDS service organizations;

(3) schools, boards of education, and other local education agencies; and

(4) federally-funded community networks.

Examples of such collaboration include letters of support or workplans jointly developed with local health departments and other community organizations and agencies.

4. Evaluation

Develop and implement an evaluation plan to:

A. Monitor the accomplishment of program activities and progress toward achieving each objective; and

B. Determine how program activities affect the target population and how they will help ensure that State, local, and national HIV prevention goals are addressed. Collaboration with the State or local health department is essential for this activity.

Centers for Disease Control Activities

1. Provide consultation and technical assistance in planning, operating, and evaluating prevention activities.

2. Provide up-to-date scientific information regarding risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

3. Assist in the evaluation of program effectiveness.

4. Assist recipients in collaborating with State and local health departments and other PHS supported HIV/AIDS recipients.

5. Facilitate the transfer of successful intervention programs to other areas.

Evaluation Criteria

Eligible applications submitted under this announcement number will be evaluated by a CDC convened review committee on an individual basis according to the following criteria:

A. The need for program support. (20 points)

B. Evidence of ability of the applicant to carry out the proposed program. (25 points)

C. The extent to which the proposed objectives are specific, measurable, and time-phased. (20 points)

D. The quality of the applicant's plan for conducting program activities. (20 points)

E. The extent to which the evaluation plan measures the accomplishment of program objectives. (15 points)

In addition, consideration will be given to the appropriateness and reasonableness of the budget request, proposed use of project funds, the extent to which the applicant is contributing its own resources to HIV/AIDS prevention activities, and the need to provide support in each of the eligible MSAs.

Funding Priorities

Priority will be given to supporting at least one project in each of the eligible MSAs.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.118.

Other Requirements

Recipients must comply with the document titled: Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (October 1988). In complying with the Program Review Panel requirements contained in the above document, recipients are encouraged to use an existing Program Review Panel such as the one created by the health department's AIDS/HIV Prevention Program.

[54 FR 10049, March 9, 1989]

Application Workshops

Technical assistance will be available in the form of workshops in locations convenient to the eligible MSA. Workshops for some MSA will be combined and will be held November 27, 1989, in San Antonio, November 30, 1989, in Hartford, Connecticut, and November 29, 1989, in Morris Plains, New Jersey. Preregistration for these workshops is encouraged and may be done by calling (404) 639-1235.

Application Submission and Deadline

The original and two copies of the application (PHS Form 5161-1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 300, Atlanta, GA 30305, on or before January 15, 1990.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable proof of timely mailing.

2. Late Applications: Applications which do not meet the criteria in 1.A. or B. will be considered late applications. Late applications will not be considered in the current funding cycle and will be returned to the applicant.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Nealean K. Austin, Marsha D. Driggans, and Carole J. Tully, Grants Management Specialists, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 300, Atlanta, GA 30305, (404) 842-6640.

Announcement Number 005, "Cooperative Agreements for Minority Community-Based Human Immunodeficiency Virus (HIV) Prevention Projects" must be referenced in all requests for information pertaining these projects.

Technical assistance may be obtained from Jack Kirby, Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333, (404) 639-1230 or (404) 639-1235.

Dated: October 30, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89-26049 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Johnson & Johnson; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Johnson & Johnson. The NADA provides for the use of Surgicel® Absorbable Hemostat (oxidized regenerated cellulose) in dogs, cats, and horses. The firm requested the withdrawal of approval.

EFFECTIVE DATE: November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Johnson & Johnson, 501 George St., New Brunswick, NJ 08903-2400, is the sponsor of NADA 33-756, which was originally approved April 28, 1966. NADA 33-756 provides for use of Surgicel® Absorbable Hemostat (oxidized regenerated cellulose) in dogs, cats, and horses. The knitted fabric strips were approved for use to control capillary or venous bleeding or small arterial hemorrhage when conventional means of control are technically impractical.

By letter of June 12, 1989, the sponsor requested voluntary withdrawal of approval of the NADA on the grounds that the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act, sec. 512(e) (21 U.S.C. 360b(e)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA 33-756 and all supplements thereto is hereby withdrawn, effective November 16, 1989.

Dated: October 31, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-25072 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Nashville District Office, chaired by Patrick J. Pouzar, Acting District Director. The topic to be discussed is food labeling.

DATE: Tuesday, November 28, 1989, 1 p.m. to 4 p.m.

ADDRESSES: Ellington Agricultural Center, University of Tennessee Agricultural Extension Center, 5201 Marchant Dr., Nashville, TN 37222.

FOR FURTHER INFORMATION CONTACT: Sandra S. Baxter, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615-736-2066.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to

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enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25998 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is food labeling.

DATE: Thursday, November 16, 1989, 9:30 a.m. to 12 m.

ADDRESSES: Federal Bldg., Rm. 2214-18, 1000 Liberty Ave., Pittsburgh, PA 15222.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837 or 412-644-3395.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25999 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is food labeling.

DATE: Tuesday, November 21, 1989, 9:30 a.m. to 12 m.

ADDRESSES: William J. Green Bldg. (Federal Bldg.), Rm. 3306-10, Sixth and Arch Sts., Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26000 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: .Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is food labeling.

DATES: Tuesday, November 21, 1989, 7 p.m. to 9 p.m.

ADDRESSES: Good Stay/Wilcastle Campus, University of Delaware, Morning Room, 2600 Pennsylvania Ave., Wilmington, DE 19806.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26001 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Minneapolis District Office, chaired by John Feldman, District Director. The topic to be discussed is food labeling.

DATE: Monday, November 27, 1989, 7 p.m.

ADDRESSES: International Diabetes Center, 5000 39th St., Minneapolis, MN 55416.

FOR FURTHER INFORMATION CONTACT: Donald Aird, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-334-4100.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26002 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0465]

Drug Export, Abbott IMx® HBsAg Text Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott IMx® HBsAg test kit to Belgium, Denmark, Finland, The Netherlands, Norway, Sweden, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquires concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) 21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Abbott Laboratories, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott IMx® HBsAg test kit to Belgium, Denmark, Finland, The Netherlands, Norway, Sweden, and The United Kingdom. The Abbott HBsAg assay test is a qualitative third generation Microparticle Enzyme Immunoassay for the detection of Hepatitis B Surface Antigen (HBsAg) in human serum or plasma. The complete application was received and filed in the Center for Biologics Evaluation and Research on October 19, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 16, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated October 25, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-26073 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Rescission of Announcement for Retention Program for Health Professions Schools With Individuals From Disadvantaged Backgrounds

The Health Resources and Services Administration announced in the **Federal Register**, Vol. 54, No. 161, pages 34825 and 34826, dated Tuesday, August 22, 1989, that applications for Fiscal Year 1990 Retention Program for Health Professions Schools With Individuals From Disadvantaged Backgrounds Grants were being accepted under the authority of section 787A of the Public Health Service Act, as established by Public Law 100-607. That notice is hereby rescinded.

Section 787A authorizes a supplement grant program to award grants to schools of medicine, schools of osteopathic medicine, optometry, podiatric medicine, pharmacy, or public health that demonstrate sufficient graduation of students from disadvantaged backgrounds. It now appears that no funds will be available for that program in Fiscal Year 1990. Accordingly, the Department will not consider applications for section 787A grants during this fiscal year, and the August 22, 1989, announcement is rescinded.

Dated: October 31, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-25997 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Meeting of the Biomedical Research Technology Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Research Technology Committee (BRTC), Division of Research Resources (DRR), November 13-14, 1989, at the Holiday Inn—Bethesda (Peppermill Room), 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on November 13, from 8:30 a.m. to 10:30 a.m., during which time there will be comments by the Acting Director, DRR, the Chief of Review, DRR, and a report of the Director, Biomedical Research Technology Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 13, from 10:45 a.m. to 5 p.m., and November 14, from 8:30 a.m. to 5 p.m. for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would consitute a clearly unwarranted invasion of personal privacy.

Mr. Michael Fluharty, Acting Information Officer, Division of Research Resources, National Institutes of Health, Westwood Building, Room 857, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Daniel Eskinazi, Acting Executive Secretary, Biomedical Research Technology Review Committee, Division of Research Resources, National Institutes of Health, Westwood Building, Room 10A16, (301) 496-4390, will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program no. 13.371, Biotechnology Research, National Institutes of Health).

Dated: October 30, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-26120 Filed 11-3-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-89-893, FR-2595]

Delegation of Authority; Office of the General Counsel

AGENCY: Office of the Secretary, HUD

ACTION: Delegation of authority to approve production or disclosure of HUD materials or information and requests for testimony in 24 CFR part 15, Subparts H and I.

SUMMARY: This delegation of authority designates the officials who may exercise the Secretary's authority to approve disclosure of HUD information in response to subpoenas and other demands and for requests for testimony of HUD employees under 24 CFR part 15, Subparts H and I.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Gershon Ratner, Associate General Counsel for Litigation, Room 10258, Department of Housing and Urban Development, 451 7th Street, SW. Washington, DC 20410. Phone (202) 755-1300. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The delegation of authority published on January 31, 1989 at 54 FR 4913 is amended as follows:

1. By adding at the end of paragraph 1 in Section C (54 FR 4914) the following: "In addition, the same authority referenced in the preceding sentence shall be vested in each Associate General Counsel for HUD Headquarters employees in those programs for which the Associate provides legal advice, and each Regional Counsel for HUD employees within the territorial jurisdiction of his or her region."

2. And by adding the following new paragraph after paragraph 7 in the section entitled "Delegations Revoked": ¶"8. 53 FR 50586 (December 16, 1988) [Docket No. D-88-890]."

Authority: Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: September 12, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-26120 Filed 11-3-89; 8:45 am]

BILLING CODE 4210-32-M

Office of the Regional Administrator-Regional Housing Commissioner

[Docket No. D-89-897; FR-2710]

Redelegation of Authority; Region IV (Atlanta)

AGENCY: Department of Housing and Urban Development (HUD) Office of the Regional Administator-Regional Housing Commissioner, Region IV, Atlanta, Georgia.

ACTION: Notice of redelegation of authority.

SUMMARY: This Notice announces a redelegation of authority to officials of HUD Regional and Field Offices in Region IV. The Authority relates to section 255 of the National Housing Act.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Neil A. Zittrauer, Acting Director, Office of Housing, Atlanta Regional Office, Department of Housing and Urban Development, Room 546, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-4127. (This is not a toll free number.).

SUPPLEMENTARY INFORMATION: This redelegation of authority is made pursuant to a redelegation of authority issued by the Assistant Secretary for Housing-Federal Housing Commissioner on July 7, 1989, 54 FR 30112 (July 18, 1989).

Authorities Redelegated

A. Each Director of the Housing Development Division, Chief of the Mortgage Credit Branch, and Commitment Loan Specialist in the Mortgage Credit Branch is redelegted the power and authority of the Regional Administrator-Regional Housing Commissioner, Deputy Regional Administrator, Director of the Office of Housing in the Regional Office, Managers of the HUD Field Offices and Deputy Managers of the HUD Field Offices in region IV with respect to the following functions and responsibilities under section 255 of the National Housing Act, 12 U.S.C. 1715z-20.

1. Commit to insure and insure home equity conversion mortgages in accordance with section 255(c).

2. Cause mortgagees to make available to mortgagors, at the time of application, a list of third party information sources, as required by section 255(e)(1).

3. Cause disclosure information to be made available to mortgagors by mortgagees, both prior to the individual loan closing as required by section 255(e)(2), and annually thereafter in the form of summary statements as required by section 255(e)(3).

B. Each of the Housing Development Division, Chief of the Valuation Branch, and Commitment Appraiser in the Valuation Branch is redelegated the following function and responsibility.

1. Conditionally commit to insure home equity conversion mortgages in accordance with section 255(c).

C. Each Chief of the Mortgage Credit Branch, Chief of the Clerical Processing Unit, and Endorsement Clerk in the Mortgage Credit Branch/Clerical Processing Unit is redelegated the following function and responsibility.

1. Insure home equity conversion mortgages in accordance with section 255(c).

D. Each Director of the Housing Management Division, Chief of the Loan Management Branch, Chief of the Loan Management and Property Disposition Branch, Chief of the Single Family Loan Management Branch, Chief of the Property Disposition/Single Family Servicing Branch, Loan Specialist in the Loan Management Branch, Loan Specialist in the Loan Management and Property Disposition Branch, Loan Specialist in the Single Family Loan Management Branch, and Loan Specialist in the Property Disposition/Single Family Servicing Branch is redelegated the following functions and responsibilites.

1. Provide, or cause to be provided, counseling to mortgagors as specified in section 255(f), including the approval pursuant to section 255(e)(1) of information sources as being responsible and able to provide counseling information to mortgagors.

2. Cause disclosure information to be made available to mortgagors by mortgagees, both prior to the individual loan closing as required by section 255(e)(2), and annually thereafter in the form of summary statements as required by section 255(e)(3).

3. Pursuant to section 255(i)(1), provide funds to mortgagors when the mortgagee or other party responsible for making the equity conversion payments fails to make them; obtain, by legal, equitable, or administrative means, repayment from any source of funds disbursed; and take such actions described in section 255(i)(2) as may be necessary to enable funds to be provided to mortgagors and mortgagees.

4. Service and foreclose (or accept deeds in lieu of foreclosure) on mortgages assigned to the Secretary, sell, or otherwise convey interest in acquired property, and in all respects carry out the responsibilities of the Secretary under section 7(i) of the

Department of Housing and Urban Development Act, 42 U.S.C. 3535(i).

5. Enter into such contracts and agreements, including loan agreements with mortgagors, as may be necessary or desirable to carry out the responsibilities delegated above, with the exception of procurement contracts.

This Redelegation is effective September 28, 1989 and until such time as it may be expressly terminated or superseded.

Atlanta, Georgia, 1989.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner.

[FR Doc. 89-26028 Filed 11-3-89; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Prepare an Environmental Impact Statement; Alturas Resource Area, CA

AGENCY: Bureau of Land Management, Interior, Susanville District Office, Hayden Hill Gold Mine Operation, Susanville, California.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact report (EIS/EIR).

SUMMARY: The Bureau of Land Management, as a cooperating agency with the Forest Service, Department of Agriculture and Lassen County, California will prepare a combined (EIS/EIR) for the proposed open pit gold mine operation located in the Hayden Hill area of the Alturas Resource Area, Susanville District, California. The Lead Federal Agency will be the Susanville District of the Bureau of Land Management. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by January 15, 1990.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Lynda Roush, Area Manager, Alturas Resource Area, 120 S. Main Street, Alturas, CA 96101.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Lynda Roush, Area Manager, Alturas Resource Area, 120 S. Main Street, Alturas, CA 96101 or phone (916) 233-4666.

SUPPLEMENTARY INFORMATION: Hayden Hill Operating Company, a joint venture of AMAX Gold and U.S. Gold, has filed a plan of operation with the Bureau of Land Management, for an open pit gold mine in the Hayden Hill area. The project area is approximately 1,200 acres and consists of an open pit, waste rock disposal site, processing plants, heap leach systems, mill and tailing ponds, gold recovery processing plant and ancillary facilities and access roads. The present plan of operation proposes the waste rock site and tailings pond be adjacent to Forest Service administered lands, and the project will primarily be located on private and BLM managed lands. The plan proposes to have access and some ancillary facilities on National Forest System Lands. The BLM will issue an approval of the plan of operation or permits, for those activities occurring on BLM managed lands, based upon the Record of Decision.

In preparing the EIS/EIR, the agencies will identify and consider a range of alternatives for this site. One of these will be no development of the site. Other alternatives will consider relocation of the access route, waste rock and or tailings ponds.

Lynda Roush, Alturas Resource Area Manager, Bureau of Land Management, in Alturas, CA, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.70). The agencies will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft EIS/EIR. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The agencies will hold a public scoping meeting at the Adin Community Hall, Adin, California, from 3 p.m. til 9:30 p.m. on Thursday, November 30, 1989.

The draft EIS/EIR is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by May 1990. At that time EPA will publish a notice of availability of the DEIS/EIR in the FR.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the FR. It is very important that those interested in the management of the Hayden Hill area participate at that time. To be most helpful, comments on the Draft EIS/EIR should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp. v. NEDC*, 435 US 519, 553 (1978), and that environmental objections that could not have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc., v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the agencies at the time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the Draft EIS/EIR, the comments will be analyzed and considered by the agencies in preparing the final environmental impact statement. The final EIS/EIR is scheduled to be completed by July 1990. In the Final EIS/EIR, the agencies are required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision (ROD). After the

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ROD is signed, the Plan of Operation can be authorized and that authorization will be subject to appeal under part 4, title 43 CFR.

Robert J. Sherve,
Acting, District Manager.

[FR Doc. 89-26059 Filed 11-3-89; 8:45 am]
BILLING CODE 4310-40-M

[OR-100-09-6310-02; GP9-036]

Roseburg District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The District Advisory Council for the Bureau of Land Management, Roseburg District will meet December 5, 1989, beginning at 8:30 a.m. in the Roseburg District Office Auditorium. The meeting will be a continuation of the October 19 meeting and tour. The Council will consider the issues and the information presented at the previous meeting and offer recommendations and advice to the District Manager. The issues relate to public land management adjacent to rural residential areas.

ADDRESS: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingersol, Public Affairs Specialist Roseburg District (503) 672-4491.

SUPPLEMENTARY INFORMATION: The meeting is open to the public, and a public comment period will be provided at 9 a.m. Written statements for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. The Council will make recommendations on all or some of the following issues: Access, road maintenance, rights-of-way, potential impacts to the timber base, fire protection, slash burning, and trespass.

Dated: October 30, 1989.

James A. Moorhouse,
District Manager.

[FR Doc. 89-26785 Filed 11-3-89; 8:45 am]
BILLING CODE 4310-33-M

[Ca-940-00-5410-10-ZBKB; CACA 25717]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregative effect—conveyance of the reserved mineral interests.

SUMMARY: The private lands described in this notice, aggregating 200.00 acres are segregated and made unavailable for filings under the public land laws including the mining laws, to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those interests where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Lavonia C. Silva, California State Office, Federal Office Building, 2800 Cottage Way, Room 2845, Sacramento, California 95825, (916) 978-4820.

Serial Number—CACA 25717

T. 3 N., R. 17 W., SB Mer.
Sec. 27, NW:
Sec. 28, NE¼NE¼.
Except therefrom the easterly 270 feet of the southerly 150 feet of
Section 27.
Acres—199.07
County—Los Angeles

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1-1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of publication of this notice, which ever occurs first.

Dated: October 24, 1989.

Nancy J. Alex,
Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 89-26109 Filed 11-3-89; 8:45 am]
BILLING CODE 4310-40-M

[ID-010-90-4212-14; IDI-16916, IDI-16916, IDI-16786, IDI-26917 through IDI-26952, IDI-26954, IDI-26956 through IDI-26962 and IDI-26964 through IDI-26975]

Realty Action; Sale of Public Land in Owyhee County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public land in Owyhee County, Idaho.

SUMMARY: The following-described lots have been identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value which will be determined by an appraisal.

Boise Meridian, Idaho

T. 5 S., R. 3 W., Section 8

Serial number	Building owner's name	Lot No.	Acres
IDI-26917	Nicholas K. or Delores Ihli.	29	.21
IDI-26918	Roy M. Hoagland and Lester B. Nelson.	30	.23
IDI-26919	Mrs. Cleo Swayne.	31	.26
IDI-26920	John Flogge	32	.34
IDI-26921	Ms. Joan Bess Brogan.	33	.19
IDI-26922	John Burke	34	.14
IDI-26923	Loren E. Fredrickson.	35	.13
IDI-26924	Sandra Caverly and Karen Ford.	36	.13
IDI-26925	Mr. & Mrs. Donald Bowman et al.	37	.12
IDI-26926	Mrs. A.J. Swan.	38	.18
IDI-26927	Richard E. Birmingham and Kenneth W. Brown.	39	.18
IDI-26928	Mrs. Alice L. VanAlta and Jan Beckwith.	40	.19
IDI-26929	Joe Nettleton	41	.12
IDI-26930	Steve Rose and Joe Aman.	42	.15
IDI-26931	Clyde Snell	43	.16
IDI-26932	Phil Cramer	44	.27
IDI-26933	Nonie Stimpson.	45	.19
IDI-26934	Melba School District.	46	.17
IDI-26935	Roman Catholic Diocese of Boise.	47	.73
IDI-26936	Ada Thomas	48	.27
IDI-26937	Ms. Eleanor Smith Beaman.	49	.24
IDI-26938	Douglas Hyslop.	50	.71
IDI-26939	Masonic Hall	51	.36
IDI-26940	Robert Ritchie	52	.17
IDI-26941	Ms. Emaline Nettleton.	53	.10
IDI-26942	Walt Adams	54	.15
IDI-26943	Keith Chadwick.	55	.21
IDI-26944	Ed Jagels	56	.36
IDI-26945	Donald C. Jamison and Roger Freeman.	57	.18
IDI-26946	Martin L. Peterson.	58	.25
IDI-26947	John Wilper and Peter Burril.	59	.23
IDI-26948	Phil Cramer	63	.56
IDI-26949	Alma Cram and Martha Burton.	64	.10
IDI-26950	Paul Nettleton	65	.10
IDI-26951	Mrs. Cleo Swayne.	66	.17
IDI-26952	Karl J. Laible Jr. and Susan Laible.	67	.20
IDI-26954	Grant and Carol Donner.	69	.20
IDI-26956	Galen Carr	71	.08
IDI-26957	Kenneth and Linda Jantz.	72	.39
IDI-26958	Keith Chadwick.	73	.55
IDI-26959	David Clark	74	.36
IDI-26960	E. Storm Spoljaric.	75	.19
IDI-26961	Gary A. or Patricia L. Machacek.	76	.14
IDI-26962	Donald L. Hasselbring.	77	.27
IDI-26964	James and Judith Barnes.	79	.46
IDI-26965	Robert Leonard.	80	.08
IDI-26966	Ed Jagels	81	.09
IDI-26967	Terrance Hasselbring.	82	.21
IDI-26968	Robert D. and Mary O'Malley.	83	.19
IDI-26969	I.O.O.F. Hall	84	.21
IDI-26970	Grete Estate	85	.25
IDI-18816	Donald L. or D. Darlene Reich.	86	.25
IDI-18818	Clarence Orton.	89	.16
IDI-26971	Mrs. Wilma Statham.	91	.46
IDI-26972	William and Dawn Statham.	92	.16
IDI-26973	Gloria Otto	93	.24
IDI-26974	H. Nettleton	94	.53
IDI-26975	Paul Sliger	95	.35
IDI-19796	Ms. Mary Hansen.	96	.28

Two lots are encumbered by the Florence Mining Claim. Sale of these lots will not be made until the lots are no longer encumbered by this mining claim.

DATES: The sale offering will begin on Tuesday, January 16, 1990, at 10:00 a.m. and continue until Tuesday, January 30, 1990, at 4:00 p.m., at which time and date this sale offering will be suspended.

The previously described lands are hereby segregated from appropriation under the public land laws and the mining laws except for direct sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, for a period of 270 days from the date of publication of this notice in the **Federal Register** or until patent is issued, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management at the address shown below.

ADDRESS: The sale offering will be held at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the conditions of the sale can be obtained by contacting Blackie Bruegman at (208) 334-1582.

SUPPLEMENTARY INFORMATION: When patented, the lands will be subject to the following reservations:

1. Reservation to the United States of ditches and canals constructed by the authority of the United States as provided by the Act of August 30, 1890 (43 U.S.C. 945).

2. Reserving to the United States all minerals in the lands together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe.

3. Excepting and reserving to the public a right-of-way for existing roads across the lots for public access.

4. Patents will be subject to Silver City Zoning Ordinance Number 88-03 dated October 11, 1988.

The lots are being sold individually to the above identified current habitable building owners, by direct, non-competitive sales in order to give the Silver City community a more permanent character and the building owners a tenure interest in the land on which these buildings are located.

Selling these parcels to the building owners will provide incentive to maintain the buildings in the historical nature in which they were built, thus maintaining a valuable part of our early history in this historic mining district.

Offers must be submitted for at least fair market value. A thirty percent (30%) deposit must accompany each offer. The deposit must be paid by certified check, money order, bank draft or cashier's check. Offers will be rejected if accompanied by a personal check.

Federal law requires that purchasers must be U.S. citizens 18 years of age or older, or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of citizenship shall accompany the offer. The remainder of the full price offer shall be paid within 180 days of the date of the sale. Failure to pay the full price within the 180 days shall disqualify the purchaser and cause the deposit to be forfeited to the Bureau of Land Management.

Objections to this Notice of Realty Action will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 20, 1989.

Gene L. Schloemer,
Acting District Manager.

[FR Doc. 89-25590 Filed 11-3-89; 8:45 am]
BILLING CODE 4310-GG-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-742358

Applicant: Denver Zoological Gardens, Denver, CO.

The applicant requests a permit to import two captive-bred Amur leopards (*panthera pardus orientalis*). The male will be imported from Helsinki Zoo, Finland. The female will be imported from the Rotterdam Zoo, Holland. The importation of these animals is for zoological exhibition and propagation.

PRT-683006

Applicant: Florida Power and Light Company, West Palm Beach, FL.

The applicant requests amendment of their current permit which allows take (relocate, radio-tag, perform environmental contaminant analysis on tissues taken from dead specimens or failed eggs and assess growth and survivorship of hatchlings) of American crocodiles (*Crocodylus actus*). The amendment would allow an increase in the total number of crocodiles to be

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captured from 125 to 250, from their property, for scientific research and enhancement of propagation and survival.

PRT–742914

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import a pair of captive-born L'Hoest's monkeys (*Cercopithecus lhoesti*) from parc Zoologique et Botanique de la Ville de Mulhouse, Mulhouse, France and Naturierpark Strohen, Strohen, W. Germany for the purpose of enhancement of propagation.

PRT–689914

Applicant: Regional Director—Region 2, U.S. Fish and Wildlife Service.

The applicant requests a permit to amend an existing permit to include take of endangered and threatened sea turtles in the waters of southern California and possibly on land. Their current permit authorizes take (capture for radiotelemetry, blood sampling, banding, and determining abundance and distribution) within Region 2 and import of eggs, salvaged hatchlings, and salvaged parts from worldwide sources for scientific research or enhancement of propagation or survival.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm), Room 432, 4401 N. Fairfax Dr., Arlington VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 31, 1989.

Karen Willson,

Acting Chief, Branch of permits, U.S. Office of Management Authority.

[FR Doc. 89–26023 Filed 11–3–89; 8:45 am]

BILLING CODE 4310–55–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0030), Washington, DC 20503, telephone 202–395–7340.

Title: State Process for Designating Areas Unsuitable for Surface Coal Mining Operations, 30 CFR part 764.

OMB approval number: 1029–0030.

Abstract: This part establishes the minimum requirements for designating areas as unsuitable for all or certain types of surface coal mining operations. The information requested will be used by the regulatory authority to make its decision to approve or disapprove a petition to designate an area as unsuitable for surface coal mining or to terminate such a designation. The information will also be used to maintain a data base and inventory system.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Persons petitioning to have land designated as unsuitable for surface coal mining operations or to have such a designation terminated, and State regulatory authorities who compile and maintain a data base and inventory system.

Estimated completion time: 168 hours.

Annual responses: 5.

Annual burden hours: 841.

Bureau clearance officer: Andrew F. DeVito 202–343–5954.

Dated: October 2, 1989.

Annetta L. Cheek,

Chief Regulatory, Development and Issues Management.

[FR Doc. 89–26106 Filed 11–3–89; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication.

Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, Room 1100B, SA–14, Washington, DC 20523.

Date Submitted: October 27, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0510.

Type of Submission: Renewal.

Title: Information Collection Requirements Contained in A.I.D.'s Handbook 13 (Grants and Cooperative Agreements).

Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes A.I.D. to make grants and cooperative agreements with any corporation or body of persons, whether within or without the United States, and international organizations in furtherance of the purposes and within the limitations of the FAA. A.I.D. is required to ensure the recipients are responsible and that they prudently manage public funds. These information collection and recordkeeping requirement are necessary for A.I.D. to review and monitor recipient's responsibility and compliances with U.S. Government requirements concerning use of funds.

Respondents will have a submission burden of one response per year.

Reviewer: Donald Arbuckle (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 26, 1989.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 89–26058 Filed 11–3–89; 8:45 am]

BILLING CODE 6116–01–M

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on Wednesday and Thursday, December 6–7, 1989. The topic to be discussed is "The Relationship Between United States Private Voluntary Organizations and Indigenous Non-Governmental Organizations."

Date: December 6–7, 1989

Time: Wednesday, December 6th, 9:00 a.m.–5:30 p.m., Thursday, December 7th, 9:00 a.m.–11:30 p.m.

Place: The National Press Club, 14th and F Streets, N.W., Washington, D.C. 20045

The meeting is free and open to the public. However, Notification by November 27, 1989 Through the Advisory Committee Headquarters is Required.

Persons wishing to attend the meeting must call Melissa Nuwaysir, (703) 875–4407, or write, not later than November 27th to: The Advisory Committee on Voluntary Foreign Aid, Room 310, SA–6, Agency for International Development, Washington, DC 20523.

Dated: October 26, 1989.

Sally H. Montgomery,

Deputy Assistant Administrator, Private and Voluntary Cooperation, Food for Peace and Voluntary Assistance.

[FR Doc. 89–26000 Filed 11–3–89; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31558]

CSX Transportation, Inc.; Trackage Rights Exemption

Live Oak, Perry and South Georgia Railway Company has agreed to grant overhead trackage rights to CSX Transportation, Inc., between milepost 26.5±, at Quitman, GA, and milepost 40.0+1.53±, at Foley, FL, a distance of approximately 56 miles. The trackage rights were to have become effective on October 23, 1989.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354, I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 31, 1989

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–25941 Filed 11–3–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–266 (Sub-No. 4X)]

New York, Susquehanna and Western Railway Corp.; Discontinuance to Trackage Rights Exemption in Hudson County, NJ

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue its trackage rights over a 5-mile line of Consolidated Rail Corporation (Conrail) between milepost 8.2, at North Bergen Township, and milepost 3.2, at Jersey City, Hudson County, NJ. Conrail will continue to operate over the line.

Applicant has certified that: (1) No local traffic has moved over the line under the trackage rights agreement for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 6, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues[1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by November 16, 1989. Petitions for reconsideration must be filed by November 27, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Michael F. Armani, The New York, Susquehanna and Western Railway Corporation, 1 Railroad Avenue, Cooperstown, NY 13326.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 8, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26160 Filed 11–3–89; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to files its request as soon as possible in order to permit this commission to review and act on the request before the effective date of this exemption.

[2] *See* Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with departmental policy, 28 CFR 50.7 notice is hereby given that on October 5, 1989, a proposed consent decree in *United States of America* v. *Township of North Bergen, New Jersey*, consolidated with *United States* v. *City of Hoboken*, Civil Action No. 79–2030, was lodged with the United States District Court for the District of New Jersey. The proposed consent decree settles the United States' claims against North Bergen under the Clean Water Act, relating to discharges from North Bergen's Woodcliff sewage treatment plant in violation of effluent limitations and other applicable permit requirements.

The proposed consent decree requires North Bergen to expand and upgrade its Woodcliff facility to provide secondary treatment to all flows to that facility, by December 1, 1990. The decree also requires (1) payment of $58,000 in settlement of the United States' civil penalty claims, (2) compliance with interim effluent limitations until secondary treatment is achieved, and (3)

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various interim operating improvements at North Bergen's existing treatment facilities.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of North Bergen*, D.J. Ref. 90–5–1–1–2494.

The proposed consent decree may be examined at the offices of the United States Attorney, Federal Building, 970 Broad Street, Newark, New Jersey 07102, and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, NY 10278. A copy of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 89–26061 Filed 11–3–89; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Advanced Television Test Center, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Advanced Television Test Center, Inc. ("the Test Center") on September 29, 1989 filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the members of this joint venture and (2) the nature and objectives of this joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to this joint venture, and its general areas of planned activity are given below:

The current parties to this joint venture are the following:

Advanced Television Test Center, Inc.
Association of Independent Television Stations, Inc.
Association of Maximum Service Telecasters, Inc.
Capital Cities/ABC, Inc.
CBS Inc.
Electronic Industries Association
National Association of Broadcasters, Inc.
National Broadcasting Company, Inc.
Public Broadcasting Service, Inc.

The area of planned activity of this joint venture is to design and conduct, either directly or through agreements with third parties, objective, subjective, and other tests relating to advanced television systems to provide the data that the Federal Communications Commission and its Advisory Committee on Advanced Television Service, as well as the Advanced Television Systems Committee, will require and utilize to determine appropriate actions with regard to the introduction of advanced television service in the United States. The parties to this joint venture may also undertake additional ATV tests not required by the Advisory Committee on Advanced Television Service.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–26063 Filed 11–3–89; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act for 1989

On October 31, 1989, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and the certifications are printed below.

Dated: October 31, 1989.

Roberts T. Jones,

Assistant Secretary of Labor

October 31, 1989.

Secretary of Labor

The Honorable Nicholas F. Brady,
Secretary of the Treasury, Washington, DC 20220

Dear Nick: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending October 31, 1989. One is required with respect to normal Federal unemployment tax credit by section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by section 3303 of the Code.

The certification pursuant to section 3304 lists all 53 jurisdictions, except New Jersey. New Jersey is ommitted from both certifications because of unresolved issues concerning the requirements of section 3304(a) of the Internal Revenue Code of 1986. If these issues are resolved satisfactorily, I will, of course, forward to you the certifications with respect to New Jersey. The certification pursuant to section 3303 also omits Puerto Rico because the unemployment compensation law of this jurisdiction contains no experience rating provisions and permits no reduced rates of contributions.

With my warmest regards,

Sincerely,
Elizabeth Dole.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12–month period ending on October 31, 1989, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

State	
Alabama	Maryland
Alaska	Massachusetts
Arizona	Michigan
Arkansas	Minnesota
California	Mississippi
Colorado	Missouri
Connecticut	Montana
Delaware	Nebraska
District of Columbia	Nevada
Florida	New Hampshire
Georgia	New Mexico
Hawaii	New York
Idaho	North Carolina
Illinois	North Dakota
Indiana	Ohio
Iowa	Oklahoma
Kansas	Oregon
Kentucky	Pennsylvania
Louisiana	Puerto Rico
Maine	Rhode Island
South Carolina	Virginia
South Dakota	Virgin Islands
Tennessee	Washington
Texas	West Virginia
Utah	Wisconsin
Vermont	Wyoming

This certification is for the maximum normal credit allowable under section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1989.

Elizabeth Dole,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1989:

State	
Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Vermont
Maine	Virginia
Maryland	Virgin Islands
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wisconsin
Mississippi	Wyoming
Missouri	

This certification is for the maximum additional credit allowable under section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1989.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 89–26116 Filed 11–3–89; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Southern California Edison Co., et al.; San Onofre Nuclear Generating Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF–10 and No. NPF–15 issued to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise Technical Specification 3/4.1.3.4, "CEA Drop Time" and its associated Bases, to use both an arithmetic average control element assembly (CEA) drop time and a maximum individual CEA drop time. The maximum individual CEA drop time restriction would be used to limit the CEA drop time distribution from the arithmetic average.

The Need for the Proposed Action

The proposed amendments are required to allow effective use of the new CEA Drop Time Test software methodology in use at San Onofre Nuclear Generating Station, Unit Nos. 2 and 3. In order to preclude a delayed entry into Mode 2 (Startup) following testing using the new methodology, the proposed amendments would allow an increase in the margin between the Technical Specification limit and the measured values derived from the new methodology.

Environmental Impacts of the Proposed Action

The proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendments do not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendments do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 7, 1989 (54 FR 37172). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981 and its Errata dated June 1981.

Agencies and Persons Consulted

The NRC staff has reviewed the licensees' request that supports the proposed amendments. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated July 31, 1989 which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library,

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University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 31st day of October, 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26047 Filed 11-3-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27405; File No. SR-DTC-89-12]

Self-Regulatory Organizations; Depository Trust Company; Order Approving a Proposed Rule Change Concerning Clarification and Technical Revision of Depository Trust Company's Rules

October 30, 1989.

On July 3, 1989, the Depository Trust Company ("DTC") filed a proposed rule change (SR-DTC-89-12) with the Commission pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act"). On July 31, 1989, the Commission published notice in the **Federal Register** to solicit comments from interested parties.[2] On September 6, 1989, DTC consented to extend the time period for consideration of its proposal to September 29, 1989.[3] No comments were received. As discussed below, the Commission is approving this proposal.

I. Introduction

The proposed rule change would make certain technical revisions to DTC's rules. These revisions would clarify the meaning of DTC's rules and would make some technical drafting changes to DTC's rules to reflect the current technological state of the securities industry. Because these revisions do not change the substance of DTC's rules, they will not be discussed in this release.

The proposed rule change also makes two substantive changes to DTC's rules. First, DTC is eliminating its requirement that securities eligible for DTC's services must have a transfer agent that is located in the United States. In addition, DTC is changing its rule governing the circumstances under which DTC may reverse a delivery made by a participant to the National Securities Clearing Corporation ("NSCC") through DTC's facilities.

II. Description

DTC proposes to change its rules concerning the securities eligible for the services offered by DTC. Under DTC's current rules, an issue of securities may be eligible for the services provided by DTC if (i) such issues lawfully may be transferred by book-entry; and (ii) the transfer agent for such securities is located in the United States. DTC proposes to revise this rule by eliminating the second requirement. This would expand the number of issues of securities eligible for DTC's services.

DTC also proposes to change its rules with respect to the circumstances under which it may reverse a delivery made from a participant's account to NSCC. The proposal allows DTC to combine all of a participant's account positions in DTC's next-day funds settlement ("NDFS") system in a single security issue when DTC determines the extent to which it may reverse a participant's CNS deliveries (defined below) before they become final,[4] thus shifting all the losses resulting from the participant's activity in NSCC's continuous net settlement ("CNS") system from DTC to NSCC. Under DTC's current rules,[5] a participant, or NSCC acting as a special representative of such participant ("Participant"), may instruct DTC to deliver securities from the Participant's account to NSCC's account at DTC ("CNS instruction"). DTC, however, will not deem such a delivery to be final until DTC determine either (i) that the Participant's net credit balance exceeds his net debit balance for the day; or (ii) the Participant pays his net debit balance for the day. If DTC ceases to act [6] for the Participant before such delivery becomes final, and, as a consequence, (i) securities which another participant ("Delivering Participant") was obligated to deliver to the Participant's account at DTC ("subject account") were either retained by the Delivering Participant or sold out by DTC (because the Participant defaulted); (ii) the Participant's subject account is reduced by virtue of DTC's delivery of securities to NSCC ("CNS delivery"); (iii) the Participant has a short position in his subject account as a result of such actions; and (iv) the securities which the Participant instructed DTC to deliver to NSCC's account are of the same issue as that in which the Participant has a short position ("subject securities"), then the CNS instruction will not be effective and DTC will reverse the deliveries it made from the Participant's subject account to NSCC's account to the extent necessary to offset the Participant's net debit obligation for that day. If such a reversal causes NSCC to have a short position in its DTC account (because it has already delivered out the securities delivered to it by DTC), NSCC would be required to deliver securities to DTC in an amount sufficient to cover its short position. NSCC must deposit on demand an amount equal to 100% of the market value of its short securities position until such delivery is made.

As an example, assume a Participant has both a proprietary account and an agency account at DTC, has 150 shares of XYZ in his proprietary account, is expecting to receive 150 shares of XYZ into his agency account in a transaction versus payment, and that the value of XYZ is $1.00 per share. The Participant instructs DTC to transfer 150 shares of XYZ to NSCC from his proprietary account and to transfer 150 shares of XYZ to NSCC from his agency account. Assume the Participant defaults on his obligation to pay the Delivering Participant for the 150 shares of XYZ and that the Delivering Participant retains such shares as a result. Further assume that the Participant has a net debit obligation to DTC of $300 on the day these transactions occur. Under DTC's current rules, DTC would be able to reverse its delivery of 150 shares of XYZ delivered out of the Participant's agency account to cover the Participant's net debit obligation.[7] However, DTC does not have the authority to reverse the delivery of XYZ shares made out of the Participant's proprietary account. As a result, DTC would suffer a loss of $150.

[1] 15 U.S.C. § 78s(b)(1) (1982).

[2] 54 FR 31601 (July 31, 1989).

[3] *See* letter from Richard B. Nesson, General Counsel, DTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, dated September 6, 1989.

[4] Under DTC's rules, a delivery is final when the participant receiving the delivery is determined to have a NDFS credit balance or the participant pays its NSFS debit balance. *See* DTC Rule 9(B).

[5] *Id.*

[6] DTC may cease to act for a participant if, among other things, the participant has failed to pay any amounts owing with respect to securities delivered to it. *See* DTC Rule 10, section 1(iv).

[7] After such a reversal, NSCC, as a settlement guarantor with respect to CNS transactions, must buy-in the subject securities to deliver to the receiving participant. Such a buy-in may cause NSCC to suffer a loss which may first be recovered by reversing any credit balance the Participant has at NSCC. Because the Participant probably has no credit balance (otherwise he would not have defaulted), NSCC must then assess the Participant's contribution to NSCC's clearing fund to cover any loss caused by the buy-in. *See* NSCC Rule 4, section 3. If the Participant's clearing fund contribution is insufficient to satisfy the loss, NSCC would then have to satisfy such loss out of its retained earnings or a pro-rata assessment of the clearing fund contributions of all of the members. *See* NSCC Rule 4, section 4.

The effect of this rule is to allocate a loss arising out of a Participant's CNS activity between DTC and NSCC. DTC's current rule attempts to allocate such loss to NSCC by allowing DTC to reverse the deliveries it made from the Participant's subject account to NSCC to the extent of the Participant's net debit obligation to DTC. However, as illustrated by the above example, because DTC's authority to reverse CNS deliveries of subject securities is limited to reversing only those CNS deliveries made from the Participant's subject accounts, these reversals may not be sufficient to cover the losses incurred by DTC.

DTC proposes to revise its method of determining which deliveries are eligible for reversal under the above scenario. Under DTC's proposal, DTC would have the authority to reverse CNS deliveries of subject securities made from all of the Participant's accounts, subject to existing limitations designed to protect fully-paid securities held in the account. Consequently, under the above example, DTC could also reverse the delivery of 150 shares of XYZ made from the Participant's proprietary account, thus satisfying the Participant's net debit obligation to DTC for that day.

III. Rationale

DTC believes that its proposal is consistent with section 17A of the Act because it facilitiates the immobilization and book-entry transfer of securities. DTC believes that its proposal is consistent with section 17A(b)(3)(A) [8] of the Act in general because it facilitates the immobilization and book-entry transfer of foreign securities. In addition, DTC believes that its proposal is consistent with section 17A(b)(3)(B) of the Act, which provides that, subject to certain exceptions, the rules of a registered clearing agency must allow any other clearing agency.[9] DTC believes that its proposal facilitates such participation because it allows DTC to maintain the appropriate balance between encouraging other registered clearing agencies (and their participants) to participate in DTC while adequately protecting DTC from losses arising out of such participation.

IV. Discussion

One of the purposes of section 17A of the Act is to encourage the immobilization of securities in depositories and the transfer of such immobilized securities by book-entry.[10] Since section 17A was enacted, the securities markets have become increasingly internationalized.[11] For example, with respect to trading of equity securities, some foreign equity exchanges have formed trading links with domestic equity exchanges.[12] In addition, linkages also have been developed between various domestic and foreign clearance and settlement systems.[13]

The Commission believes that DTC's proposal to include as eligible for DTC's safekeeping services securities issued by non-U.S. entities and serviced by non-U.S. transfer agents is consistent with the Act and the development of facilities for improved clearance and settlement of transactions in securities. Improvements in mail and courier delivery services during the last decade appear to reduce the likelihood that foreign security certificates will be lost or delayed in transit to a non-U.S. transfer agent, and the availability of book-entry delivery facilities in the United States would appear to be essential to efficient clearance and settlement of trades among U.S. broker-dealers and U.S. investors in those securities.[14]

The Commission believes DTC's proposal concerning its authority to reverse certain deliveries is consistent with section 17A(b)(3) (A) and (B) of the Act [15] because it appropriately allocates the risk of loss from CNS activities to NSCC and increases DTC's protection in the event of member default. Under NSCC's rules, members using NSCC's CNS system must establish an account at a qualified depository such as DTC before being allowed to use the CNS system.[16] To make a delivery against payment in the CNS system, a NSCC participant directs NSCC to instruct DTC to deliver securities from the participant's securities account at DTC to NSCC's securities account at DTC; and NSCC instructs DTC to deliver securities from NSCC's securities account to the receiving participant's securities account at DTC.[17] All money obligations relating to such deliveries settle at NSCC in next day funds.[18]

As explained above, under its current rules, DTC may reverse a CNS delivery of subject securities only if the delivery was made from the same account of the Participant with respect to which the Participant previously received the subject securities in a delivery versus payment transaction. Any CNS delivery of subject securities made from another one of the Participant's account is not subject to reversal. Thus, if the value of the securities subject to reversal is insufficient to satisfy the Participant's net debit obligation to DTC, DTC may not reverse CNS deliveries of the subject securities made from a different account of the Participant to cover the shortfall. DTC proposes to change this result by allowing it to aggregate all of the Participant's CNS deliveries of subject securities regardless of the account from which such deliveries were made. By doing so, any shortfall in the Participant's net debit obligation to DTC which is not offset by reversing a CNS delivery of the subject securities from one of the Participant's accounts may be satisfied by reversing CNS deliveries of the subject securities made from another one of the Participant's accounts. As a consequence, DTC would have increased protection in the event Participants are unable to satisfy their obligations which arise out of CNS activity.

The Commission also believes that DTC's proposal is consistent with section 17A(b)(3)(F) of the Act [19]

[8] *See* 15 U.S.C. 78q-1(b)(3)(A) (1982).

[9] *See* 15 U.S.C. 78q-1(b)(3)(B) (1982).

[10] *See* Senate Report 94-75, which sets forth the legislative history of the Securities Acts Amendments of 1975 (April 14, 1975).

[11] For a thorough description of this development, *see* Internationalization of the Securities Markets, Report of the Staff of the United States Securities and Exchange Commission ("Internationalization Report") (July 27, 1987).

[12] *See* chapter 5 of the Internationalization Report at 45-60.

[13] *See* chapter 5 of the Internationalization Report at 61-70. *See also* letters from Jonathan Kallman, Assistant Director, Division of Market Regulation, to Karen L. Saperstein, Associate General Counsel, International Securities Corporation, dated March 23, 1988 and September 20, 1988.

[14] The Commission understands that the proposal eliminates an existing obstacle in DTC's rules to DTC's ability to make non-U.S. securities issues eligible for DTC services. At such time as DTC determines to make eligible securities serviced by transfer agents located outside of North America, however, the Commission expects DTC to file notice for review under section 19(b)(1) of the Act.

[15] Section 17A(b)(3)(A) requires that the rules of a registered clearing agency must be designed, among other things, to facilitate the prompt an accurate clearance and settlement of securities transactions for which it is responsible. *See* 15 U.S.C. 78q-1(b)(3)(A) (1982). Section 17a(b)(2)(B) provides that the rules of a registered clearing agency must provide that any . . . other registered clearing agency . . . may become a participant in such clearing agency. *See* 15 U.S.C. 78q-1(b)(3)(B) (1982).

[16] *See* NSCC Rule 29.

[17] *See* NSCC Rule 11, section 3.

[18] *See generally* NSCC Rule 12.

[19] Section 17A(b)(3)(F) provides that the rules of a registered clearing agency must be designed . . . to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. *See* 15 U.S.C. 78q(b)(3)(F) (1982).

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because it facilitates the development of the national system for the prompt and accurate clearance and settlement of securities transactions. Immobilizing securities in depositories and transferring such securities by book-entry is one of the essential elements of a national clearance and settlement system. NSCC's CNS system plays a major role in encouraging the immobilization and book-entry transfer of securities by providing a facility whereby members may make a number of money and securities transfers by book-entry and still arrive at one net money settlement obligation and one net securities settlement obligation at the end of the day that are guaranteed by NSCC. In addition, by allowing a member to carry his securities settlement positions forward from day to day, NSCC's CNS system encourages a member to stay within the book-entry environment by reducing the need for him to go outside of such environment to meet his securities delivery obligations. However, because NSCC itself is not a depository, the CNS system can function only if NSCC participants immobilize their securities in a NSCC-approved depository such as DTC. Consequently, because of its role as an ajunct to the CNS system, DTC may end up effecting securities transfers on behalf of members of a facility for which DTC is not primarily responsible. As demonstrated by the above example, this may expose DTC to substantial financial risk. Therefore, it seems reasonable to allow DTC and NSCC to allocate losses arising out of CNS activity to NSCC. Failing to allow DTC to allocate losses in this manner would discourage DTC (or any other depository) from allowing NSCC participants to establish accounts at DTC in connection with CNS activity. This, in turn, would impede the development of the national clearance and settlement system by inhibiting the immobilization and book-entry transfer of securities.

The Commission acknowledges that DTC's proposal may expose NSCC to greater uncertainty and increased financial exposure by subjecting it to more reversals. However, DTC's proposal does not increase the amount of risk involved in the national clearance and settlement system as a whole, because either DTC or NSCC would have to bear the loss resulting from the Participant's default. Instead, it merely transfers the risk of loss resulting from CNS activity from DTC to NSCC. Because NSCC sponsors the CNS system, monitors its members' activity in such system and structures its financial safeguards accordingly,[20] NSCC appears to be better suited to bear any such loss and to protect against such loss.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–89–12) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26119 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27404; File No. SR–MBS–89–5]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by MBS Clearing Corp. Relating to Fees for Failure to Resolve Uncompared or Inconsistent Settlement Balance Order ("SBO") Information, Appearing on the Advisory Report

October 30, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is MBSCC's proposed revision to its fee schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to impose fees for delinquent notifications of SBO settlements. Under MBSCC's rules and procedures, participants are required to promptly notify MBSCC of the settlement of SBO transactions. If MBSCC receives inconsistent information regarding settled SBO transaction(s), MBSCC prepares and distributes Advisory Reports. Participants are then required, within specified time frames, to resolve (by either deleting or matching) uncompared or inconsistent information appearing on Advisory Reports. (During the past several months, both MBSCC and individual Participants have increased and enhanced the automation of the input and output of SBO settlement notification).

In order to ensure compliance with MBSCC rules and procedures regarding the prompt notification of SBO settlement, as well as the matching and the resolution of uncompared or inconsistent open SBO settlement items, MBSCC has established a fee for delinquent Participant activity. The fees are effective October 3, 1989. Specific fees, ranging from $25 to $50 per day are imposed on participants failing to take required actions within required time frames, including the failure to delete or match uncompared or inconsistent open SBO settlement information.

The revised fee schedule is consistent with section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MBSCC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Participants were formally advised of the proposed fees on July 18, 1989. No written comments have been received.

[20] For example, NSCC has the authority to require members who participate in the CNS system that maintain positions in "high risk" or "volatile" securities (as defined by NSCC) to make additional mark to market payments. *See* NSCC Rule 11, section 9.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise is furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written statements should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization.

All submissions should refer to file number SR–MBS–89–5 and should be submitted by November 27, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

EXHIBIT A

Action	Notification of settlement period (Clearance date +1)	Challenge period (Nos entry date +1–3)	Warning period (Nos entry date +3–5, close of business)	Penalty period (Nos entry date +6, at close of business until matched/deleted)
Deletion of an *Unchallenged* Uncompared Condition.	N/A	No Fee	No Fee	No Fee.
Deletion of *Challenged* Uncompared Condition.	N/A	No Fee	No Fee	$25 per day/NOS for each date a *challenged* uncompared condition existed in a penalty period.
Matching of an *Unchallenged* Advisory Condition.	N/A	No Fee	No Fee	$25 per day/NOS for each day an *unchallenged* advisory condition existed in a penalty period.
Matching of a *Challenged* Advisory Condition.	N/A	No Fee	No Fee	$50 per day/NOS for each day a *challenged* advisory condition existed in a penalty period.

[FR Doc. 89–26019 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27409; File No. SR–NASD–89–5]

Self-Regulatory Organizations; Filing of Amendment to Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Prompt Receipt and Delivery of Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") Amendment No. 3 [1] to the above-numbered proposed rule change, as described in Items I, II, and III below. Notice of the original proposed rule change, and Amendment No. 1 thereto, was given by the issuance of a Commission release (Securities Exchange Act Rel. No. 26746, April 20, 1989) and by publication in the **Federal Register**, (54 FR 18185, April 27, 1989).

In response to several negative comment letters,[2] the NASD has revised the text of the proposed rule change in the present amendment, and the Commission is publishing this notice to solicit comments on the revised proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the NASD Board of Governor's Interpretation on Prompt Receipt and Delivery of Securities (the "Interpretation"). The amendment would require members to make an affirmative determination, before effecting a short sale for their own accounts, that the security will be borrowed or delivered prior to the settlement date, except in certain specified circumstances.

The following is the complete text of the revised proposed rule change. Language added by Amendment No. 3 is italicized.

(b) No member shall effect a "short" sale for its own account in any security unless the member makes an affirmative determination that it can borrow the securities or otherwise provide for delivery of the securities by the settlement date. This requirement will not apply to transactions in corporate debt securities, to bona fide market making transactions by a member in securities in which it is registered as a NASDAQ market maker, *to bona fide market maker transactions in the non-NASDAQ securities in which the market maker publishes a two-sided quotation to an independent quotation medium,* or to transactions which result in fully hedged or arbitraged positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] Amendment No. 2, filed August 21, 1989, added new language to the text of the proposed rule change. Amendment No. 3 revised the language added by Amendment No. 2 and added an explanation of the reasons for the new language.

[2] A copy of the complete file on the proposed rule change, including the comment letters, is available in the Commission's Public Reference Room.

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places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last several years, the NASD Board of Governors has adopted rules providing for additional regulation of short sale practices in the over-the-counter market. In addition, it has amended its Interpretation on Prompt Receipt and Delivery of Securities to establish requirements for accepting customer short sale orders.

The Interpretation currently prohibits members from accepting a short sale order from a customer unless the member makes an affirmative determination that it will receive delivery of the security from the customer or that it can borrow the security on behalf of the customer for delivery by settlement date. The term "customer," as defined in Article II, section 1(f) of the NASD Rules of Fair Practice, excludes brokers and dealers.

The proposed rule change would impose a similar requirement upon members effecting short sales for their own accounts. Under the proposed rule change, a member would be prohibited from effecting a short sale for its own account in any security unless the member makes an affirmative determination that it can borrow the security or otherwise provide for delivery of the security by the settlement date. The proposed amendment is intended to address unnecessary speculation in connection with the short selling of broker-dealers' proprietary positions caused by the member's ability to go short without securities to cover the short position. The proposed amendment would not apply to transactions in corporate debt securities. It would also not apply to bona fide market making transactions by a member in securities in which it is registered as a NASDAQ market maker, to bona fide market maker transactions in non-NASDAQ securities in which the market maker publishes two-sided quotations to an independent quotation medium, or to transactions which result in fully hedged or arbitraged positions. These latter exemptions have been included to recognize that many short selling transactions are engaged in for risk reduction and market liquidity and to ensure their availability for bona fide purposes only.

Amendment No. 3 to the original rule filing adds to the list of transactions exempted from the requirement to make an affirmative determination that delivery can be made, market making transactions in non-NASDAQ securities for which the member is publishing two-sided quotations to an independent quotation medium. The amendment is in response to comments received on the original filing that argued that the market making exemption was too narrowly drawn, applying as it did to NASDAQ securities only. The Board determined that transactions in non-NASDAQ over-the-counter securities should be afforded the exemption, provided the member was engaged in bona fide market making, as evidenced by its publication of a two-sided quotations to a quotation medium, such as the "pink sheets."

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. By requiring members to make an affirmative determination that they can borrow a security or otherwise provide for delivery of the security prior to settlement date before effecting a short sale for their own account, the proposed rule change will enhance the integrity of the market, correct the anomaly that now exists between the obligations of customers and members, and prevent abuses that harm public investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The previous publication of the proposed rule change by the Commission elicited several comments regarding the failure to include within the exemptions bona fide market making transactions in non-NASDAQ over-the-counter stocks. The amended rule change is in response to such comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 27, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 31, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26020 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Chicago Board Options Exchange, Inc. (File No. 7-5434)

October 25, 1989.

The Chicago Board Options Exchange, Inc. ("CBOE") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1) (B) and (C) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 thereunder for unlisted trading privileges ("UTP") in American Greetings Corporation and John H. Harland Company for the purpose of trading the common stock of these securities as part of a market basket on the Standard & Poor's 500 and 100 Indexes ("Index").[1] As indicated in their application, American Greetings Corporation is an over-the-counter ("OTC") security that is quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") and that is not registered on any national securities exchange.[2] Last sale information in the stock is reported through NASDAQ facilities. John H. Harland Company is listed and registered on the New York Stock Exchange, Inc. and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 1989 written data, views and arguments concerning the above-referenced application.[3] Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2) of the Act. Under this Section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

Further, in considering the CBOE's application for extension of UTP in a stock not registered on another national securities exchange, section 12(f)(2) of the Act requires the Commission to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension of the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26013 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

[1] See proposed rule filing SR-CBOE-89-20. The CBOE previously applied for UTP in the 500 stocks comprising the Standard and Poor's 500 Index to accommodate CBOE's proposal to trade market baskets. See Securities Exchange Act Release No. 27237, 54 FR 28676. After that application, however, Standard & Poor's announced the two securities as replacement stocks for the Index.

[2] In its previous application the CBOE also registered UTP for 31 OTC stocks.

[3] Notice already has been sent to the issuer and the relevant markets.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

October 30, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

ACME Electric Corp.
Common Stock, $1.00 Par Value (File No. 7-5435)
Benetton Group
American Depository Shares (File No. 7-5436)
IDEX Corp.
Common Stock, $.01 Par Value (File No. 7-5437)
Integrated Resources
$4.25 Cm. Cv. Pfd., $1.00 Par Value (File No. 7-5438)
Network Equipment Technologies
Common Stock, $.01 Par Value (File No. 7-5439)
Total System Services, Inc.
Common Stock, $.10 Par Value (File No. 7-5440)
Weirton Steel Corp.
Common Stock, $.01 Par Value (File No. 7-5441)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26018 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 30, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Weatherford International, Inc.
Common Stock, $.10 Par Value (File No. 7-5442)
American Realty Trust, Inc.
Common Stock, $2.00 Par Value (File No. 7-5443)
Carolco Pictures, Inc.
Warrants expiring 6/1/93, No Par Value (File No. 7-5444)
Central Pacific Corporation of California
Common Stock, No Par Value (File No. 7-5445)
First National Corporation
Common Stock, No Par Value (File No. 7-5446)
Pacific Western Bancshares
Common Stock, No Par Value (File No. 7-5447)
Westamerican Bancorporation
Common Stock, No Par Value (File No. 7-5448)
Bristol-Myers Squibb Company
Common Stock, $1.00 Par Value (File No. 7-5449)
American Opportunity Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-5450)
Chile Fund (The), Inc.
Common Stock, $.001 Par Value (File No. 7-5451)
Cable & Wireless PLC
American Depositary Shares, No Par Value (File No. 7-5452)
LSI Logic Corp.
Common Stock, $.01 Par Value (File No. 7-5453)
Putnam Diversified Premium Income Trust
Shares of Beneficial Interest, No Par Value (File No. 7-5454)
Enron Oil & Gas Company

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Common Stock, Without Par Value (File No. 7–5455)
T/SF Communications Corporation
Common Stock, $.10 Par Value (File No. 7–5456)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89–26014 Filed 11–3–89; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 31, 1989.

The Midwest Stock Exchange, Inc. ("MSE") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 thereunder for unlisted trading privileges ("UTP") in the 16 securities listed below solely for the purpose of trading these securities as part of a portfolio transaction traded through the MSE's Portfolio Trading System during its Secondary Trading Session. The 16 securities listed below are all over-the-counter securities that are quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ").[1] Last sale information for these securities are reported through NASDAQ facilities.

Andrew Corp.
Common Stock, $.01 Par Value (File No. 7–5465)
Bassett Furniture
Common Stock, $5.00 Par Value (File No. 7–5466)
Charming Shoppes
Common Stock, $.10 Par Value (File No. 7–5467)
Coors (Adolph)
Class B Common Stock, No Par Value (File No. 7–5468)
Cross & Tecker
Common Stock, $1.00 Par Value (File No. 7–5469)
Jerrico, Inc.
Common Stock, No Par Value (File No. 7–5470)
Noxell Corp.
Class B Common Stock, $1.00 Par Value (File No. 7–5471)
Oshkosh B'Gosh
Class A Common Stock, $.01 Par Value (File No. 7–5472)
Paccar, Inc.
Common Stock, $12 Par Value (File No. 7–5473)
Roadway Services
Common Stock, No Par Value (File No. 7–5474)
St. Paul Cos.
Common Stock, $1.50 Par Value (File No. 7–5475)
Safeco Corp.
Common Stock, No Par Value (File No. 7–5476)
Westmoreland Coal
Common Stock, $2.50 Par Value (File No. 7–5477)
Wetterau, Inc.
Common Stock, $1.00 Par Value (File No. 7–5478)
Worthington Industries
Common Stock, $.01 Par Value (File No. 7–5479)
Yellow Freight Systems
Common Stock, $1.00 Par Value (File No. 7–5480)

Interested persons are invited to submit on or before November 16, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f) of the Act. Under this Section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

Further, in considering the MSE's application for extension of UTP in the 16 NASDAQ stocks, Section 12(f)(2) of the Act requires the Commision to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commisison may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1)(C) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89–26116 Filed 11–3–89; 8:45 am]
BILLING CODE 8010–01–M

[1] None of the securities on which UTP has been requested are registered on another national securities exchange under section 12(b) of the Act.

[Release No. 34-27410; File No. SR-OCC-89-06]

Self Regulatory Organization; The Options Clearing Corporation; Order Approving a Proposed Rule Change Increasing the Minimum Required Contribution to OCC's Clearing Fund and Allowing OCC to Charge Certain Losses and Deficiencies Against Retained Earnings

October 31, 1989.

On June 28, 1989, the Options Clearing Corporation ("OCC") filed a proposed rule change (File No. SR–OCC–89–06) pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule would increase the minimum required contribution to OCC's Stock Clearing Fund ("Stock Fund") and Non-Equity Securities Clearing Fund ("Non-Equity Fund") (collectively "Clearing Fund"). The proposed rule also gives OCC's Board of Directors ("Board") more flexibility in dealing with OCC's financial affairs. Notice of the proposed rule change appeared in the Federal Register on July 27, 1989.[2] No comments were received. This release approves OCC's proposed rule change.

I. Description of the Proposal

OCC's proposed rule change amends OCC's Rules by increasing a member's minimum required contribution to OCC's Clearing Fund. The proposal amends Rule 1001(a) [3] by increasing a member's minimum required contribution to the Stock Fund from $10,000 to $75,000. It also amends Rule 1001(b) [4] by increasing a member's minimum required contribution to the Non-Equity Fund from $50,000 to $75,000.

The proposal also amends OCC's By-laws by giving OCC's Board of Directors ("Board") more discretion in dealing with OCC's financial affairs. The proposal grants the Board the authority to increase a member's minimum required contribution to the Clearing Fund during the first three months of membership.[5] The proposal further allows OCC to charge any loss caused by a clearing member's default or a deficiency in a member's required clearing fund contribution against OCC's retained earnings.[6]

II. OCC's Rationale

OCC believes that the proposed rule change is consistent with Section 17A of the Act [7] because it will provide additional financial integrity to OCC's guaranty of the clearance and settlement of exchange-traded options. OCC believes that its proposal will increase investor confidence by ensuring that OCC maintain an independent source of liquidity with sufficient funds to cover losses arising out of member default.

III. Discussion

A. Increase in Minimum Required Contribution to Clearing Fund

Section 17A of the Act provides that the rules of a clearing agency must, among other things, be designed to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency or for which it is responsible. A clearing agency's rules must also be designed to protect investors and the public interest.[8] As explained in the Division of Market Regulation's standards for review of clearing agency registration applications ("Standards"),[9] one way to protect participants from risk is for clearing agencies to establish, by rule, an appropriate level of clearing fund contributions based, among other things, on an assessment of the risks to which they are subject.[10] OCC has reassessed the risks to which it is subject in light of the events of October, 1987[11] and, based on that assessment, believes that increasing the minimum required contribution to the Clearing Fund is appropriate at this time.[12]

The Commission believes that OCC's decision to increase minimum required contribution to its Clearing Fund is appropriate and consistent with the Act.[13] OCC's minimum required contribution to its Stock Fund and Non-Equity Fund have remained constant since 1972 (the year of OCC's inception) and 1984 respectively. Since these dates, activity in OCC-issued stock and non-equity options has increased dramatically. For example, volume for combined equity and non-equity options increased (on an average daily basis) 30% between 1985 and 1988.[14] In addition, average non-equity option premiums have increased over 50% between 1984 and 1988.[15]

The Commission also believes that raising OCC's minimum required contribution to the Stock Fund will better protect OCC from any realistic exposure inherent in options trading.[16] For example, OCC's minimum required contribution to the Stock Fund ($10,000) has not been increased since OCC's formation in 1972. Thus, because of the effects of inflation, this amount no longer provides OCC with the same degree of coverage that it initially provided.

The Commission recognizes that increasing the minimum required contribution to OCC's Clearing Fund may serve as a barrier to entry to prospective clearing members, particularly for members and prospective members who desire to participate only in the stock option markets. The Commission believes, however, that the benefits of enhancing OCC's protection against member default outweighs any additional cost to prospective members and existing members with limited capital resources by increasing the amount of capital necessary to participate in OCC. Any prospective member or existing member, who is precluded from becoming or remaining a member because it can not meet OCC's minimum required Clearing Fund contribution, may participate indirectly in OCC by entering into correspondent relationships with other OCC clearing members.

Although the Commission traditionally has not attempted to determine whether a specific dollar amount of Clearing Fund contributions are appropriate,[17] the Commission must review the proposed fund contributions to determine whether the minimum contribution level set by OCC is reasonable in relation to the risks posed

[1] 15 U.S.C. 78s(b)(1) (1982).
[2] *See* Securities Exchange Act Release No. 27046 (July 20, 1989), 54 FR 31276.
[3] *See* OCC Rules ("Rules"), chapter 10, Rule 1001(a).
[4] *See* Rules, Chapter 10, Rule 1001(b).
[5] *See* Section III.B., *infra.*
[6] *See* Section III.C., *infra.*
[7] 15 U.S.C. 78q–1 (1982).
[8] *See* 15 U.S.C. 78q–1(b)(3)(F) (1982).
[9] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.
[10] *Id.* at 41929.
[11] On October 19, 1987, OCC, among others, was monitoring the financial condition of one of its clearing members, Shaine, because of its difficulty in meeting settlement obligations and its high risk exposure in uncovered S&P 100 put options. Because of the dramatic decrease in the price of such options on October 19, Shaine was unable to meet its margin calls on that day. Consequently, on October 20, Shaine was placed in liquidation. OCC converted Shaine's margin and clearing fund deposits to cash, netted out Shaine's open positions, and closed out Shaine's netted positions by the end of the day. OCC sustained an $8.5 million loss on the liquidation and allocated such loss pro-rata among OCC's clearing members. This was the first time that OCC's members had been assessed pro-rata for losses caused by a clearing member's default.

Because almost all of Shaine's positions were in non-equity options, 99.25 percent of the loss was charged to the Non-Equity Fund and 0.75 percent was charged to the Stock Fund. *See The October 1987 Market Break,* Report by the Division of Market Regulation, United States Securities and Exchange Commission, at 10–45, (February, 1988) ("Market Break Report").
[12] On August 31, 1988, a subcommittee of OCC's margin committee issued a report to OCC's Board of Directors analyzing various aspects of OCC's risk management policies and procedures. ("Backup System Report"). The subcommittee recommended that in view of the events of October, 1987, the minimum required contribution to the Stock Fund and Non-Equity Fund be increased to $75,000. *See* Backup System Report at 58.
[13] The President's Working Group on Financial Markets recommended that clearing organizations review the adequacy of their required clearing fund contributions. *See* Interim Report of the President's Working Group on Financial Markets (May 1988) Appendix D ("Working Group Report").
[14] OCC's combined equity and non-equity contract volume has increased from 774,450 (on an average daily basis) at the end of 1984 to an average of 1,012,000 (on an average daily basis) for the period 1985 through 1988. *See* Securities Exchange Act Release No. 27046 (July 20, 1989) 54 FR 31276.
[15] OCC's average non-equity options premium has increased from $247.08 per contract in 1984 to an average of $371.12 per contract for the period between 1985 through 1988. *See* Securities Exchange Act Release No. 27046 (July 20, 1989) 54 FR 31276.
[16] OCC studied the impact of its proposed increase in minimum required clearing fund contributions by picking an arbitrary date (June 30, 1989) and examining whether its clearing fund, as increased under OCC's proposal, would be sufficient to cover OCC's five largest net pays and collects on that date. OCC has informed the Commission that its clearing fund levels on June 30, 1989 would have been three times greater than the total of the five largest net pays to OCC, and fifteen times greater than the total of the five largest collects from OCC.
[17] *See* Securities Exchange Act Release No. 19988 (July 21, 1983), 48 FR 34554.

to OCC by the activity of its members and is consistent with OCC's obligation to safeguard funds and securities in its custody and control under section 17A of the Act.[18]

The Commission believes that OCC's proposed minimum required clearing fund contributions enhance OCC's ability to safeguard funds and securities and are adequate in light of the risks posed to OCC by its members' trading activity.[19] As an initial matter, OCC's proposal would result in approximately a 3 percent increase in the overall dollar amount of OCC's Clearing Fund.[20] Moreover, the composition of OCC's Clearing Fund is such that OCC is assured of having a liquid pool of assets to draw upon in the event of a member default. Under OCC's Bylaws, contributions to its Clearing Fund must be in the form of cash or U.S. Treasury securities.[21] OCC protects the assets in its Clearing Fund against market risk by marking to market daily the Treasury securities contributed to the Clearing Fund. OCC also protects the assets in the Clearing Fund against liquidation risk by valuing short term Treasury securities (i.e., those with less than one year to maturity) at the lesser of their par value or their current market value. Similarly, all other Treasury securities are valued at the lesser of their par value or 95 percent of their current market value.

OCC's proposal also allows OCC's Clearing Fund to better fulfill one of its basic objectives. For many years, OCC has attempted to set its Clearing Fund requirements at a level sufficient to replace the individual margin deposits of all but the very largest clearing members. OCC has studied whether the proposed increase to its minimum required Clearing Fund contribution would meet this standard by examining the extent to which the Clearing Fund, as increased under OCC's proposal, would cover the margin requirements of its members on a particular day. OCC has informed the Commission that its Stock Fund and Non-Equity Fund on April 15, 1988, would have been sufficient to cover the margin requirements of all but three or four, respectively, of its members' margin requirements on that date.[22] In addition, OCC also has examined whether its Clearing Fund, as increased under the proposal, would be sufficient to cover its five largest net pays and collects under normal market conditions. OCC has informed the Commission that its Clearing Fund levels on April 15, 1988, would have been nine times greater than the total of the five largest net pays to OCC, and eleven times greater than the five largest net collects from OCC on that date.[23]

Firm A	$109.76 million
Firm B	$108.52 million
Firm C	$89.43 million
Firm D	$75.07 million
Firm E	$61.07 million
Firm A	$126.62 million
Firm B	$94.26 million
Firm C	$73.03 million
Firm D	$63.09 million
Firm E	$50.14 million

It is important to note that OCC's Clearing Fund is just one aspect of the systems OCC has in place to protect against the risks posed by member trading activity. Since the October, 1987 market break, OCC has taken a number of steps to increase its level of protection against member default.[24] For example, OCC has increased its members' initial and maintenance net capital requirements from $150,000 and $100,000 to $1,000,000 and $750,000, respectively. OCC has also increased the capital requirements for clearing members that clear for other firms as facilities managers.[25] Moreover, OCC also has a concentration monitoring system in place which monitors its members' positions on a real time basis to determine whether any member has established an unusually large position in a single class of options.[26] OCC has also taken steps to reduce the number of intermarket payment flows by entering into a cross-margining agreement with the Chicago Mercantile Exchange.[27] In addition, OCC has decreased from 45 to 15 minutes the amount of time needed to calculate variation (i.e. intraday) margin calls and has established procedures allowing it to debit its members' accounts directly to fund these calls.

OCC has also taken steps to improve the quality of information it receives about its members' financial situation. For example, OCC is a member of the Securities Clearing Group, a group of seven clearing agencies that have agreed to consult with one another whenever a common member has been placed on surveillance and to facilitate the monitoring of common member financial condition.[28] OCC also has agreed to participate in the Chicago Board of Trade Clearing Corporation's ("CBTCC") centralized pay and collect system.[29] The Commission believes that, viewed as a whole, all of the above actions will reduce the systemic risk inherent in the clearance and settlement process by better enabling OCC to fulfill

[18] Under section 17A(b)(3)(A), a registered clearing agency must be so organized and have the capacity to safeguard funds and securities that are subject to its custody or control, or for which it is responsible. *See* 15 U.S.C. 78q–1(b)(3)(A) (1982).

[19] After approval of the instant proposal, OCC's clearing fund will incorporate most of the recommendations suggested by the Working Group Report, the Back-up System Report and the Market Break Report.

[20] This figure is derived by calculating the total dollar amount of assets in OCC's Clearing Fund on April 15, 1988, under OCC's present Clearing Fund formula and under OCC's proposed Clearing Fund. Under OCC's proposal, those amounts would be increased to $50.6 million and $36.39 million respectively.

[21] *See* Article 8, section 3 of OCC's By-laws. OCC's policy of accepting only cash or Treasury securities as acceptable forms of clearing fund deposits is consistent with the Working Group's recommendation that clearing organizations reduce their clearing funds' reliance on letters of credit and increase the liquidity of such funds by accepting only highly liquid assets (such as U.S. Treasury securities) as acceptable forms of deposit.

[22] For example, OCC's five largest equity option margin requirements on April 15, 1988, were as follows:

Under OCC's proposal, OCC would have had $83.39 million in its Stock Fund on the above date.

Under OCC's proposal, OCC would have had $59.63 million in its Non-Equity Fund on the above date. Telephone conversation between Michael Cahill, Assistant Vice-President, OCC, and Ross Pazzol, Attorney, Division of Market Regulation, October 3, 1989.

[23] On April 15, 1988, the five largest net pays to OCC totaled $14.99 million, while the five largest net collects from OCC totaled $12.49 million. Under OCC's proposed increase, OCC would have had $143.02 million in its Clearing Fund on April 15, 1988. Telephone conversation between Michael Cahill, Assistant Vice-President, OCC, and Ross Pazzol, Attorney, Division of Market Regulation, October 3, 1989.

[24] Many of the actions taken by OCC were suggested by either the Market Break Report, the Working Group Report or the Backup System Report.

[25] *See* Securities Exchange Act Release No. 28640 (May 19, 1989), 54 FR 23004.

[26] OCC determines the theoretical liquidating value of a member's position with a projection of the margin interval (*i.e.*, the assumed maximum one-day price movement in the asset or index underlying the option) on each option product at three times its regular interval. The projected theoretical portfolio liquidating value is then compared to the margin requirement for the position at its regular interval. The difference between the projected value and the current margin is compared to the excess net capital of the member. This analysis is done by option class and product group for each member account. OCC's surveillance staff reviews any account in which the difference between the projected value and the current margin held exceeds 40 percent of the member's excess net capital. OCC reviews any account where such difference is 100 percent in greater detail. If OCC determines that a member's position poses concentration risk, OCC first requires that member to provide cover for short call positions. OCC also may require members to reduce their exposure to large market moves by purchasing or selling options contracts to hedge their position. OCC also may require members to maintain higher than normal margin deposits for concentrated positions. *See* Backup System Report at 47–49.

[27] *See* Securities Exchange Act Release No. 27298 (September 26, 1989) [File No. SR–OCC–89–1]. This development also implements one of the recommendations made in the Working Group Report.

its role as the guarantor of its members' settlement obligations.[30]

It should be noted that OCC's proposal, would, for the first time, establish parity between the minimum required contribution to the Stock Fund and the Non-Equity Fund. Under section 17A(b)(3)(D) of the Act,[31] the rules of a clearing agency must provide for the equitable allocation of reasonable dues, fees and other charges among its participants. The Commission believes OCC's proposal is consistent with this standard for the reasons provided below.

Historically, OCC's minimum required clearing fund contribution for non-equity options always has been higher than its minimum required clearing fund contribution for stock options. This disparity was the result of a number of factors. For example, the premium [32] for non-equity options generally was higher than the premium for stock options.[33] Further, the value of the unit of trading for non-equity options generally was greater than such value for equity options.[34]

In addition, OCC, along with all other market participants, sought to provide adequate protection against unforseen risks of loss when non-equity options were first introduced. Thus, OCC believed that its exposure in connection with members non-equity options activity was greater than its exposure resulting from members' stock options activity.[35]

After gaining some experience with respect to non-equity options, OCC, in 1984, reassessed the risks associated with such options and decreased its minimum required Non-Equity Fund contribution from $100,000 to $50,000.[36] OCC believed that decrease was appropriate because the majority of non-equity option trading involved options on broad-based stock indices whose premiums were at approximately the same level as equity option premiums.[37] In addition, because of the high volume of non-equity options trading in general, and of stock index option trading in particular, OCC estimated that the volume weighted average dollar amount of a non-equity options contract was much lower than expected.[38] Even after this decrease became effective, however, OCC still required a minimum contribution to its non-equity clearing fund which was five times greater than the minimum required contribution to OCC's Stock Fund.

The Commission believes that OCC's proposal to establish parity between the minimum required contributions to its Stock Fund and Non-Equity Fund is consistent with section 17A(b)(3)(D) of the Act. OCC has a number of mechanisms in place which help it offset any possible additional risks associated with the issuance, clearance and settlement of non-equity options. For example, OCC monitors its members' positions on a real time basis to determine whether any member has established an unusually large position in a single class of options.[39] OCC also uses a sophisticated portfolio analysis to determine the appropriate level of a member's daily non-equity options margin requirement.[40] Finally, OCC has gained substantial experience with a wide variety of non-equity options during different market conditions and is familiar with the risks associated with such options. Accordingly, the Commission believes that OCC's identical minimum contribution requirements are appropriate under section 17A(b)(3)(D).

B. Board of Directors Discretion to Increase a New Member's Minimum Required Clearing Fund Deposit

OCC is also amending its rules to grant the Board the authority to increase a member's minimum required clearing fund deposit during its first three months as a member. Currently, OCC requires new members to deposit the minimum required amount to the appropriate clearing fund upon admission to membership at OCC. This amount remains constant during the member's first three months of membership.[41] After such time period, a member's minimum required clearing fund contribution may be increased to reflect the risks posed to OCC by such member's trading activity. OCC proposes to grant the Board the authority to increase a member's minimum required clearing fund contribution during the first three months of its membership.

The Commission believes that the proposal serves to protect investors and the public interest and is thus consistent with section 17A. As stated previously,[42] The Standards require a clearing agency to make an assessment of the risks to which it is subject and set its clearing fund requirements accordingly. The Commission views this obligation to be fluid rather than static and believes that a clearing agency's rules should give it the flexibility to make adjustments to its minimum required clearing fund contributions as circumstances may necessitate.

Under OCC's current rules, a new member's required clearing fund contribution is fixed for three months, but a member's level of options activity is not limited accordingly during such period. The anomalous result is that OCC is required to allow a new member to maintain a minimum required clearing fund deposit which may bear no reasonable relationship to the risk such member's options activity poses to OCC during the initial phase of its membership.[43] Such a result is inconsistent with the policy established by the Standards and with OCC's previous actions.[44] Therefore, the

[28] *See* Securities Exchange Act Release No. 27044 (July 18, 1989), 54 FR 30963.

[29] The CBTCC has in place a system for the routine electronic exchange of pay and collect data provided by various futures clearing organizations and OCC. OCC's participation in this system follows the Working Group's recommendation that securities and futures clearing organizations work toward developing a centralized facility for the collection of pay and collect data.

[30] The Commission notes that OCC has still not completed action on some of the recommendations made in the Backup Report, including, guaranteeing trades as they are compared, instead of making OCC's guarantee conditional upon payment of the premium.

[31] *See* 15 U.S.C. 78q–1(b)(3)(D) (1982).

[32] The "premium" of an option is its contract price.

[33] *See* Securities Exchange Act Release No. 19139 (October 14, 1982), 47 FR 46940.

[34] *Id.*

[35] *See* Securities Exchange Act Release No. 21437 (October 31, 1984), 49 FR 44347.

[36] *Id.*

[37] *See* note 20, *supra*.

[38] Both OCC's equity and non-equity option margin calculations are based, in part, on options premiums. In both systems, margin is marked to market daily based on closing ask prices. The second component of equity options margin is based on a flat 30% of the current value of the underlying securities. The second component of non-equity options margin is more flexible and is adjusted according to the current risk posed to OCC by the member's position. *See* Market Break Report at 10–50.

OCC's non-equity options margin system uses options price theory to project the cost of liquidating a member's position in the event of an assumed "worst-case" change in the price of the underlying asset or index. The margin requirement on the same class of options equals the premium plus the additional margin for that class group. OCC calculates the additional margin by determining the assumed maximum one-day price movement in the underlying assets and by projecting the liquidating value of such position. To provide additional protection, OCC presumes that the cost of liquidating a member's out of the money positions would increase by a minimum of 25% of the margin interval. *See* Market Break Report at 10–36. For a more detailed description of OCC's non-equity options margin system, *see* Backup System Report at 24–28. OCC recently filed a proposed rule change with the Commission which would apply OCC's non-equity options margin methodology to equity options. *See* File No. SR–OCC–89–12.

[39] *See* Article 8, section 2 of OCC's By-laws.

[40] See discussion at note 10, *supra*.

[41] Other protective measures reduce the potential risk to OCC. For example, a new member's margin deposit requirement is not subject to any fixed limit and will vary depending on the risk associated with the member's options positions. *See* note 20, *supra*.

Commission believes that OCC's proposal to give the Board the flexibility to adjust a new member's minimum required clearing fund contribution is designed to safeguard securities and

Woolworth Corporation
Common Stock, $1 Par Value (File No. 7–5480)
Texaco, Inc.
Series C Variable Rate Cm. Pfd. Stock

Relevant 1940 Act Sections:
Exemption under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting the Partnership

beneficial assignee certificates ("BACs") evidencing an assignment of the limited partnership interest in the Partnership of BCTC II Assignor Corp., a Delaware corporation (the "Assignor Limited

in the profits, losses, and tax credits and a 20% to 99% interest in the distributable cash flow of each Operating Partnership, with the balance remaining with the operating general partners ("Operating

active or passive income, but not portfolio income, to use the low-income tax credits and losses for approximately ten to twelve years after investing in BACs. In addition, the Partnership

Commission believes that OCC's proposal to give the Board the flexibility to adjust a new member's minimum required clearing fund contribution is designed to safeguard securities and funds in OCC's custody or control or for which it is responsible under section 17A(b)(3)(A).

C. Charging Losses to Retained Earnings

OCC also is amending its rules to permit it to charge losses resulting from clearing member, bank or clearing organization defaults to OCC's retained earnings, instead of charging such losses either pro-rata to the clearing fund contributions of non-defaulting clearing members or to OCC's current earnings. Similar to OCC's proposal to give the Board discretion to increase a member's minimum required clearing fund deposit, the discretion to charge losses to retained earnings gives OCC additional flexibility in dealing with losses by providing it with an additional source of funds to draw upon in the event of a default. Accordingly, the Commission believes that this proposal is consistent with section 17A of the Act.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the proposed filing (SR–OCC–89–06) be, and is hereby, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26120 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 30, 1989

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Allstate Municipal Income Trust III
Shares of Beneficial Interest, $.01 Par Value (File No. 7–5457)

Crown Cork and Seal Company, Inc.
Common Stock, $5 Par Value (File No. 7–5458)

Federal Home Loan Mortgage Corp.
Voting Common Stock, $2.50 Par Value (File No. 7–5459)

Woolworth Corporation
Common Stock, $1 Par Value (File No. 7–5460)

Texaco, Inc.
Series C Variable Rate Cm. Pfd. Stock (File No. 7–5461)

First Union real Estate Equity and Mortgage Investments
Shares of Beneficial Interest, $1 Par Value (File No. 7–5462)

Gundle Environmental Systems, Inc.
Common Stock, $0.01 Par Value (File No. 7–5463)

Lomas Mortgage Securities Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–5464)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26015 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17197; 812–7360]

Boston Capital Tax Credit Fund II Limited Partnership and Boston Captital Associates II Limited Partnership; Notice of Application

October 31, 1989.

Agency: Securities and Exchange Commission ("SEC").

Action: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Boston Capital Tax Credit II Limited Partnership, a Delaware limited partnership (the "Partnership"), and its general partner, Boston Capital Associates II Limited Partnership ("General Partner").

Relevant 1940 Act Sections: Exemption under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting the Partnership from all provisions of the 1940 Act and the rules thereunder to permit the partnership to invest in other limited partnership that in turn will engage in the development, rehabilitation, ownership, and operation of housing for low and moderate income persons.

Filing Date: The application was filed on July 26, 1989 and amended on August 23, 1989, September 25, 1989, and October 19, 1989. An amendment, the substance of which has been set forth in letters to the Commission dated October 25 and 27, 1989, will be filed during the notice period.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 24, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 313 Congress Street, Boston, Massachusetts 02110–1232.

For Further Information Contact: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

Supplementary Information: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representtions

1. The Partnership was organized on June 28, 1989, under the Delaware Revised Uniform Limited Partnership Act. Pursuant to registration under the Securities Act of 1933, the Partnership plans to offer 20,000,000 units of beneficial interest of $10.00 each with a minimum investment of $5,000. Purchasers of these units ("Investors" or "BAC Holders") will become holders of beneficial assignee certificates ("BACs") evidencing an assignment of the limited partnership interest in the Partnership of BCTC II Assignor Corp., a Delaware corporation (the "Assignor Limited Partner").

2. The Assignor Limited Partner was formed for the sole purpose of acting as assignor of all of its limited partnership interest in the Partnership and will not engage in any other business. After the admission of Investors, the Assignor Limited Partner will not retain any ownership interest in the Partnership. The Assignor Limited Partner must vote the assigned limited partnership interests as directed by the BAC Holders. Each BAC Holder will be entitled to all the economic benefits of a limited partner of the Partnership. In addition, the Partnership's counsel will render an opinion stating that the BAC Holders, more likely than not, will be able to realize the tax benefits disclosed in the Prospectus, and unqualified opinions that BAC Holders will be treated as limited partners of the Partnership for federal income tax purposes and that all of the rights granted to BAC Holders by the Partnership Agreement are valid and enforceable under Delaware law. The BACs are used solely for administrative convenience and to facilitate transferability.

3. The Partnership will operate as a "two-tier" entity, *i.e.*, the Partnership, as a limited partner, will invest in other limited partnerships ("Operating Partnerships") which will acquire, develop, construct and/or rehabilitate, operate and maintain multifamily residential apartment complexes ("Apartment Complexes") each of which will qualify for the low-income housing tax credit under Section 42 of the Internal Revenue Code of 1986 (the "Code"). The investment in the Operating Partnerships is in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"). The Partnership intends to realize: (i) A potential capital appreciation through increases in value and, to the extent applicable, amortization of the mortgage indebedness of the Apartment Complexes; (ii) to the extent available, limited cash flow from operations; (iii) cash distributions from liquidation, sale or refinancing of the Apartment Complexes; and (iv) certain tax benefits including low-income housing tax credits.

4. The Partnership will generally attempt to acquire a 51% to 99% interest in the profits, losses, and tax credits and a 20% to 99% interest in the distributable cash flow of each Operating Partnership, with the balance remaining with the operating general partners ("Operating General Partners"). However, regardless of the percentage interest in an Operating Partnership, the Partnership will have certain rights under the terms of the Operating Partnership Agreements which will include, subject only to a determination that the existence or exercise of any such rights will jeopardize the limited liability of the Partnership as a limited partner: (a) The right to approve or disapprove any sale or refinancing of an Apartment Complex; (b) the right to replace an Operating General Partner on the basis of performance; (c) the right to approve or disapprove the dissolution of an Operating Partnership; (d) the right to approve or disapprove amendments to an Operating Partnership Agreement materially and adversely affecting the Partnership's investment; and (e) the right to direct the Operating General Partner to convene meetings and submit matters to a vote. In addition, the Partnership will require all Operating Partnerships to provide to the limited partners thereof substantially all of the rights required by Section VII of the Statement of Policy on Real Estate Programs adopted by the North American Securities Administrators Association, Inc. (the "NASAA guidelines").

5. When placing an order for BACs, each Investor must represent in writing that he/she or it meets the following applicable suitability standards: (a) Each Investor must have (i) a net worth (exclusive of home, home furnishings, and automobiles) in excess of $75,000, or (ii) annual gross income of $35,000 and a net worth (exclusive of home, home furnishings, and automobiles) of not less than $35,000, and (iii) for those noncorporate Investors who do not have or anticipate having any net passive income, a maximum adjusted gross income of $250,000; and (b) for corporate Investors (i) a corporation that is neither closely held nor a personal service corporation and is not subject to Subchapter S of the Code (a "C Corporation") may use the low-income tax credits to offset income from all sources, but should reasonably expect to have sufficient federal taxable income from all sources to use the low income tax credits and losses for ten to twelve years after investing in BACs, and (ii) a closely-held C Corporation that is not a personal service corporation should reasonably expect to have sufficient active or passive income, but not portfolio income, to use the low-income tax credits and losses for approximately ten to twelve years after investing in BACs. In addition, the Partnership Agreement requires evidence of a transferee's suitability in order to record a transfer on its books. Units will be sold in certain states only to persons who meet different standards which will be set forth in the Prospectus. In no event shall the Partnership employ suitability standards which are less restrictive than those set forth above except to the extent that the standard in item (a)(iii) above is modified as a result of changes in federal income tax law or with respect to investments in Apartment Complexes expected to qualify for state housing tax credits, in addition to the federal low income housing tax credits, where the $250,000 adjusted gross income maximum is inapplicable.

6. The Partnership will be controlled by its General Partner. The Investors, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. However, a majority in interest of the Investors will have the right to amend the Partnership Agreement, dissolve the Partnership, remove any General Partner and consent to a successor General Partner. In addition, under the Partnership Agreement, each Investor is entitled to review all books and records of the Partnership at any and all reasonable times.

7. The Partnership Agreement provides that certain significant actions cannot be taken by the General Partner without the express consent of a majority in interest of the Limited Partners. Such actions include: (a) The sale of the Partnership's interests in the Operating Partnerships or the sale at any one time of all or substantially all of the assets of the Partnership; (b) dissolution of the Partnership; (c) consent to the sale of a substantial portion of the Apartment Complexes by the Operating Partnerships; and (d) the admission of a successor or additional General Partner.

8. Boston Capital Services, Inc., an affiliate of the General Partner (the "Selling Agent"), will receive selling commissions, dealer-manager fees, and reimbursement of due diligence expenses in connection with BACs. The Selling Agent may reallow a portion of its dealer-manager fees and due diligence expense reimbursement to other soliciting dealers. Any selling

commissions and fees charged by the Selling Agent or other soliciting dealers will be consistent with the guidelines of the National Association of Securities Dealers, Inc.

9. During the offering and organizational phase, the General Partner and its affiliates will receive from the Partnership reimbursement of organizational and offering expenses.

10. Acquisition phase fees payable by the Partnership to the General Partner or its affiliates in connection with the acquisition of interests in Operating Partnerships will be limited by the NASAA guidelines. During the operating phase, the Partnership may pay additional fees or compensation to the General Partner or its affiliates, including an annual management fee and reimbursement for administrative services. In addition to the foregoing fees and interests, the General Partner will be allocated generally one percent of profits and losses of the Partnership.

11. None of the fees payable to the General Partners and their affiliates has been or will be negotiated at arm's length. All such fees and compensation, however, will be fair and shall be no greater than the amount the Partnership would be required to pay to independent third parties for comparable services in the same geographic location. The Partnership believes that all potential conflicts of interest, including the receipt of commissions, fees, and other compensation by the General Partner and its affiliates, will be disclosed in the Prospectus. The Partnership Agreement and the Prospectus will contain various provisions designed to eliminate or significantly reduce these conflicts. For example, the Partnership Agreement provides that in the event an investment in an Operating Partnership becomes available that would satisfy the investment criteria of the Partnership and any other public partnership in which General Partner and/or its affiliates have an interest, the following criteria will be followed with respect to determining which entity should acquire such investment. The General Partner and its affiliates will review the investment portfolio of each such entity (including any series being offered by each such partnership) and will in their sole determination decide which such entity will acquire the investment of the basis of various factors such as the amount of funds available; the length of time such funds have been available for investment; the cash requirements of each such entity; and the effect of the acquisition on each such entity's portfolio. If funds should be available to two or more public limited partnerships to purchase a given investment and all factors have been evaluated and deemed equally applicable to each entity (including any series being offered by each such partnerhsip), then the General Partner and its affiliates will acquire such investments for the entities on a basis of rotation, with the order of priority determined by the dates of formation of the entities.

12. All proceeds of the offering of Units will initially be deposited and held in trust for the benefit of the Investors in an escrow account or accounts with the Bank of New England, N.A. The Partnership intends to apply such proceeds to the acquisition of Operating Partnership interests as soon as possible. Such proceeds may be temporarily invested in bank time deposits, certificates of deposit, bank money market accounts, and government securities. The Partnership will not trade or speculate in temporary investments.

13. The Partnership Agreement provides for indemnification of the General Partner and its affiliates for losses, liability or damage incurred by them in connection with the business of the Partnership. However, the Partnership has been advised that in the opinion of the SEC, indemnification for liabilities under federal securities laws is contrary to public policy and therefore unenforceable.

Applicants' Legal Conclusions

1. The exemption of the Partnership from all provisions of the 1940 Act is both necessary and appropriate in the public interest, because: (a) Investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership form insulates each Investor from personal liability, limits his financial risk to the amount he has invested in the program, and permits the pass-through to the Investor, on his individual tax return, of his proportionate share of the income and losses from the investment; (c) the limited partnership form of organization is incompatible with many provisions of the 1940 Act, such as the requirement of annual approval by investors of a management contract and the requirements concerning election of directors and the termination of the management contract; and (d) the concerns underlying the asset coverage limitations of section 18 of the 1940 Act are not justified in real estate investments and are inapposite to the mortgage financing and other government assisted programs developed for low income and moderate income housing. Also, an exemption from these basic provisions is necessary and appropriate in the public interest so as not to discourage two-tier limited partnership arrangements or frustrate the public policy established by the housing laws.

2. Release No. 8456 contemplates that the exemptive power of the SEC under section 6(c) may be applied to two-tier partnerships which engage in the kind of activities in which the Partnership will engage, that is, "two-tier partnerships that invest in limited partnerships engaged in the development and building of housing for low and moderate income persons . . . ." The release lists two conditions, designed for the protection of investors, which must be satisfied in order to qualify for such an exemption: (1) "Interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable;" and (2) "requirements for fair dealing by the General Partners of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company." The Partnership will comply with these conditions and will otherwise operate in a manner designed to insure investor protection.

3. The contemplated arrangement of the Partnership is not susceptible to abuses of the sort the 1940 Act was designed to remedy. The requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on the Operating Partnerships by various federal, state and local agencies, provide protection to Investors comparable to, and in some respects greater than, that provided by the 1940 Act. An exemption would therefore be entirely consistent with the protection of Investors and the purposes and policies of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26117 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; Knoll International, Inc., 9⅞% (formerly 8⅛%) Subordinated Debentures Due August 15, 2003; 11⅛% Senior Subordinated Debentures Due April 15, 2001 (File No. 1-8535)

October 26, 1989.

Knoll International, Inc. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

As of August 18, 1989, there were 53 registered holders of the Subordinated Debentures. Additionally, since the original issuance of the Subordinated Debentures in August of 1983, trading volume has been relatively low. For example, in 1988, there were 51 transactions in the Subordinated Debentures with a total volume of $599,000 and in 1989 (through August 19, 1989), there were 19 transactions with a total volume of $205,000. Furthermore, the continued listing of the Subordinated Debentures is costly to the Company.

The Company believes that a delisting of the Senior Subordinated Debentures from the AMEX is warranted. As of August 18, 1989, there were 15 registered holders of the Senior Subordinated Debentures. Additionally, since the original issuance of the Senior Subordinated Debentures in April of 1986, trading volume has been relatively low. For example, in 1988, there were two transactions in the Senior Subordinated Debentures with a total volume of $45,000, and in 1989 (through August 30, 1989), there was one transaction with a total volume of $10,000. Finally, the continued listing of the Senior Subordinated Debentures is costly to the Company.

Any interested person may, on or before November 17, 1989, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26011 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-11-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; Oregon Steel Mills, Inc., Common $.01 Par Value (File No. 1-9897)

October 26, 1989.

Oregon Steel Mills, Inc. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's common stock recently was listed on the New York Stock Exchange ("NYSE"). Trading in the Company's stock on the NYSE commenced on October 19, 1989. In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before November 17, 1989, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26012 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before December 6, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Request for Approval of Joint Venture Agreement.
Form Nos.: N/A.
Frequency: On occasion.
Description of respondents: 8(a) firms entering into a joint venture agreement.
Annual Responses: 20.
Annual Burden Hours: 100.

Title: Notice of Change of Ownership.
Form Nos.: N/A.
Frequency: On occasion.
Description of respondents: 8(a) firms proposing a change in their ownership.
Annual Responses: 50.
Annual Burden Hours: 100.

Title: Request for Eligibility Reconsideration.
Form Nos.: N/A.
Frequency: On occasion.
Description of respondents: 8(a) applicants seeking eligibility reconsideration.
Annual Responses: 600.
Annual Burden Hours: 2,400.
Title: Submission of Business Financial Statement.
Form Nos.: N/A.
Frequency: Quarterly.
Description of respondents: 8(a) participating firms.
Annual Responses: 3,100.
Annual Burden Hours: 3,100.
Title: Nomination for the Small Business Prime Contractor of the Year Award and Nomination for the Small Business Subcontractor of the Year Award.
Form Nos.: SBA 883 and SBA 1375.
Frequency: Annually.
Description of respondents: Small Business Entrepreneurs nominated for the small business contractor and subcontractor of the year awards.
Annual Responses: 311.
Annual Burden Hours: 1,244.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-26025 Filed 11-3-89; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before December 6, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: *Agency Clearance Officer:* William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340

Title: Request for Advanced Payment and Schedule of Advanced Payment Requirements
Form Nos.: N/A
Frequency: On occasion
Description of Respondents: 8(a) firms seeking Advance Payment
Annual Responses: 700
Annual Burden Hours: 7000

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-26028 Filed 11-3-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 46577]

Chicago-Prestwick/Glasgow Service Proceeding; Prehearing Conference

Served November 1, 1989.

Notice is hereby given that a prehearing conference in the above-titled proceeding will be held by the Presiding Judge on November 9, 1989 at 10:00 a.m. (local time) in Room 5332, U.S. Department of Transportation, 400 Seventh Street, NW., Washington, DC.

The parties are directed to submit one copy to each other and three copies to the Judge of (1) any proposals for changes in the evidence request contained in the Appendix to Order 89-10-62, (2) proposed stipulations, (3) a statement of and/or delineation of the issues, and (4) a statement of position. This material shall be submitted on or before November 6, 1989.

Daniel M. Head,

Administrative Law Judge.

[FR Doc. 89-26152 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD14 89-01]

Vessel Certificates and Exemptions Under the International Regulations for Preventing Collisions at Seas (72 COLREGS)

AGENCY: Coast Guard, DOT.

ACTION: Notice of granting of Certificates of Alternative Compliance to vessels.

SUMMARY: This notice lists a vessel granted a Certificate of Alternative Compliance. This notice lists a vessel which, due to its special construction and purpose, cannot comply fully with certain provisions of the International Regulations for Preventing Collisions at Sea (72 COLREGS) without interfering with the vessel's special functions. The intent of this notice is to allow the mariner to be aware of the listing of this vessel that has been granted a Certificate of Alternative Compliance.

EFFECTIVE DATE: October 20, 1989.

FOR FURTHER INFORMATION CONTACT: CDR Arthur E. Adkins, Chief, Commercial Vessel Safety Branch, U.S. Coast Guard, Commander (mvs), Fourteenth Coast Guard District, PJKK Federal Bldg., 300 Ala Moana Blvd., Room 9149, Honolulu, Hawaii 96850-4982. Telephone (808): 541-2114.

SUPPLEMENTARY INFORMATION: Under the provisions of subsection 1605(c) of title 33 United States Code, the Coast Guard publishes, in the **Federal Register**, a listing of vessels granted Certificates of Alternative Compliance. Certificates of Alternative Compliance are based on a determination that a vessel cannot comply fully with International Rules of light(s), shape(s) and sound signal provisions without interference with the vessel's special function. The listing consists of vessels granted certificates after authority of issuance was transferred to the Chief of the Marine Safety Division of the Coast Guard Districts on April 1, 1982 (33 CFR 81). The alternative allowed results in the closest possible compliance with Annex I of the 72 COLREGS. The following vessel is not in compliance with 72 COLREGS and has been issued a Certificate of Alternative Compliance.

Vessel and Official Number

The following vessel's after masthead light separation from the forward masthead light is less than one half the length of the vessel (Annex I(3)(a)). The length overall of the vessel is 188 feet and the horizontal separation between the lights is 44 feet vice the required 94 feet.

"COURAGEOUS"—299091.

Dated: October 20, 1989.

A.E. Tanos,

Captain, U.S. Coast Guard, Chief, Marine Safety Division, Fourteenth Coast Guard District.

[FR Doc. 89-26067 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89-094]

Lower Mississippi River Waterway Safety Advisory Committee; Aids to Navigation Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Aids to Navigation Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, November 28, 1989 at the Crescent River Port Pilots' Office, 409 Belle Chasse Highway South, Belle Chasse, Louisiana. The meeting is scheduled to begin at 9:00 a.m. The agenda for the meeting consists of the following items:

1. Old VTS New Orleans.
2. Vessel management systems now in operation in the Mississippi River System.
3. Status of Proposal in Washington concerning VTS New Orleans.
4. Any discussion concerning present or proposed aids to navigation.
5. Adjournment.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander Gary A. Bird, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: October 23, 1989.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 89-26068 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 3, 1989.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1019
Form Number: Schedule S (Form 706)
Type of Review: Resubmission
Title: Increased Estate Tax on Excess Retirement Accumulations
Description: Schedule S (Form 706) is used by estates to compute any pay the increased estate tax imposed by Internal Revenue Code section 4980A(d). IRS uses the information to determine whether the tax was correctly computed and paid.
Respondents: Individuals or households
Estimated Number of Respondents: 1,000
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping: 40 minutes
Learning about the law or the form: 32 minutes
Preparing the form: 45 minutes
Copying, assembling, and sending the form to IRS: 25 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/Reporting Burden: 2,160 hours

OMB Number: 1545-1036
Form Number: 8716
Type of Review: Resubmission
Title: Election to Have a Tax Year Other Than a Required Tax Year
Description: Form 8716 is filed by partnerships, S Corporations, and personal service corporation, under section 444(a), to retain or to adopt a tax year that is not a required tax year. Service Centers accept Form 8716 and use the form information to assign master-file codes that allow the Center to accept the filer's tax return filed for a tax year (fiscal year) that would not otherwise be acceptable.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 40,000
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping: 2 hours, 23 minutes
Learning about the law or the form: 1 hour, 12 minutes
Preparing and sending the form to IRS: 1 hour, 12 minutes
Frequency of Response: Nonrecurring, one-time filing to elect a nonrequired tax year
Estimated Total Recordkeeping/Reporting Burden: 198,250 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Officer Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-26021 Filed 11-3-89; 8:45 am]

BILLING CODE 4810-35-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 670; Ref. ATF O 1100.151]

Delegation Order—Authority To Issue Firearms and Explosives Licenses and Permits Under 27 CFR Part 55, Commerce in Explosives, and Part 178, Commerce in Firearms and Ammunition

Delegation Order

1. Purpose

This order delegates the authority to issue firearms and explosives licenses and permits under 27 CFR parts 55 and 178.

2. Background

The authority to issue firearms and explosives licenses and permits now resides in the Regional Directors (Compliance). In order to take advantage of a more efficient technology, the licensing function is being consolidated into one office in Atlanta, Georgia, under the authority of the Chief, Firearms and Explosives Licensing Center. Regional Directors (Compliance) will retain the authority for denial and revocation of such licenses and permits.

3. Delegation

Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120-01, effective July 1, 1972, and by 26 CFR 301.7701-9, authority is hereby delegated to the Chief, Firearms and Explosives Licensing Center, to issue licenses and permits under 27 CFR parts 55 and 178. This authority does not extend to denials or revocations of licenses or permits, which remain within the authority of Regional Directors (Compliance).

4. Redelegation

The authority delegated herein may not be redelegated.

5. For Information Contact

J. Barry Fields, Firearms and Explosives Operations Branch, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, (202) 789–3026.

6. Effective Date

This delegation order becomes effective on November 6, 1989.

Approved: October 30, 1989.

Stephen E. Higgins,

Director.

[FR Doc. 89–26006 Filed 11–3–89; 8:45 am]

BILLING CODE 4810–31–M

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89–61, 1989–21 I.R.B. 25, of petitions requesting that *butyl acrylate, methyl acrylate, ethyl acrylate,* and *2-ethylhexyl acrylate* be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATE: Written comments and requests for a public hearing relating to these petitions must be delivered or mailed by January 5, 1990.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, Attention: CC:CORP:T:R (Petition), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthoughs and Special Industries). Telephone 202–566–4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on August 18, 1989. The petitioner is Hoechst Celanese, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Butyl Acrylate

Harmonized Tariff System number: 2916.12.50 308
Schedule B number: 2916.12.5030
Chemical Abstract Service number: 141–32–2

This substance is derived from the taxable chemicals *propylene* and *methane*. Butyl acrylate is produced by esterification of acrylic acid with butanol. Acrylic acid is produced by oxidation of propylene. Butanol is produced from propylene using the vapor phase technology.

The stoichiometric material consumption formula for this substance is:

$2\ C_3H_6$ propylene + $1.5\ O_2$ oxygen + CH_4 methane ——> $CH_2CHCOOC_4H_9$ butyl acrylate + H_2 hydrogen + H_2O water

According to the petition, taxable chemicals constitute 67.6 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.38 per ton. This is based upon a conversion factor for propylene of 0.7841 and a conversion factor for methane of 0.162.

Methyl Acrylate

Harmonized Tariff System number: 2916.12.40 102
Schedule B number: 2916.125020
Chemical Abstract Service number: 96–33–3

This substance is derived from the taxable chemicals *propylene* and *methane*. Methyl acrylate is produced by esterification of acrylic acid with methanol. Acrylic acid is produced by oxidation of propylene. Methanol is obtained by steam reforming natural gas.

The stoichiometric material consumption formula for this substance is:

C_3H_6 propylene + $1.5\ O_2$ oxygen + CH_4 methane ——> $CH_2CHCOOCH_3$ methyl acrylate + H_2 hydrogen + H_2O water

According to the petition, taxable chemicals constitute 54.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.29 per ton. This is based upon a conversion factor for propylene of 0.5534 and a conversion factor for methane of 0.463.

Ethyl Acrylate

Harmonized Tariff System number: 2916.12.50 102
Schedule B number: 2916.12.5010
Chemical Abstract Service number: 140–88–5

This substance is derived from the taxable chemicals *propylene* and *ethylene*. Ethyl acrylate is produced by esterification of acrylic acid with ethanol. Acrylic acid is produced by oxidation of propylene. Ethanol is produced from ethylene.

The stoichiometric material consumption formula for this substance is:

C_3H_6 propylene + $1.5\ O_2$ oxygen + C_2H_4 ethylene ——> $CH_2CHCOOCH_2CH_3$ ethyl acrylate + H_2O water

According to the petition, taxable chemicals constitute 59.3 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.85 per ton. This is based upon a conversion factor for propylene of 0.4861 and a conversion factor for ethylene of 0.3039.

2-Ethylhexyl Acrylate

Harmonized Tariff System number: 2916.12.50 406
Schedule B number: 2916.12.5040
Chemical Abstract Service number: 103–11–7

This substance is derived from the taxable chemicals *propylene* and *Methane*. 2-ethylhexyl acrylate is produced by direct esterification of acrylic acid with 2-ethylhexanol in the presence of sulfuric acid. Acrylic acid is obtained from propylene by two stage oxidation. 2-ethylhexanol is produced from propylene, using n-butyraldehyde as an intermediary.

The stoichiometric material consumption formula for this substance is:

$3\ C_3H_6$ propylene + $1.5\ O_2$ oxygen + $2\ CH_4$ methane ——> $CH_2CHCOOC_8CHC_4H_9C_2H_5$ 2-ethylhexyl acrylate + H_2O Water + $2\ H_2$ hydrogen

According to the petition, taxable chemicals constitute 76.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.08 per ton. This is based upon a conversion factor for propylene of 0.9741 and a conversion factor for methane of 0.2376.

Dale D. Goode,

Chief, Regulations Unit, Assistance Chief Counsel (Corporate).

[FR Doc. 89–26143 Filed 11–3–89; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

Great Plains Savings Association, F.A., Weatherford, OK; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Great Plains Savings Association, F.A., Weatherford, Oklahoma ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on October 26, 1989.

Dated: October 30, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89–28038 Filed 11–3–89; 8:45 am]

BILLING CODE 6720–01–M

Great Plains Federal Savings and Loan Association of Weatherford, Weatherford, OK; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(a) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Great Plains Federal Savings and Loan Association of Weatherford, Weatherford, Oklahoma ("Association") on October 26, 1989.

Dated: October 30, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89–28039 Filed 11–3–89; 8:45 am]

BILLING CODE 6720–01–M

[Order No. AC–6; OTS No. 1079]

Falls Savings Bank, f.s.b.; Final Action—Approval of Conversion Application

Date: October 26, 1989.

Notice is hereby given that on October 20, 1989, the General Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Falls Savings Bank, f.s.b., Cuyahoga Falls, Ohio, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and Supervisory Agent, Office of Thrift Supervision, Cincinnati District Office, 2000 Atrium TWO, 221 E. 4th Street, Cincinnati, Ohio 45202.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89–28035 Filed 11–3–89; 8:45 am]

BILLING CODE 6720–01–M

[Order No. AC–8; OTS No. 3641]

Great Southern Savings and Loan Association; Final Action—Approval of Conversion Application

Dated: October 26, 1989.

Notice is hereby given that on October 23, 1989, the General Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Great Southern Savings and Loan Association, Springfield, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and Supervisory Agent, Office of Thrift Supervision, Des Moines District Office, 907 Walnut Street, Des Moines, Iowa 50309.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89–28036 Filed 11–3–89; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–7]

Mutual Federal Savings and Loan Association, Terre Haute, IN; Final Action—Approval of Conversion Application

Dated: October 20, 1989.

Notice is hereby given that on October 20, 1989, the General Counsel and the Senior Deputy Director for Supervision–Operations ("Supervision"), or their respective designees, acting pursuant to delegated authority, approved the application of Mutual Federal Savings and Loan Association, Terre Haute, Indiana ("Mutual"), for permission to convert to the stock form of organization pursuant to a voluntary supervisory conversion and the acquisition of the assets and liabilities of Mutual by Household International, Inc., Prospect Heights, Illinois through the merger of Mutual with and into Household Bank, f.s.b., Newport Beach, California the wholly-owned subsidiary of Household International, Inc.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89–28037 Filed 11–3–89; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held November 16 and 17, 1989. This is a regularly scheduled meeting for the purpose of reviewing VA and other relevant services to Vietnam veterans, to review Committee work in progress and to formulate Committee recommendations and objectives. The meeting on both days will be held in the Lafayette Building, Room 442, 811 Vermont Avenue, NW., Washington, DC 20420.

The meetings on November 16 and 17 will both begin at 8:30 a.m. and conclude at 4 p.m. The agenda for November 16 will consist of internal Committee review, discussion and planning regarding reports and other work activities in progress. Topics to be covered will include field visit reports regarding VA medical centers and vet centers in maine and Massachusetts, services to incarcerated Vietnam veterans, the clinical mission and administration of VA vet centers, post-war readjustment needs of veterans of other eras, and the compensation and treatment of war-related post-traumatic stress disorder. The agenda for November 17 will address Committee procedural issues, a review of Committee organization and role, and a planning session regarding Committee objectives and field visits for the coming year. The meeting on November 17 will also include a presentation on VA drug and alcohol treatment programs. Both days' meetings will be open to the public to the seating capacity of the room.

We were unable to give the 15 days public notice due to administrative delays.

Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Department of Veterans Affairs, (phone number: 202 233–3317/3303).

Dated: October 25, 1989.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 89–28051 Filed 11–3–89; 8:45 am]

BILLING CODE 8320–01–M

VOL 54 ISS 213 NO 6 1989 UMI

Sunshine Act Meetings

Federal Register
Vol. 54, No. 213
Monday, November 6, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:00 p.m. on Tuesday, October 31, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Application of Provident Bank—Dallas, Dallas, Texas ("Provident Bank"), an insured State nonmember bank, for consent to merge, under its charter and title, with The Security State Bank of Commerce, Commerce, Texas ("Commerce"), DeSoto State Bank, DeSoto, Texas ("DeSoto"), and First State Bank, Wylie, Texas ("Wylie"), insured State nonmember banks, and Provident Bank-Denton, Denton, Texas ("Denton"), an insured State member bank, for consent to establish the five offices and two facilities of Commerce, DeSoto, Wylie, and Denton as branches of Provident Bank, and for consent to operate a full service branch at 13655 Preston Road, Dallas, Texas, a former main office location of Provident Bank.

Administrative enforcement proceedings.

Matters relating to the Corporation's assistance agreement with an insured bank.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. FL-89-0013
Capital Federal Savings & Loan Association, Mount Pleasant, Iowa
Case No. FL-89-0015
Sunbelt Savings, FSB, Dallas, Texas

Matters relating to the possible closing of an insured bank.

Matters relating to the Corporation's corporate activities.

Personnel matter.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director M. Danny Wall (Director of the Office of Thrift Supervision), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 1, 1989.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 89-26182 Filed 11-2-89 2:04 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 1, 1989.

TIME AND DATE: 10:00 a.m., Wednesday, November 8, 1989.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Clinchfield Coal Company,* Docket No. VA 89-67-R. (Issues include whether the judge erred in extending the time for abatement of a violation and whether the time for abatement should be extended further.)

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(1)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Clinchfield Coal Company,* Docket No. VA 89-67-R. (See oral argument listing)

It was determined by a unanimous vote of Commissioners that this item be discussed in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 Toll Free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-26183 Filed 11-2-89; 2:03 pm]

BILLING CODE 6735-01-M

SECRUITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Secruities and Exchange Commission will hold the following meeting during the week of November 6, 1989.

A closed meeting will be held on Tuesday, November 7, 1989, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 7, 1989, at 2:30 p.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceeding of an enforcement nature.
Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Regulatory matter regarding financial institutions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272-2200.

Dated: November 1, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26189 Filed 11-3-89; 12:06 pm]

BILLING CODE 8010-01-M

federal register

Monday
November 6, 1989

Part II

Department of Education

Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Closing Date for Institutions To File "Request for Institutional Eligibility for Program"; Notice

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DEPARTMENT OF EDUCATION

Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Closing Date for Institutions To File "Request for Institutional Eligibility for Programs"

AGENCY: Department of Education.

ACTION: Notice of closing date for Institutions to file "Request for Institutional Eligibility for Programs" (ED Form E-40-34P, OMB #1840-0098 approved through December 31, 1989) to participate in the Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs for the 1990-91 Award Year.

SUMMARY: The Secretary invites currently ineligible institutions of higher education that filed a Fiscal Operations Report and Application to Participate (FISAP) (ED Form 646-1) in one or more of the "campus-based programs" for the 1990-91 award year to submit to the Secretary an institutional eligibility application form.

The campus-based programs are the Perkins Loan Program, the College Work-Study Program, and the Supplemental Educational Opportunity Grant Program and are authorized by Title IV of the Higher Education Act of 1965, as amended. The 1990-91 award year is July 1, 1990 through June 30, 1991.

DATES: *Closing Date for Filing Application.* To participate in a campus-based program in the 1990-91 award year, a currently ineligible institution must mail or hand deliver its "Request for Institutional Eligibility for Programs" form to the address indicated below on or before January 12, 1990.

ADDRESSES:

Applications Delivered by Mail.

An institutional eligibility application delivered by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: DEC/DCMAS/OPE, 400 Maryland Avenue, SW., Washington, DC 20202-4725.

An applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Institutions that submit eligibility applications after the closing date will not be considered for funding under the campus-based programs for award year 1990-91.

Applications Delivered by Hand. An institutional eligibility application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center (ACC), Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays, and Federal holidays. An application for the 1990-91 award year eligibility that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

SUPPLEMENTARY INFORMATION: Under the three campus-based programs, the Secretary allocates funds to eligible institutions of higher education. The Secretary will not allocate funds under the campus-based programs for award year 1990-91 to any currently ineligible institution unless the institution files its "Request for Institutional Eligibility for Programs" form (ED Form E-40-34P) by the closing date. If the institution submits its institutional eligibility application after the closing date, the Secretary will use this application in determining the institution's eligibility to participate in the campus-based programs beginning with the 1991-92 award year.

For purposes of this notice, ineligible institutions only include:

(1) An institution that has not been designated as an eligible institution by the Secretary but has previously filed a FISAP.

(2) An off campus site of an eligible institution that is currently not included in the Department's eligibility certification for that eligible institution but has been included in the institution's 1990-91 FISAP.

(3) A branch campus that is currently part of an eligible institution but has filed its own FISAP and is seeking eligibility as a separate institution of higher education.

The Secretary wishes to advise institutions that the institutional eligibility form "Request for Institutional Eligibility for Programs" (ED Form E-40-34P) should not be confused with the FISAP (ED Form 646-1) that institutions were required to submit, by September 8, 1989 for paper FISAP filers and September 29, 1989 for electronic FISAP filers, in order to be considered for funds under the campus-based programs for the 1990-91 award year.

Applicable Regulations

The following regulations apply to the campus-based programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) Perkins Loan Program, 34 CFR part 674.

(3) College Work-Study Program, 34 CFR part 675.

(4) Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(5) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR part 600.

FOR FURTHER INFORMATION CONTACT: For information concerning designation of eligibility, contact Carol F. Sperry, Director, Division of Eligibility and Certification, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-5242. Telephone: (202) 732-4906.

For technical assistance concerning the FISAP and/or other operational procedures of the campus-based programs, contact: Robert R. Coates, Chief, Campus-Based Programs Branch, Division of Program Operations and Systems, 400 Maryland Avenue, SW., Washington, DC 20202-5347. Telephone: (202) 732-3711. (20 U.S.C. 1807 *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

(Catalog of Federal Domestic Assistance, Supplemental Educational Opportunity Grant Program, 84.007; College Work-Study Program, 84.033; Perkins Loan Program, 84.038).

Dated: October 26, 1989.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 89-26030 Filed 11-3-89; 8:45 am]

BILLING CODE 4000-01-M

federal register

Monday
November 6, 1989

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 190, 193, and 195

Amendment of an Operator's Plans or Procedures

49 CFR Parts 192 and 195

Operation and Maintenance Procedures for Pipelines

BEST COPY AVAILABLE

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 193, and 195

[Docket No. 114; Notice No. 1]

RIN 2137-AB77

Amendment of an Operator's Plans or Procedures

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: OPS is proposing to make changes in the procedures and policy by which it addresses deficiencies in procedures and plans. As proposed, OPS would move to part 190 the substance of current § 195.402(b), relating to the process for amending an operator's procedures for conducting normal operations and maintenance activities, and handling abnormal operations and emergencies, making it applicable to gas and LNG pipeline facilities as well as to hazardous liquid pipeline facilities. The amendment process would also be applicable to other plans and procedures required by part 193 and § 199.7. In addition, OPS is proposing to make operators subject to all enforcement sanctions under the Natural Gas Pipeline Safety Act of 1968, as amended (NGPSA) (49 App. U.S.C. 1671 *et seq.*), and the Hazardous Liquid Pipeline Safety Act of 1979, as amended (HLPSA) (49 App. U.S.C. 2001 *et seq.*), for failure to maintain all plans and procedures in accordance with applicable requirements.

DATES: Comments must be received on or before December 6, 1989. Late filed comments will be considered to the extent practicable.

ADDRESSES: Address comments to the Dockets Unit, Office of Pipeline Safety, Room 8417, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Comments should identify the docket and notice number and be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments should include self-addressed stamped postcards. This notice and all docketed materials are available for inspection and copying in Room 8421, between 8:30 a.m. and 5:00 p.m. each working day, or telephone the Dockets Unit on (202) 366-5046.

FOR FURTHER INFORMATION CONTACT: Cesar De Leon on (202) 366-1640.

SUPPLEMENTARY INFORMATION: The proposals in this notice will clarify the exercise of OPS's delegated authority under the NGPSA and HLPSA to assure that operations and maintenance (O&M) and related plans and procedures are adequate to achieve safe operations. In accordance with section 13 of the NGPSA (49 App. U.S.C. 1680) and section 210 of the HLPSA (49 App. U.S.C. 2009), OPS administers a statutory process for amending plans it finds to be inadequate. At the present time, however, this process has been implemented in regulation only in parts 193 and 195. Therefore, OPS proposes to move the current procedures found in §§ 195.402(b) and 193.2017(b) (with appropriate modification) to a new § 190.9, which would be applicable to all plans and procedures in parts 192, 193, 195, and 199. To accommodate this change, paragraph (b) of §§ 193.2017 and 195.402 would be deleted, and the remainder of the latter section redesignated.

OPS is also proposing to strengthen its enforcement of the inspection and maintenance requirements prescribed in the NGPSA and the HLPSA, which it has traditionally viewed as a compliance and enforcement focus separate from other subjects regulated under those statutes. These other subjects—for example, testing, cathodic protection, and leak surveying—have been addressed with the statutory enforcement tools of civil penalties and compliance orders or, where appropriate, with hazardous facility orders.

There is no reason to restrict enforcement of written plans and procedures to the amendment process. The current approach to correcting deficient O&M plans has had the effect of limiting the enforcement tools available to the Department in addressing the quality and effectiveness of O&M plans, which are the foundation of sound operations. Consequently, OPS should have the widest latitude to assure that operators develop O&M and related plans that comply with applicable safety requirements, and that operators and their employees, as their agents, in turn comply with the plans. Therefore, if adopted, operators would be subject to the assessment of civil penalties (and criminal penalties if a violation is committed knowingly and willfully) and any other appropriate sanction available under either the NGPSA to the HLPSA. In the case of civil penalties, an operator's due process protections would be substantially the same as those afforded under the O&M amendment process, including prior notice and an opportunity for an informal hearing before final agency action is taken.

Miscellaneous

Sections in part 190 concerning or referencing hearings would be revised for consistency.

Administrative Procedures

Because these proposals relate to agency procedures and policy, notice and public procedure are not required. However, OPS is providing 30 days' notice for comment because it believes a brief comment period is in the public interest, and because it seeks comment on whether any plans or procedures required by parts 192, 193, 195, and 199 should not be subject to all enforcement sanctions in part 190.

Paperwork Reduction Act

The rule proposed by this notice contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Impact Assessment

The rule proposed by this notice is considered to be nonmajor under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Because it proposes no substantive revisions that could be expected to require significant changes in operator procedures or compliance burdens, and because the economic impact would be slight, a full regulatory evaluation is not required.

Accordingly, I certify under section 605 of the Regulatory Flexibility Act that the rule proposed by this notice, if adopted as final, will not have a significant economic impact on a substantial number of small entities.

OPS has analyzed this rulemaking action in accordance with the principles and criteria of E.O. 12612 (52 FR 41685) and has determined that it does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

List of Subjects

49 CFR Part 190

Enforcement, Operations and maintenance procedures, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Operations and maintenance procedures, Pipeline safety, Procedural manual, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, Code of Federal Regulations, parts 190, 193, and 195 would be amended as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 is revised to read as follows:

Authority: 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009, and 2010; 49 CFR 1.53.

2. Section 190.9 would be added to read as follows:

§ 190.9 Amendment of plans or procedures.

(a) A Region Chief, OPS, begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195 and 199 of this chapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Director, OPS, shall determine whether the plans or procedures are inadequate as alleged and, if they are inadequate, order the required amendment, or withdraw the notice. In determining the adequacy of an operator's plans and procedures, the Director, OPS, shall consider:

(1) Relevant available pipeline safety data,

(2) Whether the plans or procedures are appropriate in accordance with the requirements of this chapter for the particular type of pipeline transportation or facility,

(3) The reasonableness of the plans or procedures, and

(4) The extent to which the plans or procedures contribute to public safety.

(b) The amendment of an operator's plans or procedures prescribed in paragraph (a) of this section is in addition to, and may be used in conjunction with, the appropriate enforcement actions prescribed in subpart B of this part.

3. Section 190.211(a) would be revised to read as follows:

§ 190.211 Hearing.

(a) A request for a hearing provided for in this part must be accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations in the notice, the proposed corrective action, or the proposed civil penalty amount. A respondent's failure to specify an issue may result in waiver of his right to raise that issue at the hearing. The respondent's request must also indicate whether or not he will be represented by counsel at the hearing.

* * * * *

4. Section 190.233(a) would be revised to read as follows:

§ 190.233 Hazardous facility orders.

(a) Except as provided by paragraph (b) of this section, if the Director, OPS, finds, after reasonable notice and opportunity for hearing in accordance with paragraph (c) of this section and § 190.211(a), a particular pipeline facility to be hazardous to life or property, he shall issue an order pursuant to this section requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

* * * * *

PART 193—[AMENDED]

5. The authority citation for part 193 continues to read as follows:

Authority: 49 App. U.S.C. 1671 *et seq.*; 49 CFR 1.53.

§ 193.2017 [Amended]

6. In § 293.2017, paragraph (b) would be removed, and the designation (a) would be removed from the remaining paragraph.

PART 195—[AMENDED]

7. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; and 49 CFR 1.53.

§ 195.402 [Amended]

8. In § 195.402, paragraph (b) would be removed and paragraphs (c), (d), (e), and (f) would be redesignated as paragraphs (b), (c), (d), and (e), respectively, and all internal references in the newly designated paragraphs would be changed accordingly.

§§ 195.404 and 195.408 [Amended]

9. In §§ 195.404(a)(1)(vi) and 195.408(b)(1), the reference to "§ 195.402(c)(9)" would be changed to read "195.402(b)(9)".

Issued in Washington, DC, on October 31, 1989.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 89-25040 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Parts 192 and 195

[Docket No. PS-113; Notice 1]

RIN 2137-AB 44

Operation and Maintenance Procedures for Pipelines

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to clarify and delineate the items that must be addressed in procedures for operations and maintenance (O&M) of gas pipeline facilities. The current rule is not sufficiently detailed to assure that operators take timely and appropriate actions under normal conditions or in responding to abnormal situations. More detailed O&M procedures should reduce the likelihood of failures and provide a better basis for personnel training. In addition, operators of gas and hazardous liquid pipelines would be required to establish procedures for personnel safety in trenches where there may be a hazardous accumulation of vapor or gas.

DATE: Comments must be received by February 5, 1990. Late filed comments will be considered so far as is practicable.

ADDRESSES: Send comments in duplicate to the Dockets Unit, Room 8417, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8426 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Bernard Liebler, (202) 366-2392, regarding changes to safety standards; or the Dockets Unit, (202) 366-5046, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

Between November 1984 and February 1986, a major operator of gas

transmission pipelines experienced four accidents that resulted in four deaths, 36 injuries, and significant property damage. This unusually high accident

[Note that a sixth activity, concerning reporting safety-related conditions, has been added to § 192.605 as paragraph (f), effective September 20, 1988. (53 FR 24950). This activity is not a subject of this proceeding.

Amend 49 CFR parts 192 and 195 to require that operators of pipelines develop and conduct selection, training, and testing programs to annually qualify employees for correctly carrying out each assigned

enhanced by making the two regulations reasonably similar while honoring the technical distinctions between gas and liquid pipelines.

operation and maintenance. In contrast, § 192.603(b) simply requires the operator to "keep records necessary to administer" the O&M plan. This section

restarted, and appropriate procedures are vital for maintaining the safety of the pipeline. The proposed

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transmission pipelines experienced four accidents that resulted in four deaths, 36 injuries, and significant property damage. This unusually high accident rate prompted OPS to form a Task Force to review, among other things, the operator's O&M procedures.

The Task Force, which comprised personnel from OPS's Eastern, Southern, Southwest, and Central Region offices, spent three months inspecting the pipeline facilities and reviewing the written O&M procedures. The reviewers found the procedures, established under §§ 192.603 and 192.605, to be performance oriented, very much like the part 192 standards they were intended to implement. In many areas, the procedures simply repeated the part 192 requirements rather than specifying precisely how to perform required tasks.

As a result of this finding, the Task Force examined the O&M procedures of five other major pipeline operators. The purpose of examining the procedures of the other operators was to establish whether the performance-oriented presentation adopted by the operator having the four incidents was the exception or the rule. The Task Force found disparity in the scope and depth of coverage of the five operators' procedures. This disparity prompted the Task Force to make the following recommendation:

OPS should revise § 192.605, "Essentials of operating and maintenance plans," to provide more guidance (similar to § 192.615 regarding emergency plans, and § 195.402 regarding liquid pipeline procedural manuals).

Need for Action

The primary section governing O&M procedures for gas pipeline facilities in part 192 is § 192.605, Essentials of operating and maintenance plan. This section comprises a list of five broad categories of activities that must be covered in O&M procedures:

(a) Instructions for employees covering operating and maintenance procedures during normal operations and repairs.

(b) Items required to be included by the provisions of Subpart M [Maintenance] of this part.

(c) Specific programs relating to facilities presenting the greatest hazard to public safety either in an emergency or because of extraordinary construction or maintenance requirements.

(d) A program for conversion procedures, if conversion of a low-pressure distribution system to a higher pressure is contemplated.

(e) Provisions for periodic inspections to ensure that operating pressures are appropriate for the class location.

[Note that a sixth activity, concerning reporting safety-related conditions, has been added to § 192.605 as paragraph (f), effective September 29, 1988, (53 FR 24950). This activity is not a subject of this proceeding, but is included in the proposed revised text of § 192.605 as paragraph (d)].

While these requirements are fairly comprehensive, they are also extremely general in their description. For example, subsection (a) mandates the inclusion of instructions for normal operations and repair activities, but does not specify precisely what activities the instructions should cover. Similarly, subsection (b) refers the operator to Subpart M, which in three instances (§§ 192.706, 192.723, and 192.727) requires operators to develop O&M procedures, but is vague about the content of the procedures. Finally, subsection (c) requires "specific programs" relating to facilities of unusual hazard, but does not say what the purpose or goal of the programs must be.

The intent of § 192.605 is to ensure that personnel who operate or maintain a gas pipeline have available to them a document that provides procedures for the proper operation and maintenance of the pipeline under part 192 standards. It has been, and remains, RSPA policy to write pipeline safety standards as much as possible in performance language to permit operators flexibility in compliance and to allow for innovation in the industry. This is particularly important with respect to requirements for O&M procedures under § 192.605 because of the many variations in gas pipeline systems. Such flexibility is not desirable, however, in documents meant to implement § 192.605 and guide individuals in performing their duties. A document providing specific requirements would better serve the intent of the regulations and reduce the likelihood of confusion or the application of poor judgment by individuals.

The consequences of inadequate O&M procedures can be serious. Vague, unspecific procedures lead to inconsistent handling of repairs and maintenance activities. Such inconsistency can then result in unpredictable operating conditions and, ultimately, failures. OPS has found that operators with adequate O&M procedures and personnel trained to execute them minimize the opportunity for failures.

In 1986 the National Transportation Safety Board (NTSB) investigated two Texas Eastern incidents at Beaumont and Lancaster, Kentucky and recommended that RSPA:

Amend 49 CFR parts 192 and 195 to require that operators of pipelines develop and conduct selection, training, and testing programs to annually qualify employees for correctly carrying out each assigned responsibility which is necessary for complying with 49 CFR parts 192 and 195 as appropriate. (P-87-2)

Although this proceeding is not addressing qualification of employees (a matter that is the subject of a separate notice of proposed rulemaking to be published later this year), the NTSB recommendation is pertinent in that training and testing in the implementation of very generally stated O&M procedures are not feasible. If a procedure is not specific, the range of available responses is so broad that it is not possible to anticipate a response and project its ramifications comprehensively in a training course. Furthermore, an individual trained under such a regimen does not have sufficient guidance from the regulations in how to discharge his responsibilities.

In response to its Task Force recommendation, OPS published an Advance Notice of Proposed Rulemaking (Docket PS-94) (52 FR 9189, March 23, 1987) to elicit the opinions of other interested parties on the broader issue of personnel qualifications. As part of that notice, OPS asked how regulations governing O&M procedures for gas pipeline operators should differ from the part 195 regulations governing O&M procedures for hazardous liquid pipelines. Two-thirds of the respondents stated that the two sets of regulations (§§ 192.605 and 195.402) need not be parallel. About one-fourth of the commenters suggested that the two could be similar, but several recommended that distinctions be made between transmission and distribution systems or among the products carried. Still another group also believed that the two need not be the same, but recommended changes to part 192 to include requirements for training personnel in the aspects of the O&M procedures needed to perform their duties and to gather all part 192 requirements pertaining to O&M procedures into a single location.

OPS does not agree with the position that parallelism need not be maintained between the O&M procedure requirements of parts 192 and 195. The very existence of two separate sets of regulations is an acknowledgment of the distinctions between gas and liquid pipelines. However, OPS believes that the O&M similarities vastly outnumber the differences and that compliance (particularly for operators who have both liquid and gas pipelines) is

enhanced by making the two regulations reasonably similar while honoring the technical distinctions between gas and liquid pipelines.

The primary goal of this proceeding is to clarify and specify the existing requirements of § 192.605 by including a specific list of essentials that must be covered by gas pipeline O&M procedures. The intended effect of the rulemaking is to cause gas pipeline operators to develop effective O&M procedures and use them to take timely and appropriate action in conducting normal activities and in responding to abnormal situations. A subsidiary goal of this proceeding is to implement RSPA's policy to make the regulations governing O&M procedures for gas and liquid pipelines as similar as practicable. Training connected with O&M procedures is scheduled for rulemaking in Docket PS-94.

Current and Proposed Requirements

The requirements governing O&M procedures for hazardous liquid pipelines are in § 195.402, Procedural manual for operations, maintenance, and emergencies. Some of these requirements parallel those in §§ 192.603 and 192.605, but are significantly more detailed. The following discussion will compare § 195.402 with §§ 192.603 and 192.605 and propose appropriate amendments.

Section 195.402(a), in addition to requiring that the operator prepare and follow a manual of written procedures for conducting O&M activities and for handling emergencies, requires the operator to evaluate its effectiveness annually and update and revise the manual as necessary. The subsection also requires that appropriate parts of the manual be available at locations where operations and maintenance activities are conducted. This subsection also states that the manual must be prepared before initial operation of a pipeline system commences. Section 192.603(b) requires operators to establish a written O&M plan, but not in manual form. The remaining provisions of § 195.402(a) are not matched in §§ 192.603 and 192.605. Sections 192.603(b) and 192.605(a) would be revised to agree with § 195.402(a).

Section 195.402(c) requires procedures for several different, specifically-referenced O&M activities, many of which, although pertinent to gas systems, are not addressed directly or are addressed in less detail in part 192, as discussed below.

Section 195.402(c)(1) requires the operator to make construction records, maps, and operating history available to O&M personnel as necessary for safe operation and maintenance. In contrast, § 192.603(b) simply requires the operator to "keep records necessary to administer" the O&M plan. This section does not have the same effect in regard to availability or kinds of records as § 195.402(c)(1). As set forth below, the proposed § 192.605(b)(2) is comparable to § 195.402(c)(1).

Section 195.402(c)(2) requires procedures for the collection of data needed for reporting accidents to RSPA. Section 192.605 does not require that operators have similar procedures. Therefore, a new § 192.605(b)(4) is proposed to agree with § 195.402(c)(2).

Section 195.402(c)(3) requires procedures for operating, repairing, and maintaining the pipeline system in accordance with the O&M regulations in subpart F of part 195. Sections 192.603(b) and 192.605(b) have similar intent, but it is not as clearly stated. The existing § 192.605(b) would be revised and redesignated as the proposed § 192.605(b)(1) to agree with § 195.402(c)(3).

Section 195.402(c)(4) requires procedures for determining which facilities require immediate response in the event of failure or malfunction. Section 192.605 does not address this issue. A new § 192.605(b)(5) is proposed to agree with § 195.402(c)(4).

Section 195.402(c)(5) covers analyzing pipeline accidents to determine their causes, and procedures for this topic are covered adequately by § 192.617. However, for conformity with § 195.402, OPS is proposing under § 192.605(e) that these procedures be included in the O&M manual. This proposal would serve to unite all O&M procedures in a single manual and clarify that the accident investigation procedures required by § 192.617 must be written.

Section 195.402(c)(6) requires procedures for minimizing potential hazards at those locations identified under § 195.402(c)(4) and for minimizing the recurrence of accidents. Section 192.605(c) requires "[s]pecific programs relating to facilities presenting the greatest hazard to public safety," but does not elaborate on the intent of the programs. A new § 192.605(b)(6) is proposed to parallel § 195.402(c)(6) with regard to minimizing the potential for hazards. Procedures to minimize accident recurrence are required by § 192.617.

Section 195.402(c)(7) requires procedures for pipeline startup and shutdown within appropriate operating parameters. Part 192 does not contain a similar requirement, except with regard to compressor stations under § 192.729. Gas pipelines are shut down, intentionally and unintentionally, and restarted, and appropriate procedures are vital for maintaining the safety of the pipeline. The proposed § 192.605(b)(7) is comparable to § 195.402(c)(7).

Sections 195.402(c)(8) and (c)(9) pertain to monitoring pipelines that are not equipped to fail safe for operation outside of normal limits. Part 192 does not contain a similar requirement. Liquid pipelines can fail in extremely short times as a result of pressure excursions. Gas pipelines do not exhibit similar behavior. Therefore, provisions comparable to (c)(8) and (c)(9) need not be added to § 192.605.

Section 195.402(c)(10) requires procedures for abandoning pipeline facilities. In part 192, § 192.727 covers this topic in appropriate detail and requires that procedures for abandonment be included in each operator's O&M plan. Thus, there is no need for further treatment of this topic under § 192.605.

Section 195.402(c)(11) addresses minimizing the potential for ignition of vapors at locations determined to require immediate response under § 195.402(c)(4) where the potential exists for the presence of flammable liquids or gases. Section 192.751 similarly requires operators to minimize the potential for gas ignition in structures and other locations where the presence of gas constitutes an ignition or explosion hazard. Although this section does not require written procedures, they would have to be prepared and included in the O&M manual under the proposed § 192.605(b)(1), which would require procedures for implementing all subpart M maintenance standards. OPS is not proposing any other change to § 192.605 to compare with § 195.402(c)(11).

Section 195.402(c)(12) addresses establishing and maintaining liaison with police, fire, and other public officials so that operator and public response capabilities are known in advance of any emergency. part 192 covers this topic adequately in § 192.615(c), and it need not be added to § 192.605.

Section 195.402(c)(13) requires periodic review of the work of operator personnel to determine the effectiveness of O&M procedures. It requires further that the operator correct any deficiencies encountered. Section 192.605 does not require similar review and revision of O&M procedures. Thus, § 192.605(b)(10) is proposed to compare with § 195.402(c)(13).

The proposed § 192.605(b)(11) is the existing § 192.605(e).

The existing requirements of § 192.605(d) regarding the conversion of

a low-pressure distribution system to a higher pressure would be deleted because such conversion is equivalent to uprating, and § 192.553(c) requires a

address. A large fraction of pipeline maintenance, particularly leak repair, is done in excavated trenches where escaping gas or evaporating liquid can

compressor stations. In addition § 192.737 requires a plan for inspection and testing of pipe-type and bottle-type holders. OPS proposes to delete these

Federalism

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612. RSPA

commence, and appropriate parts must be kept at locations where operations and maintenance activities are conducted.

(i) Provision for detecting external corrosion before the strength of the container has been impaired;

(ii) Periodic sampling and testing of

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a low-pressure distribution system to a higher pressure would be deleted because such conversion is equivalent to uprating, and § 192.553(c) requires a written procedure to ensure compliance with subpart K, Uprating.

Section 195.402(d) addresses abnormal operations. It requires procedures to provide safety when operating design limits are exceeded, as indicated by, among other items, operation of safety devices, unintended closure of valves or shutdowns, pressure excursions beyond normal limits, and loss of communications. Part 192 does not currently require procedures to respond to abnormal operations, but OPS believes such procedures are appropriate for transmission lines. Since abnormal conditions on transmission lines can worsen, creating an imminent hazard or emergency, they should properly be addressed in the O&M procedures. Therefore, a new § 192.605(c) is proposed to agree with § 195.402(d). Section 195.402(d)(3) has not been included because it would be redundant with the proposed § 192.605(c)(1)(ii).

Section 195.402(e) covers emergency response procedures. Under part 192, such procedures are required by § 192.615. However, for conformity with § 195.402, OPS is proposing under § 192.605(e) that the gas pipeline emergency procedures be included in the O&M manual. Many operators now do so. This proposal would serve to unite all O&M procedures in a manual. The public education program required by § 192.615(d) would be restated as § 192.616 to not confuse it with the emergency procedures to be added to the O&M manual. Also, § 195.440 separates similar education requirements from requirements for emergency procedures.

Also, to unite all O&M procedures in a manual, the proposed § 192.605(e) would require that the surveillance procedures operators must prepare under § 192.613(a) be included in the O&M manual.

Personnel Safety

The intent of the Federal minimum safety standards embodied in parts 192 and 195 is to protect the public from the hazards attendant to the transportation of gas and hazardous liquids by pipeline. Included implicitly in this statement is the goal of protecting pipeline personnel, as they also constitute a part of the general public.

Personnel protection is for the most part an indirect consequence of the regulations and need not often be addressed explicitly. However, OPS has identified two areas that do merit direct address. A large fraction of pipeline maintenance, particularly leak repair, is done in excavated trenches where escaping gas or evaporating liquid can create a hazardous environment. Although pipeline personnel are generally trained to work in such environments, OPS believes that, to ensure the safety of personnel, each O&M procedures manual should include procedures for: (1) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas; and (2) making available at the excavation emergency rescue equipment, including a breathing apparatus and a rescue harness and line. The proposed § 192.605(b)(12) and § 195.402(b)(14) would establish these requirements.

Other Related Sections

In subpart I of part 192, § 192.453 requires gas operators to establish procedures to implement the corrosion control requirements of the subpart. In keeping with OPS's objective of requiring gas operators to collect all required procedures for pipeline maintenance in a single manual, the requirement of § 192.453 to establish corrosion control procedures would be transferred to § 192.605(b)(2), and § 192.453 would be revised appropriately. By including this requirement in § 192.605, it would be clear that gas pipeline corrosion control procedures must be written and be a part of the O&M manual.

In subpart M of part 192, § 192.706, Transmission lines: Leakage surveys, § 192.723, Distribution systems: Leakage surveys and procedures, and § 192.727, Abandonment or inactivation of facilities, each contain an explicit requirement that the operator cover the respective subject in its O&M procedures. Each section then provides relevant safety requirements. Because the proposed § 192.605(a) would require procedures for operating and maintaining pipelines generally, and § 192.605(b)(1) would require procedures to meet all of the O&M requirements of subparts L and M, the specific references to O&M procedures in §§ 192.706, 192.723, and 192.727 would no longer be needed and could be construed to limit the application of § 192.605(b)(1). Therefore, §§ 192.706, 192.723, and 192.727 would be modified to remove the reference to O&M procedures.

Three other sections in subpart M of part 192, §§ 192.729, 192.731, and 192.733 require procedures for starting, operating, and shutting down compressors and for maintaining compressor stations. In addition § 192.737 requires a plan for inspection and testing of pipe-type and bottle-type holders. OPS proposes to delete these sections and move the requirements they contain to § 192.605(b)(8), (9), and (13). This would serve to consolidate all O&M plans and procedures in a single manual and to clarify that the plans and procedures required for compressors and for pipe-type and bottle-type holders must be written.

Impact Assessment

Gas pipeline operators are currently required to have written comprehensive O&M procedures. This proposal would merely specify more clearly the required contents of such procedures. Thus, most operators' procedures should already cover the proposed topics, although possibly not in the detail being proposed or in manual form. The expense associated with compliance would be for collection and organization of existing procedures, with some elaboration where necessary. Therefore, this proposal is considered to be nonmajor under Executive Order 12291 but is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) because of the need for adequate procedures to provide a basis for training and qualifying operator personnel. Since the proposed rule should require minimal compliance expense, it does not warrant preparation of a Draft Evaluation. Also, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that it would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rulemaking would modify existing information collection requirements in § 192.605. This proposed modification will be submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. chap. 35). Persons desiring to comment on these information collection requirements should submit their comments to the Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, Attention: Desk Officer. Research and Special Programs Administration (RSPA). Persons submitting comments to OMB are also requested to submit a copy of their comments to RSPA as indicated above under ADDRESS.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612. RSPA has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 192

Emergency, Maintenance, Operations, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Emergency, Maintenance, Operations, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, OPS proposes to amend parts 192, and 195 as set forth below:

1. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; and 49 CFR 1.53.

3. Section 192.453 would be revised to read as follows:

§ 192.453 General.

The corrosion control procedures required by § 192.605(b)(2) of this part, including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified by experience and training in pipeline corrosion control methods.

4. Section 192.603(b) would be revised to read as follows:

§ 192.603 General provisions.

* * * * *

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605 of this part.

5. Section 192.605 would be revised to read as follows:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting normal operations and maintenance activities and handling emergencies. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to ensure that the manual is effective. This manual must be prepared before initial operations of a pipeline system commences, and appropriate parts must be kept at locations where operations and maintenance activities are conducted.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

(2) Controlling corrosion in accordance with each of the requirements of subpart I of this part.

(3) Making construction records, maps, and operating history available to appropriate personnel as necessary for safe operation and maintenance.

(4) Gathering of data needed for reporting incidents under part 191 of this chapter in a timely and effective manner.

(5) Determining which pipeline facilities are located in areas that would require an immediate response by the operator to prevent hazards to the public if the facilities failed or malfunctioned.

(6) Minimizing the potential for hazards identified under paragraph (b)(5) of this section.

(7) Starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed by this part, plus the build-up allowed for operation of pressure-limiting and control devices.

(8) Maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service.

(9) Starting, operating, and shutting down gas compressor units.

(10) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

(11) Periodic inspections to ensure that operating pressures are appropriate for the class location.

(12) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation emergency rescue equipment, including a breathing apparatus and a rescue harness and line.

(13) Systematic and routine testing and inspection of pipe-type or bottle-type holders including—

(i) Provision for detecting external corrosion before the strength of the container has been impaired;

(ii) Periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas which, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and

(iii) Periodic inspection and testing of pressure limiting equipment to determine that it is in a safe operating condition and has adequate capacity.

(c) *Abnormal operation.* For transmission lines, the manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(1) Responding to, investigating, and correcting the cause of:

(i) Unintended closure of valves or shutdowns;

(ii) Increase or decrease in pressure or flow rate outside normal operating limits;

(iii) Loss of communications;

(iv) Operation of any safety device;

(v) Any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property.

(2) Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.

(3) Notifying responsible operator personnel when notice of an abnormal operation is received.

(4) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

(d) *Safety-related condition reports.* The manual required by paragraph (a) of this section must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 191.23 of this chapter.

(e) *Surveillance, emergency response, and accident investigation.* The procedures required by §§ 192.613(a), 192.615, and 192.617 of this part must be included in the manual required by paragraph (a) of this section.

§ 192.615 [Redesignated as § 192.616(d)]

6. Section 192.615(d) would be redesignated as § 192.616 *Public education,* and the paragraph designation would be removed.

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§ 192.706 [Amended]

7. In § 192.706, paragraph (a) would be removed, the introductory text of paragraph (b) would be redesignated as the introductory text of the section, and paragraphs (b)(1) and (b)(2) would be redesignated paragraphs (a) and (b), respectively.

8. In § 192.723, the section heading and paragraph (a) would be revised to read as follows:

§ 192.723 Distribution systems: Leakage surveys.

(a) Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this section.

* * * * *

9. In § 192.727, the section heading and paragraph (a) would be revised to read as follows:

§ 192.727 Abandonment or deactivation of facilities.

(a) Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this section.

* * * * *

§ 192.729 [Removed]

10. Section 192.729 would be removed.

§ 192.733 [Removed]

11. Section 192.733 would be removed.

§ 192.737 [Removed]

12. Section 192.737 would be removed.

PART 195—[AMENDED]

13. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; 49 CFR 1.53.

14. In § 195.402, a new paragraph (b)(14) would be added to read as follows:[1]

[1] Editorial Note: Elsewhere in this Part III, the Research and Special Programs Administration is proposing to redesignate current paragraph (c) in § 195.402 as paragraph (b). This proposed amendment would affect newly designated paragraph (b).

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(b) * * *

(14) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation emergency rescue equipment, including a breathing apparatus and a rescue harness and line.

* * * * *

Issued in Washington, DC, on October 26, 1989.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 89-25690 Filed 11-3-89; 8:45 am]

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Monday
November 6, 1989

Part IV

Department of Education

34 CFR Part 673

Income Contingent Loan Program; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 673

RIN 1840-AB04

Income Contingent Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Higher Education Admendments of 1986 authorize the Secretary to implement an Income Contingent Direct Loan Program Demonstration Project (ICL Demonstration Project) beginning with the 1987–88 award year. The Secretary is issuing regulations to implement the due diligence procedures for the ICL Demonstration Project. The ICL Demonstration Project is examining the feasibility of a loan program that uses the income contingent repayment method in order to increase the economic and full use of student loan funds.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments, with the exception of §§ 673.52, 673.53, 673.55, 673.57, 673.58 and 673.59. Sections 673.52, 673.53, 673.55, 673.57, 673.58, and 673.59 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. A document announcing the effective date will be published in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Harold McCullough, Division of Policy and Program Development, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 4310), Washington, DC 20202. Telephone number: (202) 732–4490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** on August 5, 1987, 52 FR 29120–29138, the Secretary promulgated final rules governing those aspects of the Income Contingent Loan (ICL) Demonstration Project, other than the billing and collection of ICL loans. On November 30, 1987, the Secretary published a notice of proposed rulemaking (NPRM) pertaining to billing and collection in the **Federal Register**, 52 FR 45570. The Secretary now publishes final rules for this aspect of the ICL program, as subpart E—Due Diligence.

These ICL due diligence regulations require each institution participating in the ICL Program (1) to inform ICL borrowers of their rights and responsibilities, (2) to attempt to collect from borrowers, and, under certain conditions, (3) to sue defaulted borrowers. The Secretary has utilized the Perkins Loan Program due diligence requirements for the ICL Program with modifications necessary to address those issues that are unique to the ICL Program. A few significant changes have been made to the NPRM as explained in the following analysis.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, seven parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Other substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General

Comments: Several commenters supported the adoption of the Perkins Loan due diligence requirements as a basis for those for the ICL Program on the ground that this approach minimizes confusion caused by conflicting requirements for similar programs.

Two commenters objected to the manner in which the NPRM was promulgated, *i.e.*, using the final Perkins Loan due diligence regulations as the comment document and requesting comments on the appropriate adjustments needed to these regulations to operate the ICL Program.

Discussion: As with other aspects of the ICL Program, the due diligence procedures for the ICL Demonstration Project have been closely modeled on the Perkins Loan Program requirements. The Secretary believes that this consistency between the programs facilitates the administration of both programs.

The manner in which the NPRM was promulgated reflected the intention of the Secretary to utilize the same due diligence requirements set forth in the Perkins Loan Program regulations for the ICL Program, with minor modifications, as well as the need to establish final regulations for due diligence procedures for the ICL Program before institutions participating in the ICL Demonstration Project during the 1987–88 academic year would be presented with the need to use due diligence procedures to collect these loans. Since all participating ICL institutions are required to have demonstrated a thorough and effective familiarity with the loan collection rules in effect in the Perkins Loan Program in order to qualify for an ICL award, the Secretary believes that the method of promulgation for the NPRM was the most efficient way in which to achieve the goals of the Demonstration Project in a timely manner.

Changes: None.

Comments: Two commenters recommended that the Secretary continue to evaluate the requirements of the ICL Program throughout the Demonstration Project.

Discussion: The Higher Education Amendments of 1986 authorized the Secretary to conduct an Income Contingent Loan Demonstration Project beginning with the 1987–88 award year and charged the Secretary with providing an evaluation of the Demonstration Project to Congress. As indicated in the regulations published August 5, 1987, the Secretary is evaluating the ICL Demonstration Project on an on-going basis and, as a result of this evaluation, may propose modifications to the statute and to the regulations governing the ICL Program throughout the Demonstration Project.

Changes: None.

Comments: One commenter agreed that the Secretary should not routinely accept assignments of defaulted ICLs at this time.

Discussion: The ICL Program provides a great deal of flexibility for institutions and borrowers who can therefore tailor repayment terms to fit their financial circumstances. As a result, the Secretary anticipates that the default rate for the ICL Program will be low, and that, at the present time, it is not necessary to implement procedures for institutions to assign defaulted ICLs to the Department.

Changes: All references to the assignment of defaulted ICLs have been deleted.

Enforcement Policy and Procedures for Failure to Submit Required Income Information

Comments: A number of commenters wanted the Secretary to adopt an alternative method for calculating the annual repayment obligation of a borrower who failed to submit the required income information in a timely manner.

Discussion: Failure to pay an established installment payment on an ICL or Perkins loan presents the same problem to the institution, and there was little need to reconsider the NPRM to address the enforcement of the loan obligation in the case of a "financial default." Only ICL obligations present the added responsibility to submit income information to adjust a previously set installment payment level, and failure to meet that obligation is a default on the loan as well.

The Secretary noted in the NPRM that the need to secure from the borrower annual income information was the principal difference between enforcement of Perkins loans and Income Contingent Loans, and he has reconsidered several provisions of the NPRM, which were based on the Perkins Loan enforcement regulations, with particular attention to this need. The Secretary recognizes in particular that the institution will be faced with the dilemma of deciding on appropriate enforcement action with regard to a borrower who fails to submit required income information but continues to make regular payments at a previously-established rate.

The Secretary believes that additional study is needed before a decision is made to implement any alternative repayment model of the type suggested by one commenter for these "information defaults." The Secretary also recognizes that the "information defaulter" demonstrates some degree of compliance with the loan contract by submitting payments, and that too abrupt a transition into enforced collection, including litigation, could result in a careless but not yet recalcitrant borrower deciding to withhold payment of any kind until compelled to do so by a court judgment. Although this may result in the establishment of a firm policy that the income information must be submitted, it could jeopardize the continued receipt of payments on these loans, a matter of consequence to a loan fund designed to operate as a revolving fund. Not only would more forceful collection steps on an "information default," including acceleration of the loan, risk causing an interruption of the payments currently being made, but routine treatment of an "information default" in the same manner as a "financial default" would mean that the institution would engage a collection firm to handle the debt. It is not reasonable to incur contingent fees on an account on which the borrower has submitted, and continues to submit, regular payments, because those collection efforts have not produced the payments against which they would be charged. Whether or not those costs are fully charged to the borrower, their imposition seems unnecessary and detrimental to the program. Too lenient an enforcement policy, on the other hand, would undermine the integrity of the ICL program by permitting those borrowers whose incomes have substantially increased, and therefore have the most reason to withhold information, to disregard that duty with impunity.

These considerations suggest the need for greater flexibility for the institution in the selection of enforcement tools for "information defaults" than is permitted for "financial defaults". Credit bureau reporting may be especially effective for that group of borrowers who may be inclined to withhold information showing recent and substantial increases in their incomes, because those individuals may be more likely than the average borrower to seek those larger extensions of credit and employment in those positions for which a credit examination will be routinely performed. Default based on failure to supply income information is a default nonetheless, and the borrower does not qualify for additional title IV aid while that default persists; however, the sanction of ineligibility for further aid may be less useful in dealing with this group of borrowers. An institution that adopts a policy of withholding academic transcripts for loan defaulters might appropriately use that sanction for "information defaults" as well.

The Secretary notes that a borrower who defaults remains in default until a satisfactory written repayment agreement has been reached with the institution. 34 CFR 668.7(e)(2)(ii), 673.2(b), 674.2(b). The institution may insist that the "information defaulter," by that repayment agreement, repay the loan on a schedule fixed by the institution without regard to future changes in income.

Changes: The Secretary does not believe it prudent to adopt an alternative repayment method at this time, and no change has been made to adopt this recommendation. However, the Secretary has made other changes to the NPRM to address the problem of the "information default" described by the commenter. First, § 673.52(a) has been amended to require explanation during the exit interview of the duty to supply income information. Section 673.52(c) has been amended to require the institution to contact the borrower by October 1 of each year of the repayment period to remind the borrower to submit the required income information by the following November 1.

To deal with the need for flexibility in the use of collection methods, the Secretary has amended §§ 673.53 and 673.55 to require the institution to report "information defaults" that are not (yet) "financial defaults" to credit bureaus, but to permit the institution to defer more forceful collection action—in particular, the use of collection firms and resort to litigation—until after it accelerates the loan, or until after the borrower misses a payment and becomes a "financial default" as well. In reporting an "information default" to a credit bureau, the institution should use the credit bureau status that indicates that the account is "not being paid in accordance with the agreement between the creditor and the borrower" (e.g., TRW status code 70, CBI status code 079). Although credit bureaus use various codes to do so, the Secretary believes that this adverse rating is widely used and understood by credit bureaus and their customers. The Secretary considers this relatively inexpensive sanction an appropriate enforcement tool to deal with "information defaults" in light of the negative consequences that may follow more forceful collection techniques. The institution may use its discretion in determining when to accelerate the loan; the institution may do so when it determines that the borrower has demonstrated persistent or repeated failure to report income information. The Secretary believes that this determination can be reasonably made when the borrower has failed, despite demand, to submit required information for a full year; the institution may accelerate earlier than that, depending on the facts presented in a particular case, including failure in the past to submit this information timely, or an intervening failure to submit a payment of any kind.

Sections 673.53 Billing Procedures and 673.55 Collection Procedures

Comments: Two commenters suggested that the cost of maintaining funds received at billing services and collection agencies in interest-bearing accounts will not be offset by the interest earnings on the accounts and requested modification to the regulations to allow banking costs not offset by interest earnings to be charged to the fund.

Discussion: The Secretary believes that the overall net income to the fund as a result of maintaining ICL funds in interest-bearing accounts offsets any loss to a particular school. Furthermore,

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billing services and collection agencies may each commingle in their accounts the ICL funds collected as long as they can identify the interest earnings by institution. In addition, although banking costs not offset by interest earnings may not be charged to the fund, an institution may use its administrative cost allowance to cover these costs.

Changes: None.

Section 673.54 Address Searches

Comments: One commenter supported the use of procedures under § 673.54, "Address Searches", covering past-due payments for delays in submission of income information when the delay in submission is the result of a bad address.

Discussion: The Secretary agrees with the commenter and notes that the procedures outlined under § 673.54 are to be used by the institution to attempt to locate a borrower whenever the institution has sent mail, other than unclaimed mail; to the borrower which is returned undeliverable.

Changes: None.

Section 673.57 Costs Chargeable to the Fund

Comments: Two commenters asked the Secretary to clarify the imposition of costs to the borrower in the collection process.

Discussion: If the institution has incurred costs in following the prescribed due diligence procedures, these costs must be passed on to the borrower. Certain costs, such as those associated with address searches and credit bureau reporting, may be paid directly from the fund and later passed on to the borrower. The payments received from the borrower are then to be applied to these accrued collection costs and to contingency fees charged by collection agencies.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 673

Education, Loan programs—education, Student aid.

(Catalog of Federal Domestic Assistance Number N/A)

Dated: October 4, 1989.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends part 673 of title 34 of the Code of Federal Regulations by adding a new Subpart E, to read as follows:

PART 673—INCOME CONTINGENT LOAN PROGRAM

Subpart E—Due Diligence

Sec.

673.51 Due diligence—general requirements.
673.52 Contact with the borrower.
673.53 Billing procedures.
673.54 Address searches.
673.55 Collection procedures.
673.56 Litigation procedures.
673.57 Costs chargeable to the Fund.
673.58 Use of contractors to perform billing and collection or other program activities.
673.59 Bankruptcy of borrower.

Subpart E—Due Diligence

Authority: 20 U.S.C. 1087a–1087e, unless otherwise noted.

§ 673.51 Due diligence—general requirements.

(a) *General.* Each institution shall exercise due diligence in collecting loans by complying with the provisions in this subpart. In exercising this responsibility, each institution shall, in addition to complying with the specific provisions of this subpart—

(1) Keep the borrower informed, on a timely basis, of all changes in the program that affect his or her rights or responsibilities; and

(2) Respond promptly to all inquiries from the borrower or any endorser.

(b) *Due diligence with regard to endorser.* If a borrower does not respond satisfactorily to the final demand letter required in § 673.53(c)(2) and the loan has been accelerated, an institution shall, in addition to pursuing the borrower, pursue recovery of the debt from any endorser using the steps described in this subpart.

(c) *Coordination of information.* An institution shall ensure that information available in its offices (including the admissions, business, alumni, placement, financial aid, and registrar's offices) is provided to those offices responsible for billing and collecting loans, in a timely manner, as needed to determine—

(1) The enrollment status of the borrower;

(2) The expected graduation or termination date of the borrower;

(3) The date the borrower withdraws, is expelled, or ceases enrollment on at least a half-time basis; and

(4) The current name, address, telephone number, and Social Security number of the borrower.

(Authority: 20 U.S.C. 1087c)

§ 673.52 Contact with the borrower.

(a) *Exit interview.* (1) An institution shall conduct an exit interview with each borrower before he or she leaves the institution. If an individual interview is not feasible, the institution may conduct a group interview. During the interview the institution shall restate for the borrower the terms and outstanding balance of the loan held by the institution, and the borrower's duty to repay the loan in accordance with the repayment schedule as it may vary depending on changes in the income of the borrower and his or her spouse. The institution shall explain to the borrower the consequences of defaulting including, at a minimum, possible referral to a collection firm, reporting to a credit bureau, and litigation. Furthermore, the institution shall explain the borrower's rights and responsibilities under the loan, including the following:

(i) The borrower's responsibility to inform the institution immediately of any change of name, address, telephone number, or Social Security number.

(ii) The borrower's right to deferment, cancellation, or postponement of repayment, and the procedures for filing for those benefits.

(iii) The borrower's responsibility to contact the institution in a timely manner, before the due date of any payment he or she cannot make.

(iv) The borrower's responsibility to submit the income information required under § 673.43(b)(3) to the institution by November 1 of each calendar year.

(2) An institution shall disclose the following information during the exit interview, and shall include it in the promisorry note or in another written statement provided to the borrower:

(i) The name and the address of the institution to which the debt is owed and the name and address of the official or servicing agent to whom communications, incuding the annual required income information, should be sent.

(ii) The name and the address of the party to which payments should be sent.

(iii) The estimated balance owed by the borrower on the loan held by the institution on the date on which the repayment period is scheduled to begin.

(iv) The stated interest rate on the loan, and, if that rate is variable, the manner in which it is determined.

(v) The current payment formula used to calculate the borrower's annual repayment obligation, the date the first installment payment is due, and the frequency of required payments.

(vi) A statement that the borrower has the right to prepay all or part of the loan at any time without penalty.

(vii) A description of the charges imposed for failure of the borrower to pay all or part of an installment when due.

(viii) A description of any charges that may be imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the institution to collect on the loan.

(ix) The estimated total of interest charges which the borrower will pay on the loan pursuant to the projected repayment schedule.

(3) At the time of the exit interview the institution shall—

(i) Have the borrower sign a copy of the disclosure statement of the current payment formula;

(ii) Provide a copy of the signed promissory note and the signed disclosure statement of the current payment formula to the borrower; and

(iii) Retain signed copies of both the note and the disclosure statement of the current payment formula in the institution's files.

(4) The institution shall contact a borrower promptly after it determines that the borrower either has not attended an exit interview that he or she was scheduled to attend or has already left the institution, and shall—

(i) Provide the borrower, either in person or by mail, the information described in paragraphs (a) (1) and (2) of this section; and

(ii) Provide a copy of the note and two copies of the disclosure statement of the current payment formula to the borrower and request that the borrower promptly sign and return one of the statements to the institution.

(b) *Contact with the borrower during the grace period.* (1) The institution shall contact the borrower three times within the grace period.

(2) (i) The institution shall contact the borrower for the first time 90 days after the commencement of the grace period. The institution shall at this time remind the borrower of his or her responsibility to comply with the terms of the loan and shall send the borrower the following information:

(A) The total amount remaining outstanding on the loan account, including principal and interest expected to accrue over the remaining life of the loan.

(B) The date of the first required payment.

(C) (*1*) The amount of the first required payment if the borrower does not submit the income information as specified in § 673.43(b)(3); or

(*2*) The formula used to calculate the amount of the first required payment if the borrower does submit the income information as specified in § 673.43(b)(3).

(D) An explanation of the borrower's right to choose the payment amount derived under paragraph (b)(2)(i)(C)(*1*) or (b)(2)(i)(C)(*2*) of this section without penalty. This explanation includes informing the borrower of his or her option to submit the income information specified in § 673.43(b)(3) for the initial repayment period.

(ii) The institution shall contact the borrower the second time 150 days after the commencement of the grace period. The institution shall at this time notify the borrower of the date of the first required payment and the information specified in paragraphs (b)(2)(i) (C) and (D) of this section.

(iii) The institution shall contact the borrower the third time 240 days after the commencement of the grace period, and shall then inform him or her of the date and amount of the first required payment and the information specified in paragraphs (b)(2)(i) (C) and (D) of this section.

(c) *Contact with the borrower during the repayment period.* (1) The institution shall contact the borrower by October 1 of each year of the repayment period to remind the borrower of his or her obligation to submit the required income information as specified in § 673.43(b)(3).

(2) The institution shall notify the borrower of his or her annual repayment obligation and the amount and frequency of payments for each year at least 30 days before the first payment for that year is due.

(Authority: 20 U.S.C. 1087c)

§ 673.53 Billing procedures.

(a) The term "billing procedures," as used in this subpart, includes that series of actions routinely performed to notify borrowers of payments due on their accounts, to remind borrowers to submit overdue payments or required income information, and to demand payment of overdue amounts. An institution shall use the following billing procedures:

(1) If the institution uses a coupon payment system, it shall send the coupons to the borrower at least 30 days before the first payment of the annual repayment obligation is due.

(2) If the institution does not use a coupon system, it shall send to the borrower—

(i) A written notice giving the name and address of the party to which payments are to be sent and a statement of account at least 30 days before the first payment of the annual repayment obligation is due; and

(ii) A statement of account at least 15 days before the due date of each subsequent payment.

(b) (1) An institution shall send a first overdue notice within 15 days after the due date for a payment or the required income information if the institution has not received—

(i) The required payment;

(ii) A request for deferment;

(iii) A request for cancellation; or

(iv) The required income information.

(2) Subject to § 673.57(a), the institution shall assess a late charge for loans during the period in which the institution takes any steps described in this section to secure—

(i) Any part of an installment payment not made when due;

(ii) A request for deferment or cancellation of repayment on the loan that contains sufficient information to enable the institution to determine whether the borrower is entitled to the relief requested; or

(iii) The income information required to be submitted annually by the borrower.

(3) The institution shall determine the amount of the late charge based on either—

(i) Actual costs incurred for actions required under this section to secure the required payment of information from the borrower; or

(ii) The average cost incurred for similar attempts to secure payments or information from other borrowers.

(4) The institution may not require a borrower to pay late charges in an amount, for each late payment, income information submission, or request, exceeding 20 percent of the installment payment most recently due.

(5) The institution shall notify the borrower of the amount of the charge it has imposed, and whether the institution—

(i) Has added that amount to the principal amount of the loan as of the first day on which the installment was due; or

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(ii) Demands payment for that amount in full no later than the due date of the next installment.

(c) If the borrower does not satisfactorily respond to the first overdue notice, the institution shall continue to contact the borrower as follows, until the borrower makes satisfactory repayment arrangements, submits the required income information, or demonstrates entitlement to deferment of cancellation:

(1) The institution shall send a second overdue notice within 30 days after the first overdue notice is sent.

(2) The institution shall send a final demand letter within 15 days after the second overdue notice. This letter must inform the borrower that, as appropriate—

(i) If the institution does not receive the required income information within 30 days of the date of the letter, it will report the default to a credit bureau;

(ii) If the institution does not receive a payment or a request for deferment or cancellation within 30 days of the date of the letter, it will refer the account for collection or litigation, and will report the default to a credit bureau.

(d) Notwithstanding paragraphs (b) and (c) of this section, an institution may send a borrower a final demand letter if the institution has not within 15 days after the due date received a payment, the required income information, or a request for deferment or cancellation, and if—

(1) The borrower's repayment history has been unsatisfactory, e.g., the borrower has previously failed to make payment(s) when due, to submit the required income information, or to request deferment in a timely manner, or has previously received a final demand letter; or

(2) The institution reasonably concludes that the borrower neither intends to repay the loan or to submit the required income information nor intends to seek deferment or cancellation of the loan.

(e) (1) An institution that accelerates a loan as provided in § 673.42 (i.e., makes the entire outstanding balance of the loan, including accrued interest and any applicable late charges, payable immediately) shall—

(i) Provide the borrower, at least 30 days before the effective date of the acceleration, written notice of its intention to accelerate; and

(ii) Provide the borrower on or after the effective date of acceleration, written notice of the date on which it accelerated the loan and the total amount due on the loan.

(2) The institution may provide these notices by including them in other written notices to the borrower, including the final demand letter.

(f) If the borrower does not respond to the final demand letter within 30 days from the date it was sent, the institution shall attempt to contact the borrower by telephone before beginning collection procedures.

(g) (1) An institution shall ensure that any funds collected as a result of billing the borrower are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 1087c)

§ 673.54 Address searches.

(a) If mail, other than unclaimed mail, sent to a borrower is returned undelivered, an institution shall take steps to locate the borrower. These steps must include—

(1) Reviews of records in all appropriate institutional offices;

(2) Reviews of telephone directories or inquires of information operators in the locale of the borrower's last known address; and

(3) Use of the Department of Education's skip-tracing service.

(b) If an institution is unable to locate a borrower by the means described in paragraph (a) of this section, it shall—

(1) use its own personnel to attempt to locate the borrower, employing and documenting efforts comparable to commonly accepted commercial skip-tracing practices; or

(2) Refer the account to a firm that provides commercial skip-tracing services.

(c) If the institution acquires the borrower's address or telephone number through the efforts described in this section, it shall use that new information to continue its efforts to collect on that borrower's account in accordance with the requirements of this subpart.

(d) If the institution is unable to locate the borrower after following the procedures in paragraphs (a) and (b) of this section, the institution shall make reasonable attempts to locate the borrower at least twice a year until—

(1) Litigation to collect the borrower's account is barred under the applicable statute of limitations; or

(2) The account is written off under § 673.57(g).

(Authority: 20 U.S.C. 1087c)

§ 673.55 Collection procedures.

(a) The term "collection procedures," as used in this subpart, includes that series of more intensive efforts, including litigation as described in § 673.56, to recover amounts owed from defaulted borrowers who do not respond satisfactorily to the demands routinely made as part of the institution's billing procedures. If a borrower does not satisfactorily respond to the final demand letter or the following telephone contact made in accordance with § 673.53(f), the institution shall take the following actions—

(1) Report the defaulted account to a credit bureau, unless specifically prohibited by State law;

(2) Use its own personnel to collect the amount due or demand the required income information; or

(3) Engage a collection firm to collect any account that has been accelerated or on which the borrower is not making payments at regularly scheduled intervals.

(b)(1) An institution shall select one or more credit bureaus for its information referrals with due regard for the coverage provided by the bureau or bureaus. An institution may select a bureau which serves—

(i) The areas from which the major portion of its students was drawn; or

(ii) The areas in which all or a major portion of its alumni/ae now reside.

(2) An institution shall report, according to the reporting procedures of the bureau, any changes in account status to the bureau to which it reported the defaulted account, and shall respond promptly and accurately to any inquiry from any bureau regarding the information reported on the loan account.

(c) (1) If the institution, or the firm it engages, pursues collection activity for up to 12 months and does not succeed in converting the account described in paragraph (a)(3) of this section to required repayment status, or the borrower does not qualify for deferment or cancellation on the loan, the institution shall either—

(i) Litigate; or

(ii) Make a second effort to collect the account as follows:

(A) If the institution first attempted to collect the account using its own personnel, it shall, unless specifically prohibited by State law, refer the account to a collection firm.

(B) If the institution first attempted to collect the account by using a collection firm, it shall either attempt to collect the account using institutional personnel, or place the account with a different collection firm.

(2) If the collection firm retained by the institution does not succeed in placing an account into a repayment status described in paragraph (c)(1) of this section after 12 months of collection activity, the institution shall require the collection firm to return the account to the institution.

(d) If the institution is unable to place the loan in a repayment status described in paragraph (c)(1) of this section after following the procedures in paragraphs (a), (b), and (c) of this section, the institution shall continue to make annual attempts to collect from the borrower until recovery in litigation to collect the account would be barred under the applicable statute of limitations.

(e) (1) Subject to § 673.57(d), the institution shall assess against the borrower all reasonable costs incurred by the institution with regard to a loan obligation.

(2) The institution shall determine the amount of collection costs that shall be charged to the borrower for actions required under this section, and §§ 673.54, 673.56, 673.58, and 673.59, based on either—

(i) Actual costs incurred for these actions with regard to the individual borrower's loan; or

(ii) Average costs incurred for similar actions taken to collect loans in similar stages of delinquency.

(3) The Fund must be reimbursed for collection costs initially charged to the Fund and subsequently paid by the borrower.

(f) (1) An institution shall ensure that any funds collected from the borrower are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 1087c, 1091a)

§ 673.56 Litigation procedure.

(a) (1) If the collection efforts described in § 673.55(c)(1) do not result in the repayment of a loan, the institution shall determine at least annually, until litigation to collect the account is barred under the applicable statute of limitations, whether—

(i) The total amount owing on the borrower's account, including outstanding principal, accrued interest, collection costs, and late charges on all of the borrower's ICLs held by that institution, is more than $200;

(ii) The borrower can be located and served with process;

(iii) (A) The borrower has sufficient assets attachable under State law to satisfy a major portion of the outstanding debt; or

(B) The borrower has income from wages or salary which may be garnished under applicable State law sufficient to satisfy a major portion of the debt over a reasonable period of time;

(iv) The borrower does not have a defense that will bar judgment for the institution; and

(v) The expected cost of litigation, including attorney's fees, does not exceed the amount which can be recovered from the borrower.

(2) The institution shall sue the borrower if it determines that the conditions in paragraph (a)(1) of this section are met.

(3) The institution may sue a borrower in default, even if the conditions in paragraph (a)(1) of this section are not met.

(b) The institution shall assess against and attempt to recover from the borrower—

(1) All litigation costs, including attorney's fees, court costs, and other related costs, to the extent permitted under applicable law; and

(2) All prior collection costs incurred and not yet paid by the borrower.

(c) (1) An institution shall ensure that any funds collected as a result of litigation procedures are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 1087c)

§ 673.57 Costs chargeable to the Fund.

(a) *General: billing costs.* (1) Except as provided in paragraph (c) of this section, the institution shall assess against the borrower, in accordance with § 673.53(b)(2), the cost of actions taken with regard to past-due payments on the loan.

(2) If the amount recovered from the borrower does not suffice to pay the amount of the past-due payments and the late charges, the institution may charge the Fund only that portion of the late charges which represents the unpaid portion of the cost of telephone calls to the borrower pursuant to § 673.53 to demand payment of overdue amounts and income information not timely submitted.

(b) *General: collection costs.* (1) Except as provided in paragraph (d) of this section, the institution shall assess against the borrower, in accordance with §§ 673.55(e) and 673.56(b), the costs of actions taken on the loan obligation pursuant to §§ 673.54, 673.55, 673.56, 673.58, and 673.59.

(2) If the amount recovered from the borrower is not sufficient to pay the amount on the past-due payments, late charges, and these collection costs, the institution may charge against the Fund the unpaid collection costs in accordance with paragraph (e) of this section.

(c) *Waiver: late charges.* The institution may waive late charges assessed against a borrower who repays the full amount of the past-due payments on a loan.

(d) *Waiver: collection costs.* Before filing suit on a loan, the institution may waive that percentage of the collection costs applicable to the amount then past due on the loan equal to the percentage of that past-due balance that the borrower pays within 30 days of the date on which the borrower and the institution enter into a written repayment agreement on the loan.

(e) *Limitations on costs charged to the Fund.* The institution may charge to the Fund the following costs not paid by the borrower, including amounts waived under paragraph (d) of this section:

(1) A reasonable amount for the cost of a successful address search required in § 673.54(b).

(2) Costs related to the use of credit bureaus as provided in § 673.55(b)(1).

(3) For first collection efforts pursuant to § 673.55(a)(3), an amount that does not exceed 33⅓ percent of the amount of principal, interest, and late charges collected.

(4) For second collection efforts pursuant to § 673.55(c)(1)(ii), an amount that does not exceed 50 percent of the amount of principal, interest, and late charges collected.

(5) For litigation costs, including attorney's fees, court costs, and other

related costs, an amount which does not exceed—

(i) Actual costs incurred in taking specific actions in bankruptcy

employees to perform these duties or may contract with other parties to perform them.

(b) An institution that contracts for

known, any changes to the borrower's Social Security number;

(iii) Amounts collected from the borrower; and

institution to the party during a two-month period.

(4) The institution shall review annually the amount of repayments

(4) If the institution concludes that repayment would not impose an undue hardship, the institution shall determine whether the costs reasonably expected

(C) Whether grounds exist under 11 U.S.C. 1307 to move for conversion or dismissal of the chapter 13 case.

(ii) If the institution determines that

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related costs, an amount which does not exceed—

(i) Actual costs incurred in taking specific actions in bankruptcy proceedings required or authorized under § 673.59;

(ii) That portion of costs of other actions in bankruptcy proceedings which, together with costs authorized and incurred under paragraph (e)(5)(i) of this section, do not exceed one-third of the total amount of the judgment obtained on the loan; and

(iii) In all other cases, 50 percent of the amount collected on a judgment obtained against the borrower.

(6) If a collection firm performs or contracts for the performance of both collection and litigation activities on a defaulted loan, an amount for both of the functions that does not exceed 33⅓ percent of the amount of principal, interest, and late charges collected by a first collection effort as required in § 673.55(a), or 50 percent for a second collection effort as required in § 673.55(c)(1).

(f) *Records.* For audit purposes, an institution shall support the amount of collection costs charged to the Fund with appropriate documentation, including telephone bills and receipts from collection firms. The documentation must be maintained in the institution's files as provided in § 673.32.

(g) *Write-offs.* (1) An institution may write off an account if—

(i) (A) It carries out the procedures in §§ 673.53, 673.54 and 673.55; and

(B) The total amount owing on a borrower's loan account held by that institution, including outstanding principal, accrued interest, late charges, and collection costs on all of the borrower's ICLs is $200.00 or less; or

(ii) (A) The loan is discharged in bankruptcy; and

(B) The institution has exhausted the procedures in this subpart with regard to any endorser.

(2) An institution which writes off an account under this paragraph may no longer include the amount of the account as an asset of the Fund.

(3) If an institution receives a payment from a borrower after the loan has been written off, it shall deposit that payment into the Fund.

(Authority: 20 U.S.C. 1087c, 1091a)

§ 673.58 Use of contractors to perform billing and collection or other program activities.

(a) The institution is responsible for ensuring compliance with the billing and collection procedures set forth in this subpart. The institution may use employees to perform these duties or may contract with other parties to perform them.

(b) An institution that contracts for performance of any duties under this subpart remains responsible for compliance with the requirements of this subpart in performing these duties, including decisions regarding cancellation or deferment of repayment, extension of the repayment period, other billing and collection matters, and the safeguarding of all funds collected by its employees and contractors.

(c) If an institution uses a billing service to carry out billing procedures under § 673.53, the institution shall ensure that the service—

(1) Provides at least quarterly, a statement to the institution which shows—

(i) Its activities with regard to each borrower;

(ii) Any changes in the borrower's name, address, telephone number, and, if known, any changes to the borrower's Social Security number; and

(iii) Amounts collected from the borrower;

(2) Provides at least quarterly, a statement to the institution with a listing of its charges for skip-tracing activities and telephone calls;

(3) Does not deduct its fees from the amount it receives from borrowers;

(4) (i) Instructs the borrower to remit payment directly to the institution;

(ii) Instructs the borrower to remit payment to a lock-box maintained for the institution; or

(iii) Deposits those funds received directly from the borrower immediately upon receipt in an institutional trust account; and

(5) Maintains a fidelity bond or comparable insurance in accordance with the requirements in paragraph (f) of this section.

(d) If the institution uses a collection firm, the institution shall ensure that the firm—

(1) (i) Instructs the borrower to remit payment directly to the institution;

(ii) Instructs the borrower to remit payment to a lock-box maintained for the institution; or

(iii) Deposits those funds received directly from the borrower promptly in an institutional trust account, after deducting its fees, if authorized to do so by the institution; and

(2) Provides at least quarterly, a statement to the institution which shows—

(i) Its activities with regard to each borrower;

(ii) Any changes in the borrower's name, address, telephone number and, if known, any changes to the borrower's Social Security number;

(iii) Amounts collected from the borrower; and

(3) Maintains a fidelity bond or comparable insurance in accordance with the requirements in paragraph (f) of this section.

(e) If an institution uses a billing service to carry out § 673.53 (billing procedures), it may not use a collection firm that—

(1) Owns or controls the billing service;

(2) Is owned or controlled by the billing service; or

(3) Is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the billing service.

(f) (1) An institution that employs a third party to perform billing or collection services required under this subpart shall ensure that the party has and maintains in effect a fidelity bond or comparable insurance in accordance with the requirements of this paragraph.

(2) If the institution does not authorize the third party to deduct its fees from payments from borrowers, the institution shall ensure that the party is bonded or insured in an amount not less than the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party.

(3) If the institution authorizes the third party performing collection services to deduct its fees from payments from borrowers, the institution shall ensure that—

(i) If the amount of funds that the institution reasonably expects to be paid over a two-month period on accounts it refers to the party is less than $100,000, the party is bonded or insured in an amount equal to the lesser of—

(A) Ten times the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party; or

(B) The total amount of funds that the party demonstrates will be repaid over a two-month period on all accounts of any kind on which it performs billing and collection services; and

(ii) If the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party is more than $100,000, the institution shall ensure that the party has and maintains in effect a fidelity bond or comparable insurance— ution

(A) Naming the institution as beneficiary; and

(B) In an amount not less than the amount of funds reasonably expected to be repaid on accounts referred by the institution to the party during a two-month period.

(4) The institution shall review annually the amount of repayments expected to be made on accounts it refers to a third party for billing or collection services, and shall ensure that the amount of the fidelity bond or insurance coverage maintained continues to meet the requirements of this paragraph.

(Authority: 20 U.S.C. 1087c)

§ 673.59 Bankruptcy of borrower.

(a) *General.* If an institution receives notice that a borrower has filed a petition for relief in bankruptcy, usually by receiving a notice of meeting of creditors, the institution and its agents shall immediately suspend any collection efforts outside the bankruptcy proceeding—

(1) Against the borrower; and

(2) If the borrower has filed for relief under chapter 12 or 13 of the Bankruptcy Code, against any endorser.

(b) *Proof of claim.* The institution shall file a proof of claim in the bankruptcy proceeding, unless, in the case of a proceeding under Chapter 7 of the Bankruptcy Code, the notice of meeting of creditors states that the borrower has no assets.

(c) *Borrower's request for determination of dischargeability.* (1) The institution shall follow the procedures in this paragraph if it is properly served with a complaint in a proceeding under chapter 7, 11, or 12 of the Bankruptcy Code, or under 11 U.S.C. 1328(b), for a determination of dischargeability under 11 U.S.C. 523(a)(8)(B) on on the ground that repayment of the loan would impose an undue hardship on the borrower and his or her dependents.

(2) If more than five years of the repayment period on the loan, excluding periods of deferment granted to the borrower, has passed before the borrowrer filed the petition for relief in bankruptcy, the institution may not oppose a determination of dischargeability requested under 11 U.S.C. 523(a)(8)(B) on the ground of undue hardship.

(3) If less than five years of the repayment period on the loan, excluding periods of deferment granted to the borrower, has passed before the borrower filed the petition for relief, the institution shall determine, on the basis of reasonably available information, whether repayment of the loan under either the current repayment schedule or any adjusted schedule authorized under § 673.44(h) would impose an undue hardship on the borrower and his or her dependents.

(4) If the institution concludes that repayment would not impose an undue hardship, the institution shall determine whether the costs reasonably expected to be incurred to oppose discharge will exceed one-third of the total amount owed on the loan, including all unpaid principal, interest, late charges, and collection costs.

(5) If the expected costs of opposing discharge of such a loan do not exceed one-third of the total amount owed on the loan, the institution shall—

(i) Oppose the borrower's request for a determination of dischargeability; and

(ii) If the borrower is in default on the loan, seek a judgment for the amount owed on the loan.

(6) In opposing a request for a determination of dischargeability, the institution may compromise a portion of the amount owed on the loan if it reasonably determines that the compromise is necessary in order to obtain a judgment for the institution on the loan.

(d) *Request for determination of non-dischargeability.* The institution may file a complaint for a determination that a loan obligation is not dischargeable and for judgment on the loan if the institution would have been required under paragraph (c) of this section to oppose a request for a determination of dischargeability with regard to that loan.

(e) *Chapter 13 repayment plan.* (1) The institution shall follow the procedures in this paragraph in response to a repayment plan proposed by a borrower who has filed for relief under chapter 13 of the Bankruptcy Code.

(2) The institution is not required to respond to a proposed repayment plan, if—

(i) The borrower proposes under the repayment plan to repay all principal, interest, late charges, and collection costs on the loan; or

(ii) The repayment plan makes no provision with regard either to the loan obligation or to general unsecured claims.

(3)(i) If the borrower proposes under the repayment plan to repay less than the total amount owed on the loan, the institution shall determine from its own records and court documents—

(A) The amount of the loan obligation dischargeable under the plan by deducting the total payments on the loan proposed under the plan from the total amount owed;

(B) Whether the plan or the classification of the loan obligation under the proposed plan meets the requirements of section 1325 of the Code; and

(C) Whether grounds exist under 11 U.S.C. 1307 to move for conversion or dismissal of the chapter 13 case.

(ii) If the institution determines that grounds exist to support these actions and reasonably expects that costs of the appropriate actions will not exceed one-third of the dischargeable loan debt, the institution shall—

(A) Object to confirmation of a proposed plan that does not meet the requirements of 11 U.S.C. 1325; and

(B) If grounds can be established under 11 U.S.C. 1307, either

(*1*) Move to dismiss the case, or

(*2*) If the loan entered repayment less than five years, excluding periods of deferment, before the petition for relief, move to convert the case.

(4)(i) The institution shall monitor the borrower's compliance with the requirements of the plan confirmed by the court. If the institution determines that the debtor has not made the payments required under the plan, or has filed a request for a "hardship discharge" under 11 U.S.C. 1328(b), the institution shall determine from its own records and information derived from documents filed with the court—

(A) Whether grounds exist under 11 U.S.C. 1307 to convert or dismiss the case; and

(B) Whether the borrower has demonstrated entitlement to the "hardship discharge" by meeting the requirements of 11 U.S.C. 1328(b).

(ii) If the institution determines that grounds exist to support these actions and reasonably expects that costs of the appropriate actions, when added to the costs already incurred in taking actions authorized under this section, will not exceed one-third of the dischargeable loan debt, the institution shall—

(A) (*1*) Move to dismiss the case, or

(*2*) If the loan entered repayment less than five years, excluding periods of deferment, before the petition for relief, move to convert the case; and

(B) Oppose the requested discharge where the debtor has not demonstrated that the requirements of 11 U.S.C. 1328(b) are met.

(f) *Resumption of collection from the borrower.* The institution shall resume billing and collection action prescribed in this subpart after—

(1) The borrower's petition for relief in bankruptcy has been dismissed;

(2) The borrower has received a discharge under 11 U.S.C. 727, 11 U.S.C. 1141, 11 U.S.C. 1228, or 11 U.S.C. 1328(b), unless—

(i) The court has found that repayment of the loan would impose an undue hardship on the borrower and the dependents of the borrower; or

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(ii)(A) The loan entered the repayment period more than five years, excluding periods of deferment, before the filing of the petition, and

(B) The loan is not excepted from discharge under other applicable provisions of the Code; or

(3) The borrower has received a discharge under 11 U.S.C. 1328(a) after completion of a repayment plan which made no provisions with regard to either—

(i) The loan obligation; or

(ii) Unsecured claims in general.

(g) *Resumption of collection from the endorser.* The institution shall resume billing and collection action against an endorser of a borrower who has filed for relief under chapter 12 or 13 of the Code after the borrower's case has been completed or dismissed, or the stay applicable to such action has been lifted.

(h) *Termination of collection and write-off.* (1) An institution shall terminate all collection action and write off a loan on which there is no endorser if it receives—

(i) A general order of discharge under chapter 7, 11, or 12 of the Bankruptcy Code or a discharge order under 11 U.S.C. 1328(b) for a borrower owing a student loan obligation which entered the repayment period more than 5 years, excluding periods of deferment, before the date on which a petition for relief was filed;

(ii) A discharge order under chapter 13 of the Bankruptcy Code, except an order under 11 U.S.C. 1328(b) for a borrower owing a student loan obligation which entered the repayment period less than 5 years, excluding periods of deferment, before the filing of the petition of relief.

(iii) A judgment that repayment of the debt would constitute an undue hardship, and that the debt is therefore dischargeable.

(2) If an institution receives a repayment from a borrower after a loan has been discharged, it shall deposit that payment in its Fund.

(3) An institution may write off a loan on which there is an endorser only after it has exhausted the procedures in this subpart with regard to the endorser.

(Authority: 20 U.S.C. 1087c)

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Monday
November 6, 1989

Part V

Department of Labor

Employment and Training Administration

Federal-State Unemployment Compensation Program; Quality Control Annual Administrative Determination; Notice

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DEPARTMENT OF LABOR

Federal-State Unemployment Compensation Program; Quality Control Annual Administrative Determination

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of opportunity to comment on options for federal administrative action resulting from the annual determination of the adequacy of State Quality Control programs.

SUMMARY: The final regulation to establish the permanent Quality Control (QC) program for the Unemployment Insurance (UI) program provides for an annual determination of the adequacy of administration of the State QC program. The regulation further provides in § 602.41 that the Secretary of Labor may require repayment of an expenditure for the operation of the QC program if it is found, after reasonable notice and opportunity for hearing to the State agency, that such expenditure is not necessary for the proper and efficient administration of the QC program in that State.

This notice sets forth proposed options for Administrative action in cases where State QC operations and expenditures for QC do not meet the criteria for proper and efficient administration of the program. The options set forth describe a basis for repayment or other administrative actions. Comments are requested on each of these options.

DATE: Written comments must be received by the close of business on December 6, 1989.

ADDRESS: Submit comments to Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S–4231, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Charles Atkinson, Director, Office of Quality Control, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S–4015, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 535–0220 (not a toll free number).

SUPPLEMENTARY INFORMATION:

A. Introduction

1. Description of the Benefits QC Program

The Unemployment Insurance Benefits Quality Control program became mandatory in all 52 State Employment Security Agencies (SESAs) on October 5, 1987 with the publication at 20 CFR Part 602 of the final regulation to establish a permanent Quality Control program for the Federal-State Unemployment Insurance system. This program examines paid claims only. It does not address denied claims or revenue functions at this time. Calendar year 1988 represented the first full year of operation of the mandatory program.

The QC program consists of a continuing comprehensive review of a statewide probability sample of UI payments to assess the accuracy of the State's payment process. Each week a sample of original intrastate payments made for a week of unemployment is randomly selected. The relevant population excludes supplemental payments, waiting weeks, interstate payments, and extended benefits.

An audit of the selected claims is conducted by State QC staff. The QC staff examines all aspects of a claimant's eligibility to receive unemployment compensation during the sampled week. The investigation includes, but is not limited to, verifications of wages used to establish monetary entitlements, the claimant's reason for being unemployed, and efforts to find work during the week. The findings are then numerically coded and entered into a microcomputer located in each State.

The data collected in accordance with these procedures enables the QC program to meet its primary objective of strengthening the controls that prevent errors and/or fraud and abuse in the payment of UI benefits. QC provides both Federal and SESA administrators with a management system for accurately measuring the rate of incorrect payments, the reasons for incorrect payments, and a basis for reducing incorrect payments in each State. Identification of specific types, causes, and responsibility for errors provides information about the effectiveness of State programs and the quality of their underlying policies, thereby serving as a basis to improve and strengthen program operations. QC data should lead State and national program managers to make significant program improvements resulting in dollar savings, and continuing benefit payment integrity.

One of the several consensus principles accepted by the Department, and embodied in the QC regulation (§ 602.43) is that the Department will use neither sanctions nor funding incentives to influence the States to take actions to achieve particular error rates. Instead, QC is to serve a public information function. The regulation, at § 602.21(g), requires that States release QC results at the same time each year using a standardized format. States released results of the QC program for CY 1988 to the public in June 1989 and the Department published a compendium of the releases in July.

2. The Secretary's Responsibilities

While the consensus principles as outlined in the regulation governing QC provide that no sanctions or funding incentives would be used to force the achievement of specified error rates under QC, the regulation provides for specific measures to be applied in cases where the States fail to adequately administer the QC program in accordance with required methods and procedures.

The QC Regulation requires the Department to take action when QC program operations are not consistent with Handbook No. 395 and the annual funding allocations.

Section 602.31, Oversight, of the QC Regulation (20 CFR part 602) requires the Department of Labor to annually review the adequacy of the administration of a State's QC program for purposes of determining eligibility for grants. The Department is committed to ensuring the integrity and utility of the data collected by the QC program so that it can properly serve its State management and Federal oversight functions. There is concern, therefore, when a State does not sample at a level that will provide sufficient data to conduct anaylsis and establish sufficiently precise estimates of error rates.

The Department has identified three areas of QC operations that are key to optimal program operation where failure to perform represents inadequacies in administration. These areas are: failure to sample at the allocated level for the year; failure to sample for a week(s) or sampling below the weekly allowable minimum; and failure to complete the required percentage of cases within the established case completion timeframes. These areas represent the measures used to ensure the key features of precision, coverage and timeliness. These three quantifiable areas were selected because the quality of investigation and therefore of the QC program can be essentially measured by these indicators. QC results need to be accurate to properly guide State corrective actions and to insure that accurate data is being released to the public. It is for these three areas that the Department will determine whether repayment of QC administrative funds will be expected when standards for these areas are not met.

3. Statistical Basis for the QC Program

a. Precision of estimates of errors

Precision is the degree an estimate from a sample can be expected to deviate from the expected value (average) obtained from repeated samples. The larger the sample, the greater the precision. Thus, to estimate the rate of the payment error in a population with a sufficient degree of precision, States must sample and complete enough cases. Within its fiscal constraints, the Department has allocated via the Program Budget Plan sample sizes that are set at levels that will result in acceptably precise estimates of payment errors. States with larger UI case loads—where errors have larger dollar consequences—have been allocated larger sample sizes in order to obtain precise estimates of errors in subgroups of their more diverse populations. They are also allocated additional resources to enable these States to perform more extensive analyses.

b. Coverage

Coverage refers to the ability to make estimates for the entire population (52 weeks of UI payment decisions), and not just selected portions of the population. Thus QC procedures require that a minimum number of cases be sampled each week to ensure coverage of each week's (batch's) activity. Failure to sample for one or more weeks results in the inability of a State to draw inferences about a portion of the population. Loss of coverage will obscure seasonal and cyclical fluctuations in QC data and lessen its usefulness as a management tool.

c. Timeliness

The preceding categories are intended to ensure that samples reflect with adequate precision (i.e. small enough error due to the variability from one sample to another) the entire population of UI payments. Timeliness of case completion is necessary to minimize non-sampling error i.e., errors in the verification of QC cases. If too much time passes between the time a case is selected for review and the actual investigation, the information obtained may be of less quality than if it is gathered in a timely manner. The respondents (claimants, employers, and third parties) may have difficulty remembering where the work research was conducted, whether or not the claimant actually inquired about employment of an employer, et cetera. The current timelapse criterion of 95% case completion within 90 days is intended to give the investigator enough time to complete a thorough investigation but ensure it is done before respondents' recall weakens.

4. Statement of the Problem

Review of selection and timelapse performance data for CY 1988 indicates problems in some States in the key areas of precision, coverage and timeliness. Twenty eight SESAs did not meet the sample allocation for CY 1988 (precision). In addition, thirty-nine SESAs did not meet the 90-day case completion standard for CY 1988 (timeliness). The selection of the proper sample and timely investigation of the selected cases should lead to quality investigations. Failure to sample at the allocated level makes it difficult for a State to conduct analysis and establish error rates that are sufficiently precise to take the proper corrective actions. Failure to investigate cases in a timely manner casts doubt on the accuracy of the information gathered during the investigation.

B. Options for Administrative Actions

1. Options for Addressing Failure To Sample at the Required Level for the Calendar Year (Precision)

Discussion

Each year funding is provided to State Employment Security Agencies (SESAs) to investigate the number of cases assigned to them. The primary reason for sampling under the UI/QC program is for the purposes of: (1) Drawing inferences about the total caseload, and (2) utilizing the results from the weekly samples to develop corrective action plans that will eliminate errors in the total caseload.

Several factors that reflect a State's diversity and complexity were considered in determining State sample sizes, including measures of the population size (number of weeks compensated), measures of the potential population (covered employment), and geographic area. For example, the State of California is assigned 2000 cases while the State of Delaware is assigned 500 cases. The funding is predicated on the assumption that one investigator can complete approximately 100 cases in a one-year period (about two cases per week).

States are allocated sample sizes necessary to produce accurate error rates and to allow them to identify and remove special causes of variation in the system. States are also able to measure the effects of corrective actions through analysis of subsequent QC findings.

In calendar year 1988, 28 SESAs did not complete the number of cases assigned to them. One of the primary reasons for not meeting the required sampling levels was the difficulty encountered in hiring up to increased staff. This problem has been resolved and it should not recur in calendar year 1989 since the sample levels will not be increased.

Option No. I: Floor of 50 Cases—Flat Rate

Under this option, SESAs would be required to repay the Department at the rate of one full time position equivalent (FTE) for each 100 cases not sampled in the calendar year. However, the repayment requirement would not be instituted until the number of cases undersampled exceeded 50. The rationale for establishing this floor beyond which SESAs would not have to reimburse the Department is that a cutoff should be established in recognition of unforeseen administrative problems that could befall SESAs within a year.

Option No. II: Floor of Five Percent

Under this option, the SESAs would not be required to repay the Department until they reached a fixed percentage of cases not sampled. This would translate to a varying cutoff point for each SESA depending upon its assigned sample size. The rationale for establishing a floor of five percent is that the sample size varies so greatly that all SESAs should not be treated in the same manner. In practice, a State with a sampling level of 1500 cases would be subject to repayment when it reached 75 cases ($1500 \times .05 = 75$). In contrast, a State with a sampling level of 600 cases would be subject to repayment when it exceeded 30 cases ($600 \times .05 = 30$).

Option No. III: No Floor

Under this option, all SESAs would be required to repay the Department for any portion of their assigned allocation which they did not achieve. If a SESA undersampled by 50 cases, the SESA would have to reimburse the Department for one half of a FTE. The rationale for this option is that the SESA is receiving funding to accomplish the task. If the task is not completed, repayment would be required.

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2. Options for Failure to Sample for a Week(s) (Coverage)

Discussion

The usefulness of the QC data is based upon two elements—precision and coverage. Precision is achieved by sampling the annual allocated number of cases and the weekly minimum number of cases. Coverage, however, is affected by the degree to which sampling is not conducted for a portion of the population. This is especially important in the UI program where seasonal aspects impact heavily on the data in a State. For example, using Random Audit (the forerunner of QC) data showed that dropping the data for one quarter from the annual error rate calculation in one State would lower the annual error rate by approximately 11.70 percent for dollars and 7.8 percent for weeks overpaid. This large change was due to the historically high error rates which were observed in that quarter.

The Department recognizes that some situations may occur which prevent the SESAs from being able to conduct a sample for a given week; however, that should be relatively rare. If, for example, a SESA's mainframe would be down for an entire week, it would be difficult or impossible to select a sample.

Option No. I: Proportional Assessment

Under this option, the SESA would be required to reimburse the Department based on its failure to investigate a sample for a week. The percentage assessment rate would be established at two percent of the annual grant for QC administration and would be applied to each of the weeks in which samples are not drawn for investigation. The rationale for this assessment is that two percent per week is a reasonably proportional amount of the entire grant.

Option No. II: Flat Rate Assessment

Under this option, the SESAs would be required to reimburse the Department a flat amount for each incidence of non sampling. An assessment would be made for each incidence. This option would address the issue that resources provided are not being utilized for the purpose provided. The proposed action seeks to encourage full funding utilization.

3. Options for Failure To Meet the 90-Day Timelapse Criterion for Case Completion

Discussion

Prompt completion of investigations is important to ensure the integrity and accuracy of the information being collected by questioning claimants and employers before the passage of time affects recollections. Associated data entry is necessary for the Department to maintain a current data base and to monitor SESA performance. Therefore the Department has established time limits for the completion of all cases for the year. At present a minimum of 95 percent of cases assigned for the year must be completed within 90 days of the ending date of the calendar year. Due to questions raised about the ability of the SESAs to achieve this level, the Department has undertaken a study to determine if cases can be administratively controlled by a SESA to meet the 95% criterion. The results of the review may affect the current criterion.

The Department has acknowledged that there may be situations which are beyond the control of the SESA and where good cause exists for not achieving the required criterion. These situations will be reviewed on a case-by-case basis by the Department. If an agency has managed cases so investigations are promptly carried out they will be judged to fall within the criterion.

Option No. I: Percentage Assessment Based on Allocation

Under this option, the percentage of cases assigned that were completed within 90 days will be subtracted from the 90-day case completion standard and the result converted into the number of cases the resulting percentage represents of the annual allocation. States would be required to repay one FTE for each 100 cases not completed within 90 days. Based on the current case completion criteria, a State with an allocation of 1000 cases that completed 75 percent of assigned cases within 90 days would have to repay two FTEs. Completion of 90 percent of the cases would require repayment of .5 FTEs. There would be no repayment if the amount would be less than .5 FTEs.

Option No. II: Percentage Assessment Based on Cases Investigated

Under this option, the percentage of cases not completed within the case completion criteria would be computed using the actual number of cases assigned (sampled) rather than the annual allocation. Thus for a State which only investigated 800 out of an allocated 1000 cases and completed 75% within 90 days, the repayment would be 1.6 FTEs (95% minus 75% times 800). Otherwise the assessment would be applied in the same manner.

C. Applicability to Data for Calendar Years 1988 and 1989

The Department has no plans to apply administrative measures to the data for Calendar Years 1988 or 1989. This notice is intended to solicit comments on possible administrative measures and related issues.

D. Additional Questions for Comment

1. Exceptions

Are there any exceptions to the above options that should be allowed? If so what are they and why should they be allowed? What items are beyond the control of the SESA and which fall within the control of the SESA?

2. Administrative Relevance

At what level(s) do the administrative measures suggested serve as a deterrence to unacceptable levels of performance? Are the levels suggested in the options appropriate? If not, what are appropriate levels?

3. Administrative Process

How should the Department proceed with the assessments? How can disagreements on factual information be best resolved? Should there be informal discussions of the data to ensure accuracy before the assessment is recommended?

4. Timeliness of Investigations

At what point does a late case equal a case not investigated? What is the erosion of case quality in relation to timelapse? What is the optimal definition of a closed case? (Supervisor sign-off, investigation completed, other)

5. Overlap of Administrative Measures

Should the three areas identified for review be looked at independently or should they be combined? If they should be combined, how could this be accomplished?

6. Other Administrative Measures

Are there other measures which would be more appropriate for ensuring that the work is carried out in a manner to achieve the three objectives of precision, coverage, and timeliness? Should other objectives be substituted for the proposed items? If so, what are they and why are they more important in ensuring that the data produced by the QC program can be used by management to make valid conclusions?

Signed at Washington, DC, on October 30, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89-26115 Filed 11-3-89; 8:45 am]

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Part VI

Department of Labor

Employment and Training Administration

20 CFR Part 602

Federal State Unemployment Insurance Program; Revenue Quality Control Design Issues; Notice and Opportunity To Comment

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 602

Federal State Unemployment Insurance Program; Revenue Quality Control Design Issues

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice and opportunity to comment on status and procedural directions of Quality Control program for State unemployment insurance revenue operations (Revenue Quality Control).

SUMMARY: The Employment and Training Administration wishes to inform interested parties of current developments in the design of and procedures for a Quality Control program for State unemployment insurance (UI) revenue operations. The program, called Revenue Quality Control (RQC), is intended to assist State managers in efforts to improve their UI programs by providing them with objective information on the quality of existing UI revenue collection operations. RQC will be used to help carry out the Secretary of Labor's responsibilities to oversee the Federal-State unemployment compensation program. A previous notice, issued December 23, 1988 (53 FR 52108), solicited comment on basic design issues. This notice discusses some preliminary directions based on those comments.

DATE: Comments must be received in the Department of Labor by the close of business on January 5, 1990.

ADDRESS: Submit comments to Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Janet Sten, Director, Revenue Quality Control Work Group, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4015, Washington, DC 20210. Telephone (202) 535–0634 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION

A. Background

On December 23, 1988, the Department of Labor (the Department) published a Notice (53 FR 52108) announcing the development of a quality control program for UI tax operations, called RQC. The Notice requested comments on basic design issues regarding the nature and scope of the proposed RQC program. Twenty-eight responses to the notice were received; 23 were from State employment security agencies (SESAs).

The December 23, 1988, **Federal Register** notice stated that the Department would use the initial comments in preparing design specifications for the RQC program, and solicit additional comments on more specific design issues through subsequent notices. This Notice is to inform interested parties of the outcomes of the first comment process and indicate the directions of the RQC program. It is intended to provide project status information and to solicit comments on the contents of section C of this Notice, the RQC Design Approach. Section C defines tax program quality and identifies the objectives to which measures of performance (indicators) must relate.

B. Major Design Directions

The Department proposes to take the following major design directions, all of which had strong support in the responses to the first Notice:

(1) *Meaning of Quality.* Quality in UI tax operations encompasses accuracy, timeliness, and completeness. Completeness pertains only to certain operations, such as collections and status determinations. Although timeliness and accuracy are often traded off against one another, they can be directly related: failure to complete an operation (e.g., registering an employer) in a timely manner can adversely affect "downstream" processes (e.g., issuing forms and instructions to obtain quarterly reports and contributions).

(2) *Classification.* Tax operations will be broken down into the following functions for purposes of RQC: Status Determination; Cashiering; Report Delinquency; Collections; Field Audit; and Account Maintenance. Blocked Claims, suggested as a possible functional category in the December 23, 1988, Notice, will not be a focus of RQC. Although Blocked Claims are a major workload item for Field Operations staff, from a performance standpoint they actually reflect any one of several problems, each of which is best assessed by adequate indicators tracking the timeliness and accuracy of wage and contributions data.

(3) *RQC Indicators (Measures).* (a) RQC will focus on measuring the quality of various tax collection functions. This will usually be done by examining directly the end-products (outcomes) of those functions. However, for some functions, it may be as effective and more efficient to review also some processes as part of the assessment. (E.g., assessment may consist of reviewing internal controls followed by investigation of a small sample of output transactions).

(b) All indicators will be function-specific. RQC does not envision as an end product a single overall "error rate" that aggregates all internal and external influences on State tax performance. Instead, it will provide indicators enabling State managers to track performance of separate functions, which are more likely to lead to program improvements. Accuracy measures will be designed to indicate exception rates by function.

(c) RQC will produce an overall indicator of the impact on UI contributions of employers' departures from full compliance with State UI tax laws governing reporting and payment. RQC may also develop information on how much inaccuracy of employer reporting of covered employment and wages, and delinquencies in payments contribute to the overall impact.

(4) *State vs. Federal Roles.* The Federal government will design the program with the input of State agencies, employers, labor representatives, and other organizations with an interest in the UI program. The State agencies will operate RQC; the Federal government will be responsible for monitoring/validating the data gathered by the SESAs. Many State responses to the December 23, 1988, Notice stressed that RQC should be designed to involve less Federal monitoring than benefits QC; care will be taken in the type and level of Federal monitoring proposed for RQC.

(5) *Standard Methodology.* Initially, RQC intends to require standard methodology for gathering and evaluating all measures.

RQC's development is also being guided by the following premises stated in the December 23, 1988, Notice, and general comments on that Notice:

(6) *Scope.* Through the RQC program, assessment and technical assistance will cover all tax functions except cash management (this is being handled through a separate UIS cash management Initiative). Development of the cash management assessment program will be fully coordinated with RQC, however. The cash management indicators will be incorporated into the RQC program design and into the Performance Measurement Review.

(a) It is intended that RQC's assessment of UI tax operations will be limited to the quality of State operations. RQC will not attempt to measure the influences of changes in economic environment, tax rates, etc., on overall tax program performance.

(b) SESAs are responsible for promoting and facilitating voluntary compliance among subject employers. RQC intends to assess the level of registered employers' compliance in reporting covered wages and making payments. Information about the extent of employer compliance in reporting covered wages will not be used to judge SESAs' effectiveness, but rather to help them focus compliance-related efforts (e.g., targeting their tax audits and employer education efforts).

(c) The primary focus of RQC is to develop indicators (i.e., measures of the timeliness, accuracy, etc., with which particular functions were accomplished) which will assist UI tax managers in program evaluation and improvements. The assessment indicators developed by RQC will be phased in through the Performance Measurement Review project to replace the tax-related indicators now reported through the Quality Appraisal system to serve Federal oversight needs.

(7) *Resources.* RQC will operate in an environment in which resources devoted to all UI QC programs are expected to remain unchanged. However, the Department is committed to ensuring that the RQC program, as designed and mandated, will be adequately funded. This necessitates an economical design for the RQC program. As presently envisioned, one way this will be fostered is to make the fullest possible use of outputs from continuing State operations and machine-gathered counts as inputs for RQC assessment. Where such cannot be used, and special data gathering is deemed essential, every effort will be made to avoid high-frequency sampling and investigation. For example, efforts are being made to develop an approach which focuses on the existence of internal controls, thereby reducing sample sizes significantly. To the extent that additional resources are needed for RQC, they will be obtained by shifting resources from other data-gathering efforts in UI. A primary source of resources for RQC is expected shrinkage in Benefits QC staff needs due to anticipated savings from alternative approaches (e.g., telephone instead of in-person investigations).

(8) *Assessment of Audit Function.* Many comments on the December 23, 1988, Notice expressed the concern that RQC's means of assessing the quality of field audits might be to reaudit a sample of employers who had already been audited by a SESA. This, they felt, would be extremely burdensome on employers. In view of this burden, and the belief that workable alternatives to such an approach can be developed, a decision has been made that RQC will not assess the field audit (Field Operations) function by reauditing employers.

(9) *Program Improvements.* RQC will emphasize sharing information and providing technical assistance about "systems of quality" which contribute to quality UI tax programs.

C. The RQC Design Approach

Every attempt is being made to design the RQC program systematically. The basic approach is as follows: Focus on the UI tax program's mission; develop objectives that support the mission; devise alternative indicators which measure attainment of each objective; evaluate alternative indicators against various suitability criteria; and devise ways of collecting the indicators which are as economical as possible. This approach is grounded in the notion that quality means fulfilling the mission of an organization by accomplishing its objectives. If a SESA tax operation accomplishes its critical functions timely, accurately and completely, it can be termed a "quality" operation.

The following statements of tax program mission and objectives are proposed as the basis for RQC. Comments are sought on these statements and other design guidance contained in this section of the notice.

(1) *SESA Tax Mission.* The mission (or purpose) is the special task or function for which an organization exists; it must be the basis around which notions of quality, assessment and improvement are formed. For UI tax operations, it is to obtain and process contributions and employee wage information timely, accurately and completely.

(2) *SESA Program Objectives.* As noted earlier, tax operations are categorized into various supporting functions. For each function, RQC will develop objectives which support achievement of the mission. Briefly, these are as follows:

(a) *Status Determination:* Achieve timely and accurate identification and registration of employers by (i) taking all reasonable actions to identify subject employers; (ii) determining employer status timely and accurately and (iii) recording employer status information accurately.

(b) *Cashiering:* Achieve prompt and accurate processing of employer remittances for deposit by (i) depositing all remittances promptly and (ii) processing all remittances accurately.

(c) *Report Delinquency:* Promote employer compliance with SESA reporting requirements by taking reasonable steps to obtain delinquent reports: (i) reduce the number of employers delinquent in submitting quarterly wage and contributions reports to an acceptable level and (ii) secure delinquent reports within an acceptable time period.

(d) *Collections:* Promote compliance with contribution requirements by achieving timely collection of all receivables: (i) issue employer billings timely and accurately; (ii) collect employer account receivables timely; and (iii) suspend uncollectible account receivables timely and accurately.

(e) *Field Audit:* Promote and verify employer compliance with State UI laws, regulations, and policies by (i) determining the level of employer compliance and type and cause of noncompliance; (ii) targeting audit selection at non-compliance; (iii) ensuring that Field Audits are of adequate quality; and (iv) maintaining an acceptable level of audit production.

(f) *Account Maintenance:* Establish and maintain accounts accurately and timely by (i) maintaining accuracy in quarterly contribution accounting; (ii) maintaining accuracy and timeliness in wage records; (iii) maintaining accuracy in benefit charging; and (iv) maintaining accuracy in employer experience rating.

(3) *Indicators to Measure Achievement of Objectives.* The very fact that an activity is measured tends to cause SESAs to emphasize that action. Items selected for measurement must have a clear and demonstrable relationship to the achievement of program objectives and thus to the overall mission of the UI program. Failure to identify program objectives correctly, or the selection of the wrong items for measurement, can force SESA's to use scarce resources to do things or correct "problems" that have no real impact on the true quality of the UI program. Proposed indicators having the desired characteristics are being developed now.

(4) *Evaluation of Potential Indicators.* As discussed in section B(1) above, RQC will develop measures for up to three dimensions of quality for each function: accuracy; timeliness; and completeness. Whether a measure is warranted, and the choice of specific measures, will be determined by applying three criteria: (a) Materiality, (b) Cost Effectiveness, and (c) Legal Compliance. (a) *Materiality* refers to whether the dimension is significant with respect to

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the function: does it make a significant difference in achieving the SESA tax program mission? (b) *Cost Effectiveness:* how is the cost of gathering the information related to the gain it brings to improved program administration? (c) *Compliance:* Does Federal/State law require that a given dimension of quality of performance be measured, and does the indicator in question really measure whether or not a State is complying with the law?

(5) *Economical Data Collection Approaches.* RQC is attempting to develop data collection approaches which provide adequate information for State management and Federal oversight purposes, and are appropriate to each indicator and function being assessed. Where possible, use of machine counts of outputs from program operations collected via regular reports with data validation is preferred. Alternatives are investigation of a sample or a review of internal controls combined with investigation of a small sample or (e.g., for reviewing field audit quality) use of a quality checklist.

D. Ensuring Broad and Effective Participation in the Revenue QC Design

Four different approaches are being used to ensure that RQC receives all relevant technical and organizational perspectives during the design period. They are:

(1) *Continuing In-person Dialogues.* Visits to various SESAs and briefings of national public interest groups have helped shape the RQC design and been a major means of keeping groups aware of its status. Dialogues have continued at national and regional conferences.

(2) *State Specialists on the RQC Workgroup.* The following State experts, working under Intergovernmental Personnel Act details, help staff the RQC workgroup: James Alexander (Utah); Betty Castillo (New Mexico); Gail Eulenstein (Alabama); Nick Guarriello (Oregon); and Gerald Smart (Texas).

(3) *Reality Testing With Expert Panels.* Two panels of experts regularly review RQC goals and progress. A panel of DOL regional tax specialists is consulted approximately every 3 months. They represent each of the 10 DOL regions, as follows: Region I, Paul Raiche; Region II, Pat Rowe; Region III, Leo Bull; Region IV, Connie Carter; Region V, Bill Browne; Region VI, Pat Silva; Region VII, Steve Weigel; Region VIII, Bill Mannion; Region IX, John Humphrey; and Region X, Larry Heasty.

In addition, a panel of senior-level State UI tax experts is consulted on technical questions by Abt Associates, Inc., the RQC task force's technical consultant. The State experts are: John Mezzio, UI Director, Connecticut; Tom Malone, Director of UI Tax Liability and Field Audit, New York; Jim Oxenburg, Tax Chief, District of Columbia; Rett Hensley, Deputy Chief (Tax Enforcement), Florida; Fred Siegenthaler, Tax Director, Wisconsin; Dave Marrie, Deputy Administrator, Oklahoma; Richard Hobold, Chief of Employer Contributions, Missouri; Michael Buske, Labor Program Administrator (Tax), South Dakota; Karl Grossenbacher, Deputy Agency Director (Tax), California; and Kurt Malisio, Chief of Tax, Washington.

(4) *Federal Register Notices.* This is the second in a continuing series of Notices. The next, containing proposed measures of performance and data collection techniques, will be issued this coming winter. That Notice will reflect the input of the DOL Regional Advisory Panel and the panel of State UI tax experts.

E. Comments

The preceding material is presented for the general information of those interested in the nature and progress of the RQC program design. Comments on any and all of this material are welcomed, and, as with the preceding Notice, will help shape the directions followed by the RQC task force.

Signed at Washington, DC, on October 31, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89-26114 Filed 11-3-89; 8:45 am]

BILLING CODE 4510-30-M

federal register

Monday
November 6, 1989

Part VII

Department of Defense

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Proposed Water Supply Improvement Project, California; Notices

VOL
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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Water Supply Improvement Project, Regulatory Permit Application No. 17194E76, Alameda, Contra Costa, Sacramento, Solano, San Joaquin, Amador, Calaveras, Alpine, and Yolo Counties, CA.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. Proposed Action

East Bay Municipal Utility District (EBMUD), Oakland, California has applied for a Department of the Army permit under section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and under section 404 of the Clean Water Act (33 U.S.C. 1344) to construct water supply improvements including Buckhorn Dam, Folsom South Canal Connection, and levee and foundation improvements.

Buckhorn dam would be an embankment approximately 370 feet high with a crest length of approximately 1,600 feet, constructed on the Buckhorn/Kaiser Creeks arm of the Upper San Leandro Reservoir. When full, the water surface area would be approximately 1,124 acres. A pipeline, tunnels, and a pumping plant would connect the Reservoir outlet to the EBMUD water supply system in Moraga.

The Folsom South Canal Connection would provide a supplemental water supply of up to 150,000 acre-feet per year from the American River, by construction of a pipeline connection between EBMUD's turnout on the Folsom South Canal and the existing Mokelumne Aqueducts.

EBMUD also plans to make a number of levee reinforcements. Levee reinforcements would minimize the risk of levee failure at the river crossings and the potential for damage to the aqueducts from scour. The levees would be reinforced on either side of the aqueducts and on each levee at the aqueduct river crossings. Locations of levee reinforcement include crossings at San Joaquin River, Trapper Slough, Middle River, Old River, and Indian Slough. This would also include field testing and preliminary design of possible pile support systems and an emergency pipeline across the Delta.

The San Francisco District, Corps of Engineers and EBMUD will prepare a joint federal/state environmental impact document (Environmental Impact Report/Environmental Impact Statement (EIR/EIS)) for the proposed project pursuant to the National Environmental Policy Act and the California Environmental Quality Act.

2. Alternatives

The alternatives being considered by the EBMUD at this time fall into the following categories:

a. No Action (permit denial)
b. Water Conservation
c. Water Reclamation
d. New Aqueduct across the Delta
e. New Reservoirs—Terminal Storage Projects
f. Interties with Other Agencies
g. Watershed Management
h. Water Exchange

Additional alternatives identified during the scoping process would also be considered in the EIR/EIS.

3. Scoping Process

a. Scoping meetings will be held in Sacramento and in Oakland. The scoping meeting in Oakland will be held on Wednesday, December 6, 1989 at Kaiser Center–2nd Floor Auditorium, 300 Lakeside Drive, Oakland, California, from 7 p.m. to midnight. Two scoping meetings will be held in Sacramento at the Clarion Hotel, Terrace Room, Main Floor, 700 16th Street, Sacramento. The meetings will be held at 1:00–5:00 p.m. (for agencies) and 7:00 p.m. to midnight (for the general public).

Public and private interest groups, and the public are invited to participate in the scoping process by attending the evening scoping meetings. The purpose of the scoping meetings is to identify significant issues and alternatives to be considered in the EIR/EIS.

Any person may also participate in the scoping process by submitting written comments to the Corps of Engineers. Comments should be addressed to the District Engineer, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California, 94105–1905 and received within 30 days of the date of this notice.

b. The significant issues which have been identified to date and which would be analyzed in the EIR/EIS include impacts on:

(1) Water quality and Hydrology
(2) Air quality
(3) Noise conditions
(4) Wildlife and habitat
(5) Aesthetics
(6) Recreation and Land Use
(7) Geology & Soils
(8) Cultural Resources
(9) Transportation and Utilities
(10) Public Health & Safety
(11) Growth Inducement

Additional significant issues identified during the scoping process would also be analyzed in the EIR/EIS.

c. Environmental review and consultation as required by Sections 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 AND 1344); Section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order 11988, "Floodplain Management", 24 May 1977; Executive Order 11990, "Protection of Wetlands", 24 May 1977; and other applicable statutes or regulations will be conducted concurrently with the EIR/EIS process.

Dated: 27 October 1989.

Jack E. Farless,

Deputy District Engineer, Project Manager.

[FR Doc. 89–25799 Filed 11–3–89; 8:45 am]

BILLING CODE 3710-FS-M

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

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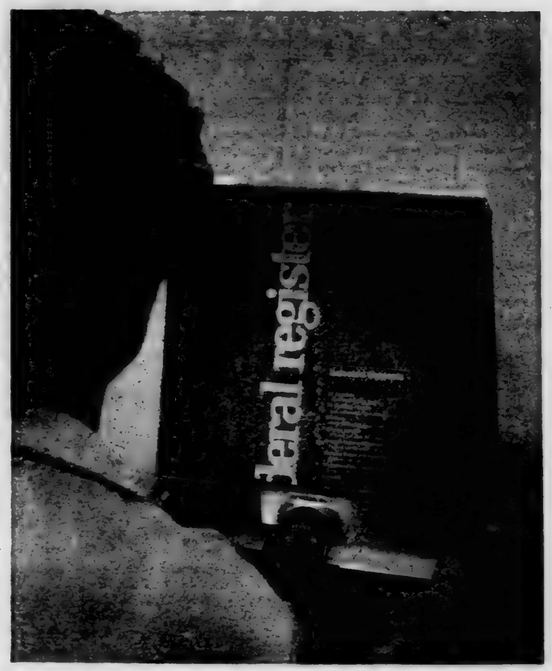

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 911

[Docket No. FV-89-074FR]

Limes Grown in Florida; Relaxation of Container Requirements

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule relaxes container requirements currently in effect for Florida grown limes, by authorizing Florida lime handlers to use an additional container to ship fresh Florida limes to market. Container requirements ensure the packing of fruit in suitable containers for shipment to market, so that it arrives in the marketplace in good condition. This is in the interest of growers, handlers, and consumers.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 475–3918.

SUPPLEMENTARY INFORMATION

This final rule is issued under Marketing Agreement and Marketing Order No. 911, both as amended (7 CFR part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1, and has been determined to be a "non-major" rule under the criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 26 lime handlers subject to regulation under the marketing order for limes grown in Florida. In addition, there are about 230 lime growers in Florida. Small agricultural growers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and agricultural services firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and growers may be classified as small entities.

A proposed rule regarding relaxing the container requirements for fresh Florida limes was issued on September 1, 1989 and published in the **Federal Register** (54 FR 37336, September 8, 1989). That rule provided that interested persons could file written comments through October 10, 1989. No comments were received.

Section 911.329 (7 CFR 911.329) specifies the container requirements for shipments of fresh limes grown in Florida. These requirements authorize Florida lime handlers to use specific containers for shipping fresh limes to market, and they have been in effect on a continuous basis for several seasons. The container requirements make sure the limes are packed in suitable containers for shipment to market, so that they arrive in the marketplace in good condition. Florida lime growrs and handlers have found such requirements beneficial in the successful marketing of their limes.

This action redesignates current § 911.329(a)(2)(x) as § 911.329(a)(2)(xi) and adds a new paragraph (a)(2)(x) to § 911.329, authorizing handlers to use an additional container to ship fresh limes to market. This container has inside dimensions of 12⅝ by 8¾ by 5⅝ inches, and it must contain not less than 10 pounds of limes. This action also revises the title of § 911.329, for purposes of clarity.

The Florida Lime Administrative Committee (committee) recommended that this container be authorized. The committee recently conducted a research project on this container to determine if it would palletize efficiently when transported by truck. The research results indicate that the container ships well on pallets.

The Committee works with the Department in administering the marketing agreement and order. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida limes. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Some Florida lime shipments are exempt from container requirements. Handlers may ship up to 55 pounds of limes during any one day under a minimum quantity exemption and may make gift shipments in individually addressed containers of up to 20 pounds of limes each. Also, limes utilized in commercial processing are not covered by the container requirements.

This action reflects the Department's appraisal of the need to relax the container requirements applicable to shipment of fresh Florida limes. The Department's view is that the relaxation will benefit lime handlers. The application of container requirements over the past several years has helped keep the limes in good condition during shipment to market. Although compliance with container requirements may impose additional costs to handlers, these costs are significantly offset by the benefits resulting to growers, handlers, consumers, and the trade from the fruit being in better

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condition upon arrival in the marketplace.

Based on the above, the Administrator of the AMS has determined that this proposed action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes container requirements currently in effect for Florida limes; (2) Florida lime handlers are aware of this action which was recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1989–90 season Florida lime crop is currently underway, and handlers should be given an opportunity to take advantage of the additional container as soon as possible; and (4) the proposed rule provided a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 911

Florida, Limes, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 911 is amended as follows:

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 911 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 911.329 is amended by revising the section title, by redesignating current paragraph (a)(2)(x) as paragraph (a)(2)(xi), and by adding a new paragraph (a)(2)(x) to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 911.329 Florida lime container regulation.

(a) * * *

(2) * * *

(x) Containers with inside dimensions of 12⅜ by 8¾ by 5⅞ inches: *Provided,* That such containers shall contain not less than 10 pounds net weight of limes.

* * * * *

Dated: November 2, 1989.

William J. Doyle,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26186 Filed 11-6-89; 8:45 am]

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7 CFR Part 917

[Docket No. FV-89-079FR]

Fresh Pears, Plums and Peaches Grown in California; Modification of Grade Requirements for Pears for the 1989 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the provisions of an interim final rule which relaxed grade requirements applicable to organically grown Bartlett or Max-Red (Max Red Bartlett and Red Bartlett) pears grown in California, for the 1989 season. Organically grown pears are produced without application of synthetically compounded fertilizers, pesticides or growth regulators. The relaxed grade requirements specify that shipments of organically grown pears of these varieties must grade at least U.S. Combination grade, with at least 50 percent, by count, grading U.S. No. 1 and the balance of each lot grading at least U.S. No. 2. The committee believes that a limited market exists for organically grown pears, and that handlers should be given the opportunity to meet market needs. Non-organically grown pears must continue to grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1, with the balance of each lot grading at least U.S. No. 2.

EFFECTIVE DATE: This final rule becomes effective November 7, 1989.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, F&V, AMS, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone: (202) 475–3919.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 917 (7 CFR part 917) regulating the handling of fresh pears, plums and peaches grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 45 handlers of pears subject to regulation under the pear, plum and peach marketing order (7 CFR part 917), and there are approximately 300 producers of pears in the regulated area. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California pears may be classified as small entities.

Shipments of California pears are regulated by grade, size and pack under Pear Regulation 12 (7 CFR 917.461). Because these regulations do not change substantially from season to season, they have been issued on a continuing basis, subject to amendment, modification or suspension as may be recommended by the Pear Commodity Committee (committee) and approved by the Secretary.

Fresh California pears shipped during the 1988 season totalled approximately 127.4 million pounds. The packinghouse door value of the pears in 1988 was approximately $20.2 million.

This final rule finalizes an interim final rule which relaxed grade requirements for organically produced pears. The interim final rule was based upon a unanimous recommendation of the committee and other available information. It was issued August 4, 1989, and published in the **Federal Register** on August 10, 1989 (54 FR 32794). The rule provided that interested persons could submit written comments until September 3, 1989. No comments were received.

Recent consumer interest in "natural" or "organic" foods offers a potentially viable new market for pear producers—one which the committee would like to meet. This action finalizes the interim final rule which provided additional opportunities for producers to utilize organic cultural practices to meet consumer demand in these markets for the 1989 season.

For the purposes of this rulemaking action, "organically grown" pears is defined as pears which are produced, harvested, distributed, stored, processed and packaged without the application of synthetically compounded fertilizers, pesticides or growth regulators. No synthetically compounded fertilizers, pesticides or growth regulators shall be applied by the grower to the orchard in which the pears are grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season for pears. This definition is consistent with applicable provisions of the term "organically grown" as defined in section 26569.11(a) (1) and (2) of the California Health and Safety Code, as enacted by the California Organic Food Act of 1979, as amended.

Prior to issuance of the interim final rule, no handler could ship any package or container of Bartlett or Max-Red (Max-Red Bartlett or Red Bartlett) pears unless the pears graded at least U.S. Combination with no less than 80 percent, by count, of the pears grading at least U.S. No. 1. Organically grown pears usually have more russetting and other appearance defects than non-organically produced fruit. Hence, it is difficult for organically produced fruit to meet the more restrictive grade requirements.

This rule finalizes the relaxed grade requirements which permitted the shipment of organically grown pears for the 1989 season, grading at least U.S. Combination with no less than 50 percent, by count, U.S. No. 1 pears and the balance of the pears must grade at least U.S. No. 2 quality. The relaxation permits the shipment of fruit with more appearance defects and enables all handlers of organically grown pears to meet the needs of their buyers. Such defects do not affect the eating quality of the fruit. Size, container and pack requirements as specified in paragraphs (a)(2) through (a)(6) of § 917.461 continue to apply to such organically grown pears.

Field officers of the committee will continue to closely monitor the packing of organically grown pears during the 1989 season. Handlers who intend to ship organic pears in accordance with these relaxed grade requirements shall provide, upon the request of the committee, with the approval of the Secretary, information indicating that the pears were grown in accordance with the provisions of § 917.461(b)(5). The committee, with the approval of the Secretary, has the authority to require handlers to furnish information as may be necessary to perform its duties under the marketing order. Most producers of organic fruit in the production area are members of associations that certify that produce is grown without the aid of synthetically compounded fertilizers, pesticides or growth regulators. Additionally, the California Department of Food and Agriculture (CDFA) currently requires that all agricultural producers register their chemical use.

This marketing experiment is in place for the 1989 season only. The committee will meet to discuss the grade relaxation and whether to recommend that the relaxed standards for organic pears be continued in subsequent seasons.

This action allows producers of organically grown pears to market a larger portion of their production. Without the grade relaxation, an estimated 1,500 packages would be shipped during the 1989 season. With the grade relaxation, approximately 3,000 packages of organic pears are expected to be shipped. This amount represents an estimated one-tenth of one percent of the entire California pear market. The relatively small increase in appearance defects and number of packages shipped are not expected to adversely affect market conditions for non-organically grown pears, particularly since organic fruit is normally sold in specialty markets. Further, information obtained on the marketing of organically grown pears during the 1989 shipping season will be used to evaluate the desirability of authorizing such shipments on a continuing basis.

This action also deletes obsolete wording from the introductory text of § 917.461. Provisions are also added to paragraph (b) of § 917.461 defining "organic pears" and indicating that "U.S. No. 2" means the same as defined in the United States Standards for Summer and Fall Pears (7 CFR 51.1280–51.1286).

Based on available information, the Administrator of the AMS has determined that this final rule will not have a significant impact on a substantial number of small entities.

After consideration of all relevant information presented, including the committee's recommendation, and other information, it is found that the modification of the grade requirements, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) this action adopts, without change, the provisions of an interim final rule in effect since August 10, 1989 (54 FR 32794); (2) a period of 30 days was provided for receipt of written comments and no comments were received; and (3) no useful purpose would be served by delaying the effective date of this final rule.

List of Subjects in 7 CFR Part 917

California, Marketing agreements and orders, Peaches, Pears, Plums.

For the reasons set forth in the preamble, 7 CFR part 917 is amended as follows:

PART 917—FRESH PEARS, PLUMS AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 917 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Accordingly, the interim final rule amending the provisions of 7 CFR part 917, published in the **Federal Register** on August 10, 1989 (54 FR 32794), is adopted as a final rule.

Note: This section will not appear in the Code of Federal Regulations.

Dated: November 2, 1989.

William J. Doyle,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26297 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 920

[FV-89-091]

Kiwifruit Grown in California; Final Rule Establishing an Interest Charge on Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes an interest charge for delinquent handler assessments. This action should encourage California kiwifruit handlers to pay their assessments in a timely manner so that the Kiwifruit Administrative Committee will be assured that there are adequate funds available to cover program expenses.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order

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Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2431.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Agreement No. 920 and Marketing Order No. 920 (7 CFR part 920), regulating the handling of kiwifruit grown in California. The Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirement set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disaproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers of California kiwifruit subject to regulation under the marketing order and approximately 1,225 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having average annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The Kiwifruit Administrative Committee (committee), which is responsible for local administration of the marketing order, met on July 19, 1989, and recommended that an interest charge be established for delinquent handler assessments. Under § 920.40 of the marketing order, the committee is authorized to incur expenses that are reasonable and necessary to operate the program. Section 920.41 provides that handlers be assessed on a pro-rata basis to cover costs. Further, § 920.41 authorizes the committee, with the approval of the Secretary, to establish an interest charge on assessments that are not paid within a time period prescribed by the committee.

The timely payment of assessments is important to the efficient functioning of the committee. The committee incurs expenses on a continuous basis and must be assured of a positive cash flow in order to meet its financial obligations, such as salaries and rent.

At its meeting on July 19, 1989, the committee recommended that handlers whose assessments were in arrears be subject to an interest charge of 18 percent per year or 1.5 percent per month on the balance owed. In order to give handlers time to make payment before being subject to this charge, assessments will not be considered subject to interest charges until 60 days after billing by the committee office. Interest will begin to accrue immediately following this 60-day grace period.

Therefore, a new § 920.112 is added to the rules and regulations under the kiwifruit marketing order which will specify that an interest charge of 18 percent per year or 1.5 percent per month will be charged on assessments not received 60 days after billing by the committee.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant ecnomic impact on a substantial number of small entities.

Notice of this action was given in a proposed rule published in the September 6, 1989, **Federal Register** (54 FR 36984) affording interested persons until October 6, 1989, to file written comments. None were received.

It is further found that the effective date of this rule should not be postponed until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season has begun and to be of maximum benefit to the committee, this interest charge should apply to as many delinquent assessments that may occur as possible during the season.

List of Subjects in 7 CFR Part 920

California, Kiwifruit, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Part 920 is amended by adding a new § 920.112 to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 920.112 Late payments.

Pursuant to § 920.41(a), late payment of assessments shall be subject to an interest charge of 1½ percent per month on the balance due. Assessments shall be deemed late 60 days after the invoice date.

Dated: November 2, 1989.

William J. Doyle,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26206 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 947

[Docket No. FV–89–075]

Irish Potatoes Grown in Designated Areas in California and Oregon; Amendment To Revise Handling Requirements for Certain Small Sized Potatoes and Establish Reporting Requirements for Shipments to Processors

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule eliminates current pack and reporting requirements associated with shipments of small non-red-skinned potatoes that otherwise grade at least U.S. No. 1. The objective of this action is to facilitate the movement of such potatoes to meet current consumer demand by relieving shippers from handling requirements that are no longer deemed necessary. This rule also establishes reporting requirements for potatoes shipped for canning, freezing, prepeeling and other processing. The intent of this action is to provide assurance that potatoes shipped without regard to the size, quality and inspection requirements of the handling regulation are shipped to authorized exempt outlets.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Agreement No. 114 and Marketing Order No. 947 (7 CFR part 947), both as amended, regulating the handling of potatoes grown in Modoc and Siskiyou

Counties, California, and in all counties in Oregon, except Malheur County. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Oregon-California potatoes subject to regulation under the marketing order, and approximately 470 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of Oregon-California potatoes may be classified as small entities.

The 1988 crop of potatoes grown in the production area totalled 23,623,460 hundredweight (cwt.). About 36 percent of the crop (8,559,575 cwt.) was shipped to fresh markets, and an additional 22 percent was used for seed. The remaining 42 percent of the crop was utilized primarily in processing outlets. Potatoes shipped to fresh markets are required to meet the handling requirements specified in 7 CFR 947.340 [as amended at 53 FR 2998, February 3, 1988, and 53 FR 49114, December 6, 1988]. The current requirements are that potatoes grade at least U.S. No. 2 and, if shipped within the continental United States, be at least 2 inches in diameter or at least 4 ounces in weight. Potatoes shipped to export destinations must meet a minimum diameter of 1¼ inches and grade at least U.S. No. 2.

Currently, red-skinned varieties of potatoes may be shipped without regard to the minimum size requirements if they otherwise grade at least U.S. No. 1. Non-red-skinned potatoes that are 1⅞ inches or less in diameter may be shipped if they grade at least U.S. No. 1, and are packed in containers of at least 50 pounds. In addition, handlers who ship such potatoes must meet certain reporting requirements. Also included in the handling regulation are safeguard procedures for potatoes shipped to authorized exempt outlets, which are not required to meet the established quality and size requirements.

At a meeting held on June 9, 1989, the Oregon-California Potato Committee (committee), which is responsible for local administration of the marketing order, recommended the following changes in the existing requirements to become effective in late fall, when the 1989–90 marketing season begins.

Upon the basis of the committee's recommendation, this rule revises the size requirements for non-red-skinned potatoes by providing that such potatoes that are 1¾ inches in diameter or smaller that otherwise grade at least U.S. No. 1 may be shipped, and by eliminating the pack and reporting requirements. This rule also adds reporting requirements for all potatoes shipped for canning, freezing, prepeeling and other processing to assure that these potatoes for processing are shipped to exempt outlets and are not sold in fresh markets.

Until fairly recently, consumer demand for smaller sized potatoes was limited. Over the last several seasons, however, opportunities for marketing small, high quality potatoes have expanded. To determine the potential market demand for these potatoes and to promote market expansion, the handling regulation was amended in February 1987 (52 FR 7119) to relax the minimum size requirements for potatoes shipped under certain conditions. That action temporarily relaxed the minimum size requirements for high quality white-fleshed potatoes handled for market expansion purposes and exempted all non-white fleshed varieties of potatoes from handling regulations under the order. These relaxed size requirements became effective February 3, 1988, on a continuous basis (53 FR 2995). Prior to shipping potatoes under these relaxed size requirements, handlers were required to apply for and obtain from the committee each marketing season a special purpose certificate authorizing shipment of the potatoes. In addition, handlers who shipped potatoes under the relaxed minimum size provisions were required to promptly report information requested by the committee relating to such shipments, including the grade and usage of the potatoes, once the shipments were concluded. The reporting requirements were designed to provide adequate safeguards to assure that the potatoes shipped under these provisions were shipped to the intended market for the purpose of market expansion, and to provide the committee with information necessary to monitor and evaluate the effects of such shipments on the overall market for Oregon-California potatoes.

The committee reports that these actions, intended to further the development of new markets and expand marketing opportunities for Oregon-California potato growers and handlers, have proven successful. Shipments of the smaller-sized potatoes have been well received and have not adversely impacted the market for larger-sized potatoes. Demand was particularly strong for small red-skinned potatoes, and in 1988 the safeguard provisions pertaining to such potatoes were eliminated (53 FR 31650).

Based on an additional year of experience, the committee believes that shipping non-red-skinned potatoes that are 1¾ inches in diameter or less that otherwise grade at least U.S. No. 1 should be permitted without the reporting and pack requirements. The reporting requirements have served their purpose and are no longer necessary. The deletion of the 50-pound pack requirement will allow handlers to ship non-red-skinned potatoes in smaller containers. This will provide handlers with maximum flexibility in marketing such potatoes, and enable them to take advantage of current market demand. This change will benefit consumers by providing them with a product they desire, and producers and handlers by increasing sales. The committee believes that permitting the shipment of small, high quality, non-red-skinned potatoes will not adversely affect the market for larger sized potatoes.

The handling regulation specifies that potatoes shipped for certain exempt purposes are not required to meet the size and quality standards established for those shipped to commercial fresh market outlets. Among the exempt purposes are certified seed, livestock feed, and charity. Handlers shipping for these purposes are required to comply with established safeguard procedures. These include applying for and obtaining a Certificate of Privilege from the committee prior to making such shipments, and filling reports with the committee after such shipments are made. These requirements are in place to provide the committee with the information necessary to determine that potatoes shipped without regard to the

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fresh requirements enter authorized exempt outlets, and are not sold in fresh markets.

All varieties of potatoes shipped for canning, freezing, prepeeling and other processing are also exempt from the size and quality requirements of the handling regulation. For such shipments, no handler reporting requirements are currently in effect. The regulation only provides that handlers making shipments for such purposes must ship them to persons or firms the committee has designated as manufacturers of potato products. The committee believes that the current requirement does not provide adequate assurance that the potatoes are actually shipped to designated processors. For that reason, the committee recommended that handlers making shipments to these outlets be required to obtain a Certificate of Privilege from, and file shipment reports with, the committee. This procedure will enable the committee to ascertain compliance with the requirements of the handling regulation.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area. The import requirements for all non-red-skinned potatoes are based on those established under the marketing orders covering Virginia-North Carolina potatoes (M.O. 953), Colorado Area No. 3 potatoes (M.O. 948), and Idaho-Eastern Oregon potatoes (M.O. 945). These changes in the handling requirements for Oregon-California potatoes will not change the findings and determinations or provisions that appear in the potato import regulation (7 CFR 980.1)

The information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581-0112. This action reduces the current information collection burden by eliminating the reporting requirements applicable to shipments of small, high quality non-red-skinned potatoes. The appropriate forms for reporting potatoes for processing have been submitted previously to the OMB for approval and are currently approved by OMB to be used for information collection purposes.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Notice of this action was given in the August 21, 1989, **Federal Register** (54 FR 34522) providing interested persons until September 20, 1989 (as corrected, 54 FR 35756 (August 29, 1989)), to file written comments. No comments were received.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season for Oregon-California potatoes has already begun and this rule, in order to be of maximum benefit to producers, should apply to as many shipments as possible.

List of Subjects in 7 CFR Part 947

California, Marketing agreements and orders, Oregon, Potatoes.

For the reasons set forth in the preamble, 7 CFR part 947 is amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CA, AND ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR part 947 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 947.340 is amended by revising paragraphs (b)(3) and (h)(3) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 947.34 Handling regulation.

* * * * *

(b) * * *

(3) All non-red-skinned varieties of potatoes that measure 1¾ inches in diameter or less may be shipped if such potatoes otherwise grade at least U.S. No. 1.

* * * * *

(h) * * *

(3) Each handler making shipments pursuant to paragraph (g)(7) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee pursuant to § 947.134. Further, each handler making such shipments shall obtain a Certificate of Privilege from the committee and shall promptly report each shipment to the committee on Special Purpose Shipment Report forms.

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26100 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 982

[Docket No. FV-89-020FR]

Filberts/Hazelnuts Grown in Oregon and Washington; Administrative Changes to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action makes deletions, revisions, and additions to the administrative rules and regulations under the Federal marketing order for filbert/hazelnut grown in Oregon and Washington. These changes were unanimously recommended by the Filbert/Hazelnut Marketing Board (Board), which is responsible for local administration of the order. These changes are intended to reflect the Board's current needs and practices by making administrative changes to improve administration of the order.

EFFECTIVE DATE: December 7, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 982 (7 CFR part 982), as amended, regulating the handling of filbert/hazelnut grown in Oregon and Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 26 handlers of filberts/hazelnuts subject to regulation under the filbert/hazelnut marketing order and approximately 1,000 producers in the Oregon and Washington production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose average gross annual receipts are less than $3,500,000. The majority of handlers and producers of filberts/hazelnuts may be classified as small entities.

This rule will make several changes to the administrative rules and regulations of the filbert/hazelnut marketing order. Several changes are necessary to reflect the August 19, 1988, (51 FR 2947) amendments to the marketing order.

In addition, form numbers specified in the administrative rules and regulations need to be changed to reflect the current form numbers used by the Board. Additionally, for clarity, other specific form references will be inserted into sections that previously contained only a general reference to reporting requirements. No new forms are added as a result of reference changes.

Further, the term "hazelnuts" will be added to the rules and regulations to reflect the fact that filberts may also be called hazelnuts. This change also conforms with the definition of filberts in the order. In addition, hazelnuts is the term used in Europe where a portion of the domestic crop is marketed. Therefore, this rule will change all references to filberts to filberts/hazelnuts.

The first change will delete § 982.432 from the rules and regulations. This section describes nomination procedures which independent growers should follow when nominating independent grower members for Board membership. During the formal rulemaking process completed in 1988, § 982.30 was changed to no longer distinguish between independent and cooperative grower members on the Board. Therefore, § 982.432 is deleted as it is unnecessary.

Most of § 982.446, dealing with inspection documentation of restricted filberts/hazelnuts is no longer applicable. The industry no longer uses seals, stamps, or tags as specified in § 982.446(a) to identify product. Rather, the industry uses the identification procedures specified in current § 982.446(c). Therefore, this rule will delete paragraph (a) of § 982.446 from the rules and regulations and § 982.446 will be revised to reflect the current identification procedures contained in paragraph (c).

Paragraphs (b)(1), (b)(2), (b)(3), and (d) of § 982.446 will also be deleted from the rules and regulations because the industry no longer has reason to physically identify stored inshell filberts/hazelnuts as free or restricted filberts/hazelnuts. Currently filberts/hazelnuts declared as restricted are identified by lot numbers on records kept by handlers. In the past, handlers stored free and restricted filberts/hazelnuts in 100-pound sacks that were labeled free or restricted. Handlers no longer use these sacks. Rather, large bins or cartons are used to store such filberts/hazelnuts. Designation as free and restricted is easily identifiable in handlers' records.

Section 982.450 provides procedures for handling restricted filberts/hazelnuts. The Board has recommended that specific form references be inserted in paragraphs (a), (b), and (c) of § 982.450 to identify the forms that handlers are currently required to submit. Under this rule, references to F/H Form 1d will be added to paragraph (a), F/H Form 4 will be added to paragraph (b), and F/H Form 1d and F/H Form 7 will be added to paragraph (c). In addition, revisions of paragraph (c) of § 989.450 provides gender neutral language.

Paragraphs (a)(1), (a)(2), and (b) of § 982.452 provide procedures for the disposition of restricted filberts/hazelnuts and contain outdated form number references. The Board recommended that these be changed to the new form number references. In paragraph (a)(1) of § 982.452 the form reference will be changed to F/H Form B, and in paragraph (a)(2) the form reference will be changed to F/H Form 7. The form reference for the export agreement between handlers and the Board found in paragraph (b) will be stated as F/H Form A. Paragraph (b) of § 982.452 provides authority for handlers to act as agents of the Board in arranging sales of inshell filberts/hazelnuts into export markets. The Board recommended revising the language of paragraph (b) to reference the provisions of § 982.52(b) of the order. Therefore, the phrase "including those as set forth in § 982.52(b)" will be added to this paragraph. Revisions of paragraphs (a) (1) and (2) of § 982.452 provide gender neutral language. The proposed rule inadvertently did not include language to retain § 982.452(c). This action retains that provision.

Handlers are required to be bonded if they intend to defer their withholding obligations under the order into the next season. Section 982.454 describes the types of bonds accepted by the Board. The Board currently requires handlers to submit F/H Form C to document handlers' use of this provision. Therefore, based on the Board's recommendation, this action will add the specific form reference to § 982.454.

Section 982.456 describes procedures for interhandler transfers of filberts/hazelnuts and contains an outdated form reference. Under this action, the form reference will be changed to F/H Form 2.

In 1986, § 982.57 of the order was amended to allow growers acting as handlers to sell unlimited quantities of their own production directly to consumers from their orchards, at roadside stands, or at farmers' markets. Quantities of filberts/hazelnuts sold in this manner are exempt from the volume regulation and assessment provisions of the order. Section 982.457 allows handlers to be exempt from certian order requirements (inspection, certification, restricted obligation, assessment, and reporting requirements) if they handle less than 250 pounds of inshell filberts/hazelnuts during any fiscal year. Section 982.457 was originally implemented to allow growers who acted as handlers by selling small quantities of their filberts/hazelnuts directly to consumers to be exempt from the order's regulatory and assessment provisions. Section 982.57, however, now provides authority for growers to sell unlimited quantities of the grower's own production directly to consumers. Therefore, since the 250-pound limitation no longer applies, § 982.457 will be deleted from the rules and regulations.

Section 982.460 provides procedures for transferring excess restricted credits of filberts/hazelnuts and contains outdated form references. The Board recommended that these be changed to

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the new form references. Therefore, in paragraphs (b) and (c) of § 982.460, the form reference will be changed to F/H Form 3. In addition, the revision of paragraph (b) will provide gender neutral language.

The Board recommended that § 982.466 include a reference to the complete series of forms currently used. Reference to F/H Forms 1a through 1e should be added to § 982.466. Also, the Board recommended changing the frequency of reports on these forms. The Board has indicated that handlers have found it difficult to submit weekly reports of shipments in October, November, and December (the busiest time of the marketing season) in a timely manner. The Board, therefore, recommended that F/H Forms 1a through 1e be submitted once a month, rather than weekly. Accordingly, this change will reduce the information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. Such reports will include shipment transactions from the beginning of the month to the end of the month. Such reports will be due in the Board office 10 days following the end of the reporting period. The Board indicated that monthly reporting will provide sufficient and timely information essential to the filbert/hazelnut industry. The Board also recommended that provisions be added to § 982.466 to allow the Board to request reports on other dates, with the approval of the Secretary. Therefore, this action will revise § 982.466 accordingly.

Section 982.468 contains two outdated form references that will be changed to reflect new form references. The outdated form references will be changed to F/H Form 5 and F/H Form 6 in § 982.468. In addition, the dates of the reporting periods will be changed to make them correspond with the order's marketing year and, as recommended by the Board, provision will be made for the Board to request reports on other dates, with the approval of the Secretary. Section 982.17 of the order was amended in 1988 to change the dates of the marketing year.

Sections 982.455 and 982.471 will be revised to change references to "filberts" to "filberts/hazelnuts." The Board recommended that "filberts" be changed to "hazelnuts." However, the order provides that the term "filberts" means filberts or hazelnuts produced in the States of Oregon and Washington from trees of the genus *Corylus*. Therefore, the Department substituted the term "filbert/hazelnut" in this rule and in appropriate sections of the rules and regulations. The term "filbert/hazelnut" will accomplish the Board's purpose. It will also avoid the confusion which might have occurred if the order referred to "filberts" alone and the rules and regulations referred to "hazelnuts."

One change in the proposed rule will not be made by this action. The proposed rule indicated that § 982.453 would be revised to change references to "filberts" to "filberts/hazelnuts". This change was previously made when new safeguards concerning the disposition of inshell or shelled substandard filberts/hazelnuts were added on June 7, 1989 (54 FR 24326). Therefore, it is not necessary to revise § 982.453.

A proposed rule was published in the September 5, 1989, issue of the **Federal Register** (54 FR 36803). Comments on the proposed rule were invited from interested persons until October 5, 1989. No comments were received.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in the revised sections of the regulations have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581-0144.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is found that the changes to the administrative rules and regulations, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts/hazelnuts, Marketing agreements and orders, Oregon and Washington.

For the reasons set forth in the preamble, 7 CFR part 982 is revised as follows:

Note: These sections will appear in the annual Code of Federal Regulations.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. Section 982.432 is removed.

§ 982.432 [Removed]

3. Section 982.446 is revised to read as follows:

§ 982.446 Inspection documentation.

Pursuant to § 982.46(b), handlers are required to use the following identification on bags and cartons of 25 pounds or larger capacity which contain certified filberts/hazelnuts:

(a) The words "This Produce Inspected and Certified Per Federal Marketing Order No. 982" shall be contained within an outline of the combined States of Oregon and Washington; and

(b) This identification shall be printed on the upper right quarter of the printed side of a bag; or

(c) This identification shall be printed on the upper right quarter of one of the side panels of a carton.

4. Section 982.450 is revised to read as follows:

§ 982.450 Application of restricted obligation.

(a) Each handler required to withhold restricted filberts/hazelnuts pursuant to § 982.50 or § 982.51 shall hold such filberts/hazelnuts separate from all other filberts/hazelnuts and shall maintain the identity of each lot so withheld. The restricted product withheld must be reported to the Board on F/H Form 1d, Restricted Inshell Certified.

(b) Each handler making the election pursuant to § 982.50(c) in connection with certified merchantable filberts/hazelnuts which have not been handled, shall thereupon give written notification to the Board on F/H Form 4 of the particular election and of the weight and identity of the filberts/hazelnuts involved.

(c) Pursuant to § 982.50(d), a handler may withdraw from withholding restricted filberts/hazelnuts in excess of such handler's restricted obligation upon advising the Board of the weight and lot identity of the filberts/hazelnuts to be withdrawn. When the quantity of restricted filberts/hazelnuts to be withdrawn from withholding consists of a part of a lot of ungraded filberts/hazelnuts, no part of such lot shall be withdrawn unless the remainder of such lot is reinspected and meets the requirements of § 982.51. Handlers will use F/H Form 1d prior to the end of the marketing year or F/H Form 7 after the end of the marketing year, when reporting the withdrawal of restricted filberts/hazelnuts from withholding status.

5. Section 982.452 is amended by revising the introductory text and paragraphs (a)(1) (i), (ii) and (iii), (a)(2) and (b) to read as follows:

§ 982.452 Disposition of restricted filberts/hazelnuts.

(a) *Shelling.* (1) Any person desiring to shell restricted filberts/hazelnuts during a fiscal year may do so upon being designated by the Board as an authorized sheller for such year. Application for such designation shall be made in duplicate on F/H Form B and include, in addition to the conditions specified in § 982.52(a), the following: (i) The location of the applicant's shelling operation; (ii) the number of years such person has operated a filbert/hazelnut shelling plant; and (iii) the daily (8-hour) shelling capacity of the plant. * * *

(2) When an authorized sheller completes the shelling of a lot of restricted filberts/hazelnuts, the sheller shall submit a report thereon to the Board on F/H Form 7 showing: (i) The date shelling was completed; (ii) the inspection certificate or lot number; (iii) the quantity shelled; (iv) the weight of the kernels produced; and (v) the location where restricted filberts/hazelnuts were held immediately prior to shelling.

(b) *Exports.* Any handler who desires to act as agent of the Board in negotiating export sales of certified merchantable restricted filberts/hazelnuts may do so upon the execution of an "Export Agreement", F/H Form A, wherein the handler agrees, among other things, to negotiate such export sales at not less than such price as the Board may prescribe, and in conformity to and compliance with the other terms and conditions of the Export Agreement including those set forth in § 982.52(b).

* * * * *

6. Section 982.454 is revised to read as follows:

§ 982.454 Sureties acceptable to the Board.

Bonds secured by cash, cashier's or certified checks, or by assets that are entirely separate and apart from the handler named in the bond may be accepted by the Board pursuant to § 982.54(a). As a condition of accepting any surety, the Board may require such financial statements or other information relating to the ability of such surety to guarantee a handler's bond as it deems necessary. Handlers are also required to submit F/H Form C to the Board to document the handler's execution of a bond.

7. Section 982.455 is revised to read as follows:

§ 982.455 Exchange of certified merchantable filberts/hazelnuts withheld.

Each handler desiring to exchange filberts/hazelnuts pursuant to § 982.55 shall prior thereto file a written notification with the Board setting forth for the respective quantities of filberts/hazelnuts involved in the exchange, the inspection certificate numbers, quantities, locations, and applicable lot numbers.

8. Section 982.456 is revised to read as follows:

§ 982.456 Interhandler transfers.

Each interhandler transfer of filberts/hazelnuts pursuant to § 982.56 (a) and (c) may be made upon notification to the Board in triplicate by the receiving handler on F/H Form 2 signed by both the transferring handler and the receiving handler which shall include the following information: (a) Date of transfer; (b) names of the transferring and receiving handlers; (c) locations between which the filberts/hazelnuts were transferred; (d) whether uncertified inshell or certified merchantable; (e) net weight of the filberts/hazelnuts transferred, by size and variety; (f) the inspection certificate, or lot number covering the filberts/hazelnuts; and (g) if certified merchantable, the name of the handler responsible for compliance with the applicable requirements pursuant to this part relating to such filberts/hazelnuts.

9. Section 982.457 is removed.

§ 982.457 [Removed]

10. Section 982.460 is amended by revising the first sentence in paragraph (b) and revising paragraph (c) to read as follows:

§ 982.460 Transfer of excess restricted credits.

* * * * *

(b) *Application.* Each handler who has excess restricted credits and desires to transfer them to another handler, may submit such request to the Board on F/H Form 3. * * *

(c) *Transfer.* The Board shall transfer the requested amount of the excess restricted credits from one handler to a designated handler upon receipt of a completed F/H Form 3 together with such information as may be required by this section.

11. Section 982.466 is revised to read as follows:

§ 982.466 Reports of inshell filberts/hazelnuts handled, shelled and withheld.

Each handler shall report to the Board monthly on F/H Forms 1 and F/H Forms 1a through 1e, as applicable, the quantities of inshell filberts/hazelnuts handled or withheld for restricted use and all product shelled and certified since the last report. All reports shall be submitted to include transactions through the end of each month, or other reporting periods established by the Board, and are due in the Board office on the tenth day following the end of the reporting period. The quantities of inshell filberts/hazelnuts handled shall be reported by size. The respective quantities of merchantable or ungraded filberts/hazelnuts withheld as restricted product shall be reported separately, and with respect to filberts/hazelnuts certified for shelling, or certified kernels withheld, the kernel weight and inshell equivalent weight shall be reported separately by size.

12. Section 982.468 is revised to read as follows:

§ 982.468 Report of filbert/hazelnut receipts, disposition, and inventory.

On or before January 15 and July 15, or any other date requested by the Board with the approval of the Secretary, each handler shall:

(a) Report to the Board on F/H Form 6 such handler's receipts and disposition of inshell filberts/hazelnuts and production of filbert/hazelnut kernels during the respective preceding six-month period of July 1 to December 31, and the preceding 12-month period of July 1 to June 30; and

(b) Report to the Board on F/H Form 5 such handler's inventory of filberts/hazelnuts as of January 1 and July 1, respectively, showing the quantities of inshell filberts/hazelnuts separately in terms of certified merchantable, graded uncertified merchantable, restricted, and ungraded. The certified merchantable filberts/hazelnuts shall be reported on the basis of whether located within or outside the production area and whether or not the restricted obligation has been met.

13. Section 982.471 is revised to read as follows:

§ 982.471 Records.

Each handler shall maintain complete and accurate records showing the receipt, shipment and sale of all filberts/hazelnuts handled, used or otherwise disposed of and shall retain such records for the two-year period prescribed in § 982.71. Handlers shall also maintain a current record of all filberts/hazelnuts held in inventory.

Dated: November 2, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of

California raisins and the potential for expansion is good. The fact that nearly all raisins imported into the Dominican Republic are already in readily

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

provide an integral part of the reserve milk supply.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT:

was not a producer under the Great Basin order in the previous month, will not be eligible to have milk diverted to a nonpool plant until after one day's

1. The authority citation for 7 CFR

Dated: November 2, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26187 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 989

[Docket No. FV-89-081FR]

Raisins Produced From Grapes Grown in California; Addition of the Dominican Republic as a Country Eligible for Exports of Reserve Pool Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture is adopting, without modification, as a final rule the provisions of an interim final rule which adds the Dominican Republic as a country eligible for exports of reserve pool California raisins. This action was unanimously recommended by the Raisin Administrative Committee (RAC), which is responsible for local administration of the Federal marketing order regulating raisins produced in California. By providing handlers with another market for their reserve raisins, this action will reduce the burden or oversupply currently confronting the industry.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 382-1754.

SUPPLEMENTARY INFORMATION:

This final rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 23 handlers of raisins who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A majority of producers and a minority of handlers of California raisins may be classified as small entities.

The raisin order provides for the establishment of "free" and "reserve" percentages by variety of raisin for each crop year. "Free" raisins are those which may be shipped freely to any market. Raisins in excess of free tonnage are reserve raisins which must be held by handlers in a pool for the account of the RAC. Most reserve raisins withheld under the order have been marketed as food in domestic and eligible export outlets. In crop years with inadequate raisin production, reserve raisins are available to supplement new crop supplies.

Pursuant to § 989.221, reserve raisins are currently sold to handlers for export to islands on the continental shelf of South America and to all other markets in the world except the following: Canada, Mexico, and all islands adjacent to these countries, and all of the Caribbean Islands north of the 12th parallel, including the Dominican Republic. Canada, Mexico, and the mentioned islands are excluded because of the potential for shipment of raisins back to the United States for sale in competition with free tonnage raisins.

Adding the Dominican Republic as a country eligible for exports of reserve pool raisins will give handlers another market outlet for their reserve raisins. Since this provision utilizes reserve raisins, it will reduce the burden of oversupply that is currently confronting the industry.

According to the RAC, the Dominican Republic is a developing market for California raisins and the potential for expansion is good. The fact that nearly all raisins imported into the Dominican Republic are already in readily identifiable consumer packages is an effective deterrent to the transshipment of raisins to the United States.

Further, upon addition of the Dominican Republic as a country eligible for export of reserve raisins, the RAC has indicated that it would seek approval under § 989.53 for the implementation of an export incentive program for the Dominican Republic.

In addition, this rule makes editorial changes to § 989.221 for the purpose of clarity.

An interim final rule adding the Dominican Republic as a country eligible for exports of reserve raisins was published in the **Federal Register** on August 21, 1989 (54 FR 34404). That rule provided that interested persons could file written comments through September 20, 1989. No comments were received. Accordingly, the addition of the Dominican Republic as established by that interim final rule is adopted as a final rule without change.

Based on the available information, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the revision of § 989.221, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1989-90 crop year began on August 1; (2) interested persons were provided a 30-day comment period in which to respond; (3) this final rule is an adoption, without modification, of an interim final rule effective August 21, 1989, adding the Dominican Republic as a country eligible for exports of reserve pool raisins.

List of Subjects in 7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

Note: This section will appear in the Code of Federal Regulations.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended, 7 U.S.C. 601-674.

2. Section 989.221 is revised to read as follows:

§ 989.221 Sale and export of reserve raisins by handlers.

(a) *Eligible countries.* Pursuant to § 989.67(c), the Committee shall sell reserve raisins to handlers for export to the Dominican Republic, islands on the continental shelf of South America, and to all other markets in the world except those listed in paragraph (b) of this section.

(b) *Non-eligible countries.* The Committee shall not sell reserve raisins to handlers for export to Canada, Mexico, and all islands adjacent to these countries, and all other Caribbean Islands north of the 12th parallel, except for the Dominican Republic.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26102 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1139

[DA-89-837]

Milk in the Great Basin Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of October 1989 through April 1990 a provision in the Great Basin milk order. The suspended provision relates to a "touch base" requirement where a dairy farmer, who was not a producer under the Great Basin order in the previous month, would not be eligible to have milk diverted to a nonpool plant until after one day's production is received at a pool plant. Suspension of this provision was requested by a cooperative association whose members supply a majority of the milk marketed under the Great Basin order. This suspension action is necessary to prevent considerable inconvenience and unnecessary expense in the movement of milk to assure that the cooperative association's member dairy farmers will not be caused to forfeit pool participation in a market where they provide an integral part of the reserve milk supply.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:.

Notice of Proposed Suspension: Issued October 3, 1989; published October 6, 1989 (54 FR 41254).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Great Basin marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on October 6, 1989 (54 FR 41254) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments were received.

After consideration of all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of October 1989 through April 1990 the following provisions of the order do not tend to effectuate the declared policy of the Act:

Section 1139.13(d)(6)

Statement of Consideration

This action suspends for the months of October 1989 through April 1990 a "touch base" provision of the Great Basin Federal milk order. The suspension of this provision removes the requirement that a dairy farmer, who was not a producer under the Great Basin order in the previous month, will not be eligible to have milk diverted to a nonpool plant until after one day's production is received at a pool plant. The suspension action was requested by Western Dairymen Cooperative, Inc. (WDCI), whose members supply a majority of the milk marketed under the Great Basin order.

WDCI's need to adjust milk pick up routes over great distances in response to changes in demand at the many plants that it supplies with supplemental milk makes it unreasonable to expect delivery of at least one day's milk production be made to a pool plant before such milk is qualified for diversion, and thus for pooling under the order. This is further complicated by the fact that confirmation of delivery of a day's milk production to a pool plant is not known until after a month's end without incurring unnecessary increased expenses involved in tracking milk.

WDCI's claim that milk which it diverts in excess of fluid needs, or that is shifted from plant to plant, serves an integral role in the market's Grade A milk supply and thus deserves to be pooled under the Great Basin order is supported in this suspension action. Neither the producer members, nor the market in general, is served by maintenance of this touch base provision during the months indicated for this suspension action when production volumes and changes in demand create the greatest need for flexibility.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that uneconomic movements of milk would likely be made solely for the purpose of pooling the milk of producers who have regularly been associated with the market.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

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List of Subjects in 7 CFR Part 1139

Dairy products, Milk, Milk marketing orders.

It is therefore ordered, that § 1139.13(d)(6) of the Great Basin order is hereby suspended for the months of October 1989 through April 1990.

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

1. The authority citation for 7 CFR part 1139 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1139.13 [Suspended in part]

2. In § 1139.13, paragraph (d)(6) is suspended.

Signed at Washington, DC, on November 2, 1989.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 89-26166 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 13, 15, 21, 43, 45, 61, 63, 65, 67, 73, 77, 91, 93, 109, 121, 125, 127, 129, 133, 135, 137, 139, 141, 145, 150, 153, 169, 171, 183, 185, 189, 191, 199

[Docket No. 26020]

RIN 2120-AD24

Organizational Changes and Delegations of Authority

In the matter of Amendment numbers 11–32, 13–19, 15–1, 21–67, 45–19, 61–65, 63–28, 65–35, 67–13, 73–5, 77–11, 91–212, 93–58, 109–1, 121–207, 125–13, 129–19, 133–11, 135–33, 137–13, 139–16, 141–3, 150–2, 153–6, 169–2, 171–15, 183–9, 185–3, 189–2, 191–2, 199–2; SFAR 27–7; SFAR 36–5; SFAR 44–6

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: In the September 25, 1989, issue of the **Federal Register** (54 FR 39288), the FAA published a final rule adopting amendments that were made to reflect delegations of authority that were changed, as well as offices that were renamed or abolished and replaced with new office designations, as a result of a recent agencywide reorganization.

The FAA is correcting editorial errors that appeared in the listing of amendment numbers. Amendment numbers "43–32", "127–44", and "145–22" should be removed. Amendment number "SFAR 27–6" should read "SFAR 27–7".

FOR FURTHER INFORMATION CONTACT: Jean Casciano, (202) 267–9683.

Issued in Washington, DC, on November 1, 1989.

Clara M. Thieling,

Program Management Staff.

[FR Doc. 89-26167 Filed 11-6-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ANE-27; Amdt. 39-6365]

Airworthiness Directives; Pratt & Whitney (PW) JT8D-7, -7A, and -7B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which would require repetitive inspections of first stage stator polyurethane spacers incorporated on certain PW JT8D–7 series engines. Second stage fan disk fractures have occurred on engines modified by United Airlines (UAL) to incorporate a polyurethane spacer. This AD will also require repetitive inspections of the second stage fan disk on all engines which had incorporated a spacer. The AD is needed to prevent uncontained fracture of the second stage fan disk which could result in engine failure, cowl penetration, fire, or aircraft damage.

DATES: *Effective:* November 13, 1989.

Compliance: As indicated in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE–141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7121.

SUPPLEMENTARY INFORMATION: There have been three uncontained second stage fan disk fractures and two other second stage fan disks found cracked during inspection. The five fractured or cracked second stage fan disks were installed on engines which were reconfigured by UAL to incorporate a first stage stator polyurethane spacer.

The FAA has determined that spacers installed by UAL extruded into the fan gas path during engine operation and resulted in an aerodynamic disturbance which was detrimental to the second stage fan disk. The aerodynamic disturbance increases the vibratory stresses in the second stage fan blades and disk, and can result in an uncontained failure of the disk. Since this condition is likely to exist or develop on other engines of the same type design which incorporate a first stage stator polyurethane spacer, an AD is being issued which requires inspection for spacer presence and protrusion, removal of the first stage stator assembly and spacer, and establishes a repetitive inspection program for the second stage fan disk on certain PW JT8D–7 series engines.

Presently, UAL is the only known engine overhaul shop which incorporated the spacer. However, UAL does not have sufficient records identifying all the engines which were reconfigured with the spacer. Consequently, the AD will require an initial visual inspection for spacer presence on all PW JT8D–7 series engines unless the operator can provide records to the FAA showing UAL has never performed maintenance on the engine.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not

required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transporation, Aircraft, and Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D–7, –7A, and –7B turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent engine failure, cowl penetration, fire, or airframe damage associated with a second stage fan disk fracture, accomplish the following:

(a) Visually inspect for the presence and protrusion of a spacer within 100 cycles in service (CIS) after the effective date of this AD. NOTE (1) defines the spacer location. If a spacer is found during inspection, accomplish the following:

(1) If the spacer radial protrusion is in excess of 0.125 inches, trim the spacer to the fan case inner flow surface.

(2) If the spacer radial protrusion is in excess of 0.250 inches over a circumferential length greater than 3 inches, remove the second stage fan disk, first stage stator assembly, and the spacer. Inspect the disk in accordance with paragraphs (d)(1), (d)(2), and (d)(3), within 100 CIS after inspection and thereafter, reinspect the disk in accordance with paragraph (e).

(b) Thereafter, visually reinspect for first stage stator spacer protrusion, if a spacer is installed, in accordance with the limits noted in paragraphs (a)(1) and (a)(2), at intervals not to exceed 200 CIS since last inspection (SLI) and until the first stage stator assembly and spacer are removed per paragraph (c) below.

(c) Remove the first stage stator assembly and spacer, and install a new or a refurbished first stage stator assembly in accordance with PW JT8D Engine Manual, Part Number (P/N) 481672, at the next engine shop visit, but no later than 4,000 CIS after the effective date of this AD.

(d) Inspect all second stage fan disks which have operated in an engine with a spacer installed at the next engine shop visit, but no later than 4,000 CIS after the effective date of this AD, or as required by paragraph (a)(2) above. The inspection shall include the following:

(1) Eddy current inspect disk pin holes and remove from service all disks defined as not serviceable in accordance with the instructions in the Appendix to this AD.

(2) Visually inspect the inner surface of the disk pin hole for evidence of galling or other surface damage. Reject disks with damage in excess of 0.003 inches deep.

(3) Dimensionally inspect the disk pin hole diameters. Reject disks if any disk pin hole diameter exceeds 0.5496 inches (Reference PW JT8D Engine Manual, Section 72–33–04, Inspection –01, Page 801, Reference 222).

(e) Thereafter, reinspect second stage fan disks in accordance with paragraphs (d)(1), (d)(2), and (d)(3) above, at intervals not to exceed 4,000 CIS SLI if the disk operated in an engine with a spacer radial protrusion in excess of the limits established in paragraph (a)(2) above.

(f) If a first stage stator spacer is found during the initial visual inspection, report the following information in writing within 30 days of the inspection to the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; Telex Number 949301 FAANE BURL:

(1) Engine serial number (S/N).

(2) Inspection date.

(3) First stage stator spacer maximum radial protrusion and circumferential length of protrusion.

(4) Second stage fan disk P/N and S/N.

(g) Report the following information in writing within 30 days of the second stage fan disk inspection to the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; Telex Number 949301 FAANE BURL:

(1) Engine serial number (S/N).

(2) Inspection data.

(3) Second stage fan disk P/N and S/N.

(4) Second stage fan disk total time and cycles (if estimate, so note).

(5) Second stage fan disk time and cycles since installation.

(6) Second stage fan disk inspection results for rejected disks (specify rejection criteria used).

Information collection requirements contained in this regulation (§ 39.13) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(h) Records showing that United Airlines (UAL) has not performed maintenance on the engine may be used in lieu of the visual inspection requirements of paragraph (a) above to verify the absence of the spacer, provided the operator's FAA Airworthiness Inspector is supplied with a complete maintenance history of the engine and determines that UAL has never maintained, overhauled or altered the engine after October 10, 1972.

Notes: (1) The location where the first stage stator spacer would be installed is shown in the PW JT8D Engine Manual, P/N 481672, Section 72–33–05, Repair–00, Page 901/902, Figure 901, Index 3.

(2) Engine shop visit is defined as the input of an engine to a repair shop with low pressure compressor rotor overhaul capability where the subsequent engine maintenance entails the following:

(a) Separation of a major engine flange (lettered or numbered) other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit."

(b) Removal of a disk, hub, or spool.

(i) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(j) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD, may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington Massachusetts 01803.

This amendment becomes effective on November 13, 1989.

Issued in Burlington, Massachusetts, on October 5, 1989.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

Appendix

Source: United Airlines Eddy Current Non-Destructive Test Procedure, Number MJ–70–NDT–352, Dated June 6, 1989

NDT PROCEDURE—SFOPI—Eddy Current Non-Destructive Test

Preliminary Set-Up

Part No. and Name—Part under Test: 570402 TYP, DISC C2; JT8D–7

Description of Part Area under Test: DISC PIN HOLE

References: EID 72–33–33

Required Equipment and Materials:

Eddy Current Instrument: ELOTEST B1

Eddy Current Probe: GK BPRO .535 4½

Test Piece: UALSTD–8–C2–001

The operator should read the respective instrument manual for the complete understanding of the equipment operating procedures.

The interpretation of the various patterns that appear on the scope will be discussed during the training and check-out session.

No personnel will be qualified to operate the equipment and perform the inspection until they have received personal instruction by a qualified operator, as determined by the dayshift foreman.

Modifications to the probes or equipment are not allowed. In case of difficulty notify the dayshift foreman for instructions.

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1. Cable Connection
   A. Connect the ELOTEST B1 to the hand rotor utilizing the B1–RS adapter.
2. System Calibration
   A. Push the ON key on the front panel.
   B. Push the ENTER key, then push the SELECT key until User-Settings are displayed on the LCD window. Push the ENTER key again to display Recall Settings. Push the ENTER key again to display the Task Name. Turn the knob until the required task name is displayed and then push the ENTER key again. The settings are now loaded for the task selected.
   C. Connect the probe type shown in the LCD window and push the ENTER key again. Verify the Test Piece number shown in the LCD window.
   D. Push the EXIT key three times and proceed with the inspection.
   E. At this time the settings for the assigned task are displayed in the LCD window.
      (1) Settings for Task 1: JT8D–7 C2 DISC
         (a) Freq: 640 Khz
         (b) Phase Angle: 143°
         (c) Gain Y: 58dB Timebase
         (d) Filt: BP 800 Hz
   F. Insert probe into standard and rotate.
   G. Insure that there is a 30% vertical amplitude indication from the center rail EDM notch. Adjust the gain if necessary by pushing the dB key and rotating the knob to achieve the required 30% vertical amplitude the EXIT key to return to the Task Settings Display, per E.1.
3. Inspection
   A. Translate probe through each pin hole in all three rails.
4. Rejection Criteria
   A. Any crack signal simular to the crack standard signature.
   B. Any crack signal equal to or greater than 50% of the crack standard should be evaluated to confirm the presence of cracking.
5. Record of Accomplishment
   A. Sign off JPC eddy current inspection block or other inspection request paperwork.
   B. Record inspection in E49 History log book.

[FR Doc. 89–26170 Filed 11–6–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–ANE–11; Amdt. 39–6359]

Airworthiness Directives; Teledyne Continental Motors (TCM) Engines, Models TSIO–520B, BB, D, DB, E, EB, J, JB, K, KB, N, NB, UB, and VB

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one time inspection and, if necessary, replacement of the scavenge oil pump gears on certain TCM models TSIO–520B, BB, D, DB, E, EB, J, JB, K, KB, N, NB, UB, and VB. This AD is needed to prevent possible failure of the scavenge pump which could result in total loss of engine power.

DATES: *Effective:* November 20, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service bulletin (SB) No. M89–4, dated February 9, 1989, may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Propulsion Branch, ACE–140A, Atlanta Aircraft Certification Office, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires a one-time inspection and, if necessary, replacement of the scavenge oil pump gears on certain TCM engines, models TSIO–520B, BB, D, DB, E, EB, J, JB, K, KB, N, NB, UB, and VB, was published in the **Federal Register** on June 23, 1989 (54 FR 26393). The proposal was prompted by service difficulty reports (39 since 1983) of scavenge pump gear failures on certain TCM engines, models TSIO–520B, BB, D, DB, E, EB, J, JB, K, KB, N, NB, UB and VB. Failure of the scavenge pump gears results in total loss of engine power due to lack of lubrication. This problem is addressed in TCM SB M89–4 which recommends a one-time inspection of marked gears and replacement of any unmarked gear or any marked gear which fails the inspection. The gears, part numbers (P/N's) 635334 and 639388, have a shallow hardness depth, and wear or pressure abrasive cleaning procedures can destroy the hardened layer. TCM introduced carburized gears, P/N's 649157 and 649159, which have much greater resistance to wear. However, they did not mark the early production gears by drill point as is currently being done. Therefore, there are unidentifiable carburized gears in use. These carburized gears (P/N's 649157 and 649159) are to replace P/N's 635334 and 639388 and unmarked gears P/N's 649157 and 649159.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

Accordingly, the proposal is adopted without change.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves 8,481 engines and will cost approximately $310 per engine for a total cost of $2,629,110. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, and Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Teledyne Continental Motors (TCM): Applies to TCM engines, models TSIO–520B, BB, D, DB, E, EB, J, JB, K, KB, N, NB, UB, and VB, equipped with scavenge oil pump gears, part numbers (P/N's) 635334, 639388, 649157, and 649159.

Compliance is required within 500 flight hours after the effective date of this AD, or at any maintenance event during which the scavenge oil pump gears are removed from the engine, whichever occurs first, unless already accomplished.

To prevent possible failure of scavenge oil pump gears which could result in total loss of engine power, accomplish the following:

(a) Remove the scavenge oil pump gears from the scavenge oil pump housing and inspect the gear teeth for a drill point as shown in Figure 1 of the Appendix to this AD.

(1) If the drill point is present, inspect the gears in accordance with the inspection procedures outlined in the Appendix to this AD.

(2) If the drill point is not present or the gears fail the inspection specified in the Appendix to this AD, replace the gears with serviceable P/N 649157 and/or P/N 649159 gears having the drill point marking.

(b) Make an appropriate log book entry showing compliance with this AD.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance or adjustments to the compliance time specified in this AD may be approved by the Manager, Atlanta Aircraft Certification Office, Small Airplane Certification Directorate, Aircraft Certification Service, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

This amendment becomes effective on November 20, 1989.

Issued in Burlington, Massachusetts, on October 2, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

Appendix—*Source:* Teledyne Continental Aircraft Engine Service Bulletin No. M89–4, Dated February 9, 1989, Pertains To This Inspection

The scavenge pump gears, not marked with a drill point as outlined must be retired from service. The scavenge pump gears, P/N 649157 and P/N 649159 that are marked with a drill point should be inspected as follows: See Figure 1.

Figure 1

Prior to inspection, the scavenge oil pump gears should be cleaned with an approved carbon cleaner and thoroughly rinsed with a mineral spirit solvent. After proper cleaning has been accomplished, the gears should be inspected using the dimensions specified in the Table of Limits and the Magnaflux procedures covered in the TSIO520 Permold Series Overhaul Manual X30574A. If the gears are found to be within serviceable limits, they should further be visually inspected for uneven wear, pitting or excessive galling. If these indications are revealed, the gears should be replaced. A light amount of polishing is normal and to be expected.

CAUTION . . . Do not pressure abrasive blast gears. This may remove surface hardness thus causing excessive gear wear.

[FR Doc. 89–26169 Filed 11–6–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–ANE–19; Amdt. 39–6386]

Airworthiness Directives; Teledyne Continental Motors (TCM) Model TSIO–520–UB Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of the turbocharger inlet assembly on certain TSIO–520–UB engines. This AD is needed to detect possible cracking of the turbocharger inlet assembly which could result in the introduction of hot exhaust gases into the engine compartment with the possibility of engine compartment fire.

DATES: *Effective*—December 4, 1989.

Compliance—As indicated in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Propulsion Branch, ACE–140A, Atlanta Aircraft Certification Office, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires repetitive inspections of the turbocharger inlet assembly on certain TSIO–520–UB engines was published in the **Federal Register** on July 13, 1989 (54 FR 29582). The proposal was prompted by service difficulty reports (SDR) of cracking of the turbocharger inlet assembly on certain TCM model TSIO–520–UB engines which could could introduce hot exhaust gases into the engine compartment. This problem was addressed in Beechcraft Service Communique No. 70, dated October 28, 1983, in which 100 hour inspection intervals are recommended. TCM introduced a replacement (cast) part in 1985 to replace the original (welded) part. The SDR's received since that time indicate that the original part is still in service and the rate of cracking may be increasing due to repairs, aging, and installation errors. There were 7 SDR's from 1981 through 1984 with an additional 12 reports from 1985 through 1988.

Interested persons have been afforded an opportunity to participate in the making of this amendment and no comments were received. Accordingly, the proposal is adopted without change.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves 452 engines, and will cost approximately $160 per inspection per engine. If a replacement part must be used, the cost of the part is $3,138.00 and there would be an additional 6 hours ($240) labor for installation. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, The Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

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§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Teledyne Continental Motors (TCM): Applies to TCM Model TSIO-520-UB engines, serial numbers 515000 thru 515999 and 527000 thru 527070, and to all remanufactured and overhauled engines of this model, regardless of serial number, which are equipped with part number P/N 642668 turbocharger inlet assembly.

Compliance is required at the next 100 hour inspection or annual inspection, or within 100 flight hours, whichever occurs first after the effective date of this AD, and thereafter at intervals not to exceed 100 flight hours.

To prevent possible cracking of the turbocharger inlet assembly which could result in engine compartment fire, accomplish the following:

(a) Visually inspect turbocharger inlet assembly P/N 642668 for cracks especially in the weld joints just above the turbine inlet temperature boss. If a crack is found, replace P/N 642668 with P/N 646705 turbocharger inlet assembly, prior to further flight.

(b) Make appropriate log book entry showing compliance with this AD.

Notes: (1) Beechcraft Aircraft Corporation Service Communique No. 76, dated October 28, 1983, refers to this subject.

(2) When determining the P/N assembly installed in order to comply with this AD, a distinguishing feature of the P/N 642668 turbocharger inlet assembly is 4 ribs (approximately 0.25 inches in height, 0.1 inches in width, and 2.1 inches in length) on the top of the turbocharger mating flange.

(3) If P/N 642668 is not installed, no action is required.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, Atlanta Aircraft Certification Office, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

This amendment becomes effective on December 4, 1989.

Issued in Burlington, Massachusetts, on October 25, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-26168 Filed 11-6-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

Endorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Financial Management Service, Fiscal Service, Treasury (FMS).

ACTION: Final rule; correction.

SUMMARY: FMS is correcting an error in the address of the Bureau of the Public Debt which appeared in the Federal Register on August 29, 1989, concerning endorsement and payment of checks drawn on the United States Treasury.

FOR FURTHER INFORMATION CONTACT: Joan Pesata, Director, Limited Payability Project, Financial Management Service, Room 816C, Prince Georges Center II, 3700 East-West Highway, Hyattsville, Maryland 20782; Telephone (301) 436-7172.

The following correction is made in the address of the Bureau of the Public Debt which was published in the Federal Register on August 29, 1989 (54 FR 35639).

Paragraph 240.12(a)(2)(ii) on page 35646 is correctly revised to read as follows:

§ 240.12 Checks issued to incompetent payees.

(a) * * *

(2) * * *

(ii) Was issued in payment of principal or interest on U.S. securities, it shall be forwarded to the Bureau of the Public Debt, Division of Securities Accounts, Accounts Maintenance Branch, Washington, DC 20239.

* * * * * *

W.E. Douglas,

Commissioner.

[FR Doc. 89-25982 Filed 11-6-89; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Changes to the CHAMPUS DRG-Based Payment System Rates and Weights

AGENCY: Office of the Secretary, DoD.

ACTION: Corrections to notice of revised rates.

SUMMARY: This document corrects technical errors that appeared in the notice of revised rates which was published on October 10, 1989 (54 FR 41487), and which revised the weights and rates to be used in the CHAMPUS DRG-based payment system effective for admissions occurring on or after October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Office of Program Development, OCHAMPUS, Aurora, Colorado 80045, telephone (303) 361-4005.

SUPPLEMENTARY INFORMATION: In 54 FR 41487 which was published on October 10, 1989, make the following corrections:

1. On pages 41488 through 41494, the table heading "CRG Description" is corrected to read "DRG Description."

1a. On page 41488, the DRG description reading "Nonspecific cerebrovascular disorders w/o CC" is DRG number 17.

2. On page 41488, DRG 28, the DRG description is corrected to read "Traumatic stupor & coma, coma <1 hr age >17 w CC".

3. On page 41488, DRG 29, the DRG description is corrected to read "Traumatic stupor & coma, coma <1 hr age >17 w/o CC".

4. On page 41488, DRG 30, the DRG description is corrected to read "Traumatic stupor & coma, coma <1 hr age 0-17".

5. On page 41488, DRG 31, the DRG description is corrected to read "Concussion age >17 w CC".

6. On page 41488, DRG 32, the DRG description is corrected to read "Concussion age >17 w/o CC".

7. On page 41488, DRG 40, the DRG description is corrected to read "Extraocular procedures except orbit age >17".

8. On page 41488, DRG 41, the DRG description is corrected to read "Extraocular procedures except orbit age 0-17".

9. On page 41488, DRG 46, the DRG description is corrected to read "Other disorders of the eye age >17 w CC".

10. On page 41488, DRG 47, the DRG description is corrected to read "Other disorders of the eye age >17 w/o CC".

11. On page 41489, DRG 53, the DRG description is corrected to read "Sinus and mastoid procedures age >17".

12. On page 41489, DRG 55, the long stay threshold (A) is corrected to read "5".

13. On page 41489, DRG 57, the DRG description is corrected to read "T&A proc, except tonsillectomy &/or adenoidectomy only, age >17".

14. On page 41489, DRG 58, the DRG description is corrected to read "Tonsillectomy &/or adenoidectomy only, age >17".

15. On page 41489, DRG 61, the DRG description is corrected to read "Myringotmy w tube insertion age >17".

16. On page 41489, DRG 62, the DRG description is corrected to read "Myringotmy w tube insertion age 0-17".

17. On page 41489, DRG 68, the DRG description is corrected to read "Otitis media & URI age >17 w CC".

18. On page 41489, DRG 69, the DRG description is corrected to read "Otitis media & URI age >17 w/o CC", and the weight is corrected to read "0.5444".

19. On page 41489, DRG 73, the DRG description is corrected to read "Other ear, nose, mouth & throat diagnoses age >17".

20. On page 41489, DRG 79, the DRG description is corrected to read, "Respiratory infections & inflammations age >17 w CC".

21. On page 41489, DRG 80, the DRG description is corrected to read "Respiratory infections & inflammations age >17 w/o CC".

22. On page 41489, DRG 89, the DRG description is corrected to read "Simple pneumonia & pleurisy age >17 w CC".

23. On page 41489, DRG 90, the DRG description is corrected to read "Simple pneumonia & pleurisy age >17 w/o CC".

24. On page 41489, DRG 96, the DRG description is corrected to read "Bronchitis & asthma age >17 w CC".

25. On page 41489, DRG 97, the DRG description is corrected to read "Bronchitis & asthma age >17 w/o CC".

26. On page 41490, DRG 193, the DRG description is corrected to read "Biliary tract proc except only tot cholecyst w or w/o C.D.E. w CC".

27. On page 41490, DRG 194, the DRG description is corrected to read "Biliary tract proc except only tot cholecyst w or w/o C.D.E. w/o CC".

28. On page 41493, DRG 435, the short stay threshold should stay blank.

29. On page 41493, DRG 436, the short stay threshold should stay blank.

30. On page 41494, DRG 473, the DRG description is corrected to read "Acute leukemia w/o major O.R. procedure age >17".

31. On page 41494, DRG 601, the DRG description is corrected to read "Neonate, transferred <5 days old".

32. On page 41494, DRG 602, the DRG description is corrected to read "Neonate, birthwt <750G, discharged alive".

33. On page 41494, DRG 603, the DRG description is corrected to read "Neonate, birthwt <750G, died".

34. On page 41494, DRG 612, the weight should be annotated with a "#" to indicate that it may be revised.

35. On page 41494, DRG 616, the weight is corrected to read "1.1671#".

36. On page 41494, DRG 627, the weight should be annotated with a "#" to indicate that it may be revised.

37. On page 41494, DRG 900, the DRG description is corrected to read "Alc/Drug abuse or depend, detox or oth sympt treat w/o CC age <21".

38. On page 41494, DRG 901, the DRG description is corrected to read "Alc/Drug abuse or depend, detox or oth sympt treat w/o age >21".

39. On page 41494, the NOTE at the end of Table 2 is corrected to read "Long stay threshold B is used for childrens' hospital discharges."

Dated: November 1, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26140 Filed 11-6-89; 8:45 am]

BILLING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

Compliance Date for Cable System Terminal Devices

AGENCY: Federal Communications Commission.

ACTION: Clarification of compliance date.

SUMMARY: This document responds to several inquiries regarding when cable system terminal devices (CSTD's) must comply with 47 CFR part 15. Formerly, CSTD's that were marketed to cable systems could demonstrate compliance with the standards in 47 CFR part 76. CSTD's marketed to consumers were required to be authorized under 47 CFR part 15. As adopted in the *Memorandum, Opinion and Order* in GEN Docket No. 85-301, 53 FR 46615, November 18, 1988, all CSTD's manufactured or imported on or after July 1, 1990, must comply with the standards and equipment authorization requirement in 47 CFR part 15, regardless of the party to whom the equipment is marketed.

DATE: The compliance date is July 1, 1990.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 653-7313.

SUPPLEMENTARY INFORMATION:

Compliance Date for Cable System Terminal Devices

October 6, 1989.

The Commission has received several inquiries regarding the date that cable system terminal devices (CSTD's) must comply with the standards contained in part 15. We are issuing this public notice to serve as a reminder that all CSTD's manufactured or imported on or after July 1, 1990, must be authorized under the Commission's notification procedure and must comply with the part 15 standards specified for CSTD's.

As defined in § 15.3(e), a CSTD is a TV interface device that serves, as its primary function, to connect a cable system operating under part 76 of our rules to a TV broadcast receiver or other subscriber premise equipment. Channel selection boxes used with cable systems are examples of CSTD's.

On October 13, 1988, the Commission adopted the *Memorandum, Opinion and Order (MO&O)* in GEN Docket No. 85-301. The rules adopted in the MO&O required CSTD's manufactured or imported on or after July 1, 1990, to be authorized under the Commission's notification procedure and to demonstrate compliance with the TV interface device rules contained in subpart H, part 15 of the rules. Those requirements applied to all cable system terminal devices, including devices marketed to cable companies for lease to consumers.

Subsequently, the Commission in GEN Docket No. 87-389 revised part 15 of its rules. This revision incorporated the rules adopted in GEN Docket No. 85-301 for CSTD's. Accordingly, any CSTD that is manufactured or imported on or after July 1, 1990, must comply with the standards specified in part 15 for cable system terminal devices. Further, CSTD's marketed to consumers already must comply with the part 15 rules.

Questions regarding this Public Notice should be directed to Mr. John Reed at Room 7122, FCC Washington, DC 20554, or at (202) 653-7313.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-25857 Filed 11-6-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-403; RM-5775, RM-6169, RM-6190]

Radio Broadcasting Services; Douglas, Broxton, Hinesville and Hazelhurst, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of the petitioner, this document allots Channel 279A to Broxton, Georgia in order to provide a new local FM service. The reference coordinates are 31-40-34 and 82-56-03.

DATES: Effective December 11, 1989; The window period for filing applications for Channel 279A allotment at Broxton, Georgia, will open on December 12, 1989, and close on January

hunts should be modified, deleted or added to. Changing environmental conditions, state and Federal regulations, and other factors affecting wildlife populations and habitats may

Responses to Comments Received

Written comments on the proposed rule were received from six parties opposing the proposed horsepower

firearm restrictions), and wildlife conservation. Thus, the Department concludes that good cause exists within the meaning of 5 U.S.C. 553(d)(3) to make these regulations effective upon

reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection

Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and

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DATES: Effective December 11 , 1989; The window period for filing applications for Channel 279A allotment at Broxton, Georgia, will open on December 12, 1989, and close on January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *First Report and Order and Order to Show Cause* in MM Docket No. 87-403, adopted October 10, 1989, and released October 27, 1989. The full text of this Commission decision available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Georgia by adding Channel 279A at Broxton.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25856 Filed 11-6-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018-AA71

Refuge-Specific Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is amending certain regulations in 50 CFR part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified, deleted or added to. Changing environmental conditions, state and Federal regulations, and other factors affecting wildlife populations and habitats may warrant modifications to ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge hunting programs consistent with state regulations.

EFFECTIVE DATE: December 7, 1989.

FOR FURTHER INFORMATION CONTACT: Larry LaRochelle, Division of Refuges, U.S. Fish and Wildlife Service, 18th and C Streets NW., MS 670-ARLSQ, Washington, DC 20240; Telephone (703) 358-2043.

SUPPLEMENTARY INFORMATION: 50 CFR part 32 contains provisions governing hunting on national wildlife refuges. Hunting is regulated on refuges to (1) ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting state hunting regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations may be issued only after a wildlife refuge is opened to migratory game bird, upland game, or big game hunting through publication in the **Federal Register**. These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. Previously issued refuge-specific regulations for migratory game bird, upland game, and big game hunting are contained in 50 CFR 32.12, 32.22, and 32.32 respectively. Many of the amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. In the July 28, 1989, issue of the **Federal Register** beginning on page 31348 the Service published a proposed rulemaking the amend certain reguations in 50 CFR part 32 and invited the public to comment. The Service's responses to those comments are contained in the following section.

Responses to Comments Received

Written comments on the proposed rule were received from six parties opposing the proposed horsepower restrictions on the use of electric motors on Unit 9 of the Lower Klamath National Wildlife Refuge in California and Oregon. The Service is therefore withdrawing those proposals. No other comments were received on the Service's proposals nor were any received concerning information collection under the Paperwork Reduction Act.

Conformance With Statutory and Regulatory Authorities The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing and public recreation, accommodations and access, when he determines that such uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act. Hunting plans are developed for each refuge prior to opening it to hunting. In many cases, refuge-specific hunting regulations are included in the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the refuge was established. Initial compliance with the NWRSAA and Refuge Recreation Act is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

Considering the rapidly approaching hunting seasons and the ones presently taking place, there is an immediate need to place these regulations into effect. The absence of refuge-specific hunting regulations for these hunting seasons would be contrary to the public interest (confusion on hours, bag limits, or

firearm restrictions), and wildlife conservation. Thus, the Department concludes that good cause exists within the meaning of 5 U.S.C. 553(d)(3) to make these regulations effective upon publication in the **Federal Register**.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; or a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

These amendments to the codified refuge-specific hunting regulations make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, state, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of E.O. 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of Information Collection	OMB Approval No.
Economic and public use permits	1018-0014

Public reporting burden for this form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0014), Washington, DC 20503.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes enacted in this rulemaking do not substantially alter the existing uses of the refuges involved. Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters or can be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1002 NE Hollaay Street, Portland, Oregon 97232; Telephone (503) 231-6214.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766-1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Buildings, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725-3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303; Telephone (404) 331-0833.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965-5222.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236-8145.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State regulations. There are no refuge-specific hunting regulations for these regions). Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786-3538.

Larry LaRochelle, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, National wildlife refuge system, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of title 50 of the Code of Federal Regulations is amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.12 is amended by revising paragraph (e)(4) adding a new paragraph (f)(8)(v); removing paragraph (j); redesignating paragraphs (k) through (z) as (j) through (y); revising paragraph (j)(5) introductory text; revising paragraph (p)(7); adding a new paragraph (y)(1)(iii); revising paragraphs (aa) (5) and (6) and (bb)(1)(i); removing paragraph (ll)(2); and redesignating paragraphs (ll) (3) and (4) as paragraphs (ll) (2) and (3) respectively as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(e) *Arkansas*—* * *

(4) *White River National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(f) *California*—* * *

(8) *Modoc National Wildlife Refuge*—* * *

(v) Hunters may not possess more than 25 shells after leaving the parking

beaver, coyote, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

of the refuge subject to the following conditions:

(i) Hunting is permitted only on the opening weekend of the season and

refuge subject to the following condition: Permits are required.

* * * * *

(6) *Wassaw National Wildlife Refuge.*

(8) *Upper Quachita National Wildlife Refuge.* * * *

(i) Either-sex deer hunting with firearms will be for 9 consecutive days

florescent orange material visible above the waistline.

(viii) Firearms must be unloaded and

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(f) *California*—* * *

(8) *Modoc National Wildlife Refuge*—* * *

(v) Hunters may not possess more than 25 shells after leaving the parking area.

* * * * *

(j) *Idaho*—* * *

(5) *Kootenai National Wildlife Refuge.* Hunting of geese, ducks, and coots is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(p) *Louisiana*—* * *

(7) *Tensas River National Wildlife Refuge.* Hunting of ducks, coots, woodcock and snipe is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(y) *Nevada—(1) Pahranagat National Wildlife Refuge.* * * *

(iii) Hunting of waterfowl, coots, moorhens, and snipe is permitted only on the opening day of the season and alternate days throughout the remainder of the season.

* * * * *

(aa) *New Jersey—Edwin B. Forsythe National Wildlife Refuge.* * * *

(5) In Hunting Area C of the Barnegat Division, hunting is restricted to designated areas, with each site limited to one party of hunters.

(6) Use of Hunting Unit 3 of the Brigantine Division may be restricted to certified Young Waterfowl Program trainees for up to 30 days as posted.

* * * * *

(bb) *New Mexico—(1) Bitter Lake National Wildlife Refuge.* * * *

(i) Hunters must use and be in possession of only shells containing steel shot.

* * * * *

3. Section 32.22 is amended by revising paragraphs (d)(6) and (7); (e)(4)(i); (e)(10)(i); (i)(2); (j)(3)(i); (q)(3)(i), (q)(6), (q)(7)(i); (z)(1); (aa)(1)(ii); and (ff)(10)(ii); removing paragraph (hh)(2)(ii); redesignating paragraph (hh)(2)(iii) as (hh)(2)(ii); and revising paragraph (jj)(5) as follows:

§ 32.22 Refuge-specific regulations; upland game.

* * * * *

(d) *Arkansas*—* * *

(6) *Wapanocca National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(7) *White River National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, coyote, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(e) *California*—* * *

(4) *Lower Klamath National Wildlife Refuge.* * * *

(i) In the controlled pheasant hunting area, entry permits are required for all hunters 16 years of age or older for the first 4 days of hunting. Hunters under the age of 16 hunting the controlled area must be accompanied by an adult with a permit.

* * * * *

(10) *Tule Lake National Wildlife Refuge.* * * *

(i) In the controlled pheasant hunting area, entry permits are required for all hunters 16 years of age or older for the first 4 days of hunting. Hunters under the age of 16 hunting the controlled area must be accompanied by an adult with a permit.

* * * * *

(i) *Georgia*—* * *

(2) *Savannah National Wildlife Refuge.* Hunting of squirrels and feral hogs is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

* * * * *

(j) *Idaho*—* * *

(3) *Deer Flat National Wildlife Refuge.* * * *

(i) Hunting of pheasant, quail, and partridge is permitted on the Lake Lowell Sector.

* * * * *

(q) *Louisiana*—* * *

(3) *D'Arbonne National Wildlife Refuge.* * * *

(i) Hunting of raccoon and opossum is permitted only during January and December of odd numbered years and only during daylight hours during the State squirrel season.

* * * * *

(6) *Tensas National Wildlife Refuge.* Hunting of squirrel, rabbit and raccoon is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(7) *Upper Quachita National Wildlife Refuge.* * * *

(i) Hunting of raccoon and opossum is permitted only during December and January of odd numbered years and only during daylight hours during the State squirrel season.

* * * * *

(z) *Nevada—(1) Pahranagat National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the opening weekend of the season and alternate days throughout the remainder of the season.

(ii) Hunting of jackrabbit is permitted only during the regular State season for cottontail rabbit.

* * * * *

(aa) *New Mexico—(1) Bitter Lake National Wildlife Refuge.* * * *

(ii) Hunters must use and be in possession of only shells containing steel shot.

* * * * *

(ff) *Oregon*—* * *

(10) *Umatilla National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day and New Years Day on the McCormack Unit.

* * * * *

(jj) *Tennessee*—* * *

(5) *Tennessee National Wildlife Refuge.* Hunting of squirrel and raccoon is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

4. Section 32.32 is amended by revising paragraphs (d)(5); (i) (1), (3) and (6); (j); (n); (r) (3) and (4)(i); removing paragraph (r)(4)(ii); redesignating paragraph (r)(4) (iii) and (iv) as (r)(4) (ii) and (iii), respectively; revising paragraphs (r) (7) and (8)(i); removing paragraph (r)(8)(ii) and redesignating paragraphs (r)(8) (iii) and (iv) as (r)(8) (ii) and (iii), respectively; revising (cc)(1); adding paragraph (dd)(3)(iv); revising paragraphs (gg) (3) and (4); (11)(2) (v), (vii), (viii), (ix) and (3) and (oo)(1)(viii); adding paragraph (oo)(1)(x) and revising paragraph (rr)(2)(iv) as follows:

§ 32.32 Refuge-specific regulations; big game.

(d) *Arkansas*—* * *

(5) *White River National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(i) *Georgia—(1) Blackbeard Island National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(3) *Harris Neck National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(6) *Wassaw National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(n) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Hunting of deer is permitted on the Gardner and Big Timber Divisions and on Turkey and Otter Islands.

* * * * *

(r) *Louisiana*—* * *

(3) *Catahoula National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Daily permits are required.

* * * * *

(4) *D'Arbonne National Wildlife Refuge.* * * *

(i) Either-sex deer hunting with firearms will be for 9 consecutive days beginning with the first day of the Union Parish either-sex season.

* * * * *

(7) *Tensas National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(8) *Upper Quachita National Wildlife Refuge.* * * *

(i) Either-sex deer hunting with firearms will be for 9 consecutive days beginning with the first day of the Union Parish either-sex season.

* * * * *

(cc) Nevada—(1) Desert National Wildlife Range. Hunting of bighorn sheep and deer is permitted on designated areas of the range subject to the following conditions:

(i) Bighorn sheep and deer guides are required to obtain a Special Use Permit prior to taking clients on to the range.

(ii) Natural bighorn sheep mortalities (pick-up heads) found on the range are government property and possession or removal of them from the range is not permitted.

(dd) New Jersey—* * *

(3) *Supawna Meadows National Wildlife Refuge.* * * *

(iv) Use or possession of alcoholic beverages while hunting is prohibited.

* * * * *

(gg) *North Carolina*—* * *

(3) *Mackay Island National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Pee Dee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

* * * * *

(11) *South Carolina*—* * *

(2) *Carolina Sandhills National Wildlife Refuge.* * * *

(v) In addition to the State bag limits, two antlerless deer may be taken during each of the three hunt seasons. * * *

(vii) Hunters are required to wear a minimum of 500 square inches of florescent orange material visible above the waistline.

(viii) Firearms must be unloaded and cased or dismantled while being transported in a vehicle.

(ix) Hunting within 100 feet of maintained roads or within 500 feet of the paved wildlife drive is prohibited.

* * * * *

(3) *Pinckney Island National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(oo) *Texas—(1) Aransas National Wildlife Refuge.* * * *

(viii) Baiting in any form, introduction of any material or food as bait or attractant, or possession of such food or material is prohibited. This includes, but is not limited to, corn, grain, hay and mineral blocks. * * *

(x) Hunters must satisfy the entrance fee requirement authorized by the Emergency Wetlands Resources Act.

* * * * *

(rr) *Virginia*—* * *

(2) *Chincoteague National Wildlife Refuge.* * * *

(iv) Hunters, during the State firearms season, must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

* * * * *

Dated: October 4, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-26190 Filed 11-6-89; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
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the enforcement of arbitral awards; and (ii) certain procedural options for employees raising claims of discrimination.[8] In addition, the recommendation proposes that the resources counsel against two trial-type hearings on the same claim. These policies suggest that an employee who has been afforded a trial-type administrative hearing in a mixed case other important issues of Federal labor law.

The Conference therefore recommends that Congress amend the CSRA to provide for direct judicial

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 305

Complaints, Grievances and Appeals in the Federal Personnel System

AGENCY: Administrative Conference of the United States.

ACTION: Proposed recommendation and notice of meeting.

SUMMARY: The Administrative Conference's Committee on Governmental Processes has under consideration a draft recommendation on procedures for handling complaints, grievances and appeals in the Federal personnel system. Interested persons are invited to comment on the draft recommendation. Copies of the background report are available on request.

DATES: Comments should be submitted no later than November 17, 1989. The committee may hold a meeting for further discussion of the recommendation on November 22, 1989, at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: 202–254–7065. Comments may also be submitted to this address.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Governmental Processes has under consideration a draft recommendation on procedures for handling complaints, grievances and appeals in the Federal personnel system. The proposed recommendation is based in part on a draft report by Professor William V. Luneburg of the University of Pittsburgh School of Law. The text of the draft recommendation is printed in full below. Copies of the draft report are available from the Office of the Chairman of the Administrative Conference. The public is invited to submit comments on the draft recommendation. Comments should be sent to the address given above not later than November 17, 1989.

The Conference's Committee on Governmental Processes may hold a meeting on Wednesday, November 22, 1989, for further discussion of the draft recommendation. If the meeting takes place, it will be at 9:30 a.m., at the offices of Covington and Burling, 1201 Pennsylvania Avenue NW., Washington, DC (11th floor).

Important note: For information on whether this meeting will actually take place, please call David M. Pritzker at the Office of the Chairman after November 17.

It is anticipated that a recommendation will be proposed for consideration by the Administrative Conference at its Plenary Session scheduled for December 14 and 15, 1989.

Proposed Recommendation

In 1978 Congress enacted the most comprehensive revision of the Federal civil service laws since the adoption of the Pendleton Act of 1883. The Civil Service Reform Act (CSRA) of 1978 created new institutions and processes for personnel management, including a substantially restructured system for considering complaints, grievances and appeals filed by Federal employees in response to personnel actions.[1] Those actions include removal from the service, reductions in pay or grade, suspensions, furloughs, promotion and award decisions, and reductions-in-force, to name only a few. An agency decision to take such action may be founded on a variety of considerations including inadequate performance and the need to discipline for service-connected conduct.

Congress' 1978 revision of the framework for considering employee complaints, grievances and appeals was in part prompted by the confusing, complex and time-consuming nature of the existing procedures. Those were seen as intimidating to both employees and managers and, therefore, likely to deter managers from taking appropriate personnel action and to discourage employees from pursuing available avenues to vindicate their rights.

Nevertheless, the statutory framework created in 1978 retained considerable complexity, due in large part to the expanded scope of negotiated grievance procedures available to Federal employees included in collective bargaining units and to various compromises made in the legislative process. The monetary and other costs resulting from the CSRA, both for individual federal employees and Federal agencies (whether they act as employers or administrators of the system), have proven to be very significant. Complexity and redundancy have led to confusion on all sides and delays in final resolution of controversies, accompanied by predictable and substantial resource commitments.

The Administrative Conference believes that procedures for resolving federal employee disputes should be as simple, fair, and economical as feasible. The present recommendation suggests certain procedural elements that we believe would help achieve these goals. We recognize, of course, that the competing interests that led to the current scheme continue to exist. While we cannot advise Congress on how to make political choices among these interests, the recommendation identifies some specific areas where simplification is possible without loss of fairness or effectiveness.

The recommendation focuses on three main areas: (i) The Government's right to appeal to the courts in cases involving claims of discrimination; (ii) the enforcement of arbitral awards; and (iii) certain procedural options for employees raising claims of discrimination.[2] In addition, the recommendation proposes that the Office of Personnel Management and other agencies closely scrutinize and, where appropriate, seek ways to improve the adequacy of agency administrative grievance procedures and the patterns of communication within agencies regarding the workings of the complaint, grievance and appeal system.

The Conference has determined not to recommend any change to the existing structure for administrative adjudication of "mixed" cases. These are controversies involving employment actions appealable to the MSPB, where an employee alleges that unlawful discrimination was a basis for the agency's action. The statutory procedure for mixed cases provides the opportunity for sequential consideration by the MSPB and the EEOC, with the possibility of further administrative proceedings before a Special Panel consisting of one member of the MSPB, one member of the EEOC, and a chairman appointed by the President with the advice and consent of the Senate. Through these provisions, the CSRA embodies Congress' effort to bring to bear both the MSPB's expertise in general issues of personnel law and the EEOC's expertise with discrimination issues.

In most mixed cases presented to the EEOC, the Commission has accepted the MSPB decision and, where it has not, the MSPB has deferred to the Commission's expertise in matters of discrimination law. During the first ten years of the CSRA, there have been only three Special Panel proceedings. Despite the complexity of the procedure, the intricate balance of expertise that underlies this jurisdictional arrangement suggests that no change should be recommended.

A. Cases Raising Claims of Discrimination

1. *A single hearing in mixed cases.* Under present law Federal employees, unlike employees in the private sector, on allegations of employment discrimination may obtain a full trial-type hearing at the MSPB and, if unsuccessful, obtain a second de novo adjudicatory hearing in the district court.

General policies favoring the conservation of judicial and other resources counsel against two trial-type hearings on the same claim. These policies suggest that an employee who has been afforded a trial-type administrative hearing in a mixed case should be entitled only to judicial review on the administrative record [3]—as is generally appropriate for formal administrative adjudications. This recommendation assumes that the administrative adjudication would afford the opportunity for a full evidentiary hearing on the record on all relevant matters. To eliminate duplicate trial-type hearings, Congress should provide that an employee with a mixed case may *either* seek a trial-type administrative hearing (with subsequent review in the court of appeals) *or* a district court trial, but not both.

2. *Government's right to appeal in discrimination cases.* Under existing law the government's opportunity to seek direct judicial review of administrative and arbitral decisions in discrimination cases is either non-existent [4] or uncertain. Moreover, such review is in many cases contingent on the government's refusing to comply with administrative or arbitral decisions.

Congress should expressly provide that where the Director of OPM determines that an administrative or arbitral decision in a case raising claims of discrimination constitutes an incorrect interpretaton of civil service or discrimination law that may have a substantial impact, the Director should be authorized to petition for judicial review in the United States Court of Appeals for the Federal Circuit. The granting of such a petition should be within the discretion of the reviewing court (as it currently is in non-mixed cases).

B. Enforcement of Arbitration Awards

Although Federal employee grievance arbitration awards are intended to be binding, Federal agencies do not always comply with them. Under the CSRA, the only mechanism available to a Federal employee seeking to enforce an arbitral award is an unfair labor practice proceeding before the FLRA. Such a proceeding requires filing of a compliant by the Authority's General Counsel, and a hearing before the FLRA, followed by judicial review and enforcement of the resulting FLRA order. This procedure for enforcement of arbitration awards can be confusing and time-consuming and can divert the FLRA's resources from other important issues of Federal labor law.

The Conference therefore recommends that Congress amend the CSRA to provide for direct judicial enforcement of Federal sector grievance arbitration awards in the Federal Circuit, where arbitration awards in the major performance and disciplinary actions are now reviewed. In the enforcement proceeding, the non-complying agency should be limited to raising only those legal issues that were raised before the FLRA in the arbitral review proceeding.

C. Agency Administrative Grievance Systems

Agency administrative grievance systems have increasing importance as the only [5] avenue of redress available to an individual employee in cases not falling within MSPB or EEOC jurisdiction or within the scope of a negotiated grievance procedure. Information about the usage and effectiveness of these systems is difficult to obtain. Further studies should be undertaken by the Office of Personnel Management and other agencies to ensure that these systems in fact provide fair, efficient, and timely resolution of workplace disputes. In reviewing these processes, agencies give careful consideration to alternative means of dispute resolution.

D. Better Communication Within Agencies and to Employees

To use the personnel grievance system effectively, employees must have clear and reliable information about options available to them and the consequences of choosing one route over another. The Office of Personnel Management and other agencies should seek to communicate such information in as straightforward and clear a manner as possible.

Multiple avenues for relief, even with the changes recommended by the Conference, present the danger of parallel, duplicative proceedings. Internal organizational restructuring, installation of systems of computer case tracking, or other measures could enable agencies to discover and eliminate instances of duplicaton.

Recommendation

A. Cases Raising Claims of Discrimination

1. Congress should amend the Civil Service Reform Act of 1978 to provide that a Federal employee who raises (or

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[1] Five institutions share in the administration of the CSRA:

1. Office of Personnel Management (OPM), which is vested with the general authority to execute, administer and enforce the laws and rules governing the civil service except with respect to those functions vested in other agencies;
2. Merit Systems Protection Board (MSPB), which is an independent adjudicatory body charged with hearing and deciding employee appeals from agency personnel actions of various kinds including major performance and disciplinary actions;
3. Office of the Special Counsel (OSC), which is charged with the investigation and prosecution before the MSPB of requests for corrective and disciplinary action where prohibited personnel practices have allegedly occurred;
4. Equal Employment Opportunity Commission (EEOC), which enforces various anti-discrimination statutes as they apply to both public and private employment, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Rehabilitation Act; and
5. Federal Labor Relations Authority (FLRA), which is an independent agency charged with hearing and deciding complaints of unfair labor practices and reviewing arbitration awards on matters falling within the scope of negotiated grievance procedures established by collective bargaining agreements.

[2] "Discrimination" refers to discrimination on the basis of race, color, religion, sex, national origin, age, and handicapping condition.

[3] See, e.g., *Kremer* v. *Chemical Construction Corp.*, 456 U.S. 461 (1982).

[4] See, e.g., *Moore* v. *Devine*, 780 F.2d 1559 (11th Cir. 1986).

[5] See, e.g., *Harrison* v. *Bowen*, 815 F.2d 1505 (D.C. Cir. 1987).

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could raise) a claim of discrimination in a personnel case and who then has a full trial-type, on-the-record administrative adjudication, should be entitled to subsequent judicial review on the administrative record under the substantial evidence test, but not a judicial trial de novo.

2. Congress should expressly provide that the Director of the Office of Personnel Management may petition the Court of Appeals for the Federal Circuit for judicial review of final administrative and federal sector grievance arbitral decisions involving claims of discrimination. Review should extend to issues of civil service law and issue of discrimination law, but should be limited to decisions likely to have a significant impact. The granting of a petition for review should be at the discretion of the Court. There should be a short time limit on OPM's right to file such petitions.

B. Enforcement of Arbitration Awards

Congress should amend the Civil Service Reform Act of 1978 to provide that where the Federal Labor Relations Authority has entered an order in favor of an employee with regard to a grievance arbitration award (or such an arbitration award in favor of an employee has otherwise become binding as a matter of law), and where the employing agency does not comply with the order in the Federal Circuit. In the enforcement proceeding, the employing agency should be permitted to raise only those legal issues that were presented to and considered by the FLRA in its review of the arbitration award.

C. Agency Administrative Grievance Systems

The Office of Personnel Management and individual agencies should review the structure and operation of agency administrative grievance systems to ensure that they provide a fair, efficient and timely avenue for consideration and appropriate redress of employee workplace disputes. Such reviews should include consideration of use of alternative means of dispute resolution.[*]

D. Better Communication Within Agencies and to Employees

1. Each agency should take steps to ensure that there are consistent patterns of communication among its personnel, labor relations, and equal employment opportunity staffs to reduce the likelihood of parallel, duplicative proceedings in personnel actions where such duplication is not permitted by law.

2. The Office of Personnel Management and other agencies should ensure that there exist written materials that inform Federal employees of their complaint, grievance and appeal options and the consequences of their choice of one complaint, grievance, or appellate route over another. These materials should be readily available to employees, written clearly and succinctly in plain English.

Dated: November 2, 1989.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 89-26306 Filed 11-6-89; 8:45 am]

BILLING CODE 6116-01-M

[*] See ACUS Recommendation 86-3, Agencies' Use of Alternative Means of Dispute Resolution, 1 CFR 305.86-3 (1987).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 43, 65, and 145

[Docket No. 25865]

RIN 2120-AC36

Repair Station and Repairmen Certification Rules; Regulatory Review; Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings; correction.

SUMMARY: By notice of October 24, 1989 (54 FR 43934; October 27, 1989), the Federal Aviation Administration (FAA) announced four public meetings in which the FAA will solicit information from the public concerning revision of the repair station rules, repairmen certification rules, and sections of the maintenance, preventive maintenance, rebuilding, and alteration rules as applicable to repair stations.

This notice corrects the location of the public meeting scheduled for December 12 and 13, 1989, in San Francisco, California as previously published. Due to earthquake damage, the San Francisco meeting will be held at Dunfey Hotel, 1770 South Amphlett Boulevard, San Mateo, California 94402. The date and time for the meeting for both days will remain unchanged: December 12 and 13, 1989, 9:00 a.m. to 4:00 p.m. with registration and informal discussions with FAA panel members at 8:00 a.m.

FOR FURTHER INFORMATION CONTACT: Questions concerning the logistics of the meeting should be directed to Barbara Crawford, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3760. For questions concerning the subject matter of the meetings, contact Leo Weston, Aircraft Maintenance Division (AFS-320), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8363.

Issued in Washington, DC on October 31, 1989.

Daniel C. Beaudette,

Acting Director, Flight Standards Service.

[FR Doc. 89-26171 Filed 11-6-89; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 110

[CGD8-89-12]

Anchorage Grounds; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering amending the anchorage regulations on the Lower Mississippi River by establishing a new deep draft anchorage. This action is necessary to provide needed additional anchorage space for deep draft vessels.

DATE: Comments must be received on or before December 22, 1989.

ADDRESS: Comments should be mailed to Commander, Eighth Coast Guard District (OAN), Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1209 at the above address. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG J.D. Irino, Project Officer, Commander, Eighth Coast Guard District (OAN), Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, Tel. (504) 589-4555.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice, CGD8-89-12, the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before the final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are LTJG J.D. Irino, Project Officer, Eighth Coast Guard District Aids to Navigation Branch, and CDR J.A. Unzicker, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The U.S. Army Corps of Engineers conducts revetment work along the banks of the Mississippi River to protect against erosion and caving. This work is essential to preserve the levee system. Currently, articulated concrete mattress revetment is used and federal law prohibits vessels from anchoring over this revetment. Members of the maritime community have expressed their concerns that this revetment work has a devastating impact on the amount of available anchorage space. To alleviate these concerns, the Corps of Engineers formed a study team consisting of the Coast Guard, Pilots, the New Orleans Steamship Association, and the Corps of Engineers.

Currently there are 14 anchorages which have reduced usable space due to revetment ranging from the Lower Sunshine Anchorage at mile 167.1 down to the Boothville Anchorage at mile 12.2. Typically, the revetment extends 400 feet out into an anchorage thereby reducing it's usable space by one-half. The Corps of Engineers plans to revet Lower Nine Mile Point (mile 62.7 to mile 85.0) the fall of 1989. Anchorages at New Orleans General (mile 90.5 to mile 91.5), Belle Chasse (mile 73.2 to mile 75.3), Wills Point (mile 66.8 to mile 67.7), and Ostrica (mile 23.5 to mile 24.3) are designated critical, requiring close monitoring for future work.

In September of 1988, the Coast Guard withdrew proposed rulemaking for the establishment of a permanent anchorage from mile 153.3 to mile 155.0 due to the lack of compelling need for additional anchorage space in the area at the time. However, due to the dwindling available space for anchoring ships on the Lower Mississippi River, the Coast Guard proposes to establish an anchorage from mile 153.3 to mile 155.5 AHOP LMR. From mile 153.3 to mile 154.5 the anchorage will have a width of 700 feet measured 100 feet from the riverward edge of the Belmont Revetment located 300 feet from the Low Water Reference Plane (LWRP). From mile 154.5 to mile 155.5 the anchorage will have a width of 1100 feet as measured from the LWRP. This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of part 110.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification:

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). In the same area which the anchorage is proposed, a permit to establish a barge fleeting and midstream transfer operation has been filed with the Corps of Engineers and is pending approval. Due to the lack of sufficient anchorage space for the Port of New Orleans, the Coast Guard feels the location would better serve the public interest as an anchorage area. If an anchorage is established, the permit to build such an operation will be denied. However, there will be a positive impact on boat launch and ship support facilities. This regulation will establish an anchorage 2.2 miles long. The new anchorage will enhance safe navigation by providing an additional area out of the navigable channel for ships to anchor.

Since this proposal will only impact a potential barge fleeting and midstream transfer operation and have a positive affect on boat launch and ship support facilities, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation:

In consideration of the foregoing, the Coast Guard proposes to amend part 110 of title 33, Code of Federal Regulations as follows:

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 106-1(g). Sec. 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.195(a)(31) is added to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(31) *Belmont Anchorage.* (Mile 153.3 to mile 155.5 above Head of Passes). The waters bounded by a line connecting the following points:

Latitude	*Longitude*
30°00'07.0" N	90°48'00.0" W
30°00'05.0" N	90°47'55.0" W
30°00'44.0" N	90°47'08.0" W
30°00'39.0" N	90°47'01.0" W
29°59'15.5" N	90°46'30.0" W
29°59'23.0" N	90°46'37.0" W

and thence along the left descending bank to the point of beginning.

Dated: October 23, 1989.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 89-26065 Filed 11-6-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3678-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Denial

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to deny a petition submitted by Allegan Metal Finishing Company (Allegan), Allegan, Michigan, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis

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from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of a fate and transport model and its application in evaluating the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned wastes, once they are disposed of.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until December 22, 1989. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this proposed decision and/or the model used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by November 22, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-89-ALDP-FFFFF".

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW. (Room M2427), Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Chichang Chen, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4671.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and § 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

This petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, the Agency evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). Based on this review, the Agency disagrees with the petitioner's claim that the waste is non-hazardous with respect to the original listing criteria. (Because the Agency found, based on this review, that the waste remains hazardous based on the factors for which the waste was originally listed, EPA today is proposing to deny the petition.) EPA also evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

For this delisting determination, the Agency used such information to identify plausible exposure routes for hazardous constituents present in the petitioned wastes, and is proposing to use a particular fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned wastes after disposal and to determine the potential impact of the unregulated disposal of Allegan's petitioned wastes on human health and the environment. Specifically, the model was used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constituents.

EPA believes that this fate and transport model represents a reasonable worst-case waste disposal scenario for the petitioned wastes, and that a reasonable worst-case scenario is appropriate when evaluating whether the wastes should be relieved of the protective management constraints of RCRA subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

Allegan petitioned the Agency for a one-time upfront exclusion (for wastes that have not yet been generated) based on a bench-scale waste treatment process (*i.e.*, a scaled down version of a proposed treatment system), untreated waste characteristics, and process descriptions. The Agency encourages the use of upfront delisting petitions because they have the advantage of allowing the applicant to know what treatment levels for constituents should be sufficient to render specific wastes non-hazardous, before investing in new or modified waste treatment systems. Therefore, upfront delisting will allow new facilities to receive exclusions prior to generating waste that, without upfront exclusions, would have been subject to management as hazardous waste. Upfront delistings for existing facilities could be processed concurrently during construction or permitting activities; therefore, new or modified treatment systems should be capable of producing wastes that are considered non-hazardous sooner than otherwise would be possible. At the same time, conditional batch testing requirements to submit data verifying that the delisting levels are achieved by the fully operational manufacturing/treatment systems will maintain the integrity of the delisting program and will ensure that only non-hazardous wastes are removed from subtitle C control. Conditions for upfront exclusions which the Agency proposes to grant are described on a petition-specific basis in the proposed Federal Register notice for each exclusion. However, because the Agency is proposing to deny Allegan's petition it is not necessary to specify conditions.

The Agency also considers the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, the Agency determined that, because Allegan is seeking a one-time upfront exclusion for wastes which have not yet been generated or disposed of, ground-water monitoring data collected from the petitioner's facility would not characterize the effects of the petitioned wastes on the underlying aquifer at the site(s) eventually used for disposal. Therefore, the Agency did not consider the ground-water monitoring data submitted by Allegan in the evaluation of the petition.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

A. Allegan Metal Finishing Company, Allegan, Michigan

1. Petition for Exclusion

Allegan Metal Finishing Company (Allegan), located in Allegan, Michigan, electroplates carbon steel with zinc chloride/zinc cyanide on a job shop basis. Allegan petitioned the Agency for a one-time upfront exclusion of wastewater treatment sludges, presently contained on-site in two sand seepage lagoons and proposed to be physically and chemically stabilized with 10 percent (by weight) reclaimed lime. Allegan's petitioned wastes are presently listed in 40 CFR 261.31 as EPA Hazardous Waste No. F006—"Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum". The listed constituents for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed) (see 40 CFR part 261, appendix VII).

Allegan petitioned to exclude its lime-stabilized lagoon sludges because it does not believe that the wastes will meet the criteria of the listing. Allegan believes that the lime-stabilized lagoon sludges, once generated, will be non-hazardous because the constituents of concern will either be present in insignificant concentrations or, if present at significant levels, will be in essentially immobile forms. Allegan also believes that these wastes will not be hazardous for any other reason (*i.e.*, there will be no additional constituents or factors that could cause the wastes to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d) (2)-(4). Today's proposal to deny this petition for delisting is the result of the Agency's evaluation of Allegan's petition.

2. Background

Allegan petitioned the Agency on June 23, 1986 for a one-time upfront exclusion of its lagoon sludges, proposed to be stabilized with reclaimed lime. Additional information was submitted in support of its petition on February 18, 1988, May 12, 1988, June 23, 1988, and July 5, 1988. In support of its petition, Allegan submitted (1) partial descriptions of its manufacturing and treatment processes, including schematic diagrams; (2) a partial list of raw materials (and Material Safety Data Sheets for all tradename materials) used in the manufacturing processes; (3) descriptions of procedures for stabilizing the lagoon sludges; (4) results from total constituent and EP analyses on representative samples (bench-scale) of the lime-stabilized lagoon sludges; (5) results from total oil and grease analyses on representative samples (bench-scale) of the lime stabilized lagoon sludges; (6) results from characteristics testing for ignitability and reactivity on representative samples (bench-scale) of the lime-stabilized lagoon sludges, including reactive cyanide and reactive sulfide analyses; and (7) total constituent analyses for those constituents listed in 40 CFR part 261, appendix IX on one sample of the reclaimed lime, which is to be used in

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full-scale stabilization of the lagoon sludges.

Allegan electroplates carbon steel with zinc chloride and zinc cyanide on a job shop basis. Various other metal coating operations, including chromating, are also conducted at the facility. The waste streams from Allegan's manufacturing processes contributing to Allegan's wastewater treatment plant include: Zinc chloride rinsewaters, zinc cyanide rinsewaters, chromate rinsewaters, acid and alkali rinsewaters, and boiler blowdown rinsewaters. Process wastewaters are treated on an individual basis. There are basically three waste types: cyanide wastes, chromate wastes, and acid and alkali wastes. All wastes flow by gravity from the plating lines into separate wastewater collection sumps. Wastes are then transferred to three 6,000 gallon tanks, which are used as reaction and storage vessels. Treatment for each waste type is performed batchwise as needed. Cyanide is destroyed through alkaline chlorination; chromate wastes are pH adjusted with acid and treated with sulfur dioxide to reduce the hexavalent chromium; the acid and alkali wastes are blended together to neutralize the waste streams. In addition, the chromate and zinc waste streams are treated with liquid caustic soda to precipitate metals as hydroxides. Following chemical treatment, wastes are discharged into one of two on-site seepage lagoons, also referred to as the north and south lagoons. (Allegan also claims that the only wastes discharged to the lagoons are the three waste types noted above.) The lagoons act as large sand filters. The treated wastewater passes through the soil and into the ground water, allowing suspended and precipitated solids to collect within the lagoons. The sludges contained in the two lagoons are proposed to be stabilized with 10 percent reclaimed lime and are the subject of today's notice. The sludges have been accumulating in the lagoons since late 1981/early 1982.

In its petition, Allegan provided scaled schematics of the two lagoons. From these schematics, the Agency estimated that the areas of the north and south lagoons are approximately 27,000 square feet and 9,700 square feet, respectively. For lagoons like Allegan's (*i.e.*, areas less than 40,000 square feet), petitioners are normally requested to divide each unit into four quadrants and randomly collect five full-depth core samples from each quadrant. The five full-depth core samples are then composited (mixed) by quadrant to produce a total of four composite samples (per lagoon or bed). See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530–SW–85–003), April 1985.

Allegan's original delisting petition submitted on June 23, 1986 included bench-scale demonstrations of lime stabilization of the waste with varied amounts of lime. Allegan concluded from these demonstrations that 10 percent reclaimed lime (by weight) would effectively stabilize their lagoon sludges. The samples used in the bench-scale demonstrations, however, were only taken from the south lagoon and were not collected and composited according to the above referenced protocols. In addition, Allegan tested only one sample (stabilized with 10 percent lime) for leachable levels of all the EP toxic metals.

The Agency, therefore, requested Allegan to submit new sampling and analytical data on both lagoons following the appropriate delisting sampling protocols. On February 18, 1988, Allegan submitted data for two samples which had been stabilized with 10 percent reclaimed lime (by weight). These two samples had been taken from a single composite sample which was composed of 25 full-depth cores from the south lagoon. The Agency did not believe that these two samples completely characterized the petitioned wastes because Allegan collected both samples from a single composite and this composite was only from one lagoon. The Agency believes, nevertheless, that these two samples adequately represent, for delisting purposes, the levels of hazardous constituents that are potentially present in the south lagoon waste. The Agency, therefore, decided to include these sample analyses in the evaluation of the petitioned south lagoon waste.

The Agency again requested that Allegan collect additional samples to complete the characterization of the wastes contained in each quadrant of both the north and south lagoons. On July 5, 1988, Allegan submitted analysis results for four samples collected from the north lagoon and four samples collected from the south lagoon that had been stabilized with 10 percent reclaimed lime (by weight). The Agency believes that Allegan used the appropriate sampling and compositing protocols for these samples. Therefore, a total of six lime-stabilized sludge samples from the south lagoon and four lime-stabilized sludge samples from the north lagoon were considered in the evaluation of Allegan's petition.

The analyses of the two samples submitted on February 18, 1988 included analyses for the total constituent concentrations (*i.e.*, mass of a particular constituent per mass of waste) of cadmium, chromium, nickel, lead, and cyanide; the extraction procedure (EP) leachate concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of the EP toxic metals and nickel; and total oil and grease. The analyses of the eight samples submitted on July 5, 1988 included analyses for the total constituent and EP leachate concentrations of the EP toxic metals, nickel, and cyanide. Analyses for total oil and grease, total sulfide, reactive cyanide and sulfide, and results on the characteristic of ignitability were also provided. On June 23, 1988, Allegan submitted analysis data on one sample of the reclaimed lime, which is to be used in the stabilization of the lagoon sludges. This sample was analyzed for the total constituent concentrations of those constituents listed in 40 CFR part 261, appendix IX, including the EP toxic metals, nickel, cyanide, and sulfide.

3. Agency Analysis

Allegan used the following methods published in "EPA Methods for Chemical Analysis of Water and Wastes" to quantify the EP total constituent and leachable concentrations of the EP toxic metals, nickel, cyanide, and sulfide: Arsenic—Method 206.2, barium—Method 208.1, cadmium—Method 213.1, chromium—Method 218.2, lead—Method 239.2, mercury—Method 245.1, selenium—Method 270.2, silver—Method 272.1, nickel—Method 249.1, cyanide—Method 335.2, and sulfide—Method 376.1. Allegan used SW–846 Methods 9010 and 9030 to quantify the total constituent concentrations of reactive cyanide and reactive sulfide, respectively. Total constituent and EP toxicity analyses of the ten bench-scale lime-stabilized samples from the February 18, 1988 and July 5, 1988 submittals for the hazardous inorganic constituents revealed the maximum concentrations reported in Table 1. (Analysis for EP leachable concentrations of sulfide (or reactive sulfide) is not necessary because the Agency's level of regulatory concern is based on the total constituent concentration of reactive sulfide.) The Agency did not evaluate the samples collected by Allegan for the original bench-scale demonstration (submitted on June 23, 1988). These samples were not representative of the petitioned wastes since they were only taken from the south lagoon and were not collected and composited according to appropriate protocols.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND EP LEACHATE CONCENTRATIONS (PPM) BENCH-SCALE LIME-STABILIZED LAGOON SLUDGES

Constituents	Total constituent analyses		EP leachate analyses	
	North lagoon	South lagoon	North lagoon	South lagoon
Arsenic	1.1	1.6	<0.005	<0.005
Barium	28	37.7	<1.0	3.3
Cadmium	20	19	0.110	0.17
Chromium	2,230	16,800	0.075	0.075
Lead	40	210	1.0	1.0
Mercury	0.77	0.83	0.00056	0.0016
Nickel	31	55	0.24	0.35
Selenium	<0.98	<0.98	0.013	0.0072
Silver	6.6	19	0.026	0.043
Cyanide	242	1,020	0.19	0.04
Cyanide (reactive)	<0.5	<0.5		
Sulfide	37.0	4.16		
Sulfide (reactive)	<0.5	<0.5		

<: Denotes that the constituent was not detected at the detection limit specified in the table.

The detection limits in Table 1 represent the lowest concentrations quantifiable by Allegan, when using the appropriate analytical methods to analyze the petitioned wastes. (Detection limits may vary according to the waste and waste matrix being analyzed (*i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.)

Using SW–846 Method 3540, Allegan determined that oil and grease levels ranged between 0.0005 and 0.013 percent in the bench-scale lime-stabilized sludges from the south lagoon. The maximum oil and grease content reported for the bench-scale lime-stabilized sludges from the north lagoon was 0.0025 percent. Therefore, the EP analyses did not have to be modified in accordance with the Oily Waste EP (OWEP) methodology. Wastes having more than one percent total oil and grease may either have significant concentrations of constituents of concern in the oil phase, which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample. See SW–846 Method 1330.

Allegan provided test data indicating that the bench-scale lime-stabilized sludges are not ignitable. Allegan concluded that because the samples were neither liquid nor aqueous in nature that they were not corrosive. Testing of the bench-scale lime-stabilized sludges for reactivity yielded negative results. See 40 CFR 261.21, 261.22, and 261.23, respectively.

Allegan used SW–846 Methods 7040 through 7760 to analyze the total constituent concentrations of the EP toxic metals, nickel, and antimony in the reclaimed lime, which is to be used in the stabilization of the lagoon sludges. Allegan used SW–846 Methods 9010 and 9030 to analyze the reclaimed lime for the total constituent concentrations of cyanide and sulfide, respectively. The total constituent concentrations of the EP toxic metals, nickel, cyanide and sulfide reported for the reclaimed lime are presented in Table 2.

TABLE 2.—TOTAL CONSTITUENT CONCENTRATIONS (PPM) RECLAIMED LIME SAMPLE

Constituents	Total constituent analyses
Antimony	340
Arsenic	0.25
Barium	1,200
Cadmium	4.9
Chromium	<1.0
Lead	15
Mercury	<0.04
Nickel	<20
Selenium	0.19
Silver	5.6
Cyanide	3.7
Sulfide	820

<: Denotes that the constituent was not detected at the detection limit specified in the table.

Allegan submitted a signed certification stating that approximately 1,980 and 1,000 cubic yards of stabilized sludge will result from treatment of the wastes contained in the north and south lagoons, respectively. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts Allegan's certified estimate of 2,980 cubic yards for the total volume of lime-stabilized sludge.

EPA does not generally verify submitted test data before proposing delisting decisions, and has not verified the data upon which it proposes to deny Allegan's petition. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has initiated a spot-check sampling and analysis program to verify the representative nature of data for some percentage of the submitted petitions, and may select facilities likely to be proposed for exclusion for spot-check sampling.

4. Agency Evaluation

The Agency considered the appropriateness of alternative disposal scenarios for stabilized sludges such as Allegan's and decided that disposal in a landfill is the most reasonable, worst-case scenario for these wastes. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The Agency evaluated Allegan's petitioned wastes using its vertical and horizontal spread (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7862 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for these notices for a detailed description of the VHS model and its parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters to predict reasonable worst-

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case contaminant levels in ground water at a hypothetical receptor well or compliance point (*i.e.*, the model estimates the dilution of a toxicant within the aquifer for a specific volume of waste). The Agency requests comments on the use of the VHS model as applied to the evaluation of Allegan's wastes.

Specifically, the Agency used the VHS model to evaluate the mobility of the hazardous inorganic constituents detected in the EP extract of representative samples of Allegan's bench-scale lime-stabilized lagoon sludges. The Agency's evaluation of the stabilized lagoon sludges, using the estimated waste volume of 2,960 cubic yards and the maximum EP leachate concentrations reported in the petition for the February 18, 1988 and July 5, 1988 bench-scale stabilized lagoon sludge samples (see Table 1), generated the compliance-point concentrations shown in Table 3. The Agency did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, arsenic for both lagoons and barium for the north lagoon) from Allegan's bench-scale lime-stabilized lagoon sludges because they were not detected in the EP extract using the appropriate analytical test methods (see Table 1). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) BENCH-SCALE LIME-STABILIZED LAGOON SLUDGES

Constituents	Compliance-point concentrations		Levels of regulatory concern [1]
	North lagoon	South lagoon	
Barium	([2])	0.46	1.0
Cadmium	0.015	0.024	0.01
Chromium	0.01	0.01	0.05
Lead	0.14	0.14	0.05
Mercury	0.00008	0.00025	0.002
Nickel	0.033	0.049	0.7
Selenium	0.0018	0.001	0.01
Silver	0.0036	0.006	0.05
Cyanide	0.026	0.0056	0.7

[1] See "Docket Report on Health-based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket.

[2] Leachable barium levels for the North Lagoon were not evaluated using the VHS model because barium was not detected in the EP extract using appropriate analytical methods.

The stabilized lagoon sludge samples (as shown in Table 3) exhibited cadmium and lead concentrations at the compliance point above the health-based levels used in delisting decisionmaking. Leachable lead levels in eight lime-stabilized sludge samples (four from each lagoon) failed the VHS model evaluation. Four of the ten lime-stabilized lagoon sludge samples (two from each lagoon) exhibited leachable cadmium levels which failed the VHS model evaluation. The lagoon sludges exhibited barium, chromium, mercury, nickel, selenium, silver, and cyanide levels at the compliance point below the health-based levels used in delisting decision-making.

The concentrations of reactive cyanide and reactive sulfide in the stabilized lagoon sludge (see Table 1) are below the Agency's interim standards of 250 and 500 ppm, respectively. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, Internal Agency Memorandum in the RCRA public docket. Therefore, reactive cyanide and sulfide levels are not of concern.

On the basis of test results and information provided by Allegan, pursuant to 40 CFR 260.22, the Agency believes that Allegan's stabilized lagoon sludges do not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

The Agency also reviewed Allegan's raw material list and material safety data sheets; however, without detailed descriptions of the manufacturing processes, the Agency was unable to determine if the lagoon sludges will contain any other hazardous constituents (*e.g.*, those listed in 40 CFR part 261, appendix VIII) used at the facility or formed as by-products in the processes. Because Allegan did not indicate how the raw materials are used in the manufacturing processes or how raw materials are segregated from process wastes, the Agency believes that additional hazardous constituents, other than those tested for, could potentially be present in the petitioned wastes. The Agency typically requires petitioners to either provide analytical data or mass balance calculations to quantify levels of hazardous constituents potentially present in petitioned wastes. The Agency requested this information from Allegan on November 18, 1987 and April 6, 1988; however, Allegan did not provide the requested information. Because there was sufficient basis to propose denial of the petition without this information, the Agency chose to proceed with the review of the petition.

5. Conclusion

The Agency believes that Allegan has not demonstrated that its petitioned wastes will not be hazardous. Based on its evaluation of the petition, the Agency determined that the composite samples collected from the north and south lagoons and treated with 10 percent reclaimed lime adequately represent constituent variation of the hazardous inorganic constituents that may occur in the wastes petitioned for exclusion. The Agency's evaluation of analytical data provided by Allegan indicate that the bench-scale lime-stabilized lagoon sludges exhibit concentrations of leachable cadmium and lead that yield compliance-point concentrations exceeding the Agency's health-based levels used in delisting decision-making. Furthermore, the Agency believes that a more complete characterization of hazardous constituents in the lagoon sludges might have shown the presence of other hazardous constituents. The Agency proposes to deny Allegan Metal Finishing Company's petition for a one-time upfront exclusion of its wastewater treatment sludges described in its petition as EPA Hazardous Waste No. F006 and contained in its two sand seepage lagoons at its Allegan, Michigan facility. These wastes should continue to be subject to regulation under 40 CFR parts 260 through 268 and the permitting standards of 40 CFR part 270.

III. Effective Date

This rule, if finally promulgated, will become effective immediately upon such final promulgation. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage its wastes as hazardous before and during the Agency's review of its petition. Because a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this denial should be effective immediately upon final promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The proposed denial of this petition, if promulgated, would not impose an economic burden on this facility because prior to submitting and during review of the petition, this facility should have continued to handle its wastes as hazardous. The denial of the petition means that they are to continue managing their wastes as hazardous in the manner in which they have been doing, economically, and otherwise. There is no additional economic impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or a delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities. The facility included in this notice may be considered a small entity, however, this rule only affects one facility in one industrial segment. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VII. List of Subjects in 40 CFR Part 261

Hazardous Materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: October 23, 1989.

Robert Wayland,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 89–26105 Filed 11–6–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–283; RM–5222]

Radio Broadcasting Services; Potosi, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of petition.

SUMMARY: This document dismisses a petition filed by EZ Communications, Inc. to substitute FM Channel 267A for Channel 249A (vacant) at Potosi, Missouri. The proposed substitution was intended to enable FM Station KYKY, St. Louis, Missouri, to upgrade to a full Class C facility. EZ Communications' license for KYKY has been modified to specify operation as a C1 facility. The C1 Channel does not require a channel substitution at Potosi, and no other interest has been expressed in the channel substitution in the community. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 86–283, adopted September 29, 1989, and released October 27, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–25852 Filed 11–6–89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 91050–9250]

Foreign Fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed 1990 initial specifications of groundfish and apportionment of reserves; request for comments.

SUMMARY: NOAA proposes 1990 total allowable catches (TACs) and apportionments for each category of groundfish and apportionment of groundfish reserves in the Gulf of Alaska. Information relevant to management of Pacific halibut bycatch and prohibited species catch (PSC) limits for fully utilized groundfish species, which might pertain to joint ventures, is provided. This action is

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necessary to provide the public with the Secretary of Commerce's (Secretary) preliminary determinations of the initial TACs, apportionments, PSC limits, and reserve apportionments, and to obtain public comment on those determinations. The intended effect of this notice is to provide the Secretary with the best available information on which to base final 1990 initial specifications of TAC and apportionments and to provide opportunity for public participation in this decision-making process.

DATE: Comments will be received through December 1, 1989.

ADDRESS: Comments should be sent to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 021668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

This notice invites comments on management proposals related to groundfish management in the Gulf of Alaska for the 1990 fishing year. These proposals are: (A) Specifications of TAC and apportionments among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (B) apportionments of groundfish reserves, (C) PSC limits for fully utilized groundfish species, and (D) assumed Pacific halibut bycatch and mortality rates. Each of these proposals is discussed below:

(A) Total Allowable Catches

Specifications of TACs for groundfish species in the Gulf of Alaska are authorized by the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This FMP was developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations appearing at 50 CFR 611.92 and part 672. The sum of the TACs for all species must fall within the combined optimum yield (OY) range of 116,000–800,000 metric tons (mt), which is established for these species.

TACs are apportioned initially among DAP, JVP, reserves, and TALFF for each species under §§ 611.92 and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processing vessels authorized to receive U.S.-harvested groundfish. TALFF amounts are intended for harvest by foreign fisherman. The reserves for the Gulf of Alaska are 20 percent of the TAC for pollock, Pacific cod, and flatfishes (formerly referred to as "flounder"), and the "other species" category. These reserve amounts are set aside for possible reapportionment to DAP or to JVP if the initial apportionments prove inadequate. Reserves which are not reapportioned to DAP may be reapportioned to JVP or TALFF. Reserves not reapportioned to JVP may be reapportioned to TALFF.

Under § 672.20(c)(1), the preliminary specifications of DAP will be the amounts harvested during the previous year plus any additional amounts the Secretary finds will be harvested by the U.S. fishing industry for delivery to U.S. processors. The preliminary specifications of JVP will be amounts harvested during the previous year plus any additional amounts the Secretary finds will be harvested by the U.S. fishing industry for delivery to foreign processors, subject to reductions to accommodate increasing DAP. These additional amounts will reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and the extent to which U.S. processing and harvesting will occur during the coming year. These projections will be based on the latest reliable information that is available, including industry surveys, market data, and stated intentions by representatives for the U.S. fishing industry.

The Council met during September 28–29, 1989, to review information on the status of groundfish stocks. Much of that information is contained in the Stock Assessment and Fishery Evaluation (SAFE) Report available from the Council upon request. Some additional information may also be available to the Council at its December 1989 meeting. The Council considered recommendations made by its Advisory Panel (AP), its Scientific and Statistical Committee (SSC), and the Plan Team for the Gulf of Alaska. For the first time, the Plan Team recommended separate acceptable biological catches (ABCs) for arrowtooth flounder, deepwater flatfish, and shallow water flatfish. Deepwater flatfish consists of rex sole, Dover sole, and flathead sole. The shallow water flatfish category consists of rock sole, yellowfin sole, butter sole, starry flounder, and other flatfish not specifically defined. In the past, the TACs for these species groups have been combined into a single "flounder" TAC. The general designation of "flatfish" is used for the first time to be consistent with a similar general designation in the Bering Sea and Aleutian Islands. The SSC adopted the Plan Team's recommended ABCs for sablefish. The SSC recommended ABCs for pollock, Pacific cod, flatfish groups, and rockfish groups that differed from the Plan Team's. The AP recommended TACs for each target species and the "other species" category equal to the SSC's recommended ABCs. The Council also considered public testimony.

A summary of the Plan Team's SAFE report, which formed the basis for deliberations by the AP, SSC, and the Council, and also Council recommended TACs for each of the target species and "other species" categories follow:

Pollock

Results from the 1989 hydroacoustic survey of Gulf of Alaska pollock indicate a continued decline in the abundance of pollock in 1989. The continued decline is due to the lack of any strong year class recruiting to the fishery since the 1979 year class. Estimates of the 1989 biomass for ages 3+ to 10+ range from 197,000 to 721,000 mt. A preliminary estimate of age 2+ from the 1989 hydroacoustic survey is 305,000 mt.

The 1989 stock assessment showed that, given the range of recruitment possibilities, a quota of 10,000 to 65,000 mt could be taken in 1990. At this time only preliminary information is available on the abundance of the 1986–88 year classes. However, the 1986 year class is likely below average, because year classes of age 2 and 3 fish were not abundant in the hydroacoustic and fishery data.

Considering the uncertainty in the current condition of the stock in the Western/Central Regulatory Area, the Plan Team recommended an ABC range of 10,000 to 37,500 mt, of which no more than 6,250 mt should be harvested from the Shelikof Strait District. The Plan Team had no new information for pollock stocks in the Eastern Gulf of Alaska and suggested the 1990 ABC be set at the 1989 level of 3,400 mt. The Plan Team recommended that a TAC of 10,000 mt be established between 151°30' and 147° W. longitudes for data collection purposes.

The SSC believed that the Plan Team's estimated ABC is too conservative and recommended, that ABC be set at 58,000 mt in the Western/Central Regulatory Area with no more than 6,250 mt be allowed for harvest from the Shelikof Strait District. The SSC noted that an ABC of 58,000 mt was derived from the most pessimistic expectation for recruitment contained in the SAFE report, and resulted in a conservative ABC. It also provides an exploitation rate of 9.1 percent similar to the level at which stock biomass increased from previous low levels in the 1970s and similar to the 10 percent exploitation rate used in 1989.

On this basis, the Council adopted a preliminary ABC range for pollock of 13,400 to 61,400 mt for all of the Gulf of Alaska. Of this amount, ABC is set at 3,750 to 51,750 in the Western/ Central Regulatory Area, exclusive of the Shelikof Strait District. The ABC for the Shelikof Strait District is 6,250 mt. No information is available to change the 3,400 mt ABC for pollock in the Eastern Regulatory Area. The pollock TAC for the Western/Central Regulatory area, excluding Shelikof Strait District, is proposed as a point value of 51,750 mt within the ABC range of 3,750 to 51,750 mt for this area. Proposed TACs for the Shelikof Strait District and Eastern Regulatory Area are 6,250 mt and 3,400 mt, respectively.

In addition, the Council proposes that a TAC of 10,000 mt of pollock be allowed between 151°30' and 147° W. longitudes during January 15–April 15, 1990. These dates encompass the usual pollock spawning period. The Council took this action to encourage exploratory fishing outside of the known spawning areas to determine if exploitable spawning stocks exist elsewhere.

Pacific Cod

The Pacific cod stock in the Gulf of Alaska is currently healthy. The best estimate of exploitable biomass is 498,044 mt. Although this value is about 11 percent less than the estimate of last year (558,700 mt), the reduction is primarily due to changes made in new mathematical procedures used in analysis, which in fact produce a better fit to the survey biomass estimates. The Plan Team recommended an ABC of 60,500 mt, based on the current exploitable biomass and exploitation rate of 10 percent. The SSC recommended that the ABC should be 120,000 mt, based on a higher exploitation rate of 25 percent.

The Council adopted a preliminary ABC range for Pacific cod of 60,500 to 120,000 mt, but proposed a preliminary TAC equal to 71,200 mt to minimize bycatches of Pacific halibut. TAC is apportioned to the management areas as follows: Western—13,500 mt; Central—52,000 mt; and Eastern—5,700 mt.

Flatfish

Flatfish stocks in the Gulf of Alaska are in good condition. Biomass estimates from surveys conducted in 1984 and 1987 show that the resource is stable. Current ABCs for flatfish stocks were estimated by applying F_{max} and $F_{0.1}$ exploitation rate levels to the 1987 biomass estimates, resulting in an ABC for all flatfish species of 722,000 mt. Gulf-wide flatfish catches in 1988 were less than 2 percent of this amount.

The Plan Team recommended that the flatfish complex be separated into three groups with separate ABCs: Deepwater flatfish at 171,300 mt; shallow water flatfish at 207,100 mt; and arrowtooth flounder at 343,300 mt. The Plan Team recommended that the ABC be apportioned to the individual management areas as the biomass is distributed. The SSC recommended ABCs lower than those recommended by the Plan Team on the basis that a more conservative exploitation rate is more appropriate. Accordingly, respective ABCs recommended by the SSC are 129,200 mt, 64,500 mt, and 194,600 mt for the deepwater flatfish, shallow water flatfish and arrowtooth flounder components of the flatfish complex.

The Council adopted the SSC's ABC ranges and proposed preliminary TACs that are equal to ABCs for the three flatfish categories as follows:

Deepwater flatfish—129,200 mt apportioned among the regulatory areas as follows: Western—21,500 mt; Central 89,900 mt, and Eastern—17,800 mt.

Shallow water flatfish—64,500 mt apportioned among the regulatory areas as follows: Western—30,200 mt; Central 52,200 mt; and Eastern—2,100 mt.

Arrowtooth flounder—194,600 mt apportioned among the regulatory areas as follows: Western—27,000 mt; Central 141,000 mt; and Eastern—26,600 mt.

Sablefish

The Plan Team recommended an ABC range of 25,000 to 36,300 mt for sablefish, based on the $F_{0.1}$ exploitation rate applied to pessimistic and point estimates of biomass, respectively. These values will be updated by results of sablefish longline surveys that were underway at the time the Plan Team developed the SAFE report. Preliminary results of a sablefish survey, conducted by the Alaska Department of Fish and Game in inside waters of Southeastern Alaska, indicate a significant decrease in catch per unit of effort from 1988 to 1989. The SSC adopted the Plan Team's recommendation for ABC, which in turn was adopted by the Council. The Council recommends preliminary TACs among the regulatory areas and districts as follows: Western—3,770 mt; Central—11,700 mt; West Yakutat—4,550 mt; and Southeast Outside/East Yakutat—5,980 mt.

Rockfish Assemblages

The same three categories of rockfish in the genus *Sebastes* are proposed to be managed in 1990 as in 1989. These categories are "other rockfish", pelagic shelf rockfish, and demersal shelf rockfish. They are described as follows:

Other rockfish—In the Western and Central Regulatory Areas and the Eastern Regulatory Area west of 137° W. longitude, "other rockfish" means the 16 species of slope rockfish and the 10 species of demersal shelf rockfish listed in footnotes 5 and 7, respectively, to Table 1 of this notice. TACs will be established for these combined assemblages in these management areas. In the Southeast Outside District, "other rockfish" means the 16 species of slope rockfish, only. TACs will be established for this assemblage of 16 species in the Southeast Outside District.

The Plan Team recommended an ABC range of 6,000 to 17,600 mt for the slope rockfish assemblage. An F_{max} exploitation rate derived from a conservative recruitment function and an F=M exploitation rate used to obtain the range, were adjusted due to concern that the proportion of shortraker and rougheye rockfish in the harvest is greater than their proportion in the assemblage biomass. Therefore, the assemblage exploitation rates have been adjusted downward to maintain exploitation rates of these species at the intended rates. The SSC however did not believe that reducing ABCs by 50 percent to protect shortraker and rougheye rockfish was warranted, because conservative estimates of biomass and exploitation rates were already used. The SSC recommended an ABC of 23,600 mt, which represents the midpoint of the ABC ranges that would have been obtained without reducing the estimates by 50 percent. The Council recommends an ABC range of 6,000–23,600 mt and proposes TACs be apportioned among the regulatory areas as follows: Western—3,750 mt; Central—6,500 mt, and Eastern—4,750 mt.

Pelagic shelf rockfish—In the Western, Central, and Eastern Regulatory Areas, pelagic shelf rockfish means the five rockfish species listed in footnote 6 to Table 1 of this notice. The Plan Team recommends an ABC range of 3,800 to 8,200 mt, based on fishing rates obtained from analyses of Pacific ocean perch stocks that were applied to biomass estimates of pelagic shelf rockfish. The SSC recommended an ABC of 6,600 mt and the Council adopted the SSC's recommendation. The

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Council recommends that TAC be set equal to its 1990 value, apportioned among the three regulatory areas as follows: Western—1,000 mt; Central—4,800 mt; and Eastern-600 mt.

Demersal shelf rockfish—In the Southeast Outside District of the Eastern Regulatory Area, demersal shelf rockfish means the ten rockfish species listed in footnote 7 to Table 1 of this notice. A TAC of 470 mt is proposed in the Southeast Outside District. No new information exists to estimate total biomass, exploitable biomass, or ABC for demersal shelf rockfish in the Southeast Outside District. The State of Alaska has adopted a rockfish management plan that establishes directed fishing quotas for each of the five management areas used by the State of Alaska, three of which are located in the Southeast Outside District. This plan also provides for some retention of demersal shelf rockfish in fisheries for other species after the closure of the directed fishery.

A combined quota of 370 mt has been established for the directed fishery in the three State of Alaska management areas that make up the Southeast Outside District. Based on past harvest records, bycatch needs, in other fisheries may be as high as 100 mt. The State of Alaska recommended that a TAC of 470 mt be set for the Southeast Outside District for the 1990 fishing year. The SSC did not recommend an ABC, but the Council recommends that ABC be 470 mt, and set TAC equal to ABC.

Thornyhead Rockfish

Longline and trawl surveys show somewhat conflicting information in thornyhead stock trends. Longline surveys suggest a decline while trawl survey data suggest an increase. However, the 1987 trawl survey provides the most reliable estimate of current exploitable biomass—86,700 mt. DAP catches continue to increase, with 1989 catches through August 12 being the highest recorded. The Plan Team recommended that ABC be set equal to 3,800 mt. However, a decline in the longline indices suggests that the current ABC value may not be sustainable. The SSC and the Council adopted the Plan Team's recommendation of a single TAC equal to ABC for the entire Gulf of Alaska.

Other Species

FMP procedures define the TAC for this category to be set at 5 percent of the sum of the TACs established for the target species categories.

The Council requested that the Secretary propose the above TACs under § 672.20(c)(1). Regulations implementing the FMP stipulate that initial reserves, equal to 20 percent of the TACs for pollock, Pacific cod, flatfish, and the "other species" category be established for possible reapportionment to DAP, JVP, or TALFF. The Council did not recommend the reserves should be withheld from DAP at this time, but instead recommended that DAP be set equal to TAC for each target species and the "other species" category. Section 672.20(c)(1) requires that JVP be set at least equal to amounts harvested in 1989, subject to reductions to accommodate any increases in DAP. Because JVP fishermen did not harvest any groundfish in 1989, the Council did not recommend any amounts for JVP. TALFF is set equal to zero, because the Secretary expects all species will be fully utilized by U.S. fishermen in 1990 in DAP fisheries.

The Secretary has reviewed the Council's recommendations for ABCs and the current specifications of TAC and DAP and proposes them in this notice to allow for public comment. Each ABC, TAC, and apportionment to DAP is subject to change following the December 1989 Council meeting. The final determinations of the extent to which U.S. processing and harvesting will occur during the coming year will be made based upon the public comments on this notice and a domestic processor survey made by the Regional Director in November 1989.

Any additional information on the actual plans of U.S. fishermen and processors for harvesting and processing groundfish will be considered by the Secretary when making his final decision on the Council recommendations for 1990 initial apportionments of TACs in the Gulf of Alaska.

(B) Apportionment of Groundfish Reserves

Under § 672.20(a)(2)(i), reserves are established for pollock, Pacific cod, flatfish, and the "other species" category. Under 672.20(d)(1)(ii) and (d)(3), the Secretary may apportion any amounts of any reserve to DAP. At this time, the Secretary has determined preliminarily that DAP will harvest all of the 1990 TACs and proposes that all of the reserves be apportioned to DAP.

(C) PSC Limits For Fully Utilized Species

Section 672.20(b)(1) specifies that if the Secretary, after consultation with the Council, determines that the TAC for any species or species group will be fully harvested in the DAP fishery, he may specify for each calendar year the PSC limit applicable to the JVP and TALFF fisheries for that species or species group. Any PSC limit specified shall be for bycatch only and cannot be retained. At this time, no PSC limits are provided, because DAP is set equal to TAC for each species, precluding any JVP and TALFF specifications.

(D) Assumed Pacific Halibut Bycatch and Mortality Rates

At this time the Secretary is reviewing Amendment 16 to the FMP, which among other measures, proposes to set aside for the 1990 fishing year regulations at § 672.20(f)(2)(i) that specify a framework procedure for setting PSC limits for Pacific halibut. Should the Secretary approve this measure, PSC limits will be established and apportioned to trawl and longline gear that are equal to 2,000 mt and 750 mt, respectively, with no further action by the Council, which otherwise would have recommended initial PSC limits at its December 1989 meeting.

The PSC limits in Amendment 16 were derived from industry sources. Assumed halibut bycatch and mortality rates that might be used while managing the 1990 groundfish fishery are derived from several sources, including older JVP catch data and more recent information reported by Alaska Department of Fish and Game observers on rates experienced by vessels while targeting on groundfish. These bycatch rates, expressed as percentages in the following tabulation, are proposed for use in projecting when the 1990 halibut PSC limits might actually be reached during the fishing year. These rates are subject to adjustment during the fishing year on the basis of the best available information, which might include actual rates during the fishery as observed and reported by NMFS observers.

[Assumed halibut bycatch rates, as percent of total catch, by DAP gear type in the Gulf of Alaska for purposes of managing halibut bycatches in 1990.]

	Bottom trawl	Mid-water trawl	Hook-and-line	Pot
Target species				
Roundfish mixed	5.4			
Pollock	5.3	0.01		
Pacific cod	5.1			
Flatfish, mixed	3.1			
Flatfish, deep	2.6			
Flatfish, shallow	4.6			
Sablefish			39.8	
Pacific cod			22.0	0.4

Public comment on the appropriateness of these rates relative to the health of halibut stocks, fishery-experienced rates in 1989, and the goals and objectives of the FMP that pertain to halibut management are particularly requested.

Public comments are also requested on the appropriateness of the estimate of halibut mortality assumed for the various DAP fisheries as shown in the following tabulation. The values of 65 and 13 percent shown for bottom trawl and hook-and-line gear, respectively, were recommended by the International Pacific Halibut Commission for 1990 following a study of available information on mortality rates, and are proposed by the Council.

[Assumed halibut mortality rates in percent, for purposes of managing halibut bycatches in 1990.]

Gear type	Assumed mortality in 1989	Proposed assumed mortality in 1990
Bottom trawl	50	65 *
Off-bottom Trawl	0	0
Hook-and-line	25	13

* Relevant to shore-based trawl vessels. The Plan Team will be developing information for purposes of establishing a mortality rate that would be applicable to catcher/processor vessels.

Public comments on the above groundfish apportionments, reserve reapportionments, determinations about fully utilized species, and Pacific halibut bycatch and mortality assumptions, will be accepted by the Secretary for 30 days after this notice is filed for public inspection with the Office of the Federal Register. The Secretary will consider timely comments and, after consultation with the Council, specify the annual TAC for each target species and the "other species" category and apportionments thereof among DAP, JVP, TALFF, and reserves. These final amounts will be published as a notice in the Federal Register on or about January 1, 1990. These amounts will replace the corresponding amounts that were in place during 1989.

Other Matters

This action is taken under § 611.92 and § 672.20 and complies with Executive Order 12291.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 31, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

TABLE 1—PRELIMINARY ABCs, TACs, DAPs, JVPs, RESERVES, AND TALFFs OF GROUNDFISH (METRIC TONS) FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE/EAST YAKUTAT (SEO/EYK), GULF-WIDE (GW), AND SOUTHEAST OUTSIDE (SEO) DISTRICTS OF THE GULF OF ALASKA.

Species	Area [1]	ABC	TAC	Reserve	DAP	JVP	TALFF
Pollock	W/C	3,750–51,750	51,750	0	51,750	0	0
	Shelikof	6,250	6,250	0	6,250	0	0
	E	3,400	3,400	0	3,400	0	0
	Experimental	10,000	10,000	0	10,000	0	0
Total		23,400–71,400	71,400	0	71,400	0	0
Pacific Cod	W	11,500–22,800	13,500	0	13,500	0	0
	C	52,000–87,800	52,000	0	52,000	0	0
	E	4,800– 9,600	5,700	0	5,700	0	0
Total		60,500–120,500	71,200	0	71,200	0	0
Flatfish [2] (deep-water)	W	21,500	21,500	0	21,500	0	0
	C	89,900	89,900	0	89,900	0	0
	E	17,800	17,800	0	17,800	0	0
Total		129,200	129,200	0	129,200	0	0
Flatfish [3] (shallow water)	W	30,200	30,200	0	30,200	0	0
	C	52,200	52,200	0	52,200	0	0
	E	2,100	2,100	0	2,100	0	0
Total		84,500	84,500	0	84,500	0	0
Arrowtooth flounder	W	27,000	27,000	0	27,000	0	0
	C	141,000	141,000	0	141,000	0	0
	E	26,600	26,600	0	26,600	0	0
Total		194,600	194,600	0	194,600	0	0
Sablefish	W	3,600– 5,300	3,770	0	3,770	0	0
	C	11,200–16,300	11,700	0	11,700	0	0
	WYK	4,400– 6,400	4,550	0	4,550	0	0
	SEO/EYK	5,800– 8,300	5,980	0	5,930	0	0
Total		25,000–36,000	26,000	0	26,000	0	0
Other [4-8] Rockfish	W	1,500– 6,797	3,750	0	3,750	0	0
	C	2,600– 9,983	6,500	0	6,500	0	0
	E	1,900– 6,920	4,750	0	4,750	0	0
Total		6,000–23,800	15,000	0	15,000	0	0
Pelagic [9] shelf rockfish	W	1,000	1,000	0	1,000	0	0
	C	4,800	4,800	0	4,800	0	0
	E	800	800	0	800	0	0
Total		6,600	6,600	0	6,600	0	0

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TABLE 1—PRELIMINARY ABCs, TACs, DAPs, JVPs, RESERVES, AND TALFFs OF GROUNDFISH (METRIC TONS) FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE/EAST YAKUTAT (SEO/EYK), GULF-WIDE (GW), AND SOUTHEAST OUTSIDE (SEO) DISTRICTS OF THE GULF OF ALASKA.—Continued

Species	Area [1]	ABC	TAC	Reserve	DAP	JVP	TALFF
Demersal shelf rockfish [2]	SEO	Unknown	470	0	470	0	0
Thornyhead rockfish	GW	3,800	3,800	0	3,800	0	0
Other species [3]	GW	N/A	30,138	0	30,138	0	0
Total		632,908	632,908	0	632,908	0	

1. See figure 1 of § 672.20 for description of regulatory areas/districts.
2. The category "deepwater flatfish" means rex sole, Dover sole, and flathead sole.
3. The category "shallow-water flatfish" means rock sole, yellowfin sole, butter sole, starry flounder, and other flatfish not specifically defined.
4. The category "other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat and East Yakutat Districts includes Slope rockfish and Demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District includes Slope rockfish.
5. The category slope rockfish includes *Sebastes polyspinis* (Northern rockfish), *S. aleutianus* (Rougheye), *S. zacentrus* (Sharpchin), *S. borealis* (Shortraker), *S. aurora* (Aurora), *S. melanostomus* (Blackgill), *S. goodei* (Chilipepper), *S. crameri* (Darkblotch), *S. elongatus* (Greenstriped), *S. variegatus* (Harlequin), *S. wilsoni* (Pygmy), *S. babcocki* (Red banded), *S. jordani* (Shortbelly), *S. diploproa* (Splitnose), *S. saxicola* (Stripetail), *S. miniatus* (Vermilion), and *S. reedi* (Yellowmouth)
6. The category pelagic shelf rockfish includes *Sebastes melanops* (Black) *S. mystinus*, (Blue) *S. ciliatus* (Dusky) *S. entomelas* (Widow), and *S. flavidus* (Yellowtail)
7. The category demersal shelf rockfish includes *Sebastes paucispinis* (Bocaccio), *S. nebulosus* (China), *S. caurinus* (Copper), *S. maliger* (Quillback), *S. proriger* (Redstripe), *S. helvomaculatus* (Rosethorn), *S. brevispinis* (Silvergrey), *S. nigrocinctus* (Tiger), *S. rubrivinis* (Yelloweye), *S. pinningers* (Canary).
8. The category "other species" includes Atka mackerel, sculpins, sharks, skates, eulachon, smelts, and octopus. The TAC is equal to 5 percent of the TACs of the target species.

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50 CFR Parts 611 and 675

[Docket No. 91046-9246]

Groundfish of the Bering Sea and Aleutian Islands; Foreign Fishing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of preliminary 1990 initial specifications of groundfish; request for comments.

SUMMARY: NOAA proposes 1990 initial specifications of total allowable catches (TACs) and initial apportionments for each category of groundfish in the Bering Sea and Aleutian Islands (BSAI) area. This action is necessary to solicit public comments on preliminary determinations of the initial specifications of TAC and apportionments of groundfish that may be harvested in the BSAI area in 1990. The intended effect of this notice is to provide the Secretary of Commerce (Secretary) with the best available information on which to base final 1990 initial specifications of TAC and apportionments and to provide opportunity for public participation in this decisionmaking process.

DATE: Comments will be received through December 1, 1989.

ADDRESS: Comments should be sent to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter, Fishery Management Biologist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BSAI area are governed by Federal regulations (at 50 CFR 611.93 and part 675) which implement the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) and approved by the Secretary under the Magnuson Fishery Conservation and Management Act.

The FMP and implementing regulations require the Secretary, after consultation with the Council, to specify each calendar year the TAC for each target species and the "other species" category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). The regulations further require the Secretary to annually publish preliminary TACs and the apportionments of each TAC and solicit public comment on these amounts for a period of 30 days (§ 675.20(a)(7)). Table 1 and this notice satisfy this requirement. After considering all timely comments and after consultation with the Council, the Secretary will publish the final annual TACs for 1990 and initial apportionments as soon as practicable after December 15, 1989.

The specified TACs for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and Scientific and Statistical Committee (SSC), at their September 1989 meetings, reviewed preliminary biological information about the condition of groundfish stocks in the BSAI area. This information was compiled by the Council's BSAI groundfish Plan Team and presented in the draft Stock Assessment and Fishery Evaluation (SAFE) report dated September 1989. The Plan Team annually produces such a report as the first step in the process of specifying TACs. The SAFE contains a review of the latest scientific analyses and estimates of each species' biomass, maximum sustainable yield (MSY), acceptable biological catch (ABC), other biological parameters, and a summary of the economic condition of groundfish fisheries off Alaska.

Procedure for Estimating ABC

Calculation of ABC varies among species depending on the quality of available data and prior knowledge of a species' stock status. The Plan Team has adopted three steps for estimating ABCs. First, the exploitable biomass of a stock is estimated. Second, the ABC for a stock is calculated by multiplying an exploitation rate times the estimated exploitable biomass. Various exploitation rates or fishing mortality (F) rates may be used in this calculation. For example, the exploitation rate that would produce MSY (F_{MSY}) may be used when the stock is known to be in good condition, high in abundance and not in danger of drastic declines. When particular caution is indicated, the more conservative $F_{0.1}$ harvest strategy is used to determine an exploitation rate. This strategy determines a level of F at which the marginal increase in yield per recruit due to an increase in F is 10 percent of the marginal yield per recruit in a newly exploited fishery. Recruitment refers to the growth of juvenile fish into the adult or exploitable population. Generally, the $F_{0.1}$ harvest strategy produces a more conservative exploitation rate than F_{MSY}. Another alternative is to use historical exploitation rates when historical fishery data indicate that a stock is not adversely affected by such rates. Finally, an empirical estimation of ABC based on historical catch levels may be used when information is insufficient to estimate the biomass of a stock. Details of this and other calculation procedures are discussed in the 1989 draft SAFE report which is available on request from the Council.

A summary of ABCs for each species for 1990 and other biological data from the 1989 draft SAFE report is provided below. The Plan Team will revise the draft SAFE report at its November 1989 meeting and produce a final SAFE report with ABC recommendations prior to the Council's December 1989 meeting. At that time, the Council will develop TAC recommendations to the Secretary which are derived from the ABCs and adjusted for other biological and socioeconomic considerations. The TACs may be further adjusted so that their sum does not exceed the maximum optimum yield allowed by the FMP. For purposes of this notice, the Council recommended the TACs in Table 1 based on current biological information and ABCs in the draft SAFE report.

Apportionment of TAC

The amount of TAC for groundfish in each species or species group initially is reduced by 15 percent. The sum of these 15 percent amounts is the reserve. The reserve is not designated by species or species group and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing (§ 675.20(a)(3)).

The initial TAC (ITAC) for each target species and the "other species" category at the beginning of the year, which is equal to 85 percent of TAC, is then apportioned between the domestic annual harvest (DAH) category and the total allowable level of foreign fishing (TALFF). Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process their catch on board or deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the U.S. exclusive economic zone. In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). The initial DAP and JVP amounts for each target species and the "other species" category equal the actual DAP and JVP of the previous year plus any additional amounts the Regional Director projects will be used by the U.S. fishing industry during the coming year, subject to available TAC and accommodation of DAP. This projection is based on the latest reliable information that is available, including industry surveys, market data and the stated intentions of U.S. fishing industry representatives (§ 675.20(a)(4)).

The preliminary TACs, ITACs, reserve, and initial apportionments of groundfish in the BSAI area for 1989 are given in Table 1 of this notice. For purposes of this notice, most of the TACs in Table 1 are the same as current TACs for 1989 with five exceptions. The exceptions include Bering Sea (BS) subarea pollock, Pacific cod, yellowfin sole, rock sole, and other flatfish. For BS subarea pollock, the Council recommended decreasing the 1990 preliminary TAC relative to the current 1989 TAC in response to the decrease in projected 1990 ABC relative to the 1989 ABC. For the other four species or species groups, the Council recommended increases in the 1990 preliminary TACs relative to the current TACs for 1989. Except for Pacific cod, all of the projected ABCs of these four species or species groups have increased relative to their 1989 ABCs. The 1990 ABC for Pacific cod is projected to be less than it was in 1989. Nevertheless, stock abundance is characterized as being very high. In recommending DAP and JVP apportionments, the Council followed the AP recommendation to maintain the same proportions existing in the current (1989) apportionments, except for pollock which was wholly apportioned to DAP. The Secretary concurs with these recommendations for purposes of this notice. These amounts are subject to change as a result of public comment, additional analysis of the biological condition of the groundfish stocks, results of a November survey of domestic processing intentions in 1990, and consultation with the Council at its meeting scheduled for December 5–8, 1989.

TABLE 1.—PRELIMINARY 1990 TOTAL ALLOWABLE CATCH (TAC) AND APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1]

Species	TAC	Initial TAC [2]	DAP [3]	JVP [4]	DAH [5]	TALFF [6]
Pollock						
BS	1,154,433	981,268	981,268	0	981,268	0
AI	11,432	9,717	9,717	0	9,717	0
Pacific cod	309,200	262,820	184,500	78,320	262,820	0
Sablefish						
BS	2,380	2,023	2,023	0	2,023	0
AI	2,890	2,456	2,456	0	2,456	0
Atka mackerel	20,285	17,242	17,242	0	17,242	0
Yellowfin sole	243,952	207,359	22,809	184,550	207,359	0
Rock sole	102,148	86,826	47,841	38,985	86,826	0
Greenland turbot	6,800	5,780	5,612	168	5,780	0
Arrowtooth flounder	5,800	4,930	4,333	597	4,930	0
Other flatfish	113,906	96,820	13,458	83,362	96,820	0
Pacific Ocean perch						
BS	4,250	3,613	3,613	0	3,613	0
AI	5,100	4,335	4,335	0	4,335	0
Other rockfish						
BS	340	289	289	0	289	0
AI	936	795	795	0	795	0
Squid	875	744	722	22	744	0

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TABLE 1.—PRELIMINARY 1990 TOTAL ALLOWABLE CATCH (TAC) AND APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1]—Continued

Species	TAC	Initial TAC [2]	DAP [3]	JVP [4]	DAH [5]	TALFF [6]
Other species	15,274	12,992	9,581	3,402	12,983	0
Totals	2,000,000	1,700,000	1,310,594	389,406	1,700,000	0

[1] Amounts are in metric tons; apply to entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified.
[2] Initial TAC (ITAC)=0.85 of TAC; initial reserve=TAC−ITAC=300,000
[3] DAP=domestic annual processing.
[4] JVP=joint venture processing.
[5] DAH=DAP+JVP.
[6] TALFF=total allowable level of foreign fishing.

Prohibited Species Catch (PSC) Limits

Crab and Halibut

Amendment 12A to the FMP (54 FR 32642, August 9, 1989; corrected at 54 FR 37469, September 11, 1989) established PSC limits of red king crab and *C. bairdi* Tanner crab in specific zones of the BS subarea, and for Pacific halibut throughout the BSAI area. These PSC limits are (50 CFR 675.21):

—200,000 red king crabs applicable to Zone 1;

—one million *C. bairdi* Tanner crabs applicable to Zone 1;

—three million *C. bairdi* Tanner crabs applicable to Zone 2;

—4,400 metric tons (mt) of Pacific halibut (primary PSC limit) applicable to Zones 1 and 2H; and

—5,333 mt of Pacific halibut (secondary PSC limit) applicable to the entire BSAI area.

Each PSC limit is apportioned into PSC allowances that are assigned to each of four specified fisheries. The apportionments proposed in Table 2 of this notice are based on the currently anticipated bycatch of crabs and halibut during the 1990 fishing year. These estimates may be revised in December 1989 when the 1989 bycatch performance is better known and fishing patterns in 1990 can be better anticipated.

TABLE 2.—PRELIMINARY 1990 PROHIBITED SPECIES CATCH ALLOWANCES

Fisheries	Zone 1	Zone 2	Zones 1+2H primary	BSAI—wide secondary
Red king crab, animals				
DAP flatfish fisheries	25,190			
DAP other fisheries	11,616			
JVP flatfish fisheries	162,057			
JVP other fisheries	1,137			
C. bairdi Tanner crab, animals				
DAP flatfish fisheries	56,501	169,502		
DAP other fisheries	658,513	1,975,539		
JVP flatfish fisheries	259,240	777,721		
JVP other fisheries	25,746	77,237		
Pacific halibut, metric tons				
DAP flatfish fisheries			88	119
DAP other fisheries			3,768	4,567
JVP flatfish fisheries			430	521
JVP other fisheries			104	126

Groundfish

Amendment 12 to the FMP (54 FR 18519, May 1, 1989) provided for annual specification of PSC limits for groundfish species or species groups for which the TAC can be harvested by domestic (i.e., DAH) fisheries under § 672.20(a)(6). In practice, these PSC limits apply only to JVP fisheries for species which have a zero JVP apportionment. No PSC limits are proposed for foreign fisheries since no allocations are recommended for foreign directed fishing. Groundfish PSC limits are proposed for the 1990 fishing year as listed in Table 3 based on 1988 bycatch rates. These proposed limits will change if the proposed TACs and apportionments change and after the Plan Team reviews and integrates 1989 bycatch rates.

TABLE 3.—PSC LIMITS FOR GROUNDFISH [1]

Species	Initial PSC limits in metric tons	
	JVP	TALFF
Pollock		
Bering Sea	43,748	0
Aleutian Islands	0	0
Atka mackerel	4	0
Sablefish		
Bering Sea	1	0
Aleutian Islands	0	0
Pacific Ocean perch		
Bering Sea	5	0
Aleutian Islands	0	0
Other rockfishes		
Bering Sea	2	0
Aleutian Islands	0	0

[1] Zero PSC limit specified means that no amount of a given species may be caught and then discarded by a JVP or TALFF fishery. Any significant bycatch of this species in a JVP or TALFF fishery for which a zero amount of PSC limit is specified will result in closure of target fisheries likely to catch this species.

Summary of Biological Condition and ABCs

Pollock

The estimated abundance of pollock in the eastern Bering Sea (EBS, continental shelf area of the BS subarea to depths of 100 fathoms) is higher than average, but model projections indicate that biomass is declining and will continue to do so in the near future. Based on a cohort analysis, the projected exploitable biomass (pollock aged 3–9 years) in 1990 will be from 5,032,000 to 6,192,000 mt, as compared to the 1989 estimate of 5,300,000 mt. The biomass of EBS pollock is currently above the level that will produce MSY. However, if predicted recruitment in the near future is correct, biomass is expected to decrease. The Plan Team recommended an exploitation rate for the EBS stock based on the $F_{0.1}$ harvest strategy. At this rate, the calculated ABC for pollock in the EBS is within the range of 1,140,000 to 1,470,000 mt. For comparison, the ABC of this stock for 1989 was 1,340,000 mt, which was derived using the same exploitation rate.

The size and dynamics of the pollock population in the Aleutian Islands (AI) subarea are not well understood. The latest survey of the exploitable biomass in this subarea was in 1986 and produced an estimate of 690,000 mt. Based on an assumption that the rate of decline in the pollock biomass in the AI subarea was the same as in the BS subarea, the Plan Team estimated the AI exploitable biomass in 1989 to be 649,700 mt. The Plan Team calculated an ABC of pollock for the AI subarea to be 149,400 mt using an exploitation rate of 23 percent derived from the $F_{0.1}$ harvest strategy.

Pacific Cod

The projected exploitable biomass in the BSAI area in 1990 is estimated to be 1,097,800 mt. Although this is about 8 percent lower than that estimated last year for 1989, the abundance of Pacific cod is considered high. Exploitation based on the F_{MSY} harvest strategy used in 1989 suggests an exploitation rate of 31 percent and an ABC of 345,399 mt. For 1990, however, the Plan Team recommended a lower fishing mortality rate to account for uncertainty in parameter estimates and recent increases in catch relative to historic catches. The new exploitation rate is based on a fishing mortality (F) strategy that maximizes the expected logarithm of the sustainable yield (F_{MELSY}). The more conservative F_{MELSY} approach calculates an ABC for 1990 of 209,200 mt which is about 44 percent less than the 370,600-mt ABC calculated for 1989. The exploitation rate indicated by the recommended 1990 ABC is 19 percent which is roughly equivalent to actual exploitation rates since 1984. The SSC declined comment on the F_{MELSY} harvest strategy until it reviewed its derivation. In the interim, the SSC recommended using the F_{MSY} exploitation rate. For purposes of this notice, the Council recommended an ABC range for Pacific cod of 209,200 to 345,399 mt.

Sablefish

The relative abundances of sablefish in the AI subarea and the EBS have been estimated from U.S.-Japan cooperative longline surveys conducted annually since 1980 and 1982, respectively. The 1989 survey was being conducted when the Plan Team was preparing the draft SAFE report in September 1989. For purposes of this notice, the projected exploitable biomass of sablefish in 1990 is based on the most recent trawl (1986) and longline (1988) surveys. However, sablefish abundance in the EBS may be significantly underestimated because of killer whale predation on the survey catch. With these caveats, the estimated exploitable biomass at the beginning of 1990 for the BS subarea is 20,700 mt and 60,100 mt for the AI subarea. This represents an 18 percent decrease from the estimated 1989 exploitable biomass in the EBS and a 12 percent decrease in the Aleutians. Preliminary assessment of the 1989 survey data may moderate this decrease in biomass. Due to uncertainty of stock abundance, the Plan Team recommended a conservative $F_{0.1}$ exploitation strategy. To derive recommended ABCs with this approach, the Plan Team applied the $F_{0.1}$ exploitation rate to the biomass of the combined Gulf of Alaska, Bering Sea, and Aleutian Islands area projected to be available at the beginning of 1990. Zero recruitment was assumed as there has been no indication of strong recruitment since the 1977 year class. The ABC was then apportioned to the individual regions in proportion to the most current distribution of biomass from the longline survey. The Plan Team recommended an ABC range with the lower end scaled to the lower confidence estimate of the 1984 trawl survey and the upper end scaled to the sum of individual biomass estimates for each region. This resulted in estimated ABCs for sablefish for the BS subarea in the range of 1,700 to 2,400 mt, and, for the AI subarea, in the range of 2,500 to 6,600 mt. For comparison, the ABCs estimated for 1989 were 2,800 mt for the BS subarea and 3,400 mt for the AI subarea. Full exploitation at the upper end of the range in each subarea would result in an average annual exploitation rate of about 11 percent.

Atka Mackerel

Biological surveys in the AI subarea that cover the range of this species occur only once every three years. As with sablefish, data from the latest (1989) survey were not available to the Plan Team when the draft SAFE report was prepared. Abundance cannot be accurately estimated due to highly localized concentrations of Atka mackerel; however, its relative abundance appears to be increasing due to the recruitment of a strong 1984 year class. An ABC for 1990 was estimated using the $F_{0.1}$ harvesting strategy in a catch-at-age analysis and assuming constant low recruitment. For 1989, the estimated ABC of 21,000 mt was calculated as the average of three values generated under different natural mortality rate assumptions. Because of the apparent strength of the 1984 year class, the 1990 ABC is recommended to be the upper end of a range from 19,000 to 24,000 mt.

Yellowfin Sole

This is the most abundant flatfish species in the EBS and second in abundance to pollock among all groundfish species managed under the FMP. The primary reason for its relatively high abundance is the strong recruitment of year classes spawned in the late 1960s through the mid-1970s. Survey and fishery data suggest that the yellowfin sole population is at a peak level of abundance and that there are some stronger than average year classes currently recruiting to the exploitable population. Based on a cohort analysis, the 1990 exploitable biomass is projected to be 1,640,000 mt, which represents an increase over the 1989 exploitable biomass of about 7 percent. The same $F_{0.1}$ exploitation strategy used in 1989 to derive an ABC estimate is used again to calculate ABC for 1990. Applying the $F_{0.1}$ exploitation rate of 17 percent to the 1990 projected exploitable biomass produces an ABC estimate for 1990 of 279,000 mt.

Rock Sole

Trawl survey data indicate that the biomass of rock sole is high and appears to be increasing. The exploitable biomass in 1990 is projected to be 1,392,700 mt which represents an increase over the 1989 exploitable biomass of about 9 percent. Because the biomass appears to be above the level that produces MSY, an F_{MSY} harvest strategy derived from a biomass-based cohort analysis was used by the Plan Team to determine an exploitation rate of 15.5 percent from which to calculate an ABC of 222,500 mt. However, the Council adopted the SSC recommendation to calculate an ABC range using an F_{MSY} exploitation rate derived from a dynamic pool model of 17.6 percent for the lower end and a yield-per-recruit model estimate of $F_{0.1}$ which produces an exploitation rate of 23 percent for the upper end. This approach produces an ABC range of 245,115 to 320,000 mt. For purposes of this notice, the preliminary ABC for rock sole is within the range of 222,500 to 320,000 mt.

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Greenland Turbot

The Greenland turbot resource continues to decline and is probably below its long term average abundance. The declining trend, observed since 1980, is due to poor recruitment and is expected to continue into the early 1990s. The projected exploitable biomass for 1990 is estimated to be 356,600 mt. Forecasts for all conservative harvesting strategies, including no fishing, project continued declines in biomass. An exploitation rate of 5.5 percent, based on the conservative $F_{0.1}$ harvesting strategy, would provide an ABC in 1990 of 19,615 mt. The same strategy was used last year to produce the 1989 ABC of 20,300 mt. However, the Plan Team was unable to justify any major directed fishing on Greenland turbot in 1990 due to continually low levels of recruitment. Therefore, the Plan Team recommended setting the 1990 ABC at 7,000 mt, which approximates actual catches in recent years. The SSC noticed technical difficulties in comparing biomass estimates from the trawl survey and stock reduction analysis and recommended that the Plan Team do certain reassessments of both biomass estimates. For purposes of this notice, the Council adopted an ABC range of from 7,000 to 20,300 mt.

Arrowtooth Flounder

The abundance of arrowtooth flounder has increased substantially in recent years due to progressively stronger annual recruitment since 1975. This trend appears to be continuing based on the 1988 summer trawl survey which was the most recent survey data available when the draft SAFE report was prepared. The exploitable biomass of this species in 1990 is projected to be 433,900 mt. This is an 18 percent decrease from last year's estimate of the 1989 exploitable biomass. This decrease is due to an apparent decline in the slope component of the population from the 1987 to the 1988 trawl surveys. However, the 1988 survey indicated that less than 20 percent of the EBS population occupied slope waters. Overall, the 1988 combined shelf and slope estimates show a continued increase in population abundance. An exploitation rate of 31 percent was derived from the F_{MAX} harvest strategy. The 1990 ABC, using this rate, is calculated to be 134,500 mt. This exploitation rate is the same as that used to calculate the 1989 ABC. The SSC was reluctant to endorse the F_{MAX} harvest strategy because it maximizes yield in one year without regard to maintaining future recruitment. The SSC advocated using other exploitation strategies such as F_{MSY} or $F_{0.1}$ which provide sustainable yields close to the maximum obtainable with less risk of overfishing. The SSC recommended using the $F_{0.1}$ harvest strategy which produces an ABC of 65,100 mt. For purposes of this notice, the Council adopted an ABC range for arrowtooth flounder of 65,100 to 134,500 mt.

Other Flatfish

This category is composed of flathead sole, Alaska plaice, and miscellaneous flatfishes. All species in this group appear to be in relatively high abundance; above the level necessary to produce MSY. The exploitable biomass of these fishes as a group in 1990 is projected to be 1,187,100 mt. This is the same amount estimated for 1989 as no new abundance data were available when the draft SAFE report was prepared. Of this total amount, Alaska plaice comprises 60 percent, flathead sole is 36 percent, and the remaining 4 percent is comprised of miscellaneous flatfishes. The F_{MSY} harvest strategy was used for all species in this category due to overall high abundance. The Plan Team did not compute a separate F_{MSY} rate but assumed the same rate as rock sole (i.e., 15.5 percent) since this species and the other flatfishes have similar life histories. The resulting ABC for "other flatfish" in 1990 is calculated to be 184,000 mt. The SSC recommended computing an ABC consistent with the rock sole range using the $F_{0.1}$ harvest strategy for the upper end of the range. The Council adopted this approach, hence, the 1990 ABC range for "other flatfish" is 184,000 to 262,300 mt.

Pacific Ocean Perch (POP)

This is a species category which includes five species of rockfish in the genus *Sebastes* which inhabit outer continental shelf and upper slope areas. Generally, POP stocks continue to remain low in abundance relative to biomass levels during the early 1980s. However, the stock is increasing and has been determined to be at levels slightly below the biomass levels that would produce MSY. Survey data indicate the potential recruitment of one or more strong year classes in the BS subarea. The estimated exploitable biomass in the BS subarea for 1990 of 105,400 mt is slightly above the 1989 estimate and is based on the mean of estimates from 1979–1988 trawl surveys of the EBS shelf. In the AI subarea, the 1990 estimated exploitable biomass of 276,500 mt is unchanged from 1989 and is based on the mean of estimates from trawl surveys in 1980, 1983, and 1986. The Plan Team recommended using the same 6 percent exploitation rate used last year for both subareas to calculate ABCs of 6,300 mt and 16,600 mt respectively for the BS and AI subareas. Both of these exploitation rates were derived using the $F_{0.1}$ harvest strategy, which is intended to provide for some rebuilding of the POP species complex.

Other Rockfish

This species category includes all species of *Sebastes* and *Sebastolobus* other than those in the POP complex. The estimated exploitable biomass for 1990, based on the same survey data and methods used for POP, is 8,060 mt in the BS subarea and 16,500 mt in the AI subarea. These estimates compared to those for 1989 are slightly increased for the BS subarea and unchanged for the AI subarea. Likewise, the Plan Team recommended no change in the exploitation rate of 6 percent, derived from the $F_{0.1}$ harvest strategy, for both subareas which produces ABCs of 500 mt and 1,100 mt respectively for the BS and AI subareas.

Squid

Information on the distribution, abundance, and biology of squid stocks is insufficient for standard analysis of biomass due to their mainly pelagic drift over deep water. Based on historical catch data, primarily from foreign fisheries, harvests of 10,000 mt annually are believed to be sustainable. The 1990 ABC is recommended to be 10,000 mt, as it was for 1989.

Other Species

This category includes species of sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. This group of groundfish is currently of minor economic value; fishing effort generally is not targeted on any of these species. However, they have potential economic value and are important ecosystem components. The estimated exploitable biomass of "other species" has remained relatively high and in 1990 is projected to be 676,200 mt. This is a slight increase over the estimated 1989 exploitable biomass of 673,600 mt mostly due to an adjustment in the calculations from the trawl survey data. No significant change has been seen in this stock size since 1986. Harvesting this stock close to its historical 9 percent exploitation rate appears appropriate given that the stock has been near MSY levels. Hence, the ABC of "other species" in 1990 is calculated to be 59,000 mt, which is the same as the 1989 ABC for this species category.

Other Matters

This action is authorized under 50 CFR 611.93(b) and 675.20, complies with Executive Order 12291, and is covered by the Regulatory Flexibility Analysis prepared for the implementing regulations.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 675

Fisheries.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 1, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-26122 Filed 11-1-89; 3:05 pm]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 54, No. 214

Tuesday, November 7, 1989

SUPPLEMENTARY INFORMATION: The USDA–ARS intends to grant to Abbott Laboratories, North Chicago, Illinois, an exclusive license to practice the

I. Title, Total Population, and Population Inside and Outside of Central City

Davis, CA, Urbanized Area	Population	Area in square miles	Population density per square mile	
1980	46,195	10.0	4,619.5	
1970	35,228	6.0	5,871.3	
1960	22,965	4.0	5,741.3	
Central City				
1980	36,640	9.0	4,071.1	
1970	23,369	5.0	4,673.8	
1960	15,053	3.0	5,017.7	
Outside Central City				
1980	9,555	1.0	9,555.0	
1970	11,859	1.0	11,859.0	
1960	7,912	1.0	7,912.0	

Fisheries is considering the environmental consequences of swim-with-the-dolphin programs and requests comments on the draft EIS. In order to

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Notices

Federal Register
Vol. 54, No. 214
Tuesday, November 7, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

AGENCY: U.S. Department of Agriculture.
ACTION: Notice.

SUMMARY: This document cancels the list of Performance Review Board members published November 4, 1988, 53 FR 44639, and gives notice of new Performance Review Board members.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Evelyn White, Chief, Compensation, Employment and Performance Management Staff, Office of Personnel, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC 20250, (202/447–2830).

The membership of the U.S. Department of Agriculture's Performance Review Boards include:

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Leo V. Mayer
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John W. Peterson
William L. Rice
Larry B. Slagle
John A. Stevenson
Alfred Strating
Ronnie O. Tharrington
Robert D. Tortora
Frederic A. Vogel
Manly S. Wilder
Michael C. Wilkinson

Dated: November 2, 1989.

Clayton Yeutter,
Secretary.

[FR Doc. 89–26322 Filed 11–6–89; 8:45 am]
BILLING CODE 3410–96–M

Agricultural Research Service

Availability for Licensing and Intent To Grant Exclusive Licenses

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the U.S. Patent Application Serial No. 07/389,090, "Adherent, Autoencapsulating Spray Formulations of Biocontrol Agents," filed August 3, 1989, is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant an exclusive license to Abbott Laboratories, North Chicago, Illinois.

DATES: Comments must be received on or before February 5, 1990.

ADDRESSES: Send comments to: USDA–ARS–Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, Room 411, BARC–W, Beltsville, Maryland 20705.

FOR FURTHER INFORMATION CONTACT: Willard J. Phelps of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/344–4032, (FTS) 344–4032.

SUPPLEMENTARY INFORMATION: The USDA–ARS intends to grant to Abbott Laboratories, North Chicago, Illinois, an exclusive license to practice the invention disclosed in U.S. Patent Application Serial No. 07/389,090, "Adherent, Autoencapsulating Spray Formulations of Biocontrol Agents," filed August 3, 1989. Patent rights to this invention are assigned to the United States of America as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Abbott Laboratories has submitted a complete and sufficient application for a license and has entered into a Cooperative Research and Development Agreement with ARS providing for collaboration in the further development of the invention.

The prospective exclusive license will be royalty-bearing, will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7 and will conform to the intent of 15 U.S.C. 3710a. The prospective exclusive license may be granted unless, within ninety days from the date of this published Notice, ARS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209, 37 CFR 404.7, and the intent 15 U.S.C. 3710a.

William H. Tallent,
Assistant Administrator.

[FR Doc. 89–26208 Filed 11–6–89; 8:45 am]
BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 91036–9236]

Designation of an Urbanized Area for Davis, CA

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice.

SUMMARY: Based on the results of a special census conducted May 5, 1989, the Bureau of Census is designating Davis, California as an urbanized area under criteria published November 22, 1985 in the **Federal Register** (50 FR 48237). The Davis, California urbanized area has a population of 51,903.

The major geographic components of the urbanized area and the population of each appear below:

I. Title, Total Population, and Population Inside and Outside of Central City

Davis, CA, Urbanized Area	Population	Area in square miles
The area	51,903	9.8
Davis city	44,792	7.1
Outside central city	7,111	2.7

II. Major Geographic Components

	Population	Area in square miles
Yolo County (pt.)	51,909	9.8
Davis division (pt.)	51,903	9.8
Davis city	44,792	7.1

The Census Bureau will provide at cost a copy of the special census map and an outline map showing the extent of the Davis, California urbanized area in response to requests.

ADDRESS: Persons will requests or questions should write to: Robert W. Marx, Chief, Geography Division, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Marx at the address given or telephone (301) 763–5636.

Authority: 13 U.S.C. 4.

Dated: November 1, 1989.

C.L. Kincannon,
Deputy Director, Bureau of the Census.

[FR Doc. 89–26193 Filed 11–6–89; 8:45 am]
BILLING CODE 3510–07–M

National Oceanic and Atmospheric Administration

Swim-With-the-Dolphin Programs

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, DOC.

ACTION: Notice of public hearings and availability of a draft environmental impact statement.

SUMMARY: NOAA Fisheries has prepared a programmatic environmental impact statement (EIS) in accordance with the National Environmental Policy Act, and has scheduled hearings on the use of marine mammals in swim-with-the-dolphin programs. These programs allow a member of the public, including any general visitor or customer, to enter the water with a captive marine mammal for recreational swimming, snorkeling or scuba diving activities. Provisional authority to conduct these programs on an experimental basis expires on December 31, 1989. NOAA Fisheries is considering the environmental consequences of swim-with-the-dolphin programs and requests comments on the draft EIS. In order to allow time for full consideration of public comment in the final EIS and decision, NOAA Fisheries intends to extend the provisional authority for the four existing programs until March 31, 1990.

DATES: Hearings on the draft EIS will be held in Honolulu, Hawaii on November 20, 1989 at 7–9 p.m., in Islamorada, Florida on November 28, 1989 at 7–10 p.m., and in Washington, DC on December 4, 1989 at 10 a.m.. Written comments on the draft EIS are due by December 28, 1989.

ADDRESSES: Written comments on the draft EIS may be mailed to Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs (F/PR), NOAA Fisheries, 1335 East-West Highway, Silver Spring, MD 20910. A copy of the Draft EIS may be obtained by writing to this address or from the Information Contacts listed below. Addresses for the public hearings are: Kaimuki Public Library, 1041 Koko Head Ave., Honolulu, Hawaii; Cheeca Lodge, Milemarker 82.5, Islamorada, Florida; and Main Auditorium, Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gene Nitta (Hawaii), 808–955–8831; Charles Oravetz or Jeff Brown (Florida), 813–893–3366; Jaunice Yates (Washington, DC), 301–427–2289. Please notify one of these individuals at least seven days in advance of the hearing if you wish to testify at the hearing.

Dated: October 31, 1989.

Nancy Foster,
Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–26141 Filed 11–6–89; 8:45 am]
BILLING CODE 3510–22–M

[Docket No. 91051–9251]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of control date for entry into the Gulf of Mexico reef fish fishery.

SUMMARY: This notice announces that anyone entering the commercial reef fish fishery in the Gulf of Mexico and South Atlantic after November 1, 1989 (control date), may not be assured of future access to the reef fish resource if a management regime is developed and implemented that limits the number of

participants in the fishery. This announcement is intended to establish public awareness of a potential eligibility criterion for access to the Gulf of Mexico reef fish resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry to the fishery based on speculation while discussions continue on whether and how access to the reef fish resource should be controlled.

FOR FURTHER INFORMATION CONTACT: William Turner, NMFS, 813-893-3722.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (FMP) was developed in 1981 and is currently being amended by the Gulf of Mexico Fishery Management Council (Council). Amendment 1 was approved by the Council on July 13, 1989.

This notice is not part of the proposed Amendment 1. However, the Council has been requested by its industry advisory panel (AP) to develop alternative limited access systems for review by the industry by 1992. The fishery currently has more participants than are necessary to harvest the optimum yield (OY). Since the current fishing fleet is capable of harvesting the entire reef fish OY, additional fishing effort would lead to harvesting inefficiencies, more management constraints, and increased conservation risks. The Assistant Administrator for Fisheries, NOAA, has concurred that the Council begin to address this problem by developing additional controls on fishing effort. Such controls contemplated by the Council may include those that control access to the reef fish fishery.

To assist the Council, the Assistant Administrator has agreed to publish a notice in the **Federal Register** announcing that anyone entering the reef fish fishery after November 1, 1989, will not be assured of future participation should the Council develop, and the Secretary of Commerce implement, an effort control regime that limits the number of participants in the fishery. At its meeting of September 11-14, 1989, the Council voted to recommend this notice and adopted November 1, 1989, as the control date.

NMFS and the Council intend, in making this announcement, to discourage speculative entry into the reef fishery while potential entry or access control management regimes are discussed by the Council and possibly developed. If the Council decides to develop an access or entry control management regime, some fishermen who do not currently fish for reef fish in the Gulf of Mexico and have never done so may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings of reef fish.

Such a record generally is considered indicative of economic dependence on the fishery. On this basis, the fishermen may successfully lay claim to access to a fishery that is otherwise limited to traditional participants. New entrants may have to buy the fishing rights or a permit from an existing participant. Hence, initial access to the fishery at little or no cost may result in a windall gain when selling an access right to a new entrant. This speculation often is responsible for a rapid increase in fishing effort in fisheries already fully or over-developed when management authorities begin to consider use of a limited access management regime. The original problems become exacerbated by those who seek possible windfall gain from the solutions being discussed. To help distinguish bona fide, established reef fish fishermen from speculative entrants to the fishery, a management authority may set a control date before discussions and planning of controlled access regimes begin. Fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery resource on grounds of previous participation. Other qualifying criteria, such as holding a permit before the control date and documentation of commercial landings and sales, may be applied for entry.

This announcement establishes November 1, 1989, as a control date for potential use in determining historical or traditional participation in the Gulf of Mexico reef fish fishery. This action does not commit the Council or Secretary to any particular management regime or criterion for entry to the reef fish fishery. Fishermen are not guaranteed future participation in the reef fish fishery regardless of their date of entry or intensity of participation in the reef fish fishery before or after the control date. The Council may choose a different control date, or they may choose a management regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Council may choose also to take no further action to control entry or access to the fishery.

Authority: 16 U.S.C., 1801 *et seq.*

Dated: November 1, 1989.

James E. Douglas, Jr.

Acting Assistant Administrator for Fisheries.

[FR Doc. 89-26191 Filed 11-2-89; 3:59 pm]

BILLING CODE 3510-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public law 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been changed as follows: The 14 November 1989 meeting has been rescheduled to the date, time and location listed below.

DATE: Wednesday, November 15, 1989 (10:00 a.m. to 3:00 p.m.).

ADDRESS: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a special study on Intelligence Support to the U&S Commands.

Dated: November 1, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26150 Filed 11-6-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Contract Audit Agency

Privacy Act of 1974; Amend a Record System Notice

AGENCY: Defense Contract Audit Agency (DCAA), DOD.

ACTION: Notice of an amended of a system of records for public comment.

SUMMARY: The Defense Contract Audit Agency proposes to amend a system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a).

DATES: The proposed action will be effective without further notice on December 7, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mr. Dave Henshall, ATTN: CMR, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178. Telephone (202) 274-4400.

SUPPLEMENTARY INFORMATION: The Defense Contract Audit Agency systems of records, as prescribed by the Privacy Act of 1974 (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22884, May 29, 1985 (Compilation, changes follow)
51 FR 16017, May 16, 1986
54 FR 37360, Sep 8, 1989
54 FR 43316, Oct 24, 1989

The specific changes to the record system being amended are set forth below, followed by the system notice, as amended, published in its entirety. The notice is not within the purview of subsection (r) of the Privacy Act, 5 U.S.C. 552a, which requires the submission of an altered system report.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 1, 1989.

RDCAA 590.8

System name:

DCAA Management Information System (MIS).

Changes:

System name:

Delete entire entry and replace with "Field Audit Office Management Information System (FMIS)"

System location:

Delete entire entry and replace with "Network Operations Branch, Workload and Trends Analysis Division, Headquarters, Defense Contract Audit Agency; DCAA regional offices; and DCAA field audit offices. Official mailing addresses are published as an appendix to DCAA's compilation of systems of record notices."

Categories of individuals covered by the system:

Delete entire entry and replace with "DCAA employees and contractors."

Categories of records in the system:

Delete entire entry and replace with "Records relating to audit work performed in terms of hours expended by individual employees, dollar amounts audited, exceptions reported, and net savings to the government as a result of those exceptions; records containing contractor and contract information; records containing requirements and program plan information; and records containing Social Security Numbers, pay grade and (optionally) address information."

Authority for maintenance of the system:

Delete 10 U.S.C. 133 and 44 U.S.C. 2901 from the entry. Add "and E.O. 9397" to the end of the entry.

Purpose(s):

Delete entire entry and replace with "To provide managers and supervisors in field audit offices with timely, on-line, information regarding audit requirements, programs, and performance; and serve as the source of information to be entered and consolidated in the Agency Management Information System (AMIS)."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Delete the entire entry and replace with "The "Blanket Routine Uses" that appear at the beginning of DCAA's compilation of systems of records apply to this system."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system

Storage:

Delete entire entry and replace with "Records are maintained in automated data systems."

Retrievability:

Delete entire entry and replace with "Records are retrieved by organizational levels, name of employee, Social Security Number, office symbol, audit activity codes, or any other combination of these identifiers."

Safeguards:

Delete entire entry and replace with "Automated records are protected by restricted access procedures. Access to records is strictly limited to authorized officials with a bone fide need for the records."

Retention and disposal:

Delete entire entry and replace with "Records are retained for two to five years and then destroyed by erasure."

System manager(s) and address:

Delete entire entry and replace with "Chief, Network Operations Branch, Workload and Trends Analysis Division, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, Virginia 22304-6178."

* * * * *

RDCAA 590.8

SYSTEM NAME:

Field Audit Office Management Information System (FMIS).

SYSTEM LOCATION:

Network Operations Branch, Workload and Trends Analysis Division, Headquarters, Defense Contract Audit Agency; DCAA regional offices; and DCAA field audit offices. Official mailing addresses are published as an appendix to DCAA's compilation of systems of record notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DCAA employees and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to audit work performed in terms of hours expended by individual employees, dollar amounts audited, exceptions reported, and net savings to the government as a result of those exceptions; records containing contractor and contract information; records containing requirements and program plan information; and records containing Social Security Numbers, pay grade and (optionally) address information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and E.O. 9397.

PURPOSE(S):

To provide managers and supervisors in field audit offices with timely, on-line, information regarding audit requirements, programs, and performance; and serve as the source of information to be entered and consolidated in the Agency Management Information System (AMIS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of DCAA's compilation of systems of records apply to this system:

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are maintained in automated data systems.

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RETRIEVABILITY:

Records are retrieved by organizational levels, name of employee, Social Security Number, office symbol, audit activity codes, or any other combination of these identifiers.

SAFEGUARDS:

Automated records are protected by restricted access procedures. Access to records is strictly limited to authorized officials with a bona fide need for the records.

RETENTION AND DISPOSAL:

Records are retained for two to five years and then destroyed by erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Network Operations Branch, Workload and Trends Analysis Division, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, Virginia 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Network Operations Branch, Workload and Trends Analysis Division, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, Virginia 22304–6178.

Individuals must furnish name; Social Security Number; approximate date of record; and geographic area in which consideration was requested for record to be located and identified. Official mailing addresses are published as an appendix to the DCAA's compilation of systems notices.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, Network Operations Branch, Workload and Trends Analysis Division, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, Virginia 22304–6178. Official mailing addresses are published as an appendix to the DCAA's compilation of systems notices.

Individuals must furnish name; Social Security Number; approximate date of record; and geographic area in which consideration was requested for record to be located and identified.

CONTESTING RECORD PROCEDURE:

DCAA rules for accessing records and for contesting contents and appealing initial agency determinations by the individual concerned are published in DCAA Instruction Number 5410.10, "DCAA Privacy Act Program;" 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information, other than data directly related to individual employees, is obtained by field audit office supervisors from audit reports and working papers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–26151 Filed 11–6–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Defense Subpanel Task Force will meet November 27, 1989 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss policy and budgetary matters of immediate Navy interest. The entire agenda of the meeting will consist of dicussions of key issues regarding national security, maritime défense needs, defense policy, planning, and budgetary matters of immediate Navy interest. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268, Phone (703) 756–1205.

Dated: November 2, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–26174 Filed 11–6–89; 8:45 am]

BILLING CODE 3810–AE–M

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Defense Subpanel Task Force will meet December 11–12, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to discuss policy and budgetary matters of immediate Navy interest. The entire agenda of the meeting will consist of discussions of key issues regarding national security, maritime defense needs, defense policy, planning, and budgetary matters of immediate Navy interest. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268, Phone (703) 756–1205.

Dated: November 2, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–26175 Filed 11–6–89; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90–38–000, et al.]

Energy Services, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 31, 1989.

Take notice that the following filings have been made with the Commission:

1. Entergy Services, Inc.

[Docket No. ER90–38–000]

Take notice that Entergy Services, Inc. (Entergy Services), acting as agent for Arkansas Power & Light Company (AP&L) and Entergy Power, Inc. (Entergy Power) on October 26, 1989 tendered for filing a Power Coordination, Interchange and Transmission Service Agreement between Entergy Power and AP&L.

Entergy Services requests an effective date of the later of December 26, 1989, or the date certain required regulatory approvals are received from the Arkansas Public Service Commission and Securities and Exchange Commission. Entergy Services requests waiver of the Commission's notice requirements under § 35.11 of the Commission's Regulations, as may be required.

Comment date: November 14, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Georgia Power Co.

[Docket No. ER90–2–000]

Take notice that on October 24, 1989, Georgia Power Company (Georgia) tendered for filing copies of Article III of the Rate Computation Manual which were inadvertently omitted from its October 3, 1989, filing in this docket.

Comment date: November 14, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Co.

[Docket No. ER90–37–000]

Take notice that on October 26, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing a supplement to Rate Schedule FERC No. 84 (interconnection agreement between PG&E and the Northern California Power Agency [NCPA]. The supplement, dated July 28, 1989, is an agreement between PG&E and the City of Lodi, a member-city of NCPA and a signatory of the interconnection agreement. This agreement relates to a change in the point of interconection at the City of Lodi (from Killelea Substation to their new Industrial Substation) to accommodate increased load growth to PG&E's existing 60 kV system to accomodate the new interconnection point; operating details for this new substation; cost responsibility for tap line construction; and provisions for future upgrades and disconnection. In accordance with the terms of the agreement, PG&E has requested an effective date of July 28, 1989 for this supplement.

Copies of this filing have been served upon the City of Lodi, NCPA and the California Public Utilities Commission. In addition, copies of this filing are available for public inspection in a convenient form and place during normal business hours at PG&E's General Office in San Francisco and at PG&E's Sacramento Valley Regional Office in Sacramento.

Comment date: November 14, 1989, in accordance with Standard Paragraph E end of this notice.

4. Potomac Electric Power Co.

[Docket No. ER89–636–000]

Take notice that on October 13, 1989, Potomac Electric Power Company (PEPCO) tendered for filing additional information in response to staff's request for clarification of PEPCO's recent filing amending PEPCO FERC Rate Schedule No. 74.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26162 Filed 11–6–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF90–21–000]

Foster Wheeler Kauai, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 30, 1989.

On October 30, 1989, Foster Wheeler Kauai, Inc. filed with the Federal Energy Regulatory Commission an application for certification as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

According to the application, the cogeneration facility (the "Facility") has a net generation capacity of 16.5 MW. The Facility is constructed on a 2.713 acre site at Lihue, Kauai, Hawaii. The Facility consists of a bagasse and oil fired steam generator, a double extraction condensing steam turbine, deaerator, boiler feed pumps, feedwater heaters, waste fuel handling system, emission control equipment and other auxiliary equipment. The primary energy source is biomass in the form of bagasse and oil.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commissions Rules of Practice and Procedure. All such motions or protests must be filed no later than November 15, 1989, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26163 Filed 11–6–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP90–124–000, et al.]

ANR Pipeline Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. ANR Pipline Co.

[Docket No. CP90–124–000]

October 30, 1989.

Take notice that on October 25, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–124–000 a request pursuant to §§ 157.205 and 284.223 of the Commission Regulations for authorization to transport natural gas for Consolidated Fuel Corporation (Consolidated), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that the transportation service will be provided pursuant to a transportation agreement dated March 2, 1989, wherein ANR proposes to transport natural gas on an interruptible basis for Consolidated. ANR states that it would receive the gas at ANR's existing points or receipt in the states of

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Oklahoma, Louisiana, Texas and Kansas and the offshore Louisiana and Texas gathering areas and redeliver the gas for the account of Consolidated at existing interconnections located in the state of Ohio.

ANR proposes to transport on a peak day up to 30,000 dekatherms (dt), with an estimated average daily quantity of 30,000 dt. On an annual basis, ANR could transport up to 10,950,000 dt.

ANR also states that no construction of new facilities will be required to provide this transportation service.

ANR states that service for Consolidated under § 284.223(a) commenced September 6, 1989, as reported in Docket No. ST90–85–000.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP90–133–000]

October 30, 1989.

Take notice that on October 26, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP90–133–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Citizens Gas Supply Corporation (Citizens), a marketer of natural gas, under Northern's blanket certificate issued in Docket No. CP86–435–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to transport, on an interruptible basis up to 100,000 MMBtu equivalent of natural gas on a peak day, 75,000 MMBtu equivalent on an average day, and 36,500,000 MMBtu equivalent on an annual basis for Citizens. It is stated that Northern would receive the gas for Citizens' account at designated points on Northern's system and would deliver equivalent volumes at designated points on Northern's system. It is asserted that the service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service commenced September 2, 1989, under the self-implementing authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–4821.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corp.

[Docket No. CP90–135–000]

October 30, 1989.

Take notice that on October 26, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108 filed in Docket No. CP90–135–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Cyanco Company (Cyanco), under its blanket authorization issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest would perform the proposed interruptible transportation service for Cyanco, an end user of natural gas, pursuant to a transportation agreement dated April 11, 1989, as amended July 13, 1989, under its Rate Schedule T1–1. The term of the transportation agreement is from April 11, 1989, and shall remain in full force and effect until May 1, 1990, and month to month thereafter, subject to termination upon 30 business days written notice to the other party. Northwest proposes to transport on a peak day up to 10,000 MMBtu; on an average day up to 100 MMBtu; and on an annual basis 36,500 MMBtu for Cyanco. Northwest proposes to transport the subject gas through its system from any transportation receipt point on its system to any transportation delivery point on its system. Northwest avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. Northwest commenced such self-implementing service on September 22, 1989, as reported in Docket No. ST90–168–000.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Moraine Pipeline Co.

[Docket No. CP90–111–000; Docket No. CP90–113–000]

October 30, 1989.

Take notice that on October 23, 1989, Moraine Pipeline Company (Moraine), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket Nos. CP90–111–000 and CP90–113–000[1], requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP86–492, on behalf of Carnation Company (Carnation), an end-user, and BP Gas Marketing Company (BP Gas), all as more fully set forth in the request on file with the Commission and open to public inspection.

Moraine indicates in Docket No. CP90–111–000 that service commenced September 1, 1989, as reported in Docket No. ST89–4857 and estimates the volumes transported to be 1,800 MMBtu per day on a peak day and average day, plus 657,000 MMBtu on an annual basis for Carnation. The receipt point is the interconnection between Natural Gas Pipeline Company of America (NGPL) and Moraine located at Grayslake in Lake County, Illinois and the delivery point is the interconnection between Moraine and Wisconsin Natural Gas Company (WNG) in Kenosha County, Wisconsin, it is stated.

Moraine indicates in Docket No. CP90–113–000 that service commenced September 8, 1989, as reported in Docket No. ST90–193 and estimates the volumes transported to be 150,000 MMBtu on a peak day, 25,000 MMBtu on an average day, and 9,125,000 MMBtu on an annual basis for BP Gas. Moraine would also transport any additional volumes accepted pursuant to the overrun provisions of its Rate Schedule (FTS). The receipt point is the interconnection between NGPL and Moraine located at Grayslake in Lake County, Illinois and the delivery point is the interconnection between Moraine and WNG, it is stated.

Moraine also states that no new facilities are to be constructed.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. ANR Pipeline Co.

[Docket No. CP90–119–000]

October 30, 1989.

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–119–000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP86–532–000, on behalf of Entrade Corp. (Entrade), a marketer, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR indicates in Docket No. CP90–119–000 that service commenced September 1, 1989, as reported in Docket No. ST90–66–000 and estimates the volumes transported to be 100,000 dth per day on a peak day and average day, plus 36,500,000 dth on an annual basis for Entrade. ANR indicates that it will receive the gas at its existing point of receipt located in the states of Oklahoma, Louisiana, Kansas, and Texas and the Offshore Texas and Louisiana gathering areas and redeliver the gas for the account of Entrade at existing interconnections located in the state of Indiana.

ANR also states that no new facilities are to be constructed.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. ANR Pipeline Co.

[Docket No. CP90–127–000]

October 30, 1989.

Take notice that on October 25, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–127–000 a request pursuant to Section 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of End Users Supply System (End Users), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP86–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 25,000 dt equivalent on a peak day for End Users, 25,000 dt equivalent on an average day and 9,125,000 dt equivalent on an annual basis for End Users. It is stated that ANR would receive the gas at designated points on ANR's system in Oklahoma, Kansas, Texas, Louisiana, offshore Texas, offshore Louisiana, Wisconsin, and Ohio, and would deliver equivalent volumes at designated points on ANR's system in Illinois. It is asserted that the transportation would be effected using existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced September 7, 1989, under the self-implementing authorization of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90–83.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. ANR Pipeline Co.

[Docket No. CP90–117–000]

October 30, 1989.

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–117–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Southern Gas Company (Southern), under the blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that pursuant to a Transportation Agreement dated August 22, 1989, it proposes to transport, on an interruptible basis, up to a maximum of 20,000 dth of natural gas for Southern under Rate Schedule ITS. ANR states that it would receive the gas at ANR's existing points of receipt located in offshore Texas gathering area and redeliver the gas for the account of Southern at existing interconnections located in offshore Texas gathering area.

ANR also states that will transport approximately 20,000 dth on an average day and approximately 7,300,000 dth on an annual basis.

ANR further states that it commenced this service on September 1, 1989, as reported in Docket No. CP90–49–000.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Gas Transmission Corp.

[Docket No. CP90–121–000]

October 30, 1989.

Take notice that on October 24, 1989, Texas Gas Transmission Corporation (Texas Gas), 300 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90–121–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PSI, Inc. (PSI), under the blanket certificate issued in Docket No. CP88–686–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas states that pursuant to a Transportation Agreement dated December 27, 1988, it proposes to transport, on an interruptible basis, up to a maximum of 50,000 MMbtu of natural gas for PSI under Rate Schedule IT.

Texas Gas also states that it will transport approximately 25,000 MMbtu and approximately 9,125,000 MMbtu on an annual basis.

Texas Gas further states that it commenced this service on September 13, 1989, as reported in Docket No. ST90–13–000.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. ANR Pipeline Co.

[Docket No. CP90–126–000]

October 30, 1989.

Take notice that on October 25, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–126–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Hunt Petroleum Corporation (Hunt), a marketer, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that the transportation service would be provided pursuant to a transportation agreement wherein ANR proposes to transport up to 10,000 dekatherms (dt) per day equivalent of natural gas, on an interruptible basis, for Hunt. ANR further states that it would receive the natural gas at ANR's existing points of receipt located in the offshore Louisiana gathering area and would redeliver the natural gas for the account of Hunt at existing interconnections located in the state of Louisiana. ANR indicates that the average day and annual volumes of natural gas to be transported would be 10,000 dt and 3,650,000 dt, respectively.

ANR states that service under § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)) commenced on September 1, 1989, as reported in Docket No. ST90–47–000.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Stingray Pipeline Co.

[Docket No. CP90–109–000]

October 30, 1989.

Take notice that on October 23, 1989, Stingray Pipeline Company (Stingray), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90–109–000

[1] These dockets are not consolidated.

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a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas for Unicorp Energy, Inc. (Unicorp), a marketer of natural gas, under Stingray's Order No. 509 blanket authorization pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Stingray states that it would transport, on an interruptible basis, up to 150,00 MMBtu equivalent of natural gas on a peak day, 100,000 MMBtu equivalent on an average day and 36,500,000 MMBtu equivalent on an annual basis. It is stated that Stingray would receive the gas receipt points on Stingray's system in Louisiana, offshore Louisiana and offshore Texas and would deliver equivalent volumes of gas in Louisiana and offshore Texas. It is further stated that the transportation service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service commenced October 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations.

Comment date: December 14, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Arkla Exploration Co.

Mississippi River Transmission Corp.

[Docket No. CI89-527-000; Docket No. CP89-2043-000]

October 31, 1989.

Take notice that on August 31, 1989, Arkla Exploration Company (Arkla) of 525 Milam Street, Shreveport, Louisiana 71102-3523, and Mississippi River Transmission Corporation (MRT) of 9900 Clayton Road, St. Louis, Missouri 63124, filed a joint application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for (1) a certificate of public convenience and necessity authorizing Arkla to make sales of natural gas to MRT, as total successor to MRT, from production properties located in Bossier Parish, Louisiana, and (2) authorization for MRT to abandon by transfer to Arkla these production properties and related facilities which are used in the sale of the natural gas, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicants state that MRT proposes to transfer these properties to Arkla effective as of the date all necessary regulatory requirements have been satisfied. The gas from the properties has been transferred internally within MRT for use as part of its system supply. Arkla now proposes to make sales from the subject properties to MRT pursuant to a contract between Arkla and MRT dated January 1, 1989. According to Applicants, the gas from the subject properties qualifies for pricing as NGPA section 104 replacement contract gas.

Comment date: November 20, 1989, in accordance with Standard Paragraph J at the end of this notice.

12. ANR Pipeline Co.

[Docket No. CP90-128-000]

October 31, 1989.

Take notice that on October 25, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-128-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Northwestern Mutual Life Insurance Company (Northwestern), a marketer, under its blanket authorization issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR would perform the proposed interruptible transportation service for Northwestern, pursuant to an interruptible transportation service agreement dated April 27, 1988. The transportation agreement is effective for a term until 120 days from the day of initial deliveries, and thereafter until December 31, 1995, and month to month thereafter until terminated by either party on thirty days written notice. ANR proposes to transport approximately 11,200 dth natural gas on a peak and average day; and on an annual basis 4,088,000 dth of natural gas for Northwestern. ANR proposes to receive the subject gas at existing points of receipt located in West Cameron Area Blocks 167 and 314, Offshore Louisiana, and High Island Area Blocks A-345, A-571 and A-573, Offshore, Texas. ANR states that it will redelivered the gas for the account of Northwestern at existing points of interconnection located in the state of Michigan.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. ANR commenced such self-implementing service on September 12, 1989, as reported in Docket No. ST90-133-000.

Comment date: December 15, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. ANR Pipeline Co.

[Docket No. CP90-129-000]

October 31, 1989.

Take notice that on October 25, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-129-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Tarpon Gas Marketing, Ltd. (Tarpon), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that it would receive the gas at existing points of receipt in Louisiana, Illinois, Ohio, Indiana, Wisconsin, Michigan, offshore Texas and offshore Louisiana and would redeliver the gas for the account of Tarpon at existing interconnections located in Michigan.

ANR further states that the maximum daily, average daily and annual quantities that it would transport for Tarpon would be 74,627 dt equivalent of natural gas, and 27,239,090 dt equivalent of natural gas, respectively.

ANR indicates that in a filing made with the Commission in Docket No. ST90.58, reported that transportation service for Tarpon commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 15, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. ANR Pipeline Co.

[Docket No. CP90-125-000]

October 31, 1989.

Take notice that on October 25, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-125-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Tarpon Gas Marketing, Ltd. (Tarpon), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that it would receive the gas at existing points of receipt in Louisiana, Illinois, Ohio, Indiana, Wisconsin, Michigan, offshore Texas and offshore Louisiana and would redeliver the gas for the account of Tarpon at existing interconnections located in Louisiana and Michigan.

ANR further states that the maximum daily, average daily and annual quantities that it would transport for Tarpon would be 59,701 dt equivalent of natural gas, 59,701 dt equivalent of natural gas and 21,791,000 dt equivalent of natural gas, respectively.

ANR indicates that in a filing made with the Commission in Docket No. ST90-57, it reported that transportation service for Tarpon commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 15, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. United Gas Pipe Line Co.

[Docket No. CP90-151-000]

October 31, 1989.

Take notice that on October 27, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-151-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of Victoria Gas Corporation (VICTORIA), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it would transport a maximum daily quantity of 103,000 MMBtu for VICTORIA pursuant to an Interruptible Gas Transportation Agreement, dated July 14, 1988, as amended August 28, 1989, between United and VICTORIA. United further states that it would receive the natural gas at existing points of receipt in offshore Louisiana and in the states of Louisiana, Mississippi and Texas and would redeliver the natural gas at existing points of delivery in the states of Alabama, Florida, Texas, Louisiana and Mississippi. United indicates that the estimated average day and annual quantities to be transported for VICTORIA would be 103,000 MMBtu and 37,595,000 MMBtu, respectively.

United states that it commenced the transportation of natural gas for VICTORIA on August 31, 1989, as reported in Docket No. ST90-34-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: December 15, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Southern Natural Gas Co.

[Docket No. CP90-116-000]

October 31, 1989.

Take notice that on October 23, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed a request with the Commission in Docket No. CP90-116-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas (NGA) for authorization to provide interruptible transportation service to Hadson Gas Systems, Inc. (Hadson), under its blanket certificate issued in Docket No. CP88-316-000 pursuant to section 7 of the NGA, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it would transport natural gas volumes under its Rate Schedule IT from various receipt points on its system in Alabama, Louisiana, offshore Louisiana, Mississippi, Texas, and offshore Texas to a delivery point in Refugio County, Texas. Southern would transport up to 100,000 MMBtu equivalent of natural gas on a peak day, 31,200 MMBtu equivalent on an average day, and 11,388,000 MMBtu equivalent on an annual basis for Hadson.

Southern states that it commenced service for Hadson on September 6, 1989, as reported in Docket No. ST89-4863-000 pursuant to § 284.223 (a) (1) of the Regulations.

Comment date: December 15, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. Transcontinental Gas Pipe Line Corp.

[Docket No. CP90-117-000]

October 31, 1989.

Take notice that on October 26, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP90-117-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for Citizens Gas Supply Company (Citizen), a natural gas marketer, under Transco's blanket certificate issued in Docket No. CP88-328-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a transportation service agreement dated July 11, 1989, Transco requests authority to transport up to 250,000 Dt. of natural gas per day, on an interruptible basis, on behalf of Citizen. Transco states that the agreement provides for it to receive the subject gas at various existing receipt points located in Mississippi, offshore Louisiana, and offshore Texas and to redeliver it to various existing delivery points located in Louisiana and Texas. Citizen has informed Transco that it expects to have only 20,000 Dt. of gas transported on an average day and that it estimates that 27,375,000 Dt. of gas would be transported annually. Transco advises that the transportation service commenced on August 30, 1989, as reported in Docket No. ST89-4764, pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 15, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion

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believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26164 Filed 11-6-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-12-001 and RP90-12-002]

Colorado Interstate Gas Co.; Filings

October 31, 1989.

Take notice that on October 24, 1989, Colorado Interstate Gas Company (CIG) filed in Docket No. RP90-12-001, Substitute Original Sheet No. 31A to its FERC Gas Tariff, Second Revised Volume No. 1-A, to be effective October 17, 1989. CIG requests that this tariff sheet be substituted for Original Sheet No. 31A filed on October 17, 1989, which had a section inadvertently omitted.

Take further notice that on October 25, 1989, CIG filed in Docket No. RP90-12-002, Substitute Second Revised Sheet No. 19 to its FERC Gas Tariff, Second Revised Volume No. 1-A, to be effective October 17, 1989. CIG requests that this tariff sheet replace Second Revised Sheet No. 19 filed on October 17, 1989, which contained a word processing error.

Any person desiring to protest said filings should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before November 7, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26165 Filed 11-6-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC90-2-000]

Eastern Shore Natural Gas Co.; Tariff Filing

October 30, 1989.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) filed, on October 4, 1989, the following revised tariff sheet to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff, to be effective November 1, 1989: Eleventh Revised Sheet No. 424.

Eastern Shore states that the purpose of the filing is to reflect changes in Priority Two Entitlements approved by the Data Verification Committee.

Eastern Shore states that copies of the filing have been mailed to each of Eastern Shore's customers and interested State Commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should on or before November 9, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26165 Filed 11-6-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order by the Office of Hearings and Appeals; Period of July 31 through October 13, 1989

During the period of July 31 through October 13, 1989, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

Dated: October 27, 1989.

Georgs B. Rozsnay,

Director, Office of Hearings and Appeals.

Castle Oil Company, 10/10/89, Case No. KEE-0179

Castle Oil Company (Castle) filed an Application for Exception from the requirement that it file Form EIA-782B, entitled "Reseller/Retailer's Monthly Petroleum Product Sales Report." If the exception request were granted, Castle would not be required to file Form EIA-782B. On October 10, 1989, the DOE issued a Proposed Decision and Order which tentatively denied Castle's application for exception relief.

[FR Doc. 89-26194 Filed 11-6-89; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of August 28 Through September 1, 1989

During the week of August 28 through September 1, 1989, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Don Devereux, 8/29/89, KFA-03072

Mr. Don Devereux filed an Appeal from a partial denial by the Office of International Affairs and Energy Emergencies (OIE) of the Department of Energy of a Request for Information which he submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the OIE's search for documents responsive to Mr. Devereux's request was adequate and that no such documents exist that are in the possession of the DOE. Accordingly, Mr. Devereux's Appeal was denied.

Frensley & Towerman, 8/29/89, KFA-0311

Frensley & Towerman (Frensley) filed an Appeal from a denial by the Deputy Director, Office of Intergovernmental and External Affairs (Authorizing Official), Albuquerque Operations Office (AOO) of the Department of Energy (DOE) of a request for the documents under the Freedom of Information Act (FOIA). Frensley asserted that the Authorizing Official had improperly withheld five documents under Exemption 5 of the FOIA. Frensley also challenged the adequacy of the search. In considering the Appeal, the DOE found that the Authorizing Official had properly withheld the five responsive documents, found during a search of the AOO Management Support Division, under Exemption 5 of the FOIA. However, the DOE remanded three of these documents to the AOO for a determination whether certain factual information was segregable from the deliberative information in those documents.

Sutin, Thayer & Browne, 8/28/89, KFA-0309

Sutin, Thayer & Browne filed an Appeal from a denial by the Director, DOE Office of Safeguards and Security, of a Request for Information which it had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the documents at issue were properly withheld under Exemption 2. The major issues considered in the Decision and Order involved whether the DOE's Personnel Security Interview Manual was primarily an internal agency document and whether disclosure of the withheld portions of the manual would create a significant risk of circumvention of DOE regulations and statutes.

Refund Applications

Amtel, Inc./Whitco, Inc., RF46-24, Amtel, Inc./Internal Revenue Service, 8/29/89, RF46-57

The DOE issued a Decision and Order in the Amtel, Inc. special refund proceeding concerning an Application for Refund filed by Whitco, Inc., a reseller of motor gasoline and diesel fuel purchased from Amtel. The DOE found that Whitco had incurred a disproportionate share of Amtel's alleged overcharges and that it had been injured by the alleged overcharges. Accordingly, the DOE determined that Amtel was entitled to a refund above the volumetric refund level with respect to its purchases from Amtel, but not with respect to that part of its allocation that Whitco had not purchased because of its high price. Since the Amtel consent order amount was equivalent to 22.7 percent of the total amount of overcharges alleged against the firm, the DOE further determined that Whitco was entitled to a refund equivalent to 22.7 of the Amtel alleged overcharges that it had incurred. Accordingly, the DOE concluded that Whitco was entitled to a refund of $139,197.88 (including interest). However, because the DOE had been served with a Notice of Levy by the Internal Revenue Service with respect to federal excise taxes owed by Whitco, the Decision and Order directs the DOE Controller to send $122,933.26 of Whitco's refund to the IRS.

Atlantic Richfield Company/Lorraine Oil Company, et al., 8/28/89, RF304-7205, et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund filed by resellers or retailers of refined petroleum products that were covered by a consent order that the DOE entered into with Atlantic Richfield Company. Each of the applicants submitted information indicating its volume of purchases from ARCO during the consent order period. Each claimant elected to limit its claim(s) on the basis of the 41 percent presumption of injury methodology and was eligible for a refund below the $50,000 ceiling. The sum of the refunds approved in this Decision is $142,233, representing $107,923 in principal and $34,310 in accrued interest.

Crown Central Petroleum Corporation/ Hanover Crown, et al., 8/28/89, RF313-224, et al.

The DOE issued a Decision and Order considering applications filed by 16 purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in Crown Central Petroleum Corp., 18 DOE ¶ 85,320 (1988). The total amount of refunds approved in this Decision was $154,799, representing $130,193 in principal plus $24,606 in accrued interest.

Esleeck Manufacturing Co., Inc., RF272-4760, RD272-4760, Wausau Paper Mills Co., RF272-4790, RD272-4790, Fitchburg Paper Division, 8/30/89, RF272-5189, RD272-5189.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to Esleeck Manufacturing Co., Inc., Wausau Paper Mills Co., and Fitchburg Paper Division based on their respective purchases of refined petroleum products during the period from August 19, 1973 through January 27, 1981. Each applicant used the products in their paper manufacturing activities, and each determined its claim by consulting actual purchase records. Each applicant was an end-user of the products it claimed and was therefore presumed injured. A consortium of 29 states and two territories filed Statements of Objections and Motions for Discovery

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with respect to each applicant. The DOE found that the states' filings were insufficient to rebut the presumption of injury for end-users. Therefore, the Applications for Refunds were granted and the Motions for Discovery were denied. The sum of the refunds granted is $54,666.

Exxon Corporation/A.D. Raibourn Exxon et al., 8/29/89, RF307–3484 et al.

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting 50 Applications for Refund from consent order funds obtained from Exxon Corporation. Each applicant was a reseller that sought a refund of less than $5,000 or an end-user, and was therefore presumed to have suffered injury as a result of Exxon's alleged overcharges. The sum of the refunds granted is $34,051.

Exxon Corporation/Chesapeake Corp. et al., 9/1/89, RF307–737 et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed in the Exxon Corporation special refund proceeding. Each firm purchased directly from Exxon and was a reseller of Exxon products. Each firm's allocable share exceeds $5,000. Instead of making an injury showing to receive its full allocable share, each applicant chose to accept $5,000 or 40 percent of its allocable share, whichever is greater. The sum of the refunds granted in this Decision is $110,835 ($91,018 principal and $19,817 interest).

Exxon Corporation/Cracker Barrel Oil Country Store et al., RF307–8717 et al.

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting 45 Applications for Refund from consent order funds obtained from Exxon Corporation. Each applicant was a reseller that sought a refund of less than $5,000 or an end-user, and was therefore presumed to have suffered injury as a result of Exxon's alleged overcharges. The sum of the refunds granted is $39,557.

Exxon Corporation/Edward L. Singletary et al., 9/1/89, RF307–7500 et al.

The DOE issued a Decision and Order concerning 64 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a retailer of Exxon products whose allocable share is less than $5,000, or an end-user. The DOE determined that each applicant is eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $40,599 ($33,342 plus $7,257 interest).

Exxon Corporation/Elmer's Exxon et al., 8/3/89, RF307–2202 et al.

The DOE issued a Decision and Order concerning 25 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a retailer of Exxon products whose allocable share is less than $5,000, or an end-user. The DOE determined that each applicant is eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $23,284 ($19,121 principal plus $4,163 interest).

Exxon Corporation/Kenway Esso/ Exxon et al., 8/28/89, RF307–428 et al.

The DOE issued a Decsion and Order concerning 20 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a retailer of Exxon products whose allocable share is less than $5,000. All of the applicants disagreed with the gallonage information recorded on their Exxon volume sheets, and submitted alternative gallonage figures from their own records which the DOE accepted. The DOE determined that each applicant is eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $20,154 ($16,551 principal plus $3,603 interest).

Exxon Corporation/Passaic Valley Exxon et al., 8/30/89, RF307–82 et al.

The DOE issued a Decsion and Order concerning four Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $885 ($728 principal plus $157 interest).

Exxon Corporation/Reynolds Service Center et al., 8/28/89, RF 307–912 et al.

The DOE issued a Decision and Order concerning eight Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant is eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $5,653 ($4,642 principal plus $1,011 interest).

Exxon Corporation/Ripple Oil Company, 9/1/89, RF307–909.

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of Ripple Oil Company, Inc. in the Exxon Corporation special refund proceeding. The firm purchased directly from Exxon and was a reseller of Exxon products. The firm's allocable share exceeds $5,000. Instead of making an injury showing to receive its full allocable share, Ripple chose to accept $5,000 or 40 percent of its allocable share, whichever is greater. In this case, $5,000 is greater. Therefore the amount of the refund granted in this Decision is $8,509 ($5,000 principal and $1,509 interest).

Exxon Corporation/Sandusky Store et al., 9/1/89, RF307–7400 et al.

The DOE issued a Decision and Order concerning 56 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a retailer of Exxon products whose allocable share is less than $5,000, or an end-user. The DOE determined that each applicant is eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $53,671 ($44,076 principal plus $9,595 interest).

Gulf Oil Corporation/Carter Machinery Company, et al., 8/30/89, RF300–9536, et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $34,466.

Gulf Oil Corporation/Chemical Leaman Tank Lines, Inc., et al., 8/30/89, RF300–10061, et al.

The DOE issued a Decision and Order concerning 10 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $40,225.

Gulf Oil Corporation/Dave's Gulf Service, et al., 8/31/89, RF300–8831, et al.

The DOE issued a Decision and Order concerning 15 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $28,938.

Gulf Oil Corporation/Lunsford Oil Co., Inc. et al., 9/1/89, RF300–637 et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. The Applications were approved using a presumption of injury. The sum of the refunds granted in this Decision, which includes both principal and interest, is $9,450.

Gulf Oil Corporation/Ranger Fuel Corporation, et al., 8/29/89, RF300–8877, et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $8,758.

Kloster Cruise A/S, RF272–0294, Carnival Cruise Lines, Inc., RF272–0340, P&O Lines Ltd., 8/31/89, RF272–16374.

Kloster Cruise A/S, Carnival Cruise Lines, Inc., and P&O Lines Ltd. (collectively "the Applicants"), three foreign-owned cruise ship lines operating out of U.S. ports, filed Applications for Refund based upon their purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981 (price control period). A group of thirty States and two territories of the United States (collectively "the States") filed objections opposing the receipt of refunds by the Applicants, on the basis that: (1) As a matter of law, foreign firms were never intended that: (1) As a matter of law, foreign firms were never intended to benefit under DOE's price control program and, consequently, cannot claim refunds, and (2) ocean carriers in foreign commerce conventionally added bunker fuel surcharges to their rates to recoup increased fuel costs and thus, as a factual matter, were not injured as a result of crude oil overcharges. The States further argued that, in any event, the ocean carriers are not entitled to refunds with respect to bunker fuel purchased in the Panama Canal Zone. In considering the States' objections, the DOE determined that the Applicants should not be denied refunds simply by virtue of their foreign status and that the States' assertions regarding the pass through of costs by the Applicants were incorrect. The DOE further found that the Applicants had not claimed refunds with respect to any purchases made in the Panama Canal Zone. Accordingly, the respective Applications for Refund were approved. The total refund amount granted in this Decision is $247,328.

Mountain States Telephone & Telegraph, 8/30/89, RF272–61304.

Mountain States Telephone & Telegraph, a telephone utility, filed an Application for Refund in the subpart V crude oil refund proceedings. A group of seventeen states (the States) filed objections to Mountain's application, claiming that Mountain was not an injured end-user. The States also claimed that Mountain should not be permitted to act as a conduit for the distribution of refund benefits to its customers. The DOE rejected the States' arguments, finding that Mountain, as a telephone utility, is considered an ordinary end-user of refined petroleum products. Therefore, the DOE found that Mountain is entitled to receive a refund using the end-user presumption of injury, and that it will not be required to pass through this refund to its customers. Accordingly, Mountain's application was approved and a refund of $88,360 was granted.

Rollings Farms, RF272–7284, Fred L. Morgan, RF272–7284, James Roy Hawkins, 8/31/89, RF272–7932.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to three applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant used the products for various agricultural activities, and each determined its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed and was therefore presumed by the DOE to have been injured. The sum of the refunds granted in this Decision is $568. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Dismissals

The following submissions were dismissed:

Name	Case No.
Brigman's Exxon	RF307–2290.
Dale Tomquist	RF272–52690.
Herbert P. Widdifield, Jr.	RF300–2045.
Lee Gene Center	RF300–725.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: October 27, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89–26195 Filed 11–6–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3678–5]

Risk Assessment Forum Report on Toxicity Equivalency Factors for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of availability of risk assessment forum report.

SUMMARY: This notice announces the availability of an EPA Risk Assessment Forum report entitled 'Toxicity Equivalency Factors (TEFs) for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs/CDFs) and 1989 Update" (EPA-625/3–89/016). The first part of this two-part report re-publishes the TEF scheme published by the Agency in 1987 (EPA/625/3–87/012); the second part describes EPA;'s adoption in 1989 of TEF values now used internationally, some of which differ from TEF values published in EPA's 1987 report. This revision of the 1987 TEFs is based on EPA's examination of the relevant scientific evidence and recognition of the value of internation consistency in the field.

ADDRESS: To obtain a copy of the document, intersted parties should contact the ORD Publications Office, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, (513) 569–7562 (FTS: 684–7562). Copies

BEST COPY AVAILABLE

can be obtained only from the Cincinnati office.

FOR FURTHER INFORMATION CONTACT: Bette Cantor, Technical Liaison, Risk Assessment Forum, (202) 475–6743.

To address this issue, the Agency led a six-nation project under the auspices of NATO which was aimed at adopting a common, international set of TEFs for assessing risks of contamination involving CDDs and CDFs. The Forum

Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0204.

Title: Section 90.35(b)—Physically

Frequency of Response: On occasion.

Estimated Annual Burden: 1,656 Responses; 276 Hours.

Needs and Uses: The above rule paragraphs require licensees who

eligibility under Part 90 must be maintained. The list of participants in the sharing agreement is necessary to identify users of the systems should

FEDERAL RESERVE SYSTEM

[Docket No. R–0677]

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can be obtained only from the Cincinnati office.

FOR FURTHER INFORMATION CONTACT: Bette Cantor, Technical Liaison, Risk Assessment Forum, (202) 475–6743.

SUPPLEMENTARY INFORMATION: In the spring of 1987, EPA's Risk Assessment Forum published a report entitled "Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs/CDFs)." This report outlined the toxicity equivalency factor (TEF) method and recommended that EPA use this method, on an interim basis, in risk assessments involving mixtures of CDDs and CDFs. Upon recomendation of EPA's Risk Assessment Council, the Agency formally adopted this interim TEF procedure. It has been used by EPA to address a variety of environmental contamination incidents involving CDDs and CDFs.

The TEF method is an interim procedure for assessing the risks associated with exposure to complex mixtures of CDDs and CDFs. CDDs and CDFs constitute a family of 210 structurally-related chemical compounds, including 2,3,7,8-tetrachlorodibenzo-p-dioxin, (2,3,7,8-TCDD). Mixtures of these chemicals can be found in incinerator fly ash, hazardous wastes, contaminated soils, and biological media. The TEF procedure uses a set of toxicity equivalency factors to convert the concentration of any CDD or CDF congener into an equivalent concentration of 2,3,7,8-TCDD, the most highly studied congener. Thus, the TEF procedure allows information on a known chemical to be used in assessing related chemicals where little or no data exist. This, in turn, permits the assessment of both carcinogenic and noncarcinogenic risks involving exposures to mixtures of CDDs and CDFs.

In its 1987 report, the Agency emphasized that the method was interim in nature, urged collection of more definitive experimental data, and committed itself to periodic reviews as additional toxicity data were generated.

Also during the past decade, various regulatory agencies in the United States, Canada and Europe developed their own TEF schemes. As a result, numerous slightly different TEF methods existed. As a result, numerous slightly different TEF methods existed. This complicated communication among scientists and agencies in addressing the toxicological significance of complex mixtures of CDDs and CDFs.

To address this issue, the Agency led a six-nation project under the auspices of NATO which was aimed at adopting a common, international set of TEFs for assessing risks of contamination involving CDDs and CDFs. The Forum report issued today, "Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs and CDFs) and 1989 Update," is based on that effort. Most importantly, EPA has adopted the NATO International TEFs/89 (I–TEFs/89), some of which differ from the EPA–TEFs/87 currently in use. Like the original scheme, I–TEFs are based on available scientific data and recognition of the value of international consistency in the field. The Forum report presents the rationale, methodology, and toxicity data used to determine certain new TEF values and describes differences between the 1987 and 1989 figures. In general, the effect of the modifications is likely to be modest for most complex mixtures.

The I–TEFs/89 represent an improvement in an already useful risk assessment tool. However, the approach remains interim in nature and should be replaced with relevant experimental data as such data become available. Promising progress is being made in this area.

Dated: October 31, 1989.

Erich Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89–26293 Filed 11–6–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 30, 1989.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0204.
Title: Section 90.38(b)—Physically Handicapped "Special Eligibility Showing".
Action: Extension.
Respondents: Individuals or households.
Frequency of Response: On occasion.
Estimated Annual Burden: 20 Responses; 7 Hours.
Needs and Uses: Section 90.38(b) provides that persons claiming eligibility in the Special Emergency Radio Service on the basis of being physically handicapped must present a physician's statement indicating that they are handicapped. Submission of this information is necessary to ensure that frequencies reserved for licensing to handicapped individuals are not licensed to non-handicapped persons. The Commission uses the information to determine the eligibility of applicants for licenses on specific frequencies.

OMB Number: 3060–0223.
Title: Section 90.129(b)—Supplemental Information to be Routinely Submitted with Applications (Non type-accepted equipment).
Action: Extension.
Respondents: State or local governments, non-profit institutions, and businesses (including small businesses).
Frequency of Response: On occasion.
Estimated Annual Burden: 100 Responses; 34 Hours.
Needs and Uses: Practically all radio transmitting equipment used in this country is manufactured to certain technical specifications which enable it to be designated as "type-accepted" by FCC laboratory personnel. Such a designation shows the purchaser that the equipment is capable of performing within certain tolerances that limit the interference potential of the device. For the few applicants proposing to use transmitting equipment not proven to meet these specifications, a description of the proposed equipment is required. The information collected is used by FCC engineers to determine the interference potential of the proposed operation.

OMB Number: 3060–0226.
Title: Section 90.135(d & e)—Modification of License.
Action: Extension.
Respondents: State or local governments, non-profit institutions, and businesses (including small businesses).
Frequency of Response: On occasion.
Estimated Annual Burden: 1,656 Responses; 276 Hours.
Needs and Uses: The above rule paragraphs require licensees who have changed their name, address, number and location of station control points, number of mobile units, interconnection status, and/or sharing status to notify the Commission. This information collection applies only to licensees who elect to inform the Commission by letter of these changes. Licensees may use forms in lieu of letters to notify the FCC of the changes. Notification is necessary to maintain an accurate data base that is used by both the Commission, frequency coordinators and the public in corresponding with licensees regarding interference resolution and licensing matters.

OMB Number: 3060–0260.
Title: Section 90.239(d)—Interim Provisions for Operation of Automatic Vehicle Monitoring (AVM) Systems.
Action: Extension.
Respondents: State or local governments, non-profit institutions, and businesses (including small businesses).
Frequency of Response: On occasion.
Estimated Annual Burden: 50 Responses; 67 Hours.
Needs and Uses: The above rule section requires that applicants for automatic vehicle monitoring (AVM) systems submit supplemental technical information necessary to evaluate the interference potential of the proposed system. The information collected is used by FCC engineers to evaluate applications for AVM systems.

OMB Number: 3060–0262.
Title: Section 90.179—Shared Use of Radio Stations.
Action: Extension.
Respondents: State or local governments, non-profit institutions, and businesses (including small businesses).
Frequency of Response: Recordkeeping requirement.
Estimated Annual Burden: 1,650 Recordkeepers; 1 238 Hours.
Needs and Uses: Licensees are allowed to share use of their private land mobile radio facilities on a non-profit, cost-shared basis or on a for-profit private carrier basis. If a licensee shares its station on a nonprofit, cost-shared basis this shared use must be pursuant to a written agreement. This written agreement must be kept as part of the station records. Regardless of the method of sharing, an up-to-date list of persons who are sharing the station and the basis of their eligibility under Part 90 must be maintained. The list of participants in the sharing agreement is necessary to identify users of the systems should interference problems develop. This information is used by Commission field personnel who investigate interference complaints and operational disputes that may arise among the users.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–26145 Filed 11–6–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Topgallant Lines, Inc.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. 1nterested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232–011255.

Title: Topgallant/Lykes Space Charter and Sailing Agreement.

Parties:

Topgallant Lines, Inc.

Lykes Bros. Steamship Co., Inc.

Synopsis: Agreement No. 232–011255 proposes to establish space charter and coordinated sailing arrangements between Topgallant and Lykes Bros. in the trade between the U.S. and North Europe.

By order of the Federal Maritime Commission.

Dated: November 1, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–26142 Filed 11–6–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. R–0677]

Fee Schedules for Federal Reserve Bank Priced Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Approval of a Private Sector Adjustment Factor and fee schedules for Federal Reserve Bank priced services for 1990.

SUMMARY: The Board has approved a Private Sector Adjustment Factor ("PSAF") for 1990 of $79.4 million. This represents an increase of $9.7 million or 13.9 percent over the PSAF of $69.7 million targeted for 1989. The PSAF is a computation of imputed costs that takes into account the taxes that would have been paid and the return on capital that would have been provided had the Federal Reserve's priced services been furnished by a private business firm. The Board has also approved 1990 fee schedules for Federal Reserve check collection, automated clearing house, wire transfer of funds and net settlement, book-entry securities, definitive safekeeping, and noncash collection services, and for electronic connections to the Federal Reserve. These actions were taken in accordance with the requirements of the Monetary Control Act of 1980, which requires that fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Private Sector Adjustment Factor: Paul Bettge, Manager, (202/452–3174), Division of Federal Reserve Bank Operations; for questions regarding fee schedules: Nalini Rogers, Senior Financial Services Analyst, Check Payments (202/452–3801), Tina G. Slater, Senior Financial Services Analyst, Electronic Payments (202/452–2539), or Lisa Hoskins, Senior Financial Services Analyst, Securities (202/452–3437), Division of Federal Reserve Bank Operations; for the hearing impaired only: Telecommunications Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452–3544).

Copies of the 1990 fee schedules for check collection, automated clearing house, funds transfer and net settlement, book-entry securities, electronic connections, definitive safekeeping, and noncash collection are available from local Reserve Banks.

SUPPLEMENTARY INFORMATION:

Private Sector Adjustment Factor ("PSAF")

The Board has approved a 1990 PSAF of $79.4 million, which represents an increase of $9.7 million or 13.9 percent over the PSAF of $69.7 million targeted for 1989. The PSAF is a computation of imputed costs that takes into account the taxes that would have been paid and the return on capital that would have been provided had the Federal Reserve's priced services been furnished by a private business firm. The PSAF is applied to the Federal Reserve's priced services in order to promote competitive neutrality between the Federal Reserve and the private sector.

Taxes

The PSAF includes federal income taxes, state and local taxes, and Federal Deposit Insurance Corporation (FDIC) assessments. The Federal Reserve is exempt from federal income taxes and state and local taxes on its activities, but the Board has determined that the PSAF should include taxes that would be paid by a private business firm engaged in similar activities. The Federal Reserve is also exempt from FDIC assessments, but the Board has determined that the PSAF should include FDIC assessments that would be paid by a private business firm engaged in similar activities. The Board has determined that the PSAF should not include taxes that would be paid by a private business firm engaged in activities that are not similar to the Federal Reserve's priced services activities.

Cost of Capital and Taxes

The PSAF includes the cost of capital that would be provided by a private business firm engaged in similar activities. The Board has determined that the PSAF should not include the cost of capital that would be provided

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SUPPLEMENTARY INFORMATION:

Private Sector Adjustment Factor ("PSAF")

The Board has approved a 1990 PSAF for Federal Reserve Bank priced services of $79.4 million. This amount represents an increase of $9.7 million or 13.9 percent over the PSAF of $69.7 million targeted for 1989.

The Monetary Control Act of 1980 requires that fee schedules for the Federal Reserve's priced services include an allocation of imputed costs for "taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm." These imputed costs are based on data developed in part from a model comprised of the nation's 50 largest bank holding companies ("BHCs").

Briefly stated, the methodology first entails determining the value of Federal Reserve assets that will be used directly in producing priced services during the coming year, including the net effect of assets planned to be acquired or disposed of during the year. Short-term assets are assumed to be financed by short-term liabilities; long-term assets are assumed to be financed by a combination of long-term debt and equity.

Imputed capital costs are determined by applying related interest rates and rate of return on equity derived from the bank holding company model to the assumed debt and equity values. The rates drawn from the BHC model are based on consolidated financial data for the 50 largest BHCs (in terms of asset size), in each of the last five years. Because short-term debt, by definition, matures within one year, only data for the most recent year are used for computing the short-term debt rate.

Capital costs, together with imputations for estimated sales taxes, FDIC insurance assessment on clearing balances held with the Federal Reserve to settle transactions, and expenses of the Board of Governors related to priced services, comprise the PSAF.

Details regarding the derivation of the PSAF are as follows:

Asset Base

The estimated value of Federal Reserve assets to be used in providing priced services in 1990 is reflected in Table 1. Table 2 shows that the value of assets assumed to be financed through debt and equity are projected to total $487.7 million, an increase of $42.7 million or 9.6 percent from 1989. This increase results largely from capital expenditures for bank premises planned by the Reserve Banks next year and from an increase usage of Reserve Bank premises by priced services relative to non-priced activities.

Cost of Capital and Taxes

Earlier this year, the Board approved imputing the cost of equity capital for the PSAF using an average of rates of return on equity derived from a model of the 50 largest privately-owned bank holding companies in each of the last 5 years in order to reduce the variability of imputed return on equity caused by fluctuations in bank holding company earnings. In addition, the BHCs with the highest and lowest returns on equity are no longer excluded from the sample. Use of the 5 year/50 BHC model results in a pre-tax rate of return on equity of 15.5 percent, down from the rate of 16.9 percent used for the 1989 PSAF, although it is an increase from the rate of 12.9 percent that would have resulted from the 3 year/25 BHC model that had previously been used. The reduction in the rate from the 1989 PSAF is a result of changes in the sample of BHCs.

Table 3 shows the interest, equity, and tax rates proposed for 1990 and compares them with the rates used for developing the PSAF for 1989.

Other Imputed Costs

As shown in Table 3, other required PSAF recoveries for 1990 for sales taxes, FDIC insurance, and Board expenses total $15.9 million, up from $11.4 million approved for 1989. A large portion of the increase, $2.4 million, is attributable to another change in the PSAF methodology approved by the Board earlier this year. The imputed FDIC insurance assessment is now computed using a measure of deposits including deferred credit items computed on a basis comparable to a commercial bank. In addition, imputed sales taxes are projected to increase by $1.9 million, largely as a result of an increase in anticipated expenditures by the Reserve Banks in 1990 over 1989.

Capital Adequacy

The final modification to the PSAF methodology approved by the Board in 1989 was to measure the imputed capital adequacy of the Reserve Banks' priced services activities on the basis of the Board-approved risk-based capital guideline of 8 percent capital to risk-weighted assets for state member banks and BHCs. To comply with this guideline, the Board included in Reserve Bank assets a computation of cash items in the process of collection on a basis comparable to a commercial bank. On this basis, the amount of capital imputed for the proposed 1990 PSAF totals 24 percent of risk-weighted assets. Table 4 shows the computation of the risk-based capital ratio assumed for the 1990 pro forma priced services balance sheet.

1990 Fee Schedules

The Monetary Control Act requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs incurred in providing the priced services, including the PSAF. The Board's pricing principles state that fees will be set so that the revenues for major service categories match costs, including the PSAF. The Board may set fees for a service line that do not fully recover costs, in the interest of providing an adequate level of services nationwide. The fees for each service line, however, must recover all operating costs, float costs, and certain imputed costs of providing that service, as well as contribute to the pre-tax return on equity. Total revenue for all Federal Reserve services must, in the aggregate, recover all costs, including the PSAF.

Last year the Board approved fees that were set to recover 100.4 percent of the cost of providing priced services in 1989, including the PSAF and the cost of float. Through the first eight months of 1989, the System recovered 101.1 percent of total costs. The Board estimates that total 1989 costs, including the PSAF, will be $716.1 million. Total revenue is estimated to be $716.0 million, resulting in a 100.3 percent recovery rate. The primary reason for the estimated 1989 recover rate being lower than originally planned is unanticipated check collection service costs attributable to the effects of the new Regulation CC returned check procedures on Reserve Bank operations.

In 1990, total priced services costs, including the PSAF, are projected to be $750.6 million. Total revenue is projected to be $755.9 million, resulting in a 100.7 percent recovery rate. The majority of the proposed 1990 fees are the same as those currently in effect. Since 1984, as the table below shows, the System has made substantial progress in moving closer to its target of 100 percent cost recovery.

ALL PRICED FINANCIAL SERVICES

	Total cost (millions)	Total revenue (millions)	Recovery rate (percent)
1984	$519.1	$559.6	107.8
1985	571.2	603.8	105.7
1986	599.3	627.7	104.7
1987	627.3	649.7	103.5
1988	674.7	667.7	99.0
1989 Est.	716.1	718.0	100.3
1990 Proj.	750.6	755.9	100.7

The Board has approved expenditures for two special research and development efforts designed to lead to major benefits for the payments mechanism. These efforts include projects to improve the reliability of electronic payment services and to explore the application of digital image technology to the check service. The expenditures on these special research and development efforts may fluctuate significantly from year to year and are considered to contribute to priced services costs only temporarily. The special projects associated with the automated clearing house, funds transfer, book-entry securities, and check services will cost an estimated $4.1 million in 1989 and $1.6 million in 1990. The 1990 fees are based on total costs, including the PSAF, but excluding special project costs.

Following is a discussion of estimated 1989 and projected 1990 financial performance and 1990 fees for the individual priced services.

Check Collection

Comparisons of estimated 1989 and projected 1990 cost recovery performance are shown in the table below for the commercial check service.

CHECK COLLECTION

	Total cost	Total revenue (millions)	Recovery rate (percent)
1989	$553.9	$549.9	99.3
1990	579.7	582.4	100.5

The total costs in the table do not include special projects, which would lower the 1989 and 1990 recovery rates to 98.9 percent and 100.3 percent, respectively. Overall, 1990 check collection costs, including PSAF, are projected to increase 4.6 percent. Total check collection volume is projected to increase 1.0 percent.

Seventy-two percent of the 1990 prices for check services are the same as those currently in effect. The aggregate 1990 price change for forward and return check collection services is an increase of 2.5 percent; the price increase in forward collection fees alone is 0.9 percent. Systemwide, 548 of the processed forward collection item fees will remain unchanged, 108 of the fees will increase, and 45 of the fees will decrease. Forward check collection processed volume is projected to increase 1.1 percent in 1990, compared to an estimated 1.7 percent increase in 1989.

The price increase in return collection fees is 15.2 percent. Of the 600 processed return item fees, 331 will remain unchanged and 269 will increase. The increases in return item fees are attributable to higher costs associated with staff increases made in return item processing during 1989 and to automation and software system changes to support new return item operations. Return item volume is projected to remain relatively flat (a 0.5 percent decrease) in 1990, with the percentage of total returns that are qualified, rather than deposited as raw returns,[1] increasing slightly from 82 percent in 1989 to 85 percent in 1990.

A Systemwide action plan to improve return item quality has been implemented in all districts and has significantly reduced overtime and float expenses throughout the System. Further developments in the quality of return items deposited with the Federal Reserve are needed in order to realize the reductions in return item processing costs. The Reserve Banks continue to devote additional resources to dealing with misdirected returns, returns that do not comply with indorsement standards, returns of poor physical quality, and high levels of return item adjustments. The Reserve Banks will continue working with depositors to improve the overall quality of return item deposits.

The Board has approved a decrease of 1.3 percent in fine-sort fees for both forward collection and return items. Two hundred fifteen of the fine sort fees will remain unchanged, none will increase, and 21 fees will decrease. Fine-sort item volume is projected to increase 3.3 percent in 1990, reflecting both lower prices overall and improved deadlines adopted for 1990. Consolidation of private check clearing operations stemming from bank mergers is also expected to increase demand for fine-sort.

With regard to the Interdistrict Transportation System ("ITS"), 54 percent of the 4,512 prices will not change from those currently in effect, 14 percent will increase by one-tenth of a cent, 30 per cent will decrease by one-tenth of a cent, and less than 2 percent will change by more than one-tenth of a cent. Overall, the weighted average ITS fee will decline approximately 1 percent. ITS volume is projected to increase approximately 1 percent in 1990. ITS fees are incorporated into the Other Fed fees charged by Reserve Banks. Private collecting institutions consolidating their work on Federal Reserve ITS transportation (consolidated shippers) are charged the ITS fee for transportation to the designated Reserve Bank office.

Sixty-four new check collection deadlines have been approved for 1990. All deadline changes reflect improvements to depositors and are in conformance with System guidelines.

Automated Clearing House ("ACH")

Comparisons of the estimated 1989 and projected 1990 cost recovery performance for the commercial ACH service are shown in the table below.

AUTOMATED CLEARING HOUSE

	Total cost (millions)	Total revenue (millions)	Recovery rate (percent)
1989	$48.3	$49.2	101.8
1990	52.3	52.3	100.1

The total costs in the table do not include special project costs, which would reduce the 1989 and 1990 recovery rates to 100.6 percent and 99.8 percent, respectively. The Board estimates that total ACH costs, including the PSAF, will increase $4.0 million or 8.3 percent in 1990, while commercial ACH volume will increase by 22.4 percent, compared to an estimated 23.6 percent increase in 1989. This pattern of changes in cost and volume reflects the economies of scale inherent in ACH processing.

The Board has reduced the surcharges for processing ACH transactions at night to reflect continued decreases in float costs and more efficient ACH processing. The night surcharge on debit transactions will be reduced from 3.5 cents to 2.0 cents, and the surcharge on next-day credit transactions will be reduced from 1.5 cents to 1.0 cents.

The Board has also reduced the interregional transaction fee from 1.7 cents to 1.6 cents in 1990. The fee reflects economies of scale in ACH processing and recent software changes that result in more efficient editing of ACH transactions.

Beginning in April 1990, all districts except for San Francisco will process ACH transactions at only one location. The San Francisco District will operate two processing sites reflecting its contingency processing arrangements. For this reason, and because interdistrict network charges are not a cost component in intradistrict transactions, the Board has altered the

[1] A raw returned check is a return that has not been prepared for automated processing. A qualified returned check ("QRC") is a return that has been prepared for automated processing by placing a strip on the check, or placing the check in a carrier envelope, and encoding the strip or envelope with the routing number of the depositary bank, the amount of the check, and a special return identifier.

definition of interregional transactions. Beginning April 2, 1990, the Reserve Banks will assess the intraregional fee for all transactions that are originated to and received by depository institutions

percent in 1990, compared to an estimated increase of 6.0 percent in 1989.

For 1990, the Board will maintain the basic funds transfer fee at its current level of $0.50. In addition, current net

service, which is a necessary part of the Treasury securities transfer, is treated as a non-priced service. The Treasury intends to keep its 1990 prices stable,

Definitive safekeeping and noncash collection costs are expected to decrease by 1.4 percent in 1990 as Reserve Banks continue to adjust costs in reaction to anticipated volume

reregistrations, and, by one district, to $0.005 per month per $1,000 par value maintained. Noncash collection fee increases in eight districts range from

performance of the cash service are shown in the table below.

CASH

definition of interregional transactions. Beginning April 2, 1990, the Reserve Banks will assess the intraregional fee for all transactions that are originated to and received by depository institutions within the same Federal Reserve district, and apply the interregional fee only to transactions between institutions located in different Federal Reserve districts.

The Board has also adopted higher fees for processing ACH files and addenda records to reflect data processing and communications costs more accurately. The file fee will increase from $1.00 to $1.25 per file. Intraregional and interregional addenda fees will increase to 0.4 and 0.5 cents from 0.2 and 0.3 cents, respectively.

Automated ACH processing is priced nationally. In the past, the Reserve Banks have established fees within specified ranges for nonautomated processing, such as magnetic tape and paper output handling and processing return items submitted in paper form. For 1990, the Board has approved national fees for nonautomated as well as automated ACH processing. In addition, the Board approved higher fees for most nonautomated processing components of the ACH service to better recover the costs associated with labor-intensive processing. Analysis of the costs of various components of the ACH service has indicated that the costs of providing these nonautomated services are, in many cases, significantly higher than the fees currently being assessed. Accordingly, the Board approved increases in nonautomated fees.

Funds Transfer and Net Settlement

Comparisons of the estimated 1989 cost recovery performance and the 1990 projected cost recovery performance for the funds transfer and net settlement service are shown in the table below.

FUNDS TRANSFER AND NET SETTLEMENT

	Total cost	Total revenue (million)	Recovery rate (percent)
1989	$73.2	$75.5	105.0
1990	77.2	78.7	102.0

The total costs in the table do not include special project costs, which would reduce the 1989 and 1990 recovery rates to 103.4 percent and 101.6 percent, respectively. In 1990, the Board estimates that funds transfer costs, including the PSAF, will increase by $4.0 million or about 5.4 percent over 1989. The volume of basic funds transfers originated is expected to increase by 5.1 percent in 1990, compared to an estimated increase of 6.0 percent in 1989.

For 1990, the Board will maintain the basic funds transfer fee at its current level of $0.50. In addition, current net settlement and off-line wire transfer fees will remain in effect in 1990.

Book-Entry Securities

Comparisons of the estimated 1989 cost recovery performance and the 1990 projected cost recovery performance are shown in the table below for the book-entry securities service.[3]

BOOK-ENTRY SECURITIES

	Total cost (millions)	Total revenue (millions)	Recovery rate (percent)
1989	$9.5	$10.2	107.3
1990	10.7	11.1	103.7

The total costs in the table do not include special project costs, which would reduce the 1989 and 1990 recovery rates to 103.7 percent and 102.9 percent, respectively. Book-entry securities volume is projected to increase 8.3 percent in 1990, while costs are projected to increase approximately 12.1 percent. Approximately 4.7 percent of this cost increase is attributable to volume-weighted reallocations of expenses due to a fall-off in transfers of Treasury securities, which is itself explained by the implementation of netting schemes for Treasury securities.

The only change in existing prices for 1990 is the elimination of a fee currently charged for off-line account switch deposits. An account switch is the withdrawal of a security from one book-entry sub-account for deposit to another book-entry sub-account of the same depository institution. Four Reserve Banks currently assess a fee to off-line institutions for each side of the transaction even though the withdrawal and deposit are performed nearly simultaneously as part of a single process.

The Federal Reserve Banks, as fiscal agents of the United States, also process book-entry transfers of Treasury securities for depository institutions. These transactions, which are operationally identical to those for Federal agency issues, are subject to a fee determined by the Treasury. A funds settlement fee of $0.60 is charged for each book-entry transfer of Treasury securities to reflect settlement of the transfers by the Reserve Banks. This service, which is a necessary part of the Treasury securities transfer, is treated as a non-priced service. The Treasury intends to keep its 1990 prices stable, recognizing that there will be a need for further evaluation of fees as the Government Securities Clearing Corportation ("GSCC") netting program becomes fully implemented. GSCC's netting program has and will likely further reduce the number of Treasury book-entry transfers processed through the Federal Reserve book-entry system. In 1990, the Treasury and the Federal Reserve will also evaluate the cost impact of other factors including the development of the future of a book-entry system. Since the impact of these factors is uncertain, the Board has not modified book-entry fees in 1990.

Electronic Connections

Fees are charged for electronic connections to the Federal Reserve Banks. The 1990 electronic connection fees are largely the same as those currently in effect. The multi-drop connection fee at $300 per month, and the dedicated leased line connection fee at $600 per month. In addition, the $100 bulk data software fee will be eliminated.

The Federal Reserve plans to introduce new intelligent terminal software that will allow depository institutions that receive a low volume of ACH payments to do so efficiently on a small personal computer. This alternative will enable depository institutions to receive payment information from Reserves Banks electronically (but not originate payment instructions) and print the information for subsequent processing. This innovation will be instrumental in achieving the Federal Reserve's objective of an all-electronic ACH. The dial-up connection fee for this low-volume delivery mechanism will be $30 month.

Definitive Safekeeping and Noncash Collection

Comparisons of the estimated 1989 and 1990 projected cost recovery performance for the definitive safekeeping and noncash collection service are shown in the table below.

DEFINITIVE SAFEKEEPING AND NONCASH COLLECTION

	Total cost (millions)	Total revenue (millions)	Recovery rate (percent)
1989	$17.2	$17.5	102.0
1990	16.9	17.0	100.4

[3] These financial data relate only to book-entry transfers of government agency securities, which are priced by the Federal Reserve.

Definitive safekeeping and noncash collection costs are expected to decrease by 1.4 percent in 1990 as Reserve Banks continue to adjust costs in reaction to anticipated volume declines, as no new bearer securities have been issued since 1983. Definitive safekeeping volumes in 1990 are expected to decrease about 10.0 percent and noncash collection volume is expected to decrease 6.2 percent.

The Board has increased definitive safekeeping prices in six districts to offset volume declines. Increases range from $1.00 to $8.25 for deposit and withdrawal fees, from $0.15 to $1.50 for receipts/issues maintained, from $1.00 to $8.25 for purchases and sales and reregistrations, and, by one district, to $0.005 per month per $1,000 par value maintained. Noncash collection fee increases in eight districts range from $0.15 to $0.55 per envelope for collection of coupons and from $2.00 to $10.00 for return item and collection of matured or called bonds.

Cash

Cash services that are priced by the Reserve Banks include (1) cash transportation, (2) coin wrapping, (3) nonstandard packaging of currency orders and deposits, and (4) nonstandard frequency of access to cash services. Comparisons of the estimated 1989 and projected 1990 cost recovery performance of the cash service are shown in the table below.

CASH

	Total cost (millions)	Total revenue (millions)	Recovery rate (percent)
1989	$14.0	$14.4	102.9
1990	13.8	14.4	103.7

There will be no 1990 price changes for cash services.

By order of the Board of Governors of the Federal Reserve System, November 1, 1989.
William W. Wiles,
Secretary of the Board.

TABLE 1.—Comparison of Pro Forma Balance Sheets for Federal Reserve Priced Services

[Millions of dollars—average for year]

	1990		1989	
Short-term assets				
Imputed reserve requirement on clearing balances	$286.3		$263.3	
Investment in marketable securities	2,099.4		2,077.6	
Receivables [1]	32.0		29.6	
Materials and supplies [1]	7.1		7.1	
Prepaid expenses [1]	9.6		8.3	
Items in process of collection [2]	3,838.9		3,701.6	
Total short-term assets		$6,273.3		$6,105.9
Long-term assets				
Premises [1] [3]	297.5		259.9	
Furniture and equipment [1]	141.5		142.6	
Capital leases	1.9		1.1	
Total long-term assets		440.9		403.6
Total assets		6,714.2		6,509.5
Short-term liabilities				
Clearing balances and balances arising from early credit of uncollected items	2,836.7		2,794.0	
Deferred credit items [2]	3,385.9		3,269.0	
Short-term debt [4]	46.7		42.8	
Total short-term liabilities		6,273.3		6,105.9
Long-term liabilities				
Obligations under capital leases	2.0		1.1	
Long-term debt [4]	139.1		156.8	
Total long-term liabilities		141.0		158.0
Total liabilities		6,414.3		6,263.9
Equity [4]		299.9		245.6
Total liabilities and equity		6,714.2		6,509.5

[1] Financed through PSAF; other assets are self-financing.
[2] 1989 figures are restated to be consistent with the modifications to the PSAF methodology approved by the Board in May 1989.
[3] Includes allocations of Board of Governors, assets to priced service of $0.3 million for 1990 and $0.4 million for 1989.
[4] Imputed figures; represent the source of financing for certain priced services assets.

Note: Details may not add to totals due to rounding.

TABLE 2—DERIVATION OF THE 1990 PSAF

(millions of dollars)

A. Assets to be Financed [1]
Short-term $48.7
Long-term [4] ..... 439.0 ..... $487.7

TABLE 2—DERIVATION OF THE 1990 PSAF—Continued

(millions of dollars)

B. Weighted Average Cost
1. Capital Structure [3]
Short-term Debt .. 10.0% ....
Long-term Debt ... 28.5% ....
Equity ..... 61.5% ....

TABLE 2—DERIVATION OF THE 1990 PSAF—Continued

(millions of dollars)

2. Financing Rates/Costs [3]
Short-term Debt .. 7.3% ....
Long-term Debt ... 9.6% ....
Pre-tax Equity [4] .. 15.5% ....
3. Elements of Capital Costs
Short-term Debt .. $48.7 X 7.3% = $3.5

TABLE 2—DERIVATION OF THE 1990 PSAF—Continued

(millions of dollars)

Long-term Debt	139.1	X 9.6%	=	13.3
Equity	299.9	X 15.5%	=	46.6
				$63.5
C. Other Required PSAF Recoveries				
Sales Taxes	$9.9			
Federal Deposit Insurance Assessment	4.3			
Board of Governors Expenses	1.7			$15.9
D. Total PSAF Recovered				$79.4
As a percent of capital				16.3%
As a percent of expenses [5]				14.2%

[1] Priced service asset base is based on direct determination of assets method.

[2] Consists of total long-term assets less capital leases that are self-financing.

[3] All short-term assets are assumed to be financed by short-term debt. Of the total long-term assets, 32 percent are assumed to be financed by long-term debt and 68 percent by equity.

[4] The pre-tax rate of return on equity is based on the average after-tax rate of return on equity, adjusted by the effective tax rate to yield the pre-tax rate of return on equity for each bank holding company for each year. These data are then averaged over five years to yield the pre-tax return on equity for use in the PSAF.

[5] Systemwide 1990 budgeted priced service expenses less shipping were $560.6 million.

TABLE 3.—CHANGES BETWEEN 1990 AND 1989 PSAF COMPONENTS

	1990	1989
A. Assets to be Financed (millions of dollars)		
Short-term	$48.7	$42.6
Long-term	439.0	402.8
B. Cost of Capital		
Short-term Debt Rate	7.3%	8.6%
Long-term Debt Rate	9.6%	9.0%
Pre-tax Return on Equity	15.5%	16.9%
Weighted Average Cost of Capital	13.6%	13.8%
C. Tax Rate	27.8%	20.5%
D. Capital Structure		
Short-term Debt	10.0%	9.6%
Long-term Debt	28.5%	35.2%
Equity	61.5%	55.2%
E. Other Required PSAF Recoveries (millions of dollars)		
Sales Taxes	$9.9	$8.0
Federal Deposit Insurance Assessment	4.3	1.9
Board of Governors Expenses	1.7	1.4
F. Total PSAF		
Required Recovery	$79.4	$69.7
As Percent of Capital	16.3%	15.7%
As Percent of Expenses	14.2%	13.8%

TABLE 4.—COMPUTATION OF CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES

	Assets	Risk Weight	Weighted Assets
Imputed reserve requirement on clearing balances	$286.3	0.0	$0.0
Investment in marketable securities	2,099.4	0.0	0.0
Receivables	32.0	0.2	6.4
Materials and supplies	7.1	1.0	7.1
Prepaid expenses	9.6	1.0	9.6
Items in process of collection	3,838.9	0.2	767.8
Premises	297.5	1.0	297.5
Furniture and equipment	141.5	1.0	141.5
Capital leases	1.9	1.0	1.9
Total	$6,714.2		$1,231.8
Imputed Equity for 1990 Capital to Risk-Weighted Assets	$299.9		
Capital to Risk-Weighted Assets	24.3%		

[FR Doc. 89-26176 Filed 11-6-89; 8:45 am]

BILLING CODE 6210-01-M

Maybaco Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 22, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Maybaco Company*, Baltimore, Maryland; to acquire up to 9.5 percent of MNC Financial, Inc., Baltimore, Maryland, and thereby indirectly acquire Equitable Bank, N.A., Baltimore, Maryland, Equitable Bank of Delaware, Dover, Delaware, Maryland National Bank, Baltimore, Maryland, American Security Bank, N.A., Washington, D.C., and Maryland National Bank, N.A., Newark, Delaware.

In connection with this application, Applicant also proposes to acquire E.B. Mortgage Corporation, Towson, Maryland, and thereby engage in making, acquiring, and servicing mortgage loans for its own account and the accounts of others pursuant to § 225.25(b)(1); Equibank Life Insurance Company, Baltimore, Maryland, and thereby engage in underwriting, as reinsurer, credit life, accident and health insurance and involuntary employment insurance in connection with extensions of credit by Equitable Bancorporation's subsidiaries, including Equitable Bank, N.A., Equitable Bank of Delaware, and E.B. Mortgage Corporation pursuant to § 225.25(b)(8); Fayette Insurance Corporation, Baltimore, Maryland, and thereby engage in acting as agent or broker for the sale of credit life, accident and health insurance solely in connection with extensions of credit by Equitable Bancorporation's subsidiaries, including Equitable Bank, N.A., Equitable Bank of Delaware, and E.B. Mortgage Corporation pursuant to § 225.25(b)(8); and Internet, Inc., Reston, Virginia, and thereby engage in providing data processing switching services for automatic teller machines ("ATMs") and point of sale ("POS") networks. Internet, Inc., also provides and maintains data processing software to banks and other financial institutions for the operation of this hardware, and maintains ATM and POS data bases for some banks and financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 1, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26177 Filed 11-6-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General; Statement of Organization, Functions and Delegations of Authority

This Notice amends part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) to reflect certain changes in chapter AF, Office of Inspector General (OIG). Chapter AF was published at 50 FR 45488 and at 51 FR 9894, March 21, 1986.

The revision flows from the transfer of the statutory basis for the Office of Inspector General from Public Law 94-505 to Public Law 95-452. The transfer was made under the Inspector General Act Amendments of 1988 (Pub. L. 100-504) effective April 17, 1989. This functional statement conforms to and carries out the statutory requirements for operating the Office of Inspector General. While the basic organizational structure of the Office of Inspector General is unchanged, certain units and positions are renamed, and there are minor shifts in reporting relationships. An additional program unit has been delineated, and some small functional units have been transferred; *e.g.*, the information resources management function formerly assigned to the Deputy Inspector General is now under the Deputy Inspector General for Audit Services. The public affairs, congressional liaison and semiannual report functions formerly assigned to the Office of Analysis and Inspections are now under the Assistant Inspector General for Management and Policy. While relatively minor, the changes have been made to assist the organization to accomplish its mission more effectively.

Delete Chapter AF in its entirety and replace with the following:

Section AF.00 Office of Inspector General (OIG)—Mission

This organization was established by law as an independent and objective oversight unit of the Department to carry out the mission of promoting economy, efficiency and effectiveness through the elimination of waste, abuse and fraud. In furtherance of this mission, the organization engages in a number of activities:

A. Conducting and supervising audits, investigations, inspections and evaluations relating to HHS programs and operations.

B. Identifying systemic weaknesses giving rise to opportunities for fraud and abuse in HHS programs and operations and making recommendations to prevent their recurrence.

C. Leading and coordinating activities to prevent and detect fraud and abuse in HHS programs and operations.

D. Detecting wrongdoers and abusers of HHS programs and beneficiaries so appropriate remedies may be brought to bear.

E. Keeping the Secretary and the Congress fully and currently informed about problems and deficiencies in the administration of such programs and operations and about the need for and progress of corrective action, including imposing sanctions against providers of health care under Medicare and Medicaid who commit certain prohibited acts.

In support of its mission, the Office of Inspector General carries out and maintains an internal quality assurance system, including periodic quality assessment studies and quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed; are effective; and are functioning as intended in OIG operations.

Section AF.10 Office of Inspector General—Organization

There is at the head of the OIG a statutory Inspector General, appointed by the President and confirmed by the Senate. The Office of Inspector General consists of five organizational units:

A. Immediate Office of the Inspector General (AFA).
B. Office of the Principal Deputy Inspector General (AFA1).
C. Office of Audit Services (AFH).
D. Office of Investigations and Enforcement (AFJ).
E. Office of Evaluation and Inspections (AFE).

Section AF.20 Office of Inspector General—Functions

The component sections which follow describe the specific functions of the organization.

Section AFA.00 Immediate Office of the Inspector General (OIG)—Mission

The Inspector General is directly responsible for meeting the statutory mission of the OIG as a whole and for promoting effective OIG internal quality assurance systems, including quality assessment studies and quality control reviews of OIG processes and products.

Section AFA.10 Immediate Office of the Inspector General—Organization

The Immediate Office comprises the Inspector General and an immediate staff.

Section AFA.20 Immediate Office of the Inspector General—Functions

As the senior official of the organization, the Inspector General supervises the Deputy Inspectors General who head the major OIG components. The Inspector General is appointed by the President, with the advice and consent of the Senate, and reports to and is under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but does not report to and is not subject to supervision by any other officer in the Department. In keeping with the independence intended in the statutory basis for the OIG and its mission, the Inspector General assumes and exercises, through line management, all functional authorities related to the administration and management of the OIG and all mission related authorities stated or implied in the law or delegated directly from the Secretary.

The Inspector General provides executive leadership to the organization and exercises general supervision over the personnel and functions of its major components. The Inspector General determines the budget needs of the OIG, sets OIG policies and priorities, oversees OIG operations and provides reports to the Secretary and the Congress. In this capacity the Inspector General is empowered under the law with general personnel authority, e.g., selection, promotion, assignment, etc., of employees, including members of the senior executive service. The Inspector General delegates related authorities as appropriate.

Section AFA1.00 Office of the Principal Deputy Inspector General (OPDIG)—Mission

This office is responsible for the reporting and legislative and regulatory development of the OIG long-range strategic plan and the OIG annual work plan. It compiles the Semiannual Report to the Congress and operates the Executive Secretariat. It formulates and other Federal departments, following the system of audit cognizance administered by OMB. It participates in the President's Council on Integrity and Efficiency (PCIE) initiatives and other

Section AFH.20 Office of Audit Services—Functions

A. Immediate Office of the Deputy Inspector General for Audit Services

as intended. It evaluates audit work, including performing quality control reviews of audit reports. It develops and monitors audit work plans. It tracks, monitors, and report on audit resolution, Services (HDS) and the Office of the Secretary (OS). The office conducts and oversees audits of the operations and programs of the FSA, the HDS and the OS, including statewide cost allocation

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Section AFA1.00 Office of the Principal Deputy Inspector General (OPDIG)—Mission

This office is responsible for the reporting and legislative and regulatory review functions required in the law; for formulating and executing the OIG budget; for managing external affairs; and for establishing functional policies for the general management of the OIG. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OPDIG processes and products to ensure that policies and procedures are effective; are followed; and are functioning as intended.

Section AFA1.10 Office of the Principal Deputy Inspector General—Organization

This office comprises the Principal Deputy Inspector General and the Office of Management and Policy.

Section AFA1.20 Office of the Principal Deputy Inspector General—Functions

A. Principal Deputy Inspector General.

This official assists the Inspector General in the management of the OIG, and during the absence of the Inspector General, acts as the Inspector General. The Principal Deputy Inspector General carries out the mission stated in AFA1.00 through the Assistant Inspector General for Management and Policy.

B. Office of Management and Policy.

This office is directed by the Assistant Inspector General for Management and Policy.

1. The office conducts and coordinates OIG reviews of existing and proposed legislation and regulations related to HHS programs and operations to identify their impact on economy and efficiency and their potential for fraud and abuse. It develops regulations for publication in the Federal Register and legislative proposals for inclusion in the Department's legislative program. It serves as contact for the press and electronic media and serves as OIG congressional liaison. The office prepares congressional testimony and confers with officials in the Office of the Secretary staff divisions on congressional relations, legislation and public affairs. It develops and publishes OIG newsletters, recruitment brochures and other issuances to announce and promote OIG activities and accomplishments.

2. The office coordinates the development of the OIG long-range strategic plan and the OIG annual work plan. It compiles the Semiannual Report to the Congress and operates the Executive Secretariat. It formulates and oversees the execution of the OIG budget and confers with the Office of the Secretary, the Office of Management and Budget and the Congress on budget issues. It issues quarterly grants to States for Medicaid fraud control units. It conducts management studies and analyses and establishes and coordinates general management policies for the OIG and publishes those policies in the OIG Administrative Manual. It serves as OIG liaison to the Office of the Secretary for Freedom of Information and Privacy Act requests, personnel issues and other administrative policies and practices, and on equal employment opportunity and other civil rights matters. It coordinates internal control reviews for the OIG.

Section AFH.00 Office of Audit Services (OAS)—Mission

The Office of Audit Services provides policy direction for and conducts and oversees comprehensive audits of HHS programs, operations, grantees and contractors, following generally accepted Government auditing standards (GAGAS), the Single Audit Act of 1984, applicable Office of Management and Budget (OMB) circulars and other legal, regulatory and administrative requirements. It maintains an internal quality assurance system, including periodic quality assessment studies and quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, the Department. In furtherance of this mission, the organization engages in a number of activities:

A. The office coordinates and confers with officials of the central Federal management agencies (OMB, the General Accounting Office (GAO), the Office of Personnel Management (OPM) and the Department of the Treasury) on audit matters involving HHS programs and operations. It provides technical assistance to Federal, State and local investigative offices on matters concerning the operation of the Department's programs. It participates in interagency efforts implementing OMB Circulars A–128 and A–110, which call for use of the single audit concept for most external audits. It performs audits of activities administered by other Federal departments, following the system of audit cognizance administered by OMB. It participates in the President's Council on Integrity and Efficiency (PCIE) initiatives and other Governmentwide projects. It works with other OIG components on special assignments and projects. It responds to congressional oversight interests related to audit matters in the Department.

B. The Office of Audit Services helps HHS operating divisions and the Office of the Secretary staff divisions to develop policies to manage grants and procurements and policies to establish indirect cost rates. It performs preaward audits of grant or contract proposals to determine the financial capability of the grantees or contractors and conducts postaward audits.

C. The office reviews legislative, regulatory and policy proposals for audit implications. It recommends improvements in the accountability and integrity features of legislation, regulations and policy. It prepares reports on audits and special studies for the Secretary, heads HHS operating divisions, Regional Directors and others. It gathers data on unresolved audit findings for the statutorily required Semiannual Reports to the Congress and for the Under Secretary as Chairman of the Audit Resolution Council. It conducts follow-up examinations and special analyses of actions taken on previously reported audit findings and recommendations to ensure completeness and propriety.

D. The office decides when audits can or may be performed by audit organizations outside the Department, including those by other Federal or nonfederal governmental agencies, contractors, or public accounting firms. It assures that any audit performed by non-OIG auditors complies with the Government auditing standards established by the Comptroller General of the United States. It evaluates audits performed for the Department by outside organizations.

Section AFH.10 Office of Audit Services—Organization

The Office of Audit Services comprises the following components:

A. Immediate Office.
B. Audit Policy and Oversight.
C. Health Care Financing Audits.
D. Social Security Audits.
E. Human, Family, and Departmental Services Audits.
F. Public Health Service Audits.

Section AFH.20 Office of Audit Services—Functions

A. Immediate Office of the Deputy Inspector General for Audit Services

This office is directed by the Deputy Inspector General for Audit Services who carries out the functions designated in the law for the position, Assistant Inspector General for Auditing. The Deputy Inspector General for Audit Services is responsible to the Inspector General for carrying out OIG's audit mission and also serves as Audit Director for the Department. This official supervises the Assistant Inspectors General heading OAS offices described below.

The Immediate Office manages the human and financial resources of the Office of Audit Services including developing staffing allocation plans and issuing policy for, coordinating and monitoring all staffing, recruiting and training activities of the office. It maintains a professional development program for Office of Audit Services staff which meets the requirements of Government auditing standards. The office provides liaison with the General Accounting Office. It reviews all replies to GAO reports to ensure they are responsive, properly coordinated and representative of HHS policy and advises the Secretary and other officials about significant findings.

B. Audit Policy and Oversight

This office is directed by the Assistant Inspector General for Audit Policy and Oversight who is the principal assistant to the Deputy Inspector General for Audit Services. This official supervises the Regional Inspectors General for Audit Services who carry out audit activities in their assigned geographic areas.

1. The office develops audit policy, procedures, standards, criteria and instructions for all audit activities performed by, on behalf of, or conforming with departmental programs, grants, contracts, or operations, complying with general accepted Government auditing standards and other legal, regulatory and administrative requirements. It develops policy and procedures for an internal quality assurance system to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, the Department, and conducts quality assurance studies to ensure that the policies and procedures are implemented by each Office of Audit Services component and are functioning as intended. It evaluates audit work, including performing quality control reviews of audit reports. It develops and monitors audit work plans. It tracks, monitors, and report on audit resolution, including follow up per OMB Circular A–50.

2. It plans, develops, and coordinates advanced techniques to carry out the functions of the Office of Audit Services. It coordinates the OIG information resources management function including computer software and hardware acquisition and maintenance. It manages the Office of Audit Services information system.

C. Health Care Financing Audits.

This office is directed by the Assistant Inspector General for Health Care Financing Audits who also serves as the Audit Director for the Health Care Financing Administration (HCFA). The office conducts audits of HCFA program operations and oversees nationwide the audits of the Medicare and Medicaid programs, their contracts, and providers of services and products. It maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all HCFA audit activities performed by, or on behalf of, the Department.

D. Social Security Audits

This office is directed by the Assistant Inspector General for Social Security Audits who also serves as Audit Director for the Social Security Administration. The office conducts as well as oversees nationwide the audits of the Social Security Administration's Retirement, Survivors and Disability Insurance programs; the Supplemental Security Income program; the Black Lung program; as well as the operation and administration of the entire agency. It maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all Social Security audit activities performed by, or on behalf of, the Department.

E. Human, Family, and Departmental Services Audits

This office is directed by the Assistant Inspector General for Human, Family, and Departmental Services Audits who also serves as the Audit Director for the Family Support Administration (FSA), the Office of Human Development Services (HDS) and the Office of the Secretary (OS). The office conducts and oversees audits of the operations and programs of the FSA, the HDS and the OS, including statewide cost allocation plans. It maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all FSA, HDS and OS audit activities performed by, or on behalf of, the Department.

F. Public Health Service Audits

This office is directed by the Assistant Inspector General for Public Health Service Audits who also serves as the Audit Director for the Public Health Service. The office conducts and oversees audits of the programs and activities of the Public Health Service, including the Food and Drug Administration, the National Institutes of Health, the Health Resources and Services Administration, the Alcohol, Drug Abuse, and Mental Health Administration, the Centers for Disease Control, the Agency for Toxic Substances and Disease Registry, the Indian Health Service, and the Surgeon General as well as those colleges, universities and non-profit organizations that receive research grants from the Federal Government. It maintains an internal quality assurance system, including periodic quality control review, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all Public Health Service audit activities performed by, or on behalf of, the Department.

Section AFJ.00 Office of Investigations and Enforcement (OIE)—Mission

The Office of Investigations and Enforcement is responsible for conducting and coordinating investigative activities related to fraud, waste, abuse and mismanagement in HHS programs and operations, including wrongdoing by applicants, grantees, or contractors, or by HHS employees in the performance of their official duties. It serves as OIG liaison to the Department of Justice on all matters relating to investigations of HHS programs and personnel, and reports to the Attorney General when the OIG has reasonable grounds to believe Federal criminal law has been violated. It works with other investigative agencies and organizations on special projects and assignments. In support of its mission, the office carries out and maintains an internal quality

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assurance system. The system includes quality assessment studies and quality control reviews of OIE processes and products to ensure that policies and procedures are effective; are followed; and are functioning as intended.

Section AFJ.10 Office of Investigations and Enforcement—Organization

The Office of Investigations and Enforcement comprises the following components:
A. Immediate Office.
B. Criminal Investigations.
C. Civil and Administrative Remedies.
D. Investigations Policy and Oversight.

Section AFJ.20 Office of Investigations and Enforcement—Functions

A. Immediate Office of the Deputy Inspector General for Investigations and Enforcement

This office is directed by the Deputy Inspector General for Investigations and Enforcement who is responsible for the functions designated in the law for the position, Assistant Inspector General for Investigations. The Deputy Inspector General for Investigations and Enforcement supervises the Assistant Inspectors General who head the OIE offices described below.

The Deputy Inspector General for Investigations and Enforcement is responsible to the Inspector General for carrying out the investigative mission of the OIG and for leading and providing general supervision to the OIG investigative component. The Immediate Office coordinates quality assurance studies to ensure that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all investigative activities performed by, or on behalf of, the Department.

B. Criminal Investigations

This office is directed by the Assistant Inspector General for Criminal Investigations who supervises a headquarters policy and review staff and the Regional Inspectors General for Investigations who carry out investigative activities in their assigned geographic areas.

1. The headquarters staff assists the Deputy Inspector General for Investigations and Enforcement to establish investigative priorities, to evaluate the progress of investigations, and to report to the Inspector General on the effectiveness of investigative efforts. It develops and implements investigative techniques, programs, guidelines and policies. It provides programmatic expertise and issues information on new programs, procedures, regulations and statutes. It directs and coordinates the investigative field offices.

2. The headquarters staff reviews completed reports of investigations to ensure accuracy and compliance with guidelines. It issues the reports to pertinent agencies, management officials and the Secretary and recommends appropriate debarment actions, administrative sanctions, civil money penalties and other civil actions, or prosecution under criminal law. It identifies systemic and programmatic vulnerabilities in the Department's operations and makes recommendations for change to the appropriate mangers.

3. The field offices conduct investigations of allegations of fraud, waste, abuse, mismanagement and violations of standards of conduct and other investigative matters within the jurisdiction of the OIG. They coordinate investigations and confer with HHS operating divisions, staff divisions, OIG counterparts and other investigative and law enforcement agencies. They prepare investigative and management improvement reports.

C. Civil and Administrative Remedies

This office is directed by the Assistant Inspector General for Civil and Administrative Remedies.

1. The office provides policy guidance and technical expertise to the Department, other Federal agencies, carriers, intermediaries, providers and private organizations on civil fraud laws and regulations, penalties, sanctions and other remedies. It maintains liaison with the Department of Justice on the civil fraud aspects of health care and other HHS investigations.

2. The office coordinates and/or helps investigative matters arising under the Program Fraud Civil Remedies Act, the Civil Monetary Penalties Law, and Public Law 100-93, including alleged misconduct by health care entities and others under Medicare, Medicaid, maternal and child health, and social services block grant laws. It assists the Department of Justice to investigate and evaluate civil fraud lawsuits brought under the qui tam provisions of the Federal False Claims Act and related statutes.

3. The office directs and coordinates medical reviews on civil money penalty and exclusion cases to ensure that findings and conclusions are correct and supported by medical records. It evaluates and adjudicates proposals to exclude individuals and/or entities from participation in health care programs. It conducts administrative reviews on proposed exclusions and provides written reports incident to the reviews. It negotiates, implements and monitors settlement agreements and exclusion requirements and, in cases of default, implements penalty provisions. It assists in investigations related to request for reinstatement by excluded individuals and entities, conducts administrative reviews in accordance with regulations, and adjudicates the requests for reinstatement. It maintains indices of sanctioned individuals and entities and prepare reports of sanction and penalty activities for distribution.

D. Investigations Policy and Oversight

This office is directed by the Assistant Inspector General for Investigations Policy and Oversight who leads outreach activities to State and local investigative agencies, and the general management functions of the Office of Investigations and Enforcement.

1. The office oversees State Medicaid fraud control units and is responsible for certifying and recertifying these units and for auditing their Federal funding. The office provides pertinent information from HHS records to assist Federal, State and local investigative agencies to detect, investigate and prosecute fraud. It manages the HHS Hotline to receive complaints and allegations of fraud, waste and abuse, and to refer the information for investigation, audit, program review, or other appropriate action. It coordinates with the GAO hotline and hotlines from other agencies.

2. The office maintains investigative files for OIE headquarters and an automated data and management information system used by all OIE managers and investigators. It provides technical expertise on computer applications for investigations and coordinates and approves investigative computer matches with other agencies.

3. The office develops general management policy for the OIE. It develops and issues instructional media on detecting wrongdoing and on investigating and processing cases. The office reviews proposed legislation, regulations, policies and procedures to identify vulnerabilities and recommends modification where appropriate. It reviews investigative files in response to Privacy and Freedom of Information Act requests. It plans, develops, implements and evaluates all levels of employee training for investigations, management, support skills and other functions. It coordinates general management processes; e.g., compiles reports on the budget, on awards and on other personnel matters for OIE as a whole; implements policies and procedures published in the OIG Administrative Manual; and processes procurement requests and other service related actions.

Section AFE.00 Office of Evaluation and Inspections (OEI)—Mission

The Office of Evaluation and Inspections is responsible for conducting inspections of HHS programs, operations and processes to identify vulnerabilities, to prevent and detect misconduct, and to promote economy, efficiency and effectiveness in HHS programs and operations. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OEI processes and products to ensure that policies and procedures are effective; are followed; and are functioning as intended.

Section AFE.10 Office of Evaluation and Inspections—Organization

The Office of Evaluation and Inspections comprises the Immediate Office and the Analysis and Inspections component.

Section AFE.20 Office of Evaluation and Inspections—Functions

A. Immediate Office of the Deputy Inspector General for Evaluation and Inspections

The office is directed by the Deputy Inspector General for Evaluation and Inspections who is responsible to the Inspector General for Analysis and Inspections. The Immediate Office carries out OEI's mission in headquarters.

1. The office develops OEI's evaluation and inspections policies, procedures and standards. It assesses the quality of inspections to ensure compliance with policies and procedures. It manages OEI's human and financial resources. It develops and monitors OEI's management information systems.

2. The office manages OEI's work planning process and reviews legislative, regulatory and program proposals for vulnerabilities to fraud, waste and mismanagement. It develops evaluative techniques and coordinates projects with other OIG and departmental components. It conducts inspection of HHS programs and recommends changes to improve efficiency and effectiveness. It provides programmatic expertise and issues information on new programs, procedures, regulations and statutes to OEI regional offices. It maintains liaison with other components in the Department; follows up on implementation of corrective action recommendations; evaluates the actions taken to resolve problems and vulnerabilities identified; and provides additional data or corrective action options, where appropriate.

B. Analysis and Inspections

This office is directed by the Assistant Inspector General for Analysis and Inspections who supervises the Regional Inspectors General for Evaluation and Inspections who carry out OEI's mission and activities in assigned geographic areas. The office evaluates HHS programs and produces the results in inspection reports. It conducts data and trend analyses of major HHS initiatives to determine the effects of current policies and practice on program efficiency and effectiveness. It recommends changes in program policies, regulations and law to improve efficiency and effectiveness, and to prevent fraud, abuse, waste and mismanagement. It analyzes existing policies to evaluate options for future policy, regulatory and legislative improvements.

Dated: October 27, 1989.
Louis W. Sullivan,
Secretary.
[FR Doc. 89-26156 Filed 11-6-89; 8:45 am]
BILLING CODE 4160-04-M

Delegation of Authority

I hereby delegate to the Inspector General with authority to redelegate, my authority under sections 1892(a)(2)(C)(ii) and 1892(a)(3)(B) of the Social Security Act, as amended, to exclude individuals from participation in the Medicare program under title XVIII of the Social Security Act.

This delegation is effective immediately.

Dated: October 27, 1989.
Louis W. Sullivan,
Secretary.
[FR Doc. 89-26157 Filed 11-6-89; 8:45 am]
BILLING CODE 4160-17-M

Food and Drug Administration

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: *San Francisco District Office*, chaired by Ronald M. Johnson, District Director. The topic to be discussed is food labeling.

DATES: Saturday, November 11, 1989, 1 p.m. to 5 p.m.

ADDRESSES: Ella Hill Hutch Community Center, 1050 McAllister Street, San Francisco, CA 94115.

FOR FURTHER INFORMATION CONTACT: Lula M. Holland, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Room 524, San Francisco, CA 94102, 415-556-1364.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.
Alan L. Hoeting,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 89-26161 Filed 11-6-89; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 89N-0466]

Drug Export; Betaxin® (Thiamine Hydrochloride Injection, USP)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sterling Drug Inc. has filed an application requesting approval for the export of the human drug Betaxin® (thiamine hydrochloride injection, USP); 100 mg/ml in 10 ml vials to Canada.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Mary F. Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of

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drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Sterling Drug Inc., 90 Park Ave., New York, NY 10016, has filed an application requesting approval for the export of the drug Betaxin® (thiamine hydrochloride injection, USP); 100 mg/ml in 10 ml vials to Canada. The drug is indicated for use in patients suffering from disorders caused by vitamin B1 deficiency, such as loss of appetite, reduced activity of the gastrointestinal tract (secretory and motor), muscular weakness, polyneuritis due to alcoholism or pregnancy and pernicious vomiting of pregnancy. The application was received and filed in the Center for Drug Evaluation and Research on October 10, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 17, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: October 23, 1989.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89-26144 Filed 11-6-89; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is hereby given that Chapter S5 is being amended to reflect the relocation of the Office of International Policy. The changes are as follows:

Chapter S5
Office of the Deputy Commissioner, Policy and External Affairs
S5.00 Mission
S5.10 Organization
S5.20 Functions

Section S5.10 The Office of the Deputy Commissioner, Policy and External Affairs—(Organization)

Add:
G. The Office of International Policy (S5G).

Section S5.20 The Office of the Deputy Commissioner, Policy and External Affairs—(Functions)

Add:
G. The Office of International Policy (S5G) represents SSA on matters of international research and statistics within HHS, within the academic community and in coordination with SSA's Office of Public Affairs (OPA), with other public and private agencies and organizations. The Office serves as SSA liaison to international agencies and associations which deal with Social Security matters and negotiates international Social Security agreements with foreign governments and develops policies and procedures to implement the agreements. It plans and coordinates programs of technical assistance to foreign Social Security institutions and serves as liaison with other Federal agencies, such as the Department of State and the Department of Treasury on Social Security program matters outside the United States.

Add:
Subchapter S5G
Office of International Policy
S5G.00 Mission
S5G.10 Organization
S5G.20 Functions

Section S5G.00 The Office of International Policy—(Mission)

The Office of International Policy represents SSA on matters of international research and statistics within HHS, within the academic community and in coordination with SSA's OPA, with other public and private agencies and organizations. The Office serves as SSA liaison to international agencies and associations which deal with Social Security matters. It negotiates international Social Security agreements with foreign governments and develops policies and procedures to implement the agreements. The Office provides programs of training and technical consultation on Social Security and related fields to foreign Social Security officials and other foreign experts. It plans and coordinates programs of technical assistance to foreign Social Security institutions and serves as liaison with other Federal agencies, such as the Department of State and the Department of the Treasury on Social Security program matters outside the United States.

Section S5G.10 The Office of International Policy—(Organization)

The Office of International Policy, under the leadership of the Director of the Office of International Policy includes:
A. The Director for International Policy (S5G).
B. The Deputy Director for International Policy (S5G).
C. The Immediate Office of the Director for International Policy (S5G).
D. The Division of International Program Policy and Agreements (S5GA).
E. The International Studies and Organizations Staff (S5GB).
F. The International Activities Staff (S5GC).

Section S5G.00 The Office of International Policy—(Functions)

A. The Director for International Policy (S5G) is directly responsible to the Deputy Commissioner, Policy and External Affairs for carrying out the Office of International Policy's (OIP) mission and provides supervision to the major components of OIP.

B. The Deputy Director for International Policy (S5G) assists the Director in carrying out his/her responsibilities and performs other duties the Director may prescribe.

C. The Immediate Office of the Director for International Policy (S5G) provides the Director and Deputy Director with staff assistance on the full range of their responsibilities and helps coordinate the activities of OIP components.

D. The Division of International Program Policy and Agreements (S5GA).

a. Plans, develops and evaluates program policies and procedures relating to foreign claims administration and beneficiaries, and modifies policies and procedures to meet program requirements in foreign countries.

b. Negotiates international Social Security (totalization) agreements with foreign governments and takes the actions necessary to secure their approval, develops and evaluates agreements and administers the coverage provisions of the agreements.

c. Interacts with various SSA components, HHS, other Federal agencies and governments of other countries on all foreign program matters, including evaluation of foreign social insurance systems for alien nonpayment purposes, benefit payment delivery and restrictions, acceptability of foreign evidence and program integrity.

d. Conducts legislative and regulatory reviews, studies and analysis of all matters relating to international policy and international Social Security agreements, and takes necessary legislative or regulatory action on foreign program and agreement problems requiring such remedy.

E. The International Studies and Organization Staff (S5GB).

a. Develops and implements a methodology for international statistical comparisons. Develops statistical methods involving data in such fields as labor statistics, gross national product, benefit formulas, and financing for a comparison of the information on these areas of interest between the United States and other nations.

b. Directs analytical studies involving comparisons of particular aspects of Social Security measures in selected groups of countries.

c. Coordinates and advises high-level agency officials, congressional committees and various firms and institutions on the operation of the Social Security systems of foreign countries. Represents the Administration and Department at international conferences and seminars on economic development and Social Security.

d. Plans and organizes the work of consultants, outside contractors and regular staff in establishing international exchanges for the purpose of creating a data bank capable of sustaining the research program.

e. Coordinates and advises high-level agency officials with regard to agency participation in international organizations active in the social policy field.

F. The International Activities Staff (S5GC).

a. Provides training, orientation and consultation programs on Social Security to foreign Social Security officials and experts in related fields.

b. Develops and coordinates technical assistance to foreign Social Security institutions.

c. Serves as the SSA focal point in providing information about United States Social Security programs to foreign and international sources.

d. Plans and coordinates foreign travel by SSA officials.

Subchapter S5R
Office of Policy

Section S5R.00 The Office of Policy—(Mission)

Delete last sentence.

Section S5R.10 The Office of Policy—(Organization)

Delete F.
Reletter: G to F and H to G.

Section S5R.20 The Office of Policy—(Functions)

Delete F.
Reletter: G to F and H to G.

Dated: October 27, 1989.

Louis W. Sullivan, MD

Secretary of Health and Human Services.

[FR Doc. 89-26158 Filed 11-6-89; 8:45 am]

BILLING CODE 4190-11-M

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that chapter S1 of the Deputy Commissioner, Management is being amended to retitle the Office of Human Resources, Training and Management Analysis (S1E) as the Office of Human Resources Management (S1E). The Office otherwise remains unchanged. The new material and changes are as follows:

Section S1.10 The Office of the Deputy Commissioner, Management—(Organization)

Delete:
D. The Office of Human Resources, Training and Management Analysis (S1E).

Add:
D. The Office of Human Resources Management (S1E).

Section S1.20 The Office of the Deputy Commissioner, Management—(Functions)

Delete:
D. In the first and sixth sentences: "The Office of Human Resources, Training and Management Analysis * * *."

Add:
D. In the first and sixth sentences: "The Office of Human Resources, Training and Management * * *."

Delete:

Section S1E.00 The Office of Human Resources, Training and Management Analysis—(Mission)

Add:

Section S1E.00 The Office of Human Resources Management—(Mission)

Delete:
In the first sentence: "The Office of Human Resources, Training and Management Analysis (OHRTMA) * * *."

Add:
In the first sentence: "The Office of Human Resources Management (OHRM) * * *."

Delete:

Section S1E.10 The Office of Human Resources, Training and Management Analysis—(Organization)

Add:

Section S1E.10 The Office of Human Resources Management—(Organization)

Delete:
In the first sentence: "The Office of Human Resources, Training and Management Analysis, under the leadership of the Associate Commissioner for Human Resources, Training and Management Analysis, includes:"

Add:
In the first sentence: "The Office of Human Resources Management, under the leadership of the Associate Commissioner for Human Resources Management, includes:"

Delete:
A. The Associate Commissioner for Human Resources, Training and Management Analysis (S1E).
B. The Immediate Office of the Associate Commissioner for Human Resources, Training and Management Analysis (S1E).

Add;
A. The Associate Commissioner for Human Resources Management (S1E).
B. The Immediate Office of the Associate Commissioner for Human Resources Management (S1E).

Delete:

Section S1E.20 The Office of Human Resources, Training and Management Analysis—(Functions)

Add:

Section S1E.20 The Office of Human Resources Management—(Functions)

Delete:
A. The Associate Commissioner for Human Resources, Training and Management Analysis (S1E).

Add:
A. The Associate Commissioner for Human Resources Management (S1E).

Delete:
B. The Immediate Office of the Associate Commissioner for Human Resources, Training and Management Analysis (S1E).

Add:
B. The Immediate Office of the Associate Commissioner for Human Resources Management (S1E).

Delete:
C. The Office of Human Resources Management (S1E).

Dated: October 27, 1989.

Louis W. Sullivan, MD

Secretary of Health and Human Services.

[FR Doc. 89-26159 Filed 11-6-89; 8:45 am]

BILLING CODE 4190-11-M

Bureau of Land Management

Realty Action; Recreation and Public Purposes Act Classification; Arizona

The following described public land in Yuma County, Arizona, has been examined and found suitable for classification for lease or conveyance to the Bureau of Reclamation under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The Bureau of Reclamation proposes to use the land for a recreation site.

Gila and Salt River Meridian, Arizona
T. 8 S., R. 22 W.,
Sec. 1, lot 4.
T. 7 S., R. 22 W.,
Sec. 36, lot 1.
T. 8 S., R. 21 W.,
Sec. 6, lot 3.
T. 7 S., R. 21 W.,
Sec. 31, lot 1.
T. 8 S., R. 20 W.,
Sec. 1, lot 4.
T. 7 S., R. 20 W.,
Sec. 36, lot 1.
T. 8 S., R. 19 W.,
Sec. 6, lot 3.
T. 7 S., R. 19 W.,
Sec. 31, lot 1.
T. 8 S., R. 18 W.,
Sec. 1, lot 4.
T. 7 S., R. 18 W.,
Sec. 36, lot 1.
T. 8 S., R. 17 W.,
Sec. 6, lot 3.
T. 7 S., R. 17 W.,
Sec. 31, lot 1.
T. 8 S., R. 16 W.,
Sec. 1, lot 4.
T. 7 S., R. 16 W.,
Sec. 36, lot 1.
T. 8 S., R. 15 W.,
Sec. 6, lot 3.
T. 7 S., R. 15 W.,
Sec. 31, lot 1.
T. 8 S., R. 14 W.,
Sec. 1, lot 4.
T. 7 S., R. 14 W.,
Sec. 36, lot 1.
T. 8 S., R. 13 W.,
Sec. 6, lot 3.
T. 7 S., R. 13 W.,
Sec. 31, lot 1.
T. 8 S., R. 12 W.,
Sec. 1, lot 4.
T. 7 S., R. 12 W.,
Sec. 36, lot 1.
T. 8 S., R. 11 W.,
Sec. 6, lot 3.
T. 7 S., R. 11 W.,
Sec. 31, lot 1.
T. 8 S., R. 10 W.,
Sec. 1, lot 4.
T. 7 S., R. 10 W.,
Sec. 36, lot 1.
T. 8 S., R. 9 W.,
Sec. 6, lot 3.
T. 7 S., R. 9 W.,
Sec. 31, lot 1.
T. 8 S., R. 8 W.,
Sec. 1, lot 4.
T. 7 S., R. 8 W.,
Sec. 36, lot 1.
T. 8 S., R. 7 W.,
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Section S1E.20 The Office of Human Resources Management—(Functions)

Delete:

A. The Associate Commissioner for Human Resources, Training and Management Analysis (S1E) is directly responsible to the Deputy Commissioner, Management for carrying out OHRTMA's mission and provides general supervision to the major components of OHRTMA.

B. The Immediate Office of the Associate Commissioner for Human Resources, Training and Management Analysis (S1E) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

Add:

A. The Associate Commissioner for Human Resources Management (S1E) is directly responsible to the Deputy Commissioner, Management for carrying out OHRMs mission, and provides general supervision to the major components of OHRM.

B. The Immediate Office of the Associate Commissioner for Human Resources Management (S1E) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

Dated: October 27, 1989.

Louis W. Sullivan, M.D.,

Secretary of Health and Human Services:

[FR Doc. 89-26159 Filed 11-6-89; 8:45 am]

BILLING CODE 4150-11-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Facilities Improvement and Repair Priority List for Fiscal Year 1990

AGENCY: Office of Construction Management, Interior.

The Facilities Improvement and Repair (FI&R) list has been prepared for Fiscal Year 1990 in accordance with House Report Number 98-886, page 52. "To avoid some of the problems experienced in the past, the Committee directs the Bureau to revise the FI&R Priority System by publishing in the **Federal Register** by October 1 of each fiscal year, the national list of projects expected to be accomplished that year within the available funds."

The notice for FY 1990 provides the approved list of FI&R projects. Construction of these projects is subject to the availability fo funds. The list is based upon the Bureau's criteria for ranking projects as published in the **Federal Register**, Volume 51, Number 30, Thursday, February 13, 1986, Page 5415.

The projects for FY 1990 are:

Bureauwide Code Compliance (Phase II)
Bureauwide Roof Repair (Phase II)
Acomita Elementary School, New Mexico
Laguna Elementary School, New Mexico
Riverside Indian School, Oklahoma
Haskell Indian Junior College, Kansas
Lac Courte Oreilles Ojibwa School, Wisconsin
Hannahville Indian School, Minnesota
Carter Seminary, Oklahoma
Jones Academy, Oklahoma
Sequoyah School, Oklahoma
Navajo Gas Lines, New Mexico and Arizona
Mariano Lake School, Arizona
Winslow Dormitory, Arizona
Santa Rosa Ranch School, Arizona
Chemawa Indian School, Oregon
Lummi Tribal School, Washington

FOR FURTHER INFORMATION CONTACT: Arthur M. Love, Jr., Director, Office of Construction Management, Department of the Interior, 18th & C Streets, NW., Mail Stop 2415, Washington, DC 20240.

Lou Gallegos,

Assistant Secretary, Policy, Budget & Administration.

[FR Doc. 89-26155 Filed 11-6-89; 8:45 am]

BILLING CODE 4310-K-M

Bureau of Land Management

[AK-932-00-4214-10; F-020174, F-35871, F-35872]

Correction of Land Description, Fort Greely Maneuver Area et al.; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Notice corrects the legal description published for the Fort Greely Maneuver Area, Fort Greely Air Drop Area and the Fort Wainwright Maneuver Area, withdrawn by Public Law 99-606.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas. BLM Alaska State Office, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513-7599, 907-271-5477.

SUPPLEMENTARY INFORMATION: In the Notice published on February 23, 1987 (52 FR 5506), make the following corrections:

1. On page 5506, in the first column, under the heading Fort Greely Maneuver Area, the 17th and 18th lines of the legal description should read: "of the Fort Greely Military Reservation to a point on the north-south centerline of section 28, T. 11".

2. On the same page, in the third column, the 5th line should read: "feet) to a point on the east boundary line of section 27, T."

Bishop T. Buckle,

Deputy State Director, Lands & Renewable Resources.

[FR Doc. 89-26164 Filed 11-6-89; 8:45 am]

BILLING CODE 4310-JA-M

Bureau of Reclamation

San Xavier Development Project, Pima County, Arizona

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of final environmental impact statement (FEIS); INT-FES-89-27.

SUMMARY: Pursuant to section 101(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation has prepared a FEIS on the San Xavier Development Project. The project is an authorized feature of the Southern Arizona Water Rights Settlement Act of 1982 (SAWRSA). The FEIS addresses the impacts of developing approximately 9,400 to 13,500 acres for irrigated agriculture.

ADDRESSES: Single copies of the FEIS may be obtained on request to the Regional Director or the Arizona Projects Office at the addresses below.

Copies of the FEIS are available for public inspection at the following locations:

Regional Director, Bureau of Reclamation, Lower Colorado Regional Office, PO Box 427, Boulder City, NV 89005; Telephone: (702) 293-8710

Bureau of Reclamation, Environment and Planning Branch, U.S. Department of the Interior, 18th and C Streets NW., Room 7455, Washington, DC 20240; Telephone: (202) 343-4662

Arizona Projects Office, Bureau of Reclamation, 23636 North 7th Street, Phoenix, AZ 85024; Telephone: (602) 870-6760.

Libraries:

Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, Room 167, Denver, CO 80225

Phoenix City Library, Main Library, 12 East McDowell, Phoenix, AZ 85004

Tucson Public Library, Regional Headquarters, 200 South 6th Avenue, Tucson, AZ 85701

San Xavier District Library, San Xavier District, Tucson, AZ 85634

Venito Garcia Library, Tohono O'odham Nation, Sells, AZ 85634.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Rinne (Regional Environmental Office, Lower Colorado Region), (702) 293-8560; or Dr. Wayne O. Deason (Manager of Environmental Services, Federal Center), (303) 236-0338.

SUPPLEMENTARY INFORMATION: The San Xavier Development Project was developed to response to the requirement of SAWRSA to design and construct a new efficient irrigation system for agricultural purposes within the San Xavier District. The FEIS identifies four alternatives and the no Federal action alternative. The proposed project will require the use of about 38,100 acre-feet of water per year on about 8,400 irrigable acres. It will also include land leveling and construction of a main canal, pipelines, field ditches, turnouts, floodways, and operational headquarters.

Public hearings were held on the Draft EIS in January 1989. As a result of the public hearings and the letters of comment, the FEIS addresses an Avra Valley alternative in greater detail. The FEIS also includes more detailed information regarding: plants with special significance to the Tohono O'odham people; the relationship between the Tohono O'odham people and their land; pesticides and health-related issues; and a summary of the public hearings, letters of comment, and responses.

Dated: October 13, 1989.

Dennis E. Schroeder,

Acting Deputy Commissioner.

[FR Doc. 89-26200 Filed 11-6-89; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 28, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by November 22, 1989.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Volusia County

DeLand Memorial Hospital, Old, Stone St., DeLand, 89002030

GEORGIA

Baker County

Tarver Plantation, Tarva Rd./Co. Rt. 122, N of Newton, Newton vicinity, 89002037

Cherokee County

Crescent Farm, GA 5, SE of GA 140, Canton, 89002032

Gwinnett County

Parks—Strickland Archeological Complex, Address Restricted, Dacula vicinity, 89002034

ILLINOIS

Cook County

Rothschild, A.M., & Company Store, 333 S. State St., Chicago, 89002025

LOUISIANA

Avoyelles Parish

Sarto Bridge, Off LA 451 over Bayou Des Glaises, Big Bend, 89002027

MASSACHUSETTS

Bristol County

Acushnet Heights Historic District, Roughly bounded by Summer, Weld, Purchase, Pope, County, and Robeson, New Bedford, 89002035

NEBRASKA

Brown County

Miller Hotel, 197 W. Third St., Long Pine, 89002041

Dawson County

Olive, Ira Webster, House, 401 E. 13th St., Lexington, 89002042

Dodge County

Harder Hotel, 503 Main St., Scribner, 89002046

Douglas County

Melrose, The, 602 N. 33rd St., Omaha, 89002044
Park School, 1320 S. 29th St., Omaha, 89002043
Vinton School, 2120 Deer Park Blvd., Omaha, 89002045

Holt County

Golden Hotel, 406 E. Douglas St., O'Neill, 89002040

Loup County

Pavillion Hotel, Main St. Square, Taylor, 89002039

Madison County

St. Leonard's Catholic Church, 502-504 S. Nebraska St., Madison, 89002038

NORTH DAKOTA

Grand Forks County

Great Northern Freight Warehouse and Depot, 899 Second Ave. N., Grand Forks, 89002031

RHODE ISLAND

Newport County

Witherbee School, Green End Ave., Middletown, 89002036

TENNESSEE

Bedford County

Evans, Winston, House, 306 E. Franklin St., Shelbyville, 89002026

Loudon County

Mason Place, 600 Commercial St., Loudon, 89002029

Williamson County

Crothers, John Henry, House, Liberty Pike, Franklin vicinity, 89002028

TEXAS

Tom Green County

Santa Fe Passenger Depot (San Angelo MRA), 700 S. Chadbourne, San Angelo, 89002561
Santa Fe Railway Freight Depot (San Angelo MRA), 700 S. Chadbourne, San Angelo, 89002562

WISCONSIN

Waukesha County

Pabst, Gustave, Estate, 36100 Geneses Lake Rd., Summit, 89002033

[FR Doc. 89-26196 Filed 11-6-89; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review. As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration

Job Corps Health Questionnaire

1205-0033; ETA 6-53, ETA 6-52

On occasion

Individuals or households

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA 6-53	Individuals or households	103,000	One-time	12 minutes.
ETA 6-52	Individuals or households	309	One-time	1 minute.
				20,607 total hours.

The ETA 6-52 is used to obtain the health history of applicants to the program to determine medical eligibility. The applicant must not have a health condition which represents a potentially serious hazard to the youth or others, results in a significant interference with the normal performance of duties, or requires frequent, expensive or prolonged treatment. The ETA 6-52 is used to certify an applicant's child care arrangements.

Extension

Bureau of Labor Statistics

Mass Layoff Statistics Program

Supplemental Employer Information Report and State Operating Manual

1220-0090; BLS 428

Quarterly

State or local governments; farms; businesses or other for-profit organizations; Federal agencies or employees; non-profit institutions

15,200 responses; 164,760 hours; 10.839 hours per response; 1 form and 1 State Operating Manual.

Section 462(e) of the Job Training Partnership Act states that the Secretary of Labor develop and maintain statistical data on permanent mass layoffs and plant closings, and publish a report annually. These data will be used to study the causes and effects of worker dislocations.

Employment and Training Administration

Interstate Arrangement for Combining Employment and Wages—IB Forms 4, 5, and 6

1205-0170, IB 4, 5, 6

Quarterly, As needed

State or local governments

Form	Respondents	Responses per year	Hours per response	Burden hours
IB-4	53	793,986	15 Min.	198,497
IB-5	53	387,841	10 Min.	65,932
IB-6	53	8,247	20 Min.	2,721
Start-up Burden	53	One-time	120 Hrs.	6,360
Total Annual Burden				273,510

These forms are used for administrative purposes to transfer data concerning claims filed under the Interstate Arrangement for Combining Employment and Wages between agencies.

Signed at Washington, DC, this 2nd day of November, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89-26197 Filed 11-6-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-161-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 77.902 (low- and medium-voltage ground check monitor circuits) to its Burning Star No. 2 Mine (I.D. No. 11-00610) and its Burning Star No. 4 Mine (I.D. No. 11-02024) both located in Perry County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the fail safe ground check circuit is required to cause the circuit breaker to open when either the ground or pilot check wire is broken.

2. As an alternate method, petitioner proposes the following procedures:

(a) The ground phase protection required by the standard would be provided by dropping out a magnetic motor starter in lieu of tripping of a circuit breaker; and

(b) The short-circuit protection would be provided by a circuit breaker. The undervoltage protection would be provided by the megnatic motor starter which has been permitted by MSHA for some time. Overload protection would be provided by the magnetic motor starter and the circuit breaker.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 7, 1989. Copies of the petition are available for inspection at that address.

Dated: October 30, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26198 Filed 11-6-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-144-C]

Twentymile Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Twentymile Coal Company, P.O. Box. 748, Oak Creek, Colorado 80467 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Foidel Creek Mine (I.D. No. 05-03836) located in Routt County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that except where permissible power connection units are used, all power-connection points outby the last open crosscut be in intake air.

2. As an alternate method, petitioner proposes to install two non-permissible pumps in boreholes drilled into sump areas of the mine. The petitioner also proposes to install additional pumps under similar circumstances in the future.

3. In support of this request, petitioner states that—

(a) The pump cannot start or operate if water is below the low water probe level;

(b) The pump installation would be equipped with a water level indicator consisting of a green light located at the pump electrical controls such that a miner can determine that the water level at the pump is sufficient to restart the pump; and

(c) The surface pump control and power circuits would be examined monthly.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 7, 1989. Copies of the petition are available for inspection at that address.

Dated: October 30, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26199 Filed 11-6-89; 8:45 a.m.]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[89-76]

Fiscal Year 1989 Report of Closed Meeting Activities of Advisory Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of reports.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the NASA advisory committee that held closed or partially closed meetings in 1989, consistent with the policy of 5 U.S.C. 552b(c), have prepared reports on activities of these meetings. Copies of the reports have been filed and are available for public inspection at the Library of Congress, Federal Advisory Committee Desk, Washington, DC 20540; and the National Aeronautics and Space Administration, Headquarters Information Center, Washington, DC 20546. The names of the committees are: NASA Advisory Council (NAC), NAC Commercial Programs Advisory Committee, NAC Space Science and Applications Advisory Committee, and the NASA Wage Committee.

FOR FURTHER INFORMATION CONTACT: Kathryn Newman, Code NA, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2380).

Dated: October 30, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-26201 Filed 11-6-89; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. and Vermont Yankee Nuclear Power Station; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station located south of Brattleboro, Vermont.

The proposed amendment would reduce the frequency of the fire watch in the cable vault or switchgear room from continuous to not less than once-per-hour provided the appropriate fire detection system is operable. The fire watch would be implemented when the CO_2 system in either area becomes inoperable. If both the CO_2 system and the detection system are inoperable a continuous fire watch would be maintained. The Technical Specification requiring a continuous fire watch was implemented in 1976 prior to plant improvements which subsequently enhanced the capability of redundant equipment for safe shutdown in the event of a damaging fire; thus, this change is administrative as it merely updates the Technical Specifications to the surveillance requirements of the current NRC Standard Technical Specifications in regard to redundant equipment for safe shutdown.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

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The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed change utilizing the criteria specified in 10 CFR 50.92 and has determined:

This proposed change provides consistency in the application of compensatory measures for inoperable fire suppression systems at Vermont Yankee. This change, therefore, does not significantly increase the probability or consequences of an accident previously evaluated because the change is administrative and does not weaken or upgrade the facility. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the change is administrative and ensures that the plant does not exceed the applicable safety limits. The proposed change does not involve a significant reduction in a safety margin since the change is administrative and does not involve any physical change to the facility.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received with 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By December 7, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as party in the proceeding must file a written petition for leave to invervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be interested in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements desecribed above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Richard H. Wessman, Project Director: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to R.K. Gad, III, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 16, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 31st day of October 1989.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,

Project Manager, Project Directorate II—Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26178 Filed 11-6-89; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 46577]

Chicago-Prestwick/Glasgow Service Proceeding; Assignment of Proceeding

Served: November 1, 1989.

This proceeding has been assigned to Administrative Law Judge Daniel M. Head. All future pleadings and other communications regarding the proceeding shall be served on him at the Office of Hearings, M-50, Room 9228, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-2142.

William A. Kane, Jr.,

Chief Administrative Law Judge.

[FR Doc. 89-26153 Filed 11-6-89; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on October 31, 1989

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on October 31, 1989, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretry of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone, (202) 366-4735, or Edward Clarke, or Wayne Brough, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "FOR FURTHER INFORMATION CONTACT" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "FOR FURTHER INFORMATION CONTACT" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on October 31, 1989.

DOT No: 3278.

OMB No: 2125-0545.

Administration: Federal Highway Administration.

Title: 1990 Nationwide Personal Transportation Study (NPTS).

Need for Information: For DOT/FHWA to have more current data in order to determine the nature and extent of present travel needs, and to plan for meeting the nation's travel needs of the future.

Proposed Use of Information: The NPTS is used to obtain data needed for policy analysis, program planning and program management for sponsoring agencies within DOT.

Frequency: Other—currently every 6-7 years.

Burden Estimate: 21,940.

Respondents: Individuals or households.

Form(s): None.

Average reporting time: 45 minutes.

BEST COPY AVAILABLE

DOT No: 3279.
OMB No: 2125–0512.
Administration: Federal Highway Administration.
Title: Operations Plan—Traffic Surveillance and Control Systems.
Need for Information: For State and local highway agencies to prepare an operations plan for proposed Federal-aid traffic surveillance and control projects.
Proposed Use of Information: To ensure FHWA that an operations plan required from the State and local agencies serves the purposes intended and that adequate resources will be available to operate the system.
Frequency: Other—Non-recurring.
Burden Estimate: 4,000.
Respondents: State and local agencies.
Form(s): None.
Average Burden Hours Per Response: 160 hours.

DOT No: 3280.
OMB No: 2125–0518.
Administration: Federal Highway Administration.
Title: Financial Responsibility for Motor Carriers of Passengers.
Need for Information: To provide proof that insured motor carriers are in compliance with a specific amount of insurance as required by law.
Proposed Use of Information: To provide FHWA assurance during its scheduled inspections at motor carrier offices that each carrier has a minimum level of insurance coverage as required by law.
Frequency: Annually.
Burden Estimate: 75 hours.
Respondents: Insurance Companies.
Form(s): MCS–90B, MCS–82B.
Average Burden Hours Per Response: 3 minutes.

DOT No: 3281.
OMB No: 2125–0526.
Administration: Federal Highway Administration.
Title: Motor Carrier Accident Reports.
Need for Information: To meet the requirements of 49 CFR 394 for interstate and commercial motor carriers to report accidents involving fatalities, personnel injuries or $4,400 or more in property damages.
Proposed Use of Information: For FHWA to identify accident causes and to support rulemaking.
Frequency: On occasion.
Total Burden Estimate: 36,820.
Respondents: Motor Carriers.
Form(s): MCS 50–T and MCS 50–B.
Average Burden Hours Per Response: 1 hour.

DOT No: 3282.
OMB No: New.
Administration: Federal Aviation Administration.
Title: Implementation of the Equal Access to Justice Act (EAJA).
Need for Information: The information must be obtained from the applicant in order to determine the applicant's eligibility for the EAJA Award.
Proposed Use of Information: The information is used by the Department of Transportation Administrative Law Judge to determine that only qualified applicants receive EAJA Awards.
Frequency: On occasion.
Burden Estimate: 120 hours.
Respondents: Individuals and/or businesses.
Form(s): None.
Average Burden Hours Per Response: 5 hours.

DOT No: 3283.
OMB No: New.
Administration: U.S. Coast Guard.
Title: Plan Review for Facilities with Vapor Control Systems.
Need for Information: This information collection requirement is necessary to determine if vapor control systems for vessels or facilities are developed in accordance with safety standards. Information is also needed from persons or organizations who desire to become a Coast Guard certified entity to ensure that they meet the necessary qualifications.
Proposed Use of Information: Coast Guard uses this information to ensure that the vapor control systems comply with regulatory standards and to make decisions on the application for certification.
Frequency: On occasion.
Burden Estimate: 1,640.
Respondents: Vessels/facilities with marine vapor control systems.
Form(s): None.
Average Burden Hours Per Respondent: Reporting burden: 23 hours; recordkeping: 5 minutes.

DOT No: 3284.
OMB No: 2115–0025.
Administration: U.S. Coast Guard.
Title: Oil Record Books and Garbage Record Books for Ships.
Need for Information: This collection of information is needed to enable the Coast Guard to meet its statutory requirements for preventing oil and garbage pollution of the sea.
Proposed Use of Information: The Coast Guard uses the information to verify sightings of violations, determine the level of compliance with MAPOL 73/78, and reinforce the discharge provisons.
Frequency: On occasion.
Burden Estimate: 116,136 hours.
Respondents: Owners/operators of manned, oceangoing vessels engaged in commerce.
Form(s): CG–4602A.
Average Burden Hours Per Respondent: Recordkeeping: 28.4 hours.

DOT No: 3285.
OMB No: 2115–0527.
Administration: U.S. Coast Guard.
Title: Appeal Process for Requirements under Ports and Waterways Safety Control of Vessel Operations and Cargo Transfers.
Need for Information: This information collection requirement is necessary to allow individuals affected by a safety zone to ask for relief from the requirements.
Proposed Use of Information: Coast Guard uses this information to grant relief from the requirements of 33 CFR 160.7 without compromising the safety of vessels, harbors, ports and waterfront facilities.
Frequency: On occasion.
Burden Estimate: 150.
Respondents: Businesses.
Form(s): None.
Average Burden Hours Per Response: 1 hour 30 minutes.

DOT No: 3286.
OMB No: 2115–0505.
Administration: U.S. Coast Guard.
Title: Title 46 CFR, subchapters D, H, I, I-A, R, U and J; Plan Approval and Records for Tank Passager, Cargo, and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools, Oceanographic Vessels and Electrical Engineering.
Need for Information: This information collection requirement is necessary to ensure that the structural adequacy, suitable accommodations, and generally, that each vessel is in full compliance with the applicable marine safety regulations. It is also needed to ensure safe and proper operation of the vessel.
Proposed Use of Information: Coast Guard uses this information to determine if the vessel's construction, arrangement and equipment meet the necessary regulations prior to being built. Vessel operating personnel also use the information for safe and proper operation of the vessel.
Frequency: On occasion.
Burden Estimate: 7200.
Respondents: Ship builders, designers, owners and operators.
Form(s): None.
Average Burden Hours Per Respondent: 75 minutes.

DOT No: 3287.
OMB No: 2115–0077.
Administration: U.S. Coast Guard.

Title: Letter of Intent.
Need for Information: This information collection requirement ensures compliance with 33 USC 1221. It is needed to alert Coast Guard enforcement personnel that a facility falling under the regulation is planning to begin transfer operations or has changed ownership.
Proposed Use of Information: Coast Guard uses this information to identify terminals at which oil and hazardous materials transfer operations will take place. It is a preventive measure against oil and hazardous materials pollution.
Frequency: On occassion.
Burden Estimate: 720.
Respondents: Owners/operators of marine bulk oil or hazardous materials facilities.
Form(s): None.
Average Burden Hours Per Respondent: Reporting: 1 hour 30 minutes; Recordkeepng: approximately 2 minutes.

DOT No: 3288.
OMB No: 2115–0551.
Administration: U.S. Coast Guard.
Title: Vessel Reporting Requirements.
Need For Information: The information collection requirement increases the likelihood of timely assistance for vessels in distress. This is especially true of those who are unable to communicate their distresses to the owner or others who could help.
Proposed Use of Information: Coast Guard uses this information to determine if the vessel reported on is in distress and to take action to provide needed assistance.
Frequency: On occasion.
Burden Estimate: 929.
Respondents: Owner, charterer, managing operator or agent of U.S. vessels.
Form(s): None.
Average Burden Hours Per Response: 15 minutes.

DOT No: 3289.
OMB No: 2115–0540.
Administration: U.S. Coast Guard.
Title: 33 CFR subchapter P—Ports and Waterways Safety.
Need for Information: This information collection requirement is necessary to allow persons affected by regulations in 33 CFR to request a deviation from any of the requirements.
Proposed Use of Information: Coast Guard uses this information to determine if the request is justified and that the level of safety will not be reduced if the deviation is granted.
Frequency: On occasion.
Burden Estimate: 50 hours.
Respondents: Vessels master or operator.
Form(s): None.
Average Burden Hours Per Response: 2 hours.

Issued in Washington, DC on October 31, 1989.

Richard B. Chapman,
Acting Director of Information, Information Resource Management.

[FR Doc. 89–26154 Filed 11–6–89; 8:45 am]
BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–89–42]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before November 27, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 1, 1989.

Deborah Swank,
Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 23921.
Petitioner: FlightSafety International.
Regulations Affected: 14 CFR 61.57(a)(1), (c), and (d); 61.58(c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); Part 61, Appendix A; and Part 121, Appendix H.
Description of Relief Sought: To extend Exemption No. 4058D that allows petitioner to use FAA-approved simulators to meet certain training and testing required by the FAR. Exemption No. 4058D will expire on February 28, 1990.

Docket No.: 24770.
Petitioner: FlightSafety International.
Sections of the FAR Affected: 14 CFR 61.57(a)(1) and 61.58(c).
Description of Relief Sought: To extend Exemption No. 4609B that allows pilots contracting with petitioner to substitute an FAA-approved helicopter training program using petitioner's training facilities for the requirements of §§ 61.57(a)(1) and 61.58(c) for the Sikorsky S–76 aircraft and § 61.57(a)(1) for the Bell 222 aircraft. Exemption No. 4609B will expire on January 31, 1990.

Docket No.: 24792.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.337.
Description Relief Sought: To allow petitioner's all-cargo carriers relief from the requirement that a portable protective breathing equipment unit be installed in the class E cargo compartment of their aircraft.

Docket No.: 25403.
Petitioner: CCAir, Inc.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.
Description of Relief Sought: To extend Exemption No. 4926 that allows petitioner to use foreign vendors that are original equipment manufacturers of components in support of petitioner's British Aerospace Jetstream Model 3101 and Short Brothers SD 3–60 aircraft. Exemption No. 4926 will expire on February 28, 1990.

Docket No.: 25559
Petitioner: Aerospace Industries Association.
Sections of the FAR Affected: 14 CFR 45.11(a).

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Description of Relief Sought: To extend, indefinitely, Exemption No. 4913 that allows manufacturers of aircraft intended for operation under parts 121 or 127 or in commuter air carrier operation (as defined in Part 135 of SFAR 38–4), which are maintained under an FAA-approved continuous airworthiness maintenance program, to not install identification plates during the production phase on the exterior of the aircraft as specified in the rule. The exemption includes aircraft manufactured for export and includes all activities until title is transfered. Exemption No. 4913 will expire on February 18, 1990.

Docket No.: 25789.
Petitioner: Martin Aviation, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought: To allow petitioner's pilots to remove and replace passenger seats to reconfigure its aircraft for passenger and cargo operations.

Docket No.: 25873.
Petitioner: Lone Star Industries, Inc.
Sections of the FAR Affected: 14 CFR 61.58(c).
Description of Relief Sought: To allow pilots employed by petitioner to complete a 24-month pilot-in-command check for the BA 1–11 in an FAA-approved simulator.

Docket No.: 28008.
Petitioner: Life Industries International, Inc.
Sections of the FAR Affected: 14 CFR 133.45(e)(1), (2), and (3).
Description of Relief Sought: To allow certain rotorcraft to participate in the research, development, and implementation of equipment and aircrew training for emergency life saving operations involving personnel lifting devices.

Docket No.: 19634.
Petitioner: Douglas Aircraft Corporation.
Sections of the FAR Affected: 14 CFR 121.310(d)(4).
Description of Relief Sought: To extend Exemption No. 3055D that allows operations of DC–8 aircraft with an emergency light system without a cockpit control device that has an "on," "off," and "armed" position.

Grant, October 27, 1989. Exemption No. 3055E

Docket No.: 20853.
Petitioner: United Airlines, Inc.
Regulations Affected: 14 CFR 121.99 and 121.351(a).
Description of Relief Sought/ Disposition: To extend Exemption No. 3122, as amended, that allows petitioner to operate its turbojet airplanes in extended overwater operations with one high frequency communications radio system and one long range navigation system within certain named areas subject to certain conditions and limitations.

Partial Grant, October 26, 1989. Exemption No. 3211E

[FR Doc. 89–26172 Filed 11–6–89; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Department of the Treasury Circular, Public Debt Series No. 4–67, Second Revision]

U.S. Savings Bonds; Revised Fee Schedule

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice of correction to prior Notice concerning calculation of issuing agent fees and payment dates.

SUMMARY: This Notice is being published to correct the time period within which the Bureau will pay fees to issuing agents for-over-the-counter sales of United States Savings Bonds.

FOR FURTHER INFORMATION CONTACT: Dean A. Adams, Assistant Chief Counsel, Bureau of the Public Debt, Savings Bond Operations Office, Parkersburg, WV 26106–1328 (304) 420–6505.

SUPPLEMENTARY INFORMATION: The original Notice, published in the Federal Register on October 3, 1989 (54 FR 40634), sets forth a revised schedule for fees payable to eligible issuing agents for United States Savings Bonds, sold over-the-counter and through Bond-a-Month plans, and establishes payment dates for such fees. The date for payment of the fees by the Bureau was incorrectly stated to be within (60) days after the close of the quarter. The Notice should have stated that payments will be made by the Bureau within fifty (50) days after the close of the quarter. The errors occurred as follows: On page 40634, second column, first full paragraph, second line from the bottom; On page 40634, third column, paragraph (a) "Class 1 fee", third line from the bottom; and page 40635, second column, second full paragraph beginning "payroll fee payments", third line from the bottom.

Dated: November 2, 1989.
Richard L. Gregg,
Commissioner.
[FR Doc. 89–26204 Filed 11–6–89; 8:45 am]
BILLING CODE 4810–40–M

Bureau of the Public Debt

[Department of the Treasury Circular, Public Debt Series, No. 3–72, Third Revision]

Designation of Federal Reserve Banks and Branches for Acceptance of Subscriptions for Purchase of United States Treasury Securities—State and Local Government Series

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: Notice is hereby given that subscriptions for purchase of United States Treasury Certificates of Indebtedness, Notes, and Bonds of the State and Local Government Series will be accepted only at Federal Reserve Banks and Branches at the following locations: Boston, Charlotte, Chicago, Cincinnati, Dallas, Jacksonville, Kansas City, Louisville, Minneapolis, New York, Philadelphia, and Seattle. On and after the effective date of this notice, subscriptions will be accepted only at these above designated Banks and Branches.

EFFECTIVE DATE: December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Margaret Marquette, Attorney-Advisor (202) 447–0959, or Sandy Dyson, Attorney-Advisor (202) 376–4320.

SUPPLEMENTARY INFORMATION: The Department of the Treasury, under the authority of chapter 31 of title 31, United States Code, offers United States Treasury Certificates of Indebtedness, Notes, and Bonds of the United States State and Local Government Series. These securities, characterized as time deposit, demand deposit, and special zero interest, are governed by regulations appearing in 31 CFR Part 344 (Department of the Treasury Circular No. 372, Third Revision), published as a final rule in the July 7, 1989, Federal Register, pages 28752–28761. The regulations provided that subscriptions for the purchase of securities under the offering must be submitted to a designated Federal Reserve Bank or Branch. Heretofore, no designation had been made; subscriptions have been accepted at any Federal Reserve Bank or Branch. This notice designates those Federal Reserve Banks and Branches that, as of the effective date of this notice, will accept subscriptions. The designations are subject to change by the Department of the Treasury; any future changes thereof will be published by notice in the Federal Register.

Dated: November 1, 1989.
Van Zeck,
Acting Commissioner of the Public Debt.
[FR Doc. 89–26205 Filed 11–6–89; 8:45 am]
BILLING CODE 4810–35–M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 214
Tuesday, November 7, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM
Board of Governors Meeting
TIME AND DATE: 12:00 noon, Monday, November 13, 1989.
PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.
STATUS: Closed.
MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 3, 1989.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 89-26363 Filed 11-3-89; 3:28 pm]
BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION
Meeting
[USITC SE-89-35]
TIME AND DATE: Wednesday, Nov. 8, 1989 at 10:00 a.m.
PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.
STATUS: Open to the public.
MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. No. 731-TA-451 (P) (Gray Portland Cement and Cement Clinker from Mexico)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Dated: October 27, 1989.
Kenneth R. Mason,
Secretary.
[FR Doc. 89-26290 Filed 11-3-89; 11:30 am]
BILLING CODE 7020-02-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE (NCLIS)
Meeting:
DATE AND TIME: November 15 and 16, 1989.
PLACE: Radisson Suite Resort, Tradewinds Conference Center—Salon C, 12 Park Lane, Hilton Head Island, SC, (803) 686-5700.
STATUS: November 15, 1989, 9:00 a.m.-9:45 a.m. Closed, sec. 1703.202(2) and (6) of the Code of Federal Regulations, 45 CFR, part 1703; November 15, 1989, 9:45 a.m.-5:15 p.m. Open; November 16, 1989, 9:00 a.m.-12:00 noon. Open.
MATTERS TO BE DISCUSSED:

Chairman's Report
Executive Director's Report
NCLIS Committee Reports:
—Budget and Finance
—Governance
—Indian Library Services
—Information Policies
—International
—Legislative
—Personnel
—Program Review
—Public Affairs
—Recognition Awards
—School Media
—White House Conference II
Election of NCLIS Vice Chairman
Library of Congress Status Report, Winston Tabb, Acting Deputy Librarian of Congress
NCLIS Statistics Program Report
White House Conference on Library and Information Services Advisory Committee Report, Daniel Carter, Chairman
Discussion on Republication of:
National Information Policy Report
Public/Private Sector Report

Special provisions will be made for handicapped individuals by calling Jane McDuffie (202) 254-3100.
FOR FURTHER INFORMATION CONTACT: Susan K. Martin, NCLIS Executive Director, 1111 18th Street, NW., Suite 210, Washington, DC 20036, (202) 254-3100.

Dated: November 3, 1989.
Jane D. McDuffie,
Staff Assistant.
[FR Doc. 89-26293 Filed 11-3-89; 11:31 a.m.]
BILLING CODE 7527-01-M

NUCLEAR REGULATORY COMMISSION
Meeting
DATE: Weeks of November 6, 13, 20, and 27, 1989.
PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.
STATUS: Open and Closed.
MATTERS TO BE CONSIDERED:
Week of November 6
Thursday, November 9
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
Week of November 13—Tentative
Wednesday, November 15
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
Week of November 20—Tentative
Tuesday, November 21
10:00 a.m.
Briefing on Implementation of the U.S. Environmental Protection Agency's HLW Disposal Standards (Public Meeting)
Wednesday, November 22
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
Week of November 27—Tentative
Thursday, November 30
2:00 p.m.
Briefing on DOE Views on Advanced Light Water Reactor Design and Certification (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492-0292.
CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: November 3, 1989.
Andrew L. Bates,
Office of the Secretary.
[FR Doc. 89-26356 Filed 11-3-89; 3:28 pm]
BILLING CODE 7590-01-M

federal register

Tuesday
November 7, 1989

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 576
Emergency Shelter Grants Program; Stewart B. McKinney Homeless Assistance Act; Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 576

[Docket No. R-89-1434; FR-2562-F-05]

RIN 2506-AA96

Emergency Shelter Grants Program; Stewart B. McKinney Homeless Assistance Act

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule codifies the amendments to the Emergency Shelter Grants (ESG) program contained in the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988). These amendments, which were published in a Notice on January 9, 1989, revised the requirements of 24 CFR part 576 by: (1) Permitting States to distribute ESG funds directly to private nonprofit organizations if the relevant unit of general local government certifies that it approves the proposed project; (2) increasing from 15 to 20 percent the proportion of ESG assistance that a State or unit of local government may use to provide essential services; (3) in the case of States, providing that each State administer its grants so that on an aggregate basis, the amount that its State recipients use for essential services does not exceed the 20 percent limitation; (4) permitting ESG funds to be used for homeless prevention efforts; (5) in the case of assistance solely for operating costs and essential services, requiring that the homeless services or shelters be made available for the period during which the assistance is provided, without regard to a particular site or structure, as long as the same general population is served; and (6) providing for the assumption of environmental review responsibilities by certain grantees and recipients.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will not become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Special Needs Assistance Coordinator, Room 7228, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6300. Hearing or speech impaired individuals may call HUD's TDD number: (202) 755-5965. [These are not toll-free telephone numbers].

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 7, 1989, so that the application process described in this rule may be carried out following OMB approval of the necessary collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**, at the same time that the rule's effective date is published.

Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, "Other Matters." Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

On December 17, 1986, the Department published a proposed rule and program requirements (51 FR 45278) implementing the Emergency Shelter Grants ("ESG") program contained in title V, part C of HUD's appropriation act for the 1987 fiscal year (H.R. 5313). A final rule published on October 19, 1987 (52 FR 38864) replaced the 1986 proposed rule and program requirements and continues to govern the use and reallocation of funds appropriated for the 1986 ESG program.

On July 22, 1987, the President approved the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77) (the 1987 McKinney Act) reauthorizing, with amendment, the Emergency Shelter Grants program. A proposed rule for the 1987 ESG program was published on November 6, 1987 (52 FR 42864), and a final rule was published on August 10, 1988 (54 FR 30186). The final rule is codified at 24 CFR part 576.

Subsequently, the Stewart B. McKinney Homeless Assistance Amendments Act (Pub. L. 100-628, approved November 7, 1988) (the 1988 McKinney Act) was enacted, amending several of the requirements in the 1987 McKinney Act. In accordance with section 485 of the 1988 McKinney Act, the Department implemented the 1988 amendments by a Notice providing for immediate effect (published January 9, 1989, 54 FR 750). The Notice, which solicited public comment, is the basis for the amendments to 24 CFR part 576 contained in this final rule.

Discussion of Public Comments and Changes Made in the Final Rule

I. Response to Public Comments

The Department received two public comments in response to its January 9, 1989 ESG notice implementing the 1988 McKinney Act amendments, one from New York City and the other from the City of Boston.

New York City commented on the change that requires States, Territories, formula cities and counties, and other units of general local government to assume responsibility for the environmental review. The commenter contends that HUD's environmental review procedures in 24 CFR part 58, for which the applicants described above are required to assume responsibility, are too time-consuming and strict, causing delays in beginning construction. New York City believes that there should be a provision for a waiver of compliance with HUD procedures for applicants that are subject to other state and local environmental review requirements.

Section 482 of the 1988 McKinney Act provides that the regulations and procedures applicable under section 104(g) of the Housing and Community Development Act of 1974 are to be applied to the Emergency Shelter Grants program. Section 104(g) authorizes HUD to assign the Federal environmental responsibilities to grantees deemed to have the legal capacity for environmental review (States, metropolitan cities, urban counties, and other units of general local government) and to define how the responsibilities are to be performed. The regulations at 24 CFR part 58 describe the requirements for grantees that assume the responsibilities.

The 1988 McKinney Act recognizes that the objectives of the Emergency Shelter Grants program are best served by a consolidation of environmental review responsibilities at the applicant level. Many applicants seek funding under other McKinney Act programs, and a single environmental review should often suffice for those applicants. According to the Report of the House Committee on Banking, Finance and Urban Affairs, the intent of section 482 of the 1988 McKinney Act was to expedite the consideration of applications. However, the Report states that the Committee expects all applicants to adhere to all requirements of the National Environmental Policy Act (NEPA) and that "this amendment does not lessen any requirement for any project to comply with the NEPA standards." (See H.R. Rep. No. 100-718, Part II, 100th Cong., 2d Sess. 39 (1988).)

The requirements of statutes, Executive Orders, and the regulations of oversight agencies that are imposed on applicants through part 58 cannot be waived. Those that are regulatory, i.e., the Council on Environmental Quality NEPA regulations (40 CFR parts 1500-1508) and the Advisory Council on Historic Preservation regulations (36 CFR part 800), make some provision for "emergencies," but these are for conditions more extreme than a concern for processing delays. Compliance with the review process and time periods under the authorities listed in 24 CFR 58.5 is mandatory—whether responsibility for review is assigned to the applicant under section 104(g) or retained and exercised by HUD under 24 CFR part 50. In addition, HUD does not have the discretion to substitute State or local environmental requirements for the Federal requirements.

In § 576.52, the final rule clarifies that applicants assuming responsibility for environmental reviews may arrange for local governments with the appropriate technical capability to conduct the technical review, as long as the applicants still retain all legal responsibilities, *i.e.*, independently evaluate information submitted and assume responsibility for its accuracy, scope, and content and carry out any mitigation measures called for by the review. Applicants may also adopt prior reviews conducted by HUD or another governmental unit if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done.)

The City of Boston had a number of comments on definitions used in the Emergency Shelter grants program. Although these definitions are contained in the August 10, 1988 ESG final rule (codified at 24 CFR part 576), and not in the January 9, 1989 Notice published for comment, the Department has nevertheless considered these comments.

Boston claimed that the definition of "conversion" (§ 576.3 of the final rule) is unclear, since it fails to state whether a change in the use of a building to an emergency shelter, involving conversion and rehab costs that do not exceed 75 percent of the value of the building before conversion, should be treated as a conversion or a renovation. The commenter noted that the clarification is important since it determines whether, under § 576.73, the facility must be used as a homeless shelter for a 3- or 10-year period.

The Department agrees with this comment, and has clarified the definitions of "conversion" and "rehabilitation" by providing that if a change in the use of a building to an emergency shelter involves costs not in excess of 75 percent of the value of the building before conversion, it would be considered rehabilitation. In such event, the three year use requirement under § 576.73 would apply.

Boston also questioned why the definition of "emergency shelter" (§ 576.3) includes a requirement that such facilities provide overnight sleeping accommodations. By doing so, the definition makes ineligible those facilities that provide temporary shelter only during the day, or that provide supportive services without providing shelter.

HUD agrees that the definition of "emergency shelter" is too restrictive, and the phrase "with overnight sleeping accommodations" is removed in this final rule. Emergency shelter is now defined to mean "any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless." As a result, day centers and drop-in centers are eligible to receive funds for all ESG eligible activities.

Boston also asked that the definition of "obligated" be modified to include a letter of award from a unit of local government to a nonprofit recipient, because of difficulties in negotiating and executing loan agreements for the obligation of grant funds within the 180-day deadline. HUD has made the requested change, and the definition of "obligated" now includes grant amounts that a unit a general local government or State awards to a provide nonprofit organization by a letter of award, so long as the letter of award requires payment from the grant amount.

Boston also commented that the requirement under § 576.55 that formula cities and counties spend all funds for budgeted activities within one year of the date of the grant award is unrealistic and should be removed. In particular, Boston claimed that the requirement is unrealistic for projects that involve assistance for eligible activities under § 576.21(a) (2) or (3), since funds awarded for operating costs or essential services cannot begin to be spent until rehabilitation efforts are completed.

Initially, it should be noted that the comment reflects a possible misunderstanding about when the one-year standard applies. Under the existing ESG regulations, the one-year expenditure requirement applies only when a formula city, county, or State uses the ESG funds itself to undertake homeless activities. It does not apply when the formula city, county, or State allocates its ESG funds to a third party.

Nevertheless, HUD agrees with Boston's comment that the one-year expenditure requirement is too strict, and has decided instead to apply a single expenditure standard, regardless of whether ESG funds are spent directly by a formula city or county, a State, or by a third party. The new standard requires that State recipients spend all of the State funds within 24 months of the date that the State makes available all of its grant funds to its recipients. (See § 576.55(a)(2)(ii).) For formula cities and counties, and territories, all of the grant funds must be spent within 24 months of the grant award by HUD. (See § 576.55(b)(2).)

II. Implementation of the 1988 McKinney Act

In addition to the changes noted above, the Department is also codifying in 24 CFR part 576 the amendments contained in the Stewart B. McKinney Homeless Assistance Amendments Act, as published in the January 9, 1989 ESG

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Notice (54 FR 750). These changes are discussed below.

(A) Distribution of Assistance by States to Private Nonprofit Organizations

Section 413 of the 1987 McKinney Act required States to distribute all of their grant amounts to units of general local government. Section 421 of the 1988 McKinney Act amended section 413 to permit States also to distribute funds to private nonprofit organizations, if the relevant unit of general local government certifies that it approves the project. Several sections of the final rule have been amended to reflect this change, including § 576.3 (definitions of "nonprofit recipient", "obligated", and "State recipients"); and § 576.51(b)(2)(iii) (application).

(B) Essential Services

Section 422(a)(1) of the 1988 McKinney Act increased the limitation on essential services from 15 to 20 percent. This amendment is reflected at § 576.21(b) (1) and (2) of the final rule. HUD has construed section 422(a)(1) as also permitting the Department to apply its waiver authority to the 20 percent limitation (see § 576.21(c)).

In calculating the 20 percent limitation on essential services, HUD is required to include homeless prevention activities under § 576.21(a)(4). Similarly, homeless prevention activities are treated as essential services for purposes of qualifying for a waiver of the 20 percent limitation.

With regard to grants made to States, section 422(a)(2) of the 1988 McKinney Act provides that the 20 percent limitation is to be measured against "the aggregate amount of all (ESG) assistance to a State or a local government." Grant amounts that the State distributes to individual State recipients are not subject to the percentage limit. Thus, States are free to vary the percentage of ESG grant amounts that State recipients may use for essential services above or below the 20 percent standard. However, each State must administer its grant so that, on an aggregate basis, the amount expended on essential services does not exceed the applicable limit. (See § 576.21(b)(2).)

For ESG formula cities and counties, as well as units of local government receiving reallocated funds from HUD, the 20 percent limitation on essential services continues to apply at the local level. In accordance with existing requirements at § 576.21(b)(1) of this final rule, the limitation will apply to the total of each grant amount provided by HUD to these entities.

(C) Homeless Prevention

Section 423 of the 1988 McKinney Act added a new category of eligible activities under the ESG program: homeless prevention. Section 576.3 provides a definition of "homeless prevention," and the applicable regulatory standards are located at § 576.21(a)(4) of the final rule.

In addition, it should be noted that HUD is applying a different obligation and expenditure standard for homeless prevention activities funded by States. Because it is difficult for States to ascertain local homeless prevention needs within the current 65-day deadline, HUD is permitting States to set aside up to 10 percent of their grant funds for homeless prevention efforts. These set-aside funds must be made available to State recipients within 180 days of the grant award by HUD. Thereafter, State recipients have 30 days to obligate, and 180 days to spend, the funds for homeless prevention activities. This language appears at § 576.65 of the final rule.

(D) Required Use of Building as a Shelter

Section 415(c)(1) of the 1987 McKinney Act requires each ESG recipient to certify to HUD that it will maintain as a homeless shelter, for a statutorily required time period, any building for which ESG assistance is used. Under section 424 of the 1988 McKinney Act, this statutory "use" requirement continues to be 10 years in the case of ESG activities involving major rehabilitation or conversion. Similarly, the use requirement for rehabilitation activities (other than major rehabilitation or conversion) remains unchanged at three years.

However, the use requirements for activities conducted under sections 414(a) (2) and (3) of the 1988 McKinney Act—essential services and maintenance and operating costs, respectively—have been legislatively revised:

—Section 424 of the 1988 McKinney Act now specifies that an ESG recipient using program funds to provide essential services, or maintenance and operating costs (including the leasing of commercial facilities), must carry out the assisted activities "for the period during which (ESG) assistance is provided." (See § 576.21(a)(2) and (a)(3), and § 576.73(a)(2)(i).) The Act further provides that recipients may use a different site or shelter during this period, so long as the same general population is served.

In implementing this statutory standard, the Department interprets the term "same general population" to mean the types of homeless persons originally served with the ESG assistance (such as specific categories of the homeless, including battered spouses, runaway children, families, or chronically mentally ill individuals), or persons in the same geographic area. (See § 576.73(a)(2)(ii).)

—Using ESG funds for homeless prevention activities under § 576.21(a)(4) does not trigger any period of use requirements.

The Department intends to apply these use requirements to both current and prospective grantees.

(E) Environmental Review

Section 482 of the 1988 McKinney Act revised the environmental review procedures for assistance and projects under Title IV of the McKinney Act by making applicable the provisions of, and regulations and procedures under, section 104(g) of the Housing and Community Development Act of 1974 (HCD Act of 1974).

Section 104(g)(1) authorizes HUD to provide for the release of funds for particular projects to "recipients of assistance" under Title I of the HCD Act of 1974 that assume all of HUD's responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 and certain other environmental authorities.

Section 104(g)(2) contains the requirements for HUD approval of the release of funds for specific projects.

Section 104(g)(4) provides that in the case of grants to a State in the States program, the State will perform HUD's role with respect to the release of funds to particular projects to be undertaken by units of general local government receiving grant amounts from the State.

HUD regulations implementing section 104(g) are found in 24 CFR part 58. Aside from the NEPA requirements, the additional environmental authorities with which recipient States and units of local government under the HCD Act of 1974 must comply are listed at 24 CFR 58.5.

In applying the regulations and procedures under section 104(g) to the McKinney Act, the Department is providing for the assumption of environmental review responsibilities only by States, Territories and units of general local government. (See § 576.52.) The Department will perform the required environmental review for nonprofit organizations that receive

reallocated funds from HUD in accordance with 24 CFR part 50 and § 576.53(c)(3), and for any governmental entities with general purpose powers found not to have the legal capacity to carry out this reponsibility. Where governmental entities assume the environmental review, these responsibilities will be carried out as follows:

—Applicants that are States, Territories, formula cities and counties, or other governmental entities with general purpose powers, and that are deemed to have the legal capacity to do so, must assume responsibility for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58. Specifically, States, Territories, or units of general local government must complete the environmental review for each application for assistance, as follows:

(1) In the case of ESG grants to States that are distributed to units of general local government, the unit of general local government must assume the environmental responsibilities specified in section 104(g)(1) of the Housing and Community Development Act of 1974 and the State will assume HUD's functions with regard to the release of funds, as provided by section 104(g)(4) of that Act.

(2) In the case of ESG grants to States that are distributed to nonprofit organizations, the State will assume the environmental responsibilities specified in section 104(g)(1) of that Act and HUD will perform the release of funds functions of section 104(g)(2).

(3) In the case of ESG grants to a unit of general local government or Territory, whether used directly by the grantee or distributed to nonprofit organizations, the unit of general local government or Territory will assume the environmental responsibilities specified in section 104(g)(1) of that Act and HUD will perform the release of funds functions of section 104(g)(2).

III. Other Changes

1. The definitions at § 576.3 of "conversion", "major rehabilitation", "rehabilitation", and "renovation" have been amended to require compliance with local government safety and sanitation standards. (This requirement also remains codified at § 576.75.) These definitions have also been amended to require that all buildings of 15 or more units that are rehabilitated meet the accessibility requirements of section 504 of the Rehabilitation Act of 1973, as amended, as provided in 24 CFR 8.23(a) or (b).

In addition, the definition of "rehabilitation" is amended to include structural changes necessary to make the structure accessible to persons with physical handicaps.

2. A definition of "essential services" is included at § 576.3 of the rule. The definition incorporates the same activities that were listed in the ESG final rule, as well as related activities.

3. The definition of "operation" at § 576.21(a)(3) is amended to include the costs of administration (excluding staffing costs), repair, security, fuel, and equipment. These provisions are included under the McKinney Act's definition of "operating costs," and are not intended to substantively affect the types of activities funded under this category.

4. HUD has revised the criteria for obtaining a waiver of the 20 percent limitation on essential services by strictly adhering to the McKinney waiver standard. Under this final rule, HUD may waive the 20 percent limitation on essential services if the State or unit of local government demonstrates that program activities other than essential services and homeless prevention (i.e. maintenance and operating costs, renovation, rehabilitation and conversion activities) are already being carried out in the locality with other resources. (See § 576.21(c).)

5. Section 576.22 "Limitations on the use of assistance" has been added in this final rule.However, this section largely duplicates requirements contained in other sections of the August 10, 1988 ESG final rule, including the requirements governing assistance to primarily religious organizations. While all of the provisions relating to assistance to primarily religious organizations were not specifically included in the ESG final rule, they have routinely been incorporated in the grant agreements executed with HUD.

It should be noted that paragraph (b) of § 576.22, which describes the limitations on the use of assistance by primarily religious organizations, contains provisions governing the circumstances under which HUD will provide assistance to a grantee or recipient that is a primarily religious organization or a wholly secular organization established by a primarily religious organization. With one exception noted below, these provisions are substantially identical to those set out in 24 CFR part 570, which consist of HUD's community development block grant program (CDBG) entitlement rules.

Under these provisions, a primarily religious organization (or wholly secular organization established by a primarily religious organization) must agree to provide housing and emergency services in a manner that is free from religious influence. In this connection, the provider must: (1) Not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give employment preference to persons on the basis of religion; (2) not discriminate against, or limit the provision of housing or emergency services, to applicants for such housing or services on the basis of religion; and (3) provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, or otherwise exert no religious influence in the provision of housing or emergency services.

As noted, the foregoing principles depart in one fashion from the CDBG entitlement rule at 24 CFR 570.200(j)(3) (53 FR 34416, 34412, September 6, 1988), which contains an additional restriction that the portion of the facility of the primarily religious organization used to provide funded services "shall contain no religious symbols or decorations, other than those permanently affixed to or part of the structure."

This policy has been followed for several years in connection with CDBG and homeless assistance made available through primarily religious organization providers. The Department has a continuing commitment to optimize participation by religious providers, which have long been in the forefront in assisting the homeless and others most needy, but in a manner consistent with the strictures imposed by the Establishment Clause of the First Amendment of the United States Constitution. After a review of the relevant case law, the Department has not found any dispositive case addressing the provision of government assistance to a primarily religious organization providing social services in a setting where the presence of religious symbols or decorations alone constitutes a violation of the Establishment Clause. The provision in question, which was recommended to HUD by counsel representing a nationally prominent primarily religious organization as a protection against impermissibly advancing religion, has been utilized in the spirit in which it was so recommended. However, as noted, HUD's examination of the case law has concluded that the excised language suggests a degree of control on the presence of religious symbols or decorations that is not compelled thereunder, or is not otherwise intrinsic to traditional Constitutional Church/

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State separation doctrine as pronounced by the United States Supreme Court. Accordingly, this rule does not include the prohibition on religious symbols or decorations. Further, an amendment removing the quoted text from § 570.200(j)(3)(iv) is being published as a final rule in a separate document.

This change in no way contravenes the purpose of the underlying principles in these rules, namely, that a primarily religious organization, or a wholly secular organization established by a primarily religious organization, can only provide housing and emergency services in a manner that is free from religious influence, specifically including the explicit provisions described above.

6. Section 576.51(d) ("Substantial change in proposed use of funds") has been revised to require that the certification of consistency with the Comprehensive Homeless Assistance Plan (CHAP) be accompanied by a description of the revised proposed use of funds.

7. The reallocation provision for failure to have an approved CHAP has been streamlined by combining the requirements for both Territories and States into one section (§ 576.63). As a result, the separate reallocation provision for Territories at § 576.65 has been removed.

8. Section 576.80 ("Relocation") has been added to implement the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601–4655).

IV. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item number 1087 in the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54 FR 44702, 44728) under Executive Order 12291 and the Regulatory Flexibility Act.

In accordance with the provisions of 5 U.S.C. 605(b), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because most statutorily eligible grantees and State recipients are relatively larger cities, urban counties, or States. In addition, the grant amounts to be made available to any ultimate user of a grant are relatively small.

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that certain provisions of this final rule may have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. The final rule authorizes HUD to make grants to States, units of general local government and private nonprofit organizations for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses, and for the newly eligible homeless prevention activities. To the extent that ESG funds are used to undertake homeless prevention activities, they will help to sustain the family as a cohesive unit by preventing displacement. While provisions of this final rule might potentially have an impact on the family, these are legislatively prescribed and HUD has exercised little or no discretion in implementing them.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that some of the provisions of this final rule implementing the 1988 McKinney Amendments have "Federalism implications" within the meaning of the Order. These include: (1) Permitting States to provide ESG funds directly to a nonprofit organization, rather than requiring that the funds be provided to a unit of local government for distribution to the nonprofit; and (2) in the case of States, applying the 20 percent limitation on essential services at the State, rather than at the local, level. However, these provisions do not need to be considered further under the Executive Order because they implement statutory requirements over which HUD has exercised little or no discretion. Additionally, section 482 of the 1988 Amendments Act provides that HUD shall apply the provisions of, and regulations and procedures under, section 104(g) of the Housing and Community Development Act of 1974 to assistance and projects under Title IV of the McKinney Act. Section 104(g) provides that the Secretary may require applicants with the legal capacity to do so to assume the responsibilities for environmental review, decisionmaking and action under the National Environmental Policy Act of 1969 and the other provisions of law specified by the Secretary that would apply to HUD were HUD to undertake such projects as Federal projects. HUD provides in this final rule that it will require States and other governmental entities with general governmental powers to assume those responsibilities. While the assumption of these responsibilities under section 104(g) is discretionary with HUD, it is authorized by and clearly the intent of section 443 of the 1988 Amendments Act. Therefore, the policy is not subject to review under Executive Order 12612.

The information collection requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 7, 1989, so that the application process described in this rule may be carried out following OMB approval of the necessary collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**, at the same time that the rule's effective date is published.

Data on the information collection requirements contained in this rule is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN, EMERGENCY SHELTER GRANTS PROGRAM—FINAL RULE

Description of information collection	Provision of final rule	Number of respondents	Number of responses per respondents	Total annual responses	Hours per response	Total hours
Application (annual) to HUD	§ 576.51(b)(1)	375	1	375	1.00	375.00
Waiver requests to HUD	§ 576.21(c)	50	1	50	1.00	50.00
State Certification that nonprofit applicants will provide local government certification of approval.	§ 576.51(b)(2)(iii)	50	1	50	.25	12.50
Homeless prevention non-supplanting certification	§ 576.51(b)(2)(viii)	375	1	375	.25	93.75
Environment Review certification	§ 576.51(b)(2)(ix)	375	1	375	.25	93.75
Uniform Relocation Act Assurance	§ 576.51(b)(2)(x)	375	1	375	.25	93.75
Assurance that Displacement is Minimized	§ 576.51(b)(2)(xi)	375	1	375	.25	93.75
Drug Free Workplace Certification	§ 576.51(b)(2)(xii)	375	1	375	.25	93.75
Description of Revised Proposed Use of Funds	§ 576.51(d)	50	1	50	.50	25.00
Uniform Relocation Act Appeals Process	§ 576.80	4	1	4	2.00	8.00
Total Burden						939.25

The Catalog of Federal Domestic Assistance program number for the Emergency Shelter Grants Program is CFDA No. 14.231.

List of Subjects in 24 CFR Part 576

Grant programs—Housing and community development, Emergency shelter grants, Reporting and recordkeeping requirements.

Accordingly, the Department is revising 24 CFR part 576 to read as follows:

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

Sec.

Subpart A—General

576.1 Applicability and purpose.
576.3 Definitions.
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Subpart B—Eligible Activities

576.21 Eligible activities.
576.22 Limitations on the use of assistance.
576.23 Who may carry out eligible activities.

Subpart C—Comprehensive Homeless Assistance Plan

576.31 Comprehensive Homeless Assistance Plan.

Subpart D—Allocations

576.41 Overall allocation of grant amounts.
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Subpart E—Award and Use of Grant Amounts

576.51 Application requirements.
576.52 Environmental review.
576.53 Review and approval of applications.
576.55 Deadlines for using grant amounts.

Subpart F—Reallocations

576.61 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; formula cities and counties.
576.63 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; States and Territories.
576.67 Reallocation of grant amounts; returned or unused amounts.

Subpart G—Program Requirements

576.71 Matching funds.
576.73 Use as an emergency shelter.
576.75 Building standards.
576.77 Assistance to the homeless.
576.79 Other Federal requirements.
576.80 Relocation and acquisition.

Subpart H—Grant Administration

576.81 Responsibility for grant administration.
576.83 Method of payment.
576.85 Performance reports.
576.87 Recordkeeping.
576.89 Sanctions.

Authority: Sec. 416 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 576.1 Applicability and purpose.

(a) *General.* This part implements the Emergency Shelter Grants program contained in subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987). The program authorizes the Secrtary of Housing and Urban Development to make grants to States and units of general local government (and to private nonprofit organizations providing assistance to homeless individuals in the case of grants made with reallocated amounts) for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating and social service expenses in connection with emergency shelter for the homeless, and for homeless prevention activities. The Emergency Shelter Grants program authorized by the Homeless Housing Act of 1986 is contained in 24 CFR part 575.

(b) *Purpose.* The program is designed to help improve the quality of existing emergency shelters for the homeless, to help make available additional emergency shelters, to help meet the costs of operating emergency shelters and of providing certain essential social services to homeless individuals, so that these persons have access not only to safe and sanitary shelter, but also to the supportive services and others kinds of assistance they need to improve their situations. The program is also intended to restrict the increase of homelessness through the funding of preventive programs and activities.

§ 576.3 Definitions.

Comprehensive Homeless Assistance Plan or *Comprehensive Plan* means the Comprehensive Homeless Assistance Plan established by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987).

Conversion means a change in the use of a building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building before conversion. If such costs do not exceed 75 percent of the value of the building before conversion, they are to be considered rehabilitation and the three-year use requirement under § 576.73 applies. The conversion of any building to an emergency shelter that is assisted under this part must meet local government safety and sanitation standards under § 576.75. For projects of 15 or more units where rehabilitation costs are 75 percent or more of the

replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a).

Emergency shelter means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless.

Emergency shelter grant amounts or *grant amounts* mean grant amounts made available under this part.

Essential services includes services concerned with employment, health, drug abuse, and education and may include (but are not limited to):

(a) Assistance in obtaining permanent housing.

(b) Medical and psychological counseling and supervision.

(c) Employment counseling.

(d) Nutritional counseling.

(e) Substance abuse treatment and counseling.

(f) Assistance in obtaining other Federal, State, and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;

(g) Other services such as child care, transportation, job placement and job training; and

(h) Staff salaries necessary to provide the above services.

Formula city or county means a metropolitan city or urban county that is eligible to receive an allocation of grant amounts under § 576.43.

Grantee means the entity that executes a grant agreement with HUD under this part. For purposes of this part, grantee is:

(a) Any State, metropolitan city, or urban county that receives a grant allocation under § 576.43;

(b) Any Territory that receives a grant allocation under § 576.45; and

(c) Any State, Territory, unit of general local government, or private nonprofit organization that receives a grant based on a reallocation under subpart F.

Homeless means:

(a) An individual or family which lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family which has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for persons with mental illness);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(4) The term does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

Homeless prevention means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

(a) Short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;

(b) Security deposits or first month's rent to permit a homeless family to move into its own apartment;

(c) Mediation programs for landlord-tenant disputes;

(d) Legal services programs for the representation of indigent tenants in eviction proceedings;

(e) Payments to prevent foreclosure on a home; and

(f) Other innovative programs and activities designed to prevent the incidence of homelessness.

HUD means the Department of Housing and Urban Development.

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation. Major rehabilitation assisted under this part must meet local government safety and sanitation standards under § 576.75. In addition, for projects of 15 or more units where rehabilitation costs are 75 percent or more of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a).

Metropolitan city means a city that was classified as a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974 for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Nonprofit recipient means any private nonprofit organization providing assistance to the homeless, to which a State or unit of general local government distributes emergency shelter grant amounts.

Obligated means that the grantee or State recipient, as appropriate, has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. Grant amounts that a unit of general local government or State awards to a private nonprofit organization by a written agreement or letter of award requiring payment from the grant amount are obligated.

Private nonprofit organization means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1988 which:

(a) Is exempt from taxation under subtitle A of the Code;

(b) Has an accounting system and a voluntary board; and

(c) Practices nondiscrimination in the provision of assistance.

Rehabilitation means labor, materials, tools, and other costs of improving buildings, including repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or incidental additions to, or enhancement of, existing buildings, including improvements to increase the efficient use of energy in buildings, and structural changes necessary to make the structure accessible for persons with physical handicaps. Rehabilitation also includes the conversion of a building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs does not exceed 75 percent of the value of the building before conversion. Rehabilitation assisted under this part must meet local government safety and sanitation standards under § 576.75. In addition, for projects of 15 or more units where rehabilitation costs are 75 percent or more of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a); or where rehabilitation costs are less than 75 percent of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(b).

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation. Renovations assisted under this part must meet local government safety and sanitation standards. (§ 576.75.) In addition, for projects of 15 or more units where rehabilitation costs are less than 75 percent of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(b).

State means each of the several States and the Commonwealth of Puerto Rico.

Territory means each of the following: the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau (Trust Territory of the Pacific), and any other territory or possession of the United States.

State recipient means any unit of general local government or nonprofit organization to which a State makes available emergency shelter grant amounts.

Unit of general local government means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

Urban county means a county that was classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974 for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

§ 576.5 Waivers.

The Secretary of HUD may waive any requirement of this part that is not required by law, whenever it is determined that undue hardship will result from applying the requirement, or where application of the requirement would adversely affect the purposes of the Emergency Shelter Grants Program under this part.

Subpart B—Eligible Activities

§ 576.21 Eligible activities.

(a) *Eligible activities.* Emergency shelter grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless.

(1) Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless.

(2) Provision of essential services to the homeless.

(3) Payment of maintenance, operation (including administration but excluding staffing costs, rent, repair, security, fuels and equipment), insurance, utilities, and furnishings.

(4)(i) Developing and implementing homeless prevention activities.

(ii) If grant funds under paragraph (a)(4)(i) of this section are to be used to assist families that have received eviction notices or notices of termination of utility services, the following conditions must be met:

(A) The inability of the family to make the required payments must be the result of a sudden reduction in income;

(B) The assistance must be necessary to avoid eviction of the family or termination of services to the family;

(C) There must be a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

(D) The assistance must not supplant funding for preexisting homeless prevention activities from any other sources.

(b) *Limitations on provisions of essential services*—(1) *Units of general local government.* Grant amounts provided by HUD to units of general local government may be used to provide an essential service under paragraph (a)(2) of this section, only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government provided with local funds during the 12 calendar months immediately before it received initial grant amounts; and not more than 20 percent of the total of each grant amount provided to a unit of general local government is used for these services (whether or not the unit of local government provides some or all of these grants funds to a nonprofit recipient).

(2) *States.* Grant amounts provided by a State to State recipients may be used to provide an essential service under paragraph (a)(2) of this section, only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located) provided with local funds during the 12 months immediately before the State recipient received initial grant amounts; and not more than 20 percent of the aggregate amount of each ESG grant to a State is used for these services.

(3) In calculating the 20 percent limitation under paragraph (b) (1) or (2) of this section, homeless prevention activities under paragraph (a)(4) of this section are to be treated as essential services.

(c) *Waiver of limit on essential services.* (1) HUD may waive the 20 percent limitation on essential services in paragraphs (b) (1) and (2) of this section if the State or unit of local government receiving the assistance demonstrates that program activities other than essential services and homeless prevention (i.e., maintenance and operating costs, renovation, rehabilitation and conversion activities) are already being carried out in the locality with other resources.

(2) Waiver requests from State recipients under this paragraph (c) must first be sent to the State. The State must promptly send the requests to HUD, together with any comments or recommendations the State may have on them. State waiver requests should be forwarded directly to HUD.

§ 576.22 Limitations on the use of assistance.

(a) *Ineligible activities.* Emergency shelter grant amounts may not be used for activities other than those authorized under § 576.21 (a), (b), and (c).

(b) *Primarily religious organizations*—(1) *Provision of assistance.* (i) Assistance may be provided under this part to a grantee or recipient that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(B) It will not discriminate against any person applying for shelter or any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion; and

(C) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of shelter and other eligible activities under this part; and

(ii) HUD will provide assistance to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure (in the case of homeless prevention activities under § 576.21(a)(4)) or to rehabilitate a structure owned by the organization, except as described in paragraph (b)(2) of this section.

(2) Rehabilitation or conversion of emergency shelters in structures owned by primarily religious organizations. Emergency shelter grant amounts may be used to rehabilitate or convert to an emergency shelter a structure that is owned by a primarily religious organization, only if:

(i) The structure (or portion thereof) that is to be renovated, rehabilitated or converted with HUD assistance has been leased to an existing or newly established wholly secular organization (which may be established by the religious organization under the provisions of paragraph (b)(3) of this section);

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(ii) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the renovation, rehabilitation or conversion was done;

(v) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization; and

(vi) The primarily religious organization agrees that if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the original grantee from which the amounts used to renovate, rehabilitate or convert the building were made available to a State or to a unit of general local government as a formula allocation or reallocation, the amount that the primarily religious organization provides to the recipient must be remitted to the State or unit of general local government, as appropriate. While the original grantee is expected to use this amount to alleviate homelessness in the original grantee's jurisdiction, there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part. If, however, a private nonprofit organization is the lessee as well as the grantee, the organization must remit the amount referred to above to HUD.

(3) Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.

(i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The secular organization may be eligible to receive all forms of assistance available under this part.

(A) The secular organization must agree to provide shelter and other eligible activities under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (b)(1)(i) of this section.

(B) The secular organization may enter into a contract with the religious organization to provide essential services or undertake homeless prevention activities for the project. In such a case, the religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (b)(1)(i) of this section.

(C) The rehabilitation, conversion or renovation of emergency shelters are subject to the requirements of paragraph (b)(2) of this section.

(ii) HUD will not require the religious organization to establish the secular organization before the selection of its application. In such a case, the religious organization may apply on behalf of the secular organization. The application will be reviewed on the basis of the religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the secular organization after formation. Since the secular organization will not be in existence at the time of the application, it will be required to demonstrate that it meets the definition of private nonprofit organization contained in § 576.3. The obligation of funds will be conditioned upon compliance with these requirements.

§ 576.23 Who may carry out eligible activities.

(a) *Grantees and State recipients.* All grantees (except States) and State recipients may carry out activities with emergency shelter grant amounts. All of a State's formula allocation must be made available to the following entities:

(1) Units of general local government in the State, which may include formula cities and counties, whether or not such cities and counties receive grant amounts directly from HUD; or

(2) Private nonprofit organizations, if the unit of local government in which the proposed activities are to be located certifies that it approves each project.

(b) *Nonprofit recipients.* Units of general local government—both grantees and State recipients—may distribute all or part of their grant amounts to nonprofit recipients to be used for emergency shelter grant activities. In addition, States may distribute all or a portion of their grant amounts to nonprofit recipients if the unit of general local government in which the proposed activities are to be located certifies that it approves the project.

Subpart C—Comprehensive Homeless Assistance Plan

§ 576.31 Comprehensive Homeless Assistance Plan.

(a) *Prohibition of assistance.* (1) Grant amounts may be made available to the following jurisdictions, only if they have a HUD-approved Comprehensive Plan:

(i) States, for allocations under § 576.43 and reallocations under §§ 576.61, 576.63, and 576.67;

(ii) Formula cities and counties, for allocations under § 576.43 and reallocations under §§ 576.63 and 576.67; and

(iii) Territories, for allocations under § 576.45 and reallocations under §§ 576.63 and 576.67.

(2) Reallocation amounts may be made available under § 576.67 to units of general local government that are not formula cities and counties, and to private nonprofit organizations, only if the formula city or county or the States that would be served by the proposed activities have an approved Comprehensive Plan. For units of general local government (non-formula cities and counties), the State must have an approved Plan. For nonprofit organizations, if the proposed activities are to serve a formula city or county or Territory, the city, county or Territory must have an approved Plan; if the proposed activities are not to serve such city or county, the State or Territory must have an approved Plan.

(3) Grant amounts may not be made available to, or within the jurisdiction of, any State or formula city or county that does not annually:

(i) Submit to HUD a Comprehensive Plan, and simultaneously forward to the relevant State or formula cities and counties the necessary information copies;

(ii) Review its progress in carrying out its Comprehensive Plan and report the results of the review to HUD; and

(iii) Respond to timely HUD recommendations on the progress report.

(b) *Notification of Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Plan (including the progress review and report specified in paragraph (a)(3) of this section and Plan amendments referred to in § 576.53(c)) in the Federal Register as necessary. Prospective grantees should familiarize themselves with these requirements. HUD will also provide notice of the Plan's requirements when HUD notifies prospective grantees of their grant allocations under subpart D or the availability of reallocation amounts under subpart F.

(c) *Reallocations.* Sections 576.61 and 576.63 govern the reallocation of grant amounts initially allocated to a State or a formula city or county under § 576.43, or to a Territory under § 576.45, if the jurisdiction does not obtain approval of its Plan within the time periods specified in those sections.

Subpart D—Allocations

§ 576.41 Overall allocation of grant amounts.

(a) *Territories.* HUD will set aside for allocation to the Territories under § 576.45 an amount equal to 0.2 percent of the total amount of each appropriation under this part in any fiscal year.

(b) *States, metropolitan cities and urban counties.* HUD will allocate the amounts that remain after the set-aside to Territories under paragraph (a) of this section to States, metropolitan cities, and urban counties under § 576.43.

§ 576.43 Allocation of grant amounts to States, metropolitan cities, and urban counties.

(a) *Calculation of allocations.* In determining the amount of the allocation for each State, metropolitan city, and urban county, HUD will provide that the percentage of the total amount available for allocation to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for the prior fiscal year that was allocated to such State, metropolitan city, or urban county.

(b) *Reallocation to State.* Except as otherwise provided by law, if an allocation to a metropolitan city or urban county would be less than .05 percent of each appropriation under this part in any fiscal year, the amount is added to the allocation for the State in which the city or county is located.

(c) *Notification of allocation amount.* HUD will notify in writing each State, metropolitan city, and urban county that is eligible to receive an allocation under this section, of the amount of its allocation.

§ 576.45 Allocation of grant amounts to Territories.

(a) *Each Territory.* HUD will allocate amounts set aside for Territories under § 576.41 to each Territory, based upon its proportionate share of the total population of all Territories.

(b) *Notification of allocation amount.* HUD will notify each Territory of the amount of its allocation under this section.

Subpart E—Award and Use of Grant Amounts

§ 576.51 Application requirements.

(a) *Application deadlines.* To receive grant amounts, a State or formula city or county that elects to receive an emergency shelter grant on the basis of an allocation under § 576.43, and a Territory that elects to receive an emergency shelter grant on the basis of an allocation under § 576.45, must submit an application that meets the requirements of paragraph (b) of this section. The application must be submitted to the responsible HUD field office, no later than 45 days after the date of the notification to the State, city or county, or the Territory, of its grant allocation, as provided by § 576.43(c) or § 576.45(b), respectively.

(b) *Application.* The application must contain:

(1) A Standard Form 424. Item (11) of Standard Form 424 must contain a description of the proposed use of the emergency shelter grant amounts. In the case of a formula city or county, or a Territory, the proposed use must be identified for each of the four categories of eligible activities under §§ 576.21 (a)(1), (a)(2), (a)(3), and (a)(4). In addition, the formula city or county, or Territory must include a description of the process and criteria for awarding its grant funds to units of general local government and nonprofit organizations. In the case of a State, the proposed use must identify:

(i) How the State intends to implement the requirement in § 576.23(a) that the grant be made available to units of general local government and/or private nonprofit organizations in the State, or

(ii) The specific units of general local government in the State that will receive the grant, or

(iii) The nonprofit organizations that will receive grant funds directly from the State, and the local jurisdictions in which the proposed activities will be located.

In addition, the State must include a description of the process and criteria for awarding its grant funds to State recipients.

(2) The following certifications and assurances:

(i) A certification by the public official responsible for submitting the Comprehensive Plan for the State, formula city or county, or Territory that is applying for ESG funding for the proposed activities that the activities are consistent with the Plan. In the case of a formula city or county, there must be an additional certification that before any of the grant funds are used for an activity conducted outside the applicant's jurisdiction, the applicant will secure and provide to HUD a certification that the activity is consistent with the CHAP submitted by the following jurisdiction, as applicable:

(A) If the activity is conducted within the boundaries of a city or urban county having its own CHAP, then a certification from the appropriate official of that jurisdiction; or

(B) If the activity is not conducted within a unit of local government having its own CHAP, then a certification from the appropriate State official.

(ii) A certification that the State, formula city or county, or Territory will provide the matching supplemental funds required by § 576.71. The certification must describe the sources and amounts of the supplemental funds. A State's matching supplemental funds certification is to be submitted with its interim performance report, as provided by § 576.85.

(iii) A certification that the State will require any nonprofit organization that applies for funding to submit a certification of approval of the proposed project(s) from the unit of general local government in which the proposed projects are to be located.

(iv) A certification that the formula city or county, or Territory, will comply, and that the State will ensure that its State recipients comply, with:

(A) The requirements of § 576.73 concerning the continued use of buildings, for which emergency shelter grant amounts are used, as emergency shelter for the homeless;

(B) The building standards requirements of § 576.75; and

(C) The requirements of § 576.77 concerning assistance to the homeless.

(v) If grant amounts are proposed to be used to provide emergency shelter for the homeless in hotels or motels, or other commercial facilities providing transient housing, a certification from the State, metropolitan city, or urban county that:

(A) Leases negotiated between the grantee, or State recipient or nonprofit recipient (as appropriate), and providers of such housing provide (or will provide) that the living space will be rented at substantially less than the daily room rate otherwise charged by the facility; and

(B) The grantee, or State recipient (as appropriate), has considered using other facilities as emergency shelter, and has determined that use of the facilities referred to in this paragraph (b)(2)(v) provides the most cost-effective means of providing emergency shelter for the homeless in its jurisdiction. In the case

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of grant funds provided to nonprofit recipients, the cost-effectiveness determination under this paragraph must be completed by the formula city or county, Territory or State in which the proposed activities are to be located.

(vi) A certification that the formula city or county, or Territory, will conduct its emergency shelter grant activities under this part, and that the State or unit of general local government (as appropriate) will ensure that State recipients or nonprofit recipients conduct their activities under this part, in conformity with the nondiscrimination and equal opportunity requirements contained in § 576.79(a) and the other requirements of this part and of other applicable Federal law.

(vii) A certification by the State, formula city or county, or Territory that the submission of the application required by this paragraph (b) is authorized under applicable provisions of law, and that the grantee possesses the legal authority to carry out emergency shelter grant activities in accordance with the provisions of this part.

(viii) A certification by the State, formula city or county, or Territory that any ESG funds allocated under § 576.21(a)(4)(ii) (homeless prevention for families that have received eviction notices or notices of termination of utility services) will not supplant funding for preexisting homeless prevention activities from any other sources.

(ix) Where the grantee is a State, Territory, formula city or county, or other governmental entity with general purpose powers, an assurance by the grantee that it will assume all the environmental review responsibilities that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities citied in 24 CFR 58.5, including acceptance of Federal court jurisdiction, under § 576.52.

(x) An assurance that the State, Territory, formula city or county will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) at § 576.80.

(xi) An assurance that the grantee and its recipients will take all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit oganizations, and farms) as a result of a project assisted under this Part, in accordance with the URA.

(xii) A certification that the grantee and its recipients will provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 (see 24 CFR part 24, subpart F).

(c) *Environmental review.* The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 (NEPA)) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 or 58, as appropriate. See § 576.52 for a full discussion of the environmental requirements for applications for assistance.

(d) *Substantial change in proposed use of funds.* (1) If at any time after submission of an application under this section, there is a substantial change in the proposed use of funds, there must be submitted to the responsible HUD field office a description of the revised proposed use of funds and a certification (as required by paragraph (b)(2)(i) of this section) that the proposed use of funds is consistent with the applicable Comprehensive Homeless Assistance Plan. The revised proposed use of funds and certification of consistency will be approved as expeditiously as possible, and will be deemed approved 30 days after HUD receives them, unless notification is provided by HUD within that period that they are not approved, and the basis for the denial of approval. ESG funds may not be obligated by a grantee or by a nonprofit recipient for the revised proposed use of funds until:

(i) HUD accepts the revised proposed use and certification, or 30 days have passed from the date of HUD receipt; and

(ii) Environmental review of the revised proposed use of funds has been completed in accordance with § 576.52.

(2) In the case of a State, a State may not obligate funds until the revised proposed use of grant funds has been approved by HUD; and

(3) Submission of the certification and the description of the revised use of funds under this paragraph (d) may require amendment of the applicable Comprehensive Homeless Assistance Plan. Requirements for Plan amendments may be found in the notification that HUD provides for Plans. (See § 576.31(b)).

§ 576.52 Environmental review.

(a) *Generally.* (1) The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58.

(2) Environmental regulations provide for certain categorical exclusions under NEPA and under part 58 set conditions under which excluded activities may be determined exempt from all environmental review requirements. In cases where proposed assistance and matching contributions solely involve operating costs for facilities or the provision of essential services, and the structures and sites involved in the project meet the program requirements of this part, these activities are categorically excluded by regulation and may be determined fully exempt from environmental review.

(b) *Responsibility for review.* (1) HUD will perform the environmental review, in accordance with part 50, for applications submitted by private nonprofit organizations for reallocated funds, and any governmental entities with general purpose powers found not to have the legal capacity to carry out this responsibility.

(2) Applicants that are States, Territories, formula cities and counties, or other governmental entities with general purpose powers, and that are deemed to have the legal capacity to do so, must assume responsibility for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58. Specifically, States, Territories or units of general local government must complete the environmental review for each application for assistance, as follows:

(A) In the case of ESG grants to States that are distributed to units of general local government, the unit of general local government must assume the environmental responsibilities specified in section 104(g)(1) of the Housing and Community Development Act of 1974, and the State will assume HUD's functions with regard to the release of funds, as provided by section 104(g)(4) of that Act.

(B) In the case of ESG grants to States that are distributed to nonprofit organizations, the State will assume the environmental responsibilities specified in section 104(g)(1) of that Act and HUD will perform the release of funds functions of section 104(g)(2).

(C) In the case of ESG grants to a unit of general local government or Territory, whether used directly by the grantee or distributed to nonprofit organizations, the unit of general local government or Territory will assume the environmental responsibilities specified in section 104(g)(1) of that Act and HUD will perform the release of funds functions of section 104(g)(2).

(3) The assumption of legal responsibility by an applicant under paragraph (b)(2) of this section does not preclude the applicant's arranging for the conduct of technical reviews by cooperating local governments having an established technical capability (e.g., by a metropolitan city in which the project is proposed to be located). The applicant under such arrangement must independently evaluate information submitted and assume responsibility for its accuracy, scope and content; meet legal requirements attached to the Release of Funds by HUD; determine the completeness of the review; meet any requirements for consultation, as applicable, under 24 CFR 58.5 authorities; and assure the completion of any mitigation measures resulting from technical review or from State consultations. The arrangements described in this paragraph are in addition to the ability of an applicant to adopt relevant and adequate prior reviews conducted by HUD or other governmental entity for a related program or purpose, if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and if certain conditions are met (e.g., a determination that no environmentally significant changes have occurred since the review was completed.)

(c) *Environmental review by HUD.* With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake its review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. Any application subject to environmental review by HUD that requires an Environmental Impact Statement (EIS) (generally, an application that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR part 50, subpart E) will not be eligible for assistance under this part.

(d) *Environmental review by applicants.* (1) An applicant that is required, under paragraph (b)(2) of this section, to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibilities that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5, including acceptance of jurisdiction of the Federal courts.

(2) Applicants required to assume environmental review responsibility need not complete the review until a reasonable time after grant award. In such cases, the award is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time after notification of the award. (This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.)

(i) Upon completion of the requirements in 24 CFR part 58, applicants must certify the completion and submit a Request for Release of Funds. This submission is not required in cases in which the applicant determines and documents, in accordance with 24 CFR 58.34, that its program components are exempt.

(ii) HUD will not release funds for an emergency shelter grant activity if the grantee, recipient, or any other party commits emergency shelter grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the grantee submits, and HUD approves, any required Request for Release of Funds.

(3) A general applicant that believes that it does not have the legal capacity to carry out the responsibilities required by 24 CFR part 58 should contact the appropriate HUD field office for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(e) *Location of projects in floodplains.* Activities that are to be assisted with emergency shelter grant funds and that are located in any 100-year floodplain, as designated by maps prepared by the Federal Emergency Management Agency (FEMA), are subject to the floodplain review requirements of Executive Order 11988, Floodplain Management (May 24, 1977). Executive Order 11988 review, as referenced under parts 50 and 58, is to be performed during the environmental review.

§ 576.53 Review and approval of applications.

(a) *Time for approval.* An application from a State, formula city or county, or Territory will be processed and approved as expeditiously as possible, and will be deemed approved 30 days after HUD receives it, unless within that period HUD notifies the applicant that the application is not approved.

(b) *Review of application.* HUD will approve an application, unless it determines that the application:

(1) Was not received or postmarked within the time period specified in § 576.51(a);

(2) Does not contain the items required by § 576.51(b); or

(3) Does not otherwise comply with the requirements of this part or of other Federal law.

(c) *Conditional grant.* HUD may make a conditional grant restricting the obligation and use of emergency shelter grant amounts. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the requirements of this part. In such a case, the reason for the conditional grant, the action necessary to remove the condition, and the deadline for taking those actions will be specified. Failure to satisfy the condition may result in imposition of a sanction under § 576.69, or in any other action authorized under applicable Federal law.

(d) *Grant agreement.* The grant will be made by means of a grant agreement executed by HUD and the grantee. HUD will not disburse funds before the grant agreement is fully executed.

(e) *Reallocation amounts.* Any emergency shelter grant amounts that are returned to HUD because of:

(1) A failure to meet the application deadline under § 576.51(a); or

(2) An application disapproval under paragraph (b) of this section will be reallocated under § 576.67.

§ 576.55 Deadlines for using grant amounts.

(a)(1) *States.* Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under § 576.43, within 65 days of the date of the grant award by HUD. A State may set aside up to 10 percent of its grant funds for homeless prevention activities under § 576.21(a)(4). These set-aside funds must be made available to State recipients within 180 days of the grant award by HUD.

(2) *State recipients*—(i) *Obligation of grant funds.* Each State recipient must have its grant amounts obligated (as that term is defined at § 576.3) within 180 days of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities under § 576.21(a)(4), State recipients are required to obligate grant amounts within 30 days of the date on which the State made the grant amounts available to the State recipient.

(ii) *Expenditure of grant funds.* Each State recipient must spend all of its grant amounts within 24 months of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless

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prevention activities, State recipients must spend such sums within 180 days of the date on which the State made the grant amounts available to the recipient.

(b) *Formula cities and counties, and Territories.)*—(1) *Obligations of funds.* Each formula city and county, and each Territory, must have all grant amounts that it was allocated under § 576.43 or § 576.45 obligated within 180 days of the date of the grant award by HUD.

(2) *Expenditure of grant funds.* Each formula city and county, and each Territory, must spend all of the grant amounts it was allocated under § 576.43 or § 576.45 within 24 months of the date of the grant award by HUD.

(c) *Reallocation amounts.* (1) Any emergency shelter grant amounts that are not made available or obligated within the time periods specified in paragraphs (a)(1) (State distributions to State recipients) or (b) (formula city or county or Territory allocation) of this section, respectively, will be reallocated under § 576.67.

(2) The State must recapture any grant amounts that a State recipient does not obligate and spend within the time period specified in paragraph (a)(2) (State recipients) of this section. The State, at its option, must make these grant amounts and other amounts returned to the State (except amounts referred to in § 576.22(b)(2)(vi)) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section, or to HUD for reallocation under § 576.67.

Subpart F—Reallocations

§ 576.61 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; formula cities and counties.

(a) *Applicability.* This section applies where a formula city or county fails to obtain approval of its Comprehensive Plan within 90 days of the date upon which amounts under this part first become available for allocation under § 576.43 in any fiscal year.

(b) *Grantee.* HUD will make available the amounts that a city or county referred to in paragraph (a) of this section would have received to the State in which the city or county is located.

(c) *Notification of fund availability.* The responsible HUD field office will promptly notify the State of the availability of any reallocation amounts under this section.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the State must:

(1) Execute a grant agreement with HUD to receive grant amounts allocated to the State under § 576.43 for the fiscal year for which the amounts to be reallocated were initially made available.

(2) If necessary, submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must (to the extent necessary) meet the requirements of § 576.51(b), and must be submitted to the responsible HUD field office no later than 30 days after notification is given to the State under paragraph (c) of this section.

(e) *Review and approval.* (1) Section 576.53 (except paragraph (e)) governs the review and approval of application amendments under this section.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(3) Program activities represented by proposed amendments are subject to environmental review under § 576.52 in the same manner as original proposals.

(f) *Deadlines for using reallocated grant amounts.* Section 576.55 governs the use of amounts reallocated under this section.

(g) *Amounts that cannot be reallocated.* Any grant amounts that cannot be reallocated to a State under this section will be reallocated to formula cities and counties located in the State and then to other States and Territories, as provided by § 576.63. Amounts that are reallocated under this section, but that are returned or unused, will be reallocated under § 576.67.

§ 576.63 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; States and Territories.

(a) *Applicability.* This section applies where:

(1) A State or Territory fails to obtain approval of its Comprehensive Plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year; or

(2) Grant amounts cannot be reallocated to a State under § 576.61.

(b) *Grantees.* HUD will reallocate the amounts that a State referred to in paragraph (a) of this section would have received, first, to formula cities and counties located in the State that demonstrate extraordinary need or large numbers of homeless individuals and if grant amounts remain, then to other States and Territories that meet this criterion. HUD will make available the amounts that a Territory under paragraph (a)(1) of this section would have received to other Territories that demonstrate extraordinary need or large numbers of homeless individuals.

(c) *Notification of fund availability.* HUD will make reallocations to States under this section by direct notification or **Federal Register** Notice that will set forth the terms and conditions under which grant amounts under this section are to be reallocated and grant awards made. In the case of reallocations to Territories, the responsible HUD field office will promptly notify each Territory of any reallocation amounts under this section, and indicate the terms and conditions under which reallocation amounts are to be made available and grant awards made.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the formula city or county, or State or Territory, must:

(1) Submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must meet:

(i) To the extent necessary, the requirements of § 576.51(b) and

(ii) Such additional requirements as HUD may specify in the notification under paragraph (c) of this section.

Amendments are subject to environmental review under § 576.52. The amendment must be submitted to the responsible HUD field office no later than 30 days after such notification is given.

(2) Execute a grant agreement with HUD to receive grant amounts allocated under § 576.43 or § 576.45 (as appropriate) for the fiscal year for which the amounts to be reallocated were initially made available.

(e) *Review and approval.* (1) Section 576.53 (except paragraph (e)), and such additional requirements as HUD may specify in the notification under paragraph (c) of this section, govern the review and approval of application amendments under this section. HUD will rank the amendments and make grant awards under this section on the basis of the following factors:

(i) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(ii) The extent to which the proposed activities address this need; and

(iii) The ability of the grantee to carry out the proposed activities promptly.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) *Grant amounts.* HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application amendment, based on competing demand for grant amounts and the extent to which the respective activities address the needs of the homeless.

(g) *Deadlines for using reallocated grant amounts.* Section 576.55 governs the use of amounts reallocated under this section.

(h) *Amounts that are not reallocated.* Any grant amounts that are not reallocated under this section, or that are reallocated, but are unused, will be reallocated under § 576.67(d). Any amounts that are reallocated, but are returned, will be reallocated under § 576.67(c).

§ 576.67 Reallocation of grant amounts; returned or unused amounts.

(a) *General.* From time to time, HUD will reallocate emergency shelter grant amounts that are returned or unused, as those terms are defined in paragraph (f) of this section. HUD will make reallocations under this section by direct notification or **Federal Register** Notice that will set forth the terms and conditions under which the grant amounts are to be reallocated and grant awards are to be made.

(b) *FEMA boards.* HUD may use State and local boards established under the Emergency Food and Shelter Program administered by the Federal Emergency Management Agency, as a resource to identify potential applicants for reallocated grant amounts.

(c) *Reallocation—returned grant amounts.* (1) States and formula cities and counties. HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under § 576.43 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

(i) Returned grant amounts that were allocated to a State will be made available (A) first, to units of general local government within the State and (B) if grant amounts remain, then to other States.

(ii) Returned grant amounts that were allocated to a formula city or county will be made available:

(A) First, for use in the city or county, to units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction;

(B) If grant amounts remain, then to the State in which the city or county is located;

(C) If grant amounts remain, to units of general local government in the State; and

(D) If grant amounts remain, to other States.

(2) *Territories.* Returned grant amounts that were allocated to a Territory will be made available first, to other Territories and if grant amounts remain, then to States.

(3) *Further reallocation: States, formula cities and counties, and Territories.* Any grant amounts that:

(i) Remain after applying the preceding provisions of this paragraph (c), or

(ii) Are returned to HUD after reallocation under such provisions, will be further reallocated under paragraph (d) of this section.

(4) *Other grantees.* Returned grant amounts that were initially made available to private nonprofit organizations, units of general local government and States under paragraph (d) of this section will be made available under that paragraph.

(5) The responsible HUD field office will announce the availability of returned grant amounts. The announcement will establish deadlines for submitting applications, and will set out other terms and conditions relating to grant awards, consistent with this part. The announcement will specify the application documents to be submitted, which include:

(i) A Standard Form 424;

(ii) Certifications required at § 576.51(b)(2)(v); and

(iii) Other certifications and assurances similar to those required from a formula city or county, or a Territory, under §§ 576.51(b)(2).

(6) The responsible HUD field office may establish maximum grant amounts, considering the grant amounts available, and will rank the applications using the criteria in paragraph (e) of this section.

(7) HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application, based on competing demands for grant amounts and the extent to which the respective activities address the needs of the homeless.

(8) HUD will endeavor to make grant awards within 30 days of the application deadline or as soon thereafter as practicable.

(9) Grants awarded under this section are subject to environmental review under § 576.52.

(d) *Reallocation—unused grant amounts.* Unused grant amounts will be available, in HUD's discretion, for reallocation from time to time to:

(1) Units of general local government and States demonstrating extraordinary need or large numbers of homeless individuals; and

(2) Private nonprofit organizations providing assistance to the homeless.

(e) *Selection criteria.* HUD will award grants under paragraphs (c) and (d) of this section based on consideration of the following criteria:

(1) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(2) The extent to which the proposed activities address this need; and

(3) The ability of the grantee to carry out the proposed activities promptly.

(f) *When grant amounts are returned or unused.* (1) For purposes of this section, emergency shelter grant amounts are considered "returned" when they become available for reallocation because a grantee does not execute a grant agreement with HUD for them, *e.g.*, when a grantee for which an allocation is made under § 576.43 or § 576.45 fails to meet the application deadlines under § 576.51(a), or has its application disapproved under § 576.53(b), or approved with a reduced grant amount in accordance with § 576.89.

(2) For purposes of this section, emergency shelter grant amounts are considered "unused" (i.e. Federal deobligation) when they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for them: *e.g.*, where:

(i) A State fails to make its grant amounts available to State recipients within the time period specified in § 576.55(a)(1);

(ii) A formula city or county fails to obligate grant amounts within the time specified in § 576.55(b);

(iii) A State recaptures grant amounts from a State recipient and makes them available to HUD as provided in § 576.55(c)(2);

(iv) Grant amounts become available as a result of imposition of a sanction (other than a reduction of grant amounts) under § 576.89 or the close-out of a grant; or

(v) A grantee referred to in paragraph (b) of this section fails to obligate grant amounts within the time period specified in its grant agreement.

Amounts that remain after reallocation under § 576.63 or § 576.67(c) are considered unused for purposes of this section.

Subpart G—Program Requirements

§ 576.71 Matching funds.

(a) *General.* Each grantee must match the funding provided by HUD under this Part with an equal amount of funds from sources other than under this part. These funds must be provided after the date of the grant award to the grantee. Funds used to match a previous ESG

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grant may not be used to match a subsequent grant award under this part. A grantee may comply with this requirement by providing the supplemental funds itself, or through supplemental funds or voluntary efforts provided by any State recipient or nonprofit recipient (as appropriate).

(b) *Calculating the matching amount.* In calculating the amount of matching funds, there may be included the value of any donated material or building; the value of any lease on a building; any salary paid to staff of the grantee or to any State recipient or nonprofit recipient (as appropriate) in carrying out the emergency shelter program; and the time and services contributed by volunteers to carry out the emergency shelter program, determined at the rate of $5 per hour. For purposes of this paragraph (b), the grantee will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish a fair market value.

§ 576.73 Use as an emergency shelter.

(a)(1) *General.* Any building for which emergency shelter grant amounts are used for one or more eligible activities described in § 576.21(a)(1) must be maintained as a shelter for the homeless for not less than a three-year period or, if the grant amounts are used for major rehabilitation or conversion of the building, for not less than a 10-year period.

(2)(i) Any building for which emergency shelter grant amounts are used for eligible activities described in § 576.21 (a)(2) or (a)(3) must be maintained as a shelter for the homeless for the period during which such assistance is provided. A substitute site or shelter may be used during this period, so long as the same general population is served.

(ii) For purposes of this section, the term "same general population" means either the same types of homeless persons originally served with ESG assistance (i.e. battered spouses, runaway children, families, or mentally ill individuals) or persons in the same geographic area.

(3) Using emergency shelter grant amounts for homeless prevention activities under § 576.21(a)(4) does not trigger any period of use requirements.

(b) *Calculating the applicable period.* The three- and 10-year periods referred to in paragraph (a) of this section begin to run:

(1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.

(2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

§ 576.75 Building standards.

Any building for which emergency shelter grant amounts are used for renovation, conversion, or major rehabilitation must meet local government safety and sanitation standards.

§ 576.77 Assistance to the homeless.

Homeless individuals and families must be given assistance in obtaining:

(a) Appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(b) Other Federal, State, local, and private assistance available for such individuals.

§ 576.79 Other Federal requirements.

Use of emergency shelter grant amounts must comply with the following additional requirements:

(a) *Nondiscrimination and Equal Opportunity.* (1) The requirements of the Fair Housing Act (42 U.S.C. 3601–20) and implementing regulations at 24 CFR part 100; Executive Order 11063 and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) and implementing regulations issued at 24 CFR part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146 and the prohibitions against discrimination against otherwise qualified individuals with handicaps under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. For purposes of the emergency shelter grants program, the term "dwelling units" in 24 CFR part 8 shall include sleeping accommodations.

(3) The requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (see § 570.607(b) of this chapter);

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this part; and

(6) The requirement that the grantee (or in the case of States, the State recipient) make known that use of the facilities and services is available to all on a nondiscriminatory basis. Where the procedures that a grantee or recipient intends to use to make known the availability of such facilities and services are unlikely to reach persons with handicaps or persons of any particular race, color, religion, sex, age or national origin within their service area who may qualify for them, the recipient or grantee must establish additional procedures that will ensure that these persons are made aware of the facilities and services. Grantees and recipients must also adopt and implement procedures designed to make available to interested persons information concerning the existence and location of services and facilities that are accessible to persons with a handicap.

(b) *Applicability of OMB Circulars.*[1] The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A–102) and OMB Circular No. A–87, as they relate to the acceptance and use of emergency shelter grant amounts by States and units of general local government, and Nos. A–110 and A–122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.

(c) *Lead-based paint.* The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35. In addition, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

(1) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and

(2) Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

(d) *Conflicts of interest.* In addition to the conflict of interest requirements in OMB Circulars A–102 and A–110, no person—

[1] OMB Circulars referenced in this section are available at the Entitlement Cities Division, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(1)(i) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and (ii) who exercises or has exercised any functions or responsibilities with respect to assisted activities, or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in § 570.611 (d) and (e) of this chapter.

(e) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status are applicable to grantees and recipients under this part.

(f) *Flood insurance.* No site proposed on which renovation, major rehabilitation, or conversion of a building is to be assisted under this part, other than by grant amounts allocated to States under § 576.43, may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless

(1)(i) The community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR Parts 59 through 79) or

(ii) Less than a year has passed since FEMA notification regarding such hazards; and

(2) The grantee will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Production Act of 1973 [42 U.S.C. 4001 *et seq.*].

(g) *Coastal barriers.* In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

(h) *Drug Free Workplace Act of 1988.* Each grantee is required to certify that it (and its recipients) will maintain a drug-free workplace in accordance with the requirements of 24 CFR part 24, subpart F.

(i) *Audit.* The financial management system used by a State or unit of general local government that is a grantee or State recipient must provide for audits in accordance with 24 CFR part 44. A private nonprofit organization is subject to the audit requirements of OMB Circular A–110.

(j) *Intergovernmental review.* The requirements of Executive Order 12372 and the regulations issued under the order at 24 CFR part 52, to the extent provided by Federal Register notice in accordance with 24 CFR 52.3.

§ 576.80 Relocation and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this Part, grantees and recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this Part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) Responsibility of grantees and recipients. Each grantee and recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the grantee's or recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the grantee or recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definition.*—(1) *Displaced person.* (i) The term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this Part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the grantee, recipient or property owner to move permanently from the property, if the move occurs on or after the date that the grantee or recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the grantee, recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project, or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

(*1*) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of the tenant's rent and estimated average utility costs before the initiation of negotiations, or 30 percent of gross household income; or

(*2*) The tenant has been required to relocate temporarily but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and the tenant does not return to the building/complex; or

(*3*) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) A person does not qualify as a "displaced person" if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

§ 576.85 Performance reports.

(a) *Interim performance report.*—(1) *Timing of report.* (i) A formula city or county, or Territory, must submit its interim performance report to HUD no

after all ESG funds are expended and all activities are completed.

§ 576.87 Recordkeeping.

Each grantee must ensure that records

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(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The grantee or recipient may, at any time, request a HUD determination of whether a displacement is or would be covered under this section.

(2) Initiation of negotiations. For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the grantee and HUD.

Subpart H—Grant Administration

§ 576.51 Responsibility for grant administration.

Grantees are responsible for ensuring that emergency shelter grant amounts are administered in accordance with the requirements of this part and other applicable laws. In the case of States making grant amounts available to State recipients, and in the case of units of general local government distributing grant amounts to nonprofit recipients, the States and the units of local government are responsible for ensuring that their respective recipients carry out the recipients' emergency shelter grant programs in compliance with all applicable requirements.

§ 576.53 Method of payment.

Payments are made to a grantee upon its request after the grant agreement has been fully executed, and may include a working capital advance for 30 days' cash needs or an advance of $5,000, whichever is greater. Thereafter, the grantee will be reimbursed for the amount of its actual cash disbursements. If a grantee requests a working capital advance, it must base the request on a realistic, firm estimate of the amounts required to be disbursed over the 30-day period in payment of eligible activity costs. Payments with respect to grants of $120,000, or more, will be made by letter of credit, if the grantee meets the requirements of 24 CFR 85.21.

§ 576.55 Performance reports.

(a) *Interim performance report*—(1) *Timing of report.* (i) A formula city or county, or Territory, must submit its interim performance report to HUD no later than 30 days after the end of the 180-day period allowed for the obligation of grant amounts under § 576.55(b), or 30 days after the date when all grant amounts are obligated, whichever comes first.

(ii) A State must submit its interim performance report not later than 30 days from the date of the State's distribution of funds to its State recipients; except that where the responsible field office grants a State an extension of the 65-day deadline for making available its grant funds under § 576.55(a)(1) a corresponding extension for filing of the interim report will automatically be granted.

(iii) A grantee referred to in § 576.67, "Reallocation of funds," must submit its interim performance report to HUD within the period specified in its grant agreement.

(2) *Report content.* (i) In the case of a grantee other than a State, the interim performance report must contain information on the amount of funds obligated for each of the four categories of eligible activities described in § 576.21(a) (1), (2), (3), and (4).

(ii) A State interim performance report must provide this information for each State recipient.

(3) *Matching funds certification.* A State must submit with its interim performance report the matching funds certification required by § 576.51(b)(2)(ii).

(b) *Annual performance report*—(1) *Report content.* A grantee other than a State must provide HUD with an annual performance report on the obligation and expenditure of funds for each of the four categories of eligible activities described in § 576.21(a) (1), (2), (3), and (4). A State must provide this information for each State recipient.

(2) *Timing of report.* The initial annual performance report is required for the period ending December 31 following the submission of the interim report, and is due no later than 30 days after December 31. A grantee must continue to submit this report annually until all emergency shelter grant amounts are reported as expended, except that the final report is to be submitted 90 days after all ESG funds are expended and all activities are completed.

§ 576.57 Recordkeeping.

Each grantee must ensure that records are maintained for a three-year period to document compliance with the provisions of this part.

§ 576.59 Sanctions.

(a) *HUD sanctions.* If HUD determines that a grantee is not complying with the requirements of this part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

(1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;

(2) Condition a future grant;

(3) Direct the grantee to stop the incurring of costs with grant amounts;

(4) Require that some or all of the grant amounts be remitted to HUD;

(5) Reduce the level of funds the grantee would otherwise be entitled to receive; or

(6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

(b) *State sanctions.* If a State determines that a State recipient is not complying with the requirements of this part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other nonprofit organizations or units of general local government located in the State for use within the time periods specified in § 576.55(a)(2), or to HUD for reallocation under § 576.67(d).

(c) *Reallocations.* Any grant amounts that become available to HUD as a result of the imposition of a sanction under this section will be reallocated under § 576.67(d).

Dated: October 26, 1989.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 89-26112 Filed 11-6-89; 8:45 am]

BILLING CODE 4210-29-M

Tuesday
November 7, 1989

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 579

Supplemental Assistance for Facilities To Assist the Homeless (SAFAH); Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these

issued in October, 1987, for consideration in the final rule.

This final rule responds to the public comments received by HUD after

the requirements for grantees that assume the responsibilities.

The 1988 Amendments Act recognizes that the objectives of the programs are best served by a consolidation of

the Federal environmental law or authority under which they would be adopted, and only under certain conditions (e.g., a determination that no

applicable zoning ordinances and regulations; or a statement from the applicant describing the proposed actions necessary to make the use of the

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 579

[Docket No. R-89-1435; FR-2585-F-03]

RIN 2506-AA97

Supplemental Assistance for Facilities to Assist the Homeless (SAFAH)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final the guidelines for the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program, which were published for effect on October 19, 1987 (52 FR 38880), and amended by Notice, for immediate effect, on January 11, 1989 (54 FR 1006). The SAFAH program was authorized by the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987), as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988). The final rule will be codified at 24 CFR part 579.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the regulation's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will not become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Department of Housing and Urban Development, Room 7228, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6300. Hearing or speech-impaired individuals may call the TDD number (202) 755-5965. (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 7, 1988, so that the application process described in this rule may be carried out following OMB approval of the necessary collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**, at the same time that the rule's effective date is published.

Public reporting burden for this collection of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, by no later than December 7, 1989 to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Background

The SAFAH program was authorized in 1987 by subtitle D, title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11391-11394) (McKinney Act) to provide (1) comprehensive assistance for particularly innovative programs for, or alternative methods of, meeting the immediate and long-term needs of the homeless and (2) assistance to cover the costs in excess of assistance provided under the Emergency Shelter Grants and Supportive Housing Demonstration programs. HUD issued program guidelines for SAFAH, together with a Notice of Funds Availability, on October 19, 1987 (52 FR 38880).

The program guidelines were amended by a Notice, for immediate effect, on January 11, 1989 (54 FR 1006), which implemented amendments to the program made by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) (1988 Amendment Act). The 1988 Amendments Act required that HUD publish a final rule for the program within 12 months from the date of enactment of the Act. HUD invited public comments on the program amendments announced in the January, 1989 Notice, as well as on the guidelines issued in October, 1987, for consideration in the final rule.

This final rule responds to the public comments received by HUD after publication of the January Notice and to comments from homeless service providers made to HUD staff at meetings around the country. The rule also reflects the Secretary's priority to end the tragedy of homelessness by simplifying the application and selection processes. Some changes are made in the final rule in an effort to make the SAFAH program as consistent as possible with other HUD programs that serve the homeless, such as the Emergency Shelter Grants and Supportive Housing Demonstration programs. These programs have all been combined under the Office of the Assistant Secretary for Community Planning and Development, and will be similar in policy, organization, and administration.

II. Public Comments

HUD received written comments from a local government agency and a private nonprofit organization. Their comments focused on the following areas:

Environmental Review Procedures (§ 579.220)

The local government agency commented on the change, announced in the January Notice, that requires States, metropolitan cities, urban counties, and other units of general local government to assume responsibility for the environmental review. The commenter believes that HUD's environmental review procedures in 24 CFR part 58, for which HUD requires the applicants described above to assume responsibility, are too time-consuming and strict, causing delays in beginning construction. The commenter thought that there should be a provision for a waiver of compliance with HUD procedures for applicants that are subject to other state and local environmental review requirements.

Section 482 of the 1988 Amendments Act provides that the regulations and procedures applicable under section 104(g) of the Housing and Community Development Act of 1974 are to be applied to all programs under title IV of the McKinney Act. Section 104(g) authorizes HUD to assign the Federal environmental review responsibilities to grantees deemed to have the legal capacity for environmental review (States, metropolitan cities, urban counties, and other units of general local government) and to define how the responsibilities are to be performed. The regulations at 24 CFR part 58 describe

the requirements for grantees that assume the responsibilities.

The 1988 Amendments Act recognizes that the objectives of the programs are best served by a consolidation of environmental review responsibilities at the applicant level. Many applicants seek funding under more than one McKinney Act program, and a single environmental review should often suffice for those applicants. According to the Report of the House Committee on Banking, Finance and Urban Affairs, the intent of section 482 of the 1988 Amendments Act was to expedite the consideration of applications. However, the Report states that the Committee expects all applicants to adhere to all requirements of the National Environmental Policy Act (NEPA) and that "this amendment does not lessen any requirement for any project to comply with the NEPA standards." (See H.R. Rep. No. 100-718, part II, 100th Cong., 2d Sess. 39 (1988).)

The requirements of statutes, Executive Orders, and the regulations of oversight agencies that are imposed on applicants through part 58 cannot be waived. Requirements arising out of a statute or Executive Order do not allow for waivers. Those that are regulatory, *i.e.*, the Council on Environmental Quality NEPA regulations (40 CFR parts 1500-1508) and the Advisory Council on Historic Preservation regulations (36 CFR part 800), make some provision for "emergencies," but these are for conditions more extreme than a concern for processing delays. Compliance with the review processes and time periods under the authorities listed in 24 CFR 58.5 is mandatory—whether responsibility for review is assigned to the applicant under section 104(g) or retained and exercised by HUD under 24 CFR part 50. In addition, HUD has no legislative authority to allow the applicability of State or local environmental requirements to substitute for the Federal requirements.

In § 579.220(b)(3), the final rule clarifies that applicants assuming responsibility for environmental reviews may arrange for local governments, with the appropriate technical capability, to conduct the technical review, as long as the applicants still retain all legal responsibilities, *i.e.*, independently evaluate information submitted and assume responsibility for its accuracy, scope, and content, and carry out any mitigation measures called for by the review. Applicants may also adopt prior reviews conducted by HUD or another governmental entity if the reviews adequately address the assisted projects and meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done).

The nonprofit organization commented that SAFAH procedures with respect to projects or activities on historical sites should be revised to conform with the Supportive Housing requirements. The SAFAH guidelines required that applications include a determination from the State Historic Preservation Officer (SHPO). In contrast, the Supportive Housing program permitted an applicant to submit a copy of its request to the SHPO and to forward the SHPO's determination upon availability. (The Supportive Housing rule did not address the issue of historic preservation specifically; rather, this particular requirement was in the application package.)

HUD agrees that the two programs should be consistent, and has deleted from the final rule the requirement that applicants submit the SHPO's determination with their applications. This deletion does not change the requirement that a determination from the SHPO is necessary, but recognizes that the identification of historic properties and the issue of the effect of the proposed project on the properties is a part of the environmental review process. In cases where HUD conducts the review (§ 579.220(b)(1)), it is HUD's responsibility to identify historic properties and address effects on them; and where the applicant conducts the review (§ 579.220(b)(2)), it is the applicant's responsibility. (The same rule will apply to the Supportive Housing Demonstration program.)

Zoning Requirements

The nonprofit organization commented that, under the SAFAH guidelines, an applicant has to project in its application that proposed zoning actions would be completed within 30 days following selection for funding, while under the Supportive Housing regulations, the period of time is four months. The commenter believed that the two programs should be consistent. HUD agrees and has changed the SAFAH rule to match the Supportive Housing rule.

A SAFAH applicant will be required to submit with the application a written statement from the unit of general local government in which the project is proposed to be located (or other evidence satisfactory to HUD) that the use of the site is permissible under applicable zoning ordinances and regulations; or a statement from the applicant describing the proposed actions necessary to make the use of the site permissible under applicable zoning ordinances and regulations, with evidence that there is a reasonable basis to believe that the proposed zoning actions will be completed successfully and within four months following submission of the application (§ 579.210(b)(12)).

Matching Funds

The nonprofit organization commented that SAFAH matching fund requirements should be reduced from 80 percent to 25 percent and that applicants should be allowed to include other Federal funds, such as Federal Emergency Management Agency (FEMA) funds, ESG funds, and Community Services Block Grants (CSBG), in addition to Community Development Block Grants (CDBG). HUD believes the commenter may be confusing the SAFAH program with other HUD homeless assistance programs, because, there were no matching fund requirements under the SAFAH program guidelines. The guidelines did provide, as does the final rule, that HUD will give points toward selection if applicants can show an ability to leverage other resources (§ 579.215(b)(3)). HUD believes that the extent to which an applicant can show funding from other sources demonstrates the applicant's capacity to carry out the proposed activities in a successful manner, community support for the applicant's proposed activities, and a commitment by the applicant to providing for the needs of the homeless.

HUD will allow the use of CSBG and CDBG funds as a source of non-Federal funds for the purpose of leveraging, since, after they are awarded, CSBG and CDBG funds become subject, broadly speaking, to local (or State) priorities and discretion. To allow other McKinney Act funds, however, such as FEMA or ESG funds, would frustrate the intent of the program to stimulate new resources for the local efforts.

The same commenter proposed that the fair market value of a facility should be considered as an eligible "match." The SAFAH guidelines allowed the fair market value of a donated facility as a leveraging resource. The final rule retains that provision in § 579.110(b)(2)(ii).

The commenter also suggested that volunteer time should be valued at prevailing wages rather than the currently allowed $5 per hour. HUD disagrees. First, HUD would have no

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practical way of verifying such rates, the use of which could result in unsubstantiated differences in the valuation of volunteer services from applicant to applicant. Second, HUD believes that the legislative history of the 1988 Amendments Act indicates congressional approval of the $5-per-hour value. Section 452 of the 1988 Amendments Act authorized the value of volunteer time and services as matching funds for Supportive Housing funds, at a rate to be determined by the Secretary. The legislative history of this provision shows that the House Committee on Banking, Finance and Urban Affairs authorized volunteer time and services to be counted as a source of matching funds, because such sources were authorized in the ESG program and the two programs should be uniform in approach. According to the House Report, the Committee believed that the value of volunteer time and services should be calculated "in the same manner as in the Emergency Shelter Grants Program." (H.R. Rep. No. 100-718, Part II, 100th Cong., 2d Sess. 36 (1988).) HUD interprets this to mean that Congress intended that the value of volunteer time and services in the Supportive Housing program should be calculated at $5 an hour, which is the value used for calculating such services in the ESG program (24 CFR 576.71(b)). HUD believes this also indicates that Congress intends for all McKinney Act programs to be consistent and, therefore, approves the $5-an-hour value for the SAFAH program.

Use of Funds

The nonprofit organization suggested that case management should be included among the supportive services eligible for funding. Case management is not excluded from the definition of supportive services in § 579.5, and HUD believes the definition is broad enough to encompass such services. (Case management is specifically included in the definition of outpatient services.)

The commenter also proposed that, under comprehensive assistance (§ 579.100), acquisition advances should be available to repay an outstanding debt on a loan made to purchase a facility, as authorized for the Supportive Housing program by section 445 of the 1988 Amendments Act. HUD disagrees, since this type of assistance was authorized by a specific statutory authorization for the Supportive Housing Program. Absent specific statutory authorization for SAFAH comprehensive assistance, repayment of outstanding debts on loans taken out to purchase a facility should not be available under that category. However, advances for repayment of outstanding debts on such loans would be eligible under the category of assistance in excess of ESG or SHD funding (§ 579.105), since any assistance available under those programs would be available under SAFAH's excess assistance category.

The commenter also suggested that, under the excess assistance category, funding for existing facilities or services should be available for current levels of operation as well as expansion. In §§ 577.125(a)(2)(iv) and 578.125(a)(2)(iv), the final rule for Supportive Housing allows funding for improvements to existing facilities, without expansion of the program, when such improvements are necessary to bring the structures to a level that meets applicable State and local government health and safety standards. This change in the Supportive Housing rule will carry over to the SAFAH program to the extent that an applicant is applying for excess assistance for that purpose, since excess assistance follows the eligibility requirements of either SHD or ESG assistance. However, because of the nature of the assistance, *i.e.*, rehabilitating structures, the only assistance available for existing structures with no expansion of services will be rehabilitation assistance. Comprehensive assistance remains available for existing facilities only when the applicant proposes an expansion of the program.

Funding Levels

The nonprofit organization suggested that caps for moderate rehabilitation grants should be raised to $200,000 (or $400,000 in high cost areas), as now allowed in the SHD program under the 1988 Amendments Act. The definition of moderate rehabilitation under the SAFAH guidelines was based on the amount of HUD's expenditure, which was capped at $100,000. This final rule contains new definitions of both moderate rehabilitation and substantial rehabilitation, which are based on the extent of rehabilitation to the structure, as indicated by the comparison between the cost of rehabilitation and the fair market value of the structure before rehabilitation. Rehabilitation of a project involving costs of 75 percent or less of the value of the structure before rehabilitation will be considered moderate rehabilitation, and costs in excess of 75 percent of the value of the structure before rehabilitation will be considered substantial. HUD believes that basing the definition on the value of the rehabilitation to the structure rather than on the cost of the rehabilitation is a more reasonable interpretation of the terms.

The new definitions used in the SAFAH final rule are the same as those used in the amended final rule for the SHD program (24 CFR parts 577 and 578). However, the SHD rule has a $200,000 (or $400,000 in high cost areas) statutory limitation on the amount of the HUD expenditure. The McKinney Act did not limit the amount of assistance for the SAFAH program. The SHD limitation has not been extended to the SAFAH program, because HUD believes the congressional intent of the SAFAH program is to compensate for programmatic rigidities in the ESG and SHD programs, such as limitations on the amounts of HUD advances or grants. (See H.R. Rep. No. 100-174, 100th Cong., 1st Sess. 81 (1987).)

III. Other Changes

Other changes to the final rule have been made in response to comments from homeless service providers at meetings with HUD staff and in an effort to make the application and selection processes of the SAFAH program more consistent with those processes under the ESG and SHD programs.

Definitions (§ 579.5)

The definition of applicant now includes governmental entities, which were added as eligible SAFAH applicants by a technical amendment to section 431 of the McKinney Act by section 570(i) of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved Feb. 5, 1988). HUD will recognize governmental entities with general governmental powers as well as those with limited or special powers as eligible applicants for SAFAH funding.

The definition of handicapped that was included in the guidelines has been removed. The guidelines definition was the same as the definition used in the SHD rule. The Department has determined that this definition of handicapped, while required for the SHD program by section 422(2) of the McKinney Act, is not required for the SAFAH program.

The definition of operating costs has been included in the final rule. Operating costs are available in both the comprehensive assistance category and the excess assistance category.

Comprehensive Assistance (§ 579.100)

Operating costs have been added to the final rule as an eligible type of assistance under the comprehensive assistance category. Section 461 of the 1988 Amendments Act amended section 432(a)(2)(A) to authorize comprehensive assistance for the operation of facilities to assist the homeless.

Excess Assistance (§ 579.105)

HUD has revisited the issue of eligible applicants for assistance in excess of ESG and SHD funding, and has concluded that this category of assistance should be available only for projects that have been approved for funding under either the ESG or SHD program. The language of section 432(a)(1) of the McKinney Act, which authorizes the excess assistance category, states that it is authorized "to cover the costs in excess of assistance provided under the emergency shelter grant program or the supportive housing demonstration program." HUD interprets this statutory language to mean that applicants that have been approved for ESG or SHD funding may receive supplemental assistance under the SAFAH program.

Location of Projects in Floodplains (§ 579.220(e))

In the January 11, 1988 Notice of changes to the SAFAH guidelines, HUD announced that section 451 of the 1988 Amendments Act, which requires that flood protection standards for housing acquired, rehabilitated, or assisted with SHD funds may be no more restrictive than those applicable under Executive Order 11988, Floodplain Management (May 24, 1977), would also be applied to the SAFAH program. HUD interpreted section 451 to mean that, for projects located in floodplains, the eight-step process of public notification and decisionmaking outlined in the U.S. Water Resources Council Floodplain Management Guidelines (43 FR 6030, February 10, 1978) must be undertaken before any decision is made on the environmental acceptability of the project site for homeless assistance.

The eight-step process, which is performed during the environmental review, applies to all applications for projects in a 100-year floodplain and, for critical actions (*i.e.* any activity for which even a slight chance of flooding would be too great), in a 500-year floodplain. HUD defined critical actions as those projects intended to serve developmentally disabled, chronically mentally ill, or mobility impaired residents. HUD has reconsidered this issue after a comment on the same requirement in the permanent housing for the handicapped homeless component of the SHD program, and is revising the SAFAH and SHD final rules with respect to projects in a 500-year floodplain.

HUD has concluded that the treatment of all projects for handicapped persons under this program as critical actions is overinclusive. Persons with one type of handicap may experience no difficulty in evacuating a structure or following instructions on safety in the event of flooding, while persons with another type might have varying degrees of difficulty. However, because there is an insufficient basis at this time for differentiating among handicapped groups to be served by facilities assisting the homeless, the rule will not treat SAFAH projects serving the developmentally disabled, chronically mentally ill, or mobility impaired homeless as critical actions. All SAFAH projects will be subject to the eight-step process only when located in a 100-year floodplain, which is the restriction that applies to all non-critical actions in accordance with Executive Order 11988.

Limitations on Use of Assistance (§ 579.110)

Paragraph (c) of § 579.110, which describes the limitations on the use of assistance by primarily religious organizations, contain provisions governing the circumstances under which HUD will provide assistance to a recipient that is a primarily religious organization or a wholly secular organization established by a primarily religious organization. With one exception noted below, these provisions are substantially identical to those set out in 24 CFR part 570, which consists of HUD's community development block grant program (CDBG) entitlement rules.

Under these provisions, a primarily religious organization (or wholly secular organization established by a primarily religious organization) must agree to provide housing and supportive services in a manner that is free from religious influence. In this connection, the provider must (1) not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give employment preference to persons on the basis of religion; (2) not discriminate against, or limit the provision of housing or supportive services, to applicants for such housing or services on the basis of religion; and (3) provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, or otherwise exert no religious influence in the provision of housing or supportive services.

As noted, the foregoing principles depart in one fashion from the CDBG entitlement rule at 24 CFR 570.200(j)(3) (53 FR 34418, 34412, Sept. 6, 1988), which contains an additional restriction that the portion of the facility of the primarily religious organization used to provide funded services "shall contain no religious symbols or decorations, other than those permanently affixed to or part of the structure."

This policy has been followed for several years in connection with CDBG and homeless assistance made available through primarily religious organization providers. The Department has a continuing commitment to optimize participation by religious providers, which have long been in the forefront in assisting the homeless and other most needy, but in a manner consistent with the strictures imposed by the Establishment Clause of the First Amendment of the United States Constitution. After a review of the relevant case law, the Department has not found any dispositive case addressing the provision of government assistance to a primarily religious organization providing social services in a setting where the presence of religious symbols or decorations alone constitutes a violation of the Establishment Clause. The provision in question, which was recommended to HUD by counsel representing a nationally prominent primarily religious organization as a protection against impermissibly advancing religion, has been utilized in the spirit in which it was so recommended. However, as noted, HUD's examination of the case law has concluded that the excised language suggests a degree of control on the presence of religious symbols or decorations that is not compelled thereunder, or is not otherwise intrinsic to traditional Constitutional Church/State separation doctrine as pronounced by the United States Supreme Court. Accordingly, this rule does not include the prohibition on religious symbols or decorations. Further, an amendment removing the quoted text from § 570.200(j)(3)(iv) is being published as a final rule in a separate document.

This change in no way contravenes the purpose of the underlying principles in these rules, namely, that a primarily religious organization, or a wholly secular organization established by a primarily religious organization, can only provide housing and supportive services in a manner that is free from religious influence, specifically including the explicit provisions described above.

The limitation on the use of assistance for administrative costs has been expanded to include all grants and advances (paragraph (e)). The provision

also clarifies that administrative costs are those costs associated with administering the assistance provided by HUD.

Program Requirements (Subpart E)

The provision in the guidelines to the effect that restrictions on the use of structures be contained in covenants

to relocation assistance to persons who are displaced as a result of acquisition, rehabilitation, or demolition of a structure to be assisted under the

Urban Development Act (42 U.S.C. 3535(d)), and for the reasons stated in the preamble, title 24, chapter V of the Code of Federal Regulations is amended

(1) The purchase, lease, renovation, operation, or conversation of facilities to assist the homeless; or

(2) The provision of supportive

subtitle B of title IV of the McKinney Act and described in 24 CFR part 576, or part C of the Homeless Housing Act of

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also clarifies that administrative costs are those costs associated with administering the assistance provided by HUD.

Application and Selection Process (Subpart D)

The program guidelines had separate processes, with slightly differing requirements, for the two categories of assistance available under the SAFAH program. The final rule provides for only one application process for both categories, with no threshold requirements. (Many of the former threshold requirements in the guidelines were retained, but were moved to the sections covering application requirements, ranking criteria, or program requirements.) The ranking criteria are also the same for both categories.

Program Requirements (Subpart E)

The provision in the guidelines to the effect that restrictions on the use of structures be contained in covenants recorded in land records when assistance was provided for structures has been eliminated from the final rule. Comments received from providers of housing for the homeless in meetings and workshops have convinced HUD that this provision is difficult to enforce, given the varying laws of jurisdictions. The removal of this provision, however, is not an indication of a lowered commitment on HUD's part to enforce the grant agreements in other appropriate ways.

Under the guidelines, HUD would not fund any applications that would result in the temporary or permanent displacement of any person or entity. A new section has been added with regard to relocation assistance to persons who are displaced as a result of acquisition, rehabilitation, or demolition of a structure to be assisted under the SAFAH program (§ 579.315). HUD is currently amending all its regulations to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and new governmentwide implementing regulations at 49 CFR part 24. The rule now requires recipients to provide relocation assistance to displaced persons.

IV. Other Matters

The collection of information requirements for the SAFAH program have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Information on these requirements is provided as follows:

Description	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
Application:					
Comprehensive	250	1	250	100	25,000
Supplemental	30	1	30	52	1,560
Environmental review	60	1	60	14	840
Recordkeeping	40	1	40	1	40
Total Annual Burden					27,440

This rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5.30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that some of the policies in this final rule will have a potential significant impact on the formation, maintenance, and general well-being of participating homeless families. Participation of families in the program can be expected to support family values, by helping families remain together; by enabling them to live in decent, safe, and sanitary housing; and by offering the supportive services that are necessary to acquire the skills and means to live independently in mainstream American society.

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the provision requiring States and other governmental entities to assume the responsibilities for environmental review, decisionmaking, and action under NEPA and other environmental authorities has Federalism implications. While the assignment of these responsibilities under section 1904(g) of the Housing and Community Development Act of 1974 is discretionary with HUD, it is authorized by and clearly the intent of section 443 of the 1988 Amendments Act. Therefore, the policy is not subject to review under Executive Order 12612.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Only a limited number of small entities will be eligible for and affected by this program because: (1) The anticipated funding levels for the program will support only a limited number of recipients; and (2) recipients under the program include small and large private nonprofit organizations and government entities.

This rule was listed as item 1082 on the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54 FR 44702, 44727) under Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance program number is 14.510)

List of Subjects in 24 CFR Part 579

Grant programs, Housing and community development, Housing, Homeless.

Under the Secretary's authority in section 7(d), Department of Housing and

Urban Development Act (42 U.S.C. 3535(d)), and for the reasons stated in the preamble, title 24, chapter V of the Code of Federal Regulations is amended as follows:

1. Part 579 is added to read as follows:

PART 579—SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

Subpart A—General

Sec.
579.1 Applicability and scope.
579.5 Definitions.

Subpart B—Assistance Provided

579.100 Comprehensive assistance.
579.105 Assistance in excess of ESG and SHD program funding.
579.110 Limitations on use of assistance.
579.115 Leveraging.

Subpart C—Comprehensive Homeless Assistance Plan

579.150 Comprehensive Homeless Assistance Plan.

Subpart D—Application and Selection Process

579.200 Notice of fund availability.
579.205 Selection process.
579.210 Application requirements.
579.215 Ranking criteria.
579.220 Environmental review.
579.225 Final selection.

Subpart E—Program Requirements

579.300 Grant agreement.
579.305 General operation.
579.310 Term of commitment and repayment of advance.
579.315 Relocation and acquisition.
579.320 Flood insurance.
579.325 Applicability of other Federal requirements.

Subpart F—Administration

579.400 Obligation of funds, funding amendments, and deobligation.
579.405 Site change.

Authority: Sec. 485 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11301 note); Sec. 7(d) of the Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 579.1 Applicability and scope.

The Supplemental Assistance for Facilities to Assist the Homeless program (SAFAH), contained in subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, is designed to provide:

(a) Comprehensive assistance for particularly innovative programs for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families by assisting:

(1) The purchase, lease, renovation, operation, or conversation of facilities to assist the homeless; or

(2) The provision of supportive services for the homeless; or

(b) Assistance to cover the costs in excess of assistance provided under the Emergency Shelter Grants program (24 CFR part 576) and the Supportive Housing Demonstration program (24 CFR parts 577 and 578) that are required:

(1) To meet the needs of homeless families with children, elderly homeless individuals, or handicapped homeless persons;

(2) To facilitate the transfer and use of public buildings to assist homeless individuals and families; or

(3) To provide supportive services for the homeless.

§ 579.5 Definitions.

Applicant means a State, metropolitan city, urban county, governmental entity, tribe, or private nonprofit organization that submits an application for assistance under this part, or any eligible applicant under the ESG program (part 576) or SHD program (parts 577 (transitional housing) and 578 (permanent housing for handicapped homeless persons)). Governmental entities include those that have general governmental powers (such as a city or county), as well as those that have limited or special powers (such as a public housing agency or a state housing finance agency).

Comprehensive Homeless Assistance Plan or *Comprehensive Plan* means the Comprehensive Homeless Assistance Plan established by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act and described in § 579.150.

Conversion means a change in the use of a building to an emergency shelter for the homeless under part 576, transitional housing under part 577, or permanent housing for handicapped homeless persons under part 578, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building before conversion.

Date of initial occupancy means the date that the project is initially used as a facility to assist the homeless for which assistance is provided under this part or under parts 576, 577, or 578.

Elderly homeless individual means a homeless individual who is 62 years of age or older. This term includes a homeless family, if the head of the family (or the spouse of the head of the family) is an elderly homeless individual.

Emergency Shelter Grants program or *ESG program* means the homeless assistance program established by subtitle B of title IV of the McKinney Act and described in 24 CFR part 576, or part C of the Homeless Housing Act of 1986 and described in 24 CFR part 575.

ESG formula city or county means a metropolitan city or urban county that is eligible to receive a formula allocation under the Emergency Shelter Grants program.

Facilities designed primarily to benefit homeless elderly individuals and homeless families with children means facilities to assist the homeless, in which more than 50 percent of the homeless to be served are either elderly homeless individuals or homeless families with children.

Handicapped homeless person means a handicapped person who:

(a) Is a homeless individual;

(b) Is currently not a homeless individual but who is at risk of becoming a homeless individual; or

(c) Has been a resident of transitional housing assisted under the Transitional Housing program, described in 24 CFR part 577.

This term may include a homeless family, if the head of the family (or the spouse of the head of the family) is a handicapped homeless person.

HHS means the Department of Health and Human Services.

Homeless means:

(a) An individual or family that lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family that has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mental ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

Homeless family with children means a homeless family that includes at least one parent or guardian and one child under the age of 18, a homeless pregnant woman, and a homeless individual in the process of securing legal custody of any individual who has not attained the age of 18.

HUD means the Department of Housing and Urban Development.

Major rehabilitation means the same as substantial rehabilitation.

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McKinney Act means the Stewart B. McKinney Homeless Assistance Act, as amended, generally titles I through V (42 U.S.C. 11301–11412).

Metropolitan city means a city that is classified as a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974. In general, metropolitan cities are those cities that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

Moderate rehabilitation means rehabilitation of a project that involves costs of 75 percent or less of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are less than 75 percent of the replacement cost of the building, that project must meet the requirements of 24 CFR part 8.23(b). As used in this part, moderate rehabilitation has the same meaning as *renovation* in the ESG program.

Operating costs means expenses that a recipient incurs for:

(a) The administration (including staff salaries), maintenance, minor or routine repair, security and rental of the housing;

(b) Utilities, fuel, furnishings, and equipment for the housing; and

(c) Relocation assistance under § 579.315, including payments and services.

Outpatient health services means:

(a) Outpatient health care (including on-site health screening and evaluation, diagnostic services, health status monitoring, medication dispensing and monitoring, and referral and follow-up for health services);

(b) Outpatient mental health services (including mental health screening and diagnosis, evaluation of treatment needs, prescription and medication management, individual and group counseling, and referral and follow-up);

(c) Case management services (including coordination with existing services and referral and tracking of client progress).

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(a) Have a voluntary board;

(b) (1) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or

(2) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(c) Practice nondiscrimination in the provision of assistance under this Part in accordance with the authorities described in § 579.325(a).

Project means:

(a) Facilities to assist the homeless; or

(b) Any activities eligible under this Part that the applicant proposes in its application and HUD approves for funding under this Part.

Recipient means an applicant HUD approves as to financial responsibility and that executes a grant agreement with HUD for assistance under this Part.

Rehabilitation means labor, materials, tools, and other costs of improving structures to a level that meets or exceeds applicable State and local government health and safety standards. Rehabilitation includes repairs directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, improvement through alterations or additions to or enhancement of existing structures, including improvements to increase the efficient use of energy in structures, and structural changes necessary to make the structure accessible for persons with physical handicaps. Rehabilitation does not include minor or routine repairs or cosmetic repairs or improvements. All buildings of 15 or more units undergoing rehabilitation must meet the accessibility requirements of section 504 of the Rehabilitation Act of 1973, as amended, as set forth in 24 CFR 8.23(a) or (b).

Renovation means the same as moderate rehabilitation.

SAFAH means the program of Supplemental Assistance for Facilities to Assist the Homeless established by subtitle D of title IV of the McKinney Act, described in this part.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Substantial rehabilitation means rehabilitation of a project that involves costs in excess of 75 percent of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are 75 percent or more of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a). As used in this part, substantial rehabilitation has the same meaning as *major rehabilitation* in the ESG program.

Supportive Housing Demonstration program or *SHD program* means the homeless assistance program established by subtitle C of title IV of the McKinney Act. This term includes transitional housing and permanent housing for handicapped homeless.

Supportive services includes:

(a) Food;

(b) Child care;

(c) Assistance in obtaining permanent housing;

(d) Outpatient health service;

(e) Employment counseling;

(f) Nutritional counseling;

(g) Security arrangements necessary for the protection of residents of facilities to assist the homeless;

(h) Assistance in obtaining other Federal, State, and local assistance available to the homeless, including mental health benefits; employment counseling; medical assistance; Veterans' benefits; and income support assistance, such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps; and

(i) Other services proposed by the applicant in its application and approved by HUD, that are essential for achieving or maintaining independent living and that address the needs of the homeless to be served. These services may include, among other things, drug and alcohol abuse programs and job training. Supportive services do not include major medical equipment.

Tribe means an Indian tribe, band, group or nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, considered an eligible recipient under the Indian Self Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

Urban county means a county that is classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974. In general, urban counties are those counties that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

Subpart B—Assistance Provided

§ 579.100 Comprehensive assistance.

(a) *General.* HUD will provide comprehensive assistance for particularly innovative programs for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families. The purpose of comprehensive assistance is to stimulate the development and implementation of innovative, community-based, compehensive efforts to respond to the problems of the homeless.

(b) *Advances.* HUD will advance sums to recipients to defray the costs of the acquisition, lease, substantial rehabilitation, or conversion of existing structures selected by the recipients for use as facilities to assist the homeless. Advances are interest-free and, if the conditions described in § 579.310 are met, are not subject to repayment. The sale or disposition of facilities purchased, leased, substantially rehabilitated, or converted with an advance is subject to the requirements of § 579.310(d).

(c) *Grants for moderate rehabilitation.* HUD will make grants to recipients to defray the cost of moderate rehabilitation of existing structures selected by the recipients for use as facilities to assist the homeless. The sale or disposition of facilities rehabilitated with a grant under this paragraph is subject to the requirements of § 579.310(d).

(d) *Grants for supportive services.* HUD will make grants to recipients to defray the cost of providing supportive services, described in the applications and approved by HUD, for the homeless.

(e) *Grants for operating costs.* HUD will make grants to recipients to defray the cost of operating facilities to assist the homeless.

§ 579.105 Assistance in excess of ESG and SHD program funding.

(a) *General.* HUD will provide assistance to cover costs in excess of assistance provided under the ESG (part 576) and SHD (parts 577 and 578) programs that are required.

(1) To meet the special needs of homeless families with children, elderly homeless individuals, or handicapped homeless persons;

(2) To facilitate the transfer and utilization of public buildings to assist homeless individuals and families; or

(3) To provide supportive services for the homeless.

(b) *Eligible projects.* Assistance under this section may only be made available in connection with a project that has been approved for, or has received, funding under the ESG or SHD program. Such applications will be evaluated and ranked under the selection criteria in § 579.215, without regard to their ranking in the ESG or SHD program.

(c) *Advances.* HUD will advance sums to recipients to defray the costs of the acquisition, lease, substantial rehabilitation, or conversion of existing structures selected by the recipients for use as facilities to assist the homeless. Advances are interest-free and, if the conditions described in § 579.310 are met, are not subject to repayment. The sale or disposition of facilities purchased, leased, substantially rehabilitated, or converted with an advance is subject to the requirements of § 579.310(d).

(d) *Grants for moderate rehabilitation.* HUD will make grants to recipients to defray the cost of moderate rehabilitation of existing structures selected by the recipients for use as facilities to assist the homeless. The sale or disposition of facilities rehabilitated with a grant under this paragraph is subject to the requirements of § 579.310(d).

(e) *Grants for supportive services.* HUD will make grants to recipients to defray the cost of providing supportive services, described in the applications and approved by HUD, for the homeless.

(f) *Other assistance.* HUD will make grants to recipients for any other type of assistance available under the ESG and SHD programs.

§ 579.110 Limitations on use of assistance.

(a) *Funding of existing facilities and programs.* (1) HUD will not provide assistance under this part for acquisition of existing facilities or programs that currently serve homeless persons.

(2) HUD will provide comprehensive assistance to existing facilities or programs under this part only if the applicant proposes:

(i) A substantial increase in the number of homeless persons for whom housing will be provided or a substantial increase in the level of supportive services to be provided;

(ii) A substantial change in the use of existing facilities, *e.g.*, if existing facilities for the homeless currently used for one type of project (such as an emergency shelter) will be used for a different type of project (such as transitional housing) where it can be shown a need for the current type of project no longer exists, or if an applicant currently providing a program for one population of homeless persons proposes to serve an additional or alternative segment of the homeless population.

(3) HUD will provide assistance in excess of ESG or SHD to existing facilities or programs under this part only if the applicant proposes:

(i) A substantial increase in the number of homeless persons for whom housing will be provided or a substantial increase in the level of supportive services to be provided;

(ii) A substantial change in the use of existing facilities, *e.g.*, if existing facilities for the homeless currently used for one type of project (such as an emergency shelter) will be used for a different type of project (such as transitional housing) where it can be shown a need for the current type of project no longer exists, or if an applicant currently providing a program for one population of homeless persons proposes to serve an additional or alternative segment of the homeless population; or

(iii) Improvements to existing structures necessary to bring the structures to a level that meets applicable State and local government health and safety standards.

(b) *Maintenance of effort.* No assistance received under this part may be used to replace non-Federal resources with respect to any project.

(c) *Primarily religious organizations*—(1) *Provision of assistance.* (i) HUD will provide assistance to a recipient that is a primarily religious organization if the organization agrees to provide housing and supportive services in a manner that is free from religious influences and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(B) It will not discriminate against any person applying for housing or supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion;

(C) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.

(ii) HUD will provide assistance to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure or to convert or rehabilitate a structure owned by the organization, except as described in paragraph (c)(2) of this section.

(2) *Acquisition/substantial rehabilitation or moderate rehabilitation of structures owned by a primarily religious organization.* An acquisition/substantial rehabilitation advance or a moderate rehabilitation grant may be used to convert or rehabilitate a structure owned by a primarily religious organization, if the following conditions are met:

(i) The structure (or portion of the structure) that is to be converted or rehabilitated with HUD assistance has been leased to a recipient that is an existing or newly established wholly secular organization (which may be

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established by the primarily religious organization under the provisions of paragraph (c)(3) of this section);

(ii) The HUD assistance is provided to the wholly secular organization (and not the primarily religious organization) to make the improvements;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent of the structure before the rehabilitation was done;

(v) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the primarily religious organization;

(vi) The primarily religious organization agrees that, if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the wholly secular organization, and the wholly secular organization will remit the amount to HUD.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.* (i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The wholly secular organization may be eligible to receive all forms of assistance available under this part.

(A) The wholly secular organization must agree to provide housing and supportive services in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(B) The wholly secular organization may enter into a contract with the primarily religious organization to provide supportive services for the project. In such a case, the primarily religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(C) The acquisition/substantial rehabilitation advance and the moderate rehabilitation grant are subject to the requirements of paragraph (c)(2) of this section.

(ii) HUD will not require the primarily religious organization to establish the wholly secular organization before the selection of its application. In such a case, the primarily religious organization may apply on behalf of the wholly secular organization. The application will be reviewed on the basis of the primarily religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the wholly secular organization after formation. The requirement with regard to site control, described in § 579.210(b)(10), may be satisfied if the primarily religious organization demonstrates site control and a commitment to transfer control of the site to the wholly secular organization after its formation. Since the wholly secular organization will not be in existence at the time of the application, it will be required to demonstrate that it meets the definition of private nonprofit organization contained in § 579.5. If such an application is selected for funding, the obligation of funds will be conditioned upon the compliance with these requirements.

(d) *Structures used for multiple purposes.* Facilities assisted under this part may also be used for other purposes. For example, a structure may contain facilities for outpatient health care and may also be used to provide services to the public at large or include commercial space. Under these circumstances, however, assistance under this part will be available only in proportion to the use of the facilities to assist the homeless. No assistance may be used to support the costs of the facility that are not related to providing approved assistance to the homeless.

(e) *Administrative costs.* Up to five percent of any advance or grant awarded under this part may be used for the purpose of paying costs of administering the assistance.

(f) *Outpatient health services.* Not more than $10,000 of any grant or advance under this part may be used for outpatient health services. This limitation does not apply to amounts expended for the rehabilitation or conversion of facilities to assist the homeless that are used to provide outpatient health services.

§ 579.115 Leveraging.

(a) *General.* Applicants are not required to provide matching sources of funds for HUD assistance provided under this part. However, applications that show other public or private sources of funds will receive points for leveraging under the ranking criterion described in § 579.215(b)(3).

(b) *Computation of leveraged amounts.* Resources that may be included for leveraging purposes are:

(1) *Monetary contributions.* HUD will include in the leveraging computation non-Federal monetary contributions from public or private organizations. Funds from Community Development Block Grants and Community Services Block Grants are considered non-Federal sources.

(2) *In-kind contributions.* HUD will include in the leveraging computation, at the value of $5 an hour, the time and services contributed by volunteers to carry out the proposed project. HUD will also include the value of contributions of materials, supplies, equipment, or structures (including a leasehold interest).

Subpart C—Comprehensive Homeless Assistance Plan

§ 579.150 Comprehensive Homeless Assistance Plan.

(a) *Prohibition of assistance.* Assistance under this part may not be provided to, or within the jurisdiction of, a State or an ESG formula city or county, unless the jurisdiction has a HUD-approved Comprehensive Homeless Assistance Plan and the applicant has obtained a certification of consistency with the Comprehensive Plan from the official responsible for filing the Comprehensive Plan.

(b) *Who must have an approved Comprehensive Plan.* If the applicant is:

(1) A State, the State must have an approved Comprehensive Plan.

(2) An ESG formula city or county, the city or county must have an approved Comprehensive Plan.

(3) A governmental entity that is not an ESG formula city or county and:

(i) The project is to be located within the jurisdiction of an ESG formula city or county, the city or county must have an approved Comprehensive Plan;

(ii) The project is to be located outside the jurisdiction of an ESG formula city or county, the State must have an approved Comprehensive Plan.

(4) A private nonprofit organization and:

(i) The project is to be located within the jurisdiction of an ESG formula city or county, the city or county must have an approved Comprehensive Plan or, if the city or county does not have an approved Comprehensive Plan, the State must have an approved Comprehensive Plan; or

(ii) The project is to be located outside the jurisdiction of an ESG formula city or county, the State must have an approved Comprehensive Plan.

(c) *Tribes.* Assistance may be provided to, or within the jurisdiction of, a tribe without a HUD-approved Comprehensive Plan.

(d) *Notification of Comprehensive Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Homeless Assistance Plan in the Federal Register, as necessary. Prospective applicants should familiarize themselves with these requirements.

Subpart D—Application and Selection Process

§ 579.200 Notice of fund availability.

When funds are made available for assistance under this part, HUD will publish a notice of fund availability in the Federal Register. The notice will:

(a) Give the instructions for obtaining application packages that provide specific application requirements and guidance;

(b) Specify the time and the place for submitting completed applications;

(c) State the amount of funding available under the notice;

(d) Indicate the weight or relative importance of the ranking criteria contained in 24 CFR 579.215 as they will be applied to the funding round announced in the notice; and

(e) Provide other appropriate information and guidance.

§ 579.205 Selection process.

(a) *Selection process.* The selection process for assistance under this part consists of the following stages:

(1) Application for assistance (see § 579.210).

(2) Ranking applications determined eligible for assistance (see § 579.215).

(3) Final selection (see § 579.225).

(b) *Reservation of funds.* To the maximum extent practicable, HUD will reserve not less than 50 percent of all funds available under this part for assistance to projects that are designed primarily to benefit homeless elderly persons or homeless families with children (with a portion of such funds to be used for child care facilities that serve children of homeless families).

§ 579.210 Application requirements.

(a) *Form, time, and adequacy of the application.* To be considered for assistance under this part, applications for assistance must be filed in the form prescribed by HUD under this section, must meet the requirements of this part, and must be submitted within the time period established by HUD in the notice of funds availability under § 579.200.

(b) *Minimum requirements.* At a minimum, HUD will require applications to contain:

(1) *Applicant data.* Identity, description of past experience, and, for private nonprofit organizations, information on eligibility to receive assistance and financial responsibility.

(i) In determining the financial responsibility of private nonprofit organizations, HUD will consider such factors as the past financial history of the organization, its current and anticipated financial outlook, the amount of funding that will be committed under the proposal, and the applicant's other financial responsibilities. (HUD has determined, for purposes of the requirements of this part, that all States, metropolitan cities, urban counties, governmental entities, and tribes are financially responsible.)

(ii) Private nonprofit organizations applying for assistance must include in their applications evidence that they meet the definition of a private nonprofit organization contained in § 579.5.

(2) *Evidence of the applicant's commitment to alleviating poverty.* HUD will consider the applicant's past efforts and its continuing commitment to serve lower income persons, and, in the case of a private nonprofit organization, whether the applicant's organizational objectives foster service to such persons.

(3) *Evidence of the applicant's capacity.* HUD will consider the applicant's ability to initiate the proposed activities within a reasonable time in a successful manner, and to continue to carry out the proposed activities throughout the term of the proposed commitment to HUD. HUD will consider the applicant's experience in establishing and operating facilities to assist the homeless or in providing or coordinating supportive services, and the ability of the applicant's personnel to perform administrative, managerial, and operational functions necessary to the successful development and operation of facilities to assist the homeless.

(4) *Category of funding requested.* Comprehensive assistance or assistance in excess of ESG or SHD program funding, the type or types of assistance requested (*i.e.*, rehabilitation assistance, operating costs, etc.), and the amount of funds requested for each type.

(5) *Description of the proposed project.* Information, if applicable, regarding:

(i) The structure to be used, any proposed rehabilitation of the structure and the estimated costs of the rehabilitation, and the value, as determined by an appraisal, of the structure before rehabilitation if assistance for rehabilitation or conversion is requested;

(ii) The supportive services to be offered, the source of funds for such services, and the identification of the providers of the services;

(iii) An estimated annual budget of operating costs, supportive services costs, and any other applicable costs for the period such assistance is requested.

(6) *Homeless population.* A description of the size and characteristics of the particular homeless population that will be served.

(7) *Other resources.* A description of other resources, both public and private, expected to be made available to the project.

(8) *Operating assurances.* An assurance satisfactory to HUD that the facility will be operated as a facility for the homeless for not less than 10 years from the date of initial occupancy, if the application requests assistance to acquire, lease, rehabilitate, or convert facilities to assist the homeless.

(9) *Consistency with Comprehensive Homeless Assistance Plan.* A certification from the public official responsible for submitting the Comprehensive Plan for the appropriate jurisdiction, described in § 579.150, stating that the proposed project is consistent with the applicable Comprehensive Plan.

(10) *Site control.* Evidence that the applicant has control of the site involved (*e.g.*, ownership, lease, option to purchase or lease), or reasonable assurance that the applicant will have control of the site not later than six months after notification of an award of assistance. "Reasonable assurances" must be satisfied by identification of a suitable site and certification that the applicant is engaged in negotiations or in other efforts for the purpose of gaining control of the identified site, or other evidence satisfactory to HUD that the applicant will gain control of the identified site.

(11) *Consistency with local plans.* (i) A written statement from the unit of general local government in which the project is proposed to be located that the proposed use of the structure and site is not inconsistent with any plan of the local government that may have an effect on the use of the structure or site. This requirement is satisfied if the applicant demonstrates that a written request was made to the unit of local government for the statement and the statement has not been received within 30 days from the request.

(ii) A written statement from the unit of general local government in which the project is proposed to be located, or other evidence satisfactory to HUD, that the proposed use of the site is permissible under applicable zoning ordinances and regulations; or a

statement from the applicant describing the proposed actions necessary to make the use of the site permissible under

assessing an application under this criterion, HUD will consider:

(i) The extent to which the facilities

solely involve operating costs for facilities or the provision of supportive services and the structures and sites

and only under certain conditions (e.g., a determination that no environmentally significant changes have occurred since

56 should contact the appropriate HUD field office for further instructions. Determinations of legal capacity will be

operation of facilities or provision of supportive services under the ESG or SHD programs apply to a recipient of

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statement from the applicant describing the proposed actions necessary to make the use of the site permissible under applicable zoning ordinances and regulations, with evidence that there is a reasonable basis to believe that the proposed zoning actions will be completed successfully and within four months following submission of the application.

(12) *Reasonable efforts.* Evidence that the applicant has made reasonable efforts to use all available local resources, including State and local government funding, resources available from the private sector, and resources available under title IV of the McKinney Act (the ESG program, the SHD program, and the section 8—Moderate Rehabilitation program for Single Room Occupancy Dwellings authorized under subtitle E). The application must also demonstrate that other resources are not sufficient or are not available to carry out the purpose for which the assistance is requested.

(13) *Other.* Other certifications, information, or data as prescribed by HUD in the application package.

(c) *Environmental review.* The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR part 50 or part 58. See § 579.220 for a full discussion of the environmental review requirements for applications for assistance.

§ 579.215 Ranking criteria.

(a) *General.* Applications will be assigned a rating score and placed in ranked order, based upon the critera described in paragraph (b) of this section.

(b) *Criteria.* HUD will award points for the following criteria:

(1) *Innovative quality.* HUD will consider the extent to which the proposal involves a particularly innovative program for, or alternate method of, meeting the immediate and long-term needs of homeless individuals and families. In assessing an application under this criterion, HUD will consider the degree to which the applicant demonstrates that the proposal uses a new or unusual approach that holds promise of successfully meeting the immediate and long-term needs of homeless individuals or families.

(2) *Comprehensiveness.* HUD will consider the comprehensiveness of the proposed assistance in serving the identified homeless population. In assessing an application under this criterion, HUD will consider:

(i) The extent to which the facilities and supportive services to be provided under the proposal, and to be available from others in the area proposed to be served, will satisfy the immediate (*e.g.*, temporary housing, food, clothing, medical needs, etc.) and long-term (*e.g.*, assistance in obtaining permanent housing and supportive services necessary to move the homeless population to independent living) needs of the population to be served;

(ii) The extent to which the proposal reflects a clear understanding of the needs of the homeless population to be served and the extent to which the proposal addresses those needs; and

(iii) The extent to which the proposal is the result of coordinated efforts of members of the community and represents a diversity of experience, broad-based and enduring community commitment, and access to resources.

(3) *Leveraging.* HUD will consider the extent to which the applicant will leverage the amount of assistance to be provided under this part with funds and other resources from other public or private sources, particularly non-Federal sources. (See § 579.115 for a discussion of leveraging sources.)

(4) *Special homeless populations.* HUD will consider the extent to which the application proposes facilities designed primarily to benefit homeless elderly individuals or homeless families with children, or proposes facilities to be used for child care for homeless families.

(5) *Cost effectiveness.* HUD will consider the extent to which the applicant's proposed costs under the proposal are reasonable in relation to the work done and the goods and services purchased; and are effective in accomplishing the purposes of the proposal.

§ 579.220 Environmental review.

(a) *General.* (1) The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) (NEPA) and the related environmental laws and authorities listed in HUD's implementing regulations at 24 CFR part 50 or part 58, depending on who is responsible for the environmental review.

(2) Environmental regulations provide for certain categorical exclusions under NEPA and set conditions under which excluded activities may be determined exempt from all environmental review requirements. In cases where proposed assistance and leveraging contributions solely involve operating costs for facilities or the provision of supportive services and the structures and sites involved in the projects meet the program requirements of this part, these activities are categorically excluded by regulation and, under part 58, may be determined fully exempt from environmental review.

(b) *Responsibility for review.* (1) HUD will perform the environmental review, in accordance with part 50, for applications received directly from private nonprofit organizations, governmental entities with special or limited purpose powers, and any governmental entities with general purpose powers found not to have the legal capacity to carry out this responsibility. HUD cannot approve such applications prior to its completion of this review.

(2) Applicants that are States (including all recipients under the permanent housing for handicapped homeless program described in 24 CFR part 578), metropolitan cities, urban counties, tribes, or other governmental entities with general purpose powers, and that are deemed to have the legal capacity to do so, must assume responsibility for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58. HUD is permitted to approve such applications subject to later completion of the review by the applicant in accordance with part 58.

(3) The assumption of legal responsibility by an applicant under paragraph (b)(2) of this section does not preclude the applicant's arranging for the conduct of technical reviews by cooperating local governments having an established technical capability, *e.g.*, metropolitan cities in which the project is proposed to be located. The applicant under such arrangements must independently evaluate information submitted and assume responsibility for its accuracy, scope, and content; meet legal requirements attached to the Release of Funds by HUD; determine the completeness of the review; meet any requirements for consultation, as applicable, under 24 CFR 58.5 authorities; and assure the completion of any mitigation measures resulting from technical review or from State consultations. The arrangements described in this paragraph are in addition to the ability of an applicant to adopt relevant and adequate prior reviews conducted by HUD or other governmental entity if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted,

and only under certain conditions (e.g., a determination that no environmentally significant changes have occurred since the review was done).

(c) *Environmental review by HUD.* With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake its review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. Any application subject to environmental review by HUD that requires an Environmental Impact Statement (EIS) (generally, an application that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR part 50, subpart E) will not be eligible for assistance under this part.

(d) *Environmental review by applicants.* (1) An applicant that is required under paragraph (b)(2) of this section to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5, including acceptance of jurisdiction of the Federal courts.

(2) Applicants required to assume environmental review responsibility need not complete the review until a reasonable time after selection for funding. In such cases, the award is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time period after notification of the award. (The provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.)

(i) Upon completion of the requirements in 24 CFR part 58, applicants must certify the completion and submit a Request for Release of Funds. This submission is not required in cases in which the applicant determines, and documents, in accordance with 24 CFR 58.34, that its program components are exempt.

(ii) HUD will not release funds for a project if the recipient or any other party commits SAFAH funds (*i.e.*, incurs any costs or expenditures to be paid or reimbursed with such funds) before the grantee submits and HUD approves its Request for Release of Funds (when such submission is required).

(3) A general government applicant that believes that it does not have the legal capacity to carry out the responsibilities required by 24 CFR part 58 should contact the appropriate HUD field office for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(e) *Location of projects in floodplains.* Applications for projects that are to be required, rehabilitated, or assisted with SAFAH funds and that are located in any 100-year floodplain, as designated by the Federal Emergency Management Agency (FEMA), are subject to the floodplain review requirements of Executive Order 11988, Floodplain Management (May 24, 1977). Executive Order 11988 review, as referenced under parts 50 and 58, is to be performed during the environmental review.

§ 579.225 Final selection.

(a) *Selection for funding.* Eligible applications for comprehensive assistance under § 579.100 will be ranked separately and funded first. The highest-ranked applications will be selected for funding in accordance with their ranked order, to the extent funds are available, as determined under § 579.215. If funds are available after all eligible applications for comprehensive assistance have been funded, eligible applications for assistance in excess of ESG or SHD under § 579.105 will be funded in accordance with their ranked order. After awards are announced, applicants may contact HUD, with regard to applications not chosen for funding, for an explanation.

(b) *Ties between applicants.* In the event of a tie between applicants, HUD will use the quality of the proposal and the need for the project in the area to determine which application should be selected for funding.

(c) *Procedural error.* If HUD makes a procedural error in a funding competition that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during that competitive year, HUD may fund that applicant in the next funding competition.

Subpart E—Program Requirements

§ 579.300 Grant agreement.

(a) *General.* The duty to provide housing in accordance with the requirements of this part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be appropriate.

§ 579.305 General operation.

(a) *Assistance in excess of ESG or SHD programs.* The program requirements with regard to the operation of facilities or provision of supportive services under the ESG or SHD programs apply to a recipient of assistance in excess of the ESG or SHD programs.

(b) *Comprehensive assistance*—(1) *Facilities to assist the homeless.* Any facility to assist the homeless assisted with comprehensive assistance under this part must be safe and sanitary and must comply with all State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the facility is located regarding the condition of the structure and the operation of the facility.

(2) *Ongoing assessment of supportive services.* Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services required by the homeless population receiving such services from the recipient and make adjustments as appropriate.

(c) *Outpatient health services.* Outpatient health services provided by the recipient must be approved as appropriate by HUD and the Department of Health and Human Services. Upon receipt of an application that proposes the provision of outpatient health services, HUD will consult with HHS with respect to the appropriateness of the proposed services.

(d) *Records and reports.* Each recipient of assistance under this part must keep any records and make any reports that HUD may require. HUD may require recipients to monitor individuals or families served by the project for a reasonable time set by HUD to determine whether such individuals or families made succesful transitions to, and continue to reside in, permanent housing.

§ 579.310 Term of commitment and repayment of advance.

(a) All projects receiving assistance under this part for the purchase, lease, renovation, or conversion of property must be operated to assist the homeless for not less than 10 years.

(b) *Repayment of advance.* (1) The recipient of an advance under this part must repay the advance in the amount prescribed under paragraph (b)(2) of this section and in accordance with the terms prescribed by HUD.

(2) (i) The recipient must repay the full amount of the advance if the project is used to assist the homeless for less than 10 years following the date of initial occupancy. For each full year that the project is used as a facility to assist the homeless following the expiration of this 10-year period, the amount that the

recipient will be required to pay will be reduced by one-tenth of the original advance. If the project is used as a facility to assist the homeless for 20

(d) *Responsibility of recipient.* The recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this

reasonable, and (*ii*) the tenant does not return to the building/complex; or

(*3*) The tenant is required to move to another unit in the same building/

Insurance Program is obtained and maintained.

§ 579.325 Applicability of other Federal

recipient must establish additional procedures that will ensure that interested persons can obtain

Elevated blood lead level or *EBL* means excessive absorption of lead: that is, a confirmed concentration of lead in

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recipient will be required to pay will be reduced by one-tenth of the original advance. If the project is used as a facility to assist the homeless for 20 years following the date of initial occupancy, the recipient will not be required to repay any portion of the advance under this section.

(ii) The repayment provisions of paragraph (b)(2)(i) of this section will not be enforced if HUD determines that the project is no longer needed for use as a facility to assist the homeless and approves the use of such project for the direct benefit of lower income persons.

(c) *Eminent domain.* A recipient of assistance under this part for the purchase, lease, renovation, rehabilitation, or conversion of a structure that is taken by eminent domain during the 20-year period following the initial date of occupancy must repay the assistance provided, to the extent that funds are available from the eminent domain proceeding.

(d) *Prevention of undue benefits.* (1) If assistance is provided under this part for the purchase, lease, renovation, rehabilitation, or conversion of a structure, and the project is sold or otherwise disposed of during the 20-year period following the date of initial occupancy, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient from unduly benefiting from the sale or disposition.

(2) Paragraph (d)(1) of this section does not apply to sales or dispositions, approved by HUD, that result in the continued use of the project for the direct benefit of lower income persons.

§ 579.315 Relocation and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of recipient.* The recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definitions*—(1) *Displaced person.* (i) The term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the recipient, project sponsor or property owner to move permanently from the property, if the move occurs on or after the date that the recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

(*1*) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of (*i*) the tenant's rent and estimated average utility costs before the initiation of negotiations, or (*ii*) 30 percent of gross household income; or

(*2*) The tenant has been required to relocate temporarily, but (*i*) the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and (*ii*) the tenant does not return to the building/complex; or

(*3*) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) A person does not qualify as a "displaced person" if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The recipient or sponsor may, at any time, request a HUD determination of whether a displacement is or would be covered by this rule.

(2) *Initiation of negotiations.* For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD.

§ 579.320 Flood insurance.

(a) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) prohibits the approval of applications for assistance for acquisition or construction (including rehabilitation) for projects/sites located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

(2) Flood insurance is obtained as a condition of approval of the application.

(b) Recipients with projects/sites located in an area identified by FEMA as having special flood hazards are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

§ 579.325 Applicability of other Federal requirements.

Each recipient of assistance under this part must comply with the following additional requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements that apply to the SAFAH program are discussed below. Notwithstanding the permissibility of proposals that serve designated populations of homeless persons, recipients serving a designated population of homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, and handicap.

(1) The requirements of the Fair Housing Act (42 U.S.C. 3601–20) and implementing regulations at 24 CFR part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(6) If the procedures that the recipient intends to use to make known the availability of the facilities to assist the homeless are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for the services provided by the facilities, the recipient must establish additional procedures that will ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to handicapped persons.

(b) *Environmental.* The National Environmental Policy Act of 1969, the related authorities in 24 CFR part 50 or part 58, and the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3601) are applicable to proposals under this program.

(c) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–87 and A–102 (as set forth in 24 CFR part 85) apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations, except the requirements of 24 CFR 85.24 are modified by § 579.115, and the requirements of 24 CFR 85.31 are modified by § 579.310.

(d) *Lead-based paint.* (1) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in paragraph (d)(2) of this section) apply to facilities to assist the homeless assisted under this part.

(2)(i) This paragraph implements the provisions of section 302 of the Lead-Based Poisoning Prevention Act (42 U.S.C. 4822) by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to structures for which assistance is provided under this part. This paragraph is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to the program, the requirements prescribed in subpart C of 24 CFR part 35. The requirements of this paragraph apply to structures that will be occupied by children under seven years of age.

(ii) The following definitions apply to this paragraph (d):

Applicable surface means all intact and non-intact painted interior and exterior surfaces of a residential structure.

Chewable surface means all chewable, protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age: *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surfaces means paint on applicable surfaces that is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or *EBL* means excessive absorption of lead: that is, a confirmed concentration of lead in whole blood of 25 μg/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint surface means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm2.

(iii) In the case of a structure constructed before 1978 or substantially rehabilitated prior to 1978, the applicant must inspect the structure for defective paint surfaces before it submits an application. Recipients must inspect assisted structures at least annually during the term of their operating commitment to HUD. If defective paint surfaces are found, treatment in accordance with 24 CFR 35.24(b)(2)(ii) is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(iv) In the case of a structure constructed before 1978 or substantially rehabilitated prior to 1978, if the recipient is presented with test results that indicate that a child under the age of seven years occupies the structure and has an elevated blood lead level (EBL), the recipient must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, by an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray florescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) is required.

(v) In lieu of the procedures set forth in the preceding clause, the recipient may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

(vi) The recipient must take appropriate action to protect tenants

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from hazards associated with abatement procedures.

(vii) The recipient must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the recipient must keep the test results and, if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the facility has been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated at any subsequent time.

(e) *Conflicts of interest.* In addition to the conflict of interest requirements in OMB Circulars A–102 and 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(f) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) *Audit.* The financial management systems used by States, metropolitan cities, urban counties, governmental entities and tribes that are recipients under this program must provide for audits in accordance with 24 CFR part 44. Private nonprofit organization recipients are subject to the audit requirements of OMB Circular A–110. HUD may perform or require additional audits as it finds necessary or appropriate.

(h) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a–276a–5) do not apply to the program.

(i) *Drug- and alcohol-free facilities.* Section 402 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires recipients assisted under this part to administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its residents. Recipients are also subject to the requirements of sections 5151–5160 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24.

Subpart F—Administration

§ 579.400 Obligation of funds, funding amendments, and deobligation.

(a) *Obligation of funds.* When HUD selects an application for funding and notifies the recipient, it will obligate funds to cover the amount of the approved assistance under subpart B of this part.

(b) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated for any approved assistance.

(c) *Deobligation.* (1) HUD may deobligate amounts for approved assistance is proposed activities are not begun or carried out expeditiously within a reasonable time following selection.

(2) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed.

(3) HUD may:

(i) Fund eligible applications that were submitted in response to the most recently published notice of funds availability with the deobligated funds; or

(ii) Readvertise the availability of funds that have been obligated under this section in a notice of fund availability under § 579.200.

(d) *Site control.* HUD will deobligate any award for assistance under this part if the recipient does not have control of a suitable site within one year after notification of an award.

§ 579.405 Site change.

(a) *General.* A recipient may obtain ownership or control of a suitable site different from the one specified in its application. Retention of an assistance award is subject to the new site's meeting all requirements under this part for suitable sites.

(b) *Increased costs.* If the costs for the purchase, lease, rehabilitation, renovation, or conversion of the substitution site are greater than the amount awarded for such assistance for the site specified in the application, the recipient must provide for all additional costs. If the recipient is unable to demonstrate to HUD that it is able to provide for the difference in costs, HUD may deobligate the award of assistance.

(c) *Applicability.* This section is applicable to awards of assistance made under this part on or after November 1, 1987.

Dated: October 31, 1989.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 89–26111 Filed 11–6–89; 8:45 am]

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 812 and 882

Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals; Final Rule

BEST COPY AVAILABLE

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 812 and 882

[Docket No. R-89-1432; FR-2539-F-03]

RIN 2503-AE62

Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule implements section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988), which authorizes the section 8 Moderate Rehabilitation Assistance Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals. The purpose of the SRO program is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The assistance is in the form of rental assistance under the section 8 Housing Assistance Payments Program. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will not become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5720.

A telecommunications device for deaf persons (TDD) is available at (202) 566-2673. Voice line (202) 377-9555. (These are not toll-free numbers.) Hours: 9:00 a.m. to 5:00 p.m. (EST).

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 7, 1989, so that the application process described in this rule may be carried out following OMB approval of the necessary collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the Federal Register, at the same time that the rule's effective date is published.

Public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided elsewhere in this document. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden by no later than December 7, 1989, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Background

On July 22, 1987, the President signed into law the Stewart B. McKinney Homeless Assistance Act (the "McKinney Act"), Public Law 100-77. This rule implements section 441 of the McKinney Act, which authorizes the section 8 Moderate Rehabilitation Assistance Program for Single Room Occupancy Dwellings for Homeless Individuals.

A notice was published on January 9, 1989 (54 FR 769) announcing the availability of a $45 million appropriation under the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved August 19, 1988). The January 9 notice set forth the requirements governing the use of the funds made available in that fiscal year. A prior notice of funding availability was published in Fiscal Year 1988 (52 FR 38380, October 15, 1987), which governed the use of those funds provided in that fiscal year.

The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) (the "1988 Amendments") made additional program changes, which were reflected in the January 9 notice and which are discussed further below, regarding (1) the use of efficiency units, (2) a definition of "major spaces", (3) an annual adjustment of the cost limitation per unit, and (4) responsibility for environmental reviews. The 1988 Amendments also required the Department to implement the requirements by notice within 60 days of enactment and by regulations within 12 months. The notice published on January 9, 1989 complied with the first half of the mandate; however, in order to meet the second half, the Department solicited public comments on the January 9 notice, and a 60 day comment period was afforded the public. A discussion of the comments received and the disposition of those comments is contained elsewhere in this preamble.

II. This Rule

Under the program, HUD enters into annual contributions contracts (ACCs) with public housing agencies (PHAs) in connection with the moderate rehabilitation of residential properties in which some or all of the dwelling units may not contain either food preparation or sanitary facilities. (The inclusion of efficiency units was added by the 1988 Amendments and is discussed further below). Each of these single room occupancy (SRO) units is intended for occupancy by one eligible homeless individual. The limitation of occupancy to one eligible individual is a Housing Quality Standard (HQS) requirement developed by the Department to implement section 8(n) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f, which first allowed the use of section 8 Moderate Rehabilitation assistance for SRO units.

Assistance under section 441 of the McKinney Act may only be provided for SRO units occupied by homeless single "individuals" (section 441(b)). In this respect, section 441 differs from all other section 8 and Public Housing programs under the United States Housing Act of 1937, as well as from all of the other homeless assistance programs under the McKinney Act. For other section 8 or Public Housing programs, HUD is authorized to provide assistance for "families" (see U.S. Housing Act of 1937, *passim*) and a single individual may qualify as a statutory "family" only in specific circumstances defined in the law (U.S. Housing Act of 1937, section 3(b)(3)). For the other McKinney Act programs, assistance is made available for homeless families. By contrast, section 8 SRO assistance under section 441 may not be used for housing occupied by a multi-person "family", and may only be used for assistance to single individuals.

The legislative history indicates clearly the Congressional intention that assistance under section 441 may only be used for single individuals, and may not be used for multi-person families, or families with children. The legislation authorizing section 8 moderate rehabilitation assistance for SRO units originated in the Senate. An explanation of the bill (inserted in the record by Senator Cranston) states that the Section 8 assistance for SRO dwellings is intended to meet the housing needs of "elderly, handicapped or displaced single individuals" (133 Cong. Rec. S 4818).

In the bill introduced in and originally passed by the Senate, the authorization of section 8 moderate rehabilitation assistance for SRO units was paired with a separate proposed authorization of section 8 certificate funding "to assist homeless families with children." (The proposed authorization to assist homeless families with children was at section 404(a) of the Senate bill (H.R. 558 as amended by Senate substitute); the authorization to assist single individuals in SRO dwellings was at section 404(b) of the bill.) In conference on the McKinney bill, the subsection to provide assistance for homeless families with children was dropped (presumably because assistance for such families is authorized under other sections of McKinney); the provision of assistance for individuals in SRO housing was retained, and enacted as section 441 of the McKinney Act. This history shows that section 441 was not intended to provide assistance for families with children, but to meet the special housing needs of isolated individuals.

Section 8(n) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f) authorizes the Secretary to waive (1) the 15 percent limitation on the number of units under the jurisdiction of any PHA that can be occupied by "other single persons" (those who do not qualify as elderly, displaced, or the remaining member of a tenant family), and (2) the preference for persons who are elderly, handicapped, or displaced over other single persons. (See sec. 3(b)(3), U.S. Housing Act of 1937, 42 U.S.C. 1437a(b)(3)). The Department believes that waiver of the limitation and preference is appropriate for this program. Many of those who will occupy the SRO housing assisted under this program would not be subject to the 15 percent limitation (because they are elderly, displaced, or the remaining member of a tenant family) and, therefore, would probably qualify for the preference. In light of the administrative burden involved for those few who may be subject to the 15 percent limitation, the Department waives these provisions for purposes of this program. Accordingly, the selection of tenants is not subject to the statutory percentage limitations on the number of units that may be occupied by single persons other than the elderly, handicapped, or displaced, nor is tenant selection for SROs subject to the preference for elderly, handicapped, or displaced single persons over other single persons. The waiver of these provisions is set forth in § 882.809. (A conforming regulatory change regarding this waiver is also set forth in an amendment to § 812.3.)

If, after appropriate outreach efforts by the PHA and the Owner, there are insufficient eligible homeless individuals to fill all assisted units, the Owner may rent them to eligible non-homeless individuals.

Amounts made available through this program must be allocated by HUD on the basis of a national competition to the applicants that best demonstrate a need for the assistance and the ability to undertake and carry out a program to be assisted under this rule. No single city or urban country is eligible to receive more than 10 percent of the assistance being made available.

Under this program, HUD will provide assistance for a 10-year period. The statutory allocation procedures established for the program by section 441 apply instead of the "fair share" allocation procedures required for most assisted housing funds by section 213(d) of the Housing and Community Development Act of 1974, 42 U.S.C. 1439(d).

A notice of funding availability for the program will be published in the Federal Register, each fiscal year or as often as is needed, announcing the availability of funds and inviting PHAs to submit applications for the program. Applications shall contain the information prescribed in § 882.805(c) and any other information prescribed in the Notice. The Notice will also provide additional information on the HUD selection process, including how applications will be ranked. The Notice will include specific information on when and to whom applications are to be submitted. HUD Headquarters will process all applications and select the successful PHAs.

A PHA which is selected will execute an ACC with HUD. The ACC shall be for a term of eleven years (thus allowing for one year to place the units under a Housing Assistance Payments Contract (HAP Contract) and a 10-year assistance period under the HAP Contract). The ACC will give HUD the option to renew the ACC for an additional 10 years, subject to the availability of appropriations.

Before the Owner begins any rehabilitation, the PHA and the Owner must enter into an Agreement to Enter into Housing Assistance Payments Contract (Agreement). After completion of rehabilitation, the PHA and the Owner will enter into a Housing Assistance Payments Contract. The HAP Contract must be entered into within 12 months of execution of the ACC and will have a 10-year term.

Under the original Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals, the total cost of rehabilitation that may be compensated through Contract Rents under a HAP Contract could not exceed $14,000 per SRO unit (including a pro rata share of the cost related to common areas). This limit could be adjusted in certain circumstances. Further discussion of the cost limitation is set forth below under the discussion of the changes made by the 1988 Amendments. (There is no limitation on the cost of rehabilitation under the regular Moderate Rehabilitation program.)

Under this rule permanent displacement is prohibited. The Department believes that a project that cannot be rehabilitated without permanently displacing tenants should not be provided with assistance, and has prohibited such assistant in § 882.803(d). However, in the event there is a waiver of this prohibition or a violation of this prohibition, there is a cross-reference in § 882.803(d) to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

This rule makes applicable many of the regulations for the current Moderate Rehabilitation Program in 24 CFR part 882, subparts D and E, and refers to other regulations in title 24 of the Code of Federal Regulations. Section references to HUD regulations are to title 24. The term "family" as used in 24 CFR 812.2 shall be understood to refer to an individual for purposes of the Moderate Rehabilitation SRO Program.

The 1988 Amendments made the following changes to the SRO Program. (These changes were reflected in the January 9, 1989 notice of funding

do not possess general purpose powers. The Department believes that the existence of such powers—especially powers relating to land use control—is

covered by a CHAP, an application for homeless housing assistance (under title IV of the McKinney Act, including Moderate Rehabilitation Single Room

contain that restriction, and all PHAs are permitted to submit applications. (This change was implemented by a revised notice of fund availability

have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined

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The 1988 Amendments made the following changes to the SRO Program. (These changes were reflected in the January 9, 1989 notice of funding availability.):

(1) SRO assistance may now be used in connection with the moderate rehabilitation of efficiency units, if the owner agrees to pay the additional costs of rehabilitating and operating the units. This amendment is evidenced in this rule by permitting, under § 882.803(b) Housing Quality Standards, an SRO unit that may contain both food preparation and sanitary facilities. However, in no case may the fair market rents for SRO units be exceeded. (That fair market rent is 75 percent of the 0-bedroom Moderate Rehabilitation fair market rent.)

(2) A definition of "major spaces" is provided in connection with fire and safety improvements and is set forth to mean "hallways, large common areas, and other areas specified in local fire, building, or safety codes." This definition is contained in this rule under § 882.803(b) Housing Quality Standards.

(3) HUD is required to increase the per unit cost limit each year to take into account increases in construction costs, starting with assistance provided on or after October 1, 1988. For purposes of Fiscal Year 1989 funding, the cost limitation was raised from $14,000 per unit to $14,300 per unit to take into account increases in construction costs during the preceding 12-month period. (Future cost limitation changes will be established by publication of a Notice in the Federal Register.)

(4) Under section 104(g) of the Housing and Community Development Act of 1974, 42 U.S.C. 5304 (the "1974 Act"), funds may be released for particular projects to recipients of CDBG assistance under title I of the 1974 Act who assume all of the responsibilities for environmental review, decisionmaking, and actions under the 1974 Act. Section 482(a) of the 1988 Amendments states that "the provisions of, and regulations and procedures applicable under, section 104(g)" of the 1974 Act shall apply to assistance and projects under title IV of the McKinney Act. This gives HUD the discretion to apply the environmental review procedures of section 104(g) and its implementing regulations at 24 CFR part 58 to the section 8 Moderate Rehabilitation SRO program.

In all the programs to which section 104(g) (other than those in title IV of the McKinney Act) applies, the recipients of assistance are jurisdictions with general purpose powers. Although a small minority of PHAs are agencies of general local government, the majority do not possess general purpose powers. The Department believes that the existence of such powers—especially powers relating to land use control—is an important element in a recipient's ability to carry out the status of a "responsible Federal official", within the meaning of section 104(g). Clearly, most PHAs do not possess these powers and would be unable successfully to carry out these environmental responsibilities.

Thus, for purpose of this rule, the Department will not provide for assumption of environmental review responsibilities by PHAs, but will carry out these functions itself. (This decision applies to all PHAs, even if they possess general governmental powers.) In the Department's view, the relatively small number of PHAs that have these powers does not justify operating a dual system for environmental review for the program.

In developing a final rule for this program, the Department specifically requested in the January 9 notice comments on the following alternative proposals for handling environmental reviews for this program in the future:

(a) HUD to continue to conduct the environmental reviews for all recipients under this program, or

(b) Units of general local government that operate as PHAs to assume responsibility for conducting their own environmental reviews, with HUD continuing to conduct the reviews for all other PHAs. No comments were received on this issue or on the alternatives presented. The Department will continue to conduct the environmental reviews for this program as discussed above.

(5) Section 401 of the McKinney Act prohibits assistance under the Moderate Rehabilitation SRO Program from being made available within the jurisdiction of a State, or a metropolitan city or urban county that is eligible for a formula allocation under the Emergency Shelter Grants program established by the McKinney Act (ESG formula city or county), unless the State, city, or county has a HUD-approved Comprehensive Homeless Assistance Plan (CHAP). If the structure containing an SRO unit to be assisted under this program is located within an ESG formula city or country, the city or county must have an approved CHAP. If the structure is located outside an ESG formula city or county, the State must have an approved CHAP. Since Indian tribes are not required to have approved CHAPs, the CHAP requirement does not apply to an Indian Housing Authority established by exercise of a tribe's powers of self-government independent of State Law. Section 401(f) provides that in an area covered by a CHAP, an application for homeless housing assistance (under title IV of the McKinney Act, including Moderate Rehabilitation Single Room Occupancy Assistance under section 441) must contain a certification from the official who submits the CHAP that the proposed assistance is consistent with the CHAP. The certification requirement is set forth under § 882.805(c)(7) of this rule.

Section 402 of the 1988 Amendments require CHAPs to contain an assurance that each grantee, recipient, and project sponsor (as appropriate) will administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries. SROs under this program are homeless facilities for this purpose and, therefore, subject to CHAP requirements regarding drug- and alcohol-free facilities as set forth in section III.4 of the CHAP notice published on December 28, 1988 (53 FR 52600).

This rule follows the requirements of the notice of fund availability published on January 9, 1989, with the exception of: (1) The expansion of eligibility to participate at § 882.805(c)(9) to PHAs that are not currently administering a Moderate Rehabilitation program, as discussed further under Public Comments, and (2) the additional requirement at § 882.805(c)(5) that applicants submit information regarding their experience in working with homeless people.

III. Public Comments

As discussed above, the 1988 Amendments required the Department to implement its requirements by notice within 60 days of its enactment and by regulations within 12 months. The notice published on January 9, 1989 complied with the first half of the mandate; however, in order to meet the second half, the Department solicited public comment on the notice, and a 60-day comment period was afforded the public.

The Department received eight public comments from: Two local housing authorities, a county multi-service center, a mayor of a city, a State representative to a State legislature, a State department of community development, a county government, and a private citizen. All commenters raised essentially the same objection—that the program was limited to public housing agencies that are currently administering a Moderate Rehabilitation program under 24 CFR part 882. Accordingly, the final rule does not contain that restriction, and all PHAs are permitted to submit applications. (This change was implemented by a revised notice of fund availability published on April 18, 1989, at 54 FR 15560.)

IV. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection weekdays from 7:30 a.m. to 5:30 p.m. in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it provides housing for homeless individuals through a housing assistance mechanism that is already established between HUD, the PHA, and the Owner under the section 8 Housing Assistance Payments Program.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of the Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order because the rule merely provides, at statutory direction, housing for homeless individuals through a housing assistance mechanism that is already established between HUD, the PHA, and the Owner under section 8 Housing Assistance Payments Program.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have a potential significant impact on family formation, maintenance, and general well-being and, thus, is not subject to review under the Order, because its aim is to provide single room housing for homeless individuals.

This rule was listed as item 1058 in the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54 FR 44702, 44723) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number is 14.156, Lower Income Housing Assistance Program.

Information Collection Requirements

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0367. A new information collection requirement has been added at § 882.805(c)(5) relating to the applicant's experience in working with homeless people. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN FINAL RULE—SECTION 8 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY DWELLINGS FOR HOMELESS INDIVIDUALS

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondents	Total annual responses	Hours per response	Total hours
Section 8 moderate rehabilitation program for single room occupancy dwellings for homeless individuals (2502-0367).	24 CFR 882	150	1	150	25.5	3,825

Accordingly, chapter VIII of title 24 of the Code of Federal Regulations is amended as follows:

PART 812—[AMENDED]

1. The authority for part 812 continues to read as follows:

Authority: Sec. 3, United States Housing Act of 1937 (42 U.S.C. 1437a); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 812.3, a new paragraph (g) is added to read as follows:

§ 812.3 Authorization to admit single persons.

* * * * *

(g) This section shall not apply to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals set forth at 24 CFR part 882, subpart H.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

3. The authority citation for part 882 is amended by adding the following citation:

Authority: * * * Secs. 401 and 441, Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77, approved July 22, 1987; secs. 481 and 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Pub. L. 100-628, approved November 7, 1988; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Part 882 is amended to add a new subpart H to read as follows:

Subpart H—Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

Sec.
- 882.801 Purpose.
- 882.802 Definitions.
- 882.803 Project eligibility and other requirements.
- 882.804 Other Federal requirements.
- 882.805 PHA application process, HUD review and selection, ACC execution, and pre-rehabilitation activities.
- 882.806 Agreement to enter into housing assistance payments contract, rehabilitation period, and cost certifications.
- 882.807 Housing assistance payments contract.
- 882.808 Management.
- 882.809 Waivers.

Subpart H—Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988).

social, recreational, educational, commercial, and health facilities, and other appropriate municipal facilities and services.

(C) A person who is temporarily relocated under the provisions of

rehabilitation, or demolition for the project.

§ 882.804 Other Federal requirements.

(a) Participation in this program requires compliance with the Equal Opportunity requirements specified in

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Subpart H—Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

§ 882.801 Purpose.

The purpose of section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The section 8 assistance is in the form of rental assistance payments. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937.

§ 882.802 Definitions.

In addition to the definitions set forth in § 882.102 (except for the definition of "Single Room Occupancy (SRO) Housing" therein) the following will apply:

Agreement to enter into housing assistance payments contract ("Agreement"). A written agreement between the Owner and the PHA that, upon satisfactory completion of the rehabilitation in accordance with requirements specified in the Agreement, the PHA will enter into a Housing Assistance Payments Contract with the Owner.

Eligible individual ("Individual"). An individual who, taking into account the supportive services available to the individual, is capable of independent living and is authorized for admission to assisted housing under 24 CFR part 812 and part 813.

Homeless individual. An individual who—

(a) Is an Eligible Individual,

(b) Lacks a fixed, regular, and adequate nighttime residence; and

(c) Has a primary nighttime residence that is—

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term "Homeless Individual" does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

McKinney Act. The Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987), as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988).

Moderate rehabilitation. Rehabilitation involving a minimum expenditure of $1,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade to Decent, Safe and Sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below those standards (improvements being of a modest nature and other than routine maintenance.

Single room occupancy (SRO) housing. A unit for occupancy by a single eligible individual capable of independent living which may not contain food preparation and/or sanitary facilities in accordance with § 882.803(b).

Statement of family responsibility. An agreement, in the form prescribed by HUD, between the PHA and a Family to be assisted under the Program, stating the obligations and responsibilities of the two parties.

Supportive services. Services that may include outpatient health services; employment counseling; nutritional counseling; information on obtaining furniture or clothing; security arrangements necessary for the protection of residents of facilities to assist the homeless; other services essential for maintaining independent living; assistance to homeless individuals in obtaining other Federal, State, and local assistance available for such individuals, including mental health benefits, employment counseling, medical assistance, and income support assistance, such as Supplemental Security Income benefits, General Assistance, and Food Stamps; and residential supervision necessary to facilitate the adequate provision of supportive services to the residents. The term does not include major medical equipment.

§ 882.803 Project eligibility and other requirements.

(a) *Eligible and ineligible properties*—(1) Except as otherwise provided in this paragraph (a), housing suitable for moderate rehabilitation is eligible for inclusion under this program. Existing structures of various types may be appropriate for this program, including single family houses and multifamily structures.

(2) Housing is not eligible for assistance under this program if it:

(i) Is, or has been within 12 months before the Owner submits a proposal to the PHA, subsidized under any Federal housing program, including the Certificate or Housing Voucher program;

(ii) Is owned by the PHA (or by an entity controlled by the PHA) administering the ACC under which assistance is to be provided;

(iii) Is a project with a HUD-held mortgage or is a HUD-owned project; or

(iv) Is or has been assisted, or is in a project for which a commitment for assistance has been entered into, under the Rental Rehabilitation program, 24 CFR part 511.

(3) Nursing homes and related facilities such as intermediate care or board and care homes; units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions; and facilities providing continual psychiatric, medical, or nursing services are not eligible for assistance under this program.

(4) No Section 8 assistance may be provided with respect to any unit occupied by an Owner.

(5) Housing located in the Coastal Barrier Resources System designated under the Coastal Barriers Resources Act is not eligible.

(6) Single-sex facilities are allowable under the Moderate Rehabilitation SRO program, provided that the PHA determines that because of the physical limitations or configuration of the facility, considerations of personal privacy require that the facility (or parts of the facility) be available only to members of a single sex.

(b) *Housing quality standards.* Section 882.404 (including its incorporation by reference of 24 CFR 882.109) shall apply to this program, except as follows:

(1) The housing quality standards in 24 CFR 882.109(i) and 24 CFR 882.404(c), concerning lead-based paint, shall not apply to this program, since these SRO units will not house children.

(2) In addition to the performance requirements contained in § 882.109(p) concerning SRO units, a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as State or local law may require shall be installed in each building. The term "major spaces" means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

(3) Section 882.109(q), concerning shared housing, shall not apply to this program.

(4) Section 882.404(b), concerning site and neighborhood standards, shall not apply to this program, except that 24 CFR 882.404(b) (1) and (2) shall apply. In addition, the site shall be accessible to social, recreational, educational, commercial, and health facilities, and other appropriate municipal facilities and services.

(5) An SRO unit may contain both food preparation and sanitary facilities.

(c) *Financing.* Section 882.405 shall apply to this program.

(d) *Relocation*—(1) Prohibition against displacement of residential tenants from assisted units. Constructing or rehabilitating units to be subsidized with assistance under subpart H may not result in the displacement of residential tenants from the units to be subsidized. A residential tenant who is displaced, either through a waiver of this requirement or in violation of this requirement, may qualify as a displaced person under paragraph (d)(2) of this section.

(2) *Uniform Relocation Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601) and governmentwide implementing regulations at 49 CFR part 24 set forth relocation assistance requirements that apply to displaced persons.

(i) For the purposes of this subpart H, the term "displaced persons" means a person (family, individual, business, nonprofit organization, or farm) that moves permanently and involuntarily as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this subpart H. Displaced person includes:

(A) Any person required by the Owner to move permanently from the property (structure or complex) on or after the date that the Owner submits to a PHA an application for assistance that is later approved and funded, unless:

(*1*) The person is evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and the PHA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(*2*) The person moved into the property (structure or complex) after the submission of the application but received prior written notice of the expected displacement; or

(*3*) The PHA determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project, and the HUD Field Office concurs in that determination.

(B) A person required by the Owner to move permanently from the property (structure or complex) before the Owner submits an application to the PHA, if the PHA or HUD determines that the displacement resulted from acquisition, rehabilitation, or demolition for the project.

(C) A person who is temporarily relocated under the provisions of paragraph (d)(3) of this section, but is not reimbursed for reasonable out-of-pocket expenses required by paragraph (d)(3)(i)(D) of this section and does not return to the property.

(ii) The PHA may, at the time, request a HUD determination as to whether a displacement is covered by the URA.

(iii) A displaced person's eligibility for relocation assistance is subject to the requirements in 49 CFR part 24.

(3) *Temporary relocation.* The following policies apply to temporary relocation of tenants from a property (structure or complex). The policies apply only to lawful residential tenants (but not to owner-occupants or businesses) who are temporarily relocated following submission of the Owner's application to the PHA. The following policies do not apply to tenants who commence occupancy after the Owner's submission of an application if, before they commence occupancy, they are are provided written notice from the Owner of the impending new construction or rehabilitation and possible temporary relocation, or whose tenancy is terminated for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement.

(i) Tenants may not be required to move temporarily from a property (structure or complex) unless:

(A) The Owner has given the tenants advance written notice and appropriate advisory services;

(B) Decent, safe, and sanitary temporary housing is available;

(C) The temporary relocation period will not exceed 12 months; and

(D) The Owner must reimburse tenants for reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving costs to and from temporary housing and increases in monthly housing costs.

(ii) The PHA must ensure that all the temporary relocation requirements are met. Preliminary or ongoing administrative funds may be used for costs of PHA advisory services for temporary relocation of tenants to be assisted under the program.

(iii) Tenants who do not believe they have received temporary relocation opportunities, services, or payments in accordance with this paragraph (d) may appeal to the PHA and must be given an informal hearing on this appeal.

§ 882.804 Other Federal requirements.

(a) Participation in this program requires compliance with the Equal Opportunity requirements specified in § 882.111, with section 504 of the Rehabilitation Act of 1973 (as implemented at 24 CFR part 8), and with the Age Discrimination Act of 1975. The PHA must also comply with its equal opportunity housing plan.

(b) The PHA and Owner must agree to comply with the requirements of the following, where applicable:

(1) Clean Air Act and Federal Water Pollution Control Act;

(2) Flood Disaster Protection Act of 1973;

(3) Section 504 of the Rehabilitation Act of 1973 (as implemented at 24 CFR part 8);

(4) Executive Order 11246, Equal Employment Opportunity (for all construction contracts of over $10,000);

(5) Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprises;

(6) Executive Order 12432, Minority Business Enterprise Development, and 12138, Creating a National Women's Business Enterprise Policy; and

(c) For agreements covering nine or more assisted units, the following labor standards requirements apply:

(1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a–276a–5), must be paid to all laborers and mechanics employed in the development of the project;

(2) The employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333); and

(3) PHAs, Owners, contractors and subcontractors must comply with all related rules, regulations and requirements.

(d) The environmental review requirements of 24 CFR part 50, implementing the National Environmental Policy Act and related environmental laws and authorities listed in 24 CFR 50.4, are applicable to this program. HUD will complete environmental reviews on applications under this program before selecting PHAs.

§ 882.805 PHA application process, HUD review and selection, ACC execution, and pre-rehabilitation activities.

(a) *General.* A Notice of Funding Availability for the program will be published in the **Federal Register** each

fiscal year or as often as is needed, announcing the availability of funds and inviting PHAs to submit applications for the program. Applications shall contain

(3) A description of the interest that has been expressed by builders, developers, Owners, and others (including profit and nonprofit

(ii) Each CHAP must contain an assurance that each grantee, recipient, and project sponsor (as appropriate) will administer, in good faith, a policy

(ii) The PHA's ability to undertake and carry out the program within the schedule proposed by the PHA, as demonstrated by:

(A) Procedures for tenant outreach and for establishing waiting lists;

(B) A policy governing temporary relocation; and

(5) Obtain firm commitments for other resources to be provided;

(6) Determine that the $1,000 minimum amount of work requirement and other

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fiscal year or as often as is needed, announcing the availability of funds and inviting PHAs to submit applications for the program. Applications shall contain the information prescribed in § 882.805(c) and any other information prescribed in the Notice. The Notice will also provide additional information on the HUD selection process, including how applications will be ranked. The Notice will include specific information on when and to whom applications are to be submitted. HUD Headquarters will process all applications and select the successful PHAs.

(b) *Obtaining Proposals from Owners and Selection of Proposals.* PHAs have discretion to select proposals by Owners in accordance with their own procedures and policies, consistent with the requirements of this rule.

(c) *PHA Application.* Section 441 of the McKinney Act requires that HUD allocate the amounts made available for this program on the basis of a national competition to the applicants that best demonstrate a need for the assistance and the ability to undertake and carry out a program to be assisted. Each application to HUD shall contain the following information to enable HUD to make these determinations:

(1) A description of the size and characteristics of the homeless population of single individuals within the applicant's jurisdiction that would occupy SRO dwellings under this program, and a statement of the basis for this description (*i.e.*, the source of the information). If the PHA intends to serve a designated population of homeless persons, such as substance abusers or the chronically mentally ill, the application should identify the designated population and the size of the designated population, if appropriate.

(2) Identification of specific structures, by address (indicating city and urban county where applicable), that the PHA proposes for rehabilitation and assistance under this program, including:

(i) The total number of SRO units requested;

(ii) The total number of units in each structure;

(iii) The number of vacancies among SRO units to be assisted;

(iv) The type of rehabilitation expected; and

(v) For applications identifying more than one structure, a priority ranking of the structures in the event that the application can only be partially funded. The priority ranking shall be developed based on the selection criteria the PHA uses to select structures in accordance with § 882.806(b).

(3) A description of the interest that has been expressed by builders, developers, Owners, and others (including profit and nonprofit organizations) in participating in the program.

(4) A preliminary feasibility analysis for each structure identified which demonstrates that a preliminary estimate of the gross rents for the structure indicate that the project is feasible within the fair market rent limitation. The analysis should also address the structure's compliance with basic program requirements regarding eligible properties and tenants, site control, the $1,000 minimum in eligible rehabilitation work, the maximum limit on rehabilitation costs, and eligible work items.

(5) A description of the applicant's experience in working with homeless people.

(6) Identification of any supportive services (as defined in § 882.802) which would be necessary for the population expected to be served. The availability of these services should be demonstrated by letters from the agencies (including public and private sources) providing the services. The letters should describe the services to be provided, the funding source, and the proposed period of availability. The PHA shall demonstrate that the supportive services appropriately address the needs of the homeless population to be served. The application should address whether these services will be provided in the structure or elsewhere. If elsewhere, the application should demonstrate that the services will be readily accessible to the homeless population to be served. (Services are readily accessible if residents can get to the services on their own, or if transportation is provided to the site where the services are provided.)

(7) A certification from the public official responsible for submitting the Comprehensive Homeless Assistance Plan (CHAP) for the State, formula city or county, or territory that the proposed activities of the PHA are consistent with the CHAP.

(i) If the structure containing an SRO unit to be assisted under this program is located within an ESG formula city or county, the city or county must have an approved CHAP. If the structure is located outside an ESG formula city or county, the State must have an approved CHAP. Since Indian tribes are not required to have approved CHAPs, the CHAP requirement does not apply to an Indian Housing Authority established by exercise of a tribe's powers of self-government independent of State law.

(ii) Each CHAP must contain an assurance that each grantee, recipient, and project sponsor (as appropriate) will administer, in good faith, a policy designed to ensure that each SRO is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries. The PHA is required to administer a policy consistent with this CHAP assurance, and each Owner is required to operate the SRO units assisted under this subpart in accordance with that policy.

(8) A schedule for completion of all necessary steps through execution of the Housing Assistance Payments Contract and an assurance that it is feasible for the PHA to meet its schedule.

(9) A description of the PHA's overall administrative capability, its experience in administering the Section 8 Moderate Rehabilitation Program, and its rehabilitation expertise. If a PHA has not administered a Section 8 Moderate Rehabilitation Program, the PHA must demonstrate that it

(i) Has the ability to operate a rehabilitation program, or

(ii) Will contract with a qualified agency or entity which will assist the PHA in operating a rehabilitation program, or

(iii) Will develop the capability to operate a rehabilitation program.

(10) The types of financing expected to be used, including Federal, State, or locally assisted financing programs, and a description of the availability of such financing. If available, statements from these financing sources indicating their willingness to provide financing should be submitted.

(d) *HUD selection process*—(1) *Ranking.* Before ranking applications, HUD will complete environmental reviews required under 24 CFR part 50 on all applications. HUD may elect to eliminate a proposal from consideration where the application would require an Environmental Impact Statement, or where the time necessary for the completion of the review process under an environmental law for structures identified in a particular application would prevent timely completion of the ranking and selection process. Except for such eliminated proposals, HUD will rank all applications from PHAs that contain all items required by § 882.806(c), based upon HUD's assessment of which applications have the best combination of the following:

(i) The need for assistance, as demonstrated by the PHA's analysis of the size and characteristics of the population to be served, and by the thoroughness of the analysis of the need presented; and

(ii) The PHA's ability to undertake and carry out the program within the schedule proposed by the PHA, as demonstrated by:

(A) Whether the preliminary feasibility analysis demonstrates that it appears likely that the proposed structure will be financially feasible;

(B) Whether the proposed structure meets basic program requirements (e.g., regarding eligible properties and rehabilitation and minimum and maximum rehabilitation amounts);

(C) The percentage of units proposed for assistance which are vacant (rehabilitation of vacant units generally will result in more units becoming available for the homeless; therefore, a preference will be given to applications indicating the highest percentage of vacancies);

(D) Whether it appears feasible for the PHA and Owner to complete all steps necessary so that the Contract may be executed within 12 months of execution of the ACC;

(E) Whether the PHA has specified the resources available to provide necessary supportive services, and demonstrated the strength and length of the commitments to provide those resources;

(F) The availability of financing, both assisted and unassisted, as demonstrated by statements or commitments from lenders, with a preference for projects where financing is available; and

(G) The PHA's experience with rehabilitation programs, including past performance in placing Moderate Rehabilitation units under Agreement and Contract, and the PHA's overall administrative capability, as evaluated by the HUD field office.

(2) *Selection of applications.* (i) HUD will select the highest ranking applications. However, no city or urban county may have projects receiving a total of more than 10 percent of the assistance to be provided under this program.

(ii) HUD will notify each PHA whether or not its application has been selected.

(e) *ACC Execution.* (1) Before execution of the ACC, the PHA shall submit to the appropriate HUD field office the following:

(i) Equal Opportunity Housing Plan and Certifications, Form HUD–620 (revised, if necessary, to reflect the particular nature of SRO housing and homeless population);

(ii) Estimates of Required Annual Contributions, Forms HUD–52672 and HUD–52673;

(iii) Administrative Plan, which should include:

(A) Procedures for tenant outreach and for establishing waiting lists;

(B) A policy governing temporary relocation; and

(C) A mechanism to monitor the provision of supportive services.

(iv) Proposed Schedule of Allowances for Tenant-Furnished Utilities and Other Services, Form HUD–52667, with a justification of the amounts proposed;

(v) If applicable, proposed variations to the acceptability criteria of the Housing Quality Standards (see § 882.803(b)); and

(vi) The fire and building code applicable to each structure.

(2) After HUD approved the PHA's application, the review and comment requirements of 24 CFR part 791 have been complied with, and the PHA has submitted (and HUD has approved) the items required by § 882.805(e)(1), HUD and the PHA shall execute the ACC in the form prescribed by HUD. The initial term of the ACC shall be 11 years. This term allows one year to rehabilitate the units and place them under a 10-year HAP Contract. The ACC shall give HUD the option to renew the ACC for an additional 10 years.

(3) Section 882.403(a), Maximum Total ACC Commitments, shall apply to this program.

(4) Section 882.403(b), Project Account, shall apply to this program.

(f) *Project development.* Before execution of the Agreement, the PHA shall:

(1)(i) Inspect the structure to determine the specific work items which need to be accomplished to bring the units to be assisted up to the Housing Quality Standards (see § 882.803(b)) or other standards approved by HUD;

(ii) Conduct a feasibility analysis, and determine whether cost-effective energy conserving improvements can be added;

(iii) Ensure that the Owner prepares the work write-ups and cost estimates required by 24 CFR 882.504(f); and

(iv) Determine initial base rents and Contract Rents;

(2) Assure that the Owner has selected a contractor in accordance with 24 CFR 882.504(g);

(3) After the financing and a contractor are obtained, determine whether the costs can be covered by initial Contract Rents, computed in accordance with § 882.805(g); and, where a structure contains more than 50 units to be assisted, submit the base rent and Contract Rent calculations to the appropriate HUD field office for review and approval in sufficient time for execution of the Agreement in a timely manner;

(4) Obtain firm commitments to provide necessary supportive services;

(5) Obtain firm commitments for other resources to be provided;

(6) Determine that the $1,000 minimum amount of work requirement and other requirements in 24 CFR 882.504 (c)(2) and (3) are met;

(7) Determine eligibility of current tenants, and select the units to be assisted, in accordance with 24 CFR 882.504(e);

(8) Comply with the financing requirements in 24 CFR 882.504(i);

(9) Assure compliance with all other applicable requirements of this rule; and

(10) In the event that the PHA determines that any structure proposed in its application is infeasible, or the PHA proposes to select a different structure for any other reason, the PHA must submit the information required in § 882.805(c)(2) for the proposed alternative structure to HUD Headquarters for review and approval and to the HUD Field Office for environmental review, as required by § 882.804(d). HUD Headquarters will rate the proposed structure in accordance with the procedures in § 882.805(d). The PHA may not proceed with processing for the proposed structure or execute an Agreement until HUD notifies the PHA that HUD has approved the proposed alternative structure and that all requirements have been met.

(g) *Initial contract rents.* Section 882.408, Initial Contract Rents (including the establishment of fair market rents for SRO units at 75 percent of the O-bedroom Moderate Rehabilitation Fair Market Rent), shall apply to this program, except as follows:

(1)(i) In determining the monthly cost of a rehabilitation loan, in accordance with 24 CFR 882.408(c)(2), a loan term of a least 10 years (instead of 15 years) may be used. The exception in 24 CFR 882.408(c)(2)(iii) for using the actual loan term where the total amount of the rehabilitation is less than $15,000 shall continue to apply. In addition, the cost of the rehabilitation that may be included for the purpose of calculating the amount of the initial Contract Rent for any unit shall not exceed the lower of

(A) The projected cost of rehabilitation, or

(B) The per unit cost limitation that is established by Federal Register Notice, plus the cost of the fire and safety improvements required by § 882.803(b)(2).

HUD may, however, increase the limitation in paragraph (g)(1)(i) (B) of this section by an amount HUD determines is reasonable and necessary to accommodate special local

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conditions, including high construction costs or stringent fire or building codes. Future cost litigation changes will be published in the Federal Register in the Notice of Funding Availability issued each year.

(ii) Where the FHA believes that high construction costs warrant an increase in the per unit cost limitation in paragraph (g)(1)(i) (B) of this section, the PHA shall demonstrate to HUD's satisfaction that a higher average per unit amount is necessary to conduct this program and that every appropriate step has been taken to contain the amount of the rehabilitation within the published per unit cost limitation established at that time, plus the cost of the required fire and safety improvements. These higher amounts will be determined as follows:

(A) HUD may approve a higher per unit amount up to, but not to exceed, an amount computed by multiplying the HUD-approved High Cost Percentage for Base Cities (used for computing FHA high cost area adjustments) in use before April 1988, for the area, by the current published cost limitation plus the cost of the required fire and safety improvements.

(B) HUD may, on a structure-by-structure basis, increase the level approved in paragraph (g)(1)(i) to up to an amount computed by multiplying 2.4 by the current published cost limitation plus the cost of the required fire and safety improvements.

(2) In approving changes to initial Contract Rents during rehabilitation in accordance with 24 CFR 882.408(d), the revised initial Contract Rents may not reflect an average per unit rehabilitation cost that exceeds the limitation specified in paragraph (g)(1) of this section.

(3) Where the structure contains four or fewer SRO units, the Fair Market Rent for that size structure (the Fair Market Rent for a 1-, 2-, 3-, or 4-bedroom unit, as applicable) shall be used to determine the Fair Market Rent limitation instead of using the separate Fair Market Rent for each SRO unit. To determine the Fair Market Rent limitation for each SRO unit, the Fair Market Rent for the structure shall be apportioned equally to each SRO unit.

(4) Contract Rents shall not include the costs of providing supportive services, transportation, furniture, or other non-housing costs, as determined by HUD. Also, contract rents shall not include the additional costs of rehabilitating and operating efficiency units.

(Approved by the Office of Management and Budget under control number 2502-0367)

§ 882.806 Agreement to enter into housing assistance payments contract, rehabilitation period, and cost certifications

(a) *Rehabilitation period—(1) Agreement.* Before the Owner begins any rehabilitation, the PHA shall enter into an Agreement with the Owner in the form prescribed by HUD.

(2) *Timely performance of work.* Section 882.508(a) shall apply to this program. In addition, the Agreement shall provide that the work shall be completed and the Contract executed within 12 months of execution of the ACC. HUD may reduce the number of units or the amount of the annual contribution commitment if, in the determination of HUD, the PHA fails to demonstrate a good faith effort to adhere to this schedule or if other reasons justify a reduction in the number of units.

(3) *Inspections.* Section 882.508(b) shall apply to this program.

(4) *Changes.* Section 882.508(c)(1) shall apply to this program. Contract Rents may not be increased except in accordance with 24 CFR 882.408(d) and 882.804(g)(2).

(5) *List of vacancies.* Section 882.508(d) shall apply to this program. See also, § 882.806(a) *Outreach to homeless individuals and appropriate organizations; waiting lists.*

(b) *Completion of rehabilitation—(1) Notification of completion.* Section 882.507(a) shall apply to this program.

(2) *Evidence of completion.* Section 882.507(b) shall apply to this program, except that § 882.507(b)(2)(iv), concerning lead-based paint requirements, shall not apply.

(3) *Actual cost and rehabilitation loan certifications.* Section 882.507(c) shall apply to this program, except that Contract Rents shall be established in accordance with § 882.804(g) of this rule.

(4) *Review and inspections.* Section 882.507(d) shall apply to this program.

(5) *Acceptance.* Section 882.507(e) shall apply to this program.

(Approved by the Office of Management and Budget under control number 2502-0367)

§ 882.807 Housing assistance payments contract.

(a) *Time of execution of contract.* Section 882.508(a) shall apply to this program.

(b) *Term of contract.* The Contract for any unit rehabilitated in accordance with this program shall be for a term of 10 years. The Contract shall give the PHA the option to renew the Contract for an additional 10 years.

(c) *Changes in contract rents from agreement.* The Contract Rents may be higher or lower than those specified in the Agreement, in accordance with § 882.805(g) of this rule.

(d) *Unleased units.* Section 882.508(c) shall apply to this program.

(e) *Contract rents at end of rehabilitation loan term.* For a Contract where the initial Contract Rent was based upon a loan term shorter than 10 years, the Contract must provide for reduction of the Contract Rent effective with the rent for the month following the end of the term of the rehabilitation loan. The amount of the reduction will be the monthly cost of amortization of the rehabilitation loan. This reduction should result in a new Contract Rent equal to the base rent plus all subsequent adjustments.

(Approved by the Office of Management and Budget under control number 2502-0367)

§ 882.808 Management.

(a) *Outreach to Homeless Individuals and Appropriate Organizations; Waiting Lists—(1) Outreach to Homeless Individuals and Appropriate Organizations.* The PHA shall engage in outreach efforts to make known the availability of this program to homeless individuals in general, or to homeless individuals in the category for which the structure is designed. The PHA shall also ask appropriate organizations to refer homeless individuals to the PHA or to assist the PHA in locating them. Any outreach shall be made in accordance with the PHA's HUD-approved application and Administrative Plan, the Equal Opportunity Housing Plan, and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement, and slogan.

(2) *Additional Outreach Concerns.* If the procedures that the PHA or Owner intends to use to make known the availability of this program are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, or mental or physical handicap who may qualify for admission to the program, the PHA or Owner shall establish additional procedures that will ensure that such persons are made aware of the availability of the program. The PHA or Owner shall also adopt and implement procedures to ensure that interested persons can obtain information concerning the existence and location of services and facilities which are accessible to handicapped persons.

(3) *Waiting Lists.* The PHA shall maintain a separate waiting list for all applicants (or each category of applicants) for this program. In establishing waiting lists, the PHA shall first review any of its existing waiting lists for Section 8 Moderate Rehabilitation and Existing Housing (Certificate and Housing Voucher) programs and add the names of any homeless individuals on those lists to the lists for this program, where it is able to identify the individuals on those lists as homeless individuals. (The names of the individuals on the Section 8 Moderate Rehabilitation and Existing Housing lists shall remain on the original lists as well.)

(4) *First Priority for Homeless Individuals.* Homeless individuals on a waiting list shall have a first priority for occupancy of housing rehabilitated under this program.

(b) *Individual Participation—(1) Initial Determination of Individual Eligibility.* Section 882.514(a) shall apply to this program.

(2) *PHA Selection of Individuals for Participation.* Section 882.514(b) shall apply to this program, except that the PHA shall only refer Homeless Individuals.

(3) *Owner Selection of Individuals.* All vacant units under Contract shall be rented to Homeless Individuals referred by the PHA from its waiting lists. However, if the PHA is unable to refer a sufficient number of interested applicants on the waiting lists to the Owner within 30 days of the Owner's notification to the PHA of a vacancy, the Owner may advertise or solicit applications from homeless persons, and refer such persons to the PHA to determine eligibility. Since the Owner is responsible for tenant selection, the Owner may refuse any individual, provided that the Owner does not unlawfully discriminate. Should the Owner reject an individual, and should the individual believe that the Owner's rejection was the result of unlawful discrimination, the individual may request the assistance of the PHA in resolving the issue and may also file a complaint with HUD's Office of Fair Housing and Equal Opportunity. If the individual requests the assistance of the PHA and if the PHA cannot resolve the complaint promptly, the PHA should advise the individual that he or she may file a complaint with HUD, and provide the individual with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

(4) *Leasing to Non-Homeless Individuals.* When neither the PHA nor the Owner can find a sufficient number of interested applicants who are Homeless Individuals, the Owner may rent to non-homeless Eligible Individuals, in accordance with §§ 882.514 (a) through (c).

(5) *Briefing of Individuals.* Section 882.514(d) shall apply to this program, except that paragraph (d)(1)(vi) shall not apply.

(6) *Continued Participation of Individual When Contract Is Terminated.* Section 882.514(e) shall apply to this program, except that the PHA may issue a Housing Voucher instead of a Certificate.

(7) *Individuals Determined by the PHA to Be Ineligible.* Section 882.514(f) shall apply to this program. In addition, individuals are not precluded from exercising other rights if they believe they have been discriminated against on the basis of age.

(c) *Lease—(1) Contents of Lease.* Section 882.504(j) shall apply to this program. In addition, the Lease shall limit occupancy to one Eligible Individual.

(2) *Term of Lease.* Section 882.403(d) shall apply to this program.

(d) *Security and Utility Deposits.* Section 882.112 shall apply to this program.

(e) *Rent Adjustments.* Section 882.410 shall apply to this program.

(f) *Payments for Vacancies.* Section 882.411 shall apply to this program.

(g) *Subcontracting of Owner Services.* Section 882.412 shall apply to this program.

(h) *Responsibility of the Individual.* Section 882.413 shall apply to this program.

(i) *Reexamination of Individual Income—(1) Regular Reexaminations.* The PHA shall reexamine the income of all Individuals at least once every 12 months. After consultation with the Individual and upon verification of the information, the PHA shall make appropriate adjustments in the Total Tenant Payment in accordance with 24 CFR part 813, and verify that only one individual is occupying the unit. The PHA shall adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment.

(2) *Interim Reexaminations.* The individual shall supply such certification, release, information, or documentation as the PHA or HUD determines to be necessary, including submissions required for interim reexaminations of Individual income and determinations as to whether only one person is occupying the unit. In addition, the second and third sentences of § 882.515(b) shall apply.

(3) *Continuation of Housing Assistance Payments.* Section 882.515(c) shall apply to this program.

(j) *Overcrowded Units.* If the PHA determines that anyone other than, or in addition to, the Eligible Individual is occupying an SRO unit assisted under this program, the PHA shall take all necessary action, as soon as reasonably feasible, to ensure that the unit is occupied by only one Eligible Individual. Such action may include assisting the occupants of the unit in locating other housing, and requiring the occupants who do not have a right to occupy the unit under the Lease to move to other housing.

(k) *Adjustment of Utility Allowance.* Section 882.510 shall apply to this program.

(l) *Termination of Tenancy.* Section 882.511 shall apply to this program.

(m) *Reduction of Number of Units Covered by Contract.* Section 882.512 shall apply to this program.

(n) *Maintenance, Operation, and Inspections.* Section 882.516 shall apply to this program.

(o) *HUD Review of Contract Compliance.* Section 882.217 shall apply to this program.

(Approved by the Office of Management and Budget under control number 2502-0367)

§ 882.809 Waivers.

Section 812.3 shall not apply to this program.

Dated: October 31, 1989.

Peter H. Monroe,

Acting General Deputy, Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

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H.R. 2989 / Pub. L. 101–136
Treasury, Postal Service and General Government Appropriations Act, 1990. (Nov. 3, 1989; 103 Stat. 783; 41 pages) Price: $1.25

H.R. 3281 / Pub. L. 101–137
To reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes. (Nov. 3, 1989; 103 Stat. 824; 3 pages) Price: $1.00

S.J. Res. 86 / Pub. L. 101–138
Designating November 17, 1989, as "National

Philanthropy Day". (Nov. 3, 1989; 103 Stat. 827; 1 page) Price: $1.00

S.J. Res. 120 / Pub. L. 101–139
To designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week". (Nov. 3, 1989; 103 Stat. 828; 2 pages) Price: $1.00

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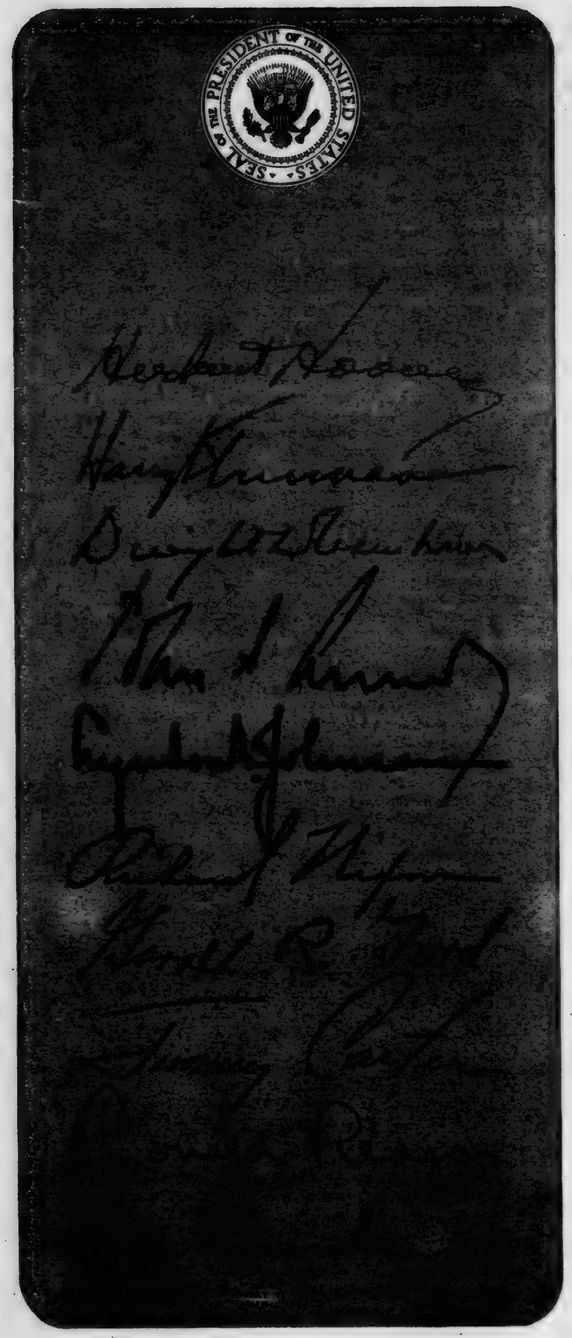

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

[Docket No. FV-89-046FR]

Limes Grown in Florida; Changes in Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule tightens current minimum grade requirements for Florida grown seedless limes and imported seedless limes. Currently, such limes must contain at least 60 percent U.S. No. 1 quality fruit, and the remainder must be U.S. No. 2 quality during the period February 1 through May 31 each season. Shipments and imports during the period June 1 through January 31 each season must contain at least 75 percent U.S. No. 1 quality fruit and the remainder must be at least U.S. No. 2 quality. The change increases the minimum amount of U.S. No. 1 grade fruit required in shipments of Florida grown and imported limes from 60 to 75 percent during the period February 1 through May 31, thus making the 75 percent requirement effective on a year around basis. This action provides fresh markets with higher quality limes, and is designed to increase sales and promote orderly marketing conditions in the interest of both growers and consumers.

EFFECTIVE DATE: December 8, 1989.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 911, both as amended (7 CFR part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1, and has been determined to be a "non-major" rule under the criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 26 handlers of Florida limes subject to regulation under the marketing order for limes grown in Florida and about 20 importers who import limes into the United States. In addition, there are about 260 lime growers in Florida. Small agricultural growers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and agricultural services firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers, importers, and growers may be classified as small entities.

A proposed rule regarding tightening the grade requirements for Florida and imported seedless limes was issued on July 6, 1989 and published in the Federal Register (54 FR 29338, July 12, 1989). That rule provided that interested persons could file written comments through September 11, 1989. No comments were received.

Section 911.344 (7 CFR 911.344) of the rules and regulations under the marketing order specifies continuous minimum grade and size requirements for fresh shipments of all varieties of fresh limes grown in Florida. Two different groups of limes are grown in Florida, and different grade regulations apply to each group. One group is known as seeded or true limes, which are referred to as Mexican, West Indian, and Key limes. The other group is known as seedless, large-fruited, or Persian limes and includes the Tahiti, Bearss, and similar varieties.

This final rule applies to the group known as seedless, large-fruited, or Persian limes and tightens minimum grade requirements for such limes. Currently, seedless limes must grade at least U.S. Combination, Mixed Color, except for stem length, during the period February 1 through May 31 each season. Under the U.S. Combination grade at least 60 percent, by count, of the limes must be U.S. No. 1 quality fruit, and the remainder must be at least U.S. No. 2 quality. However, the current grade regulation increases the minimum amount of U.S. No. 1 quality fruit required to 75 percent during the period June 1 through January 31 each season. This change increases the minimum amount of U.S. No. 1 grade fruit required in shipments of Florida grown and imported limes from 60 to 75 percent during the period February 1 through May 31, thus making the 75 percent requirement effective on a year around basis.

The current minimum grade requirements for fresh Florida limes have been in effect on a continuous basis for several seasons. These grade requirements are designed to ensure that all fresh lime shipments are of good quality, thereby providing consumer satisfaction essential for the successful marketing of the crop. These grade requirements are intended to improve buyer confidence and increase consumption of limes, while continuing to provide the trade and consumers with an adequate supply of quality limes. Florida lime growers and handlers have found such requirements beneficial in the successful marketing of their lime crops in the past. Recent marketing research studies indicate that consumers prefer higher quality seedless limes. Moreover, a recent Department inspection data study indicates that handlers' lime shipments are currently averaging well above 75 percent U.S. No. 1 grade fruit even though only 60 percent is required. The application of

tighter grade requirements for the entire season is intended to ensure that fresh markets are provided with higher quality fruit which consumers prefer on

§ 911.344. In addition, this action amends paragraph (b) of § 911.344 to update language pertaining to the United States Standards for Grades of Persian

For the reasons set forth in the preamble, 7 CFR part 911 is amended as follows:

7 CFR Parts 932 and 944

[Docket No. FV-89-067FR]

Olives Grown in California and

Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

This action allows handlers to market more olives than would be permitted in the absence of this relaxation in size requirements. This opportunity to

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tighter grade requirements for the entire season is intended to ensure that fresh markets are provided with higher quality fruit which consumers prefer on a year around basis. Providing fresh markets with the quality of fruit desired is an important aspect of creating consumer satisfaction and increasing sales opportunities. Ample supplies of higher quality limes are available to meet consumer demand.

Fresh Florida lime shipments are projected at 1,500,000 bushels (55 pounds net weight) for the 1989–90 season, compared with fresh shipments of 1,492,893 bushels in 1988–89, 1,352,780 bushels in 1987–88, and 1,334,997 bushels in 1986–87. Florida limes are harvested and shipped to market every month of the year, beginning with new season shipments in April and with peak shipments during the May through October period. Florida limes compete in the marketplace primarily with Mexican grown limes imported into the United States, with such imports estimated at 2,016,775 bushels for 1989–90. California fresh lime shipments are estimated at 232,560 bushels for the 1988–89 season crop.

The tighter grade requirements for Florida limes were unanimously recommended by the Florida Lime Administrative Committee (committee) at its meeting of April 12, 1989. The committee works with the Department in administering the marketing agreement and order program. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida limes. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Some Florida lime shipments are exempt from grade requirements. Handlers may ship up to 55 pounds of limes during any one day under a minimum quantity exemption and may make gift shipments in individually addressed containers of up to 20 pounds of limes each. Also, limes utilized in commercial processing are not covered by the grade requirements.

This action also changes the section heading for the purpose of clarity and deletes unnecessary language from the introductory text of paragraph (a) of § 911.344. In addition, this action amends paragraph (b) of § 911.344 to update language pertaining to the United States Standards for Grades of Persian (Tahiti) Limes.

Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including limes, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

Lime import grade requirements are specified in § 944.209 (7 CFR 944.209), issued under section 8e of the Act. Section 944.209 provides that fresh limes imported into the United States must meet the same minimum grade and size requirements specified in § 911.344 for limes grown in Florida. Since this action changes the grade requirements for Florida grown limes, the same changes also apply to imported limes. However, no change to the text of § 944.209 is needed by this action. An exemption provision in the lime import regulation permits persons to import up to 55 pounds of limes at one time exempt from such import requirements.

This action reflects the Department's appraisal of the need to tighten the grade requirements for fresh seedless limes. The Department's view is that the tighter requirements would not adversely impact lime growers, handlers, and importers. Although compliance with handling requirements affects costs to handlers and importers, these costs will be significantly offset when compared to the potential benefits of assuring the trade and consumers of good quality limes. The application of grade requirements to Florida limes over the past several years have helped to assure shipments of good quality limes to fresh markets. The committee considers that the tighter grade requirements for Florida limes are necessary to improve grower returns.

After consideration of the information and recommendation submitted by the committee, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 911

Florida, limes, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 911 is amended as follows:

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 911 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 911.344 is amended by revising the section heading, the introductory text in paragraph (a), and paragraphs (a)(2) and (b) to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 911.344 Florida lime grade and size regulation.

(a) No handler shall handle any variety of limes grown in the production area unless:

* * * * *

(2) Such limes of the group known as seedless, large-fruited, or Persian limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. Combination, Mixed Color: *Provided,* That at least 75 percent, by count, of the limes in the lot meet the requirements of the U.S. No. 1 grade, and the remainder meet the requirements of the U.S. No. 2 grade; *Provided further,* That stem length shall not be considered a factor of grade; *Provided further,* That such limes not meeting these requirements may be handled within the production area, if they meet the minimum juice content requirement of at least 42 percent by volume specified in the United States Standards for Grades of Persian (Tahiti) Limes, if they meet the minimum size requirements specified in paragraph (a)(3) of this section, and if they are handled in containers other than those authorized in § 911.329.

* * * * *

(b) Terms relating to grade and diameter shall mean the same as defined in the United States Standards for Grades of Persian (Tahiti) Limes (7 CFR 51.1000 through 51.1016).

* * * * *

Dated: November 2, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26328 Filed 11–7–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 932 and 944

[Docket No. FV–89–067FR]

Olives Grown in California and Imported Olives; Establishment of Grade and Size Requirements for the 1989–90 Season, and Conforming Changes in the Olive Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the provisions of an interim final rule which established grade and size requirements for California processed olives used in the production of limited use styles of olives such as wedges, halves, slices, or segments and established similar requirements in the olive import regulation to bring that regulation into conformity with the domestic requirements. The grade and size requirements are the same as implemented last season. Olives used in limited use styles are too small to be desirable for use as whole or pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles. Their use in such products over the years has helped the California olive industry meet the increasing market needs of the food service industry. The requirements for domestic olives were unanimously recommended by the California Olive Committee (committee), which works with the Department in administering the marketing order program for olives grown in California. The establishment of such requirements for imported olives is required pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530–S, Washington, DC 20090–6456; telephone (202) 475–3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are seven handlers of California olives subject to regulation under the order and approximately 1,400 olive producers in California. Approximately 25 importers of olives are subject to the olive import regulation. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Most but not all of the olive producers and importers may be classified as small entities. None of the olive handlers may be classified as small entities.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California with most of the commercial production coming from inland valleys. About 75 percent of the production comes from the San Joaquin Valley and 25 percent from the Sacramento Valley.

Olive production has fluctuated from a low of 24,200 tons during the 1972–73 crop year to a high of 146,500 tons during the 1982–83 crop year. The committee indicated that 1988 production totalled about 84,600 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. The industry expects the 1989–90 crop to be about 97,500 tons.

The primary use of California olives is for canned ripe olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. Very few California olives are exported.

This action allows handlers to market more olives than would be permitted in the absence of this relaxation in size requirements. This opportunity to handle smaller olives should increase the use of the California olive supply, facilitate market expansion, and benefit growers, handlers, and imports.

The interim rule was issued August 30, 1989, and was published in the **Federal Register** on September 6, 1989 (54 FR 36958). That rule invited interested persons to submit written comments through October 6, 1989. No comments were received.

The interim rule modified § 932.153 of Subpart-Rules and Regulations (7 CFR 932.108–932.161). The modification established grade and size regulations for 1989–90 crop limited use size olives. The modification was issued pursuant to paragraph (a)(3) of § 932.52 of the order. That rule also made necessary conforming changes in the olive import regulation (Olive Regulation 1; 7 CFR 944.401). The import regulation is issued pursuant to section 8e of the Act. Section 8e provides that whenever grade, size, quality, or maturity provisions are in effect for specified commodities, including olives, under a marketing order, the same or comparable requirements must be imposed on imports of the commodity.

Paragraph (a)(3) of § 932.52 of the marketing order provides that processed olives smaller than the sizes prescribed for whole and pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories. The section further provides for the establishment of size tolerances.

To allow handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives, the committee recommended that grade and size requirements again be established for limited use olives for the 1989–90 crop year [August 1, 1989, through July 31, 1990). The grade requirements are the same as those applied during the 1988–89 crop year, as are the sizes and the size tolerances. Permitting handlers to use small olives in the production of limited use style canned olives will have a positive impact on industry returns. In the absence of this action, the undersized fruit would have to be used for non-canning uses, like oil, for which returns are lower. Except for the changes necessary in the effective date, the provisions, hereinafter set forth in

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§ 932.153, are the same as those contained in the interim rule.

Paragraph (b)(12) of § 944.401 of the olive import regulation allows imported bulk olives which do not meet the minimum size requirements for canned whole and pitted ripe olives to be used for limited use styles if they meet specified size requirements. Continuation of the limited use authorization for California olives by this final rule requires that changes be made in paragraph (b)(12) of § 944.401 to keep the import regulation in conformity with the applicable domestic requirements. These conforming changes will benefit importers because they will be able to import small-sized olives meeting applicable grade requirements for limited use during the 1989–90 season which ends July 31, 1990.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, the information and recommendations submitted by the committee, and other available information, it is found that the provisions as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action leaves in effect relaxed requirements currently being applied to California and imported olives under an interim rule; (2) the olive import requirements are mandatory under section 8e of the Act; (3) the interim rule provided a 30-day comment period and no comments received; and (4) no useful purpose would be served by delaying the effective date of this action.

List of Subjects

7 CFR Part 932

California, Marketing agreements and orders, Olives.

7 CFR Part 944

Fruits, Import regulations, Marketing agreements and orders, Olives.

For the reasons set forth in the preamble, 7 CFR parts 932 and 944 are amended as follows:

Note: These sections will appear in the Annual Code of Federal Regulations.

PART 932—OLIVES GROWN IN CALIFORNIA

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citations for 7 CFR parts 932 and 944 continue to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Accordingly, the interim final rule revising § 932.153 and § 944.401(b), which was published in the **Federal Register** on September 6, 1989 (54 FR 36958) is adopted as a final rule.

Dated: November 2, 1989.

William J. Doyle,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89–26327 Filed 11–7–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 971

[Docket No. FV–89–076]

Lettuce Grown in Lower Rio Grande Valley in South Texas; Amendment to Continuing Handling Regulation to Authorize a New Container

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes the use of bulk bin containers for shipping South Texas lettuce to shredders under the container regulations of Marketing Order 971. Allowing handlers to ship lettuce in bulk bin containers to shredders should improve returns to producers and handlers of South Texas lettuce.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR part 971), both as amended, regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 10 handlers of South Texas lettuce subject to regulation under the marketing order, and approximately 20 producers in the production area. The Small Business Administration (13 CFR 121.1) has defined small agricultural producers as those having average annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of South Texas lettuce may be classified as small entities.

As of October 4, 1989, estimated South Texas lettuce acreage planted was 2,890 acres compared to 1,629 acres in 1988. Total shipments of South Texas lettuce during the 1988–89 season were approximately 921,000 50-pound cartons. This represented nearly a 25 percent increase over the estimated 738,000 cartons shipped in the 1987–88 season. The majority of the crop was shipped to the fresh markets, with only a small volume (less than 1%) utilized by processors.

The handling requirements for South Texas lettuce are specified in § 971.322 (51 FR 2, January 2, 1986; 54 FR 6182, February 27, 1989). The current requirements for South Texas lettuce specify the inside dimensions of the five cartons that may be used to pack lettuce and the number of heads of lettuce that may be packed in each of those containers. Additionally, inspection is required and packaging lettuce on any Sunday or on Christmas Day is prohibited.

This rule adds the dimensions for bulk bin containers for lettuce shipments to shredders to the list of containers presently permitted under the handling regulation. No pack specifications are included which stipulate the number of heads of lettuce which may be shipped in a bulk bin. This action was unanimously recommended by the South Texas Lettuce Committee (committee), the agency responsible for local administration of the marketing order, at its June 21, 1989, meeting.

Handlers of South Texas lettuce have been using the bulk bin container on a test basis for lettuce shipments to shredders, in accordance with § 971.322(e)(5) of the handling regulation. Last year, the committee authorized the limited use of 1,000 bulk bins for such purpose. These containers have approximate inside dimensions of 46 inches (length) × 38 inches (width) × 36 inches (height). The committee recommended authorizing bulk bin containers meeting these approximate dimensions. The bulk bin container has found general trade acceptance, and the South Texas lettuce industry believes that these shipments are no longer experimental but an integral part of their marketing efforts. Furthermore, the use of such containers for shipping lettuce to shredders could expand their lettuce market and reduce packing costs. The recommended bulk bin container is of a proper size to be palletized.

Last season, in accordance with § 971.322(e), handlers were required to file for experimental container exemptions by applying for a Certificate of Privilege before making lettuce shipments in bulk bin containers to shredders. Handlers also were required to provide reports as requested by the committee. The committee believes that permitting handlers to use the bulk bin containers for lettuce shipments to shredders and eliminating the need to file for experimental container exemptions and related reports would encourage the industry to increase such shipments to shredders. Accordingly, this action reduces the information collection and recordkeeping requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). These requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0085.

Bulk bin containers are typically less expensive to use in packing lettuce than the cartons that are currently authorized for fresh market shipments. The committee believes that authorizing these bulk bin containers will assist the industry in expanding the market for shredded lettuce by reducing costs. Thus, bulk bin containers will be authorized for use by handlers making lettuce shipments to shredders only. In addition, the handling regulation is being amended to specify that the pack requirement is not applicable to bulk bin container shipments of lettuce destined to shredders.

The committee believes there is a sizable market for shredded lettuce, and allowing handlers to use bulk bin containers for such shipments will provide that market segment with the supply of lettuce it desires. This action should have a positive effect on lettuce shipments which would benefit both producers and handlers.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Notice of this action was given in the September 8, 1989, **Federal Register** (54 FR 37337) providing interested persons until October 10, 1989, to file written comments. No comments were received.

After consideration of all relevant matter presented including the information and recommendations submitted by the committee, and other available information, it is hereby found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because shipping season for South Texas lettuce is about to begin and this rule, in order to be of maximum benefit to producers and handlers, should apply to as many shipments as possible.

List of Subjects in 7 CFR Part 971

Lettuce, Marketing agreements and orders, South Texas.

For the reasons set forth in the preamble, 7 CFR part 971 is amended as follows:

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

1. The authority citation for 7 CFR part 971 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 971.322 is amended by redesignating paragraph (a)(6) as (a)(7) and adding new paragraphs (a)(6) and (b)(4) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 971.322 Handling regulation.

* * * * *

(a) * * *

(6) Bulk bin containers with inside dimensions of approximately 46 inches x 38 inches x 36 inches to be used for lettuce shipments to shredders only.

(7) * * *

(b) *Pack.* (1) * * *

(2) * * *

(3) * * *

(4) No pack requirements shall apply to bulk bin containers for lettuce shipments to shredders.

* * * * *

Dated: November 2, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26328 Filed 11–7–89; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1944 and 1951

Interest, Penalties, and Administrative Costs

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to provide for assessing individual borrowers a fee when the Agency must process an uncollectible item. This action is taken to implement an Office of Management and Budget (OMB) Circular A–129 requirement that agencies assess interest, penalties, and administrative costs. The effect of this action will be to compensate the Agency for the cost of processing an uncollectible item.

EFFECTIVE DATE: December 8, 1989.

FOR FURTHER INFORMATION CONTACT: William J. French, Financial and Management Analysis Staff, Farmers Home Administration, USDA, Room 6434, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250. Telephone (202) 475–4741.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based

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enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The Administrator, Farmers Home Administration, USDA, has determined that this action will not have a significant economic impact on a substantial number of small entities because it only deals with the assessment of a fee on individual borrowers allowing the Government to capture its cost of processing uncollectible items.

Intergovernmental Consultation

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low-Income Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.428 Economic Emergency Loans

Discussion

The Farmers Home Administration is required by OMB Circular A-129 to assess interest, penalties, and administrative costs on delinquent accounts in accordance with the Debt Collection Act of 1982. The Agency has not passed the cost of processing uncollectible items on to the borrower in the past, however, it has been determined that it is not fiscally responsible for the Agency to continue to absorb these losses. A proposed rule was published in the **Federal Register** (54 FR 3610) on January 25, 1989. The proposed rule provided for a 60-day comment period which ended on March 27, 1989. Two comments were received during the comment period, one favorable and one unfavorable. One commenter suggested that charging a fee for an uncollectible item would be inconsistent with the Agency goal of assisting low and very low income borrowers. We do not feel that implementing a charge which only compensates the Agency for its costs of processing the item is inconsistent with the Agency mission and, therefore, we cannot adopt the suggestion. This charge will only cover our costs of processing the item. We, therefore, are implementing regulations to charge a fee to individual borrowers for each uncollectible item. The fee is currently $7.00. Future changes to the fee will be based on studies of the actual cost to the Agency for processing these items. Future changes to this fee will not be published in the **Federal Register** but will be available from any FmHA office.

List of Subjects

7 CFR Part 1944

Home improvement, Housing and community development, Low and moderate income housing, Mobile homes, Mortgages, Rural housing and subsidies.

7 CFR Part 1951

Account servicing, Accounting, Collection of loan payments & depositing payments through the Concentration Banking System (CBS), Financial institutions, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing.

Therefore, chapter XVIII of title 7, Code of Federal Regulations, is amended as follows:

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

2. Exhibit D to subpart A is amended by revising item 12 to read as follows:

Exhibit D of Subpart A—Rural Housing Applicant Interview

* * * * *

12. *Monthly Payments:* Regular payments must be made on or before the due date. Normally, payments will be applied first to unpaid interest and the balance to principal. If a noninterest accruing administrative cost, such as a charge for an uncollectible check, has been charged to the borrower's account, payments will be applied to the outstanding administrative cost first. (The amounts of any such administrative charges are available from any FmHA office.) If for any reason a payment cannot be made on time, the borrower should immediately contact the local County Office.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

3. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Account Servicing Policies

4. Section 1951.6 is amended by revising paragraph (e)(4) to read as follows:

§ 1951.6 Handling payments.

* * * * *

(e) * * *

(4) If an uncollectible item is received, the Finance Office will reverse the amount from the borrower's account. The uncollectible item with a transmittal memorandum will be sent to the County Office. The County Office will return the uncollectible check to the borrower after it is fully redeemed. The borrower will make payment by sending a new check and a new payment coupon to the Finance Office. There will also be a noninterest accruing administrative cost charged to the borrower's account for uncollectible items due to insufficient funds. (The amounts of any such administrative charges are available from any FmHA office.) Therefore, the borrower's payment for the uncollectible item should be for the regular payment amount plus the administrative cost.

* * * * *

5. Section 1951.10 is amended by revising the introductory text to read as follows:

§ 1951.10 Application of payments on production-type loan accounts.

Employees receiving payments on OL, EO, SW codes "24," EM for subtitle B purposes, EE operating-type, and other production-type loan accounts will select, in accordance with the provisions of this section, the account(s) to which such payment will be applied. All payments on OL and EM loans approved on or before December 31, 1971, will be credited first to any administrative costs, then to noncapitalized interest, then to the amount of accrued deferred interest, and then to principal. All payments on all other loans including OL and EM loans approved after December 31, 1971, will be credited first to any administrative costs, then to noncapitalized interest, then to the amount of accrued deferred

interest, then to interest accrued to the date of the payment and then to principal, in accordance with the terms of the note. This section only applies after the County Supervisor determines the amount of proceeds that will be released for other purposes in accordance with the annual plan (Form FmHA 431-2) and Form FmHA 1962-1.

* * * * *

6. In § 1951.11, current paragraphs (d)(1)(i) and (d)(1)(ii) are redesignated as paragraphs (d)(1)(ii) and (d)(1)(iii), respectively, and a new paragraph (d)(1)(i) is added to read as follows:

§ 1951.11 Application of payments on real estate accounts.

* * * * *

(d) *Finance Office handling.*

(1) * * *

(i) Payments will be applied first to satisfy any administrative costs such as a charge for an uncollectible check. (The amounts of any such charges are available from any FmHA office.)

* * * * *

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

7. In § 1951.309, current paragraphs (b)(1)(i), (b)(1)(ii), (b)(1)(iii) and (b)(1)(iv) are redesignated as paragraphs (b)(1)(ii), (b)(1)(iii), (b)(1)(iv) and (b)(1)(v), respectively, a new paragraph (b)(1)(i) is added, and paragraph (b)(3) is revised to read as follows:

§ 1951.309 Receiving and applying payments.

* * * * *

(b) * * *

(1) * * *

(i) Administrative costs, such as a charge for an uncollectible check. (The amounts of any such administrative costs are available from any FmHA office.)

* * * * *

(3) *Extra payments and refunds.* Extra payments and refunds will be credited to the borrower's note account(s) as of the date of the Form FmHA 451-2, "Schedule of Remittances" and will be applied as prescribed in paragraph (b)(1) of this section, except that refunds will not be applied to administrative costs. Extra payments and refunds do not relieve borrowers from making their next scheduled payment.

Dated: September 7, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-26240 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 561, 563, and 567

[No. 89-340]

Regulatory Capital

Date: October 27, 1989.

AGENCY: Office of Thrift Supervision, Department of the Treasury.

ACTION: Interim final rule.

SUMMARY: The Office of Thrift Supervision is today publishing minimum regulatory capital regulations for savings associations as required by section 5(t) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(t). This rule includes requirements for minimum levels of tangible, core, and total capital for all savings associations. These capital regulations are another step in the process of establishing the minimum capital requirements for savings associations in order to promote the long-term health of both individual thrift institutions and the thrift industry as a whole.

EFFECTIVE DATE: December 7, 1989.

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I. Introduction and Background

The Office of Thrift Supervision (the "Office") is today, pursuant to the requirement of section 5(t) of the Home Owners' Loan Act, 12 U.S.C. 1464(t), promulgating uniformly applicable capital regulations for savings associations. These capital regulations are another step in the process of establishing the minimum capital requirements for savings associations in order to promote the long-term health of both individual thrift institutions and the thrift industry as a whole. The Office expects that savings associations will strive to attain and maintain levels of capital in excess of these requirements.

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Adequate capital is essential to the safe and sound operation of a savings association. It ensures that the owners, managers, and subordinated lenders of a savings association have a significant incentive to avoid loss as well as maximize gains. It is especially important that levels of capital be related to the risk of the activities in which a savings association engages. Linking the amount of an association's capital requirement to the overall riskiness of its assets is a more accurate method of ensuring that the association can afford to cover losses that may arise from such activities without becoming insolvent. This risk-based approach has been adopted by the federal banking regulators and is consistent with the international framework for capital standards established by the Basle Committee on Banking Supervision (commonly referred to as the "Basle Supervisors Committee") in July, 1988.

Activities that potentially have higher returns generally have such potential because of their higher risk of loss. Because higher risk/return activities can exhaust a savings association's capital faster than lower risk/return activities, savings associations engaging in higher risk activities should hold more capital to protect the federal deposit insurance fund and to provide appropriate incentives for prudent management. Likewise, institutions that engage in lower risk activities do not need as large a capital cushion and should be permitted to operate with a lower minimum capital requirement, consistent with protection of the insurance fund and the long-term safety of the thrift industry and the individual savings association.

The Office believes that savings associations operating with adequate capital have more incentive and are better positioned to evaluate the potential risks and rewards inherent in various activities. Thus, an association operating with more than minimum amounts of capital may be permitted a wider range of activities without as much direct regulatory restriction, subject only to supervisory review.

A. 12/88 Proposal

On December 15, 1988, the Federal Home Loan Bank Board ("Bank Board" or "Board") issued a risk-based capital proposal ("12/88 proposal"), which it promulgated for a ninety-day public comment period. Board Res. No. 88-1342, 53 FR 51800 (Dec. 23, 1988). The Bank Board held public hearings on this proposal on February 9 and 10, 1989. The Office reopened the comment period on this proposal from September 12, 1989, to September 22, 1989, in order to allow additional public comment on the effect of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101-73, 103 Stat. 183, ("FIRREA"), on this proposal. 54 FR 37944 (Sept. 14, 1989).

The Bank Board had also adopted two advance notices of proposed rulemaking on capital-related issues: (1) A standard for early regulatory intervention that would allow appointment of a conservator or receiver when a thrift institution is operating with substantially insufficient capital, 54 FR 826 (Dec. 30, 1988); and (2) an interest-rate risk component as part of a risk-based capital regulation, 54 FR 27885 (July 3, 1989). The Bank Board did not issue notices of proposed rulemaking on either issue. The Office believes both rulemakings should proceed. Thus, notices of proposed rulemaking on these issues will be published in the near future. Any changes adopted as a result of these or other related rulemakings will be incorporated into final capital regulations.

The 12/88 proposal was based in large part upon the joint notice of proposed guidelines published in March, 1988, by the Federal Reserve Board ("FRB"), the Office of the Comptroller of the Currency ("OCC"), and the Federal Deposit Insurance Corporation ("FDIC") (Collectively, "banking regulators" or "banking agencies") ("Joint Notice"), 53 FR 8550 (March 15, 1988) as supplemented by the final action of the Basle Supervisors Committee in July 1988 and indications in August 1988 of the way in which the banking agencies would resolve certain issues raised by the Joint Notice.

The 12/88 proposal would require savings associations to maintain capital against two risks: (1) Credit risk (which is primarily the risk that a debtor may default, causing a decline in value or loss on an investment); and (2) interest-rate risk (which is primarily the risk that changes in interest rates may cause the value of a thrift's asset and liability portfolio to decline). In addition, the proposal included a collateralized borrowings component designed to help protect the insurance fund against uncompensated risk that occurs because insurance premiums are levied against insured deposits rather than assets or total liabilities.

The Bank Board proposed that savings associations maintain capital in the amount of: (1) No less than 6% of risk-weighted assets (including both on- and off-balance sheet items) as protection against credit risk; (2) 50% of the change in the market value of the thrift's portfolio equity as a result of a two-hundred basis point shift in interest rates; and (3) 3% of collateralized borrowings. This capital requirement could only be satisfied by items falling within the definition of "regulatory capital." As proposed, regulatory capital consisted of core equity capital, primarily capital as defined by generally accepted accounting principles ("GAAP"), and supplementary capital, which contained certain other items that the Bank Board also believed would provide protection against risk or were required by statute or prior regulation to be included. The 12/88 proposal required that a thrift use "core equity capital" to satisfy at least one-half of its capital requirement. In addition to this risk-based capital requirement, the proposal set for savings associations a leverage ratio requirement; the leverage ratio of 2% of core equity capital to total assets.

B. FIRREA

On August 9, 1989, the FIRREA was enacted. It established the Office as the primary federal banking regulator for all savings associations and savings and loan holding companies. It abolished the Bank Board effective 60 days after the statute's enactment. Section 401(h) of the FIRREA provided that orders, resolutions, determinations, and regulations of the Bank Board in effect on the date of FIRREA's enactment were to remain in effect until modified, terminated, set aside, or superseded in accordance with applicable law by the appropriate successor agency. The Bank Board's notice of proposed rulemaking on regulatory capital is such a resolution and the Office has succeeded to that notice.

Section 301 of the FIRREA amended the Home Owners' Loan Act of 1933 ("HOLA"), by adding a new section 5(t), 12 U.S.C. 1464(t),[1] requiring the Office to promulgate, by November 7, 1989, regulations prescribing uniformly applicable capital standards for all savings associations. These regulations must be effective by December 7, 1989. Section 5(t) contains a number of provisions affecting the content of these capital standards, establishes transition rules for certain provisions, and sets forth certain consequences of failure to meet these standards. Most of these provisions are discussed in greater detail below in parts I.C., II, and III.

New section 5(t) requires the Office to establish uniform capital standards that require savings associations to satisfy

[1] Hereafter, the statutory capital provisions will be cited by reference to the appropriate sections of the HOLA.

three separate tests: A risk-based capital standard, a leverage ratio standard, and a tangible capital standard. Section 5(t)(1)(A). All three standards must be no less stringent than the capital standards applicable to national banks. Section 5(t)(1)(C). The risk-based capital standard, however, may deviate from the national bank risk-based capital standards "to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations" than would be required under the OCC standards. Section 5(t)(2)(C).

The statute requires the Office to use the same relevant substantive definitions as the OCC in these capital standards, with certain exceptions where the statute itself defines terms. Section 5(t) (9), (10). The statute contains specific provisions mandating the regulatory treatment of qualifying supervisory goodwill (section 5(t)(3)), purchased mortgage servicing rights (section 5(t)(4)), and subsidiaries of savings associations (section 5(t)(5)), including certain transition provisions. The statute also sets forth certain consequences of failure to meet these capital standards and allows savings associations to apply for exceptions and exemptions from some of these consequences. Section 5(t) (6), (7), (8).

C. Outline of regulation

1. Structure of Capital Regulations

The Office has reorganized and relocated its capital regulations, which appeared at §§ 561.13, 563.13, 563.14, 563.14-1, and 563.47 at the time of the 12/88 proposal, into a new part 567. It believes this new structure will make it easier for those applying or subject to these capital regulations to determine and understand their content.

New § 567.1 contains definitions of terms used in the capital standards and is derived from § 563.13(b) of the 12/88 proposal, section 5(t) of the HOLA, and 12 CFR part 3, appendix A, section 1(c). New § 567.2 sets forth the three-part capital tests that savings associations must satisfy and the transition period to the full phase-in of these standards. It is derived from former 12 CFR 563.13(a) (1988), § 563.13 (c) and (f) of the 12/88 proposal, and section 5(t)(1) of the HOLA. Corresponding sections in the OCC's final guidelines are located in sections 1(a), 1(b), and 4 of 12 CFR part 3, appendix A.

The permissible components of a savings association's capital base, including which items qualify as core capital, which items qualify as supplementary capital, and which items must be deducted in determining the savings association's capital base for purposes of the risk-based and leverage ratio standards are set forth in new § 567.5. This section is derived from § 561.13 of the 12/88 proposal and corresponds to 12 CFR part 3, appendix A, section 2.

The credit risk categories that are used in determining a savings association's risk-weighted assets appear at § 567.6. They have been derived from § 563.13(d) of the 12/88 proposal and section 3 of 12 CFR part 3, appendix A.

Section 567.8 contains the leverage ratio required by section 5(t)(2)(A) of the HOLA. It replaces the leverage ratio proposed at § 563.13(c)(2) of the 12/88 proposal. Section 467.9 sets forth the tangible capital requirement as set forth at section 5(t)(2)(B) of the HOLA and the calculation of the capital base for this requirement.

Section 567.10 contains the statutorily mandated consequences of a savings association's failure to meet any of its regulatory capital requirements. It is derived from section 5(t)(6) of the HOLA and § 563.13(g) of the 12/88 proposal. Section 567.11, which reserves certain authority for the Office, is derived from § 563.13(i) of the 12/88 proposal and 12 CFR 3.4.

2. Derivation of Capital Regulations

This rule contains elements that are specifically mandated by new section 5(t), elements that appeared in the Bank Board's 12/88 proposal, and elements that appeared in the OCC's final capital guidelines of January 27, 1989. The FIRREA capital provisions are the basic, guiding text for the Office's risk-based capital rule. With respect to any capital provisions not directly addressed in the statute itself, FIRREA requires the Office to use the OCC's capital standards as its benchmark for the standards it prescribes. The Bank Board had already taken the OCC's proposed capital guidelines, along with those of the other banking regulators, as its model for the 12/88 proposal. Much of the 12/88 proposal therefore anticipated FIRREA's requirement that thrift capital standards derive, in large measure, form those adopted by the OCC for national banks. Most of the changes form the 12/88 proposal fall into the following categories:

a. *Statutory resolution of an issue.* Section 5(t) of the HOLA requires the deduction of certain items from a savings association's capital base, such as goodwill, certain other intangible assets, and investments in certain subsidiaries. The statute also requires the consolidation of the assets of other subsidiaries in determining the savings association's capital requirements. It also provides that some assets must meet certain characteristics, often tied to the treatment of such assets by other banking regulators, most often the OCC, in order to qualify for special statutory treatment.

b. *Revisions based upon the OCC's treatment of an issue in its final guidelines.* Section 5(t) of the HOLA establishes the OCC's final risk-based capital guidelines as a benchmark for the Office's risk-based capital regulations. These final guidelines reflect certain changes from the Joint Notice. The Office has followed these final guidelines in resolving differences in most areas where the 12/88 proposal differed from the Joint Notice, such as the risk-weighting of Government National Mortgage Association ("GNMA") securities and the components of core capital.

c. *Revisions based upon responses to comments or the Office's experience.* Section 5(t) does not require the Office's risk-based capital regulation to be identical to the OCC's final capital guidelines. It specifically permits the Office to address different risks and to resolve certain issues differently from the OCC, provided that the Office's regulations are materially equivalent to the OCC's final guidelines and, thus, the capital standards applied to the thrift industry are no less stringent "in the aggregate" than those applied to national banks. The FIRREA Conference Report explicitly stated: "Both banking and thrift regulators have devoted considerable effort to the mutual development of risk-based capital standards. These efforts have demonstrated that the initial standards will evolve and be refined over time as the regulators and the regulated institutions gain experience with the appropriate standards applicable to the various investments made by depository institutions." H.R. Rpt. 101-222 (Aug. 4, 1989).

The Office has, therefore, reviewed the 12/88 proposal, the comments received thereon, and the supervisory experience of the Office's predecessor agency in addition to the OCC's final guidelines in addressing certain issues. As a result, it is assigning higher risk weights to some assets (such as loans ninety days past due and repossessed assets) and is assigning lower risk weights to others (such as privately issued mortgage-back securities of investment grade) than the OCC.

The Office believes that all of the issues resolved in this rule have been

adequately aired for public notice and comment as required by the Administrative Procedure Act, 5 U.S.C. 552, through the initial 90-day comment period on the 12/88 proposal (during

A savings association's risk-based capital requirement is calculated based on the credit risk presented by both its on-balance sheet assets and off-balance

be held against credit risk at the time it adopts an interest-rate risk requirement so that the overall risk-based capital requirement for the thrift industry,

companies; 34 trade associations; 11 law firms; 9 investment banking firms; 6 consultants; 6 mortgage insurance companies; 4 government corporations or agencies; 4 industry-related

The Office is adopting the position taken by the OCC: securities issued by GNMA are placed in the 0% risk-weighted category, to the extent they are backed by the full faith and credit of

have been added to the definition of high-quality mortgage-related securities.

3. Claims on and Balances Due from Federal Home Loan Banks, Federal

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adequately aired for public notice and comment as required by the Administrative Procedure Act, 5 U.S.C. 552, through the initial 90-day comment period on the 12/88 proposal (during which two days of public hearings were held) as well as the eight-day reopening of the comment period (during which the Office held another public hearing) after FIRREA was enacted. Because section 5(t)(1) requires the Office to adopt a final capital regulation not later than 90 days after enactment of FIRREA, there was not adequate time to both provide a longer comment period and comply with this statutory deadline. The Office invites additional comments, however, on this rule, and will consider any such comments in determining whether future revisions are appropriate. Additionally, where the regulation indicates that supervisory guidance will be provided to supplement portions of these regulations, the Office welcomes comments on matters that will be addressed in such guidance.

The Office anticipates publishing in the near future two notices of proposed rulemaking—one dealing with the appropriate risk-weighting of residential mortgage-related products and one dealing with interest-rate risk—which it anticipates will result in deviations from the OCC's final guidelines. It anticipates that any such deviations will better address the particular risks most common in thrift portfolios than would the OCC's final capital guidelines, which were crafted to address primarily the risks inherent in national bank portfolios.

3. Substantive Content of Capital Regulation.

The rule published today establishes three standards that a savings association must satisfy in order to meet its capital requirement: A leverage ratio of core capital to adjusted total assets, a tangible capital standard expressed as a percentage of adjusted total assets, and a risk-based capital standard expressed as a percentage of risk-weighted assets. Currently, the risk-based capital standard only addresses the credit risk inherent in the assets in a thrift's portfolio. There are other risks that are inherent in savings associations and their portfolios, even where assets may present little, if any, credit risk, such as operating risk, liquidity risk, and risk of fraud. The leverage and tangible capital requirements are intended to ensure that no matter how free from credit risk a savings association may be, it must maintain a minimum amount of capital measured in terms of its total assets as protection against these risks.

A savings association's risk-based capital requirement is calculated based on the credit risk presented by both its on-balance sheet assets and off-balance sheet commitments and obligations. With certain limited exceptions, the asset base of a savings association is determined on a consolidated basis, *i.e.*, including its subsidiaries. Assets are assigned a credit-risk weighting based upon their relative risk. Risk weights are generally tied to the nature of the underlying obligor.

The risk-weightings range from 0% for assets backed by the full faith and credit of the United States or that pose no credit risk to the savings association to 200% for delinquent or repossessed assets. Certain assets, such as equity investments after a limited phase-out period, are not included in the calculation of either the risk-based assets or the capital base of a savings association. In other words, certain assets require dollar-for-dollar capital backing. The Office recognizes that such treatment may encourage thrifts to put certain assets in a subsidiary where their investment may be levered. The degree of leverage, however, is determined by investors in the subsidiary who can evaluate the risk. The Office believes that it is more appropriate for the market (at the subsidiary level), rather than the regulator (at the parent level), to determine the capital required to back certain risky assets.

Off-balance sheet commitments are converted to a "credit equivalent" amount by using a conversion factor intended to estimate the likelihood that the contingent obligation will result in an actual obligation of the savings association and the potential size of loss such items may result in. That amount is then risk-weighted according to the risk associated with the underlying obligor, just as an on-balance sheet asset would be. The amount of risk-weighted assets will then be multiplied by a credit risk capital requirement to determine the minimum amount of capital required for that savings association. That requirement is phased-in over a limited number of years on a schedule similar to the one that will be effect for national banks.

Today's regulations, unlike the 12/88 proposal, do not contain capital requirements based upon a savings association's level of interest-rate risk or the amount of collateralized borrowings it holds. As indicated above, the interest-rate risk capital requirement will be addressed in a separate notice of proposed rulemaking. The Office intends to adjust the amount of capital that must be held against credit risk at the time it adopts an interest-rate risk requirement so that the overall risk-based capital requirement for the thrift industry, including credit and interest-rate risk components will be no less stringent than the minimum capital requirement imposed on national banks.

Section 1001 of FIRREA requires a study of the federal deposit insurance system to review the issue of whether collateralized borrowings should be added to the deposit insurance base. The Office believes that collateralized borrowings should, therefore, not be addressed in its capital rule at this time.

The rule also sets forth the items that count as capital and that may be used to satisfy the risk-based capital requirement. "Core capital" [8] includes items of a more permanent nature, such as common stockholders' equity and retained earnings. Certain other items provide a somewhat lesser degree of protection, often because of their nonpermanent nature or their imposition of fixed obligations. These items are considered "supplementary capital." [9] Together, the sum of core and supplementary capital equal a savings association's "total capital."

Although both core and supplementary capital may be used in meeting the risk-based capital requirement, the amount of supplementary capital that may be counted toward that requirement is limited to the amount of the association's core capital. Additional limits are placed upon certain types of supplementary capital, such as hybrid capital instruments that have some characteristics of both debt and equity and general loan and lease valuation loss allowances. These limits may restrict the extent to which these forms of supplementary capital may be used to satisfy the savings association's capital requirement. Items that are deducted from a savings association's asset base in determining its assets are also necessarily deducted from its capital since capital equals assets minus liabilities.

II. Summary of Comments

The Office received a total of 375 comment letters from 307 different commenters. Many commenters submitted more than one comment letter during the rulemaking process. Those who submitted comments included: 207 savings associations and related companies; 34 trade associations; 11 law firms; 9 investment banking firms; 6 consultants; 6 mortgage insurance companies; 4 government corporations or agencies; 4 industry-related companies; 3 multilateral lending institutions; one commercial bank; and one certified public accounting firm. Also received were 14 comments from students in a college financial intermediations class, one comment from a law firm representing credit card companies and one comment from a ratings service. Although comments received before August 8, 1989 addressed the Bank Board and those received after that date addressed the Office, this summary will, for consistency, refer throughout to the Office.

[8] Core capital is equivalent to OCC's Tier 1 capital as set forth in its final guidelines.

[9] Supplementary capital is equivalent to the OCC's Tier 2 capital as set forth in its guidelines.

A. Credit Risk Weightings

The overwhelming majority of commenters supported the 12/38 proposal to move to a capital requirement primarily based on a risk-weighted asset base. Commenters focused their attention on specific risk weightings as summarized below.

1. Full Faith and Credit Obligations

The 12/88 proposal placed obligations backed by the full faith and credit of the U.S. Government or its agencies in the 0% risk-weight category, except for mortgage-backed securities. As noted in the preamble to the 12/88 proposal, this treatment could lead to an anomaly whereby mortgages guaranteed by the Veterans Administration and Federal Housing Administration ("VA/FHA"), as federal agencies, would be placed in the 0% category, but the securities backed by those mortgages (GNMA securities) would be placed in the 20% category.

Commenters who addressed this issue agreed that GNMA securities should be placed in the 0% risk-weight category because they are backed by the full faith and credit of the U.S. Government and present virtually no credit risk to the insurance fund. A few commenters pointed out that loans guaranteed by the VA and FHA, in fact, present more risk to thrifts than GNMA securities.[6] Many commenters suggested that the Office follow the lead of the banking regulators and place GNMA securities in the 0% risk-weighted category and the underlying guaranteed mortgages in the 20% category.

The Office is adopting the position taken by the OCC: securities issued by GNMA are placed in the 0% risk-weighted category, to the extent they are backed by the full faith and credit of the United States Government, and mortgages guaranteed by the VA and FHA are placed in the 20% category (to the extent they are guaranteed by the FHA or VA). Obligations collaterlized by securities issued or guaranteed by the U.S. Government or one of its agencies remain in the 20% risk-weight category.

2. High Quality Mortgage-Related Securities

The 12/88 proposal defines high quality mortgate-related securities as mortgage-related securities qualifying under section 3(c)(41) of the Securities Exchange Act of 1934, commonly referred to as Secondary Mortgage Market Enhancement Act or "SMMEA" securities.[5] Several commenters raised the concern that the definition would not include Federal National Mortgage Association ("FNMA") and Federal Home Loan Mortgage Corporation ("FHLMC") mortgage-related securities. Other commenters suggested that the Office revise its definition because, as defined in the proposal, the term mortgage-related security would mean a security representing an interest in, or one secured by and payable solely from, mortgage assets. Thus, mortgage-backed bonds would be excluded because they are backed by, but not solely payable from mortgage assets.

The Office has re-examined the definition of high quality mortgage-related securities in response to these comments and has expanded its definition to specifically include mortgage-related securities issued by, or fully guaranteed as to principal and interest by, FNMA and FHLMC and mortgage-backed bonds. It has also concluded that for purposes of a 20% risk-weighting, high-quality mortgage-backed bonds (*i.e.*, mortgage-backed bonds rated in the top two investment grade ratings by a nationally recognized rating agency) present no more credit risk than high-quality mortgage-related securities. Thus, mortgage-backed bonds have been added to the definition of high-quality mortgage-related securities.

3. Claims on and Balances Due from Federal Home Loan Banks, Federal Reserve Banks and Domestic Depository Institutions

Commenters generally suggested that balances due from Federal Home Loan Banks and Federal Reserve Banks should be placed in the 0% risk-weighted category. Some commenters viewed deposits in these institutions as cash equivalents. Others expressed the view that a qualitative difference exists between deposits in a Federal Home Loan Bank or Federal Reserve Bank and deposits in a domestic depository institution that calls for a lowering of the risk-weight category for the former.

Some commenters suggested that balances due from domestic depository institutions should be broken down into two categories: Federally insured deposits and those that are uninsured. Insured deposits, according to these commenters, should be placed in the 0% category and uninsured deposits in the 20% category. The Office believes that Federal Reserve Bank reserves, balances and stock present little or no credit risk. Therefore, deposit reserves and other balances at Federal Reserve Banks as well as the book value of paid-in Federal Reserve Bank are placed in the 0% risk-weight category, consistent with the OCC's final guidelines. Claims on and balances due from Federal Home Loan Banks are placed in the 20% risk-weight category consistent with the treatment afforded these assets, as direct claims on a United States government-sponsored entity, under the OCC final guidelines. The Office has also decided that the entire amount of balances due from domestic depository institutions should remain in the 20% risk-weight category not only because the OCC places these assets in the 20% category, but also because of the difficulty of determining the amount of insurance coverage available on such deposits prior to an institution's liquidation.

4. Stock of Federal Home Loan Banks

Many commenters thought that stock in Federal Home Loan Banks should be placed in the 0% risk-weight category rather than the 20% category because it is a required investment for members of the Federal Home Loan Banks.

Federal Home Loan Bank stock remains in the 20% risk-weight category. The Office, after careful consideration of the comments, is reserving the 0% risk-weight category for assets which are backed by the full faith and credit of the

[6] One commenter stated that VA guaranteed loans pay the lender a maximum of $36,000 or 60% of the original principal amount, whichever is less. The FHA provides that lenders that do not default will receive only 80% of the value of such properties when they are assigned to the Department of Housing and Urban Development.

[5] Briefly, SMMEA securities are securities rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization and either: (1) Represent ownership of one or more promissory notes which are directly secured by a first lien on a single parcel of real estate and were originated by a savings association or similar institution supervised and examined by a Federal or state authority; or (2) are secured by one or more promissory notes which by its terms, provide for payments of principal in relation to payments on notes meeting the requirements in (1), above.

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United States Government and those assets that possess negligible credit risk and that have been placed in the 0% category by the OCC in its final guidelines.

5. 1–4 Family Residential Mortgages

The 12/88 proposal placed permanent 1–4 family residential first mortgage loans with loan-to-value ratios not exceeding 80% at origination in the 50% risk-weight category, unless they were backed by qualifying private mortgage insurance. All other 1–4 family residential loans were assigned to the 100% risk-weight category.

This aspect of the proposal drew a number of comments containing suggestions as to how to analyze risk characteristics of mortgage loans. Overall, commenters expressed concern that a 50% risk weighting for qualifying mortgages was too high, given historical loss experience, especially when compared with other common types of bank and thrift assets, such as commercial and consumer loans. Several commenters, in an effort to address this problem, supported a system of risk weighting that would measure risk in terms of loan-to-loan value ratios, loan seasoning, private mortgage insurance, geographic distribution, fixed versus adjustable rates, and a variety of other factors. Other commenters were concerned that the higher risk weighting of home loans compared to mortgage-backed securities would cause thrifts to hold securities rather than loans, thereby imposing unnecessary transaction costs. One commenter argued that this trend would drive up the cost of agency guarantees and, in turn, lead to higher costs to home buyers.

Several commenters provided anecdotal information regarding loss experience, but few provided data regarding the impact of each of these factors on the relative risk of mortgage loans. A few commenters provided statistics that demonstrate a correlation between the incidence of claims on private mortgage insurance and loan-to-value ratios. One private mortgage insurer stated that virtually all of the $250 million in claims paid out for the calendar years 1987–88 was made to policy holders with loan-to-value ratios greater than 80%.

Many commenters suggested that nonqualifying mortgages should be placed in the 50% risk-weight category after two years of timely payments. Statistics presented by one mortgage insurer, however, indicate that the risk of default on a mortgage peaks during the third and fourth year of the loan and remains significant into the sixth and seventh years. Other commenters agreed that a two-year seasoning does not significantly reduce the risk of default.

Some commenters thought it wise to distinguish between fixed-rate and adjustable-rate mortgages, especially those with "teaser" rates. Commenters suggested that 1–4 family residential mortgages with fixed rates and loan-to-value ratios of less than 50% presented virtually no risk and many suggested that they be placed in risk-weight categories lower than 50% (suggestions ranged from the 20% category to suggested new categories of 25% or 33%). It was suggested that adjustable-rate mortgages present a greater risk of default and, therefore, should be risk-weighted at a higher level (50% category). Mortgages with negative amortization features, some commenters argued, should be placed in the highest risk-weight category assigned to residential mortgages.

The Office received conflicting comments regarding the requirement that 1–4 family residential mortgages be insured by private mortgage insurance companies to an 80% loan-to-value ratio in order to qualify for a 50% risk weighting. Some commenters expressed strong support for the explicit use of private mortgage insurance as a condition for classifying home loans on the basis that self-insurance does not shift risk away from the federal insurance fund and hurts small-to-medium-sized thrifts that lack the resources to undertake a self-insurance program. Others supported the inclusion of self-insurance because, in their view, it is more cost effective and provides flexibility to nonstandard home buyers. One commenter suggested that the Office could require reserves of at least twice an institution's average annual loss experience to protect the federal deposit insurance fund from risks related to self-insurance programs.

With respect to the definition of qualifying mortgage loan, the preamble to the 12/88 proposal, stated that private mortgage insurance must be provided by an investment grade issuer approved by the FHLMC and FNMA. The proposed regulatory language did not, however, refer to the need for an investment grade rating. One commenter suggested that the Office amend the definition to include a requirement that issuers be rated by a national rating agency. Another commenter suggested that the Office drop the rating requirement because the rating agencies require that an insurer be in business for five years in some cases. Thus, a rating requirement would create a barrier to entering the private mortgage insurance business.

Many commenters asked the Office to clarify the term "1–4 family residence." Specifically, commenters sought clarification of the treatment of condominiums, manufactured housing, mobile homes and time-share arrangements.

The data submitted by commenters as well as the data available to the staff from their research suggest that, relatively, the risk weighting for mortgages is too high compared with the risk of credit loss from other types of loans. In particular, the credit risks associated with commercial, consumer, and agricultural loans appear substantially greater than the difference implied by a 50% versus 100% risk weight. It is less clear whether the appropriate response is higher weightings for those assets or lower weightings for the lowest risk of the residential mortgage assets. Competitive equality and the Basle accord, however, suggest that higher weights for commercial, consumer and agricultural loans by thrifts are not appropriate.

As a result, today's risk-based capital regulations retain a 50% risk weighting for qualifying 1–4 family residential mortgages, which is consistent with the OCC's final guidelines. The Office, however, will be proposing, in a separate rulemaking action, an optional "marginal capital" calculation method for 1–4 family mortgages and other residential mortgage-related assets designed to address the concerns expressed by commenters. The marginal approach would require higher capital as loan-to-value ratios rise and, thus, would recognize the direct relationship between loan-to-value ratios and credit risk. If the marginal capital approach is adopted, it will be an optional method of calculating capital requirements for 1–4 family residential mortgages.

The Office has incorporated the OCC definition of residential property to clarify the types of property considered residential for purposes of inclusion in the 50% risk-weight category. Residential property includes houses, condominiums, cooperative units, and manufactured homes. Boats and motor homes are not considered residential property, even if they are used as a primary residence. In addition, the Office has made clear in its definition that time-share properties do not qualify as residential property for this purpose.

With respect to the definition of qualifying mortgage loan, the Office has chosen to retain the 80% loan-to-value ratio requirement. It is the Office's experience that default rates increase dramatically as loan-to-value ratios rise above the 80% level. This experience was echoed by commenters who have analyzed mortgage default rates. Given these observations and the Office's long experience with the thrift industry and residential mortgage lending, the Office is adopting, in addition to the OCC standard of prudent underwriting, the 80% loan-to-value ratio requirement.

In addition, the Office has not chosen to require that issuers of private mortgage insurance also demonstrate an investment grade rating. Private mortgage insurers are already required to have FNMA or FHLMC approval. While the Office wants to ensure that mortgage insurance is provided by reliable issuers, it does not wish to create a barrier to entering the private mortgage insurance industry. The Office believes that FNMA or FHLMC approval should generally be adequate in this regard. The Office reserves the right, however, on a case-by-case basis, to deny "qualifying treatment" where circumstances merit.

The Office has not been presented with sufficient recent market data demonstrating, over a significant period of time, that adjustable rate and negative amortization mortgages present credit risks so appreciably higher than fixed-rate mortgages so as to merit placing them in a higher risk category. The data presented on seasoning as a possible factor in risk weighting mortgages leads the Office to the conclusion that such seasoning does not adequately lower the risk on high loan-to-value residential mortgages. Therefore, the Office is following the 12/88 proposal in both of these areas.

6. Home Equity Loans

The commenters who addressed the 12/88 proposal to place home equity loans in the 100% category uniformly argued that, if the home equity loan (or second mortgage) when combined with the first mortgage, has a loan-to-value ratio of less than 80%, then the loan should fall within the 50% risk-weight category. These commenters argued that the risk involved with home equity loans is related to the combined loan-to-value ratio of the first and second lien, not the fact that the loan represents a second lien. Some commenters took the position that these loans are, in fact, less risky because institutions have the opportunity to review the payment history and appraisal comparables in well-established neighborhoods.

The Office addresses this issue in its proposal regarding the marginal capital option for mortgages. The Office encourges comments on the proposed treatment of home equity loans under the marginal approach. In the meantime, the Office is leaving home equity loans in the 100% risk-weight category, consistent with OCC final guidelines.

7. Multifamily Housing

The 12/88 proposal, like those of the federal banking agencies, placed multifamily housing in the 100% risk-weight category. This proposal drew a great deal of criticism, most of which centered on the need to provide multifamily housing. Many commenters argued that the principal purpose of the thrift charter is to provide affordable housing. These commenters said, in support of their arguments, that approximately 40% of the nation's population lives in multifamily housing, and in particular, in buildings with 5–20 units. One commenter claimed that these 5–20 unit buildings account for 55% of all apartment units in the United States and, therefore, the Office should encourage thrift lending on this type of housing.

These commenters also criticized the proposal for placing loans for multifamily housing in the same category as commercial, consumer and construction loans. Several commenters urged that apartment loans on such buildings are well suited to the underwriting expertise of thrifts in the community and should be placed in a lower risk-weight category. It was suggested by many that high-quality multifamily loans should be placed in the 50% risk-weight category. Others suggested a 75% risk-weight category for multifamily mortgage loans.

High quality multifamily loans were characterized by commenters as first liens [6] with loan-to-value ratios of not exceeding 80%. Some commenters would add to this definition of qualifying multifamily loans one or more of the following criteria: Balloon payments, if any, should not be payable within 7 years of origination; at least one year of seasoning during which the loan must have a favorable payment history; stabilized occupancy; a fixed interest rate or, if it is a loan with adjustable rate, a debt coverage ratio of at least 1.1:1 for the first year and 1.2:1 for the second year.

The Office has determined that sufficient evidence exists to demonstrate that certain multifamily housing loans are not as risky as commercial and other standard risk loans. Such housing-related loans are, the Office believes, particularly within the ability of savings associations to evaluate and underwrite appropriately. In the rule, the Office has defined the "qualifying multifamily housing loans" to include loans on existing multifamily housing properties containing 5–36 units with a loan-to-value ratio of 80% or less and a stabilized occupancy over the preceding year of at least 80%. The regulation places these qualifying multifamily housing loans in the 50% risk-weight category. All other multifamily housing loans remain in the 100% risk-weight category.

The Office notes that, while the definition of "qualifying multifamily mortgage loan" does not require any specific debt coverage ratio, the Office will retain the flexibility to deny a lower risk weighting to any multifamily mortgage loan that it finds, through the supervisory process, to have inadequate debt service coverage.

8. Derivative Securities and Mortgage Servicing Rights

The 12/88 proposal treated the credit risk of interest-only and principal-only portions of mortgage-related securities in the same manner as the underlying securities. Any interest-rate risk inherent in these instruments would be captured by the interest-rate-risk component of the proposed rule. Commenters generally agreed with this approach and argued that the same treatment should be afforded to mortgage-related securities with residual characteristics, which had been placed in the 100% risk-weight category, regardless of the underlying collateral.

Several commenters pointed out that there are many types of residuals, each having distinctly different reactions to movements in interest rates. Because of these differences, the commenters suggested that it would be arbitrary to treat all residuals in the same manner by placing them in the 100% credit-risk category regardless of type. Rather, there was substantial support for risk weighting residuals according to the credit risk inherent in the security and allowing for the interest-rate-risk component to provide additional capital based on their interest-rate sensitivity.

Commenters also believed that excess and purchased servicing rights should be assigned to the risk-weight category applicable to the underlying collateral. Several commenters expressed the opinion that excess and purchased servicing rights behave like interest-only strip securities because the risk of prepayment is the predominant risk inherent in servicing rights. That risk, they argued, is adequately covered in the interest-rate-risk component of the 12/88 proposal.

[6] Or first and subordinate lien if no intervening liens were in existence.

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The Office agrees that the interest-rate-risk component that will be proposed shortly will address most of the risk inherent in residuals as well as interest- and principal-only portions of mortage-related securities. Until the interest-rate-risk component is finalized, however, the Office has, in accordance with the OCC final guidelines, placed these three instruments in the 100 percent risk-weight category. In effect, the higher 100 percent risk weighting reflects both interest-rate and credit risk. After the interest-rate-risk component is promulgated, the credit-risk weights assigned to these assets will be revisited to more clearly reflect the distinction between credit risk and interest-rate risk. At that time, the Office anticipates that the credit-risk weighting of interest-only, principal-only and residual securities will be revised to reflect the credit risk associated with the underlying collateral. Likewise, the Office has kept excess and purchased mortgage servicing rights in the 100 percent risk-weight category pending further action on the interest-rate-risk component.

Commenters who addressed the FIRREA's effect upon the treatment of purchased mortgage servicing rights under the risk-based capital rule generally favored using book value rather than the 90 percent of fair market value suggested by FIRREA. The use of book value, commenters argued, would provide a level playing field with FDIC-insured banks. Moreover, it would eliminate the problems involved with establishing acceptable valuation techniques. Several commenters asserted that a uniform mechanism for determining a fair market value or purchased mortgage servicing rights on a quarterly basis does not currently exist. Thus, until such methods are developed, wide variations in the calculations are likely to exist, causing additional supervisory resources to be spent reviewing valuations.

Commenters noted that 90 percent of fair market value would, in some cases, exceed book value. While some commenters favored using 90 percent of fair market value even if it exceeded book value, others suggested that allowing this would cause an association to report inflated capital positions, inconsistent with GAAP.

Many commenters asked for clarification that excess mortgage servicing rights are not considered intangible assets and, thus, are not subject to the limitations placed on purchased mortgage servicing rights.

The OCC's final guidelines provide that purchased mortgage servicing must, for capital adequacy purposes, be valued at the lower of either the current amortized book value or the current market value as established as part of the bank's annual audit. The Office acknowledges the concerns of those commenters that stated that there exists no uniform mechanism for valuing purchased mortage servicing. The cost of purchased mortgage servicing is a relevant indicator of value for these assets that the Office believes should be considered in setting capital requirements. However, in order to be consistent with FIRREA and the treatment of servicing under the OCC's final guidelines, the rule values purchased mortgage servicing at the lower of 90 percent of fair market value to the extent that it is determinable, 90 percent of original cost (*i.e.*, the fair market value at the time of purchase) or the current amortized book value as determined under GAAP, whichever is lower and places such rights on the 100 percent risk-weight category.

The Office also wishes to clarify that excess mortgage servicing rights are not considered an intangible asset under GAAP and, thus, are not subject to the limitations placed on purchased mortgage servicing rights in the rule. Accordingly, excess mortgage servicing rights are currently placed in the 100 percent risk weight category, consistent with the OCC's treatment.

9. Corporate Debt Securities

The 12/88 proposal requested comment regarding the risk weighting of corporate debt securities that are rated below investment-grade. These securities are often referred to as "junk bonds." The 12/88 proposal placed these securities in the 100 percent risk-weight category, but explicitly requested comment on whether the securities should be treated in the same manner as equity risk investments, which were placed in the 300 percent risk-weight category in the proposal.

Commenters had sharply divided views on the riskiness of these securities. Some commenters maintained that a higher risk-weight is needed because the market for these securities is less liquid than the market for investment grade securities and factors outside the control of the purchaser can cause wide swings in the price of the securities. The majority of commenters, however, suggested that the Office keep these securities in the 100 percent risk-weight category, arguing that they are at least as safe as commercial loans due to the disclosure information that accompanies a high-yield bond offering, the comparative value of high-yield bonds and commercial loans in the event of default, and the existence of a secondary market for the bonds.

Since the publication of the 12/88 proposal, Congress, in section 222 of FIRREA, has amended the Federal Deposit Insurance Act to require savings associations to divest themselves of (or transfer under certain conditions) any corporate debt securities not of investment grade no later than July 1, 1994. This requirement will cause most savings associations to account for most of their holdings at the lower of cost or market ("LOCOM") value. Where GAAP requires LOCOM, the calculation of regulatory capital will also require LOCOM treatment for junk bonds. In light of these requirements, the Office will keep these securities in the 100 percent risk-weight category.

10. Real Estate Owned

All of the comment letters addressing this issue strongly opposed the proposed 200 percent risk-weight for real estate owned ("REO"). The major criticism related to the existing rules for classifying and valuing REO. Under GAAP and Office rules, REO must be written down to its fair value at the time it is acquired. It then must be periodically re-valued and carried at the lower of cost or net realizable value. Commenters argued that the periodic marking to market should be sufficient protection. They characterized the 200 percent risk weight as a double reseve penalty that would be unfairly assessed against the entire industry to protect against the over-valuation practices of a small group of institutions. These commenters argued that the problem would be best handled through increased supervision and enforcement of existing guidelines to prevent the over-valuation of REO and to examine more closely the need for annual reappraisals.

Some commenters asserted that the only legitimate rationale for a 200 percent risk weight is the concern that the values may decline during the holding period. They argued, however, that this factor is built into the evaluation, using net realizable value analysis, that is mandated when the foreclosed asset is recorded on the balance sheet. They argued that REO, because of the explicit write-down, is less risky than a bad loan that has not been revalued.

Commenters also asserted that REO is the most critically evaluated asset in the thrift portfolio because it appears as the result of foreclosed loan. In addition to undergoing review when the loan was underwritten, the asset is reviewed under GAAP when taken in, then closely

tracked, and periodically revalued. They noted that given the REO's status as a nonperforming asset, the thrift has an incentive to dispose of it as quickly as possible under reasonable terms. These incentives ast as further protection to the insurance fund.

Commenters also argued that REO has substantially lower loss experience than commercial and land loans, which would be in the standard 100 percent category. Many suggested that the REO be given the same risk weight as the underlying asset before foreclosure. Most commenters, however, requested the standard 100 percent risk weighting for repossessed real estate that has been assigned by the banking regulators.

Many comment letters warned that the super-risk weighting of REO might exacerbate incentives to dispose of it, and might possibly result in wholesale "dumping" of these assets. This, they argued, would depress local markets, ultimately harming thrifts and the insurance fund.

Concern was also expressed regarding the treatment of delinquencies. It was argued that the proposal would give thrifts a strong incentive to avoid taking over a property if higher capital were required of REO than delinquent loans, especially where it would be appropriate course of action.

Supervisory experience indicates that portfolios of GAAP insolvent thrifts tend to have a high relative proportion of REO. Data demonstrates that REO is much riskier than standard loans and may be overvalued on many thrift's books. While REO is acquired at fair value, from that point on it is carried at the lower of that value or net realizable value. However, such assets are eventually sold at market value, which is generally lower. The REO has thus, because of accounting conventions, been carried at an artificially high value. In addition, REO can be viewed as an equity investment by the savings association, which the Office believes necessitates a higher capital charge. The Office has, therefore, chosen to keep REO in the 200 percent risk-weight category.

The Office agrees that it should minimize disincentives for thrifts to foreclose on property. Today's rule places all loans 90 days or more past due in the 200 percent risk-weight category, except for 1–4 family residential mortgages which are in the 100 percent risk-weight category. In effect, once a loan is delinquent, its risk weighting doubles to reflect the increased risk of loss to the savings association. Therefore, standard-risk loans assigned to the 100 percent risk-weight category would, once delinquent, be assigned to the 200 percent category; qualifying mortgage loans assigned to the 50 percent category would, by definition, no longer qualify for the lower risk weighting once delinquent and would be assigned to the 100 percent category.

11. Equity Investments

The 12/88 proposal provided for the creation of a 300 percent risk-weight category to contain "net equity-risk investment." This included all investments defined as equity-risk investments ("ERI") pursuant to 12 CFR 563.9–8 (*i.e.*, investments in equity securities, service corporations, operating subsidiaries, and real estate, as well as certain high-ratio land loans and nonresidential construction loans.) In addition, the proposed definition included as net ERI any direct credit substitutes by a savings association of the obligations of its subsidiaries or service corporations, plus any ownership interests in an investment company that has any assets in its portfolio that would qualify as ERI if held by the savings association.

A few comments unequivocally supported the proposal as presented, or supported application of the alternative, dollar-for-dollar exclusion method. Virtually all of the respondents, however, took issue with some aspect of the ERI proposal. The major concern expressed in the comments was that the capital regulations should distinguish among risks associated with different types of ERI. The need to differentiate was asserted to be especially acute, given the unusually high risk category. Moreover, it was argued, the special risk presented by thrift investments in ERI is already adequately addressed by the existing ERI regulation; any inadequacy would be better addressed through amendments to that rule, rather than by "penalizing" such investments through the capital regulation.

In addition, commenters also claimed that the failure to "grandfather" existing ERI could heavily penalize an institution's profitability even though that thrift has been conducting those investments in a safe and profitable manner. Some thrifts suggested exemptions from the 300 percent risk weighting for such existing portfolios generally, or, alternatively, where a successful track record can be shown. Commenters argued that failure to have some type of grandfathering would disrupt the economic substance of existing transactions.

The evidence submitted in support of differentiating the risks of ERI was anecdotal, asserting that particular equity-risk investment activities had been conducted profitably and with minimal losses. Some commenters cited the Bank Board's February 10, 1989 report to Congress, asserting that direct investments have not been responsible for more than a fraction of the Federal Savings and Loan Insurance Corporation ("FSLIC") resolution costs. Commenters gave particular attention to thrifts' real estate financing through loans and equity participations in partnerships and service corporations and identified a number of other specific types of ERI for exemption from the 300 percent risk-weight category, asserting that they have a proven record of profitable investment without more than the standard credit risk. These include investiments in data processing companies, credit card receivable service bureaus, insurance brokers, discount securities brokers, and property management companies.

Many commenters suggested that an investment in any company that is doing an activity that would be directly permissible for the thrift (*e.g.*, mortgage origination or holding REO) should be afforded a pass-through treatment (*i.e.*, treated as if the parent were doing the activity directly). This treatment was also suggested for out-of-state activities that must be done through subsidiaries, although they would be permissible in-state for the thrift directly. If the subsidiary engages in more than one enterprise, then commenters suggested pass-through treatment on a pro-rata basis. In support of this proposal, commenters asserted that indirect investments in lines of business that the thrift can do directly have no greater risk associated with them when conducted through a subsidiary or partnership. Indeed, it was argued that the corporate separation may in fact reduce the risk to the thrift and the insurance fund.

Some commenters also suggested that certain kinds of equity securities could be exempted from the 300 percent category and given a lower weighting. In particular, equity securities of FNMA and FHLMC, were cited as high yield, but lower risk securities. Commenters also requested lower risk weighting for mandatorily redeemable preferred stock. Although these instruments technically are equity securities, commenters asserted that both GAAP and the capital markets are said to treat them as debt issuances which have the same risk as corporate bonds and commercial loans, since they enjoy priority over common stockholders both in liquidation and periodic returns through their sinking fund. Commenters also suggested exempting collateralized preferred stock

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from this category. They argued that such stock is less risky than ordinary equity securities since it is collateralized by unencumbered mortgages or mortgage-backed securities in an amount at least equal to the liquidation preference of the preferred stockholders.

In FIRREA, Congress has specifically limited the ability of state-chartered savings associations to make equity investments in an amount or of a type not permitted for Federal savings associations. The FIRREA also required the divestiture of most equity investments as quickly as prudently possible, but not later than July 1, 1994. See FIRREA, section 222, adding a new section 28(c) to the Federal Deposit Insurance Act. The Office has carefully considered this issue and has determined that, in light of this clear Congressional concern with the potential riskiness of such investments as evidenced by the required eventual divestiture of many equity investments, it is appropriate to treat equity investments in a similar manner to the treatment of investments in subsidiaries that engage in activities as a principal that are not permissible for a national bank, *i.e.*, to phase out such investments from capital calculations over a five-year period. During this transitional period, today's rule places those equity investments includable in assets (and, thus, in capital) in the 100 percent risk-weight category.

This approach will help to ensure that the thrift maintains adequate capital against its equity investments and, until such investments are divested, it will encourage early divestiture. Additionally, it will ensure adequate capital for those equity-type investments that do not fall within the FDIC's definition of "equity investment" and therefore may still be permissible investments for savings associations.

12. Consolidation

The 12/88 proposal stated that, for purposes of determining the asset base for applying the new capital rule, the Office would require thrifts to use the consolidation method as required by GAAP to report investments in subsidiaries and service corporations and the assets and liabilities of such companies. The consolidation method is consistent with the banking regulators' requirement that banks generally consolidate the assets and liabilities of a bank and its majority-owned subsidiaries to calculate capital requirements.

In connection with the proposed consolidation requirement, the 12/88 proposal discussed an alternative "exclusion method" for thrift investments in equity risk investments, including investments in service corporations and operating subsidiaries. This exclusion method was proposed for consideration as an alternative to the 300 percent risk-weighting of ERI. Under the exclusion method, an institution's investment in subsidiaries (including loans and advances to subsidiaries) is not counted in the thrift's risk-weighted asset base and, thus, is effectively "added" to the capital requirement of the institution. This method in effect would require thrifts to provide capital for their investment in subsidiaries on a dollar-for-dollar basis with their own capital rather than leveraging that investment with insured deposits. 53 FR 51606.

Various commenters opposed the use of the exclusion method for equity-risk investments since it amounts to a dollar-for-dollar capital requirement for permissible investments. Commenters also sought clarification about how the proposed consolidation requirement would be implemented. Some commenters were concerned that consolidation might be implemented in a way that would result in double counting of the consolidated assets of the subsidiary and the parent thrift's investment in the subsidiary.

FIRREA provides that the assets and liabilities of subsidiaries engaged in activities that are not impermissible for national banks must be consolidated with those of the parent savings association for purposes of determining the parent thrift's compliance with its capital standards. Section 5(t)(5)(E). A savings association's investments in or extensions of credit to a subsidiary engaged in activities as principal that are not permissible for national banks must be deducted from the association's assets for purposes of determining compliance with the capital standards required under section 5(t)(1). Section 5(t)(5)(E). If the subsidiaries were engaged in impermissible activities as of April 12, 1989, however, FIRREA provides schedule for phasing-out the inclusion of such investments over a five-year period. During this transitional period, today's rule requires associations to consolidate on a prorated basis (after accounting for the deduction of investment that has occurred) the assets of such subsidiaries.

The consolidation requirement stated in the 12/88 proposal would apply to special purpose finance subsidiaries as well as service corporation and other operating subsidiaries. As part of this proposal, the Board felt that it could delete, as unnecessary, § 563.13-2 which separately treats finance subsidiary issuances for purposes of the current liability-based capital regulations. Under current § 563.13-2, the amount of securities issued through a finance subsidiary is exempted from the capital regulation's liability base if it substantially duration-matched; i.e., the issued securities are collateralized by assets that have substantially the same duration as the securities issued, or the securities were remitted in exchange for a liability issued by the parent thrift which was otherwise includable in the parent's regulatory capital liability base. Under the proposed consolidation requirement of the new risk-based capital rule, the relatively low credit risk of finance subsidiary assets would be accounted through direct application of the risk weighting to these assets, with any maturity mismatch being covered by the interest-rate risk component. See 53 FR at 51804.

Several commenters took specific exception to the possibility of including finance subsidiaries in the proposed new consolidation requirement. They argued that consolidation of finance subsidiary which issued collateralized mortgage obligations ("CMOs") or real estate mortgage investment conduits ("REMICs") makes little economic sense given the essentially non-recourse financing. They contended that sale-of-assets treatment should carry over to the consolidation requirement. Commenters found application of risk-weighting, through consolidation, to the assets of finance subsidiaries troublesome since the Board had encouraged use of these special purpose financing vehicles through the special rules and exclusions (*e.g.*, they are currently excluded from the calculation of required regulatory capital). Commenters noted that there is virtually no interest-rate risk, given the duration matching, and very little credit risk, given the highly rated assets. Thus, many commenters requested that any finance subsidiaries utilized prior to the new capital rule be grandfathered, with no capital being required against such existing assets. Section 5(t)(5) does not establish a separate treatment for finance subsidiaries. Therefore, the Office is removing the separate treatment for such subsidiaries located in 12 CFR 563.13-2 (c) and (d) (1988). Investments in these subsidiaries will be treated for regulatory capital purposes in the same manner as investments in other subsidiaries. Because the rule risk weights the assets of the finance subsidiary, the separate treatment of such subsidiaries is made unnecessary. Although the 12/88 proposal would have removed this section entirely, the Office has determined that only the paragraphs which affected the computation of regulatory capital should be removed.

13. Off-Balance Sheet Items

a. *Asset sales with recourse; senior/subordinated structures.* The majority of comments addressing this point opposed the 12/88 proposal's treatment of asset sales with recourse and the subordinated portions of senior/subordinated securities. The 12/88 proposal treated an asset sale with recourse, if not already included on the balance sheet, as an off-balance sheet risk financing, rather than a sale of assets. In other words, capital would be required against the full amount sold, even if the buyer had recourse against the savings association for less than the full amount. Retention of the subordinated portion of a senior/subordinated loan structure or securities was treated in the same manner, *i.e.*, capital was required against both the senior and subordinated portions.

Commenters argued that the proposed treatment of these instruments would destroy the secondary market for mortgages, which they characterized as currently providing much-needed liquidity for thrifts and keeping costs to the consumer down. Many commenters viewed the proposed treatment of these assets as unduly harsh. Some suggested that the Office consider placing the subordinated portions of senior/subordinated structures in a higher risk-weight category to account for the increased incidence of risk inherent in subordinated pieces rather than requiring both the originating thrift and thrifts purchasing senior pieces to hold capital against the same assets.

Many commenters argued for treatment consistent with the banking agencies, especially where assets are sold with recourse to GNMA, FNMA and FHLMC. The banking regulators, by referring to the call report instructions for national banks regarding the treatment of these assets, appear to exempt mortgages sold to these agencies from the capital requirements regarding asset sales with recourse.[7] Commenters contended that the 12/88 proposal would, if made effective, create a competitive disadvantage that would be detrimental to the continued viability of thrifts. They argued that the proposal would seriously impede institutions that cannot originate adjustable-rate mortgages from purchasing them on the secondary market, resulting in weakened institutions and a greater threat to the health of the insurance fund. At a minimum, commenters favored the grandfathering of all outstanding senior/subordinated structures and asset sales where recourse exists.

The Office has given careful consideration to the issues raised by commenters and has attempted to address a number of these concerns in the marginal capital proposal that it will shortly be publishing. For purposes of this rule, however, the Office is adopting its proposed position because it believes that it more accurately recognizes the significant risks in this area than the alternatives suggested by commenters. The Office notes that banking regulators are moving toward the Office's position in proposed modifications to the call reports prepared by national banks and, thus, may alleviate the potential competitive disadvantages between thrifts and banks. The Office wishes to clarify that, for purposes of this regulation, asset sales with only standard representations and warranties will not be considered sales with recourse. In instances where a savings association swaps with recourse mortgage loans in exchange for a FHLMC or FNMA participation certificate ("PC"), the mortgage loans are to be converted and risk weighted in accordance with this regulation; the on-balance sheet PC is not required to be capitalized. Subordinated portions of senior/subordinated securities will be treated similarly.

b. *Commitments.* The 12/88 proposal would assign a 0% conversion factor to unused commitments that are unconditionally cancelable and that the institution will review before extending. All other commitments would be assigned to a 50 percent conversion factor. Many commenters preferred the assignment made by the banking regulators in their final guidelines which assigned all commitments with a maturity of less than one year to the 0 percent conversion factor. Several others asked that the Office exempt mortgage commitments from this capital requirement, particularly because the life of such commitments is short and, in the opinion of these commenters, the requirement would result in increased costs to the consumer.

Many commenters believed that commitments to sell loans should offset commitments to make loans. Several commenters expressed the view that loans in process and undisbursed portions of construction loans should not be included in the capital calculation.

A few commenters asked the Office to clarify that the term "unconditionally cancelable" refers to an institution's ability to cancel a commitment unconditionally if it retains its rights to the full extent permitted under Federal law. Such a clarification would ensure that state law impediments to cancellation would not cause a commitment automatically be assigned to a 50 percent conversion factor.

In today's rule, the Office's treatment of commitments is consistent with the banking regulators' treatment. Therefore, unused commitments with an original maturity of one year or less have a 0 percent credit conversion factor. Unused commitments with an original maturity of greater than one year are also assigned a 0 percent credit conversion factor, if they are unconditionally cancelable and the savings association has the contractual right to make, and does make, a separate credit decision based upon the borrower's current financial condition before each drawdown. Unused portions of retail credit card lines that are unconditionally cancelable by the savings association in accordance with applicable law are also in the 0 percent credit conversion category, as are unused portions of home equity lines of credit that are unconditionally cancelable in accordance with federal law. A 50 percent credit conversion factor is assigned to unused portions of commitments, including home equity lines of credit, with an original maturity exceeding one year.

c. *Interest-rate contracts.* Under the 12/88 proposal, the credit-equivalent amount of interest-rate contracts was the current exposure, or replacement cost of the contract as determined by its current market value at the end of the reporting quarter. The credit-equivalent amount is assigned to the 20 percent or 50 percent risk-weight category, depending on the nature of the obligor.

Several commenters thought that this provision was duplicative of the interest-rate-risk component. One commenter was concerned that the interest-rate-risk component would encourage the use of interest-rate contracts to manage risk but the risk weighting of off-balance sheet interest rate contracts would discourage the use of this tool for risk management. Another commenter suggested that the interest-rate-risk component should make it clear that assets that are fully hedged by an interest-rate swap transaction should be excluded from the

[7] The staff of the OCC has informed this Office, however, that this was not the intent of the regulation and that it does not intend to exempt such mortgages sold with recourse from its capital rule.

calculation of a savings association's value of portfolio equity.

One commenter thought that the proposed treatment of interest rate contracts was too broad. This commenter stated that, under most

pledging of assets. The proposal contained a 3 percent capital requirement for such liabilities.

Commenters uniformly expressed the opinion that: (1) Collateralized

that the Director has discretion as to whether such assets may be treated as capital to the extent previously authorized, "if such treatment would be no less stringent than the treatment OCC provides for national banks." H.R.

percentage limitation method generally applauded the elimination of this amortization rule. They viewed the existing rule as unnecessarily arbitrary, claiming that the market for these

access to this segment of the capital markets.

Some commenters argued that the Office should offer thrifts a choice, with regard to existing maturing capital,

All outstanding maturing capital instruments at any given point in time, except for those grandfathered under the current rule, must be treated for capital calculation purposes entirely under

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calculation of a savings association's value of portfolio equity.

One commenter thought that the proposed treatment of interest rate contracts was too broad. This commenter stated that, under most circumstances, the counterparty to an interest rate swap will post collateral in the form of a bond or is a counterparty of investment-grade quality. Given these circumstances, the commenter argued that there is no risk to the savings association or to the federal insurance fund.

Several commenters discussed the netting aspect of the proposal. One commenter suggested that, where a savings association has more than one contract with the same counterparty and some have mark-to-market gains and others mark-to-market losses, the contracts should be netted and the resulting amount used as the base for the capital calculation. Another commenter suggested that the rule should allow for netting positive and negative replacement costs of contracts.

The Office, in today's regulation, has continued to treat interest-rate contracts and exchange-rate contracts in the same manner as the OCC.

B. Interest-Rate Risk

The 12/88 proposal contained an interest-rate risk component designed to take into account, for capital calculation purposes, the effect that a change in interest rates would have on the value of the thrift's portfolio. The interest-rate risk component was the subject of a separate advance supplemental notice of proposed rulemaking published on June 22, 1989. The Office has received a number of comments regarding interest-rate risk in response to the 12/88 proposal as well as the advance notice. It believes that interest-rate risk is far too important a risk in most savings association's portfolios to ignore until the banking agencies reach a consensus on this issue. The Office is therefore preparing a notice of proposed rulemaking on the interest-rate risk component. That rulemaking will discuss and respond to all the comments it has received on the issue. Thus, discussion of comments related to interest-rate risk are not included in this rulemaking.

C. Collateralized Borrowings

The 12/88 proposal contained a collateralized borrowing component that required capital for liabilities against which the savings association has pledged specific assets, pledged to maintain a specific value of assets, or for which the structure of a transaction could otherwise result in an effective pledging of assets. The proposal contained a 3 percent capital requirement for such liabilities.

Commenters uniformly expressed the opinion that: (1) Collateralized borrowings do not increase the risk exposure of the federal deposit insurance fund; (2) the proposal would result in double-counting; (3) the proposal would put thrifts at a competitive disadvantage vis-a-vis banks; and (4) a liability-based capital requirement has no place in a regulation that measures the riskiness of assets to determine capital requirements.

After careful consideration of the comments on this issue, the Office has determined that the problems presented by collateralized borrowings are more appropriately addressed in conjunction with issues related to insurance premium assessments. The Office notes that Congress has specifically instructed the Secretary of the Treasury to study the issue and determine whether collateralized borrowings should be added to the deposit insurance base as part of its overall study of the deposit insurance system. FIRREA, section 1001(b)(4). The collateralized borrowings portion of the proposed risk-based capital rule does not, therefore, appear in today's rule.

D. Core capital

Several comments addressed issues relating to the components of capital generally. Some of these comments involved some form of grandfathering for those components of regulatory capital that are no longer components of risk-based capital standards. It was suggested that the Office follow the OCC in permitting certain elements of Tier 2 capital in Tier 1 through 1992. Another commenter requested that infusions of non-cash assets, such as real estate, that were approved as capital before FIRREA's enactment in connection with supervisory acquisitions should be grandfathered as capital. Several comments were received asking that FSLIC-preferred stock and income capital certificates ("ICCs") be placed in core capital.

This Office is strongly committed to ensuring that solid capital protection is provided by its capital requirements. Because supplementary capital elements provide less protection than is expected of core capital, this Office declines to follow the OCC with regard to allowing certain elements of supplementary capital to satisfy core capital requirements during the transition period.

With respect to the inclusion of contributed assets in core capital, the FIRREA Conference Report makes clear that the Director has discretion as to whether such assets may be treated as capital to the extent previously authorized, "if such treatment would be no less stringent than the treatment OCC provides for national banks." H.R. Rpt. 101-222 at 405. Like the OCC, this Office will examine such requests on a case-by-case basis.

The rule includes FSLIC preferred stock and ICCs in supplementary capital, rather than core capital, because of the small degree of protection they provide. For this reason, this Office declines to place such items in core capital, but has placed them, along with mutual capital certificates and net worth certificates, in supplementary capital.

Finally, one commenter suggested that this Office permit both noncumulative and cumulative perpetual preferred stock in core capital. This Office, for reasons discussed below, will follow the OCC by permitting only noncumulative perpetual preferred stock in core capital and assigning cumulative perpetual preferred stock to supplementary capital.

This Office, in accordance with its mandate under FIRREA, has classified the following elements as core capital (less deductions from core capital set forth in § 567.5(a)(2)): Common stockholder's equity (including retained earnings); noncumulative perpetual preferred stock and related surplus (as conditioned in footnote one of § 567.5); minority interest in the equity accounts of consolidated subsidiaries; and nonwithdrawable accounts and pledged deposits that meet the conditions of § 567.5(a)(1)(iv).

E. Maturing Capital Instruments

Several commenters supported the proposed approach of limiting to a fixed percentage (10–20 percent) of total capital (including maturing capital instruments) the amount of maturing capital instruments includable as supplementary capital for each of seven years remaining to maturity. Others supported the alternative set forth in Appendix A of the 12/88 proposal ("Appendix A") that established a schedule of amortization tied to the amount of the particular institution's level of tangible capital. 53 FR at 51813, 51817. A third group argued for retaining the existing provisions without substantive amendment, at least for currently outstanding issuances of mature capital instruments.

Under existing capital regulations, the portion of qualifying subordinated debt that may count as capital is reduced by one-seventh over each of its seven years to maturity. Supporters of the proposed

percentage limitation method generally applauded the elimination of this amortization rule. They viewed the existing rule as unnecessarily arbitrary, claiming that the market for these instruments has now grown to the point where there is substantially less risk that refunding would be a problem.

Some commenters argued that the percentage limitation on maturing capital includable as supplementary capital should be raised to 20% (or higher). In addition to the industry need for flexibility in raising capital, these commenters argued that in the event of a thrift's liquidation, the maturing capital instruments, regardless of remaining maturity, give the insurance fund the same protection as common stock and retained earnings.

Some comment letters favored the alternative method set forth in appendix A of tying inclusion of maturing capital instruments to tangible capital. Several commenters felt that regardless of which percentage the Office selected in the percentage limitation proposal, the formula could easily produce abrupt, sizable shifts in the amount of a savings association's maturing capital instruments that qualify as capital. They preferred the appendix A's predictable and regular annual decreases as the instrument approaches maturity.

Other reasons offered by commenters for favoring the appendix A method included the desire to avoid the transaction costs of refinancing instruments after they have less than seven years remaining to maturity. They asserted that it also gives more flexibility to thrifts to finance their operations with shorter maturity instruments, which generally are less expensive. Furthermore, in the view of some commenters, the proposed percentage formula might disadvantage smaller thrifts whose dollar amount in total regulatory capital would be relatively low even if their percentage of capital to assets exceeds required minimums.

A number of commenters supported retention of the existing amortization schedule. Although some hoped for continuation of this schedule for future issuances, these commenters argued strongly for the grandfathering under the existing schedule of maturing capital instruments that had already been issued. They argued that the existing subordinated debt structure of thrifts was planned according to the current amortization rule, including long range plans for replacing those funds with equity capital. These commenters warned that the unexpected disruption could further damage thrifts' general access to this segment of the capital markets.

Some commenters argued that the Office should offer thrifts a choice, with regard to existing maturing capital, between the existing amortization method and the method finally adopted.

Commenters urged that any "grandfather" provision should include all maturing capital instruments that either were issued, or for which an application had been filed under the existing regulations, as of December 23, 1988, the date of publication of the risk-based capital proposal. For these issuances, commenters urged, the savings association should be able to elect seven-year amortization treatment under the existing regulation. They claimed that inclusion of filed applications, as well as outstanding issuances, would avoid the expense of having to renegotiate and restructure these pending issuances.

After consideration of the comments received on this issue, the Office has determined that it will treat subordinated debt issuances that were in existence as of the date of promulgation of this risk-based capital rule under the provisions that were in effect as of November 6, 1989. Thus, for any existing subordinated debt, institutions may continue to use the seven-year amortization. For any future issuances of subordinated debt or any other maturing capital instrument, the Office is allowing savings associations to choose, when the application to issue the debt is made, between the treatment contained in its 12/88 proposal and the treatment adopted by the OCC in its final risk-based capital guidelines, subject to the requirement that all maturing capital instruments outstanding at any point in time must be treated the same way and such treatment documented.

Under the first option, based on the proposal, the allowable percentage of maturing capital that a savings association could include as a component of supplementary capital that matured in any given year would be limited to 20% of the savings association's capital. The alternative that mirrors the OCC rule provides that, at the beginning of each of the last five years of the life of subordinated debt, the amount eligible to be included as supplementary capital is reduced by 20% of the original amount of the subordinated debt. The decision as to which treatment an issuance will receive must be made by the issuing savings association at the time of the application and is irrevocable as to that issuance.

All outstanding maturing capital instruments at any given point in time, except for those grandfathered under the current rule, must be treated for capital calculation purposes entirely under either the OCC treatment or the Office's treatment. Thus, if a savings association wishes to issue new maturing capital instruments using the OCC option while it has an outstanding issuance that is subject to the Office's treatment, it may not do so. Only when the entire first issuance matures may the association change its option with respect to the second issuance. This is because the two alternatives focus on different aspects of these instruments, *i.e.*, the OCC treatment looks at each individual maturing capital issuance while the OTS treatment looks at all outstanding maturing capital instruments.

F. General Valuation Loan and Lease Loss Allowances

As proposed, the inclusion of general loss allowances as supplementary capital would be limited to 1.25% of risk-weighted assets, the limitation imposed by the banking regulators as of December 31, 1992.

Some commenters took exception to the 1.25% limitation. They argued that these reserves are available to absorb future losses and should be included as supplementary capital without limitation. Several commenters requested that all specific loan loss allowances, not just general reserves, be counted toward capital up to the percentage limit.

On the other hand, some commenters supported the proposed limit, if not an even more stringent limitation. Under GAAP, loan loss allowances are established against estimable and probable losses. Thus, thrifts are likely to call upon these when actual losses occur.

The OCC permits inclusion of the allowance for loan and lease losses up to a maximum of 1.5% of risk-weighted assets for the period from December 31, 1990 until December 30, 1992. This allowance is equivalent to the Office's general loan loss allowance. Therefore, the Office will permit the use of general loss allowances up to a maximum of 1.50% of risk-weighted assets until December 30, 1992 and 1.25% of risk-weighted assets thereafter. Any general loss allowances that are not included in assets are deducted from total risk-weighted assets. Because savings associations do not have general valuation allowances in the amounts that banks have, and have not relied on them as part of capital to the same extent, the Office is placing the 1.5%

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limitation in effect immediately, rather than delaying it until December 1990.

G. Revaluation Reserves

The 12/88 proposal also requested comment as to whether revaluation reserves (*i.e.*, the unrealized appreciation in fixed assets and long-term equity investments) should be includable as supplementary capital. Because the OCC does not include revaluation reserves (or an equivalent) in supplementary capital and such treatment would be inconsistent with generally accepted accounting principles, the Office declines to include revaluation reserves in the components of capital.

H. Goodwill

The 12/88 proposal placed all goodwill in the 200% risk-weight category. Most commenters took issue with this proposed treatment. The strongest opposition came from a number of institutions that participated in supervisory mergers during the early 1980s. Commenters that were not involved in supervisory mergers opposed the treatment of goodwill as an asset and effectively as capital, arguing that to allow such laxity in the capital requirements would subvert the proposal's purpose of creating a stronger and more prudent capital structure for the industry.

Congress has addressed the issue of goodwill in great detail in FIRREA. New Section 18(n) of the Federal Deposit Insurance Act, added by section 221 of FIRREA, provides that no Federal banking agency is to allow any depository institution to include any unidentifiable intangible asset (*i.e.*, goodwill) acquired after April 12, 1989 in calculation of capital except as permitted under section 5(t). In general, the Office is required to follow the lead of the OCC, which deducts goodwill from capital except for pre-1985 goodwill which is grandfathered. FIRREA, however, provides for a 5-year phase-out and a maximum 20 year straight-line amortization of qualifying supervisory goodwill as a component of core capital. Under the terms of FIRREA, the phase-out can only be utilized by "eligible" savings associations, *i.e.*, those that are well-managed, in compliance with all applicable statutes, regulations, orders and supervisory agreements, and not involved in transactions that threaten the safety and soundness of the savings association. See section 5(t)(3)(B).

The definition of supervisory goodwill was the subject of some concern among commenters. The Act did not define the term supervisory goodwill, however, there was a great deal of congressional discussion of what constitutes supervisory goodwill for purposes of the statutory transition rule. Unfortunately, there is conflicting legislative history in this area. The majority of commenters addressing this issue urged the Office to adopt the definition used in the House Banking Committee Report [8] which, they argue, was fashioned to assure a reasonable transition for all institutions with supervisory goodwill approved by the Bank Board. Many commenters argued for an even broader definition that would include goodwill that resulted from a merger or acquisition of "problem" institutions.

Some commenters suggested that savings associations be deemed eligible unless or until the Director makes a determination that the association does not meet the eligibility requirements. The main concern expressed by commenters was that savings associations and supervision staff would be pressed to submit and review applications for eligibility and business plans required under section 5(t)(6)(A) of FIRREA in such a short time-frame.

In addition, a few commenters requested that the Office allow the netting of goodwill and discounts as reported in the Thrift Financial Report. Clarification was also sought regarding the inclusion of supervisory goodwill in the calculation of tangible capital.

In today's regulation, the Office is defining supervisory goodwill to include not only institutions that failed their capital requirements but also institutions that presented supervisory concerns. The Office defines eligible savings associations in accordance with FIRREA and is including a provision deeming savings associations with supervisory goodwill to be eligible savings associations until notified otherwise by the Director. The Office believes this treatment is consistent with congressional intent while this asset is being phased out of capital.

The Office has not provided for the netting of goodwill and discounts in the rule because to do so would neither comply with GAAP nor OCC standards. Under the provisions of FIRREA, the Office cannot include supervisory goodwill in the calculation of tangible capital.

[8] The House Report defines supervisory goodwill as that goodwill "resulting from the acquisition, merger, consolidation, purchase of assets or other business combination of any savings association where the market value of the assets acquired was less than the market value of the liabilities at the time of the transaction and where the accounting treatment of the goodwill has been approved by the Federal Home Loan Bank Board." H.R. Rpt. 101-54, Part I at 432.

While FIRREA arguably provides the Office with the flexibility to grandfather certain goodwill as a component of supplementary capital, and such grandfathering would be consistent with the current OCC rules, the Office believes that such a position would not conform with congressional intent. The Office's regulation, therefore, requires the deduction of non-supervisory goodwill and the phase-out over 5 years of qualifying supervisory goodwill. Thus, non-qualifying goodwill will be deducted immediately upon the effective date of the regulation and qualifying supervisory goodwill will be phased-out over the five-year statutory schedule.

I. Leverage Ratio

The 12/88 proposal contained a 2% leverage ratio designed to protect institutions with relatively riskless assets from losses that could occur due to mismanagement or fraud. The OCC's final risk-based guidelines did not contain a similar leverage limit [9] FIRREA provides that the Office adopt a leverage limit of not less than 3 percent. The Act also, as mentioned previously, requires the Office to adopt capital standards that are no less stringent than those applicable to national banks. The OCC has a required capital ratio of 5.5% of primary capital and 6% of total capital under its current capital rule. The issue of what the leverage ratio for savings associations should be after the enactment of FIRREA has been the subject of much comment.

The overwhelming majority of comments the Office has received supported the adoption of a 3% leverage ratio. Commenters argued that the legislative history of FIRREA supports their position. They argued that because the current OCC ratio refers to primary capital rather than core capital (which consists of fewer elements that provide better protection to the insurance fund) it does not make sense to require such a high ratio to the risk-based capital framework. In fact, they argue, to do so would be to defeat the aim of a risk-based approach: To lower capital requirements by lowering the risk in the association's asset portfolio.

The Office has concluded that the 3% leverage ratio prescribed by FIRREA should be promulgated effective at the same time as the risk-based capital requirement. It is difficult to draw a comparison between the OCC's current primary and total capital leverage ratios and the core capital leverage ratio

[9] The OCC has proposed to adopt a 3% leverage ratio effective when the risk-based capital rule takes effect. 54 FR 46394 (Nov. 3, 1989).

prescribed by FIRREA because the components of primary and of total capital differ significantly from the components of core capital. *Compare* 12 CFR 3.2(c) (definition of primary capital) *with* 54 FR at 4179 (OCC definition of Tier 1, or core, capital). The Office concludes, however, that its own definition of core capital, which emulates the OCC's, is more stringent for savings associations than the OCC's definition of primary capital is for national banks. For example, national banks may include allowances for loan and lease losses in primary capital. These allowances are not permissible as core capital either for banks or for savings associations.

Moreover, the application of the primary and total capital ratios would actually result in a rule that is inconsistent with the overall pattern of the capital provisions of the statute. Embedded in section 5(t) of the HOLA is a clear pattern that calls for savings associations to steadily increase capital over the next 5 years. Thus, for example, capital must increase as supervisory goodwill phases out and as the exclusion rule applicable to investments in certain subsidiaries phases in. Empirical data show, however, that the application to thrifts of the primary and total capital ratios currently in effect for national banks would cause more savings associations to fail their capital requirement than will fail under a 3% core capital leverage limit. Thus, imposition of the primary and total capital ratios would cause capital requirements to "spike" up immediately upon the rule's effective date, and then recede if and when the Comptroller adopts a 3% leverage ratio. This result would be inconsistent with the apparent statutory scheme of a gradual, but continually increasing, capital requirement.

The FIRREA requires savings associations to comply with a core capital leverage ratio no less stringent than that applicable to national banks. Since such a limit is not yet applicable to national banks, as discussed above, savings associations need not yet comply with this future standard. The FIRREA, however, as discussed, specifies a minimum 3% core capital leverage ratio in the absence of such a currently applicable OCC standard.

The Office believes it is appropriate to adopt a 3% leverage limit in tandem with its risk-based capital standard. The Comptroller has reasoned that this leverage limit is appropriate, when applied in combination with a risk-based standard, because, while the leverage limit provides protection against certain risks not addressed by the risk-based rule, "the risk-based standard should be the primary focus in determining the adequacy of a bank's capital." 54 FR at 4170. The Office believes it is consistent with the safe and sound operation of savings associations to require application of the two rules together.

J. Phase-in

The 12/88 proposal provided that savings associations must hold 2% of total assets in the form of core equity capital and 80% of their risk-based capital requirement by January 1, 1991. Fully phased-in risk-based capital would have been required by January 1, 1993 under the proposal. A number of commenters considered this phase-in schedule too optimistic and, indeed, unrealistic given current capital markets and the negative publicity regarding savings and loans. A variety of time tables were suggested ranging from an additional two to ten years to provide for a smooth transition from current capital requirements to a risk-weighted capital rule.

A number of these comments have been rendered moot by the FIRREA. The capital regulations will be effective on December 7, 1989, as provided by FIRREA, section 5(t)(1)(D). The Office is providing a transition period from December 7, 1989 to December 30, 1990 that requires savings associations to maintain capital in an amount greater than or equal to 80% of the amount they will be required to maintain on or after December 31, 1992. Between December 31, 1990 and December 30, 1992, all savings associations will be required to maintain capital in an amount greater than or equal to 90% of the amount they will be required to maintain on or after December 31, 1992. All savings associations will be required to satisfy the fully phased-in risk-based capital requirement by December 31, 1992.

III. Discussion of Regulation

A. Definitions

FIRREA instructs the Office to include in its capital standards "all relevant substantive definitions" that the OCC has established for national banks, subject to the following special rule: "If the [OCC] has not made effective regulations defining core capital or establishing a risk-based standard, the Director shall use the definition and standard contained in the [OCC's] most recently published final regulations." HOLA, section 5(t)(10)(A) and (B).

In accordance with the statutory mandate, the definitions contained in the regulation correspond, for the most part, to the definitions prescribed by the OCC in its recent final guidelines. Some definitional sections have been modified to reflect the differences between the terminology used in the thrift and banking industries. In particular, the term "general valuation loan and lease loss allowances" is used to refer to "allowances for loan and lease losses" and the term "retained earnings" is substituted for "undivided profits." The term "capital surplus" is not specifically mentioned because such surplus is accounted for in common stockholders' equity. Other defintions have been added to reflect statutory provisions regarding, among other things, the treatment of qualifying supervisory goodwill as a deduction from capital and the requirement for separate capitalization for certain subsidiaries.

The definition of "adjusted total assets" is based on the OCC's definition at 12 CFR 3.2(a), but is modified to reflect the treatment of investments in subsidiaries and qualifying supervisory goodwill under FIRREA.

The Office has retained the definition of "depository institution" with a modification to clarify that savings and loan holding companies are not considered depository institutions.

The term "eligible savings association" is largely taken from the provisions of FIRREA governing the inclusion of supervisory goodwill in core capital. The Office has provided that associations will be deemed eligible unless notified otherwise.

B. Components of Capital

FIRREA requires different capital components for each of the three capital standards: The risk-based capital standard, the leverage ratio capital standard, and the tangible capital standard. The risk-based capital standard may be satisfied by a specified combination of core capital and supplementary capital. The leverage ratio standard must be satisfied with core capital. The tangible capital requirement must be met with tangible capital.

1. Core Capital

Core capital incldues common stockholders' equity, retained earnings, noncumulative perpetual preferred stock [10] (less contra accounts such as

[10] Preferred stock issued by a savings association or subsidiary that is, in effect, collateralized by assets of the savings association or one of its subsidiaries is not considered part of capital, regardless of its cumulative or noncumulative characteristics.

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shareholder receivables), and minority interests in the equity accounts of consolidated subsidiaries. For purposes of the core capital calculation, there are special rules regarding the deduction from core capital of certain intangibles.

Common stockholders' equity is a "permanent," *i.e.*, nonmaturing or nonredeemable, source of protection for the savings association and the deposit insurance fund. Common stockholders' equity includes common stock, additional paid-in capital and retained earnings.

The 12/88 proposal defined core capital to include "perpetual preferred stock," [11] without distinguishing between cumulative and noncumulative preferred stock. The OCC's final guidelines make such a distinction and only permit noncumulative preferred stock to be considered as Tier 1 (core) capital. Because section 5(t)(10) requires the Office to follow the definition of core captial in the OCC's final risk-based capital guidelines, the Office's rule includes only noncumulative perpetual preferred stock in core capital, notwithstanding this Office's belief that cumulative preferred stock serves the functions of equity capital for savings associations equally well from a public policy perspective.

Noncumulative perpetual preferred stock differs from common stockholders' equity primarily in that there is a fixed requirement to pay dividends. It has no maturity and holders of such stock are residual owners of a savings association rather than creditors. A savings association cannot be forced into insolvency by its requirement to pay dividends on this preferred stock, since the obligation to pay dividends can be suspended when the savings association encounters financial difficulties. The treatment of noncumulative perpetual preferred stock as core capital and cumulative preferred stock as supplementary capital is consistent with the standards adopted in July, 1988, by the Basle Supervisors' Committee and with the definition of capital that the OCC has adopted.

Core capital includes minority interests in equity accounts of fully-consolidated subsidiaries unless the Office determines in the case of a particular savings association that it does not provide a cushion to absorb losses. This could occur, for example, where the minority interest consists of a preferred interest in the subsidiary.

[11] The regulation excepts preferred stock that is, in effect, collateralized by assets of the savings association or one of its subsidiaries. See discussion below.

Core capital also includes any pledged deposits or nonwithdrawable accounts that meet the same criteria as noncumulative preferred stock; *i.e.*, they are includable if there is no maturity and the obligation to pay interest (*i.e.*, dividends) can be suspended when the savings association encounters financial difficulties. Such items generally belong to the directors of mutual savings associations and are pledged to the savings association. They often perform the same function for those savings associations that preferred stock performs for stock savings associations. Nonwithdrawable and pledged accounts that do not meet the same criteria as noncumulative perpetual preferred stock may be counted toward supplementary capital. Per section 5(t)(3), core capital also includes, until December 31, 1994, goodwill (FSLIC Capital Contributions) resulting from prior regulatory accounting practices. This goodwill is gradually phased out over this five year period.

a. *Deductions from core capital.* Generally, for purposes of the core capital requirement, all intangible assets are excluded from assets and must therefore be deducted from core capital. Nevertheless, FIRREA permits certain items to be included in assets and, therefore, does not require such items to be deducted in core capital calculations as discussed below.

The OCC permits those intangibles that meet its three-part test to be included in assets. 54 FR 4168, 4179 (Jan. 27, 1989) (Deductions from Tier 1 capital at (c)(2)). The Office will accordingly permit, on a case-by-case basis, savings associations to include those intangible assets that qualify under the three-part test, 12 CFR 567.5(a)(2)(ii), in assets up to 25% of core capital, except for purchased mortgage servicing rights, which are treated separately by the statute and thus by these regulations.

FIRREA made separate provision for inclusion in assets of two types of intangibles: Qualifying supervisory goodwill and purchased mortgage servicing rights. The amount of qualifying supervisory goodwill that may be included by an eligible association [12] in assets and, therefore, need not be deducted from core capital, may not exceed the applicable percentage of adjusted total assets set forth in the following table:

[12] "Eligible savings association" is defined at 12 CFR 567.1(h).

	Percent
Prior to January 1, 1982	1.500
January 1, 1981–December 31, 1982	1.000
January 1, 1983–December 31, 1983	0.750
January 1, 1984–December 31, 1994	0.375
Thereafter	0

FIRREA also specifically provides for inclusion of purchased mortgage servicing rights in assets. Purchased mortgage servicing rights may be included in assets (i.e., there is no deduction from core or tangible capital) only to the extent allowed by the FDIC. In the Joint Explanatory Statement of the Committee of Conference, [13] House and Senate conferees indicated that, in calculating core capital for the three capital standards, the Office "shall permit" savings associations to treat purchased mortgage servicing rights in a manner no less stringent than they are treated under regulations prescribed by the FDIC and the OCC. The conferees referred to the OCC's standards with respect to purchased mortgage servicing in discussing the qualitative standards for marketability, valuation, and separability of such servicing that the Office "may prescribe" for the capital standards of savings associations. The conferees specifically stated, however, that the capital standards for savings associations should not be limited to OCC quantitative standards for tangible capital. The Office will therefore rely on the FDIC's quantitative standards for the treatment of purchased mortgage servicing rights, modified to comport with the provisions of FIRREA. At present both the OCC and the FDIC apply the same qualitative standards, which this Office intends to follow: If, however, one of these regulators were to revise its qualitative standards, this Office would take appropriate action.

b. *Deductions from core and tangible capital.* Section 5(t)(5) of the HOLA requires that investments in certain nonincludable subsidiaries must be deducted, in increasing amounts, in determining compliance with all capital standards established under section 5(t)(1) over a five year phase-out period. This rule, therefore, deducts such investments for purposes of determining a savings association's tangible and core capital pursuant to § 567.5(a)(2) and § 567.9(c). Nonincludable subsidiaries are, generally, those engaged as principal in activities not permissible for national banks.

Any subsidiary that is engaged in activities permissible for a national

[13] H.R. Conf. Rep. No. 101-222, 101st Cong., 1st Sess. 405 (1989).

bank or is engaged in activities not permissible for a national bank, but solely as an agent, or is itself a depository institution (acquired directly or indirectly before May 1, 1989) will be consolidated with the parent for purposes of capital and deduction of the investment in the subsidiary is not required. Where the association has a ownership interest not consolidated under GAAP in a subsidiary engaged in permissible activity, the consolidation is prorated. That is, the association's percentage interest in the subsidiary is multiplied by the subsidiary's assets and the resulting amount is consolidated with the parent association. The assets consolidated in this manner are placed in the 100% risk-weight category. When the association has a majority interest in a subsidiary, assets are fully consolidated. The assets of the majority-owned subsidiary are risk-weighted in the same manner as assets of the parent.

With respect to subsidiaries that are engaged in activities that are not permitted for national banks, FIRREA requires that all of an association's investments in such subsidiaries so engaged after April 12, 1989 must immediately be deducted from assets. For subsidiaries engaged in such activities prior to April 12, 1989, the Act provides a transition period whereby associations must deduct a certain percentage of their investments in such subsidiaries each year. By July 1994, all investments in subsidiaries engaged in activities not permitted for national banks must be deducted from assets and, thus, capital. During the phase-in of this requirement, the rule requires that the assets of subsidiaries that engage in activities not permitted for national banks (where the amount of the investment has not been fully deducted) be consolidated on a prorated basis to the extent of the remaining investment. Thus, during the phase-in period, associations must multiply their ownership interest in a subsidiary engaged in activities not permitted for national banks by the subsidiary's assets and by that portion of its investment that is not deducted under the phase-in schedule. This treatment applies to all investments in subsidiaries whether the association's investment constitutes a minority or majority interest.

When a savings association, after May 1, 1989, acquires a depository institution, either directly or through a subsidiary, the sole investment of which is a depository institution or institutions, the savings association's investment in the lower tier depository institution (or intermediate subsidiary) will be deducted in determining capital compliance under all three capital standards unless the lower tier depository institution is engaged solely in activities permissible for a national bank or the Office determines that the capital requirement for the parent savings association would be higher if the assets and liabilities of the parent and subsidiary were consolidated. Where the Office creates such a determination, assets and liabilities of such lower tier subsidiaries will be consolidated with those of the parent savings association for purposes of determining compliance with capital standards, pursuant to sections 5(t)(5)(A) and 5(t)(5)(E).

Where such investments have been acquired before May 1, 1989, regardless of whether the lower tier depository institution is engaged in activities not permissible for a national bank, the investment will not be deducted in determining capital compliance, pursuant to section 5(t)(5)(C)(ii). While section (5)(t)(5)(E) does not require the Office to consolidate such subsidiaries with the parent savings association for purposes of determining compliance with capital standards, neither that section nor section (5)(t)(5)(C) requires the Office to treat such investments in a particular way, leaving that determination to the Office. The Office is aware of a colloquy between Senators Garn and D'Amato on this issue on August 4, 1989 that indicates that the statute does not require such consolidation and that the capital requirements should be applied separately to each savings association. See Cong. Rec. S. 10199 (Aug. 4, 1989). The Office is very concerned, however, about the "double leveraging" of capital by savings associations inherent in such structures if such investments are not consolidated. Additionally, the Office wishes to minimize any incentives the parent savings association may have to only minimally capitalize the lower tier depository institution. While the Office believes that the exclusion treatment for non-depository institution subsidiaries, depending upon their activities, is appropriate, in part because such treatment does encourage savings associations to minimize such investments, it believes that depository institution subsidiaries should be more than minimally capitalized. The Office therefore has determined to require consolidation of the assets and liabilities of such subsidiaries with those of the parent savings association for purposes of determining capital compliance. Such treatment is consistent with the FDIC's general treatment of investments in subsidiaries representing majority ownership in another federally insured depository institution. See 54 FR 11511 n.10 (March 21, 1989).

2. Supplementary Capital

Supplementary capital elements count towards a savings association's total capital up to a maximum of 100% of the association's core capital. Supplementary capital elements are divided into three categories: permanent capital instruments, maturing capital instruments, and general valuation loan and lease loss allowances.

Core capital is the most permanent form of capital and places the least amount of fixed obligations on the savings association. It therefore provides the best protection for the savings association and the insurance fund. Nevertheless, there are circumstances when issuing equity can prove to be expensive in terms of the savings association's future ability to raise capital and, therefore, detrimental to a savings association. Depending on market conditions, the issuance of equity securities by a savings association may prove to be very costly in comparison to other methods of raising capital, such as the issuance of debt. The Office continues to believe such other instruments should be included as components of capital for purposes of meeting capital requirements. Thus, the definition of total capital should enable savings associations to raise a portion of their capital from less costly sources when appropriate.

Supplementary capital is comprised of those debt or equity instruments that are not as permanent as or have less certain value than the components of core capital. Supplementary capital components include: mandatory convertible subordinated debt (both capital notes and commitment notes), net worth and capital certificates, perpetual subordinated debt, mandatory redeemable preferred stock, qualifying subordinated debt, and general valuation loan and lease loss allowances.

Perpetual preferred stock is preferred stock without a fixed maturity date that cannot be redeemed at the option of the holder. With one exception, discussed below, perpetual preferred stock instruments qualify for inclusion in supplementary capital. Cumulative perpetual preferred stock qualifies as supplementary capital, as discussed above, consistent with the OCC's determination to exclude such preferred stock from its Tier 1 (core) capital.

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Preferred stock with a dividend rate that is periodically reset in an auction-type process to reflect the creditworthiness of the issuer [14] is included as supplementary capital only, regardless of whether dividends are cumulative or not. Furthermore, in order to meet the definition of perpetual preferred stock, the issue may not be redeemed at the option of the holder of the instrument or have other provisions that would require future redemption of the stock.

An exception to the inclusion of perpetual preferred stock in supplementary capital is the preferred stock issued by a savings association or subsidiary that is, in effect, collateralized by assets. Because this stock has a claim on assets that is senior to that of the FDIC, such instruments do not qualify as capital.

Mutual capital certificates, net worth certificates, and income capital certificates remain in supplementary capital as set forth in the 12/88 proposal.

Pledged deposits and nonwithdrawable accounts generally belong to the owners or directors of the savings association and are pledged to the association. Because owners of such instruments are subordinated to the savings association, they are included in either core or supplementary capital, depending upon whether they could satisfy the same criteria as noncumulative preferred stock.

a. *Transition Rules for Maturing Capital Instruments.* The characteristics of maturing capital instruments require some form of special provision for their inclusion in capital. These instruments present a refunding risk to the savings associations that issue them. If these types of instruments are not refunded they could cause a precipitous reduction in the capital position of a savings association. For this reason, the amount of maturing capital instruments eligible for inclusion in supplementary capital is limited or discounted as the investment approaches maturity.

The Office is establishing two categories of rules for the inclusion of maturing capital instruments in supplementary capital. The first rule applies to all maturing capital instruments issued by savings associations on or before November 7, 1989. The second category applies to maturing capital instruments that were issued after November 7, 1989. Under the second category, a savings association issuing such instruments has two options from which to choose. One option focuses upon the amount of all outstanding maturing capital instruments that will mature in a particular period as a percentage of capital. The second focuses upon the amortization of each particular issuance. Once an association selects an option, however, that option applies to all maturing capital instruments subsequently issued by the association for as long as there is a balance outstanding of post-November 7, 1989, issuances. Only when the balance of post-November 7, 1989, maturing capital instruments issued pursuant to the originally selected option have been repaid will the association be permitted to select the other option for new issuances. This limitation is necessary to avoid double-counting.

The rule that applies to maturing capital instruments issued before November 7, 1989, is identical to the schedule set forth at 12 CFR 561.13(c)(1) (1988). The rule, which is similar to the approach previously allowed by the federal banking agencies, requires maturing capital instruments to be amortized at the rate of ⅛, or approximately 14%, per year during the final seven years to maturity. As discussed in detail in the 12/88 proposal, the Office believes that this treatment may result in such instruments becoming an increasingly expensive form of capital as they near maturity. This may result in savings associations relying on longer-term funds and having to pay higher interest rates or incurring unnecessary transaction costs for refunding instruments earlier than necessary. The Office is retaining these provisions for the reasons discussed in the summary of comments.

The second category of rules consists of the two amortization options for maturing capital instrument issued after November 7, 1989. The first option is the rule that appears in section 2(b)(2) of the OCC's final guidelines. 54 FR at 4179. It reduces the outstanding amount of the maturing capital instruments that would count as supplementary capital by a fifth of the original amount (less redemptions) each year during the instrument's last five years before maturity. This approach is similar to the prior amortization rule except the amortization period has been shortened from seven to five years.

To avoid the adverse effects of the present rule and the OCC's treatment of these items, while continuing to protect the Office's interest in encouraging strong capital positions for savings associations, the Office is including, as discussed above, an alternate amortization option for the treatment of maturing capital instruments. This option would limit (for inclusion in capital for purposes of this regulation) the aggregate amount of capital that matures in any one year during the seven years immediately prior to an instrument's maturity to 20% of the association's capital. If a savings association wishes to hold, and to count for purposes of this rule, maturing capital that is greater than 20% of capital, it must spread the maturities over two or more years so that no more than an amount equal to 20% of capital will mature in any one year.

b. *General Valuation Loan and Lease Loss Allowances.* This Office, like the OCC, is concerned about the degree of protection afforded by another element of supplementary capital, general valuation loan and lease loss allowances. General valuation loan and lease loss allowances are established through a charge against earnings to absorb inherent but unidentified losses on loans. They do not include allowances held for specifically identified losses or earmarked for a specified asset. In the Office's view, general valuation loan and lease loss allowances represent, effectively, a segregation of retained earnings and therefore are appropriately includable in meeting capital requirements. Because they do represent potential losses to the association, however, they are a limited component of capital. Under the guidelines adopted by the OCC, general reserves for loan and lease losses includable in capital are phased down to 1.25% of risk-weighted assets. The Director is adopting a similar limitation for thrifts' general valuation loan and lease loss allowances. Initially, allowances for such items, as a component of capital, may constitute no more than 1.5 percent of risk-weighted assets. At the end of 1992 and thereafter they may constitute no more than 1.25 percent of risk-weighted assets.

Although some associations may perceive the limit as a disincentive for prudent allowance practices, every savings association must still maintain adequate general loan and lease loss allowances. The Office will continue to enforce the standards for general valuation loan and lease loss allowance adequacy on a case-by-case basis through its supervisory process.

c. *Other items included as components of capital in the 12/88 proposal.* Deferred loan losses were included in the 12/88 proposal because the Competitive Equality Banking Act of 1987 required that such items be included in capital. Their inclusion, however, would not be consistent with either GAAP or OCC rules. As a result, they are no longer includable in determining capital. Appraised equity capital, the excess of historical cost over market value of shares in liquid asset mutual fund investments, and other risk analysis reporting components are no longer components of capital because their inclusion is neither permitted by the OCC, nor consistent with the clear congressional intent that thrift capital, both core and supplementary, be materially equivalent to bank capital. As such, they are no longer includable in assets for savings associations and are thus removed from capital.

3. Deductions from Total Capital

Reciprocal holdings of capital instruments issued by other depository institutions are deducted from a savings association's total capital. Reciprocal holdings are cross-holdings or other formal or informal agreements in which two or more depository institutions swap, exchange, or otherwise agree to hold each other's capital instruments. Generally, as this definition implies, deductions are limited to intentional cross-holdings. These items are excluded for two reasons. First, the Office is concerned that such holdings could cause cross failures among depository institutions, including savings associations. Second, FIRREA directs that this Office parallel the substance of the OCC's regulation, which excludes such holdings from capital calculations.

All equity investments, except for investments in subsidiaries, are being excluded from calculations of total capital because they represent a high degree of variability of risk similar to investments in subsidiaries, which are specifically dealt with in section 5(t)(5) of the HOLA. The Office has therefore determined to treat them similarly to the treatment FIRREA mandates for investments of non-includable subsidiaries. The Office is not required, however, to deduct these investments from core and tangible capital for purposes of its capital standards. It is therefore phasing them out from calculations of total capital over a five-year period. In the interim, the amount not excluded is placed in the 100% risk weight category.

Finally, the Office is also excluding from assets and therefore from calculations of total capital, that portion of a non-residential construction or land loan that is above an 80% loan-to-value-ratio. The Office's experience with its equity risk investment regulation (which treats such loans as equity risk investments) has been that such high loan-to-value loans present particularly high levels of risk. It has determined that those positions of the loan above the 80% loan-to-value ratio should not be included in calculating capital.

C. Credit Risk Weightings

There have been several adjustments made to the risk weighting assignments in the regulation. These adjustments generally reflect three concerns: (1) The statutory requirement that the capital standards for thrifts be no less stringent than those of national banks; (2) the ability to differentiate from the bank regulations in areas where thrifts have a particular expertise and the Office believes there are different risks inherent in such assets; and (3) where today's rule, because it does not yet contain an interest-rate risk component, places certain assets in higher credit risk categories as an interim measure to account for their high level of risk related to interest rate fluctuations.

1. On-Balance Sheet Assets

The Office has lowered the risk weighting of GNMA securities and placed them in the 0% category. The underlying FHA/VA (to the extent they are guaranteed) mortgage loans, on the other hand, have been placed in the 20% category rather than in the 0% category, as proposed. This revision not only makes the treatment of GNMAs and FHA/VA mortgages consistent with the banking regulators, but also more accurately reflects the credit risk associated with each asset.

The rule lowers the risk weighting of deposit reserves and other balances at Federal Reserve Banks as well as the book value of paid-in Federal Reserve Bank stock to the 0% category, consistent with the OCC's treatment of claims on and stock of Federal Reserve Banks. Likewise, items collateralized by cash have been raised from the 0% to the 20% risk-weight category.

The Office has determined to retain in this rule the treatment afforded high quality private issue mortgage-backed securities, *i.e.*, placing them in the same 20% risk-weight category as such securities issued by FHLMC or FNMA. The Office has carefully reviewed the history and characteristics of such securities and believes that this risk weight is appropriate. Such securities are generally placed in the 50% risk-weight category under the OCC's final guidelines.

As discussed in the summary of comments, the rule places securities with residual characteristics and all stripped mortgage-backed securities, including interest-only and principal-only portions in the 100% risk-weight category. This treatment is consistent with the OCC and reflects the risk inherent in these instruments as compared to typical mortgage-backed securities. This treatment will be reconsidered in conjunction with an adoption of an interest rate risk component.

The Office has placed claims on certain foreign governments and depository institutions and official multilateral lending institutions or regional development institutions in the same risk-weight categories as the OCC.

Goodwill and equity investments that are not deducted from assets and, thus, from capital and non-investment grade corporate debt securities are placed in the 100% risk-weight category. The Office had considered assigning risk-weights in excess of 100% to these assets in its proposal. FIRREA requires that supervisory goodwill be phased-out as a component of capital over a five-year period. State-chartered savings associations are generally prohibited from making new equity investments. FIRREA also requires that thrifts divest themselves of investments in non-investment grade corporate debt securities and most equity securities no later than July 1, 1994. The Office has determined that a "super" risk-weighting of these assets is not necessary given the restrictions contained in FIRREA. A thrift's minority interest in a subsidiary that engages in permissible activities that would not be consolidated under GAAP will, for capital purposes, be consolidated in a prorated fashion, whereby the association will multiply its percentage of ownership in the subsidiary by the subsidiary's assets.[15] For purposes of the risk-based capital rule, that amount is placed in the 100% risk-weight category. No capital will be required against the investment in the subsidiary for capital purposes.

The Office has retained one risk-weight category in excess of the 100% category for standard risk assets. All assets (except 1–4 family residential mortgages) that are more than 90 days past due and assets in foreclosure are assigned a 200% risk-weighting. Those 1–4 family residential mortgages that are more than 90 days past due will be placed in the 100% risk-weight category (double the risk-weight of a current qualifying residential mortgage).

2. Off-Balance Sheet Items

In today's rule, unused commitments with an original maturity of one year or

[14] Examples of such auction-type processes are: Dutch auction, auction rate, remarketable, and money market preferred stock.

[15] Assets, for this purpose, should be assets as determined in most recently available GAAP report, but in no event should the report be greater than one year old.

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less have a 0% credit conversion factor. Unused commitments with an original maturity of greater than one year are also assigned a 0% credit conversion factor, if unconditionally cancelable and the savings association has the contractual right to and, in fact, does make a separate credit decision based upon the borrower's current financial condition before each drawdown.

Unused portions of retail credit card lines that are unconditionally cancelable by the savings association in accordance with applicable law are in the 0% credit conversion category, as are home equity lines of credit unconditionally cancelable by the association in accordance with federal law. A 50% credit conversion factor is assigned to unused portions of other commitments, including home equity lines of credit, with an original maturity exceeding one year.

D. Leverage Ratio and Tangible Capital Requirements

Today's rule implements a leverage ratio of 3% of adjusted total assets held in the form of core capital for savings associations. The leverage ratio is to ensure that savings associations maintain a level of capital adequate to protect from fraud, mismanagement and other risks that are not accounted for by measuring capital against risk-weighted assets. The OCC did not provide for a leverage limit in its final guidelines, but has announced its intention to propose a 3% leverage limit to be effective simultaneously with the effective date of the guidelines.

The Office is, therefore, consistent with FIRREA and the actions of the OCC, adopting a minimum leverage ratio requirement for savings associations at the same level as the OCC has proposed to use in conjunction with its final risk-based capital guidelines. If, in any final rule, the OCC modifies either the level of this leverage ratio or the elements of capital that can be used to satisfy the requirement, the Office will revisit this provision and make any necessary revisions consistent with sections 5(t)(i)(C) and 5(t)(2)(A) of the HOLA.

The Office has provided for tangible capital in the amount of 1.5% of adjusted total assets in today's rule. Since the OCC does not define tangible capital, the Office has adopted the definition contained in FIRREA, *i.e.*, tangible capital means core capital minus any intangible assets as defined by the OCC. The rule adopts the OCC's definition of intangible assets for purposes of tangible capital as well as other capital standards.

E. Transition and Effective Date

1. Risk-Based Capital Standards

Section 5(t)(1)(D) requires these regulations regarding capital standards to be effective on December 7, 1989. All savings associations are required to meet their fully phased-in risk-based capital requirements by December 31, 1992, the date the OCC final risk-based capital guidelines will be fully phased-in except that certain items that the FIRREA phases out over a longer period of time will continue to be included, in decreasing amounts, according to the statutory schedules. These schedules are discussed in section E.2 below. The final rule contains a transition period for meeting the fully-phased in risk-based capital requirement. For the period between December 7, 1989 and December 30, 1990, savings associations must attain and maintain no less than 80% of the amount of capital that will be required under the risk-based capital standard on December 31, 1992. For the period between December 31, 1990 and December 30, 1992, savings associations must attain and maintain no less than 90% of the amount of capital that will be required under the risk-based capital standard on December 31, 1992. Thereafter, the risk-based capital standard will be 100% of that amount.

The tangible capital and leverage ratio requirements must be satisfied in total as of the effective date of these regulations, December 7, 1989.

2. Other Phase-Out Rules

(a) *Goodwill.* Section 5(t)(3) of FIRREA allows for the inclusion of certain goodwill in assets and, thus, in core capital. Under the provisions of the statute, eligible savings associations [16] may include qualifying supervisory goodwill as defined in 567.1(ee) up to the applicable percentage of total assets as set forth in the following table:

	Percent
Prior to January 1, 1992	1.500
Jan. 1, 1992–Dec. 31, 1992	1.000
Jan. 1, 1993–Dec. 31, 1993	0.750
Jan. 1, 1994–Dec. 31, 1994	0.375
Thereafter	0

[16] An association is an eligible savings association if the Director determines that: (i) The savings association's management is competent; (ii) The savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and (iii) the savings association management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

(b) *Investments in subsidiaries.* FIRREA provides that all of a savings association's investments in and extensions of credit to any subsidiary (including minority ownership interests in subsidiaries) engaged as a principal in activities that are not permissible for a national bank must be deducted from the assets and, thus, the capital of the association. Notwithstanding this provision, the statute provides that, if a savings association's subsidiary was engaged, as of April 12, 1989, in investments that are not permitted for national banks, the savings association may include the lesser of its investments in and extensions of credit to the subsidiary on April 12, 1989 or its investments in and extensions of credit to the subsidiary on the date its capital is being determined, in accordance with the applicable percentage as follows:

	Percent
Prior to July 1, 1990	100
July 1, 1990—June 30, 1991	90
July 1, 1991—June 30, 1992	75
July 1, 1992—June 30, 1993	60
July 1, 1993—June 30, 1994	40
Thereafter	0

F. Consequences of Failure

The Office has added a section dealing specifically with the consequences of failing the minimum capital requirements under the regulations. This section combines the remedies that were formerly contained in § 563.13(d) and those mandated by FIRREA. In particular, FIRREA requires any savings association not in compliance with the capital regulations to submit a plan to the Director detailing its efforts to correct its capital situation. Submission of such plans is not an enforcement action by this Office. Under section 5(t)(6)(A)(ii) of FIRREA, the Director must require the submission of these plans. Prior to January 1, 1991 the Director may also restrict the asset growth of any savings association that is not in compliance with the capital standards. On and after January 1, 1991, asset growth must be prohibited under the terms of the Act except as provided under limited circumstances where any increase in assets is accompanied by an increase in tangible capital.

In addition to these regulatory provisions, the Office will provide guidance to savings associations regarding the process for applications to be exempted from sanctions or excepted from the capital standards. As part of this effort, details relating to the content of capital plans, the standards by which

they will be judged, and the process to be followed in filing them with the Office will be forthcoming.

The Office intends to notify each savings association that it believes will fail one or more of the capital requirements as of December 7, 1989 and direct each to file a capital plan or rebut the Office's contention of failure. There are no required forms to be submitted as part of the capital plan process. Each savings association's plan will differ and should reflect the association's unique facts and circumstances. As part of the process, savings associations will be required to certify to the Director that during the pendency of their applications they will not grow beyond interest credited, make any capital distributions, or engage in any activity prohibited under FIRREA or otherwise act in a manner inconsistent with limitations established by the Office for associations not meeting their capital requirements. Applications not containing such certifications are not acceptable capital plans. These capital plans will be used by the Office in determining the capital adequacy of these savings associations. Savings associations whose capital plans are rejected will be subject to immediate restrictions on growth and in any other areas the Director determines to be appropriate for that particular association.

The Office will apply Regulatory Bulletin 3a, which restricts the growth of undercapitalized savings associations to a maximum of interest credited on liabilities. These growth restrictions will be imposed until the savings association has met the minimum capital standards.

Savings associations seeking exemptions from sanctions, other than post-1991 growth restrictions, that the Director may impose upon undercapitalized savings associations must apply to the Director. As part of that application, those savings associations must submit a capital plan. The Office will give the review of capital plans and applications for exemptions a high priority. The Office expects to issue more detailed supervisory guidance on these important issues in the immediate future.

G. Reservations of Authority

Consistent with the OCC's capital regulations appearing at 12 CFR part 3 and its risk-based capital guidelines appearing at the Appendix to that Part, the Office has added a new section 567.12, dealing with the residual authority of the Office to address certain items on a case-by-case basis to ensure that the purpose of the statute and regulations is carried out.

H. Comparison with OCC Final Risk-Based Capital Guidelines

Today's regulation, as discussed above, has been modeled closely on the final risk-based guidelines adopted by the OCC for national banks. The risk-based sections of the regulation are not identical to those guidelines, however, because the Office has determined that certain statutory requirements, the mutual structure of a large number of savings associations (which has no counterpart in national bank structure), the nature of thrift portfolios, the types and magnitude of risks associated with them, and the Office's experience mandate different treatment of certain assets and certain components of capital. The areas of difference are set forth in this section. Overall, the Office believes that even with these differences, the rule, in the aggregate, results in a risk-based capital regulation materially equivalent to the OCC's final guidelines.

The primary areas of difference are in: (1) Mortgages and mortgage-related assets; (2) the risk-weighting of repossessed and past-due assets, obligations of and assets covered by the Federal Savings and Loan Insurance Corporation or a successor agency; (3) the phased-out exclusion from assets and capital calculations of supervisory goodwill, equity investments, certain high loan-to-value loans, and investments in certain subsidiaries; (4) the inclusion of certain nonwithdrawable accounts and pledged deposits in core capital for mutual savings associations where such instruments meet the same criteria as noncumulative preferred stock; (5) an alternative treatment of maturing capital instruments; and (6) an accelerated transition period on the limited inclusion of general valuation loan and lease loss allowances, the lack of the OCC's transitional inclusion of a percentage of Tier 2 (supplementary) capital in determining Tier 1 (core) capital, and an immediate effective date for the risk-based capital standards.

Executive Order 12291

It is certified that this regulation does not constitute a "major rule" and, therefore, does not require the preparation of a final regulatory impact analysis.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Office is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

2. *Issues raised by comments and agency assessment and response.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

3. *Significant alternatives minimizing small entity impact and agency response.* This rule will not have a disproportionate impact on small savings associations. Section 5(t) of the Home Owners' Loan Act of 1933 requires the Office to promulgate "uniformly applicable capital standards for savings associations." The Office believes that there are no significant alternatives to the rule that will adequately address the Office's statutory responsibility to promulgate such regulations. While the Office anticipates that all savings associations may have to make some revisions to their reporting procedures, the Office intends that any required revisions will try to minimize the burden on small savings associations to the extent consistent with providing adequate information for supervisory monitoring of their capital ratios. The regulation will have the most significant impact on those savings associations that do not have sufficient capital in relation to their asset size or risk profiles.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d)(3), the office finds goods cause for waiving the 30-day delay of effective date provisions of the Administrative Procedure Act in that FIRREA requires these regulations to be effective 120 days after enactment of the law. Thus, these regulations will be effective on December 7, 1989.

List of Subject

12 CFR Part 561

Savings associations.

12 CFR Part 563

Accounting, Advertising, Bank deposit insurance, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 567

Currency, Reporting and recoredkeeping requirements, Savings associations.

Accordingly, the Office hereby amends parts 561, 563 and 567, subchapter D, chapter V, title 12, Code of Federal Regulations, as set forth below.

1. The heading for subchapter D of 12 CFR chapter V is revised to read as follows:

SUBCHAPTER D—REGULATIONS

U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 316 (12 U.S.C. 1467a).

§ 567.1 Definitions.

For purposes of this part:

overdraft facilities, revolving credit facilities, or similar transactions.

(d) *Common stockholders' equity.* The term "common stockholders' equity" means common stock, common stock

determined, on the basis of information available at the time, that:

(i) The savings association's management appears to be competent;

(ii) The savings association, as

It does not include investments in subsidiaries as defined in paragraph (dd) of this section or service corporations or stock of Federal Home Loan Banks or Federal Reserve Banks.

(ii) Was acquired by the parent savings association prior to May 1, 1989; or

(5) A subsidiary of any Federal

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1. The heading for subchapter D of 12 CFR chapter V is revised to read as follows:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 561—[AMENDED]

1a. The authority for part 561 is revised to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 982, as amended (42 U.S.C. 4106).

§ 561.13 [Removed and Reserved]

2. Section 561.13 is removed and reserved.

PART 563—[AMENDED]

3. The authority for part 563 is revised to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 982, as amended (42 U.S.C. 4106).

§ 563.13 [Removed and Reserved]

4. Section 563.13 is removed and reserved.

§ 563.13–2 [Amended]

5. Section 563.13–2 is amended by removing paragraphs (c) and (d) and redesignating paragraph (e) as new paragraph (c).

6. Part 567 is revised to read as follows:

PART 567—CAPITAL

Sec.
567.1 Definitions.
567.2 Minimum regulatory capital requirement.
567.5 Components of capital.
567.6 Risk-based capital credit risk weight categories.
567.8 Leverage ratio.
567.9 Tangible capital requirement.
567.10 Consequences of failure to meet capital requirements.
567.11 Reservation of authority.

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 316 (12 U.S.C. 1467a).

§ 567.1 Definitions.

For purposes of this part:

(a) *Adjusted total assets.* The term "adjusted total assets" means:

(1) A savings association's total assets as defined in § 567.1(ff);

(2) Plus

(i) For the risk-based capital standard, general valuation loan and lease loss allowances up to 1.5% of risk-weighted assets until December 30, 1992, and up to 1.25% of risk-weighted assets on or after December 31, 1992;

(ii) The prorated assets of any includable subsidiary in which the savings association has a minority ownership interest that is not consolidated under generally accepted accounting principles;

(iii) The prorated assets of any subsidiary acquired prior to April 12, 1989 that is not an includable subsidiary to the extent set forth in § 567.5(a)(2)(v)(C) or § 567.9(c)(3)(iii) respectively; and

(iv) The remaining goodwill (FSLIC Capital Contributions) resulting from prior regulatory accounting practices as provided in paragraph (w)(1) of this section;

(3) Minus

(i) Assets not included in the applicable capital standard except for those subject to paragraphs (a)(3)(ii) and (a)(3)(iii) of this section;

(ii) Investments in any includable subsidiary in which a savings association has a minority interest;

(iii) Investments in any subsidiary subject to consolidation under paragraph (a)(2)(iii) of this section; and

(iv) for purposes of determining core capital, qualifying supervisory goodwill.

(b) *Cash items in the process of collection.* The term "cash items in the process of collection" means checks or drafts in the process of collection that are drawn on another depository institution, including a central bank, and that are payable immediately upon presentation; U.S. Government checks that are drawn on the United States Treasury or any other U.S. Government or Government-sponsored agency and that are payable immediately upon presentation; broker's security drafts and commodity or bill-of-lading drafts payable immediately upon presentation; and unposted debits.

(c) *Commitment.* The term "commitment" means any arrangement that obligates a savings association to: (1) Purchase loans or securities; or (2) extend credit in the form of loans or leases, participations in loans or leases, overdraft facilities, revolving credit facilities, or similar transactions.

(d) *Common stockholders' equity.* The term "common stockholders' equity" means common stock, common stock surplus, retained earnings, adjustments for the cumulative effect of foreign currency translation and net unrealized losses on non-current marketable equity securities.

(e) *Conditional guarantee.* The term "conditional guarantee" means a contingent obligation of the United States Government or its agencies, the validity of which to the beneficiary is dependent upon some affirmative actions—*e.g.*, servicing requirements—on the part of the beneficiary of the guarantee or a third party.

(f) *Direct credit substitutes.* The term "direct credit substitutes" means any irrevocable obligation or portion thereof in which a savings association has essentially the same credit risk as if it had made a direct loan to the obligor or account party. It includes, but is not limited to, guarantees or guarantee-type instruments backing financial claims such as outstanding securities, loans, and other financial obligations, and financial guarantee-type standby letters of credit.

(g) *Depository institution.* The term "domestic depository institution" means a financial institution that enages in the business of banking; that is recognized as a bank by the bank supervisory or monetary authorities of the country of its incorporation and the country of its principal banking operations; that receives deposits to a substantial extent in the regular course of business; and that has the power to accept demand deposits. In the United States, this definition encompasses all federally insured offices of commercial banks, mutual and stock savings banks, savings or building and loan associations (stock and mutual), cooperative banks, credit unions, and international banking facilities of domestic depository institutions. Bank holdings companies and savings and loan holding companies are excluded from this definition. For the purposes of assigning risk weights, the differentiation between OECD depository institutions and non-OECD depository institutions is based on the country of incorporation. Claims on branches and agencies of foreign banks located in the United States are to be categorized on the basis of the parent bank's country of incorporation.

(h) *Eligible savings association.* (1) The term "eligible savings association" means a savings association with respect to which the Director of the Office of Thrift Supervision has

determined, on the basis of information available at the time, that:

(i) The savings association's management appears to be competent;

(ii) The savings association, as certified by its Board of Directors, is in substantial compliance with an applicable statutes, regulations, orders and written agreements and directives; and

(iii) The savings association's management, as certified by its Board of Directors, has not engaged in insider dealing, speculative practices, or any other activities that have or may jeopardize the association's safety and soundness or contributed to impairing the association's capital.

(2) Savings associations, for purposes of this paragraph, will be deemed to be eligible unless the Director makes a determination otherwise or notifies the savings association of its intent to conduct either an informal or formal examination to determine eligibility and provides written notification thereof to the savings association.

(i) *Equity investments.* (1) The term "equity investments" includes investments in equity securities and real property that would be considered an equity investment under generally accepted accounting principles.

(2) The term "equity securities" means any

(i) stock, certificate of interest of participation in any profit-sharing agreement, collateral trust certificate or subscription, preorganization certificate or subscription, transferable share, investment contract, or voting trust certificate; or

(ii) in general, any interest or instrument commonly known as an equity security; or

(iii) loans having profit sharing features which generally accepted accounting principles would reclassify as equity securities; or

(iv) any security immediately convertible at the option of the holder without payment of substantial additional consideration into such a security; or

(v) any security carrying any warrant or right to subscribe to or purchase such a security; or

(vi) any certificate of interest or participation in, temporary or interim certificate for, or receipt for any of the foregoing or any partnership interest; or

(vii) investments in equity securities and loans or advances to and guarantees issued on behalf of partnerships or joint ventures in which a savings association holds an interest in real property under generally accept accounting principles. It does not include investments in subsidiaries as defined in paragraph (dd) of this section or service corporations or stock of Federal Home Loan Banks or Federal Reserve Banks.

(3) For purposes of this part, the term "equity investments in real property" does not include interests in real property that are primarily used or intended to be used by the savings association, its subsidiaries, or its affiliates as offices or related facilities for the conduct of its business.

(4) In addition, for purposes of this part, the term "equity investments in real property" does not include interests in real property that are acquired in satisfaction of a debt previously contracted in good faith or acquired in sales under judgments, decrees, or mortgages held by the savings association, provided that the property is not intended to be held for real estate investment purposes but is expected to be disposed of within five years or a longer period approved by the Office.

(j) *Exchange rate contracts.* The term "exchange rate contracts" includes cross-currency interest rate swaps; forward foreign exchange rate contracts; currency options purchased; and any similar instrument that, in the opinion of the Office, may give rise to similar risks.

(k) *High quality mortgage-related securities.* The term "high quality mortgage-related securities" means any mortgage-related security as defined in section 3(c)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78(c)(41), and any mortgage-backed securities issued by, or fully guaranteed as to principle and interest by, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. It includes mortgage-backed bonds meeting equivalent rating requirements.

(l) *Includable subsidiary.* The term "includable subsidiary" means a subsidiary of a savings association that is:

(1) Engaged solely (either directly or through ownership of a subsidiary) in activities not impermissible for a national bank;

(2) Engaged in activities not permissible for a national bank, but only if acting solely as agent for its customers and such agency position is clearly documented in the savings association's files;

(3) Engaged solely in mortgage-banking activities;

(4)(i) Itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

(ii) Was acquired by the parent savings association prior to May 1, 1989; or

(5) A subsidiary of any Federal savings association existing as a Federal savings association on August 9, 1989 that

(i) Was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law, or

(ii) Acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

(m) *Intangible assets.* The term "intangible assets" includes, but is not limited to, credit card servicing rights, goodwill, favorable leaseholds, core deposit value, and purchased mortgage servicing rights.

(n) *Interest-rate contracts.* The term "interest-rate contracts" includes single currency interest-rate swaps; basis swaps; forward-rate agreements; interest-rate options purchased; forward deposits accepted; and any other instrument that, in the opinion of the Office, may give rise to similar risks, including when-issued securities.

(o) *Mortgage-related securities.* The term "mortgage-related securities" means any mortgage-related qualifying security under section 3(c)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78(c)(41), *provided That,* the rating requirements of that section shall not be considered for purposes of this definition.

(p) *OECD-based country.* The term "OECD-based country" means a member of the grouping of countries that are full members of the Organization of Economic Cooperation and Development, plus countries that have concluded special lending arrangements with the International Monetary Fund ("IMF") associated with the IMF's capital General Arrangements to Borrow. These countries are hereinafter referred to as "OECD countries". "Public-sector entities" include states, local authorities, and governmental subdivisions below the central government level in any OECD-country. "Central government" means the national governing authority of a country; it includes the departments, ministries and agencies of the central government. This definition does not include the following: State, provincial, or local governments; commercial enterprises owned by the central government, which are entities engaged in activities involving trade, commerce, or profit that are generally conducted or performed in the private sector of the United States economy; and non-central government entities whose obligations

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are guaranteed by the central government.

(q) *Original maturity.* The term "original maturity" means, with respect to a commitment, the earliest possible date after a commitment is made on which it expires or is unconditionally cancelable at the option of the issuing savings association.

(r) *Perpetual preferred stock.* The term "perpetual preferred stock" means preferred stock without a fixed maturity date that cannot be redeemed at the option of the holder, and that has no other provisions that will require future redemption of the issue. For purposes of these instruments, preferred stock that can be redeemed at the option of the holder is deemed to have an "original maturity" of the earliest possible date on which it may be so redeemed. Cumulative perpetual preferred stock is preferred stock where the dividends accumulate from one period to the next. Noncumulative perpetual preferred stock is preferred stock where the unpaid dividends are not carried over to subsequent dividend periods.

(s) *Problem institution.* The term "problem institution" means a savings association that, at the time of its acquisition, merger, purchase of assets or other business combination with or by another savings association:

(1) Was subject to special regulatory controls by its primary Federal or state regulatory authority;

(2) Posed particular supervisory concerns to its primary Federal or state regulatory authority; or

(3) Failed to meet its regulatory capital requirement immediately before the transaction.

(t) *Prorated assets.* The term "prorated assets" means the total assets (as determined in the most recently available GAAP report but in no event more than one year old) of a subsidiary (including those subsidiaries where the savings association has a minority interest) multiplied by the savings association's percentage of ownership of that subsidiary.

(u) *Qualifying mortgage loan.* The term "qualifying mortgage loan" means a permanent 1–4 family residential first mortgage loan that is prudently underwritten and is performing and not more than 90 days past due with a documented loan-to-value ratio not exceeding 80 percent (at origination) unless insured to at least an 80 percent loan-to-value ratio by private mortgage insurance provided by an issuer approved by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(v) *Qualifying multifamily mortgage loan.* The term "qualifying multifamily mortgage loan" means a loan on an existing property consisting of 5–36 dwelling units with an initial loan-to-value ratio of not more than 80 percent where an average annual occupancy rate of 80 percent or more of total units has existed for at least one year.

(w) *Qualifying supervisory goodwill.* The term "qualifying supervisory goodwill" means, for eligible savings associations:

(1) Any unamortized goodwill (FSLIC Capital Contributions, as reported in the September 30, 1989 Thrift Financial Report) that existed on April 12, 1989 resulting from prior regulatory accounting practices less any amortization that would have occurred subsequent to April 12, 1989 through the current reporting period where the amortization is calculated on a straight line basis over the shorter of 20 years, or the remaining period for amortization in effect on April 12, 1989 for regulatory accounting practices; plus

(2) The lesser of:

(i) Supervisory goodwill as defined in § 567.1(ee) that is included in goodwill that is reflected in the current reporting period under generally accepted accounting principles ("GAAP"); or

(ii)(A) Supervisory goodwill as defined in § 567.1(ee) that is included in goodwill that is reflected in the current reporting period under GAAP;

(B) Plus any amortization of the goodwill in paragraph (w)(2)(ii)(A) of this section that occurred subsequent to April 12, 1989 for GAAP reporting purposes;

(C) Minus the amortization of the goodwill in paragraph (w)(2)(ii)(A) of this section through the current reporting period that results when the goodwill is amortized subsequent to April 12, 1989 on a straightline basis over the shorter of 20 years, or the remaining period for amortization in effect on April 12, 1989 for GAAP reporting purposes.

(x) *Reciprocal holdings of depository institution instruments.* The term "reciprocal holdings of depository institution instruments" means cross-holdings or other formal or informal arrangements in which two or more depository institutions swap, exchange, or otherwise agree to hold each other's capital instruments. This definition does not include holdings of capital instruments issued by other depository institutions that were taken in satisfaction of debts previously contracted, provided that the reporting savings association has not held such instruments for more than five years or a longer period approved by the Office.

(y) *Replacement cost.* The term "replacement cost" means, with respect to interest rate and exchange rate contracts, the loss that would be incurred in the event of a counterparty default, as measured by the net cost of replacing the contract at the current market value. If default would result in a theoretical profit, the replacement value is considered to be zero. This mark-to-market process must incorporate changes in both interest rates and counterparty credit quality.

(z) *Residential properties.* The term "residential properties" means houses, condominiums, cooperative units, and manufactured homes. This definition does not include boats or motor homes, even if used as a primary residence, or timeshare properties.

(aa) *Residual characteristics.* The term "residual characteristics" means interests similar to a multi-class pay-through obligation representing the excess cash flow generated from mortgage collateral over the amount required for the issue's debt service and ongoing administrative expenses or interests presenting similar degrees of interest-rate/prepayment risk and principal loss risks.

(bb) *Risk-weighted assets.* The term "risk-weighted assets" means the sum total of risk-weighted on-balance sheet assets and the total of risk-weighted off-balance sheet credit equivalent amounts. These assets are calculated in accordance with section 567.6 of this part.

(cc) *State.* The term "State" means any one of the several states of the United States of America, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(dd) *Subsidiary.* The term "subsidiary" means any corporation, partnership, business trust, joint venture, association, pool, syndicate or other similar organization, in which a savings association has a 5% or greater ownership interest,[1] regardless of whether the savings association exercises, directly or indirectly, control as determined under generally accepted accounting principles. This definition does not include ownership interests that were taken in satisfaction of debts previously contracted, provided that the reporting savings association has not held the interest for more than five years or a longer period approved by the Office.

[1] The Office reserves the right to review a savings association's investment in a subsidiary on a case-by-case basis. If the Office determines that such investment is more appropriately treated as an equity security or an ownership interest in a subsidiary it will make such determination regardless of the percentage of ownership held by the savings association.

(ee) *Supervisory goodwill.* The term "supervisory goodwill" means goodwill resulting from the acquisition, merger, consolidation, purchase of assets, or other business combination (if such transaction occurred on or before April 12, 1989) of

(1) a savings association where the fair market value of assets was less than the fair market value of liabilities at the acquisition date; or

(2) a problem institution.

(ff) *Total assets.* The term "total assets" means total assets as would be required to be reported for consolidated entities on period-end reports filed with the Office in accordance with generally accepted accounting principles.

(gg) *Unconditionally cancelable.* The term "unconditionally cancelable" means, with respect to a commitment-type lending arrangement, including retail credit card lines, that a savings association may, at any time, with or without cause, refuse to advance funds or extend credit under the facility.

(hh) *United States Government or its agencies.* The term "United States Government or its agencies" means an instrumentality of the U.S. Government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States Government.

(ii) *United States Government-sponsored agency or corporation.* The term "United States Government-sponsored agency or corporation" means an agency or corporation originally established or chartered to serve public purposes specified by the United States Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the United States Government.

§ 567.2 Minimum regulatory capital requirement.

(a) To meet its regulatory capital requirement a savings association must satisfy each of the following capital standards:

(1) *Risk-based capital requirement.* (i) A savings association's minimum risk-based capital requirement shall be an amount equal to 8% of its risk-weighted assets as measured pursuant to § 567.6 of this part plus 2% of its risk-weighted assets as measured pursuant to that section.

(ii) A savings association may not use supplementary capital to satisfy this requirement in an amount greater than 100% of its core capital as defined in § 567.5 of this part.

(2) *Leverage ratio requirement.* (i) A savings association's minimum leverage ratio requirement shall be the amount set forth in § 567.6 of this part.

(ii) A savings association must satisfy this requirement with core capital as defined in § 567.5 of this part in an amount not less than 3% of its adjusted total assets.

(3) *Tangible capital requirement.* (i) A savings association's minimum tangible capital requirement shall be the amount set forth in § 567.9 of this part.

(ii) A savings association must satisfy this requirement with tangible capital as defined in § 567.9 of this part in an amount not less than 1.5% of its adjusted total assets.

(b) *Transition period for risk-based capital requirement.* (1) From December 7, 1989 to December 30, 1990, a savings association's minimum risk-based capital requirement for any calendar quarter shall be an amount equal to 60% of the amount required under paragraph (a)(1) of this section; and

(2) From December 31, 1990 until December 31, 1992, a savings association's minimum risk-based capital requirement for any calendar quarter shall be an amount equal to 80% of the amount required under paragraph (a)(1) of this section.

(c) Savings associations are expected to maintain compliance with all of these standards at all times.

§ 567.5 Components of capital.

(a) *Core Capital.* (1) The following elements, less the amount of any deductions pursuant to paragraph (a)(2) of this section, comprise a savings association's core capital:

(i) Common stockholders' equity (including retained earnings);

(ii) Noncumulative perpetual preferred stock and related surplus; [2]

(iii) Minority interests in the equity accounts of subsidiaries that are fully consolidated;

(iv) Nonwithdrawable accounts and pledged deposits of mutual savings associations (excluding any treasury shares held by the savings association) meeting the criteria of regulations and memoranda of the Office to the extent that such accounts or deposits have no fixed maturity date, cannot be withdrawn at the option of the accountholder, and do not earn interest that carries over to subsequent periods.

(v) The remaining goodwill (FSLIC Capital Contributions) resulting from prior regulatory accounting practices as provided in § 567.1(w)(1) of this part.

(2) *Deductions from core capital.* (i) Intangible assets are deducted from assets for purposes of determining core capital except as provided elsewhere in this paragraph.

(ii) Assets that meet the definition of intangible assets as set forth at § 567.1(m) of this part (excluding purchased mortgage servicing rights), but meet the following three-part test shall not be considered intangible assets for purposes of this section but are limited to 25% of core capital:

(A) The intangible asset must be able to be separated and sold apart from the savings association or from the bulk of the savings association's assets;

(B) The market value of the intangible asset must be established on an annual basis through an indentifiable stream of cash flows, and there must be a high degree of certainty that the asset will hold this market value notwithstanding the future prospects of the savings association; and

(C) The savings association must demonstrate and document that a market exists which will provide liquidity for the intangible asset.

(iii) Paragraph (a)(2)(i) of this section does not apply to the following intangible assets:

(A) Purchased mortgage servicing rights. These must be valued at the lower of 90% of fair market value to the extent determinable, 90% of original cost or the current amortized book value as determined under generally accepted accounting principles. The amount written off, if any, is deducted from assets and, therefore, core capital.

(B) Qualifying supervisory goodwill held by an eligible savings association (as defined in § 567.1(h) of this part) to the extent permitted by this paragraph. The amount of qualifying supervisory goodwill may not exceed the applicable percentage of adjusted total assets as calculated for the tangible capital requirement set forth in the following table:

	Percent
Prior to Jan. 1, 1992	1.500
Jan. 1, 1992–Dec. 31, 1992	1.000
Jan. 1, 1993–Dec. 31, 1993	0.750
Jan. 1, 1994–Dec. 31, 1994	0.375
Thereafter	0

[2] Preferred stock issues where the dividend is reset periodically based upon current market conditions and the savings association's current credit rating, including but not limited to, auction rate, money market or remarketable preferred stock, are assigned to supplementary capital, regardless of its cumulative or noncumulative characteristics. Preferred stock issued by subsidiaries that may not be counted by the parent savings association on the Thrift Financial Report, likewise may not be considered in calculating capital. Preferred stock issued by a savings association or a subsidiary that is, in effect, collateralized by assets of the savings association or one of its subsidiaries may not be included in capital.

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(iv) Investments, both equity and debt, in subsidiaries that are not includable subsidiaries (including those subsidiaries where the savings association has a minority ownership interest) are deducted from assets and, thus core capital except as provided in paragraphs (a)(v) and (a)(vi) of this section.

(v)(A) For investments described in paragraph (a)(iv) of this section where the subsidiary was engaged before April 12, 1989 in activities that would not fall within the scope of activities in which includable subsidiaries may engage, a savings association must deduct from assets and, thus, capital the applicable percentage set forth in paragraph (a)(2)(v)(B) of this section of the lesser of:

(*1*) The savings association's investments in and extensions of credit to the subsidiary as of April 12, 1989; or

(*2*) The savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

(B) For purposes of paragraph (a)(2)(v)(A) of this section the applicable percentage is as follows:

For the period	The applicable percentage is
Prior to July 1, 1990	0
July 1, 1990–June 30, 1991	10
July 1, 1991–June 30, 1992	25
July 1, 1992–June 30, 1993	40
July 1, 1993–June 30, 1994	60
Thereafter	100

(C) A savings association that has deducted a portion of its investment in a subsidiary pursuant to paragraph (a)(2)(v)(A) of this section must consolidate the prorated assets of the subsidiary in calculating adjusted total assets for the core capital requirement by multiplying those prorated assets by the following applicable percentage and adding that amount in calculating its adjusted total assets:

For the period	The applicable percentage is
Prior to July 1, 1990	100
July 1, 1990–June 30, 1991	90
July 1, 1991–June 30, 1992	75
July 1, 1992–June 30, 1993	60
July 1, 1993–June 30, 1994	40
Thereafter	0

(iv) If a savings association holds a subsidiary (either directly or through a subsidiary) that is itself a domestic depository institution, the Office may, in its sole discretion upon determining that the amount of core capital that would be required would be higher if the assets and liabilities of such subsidiary were consolidated with those of the parent savings association than the amount that would be required if the parent savings association's investment were deducted pursuant to paragraphs (a)(2)(iv) and (a)(2)(v) of this section, consolidate the assets and liabilities of that subsidiary with those of the parent savings association in calculating the capital adequancy of the parent savings association, regardless of whether the subsidiary would otherwise be an includable subsidiary as defined in § 567.1(1) of this part.

(b) *Supplementary Capital.* Supplementary capital counts towards a savings association's total capital up to a maximum of 100% of the savings association's core capital. The following elements comprise a savings association's supplemetnary capital:

(1) *Permanent Capital Instruments.* (i) Cumulative perpetual preferred stock and other perpetual preferred stock [5] issued pursuant to regulations and memoranda of the Office;

(ii) Mutual capital certificates issued pursuant to regulations and memoranda of the Office;

(iii) Nonwithdrawable accounts and pledged deposits (excluding any treasury shares held by the savings association) meeting the criteria of 12 CFR 561.42 to the extent that such instruments are not included in core capital under paragraph (a) of this section;

(iv) Net worth certificates either issued pursuant to regulations and memoranda of the Office, or that the FDIC is committed to purchase;

(v) Income capital certificates;

(vi) Perpetual subordinated debt issued pursuant to regulations and memoranda of the Office; and

(vii) Mandatory convertible subordinated debt (capital notes) issued pursuant to regulations and memoranda of the Office.

(2) *Maturing Capital Instruments.* (i) Subordinated debt issued pursuant to regulations and memoranda of the Office;

(ii) Intermediate-term preferred stock issued pursuant to regulations and memoranda of the Office and any related surplus;

(iii) Mandatory convertible subordinated debt (commitment notes) issued pursuant to regulations and memoranda of the Office; and

(iv) Mandatorily redeemable preferred stock that was issued before July 23, 1985 or issued pursuant to regulations and memoranda of the Office and approved in writing by the FSLIC for inclusion as regulatory capital before or after issuance.

(3) *Transition rules for maturing capital instruments*—(i) *Maturing capital instruments issued on or before November 7, 1989.* For all maturing capital instruments issued on or before November 7, 1989, the following amortization schedule applies:

Years to maturity of outstanding subordinated debt	Percent included in supplementary capital
Greater than or equal to 7	100
Less than 7 but greater than or equal to 6	86
Less than 6 but greater than or equal to 5	71
Less than 5 but greater than or equal to 4	57
Less than 4 but greater than or equal to 3	43
Less than 3 but greater than or equal to 2	29
Less than 2 but greater than or equal to 1	14
Less than 1	0

(ii) *Maturing capital instruments issued after November 7, 1989.* A savings association issuing maturing capital instruments after November 7, 1989, may choose, subject to paragraph (b)(3)(ii)(C) of this section, to include such instruments pursuant to either paragraph (b)(3)(ii)(A) or (b)(3)(ii)(B) of this section.

(A) At the beginning of each of the last five years of the life of the maturing capital instrument, the amount that is eligible to be included as supplementary capital is reduced by 20% of the original amount of that instrument (net of redemption).[6]

(B) Only the aggregate amount of maturing capital instruments that mature in any one year during the seven years immediately prior to an instrument's maturity that does not exceed 20% of an institution's capital will qualify as supplementary capital.

(C) Once a savings association selects either paragraph (b)(3)(ii)(A) or (b)(3)(ii)(B) of this section for the issuance of a maturing capital instrument, it must continue to elect that option for all subsequent issuances of maturing capital instruments for as long as there is a balance outstanding of such post-November 7, 1989 issuances. Only when such issuances have all been repaid and the savings association has no balance of such issuances outstanding may the savings association elect the other option.

(4) *General valuation loan and lease loss allowances.* General valuation loan and lease loss allowances established pursuant to regulations and memoranda of the Office up to a maximum of 1.25 percent of risk-weighted assets.[5] Until December 31, 1992, such allowances may not constitute any more than 1.5% of risk-weighted assets. Thereafter they may not constitute any more than 1.25% of risk-weighted assets.

(c) *Total Capital.* (1) A savings association's total capital equals the sum of its core capital and supplementary capital (to the extent that such supplementary capital does not exceed 100% of its core capital).

(2) The following assets, in addition to assets required to be deducted elsewhere in calculating core capital, are deducted from assets for purposes of determining total capital, subject to paragraph (c)(3) of this section.

(i) Reciprocal holdings of depository institution capital instruments;

(ii) All equity investments, except as provided in paragraph (c)(3) of this section; and

(iii) That portion of land loans and nonresidential construction loans in excess of 80 percent loan-to-value ratio.

(3) The following percentages of investments described in paragraphs (c)(2)(ii) and (c)(2)(iii) of this section may be included in the calculation of adjusted total assets and, thus, total capital for the periods indicated:

	Percent
Prior to July 1, 1990	100
July 1, 1990–June 30, 1991	90
July 1, 1991–June 30, 1992	75
July 1, 1992–June 30, 1993	60
July 1, 1993–June 30, 1994	40
Thereafter	0

[5] Preferred stock issued by subsidiaries that may not be counted by the parent savings association on the Thrift Financial Report likewise may not be considered in calculating capital. Preferred stock issued by a savings association or a subsidiary that is, in effect, collateralized by assets of the savings association or one of its subsidiaries may not be included in capital.

[6] Capital instruments may be redeemed prior to maturity and without the prior approval of the Office, as long as the instruments are redeemed with the proceeds of, or replaced by, a like amount of a similar or higher quality capital instrument. However, the Office must be notified in writing at least 30 days in advance of such redemption.

[5] The amount of the general valuation loan and lease loss allowances that may be included in capital is based on a percentage of risk-weighted assets. A savings association may deduct an allowance for general valuation loan and lease losses in excess of the amount permitted to be included as capital from the gross sum of risk-weighted assets in computing the denominator of the risk-based capital standard.

§ 567.6 Risk-based capital credit risk weight categories.

(a) *Risk-weighted Assets.* Risk-weighted assets equal total assets plus consolidated off-balance sheet items where each asset or item is multiplied by the appropriate risk-weight as set forth in this section. Before an off-balance sheet item can be assigned a risk weight, it must be converted to an on-balance sheet credit equivalent amount in accordance with this section. The risk weight assigned to a particular asset or on-balance sheet credit equivalent amount determines the percentage of that asset/credit equivalent amount that is included in the calculation of risk-weighted assets for purposes of this rule. Assets not included for purposes of calculating capital pursuant to § 567.5 of this Part are not included in calculating risk-weighted assets.

(1) *On-Balance Sheet Assets:* The risk categories/weights for on-balance sheet assets are:

(i) *Zero percent Risk Weight (Catagory 1).* (A) Cash, including domestic and foreign currency owned and held in all offices of a savings association or in transit. Any foreign currency held by a savings association must be converted into U.S. dollar equivalents;

(B) Securities issued by and other direct claims on the U.S. Government or its agencies (to the extent such securities or claims are unconditionally backed by the full faith and credit of the United States Government) or the central government of an OECD country;

(C) Notes and obligations issued by either the Federal Savings and Loan Corporation or the Federal Deposit Insurance Corporation and backed by the full faith and credit of the United States Government;

(D) Deposit reserves at, claims on, and balances due from Federal Reserve Banks;

(E) The book value of paid-in Federal Reserve Bank stock;

(F) That portion of assets that is fully covered against capital loss and/or yield maintenance agreements by the Federal Savings and Loan Insurance Corporation or any successor agency.

(G) That portion of assets directly and unconditionally guaranteed by the United States Government or its agencies, or the central government of an OECD country.

(ii) *20 percent Risk Weight (Category 2).* (A) Cash items in the process of collection;

(B) That portion of assets collateralized by the current market value of securities issued or guaranteed by the United States Government or its agencies, or the central government of an OECD country;

(C) That portion of assets conditionally guaranteed by the United States Government or its agencies, or the central government of an OECD country;

(D) Securities (not including equity securities) issued by and other claims on the U.S. Government or its agencies which are not backed by the full faith and credit of the United States Government;

(E) Securities (not including equity securities) issued by, or other direct claims on, United States Government-sponsored agencies;

(F) That portion of assets guaranteed by United States Government-sponsored agencies;

(G) That portion of assets collateralized by the current market value of securities issued or guaranteed by United States Government-sponsored agencies;

(H) High quality mortgage-related securities, except for those classes with residual characteristics or stripped mortgage-related securities;

(I) Claims representing general obligations of any public-sector entity in an OECD country, and that portion of any claims guaranteed by any such public-sector entity;

(J) Bonds issued by the Financing Corporation or the Resolution Funding Corporation;

(K) Balances due from and all claims on domestic depository institutions. This includes demand deposits and other transaction accounts, savings deposits and time certificates of deposit, federal funds sold, loans to other depository institutions, including overdrafts and term federal funds, holdings of the savings association's own discounted acceptances for which the account party is a depository institution, holdings of bankers acceptances of other institutions and securities issued by depository institutions, except those that qualify as capital;

(L) The book-value of paid-in Federal Home Loan Bank stock;

(M) Deposit reserves at, claims on and balances due from the Federal Home Loan Banks;

(N) Assets collateralized by cash held in a segregated deposit account by the reporting savings association.

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(O) Claims on, or guaranteed by, official multilateral lending institutions or regional development institutions in which the United States Government is a shareholder or contributing member.[6]

(P) That portion of assets collateralized by the current market value of securities issued by official multilateral lending institutions or regional development institutions in which the United States Government is a shareholder or contributing member.

(Q) All claims on depository institutions incorporated in an OECD country, and all assets backed by the full faith and credit of depository institutions incorporated in an OECD country. This includes the credit equivalent amount of participations in commitments and standby letters of credit sold to other depository institutions incorporated in an OECD country, but only if the originating bank remains liable to the customer or beneficiary for the full amount of the commitment or standby letter of credit. Also included in this category are the credit equivalent amounts of risk participations in bankers' acceptances conveyed to other depository institutions incorporated in an OECD country. However, bank-issued securities that qualify as capital of the issuing bank are not included in this category;

(R) Claims on depository institutions incorporated in a non-OECD country, as well as claims on the central bank of a non-OECD country, with a residual maturity of one year or less.

(iii) *50 percent Risk Weight (Category 3).* (A) Revenue bonds issued by any public-sector entity in an OECD country for which the underlying obligor is a public sector entity, but which are repayable solely from the revenues generated from the project financed through the issuance of the obligations;

(B) Qualifying mortgage loans and qualifying multifamily mortgage loans;

(C) Non-high quality mortgage-related securities backed by qualifying mortgage loans, except for those with residual characteristics or stripped mortgage-related securities.

(iv) *100 percent Risk Weight (Category 4).* All assets not specified above or deducted from calculations of capital pursuant to section 567.5 of this part, including, but not limited to:

(A) Consumer loans;

(B) Commercial loans;

(C) Home equity loans;

(D) Non-qualifying mortgage loans;

(E) Non-qualifying multifamily mortgage loans;

(F) Residential construction loans;

(G) Land loans, except that portion of such loans that are in excess of 80% loan-to-value ratio;

(H) Nonresidential construction loans, except that portion of such loans that are in excess of 80% loan-to-value ratio;

(I) Obligations issued by any state or any political subdivision thereof for the benefit of a private party or enterprise where that party or enterprise, rather than the issuing state or political subdivision, is responsible for the timely payment of principal and interest on the obligations, *e.g.*, industrial development bond;

(J) Private-issue debt securities except for those qualifying under paragraph (a)(1)(ii) of this section;

(K) Investments in fixed assets and premises;

(L) Intangible assets, including any goodwill not deducted from capital;

(M) Purchased and excess mortgage servicing rights;

(N) Any classes of a mortgage-related security with residual characteristics, regardless of the issuer or guarantor;

(O) All stripped mortgage-backed securities, including interest-only portions (IOs), principal-only portions (POs) and other similar instruments, regardless of the issuer or guarantor;

(P) That portion of equity investments not deducted pursuant to section 567.5 of this part;

(Q) The prorated assets of subsidiaries (except for the assets of includable, fully consolidated subsidiaries) to the extent such assets are included in adjusted total assets.

(v) *200 percent risk weight* (Category 5).

(A) All repossessed assets or assets that are more than 90 days past due, *provided that*, 1–4 family residential real estate that is more than 90 days past due is placed in the 100% risk weight category;

(B) Equity investments that the Office determines have the same risk characteristics as real estate owned by the savings association.

(vi) *Ownership interests in investment companies.* (A) Except as provided in paragraph (a)(1)(vi)(C) of this section, ownership interests in investment companies as defined in the Investment Company Act of 1940 are assigned to risk-weight categories under this section based upon the risk weight that would be assigned to the assets in the portfolio of the investment company.

(B) Where the portfolio of the investment company consists of assets that would fall into different risk-weight categories, or contains some assets that would be deducted in calculations of total capital, the entire ownership interest of the savings association will be assigned to the category of the asset with the highest risk weight in the portfolio or excluded from assets and thus deducted from calculations of total capital, as appropriate.

(C) On a case-by-case basis, the Office may allow the savings association to assign the portfolio proportionately to the various risk categories based on the proportion in which the risk categories are represented by the composition of assets in the portfolio. Before the Office will consider a request to proportionately risk-weight such a portfolio, the savings association must have and maintain current information for the reporting period that details the composition of the portfolio of assets.

(2) *Off-Balance Sheet Activities.* Risk weights for off-balance sheet items are determined by a two-step process. First, the face amount of the off-balance sheet item must be multiplied by the appropriate credit conversion factor listed in this section. This calculation translates the face amount of an off-balance sheet exposure into an on-balance sheet credit-equivalent amount. Second, the credit-equivalent amount must be assigned to the appropriate risk-weight category depending on the obligor (*i.e.*, the 20 percent risk-weight category if the obligor is a domestic depository institution or the 100 percent risk category if the obligor is a private party), *provided that*, the maximum risk-weight assigned to the credit-equivalent amount of an interest-rate or exchange-rate contract is 50 percent. Guarantees and other direct credit substitutes by savings associations of the obligations of their service corporations and subsidiaries that qualify as equity investments are assigned a credit-equivalent amount of the entire value of the direct credit substitute. The following are the credit conversion factors and the off-balance sheet items to which they apply:

(i) *100 percent credit conversion factor (Group A).* (A) Direct credit substitutes, including financial guarantee-type standby letters of credit that support financial claims on the account party. The face amount of a direct credit substitute is netted against the amount of any participations sold in that item (except as otherwise provided below). The amount retained by the savings association is converted to an on-balance sheet equivalent and assigned to the proper risk-weight category using the criteria regarding obligors, guarantors and collateral listed herein. Participations are treated as follows:

(*1*) If the originating savings association remains liable to the beneficiary for the full amount of the standby letter of credit, in the event the participant fails to perform under its participation agreement, the amount of participations sold are converted to an on-balance sheet credit equivalent using a credit conversion factor of 100%, with that amount then being assigned to the risk-weight category appropriate for the purchaser of the participation.

(*2*) If participations are such that each participant is responsible only for its pro-rata share of the risk, and there is no recourse to the originating institution, the full amount of the participations sold is excluded from the originating institution's risk-weighted assets;

(B) Risk participations purchased in bankers' acceptances and participations purchased in direct credit substitutes;

(C) Assets sold under an agreement to repurchase and the value of assets sold with recourse, to the extent these assets are not included in the savings association's total assets, except where the amount of recourse liability retained by a savings association is less than the capital requirement for credit-risk exposure, in which case capital must be maintained equal to the amount of credit-risk exposure retained. This category includes loan strips sold without direct recourse where the maturity of the participation is shorter than the maturity of the underlying loan and the ownership of the subordinated portion of a loan participation or package of loans. This category includes loans serviced by associations where the association is subject to losses on the loans, commonly referred to as "recourse servicing". (Where associations hold a participation certificate ("PC") in a mortgage loan swap with recourse or a subordinated portion as an on-balance sheet asset, the PC or subordinated portion is *not* to be risk-weighted for purposes of the risk-base capital requirement. Instead, the procedure outlined above is to be followed.);

(D) Forward agreements and other contingent obligations with a certain draw down, *e.g.*, legally binding agreements to purchase assets at a specified future date. On the date an institution enters into a forward agreement or similar obligation, it should convert the principal amount of the assets to be purchased at 100 percent as of that date and then assign this amount to the risk-weight category appropriate to the obligor or guarantor of the item, or the nature of the collateral;

(E) Indemnification of customers whose securities the savings association has lent as agent. If the customer is not indemnified against loss by the savings association, the transaction is excluded from the risk-based capital calculation. When a savings assocation lends its own securities, the transaction is treated as a loan. When a savings association lends its own securities or is acting as agent, agrees to indemnify a customer, the transaction is assigned to the risk weight appropriate to the obligor or collateral that is delivered to the lending or indemnifying institution or to an independent custodian acting on their behalf.

(ii) *50 percent credit conversion factor (Group B).* (A) Transaction-related contingencies, including, among other things, performance bonds and performance-based standby letters of credit related to a particular transaction. To the extent permitted by law or regulation, performance-based standby letters of credit include such things as arrangements backing subcontractors' and suppliers' performance, labor and materials contracts, and construction bids;

(B) unused portions of commitments, including home equity lines of credit, with an original maturity exceeding one year except those listed in paragraph (a)(2)(iv) of this section; and

(C) Revolving underwriting facilities, note issuance facilities, and similar arrangements pursuant to which the savings association's customer can issue short-term debt obligations in its own name, but for which the savings association has a legally binding commitment to either:

(*1*) Purchase the obligations the customer is unable to sell by a stated date; or

(*2*) Advance funds to its customer, if the obligations cannot be sold.

(iii) *20 percent credit conversion factor (Group C).* Trade-related contingencies, *i.e.*, short-term, self-liquidating instruments used to finance the movement of goods and collateralized by the underlying shipment. A commercial letter of credit is an example of such an instrument.

(iv) *Zero percent credit conversion factor (Group D):* (A) Unused commitments with an original maturity of less than one year;

(B) Unused commitments with an original maturity of greater than one year, if:

(*1*) They are unconditionally cancelable by the savings association, and

(*2*) The savings association has the contractual right to, and in fact does, make a separate credit decision based upon the borrower's current financial condition, before each draw under the lending facility; and

(C) Unused portion of retail credit card lines that are unconditionally cancelable in accordance with applicable law by the savings association and home equity lines of credit that are unconditionally cancelable in accordance with federal law.

(v) *Interest-rate and exchange rate contracts (Group E).* (A) The credit equivalent amount of interest-rate and exchange rate contracts is the sum of:

(*1*) Current credit exposure, *i.e.*, the replacement cost of the contract, measured in U.S. dollars, regardless of the currency specified in the contract. A savings association may net multiple contracts with a single counterparty only if those contracts are subject to novation. The term "novation" means a bilateral contract between two counterparties under which any obligation to each other to deliver a given currency on a given date is automatically amalgamated with all other obligations for the same currency and value date, legally substituting one single net amount for the previous gross obligations; and

(*2*) Potential credit exposure, *i.e.*, an estimate of the potential increase in credit exposure over the remaining life of the contract. The add-on is calculated by multiplying the notional principal amount of the contract by one of the following credit conversion factors, as appropriate:[7]

(*i*) Interest rate contracts:

(*A*) Zero percent, if the contract has a remaining maturity of one year or less, and

(*B*) 0.5%, for contract has a remaining maturity greater than one year;

(*ii*) Exchange rate contracts:

(*A*) 1.0%, if the contract has a remaining maturity of one year or less, and

(*B*) 5.0%, for contracts with a remaining maturity greater than one year.

(B) *Risk weighting.* The credit equivalent amount is then assigned to the proper risk-weight category using the criteria regarding obligors, guarantors, and collateral listed in this paragraph (a)(2). However, the

[6] These institutions include, but are not limited to, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, the International Monetary Fund and the Bank for International Settlements.

[7] No potential credit exposure is calculated for single currency floating/floating interest rate swaps; rather, the on-balance sheet credit equivalent of these contracts is evaluated solely on the basis of the amount of their current credit exposure.

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maximum risk weight assigned to the credit equivalent amount of an interest rate or exchange rate contract is 50%.

(C) *Exceptions.* The following contracts are not subject to the above calculation and, therefore, are not considered part of the denominator of a savings association's risk-based capital ratio:

(*1*) Exchange rate contracts with an original maturity of 14 calendar days or less; and

(*2*) Any interest rate or exchange rate contract that is traded on an exchange requiring the daily payment of any variations in the market value of the contract.

(b) [Reserved]

§ 567.8 Leverage ratio.

Savings associations shall have and maintain core capital, as defined at 12 CFR 567.5(a), in an amount equal to at least 3.0% of adjusted total assets.

§ 567.9 Tangible capital requirement.

(a) Savings associations shall have and maintain tangible capital in an amount equal to at least 1.5% of adjusted total assets.

(b) The following elements, less the amount of any deductions pursuant to paragraph (c) of this section, comprise a savings association's tangible capital:

(1) Common stockholders' equity (including retained earnings);

(2) Noncumulative perpetual preferred stock and related earnings;

(3) Nonwithdrawable accounts and pledged deposits that would qualify as core capital under § 567.5 of this part; and

(4) Minority interests in the equity accounts of fully consolidated subsidiaries.

(c) *Deductions from tangible capital.* In calculating tangible capital, a savings association must deduct from assets, and, thus, from capital:

(1) Any intangible assets (except for purchased mortgage servicing rights that are includable in assets and, therefore, not deducted from tangible capital) in the lesser of the amount specified in § 567.5(a)(2)(iii)(A) of this part or any percentage specified by the Federal Deposit Insurance Corporation by regulation pursuant to section 5(t)(4)(C)(ii) of the Act); and

(2) Investments, both equity and debt, in subsidiaries that are not includable subsidiaries (including those subsidiaries where the savings association has a minority ownership interest), except as provided in paragraphs (c)(3) and (c)(4) of this section.

(3)(i) For investments described in paragraph (c)(2) of this section where the subsidiary was engaged before April 12, 1989 in activities that would not fall within the scope of activities in which includable subsidiaries may engage, a savings association must deduct from assets and, thus, capital the applicable percentage set forth in paragraph (c)(3)(ii) of this section of the lesser of:

(A) The savings association's investments in and extensions of credit to the subsidiary as of April 12, 1989; or

(B) The savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

(ii) For purposes of paragraph (c)(3)(i) of this section, the applicable percentage is as follows:

For the period	The applicable percentage is:
Prior to July 1, 1990	0
July 1, 1990–June 30, 1991	10
July 1, 1991–June 30, 1992	25
July 1, 1992–June 30, 1993	40
July 1, 1993–June 30, 1994	60
Thereafter	100

(iii) A savings association that has deducted a portion of its investment in a subsidiary pursuant to paragraph (c)(3)(i) of this section must consolidate the prorated assets of the subsidiary in calculating adjusted total assets for the tangible capital requirement by multiplying those prorated assets by the following applicable percentage and adding that amount to its adjusted total assets:

For the period	The applicable percentage is:
Prior to July 1, 1990	100
July 1, 1990–June 30, 1991	90
July 1, 1991–June 30, 1992	75
July 1, 1992–June 30, 1993	60
July 1, 1993–June 30, 1994	40
Thereafter	0

(4) If a savings association holds a subsidiary (either directly or through a subsidiary) that is itself a domestic depository institution the Office may, in its sole discretion upon determining that the amount of tangible capital that would be required would be higher if the assets and liabilities of such subsidiary were consolidated with those of the parent savings association than the amount that would be required if the parent savings association's investment were deducted pursuant to paragraphs (c)(2) and (c)(3) of this section, consolidate the assets and liabilities of that subsidiary with those of the parent savings association in calculating the capital adequacy of the parent savings association, regardless of whether the subsidiary would otherwise be an includable subsidiary as defined in § 567.1(l) of this part.

§ 567.10 Consequences of failure to meet capital requirements.

(a) *Prior to January 1, 1991.* (1) During the period prior to January 1, 1991, the Director may restrict the asset growth of any savings association not in compliance with capital standards; and

(2) During the period prior to January 1, 1991, the Director shall require any savings association not in compliance with capital standards to submit a plan that:

(i) Addresses the savings association's need for increased capital;

(ii) Describes the manner in which the savings association will increase capital so as to achieve compliance with capital standards;

(iii) Specifies types and levels of activities in which the savings association will engage;

(iv) Requires any increase in assets to be accompanied by increase in tangible capital not less in percentage amount than the leverage limit then applicable;

(v) Requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

(vi) Is acceptable to the Director.

(3) To be acceptable to the Director under this section, a plan must, in addition to satisfying all of the requirements set forth in paragraphs (a)(2)(i) through (a)(2)(v) of this section, contain a certification that while the plan is under review by the Office, the savings association will not, without the prior written approval of its District Directors:

(i) Grow beyond net interest credited;

(ii) Make any capital distributions; or

(iii) Act inconsistently with any other limitations on activities established by statute, regulation or by the Office in supervisory guidance for savings associations not meeting capital standards.

(4) If the plan submitted to the Director under paragraph (a)(2) of this section is not approved by the Office, the savings association shall immediately and without any further action, be subject to the following restrictions:

(i) If may not increase its assets beyond the amount held on the day it

receives written notice of the Director's disapproval of the plan; and

(ii) It must comply with any other restrictions or limitations set forth in the written notice of the Director's disapproval of the plan.

(b) On or after January 1, 1991, the Director shall:

(1) Prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in paragraph (d) of this section; and

(2) Require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director which may include the restrictions contained in paragraph (e) of this section and any other restrictions the Director determines appropriate.

(c) A savings association that wishes to obtain an exemption from the sanctions in paragraph (b)(2) of this section must file a request for exemption with its District Director. Such request must include a capital plan that satisfies the requirements of paragraph (a)(2) of this section.

(d) The Director may permit any savings association that is subject to paragraph (b) of this section to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities, if:

(1) The savings association obtains the Director's prior approval;

(2) Any increase in assets is accompanied by an increase in tangible capital in an amount not less than 3% of the increase in assets;

(3) Any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standards then applicable;

(4) Any increase in assets is invested in low-risk assets; and

(5) The savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

(e) If a savings association fails to meet any of the regulatory capital requirements set in § 567.2 of this part, the Director may, through enforcement proceedings or otherwise, require such savings association to take one or more of the following corrective actions:

(1) Increase the amount of its regulatory capital to a specified level or levels;

(2) Convene a meeting or meetings with the Office's supervision staff for the purpose of accomplishing the objectives of this section;

(3) Reduce the rate of earnings that may be paid on savings accounts;

(4) Limit the receipt of deposits to those made to existing accounts;

(5) Cease or limit the issuance of new accounts of any or all classes or categories, except in exchange for existing accounts;

(6) Cease or limit lending or the making of a particular type or category of loan;

(7) Cease or limit the purchase of loans or the making of specified other investments;

(8) Limit operational expenditures to specified levels;

(9) Increase liquid assets and maintain such increased liquidity at specified levels; or

(10) Take such other action or actions as the Director may deem necessary or appropriate for the safety and soundness of the savings association, or depositors or investors in the savings association.

(f) The Director shall treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, written agreement undertaken or order or directive issued to comply with the requirements of this section under this section.

§ 567.11 Reservation of authority.

(a) *Transaction for purposes of evasion.* The Director or the District Director for the region in which a savings association is located may disregard any transaction entered into primarily for the purpose of reducing the minimum required amount of regulatory capital or otherwise evading the requirements of this section.

(b) *Average versus period-end figures.* The Office reserves the right to require a savings association to compute its capital ratios on the basis of average, rather than period-end, assets when the Office determines appropriate to carry out the purposes of this part.

(c) *Reservation of authority.* Notwithstanding the definitions of core and supplementary capital in § 567.5 of this part, the Office may find that a particular type of purchased intangible asset or a newly developed or modified capital instrument constitutes or may constitute core or supplementary capital, and the Office may permit one or more savings associations to include all or a portion of such intangible asset or funds obtained through such capital instrument as core or supplementary capital, permanently or on a temporary basis, for the purposes of compliance with this part or for any other purposes. Similarly, the Office may find that a particular asset or core or supplementary capital component has characteristics or terms that diminish its contribution to a savings association's ability to absorb losses, and the Office may require the discounting or deduction of such asset or component from the computation of core, supplementary, or total capital.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 26390 Filed 11–6–89, 12:03 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ASW–1; Amdt. 39–6379]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI) Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action published in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain BHTI Model 222, 222B, and 222U helicopters by individual letters. The AD required a daily inspection of the main rotor (M/R) yoke. The AD was necessary to prevent helicopters from flying with a crack in the M/R yoke. This crack, if undetected, could result in failure of the M/R yoke, which would cause the loss of the M/R blade and subsequent loss of the helicopter.

DATES: Effective November 28, 1989, as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 88–02–03, issued January 21, 1988, which contained this amendment.

Compliance: As indicated in the body of the AD.

ADDRESSES: Applicable AD-related material may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, or examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, room 158, Bldg. 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Gary B. Roach, Rotorcraft Directorate, Rotorcraft Certification Office, ASW–170, FAA, Southwest Region, Fort Worth, Texas 76193–0170, telephone (817) 624–5170.

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SUPPLEMENTARY INFORMATION: On January 21, 1988, Priority Letter AD 88-02-03 was issued and made effective immediately as to all known U.S. owners and operators of certain BHTI Model 222, 222B, and 222U helicopters. The AD required a daily inspection of the M/R yoke in accordance with specified BHTI Alert Service Bulletin. The AD was prompted by a report of a fatigue crack originating under the flapping bearing pillow block bushing flange. Investigation of the M/R yoke revealed that the crack was a result of fatigue initiated by fretting between the M/R yoke and the flapping bearing pillow block bushing. This crack, if undetected, could result in failure of the M/R yoke. AD action was necessary to prevent failure of the M/R Yoke, which would cause the loss of the M/R blade and subsequent loss of the helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters, issued January 21, 1988, to all known U.S. owners and operators of certain BHTI Model 222, 222B, and 222U helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons. The references to the BHTI Service Bulletins have been deleted from paragraph (a) of the AD, and the inspection instructions of the service documents have been added explicitly to paragraph (a). A figure 1 has also been added for additional clarity.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39:

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Bell Helicopter Textron, Inc. (BHTI): Applies to all BHTI Model 222, 222B, and 222U helicopters certificated in any category, with main rotor (M/R) yoke, part number (P/N) 222-011-102-101, installed. (Docket No. 88-ASW-1)

Compliance is required prior to further flight after the effective date of this AD, unless already accomplished.

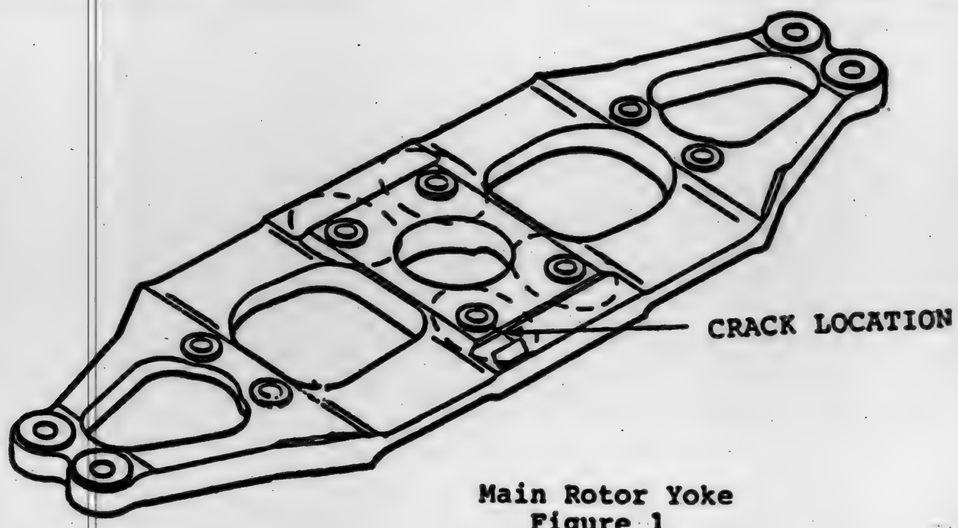
To prevent failure of the M/R yoke which could result in loss of a M/R blade and subsequent loss of the helicopter, accomplish the following:

(a) Visually inspect before the first flight of each day, the main rotor yoke for crack indications in the four (4) areas around the Flapping Bearing attachment bushings as shown in Figure 1. If a crack is detected, replace the M/R yoke prior to further flight.

Note: BHTI Service Bulletin Numbers 222U-88-20 or 222-88-46, dated January 14, 1988, pertain to these inspections.

(b) An alternate method of compliance or adjustment of the compliance time, which provides an equivalent level of safety, may be used when approved by the Manager, Rotorcraft Certification Office, ASW-170, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76193-0170.

(c) In accordance with FAR §§ 21.197 and 21.199, the helicopter may be flown to a base where the inspection may be accomplished.



Main Rotor Yoke
Figure 1

This amendment becomes effective November 24, 1989 as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 88-02-03, issued January 21, 1988, which contained this amendment.

Issued in Fort Worth, Texas, on October 24, 1989.

James D. Erickson,
Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-26314 Filed 11-7-89; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-122-AD; Amendment 39-6391]

Airworthiness Directives; CASA Model C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all CASA Model C-212 series airplanes, which requires modification of the automatic power reserve (APR) system and revision to the Airplane Flight Manual that will provide new procedures for setting power. This amendment is prompted by reports that improper function of the APR system can cause improper thrust levels or engine overtorque. This condition, if not corrected, could, in the event of an engine failure on takeoff, result in the remaining engine exceeding maximum allowable torque levels and damage to or failure of that engine.

EFFECTIVE DATE: December 12, 1989.

ADDRESSES: The applicable service information may be obtained from Construcciones Aeronauticas, S.A. (CASA), Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to all CASA Model C-212 series airplanes, which requires modification of the automatic power reserve (APR) system and a revision to the Airplane Flight Manual that will provide new procedures for setting power, was published in the **Federal Register** on August 23, 1989 (54 FR 35002).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 43 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for the required parts is $350 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,370.

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The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

CASA: Applies to all Model C-212 series airplanes, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished.

To prevent, following an engine failure on takeoff, damage to or failure of the remaining engine caused by overtorquing, accomplish the following:

A. Modify the Automatic Power Reserve (APR) system in accordance with CASA Service Bulletin 212-72-05, Revision 1, dated June 1, 1988.

B. Upon accomplishment of the modification required by paragraph A., above, revise the FAA-approved Airplane Flight Manual to include the appropriate revision, which provides new procedures for setting power, as specified in Paragraph 1.B. of CASA Service Bulletin 212-72-05, Revision 1, dated June 1, 1988.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Construcciones Aeronauticas, S.A. (CASA), Getafe, Madrid, Spain. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 12, 1989.

Issued in Seattle, Washington, on October 27, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-26290 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ASW-26; Amdt. 39-6392]

Airworthiness Directives; McDonnell Douglas Helicopter Company (MDHC) Model 369 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires removal and inspection for external cracks in the swaged ends on three main rotor control tubes and one tail rotor control tube, and the replacement of control tubes with those of new design on MDHC 369 Series helicopters. The AD is needed to prevent fatigue failure of the control tubes which could result in loss of control of the helicopter.

EFFECTIVE DATE: December 4, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service information notices may be obtained from MDHC Technical Publications, Building 543/D214, McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205-9797; telephone (602) 891-6484, or may be examined in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Davis, Aerospace Engineer, Airframe Branch, ANM-123L, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5233.

SUPPLEMENTARY INFORMATION: The FAA has determined that manufacturing defects have been found in the main rotor lateral control tubes, part number (P/N) 369A7012-BSC, on MDHC Model 369 series helicopters. These defects include longitudinal cracks on the internal surfaces of the tube, and heat-treatment to 6061-T4 temper instead of 6061-T6, as required by the type design drawings. In addition, manufacturing defects (cracks) have also been found in other control tubes, P/N's 369A7007-BSC, 369A7009-BSC, and 369A7011-BSC, made by the same vendors.

Since this condition is likely to exist or develop on other helicopters of the same type design, an AD is being issued which requires removal and inspection of the four control tubes within 25 hours' additional time in service and at repetitive intervals of 100 hours' time in service on MDHC Model 369 series helicopters. The AD also requires inspection of tubes in spares inventory prior to installation in a helicopter, to determine if any exterior cracks are present, and removal of tubes from service if such cracks are found. The replacement with control tubes of modified design within 600 hours' additional time in service on MDHC Model 369 series helicopters is also required.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT's Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory Regional Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

McDonnell Douglas Helicopter Company (MDHC): Applies to Model 369 series helicopters, certificated in any category, with main rotor collective tube, P/N 369A7009-BSC; longitudinal control tube, P/N 369A7011-BSC; lateral control tube, P/N 369A7012-BSC; and tail rotor control tube, P/N 369A7007-BSC. (Docket No. 89-ASW-26)

Compliance is required as indicated, unless already accomplished.

To prevent fatigue failure of the control tubes which could result in loss of control of the helicopter, accomplish the following:

(a) Within 25 hours' time in service after the effective date of this AD, and at intervals of 100 hours' time in service until the requirements of paragraph (c) are accomplished, remove and inspect for cracks the swaged ends of each main rotor collective control tube (P/N 369A7009-BSC), longitudinal control tube (P/N 369A7011-BSC), lateral control tube (P/N 369A7012-BSC), and each tail rotor control tube (P/N 369A7007-BSC) installed on a helicopter. If external cracks are observed as a result of this inspection, replace the control tube with a serviceable unit prior to further flight.

Note: PART I of MDHC Service Information Notice DN-156.1, EN-48.1, FN-36.1, and HN-217.1 pertains to this AD.

(b) Prior to installation, inspect for cracks the swaged ends of each main rotor collective control tube (P/N 369A7009-BSC), longitudinal control tube (P/N 369A7011-BSC), lateral control tube (P/N 369A7012-BSC), and tail rotor control tube (P/N 369A7007-BSC) from spares inventory. Reject control tubes found to be cracked as a result of this inspection.

(c) Within 600 hours' time in service after the effective date of this AD remove and inspect each main rotor collective control tube (P/N 369A7009-BSC), longitudinal control tube (P/N 369A7011-BSC), lateral control tube (P/N 369A7012-BSC), and tail rotor control tube (P/N 369A7007-BSC) in accordance with the requirements of paragraph (a). Replace cracked tubes with BASIC (BSC) part numbers with the corresponding FAA-approved -5 configuration. Modify remaining BASIC (BSC) tubes to the corresponding FAA-approved -5 configuration before reinstallation.

Note: PART II of MDHC Service Information Notice DN-158, EN-48, FN-36 or HN-217 pertains to rework and reinstallation procedures.

(d) In accordance with FAR §§ 21.197 and 21.199, the helicopter may be flown to a base where compliance with the AD may be accomplished.

(e) An alternate method of compliance with this AD which provides an equivalent level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California.

This amendment becomes effective December 4, 1989.

Issued in Fort Worth, Texas, on October 27, 1989.

James D. Erickson,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-26239 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-65-AD; Amendment 39-6390]

Airworthiness Directives; SAAB-Scania Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-Scania Model SF-340A series airplanes, which requires modification of the emergency lighting activation circuit. This amendment is prompted by reports that the emergency lighting system will not illuminate automatically if normal airplane power is lost. This condition, if not corrected, could result in failure of the emergency lights to operate when required in an emergency situation.

EFFECTIVE DATE: December 12, 1989.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania Aircraft Division, Product Support S-581 88, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to SAAB-Scania Model SF-340A series airplanes, which requires modification of the emergency lighting activation circuit, was published in the Federal Register on May 25, 1989 (54 FR 22606).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter supported the rule.

The other commenter expressed concern that, in this proposal, the FAA is interpreting "normal electric power," as that phrase is used in Federal Aviation Regulation Section 25.1351(d), as generated power only, and that previous emergency lighting designs have been (inappropriately) approved in which the "normal electric power" did not mean that which is supplied by engine-driven generators only. The FAA acknowledges that the commenter is correct regarding other inappropriate approvals. The FAA has corrected or is in the process of issuing AD's to correct this situation on the Airbus Model A300 (see 54 FR 37470; September 11, 1989), the Fokker Model F-28 (see 53 FR 47943;

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November 29, 1988), and, in this action, the SAAB Model SF-340A. In any case, the FAA's primary concern is for the need for emergency lighting when the airplane is on the ground. Once the modification required by this AD is accomplished, if the engines are turned off or stopped by some other means, and when the emergency lighting system is armed, the emergency lights will automatically activate, irrespective of the condition of the airplane battery system. In the configuration advocated by the commenter, the emergency lights, while armed would not come on if the airplane battery system remains intact. When the normal lighting system is powered only by the generators, there would be no emergency lights turned on automatically to assist the occupants during the evacuation. This is an unacceptable situation.

The commenter stated that if normal electric power was as previously discussed and the FAA mandated modifications to reflect this interpretation, an Airplane Flight Manual (AFM) change should also be required to instruct the crew to turn off the emergency lights should all generated power fail in flight. The emergency lights would then have to be turned back on before an emergency landing is made. The commenter further stated that the added task of now turning the emergency lights on before landing would increase pilot workload and substantially reduce the level of safety currently offered.

The FAA agrees that for some systems, and under some situations, these procedures, implemented by an AFM change, may be appropriate and may increase the flight crew workload slightly. Additional battery capacity (endurance) would mitigate the need for the flight crew to turn off or on the emergency lights during high workload conditions. However, service experience has shown that loss of all generated power in flight and subsequent need for emergency lighting is a relatively remote event and, as such, an AFM requirement in this AD action is not justified at this time. Again, the FAA's primary concern is for the need for emergency lighting when the airplane is on the ground.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 79 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,280.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Saab-Scania: Applies to Model SF-340A series airplanes, Serial Numbers -004 through -159, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure the operation of the emergency lighting system when required during an emergency situation, accomplish the following:

A. Within 60 days after the effective date of this AD, modify the emergency lighting activation circuit in accordance with SAAB Service Bulletin, SF340-33-028, Revision 1, dated January 25, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania Aircraft Division, Product Support, S-581 88 Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 12, 1989.

Issued in Seattle, Washington, on October 27, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-26261 Filed 11-7-89; 8:45 am]

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14 CFR Part 39

[Docket No. 89-ANE-25; Amendment 39-6377]

Airworthiness Directives; Textron Lycoming Model TIO-540-AE2A Engines (With Serial Numbers Up to and Including L9064-61A) Installed in Piper PA-46-350P Airplanes Certified in Any Category

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting an Airworthiness Directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Textron Lycoming engines by individual priority letter. The AD requires a functional leak check to verify integrity of the engine pump diaphragm and replacemnt of the pump vent tee fitting with a new restrictor type tee fitting. The AD is needed to prevent a fuel over rich condition which could result in engine roughness and loss of engine power.

DATES:

Effective: November 30, 1989, as to all persons except those to whom it was made immediately effective by individual priority letter AD 89-15-10 issued July 26, 1989, which contained this amendment.

Compliance: As required in the body of the AD.

ADDRESSES: Lycoming Service Bulletin (SB) No. 487 may be obtained from Textron Lycoming, 652 Oliver Street, Williamsport, Pennsylvania 17701. Piper SB No. 915 may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. These documents may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: P. Perrotta or N. Minniti, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, room 202, 181 South Franklin Avenue, Valley Stream, New York 11581; telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: On July 26, 1989, Priority letter Airworthiness Directive (AD) No. 89-15-10 was issued and made effective immediately as to all known U.S. owners and operators of certain Textron Lycoming engines. The AD requires a functional leak check to verify integrity of the pump diaphragm and a replacement of the pump vent tee fitting with a new restrictor type tee fitting. There have been three incidents, on Piper PA-46-350P "Mirage" aircraft, of engine malfunction and power loss resulting from engine fuel pump diaphragm failure. A ruptured diaphragm introduces additional fuel into the engine through the nozzle vent systems causing an over rich condition and erratic engine operation, particularly when the aircraft emergency boost pump is turned on. AD action is necessary to prevent an over rich condition which could result in engine roughness and loss of engine power whenever a pump diaphragm fails. This is accomplished by the new restrictor fitting installation.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letter AD 89-15-10 issued July 26, 1989, to all known U.S. owners and operators of certain Textron Lycoming Engines. These condtions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Textron Lycoming: Model TIO-540-AE2A engines (with serial numbers up to and including L9064-61A) installed in Piper PA-46-350P airplanes certified in any category.

Compliance is required within 5 hours time in service after the effective date of this AD unless already accomplished.

To prevent engine roughness and loss of engine power, accomplish the following:

(a) Perform a fuel leak check at the upper deck left nozzle vent manifold or at the fuel pump vent hose check valve in accordance with appendix I and appendix II of this AD. Observe if any fuel emerges at the disconnected line with the aircraft emergency boost pump operating. If fuel is observed, the engine pump diaphragm is considered defective. Prior to further flight, replace pump with a new or serviceable pump and repeat the above leak check.

(b) Remove tee fitting P/N AN-825-4 from the engine fuel pump vent and install restrictor type tee fitting P/N 02A21171 (Piper P/N 766-224) in accordance with appendix I and appendix II of this AD.

(c) Aircraft may be ferried in accordance with the provisions of FAR's 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective November 30, 1989, as to all persons except those persons to whom it was made immediately effective by priority letter AD No. 89-15-10, issued July 26, 1989, which contained this amendment.

Issued in Burlington, Massachusetts, on October 18, 1989.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

Appendix I—Textron Lycoming Service Bulletin No. 487, Dated July 7, 1989

1. Disconnect fuel pump vent hose from check valve or from left vent manifold.

2. Turn on aircraft boost pump and observe for fuel from hose. If fuel is observed, fuel pump must be replaced.

3. Re-connect hose and replace pump if necessary.

4. Remove P/N AN-825-4 Tee from fuel pump. Install P/N 02A21171 Tee (restricted).

Textron Lycoming through Piper Aircraft Corp. will allow 1 hour labor at posted shop rates to comply with this bulletin. After compliance with this bulletin, and appropriate logbook entry must be made.

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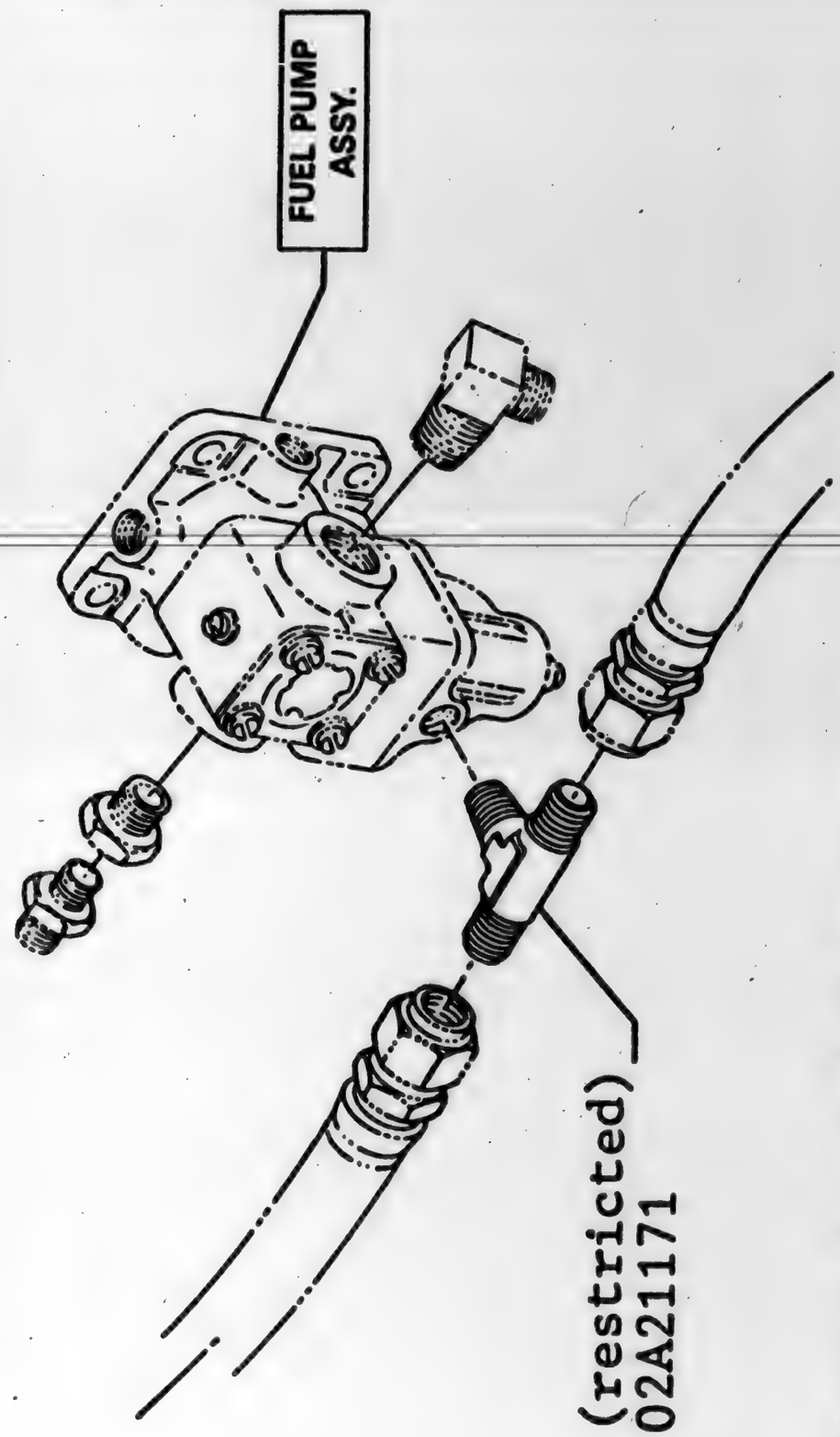

Figure 1. Fuel Pump Vent Restriction

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Appendix II—Piper Service Bulletin No. 915, Dated July 8 1989

Instructions:

1. Remove engine cowling.

2. Disconnect the upper deck reference line located on the left side of the engine where the upper deck reference line passes through the left engine cooling baffles next to the air conditioning freon hoses. (See Sketch A)

3. Select the throttle and mixture controls to the idle/cut off position. Ensure the fuel selector is in the ON position. Place a suitable container at the disconnected upper deck reference line coming from the engine driven fuel pump.

Caution

Do not perform these procedures on a hot engine. Take great care in handling and disposing of any aircraft fuel which may have come from the upper deck reference line.

4. Turn on aircraft master switch and turn on the emergency fuel pump. Observe the upper deck reference line at the disconnect. Should fuel come out of this line, the fuel pump diaphram is bad and the fuel pump must be replaced (order new fuel pump assembly from Textron Lycoming, Part Number 62E19952). Refer to appropriate chapter of the Maintenance Manual prior to installing new pump. With new pump installed proceed to Step 5. If no fuel appears from the upper deck reference line, continue to run the emergency fuel pump for approximately five minutes. No fuel should appear in this line.

If no fuel appeared in the upper deck reference line as above, proceed to Step 5.

5. Thoroughly read Textron Lycoming Service Bulletin No. 487 (included with Lycoming Kit). Install Piper Part Number 706–224 (Lycoming Part Number 02A21171) *Fuel Pump Vent Restrictor* per the appropriate Lycoming instructions included with the kit.

Material required: One (1) each Piper Part Number 706–224 (Lycoming Kit 02A21171) *Fuel Pump Vent Restrictor*. If required by inspection, one (1) each Engine Driven Fuel Pump, Lycoming Part No. 62E19952. (Must be procured from Lycoming)

Availability of parts: Your Piper Field Service Facility and/or Textron Lycoming.

BILLING CODE 4910-13-M

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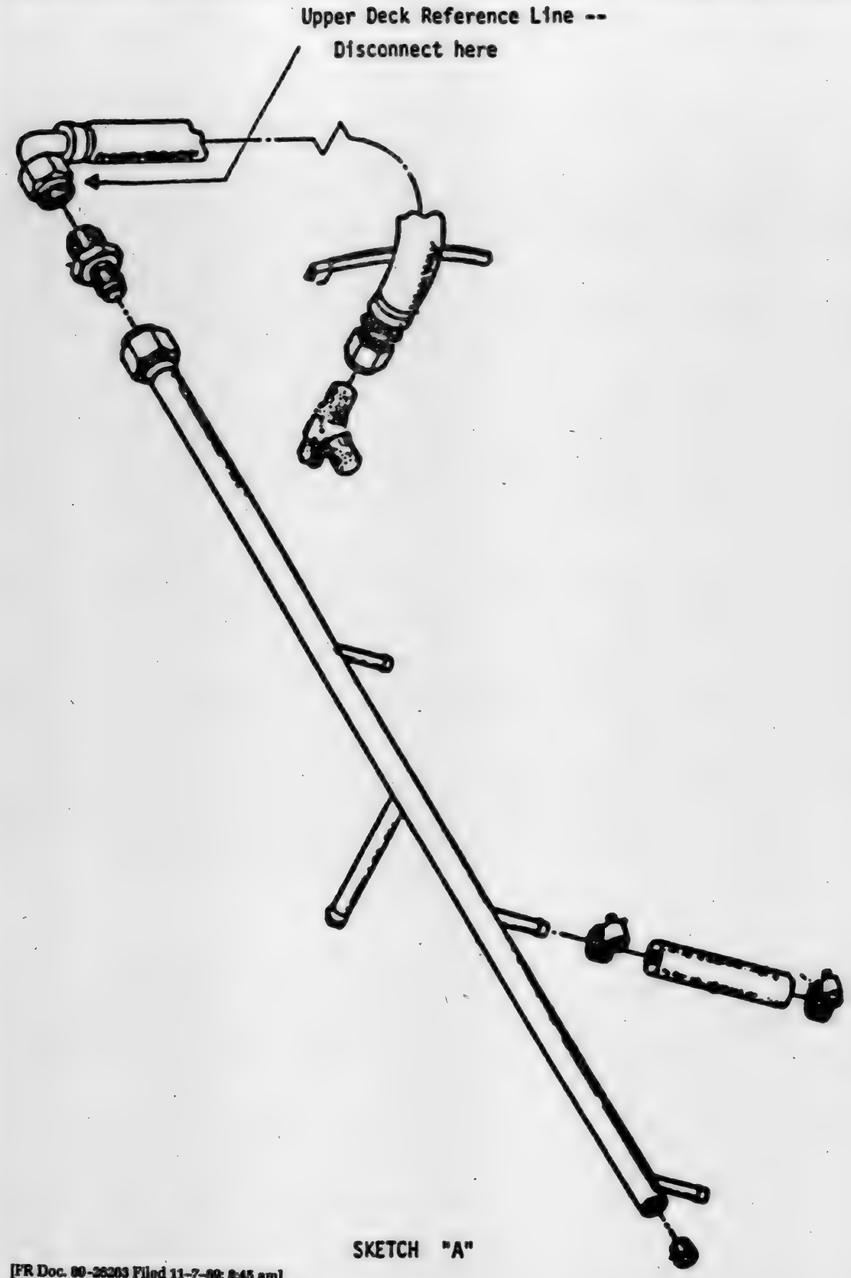

SKETCH "A"

[FR Doc. 89-26263 Filed 11-7-89; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 39

[Docket No. 89-ANE-18; Amdt. 39-6378]

Airworthiness Directives; Textron Lycoming Model HIO-360-D1A Engines Equipped With Bendix RSA-7AA Fuel Injectors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting an airworthiness directive (AD) which was previously made effective to all known U.S. owners and operators of certain Textron Lycoming engines by individual priority letter AD No. 89-13-02. The AD requires the removal, inspection, and repair of affected fuel injectors. The AD is needed to prevent restriction of fuel flow which could result in loss of engine power or engine stoppage.

DATES: Effective November 30, 1989, as to all persons except those to whom it was made immediately effective by individual priority letter AD No. 89-13-02 issued, June 22, 1989, which contained this amendment.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable technical information may be obtained as follows:

(a) Precision Airmotive Service Bulletin (SB) PRS-92 and Service Information Letter (SIL) #31 may be obtained from Precision Airmotive Corp., Snohomish County Airport, Everett, Washington 98204.

(b) Schweizer Aircraft Corp. Special Advisory and Service Notice N-202 may be obtained from Schweizer Aircraft Corp., P.O. Box 147, Elmira, New York 14902.

(c) Textron Lycoming SB No. 483 may be obtained from Textron Lycoming, 652 Oliver Street, Williamsport, Pennsylvania 17701.

These publications may also be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: N. Minniti, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581; telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: On June 22, 1989, priority letter AD No. 89-13-02 was issued and made effective immediately as to all known U.S. owners and operators of certain Textron Lycoming engines. The AD requires the removal, inspection, and repair of affected fuel injectors. Textron Lycoming reported two cases of engine roughness at Schweizer Aircraft Corporation. Schweizer later reported one case of engine stoppage on the ground on a new production helicopter. All were due to pieces of seals blocking the fuel injector passages. The O-ring seals are located on the idle shaft and mixture control shaft. Only the Model RSA-7AA injector manufactured for Bendix by Precision Airmotive in Seattle is involved. AD action was necessary to prevent an unsafe condition due to restriction of fuel flow. FAA inspectors confirmed that O ring seals were damaged during assembly at Precision Airmotive Corporation. When O ring seal pieces block the fuel injector throttle body passages or the individual fuel nozzles, engine roughness or failure can occur depending upon the extent of blockage and the engine power level.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual priority letter AD No. 89-13-02, issued June 22, 1989, to all known U.S. owners and operators of certain Textron Lycoming engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or in the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Textron Lycoming: Applies to Textron Lycoming Model HIO-360-D1A engines, certificated in any category, equipped with Bendix Model RSA-7AA Servo Fuel Injectors, P/N 2524347, with the following serial numbers:

70001101 through 70001110
70001401 through 70001404
70001602 through 70001604
70001701 through 70001710
70007001 through 70007110 (except 70007107, 70007108)
70010104 through 70010110 (except 70010107)
70013701 through 70013710 (except 70013706)
70013802 through 70013810 (except 70013803, 70013809)
70013903 through 70013910 (except 70013909)
70014001 through 70014009 (except 70014002, 70014005, 70014007, 70014006)
70014101 through 70014104 (except 70014102, 70014103)

Serial numbers followed by the letter "P" are in compliance with this AD.

These fuel injectors are installed on, but not necessarily limited to, Schweizer Aircraft Corp. Helicopter Model 269C.

Compliance is required within 5 hours time in service after the effective date of this AD, unless already accomplished.

To prevent loss of engine power or engine stoppage, accomplish the following:

(a) Remove the fuel injector unit from the engine and replace with an unaffected unit or one that has been repaired in accordance

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with the accomplishment instructions in Appendix I to this AD.

NOTE: Injector units may be returned to Precision Airmotive Corp. or an authorized facility listed in appendix II to this AD.

(b) Install unaffected fuel servo unit or a unit repaired in accordance with appendix I to this AD, as follows:

(1) Disconnect fuel injection lines from fuel injection nozzles.

(2) Carefully remove inserts from nozzles and identify to allow the inserts to be reinstalled in the proper location.

(3) Use *CLEAN* shop air to blow out all fuel injection lines, inserts, and nozzle bodies (still installed in cylinder).

(4) Visually inspect inserts for cleanliness.

(5) Reinstall fuel injector and reconnect fuel lines to fuel injector but *do not* reconnect to nozzles.

(6) Purge fuel injector system by flowing fuel through the lines for 10 seconds with boost pump on, injector in full rich and full throttle.

(7) Reinstall inserts in original nozzle locations and torque fuel injector line nuts to 40–50 in.-lbs.

(8) Make appropriate mixture and idle adjustments per aircraft manufacturer's applicable Maintenance Manual and/or appropriate service publications.

NOTE: Precision Airmotive Service Bulletin (SB) PRS–92, dated May 26, 1989; Precision Airmotive Service Information Letter #31, Revision 1, dated May 26, 1989; Schweizer Aircraft Corp. Special Advisory, dated May 25, 1989; Schweizer Aircraft Corp. Service Notice N–202, dated February 23, 1989; and Textron Lycoming SB No. 485, dated June 1, 1989, contain related information.

(c) Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective November 30, 1989, as to all persons except those persons to whom it was made immediately effective by priority letter AD No. 89–13–02, issued June 22, 1989, which contained this amendment.

Issued in Burlington, Massachusetts, on October 18, 1989.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

Appendix I—Source: Precision Airmotive Corporation Service Information Letter #31, Rev. 1, dated May 25, 1989

Accomplishment Instructions: Assemble and disassemble fuel injectors in accordance with instructions in the latest applicable overhaul manual, form number 15–520.

Step 1: Remove the idle and mixture control valve assemblies.

Step 2. Remove and inspect with 10x magnifying glass, the packings p/n 951402 (Items 180, 185 and 240, IPL Figure 2) and p/n 951403 (Items 190 and 245, IPL, Figure 2) for any evidence of damage (shaving, cuts, etc.). If there is no damage, continue with step 3 through 11. If there is damage, perform steps 12 through 20.

Step 3. Visually inspect bores for irregularities.

Step 4. Polish the bores of the throttle body for the idle and mixture control valve assemblies with paper no coarser than 600 grit.

Step 5. Thoroughly clean areas with calibrating fluid, Type II—MIL–C–7024B (such as Stoddard Solvent). Any bare surfaces should be treated in accordance with standard practices.

Step 6. Lubricate new packings p/n 951402 and p/n 951403 and bores of throttle body for idle and mixture control valve assemblies with a light coating of "vaseline" or equivalent.

Step 7. Install packings on idle and mixture control valve assemblies.

Step 8. Carefully reinstall idle and mixture control valve assemblies. *NOTE:* Valve assembly should be seated by hand before installing screws.

Step 9. Flow check unit per applicable flow specifications.

Step 10. Stamp the letter "P" on right side of data plate.

Step 11. Return the fuel injector servo to service.

The following steps are to be accomplished only if O ring damage is noted.

Step 12. Remove metering jet, item 215, IPL, Figure 3; p/n 390188–53.

Step 13. Remove fuel inlet strainer.

Step 14. Accomplish steps 3, 4, 5, 6, 7, and 8.

Step 15. Supply a fuel source to outlet of fuel servo unit.

Step 16. Flush unit through a paint strainer or fine mesh screen while continually operating mixture control and throttle levers for a minimum period of five minutes. If further evidence of contamination is observed, continue to flush unit until no further contamination is present.

Step 17. Remove idle valve assembly and reinstall metering jet.

Step 18. Inspect packings for damage, lubricate and reinstall idle valve assembly.

Step 19. Install new packings, p/n 951790 (item 30, IPL, Figure 2) and p/n 951392 (item 40, IPL, Figure 2) on fuel strainer and reinstall in servo.

Step 20. Accomplish Steps 9, 10, and 11.

Appendix II—Source: List of Precision Airmotive Corporation Product Support Centers

1. AERMECCANIA, Via Vittorio, Veneto, 21015 Lonate, Pozzolo (Varese) Italy, Ph. # (39) 33168110, Telex: 843–331859+
2. AERO MERCANTIL LEAVER & CIA, Carrera 3 No. 55–18, Apartado Aereo 6781, Bogota, Columbia, Ph. # (571) 2116100, Fax: (571) 2128952, Telex: 396–44561+
3. AIR MADAGASCAR, Direction Industrielle, P.O. Box 437, Avenue De L'Independance, Antanarivo, Madagascar, Ph. # (448) 222–22417 or (448) 222–22368, Telex: 983–22232+
4. AIRMOTIVE CARBUETOR COMPANY, 475–479 Riverside Drive, Burbank, CA 91506, Ph. # (213) 849–4704, Fax: (818) 845–8329
5. AVITECH ENGINEERING CORP., 2130 Adams Ave., San Leandro, CA 94577, Ph. # (415) 562–2811, (800) 227–1850, Fax: (415) 568–5167
6. B & S AIRCRAFT PARTS AND ACCESSORIES, 1414 S. Mosley, Wichita, KS 67211, Ph. # (316) 264–2307, Fax: (316) 264–7398
7. COMBS-GATES DENVER INC., Hanger #7, Stapleton International Airport, Denver, CO 80207, Ph. # (303) 398–5400, Fax: (303) 398–2594
8. CSE AVIATION LIMITED, Oxford Airport, Kidlington, Oxford OX5 IRA England, Ph. # (44) 865–841–234, Fax: (44) 867–579–123, Telex: 851–83204+ AZTEC E
9. DUCARRA AVIATION, 1505 N. Front Street, P.O. Box 430, Niles, MI 49120, Ph. # (616) 684–4440, Fax: (616) 684–6375
10. FRANCE AVIATION, Aerodrome de Toussus-Le-Noble, F–78117 Chateaufort, France, Ph. # (33) 13 965–8050, Fax: (33) 13 950–1152, Telex: 842–696645+ PRAVIA F
11. HANTS & SUSSEX AVIATION LTD., Airport Service Road (Eastern Road), Portsmouth, Hants, England PO3 5PJ, Ph. # (44) 705 694981, Fax: (44) 705 690415, Telex: 851–86403+
12. HATFIELD AVIATION, 6109 Braniff, Houston, TX 77017, Ph. # (713) 644–2162, Fax: (713) 644–2162
13. HAWKER PACIFIC PTY. LTD., P.O. Box 172, Yagoona, New South Wales 2199, AUSTRALIA, Ph. # (61) 270 88555, Fax: (61) 270 81480, Telex: 790–121168+
14. LEAVENS AVIATION INC., 2555 Derry Road, Mississauga, Ontario, Canada L4T 1A1, Ph. # (416) 678–1234, Fax: (416) 678–7028
15. LIDER TAXI AEREO S.A., Aeroporto De Pampulha, Av. Santa Rosa 123, Belo Horizonte, M.G., Brasil, Telex: 391–311275+
16. MATTITUCK AVIATION, Airway Drive, Mattituck, NY 11952, Ph. # (516) 298–8330, Fax: (516) 298–6412
17. OSTERMANS AERO A.B., Box 422 S–175–25, Jarfalla, Sweden, Ph. # (46) 8 760–2720, Fax: (46) 8 760–8112, Telex: 854–13485+ OSTAIR S
18. PIEDMONT AVIATION INC., 3817 N. Liberty St., Winston-Salem, NC 27102, Ph. # (919) 767–5518, Fax: (919) 767–5584
19. PIERBURG LUFTFAHRTGERATE UNION, Bataverstrasse 60, 4040 Neuss Rhein, West Germany, Ph. # (49) 2101 520, Fax: (49) 2107 523445, Telex: 841–2101329+
20. PRECISION AIR, INC., 3610 NW. 41st St., Miami, FL 33142, Ph. # (305) 635–5293, Fax: (305) 635–1572
21. SCANAVIATION WORKS A/S, Copenhagen Airport, Post Box 139, DK–2770 Kastrup, Denmark, Ph. # (45) 151 4222, Telex: 855–31374+
22. SCHNECK AVIATION, P.O. Box 6417, Rockford, IL 61125, Ph. # (815) 965–4001, Fax: (815) 965–4004
23. SIPER AVIACION S.A., 3 De Febrero 2060–San Fernando (1646), Buenos Aires, Argentina, Ph. # (54) 1–744–6802 or (54) 1–744–6830, Telex: 390–29062+ SIPER AR
24. TRANSAIR (SUISSE), Aeoport de Geneve-Cointrin, HP315, CH–1215 Geneve 15, Switzerland, Ph. # (41) 22 798 2400, Fax: (41) 22 798 2400, Telex: 845–23567+
25. FIELD AVIATION, # 5 3500 19th Street NE., Calgary, Alberta T2E 6S8, Canada, Ph. # (403) 291–3460, Fax: (403) 250–1757

[FR Doc. 89–26284 Filed 11–7–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 89–ANM–7]

Alteration of VOR Federal Airway V–382; CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters VOR Federal Airway V–382 between Grand Junction, CO, and Durango, CO. This action will expedite air traffic arriving and departing the Telluride Regional Airport. This action will reduce controller workload and aid flight planning.

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Betty Harrison, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On August 28, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter VOR Federal Airway V–382 between Grand Junction, CO, and Durango, CO (54 FR 35500). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters VOR Federal Airway V–382 between Grand Junction, CO, and Durango, CO. This action will expedite air traffic departing from and landing at the Telluride Regional Airport, in the vicinity of the Cones VOR. In addition, V–382 will support the VOR/DME Runway 9 approach to the Telluride Regional Airport. This action will reduce controller workload and aid flight planning.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

LIST OF SUBJECTS IN 14 CFR PART 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–382 [Amended]

By removing the words "to Grand Junction, CO." and substituting the words "Grand Junction; Cones, CO; to Durango, CO."

Issued in Washington, DC, on October 27, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89–25313 Filed 11–7–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 89–ASW–28]

Amendment to Times of Designation for Restricted Areas at White Sands Missile Range; NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the times of designation for Restricted Areas R–5107F, R–5107G, R–5109A and R–5109B White Sands Missile Range, NM. This action is the result of a special use airspace review. This action more accurately reflects the actual time of use of the restricted areas and lessens the burden on the flying public.

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Rich Uhrich, Military Operations Branch (ATO–140), Operations Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7635.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations reduces the time of designation for Restricted Areas R–5107F, R–5107G, R–5109A and R–5109B, White Sands Missile Range, NM. A special use airspace review was conducted at the White Sands Missile Range, October 18–20, 1988. During the review, information was gathered which documented the published times of use which did not accurately reflect the actual use of these restricted areas. This action changes the times of use for R–5107F and R–5107G from continuous to 0001 local time Monday through 2359 local time Friday, other times by NOTAM. The times of use for R–5109A and R–5109B are changed from continuous Monday through Friday, other times as activated by NOTAM issued at least 12 hours in advance to intermittent by NOTAM. This action more accurately reflects the actual use

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of these areas and lessens the burden on the flying public. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would be particularly interested. Section 73.51 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.51 [Amended]

2. Section 73.51 is amended as follows:

R-5107F White Sands Missile Range, NM [Amended]

By removing the word "Continuous" and substituting the words "0001 Monday through 2359 Friday, other times by NOTAM"

R-5107G White Sands Missile Range, NM [Amended]

By removing the word "Continuous" and substituting the words "0001 Monday through 2359 Friday, other times by NOTAM"

R-5108A White Sands Missile Range, NM [Amended]

By removing the present time of designation and substituting the following:

Time of designation. Intermittent by NOTAM.

R-5108B White Sands Missile Range, NM [Amended]

By removing the present time of designation and substituting the following:

Time of designation. Intermittent by NOTAM.

Issued in Washington, DC, on October 20, 1989.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-26312 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 89-AEA-6]

Alteration of Jet Route; NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action corrects the effective date for Airspace Docket 88-AEA-6 from November 16, 1989, to January 11, 1990. The relocated LaGuardia VOR did not pass the required flight inspection and, therefore, will not meet the criteria for charting on the November 16, 1989, charts. This action amends the effective date.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 89-22998, published on September 29, 1989, altered the description of Jet Route J-42 located in the vicinity of New York (54 FR 39989). The LaGuardia VOR was relocated from Rikers Island, NY, to the LaGuardia Airport, NY. The relocated VOR did not pass the required flight check and, therefore, the effective date for charting must be delayed from November 16, 1989, to January 11, 1990.

The FAA finds good cause for making this delay of effective date effective in less than 30 days after publication since this rule is a minor amendment which simply notifies the public of a delay in the charting date and does not affect the airspace.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Delay of Effective Date

Accordingly, pursuant to the authority delegated to me, Federal Register Document 89-22998, as published in the Federal Register on September 29, 1989, (54 FR 39989) is amended by changing the effective date from November 16, 1989, to January 11, 1990.

Issued in Washington, DC, on October 26, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-26310 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Refrigerators, Refrigerator-freezers and Freezers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for refrigerators, refrigerator-freezers and freezers will remain in effect until new ranges are published.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) [1] requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Refrigerators, refrigerator-freezers and freezers are included as one of the categories. Before these labeling requirements may be prescribed, the statute requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule [2] covering seven of the thirteen appliance categories, including refrigerators, refrigerator-freezers and freezers. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all refrigerators, refrigerator-freezers and freezers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a refrigerator, refrigerator-freezer or freezer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for refrigerators, refrigerator-freezers and freezers have been received and analyzed and it has been determined that neither the upper nor lower limits of the ranges for this product category have changed by 15% or more since the last publication of the ranges on May 16, 1989.[4]

In consideration of the foregoing, the present ranges for refrigerators, refrigerator-freezers and freezers will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95-619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100-12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100-357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Donald S. Clark,

Secretary.

[FR Doc. 89-26304 Filed 11-7-89; 8:45 am]

BILLING CODE 6750-01-M

[1] Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).

[2] 44 FR 66466, 16 CFR part 305.

[3] Reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[4] 54 FR 21851.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 89-092]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time and limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between July 1, 1989 and September 30, 1989 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the past published list.

ADDRESS: The complete text of any temporary regulation may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G-LRA-2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Executive Secretary, Marine Safety Council at (202) 267-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since events and emergencies usually take place without advance notice or warning, timely publication of notice in the Federal Register is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, Federal Register notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the Federal Register notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the Federal Register just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period July 1, 1989 through September 30, 1989 unless otherwise indicated.

Docket Number	Location	Type	Date
1-89-036	Newark Bay, Port Elizabeth, NJ	Safety Zone	22 JUN 89
1-89-038	East River, New York, NY	Safety Zone	9 JUL 89
1-89-052	Norwalk Harbor, Norwalk, CT	Safety Zone	3 JUL 89

Docket Number	Location	Type	Date
COTP Memphis, TN, Reg. 89-04	Lower Mississippi River, Mile 732.0 to Mile 734.0	Safety Zone	17 AUG 89
COTP Memphis, TN, Reg. 89-05	Lower Mississippi River, Mile 594.5 to Mile 595.5	Safety Zone	21 AUG 89
COTP Paducah, KY, Reg. 89-01	Tennessee River, Mile 255.0 to Mile 256.5	Safety Zone	4 JUL 89

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Docket Number	Location	Type	Date
1-89-066	Newark Bay, Port Elizabeth, NJ	Safety Zone	22 JUN 89
1-89-038	East River, New York, NY	Safety Zone	3 JUL 89
1-89-052	Norwalk Harbor, Norwalk, CT	Safety Zone	3 JUL 89
1-89-056	Lake Champlain, Burlington, VT	Safety Zone	3 JUL 89
1-89-072	Federal Turning Basin, Norwich, CT	Safety Zone	3 JUL 89
1-89-045	East River, New York, NY	Safety Zone	4 JUL 89
1-89-053	Norwalk Harbor, Norwalk, CT	Safety Zone	4 JUL 89
1-89-054	Connecticut River, CT	Special Local Regulations	4 JUL 89
1-89-061	Hudson River, Stony Point, NY	Safety Zone	4 JUL 89
1-89-073	Connecticut River, Deep River, CT	Safety Zone	4 JUL 89
1-89-074	Oyster Bay, NY	Safety Zone	4 JUL 89
1-89-075	New London Harbor, New London, CT	Safety Zone	5 JUL 89
1-89-037	Marblehead, MA	Special Local Regulations	9 JUL 89
1-89-055	Hudson River, Albany, NY	Safety Zone	15 JUL 89
1-89-059	New Haven, CT	Special Local Regulations	15 JUL 89
1-89-060	Arthur Kill, Linden, NJ	Safety Zone	19 JUL 89
1-89-057	Long Island Sound, New Rochelle, NY	Safety Zone	29 JUL 89
1-89-066	Hudson River, New York, NY	Safety Zone	1 AUG 89
1-89-081	East River, New York, NY	Safety Zone	5 AUG 89
1-89-069	Long Island Sound, Kings Point, NY	Safety Zone	5 AUG 89
1-89-083	Hudson River, Waterviiet, NY	Safety Zone	12 AUG 89
1-89-085	Harlem River, Bronx, NY	Safety Zone	12 AUG 89
1-89-087	East River, New York, NY	Safety Zone	19 AUG 89
1-89-090	Harlem River, Bronx, NY	Safety Zone	20 AUG 89
1-89-096	East River, New York, NY	Safety Zone	24 AUG 89
1-89-083	East River, New York, NY	Safety Zone	26 AUG 89
1-89-084	Norwich Harbor, Norwich, CT	Safety Zone	27 AUG 89
1-89-092	East River, New York, NY	Safety Zone	3 SEP 89
1-89-102	Thames River, New London, CT	Security Zone	7 SEP 89
1-89-093	Stamford, CT	Special Local Regulations	9 SEP 89
1-89-101	Norwalk Harbor, Norwalk, CT	Safety Zone	9 SEP 89
1-89-095	Upper Bay, New York, NY	Safety Zone	13 SEP 89
1-89-112	Upper Bay, New York, NY	Safety Zone	13 SEP 89
1-89-113	East River, New York, NY	Safety Zone	13 SEP 89
1-89-114	East River, New York, NY	Safety Zone	14 SEP 89
1-89-107	Sandy Hook Bay, NJ	Safety Zone	15 SEP 89
1-89-099	Mystic River, Mystic, CT	Safety Zone	16 SEP 89
1-89-115	Hudson River, Albany, NY	Safety Zone	16 SEP 89
1-89-104	Federal Anchorage 27, NJ	Safety Zone	19 SEP 89
1-89-128	Rikers Island Channel & Flushing Bay, New York, NY	Safety Zone	20 SEP 89
1-89-106	The Upper Bay, New York Harbor	Safety Zone	24 SEP 89
1-89-116	New York Harbor, New York, NY	Security Zone	25 SEP 89
1-89-105	The Upper Bay, New York Harbor	Safety Zone	23 SEP 89
1-89-109	Guilford Harbor, Guilford, CT	Safety Zone	26 SEP 89
1-89-118	Hempstead Harbor, Long Island, NY	Safety Zone	30 SEP 89
COTP Boston, MA, Reg. 89-47	Boston Harbor, Boston Inner Harbor, Boston, MA	Safety Zone	4 JUL 89
COTP Boston, MA, Reg. 89-103	Gloucester Harbor, Gloucester, MA	Safety Zone	5 SEPT 89
COTP Providence, RI, Reg. 89-063	Horseneck Beach, Westport, MA	Safety Zone	3 JUL 89
COTP Providence, RI, Reg. 89-068	New Bedford Harbor, MA	Safety Zone	4 JUL 89
COTP Providence, RI, Reg. 89-082	East Passage, Narragansett Bay, RI	Safety Zone	12 AUG 89
COTP Providence, RI, Reg. 89-091	Great Salt Pond, Block Island, RI	Safety Zone	12 AUG 89
COTP Providence, RI, Reg. 89-094	East Passage, Narragansett Bay, RI	Safety Zone	26 AUG 89
COTP Providence, RI, Reg. 89-096	Menemsha Bight, Martha's Vineyard, MA	Safety Zone	26 AUG 89
COTP Providence, RI, Reg. 89-097	Taunton River, Fall River, MA	Safety Zone	26 AUG 89
2-89-04	USDBA/FLORENCE, Florence, AL	Special Local Regulations	19 AUG 89
2-89-05	Upper Mississippi River, Mile 663.0 to Mile 664.0	Special Local Regulations	19 AUG 89
2-89-16	Ohio River, Mile 603.2 to Mile 604.3	Special Local Regulations	26 AUG 89
2-89-11	Ohio River, Mile 449.0 to Mile 450.6	Special Local Regulations	27 AUG 89
2-89-14	Upper Mississippi River, Mile 456.2 to Mile 454.5	Special Local Regulations	1 SEP 89
2-89-10	Ohio River, Mile 170.8 to Mile 171.9	Special Local Regulations	9 SEP 89
2-89-12	Ohio River, Mile 603.0 to Mile 604.0	Special Local Regulations	9 SEP 89
2-89-06	Ohio River, Mile 483.0 to Mile 484.0	Special Local Regulations	10 SEP 89
2-89-09	Ohio River, Mile 505.5 to Mile 506.5	Special Local Regulations	16 SEP 89
2-89-15	Ohio River, Mile 127.0 to Mile 129.0	Special Local Regulations	23 SEPT 89
COTP Huntington, WV, Reg. 89-04	Ohio River, Mile 308.0 to Mile 309.5	Safety Zone	4 JUL 89
COTP Huntington, WV, Reg. 89-05	Ohio River, Mile 322.0 to Mile 323.0	Safety Zone	4 JUL 89
COTP Huntington, WV, Reg. 89-06	Kanawha River, Mile 57.5 to Mile 59.0	Safety Zone	4 JUL 89
COTP Huntington, WV, Reg. 89-07	Ohio River, Mile 183.0 to Mile 186.0	Safety Zone	22 JUL 89
COTP Huntington, WV, Reg. 89-08	Ohio River, Mile 184.0 to Mile 185.0	Safety Zone	19 AUG 89
COTP Huntington, WV, Reg. 89-09	Ohio River, Mile 355.5 to Mile 358.5	Safety Zone	3 SEP 89
COTP Louisville, KY, Reg. 89-09	Ohio River, Mile 557.3 to Mile 557.9	Safety Zone	1 JUL 89
COTP Louisville, KY, Reg. 89-13	Ohio River, Mile 603.2 to Mile 604.3	Safety Zone	1 JUL 89
COTP Louisville, KY, Reg. 89-10	Ohio River, Mile 739.0 to Mile 739.6	Safety Zone	3 JUL 89
COTP Louisville, KY, Reg. 89-11	Ohio River, Mile 603.7 to Mile 604.3	Safety Zone	4 JUL 89
COTP Louisville, KY, Reg. 89-12	Ohio River, Mile 606.1 to Mile 606.7	Safety Zone	4 JUL 89
COTP Louisville, KY, Reg. 89-15	Ohio River, Mile 792.2 to Mile 792.8	Safety Zone	4 JUL 89
COTP Louisville, KY, Reg. 89-16	Ohio River, Mile 606.1 to Mile 606.7	Safety Zone	5 JUL 89
COTP Louisville, KY, Reg. 89-18	Ohio River, Mile 603.7 to Mile 604.3	Safety Zone	4 SEP 89
COTP Louisville, KY, Reg. 89-17	Ohio River, Mile 603.2 to Mile 604.3	Safety Zone	9 SEP 89
COTP Memphis, TN, Reg. 89-02	Mississippi River, Mile 734.8 to Mile 736.7, & Wolf River Chute, Mile 0.0 to Mile 1.0.	Safety Zone	4 JUL 89
COTP Memphis, TN, Reg. 89-03	Lower Mississippi River, Mile 594.5 to Mile 595.5	Safety Zone	9 AUG 89

Docket Number	Location	Type	Date
COTP Memphis, TN, Reg. 89-04	Lower Mississippi River, Mile 732.0 to Mile 734.0	Safety Zone	17 AUG 89
COTP Memphis, TN, Reg. 89-05	Lower Mississippi River, Mile 594.5 to Mile 595.5	Safety Zone	21 AUG 89
COTP Paducah, KY, Reg. 89-01	Tennessee River, Mile 255.0 to Mile 256.5	Safety Zone	4 JUL 89
COTP Pittsburgh PA, Reg. 89-07	Ohio River, Mile 104.0 to Mile 106.0	Safety Zone	20 AUG 89
COTP St. Louis, MO, Reg. 89-07	Missouri River at Mile 8.7	Safety Zone	1 MAY 89
COTP St. Louis, MO, Reg. 89-14	Upper Mississippi River, Mile 168.5 to Mile 170.3	Safety Zone	5 MAY 89
COTP St. Louis, MO, Reg. 89-10	Missouri River at Mile 256.0	Safety Zone	12 MAY 89
COTP St. Louis, MO, Reg. 89-08	Missouri River at Mile 160.0	Safety Zone	17 MAY 89
COTP St. Louis, MO, Reg. 89-09	Missouri River, Mile 131.0 to Mile 132.0	Safety Zone	22 MAY 89
COTP St. Louis, MO, Reg. 89-16	Upper Mississippi River, Mile 840.5 to Mile 840.0	Safety Zone	26 MAY 89
COTP St. Louis, MO, Reg. 89-17	Upper Mississippi River, Mile 486.0 to Mile 488.0	Safety Zone	1 JUL 89
COTP St. Louis, MO, Reg. 89-18	Upper Mississippi River, Mile 203.0 to Mile 203.4	Safety Zone	3 JUL 89
COTP St. Louis, MO, Reg. 89-19	Upper Mississippi River, Mile 581.5 to Mile 583.0	Safety Zone	3 JUL 89
COTP St. Louis, MO, Reg. 89-20	Upper Mississippi River, Mile 162.3 to Mile 162.7	Safety Zone	4 JUL 89
COTP St. Louis, MO, Reg. 89-21	Upper Mississippi River, Mile 363.6 to Mile 364.2	Safety Zone	4 JUL 89
COTP St. Louis, MO, Reg. 89-12	Upper Mississippi River, Mile 167.5 to Mile 168.5	Safety Zone	10 JUL 89
COTP St. Louis, MO, Reg. 89-15	Upper Mississippi River, Mile 184.0 to Mile 0.0	Safety Zone	12 JUL 89
COTP St. Louis, MO, Reg. 89-13	Upper Mississippi River, Mile 157.0 to Mile 159.0	Safety Zone	20 JUL 89
COTP St. Louis, MO, Reg. 89-22	Upper Mississippi River, Mile 482.0 to Mile 482.4	Safety Zone	12 AUG 89
COTP St. Louis, MO, Reg. 89-24	Upper Mississippi River, Mile 497.1 to Mile 496.1	Safety Zone	12 AUG 89
COTP St. Louis, MO, Reg. 89-25	Upper Mississippi River, Mile 110.0 to Mile 108.0	Safety Zone	14 AUG 89
COTP St. Louis, MO, Reg. 89-29	Upper Mississippi River, Mile 184.0 to Mile 0.0	Safety Zone	18 AUG 89
COTP St. Louis, MO, Reg. 89-26	Upper Mississippi River, Mile 166.5 to Mile 170.3	Safety Zone	24 AUG 89
COTP St. Louis, MO, Reg. 89-23	Upper Mississippi River, Mile 362.8 to Mile 363.8	Safety Zone	25 AUG 89
5-89-54	Fort Mifflin, Delaware River, Philadelphia, PA	Special Local Regulations	2 JUL 89
5-89-60	Pagan River, Isle of Wight County, VA	Special Local Regulations	2 JUL 89
5-89-31	Delaware River, Marcus Hook, PA	Special Local Regulations	3 JUL 89
5-89-63	Patuxent River, Johnstown, VA	Special Local Regulations	3 JUL 89
5-89-30	Approaches to Annapolis Harbor, Spa Creek, & Severn River, Annapolis, MD.	Special Local Regulations	4 JUL 89
5-89-59	James River, Newport News, VA	Special Local Regulations	4 JUL 89
5-89-64	York River, Yorktown, VA	Special Local Regulations	4 JUL 89
5-89-65	Town Point Park, Elizabeth River, Norfolk, VA	Special Local Regulations	4 JUL 89
5-89-66	Patapsco River, Inner Harbor, Baltimore, MD	Special Local Regulations	4 JUL 89
5-89-71	Lafayette River, Norfolk, VA	Special Local Regulations	4 JUL 89
5-89-69	Atlantic Ocean, Virginia Beach, VA	Special Local Regulations	5 JUL 89
5-89-68	Western Branch, Elizabeth River, Portsmouth, VA	Special Local Regulations	15 JUL 89
5-89-70	Ship Channel & Great Egg Waterway, Ocean City, NJ	Special Local Regulations	15 JUL 89
5-89-48	Patapsco River, Fort McHenry, Baltimore, MD	Special Local Regulations	17 JUL 89
5-89-77	Approaches to Cape Fear River, Bald Head Island, NC	Special Local Regulations	5 AUG 89
5-89-84	Norfolk Harbor, Elizabeth River, Norfolk & Portsmouth, VA	Special Local Regulations	19 AUG 89
5-89-83	Neale Sound Cobb Island, MD	Special Local Regulations	19 AUG 89
5-89-85	Isle of Wight Bay, Ocean City, MD	Special Local Regulations	1 SEP 89
5-89-87	Fort McHenry, Baltimore, MD	Special Local Regulations	15 SEP 89
5-89-26	Chesapeake Bay, Sandy Point, MD	Special Local Regulations	16 SEP 89
5-89-80	Parker Island, Little Egg Harbor, NJ	Special Local Regulations	16 SEP 89
5-89-86	Fort McHenry, Patapsco River, Baltimore, MD	Special Local Regulations	19 SEP 89
COTP Baltimore, MD Reg. 89-03	Severn River & Annapolis Harbor, Annapolis, MD	Security Zone	29 SEP 89
COTP Hampton Roads, VA Reg. 89-38.	Norfolk Harbor, James River, Hampton Roads, VA	Safety Zone	4 JUL 89
COTP Hampton Roads, VA Reg. 89-39.	James River, Newport News, VA	Security Zone	4 JUL 89
COTP Philadelphia, PA Reg. 89-06	Delaware River	Safety Zone	30 JUN 89
COTP Philadelphia, PA Reg. 89-07	Delaware River	Safety Zone	31 JUN 89
COTP Wilmington, NC Reg. 89-003	Cape Fear River, Wilmington, NC	Safety Zone	4 JUL 89
COTP Charleston, SC Reg. 89-42	Ben Sawyer Bridge, Intracoastal Waterway, SC	Safety Zone	30 SEP 89
COTP Jacksonville, FL Reg. 89-32	Salt Run, St. Augustine, FL	Safety Zone	6 AUG 89
COTP Jacksonville, FL Reg. 89-33	St. Johns River, Jacksonville, FL	Safety Zone	22 SEP 89
COTP Jacksonville, FL Reg. 89-38	St. Mary's River Entrance & Cumberland Sound, GA	Security Zone	23 SEP 89
COTP Miami, FL, Reg. 89-34	Port Everglades, FL	Safety Zone	21 AUG 89
COTP Savannah, GA, Reg. 89-022	Savannah, GA	Safety Zone	3 JUL 89
COTP Savannah, GA, Reg. 89-016	Skull Creek, Hilton Head, SC	Safety Zone	4 JUL 89
COTP Tampa, FL, Reg. 89-026	Sarasota Bay & Gulf of Mexico, Sarasota, FL	Safety Zone	30 JUN 89
COTP Tampa, FL, Reg. 89-028	Headwaters of Crystal River, FL, Kings Bay, Crystal Bay	Safety Zone	30 JUN 89
COTP Tampa, FL, Reg. 89-031	Sarasota Bay, Sarasota, FL	Safety Zone	30 JUN 89
COTP Tampa, FL, Reg. 89-030	Hillsborough River, Tampa, FL	Safety Zone	29 JUL 89
COTP Tampa, FL, Reg. 89-37	Sarasota Gulf of Mexico, St. Petersburg, FL	Safety Zone	23 SEP 89
8-89-07	Clear Lake, Galveston Bay, TX	Special Local Regulations	19 MAY 89
8-89-08	Neches River, Beaumont, TX	Special Local Regulations	21 MAY 89
8-89-13	Neches River, Beaumont, TX	Special Local Regulations	16 SEP 89
COTP Corpus Christi, TX, Reg. 89-02	Brownsville Ship Channel, TX	Safety Zone	16 JUN 89
COTP Corpus Christi, TX, Reg. 89-03	Gulf Intracoastal Waterway & Corpus Christi Ship Channel	Safety Zone	21 JUN 89
COTP Galveston, TX, Reg. 89-01	Galveston Bay/Galveston Channel	Safety Zone	29 JAN 89
COTP Houston, TX, Reg. 89-09	Houston Ship Channel, from City Dock 1 to Light #89	Safety Zone	15 DEC 89
COTP Houston, TX, Reg. 89-01	Houston Ship Channel, Cargill to dayboard 142	Safety Zone	10 MAR 89
COTP Houston, TX, Reg. 89-02	Houston Ship Channel, from the Lynchburg Ferry to buoy 123	Safety Zone	19 MAY 89
COTP Mobile, AL, Reg. 89-03	Mobile Ship Channel, 50 yard radius around USS WISCONSIN	Safety Zone	2 FEB 89
COTP Mobile, AL, Reg. 89-05	Pensacola Bay, Pensacola, FL	Safety Zone	29 APR 89
COTP Mobile, AL, Reg. 89-06	Pensacola Bay, Pensacola, FL, 250 yard radius around USS LEXINGTON	Safety Zone	28 APR 89
COTP Mobile, AL, Reg. 89-07	Tombigbee River, Nanafalia, FL	Safety Zone	9 JUN 89
COTP New Orleans, LA, Reg. 89-07	Port Allen Alternate Between Mile 45 and Mile 46.5	Safety Zone	9 NOV 88

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Docket Number	Location	Type	Date
COTP New Orleans, LA, Reg. 89-01	USS IOWA transiting Mississippi River, Southwest Pass to Julia Street Wharf Mile 95.3.	Safety Zone	6 FEB 89
9-89-11	Lake Michigan, Sheboygan, WI	Special Local Regulations	4 JUL 89
9-89-12	Milwaukee Harbor, Milwaukee, WI	Special Local Regulations	4 JUL 89
9-89-09	Grand River, Grand Haven, MI	Special Local Regulations	4 JUL 89
9-89-20	Saginaw River	Special Local Regulations	14 JUL 89
9-89-22	St. Joseph River, St. Joseph, MI	Special Local Regulations	15 JUL 89
9-89-23	Grand River, Grand Haven, MI	Special Local Regulations	22 JUL 89
9-89-24	Presque Isle Bay, Lake Erie, Erie, PA	Special Local Regulations	19 AUG 89
9-89-25	Cuyahoga River, Cleveland, OH	Special Local Regulations	19 AUG 89
9-89-27	Buffalo Outer Harbor, Buffalo, NY	Special Local Regulations	10 SEP 89
COTP Buffalo, NY, Reg. 89-002	Buffalo Harbor, Buffalo, NY	Safety Zone	1 JUL 89
COTP Buffalo, NY, Reg. 89-003	Sodus Bay, NY	Safety Zone	3 JUL 89
COTP Cleveland, OH, Reg. 89-02	East Basin of Cleveland Inner Harbor, Lake Erie	Safety Zone	9 SEP 89
COTP Duluth, MN, Reg. 89-02	Lake Superior, Duluth, Minnesota Point	Safety Zone	21 JUL 89
COTP Pittsburgh, PA, Reg. 89-06	Ohio River, Mile 0.0 to Mile 0.8	Safety Zone	4 JUL 89
COTP LA/LB, CA, Reg. 89-06	Ports of Los Angeles/Long Beach, CA	Safety Zone	4 JUL 89
COTP LA/LB, CA, Reg. 89-07	Ports of Los Angeles/Long Beach, CA	Safety Zone	4 JUL 89
COTP LA/LB, CA, Reg. 89-08	Ports of Los Angeles/Long Beach, CA	Safety Zone	4 JUL 89
COTP LA/LB, CA, Reg. 89-11	Ports of Los Angeles/Long Beach, CA	Safety Zone	17 SEP 89
COTP San Diego, CA, Reg. 89-07	Pt. Loma, CA, Pacific Ocean	Safety Zone	3 AUG 89
13-89-12	Elliott Bay, Seattle, WA	Special Local Regulations	4 JUL 89
13-89-13	Lake Union, Seattle, WA	Special Local Regulations	4 JUL 89
13-89-14	Bellingham Bay, Bellingham, WA	Special Local Regulations	4 JUL 89
13-89-15	Commencement Bay, Tacoma, WA	Special Local Regulations	4 JUL 89
COTP Portland, OR, Reg. 89-01	Columbia River Entrance Lighted Whistle Buoy 2 & Pier 1, Astoria, OR	Security Zone	8 JUL 89
COTP Puget Sound, WA, Reg. 89-02	Buoy "SG" near West Point in Puget Sound to Seattle, WA	Safety Zone	1 AUG 89
COTP Puget Sound, WA Reg. 89-03	Seattle, WA	Safety Zone	2 AUG 89
COTP Puget Sound, WA Reg. 89-04	Seattle, WA	Safety Zone	7 AUG 89
COTP Southeast AK, Reg. 89-01	Gastineau Channel, Juneau, AK	Safety Zone	3 JUL 89
COTP Southeast AK, Reg. 89-02	Crescent Bay, Sitka, AK	Safety Zone	4 JUL 89
COTP Southeast AK, Reg. 89-03	Tongass Narrows, Ketchikan, AK	Safety Zone	4 JUL 89
COTP Southeast AK, Reg. 89-04	Ketchikan Harbor, Ketchikan, AK	Safety Zone	12 AUG 89
COTP Western AK, Reg. 89-03	Cook Inlet/Nikiski, AK	Safety Zone	20 JUL 89
COTP Western AK, Reg. 89-05	Cold Bay, Alaska Peninsula, AK	Security Zone	27 SEP 89
COTP Western AK, Reg. 89-06	Cold Bay, Alaska Peninsula, AK	Security Zone	27 SEP 89

Dated: November 1, 1989

Bruce P. Novak,

Executive Secretary, Marine Safety Council.

[FR Doc. 89-26247 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 217

Requesting Review of National Forest Plans and Project Decisions

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the administrative appeal procedures at 36 CFR part 217 to provide special procedures for appealing timber sale decisions on 13 National Forests in Oregon and Washington. The rule adds a new section that provides for only one level of appeal with no discretionary review, and if a stay is granted, 45 days for the Regional Forester to issue a decision. Additionally, if a stay is granted, 15 days for intervention shall be allowed from the date a stay is granted. If a court challenge occurs before an appeal decision is issued, the appeal record will be closed and the appeal dismissed without a decision on the merits. These special procedures will apply only to timber sale decisions made after October 23, 1989 and prior to September 30, 1990, and awarded prior to September 30, 1990, on 13 national forests in Oregon and Washington. The intended effect is to conform the present appeal procedures with the provisions of section 318 of the 1990 Appropriations Act for the Department of the Interior and Related Agencies (Publ. L. 101-121).

EFFECTIVE DATE: This rule is effective November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Kathryn Hauser, Office of the Deputy Chief, National Forest System, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090, (202)382-9346.

SUPPLEMENTARY INFORMATION: On October 23, 1989, the President signed the Fiscal Year 1990 Appropriations Act for the Department of the Interior and Related Agencies (Pub. L. 101-121), which appropriates funds for most Forest Service programs. Section 318 of the Act establishes timber sale levels for national forests in Oregon and Washington and establishes special procedures applicable to the offering of timber for sale on 13 national forests primarily on the westside of the Cascade Range between October 24, 1989 and September 30, 1990. Section 318 also establishes special procedures for administrative appeals of decisions to offer timber on these forests. Specifically, only one level of appeal shall be available for any timber sales affected by the legislation; if a stay is granted, the appeal decision must be issued within 45 days by the Regional Forester; and administrative remedies need not be exhausted prior to challenging a decision in court.

These special procedures conflict with the agency's rules governing appeal and review of decisions of National Forest System plans and projects set forth at 36 CFR part 217. As a result, the agency must amend those rules to account for the provisions of section 318 of the Act. Accordingly, the agency is establishing a new section at § 217.20 to clarify which decisions are subject to the provisions of section 318 and how appeals of these decisions shall be handled.

Paragraph (a) states that the procedures of § 217.20 apply to decisions to offer timber for sale made between October 24, 1989, and September 30, 1990.

Paragraph (b) lists the 13 national forests in Oregon and Washington that are covered by the special appeal procedures.

Paragraph (c) sets forth the special procedures that apply to appeals of timber sale decisions under this section. As provided by the Act, only one level of administrative appeal is allowed, and if a stay is granted, the Regional Forester has 45 days to issue a decision. Consistent with the Congress' aim of streamlining and expediting appeals of these decisions, paragraph (c)(2) provides that there shall be no discretionary review of appeal decisions rendered. Because the law establishes a different time frame for rendering an appeal decision when a stay is granted, it is necessary to establish special procedures for intervention in such cases. This rule allows 15 days for intervention from the date a stay is granted; otherwise, the normal time frames apply. Given that the Reviewing Officer has only 45 days to review the record and render a decision, 15 days is the maximum time that can be allowed for intervention without jeopardizing the 45-day decision deadline and is a reasonable period for intervenors to prepare and present their comments on the issues raised in the notice of appeal.

Finally, section 318 of the Act anticipates that lawsuits challenging these decisions may be filed in Federal court prior to rendering of an appeal decision by the Forest Service. The Act specifically provides that administrative remedies need not be exhausted prior to challenging a sale decision in court. Because § 217.18 states that the Department of Agriculture will normally argue that a legal challenge is premature prior to exhaustion of administrative remedies, it is necessary to make clear that, in cases involving decisions affected by section 318, the Department will not invoke this argument in any legal challenges of decisions covered by this rule.

Paragraph (d) provides that all other procedures of part 217 apply to appeals subject to the special procedures of this section.

Finally, the rule makes clear that the special procedures of the new section apply to decisions made after October 23, 1989, the date the act was signed, and September 30, 1990. Appeals of similar decisions filed between October 1 and October 24, 1989, will continue under the normal procedures of part 217.

Need for Final Rule

Because the Appropriations Act is immediately effective upon signing and the provisions of section 318 of the Act conflict with the agency's appeal rules at 36 CFR part 217, it is imperative that the Department reconcile its rules to meet the requirements of the law immediately. Failure to do so would give rise to confusion among appellants and Forest Service employees and lead to inconsistent processing of appeals. Notice and public comment prior to implementation would be impracticable and contrary to the intent of Public Law 101-121. Moreover, this rule is of limited duration and scope since it applies to decisions on only 13 national forests. Therefore, there is good cause to issue this rule as a final rule effective upon publication.

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12291 on Federal Regulations. It has been determined that this is not a major rule. The rule will not have an effect of $100 million or more on the economy, substantially increase prices or costs for consumers, industry, or State or local governments, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets.

Moreover, this final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

Based on both experience and environmental analysis, this final rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

Controlling Paperwork Burdens on the Public

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and therefore imposes no paperwork burden on the public.

List of Subjects in 36 CFR Part 217

Administrative practice and procedure, National forests.

Therefore, for the reasons set forth in the preamble, chapter II of title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 217—REQUESTING REVIEW OF NATIONAL FOREST PLANS AND PROJECT DECISIONS

1. The authority citation for part 217 continues to read:

Authority: 16 U.S.C. 551, 472.

2. Add a new § 217.20 to read as follows:

§ 217.20 Special procedures applicable to appeals of certain timber sales in Oregon and Washington.

(a) Pursuant to section 318 of Public Law 101-121, decisions made in Fiscal Year 1990 to offer timber for sale on the 13 national forests in Oregon and Washington listed in paragraph (b) of this section and documented in a Decision Memo, Decision Notice, or Record of Decision shall be subject to appeal under the special procedures of this section.

(b) Decisions subject to appeal under this section are limited to decisions made to offer timber for sale between October 24, 1989, and September 30, 1990, and awarded prior to September 30, 1990, on the Deschutes, Mt. Hood, Rogue River, Siskiyou, Siuslaw, Umpqua, Willamette, Winema, Gifford Pinchot, Mt. Baker-Snoqualmie, Okanogan, Olympic, and Wenatchee National Forests.

(c) Notwithstanding other provisions of this part, the following procedures shall apply to appeals of decisions covered by this section:

(1) Only one level of appeal shall be available.

(2) An appeal decision rendered pursuant to this section shall not be subject to discretionary review (§ 217.17).

(3) If a stay is granted on any decision covered by this section, the appeal decision shall be issued by the Regional Forester 45 days from the date the stay is granted.

(4) If a stay is granted, anyone wishing to intervene shall have 15 days following the granting of a stay to file a notice of intervention and comments; otherwise, the timeframe for intervention set forth in § 217.14 of this part shall apply.

(5) In the event of a filing for Federal judicial review of a decision subject to this section prior to issuance of an appeal decision, the Department shall not invoke the policy set forth in § 217.18 of this part.

(6) If, during the pendency of an appeal, the same decision is challenged in Court, the Reviewing Officer shall close and dismiss the appeal without a decision on the merits and notify the parties to the appeal.

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(d) Except as otherwise provided by, and to the extent not inconsistent with, this section, all other provisions of this part shall apply to any appeal covered by this section.

(e) The appeal procedures of this section apply to timber sale decisions made after October 23, 1989 and prior to October 1, 1990, for timber sales to be awarded prior to October 1, 1990.

Dated: November 2, 1989.

Clayton Yeutter,

Secretary.

[FR Doc. 89-26307 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3678-6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Non-CTG RACT Determination for Spalding Sports Worldwide Corporation in Chicopee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Massachusetts. This revision establishes and requires the use of reasonably available control technology (RACT) to reduce volatile organic compound (VOC) emissions from certain processes at Spalding Corporation in Chicopee. The intended effect of this action is to approve a source-specific RACT determination made by the Commonwealth of Massachusetts in accordance with commitments of its approved 1982 Ozone Attainment Plan. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on December 8, 1989.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., room 2313, Boston, MA 02203; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge (617) 565-3248; FTS 835-3248.

SUPPLEMENTARY INFORMATION: On February 10, 1989 (54 FR 6430), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Massachusetts. Using parallel processing rulemaking procedures, EPA proposed approval of a conditional Plan Approval issued by the Massachusetts Department of Environmental Protection (DEP) which imposes VOC control methods as RACT for Spalding Sports Worldwide Corporation (Spalding) located in Chicopee, Massachusetts. This final rulemaking action approves the formal SIP revision submitted by the DEP on July 18, 1989.

This notice is divided into three parts:

I. Background information
II. Summary of SIP Revision Including the Changes Made To Secure Final EPA Approval
III. Final Action

I. Background Information

On November 9, 1983 (48 FR 51488) EPA approved Massachusetts Regulation 310 CMR 7.18(17), "Reasonably Available Control Technology (RACT)," as part of the Commonwealth of Massachusetts 1982 ozone attainment plan. This regulation requires the Massachusetts DEP to determine and impose RACT on all facilities with the potential to emit one hundred tons per year (TPY) or more of VOC that are not already subject to Massachusetts' regulations developed pursuant to the EPA Control Techniques Guideline (CTG) documents.

On February 4, 1988 the Massachusetts DEP submitted a SIP revision for parallel processing. This SIP revision was composed of a Plan Approval for Spalding which defined VOC control requirements as RACT. On February 10, 1989, EPA proposed approval of the Plan Approval with the understanding that the DEP would amend it as outlined in the NPR prior to final rulemaking. On July 18, 1989, the DEP formally submitted an amended Plan Approval dated July 12, 1989, which amends the original Plan Approval and incorporates all the provisions required by EPA's NPR.

II. Summary of SIP Revision Including the Changes Made To Secure Final EPA Approval

Spalding is a non-CTG source. The SIP revision for this source includes a Plan Approval dated October 7, 1985 and an Amendment to that Plan Approval dated July 12, 1989 requiring RACT on four processes at Spalding that are not covered by a CTG. The DEP has calculated that VOC emissions at Spalding were reduced from 541.2 TPY to 126.3 TPY (a 76.7% reduction) during the time period which RACT was imposed. The emission reductions achieved from each process are discussed in the Technical Support Document prepared for this action.

RACT is being imposed for four processes, including the manufacture and coating of golf balls, and inflated balls as well as for miscellaneous cleaning operations. The details of each RACT requirement were outlined in the NPR and will not be restated here. EPA's NPR required that five issues be addressed in the Plan Approval prior to final rulemaking. How the DEP's July 12, 1989 Plan Approval satisfies the issues of the NPR is summarized below.

(1) The July 12, 1989 amended Plan Approval requires explicit emission limits in pounds of VOC per gallon of coating (minus water and photochemically nonreactive solvents) for each coating/painting manufacturing process. The July 12, 1989 amended Plan Approval states that EPA-approved Reference Method 24 shall be used to determine compliance.

(2) The calculation method to determine compliance is attached to the July 12, 1989 amended Plan Approval as the RACT equivalency worksheet. This worksheet facilitates calculation of the actual pounds of VOC per gallon of coating (minus water) for comparison with the RACT limit.

(3) The July 12, 1989 amended Plan Approval requires that four metal parts cleaning units be installed and operated in accordance with the manufacturer's specifications. These new cleaning units will emit fewer VOC's when properly operated.

(4) The DEP has made four minor changes to the Plan Approval, as requested in the NPR.

(5) The July 12, 1989 amended Plan Approval includes the recordkeeping sheets that Spalding must maintain on a daily basis.

No public comments were received on the NPR. Other specific requirements of the RACT determination and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. Since the DEP has addressed each of the issues raised in the NPR, EPA is approving the Plan Approvals as an amendment to the Massachusetts SIP.

III. Final Action

EPA is approving the Massachusetts Plan Approval dated and effective October 7, 1985 and the amended Plan Approval dated and effective July 12, 1989 which impose RACT on Spalding's four non-CTG processes.

Final Action

EPA is approving the DEP's Plan Approval dated and effective on October 7, 1985 and the amended Plan Approval dated and effective July 12, 1989 for the four non-CTG processes at Spalding Sports Worldwide Corporation in Chicopee as a revision to the Massachusetts SIP.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 8, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 12, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

Subpart W, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1120 is amended by adding paragraph (c)(80) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(80) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 18, 1989.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated July 18, 1989 submitting a revision to the Massachusetts State Implementation Plan.

(B) Amendments to the Conditional Plan Approval dated and effective July 12, 1989 and the Conditional Plan Approval dated and effective October 7, 1985 imposing reasonably available control technology on Spalding Sports Worldwide in Chicopee, Massachusetts.

3. In § 52.1167, Table 52.1167 is amended by adding an additional entry to 310 CMR 7.18(17) to read as follows:

§ 52.1167 EPA-Approved Massachusetts State regulations.

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.18(17)	Reasonably Available Control Technology (RACT).	July 12, 1989.	Nov. 8, 1989.	[FR citation from published date].	(80)	RACT for Spalding Corporation Plan Approval dated October 7, 1985 and amended Plan Approval dated July 12, 1989.

[FR Doc. 89-26210 Filed 11-7-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-1-FRL-3676]

I. Background Information
II. Summary of SIP Revision Including the Changes Made to Secure Final EPA Approval
III. Final Action

As discussed in the NPR, fabric printing is similar to graphic arts. On September 9, 1987, a memorandum from Darryl D. Tyler, Director of the Control

request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and

Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 12, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

Massachusetts Department of Environmental Protection August 8, 1989.

(i) Incorporation by reference.

(A) Letter from the Massachusetts

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40 CFR Part 52

[A-1-FRL-3676]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; RACT for Duro Textile Printers in Fall River

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires the use of reasonably available control technology (RACT) to reduce volatile organic compound (VOC) emissions from fabric printing operations at Duro Textile Printers (Duro) in Fall River, Massachusetts. The intended effect of this action is to approve a source-specific RACT determination made by the Commonwealth of Massachusetts in accordance with commitments of its approved 1982 ozone attainment plan. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on December 8, 1989.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, room 2313, Boston, MA 02203; and the Division of Air Quality Control, Department of Environmental Protection, One White Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge (617) 565-3248; FTS 835-3248.

SUPPLEMENTARY INFORMATION: On August 16, 1988 (53 FR 30850), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Massachusetts. Using parallel processing rulemaking procedures, EPA proposed approval of a conditional Plan Approval issued by the Massachusetts Department of Environmental Protection (DEP) which imposed VOC control methods as RACT for Duro Textile Printers (Duro) located in Fall River, Massachusetts. This final rulemaking action approves the formal SIP revision submittal by the DEP on August 8, 1989. This notice is divided into three parts:

I. Background Information
II. Summary of SIP Revision Including the Changes Made to Secure Final EPA Approval
III. Final Action

I. Background Information

On November 9, 1983 (48 FR 51460), EPA approved Massachusetts Regulation 310 CMR 7.18(17), "Reasonably Available Control Technology (RACT)," as part of the Commonwealth of Massachusetts 1982 ozone attainment plan. This regulation requires the Massachusetts DEP to determine and impose RACT on all facilities with the potential to emit one hundred tons per year (TPY) or more of VOC that are not already subject to Massachusetts' regulations developed pursuant to the EPA Control Techniques Guideline (CTG) documents.

On June 29, 1987, the Massachusetts DEP submitted a SIP revision for parallel processing. This SIP revision was composed of a Plan Approval dated June 30, 1987 for Duro which defined VOC control requirements as RACT. On August 16, 1988, EPA proposed approval of the Plan Approval with the understanding that the DEP would amend it as outlined in the NPR prior to final rulemaking. On August 8, 1989, the DEP formally submitted Amended Plan Approvals dated August 1, 1989 and August 8, 1989, respectively which supercede the June 30, 1987 Plan Approval and incorporate all the provisions required by EPA's NPR.

II. Summary of SIP Revision Including the Changes Made to Secure Final EPA Approval

Duro's emissions have been reduced from 148.5 tons per year of VOC in 1980 to 39 tons per year, resulting in a 74 percent reduction based on typical production. Duro achieved its emission reductions through process changes and reformulation of its inks. The DEP's Amended Plan Approvals enforceably require these changes and the use of the reformulated inks. The amended Plan Approvals also require that Duro only use rotary screen printers. In the June 30, 1987 Plan Approval, the DEP had imposed a daily emissions cap on Duro such that VOC emissions would not exceed 0.156 tons per day (312 pounds per day). In the NPR, EPA stated that the DEP RACT Plan Approval must also impose an emission limit on each of Duro's inks to be met at all times.

The DEP's Amended Plan Approvals satisfy the NPR's requirement for fabric printing because those Amended Plan Approvals limit each of Duro's ink to 0.5 pounds of VOC per pound of solids.

As discussed in the NPR, fabric printing is similar to graphic arts. On September 9, 1987, a memorandum from Darryl D. Tyler, Director of the Control Programs Development Division of EPA's Office of Air Quality Planning and Standards, suggested that an emission limit of 0.5 pounds of VOC per pound of solids would be equivalent to RACT for flexographic and packaging rotogravure printing industries. While this emission limit was not intended to be imposed on rotary screen fabric printing operations, Duro's production on rotary screens must replicate the quality of product achieved on roller printers no longer in use. Duro's inks have been substantially reformulated to meet this emission limit. Further, the emission reductions achieved by Duro, through process changes and reformulation is consistent with the reductions anticipated for either add-on controls or through reformulation at facilities required to meet the emission limits suggested by EPA's Graphic Arts CTG. For all of the above reasons, the DEP has imposed an emission limit of 0.5 pounds of VOC per pound of solids and an emissions cap (312 pounds per day) which, together, ensure that a 74 percent reduction in emissions is achieved each day at Duro.

III. Final Action

For all of the above reasons, EPA is approving the Amended Plan Approvals dated and effective August 1, 1989 (SM-85-168-IF) and August 8, 1989 (SM-85-168-IF Revision) as a revision to the Massachusetts SIP.

Final Action

EPA is approving Massachusetts' Amended Plan Approvals dated and effective August 1, 1989 (SM-85-168-IF) and August 8, 1989 (SM-85-168-IF Revision) as a revision to the Massachusetts SIP. The Amended Plan Approvals impose RACT consisting of an emission limit of 0.5 pound of VOC per pound of solids for each and every ink, and a daily emissions cap of 312 pounds of VOC for Duro Textile Printers in Fall River, Massachusetts.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 8, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 12, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

Subpart W, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1120 is amended by adding paragraph (c)(82) to read as follows:

§ 52.1120 Identification of plan.

* * * * * * *

(c) * * *

(82) Revision to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection August 8, 1989.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated August 8, 1989 submitting a revision to the Massachusetts State Implementation Plan.

(B) Amended Conditional Plan Approval (SM-85-168-IF) dated and effective August 1, 1989 and an Amendment to the Amended Conditional Plan Approval (SM-85-168-IF Revision) dated and effective August 8, 1989 imposing reasonably available control technology on Duro Textile Printers, Incorporated in Fall River, Massachusetts.

3. In § 52.1167, table 52.1167 is amended by adding an additional entry to 310 CMR 7.18(17) to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * * * *

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(17)	Reasonably Available Control Technology (RACT).	August 8, 1989.	November 8, 1989.	[FR citation from published date].	(82)	RACT for Duro Textile Printers (SM-85-168-IF).
*	*	*	*	*	*	*

[FR Doc. 89-26209 Filed 11-7-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 763

[OPTS-62039H; FRL-3659-6]

Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce Prohibitions; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document makes corrections to the Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce Prohibitions final rule which appeared in the Federal Register of July 12, 1989. The Office of Management and Budget (OMB) recently approved the reporting and recordkeeping requirements of the final rule. As a result, an OMB number is being added to § 763.178.

DATE: This technical amendment is effective November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, Telephone: (202-554-1404), TDD: (202-554-0551).

SUPPLEMENTARY INFORMATION: On July 12, 1989 (54 FR 29460), EPA issued a final rule titled "Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce." EPA discovered minor mistakes in the final rule. Accordingly, EPA is issuing this document to correct minor errors in that document. This document also adds an OMB control number to § 763.178.

In unit XI of the preamble, on page 29505, column 2, reference no. 25, first line, the following correction is made to read as follows: "USDOT, NHTS." is corrected to read "USDOT, NHTSA."

List of Subjects in 40 CFR Part 763

Asbestos, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements.

Dated: October 29, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 763 is amended as follows:

PART 763—[AMENDED]

1. The authority citation for part 763 continues to read as follows:

Authority: 15 U.S.C. 2605 and 2607(c).

§ 763.163 [Amended]

2. In § 763.163:

a. Under the definition of "Asbestos-cement (A/C) pipe and fittings" on page 29508, column 1, beginning of the first sentence, "Asbestos-cement (A/C) pipe and fittings" is changed to read "Asbestos-cement (A/C) pipe".

b. Under the definition of "New uses of asbestos" on page 29509, column 2, first full sentence, insert "packing,"

before "reinforced plastic," and insert "specialty industrial gaskets," before "and textiles.".

§ 763.173 [Amended]

3. In § 763.173:

a. In paragraph (b)(3), on page 29511, column 2, the reference to "§ 763.167(b) or (c)" is changed to read "§ 763.167(b)".

b. In paragraph (b)(4), on page 29511, column 2, the reference to "§ 763.169(b) or (c)" is changed to read "§ 763.169(b)".

c. In paragraph (b)(5), on page 29511, column 2, the reference to "§ 763.167(d)" is changed to read "§ 763.167(c)".

d. In paragraph (b)(6), on page 29511, column 2, the reference to "§ 763.169(d)" is changed to read "§ 763.169(c)".

§ 763.178 [Amended]

4. The following OMB number language is added at the end of § 763.178 to read as follows:

(Approved by the Office of Management and Budget under control number 2070-0062)

[FR Doc. 89-26340 Filed 11-7-89; 8:45 am]

BILLING CODE 6560-50-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6751

[CA-940-00-4214-10; CACA-18910]

Partial Revocation of Secretarial Order, Dated October 19, 1920; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order insofar as it affects 119.83 acres of public land withdrawn for Bureau of Reclamation's Yuma Project. The land is no longer needed for reclamation purposes. This action will open 119.83 acres to surface entry and mining. All of the land has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 8, 1989.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, Room E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated October 19, 1920, which withdrew public land for the Bureau of Reclamation's Yuma Project is hereby revoked insofar as it affects the following described land:

San Bernardino Meridian

T. 6 S., R. 7 E.,
Sec. 8, lot 1 and N½SW¼.

The area described contains 119.83 acres in Riverside County.

2. At 10 a.m. on December 8, 1989, the land described in paragraph 1 will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 8, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on December 8, 1989, the land described in paragrpah 1 will be opened to location and entry under the United States mining laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 31, 1989.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 89-26331 Filed 11-7-89; 8:45 am]

BILLING CODE 4310-40-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-40; RM-6571]

Radio Broadcasting Services; Vinton, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Harold A. Jahnke, allots Channel 296A to Vinton, Iowa, as the community's first local FM service. Channel 296A can be allotted to Vinton in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.3 kilometers (5.8 miles) south to avoid a short-spacing to Station KROC-FM, Channel 295C, Rochester, Minnesota. The coordinates for this allotment are North Latitude 42-04-42 and West Longitude 92-01-18. With this action, this proceeding is terminated.

DATES: Effective December 18, 1989. The window period for filing applications will open on December 19, 1989, and close on January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-40, adopted October 10, 1989, and released November 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Vinton, Iowa, Channel 296A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26216 Filed 11-7-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-573; RM-6495, RM-6584]

Radio Broadcasting Services; Hillman, Tawas City & Wurtsmith, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by Tawas City Broadcasting, Inc., we shall substitute Channel 297A for Channel 269A at Tawas City, Michigan. We shall also modify the license of Station WDBI(FM) to specify operation on Channel 297A in lieu of Channel 269A. Canadian concurrence has been obtained for this allotment. The coordinates for Channel 297A are 44-16-27 and 83-39-42. In response to a counterproposal filed by Mark A. Kilmer, we shall allot Channel 235C2 to Hillman, Michigan, as that community's first local service. To accommodate Channel 235C2 at Hillman, we shall delete Channel 235A at Wurtsmith, Michigan. Since no interest has been expressed for a channel at Wurtsmith, we shall not allot an alternate channel to that community. Canadian concurrence has been obtained for the allotment of Channel 235C2 at Hillman at coordinates 45-03-48 and 83-53-54.

DATES: Effective December 18, 1989. The window period for filing applications for Channel 235C2 at Hillman will open on December 19, 1989, and close on January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-573, adopted October 10, 1989, and released November 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Hillman, Channel 235C2; removing Channel 269A and adding Channel 297A at Tawas City; and by removing Wurtsmith, Channel 235A.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26219 Filed 11-7-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-36; RM-6551 & 6771]

Radio Broadcasting Services; Savannah and Cameron, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 224C2 to Savannah, Missouri as that community's first local service in response to a petition filed by Columbia FM. The coordinates for Channel 224C2 are 39-57-35 and 94-54-14 which include a site restriction 6.4 kilometers west of the community.

The counterproposal filed by Radio Cameron, Inc. (RM-6771) to substitute Channel 225C2 for Channel 222A at Cameron, Missouri, has been denied. In reply comments, Radio Cameron filed a second counterproposal requesting the substitution of Channel 261C2 for Channel 222A at Cameron in order to allot channels to both communities. The counterproposal was not accepted in this proceeding but we have accepted the proposal as a new filing and a notice will be issued requesting comments on the nonadjacent upgrade. With this action, this proceeding is terminated.

DATES: Effective December 18, 1989; The window period for filing comments for Channel 224C2 at Savannah, Missouri, will open on December 19, 1989, and close on January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-36, adopted October 10, 1989, and released November 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri is amended by adding Savannah, Channel 224C2.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26216 Filed 11-7-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-33; RM-6542]

Radio Broadcasting Services; Petersburg, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of General Electronics Development Corporation, allots Channel 274A to Petersburg, New Jersey, as the community's first local FM service. Channel 274A can be allotted to Petersburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) southeast to avoid a short-spacing to Station WMGK, Channel 275B, Philadelphia, Pennsylvania. The coordinates for this allotment are North Latitude 39-11-58 and West Longitude 74-40-34. With this action, this proceeding is terminated.

DATES: Effective December 18, 1989. The window period for filing applications will open on December 19, 1989, and close on January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-33, adopted October 10, 1989, and released November 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the

following entry, Petersburg, New Jersey, Channel 274A.

Federal Communications Commission.

Karl A. Kensinger,

[FR Doc. 89-26217 Filed 11-7-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-32; RM-6541]

Radio Broadcasting Services; Lake Placid, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lake Placid Broadcasting, allots Channel 276A to Lake Placid, Florida, as the community's first local FM service. Channel 276A can be allotted to Lake Placid in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.2 kilometers (5.7 miles) southwest to avoid a short-spacing to Station WSSR-FM, Channel 276C, Sarasota, Florida. The coordinates for this allotment are North Latitude 27-16-30 and West Longitude 81-24-00. With this action, this proceeding is terminated.

DATES: Effective December 18, 1989. The window period for filing applications will open on December 19, 1989, and close on January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-32, adopted October 10, 1989, and released November 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Lake Placid, Florida, Channel 276A.

Federal Communications Commission.

Karl A. Kensinger,

[FR Doc. 89-26218 Filed 11-7-89; 8:45 am]

BILLING CODE 6712-01-M

27167, July 19, 1988). This Order makes no substantive changes that impose additional burdens or remove provisions relied upon by licensees or the public. For this reason, we believe that this

thereafter for general exhibition—may be extended or renewed as contemplated in the basic agreement.

Note 2: It is intended that the top 100 major television markets listed in § 76.51 of this

204.671-5 [Corrected]

1. On page 16115, in lines 7 and 14 of paragraph 6 of the amendatory language, paragraph "(i)(D)" is corrected

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following entry, Petersburg, New Jersey, Channel 274A.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26215 Filed 11-7-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-34; RM-6552]

Radio Broadcasting Services; Belen and Grants, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Brooks Broadcasting Company, Inc., substitutes Channel 249A for Channel 249C at Belen, New Mexico, modifies its license for Station KARS-FM to specify operation on the higher powered channel, substitutes Channel 265C2 for Channel 250C2 at Grants, New Mexico, and modifies the construction permit of Don R. Davis to specify the alternate Class C2 channel. Channel 249C can be allotted to Belen in compliance with the Commission's minimum distance separation requirements and can be used at the present transmitter site of Station KARS-FM. The coordinates for the Belen allotment are North Latitude 34-45-02 and West Longitude 106-39-55. Channel 265C2 can be allotted to Grants in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in Davis' construction permit. The coordinates for the Grants allotment are North Latitude 35-07-09 and West Longitude 107-54-08. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 18, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-34, adopted October 10, 1989, and released November 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended for Belen, New Mexico, by adding Channel 249C and removing Channel 249A, and amending the entry for Grants, New Mexico, by adding Channel 265C2 and removing Channel 250C2.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26221 Filed 11-7-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-20; RM-6574]

Radio Broadcasting Services; Jeffersonville, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Edward F. Stanley, allots Channel 291A to Jeffersonville, New York, as the community's first local FM service. Channel 291A can be allotted to Jeffersonville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 41-46-51 and West Longitude 74-56-03. Canadian concurrence has been received since Jeffersonville is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective December 18, 1989. The window period for filing applications will open on December 19, 1989, and close on January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-20, adopted October 10, 1989, and released November 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Jeffersonville, New York, Channel 291A.

Federal Communications Commission.
Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26217 Filed 11-7-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

Correction of Part 73 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order reinstates Notes 1, 2, 3, and 4 to Paragraph (m) of § 73.658 of the Commission's Rules. The notes were inadvertently removed from the text following adoption of the Report and Order in Gen. Docket No. 87-24 (53 FR 27167, July 19, 1988; FR Doc. 88-16187) and are needed to clarify the procedures set out in that Rule Section.

EFFECTIVE DATE: November 8, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rita McDonald, Policy and Rules Division, Mass Media Bureau (202) 254-3394.

SUPPLEMENTARY INFORMATION:

Order

Adopted: October 30, 1989.
Released: November 2, 1989.
By the Chief, Mass Media Bureau:

1. This Order amends the Commission's Rules to correct an omission in title 47 of the Code of Federal Regulations. Specifically, the Commission makes an editorial change to 47 CFR 73.658 to reinsert Notes 1, 2, 3, and 4 at the end of Paragraph (m). These notes, which are needed to clarify the procedures set forth in that section, were inadvertently deleted from the Code of Federal Regulations following Commission adoption of the Report and Order in Gen. Docket No. 87-24 (53 FR

27167, July 19, 1988). This Order makes no substantive changes that impose additional burdens or remove provisions relied upon by licensees or the public. For this reason, we believe that this revision will serve the public interest. This information is restored as part of the Agency's oversight function.

2. This amendment is implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Because this amendment only interprets and clarifies the existing language of § 73.658(m), prior notice of rule making is not required. 47 CFR 1.412(c). For this same reason, this amendment may become effective upon publication in the Federal Register. 47 CFR 1.427(b). Because a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

3. *Therefore, it is ordered,* That pursuant to sections 4, 5, and 303, of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, part 73 of the FCC Rules and Regulations is Amended as set forth below, effective upon publication in the Federal Register.

4. For further information on this Order, call Rita S. McDonald, Policy and Rules Division at (202) 632-5414.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.

Amendatory Text

47 CFR part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 contiues to read as follows:

Authority: 47 U.S.C. sections 154 and 303.

2. Section 73.658 is corrected by adding Notes 1, 2, 3, and 4 at the conclusion of Paragraph (m) to read as follows:

§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

* * * * *

(m) * * *

Note 1: Contracts, arrangements, or understandings that are complete under the practices of the industry prior to August 7, 1973, will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and period thereafter for general exhibition—may be extended or renewed as contemplated in the basic agreement.

Note 2: It is intended that the top 100 major television markets listed in § 76.51 of this chapter shall be used for the purposes of this rule and that the listing of the top 100 television markets appearing in the ARB Television Market Analysis shall not be used. The reference in this rule to the listing of markets in the ARB Television Market Analysis refers to hyphenated markets below the top-100 markets contained in the ARB Television Market Analysis. If a community is listed in a hyphenated market in § 76.51 and is also listed in one of the markets in the ARB listing, the listing in § 76.51 shall govern.

Note 3: The provisions of this paragraph apply only to U.S. commercial television broadcast stations in the 50 states, and not to stations in Puerto Rico or the Virgin Islands, foreign stations or noncommercial educational television or "public" television stations (either by way of restrictions on their exclusivity or on exclusivity against them).

Note 4: New stations authorized in any community of a hyphenated market listed in § 76.51 of this chapter or in any community of a hyphenated market listed in the ARB Television Market Analysis (for markets below the top-100 markets) are subject to the same rules as previously existing stations therein. New stations authorized in other communities are considered stations in separate markets unless and until § 76.51 is amended by Commission action, or the ARB listing is changed.

[FR Doc. 89-26220 Filed 11-7-89; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 204

[Defense Acquisition Circular 88-5]

Department of Defense Federal Acquisition Regulation Supplement

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule (Defense Acquisition Circular 88-6) which was published in the Federal Register on April 21, 1989 (54 FR 16111). This action is necessary to correct amendatory language and to add text which was inadvertently omitted. The correction is only for CFR clarification and does not affect text in the DoD FAR Supplement.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.

Accordingly, the Department of Defense is corrects 48 CFR part 204 as follows:

204.671-5 [Corrected]

1. On page 16115, in lines 7 and 14 of paragraph 6 of the amendatory language, paragraph "(i)(D)" is corrected to read "(ii)(D)" in both places.

204.804-5 [Corrected]

2. On page 16116, section 204.804-5 is corrected by adding, immediately following the asterisks and preceding paragraph 11 of the amendatory language, paragraph (b)(1) to read as follows:

(b) * * *

(1) Provide the purchasing office with an interim contract completion statement (See 204.804-5(a)(S-70)). Upon receipt of the notice of physical completion, the PCO should inform the ACO of any impending actions which may cause delays in the closeout procedures.

* * * * *

[FR Doc. 89-26043 Filed 11-7-89; 8:45 am]
BILLING CODE 3810-01-M

48 CFR Parts 205 and 252

[Defense Acquisition Circular 88-4]

Department of Defense Federal Acquisition Regulation Supplement

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule (Defense Acquisition Circular 88-4) which was published in the Federal Register on February 21, 1989 (54 FR 7425). This action is necessary to correct amendatory language and to add text which was previously inadvertently omitted. This correction is only for CFR clarification and does not affect text in the DoD FAR Supplement.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.

Accordingly, the Department of Defense is correcting 48 CFR parts 205 and 252 as follows:

1. On page 7427, the heading *"205.470 [Amended]"* is removed and paragraph 5 of the amendatory language is corrected as follows:

5. Section 205.470 is amended by revising paragraph (a) to read as follows:

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205.470 Contractor information to be provided to cooperative agreement holders.

(a) As required by 10 U.S.C. 2413, the Defense Logistics Agency enters into Cooperative Agreements with: state or local governments; private, nonprofit organizations; tribal organizations (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450(c))); or economic enterprises as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e)), whether such economic enterprise is organized for profit or nonprofit purposes.

* * * * *

2. On page 7429, the heading *"252.205-7000 [Amended]"* is removed and paragraph 22 of the amendatory language is corrected to read as follows:

22. Section 252.205-7000 is amended by changing the date of the clause to read "FEB 1989" in lieu of "MAR 1988" and by revising paragraph (a) of the clause to read as follows:

252.205-7000 Release of information to cooperative agreement holders.

* * * * *

(a) Definition. As used in this clause, the term "Cooperative Agreement Holder" means: a state or local government; a private, nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450(c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e))), whether such economic enterprise is organized for profit or nonprofit purposes, which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

* * * * *

[FR Doc. 89-26041 Filed 11-7-89; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Part 245

[Defense Acquisition Circular 88-1]

Department of Defense Federal Acquisition Regulation Supplement

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule (Defense Acquisition Circular 88-1) which was published in the Federal Register on November 17, 1988 (53 FR 46455). This action is necessary to reflect the correct amendatory language with respect to change of address for the Defense Reutilization and Marketing Service. This correction is only for CFR clarification and does not affect text in the DoD FAR Supplement.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Accordingly, the Department of Defense is correcting 48 CFR part 245 as follows:

245.607-72 [Corrected]

1. On page 46459, paragraph 10 of the amendatory language is corrected to read as follows:

10. Section 245.607-72 is amended by substituting in paragraph (e) the address for the Defense Reutilization and Marketing Service to read "ATTN: DRMS-OCR, 74 N. Washington Avenue, Battle Creek, Michigan 49017-3092" in lieu of "(DRMS-R), Federal Center, Battle Creek, Michigan 49017-33091".

245.610-1 [Corrected]

2. On page 46459, paragraph 12 of the amendatory language is corrected to read as follows:

12. Section 245.610-1 is amended by substituting in the second sentence of paragraph (a)(1)(viii) the address for the Defense Reutilization and Marketing Service to read "ATTN: DRMS-OCR, 74 N. Washington Avenue, Battle Creek, Michigan 49017-3092" in lieu of "(DRMS-R), Federal Center, Battle Creek, Michigan 49016".

[FR Doc. 89-26040 Filed 11-7-89; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Chapter 2

[Defense Acquisition Circular 88-5]

Department of Defense Federal Acquisition Regulation Supplement

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule (Defense Acquisition Circular 88-5) which was published in the Federal Register on March 22, 1989 (54 FR 11722). This action is necessary to change the amendatory language and to add text to Appendix I for clarification. The correction is only for CFR clarification and does not affect text in the DoD FAR Supplement.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Accordingly, the Department of Defense is correcting 48 CFR appendix I as follows:

Appendix I to Chapter 2 [Corrected]

On page 11729, paragraph 27 of the amendatory language is corrected to read as follows:

27. Appendix I—301 is amended by revising the Instruction entitled "Block 19" to read as follows:

I-301 Preparation Instructions

* * * * *

Block 19—UNIT PRICE. The contractor may, at his option, enter unit prices on all MIRR copies, except as minimum:

(a) The contractor shall enter unit prices on all MIRR copies for each item of property fabricated or acquired for the Government and delivered to a contractor as Government-Furnished Property (GFP). The unit price shall be obtained from section B of the contract or, if not available, the unit price shall be estimated. The estimated price should be the contractor's estimate of what the items will cost the Government. When the price is estimated, enter an "E" after the unit price.

(b) On Navy procurements, the two copies of the MIRR addressed to the consignee via mail shall be priced using actual prices. If actual price is not available, leave blank. Contractors shall make every effort to ensure that actual prices are entered on the MIRR. However, shipments shall not be delayed solely because required prices are not available.

(c) When the MIRR is used as an invoice, see I-306.

(d) For clothing and textile contracts containing a bailment clause, enter the cited Government-Furnished Property unit value opposite "GFP UNIT VALUE" entry in Block 16.

(e) All copies of DD 250s for FMS shipments shall be priced using actual, or if not available, estimated prices. When the price is estimated, enter an "E" after the price.

* * * * *

[FR Doc. 89-26042 Filed 11-7-89; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 54, No. 215
Wednesday, November 8, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 919

[Docket No. FV 90-103PR]

Peaches Grown in Mesa County, Colorado; Proposed 1989-90 Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes authorizing expenditures for the 1989-90 fiscal period for the Peach Administrative Committee (committee), established under Marketing Order No. 919. This proposed action is needed by the committee to pay anticipated marketing order expenses. The proposed action would enable the committee to continue to perform its duties and administer the order.

DATES: Comments must be received by November 20, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material must be submitted. A copy will be made available for public inspection in the office of the docket clerk during regular business hours. All Comments should reference the docket number and the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-475-3918.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 919, both as amended (7 CFR part 919), regulating the handling of peaches grown in Mesa County, Colorado. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 28 handlers subject to regulation under the marketing order for peaches grown in Mesa County. Small agricultural services firms have been defined by the Small business Administration (SHA) as those having annual average gross revenues for the last three years of less than $3,500,000. Likewise, there are about 280 peach producers in Mesa County. Small agricultural producers have been defined by the SBA as those having annual average gross revenues for the last three years of less than $500,000. The majority of the Mesa County peach handlers and producers may be classified as small entities.

An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of Mesa County peaches. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area, and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input into the committee's budget recommendation.

An assessment rate is normally recommended by the committee as part of its proposed budget recommendation. However, an assessment rate is not recommended with this proposed budget because a freeze in March, 1989, so severely damaged the Colorado peach crop that there is no assessable production this season.

Until March, 1989, the Federal program had operated jointly with a State marketing order for Mesa County peaches. The State marketing order accounted for more than 95 percent of the assessments and expenses of the two orders. After the State marketing order failed a State-run continuance referendum last January, the committee requested an increase in the 1988-89 Federal expenses and assessment rate. The recommended increases were necessary to cover operating expenses for the last quarter of the fiscal period. The $12,248.70 revised budget required an increase in the assessment rate from one cent to just over four cents per bushel and included some funds transferred from the terminated State order (54 FR 20514).

In order for the committee to maintain its operations this year and be in a position to serve the industry next year the committee met on September 19, 1989, and unanimously recommended approval of expenditures of $26,572 for the 1989-90 fiscal period. Major proposed expenditure items for 1989-90, compared with the Federal order's increased expenses for 1988-89, are as follows:

	1989-90	1988-89
Program operations (salary, rent, etc.)	$8,751.00	$4,930.97
Committee expenses (per diem, etc.)	450.00	90.00
Compliance	1,000.00	
Market research and development	5,224.00	7,227.73
Contingency (Reserve)	11,147.00	
Total	26,572.00	12,248.70

Because of the total loss of the crop after the freeze, income to cover the 1989-90 proposed budget would not be raised through assessments. Rather,

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income would be raised from the following source:

- $2,107 carried over from the 1988–89 operating budget,
- $4,365 in 1988–89 assessments paid by handlers after June 30, 1989,
- $15,900 voluntary contributions (refunds from the State program donated by industry members),
- $3,700 miscellaneous income, including payments by the State government for services rendered by the committee, and
- $500 unexpended funds from the State promotion program.

The voluntary contributions represent money refunded to industry handlers and subsequently donated to the committee after the State marketing order program was terminated.

This proposed action will not impose any additional direct costs on handlers. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Comment period of less than 30 days is deemed appropriate for this action. Because committee expenses are incurred on a continuous basis during the entire fiscal period, approval of the expenditures must be expedited.

List of Subjects in 7 CFR Part 919

Colorado, Marketing agreements and orders, Peaches.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 919 be amended as follows:

1. The authority citation for 7 CFR part 919 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 919.228 is added to read as follows:

PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

§ 919.228 Expenses.

Expenses of $26,572 are authorized to be incurred by the Administrative Committee for the fiscal period ending June 30, 1990. Unexpended funds from the 1988–89 fiscal period may be carried over as a reserve.

Dated: November 3, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26325 Filed 11-7-89 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

[Docket Nos. AO-160-A65-R01, etc.; DA-89-023]

Milk in the Middle Atlantic and Certain Other Marketing Areas; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Marketing area	AO Nos.
1004	Middle Atlantic	AO-160-A65-RO1
1001	New England	AO-14-A62-RO1
1002	New York-New Jersey	AO-71-A77-RO1
1005	Carolina	AO-388-A1-RO1
1006	Upper Florida	AO-356-A27
1007	Georgia	AO-366-A30
1011	Tennessee Valley	AO-251-A33
1012	Tampa Bay	AO-347-A30
1013	Southeastern Florida	AO-286-A37
1030	Chicago Regional	AO-361-A26
1032	Southern Illinois-Eastern Missouri	AO-313-A37
1033	Ohio Valley	AO-166-A58
1036	Eastern Ohio-Western Pennsylvania	AO-179-A53
1040	Southern Michigan	AO-225-A40
1046	Louisville-Lexington-Evansville	AO-123-A59
1049	Indiana	AO-319-A36
1050	Central Illinois	AO-355-A25
1064	Greater Kansas City	AO-23-A58
1065	Nebraska-Western Iowa	AO-86-A45
1068	Upper Midwest	AO-178-A42
1076	Eastern South Dakota	AO-260-A28
1079	Iowa	AO-295-A39
1093	Alabama-West Florida	AO-366-A8
1094	New Orleans-Mississippi	AO-103-A50
1096	Greater Louisiana	AO-257-A37
1097	Memphis, Tennessee	AO-219-A44
1098	Nashville, Tennessee	AO-184-A53
1099	Paducah, Kentucky	AO-183-A43
1106	Southwest Plains	AO-210-A48
1108	Central Arkansas	AO-243-A40
1120	Lubbock-Plainview, Texas	AO-328-A27
1124	Pacific Northwest	AO-368-A17
1126	Texas	AO-231-A57
1131	Central Arizona	AO-271-A27
1132	Texas Panhandle	AO-262-A37
1134	Western Colorado	AO-301-A20
1135	Southwestern Idaho-Eastern Oregon	AO-380-A7
1137	Eastern Colorado	AO-326-A28
1138	Rio Grande Valley	AO-335-A24
1139	Great Basin	AO-309-A33

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in those orders that currently provide tentative and final price announcements for Class II milk based on industry proposals considered at a public hearing held August 22, 1989. The current method of announcing a tentative Class II milk price for each month on or before the 15th of the preceding month, with a final Class II milk price for the month being determined and announced on the fifth day of the following month, would be changed. Instead, the Class II milk price announced by the 15th of each month would be the final or effective Class II milk price for the following month. The Class II milk price would not be retroactively revised. The objective of the current pricing arrangement whereby the Class II milk price would be not less than the Minnesota-Wisconsin (M-W) manufacturing grade milk price, or Class III milk price in most Federal orders, would be maintained in principle. Therefore, to the extent that the announced Class II price for a given month is less than the Class III price for that same month, the difference would be included in computing the second succeeding month's Class II milk price.

DATES: Comments are due on or before November 24, 1989.

ADDRESSES: Comments (four copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendment(s) would reduce the regulatory burden of handlers while minimizing the economic impact on producers.

Prior document in this proceeding:

Notice of Hearing: Issued August 10, 1989; published August 16, 1989 (54 FR 33709).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and Certain Other Marketing Areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC, 20250, by the 15th day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This proceeding reopened the hearings previously held on proposed amendments to the New England, New York-New Jersey, and Middle Atlantic orders. Similarly, an earlier hearing on a proposed new order for the Carolina marketing area also was reopened in this proceeding. This Recommended Decision does not include specific findings for those orders. Findings pertaining to Class II prices, if appropriate, will be made in the Recommended Decisions to be issued for those orders.

The proposed amendments set forth below are based on the record of a public hearing held at Alexandria, Virginia, on August 22, 1989, pursuant to a notice of hearing issued August 10, 1989 (54 FR 33709).

The material issue on the record of the hearing relates to:

1. Changing the manner in which the Class II milk price is determined and announced in most Federal milk orders.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The orders involved in this proceeding that now provide for tentative and final Class II price announcements should be amended to provide that the Class II price will be announced on or before the the 15th day of the proceeding month. Once announced, the Class II price would not be revised. Nevertheless, the objective of the current pricing arrangement, whereby the Class II price would not be less than the Class III price for the month, should be maintained in principle. Therefore, to the extent that the announced Class II price without adjustment for any prior month is less than the Class III price (or the basic formula price in some orders such as the two-class Florida orders) for the month, such difference would be included in computing subsequent months' Class II price.

For example, the Class II price for January would be announced on December 15th. On February 5, the January Class III price would be announced. If the January Class II price was less than the Class III price for January, that difference would be included in computing the Class III price for March, which would be announced on February 15. Thus, handlers would pay essentially a Class II price that would be floored by the Class III price. However, if the Class II price is less than the Class III price (or the basic formula price in some orders), the adjustment to reflect this difference would not be returned to producers until they receive payment for milk produced in the second succeeding month. This provision, as adopted therein, reflects the proposal by the Milk Industry Foundation (MIF) and the International Ice Cream Association (IICA), with a modification proposed by the National Milk Producers Federation (NMPF), and by Agri-Mark Inc., Eastern Milk Producers Cooperative Association Inc., and Dairylea Cooperative, Inc. (Agri-Mark, et al.), which are dairy farmer cooperatives.

MIF is a national trade association representing 1,000 dairy processing plants nationwide and accounts for about 80 percent of the fluid milk and related products produced in the United States. IICA is a trade association that represents 210 member companies who distribute about 85 percent of the ice cream and related frozen desserts consumed in the United States. The NMPF is an organization representing most of the dairy farmer cooperatives in the United States.

Handlers who utilize milk in Class II uses, such as cottage cheese, ice cream and yogurt, want to know in advance what the cost of the raw milk will be. It was for this purpose that the orders were amended in 1961 to provide for determination and announcement of a tentative Class II price on the 15th day of the preceding month. However, if the Class III price, which is announced some 50 days later on the fifth day of the following month, is higher than the tentative Class II price, then the Class III price also becomes the final Class II price. In such cases, the final Class II price is not known until after the month is over. From October 1961 through June 1989 (93 months), there have been 22 months when the final Class II price was increased after the month was over due to this feature of the current order provisions. One of the exhibits introduced at the hearing indicates that the increased value of Class II milk due to changes from the tentative Class II prices to the final Class II prices from March 1984 amounted to more than 23.5 million dollars. It is this retroactive price adjustment aspect of the current Class III pricing provisions that handlers proposed to change through this proceeding.

The increases from the tentative Class II prices to the final Class II prices on the 22 occasions noted above have varied from two cents per hundredweight to 74 cents per hundredweight. The reason handlers find these changes to be a burden is because by the time they know how much the increase is, they have already received the milk, made the products, and perhaps priced and sold most of the products to their customers. These factors were cited by all witnesses supporting the MIF/IICA proposal for final forward pricing. Obviously, handlers would much prefer to know the raw product cost before they establish selling prices for the products they make from the milk. The record indicates that handlers believe that they cannot do an effective job of determining product prices to their customers under the current Class II pricing provisions. Moreover, they are unable to recover after-the-fact increases in the prices for Class II milk.

Under the MIF/IICA proposal, when the Class III price for the month is higher than the Class II price announced on the 15th of the preceding month, the difference would be added in future months in increments not to exceed 25 cents per hundredweight for each prior month. This proposed "catch-up" feature is intended to not cause a reduction in producer returns, while at the same time avoiding large month-to-month price increases at times when milk prices are rapidly increasing. The witness testifying on behalf of the MIF/IICA said that it would be desirable to avoid large increases in the Class II prices from month to month. This view was also supported in testimony by witnesses representing the Borden Company, MorningStar Foods, Inc., Marigold Foods, Inc., the Kroger Co., and Dean Foods, Co.

On the other hand, NMPF and Agri-Mark, et al., separately proposed a

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modification of the "catch-up" so that the entire difference between the announced Class II price and the Class III price for the month would be included in computing the Class II price at the next opportunity. This modification was intended to minimize any impact upon producer returns that might result from elimination of the final Class II price announcement. With this change, there would be minimal delay in returning to producers the full value of their milk at the prescribed Class II price level. Both the NMPF and Agri-Mark, et al, supported adoption of the MIF/IICA proposal if it was modified as they suggested.

An alternative mechanism for determining the Class II price was proposed by the Milk Foundation of Indiana (MFI). As proposed, the Class II price each month would be the Minnesota-Wisconsin (M-W) price for the second preceding month plus the appropriate differential, such as 10 cents, plus or minus the average difference between the M-W price for the second preceding month and the current month in each of the preceding three years. According to the proponent's spokesman, this method of determining the Class II price would result in less price volatility over time, and would reduce the seasonal distortion of advance pricing. Under this proposal there would be no "catch-up" adjustments.

The proponent's witness supported elimination of retroactive Class II pricing but expressed his view that the MFI proposal respresented an effort to retain the current targeted level of price differential, place all class prices on the same base, lessen the contra-seasonal aspect of advance pricing, and to provide meaningful advance notice of the Class II price. He stated that the proposal would result in a class price that lags below the M-W price if the M-W price increases more sharply in the current year than it increased in three previous years. He also noted that the resulting price would stay above the M-W price in years where the rate of change is approximately the same or less than in previous years and that the reverse would be true in those months when the M-W price moves are downward. He explained that over the long run this method would yield a return to producers for Class II milk that would average 10 cents over the Class III price.

MFI filed a brief in support of its proposed advanced pricing method. In its brief, MFI urged that any method of computing the Class II price that results from this proceeding should focus on advance notice of a final price and not violate the premise of classified pricing.

The brief further states that there is nothing in the factors that the Secretary must consider in fixing a price for each classification that allows an increase in a price in a month "* * * just because the producers would have received a higher return had their milk gone into a different class use in the previous month than it actual[ly] did." Accordingly, the brief urges the Secretary to adopt proposal No. 2 rather than proposal No. 1 because proposal No. 2 would adhere to those principles and would provide more stable prices than any of the other proposals.

Another alternative approach was suggested by a witness who testified on behalf of Prairie Farms Dairy, Inc. (PFD). While indicating support for elimination of retroactive pricing for Class II milk, he proposed a modified approach that would combine certain aspects of proposal Nos. 1 and 2. Under his proposed modification, the Class II price would be determined using a portion of proposal No. 2, and the adjustment feature of proposal No. 1 would be used to adjust the Class II price in subsequent months if the Class III price for the current month exceeded the Class II price. He stated that this modified approach would have several advantages over either proposal No. 1 or proposal No. 2. In his view, such a provision would eliminate retroactive Class II pricing, be simple and easy to understand, permit announcing all class prices on a single date each month, and have little, if any, effect on returns to producers.

Under PFD's proposed modification, the Class II price each month would be the M-W price for the second preceding month plus 10 cents. If such price was less than the Class III price for the second preceding month, the difference in increments of 25 cents would be added to the Class II price in subsequent months until the difference was made up. PFD's representative also testified that perhaps the Class II price should be the Class III price plus as much as 50 cents.

Central Milk Producers Cooperative (CMPC), a federation of 14 cooperatives, whose members collectively price milk to fluid milk buyers regulated under the Chicago Regional milk order, submitted a brief in support of proposals 1 and 2 as proposed to be modified by PFD.

In particular, the CMPC brief indicates support for pricing Class II milk at the M–W price for the second preceding month plus 50 cents, plus a single catch-up adjustment if the announced Class II price was less than the Class III price for the month. The brief cites some of the same advantages as noted by the PFD spokesman.

The proposal submitted by the MIF/IICA, with the modification proposed by NMPF and Agri-Mark, et al., offers a reasonable approach to deal with the retroactive pricing problem in the current Class II pricing provisions. First, it does not change the basic method of determining the Class II price level. When the tentative Class II price provisions were adopted, the decision to do so clearly indicated an objective of the proponents to maintain a Class II price level at ten cents above the Class III price.

An analysis of the prices that would have been in effect had the provisions adopted herein been in effect from 1983 through 1988 indicates almost no difference, on an annual basis, from the prices obtained under the current provisions, ranging from a minus five cents per hundredweight in 1988 to no difference in 1983. Due to the "catch-up" feature of the new procedure, there is greater variation when prices under the proposed and current provisions are compared on a monthly basis. However, the basic Class II price level essentially will be maintained while at the same time the problems of retroactive pricing now faced by handlers will be alleviated.

Elimination of the retroactive pricing aspect of the current Class II pricing provisions was recognized as a desirable goal by all participants at the hearing, although one dairy farmer cooperative did oppose the two particular proposals that are under consideration in this proceeding. The National Farmers Organization (NFO), a multi-commodity collective bargaining organization for farmers that operates bargaining and marketing programs for dairy farmers pooled in approximately 21 Federal milk orders, opposed both the MIF/IIC and the MFI proposals. NFO preferred that no changes be made in the current method of Class II milk pricing. An NFO representative expressed the view that the MIF/IICA proposal created extreme fluctuations in the Class II price. He also maintained that the MFI proposed price, by rolling forward for three years the price declines over the last several years, results in a price for Class II milk that was unacceptably low. Simply stated, NFO opposed both proposals on the basis that neither one would yield an acceptable Class II price.

Each of the proposals and proposed modifications of the proposals was analyzed. The current Class II pricing provisions of the orders were intended to yield a Class II price that, over time, would approximate the M–W price plus 10 cents, or in some orders, plus 15 cents or 25 cents. It was with this goal in mind that the proposals under consideration in this proceeding were evaluated. The pricing procedure proposed by the MIF–IICA, as proposed to be modified by the NMPF, comes the closest over the period from January 1983 through July 1989, to having provided the same prices as those that were final Class II prices. Moreover, it is clear that this approach has widespread support within the industry. Certain handler representatives in fact indicated that they had no objection to the modification proposed by the NMPF, even though its application could result in some larger month-to-month price increases than otherwise would have resulted from the MIF–IICA's unmodified proposal.

With the exception of NFO, no other representatives expressed opposition to this approach. Even NFO's should be somewhat addressed in that producers will receive the full value for their Class II milk with less delay under the provision adopted herein than under any of the other proposals.

Some of the testimony indicated that it is desirable to minimize the size of the month-to-month changes in the prices for Class II milk. From a handler's standpoint, this probably is true. Nevertheless, we see no basis in this record for favoring one proposed method of establishing prices over another just because one has less price variations than another. More particularly, there is no basis here to conclude that there should be more concern in this regard for changes in the Class II price than there is with regard to changes in the Class I and/or Class III prices. Those prices change by whatever amount the Minnesota-Wisconsin price changes from month to month.

Under the provisions adopted herein, if the announced Class II price for a month (before adjustments) is less than the Class III price for that month, the difference (in all but one possible case) would be included in computing the Class II price for the second succeeding month. This reflects a long-standing Class II pricing intent that the value for Class II milk should not be less than the value for Class III milk. The one possible exception would be where the announced Class II price had been lower than the Class III price for the first month that an order to incorporate these proposed amendments would be in effect. In that case, the "catch-up" feature of the provisions adopted herein would not become effective until the second month after its implementation.

The Pacific Northwest order provides that the Class III price will be the M–W price, or a butter-powder formula price, whichever is lower. Accordingly, a companion provision provides that if the butter-powder formula price is the Class III price, then the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent that the Class II price would not be less than the Class III price. The order language adopted herein will preserve that price relationship between the Class II and Class III prices.

In one of the briefs filed, a question was raised over whether the factors that must be considered by the Secretary in fixing minimum class prices under an order included pricing to reflect the milk's value had it been used differently in a preceding month. We think this question misses the mark in its focus on pricing milk as if it had been used in another class. What is intended here is that the pricing method still places the same value on Class II milk as before, but it may delay passing some of that value to producers until a subsequent month. What will happen is that the value of the Class II milk each month will be based on the price announced on the 15th day of the preceding month. In addition, the pooled value may include an additional amount to reflect the fact the price announced on the 15th of an earlier month failed to provide the intended Class II price level. It is true that the dollars involved might not come out exactly the same because there are some variations in the volumes of Class II milk from month to month. Nevertheless, such variations are expected to be small, and the value differences even smaller. We believe that the provisions adopted herein achieve the intent to eliminate retroactive Class II milk pricing, while at the same time preserving the basic concept of pricing Class II milk that now is reflected in the orders.

NFO's brief restated its objections to adoption of either of the proposals included in the hearing notice. NFO also opposed any expedited action in this proceeding, and urged again that no action be taken until the proposal that it submitted for consideration, and possibly others, have been included in a supplemental hearing notice and all such proposals have been heard. The brief further states that price timing, price level, and price are inextricably interwoven and that the Secretary cannot have a full record to establish "price timing" without testimony about the price level. NFO's brief also asked that official notice be taken of the Federal Court proceeding, including the Judge's decision, in *NFO* v. *Lyng*, No. 88–1718 (D.C.D.C.).

Prior to the announcement of the hearing held in this proceeding, NFO and others submitted additional proposals that they wanted to have included in the Notice. NFO and Farmers Union Milk Marketing Cooperative, for example, proposed that the Class II milk price be established at a price level $.60 to $1.00 over the second preceding month's M–W price. Several other proposals were received, including some proposals to change the uses of milk that would be identified as Class II utilization.

In response, we would point out that although these other proposals, including those submitted by NFO, were not included in the notice for this proceeding, they remain under consideration for possible inclusion in a hearing notice if it is determined that another hearing should be held on a broader range of Class II issues. This being the case, we see no reason why it would be helpful to take Official Notice of a court proceeding that has no immediate bearing on the issues before the Secretary in this proceeding. Accordingly, the request for Official Notice is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

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(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner, as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Middle Atlantic and Certain Other Marketing Areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

List of Subjects in 7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

Milk marketing orders, Milk, Dairy products.

1. The authority citation for 7 CFR parts 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 1006—MILK IN UPPER FLORIDA MARKETING AREA

2. In § 1006.50(b), the introductory text is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

3. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1006.50(b).

PART 1007—MILK IN GEORGIA MARKETING AREA

4. In § 1007.50(b), the introductory text is revised to read as follows:

§ 1007.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1007.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

5. Section 1007.53 is revised to read as follows:

§ 1007.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1007.50(b).

PART 1011—MILK IN TENNESSEE VALLEY MARKETING AREA

6. In § 1011.50(b), the introductory text is revised to read as follows:

§ 1011.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1011.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

7. Section 1011.53 is revised to read as follows:

§ 1011.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1011.50(b).

PART 1012—MILK IN TAMPA BAY MARKETING AREA

8. In § 1012.50(b), the introductory text is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

9. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1012.50(b).

PART 1013—MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

10. In § 1013.50(b), the introductory text is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

11. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1013.50(b).

PART 1030—MILK IN CHICAGO REGIONAL MARKETING AREA

12. In § 1030.50(b), the introductory text is revised to read as follows:

§ 1030.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1030.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

13. Section 1030.53 is revised to read as follows:

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1030.50(b).

PART 1032—MILK IN SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

14. In § 1032.50(b), the introductory text is revised to read as follows:

§ 1032.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1032.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

15. Section 1032.53 is revise to read as follows:

§ 1032.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1032.50(b).

PART 1033—MILK IN OHIO VALLEY MARKETING AREA

16. In § 1033.27, paragraphs (k)(1) and (k)(3) are revised to read as follows:

§ 1033.27 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class III price for the preceding month;

(iii) The butterfat differential for the preceding month;

* * * * *

(3) The 15th day of each month, the Class II price for the following month computed pursuant to § 1033.51(b)

* * * * *

17. In § 1033.51(b), the introductory text is revised to read as follows:

§ 1033.51 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

18. In § 1036.50(b), the introductory text is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this

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section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

19. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1036.50(b).

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

20. In § 1040.50(b), the introductory text is revised to read as follows:

§ 1040.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

21. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class II price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1040.50(b).

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

22. In § 1046.50(b), the introductory text is revised to read as follows:

§ 1046.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1046.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

23. Section 1046.53 is revised to read as follows:

§ 1046.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1046.50(b).

PART 1049—MILK IN INDIANA MARKETING AREA

24. In Section 1049.50(b), the introductory text is revised to read as follows:

§ 1049.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1049.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

25. Section 1049.53 is revised to read as follows:

§ 1049.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1049.50(b).

PART 1050—MILK IN CENTRAL ILLINOIS MARKETING AREA

26. In Section 1050.50(b), the introductory text is revised to read as follows:

§ 1050.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1050.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

27. Section 1050.53 is revised to read as follows:

§ 1050.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1049.50(b).

PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

28. In § 1064.50(b), the introductory text is revised to read as follows:

§ 1064.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1064.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the

second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

29. Section 1064.53 is revised to read as follows:

§ 1064.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1064.50(b).

PART 1065—MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

30. In § 1065.50(b), the introductory text is revised to read as follows:

§ 1065.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1065.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

31. Section 1065.53 is revised to read as follows:

§ 1065.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1065.50(b).

PART 1068—MILK IN UPPER MIDWEST MARKETING AREA

32. In § 1068.50(b), the introductory text is revised to read as follows:

§ 1068.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1068.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

33. Section 1068.53 is revised to read as follows:

§ 1068.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1068.50(b).

PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

34. In § 1076.50(b), the introductory text is revised to read as follows:

§ 1076.50 Class Prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1076.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

35. Section 1076.53 is revised to read as follows:

§ 1076.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1076.50(b).

PART 1079—MILK IN IOWA MARKETING AREA

36. In § 1079.50(b), the introductory text is revised to read as follows:

§ 1079.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1079.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

37. Section 1079.53 is revised to read as follows:

§ 1079.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1079.50(b).

PART 1093—MILK IN ALABAMA-WEST FLORIDA MARKETING AREA

38. In § 1093.50(b), the introductory text is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1093.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

39. Section 1093.53 is revised to read as follows:

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§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1093.50(b).

PART 1094—MILK IN SOUTHERN ILLINOIS MARKETING AREA

40. In § 1094.50(b), the introductory text is revised to read as follows:

§ 1094.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1094.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

41. Section 1094.53 is revised to read as follows:

§ 1094.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1094.50(b).

PART 1096—MILK IN WEST TEXAS MARKETING AREA

42. In § 1096.50(b), the introductory text is revised to read as follows:

§ 1096.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1096.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

43. Section 1096.53 is revised to read as follows:

§ 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1096.50(b).

PART 1098—MILK IN NORTHWEST TEXAS MARKETING AREA

44. In § 1098.50(b), the introductory text is revised to read as follows:

§ 1098.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1098.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

45. Section 1098.53 is revised to read as follows:

§ 1098.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1098.50(b).

PART 1106—MILK IN SOUTHWEST PLAINS MARKETING AREA

50. In § 1106.50(b), the introductory

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for

pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted

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§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the class II price for the following month computed pursuant to § 1093.50(b).

PART 1094—MILK IN NEW ORLEANS-MISSISSIPPI MARKETING AREA

40. In § 1094.50(b), the introductory text is revised to read as follows:

§ 1094.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1094.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

41. Section 1094.53 is revised to read as follows:

§ 1094.53 Announcement of class prices.

The price administrator shall annouce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th of each month the Class II price for the following month computed pursuant to § 1094.50(b).

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

42. In § 1096.50(b), the introductory text is revised to read as follows:

§ 1096.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1096.51a for the month plus the amount that the value computed to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

43. Secton 1096.53 is revised to read as follows:

§ 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1096.50(b).

PART 1097—MILK IN MEMPHIS, TENNESSEE MARKETING AREA

44. In § 1097.50(b), the introductory text is revised to read as follows:

§ 1097.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula computed pursuant to § 1097.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

45. Section 1097.53 is revised to read as follows:

§ 1097.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1097.50(b).

PART 1098—MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

46. In § 1098.50(b), the introductory text is revised to read as follows:

§ 1098.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula computed pursuant to § 1098.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

47. In § 1098.53 is revised to read as follows:

§ 1098.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1098.50(b).

PART 1099—MILK IN PADUCAH, KENTUCKY MARKETING AREA

46. In § 1099.50(b), the introductory text is revised to read as follows:

§ 1099.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shal be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula computed pursuant to § 1099.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

49. Section 1099.53 is revised to read as follows:

§ 1099.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1099.50(b).

PART 1106—MILK IN SOUTHWEST PLAINS MARKETING AREA

50. In § 1106.50(b), the introductory text is revised to read as follows:

§ 1106.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1106.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

51. Section 1106.53 is revised to read as follows:

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1106.50(b).

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

52. In § 1108.50(b), the introductory text is revised to read as follows:

§ 1108.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1108.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

53. Section 1108.53 is revised to read as follows:

§ 1108.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1108.50(b).

PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEXAS MARKETING AREA

54. In § 1120.50(b), the introductory text is revised to read as follows:

§ 1120.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1120.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

55. Section 1120.53 is revised to read as follows:

§ 1120.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1120.50(b).

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

56. In § 1124.50(b), the introductory text is revised to read as follows:

§ 1124.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

57. Section 1124.53 is revised to read as follows:

§ 1124.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1124.50(b).

PART 1126—MILK IN THE TEXAS MARKETING AREA

58. In § 1126.50(b), the introductory text is revised to read as follows:

§ 1126.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1126.51(a) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

59. Section 1126.53 is revised to read as follows:

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1126.50(b).

PART 1131—MILK IN CENTRAL ARIZONA MARKETING AREA

60. In Section 1131.50(b), the introductory text is revised to read as follows:

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§ 1131.50 Class prices

* * * * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the proceding month. The Class II price shall be the Class II formula price computed pursuant to § 1131.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * * *

61. Section 1131.53 is revised to read as follows:

§ 1131.53 Announcement to class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1131.50(b).

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

62. In § 1132.50(b), the introductory text is revised to read as follows:

§ 1132.50 Class prices.

* * * * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1132.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * * *

63. Section 1132.53 is revised to read as follows:

§ 1132.53 Announcement to class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1132.50(b).

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

64. In Section 1134.50(b), the introductory text is revised to read as follows:

§ 1134.50 Class prices.

* * * * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the Class II formular price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * * *

65. Section 1134.53 is revised to read as follows:

§ 1134.53 Announcement to class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1134.50(b).

PART 1135—MILK IN THE SOUTHWESTERN IDAHO–EASTERN OREGON MARKETING AREA

66. In § 1135.50(b), the introductory text is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * * *

67. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1135.50(b).

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

68. In § 1137.50(b), the introductory text is revised to read as follows:

§ 1137.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * * *

69. Section 1137.53 is revised to read as follows:

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1137.50(b).

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

70. In § 1138.50(b), the introductory text is revised to read as follows:

§ 1138.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the

15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1138.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * *

71. Section 1138.53 is revised to read as follows:

§ 1138.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1138.50(b).

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

72. In § 1139.50(b), the introductory text is revised to read as follows:

§ 1139.50 Class prices.

* * * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * * *

73. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class and component prices.

The market administrator shall announce on or before:

(a) The 5th day of each month, the Class I price for the following month;

(b) The 15th of each month, the Class II price for the following month computed pursuant to § 1139.50(b); and

(c) The 5th day after the end of each month, the Class III price and the prices for butterfat, milk protein and skim milk computed pursuant to § 1139.50 (d), (e), and (f) for each month.

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

PART 1005—MILK IN THE CAROLINA MARKETING AREA (PROPOSED)

Note: There are no proposed amendments to these parts at this time.

Signed at Washington, DC, on October 31, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-26024 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-83-AD]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This notice proposes to revise an earlier proposed airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which would have required repetitive inspections and repair, if necessary, of the inboard trailing edge flaps inboard track. That proposal was prompted by reports of corrosion and/or cracking of the flap tracks. This condition, if not corrected, could lead to failure of the flap track and possible separation of the inboard trailing edge flap. This action revises the proposed rule by requiring inspections of certain repaired flap tracks, and adding inspections for loose mounting bolts and migrating shims at the flap track to main landing gear beam interface.

DATE: Comments must be received no later than December 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-83-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Airframe Branch, ANM-120S; telephone (206) 431-1525. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 89-NM-83-AD." The postcard will be date/time stamped and returned to the commenter.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, which would have required inspection of the inboard trailing edge flaps inboard track, and repair, if necessary, was published in the **Federal Register** on June 21, 1989 (54 FR 26048).

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That action was prompted by several incidents involving corrosion and/or cracking of the inboard trailing edge flaps inboard track on Model 727 airplanes. These conditions, if not corrected, could lead to failure of the flap track and possible separation of the affected inboard trailing edge flap.

Since issuance of the proposal, the following new information has been received:

1. Test data shows that flap tracks repaired with a splice plate may experience cracking and must be repetitively inspected.

2. Reports of loose and broken flap track to main landing gear beam mounting bolts support the need to require an inspection of the bolts.

3. The laminated shim installed in accordance with the original release of Boeing Service Bulletin 727-57-0178 dated May 5, 1988, has been reported to be migrating. This can contribute to loose and broken mounting bolts.

Since these conditions are likely to exist or develop on other airplanes of the same type design, the FAA has determined that the original Notice must be revised to include a repetitive inspection of repaired flap tracks; and inspection for loose bolts, and tightening, if necessary; and an inspection of the laminated shim, and reinstallation, if necessary, in accordance with the service bulletin described below. Since these new proposed requirements go beyond the scope of those originally proposed, the comment period has been reopened to provide additional time for public comment.

The FAA has reviewed and approved Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, which describes procedures for inspection, modification, and repair of the inboard trailing edge flaps inboard track.

There are approximately 1,695 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,172 airplanes of U.S. registry would be affected by this AD, that it would take approximately 29 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,359,520.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by amending the notice of proposed rulemaking, Docket 89-NM-83-D, FR Doc. 89-14624, which was published in the Federal Register on June 21, 1989 (54 FR 26048), as follows:

Boeing: Applies to all Model 727 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent separation of an inboard trailing edge flap due to corrosion or cracking of the inboard track, accomplish the following:

A. For airplanes with flap tracks that have neither the repair nor the preventative modification installed, as specified in Boeing Service Bulletin 727-57-117, Revision 5, dated January 30, 1981, or earlier revisions, accomplish the following:

1. Inspection

a. Accomplish the initial inspections required by paragraphs A.1.b., A.1.c. and A.1.d. below, prior to (1) or (2), below, whichever occurs later:

(1) Prior to the accumulation of 7,000 flight cycles or 5 years since manufacture, whichever occurs first; or

(2) Within the next 1,000 flight cycles or 6 months after the effective date of this AD, whichever occurs first.

b. Accomplish *either* of the following inspections:

(1) Perform a close visual inspection for cracks and corrosion of the inboard trailing edge flaps inboard track in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first.

(2) Remove the flap track from the airplane, and perform a visual and magnetic particle inspection for cracks and corrosion in the flap track, in accordance with Figure 1 of Boeing Service Bulletin, 727-57-0178, Revision 2, dated September 7, 1989. Repeat these inspections at intervals not to exceed 9,000 flight cycles or 6 years, whichever occurs first.

c. Inspect the inboard trailing edge flaps inboard track for loose mountain bolts. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first.

d. If the track has a laminated shim installed in accordance with Boeing Service Bulletin 727-57-0178, Revision New, dated May 5, 1988, visually inspect the laminated shim for correct location, in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first.

2. Repair

a. If cracks with or without corrosion are detected as a result of the inspections required by paragraph A.1.b, above, and do not exceed the limits specified in Figures 1 or 3 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, prior to further flight, repair in accordance with the service bulletin. If the crack extends into the flap track web, inspect the crack using a borescope at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first. If crack growth occurs, repair in accordance with this paragraph or A.2.b., below. If only corrosion is detected and it does not exceed limits specified in Figure 3 of the service bulletin, repair in accordance with the service bulletin within 12 months. If the crack does not extend into the flap track web, repairs made in accordance with this paragraph terminate the repetitive inspections required by paragraph A.1.b., above.

b. If cracks or corrosion are detected which exceed the limits specified in Figures 1 or 3 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, replace the flap track prior to further flight.

c. If loose mounting bolts are detected as a result of the inspections required by paragraph A.1.c., above, prior to further flight, retorque the bolts in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Modification or repair, in accordance with Figures 2, 3, 4, or 5 of the service bulletin, terminates the repetitive inspections required by paragraph A.1.c., above.

d. If the track is repaired with a splice plate in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, or earlier revisions, within 12,000 flight cycles since repair or 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a close visual inspection for cracks of the inboard trailing edge flaps inboard track at the aft splice plate fasteners, in accordance with the Accomplishment Instructions of the service bulletin. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first. If cracks are detected, replace the flap track prior to further flight.

e. If a mislocated laminated shim is detected as a result of the inspections required by paragraph A.1.d., above, and the mislocation exceeds the limits specified in the Accomplishment Instructions of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, prior to further flight, reinstall the shim or replace the shim in accordance with the service bulletin. Replacement of the shim terminates the repetitive inspections required by paragraph A.1.d., above.

B. For airplanes with flap tracks which have the preventative modification installed in accordance with Boeing Service Bulletin 727-57-117, Revision 5, dated January 30, 1981, or earlier revisions, accomplish the following:

1. Inspection

a. Accomplish the initial inspections required by paragraphs B.1.b. and B.1.c., below, prior to (1) or (2), below, whichever occurs later:

(1) Within 9,000 flight cycles since modification or 6 years since modification, whichever occurs first; or

(2) Within the next 1,000 flight cycles or 6 months after the effective date of this AD, whichever occurs first.

b. Accomplish *either* of the following inspections:

(1) Perform a close visual inspection for cracks and corrosion of the inboard trailing edge flaps inboard track, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first.

(2) Remove the flap track from the airplane, and perform a visual and magnetic particle inspection for cracks and corrosion in the flap track, in accordance with Figure 1 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Repeat these inspections at intervals not to exceed 9,000 flight cycles or 6 years, whichever occurs first.

c. Inspect the inboard trailing edge flaps inboard track for loose mounting bolts. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first.

2. Repair

a. If cracks with or without corrosion are detected as a result of the inspections required by paragraphs B.1.b., above, and do not exceed the limits specified in Figures 1 or 3 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, prior to further flight, repair in accordance with the service bulletin. If the crack extends into the flap track web, inspect the crack using a borescope, at intervals not to exceed 3,000 flight cycle or 18 months, whichever occurs first. If crack growth occurs, repair in accordance with this paragraph or B.2.b., below. If only corrosion is detected, and it does not exceed the limits specified in Figure 3 of the service bulletin, repair in accordance with the service bulletin within 12 months. If the crack does not extend into the flap track web, repairs made in accordance with this paragraph terminate the repetitive inspections required by paragraph B.1.b., above.

b. If cracks or corrosion are detected which exceed the limits specified in Figures 1 or 3 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, replace the flap track prior to further flight.

c. If loose mounting bolts are detected as a result of the inspections required by paragraph B.1.c., above, prior to further flight, retorque the bolt in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Modification or repair in accordance with Figures 2, 3, 4, or 5 of the service bulletin terminates the repetitive inspections required by paragraph B.1.c., above.

d. If the track is repaired with a splice plate in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, within 12,000 flight cycles since repair or 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a close visual inspection for cracks of the inboard trailing edge flaps inboard track at the aft splice plate fasteners, in accordance with the service bulletin. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first. If cracks are detected, replace the flap track prior to further flight.

C. For airplanes with flap tracks that have been repaired with the splice plate in accordance with Boeing Service Bulletin 727-57-117, Revision 5, dated January 30, 1981, or earlier revisions, accomplish the following:

1. Inspection

a. Accomplish the initial inspections required by paragraphs C.1.b., C.1.c., and C.1.d., below, prior to (1) or (2), below, whichever occurs later:

(1) Within 12,000 flight cycles since repair or 8 years since repair, whichever occurs first; or

(2) Within the next 1,000 flight cycles or 8 months after the effective date of this AD, whichever occurs first.

b. Remove the flap track from the airplane, and perform a visual and magnetic particle inspection for cracks and corrosion in the flap track, in accordance with Figure 1 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. Repeat these inspections at intervals not to exceed 9,000 flight cycles or 6 years, whichever occurs first.

c. Inspect the inboard trailing edge flaps inboard track for loose mounting bolts. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months.

d. Perform a close visual inspection for cracks of the inboard trailing edge flaps inboard track at the aft splice plate fasteners, in accordance with the service bulletin. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first. If cracks are detected, replace the flap track prior to further flight.

2. Repair

a. If new cracks, crack growth, or corrosion are detected as a result of the inspections required by paragraph C.1.b., above, and do not exceed the limits specified in paragraph C.2.b., below, prior to further flight, repair in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989. If the crack extends into the flap track web, inspect the crack using a borescope at intervals not to exceed 3,006 flight cycles or 18 months, whichever occurs first. If crack growth occurs, repair in accordance with this paragraph or C.2.b., below. If the crack does not extend into the flap track web, repairs made in accordance with this paragraph terminate the repetitive inspections required by paragraph C.1.b., above.

b. Replace the flap track prior to further flight if any of the following occur:

(1) The crack length is within the short limits specified in Figure 1 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, and the crack runs toward the flap track integral rib.

(2) The crack length exceeds the short limits specified in Figure 1 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989.

(3) The corrosion exceeds the limits specified in Figure 3 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989.

c. If loose mounting bolts are detected as a result of the inspections required by paragraph C.1.c., above, prior to further flight, retorque the bolts in accordance with the service bulletin. Repair in accordance with Figures 3 or 4 of the service bulletin terminates the repetitive inspections required by paragraph C.1.c., above.

d. If the track is repaired with a splice plate in accordance with Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989, perform a close visual inspection for cracks of the inboard trailing edge flaps inboard track at the aft splice plate fasteners, in accordance with the service bulletin. Repeat this inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first. If cracks are detected, replace the flap track prior to further flight.

D. The following constitutes terminating action for the inspection requirements of this AD:

1. Modification in accordance with Figure 2 of Boeing Service Bulletin 727-57-0178, Revision 2, dated September 7, 1989; or

2. Repair in accordance with Figure 3 of the service bulletin, if no splice plate is installed.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 27, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-26262 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASO-41]

Proposed Revocation of Control Zone, Moultrie, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the Moultrie, GA Control Zone. One of the requirements for the continued designation of the control zone is hourly and special weather observations being transmitted to the air traffic control facility having jurisdiction over that control zone. Weather observations have not been available for the Moultrie Municipal Airport for several months. No plans exist to reestablish weather reporting service at the airport. The intended effect of this action is to raise the floor of controlled airspace from the surface to 700 feet above ground level.

DATES: Comments must be received on or before: December 4, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO-530, Manager, Airspace and Procedures Branch, Docket No. 89-ASO-41, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration. P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rule-making by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASO-41." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the Moultrie, GA control zone. Hourly and special weather reports are requirements for continued designation of a control zone. There is no weather reporting service at the Moultrie Municipal Airport and no plans exist to reestablish the service. This proposed action would raise the floor of controlled airspace in vicinity of the airport from the surface to 700 feet above ground level. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 100(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Moultrie, GA [Removed]

Issued in East Point, Georgia, on October 10, 1989.

Don Carr,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 89-26311 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 435

[FRL-3678-6]

Oil and Gas Extraction Point Source Category Coastal and Stripper Subcategories Effluent Limitations Guidelines and New Source Performance Standards; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for comments.

SUMMARY: EPA is currently considering initiating the development of revisions and additions to existing regulations under the Clean Water Act that limit effluent discharges to waters of the United States from coastal oil and gas extraction facilities. These revisions would establish effluent limitations guidelines based on the best available technology economically achievable (BAT) and the best conventional pollutant control technology (BCT), and also would establish new source performance standards (NSPS).

Today's notice (1) presents the approaches the Agency would take in developing BAT and BCT effluent limitations guidelines and NSPS for the coastal subcategory of the oil and gas extraction point source category; (2) presents a possible modification to the current definition of the coastal subcategory; (3) discusses whether regulations covering stripper oil wells and marginal gas wells should continue to be included in the coastal subcategory regulations or whether those stripper oil wells and marginal gas wells located within the coastal geographic area should be regulated separately; (4) presents the approach the Agency would take in analyzing the costs and economic impacts of regulations in the coastal subcategory; (5) discusses potential control technologies for use in evaluating BCT, BAT and NSPS requirements; and (6) outlines possible future data collection activities. This notice also requests comments and/or data covering all aspects of the presented material in addition to specific items identified in section XIII of the Notice.

DATES: Comments must be received on or before January 8, 1990.

ADDRESSES: Comments should be sent to Ms. Karen Troy, Office of Water Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The supporting information and data described in this notice are available for inspection and copying at the EPA Public Information Reference Unit, Room M2904 (Rear of EPA Library), 401 M Street, SW., Washington, DC 20460. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Troy at the above address, or call (202) 382-7115.

SUPPLEMENTARY INFORMATION:

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  C. Best Conventional Pollutant Control Technology (BCT)
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I. Introduction

EPA is currently collecting information to be used as a basis for potential redefinition of the coastal subcategory and development of effluent limitations guidelines and standards covering the produced water, drilling fluids, drill cuttings, and miscellaneous waste streams in the coastal subcategory of the oil and gas extraction point source category. These regulations would apply to discharges from facilities involved in exploration, development, and production operations. Such activities are included in Standard Industrial Classification (SIC) Major Group 13. Any regulation issued could affect not only the coastal subcategory but also the onshore subcategory, because some facilities that are currently classified as coastal could be reclassified as onshore. The Agency is also considering whether regulations covering stripper oil wells and marginal gas wells should be included in the coastal subcategory regulations and is considering a definition of marginal gas wells for purposes of regulating these facilities.

The current definition of coastal encompasses facilities in any water body landward of the inner boundary of the territorial seas regardless of any water characteristics such as salinity. This means, for example, that a facility located in the Great Lakes is currently classified as a coastal facility. The Agency is examining a possible redefinition of the coastal subcategory that is based on the salinity of the water in which the facility is located.

This notice presents key issues involved in the development of effluent limitations guidelines and discusses the steps that would need to be taken to develop sufficient information to propose new regulations. After discussing the legal authority for

rulemaking in the coastal subcategory (Section II) and summarizing current and previous coastal subcategory regulations (Section III), today's notice presents options for definition of the

1977 and the Water Quality Act of 1987 and the Water Quality Act of 1987) (the Act), 33 U.S.C. 1311, 1314 (b), (c), and (e), 1315, 1317, and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-215; 101

conventional pollutants: Biochemical oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator

daily residual chlorine content in sanitary discharges from those facilities continuously manned by ten or more persons is limited to 1 mg/L. The discharge of floating solids in sanitary

The Agency rejected this approach when it adopted the current definition in 1979 for four reasons. First, industry identified a significant number of facilities near coastlines that

in the soil or on its surface. Deepwater habitats, however, are permanently flooded lands, that are often deep, so that water rather than air is the

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rulemaking in the coastal subcategory (Section II) and summarizing current and previous coastal subcategory regulations (Section III), today's notice presents options for definition of the coastal subcategory (Section IV). The Agency's preliminary profile of coastal facilities is outlined in Section V, and its plans for developing the final profile are also presented. Stripper oil wells and marginal gas wells are discussed in Section VI. Preliminary information about the environmental characteristics of the coastal geographical water areas are presented in Section VII. A discussion of pollution control technologies which may be applicable to the coastal and stripper subcategories is included in Section VIII. Major non-water quality environmental impacts which will be addressed by the Agency are discussed in Section IX.

Further information and data will be needed by the Agency to determine the technological feasibility and economic achievability of the various pollution control technologies to be considered if the Agency proceeds with rulemaking in the costal subcategory. Data collection efforts would include the use of a survey of coastal facilities under Section 308 of the Clean Water Act; details are presented in Section X. A glossary of pertinent terms is included at the end of this notice in Appendix A.

On August 25, 1988 EPA published a notice announcing its proposed plans for promulgating new effluent guidelines to implement section 304(m) of the Clean Water Act (53 FR 32564). The coastal subcategory was identified in that notice as a potential candidate for new guidelines. EPA is currently preparing its final plans for implementing section 304(m) and expects to publish them in a final notice this fall. That notice will announce whether or not EPA has identified the coastal subcategory as one for which new guidelines will be prepared.

The Agency is requesting comment on the information, analyses, and potential approaches to controlling discharges from coastal, stripper oil, and marginal gas well facilities that are discussed in today's notice. The comments received will be considered in the development of coastal regulations should the Agency decide to undertake rulemaking in the coastal subcategory.

II. Summary of Legal Background

The regulations described in this notice are being developed under the authority of sections 301, 304 (b), (c), and (e), 306, 307, and 501 of the Clean Water Act (The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 and the Water Quality Act of 1987) (the Act), 33 U.S.C. 1311, 1314 (b), (c), and (e), 1315, 1317, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–215; 101 Stat. 7, Pub. L. 100–4 ("the Act").

The Clean Water Act establishes a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." [Section 101(a)]. To implement the Act, EPA is to issue technology based effluent limitations guidelines, new source performance standards and pretreatment standards for industrial dischargers. The levels of control associated with these effluent limitations guidelines and standards are summarized briefly below.

A. Best Practicable Control Technology Currently Available (BPT)

BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category of subcategory.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies and nonwater quality environmental impacts (including energy requirements). The total cost of applying the technology is considered in relation to the effluent reduction benefits.

B. Best Available Technology Economically Achievable (BAT)

BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as a principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters. In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the costs and economic impact of achieving such effluent reduction, and nonwater quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

C. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments added section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: Biochemical oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be established in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). EPA first published its methodology for carrying out the BCT analysis on August 19, 1979 (44 FR 50372).

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176), and became effective on August 22, 1986 (51 FR 24974; July 9, 1986).

D. New Source Performance Standards (NSPS)

NSPS are based on the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

E. Pretreatment Standards

The Act also directs EPA to promulgate Pretreatment Standards for Existing and New Sources (PSES and PSNS) to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a publicly-owned treatment works (POTW).

III. Current and Previous Coastal Subcategory Regulations

The coastal subcategory is one of five subcategories of the oil and gas extraction industry that are established in EPA's regulations at 40 CFR part 435. (The other subcategories are Offshore, Onshore, Agricultural and Wildlife Water Use (formerly Beneficial Use) and Stripper.) The current coastal subcategory regulations were promulgated on April 13, 1979 (44 FR 22069). They include effluent limitations guidelines at the BPT level of control only.

The existing BPT guidelines limit the discharge of oil and grease in produced water to 72 mg/L as a daily maximum and 48 mg/L as a 30-day average. The discharge of free oil in deck drainage, drilling fluids, drill cuttings, and well treatment fluids is prohibited. Minimum daily residual chlorine content in sanitary discharges from those facilities continuously manned by ten or more persons is limited to 1 mg/L. The discharge of floating solids in sanitary and domestic wastes is prohibited. 40 CFR 435.42(a). The current coastal subcategory regulations in 40 CFR 435.40 apply to:

> • • • facilities engaged in production, field exploration, drilling, well completion and well treatment in areas defined as coastal.

The term "coastal" is defined at 40 CFR 435.41(e) as:

> (1) any body of water landward of the territorial seas as defined at 40 CFR 125.1(gg) or (2) any wetlands adjacent to such waters.

The term "wetlands" is defined at 40 CFR 435.41(f) as:

> • • • those surface areas which are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Thus, the coast subcategory regulations currently apply to oil and gas development and production facilities throughout the United States that are landward of the inner boundary of the territorial seas and that are located in water or adjacent wetlands. The regulations do not differentiate between freshwater and saline water for purposes of defining the geographic scope of the coastal subcategory.

The Agency promulgated the current definition of the coastal subcategory after reconsidering and rejecting a previous definition that was included in interim final BPT regulations for the coastal subcategory. (41 FR 44942–48; October 13, 1976). The 1976 interim final rules defined coastal to mean all land and water areas landward from the inner boundary of the territorial seas and eastward of the point defined by 89 degrees 45 minutes W. Longitude and 29 degrees 46 minutes N. Latitude and continuing west of that point through a series of longitude and latitude coordinates (the Chapman line) to the point 97 degrees 19 minutes W. Longitude and continuing southward from that point to the U.S.-Mexican border. This included Louisiana and Texas Gulf coast areas as well as other areas along the Gulf coast. The 1976 definition was intended to include all facilities of which the Agency was aware that were both landward of the inner boundary of the territorial seas and that were located in the waters of states that permitted the discharge of produced water.

The Agency rejected this approach when it adopted the current definition in 1979 for four reasons. First, industry identified a significant number of facilities near coastlines that nevertheless were not included within the regulatory scope of the subcategory. Second, certain platforms in Upper Cook inlet, Alaska were not included in the subcategory. Third, the 1976 definition of the coastal subcategory required the Agency to reassess the existing boundaries of the coastal subcategory whenever industry explored new areas that might have been considered coastal. Finally, the 1976 definition classified in the coastal subcategory an estimated 1700 wells which were operated on land but which discharged into coastal waters.

Under the final BPT regulations issued on April 13, 1979, approximately 1200 of these wells were reclassified into the onshore subcategory and the remainder were reclassified as stripper wells, depending on their rate of production. The wells that were reclassified as onshore were required to attain zero discharge. Industry challenged the 1979 final rule in the United States Court of Appeals for the Fifth Circuit, arguing among other things that the Agency had failed to adequately consider the costs to the reclassifeid facilities of attaining zero discharge. As a result of the court's decision [*American Petroleum Institute* v. *EPA*, 661 F.2d 340 (5th Cir. 1981)], EPA suspended the applicability of the onshore subcategory regulations to the reclassified facilities and to any wells in the 1976 geographic coastal area that came into existence after the issuance of the 1979 final rules. (47 FR 31455; July 21, 1982). Such facilities continue to be regulated under the coastal subcategory regulations.

IV. Modifications to the Coastal Definition

A. Introduction

Should EPA decide to proceed with this rulemaking, the Agency is considering proposing a new definition of the coastal subcategory that is based upon a water classification system developed by the U.S. Fish and Wildlife Service, United States Department of Interior, in the "Classification of Wetlands and Deepwater Habitats of the United States," December 1979, FWS/OBS–79/31. As a part of this water classification system, wetlands and deepwater habitats have been identified. In general terms, wetlands are lands where saturation with water (or at least periodic saturation) is the dominant factor in determining the types of plant and animal communities living in the soil or on its surface. Deepwater habitats, however, are permanently flooded lands, that are often deep, so that water rather than air is the principal medium within which the dominant organisms live. Wetlands and deepwater habitats have been and are being identified and mapped according to the following procedure.

Through the use of the National Altitude Photography program, aerial photographs are taken either in spring (April-May) or in the fall at the time when the trees have no leaves (October-November). These aerial photos are interpreted by identifying the flora and fauna which appear in them. From this, the water classification of the area in the photo can be determined. In addition to the photos, ancillary information is used to further define an area. Sources of such ancillary information include: U.S. Geologic Survey stream monitoring reports which verify salinity values, US Soil Conservation Service county soil surveys, and actual field work data. The aerial photographs undergo two quality assurance reviews before they are superimposed on the USGS topographic maps. The results are 1:24000 scale "draft" wetland maps. These draft maps are distributed for review and comment to Federal, State, local and private organizations and to anyone who may have an opportunity to field check the wetland delineations. These users are able to make field observations and provide comments before the final wetlands maps are produced. These maps clearly show the different water types as they have been classified and are readily available for use.

In classifying the wetlands and deepwater habitats, the U.S. Fish and Wildlife Service has used terms *marine system* and *estuarine system*. The following are general descriptions of these terms. (The exact definitions of these terms and others are presented in the glossary located at the end of this notice in appendix A.)

Marine System

This term is generally applied to the open ocean and its assocaited coastline. It is mostly a deepwater habitat system, with marine wetlands limited to intertidal areas like beaches, rocky shores and some coral reefs. In subsequent sections of this notice, the term *marine water* means the same as *marine system*.

Estuarine System

This term is generally applied to coastal wetlands (e.g., tidal marshes), mangrove swamps, and intertidal flats, as well as deepwater bays, sounds and

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coastal rivers. In subsection sections of this notice, the term *estuarine water* means the same as *estuarine system.*

B. New Coastal Subcategory Candidate Definitions

The Agency has re-evaluated the current definition of the coastal subcategory and has examined two alternative definitions that are explained below. The Agency has tentatively concluded that salinity of the waters in which the wellhead of the regulated facilities is located should be the basis for any new definition of the coastal subcategory. The Agency currently intends to include a definition of coastal based on salinity (referred to as the *water classification definition*) if it formally proposes rules in this subcategory. Through the use of USFWS maps, a *salinity line* can be drawn to delineate freshwater from marine and estuarine waters. Over time, the salinity line will change due to variations in salinity. To keep the salinity line fixed, the applicability of the coastal geographical area would be defined by a set distance from the coast line or possibly by a set of longitude and latitude coordinates. Facilities located in freshwater would be regulated separately or reclassified into the onshore subcategory.

1. Alternatives Considered

a. "Water Classification" Definition. The Agency has considered a definition of the coastal subcategory based upon the USFWS water classification system described above. Under this approach, the coastal subcategory would be defined to include facilities located landward of the inner boundary of the territorial seas and located in marine waters or estuarine waters.

The inner boundary of the territorial seas is defined at section 502(8) of the Clean Water Act as:

> * * * the line of ordinary low water along that portion of the coastal which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

The classification of the facility would be based upon the wellhead location.

The final definition would exclude those facilities over freshwater. It would also exclude facilities located in inland saline and fresh waters. Such facilities would be placed in the onshore subcategory or possibly a new subcategory.

b. "Tidal Influence" Definition. Tidal influence also was considered as the basis for a possible redefinition of the coastal subcategory. Tidal bodies of water landward of the inner boundary of territorial seas would include bays, estuaries, sounds, mudflats, sloughs, wetlands and similar areas. Some states have defined the inland limits of tidal influence based on flux indicators (e.g., segment identification maps for Texas River and coastal basins, Texas Water Commission 1985.) Defining coastal in terms of the tidal influence would result in freshwater, marine and estuarine waters being included in the same classification.

Like the current definition, a tidal influence definition would make no distinction between freshwater and marine and estuarine waters for regulatory purposes, nor would it take into account their dissimilarities. Therefore, the Agency tentatively has rejected "tidal influence" as a candidate basis for a revised coastal subcategory definition.

2. Preferred Approach: "Water Classification" Definition

The Agency prefers to redefine the coastal subcategory according to the water classification definition. While the Agency would be using the chemical characteristics of water as a basis for defining the geographical area to be considered as coastal, these chemical characteristics would not be used as the basis for determining the treatment technologies to be considered or for developing technology-based effluent guidelines in the coastal subcategory.

Differences in salinity are reflected in the species composition of plants and animals in marine, estuarine and freshwater. Marine and estuarine waters are a complex solution of salts dominated by sodium chloride (NaCl). Marine water has salinity values which exceed 30 parts per thousand with little or no dilution except outside the mouths of estuaries, whereas the salinity of estuarine waters salinities range from greater than 40 parts per thousand to 0.5 parts per thousand. In any given area, salinity of estuarine water may be variable or it may be relatively stable. Freshwater, however, exhibits no such changes in its composition with respect to salinity. Although the salinity of estuarine water varies, it is restrained to a given range of values and does not become freshwater.

Marine and estuarine waters also differ in hydrographic characteristics that are of great biological significance. The hydrographic characteristics are: salinity stratification, oxygen depletion and accumulation of hydrogen sulfide in the deeper stratification layers. The term *salinity stratification* refers to the formation of layers of water that differ in salinity. At the same temperature, water with higher salt content is heavier than less concentrated water. If waters of different salt content are in contact with one another, the water with the higher salt concentration will sink to the bottom. Even with turbulent mixing of the waters and diffusion of the salt, the formation of several layers of differing salt content still occurs. Haline (the term haline refers to ocean salts) stratification does not occur in freshwater but does occur in both marine and estuarine waters. In marine waters, salinity differences can be one part per thousand for every 100 meters depth, whereas in estuarine waters, salinity gradients can rise to 10–70 times that amount. Haline stratification prevents the vertical exchange of water masses, which leads to oxygen deficiency and an abundance of hydrogen sulfide in the lower layers. Oxygen depletion and the accumulation of hydrogen sulfide occur when haline stratification is permanent or persists over long periods of time.

The Agency's preferred definition of the coastal subcategory would exclude inland saline waters from the coastal subcategory because the chemistry of saline inland water differs appreciably from that of marine and estuarine sea water. Facilities located in inland saline water would be reclassified, possibly to the onshore subcategory. Inland waters have ionic ratios which usually differ appreciably from those in the sea. They exhibit great chemical diversity, a wide variation in physical conditions such as temperature, and often possess a relative impermanence of surface water. The salinity of inland water is dominated by four major cations (positively charged ions), calcium, magnesium, sodium, and potassium; and three major anions (negatively charged ions), carbonate, sulfate, and chloride. The salinity of inland waters is affected by the interactions among precipitation, surface runoff, groundwater flow, evaporation and sometimes evapotranspiration by plants. Freshwater inland lakes and wetlands (e.g., the Great Lakes) would not be included in the coastal subcategory. The Agency currently knows of no oil and gas activity in saline inland lakes but solicits comment on the existence of facilities which are.

If the Agency adopts its preferred definition, facilities that are located in freshwater and are currently classified as coastal would be reclassified as onshore, unless the Agency regulates them in a new subcategory. The Agency is aware of cases in which produced waters, which are saline, have caused documented environmental damage when discharged into freshwater bodies. The introduction of this saline water into freshwater brings about a distinct change in the environment for the flora and fauna which inhabit freshwater areas. Documented damage has included the severe degradation of the water and damage to native fish and vegetation. In one particular case discharges into Petronilla Creek in Texas were allowed. All freshwater species of fish and vegetation died as a result of exposure to the produced waters. As a result of such severe environmental damage, in 1986, the Texas Railroad Commission ordered a halt to the discharge of produced water in Petronilla Creek.

Facilities located in freshwater may have a greater availability of treatment options as a result of their location adjacent to or near land. If such facilities have the same treatment technologies available to them as onshore facilities, then they could be considered for inclusion in the onshore subcategory. If the Agency proceeds with this rulemaking, it will examine the technological and economic achievability of such a regulatory classification. The Agency solicits comment on this approach.

3. Facilities on Islands

There are facilities on islands (man-made and natural) that are surrounded by marine or estuarine water. In the Beaufort Sea, man-made islands exist but are not permanent structure. In other areas of Alaska, there are gravel islands which are not necessarily permanent but are also surrounded by marine or estuarine waters. The Agency is considering classifying these facilities as onshore because such facilities have the same technologies available to them as onshore facilities.

4. Transport of Waste Streams Across Subcatetory Boundaries

In most instances the location of an affected facility and the point of discharge of pollutants from that facility will be within the same subcategory. However, in some instances the facility may be located in the geographic area covered by one subcategory of the oil and gas extraction regulations but its waste streams are discharged in a geographic area covered by a different subcategory. For example, an oil well located in estuarine waters could have a separation unit located onshore. Similarly, the produced water from an onshore well could be transferred to a coastal treatment unit and then discharged.

The Agency is considering adopting a regulatory approach that would make the more stingent subcategory regulations applicable in circumstances where pollutants are transported across subcategory boundaries. The Agency solicits comment on this approach.

5. Possible Subdivisions of the Coastal Subcategory

Subdivision of the coastal subcategory may be appropriate based on factors that affect the use of a given technology which are not controllable by the operator. These may include depth to which salt water injection is economically feasible, number and suitability of saltwater strata available for reinjection or other factors.

A second alternative for a subcategory division could be based upon water depth in certain geographic areas. For example, facilities in Cook Inlet, Alaska would be considered coastal under the Agency preferred definition. These facilities are located in approximately 18 to 38 m of water (i.e., water depths of 50 feet or more) and like offshore facilities, can achieve land disposal only through barging.

EPA is specifically inviting comments on whether such subdivisons are necessary or appropriate.

V. Coastal Subcategory Profile Approach

This section describes the steps that the Agency has already taken to develop a preliminary profile of the coastal oil and gas extraction industry (based upon the water classification definition.) This profile was developed to aid the Agency in characterizing such aspects of the industry as the number of facilities located in marine and estuarine water, the distribution of facilities by state, amounts of oil, gas and water that are produced by facilities in this subcategory, as well as other physical characteristics.

If EPA proceeds with this rulemaking, it will use this profile and information included in public comments received on this notice to assist in developing a definition of the coastal subcategory. This section also outlines the Agency's plans to further charaterize coastal facilities through the use of U.S. Fish and Wildlife Service maps. The Agency solicits comment on additional sources of data that could be used in future profiling efforts and on the preliminary profile results that are presented by the Agency.

A. Description of Field Data

The Agency has purchased from Petroleum Information Inc., annual data for the years 1978 to 1986 for oil and gas fields in the counties which border the coasts of; Alabama, Alaska, California, Florida, Louisiana, Mississippi, and Texas. The Agency's preferred definition, however, would apply to all states located along the Atlantic, Pacific, and Gulf coasts, as well as Alaska and Hawaii. The Agency is aware that there may be facilities located in the coastal counties of other states and will be collecting additonal information on these facilities. In addition, the Agency solicits information on the existence of facilities in coastal counties which were not included in the preliminary profile.

The Agency has used these data to develop a preliminary profile of the wells which would be affected by any rulemaking in the coastal subcategory and will continue to use the data in further analyses of the coastal subcategory. To supplement the data obtained from Petroleum Information Inc. and other sources, the Agency would issue a questionnaire to the industry under section 308 of the Clean Water Act if it proceeds with this rulemaking.

The Petroleum Informaiton, Inc. database generally contains information on the following list of attributes for each oil and gas field:

state code,
district code,
field code,
production year,
county code,
operator code,
county name,
state name,
field reservoir name,
field/reservoir centroid (by longitude and latitude),
year production began,
number of oil wells in field,
number of gas wells in field,
annual oil production,
annual gas production,
annual water production,
cumulative oil produced during lifetime of well,
cumulative gas produced during lifetime of well,
cumulative water produced during lifetime of well,
year of first production, and
average well depth.

B. Estimation Procedures for Profiling the Coastal Subcategory

The Agency's initial analysis of the coastal subcategory has involved the identification of oil and gas extraction fields in the coastal counties of states which border the Atlantic, Pacific and Gulf coasts including Alaska and Hawaii. Through the use of the Agency's STORET computer system, the center of each field/reservoir (centroid) by longitude and latitude is contained in the Petroleum Information Inc. data base and have been plotted on maps. These maps show rivers, lakes and streams as well as counties. These maps, however,

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do not indicate the water quality characteristics (such as salinity) of the water bodies. USFWS has produced a series of the 1:24000 scale which clearly delineate the various water systems (e.g., marine, estuarine.) The Agency intends to conduct further work to identify activities within the coastal subcategory based upon the most recent USFWS 1:24000 scale maps and comments received on this notice.

For the purposes of developing a preliminary profile, the Agency has performed a coastal county-by-county analysis of oil and gas activities. The profile indicates that there are 23,891 oil wells and 6,777 gas wells in these counties. The county-by-county analyses do not differentiate between onshore and coastal segments (i.e., freshwater, marine water or estuarine water) or between stripper oil wells and marginal gas wells. The Agency is aware that the county analyses generate an overestimate of the the actual number of facilities which would be considered coastal under its preferred definition.

The list of states and counties which the Agency believes contain coastal oil and gas facilities (under the Agency's preferred definition) is included in appendix B. County-by-county information regarding oil and gas facilities is presented in appendix C. The Agency solicits comment on the county data presented and on the existence of any counties in which coastal oil and gas activities take place (under the Agency's preferred definition of coastal), but which have not been included in this profile.

C. Model Facilities

The Agency often uses model facilities to estimate industry compliance costs and economic impacts of regulations. The number of model facilities will be determined as the profile of existing facilities nears completion. If the Agency proceeds with this rulemaking, it will define model facilities in terms of characteristics likely to influence compliance costs and economic impacts. The characteristics of a model facility may not be the same for estimating compliance costs for drilling muds and cuttings and produced water. Accordingly, it is likely that there will be several model facilities for each different waste stream as well as separate model facilities for stripper and marginal gas wells.

For muds and cuttings, model facilities may be individual wells or fields of various sizes. Some factors influencing costs (other than control technologies) are the volume of material to be controlled (e.g., barrels of muds and cuttings) and the transport distances involved. The model facilities will take into consideration economies of scale that result from (1) the number of wells per field; and (2) the regional location of the facilities, e.g., Gulf coast, California, Alaska, where these regional locations affect the choice and cost of technologies and the economic impacts.

For produced water, the model facility may be the oil-water separation unit. At a maximum there would be a separation facility for each well. Typically, a facility with several wells or a group of facilities is serviced by a single separation facility. For example, there may be a separation facility for each field, or each operator, or each reservoir.

The Agency has received some information on the industry's use of muds and cuttings treatment, disposal and oil-water separation facilities including features that determine the number of wells serviced by a separation unit. In previous offshore rulemakings, the Agency has estimated compliance costs on a per-platform basis with respect to the platform's size (e.g., 4-well, 12-well and the like.) See 53 FR 41356 (October 21, 1988) and 50 FR 34593 (August 26, 1985). The Agency solicits comment on the applicability of this offshore information to rulemaking for the coastal subcategory. The Agency solicits information on the similarities between the coastal, offshore and onshore industries as well as characteristics which make coastal facilities unique.

VI. Stripper Oil Wells and Marginal Gas Wells

A. Stripper Oil Wells

Stripper oil wells are currently defined at 40 CFR 435.60 as:

> * * * those onshore facilities which produce 10 barrels per well per calendar day or less of crude oil and which are operating at the maximum feasible rate of production and in accordance with recognized conservation practices.

The term onshore for this subcategory was defined as:

> * * * all lands areas landward of the inner boundary of the territorial seas as defined in 40 CFR 125.1(gg).

The onshore subcategory regulations specifically exempt stripper oil wells from the zero discharge requirement that applies to other onshore facilities (40 CFR 435.30), whereas stripper oil wells covered by the coastal subcategory are not exempted from the discharge requirements for the coastal activities (40 CFR 435.40 and 40 CFR 435.60). Although the Agency's regulations describe the stripper subcategory, no specific effluent limitations guidelines for this subcategory have ever been promulgated.

State and EPA regional offices have expressed concern over the lack of federal regulation of stripper oil wells. State and regional agencies receive reports of frequent and extensive damange to wildlife, vegetation, crops and livestock caused by discharges from stripper oil wells.

Stripper oil wells produce relatively small amounts of oil on an individual well basis; however, collectively stripper oil wells comprise a large percentage of all currently producing oil wells. In 1987, there were 451,787 stripper oil wells which produced 446.8 million barrels of crude oil. Assuming a ratio of nine barrels of produced water for every one barrel of oil produced by stripper oil wells, in 1987 4.0 billion barrels of water were produced by such facilities.

It has been reported to the Agency that in some regions an estimated 70% of the stripper oil wells discharge produced water directly to surface waters or dispose of the produced water in settling ponds which in many cases overflow. In other regions, however, it has been reported that stripper oil wells reinject their produced water. The Agency solicits information about the treatment technologies and the disposal methods used for the produced water waste stream from stripper oil wells.

As part of this potential rulemaking, the Agency is considering whether (1) all stripper oil wells should be classified and regulated in their own subcategory regardless of their geographic location or whether (2) stripper oil wells should be regulated under geographic subcategory regulations. If the latter approach were selected, stripper oil wells in the coastal geographical area would be classified and regulated in the coastal subcategory, those in the onshore geographical area would be classified and regulated in the onshore subcategory, and those in the agricultural and wildlife water use geographical area would be classified and regulated in that subcategory. The latter approach would eliminate the now separate Stripper Subcategory, but effluent limitations guidelines would be established for stripper oil wells in each subcategory if the Agency proceeds to develop new guidelines applicable to stripper oil wells.

B. Marginal Gas Wells

The same classification and regulation questions are applicable to marginal gas wells. Marginal gas wells (sometimes referred to as stripper gas wells) are not included in the stripper subcategory, and they are not separately defined in any other subcategory. Therefore, marginal gas wells are not exempt from any applicable regulations. For example, onshore marginal gas wells are subject to the zero discharge requirement. In *American Petroleum Institute* v. *EPA*, 661 F.2d 340, (5th Cir. 1981), American Petroleum Institute asserted that the criteria upon which EPA relied to describe the stripper subcategory for oil wells apply equally to marginal gas wells, and that marginal gas wells should not have been excluded from the stripper subcategory.

The court decided that:

> EPA should examine once again the problem of stripper gas wells and consider adding them to the final Guidelines for stripper oil wells. *Id* at 357.

In 1987, nine trade associations representing oil and gas operators in seven Appalachian states petitioned the Agency to, among other things, reconsider the zero discharge requirement applicable to marginal gas wells in those states.

As part of this potential rulemaking, the Agency would defined marginal gas wells and then decide how to classify and regulate them, i.e., (1) to include them in the stripper subcategory; (2) to classify and regulate them in their own subcategory; or (3) to classify and regulate marginal gas wells under each geographical subcategory.

Since the definition of stripper well in the 1979 BPT regulation did not encompass marginal gas wells, the Agency is considering possible definitons of the term marginal gas well. One possible definition appears at section 108(b)(1) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3318 (b)(1), which defines "stripper well natural gas" as gas from a well which produces "nonassociated natural gas" (i.e., natural gas not produced in association with crude oil) at its maximum efficient rate of flow and at a rate not exceeding an average of 60.000 cubic feet (Mcf) per production day during the proceding 90-day production period. One advantage of this definition is that the number, production, locations, and operators of every marginal gas well meeting the above criteria are known to the Federal Energy Regulatory Commission (FERC). FERC has recorded these data on computer tapes that contain well determinations under the Natural Gas Policy Act. These tapes would assist EPA in establishing the number of marginal gas wells.

Currently, marginal gas wells in the onshore geographic areas are subject to the zero discharge requirement and in the coastal geographic area are subject to certain discharge requirements. It it proceeds with this rulemaking, the Agency may consider the appropriateness of this requirement for such facilities. The Agency would also examine the cost and effect on production if there were a zero discharge requirement for marginal gas wells located in the coastal geographic area.

The Agency solicits comment on the possible definition of marginal gas wells, an appropriate subcategory classification, and wastewater characteristics and environmental impacts of the produced water from marginal gas wells.

VII. Environmental Concerns

Estuaries and other coastal waters serve as the critical habitat to many species of fish and wildlife. While estuaries and associated coastal waters comprise less than 1% of the ocean environment, these areas represent the biological foundation of the entire marine ecosystem. They provide food, shelter, and spawning grounds for commercial fisheries worth an estimated 5.5 billion dollars to the GNP in 1986, and support 17 million recreational fishermen who also spend 13.5 billion dollars per year according to NOAA, 1987, "NOAA Estuarine Research Program Development," Estuarine Program Office, National Oceanic Atmospheric Administration, U.S. Department of Commerce.

Seven of the ten most valuable commercial fisheries depend on coastal waters for reproduction and survival. These include the Gulf shrimp, South Atlantic shrimp, menhaden, sockeye salmon, pink salmon, oyster, and blue crab fisheries. Seventy percent of the Nation's commercial fishery resources are estuarine-dependent. Commercial fisheries in the mayor coastal oil and gas areas are no exception: in the Gulf of Mexico as much as 98% of the fishery resource is estuarine-dependent, in Alaska about 76% and in California 18%. Sport fishing is also estuarine-dependent.

Oil and gas drilling and production activities can cause a loss of habitat for aquatic life in estuaries and other coastal waters. These activities can also introduce large quantities of petroleum hydrocarbons and other organic and inorganic pollutants which have the potential to affect estuarine-dependent species at their most sensitive life stages. Oil and gas production has been identified as one of two primary causes of non-support of designated uses in Alaska's estuarine waterways at North Slope and Kenai Peninsula, and as a contributing factor to the water quality decline in coastal regions of Louisiana and Texas.

The direct and indirect exposure of humans to pollutant contamination from oil and gas discharges also has the potential to occur in coastal areas. The coastal environment is intensively used for recreational activities such as boating, swimming, fishing, shrimping, and crabbing and some people in coastal areas base a large proportion of their diet on subsistence catch which many be contaminated.

The Agency is gathering more information regarding the effects of produced water or drilling discharges on wetland vegetation as the potential for degradation of wetlands is great. Interrelationships between the wetlands and shallow water habitats are important in determining the productivity of these habitats for estuarine-dependent fishery resources.

A number of factors may contribute to the effect of oil and gas discharges on wetlands. The rate of dispersion is a critical determinant of the distribution of materials in the water column, and the effects on pelagic and benthic biota. The fate of material discharged is influenced heavily by the dispersive and transport energy of the ocean and other water bodies at drilling and production sites. In coastal environments, petroleum hydrocarbons resulting from oil and gas drilling and production discharges are likely to reach the seabed and be incorporated in bottom sediments. In shallow coastal waters with smaller volumes of water available for dilution and with sediment loads higher than in deeper offshore areas, the potential for contamination of bottom sediments by these discharges is much greater.

Field studies have shown that the severity of impacts of drilling fluids and cuttings is directly related to the amount of material accumulating in the substrate. The accumulation is, in turn, related to the amount and physical character of materials being discharged, and to ambient conditions, such as current, speed, and water depth at the discharge site. In high energy environments, less accumulation of muds and cuttings occurs, and the impact on the benthos is not as severe and is of shorter duration than in the low coastal environments. In the coastal area, more material accumulates and there is a potential for reduction in the abundance of some benthic species resulting from burial and chemical toxicity of the drilling fluids and cuttings.

Coastal areas include diverse and complex biological communities and are

subject to a wide range of changing physical, chemical, and biological conditions. The living resource communities present in the coastal area

coastal and stripper subcategories. Such technologies include: reinjection, induced oil/water separation, carbon adsorption and desalination by reverse

pit fluids differ by county as a result of differences in geological formations. Similar factors may affect the coastal subcategory, e.g., reinjection might be

regulatory development in the coastal subcategory. The Agency solicits comment on the applicability of this approach.

water for the coastal and stripper subcategories if it proceeds with this rulemaking.

explanation of these processes has been published in the Offshore Notice of Data Availability (53 FR 41356; October 21, 1988).

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subject to a wide range of changing physical, chemical, and biological conditions. The living resource communities present in the coastal area will depend upon the habitat available in the region. Because coastal areas include land/seawater/freshwater interfaces, the variety of available habitats and biological communities is considerable. The physical and chemical characteristics of a given coastal area are dependent on the amount of fresh water input, depth, substrate type, hydrology, tidal action, and other factors including human activities.

The Agency is gathering background information on biological, chemical, and physical environments of the coastal regions impacted by oil and gas activities. The conceptual models that have been identified to assess potential impacts of discharges offshore is most cases will not be appropriate for the shallow waters of the coastal area. Ambient conditions found in the coastal environment affect dilution, transport, sinks, and biogeochemical availability of effluent constituents differently from ambient conditions in the offshore area. The coastal area will more likely require marine models, estuarine and bay models, in addition to river and stream models.

If the Agency proceeds with this rulemaking, the Agency will project the potential environmental impacts of oil and gas extraction in the coastal regions and pollution reduction benefits. In that connection, the Agency solicits information related to the fate and transport of oil and gas pollutants in the coastal environment and on the impact of these discharges on estuarine fish and wildlife. Appropriate models for assessing impacts on coastal areas must also be identified and developed if the Agency proceeds with this rulemaking. The Agency is therefore soliciting information on the characteristics of oil and gas exploration and production in the coastal environment as well as on appropriate models to assess the potential impacts of these activities and benefits expected of the regulation.

VIII. Technological Approaches to Controlling Discharges in the Coastal and Stripper Subcategories

The Technological approaches to controlling discharges in the coastal and stripper subcategories are divided into two sections in order to distinguish between the major waste streams associated with oil and gas production.

The first section is entitled "Production Operations: Produced Water." The technologies presented are those specifically considered for the produced water waste stream of the coastal and stripper subcategories. Such technologies include: reinjection, induced oil/water separation, carbon adsorption and desalination by reverse osmosis.

The second section is entitled "Development Operations", and deals with the muds and cuttings waste streams for the coastal and stripper subcategories. The technologies which are presented include: thermal technologies (e.g., thermal distillation and thermal oxidation), solvent extraction, disposal methods, and product substitution.

A. Production Operations: Produced Water

The Agency, in considering BAT, BCT, and NSPS, would assess pollutant control technologies available for use to reduce toxic, conventional and non-conventional pollutant levels in the produced water waste stream for both coastal and stripper facilities.

1. Reinjection Option

Reinjection technology for produced water typically consists of injecting the produced water under pressure to subsurface strata or formations. Treatment of the waters prior to injection is usually necessary. Such treatment may include removal of free oils and suspended matter by oil-water separation and filtration technologies. The removal of suspended matter prior to injection is usually performed to prevent pressure build-up and plugging of the receiving formation or strata. Biocides and corrosion inhibitors are typically added to the waters to minimize clogging of the subsurface strata or formation and to minimize corrosion of equipment. Reinjection technology results in no discharge to surface waters.

The Agency conducted two workshops with state regulatory authorities regarding existing BPT effluent limitations guidelines for the onshore subcategory of the oil and gas extraction industry. In these workshops, the Agency was made aware of problems encountered with the implementation of the zero discharge requirement for produced waters through the use of reinjection. The workshop presentations illustrated that wastewater management issues, regulatory approaches and operator practices vary by location. Diverse climates, precipitation/evaporation rates, geological formations and other factors exist from state to state, and even with areas of the same state. One example of such variation is in West Virginia, where general permits for treatment and discharge of air drilling pit fluids differ by county as a result of differences in geological formations. Similar factors may affect the coastal subcategory, e.g., reinjection might be possible in one coastal area while in another area the geologic conditions would make reinjection infeasible. The Agency solicits comment on such factors as those mentioned above which may affect the applicability of the reinjection technology for produced waters in the coastal and stripper subcategories.

2. Produced Water Filtration

Fitration is the separation of a fluids-solid mixture involving passage of most of the fluid through a porous barrier which retains most of the solid particles contained in the mixture. In mixed or granular media filtration, beds of solids like sand or coal are used as filter media to clarify water or chemical solutions containing small quantities of suspended particles. Oil and gas extraction facilities employ filtration as a technique to remove suspended matter from produced waters both as an add-on technology to existing technologies and as a stand alone technology. As an add-on technology to BPT treatment of offshore and coastal produced water, this type of filtration is incapable of removing soluable materials. Produced water, however, contains priority pollutants which may be in solution or in a soluble form and are not removed by filtration. Therefore, quantifiable reductions in priority pollutants due to filtration alone may not be achievable. Reductions in total suspended solids, insoluble inorganics, and oil and grease beyond the BPT level of control can be expected through the use of filtration.

Filtration technology was costed for the 1985 offshore proposal (50 FR 34602; August 26, 1985). For NSPS, the Agency determined filtration to be technologically feasible for the control of conventional pollutants but not effective in reducing dissolved priority pollutants. It was also determined that filtration warranted further consideration.

The Agency has received some information regarding produced water filtration processes on offshore facilities. In addition, the Agency plans to perform some on-site sampling and analysis programs at offshore sites to examine pollutant reductions, equipment requirements, toxicity tests and filter run times. The collection and analysis of such performance data could result in the development of a regulatory option that could be considered as an alternative to zero discharge. The Agency plans to use these data from offshore facilities and apply them to any

regulatory development in the coastal subcategory. The Agency solicits comment on the applicability of this approach.

3. Induced Oil/Water Separation

Induced oil/water separation, which uses hydrocyclone principles, is reportedly effective in the reduction of oils and organics. Preliminary results indicate that through the use of this technology, oil and grease levels in treated produced water can be reduced to a range of 10 to 20 ppm. Induced oil/water separation is one of the best expensive alternatives to zero discharge which achieves significant reduction of oil and the associated toxics beyond BPT. This process is a possible technological alternative to reinjection of produced water. It is currently being used on a full-scale basis overseas (for example, in the North Sea and Australia) and is being tested and implemented by some companies in the United States.

If the Agency proceeds with this rulemaking, the performance of induced oil/water separation will be characterized with sampling and analysis during test runs which would be performed by the Agency. In addition to the performance data, the technological and economic achievability of the process as a basis for oil and grease and/or toxic limitations will be examined.

4. Carbon Adsorption

The purpose of carbon adsorption is to reduce the levels of priority organic pollutants in produced water. Adsorbents are natural or synthetic materials or amorphous (not crystallized) or microcrystalline structures; those used on a large scale include activated carbon, activated alumina, silica gel, clays or molecular sieves. At ordinary temperatures, adsorption is usually caused by inter-molecular forces rather than formation of new chemical bonds. This control technology was addressed in the 1985 offshore proposal but was not selected at that time as a basis for proposed effluent limitations.

Since that time, at least one domestic oil company has been using full-scale carbon adsorption at an offshore platform. It is being used to comply with the BPT oil and grease limit with reportedly good success. Performance data thus far demonstrate that it has reduced oil and grease levels in produced water to the 20 ppm range in addition to reducing the soluble organics content of produced water. The Agency will evaluate this process as a possible technology for treatment of produced water for the coastal and stripper subcategories if it proceeds with this rulemaking.

5. Desalination by Reverse Osmosis

In the reverse osmosis method of desalination, water is separated from dissolved salts through the use of a membrane that is permeable to the passage of water but not of dissolved salts. In an osmosis process when the membrane is placed between a brine solution and fresh water, the tendency to equalize concentrations on each side would cause the fresh water to flow through the membrane into the brine solution. This flow may be countered by applying a pressure on the side of the brine solution. If this pressure is great enough, the flow will be stopped altogether. The pressure required to balance the tendency of water to flow across the membrane is called the osmotic pressure.

In reverse osmosis processes, if the pressure on the brine solution is increased beyond the osmotic pressure, the direction in which the water tends to flow across the membrane is reversed and the freshwater passes from the brine solution to the freshwater side. To achieve this reverse osmosis, brine solution can be pumped at high pressures into tubes lined with semi-permeable membranes, e.g., cellulose acetate. As the water passes across the membrane, the local concentration of salt at the wall of the membrane increases. This causes the osmotic pressure to increase and the flow of fresh water to decrease. To prevent this from occurring, the brine solution must be continually pumped through the tubes. The flow of fresh water through the membrane is proportional to the applied pressure although the maximum pressure that can be applied is limited by the characteristics of the membrane.

It has been reported to the Agency that reverse osmosis is a process that has been used on a mobile unit basis. The Agency solicts information regarding the extent of use of reverse osmosis by the oil and gas industry in the treatment of produced water both at producing sites either by mobile units or fixed units and by centralized waste treaters off-site.

B. Development Operations

Technologies applicable to development operations that are discussed in this section are currently being evaluated by the Agency for application to offshore facilities. The Agency believes that these technologies would be applicable for use in the coastal subcategory. A brief explanation of the technologies is presented; further explanation of these processes has been published in the Offshore Notice of Data Availability (53 FR 41356; October 21, 1988).

1. Muds/Cuttings Thermal Technologies

Since the 1985 proposal of offshore rules, EPA has received comments and collected additional data on methods to control the oil and toxics content of drilling wastes. Two types of thermal technologies have been identified for potential use to reduce the oil and toxics content of drilling wastes: thermal distillation and thermal oxidation.

The thermal distillation process has been adapted for use with some variations by vendors in the industry. A brief description follows.

Some thermal distillation processes involve exposing drilling wastes to direct heat sources such as electricity heated chambers or passage through dryers while others employ indirect heat sources. Upon heating, the hydrocarbons and water present in the wastes volatilize. The processed wastes are then cooled and slurried with seawater and are then discharged into the ocean. The volatilized hydrocarbons and water are condensed and separated. The recovered hydrocarbons can potentially either be recycled for use in the active mud system subject to meeting the specifications for oil additives to the mud or they can be marketed for other purposes (e.g., heating fuel). If the recovered water meets effluent limitations for produced water, it could be suitable for discharge. If the recovered water does not meet these effluent limitations, it may be appropriate to introduce it to the produced water treatment system. If there are no production facilities at the site, the recovered water may need to be transported to another facility for adequate treatment or handling.

Thermal distillation units are mobile and can be installed and operated on a rig to process wastes onsite. Some full-size thermal distillation units have been operated and tested on offshore facilities while others have only been pilot-tested. Observations to date have indicated that this type of technology can achieve significant reduction in the oil and toxics content of drilling cuttings.

In addition to the hydrocarbon content from this technology, a dry solid residual is also generated. The dried solids produced are reportedly suitable for use as aggregates or fill materials. The hydrocarbons produced from the solid wastes are partially oxidized and complete oxidation (combustion) can be obtained by passing the hydrocarbons

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through an oxidation chamber (afterburner).

Direct thermal oxidation can also be accomplished by passing the production wastes through a direct-fired countercurrent rotary kiln. Kilns are used in place of ordinary rotary dryers when the wall temperature will exceed that tolerable by bare sheet metal (710.6 °F to 800 °F for carbon steel.) In this process, the production wastes are thermally oxidized at temperatures typically in the range of 1600 °F to 2500 °F.

Due to the scale of the equipment required, use of the thermal oxidation process may not be possible for coastal facilities nor may it be able to be moved from site to site. However, the drilling wastes could be transported to a land-based facility for processing.

2. Muds/Cuttings Solvent Extraction Technology

Solvent extraction technology has been developed to treat drilling wastes. Drilling wastes enter an extraction column and are contacted with solvent to extract the oil. The oil-laden solvent flows from the extractor column to an evaporator, a separation column, and a separator where the oil and solvent are separated. The oil phase flows to the fluidizing oil holding tank and the solvent is recycled to the process.

Two types of solvent identified by the Agency have been used in the solvent extraction processes, chlorofluorocarbons and carbon dioxide. Either type of solvent will reportedly serve the operational needs of the process. Although the solvents are used and recovered in a closed-type system, there is potential for some solvent loss to the atmosphere.

The Agency is particularly concerned about the potential for losses of chlorofluorocarbon-type solvents from these processes to the atmosphere because they contribute to depletion of the stratospheric ozone layer, and the Agency has recently limited their production (53 FR 30566; August 12, 1988). The Agency is therefore soliciting comment and additional information to assess this potential, to quantify the rate and amounts of such losses, and to determine whether there are acceptable alternatives to use instead of chlorofluorocarbon-type solvents in these processes. The Agency will particularly focus on solvent extraction technology that does not employ chlorofluorocarbons as the extraction medium.

3. Muds/Cuttings Disposal Methods

If the Agency proceeds with this rulemaking, it will consider the transport of drilling wastes for land disposal as a basis for coastal subcategory effluent limitations. The Agency will consider such factors as land availability, the capacity of available landfills, distance of landfills from the drilling sites, impacts on groundwater quality as well as non-water quality impacts, and the trends toward more stringent solid waste regulations at the federal, state and local levels in its investigation of land disposal technology.

4. Product Substitution

Recent studies have sought to identify drilling fluid formulations and drilling fluid additives which exhibit low toxicity in the marine environment and which can be discharged directly to marine waters. The Agency and the oil and gas industry have conducted programs to determine the relative toxicity of certain generic muds.

Similarly, the Agency and industry have investigated the use of low-toxicity substitutes for diesel oil. Research has been performed to identify materials that could perform the specific functions of diesel oil and also be acceptable for discharge to the marine environment. Low toxicity (e.g., mineral) oils have been generally found to serve as acceptable substitutes for diesel oil in drilling fluids. A significant difference between diesel and mineral oil from an environmental standpoint is the relatively low aromatic hydrocarbon content of mineral oil. The aromatic hydrocarbon components of these oils have been found to be the components most toxic to marine life.

The Agency intends to further consider the use of low toxicity drilling fluid components and additives as a basis for limitations for the control of toxic pollutants from drilling waste discharges.

IX. Non-Water Quality Environmental Impacts

The utilization of many treatment technologies results in secondary environmental effects such as additional energy use for pumps and mechanical treatment equipment, the emission of combustion products from incineration processes, the generation of a concentrated waste stream or the generation of some amount of solid waste. Sections 304(b)(2)(B), 304(b)(3)(B), 304(b)(4)(B), and 306(b)(1)(B) of the Clean Water Act require the Agency to consider non-water quality environmental impacts (including energy requirements) in assessing candidate treatment technologies when setting effluent limitation guidelines at the BAT, BCT and NSPS levels of control. Other such factors relevant to the treatment technologies discussed in today's notice include air emission increases, and solid waste generation. A discussion of the Agency's preliminary assessment of these factors is provided below and the Agency solicits comment on these discussions.

A. Energy Use

The treatment technologies discussed in today's notice each require energy for equipment such as pumps, centrifuges, filtration systems, and thermal oxidation systems. Total energy use will depend on the technology selected and its total use. It is likely that the increase in energy use will constitute a small share of the energy potential produced by the facilities affected and will not have a significant effect on energy supplies.

B. Air Emission Increases

The operation of several of the technologies being considered would result in increased air emissions of hydrocarbons, hydrogen sulfide and combustion products. These emissions are both controlled and fugitive. Fugitive emissions could result from leaks and ventilation from diesel and/or gas engines, oil/water separators, gas flotation systems, storage tank breathing and from piping and connections. Controlled emissions are likely to result from the thermal technologies and solvent extraction technologies. The Agency will further assess the air emission impacts if and when control technologies are selected for proposal.

C. Solid Waste

The technologies being considered would result in a minimal increase in solid waste, primarily filtration and flotation system waste. The land disposal of drilling muds and drill cuttings would not increase the quantity of these waste streams but will require additional disposal facility resources. Section 3001(b)(2) of the Resource Conservation and Recovery Act (RCRA) exempts "drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or thermal energy" from subtitle C regulation under RCRA pending a determination by the Administrator either to promulgate regulations covering those wastes or that such regulations are unwarranted. On July 6, 1988, the Agency published a determination that subtitle C regulations for drilling fluids, produced waters and associated wastes are not warranted (53 FR 25446). These wastes are, however, currently regulated under subtitle D of

RCRA and, in many cases, under state law. The Agency is planning to develop new subtitle D requirements tailored to the special problems posed by oil and gas waste disposal facilities.

The Agency considers the availability of adequate disposal facilities an important issue in assessing the feasibility of a land disposal option for drilling muds and cuttings and will consider this aspect in more detail prior to proposal.

X. Future Data Collection Activities

If the Agency proceeds with this rulemaking, it would undertake a one-time survey under section 308 of the Clean Water Act for that portion of the oil and gas extraction industry that would be affected by the new regulations in the coastal and stripper subcategories. From the Agency's preliminary research, it appears that, unlike data relating to the offshore and onshore oil and gas industry, data specific to the coastal and stripper industry is not collected by the federal or state governments or by trade associations. Although the coastal industry may be included in data collected by these organizations, the data specific to coastal, stripper and marginal gas well facilities is not easily isolated. Additionally, the economic impact analysis for this rulemaking would require gathering information not only for major corporations, but also for many small, privately held companies involved in the production of coastal and stripper oil and marginal gas. A questionnaire would be distributed to operators of coastal and stripper oil and gas facilities for the purposes of:

- Updating and supplementing the current industry profile,
- Establishing the quantity and quality of generated waste streams,
- Identifying the methods currently used to treat and/or dispose of waste streams,
- Obtaining data on the performance and cost of existing control/treatment-pretreatment technologies, and
- Gathering data to analyze economic impact issues.

Prior to issuing any questionnaire, the Agency would identify the companies/individuals involved in coastal, stripper oil and marginal gas production, and would search for all available data sources to collect publicly available information on the environmental and economic issues as well as on control technologies that may be applicable to this industry. These technologies may be from other industries or from other subcategories of the oil and gas extraction industry. The Agency solicits sources of publicly available information for use in the potential rulemaking.

Candidate treatment technologies and waste handling technologies would be investigated, along with others found applicable, to determine treatment efficiency, treatment cost and non-water quality impacts. This information would then be used to determine the applicability of these treatment technologies for use with the waste streams in question.

The collection of technical data would include field sampling of existing operating facilities to characterize all treated and untreated waste streams. The information would then be used to assess treatment performance for the purpose of regulatory development, environmental impact assessment and economic analyses. The sampling and analysis program would be for appropriate contaminants as listed on the EPA–ITD 1987 List of Analytes. The analytes on this list are the analytes that the Industrial Technology Division (ITD) of EPA's Office of Water would test for in its analytical programs, and include organic and inorganic analytes and various pollution parameters.

For the coastal subcategory produced water and drilling waste streams and the stripper subcategory produced water waste stream, the Agency would perform analyses to test for the presence of radionuclides. The Agency has preliminary information indicating that produced fluids can contain radionuclides. The Agency, however, lacks sufficient data at this time to evaluate the extent and levels of radionuclides in produced fluids. The Agency also lacks information regarding the likelihood of radionuclide levels in drilling wastes (i.e., drill cuttings and drilling fluids). The Agency will be conducting extensive analyses of these types of wastes to determine the extent of radionuclide content for the offshore subcategory and these results would be applied to the coastal and stripper subcategories. The Agency solicits information on radionuclide levels in the produced water and drilling waste streams and also any additonal sources of information.

Data would also be collected on the type of drilling muds used in the coastal subcategory. This information would then be used to formulate a mud use profile. This profile would be compared with the muds used in the onshore and offshore subcategories to examine the similarities and differences to assess if data previously developed for the other subcategories is appropriate for use in the coastal database.

XI. Regulatory Impact Analysis

Executive Order 12291 requires a regulatory impact analysis (RIA) be conducted if certain criteria are met, such as an annual economic impact of a proposed rule totaling $100 million. Since no regulations are proposed in this notice, EPA has not determined whether an RIA is necessary. If formal proposals are developed, the Agency will consider the question of the necessity for an RIA.

XII. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) requires an analysis of any significant impact of proposed and final regulations on small entities. Since the Agency is not proposing any rules in this notice, EPA has not developed an RFA analysis. If EPA develops formal proposals, the Agency will reconsider the question of the necessity for an RFA.

XIII. Solicitation of Comments

The Agency invites comment on all aspects of today's notice. The Agency particularly invites comments on the following items:

(1) The appropriateness of defining coastal in terms of the water classification system developed by United States Fish and Wildlife Service.

(2) The appropriateness of further subdivision of the coastal subcategory based on regional factors that affect the use of a given technology.

(3) The appropriateness of regulating discharges in the more stringent subcategory when the pollutants are transferred across subcategory boundaries.

(4) Whether facilities located on man-made or natural islands surrounded by marine or estuarine water should be classified as coastal or onshore.

(5) The industry's use of separation facilities, what factors determined the number of wells serviced by a separation unit, and the average number of wells serviced by a separation unit.

(6) Whether estimating compliance costs on a per-facility basis by the facility's size (e.g., 4-well, 12-well and the like) is appropriate for the coastal subcategory.

(7) Additional sources of publicly available information such as mailing lists of coastal and stripper facilities, waste stream characterization, and cost and economic data for coastal facilities.

(8) Geological and any other characteristics that may affect the feasibility of a zero discharge requirement for all coastal areas.

(9) The use of alternatives to chlorofluorocarbons in the solvent extraction processes and also the

potential for losses of chlorofluorocarbon type solvents in solvent extraction technologies.

(10) The non-water quality

Appendix A—glossary

Marine System

The Marine System is defined by the U.S. Fish and Wildlife Service in the

Appendix B—States and Respective Counties Included in Profile

included in the definition of coastal oil and gas facilities.

These summary data include counts of oil and gas wells and production figures for each field. These figures, i.e., the total number of wells and amount of production, are used as estimates for the number of coastal wells and summary would be coastal under the Agency preferred definition. However, many of these remaining 61% will contain inactive fields, freshwater facilities, stripper oil wells, and marginal gas wells.

County Code: 003	
Total Number of Fields (Active and Inactive)	16
Number of Inactive Fields	2
Number of Fields with Oil and	

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potential for losses of chlorofluorocarbon type solvents in solvent extraction technologies.

(10) The non-water quality environmental impacts which are important in assessing candidate treatment technologies when developing guidelines covering the coastal subcategory.

(11) The availability of adequate disposal facilities in order to assess the feasibility of a land disposal option for drilling muds and cuttings.

(12) The presence of radionuclides in produced fluids and whether they are significant or not. The Agency requests any data or information regarding the levels of radionuclides in drilling wastes.

(13) The types of muds used in the coastal subcategory, sampling data on muds and cuttings and sampling data on produced water from coastal facilities including marginal gas wells and stripper oil wells.

(14) The appropriateness of reclassifying freshwater facilities into the onshore subcategory or a separate subcategory.

(15) The appropriateness of EPA's use of the definition of marginal gas wells as defined by the Natural Gas Policy Act of 1978 for purposes of defining marginal gas wells in regulations under the Clean Water Act.

(16) In the instances where produced water from stripper wells is co-treated with producer water from higher rate production facilities, the Agency solicits comment on whether the discharge from the co-treatment facility should be regulated based upon the limitations applying to the full-scale facility.

(17) At the present time the Agency is unaware of any offshore stripper oil wells or marginal production gas wells but solicits information on their existence.

(18) The appropriateness of classifying all Onshore, Coastal and Agriculture and Wildlife Water Use stripper oil wells into one subcategory for separate regulation.

(19) The appropriateness of including marginal gas wells in the same subcategory as stripper oil wells.

(20) The appropriateness of applying information and data regarding offshore facilities received through industry and on- site sampling and analysis to those facilities in the coastal subcategory.

Dated: October 20, 1989.

Rebecca Hanmer,

Acting Assistant Administrator for Water.

Appendix A—glossary

Marine System

The Marine System is defined by the U.S. Fish and Wildlife Service in the "Classification of Wetlands and Deepwater Habitats of the United States" (1979) to have the following limits:

"* * * extends from the outer edge of the continental shelf shoreward to one of three lines: (1) the landward limit to tidal inundation (extreme high water of spring tides), including the splash zone from breaking waves; (2) the seaward limit of wetland emergents, trees, or shrubs; or (3) the seaward limit of the Estuarine System, where this limit is determined by factors other than vegetation. Deepwater habitats lying beyond the seaward limit of the Marine System are outside the scope of this classification system."

In this notice, the term *marine water* means the same as *marine system.*

Estuarine System

The Estuarine System is defined by the U.S. Fish and Wildlife Service in the "Classification of Wetlands and Deepwater Habitats of the United States" (1979) to have the following limits:

"* * * extends (1) upstream and landward to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow; (2) to an imaginary line closing the mouth of a river, bay or sound; and (3) to the seaward limit of wetland emergents, shrubs, or trees where they are not included in (2)."

This definition is consistent with the definition of the term *estuarine zones* in the Water Quality Act of 1987 Section 104(n)(4) but contains more detail.

The Estuarine System includes both estuaries and lagoons. In this notice, the term *estuarine water* means the same as *estuarine system.*

Estuary

The Clean Water Act defines estuary in Section 104(n)(4) as:

"* * * all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea-water is measurably diluted with fresh water derived from land drainage."

Fresh

As defined by the U.S. Fish and Wildlife Service in the "Classification of Wetlands and Deepwater Habitats of the United States" (1979) this term is applied to water with salinity less than 0.5 ppt dissolved salts. The systems classified by USFWS which are considered to be freshwater systems are: the Riverine system, the Lacustrine system, and the Palustrine system.

Facilities

Facilities would be defined as anything used to explore, develop, or produce oil and gas and would include wells, platforms, booster pumps, gathering lines within a field, catch tanks, separation units, and equipment for storage. Transportation facilities for interfield transportation such as pipelines and pipeline pumping stations would not be included in the definition of coastal oil and gas facilities.

Appendix B—States and Respective Counties Included in Profile

The following is a state-by-state listing of the coastal counties/parishes for which the Agency has purchased data and were included in the preliminary profile.

Alabama

Baldwin
Mobile

Alaska

Kenai-Cook Inlet

California

Alameda
Contra Costa
Los Angeles
Monterey
Orange
San Luis Obispo
San Mateo
Santa Barbara
Solano
Sonoma
Ventura

Florida

Collier
Lee
Santa Rosa

Louisiana

Cameron
Iberia
Jefferson
LaFourche
Orleans
Plaquemines
St. Bernard
St. Martin (Lower)
St. Mary
St. Tammany
Terrebonne
Vermillion

Mississippi

Hancock

Texas

Aransas
Brazoria
Calhoun
Cameron
Chambers
Galveston
Jefferson
Kenedy
Kleberg
Matagorda
Nueces
Refugio
San Patricio
Willacy

Appendix C—Coastal County Analyses of Oil and Gas Production Facilities

This appendix presents a summary of oil and gas production data for each county which is believed to have coastal oil and gas facilities. These data were obtained from Petroleum Information Incorporated (PI), a private oil industry information service.

These summary data include counts of oil and gas wells and production figures for each field. These figures, i.e., the total number of wells and amount of production, are used as estimates for the number of coastal wells and amount of coastal production by county. The PI data base provides only well and production data by county without identifying wells that would be considered coastal freshwater, or onshore by any definition. Therefore, use of the PI summary data to estimate the number of coastal wells and the amount of coastal production results in overestimates of the actual numbers.

In order to estimate the percentage of fields located in coastal counties which appear to fit the coastal definition preferred by the Agency, computer mapping was done for oil and gas fields selected at random from within the coastal counties of each state. Although this method has not yet been refined to the point of providing detailed estimates of the number of coastal wells and amount of coastal production, it can be used to estimate an upper limit for the percentage of coastal oil and gas fields, under the definition preferred by the Agency, which are included in the coastal county summary. The computer mapping was done using the Agency Storage Retrieval (STORET) data base of lakes, rivers, and streams along with the latitudes and longitudes of the centroids for oil and gas fields provided by Petroleum Information Incorporated. The PI data base for 1986 contains 2,587 oil and gas fields in the coastal counties which are included in the coastal county summary. Longitudes and latitudes are associated with 2,100 of these fields, which means that 19% of the data base does not contain detailed location information. Because a large percentage of the data base does not contain detailed location information, a conservative approach toward estimating the percentage of coastal fields in coastal counties was selected.

The conservative approach was to estimate the percentage of fields which appear to be onshore and to then use the percentage of fields remaining as an estimate of the percentage of fields which are coastal. A random sample, stratified by state, of the 2,100 fields with latitudes and longitudes were plotted on maps. Maps for California, Texas, Louisiana, Mississippi, Alabama, and Florida were plotted at a scale of one inch equals 16 miles and any field whose centroid appeared, by visual inspection, to be more than one mile away from any known body of water was considered to be onshore. The map for Alaska was plotted at a scale of one inch equals 32 miles and any field whose centroid appeared to be more than three miles away from any known body of water was considered to be onshore. Alaska was plotted at the smaller scale because rivers, streams, and lakes were not available and because those field which were not over the available water bodies were clearly not over those water bodies. Using the forgoing definitions of onshore, the estimate of the percentage of fields in the attached coastal county summary which are onshore is between 39% and 47% with 95% confidence. This implies that no more than 61% of the fields in the attached coastal county summary would be coastal under the Agency preferred definition. However, many of these remaining 61% will contain inactive fields, freshwater facilities, stripper oil wells, and marginal gas wells.

A detailed coastal profile will be developed through comments received from this Notice, through more extensive computer mapping, and through the use of 1:24,000 scale United States Fish and Wildlife Service maps which delineate freshwater from marine and estuarine water. The Agency solicits comment on the accuracy of the information contained within this county-by-county summary, the number of facilities which may actually be coastal in the county, the number of stripper oil wells in the county, and the number of marginal gas wells in the county. The Agency also requests information from those counties not included in the preliminary profile in which there are coastal facilities under the Agency preferred definition.

In these analyses, the term *inactive fields* refers to those fields which had no oil and no gas production during the year of 1986. The term "inactive oil well" refers to an oil well that was producing oil during the year 1986 and was later shut in during that same year while the term *active oil well* refers to an oil well that produced oil in 1986 and continued to produce oil throughout the year.

An *inactive gas well* is a gas well that was producing gas during the year 1986 and was later shut in during that year while an "active gas well" is one that produced gas in 1986 and continued to produce gas throughout the year.

Alaska:

County Name: Kenai-Cook Inlet
County Code: 133,733

Total Number of Fields (Active and Inactive)	12
Number of Inactive Fields	4
Number of Fields with Oil and Gas Production	6
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	2
Number of Oil Wells (Active)	230
Number of Fields with Active Oil Wells	6
Annual Oil Production of Active Wells (bbls)	17,619,355
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	17,619,355
Total Annual Oil Production During 1986 (bbls)	17,619,355
Number of Gas Wells (Active)	74
Number of Fields with Active Gas Wells	6
Annual Gas Production of Active Wells (Mcf)	117,026,396
Number of Fields with Inactive Gas Wells	2
Annual Gas Production of Inactive Wells (Mcf)	97,498,002
Total Annual Gas Production During 1986 (Mcf)	214,524,398
Total Annual Water Production During 1986 (bbls)	32,982,262
(7 Fields Reporting)	

Alabama:

County Name: Baldwin
County Code: 003

Total Number of Fields (Active and Inactive)	16
Number of Inactive Fields	2
Number of Fields with Oil and Gas Production	4
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	10
Number of Oil Wells (Active)	11
Number of Fields with Active Oil Wells	4
Annual Oil Production of Active Wells (bbls)	523,116
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	523,116
Number of Gas Wells (Active)	37
Number of Fields with Active Gas Wells	10
Annual Gas Production of Active Wells (Mcf)	1,547,322
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	329,909
Total Annual Gas Production During 1986 (Mcf)	1,877,231
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	

County Name: Mobile
County Code: 097

Total Number of Fields (Active and Inactive)	18
Number of Inactive Fields	1
Number of Fields with Oil and Gas Production	6
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	11
Number of Oil Wells (Active)	452
Number of Fields with Active Oil Wells	4
Annual Oil Production of Active Wells (bbls)	2,376,238
Number of Fields with Inactive Oil Wells	2
Annual Oil Production of Inactive Wells (bbls)	6,999,481
Total Annual Oil Production During 1986 (bbls)	9,375,719
Number of Gas Wells (Active)	65
Number of Fields with Active Gas Wells	13
Annual Gas Production of Active Wells (Mcf)	25,488,599
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	504,075
Total Annual Gas Production During 1986 (Mcf)	25,992,674
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	

California:

County Name: Alameda
County Code: 001

Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0

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Number of Oil Wells (Active)	11
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	24,278
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	24,278
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	34,407
(1 Field Reporting)	
County Name: Contra Costa	
County Code: 013	
Total Number of Fields (Active and Inactive)	17
Number of Inactive Fields	6
Number of Fields with Oil and Gas Production	9
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	2
Number of Oil Wells (Active)	42
Number of Fields with Active Oil Wells	31
Annual Oil Production of Active Wells (bbls)	155,893
Number of Fields with Inactive Oil Wells	6
Annual Oil Production of Inactive Wells (bbls)	3,149
Total Annual Oil Production During 1986 (bbls)	158,842
Number of Gas Wells (Active)	66
Number of Fields with Active Gas Wells	9
Annual Gas Production of Active Wells (Mcf)	5,705,147
Number of Fields with Inactive Gas Wells	2
Annual Gas Production of Inactive Wells (Mcf)	226,211
Total Annual Gas Production During 1986 (Mcf)	5,931,358
Total Annual Water Production During 1986 (bbls)	2,868,604
(11 Fields Reporting)	
County Name: Los Angeles	
County Code: 037	
Total Number of Fields (Active and Inactive)	112
Number of Inactive Fields	21
Number of Fields with Oil and Gas Production	84
Number of Fields with Oil Production Only	7
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	5,098
Number of Fields with Active Oil Wells	91
Annual Oil Production of Active Wells (bbls)	31,127,445
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	31,127,445
Number of Gas Wells (Active)	9
Number of Fields with Active Gas Wells	3
Annual Gas Production of Active Wells (Mcf)	1,903,159
Number of Fields with Inactive Gas Wells	61
Annual Gas Production of Inactive Wells (Mcf)	19,867,886
Total Annual Gas Production During 1986 (Mcf)	21,771,045
Total Annual Water Production During 1986 (bbls)	463,632,089
(89 Fields Reporting)	
County Name: Monterey	
County Code: 053	
Total Number of Fields (Active and Inactive)	9
Number of Inactive Fields	5
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	4
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	708
Number of Fields with Active Oil Wells	4
Annual Oil Production of Active Wells (bbls)	5,913,542
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	5,913,542
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	90,423,543
(4 Fields Reporting)	
County Name: Orange	
County Code: 059	
Total Number of Fields (Active and Inactive)	15
Number of Inactive Fields	1
Number of Fields with Oil and Gas Production	5
Number of Fields with Oil Production Only	5
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	2,130
Number of Fields with Active Oil Wells	13
Annual Oil Production of Active Wells (bbls)	8,580,546
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	8,580,546
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	9
Annual Gas Production of Inactive Wells (Mcf)	2,339,742
Total Annual Gas Production During 1986 (Mcf)	2,339,742
Total Annual Water Production During 1986 (bbls)	95,935,376
(13 Fields Reporting)	
County Name: San Luis Obispo	
County Code: 079	
Total Number of Fields (Active and Inactive)	8
Number of Inactive Fields	2
Number of Fields with Oil and Gas Production	1
Number of Fields with Oil Production Only	5
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	284
Number of Fields with Active Oil Wells	6
Annual Oil Production of Active Wells (bbls)	1,259,865
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,259,865
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	1
Annual Gas Production of Inactive Wells (Mcf)	1,036,991
Total Annual Gas Production During 1986 (Mcf)	1,036,991
Total Annual Water Production During 1986 (bbls)	5,198,822
(6 Fields Reporting)	
County Name: San Mateo	
County Code: 081	
Total Number of Fields (Active and Inactive)	4
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	2
Number of Fields with Oil Production Only	2
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	29
Number of Fields with Active Oil Wells	4
Annual Oil Production of Active Wells (bbls)	16,075
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	16,075
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	2
Annual Gas Production of Inactive Wells (Mcf)	691
Total Annual Gas Production During 1986 (Mcf)	691
Total Annual Water Production During 1986 (bbls)	150,868
(3 Fields Reporting)	
County Name: Santa Barbara	
County Code: 083	
Total Number of Fields (Active and Inactive)	40
Number of Inactive Fields	7
Number of Fields with Oil and Gas Production	24
Number of Fields with Oil Production Only	8
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	1753

Number of Fields with Active Oil Wells	31
Annual Oil Production of Active Wells (bbls)	8,410,625
Number of Fields with Inactive Oil Wells	1
Annual Oil Production of Inactive Wells (bbls)	74
Total Annual Oil Production During 1986 (bbls)	8,410,700
Number of Gas Wells (Active)	13
Number of Fields with Active Gas Wells	2
Annual Gas Production of Active Wells (Mcf)	101,615
Number of Fields with Inactive Gas Wells	23
Annual Gas Production of Inactive Wells (Mcf)	7,139,233
Total Annual Gas Production During 1986 (Mcf)	8,410,700
Total Annual Water Production During 1986 (bbls)	111,427,120
(32 Fields Reporting)	
County Name: Solano	
County Code: 095	
Total Number of Fields (Active and Inactive)	21
Number of Inactive Fields	8
Number of Fields with Oil and Gas Production	6
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	7
Number of Oil Wells (Active)	0
Number of Fields with Active Oil Wells	0
Annual Oil Production of Active Wells (bbls)	0
Number of Fields with Inactive Oil Wells	6
Annual Oil Production of Inactive Wells (bbls)	76,720
Total Annual Oil Production During 1986 (bbls)	76,720
Number of Gas Wells (Active)	315
Number of Fields with Active Gas Wells	13
Annual Gas Production of Active Wells (Mcf)	51,950,061
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	51,950,061
Total Annual Water Production During 1986 (bbls)	693,731
(13 Fields Reporting)	
County Name: Sonoma	
County Code: 097	
Total Number of Fields (Active and Inactive)	2
Number of Inactive Fields	1
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	0
Number of Fields with Active Oil Wells	0
Annual Oil Production of Active Wells (bbls)	0
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	0
Number of Gas Wells (Active)	1
Number of Fields with Active Gas Wells	1
Annual Gas Production of Active Wells (Mcf)	86,069
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	86,069
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Ventura	
County Code: 111	
Total Number of Fields (Active and Inactive)	54
Number of Inactive Fields	4
Number of Fields with Oil and Gas Production	45
Number of Fields with Oil Production Only	5
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	2530
Number of Fields with Active Oil Wells	50
Annual Oil Production of Active Wells (bbls)	15,495,995
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	15,495,995
Number of Gas Wells (Active)	1
Number of Fields with Active Gas Wells	1
Annual Gas Production of Active Wells (Mcf)	241,656
Number of Fields with Inactive Gas Wells	44
Annual Gas Production of Inactive Wells (Mcf)	17,171,789
Total Annual Gas Production During 1986 (Mcf)	17,413,445
Total Annual Water Production During 1986 (bbls)	57,867,354
(50 Fields Reporting)	
Florida:	
County Name: Collier	
County Code: 021	
Total Number of Fields (Active and Inactive)	7
Number of Inactive Fields	1
Number of Fields with Oil and Gas Production	4
Number of Fields with Oil Production Only	2
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	51
Number of Fields with Active Oil Wells	6
Annual Oil Production of Active Wells (bbls)	1,531,623
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,531,623
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	148,445
Total Annual Gas Production During 1986 (Mcf)	148,445
Total Annual Water Production During 1986 (bbls)	6,578,346
(4 Fields Reporting)	
County Name: Lee	
County Code: 071	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	1
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	4
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	184,976
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	184,976
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	1
Annual Gas Production of Inactive Wells (Mcf)	19,132
Total Annual Gas Production During 1986 (Mcf)	19,132
Total Annual Water Production During 1986 (bbls)	7,906,819
(1 Fields Reporting)	
County Name: Santa Rosa	
County Code: 113	
Total Number of Fields (Active and Inactive)	5
Number of Inactive Fields	1
Number of Fields with Oil and Gas Production	4
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	73
Number of Fields with Active Oil Wells	4
Annual Oil Production of Active Wells (bbls)	5,491,740
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	5,491,740
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	9,406,490
Total Annual Gas Production During 1986 (Mcf)	9,406,490
Total Annual Water Production During 1986 (bbls)	52,370,472
(4 Fields Reporting)	
Louisiana:	
County Name: Cameron	
County Code: 023	
Total Number of Fields (Active and Inactive)	78
Number of Inactive Fields	19
Number of Fields with Oil and Gas Production	55
Number of Fields with Oil Production Only	2
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	537

Number of Fields with Active Oil Wells	27
Annual Oil Production of Active Wells (bbls)	7,962,483
Number of Fields with Inactive Oil Wells	4
Annual Oil Production of Inactive Wells (bbls)	312,218
Total Annual Oil Production During 1986 (bbls)	8,274,701
Number of Gas Wells (Active)	20
Number of Fields with Active Gas Wells	5
Annual Gas Production of Active Wells (Mcf)	13,085,154
Number of Fields with Inactive Gas Wells	5
Annual Gas Production of Inactive Wells (Mcf)	252,737
Total Annual Gas Production During 1986 (Mcf)	13,337,891
Total Annual Water Production During 1986 (bbls)	1,000,000
(1 Fields Reporting)	
Mississippi:	
County Name: Adams	
County Code: 001	
Total Number of Fields (Active and Inactive)	3
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	1
Number of Fields with Oil Production Only	2
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	3
Number of Fields with Active Oil Wells	3
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Amite	
County Code: 005	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Claiborne	
County Code: 021	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Copiah	
County Code: 029	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	1
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Forrest	
County Code: 035	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Franklin	
County Code: 037	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	1
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Hancock	
County Code: 045	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Harrison	
County Code: 047	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Jackson	
County Code: 059	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Jefferson	
County Code: 063	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Jefferson Davis	
County Code: 065	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Jones	
County Code: 067	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Lamar	
County Code: 073	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Lawrence	
County Code: 077	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Lincoln	
County Code: 085	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Marion	
County Code: 091	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Pearl River	
County Code: 109	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Perry	
County Code: 111	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	1,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	1,000
Number of Gas Wells (Active)	0
Number of Fields with Active Gas Wells	0
Annual Gas Production of Active Wells (Mcf)	0
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	0
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Pike	
County Code: 113	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	1
Number of Fields with

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Number of Fields with Active Oil Wells	27
Annual Oil Production of Active Wells (bbls)	7,962,483
Number of Fields with Inactive Oil Wells	30
Annual Oil Production of Inactive Wells (bbls)	2,055,845
Total Annual Oil Production During 1986 (bbls)	10,038,328
Number of Gas Wells (Active)	292
Number of Fields with Active Gas Wells	51
Annual Gas Production of Active Wells (Mcf)	109,874,333
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	786,945
Total Annual Gas Production During 1986 (Mcf)	110,661,278
Total Annual Water Production During 1986 (bbls)	57,544,496
(52 Fields Reporting)	
County Name: Iberia	
County Code: 045	
Total Number of Fields (Active and Inactive)	28
Number of Inactive Fields	10
Number of Fields with Oil and Gas Production	18
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	185
Number of Fields with Active Oil Wells	13
Annual Oil Production of Active Wells (bbls)	4,201,910
Number of Fields with Inactive Oil Wells	5
Annual Oil Production of Inactive Wells (bbls)	73,662
Total Annual Oil Production During 1986 (bbls)	4,275,572
Number of Gas Wells (Active)	88
Number of Fields with Active Gas Wells	16
Annual Gas Production of Active Wells (Mcf)	40,751,689
Number of Fields with Inactive Gas Wells	2
Annual Gas Production of Inactive Wells (Mcf)	112,227
Total Annual Gas Production During 1986 (Mcf)	40,863,916
Total Annual Water Production During 1986 (bbls)	26,863,916
(17 Fields Reporting)	
County Name: Jefferson	
County Code: 051	
Total Number of Fields (Active and Inactive)	29
Number of Inactive Fields	9
Number of Fields with Oil and Gas Production	19
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	261
Number of Fields with Active Oil Wells	16
Annual Oil Production of Active Wells (bbls)	4,284,852
Number of Fields with Inactive Oil Wells	3
Annual Oil Production of Inactive Wells (bbls)	50,708
Total Annual Oil Production During 1986 (bbls)	4,335,560
Number of Gas Wells (Active)	50
Number of Fields with Active Gas Wells	15
Annual Gas Production of Active Wells (Mcf)	13,085,154
Number of Fields with Inactive Gas Wells	5
Annual Gas Production of Inactive Wells (Mcf)	3,994,207
Total Annual Gas Production During 1986 (Mcf)	17,079,361
(18 Fields Reporting)	
County Name: Lafourche	
County Code: 057	
Total Number of Fields (Active and Inactive)	65
Number of Inactive Fields	18
Number of Fields with Oil and Gas Production	45
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	707
Number of Fields with Active Oil Wells	54
Annual Oil Production of Active Wells (bbls)	8,428,205
Number of Fields with Inactive Oil Wells	12
Annual Oil Production of Inactive Wells (bbls)	187,318
Total Annual Oil Production During 1986 (bbls)	8,615,523
Number of Gas Wells (Active)	305
Number of Fields with Active Gas Wells	42
Annual Gas Production of Active Wells (Mcf)	87,736,949
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	90,091
Total Annual Gas Production During 1986 (Mcf)	87,827,040
Total Annual Water Production During 1986 (bbls)	79,239,181
(44 Fields Reporting)	
County Name: Orleans	
County Code: 071	
Total Number of Fields (Active and Inactive)	3
Number of Inactive Fields	1
Number of Fields with Oil and Gas Production	0
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	2
Number of Oil Wells (Active)	0
Number of Fields with Active Oil Wells	0
Annual Oil Production of Active Wells (bbls)	0
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	0
Number of Gas Wells (Active)	4
Number of Fields with Active Gas Wells	2
Annual Gas Production of Active Wells (Mcf)	846,939
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	846,939
Total Annual Water Production During 1986 (bbls)	19,800
(1 Field Reporting)	
County Name: Plaquemines	
County Code: 075	
Total Number of Fields (Active and Inactive)	71
Number of Inactive Fields	20
Number of Fields with Oil and Gas Production	47
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	3
Number of Oil Wells (Active)	1184
Number of Fields with Active Oil Wells	44
Annual Oil Production of Active Wells (bbls)	20,132,446
Number of Fields with Inactive Oil Wells	4
Annual Oil Production of Inactive Wells (bbls)	5953
Total Annual Oil Production During 1986 (bbls)	20,138,399
Number of Gas Wells (Active)	233
Number of Fields with Active Gas Wells	40
Annual Gas Production of Active Wells (Mcf)	55,549,092
Number of Fields with Inactive Gas Wells	10
Annual Gas Production of Inactive Wells (Mcf)	1,924,848
Total Annual Gas Production During 1986 (Mcf)	57,473,940
Total Annual Water Production During 1986 (bbls)	159,021,451
(46 Fields Reporting)	
County Name: St. Bernard	
County Code: 087	
Total Number of Fields (Active and Inactive)	25
Number of Inactive Fields	9
Number of Fields with Oil and Gas Production	10
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	5
Number of Oil Wells (Active)	66
Number of Fields with Active Oil Wells	5
Annual Oil Production of Active Wells (bbls)	2,222,641
Number of Fields with Inactive Oil Wells	6
Annual Oil Production of Inactive Wells (bbls)	24,459
Total Annual Oil Production During 1986 (bbls)	2,247,300
Number of Gas Wells (Active)	33
Number of Fields with Active Gas Wells	13
Annual Gas Production of Active Wells (Mcf)	11,857,020
Number of Fields with Inactive Gas Wells	2
Annual Gas Production of Inactive Wells (Mcf)	339,767
Total Annual Gas Production During 1986 (Mcf)	12,196,787
Total Annual Water Production During 1986 (bbls)	15,265,664
(11 Fields Reporting)	
County Name: St. Martin	
County Code: 099	
Total Number of Fields (Active and Inactive)	39
Number of Inactive Fields	16
Number of Fields with Oil and Gas Production	23
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	584
Number of Fields with Active Oil Wells	19
Annual Oil Production of Active Wells (bbls)	6,194,700

Number of Fields with Inactive Oil Wells	4
Annual Oil Production of Inactive Wells (bbls)	312,218
Total Annual Oil Production During 1986 (bbls)	6,506,918
Number of Gas Wells (Active)	91
Number of Fields with Active Gas Wells	20
Annual Gas Production of Active Wells (Mcf)	29,756,933
Number of Fields with Inactive Gas Wells	3
Annual Gas Production of Inactive Wells (Mcf)	270,910
Total Annual Gas Production During 1986 (Mcf)	30,027,843
Total Annual Water Production During 1986 (bbls)	57,078,674
(23 Fields Reporting)	
County Name: St. Mary	
County Code: 101	
Total Number of Fields (Active and Inactive)	34
Number of Inactive Fields	9
Number of Fields with Oil and Gas Production	25
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	442
Number of Fields with Active Oil Wells	14
Annual Oil Production of Active Wells (bbls)	4,176,765
Number of Fields with Inactive Oil Wells	11
Annual Oil Production of Inactive Wells (bbls)	787,492
Total Annual Oil Production During 1986 (bbls)	4,964,257
Number of Gas Wells (Active)	243
Number of Fields with Active Gas Wells	25
Annual Gas Production of Active Wells (Mcf)	125,719,286
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	125,719,286
Total Annual Water Production During 1986 (bbls)	38,289,906
(25 Fields Reporting)	
County Name: St. Tammany	
County Code: 103	
Total Number of Fields (Active and Inactive)	1
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	1
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	0
Number of Fields with Active Oil Wells	0
Annual Oil Production of Active Wells (bbls)	0
Number of Fields with Inactive Oil Wells	1
Annual Oil Production of Inactive Wells (bbls)	3,879
Total Annual Oil Production During 1986 (bbls)	3,879
Number of Gas Wells (Active)	1
Number of Fields with Active Gas Wells	1
Annual Gas Production of Active Wells (Mcf)	252,737
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	252,737
Total Annual Water Production During 1986 (bbls)	0
(0 Fields Reporting)	
County Name: Terrebonne	
County Code: 109	
Total Number of Fields (Active and Inactive)	85
Number of Inactive Fields	23
Number of Fields with Oil and Gas Production	60
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	2
Number of Oil Wells (Active)	511
Number of Fields with Active Oil Wells	26
Annual Oil Production of Active Wells (bbls)	9,115,419
Number of Fields with Inactive Oil Wells	34
Annual Oil Production of Inactive Wells (bbls)	940,977
Total Annual Oil Production During 1986 (bbls)	10,056,396
Number of Gas Wells (Active)	457
Number of Fields with Active Gas Wells	59
Annual Gas Production of Active Wells (Mcf)	163,301,590
Number of Fields with Inactive Gas Wells	3
Annual Gas Production of Inactive Wells (Mcf)	520,662
Total Annual Gas Production During 1986 (Mcf)	163,822,252
Total Annual Water Production During 1986 (bbls)	54,211,041
(57 Fields Reporting)	
County Name: Vermillion	
County Code: 113	
Total Number of Fields (Active and Inactive)	66
Number of Inactive Fields	14
Number of Fields with Oil and Gas Production	51
Number of Fields with Oil Production Only	1
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	250
Number of Fields with Active Oil Wells	27
Annual Oil Production of Active Wells (bbls)	5,971,139
Number of Fields with Inactive Oil Wells	25
Annual Oil Production of Inactive Wells (bbls)	1,730,825
Total Annual Oil Production During 1986 (bbls)	7,701,964
Number of Gas Wells (Active)	301
Number of Fields with Active Gas Wells	51
Annual Gas Production of Active Wells (Mcf)	185,312,800
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	185,312,800
Total Annual Water Production During 1986 (bbls)	55,673,865
(49 Fields Reporting)	
Mississippi	
County Name: Hancock	
County Code: 045	
Total Number of Fields (Active and Inactive)	9
Number of Inactive Fields	3
Number of Fields with Oil and Gas Production	5
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	0
Number of Fields with Active Oil Wells	0
Annual Oil Production of Active Wells (bbls)	0
Number of Fields with Inactive Oil Wells	5
Annual Oil Production of Inactive Wells (bbls)	95,576
Total Annual Oil Production During 1986 (bbls)	95,576
Number of Gas Wells (Active)	29
Number of Fields with Active Gas Wells	5
Annual Gas Production of Active Wells (Mcf)	6,324,795
Number of Fields with Inactive Gas Wells	0
Annual Gas Production of Inactive Wells (Mcf)	0
Total Annual Gas Production During 1986 (Mcf)	6,324,795
Total Annual Water Production During 1986 (bbls)	231,707
(6 Fields Reporting)	
Texas:	
County Name: Aransas	
County Code: 007	
Total Number of Fields (Active and Inactive)	70
Number of Inactive Fields	28
Number of Fields with Oil and Gas Production	35
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	7
Number of Oil Wells (Active)	70
Number of Fields with Active Oil Wells	16
Annual Oil Production of Active Wells (bbls)	710,124
Number of Fields with Inactive Oil Wells	17
Annual Oil Production of Inactive Wells (bbls)	55,366
Total Annual Oil Production During 1986 (bbls)	765,492
Number of Gas Wells (Active)	120
Number of Fields with Active Gas Wells	33
Annual Gas Production of Active Wells (Mcf)	19,871,114
Number of Fields with Inactive Gas Wells	9
Annual Gas Production of Inactive Wells (Mcf)	252,615
Total Annual Gas Production During 1986 (Mcf)	20,133,029
Total Annual Water Production During 1986 (bbls)	2,406,754
(17 Fields Reporting)	
County Name: Brazoria	
County Code: 039	
Total Number of Fields (Active and Inactive)	152
Number of Inactive Fields	57
Number of Fields with Oil and Gas Production	86
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	7
Number of Oil Wells (Active)	627
Number of Fields with Active Oil Wells	55
Annual Oil Production of Active Wells (bbls)	6,620,254

Number of Fields with Inactive Oil Wells	33
Annual Oil Production of Inactive Wells (bbls)	156,274
Total Annual Oil Production During 1986 (bbls)	6,778,228
Number of Gas Wells (Active)	1,000
Number of Fields with Active Gas Wells	73
Annual Gas Production of Active Wells (Mcf)	255,000,000
Number of Fields with Inactive Gas Wells	5
Annual Gas Production of Inactive Wells (Mcf)	5,853
Total Annual Gas Production During 1986 (Mcf)	2,663,345
Total Annual Water Production During 1986 (bbls)	1,000,000
(1 Field Reporting)	
County Name: Matagorda	
County Code: 321	
Total Number of Fields (Active and Inactive)	73
Number of Inactive Fields	0
Number of Fields with Oil and Gas Production	73
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	0
Number of Oil Wells (Active)	1,000
Number of Fields with Active Oil Wells	73
Annual Oil Production of Active Wells (bbls)	255,000,000
Number of Fields with Inactive Oil Wells	0
Annual Oil Production of Inactive Wells (bbls)	0
Total Annual Oil Production During 1986 (bbls)	255,000,000

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Number of Fields with Inactive Oil Wells	33
Annual Oil Production of Inactive Wells (bbls)	156,274
Total Annual Oil Production During 1986 (bbls)	6,776,528
Number of Gas Wells (Active)	320
Number of Fields with Active Gas Wells	69
Annual Gas Production of Active Wells (Mcf)	80,175,397
Number of Fields with Inactive Gas Wells	26
Annual Gas Production of Inactive Wells (Mcf)	3,480,466
Total Annual Gas Production During 1986 (Mcf)	83,655,863
Total Annual Water Production During 1986 (bbls)	131,705,662
(49 Fields Reporting)	
County Name: Calhoun	
County Code: 057	
Total Number of Fields (Active and Inactive)	141
Number of Inactive Fields	63
Number of Fields with Oil and Gas Production	59
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	19
Number of Oil Wells (Active)	147
Number of Fields with Active Oil Wells	40
Annual Oil Production of Active Wells (bbls)	1,483,106
Number of Fields with Inactive Oil Wells	19
Annual Oil Production of Inactive Wells (bbls)	53,516
Total Annual Oil Production During 1986 (bbls)	1,516,622
Number of Gas Wells (Active)	284
Number of Fields with Active Gas Wells	62
Annual Gas Production of Active Wells (Mcf)	40,118,764
Number of Fields with Inactive Gas Wells	16
Annual Gas Production of Inactive Wells (Mcf)	284,885
Total Annual Gas Production During 1986 (Mcf)	40,403,649
Total Annual Water Production During 1986 (bbls)	7,007,862
(32 Fields Reporting)	
County Name: Cameron	
County Code: 061	
Total Number of Fields (Active and Inactive)	16
Number of Inactive Fields	3
Number of Fields with Oil and Gas Production	4
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	9
Number of Oil Wells (Active)	1
Number of Fields with Active Oil Wells	1
Annual Oil Production of Active Wells (bbls)	3,969
Number of Fields with Inactive Oil Wells	3
Annual Oil Production of Inactive Wells (bbls)	35
Total Annual Oil Production During 1986 (bbls)	4,004
Number of Gas Wells (Active)	24
Number of Fields with Active Gas Wells	12
Annual Gas Production of Active Wells (Mcf)	2,657,492
Number of Fields with Inactive Gas Wells	1
Annual Gas Production of Inactive Wells (Mcf)	5,853
Total Annual Gas Production During 1986 (Mcf)	2,663,345
Total Annual Water Production During 1986 (bbls)	255
(1 Field Reporting)	
County Name: Chambers	
County Code: 071	
Total Number of Fields (Active and Inactive)	122
Number of Inactive Fields	37
Number of Fields with Oil and Gas Production	83
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	2
Number of Oil Wells (Active)	626
Number of Fields with Active Oil Wells	83
Annual Oil Production of Active Wells (bbls)	5,681,566
Number of Fields with Inactive Oil Wells	20
Annual Oil Production of Inactive Wells (bbls)	326,833
Total Annual Oil Production During 1986 (bbls)	6,008,299
Number of Gas Wells (Active)	183
Number of Fields with Active Gas Wells	44
Annual Gas Production of Active Wells (Mcf)	55,572,218
Number of Fields with Inactive Gas Wells	41
Annual Gas Production of Inactive Wells (Mcf)	2,451,847
Total Annual Gas Production During 1986 (Mcf)	58,024,065
Total Annual Water Production During 1986 (bbls)	67,976,391
(55 Fields Reporting)	
County Name: Galveston	
County Code: 167	
Total Number of Fields (Active and Inactive)	102
Number of Inactive Fields	45
Number of Fields with Oil and Gas Production	56
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	350
Number of Fields with Active Oil Wells	34
Annual Oil Production of Active Wells (bbls)	3,318,157
Number of Fields with Inactive Oil Wells	22
Annual Oil Production of Inactive Wells (bbls)	227,764
Total Annual Oil Production During 1986 (bbls)	3,545,941
Number of Gas Wells (Active)	138
Number of Fields with Active Gas Wells	45
Annual Gas Production of Active Wells (Mcf)	36,986,864
Number of Fields with Inactive Gas Wells	12
Annual Gas Production of Inactive Wells (Mcf)	2,661,696
Total Annual Gas Production During 1986 (Mcf)	41,648,560
Total Annual Water Production During 1986 (bbls)	19,510,916
(31 Fields Reporting)	
County Name: Jefferson	
County Code: 245	
Total Number of Fields (Active and Inactive)	138
Number of Inactive Fields	64
Number of Fields with Oil and Gas Production	73
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	1
Number of Oil Wells (Active)	419
Number of Fields with Active Oil Wells	47
Annual Oil Production of Active Wells (bbls)	3,473,078
Number of Fields with Inactive Oil Wells	25
Annual Oil Production of Inactive Wells (bbls)	203,490
Total Annual Oil Production During 1986 (bbls)	3,675,566
Number of Gas Wells (Active)	136
Number of Fields with Active Gas Wells	49
Annual Gas Production of Active Wells (Mcf)	34,486,550
Number of Fields with Inactive Gas Wells	25
Annual Gas Production of Inactive Wells (Mcf)	1,331,561
Total Annual Gas Production During 1986 (Mcf)	35,818,131
Total Annual Water Production During 1986 (bbls)	23,653,455
(40 Fields Reporting)	
County Name: Kenedy	
County Code: 261	
Total Number of Fields (Active and Inactive)	63
Number of Inactive Fields	26
Number of Fields with Oil and Gas Production	18
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	19
Number of Oil Wells (Active)	73
Number of Fields with Active Oil Wells	8
Annual Oil Production of Active Wells (bbls)	802,487
Number of Fields with Inactive Oil Wells	10
Annual Oil Production of Inactive Wells (bbls)	76,276
Total Annual Oil Production During 1986 (bbls)	878,762
Number of Gas Wells (Active)	248
Number of Fields with Active Gas Wells	36
Annual Gas Production of Active Wells (Mcf)	46,552,583
Number of Fields with Inactive Gas Wells	1
Annual Gas Production of Inactive Wells (Mcf)	174,523
Total Annual Gas Production During 1986 (Mcf)	46,727,106
Total Annual Water Production During 1986 (bbls)	1,184,519
(7 Fields Reporting)	
County Name: Kleberg	
County Code: 273	
Total Number of Fields (Active and Inactive)	101
Number of Inactive Fields	47
Number of Fields with Oil and Gas Production	41
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	13
Number of Oil Wells (Active)	284
Number of Fields with Active Oil Wells	35
Annual Oil Production of Active Wells (bbls)	2,564,349
Number of Fields with Inactive Oil Wells	6

Annual Oil Production of Inactive Wells (bbls)	6,673
Total Annual Oil Production During 1986 (bbls)	2,591,022
Number of Gas Wells (Active)	645
Number of Fields with Active Gas Wells	44
Annual Gas Production of Active Wells (Mcf)	103,346,324
Number of Fields with Inactive Gas Wells	10
Annual Gas Production of Inactive Wells (Mcf)	146,157
Total Annual Gas Production During 1986 (Mcf)	103,492,481
Total Annual Water Production During 1986 (bbls)	10,217,029
(33 Fields Reporting)	
County Name: Matagorda	
County Code: 321	
Total Number of Fields (Active and Inactive)	159
Number of Inactive Fields	82
Number of Fields with Oil and Gas Production	61
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	26
Number of Oil Wells (Active)	306
Number of Fields with Active Oil Wells	37
Annual Oil Production of Active Wells (bbls)	1,677,757
Number of Fields with Inactive Oil Wells	44
Annual Oil Production of Inactive Wells (bbls)	413,986
Total Annual Oil Production During 1986 (bbls)	2,091,743
Number of Gas Wells (Active)	319
Number of Fields with Active Gas Wells	59
Annual Gas Production of Active Wells (Mcf)	79,334,235
Number of Fields with Inactive Gas Wells	16
Annual Gas Production of Inactive Wells (Mcf)	422,668
Total Annual Gas Production During 1986 (Mcf)	79,756,923
Total Annual Water Production During 1986 (bbls)	33,658,522
(32 Fields Reporting)	
County Name: Nueces	
County Code: 355	
Total Number of Fields (Active and Inactive)	257
Number of Inactive Fields	113
Number of Fields with Oil and Gas Production	129
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	15
Number of Oil Wells (Active)	596
Number of Fields with Active Oil Wells	90
Annual Oil Production of Active Wells (bbls)	2,563,144
Number of Fields with Inactive Oil Wells	30
Annual Oil Production of Inactive Wells (bbls)	183,869
Total Annual Oil Production During 1986 (bbls)	2,747,013
Number of Gas Wells (Active)	823
Number of Fields with Active Gas Wells	100
Annual Gas Production of Active Wells (Mcf)	58,323,425
Number of Fields with Inactive Gas Wells	44
Annual Gas Production of Inactive Wells (Mcf)	393,994
Total Annual Gas Production During 1986 (Mcf)	66,717,419
Total Annual Water Production During 1986 (bbls)	24,799,503
(81 Fields Reporting)	
County Name: Refugio	
County Code: 391	
Total Number of Fields (Active and Inactive)	118
Number of Inactive Fields	54
Number of Fields with Oil and Gas Production	54
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	10
Number of Oil Wells (Active)	1,566
Number of Fields with Active Oil Wells	49
Annual Oil Production of Active Wells (bbls)	18,330,638
Number of Fields with Inactive Oil Wells	5
Annual Oil Production of Inactive Wells (bbls)	6,083
Total Annual Oil Production During 1986 (bbls)	18,336,721
Number of Gas Wells (Active)	442
Number of Fields with Active Gas Wells	47
Annual Gas Production of Active Wells (Mcf)	49,170,966
Number of Fields with Inactive Gas Wells	17
Annual Gas Production of Inactive Wells (Mcf)	570,313
Total Annual Gas Production During 1986 (Mcf)	49,741,279
Total Annual Water Production During 1986 (bbls)	152,262,891
(42 Fields Reporting)	
County Name: San Patricio	
County Code: 409	
Total Number of Fields (Active and Inactive)	208
Number of Inactive Fields	112
Number of Fields with Oil and Gas Production	87
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	9
Number of Oil Wells (Active)	487
Number of Fields with Active Oil Wells	61
Annual Oil Production of Active Wells (bbls)	2,600,000
Number of Fields with Inactive Oil Wells	26
Annual Oil Production of Inactive Wells (bbls)	226,759
Total Annual Oil Production During 1986 (bbls)	2,826,759
Number of Gas Wells (Active)	351
Number of Fields with Active Gas Wells	70
Annual Gas Production of Active Wells (Mcf)	36,115,227
Number of Fields with Inactive Gas Wells	26
Annual Gas Production of Inactive Wells (Mcf)	536,400
Total Annual Gas Production During 1986 (Mcf)	36,653,627
Total Annual Water Production During 1986 (bbls)	56,713,325
(46 Fields Reporting)	
County Name: Willacy	
County Code: 489	
Total Number of Fields (Active and Inactive)	35
Number of Inactive Fields	9
Number of Fields with Oil and Gas Production	18
Number of Fields with Oil Production Only	0
Number of Fields with Gas Production Only	8
Number of Oil Wells (Active)	239
Number of Fields with Active Oil Wells	12
Annual Oil Production of Active Wells (bbls)	1,860,449
Number of Fields with Inactive Oil Wells	6
Annual Oil Production of Inactive Wells (bbls)	3,573
Total Annual Oil Production During 1986 (bbls)	1,864,022
Number of Gas Wells (Active)	68
Number of Fields with Active Gas Wells	22
Annual Gas Production of Active Wells (Mcf)	30,838,266
Number of Fields with Inactive Gas Wells	4
Annual Gas Production of Inactive Wells (Mcf)	36,660
Total Annual Gas Production During 1986 (Mcf)	30,974,926
Total Annual Water Production During 1986 (bbls)	6,667,525
(10 Fields Reporting)	

[FR Doc. 89-26202 Filed 11-7-89; 8:45 am]
BILLING CODE 4160-60-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 410, 414, 417, 424, 455, 473, 485, and 489

[BPD-653-N]

Medicare Program; Catastrophic Outpatient Drug Benefit—Extension of Public Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Extension of comment period.

SUMMARY: This notice extends the public comment period for several regulation documents that proposed to implement certain provisions of the Medicare Catastrophic Coverage Act of 1988 by establishing a new catastrophic drug benefit under Medicare Part B.

DATE: Comment period extended to January 8, 1990.

FOR FURTHER INFORMATION CONTACT: Michelle Bruggy, 301-966-4663.

SUPPLEMENTARY INFORMATION: The Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360, enacted on July 1, 1988) established a new catastrophic outpatient drug benefit under Medicare Part B. To implement the provisions of Public Law 100-360, we published several proposed regulation documents. The titles and publication dates of these documents, and the Federal Register page numbers on which they appear are listed below:

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Document title	Publication date	FR page
Catastrophic outpatient drug benefit (BPD–613–P)	09/07/89	37190
Payment for covered outpatient drugs (BPD–614–P)	09/07/89	37206
Conditions of Participation for Home Intravenous Drug Therapy Providers (BPD–617–P)	09/07/89	37220
Outpatient Prescription Drugs: List of Covered Home IV Drugs (BPD–621–PN)	09/07/89	37239
Coverage of Home Intravenous Drug Therapy Services (BPD–615–P)	09/06/89	37422

These proposed documents solicited public comments and allowed 60-days from the date of publication for receipt of comments. The comment period closing dates for these documents is either November 6, 1989 or November 7, 1989.

To implement changes made to section 1834(d) of the Act by section 203(c)(1) of Public Law 100–360, we are publishing in this issue of the **Federal Register** a proposed rule, which sets forth the methodology for payment for home intravenous drug therapy services. That proposed rule includes a 60 day comment period for receipt of public comments. To ensure a coordinated comment period for all of the related catastrophic drug regulation documents, we are extending the due date for receipt of public comments on the proposed documents listed above to January 8, 1990. We recognize that Congress is considering amendments to the Medicare provisions in the law and that, if enacted, these amendments may affect the provisions in the proposed rules.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 25, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

Approved: November 3, 1989.

Louis W. Sullivan,

Secretary.

[FR Doc. 89–26361 Filed 11–6–89; 10:35 am]

BILLING CODE 4120–01–M

42 CFR Part 414

[BPD–618–P]

RIN 0938–AE00

Medicare Program; Payment for Home Intravenous Drug Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth the methodology for payment for home intravenous (IV) drug therapy services. This proposal would implement the provisions of section 1834(d) of the Social Security Act as added by section 203(c)(1) of the Medicare Catastrophic Coverage Act of 1988. Coverage of and payment for home IV drug therapy services under Part B of Medicare would be implemented on January 1, 1990.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on January 8, 1990. A discussion of the extension of the public comment periods for several related documents published on September 7 and September 8, 1989 is provided in section VII.B. below.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–618–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPD–618–P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Charles Spalding (301) 966–4496.

SUPPLEMENTARY INFORMATION:

I. Background

Many individuals require intravenous (IV) drug therapy on an ongoing basis either because the medication is not available in oral dosage form, the patient is unable to take the medication orally, or the medication is more effective if administered intravenously. Most of these individuals require hospitalization for the initiation of IV drug therapy and many must remain hospitalized for the duration of the therapy. There is, however, an increasing number of individuals whose IV drug therapy care, in whole or in part, can be managed at home. Allowing these patients to receive drug therapy at home rather than in the hospital can improve the quality of their lives and potentially allow their return to normal activities. In addition, home IV drug therapy may be less expensive than IV drug therapy furnished in an institutional setting.

Currently, outside of the hospital setting, the Medicare program generally covers only those drugs (including IV drugs) and biologicals that cannot be self-administered and that are furnished incident to a physician's professional services. These items are included in the definition of "medical and other health services" (section 1861(s) of the Act) and are covered under the Supplementary Medical Insurance program (Part B of Medicare). Provision of IV drug therapy could be a covered service incident to a physician's services if furnished in a physician's office or hospital outpatient department.

While drugs are not covered under Medicare's home health benefit, skilled nursing care in connection with administration of drugs currently may be covered under the home health benefit. However, in these cases, the home health benefit. However, in these cases, the beneficiary must otherwise qualify for home health services, which, among other things, requires that the beneficiary be in need of only part-time or intermittent skilled nursing care (42 CFR 410.80 and 409.40). In general, then, services associated with administration of IV drugs in the home and the drugs themselves have not been covered by the Medicare program unless a physician is present and furnishing or directly supervising the therapy, or unless a registered nurse inserts the IV needle as part of home health benefits (though no coverage of the IV drugs is currently available).

II. New Legislation

Section 203 of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360), enacted on July 1, 1988, establishes, as a new Part B benefit for Medicare beneficiaries, coverage of home IV drug therapy services

beginning January 1, 1990. In addition, section 202 of Public Law 100–360 sets forth the provisions governing coverage and payment of outpatient drugs including drugs used in home IV drug therapy. Section 203(a) of Public Law 100–360 amended section 1832(a)(2)(A) of the Social Security Act (the Act) to provide for coverage under Part B of home IV drug therapy services furnished on or after January 1, 1990. Section 203(b) of Public Law 100–360 added section 1861(jj) to the Act to define home IV drug therapy services. Thus, under section 1861(jj)(2) of the Act, home IV drug therapy services means "* * * nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively an intravenously administered drug regimen. * * *" As provided in section 1861(jj)(1) of the Act, home IV drug therapy services are to be "* * * furnished to an individual who is under the care of a physician—(A) in a place of residence used as such individual's home; (B) by a qualified home intravenous drug therapy provider * * * or by others under arrangements with them made by such provider; and (C) under a plan established and periodically reviewed by a physician."

Section 203(c)(1)(F) of Public Law 100–360 added sections 1834(d) (1) and (2) of the Act, which govern payment for home IV drug therapy services. Section 1834(d)(1) of the Act requires that payment for these services be equal to the lower of actual charges or a fee schedule developed by the Secretary under the provisions of section 1834(d)(2) of the Act. Because section 203(c)(1) of Public Law 100–360 amended sections 1833(a)(2) and (b) of the Act to exempt payment for home IV drug therapy services from the customary Part B coinsurance and deductible requirements and section 1834(d) of the Act makes no provision for either coinsurance or a deductible amount, payment for home IV drug therapy services is to be made at 100 percent of the lower of actual charges or the fee schedule amount. Section 1834(d)(2) of the Act requires the Secretary to establish by regulations, before the beginning of 1990 and before the beginning of each subsequent year, a fee schedule determined on a per diem basis.

Although section 1834(d)(2) of the Act requires the Secretary to establish a per diem fee schedule for home IV drug therapy services, no specific formula is provided. However, the Conference Report that accompanied Public Law 100–360 indicates congressional intent that the Secretary "* * * could consider cost information, charge information, and payment rates for similar items and services covered under Medicare. The Secretary could not, however, require routine cost reporting * * *" (H.R. Rep. No. 661, 100th Cong., 2nd Sess. 202 (1988).) In addition, the Conference Report provides the Secretary with "* * * broad flexibility in establishing the fee schedule. The conferees expect that the Secretary will use this flexibility to establish a fee schedule which assures adequate access to services while preventing excessive payments. The conferees note that exclusive reliance on customary charges has previously resulted in excessive reimbursement levels for similar services * * *." (H.R. Rep. No. 661, 100th Cong., 2nd Sess. 202 (1988).) Therefore, to establish a fee schedule that assures adequate access to services while preventing excessive payments, the Secretary may consider cost information, charge information, and payment rates for similar items and services covered under Medicare in order to arrive at reasonable allowances.

III. Provisions of This Proposed Rule

Under this proposed rule, for services furnished in 1990, we would establish two per diem fee schedules for home IV drug therapy services and allowances that would be added to the fee schedules to cover special costs associated with home IV drug therapy services. One fee schedule would apply to pain management therapy and the second fee schedule would apply to antibiotics and all other IV drug therapies. We intend to periodically review the rates and allowances and we will be considering methods to update the rates and allowances once they are established (for example, through use of the consumer price index for urban consumers (CPI–U), or other data showing changes in salaries and other costs).

To develop an appropriate payment level for home IV drug therapy services, we first looked at existing models of payment for similar Medicare benefits. We gathered additional information by searching the available literature on home IV drug therapy and carefully reviewing relevant articles. We also visited (both onsite and offsite) with numerous entities that furnish home IV drug therapy. In addition, we consulted trade associations representing entities that furnish home IV drug therapy, supplier representatives, and third-party payors.

As a result of our research, we made two major decisions: first, we decided that payment should be based, to the greatest extent possible, on cost data rather than charge data, and second, we decided that we should construct a fee schedule for each of the two major drug therapies, antibiotic therapy and pain management therapy. These decisions were made after careful consideration of the many factors affecting the cost of providing IV drug therapy services and supplies in the home.

First, we found very wide variances in charges among home IV drug therapy providers for comparable services. In our review of the literature, we also found a number of cost analyses for IV drug therapy provided in the hospital setting as well as references to cost comparisons between hospital inpatient and home-based IV drug therapy. The combination of data contained in these studies and the broad range of provider charges led us to believe that there is a tenuous relationship between costs and charges and that basing a fee schedule on charging patterns would result in excessive payment levels.

Second, based on a review of home IV drug therapy trade-related literature, we expect that the bulk of home IV drug therapy services provided to Medicare patients would be associated with antibiotics and pain management.

Because of a substantial difference between the cost of furnishing the two major IV drug therapies, we are proposing two separate fee schedules. If we were to employ only one fee schedule, we would inevitably either underpay or overpay any drug therapy provider whose patient mix is different from the estimated national patient mix described in the Regulatory Impact Statement, section VI, below. We believe that using a separate fee schedule for each of the major IV drug therapies would be more equitable and accurate for both the providers and the Medicare program.

Therefore, for purposes of payment under this proposed rule, we have grouped home IV drug therapies into two major groups, antibiotics and pain management therapies. We beleve that this approach would be reasonable since we expect that the overwhelming majority of Medicare beneficiaries who will undergo home IV drug therapy will receive antibiotics or analgesics for pain management. Our expectation is based on statistics that indicate that hydration and all other drug therapies except for antibiotics and pain management represent a nominal share of the current market for home IV drug therapies.[1]

[1] "Home Infusions Therapy Industry: Robush Growth Prospects", *Prudential-Bache Health Care Industry Report*, September 20, 1988, Table 1.

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Consequently, in addition to those drugs clearly classified as antibiotics in the proposed list of covered home IV drugs published in the Federal Register on September 8, 1989 (54 FR 37239), payment would also be made under the antibiotic fee schedule for all other types of drug therapy except for pain management. That is, the antibiotic therapy fee schedule would be used for determining payment for the following drug therapies: antibiotics, anti-infectives, fluid replacement drugs used for hydration therapy, and non-antibiotic drugs classified (at 54 FR 37248) as "other" than anti-infectives, drugs used for hydration therapy, or pain management drugs.

In addition, payment would be made under the antibiotic fee schedule for IV biologicals classified (at 54 FR 37248) as "other" than anti-infectives, fluid replacement drugs, pain management drugs, or anti-cancer chemotherapeutic drugs. Therefore, in summary, reference in this document to the antibiotic fee schedule applies to drugs used for all drug therapies other than pain management therapy.

Based on our research, we reached the following conclusions about the provision of home IV drug therapy services (that is, all the services and items necessary for the provision of the home IV drug therapy except the actual drugs that are infused):

- Pharmacy services comprise two major functions: Clinical and distributive. Clinical services include drug therapy monitoring, development of medication histories and patient profiles, consultation with physicians and nurses, drug-use evaluation, and quality assurance. Distributive services are those activities directly associated with the dispensing of drugs, for example, drug procurement and inventory, drug reconstitution, dosage preparationn, labeling, and related administrative duties. The intensity of pharmacy and related services is based mainly on the dosage required by each patient for each drug and the shelf life of the drug (including reconstituted drugs). For example, the drug's shelf life is the primary factor in the frequency of drug preparation and delivery to the patient's home.
- Nursing services incude both direct patient care and indirect patient care. Direct patient care services include assessing the patient's condition, changing IV sites and dressings, and drawing blood for laboratory analysis. Indirect patient care includes travel to and from the patient's home and arranging for the provision of emergency services on a 24-hour-per-day basis. The intensity of nursing and related services is based mainly upon the patient's condition and type of venous access.
- Supplies are pharmaceutical materials needed to provide a home IV therapy drug program; that is, materials used to compound a drug, to reconstitute powdered drugs, and to administer drug infusions. Supplies used in the administration of drug infusions include all IV fluids, for example, dextrose and saline solutions used as diluents, heparin, heparin locks, and saline flushes, in addition to minibags, tubing, syringes, needles, and miscellaneous supplies such as sterile gloves, gauze, and swabs. We note that, although IV fluids are legend drugs, we would pay for them under the methodology set forth in this document; that is, as part of the payment for home IV drug therapy services rather than as covered home IV drugs. The only exceptions to this policy would be in the case of a fluid that is used either as the drug of choice to treat medical problems caused by dehydration or to hydrate patients before and after the administration of another drug to avoid medical problems that could arise from administration of that drug. That is, if IV fluids are administered by themselves for hydration purposes, they are covered and paid for as drugs under the drug payment methodology set forth in a separate notice of proposed rulemaking.
- Equipment used in home IV drug therapy is generally limited to IV poles and infusion pumps.

Based on the knowledge gained from our review of available literature and consultations with entries that furnish home IV drug therapy services, related trade associations, medical suppliers, and third-party payors, we developed for each of the two major therapies a basic fee schedule covering the per diem costs of a package of ongoing home IV therapy services, including supplies and equipment. We would supplement the basic per diem fee schedule with additional adjustments that reflect one-time expenses and other variables. In this document, we use the term "allowance" to refer to each component of the fee schedule and the additional adjustments.

One-time expenses reflect those services that are nonrecurring in nature and, therefore, are unlike many other home IV drug therapy services that continue for the entire duration of the home IV drug therapy. One example of a nonrecurring service is patient education and counseling, which would occur as the beneficiary begins the course of home IV drug therapy.

We would also provide allowances for other variables because we recognize that there are additional costs associated with patients who, for example, are on multiple drug regimens (that is, receiving two or more drugs intravenously). Due to the unavailability of relevant data, except for nursing labor costs, these proposed fee schedule allowances do not include an adjustment for costs based on geographic area (that is urban or rural or State-to-State variations). We are particularly interested in receiving public comments concerning the differences in cost and other factors in urban and rural areas.

The basic fee schedule would reflect the per diem cost of the total package of services, supplies, and equipment provided to a home IV drug therapy patient.

For antibiotic therapy, we are proposing a basic per diem fee schedule amount of $45.44 to cover the total cost of pharmacy services, pharmacy supplies (including IV fluids), and pharmacy delivery service; nursing services and nursing supplies; and other patient equipment needs. We are proposing a per diem fee schedule amount of $31.63 to cover comparable costs associated with the furnishing of pain management therapy.

We note that payment for all home IV drug therapy services, including pharmacy services, is provided under the provisions of section 203 of Public Law 100-360, as would be implemented by this proposed rule. Section 202 of Public Law 100-360, which establishes the payment methodology for covered outpatient drugs, includes as part of the payment calculation for each drug an administrative allowance, which represents a pharmacy's dispensing fee. As set forth in the proposed rule that would implement the payment provisions of section 202 of Public Law 100-360, no administrative allowance would be paid for dispensing a covered home IV drug, since compensation for that activity is included in the payment methodology set forth in this proposed rule for home IV drug therapy services.

The basic fee schedule allowance would represent an aggregate per diem payment for the package of home IV therapy services. It is comprised of discrete components that would be subject to the application of a geographic wage index or other adjustments, or both, as described below in this preamble.

For the convenience of the reader, set forth below is an itemization of the individual allowances contained in the proposed basic fee schedules and the additional adjustments for one-time or patient-specific expenses. The assumptions we used in determining these allowances are briefly identified in the first column. These assumptions are described in detail in the discussion set forth below in this preamble.

HOME IV ANTIBOTIC THERAPY SERVICES PER DIEM FEE SCHEDULE

[Amounts may not equal the sum of the values due to rounding]

Assumptions	Pharmacy services	Nursing services	Supplies/ mileage	Equipment	Total per diem
Pharmacy services & supplies:					
Pharmacy services ($31.49 @ 7 min)×2.5	$9.15	$0.00	$0.00	$0.00	$9.15
Pharmacy supplies ($7.00×2.5	0.00	0.00	17.50	0.00	17.50
Drug delivery (every 5 days) ($10.56 per trip)×⅕	2.11	0.00	0.00	0.00	2.11
Subtotal pharmacy	11.29		17.50		28.79
Nursing visit (every 3 days):					
Patient care (.75 hr @ $15.66)×⅓		[1]3.92			3.92
Travel time (0.67 hr @ $15.66)×⅓		[1]3.48			3.48
Overhead at 50 percent		[1]3.70			3.70
Mileage (20 mi @ $2.55×⅓			1.50		1.50
IV start kit w/catheter ($5)×⅓			1.67		1.67
Air elim filter ($5.04)×⅓			1.68		1.68
Subtotal, nursing	0.00	11.09	4.85	0.00	15.94
Equipment (90 percent IV Pole/10 percent Pump)	0.00	0.00	0.00	0.71	0.71
Total basic fee schedule	11.29	11.09	22.35	0.71	45.44

[1] Labor components to be adjusted by HHA urban or rural wage index, as appropriate.

HOME IV PAIN MANAGEMENT THERAPY SERVICES PER DIEM FEE SCHEDULE

[Amounts may not equal the sum of the values due to rounding]

Assumptions	Pharmacy services	Nursing services	supplies/ mileage	Equipment	Total per diem
Pharmacy services & supplies:					
Pharmacy services ($31.49 @ 7 min)×⅓	$1.22	$0.00	$0.00	$0.00	$1.22
Pharmacy supplies ($17.40)×⅓	0.00	0.00	5.80	0.00	5.80
Drug delivery (every 5 days) ($10.50 per trip)×⅓	2.11	0.00	0.00	0.00	2.11
Subtotal, pharmacy	3.33		5.80		9.13
Nursing visit (every 3 days):					
Patient care (.75 hr @ $15.66)×⅓		[1]3.92			3.92
Travel time (.67 hr @ $15.66)×⅓		[1]3.48			3.48
Overhead at 50 percent		[1]3.70			3.70
Mileage (20 MI @ $.225)×⅓			1.50		1.50
IV start kit w/catheter ($5)×⅓			1.67		1.67
Air elim filter ($5.04)×⅓			1.68		1.68
Subtotal, nursing	0.00	11.09	4.85	0.00	15.94
Equipment (100 percent pump)	0.00	0.00	0.00	6.58	6.58
Total basic fee schedule	3.33	11.09	10.65	6.58	31.63

[1] Labor components to be adjusted by HHA urban or rural wage index, as appropriate.

ONE-TIME OR PATIENT-SPECIFIC ALLOWANCES

[Adjustments to basic fee schedule]

[Amounts may not equal the sum of the values due to rounding]

Assumptions	Pharmacy services	Nursing services	Supplies/ mileage	Equipment	Total add on
Initial patient education and treatment:					
Hospital discharges (2 visits)	$0.00	[1]$86.54	$9.00	$0.00	[1]$75.54
Outpatient starts (3 visits)	0.00	[1]99.81	13.50	0.00	113.31
Multiple Durg Regimens					
Antibiotic therapy:					
Pharmacy services (50 percent)	4.59				4.59

ONE-TIME OR PATIENT-SPECIFIC ALLOWANCES—Continued

[Adjustments to basic fee schedule]

[Amounts may not equal the sum of the values due to rounding]

Assumptions	Pharmacy services	Nursing services	Supplies/ mileage	Equipment	Total add on
Nursing services (50 percent)		5.55			5.55
Total add on	4.59	191.35	22.50	0.00	218.44

[1] Labor components to be adjusted by HHA urban or rural wage index, as appropriate.

None of the data sources was perfectly reflective of the pharmacy services that would be furnished for patients living at home. However, after hospital, the Lilly survey included fewer nonrecurring pharmacy services that are furnished just prior to discharge than did the ASHP survey. Other differences salaries paid in 1987. We adjusted that 1987 base salary to 1989 levels by increasing it by the inflation factors used to update the 1987 and 1989

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ONE-TIME OR PATIENT-SPECIFIC ALLOWANCES—Continued

[Adjustments to basic fee schedule]

[Amounts may not equal the sum of the values due to rounding]

Assumptions	Pharmacy services	Nursing services	Supplies/ mileage	Equipment	Total add on
Pharmacy supplies (100 percent)			17.50		17.50
Nursing services (100 percent)		0.00			0.00
Equipment (100 percent)				0.71	0.71
Total	4.59		17.50	0.71	22.80
Pain management therapy:					
Pharmacy services (50 percent)	0.61				0.61
Pharmacy supplies (100 percent)			5.80		5.80
Nursing services (100 percent)		0.00			0.00
Equipment (100 percent)				6.56	6.56
Total	0.61		5.80	6.56	12.97
Nursing visit for 1st dose due to prescription change	0.00	[1] 16.64	2.25	0.00	[4] 18.89

[1] Labor components to be ajusted by HHA urban or rural wage index, as appropriate.
[3] Lump sum.
[3] Per diem for multiple regimen days.
[4] Lump sum (1 visit)

Each intermediary that processes the bills will maintain a system of data exchange with the appropriate Peer Review Organization (PRO). Under section 203(d)(1) of Public Law 100–360, which amended section 1835(a)(2) of the Act, home IV drug therapy services initiated before January 1, 1993, must be authorized by the PRO prior to their provision. We are preparing a separate notice of proposed rulemaking implementing the provisions of section 203(d) of Public Law 100–360.

A single bill (HCFA Form 1450) will be submitted by the home IV drug therapy provider. This bill will include both the separate charges for the IV drug (which will be paid under the covered outpatient drug methodology set forth in section 202 of Public Law 100–360) and the charges for the home IV drug therapy supplies and services, which are payable under the methodology set forth in this proposed rule. For home IV drug therapy services, the intermediaary will calculate payment at the lower of the total billed charges or the appropriate per diem fee schedule amount multiplied by the number of days covered by the bill.

We believe that this proposed basic fee schedule with allowances for special circumstances and costs would be equitable because it is based largely on information collected from the industry, data reported in medical journals, and consideration of current payment levels for similar Medicare benefits (for example, home health care, hospice services, and durable medical equipment). We believe that the amounts we are proposing are fair and equitable for efficient and economically-operated providers. Consequently, we expect that the proposed fee schedules would allow for adequate access to home IV drug therapy for Medicare beneficiaries. However, we are specifically seeking verifiable information on costs and practices that will be considered in determining final rules.

We recognize that, depending on their organizational structure, location, and patient mix, many entities that furnish home IV drug therapy may experience costs for individual services and supplies that are higher or lower than the amounts reflected in the fee schedules and additional allowances. However, the fee schedules should be viewed in terms of a comprehensive amount for a complete package of goods and services that all providers must be able to furnish, either directly or under arrangement, rather than as separate allowances for discrete items. Therefore, public comments that address the individual allowances in the context of the fee schedule as a whole rather than as discrete components will be particularly useful.

An itemization of the separate services and supplies contained in the proposed fee schedules, add-on allowances and the methodolgy we propose to use to calculate payment follow.

A. Pharmacy Services, Supplies, and Delivery

The proposed per diem fee schedule allowances for pharmacy services are the sum of the separate proposed per diem allowances for professional pharmacist services, pharmacy supplies, and delivery of home IV drugs and related supplies.

From our consultations with entities that currently furnish home IV drug therapy services, we learned that the intensity of pharmacy services is closely linked to the dosage requirements of the patient. In addition, much of the literature on personnel and supply costs associated with IV drugs and their administration focused on pharmacy time and motion studies to determine the cost of the preparation of a single dose of IV medication in a hospital. Therefore, we decided to construct the per diem fee schedules for pharmacy services on a cost per dose basis to the extent possible because we believe it best reflects the costs of recurring IV drug therapy services in the home setting. Further, to the extent possible, we wanted to avoid considering costs of any one-time or nonrecurring services that occur in preparation for patient discharge from the hospital.

We considered three principal data sources to obtain cost information concerning pharmacy services:

- A survey conducted by the American Society for Hospital Pharmacists of a sample of its members who are involved in the provision of home IV drug therapy services (the ASHP survey).
- A survey of hospital-based pharmacies published in 1988 by Eli Lilly and Company, a drug manufacturer, in which the surveyed pharmacies indicated the average total time spent on pharmacy services per dose (the Lilly survey).
- A collection of published time and motion studies of pharmacy services for inpatient hospital IV drug therapy (the time and motion studies).[2]

[2] The time and motion studies include the following four articles:

Continued

None of the data sources was perfectly reflective of the pharmacy services that would be furnished for patients living at home. However, after studying and comparing these data sources, we decided to use the Lilly survey as the data source for cost information on pharmacy services for the reasons that follow. A comparison of the findings of the three different data sources (the Lilly survey, the ASHP survey, and the time and motion studies) demonstrated that the Lilly survey struck a balance between the wide differences in time and cost values found in the other two data sources. Some of the reasons for the differences between the ASHPA and time and motion studies were readily apparent. For example, although the time and motion studies included information about the amount of time required for a pharmacist to prepare and dispense a single dose, these studies did not include information concerning clinical services. The ASHP survey measured the amount of a pharmacist's time required for clinical and distributive services on a per day basis, which reflects dosing requirements for patients on both single and multiple drug regimens. Since we had already decided to propose per diem fee schedules for pharmacy services based on per dose cost information, we were not able to use the ASHP survey information because we were unable to convert the ASHP per day cost information into cost information on a per dose basis.

In addition, because the ASHP survey focused on hospital patients who would be continuing IV drug therapy at home, this survey appears to include some services that are traditionally performed prior to hospital discharge and do not continue over the course of IV drug therapy provided in the home. Because the Lilly survey was not limited to patients who would continue to receive IV drug therapy after discharge from the hospital, the Lilly survey included fewer nonrecurring pharmacy services that are furnished just prior to discharge than did the ASHP survey. Other differences between the ASHP survey and the time and motion studies were not easily discernible.

Thus, the Lilly survey was the only data source that converted both clinical and distributive services into a single dose unit of measure based on time and motion analyses. Consequently, we decided to use the Lilly survey for cost information concerning pharmacy service.

1. Professional Pharmacist Services

The proposed per diem fee schedule allowance for pharmacy services is $9.18 for antibiotic therapy and $1.22 for pain management therapy. We calculated the payment based on the 1988 Lilly survey (described above) in which the surveyed pharmacies indicated that the average total time spent on pharmacist services per dose (including all clinical and distributive functions) was 7.0 minutes for small-volume parenterals (that is, IV drugs), excluding hyperalimentation and antineoplastic agents. The time value for clinical and distributive services associated with large-volume parenterals was 0.4 minutes. However, we were informed by entities that provide home IV drug therapy that large volume parenterals represent a nominal share of the pharmacy workload for home IV drug therapy. Therefore, we used the time value of 7 minutes as one of the factors to determine per dose costs for all covered home IV drugs.

We calculated a pharmacy service per dose cost of $3.67 for all drugs based on the product of this time value (that is, 7 minutes) and a total pharmacy cost of $31.49 per hour, which is based on an average adjusted hourly salary rate for a pharmacist of $19.86 and for a pharmacy technician of $8.09 plus employee benefits and overhead costs. Based on our discussion with hospital pharmacists and our review of literature, we concluded that the prevalent practice is to use pharmacy technicians to assist registered pharmacists in the preparation of IV drug products. For purposes of this proposed rule, we are estimating a blend of 75 percent pharmacist time and 25 percent technician time in preparing each dose. We are specifically seeking public comment on this issue.

To calculate the adjusted hourly salary rate for a pharmacist, we used a basic hourly salary for a pharmacist of $18.42 found in the 1988 Lilly Hospital Pharmacy Survey of hospital pharmacist salaries paid in 1987. We adjusted that 1987 base salary to 1989 levels by increasing it by the inflation factors used to update the 1987 and 1988 Medicare Part B reasonable charges for other nonphysician services subject to the inflation index charge limitation, that is, 3.7 percent and 4.0 percent, respectively. These computations resulted in an adjusted salary rate of $19.86. For calculating the adjusted hourly salary rate for a pharmacy technician, we used a basic hourly salary rate of $8.09. An hourly salary rate of $7.50 for pharmacy technicians was found in the 1988 Lilly Hospital Pharmacy Survey. We adjusted that 1987 base salary to 1989 levels in the same manner as we did for pharmacist salaries, that is, by increasing the base salary by the inflation factors used to update Medicare Part B reasonable charges for other nonphysician services subject to inflation-indexed charge limitation (3.7 percent for 1988 and 4.0 percent for 1989). This yields an adjusted hourly salary rate of $8.09 for a pharmacy technician. Applying the blend of 75 percent pharmacist time and 25 percent pharmacy technician time, our calculation yielded a blended hourly salary rate of $16.92, to which we applied a factor of 13.5 percent to reflect employee benefits such as medical and life insurance, Social Security taxes, and retirement benefits. This is the factor currently used by the Federal government to describe the ratio of benefits to salaries for Federal employees. The product of these two factors ($16.92 x 1.135) results in a total labor cost of $19.20 per hour.

We were unable to obtain data on pharmacist overhead costs specific to entities that furnish home IV drug therapy services. Limited information on overhead costs was available from a survey conducted for the State of Maryland Medicaid program of 1985 operational data for pharmacies located in that State. (This survey (which is titled "Survey of Pharmacy Operational Data in the State of Maryland") was conducted by Myers and Stauffer, CPA, Topeka, Kansas and is dated November 15, 1985.) These data, based on information reported by over 200 independent and chain pharmacies, showed that overhead costs equal 54 percent of labor costs per prescription.

We believe that home IV drug therapy providers have additional costs not borne by community pharmacies. The volatile nature of IV drug formulation (as discussed in detail in the proposed rule on the conditions of participation for home IV drug therapy providers) may require the acquisition and

Tanner, David J., "Cost Containment of Reconstituted Parenteral Antibiotics: Personnel and Supply Costs Associated with Preparation, Dispensing, and Administration", *Reviews of Infectious Diseases*, Vol. 6, Supp. 4, November–December 1984.

Eisenberg, John M., Koffer, Harris, and Finkler, Steven A., "Economic Analysis of a New Drug: Potential Savings in Hospital Operating Costs from the Use of a Once-Daily Regimen of a Parenteral Cephalosporin", *Reviews of Infectious Diseases*, Vol. 6, Supp. 4, November–December 1984.

Tanner, David J. and Nanatsue, Machie Q., "Cost Containment Associated with Decreased Parenteral Antibiotic Administration Fequencies", *American Journal of Medicine*, October 19, 1984.

Veterans Administration Pharmacy Service Study Group, "Variable Cost Per Dose of Preparing and Administering Small-Volume Cephalosporin Admixtures", *American Journal of Hospital Pharmacy*, Vol. 41, December 1984.

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maintenance of specialized equipment or services, such as laminar airflow hoods and medical waste disposal; the application of more stringent quality control measures; and the provision of emergency services 24 hours a day, 7 days per week. Additionally, we believe there is more likelihood of added cost due to product waste and complications resulting from home IV drugs than from other more traditional forms of outpatient medication (for example, oral or topical drugs) normally provided by community pharmacies. For these reasons, we have added a factor of 10 percent to take into account additional pharmacist overhead costs for home IV drugs. Therefore, the total overhead factor used is 64 percent. (We specifically invite public comment on the appropriate factor to be used for pharmacy services.) The product of this overhead factor and the hourly labor cost of $19.20 results in a total pharmacist cost of $31.49 per hour or $3.67 per dose ($31.49 × 7/60).

Due to the unavailability of relevant data, this proposed per diem fee schedule allowance would not include an adjustment for pharmacy labor costs based on geographic area (that is, urban or rural or State-to-State variations) wage differences. We are particularly interested in receiving public comment concerning the appropriate source and use of geographic wage indexes for making such an adjustment to pharmacist labor costs.

In terms of number of doses per day, we assume that patients on antibiotics would be receiving a drug intravenously an average of 2.5 times per day, for a total per diem cost of $9.18 ($3.67 per dose cost × 2.5 doses). This is consistent with the average number of doses per day as calculated in a study conducted by a large company that furnishes home IV drug therapy. We assume that pain management patients would either receive a drug intravenously on a continuous basis over a 72-hour period throughout the entire course of their therapy or use special pumps that contain 3 full days' supply of the drug. As a result, pharmacist costs for analgesics would be based on the preparation of one-third of a dose daily, for a total per diem of $1.22.

2. Pharmacy Supplies

We are proposing a per diem fee schedule allowance of $17.50 for pharmacy supplies for antibiotic therapy and $5.80 for pain management therapy. The cost information used in calculating this component of the fee schedule was obtained from various sources including published studies, entities that furnish home IV drug therapy, medical suppliers, and hospital pharmacies.

The proposed per diem fee schedule allowance reflects an average basic cost of pharmacy suplies of $7.00 per dose, adjusted for the cost of supplies necessary for pumps and similar infusion devices.

To determine the average basic cost of supplies per dose, we first considered the results of a 1982 hospital pharmacy study that was published in the "American Journal of Medicine [3]." That study, which included data from several hospitals of varying bed size, identified supplies associated with the preparation, dispensing, and administration of a single dose of IV antibiotic. The study determined that there was an average supply cost of $4.80 per dose, which is based on 1982 manufacturers' list prices less a 40 percent discount rate that the article reported to be widely available to small hospitals (that is, those hospitals with fewer than 200 beds). We adjusted the 1982 base amount of $4.80 to 1989 levels by increasing it by inflation factors used to update the Medicare Part B reasonable charges for other nonphysician services subject to the inflation index charge limitation. For those years prior to implementation of the index inflation charge (that is, 1983 through 1985) or for those years in which the inflation factor was not applied, the annual increase in the CPI–U, which is the basis of the inflation factor, was used. Those update factors are as follows:

ANNUAL UPDATE FACTOR

1983	1984	1985	1986	1987	1988	1989
7.1	2.6	4.2	3.8	1.8	3.7	4.0

This calculation results in a 1989 cost of $6.69 for the supplies listed in the article. For comparative purposes, we also consulted the 1988 catalog prices of a major medical supplier. Our computation showed that a package of similar supplies added up to $6.41 per single dose. Such a package includes: one syringe, one needle, sterile water, an IV administration set, a 100 ml minibag of 5 percent dextrose solution, alcohol swabs, and a heparin flush kit.

These estimates are supported by more recent cost information that has been obtained from additional sources, including manufacturers of medical supplies, entities that furnish home IV drug therapy, and published data. For example, a study of home IV drug therapy delivery systems that was published in "Hospitals [4]" indicated that the nondrug material and labor costs of delivering a single dose of an IV drug in a low-volume bag (50 ml to 100 ml) in a hospital setting is $5.18. (We did not use that figure because the article as published did not provide sufficient details, such as hospital size and an itemization of supplies used.)

Nonetheless, we recognize that there may be additional supply costs associated with home IV drug therapy that are not reflected in the Tanner and Nazarian study. Some of the factors that contribute to higher costs may be related to characteristics of the patient, the drug, or the home environment. For example, extra supplies such as IV extension tubing, saline flushes, and central line catheter clamps may be required due to safety considerations. In addition, since self-administering patients lack the proficient technique of skilled medical personnel, we expect there is heavier use of routine or miscellaneous IV supplies (such as needles and alcohol swabs) in the home setting. As a result, we rounded the $6.69 amount generated by the Tanner study to $7.00 per dose, which reflects an increase of approximately five percent. We note that this amount represents an increase of nearly 10 percent over the $6.41 per dose cost of similar supplies for which we found prices listed in a major manufacturer's catalog.

The basic $7.00 per dose estimate was adjusted for the costs associated with the supply kit required for ambulatory pumps necessary for delivery of home IV drug therapy, as discussed in detail in section II.C. of this preamble. We used a list price, which was published in "Pharmacy Practice News [5]," of $13.00 per administration set for pumps used for pain management patients to which we applied a 20 percent discount, which yielded a price of $10.40. We factored in this discount because, as discussed in section III.3.C. below, we learned from pump manufacturers that many pumps are regulary sold to home care agencies at a volume purchase price reflecting a markdown of 20 percent. To arrive at a per diem allowance, we assume, as indicated above, that an average of 2.5 doses per day would be prepared for patients receiving antibiotics and one-third dose per day for patients receiving pain management therapy. This results in a per diem pharmacy allowance (of $17.50 for antibiotic therapy ($7.00 × 2.5) and $5.80 for pain management ((($7.00 + $10.40) × .333).

[3] Tanner, David J. and Nazarian, Marita Q., "Cost Containment Associated with Decreased Parenteral Antibiotic Administration Frequencies", *American Journal of Medicine*, October 19, 1984.

[4] Amen, Ronald and Smith, Christine Foltyn, "Choose IV Delivery Systems Wisely", *Hospitals*, September 20, 1988.

[5] Chart on pp. 29–33, *Pharmacy Practive News*, July 1988.

3. Pharmacy Delivery

The proposed per diem fee schedule allowance for pharmacy delivery of all home IV drugs is $2.11 or, expressed in terms of trip costs, $10.56 per trip. Based on interviews with entities that furnish home IV drug therapy and our review of the literature in this field, we learned that drug deliveries generally are made once every 3 to 7 days depending on the shelf life of the drugs, which is often determined by the packaging method (for example, some mixtures are refrigerated and some mixtures are frozen). We propose to use as a basis for the fee schedule the midpoint of that range; that is, a 5-day delivery cycle for both antibiotics and analgesics.

In order to compute a proposed fee schedule allowance, we first calculated a per trip cost. The per trip cost estimate assumes that patients would reside an average distance of 20 miles from the home IV drug therapy provider. There were little or no data available on which to estimate the distance between patients' residences and home IV drug therapy providers. Limited demographic information was shared by an entity based in a metropolitan area that furnishes home IV drug therapy. It was the experience of that particular entity that its patients lived in either the same county in which the entity was located or in adjacent counties. As a result, we estimated that the average distance between patient and provider would be approximately 20 miles; we specifically invite public comment on the validity of this assumption.

We would expect that deliveries would be scheduled so that each trip would cover the needs of at least two patients. Thus, the per patient mileage for delivery would be 20 miles per round trip. We calculated an average round trip of 20 miles per patient at $.225 per mile (the current Federal mileage allowance for the use of personal vehicles), which would result in a total mileage cost of $4.50. We assume labor costs based on .5 hour driving time (20 miles traveled per round trip per patient at 40 miles per hour) using the average salary rate of $8.09 per hour for a pharmacy technician. The product of the average hourly rate of $8.09 and .5 hour driving time yields a total of $4.04 for direct labor costs.

As with pharmacy services, there were no data available on direct and overhead costs specific to drug delivery services. Unlike pharmacy services, however, delivery services do not require facility space for storage of drugs and supplies, quality control testing, and specialized equipment or services. Consequently, we concluded that the 64 percent overhead factor applied to pharmacy services would be excessive for drug delivery services.

After further consideration of the results produced by the survey of Maryland pharmacies (which indicated an overhead cost of 54 percent), as well as the overhead factor used for nursing services (see discussion below), we determined that an overhead factor of 50 percent would be reasonable. Therefore, we are proposing the use of a 50 percent overhead factor for delivery services and specifically invite comment on the appropriate factor to be applied. Use of the 50 percent factor would yield a total delivery cost per patient (that is, labor and overhead costs) of $10.56 per trip. Thus, the per diem cost of delivery for all covered drugs (delivery once every 5 days) would be $2.11.

B. Nursing Services and Supplies

The proposed fee schedule allowance for nursing services and supplies is $15.94 per diem or, expressed in terms of a nursing visit, $47.81 per visit. In determining the allowance for this component, we assumed that home visits would occur on an average of once every 3 days. The proposed Medicare conditions of participation for home IV drug therapy providers, which are the subject of a separate notice of proposed rulemaking, require that peripheral injection sites be rotated every 3 days to reduce the possibility of phlebitis. This policy reflects current standard practice among entities that furnish home IV drug therapy. While there is no absolute Medicare standard proposed for the frequently of nursing visits for monitoring central line injection sites, the results of our consultation with entities that furnish home IV drug therapy indicate that, although different costs might arise at different times, there are no material differences between the cost of nursing care for central line and peripheral line patients over the course of therapy. Therefore, we assumed a similar schedule of nursing visits for central line patients.

Our proposed allowance for nursing costs includes payment for time spent in direct patient care, travel time to and from the patient's home, mileage, an allowance for supplies, and an overhead rate for indirect labor and other costs. Labor costs associated with direct patient care and travel would be adjusted by the urban and rural wage indexes currently used in calculating the Medicare schedule of limits on home health agency (HHA) costs. (See 54 FR 27742; June 30, 1989.)

We were unable to locate annual salary data specific to IV-certified nurses to use as the basis for labor cost estimates. Although two entities that provide home IV drug therapy services cited total compensation levels of approximately $45,000, those levels largely represented salary and benefit costs for full-time nurses employed in supervisory or managerial positions rather than the cadre of nurses providing direct patient care in the home. These entities did not disclose information on compensation agreements with part-time nurses paid on a contractual or per visit basis. Other entities or health care organizations with whom we consulted cited nursing charges ranging from $30 to $80 per visit. In order to construct a nursing cost model, therefore, we referred to a national survey of nursing salaries itemized by specialty, which was published in "Modern Healthcare [6]." However, because there was no specialty clearly fitting the description of IV-certified nurse, we decided to use the home health specialty as the basis for the model.

For nursing services, we would use a 1988 annual wage of $27,700 for the home health specialty nurse based on the results of the "Modern Healthcare" survey, which we adjusted to 1989 levels by the same inflation factor we used for pharmacists and pharmacy technicians (that is, 4.0 percent) for a 1989 annual salary of $28,808. We then divided the inflation-adjusted salary of $28,808 by total net work hours per year. (Although there appears to be widespread use of part-time or "contract" nurses in home IV drug therapy care, we were unable to determine, on average, the ratio of part-time or contract to full-time nurses and its resulting effect on personnel compensation costs. To develop net work hours for nursing services, therefore, we are using an assumption of 6 weeks of combined vacation, sick leave, and time spent in training and other professional development, although the practice of paid leave is more traditionally associated with full-time employment.) Our computation for productive work hours is as follows: 52 weeks × 40 hours per week = 2,080 total annual paid hours. A total of 2,080 paid hours minus 240 hours for time away from work (that is, 6 weeks × 40 hours per week) = 1,840 net work hours.

[6] Cole, Ben S., and Sixing, Walt, "Cole Nurse Compensation", *Modern Healthcare*, December 1988.

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The resulting hourly salary rate for nursing care would be $15.66 (that is, $28,808 divided by 1,840 = $15.66).

In order to determine estimates for indirect or overhead costs associated with nursing care, we referred to the HHA input price index (or HHA market basket), which is used to generate the Medicare cost limits. The relative weights used in the market basket show that costs not related to wages and benefits (including such components as contract services, transportation, office costs, medical equipment and supplies, rent, utilities, and miscellaneous items) account for approximately 25 percent of the current HHA cost limits. (See 54 FR 27742; June 30, 1989.)

However, that ratio may be understated because HHA labor costs include general and administrative wages and benefits, which we are treating as overhead costs for purposes of determining the fee schedule allowances. In addition, we have reason to believe that home IV drug therapy services may generate a higher proportion of indirect costs due to the provision of emergency services 24 hours a day, 7 days a week and more stringent quality control requirements. We also note that, unlike home health services, which are paid on a per visit and, consequently, more open-ended basis, home IV drug therapy services are to be paid on a per diem basis (which is based on a typical schedule of a nursing visit every 3 days). In other words, home IV drug therapy nursing services are essentially capped. Therefore, we used an indirect costs factor of 50 percent to ensure that the per diem fee schedule fully provides for crisis care and other complications arising from the provision of home IV drug therapy, which involves the use of potentially dangerous drugs. Accordingly, we increased the hourly salary by an overhead factor of 50 percent to reflect indirect nursing-related costs, for an adjusted nursing services cost of $23.49 per hour.

We then gathered information on average nursing time spent in the home of an IV drug therapy patient from a number of sources including several entities that furnish home IV drug therapy, a national home care association, a review of nursing notes submitted by a home health care agency for purposes of requesting an exception to the home health cost limits, a health maintenance organization, and a professional nurses association. After comparing the information received from these different sources, we determined that a nursing visit averages approximately 30 minutes for assessing the patient and changing IV sites or dressings and 15 minutes for consultation and documentation. This would result in a total of 45 minutes of direct patient care. We estimated time spent in travel status to be 40 minutes between patients. Thus, the total period of time per nursing visit would be 85 minutes, which at $23.49 per hour, converts to a total nursing visit cost of $33.28, or $11.09 per day. We are assuming that the average mileage per patient is 20 miles with a travel time of 40 minutes. We assume that the average distance between the provider and the first patient to be visited and also the average distance between patients is 20 miles. (We do not expect the nurse to be making round trips to the provider's office between patient visits. We believe that 40 minutes travel time per patient is reasonable for both urban and rural areas.) We are specifically seeking comments and data about whether 40 travel time is appropriate for urban and rural areas. Thus, mileage payment for 20 miles at $.225 per mile (Federal mileage allowance) is $4.50 per visit, which, divided by 3 results in a per diem allowance of $1.50. An additional allowance associated with the nursing visit would be included for the cost of supplies that are related to nursing services rather than to pharmacy services, for example, an IV start kit with catheter, sterile dressings, gloves, bandages, thermometers, and an air elimination filter. Thus, the per diem fee schedule allowance for nursing services and supplies would be calculated by the following formula:

[(Patient care time × adjusted nursing cost per hour) + (Travel time × adjusted nursing cost per hour) + Mileage allowance + Nursing supplies] divided by 3 days = Per diem allowance for nursing services and supplies; or

$$\frac{(.75\times\$23.49)+(.667\times\$23.49)+\$4.50=\$10.04}{3}=\$15.95$$

As discussed above, the labor portion of the $15.95 per diem fee schedule allowance (that is, $11.09 or (($23.49 × 1.417) divided by 3)) would be adjusted by the HHA wage index.

C. Other Equipment

We are proposing a per diem fee schedule allowance of $.71 for other IV equipment for antibiotic therapy and $6.56 for pain management therapy. This allowance is for equipment that is not related to pharmacy or nursing services and has not already been taken into account through the allowances for those services. Therefore, this allowance would cover the costs of IV poles and two different types of electronic infusion devices (pumps or controllers). Our proposed allowance is based on assumptions concerning equipment use and patient mix as well as cost estimates of equipment based on manufacturers' list prices less an appropriate discount factor.

Equipment needs generally vary according to the particular drug therapy being furnished to a patient. There are two types of delivery systems used most frequently to administer IV drugs and other fluids to the patient: The gravity drip and the infusion pump. When the gravity drip is used, the equipment consists of an IV pole from which the administration set and IV bag are suspended.

Generally, a gravity drip is used for antibiotic therapy. However, since a gravity drip must be visually monitored to ensure it is working and occasionally restarted if it has stopped working, patient or caregiver physical limitations (for example, vision or dexterity problems) may necessitate the use of a pump. In addition, a patient with poor venous access may also need to use a pump instead of the gravity drip. Therefore, in developing the fee schedule for antibiotics, we estimate that 90 percent of all Medicare patients receiving antibiotics could use the basic gravity system, which uses only an IV pole, and the other 10 percent would need to use a pump. However, these patients' needs can be met with a relatively simple pump.

Patients receiving pain management therapy are treated with narcotic drugs whose use must be strictly controlled. A more specialized pump with a bolus feature is customarily used for these patients because it can be programmed to control daily dosage while permitting the patient to rapidly infuse preprogrammed incremental amounts of the drug to alleviate pain.

In discussions with pump manufacturers, we learned that many pumps are regularly sold to home care agencies at a volume price reflecting a markdown of 20 percent. The fee schedule allowance, therefore, reflects that same markdown factor for these devices.

In order to determine the cost of the various pumps, list price data and amortization guidelines were obtained from "Pharmacy Practice news," [7] a trade publication, and from several pump manufacturers. For purposes of developing the fee schedule, we have assumed that a pump has a useful life of 1 year and, thus, we amortized the daily cost of a pump over 1 year, that is, 365 days.

The average rental cost of an IV pole is $10.00 per month or $.33 per day. The relatively simply pump or similar device that would be used by Medicare patients receiving antibiotics is available at a net cost of $1,488 (list price of $1,860 minus the 20 percent markdown) or $4.08 per day. The pump with bolus feature is available at an average net cost of $2,398 (list price of $2,995) or $6.56 per day.

We are proposing to use a weighted average for the use of IV poles and a simple infusion pump based on the assumed patient mix (discussed above). Therefore, the per diem fee schedule allowance for other equipment would be calculated as follows:

Antibiotic therapy: 90 percent of patients receiving antibiotics × per diem cost for an IV drip pole + 10 percent of patients receiving antibiotics × per diem cost for a simple infusion pump = Per diem allowance of other equipment; or

(90%×$.33)+(10%×$4.08)=$.71.

Pain Management therapy: 100 percent of patients receiving pain management therapy × per diem cost of an ambulatory infusion pump = per diem allowance of other equipment; or

(100% × 6.56) = $6.56.

[7] *Pharmacy Practice News*, pp. 29-33.

D. Additional Allowances

Allowances for special costs to the home IV drug provider would be made in addition to the per diem fee schedule. The allowances would be paid in addition to the basic per diem fee schedule for the one-time costs for patient education and counseling, for the additional costs to the provider of a patient who receives a multiple IV drug regimen, and for the cost of a nursing visit associated with the first dose of any new drug added to the drug regime of an established patient.

1. Patient Education and Counseling

In the case of a patient who begins IV drug therapy as a hospital inpatient, we assume that thorough patient training in self-administration has been provided before hospital discharge. As a result, once the patient is discharged to his or her home, we would provide a lump sum allowance equivalent to the payment for two home nursing visits. The purpose of these visits is to insure that the home environment is satisfactory for IV drug therapy (for example, there must be a working refrigerator to keep the drugs and other fluids cooled before using), observe the first dose administered by the patient at home, reinforce prior IV therapy administration training, familiarize the patient with any new equipment (quite possibly the IV equipment is slightly different from that furnished in the hospital), and generally aid the patient in making the transition from IV drug therapy in the hospital to IV drug therapy in the home.

We expect that a patient who starts IV drug therapy in other than a inpatient hospital setting and who therefore has received no inpatient hospital training would need additional training in self-administration of IV drug therapy. As a result, we would provide a lump sum allowance reflecting payment for three nursing visits.

To calculate the appropriate allowance for these services, we would use the per diem allowance for nursing services, as discussed above in section III.B. of this preamble. However, since all these visits do not involve the use of nursing supplies, we have not included the cost of supplies (that is, $10.04) in this allowance. Therefore, the special adjustment would consist of the following one-time allowance (based on the cost of a nursing visit of $37.77) for self-administration training for a patient who began IV drug therapy:

- For a patient who began IV drug therapy as a hospital inpatient, ($37.77 × 2) or $ 75. 54.
- For a patient who began IV drug therapy other than as a hospital inpatient, ($37.77 × 3) or $113.31.

As is our policy for nursing services, the labor portion of this allowance would be adjusted by the HHA wage index.

2. Multiple IV Drug Regimen

We would provide a special allowance for pharmacist services, pharmacy supplies, and nursing services in those cases in which a patient is receiving more than one IV drug because we recognize that there are added personnel and supply costs associated with a multiple drug regimen. We note that a multiple drug regimen exists only when two or more specific drug therapies are prescribed. (For example, a patient is receiving two or more antibiotics or is receiving both antibiotics and analgesics.) Therefore, the following allowance does not apply when a patient is receiving hydration as an adjunct to another drug. For example, if a patient administers saline flushes before or after infusion of an IV antibiotic, that is not considered a multiple drug regimen because the flushes are administered incidental to the prescribed antibiotic. Similarly, the allowance does not apply when additives (for example, electrolytes) are introduced into the prescribed drug or diluent.

We believe that, except for supplies and equipment that are dosage dependent, the additional costs associated with a multiple drug regimen are marginal. For example, although pharmacy dispensing services would increase markedly, that workload would not be necessarily doubled nor would there be a significant increase in other distributive services. Similarly, additional pharmacist time would be spent in some, but not all, clinical services. Finally, additional drug deliveries should not be required.

For these reasons, we are setting the add-on allowance at 50 percent of pharmacy services, 100 percent of pharmacy supplies, and 100 percent of other equipment. This calculation results in an additional per diem allowance of $22.80 for antibiotic therapy and $12.97 for pain management therapy.

In those cases where a patient is receiving both antibiotic and pain management therapy, the antibiotic fee schedule is the fee schedule used as the base for the calculation of the add-on allowance. In other words, the add-on allowance for a patient both on antibiotic and pain management therapy is $22.80.

3. Nursing Visit For Initial Dose Due to Change in Prescription

We would also include a flat allowance of $18.89 (or 50 percent of the per visit allowance for nursing services less supplies) to cover the cost of a nursing visit associated with the first dose of any new covered home IV drug introduced into the drug regimen of an established patient. For safety reasons, many home IV drug therapy providers have established standard procedures requiring the first dose to be administered either by a physician or in a clinical setting.

The proposed conditions of participation for home IV drug therapy providers, which are set forth in a separate rulemaking document published in the Federal Register of September 7, 1989 (54 FR 37220), similarly requre that either a physician or nurse be persent at the administration of the initial dose. Physicians would directly bill Medicare Part B for their services. We believe that, on average, prescription changes would frequently coincide with the regularly scheduled nursing visit. We have, therefore, included an allowance equal to 50 percent of the cost, less supplies, of a nursing visit to the home when the home IV drug therapy provider sends a nurse

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to the home for the initial dose. This allowance of $18.89 would be paid only when a prescription change calls for a new drug to be added to the patient's drug regimen or for the substitution of a new drug for one already being used.

E. Updating the Fee Schedule

Section 1834(d)(2) of the Act requires the Secretary to establish the fee schedule, prior to its implementation, for each calendar year after 1990. To meet this requirement, we intend to periodically review the rates, and we will be considering ways the rates, once established, might be updated (that is, annually through the use of the percentage increase in the CPI–U or on the basis of other data gathered through cost surveys and studies or other sources).

The proposed per diem fee schedule allowances and add-on allowances set forth in this proposed rule have been adjusted for inflation only through 1988. The figure for 1990 will not be available until September of this year. Therefore, we intend to further adjust the allowances set forth in this document by the 1990 inflation factor as part of the final rule.

We recognize that, because this is a relatively new health care service, experience with home IV drug therapy is still growing. The introduction of new drugs and technology, improved safety practices, and greater awareness of the availability of such services are but some of the factors that could create changes and influence new trends in the delivery of home IV drug therapy. We expect that, as both Medicare and private sector experience grows, so will the availability of data. As a result, if in the future there is strong evidence of material change in the composition or costs of home IV drug therapy services, we would propose to modify the fee schedule to more accurately reflect those services or costs.

IV. Alternatives Considered

Instead of a separate per diem fee schedule for each of the two major drug therapies with additional allowances for special and one-time costs, we considered several alternatives that were subsequently rejected as discussed below.

A. Separate Fee Schedules Covering Different IV Lines

We considered establishing separate fee schedules with each one tailored to the type of venous access. We asked an association that represents entities that furnish home IV drug therapy for an assessment of the differences in the cost of services and supplies associated with patients who have the two different types of venous access: peripheral or central line.

After polling a cross section of their membership (that is, proprietary and not for profit entities, both urban and rural), the association reported results indicating that there was no significant difference overall. Anecdotal evidence furnished to the association suggested that, although different costs might arise at different points in time, there was no real disparity in costs over the full course of therapy. As a result, we rejected this alternative.

B. Single Per Diem Fee Schedule

We considered establishing a single fee schedule that would take into account estimated unit costs for labor and nonlabor resources, adjust those costs for the unique characteristics of individual drug therapies, and weigh the resulting per diem costs by the estimated patient mix, that is, the percentage of patients on a particular therapy.

However, in constructing the unit costs for each of the therapies, it became apparent that total costs for antibiotic therapy and pain management therapy are significantly different. As a result, the single fee schedule would have been especially sensitive to our assumptions for patient mix and would have increased the potential for adverse impact on a home IV provider whose case mix was not reflective of those assumptions. Therefore, we rejected this alternative.

C. Per Diem Fee Schedules that Incorporates Nonrecurring Costs and Multiple Drug Regimen

We considered incorporating the costs associated with nonrecurring services and multiple drug regimens in a per diem fee schedule, which would have eliminated the need for added allowances for special costs. However, in the case of nonrecurring costs, such a plan would have required developing estimates of the average length of therapy in order to arrive at a per diem allowance. Moreover, by spreading the cost over the duration of an average therapy, a per diem allowance for nonrecurring services would adversely affect providers in those cases where patients are placed in home IV therapy for relatively short periods of time.

In order to build the costs of multiple drug regimens into a per diem fee schedule, we would have had to develop assumptions regarding the universe of patients, who are receiving a given number of IV drugs. However, we found that there were insufficient data available on which to develop such assumptions. Therefore, we rejected this alternative.

D. Fee Schedule Based on Customary Home IV Drug Therapy Provider Charges

We considered establishing a fee schedule based on current charging practices of the entities that furnish home IV drug therapy. We rejected this alternative for two major reasons.

First, there were insufficient data to develop charge-based allowances for home IV drug therapy services. Our surveys of entities that furnish home IV drug therapy indicated that these entities customarily charge a global fee; that is, one amount for the total charges for drugs, supplies, and services. Although we asked several entities to separate the cost of the drugs from their total charges so that we could attempt to make the charges for services and supplies more analogous to the fee schedule methodology statutorily required for the Medicare program, only one of these entities that furnish home IV drug therapy was able or willing to provide this information.

Second, we believe that a charge-based fee schedule would result in excessive payment. For example, although there are substantial mark-downs in the prices for supplies and equipment widely available to home care agencies who purchase in large volumes, we received no indication from the entities that we contacted that they pass those decreased costs on to their patients. Instead we believe that the usual practice is for these entities to charge their patients the retail prices for supplies and equipment rather than the prices that the entities actually pay.

Moreover, it appears that customary charges for home IV drug therapy reflect a number of costs incurred while the patient is in the hospital, such as patient training and insurance verification. We believe these costs are incurred prior to hospital discharge and should not be shifted onto the charges for IV drug therapy services furnished in the home setting.

Finally, we have influenced in our decisions by the intent of Congress concerning excessive payment levels. In enacting Public Law 100–360, Congress specified in the Conference Report that "* * * Medicare payment would be the lower of the provider's actual charge or the fee schedule amount * * * [The Senate report had only required a fee schedule; the conferees later added the 'lower of' requirement.]" (H.R. Rep. No. 661, 100th Cong., 2nd Sess. 202 (1988).)

We also heeded Congress's intent as expressed in the conference report that we consider costs, charges, and payment rates for similar Medicare covered services. For example, the proposed fee schedule allowance for patient equipment are consistent with Medicare carrier allowances for IV poles and electronic infusion devices. The allowance for electronic devices reflects the 20 percent volume purchase discount traditionally offered to home care agencies by several pump manufacturers.

In determining the proposed per diem allowance for the nursing component, we first considered using the per visit cost limits for home health agencies as the model for home IV drug therapy providers. However, the home IV drug therapy providers with whom we met or consulted strongly expressed the view that the technically sophisticated services involved in home IV drug therapy are considerably different from traditional home health care services. To be as equitable as possible, therefore, we constructed an allowance for nursing services based on information garnered from entities that furnish home IV drug therapy, members of professional nursing associations, and a review of the literature on IV drug therapy. In our search for information from outside sources, we asked what a home IV nursing visit would typically require in terms of nursing tasks, time, and supplies. Other questions focused on nursing personnel, such as professional qualifications and salary or contractual payment levels.

For pharmacy services and supplies, there are no existing Medicare allowances. As a result, the discrete proposed allowances for pharmacy services, supplies, and delivery services were constructed from information collected from independent surveys conducted by pharmacy-related groups, published articles on pharmacy cost analyses and time and motion studies, inquiries to medical supply manufacturers, and interviews with entities that provide home IV drug therapy services.

Nonetheless, Congress expressed special caution on exclusive use of customary charges.

> * * * In establishing the fee schedule, the Secretary could consider cost information, charge information, and payment rates for similar items and services covered under Medicare * * * The conference agreement provides the Secretary with broad flexibility in establishing the fee schedule. The conferees expect that the Secretary will use this flexibility to establish a fee schedule which assures adequate access to services while preventing excessive payments. The conferees note that exclusive reliance on customary charges has previously resulted in excessive reimbursement levels for similar services * * * (H.R. Rep. No. 661, 100th Cong., 2nd Sess. 202 (1988)).

For these reasons, we decided against basing the fee schedule on current charging practices of home IV drug therapy providers.

V. Changes to the Regulations

The regulations implementing the provisions of sections 1834(d) (1) and (2) of the Act that provide for payment for home IV drug therapy services under the catastrophic drug benefit provisions would be located in subpart J (Payment for Home IV Drug Therapy Services) of a new part 414 (Payment for part B Medical and Other Health Services). We intend to issue a separate final rule to move the current sections on reasonable charges for part B services from part 405, subpart E to part 414. Other subparts will be added in separate documents as new provisions of the law are implemented through the usual rulemaking process.

VI. Regulatory Impact Statement

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. criteria for a "major rule"; that is, any rule that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all home IV providers are considered to be small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area.

We are not preparing a rural hospital impact statement because we have determined, and the Secretary certifies that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

The following discussion in combination with the discussion presented in the preamble constitutes a complete regulatory and flexibility analysis.

B. Objectives

Our explicit objective in establishing the fee schedules contained in this proposed rule is to provide adequate compensation to cover the average marginal costs (that is, the average cost of furnishing home IV drug therapy to one individual) of—

- Pharmacy services that include both clinical and distributive functions and supplies and equipment necessary for safe and effective IV therapy furnished in the patient's home;
- Nursing services required for setting up the IV lines and changing sites at prescribed intervals;
- Responding to emergencies;
- Monitoring the patient's progress and maintaining required patient records; and
- General administrative overhead.

A second objective we wish to promote through the proposed fee schedules is the efficient delivery of health services while, at the same time, ensuring that patients' safety and welfare are not compromised. On the one hand, by setting our payments for home IV drug therapy services at a level that approximates an efficient provider's costs, we hope to discourage wasteful spending on such items as office space or personnel when the need for these items or staffs cannot be justified economically. On the other hand, we are concerned that providers receive adequate compensation to cover their average marginal costs of providing high quality and effective care.

A third objective we hope to achieve is to maintain the structure and dynamics of the existing home IV drug therapy market. By designing the proposed fee schedules to meet the average marginal costs of established providers, we hope to maintain a position of neutrality with respect to the market. That is, we do not want to erect barriers to market entry, but neither do we want to create incentives for new providers to enter the market on the basis of the proposed fee schedules.

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C. Affected Entities

1. Home IV Providers

According to the Prudential-Bache study of the home infusion industry cited earlier in this document, there are about 80 to 100 different companies providing home IV drug therapy care in some 300 to 350 local markets.[7] Based on inquiries to HCFA and anectodal evidence, we anticipate that approximately 6,000 entities that currently furnish home IV drug therapy will request approval as Medicare home IV providers. While this appears to be a large number of providers, it may reflect the number of providers that have expressed some interest in becoming home IV drug therapy providers rather than the number of providers that will actually qualify or that will furnish services to Medicare patients. Nevertheless, inaugurating coverage of home IV drug therapy services for Medicare patients in 1990 should not materially affect the home IV drug therapy market because the fee schedules we are proposing are designed to cover only the marginal cost of patient care. This amount, we expect, would not be enough to cover start-up costs of a new provider. Thus, we do not foresee a rush of new entrants into the home IV drug therapy market for the exclusive purpose of serving Medicare patients.

We believe that decisions to enter the home IV drug therapy market or to treat Medicare patients will depend on the available capacity, patient referral patterns, contractual arrangements with hospitals, overall penetration into the home infusion market and a provider's marginal productivity. Of these factors, a provider's capacity to meet the demand for home IV drug therapy services from non-Medicare patients and its arrangements with a referring hospital may be the most important elements in the decision to treat a Medicare patient who meets the patient selection criteria. In markets where demand exceeds the supply of home IV providers, Medicare patients may have difficulty gaining access to home IV drug therapy services, while in markets where surplus capacity exists, home IV drug therapy providers may aggressively solicit Medicare patients.

The other factor that may weigh heavily in a home IV drug therapy provider's decision to accept Medicare patients is the overall referral pattern from hospitals in the provider's market. The Medicare hospital prospective payment system has generated substantial incentives for hospitals to discharge Medicare patients as early as possible. With coverage of home IV drug therapy services beginning January 1990, hospitals will be eager to discharge patients that meet the patient selection criteria for home IV drug therapy. As discussed above, market conditions and the amount of excess capacity home IV drug therapy providers have will probably determine how likely they will be to accept Medicare patients. In markets where the excess home IV drug therapy service capacity is low, hospitals are likely to employ a variety of strategies to induce home IV drug therapy providers to accept Medicare patients.

2. Hospitals

Coverage of home IV drug therapy services and the establishment of the proposed fee schedules may affect hosptials in two ways. The first way, as suggested above, is to permit hospitals to discharge patients requiring continuing IV drug therapy to their homes rather than keeping them in the hospital. This will relieve some of the financial pressures on hospitals. In most markets, we believe that home IV drug therapy providers have sufficient capacity now to make placement of Medicare patients with a home IV drug therapy provider easy. However, in some markets, and possibly in the future, high demand for placement of patients with home IV drug therapy providers may make placement of Medicare patients more difficult. In markets of high demand and low excess capacity, as mentioned above, hospitals may offer home IV drug therapy providers financial incentives to gain access for their discharged patients requiring IV drug therapy. If hospitals adopt such strategies in order to reduce lengths of stay, their savings would be reduced. Hospitals would have to carefully weigh the benefits of early discharges to a home IV drug therapy provider against the cost of offering the provider inducements to accepting their patients.

The second major consequence the proposed fee schedules may have for some hospitals is to stimulate their entry into the home IV drug therapy market. Of all the types of provider that may enter the home IV drug therapy market, hospitals have resources available to them that may give them advantages over other types of providers. Generally, hosptials have pharmacy facilities that would meet the pharmacy requirements for home IV drug therapy provider certification; and, because of the volume of IV drugs utilized in the inpatient and outpatient settings, hospitals may be able to purchase IV drugs for home use at lower prices than many freestanding home IV drug therapy providers. Hospitals also employ nurses qualified to start IVs and to handle emergencies associated with IV drug therapy. Depending on the number of IV trained nurses on staff, arrangements could be made to rotate nurses to the home IV drug therapy provider without increasing labor costs.

Another advantage hospitals may have over other providers is the potential to control patient supply and demand. By vertically integrating the home IV drug therapy provider with the hospital, the hospital may be able to economize on its marketing costs and administrative costs. Furthermore, with some assurance of a minimum number of referrals from the parent hospital, the hospital-based home IV drug therapy provider could seek referrals from outside sources during periods of low demand and dedicate more resources to the parent hospitals during periods of high demand.

From the attending physician's standpoint, an integrated hospital-based home IV drug therapy provider may offer the physician certain material and psychological benefits not available in patient care were transferred to an entirely separate provider after discharge. Since physicians, as a matter of routine, may visit the hospital several times a week, they may have frequent opportunities to review patients' records and have personal contact with the nursing staff responsible for the patients' care. The opportunity to maintain on-going contact with the personnel caring for their patients following discharge may offer physicians a sense of control they may lack if they have only occasional contact with staff at a freestanding home IV drug therapy provider.

Although we believe that some hospitals may be in a better position to enter the home IV drug therapy market than other types of providers in similar markets, we would not expect a hospital to enter the home IV drug therapy market solely on the basis of the new Medicare benefit. We believe it would make sense for a hospital to enter the market only if it believes that it could capture a sufficient portion of the non-Medicare business to warrant entry into the market. The probability of market entry would increase if the hospital had experience in the postdischarge segement of the market, for example through operating a hospital-based HHA.

[7] *Prudential-Bache, p. 34.*

3. HHAs and Durable Medical Equipment (DME) Suppliers

As in the case of hospitals, it seems highly unlikely that Medicare coverage of home IV drug therapy services and the establishment of the proposed home IV drug therapy fee schedules by themselves would result in any significant changes in home IV drug therapy market structure for HHAs and DME suppliers. The decision to enter the home IV drug therapy market will largely depend on each organization's assessment of its ability to reach an adequate share of the non-Medicare market. At most, we see the introduction of the Medicare home IV drug therapy benefit and fee schedules as tipping the balance in one direction or another in an organization's decision to enter the home IV drug therapy market.

Generally, HHAs and DME suppliers may already furnish some but not all of the services Medicare would require a certified home IV drug therapy provider to furnish. For example, an HHA may employ or contract with registered nurses trained to administer IV medication but not with pharmacists. A DME supplier may regularly furnish infusion pumps and other equipment necessary for home IV drug therapy but not employ or contract with either registered nurses qualified to administer IV drugs or pharmacists. In either case, the decision to enter the home IV drug therapy market will depend largely, we believe, on the organization's ability to acquire, either directly or under arrangement, the services it does not now furnish. Also, we believe, the decision to acquire these services will be considered primarily in terms of the non-Medicare market and only secondarily in terms of the Medicare market.

D. Program Costs

We estimate that in 1990, approximately 65,000 Medicare beneficiaries will meet the patient selection criteria for home IV drug therapy. Of these, we estimate that 87 percent will be continuing IV drug therapy begun in the hospital. Further, we anticipate that about 60 percent of the patients will be receiving medication for the management of pain and the remaining patients will be receiving antibiotics. Using data from Table 2 of the Prudential-Bache study [8] as a starting point and adjusting for differences between the Medicare population and the population sampled in the study, we expect that patients will undergo pain management therapy for an average of 60 days. Patients receiving antibiotic therapy are expected to require an average of 30 days of home IV therapy. We anticipate that in calendar year 1990 about 2.3 million patient days would be for patients receiving pain management therapy and 780,000 patient days would be for patients receiving antibiotic therapy.

In addition to these assumptions about the Medicare home IV patient population, we estimate that about 25 percent of the patients receiving pain therapy in conjunction with chemotherapy (which, would not be covered as a home IV drug therapy benefit) will repeat their treatment within 1 year of receiving the initial home IV drug therapy. Also, we estimate that about 25 percent of Medicare home IV drug therapy patients will require multiple drug therapy and about 10 percent of Medicare home IV drug therapy patients will need an additional nursing visit as a result of a change in the patient's prescription.

Based on the foregoing assessment of the Medicare home IV drug therapy population, we project that Medicare program payments for home IV services, as we proposed them in the document, would result in the following costs over the next 5 fiscal years, beginning January 1, 1990:

MEDICARE PROGRAM PAYMENTS FOR HOME IV DRUG THERAPY SERVICES BASED ON THE PROPOSED FEE SCHEDULES

[In millions]*

FY 1990	FY 1991	FY 1992	FY 1993	FY 1994
$80	$140	$160	$190	$220

*Rounded to the nearest $10 million.

[8] *Prudential-Bache, p. 19.*

E. Conclusion

The proposed fee schedules, we believe, would offer home IV drug therapy providers sufficient compensation to cover the marginal costs of treating Medicare patients. However, the introduction of home IV drug therapy for Medicare patients and these proposed fee schedules should have little effect on the current structure of the market.

VII. Other Required Information

A. Paperwork Burden

This proposed rule would not impose information collection requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

B. Public Comment

Several other proposals concerning drugs and home IV drug therapy services under Public Law 100-360 were published on September 7 and September 8, 1989. Each provided for a 60-day public comment period. To coordinate the receipt of public comments on these documents with the receipt of public comments on this proposed rule, we are extending the due date for receipt of public comments on those proposals to January 8, 1990, in a document published in the Notices section of this issue of the Federal Register.

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date specified in the "Dates" section of this preamble, and we will respond to the comments in the preamble of the final rule.

List of Subjects in 42 CFR Part 414

Catastropic outpatient drug benefit, Health supplies, Medicare.

A new 42 CFR part 414 would be added as set forth below:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

Subpart A-I—[Reserved]

Subpart J—Payment for Home Intravenous (IV) Drug Therapy Services

Sec.
414.550 Basis and scope.
414.554 Determination of amount payable.
414.558 Calculation of per diem fee schedule allowances for calendar year 1990.
414.560 Calculation of additional allowances for calendar year 1990.
414.562 Calculation of per diem fee schedule and additional allowances for calendar years after 1990.

Authority: Secs. 1102, 1834(d), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395m(d), and 1395hh).

Subpart A-I—[Reserved]

Subpart J—Payment for Home Intravenous IV Drug Therapy Services

§ 414.550 Basis and scope.

(a) *Statutory basis.* This subpart is based on sections 1834(d) (1) and (2) of the Act which, respectively—

(1) Provide that payment for home IV drug therapy services is the lesser of the actual charges or a fee schedule amount; and

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(2) Require the Secretary to establish by regulation a per diem fee schedule for these services.

(b) *Scope.* This subpart sets forth the

(3) A per diem cost of preparation is calculated for each type of drug by multiplying the per dose cost for the drug by the average number of doses per

(4) A per visit cost for travel is calculated by multiplying the estimated average mileage per visit by the Federal mileage allowance.

allowance is made for nursing services related to one nursing visit for the initial dose when a prescription change introduces an additional covered home

20301-3062. Please cite DAR Case 88-142 in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT:

and conditions applying to future contracts for repairs, alternations, and/or additions to vessels and (2) contemplates separate future contracts

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(2) Require the Secretary to establish by regulation a per diem fee schedule for these services.

(b) *Scope.* This subpart sets forth the methodology used to determine the per diem fee schedule amount for home IV drug therapy services, which are covered under Medicare beginning on January 1, 1990.

§ 414.554 Determination of amount payable.

(a) *General rule.* Medicare payment for home IV drug therapy services as defined in § 410.203 of this chapter, is made at 100 percent of the lesser of—

(1) The actual charge; or

(2) The applicable per diem fee schedule amount and any applicable additional allowances determined under this subpart.

(b) *Separate fee schedules.* Two separate fee schedule amounts are calculated; one for pain management drug therapy and one for antibiotic and other drug therapies.

(c) *Basis for calculating fee schedule amounts.* The applicable fee schedule amount for each type of drug therapy is the per diem allowance for each of the home IV drug therapy service components plus, as appropriate, additional allowances applicable in special circumstances.

(d) *Service components.* HCFA calculates a per diem fee schedule allowance for each of the following:

(1) Pharmacy services.
(2) Pharmacy supplies.
(3) Pharmacy delivery.
(4) Nursing services and supplies.
(5) Other equipment.

(e) *Special circumstances.* HCFA calculates additional allowances for each of the following:

(1) Patient education and counseling at the time IV drug therapy begins in the home.
(2) Multiple IV drug regimen.
(3) New drug introduced into existing drug regimen.

§ 414.558 Calculation of per diem fee schedule allowances for calendar year 1990.

(a) *Pharmacy services.* (1) An average hourly pharmacy rate is calculated by weighting an average hourly pharmacist rate based on direct and indirect costs and an average hourly pharmacy technician rate based on direct and indirect costs by the estimated time spent by each in drug preparation.

(2) A per dose cost of preparation is calculated for each type of drug by multiplying the average time spent in preparing the drug and evaluating patient outcome by the average hourly pharmacy rate.

(3) A per diem cost of preparation is calculated for each type of drug by multiplying the per dose cost for the drug by the average number of doses per day.

(4) The per diem allowance for pharmacy services for each type of drug therapy is equal to the per diem cost of preparing that type of drug.

(b) *Pharmacy supplies.* (1) A per dose cost of pharmacy supplies for each type of drug therapy is calculated by adding the cost of all supplies needed for that type of therapy.

(2) A per diem cost of pharmacy supplies for each type of drug therapy is calculated by multiplying the per dose cost by the average number of doses per day.

(3) The per diem allowance for pharmacy supplies for each type of drug therapy is equal to the per diem cost for supplies for that type of drug therapy.

(c) *Pharmacy delivery.* (1) A per trip nonlabor cost of delivery of drugs is calculated by multiplying the estimated average mileage per trip by the Federal mileage allowance divided by the estimated average number of deliveries per trip.

(2) A per trip labor cost of delivery of drugs is calculated by multiplying the estimated average travel time for each delivery by an average hourly salary rate for a delivery person based on direct and indirect costs.

(3) A per diem cost of delivery for each type of drug is calculated by adding the per trip nonlabor and labor costs and multiplying the result by the estimated number of trips per day for each type of drug.

(4) The per diem allowance for pharmacy delivery for each type of drug therapy is equal to the per diem cost of delivery for that type of drug therapy.

(d) *Nursing services and supplies.* (1) A per visit cost for patient care time is calculated by multiplying the average number of hours spent with a patient in each visit by the average hourly salary for a nurse based on direct and indirect costs.

(2) A per visit cost for travel time is calculated by multiplying the average travel time per patient by the average hourly salary for a nurse based on direct and indirect costs.

(3) The per visit costs calculated in paragraphs (d)(1) and (d)(2) of this section are adjusted for area differences in wage levels by a factor (established by HCFA) reflecting the relative home health agency wage level in the geographic area of the home IV drug therapy provider compared to the national average home health agency wage level.

(4) A per visit cost for travel is calculated by multiplying the estimated average mileage per visit by the Federal mileage allowance.

(5) A per visit cost of nursing supplies is calculated by adding the cost of supplies used in each visit.

(6) The per diem allowance for nursing services is calculated by adding the separate adjusted per visit costs for direct patient care time and travel time and the per visit costs for travel and nursing supplies and dividing by the average number of days between visits.

(e) *Other equipment.* The per diem allowance for other equipment is the separate per diem cost of the equipment not related to either pharmacy or nursing services calculated for each type of drug therapy by dividing the cost of the equipment necessary for the therapy by the average useful life of the equipment.

§ 414.560 Calculation of additional allowances for calendar year 1990.

(a) *Patient education and counseling at the time IV drug therapy begins in the home.* The amount of the allowance depends on whether the patient had begun IV drug therapy as a hospital inpatient.

(1) *Patient begins IV drug therapy while a hospital inpatient.* If the patient begins IV drug therapy as a hospital inpatient, the allowance is equal to two times the per visit cost for nursing services as a calculation by adding the per visit costs determined in § 414.588 (d)(1) through (d)(4).

(2) *Patient begins IV drug therapy outside the hospital inpatient setting.* If the patient begins IV drug therapy in any setting other than that of a hospital inpatient, the allowance is equal to three times the per visit cost for nursing services as calculated by adding the per visit costs determined in § 414.558 (d)(1) through (d)(4).

(b) *Multiple IV drug regimen.* A per diem allowance is made for the additional pharmacy services and supplies, nursing services, and other equipment needed for a patient who receives concurrently more than one IV drug. The per diem allowance is equal to the sum of the following: (1) 50 percent of the applicable per diem allowance for pharmacy services as calculated in § 414.558(a). (2) 100 percent of the applicable per diem allowance for pharmacy supplies as calculated in § 414.558(b). (3) 100 percent of the applicable per diem allowance for other equipment as calculated in § 414.558(e).

(c) *Nursing services for initial dose of new drug introduced into the drug regimen*—(1) *Applicability.* This allowance is made for nursing services related to one nursing visit for the initial dose when a prescription change introduces an additional covered home IV drug to the patient's drug regimen or substitutes a new covered home IV drug for one already being used.

(2) *Amount.* This allowance is equal to 50 percent of the per visit costs for nursing services as calculated by adding the per visit costs determined in § 414.558 (d)(1) through (d)(4).

§ 414.562 Calculation of per diem fee schedule and additional allowances for calendar years after 1990.

The per diem fee schedule and additional allowances for calendar years after 1990 are periodically recalculated to take into account increases in costs of nursing and pharmacy services, supplies, and delivery, and other equipment.

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 26, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

Approved: November 3, 1989.

Louis W. Sullivan,

Secretary.

[FR Doc. 89-26380 Filed 11-6-89; 10:35 am]
BILLING CODE 4120-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 217 and 252

Department of Defense Federal Acquisition Regulation Supplement; Master Agreements for Repair and Alteration of Vessels

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering proposed revisions to DFARS parts 217 and 252 to update the list of clauses that are required for Master Agreements for Repair and Alteration of Vessels.

DATE: Comments on proposed changes should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below on or before January 5, 1990, to be considered in the formulation of the final rule.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, Attn: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(P&L)(M&RS), room 3D139, The Pentagon, Washington, DC 20301-3062. Please cite DAR Case 88-142 in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS part 217 is revised to require the contracting officer to determine those FAR/DFARS clauses applicable to each Agreement. The coverage has been revised to retain only those clauses unique to Master Agreements for Repair and Alteration of Vessels. In addition, coverage is provided to require annual review of the clauses under each Agreement.

B. Regulatory Flexibility Act

The proposed rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments for small entities concerning the affected Subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 88-610 in correspondence.

C. Paperwork Reduction Act

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Parts 217 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR parts 217 and 252 be amended as follows:

1. The authority citation for 48 CFR parts 217 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 217—SPECIAL CONTRACTING METHODS

2.-3. Section 217.7101 is revised to read as follows:

217.7101 Descriptions.

(a) Master Agreement for Repair and Alteration of Vessels—A Master Agreement is a written instrument of understanding, negotiated between a contracting activity and a contractor, that (1) contains contract clauses, terms, and conditions applying to future contracts for repairs, alterations, and/or additions to vessels and (2) contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the Master Agreement. A Master Agreement is not a contract.

(b) Job Order—A job order is a fixed price contract incorporating by reference or attachment a Master Agreement for Repair and Alteration of Vessels. The job order applies to a specific acquisition and sets forth the scope of work, price, delivery date, and other appropriate terms that apply to the particular job order. The Master Agreement is incorporated into the job order by specific reference or by attachment. The job order may include clauses pertaining to subjects not covered by the Master Agreement, but applicable to the job order being awarded.

4. Section 217.7103-1 is revised to read as follows:

217.7103-1 Content and format.

The Master Agreements shall contain all clauses required by 217.7104, Statute, Executive Order, and regulations. The format set forth below may be adapted to fit specific circumstances.

Master Agreement for Repair and Alteration of Vessels

This AGREEMENT is entered into this _____ day of _____ 19___ by The UNITED STATES OF AMERICA, hereinafter called the "Government," represented by the Contracting Officer,

—, _____

and —, _____

a corporation organized and existing under the laws of the State of —, hereinafter called the "Contractor." The clauses of the Federal Acquisition Regulation (FAR) and the Department of Defense (DoD) FAR Supplement, as set forth herein, have been agreed upon by the parties hereto for use in solicitations and/or Job Orders to effect repairs, alterations, and/or additions to vessels, issued by the Government from time to time under this Agreement. The clauses set forth in this Agreement shall be incorporated in each job order awarded pursuant to this Agreement. _____

This Agreement may be cancelled by either party upon thirty (30) days written notice without affecting rights and liabilities under any job order existing at the time of cancellation; *Provided, however,* that the Contractor shall perform and complete under the terms hereof all work covered by any job order entered into hereunder prior to the effective date of cancellation, as such job order may be modified by any change order issued under the clause entitled *Changes,* hereof.

This Agreement may be modified only by mutual agreement of the parties. However,

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the Government has the right to cancel this Agreement upon thirty (30) days written notice at any time the parties fail to agree upon any modification to this Agreement which is required by statute, Executive Order, the Federal Acquisition Regulation, or the DoD FAR Supplement. A modification of this Agreement shall not affect any job order in existence at the time of modification, unless the parties so agree.

The rights and obligations of the parties to this Agreement shall be subject to and governed by the provisions of this Agreement and the provisions of job orders issued hereunder. To the extent of any inconsistency between this Agreement and any job order, the provisions of this Agreement shall govern.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE UNITED STATES OF AMERICA

By _____

(Contracting Officer)

_____

(Contractor)

By _____

(Title)

217.7103-2 [Amended]

5. Section 217.7103-2 is amended by changing in the first sentence, the word *"Provided"* to read *"provided"*; and by removing in the last sentence the words "for Repair and Alternation of Vessels".

6. Section 217.7103-3 is revised to read as follows:

217.7103-3 Solicitations for job orders.

(a) When a requirement arises for the type of work covered by the Master Agreement within the United States, its possessions or Puerto Rico, offers will be solicited from prospective contractors which have previously executed a Master Agreement and from prospective contractors which posses the necessary qualifications to perform the work and agree to execute a Master Agreement before award of a job order.

(b) The contracting officer shall ensure that solicitations are prepared in the Uniform Contract Format and in accordance with FAR subpart 14.2 or subpart 15.4, as applicable. When ever the Government solicits offers for the repair, completion, alteration of or addition to a vessel, the contracting officer shall notify the contractor (1) of the nature of the work to be performed, (2) the date the vessel will be available to the contractor, (3) the date of the work is to be completed, and (4) if bulk ammunition is aboard the vessel. Unless the notice otherwise states, offers shall be submitted based on performance at the contractor's site.

(c) Solicitations processed under negotiated acquisition procedures shall require proposals to include a breakdown of the price in such form and supported by such reasonable detail as the contracting officer may request, but in any case indicating at a minimum the amount proposed for (1) direct labor, (2) material, (3) overhead, and (4) profit.

(d) Potential offerors shall be afforded an opportunity to inspect the item needing repair or alteration where practicable.

7. Section 217.7103-4 is revised to read as follows:

217.7103-4 Preaward survey.

A preaward survey of the contractor's operations, including any analysis of the contractor's proposed subcontractors, may be conducted to insure the adequacy and suitability of facilities, including safety standards and adequacy of fire protection, adequacy of facilities for the health, comfort, and welfare of the crew of the vessel, and adequate plant protection to safeguard the vessel and Government property.

8. Section 217.7103-5 is revised to read as follows:

217.7103-5 Award of a job order.

After the receipt and evaluation of offers and selection of the contractor, the price for the work and other pertinent data shall be set forth in a job order. Under sealed bid procedures, job orders signed by only the contracting officer constitute an award. Job orders awarded under negotiated acquisition procedures must be signed by both parties the contractor and returned to the contracting officer.

9. Section 217.7103-6 is revised to read as follows:

217.7103-6 Emergency work

Under the following circumstances, the contracting officer, without soliciting offers, may issue a written order for work to a contractor who has previously executed a Master Agreement (a) when a vessel, its cargo, or stores would be endangered by delay in the performance of necessary repair work, or (b) when military necessity requires immediate work on a vessel. As soon as practicable after the issuance of such an order, the parties are required by the Master Agreement to negotiate a price. Upon completing negotiations, the contracting officer will issue a job order. This type of undefinitized contract action shall be processed in accordance with 217.75.

10. Section 217.7103-8 is revised to read as follows:

217.7103-8 Modification of master agreements for repair and alteration of vessels.

Each Master Agreement shall be reviewed annually before the anniversary of its effective date and revised as necessary to conform to the requirements of the Federal Acquisition and this regulation. Mater Agreements may need to be reviewed and revised sooner for mandatory and statutory changes. A Master Agreement shall be changed only by modifying the Agreement itself and not by job orders. Modifying a Master Agreement shall not retroactively affect job orders previously issued.

11. Section 217.7104 is revised to read as follows:

217.7104 Contract clauses.

(a) The contracting officer shall incorporate by reference the following clauses in solicitations for, and in, Master Agreements for Repair and Alteration of Vessels:

(1) 252.217-7100, Changes.

(2) 252.217-7101, Job Orders and Compensation.

(3) 252.217-7102, Inspection and Manner of Doing Work.

(4) 252.217-7103, Title.

(5) 252.217-7104, Payments.

(6) 252.217-7105, Bonds.

(7) 252.217-7106, Default.

(8) 252.217-7107, Performance.

(9) 252.217-7108, Access to Vessel.

(10) 252.217-7109, Liability and Insurance.

(11) 252.217-7110, Guarantees.

(12) 252.217-7111, Discharge of Liens.

(13) 252.217-7112, Department of Labor Safety and Health for Ship Repairing.

(14) Any other clauses required by the FAR, this regulation, statute, or executive order.

(b) The contracting officer shall incorporate by reference the following clauses, as applicable, in solicitations for, and in, Master Agreements for Repair and Alteration of Vessels:

(1) 252.217-7200, Plant Protection.

(2) 252.217-7201, Identification of Sources of Supply.

(3) Any other clauses applicable per the FAR, this regulation, statute, or executive order.

(c) The contracting officer shall incorporate in solicitations for, and in, job orders the clauses in the Master Agreement (see (a) above and those clauses (b) above) applicable to the job order. The contracting officer may include clauses in job orders pertaining to subjects not covered by the Master Agreement, but applicable to the contract being negotiated, in the same manner as if there were no Master Agreement.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.217-7100 [Removed]

12. Section 252.217-7100 is removed.

252.217-7101 [Redesignated as 252.217.7100 and Amended]

13. Section 252.217-7101 is redesignated as 252.217-7100 and the newly designated section is amended by subtracting in the penultimate sentence of the clause the words "the clause entitled Disputes" in lieu of the words "clause 252.217-7114 entitled "Disputes hereof".

252.217-7102 [Removed]

14. Section 252.217-7102 is removed.

252.217-7103 [Redesignated as 252.217-7101 and Amended]

15. Section 252.217-7103 is redesignated as 252.217-7101 and the newly designated section is amended by substituting in the penultimate sentence of paragraph (b) of the clause the words "the clause" in lieu of the words "clause 252.217-7111'; and by substituting in the penultimate sentence of paragraph (c) of the clause the words "the Disputes clause" in lieu of the words "Clause 252.217-7111".

252.217-7104 [Redesignated as 252.217-7102 and Amended]

16. Section 252.217-7104 is redesignated as 552.217-7102 and the newly designated section is amended by substituting in paragraph (a) of the clause the words "the clause" in lieu of the words "Clause 252.217-7101"; by substituting in the second sentence of paragraph (c) of the clause the words "the clause" in lieu of the words "Clause 252.2167-7130"; and by substituting in the penultimate sentence of paragraph (e) of the clause the words "the clause entitled "GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)" in lieu of the words "Clause 252.217-7218 entitled 'GOVERNMENT PROPERTY' ".

252.217-7105 [Redesignated as 252.217-7103]

17. Section 252.217-7105 is redesignated as 252.217-7103.

252.217-7106 [Redesignated as 252.217-7104 and Amended]

18. Section 252.217-7106 is redesignated as 252.217-7104 and the newly designated section is amended by substituting in the first sentence of paragraph (c) of the clause the words "the clause" in lieu of the words "Clause 252.217-7101" and enclosing the word "CHANGES" in quotation marks; by substituting in paragraph (c)(i) of the clause the words "the CHANGES clause hereof" in lieu of the words "clause 252.217-7101 entitled CHANGES"; by substituting in paragraph (c)(ii) of the clause the words "the CHANGES clause" in lieu of the words "Clause 252.217-7101 entitled CHANGES"; and substituting in paragraph (e) of the clause the words "the clause entitled 'TITLE' " in lieu of the words "Clause 252.217-7105 entitled TITLE".

252.217-7107 [Removed]

19. Section 252.217-7107 is removed.

252.217-7108 [Redesignated as 252.217-7105]

20. Section 252.217-7108 is redesignated as 252.217-7105.

252.217-7109 [Removed]

21. Section 252.217-7109 is removed.

252.217-7110 [Redesignated as 252.217-7106 and Amended]

22. Section 252.217-7110 is redesignated as 252.217-7106 and the newly designated section is amended by substituting in the last sentence of paragraph (d) of the clause the words "the clause entitled "DISPUTES" in lieu of the words "clause 252.217-7111 entitled DISPUTES hereof"; by substituting in the last sentence of paragraph (e) of the clause the words "under this contract" in lieu of the words "252.217-7120 hereof" and enclosing the words "TERMINATION FOR CONVENIENCE OF THE GOVERNMENT" in quotation marks; and by substituting in the last sentence of paragraph (f) of the clause the words "the DISPUTES clause" in lieu of the words "Clause 252.217-7111 entitled DISPUTES".

252.217-7111 [Removed]

23. Section 252.217-7111 is removed.

252.217-7112 [Redesignated as 252.217-7107 and Amended]

24. Section 252.217-7112 is redesignated as 252.217-7107 and the newly designated section is amended by substituting in the last sentence of paragraph (a) of the clause the words "the clause" in lieu of the words "clause 252.217-7103" and enclosing the words "JOB ORDERS AND COMPENSATION" in quotation marks; by substituting in paragraph (c) (ii) of the clause the words "the clause" in lieu of the words "clause 252.217-7218" and enclosing the words "GOVERNMENT PROPERTY" in quotation marks; and by substituting in paragraph (d) of the clause the words "the GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) clause" in lieu of the words "clause 252.217-7218 entitled GOVERNMENT PROPERTY".

252.217-7113 [Redesignated as 252.217-7108]

25. Section 252.217-7113 is redesignated as 252.217-7108.

252.217-7114 through 252.217-7123 [Removed]

26. Sections 252.217-7114 through 252.217-7123 are removed.

252.217-7124 [Redesignated as 252.217-7109]

27. Section 252.217-7124 is redesignated as 252.217-7109.

252.217-7125 through 252.217-7129 [Removed]

28. Sections 252.217-7125 through 252.217-7129 are removed.

252.217-7130 [Redesignated from 252.217-7110 and Amended]

29. Section 252.217-7130 is redesignated as 252.217-7110 and the newly designated section is amended by substituting in the fourth sentence of the clause the words "the clause" in lieu of the words "clause 252.217-7124"; and by substituting in the last sentence of the clause the words "the clause" in lieu of the words "Clause 252.217-7111" and removing the word "hereof" at the end of the same sentence.

252.217-7131 [Redesignated as 252.217-7111]

30. Section 252.217-7131 is redesignated as 252.217-7111.

252.217-7132 [Redesignated as 252.217-7112]

31. Section 252.217-7132 is redesignated as 252.217-7112.

252.217-7200 through 252.217-7268 [Removed]

32. Sections 252.217-7200 through 252.217-7268 are removed.

252.217-7269 [Redesignated as 252.217-7200

33. Section 252.217-7269 is redesignated as 252.217-7200.

252.217-7270 [Redesignated as 252.217-7201 and Amended]

34. Section 252.217-7270 is redesignated as 252.217-7201 and the newly designated section is amended by changing the reference in the introductory paragraph to read "217.7104(b)" in lieu of the "217.7204(c)".

[FR Doc. 89-26009 Filed 11-7-89; 8:45 am]

BILLING CODE 3810-01-M

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Extension of Public Comment Period on Proposed Rule To Determine the Pallid Sturgeon To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: Notice is hereby given that the Fish and Wildlife Service (Service) is reopening the public comment period on the Service's proposal to list the pallid sturgeon as an endangered species. The pallid sturgeon is a large fish known only to occur in the Missouri River, the Mississippi River downstream of the Missouri River, and the lower Yellowstone River. The comment period is being reopened for a month to grant commenters additional time to prepare and submit comments.

DATES: The comment period is reopened November 8, 1989. The comment period, which originally closed on October 30, 1989, now closes on November 30, 1989.

ADDRESSES: Comments and materials concerning the Service's proposal to list the pallid sturgeon as an endangered species should be sent to the Missouri River Coordinator, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, P.O. Box 986, Pierre, South Dakota 57501. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Kent D. Keenlyne, Missouri River Coordinator, at the above address, telephone (605) 224-8693.

SUPPLEMENTARY INFORMATION:

Background

The Service proposed to list the pallid sturgeon (*Scaphirhynchus albus*) as an endangered species on August 30, 1989 (54 FR 35901). The species is threatened through habitat modification and apparent lack of reproduction. Numbers of fish reported have declined dramatically in the last two decades. Past commercial utilization likely exceeded biological recruitment. Pollution may be a problem over much of its range, and significant hybridization has been documented. Listing would provide protection for the preservation of the species.

Since publication of the proposed rulemaking, some parties have since requested an extension of the comment period to allow further public input. The Service finds that extending the public comment period will benefit the rulemaking process and, hence, issues this notice. Written comments may be submitted until November 30, 1989, to the Service office in the ADDRESSES section.

Authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Author

The primary author of this notice is Nancy Chu, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, FTS 776-7398 or comm. (303) 236-7398.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Dated: November 2, 1989.

Galen L. Buterbaugh,

Regional Director.

[FR Doc. 89-26256 Filed 11-7-89; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 54, No. 215

Wednesday, November 8, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Re-establishment of the Agribusiness Promotion Council

Notice is hereby given that the Agribusiness Promotion Council will be re-established for a two-year term.

The purpose of the Council will be to increase the involvement of the U.S. private sector in the agricultural and agribusiness development process in Caribbean Basin beneficiary countries by providing expertise and promoting business opportunities. This Council will serve an essential function. Re-establishment of this Council is in the public interest in connection with the performance of the duties and responsibilities of USDA.

Written comments may be submitted to Joan S. Wallace, Administrator, USDA/OICD, Washington, DC 20250-4300, until November 24, 1989. Additional information may be obtained by contacting Joan S. Wallace, Administrator, USDA/OICD, Washington, DC 20250-4300, telephone (202) 653-7973.

Dated: November 2, 1989.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 89-26250 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-43-M

Commodity Credit Corporation

Proposed Determinations Regarding Support Prices for Pulled Wool and Mohair for the 1990 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: This notice sets forth certain proposed determinations concerning the price support levels for pulled wool and mohair for the 1990 marketing year. These determinations are required to be made pursuant to the National Wool Act of 1954, as amended.

EFFECTIVE DATE: Comments must be received on or before December 26, 1989, in order to be assured of consideration.

ADDRESS: Mail comments to Bruce R. Weber, Director, Commodity Analysis Division, USDA-ASCS, room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, Agricultural Economist, Commodity Analysis Division, USDA-ASCS, room 3760, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447-6734. A Preliminary Regulatory Impact Analysis has been prepared and is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major." It has been determined that these proposed determinations will result in an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that the Commodity Credit Corporation (CCC) publish a notice of proposed rulemaking in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The title and number of the Federal assistance program to which this notice applies are: National Wool Act Payments, 10.059, as found in the Catalog of Federal Domestic Assistance.

Section 703(a) of the National Wool Act of 1954, as amended ("Wool Act"), provides that the Secretary of Agriculture shall support the prices of wool and mohair to producers by means of loans, purchases, payments, or other operations. The Secretary of Agriculture has determined that the prices of wool and mohair will be supported for the 1986 to 1990 marketing years by means of payments to producers (51 FR 28852, August 12, 1986).

Section 703(b) of the Wool Act provides that the level of support for shorn wool for each of the marketing years 1982 through 1987 and marketing year 1990 shall be 77.5 percent and, for marketing years 1988 and 1989, 76.4 percent of an amount which is determined by multiplying 62 cents (the support price in 1965) by the ratio of: (1) The average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the calendar year in which such support price is being determined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent.

Based on current reported parity indices, the calculation for the 1990 shorn wool support price (grease basis) is as follows:

(1) Average parity index, calendar years 1988-1988:	
1958-1093	
1967-1110	
1968-1167	
3370 divided by 3	1123.3
(2) Average parity index, calendar years 1958-1960	297.3
(3) Ratio of 1123.3 to 297.3	3.7783
(4) 3.7783 × 62 cents per pound (1965 support price)	$2.3425
(5) 77.5% × $2.3425	$1.8154
(6) $1.8154 rounded to nearest full cent	$1.82

Section 703(c) of the Wool Act provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary of

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Agriculture determines will maintain normal marketing practices for pulled wool, and as the Secretary determines is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Section 703(c) further provides that the support price for mohair must be within a range of 15 per centum above or below the comparable percentage of parity at which shorn wool is supported.

The Wool Act provides that the Secretary shall establish and announce, to the extent practicable, support price levels for wool and mohair sufficiently in advance of each marketing year, as will permit producers to plan their production for such marketing year. Accordingly, the following methods for calculating the support prices for pulled wool and mohair for the 1990 marketing year are being proposed. Comments with respect to the following proposed determinations must be received by December 26, 1989 in order to allow the Secretary an adequate period to consider the comments before making the price support decisions.

Proposed Determinations

A. Support Price—Pulled Wool

The support price for pulled wool for the 1990 marketing year cannot be determined until the 1990 national average market price for shorn wool is calculated, which will occur by April 1991. It is proposed that the method for caculating the support price for pulled wool shall be as follows: Once the national average market price for shorn wool is determined, the support price for pulled wool will be determined by taking 80 percent of the difference between the 1990 support price for shorn wool and the 1990 national average market price for shorn wool, multiplied by 5 pounds (the amount of wool pulled from the pelt of an average 100-pound unshorn lamb). Historically, this formula has provided equitable support for pulled wool relative to shorn wool and has helped to maintain normal marketing practices for pulled wool.

B. Support Price—Mohair

It is proposed that the support price for mohair for the 1990 marketing year shall be determined based on the October 1989 parity prices for mohair and shorn wool. The following percentages are being considered in the final computation of the mohair support price:

(1) 85 percent of the percent of parity at which shorn wool is supported.

(2) A percentage equal to the percent of parity at which shorn wool is supported.

(3) 115 percent of the percent of parity at which shorn wool is supported.

Interested persons are encouraged to comment on the proposed method of calculation for payments on pulled wool and the proposed levels of price support for mohair. Consideration will be given to any data, views and recommendations which are submitted with respect to the above items.

The support programs conducted pursuant to the Wool Act are subject to the provisions of the Balanced Budget and Deficit Reduction Act of 1985, as amended. As a result, the program support levels announced in this notice may be recalculated to comply with this Act.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).

Signed at Washington, DC on November 2, 1989.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-26324 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-05-M

Federal Grain Inspection Service

Diatomaceous Earth

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Request for public comment.

SUMMARY: The Federal Grain Inspection Service (FGIS) requests public comment on the need to test grain for the presence of diatomaceous earth (DE) and, when positively identified, not grade the grain "U.S. Sample grade," the lowest designated grade level, but rather state that the grain contains DE.

DATE: Comments must be submitted on or before January 8, 1990.

ADDRESSES: Comments must be submitted in writing to Lewis Lebakken, Jr., Resources Management Division, USDA, FGIS, Room 0628 South Building, P.O. Box 96454, Washington, DC, 20090–6454. Alternatively, telemail users may respond to (IRSTAFF/FGIS/USDA) telemail; telex users may respond to Lewis Lebakken, Jr., TLX: 7607351, ANS:FGIS UC; and telecopy users may send responses to the automatic telecopier machine at (202) 447–4628.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address same as above, telephone 92020 475–3428.

SUPPLEMENTARY INFORMATION: According to the Official United States Standards for Grain, grain containing an unknown foreign substance is graded "U.S. Sample grade." Further, grain that is obviously of inferior quality because it is in an unusual state or condition and that cannot be graded properly by use of other grading factors provided in the standards is considered "distinctly low quality" and also graded "U.S. Sample grade." Inspectors may grade grain containing DE as "U.S. Sample grade" either due to the presence of an unknown foreign substance or due to an unusual condition.

DE consists of siliceous skeletons of unicellular plants of the algae family which are recognized by the complex structure of their cell walls. Individual diatoms are generally less than 1/100 inch in size; thus requiring microscopic examination for positive identification. DE is a natural insecticide and is used to control insects in grain. When used on grain, DE usually appears as a light gray or white dust. When applied at very low levels, DE may not be readily visible on grain but the texture of the grain may feel coarse compared to grain for which DE was not applied. For these reasons, it is not possible to readily differentiate DE from potentially toxic substances.

When added to wheat as an insecticide, DE influences the physical properties of wheat. The degree of influence is governed, in part, based on the level of application. Test weight per bushel, a measurement used by many millers as a general indicator of quality or end-product yield, is often reduced with the addition of DE. Further, grain flowability is reduced which influences the efficiency of handling grain.

The Environmental Protection Agency has registered as an insecticide several brand names of DE. The Food and Drug Administration (FDA) has also addressed DE in its regulations (CFR title 21, chapter 1, parts 182, 193, 561, and 573). FDA recognizes DE as safe when used as described, as an indirect food additive and in feed and drinking water of animals.

A health concern regarding DE relates to the small amount of crystalline silica (less than 3 percent) occurring in DE. The Encyclopedia of Occupational Health and Safety issued by the International Labor Office in Geneva, Switzerland notes that DE contains some crystalline silica which: (1) Is a health hazard by inhalation, (2) is a possible carcinogen for humans, and (3) causes silicosis, a noncancerous lung disease. The International Agency for Research on Cancer of the World Health Organization has classified crystalline silica as probably carcinogenic for humans.

FGIS has received requests from grain processors and distributors of DE requesting that FGIS not grade grain "U.S. Sample grade" when it contains DE. In response to these requests, FGIS, is requesting comments on the need for an inspection procedure that would permit an applicant for inspection to request that grain be tested for DE and graded without regard to the presence of DE. If such a request was not made, the grain would continue to be graded according to current procedures.

In general, if such an inspection policy is considered desirable, inspection procedures would be revised to allow an applicant for inspection to request the microscopic examination for DE through the official agency or FGIS field office responsible for providing inspection services in the subject geographic area. The request would be required prior to, or at the same time, as, a request for official inspection. Upon receipt of the request for examination, the official agency or FGIS field office would send a sample of the involved grain to an FGIS laboratory capable of testing for the presence of DE.

The testing laboratory would examine the same for DE using a standard laboratory procedure. Copies of the procedure would be available upon request from FGIS. Upon completion of the examination, the testing laboratory would notify the official agency or FGIS field office of the results by the most expedient method. An appropriate fee to cover testing costs would be developed for this service if this procedure is adopted.

If the examination determines that DE is present in the sample, the grain would be graded without regard to the presence of DE, and a statement would appear on the official inspection certificate indicating that the grain contains DE. If it is determined that the grain does not contain DE but some other unknown foreign substance, the grain would be considered "U.S. Sample grade" in accordance with the official U.S. Standards for Grain.

(Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et. seq.*))

Dated: November 2, 1989.

W. Kirk Miller,

Administrator.

[FR Doc. 89-26353 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

North Fork of Mokelumne Wild and Scenic River Study; Correction

AGENCY: Forest Service, USDA.

ACTION: Correction to the North Fork of the Mokelumne Wild and Scenic River Study, FR, Vol. 54, No. 112, June 13, 1989, page 25145.

SUMMARY: The paragraph identifying Paul F. Barker, Regional Forester, Pacific Southwest Region, San Francisco, California as the responsible official is replaced by "The Secretary of Agriculture is the responsible official." The last sentence, "That decision will be subject to appeal under 36 CFR 217" is removed. Footnote 1 is removed.

Dated: October 30, 1989.

Jerald N. Hutchins,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 89-26345 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-11-M

Eldorado National Forest, CA; Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: After completion of a study on impacts to the Pacific Deer Herd, currently being completed by the Forest Service in conjunction with the California Department of Fish and Game, the Forest Service will prepare an environmental impact statement (EIS) for management of OHV use in the Rock Creek area, Eldorado National Forest, Georgetown Ranger District, El Dorado County, California. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments about the analysis may be submitted now. Further information on the timing of the EIS will be released once the study is completed.

ADDRESS: Submit written comments and suggestions about the analysis to Raymond LaBoa, District Ranger, Georgetown Ranger Station, Eldorado National Forest, 7600 Wentworth Springs Road, Georgetown, California 95634.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Raymond LaBoa, District Ranger, Georgetown Ranger Station, Eldorado National Forest, 7600 Wentworth Springs Road, Georgetown, California 95634, phone 916–333–4312.

SUPPLEMENTARY INFORMATION: In preparing the EIS, the Forest Service will identify and consider a range of alternatives for OHV management in the Rock Creek area. One of these alternatives is no action. Other alternatives will consider varying degrees of OHV use in the area.

Public participation will be especially important at several points throughout the environmental analysis process. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.
3. Determining the proper interdisciplinary team.
4. Determining the effective use of time and money in conducting the analysis.
5. Identifying the potential environmental, technical, and social impacts of the alternatives.
6. Determining potential cooperating agencies.
7. Identifying groups of individuals interested or affected by the decision.

Raymond LaBoa, District Ranger, Georgetown Ranger Station, is the responsible official.

The draft EIS will be filed with the Environmental Protection Agency (EPA) and become available for public review sometime after the study on impacts to the Pacific Deer Herd is completed. At that time, the EPA will publish a notice of availability of the draft EIS in the Federal Register.

The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the Federal Register. It is very important that those interested in OHV management in the Rock Creek area participate at that time. Comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental

review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.*

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local,

Louisiana, 71302, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this

Contact Person: Guale D. Owens, Confidential Assistant, Minority Business Development Agency, Department of Commerce, 14th & Constitution Avenue, NW., Washington,

provided for in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated average margins are shown in the "Continuation of Suspension of

Also included within the scope of this investigation are parts of drafting machines classified under HTS 9017.90.00. Parts include, but are not limited to, horizontal and vertical tracks,

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review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stages may be waived if not raised until after completion of the final EIS, *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period on the draft EIS ends, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. In the final EIS, the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments; responses; environmental consequences discussed in the draft EIS; and applicable laws, regulations, and policies in making a decision. The responsible official will document the decision and reasons for the decision in the Record of Decision. The decision is subject to appeal pursuant to 36 CFR 217.

Dated: October 30, 1989.

Jerald N. Hutchins,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 89-26346 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Orange Cove Watershed, CA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guideline (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture; gives notice that an environmental impact statement is being prepared for Orange Cove Watershed, Fresno, Tulare and Kings Counties, California.

FOR FURTHER INFORMATION CONTACT: Pearlie S. Reed, State Conservationist, Soil Conservation Service, 2121-C Second Street, Suite 102, Davis, California, 95616, Telephone (916) 449-2861.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Pearlie S. Reed, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns flood prevention. Alternatives under consideration include channel enlargement and diversion of flood waters. Other alternatives that may be considered are: floodways, dams, floodproofing and flood easements.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction or interest in the preparation of the draft environmental impact statement. Further information on the proposed action, or future meetings may be obtained from Pearlie S. Reed, State Conservationist, at the above address or telephone (916) 449-2861.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10-904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: October 27, 1989.

Pearlie S. Reed,

State Conservationist.

[FR Doc. 89-26302 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-16-M

Sicily Island Watershed, Louisiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service, U.S. Department of Agriculture gives notice that an Environmental Impact Statement is not being prepared for the Sicily Island Watershed, Catahoula Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana, 71302, telephone (318) 473-7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Horace J. Austin, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include financial assistance and accelerated technical assistance for installation of land treatment on 3,240 acres of critically eroding cropland and 31 acres of critically eroding abandoned gravel pits in forestland.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy request at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Horace J. Austin.

No administrative action on implementation of the proposal will be taken until thirty (30) days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: October 27, 1989.

Horace J. Austin,

Acting State Conservationist.

[FR Doc. 89-26277 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Meeting; Minority Enterprise Development Advisory Council

The Department of Commerce announces the following meeting:

Name: Minority Enterprise Development Advisory Council.

Date and Time: November 27, 1989—9:00 a.m. to 4:00 p.m., November 28, 1989—9:00 a.m. to 3:00 p.m.

Place: Department of Commerce, Room 4830, 14th & Constitution Avenue NW., Washington, DC 20230.

Contact Person: Guale D. Owens, Confidential Assistant, Minority Business Development Agency, Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230, (202) 377-5061.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: Preliminary administrative meeting.

Agenda: Administrative requirements of serving on Council, e.g. expense reimbursement, role of Council members, etc. Open Meeting—limited seating—anyone wishing to attend please call prior to meeting.

Kenneth E. Bolton,

Director.

[FR Doc. 89-26278 Filed 11-7-89; 8:45 am]

BILLING CODE 3510-21-M

International Trade Administration

[A-588-811]

Final Determination of Sales at Less Than Fair Value: Drafting Machines and Parts Thereof From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that drafting machines and parts thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of drafting machines and parts thereof from Japan as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Mark Wells or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3798 or (202) 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that drafting machines and parts thereof from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided for in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On August 18, 1989, we made an affirmative preliminary determination (54 FR 35363, August 25, 1989).

Interested parties submitted comments for the record in their case briefs dated October 2, 1989 and petitioner submitted a rebuttal brief dated October 10, 1989. No public hearing was held.

Period of Investigation

The period of investigation (POI) is November 1, 1988 through April 30, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is now classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of this investigation.

The products covered by this investigation include drafting machines and parts thereof from Japan, currently classifiable under the Harmonized Tariff Schedule sub-headings 9017.10.00, and 9017.90.00. Prior to January 1, 1989, such merchandise was classified under item 710.8025 of the Tariff Schedules of the United States Annotated (TSUSA).

The scope of this investigation includes drafting machines that are finished, unfinished, assembled, or unassembled, and drafting machine kits. For purposes of this investigation, "drafting machine" refers to "track" or "elbow-type" drafting machines used by designers, engineers, architects, layout artists, and others. Drafting machines are devices for aligning scales (or rulers) at a variety of angles anywhere on a drawing surface, generally a drafting board. A protractor head allows angles to be read and set and lines to be drawn. The machine is generally clamped to the board. Both "track" and "elbow-type" drafting machines are classified under HTS 9017.10.00.

Also included within the scope of this investigation are parts of drafting machines classified under HTS 9017.90.00. Parts include, but are not limited to, horizontal and vertical tracks, parts of horizontal and vertical tracks, band and pulley mechanisms, parts of band and pulley mechanisms, protractor heads, and parts of protractor heads, destined for use in drafting machines. Accessories, such as parallel rulers, lamps and scales are not subject to this investigation.

Such or Similar Comparisons

Pursuant to section771(16), we established two categories of "such or similar" merchandise: (1) Track drafting machines and (2) elbow-type drafting machines.

Product comparisons for track and elbow-type drafting machines were based on information submitted in the petition.

Fair Value Comparisons

To determine whether sales of drafting machines and parts thereof from Japan to the United States we made at less than fair value, we compared the United States price to the foreign market value. For our preliminary determination, we used the best information available, as required by section 776(c) of the Act, because respondent declined to participate in this investigation. For the final determination were are again using best information available as required by section 776(c) of the Act.

Since the prices contained in the petition were not expressly identified as in effect throughout 1988, the Department of Commerce used 1987 prices and an inflation factor based on price data from the petition over a thirty-four month period (January 1985-October 1987) to arrive at an adjusted 1988 list price for each model. We made deductions from the adjusted 1988 list price for a sales discount to unrelated dealers, U.S. warehousing fees, and U.S. Customs duties to arrive at an adjusted United States price for each model.

The Department's calculation of foreign market value was based on November 1988 list prices in Japan converted to U.S. dollars using an average daily yen per dollar exchange rate for the month of November 1988 (see Currency Conversion section of this notice). Deductions from the 1988 list prices were made for a sales discount to unrelated dealers and a difference in merchandise adjustment for Japanese models that include a scale balancer.

For this final determination, we took the highest margin for each such or

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similar category of merchandise and calculated a simple average of the values to determine the margin for Mutoh Industries and the All Other rate.

United States Price

United States price was based on the U.S. price information provided in the petition as described above.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition as described above.

Currency Conversion

In our preliminary determination, the Department used the 131 yen to the dollar exchange rate specified in the petition.

In our final determination, the Department has converted Mutoh's home market list prices using an average daily yen per dollar exchange rate of 123.139 for the month of November 1988. This exchange rate is more contemporaneous with the U.S. price data used in our margin calculations.

Interested Party Comments

Comment 1

Petitioner (Vemco Corporation) contends that the Department, in its preliminary determination, should have calculated United States price based on the price data contained in the petition. Petitioner argues that the list prices provided in the petition were in effect from October 1987 through the date of filing of the petition and that the Department should not have adjusted the data to account for inflation. In addition, in its October 2, 1989 case brief, petitioner also provided testimony from the ITC hearing which indicated that respondent did not raise its U.S. prices until April 10, 1989.

DOC Position

As best information for this final determination, we have used the prices contained in the petition, as adjusted and used in our initiation and preliminary determination. The prices contained in the petition were not expressly identified as in effect throughout 1988. The ITC testimony also does not conclusively state that respondent's prices remained constant during this period. Therefore, we have not altered our methodology in this regard for the final determination.

Comment 2

Respondent argues that the Department should have used a two percent rather than a one percent difference in merchandise adjustment for home market models that have a scale balancer. In addition, respondent indicates that a difference in merchandise adjustment should have been made for rail extensions and two scales, both of which are included on every drafting machine sold in the home market.

Petitioner contends that the Department properly adjusted the list prices for differences in merchandise because the petition calculated a merchandise difference of "2 percent of cost or 1 percent of list."

Regarding respondent's claims for difference in merchandise adjustments for rail extensions and scales, petitioner argues that respondent, in deciding not to respond to the Department's questionnaire, forfeited all opportunity to submit information in support of these claimed adjustments.

DOC Position

As best information available, the Department utilized the difference in merchandise adjustment provided in the petition, which is 1 percent of list price for scale balancers. There is no information on the record, including the petition, pertaining to rail extensions and scales.

Comment 3

Respondent argues that the U.S. Customs duty adjustment should have been based on respondent's U.S. wholesale prices rather than respondent's adjusted 1988 U.S. list prices.

Petitioner contends that the Department was reasonable in basing the adjustment for U.S. Customs duty on list prices, because the list prices were actual, known prices.

DOC Position

In the preliminary determination, we based the U.S. Customs duty adjustment on respondent's adjusted 1988 list prices. For our final determination, we have calculated the duty adjustment based on respondent's adjusted 1988 list prices less a sales discount to U.S. dealers. We believe that the discounted price more closely approximates the customs value on which the actual duty was based.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation under section 733(d) of the Act, of all entries of drafting machines and parts thereof from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after August 25, 1988, the date of publication of the preliminary determination in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Japan exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The estimated less than fair value margins are shown below:

Manufacturer/Producer/Exporter	Margin Percentage
Mutoh Industries, Ltd. (Mutoh)	90.87
All others	90.87

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, pursuant to section 735(c)(1) of the Act, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC has 45 days from this final determination to determine whether or not material injury exists, or if threat of material injury exists. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on drafting machines and parts thereof from Japan entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26275 Filed 11-7-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-501]

Photo Albums and Filler Pages From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty Administrative review.

SUMMARY: On June 22, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on photo albums and filler pages from the Republic of Korea. The review covers twenty-four purported manufacturers and/or exporters and five third-country resellers of this merchandise to the United States and the period July 16, 1985 through November 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The final results of this review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On June 22, 1989, the department of Commerce ("the Department") published in the Federal Register (54 FR 26227) the preliminary results of its administrative review of the antidumping duty order on photo albums and filler pages from the Republic of Korea (50 FR 51273, December 16, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by this review are shipments of photo albums and photo album filler pages from the Republic of Korea. During the review period, such merchandise was classifiable under item 256.60, 256.87, 256.90 or 744.55 of the Tariff Schedules of the United States. This merchandise is currently classifiable under HTS item 3920, 3921, 3926.90, 4819.50, 4820.50, 4820.90 or 4823.90. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers twenty-four purported manufacturers/exporters and five third-country resellers and the period July 16, 1985 through November 30, 1986.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments or requests for a hearing. The final results of the review are the same as those presented in the preliminary results of the review and we determine that the following margins exist for companies covered by our September 21, 1987 notice of initiation:

Manufacturer/Exporter/Third-Country reseller	Margin (percent)
Ace Trading	64.81
Ahjun	64.81
Bowon [1]	(1)
Chungwoo	64.81
Costco	[2] 64.81
Daechun Silup	64.81
Daejin/Dong In	64.81
Deho	64.81
Dong In/Zhinham	64.81
Eun Jeong Trading	64.81
G.I. Corp.	64.81
Gyeongjin	64.81
Hankook Trading	64.81
Hisnsang	64.81
Honey Stationery	64.81
J & C International	64.81
Korea Trading Int'l	64.81
Lee Tung	64.81
Metro Ind.	64.81
Nam Doo Trading	64.81
Scandecor	64.81
Seoul General Stationery	64.81
Sinhan Trading	64.81
Sooter Studios	64.81
Sung Ill	64.81
Sungshim	64.81
Tradepower	64.81
Universal	64.81

[1] No shipments during the period. Not a known manufacturers or exporter.

[2] All shipments during the period were reimports not to be assessed additional antidumping duties.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

As provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for shipments from these firms. For any shipments from the remaining known manufacturers, exporters, and third-country resellers not covered by this review, the cash deposit will continue to be at the rate for each of those firms published in the final results of the latest administrative review covering the firm (54 FR 13399, April 3, 1989), or the antidumping duty order (50 FR 51273, December 16, 1985) if a review covering the firm has not been conducted. For any future entires of this merchandise from a new exporter, whose first shipments occurred after November 30, 1988 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 8.37 percent shall be required.

These cash deposit requirements are effective for all shipments of Korean photo albums and filler pages entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until the final results of the next administrative review.

As indicated in our notice of preliminary results, based on information that shipments of photo albums and filler pages from certain third countries may be merchandise of Korean origin for antidumping duty purposes, the Department requested the Customs Service to extend liquidation of entries of photo albums and filler pages exported from, or purported to be merchandise of, Taiwan, Singapore or Malaysia, and entries of photo albums and filler pages exported from Hong Kong but purported to be merchandise of another country. We requested information from certain firms in Taiwan, Singapore, Malaysia and Hong Kong to help us identify entries of Korean merchandise subject to the antidumping duty order. Certain firms listed in the notice of preliminary results as being nonresponsive or providing inadequate information have since provided adequate information. The firms listed below, however, have not responded or have failed to provide adequate information. Therefore, as best information available, we will regard all photo albums and filler pages exported, or purported to be manufactured, by these firms as products of Korea for antidumping duty purposes and will instruct the Customs Service to suspend liquidation of entries of such photo albums and filler pages and to collect cash deposits of estimated antidumping duties of 64.81 percent for all such entries. This deposit requirement is effective on the date of publication of this notice for the following firms:

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Taiwan

B & P Ind.
Burt & Co.
Four Star Int'l Trading
Golden Ship
Linphant
Sovereign Enterprise

Hong Kong

Blossom Co.
Blossom Industrial Co.
Cowley Distributors
Great China Ind.
Lauender
Perfect Ind.
Preneba
The Sincere Ind.
Wing Shing Vinyl
Wiseman Plastic

Singapore

Accord Mfg.
Cornerfree
Peng Mfr.
Sin Chong
Tai On Loong
Terry Trading

Malaysia

Bungarsya Ind.

Actual assessments of antidumping duties will be based on the final results of any administrative review requested in accordance with our regulations.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Commerce Regulations (54 FR 12742, March 28, 1989; to be codified at 19 CFR 353.22).

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26276 Filed 11-7-89; 8:45 a.m.]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Panama

November 2, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On August 30, 1989, the Government of the United States requested consultations with the Government of Panama regarding cotton trousers, breeches and shorts in Categories 347/348, produced or manufactured in Panama.

Inasmuch as consultations have not been held on a mutually satisfactory limit for these categories, the United States Government has decided, under section 204 of the Agricultural Act of 1956, as amended, to control imports of cotton textile products in Categories 347/348, produced or manufactured in Panama and exported during the twelve-month period which began on August 30, 1989 and extends through August 29, 1990. Should a solution be reached in consultations with the Government of Panama, further notice will be published in the Federal Register.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner:

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 9, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Panama and exported during the period which began on August 30, 1989 and extends through August 29, 1990, in excess of 289,472 dozen [1].

Textile products in Categories 347/348 which have been exported to the United States prior to August 30, 1989 shall not be subject to the limit established in this directive.

Textile products in Categories 347/348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26274 Filed 11-7-89; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after August 29, 1989.

DEPARTMENT OF DEFENSE

Department of the Air Force

Civilians of American Field Service Who Served Overseas Operationally in World War I During Periods April 1917 to January 1918 and December 1941 to August 1945; Acceptance of Group Application

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of two groups known as: "U.S. Civilians of The American Field Service (AFS) Who Served Overseas Operationally in World War I During the Period April 1917 to January 1918" and "U.S. Civilians of the American Field Service (AFS) Who Served Overseas Operationally in World War II During the Period December 1941 to August 1945." Persons with information or documentation pertinent to the determination of whether the service of these groups is to be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MRC), Washington, DC 20330-1000. Copies of documents or other materials submitted cannot be returned. For further information, contact Lt Col Harris, (202) 692-4747.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-26279 Filed 11-7-89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 27-29 November 1989.

Time:
1000-1700, 27 November 1989
0900-1700, 28 November 1989
0900-1600, 29 November 1989

Place: U.S. Army Armament Research Development and Engineering Center, Picatinny Arsenal, NJ

Agenda: The Army Science Board Ad Hoc Subgroup on Electromagnetic and Electrothermal Technologies will convene to conduct a review of the program. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Admnistrative Officer, Sally Warner, may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-26280 Filed 11-7-89; 8:45 am]

BILLING CODE 3710-8-M

Privacy Act of 1974, New System of Records Notice

AGENCY: Department of the Army, DOD.

ACTION: Addition of one new system of records notice for public comment.

SUMMARY: The Department of the Army proposed to add one new system of records to its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The system notice for the new system is set forth below.

DATES: This new system will be effective December 8, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to Mr. Robert Priest, Chief, Systems Management Branch, HQ, Army Information Systems Command (AS-OPS-MR), Ft. Huachuca, AZ 85613-5000. Telephone (202) 274-8810.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the Federal Register as follows:

50 FR 22090, May 29, 1985 (Compilation, changes follow)
51 FR 23576, Jun 30, 1986
51 FR 30900, Aug 29,1986
51 FR 40479, Nov 7, 1986
51 FR 44361, Dec 9, 1986
52 FR 11847, Apr 13, 1987
52 FR 18798, May 19, 1987
52 FR 25905, Jul 9, 1987
52 FR 32329, Aug 27, 1987
52 FR 43932, Nov 17, 1987
53 FR 12971, Apr 20, 1988
53 FR 16575, May 10, 1988
53 FR 21509, Jun 8, 1988
53 FR 28247, Jul 27, 1988
53 FR 28246, Jul 27, 1988
53 FR 28430, Jul 28, 1988
53 FR 34576, Sep 7, 1988
53 FR 49586, Dec 8, 1988
53 FR 51550, Dec 22, 1988
54 FR 10034, Mar 9, 1989
54 FR 11790, Mar 22, 1989
54 FR 14635, Apr 13, 1989

The new system report, as required by 5 U.S.C. 522a(r), of the Privacy Act were submitted on October 30, 1989, to the Committee on Governmental Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730), December 24, 1985).

Dated: November 3, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME:

Professional Staff Information File

SYSTEM LOCATION:

Headquarters, U.S. Army Institute for the Behavioral and Social Sciences, 5001 Eisenhower Avenue, Alexandria, VA 22333-5600.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Army civilian psychologists, engineers, economists, sociologists, and other professional staff members employed by the Army Research Institute who voluntarily supply information for release and military officers assigned to the Army Research Institute who voluntarily provide information for release.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain names of individuals and their curricula vitae, including data and information on the qualifications, expertise, experience and interests of the professional staff of the Army Research Institute. Data include name, grade or rank, Institute assignment, education, prior professional experience, professional activities and development, lists of awards and recognitions, extra-government professional activities and significant professional publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To establish and maintain a professional staff directory which is used to consider staff members with special expertise for special duty assignments and to produce evidence of professional staff qualifications during Institute peer reviews and similar independent evaluations. Records are also used as basis for summary statistical reports concerning professional qualifications.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Army "Blanket Routine Uses" set forth at the beginning of the Army's compilation of record systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on a personal computer.

RETRIEVABILITY:

Information is retrieved by the surname of professional person. Categorical data is retrieved by keyword.

SAFEGUARDS:

Records are accessible only to designated individuals having official need-to-know in the performance of assigned duties.

RETENTION AND DISPOSAL:

Information will be maintained during the tenture of the person and deleted upon permanent departure from the Institute.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Research Institute for the Behavioral and Social Sciences, ATTN: PERI-AS (Privacy Act Officer), 5001 Eisenhower Avenue, Alexandria, VA 22333-5600.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, U.S. Army Research Institute for the Behavioral and Social Sciences, ATTN: PERSI-AS (Privacy Act Officer), 5001 Eisenhower Avenue,

between the federal government and a local non-federal sponsor. The Contra Costa County Flood Control and Water Conservation District will serve as the local sponsor. Potential alternative flood

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information

Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5935; Lise Courtney M. Howe, Office of General Counsel (GC-41), Department

1. Owsley Brown, II

[Docket No. ID-2426-000]

Take notice that on October 11, 1989, Owsley Brown, II (Applicant) filed an application under section 305(b) of the

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address written inquiries to the Commander, U.S. Army Research Institute for the Behavioral and Social Sciences, ATTN: PERSI-AS (Privacy Act Officer), 5001 Eisenhower Avenue, Alexandria, VA 22333-5600.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, U.S. Army Research Institute for the Behavioral and Social Sciences, ATTN: PERI-AS (Privacy Act Officer), 5001 Eisenhower Avenue, Alexandria, VA 22333-5600.

CONTESTING RECORD PROCEDURES:

The Department of the Army's rules for accessing records and for contesting contents and appealing initial agency determinations are published in Army Regulation 430-21-8, "The Army Privacy Program"; 32 CFR Part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals employed by or assigned to the Army Research Institute who voluntarily submit requested information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89-26339 Filed 11-7-89; 8:45 am]

BILLING CODE 3810-01

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Flood Control Feasibility Investigation, Walnut Creek Basin, Contra Costa County, CA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: The purpose of the investigation is to identify whether a federal interest exists to provide flood control for five tributaries of Walnut Creek. The five tributaries are Grayson, Murderers, Tice, San Ramon, and Green Valley Creeks. Most of the creek flood plains have been urbanized. Rapid urbanization has increased the values of the property subjected to flooding and has also decreased the soil infiltration capacity of the watershed, thereby increasing the flooding problems. The feasibility study is the second of two phases of an overall planning process for the Walnut Creek basin. Feasibility studies are cost shared on a 50/50 basis between the federal government and a local non-federal sponsor. The Contra Costa County Flood Control and Water Conservation District will serve as the local sponsor. Potential alternative flood control measures which will be considered include creek deepening and widening, underground bypass pipes, storm water detention basins, open bypass channels, rock and concrete channel lining. Non-structural flood damage reduction measures and taking no action will also be analyzed. Significant issues which will be discussed in the EIS include, but not be limited to impacts on fish and wildlife, vegetation, aesthetics, recreation, and water quality. The Draft EIS is anticipated to be completed for public review in early 1991.

Scoping Process: Public information and scoping meetings will be held in mid-November. The dates, times, and locations for these meetings will be announced in future mailings and through the Contra Costa news media. Additional coordination will be conducted with city, county, state, and federal agencies as well as concerned individuals and groups. Public meetings will also be held when the Draft EIS has been completed and released for public comment. Persons wishing to identify additional issues and concerns which should be addressed in the DEIS, should attend the meetings or submit written comments to: Sacramento District, U.S. Army Corps of Engineers, Attn: CESPK-PD-R, 650 Capital Mall, Sacramento, CA 95814. Questions should be directed to Ms. Patricia Foulk (916) 551-1858. Notice of these meetings and status updates for this study will be mailed to all persons on the Corps of Engineers mailing list. Anyone who is not already on the mailing list should contact the Corps at the above address to be added to the list.

Dated: October 19, 1989.

Jack A. LeCuyer,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 89-26281 Filed 11-7-89; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 95-511, 44 U.S.C. 3501 et seq.).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before December 8, 1989. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI-70), Energy Information Administration, M.S. 1H-023, 1000 Independence Avenue SW., Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC-520
3. 1902-0083
4. Application for Authority to Hold Interlocking Directorate Positions
5. Reinstatement
6. On occasion
7. Mandatory
8. Individuals or households, Businesses or other for-profit
9. 25 respondents
10. 25 responses annually
11. The estimated average hours per response for each of the respondents is 51.8 burden hours.
12. The estimated total reporting hours are 1,296.
13. The Federal Power Act requires each person that desires to hold public utility interlocking directorate positions to submit an application to the FERC for authority to do so. The supporting information describes the interlocking positions the applicant seeks to hold, the applicant's financial interest, other officers and nature of the business relationships among the firms.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Public Law No. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-26349 Filed 11-7-89; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. PP-84]

Withdrawal of Presidential Permit Application; Central Maine Power Co.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of withdrawal by Central Maine Power Company (CMP) of an application for a Presidential permit.

SUMMARY: On October 17, 1989, CMP notified the Department of Energy (DOE) of its intention to withdraw its application for a Presidential permit to construct, connect, operate, and maintain electric transmission facilities at the international border between the U.S. and Canada. The original application was filed on June 8, 1987, and was docketed as PP-84.

For additional information contact:

Anthony J. Como, Office of Fuels Programs (FE-52), Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5935;

Lise Courtney M. Howe, Office of General Counsel (GC-41), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On June 8, 1987, CMP applied to the DOE, pursuant to Executive Order 10485, for a Presidential permit to construct electric transmission facilities across the U.S.-Canadian international border. The project was to consist of: (1) A ±450-kV direct current transmission line; (2) a converter terminal located near the towns of Farmington and Jay, Maine; (3) a 345-kV alternating current transmission line; (4) expansion of the existing 345-kV Surowiec Substation at Pownal, Maine; and (5) the possible construction of a ground electrode. The proposed project was coupled with a power purchase contract between CMP and Hydro-Quebec for the purchase of up to 1000 megawatts of firm power for a period of 29 years.

In January 1989, the Maine Public Utility Commission (MPUC) denied CMP a Certificate of Public Convenience and Necessity for the purchase of the firm power from Hydro-Quebec. Subsequently, in April 1989, the MPUC also denied CMP's Petition for Reconsideration of its January decision. On October 16, 1989, Hydro-Quebec exercised its right to terminate the firm power contract upon the "* * * denial of any right or approval in the United States, for the purchase and sale of electric power and energy * * *".

Accordingly, on October 18, 1989, CMP notified the DOE of the Hydro-Quebec decision and formally withdrew its application for a Presidential permit.

Issued in Washington, DC, on October 27, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-26348 Filed 11-7-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ID-2426-000, et al.]

Owsley Brown, II, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 2, 1989.

Take notice that the following filings have been made with the Commission:

1. Owsley Brown, II

[Docket No. ID-2426-000]

Take notice that on October 11, 1989, Owsley Brown, II (Applicant) filed an application under section 305(b) of the Federal Power Act to hold concurrently the following positions:

Position and name of corporation	Classification
Director, Louisville Gas & Electric Co.	Public Utility.
Director, Hilliard Lyons Trust Co.	Trust Company subsidiary of Underwriter.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Western Massachusetts Electric Co.

[Docket No. ER90-34-000]

Take notice that on October 23, 1989, Northeast Utilities Service Company (NUSCO) as Agent for Western Massachusetts Electric Company (WMECO) tendered for filing a Notice of Termination of the following rate schedule:

Agreement with respect to gas turbine units between WMECO and Village of Johnson Water and Light Department, dated November 1, 1961 (WMECO Rate Schedule FERC 209 and Supplements thereto).

NUSCO requests that the Commission allow the termination of the Agreement to take effect on October 31, 1989.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas City Power & Light Co.

[Docket No. EC90-4-000]

Take notice that on October 31, 1989, Kansas City Power & Light Company (Applicant) filed an Application for Authority to Sell the Ray Junction—Excelsior Springs Tap, a 161 Kv transmission facility to the Union Electric Company. The Application is filed pursuant to section 203 of the Federal Power Act and involves property in excess of $50,000.00.

Applicant is incorporated under the laws of the State of Missouri with its principal place of business in Kansas City, Missouri.

The sale will permit Union Electric Company to own and operate transmission facilities which are used solely to connect a Union Electric Company substation with a transmission line owned and operated by Applicant. The property involved in the proposed sale will be needed solely

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by Union Electric Company and will not be used or necessary in serving other wholesale or retail customers of Kansas City Power & Light Company.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Co.

[Docket No. ER90-45-000]

Take notice that on October 30, 1989, Idaho Power Company (IPC) tendered for filing, pursuant to Section 205 of the Federal Power Act, a Letter Agreement dated October 5, 1989, which provides for transmission service for the Bonneville Power Administration by IPC. These services are to be provided for a term from October 11, 1989, to December 31, 1989.

IPC has requested waiver of the notice provisions of § 35.3 of the Commission's regulations in order to permit the Agreement to become effective on October 11, 1989 in accordance with its terms.

Copies of the filing were served on all of Idaho's affected transmission customers, and the state regulatory commissions of Idaho, Oregon, and Nevada.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Boston Edison Co.

[Docket No. EC90-3-000]

Take notice that on October 31, 1989, Boston Edison Company (Edison) tendered for filing an Application under Section 203 of the Federal Power Act for Sale of an Easement in Electric (CEL). The property in question is located in Edison's Station 509 in Cambridge, Massachusetts.

Edison requests that approval be issued on or before December 4, 1989.

Edison states that it has served the filing on CEL and the Massachusetts Department of Public Utilities.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa Southern Utilities Co.

[Docket No. ER90-41-000]

Take notice that Iowa Southern Utilities Company on October 30, 1989, tendered for filing as an initial rate schedule an Energy Agreement whereby Iowa Southern will offer approximately 118 megawatts of energy to Iowa Electric Light and Power company for a 16-year period. Iowa Southern requests an effective date of January 1, 1990.

A copy of the filing was served upon Iowa Electric.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Pennsylvania Power & Light Co.

[Docket No. ER90-44-000]

Take notice that on October 30, 1989, Pennsylvania Power & Light Company (PP&L) tendered for filing, as an initial rate schedule, a Transmission Entitlement Sales Agreement (Agreement) between PP&L and Public Service Electric and Gas Company (PSE&G) reflecting PP&L's short-term sale to PSE&G of all or a portion, of PP&L's entitlement for the use of the Pennsylvania-New Jersey-Maryland Interconnection's (PJM) transmission system which is used to import energy from systems to the west of PJM at a maximum rate of $924 per megawatt week, which is equal to the current rate of $5.50 per megawatt hour rate set forth in Schedule 4.02 of the PJM Agreement times 168 hours.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of October 30, 1989, in accordance with the anticipated commencement of service.

PP&L states that a copy of its filing was served on PSE&G, the Pennsylvania Public Utility Commission, and the New Jersey Board of Public Utilities.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Iowa Power Co.

[Docket No. ER89-642-000]

Take notice that on October 30, 1989, Iowa Power Company (Iowa Power) tendered for filing its amended Notice of Cancellation of Rate Schedule FPC No. 57 as supplemented.

Iowa Power requests waiver of the Commission's notice requirements and therefore request that the cancellation become effective as of October 10, 1989.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Terra Comport Corp.

[Docket No. ER90-40-000]

Take notice that Terra Comport Corporation on October 30, 1989, tendered for filing as an initial rate schedule a Capacity and Energy Agreement whereby Terra Comport will sell approximately 116 megawatts of capacity and associated energy to Iowa Electric Light and Power Company for a 21-year period. Terra Comport requests an effective date of January 1, 1990.

Copies of the filing were served upon Iowa Electric and upon the Iowa State Utilities Board.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Iowa Power and Light Co.

[Docket No. ER90-42-000]

Take notice that on October 30, 1989, Iowa Power and Light Company (Iowa Power) tendered for filing a Seasonal Diversity Exchange Agreement between Iowa Power and Central Iowa Power Cooperative (CIPCO) dated June 6, 1989.

Iowa Power states that the Diversity Exchange Agreement is a negotiated Agreement for the exchange of 40 MW of power and energy on a seasonal basis, with Iowa Power providing to CIPCO 40 MW of capacity for the 1989 winter season and CIPCO providing to Iowa Power 20 MW for each of the 1989 and 1990 summer seasons; and Iowa Power states that the Iowa State Utilities Board and CIPCO have been mailed copies of the Agreement.

Iowa Power requests an effective date of May 1, 1989, and therefore requests a waiver of the Commission's notice requirements.

Comment date: November 16, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26225 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-145-000, et al.]

ANR Pipeline Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Co.

[Docket No. CP90-145-000]

November 1, 1989.

Take notice that on October 27, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-145-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of West Michigan Shared Hospital Laundry (West Michigan), under ANR's blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR requests authorization to transport, on a firm basis, up to a maximum of 84 dt of natural gas per day for West Michigan from receipt points located in Louisiana and offshore Louisiana to delivery points located in Michigan. ANR anticipates transporting, on an average day 84 dt and an annual volume of 30,660 dt.

ANR states that the transportation of natural gas for West Michigan commenced September 9, 1989, as reported in Docket No. ST90-137-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to ANR in Docket No. CP88-532-000.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipeline Co.

[Docket No. CP90-142-000]

November 1, 1989.

Take notice that on October 27, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-142-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport natural gas on an interruptible basis for Coastal Gas Marketing Co. (Coastal). ANR explains that service commenced September 22, 1989 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-127-000. ANR further explains that the peak day quantity would be 2,000 dekatherms, the average daily quantity would be 2,000 dekatherms, and that the annual quantity would be 730,000 dekatherms. ANR explains that it would receive natural gas at existing points of receipt in the states of Kansas, Louisiana, Oklahoma, Texas and Michigan and the Offshore Texas and Louisiana gathering areas. ANR states that it would deliver the gas to Coastal at existing interconnections located in the state of Wisconsin.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Transcontinental Gas Pipe Line Corp.

[Docket No. CP90-130-000]

November 1, 1989.

Take notice that on October 30, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP90-130-000 a request pursuant to §§ 157.205 and 157.212 (18 CFR 157.205 and 157.212) of the Commission's Regulations under the Natural Gas Act for authority to construct and operate an additional delivery point and related facilities to serve an existing gas sales customer, UGI Corporation (UGI) under Transco's blanket certificate which was issued on September 2, 1982, in Docket No. CP82-426-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Transco states that UGI has an interruptible transportation entitlement of 550,000 Dth of gas per day pursuant to a service agreement dated September 3, 1987. Transco indicates that it has agreed to install a new delivery point, with a design maximum daily delivery rate of 500 Mcf per day, to serve UGI to be located at milepost 1689.30 on Transco's mainline in Quarryville, Lancaster County, Pennsylvania. It is further stated that UGI's total sales and firm transportation allocation would not be altered from its current level as a result of the installation of the additional delivery point nor will it have any effect on Transco's peak day or annual deliveries to UGI or any other of Transco's existing customers.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Natural Gas Pipeline Co. of America

[Docket No. CP90-161-000]

November 1, 1989.

Take notice that on October 30, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-161-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes to transport natural gas on an interruptible basis for Triumph Natural Gas Limited Partnership (Triumph), a producer of natural gas, pursuant to a transportation service agreement dated August 23, 1989 (#IGP-1995). Natural proposes to transport on a peak day up to 32,202 MMBtu per day; on an average day up to 26,250 MMBtu; and on an annual basis 9,581,250 MMBtu of natural gas. Natural states that it may accept additional quantities as overrun gas as permitted by Rate Schedule ITS. Natural states that the receipt and delivery points would be located in Offshore Louisiana.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commended such self-implementing service on September 1, 1989, as reported in Docket No. ST90-287-000.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corp.

[Docket No. CP90-167-000]

November 1, 1989.

Take notice that on October 30, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90-167-000, a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Union Pacific Resources Company (Union Pacific), a producer of natural gas, under the blanket certificate issued Northwest in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that pursuant to a Transportation Agreement dated October 14, 1989, as amended October 14, 1989, under Rate Schedule TI-1, it

7. El Paso Natural Gas Co.

[Docket No. CP90-159-000]

November 1, 1989.

Take notice that on October 30, 1989,

1987, and shall continue in full force and effect until July 31, 1987, and from month-to-month thereafter unless terminated by either party upon thirty

request pursuant to §§ 57.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Enron

between ANR and Apache. ANR would receive the gas at various existing points of receipt in Louisiana, Michigan and the offshore Louisiana gathering area and deliver equivalent volumes, less fuel

in the application on file with the Commission and open to public inspection.

It is stated that Orange and Rockland agrees to comply with the conditions set

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Northwest states that pursuant to a Transportation Agreement dated October 14, 1989, as amended October 14, 1989, under Rate Schedule TI-1, it proposes to transport up to 60,000 MMBtu of natural gas per day for Union Pacific from various existing receipt points on Northwest's system in Wyoming and redeliver the gas to various delivery points on Northwest's system in Wyoming.

Northwest states that no construction of facilities would be required to provide the transportation service. Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately 60,000 MMBtu, 2,000 MMBtu and 750,000 MMBtu, respectively.

Northwest advises that service under § 284.223(a) commenced September 24, 1989, as reported in Docket No. ST90-240-000.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Northwest Pipeline Corp.

[Docket No. CP90-156-000]

Take notice that on October 27, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90-156-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Pacific Western Energy Corp. (Pacific Western), a marketer of natural gas, pursuant to Northwest's blanket transportation certificate that was accepted by Northwestern on June 10, 1988, in Docket No. CP86-578-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest proposes to transport natural gas for Pacific Western on an interruptible basis, pursuant to a transportation agreement dated July 21, 1989, under Northwest's TI-1 Rate Schedule. Northwest states that peak day deliveries would be 50,000 MMBtu of gas, average day deliveries of 100 MMBtu of gas with annual volumes estimated to be 36,500 MMBtu of gas. Northwest stated that transportation service commenced on October 5, 1989, under § 284.223(a) of the Regulations as reported to the Commission on October 23, 1989, in Docket No. ST90-197-000. Northwest explains further that it will receive, transport and deliver the gas from any point on its system.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. El Paso Natural Gas Co.

[Docket No. CP90-159-000]

November 1, 1989.

Take notice that on October 30, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-159-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Texaco Gas Marketing Inc. (Texaco), a broker, under the blanket certificate issued in Docket No. CP88-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that pursuant to a transportation service agreement dated August 16, 1989, under its Rate Schedule T-1, it proposes to transport up to 4,220 MMBtu per day equivalent of natural gas for Texaco. El Paso states that it would transport the gas from any receipt point on its system, as provided in Exhibit "A" of the transportation agreement, and would deliver the gas to a delivery point in Arizona, as shown in Exhibit "B" of the agreement.

El Paso advises that service under § 284.223(a) commenced October 1, 1989, as reported in Docket No. ST90-154. El Paso further advises that it would transport 2,110 MMBtu on an average day and 770,150 MMBtu annually.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Columbia Gulf Transmission Co.

[Docket No. CP90-153-000]

November 1, 1989.

Take notice that on October 27, 1989, Columbia Gulf Transmission Company (Columbia), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP90-153-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Tenngasco Corportation (Tenngasco) under its blanket authorization issued in Docket No. CP86-239-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Pursuant to interruptible transportation service agreements dated June 9, 1987, Columbia Gulf would perform the proposed interruptible transportation service for Tenngasco Columbia Gulf's Rate Schedules ITS-1 and ITS-2. The transportation agreements are effective as of June 9, 1987, and shall continue in full force and effect until July 31, 1987, and from month-to-month thereafter unless terminated by either party upon thirty days written notice. Columbia Gulf proposes to transport up to a maximum of 55,000 MMBtu equivalent of natural gas per day; 25,000 MMBtu on an average day; and 9,125,000 MMBtu annually. Columbia Gulf proposes to receive the gas from points onshore and offshore Louisiana and redeliver the subject gas at for Tenngasco at various existing points located onshore Louisiana. Comumbia Gulf avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. Columbia Gulf commenced such self-implementing service on October 1, 1989, as reported in Docket No. ST90-103-000.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Amoco Gas Co.

[Docket No. CP90-115-000]

November 1, 1989.

Take notice that on October 23, 1989, Amoco Gas Company (Amoco), 200 East Randolph, Chicago, Illinois 60601, filed in Docket No. CP90-115-000 an application pursuant to § 284.224 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Amoco agrees to comply with the conditions set forth in § 284.224(e) and understands that any transaction authorized under a blanket certificate shall be subject to the same rates and charges, terms, conditions and reporting requirements that would apply if the transactions were authorized for an intrastate pipeline by subparts C, D and E of part 284 of the Commission's Regulations.

Comment date: November 22, 1989 in accordance with Standard Paragraph F at the end of the notice.

10. Sea Robin Pipeline Co.

[Docket No. CP90-165-000]

November 1, 1989.

Take notice that on October 30, 1989, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas, filed in Docket No. CP90-165-000 a request pursuant to §§ 57.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Enron Gas Marketing (Enron), a marketer, under Sea Robin's blanket certificate issued in Docket No. CP86-824-000 pursuant to section 7 of the Natural Gas Act, all or more fully set forth in the request which is on file with the Commission and open to public inspection.

Sea Robin states that pursuant to a transportation service agreement dated April 21, 1989, it proposes to transport up to 200,000 Mcf per day of natural gas for Enron. Sea Robin states it would receive the gas at specified points located in the offshore Louisiana area and redeliver the gas at specified points located onshore Louisiana. ANR estimates that the maximum day and average day volumes would be 206,000 million Btu, and that the annual volumes would be 75,190,000 million Btu. It is stated that on September 8, 1989, Sea Robin initiated a 120-day transportation service for Enron under § 284.223(a), as reported in Docket No. ST90-31-000.

Sea Robin further states that no facilities need be constructed to implement the service. Sea Robin indicates that the service would continue on a month-to-month basis until either party gives written notice. Sea Robin proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. ANR Pipeline Co.

[Docket No. CP90-143-000]

November 1, 1989.

Take notice that on October 27, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-143-000 a request pursuant to §§ 57.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Apache Transmission Corporation (Apache) under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport up to 26,119 dekatherms (dkt) of natural gas equivalent per day on an interruptible basis on behalf of Apache pursuant to a transportation agreement April 18, 1989, between ANR and Apache. ANR would receive the gas at various existing points of receipt in Louisiana, Michigan and the offshore Louisiana gathering area and deliver equivalent volumes, less fuel used and unaccounted for line loss, at existing points of delivery in Michigan, Ohio, Indiana, Kentucky, Illinois, and Wisconsin.

ANR states that the estimated daily and annual quantities would be 26,119 dkt and 9,533,000 dkt, respectively. Service under § 284.223(a) commenced on September 15, 1989, as reported in Docket No. ST90-135-000, it is stated.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Williams Natural Gas Co.

[Docket No. CP90-136-000]

November 1, 1989.

Take notice that on October 26, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP90-136-000, pursuant to §§ 157.205 and 157.212(a) of the Regulations under the Natural Gas Act (NGA) for authorization to utilize facilities originally installed for the delivery of 311 transportation gas for other purposes, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG proposes to utilize the 311 facilities installed to deliver 311 transportation gas to Stahl Specialty Company (Stahl) in Johnson County, Missouri for deliveries other than 311. The cost to construct the facilities was $13,840 which was paid from funds on hand.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Orange and Rockland Utilities, Inc.

[Docket No. CP90-65-000]

November 1, 1989.

Take notice that on October 16, 1989, Orange and Rockland Utilities, Inc. (Orange and Rockland), One Blue Hill Plaza, Pearl River, New York 10965, filed in Docket No. CP90-65-000 an application pursuant to § 284.224 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Orange and Rockland agrees to comply with the conditions set forth in § 284.224(e) and understands that any transaction authorized under a blanket certificate shall be subject to the same rates and charges, terms, conditions and reporting requirements that would apply if the transactions were authorized for an intrastate pipeline by subparts C, D and E of part 284 of this Commission's Regulations.

Comment date: November 22, 1989 in accordance with Standard Paragraph F at the end of the notice.

14. ANR Pipeline Co.

[Docket No. CP90-170-000]

November 2, 1989.

Take notice that on October 30, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-170-000 a request pursuant to §§ 157.205 and 284.223 of the Commission Regulations under the Natural Gas Act and the Natural Gas Policy Act for authorization to transport natural gas for Tejas Power Corporation (Tejas), under ANR's blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to transport up to 100,000 dt per day, on an interruptible basis, for Tejas pursuant to a transportation service agreement dated September 6, 1989, between ANR and Tejas. ANR would receive the gas at ANR's existing points of receipt located in the State of Louisiana and the offshore Texas and Louisiana gathering areas and redeliver the gas for the account of Tejas at existing interconnections located in the States of Louisiana, Oklahoma, Indiana, Illinois, Ohio, Kentucky, Kansas, and Texas.

ANR further states that the estimated average daily and annual quantities would be 100,000 dt and 36,500,000, respectively. ANR states that service under § 284.223(a) commenced on October 1, 1989 as reported in Docket No. ST90-217-000.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. ANR Pipeline Co.

[Docket No. CP90-147-000]

November 2, 1989.

Take notice that on October 27, 1989, ANR Pipeline Company (ANR), 500

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Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-147-000 a request pursuant to §§ 157.205 and 284.223 of the Commission Regulations under the Natural Gas Act and the Natural Gas Policy Act for authorization to transport natural gas for Hadson Gas Systems, Inc. (Hadson), under ANR's blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to transport up to 10,000 dt per day, on an interruptible basis, for Hadson pursuant to a transportation service agreement dated August 15, 1989, between ANR and Hadson. ANR would receive the gas at ANR's existing points of receipt located in the Offshore Louisiana gathering area and redeliver the gas for account of Hadson at existing interconnections located in the Offshore Louisiana gathering area.

ANR further states that the estimated average daily and annual quantities would be 10,000 dt and 3,650,000, respectively. ANR states that service under § 284.223(a) commenced on September 13, 1989, as reported in Docket No. ST90-132-000.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Natural Gas Pipeline Co. of America

[Docket No. CP90-183-000]

November 2, 1989.

Take notice that on October 31, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-183-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to operate an existing delivery point as a sales tap to provide jurisdictional services, under the certificate authorization issued in Docket No. CP82-402-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Natural proposes to operate a sales tap to provide jurisdictional services, including transportation services under subpart G of part 284 of the Commission's Regulations, at an existing delivery point at an interconnection with Western Farmers Electric Cooperative, an end-user, in Woodward County, Oklahoma. Natural states that such delivery point was originally constructed, and has been used solely, to provide transportation services pursuant to section 311(a)(1) of the Natural Gas Policy Act of 1978 and subpart B of part 284 of the Commission's Regulations. Natural further states that it installed the subject six-inch tap on its 24-inch Mountain View—Minneola mainline at a total cost of $21,641, and that the facilities were constructed on existing right-of-way and placed in service on July 13, 1988.

Comment date: December 18, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26226 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-6342-021, et al.]

Conoco Inc., et al.; Applications for Termination or Amendment of Certificates [1]

November 1, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 20, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-6342-021 D 10-5-89	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to Doyle Hartman.
G-6342-022 D 10-5-89	Conoco Inc.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to Lanexco Inc.
G-6342-023 D 10-5-89	Conoco Inc.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to David H. Arrington Oil & Gas Inc.
G-6342-024 D 10-5-89	Conoco Inc.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to Lewis B. Burleson.
G-6342-025 D 10-10-89	Conoco Inc.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to Tahoe Energy Inc.
G-6342-026 D 10-10-89	Conoco Inc.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to Doyle Hartman.
G-6342-027 D 10-11-89	Conoco Inc.	El Paso Natural Gas Company, Monument Area, Lea County, New Mexico.	Assigned 8-25-89 to Doyle Hartman.
G-6346-001 D 10-11-89	Conoco Inc.	El Paso Natural Gas Company, Jalmat (Yates) Field, Lea County, New Mexico.	Assigned 8-25-89 to Doyle Hartman.
G-10109-001 D 10-10-89	Marathon Oil Company, P.O. Box 3128, Houston, TX 77253.	Williams Natural Gas Company, Rhodes Field, Barber and Kiowa Counties, Kansas.	Assigned 6-1-89 to Raymac Petroleum, Inc.
CI64-670-002 D 10-3-89	Marathon Oil Company	Arkla Energy Resources, a division of Arkla, Inc., Wilburton Field, Haskell, Latimer, LeFlore and Pittsburg Counties, Oklahoma.	Assigned 4-1-89 to B.J. Brown.
CI64-973-000 D 10-10-89	Texaco Inc., P.O. Box 52332, Houston, TX 77052.	K N Energy, Inc., Boyd N.E. Field, Beaver County, Oklahoma.	Assigned 12-1-89 to K. C. Resources Inc.
CI90-2-000 (CI79-441) D 10-10-89	Marathon Oil Company	Northern Natural Gas Company, Division of Enron Corp., East Grand Valley Field, Beaver County, Oklahoma.	Assigned 4-1-89 to Harken Exploration Co.

Filing Code
A—Initial Service
B—Abandonment
C—Amendment to add acreage
D—Assignment of acreage
E—Succession
F—Partial Succession

[FR Doc. 89-26242 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-22-000]

Algonquin Gas Transmission Co.; Application Proposing Changes in FERC Gas Tariff

November 1, 1989.

Take notice that on October 30, 1989, Algonquin Gas Transmission Company ("Algonquin"), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed revised tariff sheets reflecting proposed changes in its FERC Gas Tariff, pursuant to section 4 of the Natural Gas Act and part 154 of the Commission's Regulations under the Natural Gas Act. Algonquin proposes that the filing take effect on December 1, 1989.

Algonquin states that the filing would increase annual revenues by approximately $12.3 million. The Company asserts that the increased rates are required to provide revenues equal to the test period cost of service, when applied to the related test period quantities.

Algonquin states that copies of its filing have been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211, 358.214). All such motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26241 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-41-005 and RP87-14-006]

Algonquin Gas Transmission Co.; Compliance Filing

November 1, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 27, 1989, in compliance with the provisions of settlements in the above-captioned proceedings and orders of the Federal Energy Regulatory Commission ("Commission"), most particularly Orders issued on April 14, 1989 and October 6, 1989 in Docket No. RP86-41-000, tendered for filing to its FERC Gas Tariffs, Second Revised Volume No. 1 and Original Volume No. 2

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certain tariff sheets to be effective November 1, 1989.

Algonquin states that this instant filing reflects, on a prospective basis commencing November 1, 1989, the changes in its rates and tariff in compliance with applicable provisions of the settlements and the Commission's April 14 and October 6 Orders, including changes in rates to reflect rolled in facility costs for Rate Schedules F–2, F–3, F–4, SS–III, STB; rolled in gas costs for Rate Schedules F–2, F–3, and F–4; a change in Rate Schedule T–1 rate design to reflect the rolled in allocation of facilities costs; the MFV cost allocation and rate design methodology including two part demand charges; adjusted fuel percentages and the replacement of the direct billing method of recovering the costs of transmission and compression provided by others, as more fully described in said filing.

Algonquin notes that copies of this filing were served upon all parties on the official service list, each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are avaialble for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26243 Filed 11–7–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–16–000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

Take notice that ANR Pipeline Company ("ANR") on October 25, 1989 tendered for filing as a part of its Original Volume No. 1 of its FERC Gas Tariff, six copies each of the following tariff sheets:

First Revised Sheet No. 19
Second Revised Sheet No. 87
Third Revised Sheet No. 88
Third Revised Sheet No. 89
Third Revised Sheet No. 90
Second Revised Sheet No. 90A
Original Sheet No. 124
Original Sheet No. 125

ANR states that the above-referenced tariff sheets are being filed under § 2.104 of the Commission's Regulations to implement partial recovery of $21.9 million of additional buyout buydown costs and to establish a volumetric buyout buydown surcharge applicable to such additional buyout buydown costs. Under the proposed filing, ANR is proposing to absorb twenty five percent of its buyout buydown costs, to recover twenty five percent of such costs through a fixed monthly charge applicable to its Rate Schedules CD–1, MC–1 and SGS–1 sales customers and to recover fifty percent of such costs through a volumetric buyout buydown surcharge of 0.46¢ per dth applicable to each sales and transportation Rate Schedule under Original Volume Nos. 1, 1–A and 2 of ANR's FERC Gas Tariff.

ANR has requested that the Commission accept this filing, to become effective November 25, 1989.

ANR states that copies of the filing were served upon all of its Volume Nos. 1, 1–A, and 2 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426 by November 8, 1989, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26232 Filed 11–7–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–169–045]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on October 30, 1989, pursuant to section 4 of the Natural Gas Act, and the Commission's May 2, 1989 and October 10, 1989, orders in this proceeding filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Substitute Thirteenth Revised Sheet No. 31
Alternate Substitute Thirteenth Revised Sheet No. 31
Substitute Alternate Seventh Revised Sheet No. 32
Substitute Alternate Third Revised Sheet No. 33

The filing is proposed to become effective on November 1, 1989, and would implement the Commission's decision on GSS issues prospectively.

CNG states that the cost of service and throughput quantities that support this filing are the same as those contained in CNG's limited general rate increase application which was also filed on October 30, 1989.

Alternate Substitute Thirteenth Revised Sheet No. 31, Substitute Alternate Seventh Revised Sheet No. 32, and Substitute Alternate Third Revised Sheet No. 33 reflect a voluntary rate reduction from the rates that could have been placed into effect. CNG requests that these tariff sheets be accepted for filing and permitted to become effective on November 1, 1989, with the understanding that CNG reserves the right to place its full rate increase, as shown on Alternate Substitute Revised Sheet No. 31, into effect.

Copies of the filing were served upon CNG's customers as well as interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211). All protests should be filed on or before November 9, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26237 Filed 11–7–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–217–013]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on October 30, 1989, pursuant to section 4 of the Natural Gas Act, the Commission's August 3, 1989 order in Docket No. RP88–190–002, *et al.* and section 12.9 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Substitute Original Sheet Nos. 160H and 160I
Substitute First Revised Sheet Nos. 160G, 160H and 160I
Substitute Second Revised Sheet Nos. 45 and 160H
Substitute Third Revised Sheet No. 45
Substitute Fourth Revised Sheet No. 45
Second Substitute First Revised Sheet No. 45

The proposed effective dates of these sheets are August 1, 1988, December 1, 1988, March 1, 1989, May 1, 1989, August 1, 1989 and September 1, 1989. CNG states that the purpose of this filing is to comply with Ordering Paragraph (F) of the Commission's order issued August 3, 1989 in North Penn Gas Co., et al., Docket No. RP88–190–002, *et al.*

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before 11/9/89. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26238 Filed 11–7–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–27–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on October 30, 1989, pursuant to section 4 of the Natural Gas Act, and part 154 of the Commission's regulations (18 CFR part 154) filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Thirteenth Revised Sheet No. 31
Seventh Revised Sheet No. 32
Third Revised Sheet No. 33
Alternate Thirteenth Revised Sheet No. 31
Alternate Seventh Revised Sheet No. 32
Alternate Third Revised Sheet No. 33

CNG states that this filing is a general rate increase request for the limited purpose of changing the compliance filing cost of service in CNG's Docket No. RP88–211 and CNG's base tariff rates to reflect CNG's conversion of a part of its firm sales agreement with Texas Eastern Transmission Corporation (Texas Eastern) to firm transportation. CNG request an effective date of November 1, 1989, the same date that the conversion of the Texas Eastern agreement becomes effective.

CNG states that its primary filing would decrease the D–2 demand component of the RQ and CD rate by 0.12 cents per dekatherm, and increase the sales commodity rate by 1.27 cents per dekatherm compared to the base tariff rates now in effect, subject to possible refund, in Docket No. RP88–211. There would be no change to the D–1 component of the RQ and CD rate. The one-part sales rates would increase by 1.15 cents per dekatherm. The primary tariff sheets would not change the Rate Schedule GSS rates except for the capacity charge, which would be reduced by 0.11 cents per dekatherm. The filing would not affect firm transportation rates except for the D–2 rate component which would be reduced by 0.12 cents per dekatherm. The interruptible transportation rate would be reduced by the same unit amount.

CNG states the alternate tariff sheets would collect the compliance filing rates that were permitted to become effective in Docket No. RP88–211, adjusted as required by the Commission in its suspension order and subsequent orders in the Docket No. RP88–211 proceeding. Additionally, CNG removed take-or-pay costs from the cost of service supporting the alternate rates and included in that cost of service the Account No. 858 costs of attributable to the conversion of the Texas Eastern contract.

CNG requests that its primary tariff sheets be accepted for filing and permitted to become effective on November 1, 1989, with the understanding that CNG reserves the right to place its full rate increase into effect, as contained in the alternate sheets. In the event the primary tariff sheets are not permitted to become effective on November 1, 1989, CNG seeks to place its alternate tariff sheets into effect.

Copies of the filing were served upon CNG's customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26227 Filed 11–7–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–21–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

On October 30, 1989, CNG Transmission Corporation ("CNG") tendered for filing, as part of its FERC Gas Tariff Original Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 120, Superseding First Revised Sheet No. 120
First Revised Sheet No. 121 Superseding Second Substitute Original Sheet No. 121

CNG states that these tariff sheets are filed to correct an error and to more accurately reflect certain procedures followed by CNG regarding the requesting and scheduling of transportation service on its system.

CNG has requested that the Commission permit this filing to become effective as of December 1, 1989.

CNG states that copies of the filing were served upon all of its Volume No. 1

customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission's (Commission) order issued on September 29, 1989 in Docket No. TM89–10–17; (ii) Texas Eastern pursuant to a filing made on August 31,

[Docket No. TC90–4–000; Docket No. TC90–4–001]

Florida Gas Transmission Co.; Tariff Sheet Filing

First Revised Volume No. 1

Twenty-First Revised Sheet No. 4
Twenty-Sixth Revised Sheet No. 57(i)
Twenty-Sixth Revised Sheet No. 57(ii)
Twelfth Revised Sheet No. 57(x)

settlement of rate proceedings approved by the Commission on April 8, 1988 in Docket Nos. RP86–35–000, *et al.*

Great Lakes states that, in compliance with the Commission's policy statement

KN states that this amendment is in compliance with the Commission's order issued February 17, 1989, approving with modifications KN's offer of settlement.

KN states that copies of this filing has

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customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practices and Procedure (18 CFR 385.211 and 385.214). All such motions or protests shall be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26228 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-20-000 and TM90-2-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on October 30, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

To Be Effective September 1, 1989

Substitute Twenty-third Revised Sheet No. 16B
Substitute Thirteenth Revised Sheet No. 16B1
Substitute Thirteenth Revised Sheet No. 16B2

To Be Effective November 1, 1989

Twenty-fourth Revised Sheet No. 16B
Fourteenth Revised Sheet No. 16B1
Fourteenth Revised Sheet No. 16B2

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket Nos. RP88-187, *et al.*, in which Columbia established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to modify its earlier filings in Docket Nos. RP89-229 and TM89-7-21 to permit it to flow through revised take-or-pay and contract reformation costs from (i) Texas Eastern Transmission Corporation (Texas Eastern) pursuant to a filing made on August 31, 1989 which was accepted by the Federal Energy Regulatory Commission's (Commission) order issued on September 29, 1989 in Docket No. TM89-10-17; (ii) Texas Eastern pursuant to a filing made on August 31, 1989 which was accepted by Commission's order issued on September 29, 1989 in Docket No. TM89-11-17, and (iii) Texas Gas Transmission Corporation pursuant to a filing made on August 25, 1989 which was accepted by Commission's Order issued September 22, 1989 in Docket No. TM89-4-18.

Additionally, Columbia states that certain tariff sheets effective September 1, 1989, relating to Columbia's filing of August 31, 1989 in Docket Nos. RP89-229 and TM89-7-21, contained costs which should have been included only in the first year from Transcontinental Gas Pipe Line Corporation's (Transco) filing made on June 27, 1989, which was accepted by Commission order issued on July 28, 1989, in Docket No. TM89-4-29. This resulted in incorrect allocated costs being reflected on Columbia's tariff sheets for the flow through of take-or-pay costs attributable to Transco's Docket No. TM89-4-29. The revised tariff sheets to be effective September 1, 1989, submitted with the instant filing, reflect a decrease in Transco's allocated costs of $1,602 beginning May 1, 1990.

Copies of the filing were served upon Columbia's jurisdictional customers, interested state commissions, and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88-187, RP-89-181, RP89-214, RP89-229, TM89-3-21, TM89-4-21, TM89-5-21 and TM89-7-21.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26229 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC90-4-000; Docket No. TC90-4-001]

Florida Gas Transmission Co.; Tariff Sheet Filing

November 1, 1989.

Take notice that on October 23, 1989, Florida Gas Transmission Company (FGT) tendered for filing in the above-referenced dockets the following tariff sheets:

2nd Revised Sheet No. 71
2nd Revised Sheet No. 72
2nd Revised Sheet No. 73
2nd Revised Sheet No. 74
2nd Revised Sheet No. 75
2nd Revised Sheet No. 76
2nd Revised Sheet No. 77
2nd Revised Sheet No. 78

FGT states that it is filing the "Index of Requirements by Curtailment Priority for the Period Ended June 30, 1989" pursuant to the Commission's Orders in Opinion Nos. 98 and 98-A. FGT requests that the Tariff Sheets become effective on November 15, 1989, and that the Commission waive its regulations to the extent necessary to allow said sheets to become effective as proposed.

Any person desiring to be heard or to make any protest with reference to said tariff filing should on or before November 13, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26239 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-20-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

Take notice that on October 30, 1989, Great Lakes Gas Transmission Company ("Great Lakes"), tendered for filing proposed changes to the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

First Revised Volume No. 1

Twenty-First Revised Sheet No. 4
Twenty-Sixth Revised Sheet No. 57(i)
Twenty-Sixth Revised Sheet No. 57(ii)
Twelfth Revised Sheet No. 57(v)

Original Volume No. 2

Twenty-Fourth Revised Sheet No. 53
Fifteenth Revised Sheet No. 77
Thirteenth Revised Sheet No. 151
Eighth Revised Sheet No. 152
Ninth Revised Sheet No. 223
Ninth Revised Sheet No. 245
Fourth Revised Sheet No. 269
Fourth Revised Sheet No. 270
Eighth Revised Sheet No. 294
Second Revised Sheet No. 320
First Revised Sheet No. 321
Second Revised Sheet No. 349
First Revised Sheet No. 350
Third Revised Sheet No. 437
Second Revised Sheet No. 465
Third Revised Sheet No. 466
First Revised Sheet No. 508
Second Revised Sheet No. 603
Second Revised Sheet No. 665
Second Revised Sheet No. 666
Second Revised Sheet No. 700
First Revised Sheet No. 780

The proposed tariff changes are based on sales and transportation volumes for the base period (twelve months ended June 30, 1989), as adjusted, and would produce increased revenues to Great Lakes of approximately $33,300,000. The changes would also establish new base tariff rates for future purchased gas adjustments.

Great Lakes states that the proposed rates are necessary to reflect the new facilities and services authorized by the Commission in Docket Nos. CP86-542-000 and CP88-805-000 as well as for new facilities and services requested by Great Lakes in Docket No. CP88-541-000. In addition, the proposed rates include increses in certain other costs. The proposed rates include an overall return of 12.66% which reflects an imbedded debt cost of 9.34% and a return on common equity of 16.4%.

In its filing, Great Lakes states that it utilized its existing cost classification, allocation and rate design methodology changed only to reflect the requirements of the Commission's order Granting in Part and Denying in Part Rehearing issued on October 10, 1989 in Docket No. RP88-35-013. However, since requests for further rehearing may be filed concerning such changes Great Lakes also submitted alternative tariff sheets reflecting its existing cost classification, allocation and rate design methodology without the above changes. The filing of alternative tariff sheets is in conformity with the provisions of Articles X and XII of the stipulation and agreement in settlement of rate proceedings approved by the Commission on April 6, 1988 in Docket Nos. RP86-35-000, *et al.*

Great Lakes states that, in compliance with the Commission's policy statement concerning rate design issued May 30, 1989, in Interstate Natural Gas Pipeline Rate Design, Docket Nos. PL89-2-001 *et al.*, 47 FERC 61,295, order on rehearing and clarifying policy statement issued July 27, 1989, 48 FERC 61,122, it will be filing as part of its case-in-chief on November 14, 1989, proposed changes in rate design that can be made effective prospectively upon final approved by the Commission.

Great Lakes requests that, if the Commission decides to suspend the effectiveness of the proposed increased rates, such suspension period not extend beyond April 1, 1990 when the new facilities involved in Docket Nos. CP86-541-000, CP88-542-000 and CP88-805-000 will be ready for service and the new services can commence.

Great Lakes further states that copies of the filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR §§ 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26230 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP-87-86-012, RP86-11-009, RP85-11-026]

KN Energy, Inc.; Filing

November 1, 1989.

Take notice that on October 25, 1989, KN Energy, Inc. (KN) filed an amendment to service agreement for each of its wholesale customers except City of Hastings, Peoples Natural Gas Company, and Public Service Company of Colorado (Denver).

KN states that this amendment is in compliance with the Commission's order issued February 17, 1989, approving with modifications KN's offer of settlement.

KN states that copies of this filing has been mailed to its jurisdictional customers and public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26244 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-25-000, Docket No. TM90-1-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

November 1, 1989.

Take notice that on October 30, 1989, Mississippi River Transmission Corporation (MRT) tendered for filing the tariff sheets listed below to its FERC Gas Tariff, Second Revised Volume No. 1. All tariff sheets carry a proposed effective date of December 1, 1989 other than Fifth Revised Sheet No. 63, which has a proposed effective date of September 1, 1989.

Thirty-Seventh Revised Sheet No. 4
Alternate Thirty-Seventh Revised Sheet No. 4
Fourteenth Revised Sheet No. 4A
Fifth Revised Sheet No. 4A.1
Fifth Revised Sheet No. 4A.2
Second Revised Sheet No. 4A.3
Second Revised Sheet No. 4A.4
First Revised Sheet No. 4A.5
Fifth Revised Sheet No. 63

MRT states that this filing is being submitted to reflect its quarterly purchased gas cost adjustment (PGA) pursuant to § 154.308 of the Commission's Regulations and the PGA provisions of MRT's tariff, and is designed to track various pipeline and producer cost changes. The quarterly impact of MRT's PGA filing on its

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jurisdictional customers is stated to be an increase of approximately $4.3 million.

MRT further states that the enclosed Sheet Nos. 4A reflect the most recent fixed take-or-pay charges applicable to MRT as a result of filings of United Gas Pipe Line Company, Natural Gas Pipeline Company of America and Trunkline Gas Company. MRT states that the jurisdictional impact of this take-or-pay flowthrough filing is an increase of approximately $38,000 for the quarter. MRT is submitting Fifth Revised Sheet No. 63 to reflect the inclusion of Tariff Sheet No. 4A.5.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before November 9, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26233 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-17-000 and CP89-1121-002]

Mississippi River Transmission Corp.; Proposed Change in FERC Gas Tariff

November 1, 1989.

Take notice that on October 25, 1989, Mississippi River Transmission Corporation ("MRT") tendered for filing the following tariff sheets to its FERC Gas Tariff:

	Tariff volume	Effective date
Substitute Thirty-Sixth Revised Sheet No. 4.	1	Dec. 1, 1989.
Alternate Substitute Thirty-Sixth Revised Sheet No. 4.	1	Do.
Title Page and Original Sheet 1.	1-A	Nov. 24, 1989.
Alternate Original Sheet No. 2 through No. 5.	1-A	Dec. 1, 1989.
Original Sheet No. 6 through No. 99.	1-A	Nov. 24, 1989.

MRT states that the purpose of the filing is to comply with the Commission's September 18, 1989 Order in Docket No. CP89-1121 which granted MRT's request for blanket certificate authority to perform open access transportation pursuant to subpart G of part 284 of the Commission's Regulations, subject to modifications and conditions. Pursuant to § 157.20(a) of the Regulations, MRT states that it has notified the Commission by separate transmittal that MRT is accepting the certificate issued.

MRT states that it intends to begin open access transportation on December 1, 1989, and has therefore requested December 1, 1989 as the effective date for both the tariff pages reflecting the *pro forma* sales rate changes contained in its certificate application in Docket No. CP89-1121, as well as the initial transportation rates accepted by the Commission in the September 18, 1989 Order. In order that MRT receive the earliest possible authorization to implement the administrative portion of its tariff consistent with the Commission's notice requirements, MRT has requested an effective date of November 24, 1989 for the remaining tariff pages in Original Volume No. 1-A.

MRT states that Ordering paragraph (D) of the September 18, 1989 Order conditioned approval of the rates set forth in Rate Schedules FTS and ITS upon MRT filing a limited rate filing, consisting of Statements L, M, and N as set forth in § 154.63 of the Commission's Regulations, in order to justify sales rates equal to or greater than those proposed to be implemented initially by MRT in Docket No. CP89-1121. Accordingly, MRT has submitted a limited filing which fully supports the sales rates filed.

MRT states that copies of the filing have been served upon all of MRT's jurisdictional customers and state commissions, as well as on all parties reflected on the Commission's Official Service List in Docket No. CP89-1121-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Secretary.

[FR Doc. 89-26231 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-26-000]

Natural Gas Pipeline Co. of America; Changes in Rates

November 1, 1989.

Take notice that on October 30, 1989, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) the below listed tariff sheets to be effective December 1, 1989.

Eighty-fifth Revised Sheet No. 5
Fiftieth Revised Sheet No. 5A

Natural states the purpose of the instant filing is to implement Natural's quarterly PGA unit rate adjustment calculated pursuant to section 16 of the General Terms and Conditions of Natural's Tariff.

The overall effect of the quarterly adjustment when compared to the gas cost component in Natural's quarterly PGA filing in Docket No. TQ89-3-26-000 effective September 1, 1989, is an increase in the DMQ-1 commodity charge of 57.07¢, an increase in the DMQ-1 demand charge of $.06, and a $.0013 decrease in the entitlement charge. Appropriate adjustments have been made with respect to Natural's other rate schedules.

A copy of the filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 9, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26245 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-23-000]

North Penn Gas Co.; Restatement of Rates

November 1, 1989.

Take notice that on October 30, 1989, North Penn Gas Company (North Penn) submitted a restatement of its base tariff rates pursuant to the Commission's orders of June 16, 1989 and September 21, 1989 in Docket No. TQ89-2-21 as well as the October 13, 1989 Commission order in Docket No. RP89-237. North Penn submits the filing under protest and without prejudice to any judicial appeal or rehearing request of the above-referenced orders. According to North Penn, the revenue/cost of service study and resultant tariff rates are based on North Penn's experience for the twelve month period ending February 28, 1989 with annualizing adjustments as permitted by § 154.303(e)(1)(ii)(B) of the Commission's Regulations.

North Penn further states that copies of its filing have been served upon each of its customers and the Public Service Commissions of Pennsylvania and New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26240 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-55-000]

Questar Pipeline Co.; Rate Change

November 1, 1989.

Take notice that on October 31, 1989, Questar Pipeline Company tendered for filing and acceptance certain revised tariff sheets to its FERC Gas Tariff as follows:

Tariff sheet	Proposed effective date
First Revised Volume No. 1	
Twenty-Sixth Revised Sheet No. 12.	December 1, 1989
Twenty-Seventh Revised Sheet No. 12.	January 1, 1990
Sixth Revised Sheet No. 12-A.	January 1, 1990
Original Volume No. 1-A	
Eleventh Revised Sheet No. 5.	January 1, 1990
Original Volume No. 3	
Fourteenth Revised Sheet No. 8.	January 1, 1990

Questar Pipeline states that the purpose of this filing is to adjust the purchased gas costs under Questar Pipeline's sale-for-resale Rate Schedule CD-1 effective December 1, 1989, and implement the Gas Research Institute's (GRI) adjustment authorized in Docket No. RP89-187-000 to be effective January 1, 1990.

Questar Pipeline further states that Twenty-Sixth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.26187/Dth which is $0.02930 higher than the currently effective rate of $2.23257/Dth. The demand base cost of purchased gas as adjusted is decreased by $.00109/Dth from $0.00657/Dth to $0.00548/Dth.

Questar Pipeline states that it has provided a copy of the filing to all parties on its official service list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before November 9, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26234 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-8-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

November 1, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on October 30, 1989, certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The proposed effective date is November 10, 1989.

Transco states that, as background to the filing, on October 10, 1989 Transco filed revised tariff sheets in Docket No. RP90-8 pursuant to section 4 of the Natural Gas Act and part 154 of the Commission's Regulations thereunder. The tariff sheets tendered in the October 10 filing were paginated with Sheet Nos. but were not delineated as original or revised sheets. The Commission Staff has informed Transco that a more descriptive pagination is required and requested that Transco refile the tendered tariff sheets to reflect such.

Transco states that the tariff sheets submitted in this filing are identical to the tariff sheets contained in the October 10 filing except for the revised pagination.

In accordance with provisions of Section 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 8, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26240 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-56]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

Take notice that on October 30, 1989, Valero Interstate Transmission Company ("Valero") tendered for filing the following tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Twenty-Fifth Revised Sheet No. 4
Twenty-Fifth Revised Sheet No. 5
Twenty-Fifth Revised Sheet No. 6
Twenty-Fifth Revised Sheet No. 7
Twenty-Fifth Revised Sheet No. 8
Twenty-Fifth Revised Sheet No. 9
Twenty-Fifth Revised Sheet No. 10
Twenty-Fifth Revised Sheet No. 11
Twenty-Fifth Revised Sheet No.

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[Docket No. TQ90-1-56]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

November 1, 1989.

Take notice that Valero Interstate Transmission Company ("Vitco"), on October 30, 1989 tendered for filing the following tariff sheets as required by Orders 483 and 483-A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1
18th Revised Sheet No. 14
16th Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2
21st Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A. The change on 18th Revised Sheet No. 14 represents a decrease in the percentage applicable to Retained Gas. The change in rates to Rate Schedule S-3 includes a decrease in purchased gas cost of $.1146 per MMBtu.

The proposed effective date of the above filing is December 1, 1989. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by December 1, 1989.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26235 Filed 11-7-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

R & J Trucking; 42 U.S.C. Section 122(h) Proposed Administrative Agreement

[FRL-3678-9]

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed settlement.

SUMMARY: U.S. EPA is proposing to settle a claim under section 107 of CERCLA for response costs incurred during removal activities at R & J Trucking in Princeton, Indiana. Respondent has agreed to reimburse U.S. EPA in the amount of $5,000. U.S. EPA today is proposing to approve this settlement offer because it reimburses U.S. EPA, in part, for costs incurred during U.S. EPA's removal action.

DATE: Comments on this proposed settlement must tbe received on or before December 8, 1989.

ADDRESSES: Copies of the proposed settlement are available at the following addresses for review: (It is recommended that you telephone Mary Ann Croce at (312) 886-1728, before visiting the Region V Office). U.S. Environmental Protection Agency, Region V, Office of Supefund, Remedial and Enforcement Response Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible). Mary Ann Croce, Community Relations Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-4359.

FOR FURTHER INFORMATION CONTACT: Mary Ann Croce, Office of Public Affairs, at (312) 886-1728.

SUPPLEMENTARY INFORMATION: The R&J Trucking site is not on the National Priorities List. U.S. EPA personnel were working on a removal action on a neighboring piece of property when the leaking methane gas was discovered at R&J Trucking. The gas presented a serious danger of explosion.

The Respondent is the owner of the site. The actions which were taken by U.S. EPA, mitigated the possibility of an explosion occurring. Actions included capping an underground well where the methane gas originated. R&J Trucking is the only setttling party to the proposal. A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed settlement. Comments should be sent to the Office of Public Affairs (5PA-14), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 89-26329 Filed 11-7-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44541; FRL 3663-9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on mercaptobenzothiazole (MBT) (CAS No. 149-30-4), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for MBT was submitted by the Chemical Manufacturers Association pursuant to a test rule at 40 CFR 799.2475. They were received by EPA on October 23, 1989. The submissions describe chemical fate, environmental effects and health effects studies. The chemical fate studies were for aerobic aquatic degradation testing, indirect photolysis screening level teting, and chemical mobility testing. The environmental effects studies were for chronic fish toxicity to rainbow trout, and daphnid chronic toxicity. The health effects studies received were teratology studies in rats and rabbits and a dominant lethal assay study in rats. These studies are all required by this test rule.

EPA has initiated its reveiw and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (OPTS-44541). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: October 31, 1989.

Charles M. Auer,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89-26341 Filed 11-7-89; 8:45 a.m.]

BILLING CODE 6560-50-D

[OPTS-59277A; FRL-3662-5]

Certain Chemicals Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-89-27. The test marketing conditions are described below.

EFFECTIVE DATE: October 27, 1989. Written comments will be received until November 24, 1989.

ADDRESS: Written comments, identified by the document control number "[OPTS-59277A]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Alan S. Cole, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202) 382-3861.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its funding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-89-27. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently, notice of receipt of the application was not published promptly upon receipt of the TME application. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the Public Reading Room NE G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury.

The following additional restrictions apply to TME-89-27:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.
2. The applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:
   a. Records of the quantity of the TME substance produced and the date of manufacture.
   b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
   c. Copies of the bill of lading that accompanies each shipment of the substance.

T-89-27

Date of Receipt: September 20, 1989.

Notice of Receipt: November 2, 1989 (54 FR 46297).

Applicant: Westvaco Corporation.

Chemical: (G) Rosin, polymer with dibastic, ester with polyols.

Use: Resin for packaging use.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market activities will not present an unreasonable risk of injury to health or to the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: October 27, 1989.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 89-26343 Filed 11-7-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140120; FRL-3660-8]

Contractors, Subcontractors, and the Consumer Product Safety Commission Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized several contractors, subcontractors, and the Consumer Product Safety Commission (CPSC) for access to information which has been submitted to EPA under various sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI). EPA is issuing this notice to inform submitters of changes in the TSCA CBI access status under these contracts and for CPSC.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

Access to CBI by the contractors, subcontractors, and CPSC shown in the chart below was announced in earlier **Federal Register** notices. EPA is issuing this notice to inform submitters of changes in the TSCA CBI access status under these contracts and for CPSC. To clarify a listing in the chart below, ASci Corporation, contract No. 68-D9-0006

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was previously announced in the Federal Register of December 20, 1988 (53 FR 51135), as American Scientific International Inc., contract No. 68–D8–0005. The contract number listed was a typographical error. The contractor's name has since been changed to AScI Corporation.

In accordance with 40 CFR 2.306(j), EPA has determined that the following contractors, subcontractors, and CPSC will require access to CBI submitted to EPA under TSCA to perform successfully work specified under their contracts.

Contract number	Contractor name/Federal agency	Address	Authorized sections of TSCA	Site information	Federal register publication cite/date	Extended expiration date
68–D8–0069	AM–PRO Protective Agency	6941 Trenholm Rd., Suite B, P.O. Box 6636, Columbia, SC 29260.	All	RTP Facilities	53 FR 43268 (10/26/88)	09/30/90
68–D8–0006	AScI Corp	6858 Elm St., McLean, VA 22101.	All	EPA Headquarters	53 FR 51135 (12/2088)	09/30/90
68–01–7380	Chemical Abstracts Service	2540 Olentangy, River Rd., P.O. Box 3012, Columbus, OH 43210.	5, 6	Contractor Site	52 FR 42037 (11/2/87)	09/30/90
68–02–4296	Dynamac Corp	1140 Rockville Pike, Rockville, MD 20852.	4, 5, 6, 8, 21	EPA Headquarters and Contractor Site.	52 FR 43251 (11/10/87)	09/30/90
68–D8–0018	Research and Evaluation Assoc.	100 Europa Dr., Suite 590, Chapel Hill, NC 27514.	All	Contractor Site	53 FR 37643 (9/27/88)	09/30/90
68–02–4379	Midwest Research Institute	401 Harrison Oaks Blvd., Suite 350, Cary, NC 27513.	5, 6, 8	Contractor Site	52 FR 44221 (11/18/87)	09/30/91
68–01–7176	InterAmerica Research Corp.	7926 Jones Branch Dr., McLean, VA 22102.	4, 5, 6, 8, 12, 13	EPA Headquarters	53 FR 15596 (5/2/88)	09/30/90
68–01–7176	CRC Systems, Inc	11242 Waples Mill Rd., Fairfax, VA 22030.	All	EPA Headquarters	54 FR 9084 (3/3/89)	09/30/90
N/A	Consumer Product Safety Commission.	5401 Westbard Ave., Bethesda, MD 20816.	All	CPSC Headquarters	51 FR 41416 (11/14/86)	09/30/92
68–W8–0126	EG&G Dynatrend	1911 N. Fort Myer Dr., Suite 907, Arlington, VA 22209.	All	EPA Headquarters	54 FR 7598 (2/22/89)	09/30/93

The contractors, subcontractors, and CPSC listed above that are authorized to transfer CBI materials from EPA Headquarters to their facilities will, upon completing review of the CBI materials, return them to EPA. Contractors and subcontractors requiring access to TSCA CBI at their facilities will be authorized for such access under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. CPSC has been authorized for access to TSCA CBI at its facilities under the EPA "TSCA Confidential Business Information Security Manual." EPA has received their security plans and has performed the required inspections of their facilities. Contractor, subcontractor, and CPSC personnel will be required to sign no-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated November 1, 1989.

John Neyland,

Acting Director, Information Management Division.

[FR Doc. 89–26342 Filed 11–7–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59876; FRL–3654–8]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13,1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 3 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 89–222, September 28, 1989.

Y 89–223, 89–224, October 3, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M Street, SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 89–222

Manufacturer. Pfizer Inc.

Chemical. (S) Polydextrose.

Use/Production. (G) Adhesive additive.

Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 < 16,820 mg/kg species(Rat). Eye irritation: moderate species(Rabbit). Skin irritation: negligible species(Rabbit).

Y 89–223

Manufacturer. Confidential.

Chemical. (S) Alkyldicar.

Use/Production. (G) Fiber finish for textile uses.

Prod. range: Confidential.

Y 89–224

Manufacturer. Confidential.

Chemical. (G) Polyethyleneglycol, polymer with bis (alryl ether) and alkyl aryl dicarboxylic acid.

Use/Production. (G) Textile processing aid.

Prod. range: Confidential.

Dated: November 1, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89–26344 Filed 11–7–89; 8:45am]

BILLING CODE 6560–50–D

FEDERAL COMMUNICATIONS COMMISSION

Participants, Schedules Set for AM Improvement Hearing

October 31, 1989.

The special En Banc hearing on the matter of the AM Broadcast Service will be held on Thursday, November 16, 1989, at the Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, DC. The schedule and assignment of panelists are shown below, followed by a short biography of each panelist. This hearing will be open to the public.

Participants are expected to submit comments in writing by close of business, Friday, November 10, 1989 to: Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street, NW., Washington, DC 20554, Ref: MM Docket No. 87–267.

At the hearing, after a panel is seated, each panelist will have five (5) minutes to present the key points of his or her testimony. After the presentations, there will be an opportunity for questions.

Following the hearing interested parties may submit written comments in reply to the written and oral testimony. A deadline for the reply comments will be announced at the hearing.

For further information, please contact William Hassinger at (202) 632–6460. The contact for media coverage is Maureen Peratino or Sally Lawrence at (202) 632–5050.

Schedule

Thurday, November 16, 1989

9:30–9:45 Opening remarks

9:45–10:30 Panel I: Overview
- L. Lowry Mays
- William R. Sanders
- David L. Hicks
- Dr. John Abel

10:30–11:15 Panel II: Receivers
- Art Suberbielle
- Michael Rau
- Tom Friel
- Mark Horiki
- Frank Hilbert (GM/Delco)

11:15–12:00 Panel III: Expanded Band
- Jim Johnson
- David Honig
- Tom Kigin
- John Quinn
- Bayard Walters

12:00–1:30 Break

1:30–2:15 Panel IV: Technical and Assignment Issues
- Wallace Johnson
- Jerry Smith
- Alan Okun
- Wayne Eddy
- Arien Diamond

2:15–3:00 Panel V: AM Improvement and the Future
- Ted Snider
- Richard Harris
- Wayne Vriesman
- Paul Synczak
- Dorothy Brunson
- Richard Blackburn

Participants

Dr. John Abel: Executive Vice-President, Operations, National Association of Broadcasters

Richard Blackburn: Blackburn & Co.

Dorothy Brunson: President, Brunson Communications, Inc., which has AM Broadcast Stations in Maryland, Georgia, and North Carolina. Recognized for contributions to broadcasting and the cause of minority businesswomen. Named "Working Woman of the Year" by Working Women magazine.

Arien Diamond: General Manager, FM Broadcast Station, KSMU–FM, Springfield, Missouri. Researcher on AM radio.

Wayne Eddy: President/General Manager of AM Broadcast Station, KYMN, Northfield, Minnesota. Member of the Board of Directors, Minnesota Broadcasters Association. Member of the NAB Daytimers Committee.

Tom Friel: Group Vice-President, Consumer Electronics Group, Electronic Industries Association.

Richard Harris: Group W Radio Chairman.

David L. Hicks: President and Chief Executive Officer, Hicks Broadcasting Corp., Kalamazoo, Michigan.

Frank Hilbert: Manager, Modulation Systems Laboratory, Corporate Research, Motorola.

David Honig: Attorney. Has represented minority interests before the FCC. Member of U.S. delegation to WARC–79 which created the AM expanded band.

Mark Horiki: Matsushita Electric Corp. of America.

Jim Johnson: President/General Manager of AM Broadcast Station WDAO, Dayton, Ohio.

Wallace Johnson: President of Moffet, Larson and Johnson, Inc., Consulting Telecommunications Engineers. Executive Director of the Association of Broadcast Engineering Standards (ABES). Former Chief of the Broadcast Bureau (now the Mass Media Bureau). Member and Vice-Chairman of several U.S. delegations at international conferences devoted to AM Broadcasting. Chairman of the Technical Sub-Committee of the FCC's Advisory Committee on Broadcasting. Member of U.S. delegations which negotiated bilateral AM broadcast agreements with Canada and Mexico.

Tom Kigin: Vice President, Minnesota Public Radio, St. Paul, Minnesota, owner of AM Broadcast Station KSJN.

L. Lowry Mays: Chairman, Joint Board of Directors, National Association of Broadcasters. President and Chief Executive Officer, Clear Channel Communications, San Antonio, Texas.

Alan Okun: President/General Manager of Okun Broadcasting Corporation, licensee of daytime-only AM Broadcast Station, WGFP, Webster, Massachusetts. Served on NAB Daytimer Committee for several years and addressed national conventions on matters of interest to daytime broadcasters.

John Quinn: Owner and operator of daytime-only AM Broadcast Station WJDM, Elizabeth, New Jersey.

Michael Rau: Vice-President, Office of Science and Technology, National Association of Broadcasters.

William R. Sanders: Chairman, Radio Board of Directors, National Association of Broadcasters. President and owner of Station KICD/KICD–FM, Spencer, Iowa.

Jerry Smith: Operations manager and chief engineer of AM Broadcast Station WPDQ, Jacksonville, Florida.

Ted Snider: Owner AM Broadcast Station, KARN, Little Rock, Arkansas. Formerly involved with the NAB as Board Member, Radio Board Vice-Chairman, Radio Board Chairman, Joint Board Chairman, and Immediate Past Joint Board Chairman. Also co-chaired the AM Retreat of AM Broadcasters (March 1989). Author of an article on AM Radio published in Broadcasting.

Art Suberbielle: President and General Manager of AM Broadcast Station KANE, New Iberia, Louisiana. Former board member of National Radio Broadcasters Association and National Association of Broadcasters and past president of the Louisiana Association of Broadcasters. Panelist at several national conventions where AM improvements were discussed.

Paul Synczak: Vice-President, General Counsel, and Secretary, Corporation for Public Broadcasting.

Wayne Vriesman: Vice-President, Radio Tribune Broadcasting and President, Clear Channel Broadcasting Service.

Bayard Walters: Licensee of four AM Broadcast Stations and former chairman of the NAB Daytimers Committee.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–26222 Filed 11–7–89; 8:45 am]

BILLING CODE 6712–01–M

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FEDERAL MARITIME COMMISSION

Agreements(s) Filed; American President Lines, Ltd. et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 202–010776–50

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.,
Kawasaki Kisen Kaisha, Ltd.,
A.P. Moller–Maersk Line,
Mitsui O.S.K. Lines, Ltd.,
Neptune Orient Lines, Ltd.,
Nippon Yusen Kaisha Line,
Nippon Liner System, Ltd.,
Sea-Land Service, Inc.

Synopsis: The proposed amendment would permit the parties to expand the scope of the Agreement and to establish a separate discussion section covering the trade from India, Pakistan, Bangladesh and Sri Lanka to U.S. Pacific Coast ports and U.S. Interior points via such ports. Membership in this section will be open to all carriers operating in this "sub-continent trade"whether or not the carrier is a party to the remainder of the Agreement. The amendment would permit the parties to this section to discuss and agree upon specified matters, including rates, in the sub-continent trade. However, adherence to any agreement reached would be voluntary.

Agreement No: 203–011258

Title: TNS Agreement.

Parties:

P & O Containers (TFL) Limited,
Nedlloyd Lijnen, B.V.,
Sea-Land Service, Inc.

Synopsis: The proposed agreement would permit the parties to rationalize the use of containers, chassis and other equipment in the trade between the United States, including Puerto Rico and the U.S. Virgin Islands, and Europe.

By order of the Federal Maritime Commmission.

Dated: November 2, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89–26251 Filed 11–7–89; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notice are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated or to the offices of the Board of Governors. Comments must be received not later than November 22, 1989.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *T. Brent Ballinger,* Pawhuska, Oklahoma; to acquire an additional 0.5 percent of the voting shares of N.B.C. Bancshares in Pawhuska, Inc., Pawhuska, Oklahoma, and thereby indirectly acquire National Bank of Commerce in Pawhuska, Pawhuska, Oklahoma.

Board of Governors of the Federal Reserve System, November 2, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–26270 Filed 11–7–89; 8:45 am]
BILLING CODE 6210–01–M

Chase Manhattan Corp.; Application to Engage de Novo in Provision of Financial Advice to Municipalities and the Administration of Pooled Financing Programs on Behalf of Municipalities and Municipal Authorities

Chase Manhattan Corporation, New York, New York ("Applicant" or "Chase"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to expand the authority of its wholly owned subsidiary, Chase Securities, Inc., New York, New York ("Company") to provide financial advice to municipalities and to administer "pooled financing programs" on behalf of municipalities and municipal authorities. These activities would be conducted on a nationwide basis.

Applicant proposes that Company would engage *de novo* in the provision of financial advice to state and local governments, political subdivisions, school districts and authorities ("municipalities"). This activity has been previously approved by the Board in § 225.25(b)(4)(v) of the Board's Regulation Y. (12 CFR 225.25 (b)(4)(v)).

Applicant also proposes to engage *de novo* in an activity not previously approved by the Board: administration of pooled financing programs on behalf of state and local government authorities. This new activity would entail: (i) Disseminating information regarding pooled financing programs; (ii) assisting municipalities in various required filings for participation in such programs; and (iii) acting as a servicing agent for the participating municipal authorities and municipalities with respect to the administration of such programs.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Applicant believes that this proposed activity is "so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that Company's provision of investment advice in connection with its administration of pooled financing programs for municipalities is encompassed within the Board's prior approval for Company's predecessor organization to engage in general investment advisory activity. *See* Chase Manhattan Corporation, 74 Federal Reserve Bulletion 704 (1988). Applicant also states that the proposed activity of acting as an administrator involves functions that are routinely performed by banks as part of their lending activities, their advisory activities and their underwriting activities relating to bank-eligible municipal securities. Activities routinely performed by banks that would also be performed by Company in its proposed capacity as administrator of pooled financing programs include: preparation of survey documents at the outset of a pooled financing program; conducting loan closings; estimating debt service; and providing payment schedules. In addition, once a pooled financing program is established, Applicant believes that Company would be performing traditional loan servicing functions of a type permissible under § 225.25(b)(1) of Regulation Y. (12 CFR 225.25(b)(1)).

Company also intends to deal in both newly-issued and previously-issued municipal bonds of its administrative and advisory customers unless such activity is prohibited by contract with the issuer. When purchasing new issue securities as principal, Company indicates that it would abide by Rule G–23 of the Municipal Securities Rulemaking Board. That rule establishes ethical standards and disclosure requirements for securities dealers which act as financial advisor to issuers of municipal securities. G–23 also would require, under certain circumstances, the termination of the financial advisory role with respect to a new issue of municipal securities prior to dealing in that issue. Applicant believes that this rule adequately addresses any conflicts of interest that may arise in the conduct of such activities.

Applicant does not believe that dealing in securities previously issued by an entity for which Company acts as an administrator or advisor would create any conflict of interest or other adverse effect. Applicant indicates that any such activity would occur at a time when the financial advisory role with respect to an issue has terminated. Although Applicant anticipates that administrative services with respect to pooled financing programs and dealing may occur in the underlying bonds simultaneously, Applicant states that it is unable to identify any conflict arising from the ongoing performance of such administrative services.

Applicant also indicates that Company would resign as financial advisor in order to underwrite pooled or other financings where the underwriting provided a good business opportunity, and the municipal issuer expressly consented to the underwriting role.

Applicant takes the position that the proposed activities will benefit the public. Applicant believes that they will increase competition. Applicant further believes that the proposed activities would benefit municipalities by giving them the option of utilizing Company's knowledge and expertise independently of Company's underwriting services. In addition, Applicant submits that the ability to offer advice on a stand-alone basis would also enable Company to more fully utilize its resources. Finally, Applicant submits that the proposed activities would not result in adverse effects such as unsound banking practices or conflicts of interest.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 27, 1989. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 2, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–26271 Filed 11–7–89; 8:45 am]
BILLING CODE 6210–01–M

Jefferson Bankshares, Inc., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Jefferson Bankshares, Inc.,* Charlottesville, Virginia; to engage *de novo* through its subsidiary, Jefferson Financial, Inc., Charlottesville, Virginia, in providing financial advisory services to local and state governments; providing portfolio investment advice to any person; and engaging on a fee basis, in providing financial advisory services to non-affiliated financial and non-financial institutions, including the offering of financial advice to private corporate entities with regard to their own financial structure and need for capital, either equity or debt, not including debt or equity underwriting pursuant to § 225.25(b)(4) (iii) and (v) of the Board's Regulation Y and previous Board orders.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Wells Fargo & Company,* San Francisco, California; to acquire 0.1 percent of Wells Fargo Institutional Trust Company, N.A., San Francisco, California, a limited purpose national bank, in connection with a joint venture with The Nikko Securities Co., Ltd., Tokyo, Japan. Company would engage in trust activities that may be performed by a trust company in the manner authorized by state and federal law pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–26272 Filed 11–7–89; 8:45 am]
BILLING CODE 6210–01–M

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Piedmont Bankshares, Corp., et al.; Formations of Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 30, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Piedmont Bancshares Corporation,* Winston-Salem, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Enterprise National Bank of the Piedmont, in organization, Winston-Salem, North Carolina, a *de novo* bank.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Interstate Corporation of Wisconsin,* Kohler, Wisconsin, and FIB Acquisition, Inc., Kohler, Wisconsin; to acquire 100 percent of the voting shares of First illini Bancorp, Inc., Galesburg, Illinois, and thereby indirectly acquire Abingdon Bank and Trust Company, Abingdon, Illinois; Community Bank and Trust Company, Canton, Illinois; First Galesburg Bank and Trust Company, Galesburg, Illinois; and Madison Park Bank, Peoria, Illinois. In connection with this application, FIB Acquisition, Inc. has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, November 2, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26273 Filed 11-7-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10-16-89 AND 10-27-89

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Moleculon, Inc., Solvay & Cie S.A., Kalipharma Inc.	89-2718	10/16/89
Westinghouse Electric Corporation, The Shaw-Walker Company, The Shaw-Walker Company,	89-2724	10/16/89
Charter Medical Corporation, Healthcare International, Inc., The Brown Schools of Charleston, Inc.	89-2750	10/16/89
Windmill Corporation, Meshulam Riklis, Martha White Food, Inc. and Frozen Specialties, Inc.	89-2783	10/16/89
Polly Peck International plc, Whitehall Associates, L.P., Del Monte Corporation	89-2793	10/16/89
Nitto Denko Corporation, Graphic Technology, Inc., GTI Acquisition Corp.	89-2815	10/16/89
Quantum Fund N. V., Vermilion Bay Land Company, Vermilion Bay Land Company	89-2817	10/16/89
Bennett S. LeBow, Bennett S. LeBow, MAI Basic Four, Inc.	89-2832	10/16/89
Tichenor Media System, Inc., Louis J. Appell Residuary Trust, Susquehanna Broadcasting Co., Susquehanna Radio Corp.	89-2842	10/16/89
Radio Wado, Inc., Louis J. Appell Residuary Trust, Susquehanna Broadcasting Co., Susquehanna Radio Corp.	89-2843	10/16/89
Hironori Shimotsu, Andre S. Tatiboust, Maui Lu Resort	89-2863	10/16/89
The Daiwa Bank, Ltd., Lloyds Bank Plc, Lloyds Bank Plc	89-2864	10/16/89
Clair's Stores, Inc., Bob and Beatrice Binsky, Decor Corporation	90-0003	10/16/89
Paramount Communications Inc., LBC Holdings, Inc., Lomas Bank USA	90-0015	10/16/89
Primerica Corporation, Arthur and Angela Williams, Jr., A.L. Williams & Associates, Inc.	90-0025	10/16/89
Arthur and Angela Williams, Jr., Primerica Corporation, Primerica Corporation	90-0026	10/16/89
Air & Water Technologies Corporation, Jeffrey J. Cantwell, Falcon Associates, Inc.	90-0031	10/16/89
Jeffrey J. Cantwell, Air & Water Technologies Corporation, Air & Water Technologies Corporation	90-0033	10/16/89
Hellman & Friedman Capital Partners, Jack Kent Cooke, Cooke CableVision Inc.	90-0053	10/16/89
Standard Motor Products, Inc., Blackstone Capital Partners, L.P., Wickes Companies, Inc.	90-0056	10/16/89
Standard Motor Products, Inc., Wasserstein, Perella Partners, L.P., Wickes Companies, Inc.	90-0057	10/16/89
Businessland, Inc., John J. Fitzsimmons, Data Systems Computer Centre, Inc.	90-0061	10/16/89
Ken Miller, Kinder-Care, Inc., Kinder-Care Learning Center, Inc.	89-2838	10/17/89
Tull Gearreald, Kinder-Care, Inc., Kinder-Care Learning Center, Inc.	89-2839	10/17/89
Starchild Special Investment Partnership, L.P., Kinder-Care, Inc., Kinder-Care Learning Center, Inc.	89-2840	10/17/89
Christopher C. Skase, Kirk Kerkorian, MGM/UA Communications Co.	90-0013	10/17/89
Mercy Health System, Province of Cincinnati, Mercy Health Care System, Mercy Health Care System	90-0014	10/17/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10-16-89 AND 10-27-89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Mosvold Shipping AS, Keyes Offshore Limited Partnership, Keyes Offshore Limited Partnership	90-0049	10/17/89
The Morgan Stanley Leveraged Equity Fund II, L.P., SIBV/MS Holdings, Inc., SIBV/MS Holdings, Inc.	89-2785	10/18/89
The Morgan Stanley Leveraged Equity Fund II, L.P., Jefferson Smurfit Group plc, Jefferson Smurfit Corporation	89-2786	10/18/89
Jefferson Smurfit Group plc, SIBV/MS Holdings, Inc., SIBV/MS Holdings, Inc.	89-2787	10/18/89
Kellwood Company, Mr. Gabriel Hakim, Sr., Crowntuft Manufacturing Corp., Heflin Manufacturing	89-2676	10/18/89
A.A. Emmerson, Jack A. Erickson, Erickson Lumber Company	90-0001	10/18/89
Paramount Communications, Inc., Ford Motor Company, TransSouth Financial Corporation	90-0002	10/18/89
Tenneco Inc., L. Clifford Schroeder, Dixie Container Corporation	90-0005	10/18/89
Cleveland-Cliffs Inc., Cleveland-Cliffs Inc., J&L-Cliffs Ore Partnership	90-0018	10/18/89
Super Club N.V., A. Barrie Bergman, The Record Bar, Inc	90-0041	10/18/89
Super Club N.V., A.C. Israel, Turtle's, Inc	90-0068	10/18/89
TRW Inc., Title USA Insurance Corporation, Title USA Insurance Corporation of New York	90-0108	10/18/89
Ralston Purina Company, Nestle SA, Beech-Nut Corporation, Beech-Nut Nutrition Corporation,	89-2813	10/19/89
Bayer AG, International Minerals & Chemical Corporation, Mallinckrodt, Inc.	89-2854	10/19/89
Koret, Inc., Mr. Bernard Levy, Paul Reed, Inc	89-2859	10/19/89
Koret, Inc., Mr. Victor Levy, Paul Reed, Inc	89-2860	10/19/89
Saratoga Partners II, L.P., H. Paul Kizer, Birchfield Mining, Inc	90-0019	10/19/89
The Procter & Gamble Company, Noxell Corporation, Noxell Corporation	89-2844	10/20/89
Anheuser-Busch Companies, Inc., Harcourt Brace Jovanovich, Inc., Sea World, Inc. HBJ Parks, Inc., Coleridge	89-2879	10/20/89
Quincy Newspapers, Inc., American Family Corporation, KTIV Television Co.	90-0064	10/20/89
C.W. Lui, The Estate of James Campbell, deceased, Concord Hotel Associates, a Hawaii limited partnership	90-0065	10/20/89
Acadia Partners, L.P., North American Ventures, Inc., Buter International, Inc.	90-0067	10/20/89
Hohkoku Kohsan Co., Ltd., Richard R. Kelly, Hotel Operating Co. of Hawaii, Ltd	90-0076	10/20/89
New York Venture Fund, Inc., Mulford Securities Corp., Mulford Securities Corp	90-0088	10/20/89
Eastern Enterprises, The George A. Caldwell Co., The George A. Caldwell Co	90-0095	10/20/89
Lotus Development Corporation, Sybase, Inc., Sybase, Inc.	90-0100	10/20/89
International Business Machine Corporation, Mr. Douglas A. Horne and Mrs. Brenda P. Horne, Horne Properties, Inc.	90-0104	10/20/89
International Business Machine Corporation, Mr. Donald Nichols, JDN Enterprises, Inc	90-0105	10/20/89
Gordon Investment Corporation, Shepherd Products Limited, Shepherd Products Limited	90-0109	10/20/89
The Atlantic Foundation, Peter Karmanos, Jr., Compuware Corporation	90-0115	10/20/89
Super Club N.V., David Bronstad, Best Video, Inc.	89-2883	10/23/89
The Morgan Stanley Leveraged Equity Fund II, L.P., Sweetheart Holdings Inc., Sweetheart Holdings Inc	90-0054	10/23/89
United Technologies Corporation, SGC Holding Company, Inc., SGC Holding Company, Inc	90-0058	10/23/89
Bayer AG, Agfa Copel Inc., Agfa Copel Inc	90-0091	10/23/89
Copel Company Limited, Agfa Copel Inc., Agfa Copel Inc.	90-0092	10/23/89
Acadia Partners, L.P., BA Acquisition Corporation, BA Acquisition Corporation	90-0094	10/23/89
Warburg, Pincus Capital Company, L.P., Charter Network Company L.P., Charter Network Company L.P	89-2868	10/24/89
Air Line Pilots Association, International, Airline Acquisition Corp., Airline Acquisition Corp	89-2882	10/24/89
Airline Pilots Association, International, UAL Corporation, UAL Corporation	90-0079	10/24/89
Odyssey Partners, L.P., The May Department Stores Company, Caldor, Inc	90-0080	10/24/89
The Prospect Group, Inc., Noel Group, Inc., Noel Group, Inc.	89-2880	10/25/89
Hawker Siddeley Group Public Limited Company, Middleton Aerospace Corporation, Middleton Aerospace Corp.	90-0021	10/25/89
JWP Inc., University Mechanical Contractors, Inc., University Mechanical Contractors, Inc.	89-2833	10/26/89
Maxwell Communications Corporation plc, Bell & Howell Company, Merrill Publishing Company	89-2846	10/26/89
Ciments Francais, Frank V. Carlow Trust, Frank V. Carlow Trust	89-2867	10/26/89
Archer-Daniels-Midland Company, Estate of Edna Collingwood, Collingwood Grain, Inc.	90-0017	10/26/89
The Equitable Life Assurance Society of the U.S., Maus Freres, County Seat Stores, Inc.	90-0042	10/26/89
Carolina Hunt Trust Estate, First Executive Corporation, First Executive Corporation	90-0046	10/26/89
American Cable TV Investors 5, Ltd., Mr. Jack Kent Cooke, 1st CableVision, Inc., 2nd CableVision of Knoxville	90-0069	10/26/89
Maxwell Communication Corporation plc, Maxwell Communication Corporation plc, Merrill Publishing Company	90-0062	10/26/89
General Motors Corporation, Jaguar, plc. Jaguar. plc	90-0083	10/26/89
Toei Shoje K.K., Thomas T. Enomoto, Kalauao Investment Co., Inc.	89-2851	10/27/89
Toei Shoje K.K., Thomas T. Gentry, Kalauao Investment Company, Inc.	89-2852	10/27/89
VMS Strategic Land Fund, VMS Strategic Land Trust, VMS Strategic Land Trust	90-0006	10/27/89
VMS Strategic Land Fund, VMS Strategic Land Fund II, VMS Strategic Land Fund II	90-0007	10/27/89
VMS Institutional Mortgage Fund, VMS Mortgage Investors L.P., VMS Mortgage Investors L.P.	90-0008	10/27/89
VMS Institutional Mortgage Fund, VMS Mortgage Investors L.P. II, VMS Mortgage Investors L.P. II	90-0009	10/27/89
VMS Institutional Mortgage Fund, VMS Mortgage Investors L.P. III, VMS Mortgage Investors L.P. III	90-0010	10/27/89
VMS Institutional Mortgage Fund, VMS Short Term Income Trust, VMS Short Term Income Trust	90-0011	10/27/89
VMS Institutional Mortgage Fund, VMS Hotel Investment Fund, VMS Hotel Investment Fund	90-0012	10/27/89
The Dow Chemical Company, Dow-United Technologies Composite Products, Inc., Dow-United Technologies Composite Products, Inc.	90-0027	10/27/89
United Technologies Corporation, Dow-United Technologies Composite Products, Inc., Dow-United Technologies Composite Products, Inc.	90-0028	10/27/89
McGraw-Hill, Inc., Maxwell Communication Corporation plc, Merrill Publishing Company	90-0081	10/27/89
Hon Industries, Inc., LADD Furniture, Inc., The Gunlocke Company	90-0085	10/27/89
Kirk Kerkorian, Southwest Securities, Marina Hotel & Casino	90-0102	10/27/89
Corporate Capital Limited, New Cayman Islands company, New Cayman Islands company	90-0130	10/27/89
Dr. Maurizio Gucci, New Cayman Islands company, New Cayman Islands company	90-0131	10/27/89
Corporate Capital Limited, Arabian Investment Banking Corporation (INVESTCORP) E.C., Gucci American, Inc.	90-0134	10/27/89
Diploma P.L.C., John S. Dyson, JSD Corporation	90-0137	10/27/89
Mr. and Mrs. Wolfgang and Margaretha Ley, Mr. and Mrs. Robert and Mane Gray, St. John Knits, Inc.	90-0149	10/27/89
Allegiance Capital Corporation, Glaxo Holdings PLC, Glaxo Holdings PLC	90-0151	10/27/89
General Motors Corporation, Harry Gray, Mel Klein & Partners, L.P., IMA Holdings Corp.	90-0155	10/27/89
Mitsuru Iwasaki, Edward J. DeBartolo, Maxim's de Paris Suite Hotel	90-0161	10/27/89
NVCompanies, Inc., Donald G. Zellner, Zellner Housing Corporation	90-0163	10/27/89

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FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Federal Trade Commission, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89–26305 Filed 11–7–89; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Performance Review Board Membership; Senior Executive Service

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Gregory Knott, Deputy Director of Personnel, General Services Administration, 18th and F Streets NW., Washington, DC 20405 (202) 566–0398.

SUPPLEMENTARY INFORMATION: Section 4313(c) (1) through (5) of title 5 U.S.C. requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The members of the Performance Review Board are:

1. Carlene Bawden, Associate Administrator for Administration.
2. Paul E. Chistolini, Deputy Regional Administrator, National Capital Region.
3. Roger Daniero, Deputy Commissioner, Federal Supply Service.
4. Richard H. Hopf, Associate Administrator for Acquisition Policy.
5. Eric Lee, Regional Administrator, Region 8.
6. James A. Lobmaster, Chief of Staff.
7. Margaret E. Neustadt, Controller, Information Resources Management Service.
8. John Wynn, Director, Office of Small and Disadvantaged Business Utilization.

Dated: October 30, 1989.

Gregory L. Knott,

Deputy Director of Personnel.

[FR Doc. 89–26282 Filed 11–7–89; 8:45 am]

BILLING CODE 6820–BR–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment of Committee on Substance Abuse Prevention

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776) the Secretary, Health and Human Services, announces the establishment of the Advisory Committee on Substance Abuse Prevention on October 31, 1989.

Dated: November 2, 1989.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89–26214 Filed 11–7–89; 8:45 am]

BILLING CODE 4160–20–M

Health Care Financing Administration

[BPD–821–P]

RIN 0938–AE10

Medicare Program; Outpatient Prescription Drugs: List of Covered Home IV Drugs—Extension of Public Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Extension of comment period.

SUMMARY: This notice cross-references a document published elsewhere in this issue of the **Federal Register** that extends the public comment period for a notice document concerning the proposed list of covered home IV drugs under the outpatient prescription drug benefit published September 7, 1989 (54 FR 37239).

DATE: The comment period is extended to January 8, 1990.

FOR FURTHER INFORMATION CONTACT: Michelle Bruggy, 303–966–4683.

SUPPLEMENTARY INFORMATION: On September 7, 1989 (54 FR 37239), we published a proposed notice entitled Outpatient Prescription Drugs: List of Covered Home IV Drugs. This document cross-references a document published in the proposed rule section of this issue of the **Federal Register**, which extends the public comment January 8, 1990.

Timothy C. Miller,

Office of Regulations Management.

[FR Doc. 89–26403 Filed 11–6–89; 10:35 am]

BILLING CODE 4120–01–M

Health Resources and Services Administration

Advisory Council: Renewal

Pursuant to the Federal Advisory Committee Act, Public Law 92–463 (5 U.S.C. Appendix II), the Health Resources and Service Administration announces the renewal the Secretary, HHS, with concurrence by the General Services Administration, of the following advisory committee.

Council	Termination date
National Advisory Committee on Rural Health.	Oct. 29, 1991.

Dated: November 3, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–26289 Filed 11–7–89; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice.

SUMMARY: Pending approval by the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act of 1980, the National Institutes of Health (NIH) announces the availability of educational loan repayment under the National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program. ("Program") The Program, which is authorized by section 487A of the Public Health Service (PHS) Act (42 U.S.C. 288–1), as added by section 634 of the Health Omnibus Programs Extension of 1988 (Pub. L. 100–607), provides for the repayment of a sizeable portion of the accumulated educational loan debt of health professionals who agree to conduct, as employees of the NIH, research with respect to AIDS. The Program provides for repayment up to $20,000 of the principal and interest of the educational loans of such health professionals for each year of such obligated service. The Program is limited to health professionals who have a substantial amount of educational loan debt relative to income, and who were not employed by the NIH during the period of November 4, 1987 through November 3, 1988. The purpose of the Program is to increase the number of persons conducting AIDS research at the NIH. The NIH, through this notice, invites health professionals interested in engaging in AIDS research to apply for participation in the NIH AIDS Research Loan Repayment Program.

DATE: Interested persons may request information about the Program beginning on November 8, 1989.

ADDRESS: Information regarding the Program may be obtained by calling or writing: Mr. Marc Horowitz, J.D., Director, NIH AIDS Research Loan Repayment Program, Office of AIDS Research, National Institutes of Health, Building 1, room 201, 9000 Rockville Pike, Bethesda, Maryland 20892 (301–496–0357).

SUPPLEMENTARY INFORMATION: On November 4, 1988, the United States Congress enacted Public Law 100–607, the "Health Omnibus Programs Extension of 1988", which in part, directs the NIH to establish a program of educational loan repayment to attract additional investigators into AIDS research. The Program provides for the repayment of a sizeable portion of the accumulated educational loan debt of health professionals who are employed by the NIH after November 4, 1988, to engage in AIDS research.

Under the Program, the NIH will repay qualified educational loan debt incurred by health professionals to pay for their undergraduate, graduate, and/or medical educational expenses that exceeds 20% of the annual NIH salary or stipend at the rate of one-third of the debt each year, up to the statutory limit of $20,000 per year for each year of obligated service, if an individual selected to participate in the Program, agrees to serve at least 2 years as an employee of the NIH engaged in AIDS research. Under the Program, participants may annually receive a pro rata share of the total available program funds, up to ⅓ of their accumulated debt or the statutory limit of $20,000, whichever is less.

NIH will repay lenders for the principal, interest, and related expenses (such as the required insurance premiums on the unpaid balances of some loans) of qualified Government (Federal, State, local) and commercial educational loans obtained by participants for: (1) Undergraduate, graduate, and health professional school tuition expenses; (2) other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and (3) reasonable living expenses, including the cost of room and board, transportation and commuting costs.

The following loans are *not* repayable under the Program: (1) Loans not obtained from a Government entity or commercial lending institution, such as loans from friends and relatives; (2) loans for which contemporaneous documentation is not available; and (3) loans, or those portions of loans, obtained for educational or living expenses which exceed the "reasonable" level as determined by the standard school budget for the year in which the loan was made and are not judged by the NIH to be reasonable based on appropriate contemporaneous documentation.

In addition, for educational loans which contain provisions for loan forgiveness in exchange for a future service obligation, the NIH will *not* repay loans and/or penalties that may result from failure to serve as required under the conditions of such loans. This includes, but is not limited to: (1) Physicians Shortage Area Scholarship Program; (2) Public Health and National Health Service Corps Scholarship Program; (3) Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Programs; and (4) Indian Health Service Scholarship Program.

Finally, payments will *not* be made under the Program for loans which participants have already repaid.

In return for the repayment of their educational loans, participants must agree to: (1) Engage *primarily* in AIDS research as employees of the NIH for a minimum period of 2 years; (1) make payments to lenders on their own behalf for periods of Leave Without Pay (LWOP); and (3) pay monetary damages as required for breach of the 2 year service obligation. Applicants must submit a signed contract, prepared by the NIH, containing this service agreement at the time they apply for consideration under the Program. Substantial monetary penalties will be imposed for breach of contract.

AIDS research could include such activities as studies of the human immunodeficiency virus, opportunistic agents, epidemiology, the pathophysiology of AIDS infection, the development of models of AIDS infection, cofactors predisposing to AIDS and the development of prophylactic and therapeutic regimes. AIDS reseachers include scientists who are intellectually engaged in the process of providing scientific direction and guidance in programs of original AIDS research, specifically epidemiologists, statisticians and others, who are involved in the design and conduct of research studies. The duties of such scientists may include the generation and design of studies; the collation and analysis of data; and/or the preparation and publication, as author or co-author, of studies in peer-reviewed journals.

Since the Program is designed for health professionals who have not yet repaid their educational loan debt, it is anticipated that most participants will still be in the development stages of their careers. Consequently, it is expected that most participants will be appointed as Clinical Associates (under the Commissioned Corps or service fellowship programs), or as Staff or Senior Staff Fellows. Participants who are more senior may be employed as NIH Special Experts, or may be appointed in the competitive Civil Service or as Commissioned Officers in the Commissioned Corps.

Initial contracts will be executed to cover a 2 year service period. At the conclusion of this initial contract, participants may apply and be recommended for a 1 year continuation contract, under normal application and approval procedures. Continuation contracts may be approved on a year to year basis, up to a maximum of 5 years, contingent upon appropriation of funds.

Loan repayment contracts will be approved by the NIH contingent upon a firm employment commitment having been made and verified by the appropriate NIH Personnel Office, and after passage of the appropriation act for the fiscal year during which the applicant will enter on duty. In some instances, this may result in some delay between the firm employment commitment and final contract approval. Loan repayment may *not* be made prior to the participant's entrance on duty as an employee of the NIH.

Under the Program, payments will be made directly to lenders on a quarterly basis at the completion of each quarter of the participants' satisfactory service.

Eligibility Criteria

Specific eligibility criteria with regard to participation in the NIH AIDS Research Loan Repayment Program include the following.

(1) Participants must have a Ph.D., M.D., D.O., D.D.S., D.M.D., D.V.M., or equivalent degree.

(2) Participants must be U.S. citizens or permanent residents.

(3) Participants must have educational debt in excess of 20% of their annual NIH salary or stipend at entrance on duty, resulting from governmental or commercial loans obtained to support their undergraduate and/or graduate education.

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(4) Individuals employed by the NIH during the period November 4, 1967 through November 3, 1968 are *ineligible.*

(5) Participants may be appointed under a temporary or permanent employment mechanism, so long as their employment has the potential to last a minimum of 2 years.

(6) Individuals with existing service obligations to Federal, State, or other entities will *not* be considered for the Program *unless and until* the existing service obligation is discharged.

(7) Applicants will *not* be excluded from consideration under the Program on the basis of race, color, creed, religion, sex, handicap, age, national origin, or political affiliation.

Additional Program Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs.

This program is subject to OMB clearance under the requirements of the Paperwork Reduction Act of 1980. A Request for OMB Review and Approval of information collection associated with the program is being prepared by the NIH, and will be sent to OMB for review and approval prior to implementation of the Program.

Assignment of the Catalog of Federal Domestic Assistance number for the Program is pending.

Dated: November 3, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 89-26389 Filed 11-7-89; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 54 FR 40911-13, October 4, 1989) is amended as follows:

(1) To change the title of the Office of Biosafety to Office of Health and Safety and revise the functional statement.

(2) To transfer the responsibility for physical security activities to the Office of Program Support.

Section HC-B, Organization and Functions, is hereby amended as follows:

1. Under the heading *Office of Biosafety (HCA1),* delete the title and statement in its entirety and substitute the following:

Office of Health and Safety (HCA1). The Office of Health and Safety: (1) Takes the lead in developing and implementing a current, model occupational Health and Safety Program (HSP) for CDC workers that emphasizes prevention of illnesses and injuries, promotion of healthy and safe work practices, and protection of the environment; (2) administers Federal regulations for the packaging and shipping of etiologic agents; (3) provides consultation to individuals and organizations nationally and internationally on health and safety related issues; (4) issues permits for the importation and subsequent distribution of etiologic agents, hosts, and vectors; (5) serves as a World Health Organization Collaborating Center for Applied Biosafety Programs and Training; (6) coordinates activities relative to the implementation of the National Environmental Protection Act (NEPA) for CDC programs and facilities.

2. Under the heading *Office of Program Support (HCA5),* insert the following as item (4): "(4) plans, directs, and coordinates a physical security program for CDC facilities;" and renumber items (4) through (6) of the functional statement as items (5) through (7).

Effective Date: October 27, 1989.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 89-26292 Filed 11-7-89; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-09-4213-01]

Phoenix District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of the Phoenix District Advisory Council meeting.

DATE: December 7, 8, 1989, 8 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, Arizona 85027.

SUMMARY: The Phoenix District Advisory Council of the Bureau of Land Management meets December 7-8, 1989. A tour of the Kingman Resource Area will occur on December 7. The formal meeting will be held at the Kingman Resource Area office, 2475 Beverly Avenue, Kingman, Arizona at 9 a.m. on December 8.

The Council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978. The agenda for the meeting includes:

—Kingman Resource Management Plan
—BLM Management Updates
—Business from Floor
—Public Comments and Statements
—Future Meetings and Agenda Topics

SUPPLEMENTARY INFORMATION: This is a public meeting and the presentation of oral statements or the submission of written statements that address the issues on the meeting agenda or related matters are welcome.

Dated: October 31, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89-26332 Filed 11-7-89; 8:45 am]

BILLING CODE 4310-32-M

Establishment of 14 day Camping Limit on Public Lands Within the Phoenix District, AZ

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Establishment of 14 day camping limit on all public lands within the Phoenix District, AZ.

SUMMARY: In accordance with 43 CFR Part 8364, Subpart 8364.1 and Part 8365, a maximum camping stay of 14 days per party is established for all public lands administered by the BLM, Phoenix District of Arizona unless otherwise specifically designated. Persons may occupy any one site or multiple sites within a twenty-five mile radius on public lands not closed or otherwise restricted to camping for a total period of not more than 14 days in any 28 day period. The 14 day limit may be reached either through a number or separate visits or though a period of continuous occupation. Following the 14 days period, persons may not relocate within a distance of twenty-five miles of the site that was previously occupied. The authorized officer may give written permission for extension of the 14 day limit if extenuating circumstances necessitate.

Additionally, no person, except those holding valid mining, tunnel or millsite claims, with a current notice on file with the BLM office responsible for management of the lands where the supplies are located, may leave personal property or supplies unattended on public lands within the Phoenix District for a period of more than 24 hours without written permission of the authorized officer.

These restrictions apply year round on all public lands used for camping or occupancy administered by the BLM, Phoenix District, Arizona, unless specifically designated. Camping is defined as the erection or use of a tent or structure of natural or synthetic material; or preparing a sleeping bag or other bedding material for use; or mooring of a vessel for the apparent use of overnight occupancy. Occupancy is defined as the taking or holding possession of a camp or residence.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Hamilton, Area Manager, Lower Gila Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

SUPPLEMENTARY INFORMATION: This occupancy and camping stay limit is being established to assist the Bureau of Land Management in reducing the incidence of unauthorized long-term occupancy, and provide consistency to visitors moving from one BLM district to another. Presently, California, Utah and New Mexico have 14 day camping limits in effect.

Of equal importance is the problem of resource allocation. Long term camping precludes equal opportunities for other members of the public to camp in the same area, creating user conflicts. This ruling is also designed to pervent excessive impacts to soil, vegetation and other resources caused by long-term camping.

Dated: October 30, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89-26301 Filed 11-7-89; 8:45 am]

BILLING CODE 4310-32-M

[ID-943-09-4730-12]

Idaho; Filing of Plats of Survey

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10 a.m., October 30, 1989.

The plat representing the dependent resurvey of a portion of the subdivisional lines, subdivision of section 27, and a metes-and-bounds survey in section 27, T. 9 N., R. 17 E., Boise Meridian, Idaho, Group No. 781, was accepted October 24, 1989.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: October 30, 1989.

Jerrold E. Knight,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-26283 Filed 11-7-89; 8:45 am]

BILLING CODE 4310-84-M

[CO-930-00-4214-10; COC-51048]

Notice of Proposed Withdrawal; Opportunity for Public Meeting; Colorado

October 30, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Energy has requested withdrawal of public land near Naturita, Colorado, for 5 years. The land is proposed as a permanent disposal site for radioactive uranium mill tailings. If this site is designated for permanent disposal, administrative jurisdiction will be transferred to Department of Energy for management. This notice will segregate the land from operation of the public land laws, including location and entry under the mining laws for up to 2 years. The land will continue to be open to mineral leasing.

DATE: Comments on this proposed withdrawal or request for a public meeting must be received on or before February 6, 1990.

ADDRESS: Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius at 303/236-1752.

SUPPLEMENTARY INFORMATION: The Department of Energy filed application on October 20, 1989, to withdraw the following described public land from settlement, sale, location or entry under the public land laws, including the mining laws, subject to valid existing rights, pursuant to the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

New Mexico Principal Meridian

Dry Flats Site

T. 46 N., R. 16 W.,
Sec. 25, SE¼SW¼, S½SE¼;
Sec. 30, NE¼, E½NW¼.

The area described aggregates approximately 360 acres in Montrose County. The purpose of this withdrawal is to segregate the land and provide for protection until requirements are completed for a permanent transfer of administrative jurisdiction to the Department of Energy under the authority of the Uranium Mill Tailings Radiation Control Act of 1978, 92 Stat. 3021, 42 U.S.C. 7901, as amended.

Effective on the date of publication, these lands are segregated from all forms of appropriation under the public land laws, including the mining laws. The lands remain open to mineral leasing subject to concurrence by the Department of Energy, the Nuclear Regulatory Commission, and the Department of the Interior. The lands will remain open to surface uses which are compatible with the project until the withdrawal is final and construction is started.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed withdrawal. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with Bureau of Land Management Manual, section 2351.16B.

All persons who desire to submit comments, suggestions, or objections, or who desire a public meeting for the purpose of being heard on this proposed action must submit a written request to the Colorado State Director within 90 days of the publication of this notice.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated from operation of the public land laws as specified above unless the application is denied or cancelled or the transfer of administrative jurisdiction takes place prior to that date.

The temporary segretation of this land in connection with the application shall not affect the administrative jurisdiction over the land and will not authorize any use of the land by the Department of Energy.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 89-26284 Filed 11-7-89; 8:45 am]

BILLING CODE 4310-JB-M

[ID-943-09-4214-11; IDI-05284]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that the withdrawal of 589.91 acres in the Salmon National Forest continue for the period of years shown below. The lands are now being used for 2 communication sites, 14 recreation sites,

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and 10 administrative sites. The lands would remain closed to surface entry and mining, but have been and would remain open to mineral leasing, except for those portions overlapped by the Frank Church River of No Return Wilderness Area.

EFFECTIVE DATE: Comments should be received on or before February 6, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, ID 83706, 208–344–1720.

The U.S. Forest Service proposes that the existing land withdrawal made by Public Land Order No. 1564 be continued for the period of years shown below pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The lands are described as follows:

Boise Meridian

To be continued for 20 years

McDonald Flat Recreation Area (formerly Forney Recreation Area)

T. 20 N., R. 18 E., unsurveyed,
Sec. 25, SE¼NE¼SW¼NW¼, SE¼SW¼SW¼NW¼, N½SE¼SW¼NW¼, SW¼SE¼SW¼NW¼, and NE¼NW¼NW¼SW¼.

Deep Creek Recreation Area

T. 21 N., R. 19 E., unsurveyed,
Sec. 27, W½SE¼NW¼NW¼.

Twin Creek Recreation Area

T. 26 N., R. 21 E., unsurveyed,
Secs. 3 and 4, metes and bounds.

Long Tom Recreation Area

T. 23 N., R. 16 E., unsurveyed,
Sec. 27, SE¼SE¼SW¼ (that portion lying west of the north bank of the Salmon River).

Ebenezer Recreation Area

T. 23 N., R. 17 E., unsurveyed,
Sec. 19, W½NE¼SW¼SE¼ and E½NW¼SW¼SE¼ (that portion northwest of the Salmon River).

Middle Fork Recreation Area

T. 23 N., R. 16 E., unsurveyed,
Sec. 28, S½SE¼SW¼SE¼;
Sec. 33, N½NE¼NW¼NE¼ (that portion lying north of the Salmon River).

Bankers Island Recreation Area

T. 23 N., R. 17 E., unsurveyed,
Sec. 20, unpatented portion of S½SW¼NE¼.

Cache Bar Recreation Area

T. 23 N., R. 16 E., unsurveyed,
Sec. 19, S½NE¼NW¼SE¼ and N½SE¼NW¼SE¼ (that portion north of the Salmon River).

Stein Mountain Lookout Administrative Site

T. 25 N., R. 22 E.,
Sec. 32, SE¼NW¼NW¼NE¼ and NW¼SE¼NW¼NE¼.

Long Tom Lookout Administrative Site

T. 23 N., R. 16 E., unsurveyed,
Sec. 10, SE¼SE¼SW¼SE¼;
Sec. 15, NE¼NE¼NW¼NE¼.

Stormy Peak Lookout Administrative Site

T. 23 N., R. 16 E., unsurveyed,
Sec. 3 SE¼SW¼SE¼NW¼.

To be continued for 30 years

Wagonhammer Recreation Area

T. 24 N., R. 21 E.,
Sec. 22, metes and bounds.

Cougar Recreation Area

T. 20 N., R. 20 E.,
Sec. 12, NW¼NW¼.

Yellowjacket Lake Recreation Area

T. 20 N., R. 16 E., unsurveyed,
Sec. 14, SW¼SE¼SW¼SE¼;
Sec. 23, NE¼NW¼NE¼ and N½SE¼NW¼NE¼.

Williams Lake Recreation Area

T. 20 N., R. 21 E.,
Sec. 33, lots 1 to 6, inclusive.

Iron Lake Recreation Area

T. 18 N., R. 19 E.,
Sec. 11, SW¼NW¼NE¼NW¼, W½SW¼NE¼NW¼, S½NE¼NW¼NW¼, SE¼NW¼NW¼NW¼, E½SW¼NW¼NW¼, SE¼NW¼NW¼, E½SW¼NW¼, E½W½SW¼NW¼, W½W½SE¼NW¼, NW¼NW¼NE¼SW¼, N½NE¼NW¼SW¼, and NE¼NW¼NW¼SW¼.

Copper Creek Administrative Site (formerly Cooper Creek Administrative Site)

T. 20 N., R. 19 E., unsurveyed,
Sec. 18, S½NE¼NE¼NW¼, E½SE¼NE¼NW¼, NW¼SE¼NE¼NW¼, and E½NE¼SE¼NW¼.

Hughes Creek Administrative Site (formerly Hughes Creek Administrative Site Addition No. 1)

T. 25 N., R. 21 E., unsurveyed,
Secs. 15 and 22, metes and bounds.

Williams Creek Recreation Area (formerly Williams Creek Administrative Site)

T. 20 N., R. 20 E.,
Sec. 12, S½N½NW¼NE¼, S½NW¼NE¼, and N½NE¼SW¼NE¼.

Lake Mountain Electronic Communications Site (formerly Lake Mountain Lookout Administrative Site)

T. 20 N., R. 20 E.,
Sec. 34, SW¼NE¼SW¼NE¼, SE¼NW¼SW¼NE¼, NE¼SW¼SW¼NE¼, and NW¼SE¼SW¼NE¼.

Indianola Administrative Site

T. 24 N., R. 19 E., unsurveyed,
Sec. 24, metes and bounds.

Yellowjacket Administrative Site

T. 19 N., R. 17 E., unsurveyed,
Sec. 9, SE¼SW¼NW¼NW¼ and N½NW¼SW¼NE¼.

Middlefork Peak Lookout Administrative Site

T. 19 N., R. 15 E., unsurveyed,
Sec. 25, SE¼SE¼NE¼NW¼ and NE¼NE¼SE¼NW¼ (portion outside of Frank Church River of No Return Wilderness Area).

Baldy Mountain Electronic/Communications Site (formerly Baldy Mountain Administrative Site)

T. 21 N., R. 21 E.,
Sec. 17, SE¼SW¼.

To be continued for 40 years:

Colson Creek Administrative Site

T. 23 N., R. 16 E., unsurveyed,
Sec. 24, W½W½NW¼SE¼.

Ulysses Lookout Administrative Site

T. 24 N., R. 20 E., unsurveyed,
Sec. 9, NW¼SE¼NE¼NW¼.

The areas described aggregate 589.91 acres.

The withdrawal is essential for protection of substantial capital improvements on the sites. The withdrawal closed the land to surface entry and mining, but not to mineral leasing. No changes in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued; and if so, for how long. The final determination of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: October 27, 1989.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 89–26285 Filed 11–7–89; 8:45 am]

BILLING CODE 4310–C6–M

National Park Service

Martin Luther King, Jr., National Historic Site Advisory Commission Meeting

AGENCY: Martin Luther King, Jr., National Historic Site, National Park Service, Interior.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATE: November 16, 1989.

ADDRESS: The Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., Freedom Hall Complex, Room 261, 449 Auburn Avenue NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King, Jr., National Historic Site and Preservation District. The members of the Advisory Commission are as follows:.

Ms. Portia Scott, Chairperson
Mr. William W. Allison
Mr. Arthur J. Clement
Mr. John Cox
Ms. Barbara Faga
Mrs. Christine King Farris
Mrs. Valena Henderson
Mr. C. Randy Humphrey
Dr. Elizabeth A. Lyon
Rev. Joseph L. Roberts
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting will include the status of park development and interpretive activities.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 27, 1989.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 89–26300 Filed 11–7–89; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–305]

Investigation

In the matter of certain aramid fiber homeycomb, unexpanded block or slice precursors of such aramid fiber homecomb, and carved or contoured blocks or bonded asemblies of such aramid fiber honeycomb.

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 27, 1989, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Hexcel Corporation, 11555 Dublin Boulevard, P.O. Box 2212, Dublin, California 94568–0705.

The complaint alleges unfair methods of competition and unfair acts in violation of section 337 in the importation into and the sale in the United States of certain aramid fiber honeycomb, unexpanded block or slice precursors of such aramid fiber honeycomb, and carved or contoured blocks or bonded assemblies of such aramid fiber honeycomb made by a process which embodies misappropriated trade secrets, the effect or threat of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation pursuant to section 337 and issue exclusion orders and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., room 112, Washington, DC 20436, telephone 202–252–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–252–1575.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 53 FR 33034, 33057 (Aug. 29, 1988).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on October 27, 1989, *Ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale, of certain aramid fiber honeycomb, unexpanded block or slice precursors of such aramid fiber honeycomb, or carved or contoured blocks or bonded asemblies of such aramid fiber honeycomb, by reason of alleged misappropriation of trade secrets, the effect or threat of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Hexcel Corporation, 11555 Dublin Boulevard, P.O. Box 2312, Dublin, California 94568–0705.

(b) The resondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: EuroComposites, S.A., B.P. 95 Zone Industrielle, L–6401 Echternach, Luxembourg; EuroComposites Corporation, 1815 E. Center Street, Suite 100, Anaheim, California 92805; Dr. Guy Weinand, Val des Roses, 19, Strassen, Luxembourg.

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401E, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the the Commission's Interim Rules of Practice and Procedure, 53 FR 33034, 33057 (Aug. 29, 1988). Pursuant to § 19 CFR 201.16(d) and 53 FR 33034, 33060 (Aug. 29, 1988), such responses will be considered by the Commission if received not later than 20 days afer the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final

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determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: October 27, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-26266 Filed 11-7-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-305]

Change of Commission Investigative Attorney

In the matter of certain aramid fiber honeycomb, unexpanded block or slice precursors of such aramid fiber honeycomb, and carved or contoured blocks or bonded assemblies of such aramid fiber honeycomb.

Notice is hereby given that, as of this date, James M. Gould, Esq., of the Office of Unfair Import Investigations has been designated as the Commission investigative attorney in the above-cited investigation instead of T. Spence Chubb, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: November 1, 1989.

Respectfully submitted,

Jeffrey R. Whieldon,

Acting Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

[FR Doc. 89-26267 Filed 11-7-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-306]

Certain Bath Accessories and Component Parts Thereof; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 28, 1989, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Baldwin Hardware Corporation, 841 E. Wyomissing Boulevard, P.O. Box 15048, Reading, Pennsylvania 19612. A supplement to the complaint was filed on October 23, 1989. The complaint, as supplemented, alleges violations of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain bath accessories by reason of alleged direct and induced infringement of: (1) U.S. Letters Patent Des. 299,097; (2) U.S. Letters Patent Des. 299,096; (3) U.S. Letters Patent Des. 296,637; (4) U.S. Letters Patent Des. 299,398; (5) U.S. Letters Patent Des. 299,397; and (6) U.S. Letters Patent Des. 299,604, and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT: John R. Kroeger, Esquire, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1573.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.12 of the Commission's Interim Rules of Practice and Procedure, 53 FR 3304, 33057 (Aug. 29, 1988).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on October 27, 1989, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain bath accessories and component parts thereof by reason of alleged direct and induced infringement of: (1) U.S. Letters Patent Des. 299,097; (2) U.S. Letters Patent Des. 299,096; (3) U.S. Letters Patent Des. 296,637; (4) U.S. Letters Patent Des. 299,398; (5) U.S. Letters Patent Des. 299,397; and (6) U.S. Letters Patent Des. 299,604; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Baldwin Hardware Corporation, 841 E. Wyomissing Boulevard, P.O. Box 15048, Reading, Pennsylvania 19612.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Franksu Enterprise Corp., 2F, No. 23-1, Lane 62, Chi Nan Road, Sec. 2, P.O. Box 55756, Taipei, Taiwan; Frank Su, 2F, No. 23-1, Lane 62, Chi Nan Road, Sec. 2, P.O. Box 55756, Taipei, Taiwan; Frank's Locks, 2F, No. 23-1, Lane 62, Chi Nan Road, Sec. 2, P.O. Box 55756, Taipei, Taiwan; Garrett International, Inc., 850 W. Quaking Aspen, Salt Lake City, Utah 84123; Kemp & George, 306 Dartmouth Street, Boston, Massachusetts 02116; Frank's Brassware, c/o Designer Lines, 3461 Opal Street, Riverdale, California 92509.

(c) John R. Kroeger, Esquire, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401K, Washington, DC, 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 53 FR 33034, 33057, 33063 (Aug. 29, 1988). Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules (19 CFR 201.16(d) and 53 FR 3034, 33059 (Aug. 29, 1988)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: October 27, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-26265 Filed 11-7-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-307]

Investigation

In the matter of certain catalyst components and catalysts for the polymerization of olefins.

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 6, 1989, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Himont Incorporated and Himont U.S.A.,, Incorporated, Three Little Falls Centre, 2801 Centerville Road, P.O. Box 15439, Wilmington, Delaware 19850-5439. A supplement to the complaint was filed on October 19, 1989. The complaint, as supplemented, alleges violations of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain catalyst components and catalysts for the polymerization of olefins, by reason of alleged direct, induced and contributory infringement of (1) claims 1-3, 5, 7-8, 10-12, 14 and 16-19 of U.S. Letters Patent 4,476,289 and (2) claims 1-15 and 17 of U.S. Letters Patent 4,636,486; and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1572.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 53 Fed. Reg. 33034, 33057 (Aug. 29, 1988).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on November 1, 1989, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, into the United States, the sale for importation, or the sale within the United States after importation of certain catalyst components and catalysts for the polymerization of olefins by reason of alleged direct, induced or contributory infringement of (1) claims 1, 2, 3, 5, 7, 8, 10, 11, 12, 14, 16, 17, 18, or 19 of U.S. Letters Patent 4,476,289 or (2) claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, or 17 of U.S. Letters Patent 4,636,486, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—Himont Incorporated, Three Little Falls Centre, 2801 Centerville Road, P.O. Box 15439, Wilmington, Delaware 19850-5439; Himont U.S.A., Inc., Three Little Falls Centre, 2801 Centerville Road, P.O. Box 15439, Wilmington, Delaware 19850-5439.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Toho Titanium Company, Limited, No. 17 Mori Building, 26-5 Toranomon, 1 Chrome Minato Ku, Tokyo, Japan; Fina Oil and Chemical Company, 6350 N. Central Expressway, Dallas, Texas 75221.

(c) Juan Cockburn, Esq., Officer of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401Q, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the names respondents in accordance with § 201.21 of the Commission's Interim Rules of Practice and Procedure. 53 FR 33034, 33057, 33063 (Aug. 29, 1988). Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules (19 CFR 201.16(d) and 53 FR 33034, 33059 (Aug. 29, 1988)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to such respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: November 2, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-26268 Filed 11-7-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-298]

Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

In the matter of certain low friction drawer supports, components thereof, and products containing same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: GM International, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on November 1, 1989.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that

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information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, on or before November 20, 1989. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–252–1805.

By order of the Commission.

Issued: November 1, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–26269 Filed 11–7–89; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31526]

Laurinburg and Southern Railroad Co., et al.; Lease and Operation Exemption; Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts Laurinburg and Southern Railroad Company and its subsidiary, Yadkin Valley Railroad Company, from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, for the lease and operation of two lines of railroad in Forsyth, Stokes, Surry, Wilkes and Yadkin Counties, NC, which are presently owned and operated by Southern Railway Company, a subsidiary of the Norfolk Southern Corporation. These lines run between Rural Hall, NC, and North Wilkesboro, NC, and between Mount Airy, NC, and Brook Cove, NC, totalling 101.7 miles. The exemption is subject to employee protective conditions.

DATES: This exemption is effective on November 20, 1989. Petitions for reconsideration must be filed by December 5, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31526 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representatives: Fritz R. Kahn, Suite 700, The McPherson Building, 901 15th Street, NW., Washington, DC 20005–2301; and Robert J. Cooney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245. (TDD for hearing impaired: (202) 275–1721)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: November 1, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26309 Filed 11–7–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

November 1, 1989.

The Office of Management and Budget (OMB) has been sent the following proposals for the collection of information for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information: (1) The title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether section 3504(h) of Public Law 96–511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633–4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Request that applicant for naturalization appear for interview.

(2) N–430. Adjudications Division (COADN), Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. The information requested on this form is needed in order to prepare a Certificate of Naturalization for an eligible petitioner as prescribed in section 338 of the Immigration and Nationality Act.

(5) 350,000 respondents at .083 hours per response.

(6) 29,050 estimated annual burden hours.

(7) Not applicable under 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Aircraft/Vessel report.

(2) I–92. Inspections Division (COINS) < Immigration and Naturalization Service.

(3) On occasion.

(4) Businesses or other for-profit, Federal agencies or employees. This form is part of the manifest requirements of sections 231 and 251 of the Immigration and Nationality Act and is used by other agencies for data collection and statistical analyses.

(5) 600,000 estimated annual respondents at .18 hours per response.

(6) 108,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 89–26333 Filed 11–7–89; 8:45 am]

BILLING CODE 4410–10–M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—Joint Research Agreement Between Corning Inc. and NGK Insulators, Ltd.

Notice is hereby given that, on October 12, 1989, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Corning Incorporated filed a written notification, on behalf of Corning Incorporated and NGK Insulators, Ltd., simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under the specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Joint Research Agreement and its general areas of planned activities are given below.

The parties to the Joint Research Agreement are as follows:

—Corning Incorporated, a New York corporation with its principal place of business at Corning, New York, 14831; and

—NGK Insulators, Ltd., a Japanese Corporation, with its principal place of business at 2–56, Suda-cho, Mizuhoku, Nagoya 467, Japan.

The nature and objective of the Joint Research Agreement is as follows:

—To conduct joint research relating to the development of new catalyst supports or substrates not currently in commercial production for use in catalytic converters in exhaust gas systems of motor vehicles to control air pollution, using innovative technologies. Research tasks to be undertaken shall be determined by the parties in the course of work under the Agreement.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–26336 Filed 11–7–89; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research Act of 1984—Advanced Television Test Center, Inc./Cable Television Laboratories, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Advanced Television Test Center, Inc. ("Test Center") and Cable Television Laboratories, Inc. ("CableLabs") on October 2, 1989 have filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture and its general area of planned activity are given below.

On July 26, 1989, Test Center and CableLabs entered into an agreement to coordinate testing efforts to facilitate the development of data that the Federal Communications Commission and its Advisory Committee on Advanced Television Service, as well as the Advanced Television Systems Committee, will require and utilize to determine appropriate actions with regard to the introduction of advanced television service in the United States. The parties may also undertake additional ATV tests not required by the Advisory Committee on Advanced Television Service.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–26335 Filed 11–7–89; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[89–77]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 54FR43506, Notice Number 89–74, October 25, 1989.

PREVIOUSLY ANNOUNCED TIMES AND DATES OF MEETING: November 15, 1989, 8:30 a.m. to 5 p.m. Meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Ms. Catherine Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–2367).

Dated: November 2, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89–26308 Filed 11–7–89; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by December 8, 1989. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit

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system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 17, 1989.

The application received is as follow:

1. Applicant

William R. Fraser, Point Reyes Bird Observatory, Stinson Beach, California 94970.

Activity for Which Permit Requested

Taking. The applicant is conducting a study of the effects of the January 1989 fuel oil spill near Arthur Harbor, Antarctica on Seabirds. The applicant requests permission to band, weigh and measure many sea birds, as well as to place radio transmitters on some of the birds to measure foraging efficiency. Species to be taken are as follows:

Species	Number
Adelie Penguin	4150
Giant Fulmar	400
Kelp Gull	100
South Polar Skua	1100
Brown Skua	50
Blue-eyed shag	500

Location

Palmer Station and nearby islands in Arthur Harbor.

Dates

January 1990–March 1990.

Charles E. Myers,
Permit Office.
[FR Doc. 89-26224 Filed 11-7-89; 8:45 am]
BILLING CODE 7555-01-M

Meeting; Industrial Advisory Committee for Computer and Information Science and Engineering

The National Science Foundation Announces the Following Meeting:

Name: Industrial Advisory Committee for Computer and Information Science and Engineering.

Date and Time: November 20, 1989, 8:30 a.m.–3:30 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 523, Washington, DC 20550.

Type of Meeting: Part open.

Contact Person: Odessa Dyson, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, Washington, DC 20550, (202) 357–7636.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide a forum enabling the Assistant Director and other senior staff of the Directorate to obtain industry views pertaining to desirable research directions.

Agenda: 8:30 a.m.–Noon—Review CISE Programs and General Discussion; Noon—Lunch; 1:00 p.m.–3:30 p.m.—CISE Long Range Plans.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 89-26350 Filed 11-7-89; 8:45 am]
BILLING CODE 7555-01-M

Meeting; Advisory Panel for Cultural Anthropology; Part Open

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cultural Anthropology, NSF.

Date and Time: November 27 & 28, 1989, 9:00 a.m.–5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 1243, Washington, DC 20550.

Type of Meeting: Part Open—Open 11/28: 10–11 a.m.; Closed 11/27: 9 a.m.–5 p.m.; Closed 11/28: 9 a.m.–10 a.m.; 11 a.m.–5 p.m.

Contact Person: Dr. Stuart Plattner, Program Director, Cultural Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550 Telephone (202) 357–7804.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in physical anthropology.

Agenda: Open—General discussion of the current status and future plans of the Anthropology Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 89-26351 Filed 11-7-89; 8:45 am]
BILLING CODE 7555-01-M

Division of Ocean Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ocean Sciences Research, NSF.

Date and Time: November 28, 29, 1989; 8:30 a.m.–5:00 p.m.

Place: American Association for the Advancement of Science, 1333 H Street, NW., Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Head, Ocean Sciences Research Section, Room 609, National Sciences Foundation, Washington, DC 20550, Telephone (202) 357–9600.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in oceanography.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 89-26352 Filed 11-7-89; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

Florida Power Corp.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation (FPC, the licensee), for operation of the Crystal River 3 Nuclear Generating Station, located in Citrus County, Florida.

The amendment, requested by the licensee by letter of August 25, 1989, would replace the current Technical Specifications (TS) with a set of TS based on the new Babcock & Wilcox Owners Group Standard Technical Specifications currently under review by the staff. The adoption of Owners Group approved TS is part of an industry-wide initiative to standardize and improve TS. Crystal River 3 is the lead plant for

adoption of the Bobcock & Wilcox Owners Group standardized TS.

The changes in the TS can be grouped into 4 catagories: non-technical changes, more stringent requirements, relocation of requirements to other controlled documents, and relaxations of existing requirements.

Non-technical changes are intended to make the TS easier to use for plant operations personnel.

More stringent requirements are either more conservative than corresponding requirements in the current TS, or are additional restrictions which are not in the current TS. The more stringent requirements provide an additional safety margin.

Relocation of requirements involved items that are currently in the TS but do not meet the criteria set forth in the Commission's Interim Policy Statement on Technical Specification Improvement. These items may be removed from the TS and placed in some other controlled document. Once these items have been relocated, the licensee generally would be able to revise them under the provisions of 10 CFR 50.59 without a license amendment.

The relaxation of exiting requirements is based on operating experience. When restrictions are shown to provide little or no safety benefit, and place a burden on the licensee, their removal from the TS may be justified. In most cases, relaxations have previously been granted to individual plants on a plant-specific basis.

For further details regarding the proposed changes in the TS, see the application for amendment dated August 25, 1989, which is available in the Local Public Document Room and the Commission's Public Document Room.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 8, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Crystal River Public Library, 668 NW., First Avenue, Crystal River, Florida, 32629. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow, Director, Project Directorate II–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to A.H. Stephens, General Counsel, Florida Power Corporation, MAC–A5D, P.O. Box 14042, St. Petersburg, Florida 33733, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its

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technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this section, see the application for amendment dated August 25, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida, 32629.

Dated at Rockville, Maryland, this 1st day of November 1989.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26303 Filed 11-7-89; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Evidence for Application of Overall Minimum.

(2) Form(s) submitted: G-319 and G-320.

(3) OMB Number: 3220-0063.

(4) Expiration date of current OMB clearance: 12-31-89.

(5) Type of request: Revision of a currently approved collection.

(6) Frequency of response: On occasion.

(7) Respondents: Individuals or households.

(8) Estimated annual number of respondents: 290.

(9) Total annual responses: 290.

(10) Average time per response: .417 hours.

(11) Total annual reporting hours: 121

(12) Collection description: Under section 3(f)(3) of the Railroad Retirement Act the total monthly benefits payable to a railroad employee and his or her family are guaranteed to be no less than the amount which would be payable if the employee's railroad service had been covered by the Social Security Act.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Ronald J. Hodapp, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Justin Kopca (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Ronald J. Hodapp,

Director of Information, Resources Management.

[FR Doc. 89-26286 Filed 11-7-89; 8:45 am]

BILLING 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Management and Budget

Agency Clearing Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-1002.

New, Rule 15c2-6 questionnaire.

File No. 270-326.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a questionnaire regarding compliance with Rule 15c2-6.

Three hundred twenty-five respondents incur an estimated average burden of fifteen minutes to comply with this questionnaire.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the cost of Commission rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms to Kenneth Fogash, Deputy Executive Director, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget [Paperwork Reduction Project 3235-0500], Room 3208, New Executive Office Building, Washington, DC 20543.

Dated: November 1, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26252 Filed 11-7-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27414; File No. SR-Amex-89-23]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to Amendments to the Exchange's Rules and Policies with Respect to Common Stock Voting Rights

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 19, 1989, the American Stock Exchange Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is proposing to amend Section 122 of the Amex Company Guide by basing its voting rights policy upon the provisions of Rule 19c-4 under the Act [1] and rescinding its current rules and policies with respect to common stock voting rights.

It is proposed that section 122 of the Company Guide be amended as follows: (All added material is italicized; all deleted material is [bracketed].)

§ 122 [Common] Voting Rights. *No [class of common stock] equity security shall be eligible for listing unless it was or is proposed to be issued in a transaction permitted by SEC Rule 19c-4.*

The Exchange will not approve an application for the listing of a non-voting common stock issue unless: *(i) The rights of the holders of such shares are, except for voting, substantially the same as those of the holders of the company's voting common stock; and (ii) the company agrees to provide such holders copies of its annual report, proxy and any other material sent generally to the holders of its voting securities.* [The Exchange may approve the listing of a common stock which has the right to elect only a minority of the board of directors. (See also SEC Rule 19c-4.).]

[1] On July 7, 1988, the Commission adopted Rule 19c-4, under the Act, regarding shareholder voting rights. The Rule prohibits national securities exchanges and associations from listing or quoting the common stock or other equity securities of a domestic company that has issued a class of securities or taken other corporate action that has the effect of nullifying, restricting or disparately reducing the per share voting rights of holders of an outstanding class of common stock. See Securities Exchange Act Release No. 34-25891 (July 7, 1988), 53 FR 26376.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

In July 1988 the SEC adopted Securities Exchange Act Rule 19c-4, which establishes uniform minimum voting rights listing and quotation standards for all marketplaces. The Exchange has now determined to rescind its present rules and policies with respect to common stock voting rights, as set forth in Section 122 of the Amex Company Guide, in favor of applying the uniform minimum voting rights listing standards for all equity securities as set forth in Rule 19c-4.

While the Exchange will consider applications to list non-voting classes of stock,[2] no such security shall be eligible for listing unless its holders have substantially the same rights, except for voting, as do holders of the company's other classes of common stock. Moreover, issuers will be required to agree to provide such holders with copies of annual reports, proxies and any other material sent generally to the holders of other publicly held classes of common stock.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is intended to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (2) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-89-23 and should be submitted by November 29, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[2] Currently, section 122 provides that the Exchange will not approve an application for the listing of a non-voting common stock issue.

[3] 17 CFR 200.30-3(a)(12) (1989).

Dated: November 1, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26315 Filed 11-7-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27417; File No. SR-CBOE-89-22]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Fines for Failure to Perform Certain Reporting Duties

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Significant provisions of the proposed new rule are summarized below.

Rule 6.51A Fines for Failure to Perform Certain Reporting Duties

Subsection (a) Definitions

This subsection defines terms used elsewhere in the rule.

Subsection (b) Fine for failure to report accurate transaction times

This subsection establishes a summary fine to be imposed upon a member who submits inaccurate or no transaction times to the Exchange for a significant percentage of transactions executed during a given month. A fine schedule is included which ranges from $100, if 30% of a member's times during the month are inaccurate, to $500, if 50% or more of such times are inaccurate. If a member incurs such a fine twice within a nine-month period, any subsequent fine imposed under the rule during that nine-month period will be calculated under a repetitive fine provision. Such a fine will be calculated as the sum of the normal fine amount plus an amount equal to the most recently incurred total fine for failing to report accurate transaction times.

The rule sets forth a test for determining whether or not a time shall

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be considered accurate. In general, if a time is within five minutes of the time for the transaction submitted by the contra-party or the time is within five minutes (10 minutes for Standard and Poor's 100 Stock Index ("OEX") transactions) of the time the transaction was disseminated by the Exchange's price reporter, such time shall be deemed accurate. Otherwise, with certain specified exceptions, it shall be considered inaccurate.

The rule provides that any imprecision in the accuracy test shall be no defense to the imposition of a fine. Such imprecision has been counterbalanced by the allowance of the five-minute differential in the accuracy test and the requirement that a minimum percentage of transaction times must be inaccurate before a fine is incurred. The benefits of a complete and accurate audit trail justify this policy.

Subsection (c) Fine for failure to submit trade information to Standard and Poor's 100 Stock Index ("OEX") price reporter

This subsection establishes a summary fine to be imposed upon a member who fails to submit the required information to the OEX price reporter for a significant percentage of OEX sale transactions executed during a given month. The fine shall be $1,000 if 50% or more of such sale transactions are not submitted to the price reporter.

The rule provides that any unidentified errors or omissions which occur in the price reporting system shall be no defense to the imposition of a fine. The possibility that a small, but significant, percentage of trade information actually submitted for OEX price reporting may not be entered accurately into the price reporting system is counterbalanced by the percentage of transactions which must not be reported before a fine is incurred.

Subsection (d) Referral to Business Conduct Committee

In lieu of imposing a fine under the proposed rule, the conduct which would otherwise be covered by the proposed rule may be referred to the Exchange's Business Conduct Committee for handling under regular, not summary, disciplinary procedures. In such a case, any sanction imposed would not be governed by the proposed rule.

Subsection (e) Treatment as minor violation

If a fine imposed under the proposed rule does not exceed $2,500, is uncontested, and is promptly paid, the improper conduct which led to such fine shall be treated and reported to regulatory authorities as a minor violation of Rule 6.51.

Subsection (f) Billing of Fines

Fines imposed under the proposed rule will be billed to the member and/or his or her clearing firm. When the bill is issued, the Exchange will set a time period which shall be no shorter than 15 days for the member to request verification of a fine.

Subsection (g) Collection of Fines

The clearing firm of a member upon whom a fine is imposed under the proposed rule shall be required to collect the fine. Certain collection procedures are provided.

Subsection (h) Requests for Verification

This subsection establishes a process whereby a member may request verification of a fine which has been assessed against such member under the proposed rule. Request for verification shall deal solely with factual issues and the application of the proposed rule thereto. This would include such matters as consideration of evidence that accurate times actually submitted were keypunched incorrectly, determination of whether an exception to the general accuracy test applies, confirmation that the computation of the applicable fine is correct, and determination that the appropriate clearing firm for a member has been billed.

Exchange employees shall verify the accuracy of the fine for which a request for verification was made and determine whether the fine should remain as billed or be modified or eliminated. The member who requested verification may be required to submit documentary evidence or other information. The burden shall be on the member to produce such pertinent evidence or information.

The determination made on a request for verification is not appealable. However, the fine which is the subject of a request for verification may be protested under a separate procedure.

Subsection (i) Protests

This subsection establishes a procedure whereby a member may protest the assessment of a fine under the proposed rule. A member will have a specified time period in which to file a written statement initiating the protest. The statement must identify the fine objected to and give reasons for such objection. It must also include a request for a hearing before the Protest Committee if such a hearing is desired. The filing fee will be $100 for a simple protest or $300 for a protest which will include a hearing.

The Protest Committee shall consist of members of the Exchange's floor procedure committee which has jurisdiction over the station(s) at which the majority of transactions which resulted in the imposition of the fine were executed. If a hearing is held, the Protest Committee shall conduct the hearing and determine all questions concerning the admissibility of evidence. A member shall have the right to present arguments and evidence at the hearing which supports his or her protest. Formal rules of evidence shall not apply. Witnesses shall testify under oath and may be questioned by the Protest Committee and a representative of the Exchange. A transcript of the hearing shall be taken and become part of the record.

The Protest Committee shall decide the outcome of a protest based on the written statement and supporting documents submitted by the protesting member and the data and other information furnished by Exchange staff. The Protest Committee may request the production of additional documentary evidence from the member or additional information from Exchange staff. If a hearing was held, all admitted evidence and arguments presented shall also be taken into account. The Protest Committee may decrease or leave unchanged the fine protested. Alternatively, the Protest Committee may increase the fine if, based on the facts, normal application of the rule dictates the fine be increased. The Protest Committee shall not have the power to increase fines based on its own discretion. Finally, a decision of the Protest Committee may be appealed under the Exchange's normal appeal procedures.

Subsection (j) Suspension of Fines Under Unusual Circumstances

Under unusual circumstances the appropriate floor procedure committee, with the approval of the President of the Exchange, may suspend application of summary fines under the proposed rule. Such a suspension order shall be in writing and shall state the reasons therefor.

The rule also contains examples illustrating how various provisions of the proposed rule operate. These examples will be communicated to the membership in a floor circular.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Proposed Rule 6.51A establishes summary fine procedures for a member's failure to perform certain reporting duties which are currently required under Rule 6.51. The fines are for:

(1) failure to accurately report transaction times, and

(2) failure to submit trade information to the OEX price reporter.

Accurate transaction times and price reporting of all transactions are significant components in the establishment of a complete audit trail for trades effected at the Exchange. The purpose of the proposed summary fine procedures is to enable the Exchange to penalize members who are deficient in meeting their reporting duties. The overall objective is to deter such conduct and thereby ensure establishment of the necessary audit trail information.

A summary fine approach is being proposed as the most efficient method to encourage better performance of the reporting duties on a floorwide basis. Using objective criteria and computer generated reports, the Exchange will have the ability to immediately impose fines on all Market-Makers and Floor Brokers who are failing to meet specified levels of compliance. Use of the Exchange's normal disciplinary procedures on a case-by-case basis for this purpose would be impracticable. Introduction of numerous transaction reporting cases would clog the regular disciplinary process, which is geared toward handling more serious rule violations. Moreover, imposition of summary fines should yield much speedier results. At the same time, in lieu of imposing a summary fine in any given case, the conduct of the member involved may be handled under normal disciplinary procedures. So, for example, serious or repetitive failure to satisfy reporting obligations may still be handled under existing disciplinary procedures, in which case any sanction imposed would not be governed by proposed Rule 6.51A.

As proposed, fines not exceeding $2,500 imposed under Rule 6.51A, which are not contested and are promptly paid, would be treated and reported as minor violations of Rule 6.51. Such fines would be reported to the SEC on a quarterly basis. Quarterly reports would identify the name of each member fined in the relevant period, the nature and date or period of the violation, the fine imposed, and the date such penalty became final. The purpose of such proposed treatment is to permit the Exchange to meet its reporting requirements on a timely basis and in an efficient manner.

The Exchange believes that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder. In particular, the proposed rule is consistent with the following sections of the Act which provide, among other things, that the rules of the Exchange:

—Are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest (section 6(b)(5));

—Provide that its members shall be appropriately disciplined for violation of the provisions of the rules of the Exchange (section 6(b)(6)); and

—Provide a fair procedure for the disciplining of members (section 6(b)(7)).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self—Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: November 2, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26316 Filed 11-7-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27418; File No. SR-CBOE-89-18]

Self-Regulatory Organizations; Chicago Board Options exchange, Inc.; Order Approving Proposed Rule Change Relating to the Priority of Bids and Offers

On August 18, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19(b)-4 thereunder,[2] a proposed rule change to

[1] 17 CFR 200.30-3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

permit combination orders which are executed in conjunction with stock orders (conversions and reversals) the same priorities as combination orders executed in conjunction with option orders. Finally, the proposal would delete uses of the term "Floor Broker" or "Board Broker."

Substantively, the current proposal will afford combination orders which

[Release No. 34-27415; File No. SR-MSE-89-8]

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requirements of Section 6(b)(5) of the Act.[5] The Commission believes that the proposal is consistent with the section 6(b)(5) requirement that "the rules of the

and revises MSTC's interim accounting procedure for the processing of large cash dividends involving due bills.

burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's

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permit combination orders which are executed in conjunction with stock orders (conversions and reversals) the same priorities as combination orders that do not involve stock transactions and to update Exchange Rule 6.45 to reflect that Board Brokers are no longer on the Exchange.

The proposed nrule change was published for comment in Securities Exchange Act Release No. 27224 (September 6, 1989), 54 FR 37857 (September 13, 1989). No comments were received on the proposed rule change.

Currently, Exchange rules provided that if there are two or more bids for the same option contract, the highest bid is given priority. If two or more bids represent the highest price and one such bid is displayed by a Board Broker or Order Book Official, the bid displayed by the Board Broker or Order Book Official has priority. If two or more bids represent the highest price and a bid displayed by a Board Broker or Order Book Official is not involved, priority is given to the bids in the sequence in which they are made. These priority rules do not apply in the case where a member is holding a spread order, a straddle order, or a combination order and bidding on the basis of a total credit or debit for the order and that member has determined that the order may not be executed by a combination of transactions with or within the bids and offers displayed by the Board Broker or Order Book Official or announced by members in the trading crowd. The member may execute the spread, straddle, or combination at the total credit or debit without giving priority to bids or offers of members in the trading crowd or of the Board Broker or Order Book Official that are no better than the bids or offers comprising such total credit or debit. A stock/option order, such as a buy write or other similar trading strategy, that only involves one option series has priority over the bids and offers of members in the trading crowd but not over the bids and offers of the Board Broker or Order Book Official.

The current proposal will update Exchange Rule 6.45 to reflect the fact that Board Brokers are no longer on the Exchange. The amended rule will refer to bids and offers displayed in the customer limit order book instead of to bids and offers displayed by Board Brokers or Order Book Officials. In addition, the current proposal will substitute the term "member" for other uses of the term "Floor Broker" or "Board Broker."

Substantively, the current proposal will afford combination orders which are executed in conjuction with stock (conversions and reversals) the same priorities as combination orders that do not involve stock. The Exchange believes that the current proposal will allow such combination orders to be more efficiently executed. The Exchange also believes that the priority of the public customer order limit book will not be greatly affected since the two-sided option order which is part of a conversion/reversal will only be able to touch the book on one side.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6.[3] Specifically, the Commission finds that affording combination orders which involve stock the same priorities as combination orders taht do not involve stock is consistent with section 6(b)(5) in that it will perfect the mechanism of a free and open market by enabling combination orders which involve stock to be more efficiently executed. The Commission believes that the proposed rule change will not substantialy affect the customer limit order book since the two-sided option order which is part of a conversion/reversal will only be able to touch the book on one side. The Commission also believes that the CBOE updating its rules to reflect the fact that Board Brokers are no longer on the Exchange is a proper administrative decision of the CBOE and will not alter the substance and effect of the obligations.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change (SR–CBOE–89–18) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: November 2, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26320 Filed 11–7–89; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78s(b)(2) (1982).

[5] 7CFR 200.30–3(a)(12) (1989).

[Release No. 34–27415; File No. SR–MSE–89–8]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to an Increase in the Number of Shares Subject to the Guaranteed Pricing Parameters of the BEST System From 1099 to 2099

On September 6, 1989, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Article XX, Rule 34 ("BEST Rule").

The proposed rule change was noticed in Securities Exchange Act Release No. 27270 (September 20, 1989), 54 FR 40223 (September 29, 1989). No comments were received on the proposal.

Rule 34 provides that the MSE Guaranteed Execution System (the "BEST System") is available to Exchange members and, where applicable, to members of a participating exchange who send orders to the Exchange Floor through a foreign exchange linkage established pursuant to Rule 39. The BEST System includes all issues in the MSE Specialist System that are traded in the Dual Trading System and the NASDAQ/NMS securities. Currently, Rule 34 requires that all agency orders (*i.e.* orders for the accounts of non-broker/dealers) from 100 up to and including 1,099 shares be filled within certain guaranteed pricing parameters.[3] The Exchange has proposed to increase the number of shares subject to the guaranteed pricing parameters on agency orders from 1099 to 2099.[4] The Exchange believes that the larger size guaranteeds will enhance the competitiveness of the Exchange by attracting additional order flow.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6(b)(5) of the Act.[5] The Commission believes that the proposal is consistent with the section 6(b)(5) requirement that "the rules of the exchange * * * facilitat[e] transactions in securities * * * and perfect the mechanism of a free and open market" while protecting the public interest. By allowing a customer to obtain up to 2,099 shares at the guaranteed best price prevailing at the time of his order, the Commission believes that public customers will benefit from receiving executions of a greater number of shares within the guaranteed pricing parameters of Rule 34. Moreover, the proposed rule change will increase the depyh of the MSE market y raising the minimum execution guarantee.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: November 1, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26253 Filed 11–7–89; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19–b (1989).

[3] Generally, under Rule 34, market orders are guaranteed execution at the best bid and offer, while limit orders are guaranteed execution based on trading in the primary market.

[4] The number of shares on orders eligible for mandatory automatic execution over the MSE's Automatic Execution ("MAX") System, however, will remain at 1,099.

[5] 15 U.S.C. 78f (1982).

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30–3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1981).

[Release No. 34–27411; File No. SR–MSTC–89–09]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of a Proposed Rule Change by Midwest Securities Trust Company Concerning Modification to Interim Accounting Procedure for the Processing of Large Cash Dividends Involving Due Bills

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 6, 1989, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described below (SR–MSTC–89–09). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies and revises MSTC's interim accounting procedure for the processing of large cash dividends involving due bills.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify MSTC's interim accounting procedure applied to large cash distributions and extraordinary cash dividends ("Special Cash Dividends"). Previously, participants were required to settle due bills on those book-entry movements representing trades settling from the payable date through the due bill redemption date (i.e., ex-dividend date +4) outside of the depository facilities. (Due bills are utilized in order to correctly assign a particular dividend or distribution to the buyer in a transaction that would settle after the appropriate record date.) Handling due bills and payments in this manner has been cumbersome and has caused collection delays for some participants. The interim accounting procedure will begin the day after record date and end on the due bill redemption date. Under the new procedure, participants will receive daily net credits or debits, as appropriate, beginning on the day after payable date, for the net result of the previous day's book-entry movements and settling trade activity.

The proposed rule change is consistent with section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions involving Special Cash Dividends.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act [2] and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

You are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at MSTC's principal office. All submissions should refer to File number SR–MSTC–89–09 and should be submitted by November 29, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 31, 1989.

[FR Doc. 89–26317 Filed 11–7–89; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 200.30–3(a)(12) (1989).

[3] 15 U.S.C. 78s(b)(3) (1981).

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[Release No. 34-27415; File No. SR-Phlx-89-39]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Crossing, Facilitation, and Solicited Orders on the Exchange's Equity and Index Options Floor

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 10, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(Additions are italicized.)
(a) No change.
(b) Facilitation Orders. A Floor Broker holding an options order for a public customer and a contraside order may cross such orders in accordance with paragraph (a) above or may execute such orders as a facilitation cross in the following manner:
(i) A legible "F" must be recorded on the floor ticket for the public customer's order, together with all of the terms of the order, including any contingency involving other options or the underlying or related securities.
(ii) The Floor Broker shall request markets for the execution of all options components of the order. After providing an opportunity for such markets to be made, the Floor Broker shall announce that he holds an order subject to facilitation and shall bid (or offer) in between the market for each options component and disclose all terms and conditions of the order including all securities which are components of the order.
(iii) After all market participants in the crowd are given a reasonable opportunity to accept all terms and conditions made on behalf of the public customer whose order is subject to facilitation, the Floor Broker may immediately thereafter cross all or any remaining part of such order and the facilitation order at each customer's bid or offer by announcing by public outcry that he is crossing and by stating the quantity and price(s).
Once a Floor Broker has announced an order as subject to facilitation and has established a bid (or offer) in between the market for the option(s) to be facilitated, the order cannot be broken up by a subsequent superior bid or offer for just one component to the facilitated order.
(c) Solicited Orders. For the purpose of this Rule, a solicitation occurs whenever an order, other than a cross, is presented for execution in the trading crowd resulting from an away-from-the-crowd expression of interest to trade by one broker dealer to another.
If a member appears in the trading crowd in response to a solicitation, other trading crowd participants must be given a reasonable opportunity to respond to the order which prompted the solicitation. The solicitor or his representative must give all information to the trading crowd which was given to the solicited member before the solicited member may respond to the order.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to correlate the procedures on the PHLX equity and index options floor with those adopted by the American Stock Exchange ("AMEX") and the Chicago Board Options Exchange ("CBOE").

The proposed rule change sets out procedures for handling facilitation orders. The proposal is intended to provide means for a member firm to take the other side of (or "facilitate") a customer options order. It is designed to provide the customer a fill at a better price, or in greater size, than would otherwise be available on the floor, but to shield the member firm from having its side of the trade taken by traders on the floor while leaving the customer order unexecuted. The proposal accomplishes this by first having the executing floor broker request markets for all options components of the order. The broker then indicates that he has an order subject to facilitation and announces a bid or offer inside the market for each options component. He also discloses any contingencies to the order (such as stock to be traded in connection with the order). Market participants are then given a reasonable opportunity to trade with the customer order, provided they accept all terms and conditions of the order. Thereafter, the floor broker immediately crosses any remaining unexecuted part of the order with the firm facilitation order.

Use of the facilitation provisions of Rule 1064 is an alternative to, not a substitute for, use of the crossing rule. A broker holding a customer order and a facilitation order is permitted to cross them using the procedures in either paragraph (a) or proposed paragraph (b).

Additionally, once a broker has announced an order is subject to facilitation and has established a market for it, the order is permitted to trade at the established price notwithstanding a subsequent bid or offer for just one component of the order. This is intended to prevent a market maker from blocking the facilitation. A market maker willing to trade all components at a superior price would be permitted to do so. This provision is adapted from the current CBOE facilitation Rule 6.74.

The next section of the proposed rule deals with "solicited" orders. These are defined as orders presented for execution in the trading crowd resulting from an away-from-the-crowd expression of trading interest by one broker-dealer to another. The rule provides that, if a member appears in a trading crowd in response to such a solicitation, other trading crowd participants must be given a reasonable opportunity to respond to the order and must be provided the same information (*e.g.*, concerning a related stock order) given to the solicited member. This section is intended to address situations where two traders meet in a crowd and in shotgun fashion a bid or offer is made and taken before other crowd participants can reasonably react. The AMEX has adopted a similar provision under its Rule 950.

The proposed rule change is based on section 6(b)(5) of the Securities Exchange Act of 1934 in that it is designed to further promote the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 2, 1989.
Jonathan G. Katz,
Secretary.
[FR Doc. 89-26318 Filed 11-7-89; 8:45 a.m.]
BILLING CODE 8010-01-M

[Release No. 34-27416; File No. SR-PHLX-89-49]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Floor Employee Termination Notices and Order and Decorum Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] notice is hereby given that on October 1, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and IV below, which Items have been prepared by the self-regulatory organization. The PHLX has requested accelerated approval of this proposal to codify several rules that provide for (1) order, decorum and safety on the Exchange, (2) the ability to more efficiently enfore compliance with the Exchange's new card key access/security system, and (3) the ability of the Exchange to better monitor changes in Exchange member clearing arrangements.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Rule 19b-4 under the Act, the Exchange proposes to codify the following regulations respecting order and decorum pursuant to PHLX Rule 60. These regulations are entirely new material and appear below:

Regulation 7—Required Filing for Floor Member Firm Employee Termination Notices with the Exchange

Following the termination of any employee of a member/participant firm who has been issued an Exchange access card and trading floor badge, a completed "Termination Notice" must be submitted to the Director of Regulatory Services of the Exchange as soon as possible, but no later than 9:30 a.m. the next business day by the member/participant firm employer. Further, every effort should be made to obtain the terminated employee's access card and trading floor badge and to submit these to the Security Department.

1st Occurrence: $100
2nd Occurrence: $200
3rd Occurrence: Sanctions are discretionary with the Business Conduct Committee.

Regulation 8—Attempt to Circumvent the Security System of the Exchange

It is strictly prohibited for any member/participant or employee of a member/participant firm to attempt to circumvent the security system of the Exchange.

1st Occurrence: $250
2nd Occurrence: $500
3rd and thereafter: Sanctions are discretionary with the Business Conduct Committee.

Regulation 9—Required Filing for the Commencement or Termination of a Business Relationship between Members/Participants and their Clearing Organizations

Following the commencement or termination of a clearing arrangement between members/participants and their clearing organization, a completed "Clearing Arrangement Notice" must be submitted to the Director of Regulatory Services of the Exchange as soon as possible, but no later than 9:30 a.m. the next business day by such clearing organization.

1st Occurrence: $100
2nd Occurrence: $200
3rd Occurrence: Sanctions are discretionary with the Business Conduct Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1982).
[2] 17 CFR 240.19b-4 (1988).
[3] See letter from William W. Uchimoto, General Counsel, PHLX, to George Scargle, Staff Attorney, Division of Market Regulation, dated October 30, 1989.

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A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide an effective means for the Exchange to implement a card key access/security system to control admission to its trading floors. The proposed rule change will also provide an effective means for the Exchange to monitor changes in member clearing arrangements in order to preclude unauthorized trading on the Exchange floors by persons who have their clearing arrangements severed by requiring that members provide notice to the Exchange of changes in clearing arrangements between members/participants and their clearing organizations. The proposed regulations will assist the Exchange in keeping track of active floor members and clerical employees while controlling unauthorized access to its trading floors by removing access codes for terminated floor personnel from the security system and ensuring that members have in effect their clearing arrangements at the earliest possible occasion.

The proposed rule change is based on section 6(b)(5) of the Act in that it is designed to further promote the mechanism of a free and open market and to protect investors and the public interest. Additionally, the proposed rule change is consistent with, and is an implementation of, PHLX Rule 60. Assessments shall not exceed $1,000 per occurrence for breaches by members or their employees of regulations which relate to the administration of order, decorum, health, safety and welfare on the Exchange, and higher fines and sanctions may be imposed only by the PHLX Business Conduct Committee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that there is good cause to approve the PHLX's proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the Federal Register. The Commission agrees with the Exchange that there is an urgent need to codify rules providing for order, decorum and safety on the PHLX. This need is particularly urgent because the Exchange recently has implemented a new card key access/security system. In addition, the substance of Regulation 7 (Required Filing for Floor Member Firm Employee Termination Notices with the Exchange) was noticed in the Federal Register for the full thirty-day period, and the Commission did not receive any comments on that proposal.[4] The Commission also finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6(b) (5) and (6) of the Act,[5] which require that national securities exchanges have rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest and rules providing for appropriate discipline of members for violations of rules of the Exchange.

The proposed rule change should assist the Exchange in keeping track of active floor members and clerical employees while controlling unauthorized access to its trading floors by removing access codes for terminated floor personnel from the security system. The proposed rule change should also assist the Exchange in precluding unauthorized trading on the Exchange floors by persons who have their clearing arrangements severed as well as ensuring that members have in effect their clearing arrangements at the earliest possible occasion. Furthermore, because fines shall not exceed $1,000 per occurrence for breaches by members or their employees of regulations which relate to the administration of order, decorum, health, safety and welfare on the Exchange, and because higher fines and sanctions may be imposed only by the PHLX Business Conduct Committee, the Commission finds that the proposed rule change is consistent with existing PHLX Rule 60.

[4] See Securities Exchange Act Release No. 27032 (July 13, 1989), 54 FR 30463 (July 20, 1989) (File No. SR–PHLX–89–42). File No. SR–PHLX–89–42 was withdrawn when File No. SR–PHLX–89–46, the subject of this approval order, was filed. See letter from William W. Uchimoto, General Counsel, PHLX, to Mary Revell, Branch Chief, Division of Market Regulation, dated October 3, 1989.

[5] 15 U.S.C. 78f(b) (5) and (6).

IV. Solicitation of Comments and Conclusion

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1989.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the above mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: November 2, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26319 Filed 11–7–89; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30–3(a)(12) (1989).

[Rel. No. IC–17199; (812–7038)]

Chicago Milwaukee Corp., et al.; Application

October 31, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Chicago Milwaukee Corporation ("CMC"), CMC Real Estate Corporation ("CMC Real Estate"), and Milwaukee Land Company ("MLC").

RELEVANT 1940 ACT SECTIONS: Orders requested under section 17(d) and Rule 17d–1 thereunder, under section 17(b) from section 17(a), and under section 6(c) from section 8(b) and Rules 8b–5 and 8b–16 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order in connection with a proposal to transfer Applicants' real estate assets to an affiliate followed by an in-kind distribution to CMC's common shareholders, and an order granting an exemption from the requirement that CMC Real Estate file a registration statement on Form N–2 and annual amendments thereto with the Commission for the period that it has been a registered investment company.

FILING DATES: The application was filed on May 18, 1988, and amendments thereto were filed on October 11, 1988, and February 7 and September 20, 1989.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 27, 1989, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, Chicago Milwaukee Corporation, CMC Real Estate Corporation, and Milwaukee Land Company, 547 West Jackson Boulevard, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: James E. Banks, Staff Attorney (202) 272–3026, or Brion R. Thompson, Special Counsel, (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. CMC, CMC Real Estate, and MLC (collectively, "Applicants") each are registered under the 1940 Act as a closed-end, non-diversified, management investment company. CMC Real Estate is a wholly-owned subsidiary of CMC and MLC is a wholly-owned subsidiary of CMC Real Estate.

2. Applicants propose to transfer their real estate assets [1] through a two-tier partnership structure consisting of CMC Heartland Partners (the "Operating Partnership"), a Delaware general partnership, and Heartland Partners, L.P. ("Heartland"), a Delaware limited partnership that owns 99.99% of the Operating Partnership. MLC will own the remaining .01% general partnership and will serve as Heartland's general partner and the Operating Partnership's managing general partner.

3. Applicants propose to transfer their real estate assets to the Operating Partnership. In return, Heartland will issue units to CMC representing Class A limited partnership interests in Heartland for immediate distribution to CMC's common shareholders. CMC will also contribute approximately $5 million of working capital to the Operating Partnership. Heartland and the Operating Partnership will assume most of CMC Real Estate's liabilities for claims remaining under its plan of reorganization, certain other contingent liabilities, and pending litigation to which Applicants are parties. CMC Real Estate will be required to contribute to Heartland approximately $18.7 million, in part to fund the settlement or other resolution of the litigation and disputed claims in connection with the bankruptcy proceedings. In consideration of this contribution, Heartland will issue to CMC Real Estate a Class B limited partnership interest in Heartland.

4. In addition, Applicants will enter into the following agreements in connection with the transfer of their real estate assets. First, CMC and the Operating Partnership will enter into an agreement that will permit the Operating Partnership to use some of CMC's office space, facilities, and personnel and CMC to use some of the Operating Partnership's personnel. Each will periodically reimburse the other for the excess of the costs of the facilities and personnel supplied by it.

5. Second, Heartland and the Operating Partnership will enter into an agreement with CMC whereby CMC, on request, will furnish to Heartland and the Operating Partnership various management services for a ten year term. In return, the Operating Partnership will pay CMC an annual fee equal to 1.5% of the sum of the aggregate market value, as of the date of the distribution, of (i) the real estate properties transferred to the Operating Partnership in the transfer, and (ii) the net proceeds received by Heartland in respect of any issuances of additional units after the distribution. The management agreement will require the Operating Partnership to reimburse CMC for all out-of-pocket expenses incurred by CMC pursuant to the management agreement.

6. Third, CMC will enter into an employment agreement with Edwin Jacobson, the President and CEO of CMC, whereby Mr. Jacobson will serve as the Operating Partnership's President and CEO (the "Jacobson Employment Agreement"). Mr. Jacobson will be paid an annual base salry of $350,000, which is approximately 77.8% of his current base salary with CMC. Mr. Jacobson's current base salary with CMC will be reduced by $350,000 after the transfer. In addition, Mr. Jacobson's employment agreement has an incentive feature designed to encourage him to maximize the value of the Operating Partnership and distribute value to the unitholders. Specifically, once cash distributions to the unitholders have exceeded the value of the real estate business transferred to the Operating Partnership, Mr. Jacobson will be entitled to receive incentive payments equal to 10% of the value of all amounts distributed to the unitholders. During the term of his employment agreement with the Operating Partnership, Mr. Jacobson will have the right to continue his employment with CMC and to pursue other employment and business activities not in competition with the activities of the Operating Partnership. Mr. Jacobson, however, will be required to devote an amount of time to the activities of the Operating Partnership determined by MLC's Board of Directors to be required of him to accomplish the business objectives of the Operating Partnership.

7. Applicants represent that the consent of the majority of the outstanding shares of CMC's common and noncumulative preferred stock, considered without distinction as to class, is required to approve the transfer, distribution, and related agreements.

8. Each applicant initiated their registration under the 1940 Act by filing a notice of registration on Form N–8A with the SEC in 1988. However, Applicants have not filed a registration statement on Form N–2 and the annual

[1] Applicants' real estate assets include approximately 31,250 acres of scattered parcels in 12 states, most of which are former railroad rights-of-way located in rural locations. Also included are former station grounds, rail yards, approximately 900 acres of land acquired by MLC for industrial sites, approximately 70,000 acres of mineral rights, and approximately 2,500 acres of MLC's timber properties.

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amendments thereto, as closed-end investment companies are required to do under section 8(b) of the 1940 Act and Rules 8b–5 and 8b–16 thereunder. In addition, Applicants have not filed any of the periodic reports required under the 1940 Act and the rules thereunder.

9. CMC and MLC now propose to file their respective registration statements on Form N–2 with the SEC on or prior to November 14, 1989, the annual amendments thereto, and the periodic reports required under section 30(d) of the 1940 Act and Rule 30d–1 thereunder. In addition, CMC will commence filing semi-annual reports on Form N–SAR under Rules 30b1–1 and 30b1–2 under the 1940 Act on a consolidated basis containing, among other things, financial information with respect to MLC within the specified time period after completion of the semi-annual period ending December 31, 1989.

Applicants' Legal Analysis

1. Applicants request an order under sections 17(b) and 17(d) of the 1940 Act and Rule 17d–1 thereunder. Applicants are affiliated persons of each other and of Heartland, and the Operating Partnership within the meaning of section 2(a)(3) of the 1940 Act. Further, Mr. Jacobson is an affiliated person of CMC and the Operating Partnership by virtue of being the President and Chief Executive Officer of each entity. Thus, the transfer of Applicants' real estate assets would involve both a purchase or sale of securities between an investment company, an affiliated person and a company controlled by such investment company, and a joint transfer transaction among affiliated persons.

2. Applicants assert that the transfer of the real estate assets and the distribution of the partnership interests is fair and reasonable and will not involve any overreaching. Specifically, Applicants state that the transfer of the real estate assets was undertaken by CMC's board of directors after due investigation and consideration of the benefits to CMC's shareholders, and the terms of the separation were unanimously approved by the board of directors. In addition, Applicants believe that the distribution of the partnership units is fair and reasonable to the common shareholders because it will be made on a pro rata basis to all common shareholders and no common shareholder will receive any special right or benefit in relation to any other common shareholder. Applicants also believe that the transfer and distribution is fair and reasonable because it will be effectuated in full compliance with CMC's charter and will have no effect on CMC's ability to satisfy the dividend preference and liquidation preference of the preferred shareholders. Applicants state that following the transfer and distribution, CMC's securities portfolio will provide an asset coverage greatly in excess of the amount required to cover CMC's liquidation and dividend preferences as well as the 200% asset coverage requirement required by section 18(a) of the 1940 Act.

3. Applicants also assert that their participation in the related agreements will not be on a basis different from or less advantageous than that of any other participant because the related agreements were considered and unanimously approved by CMC's board of directors (with Mr. Jacobson not participating, as to his employment compensation agreement) in its business judgment as arrangements fairly designed to maximize the value of CMC's real estate assets for the benefit of CMC's common shareholders as the initial holders of the Heartland units. According to the application, CMC's directors considered that the sharing agreement was designed to reduce the cost to Applicants, Heartland, and the Operating Partnership (and ultimately CMC's shareholders) of operating their respective businesses. Applicants further assert that CMC's directors viewed the management agreement as a commercially feasible means of retaining the resources and expertise of CMC for Heartland and the Operating Partnership in their continuing real estate business. Also, the CMC board considered the opinions of two independent accounting firms to confirm their business judgement that the employment compensation agreement with Mr. Jacobson is fair and reasonable and that such agreement is comparable to compensation arrangements for similarly situated executives in the real estate industry.

4. In addition, Applicants request an order under Section 6(c) of the 1940 Act exempting CMC Real Estate from the requirement in section 8(b) and Rules 8b–5 and 8b–16 thereunder that it file Form N–2 with the SEC and the annual amendments thereto for the period that it has been a registered investment company. Applicants assert that the requested order under section 6(c) is appropriate in the public interest and consistent with the protection of investors and the purposes of the 1940 Act. Applicants assert that registration and reporting by CMC Real Estate is unnecessary for the protection of CMC's shareholders and the general public because CMC Real Estate will be liquidated and merged into CMC. According to the applicaiton, CMC and MLC are not seeking relief from the registration and reporting provisions of the 1940 Act that are applicable to registered closed-end investment companies. Therefore, CMC and MLC will be required to file their respective registration statements on Form N–2, the annual amendments thereto, and the required periodic reports. In addition, CMC will file semi-annual reports on Form N–SAR containing, among other things, current financial information with respect to itself and MLC.

Applicants further assert that, since CMC Real Estate is a wholly-owned subsidiary of CMC, all of the information that would have been contained in CMC Real Estate's registration statement will be reflected in the registration statement filed by CMC.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26254 Filed 11–7–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17196; 812–6527]

T. Rowe Price Spectrum Fund Inc., et al.; Notice of Application October 31, 1989

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: T. Rowe Price Spectrum Fund, Inc. (the "Spectrum Fund"), T. Rowe Price Growth Stock Fund, Inc., T. Rowe Price New Horizons Fund, Inc., T. Rowe Price New Era Fund, Inc., T. Rowe Price New Income Fund, Inc., T. Rowe Price Prime Reserve Fund, Inc., T. Rowe Price Growth and Income Fund, Inc., T. Rowe Price Short-Term Bond Fund, Inc., T. Rowe Price High Yield Fund, Inc., T. Rowe Price Equity Income Fund, T. Rowe Price GNMA Fund, T. Rowe Price International Trust, and each open-end management investment company (1) advised by, or in the future advised by, T. Rowe Price Associates, Inc. ("Price Associates") or its affiliate, Rowe Price-Fleming International, Inc. ("Price-Fleming") or distributed by, or in the future distributed by, T. Rowe Price Investment Services ("Investment Services") and (2) that holds itself out to investors as a related fund for the purposes of investment and investor services (collectively, the "Price Funds"), Price Associates, Investment Services, T. Rowe Price Services ("Price Services"), and Price-Fleming (collectively, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under Sections 6(c) and 17(b), for exemption from sections 12(d)(1) and 17(a), and under 17(d) and Rule 17d–1 permitting transactions otherwise prohibited by section 17(d).

SUMMARY OF APPLICATION: Applicants seek an order to permit the Spectrum Fund to acquire shares of Price Funds in excess of the limitations imposed by section 12(d)(1) and to permit certain affiliated transactions otherwise prohibited by sections 17 (a) and (d) and Rule 17d–1.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 24, 1989, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 100 East Pratt Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Bibb L. Strench, (202) 272–2856, or Karen L. Skidmore, Branch Chief, (202) 272–3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. The Spectrum Fund is a no-load, open-end management investment company that is organized as a Maryland corporation with series capability. The Spectrum Fund will only invest in shares of certain Price Funds, and, for temporary defensive purposes, money market instruments. The Price Funds are no-load, open-end investment companies that operate without 12b–1 plans.

2. Price Associates is a publicly held company and registered as an investment adviser under the Investment Advisers Act of 1940. Investment Services is a registered broker-dealer and Price Services is a registered transfer agent, under the Securities Exchange Act of 1934. Both are wholly-owned subsidiaries of Price Associates.

3. Shares of the Spectrum Fund will be offered and sold only to small individual investors investing primarily through tax-advantaged retirement accounts organized under the provisions of the Internal Revenue Code but also through other accounts established for long-term investment purposes. The Spectrum Fund is designed to provide a simple cost-effective response to investor demand for broad diversification through investments in two specific fund portfolios with differing objectives. When combined with savings on retirement fiduciary fees, Spectrum Fund would likely be a less expensive investment alternative for Price Fund shareholders who invest through retirement plans.

4. The Spectrum Fund will consist of two portfolios: the Growth Fund and the Income Fund (the "Portfolios"). The Growth Fund will invest in five Price common stock funds; the Income Fund will invest in five Price bond funds; and both Portfolios will invest in a Price equity income fund and a Price money-market fund (collectively, with any other Price Fund in which the Growth Fund and the Income Fund could invest in, the "Underlying Funds").

5. The initial allocation of assets will be determined by Price Associates and will be adjusted periodically in accordance with quantitative and analytical analyses administered by Price Associates. Further, fundamental analysis also will be applied to the allocation process and used by the officers of Spectrum Fund to make the allocation decisions. Each Portfolio of the Spectrum Fund will allocate its assets among the Underlying Funds in accordance with predetermined percentage ranges. For the Income Fund, these ranges will be:

Fund	Investment range (percent of income fund assets)
Prime Reserve Fund	5–30
Short-Term Bond Fund	0–15
New Income Fund	15–30
GNMA Fund	5–20
High Yield Fund	10–25
International Bond Fund	5–20
Equity Income Fund	10–25

For the Growth Fund, the ranges will be:

Fund	Investment range (percent of equity fund assets)
Equity Income Fund	5–20
Growth and Income Fund	5–20
New Era Fund	10–25
Growth Stock Fund	15–30
New Horizons Fund	10–25
International Stock Fund	5–20
Prime Reserve Fund	0–25

As matters of fundamental policy, the Underlying Funds or the percentage ranges may only be changed by shareholder vote. Neither the Growth Fund nor the Income Fund will be able to purchase shares of any Price Fund if, as a result of such purchase, they would hold in the aggregate more than fifteen percent of any class or classes of the outstanding securities of that fund. The difference between the upper limit and the lower limit of the percentage range may be no greater than fifteen percent, except for temporary investments in a money market fund.

6. The expenses of the Spectrum Fund will be minimal. Price Associates will charge no advisory fee. However, shareholders of each Portfolio will indirectly pay their proportional share of the advisory fees and expenses paid by shareholders of the Underlying Funds. Under the advisory fee structure for the Price Funds, the creation and operation of the Spectrum Fund, to the extent it attracts additional assets to the Price Funds, will reduce the "group" fee component of Price Fund advisory fees and, thus, reduce the expense ratio of the Underlying Funds.[1]

7. Price Services will act as the shareholder servicing agent for the Spectrum Fund and arrange for all other services necessary for the operation of the Spectrum Fund. All expenses (shareholder servicing, legal, accounting, etc.) will be paid for in accordance with a Special Servicing Agreement (the "Agreement") to be entered into between and among the Spectrum Fund, the Underlying Funds and Price Services. The Agreement will generally

[1] Under a partial group fee arrangement, the advisory fee due Price Associates is split into two components—a "group" fee and an "individual fund" fee. The group fee is based on the combined net assets of all of the Price Funds distributed by Price Services other than certain institutional and private label products. Each Price Fund pays, as its portion of the group fee, an amount equal to the ratio of its daily net assets to the daily net assets of all Price Funds. The individual fund fee is based on the net assets of that Price Fund and recognizes the different characteristics of each fund, the degree and skill required to manage each fund and the relative value that can be, and has been, added by that fund's investment adviser.

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require the Spectrum Fund to pay for services to be rendered by Price Services and reimburse Price Services for payments for services obtained from

from the Underlying Funds or new investments.

10. Based on actual expense data from the Underlying Funds and certain

the Spectrum Fund, rather than two to seven times this amount depending on the number of Underlying Funds in which they otherwise would have

percent in the aggregate of any Underlying Fund. Finally, the inherent conflicts of interest are mitigated by separate, independent boards of

1. Shares of the Spectrum Fund will be offered and sold (including sales by exchanges or transfers between the Portfolios) only to individuals investing through tax-advantaged retirement accounts

and will take appropriate action to keep wash transactions at a *de minimis* level.

11. The Directors of Spectrum Fund will cause a report to be filed with the Division of Investment Management within 60 days of

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require the Spectrum Fund to pay for services to be rendered by Price Services and reimburse Price Services for payments for services obtained from other persons, except to the extent those service fees and payments, or a portion of them, are paid by the Underlying Funds.

8. The Board of Directors/Trustees of an Underlying Fund will determine whether the aggregate expenses of the Spectrum Fund are greater than or less than the estimated savings to the Underlying Fund from the operation of the Spectrum Fund. If the aggregate financial benefits to the Underlying Funds exceed the costs of the Spectrum Fund, there will be no charge to the Spectrum Fund for the services under the Agreement. The expenses will be passed through to the Underlying Funds in proportion to the average daily value of each Underlying Fund's shares held by each Portfolio, provided further that no Underlying Fund will bear such expenses in excess of the estimated savings to it. If the aggregate financial benefits to the Underlying Funds do not exceed the costs of the Spectrum Fund, the Spectrum Fund will pay that portion of costs determined to be excessive.

9. The determination of whether and the extent to which the benefits will exceed the costs will be based on a cost-benefit analysis set forth in the application and summarized below. The Directors/Trustees for each Underlying Fund, prior to authorizing its fund to be a party to the Agreement, will review and approve or disapprove the cost-benefit analysis and review annually its continued appropriateness for each Underlying Fund. In making these determinations, the Directors/Trustees will consider such factors as they apply to each Underlying Fund as: the amount of Spectrum Fund expenses to be absorbed by each Underlying Fund; the amount of assets invested in each Underlying Fund by the Spectrum Fund; the average and median account sizes for the Underlying Fund and Spectrum Fund; the rate at which variable expenses are incurred by Spectrum Fund and Underlying Funds; and the rate at which fixed expenses are incurred by Spectrum Fund and by Underlying Funds. The Directors/Trustees will also consider the extent to which investors in Spectrum Fund would have purchased one or more of the Underlying Funds; the extent to which an investment in Spectrum Fund represents a consolidation of or reduction in the rate of increase in the number of accounts in the Underlying Funds; and the extent to which accounts in Spectrum Fund represent exchanges from the Underlying Funds or new investments.

10. Based on actual expense data from the Underlying Funds and certain conservative assumptions with respect to the Spectrum Fund, Applicants believe that the costs arising from the existence and operation of the Spectrum Fund will be fully offset by benefits which are presumed to be generated for the Underlying Funds and directly inure to such Funds. The expenses of the Spectrum Fund may be divided into two groups—fixed and variable. The fixed expenses of the Spectrum Fund, which include accounting, legal, registration, directors' fees, and organizational costs, are expected to be less than the average of such expenses for the Underlying Funds. This is primarily due to the Portfolios' investment policies which are limited to the purchase and sale of shares in the Underlying Funds. The variable expenses, which relate to shareholder servicing such as transfer agency costs and the costs of mailing and printing prospectuses, shareholder reports, and proxies, are expected to be at the same rate as such expenses incurred on average for the Underlying Funds. However, the proposed arrangement is expected to create economies to the Underlying Funds due primarily to a reduction in the shareholder servicing costs to the Underlying Funds of servicing the Spectrum Fund.[8] The relatively low fixed costs of the Spectrum Fund and the anticipated net savings generated by the Spectrum Fund for the Underlying Funds will effectively create a zero expense ratio for the Spectrum Fund.

11. Apart from expected savings to the Underlying Funds, the Spectrum Fund will also create direct expense-saving benefits for the various retirement plan shareholders. Spectrum Fund retirement plan shareholders will pay only one $10 annual fiduciary fee for each Portfolio of the Spectrum Fund, rather than two to seven times this amount depending on the number of Underlying Funds in which they otherwise would have directly invested.

[8] A comparison of the shareholder servicing costs which the Underlying Funds would bear as a result of an investment through the Spectrum Fund with the shareholder servicing costs of direct investment by shareholders holding accounts of average size demonstrates the economies associated with the proposal. For example, Applicants assume that the $100 million invested in the Income Fund would result in 8,800 shareholders (based on the average account size of $11,400 of the Underlying Income Funds). Assuming that each of the 8,800 shareholders in the Income Fund would invest, in its absence, in any two of the Underlying Funds for a total of 17,600 accounts would result in the Underlying Income Funds bearing approximately $625,000 in shareholder servicing costs annually. This compares with virtually no shareholder servicing costs to the Underlying Income Funds with respect to an investment of $100 million (because the Income Fund would open only two accounts in the Underlying Income Funds). Thus, the excess of benefits ($625,000) over costs ($431,000) to the Underlying Income Funds would be $190,000.

[9] A "wash transaction" is one in which one Underlying Fund would buy the same security that another is selling, thus burdening the fund holding company with brokerage costs for a transaction that achieves no investment purpose.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Under sections 12(d)(1) (A) and (B), the Spectrum Fund generally could not purchase (and the Underlying Funds could not sell), without an exemptive order, more than three percent of the outstanding voting securities of an Underlying Fund, securities issued by each Underlying Fund having an aggregate value in excess of five percent of the value of the total assets of the Spectrum Fund, or securities issued by each Underlying Fund having an aggregate value in excess of ten percent of the value of the total assets of the Spectrum Fund.

2. Section 12(d)(1) is intended to prevent the pyramiding of investment companies, the layering of fees, and undue organizational complexities. Applicants represent that none of the negative effects associated with fund holding companies are present with respect to the proposed arrangement and that the Spectrum Fund will provide the benefits of diversification and account cost savings to small and retirement-oriented investors. Spectrum Fund shareholders will not be subject to two advisory fees, distribution costs, directly or indirectly, or a sales load. Applicants represent that concerns under section 12(d)(1) regarding the largely illusory value of diversification and "wash transactions" that achieve no investment purpose are answered by the differing investment objectives of the two portfolios and monitoring of "wash transactions."[9] Wash transactions will be monitored on a periodic basis, including the use of a computer assisted program. In addition, where such transactions indicate that a particular asset class (*e.g.*, small cap stocks or high dividend paying stocks) held by the Growth or Income Fund is over-represented, holdings of that asset class will be reduced. Congress' concern about concentration of control and undue influence will be minimized because the Spectrum Fund will "mirror" vote its shares in each Underlying Fund, has agreed to limitations on its redemption rights, and will not acquire more than fifteen percent in the aggregate of any Underlying Fund. Finally, the inherent conflicts of interest are mitigated by separate, independent boards of directors for the Spectrum Fund and the Underlying Funds.

B. Section 17(d)

1. Because the Spectrum Fund and the Underlying Funds are each advised by Price Associates, the Spectrum Fund and the Underlying Funds could be deemed to be affiliates of one another. Applicants seek an order under sections 6(c), 17(d) and Rule 17d–1 to permit the Spectrum Fund to enter into a joint arrangement pursuant to the special servicing agreement (*see* paragraphs 7–10 above). Applicants believe that the proposed transactions are structured to assure that the participation of the Spectrum Fund, the Underlying Funds, Price Associates, and Price Services is advantageous to all the Applicants and is not on a basis less advantageous or different from those of the other Applicants.

2. Each Underlying Fund will bear expenses of the Spectrum Fund only to the extent such expenses are less than the benefits of the Spectrum Fund to each Underlying Fund. The payment of Spectrum Fund expenses by any Underlying Fund will be reviewed and approved by that fund's board of directors/trustees, including a majority of the independent directors/trustees, all of whom are unaffiliated with the independent directors of Spectrum Fund. Thus, the Underlying Funds will each participate in the arrangement on an equitable basis. The Spectrum Fund, by paying its proportionate share of the expenses of the Underlying Funds, will also participate with the Underlying Funds on an equal basis.

C. Section 17(b)

Purchases by Spectrum Fund of the shares of the Underlying Funds and the sale by the Underlying Funds of their shares to Spectrum Fund could be deemed to be principal transactions between affiliated persons under section 17(a). Therefore, Applicants seek an order under sections 6(c) and 17(b) exempting Applicants from the provisions of section 17(a) to permit the Price Funds to sell their shares to the Spectrum Fund. Applicants believe that such relief should granted for the same reasons set forth under the discussion of sections 12(d) and 17(d).

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Shares of the Spectrum Fund will be offered and sold (including sales by exchanges or transfers between the Portfolios) only to individuals investing through tax-advantaged retirement accounts organized under the provisions of the Internal Revenue Code (and distributions therefrom) and to individuals investing through other accounts established for long-term investment purposes (collectively, "Long-Term Investors"), in both cases subject to an aggregate $30,000 investment limit during any one calendar year. Appropriate procedures and controls will be instituted to ensure the Spectrum Fund is limited to such Long-Term Investors.

2. Spectrum Fund will operate under a fundamental investment policy of allocating its assets to specified Underlying Funds according to a schedule of percentage ranges; changes in either an Underlying Fund or a percentage range must be submitted to shareholders for approval. Except for temporary investments in a money market fund for defensive purposes, the difference between the upper limit and the lower limit may not be greater than 15%.

3. No Portfolio of Spectrum Fund will purchase or otherwise acquire shares of any Underlying Fund if, as a result of such purchase, Spectrum Fund would own in the aggregate more than 15% of the outstanding securities of any Underlying Fund. Spectrum Fund's holdings in that Underlying Fund may temporarily exceed this 15% limitation under the standards set forth in section 5(c) of the 1940 Act.

4. Redemptions from any Underlying Fund by Spectrum Fund will be limited to 1% of the Underlying Fund's assets in any period of less than 30 days, except where necessary to meet Spectrum Fund shareholders redemption requests.

5. Exchanges into and out of any Portfolio of Spectrum Fund will be limited to two "round trips" per year. A "round trip" is one exchange into and one exhange out of a Portfolio.

6. A majority of Spectrum Fund's directors will not be "interested persons," as defined in section 2(a)(19) of the 1940 Act (the "Independent Directors"). Further, none of the Independent Directors will be directors of any Underlying Fund.

7. Spectrum Fund will vote its shares in each Underlying Fund in proportion to the vote of all other holders of the securities of each respective Underlying Fund.

8. Spectrum Fund will not offer any Portfolio in addition to the Growth Portfolio and Income Portfolio without first filing an amended application for and being granted further exemptive relief under section 6(c) of the 1940 Act.

9. Neither Spectrum Fund nor any Underlying Fund will establish a distribution plan under Rule 12b–1 of the 1940 Act or sell its shares with a sales load. Spectrum Fund will not be charged an advisory fee by Price Associates or Price-Fleming or any affiliated person.

10. The Board of Directors, including a majority of the Independent Directors, will establish procedures to monitor "wash transactions" among the Underlying Funds, and will take appropriate action to keep wash transactions at a *de minimis* level.

11. The Directors of Spectrum Fund will cause a report to be filed with the Division of Investment Management within 60 days of the close of each of Spectrum Fund's first two fiscal year, summarizing the actual expenses involved in the operation of Spectrum Fund.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26255 Filed 11–7–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[CM–8/1320]

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 16 and 17, 1989, at NASA Headquarters, 600 Independence Avenue, Washington, DC in Room 521] at 10 a.m.

Study Group 2 deals with matters relating to the space research services among other things. The purpose of the meeting is to review the results of the recent Final Meeting of Study Group 2 and to organize activities for participation in newly formed international working parties.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. John Postelle, ARC Professional Services Group, Herndon, Virginia 22070, phone (703) 834–5607.

Dated: October 31, 1989.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 89–26213 Filed 11–7–89; 8:45 am]

BILLING CODE 4710–07–M

[Pub. Notice CM–8/1322]

Chairman's Special Ad Hoc Subcommittee of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that the Chairman's Special Ad Hoc Subcommittee of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet November 28, 1989, in Room 1105, Department of

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State, 2201 C Street NW., Washington, DC. The meeting will be held from 9:30 a.m. to 4:30 p.m.

The Chairman's Special Ad Hoc Subcommittee studies issues assigned to it by the U.S. CCIR National Committee. The purposes of this meeting are (1) to prepare U.S. positions on Resolutions and Opinions of a general nature to be considered by the XVIIth Plenary Assembly of the CCIR, May 1990 and (2) to coordinate U.S. activities with respect to CCIR preparations for the 1992 World Administrative Radio Conference (WARC–92) on allocations.

Members of the general public may attend and participate in the meeting, subject to available seating and the instructions of the Chairman. Requests for further information should be directed to the Chairman: Mr. Warren G. Richards, CIP/RSP, Department of State, 2201 C Street NW., Washington, DC, 20520; telephone (202) 647–0049; telefax (202) 647–5957.

Dated: October 31, 1989.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 89–26267 Filed 11–7–89; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89–089]

Pilotage Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of completion of pilotage study; availability to the public; request for comments.

SUMMARY: In July 1989, the Commandant of the Coast guard appointed a study group to examine issues relating to the pilotage requirements. Notice of the study was published in the Federal Register on July 26, 1989, (54 FR 31136). The study is now complete and a copy of the Report of the Pilotage Study Group is available from the Coast Guard. Comments are requested on the recommendations of the pilotage study.

DATES: Comments must be received on or before February 6, 1990.

ADDRESSES: Copies of the Report of the Pilotage Study Group may be obtained from: Merchant Vessel Personnel Division (G–MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–0217. Comments should be submitted to: The Executive Secretary, Marine Safety Council (G–LRA–2/3600) (CGD 89–089). U.S. Coast Guard, Washington, DC 20593–0001. Between 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–LRA–2), Room 3600, U.S. Coast Guard Headquarters, 210 Second Street, SW., Washington, DC 20593, (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Merchant Vessel Personnel Division (G–MVP/12, (202) 267–0217.

SUPPLEMENTARY INFORMATION: The Commandant of the U.S. Coast Guard appointed a study group to examine a number of issues relating to pilotage requirements. Issues the study group examined include: pilotage requirements; the extent of pilotage waters; variations in requirements due to vessel size, route or cargo; requirements for a pilot's license; requirements for recertification; pilot responsibility aboard the vessel; and the proper roles for Federal and State Governments. The study group has completed its report, and it is now available for public review and comments. The pilotage study report is the product of the study group, a group brought together to study and make recommendations regarding a number of issues relating to pilotage requirements, independent of Coast Guard program oversight. Any legislative or regulatory initiatives resulting from study recommendations would be started only after publication of the report and receipt of comments from interested parties. Interested persons are invited to submit written data, views, or arguments. Written comments should include the docket number (CGD 89–089), the name and address of the person submitting the comments, and the specific recommendations to which each comment is addressed. All comments received will be considered before further action is taken.

Dated: November 1, 1989.

J. D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–26246 Filed 11–7–89; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Aviation Lighting Equipment Certification Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of a change in airport lighting equipment certification program.

SUMMARY: The Federal Aviation Administration (FAA) announces a change in the certification process for airport lighting equipment funded under the Airport Improvement Program (AIP). The current process requires FAA personnel to inspect, review design drawings and witness tests, to confirm that the equipment meets applicable FAA specifications. A list of manufacturer's products meeting these specifications is then published in Advisory Circular 150/5345–1, Approved Airport Equipment. Under the new process, an independent testing laboratory will verify whether a product meets the applicable FAA specifications. The FAA will continue to publish a listing of certified manufacturers products that have been verified by the testing laboratory.

EFFECTIVE DATE: The effective date of the change in the certification program is January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Retta M. Cameron, Federal Aviation Administration, Engineering and Specifications Division, 800 Independence Ave., SW., Washington, DC 20591, (202) 267–8746.

SUPPLEMENTARY INFORMATION: Since the inception of Federal airport grant programs, the FAA has witnessed testing of airport lighting equipment to ensure that specifications were met and published a list of all approved equipment. Airport lighting was the only manufactured product subject to such an approval for funding eligibility under the grant programs. Due to limited available resources at the FAA, it was decided that the equipment approval process for airport lighting equipment should be treated in the same manner as other procurements funded by the grant programs, i.e., certification by airport sponsors.

The manufacturers of airport lighting equipment did not want the FAA to eliminate the approval process and the "Approved Airport Equipment" list. In order to retain the process, the manufacturers proposed an alternative approach wherein their products would be inspected by a commercial test laboratory rather than FAA personnel, and the FAA would continue to publish a list of certified equipment based on findings by the test laboratory. The FAA agreed to this proposal. Advisory Circular 150/5345–1, Approved Airport Equipment, is being revised to reflect this change.

ETL Testing Laboratories, Inc. Cortland, New York, was selected by a committee of airport lighting equipment manufacturers to administer the certification program. ETL will perform the validation of certification by witness testing and periodic inspection of certified equipment. This program will be funded by the equipment manufacturers. The FAA will publish a list of manufacturers products that are certified in the program as meeting the applicable FAA specifications. Lighting equipment approved by the FAA prior to this change will be accepted for the ETL certification program without additional product qualification testing for a period of five years, provided sufficient documentation exists to support a certified status. The manufacturers will still be subject to ETL's quality control audit, site production testing and inspections. If at any time a FAA standard or specification is changed, the applicable equipment must then be recertified and verified by ETL.

An Industry Technical Advisory Committee (ITAC) was formally established by the airport lighting equipment manufacturers in May 1989 to assist ETL in program activities and has reviewed and adopted the ETL Procedural Guide and License Agreement. The FAA has also reviewed these documents and concurs with the ETL Aviation Lighting Equipment Certification Program.

Issued in Washington, DC, November 2, 1989.

Retta M. Cameron,

Electrical Engineer, Engineering & Specifications Division.

[FR Doc. 89–26257 Filed 11–7–89; 8:45 am]

BILLING CODE 4910–13–M

Research, Engineering, and Development Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Federal Aviation Administration Research, Engineering, and Development Advisory Committee to be held Wednesday, December 13, 1989, at 9:00 a.m. The meeting will take place in the MacCracken Room, 10th floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for this meeting is as follows:

- Procurement Integrity Briefing.
- Update on R,E&D Plan and 1989 Conference.
- Response to R,E&D Process Subcommittee.
- 1990 R,E&D Budget Briefing.
- Comprehensive National Human Factors Plan Briefing.
- Subcommittee Reports.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact Mr. John E. Turner, Executive Director, Research, Engineering, and Development Advisory Committee, ADM–1, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3555.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on November 2, 1989.

John E. Turner,

Executive Director Research, Engineering, and Development Advisory Committee.

[FR Doc. 89–26256 Filed 11–7–89; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Hillsborough, Pasco and Hernando Counties, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Hillsborough County, Pasco County, and Hernando County, Florida.

FOR FURTHER INFORMATION CONTACT: Dennis Luhrs, District Engineer, Federal Highway Administration, 227 N. Bronough, room 2015, Tallahassee, Florida 32301. Telephone: (904) 681–7231.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation will prepare an Environmental Impact Statement (EIS) for a proposal to construct a new limited access expressway from the proposed Northwest Expressway in Hillsborough County to U.S. 98 in Hernando County.

The new expressway route will be between U.S. 19 and U.S. 41. The project length is roughly 43 miles.

Construction of a new expressway is considered necessary to provide for the projected year 2010 traffic demand. Alternatives under consideration include (1) taking no action; (2) widening the existing U.S. 19 and U.S. 41 roadways; and (3) constructing a four/six lane, limited access highway on new location. Incorporated into and studied with the various build alternatives will be design variations of grad and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings were held in Brooksville and New Port Richey in August, 1988 and March, 1989. In addition, public hearings will be held. Public notice was given of the time and place of the meetings, and will be given for the hearings. The draft EIS will be available for public and agency review and comments prior to the public hearing. No formal scoping meeting is planned at this time. All affected relevant Federal, State, and local agencies have been afforded the opportunity to participate in regularly scheduled technical committee meetings for this project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: October 18, 1989.

Dennis Luhrs,

District Engineer, Tallahassee, Florida.

[FR Doc. 89–26258 Filed 11–7–89; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Pulaski County, AR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Pulaski County, Arkansas.

FOR FURTHER INFORMATION CONTACT: Richard Fairbrother, Division Administrator, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas, 72201; or Mike Webb, Urban Planner, Environmental Division, Arkansas State Highway and Transportation

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Department, P.O. Box 2261, Little Rock, Arkansas, 72203, Telephone: (501) 569–2281.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department, will prepare an environmental impact statement (EIS) on a proposal to construct a freeway connecting I–40 and U.S. 67/167 serving northern Pulaski County, Arkansas, including Sherwood, Jacksonville, and North Little Rock. Population in Pulaski County is expected to increase by approximately 190,000 people between 1980 and 2010 to a total population of approximately 530,000. Most of the growth is expected to occur in Sherwood, at the eastern end of the facility, Maumelle to the southwest, and northwest Little Rock further southwest. The proposed facility will connect these three rapidly growing areas of the County across the northwest part of the metropolitan area via I–40 and I–430. In addition, the proposed facility will provide an improved connection between the National Guard training facility at Camp Joseph T. Robinson and the Little Rock Air Force Base at Jacksonville. Improved access to the North Little Rock Municipal Airport will also be provided. There are no east-west arterials north of 47th/McCain across northern Pulaski County. The size of Camp Robinson and the scarcity of undeveloped corridors across the area necessitate the prompt identification of the facility alignment so that right-of-way may be preserved.

Alternatives to be considered are: (1) The "Do-Nothing" Alternative where roads are constructed according to the regional plan with the exception of the proposed facility; (2) the "Reconstruction" Alternative where roads on the regional plan are upgraded to handle traffic forecast for the proposed facility; (3) the "Mass Transit" Alternative; and (4) the "New Location" Alternative considering several different alignments.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state, and local agencies and to private organizations, including conservation groups and groups and individuals who have voiced opposition to the project in the past and to major Arkansas newspapers. Also, a series of public involvement sessions have been held in a mobile trainer situated directly in the areas to be affected. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: October 30, 1989.

Charles Boyd,

District Engineer, Little Rock, Arkansas.

[FR Doc. 89–26338 Filed 11–7–89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 1, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0159
Form Number: IRS Form 3520
Type of Review: Extension
Title: Creation of or Transfers to Certain Foreign Trusts
Description: Form 3520 is filed by U.S. persons who create or transfer property to a foreign trust. IRS uses 3520 to determine the identity of the transferor of property and determine if the transfer is subject to an exercise tax
Respondents: Businesses or other for-profit, Small Businesses or organizations
Estimated Number of Respondents: 500
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping: 5 hours, 44 minutes
Learning about the law or the form: 35 minutes
Preparing, copying, assembling, and sending the form to IRS: 43 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 3,525 hours
OMB Number: 1545–0240
Form Number: IRS Form 6118
Type of Review: Extension
Title: Claim of Income Tax Return Preparers
Description: Form 6118 is used by preparers to file for refund of penalties incorrectly charged. The information enables the IRS to process the claim and have the refund issued to the tax return preparer
Respondents: Individuals or households, Business or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 10,000
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping: 13 minutes
Learning about the law or the form: 11 minutes
Preparing the form: 8 minutes
Copying, assembling, and sending the form to IRS: 20 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 8,900 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland

Departmental Reports Management Officer.

[FR Doc. 89–26294 Filed 11–7–89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 1, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0100.
Form Number: ATF F 1740.1 and ATF 1740.2.
Type of Review: Extension.
Title: Environmental Information and Supplemental Information on Water Quality Considerations.
Description: ATF F 1740.1 and 1740.2 implement regulations of the Clean Water Act and the National Environmental Policy Act (NEPA). The NEPA authorizes ATF through ATF F 1740.1 to require a license or permit application to state the location of existing or proposed activities concerned with land, air pollution, water and activities related to an ATF permit or license issued.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 8,000.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,400 hours.
OMB Number: 1512–0115.
Form Number: ATF Form 5220.4.
Type of Review: Extension.
Title: Monthly Report—Export Warehouse Proprietor.
Description: Proprietors who are qualified to operate export warehouses that handle untaxpaid tobacco products are required to file a monthly report. This report summarizes all transactions by the proprietor including receipts, dispositions and on-hand quantities. ATF F 5220.4 is used for product accountability and is examined by regional office personnel.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 227.
Estimated Burden Hours Per Response: 49 minutes.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 2,206 hours.
OMB Number: 1512–0205.
Form Number: ATF REC 5110/01–ATF F 5110.40.
Type of Review: Extension.
Title: Distilled Spirits Records and Monthly Report of Production Operations.
Description: The information collected is used to account for proprietor's tax liability, adequacy of bond coverage and protection of the revenue. The information also provides data to analyze trends in industry, and plan efficient allocation of field resources, audit plant operations and compilation of statistics for government economic analysis.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 122.
Estimated Burden Hours Per Response: 2 hours.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 2,928 hours.
OMB Number: 1512–0357.
Form Number: ATF REC 5170/6.
Type of Review: Extension.
Title: Wholesale Dealers Applications, Letterheads and Notices Relating to Operations (variation in format or preparation of records).
Description: To ascertain that the revenue is not placed in jeopardy and protection of the revenue, such as alternate record formats.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,029.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 515 hours.
OMB Number: 1512–0372.
Form Number: ATF REC 5400/2.
Type of Review: Extension.
Title: Records and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data by—Licensed Explosives Manufacturers and Manufacturers (Limited).
Description: These records, prepared by explosives manufacturers and explosives manufacturers (limited) provide ATF with the ability to trace explosives used in crime.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,201.
Estimated Burden Hours Per Response: 65 hours.
Frequency of Response: Other.
Estimated Total Reporting Burden: 78,065 hours.
OMB Number: 1512–0374.
Form Number: ATF REC 5530/1.
Type of Review: Extension.
Title: Applications and Notices—Manufacturers of Nonbeverage Products.
Description: Reports (letterhead applications and notices) are submitted by manufacturers of nonbeverage products who are using distilled spirits on which drawback will be claimed. Reports ensure that operations are in compliance with law; prevents spirits from diversion to beverage use. Protects the revenue.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 640 hours.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 640 hours.
OMB Number: 1512–0461.
Form Number: ATF REC 5110/11.
Type of Review: Extension.
Title: Marks and Labels on Containers of Distilled Spirits.
Description: The marking, branding and labeling of containers of spirits by distilled spirits plants provide the data to identify, trace, and quantify the spirits.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 254.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Other.
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89–26295 Filed 11–7–89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 2, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980 Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the

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Treasury, room 2409, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505–0065.
Form Number: None.
Type of Review: Extension.
Title: Privacy Act—Form of Request for Notification of Whether a Record Exists, Form of Request to Amend Records, Form of Request for Appeal of Refusal to Amend Records.
Description: Requests records pursuant to the Privacy Act. The Privacy Act provides that a U.S. Citizen or resident alien may seek access or amendment to their records or any information pertaining to them maintained in a system of records and referenced by personal name or identifier.
Respondents: Individuals or households.
Estimated Number of Respondents: 2,966.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Voluntarily as required.
Estimated Total Reporting Burden: 2,966 hours.
OMB Number: 1505–0066.
Form Number: None.
Type of Review: Extension.
Title: FOIA—Form of Request for Information and Appeal of Denial, Waiver of Fees.
Description: Requests information pursuant to the Freedom of Information Act (FOIA). The public submits FOI requests in writing, signed by requester; reasonably describe records; agree to pay fees for search, review and duplication or state up to what amount will be paid; state whether copies are desired or inspection of records is preferred.
Respondents: Individuals or households, State or local governments, Farms, Businesses, or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 29,267.
Estimated Burden Hours Per Response: 45 minutes.
Frequency of Response: Voluntarily as required.
Estimated Total Reporting Burden: 29,950 hours.
Clearance Officer: Dale A. Morgan (202) 566–2693, Departmental Offices, Room 2409, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89–26296 Filed 11–7–89; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 2, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Alcohol, Tobacco and Firearms

OMB Number: 1512–0163.
Form Number: ATF Form 5210.5 (3068).
Type of Review: Extension.
Title: Manufacturer of Tobacco Products Monthly Report.
Description: ATF F 5210.5 (3068) documents a tobacco products manufacturer's accounting of cigars and cigarettes. The form describes the tobacco products manufactured, articles produced, received, disposed of and statistical classes of large cigars. ATF examines and verifies entries on these reports so as to identify unusual activities, errors and omissions.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 120.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 1,440 hours.
OMB Number: 1512–0418.
Form Number: ATF Form 5000.12.
Type of Review: Extension.
Title: Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.
Description: Application to practice before the Bureau is necessary so that the Bureau may evaluate the qualifications of applicants in order to assure only competent, reputable persons are authorized to represent claimants.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 8.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Initial application and renewal every five years.
Estimated Total Reporting Burden: 2 hours.
Clearance Officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89–26297 Filed 11–7–89; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 2, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0055.
Form Number: 1001.
Type of Review: Revision.
Title: Ownership, Exemption, or Reduced Rate Certificate.
Description: This form is used by owners of certain types of income to report to a withholding agent both the ownership and any reduced or exempt tax rate under tax conventions or treaties, and if appropirate, to claim a release of tax withheld at source. The withholding agent uses the information to determine the appropriate withholding.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 100,000.

Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping—4 hours, 32 minutes.
Learning about the law or the form—1 hour.
Preparing the form—24 minutes.
Copying, assembling, and sending the form to IRS—1 hour, 7 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 665,000 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89–26298 Filed 11–7–89; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 2, 1989.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Bureau Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0099.
Form Number: 1065 and Schedules D and K–1.
Type of Review: Resubmission.
Title: U.S. Partnership Return of Income, Capital Gains and Losses, Partner's Share of Income, Credits, Deductions, etc.
Description: Internal Revenue Code section 6031 requires partnerships to file returns that show gross income items, allowable deductions, partners' names, addresses, and distribution shares, and other information. This information is used to verify correct reporting of partnership items and for general statistics.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,900,026.
Estimated Burden Hours Per Response/Recordkeeping

Form	1065	Sched. D (Form 1065)	Sched. K–1 (Form 1065)
Recordkeeping	65 hrs., 3 mins.	5 hrs., 1 min.	26 hrs., 47 mins.
Learning about the law or the form	30 hrs., 47 mins.	2 hrs.	10 hrs., 41 mins.
Preparing the form	55 hrs., 32 mins.	4 hrs., 58 mins.	25 hrs., 33 mins.
Copying, assembling, and sending the form to IRS.	6 hrs., 26 mins.	48 mins.	4 hrs., 1 min.

Frequency of Response: Annually.
Estimated Total Recordkeeping/ Reporting Burden: 1,005,280,628 hours.
OMB Number: 1545–0155.
Form Number: 3468.
Type of Review: Resubmission.
Title: Computation of Investment Credit.
Description: Taxpayers are allowed a credit against their income tax for investment in certain property used in their trade or business. Form 3468 is used to compute this investment tax credit. The information collected is used by the IRS to vertify that the credit has been computed correctly.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 360,000.
Estimated Burden House Per Response/Recordkeeping:
Recordkeeping—22 hours, 29 minutes.
Learing about the law or the form—6 hours, 57 minutes.
Preparing and sending the form to IRS—7 hours, 37 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 13,341,600 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89–26299 Filed 11–7–89; 8:45 am]
BILLING CODE 4810–25–M

Customs Service

[T.D. 89–94]

Recordation of Trade Name; "TRIPLE FAT GOOSE"

AGENCY: Customs Service, Treasury.
ACTION: Notice of recordation.

SUMMARY: On August 30, 1989, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "TRIPLE FAT GOOSE" was published in the **Federal Register** (54 FR 35983). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than October 30, 1989. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "TRIPLE FAT GOOSE" is recorded as the trade name used by Turbo Sportswear, Inc., a corporation organized under the laws of the State of New Jersey, located at One Walnut Street, Perth Amboy, New Jersey 08862. The trade name is used in connection with men's and boy's downfilled outwear and active sportswear manufactured in Korea.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Bettie Coombs, Value, Special Programs and Admissibility Branch, 1301 Constitution Avenue NW., Washington, DC 20229 (202–566–5765).

Dated: November 2, 1989.

Marvin M. Amernick,
Chief, Value, Special Programs and Admissibility Branch.
[FR Doc. 89–26291 Filed 11–7–89; 8:45 am]
BILLING CODE 4820–02–M

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Internal Revenue Service

[Delegation Order No. 232 (Rev. 1)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Taxpayer Ombudsman, Internal Revenue Service, delegates to the Assistant Commissioner (Employee Plans and Exempt Organizations) the authority under Subtitle J, the "Omnibus Taxpayer Bill of Rights," to modify or rescind Taxpayer Assistance Orders. The text of the delegation order appears below.

EFFECTIVE DATE: October 23, 1989.

FOR FURTHER INFORMATION CONTACT: Gary Glossop, C:PRP, room 1027, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone (202) 377–9104 (not a toll-free call).

Order No. 232 (Rev. 1)

Effective date: October 23, 1989.

Delegation of Authority to Issue and Authority to Modify or Rescind, Taxpayer Assistance Orders (TAOs)

Pursuant to the authority of the Taxpayer Ombudsman by Section 7811 of the Internal Revenue Code added by the Technical and Miscellaneous Revenue Act of 1988, under Subtitle J, the "Omnibus Taxpayer Bill of Rights", to issue Taxpayer Assistance Orders and the authority to modify or rescind Taxpayer Assistance Orders, is hereby delegated as follows:

1. The authority to issue Taxpayer Assistance Orders

(a) to release property of a taxpayer levied upon (subject to exception set forth in paragraph 3.) or

(b) to cease any action, or refrain from taking any action, with respect to a taxpayer (subject to exception set forth in paragraph 3.) under—

1. Subchapter F of Chapter 1 (relating to exempt organizations).

2. Chapter 24 (relating to the collection of income tax at source on wages and backup withholding).

3. Chapter 64 (relating to collection).

4. Chapter 66 (relating to the statute of limitations).

5. Chapter 68 (relating to the additions to tax, additional amounts, and assessable penalties).

6. Subchapter B of Chapter 70 (relating to bankruptcy and receiverships).

7. Chapter 78 (relating to discovery of liability and enforcement of title) is delegated to the officials listed below:

Assistant Commissioner (International)
Regional Commissioners
District Directors and Assistant Directors
Service Center Directors and Assistant Directors
Director, Austin Compliance Center and Assistant Director
Regional Problem Resolution Officers
Problem Resolution Officers

2. The authority in paragraph 1.(a) and (b) may be redelegated by the Assistant Commissioner (International), Regional Commissioners, District Directors, Service Center Directors and Director, Austin Compliance Center only to Assistant Problem Resolution Officers.

3. The authority to issue TAOs to release a principal residence of a taxpayer levied upon or to cease any action regarding a principal residence, is delegated to:

Assistant Commissioner (International)
Regional Commissioners.

4. The Authority to Modify or Rescind Any Taxpayer Assistance Order is delegated to the officials listed below:

Assistant Commissioner (International) for the Problem Resolution Officer or Assistant Problem Resolution Officer on his/her staff.

Assistant Commissioner (Employee Plans and Exempt Organizations) for cases under his/her jurisdiction.

The Regional Commissioner who is the line supervisor of the Regional Problem Resolution Officer or Assistant Regional Problem Resolution Officer who issued the order.

Regional Directors of Appeals for cases in the appeals process in their jurisdiction.

The Director or Assistant Director who is the line supervisor of the Problem Resolution Officer or Assistant Problem Resolution Officer who issued the order.

The Director or Assistant Director, Austin Compliance Center for the Problem Resolution Officer or Assistant Problem Resolution Officer on their staff who issued the order.

5. The authority in paragraphs 3 and 4 may not be redelegated.

6. This Order supersedes Delegation Order No. 232 effective January 1, 1989.

Dated: October 23, 1989.

Approved.

Damon O. Holmes,

Taxpayer Ombudsman.

[FR Doc. 89–26211 Filed 11–7–89; 8:45 am]

BILLING CODE 4830–11–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 215
Wednesday, November 8, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 45889, October 31, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., November 6, 1989.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Renovation proposals regarding the Federal Reserve Bank of New York. (This item was originally announced for a closed meeting on November 1, 1989.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: November 6, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–26513 Filed 11–6–89; 3:56 pm]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

NOTICE OF MEETING

TIME AND DATE: 4:00 p.m., Monday, November 13, 1989.

PLACE: Marriott's Harbor Beach Resort, 3030 Holiday Drive, Fort Lauderdale, FL 33316, (305) 525–4000.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insuance Fund Report.
5. Proposed Amendment to: Sections 701.6 and 741.9, NCUA's Rules and Regulations, Administrative Fees and Interest on Delinquent Payments of Operating Fee, Share Insurance Premium, and Capitalization Deposit.
6. Regulatory Review, NCUA's Rules and Regulations:
   a. Final Rule: part 700, Definition of Risk Assets; and parts 702 and 741, Reserving Requirements.
   b. Proposed Rules—Amendments to: Section 701.28, Credit Union Service Contracts; part 724, Trustees and Custodians of Pension Plans; part 749, Records Preservation Program; and Request for Comments—§ 701.19, Retirement Benefits for Employees of Federal Credit Unions.
7. Fiscal Year 1990 Operating Fee Assessment.
8. Legislative Update.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 89–26495 Filed 11–6–89; 2:53 pm]

BILLING CODE 7535–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Wednesday, November 15, 1989.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW, Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Appeal of Insurance Application Denial. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 89–26496 Filed 11–6–89; 2:53 pm]

BILLING CODE 7535–01–M

RESOLUTION TRUST CORPORATION

Notice of Cancellation of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the previously announced meeting of the Board of Directors of the Resolution Trust Corporation scheduled to be held on Tuesday, November 7, 1989 at 2:30 p.m. (open session) has been *CANCELLED*.

No earlier notice of this cancellation of the meeting was practicable.

Dated: November 3, 1989.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 89–26402 Filed 11–6–89; 9:55 am]

BILLING CODE 6714–01–M

Corrections

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Corrections

Federal Register
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Wednesday, November 8, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 270

[Docket No. RM89-6-000; Order No. 515]

Establishment of Deadlines for First Sellers to Make and Report Refunds

Correction

In rule document 89-18649 beginning on page 32805 in the issue of Thursday, August 10, 1989, make the following correction:

§ 270.101 [Corrected]

On page 32809, in the third column, in § 270.101, the first paragraph should be designated "(e)".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 116, 117, and 302

[SW H-FRL 3372-8]

Reportable Quantity Adjustments; Delisting of Ammonium Thiosulfate

Correction

In rule document 89-15746 beginning on page 33426 in the issue of Monday, August 14, 1989, make the following corrections:

1. On page 33442, in Table 2, in the 3rd column, the 18th entry should be aligned with "Arsenic Acid".

2. On page 33443, in the same table, in the first column, the superscript following "Beryllium", "Beryllium dust", and "Cadmium" should be a double dagger.

3. On the same page, in the same table, the 20th entry from the bottom should be aligned with "Chromic Acid".

4. On page 33444, in the same table, in the third column, remove the last entry.

5. On page 33445, in the table, at the top of the third column, insert "1 (0.454)" in the space aligned with "Lead Arsenate".

6. On the same page, in the same table, in the same column, the 36th and 37th entries from the bottom should be aligned with "Nickel cyanide" and "Nickel chloride", respectively.

7. On page 33446, in the table, in the 2nd column, move the 36th through 39th entries up a line each.

8. On page 33456, in the table, in the last column, the 17th entry from the bottom should read "100 (454.4)".

9. On page 33457, in the same table, in the seventh column, remove the 17th entry.

10. On page 33458, in the same table, in the third column, there are two regulatory synonyms for "Ethane, 1,1'-[methylenebis(oxy)]bis(2-chloro-". "Bis(2-chloroethoxy) methane" and "Dichloromethoxy ethane" should be on separate lines.

11. On the same page, in the same table and column, there are two regulatory synonyms for "Ethane, 1,1'-oxybis(2-cholo-". "Bis(2-chloroethyl) ether" and "Dichloroethyl ether" should be on separate lines.

12. On page 33462, in the table, in the third column, in the 14th through 17th lines, indent "2-nitrophenol" and "Phenol, 4-nitro-". "4-Nitrophenol" is a separate synonym and should have appeared (also indented) on its own line.

13. On page 33465, in the table, in the eighth column, the 14th entry from the bottom should read "100 (45.4)".

14. On page 33466, in the table, in the first column, the symbol following "Thallium" should be a double dagger.

15. On page 33467, in the table, in the third column, the last three entries should be indented.

16. On page 33468, in the table, in the first column, the symbol following "Zinc" should be a double dagger.

17. On the same page, in the same table and column, "Zinc fluoride" was misspelled.

18. On page 33474, in the last column, the symbols aligned with "KO88", "KO90", and "KO91", respectively, should read " ".

19. On page 33476, in the table, in the footnotes, " *" should be replaced with " 1*".

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federal register

Wednesday
November 8, 1989

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 570, 577, 578, 840, and 841
Supportive Housing Demonstration Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 570, 577, 578, 840, and 841

Supportive Housing Demonstration Program; Final Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements the Supportive Housing Demonstration Program authorized by section 414 of the Stewart B. McKinney Homeless Assistance Act. The program provides grants to States, units of general local government, and private nonprofit organizations to develop innovative approaches to assisting homeless persons in the transition from homelessness to independent living. The rule establishes the requirements for the program, including eligible activities, application requirements, and selection criteria.

EFFECTIVE DATE: December 8, 1989.

FOR FURTHER INFORMATION CONTACT: Jeanette Pinkney, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 7th Street, SW., Room 7262, Washington, DC 20410, telephone (202) 755-5975. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 414 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401 et seq.) authorizes the Secretary of Housing and Urban Development to make grants to States, units of general local government, and private nonprofit organizations to develop innovative approaches to assisting homeless persons in the transition from homelessness to independent living. Section 414 requires that the Secretary establish requirements for the program, including eligible activities, application requirements, and selection criteria.

On June 24, 1988 (53 FR 23852), the Department published a proposed rule to implement the Supportive Housing Demonstration Program. The proposed rule would establish requirements for the program, including eligible activities, application requirements, and selection criteria. The proposed rule would also establish requirements for the program, including eligible activities, application requirements, and selection criteria.

The proposed rule would establish requirements for the program, including eligible activities, application requirements, and selection criteria. The proposed rule would also establish requirements for the program, including eligible activities, application requirements, and selection criteria.

amount of time, as determined by the Secretary." The June 24, 1988 Supportive Housing final rule provided for a maximum period of residence of 18 months. Section 443 of the 1988 Act amended section 414 of the Act to provide that the Secretary may not establish a maximum period of residence of less than 18 months. This final rule implements this statutory change.

The proposed rule would establish requirements for the program, including eligible activities, application requirements, and selection criteria. The proposed rule would also establish requirements for the program, including eligible activities, application requirements, and selection criteria

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 570, 577, 578, 840, and 841

[Docket No. R-89-1433; FR-2581-F-04]

RIN 2506-AA98

Supportive Housing Demonstration Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: On January 9, 1989 (54 FR 736), HUD published a notice, for immediate effect, of changes to the Supportive Housing Demonstration rule (24 CFR Parts 840 and 841), implementing amendments to the program made by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988). (A codification of the changes was published March 27, 1989 (54 FR 12433).) The notice also invited the public to comment on the changes. Today's final rule responds to the public comments, revises the rule in parts 840 and 841, and publishes it redesignated as 24 CFR parts 577 and 578.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the regulation's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will not become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Department of Housing and Urban Development, room 7228, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6300. Hearing or speech-impaired individuals may call TDD number (202) 755-5965. (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 8, 1989, so that the application process described in this rule may be carried out following OMB approval of the necessary collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the Federal Register, at the same time that the rule's effective date is published.

Public reporting burden for this collection of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided elsewhere in this document. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, by no later than December 8, 1989 to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Background

The Supportive Housing Demonstration Program was authorized in 1987 by subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11381-11388) (McKinney Act) to develop innovative approaches to providing housing and supportive services to the homeless. On June 24, 1988, HUD published a final rule for the program (53 FR 23888), which was codified as 24 CFR part 840 (transitional housing) and part 841 (permanent housing for the handicapped homeless).

On November 7, 1988, the President approved the Stewart B. McKinney Homeless Assistance Amendments Act (Pub. L. 100-628) (1988 Amendments Act), which made several changes to the program. Section 465 of the 1988 Amendments Act required that HUD publish a notice, for immediate effect, within 60 days of enactment implementing the amendments to the program. The notice of the changes, combined with a notice of funds availability, was published on January 9, 1989 (54 FR 736). (The changes were then published in codified form on March 27, 1989 (54 FR 12433).) Although the changes announced in the Notice were effective for this year's funding round, HUD invited public comments on the changes for consideration in a final rule, and this final rule responds to the comments.

In addition to changes to the rule by the 1988 Amendments Act, several other changes have been made to the rule to reflect the Secretary's priority to end the tragedy of homelessness in this country. Some of these changes represent an effort to simplify the application and selection processes and to add clarifications to the rule that the Department believes are desirable after meetings with homeless service providers across the country, as well as the experience gained in the past two years with the program. The Supportive Housing program has been moved from the Office of the Assistant Secretary for Housing to the Office of the Assistant Secretary for Community Planning and Development during a Departmental reorganization, in order to combine most of HUD's programs that serve the homeless population under one Assistant Secretary. For this reason, the final rule has been designated as 24 CFR part 577 (transitional housing) and Part 578 (permanent housing for the handicapped homeless), and Parts 840 and 841 will be removed.

II. Public Comments

HUD received public comments from the State agencies, one local government agency, and two private nonprofit organizations. Two of the comments were on provisions in the June 24, 1988 final rule. Although the January 9, 1989 notice requested comments on the 1988 Amendments Act changes only, HUD is responding to those comments, as well as comments on the changes announced in the January notice, in today's publication. The comments focused on the following areas:

1. Maximum Period of Residence in Transitional Housing (Section 577.5)

One commenter believed that the rule should allow for an additional flexible six-month grace period on the maximum period of residence for residents of transitional housing, because some residents need the extra time to locate affordable housing, employment, child care, or personal financial management training. When first enacted, section 422(12)(A) of the McKinney Act defined transitional housing as a project "that has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable

amount of time, as determined by the Secretary." The June 24, 1988 Supportive Housing final rule provided for a maximum period of residence of 18 months. Section 443 of the 1988 Amendments Act amended the definition of transitional housing to provide for a 24-month period of residence *"or such longer period as the Secretary determines is necessary to facilitate the transition of homeless individuals to independent living"* (emphasis supplied). The amended definition of transitional housing, announced in the January 9, 1989 Notice and adopted in this final rule, does not limit the "longer period" to a definite period, such as six months, but reflects the discretion allowed by section 443.

2. Limitations on New Construction (Sections 577.112 and 578.112)

HUD received a comment on the limitation on projects involving new construction. The commenter argued that new construction activities should not be limited to projects involving state universities, because new construction is often just as cost-effective, if not more so, than rehabilitation of existing structures.

Until enactment of section 449(b) of the 1988 Amendments Act, assistance to defray the cost of new construction of facilities was not authorized under the Supportive Housing program. Section 449(b) allows advances for new construction, but imposes very strict limitations on the projects that will qualify for a new construction advance. These limitations are statutory and are outside the discretion of HUD.

3. Limitation on Use of Assistance (Sections 577.125 and 578.125)

One commenter stated that funding should not be limited to new programs or to the expansion of existing ones, but that the rule should recognize that current levels of services provided by existing programs are equally deserving of funding. Because the Supportive Housing program was established as a demonstration program to determine innovative approaches to providing supportive housing for the homeless, HUD believed it was appropriate to fund new projects that could be studied to determine their success. Another goal of the program was, and still is, to increase the number of supportive housing facilities available to assist homeless individuals and families.

HUD believes these justifications are still convincing, but also recognizes that there are existing programs that may need and deserve assistance with rehabilitating structures to bring them to a level that meets State or local government health and safety standards. This will help to assure that available housing for the homeless meets applicable standards. Therefore, the rule has been changed to allow funding for improvements to existing facilities where the improvements are necessary to meet health and safety standards.

4. Matching Funds (Sections 577.130 and 578.130)

A commenter asserted that, when used as a matching source of funds, volunteer time should be valued at prevailing wages and salaries, rather than at $5 an hour (§§ 577.130(c) and 578.130(c)). The commenter felt that a project with a strong volunteer component as an integral part of its program should be rewarded. HUD agrees that volunteers play a vital role in providing housing and supportive services to the homeless. However, HUD believes that the legislative history of section 452 of the 1988 Amendments Act reflects the intent of Congress that these services be valued at $5 an hour.

Section 452 allows the value of volunteer time and services to be considered as matching funds for Supportive Housing funds, at a rate to be determined by the Secretary. The legislative history of this provision shows that the House Committee on Banking, Finance and Urban Affairs authorized volunteer time and services to be counted as a source of matching funds because such sources were authorized in the Emergency Shelter Grants (ESG) program and the two programs should be uniform in approach. According to the House Report, the Committee believed that the value of volunteer time and services should be calculated "in the same manner as in the Emergency Shelter Grants Program." (H.R. Rep. No. 100-716, part II, 100th Cong., 2d Sess. 36 (1988).) HUD interprets this to mean that Congress intended that the value of volunteer time and services in the Supportive Housing program should be calculated at $5 an hour, which is the value used for calculating such services in the ESG program (24 CFR 576.71(b)).

The commenter also expressed the opinion that the matching source requirement should be reduced from 50 percent to 25 percent and, in addition, that other Federal funds, such as Federal Emergency Management Agency (FEMA), Community Services Block Grants (CSBG), and ESG, should be eligible matching resources.

Section 425 of the McKinney Act requires that recipients supplement advances for acquisition/substantial rehabilitation or new construction and grants for moderate rehabilitation with an equal amount of funds from non-Federal sources. HUD does not have the discretion to depart from this statutory requirement that recipients match these types of assistance dollar for dollar.

A 1988 amendment to section 426 requires that matching sources for advances for acquisition/substantial rehabilitation or new construction and grants for moderate rehabilitation be from non-Federal sources. HUD has changed the final rule in §§ 577.130(b) and 578.130(b) to indicate that the only assistance for which HUD will require that matching funds be from non-Federal sources is for advances for acquisition/substantial rehabilitation or new construction and grants for moderate rehabilitation. The change also clarifies that HUD does not consider Community Development Block Grants (CDGB) or CSBG funds to be Federal funds for matching purposes.

Section 423 allows HUD to provide grants for payment of operating costs "not to exceed 75 percent of the annual operating costs" of transitional housing projects, and "not to exceed 50 percent of the annual operating costs * * * for the first year of operation, and not to exceed 25 percent * * * for the second year of operation" of permanent housing for handicapped homeless persons. Under this statutory authorization of assistance for operating costs, HUD does not have the discretion to pay more than 50 percent of such costs for the first year of operation and 25 percent for the second year in the case of permanent housing for handicapped homeless persons. However, HUD has changed the final rule to allow assistance for operating costs for transitional housing for up to 75 percent of such costs during the first two years of operation, and up to 50 percent for three years thereafter. This increase up to the statutory limit for two years provides projects with more assistance during the crucial start-up years but recognizes that, after the initial years of a project, there should be a broad base of community support for the project and, therefore, greater resources from private sources should be available to replace McKinney Act funds.

HUD has also changed the final rule in § 577.117 with regard to grants for employment assistance programs (EAPs). Grants for EAPs were authorized for transitional housing projects in the 1988 Amendments Act, although the legislation was silent on the recipient's percentage share of the cost. In implementing EAP assistance in the January 1989 Notice, HUD made available assistance for EAPs for up to 50 percent of the costs for up to five

years. In order to make EAP assistance consistent with operating costs assistance, HUD has changed the final rule to allow EAP assistance for up to 75

applications. HUD will take the comment regarding the number of points for site control into account when deciding the ranking system for the 1990

Development Act of 1974 are to be applied to the Supportive Housing program. Section 104(g) authorizes HUD to assign the Federal environmental

technical capability, to conduct the technical review, as long as the applicants still retain all legal

could have been located on the site without obtaining a special use permit.

The commenter also asserted that the

in evacuating a structure or following instructions on safety in the event of flooding, while persons with another

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years. In order to make EAP assistance consistent with operating costs assistance, HUD has changed the final rule to allow EAP assistance for up to 75 percent of the costs during the first two years of operation, and up to 50 percent for three years thereafter.

5. Ranking Criteria (Sections 577.215 and 578.215)

One commenter addressed the point system used to score applications in the competition for funding. (The rule provides the criteria under which applications are ranked, but it does not set forth the actual number of points awarded under a particular criterion.) The commenter stated that it understood that applicants without site control receive no points under that criterion. The commenter believed that scoring should be based instead on a sliding scale, taking into consideration the likelihood of an applicant's securing site control within a specified period of time. The commenter also believed that the number of points awarded on the basis of the site control criterion (25 percent of the maximum points that may be awarded) was too high.

Section 450 of the 1988 Amendments Act provides that the extent to which an applicant has control of the site of a proposed project will be a ranking criterion. During the 1989 funding competition, applicants that demonstrated ownership or a contract of sale, a 10-year lease, or an option to buy or lease for 10 years were awarded the maximum number of points possible under this criterion. Applicants could also receive points, on a sliding scale, depending on the likelihood of site control within six months after notification of an award. For example, points were awarded for a lease for less than a 10-year period (with the option to extend at the sole discretion of the applicant), or for a showing that the applicant was engaged in negotiations with a specific seller or lessor for a specific property, with reasonable hopes of consummation by the time awards are made.

HUD does not routinely include in its rules the number of points awarded under ranking criteria. This allows HUD the flexibility to change the point system as necessary, based on the experience gained with each funding round, especially in the case of new programs such as Supportive Housing. However, the number of points that will be awarded for each ranking criterion in a specific funding round will be included in the application package for that round. HUD believes that will give sufficient notice to applicants of the method HUD will use in ranking applications. HUD will take the comment regarding the number of points for site control into account when deciding the ranking system for the 1990 funding competition.

The commenter also questioned why applications requesting grants for operating costs only are downgraded in scoring. HUD does not differentiate between requests for funds for acquisition or rehabilitation of a structure and funds for operating costs during the review and ranking process. In the past, points were given if an applicant did not include costs for supportive services in the operating budget, since HUD wanted to encourage projects to make use of supportive services that were available in the community. This particular provision has been eliminated from the final rule in § 577.215(b)(4) in recognition of the fact that often there are not sufficient funds or services available. HUD will still consider the extent to which an applicant proposes to use or coordinate with other public or private entities to provide supportive services. This policy is consistent with one of the initiatives under the Secretary's priority on homelessness, which is to mobilize all the nation's resources, both public and private.

HUD believes the supportive services offered to residents of transitional housing are a vital part of the goal of ending homelessness. Although the McKinney Act treats the cost of providing supportive services as an operating cost, HUD has separated supportive services costs from operating costs in the final rule to emphasize the importance the Department places on them. This change is discussed elsewhere in the preamble.

6. Environmental Review by Applicants (sections 577.220(c) and 578.220(b))

One commenter addressed the change that requires States, metropolitan cities, urban counties, and other units of general local government to assume responsibility for the environmental review. The commenter believes that HUD's environmental review procedures in 24 CFR part 58, for which HUD requires the applicants described above to assume responsibility, are too time-consuming and strict, causing delays in beginning construction. The commenter though that there should be a provision for a waiver of compliance with HUD procedures for applicants that are subject to other state and local environmental review requirements.

Section 482 of the 1988 Amendments Act provides that the regulations and procedures applicable under section 104(g) of the Housing and Community Development Act of 1974 are to be applied to the Supportive Housing program. Section 104(g) authorizes HUD to assign the Federal environmental responsibilities to grantees deemed to have the legal capacity for environmental review (States, metropolitan cities, urban counties, and other units of general local government) and to define how the responsibilities are to be performed. The regulations at 24 CFR part 58 describe the requirements for grantees that assume the responsibilities.

The 1988 Amendments Act recognizes that the objectives of the Supportive Housing program are best served by a consolidation of environmental review responsibilities at the applicant level. Many applicants seek funding under other McKinney Act programs, and a single environmental review should often suffice for those applicants. According to the Report of the House Committee on Banking, Finance and Urban Affairs, the intent of section 482 of the 1988 Amendments Act was to expedite the consideration of applications. However, the Report states that the Committee expects all applicants to adhere to all requirements of the National Environmental Policy Act (NEPA) and that "this amendment does not lessen any requirement for any project to comply with the NEPA standards." (See H.R. Rep. No. 100-718, part II, 100th Cong., 2d Sess. 39 (1988).)

The requirements of statutes Executive Orders, and the regulations of oversight agencies that are imposed on applicants through Part 58 cannot be waived. Requirements arising out of a statute or Executive Order to not allow for waivers. Those that are regulatory, *i.e.*, the Council on Environmental Quality NEPA regulations (40 CFR parts 1500–1508) and the Advisory Council on Historic Preservation regulations (36 CFR part 800), make some provision for "emergencies," but these are for conditions more extreme than a concern for processing delays. Compliance with the review processes and time periods under the authorities listed in 24 CFR 58.5 is mandatory—whether responsibility for review is assigned to the applicant under section 104(g) or retained and exercised by HUD under 24 CFR part 50. In addition, HUD has no legislative authority to allow the applicability of State or local environmental requirements to substitute for the Federal requirements.

In §§ 577.220(b)(3) and 578.220(b)(3), the final rule clarifies that applicants assuming responsibility for environmental reviews may arrange for local governments, with the appropriate

technical capability, to conduct the technical review, as long as the applicants still retain all legal responsibilities, *i.e.*, independently evaluate information submitted and assume responsibility for its accuracy, scope, and content. Applicants may also adopt prior reviews conducted by HUD or another governmental unit if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done).

7. Location of Projects in Floodplains (sections 577.220(e) and 578.220(e))

HUD received a comment on the floodplains restriction contained in the January 9 notice for the permanent housing for the handicapped homeless component of the Supportive Housing program. Under that provision, all projects for the handicapped homeless were deemed to be critical actions (*i.e.*, any activity for which even a slight chance of flooding would be too great). The Floodplain Management Guidelines implementing Executive Order 11988, Floodplain Management (43 FR 6030 (Feb. 10, 1978)), require that all critical actions proposed to be located in a 500-year floodplain comply with an eight-step public notification and decision-making process. The commenter argued that, by classifying all projects involving handicapped groups as critical actions, the restriction conflicts with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–3620), as amended by the Fair Housing Amendments Act of 1988 (Pub. L. 100-430, approved September 13, 1988). These statutes prohibit discrimination based on handicap.

The commenter also argued that the restriction was contrary to a Supreme Court opinion in *City of Cleburne* v. *Cleburne Living Center*, 473 U.S. 432 (1985), which held that a city ordinance requiring a special use permit for a group home for the mentally retarded was invalid as applied under the Equal Protection clause. In reviewing various objections of the City Council to the home's location, the Court dismissed the Council's objection to locating the home in a 500-year floodplain by pointing out that concern with the possibility of a flood could hardly be based on distinction between the home and facilities such as nursing homes, homes of convalescents or the aged, or sanitariums or hospitals, all of which could have been located on the site without obtaining a special use permit.

The commenter also asserted that the eight-step process would result in disqualification of a proposed site in the 500-year floodplain if another property is for sale outside the floodplain, regardless of whether the alternative property was affordable or met the occupants' needs. The commenter argued that the issue of personal or physical safety was never a factor in the original establishment of flood zones.

HUD notes that, while floodplain restrictions were established under the National Flood Insurance Program before Executive Order 11988 was issued in 1977, the Executive Order requires agencies to take action "to minimize the impact of floods on human safety, health and welfare." The implementing Floodplain Management Guidelines, issued by the U.S. Water Resources Council the following year (43 FR 6030, Feb. 10, 1978), indicate that a key question with regard to critical actions is whether, given the flood warning lead time available, "occupants of buildings such as hospitals, schools and nursing homes [would] be insufficiently mobile to avoid loss of life and injury." Under the Executive Order, personal safety in flood situations is thus a significant consideration in decisionmaking on both the location and the design of facilities proposed for Federal assistance. (HUD also notes that the Executive Order and Guidelines require consideration only of *practicable* alternative sites ouside the floodplain, and do not require rejection of floodplain sites in favor of unaffordable, inaccessible, or otherwise ill-suited non-floodplain locations.)

Finally, HUD views the *Cleburne* case as inapposite to the Executive Order process; in apparent contrast to the local permitting process cited in the *Cleburne* case, HUD considers hospitals, nursing homes, and convalescent homes assisted under its programs to be critical actions that *are* subject to the Executive Order process when located in a 500-year floodplain. Moreover, proposed location of such facilities in the 500-year floodplain can lead to rejection of the site only if practicable location alternatives exist; the most likely outcome is a review of project design to ensure occupant safety, rather than site rejection.

Upon reconsideration, nevertheless, HUD has amended the final rule, since HUD has concluded that the treatment of *all* projects for handicapped persons under this program as critical actions in overinclusive. Persons with one type of handicap may experience no difficulty in evacuating a structure or following instructions on safety in the event of flooding, while persons with another type might have varying degrees of difficulty. However, because there is an insufficient basis at this time for differentiating among handicapped groups to be served by facilities assisted under the permanent housing program, the rule will not treat any project for the handicapped as a critical action. For the same reason, HUD is also revising the transitional housing rule to eliminate treatment of facilities under that program for the developmentally disabled, chronically mentally ill, mobility impaired as critical actions. All Supportive Housing projects will be subject to the eight-step process only when located in a 100-year floodplain, which is the restriction that applies to all non-critical actions in accordance with Executive Order 11988.

HUD is developing a proposed rule to provide an agency-wide floodplain regulation. When that rule is published, HUD will seek public comment on the scope of the definition of "critical action," any may revisit this issue when a more educated decision can be made with regard to differentiating among handicapped groups.

III. Other Changes

As a result of the effort to simplify the application and selection process and to clarify the rule, HUD has made several other changes to the program, and has reorganized the rule. A discussion of the major changes follows, but the reader is advised to read the rule carefully for minor changes and reorganization not discussed in the preamble.

Definitions Section (577.5 and 578.5)

In the definition of applicant for the permanent housing for handicapped homeless persons program, the rule now provides that an applicant may be the State housing finance agency or the State agency that customarily implements housing programs for the State and that is identified by statute to participate in housing programs in the State. HUD has interpreted section 424(a)(2)(F)(ii) of the McKinney Act as allowing States to designate such an agency to fulfill the State's responsibilities in a permanent housing project.

The definitions of moderate rehabilitation and substantial rehabilitation have been changed to distinguish between the two types of rehabilitation. Under the McKinney Act, the two types were originally distinguished by the amount of assistance allowed—up to $200,000 for

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substantial rehabilitation and up to $100,000 for moderate rehabilitation. The assistance for substantial rehabilitation was in the form of an advance, which was subject to repayment under certain conditions. The assistance for moderate rehabilitation was in the form of a grant. The legislative history indicates that Congress intended that "moderate rehabilitation should be limited to modest rehabilitation activity the cost of which the Secretary determines is too low to necessitate an advance." (H.R. Rep. No. 100-174, 100th Cong., 1st Sess. 78 (1987).

In the 1988 Amendments Act, Congress removed the amount of assistance as a distinction by authorizing grants for up to $200,000 for moderate rehabilitation but, at the same time, retaining the $200,000 limitation for advances for substantial rehabilitation. The characterization of the assistance as "advances" for substantial rehabilitation and "grants" for moderate rehabilitation was unchanged by the 1988 Amendments Act. HUD believes some distinction should be made between the two types of assistance—especially since the advances for substantial rehabilitation are subject to repayment. Therefore, the final rule now contains definitions of the two types of rehabilitation that are based on the extent of rehabilitation to the structure, as indicated by the comparison between the cost of rehabilitation and the fair market value of the structure before rehabilitation. Rehabilitation of a project involving costs of 75 percent or less of the value of the structure before rehabilitation will be considered moderate rehabilitation, and costs in excess of 75 percent of the value of the structure before rehabilitation will be considered substantial.

The definition of operation costs no longer includes as operating costs the provision of supportive services to residents or conducting supportive services needs assessments. This is a technical amendment to separate the supportive services costs from operating costs, since the two types of costs are being funded separately, as discussed below. The cost of providing relocation assistance, under §§ 577.315 or 578.315, to persons displaced as a result of a transitional housing or permanent housing project assisted by HUD has been added to the definition as an operating cost eligible for assistance.

The definition of rehabilitation has been amended to include any costs of structural changes necessary to make a structure accessible for persons with physical handicaps, as required for structures with 15 or more units by section 504 of the Rehabilitation Act of 1973 and implemented in 24 CFR 8.23(a) or (b).

The definition of supportive services for residents of transitional housing has been expanded to include the purpose of such services as facilitating the movement of residents to independent living. Likewise, the definition of supportive services for residents of permanent housing for handicapped homeless persons has been expanded to include the purpose of maximizing the residents' ability to live as independently as possible within their environment. HUD believes that these new definitions emphasize the role of supportive services in reaching the goal of ending homelessness.

Assistance Provided—Subparts B of Parts 577 and 578

The sections describing advances for acquisition/substantial rehabilitation (§§ 577.105 and 578.105), grants for moderate rehabilitation (§§ 577.110 and 578.110), and advances for new construction (§§ 577.112 and 578.112) have been amended to allow an advance or grant in an amount not to exceed the lower of $200,000 or the total cost of the acquisition/substantial rehabilitation, moderate rehabilitation, or new construction minus the applicant's contribution toward the cost. The rule formerly provided that the maximum advance or grant available could not exceed the lower of $200,000 or 50 percent of the cost of the acquisition/substantial rehabilitation, new construction, or moderate rehabilitation. In some circumstances, applicants were unable to utilize the full value of a matching source. In the sections describing grants for moderate rehabilitation, the "project limit" on grants has also been removed. The project limit was a complicated formula that was difficult for applicants to understand and difficult for HUD to administer. The experience of the past two years shows that it was also unnecessary.

Grants for operating costs (§§ 577.115 and 578.115) now include a separate category for supportive services costs. This change does not allow an applicant to receive more assistance than under the former rule, which included supportive services costs as an operating cost, but provides HUD with a reviewing tool in assessing applications, as well as information on the cost of providing supportive service. With the increased emphasis on the role of supportive services in ending homelessness, HUD believes it is necessary to break out the cost of providing supportive services to demonstrate the importance of such services. Grants for supportive services costs are subject to the same limitations on amounts and time periods as grants for operating costs.

The rule has also been changed to provide that HUD will obligate funding for operating costs and supportive services costs, as well as for costs associated with EAPs, based on the recipient's estimate of the amount necessary for five years of operation, rather than limiting each year's funding level to the recipient's estimate of costs for the first year of operation. A companion change has been made to §§ 577.400 and 578.400 on deobligation for the sake of consistency.

Although the rule has not been changed with regard to providing technical assistance only in connection with awards of other assistance, HUD staff will, to the extent possible, give technical assistance to potential applicants with questions relating to the application.

Limitations on Use of Assistance (Sections 577.125 and 578.125)

The paragraphs in the former rule prohibiting the use of acquisition/substantial rehabilitation advances to defray the costs of acquiring a lease have been eliminated as unnecessary. However, the rule still provides that advances for acquisition/substantial rehabilitation and grants for moderate rehabilitation may be used to rehabilitate leased structures. That provision now appears in the section describing the types of assistance available (§§ 577.100 and 578.100).

Paragraphs (c) of §§ 577.125 and 578.125, which describe the limitations on the use of assistance by primarily religious organizations, contain provisions governing the circumstances under which HUD will provide assistance to a recipient that is a primarily religious organization or a wholly secular organization established by a primarily religious organization (or, as in the case of premanent housing, to a recipient that uses such an organization as a project sponsor). With one exception noted below, these provisions are substantially identical to those set out in 24 CFR part 570, which consists of HUD's community development block grant program (CDBG) entitlement rules.

Under these provisions, a primarily religious organization (or wholly secular organization established by a primarily religious organization) must agree to provide housing and supportive services in a manner that is free from religious influence. In this connection, the provider must: (1) Not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give employment preference to persons on the basis of religion; (2) not discriminate against, or limit the provision of housing or supportive services, to applicants for such housing or services on the basis of religion; and (3) provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, or otherwise exert no religious influence in the provision of housing or supportive services.

As noted, the foregoing principles depart in one fashion from the CDBG entitlement rule at 24 CFR 570.200(j)(3) (53 FR 34416, 34412, Sept. 6, 1988), which contains an additional restriction that the portion of the facility of the primarily religious organization used to provide funded services "shall contain no religious symbols or decorations, other than those permanently affixed to or part of the structure."

This policy has been followed for several years in connection with CDBG and homeless assistance made available through primarily religious organization providers. The Department has a continuing commitment to optimize participation by religious providers, which have long been in the forefront in assisting the homeless and other most needy, but in a manner consistent with the strictures imposed by the Establishment Clause of the First Amendment of the United States Constitution. After a review of the relevant case law, the Department has not found dispositive case addressing the provision of government assistance to a primarily religious organization providing social services in a setting where the presence of religious symbols or decorations alone constitutes a violation of the Establishment Clause. The provision in question, which was recommended to HUD by counsel representing a nationally prominent primarily religious organization as a protection against impermissibly advancing religion, has been utilized in the spirit in which it was so recommended. However, as noted, HUD's examination of the case law has concluded that the excised language suggests a degree of control on the presence of religious symbols or decorations that is not compelled thereunder, or is not otherwise intrinsic to traditional Constitutional Church/State separation doctrine as pronounced by the United States Supreme Court. Accordingly, this rule does not include the prohibition on religious symbols or decorations. Further, an amendment removing the quoted text from § 570.200(j)(3)(iv) is included in this document as a final rule.

This change in no way contravenes the purpose of the underlying principles in these rules, namely, that a primarily religious organization, or a wholly secular organization established by a primarily religious organization, can only provide housing and supportive services (or CDBG public services) in a manner that is free from religious influence violative of the Establishment Clause, specifically including the explicit provisions described above.

The limitation on the use of assistance for administrative costs has been expanded to include all grants and advances (paragraphs (e)). The provision also clarifies that administrative costs are those costs associated with administering the assistance provided by HUD.

Assistance Under Other HUD Programs (Sections 577.135 and 578.135)

The requirement in the rule that applicants wishing to purchase HUD-owned single family homes request a PHA or local government to enter into a lease/option agreement with HUD has been eliminated, since PHAs were sometimes reluctant to be involved in these arrangements. The rule now allows the applicant to enter into the agreement with HUD. The applicant may not occupy the property, however, until after closing the sale. During the lease term, the applicant will be responsible for all maintenance costs and taxes on the property.

Matching Requirements (Sections 577.130 and 578.130)

The rule has been changed to provide that the requirement that matching funds be from non-Federal sources applies only to advances for acquisition/substantial rehabilitation or new construction and grants for moderate rehabilitation. This change adheres to the statutory provisions in section 452 of the 1988 Amendments Act. Section 452 also allows all sources of matching funds, including "in-kind" contributions, to be included as a match for an applicant's request for advances for acquisition/substantial rehabilitation or new construction and grants for moderate rehabilitation. The rule has been changed to allow all such matching sources for those advances or grants, regardless of whether the contribution relates to that type of assistance. The rule also states that HUD considers funds from Community Development Block Grants and Community Service Block Grants as non-Federal sources.

The requirement that applicants seeking funding for existing programs commit new funds in order to satisfy the matching requirement has been eliminated. While HUD still requires that these programs propose expansions of services in order to be eligible for funding (except where funds are sought to bring housing up to applicable standards), the requirement for new funds for matching purposes has been a burdensome one for some projects and a difficult one for HUD to assess. HUD's goal is to fund projects that are dedicated to serving the homeless with as few hindrances to that end as possible. If an existing facility serves all the purposes of the McKinney Act and meets all the other requirements of the Supportive Housing program except for a match of new money, HUD believes it would be too restrictive a view to refuse to review such an application.

Application and Selection Process (Subparts D of Parts 577 and 578)

The sections describing the application and selection process have been reorganized in an effort to simplify both the rule and the process. The section on threshold requirements has been removed. The requirements previously described as "threshold" were evaluated as to subject matter, and several were moved to the sections on application requirements, ranking criteria, or program requirements. (Many of the threshold requirements were repeated in those sections in the former rule.) Others have been eliminated from the rule altogether, because HUD would like to remain as flexible as possible when evaluating applications. In keeping with the Secretary's priority goal of ending homelessness, HUD will review each application with a desire to fund as many projects as possible, without imposing stringent threshold requirements that may keep potentially fundable applications from the competition.

Two new ranking criteria have been added to the permanent housing rule (§ 578.215) to emphasize the purpose of maximizing the ability of residents to live independently within the permanent housing environment and to underscore the statutory requirement that permanent housing projects be integrated into the neighborhoods in which they are located. Another statutory ranking criterion—the need for such supportive housing in the area to be served—has been added to both transitional and permanent housing. This was in the former rule as a threshold requirement.

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The ranking criterion for employment assistance programs in the transitional housing rule (§ 577.215(b)(7)) has been expanded to include assessment of the quality of the program, as well as whether the program meets the statutory requirements of providing for employment of residents in the housing and payments for transportation costs. The addition of criteria by which HUD will assess the quality of the program emphasizes the importance HUD places on programs that show a commitment to facilitating the movement of homeless people to independent living.

Paragraph (b) was added to §§ 577.225 and 578.225 to describe the procedure HUD will follow in the event of a tie between applicants after the ranking process. HUD will use the quality of the proposal and the need for the project in the area as factors in choosing between the applicants. During the review and selection period, if HUD makes a procedural error that, if corrected, would result in an application being funded that was not funded, HUD may fund the application during the next funding round (§§ 577.225(c) and 578.225(c)).

Program Requirements (Subparts E of Parts 577 and 578)

The sections on program requirements have been reorganized to eliminate redundancies and simplify the rule. Most of the provisions in the former rule are still in the new final rule, but have been either moved or combined with other requirements.

HUD has removed the provision in the former rule to the effect that restrictions on the use of structures be contained in covenants recorded in land records when acquisition/substantial rehabilitation advances or moderate rehabilitation grants were awarded to private nonprofit organizations. Comments received from providers of housing for the homeless in meetings and workshops have convinced HUD that this provision is difficult to enforce, given the varying laws of jurisdictions. In addition, the provision imposes an unfair use restriction on owners of property leased to recipients, when the owner is not a party to the grant agreement between HUD and the recipient. The removal of this provision, however, is not an indication of a lowered commitment on HUD's part to enforcing the grant agreements in other appropriate ways.

The provisions on eminent domain and prevention of undue benefits that were a part of the former rule have been included in the section on repayment of advances (§§ 577.310 and 578.310), since, in effect, they provide for HUD to be reimbursed for assistance if, during the 20-year period following the date of initial occupancy, an assisted structure is taken under an eminent domain proceeding or is sold or otherwise disposed of by the recipient. Paragraph (d)(ii) has been added to the final rule to include the statutory exception to this requirement for sales or other dispositions that result in the continued use of the project for the direct benefit of lower income persons or where all proceeds are used to provide supportive housing.

A former requirement, to the effect that the recipient carry casualty insurance, with HUD as the beneficiary, in an amount at least equal to the amount of assistance provided by HUD, has been removed. This is not practical for governmental units since they, for the most part, are self-insured. OMB Circular A-102, which is implemented in 24 CFR part 85 and applicable to recipients of assistance under parts 577 and 578, requires such insurance to be carried by private nonprofit organizations when real property is acquired with Federal assistance.

A new section has been added to each rule (§§ 577.315 and 578.315) regarding relocation assistance to persons who are displaced as a result of acquisition, rehabilitation, or demolition of a structure to be assisted under the Supportive Housing Demonstration program. HUD is currently amending all its regulations to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and new governmentwide implementing regulations at 49 CFR part 24. The rule now requires recipients to provide relocation assistance to displaced persons. Under the former rule, a threshold requirement made ineligible for funding any project that would result in the displacement of persons. When HUD promulgated the former rule in June 1988, the preamble to that rule stated that the provisions on displacement would be reviewed after the governmentwide regulations were promulgated. The change in the rule announced today is a result of that review.

HUD has removed the requirement that transitional housing recipients execute contracts with the residents of transitional housing before admission. Such contracts were for the purpose of limiting the resident's length of stay in the housing and preempting any State or local law to the extent that it prohibited the recipient from discharging the resident at the end of the term. The rule also described a procedure for a resident-requested review of the discharge date following notice of such date to the resident. This provision has also been removed. The rule, in § 577.325, still contains a preemption of State or local laws to the extent they prohibit recipients from discharging residents at the end of the 24-month residency period, but it does not require recipients to execute contracts with residents. Whether or not a recipient executes a contract setting forth the resident's length of stay (or any other terms or conditions regarding the relationship between the recipient and resident) is discretionary with the recipient. However, the recipient must give the resident written notice at least 30 days prior to the end of the resident's length of stay.

Section 422(12)(B) of the McKinney Act requires that each permanent housing project for handicapped homeless persons be either a home designed solely for housing handicapped persons or dwelling units in a multi-family housing project, condominium project, or cooperative project. Only one home may be located on any one site, and that home may not be on a site contiguous to another site containing another home. This statutory requirement, which was not in the former rule, is included in this final rule in § 578.325(a).

In addition, paragraph (b) of that section contains the statutory requirement that permanent housing projects must be integrated into the neighborhoods in which they are located. The rule describes the factors HUD will consider indicative of neighborhood integration. These include neighborhood acceptance of the project, participation by residents in neighborhood activities and institutions, integration of the project into community plans, compatibility of the project with local zoning determinations, and the provision of supportive services outside the housing facility but within the neighborhood.

IV. Other Matters

The collection of information requirements for the Supportive Housing Demonstration program have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Information on these requirements is provided as follows:

Description	Number of respondents	Responses per respondent	Total annual response	Hrs per response	Total hours
Permanent Hsg:					
Application	102	1	102	42	4,284
Envir. review	65	1	65	14	910
Transit Hsg:					
Application	400	1	400	42	16,800
Envir. review	10	1	10	14	140
Recordkeeping	200	1	200	1	200
Total annual burden					22,334

This rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The January 9, 1989 notice contained information with respect to the amendments and the National Environmental Policy Act of 1969, Executive Orders 12606 (The Family) and 12612 (Federalism), and the Regulatory Flexibility Act. The reader may refer to that document for HUD's analyses under those provisions. The changes in this rule do not affect those analyses.

This rule was listed as item 1088 in the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54 FR 44702, 44728).

The Catalog of Federal Domestic Assistance program number of 14.178.

List of Subjects

24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low- and moderate-income housing, New communities, Pockets of poverty, Small cities.

24 CFR Part 577

Grant programs, Housing and community development, Housing, Homeless.

24 CFR Part 578

Grant programs, Housing and community development, Housing, Handicapped, Homeless.

24 CFR Part 840

Grant programs, Housing and community development, Housing, Homeless.

24 CFR Part 841

Grant programs, Housing and community development, Housing, Handicapped, Homeless.

Under the Secretary's authority in section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d), and for the reasons stated in the preamble, title 24, Chapters V and VIII of the Code of Federal Regulations is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–20); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 570.200 [Amended]

2. In § 570.200, paragraph (j)(3)(iv) is removed.

3. Part 577 is added to read as follows:

PART 577—TRANSITIONAL HOUSING

Subpart A—General

Sec.

577.1 Applicability and scope.
577.5 Definitions.

Subpart B—Assistance Provided

577.100 Types of assistance.
577.105 Acquisition/substantial rehabilitation advances.
577.110 Moderate rehabilitation grants.
577.112 New construction advances.
577.115 Funding for annual operating costs and supportive services costs.
577.117 Grants for employment assistance programs.
577.120 Technical assistance.
577.125 Limitations on use of assistance.
577.130 Matching requirements.
577.135 Assistance under other HUD programs.

Subpart C—Comprehensive Homeless Assistance Plan

577.150 Comprehensive Homeless Assistance Plan.

Subpart D—Application and Selection Process

577.200 Notice of fund availability.
577.205 Selection process.
577.210 Application requirements.
577.215 Ranking criteria.
577.220 Environmental review.
577.225 Final selection.

Subpart E—Program Requirements

577.300 Grant agreement.
577.305 General operation.
577.310 Term of commitment and repayment of advance.
577.315 Relocation and acquisition.
577.320 Resident rent.
577.325 Discharge of residents.
577.330 Flood insurance.
577.335 Applicability of other Federal requirements.

Subpart F—Administration

577.400 Obligation of funds, funding amendments, and deobligation.
577.405 Site change.

Authority: Sec. 426, Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11386); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C 3535(d)).

Subpart A—General

§ 577.1 Applicability and scope.

(a) *General.* The Supportive Housing Demonstration program contained in subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act is designed to develop innovative approaches for providing supportive housing, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. It is designed to determine:

(1) The cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing structures for the provision of supportive housing;

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(2) The cost of operating such housing and providing supportive services to the residents of such housing;

(3) The social, financial, and other advantages of such housing as a means of assisting homeless individuals; and

(4) The lessons that the provision of supportive housing might have for the design and implementation of housing programs that serve homeless individuals and families with special needs, particularly deinstitutionalized homeless individuals, homeless families with children, homeless individuals with mental disabilities, and other handicapped homeless persons.

A central purpose of the program is to provide supportive housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.

(b) The Supportive Housing Demonstration program consists of two components: Permanent housing for handicapped homeless persons and transitional housing. This part implements the transitional housing component of the program. Part 578 provides for a program to assist in providing permanent housing for handicapped homeless persons.

§ 577.5 Definitions.

As used in this part:

Applicant means a State, metropolitan city, urban county, governmental entity, tribe, or private nonprofit organization that submits an application for assistance under this part. Governmental entities include those that have general governmental powers (such as a city or county), as well as those that have limited or special powers (such as public housing agencies).

Comprehensive Homeless Assistance Plan or *Comprehensive Plan* means the Comprehensive Assistance Plan established by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act and described in § 577.150.

Date of initial occupancy means the date that the project is initially occupied by a homeless person for whom assistance is provided under this Part. If the assistance provided under this part is used only for the purposes described under § 577.125(a)(2)(ii), the date of initial occupancy is the date that expanded services are first provided to the residents of the project.

Deinstitutionalized homeless individual means a homeless individual with mental disabilities who has been discharged or released from a mental institution or hospital, a halfway house, or similar facility providing housing and supportive services to its residents. This term includes a homeless family, if the head of the family (or the spouse of the head of the family) is a deinstitutionalized homeless individual.

ESG formula city or county means a metropolitan city or urban county that is eligible to receive a formula allocation under the Emergency Shelter Grants program established by subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act and described at 24 CFR part 576.

Handicapped or *Handicapped person* means any individual having an impairment that is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that the ability to live independently could be improved by a stable residential situation. This term includes:

(a) An individual who is developmentally disabled, *i.e.*, an individual who has a severe chronic disability that:

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for independent living; and

(vii) Economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) An individual who is chronically mentally ill, *i.e.*, an individual who has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently (*e.g.*, by limiting functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, or recreation), and whose impairment could be improved by more suitable housing conditions.

(c) A person whose sole impairment is alcoholism or drug addiction will not be considered to be handicapped under this part.

Homeless means:

(a) An individual or family that lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family that has a primary nighttime residency that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

Homeless family with children means a homeless family that includes at least one parent or guardian and one child under the age of 18, a homeless pregnant women, and a homeless individual in the process of securing legal custody of any person who has not attained the age of 18 years.

Homeless individual with mental disabilities means a homeless individual who is a handicapped person and whose handicap is wholly or partially attributable to a mental or emotional impairment. This term includes a homeless family, if the head of the family (or the spouse of the head of the family) is a homeless individual with mental disabilities.

HUD means the Department of Housing and Urban Development.

Metropolitan city means a city that is classified as a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974. In general, metropolitan cities are those cities that are eligible for an entitlement grant under 25 CFR part 570, subpart D.

Moderate rehabilitation means rehabilitation of a project that involves costs of 75 percent or less of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are less than 75 percent of the replacement cost of the building, that project must meet the requirements of 24 CFR part 8.23(b).

Operating costs means expenses that a recipient incurs for:

(a) Administration (including staff salaries), maintenance, minor or routine repair, security and rental of the housing;

(b) Utilities, fuel, furnishings, and equipment for the housing; and

(c) Relocation assistance under § 577.315, including payments and services.

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(a) Have a voluntary board;

(b)(1) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles; or

(2) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(c) Practice nondiscrimination in the provision of assistance under the transitional housing program in accordance with the authorities described in § 577.335(a).

Project means one or more existing structures or incomplete structures, or parts of one or more existing structures or incomplete structures.

Recipient means the applicant, approved by HUD as financially responsible, that executes a grant agreement with HUD to provide transitional housing. The recipient must operate transitional housing and provide (or coordinate the provision of) supportive services to the residents of the housing.

Rehabilitation means labor, materials, tools, and other costs of improving structures to a level that meets or exceeds applicable State and local government health and safety standards. Rehabilitation includes repairs directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, improvement through alterations or additions to, or enhancement of, existing structures, including improvements to increase the efficient use of energy in structures, and structural changes necessary to make the structure accessible for persons with physical handicaps. Rehabilitation does not include minor or routine repairs or cosmetic repairs or improvements. All buildings of 15 or more units undergoing rehabilitation must meet the accessibility requirements of section 504 of the Rehabilitation Act of 1973, as amended, as set forth in 24 CFR 8.23(a) or (b).

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Substantial rehabilitation means rehabilitation of a project that involves costs in excess of 75 percent of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are 75 percent or more of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a).

Supportive services means services provided to residents of transitional housing for the purpose of facilitating the movement of the residents to independent living. Supportive services, which must be proposed by the applicant in its application and approved by HUD, must address the spcial needs of the homeless to be served by the project (such as deinstitutionalized homeless individuals, homeless families with children, homeless individuals with mental disabilities, and other handicapped homeless persons). Supportive services may include:

(a) Assistance in obtaining permanent housing;

(b) Medical and psychological counseling and supervision;

(c) Employment counseling;

(d) Nutritional counseling;

(e) Assistance in obtaining other Federal, State, and local assistance available for residents of transitional housing facilities, including mental health benefits; employment counseling; medical assistance; Veterans' benefits; and income support assistance, such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps; and

(f) Other services, such as child care, transportation, job placement, and job training. All or part of the supportive services may be provided directly by the recipient or by arrangement with public or private service providers.

Transitional housing means a project assisted under this part:

(a) That is designed to provide housing and appropriate supportive services to homeless persons, including (but not limited to) deinstitutionalized homeless individuals with mental disabilities and other homeless individuals with mental disabilities, and homeless families with children; and

(b) That has as its purpose facilitating the movement of homeless individuals to independent living within 24 months, or within a longer period determined by HUD as necessary to facilitiate the transition.

Tribe means an Indian tribe, band, group, or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, considered an eligible recipient under the Indian Self Determination and Education Assistance Act (Pub. L. 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512).

Urban county means a county that is classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974. In general, urban counties are those counties that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

Subpart B—Assistance Provided

§ 577.100 Types of assistance.

(a) *Assistance available.* Six types of assistance are available for transitional housing:

(1) Advances for acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation;

(2) Advances for new construction (under limited circumstances);

(3) Grants for moderate rehabilitation;

(4) Grants for annual operating costs and supportive services costs (up to five years);

(5) Grants for establishing and operating employment assistance programs; and

(6) Technical assistance.

(b) *Eligibility for more than one type of assistance.* Applicants may be eligible for one or any combination of the types of assistance, except that HUD will offer technical assistance only in connection with other assistance under this Part.

(c) *Rehabilitation of leased property.* Acquisition/substantial rehabilitation advances and moderate rehabilitation grants are available for the rehabilitation of leased property.

§ 577.105 Acquisition/substantial rehabilitation advances.

(a) *Use.* HUD will advance sums to recipients to:

(1) Defray the cost of the acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures selected by the recipients for use in the provision of transitional housing; or

(2) Repay any outstanding debt on a loan made to purchase existing structures for use in the provision of transitional housing.

(b) *Amount.* If the applicant meets the matching share requirements at § 577.130, the maximum advance available for acquisition/substantial rehabilitation is the lower of:

(1) $200,000; or

(2) The total cost of the acquisition/substantial rehabilitation minus the applicant's contribution toward the cost

of the acquisition/ substantial rehabilitation.

(c) *Terms of the advance.* Advances are interest-free and, if the conditions with a grant under this section is subject to the requirements of § 577.310(d).

(d) *Increased grants.* In areas determined by HUD to have costs that

(b) *Operating costs.* Grants for the costs associated with the day-to-day operation of the transitional housing are available in accordance with the

(Approved by the Office of Management and Budget under OMB Control Number 2502-0561)

§ 577.117 Grants for employment

(2) HUD will provide assistance for rehabilitation, operating costs, or employment assistance programs for existing facilities or programs that

and supportive services in a manner that is free from religious influences and in accordance with the following principles:

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of the acquisition/ substantial rehabilitation.

(c) *Terms of the advance.* Advances are interest-free and, if the conditions described in § 577.310 are met, are not subject to repayment. The sale or disposition of a structure acquired or rehabilitated with an advance is subject to the requirements of § 577.310(d).

(d) *Increased amounts.* In areas determined by HUD to have costs that exceed the statutory limits of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) by at least 75 percent, advances of more than $200,000 but not more than $400,000 may be available. (A list of these geographic areas is included in the application package or is available from HUD field offices.) All requirements for matching funds described in § 577.130 are applicable to increased advances.

(e) *Repayment of outstanding debt.* An applicant for an acquisition/ substantial rehabilitation advance that intends to use the advance to repay an outstanding debt on a loan made to purchase an existing structure, as described in paragraph (a)(2) of this section, must provide the following information and documentation as a part of the application for the advance:

(1) A copy of the contract of sale;

(2) A copy of the loan agreement, mortgage agreement, or deed of trust;

(3) Documentation showing the purpose of the loan;

(4) Documentation of the balance owed on the loan, mortgage, or deed of trust; and

(5) Certification that the structure has not been assisted under this Part before the date of the application.

(f) *Applicability.* Paragraph (a)(2) of this section is applicable to awards of assistance under this Part on or after November 1, 1987.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0361.)

§ 577.110 Moderate rehabilitation grants.

(a) *Use.* HUD will make grants to recipients to defray the cost of moderate rehabilitation of existing structures selected by the recipients for use in the provision of transitional housing.

(b) *Amount.* If an applicant meets the matching share requirements at § 577.130, the maximum grant available for moderate rehabilitation is the lower of:

(1) $200,000; or

(2) The total cost of the moderate rehabilitation minus the applicant's contribution toward the cost of the moderate rehabilitation.

(c) *Terms of the grant.* The sale or disposition of a structure rehabilitated with a grant under this section is subject to the requirements of § 577.310(d).

(d) *Increased grants.* In areas determined by HUD to have costs that exceed the statutory limits of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) by at least 75 percent, grants of more than $200,000 but not more than $400,000 may be available. (A list of these geographic areas is included in the application package or is available from HUD field offices.) All requirements for matching funds described in § 577.130 are applicable to increased grants.

§ 577.112 New construction advances.

(a) *Use.* HUD will advance funds to recipients to defray the cost of new construction of facilities for use in the provision of transitional housing where HUD finds the following factors:

(1) The project involves the cooperation of a city and a State university;

(2) The land has been donated to the applicant by a State university;

(3) The applicant proposes a transitional housing structure of at least 10,000 square feet; and

(4) The applicant proposes a model transitional housing project with a comprehensive support system, including health services, job counseling, mental health services, and housing assistance and advocacy.

(b) *Amount.* If the applicant meets the matching share requirements at § 577.130, the maximum advance available for new construction is the lower of:

(1) $200,000; or

(2) The total cost of the construction minus the applicant's contribution toward the cost of the new construction.

(c) *Increased advances.* In areas determined by HUD to have costs that exceed the statutory limits of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) by at least 75 percent, grants of more than $200,000 but not more than $400,000 may be available. (A list of these geographic areas is included in the application package or is available from HUD field offices.) All requirements for matching funds described in § 577.130 are applicable to increased advances.

§ 577.115 Funding for annual operating costs and supportive services costs.

(a) *General.* HUD will provide grants for annual operating costs and supportive services costs of transitional housing for a period not to exceed five years. Assistance for operating costs and supportive services costs will be available for up to 75 percent of the total cost for two years and up to 50 percent of the total cost for three years.

(b) *Operating costs.* Grants for the costs associated with the day-to-day operation of the transitional housing are available in accordance with the provisions of paragraph (a) of this section. Such costs include the expenses that a recipient incurs for the administration (including staff salaries), maintenance, minor or routine repair, security and rental of the housing; utilities, fuel, furnishings and equipment for the housing; and relocation assistance under § 577.315, including payments and services.

(c) *Supportive services costs.* Grants for the costs associated with providing supportive services, approved by HUD, to residents of transitional housing are available in accordance with the provisions of paragraph (a) of this section. Such costs include salaries paid to providers of supportive services, the costs of conducting resident supportive services needs assessments, and any other costs directly associated with providing such services. Costs associated with supportive services do not include any percentage of the costs described in paragraph (b) that are attributable to the provision of supportive services.

(d) *Assistance for incomplete structures.* If an applicant seeks assistance under this section for projects with incomplete structures, the applicant must provide reasonable assurance of completion of construction within nine months after notification of an award. Such assistance will begin on the date of initial occupancy. Reasonable assurance may be satisfied by submission with the application for assistance in the following:

(1) Evidence that construction financing has been obtained; and

(2) A copy of the construction contract for the proposed structure containing the terms and conditions with regard to cost and date of completion.

(e) *Commitment of amounts for operating costs and supportive services costs.* Upon approval of an application for assistance under paragraphs (a) and (b) of this section, HUD will obligate amounts for a period not to exceed five operating years commencing on the date of initial occupancy. The total amount obligated will be equal to an amount necessary for five years of operation, based on the recipient's estimate of such costs for five years of operation, less the recipient's percentage share of such costs. Each year, for up to five years, HUD will make operating cost payments to the recipient from the amounts obligated. The annual funding level will be subject to reduction under § 577.400.

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§ 577.117 Grants for employment assistance programs.

(a) *Use.* HUD will provide grants for establishing and operating an employment assistance program for residents of transitional housing for a period not to exceed five years. Assistance will be available for up to 75 percent of program costs for two years and up to 50 percent of program costs for three years.

(b) *Eligibility.* To be eligible for assistance, an employment assistance program must provide for at least the following:

(1) Employment of residents in the operation and maintenance of the transitional housing; and

(2) Where necessary and appropriate, payment of reasonable transportation costs of residents to places of employment outside the transitional housing.

(c) *Commitment of amounts for assistance.* Upon approval of an application for assistance for an employment assistance program, HUD will obligate amounts for the operating period sought, not to exceed five years. The total amount obligated will be equal to an amount necessary for five years of operating the program, based on the recipient's estimate of such costs for five years of operation, less the recipient's percentage share of such costs. The annual funding level will be subject to reduction under § 577.400.

§ 577.120 Technical assistance.

Technical assistance will be offered in connection with an award of funds under §§ 577.105, 577.110, 577.112, 577.115, or 577.117. Technical assistance is offered to recipients through HUD field offices in such matters as the computation of resident rent under § 577.320, compliance with other Federal requirements under § 577.335, the identification of Federal housing assistance resources that may be available to residents upon their departure from transitional housing. HUD will also facilitate the exchange of information among recipients, and help recipients to learn from the experience of other participants in the program.

§ 577.125 Limitations on use of assistance.

(a) *Funding of existing housing facilities and programs.* (1) HUD will not provide assistance under this Part for acquisition of existing facilities or programs that currently serve homeless persons.

(2) HUD will provide assistance for rehabilitation, operating costs, or employment assistance programs for existing facilities or programs that currently serve homeless persons only if the applicant proposes:

(i) A substantial increase in the number of homeless persons for whom transitional housing will be provided;

(ii) A substantial increase in the level of supportive services to be provided to homeless persons;

(iii) A substantial change in the use of existing facilities, *e.g.*, if existing facilities for the homeless that are not currently used for transitional housing (such as an emergency shelter for the homeless) will be used to provide transitional housing, or if an applicant currently providing transitional housing for one population of homeless persons proposes to serve an additional or alternative segment of the homeless population; or

(iv) Improvements to existing transitional housing structures necessary to bring the structures to a level that meets applicable State and local government health and safety standards.

(b) *Maintenance of effort.* (1) No assistance received under this Part (or any State or local government funds used to supplement this assistance) may be used to replace funds provided in the area to be served by the applicant under any State or local government assistance program, if the funds provided under the State or local government assistance program were used to assist handicapped persons, homeless individuals, or handicapped homeless persons (as defined in § 578.5 of this title) during the calendar year preceding the date of the application, or were designated for such use through an official action of the applicable State or local government during the calendar year preceding the date of the application.

(2) For purposes of this section, the area to be served by the applicant is:

(i) The State, if the applicant is a State;

(ii) The metropolitan city, if the applicant is a metropolitan city;

(iii) The urban county, if the applicant is an urban county;

(iv) The tribal jurisdiction, if the applicant is a tribe; and

(v) Cities and counties to be served by the project, if the applicant is a private nonprofit organization or a governmental entity.

(c) *Primarily religious organizations—* (1) *Provision of assistance.* (i) HUD will provide assistance to a recipient that is a primarily religious organization if the organization agrees to provide housing and supportive services in a manner that is free from religious influences and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(B) It will not discriminate against any person applying for housing or supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion;

(C) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing and supportive services.

(ii) HUD will provide assistance to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure or to rehabilitate a structure owned by the organization, except as described in paragraph (c)(2) of this section.

(2) *Acquisition/substantial rehabilitation or moderate rehabilitation of transitional housing in structures owned by a primarily religious organization.* An acquisition/ substantial rehabilitation advance or a moderate rehabilitation grant may be used to rehabilitate a structure owned by a primarily religious organization, if the following conditions are met:

(i) The structure (or portion of the structure) that is to be rehabilitated with HUD assistance has been leased to an recipient that is an existing or newly established wholly secular organization (which may be established by the primarily religious organization under the provisions of paragraph (c)(3) of this section);

(ii) The HUD assistance is provided to the wholly secular organization (and not the primarily religious organization) to make the improvements;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent of the structure before the rehabilitation was done;

(v) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the primarily religious organization;

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(vi) The primarily religious organization agrees that, if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the secular organization, and the secular organization will remit the amount to HUD.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.* (i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The wholly secular organization may be eligible to receive all forms of assistance available under this Part.

(A) The wholly secular organization must agree to provide housing and supportive services in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(B) The wholly secular organization may enter into a contract with the primarily religious organization to provide supportive services for the project. In such a case, the primarily religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(C) The acquisition/substantial rehabilitation advance and the moderate rehabilitation grant are subject to the requirements of paragraph (c)(2) of this section.

(ii) HUD will not require the primarily religious organization to establish the wholly secular organization before the selection of its application. In such a case, the primarily religious organization may apply on behalf of the wholly secular organization. The application will be reviewed on the basis of the primarily religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the wholly secular organization after formation. The requirement with regard to site control, described in § 577.210(b)(8), may be satisfied if the primarily religious organization demonstrates site control and a commitment to transfer control of the site to the wholly secular organization after its formation. Since the wholly secular organization will not be in existence at the time of the application, it will be required to demonstrate that it meets the definition of private nonprofit organization contained in § 577.5. In such an application is selected for funding, the obligation of funds will be conditioned upon the compliance with these requirements.

(d) *Structures used for multiple purposes.* Structures used to provide transitional housing may also be used for other purposes. For example, a structure may contain facilities for an emergency shelter as well as transitional housing, may be used to provide supportive services to the public at large, or may include commercial space. Under these circumstances, however, the acquisition/substantial rehabilitation advance and the moderate rehabilitation grant will be available only in proportion to the use of the structure for transitional housing, and the funding for annual operating costs will be available only to support the costs that are related to the transitional housing to be provided. If the applicant holds, or is donated, an interest in a structure and the structure will be used for multiple purposes, only that portion of the value of the structure that will be used for transitional housing may be included in the calculation of the applicant's matching sources under § 577.130.

(e) *Administrative costs.* Up to five percent of any advance or grant awarded under this Part may be used for the purpose of paying costs of administering the assistance.

§ 577.130 Matching requirements.

(a) *General.* (1) The recipient must match the funding provided by HUD for advances for acquisition/substantial rehabilitation and new construction and for grants for moderate rehabilitation with an equal amount of funds from non-Federal sources. Funds from Community Development Block Grants and Community Services Block Grants are considered non-Federal sources.

(2) The recipient must show that it has sources to pay the percentage of operating costs, supportive services costs, and employment assistance program costs not funded by HUD in grants for such costs.

(3) The maximum amount of funds that HUD will provide is based on the percentage of the respective costs of each category of assistance.

(4) No match is required for technical assistance.

(b) *Requirements for "in-kind" contributions as matching share for advances for acquisition/substantial rehabilitation or new construction or for grants for moderate rehabilitation.* HUD will include in the matching calculation for advances for acquisition/substantial rehabilitation or new construction or for grants for moderate rehabilitation the following "in-kind" contributions:

(1) Time and services contributed by volunteers, at the value of $5 an hour, to carry out the transitional housing program;

(2) The value of contributions of materials or contributions of existing structures, or parts of structures, in the following manner:

(i) Contributions of materials and supplies;

(ii) A contribution of a fee ownership in a structure, to the extent of the fair market value of the structure; and

(iii) A contribution of a leasehold interest in a structure, to the extent of the fair rental value of the building.

(c) *Maintenance of effort.* State or local government funds used in the matching contribution are subject to the maintenance of effort requirements described at § 577.125(b).

(d) *Rental income.* Rental amounts paid by residents of transitional housing under § 577.320 may be included in the calculation of the recipient's percentage share of annual operating costs.

(e) *Salaries paid to staff or residents.* HUD will include in the matching calculation for advances for acquisition/substantial rehabilitation or new construction or for grants for moderate rehabilitation:

(1) Salaries paid to staff from non-Federal sources to carry out the program of the recipient; and

(2) Salaries paid from non-Federal sources to residents of transitional housing under an employment assistance program as described in § 577.117.

§ 577.135 Assistance under other HUD programs.

(a) *Supplemental assistance.* HUD will permit recipients to use any assistance that may be awarded under the Supplemental Assistance for Facilities to Assist the Homeless program (24 CFR part 579) in conjunction with assistance awarded under this part.

(b) *Ineligible projects.* HUD will not assist a project under this part, if the project involves a structure that is assisted, or residents of the structure will receive assistance, under the United States Housing Act of 1937; section 202 of the Housing Act of 1959; section 221(d)(3) (BMIR) or section 236 of the National Housing Act; or section 101 of the Housing and Urban Development Act.

(c) *HUD-owned properties.* HUD will make HUD-owned single family properties in its inventory available to potential applicants for purchase for use as transitional housing for homeless persons. To obtain these properties, potential applicants may request a listing of available properties from the HUD field office, Property Disposition Branch. If a potential applicant wishes to purchase a property or properties, it must enter into a lease/option agreement with HUD. Under the terms of the agreement, HUD will lease the property to the applicant for up to six months for one dollar. The lease/option agreement will state that applicant may purchase the property at a stated price during the lease period. An applicant leasing property under this section may not occupy the property until after closing of the sale. During the lease period of up to six months, applicants will be responsible for all taxes and maintenance, excluding hazard insurance. Applicants demonstrating a lease/option agreement at the time their application is filed will be regarded as having site control of the property under §§ 577.210(b)(8) and 577.215(b)(8). If the option is not exercised, the lease/option agreement will expire at the end of six months, and the property will be returned to HUD's inventory, unless an extension of time is authorized by HUD.

Subpart C—Comprehensive Homeless Assistance Plan

§ 577.150 Comprehensive Homeless Assistance Plan.

(a) *Prohibition of assistance.* Assistance under this part may not be provided to, or within the jurisdiction of, a State or an ESG formula city or county, unless the jurisdiction has a HUD-approved Comprehensive Homeless Assistance Plan and the applicant has obtained a certification of consistency with the Comprehensive Plan.

(b) *Who must have an approved Comprehensive Plan.* If the applicant is:

(1) A State, the State must have an approved Comprehensive Plan.

(2) An ESG formula city or county, the city or county must have an approved Comprehensive Plan.

(3) A governmental entity that is not an ESG formula city or county and:

(i) The transitional housing is to be located within the jurisdiction of an ESG formula city or county, the city or county must have an approved Comprehensive Plan;

(ii) The transitional housing is to be located outside the jurisdiction of an ESG formula city or county, the State must have an approved Comprehensive Plan.

(4) A private nonprofit organization and:

(i) The transitional housing is to be located within the jurisdiction of an ESG formula city or county, the city or county must have an approved Comprehensive Plan or, if the city or county does not have an approved Plan, the State must have an approved Plan; or

(ii) The transitional housing is to be located outside the jurisdiction of an ESG formula city or county, the State must have an approved Plan.

(c) *Tribes.* Assistance may be provided to, or within the jurisdiction of, a tribe without a HUD-approved Comprehensive Homeless Assistance Plan.

(d) *Notification of Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Homeless Assistance Plan in the Federal Register, as necessary. Prospective applicants should familiarize themselves with these requirements.

Subpart D—Application and Selection Process

§ 577.200 Notice of fund availability.

When funds are made available for assistance for transitional housing, HUD will publish a notice of fund availability in the Federal Register. The notice will:

(a) Give the location for obtaining application packages that provide specific application requirements and guidance;

(b) Specify the time and the place for submitting completed applications;

(c) State the amount of funding available under the notice;

(d) Indicate the weight or relative importance of the ranking criteria contained in § 577.215 as they will be applied to the funding round announced in the notice;

(e) Announce any separate funding competitions under § 577.205(b), including the categories of transitional housing projects that will be subject to the separate funding competitions and the amount of funding available in each funding category; and

(f) Provide other appropriate program information and guidance.

§ 577.205 Selection process.

(a) *Selection process.* The selection process for assistance under this part consists of the following stages:

(1) Application for assistance (see § 577.210);

(2) Ranking applications (see § 577.215);

(3) Final selection (see § 577.225).

(b) *Separate funding competitions.* (1) In accordance with funding set-asides, funding priorities, or other statutory guidance, HUD may establish separate funding competitions for specified categories of transitional housing projects (e.g., transitional housing that is primarily designed to serve homeless families with children or deinstitutionalized homeless persons and other homeless persons with mental disabilities). If separate funding competitions are established, applicants within each category will compete against other applicants in the same category for a specified amount of funding. Selections within each category will be subject to the selection process described in paragraph (a) of this section.

(2) HUD will announce separate funding competitions, if any, in the notice of funds availability under § 577.200. The notice will designate the categories of transitional housing projects subject to the separate funding competition and the amount of funding available in each funding category.

§ 577.210 Application requirements.

(a) *Form, time, and adequacy of the application.* To be considered for assistance under this Part, applications for assistance must be filed in the form prescribed by HUD under this section, must meet the requirements of this Part, and must be submitted within the time period established by HUD in the notice of funds availability under § 577.200.

(b) *Minimum requirements.* At a minimum, HUD will require applications to contain:

(1) Applicant data, including identity, description of past experience, and, for private nonprofit organizations, information on eligibility to receive assistance and financial responsibility.

(i) In determining the financial responsibility of private nonprofit organizations, HUD will consider such factors as the past financial history of the organization, its current and anticipated financial outlook, the amount of funding that will be committed under the proposal, and the applicant's other financial responsibilities. (HUD has determined, for purposes of the requirements of this Part, that all States, metropolitan cities, urban counties, governmental entities and tribes are financially responsible.)

(ii) Private nonprofit organizations applying for assistance must include in their applications evidence that they meet the definition of a private nonprofit organization contained in § 577.5.

(2) The type or types of assistance requested and the amount of funds requested for each type.

(3) A description of the proposed project, including information regarding:

(i) The structure to be used, any proposed rehabilitation of the structure

and the estimated costs of the rehabilitation, and the value, as determined by an appraisal, of the

located that the proposed use of the site is permissible under applicable zoning ordinances and regulations or other

new or unusual approach to transitional housing that holds promise of successfully facilitating the transition of

assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42

authorities; and assure the completion of any mitigation measures resulting from technical review or from State

(ii) HUD will not release funds for a transitional housing project if the recipient or any other party commits

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and the estimated costs of the rehabilitation, and the value, as determined by an appraisal, of the structure before rehabilitation if rehabilitation assistance under § 577.105 or § 577.110 is requested or if the fair market or fair rental value of the structure is to be used as a source of matching funds;

(ii) The supportive services to be offered to the residents and the method by which such services will be provided; and

(iii) An estimated annual budget of operating costs, supportive services costs, and employment assistance program costs (if applicable) for a five-year period.

(4) A description of the size and characteristics of the particular homeless population that will occupy the transitional housing.

(5) A description of the public and private resources expected to be made available to meet the matching fund requirements of § 577.130.

(6) An assurance satisfactory to HUD that the project will be operated for not less than 10 years for the purpose specified in the application.

(7) A certification from the public official responsible for submitting the Comprehensive Homeless Assistance Plan for the appropriate jurisdiction, described in § 577.150, stating that the proposed project is consistent with the applicable Plan.

(8) Evidence that the applicant has control of the site involved (*e.g.*, ownership, lease, option to purchase or lease), or reasonable assurance that the applicant will have control of the site not later than six months after notification of an award of assistance. "Reasonable assurances" must be satisfied by identification of a suitable site and a certification that the applicant is engaged in negotiations or in other efforts for the purpose of gaining control of the identified site, or other evidence satisfactory to HUD that the application will gain control of the identified site.

(9) A written statement from the unit of general local government in which the transitional housing is proposed to be located that the proposed use of the structure and site is not inconsistent with any plan of the local government that may have an effect on the use of the structure or site. This requirement is satisfied if the applicant demonstrates that a written request was made to the unit of local government for the statement and the statement has not been received within 30 days from the request.

(10) A written statement from the unit of general local government in which the transitional housing is proposed to be located that the proposed use of the site is permissible under applicable zoning ordinances and regulations or other evidence that the use of the project site is permissible under applicable zoning ordinances and regulations; or a statement from the applicant describing the proposed actions necessary to make the use of the site permissible under applicable zoning ordinances and regulations, with evidence that there is a reasonable basis to believe that the proposed zoning actions will be completed successfully and within four months following submission of the application.

(11) Other certification, information, or data as prescribed by HUD in the application package.

(c) *Environmental review.* The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR part 50 or part 58. See § 577.220 for a full discussion of the environmental review requirements for applications for assistance.

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§ 577.215 Ranking criteria.

(a) *In general.* Applications will be assigned a rating score and placed in ranked order, based upon the criteria described in paragraph (b) of this section.

(b) *Criteria.* HUD will award points for the following criteria:

(1) *Applicant capacity.* HUD will consider the applicant's relative ability to carry out activities under the program within a reasonable time, and in a successful manner, after the execution of the grant agreement with HUD. HUD will consider:

(i) The extent and quality of the applicant's past experience in establishing and operating housing;

(ii) The extent and quality of the applicant's past experience in providing or coordinating supportive services; and

(iii) The ability of the applicant's personnel to perform administrative, managerial, and operational functions necessary to the successful development and operation of transitional housing.

(2) *Innovative quality of proposal.* HUD will consider the innovative quality of the proposal in providing housing and supportive services for homeless persons in a manner that facilitates their transition to independent living. HUD will consider the degree to which the proposal uses a new or unusual approach to transitional housing that holds promise of successfully facilitating the transition of homeless persons to independent living.

(3) *Need for transitional housing in the area to be served.* HUD will consider the extent to which the applicant demonstrates that an unmet need for the proposed transitional housing, relative to the specific need to be addressed, exists in the area to be served.

(4) *Delivery of supportive services.* HUD will consider:

(i) The extent to which the quality and comprehensiveness of the proposed supportive services are related to the goal of moving people to independent living;

(ii) The extent to which proposed supportive services are appropriate to the unmet needs of the population to be served; and

(iii) The extent to which the applicant will use or coordinate with other public or private entities to provide appropriate supportive services to the residents of the housing.

(5) *Matching.* HUD will consider the extent to which the applicant proposes to match the amount of assistance to be provided by HUD under the program with more than the required amount of non-Federal funds from other sources. Matching requirements are discussed at § 577.130.

(6) *Cost effectiveness.* HUD will consider the extent to which the applicant's proposed costs in acquiring or rehabilitating housing under the program, and in operating the housing and providing supportive services are:

(i) Reasonable in relation to the rehabilitation performed, the property or properties acquired, and the goods and services to be provided; and

(ii) Effective in accomplishing the purposes of the project.

(7) *Employment assistance program.* HUD will consider the extent to which the applicant has an employment assistance program and the quality of the program. HUD will consider:

(i) The extent to which the program meets the requirements of § 577.117(b);

(ii) The nature of the employment and where it will be located;

(iii) Actions to coordinate employment efforts; and

(iv) The extent to which employment opportunities will be matched with the needs of the resident population.

(8) *Site control.* HUD will consider the extent to which an applicant has control of the site for the proposed project.

§ 577.220 Environmental review.

(a) *Generally.* (1) The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4320) (NEPA) and the related environmental laws and authorities listed in HUD's implementing regulations at 24 CFR parts 50 or 58, depending on who is responsible for environmental review.

(2) Environmental regulations provide for certain categorical exclusions under NEPA and set conditions under which excluded activities may be determined exempt from all environmental review requirements. In cases where proposed assistance and matching contributions solely involve operating costs for facilities or the provision of supportive services and the structures and sites involved in the projects meet the program requirements of this part, these activities are categorically excluded by regulation under part 58 and may be determined fully exempt from environmental review.

(b) *Responsibility for review.* (1) HUD will perform the environmental review, in accordance with part 50, for applications received directly from private nonprofit organizations, governmental entities with special or limited purpose powers, and any governmental entities with general purpose powers found not to have the legal capacity to carry out this responsibility. HUD is not permitted to approve such applications prior to its completion of this review.

(2) Applicants that are States, metropolitan cities, urban counties, tribes, or other governmental entities with general purpose powers, and that are deemed to have the legal capacity to do so, must assume responsibility for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58. HUD is permitted to approve such applications subject to the completion of reviews by the applicant in accordance with part 58.

(3) The assumption of legal responsibility by an applicant under paragraph (b)(2) of this section does not preclude the applicant's arranging for the conduct of technical reviews by cooperating local governments having an established technical capability, *e.g.*, metropolitan cities in which the project is proposed to be located. The applicant under such arrangements must independently evaluate information submitted and assume responsibility for its accuracy, scope, and content; meet legal requirements attached to the Release of Funds by HUD; determine the completeness of the review; meet any requirements for consultation, as applicable, under 24 CFR 58.5 authorities; and assure the completion of any mitigation measures resulting from technical review or from State consultations. The arrangements described in this paragraph are in addition to the ability of an applicant to adopt relevant and adequate prior reviews conducted by HUD or other governmental entity if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done).

(c) *Environmental review by HUD.* With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake it review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. Any application subject to environmental review by HUD that requires an Environmental Impact Statement (EIS) (generally, an application that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR part 50, subpart E) will not be eligible for assistance under this part.

(d) *Environmental review by applicants.* (1) An applicant that is required under paragraph (b)(2) of this section to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5, including acceptance of jurisdiction of the Federal courts.

(2) Applicants required to assume environmental review responsibility need not complete the review until a reasonable time after selection for funding. In such cases, the award is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time period after notification of the award. (This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.)

(i) Upon completion of the requirements in 24 CFR part 58, applicants must certify the completion and submit a Request for Release of Funds. This submission is not required in cases in which the applicant determines, in accordance with part 58.34(a)(1)–(10) that its program components are totally exempt.

(ii) HUD will not release funds for a transitional housing project if the recipient or any other party commits transitional housing funds (*i.e.*, incurs any costs or expenditures to be paid or reimbursed with such funds) before the grantee submits and HUD approves its Request for Release of Funds (when such submission is required).

(3) A general government applicant that believes that it does not have the legal capacity to carry out the responsibilities required by 24 CFR part 58 should contact the appropriate HUD field office for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(e) *Location of projects in floodplains.* Applications for projects that are to be acquired, rehabilitated, or assisted with transitional housing funds and that are located in any 100-year floodplain, as designated by the Federal Emergency Management Agency (FEMA), are subject to the floodplain review requirements of Executive Order 11988, Floodplain Management (May 24, 1977). Executive Order 11988 review, as referenced under parts 50 and 58, is to be performed during the environmental review.

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§ 577.225 Final selection.

(a) *Selection for funding.* In the final stage of the selection process, the highest-ranked applications will be selected for funding in accordance with their ranked order to the extent funds are available, as determined under § 577.215. After awards are announced, applicants may contact HUD, with regard to applications not chosen for funding, for an explanation.

(b) *Ties between applicants.* In the event of a tie between applicants, HUD will use the quality of the proposal and the need for the project in the area to determine which application should be selected for funding.

(c) *Procedural error.* If HUD makes a procedural error in a funding competition that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during that competitive year, HUD may fund that applicant in the next funding competition.

Subpart E—Program Requirements

§ 577.300 Grant agreement.

(a) *General.* The duty to provide transitional housing in accordance with the requirements of this part will be

incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement

(2) (i) The recipient must repay the full amount of the acquisition/substantial rehabilitation advance or the new construction advance if the project is

and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real

average utility costs, that does not exceed the greater of

(*i*) the tenant's rent and estimated average utility costs before the initiation

include the number of people in the family, age of family members, medical expenses, and child care expenses);

(b) 10 percent of the family's monthly

insurance under the National Flood Insurance Program is obtained and maintained.

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incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be appropriate.

§ 577.305 General operation.

(a) *Housing.* Each recipient of assistance under this part must provide safe and sanitary housing that is in compliance with all State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing (except as provided in § 577.325).

(b) *Ongoing assessment of supportive services.* Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services required by the residents of the project and make adjustments as appropriate.

(c) *Residential supervision.* Each recipient of assistance under this part must provide any residential supervision determined by HUD as necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate transitional housing. Residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide or to supervise the provision of supportive services to the residents.

(d) *Records and reports.* Each recipient of assistance under this part must keep any records and make any reports that HUD may require. HUD may require recipients to monitor former residents for a reasonable time set by HUD to determine whether former residents made successful transitions to, and continue to reside in, permanent housing.

(Approved by the Office of Management and Budget under OMB Control Number 2502–0361)

§ 577.310 Term of commitment and repayment of advance.

(a) *General.* All projects assisted under this part must be operated as transitional housing in accordance with this part for a term of at least 10 years from the date of initial occupancy.

(b) *Repayment of advance.* (1) The recipient of an acquisition/substantial rehabilitation advance under § 577.105 or of a new construction advance under § 577.112 must repay the advance in the amount prescribed under paragraph (b)(2) of this section and in accordance with the terms prescribed by HUD.

(2) (i) The recipient must repay the full amount of the acquisition/substantial rehabilitation advance or the new construction advance if the project is used for transitional housing for less than 10 years following the date of initial occupancy. For each full year that the project is used for transitional housing following the expiration of this 10-year period, the amount that the recipient will be required to pay will be reduced by one-tenth of the original advance. If the project is used for transitional housing for 20 years following the date of initial occupancy, the recipient will not be required to repay any portion of the advance under this section.

(ii) The repayment provisions of paragraph (b)(2)(i) will not be enforced if HUD determines that the project is no longer needed for use as supportive housing and approves the use of such project for the direct benefit of lower income persons.

(c) *Eminent domain.* A recipient of assistance under §§ 577.105, 577.110, or § 577.112 whose structure is taken by eminent domain during the 20-year period following the initial date of occupancy must repay the assistance provided under those sections, to the extent that funds are available from the eminent domain proceeding.

(d) *Prevention of undue benefits.* (1) If assistance is provided for a project under §§ 577.105, 577.110, or § 577.112, and the project is sold or otherwise disposed of during the 20-year period following the date of initial occupancy, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient from unduly benefiting from the sale or disposition.

(2) Paragraph (d)(1) of this section does not apply to sales or dispositions that result in the continued use of the project for the direct benefit of lower income persons or where all proceeds from the sale or disposition are used to provide supportive housing.

§ 577.315 Relocation and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients and project sponsors must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of recipient.* The recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definitions*—(1) *Displaced person.* (i) The term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the recipient, project sponsor or property owner to move permanently from the property, if the move occurs on or after the date that the recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

(*1*) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated

average utility costs, that does not exceed the greater of

(*i*) the tenant's rent and estimated average utility costs before the initiation of negotiations, or

(*ii*) 30 percent of gross household income; or

(*2*) The tenant has been required to relocate temporarily but

(*i*) the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and

(*ii*) the tenant does not return to the building/complex; or

(*3*) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) A person does not qualify as a "displaced person" if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The recipient or sponsor may, at any time, request a HUD determination of whether a displacement is or would be covered by this rule.

(2) *Initiation of negotiations.* For purposes of determining the type of replacement housing replacement to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD.

§ 577.320 Resident rent.

Each resident of a transitional housing project assisted under this part must pay as rent an amount determined in accordance with section 3(a) of the United States Housing Act of 1937. Under section 3(a), each resident must pay as rent the highest of:

(a) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);

(b) 10 percent of the family's monthly income; or

(c) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

As part of its technical assistance under § 577.120, HUD will provide recipients with information and assistance concerning the calculation of resident rent.

§ 577.325 Discharge of residents.

(a) *Preemption.* No State or local law, ordinance, or regulation shall have any force or effect to the extent that it prohibits, or has the effect of prohibiting, recipients from discharging residents from transitional housing at the end of the 24-month or other HUD-approved limit on the stay of residents in the housing.

(b) *Notice to residents.* A recipient must personally serve written notice to a resident, not less than 30 calendar days before the end of the residency period for the resident, that he or she will be discharged from the transitional housing at the end of the stated period.

(c) *Resident contract.* A recipient of assistance under this Part may execute a contract with each resident individual or family before admission to transitional housing providing for the length of the residency period (not to exceed 24 months or a longer time period approved by HUD) and such other terms and conditions governing the relationship between the recipient and the resident.

§ 577.330 Flood insurance.

(a) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) prohibits the approval of applications for assistance for acquisition or construction (including rehabilitation) for projects/sites located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

(2) Flood insurance is obtained as a condition of approval of the application.

(b) Recipients with projects/sites located in an area identified by FEMA as having special flood hazards are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

§ 577.335 Applicability of other Federal requirements.

Each recipient of assistance under this part must comply with the following additional requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements that apply to the transitional housing program are discussed below. Notwithstanding the permissibility of proposals that serve designated populations of homeless persons, recipients serving a designated population of homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status, and handicap.

(1) The requirements of the Fair Housing Act (42 U.S.C. 3601–20) and implementing regulations at 24 CFR part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(6) If the procedures that the recipient intends to use to make known the availability of the transitional housing are unlikely to reach persons of any

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particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for admission to the housing, the recipient must establish additional procedures that will ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to handicapped persons.

(b) *Environmental.* The National Environmental Policy Act of 1969, the related authorities in 24 CFR parts 50 and 58, and the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3601) are applicable to proposals under this program.

(c) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–87 and A–102 (as set forth in 24 CFR part 85) apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations, except the requirements of 24 CFR 85.24 are modified by § 577.130, and the requirements of 24 CFR 85.31 are modified by § 577.310.

(d) *Lead-based paint.* (1) The requirements of the Lead-Based Paint Poisoning Prevent Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in paragraph (d)(2) of this section) apply to transitional housing assisted under this part.

(2)(i) This paragraph implements the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to structures for which assistance is provided under this part. This paragraph is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to the program, the requirements prescribed in subpart C of 24 CFR part 35. The requirements of this paragraph apply to structures that will be occupied by children under seven years of age.

(ii) The follow definitions apply to this paragraph (d):

Applicable surface means all intact and non-intact painted interior and exterior surfaces of a residential structure.

Chewable surface means all chewable, protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age: *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surfaces means paint on applicable surfaces that is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or *EBL* means excessive absorption of lead: That is, a confirmed concentration of lead in whole blood of 25 μg/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint surface means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm2.

(iii) In the case of a structure constructed before 1978 or substantially rehabilitated prior to 1978, the applicant must inspect the structure for defective paint surfaces before it submits an application. Recipients must inspect assisted structures at least annually during the term of their operating commitment to HUD. If defective paint surfaces are found, treatment in accordance with 24 CFR 35.24(b)(2)(ii) is required. Correction of defective surfaces found during the initial inspection must be completed before initial detail occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(iv) In the case of a structure constructed before 1978 or substantially rehabilitated prior to 1978, if the recipient is presented with test results that indicate that a child under the age of seven years occupies the structure and has an elevated blood lead level (EBL), the recipient must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, by an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray florescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) is required.

(v) In lieu of the procedures set forth in the preceding clause, the recipient may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

(vi) The recipient must take appropriate action to protect tenants from hazards associated with abatement procedures.

(vii) The recipient must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the recipient must keep the test results and, if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated at any subsequent time.

(e) *Conflicts of interest.* aln addition to the conflict of interest requirements in OMB Circulars A–102 and 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(f) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) *Audit.* The financial management systems used by States, metropolitan cities, urban counties, governmental entities and tribes that are recipients under this program must provide for audits in accordance with 24 CFR part 44. Private nonprofit organization recipients are subject to the audit requirements of OMB Circular A–110. HUD may perform or require additional audits as it finds necessary or appropriate.

(h) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a–276a–5) do not apply to the program.

(i) *Drug-and alcohol-free facilities.* Section 402 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires recipients assisted under this Part to administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its residents. Recipients are also subject to the requirements of sections 5151–5160 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24.

Subpart F—Administration

§ 577.400 Obligation of funds, funding amendments, and deobligation.

(a) *Obligation of funds.* When HUD selects an application for funding and notifies the recipient, it will obligate funds to cover the amount of the approved assistance under Supart B of this Part.

(b) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated for any approved assistance.

(c) *Deobligation.* (1) HUD may deobligate amounts for the acquisition/substantial rehabilitation advance, the moderate rehabilitation grant, or the new construction advance:

(i) If the actual total costs of acquisition/substantial rehabilitation, moderate rehabilitation, or new construction are less than the total cost anticipated in the application; or

(ii) If proposed activities for which funding was approved are not begun or completed within a reasonable time after selection.

(2)(i) HUD may deobligate the amounts for annual operating costs, supportive services costs, or annual operating costs of an employment assistance program in any year following the first year of operation, based on the any revisions to the recipient's budget as originally approved. Additionally, if a recipient's operations generate a substantial amount of resident rent (see § 577.320), HUD may adjust the operating costs allowed under the grant agreement downward, to the extent of the rent received in excess of that anticipated and budgeted in the application.

(ii) HUD may deobligate the amounts for annual operating costs, supportive services costs, or costs of establishing and operating an employment assistance program if the proposed transitional housing operations are not begun within a reasonable time following selection or carried out expeditiously.

(3) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed.

(4) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 557.200, or

(ii) Reconsider applications that were submitted in response to the most recently published notice of fund availability and select applications for funding with the deobligated funds. Such selections will be made in accordance with subpart D of this part.

(d) *Site control.* HUD will deobligate any award for assistance under this Part if the recipient does not have control of a suitable site within one year after notification of an award.

§577.405 Site change.

(a) *General.* A recipient may obtain ownership or control of a suitable site different from the one specified in its application. Retention of an assistance award is subject to the new site's meeting all requirements under this Part for suitable sites.

(b) *Increased costs.* If the acquisition/substantial rehabilitation or moderate rehabilitation costs for the substitute site are greater than the amount of the advance or grant awarded for the site specified in the application, the recipient must provide for all additional costs. If the recipient is unable to demonstrate to HUD that it is able to provide for the difference in costs, HUD may deobligate the award of assistance.

(c) *Applicability.* This section is applicable to awards of assistance made under this Part on or after November 1, 1987.

4. Part 578 is added to read as follows:

PART 578—PERMANENT HOUSING FOR HANDICAPPED HOMELESS PERSONS

Subpart A—General

Sec.
578.1 Applicability and scope.
578.5 Definitions.

Subpart B—Assistance Provided

578.100 Types of assistance.
578.105 Acquisition/substantial rehabilitation advances.
578.110 Moderate rehabilitation grants.
578.112 New construction advances.
578.115 Funding for annual operating costs and supportive services costs.
578.120 Technical assistance.
578.125 Limitations on use of assistance.
578.130 Matching requirements.
578.135 Assistance under other HUD programs.

Subpart C—Comprehensive Homeless Assistance Plan

578.150 Comprehensive Homeless Assistance Plan.

Subpart D—Application and Selection Process

578.200 Notice of fund availability.
578.205 Selection process.
578.210 Application requirements.
578.215 Ranking criteria.
578.220 Environmental review.
578.225 Final selection.

Subpart E—Program Requirements

578.300 Grant agreement.
578.305 General operation.
578.310 Term of commitment and repayment of advance.
578.315 Relocation and acquisition.
578.320 Resident rent.
578.325 Project sites and number of residents.
578.330 Flood insurance.
578.335 Applicability of other Federal requirements.

Subpart F—Administration

578.400 Obligation of funds, funding amendments, and deobligation.
578.405 Site change.

Authority: Sec. 426, Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11386); sec. 7(d), Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 578.1 Applicability and scope.

(a) *General.* The Supportive Housing Demonstration program contained in Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act is designed to develop innovative approaches for providing supportive housing, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. It is designed to determine:

(1) The cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing structures for the provision of supportive housing;

(2) The cost of operating such housing and providing supportive services to the residents of such housing;

(3) The social, financial, and other advantages of such housing as a means of assisting homeless individuals; and

(4) The lessons that the provision of supportive housing might have for the design and implementation of housing programs that serve homeless individuals and families with special needs, particularly deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. A central purpose of the Supportive Housing Demonstration program is to provide supportive housing for deinstitutionalized homeless individuals

and other homeless individuals with mental disabilities.

(b) The Supportive Housing Demonstration program consists of two

(4) Results in substantial function limitations in three or more of the following areas of major life activity:

(i) Self-care,

costs of 75 percent or less of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are less than 75

(b) Dwelling units in a rental apartment building, a condominium project, or a cooperative project.

Project sponsor means a private

each resident's ability to live independently within a permanent housing environment. Supportive services must be proposed by the

(2) Repay any outstanding debt on a loan made to purchase existing structures for use in the provision of

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and other homeless individuals with mental disabilities.

(b) The Supportive Housing Demonstration program consists of two components: Permanent housing for handicapped homeless persons and transitional housing. This part implements the program for permanent housing for handicapped homeless persons. Part 577 implements the transitional housing program.

§ 578.5 Definitions.

As used in this part:

Applicant means the State in which permanent housing for handicapped homeless persons is to be located. An applicant may be the state housing finance agency (or other State agency) that customarily implements housing programs for the State and that is identified by statute to participate in housing programs in the State.

Comprehensive Homeless Assistance Plan or *Comprehensive Plan* means the Comprehensive Homeless Assistance Plan established by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act and described in § 578.150.

Date of initial occupancy means the date that the project is initially occupied by a homeless person for whom assistance is provided under this Part.

Handicapped homeless person means a handicapped person who

(a) Is a homeless individual;

(b) Is currently not a homeless individual but who is at risk of becoming a homeless individual; or

(c) Has been a resident of transitional housing assisted under the Transitional Housing program, described in 24 CFR part 577.

This term may include a homeless family, if the head of the family (or the spouse of the head of the family) is a handicapped homeless person.

Handicapped or *handicapped person* means any individual having an impairment that is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that the ability to live independently could be improved by a stable residential situation. This term includes:

(a) An individual who is developmentally disabled, *i.e.*, an individual who has a severe chronic disability that:

(1) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial function limitations in three or more of the following areas of major life activity:

(i) Self-care,

(ii) Receptive and expressive language,

(iii) Learning,

(iv) Mobility,

(v) Self-direction,

(vi) Capacity for independent living, and

(vii) Economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) An individual who is chronically mentally ill, *i.e.*, an individual who has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently (*e.g.*, by limiting functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, or recreation), and whose impairment could be improved by more suitable housing conditions.

(c) A person whose sole impairment is alcoholism or drug addition will not be considered to be handicapped under this Part.

Homeless means:

(a) An individual or family that lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family that has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

Homeless family with children means a homeless family that includes at least one parent or guardian and one child under the age of 18, a homeless pregnant woman, and a homeless individual in the process of securing legal custody of any person who has not attained the age of 18 years.

HUD means the Department of Housing and Urban Development.

Moderate rehabilitation means rehabilitation of a project that involves costs of 75 percent or less of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are less than 75 percent of the replacement cost of the building, that project must meet the requirements of 24 CFR part 8.23(b).

Operating costs means expenses that a recipient incurs for:

(a) Administration (including staff salaries), maintenance, minor or routine repair, security and rental of the housing;

(b) Utilities, fuel, furnishings, and equipment for the housing; and

(c) Relocation assistance under § 578.315, including payments and services.

Permanent housing for handicapped homeless persons or *permanent housing* means a project assisted under this part:

(a) That provides community-based, long-term housing and appropriate supportive services for not more than eight handicapped homeless persons (unless waived by HUD) and that is carried out by a project sponsor; and

(b) That has as its purpose, through providing housing and supportive services, maximizing each resident's ability to live independently within a permanent housing environment.

All or part of the supportive services may be provided directly by the recipient or the project sponsor, or by arrangement with public or private service providers.

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(a) Have a voluntary board;

(b)(1) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or

(2) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(c) Practice nondiscrimination in the provision of assistance under the permanent housing program in accordance with the authorities described in § 578.335(a).

Project means one or more existing structures or incomplete structures, or parts of one or more existing structures or incomplete structures, owned or leased by the project sponsor (or by the recipient) for use in connection with permanent housing for handicapped homeless persons. The project must be:

(a) Homes designed soley for housing handicapped homeless persons, or

(b) Dwelling units in a rental apartment building, a condominium project, or a cooperative project.

Project sponsor means a private nonprofit organization that an authorized official of the applicant approves as financially responsible, or a public housing agency (PHA). The project sponsor must operate the permanent housing for handicapped homeless persons, and must provide (or coordinate the provision of) supportive services to the residents of such housing.

Recipient means the applicant that executes a grant agreement with HUD. The recipient provides assistance to the project sponsor for the operation of permanent housing for handicapped homeless persons and facilitates the provision of necessary supportive services to the residents of the permanent housing.

Rehabilitation means labor, materials, tools, and other costs of improving structures to a level that meets or exceeds applicable State and local government health and safety standards. Rehabilitation includes repairs directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, improvement through alterations or additions to or enhancement of existing structures, including improvements to increase the efficient use of energy in structures, and structural changes necessary to make the structure accessible for persons with physical handicaps. Rehabilitation does not include minor or routine repairs or cosmetic repairs or improvements. All buildings of 15 or more units undergoing rehabilitation must meet the accessibility requirements of section 504 of the Rehabilitation Act of 1973, as amended, as set forth in 24 CFR 8.23 (a) or (b).

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Substantial rehabilitation means rehabilitation of a project that involves costs in excess of 75 percent of the value of the building before rehabilitation. For projects of 15 or more units where rehabilitation costs are 75 percent or more of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a).

Supportive services means services provided to residents of permanent housing for the purpose of maximizing each resident's ability to live independently within a permanent housing environment. Supportive services must be proposed by the applicant in its application and approved by HUD; must address the special needs of the handicapped homeless persons to be served by the project; and must assist in accomplishing the purpose of permanent housing. Supportive services may include:

(a) Medical and psychological counseling and supervision;

(b) Employment counseling;

(c) Nutritional counseling;

(d) Assistance in obtaining other Federal, State, and local assistance available for residents of permanent housing facilities, including mental health benefits; employment counseling; medical assistance; Veterans' benefits; and income support assistance, such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps; and

(e) Other services, such as child care, transportation, job placement, and job training.

§ 578.100 Types of assistance.

(a) *Types of assistance available.* Five types of assistance are available for permanent housing for handicapped homeless persons:

(1) Advances for acquisition or substantial rehabilitation;

(2) Advances for new construction (under limited circumstances);

(3) Grants for moderate rehabilitation;

(4) Grants for annual operating costs and supportive services costs (up to two years); and

(5) Technical assistance.

(b) *Eligibility for more than one type of assistance.* Applicants may be eligible for one or any combination of the types of assistance, except that HUD will offer technical assistance only in connection with other assistance under this Part.

(c) *Rehabilitation of leased property.* Acquisition/substantial rehabilitation advances and moderate rehabilitation grants are available for the rehabilitation of leased property.

§ 578.105 Acquisition/substantial rehabilitation advances.

(a) *Use.* HUD will advance sums to recipients to:

(1) Defray the cost of the acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures selected by the recipients for use in the provision of permanent housing for handicapped homeless persons; or

(2) Repay any outstanding debt on a loan made to purchase existing structures for use in the provision of permanent housing for handicapped homeless persons.

(b) *Amount.* If an applicant meets the matching requirements of § 578.130, the maximum advance for acquisition/substantial rehabilitation available is the lower of:

(1) $200,000; or

(2) The total cost of the acquisition/substantial rehabilitation minus the applicant's contribution toward the cost of the acquisition/substantial rehabilitation.

(c) *Terms of advance.* Advances are interest-free and, if the conditions described in § 578.310 are met, are not subject to repayment. The sale or disposition of a structure acquired or rehabilitated with an advance is subject to the requirements of § 578.310(e).

(d) *Increased advances.* In areas determined by HUD to have costs that exceed the statutory limits of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) by at least 75 percent, advances of more than $200,000 but not more than $400,000 may be available. (A list of these geographic areas is included in the application package or is available from HUD field offices.) All requirements with regard to matching funds described in § 578.130 are applicable to such increased advances.

(e) *Repayment of outstanding debt.* An applicant for an acquisition/substantial rehabilitation advance to repay an outstanding debt on a loan made to purchase an existing structure, as described in paragraph (a)(2) of this section, must provide the following information and documentation as a part of the application for the advance:

(1) A copy of the contract of sale;

(2) A copy of the loan agreement, mortgage agreement, or deed of trust;

(3) Documentation showing the purpose of the loan;

(4) Documentation of the balance owed on the loan, mortgage, or deed of trust; and

(5) Certification that the structure has not been assisted under this Part before the date of the application.

(f) *Retroactive applicability.* The provision regarding advances to repay an outstanding debt on a loan made to purchase an existing structure, contained in paragraph (e) of this section, is applicable to awards of assistance made under this part on or after November 1, 1987.

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§ 578.110 Moderate rehabilitation grants.

(a) *Use.* HUD will make grants to recipients to defray the cost of moderate rehabilitation of existing structures selected by the recipients for use in the provision of permanent housing for handicapped homeless persons.

(b) *Amount.* If an applicant meets the matching share requirements at § 578.130, the maximum grant for moderate rehabilitation available is the lower of:

(1) $200,000; or

(2) The total cost of the moderate rehabilitation minus the applicant's contribution toward the cost of the moderate rehabilitation.

(c) *Terms of the grant.* The sale or disposition of a structure rehabilitated with a grant under this section is subject to the requirements of § 578.310(e).

§ 578.112 New construction advances.

(a) *Use.* HUD will advance funds to recipients to defray the cost of construction of facilities for use in the provision of permanent housing for handicapped persons, where HUD finds the following factors:

(1) The project involves the cooperation of a city and a State university;

(2) The land has been donated to the applicant by a State university;

(3) The applicant proposes a permanent housing structure of at least 10,000 square feet; and

(4) The applicant proposes a model permanent housing project with a comprehensive support system, including, health services, job counseling, mental health services, and housing assistance and advocacy.

(b) *Amount.* If an applicant meets the matching share requirements at § 578.130, the maximum advance for new construction available is the lower of:

(1) $200,000; or

(2) The total cost of the new construction minus the applicants contribution toward the cost of the new construction.

(c) *Increased advances.* In areas determined by HUD to have costs that exceed the statutory limits of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) by at least 75 percent, advances of more than $200,000 but not more than $400,000 may be available. (A list of these geographic areas is included in the application package or is available from HUD field offices.) All requirements with regard to matching funds described in § 578.130 are applicable to such increased advances.

§ 578.115 Funding for annual operating costs and supportive services costs.

(a) *General.* HUD will provide grants for annual operating costs and supportive services costs of permanent housing for handicapped homeless persons for a period not to exceed two years. Assistance for operating costs and supportive services costs will be available for up to 50 percent of the total cost for the first year and for up to 25 percent of the total cost for the second year.

(b) *Operating costs.* Grants for the costs associated with the day-to-day operation of the permanent housing are available in accordance with the provisions of paragraph (a) of this section. Such costs include the expenses that a recipient incurs for the administration (including staff salaries), maintenance, minor or routine repair, security and rental of the housing; utilities, fuel, furnishings and equipment for the housing; and relocation assistance under § 578.315, including payments and services.

(c) *Supportive services costs.* Grants for the costs associated with providing supportive services to residents of permanent housing are available in accordance with the provisions of paragraph (a) of this section. Such costs include salaries paid to providers of supportive services, the costs of conducting resident supportive services needs assessments, and any other costs directly associated with providing such services. Costs associated with supportive services do not include any percentage of the costs described in paragraph (b) that are attributable to the provision of supportive services.

(d) *Assistance for incomplete structures.* If an applicant seeks assistance under this section for projects with incomplete structures, the applicant must provide reasonable assurance of completion of construction within nine months after notification of an award. Such assistance will begin on the date of initial occupancy. Reasonable assurance may be satisfied by submission, with the application for assistance, of the following:

(1) Evidence that construction financing has been obtained; and

(2) A copy of the construction contract for the proposed structure containing the terms and conditions with regard to cost and date of completion.

(e) *Commitment of amounts for operating costs and supportive services costs.* Upon approval of an application requesting assistance under paragraphs (a) and (b) of this section, HUD will obligate amounts for a period not to exceed two operating years commencing on the date of initial occupancy. The total amount obligated will be equal to an amount necessary for two years of operation, based on the recipient's estimate of such costs for two years of operation, less the recipient's percentage share of such costs. In each of the two years, HUD will make assistance payments to the recipient from the amounts obligated. The annual funding level will be subject to reduction under § 578.400.

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§ 578.120 Technical assistance.

Technical assistance will be offered in connection with an award of funds under §§ 578.105, 578.110, 578.112, or 578.115. Technical assistance is offered to recipients through HUD field offices in such matters as the computation of resident rent under § 578.320, compliance with other Federal requirements under § 578.335. HUD will also facilitate the exchange of information among recipients and project sponsors to learn from the experience of other participants in the programs.

§ 578.125 Limitations on use of assistance.

(a) *Funding of existing housing facilities and programs.* (1) HUD will not provide assistance under this part for the acquisition of existing facilities or programs that currently serve homeless persons.

(2) HUD will provide assistance for rehabilitation, operating costs, or supportive services costs for existing facilities or programs that currently serve homeless persons only if the applicant proposes:

(i) A substantial increase in the number of handicapped homeless persons for whom permanent housing will be provided (subject to the limitation on the number of residents contained in § 578.330);

(ii) A substantial increase in the level of supportive services to be provided to homeless persons;

(iii) A substantial change in the use of existing facilities, *e.g.*, if existing facilities for the homeless that are not currently used for permanent housing (such as an emergency shelter for the homeless) will be used to provide permanent housing, or if an applicant currently providing permanent housing for one population of handicapped homeless persons proposes to serve an additional or alternative segment of the handicapped homeless population; or

(iv) Improvements to structures for permanent housing for handicapped homeless persons necessary to bring the structures to a level that meets applicable State and local government health and safety standards.

(b) *Maintenance of effort.* No assistance received under this part (or any State or local government funds used to supplement this assistance) may be used to replace funds provided in the State under any State or local government assistance program, if the funds provided under the State or local government assistance program were used to assist handicapped persons, homeless individuals, or handicapped homeless persons during the calendar year preceding the date of the application, or were designated for such use through an official action of the applicable governmental entity during the calendar year preceding the date of the application.

(c) *Primarily religious organizations*—(1) *Provision of assistance.* (i) HUD will provide assistance to a recipient that will use a primarily religious organization as a project sponsor, if the primarily religious organization agrees to provide housing and supportive services in a manner that is free from religious influence and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(B) It will not discriminate against any person applying for housing or supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion;

(C) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing and supportive services.

(ii) HUD will provide assistance to a recipient that will use a primarily religious organization as a project sponsor, only if the assistance will not be used to acquire a structure to be owned by the project sponsor or to rehabilitate a structure owned by the project sponsor, except as described in paragraph (c)(2) of this section.

(2) *Acquisition/substantial rehabilitation or moderate rehabilitation of permanent housing in structures owned by primarily religious organizations.* The acquisition/substantial rehabilitation advance and the moderate rehabilitation grant may be used to rehabilitate a structure that is owned by a primarily religious organization, only if:

(i) The structure (or portion of the structure) that is to be rehabilitated with HUD assistance has been leased to a wholly secular private nonprofit organization that will serve as the project sponsor, or to the recipient;

(ii) The HUD assistance will be provided to the project sponsor or to the recipient to make the improvements, rather than to the primarily religious organization;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments provided to the primarily religious organization do not exceed the fair market rent of the structure without the rehabilitation;

(v) The cost of improvements that benefit any portion of the structure that is not used for the provision of permanent housing assisted under this Part will be allocated to and paid for by the primarily religious organization; and

(vi) The primarily religious organization agrees that if the project sponsor or the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of improvements to the project sponsor or recipient that will remit the amount to HUD.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.* (i) If a primarily religious organization is foreclosed from direct participation as a project sponsor under the requirements set forth in paragraph (c)(2) of this section, the primarily religious organization may establish a wholly secular private nonprofit organization to serve as the project sponsor under this part.

(A) The wholly secular organization must agree to provide housing and supportive services in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(B) The wholly secular organization may enter into a contract with the primarily religious organization to provide supportive services for the project. In such a case, the primarily religious organization must agree in the contract to carry out is contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(C) The acquisition/substantial rehabilitation advance and the moderate rehabilitation grant are subject to the requirements of paragraph (c)(2) of this section.

(ii) HUD will not require the primarily religious organization to establish the wholly secular organization before the selection of the application. In such a case, the applicant must name the wholly secular organization as the project sponsor in the application. In determining whether the wholly secular organization is financially responsible, the applicant may consider the primarily religious organization's financial responsibility and its commitment to provide appropriate resources to the project sponsor upon its formation. The project sponsor's capacity to provide housing and supportive services to handicapped homeless persons may be used on the primarily religious organization's capacity and its commitment to provide appropriate resources to the project sponsor after its formation. The requirement with regard to site control, described in § 578.210(b)(11), may be satisfied if the applicant demonstrates that the primarily religious organization has site control and has a commitment to transfer control of the site to the recipient or the project sponsor following selection. Since the wholly secular organization will not be in existence at the time of the application, it will be required to demonstrate that it meets the definition of a private nonprofit organization, described in § 578.5. If such an application is selected for funding, the obligation of funds will be conditioned upon the compliance with these requirements.

(d) *Structures used for multiple purposes.* Structures used to provide permanent housing may also be used for other purposes. For example, a structure may contain facilities for an emergency shelter as well as permanent housing, may be used to provide supportive services to the public at large, or may include commercial space. Under these circumstances, however, the acquisition/substantial rehabilitation advance and the moderate rehabilitation grant will be available only in proportion to the use of the structure for permanent housing.

(e) *Administrative costs.* Up to five percent of any advance or grant awarded under this Part may be used for the purpose of paying costs of administering the assistance.

§ 578.130 Matching requirements.

(a) *General.* (1) The recipient must match the funding provided by HUD for advances for acquisition/substantial rehabilitation and new construction and for grants for moderate rehabilitation

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with an equal amount of funds from non-Federal sources. Community Development Block Grants and Community Services Block Grants are considered non-Federal sources.

(2) The recipient must show that it has sources to pay the percentage of operating costs or supportive services costs not funded by HUD in a grant for operating costs or supportive services costs.

(3) The maximum amount of funds that HUD will provide is based on the percentage of the *respective* costs of each category of assistance.

(4) No match is required for technical assistance.

(b) *Requirements for "in-kind" contributions as matching share for advances for acquisition/substantial rehabilitation or new construction or for grants for moderate rehabilitation.* HUD will include in the matching calculation for advances for acquisition/substantial rehabilitation or new construction or for grants for moderate rehabilitation the following "in-kind" contributions:

(1) The time and services contributed by volunteers, as the value of $5 an hour, to carry out the transitional housing program;

(2) The value of contributions of materials or contributions of existing structures, or parts of structures, in the following manner:

(i) Contributions of materials and supplies;

(ii) A contribution of a fee ownership in a structure, to the extent of the fair market value of the structure; and

(iii) A contribution of a leasehold interest in a structure, to the extent of the fair rental value of the building.

(c) *Maintenance of effort.* State or local government funds used in the matching contribution are subject to the maintenance of effort requirements described at § 578.125(b).

(d) *Rental Income.* Rental amounts paid by residents of permanent housing for the handicapped homeless under § 578.320 may be included in the calculation of the recipient's percentage share of annual operating costs.

(e) *Salaries.* HUD will include in the matching calculation for advances for acquisition/substantial rehabilitation or new construction or for grants for moderate rehabilitation salaries paid to staff from non-Federal sources to carry out the program of the recipient.

§ 578.135 Assistance under other HUD programs.

(a) *Supplemental assistance.* HUD will permit recipients to use any assistance that may be awarded under the Supplemental Assistance for Facilities to Assist the Homeless program (24 CFR part 579) in conjunction with assistance awarded under this part.

(b) *Ineligible projects.* HUD will not assist a project under this Part if the project involves a structure that is assisted, or residents of the structure will receive assistance, under the United States Housing Act of 1937; section 202 of the Housing Act of 1959; section 221(d)(3) (BMIR) or section 236 of the National Housing Act; or section 101 of the Housing and Urban Development Act.

(c) *HUD-owned properties.* HUD will make HUD-owned single family properties in its inventory available to potential applicants for purchase for use as permanent housing for handicapped homeless persons. To obtain these properties, potential applicants may request a listing of available properties from the HUD field office, Property Disposition Branch. If a potential applicant wishes to purchase a property or properties, it must enter into a lease/option agreement with HUD. Under the terms of the agreement, HUD will lease the property to the applicant for six months for one dollar. The lease/option agreement will state that applicant may purchase the property at a stated price during the lease period. An applicant leasing property under this section may not occupy the property until after closing of the sale. During the lease period of up to six months, applicants will be responsible for all taxes and maintenance, excluding hazard insurance. Applicants demonstrating a lease/option agreement at the time their application is filed will be regarded as having site control of the property under §§ 578.210(b)(11) and 578.215(b)(8). If the option is not exercised, the lease/option agreement will expire at the end of six months, and the property will be returned to HUD's inventory, unless an extension of time is authorized by HUD.

Subpart C—Comprehensive Homeless Assistance Plan

§ 578.150 Comprehensive Homeless Assistance Plan.

(a) *Prohibition of assistance.* Assistance under this Part may not be provided to an applicant, unless the applicant has a HUD-approved comprehensive Homeless Assistance Plan.

(b) *Notification of Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Homeless Assistance Plan in the **Federal Register**, as necessary. Prospective applicants should familiarize themselves with these requirements.

Subpart D—Application and Selection Process

§ 578.200 Notice of fund availability.

When funds are made available for assistance for permanent housing for handicapped homeless persons, HUD will publish a notice of fund availability in the **Federal Register**. The notice will:

(a) Give the location for obtaining application packages that provide specific application requirements and guidance;

(b) Specify the time and the place for submitting completed applications;

(c) State the amount of funding available under the notice;

(d) Indicate the weight or relative importance of the ranking criteria contained in § 578.215 as they will be applied to the funding round announced in the notice; and

(e) Provide other appropriate program information and guidance.

§ 578.205 Selection process.

The selection process for applications for assistance under this Part consists of the following stages;

(a) Application for assistance (see § 578.210);

(b) Ranking applications (see § 578.215);

(c) Final selection (see § 578.225).

§ 578.210 Application requirements.

(a) *Form, time, and adequacy of the application.* To be considered for assistance under this Part, applications for assistance must be filed in the form prescribed by HUD under this section, must meet the requirements of this Part, and must be submitted within the time period established by HUD in the notice of funds availability under § 578.200.

(b) *Minimum requirements.* At a minimum, HUD will require applications to contain:

(1) Project sponsor data, including identity, a description of past experience, and information on eligibility to receive assistance and financial responsibility. Where the project sponsor is a private nonprofit organization, the applicant must demonstrate that the project sponsor has been approved by an authorized official of the State as to financial responsibility.

(2) The type or types of assistance requested and the amount of funds requested for each type.

(3) A description of the proposed project, including information regarding:

(i) The structure to be used, any proposed rehabilitation of the structure and the estimated costs of the rehabilitation, and the value, as determined by an appraisal, of the structure before rehabilitation if rehabilitation assistance under § 578.105 or § 578.110 is requested or if the fair market or fair rental value of the structure is to be used as a source of matching funds;

(ii) The supportive services to be offered to the residents and the method by which such services will be provided;

(iii) An estimated annual budget of operating costs and supportive services costs for a two-year period.

(4) A description of the characteristics of the handicapped homeless population that will occupy the permanent housing, the number of individuals proposed to be served.

(5) An assessment of how the proposed project would meet the needs of handicapped homeless persons in the State.

(6) A description of the public and private resources expected to be made available to meet the matching fund requirements of § 578.125.

(7) A certification from the State official responsible for submitting the Comprehensive Homeless Assistance Plan for the State, as described in § 578.150, that the proposed project is consistent with the Plan.

(8) An assurance satisfactory to HUD that the project will be operated for not less than 10 years in accordance with this part.

(9) A letter of participation from an authorized official of the applicant State containing assurances that the State will promptly transmit assistance to the project sponsor and will facilitate the provision of necessary supportive services to the residents of the project.

(10) A designation of the State agency responsible for the provision of services to handicapped persons that will assist the applicant in fulfilling the State's responsibilities under this part.

(11) Evidence that demonstrates that the applicant or project sponsor has control of the site involved (*e.g.*, ownership, lease, option to purchase or lease), or reasonable assurance that the applicant or project sponsor will have control of the site not later than six months after notification of an award of assistance. "Reasonable assurances" must be satisfied by identification of a suitable site and a certification that the applicant or project sponsor is engaged in negotiations or in other efforts for the purpose of gaining control of the identified site, or other evidence satisfactory to HUD that the applicant or project sponsor will gain control of the identified site.

(12) A written statement from the unit of general local government in which the permanent housing is proposed to be located that the proposed use of the structure and site is not inconsistent with any plan of the local government that may have an effect on the use of the structure or site. (This requirement is satisfied if the applicant demonstrates that a written request was made to the unit of local government for the statement and the statement has not been received within 30 days from the request.)

(13) A written statement from the unit of general local government in which the permanent housing is proposed to be located that the proposed use of the site is permissible under applicable zoning ordinances and regulations or other evidence that the use of the project site is permissible under applicable zoning ordinances and regulations; or a statement from the applicant describing the proposed actions necessary to make the use of the site permissible under applicable zoning ordinances and regulations, with evidence that there is a reasonable basis to believe that the proposed zoning actions will be completed successfully and within four months following submission of the application.

(14) An assurance that the applicant as the State will assume all the environmental review responsibility that would otherwise be performed by HUD under 24 CFR part 50 as the responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and related authorities (see § 578.220 for a full discussion of the environmental review requirements for applicants under this part).

(15) Other certifications, information, or data as prescribed by HUD in the application package.

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§ 578.215 Ranking criteria.

(a) *In general.* Applications will be assigned a rating score and placed in ranked order, based upon the criteria described in paragraph (b) of this section.

(b) *Criteria.* HUD will award points and rank applications for assistance based on the following criteria:

(1) *Project sponsor capacity.* HUD will consider the project sponsor's relative ability to carry out activities under the program within a reasonable time, and in a successful manner, after the execution of the grant agreement with HUD. HUD will consider:

(i) The extent and quality of the project sponsor's past experience in establishing and operating housing;

(ii) The extent and quality of the applicant's past experience in providing or coordinating supportive services; and

(iii) The ability of the project sponsor's personnel to perform administrative, managerial, and operational functions necessary to the successful development and operation of permanent housing.

(2) *Innovative quality of proposal.* HUD will consider the innovative quality of the proposal in providing permanent housing and supportive services for handicapped homeless persons. HUD will consider the extent to which the proposal uses a new or unusual approach to the provision of housing and supportive services that maximizes each handicapped homeless person's ability to live independently in the permanent housing environment.

(3) *Need for permanent housing in the area to be served.* HUD will consider the extent to which the applicant demonstrates that an unmet need for the proposed permanent housing for handicapped homeless persons, relative to the specific needs to be addressed, exists in the area to be served.

(4) *Delivery of supportive services.* HUD will consider:

(i) The extent to which the quality and comprehensiveness of the proposed supportive services are related to the goal of maximizing the ability of residents to live more independently within a permanent housing environment. Factors that indicate that ability include:

(A) Variety and flexibility of supportive services;

(B) Activities of residents outside the facility; and

(C) If appropriate, an employment assistance program.

(ii) The extent to which proposed supportive services are appropriate to the unmet needs of the population to be served; and

(iii) The extent to which the applicant will use or coordinate with other public or private entities to provide appropriate supportive services to the residents of the housing.

(5) *Matching.* HUD will consider the extent to which the applicant proposes to match the amount of assistance to be provided by HUD with more than the required amount of non-Federal funds from other sources. Matching requirements are discussed at § 578.130.

(6) *Cost effectiveness.* HUD will consider the extent to which the applicant's proposed costs in acquiring or rehabilitating housing under the program, and in operating the housing and providing supportive services are:

(i) Reasonable in relation to the rehabilitation performed, the property or properties acquired, and the goods and services to be provided; and

(ii) Effective in accomplishing the

cooperating local governments having an established technical capability, *e.g.*, metropolitan cities in which the project is proposed to be located. The applicant under such arrangements must

subject to the floodplain review requirements of Executive Order 11988, Floodplain Management (May 24, 1977). Executive Order 11988 review, as referenced under part 50, is to be

(c) *Ongoing assessment of supportive services.* To conduct an ongoing assessment of the supportive services required by the residents of the project and make adjustments as appropriate.

The successor-project sponsor must be approved by HUD before operations of the project may be transferred.

(d) *Eminent domain.* A recipient of assistance under §§ 578.105, 578.110, or

concerning a payment or other assistance required by this section may file a written appeal of that determination with the recipient. The

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(i) Reasonable in relation to the rehabilitation performed, the property or properties acquired, and the goods and services to be provided; and

(ii) Effective in accomplishing the purposes of the project.

(7) *Project quality.* HUD will consider the extent to which the proposed project will meet the needs of handicapped homeless persons in the State, as described in the State's assessment of needs submitted under § 578.210(b)(5).

(8) *Site control.* HUD will consider the extent to which an applicant has control of the site for the proposed project.

(9) *Integration into the neighborhood.* HUD will consider the extent to which the proposed project is integrated into the neighborhood in which it is, or is proposed to be, located.

§ 578.220 Environmental review.

(a) *Generally.* (1) The environmental effects of each application must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and related environmental laws and authorities listed in HUD's implementing regulations in 24 CFR part 58.

(2) Environmental regulations provide for certain categorical exclusions under NEPA and set conditions under which excluded activities may be determined exempt from all environmental review requirements. In cases where proposed assistance and matching contributions solely involve operating costs for facilities or the provisions of supportive services, and the structures and sites involved in the project meet the program requirements of this Part, these activities are categorically excluded by regulation and may be determined fully exempt from environmental review.

(b) *Responsibility for review.* (1) Applicants must assume responsibility for environmental review, decisionmaking, and action for each application for assistance, in accordance with the procedural provisions of the NEPA and related environmental laws and authorities defined in HUD's implementing regulations in 24 CFR part 58.

(2) An applicant must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5, including acceptance of jurisdiction of the Federal courts.

(3) The assumption of legal responsibility by applicants does not preclude the applicant's arranging for the conduct of technical reviews by cooperating local governments having an established technical capability, *e.g.*, metropolitan cities in which the project is proposed to be located. The applicant under such arrangements must independently evaluate information submitted and assume responsibility for its accuracy, scope, and content; meet legal requirements attached to the Release of Funds by HUD; determine the completeness of the review; meet any requirements for consultation; as applicable, under 24 CFR 58.5 authorities; and assure the completion of any mitigation measures resulting from technical review or from State consultations. The arrangements described in this paragraph are in addition to the ability of the applicant to adopt relevant and adequate prior reviews conducted by HUD or other governmental entity if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done).

(c) *Timing of review process and restrictions on release of funds.* (1) An Applicant need not complete the review until a reasonable time after HUD has approved the application. In such cases, the award is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time period after notification of the award. (This provision does not preclude the applicant from enclosing its environmental certification and Request for the Release of Funds with its application.)

(2) Upon completion of the requirements in Part 58, applicants must certify the completion and submit a Request for Release of Funds. This submission is not required in cases in which the applicant determines in accordance with 24 CFR 58.34(a) (1)–(10) that its program components are totally exempt.

(3) HUD will not release funds for a permanent housing project if the recipient, project sponsor, or any other party commits permanent housing funds (*i.e.*, incurs any costs or expenditures to be paid or reimbursed with such funds) before the grantee submits and HUD approves its Request for Release of Funds (when such submission is required).

(d) *Location of projects in floodplains.* Applications for projects that are to be acquired, rehabilitated, or assisted with permanent housing funds and that are located in any 100-year floodplain, as designated by the Federal Emergency Management Agency (FEMA), are subject to the floodplain review requirements of Executive Order 11988, Floodplain Management (May 24, 1977). Executive Order 11988 review, as referenced under part 58, is to be performed during the environmental review.

(Approved by the Office of Management and Budget under OMB Control Number 2502–0361)

§ 578.225 Final selection.

(a) *Selection for funding.* In the final stage of the selection process, the highest-ranked applications will be selected for funding in accordance with their ranked order to the extent funds are available, as determined under § 578.215. After awards are announced, applicants may contact HUD, with regard to applications not chosen for funding, for an explanation.

(b) *Ties between applicants.* In the event of a tie between applicants, HUD will use the quality of the proposal and the need for the project in the area to determine which application should be selected for funding.

(c) *Procedural errors.* If HUD makes a procedural error in a funding competition that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during that competitive year, HUD may fund that applicant in the next funding competition.

Subpart E—Program Requirements

§ 578.300 Grant agreement.

(a) *General.* The duty to provide permanent housing in accordance with the requirements of this Part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be appropriate.

§ 578.305 General operation.

Each recipient of assistance for permanent housing for handicapped homeless persons must require the project sponsor to agree:

(a) *General.* To operate a project providing permanent housing for handicapped homeless persons in accordance with this part.

(b) *Housing.* To provide housing that is in compliance with all State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing.

(c) *Ongoing assessment of supportive services.* To conduct an ongoing assessment of the supportive services required by the residents of the project and make adjustments as appropriate.

(d) *Residential supervision.* To provide any residential supervision determined by HUD as necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate permanent housing. Residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide, or to supervise the provision of, supportive services to the residents of permanent housing.

(e) *Records and reports.* To keep any records and make any reports that HUD may require.

(Approved by the Office of Management and Budget under OMB Control number 2502–0361)

§ 578.310 Term of commitment and repayment of advance.

(a) *General.* All projects assigned under this Part must be operated as permanent housing in accordance with this Part for a term of at least 10 years from the date of initial occupancy.

(b) *Repayment of advance.* (1) The recipient of an acquisition/substantial rehabilitation advance under § 578.105 or a new construction advance under § 578.112 must repay the advance in the amount prescribed under paragraph (b)(2) of this section and in accordance with the terms prescribed by HUD.

(2)(i) The recipient must repay the full amount of the acquisition/substantial rehabilitation advance or the new construction advance if the project is used for permanent housing for less than 10 years following the date of initial occupancy. For each full year that the project is used for permanent housing following the expiration of this 10-year period, the amount that the recipient will be required to pay will be reduced by one-tenth of the original advance. If the project is used for permanent housing for 20 years following the date of initial occupancy, the recipient will not be required to repay any portion of the advance under this section.

(ii) The repayment provisions of paragraph (b)(2)(i) will not be enforced if HUD determines that the project is no longer needed for use as supportive housing and approves the use of such project for the direct benefit of lower income persons.

(c) *Successors.* A recipient may select a new project sponsor to operate the housing in accordance with the project sponsor's obligations under this Part. The successor-project sponsor must be approved by HUD before operations of the project may be transferred.

(d) *Eminent domain.* A recipient of assistance under §§ 578.105, 578.110, or § 578.112 whose structure is taken by eminent domain during the 20-year period following the initial date of occupancy must repay the assistance provided under those sections, to the extent that funds are available from the eminent domain proceeding.

(e) *Prevention of undue benefits.* (1) If assistance is provided for a project under §§ 578.105, 578.110, or § 578.112, and the project is sold or otherwise disposed of during the 20-year period following the date of initial occupancy, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient from unduly benefiting from the sale or disposition.

(2) Paragraph (e)(1) of this section does not apply to sales or dispositions that result in the continued use of the project for the direct benefit of lower income persons or where all proceeds from the sale or disposition are used to provide supportive housing.

§ 578.315 Relocation and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients and project sponsors must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of recipient.* The recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this Part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definitions*—(1) *Displaced person.* (i) The term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this Part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the recipient, project sponsor or property owner to move permanently from the property, if the move occurs on or after the date that the recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

(*1*) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of:

(*i*) The tenant's rent and estimated average utility costs before the initiation of negotiations, or

(*ii*) 30 percent of gross household income; or

(*2*) The tenant has been required to relocate temporarily but:

(*i*) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and

(*ii*) The tenant does not return to the building/complex; or

(*3*) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

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(ii) A person does not qualify as a "displaced person" if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The recipient or sponsor may, at any time, request a HUD determination of whether a displacement is or would be covered by this rule.

(2) *Initiation of negotiations.* For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD.

§ 578.320 Resident rent.

Each homeless individual residing in permanent housing assisted under this Part must pay as rent an amount determined in accordance with Section 3(a) of the United States Housing Act of 1937. Under section 3(a), each resident must pay as rent the highest of:

(a) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family members, medical expenses, and child care expenses);

(b) 10 percent of the family's monthly income; or

(c) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated. As part of the technical assistance under § 578.120, HUD will provide recipients and project sponsors with information and assistance concerning the calculation of resident rent.

§ 578.325 Project sites and number of residents.

(a) *Project site.* Each project must be either a home designed solely for housing handicapped persons or dwelling units in a multi-family housing project, condominium project, or cooperative project. Not more than one home may be located on any one site, and no such home may be located on a site contiguous to another site containing such a home.

(b) *Neighborhood integration.* All projects must be integrated into the neighborhoods in which they are located. Indicators of neighborhood integration may include:

(1) Indications of neighborhood acceptance;

(2) Plans for resident participation in neighborhood activities and institutions;

(3) Integration of the project with community plans;

(4) Zoning compatibility;

(5) Provision of supportive services outside the project but within the neighborhood.

(c) *Number of residents.* If the permanent housing consists of dwelling units in a rental building, a condominium, or cooperative, the project may not serve more than eight handicapped homeless persons, and the homeless families of the eight homeless persons (if the head of the family or the spouse of the head of the family is a handicapped homeless person). If the permanent housing is a group home, the project may not serve more than eight handicapped homeless persons, and may not serve the families of the handicapped homeless persons.

(d) *Waiver.* HUD may waive, on a case-by-case basis, the limitation on residents contained in paragraph (c) of this section if the applicant demonstrates that local market conditions dictate the development of a larger project, and that a larger project will achieve the neighborhood integration objectives of the program within the community.

§ 578.330 Flood insurance.

(a) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) prohibits the approval of applications for assistance for acquisition or construction (including rehabilitation) for projects/sites located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

(2) Flood insurance is obtained as a condition of approval of the application.

(b) Applicants with projects/sites located in an area identified by FEMA as having special flood hazards are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

§ 578.335 Applicability of other Federal requirements.

Use of assistance provided under this Part must comply with the following additional requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements that apply to the permanent housing program are discussed below. Notwithstanding the permissibility of proposals that serve designated populations of handicapped homeless persons, recipients and project sponsors serving a designated population of handicapped homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familiar status, and handicap.

(1) The requirements of the Fair Housing Act (42 U.S.C. 3601–20) and implementing regulations at 24 CFR part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients and project sponsors must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(6) If the procedures that the recipient or project sponsor intends to use to make known the availability of the permanent housing are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for admission to the housing, the recipient or project sponsor must establish additional procedures that will ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to handicapped persons.

(b) *Environmental.* The National Environmental Policy Act of 1969, the related authorities in 24 CFR part 58, and the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3601) are applicable to proposals under this program.

(c) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–87 and A–102 (as set forth in 24 CFR part 85) apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations, except the requirements of 24 CFR 85.24 are modified by § 578.130, and the requirements of 24 CFR 85.31 are modified by § 578.310.

(d) *Lead-based paint.* (1) The requirements of the Lead-Based Paint Poisoning Prevent Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in paragraph (d)(2) of this section) apply to permanent housing assisted under this part.

(2)(i) This paragraph implements the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822), by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to structures for which assistance is provided under this part. This paragraph is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to the program, the requirements prescribed in subpart C of 24 CFR part 35. The requirements of this paragraph apply to structures that will be occupied by children under seven years of age.

(ii) The following definitions apply to this paragraph (d):

Applicable surface means all intact and non-intact painted interior and exterior surfaces of a residential structure.

Chewable surface means all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surfaces means paint on applicable surfaces that is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or *EBL* means excessive absorption of lead: that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint surface means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm.

(iii) In the case of a structure constructed before 1978 or substantially rehabilitated prior to 1978, the applicant must inspect the structure for defective paint surfaces before it submits an application. Recipients must inspect assisted structures at least annually during the term of their operating commitment to HUD. If defective paint surfaces are found, treatment in accordance with 24 CFR 35.24(b)(2)(ii) is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(iv) In the case of a structure constructed before 1978 or substantially rehabilitated prior to 1978, if the recipient is presented with test results that indicate that a child under the age of seven years occupies the structure and has an elevated blood lead level (EBL), the recipient must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, by an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray florescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) is required.

(v) In lieu of the procedures set forth in the preceding clause, the recipient may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

(vi) The recipient must take appropriate action to protect tenants from hazards associated with abatement procedures.

(vii) The recipient must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the recipient must keep the test results and, if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated at any subsequent time.

(3) Applicants and recipients under this part may require project sponsors to comply with some or all of the requirements of this paragraph (d). The applicant or recipient, however, must ensure that the program sponsor carries out all requirements in accordance with the paragraph, and must retain ultimate responsibility for complying with the requirements of this paragraph.

(e) *Conflicts of interest.* In addition to conflict of interest requirements in OMB Circulars A–102 and 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient, or the project sponsor, that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(f) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) *Audit.* The financial management systems used by recipients under this program must provide for audits in accordance with 24 CFR part 44. Project sponsors are subject to the audit requirements of OMB Circular A–110.

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HUD may perform or require additional audits as R finds necessary or appropriate.

(h) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a—276a–5 do not apply to projects assisted under this part.

(i) *Drug and alcohol-free facilities.* Section 402 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires grantees, recipients, and project sponsors of projects assisted under this part to administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries. Recipients are also subject to the requirements of sections 5151–5160 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24.

Subpart F—Administration

§ 578.400 Obligation of funds, funding amendments, and deobligation.

(a) *Obligation of funds.* When HUD selects an application for funding and notifies the recipient, it will obligate funds to cover the amount of the approved assistance under subpart B of this part.

(b) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated for any approved funding.

(c) *Deobligaton.* (1) HUD may deobligate amounts for the acquisition/substantial rehabilitation advance, moderate rehabilitation grant, or new construction advance:

(i) If the actual total costs of acquisition/substantial rehabilitation, moderate rehabilitation, or new constructon are less than the total cost anticipated in the application, or

(ii) If proposed activities for which funding was approved are not begun or completed within a reasonable time after selection.

(2) (i) HUD may deobligate the amounts for annual operating costs or supportive services costs for the year following the first year of operation, based on a revision to the recipient's budget as originally approved. Additionally, if a recipient's operations generate a substantial amount of resident rent (see § 578.320), HUD may adjust the operating costs allowed under the grant agreement downward, to the extent of the rent received in excess of that anticipated and budgeted in the application.

(ii) HUD may deobligate the amounts for annual operating costs or supportive services costs if the proposed permanent housing operations are not begun within a reasonable time following selection or carried out expeditiously.

(3) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed.

(4) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 578.200, or

(ii) Reconsider applications that were submitted in response to the most recently published notice of fund availability and select applications for funding with the deobligated funds. Such selections will be made in accordance with subpart D of this part.

(d) *Site control.* HUD will deobligate any award for assistance if the recipient does not have control of a suitable site within one year after notification of an award.

§ 578.405 Site change.

(a) *General.* A recipient may obtain ownership or control of a suitable site different from the one specified in its application. Retention of an assistance award is subject to the new site's meeting all requirements under this part for suitable sites.

(b) *Increased costs.* If the acquisition/substantial rehabilitation or moderate rehabilitation costs for the substitute site are greater than the amount of the advance or grant awarded for the site specified in the application, the recipient must provide for all additional costs. If the recipient is unable to demonstrate to HUD that it is able to provide for the difference in costs, HUD may deobligate the award of assistance.

(c) *Applicability.* This section is applicable to awards of assistance made under this part on or after November 1, 1987.

PART 840—[REMOVED]

PART 841—[REMOVED]

5. Parts 840 and 841 are removed.

Dated: November 1, 1989.

Alfred A. DelliBovi,

Under Secretary.

[FR Doc. 89–26179 Filed 11–6–89; 8:45 am]

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Part III

United States Sentencing Commission

Sentencing Guidelines for United States Courts; Notice of Proposed Additions to Sentencing Guidelines, Policy Statements and Commentary; Request for Public Comment

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed additions to sentencing guidelines, policy statements and commentary. Request for public comment.

SUMMARY: The Commission is considering amendments to its guidelines, policy statements, and commentary that would govern the sentencing of organizations in Federal courts. Except for one guideline dealing with fine calculations for antitrust violations, the sentencing guidelines currently in effect do not apply to the sentencing of organizations. The Commission's proposed guidelines, policy statements, and accompanying commentary are set forth below. The Commission may report these amendments to Congress on or before May 1, 1990. Public comment is sought on these proposals and any other aspect of the sentencing guidelines, policy statements, and commentary as they apply to the sentencing of organizations.

DATES: Public comment should be received by the Commission no later than February 15, 1990.

ADDRESS: Comments should be sent to: United States Sentencing Commission, 1331 Pennsylvania Avenue, NW., Suite 1400, Washington, DC 20004. Attn: Communications Director.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director, telephone: (202) 662–8800.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the U.S. Government. The Commission is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for Federal courts.

Ordinarily, the Administrative Procedure Act rulemaking requirements are inapplicable to judicial agencies; however, 28 U.S.C. 994(x) makes the rulemaking provisions of 5 U.S.C. 553 applicable to the promulgation of sentencing guidelines by the Commission.

Background of Proposed Amendments

The proposed guidelines, policy statements, and commentary are the culmination of an extended period of analysis, consultation, and public comment. In 1988, the Commission completed a study of the sentencing of organizations in the Federal courts from 1984 to 1987 and a survey of the literature relating to sanctions for organizations. The Commission prepared a discussion draft of sentencing materials that in July 1988 was distributed for public comment. Public hearings on organizational sanctions were held on October 11, 1988, in New York City and on December 2, 1988, in Pasadena, California. In 1989, the Commission updated its empirical analysis with a study of the sentencing of organizations and associated individuals in the Federal courts in 1988. The Commission also in 1989 received recommendations regarding organizational sanctions from the United States Department of Justice, from a working group of private defense attorneys appointed by the Commission's Chairman to advise the Commission regarding practical principles for sentencing organizations, and from the Commission staff. The proposed guidelines, policy statements, and commentary draw upon, and have benefitted from, staff work, aid from outside experts, and the extensive public comment that has been received to date.

Availability of Background Materials

Background materials regarding the proposed guidelines, policy statements, and commentary are available for inspection at the Commission's offices. The background materials include empirical studies, draft materials circulated by the Commission, and public comment received by the Commission.

Format of Proposed Amendments

The proposed amendments are presented as a new chapter to the United States Sentencing Commission Guidelines Manual: Chapter Eight—Sentencing of Organizations. Note that the Commission has set forth two options (Option I and Option II) for the guideline section that would determine the fine guideline range for most organizational defendants (§ 8C2.1). Option I would base the guideline fine range on the greater of loss, gain, or an amount specified based upon the applicable offense level, with percentage adjustments based upon applicable aggravating or mitigating factors. Option II would base the guideline fine range entirely upon the applicable offense level, with offense level adjustments based upon applicable aggravating or mitigating factors. In some instances, the two options may result in substantially different fine levels. Commentators are encouraged to evaluate and comment upon these two options or to suggest an alternative.

The Commission has listed Specific Issues for Comment as endnotes to the draft Chapter Eight in order to focus special attention on particular issues. Comments on all aspects of these drafts are, however, welcome.

Scope of Public Comment

Public comment is requested regarding any aspect of current or proposed guidelines, policy statements, and commentary that apply to the sentencing of convicted organizations. In addition, the Commission requests specific comment regarding the two options for § 8C1.2 and the Specific Issues for Comment listed at the end of the draft Chapter Eight.

Authority: 28 U.S.C. 994 (a), (x); section 21(a) of the Sentencing Act of 1987 (Pub. L. 100–182).

William W. Wilkins, Jr.,
Chairman.

Chapter Eight—Sentencing of Organizations

Introductory Commentary

The guidelines and policy statements in this Chapter apply when the convicted defendant in a federal criminal case is an organization rather than an individual. In these cases, individuals may or may not simultaneously have been convicted of offenses growing out of the same scheme or plan of criminal conduct.

The goals and purposes of sentencing for organizations are identical to those for individuals. See 18 U.S.C. 3553(a)(2). Thus, sentencing of a convicted organization can be instrumental in achieving a number of objectives. Restitution, notice to victims, and other corrective measures can be used to remedy harm to victims or otherwise alleviate the consequences of criminal conduct. Imposition of a fine or probation can punish the owners of an organization for its criminal conduct, and induce owners and managers to take necessary steps to prevent criminal conduct by agents of the organization. Probation can also be imposed where necessary to enforce any of the above sanctions or to ensure that an organization institutes a remedial compliance program to prevent further criminal conduct by its agents.

Although the number of organizations convicted and sentenced in the federal courts over the last few years is relatively small (approximately 350 per year) compared to the number of individuals convicted and sentenced, the subject matter of organizational

sanctions is nonetheless important. In writing these guidelines the Commission has been guided by two special features of the subject matter. First, the basic reasons for prosecuting and sentencing an inanimate object—an organization—are important, special, and several. In the occasional case in which an organization was created primarily for the purpose of facilitating the commission of criminal conduct, prosecution and sentencing should lead to its dissolution. In the more frequent case in which an organizational defendant has benefitted from its criminal activity, prosecution and sentencing should punish the organization, deprive it of its unjust advantage, and provide funds for restitution to victims. When an organizational defendant, owned by a small number of individuals, some of whom have committed crimes, has assets available for payment of restitution or a fine, while the culpable individuals do not, conviction of the organization will enable the government to obtain those assets. In other instances, while the prosecution may be able to establish the guilt of an organization as a collective body, it may not be able to establish the guilt of any one individual. These cases often involve complex economic transactions and numerous and changing participants, occurring over extended periods of time; consequently, it may be difficult to ascertain and prove which particular individuals have been responsible. In such instances, the prosecution and sentencing of the organization will help, through determination of guilt and appropriate punishment, to vindicate the criminal law. Finally, in virtually all instances, the appropriate punishment of a convicted organization will provide a strong incentive for owners and managers of organizations to strengthen internal mechanisms for preventing officers and employees from committing crimes and for detecting and punishing any such crimes that are committed.

Second, prior sentencing practice has proved less helpful to the Commission's efforts to create organizational guidelines than in the case of individuals, because of two important legislative developments. In 1984, Congress enacted a law dramatically raising the level of fines that courts might impose. Criminal Fine Enforcement Act of 1984, Pub. L. No. 98–596, 98 Stat. 3134. Prior to 1984, statutes often made it impossible for courts to impose upon convicted organizations fines of meaningfully large amount. In addition, Congress has enacted over the past few years a number of statutes increasing penalties for a variety of crimes often committed by individuals in organizations, or the organizations themselves. These include, among others, money laundering (Money Laundering Control Act of 1986, Pub. L. No. 99–570, subtitle H, 100 Stat. 3218–35), major fraud (Major Fraud Act of 1988, Pub. L. No. 100–700, 102 Stat. 4631), and insider trading (Insider Trading and Securities Fraud Enforcement Act of 1988, Pub. L. No. 100–704, 102 Stat. 4677). Given these legislative changes, it is far more difficult here, than in the case of individual defendants, to view past practice as representing any kind of "norm."

As in the case of the guidelines for individuals, the Commission envisions an evolutionary process in which the guidelines will be subject to modification and refinement in light of experience.

Part A—General Application Principles

§ 8A1.1 Applicability of Chapter Eight

This Chapter applies to the sentencing of all organizations.[1]

Commentary

Application Note:

1. "Organization" means "a person other than an individual." 18 U.S.C. 18. Organizations include corporations, unions, associations, and partnerships.

§ 8A1.2 Application Instructions—Organizations

(a) Determine the guideline section in Chapter Two most applicable to the offense of conviction. See § 1B1.2 (Applicable Guidelines). The Statutory Index (appendix A) provides a listing to assist in this determination.

(b) Determine the base offense level and apply any appropriate specific offense characteristics contained in the particular guideline in Chapter Two in the order listed.

(c) If there are multiple counts of conviction, repeat steps (a) and (b) for each count. Apply part D of chapter three to group the various counts and adjust the offense level accordingly.[2]

(d) Determine from part B of this chapter the sentencing requirements and options relating to restitution, remedial orders, community service, and notice to victims.

(e) Determine from part C of this chapter the sentencing requirements and options relating to fines.

(f) Determine from part D of this chapter the sentencing requirements and options relating to probation.

(g) Determine from part E of this chapter the sentencing requirements relating to special assessments and forfeitures.

(h) The provisions of chapter One, part B (General Application Principles) apply to determinations under this Chapter, except that subsections (a)–(g) above apply in lieu of § 1.B1.1 (a)–(i).

Part B—Remedying Harm From Criminal Conduct

Introductory Commentary

As a general principle, a convicted organization should, as a first priority, be required to make restitution to identifiable victims of its criminal conduct and to take other remedial actions necessitated by that criminal conduct.

§ 8B1.1 Restitution—Organizations[3]

(a) Except as provided in subsection (b) below, the court shall—

(1) Enter a restitution order pursuant to 18 U.S.C. 3663–3664; or

(2) If a restitution order would be authorized pursuant to 18 U.S.C. 3663–3664 but for the fact that the offense of conviction was not an offense under title 18 or 49 U.S.C. 1472 (h), (i), (j), or (n), sentence the organization to probation with a condition requiring restitution, in which case the amount, recipients, and other terms of the restitution condition are to be determined in accordance with 18 U.S.C. 3663 (b), (c), and (e).

(b) Subsections (a) (1) and (2) above do not apply when full restitution or other equivalent compensation to the victims of the offense has already been made, or to the extent the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of a restitution requirement outweighs the need to provide compensation to any victims.

Commentary

This guideline provides for restitution either as a sentence under 18 U.S.C. 3663–3664 or as a condition of probation. The provisions of 18 U.S.C. 3663–3664 require a sentence of restitution for convictions under title 18 or under 49 U.S.C. 1472 (h), (i), (j), or (n), except to the extent "the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order under this section outweighs the need to provide restitution to any victims," 18 U.S.C. 3663(d). This guideline, in addition, extends the requirement of restitution to offenses other than title 18 and title 49, section 1472 (h), (i), (j) and (n) offenses. In such cases, restitution, which is to be determined under standards equivalent to those embodied in 18 U.S.C. 3663–3664, shall be provided as a condition of a sentence of probation. Under those standards, restitution in certain cases may be awarded to a third party who already

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has provided compensation to the victim. See 18 U.S.C. 3663(e)(1).

Restitution is not required to the extent that the fashioning of an order would unduly complicate and prolong the sentencing process, relative to the need to provide compensation to victims. In determining whether the complication and prolongation of the sentencing process resulting from the fashioning of an order requiring restitution outweigh the need to provide compensation to any victims, the court should consider whether civil or administrative remedies available in an ongoing proceeding are equivalent to restitution and are certain to provide compensation to victims. If the court has any doubt about compensation by means other than court-ordered restitution, the court should order restitution, which under 18 U.S.C. 3663(e)(2) would be set off against a later recovery of compensatory damages in a civil proceeding.

§ 8B1.2 Remedial Orders—Organizations (Policy Statement)

A remedial order, imposed as a condition of probation, may require the organization to reduce or eliminate the risk that its criminal conduct will cause further harm. Such an order generally will be appropriate unless:

(a) Available civil or administrative remedies are adequate and sufficiently expeditious; or

(b) The cost to reduce or eliminate the threat of future harm is not justified in light of the likelihood and seriousness of injury that may result.

Commentary

The purpose of a remedial order is to prevent future harm to victims. A remedial order requiring corrective action by the defendant may be necessary to prevent future injury from the instant offense, e.g., product recalls for food and drug violations or "clean-up orders" for environmental violations.

§ 8B1.3 Community Service—Organizations (Policy Statement) [4]

An organization may be ordered to perform community service where such community service provides an expeditious way of repairing the harm caused by the offense.

Commentary

An organization can perform community service only by paying its employees or others to do so. Thus, the effect of community service on an organization is equivalent to an indirect monetary sanction, and therefore is generally less desirable than a direct monetary sanction such as restitution. In some instances, however, the convicted organization may possess knowledge, facilities, or skills that uniquely qualify it to repair damage caused by the offense. Community service directed at repairing damage may provide an efficient means of remedying the harm caused. See §§ 8B1.1 (Restitution—Organizations) and 8B1.2 (Remedial Orders—Organizations).

In the past some forms of community service imposed on organizations have not been related to the purposes of sentencing. Requiring a defendant to endow a chair at a university or to contribute to a local charity would not be authorized by this section unless such community service provided a means for preventive or corrective action directly related to the offense and served one of the purposes of sentencing set forth in 18 U.S.C. 3553(a)(2). For example, a condition of probation requiring an organization to make its laboratory facilities available to a university would be authorized if it were subject to the limitation that the facilities be used for research to develop new anti-pollution or clean-up techniques related to the instant offense.

§ 8B1.4 Order of Notice to Victims—Organizations

Apply § 5F1.4 (Order of Notice to Victims).

Commentary

The provisions of § 5F1.4 (Order of Notice to Victims) are applicable to organizational defendants.

Part C—Fines

1. Determining the Fine—Criminal Organizations

§ 8C1.1 Determining the Fine—Criminal Organizations

If the court determines that the organization operated primarily for a criminal purpose, the fine shall be set (subject to the statutory maximum) at an amount sufficient to divest the organization of its assets. When this section applies, §§ 8C2.1 (Determining the Fine Guideline Range—Organizations), 8C2.2 (Determination of the Fine Within the Guideline Range), 8C4.1 (Fines Imposed upon Owners of Closely Held Organizations), and 8C4.2 (Prior Punitive Civil or Administrative Sanctions) do not apply.

Commentary

Section 8C1.1 provides that where the court determines that an organization operated primarily for a criminal purpose, the fine shall be set at an amount sufficient to remove all of the organization's assets. If the extent of the assets of the organization are unknown, this may be achieved by imposing the greatest fine authorized by statute.

2. Determining the Fine—Other Than Criminal Organizations

§ 8C2.1 Determing the Fine Guideline Range—Organizations

Option I

(a) The guideline fine range shall be determined under subsections (b)—(e) below, except where the offense guideline in Chapter Two expressly provides a different rule for determining the guideline range.

(b) The maximum of the guideline fine range shall be (1) 300% of the amount determined under subsections (d)(1) through (3) below; plus (2) the amount, if any, from subsection (e) below.[5]

(c) The minimum of the guideline fine range shall be (1) 200% of the amount determined under subsections (d)(1) through (3) below; plus (2) the amount, if any, from subsection (e) below.

(d)(1) Determine the greater of:

(A) the gross pecuniary loss caused by the offense;[6] or

(B) the gross pecuniary gain[7] to the defendant from the offense; or

(C) the amount set forth below corresponding to the offense level determined under § 8A1.2 (Application Instructions—Organizations).

Offense level	Amount
1	$500
2	$1,000
3	$1,500
4	$2,000
5	$3,000
6	$4,000
7	$6,000
8	$8,000
9	$10,000
10	$12,000
11	$15,000
12	$20,000
13	$30,000
14	$50,000
15	$75,000
16	$100,000
17	$150,000
18	$200,000
19	$250,000
20	$300,000
21	$400,000
22	$500,000
23	$600,000
24	$700,000
25	$800,000
26	$900,000
27	$1,000,000
28	$1,500,000
29	$2,000,000
30	$2,500,000
31	$3,000,000
32	$3,500,000
33	$4,000,000
34	$5,000,000
35	$7,000,000
36	$10,000,000
37	$12,500,000
38	$15,000,000
39	$20,000,000
40 and above	$25,000,000

(2) Aggravating Factors.[8] For each applicable aggravating factor set forth below, add the indicated amount to the amount determined pursuant to subdivision (1) above:

(A) If high-level management aided or abetted, knowingly encouraged, or condoned the offense, add 20% of the amount determined pursuant to subdivision (1) above.[9]

(B) If the defendant within 15 years of the commencement of the current offense has one or more prior convictions (other than a conviction for a petty offense) or within 10 years of the commencement of the current offense engaged in similar misconduct, as determined by a prior civil or administrative adjudication, add 20% of the amount determined pursuant to subdivision (1) above.[10]

(C) If the commission of the offense constituted a violation of a judicial order or injunction, or of a condition of probation, add 20% of the amount determined pursuant to subdivision (1) above.

(D) If high-level management aided or abetted, or encouraged obstruction of the investigation or prosecution of the offense or, with knowledge thereof, failed to take reasonable steps to prevent such obstruction, add 20% of the amount determined pursuant to subdivision (1) above.

(E) If the defendant, in connection with the offense, bribed or unlawfully gave a gratuity to a public official, or attempted or conspired to bribe or unlawfully give a gratuity to a public official, add 20% of the amount determined pursuant to subdivision (1) above, or $25,000, whichever is greater.

(F) If the offense targeted a vulnerable victim as defined in § 3A1.1, add 20% of the amount determined pursuant to subdivision (1) above involving any such victim.

(G) If the offense presented a substantial risk to the continued existence of a financial or consumer market, add 20% of the amount determined pursuant to subdivision (1) above.

(H) If the offense constituted a risk to national security, add 50% of the amount determined pursuant to subdivision (1) above, or $250,000, whichever is greater.

(3) Mitigating Factors.[11] [12] For each applicable mitigating factor set forth below, subtract the indicated amount from the amount determined pursuant to subdivisions (1) and (2) above:

(A) If the organization, promptly upon discovering the offense, and prior to the commencement of a government investigation, the imminent threat of a government investigation, or the imminent threat of disclosure of the wrongdoing, reported the offense to government authorities, subtract 30% of the amount determined pursuant to subdivisions (1) and (2) above.

(B) If high-level management did not have knowledge of the offense and the lack of knowledge was reasonable, subtract 20% of the amount determined pursuant to subdivisions (1) and (2) above.

(C) If the offense represented an isolated incident of criminal activity that was committed notwithstanding bona fide policies and programs of the organization reflecting a substantial effort to prevent conduct of the type that constituted the offense, subtract 20% of the amount determined pursuant to subdivisions (1) and (2) above.

(D) If the organization has taken substantial steps to prevent a recurrence of similar offenses, such as, implementing appropriate monitoring procedures or disciplining any officer, director, employee, or agent of the organization responsible for the offense, subtract 10% of the amount determined in subdivisions (1) and (2) above.

(e) Loss or Gain not Subject to Restitution or Disgorgement. Determine the greater of—

(1) Any pecuniary loss caused by the offense for which restitution has not been made or ordered, or

(2) Any pecuniary gain to the defendant from the offense that will otherwise not be disgorged by the defendant.

Commentary

Application Notes:

1. "Gross Pecuniary loss," as used in this guideline is equivalent to the term "loss" as used in Chapter Two (Offense Conduct). In a case of an attempted or partially completed offense, or a conspiracy to commit an offense, "gross pecuniary loss," as used in subsection (d)(1)(A), is to be determined in accordance with the principles of § 2X1.1 (Attempt, Solicitation, or Conspiracy).

2. As used in subsection (d)(1)(B), "gross pecuniary gain" is equal to the additional gross revenue to the defendant attributable to the offense.

3. "Similar misconduct," as used in subsection (d)(2)(B), means conduct that is similar in nature to the conduct underlying the instant offense, without regard to whether or not such conduct violated the same statutory provision. For example, a defendant convicted of improperly disposing of waste by burning has committed similar misconduct if the defendant in the past improperly disposed of similar waste by discharge into water. The past misconduct is similar to the present offense despite the fact that two different federal statutes proscribe these wrongful waste-disposal activities.

4. "Prior conviction," as used in subsection (d)(2)(B), means conviction by verdict; a plea of guilty, including an Alford plea; or plea of nolo contendere.

5. "High-level management," as used in subsection (d), means one or more persons who is an officer; a director; a partner; or any other employee or agent having significant managerial or supervisory authority (e.g., those who make policy determinations or have supervisory authority over a large number of employees or agents, such as a state agent for an insurance company).

6. "Aided or abetted," as used in subsection (d), includes all conduct proscribed by 18 U.S.C. 2.

7. Under subsection (d)(2)(E), an enhancement is applicable where the relevant conduct (whether or not charged in the count of conviction) included bribing or unlawfully giving a gratuity to a public official, or conspiring or attempting to do so. This enhancement applies, for example, to conduct proscribed by 18 U.S.C. 201, 205, 212, 213, 292, and 1726.

8. Subsection (e) is designed to ensure that any loss caused by the offense that is not subject to restitution (e.g., where the victims are not identifiable) or gain to the defendant that will not otherwise be disgorged by the defendant is taken into account by the fine guideline range. "Restitution," as used in subsection (e)(1), includes the defendant's expenditures for remedial action under § 8B1.2 (Remedial Orders), § 8B1.3 (Community Service), and § 8B1.4 (Order of Notice to Victims). "Any pecuniary gain to the defendant," as used in subsection (e)(2), means any profit attributable to the offense.

Background: This section provides for the determination of the upper and lower limits of the fine guideline range.

Subsection (a) provides that the guideline fine range for organizations is determined under subsections (b)—(e) except where Chapter Two provides a different rule. Currently, Chapter Two, Part R (Antitrust Offenses) has a separate provision for establishing the fine guideline range.

End of Option I

Option II

(a) The guideline fine range shall be determined under subsections (b)—(d) below, except where the offense guideline in Chapter Two expressly provides a different rule for determining the guideline range.

(b) Adjust the offense level determined pursuant to § 8A1.2 (Application Instructions—Organizations) for each aggravating and mitigating factor set forth below:

(1) Aggravating Factors:

(A) If high-level management aided or abetted, knowingly encouraged, or condoned the offense, add 1 level.

(B) If the defendant within 15 years of the commencement of the current offense has one or more prior convictions (other than a conviction for a petty offense) or within 10 years of the commencement of the current offense engaged in similar misconduct, as determined by a prior civil or administrative adjudication, add 1 level.

(C) If the commission of the offense constituted a violation of a judicial order or injunction, or of a condition of probation, add 1 level.

(D) If high-level management aided or abetted, or encouraged obstruction of the investigation or prosecution of the offense or, with knowledge thereof,

failed to take reasonable steps to prevent such obstruction, add 1 level.

(E) If the defendant, in connection with the offense, bribed or unlawfully gave a gratuity to a public official, or attempted or conspired to bribe or unlawfully give a gratuity to a public official, add 1 level.

(F) If the offense targeted a vulnerable victim as defined in § 3A1.1, add 1 level.

(G) If the offense presented a substantial risk to the continued existence of a financial or consumer market, add 1 level.

(H) If the offense constituted a substantial risk to national security, add 2 levels.

(3) Mitigating Factors:

(A) If the organization, promptly upon discovering the offense, and prior to the commencement of a government investigation, the imminent threat of a government investigation, or the imminent threat of disclosure of the wrongdoing, reported the offense to government authorities, subtract 1 level.

(B) If high-level management did not have knowledge of the offense and the lack of knowledge was reasonable, subtract 1 level.

(C) If the offense represented an isolated incident of criminal activity that was committed notwithstanding bona fide policies and programs of the organization reflecting a substantial effort to prevent conduct of the type that constituted the offense, subtract 1 level.

(D) If the organization has taken substantial steps to prevent a recurrence of similar offenses, such as, implementing appropriate monitoring procedures and disciplining any officer, director, employee, or agent of the organization responsible for the offense, subtract 1 level.

(c) The fine guideline range is (1) the amount set forth in the Fine Table below corresponding to the adjusted offense level determined above; plus (2) the amount, if any, from subsection (d) below.

FINE TABLE

Offense level	Guideline range
1	$250 to $500
2	$500 to $1,000
3	$850 to $2,000
4	$1,500 to $3,500
5	$2,500 to $6,800
6	$3,200 to $8,000
7	$4,000 to $10,000
8	$7,500 to $18,000
9	$14,000 to $34,000
10	$25,000 to $64,000
11	$45,000 to $103,000
12	$70,000 to $160,000
13	$90,000 to $206,000
14	$108,000 to $240,000
15	$180,000 to $400,000

FINE TABLE—Continued

Offense level	Guideline range
16	$300,000 to $700,000
17	$525,000 to $1,000,000
18	$700,000 to $1,520,000
19	$1,100,000 to $2,850,000
20	$2,100,000 to $4,750,000
21	$3,250,000 to $9,000,000
22	$6,500,000 to $16,000,000
23	$13,000,000 to $36,000,000
24	$24,000,000 to $68,000,000
25	$48,000,000 to $136,000,000
26	$80,000,000 to $170,000,000
27	$100,000,000 to $204,000,000
28	$120,000,000 to $238,000,000
29	$140,000,000 to $272,000,000
30	$160,000,000 to $306,000,000
31	$180,000,000 to $340,000,000
32 & above	$200,000,000 to $374,000,000

(d) Loss or Gain not Subject to Restitution or Disgorgement. Determine the greater of—

(1) any pecuniary loss caused by the offense for which restitution has not been made or ordered, or

(2) any pecuniary gain to the defendant from the offense that will otherwise not be disgorged by the defendant.

Commentary

Application Notes

1. "Similar misconduct," as used in subsection (b)(1)(B), means conduct that is similar in nature to the conduct underlying the instant offense, without regard to whether or not such conduct violated the same statutory provision. For example, a defendant convicted of improperly disposing of waste by burning has committed similar misconduct if the defendant in the past improperly disposed of similar waste by discharge into water. The past misconduct is similar to the present offense despite the fact that two different federal statutes proscribe these wrongful waste-disposal activities.

2. "Prior conviction," as used in subsection (b)(1)(B), means conviction by verdict; a plea of guilty, including an Alford plea; or plea of nolo contendere.

3. "High-level management," as used in subsection (b), means one or more persons who is an officer; a director; a partner; or any other employee or agent having significant managerial or supervisory authority (e.g., those who make policy determinations or have supervisory authority over a large number of employees or agents, such as a state agent for an insurance company).

4. "Aided or abetted," as used in subsection (b), includes all conduct proscribed by 18 U.S.C. 2.

5. Under subsection (b)(1)(E), an enhancement is applicable where the relevant conduct (whether or not charged in the count of conviction) included bribing or unlawfully giving a gratuity to a public official, or conspiring or attempting to do so. This enhancement applies, for example, to conduct proscribed by 18 U.S.C. 201, 205, 212, 213, 292, and 1720.

Subsection (d) is designed to ensure that any loss caused by the offense that is not subject to restitution (e.g., where the victims are not identifiable or gain to the defendant that will not otherwise be disgorged by the defendant is taken into account by the fine guideline range. "Restitution," as used in subsection (d)(1), includes the defendant's expenditures for remedial action under § 8B1.2 (Remedial Orders), § 8B1.3 (Community Service), and § 8B1.4 (Order of Notice to Victims.) "Any pecuniary gain to the defendant," as used in subsection (d)(2), means any profit attributable to the offense.

Background: This section provides for the determination of the upper and lower limits of the fine guideline range.

Subsection (a) provides that the guideline fine range for organizations is determined under subsections (b)–(d) except where Chapter Two provides a different rule. Currently, Chapter Two, Part R (Antitrust Offenses has a separate provision for establishing the fine guideline range.

End of Option II

§ 8C2.2 Determination of the Fine Within the Guideline Range (Policy Statement)

(a) Under 18 U.S.C. 3553(a) and 3572(a), the court, in determining the amount of the fine within the applicable guideline range, is required to consider:

(1) The nature and circumstances of the offense and the history and characteristics of the defendant;

(2) The need for the sentence to reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, and protect the public from further crimes of the defendant;

(3) The defendant's income, earning capacity, size, and financial resources;

(4) The burden that the fine will impose upon the defendant or any person who is financially dependent on the defendant;

(5) Any pecuniary loss inflicted upon others as a result of the offense;

(6) Whether restitution is ordered or made and the amount of such restitution;

(7) The need to deprive the defendant of illegally obtained gains from the offense;

(8) Whether the defendant can pass on to consumers or other persons the expense of the fine; and

(9) Any measure taken by the defendant to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

(b) In addition, the court, in determining the amount of the fine within the guideline range, should consider:

(1) The degree of difficulty of detecting the violation;

(2) The reasonable costs of investigating and prosecuting the organization's offense; [18]

(3) Any collateral consequences of conviction, including civil obligations arising from the defendant's conduct; and

(4) Any other pertinent equitable considerations, including the aggravating and mitigating factors set forth in § 8C2.1.

(c) The amount of the fine should always be sufficient to ensure that the fine, taken together with other sanctions imposed, is punitive.

Commentary

Subsection (a) reflects factors that the court is required to consider under 18 U.S.C. 3553(a) and 3572(a).

Subsection (b) reflects additional factors set forth by the Commission.

Subsection (b)(1) provides that the court should consider, among other factors, the degree of difficulty of detecting the violation due either to the defendant's efforts to conceal the offense or to the inherent difficulty of detecting that particular type of offense. For purposes of general deterrence, offenses that are particularly difficult to detect should receive greater punishment.

3. Implementing the Sentence of a Fine

§ 8C3.1 Imposing a Fine

(a) Except to the extent restricted by the maximum fine authorized by statute, or any minimum fine required by statute, the fine required by the guidelines shall be that determined under § 8C1.1 or § 8C1.2, as applicable.

(b) Where the minimum guideline fine is greater than the maximum fine authorized by statute for the count of conviction (or aggregate maximum fine authorized for the counts of conviction), the maximum fine authorized by statute shall be the guideline fine.

(c) Where the maximum guideline fine is less than a minimum fine required by statute for the count of conviction (or aggregate minimum fine required for the counts of conviction), the minimum fine required by statute shall be the guideline fine.

Commentary

This section sets forth the interaction of the fine guideline range with the maximum fine authorized by statute for the count or counts of conviction and any minimum fine required by statute for the count or counts of conviction.

When the defendant is convicted on multiple counts, the maximum fine authorized by statute may increase. For example, in the case of a defendant convicted of two felony counts related to a $200,000 fraud, the maximum fine authorized by statute will be $500,000 on each count (an aggregate maximum authorized fine of $1,000,000). If, however, the two counts involved a single fraudulent scheme resulting in a total loss of $750,000, the maximum authorized fine would be $1,500,000 (twice the loss) whether the defendant was convicted of one or both counts.

§ 8C3.2 Payment of the Fine—Organizations

Immediate payment of the fine shall be required unless the court finds that the defendant is financially unable to make such payment or that such payment would pose an undue burden on the defendant. If the court permits other than immediate payment, it shall endeavor to require full payment at the earliest possible date, either by requiring payment on a date certain or by establishing an installment schedule.

Commentary

When the court permits other than immediate payment, the period provided for payment shall, in no event, exceed five years. 18 U.S.C. 3572(d).

§ 8C3.3 Reduction of Fine Based on Inability to Pay

(a) The court may impose a fine below that otherwise required by the applicable guideline if the court finds that:

(1)(A) The primary purpose of the organization was to conduct a lawful activity; and

(B) It is not able and, even with the use of a reasonable installment schedule, is not likely to be able to pay the fine required under § 8C2.1; or

(2) Imposition of the fine required by § 8C1.1 or § 8C1.2, as applicable, would impair its ability to make restitution ordered as a result of conviction.

The court may impose a reduced fine under this section only to the extent necessary to address the issues set forth in subdivisions (1)(B) and (2) above.

(b) If the court imposes a reduced fine under this section, it shall establish a schedule for installment payments and place the defendant on probation in accordance with Part D of this Chapter.

Commentary

Background: Subsection (a)(2) carries out the requirement in 18 U.S.C. 3572(b) that the court impose a fine or other monetary penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution for the offense.

4. Offsets

§ 8C4.1 Fines Imposed Upon Owners of Closely Held Organizations

The fine imposed upon a closely held organization [shall be] [may be partially or totally] [14] offset by the amount of any fines imposed upon the owners of the organization arising out of the conduct for which the organization was convicted.

Commentary

Application Note:

1. For purposes of this section, an organization is closely held, regardless of its size, when a small number of individuals own a controlling interest in an organization. In order for an organization to be closely held, there need not be complete overlap between ownership and management.

Background: Many organizational defendants are closely held corporations. For practical purposes, most closely held organizations are the alter egos of their owner-managers. In the case of criminal conduct by a closely held corporation, it is possible that only the organization will be charged, only the culpable individuals will be charged, or that both will be charged. As a general rule, the allocation of appropriate punishment may be achieved by offsetting the fine imposed upon the organization by the amount of any fines imposed upon the owner-managers in their individual capacities.

§ 8C4.2 Prior Punitive Civil or Administrative Sanctions

The amount of a fine imposed upon an organization shall be offset by an amount equal to the amount of any punitive civil or administrative sanctions that have been imposed upon the organization to be paid to a government because of the offense conduct.

Commentary

Application Notes:

1. In applying this section, the magnitude of the fine is only offset by punitive amounts that are paid to a government. Punitive damages resulting from civil litigation and paid to other non-governmental persons do not provide a basis for an offset.

2. For purposes of this section, no consideration should be given to potential future fines. The double jeopardy provision of the Fifth Amendment requires courts in subsequent proceedings involving the same offense to take into consideration previous criminal penalties. See U.S. v. Halper, ____ U.S. ____, 109 S.Ct. 1892 (1989).

3. Only the punitive component of any earlier civil or administrative sanctions provides an offset. Remedial damages designed to make the government whole do not provide a basis for an offset against a fine but would be offset against restitution.

5. Departures

§ 8C5.1 Substantial Assistance to Authorities (Policy Statement)

(a) Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of the individuals responsible for the offense for which the organization is sentenced, the court may depart from the guidelines.

(b) The appropriate reduction shall be determined by the court for reasons it states that may include, but are not

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limited to, consideration of the following:

(1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;

(2) The nature and extent of the defendant's assistance; and

(3) The timeliness of the defendant's assistance.

§ 8C5.2 Risk of Death or Serious Bodily Injury (Policy Statement)

If the offense resulted in a foreseeable and substantial risk of death or serious bodily injury and the kind or degree of that risk was not adequately taken into consideration in setting the fine guideline range, an upward departure may be warranted. In making this determination, the court should take into account both the seriousness of the potential injury and the probability of its occurring.

§ 8C5.3 Other Grounds for Departure (Policy Statement)

To the extent that any policy statement from chapter 5, part K, subpart 2 is relevant to the defendant, a departure from the applicable guideline range may be warranted.

Part D—Organizational Probation

§ 8D1.1 Imposition of Probation

An organization shall be sentenced to probation:

(a) If such sentence is necessary as a mechanism to impose restitution (§ 8B1.1), a remedial order (§ 8B1.2), or community service (§ 8B1.3);

(b) If the organization is sentenced to pay a monetary penalty, whether restitution, fine, or special assessment, and the penalty is not paid in full at the time of sentencing; or

(c) In the following circumstances:

(1) The court finds that the organization or a member of its high-level management had a criminal conviction within the previous five years for conduct similar to that involved in the instant offense and any part of the instant offense occurred after that conviction; or

(2) The court finds that the offense indicated a significant problem with the organization's policies or procedures for preventing crimes, as evidenced, for example, by (A) high-level management involvement in, or encouragement or countenance of, the offense; (B) inadequate internal accounting or monitoring controls; or (C) a sustained or pervasive pattern of criminal behavior, unless the court finds that the problem has already been remedied, or that there is clear assurance that the problem will be remedied (e.g., where the defendant will be under intensive supervision by a regulatory agency); or

(3) The court finds that the probation will significantly increase the likelihood of future compliance with the law.

Commentary

Application Notes:

1. "High-level management," as used in this section, has the same meaning as in Application Note 5 of the Commentary to § 8C2.1.

2. Unlawful activity that has been pervasive throughout the organization or a component of the organization within the meaning of subsection (c)(2) need not be limited to the type of unlawful activity resulting in the offense of conviction.

Background: This section sets forth the circumstances under which a sentence of probation is authorized as a substantive sanction or as a means to enforce another sanction, such as a fine or restitution.

§ 8D1.2 Term of Probation

When a sentence of probation is imposed, the term of probation shall be sufficient to accomplish the purposes for which probation is imposed but in no event more than five years, and in the case of a felony, at least one year.

Commentary

Within the limits set by the guidelines, the term of probation should not extend beyond the court's immediate objectives in imposing the term of probation.

§ 8D1.3 Conditions of Probation (Policy Statement)

(a) Any sentence of probation shall include the condition that the organization not commit, or attempt to commit, another Federal, state, or local crime during the term of probation. See 18 U.S.C. 3563(a)(1).

(b) The court may impose other conditions that (1) are reasonably related to the nature and circumstances of the offense, the history and characteristics of the defendant, and the purposes of sentencing; and (2) involve only such deprivations of liberty or property as are necessary to effect the purposes of sentencing.

(c) If probation is imposed under § 8D1.1(b), it is recommended that the following conditions be imposed to the extent that they appear necessary to secure the defendant's obligation to pay any deferred portion of an order of restitution or fine:

(1) The organization shall make periodic submissions to the court or probation officer, at intervals specified by the court, reporting on the organization's financial condition and results of business operations and accounting for the disposition of all funds received.

(2) The organization shall submit: (A) to a reasonable number of regular or unannounced examinations of its books and records by the probation officer or auditors engaged by the court; and (B) interrogation of knowledgeable individuals within the organization.

(3) The organization shall be prohibited from engaging in any of the following transactions or activities without prior notice to and approval by the court: (A) Paying dividends or making any other distribution to its equity holders; (B) issuing new debt or equity securities or commercial paper, or otherwise obtaining substantial new financing outside the ordinary course of business; or (C) entering into any merger, consolidation, sale of substantially all assets, reorganization, refinancing, dissolution, liquidation, bankruptcy, or other major transaction. In addition, all employment compensation or other payments or property transfers by the organization to any equity holder, director, officer, or managing agent shall be subject to prior review and approval by the court.

(4) The organization shall be required to notify the court or probation officer immediately upon learning of any (A) material adverse change in its business or financial condition or prospects, or (B) the commencement of any bankruptcy proceeding, major civil litigation, criminal prosecution, or administrative proceeding against the organization, or any investigation or formal inquiry by government authorities regarding the organization.

(5) The organization shall be required to make periodic payments, as specified by the court, in the following priority: (1) The unpaid amount of the organization's restitution; (2) any fine; or (3) any other monetary sanction.

(d) If probation is ordered under § 8D1.1(c), it is recommended that the following conditions be imposed:

(1) The organization shall be required to develop and submit for approval by the court a compliance plan for avoiding a recurrence of the criminal behavior for which it was convicted. The court may employ appropriate experts to assess the efficacy of a submitted plan, if necessary, and shall approve any plan that appears reasonably calculated to avoid recurrence of the criminal behavior. The organization shall not be required to adopt any compliance measure unless such measure is reasonably necessary to avoid a recurrence of the type of criminal behavior involved in the offense.

(2) Upon approval of a compliance plan by the court, the organization shall notify its employees and shareholders of the criminal behavior and the compliance plan. Such notice shall be in a form to be prescribed by the court.

(3) The organization shall be required to make periodic reports to the court or probation officer, at intervals specified by the court, regarding the organization's progress in (A) implementing any compliance plan required and approved by the court under subsection (d) and (B) avoiding the commission of future criminal offenses. Such report shall be in a form to be prescribed by the court, and (A) shall disclose any criminal prosecution, civil litigation, or administrative proceeding commenced against the organization, or any investigations or formal inquiries by government authorities of which the organization learned since its last report, and (B) shall not require disclosure of any trade secrets or other confidential business information, including future business plans.

Commentary

Subsection (a) sets forth the statutory requirement that each sentence of probation contain a condition that the defendant not commit another Federal, state, or local crime.

Subsection (b) authorizes the court to impose other conditions that (1) are reasonably related to the nature and circumstances of the offense, the history and characteristics of the defendant, and the purposes of sentencing; and (2) involve only such deprivations of liberty or property as are necessary to effect the purposes of sentencing. In meeting these requirements, the court should tailor such conditions of probation to the circumstances of the case. For example, the court may determine that a condition of probation is necessary to assure that a defendant not avoid the impact of a fine by inappropriately passing the costs of such on to consumers or other persons.

In addition, 18 U.S.C. 3563(a) provides that if a sentence of probation is imposed for a felony, the court shall impose at least one of the following as a condition of probation: a fine, restitution, or community service, unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more other conditions set forth in 18 U.S.C. § 3563(b).

Part E—Special Assessments and Forfeitures[16]

§ 8E1.1 Special Assessments—Organizations

Apply § 5E1.3 (Special Assessments).

Commentary

The provisions of § 5E1.3 (Special Assessments) are applicable to organizational defendants.

§ 8E1.2 Forfeiture—Organizations

Apply § 5E1.4 (Forfeitures).

Commentary

The provisions of § 5E1.4 (Forfeitures) are applicable to organizational defendants.

Specific Issues for Comment

[1] Most federal prosecutions of organizations involve for-profit organizations or organizations actually operated for profit notwithstanding their designation. Should Chapter Eight apply to all organizations, as now specified, or be limited to organizations operated for profit?

[2] Section 8A1.2(c) would apply the same rules for multiple counts than are now applied for individuals. An alternative approach would be to establish groups of closely-related counts under § 3D1.2 but to treat each count group separately for purposes of subsections (d)—(h) and add the fines for each such group. Comment is requested as to which of these approaches is more desirable.

[3] Section 8B1.1 would expand the requirement for restitution to offenses not covered by 18 U.S.C. 3663–3664 by requiring restitution as a condition of probation. Is this approach appropriate? Should the guidelines for individual defendants be amended to conform?

[4] Is the recommended limitation of community service in § 8B1.4 for the reasons stated in the commentary appropriate, or should imposition of community service on organizations be recommended in other circumstances?

[5] Comment is requested with regard to the multipliers used to determine the maximum and minimum of the guideline fine range.

[6] Comment is requested as to whether loss should be apportioned among organizational defendants when an offense is committed by more than one organization.

[7] Gross pecuniary gain is defined in Application Note 2 of § 8C2.1 as the additional gross revenue to the defendant attributable to the offense. Comment is requested regarding whether a single definition should apply or whether the definition of gain should vary for different types of offenses.

[8] Comment is requested regarding the appropriate magnitudes of increases for the various aggravating factors and reductions for the various mitigating factors listed in § 8C2.1.

[9] Should the aggravating factor (2)(A) and the mitigating factor in subdivision (3)(B) be applicable only to large publicly held corporations and not to other organizations, such as closely held corporations or partnerships?

[10] Comment is requested regarding the content of the aggravating factor (2)(B). Should an increase in fine range result from any prior conviction? Or, should an increase in the fine range result from (1) any felony conviction and (2) any other conviction that is similar to the instant offense? Or, is some other formulation more desirable? Should the applicable time period be 15 years, or a longer or shorter period, and should it be the same or different for felonies and misdemeanors?

[11] Should, in addition to the other mitigating factors listed in § 8C2.1, affirmative acceptance of responsibility, as defined in § 3E1.1, be considered a mitigating factor for organizations, and, if so, what should the magnitude of the reduction be?

[12] As now drafted, these proposed guidelines allow for departure because of substantial assistance provided to law enforcement officials to aid them in identifying the individuals responsible for the commission of the crime for which the organization is prosecuted. See § 8C5.3. Should such assistance be addressed as a guideline factor, rather than as a basis for departure? If such assistance is a guideline factor, what conduct should be required of an organization to qualify for a reduction and what should be the extent of the reduction? One possible formulation follows:

"(E)(i) If the organization provided substantial cooperation to law enforcement officials and provided substantial assistance in helping them to identify and prosecute the individuals responsible for the offense, subtract [15%] [20%] of the amount determined in subdivisions (1) and (2) above; or

(ii) if the organization cooperated fully with law enforcement officials in helping them to identify and prosecute the individuals responsible for the offense, subtract [20%] [25%] [30%] of the amount determined in subdivisions (1) and (2) above."

[13] Comment is requested as to the relationship between the costs of investigation and prosecution and the guideline fine. Several possibilities are being considered. Should the costs of investigation or prosecution be used only as a factor in determining the sentence within the guideline range, as now specified? Should the reasonable costs of investigation and prosecution be added to the maximum of the guideline fine range, or to both the minimum and the maximum of the guideline fine range? Should the reasonable costs of investigation and prosecution be added to the guideline fine only upon motion of the prosecution; and if so, should the court then have discretion whether or not to increase the fine? Or should the court *sua sponte* have discretion whether or not to increase the guideline fine by the reasonable costs of investigation and prosecution?

[14] Should there be a full or partial offset for fines imposed upon owners of closely held organizations?

[15] At a public hearing on organizational sanctions, one witness suggested that in certain cases corporate directors should be removed as an organizational sanction. Are there cases in which the removal of directors is an appropriate sanction? If so, how should those cases be identified?

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Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1990; Solicitation of Applications for the Competitive Research Grants Program

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DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1990 Solicitation of Applications for the Competitive Research Grants Program

Applications are invited for competitive grant awards under the Competitive Research Grants Program administered by the Office of Grants and Program Systems, Cooperative State Research Service, for fiscal year 1990.

The authority for this program is contained in section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). Under this program, subject to the availability of funds, the Secretary may award competitive research grants, for periods not to exceed five years, for the support of research projects to further the programs of the Department of Agriculture. Proposals may be submitted by any State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation, or individual. Proposals from scientists at non-United States organizations will not be considered for support.

Applicable Regulations

Regulations applicable to this program include the following: (a) the regulations governing the Competitive Research Grants Program, 7 CFR part 3200 (49 FR 5570, February 13, 1984, as amended by 50 FR 5499, February 8, 1985), which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects; and (b) the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015.

Specific Research Areas to be Supported in Fiscal Year 1990

Standard project grants and a small number of continuation grants will be awarded to support research in selected areas of the biological sciences related to agriculture and human nutrition.

The Competitive Research Grants Program covers the following scientific disciplines:

Plant Science
Human Nutrition
Animal Science
Biotechnology
Pest Science
Depletion of Stratospheric Ozone
Forest Biology

The research categories of plant and animal science and human nutrition have been considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing to the advancement of agriculture. The major initiative in biotechnology research that began in fiscal year 1985 will continue for fiscal year 1990. It is designed to provide opportunities to address research problems in all categories of agricultural science including plants, animals, trees, insect pests, and microorganisms associated with these biota. It is anticipated that this research will advance broadly the Nation's competitive advantage in the food, feed, fiber, and natural resources processes. In addition, the research area of plant responses to the stratospheric ozone depletion which was initiated in fiscal year 1989 will continue to be emphasized; however, the scope will be expanded to include studies of plant responses to all environmental factors. This is based on the recognition that stratospheric ozone depletion is but one of several global changes that will directly affect the growing environment for crop and forest species and that the potential increase in UV–B radiation cannot be studied as an isolated phenomenon. Proposals addressing how plants perceive and respond to various environmental signals including UV–B should be submitted to the new Plant Responses to the Environment program area (6.0). It is anticipated that an additional area to be supported in fiscal year 1990 is forest biology. This area in the past was part of the Competitive Research Grants Program for Forest and Rangeland Renewable Resources that was funded by the USDA Forest Service and administered by CRGO from fiscal years 1985 through 1988. Consistent with the other program areas, the forest biology component will emphasize basic biological research related to forest species and forest ecosystems.

While basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential applicants. USDA encourages the submission of innovative projects in the so-called "high-risk" category as well as those that may have a more certain payoff potential. In all instances, innovative research will be given high priority.

Agriculturally important organism(s) should be used to accomplish the research objectives. The use of other organisms as experimental model systems must be justified relative to the goals of the appropriate research program area and to the long-term objectives of USDA.

Workshops or symposia that bring together scientists to identify research needs, update information, or advance an area of research are recognized as integral parts of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this Competitive Research Grants solicitation will be considered for partial or, if modest, total support. Proposals for workshops and symposia should be submitted to appropriate program areas listed below. Applicants considering submission under this category are strongly advised to consult the appropriate CRGO staff prior to the preparation of a proposal.

Individual Postdoctoral Research Awards: USDA encourages individuals, who (1) have earned the doctoral degree in a biological science or related areas after January 1, 1987 or will have earned the degree no later than June 5, 1990; (2) are United States citizens; (3) have obtained commitments from a State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization or corporation for the conduct of research; (4) have made prior arrangements for research with a scientific advisor at the institution where the research will be conducted; and (5) have interests in research that fall within the program areas described in this solicitation, to apply for a Competitive Research Grant. We encourage recently graduated scientists specifically to develop independent research programs of their own, not to merely supplement on-going research of a senior investigator. While such individuals specifically are encouraged to submit proposals for competitive grants, it must be noted that no preference is given to such individuals in determining the grant awards. All individuals and eligible entities, whether or not they meet the above criteria, are welcome to submit proposals and their proposals will be evaluated objectively under the applicable award criteria. Interested potential applicants should contact the appropriate program staff for further information.

The following specific research areas (program areas) and guidelines are provided as a base from which proposals may be developed:

1.0 *Plant Pathology/Weed Science.* This program area will support research on biotic stress encountered by plants during interaction with other plants, including weeds and pathogens such as viruses, bacteria, mycoplasma-like

organisms, and fungi. The programmatic goal is to develop fundamental information leading to new strategies to reduce losses in or costs of plant production caused by biotic stress. Proposals should emphasize studies that will enhance basic knowledge of the biological mechanisms regulating plant stress at the molecular, cellular, organismal, or populational level. Disciplinary approaches to investigate the basis of biological stresses may include biochemical, genetic, molecular, or quantitative techniques. Multidisciplinary team studies are encouraged. The host plant, weed, or pathogen systems may be studied separately or as an interactive unit. Proposals should indicate how the anticipated results will further our understanding of cause, consequence, or mechanism of stress avoidance in plants. The research supported in this program area will focus on the identification of novel strategies that are both effective and compatible with social and environmental concerns.

2.0 *Plant Genetic Mechanisms and Plant Molecular Biology.* The goal of this program area is to encourage new approaches for the development of genetically superior varieties of agricultural crops. One of the major limiting factors for the application of biotechnology to agriculture is the lack of basic information about genes. Studies addressing the basic cellular, molecular, and genetic processes which contribute new information required for the development of novel approaches to crop improvement will be given high priority. This program area will emphasize the following but will not exclude other new or unusual approaches to crop improvement: (a) Identification, isolation, and characterization of genes and gene products; (b) relationships between gene structure and function; (c) regulatory mechanisms of gene expression; (d) interactions between nuclear and organellar genes, and between extrachromosomal and chromosomal genes; (e) mechanisms of gene recombination and transportation; (f) molecular basis of chromosomal replication; (g) cell and tissue culture studies designed to increase our knowledge of the basic molecular, biochemical, and cellular processes involved in regenerating whole plants from single cells; (h) development of cellular and molecular methods for identifying plant characteristics or genes which are important targets for genetic manipulation; (i) development of molecular and cellular methods for crop improvement that involve gene transfer or genetic engineering technology; (j) development of new methods for producing, selecting, and transferring agronomically important qualitative and quantitative traits; and (k) basic genetic studies on the alteration and utilization of unadapted and wild germplasm.

3.0 *Biological Nitrogen Fixation and Metabolism.* The most common limiting nutrient for plant growth is nitrogen. The objective of this program is to support research which will elucidate basic mechanisms of the many processes affecting the nitrogen status of crop plants, including biological nitrogen fixation, uptake, transport and metabolism of nitrogenous compounds. Innovative answers to problems in these areas are sought from disciplines of biochemistry, molecular biology and biotechnology, cellular and developmental biology, microbiology, genetics, physiology and ecology. These areas include, but are not necessarily limited to, studies on (a) the properties, mechanisms, and contributions to nitrogen fixation in both free-living and symbiotic nitrogen-fixing organisms; (b) molecular and developmental mechanisms and regulation of infection and nodulation of the root by symbiotic nitrogen-fixing organisms; (c) factors controlling symbiont specificity; (d) competitive interactions of nitrogen fixing organisms with other soil organisms; (e) structural mechanisms and regulatory enzymes involved in nitrogen metabolism, including nitrogen fixation and its utilization; (f) nitrification and denitrification; (g) factors influencing uptake and mechanisms of uptake of nitrogenous compounds; and (h) metabolic studies on processes affecting the nitrogen status of the plant.

4.0 *Photosynthesis.* Photosynthetic efficiency is an important factor in crop productivity. Basic research that provides information on limiting processes of photosynthesis and associated carbon metabolism will lead to a greater understanding of those factors that affect the ability of the plant to produce a usable product. Research is needed on (a) genetic and cellular manipulation to improve photosynthetic efficiency in plants, including studies of the chloroplast and nuclear genomes, analyses of regulatory steps controlling both nuclear and extranuclear photosynthetic gene expression and their interations; (b) aspects of photosynthetic energy conversion, including such areas as early events in photon capture by photosynthetic systems and the mechanisms of charge separation, the structure and function of photosynthetic membranes and membrane constitutents, and the associated chemical and physical reactions; (c) photosynthetic carbon assimilation including mechanisms of CO_2 fixation, biochemistry and molecular biology of photosynthetic and related biosynthetic pathways, photorespiration, and aspects of cellular metabolism regulating these reactions; (d) control of photoasynthate partitioning, translocation, and utilization; (e) development senescence of the photosynthetic apparatus; and (f) photosynthetic process in leaves, whole plants, and conopies including, but not limited to, involvement of the stomatal apparatus.

Other research designed to generate new information leading to a basic understanding of photosynthesis and its accompanying processes also may be considered a part of this program area.

5.0 *Plant Growth and Development.* Suboptimal growth and development are limiting factors in plant productivity. A basic understanding of developmental processes in agriculturally important plants is largely lacking, but new experimental approaches are being developed through advances in molecular and cellular biology. The goal of this program area is to fill the gap in our knowledge concerning the fundamental mechanisms that underlie plant growth and development, emphasizing, but not being limited to, (a) mechanisms controlling plant growth and development including flowering, fertilization, embryogenesis, germinations, differentiation, organogenesis, and senescence; (b) developmental regulation of gene expression; (c) photomorphogenesis; (d) cell biology including membrane biology; and (e) biochemistry of cellular metabolism related to plant growth and development. Proposals emphasizing the use of emerging experimental techniques for the investigation of these developmental processes are encouraged.

6.0 *Plant Responses to the Environment.* This program area combines (and expands upon) two fiscal year 1989 areas, i.e., plant responses to environmental stresses and stratospheric ozone depletion. It has become clear that the depletion of stratospheric ozone is only one of several serious environmental problems this Nation's agriculture will be facing for the near future. It also has become clear that we lack a basic understanding of how the plant perceives and responds to both normal and adverse environmental signals. The goal of this area is to understand the fundamental mechanisms of plant responses to all

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environmental factors including, water, temperature, light (including UV–B), atmospheric ozone and other greenhouse gases, and soil nutrients. Studies at the whole plant, cellular, biochemical, and molecular levels will be considered as long as they address basic mechanisms (rather than simply describing the phenomenon). Interactions between plants and their environment under normal as well as stressed conditions will be considered as part of this expanded program area. Examples of research that will be emphasized include: (a) Mechanisms of plant perception and responses to environmental signals, (b) The interactions of multiple environmental factors and how they affect the physiological and ecological status of plants, (c) identification, isolation, and expression of genes regulated by or involved in plant responses to environmental signals, (d) identification of biochemical and cellular changes that take place in plants in response to changing environmental signals, and (e) plant nutrition and water relations as reflected in the physiology and biochemistry of root systems.

7.0 Human Nutrition. Proposals are invited in the area of human requirements for nutrients. This research is intended to contribute to the improvement of human nutritional status by increasing our understanding of requirements for nutrients. The objective is to support basic, creative research that will help to fill gaps in our knowledge about nutrient requirements, bioavailability, the interrelationships of nutrients, and the nutritional value of foods that are consumed in the U.S. and of the nutrient condition of healthy individuals, as all of these relate to human nutrient requirements. Studies of the biochemical and molecular basis for nutrient requirements are encouraged, answering questions as to why a particular nutrient is required and what its function is in the cell. Also, studies of the molecular biology of factors interacting with nutrients, such as receptors, carrier proteins and binding proteins, are encouraged.

Support will not be provided for clinical research, demonstration or action projects, nor for surveys of the nutritional status of population groups. In addition, the use of animals as model systems must be justified.

Proposals dealing with processing techniques in food technology should be clearly oriented toward determining human nutrient requirements. Proposals that concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements. It is especially important that proposals emphasize innovative, fundamental research.

8.0 Animal Science (Reproductive Physiology). Suboptimal reproductive performance in domestic farm animals is the major factor limiting more efficient production of animal food products. This failure to achieve maximal reproductive efficiency is due to problems related to puberty, ovulation, corpus luteum formation and function, insemination, fertilization, prenatal death, and poor survival of offspring.

Economic loss to the producer and increased costs of animal food products to the consumer due to inefficient reproductive performance make the requirement for new knowledge in this area a high priority. Although the exact needs may vary from species to species and region to region, there are areas where additional fundamental research is crucial.

This program area will support innovative basic research on: (a) Mechanisms affecting embryo survival, endocrinological control of embryo development, mechanisms of embryo-maternal interactions, and embryo implantation; (b) factors controlling ovarian function including follicular development, corpus luteum formation and function, and ovulation; (c) gamete physiology, including oogenesis and spermatogenesis, gamete maturation, mechanisms regulating gamete survival *in vivo* and *in vitro*, the fundamental processes of fertilization and basic questions regarding gamete transport; (d) parturition, postpartum interval to conception, and neonatal survival.

This program area also encourages basic research on the mechanisms controlling animal responses to physical and biological stresses that impinge upon reproductive efficiency. Research should address the cellular and molecular basis for the organism's interaction with these stresses and should contribute to an understanding of the causes, consequences, and avoidance of stress, rather than merely describing the physiological effects of stress on reproductive efficiency.

Emphasis should be given to innovative approaches that may contribute to a thorough understanding of the reproductive processes in animals primarily raised for food and fiber production or that otherwise contribute to the agricultural enterprise of the country. The use of experimental model systems should be justified relative to the objectives of this research area.

9.0 Animal Molecular Biology and Brucellosis. A major limiting factor in the use of biotechnology in agriculture is the lack of basic information about genes and gene products. The primary objective of this program area is to increase our understanding of the structure, organization, function, regulation, and expression of genes in agriculturally important animals and in their associated infectious agents.

The following categories of research should be emphasized: (a) Identification, isolation, characterization of genes and gene products; (b) relationships between gene structure and function; (c) regulatory mechanisms of gene expression; (d) interactions between nuclear and mitochondrial genes and between extrachromosomal and chromosomal genes; (e) mechanisms of gene recombination and transposition; (f) modecular basis of chromosomal replication; and (g) mechanisms of interaction of animals with deleterious microorganisms or infections agents. The use of experimental model systems should be suitably justified relative to the program objectives. Proposals involving vaccine and reagent development *per se* will not be considered for support. In addition, proposals involving free-living insects that are not intermediate hosts and vectors of animal diseases will not be considered.

This program area will also support research on the molecular, cellular, and genetic levels that will (a) define the mechanisms by which *Brucella abortus* induces disease in cattle and persists as an infectious agent and (b) define the basis of the bovine immune response with *B. abortus* that results in protective immunity. Proposals also are encouraged which, through molecular biological techniques, identify and produce (c) antigens to differentiate among non-infected, vaccinated, and the *B. abortus*- infected cattle and (d) immunogens that stimulate long-lived protective immunity in cattle.

10.0 Animal Growth and Development. Suboptimal growth and development are limiting factors in animal productivity, yet a basic understanding of the developmental processes in agriculturally important animals is largely lacking. New experimental approaches are being developed through advances in molecular and cellular biology. The goal of this program area is a basic understanding of the development processes in agriculturally important animals as well as to increase fundamental knowledge that will provide a basis for biotechnological manipulation of animal growth and development. This research area will place emphasis on, but not be limited to, studies of: (a) Cellular and molecular mechanisms controlling growth and development processes, including growth factors and differentiation; (b)—molecular and cellular biological studies of metabolic processes related to growth and development including muscling and rumen development; and (c) identification of molecular and cellular targets for genome manipulation, including transgenics. The use of experimental model systems should be suitably justified relative to the program objectives.

Proposals dealing essentially with aspects of reproduction should be submitted to the Animal Science (Reproductive Physiology) program area (8.0). Proposals addressing research on infectious agents (bacteria, fungi, parasites, and viruses) of animals should be sent to the Animal Molecular Biology and Brucellosis area (9.0).

11.0 Plant Pest Science—Insects and Nematodes. Uncontrolled invertebrate pests are a major factor in reducing crop and forest productivity. Before successful strategies for managing these pests can be developed, a strong basic biology research effort is needed particularly to divulge the intricate interactions between the pest and its plant hosts. It is clear that an understanding of plant/insect or plant/nematode interactions also will be dependent on an in depth understanding of how these pests function on the most basic levels.

Within this context, the goal of this research area is to understand basic concepts of plant/insect or plant/nematode interactions including: (a) How interactions are established; (b) biochemical, physiological, and molecular plant responses to attack; (c) pest responses to plant defenses; and (d) the genetics of these interactions. Studies which emphasize how damage from insects and nematodes can be reduced, including basic studies on biological control organisms, also will be supported. Basic studies on insect or nematode pests away from the host plant may be proposed in the following areas: (a) behavioral physiology, (b) chemical ecology, (c) endocrinology, (d) population dynamics, (e) genetics, (f) behavioral ecology, (g) pathogens, parasites and predators, and (h) toxicology including basic pesticide resistance studies. In all cases, however, proposals should indicate how the anticipated information will be relevant to our understanding of plant/insect interactions and a reduction of plant stresses caused by these organisms. Research on the molecular, cellular, or organismal level will be considered.

Proposals are invited in either of the following sub areas:

Pest Science: Proposals dealing with bollworm, bollweevil, gypsy moth or pine bark beetle.

Entomology/Nematology: Proposals dealing with insect or nematode pests not listed above (includes mites).

Availability of funds will determine whether proposals in each sub area are to be evaluated by separate peer review panels.

12.0 Alcohol Fuels Research. Proposals will be considered for research relating to the physiological, microbiological, biochemical, and genetic processes controlling the biological coversion of agriculturally important biomass material to alcohol fuels and industrial hydrocarbons. The scope of this program area includes studies on factors that limit efficiency of biological production of alcohol fuels and the means for overcoming these limitations.

14.0 Forest Biology. The major aim of this area of research is to examine fundamental aspects of plant science that are unique to forest trees. Important objectives include: (a) Research on physiology and biochemistry of forest tree species that are designed to elucidate the target process for future biotechnological manipulations of trees, (b) the identification and utilization of genes that control mechanisms for resistance to pests and pathogens of our major tree species, (c) fundamental genetics of forest tree species, and (d) cell and developmental biology, and (e) responses to environmental factors such as nutrients, water, temperatures and UV–B. In addition this area will focus on ecological aspects of forest tree communities, particularly on the interactions of trees with herbaceous plants that are highly competitive and thus affect production and normal forest succession. Basic research on wood chemistry, the biochemistry of lignification and cellulosic materials, and the process of lignin degradation by wood-rotting and other organisms will also be considered in this program. The submission deadline for this category is listed below. To provide adequate scientific evaluation of proposals that are expected to be diverse, proposals submitted under this category will be reviewed by the peer review panel whose collective expertise is most appropriate to the scientific content of each proposal. Upon receipt of a proposal, the staff of the Competitive Research Grants office will assign it to one of nine plant science peer review panels for scientific review.

Soybean Research. Proposals dealing with fundamental research on soybeans should emphasize research objectives that fit the scientific disciplines of the appropriate program areas noted above. Soybean proposals will be reviewed and evaluated by the peer panel whose collective expertise is most appropriate to the scientific content of the proposal under consideration. A separate peer review panel will not be assembled for the purpose of reviewing soybean proposals.

How to Obtain Application Materials.

Please note that potential applicants who are on the Competitive Research Grants mailing list, who sent applications in fiscal year 1989, or who recently requested placement on the list for fiscal year 1990, will automatically receive copies of this solicitation, the Grant Application Kit, and the regulations governing the Competitive Research Grants Program, 7 CFR part 3200 (49 FR 5570, February 13, 1984, as amended). All others may request copies from: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 303, Aerospace Building, 901 D Street, SW., Washington, DC 20251–2200; telephone: (202) 475–5049.

What to Submit

An original and 14 copies of each proposal submitted are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made.

Renewal proposals should include a clearly identified prgress report and any reprints or preprints of publications resulting from the funded research. Resubmissions of unsuccessful proposals should clearly indicate what changes have been made in the proposal.

Each copy of each proposal must include a Form CSRS–661, "Grant Application," which is included in the Grant Application Kit. Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. Each project description is expected to be complete in itself. It should be noted that reviewers are not required to read beyond 15 pages of the project description to evaluate the proposals. Proposals beyond this limit may not be reviewed or may be returned. Appendices should be limited to

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materials that are pertinent to the proposal and should not be used as a way to circumventing the page limit. The vitae of key project personnel should be limited to three (3) pages, including a list of publications for last five (5) years.

All copies of a proposal must be mailed in one package. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. Also, please see that each copy of each proposal is stapled securely in the upper lefthand corner. DO NOT BIND. Information should be typed on one side of the page only. Every effort should be made to ensure that the proposal contains all pertinent information when initially submitted. Prior to mailing, compare your proposal with the "Application Requirements" checklist contained in the Grant Application Kit and instructions contained in the regulations governing the Competitive Research Grants Program, 7 CFR part 3200.

Due to the limited budget, the same investigator is not likely to receive more than one award from CRGO within the same fiscal year. Therefore, in order to minimize the time spent for preparation and review of proposals, submission of more than one proposal from the same principal investigator to CRGO in the same fiscal year is strongly discouraged. Applicants may not submit the same research proposal to more than one research program area within the Competitive Research Grants Program in the same fiscal year. Duplicate proposals, essentially duplicate proposals, or predominantly overlapping proposals will be returned without review.

Where and When to Submit Grant Applications

Proposals submitted to the research program areas in this notice (e.g., 2.0 Plant Genetic Mechanisms and Plant Molecular Biology) will be assigned by the staff of the Competitive Research Grants office to the most appropriate peer review panel. If necessary, further information may be obtained from the responsible Association Program Manager at the telephone numbers given below. Each research grant application must be submitted to: Competitive Research Grants Program, c/o Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 303, 901 D Street, SW., Washington, DC 20251–2200. To be considered for funding during fiscal year 1990, proposals must be postmarked by the following dates and received in time to permit adequate peer panel review: (Please note that it is not certain, at this time, that all of the program areas will be funded. Please call CRGO contacts before you prepare a proposal.)

Postmark Dates	Peer Review Panels/Program Areas	Contacts
January 29, 1990	11.0 Plant Pest Science.	475-5114
January 8, 1990	10.0 Animal Growth and Development.	475-3399
January 16, 1990	2.0 Plant Genetic Mechanisms and Plant Molecular Biology.	475-4871
January 8, 1990	7.0 Human Nutrition.	475-5034
January 8, 1990	4.0 Photosynthesis.	475-5030
January 8, 1990	1.0 Plant Pathology/Weed Science.	475-3310
February 20, 1990	5.0 Plant Growth and Development.	475-4871
February 20, 1990	8.0 Animal Science (Reproductive Physiology).	475-5034
February 20, 1990	9.0 Animal Molecular Biology and Brucellosis.	475-3309
February 26, 1990	3.0 Biological Nitrogen Fixation and Metabolism.	475-5030
March 5, 1990	6.0 Plant Responses to the Environment.	475-5022
March 19, 1990	12.0 Alcohol Fuels Research.	475-4871
February 5, 1990	14.0 Forest Biology.	475-5114

Special Instructions

The Competitive Research Grants Program should be indicated in Block 7 and the applicable program area should be indicated in Block 8 of Form CSRS–661 provided in the Grant Application Kit. Select one program area only. The number assigned to the applicable program area also must be cited in Block 8 of Form CSRS–661. A final determination of the program area will be made by the program staff and/or appropriate peer panel.

Supplementary Information

The Competitive Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.206. For reasons set forth in the Final rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document Nos. 0524–0022.

The award of any grants under the Competitive Research Grants Program during FY 1990 is subject to the availability of funds. One copy of each proposal that is not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Done at Washington, DC, this 3rd day of November 1989.

Clare I. Harris,

Associate Administrator, Cooperative State Research Service.

[FR Doc. 89-26321 Filed 11-7-89; 8:45 am]

BILLING CODE 3410-22-M

federal register

Wednesday
November 8, 1989

Part V

Department of Transportation

Urban Mass Transportation Administration

UMTA Section 3 and 9 Grant Obligations; Notice

BEST COPY AVAILABLE

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Administration to publish an announcement in the Federal Register each time a grant is obligated pursuant to Sections 3 and 9 of the Urban Mass

SW., room 9305, Washington, DC 20590, (202) 366–2053.

SUPPLEMENTARY INFORMATION: The section 3 program was established by

SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Obligation date

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

UMTA Section 3 and 9 Grant Obligations

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1989, Public Law 100-457, signed into *law* on September 30, 1988, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **Federal Register** each time a grant is obligated pursuant to Sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Edward R. Fleischman, Chief, Resource Management Division, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street, SW., room 9305, Washington, DC 20590, (202) 366-2053.

SUPPLEMENTARY INFORMATION: The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information:

SECTION 3 GRANTS

Transit property	Grant No	Grant amount	Obligation date
Los Angeles County Transportation Commission, Los Angeles, CA	CA-03-0338-00	$2,362,500	06/10/89
San Francisco Bay Area Rapid Transit District, San Francisco-Oakland, CA	CA-03-0343-00	9,661,500	06/10/89
Orange County Transit District, Los Angeles, CA	CA-03-0349-00	1,341,045	09/29/89
Metropolitan Transit Development Board, San Diego, CA	CA-03-0351-00	199,950	09/29/89
Denver Regional Transportation District, Denver, CO	CO-03-0044-00	408,750	09/29/89
Metropolitan Atlanta Rapid Transit Authority, Atlanta, GA	GA-03-0032-01	40,549,997	09/27/89
Metropolitan Atlanta Rapid Transit Authority, Atlanta, GA	GA-03-0033-02	29,000,001	09/27/89
Chicago Transit Authority, Chicago, IL	IL-03-0135-01	49,500,000	09/29/89
Chicago Transit Authority, Chicago, IL	IL-03-0145-00	5,400,000	09/29/89
Suburban Bus Division Regional Transportation Authority, Chicago, IL	IL-03-0146-00	2,025,000	09/29/89
Northwestern Indiana Regional Planning Commission, Northwestern, IN	IN-03-0059-00	32,033	06/30/89
Mass Transit Administration, Baltimore, MD	MD-03-0048-00	2,587,500	09/29/89
Maine Department of Transportation, Lincolnville/Islesboro, ME	ME-03-0013-01	399,999	06/17/89
Minnesota Department of Transportation, Gilbert, MN	MN-03-0039-00	845,283	09/15/89
New Jersey Transit Corporation, Northeastern, NJ	NJ-03-0076-00	29,700,000	08/21/89
New Jersey Transit Corporation, Northeastern, NJ	NJ-03-0079-00	7,399,950	09/29/89
New Jersey Transit Corporation, Northeastern, NJ	NJ-03-0081-00	2,857,500	09/29/89
New Mexico State Highway & Transportation Department, Albuquerque-Santa Fe, NM	NM-03-0008-00	961,920	09/05/89
Niagara Frontier Transportation Authority, Buffalo, NY	NY-03-0235-00	7,999,998	09/29/89
Central New York Regional Transportation Authority, Syracuse, NY	NY-03-0241-00	1,744,875	09/29/89
Niagara Frontier Transportation Authority, Buffalo, NY	NY-03-0243-00	1,137,501	09/29/89
Rochester-Genesee Regional Transportation Authority, Rochester, NY	NY-03-0244-00	4,740,830	09/29/89
Nassau County, New York, NY	NY-03-0249-00	2,401,875	09/29/89
Pennsylvania Department of Transportation, Statewide, PA	PA-03-0197-00	4,207,200	09/29/89
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0202-01	6,999,999	09/29/89
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0209-00	47,257,500	09/29/89
City of El Paso, El Paso, TX	TX-03-0130-00	1,452,936	09/29/89
Fort Worth Transportation Authority, Fort Worth, TX	TX-03-0132-00	292,500	09/29/89
Municipality of Metropolitan Seattle, Seattle, WA	WA-03-0059-04	16,834,803	06/11/89
Municipality of Metropolitan Seattle, Seattle, WA	WA-03-0066-00	1,000,000	06/11/89

SECTION 9 GRANTS

Transit property	Grant No.	Grant amount	Obligation date
Mobile Transit Autority, Mobile, AL	AL-90-X041-00	$1,239,084	09/26/89
Tuscaloosa County Parking and Transit Authority, Tuscaloosa, AL	AL-90-X042-00	300,492	09/26/89
Alabama Highway Department, Anniston/Auburn-Opelika/Decatur/Dothan/Florence, AL	AL-90-X043-00	995,237	09/26/89
City of Laguna Beach, Los Angeles-Long Beach, CA	CA-90-X353-00	206,000	09/27/89
County of Los Angeles, Department of Public Works, Lancaster, CA	CA-90-X354-00	606,800	09/28/89
South Coast Area Transit, Oxnard-Ventura, CA	CA-90-X356-00	1,490,974	09/28/89
City of Culver City, Los Angeles-Long Beach, CA	CA-90-X357-00	640,000	09/27/89
City of Merced, Merced, CA	CA-90-X359-00	555,282	09/26/89
City of Greeley, Greeley, CO	CO-90-X049-00	642,377	09/29/89
Greater Waterbury Transit District, Waterbury, CT	CT-90-X144-00	183,500	09/29/89
South Central Regional Council of Governments, New Haven, CT	CT-90-X148-00	19,100	09/29/89
Milford Transit District, Bridgeport, CT	CT-90-X149-00	75,000	09/29/89
Greater New Haven Transit District, New Haven, CT	CT-90-X150-00	240,000	09/29/89
Housatonic Area Regional Transit District, Danbury, CT-NY	CT-90-X151-00	200,000	09/29/89
Capitol Region Council of Governments, Hartford, CT	CT-90-X152-00	47,200	09/29/89
Central Connecticut Regional Planning Agency, Bristol, CT	CT-90-X153-00	8,000	09/29/89
Valley Regional Planning Agency, Bridgeport, CT	CT-90-X154-00	34,000	09/19/89
Orange-Seminole-Osceola Transportation Authority, Orlando, FL	FL-90-X028-02	85,780	09/26/89

SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Obligation date
East Volusia Transportation Authority, Daytona Beach, FL	FL-90-X068-02	1,552,000	09/26/89
Orange-Seminole-Osceola Transportation Authority, Orlando, FL	FL-90-X068-01	42,600	09/26/89
Lakeland Area Mass Transit District, Lakeland, FL	FL-90-X103-01	152,528	09/29/89
Pasco County Board of County Commissioners, St. Petersburg, FL	FL-90-X110-01	40,000	09/29/89
Palm Beach County Transit Authority, West Palm Beach, FL	FL-90-X131-00	3,001,440	09/29/89
Orange-Seminole-Osceola Transportation Authority, Orlando, FL	FL-90-X132-00	2,448,000	09/26/89
Pasco County Board of County Commissioners, St Petersburg, FL	FL-90-X134-00	484,010	09/26/89
City of Panama City, Panama City, FL	FL-90-X135-00	96,000	09/29/89
Okaloosa County Board of County Commissioners, Fort Walton Beach, FL	FL-90-X136-00	123,900	09/26/89
Pinellas Suncoast Transit Authority, St. Petersburg, FL	FL-90-X137-00	4,489,393	09/29/89
Georgia Department of Transportation, Albany/Athens/Rome/Savannah, GA	GA-90-X052-00	6,037,095	09/26/89
Waterloo Metro Transit Authority, Waterloo, IA	IA-90-X107-00	76,800	09/29/89
Springfield Mass Transit District, Dubuque, IA-IL	IL-90-X121-01	40,886	09/29/89
City of Danville, Danville, IL	IL-90-X146-00	230,600	09/29/89
Greater Peoria Mass Transit District, Peoria, IL	IL-90-X147-00	594,158	09/29/89
Bloomington-Normal Public Transit System, Bloomington-Normal, IL	IL-90-X148-00	2,123,732	09/29/89
Northern Indiana Commuter Transportation District, Chicago, IL-Northwestern IN	IN-90-X122-00	2,476,007	09/29/89
East Chicago Board of Public Works, Chicago, IL-Northwestern IN	IN-90-X124-00	274,518	09/29/89
Northwestern Indiana Regional Commission, Chicago, IL-Northwestern IN	IN-90-X125-00	1,089,033	09/29/89
Gary Public Transportation Corporation, Chicago, IL-Northwestern IN	IN-90-X126-00	1,916,824	09/29/89
Michiana Area Council of Governments, South Bend, IN-MI	IN-90-X127-00	481,557	09/29/89
Evansville, Urban Transit Study, Evansville, IN-KY	IN-90-X128-00	1,365,254	09/29/89
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X039-00	2,250,550	09/29/89
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X040-00	129,300	09/29/89
Topeka Metropolitan Transit Authority, Topeka, KS	KS-90-X041-00	167,899	09/29/89
Transit Authority of Northern Kentucky, Fort Wright, KY	KY-90-X046-00	1,360,190	1
Regional Transit Authority, New Orelans, LA	LA-90-X018-03	356,000	09/29/89
Regional Transit Authority, New Orleans, LA	LA-90-X081-01	67,000	09/26/89
St. Bernard Parish, New Orelans, LA	LA-90-X100-01	27,200	09/27/89
City of Shreveport, Shreveport, LA	LA-90-X102-00	3,405,155	09/29/89
Southeastern Regional Transit Authority, New Bedford, MA	MA-900-X068-01	161,595	09/29/89
Pioneer Valley Transit Authority, Springfield-Chic-Holy, MA-CT	MA-90-X091-382	1,181,362	09/29/89
Berkshire Regional Transit Authority, Pittsfield, MA	MA-90-X098-00	40,000	09/29/89
Mass Transit Administration, Baltimore, MD	MD-90-X040-00	365,000	09/27/89
Lewiston-Auburn Transit Committee, Lewiston, Auburn, ME	ME-90-X045-00	10,000	09/29/89
Maine Department of Transportation, Statewide Maine	ME-90-X047-00	337,979	09/29/89
Suburban Mobility Authority for Regional Transportation, Detroit, MI	MI-90-X115-00	2,702,564	1
City of Rochester, Rochester, MN	MN-90-X041-00	706,000	09/29/89
Duluth Transit Authority, Duluth-Superior, MN-WI	MN-90-X042-00	143,624	09/29/89
City of St. Joseph, St. Joseph, MO-KS	MO-90-X057-00	284,340	09/29/89
City of St. Joseph, St. Joseph, MO-KS	MO-90-X058-00	605,405	09/29/89
Bi-State Development Agency, St. Louis, MO-IL	MO-90-X059-00	3,815,080	09/29/89
City of Springfield, Springfield, MO	MO-90-X060-00	817,780	09/29/89
City of Jackson, Jackson, MS	MS-90-X025-01	1,262,000	09/26/89
Central Mississippi Planning and Development District, Jackson, MS	MS-90-X029-00	131,200	09/26/89
Missoula Urban Transportation District, Missoula, MT	MT-90-X024-00	670,720	09/29/89
City of Billings, Billings, MT	MT-90-X025-00	661,130	09/29/89
City of Fayetteville, Fayetteville, NC	NC-90-X079-01	12,000	09/25/89
City of High Point, High Point, NC	NC-90-X092-01	411,120	09/25/89
Guilford County, Greensboro NC	NC-90-X098-00	410,000	09/25/89
Town of Chapel Hill, Durham, NC	NC-90-X099-00	3,951,091	09/29/89
City of Wilmington, Wilmington, NC	NC-90-X100-00	415,795	09/25/89
Winston-Salem Transit Authority, Winston-Salem, NC	NC-90-X101-00	1,811,618	09/29/89
City of Asheville, Asheville, NC	NC-90-X102-00	684,212	09/29/89
City of Asheville, Asheville, NC	NC-90-X103-00	138,936	1
Omaha Metro Area Transit, Omaha, NE-IA	NE-90-X019-01	5,200	09/29/89
Omaha Metro Area Transit, Omaha, NE-IA	NE-90-X023-00	613,360	09/29/89
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Roch, NH	NH-90-X020-00	382,784	09/29/89
City of Nashua, Nashua, NH	NH-90-X021-00	506,400	09/29/89
Saratoga County Planning Board, Albany, NY	NY-90-X150-01	304,000	09/29/89
Onondaga County Civil Center, Syracuse, NY	NY-90-X166-00	720,657	09/25/89
Central New York Regional Transportation Authority, Syracuse, NY	NY-90-X167-00	3,466,803	09/28/89
Suffolk Co. Dept. of Trans. Oper, New York, NY-Northeastern NJ	NY-90-X168-00	2,835,945	09/27/89
Oneida County, Utica-Rome, NY	NY-90-X169-00	449,694	09/26/89
Westchester County Department of Transportation, New York, NY-Northeastern NJ	NY-90-X170-00	3,068,877	09/29/89
Toledo Area Regional Transit Authority, Toledo, OH-MI	OH-90-X114-01	378,200	09/29/89
Southwest Ohio Regional Transit Authority, Cincinnati, OH-KY	OH-90-X123-00	1,681,600	09/29/89
Ohio Department of Transportation, Columbia, OH	OH-90-X124-00	5,407,390	09/29/89
Central Oklahoma Transportation and Parking Authority, Oklahoma City, OK	OK-90-X030-01	1,500,000	09/29/89
Enid Public Transportation Authority, Enid, OK	OK-90-X031-00	254,080	09/29/89
Metropolitan Tulsa Transit Authority, Tulsa, OK	OK-90-X032-00	400,000	09/29/89
Beaver County Transit Authority, Pittsburgh, PA	PA-90-X176-00	1,252,404	09/27/89
County of Lackawanna Transit System, Scranton-Wilkes Barre, PA	PA-90-X177-00	114,600	09/29/89
Municipality of Mayeguez, Mayaguez, PR	PR-90-X047-00	680,000	09/26/89
Municipality of Aquadilla, Aquidilla, PR	PR-90-X048-00	144,000	09/26/89
Municipality of Loiza, San Juan PR	PR-90-X049-00	108,000	09/26/89
Municipality of Ponce, Ponce, PR	PR-90-X050-00	441,016	09/26/89
Department of Transportation and Public Works, San Juan, PR	PR-90-X051-00	852,848	09/25/89
Rhode Island Department of Transportation, Providence-Paw-War, MA-RI	RI-90-X011-01	303,580	09/30/89

SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Obligation date

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SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Obligation date
Rhode Island Department of Transportation, Providence-Paw Wsr, MA–RI	RI-90-X014-00	693,519	09/29/89
Greenville Transit Authority, Greenville, SC	SC-90-X027-01	132,000	09/26/89
City of Charleston, Charleston, SC	SC-90-X029-00	1,658,043	09/28/89
Central Midlands Regional Planning Council, Columbia, SC	SC-90-X030-00	162,000	09/26/89
City of Bristol, Bristol, TN–VA	TN 90-X072-01	320,000	09/29/89
City of Kingsport, Kingsport, TN–VA	TN-90-X076-00	96,272	09/25/89
Capital Metropolitan Transportation Authority, Austin, TX	TX-90-X151-00	2,826,426	[1]
VIA Metropolitan Transit Authority, San Antonio, TX	TX-90-X153-01	4,966,714	[1]
City of Mesquite, Dallas-Ft. Worth, TX	TX-90-X154-00	11,000	09/29/89
City of Plano, Dallas-Ft. Worth, TX	TX-90-X155-00	42,500	09/29/89
City of Brownsville, Brownsville, TX	TX-90-X157-00	735,200	09/29/89
City of Beaumont, Beaumont, TX	TX-90-X158-00	625,000	09/29/89
Texoma Council of Governments, Sherman-Denison, TX	TX-90-X159-00	206,528	09/29/89
City of Arlington, Dallas-Ft. Worth, TX	TX-90-X161-00	260,000	09/29/89
Permian Basin Regional Planning Commission, Midland, TX	TX-90-X162-00	40,000	09/29/89
City of Waco, Waco, TX	TX-90-X163-00	506,370	09/29/89
City of Abilene, Abilene, TX	TX-90-X164-00	604,760	09/29/89
City of Lubbock, Lubbock, TX	TX-90-X165-00	1,230,000	09/29/89
City of Port Arthur, Port Arthur, TX	TX-90-X166-00	198,265	09/29/89
Sun Metro, El Paso, TX	TX-90-X168-00	2,419,284	09/29/89
Brazos Valley Community Action Agency, Bryan-College Station, TX	TX-90-X172-00	348,680	09/29/89
Greater Roanoke Transit Company, Roanoke, VA	VA-90-X067-00	920,731	09/25/89
Greater Lynchburg Transit Company, Lynchburg, VA	VA-90-X068-00	742,591	09/25/89
City of Bristol, Virginia, Bristol, TN–VA	VA-90-X069-00	75,361	09/25/89
Greater Richmond Transit Company, Richmond, VA	VA-90-X070-00	1,361,768	09/25/89
City of Petersburg, Petersburg-Col Hghts-Hope, VA	VA-90-X071-00	265,291	09/25/89
Intercity Transit, Olympia, WA	WA-90-X097-00	625,118	09/29/89
City of Everett Transit, Seattle-Everett, WA	WA-90-X097-00	625,118	09/29/89
Spokane Transit Authority, Spokane, WA	WA-90-X100-00	2,791,135	09/29/89
Milwaukee County Transit System, Milwaukee, WI	WI-90-X109-01	600,000	09/29/89
City of Beloit, Beloit, WI–IL	WI-90-X113-00	320,982	09/29/89
City of Madison, Madison, WI	WI-90-X114-00	3,699,672	09/29/89
Eau Claire, City of, Eau Claire, WI	WI-90-X115-00	341,916	09/29/89
Waukesha County, Milwaukee, WI	WI-90-X116-00	286,370	09/29/89
Kanawha Valley Regional Transportation Authority, Charleston, WV	WV-90-X034-00	116,854	09/25/89
Eastern Ohio/Ohio Valley Regional Transportation Authority, Wheeling, OH–WV	WV-90-X035-00	764,000	09/29/89
City of Weirton, Weirton, WV	WV-90-X036-00	155,000	09/29/89
City of Casper, Casper, WY	WY-90-X006-00	383,247	09/29/89

[1] The Section 9 grants shown without an obligation date are awaiting 13(c) certification from the Department of Labor. After receipt of the certifications the grants will be obligated.

Issued on: November 1, 1989.

Roland J. Mross,

Deputy Administrator.

[FR Doc. 89-26309 Filed 11-7-89; 8:45 am]

BILLING CODE 4910-57-M

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

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3 CFR

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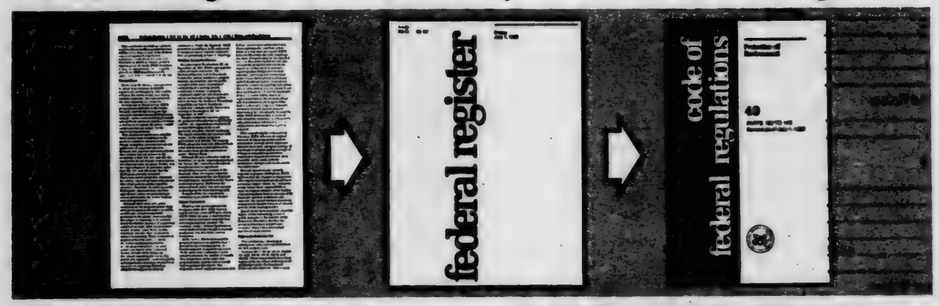

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Rules and Regulations

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2; Amdt. 49]

Certified Development Company Debenture Guarantees

AGENCY: Small Business Administration ("SBA").

ACTION: Final rule.

SUMMARY: This rule increases the overall project size for which Certified Development Company debenture guarantees may be approved by certain SBA officers, from one and one-half to two million dollars. This change will permit projects to be decided at the District Office level where adequate resources exist rather than being decided at the Regional Office level where adequate resources do not exist to provide timely service.

EFFECTIVE DATE: This rule is effective November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Wayne S. Foren, Director, Office of Economic Development, Small Business Administration, Room 720, 1441 L Street NW., Washington, DC 20416, Tel. (202) 653-6416.

SUPPLEMENTARY INFORMATION: Section 502(2) of the Small Business Investment Act, 15 U.S.C. 696(2), as originally enacted (Pub. L. 85-699, 72 Stat. 689) limited loans under that section to $350,000. This limit was raised to $500,000 by § 110 of Public Law 94-305, (90 Stat. 663). Public Law 100-418 (102 Stat. 1561) raised the limit to $750,000. These increased loan limits tend to increase the development company project size, since the development company debentures provide a percentage of the total project cost, typically the lesser of 40% or $750,000 (13 CFR 108.503-9(a)(8)). The rule now promulgated therefore increases the project size for which approval authority is delegated to certain officers in the field from $1,500,000 to $2,000,000.

Inasmuch as part 101 consists of rules relating to the Agency's organization and procedures, notice of proposed rule making, public participation, analysis under Executive Orders 12291 and 12612 and a regulatory flexibility review, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not required and this amendment is adopted without resort to these procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

Accordingly, part 101 of title 13, chapter I of the Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for part 101 continues to read as follows:

Authority: Secs. 4 and 5, Public Law 85-536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Public Law 85-699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Public Law 93-386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.3-2 [Amended]

2. In § 101.3-2, part III, section A, item 1.b is amended by removing therefrom "$1,500,000" and substituting therefor "$2,000,000"

(Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans).)

Dated: October 3, 1989.

Susan Engeleiter,
Administrator.

[FR Doc. 89-26362 Filed 11-8-89; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 635, 710, 712, 713, 720, 740, and 751

RIN 2125-AB85

Relocation Assistance and Real Property Acquisition

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Technical amendments.

SUMMARY: Effective on April 2, 1989, 49 CFR part 25, which prescribed departmental rules for implementing the Uniform Relocation Act (Uniform Act) (42 U.S.C. 4601-4655), was removed and reserved (52 FR 48027) December 17, 1987. Part 25 was replaced by governmentwide rules implementing the Uniform Act, as amended, at 49 CFR part 24 (54 FR 8912) March 2, 1989. As a result of these changes, it is necessary that references in title 23 CFR to 49 CFR part 25 be corrected to refer to 49 CFR part 24. This document makes those corrections.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. F.D. Luckow, Chief, Program Requirements Division, Office of Right-of-Way, HRW-10, (202)-366-0116; or Mr. Reid Alsop, Office of Chief Counsel, HCC-40, (202) 366-1371, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590.

In consideration of the foregoing FHWA hereby amends parts 635, 710, 712, 713, 720, 740 and 751 of title 23 of the Code of Federal Regulations as set forth below.

PART 635—CONSTRUCTION AND MAINTENANCE [AMENDED]

§ 635.309 [Amended]

1. Section 635.309(c)(3) is amended by removing "49 CFR 25.204" in the first sentence and inserting in its place "49 CFR 24.204".

PART 710—RIGHT-OF-WAY—GENERAL [AMENDED]

2. The authority citation for part 710 is revised to read as follows:

Authority: 23 U.S.C. 101(a) and 315; 42 U.S.C. 2000d *et seq.*; 49 CFR 1.48(b) and parts 21 and 24; 23 CFR 1.4 and 1.32.

§ 710.203 [Amended]

3. Section 710.203(f) is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

§ 710.304 [Amended]

4. Section 710.304(o)(3)(iii) is amended by removing "49 CFR 25.6 of this subchapter" and inserting in its place "49 CFR 24.6".

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PART 712—THE ACQUISITION FUNCTION [AMENDED]

5. The authority citation for part 712 is revised to read as follows and all other authority citations which appear throughout part 712 are removed:

Authority: 23 U.S.C. 101(a), 107, 108, 111, 114, 204, 210, 308, 315, 317 and 323; 42 U.S.C. 2000d–1, 4633, 4651–4655; 49 CFR 1.48(b) and part 24; 23 CFR 1.32.

§ 712.204 [Amended]

6. Section 712.204(d)(5) is amended by removing "49 CFR part 25" in the first sentence and inserting in its place "49 CFR part 24".

§ 712.404 [Amended]

7. Section 712.404 is amended by removing "49 CFR 25.102(i)" and inserting in its place "49 CFR 24.102(i)".

PART 713—RIGHT-OF-WAY—THE PROPERTY MANAGEMENT FUNCTION [AMENDED]

8. The authority citation for part 713 is revised to read as follows and all other authority citations which appear throughout part 713 are removed:

Authority: 23 U.S.C. 101(a), 142(g), 156, and 315; 42 U.S.C. 4633 and 4651; 23 CFR 1.32; 49 CFR 1.48(b) and parts 21 and 24.

PART 720—APPRAISAL [AMENDED]

9. The authority citation for part 720 is revised to read as follows:

Authority: 23 U.S.C. 315; 23 CFR 1.32; 49 CFR 1.48(b) and part 24.

10. Section 720.201 is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

PART 740—RELOCATION ASSISTANCE [AMENDED]

11. The authority citation for part 740 is revised to read as follows:

Authority: 23 U.S.C. 315; 23 CFR 1.32; 49 CFR 1.48(b) and part 24.

12. Section 740.1 is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

13. Section 740.4(d)(2)(ii) is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

PART 751—JUNKYARD CONTROL AND ACQUISITION [AMENDED]

14. Section 751.21 is amended by removing "49 CFR part 25" in the introductory paragraph and inserting "49 CFR part 24" in its place.

This document is issued under the authority of 23 U.S.C. 315 and 49 CFR 1.48.

List of Subjects in 23 CFR Parts 635, 710, 712, 713, 720, 740, and 751

Grant programs—Transportation, Highways and roads, Real property acquisition, Relocation assistance.

Issued on: October 27, 1989.

Larry L. Thompson,

Chief Counsel, Federal Highway Administration.

[FR Doc. 89–26354 Filed 11–8–89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF EDUCATION

34 CFR Part 222

RIN 1810-AA40

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR part 222 to add Office of Management and Budget (OMB) control numbers to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Hansen, Director, Impact Aid Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2079, FOB–6), Washington, DC, 20202–6244, Telephone (202) 732–3637.

SUPPLEMENTARY INFORMATION: On September 7, 1989 final regulations governing eligibility, entitlement, and payment determinations under section 3(d)(2)(B) of the Impact Aid Program were published as amendments to 34 CFR part 222 (54 FR 37250).

The Secretary amends part 222 of title 34 of the Code of Federal Regulations as follows:

PART 222—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

1. The authority citation for part 222 continues to read as follows:

Authority: 20 U.S.C. 236–244–1, 242–244, unless otherwise noted.

§§ 222.3, 222.9, 222.10, 222.11, 222.14 through 222.17, 222.20, 222.22, 222.25, 222.33, 222.34, 222.36, 222.40, 222.72, 222.74, 222.125 through 222.129 [Amended]

2. Sections 222.3, 222.9 through 222.11, 222.14 through 222.17, 222.20, 222.22, 222.25, 222.33, 222.34, 222.36, 222.40, 222.72, 222.74, and 222.125 through 222.129 are amended by adding "(Approved by the Office of Management and Budget under control number 1810–0036)" following each section.

The effective date of certain sections of these regulations was delayed until information collection requirements contained in those sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has approved the information collection requirements, and these sections of the regulations will now become effective.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(b)(3).

List of Subjects in 34 CFR Part 222

Education, Education of the handicapped, Elementary and secondary education, Federally affected areas, Grant programs—education, Public housing, Reports and recordkeeping requirements.

(Catalog of Federal Domestic Assistance No: 84.041, School Assistance in Federally Affected Areas—Maintenance and Operation)

Dated: November 3, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–26369 Filed 11–8–89; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[FRL–3644–3 KY–057]

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to procedures described at 54 FR 2214 (January 19, 1989), EPA recently approved a minor State Implementation Plan (SIP) revision. This notice identifies the revision EPA approved and incorporates the relevant material into the Code of Federal Regulations. Kentucky amended 401 KAR 50:015 to incorporate by reference Supplement A to the Guidelines on Air Quality Models. These modeling procedures are used in processing prevention of significant deterioration permits.

DATE: This action will be effective November 9, 1989.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Richard Schutt of the EPA Region IV Air Programs Branch at the above address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: EPA Region IV has approved the following minor SIP revision request under section 110(a) of the Clean Air Act (CAA):

State	Pollutant	Subject matter	Source	Date of submission	Date of approval
Kentucky	All criteria Pollutant	Supplement A to the Guidelines on Air Quality Models.	Statewide	February 8, 1988	March 23, 1989.

EPA has determined that this SIP revision complies with all applicable requirements of the CAA and EPA policy and regulations concerning such revisions. Due to the minor nature of this revision, EPA concluded that conducting notice-and-comment rulemaking prior to approving the revision would have been "unnecessary and contrary to the public interest," and hence was not required by the Administrative Procedure Act, 5 U.S.C. section 553(b). This SIP approval became final and effective on the date of EPA approval as listed in the chart above.

The Office of Management and Budget has exempted all SIP approvals from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant impact on a substantial number of small entities. See 46 FR 8709.

Under section 307(b)(1) of the CAA, as amended, judicial review of this action is available only be filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce their requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Ozone and sulfur oxide.

Note: Incorporation by reference of the SIP for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 25, 1989.

Lee A. DeHihns III,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(62) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(62) Revision to Kentucky Regulation 401 KAR 50:015. Documents incorporated by reference submitted on February 8, 1988, by the Kentucky Natural Resources and Environmental Protection Cabinet. Section 5(1)(a) was amended to incorporate by reference Supplement A to the Guideline on Air Quality Models (Revised), July 1987. Supplement A became effective February 5, 1988. Section 12(4) was amended to reflect the current phone number for the Florence Regional Office. The revisions to 50:015 became state effective October 26, 1988.

(i) Incorporation by Reference.

(A) Kentucky Regulation 401 KAR 50:015, Documents incorporated by reference, Section 12(4) was amended on October 26, 1988.

(B) Supplement A to the Guideline on Air Quality Models EPA–450/2–78–027R that became effective February 5, 1988.

(ii) Other material.

(A) Letter of February 8, 1988, from the Kentucky Natural Resources and Environmental Protection Cabinet.

[FR Doc. 89–26017 Filed 11–8–89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 280

[FRL–3677–4]

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is today publishing an interim final rule amending the financial responsibility requirements for underground storage tanks containing petroleum which appeared in the Federal Register on October 26, 1988 (53 FR 43322). Specifically, EPA is interpreting the required language of endorsements to existing insurance policies under 40 CFR 280.97(b)(1) and

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certificates of insurance under 40 CFR 280.97(b)(2). The provisions interpreted and amended include the requirement that all endorsements and certificates include a six-month extended reporting period for claims-made policies and that cancellations or terminations of insurance by insurers will be effective 60 days after written notice of such termination is received by the insured. The amendments published today will bring the financial responsibility requirements into greater conformity with insurance industry practices concerning cancellation and extended reporting and thus avoid possible impacts on the availability and affordability of such insurance.

DATES: The amendments to 40 CFR part 280 contained in this rulemaking published today were effective on October 26, 1989. EPA will accept comments on today's rulemaking that are submitted on or before December 11, 1989.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST–3), Office of Underground Storage Tanks (WH–562A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA, and all references used in this document, may be inspected in the public docket, located in Room LG–100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, DC.

SUPPLEMENTARY INFORMATION: On October 26, 1988, EPA promulgated financial responsibility requirements applicable to owners and operators of underground storage tanks containing petroleum (53 FR 43322). The final rules permitted the owner or operator of a petroleum underground storage tank to satisfy the requirements by obtaining liability insurance from a qualified insurer or risk retention group.

Section 280.97 of the rules specified certain coverage terms that must be included in any new insurance policy or in any endorsement to an existing insurance policy. Except for limited opportunities to supply information regarding the parties to the contract, addresses, types of tanks, the scope of coverage, and so forth, the insurer and insured are not allowed to vary the language of the policy or the endorsement. Language in the endorsement and certificate of insurance found in § 280.97(b) require that the insurer attest to the fact that the language of the endorsement and certificate of insurance is identical to the form specified in the regulations. The Agency believes that the requirement of uniform language would ensure the availability of insurance to cover corrective action or third party damage payments.

Through meetings with insurers and segments of the regulated community, EPA has subsequently learned of the prevalence of certain interpretations of the required language of the certificate of insurance and endorsement not intended by EPA. EPA has received information indicating that insurers are reluctant to issue policies or to enter the underground storage tank insurance market so long as these interpretations are not refuted by EPA. Thus EPA is today setting forth its intended interpretations of the required language of the certificate of insurance and the endorsement as well as amending the certificate and endorsement to require that insurers use alternative language that more explicitly reflects the intended meaning of these provisions. EPA is not changing the requirements that the language of all endorsements and certificates of insurance be identical to that language found in the regulations. Instead, EPA is changing the exact nature of that mandatory identical language in accordance with the wishes of insurers and insureds.

EPA is not soliciting comments prior to the effective date of today's rulemaking. Under section 3(b) of the Administrative Procedures Act, 5 U.S.C. 553(b), the Agency may for good cause or where the rule is interpretative, omit notice and comment procedures. The Agency believes that it has good cause to omit notice and comment prior to the effective date of today's technical amendments. First, with the exception of changes to §§ 280.97(b)(1)(d), 280.97(b)(2)(d) and 280.105(a)(2), the Agency believes that notice and comment are unnecessary due to the non-substantive nature of the changes. These changes do not impose new substantive standards upon the regulated community, but rather require only that insurers substitute in future endorsements and certificates of insurance language that more carefully reflects the intended meaning of the currently required provisions.

Second, the Agency believes that it is in the public interest to omit notice and comment procedures with respect to all of the regulatory amendments made today, including those to §§ 280.97(b)(1)(d), 280.97(b)(2)(d) and 280.97(b)(2)(e), which govern termination due to non-payment of premium. The Agency has received information to the effect that these amendments may increase the availability of insurance policies to owners and operators of 100–999 tanks required to comply with the financial responsibility rule by October 26, 1989, as required by 40 CFR 280.91(b). At the same time, the Agency has received information that greater availability of insurance may ease the burden of compliance with the financial responsibility requirements among those owners and operators subject to the October 26, 1989, deadline. Finally, the information referred to was received too late to prepare and publish regulatory changes in response to this information before today. Thus the Agency has concluded that, due to the delays involved in such procedures, providing notice and comment on these amendments is contrary to the public interest. The delays consequent to soliciting and responding to public comments are likely to prevent these amendments from becoming effective in time for insurers entering the underground storage tank insurance market because of these amendments to prepare policies and for owners and operators to obtain these new policies by the October 26, 1989, deadline.

However, the Agency is soliciting comment on today's regulatory amendments. Comments may be submitted on or before December 11, 1989. Comments will be considered by the Agency and, if necessary, the Agency will issue a final rule changing today's amendments to respond to these comments.

The amendments to 40 CFR part 280 contained in today's rulemaking and effective today apply only to those insurance policies, endorsements and certificates of insurance that are issued or renewed after today's date. Thus policies, endorsements and certificates of insurance that were issued prior to today's date and in compliance with 40 CFR part 280 as written prior to today's rule will continue to be valid until such time as they are cancelled or terminated, or must be renewed.

I. Authority

These regulations are issued under the authority of sections 2002, 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9009 of the Solid Waste Disposal Act, as amended. The principal amendments to this Act have been under the Resource Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616) and the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499) (42 U.S.C. 6921, 6991, 6991(a), 6991(b) 6991(c), 6991(d), 6991(e), 6991(f), and 6991(h)).

II. Background

A. Six-month Extended Reporting Requirement for Claims-Made Policies

Mandatory language in the endorsement and certificate of insurance requires that a claims-made insurance contract cover claims for any occurrence that commenced during the term of the policy and that is discovered and reported to the insurer within six months of the effective date of the cancellation or other termination of the policy. The language of 40 CFR 280.97(b), Endorsement paragraph 2.e; § 280.97(b), Certification paragraph 2.e. reads: "The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ['insurer' or 'Group'] within six months of the effective date of the cancellation or termination of the policy.]" This provision was meant to address concerns that a claims-made policy might leave a gap in coverage, if, for example, a claim is reported after the expiration of a policy for a release that began prior to the policy expiration date. Such claims might not be covered by the usual claims-made policy that is issued in the insurance industry. This is discussed in the preamble to the October 26, 1988, final rule. 53 FR 43350–51.

Through discussions with representatives of the insurance industry, however, EPA has learned that the industry generally interprets EPA's extended reporting period provision to require that every claims-made policy issued, regardless of what retroactive date is incorporated, contain an extended reporting period. Because charging a fee for the extended reporting period is a widespread practice within the industry, this interpretation has caused insurance companies to routinely request payment for the extended reporting period at the start of the policy period. Due to a reluctance on the part of insureds to pay for this coverage at the beginning of a policy period when they expect to renew their policy or otherwise purchase a new policy with the same retroactive date as their prior policy, this interpretation is apparently impinging upon the availability of UST insurance.

As explained below, however, this prevalent interpretation of the extended reporting period is not intended by the Agency, and is in fact unnecessary to the protection of human health and the environment. EPA intends that insurers provide extended reporting period coverage only where the termination or non-renewal of the policy results in the owner or operator having no coverage for releases that occurred during the time period of the previous policy and which are reported within six months after the termination or non-renewal of that policy. For discussion purposes, EPA has labelled this predicament as a "gap" in coverage. Because a "gap" in coverage will not always exist at the termination or other non-renewal of every insurance policy, interpreting the EPA regulation to require every insurance policy to have an extended reporting period results in the provision of unnecessary coverage and, considering the industry's standard fee practice, an unnecessary restraint upon the availability of UST insurance. For instance, a "gap" in coverage will not normally occur where an existing policy is renewed. According to standard insurance industry practice, a renewed policy incorporates the retroactive date of the previous policy. Thus should the insured who renews his policy report a release that occurred during the time period of the previous policy, the release would be covered by the renewed policy. It may also be true that no "gap" will exist even when the insured purchases a new policy from a different insurance company. Many companies will incorporate the retroactive date of the insured's previous policy (as well as the same type of insurance coverage as provided by the previous policy) for releases that are reported during the time period of the new policy but which occurred during the time of the previous policy. Here, as in the case of renewed policies, the requirement to obtain an extended reporting period at the end of the first policy period would not be of any benefit to human health and the environment since the new policy provides the same coverage as that provided by the extended reporting period.

EPA believes that there are only two situations where the termination of a policy results in a "gap" in coverage and thus only two situations where the insured whose policy is terminated must obtain extended reporting period coverage. The first situation occurs where the insured renews his existing policy or purchases a new policy and the renewed or new policy contains a retroactive date subsequent to the retroactive date of the insured's previous insurance policy. The second situation occurs where the policy is terminated or is otherwise not renewed and the insured elects a financial assurance mechanism other than insurance (such as a guarantee, surety bond, etc.) as a replacement. EPA is today promulgating revised language to clarify EPA's intended interpretation of paragraph 2.e. of the Endorsement contained in § 280.97(b)(1) and of paragraph 2.e. of the Certification contained in § 280.97(b)(2).

In addition, EPA is also revising the language of these two paragraphs to state explicitly what it had previously believed to be self-evident: that claims reported to the insurer during the six-month reporting period are subject to all of the terms, limits and conditions that existed during the policy period that it modifies. Because the Agency has received questions on this matter since promulgating the October 26, 1988, rule, the Agency decided to add clarifying language on this point in addition to the more important changes to § 280.97(b) described above.

The language of paragraph 2.e. of the Endorsement and Certification in § 280.97(b) now reads:

> The insurance covers claims otherwise covered by the policy that are reported to the ["insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

Because EPA expects that these regulatory changes will result in owners and operators purchasing extended reporting period coverage, where needed, at the end, rather than the beginning of their policy period, EPA wishes to clarify exactly when such coverage must be obtained for compliance purposes. Where extended reporting period coverage is necessary, such coverage must be obtained before the time and date of the expiration of the prior policy.

A related issue raised by insurers concerns the possibility of double coverage through an expansive interpretation of what constitutes "termination" of the claims-made policy under § 280.97(b)(1) Endorsement paragraph (e), and § 280.97(b)(2) Certification paragraph (e),—the act that triggers the six-month extended reporting requirement discussed above. For example, under some state insurance laws, the mere addition or deletion of retail outlets from a company's insurance policy may constitute a "termination" of the policy.

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Such a change would not constitute a "termination" under EPA's interpretation of that term. EPA interprets "termination" to encompass only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

Finally, the Agency wishes to clarify its position with respect to the current insurance industry practice of charging insureds for the six month extended reporting period. EPA's regulations require that owners and operators obtain a six-month extended reporting period whenever a gap in their insurance coverage may exist. EPA's regulations go to owners and operators and not to those providing the insurance required under the rules. Therefore, whether insurers choose to provide the extended reporting period to insureds only for an additional cost is of no concern to the Agency with respect to compliance with the financial responsibility requirements. Insurers are free to provide the extended reporting period only for an additional cost; however, insureds who fail to obtain such coverage due to non-payment of this added cost will be out of compliance with EPA's financial responsibility requirements.

B. Sixty Days Required Coverage Following Cancellation or Termination by Insurer

Mandatory language in the endorsement and certificate of insurance requires that cancellation or any other termination of the insurance by the insurer will be effective only upon written notice and only after expiration of 60 days after written notice is received by the insured. 40 CFR 280.97(b)(1) Endorsement paragraph d. and 280.97(b)(2) Certification paragraph d. A separate provision of the regulations restates this requirement for cancellation of insurance. 40 CFR 280.105(a)(2). Additionally, the insurer must provide a six-month extended reporting period following cancellation. These provisions were meant to ensure that an owner or operator whose insurance was cancelled or terminated would have sufficient time to obtain an alternative assurance mechanism, thereby avoiding any unacceptable gaps in coverage. These provisions did not distinguish between the effective date of cancellation where the cancellation was due to non-payment of premium or misrepresentation as opposed to cancellation for any other cause.

Subsequent discussions with insurers and segments of the regulated community that are seeking insurance have persuaded the Agency that the provision for extended coverage for sixty days following cancellation of coverage for non-payment of premium or misrepresentation is reducing the availability of insurance. The Agency has received indications that some insurers have decided against entering the market because of concerns that they might be forced to pay claims without ever having received any premiums or where the insured has made a misrepresentation. The Agency has also been informed that other insurers have increased premiums to protect against situations in which the insurer would have to pay for losses for which it has never collected a premium.

EPA is today amending the language of § 280.97(b)(1) Endorsement paragraph d, § 280.97(b)(2) Certification paragraph d and § 280.105(a)(2) to allow an insurer to terminate an insurance contract for non-payment of premium or misrepresentation by the insured after a 10 day notice period. EPA does not intend for this shortening of the coverage period from 60 to 10 days to apply to termination for any reason other than non-payment of premium or misrepresentation. The Agency is aware that some state insurance laws mandate a longer notice period following cancellation. In order to accommodate these state-specific situations, the amended language of § 280.97(b)(1) Endorsement paragraph d, § 280.97(b)(2) Certification paragraph d and § 280.105(a)(2) specifies that the mandatory coverage period following termination for non-payment of premium or misrepresentation shall be a "minimum of 10 days." The insurer is still bound to provide the owner or operator with written notice of cancellation with the 10 day period beginning upon receipt of notice by the owner or operator.

When the final rule was promulgated, the Agency believed that a 60-day cancellation coverage period was necessary to allow the insured owner or operator to obtain an alternative assurance mechanism, and thus avoid any unacceptable gap in coverage. The Agency thought that this requirement would not have a serious impact on insurance providers since insurers could protect themselves by establishing an appropriate schedule of premium payment. For example, insurers could require payment 60 days before the expiration date of coverage for maintenance or renewal of the policy. The insurer could then terminate the policy with 60 days notice if an insured does not meet the schedule of payment within 30 days of the premium due date.

Subsequently, the Agency has come to a better understanding of the economic impact on insurers of not allowing more than a 10-day cancellation period for non-payment of premium or misrepresentation. Insurers currently covering USTs have found restructuring premium payment schedules to be costly and impractical, primarily because the practice is a major departure from existing industry practices. An important consequence of the 60-day cancellation requirement for non-payment of premium or misrepresentation has been the deterrence of new insurers from entering the UST market.

Although the Agency continues to be concerned about the adequacy of the 10-day cancellation in terms of finding alternative financial assurance after cancellation for non-payment, EPA does not want this requirement to have an impact on the availability and affordability of UST insurance. The Agency believes that today's amendment will bring the financial responsibility requirements into greater conformity with insurance industry practices concerning cancellation and thus avoid possible impacts upon the availability and affordability of such insurance. Generally, EPA believes that the insurance industry should be paid for bearing the risks of corrective action and third-party liability costs. In the cases of non-payment, the industry is unfairly undertaking risks without rightful compensation. For those insurers resisting entry into the market, the threat of insuring risks without ever receiving any premium is apparently a serious concern. Thus, today's change should remove a serious obstacle to the supply of insurance to owners and operators of underground storage tanks.

The Agency is not amending the requirement for a six-month extended reporting period following cancellation for non-payment of premium or misrepresentation. As noted in the previous section, the Agency believes that such a reporting period must be mandatory for all claims-made insurance contracts used to demonstrate financial assurance, regardless of the reason for termination. The six-month extended reporting period is essential to avoiding gaps in coverage that could threaten human health and environment, especially in cases where the owner or operator may have as few as 10 days upon receipt of notice of cancellation to obtain substitute coverage. The distinction between the two provisions, extended reporting period and the effective date of cancellation, is that even if a policy is cancelled for non-payment of premium, the extended reporting period merely extends the time during which an insured may report occurrences covered by the policy for which he or she has already paid. Thus the extended reporting provision does not provide the insured with a benefit for which he or she has not paid. In contrast, any delay in the effective date of a policy cancellation or termination due to regulatory requirements provides insureds who failed to pay their premiums coverage for which they have not paid.

C. Other Regulatory Changes

Today's action makes three other regulatory changes in the requirements for the language in the endorsement and certificate of insurance. As noted above, EPA is not changing the requirement that the language of all endorsements and certificates of insurance be identical to that language found in the regulations. Instead, EPA is changing the mandatory language itself to meet the needs of insurers and insureds.

While insurance policies issued in connection with the financial responsibility requirements must be amended by attaching the endorsement or evidenced by the certificate of insurance, the endorsement and certificate do not stand apart from the insurance policy. Some insurers were concerned that the existing mandatory language did not allow the parties to make the relationship between the scope of the policy and the requirements of the certificate and endorsement clear. The first two technical amendments made today are intended to make that connection.

First, the phrase "In accordance with the subject to the limits of liability, exclusions, conditions, and other terms, of the policy" is being added to the first paragraph of both the endorsement and certification after the explanation of what the endorsement and certificate provide to clarify that these instruments do not narrow or broaden the scope of coverage provided in the policy itself. This correction also brings the required regulatory language into conformity with standard UST insurance industry practices. The amendment should reduce any confusion on the part of insureds concerning the coverage they are purchasing and also minimize insurers' concerns about potential conflicts with insureds over the scope of coverage. The second phrase, "which are subject to a separate limit under the policy," is inserted in the language of the certificate and endorsement to modify the phrase "exclusive of legal defense costs" in paragraph 1 of the endorsement and certification where the limits of liability found in the policy are discussed. While the language of the endorsement and the certification prevent the insurer from describing any existing limits upon legal defense costs, EPA did not intend to indicate that such limitations are not allowable or that such limitations that may be present in the policy are not valid. The Agency does not want the mandatory language concerning legal defense costs to interfere with the parties' understanding of the policy itself. Third, the phrase "after the policy retroactive date" is being added to specify the beginning of the period when occurrences are covered under the policy. It is common for insurers to establish such a date in a policy and use that date to determine when to divide coverage between policies when a second policy is coming into effect. Each of the above phrases being added conform to standard UST insurance industry usage and are not intended to change the requirements for the certificate and endorsement. These technical changes are effective immediately.

List of Subjects in 40 CFR Part 280

Administrative practice and procedure, Environmental protection, Hazardous materials insurance, Surety bonds, Underground storage tanks.

Dated: October 26, 1989.

Jonathan Z. Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

Accordingly, title 40 of the Code of Federal Regulations is amended as set forth below.

PART 280—TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

1. The authority citation for part 280 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), and 6991(h).

2. Section 280.92 is amended to add the following new definition:

§ 280.92 Definition of terms.

* * * * *

(o) *Termination* under § 280.97(b)(1) and § 280.97(b)(2) means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

§ 280.97 [Amended]

3. In § 280.97(b)(1), under "*Endorsement:*", the first paragraph of 1. is amended by removing " 'accidental releases'; if" and adding " 'accidental release'; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if".

4. In § 280.97(b)(1), under "*Endorsement:*", in the second paragraph of 1., after "exclusive of legal defense costs." insert ", which are subject to a separate limit under the policy."

5. In § 280.97(b)(1), under "*Endorsement:*", in paragraph 2.d., after "['Insurer' or 'Group']" insert ", except for non-payment of premium or misrepresentation by the insured,"

6. In § 280.97(b)(1), under "*Endorsement:*", in paragraph 2.d., after "received by the insured." insert "Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured."

7. In § 280.97(b)(1), under "*Endorsement:*", the first paragraph of 2.e., is revised to read as follows:

* * * * *

2. * * *

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

* * * * *

8. In § 280.97(b)(2), under "*Certification:*", the first paragraph of 1., removing " 'accidental releases'; if" and adding " 'accidental releases'; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if".

9. In § 280.97(b)(2), under "*Certification:*", in the second paragraph of 1., after "exclusive of legal defense costs." insert ", which are subject to a separate limit under the policy."

10. In § 280.97(b)(2), under "*Certification:*", in paragraph 2.d., "['Insurer' or 'Group']" insert ", except for non-payment of premium or misrepresentation by the insured,".

11. In § 280.97(b)(2), under "*Certification:*", in paragraph 2.d., after

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"received by the insured." insert "Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured."

12. In § 280.97(b)(2), under "*Certification:*", the first paragraph of 2.e., is revised to read as follows:

• • • • •

2. • • •

e. The insurance covers claims otherwise covered by the policy that are reported to the ["insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

• • • • •

13. Section 280.105 is amended by revising paragraph (a)(2) to read as follows:

§ 280.105 Cancellation or nonrenewal by a provider of financial assurance.

• • • • •

(a) • • •

(2) Termination of insurance or risk retention group coverage, except for non-payment or misrepresentation by the insured, or state-funded assurance may not occur until 60 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured may not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

• • • • •

[FR Doc. 89-26104 Filed 11-8-89; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS-42108; FRL 3662-7]

RIN 2070-AB07

Testing Consent Order on Crotonaldehyde

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document announces that EPA has signed an enforceable testing Consent Order with Eastman Kodak Company (Kodak). Kodak has agreed to perform certain chemical fate and environmental effects tests on crotonaldehyde (CAS No. 4170-30-3). Kodak may also perform a monitoring study for crotonaldehyde, as described in this notice and detailed in the Order. This action, in response to the Toxic Substances Control Act (TSCA) Interagency Testing Committee's (ITC's) designation of crotonaldehyde for testing consideration, adds crotonaldehyde to the list of testing Consent Orders in 40 CFR 799.5000 for which the export notification requirements of 40 CFR part 707 apply.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under procedures described in 40 CFR part 790, Kodak has entered into a testing Consent Order with EPA in which Kodak has agreed to perform certain chemical fate and environmental effects tests for crotonaldehyde. This rule amends 40 CFR 799.5000 by adding crotonaldehyde to the list of chemical substances and mixtures subject to testing Consent Orders.

I. ITC Recommendation

In its twenty-second Report to EPA, published in the **Federal Register** of May 20, 1988 (53 FR 18196), the Interagency Testing Committee (ITC) recommended with intent- to-designate that crotonaldehyde be considered for environmental effects and chemical fate testing. the recommended environmental effects testing was acute toxicity to algae, fish, and aquatic invertebrates. Recommended chemical fate testing was volatilization rate from water and aerobic aquatic biodegradation.

EPA responded to the ITC's designation of crotonaldehyde by holding a public focus meeting on June 17, 1988, announcing that it would pursue testing for crotonaldehyde, either by a TSCA section 4 testing rule or by a Consent Order. The proposed testing would include both chemical fate and environmental effects.

In its Twenty-third Report, published in the **Federal Register** of November 16, 1988 (53 FR 46282), the ITC followed on its recommendation by designating crotonaldehyde for response by EPA within 12 months.

II. Testing Consent Order Negotiations

In the **Federal Register** of May 20, 1988 (53 FR 18196), and in accordance with the procedures established in 40 CFR 790.28, EPA requested persons interested in participating in or monitoring testing negotiations on crotonaldehyde to contact EPA. EPA held public meetings with interested parties on July 21, 1988, October 19, 1988, and March 3, 1989, to discuss the testing appropriate for crotonaldehyde. On October 2, 1989 EPA and Kodak signed a testing Consent Order for crotonaldehyde. A consent order is not based on a formal finding and expedites testing, while retaining the same TSCA penalty provisions applicable under rulemaking. Under the Order, Kodak has agreed to conduct or provide for the conduct of aquatic toxicity tests and aerobic aquatic biodegradation testing. Kodak has also agreed to perform chronic toxicity testing of aquatic organisms depending on the results of the acute toxicity testing and, if conducted, the results of effluent monitoring. the specific test standards to be followed and the testing schedule for each test are included in the Order. Procedures for submitting study plans, modifying the Order, monitoring the testing and other provisions are also included in the Order.

III. Use and Exposure

Crotonaldehyde, also known as 2-butenal, is a four-carbon aldehyde having a double bond between the alpha and beta carbon atoms. Crotonaldehyde is typically manufactured by aldol condensation of acetaldehyde followed by dehydration (Ref. 1). Crotonaldehyde is liquid at environmental temperatures (Ref. 2). It is highly soluble in water (161 g/L, measured), moderately volatile (estimated Henry's law constant of 1.681×10^{-5} atm m^3/mole at 20°C), and has an estimated low Log P value of 0.55 (Refs. 3, 4, and 5).

Crotonaldehyde is used mostly as an intermediate to produce crotonic acid, sorbic acid, 3-methoxybutanol and *n*-butanol. Less commonly, it may have such diverse uses as an additive to wool to reduce solubility in alkali, a plasticizer of terpene resins, and a deodorizer in the paper industry, and in the preparation of some pesticides (Ref. 1).

Crotonaldehyde is produced in the United States by only one company, Kodak, which produces crotonaldehyde by a continuous process with a reported 1987 production volume between 5 and 15 million pounds (Ref. 6). No imports of crotonaldehyde into the United States are currently reported; however, in 1985, 930,953 pounds of crotonaldehyde were imported into the United States from Mexico (Ref. 7).

Kodak reports that is converts approximately one-third of the crotonaldehyde that it produces into crotonic acid, using an enclosed process. Kodak believes that all of the crotonaldehyde that it sells is used as a chemical intermediate, and none is used to formulate products (Ref. 8).

Kodak estimates that up to 20 manufacturing workers might be exposed to crotonaldehyde. Worker exposure levels, determined by industrial monitoring, are generally less than 0.01 ppm (8-h Time-Weighted Average (TWA)); Kodak reported a single maximum exposure level of 1.13 ppm, which occurred under an upset condition (Ref. 8.).

Environmental exposures to crotonaldehyde can occur during its transportation, use, processing, and manufacture. EPA has estimated exposures to crotonaldehyde at Kingsport, TN, the site of Kodak's effluent discharge to the Holston River, to be 65 ppb during mean river flow conditions and 350 ppb during strictly natural 7Q10 low flow conditions (i.e., the lowest 7-day average river flow expected to occur once every 10 years). Monthly average concentrations are expected to range from 45 ppb to 67 ppb (Ref. 4). However, it should be noted in this context that the Holston River's flow is not as variable as it would be if it were a "wild" river, as its flow is controlled by contractural arrangements with the Tennessee Valley Authority (TVA) through several dams and holding ponds located on the River. EPA is examining what effects these contractual arrangements with TVA have on mitigating the Holston's natural flow variability and, hence, on the predicted concentrations of crotonaldehyde in the River.

Crotonaldehyde also occurs naturally, having been found in strawberries, algae-containing sedimentary deposits, and humans, apparently being produced as a metabolite of other substances (Refs. 5, 9, and 10). Crotonaldehyde is also a common combustion product of wood and hydrocarbon-based fuels (gasoline, jet fuel, etc.). Concentrations of crotonaldehyde in the exhaust/smoke from these sources have been measured, and range from 6 ppb to 116 ppm, with the highest values found in wood smoke (Refs. 5 and 11 through 13).

IV. Testing Program; Chemical Fate and Environmental Effects

The ITC recommended crotonaldehyde for chemical fate and environmental effects testing. The ITC did not recommend health effects testing, stating that crotonaldehyde has been extensively studied for health effects. EPA concurs with the ITC's recommendations.

Specifically, the ITC recommended aquatic biodegradation and volatility testing and acute aquatic toxicity testing.

A. Chemical Fate Testing

Volatilization of crotonaldehyde can be estimated using the calculated Henry's Law constant. The estimate thus obtained indicates that crotonaldehyde has a moderate volatilization half-life of 60 to 70 hours at 20 °C (Ref. 14). In air, crotonaldehyde photolyzes relatively quickly, with a half-life of only a few hours (Ref. 14). Information on crotonaldehyde's removal by acclimated sludge shows 37 percent removal of maximum theoretical oxygen demand, (ThOD) (Ref. 11). EPA estimates that, during wastewater treatment, 40 percent of crotonaldehyde will be removed, mostly by biodegradation (Ref. 4).

In view of this information, and information on crotonaldehyde's release to the environment, the ITC recommended additional studies on volatilization from water and aerobic biodegradation. Specific testing on these key removal processes would enable EPA to better predict crotonaldehyde's fate in the environment.

EPA intends that the chemical fate and environmental effects testing needed for crotonaldehyde be conducted under the sponsorship of Kodak under this Consent Order.

Although the ITC recommended both volatility and aerobic aquatic biodegradation testing, the chemical fate testing is limited in this Consent Order to the biodegradation testing for technical reasons. At the present time, EPA considers reliable tests for determining volatility to be available only for high- or low-volatility chemicals, but not for medium-volatility substances, such as crotonaldehyde. Therefore, EPA will continue to depend upon estimates of crotonaldehyde's volatility, as given in Unit III of this document. An indication of volatility will also be obtained during the algal bioassay, wherein the Consent Order requires that losses of test substance due to volatility be roughly estimated by measuring concentrations of crotonaldehyde in the test chambers and comparing these to the nominal, expected concentrations. The results of this volatility "measurement" are also relevant to the type of aerobic aquatic biodegradation test to be performed. If volatility, as observed in the algal assay, is greater than 15 percent over 96 hours, then a closed-bottle test (40 CFR 796.3200) shall be used; if volatility is less than or equal to 15 percent, then the modified Organization for Economic Cooperation and Development (OECD) test (40 CFR 796.3240) shall be used. Protocols and decision criteria as to which test will be used are specified in the Consent Order, and testing will be in accordance with the schedules and test protocols specified in the Order.

B. Environmental Effects Testing

Crotonaldehyde has been tested using a number of different aquatic organisms. The most relevant tests have been static 96-hour bioassays with bluegills, Lepomis macrochirus (96-hour LC_{50} of 3.5 mg/L), fathead minnows, Pimephales promelas (96-hour LC_{50} of 2.8 mg/L), and a saltwater fish, the tidewater silversides, Menidia beryllina (96-hour LC_{50} of 1.3 mg/L) (Refs. 15 and 16).

These acute toxicity values demonstrate that crotonaldehyde may have significant acute toxicity to marine and freshwater fish. Since the data were obtained using often less reliable static bioassay systems, the ITC recommended additional acute toxicity testing in flow-through or static-renewal tests. The ITC also recommended that additional environmental species be tested, to include algae.

Kodak has agreed to conduct or sponsor the conduct of acute toxicity tests on five species: -The algal species, Selanastrum capricornutum; two freshwater invertebrate species, the daphnid, Daphnia magna, and the gammarid, Gammarus fasciatus; and two freshwater fish species, the fathead minnow, Pimephales promelas, and the rainbow trout, Oncorhynchus mykiss (formerly Salmo gairdneri). All of these tests will be performed in accordance with the schedules and test protocols specified in the Order.

The Consent Order also requires daphnid chronic toxicity testing and fish early life stage (ELS) toxicity testing on the more sensitive fish (rainbow trout or fathead minnow). This aquatic chronic toxicity testing is required because EPA has calculated that the ratio of acute toxicity (48-hour or 96-hour EC_{50} or LC_{50} value) to the predicted environmental concentration (PEC) of crotonaldehyde in the Holston River is less than or equal to 100. If the fish acute toxicity data are equivocal regarding relative species sensitivity, EPA and Kodak will, if

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requested by Kodak, meet to discuss the interpretation of the acute toxicity data as to which fish species will be required to undergo early life stage (ELS) testing. If Kodak and EPA cannot come to agreement, EPA has the final authority in selecting the test species. EPA will provide Kodak in writing with its reasoning for requiring one test species over another.

Kodak believes EPA's PEC for the Holston River is too high, and has volunteered to measure effluent crotonaldehyde concentrations from their facility in Kingsport, Tennessee, that releases wastewater to the Holston River. Independent of the results of these effluent measurements, EPA will use two alternate criteria to require the chronic aquatic toxicity testing: (1) If any EC_{50} or LC_{50} value from conducting the five acute tests listed above is less than, or equal to, 1.0 mg/L, or (2) if any fish or aquatic invertebrate toxicity EC_{50} or LC_{50} value is less than, or equal to, 100 mg/L and there is also an indication of potential cumulative toxicity (the ratio of 24–hour to 48–hour or 24–hour to 96–hour toxicity values is greater than, or equal to, 2).

Daphnid chronic toxicity testing and fish ELS testing will not be required if all of the following conditions are met:

1. All five acute toxicity test values are greater than 1.0 mg/L.

2. All fish and aquatic invertebrate toxicity test values are less than or equal to 100 mg/L and there is no potential cumulative toxicity as defined in the Consent Order, or all fish and aquatic invertebrate toxicity test values are greater than 100 mg/L.

3. Aquatic concentration modelling by EPA using Kodak's measured effluent crotonaldehyde concentrations and best available flow data for the Holston River demonstrate that the ratio of the lowest acute toxicity value to the PEC (using the 7Q10 as the reference value) is greater than 100.

Neither the ITC nor EPA believes that bioconcentration will pose any environmental hazards. the low Log P of crotonaldehyde, estimated to be 0.55, strongly suggests that there is no significant potential for bioconcentration (Ref. 5).

C. Monitoring Study

EPA and Kodak have also included an optional monitoring study in the Consent Order. Wastewater effluent from Kodak's Kingsport plant, which ultimately empties into the Holston River, may be monitored for crotonaldehyde concentrations. Kodak may monitor its own wastewater effluent rather than the Holston River, itself, for reasons of ease (a less complicated experimental design) and expense (fewer samples needed for a comparably accurate measure of statistical variability). There is a trade–off, however, in that EPA will need to use the effluent monitoring data earlier in its environmental model calculations than would be the case with river sampling data. Nonetheless, the measured concentrations from the effluent should give more accurate estimates of crotonaldehyde concentrations in the river than do present estimates, which are based mainly on theoretical considerations. The effluent monitoring study will also address the question of the efficiency of removal of crotonaldehyde by Kodak's wastewater treatment system, which EPA has estimated to be 40 percent.

EPA's basic interest in this study lies in whether or not it will refute or verify the need for chronic toxicity testing of crotonaldehyde on aquatic species based on present PEC and acute toxicity data. Therefore, this study is not required, and Kodak has discretion as to whether or not it is conducted. If Kodak chooses not to conduct the monitoring study, EPA will rely on the currently existing exposure estimates, along with the results of the acute toxicity tests to determine whether chronic toxicity tests shall be conducted. Obviously, if the acute testing required under the Consent Order indicates a need for chronic testing (by an EC_{50} or LC_{50} value less than, or equal to, 1.0 mg/L or potential cumulative toxicity), as described in Unit IV.B of this notice, then Kodak would forego the monitoring study, because its results will have no effect on the chronic toxicity testing requirement. Kodak may also decide, for other reasons, to proceed with the chronic testing regardless of the acute toxicity testing results and without performing the monitoring study.

If Kodak decides to perform the monitoring study, then the study design and schedule that must be followed are those specified in the Consent Order. If Kodak decides not to perform the monitoring study, then it must notify EPA of its decision and proceed with chronic testing on the daphnid and the most sensitive fish species, as is also specified in the Consent Order.

D. Test Standards and Schedules

The tests, their standards, and schedules are those specifically contained in the Consent Order for crotonaldehyde. The basic test standards are as follows:

Standard	Guideline in 40 CFR
Fresh water algal acute	797.1050
Daphnid acute	797.1300
Gammarid acute	797.1310
Rainbow trout acute	797.1400
Fathead minnow acute	797.1400
Daphnid chronic	797.1330
Fish early life stage	797.1600
Aerobic biodegradation	796.3200 or 796.3240
Effluent monitoring	(1)

[1] Testing protocoldevelopment by Kodak, reviewed and approved by EPA, and specified in the Consent Order

All of the above test standards have undergone certain minor modifications. these modified standards have been appended to the Consent Order.

Testing will be in accordance with the following schedule:

Test	Reporting requirement	Final report date
Freshwater algae acute	12 months	November 9, 1990.
Daphnid acute	12 months	Do.
Gammarid acute	12 months	Do.
Rainbow trout acute	12 months	Do.
Fathead minnow acute	12 months	Do.
Aerobic biodegradation	12 months	Do.
Effluent monitoring	18 months	May 9, 1991.
Daphnid chronic	21 months [1]	August 9, 1991.
Fish early life stage	21 months [1]	Do.
Daphnid chronic	27 months [2]	February 10, 1992.
Fish early life stage	27 months [2]	Do.

[1] This schedule applies if the effluent monitoring study is not performed, or if acute or potential cumulative toxicity data indicate a need for chronic testing.
[2] This schedule applies if the effluent monitoring study is performed and exposure data still indicate a need for chronic testing.

EPA has specified a longer time than normal for the toxicity and aerobic biodegradation tests, because of volatility questions and a need to develop some practical volatility data relevant to the conduct of these tests (i.e., use of open or closed systems, appropriate flow rate factors). Thus, EPA is allowing 12 months from the effective date to the final report due date for these tests for crotonaldehyde.

The final report for each test shall be submitted to EPA as soon as it becomes available, but no later than the date specified. For all except the five acute studies and the biodegradation study, interim progress reports shall also be submitted every 6 months, beginning 6 months after the effective date of this final rule.

V. Export Notification

The issuance of the Consent Order subjects any person who exports or intends to export crotonaldehyde, to the export notification requirements of section 12(b) of TSCA. The specific requirements are listed in 40 CFR part 707. In the Interim Rule of June 30, 1986 (51 FR 23706), establishing the Testing Consent Order process, EPA added subpart C of part 799 for listing of chemical substances or mixtures subject to testing consent orders issued by EPA. This listing serves as notification to persons who export or intend to export chemical substances or mixtures which are the subject of testing Consent Orders that 40 CFR part 707 applies.

VI. Rulemaking Record

EPA has established a record for this rule and the Consent Order (docket number OPTS–42106). This record contains the basic information considered by EPA in developing this rule and the testing Consent Order.

This record includes the following information:

A. Supporting Documentation

(1) Testing Consent Order between Kodak and EPA.

(2) Federal Register notices pertaining to this notice consisting of:

(a) Notice containing the ITC's recommendation of crotonaldehyde to the Priority List (53 FR 18196; May 20, 1988).

(b) Notice containing the ITC's designation of crotonaldehyde to the Priority List (53 FR 46262; November 16, 1988).

(c) Notice of the interim final rule on procedures for developing enforceable consent agreements (51 FR 23706; June 30, 1986).

(3) Communications consisting of:

(a) Written letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(4) Reports—published and unpublished factual materials.

B. References

(1) Kirk-Othmer. *Kirk-Othmer Encyclopedia of Chemical Technology*. New York, N.Y. John Wiley & Sons, Inc. Vol. 7. pp. 207–218. (1979).

(2) Sax, N.I., and Lewis, R.J., Sr. *Hawley's Condensed Chemical Dictionary*. 11th rev. ed. New York. Van Nostrand Reinhold Co. p. 323. (1987).

(3) Merck. *The Merck Index*. 10th edition. Windholz, M., ed. Rahway, N.J. Merck & Co. p. 372. (1983).

(4) Nold, A. Memorandum on crotonaldehyde aquatic ecological assessment Annette Nold to John Walker. U.S. Environmental Protection Agency. (April 5, 1988).

(5) NRC. National Research Council. "Formaldehyde and other aldehydes". Washington, DC. National Academy Press. (1981).

(6) Tennessee Eastman Company. Kingsport, TN 37662. Letter to Dr. Robert H. Brink, Interagency Testing Committee. (June 19, 1987).

(7) USDOC. U.S. Department of Commerce. "U.S. Imports for Consumption and General Imports." Washington, DC. U.S. Bureau of the Census. Publication No. FT246. p. 1–580. (1985).

(8) Eastman Kodak Company, Kingsport, TN 37662. Letter to Mr. John Schaeffer, Office of Pesticides and Toxic Substances, EPA. (August 16, 1988).

(9) Gadel, F., and Bruchet, A. "Application of pyrolosis-gas chromatography-mass spectrometry to the characterization of humic substances resulting from decay of aquatic plants in sediments and water." *Water Research* 21:1195–1206. (1987).

(10) Krotoszynski, B.K., and O'Neill, H.J. "Involuntary bioaccumulation of environmental pollutants in nonsmoking heterogeneous human populations." *Journal of Environmental Science and Health*. A17:855–883. (1982).

(11) Verschueran, K. *Handbook of Environmental Data on Organic Chemicals*. 2nd ed. New York, N.Y. Van Nostrand Reinhold Co. pp. 410–431. (1983).

(12) Miyamoto, Y. "Eye and respiratory irritants in jet engine exhaust." *Aviation, Space and Environmental Medicine*. 57:1104–1108. (1986).

(13) Lipari, F., Dash, J.M., and Scruggs, W.F. "Aldehyde emissions from wood-burning fireplaces." *Environmental Science and Technology*. 19(5):326–330. (1984).

(14) Dynamac Corporation, Rockville, MD 20852. *Crotonaldehyde*. IR-407. EPA Contract No. 68–02–4251. (June 15, 1988).

(15) Dawson, G.W., Jennings, A.L., Drozdowski, D., and Rider, E. "the acute toxicity of 47 industrial chemicals to fresh and saltwater fishes." *Journal of Hazardous Materials*. 1:303–318. (1977).

(16) Union Carbide, Danbury, CT 06817. Letter to U.S. Environmental Protection Agency. (May 2, 1986). 8D–878216446.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

VII. Other Regulatory Requirements

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the Consent Order under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033.

Public reporting burden for this collection of information is estimated to average 1,431 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Management and Budget, Paperwork Reduction Project (OMB Control No. 2070–0033), Washington, DC 20503.

List of Subjects in 40 CFR Part 799

Testing procedures, Environmental protection, Hazardous substances, Chemicals, Chemical export, Recordkeeping and reporting requirements.

Dated: October 2, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding crotonaldehyde to the Table in CAS Number Order to read as follows:

§ 799.5000 Testing consent orders.

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CAS number	Substance or mixture name	Testing	Federal Register Citation
4170-30-3.....	Crotonaldehyde.	Environmental effects. Chemical fate.	November 9, 1989. November 9, 1992.

[FR Doc. 89-26445 Filed 11-8-89; 8:45 am]
BILLING CODE 6560-50

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Part 803

RIN 2900-AE32

VA Acquisition Regulation: Internal Management of the VA Acquisition System

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending the VA Acquisition Regulation (VAAR) to add implementing instructions for Procurement Integrity, section 6 of the Office of Federal Procurement Policy Act Amendments of 1988. VA contracting officers are authorized to designate persons to have access to proprietary and source selection information; certification by procurement officials who leave the Government will be accomplished as part of the out processing clearance process; guidance is provided for the conduct of investigations of possible violations of the Act; certifications by procurement officials regarding their familiarity with the Act will be filed in the VA's official Personnel Files; and organizations requesting contract action exceeding $25,000 are to provide lists of procurement officials. These regulations will effectively implement the requirements of the Procurement Integrity statute in the most efficient means possible, protecting the integrity of the procurement process and the interests of administrative efficiency.

EFFECTIVE DATE: November 23, 1989.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Acquisition Management Service (93), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, (202) 233-3054.

SUPPLEMENTARY INFORMATION:

I. Background

This regulation adds internal administrative implementation of the Procurement Integrity requirements of the Office of Federal Procurement Policy Act Amendments Act of 1988. One of the more administratively cumbersome aspects of the Act is determining the most efficient means of obtaining the required certifications of procurement officials and where best to file the certifications. This regulation requires that such certifications be included in the Official Personnel File (OPF) of the respective procurement official. Furthermore, when a procurement official leaves the Government, the required certification that he or she understands his or her continued obligation not to disclose proprietary or source selection information will be accomplished as part of the normal personnel clearance procedure. This process is considered more administratively efficient and less subject to errors of omission than the procedure prescribed in the FAR. Consequently, a class deviation to the FAR has been processed.

This regulation prescribes that organizations requesting contract services exceeding $25,000 provide the contracting officer a list of all procurement officials and certify that each identified procurement official has certified his or her understanding of the Act and that such a certification has been sent to their respective OPF.

Guidance is provided regarding the conduct of investigations of suspected violations of the Act and how to process the resulting findings.

II. Executive Order 12291

Pursuant to the memorandum from the Director, Office of Management and Budget, to the Administrator, Office of Information and Regulatory Affairs, dated December 13, 1984, this proposed rule is exempt from sections 3 and 4 of Executive Order 12291.

III. Regulatory Flexibility Act (RFA)

These changes are internal VA management policies and therefore public participation is unnecessary (38 CFR 1.12 and 5 U.S.C. 553(d)(3)). Since a notice of proposed rulemaking is unnecessary and will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), and are therefore not subject to the requirements of the Act. Nevertheless, these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612.

IV. Paperwork Reduction Act

These amendments do not impose any additional reporting or recordkeeping requirements on the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 803

Government procurement.

Approved: October 31, 1989.

Edward J. Derwinski,

Secretary.

PART 803—[AMENDED]

48 CFR chapter 8, Department of Veterans Affairs, is revised as set forth below:

1. The authority citation for Subpart 803.1 continues to read as follows:

Authority: 38 U.S.C. 310 and 40 U.S.C. 486(c).

2. In subpart 803.1, sections 803.104, 803.104-5, 803.104-9, 803.104-11, 803-104-12 are added to read as follows:

Subpart 803.1—Safeguards

* * * * *

803.104 Procurement integrity.

803.104-5 Disclosure of proprietary and source selection information.

(a) Contracting officers are authorized to designate persons or classes of persons to have access to proprietary and source selection information pertaining to procurements for which they are responsible. Individuals, or classes of individuals, who have been provided access for a specific procurement will be listed in the contract file.

(b) Contracting officers will only release source selection or proprietary information when access is necessary to the conduct of the procurement and only to procurement officials who have a need to know and who have verified that they have certified their familiarity with the Office of Federal Procurement Policy Act Amendments of 1988 in accordance with FAR 3.104-12. (Clerical personnel or other persons who may require access to proprietary information and who are not procurement officials must be included in the list identified in paragraph (a)). Furthermore, such persons must be informed of their obligation not to disclose such information, since the nondisclosure provision of the Procurement Integrity statute applies to nonprocurement officials as well.)

803.104-9 Certification requirements.

The certification required by FAR 3.104-6(b) regarding the certification of procurement officials who leave Government during a procurement will be made through normal personnel clearance procedures and will be maintained in the official personnel file in lieu of the contract file. (This is a FAR deviation authorized in accordance with FAR Subpart 1.4 and VAAR Subpart 801.4).

803.104-11 Processing violations or possible violations.

(a) If the contracting officer determines that the reported violation or possible violation has no impact upon a pending award, the contracting officer will obtain the concurrence of the Head of the Contracting Activity (HCA) prior to making award. The contracting officer will provide all necessary supporting data to the HCA. All such reported violations will be transmitted to the Office of General Counsel (025) through the Deputy Assistant Secretary for Acquisition and Material Management (93). The HCA will also inform his or her senior management if the reported violation or possible violation involves a VA employee.

(b) When the contracting officer concludes that the violation or possible violation impact contract award or the contract itself, the contracting officer will withhold award and promptly notify the HCA. The HCA shall be provided all relevant information with recommendations from the contracting officer. The HCA is responsbile for taking the appropriate actions specified in FAR 3.104-11(b) and making the determinations specified in FAR 3.104-11(c). As part of the deliberations, the HCA should utilize all resources available, including legal counsel, IG investigative services, and Acquisition Management Service (93). The HCA is encouraged to seek advice from these offices prior to making the final determination as to the appropriate course of action.

(c) The final report and determination made in accordance with FAR 3.104-11 (b) and (c) and all supporting documentation will be transmitted to the General Counsel (025) through the Deputy Assistant Secretary for Acquisition and Material Management (93).

803.104-12 Ethics program training requirements.

(a) Certifications required by FAR 3.104-12(a)(2) will be filed in the procurement official's Official Personnel File (OPF). Contracting officers may request that procurement officials provide confirmation that they have certified and may request copies of the actual certification as part of the confirmation process.

(b) For acquisition exceeding $25,000, the office requesting contract action will provide a list of all procurement officials for the procurement at the time the request is submitted for procurement action. The requesting organization will certify that all such listed procurement officials have certified their familiarity in accordance with FAR 3.104-12(a)(2) and that those certifications have been included in the respective OPFs. The requesting organization is also responsible for updating the list as additional procurement officials are added, or as procurement officials are removed.

(c) In accordance with Office of Personnel and Labor Relations' directives, recruitment and promotion actions will identify those positions having potential for procurement official functions and will require certification from the selectee.

[FR Doc. 89-26357 Filed 11-8-89; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 592

[Docket 89-6; Notice 3]

RIN 2127-AC97

Registered Importers of Vehicles Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendments; final rule.

SUMMARY: This notice contains technical amendments of the final rule published on September 29, 1989, which established requirements for the registration of importers of motor vehicles not originally manufactured to conform to the Federal motor vehicle safety standards. References to agents of the registered importer in § 592.5 (c) and (d) are deleted. The amount of the bond referred to in § 592.6(a) is corrected to accord with that prescribed in part 591. A redundancy in paragraphing in that section is corrected by redesignating certain paragraphs. A word inadvertently omitted in § 592.8(g) is inserted.

EFFECTIVE DATE: The amendments are effective on November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, Washington, DC (202-366-5263).

SUPPLEMENTARY INFORMATION: On September 29, 1989, the agency established 49 CFR part 592 *Registered Importers of Vehicles Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards* (54 FR 40063). This action was in partial implementation of Public Law 100-562 The Imported Vehicle Safety Compliance Act of 1988. Under section 592.8(a), one of the duties of a registered importer is to furnish a bond "in an amount not less than the entered value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150% of such value", to ensure that the vehicle is brought into compliance with the Federal safety standards. This was the bond amount specified by the 1988 Act, and proposed by NHTSA. However, in developing the final rules implementing the 1988 Act, NHTSA decided to require that the performance bond be the higher value, 150% of the entered value of the vehicle. This decision was reflected in the final rule on importation of motor vehicles, 49 CFR part 591 *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards* (54 FR 40069). In this rule, an importer of a nonconforming vehicle declares, in pertinent part that he has furnished a bond equal to 150% of the entered value of the vehicle (section 591.5(f)(1)), and the importer's declaration must be accompanied by a bond in an amount equal to 150% of the entered value of the vehicle (section 591.6(c)). Accordingly, NHTSA is amending § 592.8(a) to specify the amount of the bond required by part 591.

When part 592 was proposed, it was contemplated that a registered importer could have agents to perform the actual compliance modifications on vehicles for which it was obliged to provide a certification of conformity to the Administrator. Because of comments to the docket, the agency decided that the purpose of the legislation would be better accomplished if registered importers had direct responsibility for conformance work, and the final rule sought to delete all references to agents. However, the agency overlooked two references to agents, and §§ 592.5 (b) and (c) are amended to remove these references.

As published, § 592.6(b) is followed by another paragraph, also designated (b).

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This error is corrected by redesignating the second paragraph (b) as paragraph (c), and redesignating succeeding paragraphs as appropriate. There do not

List of Subjects in 49 CFR Part 592

Imports, Motor vehicle safety, Motor vehicles.

amount not less than the entered value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150 per cent of such value," and

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This error is corrected by redesignating the second paragraph (b) as paragraph (c), and redesignating succeeding paragraphs as appropriate. There do not appear to be any cross-references in part 592 or any other regulation requiring correction.

Finally, in § 592.8(g), the word "bond" was inadvertently omitted after the word "performance", and has been reinstated.

Because the amendments are technical in nature and have no substantive impact, it is hereby found that notice and public comment thereon are unnecessary. Further, because the amendments are technical in nature, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest, and the amendments are effective upon publication in the **Federal Register**, or October 30, 1989 (the effective date of part 592), whichever last occurs.

List of Subjects in 49 CFR Part 592

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing part 592 of 49 CFR is amended as follows:

PART 592—[AMENDED]

1. The authority citation for part 592 continues to read as follows:

Authority: Pub. L. 100–562, 15 U.S.C. 1401, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

§ 592.5 [Amended]

2. The first sentence of § 592.5(c) is amended by deleting the phrase "and/or its agents" so that the sentence ends with the word "applicant."

3. The second sentence of § 592.5(d) is amended by deleting the phrase "and agents, if any" so that the sentence ends with the word "applicant."

§ 592.6 [Amended]

4. Section 592.6(a) is amended by deleting the phrase "a bond in an amount not less than the entered value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150 per cent of such value," and replacing it with the phrase "a bond in an amount equal to 150 per cent of the entered value of the vehicle, as determined by the Secretary of the Treasury,".

5. In § 592.6, the second paragraph (b) is redesignated paragraph (c). Paragraphs (c), (d), (e), (f), (g), (h), and (i) of that section are redesignated respectively paragraphs (d), (e), (f), (g), (h), (i), and (j).

§ 592.8 [Amended]

6. Section 592.8(g) is amended by adding the word "bond" between the words "performance" and "shall."

Issued on: November 3, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89–26382 Filed 11–8–89; 8:45 am]

BILLING CODE 4910–62–M

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

RIN 3150–AD35

ASNT Certification of Industrial Radiographers

AGENCY: The Nuclear Regulatory Commission.

SUMMARY: The Nuclear Regulatory Commission proposes to amend its regulations at 10 CFR part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations," to provide license applicants the option to affirm that all of their active radiographers will be certified in radiation safety by the American Society for Nondestructive Testing (ASNT) prior to commencing duties as radiographers, in lieu of current licensing requirements to submit descriptions of planned initial radiation safety training and qualification procedures. The Commission believes that the ASNT "Certification Program for Industrial Radiography Radiation Safety Personnel" provides an acceptable method of ensuring that radiographers are adequately trained in the radiation safety subjects listed in appendix A of 10 CFR part 34. The intent of this proposed rulemaking is to recognize this program and to encourage industrial radiography licensees to participate in the ASNT program. This proposed rule also solicits comments on the costs and benefits of third-party radiation safety certification which will be used by the Commission in its consideration of a planned subsequent rulemaking that would require radiographer certification.

DATE: The public comment period expires February 7, 1990. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, attention: Docketing and Service Branch.

Deliver comments to: 2120 L Street, NW. (Lower Level), Washington, DC, between 7:30 a.m. and 4:15 p.m. Federal Government workdays.

Copies of draft regulatory analysis and comments received may be examined at: the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3740.

SUPPLEMENTARY INFORMATION:

Background

Current NRC sealed source radiography licensing requirements (10 CFR 34.11) specify that an applicant will have an adequate program for training radiographers and will submit to NRC a schedule or description of the program including initial training, periodic retraining, on-the-job training, and the means to be used by the licensee to determine the radiographer's knowledge and understanding of, and ability to comply with, Commission regulations and licensing requirements, and the operating and emergency procedures of the applicant. Section 34.31(a) specifies conditions under which an individual is permitted to act as a radiographer. In addition, appendix A or part 34 outlines the radiation protection training requirements.

The NRC is proposing to permit applicants to affirm, in lieu of submitting descriptions of their initial radiation safety training and radiographer qualification program, that all individuals permitted to work as radiographers will be certified in radiation safety through the Industrial Radiography Radiation Safety Personnel Program of the American Society for Nondestructive Testing (ASNT), Inc. prior to commencing duties as radiographers. Contingent upon an analysis of the costs and benefits of third-party certification and demonstrated success of the ASNT certification program, the NRC is considering the initiation of a subsequent rulemaking which would require third-party certification of all radiographers.

The high activity radioactive sources used in industrial radiography pose serious hazards if radiation safety procedures are not adhered to rigorously. A significant fraction of occupational overexposures and serious radiation injuries reported to the NRC and the States have occurred in industrial radiography operations. The State of Texas determined that 42 percent of all overexposures reported in that State in 1987 were attributable to industrial radiographic operations. The Commission is determined to work with the licensees and the States to make every effort to improve the radiation safety record in industrial radiography. This rulemaking is consistent with and complements other recent NRC actions such as the proposed radiography device safety rule and the previously published quarterly performance inspection requirement (§ 34.11(d)).

Investigation by the NRC and Agreement States have indicated that inadequate training is often a major contributing factor to radiography accidents. Proposals to require third-party certification of radiographers have been advanced by NRC staff, the Ad Hoc Radiography Steering Committee and ASNT. In 1987, the Texas Bureau of Radiation Control implemented a comprehensive testing program for radiographers as a means of improving and verifying training and radiation safety practices in the industry. To date, approximately 2,000 individuals have been tested and issued industrial radiography ID cards by that State.

Preliminary evaluation of the effectiveness of the Texas program is encouraging. There is an indication of a downward trend in overexposures since Texas radiographers began preparing for the examination, but the data are not yet definitive. Inspectors report observing radiographers studying safety training documents and a general improvement in job site performance.

The ASNT's "Certifications Program for Industrial Radiography Radiation Safety Personnel" was approved by its Board of Directors in March of 1989. The program, which would use a written examination developed and validated by the State of Texas, has been reviewed widely, NRC headquarters and Regional staff provided extensive comment on the program. The ASNT program will offer certification for both isotope and x-ray users. Applications for

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certification requires documentation of 40 hours of classroom training in radiation safety topics specified by ASNT (including those subjects outlined in appendix A of 10 CFR part 34), documentation of 520 hours of direct experience with radiography sources under the control of an NRC or Agreement State licensee, and proof of successful completion of a practical examination on safety procedures administered by an institution recognized by the ASNT. ASNT recognizes government or private institutions that are licensed by the NRC or an Agreement State for the use of radiography sources.

Upon approval of an application for certification by ASNT, a candidate radiographer would then be eligible to take the State of Texas written examination. The examination would be administered by the ASNT or the Conference of Radiation Control Program Directors (CRCPD). The examination covers radiation protection principles, regulations, basic equipment operation, and radiation safety procedures applicable to industrial radiography. In addition, a candidate must sign an acknowledgement that he/she will abide by the ASNT Rules of Professional Conduct.

Certification is for a period of 5 years, and a candidate for renewal must document continued active permanent employment in radiography for at least 24 out of the last 36 months. In addition, the renewal candidate must document at least 8 hours of annual formal classroom training on radiation safety topics including new safety regulations or requirements. If these renewal criteria are not met, the candidate would be required to repeat the examination process.

ASNT plans to implement an initial trial of its certification program in December of 1989. It is expected that the program will be fully capable of certifying approximately 10,000 radiographers within 2 to 3 years. The NRC staff will monitor the trial program prior to initiating rulemaking which would make third-party certification a requirement.

More detailed information regarding the certification program is available from the American Society for Nondestructive Testing, Inc., 4153 Arlingate Plaza, P.O. Box 28518, Columbus, Ohio 43228-0518.

Description of Proposed Amendment

The proposed amendment to 10 CFR 34.11 would apply to all applicants for NRC industrial radiography licenses. The proposed rule would provide radiography license applicants the option to affirm that all individuals acting as radiographers will be certified in radiation safety through the Industrial Radiography Radiation Safety Personnel program of the American Society for Nondestructive Testing, Inc. prior to commencing duties as radiographers. This would be in lieu of the current requirement for submitting a description of the applicant's initial training and testing program on radiation safety subjects listed in appendix A of 10 CFR part 34. It is not the intent of this rulemaking to waive the training requirements outlined in § 34.11, § 34.31 and appendix A of 10 CFR part 34. This rule also would not change requirements for radiographers' assistants, and descriptions of periodic retraining and training in operating and emergency procedures would continue to be required.

Future Rulemaking

This proposed rule also solicits comments on the costs and benefits of third-party radiation safety certification which will be used by the Commission in its consideration of planned subsequent rulemaking that would require radiographer certification.

Impact

The ASNT has estimated the cost to the industry for certification to be approximately $1000 per radiographer, which includes exam fees and costs, travel, and administrative costs and lodging at the testing site. Certification is for a period of 5 years, and a candidate for renewal must document continued active permanent employment in radiography for at least 24 out of the last 36 months. In addition, the renewal candidate must document at least 8 hours of annual formal classroom training on radiation safety topics including new safety regulations or requirements. If these renewal criteria are not met, the candidate would be required to repeat the examination process. The NRC expects use of the ASNT certification program by the license applicant would not affect licensee training costs because present NRC regulations require training and would continue to do so, and because the ASNT eligibility requirements include documented training. Some small reduction in cost will be associated with the application process because if a radiography license applicant elects to have its radiographers certified, the applicant would not have to submit a detailed description of a planned initial radiation safety training and testing program covering the topics listed in appendix A.

The ASNT estimates that as many as 12,000 radiographers could be involved in certification. The total cost to the industry is estimated to be $8.7 million in 1989 dollars based on a 30-year period beginning in 1989.

The NRC believes that voluntary participation in the ASNT certification program has the potential to significantly improve safety awareness and performance.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0120.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-3740.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities.

The proposed rule would affect all industrial radiography license applicants. Currently, license applicants are required under 10 CFR part 34.11(b) to provide descriptions of initial training, testing and periodic safety performance appraisals of all radiographers in their employ. The proposed rule would add a provision that would permit substitution of ASNT certification for the existing requirement to submit detailed descriptions of initial radiation safety training and testing procedures in license applications. Because the cost of ASNT certification per radiographer is estimated at approximately $1000 for a certification period of 5 years and recertification without reexamination is estimated at approximately $70.00 per radiographer, and the potential improvement in safety awareness and performance is considered to be significant, the overall industry benefits are considered to outweigh the economic impact on small industrial radiography licensees. However, the NRC is seeking comments and suggested modifications of the proposed rule because of the widely differing conditions under which small industrial radiography licensees operate.

Any small entity, subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact, should notify the Commission of this in a comment that indicates—

(a) The applicants' size in terms of annual income or revenue, number of employees, and the number of radiographic tests performed annually;

(b) How the proposed regulation would result in a significant economic burden upon the applicant as compared to that on a larger applicant;

(c) How the proposed regulation could be modified to take into account the applicants' differing needs or capabilities;

(d) The benefits that would be gained or the detriments that would be avoided by the applicant if the proposed regulation were modified as suggested by the commenter; and

(e) How the regulation, as modified, would still adequately protect the public health and safety.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 34

Packaging and containers, Penalty, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 34.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 34.22, 34.23, 34.24, 34.25(a), (b), and (d), 34.28, 34.29, 34.31 (a) and (b), 34.32, 34.33(a), (c), and (d), 34.41, 34.42, and 34.43(a), (b) and (c), and 34.44 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 34.11(d), 34.25 (c) and (d), 34.26, 34.27, 34.28(b), 34.29(c), 34.31(c), 34.33 (b) and (e), and 34.43(d) are issued under sec 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 34.11, paragraph(b)(5) is redesignated as paragraph(b)(6) and a new paragraph(b)(5) is added to read as follows:

§ 34.11 Issuance of specific licenses for use of sealed sources in radiography.

* * * * *

(b) * * *

(5) In lieu of describing an initial training program for radiographers in the subjects outlined in Appendix A and required in § 34.31 of this part and the means used to determine the radiographer's knowledge and understanding of these subjects, the applicant affirms that all individuals acting as radiographers will be certified through the Certification Program for Industrial Radiography Radiation Safety Personnel of the American Society for Nondestructive Testing, Inc. prior to commencing duties as radiographers. [This paragraph does not relieve a licensee from compliance with the training requirements of § 34.31(a) of this part.)

* * * * *

Dated at Rockville, Maryland, this 30th day of October, 1989.

For the Nuclear Regulatory Commission.

James M. Taylor,

Acting Executive Director for Operations.

[FR Doc. 89-26443 Filed 11-8-89; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Rebuttal period on public comments filed in advance notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission has granted all interested parties a 30-day period, until December 15, 1989, to review and respond to any factual information filed during the comment period on the Commission's Advance Notice of Proposed Rulemaking for possible amendments to its rule governing informal dispute settlement procedures (16 CFR part 703). The Advance Notice was published on May 16, 1989 (54 FR 21070). On September 19, 1989, the Commission granted a 60-day extension for filing public comments, ending November 15, 1989.

DATES: Written rebuttal comments will be accepted until December 15, 1989.

ADDRESS: Written comments and suggestions should be marked "Rule 703 Review" and sent to the Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326-3115

or

Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326-3135.

SUPPLEMENTARY INFORMATION: In a letter filed on September 8, 1989, the Attorneys General for the States of Minnesota, California, Connecticut, Indiana, Florida, New York, Illinois and Ohio renewed a request originally made on May 26, 1989, that the Commission grant an additional period of not less than 30 days to review and respond to any economic or cost data submitted by the automobile manufacturers or any other interested party during the public comment period on the review of the Commission's Rule Governing Informal Dispute Settlement Procedures, 16 CFR part 703 ("Rule 703"). In an Advance Notice of Proposed Rulemaking ("ANPR") published on May 16, 1989, the Commission had requested written public comment on whether Rule 703 should remain unchanged, or whether it should be amended (54 FR 21070). On July 17, 1989, the Commission denied the

May 26, 1989, request of the Attorneys General for a rebuttal period on the grounds that the request was premature (54 FR 29910).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-26424 Filed 11-8-89; 8:45 am]

emergency reflective triangles required in paragraph (f)(2)(i) of this section."

Section 393.95(g), Flame producing devices prohibited on certain vehicles, regardless of the weather. The commenter further stated that fusees should not be limited to supplemental use with bidirectional reflective

including the types allowed, exemptions, and/or conditions for use. It appears from the comments received that there have been substantial advances in the

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May 26, 1989, request of the Attorneys General for a rebuttal period on the grounds that the request was premature (54 FR 29910).

In denying the previous request, the Commission noted that the process was only at the ANPR level, which was intended to be a more informal, expeditious process, laying out a series of questions which would assist the Commission in determining whether to initiate a proceeding to consider amendments to Rule 703 and, if so, what amendments should be considered.

The Commission, however, has now granted two 60-day extension periods—first, on July 17, 1989, to the State Attorneys General to permit them to collect responsive information from a number of states and file a joint response (54 FR 29910); and then, on September 19, 1989, to the Motor Vehicle Manufacturers Association of the United State, Inc. ("MVMA") and the Automobile Importers of America, Inc. ("AIA") to permit them to complete the process of compiling cost data from their member companies and independent entities, including the Council of Better Business Bureaus, Inc. ("BBB") and the American Automobile Association ("AAA") (54 FR 38529).

The comment period on the ANPR thus has now taken 180 days. Any additional delay which would be produced by a 30-day rebuttal period would likely be offset by the benefits from having the record developed as fully as possible before making any decisions on whether to publish a Notice of Proposed Rulemaking for Rule 703.

For the same reasons, the Commission believes that it would be beneficial to give all parties an opportunity to comment on any factual information which may be provided during the comment period, rather than limiting the rebuttal only to economic or cost data, as the state attorneys general had requested.

Therefore, having considered the request, the complexity of the issues raised by the ANPR, and the desirability of developing the record as fully as possible before making any decisions on whether to publish a Notice of Proposed Rulemaking for Rule 703, the Commission has determined that a 30-day period of time should be granted to all who wish to review and respond to any factual information submitted during the comment period which ends November 15, 1989. Accordingly, the Commission has granted a rebuttal period to submit such responses. The rebuttal period will close on December 15, 1989.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-26424 Filed 11-8-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 392, 393

[FHWA Docket No. MC-89-4]

RIN 2125-AC26

Parts and Accessories Necessary for Safe Operation; Emergency Warning Devices; Stopped Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: The FHWA has determined that existing regulations need not be amended regarding the appropriate use of fusees as an alternative or supplement to bidirectional reflective triangles. Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 mandated such a review. Based on available information and public comments, it has been determined that no enhancement of motor carrier or highway safety would be served by revising current regulations. Therefore, the rulemaking is terminated.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Hagan, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1989, the FHWA published in the **Federal Register** (54 FR 5516) an Advance Notice of Proposed Rulemaking (ANPRM) on several issues relating to the appropriate use of emergency warning devices as well as the type allowed, for commercial motor vehicles. First, the FHWA requested public comment on the appropriate use of fusees as an alternative or supplement to bidirectional emergency reflective triangles. That portion of the ANPRM was required by Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Title IX, Subtitle B, of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, 102 Stat. 4181, 4527). This document addresses this issue.

Second, the FHWA requested comments on the elimination of the current exemption contained in 49 CFR 392.22(b)(2)(iii) which allows drivers to forego placing warning devices when the motor vehicle is stopped upon the traveled portion of a highway or the shoulder thereof if the vehicle is within a business or residential area during times when lighting is not required, or where lighting is sufficient to make a vehicle clearly discernible at a distance of 500 feet to persons on the highway. This action was taken in response to a petition for rulemaking change by Police Officer Thomas J. Magnan, Traffic Safety Division, Motor Carrier Safety Assistance Program (MCSAP) Grant Coordinator, Metropolitan Police Department, St. Louis, Missouri.

Third, the FHWA requested comments on all aspects of emergency warning devices including the types allowed and exemptions and/or conditions for use. These last two issues will be addressed in a subsequent rulemaking.

Fusees

Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (the Act) requires the Secretary, not later than 60 days after the enactment, to "initiate rulemaking proceedings for the purpose of determining the appropriate use, as emergency warning devices for commercial motor vehicles, of fusees as an alternative or supplement to bidirectional emergency reflective triangles." Section 9106 further requires the Secretary to complete such rulemaking proceeding by October 31, 1989.

The current requirements regarding the use of fusees in the Federal Motor Carrier Safety Regulations (FMCSRs) are in §§ 393.95 and 392.22. Paragraph (f)(1)(i) of § 393.95, Emergency equipment on all power units, states that vehicles equipped with warning devices before January 1, 1974, may use the following until replacements are necessary: "Three liquid burning emergency flares which satisfy the requirements of SAE J597 'Liquid Burning Emergency Flares,' and three fusees and two red flags;" or other devices as specified in paragraphs (f)(1)(ii) through (v). Paragraph (f)(2)(ii), Vehicles equipped with warning devices on and after January 1, 1974, states, "Fusees, liquid-burning emergency flares, and red electric lanterns that conform to paragraph (f)(1) of this section may be used to supplement the emergency reflective triangles required in paragraph (f)(2)(i) of this section."

Section 393.95(g), Flame producing devices prohibited on certain vehicles, states that, "Liquid-burning emergency flares, fusees, oil lanterns, or any signal produced by a flame shall not be carried on any motor vehicle transporting explosives, Class A or Class B; any cargo tank motor vehicle used for the transportation of flammable liquids or flammable compressed gas whether loaded or empty; or any motor vehicle using compressed gas as a motor fuel."

Section 393.95(j), Requirements for fusees, states that, "Each fusee shall be adequate, reliable, capable of burning at least 15 minutes and shall comply with the specifications of the Bureau of Explosives, Association of American Railroads * * * dated February 1969. Each fusee shall be marked to show that it complies with the specifications of the Bureau of Explosives."

Paragraph (b)(2)(i), special rules—fusees of § 392.22, Emergency signals; stopped vehicles, states, "The driver of a vehicle equipped with liquid burning flares (pot torches) shall first place a fusee at the location specified in paragraph (b)(1)(ii) of this section before he places the liquid-burning flares as specified in paragraph (b)(1) of this section." Paragraph (b)(2)(iii), Business or residential districts, further states, "The placement of warning devices is not required within the business or residential district of a municipality, except during the time lighted lamps are required and when street or highway lighting is insufficient to make a vehicle clearly discernible at a distance of 500 feet to persons on the highway."

Review of the Comments

A total of 13 comments were received. Two comments were duplicate and one commentary did not refer to this issue. Of the remaining 10 commenters, nine recommended that fusees *not* be permitted as an alternative to bidirectional reflective triangles, and that they continue to be permitted as a supplement to other emergency warning devices.

The issue of whether fusees should be permitted as an alternative or supplement to bidirectional triangles, received eleven comments (not counting duplicates).

There was one comment favorable to the use of fusees as an alternative to bidirectional reflective triangles. This commenter pointed out that fusees are superior for alerting other vehicles to impending danger, and that they are superior to all other warning devices regardless of the weather. The commenter further stated that fusees should not be limited to supplemental use with bidirectional reflective triangles. It was this commenter's position that truck drivers are professionals and are presumed to know the proper use of emergency warning devices and that their judgment should dictate the appropriate device.

Six commenters stated that fusees should not be authorized as an alternative to bidirectional reflective triangles, and that they should be permitted but not required as a supplement to such triangles.

One commenter stated that none of the current devices now allowed were satisfactory and should all be replaced with a patented device that requires no assembly.

Two commenters stated that while fusees could be used with other warning devices, these other devices should not be restricted to the current bidirectional reflective triangles, that in the several years since that form of warning device was adopted by the FHWA, the state of the art had advanced far beyond this form of an emergency warning device.

One commenter stated that fusees as warning devices are primitive and inadequate for the use to which the devices are put. This commenter further stated that in an initial review of the standards set forth in 49 CFR 393.22, he has "concluded the standards for emergency devices and their placement are primitive and outdated."

Further, fusees are not, nor can they be universally applicable in the event of an accident. They cannot be used in the presence of spilled fuel, nor can they be carried aboard vehicles transporting certain classes of hazardous materials, e.g., gasoline. There exists also the risk stemming from the fusee's short burning time where the driver or others would be at risk in replacing the burnt-out fusees.

Upon review of the information available through research for the final report prepared for FHWA entitled "Safety Aspects of Using Vehicle Hazard Warning Lights," September 1980, by BioTechnology, Inc., and comments received to Docket No. MC-89-4, 54 FR 5516, the FHWA has determined that no enhancement of motor carrier safety or highway safety would be served through revising the subject regulation. Therefore, the rulemaking addressing this issue is hereby terminated.

In the February 3, 1989, ANPRM, the FHWA also requested comments on all aspects of emergency warning devices, including the types allowed, exemptions, and/or conditions for use. It appears from the comments received that there have been substantial advances in the state-of-the-art in this area since the last rule change. Before any changes are made to the current regulations, further review of such issues as temporary traffic diversion, conspicuity and emergency warning devices is necessary. Consequently any further proposals will be addressed in a separate rulemaking action.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant action under the Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this termination of rulemaking will be minimal.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Parts 392 and 393

Highway safety, Highways and roads, Motor carriers, Driving of Motor Vehicles, Motor vehicle safety, and Parts and accessories.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor carrier safety.)

Issued on: October 31, 1989.

T.D. Larson,

Administrator.

[FR Doc. 89-26355 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 90930-9230]

Endangered and Threatened Species: Indus River Dolphin

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: Based on a review of the status of the Indus River dolphin (*Platanista minor*), NMFS has determined that this species is endangered and should be added to the U.S. List of Endangered and Threatened Wildlife. NMFS used the best available scientific and commercial data to make this determination. Scientists estimate the population at about 500, and they are found mainly in the lower Indus River in Pakistan.

DATE: Comments on the proposed rule should be received by January 8, 1990.

ADDRESS: Send comments to Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Office of Protected Resources, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (301/427–2333).

SUPPLEMENTARY INFORMATION:

Background

On April 17, 1987, the National Marine Fisheries Service published its intention to review, in addition to the Chinese river dolphin, the status of the Amazon, Ganges, Indus and La Plata River dolphins to determine whether any of these species should be added to the U.S. List of Endangered and Threatened Wildlife, pursuant to section 4 of the Endangered Species Act of 1973. In 1988 the Service completed its review of the Chinese river dolphin, determined that it was endangered, and added it to the U.S. List of Endangered and Threatened Wildlife (54 FR 22905—May 30, 1989). The Indus River dolphin was also identified as a possible candidate for listing by NMFS in a **Federal Register** notice August 31, 1988 (53 FR 33516). NMFS has completed its review of the Indus river dolphin, determined that it is endangered, and is proposing to add it to the U.S. List of Threatened and Endangered Species.

The following status review of the Indus River dolphin was conducted by Robert L. Brownell, Jr., U.S. Fish and Wildlife Service, and William F. Perrin and Douglas P. DeMaster, NMFS.

Status Review

The Indus River dolphin, *Platanista minor*, has also been called the blind river dolphin and Indus susu. In Pakistan, these dolphins are principally called buhlaan or bulhan. *Platanista indi* Blyth, 1859 is a junior synonym of *P. minor* Owen, 1853 (van Bree, 1976). In this review, it will be referred to as Indus River dolphin.

Distribution

a. Present

Today these dolphins are mainly found in Pakistan in the lower Indus River between Sukkur and Guddu barrages (dams). Downstream from the Sukkur Barrage, dolphins are found to the Kotri Barrage, but they are absent or rare below the Kotri Barrage. One recent dolphin was reportedly taken more than 150 km downstream from Kotri (Pelletier and Pelletier (1980, 1986). Above the Sukkur Barrage, no sightings are known higher than the Jinnah Barrage in the northwestern Punjab (Pilleri and Pilleri, 1979). During the 1970's, Roberts (1977) reported sightings in the Chenab River between Panjnad and Trimmu barrages. However, no recent sightings are available for this area.

b. Past

The historical range included the Indus River at least as far upstream as Attock, as well as the Sutlej, Ravi, Chenab, and Jhelum Rivers to the base of the foothills of the Himalayas (Anderson, 1879).

Estimated Numbers

The barrages have divided the population into six totally isolated subpopulations, two in Sind and four in the Punjab (one of which, above Jinnah Barrage, may consist of only 2–3 individuals) (Perrin and Brownell, 1989). Khan and Niazi (1989) reported that only about 500 were counted during a survey in 1986. Most of them (429) were found in the 170-km area between the Guddu and Sukkur barrages that comprises the Indus Dolphin Reserve. Twenty-one dolphins were counted below the Sukkur Barrage and only 62–71 in the thousands of km of habitat above Guddu Barrage in the Punjab. The species is now extinct in other parts of its former range above the Tarbela Dam and in the Chenab and Sutlej Rivers and above the Panjnad Headworks. These subpopulations were exterminated by the late 1970's by illegal hunting and lowering of water levels.

Currently, there are little data on the trends in population size for any of the six subpopulations. The status of each population can best be summarized as follows: (1) Below Kotri Barrage—declining, (2) Kotri-Sukkur population—static?, (3) Sukkur-Guddu population—slowly increasing, (4) Guddu-Taunsa and Panjnad population—probably declining, (5) Chashma-Jinnah population—verge of extinction, and (6) above Jinnah—verge of extinction. At this time, the best approach to estimating how long Indus River dolphins will survive as a species is to assume that species persistence time is similar to that of Chinese River dolphins (i.e., 20–50 years).

Present Legal Status

a. International

The International Union for Conservation of Nature and Natural Resources (IUCN) lists *P. minor* as "endangered" (IUCN Red Data Book, 1976). It is also listed on appendix 1 of the Convention on International Trade of Endangered Species of Wild Flora and Fauna.

b. National

In Sind Province, it has been fully protected since 1972. However, effective protection was not in force until 1974 when the Indus Dolphin Reserve was established by the Government of Sind between the Sukkur and Guddu barrages. The dolphins have also been protected in the Punjab Province since 1973. However, the establishment of one or more reserves and enforcement of the legal ban against hunting are urgently needed. Without this protection, these dolphins will become extinct in the Punjab and the overall distribution in Pakistan will shrink to a very small portion of its original size (Perrin and Brownell, 1989).

Listing Factors

1. The present or threatened destruction, modification, or curtailment of its habitat or range:

The construction of three irrigation barrages have had a devastating effect on the dolphin's habitat and the dolphins themselves. The barrage at Sukkur was completed in 1932, at Kotri in 1955, and at Guddu in 1960. The greatly reduced volume of water, particularly downstream of the Sukkur Barrage, has decreased the dolphins' dry-season range.

2. Overutilization for commercial, recreational, scientific or educational purposes:

Over-exploitation of these dolphins by local fishermen has been one of the major factors that caused the population to decline. Direct hunting of these dolphins for their meat and oil has been substantial. At least 11 dolphins have been held in captivity in the United States and Switzerland (Reeves and Brownell, 1989).

3. Disease or predation:

Little is known about these factors. However, based on the few dolphins that have been examined, neither appears to be a significant problem.

4. The inadequacy of existing regulatory mechanisms:

As noted above, enforcement of existing bans on hunting is needed to protect this species in the Punjab Province.

5. Other natural or man-made factors:

None are known. Organochlorine residues in one specimen were equal to or less than those found in various species of marine dolphins (Reeves and Brownell, 1989).

Conclusion

We believe that the best available scientific and commercial data indicate that the population of the Indus River dolphin is endangered and should be listed as such on the U.S. list of Endangered and Threatened Species.

References

Anderson, J. 1879. Anatomical and zoological researches: comprising an account of zoological results of the two expeditions to western Yunnan in 1868 and 1875; and a monograph of the two cetacean genera Platanista and Orcella. B. Quaritch, London, Vol. 1 (text), xxv+985 pp.; Vol. 2 (plates), 84 plates.

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Khan, M.K. and M.S. Niazi. 1989. Distribution and population status of the Indus Dolphin, *Platanista minor*. *In:* W.F. Perrin and R.L. Brownell, Jr., Zhou Kaiya and Liu Jiankang (eds.), pp. 77–80. Biology and Conservation of the River Dolphins. Occasional Papers IUCN Species Survival Commission, 3.

Pelletier, C. and F. Pelletier. 1980. Rapport sur l'expenditon Delphinasia (Septembre 1977–Septembre 1978). Ann. Soc. Sci. Nat. Charente-Maritime 6:647–679.

Pelletier, C. and F. Pelletier. 1986. Le Plataniste du gange. Betulan, Dalphin Sacre. L'Univers Du Vivant 8, 8–18.

Perrin, W.F. and R.L. Brownell, Jr. 1989. Report of the Workshop. *In:* W.F. Perrin, R.L. Brownell, Jr., Zhou Kaiya and Liu Jiankang (eds.), pp. 1–22. Biology and Conservation of the River Dolphins. Occasional Papers of the IUCN Species Survival Commission 3.

Pilleri, G. and O. Pilleri. 1979. Precarious situation of the dolphin population (Platanista indi Blyth, 1859) in the Punjab, upstream from the Taunsa Barrage, Indus River. Investigations on Cetacea 10:121–127.

Reeves, R.R. and R.L. Brownell, Jr. 1989. Susus *Platanista gangetica* (Roxburgh, 1801) and *Platanista minor* Owen, 1853. *In:* S.H. Ridgway and R. Harrison (eds.), pp. 69–99. Handbook of Marine Mammals Vol. 4. Academic Press, London.

Roberts, T.J. 1977. The mammals of Pakistan. Ernest Benn Ltd., London and Tonbridge. xxvi + 361 pp.

Recommended Critical Habitat

In the final rule regarding listing of species (50 CFR 424.12[H]), critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction.

Classification

The 1982 Amendments to the ESA (Pub. L. 97–304), in section 4(b)(1)(A), restrict the information which may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in Pacific Legal Foundation v. Andrus, 675 F. 2d 829 (6th cir., 1981), NMFS has categorically excluded all endangered species listing from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413–23; February 6, 1984).

As noted in the Conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, endangered and threatened wildlife, exports, fish, import, marine mammals, reporting and recordkeeping requirements, transportation.

Dated: October 31, 1989.

James E. Douglas, Jr.

Acting Assistant Administrator for Fisheries.

For the reasons described in the preamble, part 222 of title 50 of the Code of Federal Regulations is proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation of part 222 continues to read as follows:

Authority: Endangered Species Act of 1973, 16 U.S.C. 1531–1543.

§ 222.23 [Amended]

2. Section 222.23(a) of subpart C is amended by adding the phrase "Indus River dolphin (*Platanista minor*)" immediately after the phrase "Chinese river dolphin (*Lipotes vexillfier*)" in the second sentence.

[FR Doc. 89–26450 Filed 11–6–89; 8:45 am]

BILLING CODE 3510-22-M

VOL 54 ISS 216 NO 9 1989 UMI

Notices

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Federal Regulation of Biotechnology

AGENCY: Administrative Conference of the United States.

ACTION: Notice of Meeting and Proposed Recommendation.

SUMMARY: The Administrative Conference's Committee on Regulation has scheduled a meeting for further consideration of a draft recommendation on federal regulation of biotechnology. Copies of the complete text of the draft and of the supporting report are available to interested persons.

DATE: The committee will meet to discuss the recommendation on November 21, 1989. Any comments should be submitted no later than November 17.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: 202–254–7065. Comments may also be submitted to this address.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Regulation has under consideration a draft recommendation on federal regulation of biotechnology. The proposed recommendation is based in part on a draft report by Professor Sidney A. Shapiro of the University of Kansas School of Law. The draft recommendation is summarized in this notice. Copies of the full text of the draft recommendation and of the draft report are available from the Office of the Chairman of the Administrative Conference, which will respond immediately to any such requests.

The Conference's Committee on Regulation will meet on Tuesday, November 21, 1989, for further consideration of the draft recommendation. The meeting will take place at 12:00 noon, at the library of the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC. At that time, the committee will decide whether to approve a draft recommendation for consideration by the Administrative Conference at its Plenary Session scheduled for December 14 and 15, 1989. Comments should be sent to the address given above not later than November 17.

This notice of a committee meeting is given pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463). Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Summary of the Draft Recommendation

The draft recommendation addresses coordination of the regulation of biotechnology by federal agencies and the procedures used to regulate biotechnology development, testing, and use. The draft calls for a continuation of interagency coordination under the auspices of the Office of Science and Technology Policy, and urges that the President make the work of that Office's Biotechnology Science Coordinating Committee a high priority.

Other suggestions include a survey of biotechnology developments and agency regulation under existing statutes to determine whether current law and regulation provide adequate authority to protect public and private interests. The survey would be conducted by the Office of Science and Technology Policy and the Office of Technology Assessment. The draft suggests that agencies engaged in biotechnology regulation articulate their policies through generic rules and policy statements to the extent possible. Agencies are encouraged to adopt appropriate procedures to allow public participation.

Dated: November 6, 1989.
Jeffrey S. Lubbers,
Research Director.
[FR Doc. 89–26500 Filed 11–8–89; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 3, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

- Agricultural Marketing Service
Plan for Estimating Daily Livestock Slaughter under Federal Inspection
None
Daily
Businesses or other for-profit; 33,800 responses; 575 hours; not applicable under 3504(h)
James A. Ray, (202) 447–6231
- National Agricultural Statistics Service
Livestock Surveys
None
Weekly; Monthly; Quarterly; Annually
Farms; Businesses or other for-profit; 162,780 responses; 27,810 hours; not applicable under 3504(h)
Larry Gambrell, (202) 447–7737

New Collection

- Office of Personnel Service
USDA Demonstration Project Applicant Supplemental Survey
Demo Form (DF) 001
On occasion
Individuals or households; 24,400 responses; 6,100 hours; not applicable under 3504(h)
Mary Ellen Recchia, (202) 447–8580
- Food and Nutrition Service
Food Distribution Commodity Acceptability Report
FNS–863
Semi-Annually; Annually
State or local governments; 758 responses; 15,886 hours; not applicable under 3504(h)
Dale Wingo, (703) 756–3644

Larry K. Roberson,
Acting Departmental Clearance Officer.
[FR Doc. 89–26438 Filed 11–8–89; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Basal, Two Peaks, and Four Corners Timber Sales, Pacific Ranger District, Eldorado National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for the resource management activities, including timber harvesting and road building, on the Bassi, Two Peaks, and Four Corners timber sales, involving a total planning area size of about 17,000 acres on the Pacific Ranger District of the Eldorado National Forest. These three timber sales include portions of the Pyramid-Bassi roadless area. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by December 31, 1989.

ADDRESS: Submit written comments and suggestions concerning the scope of the analysis to David Bakke, District Silviculturist, Pacific Ranger Station, Pollock Pines, California, 95726.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to David Bakke, District Silviculturist, Pacific Ranger Station, Pollock Pines, California, 95726, phone 916–644–2349.

SUPPLEMENTARY INFORMATION: The Eldorado National Forest Land and Resource Management Plan was completed in January 1989. In preparing the EIS, the Forest Service will identify and consider a range of alternatives, including no action. In other alternatives, varying levels of timber harvest, including even- and uneven-age; recreation development; transportation systems; and competing vegetation control, including herbicides, burning, and mechanical treatments will be analyzed.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.
3. Defining the proper interdisciplinary team make-up.
4. Determining the effective use of time and money in conducting the analysis.
5. Identifying potential environmental, technical, and social impacts of the EIS and alternatives.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

Jerald N. Hutchins, Forest Supervisor, Eldorado National Forest, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by December, 1990. At that time, EPA will publish a notice of availability of the draft EIS in the Federal Register.

The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the Federal Register. It is very important that those interested in the timber sale project participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alert an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS. *Wisconsin Heritages, Inc.*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final document.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by May, 1991. In the final EIS the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the draft EIS, and applicable laws, regulations and policies in making a decision regarding this project. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Dated: November 1, 1989.
Ray Quintanar,
Acting Forest Supervisor, Eldorado National Forest.
[FR Doc. 89–26447 Filed 11–8–89; 8:45 am]
BILLING CODE 3410–11–M

Harvey-Eightmile Timber Sale (FY 90); Deerlodge National Forest, Granite County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest

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timber and build roads in the Harvey Creek, Eightmile Creek, Grouse Creek, and Moyie Gulch drainages. The project area is located approximately 20 air miles northwest of Philipsburg, Montana (30 miles southeast of Missoula, Montana). Portions of the proposed actions are located within the Silver King roadless area (#01–424).

DATE: Written comments concerning the scope of the analysis should be received December 26, 1989.

ADDRESSES: Send written comments to Philipsburg District Ranger, Box H, Philipsburg, Montana 59858.

FOR FURTHER INFORMATION: Questions concerning the proposed action and EIS should be directed to Dan Mainwaring, Interdisciplinary Team Leader, Philipsburg Ranger District, phone: (406) 859–3211.

SUPPLEMENTARY INFORMATION: The purpose and goals for the proposed action are to:

—To help satisfy the short-term demands for timber, maintain a continuous supply for timber to the future.

—To produce a distribution of size and age classes of timber stands.

—That more fully realize site potential, are healthier, and are more resistant to disease and insect infestations.

—To maintain overall levels of wildlife habitat, livestock grazing and dispersed recreation.

The Forest Service is seeking information and comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues for the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS. Preparation of the EIS will include the following steps.

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of issues of minor importance or those that have been covered by previous and relevant environmental analysis.
4. Identification of reasonable alternatives to the proposed action.
5. Identification of the potential environmental effects of the alternatives.

As a result of a preliminary scoping effort the following issues have been tentatively identified for the proposed action:

- What will be the effects of the proposal on wildlife and wildlife habitat in the area?
- What will the impacts on big game hunting opportunity be?
- How will the proposal effect the roadless character of the area?
- What will the relative cost efficiency of the alternatives to be considered be and what will the effects be on the local economy?
- How will the proposal effect water quality, water quantity, and riparian areas?
- What harvest methods will best convert stagnant stands to healthy growing stands, create stands that are more disease and insect free, improve timber stand diversity, and provide commercial timber sales?

The Forest Service invites written comments on the tentative issues and other issues relevant to the proposed action. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this Notice in the Federal Register.

This EIS will tier to the Forest Plan (approved Septemer 23, 1987) which provides the overall guidance (Goals, Objectives, Standards and Guidelines, and Management Area direction) to achieve the desired future condition for the area being analyzed. The potentially affected area includes the following Management Areas (described in the Deerlodge Forest Plan on pages III–10 through III–73): A4, A6, C1, C3, E1, and J2.

The boundary of the area used for analysis starts where Harvey Creek intersects the corner of sections 28, 29, 32, and 33 of T. 10 N., R. 15 W., PMM, and heads in a north easterly direction along Harvey Creek to the junction with the Forest Boundary in section 29, T. 11 N., R. 14 W., PMM, thence south westerly along the administrative boundary between the Deerlodge and Lolo National Forests to approximately the center of section 35, T. 11 N., R. 15 W., PMM, thence south westerly towards the West Fork of Tyler Saddle, and thence along a line running south to the point of beginning. Of the 12,000 acres in the area, approximately 9,000 acres are inside of the roadless area boundary.

Timber Harvest is proposed on lands designated E1 (the goal of this management area is to provide healthy stands of timber and economic levels of timber while maintaining overall levels of wildlife habitat, livestock grazing, and dispersed recreation). Road construction and reconstruction may occur in the other management areas. Roading proposals will depend on which parts of Management Area E1 are identified for harvest. Approximately 800 acres of mature and overmature timber stands will be harvested.

As previously mentioned the proposed actions will impact the Silver King Roadless Area (#01–424). Because of past actions this roadless area now exists in three separate parcels (Parcel A—27,000 acres, Parcel B—13,000 acres, and Parcel C—9,000 acres). The proposed action will occur only in Parcel C. The proposed action has the potential to reduce Parcel C to less than 5,000 acres.

The proposed management activities would be administered by the Philipsburg Ranger District of the Deerlodge National Forest in Granite County, Montana.

The analysis will consider a range of alternatives. One of these will be the "No Action" alternative, in which all harvest and regeneration are deferred. Other alternatives will consider various levels and locations of harvest and regeneration in response to issues and non-timber objectives.

The analysis will evaluate the environmental effects of each alternative. This analysis will be consistent with implementing management direction outlined in the Forest Plan and with the identified issues. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of those mitigation measures will be disclosed.

Agencies and other interested publics are invited to visit with Forest Service officials at any time during the process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process (the next 45 days) and, (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review on April 15, 1990. At that time the EPA will publish a notice of availability of the Draft EIS in the Federal Register. The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to alert reviewers several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and so that it alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these courts rulings, it is important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. Referencing to specific pages or chapter of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality μRegulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.).

The final EIS is expected to be released June 15, 1990. The Forest Supervisor for the Deerlodge National Forest who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: October 26, 1989.

Ronald K. Hanson,

Land Use Coordinator, Deerlodge National Forest.

[FR Doc. 89–25446 Filed 11–8–89; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the regulations of the U.S. Commission on Civil Rights (Commission), that a meeting of the Georgia Advisory Committee (Committee) to the Commission will convene at 2:00 p.m. and adjourn at 5:00 p.m. on Tuesday, November 28, 1989, at the Hyatt Regency Hotel, 265 Peachtree Street, Atlanta, Georgia 30303. The purpose of the meeting is to release a report entitled, "Bigotry and Violence in Georgia" and to discuss civil rights progress and/or problems in the state and to make future plans for a program project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rose Strong, (404/563–0006) or Bobby D. Doctor, Commission staff at (202/376–8552; TDD 202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the regulations of the commission.

Dated at Washington, DC, November 2, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–26440 Filed 11–8–89; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Presidential Decision: Uranium Section 232 National Security Investigation

AGENCY: Office of Industrial Resource Administration, Bureau of Export Administration, Commerce.

ACTION: Announcement of Presidential decision.

SUMMARY: The President has determined that no action is necessary to adjust uranium imports under authority of section 232 of the Trade Expansion Act of 1962, as amended. Included herein is the Executive Summary of the Department's section 232 report to the President.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Deputy Assistant Secretary for Industrial Resource Administration, U.S. Department of Commerce, Washington, DC 20230, (202) 377–4506.

SUPPLEMENTARY INFORMATION: On December 30, 1988, the Secretary of Energy requested the Secretary of Commerce to conduct an investigation of the effect of uranium imports on the national security under authority of section 232 of the Trade Expansion Act of 1962, as amended. The Secretary of Energy's action was required by the provisions of section 170(B) of the Atomic Energy Act of 1954. That section requires the Secretary of Energy to request a section 232 investigation when imports of uranium represent greater than 37.5 percent of domestic requirements for any two consecutive years, as they did in 1988 and 1987. On February 27, 1989, the Department of Commerce announced its initiation of an investigation, and solicited public comments in the Federal Register.

On September 26, 1989, the Secretary of Commerce submitted his investigation report to the President. The investigation determined that available supplies of uranium would be sufficient to meet anticipated requirements during a national security emergency. The Department found, therefore, that uranium is not being imported in such quantities or under such circumstances as to represent a threat to the national security. On October 16, 1989, the President approved the Secretary of Commerce's recommended finding that no Presidential action is necessary to adjust imports of uranium under authority of section 232 of the Trade Expansion Act of 1962, as amended.

The Executive Summary of Commerce's September 1989 section 232 report is reproduced below. The complete Commerce report is available for public review and duplication in the Bureau of Export Administration's Office of Security and Management Support, Room 4886, U.S. Department of Commerce, Washington, DC 20230, (202) 377–2593.

Dennis Kloske,

Under Secretary for Export Administration.

Executive Summary

Background

On December 30, 1988, the Secretary of Energy requested the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962, as amended, to determine the effects of uranium imports on the national security. Under the statute, the President has the authority to "adjust imports" based on recommendations from the Secretary of Commerce.

The Secretary of Energy's request for the investigation was required by section 170(B) (42 U.S.C. 2210b) of the Atomic Energy Act of 1954. This section requires the Secretary of Energy to determine whether: (1) Executed contracts or options for uranium from

foreign sources for use within the United States represent greater than 37.5 percent of actual or projected domestic uranium requirements for any two

recent years, due to the easily accessible and richer deposits available elsewhere. Deposits in Canada contain up to 60 percent ore while commercially

FTZ 136 was approved by the Board on March 16, 1987 (Board Order 349, 52 FR 9904, 3/27/87). It currently consists of a 45-acre site within the Port Authority's

Dated: November 2, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–26360 Filed 11–8–89; 8:45 am]

Antidumping Duty Proceeding	Period
Countervailing Duty Proceeding	

December 31, 1987, and one manufacturer and/or exporter for the period January 1, 1988 through December 31, 1988. The review indicates

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foreign sources for use within the United States represent greater than 37.5 percent of actual or projected domestic uranium requirements for any two consecutive year periods, or whether (2) the level of contract or options from foreign sources may threaten to impair the national security. If either determination is made, the Secretary of Energy is required to request the Secretary of Commerce to initiate a section 232 investigation of uranium imports. Since U.S. utilities imported 43.8 percent of their uranium requirements in 1986 and 51.1 percent in 1987, the Secretary of Energy made the above determination and requested this study be initiated.

The Significance of Uranium to National Security

Uranium is essential to the operation of the Navy's nuclear-powered fleet, for nuclear weapon capability and for civilian nuclear energy generation. As the essential fuel for the Navy's nuclear powered vessels, including 150 nuclear submarines and surface ships, a guaranteed supply of uranium is vital for the activities of the Navy. In addition, enriched uranium is a key component of the Nation's nuclear weapons arsenal.

In the essential civilian sector, nuclear power plants currently supply almost 20 percent of U.S. electricity requirements. In this respect, uranium plays a critical role in the energy independence and security of the United States.

Significant Industry Trends

Investment as well as production of uranium has experienced a severe slowdown in recent years. Employment in the industry has declined from a 1979 peak of about 22,000 person-years and now stands at approximately 2,100 person-years.

Prices have fluctuated continously since the beginning of the commercial market in 1964. In recent years, however, prices have experienced a sharp downward trend.

Exports have declined due to lower-cost competition in the world market. At the end of 1987, contracts committed 12.2 million pounds to be exported by 1996 with no commitments beyond that date.

Imports have increased to 51.1 percent of U.S. consumption in 1987 from a very low base as recently as the 1970s. Industry experts expect imports to increase in the near- to mid-term with most of the material coming from Canada and Australia.

Competitiveness

The domestic industry's competitiveness has deteriorated in recent years, due to the easily accessible and richer deposits available elsewhere. Deposits in Canada contain up to 60 percent ore while commercially feasible mines in this country operate with deposits of less than one percent content.

In addition, nuclear power has not been utilized to the extent predicted during the early stages of the industry, resulting in lower demand for uranium to generate electricity. The U.S. market also suffers from inventory overhangs and market prices often lower than U.S. production costs.

Supply Shortfall Analysis

In a national security emergency, defense requirements could be met through stockpiles of finished nuclear materials set aside for military needs. These could be supplemented by natural uranium held at Department of Energy (DOE) enrichment plants for defense needs. Civilian requirements could be sufficiently met through U.S. production, reliable imports, inventories, and tails reprocessing.

Finding

We have determined that available supplies of uranium will be sufficient to meet anticipated requirements during a national security emergency. The Department, therefore, finds that uranium is not being imported in such quantities or under such circumstances as to represent a threat to the national security.

Recommendation

The Department recommends that the President take no action to adjust imports under authority of section 232 of the Trade Expansion Act of 1962, as amended.

[FR Doc. 89-26369 Filed 11-8-89; 8:45 am]
BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket 25-89]

Foreign-Trade Zone 136—Brevard County, Florida Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Canaveral Port Authority, grantee of FTZ 136, requesting authority to expand its zone in Brevard County, Florida. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 27, 1989.

FTZ 136 was approved by the Board on March 16, 1987 (Board Order 349, 52 FR 9904, 3/27/87). It currently consists of a 45-acre site within the Port Authority's 908-acre port terminal complex, and a 2-acre temporary site at the nearby Spaceport Florida Industrial Park in Titusville.

The change involves expanding the existing zone to include the entire 908-acre port complex, and adding two publicly-owned industrial park sites within Brevard County: The Titusville-Cocoa Space Center Executive Airport (TICO Airport) industrial park (1,372 acres) in Titusville (including the Spaceport Florida, a new complex for private high technology space operations); and the Melbourne Regional Airport industrial park (1,853 acres) in Melbourne. The application indicates that the expansion will provide facilities needed to accommodate the area's distribution/processing operations, especially for activity related to the commercialization of space. (Items of a commercial nature that comprise a space payload are considered exported at the time of launch.)

No manufacturing approvals are being sought in the application. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 909 SE First Avenue, Miami, Florida 33131; and Colonel Bruce A. Malson, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, Florida 32232.

Comments concerning the proposed expansion are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 18, 1989.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 120 George King Boulevard, Port Canaveral, Florida 32920.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Ave., NW, Washington, DC 20230.

Dated: November 2, 1989.
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 89-26368 Filed 11-8-89; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than November 30, 1989, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

Antidumping Duty Proceeding	Period
Argentina: Barbed Wire and Barbless Fencing Wire (A-357-405)	11/01/88-10/31/89
Argentina: CARBON STEEL WIRE ROD (A-357-007)	11/01/88-10/31/89
Japan: Bicycle Speedometers (A-588-038)	11/01/88-10/31/89
Japan: Titanium Sponge (A-588-020)	11/01/88-10/31/89
The Federal Republic of Germany: Drycleaning Machinery (A-428-037)	11/01/88-10/31/89
The Republic of Singapore: Rectangular Pipes and Tubes (A-559-502)	11/01/88-10/31/89
Suspension Agreements	
Japan: Certain Small Motors (A-588-090)	11/01/86-10/31/89
Singapore: Certain Refrigeration Compressors (C-559-001)	01/01/88-12/31/88
Countervailing Duty Proceeding	
Argentina: Oil Country Tubular Goods (C-357-403)	01/01/88-12/31/88
Argentina: Woolen Garments (C-357-046)	01/01/88-12/31/88
Peru: Deformed Steel Concrete Reinforcing Bars (C-333-502)	01/01/88-12/31/88

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 2030.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by November 30, 1989.

If the Department does not receive by November 30, 1989 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: October 31, 1989.
Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.
[FR Doc. 89-26367 Filed 11-8-89; 8:45 am]
BILLING CODE 3510-DS-M

[A-122-601]

Brass Sheet and Strip From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from the petitioner and one respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers three manufacturers and/or exporters of this merchandise for the period August 22, 1986 through December 31, 1987, and one manufacturer and/or exporter for the period January 1, 1988 through December 31, 1988. The review indicates the existence of dumping margins during the period August 22, 1986 through December 31, 1987. No dumping margins were found for the firm reviewed during calendar year 1988.

As a result of this review, the Department has preliminarily determined the dumping margins for these firms to range from zero to 14.16 percent.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Richard Rimlinger, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8312/1130.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 1217) an antidumping duty order on brass sheet and strip from Canada. The review covering the 1986-87 period was requested by the petitioner and covered Arrowhead Metals Ltd., Noranda Metal Industries and Ratcliffs (Canada) Ltd. The review covering calendar year 1988 covered Ratcliff's (Canada) Ltd. and was requested by the petitioner and the respondent. The reviews were requested in accordance with 19 CFR 353.53a (1988). We published notices of initiation on March 2, 1988 (53 FR 6681) and March 8, 1989 (54 FR 9868), respectively. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), we have now conducted these administrative reviews.

Scope of Review

Imports covered by the review are shipments of brass sheet and strip, other than leaded brass and tin brass sheet and strip, from Canada. The chemical composition of the products covered is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C2000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this order. During the review period, such merchandise was classifiable under item numbers 612.3960, 621.3982, 612.3986 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under Harmonized

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Tariff Schedule ("HTS") item numbers 7409.21.00 and 7409.29.00. HTS item numbers are provided for convenience and for Customs purposes. The written descriptions remain dispositive.

This review covers three manufacturers/exporters of this merchandise to the United States for the period from August 22, 1986 through December 31, 1987 and one manufacturer/exporter for the period January 1, 1988 through December 31, 1988.

United States Price

In calculating United States price, we used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the c.&f. delivered, duty paid, packed price to unrelated purchasers in the United States. We made adjustments, where applicable, for discounts, U.S. and foreign inland freight, U.S. duty and U.S. brokerage. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act.

Home market price was based on the packed ex-factory or delivered price to unrelated purchasers. We made adjustments, where appropriate, for discounts, rebates, and foreign inland freight. We also made adjustments for differences in credit expenses, commissions and, where appropriate, for differences in merchandise.

We made comparisons of merchandise groups based on form of material (sheet or strip), grade (chemical composition), dimensions, special finishes, temper, and type of packing.

For Noranda, we found that greater than ten percent by quantity of the sales were below cost in two product categories. Therefore, we disregarded the below-cost sales in our calculations for determining foreign market value.

For those categories where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise. These adjustments were based on the costs of materials, direct labor, and directly related factory overhead. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/ Exporter	Period	Margin (percent)
Arrowhead	8/26/86-12/31/87	4.55
Noranda	8/26/86-12/31/87	14.18
Ratcliffe	8/26/86-12/31/87	0.0
	1/1/88-12/31/88	0.0

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs from interested parties may be submitted not later than 14 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the initial round of comments, may be filed not later than 7 days after submission of the initial round of comments. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins will be required for the above firms. Since the margin for Ratcliffs is zero, the Department shall not require a cash deposit of estimated antidumping duties for this firm. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipments of this merchandise occurred after December 31, 1988, and which is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of zero percent shall be required. These deposit requirements are effective for all shipments of Canadian brass sheet and strip entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 353.22 of the Department's regulations (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26366 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-017]

Bricks From Mexico; Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has information sufficient to warrant initiation of a changed circumstances administrative review of the countervailing duty order on bricks from Mexico. Because the U.S. brick industry is not interested in having the United States Trade Representative ("USTR") refer this case to the International Trade Commission ("ITC"), and consequently, is not interested in maintaining the countervailing duty order, we intend to revoke the order. We invite interested parties to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: August 24, 1988.

FOR FURTHER INFORMATION CONTACT: Randall Edwards or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On May 8, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 19564) a notice of final affirmative countervailing duty determination and countervailing duty order on bricks from Mexico. At the time the countervailing duty order was issued, Mexico was not entitled to an injury test under U.S. and international law. Countervailing duties were imposed upon this merchandise, which was and remains duty free, without a determination that these entries were injuring the relevant domestic industry.

On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade ("GATT"). Consistent with our earlier positions in Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod from Trinidad and Tobago; Preliminary Results of Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (50 FR 19561; May 9, 1985), the Department has concluded that it lacks the authority under Article VI of the GATT and section 303(a)(2) of the Tariff Act of 1930, as amended ("the Tariff Act"), to levy countervailing duties on duty-free imports from Mexico entered on or after August 24, 1986 absent a determination regarding injury to the domestic industry.

In order to fulfull our international obligations, we have developed procedures whereby the U.S. International Trade Commission ("ITC") will, at the request of the United States Trade Representative ("USTR"), conduct an investigation pursuant to section 332 of the Tariff Act to assess whether (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded, if the Department were to revoke the outstanding countervailing duty order on bricks from Mexico.

On August 1, 1989, we sent a letter to the domestic interested parties on the Department's service list informing them of these procedures. In order to determine whether there was any interest in USTR requesting an investigation pursuant to section 332 on duty-free imports of bricks from Mexico, we requested that the interested domestic parties submit a statement of interest within 30 days of the receipt of our letter. We stated that if we received a statement of interest, we would urge USTR to request that the ITC conduct an investigation pursuant to section 332. The original petitioners in this case requested and received an extension of 30 days to further consider such an undertaking. On September 29, 1989, the petitioners submitted a letter to the Department stating that they were not interested in an injury investigation of duty-free bricks from Mexico.

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after this date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments bricks from Mexico, including unglazed solid bricks and unglazed hollow bricks. Through 1988, such merchandise was classifiable under item numbers 532.1120 and 532.1140 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 6904.10.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Initiation, Preliminary Results of Review and Intent To Revoke

We have determined that changed circumstances exist that warrant the initiation of a changed circumstances review. These changed circumstances include: (1) The Government of Mexico's accession to the GATT; (2) our international obligations requiring us not to levy countervailing duties on duty-free imports from GATT-member countries in the absence of an affirmative injury determination; and (3) the domestic industry's lack of interest in having USTR refer this case to the ITC to conduct a section 332 investigation and consequently, its lack of interest in maintaining the countervailing duty order on bricks from Mexico. Under these circumstances, we conclude that expedited action is warranted and are combining the notices of initiation and preliminary results of our changed circumstances administrative review.

Thus, we preliminarily determine that there is a reasonable basis to believe that the requirements for revocation based on changed circumstances are met. Accordingly, we intend to revoke the countervailing duty order on bricks from Mexico effective August 24, 1986. The current requirements for the cash deposit of estimated countervailing duties will remain in effect until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and intent to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday following. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This initiation of review, administrative review, intent to revoke and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and § 355.22 (h)(1) and (h)(4) and 355.25 (d)(1), (d)(2), and (d)(3) of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22 and 355.25).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26364 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-012]

Carbon Black From Mexico; Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has information sufficient to warrant initiation of a changed circumstances administrative review of the countervailing duty order on carbon black from Mexico. Because the U.S. carbon black industry is not interested in having the United States Trade Representative (USTR) refer this case to the International Trade Commission (ITC) to conduct a section 332 investigation and, consequently, is not interested in maintaining the countervailing duty order, we intend to revoke the order. We invite interested parties to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: August 24, 1988.

FOR FURTHER INFORMATION CONTACT: David Layton or Paul McGarr, Office of

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Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION: On June 27, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 29564) a notice of final affirmative countervailing duty determination and countervailing duty order on carbon black from Mexico. At the time the countervailing duty order was issued, Mexico was not entitled to an injury test under U.S. and international law. Countervailing duties were imposed upon this merchandise, which was and remains duty free, without a determination that these entries were injuring the relevant domestic industry.

On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade ("GATT"). Consistent with our earlier positions in Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod from Trinidad and Tobago; Preliminary Results of Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (50 FR 19561; May 9, 1985), the Department has concluded that it lacks the authority under Article VI of the GATT and section 303(a)(2) of the Tariff Act of 1930, as amended ("the Tariff Act"), to levy countervailing duties on duty-free imports from Mexico entered on or after August 24, 1986 absent a determination regarding injury to the domestic industry.

In order to fulfill our international obligations, we have developed procedures whereby the U.S. International Trade Commission ("ITC") will, at the request of the United States Trade Representative ("USTR"), conduct an investigation pursuant to section 332 of the Tariff Act to assess whether (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded, if the Department were to revoke the outstanding countervailing duty order on carbon black from Mexico.

On August 1, 1989, we sent letters to all domestic interested parties on the Department's service list informing them of these procedures. In order to determine whether there was any interest in USTR requesting an investigation pursuant to section 332 on duty-free imports of carbon black from Mexico, we requested that interested parties submit a statement of interest within 30 days of the date of receipt of our letter. We stated that if we received a statement of interest, we would urge USTR to request that the ITC conduct an investigation pursuant to section 332. We further stated that, in the absence of a statement of interest, we would initiate procedures to revoke the countervailing duty order on carbon black from Mexico. We have no response.

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after this date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Mexican carbon black. Through 1988, such merchandise was classifiable under item number 473.0400 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 2803.00.0010. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Initiation, Preliminary Results of Review and Intent To Revoke

We have determined that changed circumstances exist sufficient to warrant initiation of a changed circumstances review. These changed circumstances include: (1) The Government of Mexico's accession to the GATT; (2) our international obligations requiring us not to levy countervailing duties on duty-free imports from GATT-member countries in the absence of an affirmative injury determination; and (3) the domestic industry's lack of interest in having USTR refer this case to the ITC to conduct a section 332 investigation and, consequently, its lack of interest in maintaining the countervailing duty order on carbon black from Mexico. Under these circumstances, we conclude that expedited action is warranted and are combining the notices of initiation and preliminary results of our changed circumstances administrative review.

Thus, we preliminarily determine that there is a reasonable basis to believe that the requirements for revocation based on changed circumstances are met. Accordingly, we intend to revoke the countervailing duty order on carbon black from Mexico effective August 24, 1986. The current requirements for the cash deposit of estimated countervailing duties will remain in effect until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and intent to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday following. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This initiation of review, administrative review, intent to revoke and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and §§ 355.22 (h)(1) and (h)(4) and 355.25 (d)(1), (d)(2) and (d)(3) of the Commerce Regulations published in the Federal Register on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22 and 355.25).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–26305 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Tuesday, December 12 and Wednesday, December 13, 1989, from 9:00 a.m. to 5:00 p.m. This is the fourth meeting of the Advisory Board which was established by the Computer Security Act of 1987 (Public Law 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. A closed session of the meeting will be held to discuss NIST outyear computer security budget matters. The closed session is scheduled to be held, Tuesday, December 12, 1989, from 9:00 a.m. to 5:00 p.m. All other sessions will be open to the public.

DATES: The meeting will be held on December 12 and 13, 1989, from 9:00 to 5:00 p.m. A closed session will be on Tuesday, December 12, 1989, from 9:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will take place at the National Institute of Standards and Technology, Gaithersburg, Maryland. Please contact the individual in the "for further information" section to obtain specific building and conference room assignment.

Agenda

1. Welcome
2. Review of NIST's Computer Security Budget and Revised Program Plan
3. Review of Board's Progress and Proposed Work Plan
4. Subcommittee Reports
5. Discussion of Federal Government Computer Security Issues
6. Public Participation and Pending Board Matters

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer Systems Security and Privacy Advisory Board, National Computer Systems Laboratory, Building 225, Room B–154, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899. It would be appreciated if fifteen copies of written material could be submitted for distribution to the Board by December 5, 1989.

Approximately fifteen seats will be available for the public, including three seats reserved for media. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn McNulty, Associate Director for Computer Security and Advisory Board Secretary, National Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, Room B–154, Gaithersburg, Maryland 20899, telephone: (301) 975–2240

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 15, 1989, that the portion of this meeting which involves examination of out-year computer security budgets may be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by section 5(c) of the Government in Sunshine Act, Public Law 94–409. Those portions of the meeting, which involve discussion of future budget requests, may be closed to the public in accordance with section 552(b)(9)(B) of title 5, United States Code, since those portions of the meeting are likely to divulge matters that may significantly frustrate implemenation of proposed agency action. All other portions of the meeting will be open to the public.

Dated: November 3, 1989.

Raymond G. Kammer,

Acting Director.

[FR Doc. 89–26469 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Endangered Species; Issuance of Permit; Southwest Fisheries Science Center (P77#36)

On September 20, 1989, notice was published in the Federal Register (54 FR 38718) that an application had been filed by the Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, CA 92038, for a permit to take olive ridley turtles (*Lepidochelys olivacea*) for scientific research.

Notice is herby given that on October 30, 1989, as authorized by the provisions of the Endangered Species Act of 1973, the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220–222 of Title 50 CFR, of the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: October 30, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–26451 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent 4,315,927 (Serial Number 6–176,234), "Dietary Supplementation with Essential Metal Picolinates," to Nutrition 21, having a place of business in San Diego, CA, for its use as a supplemental to animal diets. The invention is a composition for supplementing essential metals in mammalian diets. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of such license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

A copy of the instant patent may be purchased from the Patent and Trademark Office by telephoning (703) 557–3428 or by writing to the Commissioner of Patents and Trademarks, P.O. Box No. 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the comtemplated licenses must be submitted to Neil L. Mark, Office of Federal Patent

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Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-26452 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Group II is being increased for special carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 50071, published on December 13, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 8, 1988, as amended, from the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes restraints limits for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 6, 1989, you are directed to amend further the December 8, 1988 directive to increase the current limit for Group II, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and India:

Category—Group II	Adjusted 12-mon. limit [1]
200, 201, 220-229, 237, 239, 300/301, 317, 326, 330-334, 345, 349-352, 359-362, 369-O [2], 369-S [3], 600-607, 611-635, 638-652, 659, 655pt. [4], 665-670 and 831-859, as a group.	110,117,000 square meters equivalent.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369-O, all HTS numbers except 6307.10.2005 in Category 369-S; 6302.60.0010, 6302.91.0005 and 6302.91.0045 in Category 369-D; and rugs exempt from the bilateral agreement in HTS numbers 5702.10.9020, 5702.49.1010 and 5702.99.1010.

[3] In Category 369-S, only HTS number 6307.10.2005.

[4] In Category 655pt., all HTS numbers except rugs exempt from the bilateral agreement in HTS numbers 5702.10.9060, 5702.42.2010, 5702.92.0010 and 5703.20.1000.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26414 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Mexico

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United Mexican States requested an increase in the current Designated Consultation Level for Category 443. The United States Government has agreed to increase the limit for 1989 only.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 52461, published on December 28, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns, among other things, imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 7, 1989, the directive of December 22, 1988 is amended further to increase to 98,000 numbers [1] the current limit for wool textile products in Category 443.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26412 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of an Import Limit for Certain Cotton, Wool and Man-Made Fiber Sweaters Assembled in the Commonwealth of the Northern Mariana Islands (CNMI) From Imported Parts

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On November 25, 1988, a notice was published in the **Federal Register** (53 FR 47744) announcing that cotton, wool and man-made fiber sweaters in Categories 345, 445, 446, 645 and 646, determined by the U.S. Customs Service to be products of foreign countries or foreign territories and exported from the Commonwealth of the Northern Mariana Islands (CNMI), and certified to have been assembled in the CNMI, may be entered into the United States for consumption, or withdrawn from warehouse for consumption, in an amount not to exceed 87,540 dozen. This limited exception was to be effective for sweaters exported from the CNMI during the period November 1, 1988 through October 31, 1989.

The purpose of this notice is to advise the public that this exception is being continued for goods exported during the period November 1, 1989 through October 31, 1990 at a level of 87,540 dozen, with a wool sublimit of 13,131 dozen, in accordance with the terms of the administrative arrangement between the Governments of the United States and the Commonwealth of the Northern Mariana Islands.

A certification will continue to be required and will be issued by the authorities in the CNMI prior to exportation as verification of assembly in the CNMI. A facsimile of the certification stamp was published in the **Federal Register** on August 12, 1988 (53 FR 30456).

For those sweaters properly certified, no export visa or license will be required from the country of origin of the merchandise, and imports entered under this procedure will not be charged to limits established for exports from the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess of 87,540 dozen (13,131 dozen for the wool sublimit), will require the appropriate visa or export license from the country of origin and will be subject to any other applicable restriction.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC.

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 13, 1989, you are directed to permit entry or withdrawal from warehouse for consumption in the United States in an amount not to exceed 87,540 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646, with a wool sublimit for Categories 445 and 446 not to exceed 13,131 dozen, the product of any foreign country or foreign territory, as determined under Customs Regulation Part 12, Section 12.130 and which have been certified as assembled in the Commonwealth of the Northern Mariana Islands (CNMI) and exported to the United States during the twelve-month period beginning on November 1, 1989 and extending through October 31, 1990. You are directed not to require any otherwise applicable export visa or license and not to charge against any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in the CNMI prior to exportation as verification of assembly in the CNMI. A facsimile of the certification stamp has been provided.

You are directed to require the appropriate visa or export license from the country of origin and charge any shipments of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 to the country of origin if (a) the 87,540 dozen limit or the 13,131 dozen wool sublimit have been filled, or (b) the products are not accompanied by certification, or (c) the products are not assembled in the Commonwealth of the Northern Mariana Islands.

Imports charged to the category limit for the period November 1, 1988 through October 31, 1989 shall be charged against the level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26415 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Socialist Republic of Romania

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

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quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Socialist Republic of Romania agreed to convert the designated consultation level for Category 315 to a specific limit at an increased level for 1989.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49344, published on December 7, 1988.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988, as amended, by the Chairman, Committee for the Implementation of Textiles Agreements. That directive concerns imports of certain cotton, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 13, 1989, the directive of December 2, 1988 is being amended further to increase to 2,007,283 square meters [1] the current limit for cotton textile products in Category 315.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26413 Filed 11–8–89; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90–54–000, et al.]

People's Electric Cooperative, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 3, 1989.

Take notice that the following filings have been made with the Commission:

1. People's Electric Cooperative

[Docket No. ER90–54–000]

Take notice that People's Electric Cooperative, on November 1, 1989, tendered for filing initial rate schedules for transmission and wholesale energy sales, designated Rate Schedule Nos. 1 and 2, pursuant to Transmission Service Agreements between People's Electric Cooperative and two of its customers, the Chickasaw Tribal Utility Authority (CTUA) and the Byng Public Works Authority (BPWA). These agreements provide for the initiation of transmission and wholesale power and energy service to these customers.

Copies of the filing were served upon Chickasaw Tribal Utility Authority, Ada, Oklahoma, Byng Public Works Authority, Ada, Oklahoma, and the Oklahoma Corporation Commission.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Central Louisiana Electric Company, Inc.

[Docket No. ER90–39–000]

Take notice that on October 30, 1989, Central Louisiana Electric Company, Inc. (CLECO) filed proposed revisions to its FERC Rates for transmission service provided to the following entities:

Entity	FERC rate schedule No.
Cajun Electric Power Cooperative	21
City of Lafayette, Louisiana	33
Lafayette Public Power Authority	51
Louisiana Energy and Power Authority	53
Louisiana Energy and Power Authority	55

CLECO states that the revised rates would increase revenues by $6,505.453 on an annual basis. The proposed rates are filed to recover increased costs including operating expenses and capital costs associated with increased investments. The revised rate schedule is proposed to become effective on January 1, 1990.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company; Public Service Company of New Hampshire

[Docket No. ER–90–21–000]

Take notice that Bangor Hydro-Electric Company ("Bangor") and Public Service Company of New Hampshire (PSNH) on October 31, 1989 tendered for filing as an Initial Rate Schedule, an Electric Generating Capability Sales Agreement. The Agreement provides for the sale by Bangor to PSNH of 5,000 KW of electric generating capability during November 1, 1989 through April 30, 1990 and the total output associated therewith.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. ER90–53–000]

Take notice that Pennsylvania Power & Light Company ("PP&L") on November 1, 1989, tendered for filing, as an initial rate schedule, an executed agreement dated as of November 1, 1989, between PP&L and Public Service Company of New Hampshire ("PSNH"). The proposed rate schedule provides for the sale of short-term electric capability and energy from PP&L's Martins Creek Units 3 and 4 to PSNH.

The rate schedule provides for a maximum reservation charge of $808 per megawatt week and a delivery charge of PP&L's actual cost of producing the energy plus a maximum charge of $17/Mwh reflecting foregone interchange savings.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and § 35.3 of the Commission's Regulations to that the proposed rate schedule can be made effective as of November 1, 1989, in accordance with the planned commencement of service.

PP&L states that a copy of its filing was served on PSNH, the Pennsylvania Public Utility Commission, and the New Hampshire Public Utility Commission.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Delmarva Power & Light Company

[Docket No. ER90–51–000]

Take notice that Delmarva Power & Light Company ("Delmarva") on November 1, 1989, tendered for filing proposed Supplement No. 3 to Supplement No. 3 to its FERC Rate Schedule No. 63. This Supplement, filed at the request of the Town of Berlin, Maryland ("Berlin") increases the maximum level of parallel generation under the provisions of the Parallel Operations Service Agreement between Delmarva and Berlin from 3600 kW to 4700 kW. Copies of the filing were served upon Berlin and the Maryland Public Service Commission.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Montaup Electric Company

[Docket No. ER90–40–000]

Take notice that on October 31, 1989, Montaup Electric Company ("Montaup" or "the Company") tendered for filing rate schedule revisions incorporating the 1990 forecast billing rate for its purchased capacity adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island and contract demand service to the three non-affiliated customers: The town of Middleborough in Massachusetts and the Pascoag Fire District and the Newport Electric Corporation in Rhode Island. The new forecast billing rate is $10.05529/kw-Mo. Montaup requests that the new rate become effective January 1, 1990 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorneys General of Massachusetts and Rhode Island, the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Yankee Atomic Electric Company

[Docket No. ER90–47–000]

Take notice that on October 31, 1989, Yankee Atomic Electric Company (Yankee) tendered for filing, pursuant to section 205 of the Federal Power Act and § 35.13 of the Commission's regulations, an amendment to the Power Contracts under which Yankee sells electricity for resale to ten New England utilities. Yankee states that the rate change proposed would result in a decrease in Yankee's 1990 revenue requirement of approximately $8.3 million.

Yankee states that copies of its filing have been provided to its customers and to state regulatory authorities in Connecticut, Vermont, New Hampshire, Massachusetts, Maine, and Rhode Island.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER89–635–000]

Take notice that Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) on October 12, 1989, tendered for filing rate schedule supplements effecting the refund of charges for wholesale service attributable to Northern States Power Company (Minnesota)'s current expensing of spare repair parts rather than capitalizing or inventorying the parts. The filing substitutes new proposed rate schedules for the proposed rate schedules filed in this docket on September 1, 1989. The substituted proposed rate schedules effect larger refunds than the previous rate schedules.

Under the substituted proposed schedules, the amount of Northern States Power Company (Minnesota)'s refund to its subsidiary, Northern States Power Company (Wisconsin) is $3,723,548 and to its 19 non-affiliated wholesale customers is $716,804. Of the $3,723,548 refunded to the subsidiary, $528,402 in turn is refunded by the subsidiary to its 15 non-affiliated wholesale customers. The requested effective date for the filed supplements is November 30, 1989.

The filing has been served upon the non-affiliated customers receiving the credit and on the Minnesota Public Utilities Commission, North Dakota Public Service Commission, South Dakota Public Utilities Commission, and the Public Service Commission of Wisconsin.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Gulf Power Company

[Docket No. ER90–48–000]

Take notice that on October 31, 1989, Gulf Power Company (Gulf) tendered for filing Gulf's 1990 Informational Filing regarding the Interconnection Agreement and Service Agreement between Gulf and Bay Resources Management, Inc.

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Turlock Irrigation District v. Pacific Gas and Electric Company

[Docket No. EL90–2–000]

Take notice that on November 2, 1989, pursuant to sections 205 and 206 of the Federal Power Act, 16 U.S.C. 824d and 824e, and Rules 206, 209 and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, .209 and .212, Turlock Irrigation District (Turlock) tendered for filing a Complaint and Motion for Issuance of an Order to Show Cause against Pacific Gas and Electric Company (PG&E).

In its Complaint, Turlock alleges that on October 19, 1989, PG&E made an unexpected demand on Turlock for payment of $3,389,102.00 as a "true-up" rate for service rendered directly to the City and County of San Francisco (San Francisco) and indirectly to Turlock under a series of agreements among PG&E, San Francisco, Turlock and Modesto Irrigation District (Modesto). Turlock represents that PG&E has not filed a rate with the Commission under which these charges can properly be collected. Turlock further alleges that PG&E has improperly attempted to use the dispute resolution and arbitration procedures of the Interconnection Agreement between PG&E and Turlock (PG&E's FERC Rate Schedule No. 115) to resolve this claim.

Turlock requests that the Commission issue an order finding that: (i) The demand for payment made by PG&E is an invalid bill not based upon any rate approved by the Commission and in violation of the Federal Power Act; (ii) PG&E's demand for payment is outside of the scope of the Turlock-PG&E Interconnection Agreement and should not be subject to the dispute resolution and arbitration provisions of the Interconnection Agreement; and (iii) the Commission has exclusive jurisdiction over this matter. Turlock further requests the Commission to issue an Order to Show Cause requiring PG&E (i) to show why it should not be required to file for approval of the increased rates sought in its demand to Turlock and prove the justness and reasonableness of such rate; and (ii) to withdraw immediately its demand for payment as well as its invocation of the dispute resolution provisions of the PG&E-Turlock Interconnection Agreement.

Comment date: December 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Northern Indiana Public Service Company

[Docket No. ER90-43-000]

Take notice that on October 30, 1989, Northern Indiana Public Service Company (NIPSCO) tendered for filing Eighth Revised Sheet No. 3 to its FERC Electric Service Tariff—Fourth Revised Volume No. 1 which has been revised to include additional delivery points for Wabash Valley Power Association at Kankakee Valley Rural Electric Membership Corporation and Kosciusko County Rural Electric Membership Corporation. Northern Indiana Public Service Company also tendered for filing the following:

Exhibit A, Seventh Supplemental Agreement, dated August 15, 1989, to the Interconnection Agreement between Northern Indiana Public Service Company and the Wabash Valley Power Association, Inc., dated April 16, 1984, covering the establishment of a new delivery point located in Jackson Township, Porter County, Indiana, to be known as the West Toll 69KV delivery point and the termination of two existing delivery points known as the Kankakee Valley REMC Toll delivery point and the Washington Township delivery point.

Exhibit A, Eighth Supplemental Agreement, dated September 26, 1989, to the Interconnection Agreement between Northern Indiana Public Service Company and the Wabash Valley Power Association, Inc., dated April 16, 1984, covering the establishment of a new delivery point located in Plain Township, Kosciusko County, Indiana, to be known as the Airport 69KV delivery point the the termination of an existing delivery point known as the Kosciusko County REMC No. 2 North delivery point.

Copies of this filing were served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff—Fourth Revised Volume No. 1 and the Indiana Utility Regulatory Commission.

NIPSCO requests effective date of October 10, 1989 for Exhibit A, Seventh Supplemental Agreement and, March 1, 1990 for Exhibit A, Eighth Supplemental Agreement and, therefore requests waiver of the Commission's notice requirements.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Modesto Irrigation District v. Pacific Gas and Electric

[Docket No. EL90-3-000]

Take notice that on November 2, 1989, pursuant to sections 205, 206 and 306 of the Federal Power Act, 16 U.S.C. 824d, 824e, and 825e, and pursuant to Rules 206, 209, and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, 385.209 and 385.212, Modesto Irrigation District (Modesto) tendered for filing a complaint against Pacific Gas and Electric Company (PG&E).

In its complaint, Modesto alleges that on October 19, 1989, PG&E made a formal demand on Modesto for payment of approximately $10.7 million as a "true-up" rate for service rendered to Modesto under a series of agreements among PG&E, Modesto, Turlock Irrigation District and the City and County of San Francisco. Modesto represents that PG&E has not filed a rate with the Commission under which these charges can properly be collected. Modesto further alleges that PG&E has improperly attempted to use the dispute resolution and arbitration procedures of the Interconnection Agreement between PG&E and Modesto (PG&E's FERC Rate Schedule No. 116) to resolve this claim.

Modesto requests that the Commission (i) issue an order summarily requiring PG&E to show cause why it is not required to file with the Commission and justify its proposed surcharge and (ii) enjoin PG&E from invoking the arbitration provisions of the Modesto-PG&E Interconnection Agreement. Alternatively, if the Commission does not summarily order PG&E to show cause, Modesto requests that the Commission issue an order initiating an evidentiary proceeding under section 206 of the Federal Power Act investigating the justness and reasonableness of the surcharge sought by PG&E. Modesto also requests that the Commission grant such other relief as it may deem just and appropriate.

Comment date: December 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26427 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST89-4636-000 through ST89-4672-000]

Oasis Pipe Line Co.; Self-Implementing Transactions

November 3, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's Regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before November 28, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

A "G" indicates transportaton by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines—pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's Regulations.

A "K-S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines—pursuant to § 284.303 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

Please note, the petition for rate approval is notice out of sequence. This filing was originally submitted to the Commission in August, 1989, and received a docket number at that time. However, the filing fee was not paid until October, 1989. This petition is noticed at this time to give interested parties the appropriate 150-day comment period.

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4636	Oasis Pipe Line Co	Transwestern Pipeline Co	09-01-89	C		
ST89-4639	Oasis Pipe Line Co	El Paso Natural Gas Co	09-01-89	C		
ST89-4640	Oasis Pipe Line Co	El Paso Natural Gas Co	09-01-89	C		
ST89-4641	Houston Pipe Line Co	Willow Tex Pipeline Co	09-01-89	C		
ST89-4642	Houston Pipe Line Co	Enron Industrial Natural Gas Co	09-01-89	C		
ST89-4643	Houston Pipe Line Co	Transwestern Pipeline Co	09-01-89	C		
ST89-4644	Panhandle Gas Co	Transwestern Pipeline Co	09-01-89	D		
ST89-4645	Natural Gas Pipeline Co. of America	Pennzoil Gas Marketing Corp	09-01-89	G-S		
ST89-4646	Tennessee Gas Pipeline Co	City of Senatobia	09-01-89	B		
ST89-4647	Williams Natural Gas Co	Williams Gas Marketing Co	09-01-89	G-S		
ST89-4648	Williams Natural Gas Co	NGP Pipeline Co	09-01-89	B		
ST89-4649	Louisiana Resources Co	Southern Natural Gas Co	09-01-89	C	01-29-90	32.32
ST89-4650	Louisiana Resources Co	Louisiana Gas Marketing Co, et al	09-01-89	C	01-29-90	32.32
ST89-4651	Louisiana Resources Co		09-01-89	C	01-29-90	32.32
ST89-4652	ANR Pipeline Co	Consumers Power Co	09-01-89	B		
ST89-4653	ANR Pipeline Co	Coastal States Gas Transmission Co	09-01-89	B		
ST89-4654	ANR Pipeline Co	Consolidated Fuel Corp	09-01-89	G-S		
ST89-4655	ANR Pipeline Co	Brock Oil & Gas Corp	09-01-89	G-S		
ST89-4656	ANR Pipeline Co	United Cities Gas Co	09-01-89	B		
ST89-4657	Transok, Inc	Phillips Gas Pipeline Co	09-01-89	C	01-29-90	32.50
ST89-4658	Natural Gas Pipeline Co of America	BP Gas Inc	09-05-89	G-S		
ST89-4659	Natural Gas Pipeline Co of America	Kimball Resources, Inc	09-05-89	G-S		
ST89-4660	Panhandle Eastern Pipe Line Co	Teepak, Inc	09-05-89	G-S		
ST89-4661	Panhandle Eastern Pipe Line Co	Anadarko Trading Co	09-05-89	G-S		
ST89-4662	Panhandle Eastern Pipe Line Co	Anadarko Trading Co	09-05-89	G-S		
ST89-4663	Dow Pipeline Co		09-05-89	C	02-02-90	07.85
ST89-4664	United Texas Transmission Co	Longhorn Pipeline Co	09-05-89	C		
ST89-4665	Panhandle Eastern Pipe Line Co	Anadarko Trading Co	09-05-89	G-S		
ST89-4666	Panhandle Eastern Pipe Line Co	Citizens Gas Fuel Co	09-05-89	B		
ST89-4667	Panhandle Eastern Pipe Line Co	Horne Petroleum Corp	09-05-89	G-S		
ST89-4668	K N Energy, Inc	AEC Gas Co	09-05-89	B		
ST89-4669	Natural Gas Pipeline Co. of America	Coastal Gas Marketing Co	09-05-89	G-S		
ST89-4670	Panhandle Eastern Pipe Line Co	Eli Lilly and Co	09-05-89	G-S		
ST89-4671	Panhandle Eastern Pipe Line Co	Golden Gas Energies, Inc	09-05-89	B		
ST89-4672	Trunkline Gas Co	Panhandle Trading Co	09-05-89	G-S		
ST89-4673	Trunkline Gas Co	PSI, Inc	09-05-89	G-S		
ST89-4674	Trunkline Gas Co	Amoco Production Co	09-05-89	G-S		
ST89-4675	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	09-05-89	B		
ST89-4676	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	09-05-89	B		
ST89-4677	Tennessee Gas Pipeline Co	Baltimore Gas and Electric Co	09-05-89	B		
ST89-4678	Pacific Gas Transmission Co	Intermountain Gas Co	09-05-89	B		
ST89-4679	Pacific Gas Transmission Co	Washington Water Power Co	09-05-89	B		
ST89-4680	Pacific Gas Transmission Co	NGC Intrastate Pipeline Co	09-05-89	B		
ST89-4681	El Paso Natural Gas Co	Southwest Gas Corp	09-05-89	B		
ST89-4682	Panhandle Eastern Pipe Line Co	Amgas, Inc	09-05-89	G-S		
ST89-4683	Texas Gas Transmission Corp	Commonwealth Gas Co	09-06-89	G-S		
ST89-4684	Texas Gas Transmission Corp	Georgia-Pacific Corp	09-06-89	B		
ST89-4685	Texas Gas Transmission Corp	Entrade Corp	09-06-89	G-S		
ST89-4686	Texas Gas Transmission Corp	Sun Operating Limited Partnership	09-06-89	G-S		
ST89-4687	Texas Gas Transmission Corp	Stand Energy Corp	09-06-89	G-S		
ST89-4688	Texas Gas Transmission Corp	CNG Trading Co	09-06-89	G-S		
ST89-4689	Texas Gas Transmission Corp	Brooklyn Interstate Natural Gas Corp	09-06-89	G-S		
ST89-4690	Natural Gas Pipeline Co. of America	Texaco Gas Marketing, Inc	09-06-89	G-S		
ST89-4691	Natural Gas Pipeline Co. of America	Palo Duro Pipeline Co., Inc	09-07-89	B		
ST89-4692	Natural Gas Pipeline Co. of America	Unicorp Energy, Inc	09-06-89	G-S		
ST89-4693	Northern Natural Gas Co	Entrade Corp	09-07-89	G-S		
ST89-4694	Northern Natural Gas Co	Transco Energy Marketing Co	09-07-89	G-S		
ST89-4695	Northern Natural Gas Co	Peoples Natural Gas Co	09-07-89	B		
ST89-4696	Tennessee Gas Pipeline Co	East Ohio Gas Co	09-07-89	B		

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4697	Tennessee Gas Pipeline Co	East Ohio Gas Co	09-07-89	B		

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4778	Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	09-21-89	G		

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Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration date	Transportation
ST89-4697	Tennessee Gas Pipeline Co	East Ohio Gas Co	09-07-89	B		
ST89-4698	Natural Gas Pipeline Co. of America	Central Illinois Light Co	09-07-89	B		
ST89-4699	United Gas Pipe Line Co	Gulf South Pipeline Co	09-07-89	G-S		
ST89-4700	Valero Transmission, L.P	El Paso Natural Gas Co	09-08-89	C		
ST89-4701	ONG Transmission Co	Panhandle Eastern Pipe Line Co	09-08-89	C	09-06-90	$4.32
ST89-4702	Panhandle Eastern Pipe Line Co	Coastal States Gas Transmission Co	09-08-89	B		
ST89-4703	Panhandle Eastern Pipe Line Co	Texas Gas Transmission Corp	09-08-89	G		
ST89-4704	Trunkline Gas Co	Texas Eastern Transmission Corp	09-08-89	G		
ST89-4705	Trunkline Gas Co	Central Illinois Light Co	09-08-89	B		
ST89-4706	Trunkline Gas Co	Union Electric Co	09-08-89	B		
ST89-4707	Trunkline Gas Co	Texas Gas Transmission Corp	09-08-89	G		
ST89-4708	Arkla Energy Resources	ESCO Intrastate	09-11-89	B		
ST89-4709	Arkla Energy Resources	Sun Gas, L.P	09-11-89	B		
ST89-4710	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	09-11-89	C		
ST89-4711	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	09-11-89	C		
ST89-4712	Houston Pipe Line Co	Black Marlin Pipeline Co	09-11-89	C		
ST89-4713	Tennessee Gas Pipeline Co	United States Gypsum Co	09-11-89	G-S		
ST89-4714	Natural Gas Pipeline Co. of America	Midwest Gas Co	09-11-89	B		
ST89-4715	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	09-11-89	B		
ST89-4716	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	09-11-89	B		
ST89-4717	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4718	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4719	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4720	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4721	Pacific Gas Transmission Co	Cascade Natural Gas Corp	09-12-89	B		
ST89-4722	Texas Eastern Transmission Corp	Tranack, Inc	09-12-89	B		
ST89-4723	Texas Eastern Transmission Corp	Polaris Energy Corp	09-12-89	B		
ST89-4724	Texas Eastern Transmission Corp	Acadian Gas Pipeline System	09-12-89	B		
ST89-4725	Texas Eastern Transmission Corp	Rochester Gas & Electric Corp	09-12-89	B		
ST89-4726	Texas Eastern Transmission Corp	East Ohio Gas Co	09-12-89	B		
ST89-4727	Texas Eastern Transmission Corp	T. W. Phillips Gas & Oil Co	09-12-89	B		
ST89-4728	Texas Eastern Transmission Corp	ANG Intrastate Pipeline, Inc	09-12-89	B		
ST89-4729	Texas Eastern Transmission Corp	Mississippi Fuel Co	09-12-89	B		
ST89-4730	Texas Eastern Transmission Corp	Elizabethtown Gas Co	09-12-89	B		
ST89-4731	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing Co	09-13-89	G-S		
ST89-4732	Texas Gas Transmission Corp	Tejas Power Corp	09-13-89	G-S		
ST89-4733	Texas Gas Transmission Corp	Bishop Pipeline Corp	09-13-89	G-S		
ST89-4734	Texas Gas Transmission Corp	Brooklyn Interstate Natural Gas Corp	09-13-89	G-S		
ST89-4735	Northwest Pipeline Corp	Greeley Gas Co	09-13-89	G-S		
ST89-4736	Texas Gas Transmission Corp	NGC Intrastate Pipeline Co	09-13-89	B		
ST89-4737	Valero Transmission, L.P	Trunkline Gas Co	09-14-89	C		
ST89-4738	Panhandle Eastern Pipe Line Co	Transtate Gas Service Co	09-14-89	G-S		
ST89-4739	Panhandle Eastern Pipe Line Co	BHP Gas Marketing Co	09-14-89	G-S		
ST89-4740	Panhandle Eastern Pipe Line Co	Amarillo Natural Gas Co, Inc	09-15-89	G-S		
ST89-4741	Southern Natural Gas Co	OXY U.S.A., Inc	09-15-89	G-S		
ST89-4742	Southern Natural Gas Co	Texican Natural Gas Co	09-15-89	G-S		
ST89-4743	Southern Natural Gas Co	Centran Corp	09-15-89	G-S		
ST89-4744	Transok, Inc	Phillips Gas Pipeline Co	09-15-89	C	02-12-90	$2.50
			09-15-89	C	02-12-90	25.00
ST89-4745	Delhi Gas Pipeline Corp	Consolidated Fuel Corp	09-15-89	G-S		
ST89-4746	Equitrans, Inc	Equitable Gas Co	09-15-89	B		
ST89-4747	Equitrans, Inc	Apache Corp	09-15-89	G-S		
ST89-4748	Northern Natural Gas Co	Energy Marketing Services, Inc	09-15-89	G-S		
ST89-4749	Inland Gas Co., Inc. (The)	King's Daughters' Medical Center	09-15-89	G-S		
ST89-4750	Inland Gas Co., Inc. (The)	A. C. Lawrence Leather Co, Inc	09-15-89	G-S		
ST89-4751	Inland Gas Co., Inc. (The)	Meridian Oil Trading, Inc	09-18-89	G-S		
ST89-4752	El Paso Natural Gas Co	TXO Gas Ventures Corp	09-18-89	G-S		
ST89-4753	El Paso Natural Gas Co	BP Gas Inc	09-18-89	G-S		
ST89-4754	El Paso Natural Gas Co	Natural Gas P/L Co of America, et al	09-18-89	C		
ST89-4755	Palo Duro Pipeline Co., Inc	United Gas Pipe Line Co., et al	09-18-89	C	02-15-90	21.11
ST89-4756	Superm Pipeline Co	Olympic Gas Pipeline	09-15-89	B		
ST89-4757	Panhandle Eastern Pipe Line Co	Intermountain Gas Co	09-15-89	G-S		
ST89-4758	Northwest Pipeline Corp	Paiute Pipeline Co	09-18-89	G		
ST89-4759	Northwest Pipeline Corp	Philbro Distributors Corp	09-19-89	G-S		
ST89-4760	Transcontinental Gas Pipe Line Corp	Texas Gas Transmission Corp	09-19-89	G		
ST89-4761	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY, Inc	09-19-89	B		
ST89-4762	Transcontinental Gas Pipe Line Corp	Coastal States Gas Transmission Co	09-19-89	B		
ST89-4763	Transcontinental Gas Pipe Line Corp	Citizens Gas Supply Corp	09-19-89	G-S		
ST89-4764	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co of NY, Inc	09-19-89	B		
ST89-4765	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp	09-19-89	B		
ST89-4766	Transcontinental Gas Pipe Line Corp	Panhandle Eastern Pipe Line Co	09-19-89	C	02-16-90	13.70
ST89-4767	BP Gas Transmission Co	Texas Gas Transmission Corp	09-20-89	G		
ST89-4768	Tennessee Gas Pipeline Co	Meridian Oil Trading, Inc	09-19-89	G-S		
ST89-4769	El Paso Natural Gas Co	Arco Oil & Gas Co	09-19-89	G-S		
ST89-4770	United Gas Pipe Line Co	Conoco, Inc	09-20-89	G-S		
ST89-4771	Tarpon Transmission Co	Anadarko Trading Co	09-20-89	G-S		
ST89-4772	Tarpon Transmission Co	Seagull Marketing Services, Inc	09-20-89	G-S		
ST89-4773	Tarpon Transmission Co	Chevron U.S.A., Inc	09-20-89	G-S		
ST89-4774	Tarpon Transmission Co	Monterey Pipeline Co	09-20-89	B		
ST89-4775	Texas Eastern Transmission Corp	Commonwealth Gas Pipeline Corp	09-20-89	B		
ST89-4776	Texas Eastern Transmission Corp	Koch Inc	09-20-89	G-S		
ST89-4777	United Gas Pipe Line Co					

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration date	Transportation
ST89-4778	Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	09-21-89	B		
ST89-4779	Panhandle Eastern Pipe Line Co	Eli Lilly and Co	09-21-89	G-S		
ST89-4780	Panhandle Eastern Pipe Line Co	Panhandle Trading Co	09-21-89	G-S		
ST89-4781	Questar Pipeline Co	Marathon Oil Co	09-21-89	G-S		
ST89-4782	BP Gas Transmission Co	ANR Pipeline Co, et al	09-21-89	C	02-18-90	13.70
ST89-4783	El Paso Natural Gas Co	Texaco Gas Marketing, Inc	09-22-89	G-S		
ST89-4784	El Paso Natural Gas Co	Texaco Gas Marketing, Inc	09-22-89	G-S		
ST89-4785	Red River Pipeline	El Paso Natural Gas Co	09-22-89	C		
ST89-4786	Delhi Gas Pipeline Corp	El Paso Natural Gas Co	09-22-89	C		
ST89-4787	Trunkline Gas Co	American Central Gas Marketing Co	09-22-89	G-S		
ST89-4788	Panhandle Eastern Pipe Line Co	Boyd Rosene & Associates	09-22-89	G-S		
ST89-4789	Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	09-22-89	B		
ST89-4790	Equitrans, Inc	Equitable Gas Co	09-25-89	B		
ST89-4791	Tennessee Gas Pipeline Co	Equitrans, Inc	09-22-89	G		
ST89-4792	Tennessee Gas Pipeline Co	Yankee Gas Services Co	09-25-89	B		
ST89-4793	United Gas Pipe Line Co	Entrade Corp	09-25-89	G-S		
ST89-4794	United Gas Pipe Line Co	Graham Energy Marketing Co	09-25-89	G-S		
ST89-4795	United Gas Pipe Line Co	Neches Gas Distribution Co	09-25-89	B		
ST89-4796	Delta Natural Gas Co, Inc	Columbia Gulf Transmission Co	09-25-89	[illegible]		
ST89-4797	Colorado Interstate Gas Co	Quivira Gas Co	09-26-89	B		
ST89-4798	Colorado Interstate Gas Co	Golden Gas Energies, Inc	09-26-89	B		
ST89-4799	Colorado Interstate Gas Co	Llano, Inc	09-26-89	B		
ST89-4800	Natural Gas Pipeline Co. of America	Acadian Gas Pipeline System	09-26-89	B		
ST89-4801	Natural Gas Pipeline Co. of America	BP Gas Transmission Co	09-26-89	B		
ST89-4802	Panhandle Eastern Pipe Line Co	Entrade Corp	09-26-89	G-S		
ST89-4803	Panhandle Eastern Pipe Line Co	Associated Natural Gas Co., Inc	09-26-89	G-S		
ST89-4804	Panhandle Eastern Pipe Line Co	Unicorp Energy, Inc	09-26-89	G-S		
ST89-4805	Panhandle Eastern Pipe Line Co	Gulf Ohio Corp	09-26-89	G-S		
ST89-4806	Panhandle Eastern Pipe Line Co	Centran Corp	09-26-89	G-S		
ST89-4807	Panhandle Eastern Pipe Line Co	Entrade Corp	09-26-89	G-S		
ST89-4808	Transwestern Pipeline Co	Amarillo Natural Gas Utility	09-27-89	B		
ST89-4809	Black Marlin Pipeline Co	Reliance Pipeline Co	09-27-89	B		
ST89-4810	Tennessee Gas Pipeline Co	Southeast Natural Gas Co	09-27-89	B		
ST89-4811	Panhandle Eastern Pipe Line Co	BP Gas Transmission Co	09-27-89	B		
ST89-4812	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	09-27-89	B		
ST89-4813	Panhandle Eastern Pipe Line Co	Indiana Gas Co	09-27-89	B		
ST89-4814	Panhandle Eastern Pipe Line Co	Arkansas Western Gas Co	09-27-89	B		
ST89-4815	Panhandle Eastern Pipe Line Co	Bishop Pipeline Corp	09-27-89	B		
ST89-4816	Panhandle Eastern Pipe Line Co	Indiana Gas Co	09-27-89	B		
ST89-4817	Panhandle Eastern Pipe Line Co	Indiana Gas Co	09-27-89	B		
ST89-4818	United Gas Pipe Line Co	Laser Marketing Co	09-27-89	G-S		
ST89-4819	United Gas Pipe Line Co	Midcon Marketing Corp	09-27-89	G-S		
ST89-4821	Northern Natural Gas Co	Citizens Gas Supply Corp	09-27-89	G-S		
ST89-4822	Northern Natural Gas Co	Median Oil Hydrocarbons, Inc	09-27-89	B		
ST89-4823	Northern Natural Gas Co	Western Gas Utilities	09-27-89	B		
ST89-4824	Northern Natural Gas Co	Village of Pender	09-26-89	B		
ST89-4825	Northern Natural Gas Co	Meridian Oil Trading, Inc	09-27-89	G-S		
ST89-4826	Northern Natural Gas Co	Great Plains Natural Gas Co	09-27-89	B		
ST89-4827	Williston Basin Interstate P/L Co	Associated Intrastate Pipeline Co	09-27-89	B		
ST89-4828	Natural Gas Pipeline Co. of America	BP Gas Inc	09-27-89	G-S		
ST89-4829	Natural Gas Pipeline Co. of America	Entex, Inc	09-27-89	B		
ST89-4830	Sea Robin Pipeline Co	Panhandle Trading Co	09-28-89	B		
ST89-4831	Sea Robin Pipeline Co	Olympic Pipeline Co	09-28-89	B		
ST89-4832	Louisiana Resources Co		09-28-89	C	02-25-90	32.32
ST89-4833	CNG Transmission Corp	Corning Natural Gas Corp	09-28-89	B		
ST89-4834	CNG Transmission Corp	Texas Ohio Gas, Inc	09-28-89	G-S		
ST89-4835	CNG Transmission Corp	Equitable Resources Marketing Co	09-28-89	G-S		
ST89-4836	CNG Transmission Corp	Hope Gas, Inc	09-28-89	B		
ST89-4837	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	09-28-89	G-S		
ST89-4838	United Gas Pipe Line Co	Graham Energy Resources, Inc	09-28-89	B		
ST89-4839	United Gas Pipe Line Co	Texaco, Inc	09-28-89	G-S		
ST89-4840	United Gas Pipe Line Co	Reliance Gas Marketing Co	09-28-89	G-S		
ST89-4841	United Gas Pipe Line Co	Wintershall Corp	09-28-89	G-S		
ST89-4842	Natural Gas Pipeline Co. of America	Arkansas Western Gas Co	09-28-89	B		
ST89-4843	Natural Gas Pipeline Co. of America	Enogex Inc	09-28-89	B		
ST89-4844	Natural Gas Pipeline Co. of America	Pontchartrain Natural Gas System	09-28-29	B		
ST89-4845	Tennessee Gas Pipeline Co	Columbia Gas Development Corp	09-28-89	G-S		
ST89-4846	Tennessee Gas Pipeline Co	Equinox Gas Supply, Inc	09-28-89	G-S		
ST89-4847	Tennessee Gas Pipeline Co	Alcan Aluminum Co	09-28-89	G-S		
ST89-4848	Tennessee Gas Pipeline Co	Trunkline Gas Co	09-28-89	G		
ST89-4849	Tennessee Gas Pipeline Co	Texican Natural Gas Co	09-28-89	G-S		
ST89-4850	Tomcat	Texas Eastern Transmission Corp	09-29-89	C	02-25-90	11.00
ST89-4851	Valero Transmission, L.P	Natural Gas Pipeline Co. of America	09-29-89	C		
ST89-4852	Texas Gas Transmission Corp	Access Energy Pipeline Corp	09-29-89	B		
ST89-4853	Texas Gas Transmission Corp	Carrollton Utilities	09-29-89	B		
ST89-4854	Natural Gas Pipeline Co. of America	Texas Industrial Energy Co	09-29-89	B		
ST89-4855	Natural Gas Pipeline Co. of America	Reynolds Pipeline Systems, Inc	09-29-89	B		
ST89-4856	Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	09-29-89	B		
ST89-4857	Moraine Pipeline Co	Carnation Co	09-29-89	G-S		
ST89-4858	United Gas Pipe Line Co	Amoco Production Co	09-29-89	G-S		
ST89-4859	United Gas Pipe Line Co	Transco Energy Marketing Co	09-29-89	G-S		

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Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration date	Transportation
ST89-4860	United Gas Pipe Line Co	American Natural Gas Corp	09-29-89	G-S		
ST89-4861	United Gas Pipe Line Co	American Central Gas Marketing Co	09-29-89	G-S		
ST89-4862	SNG Intrastate Pipeline, Inc	Southern Natural Gas Co	09-29-89	C	02-26-90	35.00
ST89-4863	Southern Natural Gas Co	Hadson Gas Systems, Inc	09-29-89	G-S		
ST89-4864	Southern Natural Gas Co	Polaris Corp	09-29-89	B		
ST89-4865	Algonquin Gas Transmission Co	Commonwealth Gas Co	09-29-89	B		
ST89-4866	Algonquin Gas Transmission Co	City of Norwich, Dept. of Public Util	09-29-89	B		
ST89-4867	Algonquin Gas Transmission Co	Southern Connecticut Gas Co	09-29-89	B		
ST89-4868	Sea Robin Pipeline Co	Olympic Pipeline Co	09-29-89	B		
ST89-4869	Sea Robin Pipeline Co	Baltimore Gas and Elect. Co, et al	09-29-89	B		
ST89-4870	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	09-29-89	B		
ST89-4871	Transcontinental Gas Pipe Line Corp	City of Blacksburg	09-29-89	B		
ST89-4872	Transcontinental Gas Pipe Line Corp	City of Fountain Inn	09-29-89	B		
ST89-4539	CSX Intrastate Gas Co		10-16-89	C	03-15-90	19.84

*Notice of Transactions does not constitute a determination that filings comply with Commission Regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42372, 10/18/85).

**The intrastate pipeline has sought Commission approval of its transportation rate pursuant to §284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-26436 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ90-1-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on , 1989, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective November 1, 1989
Substitute Thirty-sixth Revised Sheet No. 201
Substitute Thirty-seventh Revised Sheet No. 203
Substitute Thirty-third Revised Sheet No. 204
Second Substitute Thirtieth Revised Sheet No. 205

Algonquin states that it is filing the above listed tariff sheets in conformance with the terms and conditions of its PGA, section 17 of the General Terms and Conditions as found in Algonquin's compliance filing of October 27, 1989, in Docket No. RP88-41-000, pursuant to the Commission's Order Approving Contested Offer Of Settlement Subject To Conditions issued April 14, 1989, as modified and clarified by the Commission's Order Granting In Part And Denying In Part Rehearing, issued October 6, 1989. The instant filing reflects the roll in of costs associated with Algonquin's purchases to supply its sales services under Rate Schedules F-1, WS-1, I-1, E-1, F-2, F-3 and F-4. Algonquin's calculations include Texas Eastern's Standby Charges under Texas Eastern's Rate Schedules CD-1 and CD-2. The inclusion of Texas Eastern's Standby charges is predicated upon the Commission granting Algonquin's request for a waiver of the Commission's regulations as necessary to permit such inclusion. Algonquin states that it made such a request on June 26, 1989, in Docket No. RP89-199-000 and on October 17, 1989, in Docket No. RP90-13-000. Both filings are pending before the Commission.

Algonquin states that the revised rates for Rate Schedules F-1, WS-1, I-1, E-1, F-2, F-3 and F-4 reflect Algonquin's estimate of sales for the three (3) month period beginning December 1, 1989, and those changes in rates in the services underlying such schedules.

Algonquin states that the effect of the changes in the underlying rates is to decrease the demand-1 charge by 12.5¢ per MMBtu, decrease the demand-2 charge by 0.50¢ per MMBtu and increase the commodity charge by 47.3¢ per MMBtu for the effective period of this Quarterly PGA.

Furthermore, Algonquin is requesting a waiver of the requisite 30 day notice period and an effective date of November 1, 1989, instead of December 1, 1989. Algonquin states that such a waiver is made necessary in order to allay the effect of the extraordinary increase in its cost of purchased gas on Algonquin's Unrecovered Purchased Gas Cost, Account No. 191. All the changes proposed by Algonquin are fully set forth in Algonquin's filing.

Algonquin notes that copies of the filing were served upon the affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.
[FR Doc. 89-26372 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ90-1-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on October 31, 1989, pursuant to section 4 of the Natural Gas Act, part 154 of the Commission's regulations (18 CFR part 154) and section 12 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff:

Fourteenth Revised Sheet No. 31

The filing, CNG's quarterly PGA, is tendered to become effective on December 1, 1989.

The filing, compared to the rates shown on Substitute Thirteenth Revised Sheet No. 31, would increase CNG's RQ and CD commodity rates by 10.34 cents per dekatherm, decrease D-1 demand rates by 9.00 cents per dekatherm and decrease D-2 demand rates by 0.60 cents per dekatherm. Other sales rates would change correspondingly.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211). All motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.
[FR Doc. 89-26374 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ90-2-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that on October 31, 1989, Carnegie Natural Gas Company ("Carnegie") tendered for filing, as its regularly-scheduled quarterly Purchased Gas Adjustment ("PGA") with a proposed effective date of December 1, 1989, the following two sets of alternate tariff sheets to its FERC Gas Tariff:

Alternate No. 1: To be implemented if Carnegie's First Revised Volume No. 1 to its FERC Gas Tariff is effective on the date these sheets become effective:
Nineteenth Revised Sheet No. 47
Nineteenth Revised Sheet No. 48

Alternate No. 2: To be effective on the date Carnegies Second Revised Volume No. 1 to its FERC Gas Tariff becomes effective, but not prior to December 1, 1989:
Second Revised Sheet No. 8
Second Revised Sheet No. 9

Carnegie explains that the filing of alternate sheets arises because, on September 29, 1989, Carnegie filed a reorganized Volume No. 1 (*i.e.*, "Second Revised Volume No. 1") to its FERC Gas Tariff with a proposed effective date of November 1, 1989. If Second Revised Volume No. 1 is not in effect on the date these quarterly PGA rates become effective, then the Alternate No. 1 sheets will apply. Conversely, when Second Revised Volume No. 1 becomes effective, the Alternate No. 2 sheets will apply.

Carnegie states that pursuant to the PGA clause in its FERC Gas Tariff, it proposes to adjust its rates effective December 1, 1989 to reflect a $.1006 per Dth increase in the applicable commodity components of its LVWS and CDS Rate Schedules. The D-1 and D-2 components of the LVWS and CDS rate schedules remain unchanged from Carnegie's last fully-supported (out-of-cycle) PGA filed in Docket No. TQ90-1-63-000. The proposed increase in the LVIS Rate Schedule is $.1006 per Dth.

Carnegie states that copies of its filing were served on all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.
[FR Doc. 89-26373 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ90-3-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

November 2, 1989.

Take notice that on October 31, 1989, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the following revised tariff sheets in its FERC Gas Tariff, First Revised Volume No. 1, containing changes in rates for effectiveness on the dates indicated below:

Revised tariff sheets	Proposed effective dates
Thirtieth Revised Sheet No. 7.	November 1, 1989.
Thirty-First Revised Sheet No. 7.	December 1, 1989.

According to Granite State, the rate changes on Thirtieth Revised Sheet No. 7 reflect revised purchased gas costs for the remainder of the fourth quarter of 1989. It is stated that the adjusted purchases show increases in purchases from Granite State's firm suppliers, Tennessee Gas Pipeline Compnay (Tennessee), Algonquin Gas Transmission Company and Shell Canada, Limited, and lesser spot market purchases when compared with the most recent purchased gas cost adjustment filings in Docket Nos. TQ90-1-4-000 and TQ90-2-4-000. It is further stated that the reduction in projected spot market purchases is attributable to a decrease in the availability of interruptible transportations capacity on the Tennessee system during colder weather. According to Granite State, its purchases from Boundary Gas, Inc. are subject to a seasonal rate increase each November 1, and such increase is also reflected in the revised rates on Thirtieth Revised Sheet No. 7.

According to Granite State, the revised rates on Thirty-First Revised Sheet No. 7 reflect the elimination of the surcharge related to deferred gas costs from its sales rates as of December 1, 1989. It is stated that the surcharge adjustment has been eliminated in compliance with the transition rules under the Commission's revised purchased gas cost adjustment procedures established in Order Nos. 483 and 483-A. Granite State further states that, except for the removal of the surcharge, the purchased gas costs underlying the rates on Thirty-First Revised Sheet No. 7 are the same as those reflected in the rates on Thirtieth Revised Sheet No. 7.

Granite State further states that copies of its filing were served upon its customers, Bay State Gas Company and Northern Utilities, Inc., and the regulatory commissions of the States of Maine, Massachusetts, and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.
[FR Doc. 89-26375 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

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[Docket No. RP90-29-000]

The Inland Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

November 3, 1989.

Take notice that the Inland Gas Company, Inc., (Inland) on October 31, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 to be effective December 1, 1989:

Primary Tariff Sheet

Fifth Revised Sheet No. 10

Alternate Tariff Sheet

Alternate Revised Sheet No. 10

Inland states that the foregoing tariff sheets relate to Inland's Feburary 7, 1989, filing in Docket No. RP89-65-000 in which Inland established procedures to recover take-or-pay costs, billed to it under Order No. 500 by Tennessee Gas Pipeline Company (Tennessee) by means of a volumetric surcharge to its firm and interruptible transportation rates. In August 1989, Tennessee began billing additional take-or-pay charges to Inland pursuant to updated filings in Tennessee's Docket No. RP88-191. It is these additional take-or-pay charges amounting to $3,096,241 which Inland seeks to recover via an increase in the volumetric surcharge.

Inland proposes that the additional take-or-pay recovery be amortized over a 72-month period in order to minimize the impact of the additional charge. Such amortization produces an increase of $.1166 per Mcf in the existing surcharge of $.3361 per Mcf resulting in total take-or-pay surcharge of $.4547 per Mcf.

Inland proposes that all billing and recovery matters surrounding the additional take-or-pay surcharge which is the subject of this filing be governed in the same fashion as such matters are resolved with regard to the existing surcharge under the Stipulation and Agreement (Stipulation) filed September 29, 1989, in Docket No. RP89-65-000. In the event the Stipulation is certified to the Federal Energy Regulatory Commission (Commission) on an expedited basis, it is appropriate for the Commission to act upon the instant take-or-pay recovery flow through filing in conjunction with the pending Stipulation. For that purpose, the primary tariff sheet tendered with this filing reflects the base rates pursuant to the Stipulation. Should the Commission act upon this filing prior to acting upon the Stipulation, Inland has tendered an alternate tariff sheet which reflects the base rates accepted subject to refund by the Commission's March 31, 1989, order in Docket No. RP89-65-000.

Copies of the filing were served upon Inland's customers and interested state commissions and to each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP89-65-000.

Any person desiring to be heard or to protest said filing, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NW., Washington, DC 20246, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Inland's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26428 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-15-000]

Mid Louisiana Gas Co.; Filing

November 2, 1989

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 31, 1989, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective December 1, 1989:

	Superseding
Seventy-First Revised Sheet No. 3a.	Second Substitute Seventieth Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Seventy-First Revised Sheet No. 3a is to reflect a $.0203 per MCF increase in its current cost of gas.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene of Protest of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20428 in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice of Procedure (18 CFR 1.8 and 1.10). All such petitions of protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26376 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-35-006]

Midwestern Gas Transmission Co.; Tariff Filing

(November 3, 1989)

Take notice that on October 30, 1989, Midwestern Gas Transmission Company (Midwestern) filed the following revisions to its FERC Gas Tariff, to be effective September 1, 1989.

First Revised Sheet Nos. 41-46
First Revised Sheet Nos. 50-55
Second Revised Sheet No. 62
First Revised Sheet No. 62A
First Revised Sheet No. 62B
First Revised Sheet No. 62 D-F
First Revised Sheet No. 121
First Revised Sheet No. 123
First Revised Sheet No. 131

Midwestern states that this filing is made to comply with the Commission's order on September 29, 1989, which directed Midwestern to modify or replace certain provisions of the open access tariff filed and accepted by the Commission in the referenced docket. Midwestern is also including in this filing revisions which clarify certain provisions in the tariff or correct minor errors or omissions in the original filing. These revisions are being made in response to formal comments in this docket and informal comments submitted parties and customers.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its Southern System and affected stated regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20428, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before Nov. 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26429 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-234-002]

Moraine Pipeline Co; Proposed changes in FERC Gas Tariff

November 3, 1989

Take notice that on October 30, 1989, Moraine Pipeline Company (Moraine) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, tariff sheets to be effective October 1, 1989.

Moraine states that the tariff sheets were submitted in compliance with the Commission's order issued September 29, 1989, at Docket No. RP89-234-000.

Moraine requested waiver of the Commission's Regulations to the extend necessary to permit the tariff sheets to become effective October 1, 1989.

A copy of the filing is being mailed to interested state regulatory agencies and all parties set out on the official service list at Docket No. RP89-234-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20428, in accordance with §§385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26430 Filed 11-8-89; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-24-000 and TM90-2-28-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

November 3, 1989.

Take notice that on October 30, 1989, Natural Gas Pipeline Company of America (Natural) submitted for filing Seventh Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective December 1, 1989.

Natural states that the purposes of this filing are: (1) to reflect additional take-or-pay buyout, buydown and other contract reformation costs (transition costs) related to gas purchase contracts in litigation at March 31, 1989 which were incurred since Natural's May 31, 1989 Order No. 500 filing at Docket No. RP89-189-000; and (2) to reflect accrued interest for the months of June through November of 1988. Interest is accrued only on transition costs included for recovery in Natural's prior recovery filings.

Natural requests that the Commission grant any waivers it deems necessary to allow the tariff sheets to become effective December 1, 1989. A copy of the filing was mailed to Natural's jurisdictional sales customers, interested state regulatory agencies, and all parties set out on the official service list in Docket No. RP88-94-000.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26437 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that on October 31, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-Fifth Revised Sheet No. 4, proposed to become effective January 1, 1990.

The filing is National's Annual PGA in compliance with §§ 154.305 of the Commission's Regulations. National states that the purpose of the tariff sheet is to reflect the quarterly Purchased Gas Cost adjustments required under the Commission's Regulations.

Further, National states that Twenty-Fifth Revised Sheet No. 4 contains the base tariff rates filed in Docket No. RP90-14-000 on October 19, 1989. The net increase in National's commodity rate from the October 19, 1989 filing of 61.69 cents per dekatherm ("Dth"), consists of a purchased gas cost increase of 78.87 cents per Dth, and a 17.18 cents per Dth negative commodity surcharge. The net decrease in National's demand charge of 41 cents per Dth reflects a 15 cents per Dth decrease in demand charges that will be paid pipeline suppliers, and a 26 cents per Dth negative surcharge.

National states that copies of this filing were served upon the Company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20428, in accordance with Rule 214 or 211 of the Commission's Procedural Rules (18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before November 24, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26377 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that on October 31, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part

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of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective December 1, 1989.

Tenth Revised Sheet No. 71, Page 1 of 2
Tenth Revised Sheet No. 71, Page 2 of 2
Seventh Revised Sheet No. 71–B, Page 1 of 2
Seventh Revised Sheet No. 71–B, Page 2 of 2
Tenth Revised Sheet No. 72, Page 1 of 3
Tenth Revised Sheet No. 72, Page 2 of 3
Tenth Revised Sheet No. 72, Page 3 of 3
Seventh Revised Sheet No. 72–B, Page 1 of 4
Seventh Revised Sheet No. 72–B, Page 2 of 4
Seventh Revised Sheet No. 72–B, Page 3 of 4
Seventh Revised Sheet No. 72–B, Page 4 of 4

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, First Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill take-or-pay charges to National are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipeline Corporation, and Tennessee Gas Pipeline Company.

Copies of National's filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89–26378 Filed 11–8–89; 8:45 am]
BILLING CODE 6717–01–M

[TQ90–1–27–000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1989

Take notice that North Penn Gas Company (North Penn) on October 31, 1989, tendered for filing Ninety-Sixth Revised Sheet No. PGA–1 to its FERC Gas Tariff First Revised Volume No. 1.

The revised tariff sheet is being filed pursuant to section 14 (PGA Clause) of the General Terms and Conditions of North Penn's FERC Gas Tariff to reflect changes in the cost of gas for the period December 1, 1989 through February 28, 1990 and is proposed to be effective December 1, 1989. The proposed change reflects a decrease in the average cost of gas for the G–1 Rate Schedule of 72.043¢ per Mcf.

While North Penn believes that no waivers are necessary in order to permit this filing to become effective December 1, 1989, as proposed, North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective December 1, 1989, as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and State Commissions shown on the attached service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89–26391 Filed 11–8–89; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP89–219–003 and TM90–1–37–003]

Northwest Pipeline Corp.; Compliance Filing

November 3, 1989.

Take notice that on October 27, 1989, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Substitute Fifty-Fifth Revised Sheet No. 10
Fifty-Seventh Revised Sheet No. 10 (Effective November 1, 1989)
Thirty-First Revised Sheet No. 10–A

Original Volume No. 1–A

Twenty-First Revised Sheet No. 201

Original Volume No. 2

Eleventh Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to comply with Ordering Paragraph (D) of the October 12, 1989 order issued by the Commission in Docket No. RP89–219–000, 001 and TM90–1–37–000, 001. In its order, the Commission directed Northwest to refile several tariff sheets contained in Northwest's last scheduled quarterly SSP Charge update, filed August 24, 1989, to reflect the elimination of certain carrying charges that were included in the Commodity SSP surcharge calculation. The elimination of such carrying charges reduces Northwest's Commodity SSP surcharge from 3.62 cents per MMBtu to 3.59 cents per MMBtu effective October 1, 1989.

Northwest states that a copy of this filing has been sent to all parties of record in Docket No. RP89–137 and to all jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89–26431 Filed 11–8–89; 8:45am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. TA90–1–6–000]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

November 2, 1989.

Take notice that on October 31, 1989, Sea Robin Pipeline Company (Sea Robin) tendered for filing the following tariff sheet:

Original Volume No. 1

Fifty-Ninth Revised Sheet No. 4

Sea Robin states that the proposed effective date of the above referenced tariff sheet in this docket is January 1, 1990. The above referenced tariff sheet is being filed pursuant to § 154.310 of the Commission's regulations to reflect the changes in Sea Robin's purchased gas cost under the adjustment provisions of Sea Robin's FERC Gas Tariff.

Sea Robin states that the tariff sheet is filed to reflect a decrease in gas cost of $.0100 under Rate Schedules X–1 and X–2. This produces a rate after current adjustment of $3.2223. Sea Robin states that there is no change in gas cost under Rate Schedules X–7 and X–8.

Sea Robin states that the tariff sheet also reflects a surcharge adjustment of $10.34. This large surcharge is the result of a further reduction in Sea Robin's recent sales and the amortizing of the deferred purchased gas cost balance over a period of three months, January 1, 1990 through March 31, 1990, rather than twelve months. The shortened amortization period is the result of Sea Robin receiving notice from its two sales customers, Southern Natural Gas and United Gas Pipe Line Company of their intent to cancel their sales contracts, upon the expiration of their primary terms—March 31,1990.

Sea Robin states that the revised tariff sheet and supporting data are being mailed to its jurisdictional sales customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before November 24, 1989.

Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89–26379 Filed 11–8–89; 8:45am]
BILLING CODE 6717–01–M

[Docket No. RP89–225–002]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

November 3, 1989

Take notice that on October 30, 1989, South Georgia Natural Gas Company ("South Georgia") filed, under protest, proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets are being filed with a proposed effective date of March 1, 1990.

South Georgia states that the purpose of this filing is to revise its original filing submitted on August 31, 1989, pursuant to the Commission's order of September 29, 1989, in Docket No. RP89–225–000 ("September 29 Order"). The September 29 Order directed South Georgia to file revised tariff sheets reinstating the standby charge under its G–1 and I–1 Rate Schedules and the original eligibility requirements under the G–1 Rate Schedule.

South Georgia asserts that the instant filing is being made under protest, without prejudice to South Georgia's right to seek rehearing of the Commission's September 29 Order requiring such revisions to be made, and is in no way intended to represent agreement by South Georgia with any of the principles and justification attending the September 29 Order.

In addition, South Georgia has restated its accumulated depreciation reserve in the instant filing to reflect the approval of its Stipulation and Agreement in Docket No. RP87–13–000 on October 5, 1989. The cost of service of the reserve adjustment is an increase of $12,788.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers, shippers and interested state commissions as well as the parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 89–26432 Filed 11–8–89; 8:45 am]
BILLING CODE 6717–01–M

[Docket Nos. RP90–25–000 and TM90–2–42–000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 3, 1989

Take notice that Transwestern Pipeline Company ("Transwestern") on October 30, 1989, tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective Dec. 1, 1989:

Effective December 1, 1989

72nd Revised Sheet No. 5
Original Sheet No. 5D(ii)
2nd Revised Sheet No. 5E
Original Sheet No. 5E(i)
19th Revised Sheet No. 6
7th Revised Sheet No. 37
3rd Revised Sheet No. 66
3rd Revised Sheet No. 69
3rd Revised Sheet No. 90
2nd Revised Sheet No. 90A

Transwestern states that without prejudice to supplemental filings that may be permitted by any final order in the Order 500 proceedings, these tariff sheets are filed pursuant to Section 25.6 of the General Terms and Conditions of Transwestern's FERC Gas Tariff. Pursuant thereto, Transwestern must file on or before November 1, 1989 and annually thereafter to adjust the TCR Surcharge to account for actual versus estimated interest amounts and to estimate interest expense for the upcoming period. In addition, Transwestern is also proposing to recover through its TCR Fee and TCR Surcharge, settlement dollars paid to producers since March 31, 1989 and the interest associated with those dollars from the date of payment to November 30, 1989. The total amount paid was $600,000, and interest from the date of payment of June 5, 1989, to November 30, 1989 is $33,162.00. The combined total of $633,162.00 represents "TCR Amount Four". The request for recovery of "TCR Amount Four" dollars paid is being made pursuant to the Section 25.2b (Litigation Exception) of the General Terms and Conditions of Transwestern's FERC Gas Tariff.

In addition to the foregoing, Transwestern is proposing in the instant filing to revise the termination date of the amortization period from November 30, 1993 to March 31, 1992. Transwestern states that it competes directly with El Paso Natural Gas Company (El Paso) for transportation to southern California. El Paso's surcharge amortization period terminates March 31, 1992. Transwestern believes it is appropriate that both pipelines amortization periods coincide. Transwestern states that this

will reduce the interest included in the surcharge over the remaining amortization period by $7.7 million.

Transwestern proposes the TCR

above designated dockets a proposal to institute scheduling and balancing penalties within its FTS–1, ITS–1 and TF–1 Rate Schedules. In addition,

and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 13, 1989. Protests will be

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Issued at Washington, DC on November 6, 1989.

J. Robert Franklin,
Deputy Advisory Committee, Management Offices

granting an extension of the term of the existing import authorization of Northwest Pipeline Corporation (Northwest) beyond its October 31, 1989,

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will reduce the interest included in the surcharge over the remaining amortization period by $7.7 million.

Transwestern proposes the TCR Surcharge Rate to be $0.1707/dth, which represents an increase of $0.0507/dth from the last currently effective TCR surcharge rate of $0.1200/dth. Transwestern states that such increase is due to the aforementioned revision to the amortization period. The TCR surcharge is based on the adjusted balances ending November 30, 1989 for TCR Nos. 1, 2 and 3 as reflected on Page 2 of the workpapers and 50% of TCR No. 4 as reflected on page 6 of the workpapers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before 11/13/89. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25433 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-222-002 and RP89-48-003]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 3, 1989.

Take notice that Transwestern Pipeline Company (Transwestern) on October 30, 1989, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Substitute 1st Revised Sheet No. 25A
Substitute Original Sheet No. 25B
Substitute Original Sheet No. 25C
Substitute Original Sheet No. 25D
Substitute Original Sheet No. 29B
2nd Substitute Original Sheet No. 29C
Substitute Original Sheet No. 29D
Original Sheet No. 29E
Substitute 4th Revised Sheet No. 30
Substitute Original Sheet No. 32B
Substitute Original Sheet No. 32C
Substitute Original Sheet No. 32D
4th Revised Sheet No. 33
Original Sheet No. 33A

Transwestern states that on August 30 and September 11, 1989, it filed in the above designated dockets a proposal to institute scheduling and balancing penalties within its FTS-1, ITS-1 and TP-1 Rate Schedules. In addition, Transwestern proposed to modify tariff provisions concerning unauthorized gas flow, waiver of penalty payments and the reservation of remedies other than those listed in the tariff. By Order dated September 29, 1989, the Commission accepted the tariff sheets to be effective October 1, 1989, subject to certain modifications and subject to refund. The Commission further consolidated Docket Nos. RP89-222-000 and RP89-222-001 with Transwestern's rate case proceeding in Docket No. RP-8948-000 for hearing.

Transwestern states that in its September 29, 1989 order, the Commission directed Transwestern to refile to change the tolerance level for scheduling penalties from two percent (2%) to four percent (4%). Second, Transwestern was requested to clarify that under the balancing penalty provision, Transwestern may not assess more than one penalty under the different provisions for the same imbalance.

Transwestern states that the Commission directed Transwestern to modify the unauthorized gas flow provision to provide a prior notice period before Transwestern began retaining subsequent unauthorized gas deliveries and a make-up period for the party to resolve the unauthorized imbalance volumes delivered prior to notification. The Commission instructed Transwestern to also clarify the effect of the 30,000 dth tolerance level. Transwestern was additionally requested to clarify the circumstances under which the unauthorized gas penalty would apply.

Transwestern states that the Commission also directed Transwestern to revise Rate Schedule ITS-1 to incorporate the same federal income tax reimbursement provision related to facility cost reimbursements as that set forth in its Rate Schedule FTS-1.

Transwestern states that the above-listed tariff sheets are filed in compliance with the September 29, 1989 Commission Order. The proposed effective date is October 1, 1989.

Transwestern requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the above-listed tariff sheets to become effective on the dates requested.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26434 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-25-000]

United Gas Pipe Line Co.; Proposed Change in FERC Gas Tariff

November 3, 1989.

Take notice that on October 31, 1989, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, tendered for filing the following tariff sheet as part of its FERC Gas Tariff, First Revised Volume No. 1:

To Be Effective November 1, 1989

Twenty-Second Revised Sheet No. 99-A

United states that this tariff sheet reflects revised Demand-1 Billing Determinants for one of United's Rate Schedule PL Customers, Texas Eastern Transmission Corporation (Texas Eastern). This revision is a necessary part of a recent settlement with Texas Eastern. As such it will have no effect on the rates and charges specified in United's Base Stipulation and Agreement (Settlement) in Docket No. RP88-92 et al., reflected on the currently effective Sheet 4 Series on United's FERC Gas Tariff, First Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before November 13, 1989, and in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Any person desiring to become a party must petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26435 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committe (BESAC).

Date and time: November 29, 1989—8 a.m.–5 p.m.

Place: Holiday Inn/Dallas/Ft. Worth Airport, 4440 West Airport Freeway, Irving, Texas 75061.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER-11), Office of Energy Research, Washington, DC 20545, Telephone: 301-353-3081.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Basic Energy Sciences (BES) program.

Tentative Agenda: Briefings and discussions of:

November 29, 1989

- Resolution of Pending Issues vis-a-vis 1989 Report
- Preparation of 1989 Final Report
- New Business
- Comments by the Public

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on November 6, 1989.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 89-26488 Filed 11-8-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 89-43-NG]

Natural Gas Clearinghouse; Order Granting Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order granting blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order and amending Natural Gas Clearinghouse's (NGC) blanket authorization to import natural gas. The amended order authorizes NGC to import up to 600 Bcf of gas, including liquefied natural gas (LNG), from Canada, Mexico, and other countries, and to export up to 130 Bcf of gas, including LNG, to Mexico, Canada, and other countries, over a two-year term beginning November 1, 1989, through October 31, 1991.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 2, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-26485 Filed 11-8-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-60-NG]

Northwest Pipeline Corp.; Interim Order Amending Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of interim order amending authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting an extension of the term of the existing import authorization of Northwest Pipeline Corporation (Northwest) beyond its October 31, 1989, expiration date for a limited period until a final decision is made on Northwest's application pending before the Office of Fossil Energy in Docket No. 89-60-NG. The order grants Northwest interim authority to continue to import up to 152 MMcf per day of Canadian natural gas via the import point near Kingsgate, British Columbia, in order to prevent a service interruption to customers dependent on Northwest's imported gas supply. This authority is only valid until a final determination is made on Northwest's request to extend the term of its existing authorization to October 31, 2004, in accordance with revised agreements with its supplier and customers.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 3, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-26486 Filed 11-8-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-67-NG]

Sierra Pacific Power Co.; Application To Import Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to import natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 29, 1989, of an application filed by Sierra Pacific Company (Sierra) requesting blanket authorization to import up to 39,16 Bcf of Canadian natural gas for short-term and spot market sales over a two-year period beginning on the date of the first delivery. Sierra intends to import this gas utilizing existing pipeline facilities. Sierra also proposes to submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene,

notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address below no later than 4:30 p.m., eastern time, December 11, 1989.

ADDRESS: Office of Fossil Energy (FE), Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell Hedley, Office of Fuels Programs, Fossil Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

SUPPLEMENTARY INFORMATION: Sierra, a California corporation with its principal place of business in Reno, Nevada, is engaged in the sale of natural gas to industrial customers in Nevada. Sierra states that it has entered into a contract with Amoco Canada Petroleum Company Ltd. (Amoco) for the purchase of natural gas. Sierra requests authorization to import up to 39,16 Bcf of natural gas from Amoco over a two-year period beginning on the date of the first delivery.

Sierra states that the gas will be purchased at prices that are competitive with other natural gas supplies available to Sierra. Sierra also states that the proposed import will not require the construction of new pipeline facilities.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address below no later than 4:30 p.m., eastern time, December 11, 1989.

ADDRESS: Office of Fossil Energy (FE), Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell Hedley, Office of Fuels Programs, Fossil Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

SUPPLEMENTARY INFORMATION: Sierra, a California corporation with its principal place of business in Reno, Nevada, is engaged in the sale of natural gas to industrial customers in Nevada. Sierra states that it has entered into a contract with Amoco Canada Petroleum Company Ltd. (Amoco) for the purchase of natural gas. Sierra requests authorization to import up to 39,16 Bcf of natural gas from Amoco over a two-year period beginning on the date of the first delivery.

Sierra states that the gas will be purchased at prices that are competitive with other natural gas supplies available to Sierra. Sierra also states that the proposed import will not require the construction of new pipeline facilities.

dismissed by the Office of Hearings and Appeals.

Refund Applications

The refund granted in this decision totalled $2,794, including $674 in accrued interest.

Distribution of Refunds to Claimants

Each claimant will receive a refund equal to its allocable share of the total refund amount. Each claimant's allocable share is determined by multiplying the total refund amount by the ratio of the claimant's purchases from ARCO during the period of price controls to ARCO's total sales during the period of price controls. In 64 of these claims, the applicants were eligible for a refund below the small claims threshold

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notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m. e.s.t., December 11, 1989.

ADDRESS: Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

William C. Daroff, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9516

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Sierra, a Nevada corporation with its principal place of business in Reno, Nevada, is a public utility presently engaged in, among other things, the distribution and sale of natural gas in intrastate commerce in Nevada. Sierra indicates that the requested authority would be used to import the natural gas from a variety of Canadian suppliers under firm supply contracts or contracts of month-to-month duration for system supply and to fuel its generation power plants. The applicant states that gas imported under this proposal will be price competitive with available domestic gas supplies.

In support of its application, Sierra asserts that the proposed import is in the public interest because the terms of each sale will be freely negotiated, thus ensuring that the arrangement will be competitive while providing an efficient allocation of natural gas in the market place. In addition, the applicant asserts that the need for the gas is demonstrated by the fact that it has an established market for the gas in both its powerplants and in its local gas distribution operations. Sierra also states that the security of supply is demonstrated by the fact that its suppliers will be active producers engaged in the exploration and production of natural gas with an adequate reserve base.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import authority. The applicant asserts that this import arrangement will be competitive and in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above no later than 4:30 p.m., e.s.t., December 11, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties under this notice, in accordance with 10 CFR 590.316.

A copy of Sierra's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 3, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–26467 Filed 11–8–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders for Week of September 4 Through September 8, 1989

During the week of September 4 through September 8, 1989, the decisions and orders summarized below were issued with respect to applications for refund filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were

dismissed by the Office of Hearings and Appeals.

Refund Applications

AJO Trading Corp. 9/8/89, RC272–89

The DOE issued a Supplemental Order concerning two Applications for Refund submitted in the crude oil refund proceeding on behalf of Ajo Trading Corp. The OHA granted Ajo Trading Corp. two duplicate refunds: one for Case No. RF272–48602 in *David V. Sandowsky, et al.* (Case Nos. RF272–48601, *et al.*); the other for Case No. RF272–60597 in *Robert F. Kibler Farm, et. al.* (Case Nos. RF272–60400, *et al.*). Accordingly, the OHA rescinded the refund granted to Ajo Trading corp. (Case No. RF272–60597) in *Robert F. Kibler Farm, et al.* (Case Nos. RF272–60400, *et al.*).

Atlantic Richfield company/Allied Tank Lines et al., 9/6/89, RF304–2716 et al.

The DOE issued a Decision and Order concerning four applications filed in the Atlantic Richfield special refund proceeding. All the applicants were resellers or retailers that did not attempt to demonstrate injury and elected to limit their refunds to 41 per cent of their full volumetric allocations of the ARCO consent order funds. The refunds granted in this decision totalled $60,306, including $14,546 in accrued interest.

Atlantic Richfield Company/Arden's Arco, et al., 9/8/89, RF304–7402, et al.

The DOE issued a Decision and Order concerning 42 Applications for Refund filed in the Atlantic Richfield Company special refund proceeding. Each of the applicants adequately documented the volume of its ARCO purchases. Thirty-two of the applicants were either end users or reseller/retailers requesting refunds of $5,000 or less. Four of the applicants elected to limit their refund to $5,000. The two remaining applicants elected to limit their refund to 41 per cent of the volumetric amount. The refunds granted in this decision totalled $110,419, including $26,640 in accrued interest.

Atlantic Richfield Company/Casco FS Cooperative, 9/7/89, RF304–1691

The DOE issued a Decision and Order concerning an application for refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding by Casco FS Cooperative (Casco). As a member-owned farm supply cooperative that documented its purchases of 2,844,036 gallons of ARCO products, Casco was presumed injured. In addition, Casco provided certification that it would pass the refund through to its customers in the form of patronage refunds. The refund granted in this decision totalled $2,794, including $674 in accrued interest.

Atlantic Richfield Company/Elm Motors Fuel Oil et al., 9/6/89 RF304–2612 et al.

The DOE issued a Decision and Order concerning 40 Applications for Refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding. All of the applicants documented the volume of their ARCO purchases and were end-users or reseller/retailers requesting refunds of $5,000 or less. Therefore, each applicant was presumed injured. The refunds granted in this Decision totalled $48,946, including $11,810 in accrued interest.

Atlantic Richfield Company/Hardin County Butane Gas Company, 9/6/89 RF304–10096, RF304–10097

The DOE issued a Supplemental Order concerning a Decision and Order issued on March 21, 1989 to *Fuller L.P. Gas Service, et al.* in the Atlantic Richfield Company (ARCO) special refund proceeding. In that decision, Cecil Phillips and Cecil C. Phillips were granted a small claims presumption refund based on ARCO purchases they made on behalf of three businesses, including Hardin County Butane Gas Company. Subsequently, the DOE determined that a portion of the refund issued to the claimants under the business name Hardin County Butane Gas Company was based on purchases actually made by another firm, Hardin County Butane Gas Company, Inc. Accordingly, that portion of the claimants' refund was rescinded.

Atlantic Richfield Company/Kim's Arco, 9/6/89 RF304–10279

The DOE issued a Supplemental Order concerning an Application for Refund filed by Kim's Arco (Kim's) in the Atlantic Richfield Company special refund proceeding. The address supplied by Kim's in its application is incorrect, and the applicant cannot be located. Therefore, the DOE rescinded the refund granted to Kim's, thus disbursing no funds to Kim's Arco from the ARCO deposit fund escrow account.

Atlantic Richfield Company/Loeder Oil Co., Inc., et al., 9/8/89 RF304–7206 et al.

The DOE issued a Decision and Order concerning 67 Applications for Refund filed by end-users, retailers or resellers of refined petroleum products covered by a Consent Order that the DOE entered into with Atlantic Richfield Company. Each applicant submitted information indicating the volume of its purchases from ARCO. In 64 of these claims, the applicants were eligible for a refund below the small claims threshold of $5,000. In the remaining 3 claims, each of the applicants elected to limit its claim to $5,000. The sum of the refunds approved in this Decision is $121,977, representing $92,256 in principal and $29,719 in accrued interest.

Atlantic Richfield Company/Milton Smith Oil Service, et al. 9/8/89 RF304–7406 et al.

The DOE issued a Decision and Order concerning 16 Applications for Refund filed in the Atlantic Richfield Company special refund proceeding. Each of the applicants adequately documented the volume of its ARCO purchases. All of the applicants were reseller/retailers requesting refunds of $5,000 or less. The refunds granted in this decision totalled $11,604, including $2,828 in accrued interest.

Atlantic Richfield Company/Polar Industries, the Mercury Oil Co., 9/6/89 RF304–5220, et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund filed by two applicants in the Atlantic Richfield Company special refund proceeding. Both applicants were reseller/retailers that applied for small claims refunds. In addition, each applicant documented the volume of its purchases from ARCO and, therefore, was presumed to have been injured and entitled to a refund. The DOE concluded that the applicants should receive refunds totalling $13,160, representing $10,000 in principal and $3,160 in accrued interest.

Beacon Oil Company/E.J. Brown, 9/8/89 RF238–1

The DOE issued a Decision and Order concerning an Application for Refund filed by E.J. Brown (Brown) in the Beacon Oil Company (Beacon) special refund proceeding. Brown requested a refund based on his purchases of both gasoline and diesel fuel as a Beacon reseller. Brown sold his resale outlet to R&R Enterprises (R&R) after the Beacon consent order period. Since Brown operated as a sole proprietor and sold only the assets of the business, the DOE determined that he was the proper recipient of the diesel fuel refund. However, Beacon had made direct refunds for the motor gasoline overcharges to R&R. The DOE found that under the terms of the Beacon Consent Order, R&R was the proper recipient of the motor gasoline refund. Thus, the basis of Brown's refund was limited to the documented amount of diesel fuel he purchased from Beacon

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during the consent order period. Brown's representative, Energy Refunds, Inc., indicated that the firm wished to demonstrate that it was injured by the alleged overcharges in order to receive its full volumetric refund; however, despite numerous requests by the DOE for additional information necessary for an injury demonstration, that information was never submitted. As a result, Brown's refund was limited to $5,000 in principal under the small claims presumption or injury. In addition, Brown was awarded $6,783 in accrued interest.

Cal Kirkland, et al., 9/6/89 RF272–13523, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 62 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant documented its purchase volumes either by actual purchase records or by reasonable, conservative estimating procedures. Because each applicant was an end-user of the products purchased, it was presumed to have been injured. The sum of the refunds granted in this Decision is $32,065.

Carl Jaax, Jr., 9/7/89 RA272–12

The DOE issued a Supplemental Order adjusting the refund amount granted to Carl Jaax, Jr. (Jaax) in Glenwood C. Debolt, *et al.*, Case Nos. RF272–68006, *et al.*, (August 11, 1989). To correct its error, the DOE rescinded the earlier refund amount of $7 granted to Jaax and granted him the correct refund amount of $161.

Crown Central Petroleum Corporation/ J.L. Coward & Sons Oil Co., et al., 9/6/89 RF313–190, et al.

The DOE issued a Decision and Order considering applications filed by six purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount of refunds approved in this Decision was $25,083, representing $21,101 in principal plus $3,982 in accrued interest.

Crown Central Petroleum Corporation/ Roberts Oil Co., et al., 9/6/89 RF313–199, et al.

The DOE issued a Decision and Order considering applications filed by 14 purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount refunds approved in this Decision was $64,888, representing $54,573 in principal plus $10,315 in accrued interest.

D & H Distributing Company et al., 9/8/89 RF272–5319 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to four applicants based on their purchases or refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various activities. Each applicant determined its volume either by utilizing actual purchase records from the crude oil price control period or by estimating its petroleum consumption during that period. Each applicant was an end-user of the products it claimed and was therefore found injured based upon the end-user presumption of injury. The sum of the refunds granted in this Decision is $1,062.

Exxon Corporation/Bel Aire Exxon et al., 9/8/89 RF307–4643 et al.

The DOE issued a Decision and Order concerning 12 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $27,598 ($22,664 in principal and $4,934 in interest).

Exxon Corporation/Burkhart's Exxon Servicenter, 9/8/89 RF307–10055

The DOE issued a Supplemental Decision and Order in the Exxon Corporation special refund proceeding to Burkhart's Exxon Servicenter (Burkhart's), an applicant in *Exxon Corp./Elmer's Exxon*, Case Nos. RF307–2202 *et al.* (August 31, 1989). In that Decision, Burkhart's, Case No. RF307–7428, was granted a refund of $1,343 ($1,103 principal plus $240 interest) based on its purchases of Exxon refined petroleum products. However, Burkhart's had previously been granted a refund in the Exxon proceeding under the same case number and based upon the exact same purchase volume. Accordingly, the DOE rescinded the duplicate refund that was inadvertently granted to this claimant.

Exxon Corporation/D.H. Wing Exxon Dealer #6057 et al., 9/8.89 RF307–143 et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $7,746 ($6,361 principal plus $1,385 interest).

Exxon Corporation/Griffin's Exxon et al., 9/8/89, RF307–107 et al.

The DOE issued a Decision and Order concerning 19 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $20,586 ($16,906 principal plus $3,680 interest).

Exxon Corporation/Jones Exxon et al., 9/8/89, RF307–7200 et al.

The DOE issued a Decision and Order concerning 58 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $67,336 ($55,296 principal plus $12,040 interest).

Exxon Corporation/Mason's Exxon et al., 9/7/89, RF307–1118 et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon, and was supplied by a firm that either (i) did not apply for an Exxon refund, (ii) had been granted an Exxon refund under the small claims presumption of injury, or (iii) indicated in its Exxon refund application that it did not intend to make a showing of injury. In accordance with prior Decisions, the claims of the applicants were therefore considered under the procedures used to evaluate direct purchase claims. EAch applicant was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $24,350 ($19,996 principal plus $4,354 interest).

Exxon Corporation/Pure Water & Gas Co., Inc., Service Petroleum Inc., 9/8/89; RF307–3078, RF307–3709

The DOE issued a Decision and Order concerning Applications for Refund filed by Pure Water & Gas Co. (Pure) and Service Petroleum Inc. (Service) in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a reseller whose allocable share exceeded $5,000. Neither of the applicants attempted to show that it was injured, but instead elected the medium range presumption of injury. Therefore, the DOE determined that each firm was eligible to receive either 40 percent of its allocable share of $5,000 whichever is greater. In this Decision, Pure was granted a refund of $8,042 ($5,000 in principal and $1,042 in interest). Service was granted a refund of $7,462 ($6,192 in principal and $1,290 in interest).

Exxon Corporation/State Gas and Oil Company, Bill Simms Fuel Oil Company, 9/8/89, RF307–3738, RF307–6294

The DOE issued a Decision and Order concerning Applications for Refund filed by State Gas and Oil Company (State) and Bill Simms Fuel Oil Company (Simms) in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a reseller whose allocable share exceeded $5,000. Neither of the applicants attempted to show that it was injured, but instead elected the medium range presumption of injury. Therefore, the DOE determined that each firm was eligible to receive either 40 percent of its allocable share or $5,000 whichever is greater. In this Decision, Pure was granted a refund of $8,945 ($5,748 in principal and $1,197 in interest); Simms was granted a refund of $8,042 ($6,000 in principal and $1,042 in interest).

Exxon Corporation/Warren J. Peake, 9/8/89, RF307–10049

The Department of Energy issued a Supplemental Decision and Order to Warren J. Peake (Peake) in connection with a special refund proceeding under 10 CFR part 205, Subpart V, for distribution of a portion of the consent order funds obtained by the DOE through a settlement with Exxon Corporation. In *Exxon Corp./Buckner's Exxon*, the DOE granted Peak a refund of $153. In that Decision, the Exxon printout relied on to calculate Peake's refund was for Warren F. Peake of Kermit, West Virginia, and not the applicant, Warrant J. Peake of Wellsboro, Pennsylvania. Therefore the DOE rescinded the refund granted to Warren J. Peake in *Exxon Corp./ Buckner's Exxon.*

Fehrle Trucking, et al., 9/6/89, RF272–38300, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 31 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $32,669. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Gulf Oil Corporation/J. Brame Witmer, Inc., et al., 9/7/89, RF300–5749, et al.

The DOE issued a Decision and Order concerning six Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $64,988.

McNall Farms, et al., 9/6/89, RF272–41004, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 22 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant was an end-user of the products it purchased and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $11,197. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Penokee Farmers Union Coop. Association, et al., 9/8/89, RF272–14386, et al.

The Office of Hearings and Appeals granted four Applications for Refund filed by four agricultural cooperatives in the Crude oil subpart V Refund Proceedings. The DOE determined that each was an end-user applying for refunds on behalf of its members and customers. Each applicant was required to certify that it will pass through to its member/customers the entire refund amount. The total volume for which refunds were approved in this Decision was 7,615,209 gallons and the sum of the refunds granted was $6,092.

Salt River Project, et al., 9/6/89, RF272–247, et al.

The DOE issued a Decision and Order granting Applications for Refund filed by Salt River Project and three other government-owned utilities in the Subpart V crude oil refund proceedings. Each applicant used refined petroleum products for electricity generation and related activities during the period August 19, 1973 through January 27, 1981. In addition to establishing its purchase volumes, each applicant provided certification that it would notify the appropriate regulatory bodies of any refund it receives and pass through the entirety of the refund to its customers. Each applicant was therefore eligible to receive its full volumetric share of available crude oil monies as an end-user and as an electric utility. The total of the refunds granted in this Decision and Order is $891,964.

Shell Oil Company/Harper 11 Mile Shell et al., 9/7/89, RF315–6900 et al.

The DOE issued a Decision and Order granting 132 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted in the Decision was $113,420 ($95,680 principal plus $17,740 interest).

Sterling Construction Co., et al., 9/6/89, RF272–19836, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 43 claimants based on their purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each appicant determined the volume of its claim by consulting contemporaneous records or by using a reasonable estimation technique. Each applicant

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was an end-user of the products it purchased and was therefore presumed injured. The refunds granted in this Decision totalled $69,299.

Crude Oil End-Users

The Office of Hearings and Appeals granted crude oil overcharge refunds to end-user applicants in the following Decisions and Orders:

Name	Case No.	Date	No. of applicants	Total refund
Pembroke Pines, *et al.*	RF272-68013	9/7/89	52	$30,092
Robert Griffin, *et al.*	RF272-36502	9/7/89	43	$11,454

Dismissals

The following submissions were dismissed:

Name	Case No.
Anacortes Carwash	RF304-5541
Bob's Exxon #2	RF307-9695
Braun Brothers, Inc	RF304-9281
Cal's Holiday Shell	RF315-94
Coopers Arco	RF304-4429
	RF304-4430
Cumberland Lake Shell, Inc	RF315-2111
	RF315-2112
Dick's Arco	RF304-9059
Gas City, Ltd.	RF304-7534
Hanford Education Action League	KFA-0302
Hardy Oil Company	RF304-5547
Johns Arco	RF304-5240
	RF304-5299
	RF304-5300
Kent Oil Co., Inc	RF304-8953
L.D. McReynolds, Inc.	RF304-7527
M&M Car Repair	RF307-2073
MacDougall Youth Center	RF307-7219
MacMillan Mobil Service	RF304-7579
	RF304-7602
Mark Concepts, Inc	RF304-7563
McCall Oil & Chemical Company	RF304-7529
Metropolitan Trucking Liquidating Trust	RF272-31614
Phillips Fuel	RF304-5332
State Oil Co.	RF304-7514
Vern's Arco Service	RF304-8799
W.D. Young Oil & Supply Co	RF304-7209
Wallace Transport Inc	RF304-5336
	RF304-5337

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 31, 1989.

George E. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-26484 Filed 11-8-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3679-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instruments.

DATE: Comments must be submitted on or before December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Notification of Regulated Hazardous Waste Activity (EPA ICR #261.07). This is a renewal.

Abstract: Any person generating, transporting, and/or operating a facility for storage, treatment, or disposal of hazardous waste must file a notification form with EPA (or an authorized State). The information requested includes the location and general description of hazardous waste activity. EPA uses the information for a variety of inspection, enforcement, and tracking purposes.

Burden Statement: The estimated average public reporting burden for this collection of information is about 3.5 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering data, and preparing and submitting the form to EPA.

Respondents: Anyone generating, transporting, or handling hazardous waste for storage, treatment or disposal.

Estimated No. of Respondents: 15,000.

Estimated Total Annual burden of Respondents: 42,450 hours.

Frequency of Collection: as necessary.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 1284.02; New Source Performance Standards for Polymeric Coating of Supporting Substrates; was approved 09/06/89; OMB # 2060-0181; expires 09/30/92.

EPA ICR # 1276.02; Reporting and Recordkeeping for Asbestos Ban and Phase-Out Rule; was approved 09/08/89; OMB # 2070-0082; expires 09/30/92.

EPA ICR # 1390.01; State Revolving Fund Report to Congress Questionnaire; was approved 09/01/89; OMB # 2040-0131; expires 10/31/90.

EPA ICR # 1080.05; National Emission Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage vessels; was approved 09/07/89; OMB # 2060-0185; expires 12/31/89.

EPA ICR # 0783.03; Hazardous Substance Response Fund Contractor Cost Report; was approved 10/03/89; OMB # 2030-0018; expires 12/31/89.

EPA ICR # 1164.03; NSPS for Fluid Catalytic Cracking Unit Regenerators; was approved 09/28/89; OMB # 2060-0061; expires 09/30/92.

EPA ICR # 1069.03; NSPS Subpart N, NA—Standards of Performance for Iron and Steel Plants (Basic Oxygen Process Furnaces); was approved 09/28/89; OMB # 2060-0029; expires 09/30/92.

EPA ICR # 1502.02; Collection of Asbestos in Buildings Information Through Supplemental Energy Information Administration Form EIA-871H; was approved 10/02/89; OMB # 2070-0104; expires 11/30/89.

EPA ICR # 0795.04; Section 12(B) Notification of Chemical Exports; was approved 09/21/89; OMB # 2070-0030; expires 09/30/90.

EPA ICR # 0619.04; Mobile Source Emission Factor Survey; was approved 09/28/89; OMB # 2060-0078; expires 09/30/90.

EPA ICR # 1293.02; Development of NSPS for Small Boilers; was disapproved 09/21/89.

Dated: October 27, 1989.

Paul Lapsley, Director,

Information and Regulatory Systems Division.

[FR Doc. 89-25439 Filed 11-8-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3679-3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5076 or (202) 382-5073.

Availability of Environmental Impact Statements filed October 30, 1989 through November 3, 1989, pursuant to 40 CFR 1506.9.

EIS No. 890305, Draft, COE, KY, IN, McAlpine Locks and Dams Navigation Improvement, Implementation, Ohio River, Jefferson and Oldham Counties, KY and Floyd and Clark Counties IN, Due: December 26, 1989, Contact: Col. David Petxotto, (502) 582-5601.

EIS No. 890306, Final, BLM, CA, Arcata Planning Area, Land and Resource Management Plan, Implementation, Humboldt, Mendocino, Trinity and Sonoma Counties, CA, Due: December 11, 1989, Contact: John T. Lloyd, (707) 822-7648.

EIS No. 890307, FSuppl, FHW, NY, Southern Tier Expressway Construction, Corning Area, NY-415 to NY-352, Funding, Steuben County, NY, Due: December 11, 1989, Contact: Harold Brown, (518) 472-3616.

EIS No. 890308, Final, AFS, ID, Idaho Panhandle National Forests, Weed Pest Management Plan, Implementation, Benewah, Bonner, Boundary, Kootenai and Shoshone Counties, ID, Due: December 11, 1989, Contact: Patricia Jackman, (208) 447-4710.

EIS No. 890309, Draft, NOA, HI, FL, Swin-With-The-Dolphin Programs, Use of Marine Mammals, Implementation, Due: December 28, 1989, Contact: Dr. Nancy Forester, (301) 427-2333.

EIS No. 890310, Draft, AFS, UT, Snowbasin Four Season Destination Resort, Development, Wasatch-Cache National Forest, Weber and Morgan Counties, UT, Due: December 29, 1989, Contact: Glenn Casamassa, (801) 625-5112.

EIS No. 890311, Final, IBR, AZ, San Xavier Irrigation System Development Project, Design Approval, Construction and Operation, Funding, Tohono O'odham Nation, San Xavier District, AZ, Due: December 11, 1989, Contact: W.E. Rinne, (702) 293-8560.

EIS No. 890312, Final, AFS, WA, OR, Pacific Northwest Region National Forests, Nursery Pest Management Control Plan, Implementation, Skamania County, WA and Lane, Douglas, Deschutes and Jackson Counties, OR, Due: December 11, 1989, Contact: George P. Matejko, (503) 326-7755.

EIS No. 890313, Final, DOE, PRO, Clean Coal Technology Program, Continuation, Due: December 11, 1989, Contact: Allyn Hemenway, (202) 586-7162.

EIS No. 890314, Draft, BLM, OR, Three Rivers Resource Management Plan, Implementation, Malheur, Harney, Grant, Crook, and Lake Counties, OR, Due: February 1, 1990, Contact: Jay Carlson, (503) 573-5241.

Dated: November 6, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-26481 Filed 11-8-89; 8:45 am]

BILLING CODE 6560-50-M

(ER-FRL-3679-4)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 23, 1989 through October 27, 1989 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D-FRC-L05197-OR, Rating EO2, Salt Caves 80 MW Hydroelectric Project No. 10199, Construction and Operation, License, Klamath River, Klamath County, OR.

Summary: EPA has concerns about the proposed project, even with the recommended mitigation, with regard to water quality, wetland and aquatic resources and the uncertainties associated with the no-dam alternatives.

ERP No. D-UMC-E11022-NC, Rating EC2, Camp Lejeune Marine Corps Base Camp, Expansion and Realignment for Additional Training Needs, Implementation, Onslow County, NC.

Summary: EPA has environmental concerns about the absence of definitive mitigation for the adverse consequences of the acquisition and use by the Marine Corps of the proposed Lejeune training area. Additionally, the document is noncommittal as to exactly how the training range will be operated and maintained to reduce chronic environmental impacts associated with the ongoing military activities conducted there. EPA believes that the final EIS would be improved and the decision-making process facilitated if these issues were addressed during the NEPA process rather than later.

Final EISs

ERP No. F-BOP-E40722-SC, Estill Minimum Security Federal Prison Camp, Construction and Operation, Estill, Hampton County, SC.

Summary: EPA does not have any significant environmental concerns associated with construction of the proposed facility. However, a stormwater runoff plan should be prepared to ensure no adverse impacts to wetlands on and off the site.

Regulations

ERP No. R-DOE-A09097-00, 10 CFR part 430; Energy Conservation Program for Consumer Products: Standards for Three Types of Consumer Products (54 FR 32744).

Summary: EPA recommends more stringent conservation standards for dishwashers, clothes washers, and clothes dryers. More stringent standards would avoid environmental impacts and save energy, water and money for consumers.

ERP No. R-MMS-A02250-00, 30 CFR part 250; Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), all OCS Regions (54 FR 36244).

Summary: Review of the proposed rule has been completed and the project found to be satisfactory.

BEST COPY AVAILABLE

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Dated: November 6, 1989.
William D. Dickerson,
Deputy Director, Office of Federal Activities.
[FR Doc. 89-26462 Filed 11-8-89; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140119; FRL-3660-7]

Access to Confidential Business Information by Syracuse Research Corporation and Midwest Research Institute

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has authorized its contractors, Syracuse Research Corporation (SRC) of Syracuse, New York, for access to information which has been submitted to EPA under sections 4 and 8, and Midwest Research Institute (MRI) of Cary, North Carolina, for access to information which has been submitted to EPA under sections 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D9-0059, contractor SRC, of Merrill Lane, Syracuse, NY, will assist the TSCA Interagency Testing Committee in preparing semi-annual reports on health and environmental test data for existing chemicals as set forth in section 4(e) of TSCA.

Under contract number 68-02-3817, contractor MRI, of 401 Harrison Oaks Boulevard, Suite 350, Cary, NC will assist the Office of Air Quality Planning and Standards in developing air pollution emission standards for chromium air pollutants under the authority of section 6 of TSCA.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract numbers 68-D9-0059 (SRC) and 68-02-3817 (MRI), these contractors will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the contract. SRC personnel will be given access to information submitted under sections 4 and 8 of TSCA. MRI personnel will be given access to information submitted under sections 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4 and 8 of TSCA that EPA may provide SRC access to these CBI materials on a need-to-know basis. Also, EPA is issuing this notice to inform all submitters of information under sections 5, 6, and 8 of TSCA that EPA may provide MRI access to these CBI materials on a need-to-know basis. All access to TSCA CBI under these contracts will take place at either EPA Headquarters or contractor facilities.

Clearance for access to TSCA CBI under these contracts are scheduled to expire on March 21, 1992 (SRC) and April 30, 1992 (MRI).

SRC and MRI are currently authorized for access to TSCA CBI at their facilities under contract nos. 68-D8-0117 (SRC) and 68-02-4252 (MRI).

SRC and MRI personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: November 1, 1989.
John Neyland,
Director, Information Management Division.
[FR Doc 89-26446 Filed 11-8-89; 8:45]
BILLING CODE 6560-50-D

[OPTS-59878; FRL-3665-6]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1934, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 14 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 90-2, October 24, 1989.
Y 90-3, October 25, 1989.
Y 90-4, 90-5, October 31, 1989.
Y 90-7, 90-8, November 5, 1989.
Y 90-9, 90-10, November 6, 1989.
Y 90-11, 90-12, November 12, 1989.
Y 90-13, November 13, 1989.
Y 90-14, November 15, 1989.
Y 90-15, November 21, 1989.
Y 90-16, November 20, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 90-2
Manufacturer. Confidential.
Chemical. (G) Flexible unsaturated polyester polymer.
Use/Production. (S) Clear gel coat.
Prod. range: 115,000-230,000 kg/yr.

Y 90-3
Manufacturer. Allied-Signal, Inc.
Chemical. (G) Olefin-carboxylic acid copolymer.
Use/Production.(S) Used in emsulsion for polishes, inks, and coatings.
Prod. range: Confidential.

Y 90-4
Importer. Confidential.
Chemical. (G) Polyester-graft-styrene-acrylic copolymer.
Use/Import. (G) Pigment binder resin.
Prod. range: Confidential.

Y 90-5
Importer. Confidential.
Chemical. (G) Styrene-N-butylacrylate-maleic acid monobutyl ester.
Use/Import. (G) Open, nondispersive use.
*Import range:*Confidential.

Y 90-7
Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (G) Paint vehicle.
Prod. range: Confidential.

Y 90-8
Manufacturer. Confidential.
Chemical. (G) Rosin-modified phenolic resin.
Use/Production. (S) The function is a binder and theapplication is in lithographic printing inks.
Prod.range: Confidential.

Y 90-9
Manufacturer. Confidential.
Chemical. (G) Caprolaction, polyester.
Use/Production. (S) Component of molding and modeling compounds.
Prod. range: Confidential.

Y 90-10
Importer. Confidential.
Chemical. (G) Polyamide copolymer.
Use/Import. (S) Hot melt salt adhesive.
*Import range:*Confidential.

Y 90-11
Manufacturer. Confidential.
Chemical. (G) Partial sodium salt of an acrylic polymer.
Use/Production. (S) A dispersant for boiler feedwater treatment.
Prod. range: Confidential.

Y 90-12
Importer. Confidential.
Chemical. (G) Hydroxy functional acrylic resin.
Use/Import. (S) Coatings.
Import range: Confidential.

Y 90-13
Manufacturer. Confidential.
Chemical. (G) Acrylic dispersion.
Use/Production. (S) Protective coatings.
Prod. range: 90,000-10,000 kg/yr.

Y 90-14
Manufacturer. Confidential.
Chemical. (G) Rosin maleated polymer with P-ter-buty phenol,formaldehyde and pentaehyt.
Use/Production. (S) Printing vehicle.
Prod. range: 22,000-30,000 kg/yr.

Y 90-15
Manufacturer. Confidential.
Chemical. (G) Aliphatic polyether urethane.
Use/Production. (G) Used in coatings applied industrial manufactures.
Prod. range: Confidential.

Y 90-16
Manufacturer. Estro Chemical, Inc.
Chemical. (G) Acrylic copolymer.
Use/Production. (S) Flow control agent for industrial coatings.
Prod. range: 50,000-250,000 kg/yr.

Dated: November 3, 1989.
Gerhard E. Brown,
Acting Director, Information Management Division, Office of Toxic Substances.
[FR Doc. 89-26444, Filed 11-8-89; 8:45 am]
BILLING CODE 6560-50-D

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Science and Technology Policy

National Advisory Committee on Semiconductors (NACS); Meeting

The purpose of the National Advisory Committee on Semiconductors, is to devise and promulgate a national semiconductor strategy, including research and development. The implementation of this strategy will assure the continued leadership of the United States in semiconductor technology. The Committee will meet on November 20, 1989 at Science Applications International Corporation, 1555 Wilson Blvd., 7th Floor, Rosslyn, Virginia 8:00 a.m. The proposed agenda is:

(1) Briefing of the Committee on its organization and administration.

(2) Briefing of the Committee by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed studies regarding semiconductors.

(3) Discussion of composition of panels to conduct studies.

A portion of the Nove nber 20 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b.(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b.(c)(6).

Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Hazel Houston, at (703) 528-6288, prior to 3:00 p.m. on November 17, 1989. Mrs. Houston is also available to provide specific information regarding time, place and agenda for the open session.

Dated: November 6, 1989.
Barbara J. Dierin,
Special Assistant, Office of Science and Technology Policy.
[FR Doc. 89-26549 Filed 11-7-89; 10:50 am]
BILLING CODE 3115-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010642-005

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland (Port)
Stevedoring Services of America (SSA)

Synopsis: The Agreement amends the basic agreement (Agreement No. 224-010642) to provide for the extension of the agreement's term to January 31, 1990 and for an increase in the basic compensation for SSA to 10% of the gross wharfage and terminal tariff revenues which accrue for users of the assigned premises without application of any breakpoint levels or additional compensation to SAA for tonnage exceeding breakpoint levels.

Agreement No.: 224-000064-001

Title: Pacific Maritime Association Assessment Agreement.
Parties:
Pacific Maritime Association
International Longshoremen's and Warehousemen's Union

Synopsis: The Agreement amends the basic agreement to provide for: Reporting of coastwise cargo tonnage in five categories and factors to be applied to per ton assessment rates to determine rates applicable to categories of cargo moving as coastwise cargo.

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Agreement No.: 224-200300

Title: Indiana Port Commission Terminal Agreement.

Parties:

Indiana Port Commission
Jack Gray Transport, Inc. (JGTI)

Synopsis: The Agreement provides JGTI with the lease of 3.78 acres at the Port of Indiana/Burns International Harbor to be used for the operation of a dry-bulk storage warehouse facility and the related transportation and handling of dry-bulk materials. The term of the Agreement expires July 31, 1994, and may be extended for three consecutive five-year periods.

Agreement No.: 224-200299

Title: Indiana Port Commission Terminal Agreement.

Parties:

Indiana Port Commission
Jack Gray Transport, Inc. (JGTI)

Synopsis: The Agreement provides JGTI with the lease of Transit Shed #2 and preferential use of Berths #12 and #13 in the Port of Indiana/Burns International Harbor to be used for the operation of an intermodal marine terminal and warehouse. The Agreement's term expires July 31, 1991.

By Order of the Federal Maritime Commission.

Dated: November 3, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26388 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L. Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200301

Title: Port Authority of New York and New Jersey Terminal Agreement.

Parties:

Port Authority of New York and New Jersey
Maher Terminals, Inc. (Maher)

Synopsis: The Agreement provides Maher the lease of premises at the Elizabeth—Port Authority Marine Terminal to be used and operated as a public marine terminal for the berthing of vessels, the loading and unloading of cargo and passengers, the storing of cargo and containers, and related terminal activities. Maher has the exclusive right to collect dockage and wharf usage charges subject to the Agreement's terms.

Agreement No.: 224-004161-006

Title: San Francisco Port Commission Terminal Agreement.

Parties:

San Francisco Port Commission
Marine Terminals

Synopsis: The Agreement extends the term of the basic agreement, Agreement No. 224-004161, a non-exclusive management agreement, for two months from November 1, 1989 through December 31, 1989.

By Order of the Federal Maritime Commission.

Dated: November 3, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26384 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 224-000086-004]

Port of Greater New York and New Jersey Assessment Agreement; Erratum

The **Federal Register** Notice published on October 13, 1989, (Vol. 54, No. 17, FR 42037), incorrectly identified the Port of Greater New York and New Jersey Assessment Agreement as Agreement No. 224-000086-003, whereas, it should have been noticed as Agreement No. 224-000086-004.

By Order of the Federal Maritime Commission.

Dated: November 3, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26387 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-19]

Service Contracts; Automatic Discount Provisions Petition for Declaratory Order or Rulemaking; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Special Studies has determined that Docket No. 89-19 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 et seq., and that preparation of an environmental impact statement is not required.

In Docket No. 89-19, the Commission, in response to a petition from Associated Container Transportation (Australia) Ltd. (ACTA) and Hamburg-Sudamericanische Dampfschieffahrts-Gesellschaft Eggert & Amsinck (Columbus) pursuant to 46 CFR 51, 68, will decide whether or not to issue a declaratory order, or in the alternative a rulemaking, determining that a service contract may not contain an automatic discount provision, under which a service contract rate would be automatically discounted below the lowest rate specified in the tariffs and service contracts filed by other carriers in a trade.

This Finding of No Significant Impact ("FONSI") will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 504.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, DC 20573-0001, telephone (202) 523-5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26416 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

[Docket No. C-3259]

Medical Staff of Dickinson County Memorial Hospital, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, 12 doctors, the medical staff and two medical societies of Michigan from combining or conspiring to coerce, intimidate, threaten to boycott or boycott other physicians, hospitals and health care providers. In addition, the order requires the respondent Medical Staff to mail a copy of the complaint and order to certain medical officials.

DATE: Complaint and Order issued July 17, 1989.[1]

FOR FURTHER INFORMATION CONTACT: David Pender or Paul Nolan, FTC/S-3115, Washington, DC 20580 (202) 326-2549 or 326-2770.

SUPPLEMENTARY INFORMATION: On Tuesday, February 28, 1989, there was published in the **Federal Register**, 54 FR 8345, a proposed consent agreement with analysis In the Matter of Medical Staff of Dickinson County Memorial Hospital, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of a complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 89-26426 Filed 11-8-89; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3260]

Panhandle Eastern Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order allows, among other things, the respondent to acquire Texas Eastern Transmission Corp. The order requires respondent to divest its ownership of Truckline Offshore Co. and, for ten years, to obtain FTC approval before acquiring any natural gas pipelines in the affected offshore area.

DATE: Complaint and Order issued July 17, 1989.[1]

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Anthony L. Joseph, FTC/S-3308, Washington, DC 20580 (202) 326-2910.

SUPPLEMENTARY INFORMATION: On Tuesday, May 9, 1989, there was published in the **Federal Register**, 54 FR 19915, a proposed consent agreement with analysis In the Matter of Panhandle Eastern Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of a complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 89-26425 Filed 11-8-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Risk Assessment; Meeting Cancellation

The Centers for Disease Control (CDC) is cancelling the meeting of the CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Risk Assessment scheduled for November 27, 1989. The meeting was announced by notice in the **Federal Register** of October 26, 1989 (54 FR 43619).

FOR FURTHER INFORMATION CONTACT: Linda Gimmestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-24, Atlanta, Georgia 30333, telephones: FTS 236-0915; Commercial: 404/639-0915.

Dated: November 3, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-26394 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-18-M

CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Prevention; Meeting; Cancellation

The Centers for Disease Control (CDC) is cancelling the meeting of the CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Prevention scheduled for November 27, 1989. The meeting was announced by notice in the **Federal Register** of October 26, 1989 (54 FR 43619).

FOR FURTHER INFORMATION CONTACT: Linda Gimmestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-24, Atlanta, Georgia 30333, telephones: FTS: 236-0915; Commercial: 404/639-0915.

Dated: November 3, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-26395 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-18-M

CDC Advisory Committee on the Prevention of HIV Infection; Meeting—Notice of Change

The Centers for Disease Control (CDC) is making the following changes in the meeting of the CDC Advisory Committee on the Prevention of HIV Infection announced by notice in the **Federal Register** of October 26, 1989 (54 FR 43619).

Previously Announced Times and Dates:

9 a.m.-5 p.m.—November 28, 1989
9 a.m.-3 p.m.—November 29, 1989

Change in Times and Dates:

1:00 p.m.-5 p.m.—November 27, 1989
8:30 a.m.-5 p.m.—November 28, 1989
8:30 a.m.-5 p.m.—November 29, 1989

Matters to be Discussed: This section is changed to read as follows: The Committee will discuss issues, questions, and concerns raised during the Committee's meeting on June 26-27, 1989, and current CDC approaches in the areas of risk assessment, technology development and transfer, prevention, and capacity building. In-depth discussion will lead to development of a preliminary list of recommendations regarding CDC methods and approaches.

FOR FURTHER INFORMATION CONTACT: Linda Gimmestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-24, Atlanta, Georgia 30333, telephones: FTS: 236-0915; Commercial: 404/639-0915.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

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Dated: November 3, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-26396 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89F-0442]

Alex C. Fergusson Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a food additive petition has been filed by Alex C. Fergusson Co., proposing that the food additive regulations be amended to provide for the safe use of a solution containing *n*-alkyl(C_{12}–C_{18}) benzyldimethylammonium chloride, *alpha*[*p*-(1, 1, 3, 3-tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) produced with one mole of the phenol and 4 to 14 moles of ethylene oxide, and ethanol as a sanitizer on food-processing equipment and utensils.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmestic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8H4099) has been filed by Alex C. Fergusson Co., Spring Mill Dr., Frazer, PA 19355, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended to provide for the safe use of a solution containing *n*-alkyl (C_{12}–C_{18}) benzyldimethylammonium chloride, *alpha*[*p*-(1, 1, 3, 3-tertramethylbutyl) phenyl]-*omega*-hydroxypoly (oxyethylene) produced with one mole of the phenol and 4 to 14 moles of ethylene oxide, and ethanol as a sanitizer on food-processing equipment and utensils.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 2, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26410 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88F-0429]

Food Techniques, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 9A4119) proposing that the food additive regulations be amended to provide for the safe use of ozone as an antimicrobial agent in poultry chiller water for reuse.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 10, 1989 (54 FR 6451), FDA published a notice that it had filed a petition (FAP 9A4119) submitted by Food Techniques, Inc., 267-A Hayes Mille Rd., Atco, NJ 08004, that proposed to amend the food additive regulations to provide for the safe use of ozone as an antimicrobial agent in poultry chiller water for reuse. Food Techniques, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: November 2, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26411 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Systems of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of proposed modification to the "End Stage Renal Disease (ESRD) Program Management and Medical Information System (Registry)."

SUMMARY: HCFA is proposing to modify the notice of system of records to update and clarify a number of sections. The modifications being proposed for this system include:

- The name of the system is being changed to "End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS)."
- The category of individuals is being revised to reflect ESRD patients treated by the Department of Veterans' Affairs (DVA) health care facilities.
- The retrievability section is being revised to include DVA personal identification numbers.

The above changes clarify and update the system notice to include recent statutory requirements. In addition, the safeguard section is being expanded to include security-related contracts and current source documents for systems security policies.

EFFECTIVE DATES: This proposed modification will be effective on November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Helen Mayhew, Office of Statistics and Data Management, Bureau of Data Management and Strategy, 3-A-12 Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 597-3673.

SUPPLEMENTARY INFORMATION: The Notice for the "End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS)", No. 09-70-0520, was most recently published in the **Federal Register** on December 29, 1988, 53 FR 52792.

This system contains records on persons with ESRD who receive Medicare benefits or who are treated by DVA health care facilities. Data in this system are used primarily to meet and implement statutory requirements of Section 2991, Public Law 92-603, to meet other legislative requirements, and to support ESRD research and public service programs.

The Omnibus Reconciliation Act of 1986 (P.L. 99-509) required that the Secretary establish a national ESRD registry. This registry is called the United States Renal Data System (USRDS). The contract to administer the USRDS was awarded by the National Institutes of Health (NIH) to the Urban Institute on May 1, 1988, for a 5-year period. This registry will utilize data reported by network organizations, transplant centers, and other sources to support: Analysis of alternative treatment modes; evaluation of allocation of resources; analyses or mortality and morbidity trends and other quality of care indices; and other studies that will assist the Congress in evaluating the ESRD program.

Information on patients treated at DVA health care facilities is being added to this system of records in order to increase the proportion of individuals with ESRD on whom information is included in the file and to augment the usefulness of the information for research and policy formulation. This information is being added in response to a request from the National Institute of Diabetes and Digestive and Kidney Diseases that data on DVA patients with ESRD be included in the PMMIS for research purposes. A code will be present in the PMMIS to provide the capability to separately identify the Medicare beneficiaries and the DVA patients.

Because this modification will not change the purpose for which the information is to be used or otherwise significantly alter the system, no report of an altered system of records is required under 5 U.S.C. 551a(o). We are publishing the notice in its entirety below for the convenience of the reader.

Date: November 3, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

09-70-0520

SYSTEM NAME:

End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS), HHS, HCFA, BDMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

HCFA Data Center, Lyon Building, 7131 Rutherford Road, Baltimore, Maryland 21207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons with ESRD who receive Medicare benefits or ESRD patients who are treated by Department of Veterans Affairs (DVA) health care facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes records on beneficiaries/patients and on providers of service.

Beneficiary/patient records include personal, medical, and payment data taken from several nonreimbursement data collection instruments and from Medicare bills. These records include individual identifiers; demographic and enrollment data; and dialysis, kidney transplant, and death information.

The provider of service records include the provider's name and address; the Medicare identification number (or PMMIS identification in the case of DVA health care facilities); types of renal services available; certification and/or termination date; the Medicare fiscal intermediary; and the ESRD network number.

Annual ESRD aggregate patient treatment survey data are included for both Medicare and DVA health care facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 226A, 1875, and 1881 of the Social Security Act (42 U.S.C. 426-1, 139511, and 1395rr.).

PURPOSE OF THE SYSTEM:

To meet and implement statutory requirements of Section 2991, Public Law 92-603, which extended Medicare coverage to eligible persons with ESRD; Public Law 95-292, which required the establishment of a medical information system on the ESRD program; Public Law 99-509, which mandated a national ESRD patient registry; to support State and local ESRD programs and legislative requirements; and to support ESRD research and public service programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to:

1. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

2. Organizations deemed qualified by the Health Care Financing Administration to carry out quality assessment, and/or medical audits of utilization review.

3. The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

a. HHS, or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components;

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. An individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the research purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual, or

(b) For use in another research project, under these same conditions, and with written authorization of HCFA, or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the recipient's understanding of and willingness to abide by these provisions.

5. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to the contractor incidental to

consultation, programming, operation, user assistance.or maintenance, for ADP or telecommunications systems containing or supporting records in the system.

(a) Not to use the data for purposes that are not related to the evaluation of cost, quality, and effectiveness of care;

(b) Not to publish or otherwise disclose the data in a form raising

NOTIFICATION PROCEDURE:

An individual requesting notice as to whether the system of records contains information pertaining to him/her

SUMMARY: This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an

for use as facilities to assist the homeless;

Hot Springs, AR

Landholding Agency: GSA

Location:

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consultation, programming, operation, user assistance.or maintenance, for ADP or telecommunications systems containing or supporting records in the system.

6. To an agency of a State Government, or established by State law, for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the State, if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

b. Establishes that the data are exempt from disclosure under the State and/or local Freedom of Information Act;

c. Determines that the purpose for which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the data are provided individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual(s) that additional exposure of the record might bring, and;

(3) There is reasonable probability that the objective for the use would be accomplished; and

d. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request; unless the recipient presents an adequate justification for retaining such information;

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another project under the same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the project, if information that would enable project subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law; and

(4) Secure a written statement attesting to the recipient's understanding of and willingness to abide by these provisions. The recipient must agree to the following:

(a) Not to use the data for purposes that are not related to the evaluation of cost, quality, and effectiveness of care;

(b) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that beneficiaries could be identified (i.e., the data must not be beneficiary-specific and must be aggregated to a level when no data cells have ten or fewer beneficiaries); and

(c) To submit a copy of any aggregation of the data intended for publication to HCFA for approval prior to publication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic medium and selected hard copy backup.

RETRIEVABILITY:

Data may be retrieved from beneficiary records by health insurance claim number (HIC) or the DVA identification number, or by individual name; and from the provider of service records by Medicare identification number or, for DVA health care facilities, the PMMIS facility identification number.

SAFEGUARDS:

Employees who maintain records in this system will be instructed to grant access only to authorized users. Data stored in computers will be accessed through the use of passwords, keywords, numbers, or some combination thereof known only to the authorized personnel. These passwords, keywords, or numbers will be changed in accordance with HCFA systems security guidelines.

Privacy Act requirements will be specifically included in contracts related to this system. The project officer and contract officer will oversee compliance with these requirements. The particular safeguards implemented will be developed in accordance with the HHS, Information Resource Manual (IRM), Part 6, "Systems Security Policies" (i.e., use of passwords), and the National Bureau of Standards Federal Information Processing Standards.

RETENTION AND DISPOSAL:

Hard copy is destroyed after 1 year by shredding. All other information is maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Data Management and Strategy, Health Care Financing Administration, Room 128, Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

An individual requesting notice as to whether the system of records contains information pertaining to him/her should write to the System Manager, at the above address, indicating his/her full name, current address (including ZIP CODE), and health insurance claim number or DVA identification number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should reasonably specify the record contents being sought. (These procedures are in accordance with HHS Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Records, or information in records, may be contested by writing to the System Manager named above and reasonably identifying the record, specifying the information to be contested, and stating the reason for contesting the record (e.g., it is inaccurate, irrelevant, incomplete, or not current). (These procedures are in accordance with HHS Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained from Medicare ESRD medical evidence reports, kidney transplant reports, ESRD beneficiary reimbursement method selection forms, ESRD death notification forms, Medicare bills, HCFA Medicare Master Files, ESRD facility surveys, ESRD facility certification notices, and the Medicare/Medicaid Automated Certification System (MMACS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 89-26409 Filed 11-8-89; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-89-1917; FR-2606-N-45]

Notice of Underutilized and Unutilized Federal Buildings and Real Property Determined by HUD To Be Suitable for Use for Facilities To Assist Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD

ACTION: Notice.

SUMMARY: This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: November 9, 1989.

ADDRESS: For further information, contact James Forsberg, Room 7228, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 755-6300; TDD number for the hearing- and speech-impaired (202) 755-5965. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Finally, in lieu of declaring any particular property as excess, the landholding agency may decide to make the property available to the homeless for use on an interim basis.

Homeless assistance providers interested in any property identified as suitable in this Notice should sent a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, Room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405 (202) 535-7067.

Date: November 3, 1989.

Stephen A. Glaude,

Deputy Assistant Secretary for Program Management.

Suitable Building (by State)
(Number of Properties [ ])
ARKANSAS
Hot Springs National Park [5]
see below
Hot Springs, AR
Landholding Agency: GSA
Location:
7-I-AR-415-U (excess)
108 Earhart; 215 Congress; 820 Music Mountain Road; 321 Terryland Drive;
101 Hutson Drive
Comment: must move off-site; 1 story houses; 744 to 2,399 sq ft

[FR Doc. 89-26386 Filed 11-8-89; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Titles: Reindeer Industry Management.

OMB Approval Number: 1076-0047.

Abstract: The information allows the Bureau to maintain records of individuals who wish to borrow reindeer from the Government for the purpose of starting a reindeer industry, determine the specific age and sex of reindeer borrowed, and to insure their proper return to the Federal Government in order that they may be held in trust for Alaska Natives.

Bureau Form Number: JO-NR-3 and JAO-1668.

Frequency: On occasion.

Description of Respondents: Individuals and tribal corporations.

Estimated Completion Time: Average of 45 minutes.

Annual Responses: 20 (each form).

Annual Burden Hours: 30 (total for both forms).

Bureau Clearance Officer: Cathie Martin, (202) 343-3577.

Walter R. Mills,

Deputy to the Assistant Secretary, Indian Affairs (Operations).

[FR Doc. 89-26458 Filed 11-8-89; 8:45 am]
BILLING CODE 4310-02-M

Proposed Finding Against Federal Acknowledgment of the Mohegan Tribe of Indians of the State of Connecticut

made. The tribal lands were again divided in 1861 and tribal members were given title in 1872. The Mohegan as a group and some of its individual

of individual political leadership between the early 1940's and 1967. A similar documentary gap exists for the period between 1970 and 1979. The

interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary-

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

DATE: The meeting will be held Thursday, December 14, 1989, at 10:00 a.m.

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Proposed Finding Against Federal Acknowledgment of the Mohegan Tribe of Indians of the State of Connecticut

October 30, 1989.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary proposes to decline to acknowledge that The Mohegan Tribe of Indians of the State of Connecticut, c/o Mr. Courtland Fowler, 1841 Norwich, New London Turnpike, Uncasville, Connecticut 06382, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet two of the mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

The Mohegan Tribe of Indians is based in the village of Mohegan, in the Town of Montville, Connecticut, on land which was traditionally and aboriginally Mohegan. This organization represents a group of lineal descendants of the Mohegan Indians whose ancestors have inhabited this area since first sustained contact with European settlers in 1638. The Mohegans have been identified as being American Indians from historical times until the present, and distinct from other Indian groups in Connecticut, although at the present they do not appear to be distinct socially from the non-Indian population. Since the early part of the 20th century, a substantial portion of the Mohegan Indian descendants have not resided within the historical Indian settlement, and at present only about 9 percent of the group's 1,032 members reside in or near the village of Mohegan. Since the 1940's, the Mohegan Indians have not maintained group interaction or social relations, either within the historical Indian settlement or between those residents in or near the village of Mohegan and the ever-growing number of non-resident Mohegan Indian descendants.

Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers. The 20,000-acre tract of aboriginal land sequestered by Connecticut officials for the use of the Mohegan in 1671 was reduced to just 2,600 acres by 1790 when the first land division among tribal members was made. The tribal lands were again divided in 1861 and tribal members were given title in 1872. The Mohegan as a group and some of its individual members continue to hold title to small parcels of their historic land base.

A Wigwam festival, which served as both a fund-raising fair to benefit the Mohegan church and a Mohegan homecoming in which non-resident Mohegans returned annually to participate, was held on the church grounds almost every year between 1860 and 1927. The Wigwam festival began to decline in the late 1920's. References have been found for only three such community events between 1927 and 1941, when the last successful Wigwam was held.

There is not enough documentary evidence regarding group activities following the cessation of the Wigwam festivals in 1941 to conclude that the petitioning group has maintained a cohesive community within which social interaction took place since that time. The available documentation shows that since 1941, the Mohegan have had few, if any, community events or political meetings of a tribal nature. No evidence was submitted or found regarding other internal events which might have served to bring a substantial number of group members together. There was no evidence of sustained social interaction between the families represented by the current membership. The only current social activity which brings different families together is an annual homecoming which was not started until the late 1970's.

Aboriginal Mohegan leadership was provided by a chief sachem who made decisions in consultation with a council consisting of influential tribal members of similar social rank. The sachem and council form of government was continued until 1769, when the Mohegan abandoned the leadership position of sachem. There is evidence that the Mohegan continued to govern their affairs through some form of council in the years between 1769 and 1903.

The formal position of "chief" was first described in 1903, and various Mohegan men have been identified as chiefs since then. From that time to the mid to late 1930's, the Mohegan made intermittent efforts to maintain some kind of tribal political organization under various leaders and various organizational names. The continuance of the Wigwam festivals to 1941 indicates that some level of group organization and decision making persisted.

There is no documentary evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967. A similar documentary gap exists for the period between 1970 and 1979. The Council of the Descendants of the Mohegan Indians, Inc., formed in 1967, attempted to function as a tribal council for the Mohegan. Not enough is known about the Council of the Descendants to measure its level of influence over or support from the Mohegan group. Evidently, it did not generate enough interest to continue for more than a three-year period (1967–1970).

There is no evidence of any other tribal governing body or other political process between 1941 and 1980. Since 1980, the group has had a formal tribal council and a governing document. However, the available evidence is not sufficient to determine the extent of the Tribal Council's political influence or other authority over its membership.

The group's governing document describes how membership is determined and how the group governs its affairs and its members. Approximately 85 percent of the 1,032 members can demonstrate that they meet the group's membership requirement, which is descent from an individual on a list of Mohegan Indians prepared in or before 1861. Documentary evidence exists establishing their ancestry back to such lists. Descent from the historical tribe could not be documented for 15 percent of the membership. Either the descent claimed could be disproved or there was insufficient information to determine whether the 15 percent descended from the historical tribe.

No evidence was found that the members of the Mohegan Tribe of Indians are members of any other Indian tribe or that the group or its members have been the subject of Federal legislation which has expressly terminated or forbidden a relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Mohegan Tribe of Indians meet criteria a, d, e, f, and g, but does not meet criteria b and c of § 83.7 of the Acknowledgment regulations (25 CFR Part 83). Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120-days from the date of publication of this notice.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision will be available to the petitioner and interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, 18th & C Streets, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4627–MIB.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120-day response period, the Assistant Secretary will publish the final determination regarding the petitioner's status in the Federal Register as provided in § 83.9(h).

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89-26457 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[ID-020-09-4410-08]

Burley District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on December 5, 1989. The meeting will convene at 9:30 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) Introductions, (2) Littering and Unauthorized Dumping Laws and Regulations, (3) Update on German Lake and Other Unauthorized Dumps, (4) Prescribed Burns, (5) Update of Black Pine Mountain Deer Proposal.

This meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will start at 11:30 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed. Individuals wishing to attend the field tour must provide their own transportation.

Minutes of the Council meeting will be maintained in the District Office and will be available for the public inspection during regular business hours.

DATE: December, 5, 1989.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Gerald L. Quinn, Burley District Manager, (208) 678–5514.

Dated: October 31, 1989.

Gerald L. Quinn,

District Manager.

[FR Doc. 89-26464 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-GG-M

[WY-060-4320-12-2410]

Meeting; Casper District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Casper District Advisory Council.

SUMMARY: The Casper District Advisory Council will convene at 10:00 a.m., December 1, 1989 at the Casper District Office, 1701 East "E" Street, Casper, Wyoming. The public comment period is scheduled for 11:00 a.m. The meeting is open to the public.

The council will address the following agenda items during the meeting: 1. Overview of the District's Coal Management Program; 2. Recreation and Wildlife programs; 3. Areas of Critical Environmental Concern (ACECs); 4. Bonding for oil and gas drilling; 5. BLM wilderness update; 6. National recreation area feasibility study; 8. Newcastle Resource Management Plan; and, any other topic raised by either council members or members of the public.

FOR FURTHER INFORMATION CONTACT: Kate DuPont, Public Affairs Specialist, 307–261–7600, Casper, Wyoming.

Dated: November 3, 1989.

James W. Monroe,

District Manager.

[FR Doc. 89-26466 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-22-M

[ID-040-00-4320-10]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held Thursday, December 14, 1989, at 10:00 a.m.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92–463. The meeting is open to the public; public comments on agenda items will be accepted from 1:00 to 1:30 p.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by December 8, 1989. The agenda items are Proposed Projects, Allotment Management Plans, Status of Project Accounts, and any other issues dealing with grazing management in the Salmon District.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:15 p.m.) within 30 days after the meeting. For further information, contact: Roy S. Jackson, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, phone (208) 756–5400.

Dated: October 31, 1989.

Roy S. Jackson,

District Manager.

[FR Doc. 89-26463 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-GG-M

[MT-020-00-4111-11; MTM 72542]

Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease MTM 72542, Carbon County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and

reimbursement for cost of publication of this Notice.

Dated: November 3, 1989.

Realty Action; Colorado

AGENCY: Bureau of Land Management,

SUMMARY: The following described lands have been examined and identified as suitable for disposal by

public interest will be highly served by making this exchange.

The value of the lands to be

ACTION: Initial classification decision, establishment of Camping Stay Limit for Public Lands Administered by the BLM

public to camp in the area and creates user conflicts.

Authority for camping stay limits is

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reimbursement for cost of publication of this Notice.

Dated: November 2, 1989.

Cynthia L. Embretson,

Chief of Fluids Adjudication Section.

[FR Doc. 89-26601 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-DN

Realty Action; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, competitive and modified competitive sale of public lands in Morgan, Larimer, Jefferson, and Park Counties, Colorado.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1701, 1713) at no less than the appraised fair market value (minimum bid price):

Parcel No.	Legal description	Acreage	Minimum bid	Type
C-46674	T.1N., R.60W., Sec. 24, NW¼SE¼	40.00	8950	MC
C-47722	T.2N., R.58W., Sec. 17, NE¼NE¼	40.00	1,000	MC
C-47723	T.5N., R.68W., Sec. 30, SE¼NW¼	40.00	17,000	C
C-47724	T.12N., R.70W., Sec. 22, Lots 1 & 2	34.40	14,000	C
C-47725	T.10N., R.70W., Sec. 12, NE¼NE¼	40.00	2,500	MC
C-47727	T.6N., R.70W., Sec. 11, Lot 3	20.66	16,000	C
C-47729	T.6S., R.70W., Sec. 23, Lots 12, 13, 16	7.82	6,000	C
C-47730	T.6S., R.73W., Sec. 35, SE¼	160.00	100,000	MC

C—Competitive MC—Modified Competitive

The total acreage in this sale offering is 382.88 acres. These lands are hereby segregated from appropriation under the public land laws, including the mining laws, until the land is sold or 270 days from publication. Bidding on all eight parcels will be open to the public; the "modified competitive" parcels are currently leased for grazing, and the lessee will be allowed to match the high bid received on those sale parcels.

SALE PROCEDURES: Bidding will be by sealed bid only. No bids will be accepted for less than the minimum bid price for each parcel. Sealed bids will be accepted until 1 p.m. on January 17, 1990. Bid opening will be at 2 p.m. on the sale day at the Canon City District Office. Any of the parcels not sold at this January 17th sale will continue to be offered for sale by competitive bidding to the general public beginning February 7, 1990 and the 1st and 3rd Wednesdays each month thereafter until sold or the sale is canceled. The preference right given to grazing lessees is good only through 1/31/90. All lands will be sold with a reservation of all mineral rights, and subject to rights-of-way for ditches and canals (Act of August 30, 1890) and all other existing rights including a reservoir right-of-way affecting parcel C-47723. Parcels C-46674 and C-47722 will include development restrictions for flood plains.

A more detailed sales prospectus providing specific information on each sale parcel, including patent reservations and restrictions will be available upon request.

DATES: Comment period ends December 28, 1989. Sale date is January 17, 1990.

FOR FURTHER INFORMATION: Contact the District Manager, Canon City District Office, 3170 East Main Street, P.O. Box 311, Canon City, Colorado 81212. (719) 275-0631. Comments will be evaluated by the District Manager, who may cancel or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become final.

Adrian W. Neisius,

Acting District Manager.

[FR Doc. 89-26460 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-JB-M

[OR 43344; OR-080-00-4212-13: GPO-048]

Proposed Exchange

November 2, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

This exchange will be between the United States (Bureau of Land Management) and Boise Cascade Corporation (BCC), a Delaware corporation.

The following described public lands have been examined and determined to be suitable for tansfer out of Federal ownership by exchange under the authority of section 206 of the Federal Land Policy and Management Act of 1976, as amended (42 U.S.C. 1701 et seq.):

Willamette Meridian, Oregon

T. 7 S., R. 6 W.,
Sec. 34, SW¼SE¼
T. 8 S., R. 10 W.,
Sec. 20, W½NW¼NW¼
T. 9 S., R. 7 W.,
Sec. 23, E½NE¼, NE¼SE¼
Sec. 35, NE¼NE¼, W½W½
T. 9 S., R. 8 W.,
Sec. 11, N½NW¼, SW¼NW¼, W½SW¼
Sec. 15, NE¼
T. 9 S., R. 11 W.,
Sec. 11, Lot 1

Containing 20.45 acres in Lincoln County and 720.00 acres in Polk County.

In exchange for these lands, the United States will acquire the following described lands from BCC:

Willamette Meridian, Oregon

T. 3 S., R. 6 W.,
Sec. 28, SE¼NE¼, NE¼SE¼, S½SE¼
T. 4 S., R. 5 W.,
Sec. 19, unnumbered lots (SW¼NW¼, NW¼SW¼), NE¼SW¼
T. 4 S., R. 7 W.,
Sec. 14, N½NW¼
T. 7 S., R. 7 W.,
Sec. 28, NE¼SW¼, S½SW¼, SE¼SE¼
Sec. 34, NE¼
Sec. 35, Lots 1-4, E½NE¼, NW¼, N½S½
T. 8 S., R. 6 W.,
Sec. 31, NW¼NE¼, NE¼NW¼
T. 8 S., R. 7 W.,
Sec. 4, SE¼NE¼, N½SE¼, SE¼SE¼
Sec. 9, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼
T. 22 S., R. 6 W.,
Sec. 8, N½NW¼

Containing 80.00 acres in Douglas County, 1,360.80 acres in Polk County, 80.00 acres in Tillamook County, and 283.73 acres in Yamhill County.

The purpose of this exchange is to facilitate resource management opportunities as identified in the Salem District's Westside Management Framework Plan. The public was informed of the initial exchange proposal. One parcel of public land was eliminated from the exchange proposal after expressions of concern were received and another parcel of public land was eliminated because of its proximity to a nesting pair of northern spotted owls. No adverse comments were received in so far as the above-described lands are concerned. The public interest will be highly served by making this exchange.

The value of the lands to be exchanged is approximately equal or the acreage will be adjusted or timber may be reserved to equalize the values upon completion of the final appraisal of the lands. Full equalization of values will be achieved by payment to the United States of funds in the amount not to exceed 25 percent of the value of the public lands to be transferred. All mineral rights will be transferred with the surface estates.

The patent to the selected lands will be subject to the following:

1. The reservation to the United States of a right-of-way for ditches or canals. Act of August 30, 1890 (43 U.S.C. 945)

2. Valid existing rights.

Publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, except for exchange under section 206 of the Federal Land Policy and Management Act. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant (43 CFR 2201.1[b]). The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first.

Detailed information concerning this exchange, including the environmental assessment/land report, is available for review at the Salem District Office, 1717 Fabry Road, SE, Salem, Oregon 97306.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Yamhill Area Manager, Salem District Office, address above. Any objections will be reviewed by the Salem District Manager who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Richard C. Prather,

Yamhill Area Manager.

[FR Doc. 89-26472 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-GG-M

[NV-060-00-4333-12]

Camping Stay Limits for Public Lands; Las Vegas District, Nevada

November 3, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Initial classification decision, establishment of Camping Stay Limit for Public Lands Administered by the BLM in the Las Vegas District, Las Vegas, Nevada.

SUMMARY: Persons(s) may occupy a site or multiple sites within a ten (10) mile radius on public lands not closed or otherwise restricted to camping within the Las Vegas District for a total period of not more than fourteen (14) days during any twenty-eight (28) day period. Following the fourteen (14) day period, person(s) may not relocate within a distance of ten (10) miles of the site that was just previously occupied until completion of the twenty-eight (28) day period. The fourteen (14) day limit may be reached either through a number of separate visits or through a period of continuous occupations of a site. Under special circumstances and upon request, the authorized officer may give written permission for extension of the fourteen (14) day limit. Additionally, no person may leave personal property unattended in designated campgrounds, recreation developments or elsewhere on public lands within the Las Vegas District for a period of not more than forty-eight (48) hours without written permission from the authorized officer.

This camping limit does not apply to Long Term Visitor Use Areas so designated by the Las Vegas District.

EFFECTIVE DATE: Thirty (30) days after publishing in the Federal Register, for administrative review, this decision becomes effective.

ADDRESS: District Manager, Las Vegas District Office, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

SUPPLEMENTARY INFORMATION: Proposed classification for establishing camping stay limitations for public lands in the Las Vegas District, Nevada was published in the Federal Register, Volume 54, No. 136, pages 30476 and 30477. The comment period for the proposed classification was from August 21, 1989 to September 20, 1989 and was extended until October 15, 1989 to allow sufficient time for all affected parties to comment. Two written comments were received. Both supported the establishment of camping stay limitations on public lands.

This camping stay is consistent with BLM policy and is established to assist BLM in reducing the incidence of long-term occupancy trespass conducted under the guise of camping on public lands within the Las Vegas District. Of equal importance is the problem of long-term camping which precludes equal opportunities for other members of the public to camp in the area and creates user conflicts.

Authority for camping stay limits is contained in CFR title 43, chapter II, part 8360, subpart 8364.1, subpart 8365, subpart 8365.1-2, 8365.1-6, and 8365.2-3.

8360.0-7 Penalties: Violations of any regulations in this part by a member of the public, except for the provisions of 8365.1-7 are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by 8365.1-6 are punishable in the same manner.

Dated: November 3, 1989.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 89-26459 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-HC-M

[ID-942-00-4720-12]

Idaho: Filing of Plats of Survey

The plat of survey of the following described land, was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho effective immediately, on November 2, 1989.

The plat representing the dependent resurvey of a portion of the subdivisional lines and certain mineral surveys, T. 48 N., R. 3 E., Boise Meridian, Idaho, Group No. 758, was accepted November 2, 1989.

This survey was executed to meet certain administrative needs by the U.S. Forest Service.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: November 2, 1989.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-26462 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: David Blasko, Redwood City, CA; PRT-744129

The applicant requests a permit to export and reimport one male Asian elephant (*Elephas maximus*) born in the United States to the Philippines and return for the purpose of enhancement

of propagation through conservation education. The elephant may be reexported and reimported to several

applying for and conducting work under a prelease prospecting and scientific research permit. The MMS uses this

Agency for International Development

Public Information Collection Requirements Submitted to OMB for

information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the

at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a

or energy impacts, if any, from this abandonment.

The Section of Energy and Environment [SEE] will prepare an

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of propagation through conservation education. The elephant may be reexported and reimported to several countries in the future for this purpose.

Documents and other information submitted with this application are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) Room 432, 4401 N. Fairfax Drive, Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on this application within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the PRT number when submitting comments.

Dated: November 3, 1989.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–26404 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–AN–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Project Number 1010–0072, Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald Rhodes, Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 3313; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070.

Title: Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf, 30 CFR part 280.

OMB approval number: 1010–0072.

Abstract: Respondents provide certain information to the Minerals Management Service (MMS) when applying for and conducting work under a prelease prospecting and scientific research permit. The MMS uses this information to evaluate permit applications and plans and to monitor activities conducted pursuant to the permit.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal OCS permittees.

Estimated completion time: 13.2 hours.

Annual Responses: 82.

Annual Burden Hours: 820.

Bureau Clearance Officer: Dorothy Christopher (703) 787–1239.

Dated: September 26, 1989.

Carolita Kallaur,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 89–26407 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Meeting of the Advisory Committee for the U.S. Trade and Development Program

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee for the U.S. Trade and Development Program ("TDP"). The meeting will be held on Tuesday, November 28, 1989 at the Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC.

The Committee will begin formulation of a strategic plan for the U.S. Trade and Development Program for the decade ahead.

The meeting will begin at 9:00 a.m. and will adjourn when its business is completed that afternoon. The meeting is open to the public. Any interested persons may attend, file a written statement with the Advisory Committee, and, when recognized by the chairperson, present short oral statements as time permits.

For further information, contact Priscilla Rabb, Director, TDP, Room 309, S.A.–16, Washington, DC 20523–1602, area code 703–875–4357.

Dated: October 30, 1989.

Nancy Frame,

Deputy Director.

[FR Doc. 89–26454 Filed 11–8–89; 8:45 am]

BILLING CODE 6116–01–M

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, Room 1100B, SA–14, Washington, DC 20523.

Date Submitted: October 31, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0007.

Form Number: None.

Type of Submission: Renewal

Title: Report of Loss, Damage or Misuse of Commodities Donated Under Public Law 480, Title II Activities.

Purpose: U.S. non-profit voluntary agencies and foreign governments receiving U.S. donated Title II commodities for use in programs overseas (worldwide) to alleviate hunger and malnutrition are required under AID Regulation 11 to account for these commodities and provide reports that they are being used for purposes set forth in the legislation. Therefore, a report must be provided of all commodity losses due to theft, damage and misuse by cooperating sponsors implementing the program to the U.S. Government.

Reviewer: Donald Arbuckle (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 1989.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 89–26455 Filed 11–8–89; 8:45 am]

BILLING CODE 6116–01–M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, Room 1100B, SA–14, Washington, DC 20523–1407.

Date Submitted: October 31, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0517.

Form Number: None.

Type of Submission: Renewal.

Title: A.I.D. Regulation 10—Donation of Dairy Products to Assist Needy Persons Overseas (Section 416 Program)

Purpose: Under section 416 of the Agricultural Act of 1949, as amended, A.I.D. is to carry out the responsibilities for selecting, approving, administering and implementing the temporary program of the donation of surplus dairy products. The Section 416 program will be carried out through public, nonprofit, private, humanitarian organizations such as U.S. nonprofit voluntary agencies, cooperatives or intergovernmental organizations and foreign governments, known as cooperative sponsors. The cooperating sponsor wishing to participate in a Section 416(b) program must submit to A.I.D. a progress report every six months and final report upon completion of the program. This report to include information on the distribution of the commodities involved, management of the program and program accomplishments.

Reviewer: Donald Arbuckle (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 1989.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 89–26456 Filed 11–8–89; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub–No. 328X)]

CSX Transportation, Inc.—Abandonment Exemption—In Huron County, OH

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 0.66-mile line of railroad between milepost 87.10, near Townline Road north of Willard, and milepost 87.76, at Willard, Huron County, OH.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 9, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 20, 1989.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 14, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 6, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26406 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31553]

Chaparral Railroad Co., Inc.—Acquisition and Operation Exemption—Line of the Atchison, Topeka and Santa Fe Railway Co.

Chaparral Railroad Company, Inc. (Chaparral), a non-carrier, has filed a notice of exemption to acquire and operate approximately 61.4 miles of rail line of the Atchison, Topeka and Santa Fe Railway Company (Santa Fe). The line extends between Paris, TX (near milepost 152.5), and Farmersville, TX (near milepost 91.1), and includes a railroad yard in Paris. Chaparral will also acquire incidental trackage rights over Santa Fe's line between Farmersville and Garland, TX.

The transaction is expected to be consummated on November 27, 1989, or upon approval of a petition for exemption filed concurrently in Finance Docket No. 31554, *Jack L. Hodley—Control Exemption—Kiamichi Railroad Company, Inc., and Chaparral Railroad Company, Inc.* That petition relates to the common control of Kiamichi Railroad Company, Inc. (Kiamichi), a Class III railroad, and Chaparral, a newly created corporation that will be affiliated with Kiamichi. Chaparral certifies that its projected revenues do not exceed those that would qualify it as a Class III carrier.

Any comments must be filed with the Commission and served on: Kevin M. Sheys, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

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Avenue NW., Washington, DC 20005–4797.

Chaparral shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 26, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26400 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31550]

Council Bluffs and Ottumwa Railway, Inc.—Lease, Operation, and acquisition Exemption—Iowa Southern Railroad Co. and Ottumwa Terminal Railroad Co.

The Council Bluffs and Ottumwa Railway, Inc. (CBO), has filed a notice of exemption: (1) To lease and operate (with an option to purchase) approximately 27 miles of rail line of Iowa Southern Railroad Company (IS) consisting of the former Norfolk and Western freight yard at Council Bluffs, IA (5 miles) (milespost 407.7 to milepost 410.06), and the fomrer Milwaukee Road Terminal property at Council Bluffs (22 miles) (milepost 0.0 to milepost 0.3); and (2) to acquire and operate 4.3 miles of rail line owned and operated by Ottumwa Terminal Railroad Company (OT), consisting of the former Milwaukee Road city track and railroad property at Ottumwa, IA (4.3 miles) (milespost 0.0 to milespost 2.3).[1] Any comments must be filed with the Commission and served on: Roy N. Hollaway, Council Bluffs and Ottumwa Railway, Inc., 107 Fifth Street, Castle Rock, Co 80104.

CBO shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the lines that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26493 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31551]

Denver Railway, Inc.—Acquisition and Operation Exemption—Denver Terminal Railroad Co.

Denver Railway, Inc. (DR), has filed a notice of exemption to acquire and operate approximately 11.3 miles of rail line of Denver Terminal Railroad Company (DT) consisting of the former Denver Union Stockyards terminal railroad property at Denver, CO (3.3 miles) (milepost 0.0 to milepost 0.8), and the former Rock Island terminal railroad property at Denver (8 miles) (milepost 0.72 to milepost 3.95).[1]

Any comments must be filed with the Commission and served on: Roy N. Hollaway, Denver Railway, Inc., 107 Fifth Street, Castle Rock, CO 80104.

DR shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26490 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31549]

National Railway System, Inc.—Control Exemption—Denver Railway, Inc., Council Bluffs and Ottumwa Railway, Inc., and Fore River Railway Co.

National Railway System, Inc. (NRS), a noncarrier, has filed a notice of exemption under 49 CFR 1180.2(d)(2) for its control of Council Bluffs and Ottumwa Railway, Inc. (CBO), Denver Railway, Inc. (DR), and Fore River Railway Company, Inc. (FRR). CBO and DR have each filed separate notices of exemption in Finance Docket No. 31550, Council Bluffs and Ottumwa Railway, Inc.—Lease, Operation, and Acquisition Exemption—Iowa Southern Railroad Company and Ottumwa Terminal Railroad Company, and in Finance Docket No. 31551, Denver Railway, Inc.—Acquisition and Operation Exemption—Denver Terminal Railroad Company, respectively.

Under this proposal NRS will: (1) Purchase part of the railroad properties of Ottumwa Terminal Railroad Company, and lease for 5 years (with an option to purchase) the railroad properties of Iowa Southern Railroad Company, for CBO; (2) purchase the railroad properties of Denver Terminal Railroad Company for DR; and (3) purchase all of the capital stock of FRR from Evelyn Jane Flanders. CBO, DR, and FRR will operate as wholly owned subsidiaries of NRS. CBO will be comprised of the former Milwaukee Road terminal property (22 miles) (milepost 0.0 to milepost 0.3), DR will be compriaed of the former Denver Union Stockyards terminal railroad property (3.3 miles) (milepost 0.0 to milepost 0.8), and the former Rock Island line and terminal property (8 miles) (milepost 0.72 to milepost 3.95), at Denver, CO, and the Norfolk and Western freight yard (5 miles) (milepost 407.7 to milepost 410.86), both at Council Bluffs, IA, and the former Milwaukee Road track and railroad property at Ottumwa, IA (4.3 miles) (milepost 0.0 to milepost 2.3). FRR is a short line property, approximately 3 miles in length (milepost 0.0 to milepost 2.0), at Quincy, MA, which leases track, locomotives, and other property from Fore River Railroad Company, a subsidiary of Massachusetts Water Resources.

NRS indicates that the transaction: (1) Does not involve lines that connect; (2) is not part of a series of transactions that would connect the involved lines; and (3) does not involve a Class I carrier. Therefore, this transaction involves the control of nonconnecting carriers, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Roy N. Hollaway, National Railway System, Inc., 107 Fifth Street, Castle Rock, CO 80104.

Decided: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26492 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31487]

Natchez Trace Railroad—Purchase and Lease—CSX Transportation, Inc. Lines Between Wellington and Anniston, AL, and Talladega and Gantt's Jct., AL

AGENCY: Interstate Commerce Commission.

ACTION: Approval of a purchase and lease transaction under 49 U.S.C. 11343, *et seq.*

SUMMARY: The Interstate Commerce Commission approves the purchase and lease by Natchez Trace Railroad and Kyle Railways, Inc., of 41.42 miles of rail line owned by the CSX Transportation, Inc. (CSXT). Under the proposal, NTR will purchase CSXT's line between Anniston (milepost 507.73) and Wellington (milepost 522.79), in Calhoun County, AL, a distance of 15.06 miles, and will lease CSXT's line between Gantt's Jct. (milepost 453.58) and Talladega (milepost 479.94), in Talladega County, AL, a distance of 26.36 miles. The transaction is approved subject to the conditions for the protection of railroad employees described in *New York Dock Ry.—Control—Brooklyn East. Dist.* 360 I.C.C. 60 (1979), *aff'd sub nom. New York Dock Ry.* v. *U.S.*, 609. F.2d 83 (2d Cir 1979), and clarified in *Brandywine Valley R. Co.—Pur-CSX Transp. Inc.*, 5 I.C.C.2d 764 (1989) for the purchase; and *Mendocino Coast Ry., Inc.—Lease and Oper.*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980), for the lease.

EFFECTIVE DATES: This decision is effective November 16, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31487 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Applicants' representatives: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201. Fritz R. Kahn, Verner, Liipfert, Bernhard, McPherson & Hand, 901 Fifteenth St., N.W., Washington, DC 20005–2301.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services, (202) 275–1721.)

Decided: November 2, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26407 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31538]

New York, Susquehanna & Western Railway Corp.—Joint Project for Relocation of a Line of Railroad and Trackage Rights Exemptions—Consolidated Rail Corp.

On October 2, 1989, New York, Susquehanna & Western Railway Corporation (NYSW) filed a notice of exemption under 49 CFR 1180.2(d) (5) and (7) for a joint project with Consolidated Rail Corporation (Conrail) for NYSW's relocation of its operations through acquisition of overhead trackage rights over Conrail's line between milepost 66±, at Campbell Hall, NY, and milepost 63.14± east of Campbell Hall (the point of the switch of a new connector track) then over the entire length of the new contractor track between milepost 63.14± and milepost 2.6±. The trackage rights became effective on October 2, 1989.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers, and, incidental thereto, the discontinuance of NYSW trackage rights over Contrail's line between milepost 66± and milepost 2.6± and the construction of a connector track to facilitate the relocation and for operational reasons. The Commission will assume jurisdiction over the discontinuance and construction components of a relocation project only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory, or change in existing competitive situations. *See, generally, Denver & R.G.W.R. Co.—Ft. Proj.—Relocation Over BN*, 4 I.C.C.2d 95 (1987). Under these standards, the discontinuance of trackage rights and construction of track are not subject to the Commission's jurisdiction. The remainder of the joint relocation project, involving the acquisition of overhead trackage rights, qualifies under the class exemption procedures at 49 CFR 1180.2(d) (5) and (7).

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 .C.C. 605 (1978), as modified in *Mendocino Coast Rv., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Michael F. Armani, 1 Railroad Avenue, Cooperstown, NY #13326.

Dated: November 3, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings

Noreta R. McGee,

Secretary.

[FR Doc. 89–26405 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Directed Service Order No. 1508]

The Atchison, Topeka and Santa Fe Railway Co.—Directed Service—Chicago, Missouri and Western Railway Co., Debtor (Daniel R. Murray, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order.

SUMMARY: Pursuant to 49 U.S.C. 11125, the Commission is authorizing The

[1] This transaction is part of a larger transaction in which National Railway System, Inc., a noncarrier, will control three carrier, will control three carriers, CBO, Denver Railway, Inc., and Fore River Railway Company. *See* Finance Docket Nos. 31549 and 31551, being published simultaneously with this notice.

[1] This transaction is part of a larger transaction in which National Railroad System, Inc., a noncarrier, will control three carriers, DR, Council Bluffs and Ottumwa Railway, Inc., and Fore River Railway Company. *See* Finance Docket Nos. 31549 and 31550, being published simultaneously with this notice.

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Atchison, Topeka and Santa Fe Railway Company (ATSF) to operate as a "Directed Rail Carrier"—uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5)—over the lines of the Chicago, Missouri and Western Railways (CMW) between Cockrell, IL, near Springfield, IL and Kansas City, MO, and between Roodhouse, IL and Tolson, IL, in the East St. Louis terminal area (East/West Line), for 60 days.

This unsubsidized and uncompensated directed service order is based on the representation by the CMW Trustee that the railroad's cash position does not allow it to continue operations over its East/West Line beyond Friday, November 3, 1989, and that there will be cessation of service by CMW. To assure continued service to shippers that would be affected by the discontinuance of operations, the Commission is authorizing the ATSF to provide interim service over the East/West Line of CMW. See 49 U.S.C. 11125(a) (1) and (3).

DATES: *Effective Date:* Directed Service Order No. 1508 shall be effective on November 3, 1989, and authorized rail service shall commence upon cessation of service operations by CMW and its notification that it has done so to the Common and ATSF. ATSF shall immediately notify the Commission and all parties to this proceeding of the date it commences operations under this authority. *Expiration Date:* Unless otherwise modified by the Commission, Directed Service Order No. 1508 will expire at 11:59 p.m., on January 2, 1990.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275–1559 or Joseph H. Dettmar, (202) 275–7245 (TDD for hearing impaired, (202) 275–1721).

SUPPLEMENTARY INFORMATION: The Chicago, Missouri and Western Railway Company (CMW) has been in bankruptcy since April 1, 1988, in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, (Bankruptcy Filing No. 88 B 05141). The carrier's rail system extends from Kansas City, MO on the west to Chicago, IL on the East and northward from East St. Louis, IL to Chicago, IL.[1]

On October 31, 1989, the trustee filed with the Bankruptcy Court an application seeking approval of a proposed sale of CMW's rail lines—between Cockrell, IL and Kansas City, MO, and between Roodhouse, IL and Tolson, IL (East/West Line)—to "CM&W Acquisition Corp."

On October 31, 1989, the CMW's Trustee also notified the Commission, in writing, that because of its deteriorating cash position the carrier will be unable to continue operations over its system.[2] The Trustee argues that the directed service authority sought here is the only method by which operations can continue on the East/West Line.

Section 11125(a) of the Interstate Commerce Act authorizes the Commission to act in situations where it finds that *a rail carrier cannot transport traffic offered to it because—(1) its cash position makes its continuing operation impossible; (2) transportation has been discontinued under court order; or (3) it has discontinued transportation without obtaining a required certificate under 49 U.S.C. 10903* (emphasis added). The initial period for the directed service order may not exceed 60 days.[3] However, the order may be extended for an additional period not to exceed 180 days.

Under a directed service order from the Commission, a directed carrier may voluntarily choose to provide directed service without any subsidy or compensation to which it may be entitled from the Commission, as ATSF has done here. *See St. Louis S.W. Ry. Co—Directed Service—Chciago*, 363 I.C.C. 1 (1980), and Directed Service Order No. 1504, *The New York, Susquehanna and Western Railway Corporation—Directed Service—The Delaware and Hudson Railway Company*, (not printed) served June 22, 1988.[4]

Considering CMW's announced imminent cessation of service due to cashlessness, and CMW's request that the Commission direct service on the East/West Line, we find that CMW's current situation meets the statutory standards of 49 U.S.C. 11125(a)(1) and (3).

In view of the urgent need for continued rail service over CMW's East/West Line, and ATSF's willingness to provide directed service without compensation from the Federal government, the Commission is exercising its authority under 49 U.S.C. 11125(a) and authorizing ATSF to commence operations upon CMW's cessation of service. Service authorized by this order includes operations utilizing trackage rights agreements, leases, and other existing arrangements of CMW with connecting railroads.

The emergency nature of the situation compels us to conclude that advance public notice and hearings would be impractical and contrary to the immediate public interest concern to secure continued rail transportation services. Accordingly, we exercise our authority under 49 U.S.C. 11125(a) to waive advance public notice and hearings in the present circumstances.

Section 11125 permits us to direct service for an initial period of not more than 60 days, with an option to extend the direct service period for an additional 180 days, if cause exists. We believe directed service authority to be necessary here at least for an initial 60 day period. Any interested person may file comments on this action during this period.

Terms and Conditions

Effective Date. Directed Service Order No. 1506 shall be effective on November 3, 1989. On the date CMW ceases operations and notifies the Commission and ATSF that it has done so, ATSF shall be authorized to commence operations and shall notify the Commission and all parties to this proceeding of the date it commences operation under this authority.

Compensation. ATSF's authority under Directed Service Order No. 1506 is expressly conditioned upon its waiver of all compensation under 49 U.S.C. 11125(b)(5).

Track Safety. In accordance with 49 U.S.C. 11125(b)(2)(A), ATSF need not operate over any CMW line segment certified by the Federal Railroad Administration as being below Class I track safety standards.

Cars and Operating Equipment. In operating CMW's line, ATSF shall use its own cars and operating equipment wherever possible. However, ATSF may use CMW's cars and operating equipment on terms mutually agreeable to the parties.

Employees. In providing service under this directed service order, ATSF shall comply with the requirements of 49 U.S.C. 11125(b)(4) with respect to CMW employees.

Preservation of the CMW estate. During the period of its operation of the CMW lines, ATSF shall be responsible for preserving the value of those lines to the CMW estate. ATSF shall thus have an affirmative duty to perform that degree of maintenance necessary to avoid deterioration of the lines and related facilities.

Rates. ATSF is authorized to act on behalf of CMW in all matters of transportation. Rates and charges shall be those applicable to the line and in effect at the time ATSF commences operations. ATSF may seek changes in CMW rates and charges. All revenues from such charges shall accrue to the account of ATSF during the effective period of this order, and shall not constitute assets of the Trustee or the estate.

Liability for Expenses. Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility and liability of ATSF. Any such costs or expenditures shall not be deemed an obligation or liability of the United States Government. ATSF shall hold the United States Government harmless from any claim arising out of the authorized operations.

Operational Difficulties. Any operational difficulties associated with the authorized operations shall be resolved by ATSF and any other affected party through negotiated agreement, or failing agreement, by the Commission.

Reporting Requirements. To assist us in evaluating ATSF's operation of the line, we shall require ATSF to file a report at the end of the directed service period identifying: (a) The average number of carloads transported daily over the line during the directed service period; (b) the total gross revenue for the carloads transported; and (c) CMW's normal portion of the total gross revenue.

We find:

1. CMW intends to discontinue service over certain of its lines. ATSF has requested the Commission to permit it to provide continued rail service over those lines of CMW between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL.

2. To prevent severe transportation and economic disruptions when CMW ceases operations, it is necessary for the Commission to authorize ATSF to operate CMW's lines between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL under 49 U.S.C. 11125, conditioned upn a waiver of any compensation or subsidy from the Federal government.

3. Our action in this decision will not substantially impair the ability of ATSF to serve its own patrons adequately, or meet its outstanding common carrier obligations, *see* 49 U.S.C. 11125(b)(2)(B), and will assure continued rail service to affected shippers.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. Based upon its undertaking to do so without any form of compensation from the Federal government, ATSF is authorized to enter upon and operate CMW's lines between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL pursuant to this voluntary directed service order under 49 U.S.C. 11125.

(a) Entry by ATSF may occur on the date CMW discontinues service and notifies ATSF and the Commission that it has done so, and operations by ATSF may continue no later than the sixtieth day after the service date of this decision.

(b) ATSF shall immediately notify the Commission and the parties to this proceeding, in writing, of the date on which it commences operations under this order.

2. Operations under this order shall conform to the directions and conditions prescribed above.

3. All submissioins filed in this proceeding should refer to DSO No. 1508 and be sent to the Commission's headquarters at 12th Street and Constitution Avenue, NW., Washington, DC 20423. An original and 10 copies should be submitted.

4. The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

5. The Commission retains jurisdiction to modify, supplement, or reconsider this decision at any time.

6. Notice of this decision shall be given to the general public by publication in the **Federal Register**. The decision will also be served on the Federal Railroad Administration, the Association of American Railroads, American Short Line Railroad Association, Amtrak, The Railway Labor Executives' Association, the CMW, ATSF, Consolidated Rail Corporation, and SSW.

7. This decision and order shall become effective on November 3, 1989.

8. Unless otherwise modified by the Commission, this order will expire at 11:59 p.m., on January 2, 1990.

Decided: November 3, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26406 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[1] In Finance Docket No. 31522, *Rio Grande Industries, Inc., Et al.—Purchase and Trackage Rights—Chicago, Missouri and Western Railway Company Between St. Louis, MO and Chicago, IL*, served September 29, 1988, the Commission granted authority for Rio Grande Industries, Inc. (RGI), Southern Pacific Transportation Company (SPT), The Rio Grande Western Railroad Company (DRGW), St. Louis Southwestern Railway Company (SSW), and SPCSL Corp. (SPCSL), a recently incorporated subsidiary of RGI, to acquire CMW's lines between East St. Louis and Chicago, IL, East St. Louis and Godfrey, IL, and certain attendant trackage rights. The Trustee has notified the Commission that consummation of the above purchase is scheduled for November 8, 1989.

[2] On October 16, 1989, the Commission issued Directed Service Order No. 1507, authorizing SSW to operate as a Directed Rail Carrier, uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5) over the Chicago to St. Louis lines of CMW for 60 days.

[3] It should be noted that the Trustee and ATSF anticipate negotiation of a directed service agreement that is expected to provide for termination of directed service upon the earliest of 45 days after the date on which ATSF enters the line to provide the directed service or upon the occurrence of various described contingencies. Petition for Directed Service Order at 7.

[4] Likewise, the Commission may authorize directed service without provision for compensation to the carrier over which service is directed. *Kansas City Terminal Ry. Co.—Operate—Chicago R.I.&P.*, 360 I.C.C. 239 (1979).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

Consistent with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a Complaint was filed on August 28, 1987, in *United States* v. *General Motors Corporation*, Civil Action No. CV87–189OS, in the United States District Court for the Northern District of Texas, Fort Worth Division, and a proposed Settlement Agreement between the United States and General Motors Corporation ("GM") was signed by the parties on October 23, 1989. This Settlement Agreement settles the claims alleged in the Complaint and in a Notice of Violation issued by the Environmental Protection Agency on May 12, 1987, pursuant to the Clean Air Act, 33 U.S.C. 7401 *et seq.*, for civil penalties for violations of the Clean Air Act, and section 115.191(a)(8) of Regulation V of the federally enforceable Texas State Implementation Plan ("SIP").

Under the terms of the proposed Settlement Agreement, GM has agreed to interim and final compliance requirements for the primer surfacer, topcoat and final repair lines. GM also has agreed to convert its laquer topcoat line to a base coat/clear coat line by September 1, 1990. After the base coat/clear coat line has been installed, GM will determine the daily emission rate of the topcoat line by implementing EPA's protocol for measuring daily topcoat emissions. GM will use a similar measurement method for the primer surfacer line.

GM will use an occurrence weighted average to demonstrate compliance for its automobile final repair coating line. GM will provide compliance demonstrations, monitoring and retesting. Unless the parties agree otherwise, the final compliance requirements, the payment of stipulated penalties, and the payment of a civil penalty in the amount of $65,000.00 will not be applicable if a state proposed SIP revision to amend Regulation V, section 115.191(8) of the Texas SIP is not

submitted to EPA, or is not approved by EPA, or if a federally approved SIP revision is reversed on appeal.

State Implementation Plan in certain respects was entered on October 24, 1989; and a proposed Consent Decree

United States Attorney's Office

John R. Halliburton, Assistant United States Attorney, Room 3B12, Federal

Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW.,

Machinery in Saginaw in December, 1987. All production of chemical machinery including pod and pusher centrifuges and vertical mixers was

petition and when the workers employment is dependent on the continued importation of the equipment.

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submitted to EPA, or is not approved by EPA, or if a federally approved SIP revision is reversed on appeal.

The Department of Justice will receive comments relating to the proposed Settlement Agreement for a period of 30 days from the date of the publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *General Motors Corporation,* D.O.J. Ref. No. 90–5–2–1–1027.

The proposed Settlement Agreement may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Mike Barra, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 (214) 655–2125.

United States Attorney's Office

Wayne Hughes, Assistant United States Attorney, 310 United States Courthouse, 10th and Lamar Streets, Fort Worth, Texas 76102–3674.

Copies of the proposed Settlement Agreement may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Settlement Agreement may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the Decree and Order, please enclose a check for copying costs in the amount of $2.50 payable to Treasurer of the United States.

George W. Van Cleve,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–26469 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a Complaint was filed on August 27, 1987, in *United States* v. *General Motors Corporation,* Civil Action No. CV87–1890S, in the United States District Court for the Western District of Louisiana, Shreveport Division; an Order providing a procedure for revision of the Louisiana State Implementation Plan in certain respects was entered on October 24, 1989; and a proposed Consent Decree between the United States and General Motors Corporation ("GM") was lodged with the court on October 24, 1989. This Consent Decree would settle the claims alleged in the Complaint pursuant to the Clean Air Act, 33 U.S.C. 7401 *et seq.,* for injunctive relief and civil penalties for violations of the Clean Air Act, and section 22.9.2 of the federally enforceable Louisiana State Implementation Plan ("SIP").

Under the terms of the proposed Consent Decree, GM has agreed to comply with the existing SIP limit of 3.5 lbs. of VOC per gallon of coating (minus water) limit for the Chassis Black and Anti-corrosion lines. GM has agreed to comply with a 15.1 lbs. of VOC per gallon of solids applied limit which is to be proposed to be incorporated into the Louisiana SIP for the topcoat line. GM will determine the daily emission rate on the topcoat line by implementing EPA's protocol for measuring daily topcoat emissions. These requirements will take effect on January 1, 1990, or upon entry of the Consent Decree after the 15.1 limit has been incorporated into the SIP. GM also has agreed to submit a compliance demonstration, to monitor the topcoat line and retest, if necessary, and to provide records of compliance to EPA. Unless the parties agree otherwise, the compliance requirements and the payment of a civil penalty in the sum of $85,000.00 will not be applicable if a State proposed SIP revision to amend LAC 33:III.2133 is not submitted to EPA, or is not approved by EPA, or if a federally approved SIP revision is reversed on appeal.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *General Motors Corporation,* D.O.J. Ref. No. 90–5–2–1–1030.

The proposed Consent Decree and the Order providing a procedure for SIP revision review may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region IV

Contact: Mike Barra, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 (214) 655–2125.

United States Attorney's Office

John R. Halliburton, Assistant United States Attorney, Room 3B12, Federal Building, 500 Fannin Street, Shreveport, Louisiana 71101–3088.

Copies of the proposed Consent Decree and the Order may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree and the Order may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the Decree and Order, please enclose a check for copying costs in the amount of $1.50 payable to Treasurer of the United States.

George W. Van Cleve,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–26470 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint was filed on October 2, 1989 in *United States* versus *City of Nacogdoches,* Civil Action No. L–89–137–CA, in the United States District Court for the Eastern District of Texas, and simultaneously, a proposed consent decree between the United States and the City of Nacogdoches ("City") was lodged with the court. This consent decree settles the claims alleged in the complaint pursuant to Clean Water Act, 33 U.S.C. 1251 *et seq.,* for injunctive relief and civil penalties for violations of the Clean Water Act, the Environmental Protection Agency's ("EPA") pretreatment regulations at 40 CFR part 403, and the City's National Pollutant Discharge Elimination System ("NPDES") permit for its publicly-owned treatment works.

Under the terms of the proposed consent decree, the City has agreed to employ a full-time pretreatment coordinator; conduct a priority pollutant scan of all industrial users ("IU"); issue permits to all IUs; inspect all IUs; and, implement an effective IU enforcement program. In addition, the City has agreed to pay a civil penalty of $60,000.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the

Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* versus *City of Nacogdoches,* D.J. Ref. 90–5–1–1–3281.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Pat Rankin, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 (214) 655–2129.

United States Attorney's Office

Ruth Yeager, Assistant United States Attorney, 110 E. College, Suite 600, Tyler, Texas 75702 (214) 597–6140.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, room 1515, 10th and Pennsylvania Avenue, NW., Washington, 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $1.30 payable to Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–26468 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–20,909]

APV Chemical Machinery Saginaw, MI: Notice of Negative Determination on Reconsideration

Pursuant to a remand by the U.S. Court of International Trade, in *Former Employees of Baker Perkins* v. *Secretary of Labor* (USCIT 89–02–00089) the Department makes the following negative determination on reconsideration for workers of APV Chemical Machinery, Saginaw, Michigan.

Investigation findings show that the Baker Perkins/APV merger resulted in the cessation of all production assembly operations at APV Chemical Machinery in Saginaw in December, 1987. All production of chemical machinery including pod and pusher centrifuges and vertical mixers was transferred to a corporate plant in Lake Mills, Wisconsin. The only functions remaining at Saginaw were marketing, the Tech Center, rebuild operations, administration and product engineering. The findings on remand reveal increasing production and sales of chemical machinery at Lake Mills and a corresponding decrease in sales and production of chemical machinery at Saginaw.

The Department's initial denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The Department's survey of major customers of APV Chemical Machinery for 1986, 1987 and in the first nine months of 1988 showed that the respondents did not import in the periods surveyed. Also, the sales and production of rebuilds and parts and service sales increased in 1987 compared to 1986.

The Court remanded the subject case since the customer survey was incapable of detecting the increased imports claimed by the plaintiffs because of the unique facts involved—the relabelling of imported articles which were sold to the customers of the subject firm. Further, the Court indicated that the record did not show the type of production transferred and the type of production remaining at Saginaw.

In addition to the above matter raised by the Court on remand, the Department addressed the petitioners claim that batch mixers and the extruded equipment like the ones produced at Saginaw were imported from Europe.

Findings on remand show that batch mixers and extruded equipment were imported as claimed by the petitioners. The batch mixers, multiple purpose mixers and extruded equipment have not been produced at Saginaw since 1983. Production at Saginaw in 1988 was at the Rebuild Center and consisted of G-Force Pelletizers and SE Mixers which were never imported and the attachment of purchased domestic motors and controls to the imported equipment. Accordingly, there is no basis for certification since the workers did not produce the articles or that portion of the article imported from Europe during the period investigated by Labor.

With respect to the issue of workers at Saginaw working on company imports, there is no basis for certification when the workers' firm did not manufacture the imported equipment during the time period applicable to the petition and when the workers employment is dependent on the continued importation of the equipment. The Department's survey of major customers accounted for over 100 percent of the subject firm's 1987 sales decline. The survey revealed that APV's customers did not import competitive products and had declining purchases of the imported equipment finished at Saginaw. Also, the motors and controls were produced domestically and their mounting operations were not transferred overseas. Accordingly, the investigation findings show that the Department's survey supports its negative determination.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of APV Chemical Machinery, Saginaw, Michigan.

Signed at Washington, DC, this 30th day of October 1989.

Stephen A. Wander,

Deputy Director, Office of Legislation and Acturial Services, UIS.

[FR Doc. 89–26419 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; ARCO Oil & Gas Co. et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1989.

Interested persons are invited to submit written comments regarding the

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subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 30th day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers-Firm)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
ARCO Oil & Gas Co./Southern Reg. (OCAWIU)	Selma City, TX	10/30/89	10/13/89	23,540	Oil & Gas
American Carco (Workers)	Dayton, OH	10/30/89	10/17/89	23,541	Plastic & Electro Plated Auto Components
Atlas/Soundolier Div. (EWI)	DeSoto, MO	10/30/89	10/11/89	23,542	Sound System Components
Bass Enterprisee Production Co. (Workers)	Denver, CO	10/30/89	10/19/89	23,543	Oil & Gas
Big D Equipment Co. (Company)	Midland, TX	10/30/89	10/16/89	23,544	Rental of Pumps, Generators, Etc.
CRL Components (Workers)	Fort Dodge, IA	10/30/89	10/22/89	23,545	Electromechanical Switches Potentiometers
Charro Sportswear, Inc. (KWU)	Westbury, NY	10/30/89	10/10/89	23,546	Ladies' Swimwear
Cipher Data Products/Irwin Products Group (Company).	Ann Arbor, MI	10/30/89	10/19/89	23,547	Magnetic Tape Drive Systems
Classic Frames, Inc. (Company)	N. Brunswick, NJ	10/30/89	10/11/89	23,548	Picture Frames
Crystal Brands, Inc. (ILGWU)	Ashton, PA	10/30/89	10/18/89	23,549	Ladies' Sportswear
E.W. Bliss (Workers)	Hastings, MI	10/30/89	10/14/89	23,550	Metal Stamping Presses
General Auto Speciality (Company)	N. Brunswick, NJ	10/30/89	10/19/89	23,551	Automotive Switches
Handy & Harman (Workers)	Dover, OH	10/30/89	10/10/89	23,552	Auto Parts
Helicopter Systems, Inc. (Workers)	Scottdale, PA	10/30/89	10/5/89	23,553	
Input/Output Incorp. (Workers)	Stafford, TX	10/30/89	8/26/89	23,554	Seismic Survey Systems & Peripheral Devices
Laminating Corp. of America (Workers)	Eatontown, NJ	10/30/89	10/6/89	23,555	Wallcoverings
Milmac, Inc. (Workers)	Houlton, ME	10/30/89	10/16/89	23,556	Cedar Fencing
N. American Textile, Inc. (Company)	Covington, VA	10/30/89	8/28/89	23,557	Window Valances
Olin Hunt Specialty Products, Inc. (Workers)	Limerock, RI	10/30/89	10/19/89	23,558	Industrial Chemicals
Ottenheimer & Co. (Workers)	Meta, MO	10/30/89	10/12/89	23,559	Coats & Smocks
Prestalite Wire Corp. (AIWA)	Port Huron, MI	10/30/89	10/16/89	23,556	Automotive Wire & Battery Cable
Republic Electronics (Workers)	Paterson, NJ	10/30/89	10/13/89	23,561	Ceramic Capacitors
SKW Alloys (USW)	Niagara Falls, NY	10/30/89	10/9/89	23,562	Silicon/Iron Alloys
Stolzenbach Coal Gauging Co. (Workers)	Pittsburgh, PA	10/30/89	10/12/89	23,563	Weighing of Raw Material
U.R.I., Inc. (Workers)	Kingsville, TX	10/30/89	10/17/89	23,564	Uranium
Victory Optical Mfg., Co. (Company)	Newark, NJ	10/30/89	10/16/89	23,565	Ophthalmic Frames Plastic Lenses Sunglasses
Wrangler, Inc. (Company)	Belmont, MS	10/30/89	10/19/89	23,566	Denim Jackets

[FR Doc. 89-26421 Filed 11-8-89; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Fresh Pak Candy Co.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of October 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,358; Fresh Pak Candy Co., Davenport, IA

TA-W-23,307; Continental Pet Technologies, Inc., Kentwood, MI

TA-W-23,326; Racal Data Communications, Inc, Racal-Milgo Div, Sunrise and Miami, FL

TA-W-23,317; Mercury Marine, Fond Du Lac, WI

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,308; Arrow Pump & Supply, Inc., Ada, OK

U.S. imports of oilfield machinery are negligible.

TA-W-23,343; Ford Electronics & Refrigeration Corp., Connersville, IN

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,310; Diversified Drilling Services, Inc., Abilene, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,261; Ka'u Agribusiness Co., Inc., Pahala, HI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,335; Amoco Production Co., Edgewood Gas Plant, Edgewood, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,258; H.T. Geophysical Corp., Denver, CO

The workers' firm does not produce an article as required for certification

under Section 222 of the Trade Act of 1974.

TA-W-23,215; Celsius Energy Co., Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,295; Celsius Energy Co., Salt Lake City, UT

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,258; H.T. Geophysical Corp., Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,259; Horizon Well Service, Woodward, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,316; Litton Panelvision, Pittsburgh, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,321; Munsingwear Men's Div., Design Dept., Minneapolis, MN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,332; Union Carbide Chemical & Plastic Co., Inc., Coatings Resins Unit, Bound Brook, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,323; Petroplex Savings Associations, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,342; E.T. Wright & Co., Inc., Rockland, MA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,333; Westpoint Pepperell, Inc., Keysville, VA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,324; Pharmacia ENI Diagnostics, Inc., Cranbury, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,350; Rio Algon Mining Corp., Moab, UT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,306; Customized Transportation, Inc., Yardville, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,318; Monon Corp., Monon, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,344; General Motor Corp., CPC Tarrytown, North Tarrytown, NY

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-23,379; Collette Toy Novelty Co., Inc., Long Island, NY

A certification was issued covering all workers separated on or after September 5, 1988.

TA-W-23,363; Mirando Operating Co., Laredo, TX

A certification was issued covering all workers separated on or after August 21, 1988.

TA-W-23,240; Resources Drilling, Inc., Houston, TX

A certification was issued covering all workers separated on or after July 10, 1988 and before September 25, 1989.

TA-W-23,222; East Texas Pipe Service, Inc., Hughes Spring, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,346; Leadtec Utah, Pleasant Grove, UT

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1989.

TA-W-23,359; K-Lee Dress, Inc., Hammonton, NJ

A certification was issued covering all workers separated on or after July 30, 1988.

TA-W-21,935; Quarles Drilling Corp., Wheatland, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,936; Quarles Drilling Corp., Belle Chasse, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,095; Wyoming Casing Service, Inc., Gillette, WY

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,900; Maxwell Herring Drilling Corp., Tyler, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,469; Prairie Energy, Inc., Minot, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,614; Diamond Services, Corp., Morgan City, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,679; Williston Basin Sales & Services, Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,720; Forwest, Inc., Grassy Butte, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,831; Engineering & Production Service, Inc., Farmington, NM

A certification was issued covering all workers separated on or after January 1, 1987.

TA-W-21,848; Gillespie Well Service, Inc., Magnolia, AR

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,849; Gillespie Well Service, Inc., Springhill, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,689; American Standard, Wauregan, CT

A certification was issued covering all workers separated on or after September 1, 1988.

TA-W-21,728; John Flynn & Sons, Inc., Salem, MA

A certification was issued covering all workers separated on or after October 10, 1987.

TA-W-21,373; Nicor Oil & Gas Corp., Denver, CO

A certification was issued covering all workers separated on or after October 3, 1987.

TA-W-21,612; David New Drilling Co., Inc., Natchez, MS

A certification was issued covering all workers separated on or after October 1, 1985 and before March 30, 1987.

TA-W-21,842; Four States Casing, Farmington, NM

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

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TA-W-21,970; The Stone Petroleum Corp., Lafayette, LA
A certification was issued covering all workers separated on or after October 18, 1987.

TA-W-21,441; Jet Oilfield Equipment Rental & Service, Inc., Dickinson, ND
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,768; Tri Country Well Service, Inc., Winfield, KS
A certification was issued covering all workers separated on or after October 1, 1985 and before November 30, 1987.

TA-W-21,547; Alpha Seismic Service, Inc., Houston, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,477; Service Acid, Inc., Hays, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,061; Rich Bros. Servicing, Inc., New Castle, WY
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,766; Transco Exploration, Denver, CO
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,767; Transco Exploration Partners Limited, Houston, TX
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,407; D & S Industries, Inc., Carthage, TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,580; Moranco Drilling Co., Hobbs, NM
A certification was issued covering all workers separated on or after October 1, 1985 and before July 1, 1988.

TA-W-21,542; Weatherford Oilfield Services, Moffel Road, Houma, LA
A certification was issued covering all workers separated on or after October 1, 1985 and before August 31, 1988.

TA-W-21,265; Imco Services, Houston, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,289; Magcobar Drilling Fluids, Houston, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,288; MI Drilling Fluids Co., Houston, TX
A certification was issued covering all workers separated on or after January 1, 1987 and before January 1, 1988.

TA-W-21,385; Snyder Completion Services, Inc., Grayville, IL
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,305; LHR Snyder, Inc., Grayville, IL
A certification was issued covering all workers separated on or after August 1, 1988.

TA-W-21,984; Southwestern Energy Production Co., Denver, CO
A certification was issued covering all workers separated on or after October 23, 1987.

TA-W-21,965; Southwestern Energy Production Co., Oklahoma City, OK
A certification was issued covering all workers separated on or after October 23, 1987.

TA-W-21,966; Southwestern Energy Production Co., Fayetteville, AR
A certification was issued covering all workers separated on or after October 23, 1987.

TA-W-21,181; Ford Motor Co., Romeo, MI
A certification was issued covering all workers separated on or after September 20, 1987.

TA-W-21,070; Clint Hart Drilling & Asssociates, Midland, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before September 30, 1987.

TA-W-21,105; Glendel Drilling, Abbeville, LA
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,259; Betheta, Inc., Ripley, WV
A certification was issued covering all workers separated on or after October 1, 1985 and before October 1, 1988.

TA-W-21,062; Big Spring Drilling, Wichita, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,058; Ponderosa Co., Casper, WY
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,210; North American Oil & Gas, Inc., Austin, TX
A certification was issued covering all workers separated on or after September 18, 1987 and before December 31, 1988.

TA-W-22,062; Rio Lucy Manufacturing Co., Broadway, NY
A certification was issued covering all workers separated on or after September 7, 1987 and before August 30, 1988.

TA-W-22,024; DAMAC Drilling, Inc., Great Bend, KS
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,946; Roll'n Alaska, Inc., Anchorage, AK
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,729; Key Well Service, Indiana, PA
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,692; B & G Roustabout Service, Williston, ND
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,947; Rosamond Drilling, Houston, TX & Various Locations in The Following States:
TA-W-21,947A LA
TA-W-21,947B MS
TA-W-21,280C TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,122; Davis Mud & Chemical, Inc., Mills, WY
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,984; Tooke International, Midland, TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,294; Miura Petroleum, Inc., Chanute, KS
A certification was issued covering all workers separated on or after December 8, 1987.

TA-W-21,733; Little Falls Footwear, Inc., St. Johnsville, NY
A certification was issued covering all workers separated on or after October 13, 1987.

TA-W-21,711; Deltaus Corp., Tyler, TX & Operating in Various Locations in The Following States
TA-W-21,711A LA
TA-W-21,711B PA
TA-W-21,711C TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,721; Front Royal Garment, Front Royal, VA
A certification was issued covering all workers separated on or after November 3, 1987 and before December 28, 1988.

TA-W-22,324; The Lee Apparel Co., Inc., Lenexa, KS
A certification was issued covering all workers separated on or after December 12, 1987.

TA-W-22,299; Pancho's Backhoe Service, Seminole, TX
A certification was issued covering all workers separated on or after November 30, 1987 and before June 1, 1989.

TA-W-22,282 and TA-W-22,293; Martin Oil and Gas Co., Houston, TX and Phoenix, AZ
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,270; Athenia Audio/Disc Corp., Toms River, NJ
A certification was issued covering all workers separated on or after December 8, 1987.

TA-W-21,795; Beevers Well Service, Inc., Louann, AR
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,022; Consolidated Resources of America, Inc., Cincinnati, OH
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-22,078; Teledyne Amco, Mohnton, PA
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,638; Loeffler Oil Corp., Allendale, IL
A certification was issued covering all workers separated on or after October 21, 1987.

TA-W-21,816; Coleman Drilling Co., Farmington, NM
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,534; Sedco Forex/ Schlumberger Continental United States, Dallas, TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,613; Denton Oil Well Cementing Co., Artesia, NM
A certification was issued covering all workers separated on or after September 1, 1988 and before November 30, 1988.

TA-W-21,640; Louis Industries, Inc., Aguadilla, PR
A certification was issued covering all workers separated on or after October 21, 1987 and before March 31, 1988.

TA-W-21,533; Santa Fe Drilling Co., Oklahoma City, OK
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,576; Louson Knitting Mill, Philadelphia PA
A certification was issued covering all workers separated on or after October 18, 1987.

TA-W-21,117; Mansfield Apparel Co., Inc., Texas Avenue, Mansfield, LA
A certification was issued covering all workers separated on or after September 12, 1987 and before October 9, 1988.

TA-W-21,118; Mansfield Apparel Co., Inc., Franklin & Washington Street, Mansfield, LA
A certification was issued covering all workers separated on or after September 12, 1987 and before October 9, 1988.

TA-W-21,998; Western Oceanic, Inc., Houston, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,722; Guardian Inspection Service, Inc., Williston, ND
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1989.

TA-W-21,918; Ocean Drilling and Exploration Co., New Orleans, LA
A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1988.

TA-W-21,992; Van Drill, Inc., Oklahoma City, OK
A certification was issued covering all workers separated on or after October 1, 1985 and before July 1, 1987.

TA-W-22,077; Taylor Drilling Co., Olney, IL
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,977; TOT Drilling Corp., Odessa, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,977A; TOT Drilling Corp., Odessa, TX Operating at Various Locations in The State of New Mexico
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

I hereby certify that the aforementioned determinations were issued during the month of October 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC. 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: October 31, 1989.

Marvin M. Fooks
Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-26422 Filed 11-8-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-23,206]

Newman Crosby Steel, Inc., Pawtucket, RI; Negative Determination Regarding Application for Reconsideration

By an application dated October 11, 1989, Local # 3333 of the United Steelworkers of America (USW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 19, 1989 and published in the Federal Register on October 3, 1989 (54 FR 40755).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The USW claims that articles produced by Newman Crosby Steel's customers e.g., saw blades, knife blades, bushings, automobile timing chains etc. are being imported to such a degree that it has adversely affected employment at Newman Crosby Steel.

Investigation findings show that Newman Crosby Steel purchased imported and domestic cold rolled strip and processed it into different hardnesses, lengths and widths for its customers.

The Department's denial was based on the fact that U.S. aggregate imports of cold rolled carbon steel strip declined absolutely and relative to domestic shipments in 1988 compared to 1987 and in the first four months of 1989 compared to the same period in 1988.

Under the Trade Act of 1974, only increased imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision can be considered. Saw blades, knife blades, bushings, automobile timing chains and

other finished articles incorporating cold rolled carbon steel strip are not like or directly competitive with cold rolled carbon steel strip. This is

the Amarillo workers were much different in 1986 when TA-W-17,731 was issued than they are today. Each

of eligibility to apply for adjustment assistance to former workers of Santa Fe Energy Company, Amarillo, Texas.

demand for their services by the workers' firm (GM BOC Chicago) whose workers meet all the statutory criteria

notice are set forth in the Supplementary Information section.

increase in the potential for unauthorized access to the system.

Also, in response to comments from

other finished articles incorporating cold rolled carbon steel strip are not like or directly competitive with cold rolled carbon steel strip. This issue was addressed in *United Shoe Workers of America, AFL–CIO* v. *Bedell*, 506 F2d 174, (D.C. Cir. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, cold rolled carbon steel strip cannot be considered like or directly competitive with finished articles made from cold rolled carbon steel strip.

Conclusion

After review of the application and investigations, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 25th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–26417 Filed 11–6–89; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23,122]

Santa Fe Energy Co., Amarillo, TX; Negative Determination on Reconsideration

On October 25, 1989, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Santa Fe Energy, Amarillo, Texas.

The former workers stated that the Department should have compared revenues for the years 1987 and 1988 instead of the first five months of 1989 compared to the same period in 1988. The former workers also stated that they were certified earlier under TA–W–17,731 and should be reconsidered for benefits under the Trade Act as amended by the Omnibus Trade and Competitiveness Act (OTCA) of 1988.

The investigation findings show that the Amarillo facility serviced the other facilities of Santa Fe which produced crude oil and natural gas. The Amarillo facility encompassed an accounting function, corporate records, a data processing center and land administration. Although the Amarillo service workers were certified eligible to apply for adjustment assistance under TA–W–17,731 which expired on November 7, 1988 that certification would not act as a precedent for the certification of workers in 1989. The conditions necessary for certification of the Amarillo workers were much different in 1988 when TA–W–17,731 was issued than they are today. Each worker petition must be judged on its own merits and in the time period in which it was filed. The Amarillo workers were included by an amendment to a certification for workers of Santa Fe's Midland facility (TA–W–17,731) because a substantial portion of Amarillo's decreased activities in 1985 and 1986 resulted from decreased production and sales and employment at Midland which produced crude oil and natural gas. These conditions no longer exist.

The Department's denial on the instant petition was based on the fact that customers of Santa Fe Energy did not import crude oil or natural gas. The findings also showed that corporate revenues increased during the first five months of 1989 compared to the first five months of 1988.

The investigation findings showed that no articles within the meaning of Section 222(3) of the Trade Act, were produced at the Amarillo facility. The Department has consistently determined that the performance of services does not constitute an article, as required by Section 222 of the Act and this determination has been upheld in the U.S. Court of Appeals.

In order for service workers like those at Amarillo to become certified eligible for adjustment assistance their separations must be caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions have not been met for workers at Amarillo. Workers at Santa Fe's production facilities serviced by Amarillo are not currently certified eligible to apply for adjustment assistance.

The service provisions of OTCA apply only to workers of service firms who are engaged in the exploration or drilling for crude oil or natural gas for unaffiliated clients in the oil and gas industry. These provisions do not apply to workers of Santa Fe Energy because Santa Fe is a producer of oil and not a service firm and the services performed at Amarillo are not those which would form a basis for certification under OTCA.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to former workers of Santa Fe Energy Company, Amarillo, Texas.

Signed at Washington, DC, this 30th day of October 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–26420 Filed 11–6–89; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23, 194]

United Auto Workers Local Number 558, Willow Springs, IL; Negative Determination Regarding Application for Reconsideration

By an application dated October 16, 1989 Local #558 of the United Auto Workers (UAW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 19, 1989 and published in the Federal Register on October 3, 1989 (54 FR 40755).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the Department is inconsistent in its determinations by certifying all workers at the BOC Chicago plant including support and service workers at UAW. The union also directs the Department's attention to its own General Administration Letter (GAL) No. 6–88.

The investigation findings reveal that the subject firm (the union) performs administrative functions and does not produce an article within the meaning of Section 222(3) of the Act. The Department has consistently determined that the performance of service does not constitute an article, as required by Section 222 of the Act and this determination has been upheld in the U.S. Court of Appeals. This issue was addressed in the Department's initial negative determination issued on September 19, 1989.

Service workers at GM BOC Chicago are eligible to apply for adjustment assistance since there was a reduced demand for their services by the workers' firm (GM BOC Chicago) whose workers meet all the statutory criteria for certification. However, the workers' firm in the instant case is the UAW not GM. The union has control over its own hiring and firing. All payroll transactions and personnel actions are controlled by the union. Accordingly, the Department sees no inconsistency in its determinations.

The purpose of GAL 6–88 was to inform the State Employment Security Agencies of a new group of workers who may qualify for TAA benefits. The service provisions of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) apply only to workers of service firms who are engaged in the exploration or drilling for crude oil or natural gas for unaffiliated clients in the oil and gas industry. These provisions do not apply to service workers in other industries. Accordingly, the services performed by the UAW are not those which would form a basis for certification under OTCA.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 31st day of October 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–26418 Filed 11–6–89; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Revised System of Records.

SUMMARY: The National Archives and Records Administration (NARA) is proposing to alter the system of records NARA–1, Researcher Application Files. This notice is a clarification of the Notice of Revised System of Records for NARA–1 which was published in the Federal Register of September 20, 1989 (54 FR 38756). It has been revised pursuant to comments NARA received from the Office of Management and Budget. The specific changes to this notice are set forth in the Supplementary Information section.

DATES: Written comments on the proposed altered system NARA–1 should be received by December 11, 1989. All other changes to the systems will be effective on December 11, 1989. NARA filed a revised Altered System Report with the Congress and the Office of Management and Budget on November 1, 1989. The proposed altered system shall be effective without further notice on January 2, 1990, unless comments are received which would result in a contrary determination.

ADDRESS: Comments on the proposed altered system should be addressed to John A. Constance, Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John A. Constance or Laurence Patlen, Policy and Program Analysis Divison (NAA), National Archives and Records Administration, Washington, DC 20408. Telephone (202) 523–3214 or (FTS) 523–3214.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular A–130, an Altered System Report for NARA–1, Researcher Application Files, was submitted on September 13, 1989 to the Congress and OMB. Based OMB's comments on this report, the Altered System Report for NARA–1 was revised and resubmitted to the Congress and OMB on November 1, 1989. NARA has extended the public comment period and effective date of the revision to the system.

The system is to be amended by adding an electronic database which will serve as an index to the files, provided NARA with statistical data relating to researcher use at the National Archives, and facilitate the preparation of mailing lists. This information will be used by NARA to compile statistical reports and to study research use of NARA facilities. This modification constitutes a change in the computer environment. Accordingly, NARA is modifying the categories of records, routine uses (including the purposes of such uses), storage, retrievability, safeguards, and retention and disposal sections of the NARA–1 notice. The routine use statement is expanded to describe the purposes of the electronic database, and (in response to OMB comments) to clarify the purposes of the existing routine uses. No new routine use disclosures outside of NARA are proposed. Safeguards are being established to counteract any increase in the potential for unauthorized access to the system.

Also, in response to comments from OMB, the categories of individuals covered by the system and categories of records sections are being revised for clarification. Minor administrative changes are being made to NARA–1, as detailed in the September 20, 1989 notice (54 FR 38756).

The amended system notice is set forth in its entirety below. NARA previously published the NARA–1 system and appendixes containing the general routine uses and addresses of locations applicable to all NARA systems in the Federal Register of May 9, 1989 (54 FR 19970).

NARA 1

SYSTEM NAME:

Researcher Application Files.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, the Regional Archives, and except for the electronic database, the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any member of the general public who applies to use original records in the National Archives, the Regional Archives, and the Presidential Libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications to use records including the individual's name, address, telephone number, occupation, research topic, educational level, and field of interest. At the National Archives Building and the Regional Archives, the system includes an electronic database containing the information from applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2203(*f*)(1), and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by NARA employees in the Office of the National Archives (including the Regional Archives) and the Presidential Libraries to register individuals who apply to use original records for research at a NARA facility; to record initial research interests of researchers; to determine which records the individual should use; to provide a means of contacting the individual if additional information of research interest to him or her is found, or if problems with the records are

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discovered; and to mail notices of events and programs of interest to users of the records. Information in the electronic database will be used by staff of the Office of National Archives (and the Regional Archives) as a finding aid, to compile statistical reports regarding researcher use of records, and to facilitate the preparation of mailing lists. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and floppy disks.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual, except that at the National Archives Building and the Regional Archives records may be filed numerically by researcher card number and accessed through the electronic database.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. The electronic database maintained by the Office of the National Archives operates on a non-networked computer accessible only to NARA employees via passwords on terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Paper records, including (if necessary) a printout indexed by researcher name, are cut off annually, held one year, and retired. They are destroyed when 25 years old. Electronically stored records are cut off when two years old, then maintained on a backup disk and deleted one year later. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials with responsiblity for this geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of the Presidential libraries, and the directors of the Regional Archives. The system manager for the electronic database is the Assistant Archivist for the National Archives. The addresses for these locations are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records.

RECORD ACCESS PROCEDURE:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, or the directors of the Regional Archives, depending on where individuals have used records. In-person requests may be made during business hours listed for each location in the appendix following the NARA Notices. For written requests, the individual should provide full name, address, and telephone number, the approximate dates records were used. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Researchers.

Dated: November 1, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89-26473 Filed 11-8-89; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

Advisory Panel Meeting; Arts in Education

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Board Panel (State Arts in Education Grants Section) to the National Council on the Arts will be held on

December 4, 1989, 8:15 a.m.-7:30 p.m.
December 5, 8:15 a.m.-5:00 p.m.
December 6, 8:15 a.m.-4:30 p.m.

in room M09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 6, 1989, from 1:00 p.m.-4:00 p.m. The topic for discussion will be FY 1991 guidelines.

The remaining portions of this meeting on

December 4, 8:15 a.m.-7:30 p.m.
December 5, 8:15 a.m.-5:00 p.m.
December 6, 8:15 a.m.-1:00 p.m.

are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: October 31, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-26474 Filed 11-8-89; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget Review (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: Data Report on Spouse.

3. The form number if applicable: NRC Form 354.

4. How often the collection is required: As needed.

5. Who will be required or asked to report: NRC employees, NRC contractor, and NRC licensee access authorization applicants who are married to non-U.S. citizens; marry after completing NRC's Personnel Security Forms; or marry after having been granted an NRC access authorization or employment clearance.

6. An estimate of the number of responses: 88.

7. An estimate of the total number of hours needed to complete the requirement or request: 22 (.25 hours per response).

8. An indication of whether section 3504(h), Public Law 96-511 applies: Not applicable.

9. Abstract: The NRC Form 354 is completed by NRC contractors, licensee applicants, and employee applicants who are married to non-U.S. citizens; marry after submission of the Personnel Security Forms, or after receiving an access authorization or employment clearance.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150-0028), Office of Management and Budget, Washington, DC 2503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this first day of November 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 89-25440 Filed 11-8-89; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the OMB for review the following for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision or extension: Extension

2. The title of the information collection: 10 CFR Part 100, Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants"

3. The form number is applicable: Not applicable

4. How often the collection is required: As necessary in order for NRC to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power plants constructed and licensed in accordance with 10 CFR Part 50, and the Atomic Energy Act of 1954, as amended (the Act).

5. Who will be required or asked to report: Licensees for nuclear power plants.

6. An estimate of the number of respondents: 3 annually

7. An estimate of the annual average burden hours per response: 16,666

8. An estimate of the total number of hours needed annually to complete the requirement: 50,000

9. An indication of whether section 3504(h), Public Law 9696-511 applies: Not applicable.

10. Abstract: The regulations require utilities that propose to build and operate nuclear power plants to design, construct, and maintain those plants to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment.

ADDRESS: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Nicolas B. Garcia, Paperwork Reduction Project (3150-0093), Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone (202) 395-3084.

NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 1st day of November 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 89-25441 Filed 11-8-89; 8:45 am]

BILLING CODE 7590-01-M

$1,875 and a $5,625 civil penalty should be imposed.

Appendix—Evaluations and Conclusions

Subitem B.2

Section 9.B of this manual requires, in part, that a quarterly management audit be

possessed is the requirement and, therefore, has instructed licensee staff when conducting inventories to record the quantity of material (i.e., number of sources) possessed rather

within six months prior to the date of use or transfer.

Contrary to the above, an iridium-192 sealed radiographic source, last leak tested

Items D, E, and F are violations of a "paperwork nature" only.

NRC Evaluation

[Docket No. 030-19680 License No. 21-21010-01 EA 89-096]

Photon Field Inspection, Inc.; Order Imposing Civil Monetary Penalty

I

Photon Field Inspection, Inc. (the licensee) 1705 Boxwood Saginaw, MI 48601, is the holder of Byproduct Material License No. 21-21010-01 issued by the Nuclear Regulatory Commission (NRC/Commission). The license authorizes the use of byproduct material to perform industrial radiography. The license was originally issued on September 15, 1982 and expired on September 30, 1987. A timely renewal application was filed, as of August 31, 1987, and the renewal is pending.

II

An inspection of the licensee's activities was conducted on April 6, 1989, at the licensee's facility in Saginaw, Michigan. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 7, 1989. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) by letters received by the NRC Region III office on July 27 and August 11, 1989. In its response, the licensee denied Violations B.2 and C and did not deny the remaining six violations. In addition, the licensee requested a reduction in the Severity Level and a reduction in the proposed civil penalty.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that Violations B.2 and C require further evaluation by the NRC staff and therefore are being withheld from this escalated enforcement action at this time. The staff has also determined that the remaining six violations occurred as stated. After considering that: (1) The civil penalty was assessed equally among the eight violations, and (2) Violations B.2 and C constitute 25 percent of the violations, the amount of the civil penalty has been reduced by

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$1,875 and a $5,625 civil penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The licensee pay a civil penalty in the amount of $5,625 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to the Regional Administrator, Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, with the exception of Violations B.2 and C.; and

(b) Whether, on the basis of the violations, this Order should be sustained.

Dated at Rockville, Maryland, this 30th day of October 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Appendix—Evaluations and Conclusions

On June 7, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued to Photon Field Inspection, Inc, (licensee) for violations identified during a routine NRC inspection. The licensee responded to the Notice in two documents received by the Region III office on July 27 and August 11, 1989. In its response, the licensee denies Violations B.2 and C, and offers reasons why the Severity Level of all the violations should be reduced and why the civil penalty should not be imposed. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

I. Restatements of Violations, Summary of Licensee's Response and NRC Evaluation of Licensee's Response

Restatement of Violation A

License Condition No. 10 limits storage of licensed material to a facility located at 300 Ames Street, Saginaw, Michigan

Contrary to the above, as of April 6, 1989, the licensee has stored licensed material at location other than that authorized by the license. Specifically, the licensee relocated its radiographic facility from 300 Ames Street, Saginaw, Michigan to 1705 Boxwood, Saginaw, Michigan in January 1989, has stored licensed material at that site since January 1989, and failed to inform the NRC and obtain approval prior to the move.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation B

License Condition No. 16 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the reference application and certain listed documents, and any enclosures thereto.

The licensee's referenced application, which was amended July 1, 1982, transmitted to NRC as an enclosure a revised Administrative Manual.

Subitem B.1

Section 8.D of this manual requires, in part, that periodic training be given by the Radiation Safety Officer to update radiographic personnel at least every 12 months and that the training be followed by a written and oral quiz.

Contrary to the above, as of April 6, 1989, the sole radiographer employed by the licensee had not been provided any periodic training and had not been given a written and oral quiz during the last twelve months.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Subitem B.2

Section 9.B of this manual requires, in part, that a quarterly management audit be conducted in accordance with Form 6 of Appendix 1, which includes audits of various records such as inventory, instrument calibration, and receipt and disposal records.

Contrary to the above, since October 5, 1988, the licensee has not conducted any management audits of records such as inventory, instrument calibration, and receipt and disposal records.

This is a repeat violation.

Summary of Licensee's Response

The licensee denied this part of the violation and stated that management audits have been conducted since October 5, 1988. The licensee stated that after review of all files related to radiography, a record of a quarterly management audit accomplished on January 3, 1989 was located. The licensee stated further that this record was not available during the inspection due to the unavoidable absence of the Radiation Safety Officer and the lack of knowledge as to the whereabouts of all records on the part of the technician who represented the licensee during the inspection.

NRC Evaluation of Licensee's Response

The NRC is continuing to evaluate the licensee's response to this violation. The licensee will be notified by separate correspondence of the NRC's conclusion regarding this violation and the licensee's response.

Restatement of Violation C

10 CFR 34.26 requires, in part, that the licensee conduct a quarterly physical inventory to account for all sealed sources received and possessed under the license. The records of the inventories shall also include the quantities of byproduct material.

Contrary to the above, between October 5, 1988 and April 6, 1989, the licensee failed to conduct a quarterly inventory of all sealed sources as required. In addition, the quantities of iridium-192 and cobalt-60 listed in 1988 quarterly inventory records are incorrect in that they did not correspond to source manufacturer decay information or NRC calculated values.

This is a repeat violation.

Summary of Licensee's Response

The licensee denied the part of the violation that stated no quarterly inventories were conducted between October 5, 1988 and April 6, 1989. The licensee stated that after reviewing all files related to radiography, a record of a quarterly physical inventory accomplished on January 3, 1989 was located. The licensee stated further that this record was not available during the inspection due to the unavoidable absence of the Radiation Safety Officer and the lack of knowledge as to the whereabouts of all records on the part of the technician who represented the licensee during the inspection.

The licensee further stated that the source activity is not a requirement for quarterly inventory as per 10 CFR 34.26. The licensee claims that the quantity of material possessed is the requirement and, therefore, has instructed licensee staff when conducting inventories to record the quantity of material (i.e., number of sources) possessed rather than activity.

NRC Evaluation of Licensee's Response

The NRC is continuing to evaluate that part of the licensee's response to this violation which asserts that inventories were conducted. The licensee will be notified by separate correspondence of the NRC's conclusion regarding this part of the violation.

NRC disagrees with the licensee's interpretation that the word "quantities" in the phrase in 10 CFR 34.26 "quantities and kinds of byproduct material" refers only to the number of sources. An inventory record must be complete and accurate as to the description of the sealed sources being accounted for in the inventory. This is especially true to inventory records required by 10 CFR 34.26 because the radionuclide of choice in the majority of these sealed sources is iridium-192. Iridium-192 has a physical half-life of approximately 74 days, which necessitates exchanging a decayed source for a source of higher activity at a frequency of 2-5 times per year. Without a record of the activity of each source the "quantity" of iridium-192 cannot be determined. Therefore, the word "quantities" in the phrase "quantities and kinds of byproduct material" as stated in 10 CFR 34.26 should be interpreted to include the number of sources, the activity of each source at the time of inventory or on a specified assay date, and the serial number of each source. In addition, the licensee's example quarterly inventory form, submitted as attachment No. 4 in its response dated July 26, 1989, clearly indicates that the activity of the source in curies, is part of the information required to be recorded.

Restatement of Violation D

10 CFR 34.24 requires, in part, that each survey instrument used to conduct physical radiation surveys be calibrated at intervals not to exceed three months.

Contrary to the above, on July 5, 1988, more than three months after calibration, the licensee conducted physical radiation surveys with two survey instruments which were last calibrated on March 10, 1988.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation E

10 CFR 34.25(b) requires, in part, that sealed sources be tested for leakage at intervals not to exceed six months.

License Condition No. 12.B exempts the licensee from the requirements of 10 CFR 34.25(b) as to radiography sources which are in storage and not being used. Since sources must be tested for leakage prior to any use or transfer unless they have been leak tested within six months prior to the date of use or transfer.

Contrary to the above, an iridium-192 sealed radiographic source, last leak tested on October 9, 1987, was removed from storage and used for radiography on ten occasions between April 14 and June 23, 1988, and transferred to the source manufacturer in July 1988. Prior to such use and transfer, the sources had not been leak tested within the previous six months.

Summary of Licensee's Response

The licensee does not deny the violation.

NRS Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation F

10 CFR 71.5(a) prohibits transport of licensed material outside the confines of a plant or other place of use, or delivery of licensed material to a carrier for transport unless the licensee complies with applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR parts 170 through 189. 49 CFR 172.200–202 requires each person who transports hazardous material to describe the material on a shipping paper. 49 CFR 172.203(d) describes the required additional shipping paper entries for radioactive materials.

Contrary to the above, in January 1989, the licensee transported curie quantities of radioactive material from its Ames Street facility to its Boxwood Street facility and failed to complete any shipping papers.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation G

10 CFR 30.51 (a) and (c)(1) require, in part, that persons who receive byproduct material pursuant to a license issued pursuant to Part 34 keep records showing the receipt of such byproduct material as long as the material is in their possession.

Contrary to the above, a record of receipt of byproduct material (cobalt-60 sealed source) received in approximately 1983 and currently in the possession of the licensee was not maintained.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

II. Licensee's Request for Reduction in Severity Level and Reduction of Proposed Civil Penalty

Licensee's Request

The licensee protests the classification of Items D, E, and F as Severity Level III violations. It states that Severity Level III is unwarranted since no personnel were injured or overexposed due to radiation and that Items D, E, and F are violations of a "paperwork nature" only.

NRC Evaluation

The licensee is correct insofar as no personnel were injured or overexposed due to radiation, but is incorrect in assuming Items D, E, and F are each a Severity Level III violation. The Notice of Violation and Proposed Imposition of Civil Penalty clearly states that "these violations have been categorized *in the aggregate* as a Severity Level III problem (Supplement VI)." Separate severity levels have not been assigned to the individual violations in this case. The NRC enforcement policy, as delineated in 10 CFR part 2, Appendix C, section II.B.III, provides that violations may be evaluated in the aggregate and a single severity level assigned for a group of violations. 10 CFR part 2, Appendix C, Supplement VI(c)(6), states that Severity Level III can apply if there is:

Breakdown in the control of licensed activities involving a number of violations that are related or, if isolated, that are recurring violations that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities.

The licensee is also incorrect in asserting that Items D, E, and F are violations of a "paperwork nature" only. Item D is a violation concerning the use of a survey instrument which had not been tested for calibration at the proper frequency and Item E is a violation concerning the use of a sealed source overdue for leak testing. These items address the licensee's failure to perform certain required tasks within a specified time interval and are not "paperwork" violations. Item F is a violation concerning the lack of proper shipping papers during the transport of sealed sources of radioactive material. This violation could be viewed as a "paperwork" violation; nevertheless, the requirement to have shipping papers during the transportation of radioactive materials is one of significance. Shipping papers are essential for regulatory agencies and for emergency response personnel who may be responding to an accident involving a vehicle carrying radioactive material to ensure that hazards are correctly identified and controlled.

III. NRC Conclusion

After reviewing the licensee's response to the Notice, the NRC has concluded that the violations were properly categorized in the aggregate at Severity Level III. The licensee has not provided a basis for mitigation of the proposed civil penalty. The NRC is continuing its evaluation of Violations B.2 and C, which the licensee has denied, and both of these violations have been withheld from this enforcement action pending completion of this review. The licensee will be notified by separate correspondence of the NRC's conclusion regarding Violations B.2 and C.

Since Violations B.2 and C constitute 25 percent of the 8 cited violations, we have determined that the $7,500 civil penalty should be reduced by $1,875 to $5,626.

[FR Doc. 89-26442 Filed 11-8-89; 8:45 am]

BILLING CODE 7590-01-M

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OFFICE OF MANAGEMENT AND BUDGET

List of Designated Federal Entities and Federal Entities

Public Law 100-504, "The Inspector General Act Amendments of 1988", requires the Office of Management and Budget to publish a list of "Designated Federal Entities" and "Federal Entities" and the heads of such entities. Designated Federal Entities were required to establish an Office of Inspector General before April 17, 1989. Federal Entities are required to report annually to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

The attached list was prepared in consultation with the U.S. General Accounting Office.

Frank Hodsoll,

Executive Associate Director.

Designated Federal Entities

1. Action—Director
2. Amtrak—Chairman
3. Appalachian Regional Commission—Federal Co-Chairman
4. The Board of Governors, Federal Reserve System—Chairman
5. Board for International Broadcasting—Chairman
6. Commodity Futures Trading Commission—Chairman
7. Consumer Product Safety Commission—Chairman
8. Corporation for Public Broadcasting—Board of Directors
9. Equal Employment Opportunity Commission—Chairman
10. Farm Credit Administration—Chairman
11. Federal Communications Commission—Chairman
12. Federal Deposit Insurance Corporation—Chairman
13. Federal Election Commission—Chairman
14. Federal Home Loan Bank Board—Chairman
15. Federal Labor Relations Authority—Chairman
16. Federal Maritime Commission—Chairman
17. Federal Trade Commission—Chairman
18. Interstate Commerce Commission—Chairman
19. Legal Services Corporation—President
20. National Archives and Records Administration—Archivist of the United States
21. National Credit Union Administration—Board of Directors
22. National Endowment for the Arts—Chairman
23. National Endowment for the Humanities—Chairman
24. National Labor Relations Board—Chairman
25. National Science Foundation—National Science Board
26. Panama Canal Commission—Chairman
27. Peace Corps—Director
28. Pension Benefit Guaranty Corporation—Executive Director
29. Securities and Exchange Commission—Chairman
30. Smithsonian Institution—Secretary
31. Tennessee Valley Authority—Board of Directors
32. United States International Trade Commission—Chairman
33. United States Postal Service—Postmaster General

Federal Entities

1. Administrative Conference of the United States—Chairman
2. Advisory Committee on Federal Pay—Chairman
3. Advisory Commission on Intergovernmental Relations—Chairman
4. Advisory Council on Historic Preservation—Chairman
5. African Development Foundation—Chairman
6. Alaskan Natural Gas Transportation System, Office of the Federal Inspector—Federal Inspector
7. American Battle Monuments Commission—Chairman
8. Architectural and Transportation Barriers Compliance Board—Chairman
9. Arms Control and Disarmament Agency—Director
10. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairman
11. Christopher Columbus Quincentenary Jubilee Commission—Chairman
12. Commission for Purchase from the Blind and other Severely Handicapped—Chairman
13. Commission for the Study of International Migration and Cooperative Economic Development—Chairman
14. Commission of Fine Arts—Chairman
15. Commission on the Bicentennial of the United States Constitution—Chairman
16. Commission on Civil Rights—Chairman
17. Delaware River Basin—Commission—U.S. Commissioner
18. Export-Import Bank—President and Chairman
19. Federal Mediation and Conciliation Service—Director
20. Federal Mine Safety and Health Review Commission—Chairman
21. Federal Retirement Thrift Investment Board—Chairman
22. Franklin D. Roosevelt Memorial Commission—Chairman
23. Harry S. Truman Scholarship Foundation—Chairman
24. Illinois and Michigan Canal National Heritage Corridor Commission—Chairman
25. Institute of American Indian and Alaska Native Culture and Arts Development—Chairman
26. Institute of Museum Services—Director
27. Intelligence Community Staff—Director CIA
28. Inter-American Foundation—Chairman
29. Interstate Commission on the Potomac River Basin—Chairman
30. James Madison Memorial Fellowship Foundation—Chairman
31. Japan-U.S. Friendship Commission—Chairman
32. Marine Mammal Commission—Chairman
33. Merit Systems Protection Board—Chairman
34. Office of the Special Council—Special Council
35. National Afro-American History Commission—Chairman
36. National Capital Planning Commission—Chairman
37. National Commission for Employment Policy—Chairman
38. National Commission on Libraries and Information Science—Chairman
39. National Commission on Migrant Education—Chairman
40. National Commission on Responsibility for Financing Postsecondary Education—Chairman
41. National Council on the Handicapped—Chairman
42. National Endowment for Democracy—President
43. National Gallery of Art—Board of Trustees
44. National Institute of Building Sciences—Chairman
45. National Mediation Board—Chairman
46. National Transportation Safety Board—Chairman
47. Navajo-Hopi Relocation Commission—Chairman
48. Neighborhood Reinvestment Corporation—Chairman
49. Occupational Safety and Health Review Commission—Chairman
50. Offices of Independent Counsels—Independent Counsels
51. Overseas Private Investment Corporation—President
52. Pennsylvania Avenue Development Corporation—Chairman
53. Postal Rate Commission—Chairman
54. Selective Service System—Director
55. State Justice Institute—Director
56. Susquehanna River Basin Commission—U.S. Commissioner
57. U.S. Holocaust Memorial Commission—Chairman
58. U.S. Institute for Peace—Chairman
59. U.S. International Cultural and Trade Center Commission—President
60. U.S. Soldier's and Airman's Home—Governor
61. Washington Metropolitan Transit Authority—General Manager
62. Woodrow Wilson International Center for Scholars—Board of Trustees

[FR Doc. 89-26471 Filed 11-8-89; 8:45 am]

BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Portland, will hold a public meeting at 10:00 a.m. on Wednesday, November 29, 1989, at Lane Community College, 1059 Willamette Street, Eugene, Oregon, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John L. Gilman, District Director, U.S. Small Business Administration, 222 S.W. Columbia, Suite 500, Portland, Oregon 97201-6605, phone (503) 326-5221.

Dated November 3, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-26359 Filed 11-8-89; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, will hold a public meeting beginning Thursday, November 30, 1989, at 1:00 p.m. and ending on Friday, December 1, 1989, at 12:00 noon, at the Best Western Leisure Inn, Martinsburg, West Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Marvin P. Shelton, District Director, U.S. Small Business Administration, P.O. Box 1608, Clarksburg, West Virginia 26302-1608, phone (304) 623-5631.

Dated: November 3, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-26360 Filed 11-8-89; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council Public Meeting; Change in Date of Scheduled Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, has changed the date for its public meeting from Thursday, November 9, 1989, to Thursday, November 30, 1989, at 10:00 a.m., in Conference Room B101, Farm Credit Building, West 601 First Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration or others present.

For further information, write or call Robert D. Wiebe, District Director, U.S. Small Business Administration, West 601 First Avenue, 10th Floor East, Spokane, Washington 99204, phone (509) 353-2808.

Dated: November 1, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-26356 Filed 11-8-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5382]

South Bay Capital Corp.; Issuance of a Small Business Investment Company License

On June 21, 1989, a notice was published in the **Federal Register** (54 FR 26131) stating that an application has been filed by South Bay Capital Corporation, Torrence, CA with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) for a licensee as a small business investment company.

Interested parties were given until close of business July 21, 1989 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-5382 on October 25, 1989, to South Bay Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 31, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-26361 Filed 11-8-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Pub. Notice CM-8/1321]

National Committee of the U.S. Organization for International Radio Consultative Committee; Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 27, 1989 at the Department of State, 2201 C Street, NW., Washington, DC. The meeting will be held in Room 1105, from 1:30 to 4:30 p.m.

The single agenda item is to consider broad aspects of the present CCIR and its future role, working methods and procedures, particularly with respect to the ITU's Review of Structure and Functioning. Mr. Richard Kirby, Director of the CCIR in Geneva, plans to participate in the meeting.

Members of the general public may attend and participate subject to instructions of the Chairman and available seating. Persons wishing to attend must contact the office of Richard Shrum, Department of State, Washington, DC; (202) 647-2592, telefax (202) 647-5957. Entrance to State Department is controlled, and attendees must use the C Street entrance. An escort will be at the main entrance to the building (22nd and C Streets) during the period 1:15-1:35 p.m. to facilitate entry.

Dated: October 31, 1989.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 89-26478 Filed 11-8-89; 8:45 am]

BILLING CODE 4710-07-M

Bureau of Diplomatic Security

Anti-Terrorism Assistance Training

In accordance with Office of Management and Budget Circular No. A-102, dated March 3, 1988, the Department of State hereby gives notice of intention to establish a cooperative

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agreement for purposes of facilitating the accomplishment of the objectives of 22 U.S.C. 2349aa, et seq. Under this authority, assistance may be furnished to foreign law enforcement personnel to enhance their ability to deter terrorists and terrorist groups from engaging in international terrorist acts. The proposed agreement will encompass facilities and administrative support in conducting training under the referenced authority, and will facilitate the development of long-range plans by providing a measure of stability in the planning process.

The Department of State has identified the Louisiana State Police Academy as having the necessary capabilities to conduct the training contemplated by this agreement. This agreement contemplates annual funding of approximately $750,000, which includes amounts which normally are granted directly to the participating individuals for their room and board. Training materials provided by the Louisiana State Police and consumed in the training will be reimbursed by the Department of State. Training materials for the participants provided by the Louisiana State Police and not consumed during the training, will be reimbursed by the Department of State, and will be granted to the participants.

If additional needs are identified in the future, the Department will entertain consideration of additional or alternative sources. Public comment on this intended action may be submitted within 20 days after the date of the Federal Register in which this notice appears, addressed to David Epstein, U.S. Department of State, Office of Counterterrorism Programs (DS/CTP/ATA). Fifth Floor SA-10, Washington, DC 20520-1003. Tel. (202) 663-0272.

Dated: October 20, 1989.

Christopher M.B. Dissay,

Acting Deputy Assistant Secretary for Policy and Counterterrorism.

[FR Doc. 89-26477 Filed 11-8-89; 8:45 am]

BILLING CODE 4710-07-M

Bureau of Intelligence and Research

[Public Notice 1140]

Soviet-Eastern European Studies Advisory Committee; Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on December 14, 1989, starting at 9:30 a.m. in Room 1105, Department of State, 2201 C Street, NW., Washington, DC.

The advisory Committee will recommend grant recipients for the advancement of the objectives of the Soviet and Eastern European Research and Training Act of 1983. The agenda will include: opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public about the Title VIII program in general; and within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organziations with an interest and expertise in conducting research and training concerning the USSR and Eastern Europe" based on the guidelines contained in the Call for Applications published in the Federal Register on June 20, 1989.

Public attendance is permitted but will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. It is required that persons planning to attend notify Susan H. Nelson, Soviet and Eastern European Studies Advisory Committee, INR/RES, Department of State, 1730 K Street, NW., Suite 233, Washington, DC 20006, (202) 632-6203. All attendees must use the 2201 C Street entrance to the State Department building.

Kenneth E. Roberts,

Executive Director, Soviet and Eastern European Studies Advisory Committee

[FR Doc. 89-26476 Filed 11-8-89; 8:45 am]

BILLING CODE 4710-32-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of North American Airlines, Inc., for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause, (Order 89-11-6) Docket 46314.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding North American Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in domestic scheduled air transportation of persons, property and mail.

DATE: Persons wishing to file objections should do so no later than November 13, 1989.

ADDRESSES: Objections and answers to objections should be filed in Docket 46314 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: November 6, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-26547 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; Franklin and Vance Counties, NC

AGENCY: Federal Highway Administration (FHWA).

ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will not be prepared for a proposed highway project in Franklin and Vance Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790-2850.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to improve US-1 in Franklin and Vance Counties, North Carolina, was issued on August 9, 1989 and published in the August 13, 1989 Federal Register. The FHWA, in cooperation with the North Carolina Department of Transportation, has since determined that the proposed highway project will not be Federally funded and hereby rescinds the previous Notice of Intent.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Thomas H. Mull,

Acting District Engineer, Raleigh, North Carolina.

[FR Doc. 89-26337 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Moore and Lee Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project from north of Lakeview, Moore County, to south of Sanford in Lee County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, District Engineer, Federal Highway Administration, Suite 470, 4505 Falls of Neuse Road, Raleigh, North Carolina 27611, Telephone (919) 790-2852.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) for the improvement of the US 1 Corridor from north of Lakeview to south of Sanford. The proposed action would be the constructon of a multilane divided highway, potentially on a new location with controlled access from existing four-lane section north of Lakeview to the existing four-lane section south of SR 1180 (south of Sanford), a distance of about 12 miles. Improvements to the corridor are considered necessary to increase safety and traffic service.

This improvement is part of intrastate system, to provide multilane facilities on US 1 from Henderson in Vance County, near the Virginia line, to Richmond County on the South Carolina line.

Alternatives under consideration include: (1) the "no-build", (2) improving existing facilities, (3) partial relocation, and (4) a controlled access highway on new location.

Solicitation of comments on the proposed action are being sent to appropriate Federal, State and local agencies. A complete public involvement program has been developed for the project to include: the distribution of newsletters to interested parties, along with public meetings and a public hearing to be held in the study area. Information on the time and place of the public hearing will be provided in the local media. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To assure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 3, 1989.

Roy C. Shelton,

District Engineer, FHWA, Raleigh, North Carolina.

[FR Doc. 89-26479 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Madison County, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Madison County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. W.R. Van Luchene, District Engineer, Federal Highway Administration, 441 High Street, Montgomery, Alabama 36104-4684, Telephone: (205) 223-7379. Mr. Royce G. King, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery Alabama 36130, Telephone: (205) 242-6311.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Alabama Highway Department, will prepare an Environmental Impact Statement (EIS) for Projects M-8508(1) and ST-807-7. These projects are located in the City of Huntsville, Madison County, Alabama. The proposals are to construct a Southern Bypass of Huntsvile from Memorial Parkway near Hobbs Island Road to Interstate Highway I-565, a distance of approximately 12 miles; and to construct an extension of Weatherly Road to the proposed bypass, a distance of approximately 2 miles

The Southern Bypass will be a controlled access divided facility with frontage roads. The highways will expedite traffic flow and relieve congestion to the Huntsville street system.

Alternatives under consideration include: (1) alternate route locations, (2) a no action alternative, and (3) postponing the action.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public involvement meeting will be held in Huntsville to acquire local input. Time and place for the meeting will be advertised in the local newspaper. A scoping meeting will also be held to solicit agency and public response to the action. The date and location of the scoping meeting will be appropriately advertised.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Joe D. Wilkerson,

Division Administrator, Montgomery, Alabama.

[FR Doc. 89-26480 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

[FHWA Docket No. 89-23]

Additional Interchanges to the Interstate System

AGENCIES: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed policy statement; request for comments.

SUMMARY: This notice requests public comment on a proposed statement of FHWA policy on guidance to the States for the justification and documentation needed for requests for additions of interchanges and ramps to the existing Interstate System. Since requests by States for additional access to the Interstate System have dramatically increased, the FHWA intends to clarify its policy and emphasize the need for justification in areas such as safety, traffic operations and land use.

DATE: Comments must be received on or before December 26, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. 89-23, Federal Highway Administration, Room 4232, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments

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received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Seppo I. Sillan, Office of Engineering, (202) 366-0312, or Michael J. Laska, Office of the Chief Counsel, (202) 366-1383. Office hours are from 7:30 a.m. to 4:00 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 111 of title 23, U.S.C., provides that all agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. The Secretary has delegated the authority to administer 23 U.S.C. 111 to the Federal Highway Administrator pursuant to 23 CFR 1.48(b)(10). This agreement provision is contained in 23 CFR 630, subpart C, appendix A.

It has always been the policy of FHWA to maintain adequate control of access to the Interstate System to ensure safety, efficient traffic operation and efficient land use. The guidance for justifying and documenting the need for additional access to existing sections of the Interstate System has traditionally been included in the Interstate Cost Estimate (ICE) manuals that are periodically issued by FHWA pursuant to 23 U.S.C. 104(b)(5) and available to the public. The guidance generally required the documentation of public benefits or needs before an additional interchange or ramp could be added to the Interstate System. In July of 1987, the FHWA, by memorandum to Regional Federal Highway Administrators, restated and emphasized the justification criteria contained in ICE manuals. This was necessitated by an expanding effort by both public and private investors to enhance the utility and value of adjacent property to the Interstate System by requesting additional access points.

Discussion

The FHWA received 28 requests for additional accession 1975, 49 in 1980, about 70 in 1986, and 25 so far in 1989. Many requests are initiated to accommodate normal growth in residential and business areas while maintaining the safe and efficient operation of the Interstate facility. However, others are initiated by special interests merely to enhance adjacent property values or provide direct access to private facilities. The inadequacy of State and Federal funds to finance all transportation and infrastructure improvements has led local governments to seek alternative tax revenues. Commercial development can generate needed reveue for the local government, some of which may be dedicated to address transportation problems. However, in the pursuit of commercial growth, sound transportation planning can be compromised.

Traffic congestion is the major transportation issue today in most metropolitan areas. Some projections indicate that delay caused by traffic congest'on on urban freeways will quadruple by the year 2005 unless aggressive actions are undertaken. The FHWA has placed emphasis on implementing existing congestion relief technologies. Major initiatives are under way in areas such as incident management and integrated freeway-arterial traffic control systems. The proliferation of added interchanges would further compound the freeway congestion problem and possibly negate other steps taken to relieve this congestion. It is imperative that plans for additional Interstate access be conceived in a manner that takes in account not only legitimate local needs for access, but also gives due consideraion for system integrity and purpose, i.e., a high level of safety and mobility.

The addition of interchanges to the Interstate System must be based on overall system needs and limitations. To assist the States in this critical process in the future, the FHWA is proposing to summarize its policy to ensure critical factors are duly considered in the request and approval process. Due to the national importance attached to maintaining a high level of service for traffic on the Interstate System, the FHWA is giving all interested parties an opportunity to comment on this policy.

Policy

It is in the national interest to maintain the Interstate highway systems to provide the higest level-of-service in terms of safety and mobility. Adequate control of access is critical to this end. Therefore, additional access points to the existing Interstate System will be considered for approval only if:

1. It is clearly demonstrated that the existing interchanges and/or local roads and streets cannot handle the expected traffic, provide access, or be improved to do so.

2. All feasible alternatives for design, location and transportation system management type improvements have been assessed.

3. The proposed new interchange does not adversely impact the safety and operation of the interstate facility based on an analysis of current and future traffic. The operational analysis for existing and proposed conditions should, particularly in urbanized areas, include an analysis of adjacent sections of the interstate facility as well as nearby existing and proposed interchanges. Crossroads and other roads and streets should be included in the analysis to the extent necessary to assure their ability to collect and distribute traffic to and from the new access or their ability to handle traffic in lieu of an added interchange.

4. The proposed interchange connects to a public road and will provide for all traffic movements. The proposed interchange is designed to meet current standards for Federal-aid projects on the Interstate System.

5. The proposal considers and is consistent with local and regional land use and transportation plans. In areas where the potential exists for future multiple interchange additions, all requests for new access are supported by a comprehensive interstate desired interchange additions within the context of a long term plan.

6. The request for a new interchange generated by new or expanded development demonstrates appropriate coordination between the commercial development and transportation system improvements. This includes possible phasing or staging of both transportation and private development work to optimize the highway system operations and to minimize the adverse effects of increased traffic demand.

Implementation

The FHWA Division Office will ensure that all added interchange requests submitted by the State highway agency for FHWA consideration contain sufficient information to allow the FHWA consideration contain sufficient information to allow the FHWA to independently evaluate the request and to ensure that all pertinent factors and alternatives as discussed above have been appropriately considered. The extent and format of the required justification and documentation should be developed jointly by the State highway agency and FHWA to accommodate the operations of both the State and FHWA. The extent and format of justification should also be consistent with the complexity and expected impact of the proposals, i.e., information in support of an isolated rural interchange may not need to be as extensive as for a complex or potentially controversial interchange in an urbanized area. No specific justification documentation format or content is prescribed by this policy.

Policy State Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant action under the Department of Transportation's regulatory policies and procedures. Because of the interest in maintaining the highest level-of-service in terms of safety and mobility in the Interstate highway system, the FHWA has decided to give all interested parties an opportunity to comment on this policy.

The proposed policy statement summarizes and clarifies FHWA policy and guidance for the justification and documentation needed for requests for additions of interchanges and ramps to the existing Interstate System. Specifically, the proposed policy statement emphasizes the need for clear justification based on adequate information in areas such as safety, traffic operations and land use. The proposed policy statement will not impose any additional reporting or recordkeeping requirements on the States. To assure that adequate information and analysis is provided with each request for additional access, the extent and contents of the currently required justification documentation may need to be modified. These modifications can simply be incorporated into the States' existing additional interchange request policy. Therefore, a full regulatory evaluation is not required. For the above reasons, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed policy statement does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental review of Federal programs and activities apply to this program.)

Issued on: November 2, 1989.

T. D. Larson,

Administrator.

[FR Doc. 89-26390 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 14, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 16, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinions:
Draft AO 1989-21:
Ms. Elaine Sandra Abramson on behalf of Create-A-Craft
Draft AO 1989-23:
Mr. David T. Wright on behalf of Coopers & Lybrand
Draft AO 1989-24:
Ms. Kay Yarbrough on behalf of First Florida Partners for Good Government
Explanation & Justification of the Foreign National Regulations: 11 CFR 110.4
Affiliation & Earmarking Regulations: Announcement of Effective Date
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-25683 Filed 11-7-89; 3:00 pm]

BILLING CODE 6715-01-M

federal register

Thursday
November 9, 1989

Part II

Small Business Administration

13 CFR Part 115
Surety Bond Guarantee; Interim Final Rule

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

[Revision 4]

RIN 3245-AB77

Surety Bond Guarantee

AGENCY: Small Business Administration (SBA).

ACTION: Interim final rule.

SUMMARY: SBA publishes a new complete revision of its surety bond guarantee (SBG) regulations in further implementation of Title II of Pub. L. 100-590, the Preferred Surety Bond Guarantee Program Act of 1988 (Act).—An earlier implementing regulation (Rev. 3) was published May 8, 1989 (54 FR 19544) and is superseded by this Rev. 4. The Act created within SBA's Surety Bond Guarantee (SBG) program a pilot program, which allows SBA to authorize selected surety companies to issue, monitor and service surety bonds subject to SBA's guarantee without specific prior SBA approval. This program, unless extended by Congress, is due to end September 30, 1992. Because of the need to move this three-year pilot program forward, the rules are again published as "interim final" without opportunity for prior public comments. SBA requests comments on or before January 8, 1990. These comments will be carefully considered, and necessary amendments made as soon thereafter as practicable.

DATES: These rules are effective November 9, 1989. Comments are due on or before January 8, 1990.

ADDRESSES: Comments should be sent to James W. Parker, Jr., Director, Office of Surety Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: James W. Parker, Jr., Tel: (703) 235-2900.

SUPPLEMENTARY INFORMATION: The Act has the stated purpose of encouraging the major surety companies to contribute their expertise by substantial participation in SBA's Surety Bond Guarantee (SBG) program. The 3-year pilot program instituted under the Act is expected to improve the access to bonding for small and disadvantaged small business concerns. The inducement to participate is the freedom of designated sureties from the need to seek prior SBA approval for each decision relating to the issuance and administration of bid and final bonds guaranteed by SBA. The trade-off is a substantially lower indemnification against losses (70%).

In implementation of the Act, SBA published Revision 3 of its SBG regulations on May 8, 1989 (54 FR 19544) as "interim final", with a request for comments. Revision 3 attempted to merge the rules for the pilot Preferred Surety Bond (PSB) program with the rules of the pre-existing program (Revision 2), published August 24, 1988 (53 FR 32195). Our purpose was to maintain a unified program with uniform rules, to the extent that this is possible, since the purpose of the two programs, and the means to their achievement, are one and the same.

The purpose of both programs is stated in the policy section: to assist qualified small business concerns to obtain the required bid, payment and performance bonds and bonds ancillary thereto, which are unobtainable without an SBA guarantee. The older program does so by SBA approval of each bond guarantee on a case-by-case basis, or under a "bonding line", which allows for a limited number of bond guarantees for a pre-approved contractor within strict limitations. The older program was utilized almost exclusively by "specialty" sureties. The new program will allow sureties selected pursuant to strict principles to issue bonds guaranteed by SBA within stated limits, without prior SBA approval.

The two major objectives of the new program are, first, expansion of the participation of the standard surety companies, and second, improved access to surety bonds for small business concerns (Conference Report H.R. 100-1029, 100th Cong., 2d Session, October 3, 1988 p. 31).

SBA's attempt to formulate a single set of rules was not well received. The trade association representing the major sureties (Surety Association of America—SAA) expressed the opinion that separate regulations for the PSB program should be developed. Another comment from within SBA, also recommended separation of the regulations for the two programs, because the format used was considered confusing and it was difficult to ascertain what is applicable to each program. Accordingly, the present revision separates the rules for the two programs, by dividing the entire regulatory system into three subparts. The first subpart contains the rules common to both programs, and the other two subparts contain the rules for each of the two programs.

Another comment pointed out that the ability of PSB companies to write bonds also under the prior-approved program was susceptible to adverse risk selection; a surety might write the riskiest bonds under the prior-approval program, because of its greater loss guarantee (90% or 80% *vs* 70%). Accordingly, the present revision prohibits a surety admitted to the PSB program from also utilizing the prior-approval program.

The following comments explain the substantive changes made in Revision 4 from the prior Revision 3. For sections which have not been substantively changed from Revision 3, reference is made to the explanations given for Revision 2 (53 FR 32195; August 24, 1988) and Revision 3 (54 FR 19544; May 8, 1989)

A new § 115.1 explains the division of the SBG regulations (part 115) into three subparts. Subpart A contains regulations generally applicable to the SBG program. Subpart B deals with the (pre-existing) prior-approval program. Subpart C regulates the PSB program.

The paragraph dealing with the selection principles for the PSB program, now § 115.10(d), states a lower Treasury underwriting limitation than before ($1,250,000 vs. $2,500,000). Many comments pointed out that the $2.5 million limit excluded too many long-time participants in the SBG program from opting for PSB status. Others stressed the program itself was limited to contracts up to $1,250,000, so that the higher underwriting limit of the regulation bore no immediate relation to the SBG program limit. SBA now adopts the program limit, although it is hoped that contractors who "graduate" from the SBG program will be able to stay with the surety companies which brought them to "graduation", beyond the $1,250,000 ceiling.

The requirement that a PSB charge no more than the SAA advisory rates (§ 115.10(d)(2)) came under criticism. It was pointed out that three states (CA, KY, IL) prohibited the promulgation of advisory rates, and that the number of such states may grow. SBA is not concerned with the legality of these rates in the various states, but adopts them without regard thereto, because our experience has been that these rates protect the interests of small concerns without putting the surety at a disadvantage. In fact, certain present participants in the SBG program now use rates lower than SAA rates for some bond categories.

A new requirement has been added (§ 115.10(d)(3)). Guaranteed contact bonds may not exceed one-quarter of the PSB surety's total "book" of contract bond business. This requirement replaces former § 115.3(e)(3). The requirement that the PSB surety's

underwriters, as a group, write at least 25% of their bonds outside the SBG progam, came under criticism because it tended to stifle the formation of small-business specialists. The purpose of the former and of the new requirement is the same: to obtain experienced underwriting, not influenced by the awareness of the government guarantee.

The requirements of in-house underwriting (formerly § 115.3(e)(3)) and claims handling (formerly § 115.3(e)(4)) were criticized, because sureties commonly delegate some of these functions to branch offices. Accordingly, § 115.10(d) (4) and (5) now require that underwriting and claims settlement must be handled by employees of the surety, not necessarily in the home office. This requirement does not preclude business production by independent agents, and claims handling by independent counsel and consultants, selected by employees of the surety company, so long as the ultimate decision is reserved to the employees of the surety.

As pointed out above, § 115.10(f) now limits PSB participants to PSB bonds, to preclude adverse risk selection, *i.e.*, in the words of one comment, "to 'dump bad business' into the [prior-approval] program and thus to 'raid the Treasury'."

Section 115.10(g), formerly § 115.3(f), limits SBA's guarantee to bonds issued before contract work has begun. The definition of work start (any action which exposes the surety to liability) was criticized as overbroad because, it was said, such liability can begin without the surety's or the obligee's knowledge, for example, when the contractor orders materials before the bond is issued, to lock in a good price. Accordingly, the definition now limits work start to actions on the job site.

The definition of "Account of Contract" in the definition section, § 115.11, (formerly § 115.4) was criticized as omitting multi-year service and supply contracts. Accordingly, the definition now provides that such contracts are eligible so long as the surety's exposure in any one year does not exceed the statutory limit of $1,250,000.

The definition of "bid bond" limited the duration of the bid bond guarantee to 120 days unless SBA and surety agree otherwise. Our purpose was to safeguard our control over the use of our program level authority, since we must reserve an appropriate amount against bid bonds. A comment pointed out that sometimes a bid invitation is extended at the last moment, leaving no time to seek SBA approval. Accordingly, the definition now provides that the surety notify SBA in timely fashion of such extension, but need not seek approval.

The definition of "bid bond" now omits the prohibition of forfeiture bonds. That prohibition has been moved to § 115.33, where it continues to apply to prior-approval sureties. It is inappropriate to the PSB program, since it is an underwriting matter not subject to SBA's review.

A new definition, "Loss under ancillary bond" limits SBA's guarantee to a covered loss occuring under the guaranteed contract. This definition was judged necessary because ancillary bonds are sometimes term bonds, useable on unbonded contracts subsequent to the bonded contract for which they were issued.

The definition of "loss from litigation cost" was criticized. The definition required prior SBA approval for suits brought by a surety against a United States department or agency. The reason is obvious: in these cases the U.S. Government would pay for the litigation cost of both sides. It is recognized, however, that some such suits may be necessary for several reasons, such as the effect on the interests of indemnitors or guarantors. Accordingly, SBA reserves to itself the judgment on the necessity of such suits, and pledges that its approval will not be unreasonably withheld.

In the definition of "Loss from attorney's fees and damages" the words, "or any other person", present in Rev. 2 and inadvertently omitted in Rev. 3 have been restored, because tort suits against a surety can be brought not only by a principal, but also by any other claimant. The reason for this exclusion is the fact that, under the statute, SBA may only indemnify a surety for losses "resulting from a breach of the terms of a * * * bond * * * by a principal" (15 U.S.C. 694b(a)).

The definition of "obligee" has been expanded to include the so-called "dual obligee savings clause." That clause binds a co-obligee to the surety as completion contractor, as well as to the principal. Otherwise the bond would become a completion bond, since the co-obligee would not be bound to pay for completion by the surety. This savings clause has long been recognized by SBA in its Standard Operating Procedures (SOP) 50-45, par. 10.

A new definition for "Person" as a natural person or legal entity has been added.

The definition of "Regulatory Violation" in § 115.13 (formerly § 115.16), Defenses of SBA, has been clarified in response to a comment which found the prior definition in terms of exposure of SBA too vague. The definition now speaks in terms of an increase in SBA's bond liability by more than 25% or $50,000, whichever is less.

A comment criticized the general part of former § 115.7(a), now § 115.30(a). It was stated that the "deemed" certification of reasonableness of risk imposed an undue burden on the surety, and provided little guidance. We note that these words, and the others in the same paragraph, are taken from the statute, where they form the basis for the guarantee (See § 202 of Pub. L. 100-590, 15 U.S.C. 694b(a)(4)). Similar words have been in earlier Revisions, see for example, 13 CFR § 115.8(a)(1), Edition as of Jan. 1, 1988. To our knowledge, these words have not caused problems.

A clarification has been added to the indemnification paragraph, § 115.30(c), formerly § 115.3(d). It now states expressly that a final bond initially for a contract amount of less than $100,000 may increase beyond that amount without reduction in the guarantee percentge (80%), if the bond guarantee is issued on behalf of a disadvantaged small concern. It also makes clear that if a bond for a contract amount of less than $100,000 issued on behalf of a principal which is not disadvantaged subsequently increases beyond $100,000, the percentage will decrease from 90% by one percent for each $5,000 or for any part of a $5,000 increment, but will not decrease below 80%. Conversely, it also makes clear that bonds for contracts over $100,000 issued on behalf of small concerns which are not disadvantaged will be guaranteed up to the administrative ceiling of 80%.

In § 115.31 (formerly § 115.8), paragraph (c) has been amended to make clear that SBA requires the principal's or the surety's own check for the principal's guarantee fee with the notice from the surety of the issuance of final bonds. This change from the earlier wording is intended to make clear that the surety is not responsible for the clearance of the principal's check, and may submit its own check if it so desires. The reason for this provision is the difficulty SBA sometimes experiences in collecting a principal's guarantee fee, since SBA is not in privity with the principal, whereas the surety is in privity.

A new paragraph has been added to § 115.32 (formerly § 115.9). That paragraph requires sureties to obtain status reports from bond obligees, which are not to be forwarded to SBA. This new requirement was suggested by the General Accounting Office, an arm of the U.S. Congress, in the course of its review of the SBG program, to enable sureties better to monitor progress under the bonded contract. Most sureties

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obtain such reports now, but the practice is not as general as it should be.

A change in § 115.34 (formerly § 115.11) relaxes the condition of reinstatement of a principal after Determination must remain committed to SBA judgment, since circumstances vary from case to case. Generally speaking, we expect that SBA will follow the surety's and the principal's shares will be passed back and forth between SBA and PSB sureties in the normal course of business. Increases and decreases in bond liability of 25% or

however, that the statute lists SBA's defenses (See § 115.13 and § 411(e) of the Small Business Investment Act, as amended by Section 203(c) of the Act). monitor, and service such bonds subject to the Administration's guarantee."

It is therefore necessary to set forth how such sureties will be selected to Business Act, 15 U.S.C. 634(b)(6), section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c), and section 411(d) of that Act, 15 U.S.C. 694(b)(d).

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obtain such reports now, but the practice is not as general as it should be.

A change in § 115.34 (formerly § 115.11) relaxes the condition of reinstatement of a principal after default. Paragraph (a)(1) previously required that a principal indemnify its surety for at least half its loss in cash, with a note for the balance. It now leaves the percentage of indemnification to the surety's discretion.

Section 115.35(c) (formerly § 115.12(c)), SBA charge to surety, now prescribes a uniform 20% share of the bond premium as SBA's guarantee fee from the surety. Several comments had sharply criticized the former dual computation of either 20% or a flat dollar fee per thousand dollars of bond or contract amount. The comments called it "an accounting nightmare" and an "opportunity for error." Accordingly, SBA has omitted the flat dollar rate altogether, and adopted a 20% premium share across the board.

Section 115.35(c) has been further amended by the insertion of a *de minimis* provision. Adjustments up or down in SBA's premium share or the principal's guarantee fee may be disregarded if such fee adjustment amounts to less than forty dollars. The reason for this change is cost effectiveness. It must be noted, however, that no such cost effectiveness considerations apply to § 115.13 where the statute requires a material breach and a substantial violation to justify a denial of liability. For an explanation of the requirement concerning the principal's guarantee fee, see comment on § 115.31.

A series of questions were raised regarding § 115.37(b)(1) (formerly § 115.14(b)(1)). The questions and their answers are provided as follows: (Q) Does the "imminent breach" regulation concern itself only with financing of the principal? (A) Any measure to forestall a breach (*e.g.* surety pays for accountant or engineer) qualifies under this provision. (Q) Does the surety apply for approval of preventive expenditures before or after they are made? (A) Before. (Q) Why do the regulations differ in this regard for non-PSB and PSB sureties? (A) Because the principle underlying the PSB program is to let a PSB surety act without case-by-case SBA approval. A PSB surety takes responsibility for all its servicing decisions, including this one. (Q) Can SBA react quickly enough to approve a surety's request for indemnification? (A) We expect that we can give telephone approval (See § 115.32(a)) from one business day to the next. (Q) On what criteria does SBA determine that a breach is imminent? (A) The Determination must remain committed to SBA judgment, since circumstances vary from case to case. Generally speaking, we expect that SBA will follow the surety's and the principal's lead since the prevention of a breach should cost much less than a default.

The provision concerning business integrity of the surety, § 115.39(b) (formerly § 115.17(b)) has been amended to emphasize that the events destroying the presumption of good character are themselves only presumptively destructive, and can be rebutted by appropriate evidence. For example, a license revocation can be explained by an inadvertent late fee payment which has since been paid and the license restored.

In § 115.60(a), Procedures for PSB (formerly § 115.6(a)), the criterion of geographic diversification has been omitted. SBA had assumed that PSB sureties would do business throughout the country. A well taken comment, however, pointed out that reinsurers do not have such a requirement. Single state and regional sureties are often more successful than national firms, because of their greater familiarity with their clients and with local conditions.

Another comment asked whether a bid bond would count against the PSB allotment by its penal sum or by the estimated contract price (See § 115.60(b), formerly § 115.6(b)). The regulation now provides that the penal sum counts until such time as the SBA bid bond guarantee expires, for example, because the contract has been awarded or the bid withdrawn.

Section 115.60(c)(2) (formerly § 115.6(c)) has been amended by the addition of a sentence requiring PSB sureties to obtain status reports from obligees. While SBA believes that this practice is the custom of the surety industry, the requirement matches a similar requirement in § 115.32(b).

A former paragraph, § 115.6(c)(5) requiring prior SBA approval for compromise settlements with indemnitors or guarantors, and of liquidation plans for debtor small concerns, came under criticism as both cumbersome and contrary to the principle of the PSB program entrusting all servicing decisions to the PSB surety. In response, SBA has omitted such requirements form this revision.

The remaining paragraphs (3) through (6) of § 115.60(c) (formerly § 115.6(c)(3) through (4)) have been rewritten in response to comments thereon. These paragraphs now require SBA notification of all bid and final bonds with SBA guarantees and all changes thereto, by means of a monthly bordereau. Premiums, loss and recovery shares will be passed back and forth between SBA and PSB sureties in the normal course of business. Increases and decreases in bond liability of 25% or $50,000, whichever is less, require adjustment both in the principal's guarantee fee and in SBA's premium share, but changes of less than $40 are to be disregarded. Increases in bond liability must fit within the PSB surety's allotment for the period during which the PSB surety consents to such increase. When a principal defaults or is reinstated after default, SBA is to be notified within 30 calendar days irrespective of bordereau periods. SBA's purpose here is to prevent a defaulted contractor from seeking SBA-guaranteed bonds from other sureties, and to enable it to restore bonding capability when warranted.

Section 115.61(a), formerly § 115.15, now requires submission of claims for losses within one year from disbursement, but no longer requires the submission of the bonded contract, consistent with the principle that PSB sureties participating in the PSB program are not subject to case-by-case approval from SBA.

For the same reason, the requirement for semi-annual status reports has been omitted.

Section 115.61(b) Imminent breach formerly was § 115.14(b)(2), and remains substantively unchanged (See comments on § 115.37(b).

Section 115.62(a) (formerly § 115.17(a)) has been amended to compare PSB surety bond practice with those of other PSB sureties, as more stringent criteria are applicable to PSB sureties.

Section 115.61(b), formerly § 115.17(b), has been amended in conformity with § 115.39(b), to make clear that the stated events destroying the presumption of good character are themselves only presumptively destructive, and therefore rebuttable.

A new section, § 115.64, not contained in earlier revisions, has been added in response to comments on former § 115.10(b). That paragraph stated that SBA would determine the eligibility of PSB bonds for an SBA guarantee at the time a claim for loss under such bond is received. This point in time seemed to us to be the first when SBA had knowledge of the PSB bond, and became able to review such PSB bond's conformity with SBA's authorizing statute. The provision, however, was termed as "totally unacceptable" by SAA. Accordingly, SBA has attempted to formulate the 13 grounds for denials of liability which have become manifest in the past and which are applicable to the PSB program. It should be noted,

however, that the statute lists SBA's defenses (See § 115.13 and § 411(e) of the Small Business Investment Act, as amended by Section 203(c) of the Act). These statutory defenses are available, whether or not repeated in the regulation. Accordingly, the grounds for denial of liability recited in this section cannot be taken as definitive or comprehensive. In this connection, we point out that in the last sixteen years, less than fifty denials of liability have occurred, and that each denial requires approval from the highest level of SBA. The first four grounds are statutory. The fifth ground would exist if the bonded contract represents a financial guarantee, such as if the principal's payments to the obligee are bonded. The sixth ground exists if an agent mistakenly issues a guaranteed bond in the name of a surety other than the one which has agreed to issue it. The seventh to eleventh grounds are explicitly stated in these regulations. The twelfth ground exists, for example, if the surety suffers a loss as a result of a "bad faith" practice.

The last ground would exist if an ancillary bond, *e.g.*, for taxes or union benefits, issued as a term bond rather than a job bond results in a loss on a job for which SBA had not issued a bond guarantee.

Compliance with Executive Orders 12291 and 12612, the Regulatory Flexibility Act and the Paperwork Reduction Act

For purposes of Executive Order 12291, SBA has determined that these rules are major since they restructure a program with a program level of $1.25 billion.

SBA certifies that these rules do not warrant the preparation of a Federal Assessment in accordance with Executive Order 12812.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 604, SBA has determined that these rules will have a significant economic impact on a substantial number of small entities.

The following analysis is provided within the context of the review required under Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 603):

These rules are necessary to implement the Preferred Surety Bond Guarantee Program Act of 1988, Pub. L. 100–590, Title II approved November 3, 1988 (102 Stat. 3007). This Act created within SBA's existing Surety Bond Guarantee program a new program under which SBA may authorize selected sureties "without further administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee."

It is therefore necessary to set forth how such sureties will be selected to issue SBA guarantees on SBA's behalf without prior SBA approval, how they would operate to meet SBA's requirement under the statute and the regulations, how SBA would regulate, audit and, if necessary, terminate the PSB status of such sureties. At the same time, it is necessary to restructure the existing regulatory system to accommodate a two-track surety bond guarantee program.

The change in § 115.35(c), SBA charge to surety, was made because one of the prior computations of a guarantee fee, a flat dollar amount, had been criticized as a potential fairness problem, given the increasing diversity of premium rates. We believe that the present system will avoid such results.

We believe that the new statute and these regulations will result in lower bonding costs and better availability of bonds for small concerns, because the expected entry into the SBG program of major industry members with their wide organizational network, at premiums which do not exceed the Surety Association of America's advisory rates, will make more bonds at lower cost available to the small business market. It should be noted that the PSB represents a trade-off. PSB sureties accept a lower indemnification rate against their losses, and sometimes lower premiums, in return for the privilege of protecting their bonds with the SBA guarantee without "second-guessing" by SBA. However, given the finite guarantee authority for SBA, it is conceivable that over time a market shift away from SBA's traditional participants towards the new SBG entrants could occur, although we do not think so. SBA's increased bonding authority, together with the trade-off discussed above, should combine to prevent a detriment to our traditional partners.

SBA is not aware of any suitable alternatives to the rules here set forth. Because of the short life of this pilot program, as explained in the Summary, these rules are published as interim final, with a request for comments.

There are no reporting, recordkeeping and other compliance requirements not approved by the Office of Management and Budget which would come under the Paperwork Reduction Act, 44 U.S.C. ch. 35.

There are no federal rules which duplicate, overlap or conflict with these rules.

The legal authority for these rule changes is section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c), and section 411(d) of that Act, 15 U.S.C. 694(b)(d).

List of Subjects in 13 CFR Part 115

Small business, Surety bonds.

Pursuant to the authority contained in section 411(d) of title IV, part B, Small Business Investment Act of 1958, as amended, (15 U.S.C. 694(b)(d)) and in section 203 of the Preferred Surety Bond Guarantee Program Act of 1988, Pub. L. 100–590 (102 Stat. 3007). Title 13, Code of Federal Regulations, chapter I, part 115, is hereby revised as follows.

PART 115—SURETY BOND GUARANTEE

Sec.

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115.60 Procedures for PSB.
115.61 Claims for losses.
115.62 Qualifications of surety.
115.63 Audits and investigations.
115.64 Liability of SBA.

Authority: Title IV, Part B of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b, 694a, 694b), the Inspector General Act of 1978 (5 U.S.C. App. 1) and Pub. L. 100–590, Title II.

§ 115.1 Explanation of regulations.

These regulations cover the Small Business Administration's (SBA's) Surety Bond Guarantee programs under part B of title IV of the Small Business Investment Act of 1958, as amended. Subpart A of this part 115 contains regulations common to both the program

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requiring prior SBA approval of each bond guarantee, and the program not requiring such prior approval. Subpart B contains the regulations applicable only to the prior-approval program. Subpart C contains the regulations applicable only to the program not requiring prior SBA approval. These latter regulations implement the Preferred Surety Bond Guarantee Program Act of 1988, Pub. L. 100-590 (102 Stat. 3007), from which the name Preferred Surety Bond Program (PSB) is derived.

§ 115.2 Statutory provisions.

The relevant statutory provisions will be found at 15 U.S.C. 694a, *et seq.*

§ 115.3 Headings.

Headings are explanatory (for reference ease) and are not regulatory.

§ 115.4 Savings clause.

The legality of transactions, including the issuance by SBA of bond guarantees, pursuant to provisions of SBA regulations in effect before amendment, shall be governed thereby, notwithstanding subsequent changes. Nothing herein shall bar SBA enforcement with respect to any transaction consummated or bond guarantees issued in violation of provisions applicable at the time, but no longer in effect. If any section or part of a section of these regulations should be adjudged invalid, only that section or part shall be invalid, and no other part or section shall be affected thereby.

Subpart A—Regulations Applicable to All Surety Bond Guarantees Under This Part

§ 115.10 Policy.

(a) *Congressional intent.* It is the intent of Congress to strengthen the competitive free enterprise system by assisting qualified small business concerns to obtain bid, payment, or performance bonds and bonds ancillary thereto, which are otherwise unobtainable without a Small Business Administration (SBA) guarantee. Consequently, Congress has authorized SBA to guarantee on a prudent and economically justifiable basis (upon such terms and conditions as SBA may prescribe) sureties participating in the Surety Bond Guarantee (SBG) program, against a part of their losses incurred as a result of a principal's breach of the terms of a bid bond, payment bond, performance bond, or bonds which are ancillary to such bonds, on any contract not exceeding $1,250,000 in face value. Congress has further authorized SBA to empower selected sureties, without further SBA approval, to issue, monitor, and service such bonds, subject to SBA's guarantee. This latter program is hereafter referred to as the Preferred Surety Bond Program (PSB).

(b) *Types of bonds.* The Administration has determined that only bid, performance, and payment bonds (other than bonds in the nature of a financial guarantee) issued in connection with a contract and of a type listed in the "Contract Bonds" section of the current Rating Manual of the Surety Association of America [1] will be eligible for an SBA guarantee. In addition, the SBA guarantee may be extended to such ancillary bonds as are incidental to the contract and essential for its performance.

(c) *Guarantee agreement.* A surety company participating in this program shall be listed by the U.S. Treasury as eligible to issue bonds in connection with Federal procurement contracts, and be a corporation determined by SBA to be a surety eligible to participate in this program. The terms and conditions of SBA's bond guarantee agreements may vary from surety to surety, depending on SBA's experience with a particular surety. Where the statute does not mandate the division of losses, the Office of Surety Guarantees will consider, by way of example and not of limitation, surety's loss rate in this program in comparison with other sureties participating with SBA to a comparable degree, the rating or ranking designation assigned to the surety by recognized authority, the average contract amount or bond penalty per bond written in this program and the ratio of bid bonds to final bonds written in this program.

(d) *Selection of sureties for the PSB program.* SBA's selection of sureties empowered to issue, monitor and service bonds subject to SBA's guarantee without prior SBA approval will be guided by, but not limited to, these factors:

(1) An underwriting limitation of at least one and one-quarter million dollars ($1,250,000) on the U.S. Treasury Department list of acceptable sureties;

(2) An agreement to charge small concerns bonded under PSB no more than the advisory premium rates of the Surety Association of America, whether or not such rates are approved in or accepted by the relevant jurisdiction;

(3) Premium income from contract bonds guaranteed by any government agency (Federal, State or local) does not exceed one-quarter of the total contract bond premium income of the surety;

(4) Underwriting authority for SBA-guaranteed bonds is vested only in employees of the surety company;

(5) Final settlement authority for claims under the PSB program is vested in employees of a PSB surety's permanent claims department satisfactory to SBA;

(6) Number of bid and final contract bonds issued by the surety from year to year for the last five fiscal years;

(7) The rating or ranking designations assigned to the surety by recognized authority.

(e) *Duration of PSB program.* The PSB program shall terminate on September 30, 1992, unless extended by Act of Congress. SBA guarantees effective under this program on or before September 30, 1992, shall remain in effect after such date.

(f) *Participation in PSB program.* A surety authorized to issue, monitor, and service surety bonds subject to SBA's guarantee without obtaining prior SBA approval, shall not be eligible to submit applications under subpart B.

(g) *Timeliness.* (1) SBA's guarantee of a bond will be honored only if issued before the work under the contract has begun. To establish the exact bond issuance date, a surety shall maintain a contemporaneous record of the issuance of each bond (OMB Approval No. 3245-0007).

(2) For purposes of this paragraph (g), work on a job shall be considered as having begun when a contractor takes any action at the job site which exposes its surety to liability under applicable law.

(3) SBA may guarantee a bond issued after work on the contract has begun, but only by the signature on Form 991 (OMB No. 3245-0007) of an SBA official having delegated authority to approve contract amounts such as underlie the bond in question (see § 101.3-2, Part III(c) of this chapter), upon receipt of all of the following from the surety:

(i) Evidence (certified copy of contract or sworn affidavit) from the principal that the surety bond requirement was contained in the original job contract, or documentation satisfactory to SBA, as to why a surety bond was not previously secured and is now being required.

(ii) A certification by the principal listing all suppliers and indicating that they are paid to date, attaching a waiver of lien from each; that all taxes and labor costs are current; that all subcontractors are paid to their current status of work and a waiver of lien from each, or an explanation satisfactory to SBA why such documentation cannot be produced.

[1] 100 Wood Avenue South, Iselin, New Jersey 08830.

(iii) A certification by obligee that all payments due under the contract to present status have been made and that the job has been satisfactorily completed to present status.

§ 115.11 Definitions.

This section includes terms defined at 15 U.S.C. 694a and provides definitions of other terms.

Affiliate is defined in § 121.3(a) of this chapter.

Amount of contract. The amount of the contract to be bonded shall be established as of the time of issuance of the executed and guaranteed bond or bonds. The contract amount shall not exceed $1,250,000 in face value. The amounts of two or more contracts for a single project, to be performed in phases, shall not be aggregated if the prior bond is released (other than for maintenance or warranty—see definition of "contract" in this section) before the beginning of each succeeding phase. A "single project" means one represented by two or more contracts of one principal or its affiliates with one obligee or its affiliates for performance at the same locality, irrespective of job title or nature of the work to be performed. A service or supply contract covering more than a one-year period shall be eligible if the annual contract amount and the penal sum of the bond do not exceed $1,250,000 at any time.

Ancillary bond means a bond incidental and essential to the performance of the contract to which SBA's guarantee pertains.

Bid bond means a bond conditioned upon the bidder on a contract (not to exceed a contract amount of $1,250,000) entering into the contract, if bidder receives the award thereof, and furnishing the prescribed payment bond and performance bond. A bid bond guarantee shall expire 120 days after issuance of the bond, unless surety notifies SBA in writing before such 120th day that a later expiration date is required, stating such date.

Contract means an obligation of the principal requiring the furnishing of services, supplies, labor, materials, machinery, equipment or construction (including a warranty up to two years if such warranty is limited to defective materials or workmanship). The contract shall not be a permit, subdivision contract, lease, land contract, evidence of debt, financial guarantee (*e.g.*, a contract requiring payment(s) by principal to obligee), warranty of performance or efficiency, warranty of fidelity, or release of lien (other than for claims under a guaranteed bond) nor shall a contract prohibit a surety from performing the contract upon default of the principal. A warranty in excess of two years or against other than defective materials or workmanship shall not be covered by SBA's guarantee unless SBA, by a separate writing signed by surety and SBA, agrees to a warranty in excess of two years from completion or for other than materials and workmanship, ancillary to an otherwise eligible contract, if such warranty is the immediate contractual responsibility of the principal, upon a showing that such warranty is customarily required in the relevant trade or industry.

Contractor means the person with whom the obligee contracts to perform the contract.

Imminent Breach means a threat to the successful completion of a bonded contract which, unless remedied by surety, makes a default under the bond appear to be inevitable.

Issuance or *issued* means the release of the SBA-guaranteed executed bond by the surety, which binds surety to the contract if such contract is awarded to the principal.

Loss shall have the following meanings: (a) Loss Under Bid Bond. In the case of a bid bond, the lesser of the penal sum or the sum which is the difference between the bonded bid and the next higher responsive bid, less any amounts recovered by reason of the principal's defenses against the obligee's demand for performance by the principal and less any sums recovered from indemnitors and other salvage.

(b) Loss Under Payment Bond. In the case of a payment bond, at the surety's option, the sums necessary to pay all just and timely claims against the principal which are for the value of labor, materials, equipment and supplies furnished for use in the performance of the contract, and to pay other debts of the principal for which the surety is liable under the bond, or the penal sum of the payment bond, with interest and related court costs and attorney's fees, if any, less any amounts recovered (through offset or otherwise) by reason of the principal's claims against laborers, materialmen, subcontractors, suppliers or other rightful claimants, and less any sums recovered from indemnitors and other salvage.

(c) Loss Under Performance Bond. In the case of a performance bond, at the Surety's option, the sums necessary to meet the cost of fulfilling the terms of a contract, or the penal sum of the bond, with interest and related court costs and attorneys fees, if any, less amounts recovered (through offset or otherwise) by reason of the principal's defenses or causes of action against the obligee and less any sums recovered from indemnitors and other salvage.

(d) Loss under Ancillary Bond means a loss covered by that bond and attributable to the particular contract for which SBA-guaranteed payment or performance bonds were issued.

(e) Loss adjustment expense. Amounts actually paid, specifically allocable to the investigation, adjustment, negotiation, compromise, settlement of or resistance to a given claim (including court costs and reasonable attorney's fees) for loss resulting from the asserted breach of the terms of any guaranteed bond, but excluding all unallocated or overhead expenses of surety. Any allocation method must be reasonable and in accord with generally accepted accounting principles.

(f) Loss from litigation cost. Expenses shall also include court costs and reasonable attorney's fees incurred in suits to enforce mitigation of loss as defined in paragraphs (a) through (d) of this definition, including suits to obtain sums due from obligees, indemnitors, principals and others, but no such expense shall be paid for any such suits filed against the United States of America or any of its agencies, officers or employees unless the surety has, prior to filing such suit, received written concurrence from SBA that such suit may be filed, or unless such claim is asserted as a cross-claim or counterclaim.

(g) Loss from attorneys' fees and damages. "Loss" shall not include attorney's fees and court costs incurred by a surety in a suit by or against SBA or its Administrator, and shall not include such costs or payments (*e.g.*, tort damages) arising out of a successful suit sounding in tort initiated under the bond by a principal or any other person against such surety.

(h) Loss after excess contract amount. Where the contract amount, through change orders or otherwise is increased after issuance of the executed guaranteed bond beyond the statutory limit of $1,250,000, SBA's share of the loss shall be limited to that percentage of the increased contract amount, which the statutory limit represents, multiplied by the guarantee percentage approved by SBA. Thus, if a contract amount has been increased to $1,375,000, SBA's share of the loss under an 80% guarantee would be limited to 72.73% [1,250,000 ÷ 1,375,000=90.91% × 80%=72.73%].

Obligee means in the case of a bid bond, the person requesting bids for the performance of a contract, or in the case of a payment bond or performance bond, the person who has contracted with a Principal for the completion of

the contract and to whom the primary obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or

Guarantee Agreement or a Preferred Surety Bond Agreement with SBA and:

(a) Under the terms of a bid bond, undertakes to pay a sum of money to the

be subcontracted. SBA will not guarantee bonds for contractors who are primarily brokers or packagers, see § 124.109(a) of this chapter.

Chapter I, and amended from time to time by publication in the Federal Register. For purposes of this paragraph, a substantial violation shall be one

Assistance," SBA Forms 994 and 994B or C (Underwriting Review), respectively (OMB Approval No. 3245-0007). Except

found to be disadvantaged by SBA pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)). See

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the contract and to whom the primary obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond. No person shall be named co-obligee on the bond or on a rider to the bond unless such person (including a lender to the original obligee) is bound by the contract to the principal or to the surety, if surety has arranged completion of the contract, to the same extent as the original obligee or unless such co-obligee is a Federal department or agency. In no event may the aggregate liability of the surety exceed the penal sum of the bond.

Payment bond means a bond conditioned upon the payment by the Principal of money to persons who furnish labor, materials, equipment and supplies for use in the performance of the contract, and to other persons who have a right of action against such bond.

Performance bond means a bond conditioned upon the completion by the principal of a contract in accordance with its terms. Such bond shall not prohibit a surety from performing the contract upon default of the principal.

Person means a natural person or a legal entity.

PSB Surety means a surety admitted by SBA to the Preferred Surety Bond Program (PSB) and authorized by SBA to issue, monitor and service without further SBA approval, bid, payment and performance bonds, and bonds ancillary thereto, which shall be guaranteed by SBA, subject to these regulations, if issued within the periodic allocations set by SBA for each such preferred surety (see § 115.60(b)).

Premium means an amount determined by applying an approved rate to the bond or contract amount, and does not include surcharges for extra services whether or not considered part of the "premium" under local law.

Principal means in the case of a bid bond, a person bidding for the award of a contract, or in the case of final and ancillary bonds, the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance or payment the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

PSB means the Preferred Surety Bond Program (See "PSB Surety" above).

Surety means the person which is listed by the U.S. Treasury, see § 115.10(c), and is a corporation determined by SBA to be a surety eligible to participate in this program, which has entered into a Surety Bond Guarantee Agreement or a Preferred Surety Bond Agreement with SBA and:

(a) Under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond;

(b) Under the terms of a performance bond, undertakes to pay a sum of money or to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract; or

(c) Under the terms of a payment or an ancillary bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work under the contract and who have a right of action against the bond under local law, or

(d) Is an agent, independent agent, underwriter, or any other company or individual empowered to act on behalf of such person.

§ 115.12 Eligibility of principal.

In order to be eligible for a bond guaranteed by SBA, the principal must:

(a) *Size.* Qualify as a small business under part 121 of this chapter;

(b) *Character.* Possess good character and reputation. A Principal will be deemed to meet this standard if each owner of twenty percent or more of its equity, and each of its officers, directors, or partners possesses good character and reputation. Good character and reputation shall be presumed absent when any such person:

(1) Is under indictment (pending disposition of such indictment) for or convicted of a felony, or has suffered an adverse final civil judgment that he or she has committed a breach of trust or the violation of a law or regulation protecting the integrity of business transactions or business relationships; or

(2) A regulatory authority has revoked, cancelled or suspended the license of such person necessary to perform the contract; or

(3) Has obtained a bond guarantee by fraud or material misrepresentation (as these terms are defined in § 115.13), or has failed to keep Surety informed of unbonded contracts or a contract bonded by another surety as required by a bonding line commitment pursuant to § 115.36.

(c) *Need for bond.* Certify that a bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor thereon;

(d) *Availability of bond.* Certify that a bond is not obtainable on reasonable terms and conditions without SBA's bond guarantee assistance; and

(e) *Partial subcontract.* Certify the percentage of work under the contract to be subcontracted. SBA will not guarantee bonds for contractors who are primarily brokers or packagers, see § 124.109(a) of this chapter.

(f) *Debarment.* Certify that applicant is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions with any Federal department or agency, pursuant to governmentwide debarment and suspension rules. See, e.g., part 145 of this chapter, and 48 CFR subpart 9.4. Compliance with 13 CFR 145.510 shall satisfy this requirement, i.e., if surety has on file applicant's SBA Form 1624.

§ 115.13 Defenses of SBA.

In addition to equitable and legal defenses and remedies afforded by the general law of contracts, the statute and these regulations, SBA shall be relieved of all liability under any Surety Bond Guarantee, if:

(a) *Excess contract amount.* The total contract amount at the time of issuance of the bond or bonds exceeds $1,250,000 in face value; or

(b) *Misrepresentation.* The surety obtained the guarantee agreement or applied for reimbursement for losses by fraud or material misrepresentation. Material misrepresentation includes (but is not limited to) both the making of an untrue statement of material fact and the omission of a statement of material fact necessary to make a statement not misleading in light of the circumstances in which it was made, and includes the adoption by the surety of a material misstatement made by others which the surety knew or under generally accepted underwriting standards should have known to be false or misleading. Failure by the surety (as defined in § 115.11) to disclose its ownership (or the ownership by any owner of twenty percent or more of its equity) of an interest in a principal or an obligee shall be deemed the omission of a statement of material fact; or

(c) *Material breach.* The surety has committed a material breach of one or more terms or conditions of its guarantee agreement, whether under PSB or otherwise. For purposes of this paragraph, a material breach or breaches of such terms or conditions shall be deemed to have occurred if such breach (or such breaches in the aggregate) causes an increase in SBA's bond liability of at least 25 percent or $50,000 whichever is less, or if one of the statutory conditions (see § 115.30(a)) is not met; or

(d) *Regulatory violation.* The surety has substantially violated the SBA regulations as published in 13 CFR

Chapter I, and amended from time to time by publication in the Federal Register. For purposes of this paragraph, a substantial violation shall be one which increases the Agency's bond liability by more than 25 percent or $50,000 in the aggregate, whichever is less, or is contrary to the purposes of the program (see § 115.10(a)) or to the mission of SBA (see section 2 of the Small Business Act, 15 U.S.C. 631) or to national policy as stated in SBA regulations (see, for example and not as limitation, parts 112, 113, 116, 117 and 145 of this chapter); or

(e) *Alteration.* Surety agrees to or acquiesces in any material alteration in the terms, conditions or provisions of the bond(s), including but not limited to the following acts, without obtaining prior written approval from SBA which may be conditioned upon payment of additional fees:

(1) Name as an obligee on the bond(s) or on a rider to the bond any party (other than a Federal department or agency) which is not bound by the contract to the principal, or to the surety if surety has arranged completion of the contract, to the same extent as the original obligee; or

(2) Make any alterations in bond(s) issued with SBA's prior approval which would increase the bond(s) liability by more than either 25 percent, or $50,000 in the aggregate, whichever is less.

See also §§ 115.10(g), 115.30(a), 115.31(c), and 115.60(c)(4).

Subpart B—Guarantees Subject to Prior Approval

§ 115.30 Procedure for surety bond guarantee assistance.

(a) *General.* By submitting an application to SBA for a bond guarantee, surety shall be deemed to certify that the contractor is a small business concern, that the bond is expressly required by the terms of the bid solicitation or the contract (as the case may be), that the contractor is not able to obtain such bond on reasonable terms and conditions without an SBA guarantee, that the terms and conditions of the proposed bond are reasonable in the light of the risks involved and the extent of the surety's participation, and that there is a reasonable expectation that the principal, if awarded the contract, will perform the conditions of the contract with respect to which the bond is required.

(b) *Application for guarantee.* Application for an SBA guarantee (including a bonding line application—see also § 115.36(c)) is made by the contractor and the surety on a form "Application for Surety Bond Guarantee Assistance," SBA Forms 994 and 994B or C (Underwriting Review), respectively (OMB Approval No. 3245–0007). Except for premiums, contractor shall itemize on SBA Form 994 (Application for Surety Bond Assistance) all payments made, or to be made, by contractor to surety (as defined in § 115.11) for whatever purpose as a condition of, or in connection with, the issuance of the bond(s) to be guaranteed by SBA. Contractor and surety, respectively, shall disclose, by separate attachment to SBA Forms 994 and 994B or C, to the best of their knowledge any business and close family relationship between them (for definition of "close relative," see § 120.2–2(d) of this chapter). No negative statement is required. The contractor shall be required to execute and file SBA Form 1261 (Statements Required by Law or Executive Order) and SBA Form 1624 (Lower Tier Certification Form) (no OMB Approval No. required) with the initial application. In addition, the contractor shall complete and provide SBA Form 912, Statement of Personal History (OMB Approval No. 3245–0176), for each owner of 20 percentum (20%) or more of its equity and each officer, director and partner, for submission with contractor's initial application and on subsequent applications shall either certify that the information provided in the initial SBA Forms 912 remains complete and accurate, or submit updated SBA Forms 912. The completed application, together with the surety's report of underwriting review on SBA Form 994B or 994C (OMB Approval No. 3245–0007), shall be submitted to SBA only by a person empowered and authorized by the surety in writing to issue the bond applied for. A surety shall furnish SBA a true copy of its agent's power-of-attorney (including any dollar or other limitation thereon) before or with such agent's initial request for a guarantee, notice of any subsequent modification thereof, and a renewal notice on or before the expiration date of such power.

(c) *Indemnification.* (1) SBA shall pay to the surety ninety percent (90%) of the loss incurred and paid if:

(i) The total amount of the contract at the time of issuance of the bond is one hundred thousand dollars ($100,000) or less.

(ii) The bond was issued on behalf of a small concern owned and controlled by socially and economically disadvantaged individuals. "Socially and economically disadvantaged individuals" shall include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Subcontinent Asian Americans, and other minorities or any other individual found to be disadvantaged by SBA pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)). See § 124.105 of this chapter. A concern so owned and controlled shall qualify if it qualifies as small under the size standard for its primary industry as set forth in part 121 of this chapter and if it is at least fifty-one percent (51%) or more owned by such disadvantaged individuals, and it is managed and its daily business operations are controlled by one or more such individuals.

(iii) In cases where the contract amount, subsequent to the issuance of the bond under paragraph (c)(1)(i) of this section, increases to more than $100,000, through change orders or otherwise, the percentage of SBA's indemnification of the surety shall decrease by one percentage point for each $5,000 of increase or part thereof, but shall not decrease below 80 percent. This provision shall not apply to guarantees which qualify under paragraph (c)(1)(ii) of this section.

(2) SBA shall indemnify a surety in an amount not to exceed an administrative ceiling of eighty percent (80%) of the loss on bonds issued to other than disadvantaged concerns in excess of $100,000 (one hundred thousand dollars).

§ 115.31 Approval or decline of surety's guarantee application.

(a) *Approval.* SBA's approval or decline of a guarantee application shall be made in writing only by the SBA officer having delegated authority to approve contract amounts such as underlie the bond in question (see § 101.3–2, Part III (c) of this chapter). This paragraph does not prohibit telephone notice by such officer to a surety that SBA's guarantee approval form has already been signed by such officer, in advance of surety's receipt of such approval (pending receipt by surety of such written approval): *Provided, however,* That the written approval shall be controlling, as against such telephone notice.

(b) *Reconsideration—appeal.* A request by a surety for reconsideration of a decline shall be directed to the appropriate SBA officer who made the decision to be reconsidered. If the decision on reconsideration is negative, the surety may make a further appeal to the Regional Administrator. If the decision is again adverse, surety may direct an appeal to the Associate Administrator for Finance and Investment, who shall make the final Agency decision.

(c) *Notice to SBA.* When surety has issued the final bonds, surety shall complete Items 19 to 26 on SBA Form

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990, or in the case of a bonding line, SBA Form 994C, and submit the form, together with the principal's or the surety's check for the principal's guarantee fee (see § 115.35(b)) to SBA within 45 days after the later date of:

(i) The award of the bonded contract or

(ii) The issuance of the bond(s).

(2) If surety fails to submit such information and check in a timely fashion, SBA's guarantee of the bond shall be void from its inception, but may be reinstated, at SBA's discretion, upon a showing that:

(i) The contract is not in default and

(ii) A valid reason exists why a timely submission was not made.

§ 115.32 Underwriting and servicing standards.

(a) *Underwriting.* Sureties shall adhere to SBA's general principles and practices used in evaluating the credit, capacity, and character of a contractor as set forth in SBA's Surety Bond Guarantee Program Standard Operating Procedure (SOP 50–45), as amended from time to time,[2] and as supplemented by generally accepted standards of the surety business, to assure a reasonable expectation that the principal will perform the covenants and conditions of the contract, and that the terms and conditions of the bond are reasonable in the light of the risks involved and the extent of the surety's participation.

(b) *Servicing.* Sureties shall obtain from obligees of final bonds guaranteed by SBA job status reports on forms approved by SBA. Frequency, form and content of such reports shall be set forth in SOP 50–45 referred to in paragraph (a) of this section.

§ 115.33 SBA's review of surety's underwriting.

The authorized officer (see § 115.31(a)) shall review the surety's underwriting of a bond, taking into consideration the standards specified in § 115.32 for the purpose of making SBA's determination that the principal and the proposed bond(s) are eligible for SBA's guarantee, that there is a reasonable expectation that the principal will perform the covenants and conditions of the contract under consideration, that the terms of the bond are reasonable in the light of the risk involved and the extent of the surety's participation. A bid bond shall not be a forfeiture bond unless issued for a jurisdiction where statute or settled decisional law requires forfeiture bonds for public works.

[2] The SOP may be obtained from SBA' Office of Surety Guarantees.

§ 115.34 Reinstatement after default or failure to pay guarantee fee.

(a) *Conditions for reinstatement.* When legal action against a bond has been instituted, or when surety establishes a claim reserve for such bond, or when surety requests reimbursement of loss under such bond from SBA, or a principal on such bond has failed to pay SBA the fee required by § 115.35(b), the principal's file shall be transferred to SBA's Office of Surety Guarantees, unless that office, in its discretion and with the surety's recommendation, determines that further bond guarantees will assist in the prevention or elimination of loss to SBA. The application file will be retained in that office and the principal, including any affiliates, will not be considered for guarantees of bonds until principal pays the fee or surety has repaid SBA in full for all payments due to an imminent breach or due to the principal's default, as the case may be, or one of the following circumstances exists:

(1) Surety has settled its claim with principal for an amount less than the amount of loss; principal has made an agreed cash payment to surety for a portion of the settlement and has given a note for the balance to surety.

(2) Principal is presented with a claim which it contests and principal provides collateral acceptable to surety which has a liquidation value of not less than the amount of the claim including related expenses.

(3) The principal's indebtedness to the surety is discharged by operation of law as in bankruptcy or any judicial or quasi-judicial process.

(b) *Underwriting after reinstatement.* A guarantee application after default is subject to the most stringent underwriting review, taking into account the previous default, past work experience, present and future financial and work capability, and SBA's budgetary guidelines. While a settlement, as described above, permits reinstatement, prudent underwriting must take into consideration all past experience. Where, however, a surety with full knowledge of past experience is willing to bond the principal again, and states its belief that the principal can complete the proposed contract successfully and without another loss, SBA will give careful consideration to the surety's guarantee application.

§ 115.35 Fees and premiums.

(a) *Surety's premium.* A surety shall charge a principal no amount greater than that authorized by the appropriate insurance department. A surety shall make no requirement of a principal that it purchase casualty or other insurance or any other services from the surety or any affiliate or agent of the surety. A surety shall not make non-premium charges to a principal except where other services are performed and the additional charge or fee is permitted by the appropriate State law or regulation and agreed to by the principal.

(b) *SBA charge to principal.* No application or bid bond guarantee fee shall be charged to the small business by SBA. No bid bond guarantee fee shall be charged by SBA to the surety. If SBA guarantees a payment and/or performance bond, the principal shall pay to SBA to guarantee fee of $6 (six dollars) per thousand dollars (rounded off to the nearest one thousand dollars) of the contract amount (unless SBA agrees otherwise in writing) to be remitted to SBA by surety together with the notice required under § 115.31(c) of this part. See paragraph (c)(2) of this section for additional requirements in the event of certain changes in the bond obligation.

(c) *SBA charge to surety.* (1) Subject to § 115.39(a), a surety shall pay SBA a guarantee fee on each guaranteed bond computed at twenty percent (20%) of the bond premium. SBA shall not receive any portion of a surety's non-premium charges. Surety shall notify SBA of any increases or decreases in such contract or bond amount aggregating $10,000 or more, but no adjustment in fees shall be made therefor: *Provided,* That whenever the bond liability is increased by change order or otherwise, in excess of an aggregate amount of 25% or $50,000, whichever is less (see § 115.13(e)), SBA's approval of such increase(s) by SBA's authorized officer (see § 115.31(a)) on a supplemental SBA Form 990 (OMB Approval No. 3245–0007) shall be conditioned upon payment by the surety, in the normal course of business, of an additional twenty percent (20%) premium share for such increase(s). In these circumstances, the surety's application for approval thereof shall be accompanied by the principal's or the surety's check for the principal's additional guarantee fee for such increase computed as prescribed in paragraph (b) of this section: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded. The surety's application pursuant to this paragraph shall be ineffective without such check for the principal's guarantee fee.

(2) Whenever such contract amount or bond liability is decreased by an aggregate amount in excess of 25% or $50,000, whichever is less, SBA shall promptly refund to the surety a proportionate amount of the principal's guarantee fee paid to SBA and rebate such proportionate amount of SBA's premium share in the normal course of business: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded. The surety shall promptly pay such SBA refund and a proportionate amount of its premium to the principal.

§ 115.36 Surety bonding line.

(a) *General.* A surety bonding line is a written commitment by SBA to a surety which provides for the issuance of multiple bonds to a specified small business within pre-approved terms, conditions and limitations. A bonding line shall not exceed one year's duration. In addition to the other limitations and provisions set forth in this part 115, the following conditions apply to each surety bonding line (OMB Approval No. 3245–0007):

(b) *Underwriting.* A bonding line may be issued by SBA for a small business if the respective underwriting evaluation is satisfactory. The surety shall require the principal to keep it informed of all its contracts, bonded by the same or another surety or unbonded, during the time limit of the bonding line.

(c) *Application for bonding line.* The surety shall provide SBA with:

(1) In addition to the forms required pursuant to § 115.30(b), information about the small business deemed necessary by SBA;

(2) A determination regarding the limit on the number of contracts covered by SBA guaranteed bonds under the bonding line which the small business may undertake at any one time;

(3) A determination regarding the maximum dollar amount of any single bonded contract the small business can reasonably be expected to perform;

(4) A determination concerning the number and a limit of the total value of all outstanding bids plus uncompleted contracts ("work on hand," bonded by the same or another surety and unbonded) which the small business can reasonably be expected to perform simultaneously;

(5) A determination whether the small business' bonds should be restricted to a specific type or specialty of work or should be restricted to a geographical area.

(d) *Bonding line commitment conditions.* In the event a bonding line is approved, the written commitment shall be conditioned by limitations as follows:

(1) The time period of the bonding line not to exceed one year, subject to renewal in writing;

(2) The total dollar volume of the small concern's bonded and unbonded work on hand at any one time during the period of the bonding line;

(3) The number of such contracts during the period of the bonding line;

(4) The maximum dollar amount of any single guaranteed bonded contract;

(5) The bond covering a given contract shall be dated and issued before the work on the contract has begun (see § 115.10(g)(2)), or surety submits to SBA the documentation required under § 115.10(g)(3); and

(6) Any other limitation related to type, specialty of work, geographical area or credit.

(e) *Excess bonding.* If, after a bonding line is committed, the principal desires a bond and the Surety desires a guarantee exceeding a limitation of the bonding line, an application to SBA may be made under regular procedures.

(f) *Submission of forms to SBA.* Within 15 business days after the issuance of any final bonds under a bonding line, the surety shall submit notice to SBA on forms prescribed by SBA (OMB Approval No. 3245–0007) showing that the bond or bonds have been issued. Surety may use SBA Form 994C (OMB Approval No. 3245–0007) when a completed Form 994B is on file with SBA, except when new financial statements are received from the principal. If the surety fails to submit such form and the related check for the guarantee fee of the principal to SBA in a timely fashion, SBA's guarantee of the bond shall be void from its inception, but may be reinstated, at SBA's discretion, upon a showing that the contract is not in default—see § 115.10(g)(3)—and a valid reason exists why the timely submission was not made.

(g) *Additional information.* In addition to the information required under paragraph (f) of this section, surety shall submit any additional data deemed necessary by SBA.

(h) *Cancellation.* Upon the occurrence of a default, in the opinion of the surety, whether under a contract bonded by the same or another surety or an unbonded contract, the surety shall cancel the bonding line commitment. SBA, if it has approved the bonding line, or the surety may cancel a bonding line commitment at any other time upon written notice to the other party. In either event surety shall promptly notify the principal in writing. Cancellation by SBA will be effective upon receipt of such notice by the surety: *Provided, however,* That bonds issued before the effective date of cancellation shall remain guaranteed by SBA.

§ 115.37 Minimization of loss.

(a) *Indemnification agreements and collateral.* Surety shall take all reasonable action to minimize risk of loss, including, but not limited to, securing from each bonded principal a written indemnification agreement which shall cover actual losses under the contract, and payments pursuant to paragraph (b) of this section, secured by such collateral as the surety and/or SBA may deem appropriate. Other indemnity agreements from other persons or entities, secured by collateral or unsecured, may also be required by the surety and SBA. All SBA requirements concerning collateral and indemnity from parties other than the principal shall be communicated to the surety in the written commitments issued pursuant to §§ 115.31(a) or 115.36(d).

(b) *Imminent breach.* (1) A surety may apply to SBA for an agreement to indemnify such surety against loss sustained when making payments for the purpose of avoiding, or attempting to avoid, an imminent breach of the terms of a specific bond guaranteed by SBA, if the surety can demonstrate to SBA's satisfaction that such breach is imminent and that the principal has no other recourse to prevent such breech. No payment by SBA to avoid imminent breach shall exceed 10 per centum of the contract price, unless the Administrator finds that a greater payment is necessary and reasonable. In no event shall SBA pay an amount exceeding its guaranteed share of the bond penalty, see § 115.30(c), nor shall SBA make any duplicate payment pursuant to this provision or any other provision.

(2) A surety making payments to avoid imminent breach shall keep records concerning such payments that will enable SBA to ensure that its payments do not exceed its guaranteed share of the bond penalty, and that SBA's total payments under its guarantee of a given bond do not include a share of duplicate payments under such bond. See also § 115.32(b).

(c) *Salvage and recovery.* A surety shall pursue all possible sources of salvage and recovery, until SBA consents to discontinuance of such efforts or to a compromise. Such surety shall remit SBA's share of all such collections to SBA within 90 days of receipt by surety. In any dispute between two or more sureties concerning bonds which are guaranteed by SBA, such dispute shall first be brought to the attention of SBA's Office

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recovery and for an additional three years thereafter, and, shall include the following records:

(1) The bond agreement;

(2) All documentation submitted by the principal in applying for the bond;

(3) All information gathered by the surety in reviewing the principal's application;

(4) All documentation of any breach by the principal;

(5) All records of any transactions for which the surety makes payment pursuant to the bond, including, but not limited to, copies of all claims, bills, judgments, settlement agreements and court or arbitration decisions, contracts and receipts;

(6) All documentation relating to efforts to mitigate losses, including documentation required by § 115.37(b) concerning imminent breach; and

(7) Records of any accounts into which fees and funds obtained in mitigation of losses have been paid, and from which payments have been made pursuant to the bond.

(c) *Purpose of audit.* Such audit shall determine but not be limited to

(1) The adequacy of the surety's underwriting and credit analysis;

(2) The adequacy and accuracy of the documentation of claims and the surety's claims settlement procedures and activities;

(3) The minimization of loss, including the exercise of bond options upon contract default; and

(4) The surety's loss ratio in comparison with other sureties participating with SBA to a comparable degree.

(d) *Investigations.* SBA may conduct such investigations as it deems necessary to inquire into the possible violation by any person of the Small Business Act and the Small Business Investment Act of 1958, as amended, or of any rule or regulation under these Acts, or of any order issued under these Acts, or any Federal law relating to programs and operations of the SBA.

(e) *Authority.* Authority for paragraphs (a), (b) and (d) of this section is contained in sections 310(a) and 411(g) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b(a) and 694b(g), and in the Inspector General Act of 1978 (5 U.S.C., App. I).

Subpart C—Preferred Surety Bond (PSB) Guarantees

§ 115.60 Procedures for PSB.

(a) *Applications.* A surety shall make application for admission to PSB in writing to the Director, Office of Surety Guarantees (OSG), Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, Virginia 22203. That office shall determine the eligibility of the applicant for admission to PSB status (see § 115.10(d)) and review the applicant's standards and procedures for underwriting, administration and claims. A surety admitted to PSB shall execute a "Preferred Surety Bond Guarantee Agreement," before issuing SBA guaranteed bonds, and no SBA guarantee shall attach to bonds issued before SBA's Associate Administrator for Finance and Investment or his designee has countersigned such Agreement.

(b) *Allocation of guarantee authority.* OSG shall allot to each surety admitted to PSB a periodic maximum guarantee authority. No SBA guarantee shall attach to bonds issued by a PSB surety if such bonds are issued within a given period in excess of the allotted authority for such period and no reliance on past or future authority shall be permitted. A PSB surety's allocation shall be increased only by prior written permission of OSG. The penal sum of bid bond guarantees shall count against the allocation until the contract has been awarded, the bid withdrawn or the bid bond has expired (see definition in § 115.11). The release of final bonds shall not restore such periodic allocation.

(c) *Operations.* (1) A PSB surety shall observe all applicable SBA regulations (including but not limited to parts 112, 113, 115, 116 and 117) and obtain from its applicants all the information and certifications required by SBA. The PSB surety shall document such observance of regulations and retain such certifications (including a contemporaneous record of the date of issuance of each bond) in its files, for inspection by SBA or its agents and for submission to SBA in connection with claims made under SBA's guarantee. See also § 115.10(g).

(2) A PSB surety shall issue and administer SBA-guaranteed bonds in the same manner and with the same staff as the surety's activity outside the PSB program. Such surety shall send requests for job status reports to the obligees in accordance with its own procedures.

(3) The PSB surety shall pay SBA 20 percent of the premium of final bonds, and remit to SBA the principal's check or its own check for the principal's guarantee fee of $6 (six dollars) per thousand dollars of the contract or bond amount, according to the PSB surety's own premium base (rounded off to the nearest one thousand dollars). SBA's premium share shall be remitted as agreed between SBA and the PSB surety. The check for the principal's guarantee fee shall be remitted with the bordereau listing the related final bond. See § 115.35(b).

(4) A PSB surety shall advise SBA by monthly bordereau of all bid bonds issued and of the issuance of final bonds or the surety's approval of increases and decreases in the bond liability. SBA's guarantee shall not cover a final bond for which SBA has not received notice on the monthly bordereau for the month in which the bond was issued or the liability increase was approved by the PSB surety, as the case may be. The notice shall contain the name, trade address and employer ID number of the principal, the PSB surety's and SBA's identifying number(s), the obligee's name and address, a brief description of the nature, extent and location of the job, the bid or estimated contract amount and the bond amount.

(5) The PSB surety shall advise SBA within thirty (30) calendar days of the name and address of a principal when legal action against such principal's bond has been instituted or when the obligee has declared a default or when the surety has established a claim reserve. Such surety shall similarly notify SBA within thirty (30) days if SBA's payments under its guarantees have been reimbursed and if surety determines to bond such principal again.

(6)(i) The PSB surety shall process bond liability increases within its allocation (see § 115.60(b)) in the same manner as initial guaranteed bond issuances (see paragraph (c)(4) of this section), present checks for additional fees due from the principal computed on the aggregate increase(s), only if they exceed 25 percent or $50,000, whichever is less, computed pursuant to paragraph (c)(3) of this section and attach such payment(s) to the respective monthly bordereau: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded.

(ii) Where such bond liability is decreased to a like extent, the PSB surety shall promptly remit to the principal SBA's refund of such principal's guarantee fee (see § 115.35(c)(5)(B), and adjust SBA's premium share accordingly in the normal course of business: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded.

§ 115.61 Claims for losses.

(a) *How claims are submitted.* A PSB surety shall submit to SBA claims for reimbursement of losses paid on its own

of Surety Guarantees for an attempt at mediation and settlement.

§ 115.58 Claims for losses.

Claims for reimbursement on account of losses which surety has paid shall be submitted (together with a copy of the bond and the bonded contract with the initial claim) to SBA's Office of Surety Guarantees within one year from the time of each disbursement on SBA Form 994H (OMB Approval No. 3245–0007). Claims submitted after one such year shall be accompanied by complete substantiation to SBA's satisfaction. Loss will be determined as of the date of receipt by SBA of such claim for reimbursement, or as of such later date as additional information requested by SBA is received. Surety shall further submit semiannual status reports on each claim, six months after the initial default notice and in six-month intervals thereafter. SBA may request additional information. Subject to part 140 of this chapter, SBA shall pay its share of loss within ninety (90) days of receipt of the requisite information. Surety shall reimburse or credit SBA (in the same proportion as SBA's share of loss) within ninety (90) days of any recovery or salvage by surety. Claims for reimbursement and any additional information provided are subject to review and audit by SBA, including but not limited to the surety's compliance with SBA's regulations and the requirements of SBA forms.

§ 115.59 Refusal to issue further guarantees.

(a) *Improper surety bond guarantee practices.* SBA at its sole discretion may refuse to issue further guarantees to a surety where SBA finds that the surety, in its underwriting of surety bonds guaranteed by SBA, or in its efforts to minimize loss, or in its claims practices, or its documentation related to such bonds, has failed to adhere to prudent underwriting standards or other prudent surety practices, as compared to those of other sureties participating in the SBA Surety Bond Guarantee Program, including any standards or practices required and communicated by SBA. Acts of wrongdoing such as fraud, material misrepresentation, breach of the guarantee agreement or regulatory violation (as defined in § 115.13 above) shall constitute adequate grounds for refusal to issue further guarantees. SBA may also require the renegotiation of the percentage of its loss guarantee under § 115.10(c) and/or its charge to surety under § 115.35(c), with a surety which experiences excessive losses on SBA-guaranteed bonds, relative to those of other sureties participating in the program to a comparable degree. Such refusals or sanctions will be issued by SBA's Associate Administrator for Finance and Investment. Any surety that has been so sanctioned may file a petition for review of the sanction in accordance with § 134.11(a) of this chapter. Proceedings concerning such petition shall be conducted in accordance with the provisions of part 134 of this chapter. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34 of this chapter.

(b) *Business integrity.* Any person qualifying as a surety, including any officer, director, individual partner, other individual holding twenty or more percent of the surety's voting securities, and any agent, independent agent, underwriter or individual empowered to act on behalf of such person shall be deemed to have good character and (subject to § 115.30(b) of this part) be entitled to present applications for guarantees of bonds: *Provided, however,* That good character shall be presumed absent in the following circumstances:

(1) When a State or other authority regulating insurance (including the surety industry) has revoked or cancelled the license required of such person or engage in the surety business, the right of such person to participate in the program may be denied or terminated as applicable. When such authority has suspended such license, the right to participate may be suspended for the duration of such suspension.

(2) When such person has been indicted or otherwise formally charged with a misdemeanor or felony bearing on such person's fitness to participate in the program, the participation of such person may be suspended until the charge is disposed of. Upon conviction, participation may be denied or terminated.

(3) When such person has suffered an adverse final civil judgment holding that such person has committed a breach of trust or violation of a law or regulation protecting the integrity of business transactions or relationships, participation may be denied or terminated.

(4) When such person has made a material misrepresentation or willfully false statement in the presentation of oral or written information to SBA in connection with an application for a surety bond guarantee or the presentation of a claim thereon, or committed a material breach of the guarantee agreement or a material violation of the regulations (all within the meaning of § 115.13(b)), the participation may be denied or terminated.

(5) When such person is debarred, suspended, voluntarily excluded from or declared ineligible for participation in Federal programs, participation may be denied or terminated.

(c) *SBA proceedings.* Surety shall notify SBA if and when any of the above mentioned persons does not, or ceases to, qualify as a surety under this section. SBA may require submission of SBA Form 912, Statement of Personal History (OMB Approval No. 3245–0178) from any of these individuals. All proceedings for suspensions, terminations from and reinstatements to participation in the Surety Bond Guarantee program shall be conducted in the manner described in subsection (a) of this section. The Administrator may, pending a hearing and decision pursuant to part 134 of this Chapter, suspend the participation of any surety for any of the causes listed in paragraphs (b)(1) through (5) of this section. A guarantee issued by SBA before a suspension or termination under this section shall remain in effect.

§ 115.60 Audits and investigations.

(a) *Audits.* At all reasonable times, SBA may audit in the office of either a participating surety, its attorneys, or the contractor or subcontractor completing the contract all documents, files, books, records, tapes, disks and other material relevant to the Administration's surety bond guarantee, commitments to guarantee a surety bond, or agreements to indemnity the surety. Failure of a surety to consent to such audit or maintain such records shall be grounds for SBA to refuse to issue further surety bond guarantees or to honor claims until such time as the surety consents to such audit: *Provided, however,* That when SBA has so refused to issue further guarantees or to honor such claims, the surety may file a petition for review of such adverse action in accordance with § 134.11(a) of this chapter. Proceedings concerning such appeal shall be conducted in accordance with the provisions of part 134. The Assistant Administrator of the Office of Hearing and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34.

(b) *Records.* The relevant records within the meaning of paragraph (a) of this section shall be maintained for the term of each bond, plus such additional time as may be required to settle claims for which the surety may seek recovery from SBA or attempt salvage or other

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form if such form is approved by SBA no later than one year from disbursement. Loss will be determined as of the date of receipt by SBA of such claim for reimbursement, or as of such later date as additional information or documents requested by SBA are received. SBA may request additional information or documents. Subject to part 140 of this chapter, SBA shall pay its share of loss within ninety (90) days of receipt of the requisite information. The PSB surety shall reimburse or credit SBA (in the same proportion as SBA's share of loss) within ninety (90) days of any recovery or salvage by surety. Claims for reimbursement and any additional information provided are subject to review and audit by SBA.

(b) *Imminent breach.* A PSB surety may make payments to avoid imminent breach without prior SBA approval whether or not such payment exceeds 10 per centum (10%) of the contract price, but SBA's guaranteed share of the aggregate of such payments and of indemnification against loss shall be limited to SBA's guaranteed share of the bond penalty. In no event shall SBA make any duplicate payment pursuant to this paragraph (b) or any other provision of these regulations. A PSB surety making payments to avoid imminent breach shall keep records concerning such payments that will enable SBA to ensure that its payments do not exceed its guaranteed share of the bond penalty, and that SBA's total payments under its guarantee of a given bond do not include a share of duplicate payments under such bond.

§ 115.62 Qualifications of surety.

(a) *Improper surety bond guarantee practices.* SBA at its sole discretion may suspend the preferred status of a PSB surety pursuant to paragraph (d) of this section, where SBA finds that the surety, in its underwriting of surety bonds guaranteed by SBA, or in its efforts to minimize loss, or in its claims practices, or its documentation related to such bonds, has failed to adhere to prudent underwriting standards or other prudent surety practices, as compared to those of other PSB sureties participating in the SBA Surety Bond Guarantee Program. Acts of wrongdoing such as fraud, material misrepresentation, breach of the guarantee agreement or regulatory violation (as defined in § 115.13 above) shall constitute adequate grounds for refusal to continue preferred status. SBA may also require the renegotiation of the percentage of its loss guarantee under § 115.64(a) and/or its charge to surety under § 115.60(c)(3), with a surety which experiences excessive losses on SBA-guaranteed bonds, relative to those of other PSB sureties participating in the program to a comparable degree. Such sanctions will be issued by SBA's Associate Administrator for Finance and Investment. Any surety that has been so sanctioned may file a petition for review of the sanction in accordance with § 134.11(a) of this chapter. Proceedings concerning such petition shall be conducted in accordance with the provisions of part 134 of this chapter. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34 of this chapter.

(b) *Business integrity.* Any person qualifying as a PSB surety, including any officer, director, individual partner, other individual holding twenty or more percent of the surety's voting securities, and any agent, independent agent, underwriter or individual empowered to act on behalf of such person shall be deemed to have good character: *Provided, however,* That good character shall be presumed absent in the following circumstances:

(1) When a State or other authority regulating insurance (including the surety industry) has revoked or cancelled the license required of such person to engage in the surety business, the right of such person to participate in the program may be dined or terminated as applicable. When such authority has suspended such license, the right to participate in the PSB program in any capacity may be suspended for the duration of such suspension.

(2) When such person has been indicted or otherwise formally charged with a misdemeanor or felony bearing on such person's fitness to participate in the program, the participation of such person may be suspended until the charge is disposed of. Upon conviction, participation may be denied or terminated.

(3) When such person has suffered an adverse final civil judgment holding that such person has committed a breach of trust or violation of a law or regulation protecting the integrity of business transactions or relationships, participation may be denied or terminated.

(4) When such person has made a material misrepresentation or willfully false statement in the presentation of oral or written information to SBA in connection with an application for a surety bond guarantee or the presentation of a claim thereon, or committed a material breach of the guarantee agreement or a material violation of the regulations (all within the meaning of § 115.13), the participation may be denied or terminated.

(5) When such person is debarred, suspended, voluntarily excluded from or declared ineligible for participation in Federal programs, participation may be denied or terminated.

(c) *SBA proceedings.* The PSB surety shall notify SBA if and when any of the above mentioned persons does not, or ceases to, qualify as a surety under this section. SBA may require submission of SBA Form 912, Statement of Personal History (OMB Approval No. 3245-0178) from any of these individuals. The Administrator may, pending a hearing and decision pursuant to part 134 of this chapter, suspend the participation of any surety for any of the causes listed in paragraphs (b)(1) through (5) of this section. A guarantee issued by SBA before a suspension or termination under this section shall remain in effect.

(d) *Suspension and termination of preferred status.* SBA reserves the right to suspend the preferred status of a surety by written notice stating SBA's reason(s) for such suspension, at least 30 calendar days prior to the effective date of the suspension. Any bonds issued under SBA's guarantee prior to the effective date of such suspension shall remain covered by SBA's guarantee. Reasons for such suspension, in addition to the defenses listed in § 115.13, shall include, but not be limited to, an excessive loss experience as compared to other PSB surety companies participating with SBA to a comparable degree, a finding of violation of the PSB surety's approved underwriting or claims procedures, or of SBA's regulations, or that the surety no longer meets the qualification for preferred status (§ 115.10(d)). Any surety that has been so suspended may file a petition for review of such suspension in accordance with § 134.11(a) of this chapter. Proceedings concerning such petition shall be conducted in accordance with the provisions of part 134 of this chapter and may result in the surety's termination from surety bond program participation (§ 134.3(i)). The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34.

§ 115.63 Audits and investigations.

(a) *Records and reports.* Each PSB surety shall be audited at least once each year by examiners selected and approved by the Administration. At all reasonable times, SBA may audit in the office of either a PSB surety, its attorneys, or the contractor or subcontractor completing the bonded contract all documents, files, books, records, tapes, disks and other material relevant to the Administration's surety bond guarantee, or agreements to indemnify the PSB surety. Failure of a PSB surety to consent to such audit or maintain such records shall be grounds for SBA to suspend such PSB surety from participation or to honor claims until such time as the surety consents to such audit: *Provided, however,* That when SBA has so refused to issue further guarantees, the surety may file a petition for review of such refusal in accordance with § 134.11(a) of this chapter. Proceedings concerning such appeal shall be conducted in accordance with the provisions of part 134. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34.

(b) *Time period.* The relevant time period and the records subject to such audit are those listed in § 115.40(b).

(c) *Investigation.* SBA may conduct such investigations as it deems necessary to inquire into the possible violation by any person of the Small Business Act and the Small Business Investment Act of 1958, as amended, or of any rule or regulation issued under these Acts, or of any order issued under these Acts, or of any Federal law applicable to programs or operations of the SBA.

(d) *Authority.* Authority for this section is contained in sections 310(a) and 411(g) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b(a) and 694b(g)), and in the Inspector General Act of 1978 (5 U.S.C., App. I).

§ 115.64 Liability of SBA.

(a) *Percentage of Indemnification.* SBA shall indemnify a surety operating under PSB in an amount not to exceed seventy percent (70%) of its loss as that term is defined in § 115.11.

(b) *Grounds for denial of indemnification.* SBA shall deny liability to a PSB surety if:

(1) The total contract amount at the time of issuance of the bond or bonds exceeds $1,250,000, whether or not the liability under the bond(s) exceeds that amount;

(2) The principal is not a small business, as defined in part 121 of this chapter;

(3) The bond is not required under the bid solicitation or the contract;

(4) The SBA guarantee of the bond has been obtained, or the surety has applied for indemnification against losses, by fraud or material misrepresentation, as these terms are defined in § 115.13;

(5) The bond was not eligible for guarantee by SBA because the bonded contract did not comply with the definition of contract in § 115.11;

(6) The loss occurred under a bond that was not guaranteed by SBA;

(7) The loss does not fall within the definition of eligible "loss" in § 115.11;

(8) The loss occurred under a final bond for which the check(s) for the contractor's guarantee fee had not been received with the related bordereau(x) by SBA;

(9) The PSB surety's guaranteed bond was issued without SBA's consent after work under the contract had begun, as defined in § 115.10(g);

(10) The PSB surety's guaranteed bond was issued in an amount which, together with all other such bonds, exceeded the allotment for the period during which such bond was issued and no prior SBA approval had been obtained;

(11) The bond was not listed on the bordereau for the period during which it was issued;

(12) The loss did not result from the principal's breach of the contract for which the guaranteed payment or performance bond were issued;

(13) The loss under an ancillary bond is not attributable to the particular contract for which SBA-guaranteed payment or performance bonds were issued.

(Catalog of Federal Domestic Assistance, No. 59.016 Bond Guarantees for Surety Companies)

Dated: September 22, 1989.

Kay Bulow,

Deputy Administrator.

[FR Doc. 89-26027 Filed 11-8-89; 8:45 am]

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Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 15, 31, and 52
Federal Acquisition Regulation (FAR); Cost of Postretirement Benefits Other Than Pensions; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15, 31, and 52

Federal Acquisition Regulation (FAR); Cost of Postretirement Benefits Other Than Pensions

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering amending FAR 15.804–6, 31.205–6, 52.216–7, and 52.232–16, and adding 52.215–38 to set forth a new rule on the allowability of postretirement benefits other than pensions on U.S. Government contracts.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 8, 1990 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–70 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405 (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Financial Accounting Standards Board has proposed a rule which would require that, for purposes of financial accounting, certain liabilities and costs be recognized in connection with postretirement benefits other than pensions. The Councils are proposing a rule, for purposes of cost recognition under Government contracts, which would require either payment of the liability or dedicated funding as a condition of allowability. Such a rule would be consistent with the Government's time-honored policy precedent, notably in the qualified pension area, with regard to material distant liabilities. The Councils believe that the cash flow advantages that would inure to contractors, should unfunded accruals be reimbursed under contracts, could not be justified as public policy.

B. Regulatory Flexibility Act

The proposed changes to 15.804–6, 31.205–6(m), 52.216–7, and 52.232–16, and the adding of 52.215–38 clarify a condition of allowability, namely funding or payment, upon those who wish to be reimbursed under Government contracts. As such, there is no administrative burden on businesses of any size. The proposed changes are not expected to have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. An Initial Regulatory Flexibility Act analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and must cite section 89–610 (FAR Case 89–70).

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 15, 31, and 52

Government procurement.

Dated: November 1, 1989.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 15, 31, and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 15, 31, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.804–6 is amended by adding paragraph (f) to read as follows:

15.804–6 Contract clauses.

* * * * *

(f) *Postretirement benefit funds.* The contracting officer shall insert the clause at 52.215–38, Reversion or Adjustment of Postretirement Benefits other than Pensions (PRB) Plans, in solicitations and contracts for which it is anticipated that certified cost or pricing data will be required or for which any preaward or postaward cost determinations will be subject to Subpart 31.2

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Section 31.205–6 is amended by revising paragraph (m)(1); by redesignating paragraph (m)(2) as (m)(3); and adding a new paragraph (m)(2) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(m) *Fringe benefits.* (1) Fringe benefits are allowances and services provided by the contractor to its employees as compensation in addition to regular wages and salaries. Fringe benefits included, but are not limited to, the cost of vacations, sick leave, holidays, military leave, employee insurance, postemployment benefits such as pensions and retiree health care, and supplemental unemployment benefit plans. Except as provided otherwise in Subpart 31.2, the costs of fringe benefits are allowable to the extent that they are reasonable and are required by law, employer-employee agreement, or an established policy of the contractor.

(2) To be allowable in the current year, the costs of postretirement benefits other than pensions (PRB) must be paid either to (i) an insurer, provider, or other recipient as current year costs or premiums, or (ii) an insurer or trustee to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees. Further, to be allowable, costs of the type referenced in 31.205–6(m)(2)(ii) must be calculated and certified according to the provisions of 42 CFR 403.258 (a) and (b) and be funded or otherwise liquidated by the time set for filing the Federal income tax return or any extension thereof. The Government shall receive an equitable share of any amount of previously funded PRB costs which revert or inure to the contractor. Such equitable share shall reflect the Government's previous participation in PRB costs through those contracts for which certified cost or pricing data were required or which were subject to Subpart 31.2.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.215–38 is added to read as follows:

52.215–38 Reversion of adjustment of funds for postretirement benefits other than pensions (PRB) plans.

As prescribed in 15.804–6(e), insert the following clause:

Reversion or Adjustment of Postretirement Benefits Other Than Pensions (PRB) Plans (Oct 1989)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, on inure, to the Contractor or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205–6(m). The Contractor shall include the substance of this clause in all subcontracts under this contract which meet the applicability requirements of FAR 15.804–6(f). The resulting adjustment to prior years' PRB costs will be determined and applied in accordance with FAR 31.205–6(m)(2).

(End of clause)

5. Section 52.216–7 is amended by removing in the title of the clause the date "(APR 1984)" and inserting in its place "(OCT 1989)"; by revising the first sentence of paragraph (b)(2) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

52.216–7 Allowable cost and payment.

* * * * *

(b) * * *

(2) Contractor contributions to any pension or other postretirement benefit, profit-sharing, or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; *provided*, that the Contractor pays the contribution to the fund within 30 days after the close of the period covered. * * *

* * * * *

6. Section 52.232–16 is amended by removing in the title of the clause the date "(AUG 1987)" and inserting in its place "(OCT 1989)" and by revising paragraph (a)(2)(iii) of the clause to read as follows:

52.232–16 Progress payments.

* * * * * *

(a) * * *

(2) * * *

(iii) Accrued costs of Contractor contributions under employee pension or other postretirement benefit, profit sharing, and stock ownership plans shall be excluded until actually paid unless—

* * * * *

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Part IV

The President

Proclamation 6061—National Hospice Month, 1989 and 1990
Proclamation 6062—National Glaucoma Awareness Week, 1989

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Presidential Documents

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Title 3—

The President

Proclamation 6061 of November 7, 1989

National Hospice Month, 1989 and 1990

By the President of the United States of America

A Proclamation

Employing the skills of a full cadre of health care professionals and volunteers—including physicians, nurses, counselors, therapists, and members of the clergy—hospice care enables terminally ill individuals to live peacefully and comfortably in their final days. The dedicated men and women who provide hospice care help terminally ill patients to face natural death without feeling alone or unprepared. They also help patients' families cope with emotional suffering and loss. A vital portion of our Nation's health care system, hospice programs reaffirm the inherent dignity and worth of each individual while underscoring our reverence for human life.

In recent years, the public and private sectors have forged a unique partnership in the development of hospice programs and services for terminally ill individuals and their families. Today, a permanent Medicare hospice benefit and the implementation of a hospice benefit by several State Medicaid programs enable more terminally ill Americans to obtain needed care. Many private insurance companies and employers also provide hospice benefits in health care coverage packages. These programs are helping to ensure that hospice care remains a positive, viable alternative for terminally ill individuals and their loved ones.

In acknowledgment of the value of hospice programs and in grateful recognition of the thousands of health care professionals and volunteers who care for the terminally ill, the Congress, by Senate Joint Resolution 78, has designated the months of November 1989 and 1990 as "National Hospice Month" and has authorized and requested the President to issue a proclamation in observance of these months.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the months of November 1989 and 1990 as National Hospice Month. I urge all government agencies, hospice organizations, health care providers, and the people of the United States to observe these months with appropriate programs and activities designed to encourage recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of our Nation's health care system.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

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Proclamation 6062 of November 7, 1989

National Glaucoma Awareness Week, 1989

By the President of the United States of America

A Proclamation

Our eyesight is a great and precious gift. Most of us have been blessed with the ability to see the faces of loved ones, to view the natural wonders that surround us, and to read a good book or informative journal. Tragically, however, too many Americans are at risk of losing their eyesight to glaucoma.

Glaucoma is a serious disease that, if left undetected or untreated, can lead to blindness. In fact, glaucoma is a leading cause of vision loss among older men and women. Black Americans of all ages are also highly vulnerable to this disease, as are persons with diabetes or a family history of glaucoma.

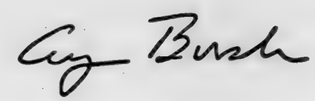
Of the two million Americans known to suffer from glaucoma, some 80,000 are legally blind. It is estimated that several million Americans suffer from ocular hypertension, which is frequently a silent symptom of the disease.

Fortunately, glaucoma is treatable, and blindness from the disease is almost always preventable. However, because glaucoma is often asymptomatic in its early stages, millions of healthy people are unaware that they have the disease. That is why periodic, comprehensive eye exams are so important—especially for those at higher risk of developing glaucoma and other eye ailments.

In recognition of the importance of promoting public awareness about glaucoma and of encouraging all Americans to obtain periodic eye examinations, the Congress, by Senate Joint Resolution 194, has designated the week beginning November 12, 1989, as "National Glaucoma Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning November 12, 1989, as National Glaucoma Awareness Week. I call upon health care providers, private voluntary organizations, and the people of the United States to observe this week with appropriate programs, ceremonies, and activities designed to encourage all Americans to have their eyes examined regularly.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



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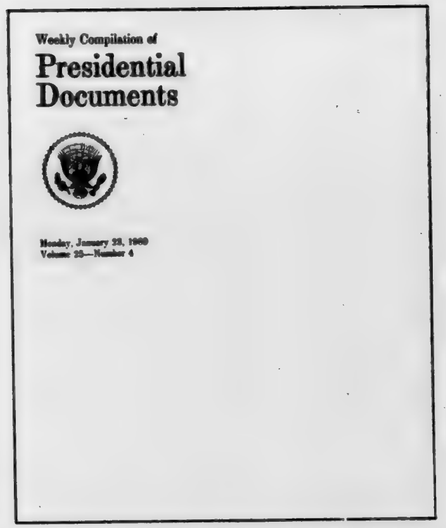

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WHO: The Office of the Federal Register.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHERE: Room 15138,
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RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center,
415-556-6000.

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WASHINGTON, DC

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WHERE: Office of the Federal Register,
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Title 3—

The President

Proclamation 6063 of November 8, 1989

Montana Centennial Day, 1989

By the President of the United States of America

A Proclamation

On November 8, 1889, Montana was admitted to the Union as the 41st State. In the century that has followed, the people of Montana have built upon their frontier heritage and made substantial contributions to our Nation's economic and social well-being.

During their famous expedition early in the 19th century, Captains Meriwether Lewis and William Clark introduced this "Big Sky Country" to the world. By wagon train and later by railroad, a rush of homesteaders seized the opportunity to cultivate this new land and enjoy its abundant natural resources. Our Nation's fourth largest State is now home to a number of important industries—such as farming, ranching, mining, and tourism—that utilize its spectacular wealth of forests, prairies, wildlife, minerals, and natural beauty. Montanans are a proud, hardworking, and community-minded people who have added strength and color to the character of America.

In recognition of these contributions, the Congress, by Senate Joint Resolution 19, has designated November 8, 1989, as "Montana Centennial Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 8, 1989, as Montana Centennial Day.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

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Rules and Regulations

Federal Register
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Monday, November 13, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 683]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 10 through November 16, 1989. Consistent with program objectives, such action is needed to balance the supplies of fresh navel oranges with the demand for such oranges during the period specified. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

DATES: Regulation 683 (7 CFR part 907) is effective for the period from November 10 through November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Department Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,065 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented 65 percent of the total production in 1988–89. District 2 is located in the southern coastal area of California and represented 13 percent of 1988–89 production; District 3 is the desert area of California and Arizona, and it represented approximately 1 percent; and District 4, which represented approximately 1 percent, is northern California. The Committee's estimate of 1989–90 production is 73,350 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 70,833 cars during the 1988–89 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona navel oranges. The Committee estimates that about 68 percent of the 1989–90 crop of 73,350 cars will be utilized in fresh domestic channels (49,500 cars), with the remainder being exported fresh (10 percent) or processed (22 percent). This compares with the 1988–90 total of 45,581 cars shipped to fresh domestic markets, about 64 percent of the crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee at its November 7, 1989, meeting, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are incurred by handlers of navel oranges. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for navel oranges tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits to growers, particularly smaller growers.

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At the beginning of each marketing year, the Committee submits a marketing policy to the U.S. Department of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Schlatter. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate. A "Notice of Marketing Policy" (notice), which summarized the Committee's marketing policy, was prepared by the Department and published in the October 19, 1989, issue of the **Federal Register** (54 FR 42966). The purpose of the notice was to allow public comment on the Committee's marketing policy and the impact of any regulations on small business activities.

The notice provides a 30-day period for the receipt of comments from interested persons. That comment period will end on November 20, 1989. The Department will analyze all comments received, and the analysis will be made available to interested persons. That analysis will assist the Department in evaluating the marketing policy and considering the issuance of weekly volume regulations.

This action is consistent with the 1989–90 marketing policy adopted by the Committee. The Committee met publicly on November 7, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of nine to one with one abstention, that 1,600,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. This amount is 100,000 cartons more than estimated in the tentative shipping schedule adopted by the Committee on October 3, 1989. Of the 1,600,000 cartons, 1,536,000 are allotted for District 1, and 64,000 are allotted for District 3. Districts 2 and 4 are not regulated as they do not have a sufficient quantity of fruit available for current shipment.

During the week ending on November 2, 1989, shipments of navel oranges to fresh domestic markets, including Canada, totaled 782,000 cartons compared with 230,000 cartons shipped during the week ending on November 3, 1988. Export shipments totaled 92,000 cartons compared with 0 cartons shipped during the week ending on November 3, 1988, and processing and other uses accounted for 164,000 cartons compared with 89,000 cartons shipped during the week ending on November 3, 1988.

Fresh domestic shipments to date this season total 1,236,000 cartons compared with 379,000 cartons shipped by this time last season. Export shipments total 122,000 cartons compared with 0 cartons shipped by this time last season. Processing and other use shipments total 286,000 cartons compared with 139,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on November 2 was $9.53 per carton based on a reported sales volume of 548,000 cartons compared with last week's average of $9.88 per carton on 205,000 cartons. The season average f.o.b. shipping point price to date is $9.88 per carton. The average f.o.b. shipping point price for the week ending November 3, 1988, was $10.96 per carton; the season average f.o.b. shipping point price this time last season was $9.83 per carton.

The Committee reports that the market for navel oranges is stronger for most sizes although some price discounting is occurring on Choice quality fruit.

According to the National Agricultural Statistics Service, the 1988–89 season average fresh equivalent on-tree price for California-Arizona navel oranges was $3.86 per carton, 65 percent of the season average parity equivalent price of $5.98 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the point estimate of the 1989–90 season average fresh on-tree price would be $4.30 per carton. This is equivalent to 66 percent of the projected season average fresh on-tree parity equivalent price of $6.54 per carton. It is currently estimated that there is less than a one percent probability that the 1989–90 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of navel oranges that may be shipped during the period from November 10 through November 16, 1989, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market. By using provisions contained in the navel orange marketing order, handler shipments could exceed 1,920,000 cartons during the week.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until November 7, 1989, and this action needs to be effective for the regulatory week which begins on November 10, 1989. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers have been apprised of the provisions of this rule and the effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Arizona, California, Marketing agreements and orders, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.993 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 907.993 Navel Orange Regulation 693.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 10 through November 16, 1989, is established as follows:

(a) District 1: 1,536,000 cartons;
(b) District 2: unlimited cartons;
(c) District 3: 64,000 cartons;
(d) District 4: unlimited cartons.

Dated: November 8, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-26698 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 691]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 691 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 291,534 cartons during the period from November 12 through November 18, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 691 (7 CFR part 910) is effective for the period from November 12 through November 18, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2800 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989–90. The Committee met publicly on November 7, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and, by an 11–2 vote, recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is moderate.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.991 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.991 Lemon Regulation 691.

The quantity of lemons grown in California and Arizona which may be handled during the period from November 12, 1989, through November 18, 1989, is established at 291,534 cartons.

Dated: November 8, 1989.

Charles R. Brader

Director Fruit and Vegetable Division.

[FR Doc. 89-26697 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1823, 1902, 1942, and 1948

Association Loans and Grants—Community Facilities, Shift-in-Land-Use, Irrigation and Drainage, Area Assistance Development Planning Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is removing from the Code of Federal Regulations (CFR) its regulations regarding Association Loans for Shift-In-Land-Use Projects, Irrigation and Drainage and Other Soil and Water Conservation Measures, and Area Assistance Development Planning Grants. This action is necessary because these programs have not been funded for several years and the regulations are no longer used by the Agency. The intended effect of this action is to remove unnecessary regulations from the CFR. Along with obsoleting the forms that are exclusive to these regulations, the renumbering of certain forms is also being accomplished at this time.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Marlene Snell, Loan Specialist, Community Facilities Division, FmHA,

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USDA, Room 6314, South Agriculture Building, Washington, DC 20250, Telephone: (202) 382–6487.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This section, however, is not published for proposed rulemaking since it involves only internal Agency management, making publication for comment unnecessary.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not needed.

Programs Affected

This action affects the following FmHA programs as listed in the current Catalog of Federal Domestic Assistance:

Section 10.409 Irrigation and Drainage Loans
Section 10.414 Resource Conservation and Development Loans
Section 10.419 Watershed Loans and Advances
Section 10.423 Community Facility Loans

These programs are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials (7 CFR 3015, subpart V, 48 FR 29112, June 24, 1983).

Background

Since no new funds have been appropriated for new loans or grants under these programs for several years, the Agency has removed the regulations from the CFR. All loans made under these programs, however, remain valid and will continue to be serviced under subpart E of part 1951 of this chapter. In addition although the Agency has removed subpart 1823–H, Irrigation and Drainage and Other Soil and Water Conservation Measures, several programs within FmHA remain available for Soil and Water Conservation purposes. Finally, while certain forms are being renumbered to achieve consistency within the regulations, the content of the forms themselves have not changed.

List of Subjects

7 CFR Part 1823

Credit, Grazing lands, Loan programs—Agriculture, Rural areas, Soil conservation, Water resources.

7 CFR Part 1902

Accounting, Banks, Banking, Grant programs—Housing and community development, Loan programs—Agriculture, Loan programs—Housing and community development.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

7 CFR Part 1948

Business and industry, Community development, Community facilities, Energy, Grant programs—Housing and community development, Housing, Planning, Rural Areas, Transportation.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

1. The authority citation for part 1823 continues to read as follows, and the authority citation for subpart N is removed.

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 25 U.S.C. 490; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Association Loans for Shift-in-Land-Use Projects

Subpart B—[Removed and reserved]

2. Subpart B, §§ 1823.51–1823.67, is removed and reserved.

Subpart H—Association Loans for Irrigation and Drainage and Other Soil and Water Conservation Measures

Subpart H—[Removed and reserved]

3. Subpart H, §§ 1823.221–1823.238, is removed and reserved.

Subpart I—Processing Loans to Associations (Except for Domestic Water and Waste Disposal)

Subpart I—[Removed and reserved]

4. Subpart I, §§ 1823.251–1823.289, is removed and reserved.

Subpart N—Loans to Indian Tribes and Tribal Corporations

§ 1823.415 [Amended]

5. Section 1823.415 is amended in the first sentence by changing the reference, "subpart I of part 1823" to "subpart A of part 1942."

§ 1823.416 [Amended]

6. Section 1823.416 is amended in the last sentence by changing the reference, "§§ 1823.271 and 1823.272" to "subpart A of part 1942 of this chapter."

Exhibit A to subpart N—[Amended]

7. Exhibit A to subpart N, Section 1 is amended by removing the reference, "Form FmHA 442–12 Financial Statement," by changing in section 1.(b) the reference, "Form FmHA 442–46" to read "Form FmHA 1942–46" and by changing in section 2 the reference, "Form FmHA 442–14" to read "Form FmHA 1942–14".

PART 1902—SUPERVISED BANK ACCOUNTS

8. The authority citation for part 1902 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

§ 1902.15 [Amended]

9. Section 1902.15(c) is amended in the first sentence by removing the reference, "Grazing Association, Irrigation and Drainage," and by removing the reference, "and part 1823, subpart I (FmHA Instruction 442.9)."

PART 1942—ASSOCIATIONS

10. The authority citation for part 1942 is revised to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Community Facility Loans

§§ 1942.1 and 1942.5 [Amended]

11. The reference, "Form FmHA 442–46" is changed to read "Form FmHA 1942–46" in the following sections:

§ 1942.1(d)(4)
§ 1942.5(a)(1)(ii), in the last sentence

§ 1942.5(c), introductory text, last sentence
§ 1942.5(c)(2) and (c)(3)

§ 1942.2 [Amended]

12. In § 1942.2(c)(3), the reference, "Form FmHA 442–39" is changed to read "Form FmHA 1942–39."

§ 1942.2 [Amended]

13. In § 1942.2(c)(3), the reference, "Form FmHA 442–40" is changed to read "Form FmHA 1942–40."

§ 1942.5 [Amended]

14. The reference, "Form FmHA 442–14" is changed to read "Form FmHA 1942–14" in the following paragraphs:
§ 1942.5(b)(1)(ii)(C)
§ 1942.5(c), introductory text
§ 1942.5(c)(3)

Subpart C—Fire and Rescue Loans

§ 1942.104 [Amended]

15. In § 1942.104(c)(3), the reference, "Form FmHA 442–46" is changed to read "Form FmHA 1942–46."

§ 1942.108 [Amended]

16. In § 1942.108(b), the reference, "Form FmHA 442–14" is changed to read "Form FmHA 1942–14."

Subpart I—Resource Conservation and Development

[RCD] Loans and Watershed (WS) Loans and Watershed Advances

§ 1942.412 [Amended]

17. In § 1942.412(a)(2)(ii), the reference, "Form FmHA 442–40" is changed to read "Form FmHA 1942–40" and the reference, "Form FmHA 442–39" is changed to read "Form FmHA 1942–39."

Part 1948—Rural Development

18. The authority citation for part 1948 is revised to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Area Development Assistance Planning Grants

Subpart A—[Removed and reserved]

19. Subpart A, §§ 1948.1–1948.47, is removed and reserved.

Dated: August 29, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-26323 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-101-AD; Amdt. 39-6393]

Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to Aerospatiale Model ATR42 series airplanes, which currently prohibits use of the autopilot when operating in icing conditions. That action was prompted by an incident in which a Model ATR42 airplane operating in icing conditions (believed to have been freezing rain) experienced roll excursions and autopilot disconnect. This condition, if not corrected, could result in loss of control of the airplane. This amendment requires installation of vortex generators on the upper wing surface as a terminating action to the prohibition of use of the autopilot when operating in icing conditions.

EFFECTIVE DATE: December 15, 1989.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 216 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Standardization Branch, ANM–113; telephone (206) 431–1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by revising AD 89–09–05, Amendment 39–6197 (54 FR 15730; April 19, 1989), applicable to Aerospatiale Model ATR42 series airplanes, to require installation of vortex generators on the upper wing surface as a terminating action to the prohibition of use of the autopilot when operating in icing conditions, was published in the **Federal Register** on July 18, 1989 (54 FR 30059).

Interested pesons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The Air Line Pilots Association (ALPA) expressed qualified support for the proposed rule, agreeing with the intent of the action, but questioning the effectiveness of the vortex generator installation in addressing the unsafe condition. The FAA does not agree with the commenter's inference that the vortex generator is ineffective. The vortex generator installation has been evaluated by the manufacturer and the FAA, and the FAA has determined that this installation does improve aileron effectiveness when operating in icing conditions including freezing rain.

The commenter also noted that the FAA has initiated other rulemaking action to prevent icing related incidents from occurring on Model ATR42 airplanes, and questioned the need for vortex generators if the Anti-icing Advisory System (AAS) installation already proposed (in a separate rulemaking action) would solve the problem. The FAA does not concur with the commenter's inference that the vortex generators are not needed. The vortex generator installation is intended to improve the aileron effectiveness when operating in icing conditions, including freezing rain. The AAS has been proposed to improve flight crew awareness of the presence of icing conditions in general, and enhance recognition of impending stall conditions. The two actions, while both intending to improve safety during flight in icing conditions, address different aspects of the unsafe condition, as discussed in the respective preambles.

ALPA asked FAA to examine the effects of ice on the horizontal stabilizer, with the belief that analysis of previous incidents would indicate that control difficulties were not limited to the roll axis, but also existed around the pitch axis. The FAA acknowledges that its review of operations in icing conditions only supports findings of an unsafe condition relative to the roll axis; no data has been provided to demonstrate that the unsafe condition addressed by this action is related to control problems in the pitch axis.

The commenter questioned whether the word "prolonged," as used in AD 89–09–05 prohibiting use of the autopilot when operating in icing conditions, could be defined; if not, the commenter suggested a prohibition of flight into freezing rain. The FAA does not concur with the commenter's suggestion. The existing AD requires the addition of a page in the Limitations Section of the Airplane Flight Manual which prohibits use of the autopilot when operating in

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icing conditions and contained the statement, "Prolonged operation in freezing rain should be avoided." That AD is being revised by this AD, and the wording is removed from the Airplane Flight Manual when the vortex generators are installed. Since the wording is no longer used, further definition of the word "prolonged" is not considered necessary.

In addition, the commenter questioned the certification of the ATR42 airplane, and other airplanes, for flight in freezing rain. The commenter also expressed opinions regarding the adequacy of the anti-ice/de-ice systems and operational procedures to provide protection when operating in freezing rain on the ATR42 airplane, and questioned FAA's practices regarding operation of any airplane in freezing rain. The FAA does not consider this AD to be the proper forum for discussion of icing certification practices. These comments are of a general nature, and do not directly address the proposed rule, which requires installation of vortex generators to improve aileron effectiveness during operation in icing conditions including freezing rain. As these comments are considered to be outside the scope of the proposed rule, they will not be addressed for the purposes of this rulemaking action.

Another commenter requested revising the proposed rule to allow dispatch with up to one vortex generator missing on each wing, to an airport where repairs can be accomplished. The commenter noted that during flight tests conducted to evaluate the vortex generators, testing was conducted to show that the absence of one vortex generator (out of eight) from each wing did not substantially reduce the effectiveness of the modification. He noted that the methods used for cleaning ice from the top of the wing prior to takeoff can dislodge vortex generators. The FAA concurs with this comment, and the final rule has been revised to allow dispatch with up to one vortex generator missing on each wing. The airplane will be allowed to operate in this condition for no more than 16 hours time-in-service.

Since the issuance of the Notice, Aerospatiale has issued Revision 1 of Service Bulletin ATR42-57-0016, dated June 26, 1989. This revision differs from the Service Bulletin dated May 3, 1988, which was cited in the Notice, in that it provides clarifying information and changes the estimated number manhours required to install the vortex generators from 4 manhours to 16 manhours. The economic analysis paragraph, below, has been revised to reflect the total manhours as 16, and the total cost impact of the AD on U.S. operators as $27,520. The final rule has been revised to cite the latest revision of the Aerospatiale Service Bulletin as the appropriate service information for procedures relating to the installation of the vortex generators.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 43 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of AD on U.S. operators is estimated to be $27,520.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amendewd by amending Amendment 39-6197 (54 FR 15730; April 19, 1989), AD 89-09-05, as follows:

Aerospatiale: Applies to Model ATR42 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To minimize the potential hazards associated with operating in icing conditions including freezing rain, accomplish the following:

A. Within 10 hours time-in-service after May 3, 1989 (the effective date of Amendment 39-6197), incorporate the following into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM. "When operating in icing conditions, as defined in the AFM, or when freezing rain is forecast or reported, use of the autopilot is prohibited.

Warning

Prolonged operation in freezing rain should be avoided. Ice accretion due to freezing rain may result in asymmetric wing lift and associated increased aileron forces necessary to maintain coordinated flight. Whenever the aircraft exhibits buffet onset, uncommanded roll, or unusual control wheel forces, immediately reduce angle-of-attack and avoid excessive maneuvering."

B. Within 60 days after the effective date of this amendment, install vortex generators, in accordance with Aerospatiale Service Bulletin ATR42-57-0016, Revision 1, dated June 26, 1989. This action constitutes terminating action for the AFM prohibition required by paragraph A., above, regarding use of the autopilot when operating in icing conditions, and the limitation may be removed from the AFM.

C. Dispatch with up to one vortex generator missing on each wing is allowable. Operation in this condition is limited to no more than 16 hours time-in-service.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by7 the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 216 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment amends Amendment 39-6197, AD 89-09-05.

This amendment becomes effective December 15, 1989.

Issued in Seattle, Washington, on October 31, 1989.

Steven B. Wallace,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-26535 Filed 11-9-89; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-126-AD; Amdt. 39-6394]

Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Aerospatiale Model ATR42 series airplanes, which requires installation of an anti-icing advisory system. This amendment is prompted by reports that flight crews have been unaware of the significance of the accretion of ice on the airplane while operating in certain icing conditions. This condition, if not corrected, could lead to loss of control of the airplane.

EFFECTIVE DATE: December 15, 1989.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Standardization Branch, ANM-113; telephone 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Aerospatiale Model ATR42 series airplanes, which requires installation of an anti-icing advisory system, was published in the **Federal Register** on July 31, 1989 (54 FR 31535).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

The Air Line Pilots Association (ALPA) expressed qualified support for the proposed rule. This commenter expressed concerns with respect to the original icing certification of the Model ATR42 airplane, the adequacy of the anti/de-icing system, and the operation of the airplane in freezing rain. These comments are of a general nature, and do not directly address the proposed rule, which would require modifications intended to enhance the awareness and response of the flight crew to the presence of ice on the airplane. As these comments are considered to raise issues outside the scope of the proposed rule, they will not be addressed.

ALPA also expressed concerns regarding the effectiveness of the ice detector system. The FAA acknowledges that the ice detection system utilized by the Model ATR42 Anti-icing Advisory System (AAS) has been demonstrated to provide a reliable crew alert in the presence of ice accretion, and is proposed to improve recognition of ice accretion by the flight crew.

After review of ALPA's comments overall, the FAA infers that ALPA is requesting additional AD action to further improve the airplane while operating in icing conditions. The FAA has determined that the action required by this rule is adequate to address flight crew awareness of the significance office accretion and enhance recognition of impending stall conditions. However, the FAA has also proposed additional (separate) rulemaking to require the installation of vortex generators on Model ATR42 series airplanes, the installation of which is intended to improve the aileron effectiveness when operating in icing conditions, including freezing rain. These two rulemaking actions, while both intending to improve safety during flight in icing conditions, address the different aspects of the unsafe condition, as discussed in the respective preambles.

Aerospatiale, commenting for Avions de Transport Regional (ATR), which is the consortium that manufacturers the Model ATR42 airplane, made several comments regarding statements in the preamble of the proposed rule. It noted that one statement, regarding incidents involving partial loss of control due to ice accretion, could be taken out of context and be prejudicial to the ATR program. The FAA shares the concerns expressed by the commenter and acknowledges that the statement in the preamble would have been clearer if stated as follows:

> There have been several incidents involving partial loss of control due to ice accretion on Aerospatiale Model ATR42 series airplanes operating in icing conditions, including freezing rain, which have been attributed to the crew being unaware of the severity or significance of ice accretion, not following Airplane Flight Manual procedures for operation when in icing conditions, and/or not recognizing the onset of a stall resulting from ice accretion.

This commenter also stated that the statement in the preamble regarding increases in minimum speeds given in the Airplane Flight Manual (AFM) for use while operating in icing conditions was incorrect. Aerospatiale noted that rather than increasing minimum speeds, ATR had actually eliminated one category of flight, namely "icing conditions without ice accretion", thereby reducing the number of flight conditions addressed in the AFM from three to two. The commenter stated that the minimum speeds with ice accretion did not change with the AFM revision addressing the anti-icing advisory system. The FAA has reviewed this material and notes that Revision 5 of the U.S. AFM stipulates minimum speeds with ice accretion are to be 1.39 times the stall speed (1.39 Vs). On the other hand, Revision 6 of the U.S. AFM provides three different minimum speeds depending on flight condition: while takeoff/2nd segment climb minimum speed is 1.32 Vs, the enroute minimum speed is 1.45 Vs and approach minimum speed is 1.5 Vs, the latter two of which are both higher than that shown in Revision 5.

The commenter also noted that, in addition to the features comprising the AAS identified in the proposed rule, ATR has added an "A.O.A." light, which notifies the crew that the stall warning angle of attack threshold has been lowered and the minimum speeds observed should be increased to the "icing speeds". The FAA concurs with this comment; however, the above comments are informational in nature. The FAA does not infer that commenter has requested any changes to the proposed rule.

Aerospatiale also suggested making Revision 6 of the U.S. AFM mandatory. The FAA concurs with this comment. Revision 6 of the AFM contains an explanation of the anti-icing advisory system and sets forth the necessary

procedures relating to it. Since this information is necessary for the flight crew to properly operate the system, the FAA intended that the AFM be revised when the system is incorporated.

Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617)

regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA

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procedures relating to it. Since this information is necessary for the flight crew to properly operate the system, the FAA intended that the AFM be revised when the system is incorporated. Accordingly, the AD has been revised to clarify this intent.

ATR Support, Inc., which provides service and maintenance support for Model ATR42 operators in the United States, commented that the current schedule for incorporating the AAS on Model ATR42 airplanes will result in some airplanes not being modified within the compliance time cited in the proposed rule, and requested a longer compliance time. The FAA does not concur that this constitutes justification for a longer compliance time. The FAA is concerned that failure to incorporate the modifications prior to the onset of the icing season for most operators does not adequately address the unsafe condition which has pompted this action. If parts are not available within the compliance time, the individual operators may petition the FAA for an extension of compliance time, or an alternate means of compliance, under the provisions of paragraph C. of the final rule.

Since the issuance of the Notice, Aerospatiale has issued Service Bulletin ATR42-30-0021, Revision 3, dated July 20, 1989, which deletes two airplanes from the applicability statement. Paragraph A. of the final rule has been revised to reflect this latest revision.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described above. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 300 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost for parts is estimated to be $45,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,850,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to all Model ATR42 series airplanes, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished.

To improve protection against loss of control when operating in icing conditions, including freezing rain, accomplish the following:

A. Install an anti-icing advisory system in accordance with Aerospatiale Service Bulletins ATR42-27-0021, Revision 8, dated May 2, 1989; ATR42-30-0017, Revision 3, dated January 20, 1989; ATR42-30-0018, Revision 4, dated June 14, 1989; ATR42-30-0021, Revision 3, dated July 20, 1989; ATR42-30-0024, Revision 1, dated February 13, 1989; and ATR42-30-0027, Revision 1, dated February 21, 1989.

B. Incorporate Revision 6 of the Airplane Flight Manual (AFM), dated August 1988, into the FAA-approved AFM.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 15, 1989.

Issued in Seattle, Washington, on October 31, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-26536 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-ANE-44; Amdt. 39-6334]

Airworthiness Directives; Goodyear 32x8.8R16, 10PR, P/N 328Q08G2 Radial Tires

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires early removal of certain Goodyear 32x8.8R16, 10PR, P/N 328Q08G2 radial tires installed on but not limited to ATR-42 aircraft. The amendment is needed to require early removal of additional ties in order to prevent tire failure which could cause an unsafe takeoff or landing condition.

DATES: *Effective Date:* November 13, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service bulletin (SB) may be obtained from Goodyear S.A., Colmar-Berg, Luxembourg, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-6103 (54 FR 1342; January 13, 1989), AD 89-03-01, which currently requires early removal of Goodyear 32x8.8R16, 10PR, P/N 328Q08G2 radial tires, installed on but not limited to ATR-42 aircraft. After issuing Amendment 39-6103, the FAA has determined that the tires produced subsequent to serial date 8340Gxxx, under a different process than those tires affected by the original AD, have experienced four premature failures. The tires produced under the new process have been determined to be satisfactory for 400 landings. Therefore, the FAA is amending Amendment 39-6103, by requiring all Goodyear 32x8.8R16, 10PR, P/N 328Q08G2 radial tires with serial dates greater than 8340Gxxx, that have exceeded 400 landings, be removed from service, in order to prevent tire failure which could cause an unsafe takeoff or landing condition.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this emergency regulation involves approximately 900 tires and will cost approximately $360,000.00; and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39-6103 (54 FR 1342; January 13, 1989), AD 89-03-01, by adding and revising as follows:

The AD is restated in its entirety for clarity.

Goodyear: Applies to 32x8.8R16, 10PR, P/N 328Q08G2 radial tires, with serial dates 8060Gxxx and above, installed on but not limited to ATR-42 aircraft.

Compliance required as indicated, unless already accomplished.

To prevent tire failure, accomplish the following:

(a) Remove from service, all tires with serial dates between 8000Gxxx and 8320Gxxx, as follows:

(1) Tires which have accumulated 230 or more landings since new on the effective date of this AD, within the next 50 landings.

(2) Tires which have accumulated less than 230 landings since new on the effective date of this AD, at or prior to accumulating 300 landings.

(3) Tires for which no landing record has been maintained, within the next 50 landings.

(b) Remove from service, all tires with serial dates 8340Gxxx and above, as follows:

(1) Tires which have accumulated 250 or more landings since new on the effective date of this AD, within the next 150 landings.

(2) Tires which have accumulated less than 250 landings since new on the effective date of this AD, at or prior to accumulating 400 landings.

(3) Tires for which no landing record has been maintained, within the next 150 landings.

Notes: (1) Tires with serial dates 8060Gxxx and above may be used as replacements subject to the restrictions of paragraphs (a) and (b) above. Tires with serial dates prior to 8060Gxxx are approved without restrictions.

(2) Goodyear Alert Service Bulletins 32-001, dated December 5, 1988, and 32-002, Revision 1, dated July 14, 1989, apply to this AD.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective on November 13, 1989.

This amendment amends Amendment 39-6103 (54 FR 1342; January 13, 1989), AD 89-03-01.

Issued in Burlington, Massachusetts, on August 31, 1989.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-26534 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 26061; Amdt. No. 1412]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

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For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION:

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule under Executive Order 1229; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria for the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference. Issued in Washington, DC on October 27, 1989.

Robert L. Goodrich,
Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 Gmt on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective January 11, 1990

Newnan, GA—Newnan Coweta County, NDB RWY 32, Orig.
Paducah, KY—Barkley Regional, NDB RWY 22, Amdt. 1
Greenwood, MS—Greenwood-LeFlore, VOR RWY 5, Amdt. 9
Greenwood, MS—Greenwood-LeFlore, NDB RWY 18, Amdt. 1
Greenwood, MS—Greenwood-LeFlore, ILS RWY 18, Amdt. 4
Greenwood, MS—Greenwood-LeFlore, RNAV RWY 18, Amdt. 0
Greenwood, MS—Greenwood-LeFlore, RNAV RWY 36, Admt. 3
Morristown, TN—Moore-Murrell, SDF RWY 5, Amdt. 2
Morristown, TN—Moore-Murrell, NDB RWY 5, Amdt. 2

. . . Effective December 14, 1989

Orlando, FL—Orlando Executive, VOR/DME RWY 25, Orig.
Kokomo, IN—Kokomo Muni, VOR RWY 23, Amdt. 18
Kokomo, IN—Kokomo Muni, VOR RWY 32, Amdt. 18
Kokomo, IN—Kokomo Muni, ILS RWY 23, Amdt. 6
Kokomo, IN—Kokomo Muni, RNAV RWY 5, Amdt. 3
Lake Charles, LA—Chennault Industrial Airpark, VOR RWY 33L, Orig.
New Orleans, LA—New Orleans Intl (Moisant Field), VOR or TACAN-A, Amdt. 11
West Point, MS—McCharen Field, VOR/DME-B, Amdt. 4
Hannibal, MO—Hannibal Muni, NDB RWY 35, Amdt. 3
Hannibal, MO—Hannibal Muni, VOR/DME-A, Amdt. 2
Washington, NC—Warren Field, LOC RWY 5, Orig.
Columbus, OH—Rickenbacker ANGB, VOR RWY 23L, Amdt. 3
Columbus, OH—Rickenbacker ANGB, ILS-1, RWY 5R, Orig.
Findlay, OH—Findlay, VOR RWY 7, Amdt. 10
Findlay, OH—Findlay, VOR RWY 25, Amdt. 3
Findlay, OH—Findlay, VOR RWY 36, Amdt. 4
Findlay, OH—Findlay, NDB RWY 21, Amdt. 6
Houston, TX—Houston Gulf, VOR RWY 31, Amdt. 1

. . . Effective November 16, 1989

Fresno, CA—Fresno Air Terminal, VOR or TACAN RWY 11L, Amdt. 11
Fresno, CA—Fresno Air Terminal, LOC BC RWY 11L, Amdt. 8
Fresno, CA—Fresno Air Terminal, NDB RWY 29R, Amdt. 23
Fresno, CA—Fresno Air Terminal, ILS RWY 29R, Amdt. 31
Fresno, CA—Fresno-Chandler Downtown, VOR/DME-C, Amdt. 3
Fresno, CA—Fresno-Chandler Downtown, NDB-B, Amdt. 6
Hanford, CA—Hanford Muni, VOR-A, Amdt. 7
Madera, CA—Madera Muni, VOR RWY 30, Amdt. 7
Merced, CA—Merced Municipal/MacReady Field, VOR RWY 30, Amdt. 15
Merced, CA—Merced Municipal/MacReady Field, ILS RWY 30, Amdt. 11
Visalia, CA—Visalia Muni, VOR RWY 12, Amdt. 8
Visalia, CA—Visalia Muni, NDB RWY 30, Amdt. 3
Visalia, CA—Visalia Muni, ILS RWY 30, Amdt.5
Colorado Springs, CO—City of Colorado Springs Muni, ILS RWY 33, Amdt. 35
Detroit, MI—Detroit City, VOR RWY 33, Amdt. 27
Detroit, MI—Detroit City, ILS RWY 33, Amdt. 13
Guthrie, OK—Guthrie Muni, NDB RWY 16, Amdt. 3

. . . Effective October 24, 1989

San Jose, CA—San Jose Intl, VOR RWY 12R, Amdt. 1
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 5, Amdt. 35

. . . Effective October 20, 1989

Fort Lauderdale, FL—Fort Lauderdale/Hollywood Intl, ILS RWY 9L, Amdt. 15
Note at end of § 97.23

The FAA published an Amendment in Docket No. 26028, Amdt. No. 1410 to Part 97 of the Federal Aviation Regulations (VOL 54 FR No. 186 Page 41381; dated 11 Oct 89) under Section 97.23 effective 22 SEP 89, which is hereby amended as follows:

Kalispell, MT—Glacier Park Intl, VOR RWY 30, Amdt. 8, change amendment number to Amdt. 9.

[FR Doc. 89-26537 Filed 11-9-89; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

Annual User Fee for Customs Broker's Permit

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of due date of broker's user fee.

SUMMARY: This document advises Customs brokers that for 1990 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association, or corporate broker is due by January 12, 1990. This announcement is being published to comply with the Tax Reform Act of 1986.

DATE: Due for fee: January 12, 1990.

FOR FURTHER INFORMATION CONTACT: Raymond R. Janiszewski, Chief, Broker Compliance and Evaluation Branch (202) 566-5307.

SUPPLEMENTARY INFORMATION:

Background

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) established that an annual user fee of $125 is to be assessed for each Customs broker's permit held by an individual, partnership, association or corporate broker. This fee is set forth in the Customs Regulations in § 111.96 (19 CFR 111.96).

Section 111.96 Customs Regulations provides that the fee is payable for each calendar year in each district where a broker has a permit to do business by the due date which will be published in the **Federal Register** annually.

Section 1893 of the Tax Reform Act of 1985 (Pub. L. 99-514), provides that notice of the date on which payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the **Federal Register** by no later than 60 days before such due date.

This document notifies brokers that for 1990 the due date for payment of the user fee is January 12, 1990. It is expected that annual user fees for brokers for subsequent years will be due on or about the first of January each year.

Dated: November 8, 1989.
Carol B. Hallett,
Commissioner of Customs.

[FR Doc. 89-26537 Filed 11-9-89; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, 440, 442, 448, and 455

[Docket No. 89N-0328]

Antibiotic Drugs; Updatings and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by updating and making noncontroversial technical changes in accepted standards of antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and usable regulations.

DATES: Effective December 13, 1989; comments, notices of participation, and requests for hearing by December 13, 1989; data, information, and analyses to justify a hearing by January 12, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations by updating and making noncontroversial technical changes in certain antibiotic drug regulations that provide for accepted standards of antibiotic and antibiotic-containing drugs intended for human use.

1. In 21 CFR 430.6(b)(34), the amount of cephalothin master standard that is equivalent to 1 microgram of cephalothin activity (potency) is revised from "1.066" to "1.056" micrograms to reflect the potency of a new lot of cephalothin master standard.

2. In 21 CFR 436.215, the second "of" in the footnote to the table in paragraph (b) is corrected to read "or", and the word "absorbence" in paragraph (c)

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(10)(iii) is corrected to read "absorbance".

3. In 21 CFR 440.9a, paragraphs (a)(1)(vii) and (viii) are corrected by making the testing requirements for ampicillin content and concordance inapplicable when the high-performance liquid chromatographic (HPLC) assay procedure is used to determine the potency of sterile ampicillin sodium.

4. In 21 CFR 440.209b, the number of theoretical plates for sulbactam in paragraph (b)(1)(iii)(B) is revised from "5,000" to "3,500" and the resolution factor between the peaks for ampicillin and sulbactam alkaline degradation in paragraph (b)(1)(iii)(C) is revised from "4.0" to "1.2". These requirements were incorrectly stated in the **Federal Register** of November 4, 1987 (52 FR 42290).

5. In 21 CFR 442.15, the phrase "3-etheryl" in paragraph (a)(1) is corrected to read "3-ethenyl"; paragraphs (b)(1)(ii)(A) and (C) are corrected by revising the diluent used in the preparation of the working and sample solutions in the HPLC potency assay for cefixime trihydrate from "mobile phase" to "0.1 *M* phosphate buffer, pH 7.0"; and paragraph (b)(1)(iii)(E) is corrected by adding equal signs (=) to the first two formulas for calculating the capacity factor for cefixime.

6. In 21 CFR 446.60, the formula for calculating the capacity factor for minocycline in paragraph (b)(1)(iii)(*e*) is corrected, and the explanation of the term "C_s" in the formula for the calculation of the potency of the minocycline sample solution in paragraph (b)(1)(iv) is corrected.

7. In 21 CFR 446.260, paragraph (b)(1)(ii)(*a*) is corrected by adding the word "content" after "minocycline" in the first sentence.

8. In 21 CFR 455.62a, the number of theoretical plates for sulbactam in paragraph (b)(1)(iii)(B) is revised from "4,000" to "3,500". This requirement was incorrectly stated in the **Federal Register** of November 4, 1987 (52 FR 42290).

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

These amendments institute changes that are corrective, editorial, or of a minor technical nature. Because the amendments are not controversial, and because, when effective, they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. This final rule, therefore, becomes effective December 13, 1989. However, interested persons may, on or before December 13, 1989, submit comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before December 13, 1989, a written notice of participation and request for hearing, and (2) on or before January 12, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order, and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR

Part 430: Administrative practice and procedure, Antibiotics.
Part 436: Antibiotics.
Part 440: Antibiotics.
Part 442: Antibiotics.
Part 446: Antibiotics.
Part 455: Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 430, 436, 440, 442, 446, and 455 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR part 430 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 357, 371); secs. 215, 301, 351 of the Public Health Service Act (42 U.S.C. 216, 241, 262).

§ 430.6 [Amended]

2. Section 430.6 *Definitions of the terms "unit" and "microgram" as applied to antibiotic substances* is amended in paragraph (b)(34) by removing "1.066" and replacing it with "1.056".

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

3. The authority citation for 21 CFR part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

§ 436.215 [Amended]

4. Section 436.215 *Dissolution test* is amended in the footnote to the table in paragraph (b) by removing the second "of" and replacing it with "or", and in paragraph (c)(10)(iii) by removing "absorbence" and replacing it with "absorbance".

PART 440—PENICILLIN ANTIBIOTIC DRUGS

5. The authority citation for 21 CFR part 440 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 440.9a is amended by revising paragraphs (a)(1) (vii) and (viii) to read as follows:

§ 440.9a Sterile ampicillin sodium.

(a) * * *
(1) * * *
(vii) Its ampicillin content is not less than 84.5 percent, except if the high-performance liquid chromatographic (HPLC) assay method is used, then the ampicillin content standard is not applicable.
(viii) The potency-base titration concordance is such that the difference between the potency value divided by 10 and the percent ampicillin content of the sample determined by the nonaqueous base titration is not more than 6, except if the HPLC assay method is used, then the concordance standard is not applicable.

* * * * *

§ 440.209b [Amended]

7. Section 440.209b *Sterile ampicillin sodium and sulbactam sodium* is amended in paragraph (b)(1)(iii)(B) by removing "5,000" and replacing it with "3,500", and in paragraph (b)(1)(iii)(C) by removing "4.0" and replacing it with "1.2".

PART 442—CEPHA ANTIBIOTIC DRUGS

8. The authority citation for 21 CFR part 442 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

9. Section 442.15 is amended in paragraph (a)(1) by removing "3-etheryl" and replacing it with "3-ethenyl", by revising the second sentence in paragraph (b)(1)(ii)(A) and the last sentence in paragraph (b)(1)(ii)(C), and in paragraph (b)(1)(iii)(E) by adding "=" after (*k*) in the first formula and after t_m in the second formula to read as follows:

§ 442.15 Cefixime trihydrate.

* * * * *
(b) * * *
(1) * * *
(ii) * * *
(A) * * * Further dilute quantitatively to a final concentration of 0.2 milligram of cefixime activity per milliliter in 0.1 *M* phosphate buffer, pH 7.0. * * *

* * * * *

(C) * * * Immediately prior to chromatography, further dilute 10 milliliters of stock solution to 100 milliliters with 0.1 *M* phosphate buffer, pH 7.0 to obtain a solution containing 0.2 milligram of cefixime activity per milliliter (estimated).

* * * * *

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

10. The authority citation for 21 CFR part 446 continues to read as follows:

Authority: Section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

11. Section 446.60 is amended in paragraph (b)(1)(iii)(*e*) by revising the first formula and in paragraph (b)(1)(iv) by revising the line beginning "C_s =" appearing under "where:" to read as follows:

§ 446.60 Minocycline hydrochlorides.

* * * * *
(b) * * *
(1) * * *
(iii) * * *
(*e*) * * *

$$K' = \frac{t_m - t_s}{t_s}$$

* * * * *
(iv) * * *

where:

* * * * *
C_s = Milligrams of minocycline sample per milliliter of sample solution; and
* * * * *

12. Section 446.260 is amended by revising the first sentence in paragraph (b)(1)(ii)(*a*) to read as follows:

§ 446.260 Sterile minocycline hydrochloride.

* * * * *
(b) * * *
(1) * * *
(ii) * * * (*a*) Calculate the minocycline content of the single-dose vial as follows:
* * * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

13. The authority citation for 21 CFR part 455 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

§ 455.62a [Amended]

14. Section 455.62a *Sterile sulbactam sodium* is amended in paragraph (b)(1)(iii)(B) by removing "4,000" and replacing it with "3,500".

Dated: October 31, 1989.

Sammie R. Young,

Deputy Director, Office of Compliance Center for Drug Evaluation and Research.

[FR Doc. 89-26543 Filed 11-9-89; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 864 and 880

[Docket No. 87P-0336]

Medical Devices; Specimen Transport and Storage Container; Exemption From Most Current Good Manufacturing Practice Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is exempting the generic type of device specimen transport and storage container from most of the current good manufacturing practice (CGMP) requirements for devices. FDA has determined that compliance with all of the CGMP requirements is unnecessary to assure that this device is safe and effective. This action is being taken in response to a citizen petition.

EFFECTIVE DATE: December 13, 1989.

FOR FURTHER INFORMATION CONTACT: Alicia B. Abbott, Center for Devices and Radiological Health (HFZ-332), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1128.

SUPPLEMENTARY INFORMATION: On September 28, 1987, Richard-Allan Medical Industries, Richland, MI 49083, submitted to FDA a petition (87P-0336) requesting that FDA exempt the petitioner's dry (empty) and prefilled specimen transport and storage containers from the CGMP regulations in 21 CFR part 820, with the exception of §§ 820.180 and 820.198. FDA requested additional information from the petitioner, and that information was submitted on February 4, 1988.

On May 10, 1989, FDA published in the **Federal Register** (54 FR 20147-20148) a proposed rule. Interested persons were invited to submit comments by July 10, 1989. One comment was received. The comment agreed with the proposal to exempt specimen transport and storage containers from premarket notification and most of the CGMP regulations. The comment, however, pointed out that if 21 CFR 880.6175 were removed, specimen containers used for the collection and transportation of body waste, body exudate, or tissue samples that are not to be used for diagnostic examination, would not be covered by any regulation. The comment suggested that the identification section of 21 CFR 864.3250 be revised to include these devices.

FDA agrees with the comment. The omission was inadvertent. FDA has revised the regulation accordingly. Pursuant to § 880.6175, the devices in question were already classified in class I and exempt from premarket notification procedures and the CGMP requirements with the exception of §§ 820.180 and 820.198.

Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,

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neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

good manufacturing practice regulations in Part 820 of this chapter, with the exception of § 820.180, with respect to the general requirements concerning records, and § 820.198, with respect to

ADDRESSES: Comments should be mailed to Commander (oan), Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822-5399. The comments will be available for

required to effectively monitor the increased commercial vessel traffic operating in the Bay, thereby facilitating the safety of navigation. This temporary regulation will be terminated as soon as

(ii) Carrying more than six passengers for hire while operating as a ferry or on an excursion.

(iii) 26 feet or over in length engaged in towing another vessel astern,

(10) *Deep-Draft Vessels:* Vessels which cannot safely adhere to the TSS because of insufficient water depths along the prescribed route.

(11) *Radar Area:* The portion of the

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neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has carefully analyzed the economic effects of this rule and has determined that the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this rule has been carefully analyzed, and it has been determined that the rule does not constitute a major rule as defined in section 1(b) of the Executive Order. The effect of the rule will be only to relieve an unnecessary burden on the manufacturers of the devices subject to § 864.3250.

List of Subjects

21 CFR Part 864

Blood, Medical devices, Packaging and containers.

21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 864 and 880 are amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

1. The authority citation for 21 CFR part 864 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 864.3250 is revised to read as follows:

§ 864.3250 Specimen transport and storage container.

(a) *Identification.* A specimen transport and storage container, which may be empty or prefilled, is a device intended to contain biological specimens, body waste, or body exudate during storage and transport in order that the matter contained therein can be destroyed or used effectively for diagnostic examination. If prefilled, the device contains a fixative solution or other general purpose reagent to preserve the condition of a biological specimen added to the container.

(b) *Classification.* Class I (general controls). If the device is not intended for over-the-counter (OTC) distribution, it is exempt from the premarket notification procedures in subpart E of part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820 of this chapter, with the exception of § 820.180, with respect to the general requirements concerning records, and § 820.198, with respect to complaint files.

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

3. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

§ 880.6175 [Removed]

4. Section 880.6175 *Specimen container* is removed from subpart G.

Dated: October 19, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26490 Filed 11-9-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD11-89-20]

Regulated Navigation Area; San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area in San Francisco Bay and implementing temporary mandatory participation in the existing Vessel Traffic Service system. This action is necessary due to the significant increase in vessel ferry traffic operating in the Bay. Increased ferry service is being used to provide alternate means of mass transportation since the normal traffic corridors in the Bay Area remain closed for repairs following structural damage resulting from the earthquake on October 17, 1989. Mandatory participation will be terminated and voluntary participation resumed as soon as the normal traffic corridors reopen and the need for increased vessel ferry service subsides.

EFFECTIVE DATE: This regulation becomes effective on 25 October, 1989 and will remain in effect until the normal traffic corridors in the Bay area are reopened. Local officials estimate that repairs to the landside bridges and highway approaches may take one to three months. This emergency will be terminated by publication of a document in the Federal Register.

ADDRESSES: Comments should be mailed to Commander (oan), Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822-5399. The comments will be available for inspection and copying at the Union Bank Building, 400 Oceangate, Room 701. Office hours are 7:00 a.m. to 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Van Houten, Eleventh Coast Guard District Aids to Navigation and Waterways Management Branch, Long Beach, California. Telephone number (213) 499-5414.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553 a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to facilitate the safety of navigation in San Francisco Bay.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Mr. Mike Van Houten, project officer for the Eleventh District Aids to Navigation and Waterways Management Branch, and Lieutenant Allen Lotz, project attorney for the Eleventh District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation resulted from the disruption of normal landside traffic corridors (specifically the Oakland Bay Bridge and its highway approaches) due to structural damage sustained in the earthquake that struck the Bay Area on October 17, 1989. This has resulted in a significant increase in the volume of vessel ferry traffic operating in San Francisco Bay as an alternate means of mass transportation for commuters. Many of these vessels will be using new routes which cross existing vessel traffic lanes. Mandatory participation in the Vessel Traffic Service system is required to effectively monitor the increased commercial vessel traffic operating in the Bay, thereby facilitating the safety of navigation. This temporary regulation will be terminated as soon as the normal traffic corridors are reopened and the volume of ferry traffic decreases correspondingly. The intent of this regulation is to parallel the VTS procedures published in the "VTS San Francisco User's Manual" dated July 1984, with the one exception being that participation in the VTS will be mandatory rather than voluntary. Mariners holding this publication are encouraged to continue abiding by the procedures published therein.

This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Safety measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5, 49 CFR 1.46.

2. A new § 165.T1193 is added to read as follows:

§ 165.T1193 San Francisco Bay—Regulated Navigation Area.

(a) *The following is a regulated navigation area.* The waters of San Francisco Bay from the San Francisco Approach Large Navigation Buoy in position 37-45.0 N and 122-41.5 W shoreward through the Bay and up the tributaries of the Bay as far inland as Stockton and Sacramento.

(b) *Purpose and applicability.* (1) This regulation is intended to facilitate orderly vessel traffic movement and enhance the safety of navigation during a period of increased ferry vessel service in San Francisco Bay following disruption of normal landside traffic corridors in the aftermath of the October 17 earthquake.

(2) This regulation is applicable to all commercial and public vessels, United States flag and foreign flag, transiting the area that are:

(i) 300 or more gross tons and propelled by machinery.

(ii) Carrying more than six passengers for hire while operating as a ferry or on an excursion.

(iii) 26 feet or over in length engaged in towing another vessel astern, alongside, or pushing ahead.

(iv) Likely by reason of size, special operation, intended route, cargo, or difficulty of maneuvering, to restrict or affect navigation of other vessels; or

(v) A hazard to navigation by reason of distress such as fire, collision, grounding, or mechanical, or personnel failure.

(c) *Effective dates.* This regulation becomes effective on October 25, 1989 and will be terminated as soon as the normal traffic corridors in the Bay area are reopened and the increased vessel ferry traffic subsides. Local officials estimate the repairs to landside bridges and highways may take one to three months.

(d) *Definition of terms.*

(1) *Vessel Traffic Service (VTS):* Vessel Traffic Service is a general term encompassing all elements of a system employed to manage vessel movements in a port or other congested area.

(2) *Vessel Traffic Center (VTC):* The facility operated by the Coast Guard on Yerba Buena Island, receives, evaluates, displays and disseminates verbal information concerning ship movements and other matters concerning safe navigation within the San Francisco Vessel Traffic Service Area.

(3) *Traffic Routing System (TRS):* A system of charted Traffic Separation Schemes (TSS), consisting of traffic lanes with separation lines, limited traffic areas, precautionary areas and recreation areas designed to coordinate the flow of vessel traffic into, within and out of a port or waterway.

(4) *Limited Traffic Area (LTA):* An area which should be traversed only after certain safety precautions have been observed.

(5) *Traffic Lane:* An area, specifically defined on charts by boundary lines and separation lines, intended for use by vessel traffic proceeding in approximately the same direction.

(6) *Separation Line:* A charted line separating traffic lanes for vessels proceeding in opposite or nearly opposite directions.

(7) *Boundary Line:* A charted line defining the lateral limits of traffic lanes. Special caution should be exercised when navigating near traffic lane boundary lines.

(8) *Precautionary Area:* An area at the convergence of two or more traffic separation schemes where special caution should be exercised.

(9) *Recreation Area:* An area intended primarily for use by recreational craft.

(10) *Deep-Draft Vessels:* Vessels which cannot safely adhere to the TSS because of insufficient water depths along the prescribed route.

(11) *Radar Area:* The portion of the regulated navigation area where the VTC has radar coverage and is defined as follows: The area from the San Francisco Approach Large Navigation Buoy to East Brothers Island to the North and San Mateo Bridge to the South.

(12) *Vessel Movement Reporting System Area (VMRS):* The portion of the regulated area in which there is no radar coverage. Vessel movements are tracked by radio telephone reports. This is the area North of East Brothers Island and South of the San Mateo Bridge.

(e) *Description.* The purpose of the San Francisco Vessel Traffic Service is accomplished through three basic elements: a traffic routing system, a communications network and a surveillance system. All three elements are coordinated from the Vessel Traffic Center (VTC) located on Yerba Buena Island. The VTC is manned by Coast Guard personnel trained in the collection, correlation, analysis and dissemination of vessel movement information.

(f) *Concept of operations.* (1) The normal and predominant role of the VTC is to INFORM. The VTC will inform a participant of other vessels in the vicinity, hazards to navigation, discrepancies in aids to navigation and other items of mutual concern. This will be done either at the participant's request or, when in the interest of safety, such information is considered beneficial. Operation at the *INFORMATIONAL* level constitutes the majority of VTC San Francisco's actions.

(2) In certain circumstances, the VTC will *RECOMMEND* action be taken by a participant to prevent a potentially dangerous situation. Such recommendations are designed to assist the participant in avoiding hazardous situations well before they would otherwise occur. For example, a modest change in speed now could prevent a potentially hazardous meeting situation later in a narrow channel.

(3) In an emergency, or when a dangerous situation is imminent, VTC San Francisco, acting for the Coast Guard Captain of the Port, will *DIRECT* the movement of participating vessels within the VTS area. Such direction will normally take place after either or both of the previous actions (*INFORMATION* and *RECOMMENDATION*) have failed to alleviate the potentially dangerous situation.

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(g) *Communication Rules.* (1) San Francisco Vessel Traffic Service maintains a continuous radiotelephone watch on Channel 13 (156.65 MHz FM) and Channel 16 (156.80 MHz FM). The call sign is "San Francisco Vessel Traffic Service". After communications have been established, the abbreviated call sign "TRAFFIC" may be used. Participants should call and work "TRAFFIC" on Channel 13. Should communication on Channel 13 be lost, call "TRAFFIC" on Channel 16 and be prepared to shift to either channel 12 (156.60 MHz FM) or Channel 18A (156.90 MHz FM) for further communications with VTS. All communications with the VTC should be in the English language and use the 24 hour clock system.

(2) Nothing in these procedures contravenes or modifies the Vessel Bridge-to-Bridge Radiotelephone Regulations.

(i) Channel 13 is the frequency assigned by these regulations for operators of approaching vessels to communicate their intentions to each other.

(ii) The responsibility for complying with the Vessel Bridge-to-Bridge Radiotelephone Act, and making reports required of participants in the Vessel Traffic Service, remains with the master or person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel. However, should the pilot be required to shift to another frequency the master must maintain the listening watch required on Channel 13 and make the required reports.

(iii) Since Channel 13 serves as both Bridge-to-Bridge and VTS frequency in the San Francisco VTS Area, VTS participants are not excused from the requirement, set forth in 47 CFR 83.2245, to monitor Channel 16 (156.80 MHz), the national distress, safety and calling frequency. The requirement to monitor Channel 16 does not apply to single channel stations installed in compliance with the Vessel Bridge-to-Bridge Radiotelephone Regulations.

(h) *Radar Coverage Area Rules*—(1) *Initial Report.* Active participants should make initial reports to the VTC upon entering the regulated navigation area from seaward or upon getting underway from within the RADAR AREA, giving the following information:

Vessel Name
Position or Location
Destination
Route (if not within the TRS)
Anticipated Pilot Change (if applicable)
Pilot Designation
Description of Tow (if applicable)
Deepest Draft (If Vessel Greater Than 300 Tons)

(2) *Additional Radar Area Reports.* (i) When passing under any bridge. (This allows reconfirmation of the identity of the radar contact. The bridges are merely convenient geographical check points.)

(ii) Upon completion of pilot change, departure of pilot or other change in person directing the movement of the vessel.

(iii) When previously reported conditions or intentions change.

(iv) When intending to deviate from the TRS.

(v) In emergency situations (after completing maneuvers necessary to protect the safety of life, property, or environment), giving all information pertinent to safety of navigation.

(vi) To report any condition (concentration of non-participants, weather, debris, vessel in distress, aid to navigation discrepancy, etc.) considered to be a hazard to navigation.

(3) *Radar Area Final Report.* Upon docking, anchoring, mooring or upon departing from the boundaries for the Radar Area the place and time should be reported to the VTC.

(4) *Loss of Radar Coverage.* In the event of loss of radar capability, the Radar Area will be declared a Vessel Movement Reporting System Area and vessels will be advised by the VTC what interim reports to make.

(i) *Vessel Movement Reporting System (VMRS) Rules.* The VMRS is in effect where there is no radar coverage in the VTS area. It is served solely by radiotelephone reports from participants. These reports are recorded and movements tracked by the VTC.

(1) *VMRS Area Initial Reports.* Participants should make initial reports to the VTC upon preparing to get underway from within the VMRS Area, giving applicable information from that prescribed for intial reports in the Radar Area.

(2) *VMRS Area Follow-up Reports.* Follow-up reports should be made:

(i) When actually underway.

(ii) When passing the following points in the northern VMRS:

POINT SAN PABLO, RIO VISTA BRIDGE, ANTIOCH BRIDGE, CARQUINEZ BRIDGE, LIGHT 51, PRISONERS POINT, S.P. RAILROAD BRIDGE, SACRAMENTO, STOCKTON, NEW YORK POINT

(iii) When entering or departing Petaluma River Entrance Channel or Mare Island Strait.

(iv) When passing the following points in the southern VMRS:

HUNTERS POINT, SAN MATEO BRIDGE

(v) When previously reported conditions or intentions change.

(vi) When intending to deviate from normally traveled routes.

(vii) In an emergency situation (after completing maneuvers necessary to protect the safety of life, property or environment), giving all information pertinent to safety of navigation.

(viii) To report any condition (concentration of nonparticipants, weather, debris, vessel in distress, aid to navigation discrepancy, etc.) considered to be a hazard to navigation.

(3) *VMRS Area Final Report.* (i) Upon docking, anchoring, mooring or departing the VMRS Area, the place and time should be reported to the VTC.

(ii) All reports should advise the time of the event being reported.

(4) *Read-back.* The VTC will acknowledge the receipt of reports by "reading back" the information received. The vessel can then confirm the accuracy of the information received at the VTC. If the VTC believes the report to be incomplete or in error, the vessel will be requested to repeat the report.

(j) *Traffic Routing System (TRS).* (1) A Traffic Routing System (TRS) is established in that portion of the VTS area seaward of the Golden Gate and, in the Bay, north of Hunters Point and south of Carquinez Strait. The TRS is composed of traffic lanes, precautionary areas, a limited traffic area, and recreation areas, and is shown on charts of the San Francisco area.

(2) The traffic lanes of the TRS are designed to separate the flow that a vessel traffic in such a way as to reduce the likelihood of a vessel moving in one direction will meet or cross the bow of another vessel bound in an opposite or nearly opposite direction. The lateral limits of the traffic lanes are defined by a separation line or boundary lines. Traffic proceeds within the lanes in the direction which holds the separation line on the port side of the vessel.

(3) Where traffic lanes converge or cross, precautionary areas are established. A circular area west of the Golden Gate and a circular area east of Alcatraz Island are designated precautionary areas. Potentially hazardous crossing encounters are limited by the traffic lanes to these relatively obstruction-free areas.

(4) All vessels should adhere to the TRS. The final decision to deviate from the TRS remains that of the master, pilot, or person in command. All intentions to proceed contrary to the TRS should be made known to the VTC *as far in advance as possible* to permit evaluation and dissemination of necessary warnings to other participants.

(5) All vessels (including public vessels) should navigate within the vessel traffic lanes. Excepted are those vessels engaged in intra-harbor movements whose routes do not infringe on the traffic separation scheme.

(6) Vessels navigating within the traffic lanes should keep the separation line to the port side of the vessel and should maintain a course which conforms with the direction of the lane.

(7) Vessels should avoid crossing the TSS whenever possible. When it is necessary to cross a TSS, this should be done at as close to a right angle as practicable.

(8) Except when joining, leaving, crossing or navigating within a vessel traffic lane or precautionary area, vessels should stay clear of the lanes and precautionary areas by as wide a margin as practicable. Vessels choosing to operate outside of the lanes may do so, but should remain well outside.

(9) Vessels are encouraged to join and leave the traffic lanes at the precautionary areas or at the ends of the lanes. When it is necessary for a vessel to join or leave the traffic lane at some point other than the precautionary areas or a lane termination, the vessel should join or leave the traffic lane at as small an angle as practicable.

(10) Vessels within the traffic lanes who cannot comply with these traffic separation procedures because of an emergency should complete whatever maneuvers are required for safe navigation. Notify VTC of the circumstances as soon as possible.

(11) Vessels that for some reason other than an emergency, cannot comply with the traffic separation procedures should notify the VTC sufficiently in advance of each impending deviation to allow for evaluation and coordination with other vessels. This includes any vessel whose draft precludes it from following the traffic lanes. Even though similar deviations are made repeatedly, a vessel should inform VTC each and every time it proposes to deviate from the guidelines. The following are situations that may require a vessel to deviate from the TRS:

(i) Vessels inbound to ports in Oakland may desire to transit the D–E span of the Oakland Bay Bridge to facilitate safe entry into the Oakland Bar Channel. This is normally acceptable, provided there is no conflicting traffic for that span or the Limited Traffic Area south of Yerba Buena Island during the period of transit. The VTC should be notified of such intentions well in advance. In the event of conflicting traffic, the vessel will have the option of waiting until that route is clear, or using the TSS through A–B or B–C span.

(ii) Vessels whose draft precludes adherence to the TRS are considered "deep-draft vessels." Such vessels, when bound from sea to Anchorage 9 should use the "Deep-Draft Route" east of the Golden Gate Bridge. This route is eastbound in the westbound lane, north of Harding Rock and Alcatraz Island, east of Blossom Rock, then through the C–D or D–E span of the Oakland Bay Bridge to Anchorage 9. The Pilot or Master will determine the need to use this route and should report his decision to VTS. When such a vessel enters the Bay, the VTC informs other vessels in advance. During periods of traffic congestion, a Coast Guard escort may be provided to warn other vessels that the deep-draft vessel will be proceeding contrary to the TSS.

(12) The recreational boating public is generally aware of the TRS and has legitimate expectations that ships will adhere to it. It is normally not possible for the VTC to contact recreational vessels on the VTS radio frequencies and often they do not appear on radar. Therefore, particularly in the area north and south of Alcatraz Island (where many small boats are present both day and night), the hazards of deviation from the TRS are most pronounced. For these reasons, the VTS will recommend adherence whenever a proposal to deviate from the TRS is based only on convenience. In cases of known contrary movements, the VTC may make a Marine Safety Broadcast on channels 16 and 22A to warn the boating public of the impending deviation.

(13) Ferry vessels should notify VTC of their intended route upon departure and at any time during their transit when their progress is slowed or their route is changed. The VTC should again be notified upon completion of the movement. Ferry and tour boats are expected to comply with the TRS as closely as their routes will allow.

(14) Recreation areas should be avoided by vessels other than recreational craft. They should not be used by vessels of 300 gross tons or more for through passage or for any other purpose, except in case of emergency of special circumstances.

(15) The Pinole Shoal Channel in San Pablo Bay should be considered a ONE-WAY CHANNEL whenever an explosive or hazardous-material-laden vessel or a vessel with a draft of 30 feet or greater is transiting the channel.

(16) Explosive or hazardous-material-laden vessels should comply with the Captain of the Port guidelines for vessels with dangerous cargoes. All other vessels should proceed in such a manner as to limit meeting or passing situations with explosive or hazardous-material-laden vessels to those which are unavoidable.

(17) Any vessels that cannot enter port immediately upon arrival at the pilot station may proceed on various courses within the seaward portion of the VTS area in such a way as not to present a hazard to navigation. Alternatively they may seek safe anchorage in an area four miles due north of the charted position of the San Francisco large Navigation Buoy "SF". Ships so anchoring should inform the VTC.

(k) *Limited Traffic Area Procedures.* (1) In San Francisco Bay there is one area which, due to its location, is considered to present high risk of collision to vessels meeting within its boundaries. For this reason it has been designated a Limited Traffic Area (LTA). This area is located immediately south of Yerba Buena Island. It extends from the boundary lines of the vessel traffic lanes eastward to encompass the Oakland Bar Channel, Inner and Outer harbor Entrance Channels and Oakland Outer harbor. Within this area vessel movement is normally restricted to one-way traffic. The VTC will monitor and assist vessels in coordinating their movements through this area.

(2) The limited Traffic Area south of Yerba Buena Island should be used by only one vessel at a time or by vessels proceeding generally in the same direction.

(3) Vessels 300 gross tons or over intending to transit this area should notify the VTC of the intended period of transit. This should be done at least 15 minutes before entering the area and prior to committing the vessel to an unchangeable action. Such vessels should not enter the Limited Traffic Area when another vessel 300 gross tons or over is in the area proceeding in the opposite direction. However, under favorable conditions, and only after clear understanding has been reached on Channel 13 between vessels as to the point and manner of passing, two vessels may agree to pass within this area. The VTC will monitor and evaluate each such arrangement.

(4) In the event no safe passing arrangements are reached or the VTC does not consider the intended arrangement to be safe, the VTC will so inform the participants, recommending alternate action. If the situation is not resolved or the VTC is not convinced a safe passage can be made, the VTC may

direct action which will resolve the problem.

(5) The VTC will advise each vessel stating an intention to transit this area

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

regulations. The District's regulations are incorporated by the State as part of the Kentucky SIP; in this manner, the State has the authority to implement the

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any State

ACTION: Final rule.

SUMMARY: On July 28, 1988, the State of Mississippi submitted revisions to its

and maintain the PM_{10} standards. However, the Mississippi SIP still needed to be revised to address the PM_{10} NAAQS in the following ways:

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direct action which will resolve the problem.

(5) The VTC will advise each vessel stating an intention to transit this area whenever its intended transit conflicts with the known intent of any other vessel. Vessels should notify the VTC immediately of any change in intended transit period to prevent unnecessary delays of other vessels.

(1) Regulated Navigation Area Check-in Locations—

(i) Transit from Pilot area to locations within San Francisco Bay:

(A) Participating vessels check-in upon picking up pilot.

(B) Check-in when passing under the Golden Gate Bridge.

(C) Check-in when passing Alcatraz Island.

(ii) South Bay Transit:

(A) Check-in when passing under the Oakland Bay Bridge.

(B) Check-in when passing Oakland Inner Harbor buoys 5 and 6 (Oakland Estuary transits).

(C) Check-in when passing under San Mateo Bridge (South Bay transits).

(D) Check-in when mooring.

(iii) Port of Sacramento/Stockton:

(A) Check-in when passing under the Richmond-San Rafael Bridge.

(B) Check-in when entering Pinole Shoals Channel (East Brothers area).

(C) Check-in when passing under the Carquinez Straits Bridge.

(D) Check-in when passing under the Southern Pacific Railroad Bridge.

(E) Check-in when passing New York Point.

(iv)Sacramento:

(A) Check-in when passing under the Rio Vista Bridge.

(B) Check-in when passing River marker 56 in the Sacramento Deep Water Ship Channel.

(C) Check-in when mooring at the Port of Sacramento.

(V) Stockton:

(A) Check-in when passing Antioch Point.

(B) Check-in when passing Prisoners Point.

(C) Check-in when mooring at the Port of Stockton. When proceeding outbound the same check-in locations apply.

Dated: October 25, 1989.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 89-26546 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3679-5; KY-062]

Approval and Promulgation of Implementation Plans KY: Approval of Revisions to Appendix N

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a revision to Appendix N of the Kentucky State Implementation Plan (SIP). Appendix N consists of regulations developed by the Air Pollution Control District of Jefferson County (the District), and applies only in Jefferson County, Kentucky; they are implemented by the District. EPA approval of the regulations enables the District to retain authority for all subject activities in Jefferson County.

EFFECTIVE DATE: This action will be effective January 12, 1990, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to Richard A. Schutt of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following location:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365

Kentucky Department for Environmental Protection, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601

Air Pollution Control, District of Jefferson County, 914 East Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Richard A. Schutt of the EPA Region IV Air Programs Branch at 404-347-2864 (FTS-257-2864) and at the above address.

SUPPLEMENTARY INFORMATION: The Air Pollution Control District of Jefferson County (the district) develops and implements air quality regulations in Jefferson County, Kentucky. The District's regulations are at least as stringent as corresponding Kentucky regulations. The District's regulations are incorporated by the State as part of the Kentucky SIP; in this manner, the State has the authority to implement the regulations in Jefferson County if the District cannot.

The SIP revision affected by today's approval was adopted by the Air Pollution Control Board of Jefferson County on April 19, 1989, and submitted to EPA by Kentucky on August 2, 1989. The regulation being approved by this notice is 2.05 Prevention of Significant Deterioration of Air Quality. On September 1, 1989, at 54 FR 36307, EPA approved Kentucky's regulation 51:017 Prevention of Significant Deterioration of Air Quality. In the August 2, 1989, submittal letter, the secretary of the Kentucky Natural Resources and Environmental Protection Cabinet stated that "Regulation 2.05 has been reviewed by the Cabinet and has been found to be not less stringent than the corresponding state regulation" (that has recently been federally approved).

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective January 12, 1990 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective January 12, 1990.

Final Action: EPA is today finalizing approval of the addition of Regulation 2.05 contained in Appendix N of the Kentucky State Implementation Plan.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 12, 1990. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 30, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.920 is amended by adding paragraph (c)(65) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(65) Addition of Jefferson County Regulation 2.05, Prevention of Significant Deterioration of Air Quality, submitted on August 2, 1989, by the Kentucky Natural Resources and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) Jefferson County Regulation 2.05, Prevention of Significant Deterioration of Air Quality. This regulation became effective April 19, 1989.

(ii) Other material.

(A) August 2, 1989, letter from the Natural Resources and Environmental Protection Cabinet.

[FR Doc. 89-26585 Filed 11-9-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[MS-013 FRL-3679-6]

Approval and Promulgation of Implementation Plans; Mississippi: PM_{10} SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 26, 1988, the State of Mississippi submitted revisions to its State Implementation Plan (SIP) for particulate matter. The revisions became State-effective on June 4, 1988. The revisions were adopted pursuant to the requirements of Section 110 of the Clean Air Act to provide for the attainment of EPA's new particulate matter standards, known as "PM_{10}" standards. EPA proposed approval of these revisions on March 2, 1989 (54 FR 8764), and no comments were received.

DATE: This rule will become effective on December 13, 1989.

ADDRESSES: Copies of the State's submittal are available for review during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Mississippi Department of Natural Resources, Bureau of Pollution Control, 2380 Highway 80 West, Jackson, Mississippi 39205

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: Pursuant to the 1977 amendments to the Clean Air Act, EPA, on July 1, 1987 (52 FR 24634), promulgated revised primary and secondary National Ambient Air Quality Standards (NAAQS) for particulate matter by replacing the total suspended particulate matter standard with a standard that included only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. The particles are referred to as PM_{10}.

The PM_{10} standards cover a size range of particles that is different than the range of particles covered by the former particulate standard for total suspended particulates (TSP). This means that States must develop and implement PM_{10} control programs. The process being used generally follows the basic approach used in the development and implementation of TSP control programs. First, EPA evaluated the probabilities of PM_{10} air quality levels predicted from actual TSP data and concluded that Mississippi was a Group III area, which means that the existing particulate matter control strategy is believed to be largely adequate to attain and maintain the PM_{10} standards. However, the Mississippi SIP still needed to be revised to address the PM_{10} NAAQS in the following ways:

(a) To include State ambient air quality standards for PM_{10} at least as stringent as the NAAQS,

(b) To trigger preconstruction review for new or modified sources which would emit significant amounts of either PM or PM_{10} emissions,

(c) To invoke the emergency episode plan to prevent PM_{10} concentrations from reaching the significant harm level of 600 $\mu g/m^3$,

(d) To meet ambient PM_{10} monitoring requirements of 40 CFR part 58, and

(e) To meet the requirements of 40 CFR 51.322 and 51.323 to report actual annual emissions of PM_{10} (beginning with emissions for 1988) for point sources emitting 100 tons per year or more.

Mississippi revised its SIP to address the PM_{10} NAAQS and EPA proposed approval of these revisions on March 2, 1989 (54 FR 8764). No comments were received. The definitions for "Total suspended particulate," "Particulate matter emissions," "PM_{10}," and "PM_{10} emissions" are being added or modified to read the same as the federal definitions. The other existing definitions in the SIP are being recodified.

In the new source review permit regulations, the definition of "Offset policy" was modified to identify the version of the federal regulations adopted. Also, definitions for "Significance levels" and "Significant impact" were added. The Redesignated Offset Policy was restructured so that the applicability requirement was recodified with two criteria and a new section was added defining prohibitions, more stringent that the federal conditions, on receiving a construction permit.

In the Emergency Episode Regulations several revisions were made. In the Episode Criteria Section, the paragraphs for Alert, Warning and Emergency were revised to add the criterion for PM_{10}, to delete the criteria for particulates and for particulates and SO_2 combined and to add wording which matches the federal definition regarding continuation or recurrence of high pollutant concentration. The State took this opportunity to make additional changes unrelated to PM_{10}. The paragraph about air pollution forecasts was modified to contain the proper name of the air pollution agency; "oxidants" was changed to "ozone" in the Alert, Warning and Emergency paragraphs; and the ozone concentration criteria in

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the Emergency paragraph were modified to match the federal definition.

In the Emergency Orders Section, "Suspended particulate matter" was deleted from the Air Pollution Alert and Air Pollution Warning paragraphs and replaced with "PM_{10}."

Mississippi also submitted an updated Air Quality Surveillance Plan which included the ambient PM_{10} monitoring requirements of 40 CFR Part 58 and the reporting requirements of 40 CFR 51.322 and 51.323. The Air Quality Surveillance Plan is part of the narrative portion of the Mississippi SIP, chapter 9.0, Air Monitoring. Other revisions to the narrative portion of the SIP that reflect the addition of PM_{10} include the following sections:

1.15 Notification of Public Hearing for Plan Revision for PM_{10} Requirements
3.6 Legal Authority for the PM_{10} Plan Revision
5.5 Control Strategy for the Development of Emission Regulations for PM_{10}
6.9 Control Regulations for PM_{10} Revisions
14.1.4 Health Effects of the PM_{10} Plan Revisions
14.3.4 Economic Effects of the PM_{10} Plan Revisions
14.5.4 Social Effects of the PM_{10} Plan Revisions
14.6.4 Air Quality Effects of the PM_{10} Revisions

The Prevention of Significant Deterioration (PSD) program in Mississippi is delegated by EPA. The delegation was updated to reflect the addition of PM_{10} on May 20, 1988. Regulation APC–S–1, Section 6.2, paragraph 2 was revised to indicate the delegation update. The Ambient Air Quality Standards (AAQS), Regulation APC–S–4, were revised to incorporate PM_{10}. The PSD delegation and the AAQS are not part of the federally approved SIP but were submitted as attachments to the SIP.

Final Action: EPA has reviewed the submitted material and found it to meet the requirements of 40 CFR Part 51. Therefore, EPA is today approving Mississippi's revisions for PM_{10}.

For further information on EPA's analysis, the reader may consult a Technical Support Document which contains a detailed review of the materials submitted. This is available at the EPA address given above.

Under Section 307(b)(1) of the Act, petition for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from date of publication]. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

List of Subjects in 40 CFR Part 52

Air Pollution control, Hydrocarbons, Incorporation by reference, Ozone, Particulate matter, Reporting and Recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Mississippi was approved by the Director of the Federal Register on July 1, 1982.

Dated June 20, 1989.

Joe R. Franzmathes,
Acting Regional Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart Z—Mississippi

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1270 is amended by adding paragraph (c)(20) to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

(20) PM_{10} revisions for the State of Mississippi which were submitted by the Mississippi Department of Natural Resources on July 26, 1988.

(i) Incorporation by reference.

(A) Revised regulations which became State-effective on June 3, 1988:

1. Air Emission Regulations, APC–S–1, Section 2, (16)–(27).

2. Permit Regulations . . ., APC–S–2, 2.4.6.1(a), (b), (e), (f) and 2.4.6.3.

3. Regulations for the Prevention of Air Pollution Emergency Episodes, APC–S–3, Section 3 and Section 5.

(ii) Additional material.

(A) Letter of July 26, 1988, from the Mississippi Department of Natural Resources, submitting the Mississippi SIP revisions.

Revised SIP narrative:

(B) Section 1.15 Notification of Public Hearing for Plan Revision for PM_{10} Requirements
(C) Section 3.6 Legal Authority for the PM_{10} Plan Revision
(D) Section 5.5 Control Strategy for the Development of Emission Regulations for PM_{10}
(E) Section 6.9 Control Regulations for PM_{10} Revisions
(F) Chapter 9.0 Air Monitoring
(G) Section 14.1.4 Health Effects of the PM_{10} Plan Revisions
(H) Section 14.3.4 Economic Effects of the PM_{10} Plan Revisions
(I) Section 14.5.4 Social Effects of the PM_{10} Plan Revisions
(J) Section 14.6.4 Air Quality Effects of the PM_{10} Revisions

[FR Doc. 89–26586 Filed 11–9–89; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of modification of fishery closure; request for comments.

SUMMARY: NOAA announces a modification of a closure to bottom trawling for groundfish in the Gulf of Alaska, by allowing additional bottom trawling for flounder by vessels that participate in a special observer program, until an additional Pacific halibut (halibut) mortality in the flounder fishery reaches 80,000 pounds (36 metric tons (mt)). This action is necessary to provide additional fishing opportunity to harvest the available total allowable catch (TAC) for flounder while minimizing the catch of halibut. It is intended to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

EFFECTIVE DATE: This notice is effective November 12, 1989. Comments are invited until November 22, 1989.

ADDRESS: Comments on this action may be sent to, and copies of the special observer program may be requested from, Steven Pennoyer, Regional Director, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations appearing at 50 CFR 611.92 and part 672. Under

§ 672.20(f)(1) of the regulations, trawling with gear other than pelagic trawls was prohibited on September 2, 1989 (54 FR 37110, September 7, 1989), when projected mortality of halibut inflicted by groundfish fishing operations reached the specified prohibited species catch (PSC) limit of 2,000 mt established at 54 FR 6524 (February 13, 1989). Reasons for that closure are contained in the Federal Register notice and include a projection that bottom trawling results in an average 4.5 percent halibut bycatch rate and a subsequent mortality rate of 50 percent of halibut that are caught. The North Pacific Fishery Management Council (Council) reviewed this closure at its September 26–29, 1989 meeting with respect to its overall objectives pertaining to groundfish fishing while protecting halibut, which are important to other U.S. fishermen.

The Council received public testimony from representatives of fishermen who participated in the flounder fishery. This testimony made reference to groundfish catch and halibut bycatch data gathered by fishery observers and reported by the Alaska Department of Fish and Game (ADF&G). Some of these data showed that fishing for deepwater species of flounder (i.e., rex sole and dover sole) resulted in halibut bycatch rates that were less than the 4.5 percent rate used to project the fishery closure. The Council then voted to recommend that further bottom trawling be allowed to continue for flounder by operators who had demonstrated a substantially lower halibut bycatch rate than the projected rate until the additional halibut mortality reached 80,000 pounds.

The Secretary of Commerce (Secretary) has reviewed the Council's recommendation and regulations implementing the FMP that govern the halibut PSC. Under the regulations, the Director, Alaska Region, NMFS (Regional Director) is authorized to allow some or all vessels to which a PSC limit applies to continue to fish for groundfish under specified conditions after issuing relevant findings about the following considerations:

(A) The risk of biological harm to halibut stocks and of socioeconomic harm to authorized halibut users posed by continued bottom trawling by these vessels;

(B) The extent to which these vessels have avoided incidental halibut catches up to that point in the year;

(C) The confidence of the Regional Director in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year;

(D) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Director to increases in their incidental halibut catches; and

(E) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Director that adherence to the prescribed conditions can be assured in light of available enforcement resources.

After having reviewed the above considerations, the Regional Director has determined that further fishing for flounder with bottom trawls is warranted and hereby makes the following findings:

(A) An additional 36 mt of halibut mortality will not pose a significant risk of biological harm to halibut stocks or socioeconomic harm to authorized halibut users, because halibut stocks are healthy and 36 mt (80,000 pounds) represents only 0.16 percent of the 1989 halibut quota of 49 million pounds available for commercial harvest in the Gulf of Alaska;

(B) Available ADF&G observer information shows halibut bycatch rates by vessles making flounder landings through September 2, 1989, were less than the average 4.5 percent projected for the trawl fishery. Therefore, based on this information, the Regional Director believes that these rates reflect the ability of vessels targeting on flounders to reduce halibut bycatches;

(C) Because observer coverage of vessels participating in the flounder fishery was acceptable with respect to statistical sampling design, the Regional Director is confident in the accuracy of reported halibut bycatch rates;

(D) Operators of vessels that participate in additional flounder fishing must comply with an observer program prepared by the Regional Director. Therefore, the Regional Director is confident that observer coverage of these vessels will be sufficient to assure adherence to the prescribed conditions while bottom trawling in the Gulf of Alaska and to alert him to increases in incidental halibut catches; and

(E) Enforcement resources are sufficient to assure adherence to the prescribed conditions.

On the basis of the Regional Director's findings, the Secretary modifies the previously issued closure notice by reopening the Gulf of Alaska to bottom trawling for flounder by operators of vessels that agree to comply with specified conditions stated in an observer plan as requested by the Regional Director under 50 CFR 672.27 and available from him upon request at the above address. In making this decision, the Secretary recognizes that all vessel operators wishing to fish for flounder, not just those that had fished earlier and could demonstrate a low halibut bycatch rate, will be given the opportunity to participate, and that the increase in PSC limit is more than that recommended by the Council. The Secretary did not define during the course of the 1989 fishery what a low halibut bycatch was or what levels of observer coverage would be considered adequate to substantiate a bycatch rate. For reasons of fairness, the Secretary is allowing further flounder fishing by all fishermen, subject to the observer plan. The Secretary also notes that the amount of halibut (18 mt) recommended by the Council was based only on testimony from a single processor about what might be needed to support flounder catches by that processor. Since more than one processor is expected to participate in the fishery, the Secretary believes 18 mt of halibut would likely not be adequate, based on the best available information. Rather than open a fishery without adequate provision for halibut bycatch, the Secretary has determined that the larger PSC amount of 36 mt is more reasonable.

The observer plan requires each operator of any vessel that participates in the flounder fishery to comply with the following standards.

(1) Each vessel must carry an observer for purposes of observing halibut bycatch rates while bottom trawling.

(2) The accounting period for purposes of measuring halibut bycatch rates during this fishery shall be weekly from midnight (Alaska Standard Time), Sunday morning until midnight (Alaska Standard Time), the following Saturday night.

(3) The operator of any vessel must cease bottom trawling in the Gulf of Alaska for the remainder of the fishing year if:

(a) The observed average halibut bycatch rate for a vessel reaches 4.5 percent of the total amount of fish retained on board and fish products, calculated in round weight equivalents, that are retained on board at the end of the first accounting period in which that vessel participates, or;

(b) The observed average halibut bycatch rate for a vessel reaches 3.0 percent of the total amount of fish retained on board and fish products, calculated in round weight equivalents, that are retained on board at the end of any subsequent accounting period, or;

(c) If the aggregated halibut bycatch by all vessels participating in the bottom trawl flounder fishery reaches 36 metric tons of halibut mortality.

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(4) While bottom trawling, vessels may not catch and retain other groundfish species in amounts that are 20 percent or more of the amount of fish and fish products retained on board a vessel, calculated in round weight equivalents. This restriction is intended to provide additional fishing opportunity to harvest flounder, while minimizing the harvest of other groundfish species for which the halibut bycatch rates are higher.

If a vessel operator fails to comply with any standard contained in the observer plan, that vessel's participation under the observer plan will be considered terminated.

Classification

This action is taken under §§ 672.20(f) and 672.27 and is in compliance with Executive Order 12291. The Secretary finds for good cause that it is impracticable and contrary to the public interest to provide prior notice and opportunity to comment on this action or to delay for 30 days its effective date under sections 553 (b) and (d) of the Administrative Procedure Act (APA). Bottom trawling for flounder must commence immediately under this notice in order to provide adequate fishing opportunity to harvest available flounder during the remainder of the fishing year. The Secretary also finds that this action relieves a restriction under section 553(d) of the APA by removing the prohibition on fishing with gear other than pelagic gear in the Gulf of Alaska. The Secretary invites comments until November 22, 1989. These comments will be considered in administering this notice, and in determining whether to modify or rescind it.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 7, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-26577 Filed 11-7-89; 1:42 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 54, No. 217

Monday, November 13, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1135

[DA-90-001]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Prepared suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue a suspension of portions of the Southwestern Idaho-Eastern Oregon Federal milk order. The provisions proposed to be suspended relate to limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. This action was requested by the Dairymen's Creamery Association, Inc. (DCA), an association of producers that supplies much of the market's fluid needs and handles reserve milk supplies. DCA has requested continuation of the suspension to prevent uneconomic movements of milk. The proposed suspension would begin in December 1989 and continue for an indefinite period. The same order provisions have been suspended since December 1988.

DATE: Comments are due on or before November 20, 1989.

ADDRESS: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the suspension of the following provisions of the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area is being considered for an indefinite period beginning December 1989:

In § 1135.13, paragraphs (f) (3), (4), (5), and (6).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures to make the action effective beginning with December 1989.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The Dairyment's Creamery Association, Inc. (DCA), an association of producers that supplies much of the market's fluid milk needs and handles much of the market's reserve milk supplies, has requested an indefinite suspension. The requested action would continue the suspension of provisions that limit the amount of producer milk that a cooperative association or other handler may divert from pool plants to nonpool plants. These provisions have been suspended since December 1988 through two previous suspension actions.

The order provides that a cooperative association may divert up to 80 percent of its total member milk received at all pool plants or diverted from pool plants during any month. Also, a proprietary bulk tank handler may divert up to 80 percent of the producer milk it delivers to, or diverts from, pool plants during any month. Finally, the operator of a pool plant may divert up to 80 percent of its receipts of producer milk (for which the pool plant operator is the handler during the month) during any month. DCA indicates that the reasons for an indefinite suspension relate to the persisting conditions that led to the two prior six-month suspensions of the same order provisions. These include the costs of unloading and re-loading of about 2,000,000 pounds of milk through a supply plant each month to meet diversion requirements, which results in increased exposure of the milk to contamination and in shrinkage of milk weights. In addition, continuing uncertainties regarding production trends, economic conditions, and milk utilization percentages make it difficult to establish a diversion percentage that would allow an effective allocation of the milk supply.

DCA indicates that milk production in the southeastern portion of the marketing area continues to increase in terms of the number of dairy farms and the size of dairies. With present and anticipated increases in milk prices to dairymen, DCA believes future production in the region will likely increase over this year. According to DCA, even though sales of Class I products have increased about 6 percent in 1989, production is still projected to surpass Class I needs for the market.

Finally, DCA believes that an indefinite suspension of the diversion requirements will meet the needs of the order and not cause disruption to producers who have historically supplied the needs of the Southwestern Idaho-Eastern Oregon marketing area. DCA also stated that when conditions are more settled, they would be in a position to propose an amendment to the order.

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List of Subjects in 7 CFR part 1135

Dairy products, Milk, Milk marketing orders.

The authority citation for 7 CFR part 1135 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on: November 6, 1989.

Daniel Haley,
Administrator.

[FR Doc. 89-26514 Filed 11-9-89; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1948

Intermediary Relending Program; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule; Correction.

SUMMARY: The Farmers Home Administration corrects a proposed rule published October 11, 1989 (54 FR 41626). In the subject proposed rule errors were made which could affect the interpretation of the proposal and therefore could possibly affect the public comment process. This action is taken to correct those errors. The intended effect is to make the proposed rule read as intended.

DATES: Comments on the proposed rule must be received on or before November 13, 1989.

ADDRESSES: Submit written comments in duplicate to the Chief, Directives and Forms Management Branch, Farmers Home Administration, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Loan Specialist, Farmers Home Administration, USDA, Room 6327, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250, Telephone (202) 475–3819.

SUPPLEMENTARY INFORMATION: The following is a list of the errors being corrected by this document:

1. In § 1940.123(c)(1)(i), regarding priority for obtaining other funds, the word "loan" was inadvertently omitted. This may cause a reader to incorrectly interpret the sources of other funds that would result in the award of priority points.

2. In § 1948.123(c)(2)(iii), the words "that the ultimate recipient" were inadvertently omitted. This could cause a reader to incorrectly interpret that the intermediary would be required to make a certification that is intended to to be required from the ultimate recipient.

Accordingly, the Farmers Home Administration is correcting its proposed revisions to title 7, chapter XVIII, part 1948, of the Code of Federal Regulations, as published on October 11, 1989 (54 FR 41626), as follows:

PART 1948—RURAL DEVELOPMENT

Subpart C—Intermediary Relending Program (IRP)

On page 41628, section 1948.123, paragraphs (c)(1)(i) introductory text and (c)(2)(iii) introductory text, are correctly revised to read as follows:

§ 1948.123 Filing and processing applications for loans.

* * * * *

(c) * * *

(1) * * *

(i) The intermediary will obtain non-Federal loan or grant funds to pay part of the cost of the ultimate recipients' projects. The amount of funds from other sources will average:

* * * * *

(2) * * *

(iii) The intermediary will require as a condition of eligibility for a loan to an ultimate recipient that the ultimate recipient certify in writing that it will employ the following percentage of its workforce from members of families with income below the poverty line:

* * * * *

Dated: November 6, 1989.

Neal Sox Johnson,
Acting Administrator, Farmers Home Administration.

[FR Doc. 89-26501 Filed 11-9-89; 8:45 am]
BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-30-AD]

Airworthiness Directives; Cessna 208 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Cessna 208 series airplanes, which would require inspection of the engine mount ring lower attachment points and replacement of the nose landing gear shimmy dampener. This proposal is prompted by several reports of failure of the shimmy dampener which have led to severe shimmy of the nose wheel. The proposed actions will lower the possibility of nose landing gear shimmy, detect cracks in the engine mount ring, and preclude separation of the engine from the airplane.

DATES: Comments must be received on or before December 13, 1989.

ADDRESSES: Cessna Caravan Service Bulletin CAB88–14, dated April 8, 1988, applicable to this AD, may be obtained from the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89–CE–30–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Wichita Aircraft Certification Office, Mid-Continent Airport, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89–CE–30–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report that a Cessna Model 208 airplane experienced severe shimmy of the nose wheel assembly during landing. Upon examination, it was determined that failure of the nose landing gear shimmy dampener allowed the gear to vibrate, which in-turn induced cracks in the lower corners of the engine mount ring. The FAA is also aware of several similar occurrences of cracked engine mount rings being found after nose gear shimmy encounters. The service records of the Cessna Aircraft Company indicate 17 additional reports of cracks in the lower portion of the engine mount ring. If these cracks are allowed to develop through the mount ring, the reduced stiffness of the engine support system may result in a whirl mode flutter instability of the propeller-powerplant system. Additionally, complete failure of the engine mount could result in separation of the engine from the airplane.

Cessna has incorporated a different shimmy dampener on more recently manufactured 208 series airplanes. This new design utilizes two servicing ports to assist in fluid filling and air expulsion during servicing operations. Cessna has issued Cessna Service Bulletin CAB88–14, dated April 8, 1988, specifying the new and improved shimmy dampener, Part No. 2643090–1, for affected Model 208, 208A, and 208B airplanes. This new shimmy dampener will lower the possibility of nose landing gear shimmy and minimize the potential for structural damage to the engine mount ring. Since the condition described is likely to exist or develop in other Cessna 208 series airplanes of the same design, the proposed AD would require replacement of the shimmy dampener in accordance with Service Bulletin CAB88–14, and an inspection of the engine mount ring for cracks on Cessna 208 series airplanes.

The FAA has determined there are approximately 212 Cessna 208 series airplanes affected by the proposed AD. The cost of replacing the shimmy dampener and inspecting the engine mount ring in accordance with the proposed AD is estimated to be $1,421 per airplane. The total cost is estimated to be $301,252. The FAA has determined that all but 35 of these affected airplanes have already complied with the referenced service instructions. Therefore, the proposed actions will not have a significant financial impact on any entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Felxibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows.

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Cessna: Applies to Models 208 and 208A (Serial Numbers 20800001 through 20800130), and Model 208B (Serial Numbers 20830001 through 20830086) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished. To prevent nose landing gear shimmy and failure of the engine mount ring, accomplish the following:

(a) Visually inspect the lower portion of the engine mount ring for misalignment and cracks.

(1) If any ring has a visible misalignment, or has a crack longer than 1.7 inches, prior to further flight replace the ring with a serviceable part.

(2) If any ring has a crack less than 1.7 inches, prior to further flight repair the ring in accordance with the Cessna Model 208 Maintenance Manual, P/N 02678–2–13.

(b) Replace the shimmy dampener (Part Number 2643007–1 or –2) with a Part Number 2643090–1 shimmy dampener in accordance with the instructions in Cessna Caravan Service Bulletin CAB88–14, dated April 8, 1988.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) Alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety, may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946–4400.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 31, 1989.

Barry D. Clements,
Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-26533 Filed 11-9-89; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ASW-40]

Airworthiness Directives; Sikorsky Model S-58T Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection of the engine combining gear box/angle gear box drive shaft assembly for cracks and loose balance weights on S–58T series helicopters. The proposed AD is needed to prevent failure of the engine combining gear box/angle gearbox drive shaft assembly which could result in loss of the helicopter.

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DATE: Comments must be received on or before December 28, 1989.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, Fort Worth, Texas 76193–0007, or delivered in duplicate to Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Building 3B, Room 158, Fort Worth, Texas. Comments delivered must be marked: Docket No. 89–ASW–40.

Comments may be inspected at the above location in Room 158 of Building 3B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable service bulletin (SB) may be obtained from Mr. R.E. Warren, Sikorsky Aircraft Division, United Technologies Corporation, North Main Street, Stratford, Connecticut 06601, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before any final action is taken on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Regional Rules Docket, FAA, 4400 Blue Mound Road, Building 3B, Room 158, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 89–ASW–40. The postcard will be date/time stamped and returned to the commenter.

There have been two reported incidents of loose balance weights on the engine combining gear box/angle gear box drive shaft on S–58T series helicopters. One of the incidents resulted in a fatigue crack of the drive shaft. Since this condition is likely to exist or develop on other helicopters of the same design, the proposed AD would require inspection, and removal if necessary, of the engine combining gear box/angle gear box drive shaft assembly on these helicopters.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves only 41 helicopters and the approximate cost would be $240 per helicopter if an inspection only is required, plus an additional $4,000, if replacement of the drive shaft is required. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 39:

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend § 39.13 of part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Sikorsky Aircraft: Applies to Model S–58T series helicopters, certificated in any category. (Docket No. 89–ASW–40)

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the engine combining gearbox/angle gear box drive shaft assembly, part number (P/N) 58350–10030–045, which could result in loss of the helicopter, accomplish the following:

Within the next 50 hours' time in service after the effective date of this AD, inspect the engine combining gear box/angle gear box drive shaft assembly for cracks and loose balance weights as follows:

(a) Remove the engine combining gear box/angle gear box drive shaft assembly from the helicopter.

(b) Check the engine combining gear box/angle gear box drive shaft assembly for loose balance weights and a gap at the riveted joint between the balance weight and shaft as follows:

(1) Using a feeler gage, check for a gap greater than 0.002 inch in the immediate area of the attaching rivets which secure the balance weights to the shaft.

Note.—On balance weights which require two rivets, do not check at the mid-span.

(2) If a gap greater than 0.002 inch exists in the immediate area of the riveted joint, remove the engine combining gear box/angle gear box drive shaft assembly from service and reinstall an airworthy part in accordance with the standard maintenance instructions.

(3) If the gap at the rivets is 0.002 inch or less, further inspect the engine combining gear box/angle gear box drive shaft assembly as follows:

(i) Mask off an area on the engine combining gear box/angle gear box drive shaft assembly about 0.5 inch from all sides of the balance weights.

(ii) Remove the protective finish, paint, and primer from the engine combining gear box/angle gear box drive shaft assembly using paint remover, MIL–R–81294 or equivalent.

(iii) Remove the masking tape from the engine drive shaft assembly.

(iv) Clean the surface with methyl ethyl ketone, Federal Spec. TT–M–261 or equivalent.

(v) Fluorescent-penetrant-inspect the cleaned area in accordance with MIL–I–6866, Type 1, Method C or equivalent.

(vi) If any cracks are found, remove the engine combining gear box/angle gear box drive shaft assembly from service and reinstall an airworthy part in accordance with the standard maintenance instructions.

(vii) If no cracks are found, remove the developer background used in the fluorescent penetrant inspection. Use a blacklight to aid in complete removal of the developer.

(viii) Apply two coats of AMLGUARD, in accordance with MIL–C–85084 (TS), Type 1, or equivalent, over all the surfaces in the inspection area. Allow a ½-hour drying time between coats.

(c) Install the engine combining gear box/angle gear box drive shaft assembly on the helicopter in accordance with standard maintenance instructions.

Note.—Sikorsky Alert Service Bulletin No. 58B35–30, dated May 17, 1988, applies to this AD.

(d) The aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where compliance can be accomplished.

(e) An alternate method of compliance or adjustment of the compliance times, which provides an equivalent level of safety, may be used if approved by the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts.

Note.—The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the manager of the Boston Aircraft Certification Office.

Issued in Fort Worth, Texas, on October 30, 1989.

James D. Erickson,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-26529 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 142

Manufacturer/Shipper Identification Required at Time of Entry

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to require that all importers provide the name and address of the manufacturer or shipper of imported merchandise on each invoice. The addition of this information on the invoice is necessary to enhance Customs ability to perform its cargo documentation and improve overall efforts to process entries as expeditiously as possible with a minimum of processing delays.

DATE: Comments must be received on or before December 13, 1989.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Leonard Cianciotto or Patricia Flynn, Office of Inspection and Control, U.S. Customs Service (202) 566–5354.

SUPPLEMENTARY INFORMATION:

Background

As part of its ongoing effort to improve the processing of cargo and thus provide quicker, more efficient service to importers, Customs has developed several methods which take advantage of the developing automated information-processing technology. A principal element of that effort has been the adoption of the Automated Commercial System (ACS). Through this system, importers are able to have their merchandise quickly cleared through the entry documentation process. One of the critical elements which enables the ACS process to function efficiently is an item known as the "Manufacturer ID". Instruction for standardized construction of this code, which is intended to provide a unique piece of data to be used in various automated systems, were provided in T.D. 87–66, 52 FR 24084, June 26, 1987. Use of this "Manufacturer ID" was required as of July 27, 1987, for all forms processed through the cargo selectivity module of the ACS.

At the time the "Manufacturer ID" requirement was implemented, Customs had no record of many of the manufacturers for whom ID's were being developed. Additionally, new manufacturers appear constantly. For the ACS cargo selectivity module used in entry processing to work efficiently, it is necessary that the system to able to verify the "manufacturer ID" against a known manufacturer's or shipper's name and address. There is no specific requirement in the Customs Regulations that the name and address of the manufacturer or shipper of the merchandise being imported appear on any entry document. Section 142.6(a) sets forth the required contents of the invoice to be submitted at the time of entry. Informaiton regarding the manufacturer/supplier is not required, but is optional. Section 141.86, sets forth the required contents of the invoice for submission with the entry summary. This summary must be filed no later than 10 days after the filing of the entry documentation. However, the regulations provide the importer with the option of providing information on either the seller or the shipper of the merchandise, neither of which may be the actual manufacturer.

The Customs cargo documentation system needs to have a readily verifiable procedure to match manufacturers and merchandise. By requiring that the name and address of the manufacturer or shipper appear on the invoice submitted at the time of entry, Customs will have the information necessary to realize the full potential of the ACS. Accordingly, Customs is proposing to amend its regulations to achieve this objective.

Comment Period

Because all delays in obtaining the information sought by the amendment will seriously detract from Customs ability to perform necessary cargo inspection and processing operations, it has been deemed necessary to limit the comment period on the proposed amendment to 30 days from the date of the publication of this Notice in the Federal Register.

Comments

Before adopting the proposed amendment, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is certified that, if adopted, the proposed amendment will not have a signficant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1515–_____), Washington, DC 20503, with copies to the U.S. Customs Service at the address previously specified.

The collection of information contained in this regulation is in § 142.6(a). This information is required

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by the U.S. Customs Service to enable it to perform necessary cargo inspection and processing operations. This information will be used to verify the validity of manufacturer/shipper identification numbers which are used in the Customs Automated Commercial System (ACS). The likely respondents are businesses or other for-profit institutions.

Estimated total annual reporting and/or recordkeeping burden: 6000 hours.

Estimated average annual burden per respondent and/or recordkeeper: 12 hours.

Estimated number of respondents and/or recordkeepers: 500.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 142

Entry process.

The Proposed Amendment

It is proposed to amend 19 CFR part 142 as set forth below.

PART 142—[AMENDED]

1. The authority citation for part 142 would continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. In § 142.6, paragraph (a) introductory text is republished and a new paragraph (a)(5) is added to read as follows:

§ 142.6 Invoice requirements.

(a) Contents

The commercial invoice, or the documentation acceptable in place of a commercial invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

* * * * *

(5) The name and complete address of the individual or firm who is responsible for invoicing the merchandise (for example, the manufacturer or the shipper).

Approved: November 3, 1989.

Michael H. Lane,

Acting Commissioner of Customs.

Dennis M. O'Connell,

Acting Assistant Secretary of the Treasury.

[FR Doc. 89-26558 Filed 11-9-89; 8:45 am]

BILLING CODE 4820-02-M

RAILROAD RETIREMENT BOARD

20 CFR Part 212

RIN 3220-AA70

Military Service

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend part 212 of its regulations by adding a new period of military service which is now creditable under the Railroad Retirement Act (RRA) in certain cases in order to reflect certain Amendments to that Act.

DATE: Comments must be submitted on or before December 13, 1989.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Stanley Jay Shuman, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4568 (FTS 386-4568).

SUPPLEMENTARY INFORMATION: Military service is creditable under the RRA if it was performed during a war service period and was preceded by railroad service. See section 3(i)(2) of the RRA. Section 1(g)(2) of the RRA defines a war service period as any war period, or, with respect to any individual who was in military service at the end of a war period, the period during which such individual was required to remain in service following the end of the war period, or a period of involuntary military service or a period after September 7, 1939, with respect to which there was proclaimed a state of national emergency. Section 7304(a) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (Title VII of Public Law 100-647) amended section 1(g)(2) of the RRA to provide that military service between June 15, 1948 and December 15, 1950 (the period between the end of the national emergency which had been proclaimed with respect to World War II and the beginning of the next state of national emergency resulting from the Korean conflict) shall be deemed a war service period with respect to an individual if, following the employee's release from active military service, he or she returned to railroad service in the year he or she was separated from service or the following year without any other intervening employment.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, this part does not impose any requirement for the collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects in 20 CFR Part 212

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, part 212, Chapter II, title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 212—MILITARY SERVICE

1. The authority citation for part 212 is revised to read as follows:

Authority: 45 U.S.C. 231f.

2. Section 212.4, paragraph (f) is revised to read as follows:

§ 212.4 Periods of creditable military service.

* * * * *

(f) June 15, 1948 through December 15, 1950. This service is creditable if:

(1) Entered into involuntarily; or

(2) Entered into voluntarily, but only if:

(i) The individual who seeks credit for this service performs service as an employee for an employer as defined in part 202 of this chapter either in the year of his release from active military service or in the year following such release, and;

(ii) Does not engage in any employment not covered by part 203 between his release from active military service and his commencement of service for an employer.

* * * * *

Dated: November 3, 1989.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 89-26475 Filed 11-9-89; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-AD91

Loan Guaranty; Implementation of Public Law 100-198

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulatory amendments.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its loan guaranty regulations (38 CFR part 36) to comply with certain provisions of Public Law 100-198, the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987, as amended by Public Law 100-253, the Veterans' Home Loan Program Emergency Amendments of 1988. Changes which VA proposes to incorporate into the regulations by these amendments are: (1) An increase in the maximum amount of entitlement from $27,500 to $36,000, (2) a revision of the method for calculating the guaranty amount, (3) a revision of the occupancy requirements, and (4) a revision of the requirements for refinancing loans.

DATES: Comments must be received on or before December 13, 1989. Comments will be available for public inspection until December 26, 1989. VA proposes to make these regulatory amendments effective 30 days after publication of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments will be available for public inspection in Room 132, Veterans Service Unit, at the above address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until December 26, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Schneider, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, (202) 233-3042.

SUPPLEMENTARY INFORMATION: VA is proposing to incorporate into its regulations several changes to comply with certain provisions of Public Law 100-198 as amended by Public Law 100-253.

Section 36.4302 of 38 CFR part 36 describes the method for calculating the guaranty for loans guaranteed under 38 U.S.C. 1810. Prior to enactment of Public Law 100-198 VA would guarantee lenders against loss at a rate of 60 percent of the loan amount, up to a maximum of $27,500. The maximum amount of entitlement has been increased from $27,500 to $36,000 and a two-tiered guaranty has been established based on the loan amount. For loans of $45,000 or less, 50 percent of the loan is guaranteed, and for loans above $45,000, 40 percent of the loan is guaranteed up to $36,000, whichever is less, but not less than $22,500. VA is proposing to amend § 36.4302 to reflect this change.

Occupancy requirements for VA guaranteed loans are contained in various sections of the regulations. The occupancy requirements for loans guaranteed under 38 U.S.C. 1810, including regular refinancing loans, as well as interest rate reduction refinancing loans (loans to refinance in order to lower the interest rate where the original loan was guaranteed by VA), are contained in §§ 36.4303, 36.4306, and 36.4306a respectively.

Prior to enactment of Public Law 100-198 the veteran was required to physically occupy the property to obtain a VA guaranteed loan. The new law provides that the occupancy requirements will be met in the case of a veteran who is unable to occupy the property because of active duty status in the Armed Forces if the veteran's spouse certifies that he or she will occupy the property as his or her home. VA proposes to amend §§ 36.4303, 36.4306, and 36.4306a to reflect this change.

Public Law 100-198 also provides that for interest rate reduction refinancing loans closed on or after January 21, 1988, previous occupancy by the veteran or spouse will satisfy the occupancy requirements. VA proposes to amend § 36.4306a to delete the requirement that the veteran or spouse still occupy the property at the time of refinancing the existing VA guaranteed loan.

Public Law 100-198 reduced the amount of a refinancing loan to not more than 90% of the appraised value of the property, and VA proposes to amend § 36.4306 to reflect this reduction.

Public Law 100-198 extended the term of interest rate reduction refinancing loans. The new loan term is for up to 10 years longer than the term of the original loan, subject to the maximum of 30 years and 32 days. VA proposes to amend § 36.4306a to conform to this change.

The provisions of Public Law 100-198 included in the appropriate regulations by this amendment have been implemented administratively. Similar changes concerning the increase in entitlement, calculation of the guaranty amount, and occupancy requirements affect loans for manufactured homes guaranteed by VA under 38 U.S.C. 1812. These changes are being made to the 4200 series of 38 CFR part 36 separately.

The Secretary hereby certifies that these proposed regulatory amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The proposed amendments simply update VA regulations to incorporate the changes which have already been made by Public Law 100-198 as amended by Public Law 100-253.

The Secretary has also determined that the proposed regulatory amendments are not a major rule within the meaning of Executive Order 12291, Federal Regulation. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers or individual industries, nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.118.

These amendments are proposed under Public Law 100-198 as amended by Public Law 100-253 and the authority granted the Secretary by section 210(c) of title 38, United States Code.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan program—housing and community Development, Manufactured homes, Veterans.

Approved: October 19, 1989.

Edward J. Derwinski,

Secretary.

PART 36—[AMENDED]

38 CFR part 36, Loan Guaranty, is proposed to be amended as follows:

§ 36.4302 [Amended]

1a. In § 36.4302 redesignate paragraphs (b) through (i) as paragraphs (c) through (j) respectively.

b. In § 36.4302 in newly designated paragraphs (d)(1) through (3) remove the words "$27,500" wherever they appear and add, in their place, the words "$36,000".

c. In § 36.4302 in newly designated paragraphs (d)(1) through (3) remove the numbers "1819" wherever they appear and add, in their place, the numbers "1812".

d. In § 36.4302 paragraph (a) is revised and paragraph (b) is added, an authority citation is added to newly designated paragraph (d)(2), and the authority citation to newly designated paragraph (d)(3) is revised to read as follows:

§ 36.4302 Computation of guaranties or insurance credits.

(a) With respect to a loan to a veteran guaranteed under 38 U.S.C. 1810 the guaranty shall not exceed the lesser of—

(1)(i) 50 percent of the original principal loan amount where the loan amount is not more than $45,000; or

(ii) The lesser of $36,000 or 40 percent of the original principal loan amount where the loan amount exceeds $45,000, except that the guaranty amount shall not be less than $22,500; or

(2) The maximum amount of guaranty which may be guaranteed in connection with a loan under 38 U.S.C. 1810(d)(1)(A) or (B) or (d)(2) as limited by 38 U.S.C. 1810(d)(3).

(b) The amount of guaranty computed under paragraph (a) of this section may be increased by the amount of the loan fee paid to the lender by the veteran, the amount of the loan fee paid to the lender by the seller on behalf of the veteran, and the amount of the loan fee paid to the lender by the veteran and refunded to the veteran by the seller, but only to the extent that the loan fee does not exceed 1 percent of the loan amount. The amount of guaranty computed under paragraph (a) of this section may be increased by the amount of the discount points paid to the lender by the veteran, the amount of the discount points paid to the lender by the seller on behalf of the veteran, and the amount of the discount points paid to the lender by the veteran and refunded to the veteran by the seller, but only to the extent that the discount points do not exceed 4 percent of the loan amount. The amount of guaranty computed under paragraph (a) of this section may be increased by the amount of the funding fee paid to the lender by the veteran, the amount of the funding fee paid to the lender by the seller on behalf of the veteran, and the amount of the funding fee paid to the lender by the veteran and refunded to the veteran by the seller, but only to the extent that the funding fee does not exceed 1 percent of the loan amount. The amount of guaranty computed under paragraph (a) of this section may be increased by the amount of the origination fee paid to the lender by the veteran, the amount of the origination fee paid to the lender by the seller on behalf of the veteran, and the amount of the origination fee paid to the lender by the veteran and refunded to the veteran by the seller, but only to the extent that the origination fee does not exceed 1 percent of the loan amount. The amount of guaranty computed under paragraph (a) of this section may be increased by the amount of the assumption fee paid to the lender by the veteran, the amount of the assumption fee paid to the lender by the seller on behalf of the veteran, and the amount of the assumption fee paid to the lender by the veteran and refunded to the veteran by the seller, but only to the extent that the assumption fee does not exceed 1 percent of the loan amount. The amount of guaranty computed under paragraph (a) of this section may be increased by the amount of the loan fee paid to the lender by the veteran, the amount of the loan fee paid to the lender by the seller on behalf of the veteran, and the amount of the loan fee paid to the lender by the veteran and refunded to the veteran by the seller, but only to the extent that the loan fee does not exceed 1 percent of the loan amount.

(Authority: 38 U.S.C. 1810(e)(1))

* * * * *

(g) * * *

(5) * * * However, the total guaranty may not exceed 50 percent of the new loan if the new loan amount is $45,000 or

term allowed under 38 U.S.C. 1803(d)(1), whichever is less. For manufactured home loans that were previously guaranteed under 38 U.S.C. 1812 the loan term, if being refinanced under 38 U.S.C. 1810(a)(9)(B)(i), may exceed the original

c. In § 36.4503 in the authority citation remove the words "(1) and" so the authority citation correctly reads "38 U.S.C. 1811(d)(2)(A)".

[FR Doc. 89-26469 Filed 11-9-89; 8:45 am]

matters. Twelve participants [1] filed comments.

While analysis of the postal ratemaking statute, aided by the comments filed in this docket, shows

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(ii) The lesser of $36,000 or 40 percent of the original principal loan amount where the loan amount exceeds $45,000, except that the guaranty amount shall not be less than $22,500; or

(2) The maximum amount of guaranty entitlement available to the veteran.

(b) With respect to a loan guaranteed under 38 U.S.C. 1810(a)(8) or (9)(B)(i) the dollar amount of guaranty may not exceed the original dollar amount of guaranty on the loan being refinanced.

(Authority: 38 U.S.C. 1803(a))

* * * * *

(d) * * *

(2) * * *

(Authority: 38 U.S.C. 1803(a), 1812(c))

(3) * * *

(Authority: 38 U.S.C. 1803(a), 1812(c))

* * * * *

2. In § 36.4303 paragraph (f) is revised to read as follows:

§ 36.4303 Reporting requirements.

* * * * *

(f) Evidence of a guaranty will be issued by the Secretary by appropriate endorsement on the note or other instrument evidencing the obligation, or by a separate certificate at the option of the lender. Notice of credit to an insurance account will be given to the lender. Unused certificates of eligibility issued prior to March 1, 1946, are void. No certificate of commitment shall be issued and no loan shall be guaranteed or insured unless the lender, the veteran, and the loan are shown to be eligible. Evidence of guaranty or insurance will not be issued on any loan for the purchase or construction of residential property unless the veteran or the veteran's spouse in the case of a veteran who cannot occupy the property because of active duty status with the Armed Forces, certifies in such form as the Secretary shall prescribe, that the veteran, or spouse of the active duty veteran, intends to occupy the property as his or her home. Guaranty or insurance evidence will not be issued on any loan for the alteration, improvement, or repair of any residential property or on a refinancing loan unless the veteran, or spouse of an active duty service member, certifies that he or she presently occupies the property as his or her home. An exception to this is if the home improvement or refinancing loan is for extensive changes to the property which will prevent the veteran or the spouse of the active duty veteran from occupying the property while the work is being completed. In such a case the veteran or spouse of the active duty veteran must certify that he or she intends to occupy or reoccupy the property as his or her home upon completion of the substantial improvements or repairs. All of the mentioned certifications must take place at the time of loan application and closing except in the case of loans automatically guaranteed, in which case veterans or in the case of an active duty veteran, the veteran's spouse shall make the required certifications only at the time the loan is closed.

(Authority: 38 U.S.C. 1804(c))

* * * * *

3. In § 36.4306, paragraphs (a)(1) and (a)(2) are redesignated as paragraphs (a)(2) and (a)(3) respectively, the introductory text of paragraph (a) is revised, paragraph (a)(1) is added, paragraph (c), the last sentence of paragraph (g)(5) and the authority citation to paragraph (g) are revised to read as follows:

§ 36.4306 Refinancing of mortgage or other lien indebtedness.

(a) Any loan for the purpose of refinancing (38 U.S.C. 1810(a)(5)) an existing mortgage loan or other indebtedness secured by a lien of record on a dwelling or farm residence owned and occupied or to be reoccupied if the refinancing loan is for the completion of major alterations, repairs or improvements to the property, by an eligible veteran as the veteran's home, or in the case of an eligible veteran unable to occupy the property because of active duty status in the Armed Forces, occupied or to be reoccupied by the veteran's spouse as the spouse's home, shall be eligible for guaranty in an amount as computed under § 36.4302(a) provided that—

(1) The amount of the loan may not exceed an amount equal to 90 percent of the reasonable value of the dwelling or farm residence which will secure the loan, as determined by the Secretary.

(Authority: 38 U.S.C. 1810(e)(1) and 1810(h))

* * * * *

(c) Nothing shall preclude guaranty of a loan to an eligible veteran having home loan guaranty entitlement to refinance under the provisions of 38 U.S.C. 1810(a)(5) a VA guaranteed or insured (or direct) mortgage loan made to him or her which is outstanding on the dwelling or farm residence owned and occupied or to be reoccupied after the completion of major alterations, repairs, or improvements to the property, by the veteran as a home, or in the case of an eligible veterans unable to occupy the property because of active duty status in the Armed Forces, occupied or to be reoccupied by the veteran's spouse as the spouse's home.

(Authority: 38 U.S.C. 1810(e)(1))

* * * * *

(g) * * *

(5) * * * However, the total guaranty may not exceed 50 percent of the new loan if the new loan amount is $45,000 or less, or 40 percent up to $36,000 of the new loan if the new loan amount is more than $45,000, but may not be less than $22,500 if the loan amount exceeds $45,000.

(Authority: 38 U.S.C. 1803(a))

4. In § 36.4306a paragraphs (a) and (b) are revised to read as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) Pursuant to 38 U.S.C. 1810(a) (8) and (9)(B)(i), a veteran may refinance an existing VA guaranteed, insured or direct loan to reduce the interest rate payable on the existing loan provided the following requirements are met:

(1) The loan must be secured by the same dwelling or farm residence as the loan being refinanced; and

(2) The veteran must own the dwelling or farm residence securing the loan and

(i) Must occupy the dwelling or residence as his or her home; or

(ii) Must have previously occupied the dwelling or residence as his or her home and must certify, in such form as the Secretary shall require, that he or she has previously occupied the dwelling or residence; or

(iii) In any case in which the veteran is on, or was on, active duty status as a member of the Armed Forces and is unable, or was unable, to occupy the residence of dwelling as a home because of such active duty status, the spouse of the veteran must occupy, or must have previously occupied, such dwelling or residence as the spouse's home and must certify to that occupancy in such form as the Secretary shall require.

(Authority: 38 U.S.C. 1810(e)(1))

(3) The amount of the refinancing loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as authorized by § 36.4312(d) and a discount not to exceed a dollar amount determined in accordance with § 36.4312(d)(7)(i);

(4) The dollar amount of the guaranty of the 38 U.S.C. 1810(a) (8) or (9)(B)(i) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(5) The term of the refinancing loan (38 U.S.C. 1810(a)(8)) may not exceed the original term of the loan being financed plus ten years or the maximum loan term allowed under 38 U.S.C. 1803(d)(1), whichever is less. For manufactured home loans that were previously guaranteed under 38 U.S.C. 1812 the loan term, if being refinanced under 38 U.S.C. 1810(a)(9)(B)(i), may exceed the original term of the loan but may not exceed the maximum loan term allowed under 38 U.S.C. 1803(d)(1).

(Authority: 38 U.S.C. 1810(e)(1))

(b) Notwithstanding any other regulatory provision, the interest rate reduction refinancing loan may be guaranteed without regard to the amount of guaranty entitlement available for use by the veteran, and the amount of the veteran's remaining guaranty entitlement, if any, shall not be charged for an interest rate reduction refinancing loan. The interest rate reduction refinancing loan will be guaranteed with the lesser of the entitlement used by the veteran to obtain the loan being refinanced or the amount of the guaranty as calculated under § 36.4302(a) of this part. The veteran's loan guaranty entitlement originally used for a purpose as enumerated in 38 U.S.C. 1810(a) (1) through (7) and (9)(A) (i) and (ii) and subsequently transferred to an interest rate reduction refinancing loan (38 U.S.C. 1810(a) (8) or (9)(B)(i)) shall be eligible for restoration when the interest rate reduction refinancing loan or subsequent interest rate reduction refinancing loans on the same property meets the requirements of § 36.4302(h).

(Authority: 38 U.S.C. 1803(a))

* * * * *

5. Section 36.4502 is revised to read as follows:

§ 36.4502 Use of guaranty entitlement.

The guaranty entitlement of the veteran obtaining a direct loan which is closed on or after February 1, 1988, shall be charged with the lessor of the loan amount or an amount which bears the same ratio to $36,000 as the amount of the loan bears to $33,000. The charge against entitlement of a veteran who obtained a direct loan which was closed prior to the aforesaid date, shall be the amount which would have been charged had the loan been closed subsequent to such date.

(Authority: 38 U.S.C. 1811(d)(2)(A))

§ 36.4503 [Amended]

6a. In § 36.4503 paragraph (a) remove the words "October 1, 1980" where they appear and add, in their place, the words "February 1, 1988".

b. In § 36.4503 paragraph (a) remove the words "$27,500" and add, in their place, the words "$36,000".

c. In § 36.4503 in the authority citation remove the words "(1) and" so the authority citation correctly reads "38 U.S.C. 1811(d)(2)(A)".

[FR Doc. 89-26409 Filed 11-9-89; 8:45 am]

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POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM89-5]

Procedures for Consideration of Contract Rates

Issued November 6, 1989.

AGENCY: Postal Rate Commission.

ACTION: Further invitation for comments.

SUMMARY: The Postal Rate Commission received a petition for a rulemaking to create procedures for consideration of rates arrived at by contractual negotiation between the Postal Service and one or more mailers. Interested persons were invited (54 FR 30557, July 21, 1989) to file initial comments concentrating on the legal feasibility of such a mechanism under the Postal Reorganization Act.

On consideration of these comments, the Commission has concluded that possible reorientation of the existing mail classification system would be a more profitable direction in which to seek the advantages said to be associated with contract ratemaking. This notice solicits comments and suggestions for such a reorientation.

DATE: Comments must be received by February 12, 1990.

ADDRESS: Written comments and correspondence should be addressed to Charles L. Clapp, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001 (telephone: 202/789-6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission (telephone: 202/789-6820).

SUPPLEMENTARY INFORMATION:

Introduction

This notice sets forth and explains our disposition of the petition for rulemaking filed by Advo-System, Inc. (Advo) and made the subject of initial comments by our July 17, 1989, notice in this docket. We asked commenters to concentrate on the legal feasibility of Advo's proposal that we establish one or more sets of procedures to consider contract rates, though they were also free to state preliminary views on other relevant matters. Twelve participants [1] filed comments.

While analysis of the postal ratemaking statute, aided by the comments filed in this docket, shows that new procedural rules for consideration of contract rates—as Advo's petition uses that term—would serve no practical purpose, the petition does raise important questions about how postal services are defined and priced. We are therefore maintaining this docket in existence, but redirecting it toward exploration of mechanisms that might secure the advantages Advo claims for the contract rates described in its petition, without contravening the Postal Reorganization Act. In this Order we (i) describe Advo's two alternative proposals; (ii) explain our conclusion that they are, respectively, inconsistent with the Act and in practice duplicative of existing mechanisms; and finally (iii) describe and explain the direction we find most profitable for further inquiry.

The Advo Proposals

Advo describes two different forms of contract rate it believes the Commission should consider:

1. The Commission might, after considering cost and other relevant evidence, establish a range of permissible rates for particular subclasses; the Postal Service and individual mailers would be free to negotiate rates within this range.

2. The Postal Service and one or more mailers would negotiate a rate and service package which would then (i) be submitted to the Commission for review, and (ii) thereafter be available on the same terms to all potential users.

Apart from the general question whether the Act contemplates or permits contract rates in any form, the commenters most often dealt with Advo's two alternatives separately.

Contract Rates Under the Act

The most obvious question is whether the Act permits (any form of) contract rates. Advo argues that it does, with varying degrees of support from DJ, MPA, and the Postal Service; others argue that it does not.

Advo's main arguments are that the Act does not in terms forbid negotiated rates; and that since the Act generally

[1] Advo, American Newspaper Publishers Association (ANPA), Association of Business Publishers (ABP), Coalition of Non-Postal Media (CNPM), Dow Jones & Company (DJ), Magazine Publishers Association (MPA), National Newspaper Association (NNA), the Commission's Office of the Consumer Advocate (OCA), Third Class Mail Association (TCMA), United Parcel Service (UPS), the Postal Service, and Warshawsky & Company.

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aimed at reform and streamlining of the postal system, such negotiation is at least consistent with the overall statutory purpose. Advo concedes that the Act does not specifically permit negotiated rates and that they were not employed either before or since its passage. However, it argues that the contracting power granted the Service [39 U.S.C. section 401(2)] is not elsewhere limited by the Act and is broad enough to encompass ratemaking by contract. Moreover, it contends that neither of its proposals would bypass the procedures of 39 U.S.C. ch. 36, since both involve Postal Rate Commission review of the negotiated rates. With certain qualifications, including the important caveat that cost avoidance would be the principal rationale for any contract rate lower than the rate charged the subclass generally, MPA supports this reasoning.

Opposition to Advo's position takes a number of forms. Some commenters argue that it would effectively bypass the present, mandatory ch. 36 procedures. ABP, for instance, argues that public hearings are mandatory in the development of rates, and that the proposals delegate to private parties the initiative, properly the Service's alone, under section 3622(a), to launch rate changes. CNPM, NNA, and UPS also argue that the proposals improperly limit the Commission's role. The OCA points out that unilateral rate-changing authority is granted only by sections 3627 (failure of appropriations for revenue forgone) and 3641 (failure to complete rate case in 10 months), and that the Postal Service's contracting power furnishes no counterargument since the Governors are a necessary participant in lawful ch. 36 rate changes. ANPA and UPS make the point that section 3622 contemplates ratemaking by class and subclass of mail [8] and that rates for individual customers conflict with this structure. TCMA questions whether recommending a range of rates would discharge our duty to make a recommendation on specific rate changes.

Besides suggesting that contract rates would violate procedural requirements, some comments question whether such rates would not in principle violate substantive ratemaking standards—not just the criteria of section 3622(b) but also general policy rules in ch. 1 of the Act and, particularly, section 403(c) forbidding undue or unreasonable discrimination or preference.[9] Thus even if it were established that Advo's proposals for Commission involvement in contractual ratemaking satisfied the procedural requirements of ch. 36, some issues would remain as to whether any contract rate, simply by virtue of being a contract rate, would under the statute be impossible for the Commission to approve.

Of particular importance here are suggestions that because the Act calls for classification of mail, and for fixing of rates by classes, there is simply no place for exceptional "non-class" rates established by contract. ANPA observes that of two identically-situated mailers one might succeed in negotiating a lower rate than the other, and that if this possibility is accepted it is evident that relative skill or opportunity in negotiation can be the only source of the difference. As ANPA argues, this is not a recognized criterion under the Act. UPS takes a similar position, and cites case law and legislative history for the proposition that—

> Congress recognized that the political pressures exerted on postal economics caused the widespread public impression that the influence of special interests had a determining effect on the structure of postal rates * * * * To permit large mailers to negotiate special contractual deals would only resurrect and reinforce that impression.
>
> Advo proposes to inject into the ratemaking process the very same influences that the Act was intended to eradicate.
>
> * * * *

UPS Initial Comments at 9. The OCA makes similar arguments.

These arguments from overall statutory purpose are particularly interesting because, in large measure, we are asked to draw inferences from the silence of the statute rather than from its positive language. Advo's argument, somewhat simplified, is: Contract rates are a recognized pricing technique generally; the Act does not specifically forbid them in postal pricing; therefore the Commission may entertain them. Arguments of this type are undercut, however, if there is reason to think that the overall purpose of the statute (which may fail to forbid them specifically only because, as Advo recognizes, they were not in use in 1970) would be disserved by the suggested new mechanism.

We need not rest our determination wholly on an attempt to settle this broad question, because we are not in the situation of, e.g., a court faced with an actual attempt by the Postal Service and a mailer to negotiate a non-tariff rate. The question before us is the more modest one whether a new set of procedures allowing for such rates would be likely to serve any useful purpose.

The Basic Structure of Ratemaking Under the Act.

Some of the dispute outlined above may be resolved, so far as it need be for our purposes, by examining more closely the fundamental structure of ratemaking under the Act. One foundation of Advo's argument for the lawfulness of contract ratemaking is that the Commission would continue to review the rates in question. This raises the issue, on which neither Advo nor most other commenters focus, of whether the Commission's function is to "review" rates or, with the final concurrence of the Governors, to "make" rates in some more fundamental sense.

It is quite true that the Commission does not, sua sponte, initiate rate change proceedings; that power belongs to the Postal Service under section 3622(a).[4] Likewise, it is customary—though, significantly, not mandatory [5]—for the Service to include specific proposals for new rates in its section 3622 filings. In other respects, however, the structure of the Act suggests that the Commission was thought of as more than a mere reviewer of Postal Service proposals.

First, the Act—despite plenty of precedent in other ratemaking statutes—did not provide a mechanism whereby the Commission could allow a rate change to go into effect without review proceedings. Rates can be changed only following a recommended decision by the Commission and its acceptance by the Governors.[6] In ratemaking statutes where the underlying assumption is that the agency *reviews* rates established in the first instance by the regulated firm[7],

[8] Subsections [b] [2], [3], and [7] specifically refer to these classificational units.

[9] Even if it were assumed, arguendo, that contract rates could lawfully be established without observance of ch. 36 requirements, they would still be subject to these provisions, which apply directly to the Postal Service as well as to the Commission's ratemaking process.

[4] Section 3662 provides that interested parties may file complaint cases alleging illegality of a rate currently charged, and that such cases lead to issuance of a recommended decision under §§ 3624-3625.

[5] Section 3622(a) reads: "From time to time the Postal Service shall request the Postal Rate Commission to submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of this title. *The Postal Service may submit such suggestions for rate adjustments as it deems suitable.*" [Emphasis added.]

[6] This point must be distinguished from the question whether the Commission can make a recommended decision without *hearings*. Section 3624(b)(5) makes it clear that, if all parties agree, it may.

[7] This distinction emerged in some detail in *United Gas Pipe Line Co.* v. *Mobile Gas Service*

Continued

it has been common to provide that the rates become effective at some fixed time after being filed with the agency, unless the agency suspends them and schedules hearings. Our statute takes the opposite approach: in a normal case [8] there can be no rate change until the Commission has held hearings (or accepted a settlement) and issued a decision, and the Governors have registered their approval. The natural inference is that the ch. 36 process itself generates the rate change, and is not provided simply to review an otherwise independently effective rate change by the Postal Service.

Moreover, the courts have treated the Commission as the agency principally responsible for cost allocation and rate design decisions. *National Association of Greeting Card Publishers* v. *U.S. Postal Service*, 462 U.S. 810, 821 (1983); *Time, Inc.* v. *U.S. Postal Service*, 685 F.2d 760, 771 (2d Cir. 1982); *National Association of Greeting Card Publishers* v. *U.S. Postal Service*, 607 F.2d 392, 401 (D.C. Cir. 1979), *cert. denied*, 444 U.S. 1025 (1980). None of these decisions, of course, considered the precise question now before us; but they counsel caution in accepting the proposition that review of a negotiated rate agreement, which may not rest on a fully articulated cost analysis, or indeed on any analysis at all,[9] would fulfill the Commission's statutory function. Certain other practical questions are glossed over by generalized references to the Commission's "reviewing" negotiated rate and service arrangements. Advo does not discuss whether, and to what extent, its proposal would permit the Commission to modify the negotiated arrangement submitted to it for "review." That this is by no means an imaginary problem is clear from the settlement agreements submitted in some ch. 36 cases [10]: they commonly recite that the agreed-upon disposition must be accepted as a whole and not modified, or the agreement ceases to exist. If Advo's intent is that the Commission simply vote "yea" or "nay" on a submitted agreement, it seems clear that the "review" contemplated by its proposal amounts to considerably less than that exercised in a normal ch. 36 proceeding.

Another area of doubt arises from the statutory directive that in recommending rates we consider the interests of competitors [section 3622(b)(4), (5)]. The Supreme Court has made it clear that we are to carry out this mandate when we assign institutional cost responsibility to the classes of mail. *National Association of Greeting Card Publishers* v. *U.S. Postal Service*, 462 U.S. 810, 829, fn. 24 (1983). We can presume that a competitor of the Postal Service will not be party to contract-rate negotiations between the Service and a mailer. Since the competitor's legal interest in the resulting rate entails adequately knowing the contract mailer's attributable cost, so that the implicit institutional-cost contribution can be tested against the statute, there is additional cause for concern about the possibility of inadequately-documented contract rate filings.

As a result, there is substantial uncertainty as to whether the Commission review supposedly preserved in the Advo proposals in fact corresponds to what Congress expected of us. It will therefore be particularly important to see if the advantages Advo points to (assuming for the moment that they do exist) in fact distinguish its proposal from a more conventional review mechanism.

The Discrimination Problem

As noted above, § 403(c) forbids undue or unreasonable discrimination or preferences. While the potential interaction of this provision and the suggestions made by Advo could be stated in a number of ways, we think it adequate to reduce it to two questions:

1. Does any contract rate system whatever violate § 403(c), simply by virtue of being a contract rate system?

2. Even if 1. is answered "no," do (various kinds of) contract rate mechanisms present such a substantial opportunity for improperly discriminatory or preferential arrangements as to be, themselves, undesirable?

MPA makes the useful point that one would expect cost savings to be the basis for any contractual arrangement providing a rate lower than that charged the subclass generally. In ratemaking terms, this amounts to saying that if a particular mailer imposes attributable costs that are less than those for the subclass as a whole, a corresponding contractual reduction in its rate might be appropriate. We may accept for argument's sake that such a reduction, assuming it to be otherwise lawful, would not constitute undue or unreasonable discrimination. That failing is customarily defined as a difference in price for substantially similar service, rendered contemporaneously, under substantially similar conditions. If the mailer shows that the conditions under which a service is rendered to it are materially less onerous and costly than is usual in the relevant subclass, one of the conditions for undue discrimination is not met.

This formulation implies that negotiated differences in contribution to institutional cost would not escape section 403(c). A single-customer price reduction based on cost-of-service differences is theoretically justifiable even where price discrimination in general is most strongly condemned.[11] However, it is not so clear that accepting a lower rate of return from one customer than is demanded from another, similar customer comports with antidiscrimination provisions like section 403(c). It has sometimes been approved:

> Manifestly, the loss of Cooperative Customers [who were capable of generating electricity for themselves], which account for over 90% of Delmarva's annual revenues from

Corp., 350 U.S. 332 (1956), interpreting the Natural Gas Act. The Federal Power Act is structurally similar. The OCA (Comments at 10) raises the question whether, under *Mobile* and its companion case (*FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956)), the Service might bind itself by long-term fixed-rate contracts, so that some mailers could escape the next general increase effectuated under § 3622. The cases perhaps do raise that question—but only if we assume that the Service has the kind of inherent unilateral price-setting power that was attributed to gas pipelines and electric utilities by the *Mobile* and *Sierra* decisions. If it does not, then it is hard to see how it could by contract insulate selected mailers from the effects of a general increase. We think the ratemaking statute establishes that no such power exists, and so we do not consider further the objection based on the *Mobile-Sierra* doctrine.

[8] That is, one where the 10-month deadline of § 3624(c)(1) is met.

[9] It is not uncommon under some regulatory schemes for rate-case settlement agreements to declare explicitly that the rate agreed on is not supported by any particular analytical method but represents a simple "dollar settlement."

[10] Settlements of cases in which supporting materials have been filed by the Service, and opportunity for hearings on the record afforded by the Commission, as the statute requires, are not unknown. In those cases, if the settlement is unanimous, it can be recommended to the Governors simply because all the supporting facts of record are undisputed. If it is not unanimous, the Commission may not recommend it *as a settlement*, though we may still recommend it as a controverted disposition on the merits. *Pennsylvania Gas & Water Co.* v. *FPC*, 463 F.2d 1342 (D.C. Cir. 1972); *Michigan Consolidated Gas Co.* v. *FPC*, 283 F.2d 204 (D.C. Cir.), *cert. denied sub nom. Panhandle Eastern Pipe Line Co.* v. *Michigan Consolidated Gas Co.*, 364 U.S. 913 (1960). This is to be distinguished from the possibility implicit in Advo's proposal: that a change in rates might be *initially submitted* without enough supporting material to permit proper Commission analysis.

[11] The Robinson-Patman Act 15 U.S.C. 13(a), allows for a cost-justification defense of otherwise prohibited price discrimination: " . . . nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered[.]"

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wholesale sales, could have a crippling effect on Delmarva's ability to supply electrical energy to its Tariff Customers at rates which the Tariff Customers could afford to pay. Under such circumstances, *where the initiation of rates is vested in the utility, subject to a determination by the Federal Power Commission that the rates are just and reasonable, and are not unduly discriminatory,* Delmarva had the right to elect not to earn a rate of return which the Commission found fair, but which would have the potential effect of destroying its major wholesale market. By the same token, this evidence fully justified the Commission in deciding that the rate charged the Cooperative Customers, though . . . one which earned a lesser rate of return than that earned on sales to Tariff Customers, was not *unduly* discriminatory. . . .

St. Michaels Utilities Commission v. *Federal Power Commission*, 377 F.2d 912, 917 (4th Cir. 1967) (italics added). The considerations that led this court to sanction a difference as "not *unduly* discriminatory" were thus that—as noted above—the FPC's role was not to generate just and reasonable rates through its own proceedings, but rather to test those filed by jurisdictional utilities against the statutory standard; and that the utility acted reasonably in accepting a diminished return for shareholders rather than risk losing valuable customers altogether. Neither of these considerations is present in our case. We have explained our conclusion that the Commission's ratemaking role is different in kind from the FPC's. And the rate of return at issue in *St. Michaels* is not analogous to institutional cost contribution in postal ratemaking,[12] even though a species of value-of-service [13] consideration played a role in the utility's opting for a lowered return.

The Relevance of Ratemaking for Classes

In this respect, it is of great significance that—as some commenters have noted—the Act speaks in terms of institutional cost contribution by classes of mail and types of mail service. 39 U.S.C. 3622(b)(3). This may of course be interpreted in more than one way. In what follows, we discuss these interpretations in some detail. While the discussion may appear academic, it is of considerable practical importance in elucidating the underlying structure of postal ratemaking and demonstrating the degree to which rates that really depend on negotiation are foreign to it.

First, the mandate of section 3622(b)(3) could be read to mean that on the average a subclass is to produce the contribution to attributable cost that the Commission factors into the rates later established by the Governors. So interpreted (and considered in isolation) this requirement is not necessarily violated by charging different rates—as long as the (presumably lower) contract rates do not bring the class-wide institutional cost contribution below the established level. Such a deficiency would in turn be avoided if (i) the contractually-based reductions strictly reflected attributable-cost differences and nothing else, and the corresponding, unchanged institutional-cost contribution were stated on a per-piece basis; [14] or (ii) the class-wide rate were set using an inflated institutional-cost contribution (markup) to allow for a reasonably-estimated loss of such contribution through subsequent contract-rate arrangements. The second alternative would clearly raise serious questions of undue discrimination, in that the tariff customer would effectively be taxed, in advance, for the benefit of the customer able to negotiate a favorable contract.[15] We believe it is simply outside the range of ratemaking practicality.

The alternative reading of section 3622(b)(3) would make each piece in a given subclass responsible for making the same contribution to institutional costs. This interpretation in effect presupposes the averaging of cost per piece by virtue of the inclusion of all relevant pieces in the same subclass. Once that averaging is accepted, and the average cost per piece made part of the operational description of the subclass, further pricing computations are relatively plain sailing. By definition, all pieces in the subclass are deemed to have the same attributable cost [16]; the per-piece contribution (again, equal for each piece) can be expressed indifferently by a cents-per-piece add-on or a percentage markup. *See* fn. 14, above. It is evident that this reading of section 3622(b)(3) is, by virtue of these presupposed equalities, quite inconsistent with a mechanism for varying rates within the subclass by contract.

It may be objected that the reading last explained is unrealistic and thus wrong, since "everybody knows" that not every piece in a subclass costs the same to handle. But to argue thus simply amounts to pointing out that uniformity of attributable cost is being imposed as a methodological rule, rather than presented as an empirical result. We postulate uniform cost not because our cost measurements are defective but simply because discrete rates based on individual attributable costs for each piece of mail are a patent impossibility. Hence we must, under section 3622(b)(3) as well as section 3623, price postal services by classes. As in any system of regulated prices where classes of service are defined, the question is not so much "Are all the sales in a class uniform with respect to cost of service?" (to which the answer will generally be "no") as "Are the classes so drawn as to cover no unjustifiably large variations in cost of service between one sale and another?" [17]. Especially where individual transactions run into the billions, as with the Postal Service,[18] it

[12] While reasonable return on equity can be thought of as an economic cost, it is not, in the traditional utility ratemaking techniques underlying *St. Michaels*, part of the total cost of service, which was fully allocated to customer classes. (As interest on a utility's debt must be paid, at a fixed rate, it can be treated as at least analogous to such a cost.) By contrast, the Postal Service's total revenues must equal total accrued costs. Its institutional costs are not analogous, in this respect, to a return on equity but are simply the theoretically or in some cases empirically unallocable portion of accrued costs—all of which must be paid. Hence the Governors have no latitude to decide to forgo recovering some of them.

[13] *Cf.* 39 U.S.C. 3622(b)(2).

[14] Clearly, reducing the attributable-cost basis in the case of a particular mailer, and then applying to the reduced basis the same percentage markup as applied for the class-wide ratemaking computation, would lead to a shortfall in the class's institutional cost contribution. Percentage markups as used in § 3622 proceedings effectively presuppose a uniform attributable cost for every piece in the subclass. We can of course derive a percentage markup arithmetically by dividing the aggregate attributable cost into the class's revenue target. However, we cannot then get back to that revenue target by performing a series of computations wherein the individual attributable costs of less-than-average-cost pieces are multiplied by the markup to obtain an individual-piece revenue. At the purely theoretical level, we might do so (if volume effects are neglected) by performing such a computation for every piece rather than just those with lower-than-average attributable cost. But this would presuppose mailers prepared to contract with the Service for a rate higher than the one the schedule offers on the basis of intraclass cost averaging. The comments in this docket do not support this as a practical possibility. Accordingly, we think it more realistic, as well as more economical, to regard percentage markups as essential presupposing cost averaging within the relevant subclass.

[15] In addition, estimating the amount of "cushion" needed to be reasonably sure that the whole subclass would recover its designed institutional-cost contribution might well be infeasible.

[16] For simplicity, we are here postulating a subclass with no more than a single base rate and with no worksharing discounts. Adding these features would merely complicate the reasoning without changing its essence.

[17] There are, of course, numerous other criteria to be observed in setting up class boundaries. We have discussed them in some detail—most recently in Docket R87–1, in connection with the proposal for a bulk third-class carrier route subclass.

[18] In distinguishing Federal Power Commission regulation of gas pipelines from other forms of ratemaking, the Supreme Court observed that ". . .

Continued

seems pointless to hope for a manageable) classification system that would produce cost uniformity in fact.

Nor is it a useful answer to argue that we need only abandon percentage markup as a pricing device and substitute cents per piece. Cents-per-piece has potential usefulness as a criterion of institutional-cost responsibility, most obviously for *interclass* comparisons. In the present analysis, making it the ruling criterion within a subclass simply returns us to the first alternative interpretation: we have in effect decided to add a uniform contribution in cents to each individual attributable cost imposed by the successive pieces in the subclass, and total the results.

This discussion implies, first, that any systematically authorized departures from tariffed rates must be justified mathematically by cost savings.[19] If we read the statutory mandate that mail be classified and that each class produce an appropriate contribution to institutional costs as referring only to aggregate contribution, then the only way in which contract rates lower than the tariff rate could be accommodated without inviting unlawful discrimination is to restrict the departures from the tariff to demonstrated attributable-cost differences. On the other hand, if we read section 3622(b)(3) as requiring the same contribution from each piece in the subclass, then at least so long as we compute rates using percentage markups we have as an additional hurdle the postulate of (artificially) uniform attributable costs throughout the subclass.

A second implication is that a good many of the arguments offered in favor of rate contracts may be satisfied by reforming mail classification rather than permitting outright exceptions to it.

Is Advo's Second Proposal Really a Scheme for Mail Classification Reform?

Advo's second proposal is for negotiated rate and service arrangements that would (i) be filed with the Commission and, if approved, (ii) be available on demand by any other user with qualifying mail. A number of commenters have questioned whether this amounts to more than a greatly ramified system of mail classification, and if so whether the "contract" aspect of the proposal has any real meaning.

Advo considers the distinction between the present classification system and a system involving contract rates to be that the former allows only what it calls "unilateral contracts"; i.e., it is a regime in which the Postal Service must provide a service, defined in advance, at the stated price to anyone tendering qualifying mail. Its own suggestions, it says, involve "bilateral" contracting. However, Advo's second proposal appears to qualify this distinction in that a rate and service arrangement, once sanctioned by the Commission, would be generally available on demand—i.e., on the same "unilateral contract" basis as the present subclasses defined in the *Domestic Mail Classification Schedule*.

We are persuaded that this circumstance substantially undercuts the arguments in favor of substituting a contractual regime for the present system of classifications and fixed rates. That it has been seriously made, however, does suggest that the implementation of the present system may be insufficiently flexible. TCMA argues that a certain amount of informal modification and adjustment of services is done even today, when there is no price differential reflecting it.[20] When a particular modification—particularly in the form of worksharing—becomes or is expected to become sufficiently widespread, we create a new classification (rate category) to reflect the savings. But it is still broadly true that, even for classes where fairly elaborate operations on the part of the mailer as well as the Postal Service are the rule, the system assumes that subclasses are defined, "end-to-end" services purchased as a unit by the mailer.

TCMA has suggested that this approach may be due for reconsideration. Without necessarily endorsing the idea that classes of mail are merely collections of successive, or distinguishable, functional operations that could just as well be sold piecemeal, we recognize that both the willingness and the capacity of mailers to perform some of these operations for themselves has increased over the years.[21] It may therefore be time to consider whether the presumption that a subclass of mail is a unit, which may be sold at different prices if there is enough evidence of worksharing arrangements yielding quantifiable savings to the seller, should be reassessed by comparing it to a potential alternative approach that (i) identifies manageable subunits, operationally defined, and (ii) presumes that these subunits will be available separately at individually tariffed prices.

Further Steps

Accordingly, we have decided to request comments from those interested—whether or not they have previously filed comments in this docket—on several broad issues:

1. Would it be desirable to reorient mail classification to deemphasize the unitary character of at least some classes or subclasses, and treat them more as groupings of separable operational functions? What would be the advantages of such a reorientation? Its disadvantages?

2. To what extent, and for what reasons, would a reorientation as described in (1)—

a. Promote, or interfere with, the broad policies of the Postal Reorganization Act?

b. Be consistent, or inconsistent, with specific mandates of the Act?

c. Assist, or interfere with, the regulatory program embodied in ch. 36 of the Act?

d. Affect nonpostal sectors of society or of the economy, in either beneficial or harmful ways?

3. What, if any, alternative approaches (other than the contract rate mechanisms discussed in the petition

the [Natural Gas] Act is in marked contrast to the Interstate Commerce Act, which in effect precludes private rate agreements by its requirement that the rates to all shippers be uniform, a requirement which made unnecessary any provision for filing contracts [with the ICC] . . . . The vast number of retail transactions of railroads made policing of individual transactions administratively impossible; effective regulation could be accomplished only by requiring compliance with a single schedule of rates applicable to all shippers. On the other hand, only a relatively few wholesale transactions are regulated by the Natural Gas Act and these typically require substantial investment in capacity and facilities for the service of a particular distributor."

United Gas Pipe Line Co. v. *Mobile Gas Service Corp.*, 350 U.S. 332, 338–339 (1956). It seems clear that the Postal Service more closely resembles the railroads than the pipelines. As if in recognition of this circumstance, Congress instructed the Commission that rates should exhibit "simplicity of structure . . . and simple, identifiable relationships between the rates or fees charged the various classes of mail . . . ." [§ 3622(b)(7)].

[19] We note again, but without pursuing the point, that the comments do not consider the question whether, in a contract rate regime, the Postal Service would be authorized to refuse service at the tariffed rate on account of exceptionally high costs for a particular mailing, and instead propose to negotiate with the mailer for an appropriate surcharge. *See* fn. 14, above.

[20] Of course in many instances none would be expected. We have frequently recommended classification provisions that define eligible mail as being prepared or tendered as "prescribed by the Postal Service" (see, e.g., *DMCS* 200.625). Since rates attach to classes, not to pieces or mailings (*see* PRC Op. C85–1, paras. 024–025), one would not expect to see a price adjustment asked or offered where variations are called for in characteristics the DMCS commits to Postal Service discretion.

[21] For one thing, access to cheap computing power, a relatively recent phenomenon, has made the handling of great volumes of operational information feasible for mailers or their service companies as well as for the Service.

and the initial comments) might be advantageously considered?

4. Assuming arguendo that in an appreciable number of situations the reorientation described above could be

Marine Safety, Security, and Environmental Protection; Marine Technical and Hazardous Materials Division, Room 1218, U.S. Coast Guard, 2100 Second Street, SW., Washington,

requirements were codified. These regulations were included in 46 CFR parts 50 through 63. Specific industrial codes, standards, and specifications were incorporated by reference for the

boilers, automatic heating boilers, automatic waste heat boilers, donkey boilers, miniature boilers, electric boilers, electric hot water supply boilers, auxiliary unit heaters, automatic

performed by the manufacturer, and it is currently used by industry and other regulatory agencies. The Coast Guard proposes to adopt this industry standard and eliminate the burden of detailed

auxiliary boilers are also revised to be consistent with those for main power boilers without being overly burdensome.

Part 63—Automatic Auxiliary

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and the initial comments) might be advantageously considered?

4. Assuming arguendo that in an appreciable number of situations the reorientation described above could be beneficial, is a *general* policy required? Or is the existing, case-by-case, mail classification process adequate to the task?

Of course, comments may address any other question or topic reasonably related to the broad inquiry we have posed.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 89-26550 Filed 11-9-89; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 52, 63, and 61

[CGD 88-057]

RIN 2115-AD11

Automatic Auxiliary Boilers

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to revise the requirements for automatic auxiliary boilers contained in 46 CFR part 63. The scope and applicability of part 63 will be clarified to minimize confusion, and industry consensus standards will replace existing regulations where these standards provide an equivalent level of safety when compared with the existing requirements. Also, a specific safety provision will be added to reduce the possibility of an explosion during the postpurge cycle. The end result of implementing this proposed rulemaking will be a reduction in costs and time delays for the approval process without compromising safety.

DATE: Comments must be submitted on or before February 12, 1990.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600)/(CGD 88-057), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second Street, SW., Washington, DC, between 8 a.m. and 3 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Randall N. Crenwelge, Office of Marine Safety, Security, and Environmental Protection; Marine Technical and Hazardous Materials Division, Room 1218, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-2206. Normal office hours are from 7:30 a.m. until 4:00 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking procedure by submitting written comments, data, or arguments. Each comment should include the name and address of the person submitting the comment, identify this notice (CGD 88-057), the specific section of the proposal to which the comment applies, and the reason for the comment. No public hearing is anticipated at this time, however, one may be held if written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will benefit the rulemaking process. All comments will be reviewed and considered by the Coast Guard before taking further rulemaking action.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Randall N. Crenwelge, Project Manager, and Lieutenant Commander Don M. Wrye, Project Counsel, Office of Chief Counsel.

Discussion of Proposed Regulations

a. Background

In 1965, the Coast Guard recognized the need to develop guidance for plan review of merchant vessels having centralized control systems and automatic boilers. A series of Navigation and Vessel Inspection Circulars (NVICs) were issued to express policy and provide guidance for field inspection offices. These NVICs were used to ensure a general level of safety for automatic auxiliary boilers at least equal to that required for manually operated auxiliary boilers.

Prior to 1968, only automatic steam boilers operating at pressures exceeding 30 pounds per square inch and used for purposes other than propulsion were covered by regulations under 46 CFR 162.026. In 1968, new marine engineering requirements were codified. These regulations were included in 46 CFR parts 50 through 63. Specific industrial codes, standards, and specifications were incorporated by reference for the design, construction, fabrication, operation, maintenance, and repair of boilers, pressure vessels, pressure piping, and propelling and auxiliary machinery. Codes, standards, and specifications which are incorporated by reference have the same force and effect as other U.S. Coast Guard regulations.

For automatic auxiliary boilers, an industry standard was not available that the Coast Guard considered suitable for incorporation into the regulations. Portions of part 63 were derived from the experience the Coast Guard had gained from implementing the NVICs and Part 162.026; however, most of part 63 was developed to express new requirements.

Since the publication of the marine engineering regulations in 1968, the American Society of Mechanical Engineers (ASME) has developed and published a standard, "Controls and Safety Devices for Automatically Fired Boilers" which has been adopted by the American National Standards Institute (ANSI). This standard has also been adopted into law by many federal and state regulatory agencies. The Coast Guard has reviewed this document and concluded that it contains many provisions which are suitable for incorporation into the proposed regulations. These should be included along with design parameters which are unique to the marine environment. This regulatory project has been initiated to accomplish these goals.

b. Issues Addressed

(1) *Scope and applicability.* The scope of part 63 should be clarified. Presently, automatic auxiliary boilers are divided into three broad categories which are large automatic auxiliary boilers, small automatic auxiliary boilers, and electric storage tank hot water supply boilers. It is not presently clear from the language of Part 63 which types of boilers and heating equipment fall within the scope of the existing categories. Although not stated in the present regulations, boilers should be classified by their service, control systems, pressure and temperature boundaries, heat input ratings, and firing medium. The services of automatic auxiliary boilers are clearly defined. Those control systems and automatic boilers which are governed by other parts and sections of the regulations are specified. Therefore, boilers governed by Part 63 should include large and small auxiliary

boilers, automatic heating boilers, automatic waste heat boilers, donkey boilers, miniature boilers, electric boilers, electric hot water supply boilers, auxiliary unit heaters, automatic incinerators, and fired thermal fluid heaters. However, only automatic auxiliary boilers having firing rates of less than 12,500,000 Btu/hr. will be covered by this proposed rule. Power boilers and auxiliary boilers having firing rates of 12,500,000 Btu/hr. and above must meet the requirements of Part 52, and their control systems must meet the requirements of Part 62. New sections will be added for incinerators and exhaust gas boilers. The Coast Guard is expecting a large influx of incinerator approval requests due to the adoption of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78 Annex V, Garbage Disposal Restrictions).

(2) Safety. In accordance with section 63.05-25(h)(3) of the existing regulations, an auxiliary boiler's control system must ensure that the length of the postpurge period is at least 15 seconds after the fuel valve is closed. The postpurge period should automatically occur when a boiler is being secured; however, when an emergency trip occurs, the air flow to the boiler should not automatically increase. In 1983, an auxiliary boiler explosion occurred on the SS PRESIDENT LINCOLN. A Coast Guard investigation determined that after repeated attempts to light off, during the automatic postpurge cycle, an increase in air flow occurred creating an explosive atmosphere. The National Fire Protection Association (NFPA) Standard for the Prevention of Furnace Explosions in Fuel Oil Fired Multiple Burner Boiler Furnaces, NFPA 85D, Chapter 5-2.5.3, requires postpurge in such cases to be under manual control. The proposed regulations will incorporate this provision.

(3) Adoption of Industry Consensus Standards. An industry consensus standard, "Controls and Safety Devices for Automatically-Fired Boilers", ANSI/ASME CSD-1-1982/CSD-1a-1984, has been developed by an American Society of Mechanical Engineers (ASME) committee composed of independent product certification agencies, insurance companies, control system manufacturers, industry associations, and other regulatory agencies, and has been adopted by ANSI. This standard covers automatic control system design, construction, installation, certification, and testing. It contains a self-certification procedure which is performed by the manufacturer, and it is currently used by industry and other regulatory agencies. The Coast Guard proposes to adopt this industry standard and eliminate the burden of detailed plan review and component inspections. In the proposed rule, certification by the manufacturer that the automatic auxiliary boiler and its control systems meet the requirements of part 63 will indicate compliance with the regulations.

c. Discussion of Proposed Regulations

Section 52.01-10 Automatic controls. Paragraph (b) is revised and paragraph (c) is added to specify which particular parts of the regulations apply to an auxiliary boiler based on its heat input ratings. Part 63 applies to boilers having heat input ratings less than 12,500,000 Btu/hr. This limit is specified in ANSI/ASME CSD-1-1982/CSD-1a-1984 as the maximum cutoff point for which this standard applies. Controls and safety devices for boilers with fuel input ratings of 12,500,000 Btu/hr. or above fall within the scope of part 62.

Section 52.01-135 Inspection and tests. Paragraph (d) is revised to reflect that the requirements of the current §§ 63.05-90 and 63.10-90 are removed from part 63 and placed in part 61.

Section 52.25-15 Fired Thermal Fluid Heaters. Paragraph (d) is added to this section to cross-reference the test and inspection requirements found in subpart 61.30.

Section 52.25-20 Exhaust Gas Boilers. This section is revised to cross-reference the requirements for automatic exhaust gas boiler control systems found in § 63.25-7 and subpart 61.35.

Section 61.30-20 Automatic control and safety tests. In this section, the requirement for the tests to be conducted in accordance with the procedures in the heater instruction booklet has been removed. Also, the requirement to submit a test procedure for approval to the Officer in Charge, Marine Inspection has been removed. The new regulations do not require the submittal of instruction booklets for approval.

Subpart 61.35—Design Verification and Periodic Testing for Automatic Auxiliary Boilers. This subpart is added to cross-reference test and inspection requirements for automatic auxiliary boilers. The test and inspection requirements currently found in §§ 63.05-90 and 63.10-90 are moved to this subpart so that all test and inspection requirements for boilers, pressure vessels, fired thermal fluid heaters, machinery, and piping systems are located in one subpart. Test and inspection requirements for automatic auxiliary boilers are also revised to be consistent with those for main power boilers without being overly burdensome.

Part 63—Automatic Auxiliary Boilers. The Coast Guard proposes to revise the whole of part 63. A discussion of each subpart, as revised, follows.

Subpart 63.01—General Provisions. This subpart is revised to state the purpose, scope, and applicability (including exceptions) of part 63. Automatic auxiliary boilers are classified by their service, control systems, pressure and temperature boundaries, heat input ratings, and firing medium. The types of automatic auxiliary boilers covered by this part and those control systems and automatic boilers which are governed by other parts and sections of the regulations are specified. This proposed subpart differs from the existing regulations in that it establishes design criteria based on a particular boiler's service, control systems, pressure and temperature boundaries, heat input ratings, and the firing medium. This additional information is provided for convenience, clarification, and ease of interpretation of the regulations.

Subpart 63.05—Reference Specifications. This subpart is revised by listing standards accepted by the Coast Guard as meeting the safety requirements for automatic auxiliary boiler controls and components. Since the 1st revision to part 63, industry standards have been developed which cover automatic boiler control system design, operation, and testing. The provisions in these standards provide an equivalent level of safety when compared with the existing regulations. The standards listed in this subpart already have been adopted by other state and federal regulatory agencies.

Subpart 63.10—Miscellaneous Submittals. This subpart is revised by eliminating the requirements to submit equipment descriptions, detailed plans, schematics, logic diagrams, bills of materials, and operating instructions. Plans will no longer be approved; however, the submittal of test procedures will still be required. A requirement for the manufacturer to submit a certification report in accordance with ANSI/ASME CSD-1-1982/CSD-1a-1984 has been added. This will allow the manufacturer to certify an automatic auxiliary boiler as complying with the provisions of this part and the referenced industry consensus standards.

Subpart 63.15—General Requirements. This subpart is revised by referencing construction

requirements for automatic auxiliary boilers, their accessories, and marine environmental design parameters which are required for safe operation. Tests

TABLE 1—Continued

Proposed regulation	Reference

of Regulations Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB

(c) Each automatically controlled auxiliary boiler with a heat input rating of 12,500,000 Btu/hr. (3.66 megawatts) or above, must meet the requirements for automatic safety controls in part 62 of

§ 61.30-20 Automatic control and safety tests.

Operational tests and checks of all safety and limit controls, combustion controls, programming controls and

§ 61.35-3 Required tests and checks.

(a) Tests and checks must include the following:

(1) *Safety (Programming) controls.*

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requirements for automatic auxiliary boilers, their accessories, and marine environmental design parameters which are required for safe operation. Tests and inspection requirements for automatic auxiliary boilers found in part 61 are cross-referenced.

Subpart 63.20—Additional Control System Requirements. This subpart is added to consolidate the requirements for the programming control system, operating control system, flame safeguard control system, limit control system, combustion control system, ignition system, water level controls, and low water cut off controls found in ANSI/ASME CSD-1-1982/CSD-1a-1984 and the existing regulation. The unique marine requirements found in the existing regulations have been retained. The procedure for purging after an emergency trip has been added to reduce the possibility of furnace explosions.

Subpart 63.25—Requirements for Specific Types of Automatic Auxiliary Boilers. This subpart is added to specify requirements which are unique to small auxiliary boilers (firing rates of 3 gallons per hour (gph) or less), electric hot water supply boilers, fired thermal fluid heaters, exhaust gas boilers, and incinerators. The requirements in this subpart apply to the above listed boilers in addition to the requirements found in other subparts which apply to all automatic auxiliary boilers.

Reference Tables. Table 1 is provided for convenience when comparing the proposed regulations with existing regulations. It lists the proposed regulations, and the corresponding existing provisions in title 46 of the Code of Federal Regulations and industry consensus standards.

TABLE 1

Proposed regulation	Reference
§ 52.01-10(b)	ANSI/ASME CSD-1-1982/CSD-1a-1984.
§ 52.01-10(c)	Part 52, ANSI/ASME CSD-1-1982/CSD-1a-1984.
§ 52.01-135(d)	§ 52.01-135(d), § 61.30-20, § 63.05-90, § 63.10-90, § 63.15-40, § 61.01, § 61.05.
§ 52.25-15	§ 61.30.
§ 52.25-20	§ 52.25-20, § 61.30.
§ 61.30-20	§ 61.30-20.
§ 61.35-1	§ 61.30.
§ 61.35-3	§ 63.05-90, § 63.10-90, § 63.15-40.
§ 63.01-1	§ 63.01-1.
§ 63.01-3	§ 63.01-1(b), Table § 54.01-5(a).
§ 63.05-1	§ 63.01-5, 1 CFR part 51.

TABLE 1—Continued

Proposed regulation	Reference
§ 63.10	§ 63.05-5, § 63.10-5, § 63.05-95.
§ 63.15-1	§ 63.05-15, § 63.05-20, ANSI/ASME CSD-1/CSD-1a, § 63.10-15, § 63.10-20, § 56.60-65, Table § 54.01-5(a), Solas 74/83-II-1 Regs 32 & 33, NFPA 70.
§ 63.15-3	§ 63.05-65, § 63.10-65, § 63.05-75, § 63.10-75, § 56.50-65, § 56.60, § 56.04-2, ANSI/UL 343.
§ 63.15-5	§ 63.05-70, § 63.10-70, § 56.50-5, § 56.50-65, ANSI/UL 296.
§ 63.15-7	§ 63.05-80, § 63.10-80.
§ 63.15-9	§ 61.35, § 63.05-90, § 63.10-90.
§ 63.20	§ 63.05-25, NFPA 85D, § 63.05-30, § 63.10-30, § 63.05-35, § 63.10-35, § 63.05-40, § 63.10-40, § 63.05-45, § 63.10-45, § 63.05-50, § 63.10-50, § 63.05-55, § 63.10-55, § 63.05-60, § 63.10-60.
§ 63.25-1	§ 63.10.
§ 63.25-3	§ 63.15, ANSI/UL 174, ANSI/UL 1453.
§ 63.25-5	§ 63.05-40 (d) & (e), § 63.10-40 (c) & (d).
§ 63.25-7	New.
§ 63.25-9	New.

Regulatory Evaluation

The proposed regulations are considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of these regulations is expected to be minimal. Since the impact of this rulemaking is expected to be minimal, the Coast Guard certifies that this rulemaking, if adopted, would not have a significant economic impact on a substantial number of small entities. The public is specifically invited to comment on the expected cost to implement these regulations, if adopted.

Paperwork Reduction Act

This proposed rulemaking contains information collection and record-keeping requirements in § 63.10-1. They have been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (44 USC 3501 *et seq.*). Persons desiring to comment on these recordkeeping and information collection requirements should submit their comments to: Office of Regulations Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under "ADDRESSES".

Environmental Impact

The Coast Guard has considered the environmental impact of the proposed regulations, and in accordance with section 2.B.2. of Commandant Instruction M16475.1B, has determined that this rulemaking is categorically excluded from further environmental documentation.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

46 CFR Part 52

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 63

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

In consideration of the foregoing, chapter I of title 46, Code of Federal Regulations is proposed to be amended as follows.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

2. Section 52.01-10 is amended by revising paragraph (b) and adding new paragraph (c) to read as follows:

§ 52.01-10 Automatic controls.

* * * * *

(b) Each automatically controlled auxiliary boiler having a heat input rating of less than 12,500,000 Btu/hr. (3.66 megawatts) must meet the requirements of part 63 of this chapter.

(c) Each automatically controlled auxiliary boiler with a heat input rating of 12,500,000 Btu/hr. (3.66 megawatts) or above, must meet the requirements for automatic safety controls in part 62 of this chapter.

3. Section 52.01-135 is amended by revising paragraph (d) to read as follows:

§ 52.01-135 Inspection and tests (modifies PG-90 through PG-100).

* * * * *

(d) *Operating tests.* In addition to the hydrostatic tests prescribed in paragraph (c) of this section, automatically controlled auxiliary boilers must be subjected to operating tests as specified in §§ 61.30-20, 61.35-1, 61.35-3, 63.15-9, 63.25-3, and 63.25-5 of this chapter, as appropriate, or as directed by the Officer in Charge, Marine Inspection, for propulsion boilers. These tests are to be performed after final installation.

4. Section 52.25-15 is amended by adding new paragraph (d) to read as follows:

§ 52.25-15 Fired thermal fluid heaters.

* * * * *

(d) Each fired thermal fluid heater must be tested and inspected in accordance with the requirements of subpart 61.30 of this chapter.

5. Section 52.25-20 is revised to read as follows:

§ 52.25-20 Exhaust gas boilers

Exhaust gas boilers with a maximum allowable working pressure greater than 103 kPa gage (15 psig) or an operating temperature greater than 454° C. (850° F.) must be designed, constructed, inspected, tested and stamped in accordance with the applicable provisions in this part. The design temperature of parts exposed to the exhaust gas must be the maximum temperature that could normally be produced by the source of the exhaust gas. This temperature must be verified by testing or by the manufacturer of the engine or other equipment producing the exhaust. Automatic exhaust gas boiler control systems must be designed, constructed, tested, and inspected in accordance with § 63.25-7 of this chapter.

PART 61—[AMENDED]

6. The authority citation for Part 61 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

7. Section 61.30-20 is revised to read as follows:

§ 61.30-20 Automatic control and safety tests.

Operational tests and checks of all safety and limit controls, combustion controls, programming controls and safety relief valves must be conducted by the owner, chief engineer, or person in charge at the inspection for certification, and when directed by the Officer in Charge, Marine Inspection, to determine that the control components and safety devices are functioning properly and are in satisfactory operating condition. These tests and checks must be conducted in the presence of a marine inspector. They must include the following: proper prepurge, burner ignition sequence checks, operation of the combustion controls, limit controls, fluid flow controls, fluid level controls, high temperature control, proper postpurge control, and verification of the flame safeguard.

8. Subpart 61.35 is added to read as follows:

Subpart 61.35—Design Verification and Periodic Testing for Automatic Auxiliary Boilers

Sec.
61.35-1—General.
61.35-3—Required tests and checks.

Subpart 61.35—Design Verification and Periodic Testing for Automatic Auxiliary Boilers

§ 61.35-1 General.

(a) All automatic auxiliary boilers except fired thermal fluid heaters must be tested and inspected in accordance with this subpart and subpart 61.05 of this part.

(b) Fired thermal fluid heaters must be tested and inspected in accordance with subpart 61.30 of this part.

(c) All controls, safety devices, and other control system equipment must be tested and inspected to verify their proper design, construction, installation, and operation.

(d) All tests must be performed after installation of the automatic auxiliary boiler and its control system(s) aboard the vessel.

(e) As far as practicable, test techniques must not simulate monitored system conditions by misadjustment, artificial signals, improper wiring, tampering, or revision of the system tested. The use of a synthesized signal or condition applied to a sensor is acceptable if the required test equipment is maintained in good working order and is periodically calibrated. Proper operation and proper calibration of test equipment must be demonstrated to the Officer in Charge, Marine Inspection.

§ 61.35-3 Required tests and checks.

(a) Tests and checks must include the following:

(1) *Safety (Programming) controls.* Safety controls must control and cycle the unit in the proper manner and sequence. Proper prepurge, ignition, postpurge, and modulation must be verified. All time intervals must be verified.

(2) *Flame safeguard.* The flame safeguard system must be tested by causing flame and ignition failures. Operation of the audible alarm and visible indicator must be verified. The shutdown times must be verified.

(3) *Fuel supply controls.* Satisfactory shutdown operation of the two fuel control solenoid valves must be verified.

(4) *Fuel oil pressure limit control.* A safety shutdown must be initiated by lowering the fuel oil pressure below the value required for safe combustion. System shutdown and the need for manual reset prior to automatic startup must be verified.

(5) *Fuel oil temperature limit control.* (Units designed to burn heavy fuel oil). A safety shutdown must be initiated by lowering the fuel oil temperature below the designed temperature. System shutdown and the need for manual reset prior to automatic startup must be verified.

(6) *Combustion controls.* Smooth and stable operation of the combustion controls must be verified.

(7) *Draft limit control.* The draft loss interlock switch must be tested by stopping the blower motor or blocking the draft opening. The draft limit control must cause burner shutdown and prevent startup when an inadequate air volume is supplied to the burner(s).

(8) *Limit controls.* Shutdown caused by the limit controls must be verified.

(9) *Water level controls.* Water level controls must be tested by slowly lowering the water level in the boiler. Each operating water level control must be individually tested. The upper low water cutoff and the lower low water cutoff must each be tested. The audible alarm and visible indicator associated with the lower low water cutoff must be tested. The manual reset device must be tested after the lower low water cutoff has been activated.

(10) *Feed water flow controls.* The feed water flow limit device (found in steam boilers and water heaters without water level controls) must be tested by interrupting the feed water supply. Manual reset must be required prior to restarting the boiler.

(11) *Low voltage test.* The fuel supply to the burners must automatically shut off when the supply voltage is lowered.

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(12) *Switches.* All switches must be tested to verify satisfactory operation.

9. Part 63 is revised to read as follows:

PART 63—AUTOMATIC AUXILIARY BOILERS

Subpart 63.01—General Provisions

Sec.
63.01–1 Purpose.
63.01–3 Scope and applicability.

Subpart 63.05—Reference Specifications
63.05–1 Incorporation by Reference.

Subpart 63.10—Miscellaneous Submittals
63.10–1 Test Procedures and Certification Report.

Subpart 63.15—General Requirements
63.15–1 General.
63.15–3 Fuel System.
63.15–5 Strainers.
63.15–7 Alarms.
63.15–9 Inspections and Tests.

Subpart 63.20—Additional Control System Requirements
63.20–1 Specific control system requirements.

Subpart 63.25—Requirements for Specific Types of Auxiliary Boilers
63.25–1 Small Automatic Auxiliary Boilers.
63.25–3 Electric Hot Water Supply Boilers.
63.25–5 Fired Thermal Fluid Heaters.
63.25–7 Exhaust Gas Boilers.
63.25–9 Incinerators.

Authority: 46 U.S.C. 3306, 3703, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

PART 63—AUTOMATIC AUXILIARY BOILERS

Subpart 63.01—General Provisions

§ 63.01–1 Purpose.

This part specifies the minimum requirements for safety for each automatic auxiliary boiler, including its design, construction, testing and operation.

§ 63.01–3 Scope and applicability.

(a) This part contains the requirements for automatic auxiliary boilers, including their controls, control system components, electrical devices, safety devices, and accessories. Types of automatic auxiliary boilers which are covered include large and small automatic auxiliary boilers, automatic heating boilers, automatic waste heat boilers, donkey boilers, miniature boilers, electric boilers, fired thermal fluid heaters, automatic incinerators, and electric hot water supply boilers. Automatic auxiliary boilers are classified by their service, control systems, pressure and temperature boundaries, heat input ratings, and firing mediums as follows:

(1) Automatic auxiliary boilers listed in Table 54.01–5(A) of this chapter which reference this part for regulation of their automatic controls.

(2) Automatic control systems for automatic auxiliary boilers having a heat input rating of less than 12,500,000 Btu/hr. (3.66 megawatts) (20 gph).

(3) Electric hot water supply boilers (heaters) containing electric heating elements rated at 600 volts or less.

(4) Exhaust gas boilers, and their controls and accessories used to heat water and/or generate steam.

(5) Incinerators (and their control systems) used for the generation of steam and/or oxidation or ordinary waste materials and garbage. This part also includes incinerators which serve as automatic auxiliary boilers.

(b) *Exceptions.* Automatic boilers have heat input ratings of 12,500,000 Btu/hr. (3.66 megawatts) (20 gph) and above must meet the requirements of part 52 of this chapter. Their control systems must meet the requirements of part 62 of this chapter. Electric cooking equipment must comply with § 111.77–3 of this chapter. Electric oil immersion heaters must comply with subpart 111.85 of this chapter. Electric air heating equipment must company with subpart 111.87 of this chapter.

Subpart 63.05—Reference Specifications

§ 63.05–1 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division (G–MTH–2), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the source listed in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are:

American Society of Mechanical Engineers:
345 East 47th St., New York, NY 10017
ANSI/ASME CSD–1–1982 with Addenda CSD–1a–1984, Controls and Safety Devices for Automatically Fired Boilers, Nov. 15, 1984.... 63.10–1; 63.15–1; 63.20

Underwriters' Laboratories, Inc. (UL):
333 Pfingsten Road, Northbrook, IL 60062
ANSI/UL–174, Standard for Household Electric Storage Tank Water Heaters, Seventh Edition, Apr. 18, 1983 (Revisions through March 1988)..... 63.25–3
ANSI/UL–296, Standard for Oil Burners, Seventh Edition, Aug. 22, 1980 (Revisions through Aug. 1985)..... 63.15–5
ANSI/UL–343, Standard for Pumps for Oil Burning Appliances, Sixth Edition, July 17, 1986..... 63.15–3
ANSI/UL–1453, Standard for Electric Booster and Commercial Storage Tank Water Heaters, Third Edition, Feb. 5, 1988..... 63.25–3

American Gas Association:
1515 Wilson Blvd, Arlington, VA 22209
ANSI/AGA Z21.22–86 Relief Valves and Automatic Shut off Devices for Hot Water Supply Systems, Mar. 28, 1986..... 63.25–3

Subpart 63.10—Miscellaneous Submittals

§ 63.10–1 Test procedures and certification report.

(a) Two (2) copies of the following items must be submitted to the Commanding Officer, U.S. Coast Guard Marine Safety Center, 400 Seventh Street, SW., Washington, DC 20590–0001.

(1) Detailed instructions for operationally testing each automatic auxiliary boiler, its controls, and safety devices.

(2) A certification report for each automatic auxiliary boiler which:

(i) Meets paragraph CG–510 of ANSI/ASME CSD–1/CSD–1a; and

(ii) Certifies that each automatic auxiliary boiler, its controls, and safety devices comply with the additional requirements of this part.

Subpart 63.15—General Requirements

§ 63.15–1 General.

(a) Each automatic auxiliary boiler must be designed and constructed for its intended service according to the requirements of the parts referenced in Table 54.01–5(A) of this chapter.

(b) Controls and safety devices for automatic auxiliary boilers must meet the applicable requirements of ANSI/ASME CSD–1/CSD–1a, except Paragraph CG–310.

(c) All devices and components of an automatic auxiliary boiler must satisfactorily operate within the marine environment. The boiler must satisfactory operate with a momentary roll of 30°, a list of 15°, and a permanent trim of 5° with it installed in a position as specified by the manufacturer.

(d) An electrical control used to shut down the automatic auxiliary boiler must be installed in accordance with § 58.01–25 of this chapter. This device must stop the fuel supply to the fuel burning equipment.

(e) Mercury tube actuated controls are prohibited from being installed and used on automatic auxiliary boilers.

§ 63.15–3 Fuel system.

(a) Firing of an automatic auxiliary boiler by natural gas is prohibited unless specifically approved by the Marine Safety Center.

(b) When heavy fuel oil is used, a thermostatically-controlled electric oil heater and a level device must be furnished in accordance with Subpart 111.85 of this chapter.

(c) The fuel oil service pump and its piping system must be designed in accordance with § 56.50–65 of this chapter. All materials must meet the requirements of subpart 56.60 of this chapter. The use of cast iron or malleable iron is prohibited.

(d) The fuel oil service system (including the pump) must meet the pressure classification and design criteria found in Table 56.04–2 of this chapter.

(e) When properly selected for the intended service, fuel pumps meeting the performance and test requirements of ANSI/UL 343 meet the requirements of this section.

§ 63.15–5 Strainers.

(a) Strainers must be installed in the fuel supply line. Each strainer must be self-cleaning, fitted with a bypass, or be capable of being cleaned without interrupting the fuel oil supply.

(b) The strainer must not allow a quantity of air to be trapped inside which would affect the rate of fuel flow to the burner or reduce the effective area of the straining element.

(c) Strainers meeting the requirements for strainers found in ANSI/UL 296 meet the requirements of this section.

§ 63.15–7 Alarms.

(a) An audible alarm must automatically sound when a flame safety system shutdown occurs. A visible indicator must indicate that the shutdown was caused by the flame safety system.

(b) Means must be provided to silence the audible alarm. The visible indicators must require manual reset.

(c) For steam boilers, operation of the lower low water cutoff must automatically sound an audible alarm. A visual indicator must indicate that the shutdown was caused by low water.

§ 63.15–9 Inspections and tests.

(a) All automatic auxiliary boilers must be inspected and tested in accordance with the requirements of part 61 of this chapter.

Subpart 63.20—Additional Control System Requirements

§ 63.20–1 Specific systems requirements.

In addition to the requirements found in ANSI/ASME CSD–1/CSD–1a, the following requirements apply for specific control systems:

(a) *Primary safety control system.* Following emergency safety trip control operation, the air flow to the boiler must not automatically increase. For this condition, postpurge must be accomplished manually.

(b) *Combustion control system.* A low fire interlock must ensure low fire start when variable firing rates are used.

(c) *Water level controls and low water cut off controls.* Water level controls must be constructed and located to minimize the effects of vessel roll and pitch. Float chamber low water cutoffs using stuffing boxes to transmit the motion of the float from the chamber to the external switches are prohibited. No outlet connection other than pressure controls, water columns, drains, and steam gages may be installed on the float chamber or on the pipes connecting the float chamber to the boiler. The water inlet valve must not feed water into the boiler through the float chamber. The boiler feed piping must comply with the applicable requirements of § 56.50–30 of this chapter.

Subpart 63.25—Requirements for Specific Types of Automatic Auxiliary Boilers

§ 63.25–1 Small automatic auxiliary boilers.

(a) Small automatic auxiliary boilers, defined as having a heat input rating of 400,000 Btu/hr. and less (117 kilowatts and less) (3 gph and less), must meet the following additional requirements.

(1) Small automatic auxiliary boilers must be equipped with a visual indicator which indicates when the low water cutoff has activated.

(2) A prepurge period of a sufficient duration to ensure at least four changes of air in the combustion chamber and stack, but not less than 15 seconds must be provided. Ignition must occur only before or simultaneously with the opening of the fuel oil valve.

§ 63.25–3 Electric hot water supply boilers.

(a) Electric hot water supply boilers which have a capacity not greater than 454 liters (120 U.S. gallons), a heat input rate not greater than 200,000 Btu/hr. (58.6 kilowatts), meet the requirements of ANSI/UL 174 or ANSI/UL 1453, and are protected by a pressure relief device are not required to meet any other requirements of this section.

(b) Each hot water supply boiler must be constructed in accordance with the applicable requirements of part 52 or part 53 of this chapter.

(c) Branch circuit conductors for hot water supply boilers which have a capacity not greater than 454 liters (120 U.S. gallons) must have a current carrying capacity of not less than 125 percent of the current rating of the appliance. Branch circuit conductors for hot water supply boilers with capacities of more than 454 liters (120 U.S. gallons) must have a current carrying capacity not less than 100 percent of the current rating of the appliance. Wiring materials and methods must comply with subpart 111.60 of this chapter. A hot water supply boiler having a current rating of more than 48 amperes and employing resistance type heating elements must have the heating elements on subdivided circuits. Each subdivided load, except for an electric hot water supply boiler employing a resistance type immersion electric heating element, must not exceed 48 amperes, and it must be protected at not more than 60 amperes. An electric hot water supply boiler employing a resistance type immersion electric heating element may be subdivided into circuits not exceeding 120 amperes and protected at not more than 150 amperes. Overcurrent

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protection devices must comply with subpart 111.50 of this chapter.

(d) Heating elements must be insulated electrically from the water being heated, guarded against mechanical injury and contact with outside objects, and securely supported. Consideration must be given to sagging, opening, and other adverse conditions of the elements resulting from continuous heating, and flexion of supports and wiring due to alternate heating and cooling. Wrap-around elements must be secured in a manner which prevents loosening.

(e) Iron and steel parts must be protected against corrosion by enameling, galvanizing, or plating. Iron and steel storage tanks having a wall thickness less than ¼-inch (6.4 mm) must have the inside surface protected against corrosion.

(f) Each heating element must have a temperature regulating device. The device must limit the water from obtaining a temperature greater than 90° C. (194° F.). If the control has a marked off position, the control must disconnect the heating element from all ungrounded conductors, and it must not respond to temperature when placed in the off position.

(g) An independent temperature limiting device must prevent the water in the upper 25 percent of the tank from attaining a temperature higher than 99° C. (210° F.). This device must require manual resetting, be trip free from the operating means, open all ungrounded power supply conductors to the heater, and be readily accessible.

(h) Electric hot water supply boilers must have pressure and temperature relieving valves. The valve temperature setting must not be more than 99° C. (210° F.). The pressure relief setting must not be higher than the marked working pressure of the boiler. The pressure and temperature relief valves must meet subpart 53.05 of this chapter. The pressure and temperature relief valves may be combined into a pressure-temperature relief valve. When combined, the valve must meet the requirements of ANSI/AGA Z21.22 in lieu of subpart 53.05 of this chapter.

(i) Electric hot water supply boilers must be marked in a visible location with the manufacturer's name, model or other identification number, water capacity, and the electrical ratings of each heating element. When two or more heating elements are installed, the maximum wattage or current consumption must be indicated. The cold water inlet and the hot water outlet must each be clearly distinguished or marked for identification purposes.

(j) All electric hot water supply boilers must have their pressure relief devices tested as required by part 52 or part 53 of this chapter, as applicable. Electric hot water supply boilers which meet the requirements of ANSI/UL 174 or ANSI/UL 1453 and have heating elements, temperature regulating controls, and temperature limiting controls are satisfactory for installation and service without further testing. All electric hot water supply boilers not meeting the requirements of ANSI/UL 174 or ANSI/UL 1453 must have their heating elements, temperature regulating controls, and temperature limiting controls tested by the marine inspector.

§ 63.25-5 Fired thermal fluid heaters.

(a) *Construction.* Fired thermal fluid heaters must meet the requirements of Part 52 of this chapter, as applicable.

(b) *Controls.* Fired Thermal Fluid heaters must have a low fluid level cutoff device or a low flow device. When the rate of fluid flow through the heating coils is insufficient to ensure proper heat transfer, the device must cut off the fuel supply to the burner. If the fluid temperature exceeds the designed maximum operating temperature, a high temperature limit device must cut off the fuel supply to the burner. These devices must be of the manual reset type.

§ 63.25-7 Exhaust gas boilers.

(a) *Construction.* An auxiliary exhaust gas boiler must meet the applicable construction requirements of part 52 or part 53 of this chapter as determined from Table 54.01-5(A) of this chapter.

(b) *Controls.* Each drum type exhaust gas steam boiler must have a feed water control system. The system must automatically supply the required amount of feed water and maintain it at the proper level. For boilers without a fixed water level, the control system must supply the feed water at a rate sufficient to ensure proper heat transfer. The system must adequately fill the boiler when cold.

(c) *Alarms.* When a condition arises which results in inadequate heat transfer, a high temperature alarm or low flow alarm must be activated. An audible alarm must automatically sound, and a visual indicator must indicate when the fluid temperature exceeds the maximum operating temperature or when the fluid/steam flowing through the heat exchanger is insufficient to ensure proper heat transfer.

§ 63.25-9 Incinerators.

(a) *Construction.* Incinerators which produce hot water or generate steam must meet the requirements of part 52 or part 53 of this chapter, as applicable.

(b) A high temperature limit device must be installed in the combustion chamber and flue gas duct of the incinerator. Each limit device must be of the manual reset type and cause an automatic shutdown when a temperature higher than the maximum operating temperature is detected.

Dated: October 16, 1989.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-26371 Filed 11-9-89; 8:45 am]

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46 CFR Part 164

[CGD 84-068]

RIN 2115-AB70

Personal Flotation Device (PFD) Components

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes procedures for obtaining Coast Guard acceptance of non-standard components, self-certification requirements for standards components, and production quality control requirements for all components used in the manufacture of Coast Guard approved personal flotation devices (PFD's). This notice also proposes to prohibit the use of cotton thread as a PFD component, designate specified nylon and polyester threads as standard components, and add new performance requirements for non-standard thread. Industry-wide conversion to the use of non-standard PFD components made of synthetic materials has caused a substantial backlog in Coast Guard review and acceptance of non-standard components. Also, a significant number of failures of non-standard components have been observed in random production testing. The purpose of these rules, as proposed, would be to reduce the time and effort involved to obtain Coast Guard acceptance of non-standard PFD components, and to reduce the number of failures observed in random testing of these components. The proposed regulations in this NPRM relating to standard PFD components and to certain non-standard PFD components essentially represent a codification of longstanding procedures and requirements that are currently applied to those components.

DATES: Comments must be submitted on or before January 12, 1990.

ADDRESSES: 1. Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/36), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC, 20593-0001. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council (G-LRA-2/36), Room 3600, U.S. Coast Guard, 2100 Second Street SW., Washington, DC, between the hours of 8 a.m. and 4 p.m. Monday through Friday, except holidays.

2. A draft Regulatory Evaluation has been included in the public docket for this rulemaking, and may be inspected and copied at the Marine Safety Council (G-LRA/36) at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt J. Heinz, Office of Marine Safety, Security, and Environmental Protection (G-MVI-3), Room 1404, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202)-267-1444.

SUPPLEMENTARY INFORMATION:

1. Request for Comments

Interested persons are invited and encouraged to participate in this proposed rulemaking (NPRM) by submitting written views, data, or arguments. Comments should include the names and addresses of the persons making them, identify this NPRM (CGD 84-068) and the specific section or paragraph of the NPRM to which each comment applies, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if a written request for a hearing is received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

2. Drafting Information

The principal persons involved in drafting this proposal are Kurt J. Heinz, Project Manager, Office of Marine Safety, Security, and Environmental Protection and William R. Register, Project Counsel, Office of the Chief Counsel.

3. RIN Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

4. Discussion of the Proposed Regulations

Background—Quality Control for Non-standard Components

Each of the existing PFD subparts in 46 CFR, Part 160 contains a section or sections containing requirements for the materials (generally referred to as components) used in the construction of the PFD concerned. Components which comply exactly with all of the requirements of one of these sections are commonly referred to as standard components. Standard components currently include such items as cotton fabric and webbing, cotton and synthetic threads, and metal closure hardware. Existing regulations in Part 160 require component manufacturers to provide affidavits (the content of which is not currently defined in the regulations) as certification that the components they provide comply with all applicable requirements, and they require PFD manufacturers to retain these affidavits as records.

Quality control requirements for standards components are not specifically defined in regulation, although in most cases, standard components must comply with military or federal specifications which do contain detailed quality control provisions. The quality control requirements in Part 160 are geared toward the end product, or PFD, and require periodic visits to the PFD manufacturing plant by marine inspectors; periodic inspection of specific PFD components in production is not required. Because concisely defined standard components were used almost exclusively in PFD manufacture at the time the existing regulations in part 160 became effective, visual inspections of PFD's in production were considered adequate to assure quality control of both components and the end product.

In the ensuing decades, however, many new materials and technologies were developed which demonstrated potential for equivalent or improved performance at similar or lower cost when properly used. Since the 1970's the Coast Guard has evaluated these materials (such as synthetic fabrics in place of cotton, and plastic buckles in place of metal closure hardware) on an individual basis for suitability as PFD components. Components demonstrated to be equivalent in performance to standard components are commonly referred to as "non-standard components", and are accepted by the Coast Guard for use in PFD's as if they were standard components. Non-standard components are now in extensive use.

Individual performance testing of non-standard components, which was established in the 1970's as non-standard components first came into usage, was intended to control and monitor the quality of materials for which there originally was little field service history. Because there was little or no practical experience with entire generic categories of non-standard components (e.g., nylon fabrics), each prospective non-standard component had to be evaluated for equivalence individually rather than based upon known characteristics of a large group of similar products.

There are currently two methods in use by the Coast Guard for demonstrating equivalence and obtaining acceptance as a non-standard component: the Coast Guard "letter of acceptance", and component "recognition" by a recognized laboratory. The choice of which method to use lies with the component manufacturer. (Currently, Underwriters Laboratories is the only recognized laboratory, and the UL Recognition program is the only accepted component recognition program. Guidelines for acceptance of other laboratories and programs are included in these proposed rules. For convenience in this discussion, "recognition" will be used to refer to any accepted recognized laboratory program of initial product testing and subsequent oversight of quality control during production.)

To obtain a Coast Guard letter of acceptance for a non-standard component, the component manufacturer submits data directly to the Coast Guard (in the form of test results, samples, etc.) demonstrating that the component meets the appropriate equivalence requirements. The Coast Guard, after reviewing the application, then issues the letter of acceptance which establishes the conditions and restrictions under which the component is acceptable for use in approved PFD's. A Coast Guard letter of acceptance is valid for a period of five years (the same as for Coast Guard approval of PFD's and other materials and equipment), after which the manufacturer must resubmit performance data and product specifications as for a new acceptance. As for standard components, a condition of each Coast Guard letter of acceptance is that the component manufacturer must provide an affidavit

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with each shipment, which references the letter of acceptance and which certifies that the components shipped meet all of the conditions of the acceptance and all of the applicable performance requirements. Each letter of acceptance also indicates that the acceptance is contingent upon the component manufacturer maintaining a quality control program sufficient to substantiate the required affidavits. This required quality control program is not more specifically defined.

The other method of obtaining acceptance as a non-standard component, component recognition by a recognized laboratory, is handled directly by the recognized laboratory. The component manufacturer submits samples of the prospective non-standard component to the recognized laboratory for testing against performance requirements similar to those used in evaluating components for which a Coast Guard letter of acceptance is requested. The recognized laboratory then prepares a test report and draft procedures for production inspections of the component, which are submitted to the Coast Guard for review. The Coast Guard review checks for both adequacy of the test results and accuracy and completeness of the product description in the production inspection procedure. After resolving any discrepancies, the Coast Guard notifies the laboratory in writing that the submission is acceptable if the product is found to meet all of the applicable requirements. The laboratory then commences recognition of the product in accordance with their established procedures, and marks the product in production with the "recognition mark" of the laboratory. The recognition mark is considered adequate evidence that a component meets appropriate non-standard component performance requirements, and serves the same function as an affidavit under the letter of acceptance program.

The key difference between component recognition and the Coast Guard letter of acceptance program for non-standard components is that under component recognition, the component manufacturer's production quality control program is supplemented by a program of oversight by the recognized laboratory. This quality control oversight program requires the manufacturer to perform certain production tests and inspections, and includes periodically witnessing or supervising the manufacturer performing those tests and inspections, auditing the manufacturer's quality control records, and selecting random product samples for follow-up product testing at the laboratory. Beyond product testing to obtain acceptance every five years, the Coast Guard letter of acceptance program contains no specific provision for Coast Guard or independent laboratory oversight over quality control in production.

While the use of non-standard components in PFD's was in the developmental stage, the existing procedures for acceptance functioned generally well. However, the use of non-standard components has not increased to almost completely replace standard components in the manufacture of PFD's. Experience with certain generic categories of components has grown to where individual testing has become in many cases redundant, since many non-standard components are virtually identical, and many generic products have established a sufficient satisfactory field service history that they may now be considered, as classes, to provide a degree of safety equivalent to standard components. The volume of testing currently being done, coupled with the associated administrative efforts involved in processing requests for Coast Guard letters of acceptance, has overloaded the system to create a perpetual backlog of acceptance requests. This backlog often causes lengthy delays in processing new requests. These dalays may limit the flexibility of PFD manufacturers in selecting component suppliers, which can lead to production delays and additional production costs which are then passed on to the consumer. The staff time required to effectively administer the program also causes inordinate delays in other activities of interest to the industry, such as review of submissions for component recognition and approval of PFD's and other equipment.

Particularly for fabric, the nature of the manufacturing process has made the Coast Guard letter of acceptance program ineffective. In many instances, the person nominally responsible for the quality of the product (who signs the affidavit certifying the same) in reality has very limited direct knowledge of or control over the specific lot to which the affidavit applies. The supplier of a fabric (referred to within the industry as a "converter"), who purchases rough or "greige" goods from a weaving mill and then coordinates the necessary processing through one or more dyers and finishers, in all likelihood never actually comes in contact with the fabric he/she is certifying. Some dyers and finishers do not even maintain laboratories, and so do not have the ability to test the fabric in production. The effect of this lack of direct involvement by the fabric converter in the manufacturing process and in quality control at the various manufacturing steps and locations is that fabrics accepted under Coast Guard letters of acceptance exhibit sufficient variance in production that they have recently been prone to frequent failures when randomly tested for compliance by a recognized laboratory. The prevalence of failures during random laboratory testing strongly suggests that some fabric used in the construction of Coast Guard approved PFD's may not meet the performance requirements that were used to evaluate the component when originally submitted to the Coast Guard pursuant to requesting a letter of acceptance. As the primary structural component of a PFD, failure of PFD fabric creates a significant potential for failures of PFD's resulting in serious injuries or fatalities.

Considered Alternatives

Three alternative approaches to the resolution of the problems of the existing acceptance program for non-standard components were considered and will be discussed individually, with the selected alternative which is the basis of this proposal discussed last.

Under the first alternative, component manufacturer self-certification, specific production quality control requirements for all components, both standard and non-standard, would be established in regulation. These specific production quality control requirements would be similar to those currently in use under the recognized laboratory component recognition program, which were developed jointly with the Coast Guard. The component manufacturer would provide certification directly to the PFD manufacturer that the components meet the applicable requirements. There would be no Coast Guard or recognized laboratory oversight over production quality control. This alternative would be similar to the existing program applied to standard and non-standard components, except that specifically defined production quality control requirements would be provided in place of the existing general requirement to have a quality control program. This alternative is not considered to be an effective solution to the existing problems. Many manufacturers of non-standard components either do not have any established quality control program, even though required by the letter of acceptance to have one, or they have a nominal program but do not implement it effectively enough to assure the quality of the product. Without an additional enforcement mechanism such as "in factory" oversight of a production quality control program, it is apparent that the industry will not readily comply with any requirement to have a quality control program. The problem of inadequate non-standard components being used in the construction of Coast Guard approved PFD's could be expected to remain.

The second alternative considered is essentially the same as the first, but also with oversight by Coast Guard marine inspectors over production quality control for non-standard components. This alternative is considered not to be viable due to limited Coast Guard resources. Existing regulations in 46 CFR part 160 require visits to PFD manufacturers by inspectors. Due to limited Coast Guard personnel resources, visits by Coast Guard inspectors were replaced in 1983 by implementation of the independent laboratory production testing and inspection procedures in 46 CFR 159.007. There has been no change in the level of Coast Guard personnel resources which would make a return of the marine inspectors to the PFD or component manufacturers feasible.

The third alternative, which forms the basis for this proposal, is establishment of detailed production quality control requirements for all components as in the first and second alternatives, in conjuction with requirements for quality control oversight of non-standard components by a recognized laboratory (component recognition). This proposal, which is similar to the previous alternative except that quality control oversight of non-standard components in production would be provided by a recognized laboratory at the component manufacturer's expense rather than by the Coast guard, addresses the problems left unresolved by the other considered alternatives. The presence of an independent oversight organization would be intended to encourage a non-standard component manufacturer to tighten up a previously lax quality control program, resulting in a more consistent product. For fabric, this may mean exerting additional control and ovesight over the various facilities involved in the manufacturing process. The potential for unsatisfactory product entering the market would thus be significantly reduced. The reduced Coast Guard review time for submissions for component recognition as compared to the time involved to process letters of acceptance would consequently reduce delays in acceptance of components.

The proposed quality control requirements for standard components and recognized non-standard components principally represent a codification of longstanding practice. Standard components and recognized non-standard components have had a generally good record of quality control. Accordingly, these proposed rules as they address these products should have little or no impact. The purpose of this proposal as it addresses these products is to explain current practice and to provide an opportunity for public comment.

Performance Requirements for Thread

The present requirements for thread used in PFD's are contained in 46 CFR 160.001–2(j), which requires that thread for wearable PFD's, depending upon its composition, meet the requirements of one of three federal specifications. The three acceptable compositions are cotton, nylon, and polyester. Requirements for thread for securing beckets on commercial ring buoys (throwable PFD's) are contained in 46 CFR 160.050–3(e), which specifies a federal specification for nylon thread and allows for other threads of equivalent size and strength.

Cotton thread has been the cause of several reported PFD failures. Although cotton thread is stronger for a particular size than synthetic thread when new, it is susceptible to deterioration from fungal attack (i.e., mildew). Field reports of equipment failures strongly suggest that cotton thread's vulnerability to environmental elements typical of expected PFD use conditions make it unsuitable for use in PFD's. The nature of thread's role in a PFD means that a failure of thread could lead to a total failure of the device in which it is used if any load is applied. For that reason, these proposed rules would eliminate cotton thread as an acceptable PFD component in structural applications.

This prohibition of cotton thread is to a large extent academic, since there are presently no PFD manufacturers using cotton thread in construction. The availability of cotton thread on the market is very limited. Cotton thread is generally not considered to be suitable for use with synthetic fabrics, and so a natural consequence of the industry's conversion to the use of synthetic fabrics is that the use of cotton thread was discontinued.

An analysis of all thread acceptances issued since the inception of the component acceptance program revealed that all accepted threads to date have met the requirements of either a federal specification in 46 CFR 160.001–2(j) (for sizes other than those specified), or one of two other military specifications, MIL–T–43548 for polyester core thread and MIL–T–43624 for spun polyester thread. All of these specifications contain detailed quality control provisions which are considered to be equivalent to the quality control provisions in these proposed rules. In view of the excellent field service history and lack of failures (in either the field or the laboratory) involving these currently non-standard threads, quality control oversight is not considered to be necessary. Accordingly, these rules would redesignate standard components all synthetic threads certified to comply with the specified portions of the referenced federal and military specifications. It is anticipated that there would be few, if any, non-standard threads.

Future Additional Projects

Future proposed rules will address performance requirements for fabric and other PFD components. A separate subpart will be devoted to each component. In this rulemaking, only the general subpart 46 CFR 164.019, which applies to all components, and 46 CFR 164.023, which deals specifically with thread, are included. It is envisioned that future proposed rules relating to other components will follow closely the structure and format of the thread subpart and will include proposals to adopt performance standards similar to those currently applied to non-standard components under the Coast Guard letter of acceptance program. These performance standards may be presented as referenced to appropriate voluntary industry standards, where suitable such standards exist.

Cross Reference to Existing Regulations

Some revisions to existing regulations in title 46 CFR would be necessary to implement these proposed rules. References to the component acceptance procedures and quality control and certification requirements in proposed subpart 164.019 would be added to the "Materials" section(s) of each of existing subparts 160.001, 160.002, 160.005, 160.047, 160.048, 160.049, 160.050, 160.052, 160.053, 160.055, and 160.077. Existing requirements for thread in the "Materials" section(s) of each of existing subparts 160.001, 160.002, 160.005, 160.047, 160.048, 160.049, 160.050, 160.052, 160.055, and 160.077 would be replaced with references to the requirements in proposed subpart 164.023. Proposed subpart 164.023 would be referenced as an exception to the

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material requirements of the military specification referenced in 46 CFR 160.053-3(a).

5. Draft Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES**. Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The cost of these proposed rules is estimated to be $11,500.00 annually for the first five years. This figure represents the cost for five existing manufacturers/converters of non-standard component fabrics not currently under a quality control oversight program of a recognized laboratory to enter and maintain their products in such a program over that period. Based upon an average 7 million PFD's produced and sold each year, this cost would be refelected in an increase in the cost of an approved PFD of 0.615 cents over the initial five year period if all added component manufacturer costs were passed on to the PFD manufacturer and then to the consumer. Continuing costs in subsequent years are estimated to be similar.

Thread is the only PFD component other than fabric for which a significant number of non-standard products not under recognized laboratory quality control oversight are in use. However, because these proposed rules would in effect convert all existing non-standard component threads to standard components, the proposed requirement for quality control oversight for non-standard components would not be expected to result in any increased costs for thread manufacturers.

The proposed production quality control requirements would be expected to have little or no impact on manufacturers of standard components and non-standard components currently under recognized laboratory quality control oversight. As stated previously, the proposed regulations essentially represent a codification of longstanding procedures and requirements that are currently applied to these components.

These proposed rules would be expected to result in a savings to the Coast Guard of an estimated one half man-year of professional staff effort currently spent in the administration of the non-standard component letter of acceptance program, a benefit of approximately $30,000.00 annually. The increase in available staff time would also benefit PFD and PFD component manufacturers, since it would expedite the processing of PFD approval and component acceptance submissions, thus reducing the potential for manufacturing and delivery delays due to long waits for Coast Guard review.

The effective conversion of all non-standard component threads currently accepted under Coast Guard letters of acceptance to standard components would result in a savings to the industry of an estimated $500.00 per product every five years. This figure represents the cost of sending detailed product specifications and performance test results to the Coast Guard for renewal of the letter of acceptance every five years. Based on approximately 25 products currently accepted under letters of acceptance, the total savings to the industry would be $12,500.00 over a five year period or an average of $2,500.00 per year.

It is expected that the proposed additional quality control requirements for non-standard components would reduce the incidence of failures of these components currently seen in random performance testing. Although difficult to quantify, the potential for future injuries or fatalities due to failures of components which do not meet the specified minimum performance requirements would therefore be reduced.

An intangible benefit of these proposed rules is that previously unpublished policies and procedures would be made readily available to the public, reducing the likelihood of errors and misinterpretations of existing policy.

6. Environmental Analysis

This proposed rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with sections 2.B.2.c and 2.B.2.1 of Commandant Instruction (COMDTINST) M16475.1B. A Categorical Exclusion Determination statement has been prepared and is included as part of the regulatory package.

7. Federalism Assessment

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

8. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard has considered whether this rulemaking is likely to have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

There are an estimated five fabric manufacturers or converters who would be required to obtain component recognition for PFD component fabric under these proposed rules. The added cost per manufacturer would be an estimated $11,435.00 over the initial five-year period, or $2,287.00 per year. Based upon the quantity of fabric produced, this cost would represent less than one-tenth of one percent of gross revenues for PFD component fabric. It is likely that this cost would be partially or entirely passed on to the PFD manufacturer and ultimately the PFD buyer. In view of these considerations, and the fact that PFD component fabric generally represents only a small portion of a fabric manufacturer's business, the impact on these manufacturers is considered to be minor.

Based upon these estimates, the Coast Guard certifies that the proposed regulations would not have a significant economic impact on a substantial number of small entities.

However, if you feel that your business qualifies as a small entity and would suffer significant, negative, economic impact, please explain why your business qualifies as a small entity and to what degree the proposed regulations would economically affect your business. Cost data submitted will be thoroughly evaluated before publication of the final rule.

9. Paperwork Reduction Act

This proposed rulemaking contains information collection and recordkeeping requirements. Some of these requirements have previously been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*). The section numbers of these requirements in 46 CFR and the corresponding OMB approval numbers are as follows:

Section	OMB approval number
§ 164.019-7	2115-0141
§ 164.019-9	2115-0141
§ 164.019-13	2115-0141
§ 164.019-15	2115-0141

Other information collection and recordkeeping requirements are either new or have not been approved by OMB. They have been submitted to the OMB for approval under the provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*). Persons desiring to comment on these information collection and recordkeeping requirements should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, ATTN: Desk Officer, Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under **ADDRESSES**. The section numbers in 46 CFR are as follows:

§ 164.019-5
§ 164.023-15

List of Subjects in 46 CFR Part 164

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Coast Guard proposes to amend chapter I, part 164 of title 46 of the Code of Federal Regulations as follows:

1. By adding a new subpart 164.019 to read as follows:

Subpart 164.019—Personal Flotation Device Components

Sec.
164.019-1 Scope.
164.019-3 Definitions.
164.019-5 Standard components.
164.019-7 Non-standard components.
164.019-9 Procedure for acceptance of revisions of design, process, or materials.
164.019-11 Certification (Affidavits).
164.019-13 Production-quality control requirements.
164.019-15 Component manufacturer records.
164.019-17 Recognized laboratory.

Subpart 164.019—Personal Flotation Device Components

Authority: 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 164.019-1 Scope.

(a) This subpart contains requirements for standard personal flotation device (PFD) components, procedures for acceptance of non-standard PFD components, and production quality control requirements for all PFD components.

(b) Other regulations in this part contain specific requirements applicable to particular PFD components.

(c) Other regulations in part 160 of this subchapter contain specific requirements and limitations concerning the use of PFD components in the construction of particular PFD's.

(d) PFD's may be constructed only with PFD components meeting the requirements of this subchapter.

(e) PFD components may be used in the construction of PFD's only in accordance with their Use Codes.

§ 164.019-3 Definitions.

(a) *Acceptance* means certification by the Coast Guard that a component is suitable for use in the manufacture of approved PFD's.

(b) *Commandant* means the Chief of the Survival Systems Branch, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard. Address: Commandant (G-MVI-3/14), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001. Telephone: 202-267-1444.

(c) *Component manufacturer* means either the manufacturer of a component, or a component supplier who has obtained acceptance of a component.

(d) *First quality workmanship* means construction which is free from any defect materially affecting appearance or serviceability.

(e) *Inspector* means a recognized laboratory or Coast Guard inspector.

(f) *Non-standard component* means a PFD component which is equivalent in performance to a standard component.

(g) *PFD Type* means the performance type designation as shown in 33 CFR 175 and this subchapter.

(h) *Standard component* means a PFD component which complies in all respects with the material, construction, and performance requirements of a subpart in this part or part 160 of this subchapter.

(i) *Use Code* means an alphanumeric code assigned to a PFD component to designate the PFD Type(s) in which it may be used. Use codes are as listed in Table 164.019-3 of this section.

TABLE 164.019-3

Use code	PFD type acceptable for use
1	I, II, and III.
2	II and III.
3	III.
4B	IV (all Ring Buoys).
4BC	IV (Buoyant Cushions).
4RB	IV (Recreational Ring Buoys only).
5	Wearable Type V (intended use must be specified).
5SB	V (Sailboard devices).
5WV	V (Work vests).
6	Special, limited, or restricted use.
Suffix A	Adult only.
Suffix C	Child only.

§ 164.019-5 Standard components.

(a) Except as provided in paragraph (b) of this section:

(1) Each shipment of standard components must be accompanied by an affidavit complying with § 164.019-11;

(2) A sample affidavit, or a copy of the affidavit provided with the first shipment of a standard component to a PFD manufacturer, must be provided to the Commandant; and

(3) A new sample affidavit must be provided any time the information on the affidavit materially changes.

(b) Affidavits are not required to be provided for standard components under the quality control oversight program of a recognized laboratory.

(c) Each standard component must have one or more Use Codes.

§ 164.019-7 Non-standard components.

(a) *General.* To be used in the construction of PFD's, a non-standard component must be accepted by the Coast Guard.

(b) *Use Codes.* Each non-standard component must have one or more Use Codes.

(c) *Request for acceptance.* To request acceptance of a non-standard component, a letter must be sent to the Commandant. The letter must be provided by the component manufacturer or the recognized laboratory which performs the acceptance testing required by the applicable subpart in this part or part 160. The letter must include the following information:

(1) A statement of the intended use of the component by the PFD manufacturer, and the Use Codes for which acceptance is requested. Intended uses must be taken from the following list:

(i) Outer Envelope Fabric (exterior fabrics on wearable PFD's);

(ii) Cover Fabric (for throwable PFD's);

(iii) Inner Envelope Fabric;

(iv) Closure and Adjustment Hardware;

(v) Body Strap;

(vi) Grab Strap (applies to buoyant cushions only);

(vii) Tie Tape;

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(viii) Reinforcing Tape;
(ix) Zipper;
(x) Thread;
(xi) Flotation Foam; or
(xii) Other (specify).

(2) A statement identifying the component in detail and including the unique style, part, or model number, and any other manufacturer's identifying data, if available. No two components which differ in any way, e.g., size, material composition, construction, etc., may utilize the same identification.

(3) A report of a recognized laboratory's test data for the component in accordance with the "Acceptance Tests" section of the applicable subpart of this part. Each report must include the name of the laboratory and a description of the test equipment and test methods used, and must be signed and dated by an authorized laboratory official.

(4) A sample of each component that is being considered. Where the lightest and darkest colors are being tested, samples of both colors must be submitted.

(5) A list of all materials used in the construction of the particular component. The list must contain specific identification and quantity of all materials used.

(6) The identification data required by the applicable subpart of this part.

(7) For mechanical components, i.e. hardware, scaled drawings showing details (and dimensions) of the mechanism.

(8) A statement of tolerances to be maintained in production.

(9) A description of the quality control procedures that will be in effect during production.

(10) A detailed description of the recognized laboratory's procedures for oversight of the manufacturer's program of production quality control, including marking of complying products with the certification marking(s) of the laboratory.

(11) Any appropriate installation or use guidelines for the component.

(d) *Documentation of acceptance.* After review of the request for acceptance, the Coast Guard provides written notice to the applicant that the component, and the procedures for production quality control and recognized laboratory oversight, are accepted, that additional testing or documentation is required, or that the component is not acceptable.

(e) *Alternate requirements.* A component that does not meet the requirements of this subpart may still be accepted if it:

(1) meets other requirements prescribed by the Commandant in lieu of or in addition to the requirements in this subpart; and

(2) provides at least the same degree of safety as provided by a component that does comply with this subpart.

(f) *Additional Tests.* The Commandant may prescribe additional tests, if necessary, to determine the acceptability or suitability of a particular product.

(g) *Suspension or termination of acceptance.* The procedures in § 2.75 of this chapter for suspension and termination of approvals also apply to acceptances of PFD components.

§ 164.019-9 Procedure for acceptance of revisions of design, process, or materials.

(a) Any change in design, material, manufacturing process, or construction of a non-standard component must be accepted by the Commandant before being used in component production.

(b) Requests for revisions must be submitted in writing, and describe the revised design, material, process, or construction in a similar degree of detail to that originally accepted.

§ 164.019-11 Certification (affidavits).

Where affidavits are required to be supplied, the affidavit must be a notarized certification, provided by the component manufacturer or by an independent laboratory accepted by the Commandant in accordance with part 159, subpart 159.010 of this chapter to make the certification that a standard component complies in all respects with the material requirements of a subpart in this part or part 160 of this subchapter. As a minimum, each affidavit must contain the following information:

(a) Name and address of company;

(b) Name and title of signing company or recognized laboratory official;

(c) Description of the component by use of the unique style, part, or model number, and other applicable distinctive characteristics such as weight, size, denier, treatments or coatings, etc.;

(d) Production data (to include lot, batch number, and quantity shipped) in sufficient detail to enable the manufacturer or purchaser to trace a shipment of components back to the lots of raw materials used in its manufacturer;

(e) The intended use of the component, from the list in § 164.019-7(c)(1);

(f) The PFD Type(s) for which the component is a standard component, as determined by one of the following:

(1) The PFD Type(s) for which the component complies with the standard component material requirements in the applicable PFD subpart in Part 160 of this subchapter; or

(2) The Use Code(s) of the component;

(g) A statement indicating the specific provision(s) in this subchapter with which the component complies; and

(h) A copy of the records of all required production tests for the lots of components covered by the affidavit.

§ 164.019-13 Production quality control requirements.

(a) *General.* Each component manufacturer must have procedures for maintaining quality control of the materials used in production, manufacturing operations, and the finished product.

(b) *Recognized laboratory oversight.* For non-standard components, the manufacturer's procedures for assuring production quality control must be supplemented by a program of oversight by a recognized laboratory, as described in the oversight procedures submitted for component acceptance in accordance with § 164.019-7(c)(10). The laboratory's oversight program is performed at the place of manufacture or other location at the option of the laboratory inspector and the Coast Guard.

(c) *Production tests and inspections.* Production tests and inspections must be conducted in accordance with this section and part 159, subpart 159.007 of this chapter.

(d) *Responsibilities.* Each component manufacturer and each recognized laboratory inspector must comply with the following, as applicable:

(1) *Component manufacturer.* Each component manufacturer must:

(i) Perform all production tests and inspections required by the applicable subpart of this part;

(ii) Adhere to the accepted quality control procedures for the component as submitted for component acceptance in accordance with § 164.019-7(c)(9); and

(iii) Have a continuing program of employee training and a program for maintaining production and test equipment.

(2) *Recognized laboratory.* The same recognized laboratory that performed the acceptance testing must, as part of its oversight program, at least quarterly, or more frequently if required by the applicable subpart of this part or by the oversight procedures submitted in accordance with § 164.019-7(c)(10):

(i) Audit the component manufacturer's records required by § 164.019-15;

(ii) Perform or supervise the component manufacturer performing each of the tests required by this section, the applicable subpart in this part, and the accepted quality control and oversight procedures.

(3) During each inspection, the inspector must check for noncompliance by the manufacturer with the manufacturer's established quality control program.

(e) *Component lots*—(1) *Lot numbers.* A lot number must be assigned to each group of components manufactured. A new lot must be started whenever any change is made in materials, design, or production method, and whenever any substantial discontinuity in the manufacturing process (such as a change in shift) occurs. Changes in lots of incoming materials must be treated as changes in materials. Lots must be numbered serially. The lot number assigned, in combination with the unique product name/identification, must enable the component manufacturer (or supplier), by referring to the records required by this subpart, to determine the source(s) of all raw materials used in that lot.

(2) *Lot size.* The maximum lot size for any particular component must be as defined in the subpart in this part that covers the component.

(f) *Samples*—(1) *General.* Procedures for selection of test samples, and required sample sizes, must be as specified in the appropriate subpart of this part which covers the particular component.

(2) The inspector must select different samples than were tested by the manufacturer.

(g) *Detailed product examination*—(1) *General.* In addition to the tests and inspections required by the applicable subpart in this part, the manufacturer or the inspector must examine each sample component to determine that:

(i) The construction, markings, and workmanship conform to the information submitted in the request for acceptance; and

(ii) The component is not otherwise defective.

(2) *Inspection responsibility.* This inspection must be performed by a manufacturer's representative who is familiar with the performance requirements for the component, and all of the production quality control requirements. This person must not be responsible for meeting production schedules, or be supervised by someone who is.

(h) *Accept/Reject criteria.*—(1) A component lot passes production testing if each sample tested passes each test.

(2) For test failures in which the basis of acceptability is an average result, a second sampling with an identical number of samples must be taken. The results of this second sampling must be averaged with the initial results. If the average result passes the test, then the lot may be accepted.

(3) For test failures in which the basis of acceptability is individual sample results, a second sampling must be taken. The size of the second sampling must be as specified in the subpart in this part which covers the component. If each sample in this sampling passes the test, then the lot may be accepted.

(4) A rejected lot of components may be resubmitted for testing, examination, or inspection if the manufacturer first removes each component having the same type of defect or, if authorized by the Commandant or the recognized laboratory, reworks the lot to correct the defect.

(5) A rejected lot or rejected component may not be sold or offered for sale with the representation that it meets the requirements of this subpart or is accepted by the Coast Guard, and may not be used in the contruction of Coast Guard approved PFD's.

(i) *Facilities and equipment*—(1) *General.* The manufacturer must provide the test equipment and facilities described in the applicable subpart in this part and in the quality control and oversight procedures submitted in accordance with § 164.019-7(c)(9)-(10) for performing production tests, examinations, and inspections.

(2) *Calibration.* The manufacturer must have the calibration of all test equipment checked at least every 6 months by a weights and measures agency or the equipment manufacturer, distributor, or dealer.

(3) *Facilities for inspector's use.* The manufacturer must provide a suitable place and the necessary apparatus for the inspector to use in conducting or supervising tests. For the detailed product examination, the manufacturer must provide a suitable working environment and a smooth-top table for the inspector's use.

(4) *Access to test facilities.* The inspector must be admitted to any place in the factory where work is being done on PFC components or where components are stored, and may take samples of parts or materials entering into production or completed components for further examinations, inspections, or tests.

(j) *Alternate procedures for standard components.* For standard components, in lieu of the quality control procedures specified in this section, the quality control procedures in a federal or military specification with which the component is required to comply by this subchapter, or alternate equivalent procedures, may be used.

(k) *Additional tests.* The Commandant may prescribe additional production tests and inspections if needed to maintain quality control and check for compliance with the requirements in this subpart.

§ 164.019-15 Component manufacturer records.

(a) Each component manufacturer must keep the records required by § 159.007-13 of this chapter.

(b) Each record required by § 159.007-13 of this chapter must also include the following information:

(1) For each test, the serial number of the test instrument used if there is more than one available;

(2) For each test and inspection, the identification of the samples used, the lot number, the unique component identification, and the quantity of the component in the lot; and

(3) For each lot rejected, the cause for rejection, any corrective action taken, and the final disposition of the lot.

(c) The description or photographs of procedures and apparatus used in testing is not required for the records prescribed in § 159.007-13 of this chapter if the manufacturer's procedures and apparatus meet the requirements of the applicable subpart in this part or the follow-up inspection procedure.

(d) Each component manufacturer must also keep the following records:

(1) Records for all materials used in production, including name and address of the supplier, date of purchase and receipt, and lot number;

(2) A copy of this subpart, and other subparts as applicable to the component manufactured;

(3) Each document incorporated by reference in the applicable subpart(s) of this part;

(4) A copy of the accepted specifications and identifying data; and

(5) Records of calibration of all test equipment, including the identity of the agency performing the calibration, date of calibration, and results.

(e) The records required by paragraph (d)(1) of this section must be kept for at least 60 months after preparation.

(f) Records of tests conducted by the manufacturer, and records of materials entering into construction, including affidavits by suppliers that applicable requirements are met, must be made available to the inspector or to the Commandant (G-MVI-3) for review upon request.

§ 164.019-17 Recognized laboratory.

(a) *General.* To be designated a

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recognized laboratory under this subpart, the laboratory must be:

(1) Accepted by the Coast Guard as an independent laboratory under subpart 159.010 of this subchapter;

(2) Engaged regularly in the examination, testing, and evaluation of the safety of materials and devices for marine use; and

(3) Established in factory production inspection and listing and labeling by having an existing program and standards for evaluation, listing, and marking components that are acceptable to the Commandant.

(b) *Designated recognized laboratories.* A current listing of recognized laboratories is available from the Commandant upon request.

2. By adding a new subpart 164.023 to read as follows:

Subpart 164.023—Thread for Personal Flotation Devices

Sec.

164.023–1 Scope.
164.023–3 Specifications and standards incorporated by reference.
164.023–5 Performance—standard thread.
164.023–7 Performance—non-standard thread.
164.023–9 Samples submitted for acceptance.
164.023–11 Acceptance tests.
164.023–13 Production tests and inspections.
164.023–15 Marking.

Subpart 164.023—Thread for Personal Flotation Devices

Authority: 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 164.023–1 Scope.

This subpart contains performance requirements, acceptance tests, and production testing and inspection requirements for thread used in the construction of personal flotation devices (PFD's) approved under part 160 of this subchapter.

§ 164.023–3 Specifications and standards incorporated by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, 1100 L Street, NW., Washington, DC 20408, and at the U.S. Coast Guard, Survival Systems Branch (G–MVI–3), Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The materials approved for incorporation by reference in this subpart, and the sections affected are:

(1) Federal Standards and Test Method Standards:

(i) Federal Test Method Standard No. 191 (Textiles, Test Methods, A):

(A) Method 4010, Length-Weight Relation; Thread; Yards Per Pound (m/kg), 164.023–11

(B) Method 4100, Strength and Elongation, Breaking; and Tenacity; of Thread and Yarn; Single Strand, 164.023–7, 164.023–11

(C) Method 5804, Weathering Resistance of Cloth; Accelerated Weathering Method, 164.023–7

(ii) Reserved

(2) Federal Specifications:

(i) V–T–285—Thread, Polyester, E, 164.023–5

(ii) V–T–295—Thread, Nylon, E, 164.023–5

(3) Military Specifications:

(i) MIL–T–43548—Thread, Polyester Core: Cotton-, Rayon-, or Polyester-Covered, C, 164.023–5

(ii) MIL–T–43624—Thread, Polyester. Spun, A, 164.023–5

All reference materials are available from the Naval Publications and Forms Center, Customer Service, Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120

§ 164.023–5 Performance—standard thread.

(a) *Use Codes 1, 2, 3, 4BC, 4RB, 5 (any).* Each thread which complies with all of the requirements of a specification listed in Table 164.023–5(a) is assigned Use Codes 1, 2, 3, 4BC, 4RB, and 5 (any).

TABLE 160.023–5 (A)—USE CODES 1, 2, 3, 4BC, 4RB, 5 (ANY)

Federal or military specification	Material	Type	Class	Ticket No. or letter size
V–T–285E	Polyester	I or II	1	E
V–T–295E	Nylon	I or II	A	E
MIL–T–43624A	Polyester			24
MIL–T–43548C	Polyester cover only			30

(b) *Use Code 4B.* Each thread which meets the requirements of Federal specification V–T–295, Type II, Class A, number size 4, is assigned a Use Code of 4B.

§ 164.023–7 Performance—non-standard thread.

(a) *Use Codes 1, 2, 3, 4BC, 4RB, 5 (any).* Each non-standard thread which meets all of the requirements of paragraphs § 164.023–7(a) (1)–(3) below is assigned Use Codes of 1, 2, 3, 4BC, 4RB, and 5 (any).

(1) *Single strand breaking strength.* The thread, as received, must have a single strand breaking strength of not less than 5.7 pounds, when tested in accordance with Test Method 4100 in Federal Test Method Standard No. 191 using a Constant-Rate-of-Traverse (CRT) testing machine.

(2) *Single strand breaking strength (after weathering).* After exposure in a carbon-arc weatherometer in accordance with Test Method 5804 in Federal Test Method Standard No. 191 for a period of 100 hours, the thread must retain at least 60 percent of its single strand breaking strength as received, and have a breaking strength of at least 4.7 pounds.

(3) *Loop breaking strength.* The thread must have a loop breaking strength of not less than 10.0 pounds, when tested in accordance with Test Method 4100 in Federal Test Method Standard No. 191 using a CRT testing machine, except that:

(i) Each sample must consist of two 14-inch pieces of thread;

(ii) Both ends of one piece of thread must be secured without twisting in one clamp of the testing machine so that the length of the loop formed equals one half the distance between the clamps. One end of the second piece must then be passed without twisting through the loop formed by the first, and both ends must be secured in the other clamp of the machine. The breaking strength must then be determined as for the single strand test.

(b) *Use Code 4B.* Each non-standard thread which meets all of the requirements of paragraphs 164.023–7(b)(1)–(2) below is assigned a Use Code of 4B.

(1) *Single strand breaking strength.* The thread as received must have a single strand breaking strength of not less than 30.0 pounds, when tested in accordance with Test Method 4100 in Federal Test Method Standard No. 191 using a CRT testing machine.

(2) *Single strand breaking strength (after weathering).* After exposure in a carbon-arc weatherometer in accordance with Test Method 5804 in Federal Test Method Standard No. 191 for a period of 100 hours, the thread must retain at least 60 percent of its single strand breaking strength.

(c) *Structural applications prohibited.* Cotton thread, and monofilament thread of any composition, may not be used in structural applications.

§ 164.023–9 Samples submitted for acceptance.

A product sample submitted for acceptance as required by § 164.019–7(c)(4) must consist of at least one unit of put-up of thread.

§ 164.023–11 Acceptance tests.

(a) *Performance testing.* Conduct the following performance tests on the samples specified:

(1) *Single strand breaking strength (as received and after accelerated weathering).* The tests described in § 164.023–7 (a)(1) and (a)(2) must each be performed on a minimum of five samples in each condition in each of the lightest and darkest colors submitted for acceptance.

(2) *Loop breaking strength.* The test described in § 164.023–7(a)(3) must be performed on a minimum of five samples in each of the lightest and darkest colors submitted for acceptance.

(b) *Identification testing.* Conduct the following identification tests on samples as specified in the referenced test methods:

(1) *Length/weight ratio.* The average length/weight ratio of the thread in yards per pound must be determined in accordance with Test Method 4010 in Federal Test Method Standard 191.

(2) *Composition.* The generic chemical composition of the thread must be determined by qualitative infrared analysis, thermogravimetric analysis, differential scanning calorimeter, or other equivalent means adequate to conclusively identify the composition of the product tested.

(3) *Elongation.* Elongation at break for the same samples tested in accordance with § 164.023–11(a)(1) must be determined in accordance with Test Method 4100 in Federal Test Method Standard 191.

§ 164.023–13 Production tests and inspections.

(a) *Manufacturer's test equipment and facilities.* The manufacturer must provide the following test equipment and facilities for use in production tests and inspections:

(1) A Constant Rate of Traverse tensile testing machine, capable of initial clamp separation of ten inches and a rate of separation of 12 inches per minute.

(2) Fletcher, Callaway, or U.S. Rubber clamps, or equivalent cam-actuated clamps to prevent slippage and twist of the samples.

(3) An analytical balance or grain-yarn scale, accurate to within 0.25 percent of the measured value.

(b) *Lot size.* Lot size must not exceed 500,000 yards or 100 pounds of any color.

(c) *Sample selection.* Samples must be selected at random by the manufacturer (or inspector, as applicable) after the entire lot of thread has been completed.

(d) *Second sampling.* A second sampling, where required, must consisted of five times the original sample size.

(e) *Manufacturer's production tests.* The following tests must be performed on the samples indicated on each lot of thread:

(1) *Breaking strength.* One sample must be tested in accordance with § 164.023–7(a)(1) or § 164.023–7(b)(1), as applicable.

(2) *Length-weight ratio.* One sample must be tested in accordance with § 164.023–11(b)(1).

(f) *Recognized laboratory production tests.* For non-standard components, the following tests and inspections must be performed by a recognized laboratory:

(1) *Composition.* At least annually, one sample of each accepted thread must be tested in accordance with § 164.023–11(b)(2).

(2) *Breaking strength.* At least quarterly, one sample in each of the lightest and darkest colors accepted must be tested in accordance with § 164.023–7(a)(1) or § 164.023–7(b)(1), as applicable. This test may be either performed by a recognized laboratory, or witnessed by a recognized laboratory inspector at the manufacturer's plant, at the laboratory's discretion.

(3) *Elongation.* At least annually, one sample of each accepted thread in each of the lightest and darkest colors accepted must be tested in accordance with § 164.023–11(b)(3). This test may be either performed by a recognized laboratory, or witnessed by a recognized laboratory inspector at the manufacturer's plant, at the laboratory's discretion.

(g) *Accept/reject criteria.* A lot may be accepted provided that the results of required production testing meet the following criteria:

(1) Breaking strength test results must be within 10 percent below and 20 percent above the acceptance testing values.

(2) Length/weight values must be within 5 percent of the acceptance testing values.

(3) Elongation values must be within 20 percent of the acceptance testing values.

(4) Composition testing must indicate that the sample tested is of identical composition to the sample tested for acceptance.

§ 164.023–15 Marking.

(a) *General.* Each shipping label, and each spool or individual unit of put-up, must be permanently and clearly marked in a color which contrasts with the color of the surface on which the marking is applied. Each label shall be marked with:

(1) The manufacturer's or supplier's name, trade name, or symbol.

(2) The unique style, part, or model number of the thread.

(3) The size of the thread.

(4) The composition of the thread.

(5) The lot number of the thread.

(b) *Non-standard thread.* In addition to the markings specified in paragraph (a) of this section, each unit of put-up of non-standard thread must be marked with the appropriate recognized laboratory's certification marking(s).

Dated: October 16, 1989.

M.J. Schiro,

Captain, U.S. Coast Guard Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–26370 Filed 11–9–89; 8:45 am]

BILLING CODE 4910–14–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1022, 1043, 1044, 1047, 1051, 1058, 1061, 1063, 1067, 1070, 1080, 1081, 1083, 1084, 1085, 1091, 1104, 1136, 1143, 1161, 1167, 1169, 1170, and 1331

[Ex Parte No. 55 (Sub-No. 73)]

Practice and Procedure; Miscellaneous Amendments; Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; Extension of time to file comments.

SUMMARY: Notice of the Commission's proposal to revise the above-numbered parts of Title 49, Code of Federal Regulations, was published in the *ICC Register* and **Federal Register** on

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October 11, 1989. (54 FR 41643). The due date for comments was set as November 13, 1989. National Motor Freight Traffic Association, Inc., Central States Motor Freight Bureau, Inc., Eastern Central Motor Carriers Association, Inc., Middle Atlantic Conference, Middlewest Motor Freight Bureau, New England Motor Rate Bureau, Inc., Niagara Frontier Tariff Bureau, Inc., Pacific Inland Tariff Bureau, Inc., Rocky Mountain Motor Tariff Bureau, Inc., and Southern Motor Carriers Rate Conference have requested jointly that the time for filing comments be extended. The Commission has granted a 30-day extension until December 13, 1989.

DATES: Comments may be filed on or before December 13, 1989.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. 55 (Sub-No. 73), to: Office of the Secretary Case Control Branch Interstate Commerce Commission Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Paul W. Schach (202) 275-7885 or Richard B. Felder (202) 275-7691.

Decided: November 6, 1989.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26556 Filed 11-9-89; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 54, No. 217
Monday, November 13, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 89-029N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public a memorandum issued by the Standards and Labeling Division (SLD), Regulatory Programs, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132 and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists one SLD policy memorandum issued from April 1, 1989, through October 1, 1989.

Persons interested in obtaining a copy of the following SLD policy memorandum, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington DC 20250.

Memo No.	Title and date	Issue	Reference
119	Labeling of Safe Thawing Instructions on Consumer Packages, September 28, 1989.	What guidelines should be followed when thawing instructions for frozen meat and poultry products appear on a label?.	NA

The SLD policies specified in this memorandum will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon this memorandum.

Done at Washington DC, on: November 7, 1989.

Ashland L. Clemons,

Director, Standards and Labeling Division, Regulatory Programs, Food Safety and Inspection Service.

[FR Doc. 89-26562 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-DM

DEPARTMENT OF COMMERCE

Agency Form Under review by the Office of Management and Budget (OMB)

The Commerce Department has submitted a request for review request to OMB for clearance of the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: U.S. Commerce Department
Title: Solicitations: Request for Proposal (RFP) or Invitation for Bids (IFB)
Form number: OMB 0605-0010
Type of request: Extension of a currently approved collection of information.
Burden: 14,000 respondents; 591,000 reporting hours.
Average hours per response: 42¼ hours
Needs and uses: Solicitations are used to request offers from firms wishing to compete for a DOC contract. Federal law requires that solicitations be distributed to the widest number of potential sources. The forms and format of the solicitations are required by the Federal Acquisition Regulation, the government-wide acquisition regulation required to be followed by all Federal agencies. The costs and burdens imposed by the DOC solicitations are not additional to those imposed by the FAR and Federal acquisition laws.
Affected public: Businesses or other for profit, non-profit institutions, and small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain a benefit.
OMB Desk Officer: Donald Arbuckle, 395-7340.

The interview questions are printed below. A copy of the complete clearance package can be obtained by calling or writing the DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, 14th and Constitution Avenue, Washington, DC 20230.

Written comments and recommendations for the information collection should be sent to Donald

BEST COPY AVAILABLE

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Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: November 6, 1989

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-26553 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Closed Meeting

A meeting of the Computer System Technical Advisory Committee will be held November 28 & 29, 1989, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617F, 14th & Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified material listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter at (202) 377-2583.

Dated: November 3, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology & Policy Analysis.

[FR Doc. 89-26503 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Order No. 448]

Resolution and Order Approving the Application of the Quad-City Foreign-Trade Zone, Inc., for Special-Purpose Subzone Status at Maytag Plants in Galesburg and Herrin, IL, and Newton, IA; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Quad-City Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 133, filed with the Foreign-Trade Zones Board (the Board) on April 25, 1988, requesting special-purpose subzone status at the large home appliance manufacturing plants of Maytag Corporation in Galesburg and Herrin, Illinois, and Newton, Iowa, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were subject to certain restrictions, approves the application, subject to the following restrictions:

1. Privileged foreign status shall be elected on foreign steel mill products prior to manipulation or manufacturing in the subzones, if the same items are being produced by a domestic plant.

2. Privileged foreign status shall be elected on foreign refrigeration compressors prior to manipulation or manufacturing in the subzones.

3. Privileged foreign status shall be elected on any foreign merchandise that is subject to antidumping or countervailing duty orders at the time of admission to the subzones.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority

Whereas, by an act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's Regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Quad-City Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 133, has made application (filed April 25, 1988, FTZ Docket 22–88, 53 FR 16303), in due and proper form to the Board for authority to establish special-purpose subzones at the large appliance manufacturing plants of Maytag Corporation, located in Galesburg and Herrin, Illinois, and Newton, Iowa, adjacent to the Quad-Cities, St. Louis, and Des Moines Customs ports of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restrictions in the resolution accompanying this action;

Now, therefore, in accordance with the application filed April 25, 1988, the Board hereby authorizes the establishment of subzones at the Maytag plants in Galesburg and Herrin, Illinois, and Newton, Iowa, designated on the records of the Board as Foreign-Trade Subzone Nos. 133A, 133B, and 133C respectively, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and regulations issued thereunder, to the restrictions in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzones shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from federal, state, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzones in the performance of their official duties.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzones, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 1st day of November, 1989, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-26512 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 446]

Approval for Expansion of Foreign-Trade Zone 86, Tacoma, WA

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the Puget Sound Foreign-Trade Zone Association, Grantee of Foreign-Trade Zone No. 86, has applied to the Board for authority to expand its general-purpose zone at the Port of Tacoma, Washington, within the Tacoma Customs port of entry, and for authority for manufacturing within the zone on behalf of the tubular goods assembly operation of Kawasaki Thermal System, Inc. (KTS);

Whereas, the application was accepted for filing on January 25, 1988, and notice inviting public comment was given in the Federal Register on February 10, 1988 (Docket 6–88, 53 FR 3907);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Tacoma area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the application would be in the public interest, provided approval is subject to a restriction requiring KTS to elect privileged foreign status on any foreign steel mill products admitted to its zone manufacturing operation;

Now, therefore, the Board hereby orders:

That, subject to the foregoing restrictions on the KTS activity, the Grantee is authorized to expand its zone in accordance with the application filed January 25, 1988. The Grantee shall notify the Board for approval prior to the commencement of any additional manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the district Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 3rd day of November 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zone.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-26511 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-331-602]

Certain Fresh Cut Flowers From Ecuador; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and one respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain fresh cut flowers from Ecuador. The review covers four producers and/or exporters of this merchandise and the period November 3, 1988 through February 29, 1988. The review indicates the existence of dumping margins for certain firms during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Laurie A. Lucksinger, Office of Antidumping Duty Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/5253.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1987, the Department of Commerce ("the Department") published in the Federal Register (52 FR 8494) the antidumping duty order on certain fresh cut flowers from Ecuador. The Floral Trade Council, the petitioner, and Florisol Cia Ltda., a respondent, requested in accordance with 19 CFR 353.53a(a) (1988) that we conduct an administrative review. We published a notice of initiation on April 27, 1988 (53 FR 15083). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain fresh cut flowers from Ecuador (standard carnations, standard chrysanthemums, and pompom chrysanthemums). During the review period such merchandise was classifiable under item 192.17 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS item 0603.10.30. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers four producers and/or exporters of certain fresh cut flowers from Ecuador to the United States and the period November 3, 1988 through February 29, 1988.

United States Price

In calculating United States price for the one responsive firm, Florisol Cia, the Department used exporter's sales price as defined in section 772(c) of the Tariff

1988, we published a notice of amendment to the final determination of sales at less than fair value and antidumping duty order (54 FR 29365). In these preliminary results we have used

Furthermore, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of certain fresh cut flowers

failed to respond to our questionnaire. As a result, we have determined to use the best information available for cash deposit and appraisement purposes.

Enamelware Enterprise Ltd., and its related third-country reseller in Hong Kong, Lucky Enamelware Factory Ltd., who exported the POS cooking ware to

exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of

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United States Price

In calculating United States price for the one responsive firm, Florisol Cia, the Department used exporter's sales price as defined in section 772(c) of the Tariff Act because all sales were made to unrelated parties after importation of the merchandise into the United States. Exporter's sales price was based on the delivered, packed price to unrelated purchasers in the United States. We made deductions for foreign and U.S. inland freight, brokerage and handling charges, credit, and commissions. No other adjustments were claimed or allowed.

We believe that monthly averaging of United States prices provides an adequate measure of fair value. Accordingly, we have continued to calculate a monthly United States price, as was done in the fair value investigation leading to the antidumping duty order.

Foreign Market Value

In calculating foreign market value ("FMV") for the one responsive firm, Florisol Cia, the Department used home market price as defined in section 773 of the Tariff Act, since there were sufficient sales of such or similar merchandise in the home market. Home market price was based on f.o.b. warehouse prices to unrelated purchasers in the home market. We made adjustments to FMV for credit, commission, and the difference in packing expenses of home market and U.S. sales. Florisol Cia claimed an inland freight expense for shipment of the merchandise from the farm to the warehouse. Since the expense from the farm to the airport was deducted from the U.S. selling price, it was necessary to also deduct the freight expense from the farm to the warehouse from the home market selling prices to achieve a proper comparison. No other adjustments were claimed or allowed.

Preliminary Results of the Review

Three firms failed to respond to the Department's antidumping questionnaire: Eden Flowers, Inverflora, and Terraflor. For these firms we relied on the best information otherwise available for purposes of assessment and cash deposit of estimated antidumping duties. As best information otherwise available we used the highest margin in the antidumping duty order. This margin was subsequently increased pursuant to the judgement on March 22, 1989 by the Court of International Trade, sustaining the final determination of sales at less than fair value on remand (court No. 87-04-00627). On July 13, 1988, we published a notice of amendment to the final determination of sales at less than fair value and antidumping duty order (54 FR 29586). In these preliminary results we have used the amended rate as best information otherwise available.

As a result of our review, we preliminarily determine that the following margins exist for the period November 3, 1986 through February 29, 1988:

Manufacturer/Exporter:	Margin (percent)
Eden Flowers	23.5
Florisol Cia Ltda	0
Inverflora	23.5
Terraflor	23.5

Although we initiated a review of Flores Equinoctiales, we have determined that this firm was excluded from the final determination of sales at less than fair value (52 FR 2118, January 20, 1987). Therefore, the Customs Service has not suspended liquidation of entries of this producer's merchandise and we have not conducted an administrative review of its shipments. Six firms withdrew their requests for administrative review. Therefore, we have terminated our review of Flores del Ecuador, Flores del Quinche, Florescarde, Flores de Ibarra, Flores de Puembo, and Flores de Pichincha. We have instructed the Customs Service to liquidate entries of merchandise during the period November 3, 1986 through February 29, 1988 produced by these firms at the cash deposit rates in effect at the time of entry.

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of certain fresh cut flowers from Ecuador by the companies under review. For any shipments from the remaining known manufacturers/exporters not covered by this review the cash deposit will continue to be at the rate applicable to each firm (52 FR 8404, March 18, 1987). For any future entries of this merchandise from a new producer and/or exporter, not covered in this review or in the original investigation, whose first shipments occurred after February 29, 1988, and who is unrelated to the reviewed firms or any firm which was subject to the original investigation, no cash deposit shall be required. These deposit requirements are effective for all shipments of certain fresh cut flowers from Ecuador entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of our antidumping regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26504 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from an importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China. The review covers one manufacturer and its related third-country reseller in Hong Kong of this merchandise to the United States and the period December 1, 1987 through November 30, 1988. Clover Enamelware Enterprise Ltd., China, and Lucky Enamelware Factory Ltd., Hong Kong, failed to respond to our questionnaire. As a result, we have determined to use the best information available for cash deposit and appraisement purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1988, the Department of Commerce ("the Department") published in the Federal Register (51 FR 43414) an antidumping duty order on porcelain-on-steel cooking ware ("POS cooking ware") from the People's Republic of China ("PRC"). An importer, Jacamar Gift Co., Inc., requested in accordance with § 353.53a(a)(1988) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of POS cooking ware including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under item 654.0815, 654.0824, and 654.0827 of the Tariff Schedules of the United States Annotated. The merchandise is currently classifiable under HTS item 7323.94.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer in the PRC, Clover Enamelware Enterprise Ltd., and its related third-country reseller in Hong Kong, Lucky Enamelware Factory Ltd., who exported the POS cooking ware to the United States, and the period December 1, 1987 through November 30, 1988.

Clover Enamelware and Lucky Enamelware failed to respond to our questionnaire. As a result, the Department used the best information available for appraisement and estimated cash deposit purposes. The best information available is the rate published in the antidumping duty order.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exists for the period December 1, 1987 through November 30, 1988:

Manufacturer/Third-Country Reseller:	Margin (percent)
Clover Enamelware Enterprise Ltd./Lucky Enamelware Factory Ltd. (Hong Kong)	68.65

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after November 30, 1988, and who is unrealted to any reviewed firm, a cash deposit of 68.65 percent shall be required. For any shipments from the remaining known manufacturers/exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

These deposit requirements are effective for all shipments of porcelain-on-steel cooking ware from the People's Republic of China entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22a of the Commerce Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22a).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26505 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-087]

Portable Electric Typewriters From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by both petitioner, Smith Corona Corporation, and the respondent, Tokyo Juki Industrial Co., Ltd., the Department of Commerce has conducted an administrative review of the antidumping duty order on portable electric typewriters from Japan. The review covers one manufacturer/exporter of this merchandise to the United States and the period May 1, 1982 through February 28, 1983. We preliminarily found a dumping margin of .0004 percent.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Kelleher or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 1988, the Department published in the Federal Register (53 FR 40811) an antidumping duty order on portable electric typewriters from Japan. The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are portable electric typewriters incorporating a calculating mechanism and those incorporating text memory are within the scope of the antidumping duty order. During the review period, such merchandise was classifiable under item 676.3200 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 8469.11.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of this merchandise to the United States, Tokyo Juki Industrial Co., Ltd., and the period May 1, 1982 through February 28, 1983.

Preliminary Results of the Review

As a result of our review, we preliminarily found a dumping margin of .0004 percent.

We received information from Tokyo Juki. We found no sales for Tokyo Juki below its cost of production during the review period.

Therefore, pursuant to section 353.55 of the Commerce Regulations, we will instruct the Customs Service to assess antidumping duties on all appropriate entries of this merchandise during the period May 1, 1982 through February 28, 1983 at the cash deposit rate in effect at the time of entry.

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of portable electric typewriters from Japan by the companies under review. For any shipments from the remaining known manufacturers/exporters not covered by this review the cash deposit will continue to be at the rate applicable to each firm (49 FR 19370, May 7, 1984). For any future entries of this merchandise from a new producer and/or exporter, not covered in this review or in the original investigation, whose first shipments occurred after February 28, 1983, and who is unrelated to the reviewed firms or any firm which was subject to the original investigation, no cash deposit shall be required. These deposit requirements are effective for all shipments of portable electric typewriters from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22a of the Commerce Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22a).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26506 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-801]

Certain Cut-to-Length Carbon Steel Plate From the Federal Republic of Germany; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners and a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from the Federal Republic of Germany. The review covers one manufacturer/exporter of this merchandise to the United States and the period May 1, 1987 through April 30, 1988. We preliminarily determine that sales have been made below the foreign market value. If these preliminary results are adopted in our final results of administrative review, we will instruct Customs to assess antidumping duties equal to the difference between the United States price and the foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery or Kathleen Kelleher, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 48466) an antidumping duty order on certain cut-to-length carbon steel plate from the Federal Republic of Germany ("FRG"). The petitioners and a respondent, Thyssen Stahl AG, requested in accordance with § 353.53a(a)(1988) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain cut-to-length carbon steel plate. During the review period, such merchandise was classifiable under item 607.1900 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 7208.31.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer/exporter in the FRG, Thyssen Stahl AG, and the period May 1, 1987 through April 30, 1988.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin exists for the period May 1, 1987 through April 30, 1988:

Manufacturer/Exporter	Margin (percent)
Thyssen Stahl AG	3.00

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after April 30, 1988, and who is unrelated to any reviewed firm, a cash deposit of 3.00 percent shall be required. For any shipments from the remaining known manufacturers/exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

These deposit requirements are effective for all shipments of certain cut-to-length carbon steel plate from the FRG entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22a of the Commerce Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22a).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26507 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-603]

Certain Cut-to-Length Carbon Steel Plate From Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners and a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Brazil. The review covers one manufacturer/exporter of this merchandise to the United States and the period May 1, 1987 through April 30, 1988. We preliminarily determine that sales have been made below the foreign market value. If these preliminary results are adopted in our final results of administrative review, we will instruct Customs to assess antidumping duties equal to the difference between the United States price and the foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery or Kathleen Kelleher, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 48467) an antidumping duty order on certain cut-to-length carbon steel plate from Brazil. The petitioners and a respondent, Companhia Siderurgica Nacional, requested in accordance with § 353.53a(a)(1988) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain cut-to-length carbon steel plate. During the review period, such merchandise was classifiable under item 607.1900 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 7208.31.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer/exporter in Brazil, Companhia Siderurgica Nacional, and the period May 1, 1987 through April 30, 1988.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin exists for the period May 1, 1987 through April 30, 1988:

Manufacturer/Exporter	Margin (percent)
Companhia Siderurgica Nacional	3.00

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after April 30, 1988, and who is unrelated to any reviewed firm, a cash deposit of 3.00 percent shall be required. For any shipments from the remaining known manufacturers/exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

These deposit requirements are effective for all shipments of certain cut-to-length carbon steel plate from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22a of the Commerce Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22a).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26508 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-602]

Certain Cut-to-Length Carbon Steel Plate From Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners and a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Brazil. The review covers one manufacturer/exporter of this merchandise to the United States and the period May 1, 1987 through April 30, 1988. We preliminarily determine that sales have been made below the foreign market value. If these preliminary results are adopted in our final results of administrative review, we will instruct Customs to assess antidumping duties equal to the difference between the United States price and the foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery or Kathleen Kelleher, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 48467) an antidumping duty order on certain cut-to-length carbon steel plate from Brazil. The petitioners and a respondent, Companhia Siderurgica Nacional, requested in accordance with § 353.53a(a)(1988) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain cut-to-length carbon steel plate. During the review period, such merchandise was classifiable under item 607.1900 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 7208.31.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer/exporter in Brazil, Companhia Siderurgica Nacional, and the period May 1, 1987 through April 30, 1988.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin exists for the period May 1, 1987 through April 30, 1988:

Manufacturer/Exporter	Margin (percent)
Companhia Siderurgica Nacional	3.00

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after April 30, 1988, and who is unrelated to any reviewed firm, a cash deposit of 3.00 percent shall be required. For any shipments from the remaining known manufacturers/exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

These deposit requirements are effective for all shipments of certain cut-to-length carbon steel plate from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22a of the Commerce Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22a).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26509 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-604]

Certain Cut-to-Length Carbon Steel Plate From Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners and a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Brazil. The review covers one manufacturer/exporter of this merchandise to the United States and the period May 1, 1987 through April 30, 1988. We preliminarily determine that sales have been made below the foreign market value. If these preliminary results are adopted in our final results of administrative review, we will instruct Customs to assess antidumping duties equal to the difference between the United States price and the foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery or Kathleen Kelleher, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 48467) an antidumping duty order on certain cut-to-length carbon steel plate from Brazil. The petitioners and a respondent, Companhia Siderurgica Nacional, requested in accordance with § 353.53a(a)(1988) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain cut-to-length carbon steel plate. During the review period, such merchandise was classifiable under item 607.1900 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 7208.31.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer/exporter in Brazil, Companhia Siderurgica Nacional, and the period May 1, 1987 through April 30, 1988.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin exists for the period May 1, 1987 through April 30, 1988:

Manufacturer/Exporter	Margin (percent)
Companhia Siderurgica Nacional	3.00

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after April 30, 1988, and who is unrelated to any reviewed firm, a cash deposit of 3.00 percent shall be required. For any shipments from the remaining known manufacturers/exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

These deposit requirements are effective for all shipments of certain cut-to-length carbon steel plate from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22a of the Commerce Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22a).

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26510 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

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SUPPLEMENTARY INFORMATION:

Background

On October 19, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 40926) the final results of its last administrative review of the antidumping duty order on portable electric typewriters from Japan (45 FR 30618, May 9, 1980). The petitioner, Smith Corona Corporation ("SCM"), and the respondent, Tokyo Juki Industrial Co., Ltd. ("Tokyo Juki"), requested that we conduct the administrative review in accordance with § 353.53a(a) of the Commerce Regulations (1988). We published a notice of initiation of the antidumping duty administrative review on October 3, 1988. The Department has now conducted the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of non-automatic portable electric typewriters from Japan that do not incorporate a calculating mechanism, in accordance with the scope determination made in the final results of the administrative review of the antidumping duty order for the May 1, 1981 through April 30, 1982 period (52 FR 1504, January 14, 1987). During the review period, such merchandise was classifiable under items 676.0510 and 676.0540 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 8469.21, 8469.29, 8469.31, and 8469.39. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

On March 18 and November 23, 1988, the Department submitted to the Court of International Trade final results of a revised determination with respect to the scope of the antidumping duty oder pursuant to the remand orders from the Court in *Smith Corona Corporation* v. *United States* (Slip Op. 87–145, December 31, 1987 and Slip Op. 88–127, September 20, 1988). In the revised determination we determined that portable electric typewriters incorporating a calculating mechanism and those incorporating text memory are within the scope of the antidumping duty order. If this decision is finally affirmed by the courts we will publish our redetermination in the **Federal Register**, suspend liquidation on future entries, and separately review any unliquidated entries of portable electric typewriters incorporating a calculating mechanism and/or text memory for Tokyo Juki for the period May 1, 1982 through February 28, 1983.

The review covers one manufacturer/exporter of Japanese portable electric typewriters and the period May 1, 1982 through February 28, 1983.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the FOB packed price to an unrelated trading company for export to the United States. Where applicable, deductions were made for foreign inland freight, handling charges, and customs clearance fees. An addition was made for duties on imported raw materials not collected when the materials were used to produce subsequently exported merchandise, in accordance with § 353.41(d)(ii) of the Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.41(d)(ii)). No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used home market prices, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison.

Hme market prices were based on packed FOB or delivered prices to unrelated purchasers in Japan, with appropriate deductions for freight and handling charges. We made a deduction for Japanese customs brokerage charges incurred on imported parts upon withdrawal from bonded warehouse. We also made adjustments, where applicable, for differences in packing and credit expenses. We made further adjustments for differences in merchandise, in accordance with § 353.57 of the Department's regulations. No other adjustments were claimed or allowed.

Because of an allegation by the petitioner regarding sales in the home market at prices below the cost of production we requested cost information from Tokyo Juki. We found no sales for Tokyo Juki below its cost of production during the review period.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margin exists:

Manufacturer/Exporter	Period	Margin (percent)
Tokyo Juki Industrial Co., Ltd.	05/01/82–02/28/83	0.0004

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any written or oral comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may differ from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 2.40 percent shall be required for shipments by Tokyo Juki. This rate is based on the final results of the last administrative review (53 FR 40926, October 19, 1988), which covered May 1, 1985 through April 30, 1986 sales by Tokyo Juki. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for each of those firms.

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1986, and who is unrelated to Tokyo Juki or any previously reviewed firm, the cash deposit of 8.85 percent established as the rate for new exporters in the final results of the last review shall remain in effect.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: November 2, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–26500 Filed 11–9–89; 8:45 am]

BILLING CODE 3510–DS–M

[C–355–001]

Leather Wearing Apparel From Uruguay; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On August 16, 1989, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Uruguay. We have now completed that review and determine the net subsidy to be *de minimis* for nine firms and 2.10 percent *ad valorem* for all other firms during the period January 1, 1986 through December 31, 1986. For the period January 1, 1987 through December 31, 1987, we determine the net subsidy to be *de minimis* for 12 firms and 3.21 percent *ad valorem* for all other firms.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 33751) the preliminary results of the administrative review of the countervailing duty order on leather wearing apparel from Uruguay (47 FR 31032; July 16, 1982). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipment of Uruguayan leather wearing apparel and parts and pieces thereof. During the period of review, such merchandise was classifiable under items 791.7620, 791.7640, and 791.7660 of the Tariff Schedules of the United States Annotated. These products are currently classifiable under item numbers 4203.10.4030, 4203.10.4060 and 4203.10.4090 of the Harmonized Tariff Schedule. The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1986 through December 31, 1987, and four programs.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

As a result of our review, we determine the net subsidy to be 0.003 percent *ad valorem* for nine firms, and 2.10 percent *ad valorem* for all other firms during the period January 1, 1986 through December 31, 1986. We determine the net subsidy to be 0.001 percent *ad valorem* for twelve firms, and 3.21 percent *ad valorem* for all other firms during the period January 1, 1987 through December 31, 1987. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

1. The Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise form the nine firms listed below and to assess countervailing duties of 2.10 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1986 and on or before December 31, 1986.

1. Cubalan, S.A.
2. Fair Play, Ltda.
3. Laren, S.A.
4. Modur, S.A.
5. Ness, Ltda.
6. Orolon, S.A.
7. Osami, S.A.
8. Paris New York, S.A.
9. Sirfil, S.A.

2. The Department will also instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the 12 firms listed below and to assess countervailing duties of 3.21 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1987 and on or before December 31, 1987.

1. Bicrea, S.A.
2. Cleson, S.A.
3. Cubalan, S.A.
4. Exportador Esporadico
5. Ladibell, S.A.
6. Modur, S.A.
7. Ness, Ltda.
8. Orolon, S.A.
9. Orwix, S.R.L.
10. Osami, S.A.
11. Raulin, S.A.
12. Union Euroamericana, S.A.

Further, the Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from the 12 firms listed in section 2 above, and to collect cash deposits of estimated countervailing duties of 3.21 percent of the f.o.b. invoice price on shipments of this merchandise from all other firms which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.22 of the Commerce Regulations published in the **Federal Register** of December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–26510 Filed 11–9–89; 8:45 am]

BILLING CODE 3510–DS–M

USDA–ARS, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, was being manufactured in the United States at the time the foreign instruments were ordered.

Docket Numbers: 88–205R and 88–206R. *Applicant:* USDA–ARS, Beltsville, MD 20705 and Philadelphia, PA 19118.

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Instrument: NMR Spectrometer, Model MSL-400 (System C) and Model MSL-300 (System A). *Manufacturer:* Bruker Analytische Messtechnik, West Germany. *Intended Use:* See notices at 53 FR 22685, June 17, 1988. *Order Date:* September 11, 1987.

Reasons: The foreign instrument provides CRAMPS capability and superior CP/MAS performance. *Advice Submitted by:* National Institutes of Health, September 29, 1989.

Docket Number: 89-163. *Applicant:* The College of William and Mary, Gloucester Point, VA 23062. *Instrument:* Electronic Fish Measuring Boards, Model IV. *Manufacturer:* Limnoterra Atlantic, Inc., Canada. *Intended Use:* See notice at 54 FR 30788, July 24, 1989. *Order Date:* May 31, 1989.

Reasons: The foreign instrument provides a waterproof, multiplexed data capture station for logging fish lengths and related information *in situ*. *Advice Submitted by:* National Oceanic and Atmospheric Administration, September 18, 1989.

The National Institutes of Health and the National Oceanic and Atmospheric Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to any of the foreign instruments for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to any of the foreign instruments being manufactured at the time it was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-26507 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§ 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 89-051R. *Applicant:* University of Mississippi Medical Center, Department of Preventive Medicine, 2500 N. State Street, Jackson, MS 39216-4505. *Instrument:* Automated Image Analysis Microscope System for Chromosome Analysis, Model Cytoscan RK2. *Manufacturer:* Image Recognition Systems, United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of February 21, 1989.

Docket Number: 89-063R. *Applicant:* Michigan State University, Department of Chemistry, East Lansing, MI 48824-1322. *Instrument:* Rotating Anode X-Ray Generator. *Manufacturer:* Rigaku Corporation, Japan. Original notice of this resubmitted application was published in the **Federal Register** of February 24, 1989.

Docket Number: 89-093R. *Applicant:* University of Florida, Department of Pediatric Genetics, Box J-296, JHMHC, Gainesville, FL 32610-0296. *Instrument:* Rapid Karyotyping Analysis System, Model RK1. *Manufacturer:* Image Recognition Systems, United Kingdom. *Intended Use:* The instrument will be used for studies of human chromosomes from various tissues, including amniocytes, lymphocytes, fibroblasts, tumor cells, and chorionic villi. The experiments to be conducted will include:

(a) origin of market chromosomes,
(b) breakpoints in structural chromosomal abnormalities (translocation, deletions, inversions, etc.),
(c) structure of fragile site in X-linked mental retardation,
(d) origin of clones in *in situ* culture preparations,
(e) immunoaffinity selection of human tumor cells, and
(f) gene mapping by *in situ* hybridization.

The instrument will also be used for science-related educational purposes in the following courses:

(1) BCH 7979-Advanced Research,
(2) GMS 7979-Advanced Research,
(3) CMS 5205-Medical Aspects of Human Genetics, and
(4) BCC 5150, BCC 5130 & BMS 5600-Cytogenetics Rotation for Pediatric, Obstetrics and Gynecology and Pathology Residents respectively.

The original notice of this resubmitted application was received by Commissioner of Customs: February 28, 1988.

Docket Number: 89-101R. *Applicant:* Ohio State University, Polar Research Center, 125 South Oval Mall, Columbus, OH 43210. *Instrument:* Light Element Isotope Ratio Mass Spectrometer, Model Delta E. *Manufacturer:* Finnigan MAT, West Germany. Original notice of this resubmitted application was published in the **Federal Register** of April 5, 1989.

Docket Number: 89-234. *Applicant:* U.S. Geological Survey, Box 25046, Mail Stop 963, Denver Federal Center, Denver CO 80225. *Instrument:* Filament Degasser Assembly. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* Studies of rocks and minerals from a variety of geologic sites and contexts. Experiments will be conducted to obtain isotopic analysis of U, Th, Pb, Nd, Sm, Sr, Rb, K, Ca and possibly other elements separated from naturally occurring rocks and minerals. The objective of the investigations will be determination of the geologic ages of various rocks and minerals in order to understand the evolution of the earth's crust at various localities. *Application Received by Commissioner of Customs:* September 21, 1989.

Docket Number: 89-235. *Applicant:* University of Minnesota, 1919 University Avenue, St. Paul, MN 55104. *Instrument:* Preparative Quench and Stopped-Flow Spectrometer, Model PQ/SF-53. *Manufacturer:* Hi-Tech Scientific, Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of myosin, actin and staphylococcal nuclease with the objective of understanding mechanisms and detecting intermediate states in the formation of protein structures. *Application Received by Commissioner of Customs:* September 25, 1989.

Docket Number: 89-236. *Applicant:* University of Akron, 225 South Forge Street, Akron, OH 44325. *Instrument:* Mass Spectrometer, Model VG AutoSpec. *Manufacturer:* VG Instruments, Ltd., United Kingdom. *Intended Use:* The instrument will be used to explore the chemistry of simple yet elusive neutrals including hypervalent species, radicals, biradicals, carbenes, atomic and molecular clusters, and molecules apt to rapid intermolecular interactions. *Application Received by Commissioner of Customs:* September 25, 1989.

Docket Number: 89-237. *Applicant:* Old Dominion University, Research Foundation, P.O. Box 6369, Norfolk, VA 23508-0369. *Instrument:* Nitrogen Dioxide Detector, Model 2200. *Manufacturer:* Scintrex/Unisearch, Canada. *Intended Use:* The instrument will be used to perform the research project, ^{15}N and Inhibitor Studies of Nitrogen Cycling Within a Salt Marsh. The goals of the project are to develop and test techniques for the *in situ*

measurement of microbial nitrogen cycling processes in wetland ecosystems. *Application Received by Commissioner of Customs:* September 25, 1989.

Docket Number: 89-239. *Applicant:* National Institute of Standards and Technology, Radiometric Physics Division, Physics Bldg., Room A221, Gaithersburg, MD 20899. *Instrument:* Cryogenic Radiometer. *Manufacturer:* NPL, United Kingdom. *Intended Use:* The instrument will be used for measuring absolute optical power in the spectral range of the ultra violet to the far infrared. Experiments will be conducted for the improvement of NIST's present scales, research into the extension of measurement capabilities in uncharacterized spectral regions, and research of the transfer of highly accurate measurements to detectors with greater uncertainties. *Application Received by Commissioner of Customs:* September 26, 1989.

Docket Number: 89-240. *Applicant:* University of California, San Diego, Department of Biology, B-0222, La Jolla, CA 92093. *Instrument:* Electron Microscope, Model JEM-1200EX. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used primarily to study the ultrastructure of white blood cells, cells derived from blood vessels, tumor cells, and kidney tissues. Most specimens will be of biological origin, some from experimental animals, some from normal humans, and some from patients with pathological disorders. *Application Received by Commissioner of Customs:* September 26, 1989.

Docket Number: 89-241. *Applicant:* Michigan Technological University, College of Engineering, Houghton, MI 49931. *Instrument:* Cambustion Fast Fuel Concentration and Hydrocarbon Analyser, Model HFR Series. *Manufacturer:* Cambustion, Ltd., United Kingdom. *Intended Use:* The instrument will be used for the study of the ignition of methanol in the optical diesel engine. The objective is to systematically study several ignition techniques, evaluate the performance of each and provide comparison information which will lead to the selection and development of an optimized ignition process in the methanol fueled diesel engine. In addition, the instrument will be used for science-related educational purposes in the courses: ME500 Graduate Research in Mechanical Engineering and ME800 Doctoral Research. *Application Received by Commissioner of Customs:* September 27, 1989.

Docket Number: 89-242. *Applicant:* Yale University Medical School, 333 Cedar Street, New Haven, CT 06510. *Instrument:* Electron Microscope, Model JEM-1200EX II. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used for studies of brain tissue and neurons from laboratory animals such as rats in experiments focused on the ultrastructural organization of neurons, particularly synapses, axons, dendrites, dendritic spines, and growth cones. *Application Received by Commissioner of Customs:* September 27, 1989.

Docket Number: 89-243. *Applicant:* Cornell University, N.Y. State College of Veterinary Medicine, Ithaca, NY 14853-6401. *Instrument:* Electron Microscope, Model EM 902 PC. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* The instrument will be used to provide both routine service and high performance transmission electron microscopy for a wide variety of specimens ranging from surface spread single molecules through stained and unstained ultrathin, thin and thick sections of cells and tissues. Specific research project areas will include: (1) The role of vitamin D in calcium metabolism, (2) the effects of lead and other heavy metals on cardiac development and performance, (3) the regulation of cell division, (4) distribution of ions and specific protein during tumorigenesis, and (5) metabolic regulation of the intestine. *Application Received by Commissioner of Customs:* September 28, 1989.

Docket Number: 89-244. *Applicant:* The Salk Institute for Biological Studies, 10010 North Torrey Pines Road, La Jolla, CA 92037. *Instrument:* Mass Spectrometer, Model JMS-HX110. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used for analyzing peptides, proteins and other biological materials that will be isolated in extremely small quantities. Experiments will include both routine analysis of samples and developmental work such as the identification of new peptide or protein carriers that will improve ionization of the samples and result in more sensitive analyses. *Application Received by Commissioner of Customs:* October 2, 1989.

Docket Number: 89-245. *Applicant:* Washington State University, Purchasing Office, French Administration, Room 220, Pullman, WA 99164. *Instrument:* Rapid Kinetics Instrument, multi-mixing. *Manufacturer:* Biologic, Co., France. *Intended Use:* The instrument will be used to study the reactions of a number of different enzymes, principally 5-enolpyruvylshikimate-3-phosphate synthase, deoxyarabinoheptulosonate-7-phosphate synthase, chorismate mutase and triosephosphate isomerase, all of which are isolated from recombinant bacteria or yeast. Experiments will involve spray freezing (in about 1 msec) of a rapidly mixed (*ca.* 2 msec) aqueous solution of enzyme and isotopically enriched (with ^{13}C, or ^{15}N) substrate. The resultant "snow" will then be examined by cryoenzymological solid-state nuclear magnetic resonance spectroscopy. This technique should allow a structural determination of short-lives enzyme-intermediate complexes to be made at low temperatures. *Application Received by Commissioner of Customs:* October 3, 1989.

Docket Number: 89-246. *Applicant:* Medical University of South Carolina, Department of Pharmacy, 171 Ashley Avenue, Charleston, SC 29425. *Instrument:* Mass Spectrometer, Model JMS-HX110/HX110. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used to study the convalent structures of biological molecules such as proteins, polysaccharides, lipids, glycolipids, glycoproteins and lipoproteins and via chemical modifications, aspects of their three dimensional structure and function. In addition, the instrument will be used for educational purposes in the courses: Biomedical Applications of Mass Spectrometry, Research, Thesis Research and Dissertation Research. *Application Received by Commissioner of Customs:* October 3, 1989.

Docket Number: 89-247. *Applicant:* Thomas Jefferson University, Jefferson Medical College, Laboratory of Penna Muscle Institute, IID2, 1020 Locust Street, Philadelphia, PA 19107. *Instrument:* Quadruple Force Transducer Bridge Amplifier & Transducers. *Manufacturer:* Dr. K. Guth, West Germany. *Intended Use:* The instrument will be used for the measurement of force production by preparations of isolated smooth and striated muscles. The muscles are mounted in a chamber containing a physiological salt solution; the ends of the muscles are fixed to the transducer for the measurement of force and to a micrometer for measurement and control of length. *Application Received by Commissioner of Customs:* October 3, 1989.

Docket Number: 89-248. *Applicant:* Pennsylvania State University, University Park, PA 16802. *Instrument:* Ultrahigh Vacuum Surface Analysis System, Model LHS-12E. *Manufacturer:* Leybold Vacuum Products Inc., West Germany. *Intended Use:* The instrument will be used for research on metal-support interactions in catalytic systems involving the study of hydrogenation

reactions over Pt and Pd in contact with titania. Reaction rates and absorbed species will be determined using HREELW, XPS, and AES and the

Japan. *Intended Use:* See notice at 54 FR 2190, May 16, 1989.

Reasons: The foreign instrument provides optical rotary dispersion

Kingdom. *Intended Use:* See notice at 54 FR 24372, June 7, 1989.

Reasons: The foreign instrument can digitize single photon events in X-Y

manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed standard contains two

1. *Name of Standard.* GOSIP Conformance and Interoperation Testing and Registration.

2. *Category of Standard.* Hardware and Software Standards, Computer Network

and registered in accordance with the provisions for this standard. An implementation schedule establishing requirements for testing of protocols procured

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reactions over Pt and Pd in contact with titania. Reaction rates and absorbed species will be determined using HREELW, XPS, and AES and the specially-designed high pressure reactor chamber. The principal education uses will be in ChE 600 and 601 courses, which involve thesis-related research. *Application Received by Commissioner of Customs:* October 3, 1989.

Docket Number: 89-249. *Applicant:* University of California, San Francisco, School of Pharmacy, San Francisco, CA 94143-0446. *Instrument:* Stopped-Flow Spectrofluorimeter, Model SF. 17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to investigate the rapid kinetics of hemoprotein catalysis and inactivation by mechanism-based inactivating agents under aerobic and strictly anaerobic conditions, with UV and fluorescence detections, and at ambient and low temperatures. The purpose of the work is to define the structures and mechanisms of hemoprotein monooxygenases, peroxidases, dioxygenases. In addition, the instrument will be used to train graduate students and postdoctoral fellows in the use of stopped flow techniques for the analysis of rapid enzyme kinetics. *Application Received by Commissioner of Customs:* October 4, 1989.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-26508 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

The University of Texas at Austin, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 89-133. *Applicant:* The University of Texas at Austin, Austin, TX 78722. *Instrument:* Circular Dichroism Spectropolarimeter, Model J-20A and Optical Rotary Dispersion Instrument. *Manufacturer:* JASCO Inc., Japan. *Intended Use:* See notice at 54 FR 2190, May 16, 1989.

Reasons: The foreign instrument provides optical rotary dispersion spectra along with circular dichroism measurements.

Docket Number: 89-135 *Applicant:* University of Alaska, Fairbanks, Fairbanks, AK 99709. *Instrument:* Isotope Ratio Mass Spectrometer, Model SIRA Series II. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 54 FR 21090, May 16, 1989.

Reasons: The foreign instrument provides an external precision of 0.04‰ with a continuous flow inlet.

Docket Number: 89-136. *Applicant:* Vanderbilt University, Nashville, TN 37235. *Instrument:* Rapid Kinetics Spectrometer Accessory, Model RX 1000. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 54 FR 21091, May 16, 1989.

Reasons: The foreign article directly delivers mixed reagent solutions to the observation cell of an existing spectrophotometer.

Docket Number: 89-142. *Applicant:* University of California, Berkeley, CA 94720. *Instrument:* 3-Syringe Stopped-Flow System, Model SFM-3/PC. *Manufacturer:* Bio-Logic, France. *Intended Use:* See notice at 54 FR 22000, May 22, 1989.

Reasons: The foreign instrument provides: (1) Precise and independent control of the speed of 3 syringes, (2) a vertical observation chamber and (3) temperature control.

Docket Number: 89-146. *Applicant:* U.S. Department of Agriculture, Urbana, IL 61801. *Instrument:* Juice Extraction Press. *Manufacturer:* Erich Pollahne, West Germany. *Intended Use:* See notice at 54 FR 23509, June 1, 1989.

Reasons: The foreign instrument provides a roller type press with rolls that rotate in opposite directions against each other and is capable of processing 240 items per hour.

Docket Number: 89-149. *Applicant:* Knox College, Galesburg, IL 61401. *Instrument:* Stopped-flow Spectrophotometer, Model SF-1B. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice 54 FR 23509, June 1, 1989.

Reasons: The foreign instrument is designed to facilitate instruction of kinetics experiments in undergraduate level chemistry lab courses.

Docket Number: 89-154. *Applicant:* Medical University of South Carolina, Charleston, SC 29425. *Instrument:* Imaging Photon Detector. *Manufacturer:* Instrument Technology Limited, United Kingdom. *Intended Use:* See notice at 54 FR 24372, June 7, 1989.

Reasons: The foreign instrument can digitize single photon events in X-Y coordinates for subsequent computer analysis in studies of biological phosphorescence and luminescence in the UV region.

The National Institutes of Health advises in its memoranda dated September 28, 1989 that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-26509 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 91034-9234]

RIN 0693-AA79

Proposed Federal Information Processing Standard for Gosip Conformance and Interoperation Testing and Registration

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Request for comments.

SUMMARY: This proposed Federal Information Processing Standard will adopt conformance and interoperability testing requirements for the Government Open Systems Interconnection Profile (GOSIP). The FIPS establishes the policies, procedures and criteria for conformance and interoperation testing, provides for registration of GOSIP reference entities, and discusses laboratory accreditation and other procedures. This FIPS deals with conformance and interoperability testing for GOSIP Version 1, and not to the GOSIP Version 2 proposed revision. GOSIP is based on international standards and implementation agreements developed by the NIST Workshop for Implementors of OSI.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed standard contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section. Only the announcement section of the standard is provided in this notice. Interested parties may obtain a copy of the specification section from the Standards Processing Coordinator (ADP), National Institute of Standards and Technology, Technology Building, Room B-64, Gaithersburg, MD 20899, telephone (301) 975-2816. The information collection requirements subject to the Paperwork Reduction Act in the specification section have been approved by the Office of Management and Budget under Control No. 0693-0003.

DATE: Comments on this proposed standard must be received on or before February 12, 1990.

ADDRESS: Written comments concerning the proposed standard should be sent to: Director, National Computer Systems Laboratory, ATTN: Proposed FIPS for GOSIP Conformance Testing, Technology Building, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Linn, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975-3624.

Dated: November 6, 1989.

Raymond G. Kammer,

Acting Director.

Federal Information Processing Standards Publication_____

(date)

Announcing the Standard for GOSIP Conformance and Interoperation Testing and Registration

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100-235.

1. *Name of Standard.* GOSIP Conformance and Interoperation Testing and Registration.

2. *Category of Standard.* Hardware and Software Standards, Computer Network Protocols.

3. *Explanation.* This FIPS identifies requirements for conformance testing and interoperability testing of GOSIP protocols and protocol stacks. GOSIP defines a common set of data communication protocols which enable systems developed by different vendors to interoperate and enable the users of different applications on these systems to exchange information.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* U.S. Department of Commerce, National Institute of Standards and Technology, National Computer Systems Laboratory.

6. *Cross Index.*

a. FIPS PUB 146, Government Open Systems Interconnection Profile (GOSIP).

b. NBS Special Publication 500-150, Stable Implementation Agreements for Open Systems Interconnection Protocols, Version 1, Edition 1.

c. NIST Special Publication 500-163, GOSIP Users Guide.

d. General Agreements of the OSINET, OSINET Steering Committees; to be published September 1989.

7. *Related documents.* Related documents are listed in the Reference Section of the specifications.

8. *Objectives.* The primary objectives of this standard are:

a. To reduce the overall information systems costs by making it easier and less expensive to maintain information technology applications and to transfer these applications among different information systems, including replacement systems.

b. To protect the technical assets and staff time of the Federal government by assuring to the extent possible that products (off-the-shelf or government developed) brought into the Federal inventory comply with FIPS.

c. To identify test methods and competent test laboratories for assisting government agencies in procuring products that comply with FIPS.

d. To increase the likelihood of interoperation of products that conform to GOSIP.

9. *Specifications.* Federal Information Processing Standards Publication _____, GOSIP Conformance and Interoperation Testing Registration (affixed).

10. *Applicability.* This FIPS applies to the acquisition of computer network products and services and communications systems or services that provide the functionality defined in FIPS PUB 146, GOSIP, GOSIP, Version 1, supports Message Handling Systems and File Transfer, Access and Management Applications, and the interconnection of the following network technologies: CCITT Recommendation X.25; Carrier Sense Multiple Access with Collision Detection (IEEE 802.3); Token Bus (IEEE 802.4); and Token Ring (IEEE 802.5).

11. *Implementation.* After August 15, 1990, Federal agencies shall require that OSI protocols and protocol stacks procured for GOSIP Version 1 must be successfully tested and registered in accordance with the provisions for this standard. An implementation schedule establishing requirements for testing of protocols procured for GOSIP Version 2 will be announced at a later date.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B-154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Special Information.* The testing requirements for OSI protocols specified in this standard supersede in entirity the Section 2. Conformance, Interoperability, and Performance Testing of FIPS PUB 146, GOSIP, August 1988.

14. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUBS _____), and title. Specify

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microfiche if desired. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 89-25571 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council will hold a public meeting of its Enforcement Committee on November 20, 1989, at 10 a.m., at the Hotel Pierre (De Diego Avenue), Santurce, Puerto Rico. The Committee will discuss fishery management plan enforcement activities, budget issues, billfish regulations, and future actions.

FOR MORE INFORMATION CONTACT: Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918-2577; telephone: (809) 766-5926.

Dated: November 3, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 89-26578 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-22-M

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council will hold a public meeting of its Education and Information Committee on November 21, 1989, at 9 a.m., at the Hotel Pierre (De Diego Avenue), Santurce, Puerto Rico. The Committee will revise its goals and objectives, discuss fishery management and information needs, desktop publishing, as well as a meeting schedule for fishermen's organizations.

FOR MORE INFORMATION CONTACT: Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918-2577; telephone: (809) 766-5926.

Dated: November 3, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-26579 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-22-M

Endangered Species; Application for Permit; Sea World Research Institute (P167E)

Notice is hereby given that the Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the NOAA Fisheries regulations governing endangered fish and wildlife permits (50 CFR part 217 through 222).

1. Applicant: Peter Dutton and Donna McDonald, Sea World Research Institute, 1700 South Shores Road, San Diego, California 92109.

2. Type of Permit: Scientific Purposes.

3. Name and Number of Species:

Green (*Chelonia mydas*)
Olive ridley sea turtles (*Lepidochelys olivacea*)
Loggerhead (*Caretta*)

50 turtles total are proposed to be tagged and released.

4. Type of Take: The applicant proposes to conduct scientific studies on Green, Olive ridley, and Loggerhead sea turtles. The applicant estimates there to be approximately 50 total sea turtles on these three species in the study area (San Diego Bay). A net will be set across the channel where they are found. Each turtle captured will be brought into a boat, tagged and released. Turtles captured that have already been tagged will be released. This will continue until over a period of two years.

5. Location and Duration of Activity: The collecting efforts will be in San Diego Bay adjacent to the entrance of the effluent channel of the San Diego Gas and Electric Power Plant. Turtles will be tagged and released every two weeks until all turtles are tagged, then recapture will take place throughout San Diego Bay monthly over a two-year period.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, NOAA Fisheries, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of NOAA Fisheries.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, NOAA Fisheries, 1335 East-West Highway, Silver Spring, Maryland 20910; and

Director, Southwest Region, NOAA Fisheries, 300 South Ferry Street, Terminal Island, California 90731-7415.

Dated: November 6, 1989.

Morris M. Pallozzi,

Director, Office of Enforcement, National Marine Fisheries Service.

[FR Doc. 89-26528 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 6, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the commissioner of customs adjusting limits.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6791. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for carryover and carryforward used. In accordance with a letter dated October 26, 1988, Gorup II is adjusted further to conform with the Harmonized System.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49345, published on December 7, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 6, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 7, 1989, the directive of December 2, 1988 is being amended further to adjust the limits for the following categories, as provided under the terms of the bilateral agreement of November 18, 1982, as amended and extended:

Category	Adjusted 12-month limit [1]
Group I	
200-227, 229, 300-317, 326, 360-369, 400, 410, 414, 464-469, 600-629 and 665-670, as a group.	558,604,356 square meters equivalent
Sublevels in group I	
200	580,501 kilograms
218	17,467,397 square meters
219	17,540,478 square meters
220	11,223,109 square meters
225/317/326	29,196,119 square meters
226	6,738,931 square meters
229-F [2]	565,495 kilograms
313	31,254,577 square meters
314	34,339,783 square meters
315	22,237,948 square meters
360	990,272 numbers
363	13,179,248 numbers
369-L [3]	1,270,988 kilograms
604	246,312 kilograms
613/614/615/617	16,236,716 square meters
669-P [4]	255,645 kilograms
669-T [5]	893,400 kilograms
670-F [6]	1,875,715 kilograms
670-H [7]	15,741,803 kilograms
670-L [8]	36,591,215 kilograms
Group II	
237, 239, 330-354, 359, 431-448, 459, 630-664 and 666, as a group.	823,723,550 square meters equivalent
Sublevels in group II	
237	999,932 dozen
239	2,527,189 kilograms
333/334	83,076 dozen
335	96,129 dozen
336	91,992 dozen
Category	Adjusted 12-month limit [1]
341	368,556 dozen
342	205,959 dozen
350	165,545 dozen
351	364,794 dozen
352	953,223 dozen
353/354/653/754	242,308 dozen
359-H [9]	2,162,943 kilograms
433	13,935 dozen
434	9,674 dozen
435	29,511 dozen
436	4,573 dozen
438	37,008 dozen
440	10,510 dozen
442	46,961 dozen
443	99,014 numbers
445/446	131,425 dozen
447/448	19,232 dozen
631	4,489,999 dozen pairs
632	4,887,983 dozen pairs
634	982,720 dozen
635	1,951,780 dozen
639	5,067,394 dozen
640	3,028,371 dozen of which not more than 1,693,825 dozen shall be in Category 640-Y [10]
642	707,841 dozen
643	492,000 numbers
644	1,556,294 numbers
645/646	4,126,558 dozen
647	2,777,899 dozen
648	3,222,464 dozen
649	718,850 dozen
650	51,595 dozen
651	496,191 dozen
652	1,485,540 dozen
659-B [11]	750,668 kilograms
659-C [12]	553,236 kilograms
659-H [13]	2,630,176 kilograms
659-S [14]	2,119,691 kilograms
Group III 631-644 and 646-658, as a group.	7,866,768 square meters equivalent
Level not in a group 845	855,279 dozen

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 229-F, only HTS numbers 5608.11.0000, 5608.19.1010 and 5608.19.1020.

[3] In Category 369-L, only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000.

[4] In Category 669-P, only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[5] In Category 669-T, only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9000.

[6] In Category 670-F, only HTS number 4202.32.9550.

[7] In Category 670-H, only HTS numbers 4202.22.4030 and 4202.22.8050.

[8] In Category 670-L, only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

[9] In Category 359-H, only HTS numbers 6505.90.1530 and 6505.90.2060.

[10] In Category 640-Y, only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[11] In Category 659-B, only HTS numbers 6114.30.2010 and 6114.30.2020.

[12] In Category 659-C, only HTS numbers 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.69.8010, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[13] In Category 659-H, only HTS numbers 6502.00.9030, 6504.00.8015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.8060.

[14] In Category 659-S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26551 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DR-M

Textile and Apparel Categories With Harmonized Tariff Schedule of the United States Annotated; Changes to the 1989 Correlation

November 8, 1989.

AGENCY: Committee for the Implementation of Textile agreements (CITA).

ACTION: Changes to the 1989 Correlation.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

The Correlation: **Textile and Apparel Categories with Harmonized Tariff Schedule of the United States Annotated (1989)** presents the harmonized tariff numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the bilateral agreements program. A notice was published in the **Federal Register** on July 3, 1989 (54 FR 27924) announcing changes to this Correlation, which were published in the fourth supplement of the Harmonized Tariff Schedule of the **United States. The Correlation should be** amended further to reflect the changes indicated below:

HTS No.	Category No.
6108.91.0015	Change from 350 to 352.
6108.91.0025	Change from 350 to 352.
6108.92.0015	Change from 650 to 652.
6108.92.0025	Change from 650 to 652.
6108.10.0009	Change from 352 to 338.
6108.90.1003	Change from 652 to 638.
Category	*Change*
350	Add 6108.91.0000—Women's negligees, bathrobes and similar articles of cotton, knitted or crocheted. Add 6108.91.0040—Girls' negligees, bathrobes and similar articles of cotton, knitted or crocheted.
600	Delete 5402.39.3030 Delete 5402.39.6060 Add 5402.39.3010—Other single textured yarn, of polethylene or polypropylene, not put up for retail sale.

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HTS No.	Category No.
	Add 5402.39.3090—Other single textured yarn, other than polethylene or polypropylene, not put up for retail sale.
	Add 5402.39.6010—Other textured yarn, multiple (folded) or cabled yarn, not put up for retail sale, of polyethylene or polypropylene.
	Add 5402.39.6090—Other textured yarn, multiple (folded) or cabled yarn, other than polyethylene or polypropylene not put up for retail sale.
606	Delete 5402.49.0040
	Add 5402.49.0060—Synthetic filament yarn (other than sewing thread), not put up for retail sale, multifilament, with twist of 5 turns or more per meter, of polyethylene or polypropylene.
	Add 5402.49.0080—Synthetic filament yarn (other than sewing thread), not put up for retail sale, multifilament, with twist of 5 turns or more per meter, other than of polethylene or polypropylene.
650	Add 6108.92.0030—Women's negligees, bathrobes and similar articles of man-made fiber, knitted or crocheted.
	Add 6108.92.0040—Girls' negligees, bathrobes and similar articles of man-made fiber, knitted or crocheted

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26552 Filed 11-9-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or other severly handicapped.

EFFECTIVE DATE: December 13, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 25, September 1, 8, 15 and 22, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 35366, 36369, 37356, 38266 and 39034) of proposed additions to and deletion from Procurement List 1990, which was published on November 3, 1989 (54 FR 46450).

Additions

No comments were received concerning the proposed additions to the Procurement List. After consideration of the material presented to it concerning capabiltiy of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1990:

Commodities

Cushion Seat, Vehicular
2540-737-3309

Pad, Mattress
7210-01-306-3243
7210-01-306-3244
7210-01-306-3245
7210-01-306-3246
7210-01-306-3247
7210-01-306-3248
7210-01-306-3249
7210-01-306-3250
7210-01-306-3251

Folder, File
7530-00-990-6884

(Requirements for Belle Mead, New Jersey Supply Facility only).

Services

Grounds Maintenance, Camp Bonneville, Camp Bonneville, Washington.

Mailroom Operation, U.S. Corps of Engineers, Estes Kefauver Building, U.S. Courthouse and Adjacent Buildings, Nashville, Tennessee.

Package Reclamation, Ogden Air Logistics Center, Hill Air Force Base, Utah.

Deletion

After consolidation of the relevant matter presented, the Committee had determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6

Accordingly, the following commodity is hereby deleted from Procurement List, 1990:

Pamphlets (3229-S)
7690-00-NSH-0010
(Requirements of Government Printing Office, Philadelphia, Pennsylvania—DLA Requisitions only)

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-26575 Filed 11-9-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced by workshops for the blind or other severely handicapped. Comments must be received on or before: December 13, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1990, which was published on November 3, 1988 (54 FR 46540):

Diaper, Infant's
8532-01-126-2213

Office Furniture

7110-01-148-2410	Desk
7110-01-148-2411	Desk
7110-01-170-3594	Desk
7110-01-170-3595	Desk
7110-01-170-3596	Desk
7110-01-170-3597	Desk
7110-01-170-3598	Desk
7110-01-170-7582	Desk
7110-01-148-2419	Credenza
7110-00-NFC-0450	Credenza
7110-00-NFC-0451	Credenza
7110-01-148-2421	Telephone Cabinet
7110-01-148-2414	Bookcase
7110-00-NFC-0452	Bookcase
7110-00-NFC-0453	Bookcase
7110-01-226-0888	Table, VDT
7110-01-226-1706	Table, VDT
7110-01-226-1707	Table, Printer

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-26576 Filed 11-9-89; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by Section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a committee of the DIA Advisory Board has been scheduled as follows:

DATE: Tuesday, 21 November 1989 (9 a.m. to 5 p.m.).

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatfield, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Intelligence Production.

Dated: November 7, 1989.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26570 Filed 11-9-89; 8:45 am]

BILLING CODE 3810-01-M

Acceptance of Group Application Under Public Law 95-202 and DODD 1000.20; U.S. Civilian Employees of the Philippine Air Depot Who Served During the Period December 8, 1941 to February 23, 1945

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "U.S. Civilian Employees of the Philippine Air Depot Who Served During the Period December 8, 1941 to February 23, 1945." Persons with information or documentation pertinent to the determination of whether the service of this group is to be considered equivalent to active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary or other materials submitted cannot be returned. For further information, contact Lt Col Harris, (202) 692-4747.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-26555 Filed 11-9-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.004C]

Extension of Closing Date for New Awards Under the Desegregation of Public Education

AGENCY: Department of Education.

ACTION: Notice of extension of closing date for new awards under the desegregation of Public Education: State Educational Agency Desegregation Program for fiscal year (FY) 1990.

SUMMARY: On August 8, 1989, the Department of Education published in the Federal Register a notice inviting applications under the State Education Desegregation Program for FY 1990. The purpose of this notice is to extend the closing date for transmittal of applications from October 16, 1989 to November 24, 1989, to provide applicants additional time to submit applications. Applicants that have already submitted applications may supplement or revise their applications until November 24, 1989. Three copies of any supplementary information or the revised application must be received by the Application Control Center by November 24, 1989. The Intergovernmental Reiew deadline is also extended from December 18, 1989 to January 24, 1990.

FOR APPLICATIONS OR INFORMATION CONTACT: Sylvia Wright, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2089, FOB #6, Washington, DC 20202-6439. Telephone (202) 732-4358.

Authority: 42 U.S.C. 2000C-2000C-2, 2000C-5.

Dated: November 7, 1989.

Daniel F. Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 89-26624 Filed 11-9-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Solicitation of Comments From the General Public on the Research, Development, Demonstration, Testing and Evaluation (RDDT&E) Plan, a Chapter of the Environmental Restoration and Waste Management Five-Year Plan

AGENCY: Office of the Secretary, DOE.

ACTION: Notice of availability of the Research, Development, Demonstration, Testing, and Evaluation (RDDT&E) Plan, a complementary document to the Environmental Restoration and Waste Management Five-Year Plan for the general public's review and comment.

SUMMARY: As stated in the Energy Restoration and Waste Management Five-Year Plan, DOE/S-0070 (see 54 FR 36372 (September 1, 1989)), and publicly on numerous occasions, and as testified to before the Congress, the Department of Energy has been preparing the RDDT&E Plan to complement the Environmental Restoration and Waste Management Five-Year Plan and to become a chapter of that document. The RDDT&E Plan has now been completed. The Plan addresses management and direction of programs and activities, establishes an aggressive national program for research and development, identifies technologies to solve problems in an efficient and economical manner, and directs the development of new technologies. The Department is making available for interested groups and individuals the RDDT&E Plan for review and comment. All comments will be considered in the preparation of the updated Plan (1992-1996) which will be available for review and comment in May 1990.

DATES: Comments on the RDDT&E Plan will be accepted through December 13, 1989.

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ADDRESSES: Persons requiring copies of the Plan should submit their requests to Mr. R.P. Whitfield, Office of Defense Waste and Transportation Management, DP–12, ATTN: RDDT&E Plan, Department of Energy, Washington, DC 20545 or call (301) 353–4000. Written comments should be addressed to Mr. R.P. Whitfield at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. R.P. Whitfield at (301) 353–3555.

Leo P. Duffy,

Special Assistant to the Secretary for Coordination of DOE Waste Management.

[FR Doc. 89–26629 Filed 11–9–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 89–44–NG]

Conoco Inc., Order Granting Authorization To Import Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an Order Granting Blanket Authorization to Import Natural Gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Conoco Inc. blanket authorization to import up to 20 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 3, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–26574 Filed 11–9–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP90–18–000]

El Paso Natural Gas Co. v. West Texas Gathering Co.; Petition for Issuance of a Declaratory Order, Complaint, and Motion for Expedited Relief

November 6, 1989.

Take notice that on October 27, 1989, El Paso Natural Gas Company (El Paso), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Texas 79978, filed a petition for issuance of a declaratory order, complaint, and motion for expedited relief at Docket No. RP90–19 under section 5(e) of the Administrative Procedure Act (5 U.S.C. 554(e) (1982)) and Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2) (1989)), under sections 5(a) and 16 of the Natural Gas Act (15 U.S.C. 717d(a) and 717o (1982)) and Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206 (1989)), and under Rule 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212 (1989)). El Paso's pleading consists of the following:

(i) a petition for issuance of a declaratory order finding:

(a) a Texas district court action brought by West Texas Gathering Company (West Texas), a jurisdictional "natural-gas company" as defined in Section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6) (1982)), against El Paso seeking to enforce the minimum purchase provisions of its tariff is preempted by Commission Order Nos. 380 and 500; and

(b) the variable minimum purchase provisions of West Texas' Rate Schedule X–1, as reflected in the West Texas-El Paso Gas Purchase Agreement dated January 8, 1958, as amended, are inoperative and of no effect at law under the Commission's Regulations at 18 CFR 154.111 (1988);

(ii) a complaint against West Texas requesting a Commission order directing West Texas to cease and desist from its efforts to enforce the minimum purchase provisions of its tariff; and

(iii) a motion for expedited relief.

Respondent West Texas Gathering Company must file an answer to the complaint with the Commission pursuant to Rules 206(b) and 213 of the Commission's Rules of Practice and Procedure (18 CFR 385.206(b) and 385.213 (1989)). Any other person desiring to be heard or to make any protest with reference to said pleading should, on or before Dec. 6, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a protest or motion to intervene in accordance with the requirements of Rule 211 or 214, respectively, of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214 (1989)) and the Regulations Under the Natural Gas Act (18 CFR 157.10 (1989)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before December 6, 1989.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26522 Filed 11–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–7–28–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 6, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 31, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 3–C.10
First Revised Sheet No. 3–C.11
First Revised Sheet No. 3–C.12

The proposed effective date of these revised tariff sheets is December 1, 1989.

Panhandle states that the revised tariff sheets filed herewith reflect revisions to the Order No. 500 take-or-pay direct billing amounts approved by Commission Orders dated November 25, 1988 and January 26, 1989 in Docket No. RP89–9–000, *et al.*

Panhandle further states that the revised tariff sheets referenced above reflect the first annual adjustment to carrying charges and monthly TOP Fixed Surcharges in accordance with sections 23.4 (c) and (d) of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Panhandle states that copies of its filing have been served on all parties, affected jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26518 Filed 11–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–6–28–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 6, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 31, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 3–C.13
First Revised Sheet No. 3–C.14
First Revised Sheet No. 3–C.15

The proposed effective date of these revised tariff sheets is December 1, 1989.

Panhandle states that the revised tariff sheets filed herewith reflect revisions to the Order No. 500 take-or-pay direct billing amounts approved by Commission Orders dated November 25, 1988, January 26, 1989, and October 10, 1989 and Docket No. RP89–10–000, *et al.*

Panhandle further states that the revised tariff sheets referenced above reflect the first annual adjustment to carrying charges and monthly TOP Fixed Surcharges in accordance with section 24 of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Panhandle states that copies of its filing have been served on all parties, affected jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26517 Filed 11–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–30–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 6, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 31, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the tariff sheets listed on Appendix A of the filing.

Texas Eastern states that the purpose of this filing is to update Texas Eastern's Fifth Revised Volume No. 1 to reflect changes required as the result of the execution of Service Agreements under Rate Schedules CD–1, CD–2, FT–1 and I by Algonquin Gas Transmission Company (Algonquin) and certain customers on October 13, 15, and 27, 1989. By this filing, Texas Eastern is also updating the Index of Purchasers and the Table of Contents for Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1. The agreements executed before October 26, 1989 are effective November 1, 1989. Texas Eastern states that the service agreements are being filed with the Commission in a separate filing.

Texas Eastern states that the tariff sheets listed on Appendix A of the filing, proposed to be effective October 26, 1989, reflect the following changes required as a result of the execution of Rate Schedule CD–1, CD–2, FT–1 and I Service Agreements by certain customers referenced in the filing:

(1) Revisions to reflect certain companies' names changes;

(2) The shift of certain companies obligation for Contract Adjustment Demand Charges from Rate Schedule DCQ to Rate Schedule CD–1;

(3) The reduction in certain companies' annual sales entitlements as a result of their election to reduce their Annual Contract Quantities under Rate Schedule CD–1, and to reflect the reduction in certain companies' annual sales entitlements as a result of elections to reduce Annual Contract Quantities under Rate Schedule CD–2;

(4) The Monthly Inventory Determinants applicable to the Contract Year which commenced on November 1, 1989 as specified in the executed Rate Schedule CD–1 and CD–2 service agreements, as applicable;

(5) The reduction of Demand-2 Quantity Nominations under Rate Schedules CD–1 and CD–2 as a result of the amount of service converted to Rate Schedule FT–1 on an annual basis.

Texas Eastern states that the tariff sheets listed on Appendix A of the filing proposed to be effective November 1, 1989 reflect the following changes:

(1) The shift of certain other companies' obligation for Contract Adjustment Demand Charges from Rate Schedule DCQ to Rate Schedule CD–1; the deletion of Contract Adjustment Demand Charge language from Rate Schedule DCQ since it is not applicable to the remaining Rate Schedule DCQ customers;

(2) The Monthly Inventory Determinants applicable to the Contract Year which commences November 1, 1989, as specified in the executed Rate Schedule CD–1 and CD–2 service agreements, as applicable, and nominated by one company under Rate Schedule DCQ in a letter to Texas Eastern dated October 9, 1989, for the Contract Year commencing November 1, 1989, electing to remain a Rate Schedule DCQ customer;

(3) A revised Index of Purchasers, to be effective November 1, 1989, to reflect

[Docket No. RP90–29–000]

Questar Pipeline Co.; Tariff Filing

November 6, 1989.

Take notice that Questar Pipeline Company on October 27, 1989, tendered for filing and acceptance certain tariff sheets to its FERC Gas Tariff.

Questar Pipeline states that this filing is made pursuant to 18 CFR 154.63, in compliance with ordering paragraph (C) of the Commission's October 6, 1989, order issued in Docket No. RP88–63, et al. and consistent with the Acceptance of Modified Settlement filed by Questar Pipeline on October 24, 1989.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26516 Filed 11–9–89; 8:45 am]

BILLING CODE 6717–01–M

Texas Eastern's Rate Schedules CD–1, CD–2, FT–1 and I Service Agreements, pertaining to, as applicable, certain customers as reflected in a companion

billing amounts approved by Commission Orders dated November 25, 1988, January 31, 1989 and May 10, 1989 in Docket No. RP89–11–000, *et al.*

(1989)]. All such protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be

commodity referred to as oil overcharge funds, are moneys obtained through enforcement actions instituted to remedy or alleged violations of those

crude oil and subject to the settlement agreement in *In re The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan., July

which finds, as it has found in the past, that none of those funds are currently excess. No "other commitments" are reflected in the reserves. On October 10,

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Texas Eastern's Rate Schedules CD-1, CD-2, FT-1 and I Service Agreements, pertaining to, as applicable, certain customers as reflected in a companion filing dated October 31, 1989;

(4) Revisions required as the result of the cancellations and withdrawal of Rate Schedule GS pursuant to the abandonment authorization granted to Texas Eastern by the Commission in Docket No. RP-85-177, *et al.*

Texas Eastern also states that the tariff sheets listed on Appendix A of the filing proposed to be effective November 15, 1989 replace the same numbered sheet filed by Texas Eastern on October 13, 1989 in Docket No. CP87-5-008 and are being revised to refelct the withdrawal of Rate Schedule GS and to reflect company name changes.

The proposed effective dates of the tariff sheets are as listed on Appendix A of the filing.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to became a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26519 Filed 11-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-4-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

November 6, 1989.

Take notice that on October 31, 1989 Trunkline Gas Company (Trunkline) tendered for filing revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 as follows:

First Revised Sheet No. 3-A.7
First Revised Sheet No. 3-A.8

The proposed effective date of these revised tariff sheets is December 1, 1989.

Trunkline states that the revised tariff sheets filed herewith reflect revisions to the Order No. 500 take-or-pay direct billing amounts approved by Commission Orders dated November 25, 1988, January 31, 1989 and May 10, 1989 in Docket No. RP89-11-000, *et al.*

Trunkline further states that these revised tariff sheets reflect the first annual adjustment to carrying charges and monthly TOP Fixed Surcharges as provided in section 21.4(c) of Trunkline's FERC Gas Tariff, Original Volume No. 1.

Trunkline states that copies of its filing have been served on all parties, affected jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26520 Filed 11-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-157-002]

Valley Gas Transmission, Inc.; Filing

November 6, 1989.

Take notice that on October 30, 1989, Valley Gas Transmission, Inc. (Valley) filed certain tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2, to be effective November 1, 1989.

Valley states that these tariff sheets were accepted for filing and suspended for five months by Commission order dated May 31, 1989 (47 FERC 61,309). Valley states that this filing moves these suspended tariff sheets into effect as of November 1, 1989, and requests that the Commission grant any waivers necessary in order that these tariff sheets take effect.

Valley states that a copy of this filing has been served on all of its customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1989)]. All such protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26521 Filed 11-9-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Determination of Excess Petroleum Violation EScrow Funds for Fiscal Year 1990

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of determination of excess amount of petroleum violation escrowed amounts pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986.

SUMMARY: The Petroleum Overcharge Distribution and Restitution Act of 1986 requires the Secretary of Energy to determine annually the amount of oil coverage funds held in escrow that is in excess of the amount needed to make restitution to injured parties. Notice is hereby given that $40,616,459.94 of the amounts currently in escrow is determined to be excess funds for fiscal year 1990 and, pursuant to the statutory directive, will be made available to state governments for use in specified energy conservation programs.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094 [Mann]; (202) 586-2383 [Klurfeld].

SUPPLEMENTARY INFORMATION: The Petroleum Overcharge Distribution and Restitution Act of 1986 (hereinafter "PODRA"), contained in title III of the Omnibus Budget Reconciliation Act of 1986, Public Law No. 99-509, establishes certain procedures for the disbursement of funds collected by the Department of Energy (hereinafter "DOE") pursuant to the Emergency Petroleum Allocation Act of 1973 (hereinafter "EPAA") or the Economic Stabilization Act of 1970 (hereinafter "ESA"). These funds, commodity referred to as oil overcharge funds, are moneys obtained through enforcement actions instituted to remedy or alleged violations of those Acts.

PODRA requires the DOE, through the Office of Hearings and Appeals (hereinafter "OHA"), to conduct proceedings under 10 CFR part 205, subpart V, to accept claims for restitution from the public and to refund oil overcharge moneys to persons injured by violations of the EPAA or the ESA. In addition, PODRA requires the Secretary of Energy to determine annually the amount of oil overcharge funds that will not be required for restitution to injured parties in refund proceedings and to make this excess available to state governments for use in four energy conservation programs. This determination is required to be published in the Federal Register within 45 days after the beginning of each fiscal year. The Secretary has delegated this responsibility to the OHA Director.

Notice is hereby given that based on currently available information, $40,616,459.94 is in excess of the amount that is needed to make restitution to injured parties.

To arrive at that figure, the OHA has reviewed all accounts in which moneys covered by PODRA are deposited. PODRA generally covers all funds now in DOE escrow which are derived from alleged violations of the EPAA or the ESA, with certain exclusions. Excluded are funds which (1) have been identified for indirect restitution in orders issued prior to enactment of PODRA; (2) have been identified for direct restitution in a judicial or administrative order; or (3) are attributable to alleged violations of regulations governing the pricing of crude oil and subject to the settlement agreement in *In re The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan., July 7, 1986). As of September 30, 1989, the total amount subject to the PODRA procedures was $434,390,105.84.

The OHA has employed the following methodology to determine the excess amount of funds subject to PODRA. We took special account of the provision of PODRA which directs that "primary consideration [be given] to assuring that at all times sufficient funds (including a reasonable reserve) are set aside for making [direct] restitution." Thus, in proceedings in which refund claims are pending, we have on a claim-by-claim basis examined pending claims and established reserves sufficient to pay the entire amount of all claims. The amount of those reserves also includes all refunds ordered by the OHA since the end of the last fiscal year on September 30, 1989. For proceedings in which all claims have been considered or in which no claims have been filed, and the deadline for filing claims has passed, all funds remaining are excess. Small amounts of interest accrued, until transfer, on funds in accounts that were closed (with a zero balance) in the fiscal year 1989 PODRA determination (53 FR 45378 (1988)) are included as part of the "excess" for fiscal year 1990. In accordance with § 3002(c)(3) of PODRA, escrowed amounts are not deemed "excess" where they were designated, prior to the enactment of PODRA, for disbursement to specific persons or classes of persons as indirect restitution. In addition, a relatively small amount of oil overcharge funds is currently subject to the control of the Department's Economic Regulatory Administration, which finds, as it has found in the past, that none of those funds are currently excess. No "other commitments" are reflected in the reserves. On October 10, 1989, the OHA issued a proposed decision tentatively granting a refund claim from the Century Refining subaccount in excess of the reserve established for that subaccount in the fiscal year 1987 PODRA determination. We have made an adjustment in this notice to increase the amount of the Century Refining subaccount reserve in anticipation of paying that claim.

As indicated above, the total escrow account equity subject to PODRA is $434,390,105.84. The total amount needed as reserved for direct restitution in those cases is $393,773,645.90. When this figure is subtracted from the former, the remainder—$40,616,459.94—is the amount in fiscal year 1990 that is "in excess" of the amount that will be needed to make restitution to injured persons. Appendix A sets forth for each refund case within the OHA's jurisdiction the total product equity eligible for distribution under PODRA, the amount reserved for direct restitution, and the "excess" amount. Appendix B reflect information supplied by the Economic Regulatory Administration regarding cases subject to PODRA under its jurisdiction.

Accordingly, $40,616,459.94 will be transferred to a separate account within the United States Treasury and made available to the States for use in the four designated energy conservation programs in the manner prescribed by PODRA.

Dated: November 7, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

BILLING CODE 6450-01-M

Appendix A: Determination of Excess Oil Overcharges in Fiscal Year 1990

OHA Case	Consent Order	Available for

Appendix A: Determination of Excess Oil Overcharges in Fiscal Year 1990

OHA Case	Consent Order	Available for

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Appendix A: Determination of Excess Oil Overcharges in Fiscal Year 1990

Name of Proceeding	OHA Case Number	Consent Order Number	Current Equity	Reserve	Available for PODRA
GULF OIL CORPORATION	DFF - 0001	NOOR00007Y	$29,159,654.95	$0.00	$29,159,654.95
GETTY OIL COMPANY	HEF - 0209	RGEA00001Z	$7,127,584.16	$4,619,181.00	$2,508,403.16
WORLD OIL COMPANY	KEF - 0005	960S00104Z	$2,459,088.04	$0.00	$2,459,088.04
CROWN CENTRAL PETROLEUM CORP	KEF - 0044	RCWA00000Z	$6,162,734.74	$4,162,734.74	$2,000,000.00
AMTEL, INC.	HEF - 0027	720H00552Z	$1,244,371.81	$144,371.81	$1,100,000.00
MCO HOLDINGS INC & MGPC INC	KEF - 0108	531V00016Z	$744,228.46	$144,228.46	$600,000.00
NORTHEAST PETROLEUM CORP.	HEF - 0137	110H00334Z	$696,701.81	$196,701.81	$500,000.00
PRODUCT TRACKING - PODRA	N/A	N/A	$472,919.24	$0.00	$472,919.24
SUBURBAN PROPANE GAS CORP	KEF - 0038	733V02010Z	$444,994.58	$43,383.58	$401,611.00
PLAQUEMINES OIL SALES INCORP	KEF - 0039	540H00174Z	$506,212.37	$106,212.37	$400,000.00
SAUVAGE GAS SERVICE CO,INC.	KEF - 0024	710H06008Z	$512,143.08	$250,334.08	$261,809.00
EASTERN OIL COMPANY	KEF - 0065	412H00040Z	$142,678.03	$0.00	$142,678.03
WINSTON REFINING COMPANY	HEF - 0589	6D0S00006Z	$140,987.14	$0.00	$140,987.14
MARTINOIL COMPANY	HEF - 0124	910T00120Z	$128,212.87	$0.00	$128,212.87
PETROLEUM HEAT & POWER	HEF - 0150	110H00530Z	$109,727.24	$0.00	$109,727.24
NORTHEAST PETROLEUM CORP.	HEF - 0138	120H00491Z	$299,536.50	$199,536.50	$100,000.00
HOWARD OIL COMPANY	KEF - 0008	240H00280Z	$93,309.34	$0.00	$93,309.34
EVETT OIL CO	KEF - 0020	400H00221Z	$80,341.06	$0.00	$80,341.06
EARTH RESOURCES	HEF - 0205	431S00341Z	$67,944.53	$0.00	$67,944.53
SOUTH HAMPTON REFINING	HEF - 0222	6E0S00002Z	$41,793.63	$0.00	$41,793.63
PACER OIL CO	HEF - 0143	412H00172Z	$13,448.78	$0.00	$13,448.78
CONOCO	HEF - 0010	RCOA00001Y	$13,206.28	$0.00	$13,206.28
SABER ENERGY, INC.	HEF - 0220	6D0S00037Z	$12,478.43	$0.00	$12,478.43
LEO'S-WINSTEAD'S	HEF - 0114	710H01376Z	$9,075.64	$0.00	$9,075.64
APPALACHIAN FLYING SERVICE	HEF - 0026	432K00435Z	$7,231.69	$0.00	$7,231.69
APCO OIL CORPORATION	HEF - 0008	660S00632Y	$6,272.14	$0.00	$6,272.14
KEY OIL COMPANY	HEF - 0106	430H00477Z	$5,346.95	$0.00	$5,346.95
BAK LTD.	HEF - 0034	320H00043Z	$3,853.55	$0.00	$3,853.55
SMITH, C.K. & CO.	HEF - 0172	111H00028Z	$2,697.61	$0.00	$2,697.61
NATIONAL PROPANE CORP.	HEF - 0135	270T00002Z	$2,188.02	$0.00	$2,188.02
UPG,INC	KEF - 0026	641S00123Z	$2,165.16	$0.00	$2,165.16
GOOD HOPE REFINERIES INC.	HEF - 0211	150S00154Z	$1,644.50	$0.00	$1,644.50
HOWELL-QUINTANA	HEF - 0212	610S00068Z	$1,546.30	$0.00	$1,546.30
THRIFTYMAN, INC	KEF - 0018	610H10449Z	$1,458.35	$0.00	$1,458.35
HUSKY OIL COMPANY	HEF - 0213	820S00007Z	$1,362.95	$0.00	$1,362.95
U.S.A. PETROLEUM CORP.	HEF - 0500	960S00093Z	$1,188.61	$0.00	$1,188.61
TENNECO OIL	BEF - 0073	RTNA00001Y	$1,150.70	$0.00	$1,150.70
O'CONNELL OIL CO.	HEF - 0141	110H00513Z	$1,114.20	$0.00	$1,114.20
GIBBS INDUSTRIES INC.	HEF - 0079	110H00494Z	$629.33	$0.00	$629.33
JAY OIL CO	HEF - 0101	6C1H00209Z	$586.36	$0.00	$586.36
RICHARDSON, SID	BEF - 0022	6D0V00025Y	$460.11	$0.00	$460.11
NORTHWEST PIPELINE	HEF - 0264	710V03015Z	$421.18	$0.00	$421.18
CRANSTON OIL SER CO INC/GALEGO	KEF - 0029	111K00123Z	$413.20	$0.00	$413.20
KNUTSON, MARLEN L.	HEF - 0110	000H00422Z	$408.09	$0.00	$408.09
KELLER OIL COMANY, INC.	HEF - 0103	720H00598Z	$365.42	$0.00	$365.42
NAVAJO REFINING CO.	HEF - 0217	672S00136Z	$247.08	$0.00	$247.08
CLEAN MACHINE, INC	KEF - 0097	999K90079Z	$215.66	$0.00	$215.66
QUAKER STATE OIL	HEF - 0219	340S00352Z	$210.14	$0.00	$210.14
KENT OIL & TRADING COMPANY	HEF - 0578	940X00232Z	$209.75	$0.00	$209.75
MARINE PETROLEUM CO.	HEF - 0122	720H00567Z	$183.82	$0.00	$183.82
ARKANSAS LOUISIANA GAS CO.	HEF - 0201	641S00255Z	$161.60	$0.00	$161.60
GCO MINERALS COMPANY	HEF - 0570	NGCP00001Z	$145.00	$0.00	$145.00
BUBBLE MACHINE	HEF - 0514	999K90040Z	$114.33	$0.00	$114.33
OCEANA TERMINAL CORPORATION	HEF - 0142	240H00361Z	$109.36	$0.00	$109.36
KING & KING ENTERPRISES, INC.	HEF - 0108	710H02500Z	$108.15	$0.00	$108.15

Appendix A: Determination of Excess Oil Overcharges in Fiscal Year 1990

Name of Proceeding	OHA Case Number	Consent Order Number	Current Equity	Reserve	Available for PODRA
PERTA OIL	HEF - 0148	630H00086Z	$106.14	$0.00	$106.14
RICHARDSON AYRES JOBBER	HEF - 0166	540H00354Z	$104.55	$0.00	$104.55
DUARLES PETROLEUM	HEF - 0150	N00H00905Z	$103.04	$0.00	$103.04
PYROFAX GAS CORP	HEF - 0157	641T00090Z	$95.58	$0.00	$95.58
SIGMOR CORPORATION	HEF - 0581	6D0S00091Z	$83.36	$0.00	$83.36
ELM CITY FILLING STATIONS,INC	HEF - 0057	150H00126Z	$79.46	$0.00	$79.46
UNION TEXAS PETROLEUM CORP.	HEF - 0009	6E0S00075Y	$75.91	$0.00	$75.91
ONEOK INC	HEF - 0571	740V01406Z	$75.21	$0.00	$75.21
SWIFTY OIL COMPANY	HEF - 0175	550H00337Z	$73.94	$0.00	$73.94
GULL INDUSTRIES, INC.	HEF - 0085	N00SD0001Z	$67.76	$0.00	$67.76
LA GLORIA OIL AND GAS COMPANY	HEF - 0210	541S00234Z	$67.50	$0.00	$67.50
LEE GARRETT CHEVRON	KEF - 0040	999K90057Z	$65.64	$0.00	$65.64
CRYSTAL OIL CO.	HEF - 0204	641S00098Z	$52.91	$0.00	$52.91
BOX, CLOYCE K.	HEF - 0041	600H00037Z	$41.65	$0.00	$41.65
FARSTAD OIL COMPANY	HEF - 0567	850H00018Z	$33.19	$0.00	$33.19
ALEMANY CHEVRON SERV CENTER	KEF - 0023	999K90059Z	$29.49	$0.00	$29.49
EASTERN OF NEW JERSEY	HEF - 0065	240H00441Z	$28.71	$0.00	$28.71
FERRELL COMPANIES, INC.	HEF - 0587	710T00075Z	$27.65	$0.00	$27.65
GARY ENERGY COMPANY	HEF - 0245	810V00003Z	$26.47	$0.00	$26.47
CAR WASH SERVICE	HEF - 0516	999K90047Z	$23.74	$0.00	$23.74
PRIDE REFINING, INC.	HEF - 0218	6D0S00036Z	$21.49	$0.00	$21.49
FRANKS PETROLEUM	HEF - 0208	641S00421Z	$21.46	$0.00	$21.46
INLAND USA, INC.	HEF - 0096	720H00583Z	$20.69	$0.00	$20.69
CONSUMER OIL CO.	HEF - 0055	930H00097Z	$17.77	$0.00	$17.77
TRESLER OIL COMPANY	KEF - 0019	530H00449Z	$16.49	$0.00	$16.49
SOUTHERN UNION	HEF - 0223	573S00336Z	$15.54	$0.00	$15.54
MCCLEARY OIL CO.	HEF - 0127	310H00439Z	$14.74	$0.00	$14.74
ARAPAHO PETROLEUM, INC.	HEF - 0231	710V03019Z	$14.52	$0.00	$14.52
CENTRAL OIL CO.	HEF - 0047	110H00300Z	$14.22	$0.00	$14.22
GULL INDUSTRIES, INC.	HEF - 0086	010H00056Z	$13.78	$0.00	$13.78
MAPCO INC.	HEF - 0258	740V01245Z	$10.69	$0.00	$10.69
ALLIED MATERIALS CORP & EXCEL	HEF - 0200	660S00302Z	$10.65	$0.00	$10.65
LUCIA LODGE	HEF - 0119	910K00133Z	$10.21	$0.00	$10.21
INMAN OIL CO.	HEF - 0097	720H00557Z	$9.49	$0.00	$9.49
PASCO PETROLEUM INC	HEF - 0146	000H00442Z	$8.11	$0.00	$8.11
MARTIN OIL SERVICE, INC.	HEF - 0123	570H00200Z	$5.41	$0.00	$5.41
ST. JAMES RESOURCES	HEF - 0100	110H00487Z	$4.98	$0.00	$4.98
LOWE OIL COMPANY	HEF - 0118	710H01379Z	$4.12	$0.00	$4.12
INDIAN OIL CO. INC.	HEF - 0095	132H00243Z	$3.77	$0.00	$3.77
DALCO PETROLEUM	HEF - 0060	660T00642Z	$3.40	$0.00	$3.40
ARKANSAS VALLEY PETROLEUM	HEF - 0029	660H10655Z	$3.36	$0.00	$3.36
GULL INDUSTRIES	HEF - 0084	010H00057Z	$2.92	$0.00	$2.92
EAGLE PETROLEUM	HEF - 0243	710V03025Z	$2.87	$0.00	$2.87
PARMAN OIL CORP.	HEF - 0145	430H00219Z	$2.64	$0.00	$2.64
WELLEN OIL CO	HEF - 0584	240H00071Z	$2.42	$0.00	$2.42
HICKS OIL & HICK GAS	HEF - 0091	570E00128Z	$2.10	$0.00	$2.10
TEXAS GAS & EXPLORATION	HEF - 0274	6E0V00015Z	$2.01	$0.00	$2.01
TIPPERARY OIL CO	HEF - 0277	670V00323Z	$2.01	$0.00	$2.01
ARKLA CHEMICAL CORP.	HEF - 0030	641H00364Z	$1.72	$0.00	$1.72
STINNES OIL	HEF - 0174	240H00519Z	$1.25	$0.00	$1.25
TARPICONE INC.	HEF - 0177	240H00291Z	$1.23	$0.00	$1.23
LEATHERS OIL CO.	HEF - 0113	000H00426Z	$1.19	$0.00	$1.19
LEWIS OIL CO.	HEF - 0115	340H00493Z	$0.95	$0.00	$0.95
PETROLEUM SALES/SERVICE	HEF - 0151	340H00488Z	$0.95	$0.00	$0.95
PROPANE GAS & APPLIANCE CO.	HEF - 0156	420E00206Z	$0.68	$0.00	$0.68

BEST COPY AVAILABLE

Appendix A: Determination of Excess Oil Overcharges in Fiscal Year 1990

Name of Proceeding	OHA Case Number	Consent Order Number	Current Equity	Reserve	Available for PODRA
MISSOURI TERMINAL OIL CO.	HEF - 0131	720H00562Z	$0.87	$0.00	$0.87
MALCO INDUSTRIES	HEF - 0121	530H00435Z	$0.78	$0.00	$0.78
RAMOS OIL CO., INC.	HEF - 0159	910H00144Z	$0.59	$0.00	$0.59
BELCHER,LEONARD E. INCORP.	HEF - 0566	151H00003Z	$0.54	$0.00	$0.54
RESOURCES EXTRACTION PROCCESS	HEF - 0574	740V01408Z	$0.48	$0.00	$0.48
LITTLE AMERICA REFINING	HEF - 0215	830S00012Z	$0.45	$0.00	$0.45
LUKE BROTHERS INC.	HEF - 0120	980E00075Z	$0.41	$0.00	$0.41
PLATEAU INC	HEF - 0272	733V02015Z	$0.41	$0.00	$0.41
PORT OIL COMPANY	HEF - 0153	420H00276Z	$0.41	$0.00	$0.41
LAKES GAS CO INC	HEF - 0112	510E00134Z	$0.13	$0.00	$0.13
PETERSON PETROLEUM	HEF - 0149	240H00491Z	$0.12	$0.00	$0.12
EARL'S BROADMOOR	HEF - 0586	840Z00357Z	$0.07	$0.00	$0.07
LOCKHEED AIR TERMINAL INC.	HEF - 0117	930H00198Z	$0.06	$0.00	$0.06
MCCLURE'S SERVICE STATION	HEF - 0128	340H00486Z	$0.06	$0.00	$0.06
POST PETROLEUM	HEF - 0154	910H00145Z	$0.06	$0.00	$0.06
STEVE'S EXXON & TOWING SER.	HEF - 0550	999K90036Z	$0.06	$0.00	$0.06
REYNOLDS OIL CO.	HEF - 0164	810H00324Z	$0.05	$0.00	$0.05
BUD'S EXXON SERVICE	HEF - 0511	999K90035Z	$0.01	$0.00	$0.01
AGWAY,INC.	KEF - 0102	RTYA00001Z	$1,211,903.52	$1,211,903.52	$0.00
AMINOIL U.S.A., INC.	HEF - 0007	740V01259Y	$4,651,424.78	$4,651,424.78	$0.00
ANCHOR GASOLINE CORPORATION	KEF - 0120	740S01247Z	$7,280,432.12	$7,280,432.12	$0.00
ATLANTIC RICHFIELD CO (ARCO)	HEF - 0591	RARH00001Z	$40,819,547.95	$40,819,547.95	$0.00
BEACON OIL CO.	HEF - 0208	910S00006Z	$2,593,354.20	$2,593,354.20	$0.00
BUTLER FUEL CORPORATION	KEF - 0094	110E00421Z	$59,583.32	$59,583.32	$0.00
CENTURY RESOURCES DEVELOPMEN	KEF - 0126	6C0X00287Z	$2,071,464.74	$2,071,464.74	$0.00
DIAMOND INDUSTRIES,INC.	KEF - 0130	320H00097Z	$323,331.29	$323,331.29	$0.00
DORCHESTER GAS CORPORATION	HEF - 0559	670S00113Z	$476,295.98	$476,295.98	$0.00
EDGINGTON OIL COMPANY	KEF - 0003	930S00173Z	$2,097,322.30	$2,097,322.30	$0.00
ELIAS OIL COMPANY	KEF - 0022	412H00105Z	$141,145.99	$141,145.99	$0.00
EMPIRE GAS CORPORATION	KEF - 0048	720T00521Z	$1,195,905.89	$1,195,905.89	$0.00
ENRON CORPORATION	HEF - 0116	730V00221Z	$52,447,386.41	$52,447,386.41	$0.00
ENTEX PETROLEUM INCORPORATION	KEF - 0127	660C00404Z	$1,851,997.93	$1,851,997.93	$0.00
EXXON CORPORATION	KEF - 0087	REXL00201Z	$21,105,905.87	$21,105,905.87	$0.00
GASOLINE MARKETERS OF AMERICA	KEF - 0136	320H00318Z	$79,467.36	$79,467.36	$0.00
GULF OIL CORPORATION	HEF - 0580	RGFA00001Z	$57,286,785.40	$57,286,785.40	$0.00
INDIAN WELLS OIL COMPANY	KEF - 0103	710V02002Z	$1,549,006.86	$1,549,006.86	$0.00
KAISER INTERNATIONAL CORP.	KEF - 0125	6C0X00280Z	$2,092,303.22	$2,092,303.22	$0.00
MARATHON PETROLEUM CO	KEF - 0021	RMNA00001Z	$6,907,083.13	$6,907,083.13	$0.00
MAXWELL OIL CO.	HEF - 0125	000H00425W	$11,537.54	$11,537.54	$0.00
MCCLURE OIL COMPANY	KEF - 0009	980E00083Z	$48,298.22	$48,298.22	$0.00
MEADOWS REALTY COMPANY	KEF - 0133	910S00001Z	$1,423,929.74	$1,423,929.74	$0.00
MOBIL OIL CORPORATION	HEF - 0566	RMOA00001Z	$4,552,075.74	$4,552,075.74	$0.00
MURPHY OIL CORPORATION	KEF - 0095	RMUH01983Z	$4,516,526.83	$4,516,526.83	$0.00
NORTHEAST PETROL INDUSTRY CORP	HEF - 0580	6C0X00241Z	$1,589,118.90	$1,589,118.90	$0.00
O'NEALS SERVICE CENTER	KEF - 0117	999K90056Z	$4,228.84	$4,228.84	$0.00
PEDERSEN OIL, INC.	HEF - 0147	000H00418Z	$29,134.84	$29,134.84	$0.00
PESTER MARKETING COMPANY	KEF - 0134	730S01256Z	$333,523.09	$333,523.09	$0.00
PETROLANE-LOMITA GASOLINE CO.	HEF - 0268	940V00195Z	$57,510.20	$57,510.20	$0.00
PLACID OIL COMPANY	KEF - 0007	6D0S00005Z	$2,133,074.57	$2,133,074.57	$0.00
POINT LANDING FUEL CO.	HEF - 0152	640H00175Z	$139,592.48	$139,592.48	$0.00
POWER PAK CO. INC.	HEF - 0155	610H10452Z	$57,404.97	$57,404.97	$0.00
POWER TEST PETROL DISTRIBUTION	KEF - 0042	240H00499Z	$511,547.62	$511,547.62	$0.00
QUINTANA ENERGY CORP. ET AL.	KEF - 0131	650X00356Z	$3,974,307.60	$3,974,307.60	$0.00
REINAUER PETROLEUM COMPANY INC	KEF - 0110	240H00492Z	$340,086.37	$340,086.37	$0.00
SHELL OIL COMPANY	KEF - 0093	RSHA00001Z	$15,841,831.99	$15,841,831.99	$0.00

Appendix A: Determination of Excess Oil Overcharges in Fiscal Year 1990

Name of Proceeding	OHA Case Number	Consent Order Number	Current Equity	Reserve	Available for PODRA
TESORO PETROLEUM CORP	KEF - 0129	RTSE006A1Z	$26,314,189.61	$26,314,189.61	$0.00
TEXACO INC	KEF - 0119	RTXE006A1Z	$97,998,882.20	$97,998,882.20	$0.00
THOMAS P.REIDY,INC.	KEF - 0137	720H060015Z	$5,594,773.96	$5,594,773.96	$0.00
TOTAL PETROLEUM INC	KEF - 0133	540S00227Z	$1,761,133.29	$1,761,133.29	$0.00
TRUE OIL COMPANY	HEF - 0557	733V02019Z	$1,899,118.96	$1,899,118.96	$0.00
UNITED REFINING COMPANY	KEF - 0132	340S00445Z	$4,612,912.54	$4,612,912.54	$0.00
WEST COAST OIL COMPANY	KEF - 0142	961S00028Z	$93,372.07	$93,372.07	$0.00
WITCO CHEMICAL CORP	HEF - 0227	240S00054Z	$3,618,286.69	$3,618,286.69	$0.00
CENTURY REFINING CO.	BEF - 0041	710V02006Y	$62,968.68	$308,953.92	($245,985.24)
TOTALS			$434,390,105.84	$393,773,645.90	$40,616,459.94

BILLING CODE 6450-01-C

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Appendix B

October 16, 1989.

Memorandum for George B. Breznay,
Director, Office of Hearings and Appeals.
From: Chandler L. Van Orman,
Administrator, Economic Regulatory Administration.
Subject: ERA Input for the PODRA Section 303(c) Report.

We have completed our review of the funds held in escrow as of September 30, 1989, which have not been petitioned under Subpart V. This review was to identify the escrow amount in excess of that necessary to make restitution to persons or classes of persons in accordance with section 3003(b)(1) of the Petroleum Overcharge Distribution and Restitution Act of 1986. Once final payments are made into an escrow account, a Subpart V petition is filed with your office. Consequently, the escrow accounts that we have examined still have balances due. Many of these accounts are for firms in bankruptcy or have been referred to the Department of Justice for collection. Since the extent of possible claims and amounts that will be available to satisfy the claims are not known at this time, it would be inadvisable to consider any of the funds excess.

[FR Doc. 89-26600 Filed 11-9-89; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Part of Galveston Terminal Agreement

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200302

Title: Port of Galveston Terminal Agreement.

Parties: Port of Galveston (Port), Companhia Maritima Nacional (CMN).

Synopsis: The Agreement provides that CMN vessels shall be granted a container berth and two container cranes at the Port's East End Container Terminal, Port of Galveston. The Port agrees to maintain a Galveston to Houston to Galveston shuttle service at $33.00 per one-way move for 12 months. Should CMN's service provide less than 7,500 annual moves, the Port may, at the end of the 12 month period, increase the $33.00 charge to $40.00 per move. Rates and charges will be those provided in the Port's Container Terminal Tariff 1-B.

By Order of the Federal Maritime Commission.

Dated: November 6, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-26502 Filed 11-9-89; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should nor receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573:

CARGAMERICAS Forwarding Services, Inc., 7001 N.W. 25th Street, Suite 100, Miami, FL 33122-1895, Officer: Roberto Perez, President.

Latin American Forwarding Co., 7001 N.W. 25th Street, Suite 600, Miami, FL 33122-1895, Officer, Jorge A. Soberon, President.

MRH International Ltd., 145th Ave. and Hook Creek Blvd., Valley Stream, New York 11581, Officers: Marcia R. Hoffman, President, Catherine Paradiso, Vice President.

Yokkaichi America Corporation, 4401 Atlantic Ave., Suite 410, Long Beach, CA 90807, Officers: Tadashi Nabeta, President, Michio Hagi, Senior Vice President and Director, Hiro Yoshida, Vice President, Yasumitsu Ogawa, Vice President.

By the Federal Maritime Commission.

Dated: November 6, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-26501 Filed 11-9-89; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder Licenses; Reissuance of Licenses

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License No.	Name/Address	Date Reissued
1169	Beverly Hills Transfer & Storage Co., 221 South Beverly Drive, Beverly Hills, CA 90212.	Oct. 18, 1989.

Robert G. Drew,
Director, Bureau of Domestic Regulation.

[FR Doc. 89-26539 Filed 11-9-89; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 55OR.
Name: R.E. Ardinger, Inc.
Address: 40 Rector Street, New York, NY 10006.
Date Revoked: September 28, 1989.
Reason: Surrendered license voluntarily.
License Number: 2275.

Name: (Earl E. Egan, Jr., and Samuel E. Millender, Partnership) dba Horizon International.
Address: P.O. Box 15345, New Orleans, LA 70175.
Date Revoked: October 5, 1989.
Reason: Failed to maintain a valid surety bond.

License Number: 2599
Name: Ghaleb P. Ghannoum dba central Shipping Services.
Address: 21483 Crozier Ave. Boca Raton, FL 33428.
Date Revoked: October 12, 1989.
Reason: Failed to maintain a valid surety bond.

License Number: 3098.
Name: Con Services International, Inc.
Address: 1660 W. 33rd Place, Hialeah, FL 33012.
Date Revoked: October 17, 1989.
Reason: Failed to maintain a valid surety bond.

License Number: 514.
Name: New Era Shipping Co., Inc.

Address: 114 Liberty Street, New York, NY 10006.
Date Revoked: October 19, 1989.
Reason: Surrendered license voluntarily.

Robert G. Drew,
Bureau of Domestic Regulation.

[FR Doc. 89-26538 Filed 11-9-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms under Review

November 6, 1989.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer: Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer: Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340)

Final Approval Under OMB Delegated Authority Of The Implementation Of The Following Report

1. Report title: Survey of Currency Handling Practices of Depository Institutions.
Agency form number: FR 3060.
OMB Docket number: 7100-0241.
Frequency: One-time.
Reporters: Commercial banks, savings and loan associations, and credit unions in the U.S.
Annual reporting hours: 1384.
Estimated average hours per response: 1.5.
Number of respondents: 923.
Small businesses are affected.
General description of report:

This survey is voluntary [12 U.S.C. 248(d)] and is given confidential treatment [5 U.S.C. 552(b)(4)].

The survey will provide a general assessment of the costs incurred by depository institutions in the handling of United States paper currency, with particular attention to the effects of currency quality on handling costs. This survey will also determine the probable effects on depository institution currency handling costs that would be associated with changes in the quality of currency paid out by the Federal Reserve System.

Board of Governors of the Federal Reserve System, November 6, 1989.

William W. Wiles,
Secretary of the Board.

[FR Doc. 89-26544 Filed 11-9-89; 8:45 am]
BILLING CODE 6210-01-M

Fleet/Norstar Financial Group, Inc., Providence, RI; Proposal To Conduct Private Placements as Agent of All Types of Securities and Engage in Investment Advisory and Full Service Brokerage Activities

Fleet/Norstar Financial Group, Inc., Providence, Rhode Island, and its wholly-owned subsidiary, Fleet/Norstar New York, Inc., Albany, New York (together "Fleet/Norstar"), have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage through their wholly owned subsidiary, Adams McEntee, Fleet Norstar Securities, Inc., New York, New York ("Company"), in the placement, as agent for issuers, of all types of securities (not including securities that are registered under the Securities Act of 1933), and providing investment advisory services. Fleet/Norstar is proposing that Company will engage in these activities on a nationwide basis.

Fleet/Norstar is currently authorized to engage indirectly in providing discount brokerage services, as well as underwrite and deal in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks are authorized to underwrite and deal in under 12 U.S.C. 24 and 335. Fleet/Norstar is also authorized to engage through Company in underwriting and dealing to a limited extent in commercial paper and certain municipal revenue bonds.

Fleet/Norstar proposes to provide investment advisory services as permitted by 12 CFR 225.25(b)(4), as well as providing investment advisory and brokerage services on a combined basis subject to all of the conditions of 12 CFR 225.25(b)(15), *Bank of New England Corporation,* 74 Federal Reserve Bulletin 700 (1988), and *PNC Financial Corp.,* 75 Federal Reserve Bulletin 386 (1989), including brokering and recommending to both institutional and retail customers bank-eligible securities in which Company has a principal's position. Fleet/Norstar has stated that Company will not trade as principal in this situation with respect to bank-ineligible securities.

Fleet/Norstar has also applied to engage, through Company, in the placement, as agent for issuers, of all types of securities within the following limitations: (i) Company will act only as agent, without recourse, solely upon the order and for the account of clients, and will not assume market risk with respect to the securities being placed; (ii) Company will place securities only with a minimum purchase price that meets the requirements of the Securities and Exchange Commission's ("SEC") Regulation D (17 CFR 230.501-506); (iii) Company will place securities only with a limited number of financially sophisticated institutions and individuals who meet the standards for sophisticated investors contained in the SEC's Regulation D; (iv) Company will not offer securities to the general public or make any general solicitation or advertisement of the securities it places; (v) Company will not simultaneously provide placement services and underwriting services respecting the same securities for the same issuer.

Company and its affiliates will also abide by the conditions numbered 2-16 and 18-20 contained in the Board's Order authorizing Fleet/Norstar to underwrite and deal to a limited extent in certain securities, as if references in such conditions to securities underwritten or distributed and to underwriting and distribution were references to securities privately placed and to private placement, as the context may require. *Fleet/Norstar Financial Group, Inc.,* 74 Federal Reserve Bulletin 619 (1988). *See also Citicorp, J.P. Morgan & Co., Incorporated, and Bankers Trust New York Corporation,* 73 Federal Reserve Bulletin 473, 503 (1987). Fleet/Norstar has also agreed to abide by condition number 17 contained in the Board's Order noted above, in a manner consistent with the Board's recent modification of that condition. *Order Approving Modifications to Section 20 Orders,* 75 Federal Reserve Bulletin _____ (Order dated September 21, 1989).

The Board has not previously determined that the proposed combination of activities is permissible under section 4(c)(8) of the Bank Holding Company Act. Section 4(c)(8) provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking as to be a proper incident thereto." Fleet/Norstar

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maintains that the proposed placement activities are closely related to banking because banks generally provide private placement services.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Fleet/Norstar contends that permitting Company to engage in the proposed activities would enhance competition and help make Company a stronger participant in the private placement market. Fleet/Norstar maintains that approval of its proposal would result in increased efficiencies for Fleet/Norstar as well as increased convenience for customers. Furthermore, states Fleet/Norstar, any potential adverse effects or conflicts of interest that might be said to arise from the proposed activities are adequately addressed by the commitments noted above, as well as the disclosure obligations and antifraud provisions of the various federal securities laws, and the anti-tying provisions of various banking and antitrust statutes including the Bank Holding Company Act and the Federal Reserve Act.

Fleet/Norstar further contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), relying on *Securities Industry Ass'n* v. *Board of Governors*, 807 F.2d 1052 (D.C.Cir. 1986), *cert. denied*, 107 S.Ct 3228 (1987).

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 30, 1989.

Board of Governors of the Federal Reserve System, November 6, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26543 Filed 11-9-89; 8:45 am]

BILLING CODE 6210-01-M

Ameritrust Corp., et al., Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 27, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Ameritrust Corporation*, Cleveland, Ohio; to acquire MVestment Corp, Dallas, Texas, and its wholly-owned subsidiaries, MTrust Corp, National Association, Dallas, Texas; MSecurities Corp, Dallas, Texas, and Houston, Texas; MRealty Corp, Dallas, Texas, and Houston, Texas, and MPetroleum Corp, Dallas, Texas, and thereby engage in trust company activities pursuant to § 225.25(b)(3); investment advisory activities pursuant to § 225.25(b)(4); real estate appraisal activities pursuant to § 225.25(b)(13); and arranging real estate equity financing pursuant to § 225.25(b)(14) of the Board's Regulation Y.

2. *PNC Financial Corp*, Pittsburgh, Pennsylvania; through BHC Holding, Inc., Philadelphia, Pennsylvania, a 19.97 percent owned subsidiary of Provident National Investment Corporation, a wholly-owned subsidiary of PNC; to acquire Lomas Securities USA, Inc., Houston, Texas, and thereby engage in securities brokerage activities pursuant to § 225.25(b)(15); and acting as investment or financial advisor pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Donnelly Bancshares, Inc.*, Donnelly, Minnesota; to acquire Farmers & Merchants Insurance Agency, Donnelly, Minnesota, and thereby engage in general insurance agency activities in a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in Donnelly, Minnesota, and surrounding areas.

Board of Governors of the Federal Reserve System, November 6, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26540 Filed 11-9-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Central Capital Corp

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 27, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Central Capital Corp.*, Halifax, Nova Scotia, Canada, and Central Guaranty Trustco Ltd., Toronto, Ontario, Canada; to acquire 19.9 percent of the voting shares of U.S. Trust Corporation, New York, New York, and thereby indirectly acquire United States Trust Company of New York, New York, New York, and United States Trust Company of Florida, N.A., Palm Beach, Florida.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas, 75222:

1. *The Stribling Family Trust*, San Angelo, Texas; to acquire 20 percent of the voting shares of Eden Financial Corporation, San Angelo, Texas, and thereby indirectly acquire The Eden State Bank, San Angelo, Texas.

Board of Governors of the Federal Reserve System, November 6, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26541 Filed 11-9-89; 8:45 am]

BILLING CODE 6210-01-M

BMR Financial Group, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 30, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *BMR Financial Group, Inc.*, Atlanta, Georgia; to acquire 100 percent of the voting shares of Meigs County Bancshares, Inc., Decatur, Tennessee, and thereby indirectly acquire Meigs County Bank, Decatur, Tennessee.

2. *Dahlonega Bancorp, Inc.*, Dahlonega, Georgia; to merge with First Union Bancorp, Inc., Blairsville, Georgia, and thereby indirectly acquire First National Bank of Union County, Blairsville, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Hogue Holding Company, Inc.*, Weiner, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Weiner, Weiner, Arkansas.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Security Corporation*, Salt Lake City, Utah; to acquire 100 percent of the voting shares of United Savings Bank, Salem, Oregon.

Board of Governors of the Federal Reserve System, November 6, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26542 Filed 11-9-89; 8:45 am]

BILLING CODE 6210-01-M

Stichting Amro et al.; Proposal To Act as Riskless Principal in Buying and Selling Securities

Stichting Amro and Amsterdam-Rotterdam Bank N.V., both of Amsterdam, the Netherlands, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to act as riskless principal in buying and selling securities through Henry Krieger/DBI, L.P., New York, New York, in connection with Henry Krieger/DBI's securities brokerage activities. *See* 54 **Federal Register** 40,521 (1989). Applicants propose to conduct these activities on a worldwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has previously determined that acting as a riskless principal is closely related to banking and a proper incident thereto. Bankers Trust New York Company, 75 Federal Reserve Bulletin _____ 1989) (Order dated October 30, 1989) ("Bankers Trust"). Applicants have applied to conduct riskless principal activities through Henry Kreiger/DBI, L.P. in accordance with the limitations set forth in Bankers Trust.

Applicants believe the proposed activity will benefit the public by resulting in increased convenience to customers and in increased efficiencies for Henry Kreiger/DBI, L.P.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 28, 1989. Any request for a hearing on this applicant must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 7, 1989

Jennifer Johnson,

Associate Secretary of the Board.

FR Doc. 89-26627 Filed 11-9-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

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Anti-Infective Drugs Advisory Committee

Date, time, and place

November 28 and 29, 1989, 8 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person

Closed presentation of data, November 28, 1989, 8 a.m. to 11:30 a.m.; open committee discussion, 1:30 p.m. to 4:30 p.m.; open public hearing, November 29, 1989, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 10:30 a.m.; closed presentation of data, 10:30 a.m. to 2:30 p.m.; Thomas E. Nightingale, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee

The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in infectious diseases.

Agenda—Open public hearing

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 14, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion

On November 28, 1989, the committee will discuss: (1) The use of fluorophotometry as an endpoint for ocular inflammation; and (2) blepharitis as an indication for ocular quinalones. On November 29, 1989, the committee will discuss treatment of traveler's diarrhea with trimethoprim/sulfamethoxazole.

Closed presentation of data

On November 28, 1989, the committee will discuss trade secret and/or confidential commercial information on new drug application (NDA) 19–879. On November 29, 1989, the committee will review trade secret and/or confidential commercial information on NDA 50–637 and investigational new drug 21,804. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. I), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 2, 1989.

James S. Benson,

Acting Deputy Commissioner of Food and Drugs.

[FR Doc. 89–26407 Filed 11–9–89; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Reconsideration of Disapproval of New York State Plan Amendment; Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 20, 1989 in New York, New York to reconsider our decision to disapprove New York State Plan Amendment (SPA) 88–4.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk November 28, 1989.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966–4471.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove the effective date of the dementia provisions of New York State plan amendment (SPA) number 88–4.

Section 1116 of the Social Security Act and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

New York SPA 88–4 would revise the methods and standards for determining payment rates for residential health care facilities under the State's resource utilization groups (RUG) long-term care reimbursement methodology. Specifically, this amendment contains four revisions to the RUG long-term care reimbursement methodology. They include: (1) reimbursement for services provided to head-injured patients; (2) reimbursement for services provided to dementia patients; (3) change in the indirect ceiling corridor; and (4) continuation of the patient review instrument (PRI) process. The State of New York has requested an effective date of January 1, 1988. The issue in this matter is whether New York's requested effective date of January 1, 1988 for the dementia provisions in SPA 88–4 violates the requirements of Federal regulations at 42 CFR 430.12(c), 42 CFR 447.253(f) and 42 CFR 447.205.

Federal regulations at 42 CFR 430.12(c) require a State plan to be amended to reflect new or revised Federal statutes, regulations, policy interpretations and court decisions or material change in any phase of State law, organizaiton, policy, or State agency operation. However, in accordance with Federal regulations at 42 CFR 447.253(f), the Medicaid agency must comply with the public notice requirements in § 447.205 when it is proposing significant changes to its methods and standards for setting payment rates for inpatient hospital or long-term care facility services. Section 447.205(d) requires that the notice be published before the proposed effective date of the change. Section 447.205 (c) and (d) set forth additional requirements regarding the content and publication of the notice.

The State's letter dated March 25, 1988, to Mr. William Toby, New York Regional Administrator, provided a list of the publication dates of the various changes contained in this amendment. Specifically, the change in the indirect ceiling corridor was published on September 2, 1987. Provisions concerning the reimbursement of services provided to head-injured patients were published on October 28, 1987. On December 30, 1987, the State published a notice concerning the continuation of the PRI process. Provisions concerning the reimbursement of services provided to dementia patients were published on January 20, 1988. However, the State requested an effective date of January 1, 1988, for this amendment.

In a letter to the State requesting additional information on this amendment dated May 19, 1988, HCFA advised New York that since the provisions concerning reimbursement for dementia patients were not published until January 20, 1988, the earliest possible effective date for the dementia provisions was January 21, 1988, and not January 1, 1988, as proposed. In the State's response dated April 26, 1989, the State supported its request for a January 1, 1988, effective date for the dementia provisions based on the notice of emergency adoption, which was filed with the Secretary of the State of December 31, 1987. The State contends that this filing of the notice of emergency adoption constitutes effective public notice on December 31, 1987, rather than January 20, 1988, the date on which the notice was actually published in the State register. HCFA disagrees with the State's position. Federal regulations at § 447.205(d)(1) require that the notice actually be published *before* the proposed effective date of the change. Similarly, § 447.205(d)(2) requires that the notice appear as a public announcement in a State register or a newspaper. Because the actual date of publication in the State register was January 20, 1988, HCFA believes the effective date cannot be until January 21, 1988.

The plan amendment was submitted by the State of New York on October 6, 1988, together with assurances and related rate information. the State published public notice which met the requirements of 42 CFR 447.205 for all provisions except the dementia provisions prior to January 1, 1988. Public notice of the dementia provisions

was not published until January 20, 1988. Accordingly, HCFA approved this amendment with an effective date of January 1, 1988 for all provisions other

Dated: November 3, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

to the penalties provided in 43 CFR 8340.0–7 and 43 CFR 9262.1 which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12

and burros, and 7,800 AUMs for big game (competitive forage only); improvement in wetland, aquatic and playa habitat; aggressive management of special status plant and animal

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

U.S.C. 378a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the

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was not published until January 20, 1988. Accordingly, HCFA approved this amendment with an effective date of January 1, 1988 for all provisions other than the dementia provisions. HCFA approved the dementia provisions with an effective date of January 21, 1988, the day following the publication of the State's notice.

The notice to New York announcing an administrative hearing to reconsider the disapproval of the effective date of the dementia provisions of its State plan amendment reads as follows:

Mr. Cesar A. Perales,
Commissioner, New York Department of Social Services, 40 North Pearl Street, Albany, New York 12243

Dear Mr. Perales: I am advising you that your request for reconsideration of the decision to disapprove the effective date of the dementia provisions of New York State plan amendment 88-4 was received on October 5, 1988.

This amendment would revise the methods and standards for determining payment rates for residential health care facilities under the State's resource utilization groups (RUG) long-term care reimbursement methodology. Specifically, this amendment contains four revisions to the RUG long-term care reimbursement methodology. They include: (1) reimbursement for services provided to head-injured patients; (2) reimbursement for services provided to dementia patients; (3) change in the indirect ceiling corridor; and (4) continuation of the patient review instrument process. The State of New York has requested an effective date of January 1, 1988.

The issue in this matter is whether New York's requested effective date of January 1, 1988 for the dementia provision of SPA 88-4 violates the requirements of Federal regulations at 42 CFR 430.12(c), 42 CFR 447.253(f) and 42 CFR 447.205.

I am scheduling a hearing on your request to be held on December 20, 1988 at 10 a.m. in Room 238, 26 Federal Plaza, New York, New York. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed in 42 CFR Part 430. I am designating Mr. Stanley Krostar as the presiding officer.

If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966-4471.

Sincerely,

Louis B. Hays,
Acting Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: November 3, 1989.

Louis B. Hays,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 89-26869 Filed 11-9-89; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-100-07-6332-02; GPO-037]

Travel Restrictions; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of travel restrictions for the North Umpqua Trail and adjacent areas on the Public Lands, Roseburg District, Oregon.

SUMMARY: The North Umpqua Trail is closed to motorized travel on Bureau of Land Management lands from Swiftwater Bridge to Fox Creek except for emergency and maintenance use. Pedestrian, equestrian and non-motorized mountain bike travel is authorized.

Maintenance or emergency use of motorized vehicles on the North Umpqua Trail shall be made only with the approval of the District Manager, Area Manager or their authorized representative.

The only other exception shall be for electric wheel chair travel by the physically disabled where such travel is possible and prudent.

Additionally, BLM lands south of the North Umpqua River and west of forest Road No. 26-3-1.1 in section 1, T. 26 S., R. 3 W., and E½NE¼, section 11, T. 26 S., R. 3 W., W.M., are closed to motorized vehicle use and travel by horse and mule.

DATE: These travel restrictions shall be effective December 1, 1989, and shall remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: North Umpqua Resource Area Manager, Bureau of Land Management, 777 NW Garden Valley, Roseburg, OR 97470. Telephone (503) 672-4491.

SUPPLEMENTARY INFORMATION: These travel restrictions are being established in order to reduce damage to the North Umpqua Trail and to cultural resources along the North Umpqua River on lands administered by the Roseburg District of the Bureau of Land Management. Authority for these travel restrictions are contained in CFR title 43, chapter 8340, parts 8340.0-8, subparts 8341, 8341.1(c) and 8341.2(a).

Persons who fail to comply with the provisions of this closure may be subject to the penalties provided in 43 CFR 8340.0-7 and 43 CFR 9262.1 which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months.

Dated: November 3, 1989.

James A. Moorhouse,
District Manager.

[FR Doc. 89-26554 Filed 11-9-89; 8:45 am]

BILLING CODE 4310-33-M

[OR 020-4410-10; GPO-0-028]

Notice of Availability of Draft Resource Management Plan and Environmental Impact Statement; Three Rivers Planning Area, Burns District, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given of the availability of the Draft Three Rivers Resource Management Plan/Draft Environmental Impact Statement (RMP/EIS) for 1.7 million acres of public land and federal subsurface mineral estate administered by BLM within Harney, Grant, Lake and Malheur Counties in eastern Oregon.

SUPPLEMENTARY INFORMATION: This land use plan focuses on the principles of multiple use and sustained yield as prescribed by section 202 of FLPMA. The plan directs future resource condition objectives, resource and land use allocations, and specific management actions on BLM-administered lands within the Three Rivers Resource Area. Decisions conveyed through the plan are expected to be in effect for a period of 15 to 20 years.

The Draft RMP/EIS utilizes a range of five alternatives. These alternatives are: (a) Emphasize Natural Values; (b) Emphasize Natural Values with Commodity Production; (c) Preferred; (d) Emphasize Commodity Production with Natural Values (this is also the "No Action" or Continuation of Present Management Alternative); and (e) Emphasize Commodity Production. The Preferred Alternative was developed to represent the best estimate of an optimum multiple use mix of land management commitments for these BLM-administered lands. Under the Preferred Alternative, the BLM proposes improvement of water quality on 115 miles of stream; average annual timber harvests of 57.6 MBF from 8,283 acres of commercial forestland; forage allocations of 139,851 AUMs for livestock, 5,808 AUMs for wild horses and burros, and 7,800 AUMs for big game (competitive forage only); improvement in wetland, aquatic and playa habitat; aggressive management of special status plant and animal species; administration of 17,176 acres as Special Recreation Management Areas; designation of 5.4 miles and 1,730 acres for inclusion in the National Wild and Scenic Rivers System as a Wild River; retention of 17,456 acres, and addition of 43,539 acres as ACECs. A total of 38,523 acres of public land would be considered for disposal through exchange or sale over the planning period; provisions would be made for mineral exploration and development; and air, soil and recreation resources would be protected. This document also serves as the draft environmental impact statement requirement for the Wild and Scenic River(s) Act.

DATES AND ADDRESSES: The Three Rivers Draft RMP/EIS 90-day public review and comment period will end on February 1, 1990. BLM encourages interested or affected parties to provide comments. Comments are most useful when they address one or more of the following: (1) errors in the analysis that has been performed; (2) new information that would have a bearing on the analysis; (3) a substantive new alternative not within the range of alternatives considered; (4) need for clarification; and (5) misinformation that may have been utilized and could affect the outcome of the analysis. Interested parties who wish to submit written comments are requested to send them to: Three Rivers RMP/EIS, Bureau of Land Management, HC 74-12533, Highway 20 West, Hines, Oregon 97738. Two informal public meetings have been scheduled to receive comments on the Draft RMP/EIS. They will be held December 4, 1989 at 7 p.m. at the Burns District Office, Hines, Oregon; and December 5 at 7 p.m. at the Bend Riverhouse Motor Inn, Bend, Oregon. All substantive comments received during the 90-day comment period will be analyzed and considered in the preparation of the Three Rivers Proposed RMP/Final EIS.

FOR FURTHER INFORMATION CONTACT: Jay Carlson, Planning Team Leader, Bureau of Land Management, Burns District, telephone (503) 573-5241.

Dated: October 24, 1989.

Donald R. Cain,
Associate District Manager.

[FR Doc. 89-26560 Filed 11-9-89; 8:45 am]

BILLING CODE 4310-33-M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Cooper Industries, Inc., and Ohio Corporation, 1001 Fannin, P.O. Box 4446, Houston, Texas 77210.

2. Wholly owned subsidiaries which will participate in the operation and State of Incorporation.

Wagner Electric Corporation, a Delaware Corporation.

B. 1. Parent corporation and address of principal office: Powell-McClellan Lumber Company, Inc., P.O. Box 7430, 3200 Lafayette Boulevard, Norfolk, Virginia, 23509.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Colonial Block of Norfolk, Inc., incorporated in the Commonwealth of Virginia.

Noreta R. McGee,
Secretary.

[FR Doc. 89-26557 Filed 11-9-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of

Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

WA89-2 (Jan 6, 1989)	p. 369
	pp. 392, 394
WA89-9 (Jan. 6, 1989)	p. 427
	pp. 428-430

Tuesday, November 28, Room 2457—General Accounting Office, Building—441 G Street, NW., Washington, DC

Thursday, November 30

8:30 a.m.—Committee on Occupational Safety and Health Statistics—Room S-

of historical cost. Because of programming changes required to accommodate the instructions and the

Signed at Washington, DC, this 1st day of November, 1989.

Alan D. Lebowitz,

Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

New General Wage Determinations; Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume State and page number(s).

Volume II

Texas:
TX89-52 ..... p.1135g p.1136H
TX89-53 ..... p.1136l p.1136j

Modifications to General Wage Determination; Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Florida:
FL89-15 (Jan. 6, 1989) ..... p. 135, p. 136
FL89-17 (Jan. 6, 1989) ..... p. 141, p. 142
Massachusetts: MA89-1 (Jan. 6, 1989). p. 371, p. 373
Rhode Island: RI89-1 (Jan. 6, 1989). p. 1023, p. 1024
Tennessee:
TN89-1 (Jan. 6, 1989) ..... p. 1077, p. 1078, p. 1079
TN89-4 (Jan. 6, 1989) ..... p. 1089, p. 1091

Volume II

Iowa: IA89-1 (Jan. 6, 1989)... p. 21, p. 23
Illinois:
IL89-9 (Jan. 6, 1989) ..... p. 151, pp.152-153
IL89-11 (Jan. 6, 1989) ..... p. 161 pp. 164-165
New Mexico: NM89-4 (Jan. 6, 1989). p. 772a, p. 772b
Ohio: OH89-3 (Jan. 6, 1989). p. 809, pp. 810-811
Oklahoma:
OK89-1 (Jan. 6, 1989)..... p. 913, pp. 914-915
OK89-2 (Jan. 6, 1989)..... p. 917, pp. 918-919

Volume II

California: CA89-4 (Jan. 6, 1989). p. 69, pp. 70, 73, 77-78
North Dakota:
ND89-1 (Jan. 6, 1989)..... p. 223, p. 224
ND89-3 (Jan. 6, 1989)..... p. 240a, p. 240b
Washington:
WA89-1 (Jan. 6, 1989) ..... p. 365, pp. 364-371, 373
WA89-2 (Jan 6, 1989) ..... p. 389 pp. 392, 394
WA89-9 (Jan. 6, 1989) ..... p. 427 pp. 428-430

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Act". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 3rd day of November 1989.

Alan L. Moss,
Director, Division of Wage Determinations.

[FR Doc. 89-26385 Filed 11-9-89; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Notice of Meetings and Agenda

The Fall meetings of committees of the Labor Research Advisory Council will be held on November 28, 29, and 30.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, November 28, Room 2437—General Accounting Office, Building—441 G Street, NW., Washington, DC

9:30 a.m.—Committee on Prices and Living Conditions

1. Office of Field Operations, overview
2. Status Reports
   a. International prices
   b. Producer prices
3. Medical care (continued)
4. Other business

1 p.m.—Cognitive Lab Demonstration

(Council members will be invited to participate in testing a new Consumer Expenditure Survey questionnaire.)

2 p.m.—Committee on Employment and Unemployment Statistics

1. Status of the budget situation for labor force statistics
2. Redesign of the Current Population Survey
3. Business Establishment List project
4. Changes in the mass layoff report program
5. Legislation affecting job vacancy statistics
6. Other business

Wednesday, November 29

9:30 a.m.—Committee on Wages and Industrial Relations, Room S-2217 Frances Perkins Building

1. Review of work in progress
2. White-Collar Pay program: 1989 survey results and plans for the 1990 survey
3. Highlights from the 1988 Employee Benefits Survey and plans for the 1990 survey
4. Employment Cost Index: A change in the base year
5. Other business

1:30 p.m.—Committee on Foreign Labor and Trade, Room S-2217, Frances Perkins Building

1. Comparative measures of GDP per capita and per employed person
2. Comparisons of manufacturing hourly compensation
3. Comparisons of labor force, employment, and unemployment

2:30 p.m.—Committee on Productivity, Technology, and Economic Growth—Room S-2217, Frances Perkins Building

1. The newly revised projections for the labor force and employment to the year 2000

Thursday, November 30

9:30 a.m.—Committee on Occupational Safety and Health Statistics—Room S-2217, Frances Perkins Building

1. 1988 annual survey results
2. Program redesign, status report
   a. Pilot projects
   b. Guidelines
   c. Illnesses
   d. Fatalities
   e. Fiscal Year 1990 funding
3. Work injury reports
4. Supplementary data system
5. Other business

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstern, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1327.

Signed at Washington, DC this 3rd day of November 1989.

Janet L. Norwood,
Commissioner of Labor Statistics.

[FR Doc. 89-26563 Filed 11-9-89; 8:45 am]
BILLING CODE 4510-24-M

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act Annual Reports; Compliance With Reporting Requirements

The U.S. Department of Labor will not reject until 1990 annual financial reports by employee benefit plans solely because administrators report realized and unrealized gains or losses using an historical cost approach rather than current value approach.

The reports, called the Form 5500 Series, are required to be filed by employee benefit plans covered under the Employee Retirement Income Security Act of 1974 (ERISA).

The department's decision is in response to a request from the American Bankers Association (ABA) concerning the inability of many banks and other employee benefit service providers to provide plan administrators the information in accordance with clarifying instructions to the 1988 Form 5500.

The instructions accompanying the 1988 form clarify that realized and unrealized gains and losses are to be determined against the current value of the assets as of the beginning of the plan year, as carried forward from the end of the prior plan year.

In a letter to the department, the ABA indicated that many banks and other employee benefit service providers have been determining realized and unrealized gains and losses on the basis of historical cost. Because of programming changes required to accommodate the instructions and the due date of the annual reports, many banks and service providers, according to the ABA, will be unable to provide employee benefit plan clients with the information necessary to comply.

The ABA also expressed concern that many filers may be unaware of the instructions and inadvertently report incorrect information. The ABA has asked the department not to issue deficiency notices for the 1988 annual report and further requested that for subsequent years the historical cost approach be permitted in determining realized and unrealized gains and losses.

In the department's response, dated July 3, 1989, Robert J. Doyle, director of regulations and interpretations for the Pension and Welfare Benefits Administration, noted that "it has long been the view of the department that, consistent with the current value reporting requirements of the Form 5500, realized and unrealized gains and losses are required to be determined against the current value of the assets of the plan as of the beginning of the plan year." He also stressed that the department continues to believe that the reporting of this information on a current value basis provides more accurate data concerning the investment performance of a plan during the plan year.

"For this reason," he added, "the department does not intend to modify the current value reporting requirements applicable to determining realized and unrealized gains and losses."

However, in view of the apparent confusion concerning the reporting of this information and the fact that the 1988 forms were not published in the Federal Register until March 1, the department decided it would not reject annual report filings for the 1989 and 1988 plan years solely because the administrator of a plan determines realized and unrealized gains and losses using an historical cost approach consistent with that utilized by the plan for the 1987 plan year annual report.

For plan years beginning on or after January 1, 1990, all plan administrators will be expected to comply with the instructions to the Form 5500 relating to the use of current value.

FOR FURTHER INFORMATION CONTACT: Gloria Della, telephone (202) 523-8921.

Signed at Washington, DC, this 1st day of November, 1989.

Alan D. Lebowitz,
Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration.

[FR Doc. 89-26564 Filed 11-9-89; 8:45 am]
BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Maine Yankee Atomic Power Co.; Maine Yankee Atomic Power Station; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50-309]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company (the licensee) for operation of the Maine Yankee Atomic Power Station located in Lincoln County, Maine.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would modify the Technical Specifications to reflect current knowledge of the Reactor Pressure Vessel (RPV) fast neutron fluences (E greater than 1.0 Mev.) and materials properties. The proposed amendment would also incorporate revised 10 CFR 50 Appendix G limits. Included are changes for:

- Revised fluence projections which reflect results of measurements and flux reduction achieved in refueling cycle 8.
- Revised damage predictions which reflect the results of measurements and the application of Regulatory Guide (R.G.) 1.99, Revision 2.
- Revised Pressure-Temperature (P/T) limits developed following the requirements of 10 CFR 50 Appendix G.

The proposed action is in accordance with the licensee's application for amendment dated December 2, 1988.

The Need for the Proposed Action

The proposed change to the TS will incorporate the guidance provided in Revision 2 to Regulatory Guide 1.99, "Radiation Embrittlement of Reactor Vessel Materials," which became effective May 1988 and was discussed in Generic Letter 88-11, "NRC Position on Radiation Embrittlement of Reactor Vessel Materials and its Impact on Plant Operations."

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Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions provide up-to-date pressure/temperature limits for the operation of the reactor coolant system during heatup, cooldown, criticality, and hydrotest. These limits provide protection against pressurized thermal shock of the reactor vessel, thereby cntributing to safety. The proposed changes do not increase the probability or consequences of any accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involve systems located within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on January 23, 1989 (54 FR 3167). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Maine Yankee Atomic Power Station, dated July 1972.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated December 2, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Dated at Rockville, Maryland, this 3rd day of November 1989.

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Director, Project Directorate I-3, Division of Reactor Projects I-II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26565 Filed 11-9-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 16–18, 1989 in Room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on October 31, 1989 (54 FR 45629). This revision is necessary due to an additional agenda item on Saturday, November 18.

Saturday, November 18, 1989

8:30 a.m.—12:30 p.m.: Preparation of ACRS Reports to the NRC (Open)—The Committee will discuss proposed ACRS reports to the NRC regarding items considered during this meeting and the scope/nature of the NRC regional activities.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on September 27, 1989 (54 FR 39594). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 7:30 a.m. and 4:15 p.m.

Dated: November 6, 1989.

John C. Hoyle,

Advisory Committee Management Officer

[FR Doc. 89-26567 Filed 11-9-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co., Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR–22, issued to the Northern States Power Company (the licensee), which revised the Technical Specifications for operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota. The amendment is effective as of the date of issuance.

The amendment (1) revises the reactor vessel pressure vs. temperature curves for consistency with Revision 2 of Regulatory Guide 1.99; (2) adds requirements for augmented inservice inspection of piping susceptible to intergranular stress corrosion cracking; and (3) revises the requirements for the periodic Type A containment integrated leak rate test to permit the use of the mass point test method approved by the Commission in a change to 10 CFR part 50, Appendix J, as published in the Federal Register on November 15, 1988 (53 FR 45891).

The licensee's application for the amendment dated March 31, 1989, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing in connection with this action was published in the Federal Register on June 1, 1989 (54 FR 23553). No request for hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to this action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see (1) the application for the amendment dated March 31, 1989, (2) Amendment No. 72 to License No. DPR–22, (3) the Commission's related Safety Evaluation and (4) the Environmental Assessment dated October 11, 1989 (54 FR 71701). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 2nd day of November 2, 1989.

For the Nuclear Regulatory Commission.

William O. Long,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26566 Filed 11-9-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. chapter 35), this notice announces a request submitted to OMB for expedited clearance of a new form, OPM Form 1584, the U.S. Office of Personnel Management 1989 Geographic White-Collar Compensation Survey. The proposed form is to be used for a one-time occupational compensation survey conducted by Mercer, Meidinger, Hansen, Inc., under contract with OPM for research on alternative pay systems to the General Schedule. A sample of private and State and local government employers in 13 Metropolitan Statistical Areas will be surveyed to test survey techniques and to obtain current salary and bonus data by occupation in high, medium, and low cost cities. OPM plans to use the survey results as part of its effort to design systems for implementing a more market-sensitive pay system. Approximately 2,000 establishments are expected to complete the questionnaire form, and the form takes, on average, 4 hours to complete, for a total burden of 8,000 hours. For copies of this proposal, call Lawrence Dambrose (632–0199).

OPM is requesting that OMB clear OPM Form 1584 in 14 days. Following this notice please see a draft copy of the survey questionnaire, cover letter, and descriptions of 3 of the jobs to be surveyed.

DATE: November 23, 1989.

ADDRESSES: Send or deliver comments to: Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara L. Fiss (202) 632–4346.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Draft

United States
Office of Personnel Management,
Washington, D.C. 20415

Company address
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

Dear Employer: The United States Office of Personnel Management (OPM) would appreciate your help and participation in a special compensation survey which is part of an important Federal personnel research project.

Currently, the Federal government pays its 1.4 million white-collar workers—in hundreds of occupations and locations—on a single national pay scale. The inflexibility of this monolithic pay structure increasingly handicaps Federal recruitment and retention efforts. As a result, OPM is studying the possibility of a more market-sensitive Federal pay system. The compensation survey being conducted under contract with Mercer Meidinger Hansen, Inc. (MMH), will test a new mix of survey jobs in specific geographic locations. This information will be invaluable in helping OPM to evaluate new approaches for future Federal pay reforms. Your participation will help assure broad representation of your local labor market.

MMH will be responsible for data collection, processing and analysis. All responses will be kept *strictly* confidential by MMH. A summary of the survey results will be provided to all participants *at no cost.*

We would appreciate your completing the enclosed survey questionnaire and returning it to MMH by **** (date). Please call the MMH Project Coordinator, Carl Bruno, at (312) 902–7822 with any survey questions. If you would like to learn more about the OPM pay research and reform initiative, feel free to contact Felicia Nathan Schwenk or Ruth O'Donnell of my staff at (202) 632–7184.

Thank you for your assistance in this important research effort.

Sincerely,

XXXXXXXXXXXXXXXXXXXX

Barbara L. Fiss, CCP,

Assistant Director for Pay and Performance.

Draft

The U.S. Office of Personnel Management 1989 Geographic White-Collar Compensation Survey Questionnaire—Participation Deadline: January 12, 1990 (William M. Mercer Meidinger Hansen Incorporated)

Why a Survey?

For many jobs the amount of pay received is a function of what you do (job content) and where you do it (location). As employers compete aggressively for talent across the country, the objective not to over or under-pay is paramount. Traditionally, many employers recognize geographic pay differences only for clerical and technical personnel. There is a growing concern that geographically-based pay programs should include many exempt positions, including professional, administrative and first-line supervisory jobs.

As a result, the need for accurate and reliable data is critical, today more than ever. The U.S. Office of Personnel Management (OPM) and Mercer Meidinger Hansen have decided to conduct a total cash compensation

survey in 13 locations for a selected sample of professional, administrative and technical jobs.

Administrative and Technical occupations, 20 job families have been selected. Included will be an entry-level position, 2 more senior positions and a

- salary range
- years of experience
- educational background
- degree of match

About OPM

The Office of Personnel Management (OPM) was created by the Civil Service Reform Act of 1978 when most of the

knowledge and skills, regardless of their race, religion, sex, political influence, or other nonmerit factors. The Office's role is to ensure that the Federal

this research is to design options for a more market-sensitive pay system. In lieu of the current practice of paying nationwide rates for most jobs. It is vital

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survey in 13 locations for a selected sample of professional, administrative and technical jobs.

What Locations Will Be Surveyed?

This year's survey will collect data on the following metropolitan areas:

- San Francisco
- Los Angeles
- Atlanta
- Boston
- San Antonio
- Dayton
- Anchorage
- Washington
- Baltimore
- San Diego
- St. Louis
- Albuquerque
- Honolulu

What Types of Jobs Will Be Surveyed?

Within the Professional, Administrative and Technical occupations, 20 job families have been selected. Included will be an entry-level position, 2 more senior positions and a first-line supervisor. Examples of the survey job families include:

- Attorney
- Budget Analyst
- Computer Specialist
- Electrical Engineer
- Auditor
- Civil Engineer
- Personnel Specialist
- Registered Nurse
- Purchasing
- Quality Assurance

What Data Will Be Collected?

Simple basic cash compensation and background information will be asked. Included will be:

- base salary
- bonus
- salary range
- years of experience
- educational background
- degree of match

When Will the Survey Be Conducted and Report Published?

The survey questionnaries will be mailed in December and must be returned by January 12, 1990. The report will be mailed in March, 1990.

What type of Output Will I Receive?

Job Code: 017
Job Title: Attorney
Job Description: Responsible for handling a variety of moderately complex assigned legal projects. Typically has four to eight years experience after receiving law degree. Normally reports to a Managing Attorney.

SUMMARY OF ALL REPORTED SALARIES (IN $000'S)—PROFESSIONAL

	Firm count	Incumbent Count	Low	25th percentile	50th percentile	Average	75th percentile	High
Albuquerque	15	17	31.8	34.6	40.0	41.6	48.3	60.1
Anchorage	10	12	46.4	50.2	58.6	60.0	66.5	71.3
Atlanta	30	40	40.1	46.1	51.2	52.7	55.8	69.2
Baltimore	42	65	41.2	44.3	48.8	49.8	53.9	68.1
Boston	56	78	44.6	48.6	53.7	55.1	58.6	72.0
Dayton	27	39	39.4	45.3	50.1	51.7	54.3	66.4
Honolulu	12	15	48.6	55.6	61.8	63.9	67.8	77.6
Los Angeles	61	82	50.3	58.7	63.4	64.6	68.2	79.4
San Antonio	22	29	34.6	38.0	41.8	42.9	45.5	59.8
San Diego	39	53	43.9	47.4	52.9	54.8	58.2	68.4
San Francisco/Oakland	48	61	50.0	56.6	62.7	65.5	69.4	80.2
St. Louis	31	47	41.0	47.5	55.5	57.1	63.8	75.1
Washington D.C.	46	75	46.4	53.8	58.4	59.0	65.7	78.6

Degree of Match: Less Than Description—7.0%; Very Close Match—83.0% More Than Description—10.0%

Summary of All Reported Ranges and Bonuses

Job Code:
Job Title:

SUMMARY OF ALL REPORTED RANGES AND BONUSES

	No firms reporting range	Salary range			Average Compa-Ratio	No. incum-bents (bonus-reported)	Average bonus	Average total comp	Average No. emps. super-vised	Percent eligible for bonus	Avg. bonus as percent of base
		Minimum	Midpoint	Maximum							
Albuquerque	13	30.2	46.4	66.6	97.6	3	6.4	42.9	0	30.6	12.6
Anchorage	8	35.6	54.0	72.4	95.5	3	5.6	63.7	0	35.2	14.7
Atlanta	22	40.0	55.3	70.6	94.8	10	7.1	55.9	0	34.7	11.9
Baltimore	30	38.4	54.1	69.9	101.7	20	7.5	52.4	0	38.4	15.4
Boston	41	42.9	58.3	73.8	93.5	25	7.8	57.3	1	42.8	18.9
Dayton	19	36.5	65.5	69.2	94.6	12	6.0	53.8	0	47.8	20.3
Honolulu	8	45.0	62.7	80.5	102.5	4	6.2	67.2	0	45.4	19.2

How Much Does It Cost?

The survey report will be *free* to all participants.

Any Questions?

If you have any questions about the survey, please contact either Ruth O'Donnell at OPM (202) 632-7184 or Joyce Cain at Mercer Meidinger Hansen, (800) 333-3070.

About OPM

The Office of Personnel Management (OPM) was created by the Civil Service Reform Act of 1978 when most of the activities of the former United States Civil Service Commission were transferred to OPM. Its Director is appointed by and reports directly to the President.

OPM is responsible for government-wide personnel policy, guidance and assistance in the full range of human resource activities—recruiting, compensation and benefits, employee development and training, performance management, ethics and program evaluation. It administers a merit system for Federal employment that includes recruiting, examining, training, and promoting people on the basis of their knowledge and skills, regardless of their race, religion, sex, political influence, or other nonmerit factors. The Office's role is to ensure that the Federal Government provides an array of personnel services to applicants and employees. Through a range of programs designed to develop and encourage the effectiveness of the Government employee, the OPM supports Government program managers in their personnel management responsibilities and provides benefits to more than 2 million employees and to another 2 million annuitants.

As part of its broad directive, OPM is conducting research to reform the General Schedule pay system used for more than 1.4 million white-collar workers in more than 400 occupations throughout the world. A major thrust of this research is to design options for a more market-sensitive pay system, in lieu of the current practice of paying nationwide rates for most jobs. It is vital that OPM obtain survey information for selected Metropolitan Statistical Areas (MSA) as quickly as possible so staff research can be completed and a course of action recommended to the President.

I will participate. Please send me the questionnaire for the U.S. Office of Personnel Management 1989 Geographic White-Collar Compensation Survey.

Name: _____
Title: _____
Organization: _____
Street Address: _____
City: _____
State: _____
Zip: _____
Telephone: ( ) _____

BILLING CODE 6325-01-M

VOL 54 ISS 217 NO 13 1989 UMI

DRAFT

General Instructions for the U.S. Office of Personnel Management 1989 Geographic White Collar Compensation Survey

OPM _____-__-____

This is the participation package for the 1989 U.S. Office of Personnel Management Compensation Survey. Instructions for completing the Individual Job Data Sheets are included. When you have finished completing the survey, please use the following checklist before submitting your Individual Job Data Sheets for processing.

Checklist: Have you . . .

- ☐ completed all items with an asterisk (*) (e.g., company name, address, name and title of person providing information, etc)?
- ☐ completed the appropriate sections for each location you are reporting?
- ☐ reproduced your participation package for your own files?

Mail your completed package to:

WILLIAM M. MERCER MEIDINGER HANSEN, INCORPORATED
THE NATIONAL SURVEY GROUP
1417 LAKE COOK ROAD
DEERFIELD, IL 60015

Participation Deadline is: January 12, 1990

If you have any questions on completing this form, please call Joyce Cain at Mercer Meidinger Hansen on (312) 948-7400, extension 2455.

Please complete this questionnaire only for employees at **this** facility. If you have other facilities in this metropolitan area, please duplicate this package and complete one for **each** facility. Please enter the appropriate address of **each** facility in the Company Information item below.

ORGANIZATION DATA

*1. Company Information 01

Company Name (22-57)

Address

City (58-78) | State (79-80) | ZIP Code

*1a. Individual Supplying Information: (This is the person Mercer Meidinger Hansen will contact to resolve any problem areas.) 02

Name (22-45)

Title (46-66)

Telephone Number Including Area Code (67-76) | Extension (77-80)

*2. What is the total number of jobs matched in this survey? (22-24) 13

*2a. What is the total number of employees matched in this survey? (25-28)

*2b. Using the Standard Industrial Classification listing at the end of your questionnaire, please indicate the industry to which you belong. Please supply all five digits requested (29-33)

*2c. What is the total number of employees at this location? (59-62)

*2d. What is the total employment of this company overall? (65-70)

3. Using the following numeric codes, indicate in the box at right the type of organization. (71)
1–Private sector 3–Local government
2–State Government 4–Non-profit organization

4. Using the following numeric codes, indicate in the box at right the level of the organizational unit. (72)
1–Headquarters 3–Plant 5–State Capital 7–Other
2–Regional 4–Sales Office 6–Local government

For Survey Use Only

MSA

Form Approved:
O.M.B. No. 3206-XXXX

OPM Form 1584 (10-89)

BILLING CODE 6325-01-C

Instructions for Completing Individual Job Data Sheets

Draft

Please read these instructions before providing individual salary rates in this section.

Job Matching

No company's organization structure or job descriptions will match exactly the jobs defined in a compensation survey. However, you should match your jobs as closely as possible so the results will accurately reflect pay for work of a similar nature and level. Do not match based on job title only. Use the survey job description as the final test of the job match.

Special Guidance on Matching Supervisory Jobs

Although journeyman jobs and first-line supervisors are being separately surveyed, some of the journeyman survey jobs mention possible supervisory duties. Match your job to the journeyman survey job if it is primarily nonsupervisory in nature. For example, jobs that are mainly independent workers with incidental supervisory duties, jobs that supervise only one or two workers, and jobs that function more as leaders than supervisors should be matched to the appropriate journeyman level. If your job functions primarily as a full-fledged, first-time supervisor of an assigned staff, it should be matched to the supervisory survey job.

Data Reporting

Once you have matched your jobs satisfactorily, report the information requested below. Note: Mercer Meidinger Hansen can accept computer runs with compensation data if the runs have all necessary information and are clearly labelled. Attach to the appropriate job data sheet if additional data are also provided on that sheet.

1. Enter the job title and job code of the survey job to which you are matching your job. The job codes are on the survey job descriptions and the back side of the Individual Job Data Sheet.

2. Annual Salary Range—If you have a formal salary rate structure for the job, enter the established annual salary range (Minimum, Mid-Point, Maximum). Report to the nearest whole dollar. Should you have more than one salary range for any job, duplicate the data sheet. Enter the other salary range(s) on the separate sheet(s) listing the employees in each range on the appropriate page.

Note: If you have multiple ranges for the same company job in an area or business unit, you may be reporting more than one job level. Review your job matches and use additional forms for reporting other jobs and levels.

3. Enter the total number of employees in this job. The number should agree with total of the employees reported in the Compensation Data section of the form and on the Individual Job Data Sheet continuation form (if used) or on any computer data sheets if supplied separately.

4. Indicate whether the employees in this job are eligible for an incentive or merit bonus. Provide this even if you cannot report bonus data in the Compensation Data section of the form.

5. Report the typical educational requirements or equivalents for this job at this level. (The amount of education each employee has may vary. Report the normal or usual educational requirements for the job and level.)

6. Report the minimum years of experience required for the job at this level. (Again, the amount of experience may vary with employee. Report that the minimum amount of experience required for this job and level.)

7. Report how well your job matches the survey job. If your job is substantially the same, enter "2". If the job requires somewhat more skill, effort, or responsibility, enter "3". If it requires somewhat less enter "1". Do not match your job to the survey job if your job is substantially different.

8. Enter the job title your organization uses for this job.

9. If the job is a supervisory job, refer to the First-Line Supervisory Job Descriptions and enter the appropriate profiled code.

10. Enter the job code of the survey job that most closely matches the level typically supervised. If the employee supervises subordinates at various levels, report the job code of the highest subordinate level with a substantial number of employees.

Compensation Data

1. Enter the annual base salary as of December 1, 1989, for each employee you have matched to this job. Report data in whole dollars. If you have a 401(k) plan, report the rate before voluntary pay reductions.

2. Enter the total amount of merit or incentive bonuses, if any, received by each employee during the 12 month period ending December 1, 1989. Report data in whole dollars. Report only merit or incentive bonuses. Do not include profit sharing or deferred compensation payments.

3. If this is a supervisory job, enter the number of subordinates reporting to the employee.

4. Use the Job Data Information Sheet continuation form as necessary to report information for all employees in your job matching this survey job.

Note: Your organization may have several employees matched to a survey job who receive identical base salaries, bonuses, and (if first-line supervisors) supervise the identical number of subordinates. Rather than repeating the entries to reflect each of these employees, you may record the total number of employees with these identical characteristics in the shaded area and enter the other data only once in the blocks to the right.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 2 hours to 6 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6410, Washington, D.C. 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206-XXXX), Washington, D.C. 20503.

BILLING CODE 6325-01-M

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Individual Job Data Sheet

Form Approved: O.M.B. No. 3206-XXXX

1. Job Title

Job Code *(15-17)* 31

2. Annual Salary Range 31

Minimum *(23-28)* $,

Mid-Point *(30-35)* $,

Maximum *(37-42)* $,

3. What is the total number of incumbents reported for this job? *(43-46)* , 31

4. Are incumbents in this job eligible for a bonus? Enter Y for YES or N for NO. If NO, leave bonus column below blank. *(47)* 31

5. What are the normal educational requirements or equivalents for this job at this level? Enter appropriate number. *(63)* 31

1. High school or equivalent
2. High school plus advanced vocational
3. Associate's degree
4. Undergraduate degree
5. Master's degree
6. Doctorate

6. What are the minimum years of experience required for this job at this level? Enter full years. *(64-65)* 31

7. Compared to the survey job this job has: Enter the appropriate number. *(22)* 32

1. Less responsibility
2. About the same responsibility
3. More responsibility

8. Title given this job in your organization *(23-50)* 32

9. Supervisory Profile Code. Please refer to the instructions to select appropriate code. *(77)* 32

10. Job Code of level typically supervised. Refer to the instructions for the appropriate code. *(78-80)* 32

COMPENSATION DATA

Line Number *(22-24)*	Number of Employees with this Annual Base Salary and Bonus	Current Annual Base Salary *(25-31)*	Amount of Bonus *(33-38)*	If This is a Supervisory Position, No. of Employees Reporting to Incumbent *(41-43)* 33
001	,	$,	$,	
002	,	$,	$,	
003	,	$,	$,	
004	,	$,	$,	
005	,	$,	$,	
006	,	$,	$,	
007	,	$,	$,	
008	,	$,	$,	
009	,	$,	$,	
010	,	$,	$,	
011	,	$,	$,	
012	,	$,	$,	

U.S. Office of Personnel Management — OPM Form 1656-A (10/89)

DRAFT

Individual Job Data Sheet *(Continuation)*

Form Approved: O.M.B. No. 3206-XXXX

1. Job Title

Job Code *(15-17)* 31

2. Annual Salary Range

Minimum $,

Mid-Point $,

Maximum $,

COMPENSATION DATA

Line Number *(22-24)*	Number of Employees with this Annual Base Salary and Bonus	Current Annual Base Salary *(25-31)*	Amount of Bonus *(33-38)*	If This is a Supervisory Position, No. of Employees Reporting to Incumbent *(41-43)* 33
001	,	$,	$,	
002	,	$,	$,	
003	,	$,	$,	
004	,	$,	$,	
005	,	$,	$,	
006	,	$,	$,	
007	,	$,	$,	
008	,	$,	$,	
009	,	$,	$,	
010	,	$,	$,	
011	,	$,	$,	
012	,	$,	$,	
013	,	$,	$,	
014	,	$,	$,	
015	,	$,	$,	
016	,	$,	$,	
017	,	$,	$,	

U.S. Office of Personnel Management — OPM Form 1656-B (10/89)

BILLING CODE 6325-01-C

BEST COPY AVAILABLE

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SURVEY JOB CODES AND TITLES

[Please see the individual job descriptions for job definitions and supervisory profile codes.]

Job title	Entry level	Journeyman I	Journeyman II	Journeyman III	First line supervisor
Accountant	100	101	102	N/A	901
Auditor	103	104	105	N/A	902
Personnel Specialist	106	107	108	N/A	003
Attorney	109	110	111	N/A	904
Buyer (off-shelf)	112	113	114	N/A	905
Buyer (specialized)	N/A	115	116	N/A	906
Computer Specialist	117	118	119	120	907
Electrical and Electronics Engineer	121	122	123	124	908
Civil Engineer	221	222	223	224	909
Aerospace Engineer	321	322	323	324	910
Other Professional Engineers	421	422	423	424	911
Registered Nurse	125	126	127	N/A	912
Nursing Assistant	128	129	130	N/A	913
Engineering Technician	131	132	133	N/A	914
Purchasing Clerk/Assistant	134	135	136	N/A	915
Internal Revenue Agent	137	138	139	N/A	916
Management Analyst	140	141	142	N/A	917
Quality Assurance Specialist	143	144	145	N/A	918
Budget Analyst	146	147	148	N/A	919
Tax Examiner	149	150	151	N/A	920

Please use the above codes to complete questions 1 and 10 on the Individual Job Data Sheets. The Supervisory Profile codes for question 9 are shown in the job descriptions.

Draft

Standard Industrial Classifications

General Category and Type Code

01 Manufacturing-Non Durable Goods
- —200 Food & Kindred Products
- —210 Tobacco Manufacturing
- —220 Textile Mill Products
- —230 Apparel & Other Products made from Fabric
- —280 Paper & Allied Products
- —270 Printing
- —280 Chemicals & Allied Products
- —281 Pharmaceuticals-Ethical
- —282 Cosmetics & Toilet Preparations
- —290 Petroleum Ref. & Related Products
- —300 Rubber & Misc. Plastic Products
- —310 Leather & Leather Products
- —390 Miscellaneous

02 Manufacturing-Durable Goods
- —240 Lumber & Wood Products, except furniture
- —250 Furniture & Fixtures
- —320 Stone, Clay & Glass Products
- —330 Primary Metals
- —340 Fabricated Metal Products
- —350 Machinery, except Electrical
- —360 Electrical Machinery & Equipment
- —366 Electronic Data Processing Equip.
- —370 Trans. Equip. (Ground, Water & Air)
- —380 Professional, Scientific, Photograhic & Optical Goods; Watches & Clocks
- —390 Miscellaneous

03 Transportation
- —400 Railroad Transportation
- —410 Local & Suburban Transit & Interurban Pass.
- —420 Motor Freight Transp. & Warehousing
- —440 Water Transportation
- —450 Air Transportation
- —460 Pipeline Transportation
- —470 Transportation Services

04 Utilities
- —481 Telephone
- —482 Telegraph
- —491 Electric Companies & Systems
- —492 Gas Companies & Systems
- —493 Combination Gas & Elec. Cos. Sys.
- —494 Water Supply
- —495 Sanitary Services
- —496 Steam Companies & Systems
- —497 Irrigation Systems

05 Wholesale/retail trade—Wholesale
- —501 Motor Vehicles & Auto Equip.
- —502 Drugs, Chemicals & Allied Products
- —503 Dry Goods & Apparel
- —504 Groceries
- —505 Farm Products-Raw Materials
- —506 Electrical Goods
- —507 Hardware, Plumbing & Heating Supplies
- —508 Machinery, Equipment & Supplies
- —509 Miscellaneous

05 Wholesale/retail trade—retail
- —520 Bldg. Materials, Hardware & Farm Equip.
- —530 General Merchandise
- —540 Food
- —550 Automotive Dealers & Gas Service Stations
- —560 Apparel & Accessories
- —570 Furniture & Home Furnishings
- —580 Eating & Dining Places
- —590 Misc. Retail Stores

06 Finance
- —600 Banking
- —601 Federal Reserve Banks
- —602 Commercial & Stocks Savings Banks
- —603 Mutual Savings Banks
- —604 Trust Cos. (No Deposit Banking)
- —605 Closely Related Services (Foreign Exchange, Currency Exchange)
- —610 Credit Agencies Other Than Banks
- —611 Rediscount & Fin. Insts. (not Banks)
- —612 Savings & Loan Associations
- —613 Agricultural Credit Unions
- —614 Personal Credit Institutions
- —615 Business Credit Institutions
- —616 Loan Correspondents & Brokers
- —620 Security & Commodity Brokers, Dealers & Exchanges
- —670 Holding & Other Investment Companies

07 Insurance
- —630 Insurance Carriers
- —631 Life Insurance

- —632 Accident & Health Insurance
- —633 Fire, Marine & Casualty Insurance
- —635 Surety Insurance
- —636 Title Insurance
- —639 Insurance Carriers, Other
- —640 Insurance Agents, Brokers & Service

08 Service-Profit
- —700 Hotels & Rooming Houses
- —720 Personal Services
- —730 Business Services
- —731 Advertising Agencies & Services
- —732 Consumer Credit & Collection Agencies
- —733 Duplication, Mailing List & Stenographic Services
- —734 Building Services
- —735 Private Employment Agencies
- —736 Business & Management Consulting Services
- —737 Data Processing Service Bureaus, Software Companies, Time Sharing Companies
- —738 Accounting, Auditing & Bookkeeping services
- —739 Business Services Other
- —750 Automobile Repair, Auto Serv. & Garages
- —760 Misc. Repair Services
- —780 Amusement & Recreation Services (except Motion Pictures)
- —790 Motion Pictures
- —791 Publishing-Newspapers
- —792 Publishing-Books and Periodicals
- —793 News Syndicate
- —794 Radio and Television Broadcasting
- —800 Medical, Dental & Other Health Services
- —810 Legal Services
- —801 Engineering & Architectural Services
- —802 Agricultural Services
- —899 Miscellaneous

09 Service-Non-Profit
- —800 Medical Dental & Other Health Serv.
- —830 Museums, Art Galleries, Botanical & Zoological Gardens
- —860 Non-Profit Membership Organizations
- —892 Educational & Scientific Research Agencies
- —895 Religious Organizations
- —899 Miscellaneous

10 Educational Services
- —821 Elementary & Secondary Schools
- —822 Colleges, Universities, Professional Schools, Jr. Colleges
- —823 Libraries
- —824 Correspondence & Vocational Schools
- —829 Educational Services, Other

11 Government
- —910 Federal Government
- —920 State Government
- —930 Local Government
- —940 Internationall Government

12 Construction and Mining
- —100 Construction
- —101 General Contractors-Residential
- —102 General Contractors-Commercial
- —103 General Contractors-Highway & Bridge
- —104 Water, Sewer, Pipe Line, Communication & Powerline Construction
- —105 Misc. Construction
- —110 Mining
- —111 Metal and/or Mineral Ore Mining
- —112 Coal Mining
- —113 Quarry Excavation
- —114 Misc. Mining

13 Oil and Gas
- —120 Drilling and/or Exploration

14 Real Estate
- —650 Real Estate
- —660 Combination of Real Estate, Insurance, Loans Law Offices

15 Other
- —999 (Please Specify)

JOB FAMILY MATRIX—ENGINEERING TECHNICIAN

Engineering Technician—Entry Level (Job code 131)	Engineering Technician—Journeyman I (Job code 132)	Engineering Technician—Journeyman II (Job code 133)	Engineering Technician—First Line Supervisor (Job code 914)
As a trainee, initially works under close supervision and provides semi-professional technical support for engineers. Performs simple, routine tasks such as one or more of the following: assembles or installs equipment requiring simple wiring or soldering; operates test equipment, performs tensile or similar tests; gathers and maintains records of engineering data; plots data and draws graphs. As employee gains experience, follows standard procedures to construct simple equipment or parts, conduct a variety of standard tests, and extract and process engineering data.	This is a full Journeyman level. Under general supervision, provides semi-professional technical support for engineers. Performs and may plan non-routine assignments of substantial variety and complexity. May construct experimental or prototype models, conduct experiments or tests analyze data and apply conventional engineering practices to prepare schematics, designs, or specifications. May be assisted by lower level technicians.	Under general supervision, performs nonroutine and complex assignments of a semiprofessional nature in accordance with objectives and approaches outlined by professional engineer. Typical duties may include one or more of the following: design, development or construction of equipment; evaluation of equipment performance and equipment redesign; preparation of layouts, detailed specifications, parts, estimates and procedures; evaluation of adequacy of drawings and design. May train or be assisted by less experienced technicians.	As a first-line supervisor, exercises both technical and personnel management responsibilities. Supervises at least 3 technical/clerical employees, although staff may be quite large. Staff may include quasi-supervisory leaders, reviewers or coordinators and/or a single supervisory deputy. Categorize jobs at Profile L (limited) as Profile B (broad). *Profile L* Plans and schedules work on a weekly monthly, or project basis to meet deadlines and handles priorities.

JOB FAMILY MATRIX—ENGINEERING TECHNICIAN—Continued

Engineering Technician—Entry Level (Job code 131)	Engineering Technician—Journeyman I (Job code 132)	Engineering Technician—Journeyman II (Job code 133)	Engineering Technician—First Line Supervisor (Job code 914)
Performs simple, routine tasks such as one or more of the following: assembles or installs equipment requiring simple wiring or soldering; operates test equipment, performs tensile or similar tests; gathers and maintains records of engineering data; plots data and draws graphs. As employee gains experience, follows standard procedures to construct simple equipment or parts, conduct a variety of standard tests, and extract and process engineering data.	Performs and may plan non-routine assignments of substantial variety and complexity. May construct experimental or prototype models, conduct experiments or tests analyze data and apply conventional engineering practices to prepare schematics, designs, or specifications. May be assisted by lower level technicians.	Performs nonroutine and complex assignments of a semiprofessional nature in accordance with objectives and approaches outlined by professional engineer. Typical duties may include one or more of the following: design, development or construction of equipment; evaluation of equipment performance and equipment redesign; preparation of layouts, detailed specifications, parts, estimates and procedures; evaluation of adequacy of drawings and design. May train or be assisted by less experienced technicians.	As a first-line supervisor, exercises both technical and personnel management responsibilities. Supervises at least 3 technical/clerical employees, although staff may be quite large. Staff may include quasi-supervisory leaders, reviewers or coordinators and/or a single supervisory deputy. Categorize jobs at Profile L (limited) as Profile B (broad). *Profile L* Plans and schedules work on a weekly monthly, or project basis to meet deadlines and handles priorities.

JOB FAMILY MATRIX—ACCOUNTANT

Accountant—Entry Level (Job code 100)	Accountant—Journeyman I (Job code 101)	Accountant—Journeyman II (Job code 102)	Accountant—First Line Supervisor (Job code 901)
As a trainee, initially works under close supervision and provides semi-professional technical support for accountants. Performs simple, routine tasks such as one or more of the following: assembles or installs equipment requiring simple wiring or soldering; operates test equipment, performs tensile or similar tests; gathers and maintains records of engineering data; plots data and draws graphs. As employee gains experience, follows standard procedures to construct simple equipment or parts, conduct a variety of standard tests, and extract and process engineering data.	This is a full Journeyman level. Under general supervision, provides semi-professional technical support for accountants. Performs and may plan non-routine assignments of substantial variety and complexity. May construct experimental or prototype models, conduct experiments or tests analyze data and apply conventional engineering practices to prepare schematics, designs, or specifications. May be assisted by lower level technicians.	Under general supervision, performs nonroutine and complex assignments of a semiprofessional nature in accordance with objectives and approaches outlined by professional accountant. Typical duties may include one or more of the following: design, development or construction of equipment; evaluation of equipment performance and equipment redesign; preparation of layouts, detailed specifications, parts, estimates and procedures; evaluation of adequacy of drawings and design. May train or be assisted by less experienced technicians.	As a first-line supervisor, exercises both technical and personnel management responsibilities. Supervises at least 3 technical/clerical employees, although staff may be quite large. Staff may include quasi-supervisory leaders, reviewers or coordinators and/or a single supervisory deputy. Categorize jobs at Profile L (limited) as Profile B (broad). *Profile L* Plans and schedules work on a weekly monthly, or project basis to meet deadlines and handles priorities.

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JOB FAMILY MATRIX—ENGINEERING TECHNICIAN—Continued

Engineering Technician—Entry Level (Job code 131)	Engineering Technician—Journeyman I (Job code 132)	Engineering Technician—Journeyman II (Job code 133)	Engineering Technician—First Line Supervisor (Job code 914)
.....	.....	Journeyman II represents positions assigned the more difficult journeyman level duties and responsibilities. It does not encompass even higher level positions (e.g., "experts" in a narrow aspect of a particular field of engineering) which exist in the occupation.	Decides how to assign and review workload to achieve acceptable quantity and quality of input. Informs subordinates about personnel programs; tell superiors of hiring needs recommends promotions, raises performance, oversees attendance and leave, resolves informal complaints, provides on-the-job training. *Profile B* Within limits, also has authority to change work organization to improve economy and efficiency. Also defines performance standards and issues internal work instructions. Also takes formal actions such as requesting recruitment, selecting candidates, resolving formal grievances, and disciplinary cases. Team leaders, second-line supervisors, and supervisory positions primarily compensated for nonsupervisory work (e.g., personal performance of higher level duties)should *not* be matched.

Draft

JOB FAMILY MATRIX—PERSONNEL SPECIALIST

Personnel Specialist—entry level (Job code 106)	Personnel Specialist—Journeyman I (Job code 107)	Personnel Specialist—Journeyman II (Job code 108)	Personnel Specialist—First Line Supervisor (Job code 903)
Initially, works under close supervision and learns to apply personnel management principles, procedures and techniques. Degree of supervision is gradually lessened as employee gains experience. Performs routine duties in *one or more of the following areas:* job analysis/evaluation, salary and benefit administration, recruitment and placement, employee development, employee relations and services, equal employment opportunity and labor relations. Difficulty of assignments gradually increases as employee gains experience. (This is a professional level position; clerical and para-professionals not included.) This is the trainee and developmental level which, depending upon the entry worker's background and abilities, typically continues for one or two years. More advanced subjourneyman positions (e.g., those performing assignments of fairly limited scope and complexity with substantial independence) are excluded.	This is a full journeyman level. Applies technical knowledge, skills and judgment to solve relatively complex technical problems *in one or more of the following areas:* Job analysis/evaluation, salary and benefit administration, recruitment and placement, employee development or relations, equal employment opportunity and labor relations. Advises management on issues requiring broad personnel knowledge and/or highly technical skills. May render final decisions on assigned personnel matters. May assist in evaluating operation of personnel programs against established objectives. Typical duties include: analyzing, evaluating, and defining difficult exempt jobs; planning and conducting broad compensation surveys and recommending pay and benefit adjustments; developing training plans and procedures for an organizational segment; participating in complex employee-management relations issues such as controversies, poor morale, and high turnover; or developing plans and procedures for labor negotiations in a moderately complex organization.	Applies technical knowledge, skills and judgement to solve unusually complex or unprecedented problems or provides comprehensive advice management on complex technical problems/issues *in one or more of the following areas:* Job analysis/evaluation, salary and benefit administration, recruitment and placement, employee development opportunity, and labor relations. May independently evaluate personnel programs against established objectives and recommend improvements. *Typical duties include:* participating in the development of personnel policies and procedures; analyzing, evaluating, and defining unusually difficult jobs, recruiting candidates for one-of-a-kind jobs; participating in employee-management relations where the underlying issues are difficult to identify; planning and administering a comprehensive employee development program; or performing labor relations assignments for a large conglomerate.	As a first-time supervisor, exercises both technical and personnel management responsibilities. Typically supervises about 5 to 30 professional/technical workers, but no fewer than 3 such employees. (Staff may also include additional clerical and blue-collar subordinates.) Supervisory work normally includes work planning and delegation, performance monitoring, providing technical counsel, and evaluating and results. Is usually also responsible for recommending hires and promotions, resolving complaints, effecting minor disciplinary actions, and arranging training. Positions are categorized as Profile 1 (the norm) or Profile 2 (atypical). *Profile 1* jobs have no subordinate supervisors, other than a possible single deputy. *Profile 2* jobs exercise somewhat greater supervisory authorities, directing their staff through work/team leaders or other quasi-supervisory subordinates. Full second-line supervisors, team leaders and supervisory positions primarily compensated for nonsupervisory work (e.g., superjourneyman/expert duties) should *not* be matched.

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JOB FAMILY MATRIX—ACCOUNTANT

Accountant—Entry Level (Job code 100)	Accountant—Journeyman I (Job code 101)	Accountant—Journeyman II (Job code 102)	Accountant—First Line Supervisor (Job code 901)
Initially, works under close supervision and learns to apply the principles, theories and concepts of accounting to a specific system. Degree of supervision is gradually lessened as employee gains experience. Assists in the preparation of financial statements by checking for completeness, internal accuracy, conformity with standard accounting classifications. Reconciles reports and financial data with existing statements, prepares charts and tables, computes standard ratios. May prepare simple statements requiring little analysis. Difficulty of assignments gradually increases as employee gains experience. (This is a professional level position; clerical assistants not included). This is the trainee and developmental level which, depending upon the entry worker's background and abilities, typically continues for one or two years. More advanced subjourneyman positions (e.g., those performing assignments of fairly limited scope and complexity with substantial independence) are excluded.	This is a full journeyman level. Under general supervision, applies well-established accounting principles, theories, concepts, and practices to a wide variety of difficult problems. May supervise day-to-day operation of an entire accounting system of moderate complexity, a major segment of a larger and more complex accounting system, or a narrow/specialized segment of a very complex system. Recommends refinements to accounting structure, ledgers, account classifications, and reporting systems. Determines accounting treatment of financial transactions. Assists in recommending solutions to complex problems. May supervise professional accountants.	Under general supervision, applies accounting principles, theories, concepts, and practices to the solution of problems for which no clear precedent exists or performs work which is of greater than average responsibility due to the nature/magnitude of the assignment. Resolves complex technical and managerial problems. Interprets implications of financial data and reports for management. Moderate to significant responsibility for accounting system design and development. Supervises day-to-day operation of an entire accounting system of moderate complexity, a major segment of a larger and more complex system or a narrow, specialized segment of a very complex accounting system. Often supervises professional accountants. Journeyman II represents positions assigned the more difficult journeyman level duties and responsibilities. It does not encompass even higher level positions (e.g., "senior"/"expert"/"superjourneyman") which exist in the occupation.	As a first-line supervisor, exercises both technical and personnel management responsibilities. Typically supervises about 5 to 30 professional/technical workers, but no fewer than 3 such employees. (Staff may also include additional clerical and blue-collar subordinates.) Supervisory work normally includes work planning and delegation, performance monitoring, providing technical counsel, and evaluating and results. Is usually also responsible for recommending hires and promotions, resolving complaints, effecting minor disciplinary actions, and arranging training. Positions are categorized as Profile 1 (the norm) or Profile 2 (atypical). *Profile 1* Jobs have no subordinate supervisors, other than a possible single deputy. *Profile 2* Jobs exercise somewhat greater supervisory authorities, directing their staff through work/team leaders or other quasi-supervisory subordinates. Full second-line supervisors, team leaders and supervisory positions primarily compensated for nonsupervisory work (e.g., superjourneyman/expert duties) should *not* be matched.

[FR Doc. 89-26572 Filed 11-9-89; 8:45 am]
BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-17201; File No. 812-7369]

American Life/Annuity Series, *et al.*

November 3, 1989.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: American Life/Annuity Series ("AL"), American Variable Insurance Series ("VI") and Capital Research and Management Company ("CRMC") (referred to collectively as the "Applicants").

Relevant 1940 Act Sections: Applicants seek an order of the Commission under section 17(b) of the 1940 Act approving certain purchase and sale transactions between AL and VI involving AL's portfolio securities.[1] The proposed transactions will enable shares of VI to be substituted, as the underlying investment for certain variable annuity contracts (the "Contracts") offered by Nationwide Life Insurance Company ("Nationwide") and Transamerica Life Insurance and Annuity Company ("Transamerica"), for shares of AL (the "Substitutions").

Filing Date: The Application was filed on September 12, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on this Application or ask to be notified if a hearing is ordered. Any request must be received by the Commission by 5:30 p.m. on November 28, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest either personally or by mail, and also send a copy to the Secretary of the Commission, along with proof of service by affidavit or, in the case of attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, the Commission, 450 5th Street NW., Washington, DC 20549. Applicants, 333 South Hope Street, 52nd Floor, Los Angeles, California 90071.

FOR FURTHER INFORMATION CONTACT: Wendell M. Faria, Staff Attorney, at (202) 272-3450 or Clifford E. Kirsch, Acting Assistant Director, at (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from either the Public Reference Branch (if applying in person) or the Commission's commerical copier at (800) 231-3282 (in Maryland, (301) 283-4300). Notice of the application was published in the SEC Docket on October 10, 1989 (44 SEC Docket 1415). The Notice was not, however, published in the Federal Register.

Applicants' Statements and Representations

1. AL and VI are open-end diversified management investment companies organized as Massachusetts business trusts. Their registration statements on Form N-1A are on file with the Commission (File Nos. 811-4939 and 811-3857, respectively). CRMC is an investment adviser registered under the Investment Advisers Act of 1940; it is organized as a Delaware corporation.

2. Shares of AL currently serve as the underlying investment for certain Contracts issued by Nationwide and Transamerica. Because of AL's small asset size and high level of expenses, AL intends to discontinue making shares

[1] Applicants also requested an exemption from Section 17(a) pursuant to section 6(c) of the 1940 Act. This request, however, will be withdrawn by an amendment to the Application.

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available for use with Contracts as soon as practicable, subject to receipt of the Order requested herein and receipt by Nationwide and Transamerica of Orders from the Commission pursuant to section 26(b) of the 1940 Act. Thereafter, shares of VI will be substituted for shares of AL.[8] AL has five funds (or investment portfolios) which are substantially identical to five of VI's funds (or investment portfolios). CRMC serves as investment adviser to both AL and VI and is not affiliated with either Nationwide or Transamerica. AL will cease operations shortly after the Substitutions are completed.

3. The proposed Substitutions in effect will result in an exchange of an interest in AL for an interest of equal value in VI. To facilitate such exchange, AL will sell all of its portfolio securities to VI for a cash receivable. AL shares representing this asset will in turn be used by Transamerica and Nationwide to purchase shares of VI. All transactions will be made at the current market price of the securities involved.

4. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company.

5. Each Applicant may be deemed to be an affiliated person or affiliated person of an affiliated person of each other Applicant or certain other Applicants under section 2(a)(3) of the 1940 Act, and the proposed transactions may be deemed to entail one or more purchases or sales of securities or property between and among certain Applicants. Therefore, an exemption from section 17(a) of the 1940 Act, pursuant to section 17(b) of the 1940 Act, may be required.

6. Section 17(B) of the 1940 Act provides that the Commission may grant an Order exempting transactions prohibited by section 17(a) of the 1940 Act upon application if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(b) The proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

7. Applicants represent that the terms of the proposed transactions including the consideration paid or received, are reasonable and fair and do not involve overreaching on the part of any person.

8. The investment objectives, policies, and restrictions of the AL and VI funds involved in the transaction are substantially identical. Thus, the purchase and sale transactions are consistent with the objectives, policies and restrictions of VI. Further, the Substitutions will result in an equitable division of assets among the Contracts, which is consistent with the policies of AL and VI.

9. The Substitutions are consistent with the general purposes of the 1940 Act, as enunciated in the Findings and Declaration of Policy in section 1 of the 1940 Act. The proposed transactions do not present any of the issues or abuses that the 1940 Act is designed to prevent. Owners of the Contracts will be fully informed of the terms of the Substitutions through Supplements to the Prospectuses of the Contracts and AL, and owners will have an oppotunity to reallocate investments following the Substitutions.

10. Applicants also note in support of their request for an Order under section 17(b) that the proposed transactions fall within the intent of, but not the literal requirements of Rule 17a–7 under the 1940 Act. That Rule generally exempts from section 17(a) certain purchase and sale transactions between registered investment companies or separate series of registered investment companies, which are affiliated persons of each other, provided certain enumerated conditions are met. Applicants represent that, as a condition to any Order under section 17(b), they will comply with the conditions set forth in subparagraphs (b), (c), (d), and (e) of Rule 17a–7, namely, that:

(b) The transactions will be affected at the independent current market price of the securities;

(c) The transactions are consistent with the policy of AL and VI and the Contracts involved in the Substitutions, as recited in the applicable registration statements and reports filed under the 1940 Act;

(d) No brokerage commission, fee (except for customary transfer fees), or other remuneration will be paid in connection with the transactions; and

(e) The Boards of Trustees of AL and VI, including a majority of the Trustees who are not interested persons, (1) have adopted procedures pursuant to which such purchase or sale transactions may be affected, which are reasonably designed to provide that all the conditions of paragraphs (b) through (d) of Rule 17a–7 are complied with, and (2) will determine that the purchases or sales are affected in compliance with such procedures.

11. Applicants cannot, however, meet the conditions of subparagraphs (a) and (f) of Rule 17a–7. Subparagraph (a) requires the transaction be "for no consideration other than cash payment." Applicants cannot comply because the consideration involved in the transaction will be a cash receivable rather than cash. Subparagraph (f) requires AL and VI to (1) maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph (e) of Rule 17a–7, and (2) maintain and preserve for a period of not less than six years, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or materials upon which the determinations described in paragraph (e) of Rule 17a–7 were made. Since subparagraph (f) contemplates that each party will have continuing operations after a transaction pursuant to Rule 17a–7 (in order to be able to satisfy the record-keeping requirements) AL will not be able to comply. However, VI represents that it will comply with such requirements. Applicants submit that lack of a cash payment and the fact that AL is discontinuing operations after the Substitutions are completed, under the circumstances, do not give rise to the type of potential abuse Rule 17a–7 was designed to guard against. Rather, Rule 17a–7 was designed to permit investment companies to sell securities between themselves at current market prices without necessarily incurring costs, including brokerage costs, to the detriment of Contract owners. Here the transactions involved will be affected at current market price, and thus, in substance, are of the type ordinarily exempted by Rule 17a–7.

Applicants' Conclusion

Applicants submit, for all of the reasons stated herein, that their exemptive request meets the standards set out in section 17(b) of the 1940 Act and that an Order should therefore be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26524 Filed 11-8-89; 8:45 am]

BILLING CODE 8010-01-M

[8] The Substitutions are discussed more fully in the Applications for Orders pursuant to section 26(b) of the 1940 Act that have been filed with the Commission by Nationwide and Transamerica.

[Release No. 35-24960]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 2, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 27, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Public Service Company of Oklahoma (70-6827)

Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, an electric utility subsidiary company of Central and South West Corporation, a registered holding company, and PSO's mining subsidiary company, Ash Creek Mining Company ("Ash Creek"), have filed a post-effective amendment to their application-declaration filed pursuant to sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 43 and 54 thereunder.

By order dated January 21, 1986 (HCAR No. 24562), PSO's authorization to finance Ash Creek was extended through December 31, 1989 in the maximum principal amount of $2,972,500 outstanding at any one time. PSO and Ash Creek estimate that Ash Creek's indebtedness to PSO at December 31, 1989 will be approximately $2,050,000. PSO now proposes to extend its authorization to finance Ash Creek through December 31, 1991 and to increase the maximum principal amount of such financing to $4 million outstanding at any one time.

New England Energy Incorporated (70-7055)

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01582, the fuel supply subsidiary of New England Electric System ("NEES"), a registered holding company, has filed a post-effective amendment to its application filed pursuant to Sections 9(a) and 10 of the Act.

In 1974, the Commission authorized NEEI's participation in oil and gas exploration and development activities in order to provide a fuel supply for NEES system companies (NCAR NO. 18635, October 30, 1974). NEEI has participated in these activities principally through its partnership ("Partnership") with Samedan Oil Corporation ("Samedan"), a subsidiary of Noble Affiliates, Inc., a nonaffiliate company. The Partnership agreement ("Agreement") provides for capital contributions by the partners to be used to pay the costs and expenses of the Partnership. The Agreement, as amended February 5, 1985, provides for two phases of operation, Phase I, which expired on December 31, 1986, and Phase II, which commenced on January 1, 1987. Under Phase II, NEEI elected not to participate in new oil and gas prospects initiated by Samedan after December 31, 1986, but remains obligated to pay its share of expenses for exploration, development and production of Phase I prospects acquired on or before December 31, 1987.

By order dated December 29, 1988 (HCAR No. 24795), NEEI was authorized, through December 31, 1989, to contribute up to $40 million (including approximately $15 million which will relate to Pre-1984 prospects and $15 million to Post-1984 prospects) to the Partnership for exploration and development of oil and gas prospects initiated by the Partnership prior to December 31, 1986.

NEEI now seeks to extend its authorization, through December 31, 1991, and to contribute up to $50 million (including approximately $35 million which will relate to Pre-1984 prospects and $15 million to Post-1984 prospects) to the Partnership for exploration and development of oil and gas prospects initiated by the Partnership prior to December 31, 1988. In addition, NEEI requests authority to invest in the Partnership, through December 31, 1991, an additional $10 million in order to provide for contingencies, for a total authorization of $60 million.

New England Energy Incorporated (70-7035)

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01582, a wholly owned, fuel procurement and transportation subsidiary of New England Electric System ("NEES"), a registered holding company, has filed an application pursuant to sections 9(a) and 10 of the Act.

In 1980, NEEI and Keystone Shipping Co. ("Keystone") formed a joint venture, New England Collier Company ("NECCO"), which owns a self-unloading, coal-fired collier ("Energy Independence"). The Commission has previously authorized NEEI's 51% participation in NECCO (HCAR No. 21919, February 13, 1981), the financing arrangements made by NECCO in connection with construction of the Energy Independence (HCAR No. 22146, August 3, 1981), and the chartering of the Energy Independence by NECCO to New England Power Company ("NEP"), the generation and transmission subsidiary of NEES, for a term of 24 and 1/2 years (HCAR No. 22309, December 9, 1981). Since completion of its construction in 1983, the Energy Independence has been engaged in the transportation of coal to generating stations of NEP.

In 1987, NEEI received a demand for arbitration from Keystone alleging that NEEI had breached its duty, as a joint venturer, concerning the charter hire rates paid by NEP for the Energy Independence. Due to this disagreement among the parties, no charter hire rate has been set for 1988 or 1989. NEP has commenced arbitration against NECCO for determination of the charter hire rates for 1988 and 1989. Pending a decision, NEP has been paying NECCO at an estimated rate.

On October 6, 1989, NEEI, NEP, and Keystone executed and delivered a Settlement Agreement subject to and conditioned upon receipt of all necessary approvals of the U.S. Maritime Administration and the Commission. The Settlement Agreement provides for, among other things, the

termination of the arbitration proceedings and the sale by NEEI to Keystone or its affiliate ("New Owner") of all of NEEI's rights, title and interest in NECCO and the Energy

Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) for a license as a

to Room 1408 and at the conclusion of the open portion of the meeting escorted back to the Diplomatic Entrance.

Although this notice is published less than fifteen days in advance of the

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 17, 1989.

Description: Conforming Application of American Airlines, Inc., pursuant to

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility

measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in

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termination of the arbitration proceedings and the sale by NEEI to Keystone or its affiliate ("New Owner") of all of NEEI's rights, title and interest in NECCO and the Energy Independence. Under the Settlement Agreement, NEP will charter the Energy Independence under a new time charter for an initial term of 18 years and two months with two one-year optional extensions.

NEEI currently has outstanding with NECCO a loan of $10 million having an interest rate of 14.9% due July 15, 2008 ("NEEI Loan"). The Commission authorized the NEEI Loan by its order dated September 14, 1987 (HCAR No. 24459). NEEI is requesting authorization from the Commission to amend the terms of the NEEI Loan as part of the settlement of pending arbitrations. Under the proposed Settlement Agreement, the New Owner will assume all of NECCO's obligations under the NEEI Loan. In order to evidence this loan, the New Owner will execute and deliver to NEEI a new Note Agreement and note. The principal amount of $10 million, interest rate of 14.9%, and maturity date of July 15, 2008, will remain unchanged. NEEI has negotiated additional provisions in the Note Agreement for its benefit and protection including establishment of an escrow fund to assure timely payment of interest and repayment of principal, a restriction on payment of dividends by the New Owner, and security for the loan. The Note Agreement also provides that the New Owner may prepay the loan, in whole or in part, without premium or penalty and that, at the option of the New Owner, the note may be sold to a commercial bank upon payment to NEEI of the outstanding principal amount, together with accrued interest.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26525 Filed 11-9-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Southern Berkshire Investment Corp.; Issuance of a Small Business Investment Company License

[Application No. 01/01-0348]

On August 8, 1989, a notice was published in the Federal Register (P. 32553) stating that an application has been filed by Southern Berkshire Investment Corporation, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) for a license as a small business investment company.

Interested parties were given until close of business September 8, 1989, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0348 on October 25, 1989, to Southern Berkshire Investment Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.

Dated: November 6, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-26523 Filed 11-9-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/1323]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 16, 1989, at 9 a.m. in room 1406 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning problems connected with preparation of the documentary series entitled Foreign Relations of the United States and other responsibilities of that Office.

In accordance with section 10(d) of the Advisory Committee Act (Pub.L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552 b (c)(1), and that the public interest requires that such activities will be withheld from disclosure. The meeting will therefore be closed when such discussions take place from 2 p.m. to 5 p.m. on Thursday, November 16 and all day Friday, November 17.

Persons wishing to attend the open portion of the meeting should come before 9 a.m. on November 16 to the Diplomatic Entrance of the Department of State at 22nd and C Streets, NW., Washington, DC. They will be escorted to Room 1406 and at the conclusion of the open portion of the meeting escorted back to the Diplomatic Entrance.

Although this notice is published less than fifteen days in advance of the meeting, since complicated arrangements have been made at considerable expense and the Advisory Committee members are not available to convene again in the near future, the meeting will be held on the dates set forth in this notice.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663-1122.

John P. Glennon,

Acting Director, Office of the Historian, Department of State.

[FR Doc. 89-26747 Filed 11-9-89; 8:45 am]

BILLING CODE 4710-11-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under subpart Q during the Week ended November 3, 1989. The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46562.
Date filed: November 3, 1989.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 1, 1989.
Description: Application of Aviateca, S.A. pursuant to section 402 of the Act and subpart Q of the Regulations, requests Reissue or Transfer of Permit issued by the Department in Docket No. 43630 from Empresa to Aviateca, S.A.

Docket Number: 46585.
Date filed: November 3, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 17, 1989.
Description: Conforming Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for amendment of its certificate of public convenience and necessity for Route 137 so as to add Malaysia and Indonesia to segment 9.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-26545 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Fitness Determination of Trans Executive Airlines of Hawaii, Inc. d/b/a Trans Air

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—order 89-11-4, order to show cause.

SUMMARY: The Department of Transportation is proposing to find Trans Executive Airlines of Hawaii, Inc. d/b/a Trans Air fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 20, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: November 3, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-26491 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Approval of Noise Compatibility Program Barnstable Municipal Airport, (Hyannis), Barnstable, Massachusetts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Barnstable Municipal Airport Commission, Barnstable, Massachusetts, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96-52 (1980). On January 30, 1989, the FAA determined that the noise exposure maps, submitted by the Barnstable Municipal Airport Commission, under part 150, were in compliance with applicable requirements. On July 27, 1989, the Administrator approved the Barnstable Municipal Airport (HYA) noise compatibility program. Out of the 28 proposed program elements, 23 were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the HYA noise compatibility program is July 27, 1989.

FOR FURTHER INFORMATION CONTACT: John Silva, Federal Aviation Administration, New England Region, Airports Division, ANE-602, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 273-7060.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the HYA noise compatibility program, effective July 27, 1989.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The Barnstable Municipal Airport Commission submitted to the FAA, on August 31, 1988, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from September 1985 through

July 1987. The HYA noise exposure maps were determined by FAA to be in compliance with applicable requirements on January 27, 1989. Notice of this determination was published in the Federal Register on February 8, 1988.

The HYA study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on January 27, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180 day period shall be deemed to be an approval of such a program.

The submitted program contained 28 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective July 27, 1989.

Approval was granted for 23 specific program elements. Five elements were disapproved. Element 7 Voluntary Minimum Night Flights, does not need FAA approval because of its voluntary, informal nature. Elements 8 and 9, pertaining to daytime and nighttime noise limits, were disapproved because of insufficient information. Element 11, a proposal to construct a new taxiway, was disapproved as a noise abatement proposal, since it would not necessarily enable the prohibition of intersection departures. Measure 28, soundproofing a hospital, was disapproved because there is reasonable expectation that implementation of the remainder of the NCP would obviate the need. There is also no rationale in the study for application of a 60 Ldn incompatible use determination for the site, as opposed to FAA's land use guideline of 65 Ldn.

The 23 approved program elements include noise abatement flight tracks, minimum VFR altitudes, use of the NBAA noise abatement procedure, a preferential runway program and related nighttime designated calm wind runway, a nighttime aircraft touch-and-go prohibition, full-length runway departures, addition of a noise attenuation wall to an existing earth berm surrounding a run-up pit and a reduction in the number of hours for use of the pit, and the establishment of monetary penalties for violations of maintenance run-up procedures.

Approved administrative measures include the establishment of a Noise Abatement Officer position, noise abatement airport signage, pilot education, noise measurement equipment, a complaint response program, a system to track changes in noise exposure over time, update of the official Noise Exposure Map, the establishment of a permanent noise advisory committee, an annual noise report, and a noise abatement policy statement concerning or affirming many of the NCP measures.

Approved land use measures include the establishment of overlay zones and revisions to subdivision regulations, a recommendation to revise the state building code to include regulations for noise level reduction, and a public education program.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Administrator on July 27, 1989. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the office of the Barnstable Airport Commission, Barnstable, Massachusetts.

Issued in Burlington, Massachusetts on October 17, 1989.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 89-26530 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Minot International Airport Minot, North Dakota

AGENCY: FEDERAL AVIATION ADMINISTRATION (FAA), DOT.

ACTION: Notice of Closing.

SUMMARY: Notice is hereby given that on October 24, 1989, the Flight Service Station (FSS) at Minot, North Dakota was closed. Services to the aviation public in the Minot, North Dakota flight plan area, formerly provided by Minot FSS, are being provided by the automated flight service station (AFSS) at Grand Forks, North Dakota. This information will be reflected in the FAA organization statement the next time it is reissued. [Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.]

Dated: October 27, 1989.

Edward J. Phillips,

Acting Regional Administrator Great Lakes Region.

[FR Doc. 89-26531 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-13-M

Urban Mass Transportation Administration

Environmental Impact Statement for Mass Transit Improvements in the Fremont-South Bay Area of Alameda and Santa Clara Counties, California

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Urban Mass Transportation Administration (UMTA), the Metropolitan Transportation Commission (MTC), and the Santa Clara County Transit District (SCCTD) intend to prepare an Environmental Impact Statement (EIS) for mass transit improvements in the Fremont-South Bay area of Alameda and Santa Clara Counties, California. The UMTA, MTC, and SCCTD will prepare the EIS in conformance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321), the Regulations for Implementing the Procedural Requirements of NEPA, Council on Environmental Quality (40 CFR parts 1500-1508), Environmental Impact and Related Procedures, UMTA (49 CFR part 622), and related statutes and Executive Orders. In addition, in conformance with the Urban Mass Transportation Act of 1964 and UMTA policy, the Draft EIS will be prepared in conjunction with an Alternatives Analysis, and the Final EIS in conjunction with Preliminary Engineering.

The UMTA published a Notice of Intent on September 25, 1986 initiating the Fremont-South Bay Alternatives Analysis and environmental impact assessment. Subsequent scoping efforts and technical work suggested a need to rescope the study to define clearly a set of transportation improvements that could be considered for UMTA capital assistance. The revised study will focus on alternative bus and light rail transit (LRT) improvements in the Tasman corridor. Extensions of Bay Area Rapid Transit District (BART) rail service are not now being considered as alternatives in this study

FOR FURTHER INFORMATION CONTACT: Ms. Carmen Clark, Urban Mass Transportation Administration, 211 Main Street, Suite 1160, San Francisco, California 94105; Telephone: (415) 974-7317.

Scoping

The UMTA, MTC, and SCCTD invite the public and affected Federal, State, and local agencies to participate in determining the alternatives to be evaluated in the EIS and identifying the significant issues related to the alternatives. Written materials describing the rescoping proposal, the proposed alternatives, the expected impact areas, a citizen involvement program, and the preliminary work schedule are being mailed to affected Federal, State, and local agencies and to interested parties on record.

Others may request these scoping materials by calling or writing to:

Mr. Marc Roddin, Tasman Corridor Project Manager, Metropolitan Transportation Commission, Joseph P. Bort MetroCenter, 101 8th Street, Oakland, CA 94607; Telephone: (415) 464-7827; or

Mr. David Minister, Manager for Project Development, Santa Clara County Transportation Agency, P.O. Box 4009, Milpitas, California 95035-2009; Telephone: (408) 299-2382.

The SCCTD and MTC will hold new public scoping meetings to describe the revised scope of the study and receive comments on it. The times, dates, and locations of these meetings are:

Wednesday, November 29, 1989 at 7:00 p.m., City of Sunnyvale, Community Auditorium, 550 East Remington Drive, Sunnyvale, California;

Thursday, November 30, 1989 at 7:00 p.m., Piedmont Hills High School, Multi-Purpose Room, 1377 Piedmont Road, San Jose, California.

At the scoping meetings, SCCTD and MTC staff will present the alternatives to be considered in the continuing analysis and identify the known social, economic, and environmental impacts to be evaluated during the study. Methods for continuing citizen involvement and a revised work schedule will also be discussed. Comments are invited regarding the revised alternatives, the impacts to be assessed, and the evaluation criteria to be used in making a decision. During scoping, comments should focus on these topics and not on an individual preference for a particular alternative. Comments may be made either orally at the meeting or in writing not later than December 29, 1989.

Corridor Description

The Tasman corridor is generally located between Interstate Routes 680 and 880 from the Fremont BART Station to downtown San Jose and westerly along the vicinity of State Route 237 from Milpitas to the Sunnyvale and Mountain View areas. The corridor's freeways experience peak-period congestion due to commuting associated with the large number of research, manufacturing, and defense jobs located in the corridor. Major commuter travel into and within the corridor includes: (1) East Bay residents commuting to the downtown San Jose area and the "Golden Triangle" area (bounded by I-880 and State Routes 237 and 101), (2) residents of Milpitas and northeast San Jose commuting to the Golden Triangle and Mountain View-Sunnyvale areas, (3) residents of San Francisco and San Mateo County commuting to Lockheed/NASA Ames, GTE, and elsewhere in the Golden Triangle, and (4) residents of central and south San Jose commuting to northern San Jose and the Milpitas and Mountain View-Sunnyvale areas.

Alternatives

The proposed alternatives to be studied originally included extensions of BART service south of the existing Fremont Station and extensions of the Guadalupe Corridor LRT to connect with the BART extension in the east and with the CalTrain commuter rail service in the west at Mountain View or Sunnyvale. The rescoped study will focus on a lower-cost set of express bus and LRT alternatives excluding the BART extensions. The MTC and BART are still evaluating alternative extensions of BART service south of the Fremont Station, but UMTA funding assistance is not programmed for the BART project. The MTC and BART will evaluate the BART extensions in a separate environmental document prepared in compliance with the California Environmental Quality Act. UMTA has determined that the BART project and the project which is the subject of the UMTA EIS are separate projects, each having utility independently of the other project.

The new alternatives proposed for consideration in the UMTA EIS differ from the original set primarily in their cost and the level of service provided to transit users. The alternatives proposed for continuing analysis are: No Action, Transportation System Management (TSM) alternatives, Express Bus/High Occupancy Vehicle (HOV) alternatives, and various extensions of the Guadalupe Corridor LRT. The TSM and Express Bus/HOV alternatives include additional express bus service and the construction of additional ramps and bypass lanes are also included in the Express Bus/HOV alternative. The proposed extensions of the LRT include an extension east from the existing Guadalupe LRT line along Tasman Drive and Capitol Avenue to I-680 or Milpitas, and an extension west from the existing Guadalupe LRT terminal to Lockheed, Mountain View, or Sunnyvale. The Mountain View or Sunnyvale terminals will provide a direct connection to the CalTrain commuter rail system. All LRT alternatives will include consideration of improved express bus service from the BART terminal in Fremont into Santa Clara County.

Probable Effects

The UMTA, SCCTD, and MTC propose to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives under consideration. The impacts analyzed will include the increased noise and vibration, residential and business displacements, changes in development patterns and land use, community disruption resulting from the cumulative effect of the other impacts, traffic and parking changes, effects on historic sites, degradation of local air quality and water quality especially near stations and yards, and the disruption of parklands, recreation areas, wetlands, floodplains, ecologically sensitive areas, natural and man-made hazardous materials sites, and the aesthetic quality of the area. These impacts will be evaluated both for the construction period and for the long-term operation of each alternative. Measures to mitigate harm will be explored for any adverse impact identified.

Construction of any alternative other than the No-Build will require increased capital outlays for several years and are expected to increase transit service and patronage with associated increases in transit operating and maintenance costs. The alternatives are expected to have no significant impact on navigable waterways, coastal zones, energy use, or regional air quality.

During scoping, comments on the probable effects should focus on the completeness of the proposed set of impacts to be evaluated. Other impacts or criteria judged relevant to decision-making should be identified.

Dated: November 3, 1989.

Louis F. Mraz, Jr.,

Acting Western Area Director.

[FR Doc. 89-26494 Filed 11-9-89; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Type of Review: Resubmission.

Title: Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation; Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.

Regulations, as amended (19 CFR 111.74), revoked the individual Customs broker's license No. 6640 issued to Steven T. Peterman. The appeal of this action having been dismissed by order

period of two to three years. The duration varies by geographic area.

The goal of the program is to facilitate bilateral institutional relations through faculty and staff exchanges.

high scholarly value to the U.S. university, if proposed exchanges cannot otherwise take place without USIA assistance, and if they include a group of highly trained specialists not

universities are encouraged to ask for only as much money as they can effectively use within the constraints of their linkage plan and three-year time frame.

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DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Date: November 6, 1989.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0047.
Form Number: IRS Form 990 and Schedule A (Form 990).
Type of Review: Resubmission.
Title: Return of Organization Exempt from Income Tax Under section 501(c) (except black lung benefit trust or private foundation) of the Internal Revenue Code or section 4947(a)(1) Trust.

Description: Form 990 is needed to determine that Internal Revenue Code section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. Schedule A (Form 990) is used to elicit special information from section 501(c)(3) organizations. IRS uses the information from these forms to determine if the filers are operating within the rules of their exemption.

Respondents: Non-profit institutions.
Estimated Number of Respondents/Recordkeepers: 327,953.
Estimated Burden Hours Per Response/Recordkeeping:

	Form 990	Schedule A
Recordkeeping	83 hrs., 25 min.	39 hrs., 56 min.
Learning about the law or the form.	14 hrs. 31 min.	8 hrs., 2 min.
Preparing the form.	19 hrs., 18 min.	9 hrs., 6 min.
Copying, assembling, and sending the form to IRS.	48 min.	0

Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 45,956,094 hours.
OMB Number: 1545-0052.
Form Number: IRS Form 990-PF.
Type of Review: Resubmission.
Title: Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation; Return of Certain Excise Taxes on Charities and Other Persons Under chapters 41 and 42 of the Internal Revenue Code.

Description: Internal Revenue Code section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940-1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Section 6011 requires a report of taxes under chapter 42 of the Code for prohibited acts by private foundations and certain related parties. Section 4947(a) trusts may file Form 990-PF in lieu of Form 1041 under the provisions of sections 6033 and 6012.

Respondents: Businesses or other for-profit, Non-profit institutions.
Estimated Number of Respondents/Recordkeepers: 43,067.
Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping	130 hours, 6 minutes.
Learning about the law or the form.	21 hours, 25 minutes.
Preparing the form	25 hours, 25 minutes.
Copying, assembling, and sending the form to IRS.	16 minutes.

Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 1,779,375 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmenal Reports, Management Officer.
[FR Doc. 89-26515 Filed 11-9-89; 8:45 am]
BILLING CODE 4810-25-M

Customs Service

[T.D. 89-85]

Revocation of Individual Customs Broker's License No. 6640 Issued to Steven T. Peterman

AGENCY: U.S. Customs Service, Treasury.

ACTION: General Notice.

SUMMARY: Notice is hereby given that the Secretary of the Treasury on March 21, 1989, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and 111.74 of the Customs Regulations, as amended (19 CFR 111.74), revoked the individual Customs broker's license No. 6640 issued to Steven T. Peterman. The appeal of this action having been dismissed by order of the Court of International Trade (Court No. 89-05-00275) is effective as of September 21, 1989.

Dated: November 6, 1989.

Victor G. Weeren,
Director, Office of Trade Operations.
[FR Doc. 89-26559 Filed 11-9-89; 8:45 am]
BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Bureau of Educational and Cultural Affairs University Affiliations Program: Application Notice for Fiscal Year 1990

Applications for grants from U.S. institutions of higher education are invited under the University Affiliations Program.

Authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256 (Fulbright-Hays Act). The purpose of the Fulbright program is "to enable the government of the United States to increase mutual understanding between the people of the United States and people of other countries."

Public reporting burden for this collection of information is estimated to average 15 hours per response, including the time for reviewing instructions, searching existing data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to USIA Clearance Officer, M/ASP, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

(Information collection involved in this program has been approved by OMB Action Number 3116-0179, expiration date 11/30/89.)

Summary

The Bureau of Educational and Cultural Affairs of the United States Information Agency (USIA or the Agency) invites applications from institutions of higher education under the University Affiliations Program. Through the University Affiliations Program, USIA provides grants for the development and strengthening of linkages between U.S. and foreign institutions of higher education for a period of two to three years. The duration varies by geographic area.

The goal of the program is to facilitate bilateral institutional relations through faculty and staff exchanges. Participating institutions exchange faculty and staff for teaching, lecturing, and research assignments of one month or longer (with exceptions as noted for North Africa, Middle East, South Asia, and the American Republics); maintain their faculty/staff on full salary and benefits; and use grant funds to defray economy-class costs for international travel, per diem expenses, planning trips, and purchase of educational materials (up to 5% of the total grant amount) to be used at and donated to the foreign institution in countries or regions indicated. Educational materials must be purchased in the U.S. Planning trips for Project Directors (one in each direction) are allowable to complete plans before exchanges between the partners begin. Feasibility studies needed for the preparation of the proposal will not be funded. Proposals for research only will not be considered unless combined with substantial participation in graduate-level seminars and with the substantial collaboration of foreign nationals. The 1990 competition is limited to specific countries and specific fields of study as indicated in each geographic area program description. The program design for each region describes variations in allowable activities (see below).

In the U.S., program participation is open to accredited U.S. institutions of higher education, including graduate schools, four-year colleges and universities; and consortia of universities (proposals may be submitted by a member institution or an organization with authority to represent the consortium). Community and two-year colleges are eligible only for the "Geographic Area Program Competition" in the American Republics. For consortia of institutions, specific responsibilities of each institution and aspects of proposed program participation should be defined.

Overseas participation is open to recognized degree-granting institutions of higher education and independent research institutes.

Eligible research institutes are defined as reputable, non-partisan, non-profit, private or public research institutions that have produced significant long-term scholarly research published in nationally recognized journals or other publications; and have national (and preferably international) professional recognition. Exchange projects including research institutes will be considered only if the institute works in a field of high scholarly value to the U.S. university, if proposed exchanges cannot otherwise take place without USIA assistance, and if they include a group of highly trained specialists not otherwise reached.

Participants traveling under USIA grant support must be U.S. citizens, if representing the U.S. partner institution, and nationals of the country of the foreign partner.

Subject to the availability of funds in Fiscal Year 1990, approximately 20 grants will be available on a competitive basis for specific geographic locations and themes. Awards will reflect Agency priorities and academic considerations. Complete program criteria and application guidelines appear below.

All proposals recommended for funding will be subject to Agency review for conformity to relevant OMB and legal guidelines. Funding of any proposal is subject to the regular procedures, regulations and requirements for Bureau of Educational and Cultural Affairs grants, including review by USIA's Office of General Counsel and submission for approval to the Board of Foreign Scholarships.

U.S. institutions should collaborate with their foreign partners on planning and preparing proposals. U.S. institutions are also responsible for the submission of proposals which must reach USIA no later than 5:00 p.m. EST, Thursday, February 15, 1990.

Geographic Area Program Competition—Africa

Description of Program: Grants for the exchange of faculty and staff. Grant will cover international travel, per diem, educational materials, and two planning trips for Project Directors (one in each direction).

Eligible Countries: All sub-Saharan African countries are eligible for participation in the program. The Agency is especially interested in receiving proposals for South Africa, Nigeria, Uganda, and Congo.

Eligible Fields: Proposals will be considered for any discipline in the Humanities and Fine Arts, Social Sciences, Law, Library Science, American Studies, Education, and Communications. The Agency is especially interested in receiving proposals in the following fields for this year and the following year:

—Business Administration
—University Administration
—Student Counseling and Support Services
—Ecology and Environmental Studies

Duration of Projects: Three years.

Grant Amount: Grant requests of up to $75,000 will be considered, although universities are encouraged to ask for only as much money as they can effectively use within the constraints of their linkage plan and three-year time frame.

American Republics

Description of Program: Grants for the exchange of faculty and staff. Grant will cover international travel, per diem, and educational materials for faculty and staff exchanges of one month or more. Grants can also support one-week conferences, internships (structured, substantive professional affiliations related to the field of specialization), and up to two planning trips for Project Directors (one in each direction). See section on grant amounts for additional details. One or more universities in the U.S. to link up with a group of institutions in Central America and the Caribbean. Single country projects for South America.

Eligible Countries and Fields: Central America—Only regional proposals in Ecology and Environmental Studies will be considered and should include two or more of the following countries: Belize, Costa Rica, El Salvador, Honduras, Guatemala, Nicaragua, and Panama. The regional scope of the proposal will be an important selection factor.

Caribbean—only regional proposals in the field of Teacher Education will be considered and should include two or more of the following countries: Bahamas, Barbados, Guyana, Jamaica, and Trinidad and Tobago. The regional scope of the proposal will be an important selection factor.

South America (single-country projects): Argentina—Business Administration; Brazil—Ecology and Environmental Science; Chile—Humanities and the Social Sciences; and Ecuador—History, Economics, and other Social Sciences.

Duration of Projects: Three years.

Grant Amount: For *Central America and the Caribbean* the maximum grant for each regional project funded will be $100,000. In addition to travel and per diem for faculty and staff exchanges of one month or more, the grant can cover a one-week conference, internships from one-three months, educational materials, and up to two planning trips of Project Directors. Single country grants for *South America* will be a maximum of $75,000 and may include the same components as the regional grants.

Europe

Description of Program: Grants for the exchange of faculty and staff. Grant will cover international travel, per diem, educational materials, and two planning

trips for Project Directors (one in each direction).

Eligible Countries: Czechoslovakia (limited to universities outside Prague), Pakistan*, Qatar, Saudi Arabia, Sri Lanka, Sudan, Syrian Arab Republic*, Tunisia, United Arab Emirates, and Yemen.

three year-projects. Proposals from a U.S. institution may also be for an affiliation with two foreign institutions from different geographic areas. For

institutions, name of foreign country, U.S. and foreign project directors and their deputies, addresses and telephone numbers of project directors, academic field(s) of proposed project; (b) proposal

5. Academic quality of credentials and experience of participants in relation to the goals of the proposed exchange plan (including linguistic proficiency, where

3. *Narrative*, total text not to exceed twenty typed, double-spaced pages, including:

a. A brief (two-page) description of the

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trips for Project Directors (one in each direction).

Eligible Countries: Czechoslovakia (limited to universities outside Prague), German Democratic Republic, Hungary, USSR (limited to universities in the Baltic States, Byelorussia and the Ukraine), and Yugoslavia.

Eligible Fields: Proposals will be considered for any discipline(s) in the Social Sciences or Humanities. Preference, however, will be given to the following fields: American Studies, Business Administration, Industrial Relations, Sociology, Communications, Economics, Education, Environmental Issues, Fine Arts, Law, Political Science, and TEFL. For Yugoslavia, preference will be given to American Studies and Business Administration.

Duration of Projects: Two to three years.

Grant Amount: Two-year projects: $60,000; Three-year projects: $75,000.

East Asia and the Pacific

Description of Program: Grants for the exchange of faculty and staff. Grant will cover international travel, per diem, educational materials, and two planning trips for Project Directors (one in each direction).

Eligible Countries with Priority Fields: Australia—Projects focusing on Australian-American relations or that involve comparative studies in fields such as international trade, higher education policy, or urban studies:
New Zealand—Political Science with special emphasis on government policy studies;
Thailand—American and Thai Studies;
Malaysia—Islamic Studies;
Indonesia—American and Islamic Studies;
Hong Kong—Social Sciences; and
Peoples Republic of China—American and Chinese Studies or Social Sciences.

Eligible Fields: See country priorities.

Duration of Projects: Three years.

Grant Amount: Maximum amount for each three-year project is $75,000.

North Africa, Middle East and South Asia

Description of Program: Grants for the exchange of faculty and staff. Grant will cover international travel, per diem, educational materials, and two planning trips for Project Directors (one in each direction). Preference will be given to proposals which emphasize exchange periods of two months or longer.

Eligible countries: Algeria, Bahrain, Bangladesh, Bhutan, Egypt*, India, Israel, Iraq*, Jordan, Kuwait, Mauritania, Morocco, Nepal, Oman, Pakistan*, Qatar, Saudi Arabia, Sri Lanka, Sudan, Syrian Arab Republic*, Tunisia, United Arab Emirates, and Yemen.

Provided they meet academic review criteria, special consideration will be given to proposals received for affiliations with institutions in the locations marked by an asterisk (*).

N.B.—All proposals for India must be accompanied by proof of approval of the proposed program by the Government of India in order to comply with USIA technical review requirements. U.S. institutions are advised to contact Indian partner institutions about this requirement as early as possible, since review processes of Indian government ministries do not coincide with USIA program deadline. Indian government approval must be sought through the Executive Director, U.S. Educational Foundation in India, 12 Hailey Road, New Delhi, India 110001. Tel. 388944 through 388948. Cable USEFI.

Eligible Fields: Social Sciences, Humanities, Education, Communications, Business Administration, Library Science, Fine Arts, American Studies.

Duration of Projects: Three years.

Grant Amount: Maximum amount for each three-year project is $75,000.

Special Competition for Exchanges to Commemorate the Quincentennial of the Discovery of the Americas

USIA also invites applications for a special competition with any country for faculty teaching and/or research projects which commemorate the Quincentennial of the European discovery of the Americas. Proposals should conform to the general guidelines published in this announcement with the following qualifications:

1. Only graduate schools and four-year colleges and universities are eligible to apply.
2. Proposals may be offered in any eligible discipline (Social Sciences, Humanities, and Fine Arts).
3. The proposal must focus on the discovery of the Americas in 1492, the subsequent colonization of Hispano-America, Brazil, or the European voyages of exploration through 1521.
4. The proposed project must demonstrate a scholarly contribution to the generation of new knowledge and insights, and should begin no later than fall 1990 and extend through 1993.
5. Eligible foreign partners include appropriate institutions worldwide.
6. Proposals may be for an affiliation between a U.S. institution and one foreign institution as in the regular program. The maximum grant amount for two-way exchanges is $75,000 for three year-projects. Proposals from a U.S. institution may also be for an affiliation with two foreign institutions from different geographic areas. For three-way exchanges, a U.S. institution might choose a partner in Latin America or the Caribbean, and a partner in the Iberian Peninsula. In such cases, the maximum grant amount would be $90,000.

Requirements for Application—University Affiliations Program:

I. *Eligibility:* Applications on behalf of the collaborating institutions must be submitted by the U.S. partner. Eligible partner institutions are:

1. U.S.—Accredited institutions of higher education, including graduate schools, four-year colleges and universities; and consortia of universities (proposals may be submitted by a member institution or an organization with authority to represent the consortium). Community and two-year colleges are eligible only for the "Geographic Area Program Competition" in the American Republics.

2. Overseas—Recognized degree-granting institutions of higher education and independent research institutes.

II. *Review Process:* Proposals will be reviewed for technical, academic, and Agency considerations (defined below). Proposals which are technically ineligible (eligibility criteria stated below) will not be forwarded for further review by the academic and Agency review committees, so for this reason it is imperative that proposals be complete, accompanied by all necessary documentation, and with budgetary and other information in the required form.

Upon completion of the technical review, applicants will be notified in writing of the status of their proposals. There will be a grace period to submit any missing documentation. Technically eligible proposals will be forwarded for academic review. Proposals recommended by independent academic review panels will be further considered by USIA grant review panels. Agency panels will evaluate proposals based on specific criteria addressing factors of institutional and personnel quality, quality of the program design, cost-effectiveness, and overall geographical and program balance.

Technical Review Criteria

To meet technical requirements, proposals must be submitted within deadline; the proposal package must consist of the original proposal and fifteen (15) complete copies, including: (a) A cover sheet with names of both

institutions, name of foreign country, U.S. and foreign project directors and their deputies, addresses and telephone numbers of project directors, academic field(s) of proposed project; (b) proposal abstract [approximately two double-spaced pages]; (c) a narrative [no more than twenty double-spaced pages]; [d] three-column budget (covering international travel, maintenance, educational materials, and planning trips; see sample below); (e) academic resumes of program participants (no more than two double-spaced pages each); (f) required letters of agreement; (g) summary of international linkages (individual consortium members and research institutes must also meet this requirement); (h) for research institutes—publications issued in the past five years, resumes for personnel giving full academic qualifications of researchers, evidence of institutional standing, sources and amounts of funding, and uses of funds for most recent five years.

Proposed projects must be for a period of two to three years according to the program design for each geographic area, and be in eligible geographic and academic areas. See detailed requirements above.

N.B.: U.S. institutions are responsible for assuring complete understanding of and compliance with financial requirements by the foreign partner; and for obtaining the letter of commitment so stating in the specific format described below. No exceptions will be made.

Academic Review Criteria

Proposals are reviewed by independent academic panels (with geographic and discipline expertise) which make recommendations to the Agency based on the following criteria:

1. Soundness of proposal indicating academic quality, as reflected by focused goals and selection of relevant topics and activities, a clear statement of program goals and means to accomplish the goals, detailed description of project with statement of how the proposed project will be implemented and evaluated, a justification of the intellectual or institutional importance of the proposed program;
2. Evidence that theme(s) of proposed project fit priority field(s) stated in the announcement;
3. Evidence of strong mutual benefits to the institutions involved in the exchanges and a description of how each institution would benefit;
4. Feasibility of the program plan as it relates to the stated goals and selected topics and activities;
5. Academic quality of credentials and experience of participants in relation to the goals of the proposed exchange plan (including linguistic proficiency, where required);
6. Appropriateness of length of exchange visits given project goals.
7. Evidence of input from foreign institution;
8. Evidence that the proposed exchanges are likely to achieve the program's overall goal of mutual institutional development and production of new knowledge or skills;
9. Demonstration that the partership is likely to continue after the expiration of the USIA grant; and
10. If the proposal requests support for an established, active linkage, evidence that the University Affiliations funding would allow for strengthening or innovation in the exchange relationship.

Note: Proposals for research only will not be considered unless the research involves collaboration among researchers from both institutions and is linked to graduate training in seminars.

Agency Review Criteria

USIA reviews only those proposals recommended for further consideration by academic review panels. Agency considerations are based on:

1. Academic quality, reflected in academic review panels' assessment of academic standing of participating institutions and individuals and the likely contributions to knowledge and education the project will make;
2. Advancement of mutual cultural and political understanding between the countries or geographic areas represented in the partnership;
3. Feasibility of program plan;
4. USIA overseas post assessments of feasibility and contribution to local academic development;
5. Evidence of strong institutional commitment by participating institutions;
6. Promise of long-term impact; and
7. Cost-effectiveness.

III. *Application Procedures:* Applicants must submit one original and fifteen (15) complete copies of their proposals no later than 5:00 p.m. EST, Thursday, February 15, 1990, to: University Affiliations Program 1990, United States Information Agency, 301 4th Street, SW., Room 349, Washington, DC 20547.

In order to be eligible for review, the proposal (which constitutes the program application) *must* include:

1. *Cover Sheet,* described under Technical Review Criteria.
2. *Summary document,* a typed project abstract, approximately two double-spaced pages.
3. *Narrative,* total text not to exceed twenty typed, double-spaced pages, including:

a. A brief (two-page) description of the participating institutions and participating departments;

b. A detailed description of the proposed affiliation program including but not limited to: names and qualifications of designated Project Directors; roster of program participants for both institutions (for the duration of the proposed project), and their qualifications, including language skills; a statement of need for the proposed project (reflecting international, national and institutional considerations); a detailed, specific description of proposed activities, including when, where, and how they will occur, individuals who will carry out activities, departments involved; and the anticipated benefits of the program to participating institutions. A plan for institutional evaluation of the program must also be included.

4. A detailed, *three-column budget* (see sample below) outlining specific expenditures and source(s) from which funds are anticipated. *The only budget items eligible for USIA grant funds are:*

a. International economy-class airfare travel costs for participants (travel must be on U.S. air carriers where available);

b. Compensation (supplements to salary and/or benefits) or modest per diem may be requested for such specific items as housing, food and other maintenance items while in exchange status. Participating universities will be expected to continue full salary and benefits for their own faculty. The maximum amount that may be requested for compensation supplements/per diem may not exceed the rates authorized in the "Standard Government Travel Regulations" for travel in foreign countries and U.S. localities. The USIA officers listed in this announcement will supply these rates upon request.

The maximum rates described above are legal limitations only. Institutions are encouraged, in planning their budgets, to set temporary living allowances at a lower level which can be more easily maintained after the period of USIA funding. U.S. institutions are reminded that, in certain cases, restrictions may be placed on the export of salary in other currencies.

c. Cost of educational materials (for overseas use), not to exceed up to 5% of grant amount.

d. Cost of planning trips prior to project implementation. The program allows a maximum of two planning trips per grant for Project Directors.

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Required format for budget:

All proposed expenditures should be individually listed (for the duration of the proposed project), using the format below. Each request for travel should specify round trip cost and destination for each participant per fiscal year. Each maintenance request should specify locality (city), daily rate, and duration of stay for each participant (not to exceed published Federal government rates). Costs for educational materials should not exceed the allowable amounts for the duration of the grant (up to 5% of grant). Direct and indirect costs, in-kind or cash contributions, absorbed by each institution should be included, along with regular salary and benefits, under the column of contributions for each partner:

	USIA	U.S. inst.	Foreign inst.
Year 1			
International travel.	X	X	X
Maintenance costs.	X	X	X
Salary & benefits.	n/a	X	X
Planning Trips (only 2).	X	X	X
Educational materials.	X	X	X
Other direct or indirect costs (waived).	n/a	X	X
Total	X	X	X
Year 2			
International travel.	X	X	X
Maintenance costs.	X	X	X
Salary & benefits.	n/a	X	X
Educational materials.	X	X	X
Other direct or indirect costs (waived).	n/a	X	X
Total	X	X	X
Year 3			
International travel.	X	X	X
Maintenance costs.	X	X	X
Salary & benefits.	n/a	X	X
Educational materials.	X	X	X
Other direct or indirect costs (waived).	n/a	X	X
Total	X	X	X

Ineligible Budget Items for University Affiliations Program Grant Support:

a. Administrative expenses (both direct and indirect) incurred in connection with the affiliation;

b. Expenses for student exchanges;

c. Domestic travel, except for projects involving multi-campus universities and consortia of universities/colleges;

d. Costs for dependents;

e. Insurance coverage;

f. Any costs for non-U.S. citizens or nationals from the U.S. institutions, or non-citizens or non-nationals representing the overseas universities.

5. *Appendices,* which should be kept to a minimum, must include:

a. *Academic résumés of professional accomplishments of potential U.S. and foreign participants, not to exceed two pages in length each,* clearly indicating relevant academic training, academic positions held, overseas seminars taught in the past four years, publications, and other professional accomplishments in the field of specialization, citizenship, the level of language skills, overseas experience, knowledge of the prospective partner country or area as demonstrated through courses taught, relevant scholarly travel. *Lengthy academic vitae should not be submitted.*

b. *Documentation of institutional support* for the proposed affiliation, including a signed letter of endorsement from the U.S. institution's (or consortium members') *president, vice-president, chancellor* or *provost, director* (for research institute), as well as a signed letter of endorsement from the *president (or equivalent)* of the non-U.S. institution. All participating institutions must provide the letter of support, which must specifically refer to the 1990 University Affiliations Program and commit participating institutions to maintaining their exchange participants on full salary and benefits during the exchange.

N.B: A general letter or agreement between participating U.S. and foreign institutions without reference to maintaining faculty and staff on salary and benefits will not be acceptable.

c. A brief *summary of past and present linkages* at both partner institutions.

(U.S. institutions are reminded that in certain areas, host government clearance/approval must be obtained before any exchange program of this type may be carried out. It is the responsibility of the foreign institution to seek such approval.)

6. *Deadline:* Complete proposal packages must be received by USIA *no later than* Thursday, February 15, 1990, 5:00 p.m. EST.

Applicants are responsible for the submission of complete applications. *All* required items should be received by the deadline.

7. *Notification:* Successful applicants will be notified on or about the end of June 1990. Funded proposals will be subject to periodic reporting and evaluation requirements.

Inquiries: For questions concerning programming and budget, please contact the following USIA officials:

Africa: Dr. Ellen Berelson (E/AEA), Academic Exchanges Division, Africa Branch, (202) 485–7355.

American Republics: Ms. Paula Durbin (E/AEL), Academic Exchanges Division, American Republics Branch, (202) 485–7365.

East Asia and the Pacific: Dr. Mikel Edwards (E/AEF), Academic Exchanges Division, East Asia/Pacific Branch, (202) 485–7402.

Europe: Dr. William James (E/AEE), Academic Exchanges Division, Europe Branch, (202) 485–7420.

Near East/South Asia: Mr. Michael Graham (E/AEN), Academic Exchanges Division, Near East/South Asia Branch, (202) 485–7368.

General Inquiries: Dr. Winnie D. Emoungu, Coordinator, University Affiliations Program, Office of Academic Programs, (202) 485–6468.

Dated: October 27, 1989.

William Glade,

Associate Director.

[FR Doc. 89–26526 Filed 11–9–89; 8:45 am]

BILLING CODE 8230–01–M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held November 15, 1989 in Room 600, 301 4th Street, SW., Washington, DC from 11:00 a.m. to 12:00 p.m.

The Commission will meet with USIA's Director of Congressional Liaison. The Agency's Comptroller and Associate Director for Management also will brief the Commission on the Agency's budget.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: November 6, 1989.

Ledra L. Dildy,

Management Analyst, Federal Register Liaison.

[FR Doc. 89–26527 Filed 11–9–89; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

November 7, 1989.

DATE AND TIME: Friday, November 17, 1989, 9:00 a.m.—5:00 p.m.

PLACE: 1121 Vermont Avenue, N.W., Room 512, Washington, DC 20425.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of October Meeting
III. Announcements
IV. Briefing on the Effectiveness of Federal Civil Rights Statutes in Addressing Violence Motivated by Racial, Ethnic, or Religious Prejudice (Approximately 90 minutes)
V. Draft Report on *Economic Status of Black Women: An Exploratory Investigation*
VI. Draft Statement on *Intimidation and Violence, Racial and Religious Bigotry in America*
VII. Proposal—Education and the Workplace
VIII. Meeting Schedule, First Quarter, 1990
IX. SAC Reports and Recharters
The Employment of Minorities and Women by Kentucky State Government
Voter Registration in Louisiana Parishes
A Followup Forum on Census Undercounts and Preparations for the 1990 Census
Civil Rights Laws and Legislative in West Virginia
Discrimination Against Chippewa Indians in Northern Wisconsin
Implementation in Utah of the Immigration Reform and Control Act: Phases One and Two
SAC Recharters
X. Commission Subcommittee Reports
XI. Staff Director's Report
A. FOIA Regulations
B. 504 Regulations
C. FY 1990 Budget
XII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376–8312.

Jeffrey P. O'Connell,

Acting Solicitor.

[FR Doc. 89–26613 Filed 11–7–89; 4:47 pm]

BILLING CODE 6335–01–M

FEDERAL RESERVE SYSTEM COMMITTEE ON EMPLOYEE BENEFITS

TIME AND DATE: 7:30 a.m., Wednesday, November 15, 1989.

The business of the Committee requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans. Specific items include: (1) Thrift Plan proposal; (2) Retirement Plan Social Security integration; and (3) pension supplement.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: November 8, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–26699 Filed 11–8–89; 1:44 pm]

BILLING CODE 6210–01–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE (NCLIS)

Cancellation of Meeting

This is to announce that the meeting of the U.S. National Commission on Libraries and Information Science (NCLIS), which was announced on page 46792 of the November 7 edition of the **Federal Register** has been cancelled.

FOR FURTHER INFORMATION CONTACT: Susan K. Martin, NCLIS Executive Director, 1111 18th Street, NW, Suite 310, Washington, DC 20036, (202) 254–3100.

Dated: November 8, 1989.

Jane D. McDuffie,

Staff Assistant.

[FR Doc. 89–26636 Filed 11–8–89; 10:59 am]

BILLING CODE 7527–01–M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Resolution Trust Corporation's Board of Directors will meet in open session at 3:00 p.m. on Tuesday, November 14, 1989, to consider the following matter:

Proposed regulation on principles of ethical conduct for RTC contractors.

The meeting will be held in the Amphitheater of the RTC Building located at 801 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at (202) 898–3604.

Dated: November 7, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89–26612 Filed 11–7–89; 4:47 pm]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 13, 1989.

An open meeting will be held on Wednesday, November 15, 1989, at 10:00 a.m. A closed meeting will be held on Thursday, November 16, 1989, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

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The subject matter of the open meeting scheduled for Wednesday, November 15, 1989, at 10:00 a.m., will be:

Consideration of whether to issue a Policy Statement stating that the self-regulatory organizations should, on a voluntary basis, establish comprehensive planning and assessment programs to establish system capacity and vulnerability. For further information, please contact Tanya Noonan Herring at (202) 272-2415.

The subject matter of the closed meeting scheduled for Thursday, November 16, 1989, at 10:00 a.m., will be:

Institution of injunctive actions.
Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Opinion.

At times, changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert Rosenblum at (202) 272-2200.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26729 Filed 11-8-89; 3:40 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 217
Monday, November 13, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

34 CFR Part 208

RIN 1810-AA40

Mathematics-Science Education Program; State Grants

Correction

In rule document 89-18725 beginning on page 32936 in the issue of Thursday, August 10, 1989, make the following correction:

On page 32940, in the first column, in paragraph (d)(1), in the third line, "(1)(2) and (3)" should read "(a)(2) and (3)".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP89-98-007 and RP89-133-004]

Colorado Interstate Gas Co.; Compliance Filing

Correction

In notice document 89-25668 beginning on page 40111 in the issue of Wednesday, November 1, 1989, make the following correction:

On page 40111, in the third column, in the heading, the docket numbers should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP90-102-000 et al.]

Trunkline Gas Company, et al.; Natural Gas Certificate Filings

Correction

In notice document 89-25772 beginning on page 46293 in the issue of Thursday, November 2, 1989, make the following correction:

On page 46294, in the first column, under 4. **Trunkline Gas Company**, the docket number should read "CP90-101-000".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87P-0207]

Canned Pacific Salmon Deviating From Identity Standard; Amendment of Temporary Marketing Permit; Bumble Bee Seafoods, Inc.

Correction

In notice document 89-24671 beginning on page 42993 in the issue of Thursday, October 19, 1989, make the following corrections:

1. On page 42993, in the third column, under **SUMMARY:**, in the 7th line, "inhabit" should read "inhibit".

2. On the same page, in the same column, under **SUMMARY:**, in the 13th line, "produce" should read "product".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-89-41]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

Correction

In notice document 89-25450 appearing on page 44003 in the issue of Monday, October 30, 1989 , make the following correction:

On page 44003, in the first column, under **DATE:**, in the fourth line, insert "November 20, 1989", following "before:".

BILLING CODE 1505-01-D

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federal register

Monday
November 13, 1989

Part II

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3402

Food and Agricultural Sciences, National Needs Graduate Fellowships, Grants Program; Administrative Provisions; Proposed Rule

BEST COPY AVAILABLE

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DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3402

Food and Agricultural Sciences, National Needs Graduate Fellowships, Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Cooperative State Research Service (CSRS) proposes to amend its regulations relating to the administration of the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program conducted under the authority of section 1417(a)(3)(B) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(a)(3)(B)). This action is being taken to clarify certain rules and goals of the program, provide additional guidance to applicants so that the material submitted facilitates evaluation of proposals, modify the weight factors associated with two of the evaluation criteria, and add newly applicable Federal statutes and regulations.

DATE: Comments concerning this proposed amendment are invited from interested individuals and organizations. Comments must be received on or before December 13, 1989.

ADDRESS: Comments should be sent to Dr. K. Jane Coulter, Director, Higher Education Programs, Cooperative State Research Service, U.S. Department of Agriculture, Washington, DC 20250–2200.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jane Coulter, 202–447–7854.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the collection of information requirements contained in this proposed rule have been approved under OMB Document No. 0524–0024.

Classification

This proposed rule has been reviewed under Executive Order No. 12291 and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's individual industries, Federal, State, or local governmental agencies, or on geographical regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law No. 96–534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this proposed rulemaking.

Environmental Impact Statement

This proposed regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.210, Food and Agricultural Sciences National Needs Graduate Fellowships Grants. For the reasons set forth in the Final Rule-related Notice to 7 CFR part 3105, subpart V, 48 FR 29115, June 24, 1983, at which time the authority to administer this program resided in the Agricultural Research Service, this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 1417(a)(3)(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(a)(3)(B)), the Secretary of Agriculture is authorized to conduct a competitive graduate fellowships grants program. The administrative regulations governing the Food and Agricultural Sciences National Needs Graduate Fellowship Grants Program are proposed to be changed as follows:

Section 3402.6(a). Additional language is proposed for this section to specify the requirement that if a fellow completes the program of study early (less than 24 months for master's degree or 36 months for doctoral degree), remaining funds will revert to the granting agency.

Section 3402.6(b). Additional language is proposed for this section to urge grantee institutions to take maximum advantage of opportunities for awarding fellowships to population groups underrepresented in the food and agricultural sciences, particularly minorities and women.

Section 3402.12. Additional language is proposed throughout this section to guide applicants in the content and format of the information they submit in order to facilitate the evaluation of proposals.

Section 3402.14. The use of a faculty summary vita form is proposed so that faculty credentials are presented in a concise and uniform format to facilitate the evaluation of proposals. Currently, the majority of proposals do not summarize this information as requested in the regulation and the peer review panel must use valuable time to sort through voluminous materials to obtain the relevant data.

Section 3402.15. It is proposed that any additional supporting information included in the Appendix of the proposal be referenced in the national need narrative so that peer reviewers can readily recognize the relevance of documents attached to the proposal.

Section 3402.19. Based on discussions with several peer panel members who have evaluated grant proposals under this program, it is proposed that the weight factors associated with evaluation criteria a. and b. be modified. We believe this modification will attach greater importance to an institution's basic program of graduate training, yet allow additional credit for the institution which incorporates special features in an effort to enhance the quality of its program. In addition, it is proposed that evaluation criteria b. and e. be revised to provide further guidance to applicants and to facilitate the peer review process.

Section 3402.22. It is proposed that this section be amended to add Federal regulations made applicable to this grant program subsequent to the issuance of 7 CFR part 3402.

Section 3401.25. It is proposed that this section be amended to require the grantee institution to submit a *Graduate Fellow Exit Report* form for each student supported by a grant as soon as the fellow is (a) graduated, or (b) officially terminated from the program. A compilation of the exit reports for the fellows supported by a grant shall constitute the final performance report for that grant.

List of Subjects in 7 CFR Part 3402

Grant programs—agriculture, Agriculture Higher Education Programs (HEP) Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program.

For the reasons set forth in the preamble, title 7, chapter XXXIV, part 3402 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3402—[AMENDED]

1. The authority citation for part 3402 continues to read as follows:

Authority: Section 1470, National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3316).

2. Section 3402.6 is amended by:

a. Adding a new last sentence in paragraph (a); and

b. Adding a new second sentence in paragraph (b); as follows:

§ 3402.6 Fellowship appointments.

(a) * * * For fellows who complete the program of study early (less than 24 months for master's degree or 36 months for doctoral degree), the institution must refund any unexpended monies to the granting agency.

(b) * * * However, institutions are urged to take maximum advantage of opportunities for awarding fellowships to population groups underrepresented in the food and agricultural sciences, particularly minorities and women.

* * *

3. Section 3402.12 is amended by:

a. Revising the introductory text;

b. Revising Section 1;

c. Revising the first sentence of Section 2; and

d. Revising the last sentence of Section 4; as follows:

§ 3402.12 National need narrative.

A narrative for the national need area should be written in four sections. It should be typed, double-spaced, on one side of the page only, and limited to no more than 20 pages. The four sections to be included are as follows:

Sec. 1. This section must clearly establish that the proposed program of study and research will result in the development of outstanding expertise in the national need area for which funding is requested and will do so in a reasonable period of time. Present a detailed description of the proposed graduate program of study and research. If both master's and doctoral fellowships are requested, a separate plan of study should be included for each degree level. This section of the narrative should contain, but need not be limited to, the following components:

(a) The plan should specifically address the coursework which fellows will be required to take rather than the overall spectrum of departmental offerings. Identify courses, summarize content, and discuss sequencing. Explain how coursework will relate to fellows' research.

(b) Identify and describe areas of research that fellows will be encouraged to engage in via a thesis or dissertation.

(c) Discuss any special features of the graduate program such as the extent to which it will involve a combination-disciplinary approach (inter-disciplinary, multi-disciplinary, or cross-disciplinary) and thus result in development of expertise transcending a single discipline. Also discuss any other special features such as development of an unusual collateral specialization in a related discipline, experiential learning opportunities such as a practicum or internship, a unique mentoring program, seminars, or a multi-university collaborative approach.

(d) Discuss graduate program examination requirements, such as a proficiency or qualifying examination, a comprehensive examination, and an oral examination.

(e) Include a projected timetable for completing the proposed graduate program of study and research.

(f) If admission to the proposed doctoral program does not require a master's degree, discuss how institutional procedures allow for the bypass of a master's degree.

Sec. 2. Justify the institution's position that it presently provides a major, productive, recognized program of graduate study and research at the level(s) of study in the area of national need in which selected fellows would be engaged.

* * *

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Sec. 4. * * * Examples of appropriate data are indices of student quality, enrollments and degrees awarded for recent years, placement of graduates, facilities, faculty research support, and publications of previous doctoral trainees.

4. Section 3402.14. The first sentence is revised as follows:

§ 3402.14 Faculty vitae.

This section should include a Summary Vita, Form CSRS–708, for each faculty member contributing significantly to institutional competence at the level(s) of graduate study in the national need area addressed in the proposal. * * *

5. Section 3402.15 is revised as follows:

§ 3402.15 Appendix.

Any additional supporting information deemed important for clarifying and/or strengthening the proposal should be included in an Appendix and referenced in the national need narrative.

6. Section 3402.19 is amended by:

a. Revising the weight factor associated with evaluation criterion a.;

b. Revising evaluation criterion b. and revising the weight factor associated with it; and

c. Revising evaluation criterion e.; as follows:

§ 3402.19 Evaluation criteria.

* * * * *

Evaluation Criteria	Weight
a. * * *	30
b. The degree to which the proposed program of study reflects special features such as a combination-disciplinary approach (inter-disciplinary, multi-disciplinary, or cross-disciplinary), an unusual collateral specialization in a related discipline, experimental learning opportunities, a unique mentoring program, seminars, or a multi-university collaborative approach.	10
* * * * *	
e. The degree to which supporting summary data substantiate program quality in the targeted national need area.	* * *
* * * * *	

7. Section 3402.22 is amended by adding newly applicable Federal regulations in numerical order as follows:

§ 3402.22 Other Federal statutes and regulations that apply.

7 CFR part 3017—Governmentwide Debarment and Suspension (Nonprocurement); Governmentwide Requirements for Drug-Free Workplace (Grants), implementing Executive Order No. 12549 on debarment and suspension and the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).

8. Section 302.25 is amended by redesignating the existing text as paragraph (a); and adding a paragraph (b); as follows:

§ 3402.25 Documentation of progress on funded projects.

* * * * *

(b) A *Graduate Fellow Exit Report* form is included in the program brochure. This form should be completed and submitted to CSRS–HEP by the project director for each fellow supported by a grant as soon as a fellow is (1) graduated, or (2) officially terminated from the program. When an exit report for each fellow supported by a grant has been accepted by USDA, the grantee institution will have satisfied the requirement of a final performance report for the grant.

Done at Washington, DC, this 6th day of November 1989.

John Patrick Jordan,

Administrator Cooperative State Research Service.

[FR Doc. 89–26483 Filed 11–9–89; 8:45 am]

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Department of Transportation

Federal Aviation Administration

14 CFR Parts 27 and 29

Airworthiness Standards; Occupant Restraint in Normal and Transport Category Rotorcraft; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 25287; Amdts. 27-25 and 29-29]

RIN 2120-AB35

Airworthiness Standards; Occupant Restraint in Normal and Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments to the airworthiness standards for normal and transport category rotorcraft add two dynamic crash impact design conditions for seat and occupant restraint systems and increase the static design load factors for seating devices and items of mass in the cabin or adjacent to the cabin as prescribed. These amendments also prescribe a shoulder harness for each occupant and adopt human impact injury criteria as a measure for occupant protection for dynamic crash impact conditions. These amendments, consistent with the present state of the art, significantly improve occupant protection for normal and transport category rotorcraft in a survivable emergency landing impact mode.

EFFECTIVE DATE: December 13, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. J. H. Major, FAA, Regulations Group, ASW-111, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193-0111, telephone (817) 624-5117 or FTS 734-5117.

SUPPLEMENTARY INFORMATION:

Background

These amendments are based on Notice of Proposed Rulemaking (NPRM) No. 87-4 (52 FR 20838; June 3, 1987) which proposed to amend the rotorcraft airworthiness standards to improve occupant protection in normal and transport category rotorcraft for a survivable emergency landing impact. Notice No. 87-4 proposed to increase occupant protection and to assess the capability of the occupant restraint system and rotorcraft seats for a combined vertical and longitudinal dynamic test and for a primarily longitudinal dynamic test which are representative of emergency landing impact scenarios and to improve occupant protection from certain items of mass in an emergency landing impact. Occupant injury criteria were also proposed as unique pass/fail criteria for the seat and restraint system dynamic test conditions. The restraint system encompasses the seating device, cushions, and torso restraint system, also known as a safety belt and a shoulder harness. This rulemaking activity is one part of the FAA Aircraft Crash Dynamics program outlined in the Federal Register on September 21, 1984 (49 FR 37111).

In light of comments, the FAA reopened the comment period until May 6, 1988, and also announced in the Federal Register (53 FR 7579; March 8, 1988) that a public meeting would be held in Fort Worth, Texas, on April 20, 1988. The viewpoints presented by participants at the public meeting helped the FAA clarify the issues and counterproposals presented in response to the notice. A copy of the meeting transcript is contained in the docket for this rulemaking. All interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. A number of nonsubstantive changes and minor changes of an editorial and clarifying nature have been made to the proposals based upon comments received and upon further FAA review. No comments were received relating to the preliminary regulatory evaluation economic impact summary contained in the notice or to the associated economic evaluation report filed in the docket. Except as indicated herein, the proposals contained in the notice have been adopted without change.

The proposals were based on the data, references, and conclusions contained in Report. No. DOT/FAA/CT-85/11, "Analysis of Rotorcraft Crash Dynamics for Development of Improved Crashworthiness Design Criteria," June 1985, and other data sources such as full-scale rotorcraft and small aircraft impact test reports some of which were contained in SP622, "Crash Dynamics of General Aviation Aircraft," April 1985, published by the Society of Automotive Engineers (SAE). A copy of each report is contained in the regulatory docket.

Since these two reports were published in 1985, additional reports and information have been published about dynamic tests of aircraft seats. Much of the information, data, and conclusions from these tests provides: (1) Basic aircraft impact response data; (2) seat and anthropomorphic test dummy (ATD) interface loads and motion; (3) human injury assessments and the relationships associated with the proposed impact conditions; and (4) assessments of aircraft seat design technology required to comply with the proposed criteria. This body of aircraft information, data, and test results is also applicable, in part, to rotorcraft designs and supports this rulemaking activity.

Two dynamic test conditions were proposed in Notice No. 87-4. One test is primarily a vertical impact condition with vertical and longitudinal loads to simulate ground impact following a high rate of vertical descent with the Rotorcraft level. This condition emphasizes occupant vertical loading and determines the effectiveness of design features provided to restrain and support the occupant and to attenuate or control the loads imposed on the occupant. This reduces the potential for spinal compressive injury in an impact of this type.

The second test, a longitudinal impact with yaw angle, simulates a horizontal impact with a ground level obstruction such as a sloped ground surface or rise. This test condition provides an assessment of the occupant restraint system, potential secondary head impact with structure, etc., and seat structural performance in this mode.

Any direct correlation or relationship between the two dynamic test conditions was not envisioned or intended. These two dynamic test conditions were derived from the civil rotorcraft accident study of Report No. DOT/FAA/CT-85/11 and other aforementioned data. These two test conditions represent the expected aircraft response to an emergency landing impact, measured at the cabin floor/seat attachment, which is transmitted to the occupant through the seat and torso restraint system. Accordingly, it was not intended to include a fuselage, landing gear, or a major part of the fuselage to demonstrate compliance with the proposed seat test standards.

Of course, for a seat that is an integral part of the rotorcraft structure, the test setup must include a sufficient part of the fuselage to duplicate the seat and the occupant restraint system for a proper test. These seat dynamic test conditions are consistent with the structural characteristics of present rotorcraft designs and with the general or typical operational emergency landing impact found. The tests also provide for measured and meaningful protection of occupants in normal and transport category rotorcraft. The occupant injury pass/fail criteria adopted in these amendments are the same as those proposed for small airplanes in Notice No. 86-19 (51 FR 44878; December 12, 1986) and adopted in Amendment 23-36 (53 FR 30802; August 15, 1988) and are compatible with those proposed in Notice No. 86-11 (51 FR 25982; July 17, 1986) and adopted in Amendment 25-64 (53 FR 17640; May 17, 1988) for transport airplanes. The injury criteria are also found in Advisory Circular AC 21-22, "Injury Criteria for Human Exposure to Impact," June 20, 1985.

A major concern addressed by the proposal for occupant injury and seat and torso restraint system pass/fail criteria is the secondary head impact which may inflict a debilitating injury and result in concussion and possible unconsciousness. The measurement proposed in Notice No. 87-4 is the head injury criteria (HIC) used in Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). The HIC must be applied when the results of the seat dynamic tests show that structure or other hard objects are within the anthropomorphic test dummy's (ATD) head strike envelope. This proposal uses a practical alternative dynamic seat test procedure rather than requiring tests with seats installed in the particular aircraft fuselage design. The head acceleration time history must be measured and recorded during the seat dynamic tests and then evaluated according to the HIC criteria whenever secondary head impact may occur. This allows testing of a seat and approval whenever installed for unique interior and cockpit arrangements.

Spinal injuries occurring during rotorcraft accidents are another concern. The frequency of serious spinal injuries versus the total frequency of serious injuries in survivable helicopter accidents is approximately 30 percent as shown in Figure 30 of Report No. DOT/FAA/CT-85/11.

The Dynamic Response Index (DRI) which is based on a single lumped-mass, damped-spring model of the spine and respective support mass has traditionally been used to predict probability of spinal injury in the performance evaluation of military airplane ejection seats. The DRI has been correlated with ejection seat testing and service experience to provide a level of confidence for this ejection seat application. However, there are inherent differences in function, geometry, dynamic pulse exposure, and occupant restraint between civil aircraft seats and military ejection seats. The difficulty of selecting the most representative acceleration measurement point in the occupant/seat systems makes direct application of the DRI questionable and difficult as a performance criterion for civil aircraft seats.

As reported in SAE Paper No. 850851, "Data for the Development of Criteria for General Aviation Seat and Restraint System Performance," April 1985, and as discussed in paragraph 6(c)(5) of AC 21-22, the pelvic and spinal lumbar compression load limitation of 1,500 pounds (6.7 kilo newtons) proposed in the notice is an appropriate limit to assure a low probability of spinal injury for rotorcraft as well as airplane occupants. The pelvic compressive load measured in the ATD is direct, easily measured, and requires no additional analysis or interpretation to determine compliance with the proposed standard. In addition, seat pan acceleration and an ATD spinal compression load measured in a test of military helicopter seats indicate an inordinate variation between the spinal load and seat pan acceleration. Therefore, seat pan accelerations are not a reliable prediction of spinal compression loads.

Localized cabin floor deformation can occur as a result of fuselage deformation in a survivable emergency landing impact. The simulated floor or seat rail displacement of 10° pitch and 10° roll will prove the ability of the seat and its floor or sidewall attachments to tolerate such structural deformation or displacement resulting from an impact. Seats integral with the fuselage or bulkhead-mounted (without tracks) rather than floor-mounted need not be deformed prior to conducting the dynamic tests. The simulated floor deformation specified for the dynamic tests is not intended to be a measure of the floor strength or deformation capability but is intended to demonstrate the tolerance of the seat and its attachments to accept floor deformation common to actual crashes.

The new static strength requirements of §§ 27.561 (b)(3) and (c) and 29.561 (b)(3) and (c) contain increased static design inertial load factors to provide an improved level of safety for seats and occupant restraint systems and for items of mass installed both inside the cabin and adjacent to the cabin, as prescribed. These new seat static design inertial load factors will supplement the seat and restraint system dynamic test standards in new §§ 27.562 and 29.562. Those items of mass outside of and adjacent to the cabin must be designed to an increased forward inertial load factor. This increased factor reduces the likelihood of attachment failure and subsequent penetration of the item of mass into the cabin.

The current static design inertial load factors for transport rotorcraft underfloor fuel tanks are retained in revised § 29.561(d). Revised fuel tank standards are deferred for further study and development of possible alternate means of rotorcraft fuel tank protection.

Discussion of Comments

General

Sixteen commenters from small and large U.S. helicopter manufacturers, foreign airworthiness authorities, foreign helicopter manufacturers, and other groups and individuals responded to the notice. All commenters agree with the FAA objective to improve occupant safety in an emergency landing impact, one recommends adoption of standards without lengthy delay, and several offer counterproposals and recommendations.

A commenter emphasizes that the proposal should not apply to rotorcraft designs presently in production or undergoing type certification. The new standards do not apply to rotorcraft for which application for type certification is made prior to the effective date or to derivatives of such rotorcraft for which an application for an amended type certificate is made after the effective date of these amendments.

Several commenters support the proposal for installation and mandatory use of a shoulder harness, also called an upper torso restraint. Three commenters also recommend installation and mandatory use of an upper torso restraint for all newly manufactured rotorcraft after a certain date. National Transportation Safety Board (NTSB) Recommendation No. A-85-70 recommends installation of a shoulder harness for each seat in rotorcraft manufactured after December 31, 1987. The FAA has initiated a separate rulemaking project which will respond to recommendations of the NTSB as well as the commenters relative to mandating shoulder harnesses in production rotorcraft. Therefore, no change is necessary for this amendment which applies only to wholly new rotorcraft designs for which a type certificate application is received after the effective date of this amendment. A commenter also recommends installation of new design seats with harnesses that meet the dynamic test standards, whenever the rotorcraft interior is refurbished for older rotorcraft. This recommendation is beyond the scope of this rulemaking activity.

A commenter objects to equal dynamic test standards for normal and transport category rotorcraft and refers to a public policy of higher or more stringent standards for transport category rotorcraft than those of normal category rotorcraft. The standards, which are equivalent for both categories, have been derived from the rotorcraft emergency landing impact and fuselage deformation characteristics of

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small and large rotorcraft which are based on accident and incident information of both categories.

The standards do, therefore, consider both categories in relation to size, weight, and other factors and rightfully afford the necessary protection for passengers in both cases.

The seat design standards reflect the crash impact pulse derived from the accident information and fuselage impact deformation data. These values do not differ markedly between small and large helicopters. The objective, to significantly improve occupant protection for small and large helicopters, is achieved by adoption of the proposed standards to simulate known impact conditions and to avoid exceeding human injury criteria.

It should be noted that the human impact injury criteria set out in AC 21-22 does not vary with respect to the category of aircraft.

Several commenters contend that the dynamic test standards are too severe and they object to the use of an ATD. They suggest the use of a simplified dynamic vertical drop test using a mass to simulate the occupant. In addition, they consider static strength substantiation for the longitudinal impact condition to be sufficient. Other commenters also object to the dynamic test standards because they believe that proving compliance is beyond the technical and financial capability of small companies. These and other commenters object to the proposed static design inertial factors for occupants and items of mass in the cabin, as well as those items external to the cabin, and recommend alternate factors. These concerns are addressed in the specific comments.

Specific Comments on the Proposals

The following comments are keyed to like-numbered proposals in Notice No. 87-4 and are presented in the same order as the corresponding amendments found in the rules portion of this document.

Proposal 2. Notice No. 87-4 proposed a revision to the introductory text of paragraph (b) of § 27.561 to remove the word "minor" before the words "crash landing." No comments were received on the introductory text, and it is adopted as proposed.

After further FAA review of proposed paragraph (b)(3), the subjects were reordered for emphasis and clarity. This editorial change places "each occupant" as the first subject and "each item of mass" as the second subject in this standard. As proposed, paragraph (b)(3) is also changed for clarity to refer to static load "factors" rather than "forces."

A commenter requests that the phrase "inside the cabin" be added after the phrase "items of mass" in proposed paragraph (b)(3) to define the scope of the standard for these items of mass. The FAA agrees, and the change has been incorporated to prevent confusion between the scope of paragraphs (b)(3) and (c). The FAA notes paragraph (c) refers to external items of mass or items outside of the crew and passenger compartments.

Comments on Static Load Factors of Proposal No. 2, Paragraph (b). Comments were received concerning the magnitude of the proposed increased static load factors, and a discussion of the comments follows.

A commenter recommends, in conjunction with an alternate guideline to the proposed seat dynamic tests, a static design guideline and an objective standard that contain lower inertial load factors than those proposed in Notice No. 87-4. The commenter acknowledges that this static design guideline is without supporting data but is based on his knowledge and intuitive conclusions. The same commenter also suggests more appropriate inertial load factors could be derived from a study of comparative static and dynamic tests of several seat designs.

Two other comments recommend adoption of lower inertial load factors. One referred to those proposed during the Rotorcraft Regulatory Review Program public meeting in December 1979. Another commenter forwarded a matrix or table of the inertia factors proposed in the recent rulemaking activity for rotorcraft and small and transport airplane seats, and states that the variation found in the factors for the different aircraft is not justified. The commenter suggests that the rotorcraft inertial factors are too high and should be lower.

One commenter proposes requiring structural capability to support and restrain a 170-pound pilot (or passenger) with a shoulder harness and safety belt for an 8g forward inertial load factor, combined with a 4g sideward inertial load factor, to approximate a 9g (combined) factor. The commenter proposes to omit the longitudinal/horizontal deceleration dynamic test proposed in the notice and rely on the noted static test or structural analysis results. The commenter, however, proposes a simplified dynamic vertical drop test and the longitudinal static load condition to dramatically improve crash survivability but permit small manufacturers to conduct meaningful tests and develop new model normal category helicopters. Three other commenters did not comment on the proposed static inertial load factors (or static strength factors), but they did propose an identical, simplified dynamic test for the vertical and longitudinal velocity change or impact condition and only static strength substantiation for the longitudinal impact condition. See Proposal 3 for further discussion.

Two commenters propose no reduction in the load factors proposed in the notice. One commenter agrees with the inertial factors proposed but suggests an 18g downward factor when compared to a 12g limit contained in Table 38 of Report No. DOT/FAA/CT-85/11. The FAA notes the 12g±1g limit is recommended in the report for the design "stroking factor" on new design rotorcraft seats to limit the occupant spinal loads. However, a 25g downward inertia factor is recommended in the report as a design load factor after the seat "strokes." One commenter specifically recommends no reduction in the proposed static and dynamic standards in the notice, contrary to the recommendations from other commenters.

FAA Response to Comments of Static Load Factors of Paragraph (b)

Many commenters note the expense of compliance but do not propose alternative standards. The FAA is also concerned about the cost of compliance with the new standards. A preliminary cost benefit analysis was prepared for the notice, and a final cost benefit analysis has been prepared for these amendments. A copy is filed in the docket. See the economic summary in this preamble for further information.

These comments were reviewed in conjunction with available data such as that contained in Report No. DOT/FAA/CT-85/11. The static inertial factors are needed to supplement the two seat and occupant ATD dynamic test conditions in §§ 27.562(b) and 29.562(b). The inertial factors in § 27.562(b)(3) are compatible with the dynamic load factors of §§ 27.562(b) and 29.562(b) and are supported by a review of rotorcraft accidents reported in Report No. DOT/FAA/CT-85/11.

Although the static load factors proposed in Notice 87-4 are greater than those recently adopted for transport airplanes, the rotorcraft factors should be greater because of the differences in size, configuration, and typical impact attitudes and conditions between these types of aircraft. These differences result in rotorcraft experiencing greater load factors during impact than typical transport airplanes. A recent study

reported by Mr. C. Wittlin highlights the differences as discussed later. Accordingly, higher load factors were proposed in Notice 87-4 for rotorcraft for both dynamic tests and static tests. Static loading substantiation, by test or analysis, assures that necessary static structural strength of the seat and its attachments to the rotorcraft are provided to support dynamic tsting of the occupant restraint system. The static substantiation is a necessary supplement to dynamic testing which proves the performance of the seat and occupant restraint system, including secondary impact of the occupant's head, under rapid loading and load magnification due to dynamics of the system during the test. The static factors (i.e., structural strength requirements) are intended to provide sufficient strength for the seat and its attachments during dynamic testing and provide sufficient strength for the fuselage structure without dynamic testing. The FAA determined it is proper to not only impose the dynamic test standards but to impose static design standards to supplement the dynamic standards.

A technical paper entitled, "The Influence of Airplane Size and Crash Data Criteria," by Mr. G. Wittlin, was presented at the Flight Safety Foundation, Inc., Conference and Workshop on Occupant Safety, October 31 to November 3, 1988, at Arlington, Virginia. A copy of this paper is included in the docket. Table 8 in that paper contains a range of floor dynamic pulses as a function of four groups of airplane sizes ranging from general aviation to wide-body airplanes for both the vertical and longitudinal direction pulse determined from tests or parametric studies. Most present rotorcraft designs are comparable in size to the general aviation and commuter size airplanes for fuselage design and structural deformation characteristics and are further related to typical rotorcraft impacts that were included in Report No. DOT/FAA/CT-85/11. The pertinent information from the technical paper is summarized in Table 1.

TABLE 1.—PEAK LOAD FACTORS FOR FLOOR DYNAMIC PULSES FOR SMALL AIRPLANES

	Vertical direction	Longitudinal direction
General Aviation	33g peak	33g peak
Commuter	23g peak	17g peak

Narrow and wide body transport airplanes have significantly less deceleration forces in the vertical and horizontal directions and are not comparable to rotorcraft designs. For comparison, the rotorcraft standards in the amendments to §§ 27.562 and 29.562 require a peak of 30g for the downward case (vertical with horizontal component) and 18.4g for the horizontal case (longitudinal with yaw component). These dynamic condition values for rotorcraft standards compare favorably to the floor pulses in the table above for comparable-sized airplanes.

In summary, the static inertial design factors supplement the two dynamic test conditions. The 16g forward static design factor is needed to supplement the 18.4g dynamic standard and the 20g downward (vertical) static design factor relates to the 26g vertical component of the dynamic standard for seat strength and for backup or fuselage structural strength. Therefore, the static inertia factors of paragraph (b) are adopted as proposed.

Comments on Proposal 2, Paragraph (c). Three commenters recommend increasing the inertial load factors proposed in § 29.561(c) for items of mass outside the cabin as follows. One commenter states the inertial load factors proposed in paragraph (c) are too low and not consistent with those higher factors in paragraph (b) for interior items. Another commenter recommends an inertial load factor of 10g for both forward and downward directions as a proper design condition, while yet another commenter recommends 12g forward, 6 sideward, 12g downward, and retaining 1.5g upward.

The FAA agrees that higher factors will increase safety over those proposed by Notice No. 87-4 and are more compatible with the factors of amended § 27.561(b). Nevertheless, additional public notice and comment would be appropriate and necessary for the significant increase in the inertial factors recommended for attachment of external items of mass. Adopting higher inertial factor is beyond the scope of the notice; therefore, the inertial factors are adopted as proposed. However, the FAA will consider incorporating this suggestion into a future rule.

Proposal 3. New §§ 27.562 and 29.562 were proposed to add two dynamic test conditions and pass/fail criteria and to provide for acceptance of an alternate approach in place of the two physical tests. In Notice 87-4 the explanation for Proposal 3 contained justification for new §§ 27.562 and 29.562 being identical.

One commenter states public policy dictates a higher standard for transport category rotorcraft when compared to the normal category standards and proposes simplified tests for normal category rotorcraft. The FAA notes transport rotorcraft in certain cases comply with higher standards than normal category rotorcraft, yet many of the standards are identical and applied in the same manner, such as the current seat structural strength and design standards in §§ 27.561 and 29.561 and §§ 27.785 and 29.785. The impact conditions for normal and transport rotorcraft are also considered the same. Since §§ 27.562 and 29.562 concern strength or performance of the seats and occupant restraint systems during an emergency landing impact derived from rotorcraft characteristics and accident information, these objective performance standards recognize and consider implicitly practical differences in the types of rotorcraft and seats. Additionally, the size, construction, use, and performance of many normal and transport category rotorcraft are very similar since the division between the two categories is 6,000 pounds gross weight. The information from the technical paper, "The Influence of Airplane Size on Crash Data Criteria," by G. Wittlin, presented in Table 1 earlier, also supports the dynamic impact conditions. Since the human impact injury criteria are not dependent on the type of rotorcraft, the injury criteria of §§ 27.562 and 29.562 are identical. Further, the rotorcraft accident study contained in Report No. DOT/FAA/CT-85/11, Table 8, reveals that occupants in accidents involving small-size helicopters could benefit more than occupants of larger helicopters from improved occupant standards. Normal category rotorcraft also constituted about 86 percent of the total U.S. rotorcraft fleet in 1984 according to the Helicopter Association International. This percentage has not changed appreciably.

One commenter states that the dynamic tests are impractical and too costly, and several others contend the increase in certification expense and the technical expertise required to meet the proposed standards, if adopted, would be an insurmountable obstacle. However, no quantitative economic data or information was submitted to the docket to support these arguments. The final economic evaluation shows benefits exceed the costs of compliance and also in-service operation for normal category rotorcraft designs. The FAA notes that technical expertise is available, and seats with stroking capability are in service in civil rotorcraft.

Several other commenters state the added expense will curtail certification of new part 27 rotorcraft designs. Since estimated benefits exceed the costs, new designs should not be deterred.

dynamic tests proposed in paragraph (b) are proper for rotorcraft fuselage characteristics and for the impact attitudes and speeds for a significant percentage of the accidents. According

integral with the basic structure of the fuselage. Two of the small rotorcraft designs in use today have features on the flightcrew seats which allow stroking or seat displacement to limit

the costs as noted in the economic summary of this preamble. Two dynamic impact test conditions are necessary to properly assess the restraint and support of occupants as

rotorcraft and are based on a review of rotorcraft accident data as stated before. The standards in paragraphs (b)(1) and (2) are adopted with the additional description of velocity and

new paragraph (k) to define a litter and its design and installation standards. Dynamic test standards were not proposed for litters and berths. Identical

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Several other commenters state the added expense will curtail certification of new part 27 rotorcraft designs. Since estimated benefits exceed the costs, new designs should not be deterred. One commenter agrees with the proposed standard for transport rotorcraft but not for normal category rotorcraft. The benefits expected from the part 27 standards are more significant than those of the part 29 standards according to the economic evaluation.

Editorial changes have been made to paragraphs (a)(1) and (a)(2) for clarity and also to agree with Amendment 25–64 for transport airplanes. The amendment, as adopted, states the occupant "is exposed to the loads" rather than "experience ultimate dynamic loads."

A commenter states that only seats occupied for takeoff and landing should be subject to the dynamic tests. The FAA agrees, and paragraph (b) is revised to apply to "each seat type design or other seating device approved for occupancy during takeoff and landing." This is similar to recently adopted § 25.562(b) in Amdt. 25–64 and includes an editorial change to add "type design" to seats. Those seats not complying with these standards or the standards in §§ 27.561, 27.785, 29.561 and 29.785 must nevertheless comply with the flight load factors of the aircraft and must be placarded to prevent use of the seat during takeoff and landing. It is anticipated such "unique" seats will seldom be installed in rotorcraft.

Two commenters recommend the ATD should represent a nominal rather than a minimum weight of 170 pounds. The FAA agrees since the specification cited currently specifies the correct weight; therefore, the words "total minimum" to describe weight are removed from paragraph (b). In addition, the standard has been divided into two sentences to be parallel with § 25.562(b). The first sentence addresses the seats and an acceptable analysis rather than test alone. The second sentence addresses the previous comments on the ATD and includes the phrase "sitting in the normal upright position" to properly describe the ATD test position.

A commenter agrees with two dynamic seat tests but recommends adopting the two test conditions for transport airplanes contained in Notice 86–11 and adopted by Amdt. 25–64. These tests for airplanes have increased energy (higher velocity) but significantly decreased deceleration factors. The transport airplane standards represent a larger airplane fuselage having about 30 inches of structure that could crush and absorb the energy on impact. The two dynamic tests proposed in paragraph (b) are proper for rotorcraft fuselage characteristics and for the impact attitudes and speeds for a significant percentage of the accidents. According to the information in Report No. DOT/FAA/CT–85/11, the proposed velocities represent about 92 to 95 percent of the survivable accidents, the range of attitude encompassed in the proposal represents about 77 percent, and the pulse duration represents a fuselage crushing or deformation capability of approximately 9.7 inches. For smaller rotorcraft which do not have 9.7 inches of available fuselage structure to absorb the impact energy, energy absorption by any fixed landing gear failure is tacitly included in the standard. Therefore, the dynamic tests in paragraphs (b) (1) and (2) are adopted with the changes discussed. "Downward" velocity has been added to paragraph (b)(1) and "forward" velocity to paragraph (b)(2). The last sentence in each includes the word "floor" as the correct description for measuring deceleration.

Two commenters request a change to paragraph (b) to explicitly provide for the use of analysis supported by test. The FAA agrees since paragraph (d) was intended to allow use of a rational analysis supported by test as an option to the use of test alone. Paragraph (b), as adopted, includes a clause identical to that contained in § 25.562(b) stating dynamic tests or rational analysis based on dynamic tests of a similar type seat may be used. As a result of two comments, paragraph (d) is revised to apply to the entire section rather than to only paragraph (c).

A commenter suggests in place of proposed paragraph (b) for dynamic tests to require either: (1) A static design standard which would include mandatory upper torso restraint, consideration of floor flexibility or distortion, and energy absorbing features as equal to dynamic tests; or (2) simplified dynamic tests without an ATD. The test would call for measuring the acceleration factors on the seat pan using a mass simulating a 170-pound occupant for the test conditions contained in the notice. Specific proposed standards to accomplish the objectives cited by the commenter were not included. The FAA does not agree that a static test is sufficient to duplicate the occupant loads and motion occurring during a dynamic impact condition; therefore, the dynamic test standard is retained.

Three commenters offer a counterproposal to paragraphs (b) (1) and (2) for normal category rotorcraft. These commenters are concerned with small rotorcraft equipped with seats integral with the basic structure of the fuselage. Two of the small rotorcraft designs in use today have features on the flightcrew seats which allow stroking or seat displacement to limit the vertical loads during an impact. The effectiveness of these features for a specific impact condition is not known. The commenters propose static strength substantiation for the longitudinal impact case rather than dynamic test since static strength substantiation is considered sufficient. They propose one dynamic test—vertical with horizontal impact velocity for a resultant of 30 fps. An ATD would be replaced with a mass to simulate the occupant. The deceleration forces or inertial load factor measured on the mass would not be allowed to exceed 23g for more than 0.025 seconds total. In addition, their proposal would allow use of the landing gear and fuselage support structure and/or seat to absorb the energy and reduce the impact forces to 23g or less on the mass. A commenter states this dynamic test concentrates on spinal compression loads and further contends the error likely to occur in their counterproposal is less than the error from the tests contained in Notice 87–4 when using the ATD because in reality, rotorcraft occupant weight and size vary significantly from that of the ATD.

The FAA notes that the ATD represents a 50-percentile male. One of the three commenters refers to Report AD–A093784, December 1980, and AMCP 706–210 as the basis for the counterproposal. These commenters advocate the counterproposal as a practical means for small manufacturers to develop (and certify) new part 27 designs while improving occupant protection. One commenter also advocates static test alone rather than a dynamic test for the longitudinal impact case. Reduced static design inertial load factors are recommended rather than those contained in Notice 87–4. However, the commenter agrees with an increase from 9g to 16g forward factor for static strength substantiation if the proposed longitudinal dynamic test is not adopted. This commenter proposes a vertical impact test using an ATD and, in addition, a reduced severity test which equals that proposed for transport airplanes in Notice 86–11 and later adopted. One commenter states adopting dynamic tests and using an ATD, as proposed, would cause a total redesign and may result in abandoning current certification activity on a small, four-place helicopter.

The FAA notes that the cost benefit analysis shows the benefits derived, especially for smaller rotorcraft, exceed

the costs as noted in the economic summary of this preamble. Two dynamic impact test conditions are necessary to properly assess the restraint and support of occupants so that the human injury impact criteria will not be exceeded. The criteria include the assessment of any secondary head impact with structure. The first part of this preamble contains a further description of the objectives and reasons for adopting the two dynamic impact test conditions.

One commenter supports the FAA analysis and agrees that the study in Report No. DOT/FAA/CT–85/11 indicates a need for vertical energy absorption to limit occupant spinal compression injuries. The third highest hazard reported was related to "vertebral" compression injuries resulting from high vertical forces commonly found in rotorcraft accidents. Tolerance to compressive injuries of the spine decreases as age increases, and civil aircraft occupants are typically (15 to 20 years) older than military aircraft occupants. The commenter further states most of the present energy absorbing seat and restraint system technology is based on military personnel and military aircraft designs or applications. The FAA notes the military rotorcraft criteria are too stringent for civil rotorcraft, and the FAA has previously published civil aircraft human impact injury criteria in AC 21–22. The commenter states that the dynamic tests proposed in Notice No. 87–4 should help in assuring the seat and occupant restraint system will function properly under dynamic (impact) conditions. The commenter further states the two dynamic test conditions proposed are similar to those recommended in Report No. DOT/FAA/CT–85/11, Table 39 and Figure 37, except less severe. The commenter recommends no further reduction from the proposals in Notice No. 87–4 and disagrees with other commenters who recommend that the FAA reduce the severity of the tests or delete the dynamic tests. The commenter further states that the FAA proposals address many of the major hazards that cause serious and fatal injuries in survivable accidents. The commenter supports the two proposed dynamic seat and occupant test standards as proper, well defined, and cost effective, while acknowledging that rotorcraft with integal seats may require expanded advisory material. The discussion for paragraph (b)(3) addresses "integral seat designs."

In summary, the two conditions in paragraphs (b) (1) and (2) are justified for normal and transport category rotorcraft and are based on a review of rotorcraft accident data as stated before. The standards in paragraphs (b) (1) and (2) are adopted with the additional description of velocity and floor deceleration noted previously.

Some commenters state the proposed standard does not recognize or allow the use of seats integral with the fuselage structure, which is typical of many small two or four-seat rotorcraft. The FAA agrees, and paragraph (b)(3) is revised to apply to nonintegral seats or to those seats "where floor rails or floor or sidewall attachment devices are used" to attach the seat to the airframe structure. Integral seats and bulkhead-mounted seats without floor or sidewall attachment devices and with continuous attachments such as rows of rivets or screws, etc., are excluded from the specific misalignment or preload in the test. A commenter recommends clear and specific guidance or advisory material to address integral seats and their dynamic tests. Advisory material for §§ 27.562 and 29.562 was previously drafted and comments invited (52 FR 20947; June 3, 1987). No comments were received. The recommended guidance information will be included in this advisory material which will be subject to further public review.

In addition, the explanation for the head impact criteria (HIC) equation stated in paragraph (c)(5) is adopted with a change that adds the word "form" to clarify that an ATD head form is used for the HIC.

Proposal 4. The notice proposed to revise § 27.785 by adding the static inertial load factors of § 27.561 and the dynamic conditions of § 27.562 to paragraph (a) as requirements to protect occupants from serious injury; to revise paragraph (b) to require each occupant seat, not just crew seats, to be equipped with a shoulder harness in conjunction with a safety belt (or torso restraint system per TSO C114); to revise paragraph (c) to require that the safety belt and shoulder harness have a single-point release; to revise paragraph (f) to use an occupant weight of at least 170 lbs; and to revise paragraph (g) to require a 60–40 percent safety belt-shoulder harness load distribution instead of the previous 60–60 distribution. The notice further proposed to add a new paragraph (i) defining the seating device system; a new paragraph (j) to allow controlled structural deformation or crushing of the seating device system to reduce occupant loads from the proposed emergency landing dynamic test conditions (the deformation or crushing must not interfere with rapid evacuation); and a new paragraph (k) to define a litter and its design and installation standards. Dynamic test standards were not proposed for litters and berths. Identical revisions were proposed for § 29.785.

Several commenters favor the FAA proposal to require a shoulder harness for each seat. Accordingly, paragraph (a) is adopted as proposed.

A commenter proposes using either the term "shoulder harnesses" or the term "torso restraint" exclusively, but not both. "Shoulder harnesses" is retained because the existing airworthiness and operating standards use that term generically; however, for clarification, a sentence is added to paragraph (b) describing torso restraint and upper torso restraint.

One commenter proposes to apply the requirements of paragraph (b) to front seat or row occupants only and to require other occupants to have only lap or safety belts. The commenter's proposal is based on the following: (1) Rotorcraft crashes involve high vertical acceleration forces and relatively low horizontal acceleration forces; (2) passengers in flight do not like the discomfort and movement restrictions of a shoulder harness; (3) passengers become nervous when required to wear a shoulder harness; (4) passengers may become entangled in a shoulder harness during emergency egress; (5) passengers in normal category commercial operations are unduly restricted by a shoulder harness; and (6) mandatory retrofit of shoulder harnesses in the existing rotorcraft fleet creates an undue economic burden.

Report No. DOT/FAA/CT–86/11 indicates that emergency landing horizontal or longitudinal accelerations, while less than the vertical accelerations, are still significant and require restraint and support of the occupant. The horizontal forces cause the upper body to rotate forward increasing the potential for secondary impact with structure. This phenomenon was reported to be a major cause of severe injuries or fatalities which would be significantly reduced with use of a harness. A shoulder harness or upper torso restraint also maintains proper spinal alignment or support and, thus, greatly reduces the potential for spinal injury during an impact with significant vertical forces. The docket contains a figure entitled, "Use of Upper Torso Restraint Expands the Onset of the Serious and Fatal Injury Envelopes," which shows graphically that a shoulder harness and safety belt significantly improve occupant protection. One commenter also submitted information showing whenever shoulder harnesses

are installed, rotorcraft passengers surveyed use them 100 percent of the time. In addition, a single-point release is required for the safety belt and harness in paragraph (c). The proposal to use a 60/40 distribution is based on SAE Aerospace standards and also accounts between the safety belt and harness in paragraph (g). The proposal to use a 60/40 distribution is based on SAE Aerospace standards and also accounts

In addition to the general comments, a comment was received specifically for § 29.561(b) and (c). The commenter recommends adoption of lower inertial

proposed paragraph (e) unnecessary and, therefore, it is not adopted.

Two commenters recommend that static design factors for exterior items of

One commenter contends that doors and exits should be subject to the same design load factors as the occupant restraint system. The FAA does not

much higher. The commenter recommends use of the emergency landing impact load factors in paragraph (e). Service history has shown that the

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are installed, rotorcraft passengers surveyed use them 100 percent of the time. In addition, a single-point release is required for the safety belt and harness; the FAA is not aware of any signficant impediment to evacuation caused by a harness; and the FAA did not propose a "retrofit" standard in the notice. For these reasons, the shoulder harness requirement in paragraph (b) with the exception of an editorial change for clarification is adopted as proposed.

Another commenter proposes to remove all references in § 27.785 to the dynamic test of § 27.562. The FAA does not agree since removing the § 27.562 reference in paragraph (b) would create a more restrictive rule by eliminating use of the HIC to accept minor head impact. Another commenter proposes to remove the reference § 27.562(c)(5) in paragraph (b). The HIC in § 27.562(c)(5) allow head impact and are acceptable and essential quantitative standards or limitations that can be applied uniformly wherever the head impacts the interior structure associated with a particular installation. AC 21-22 contains further information on the HIC. The reference must be retained; therefore, paragraph (b) is adopted as proposed.

Another commenter proposes removal of the portion of paragraph (c) which requires a single-point release for both the lap belt and the shoulder harness. The commenter's concern is that the proposal would require designs that prevent uncoupling of the shoulder harness from the lap belt and further prevent passengers from assuming the "brace" position during an emergency landing. The FAA has determined that upper body movement and/or a secondary impact during an emergency landing impact is a primary cause of serious injury. The docket contains information previously referenced which shows significant improvement in occupant protection when a shoulder harness is used. A properly restrained occupant is, therefore, much less likely to experience injury than one in the "brace" position. The amendment, however, does not preclude safety belt and harness designs that feature uncoupling of the shoulder harness from the lap safety belt provided a single-point release is employed in the belt-harness design. A shoulder harness provides a significant improvement in occupant protection, as previously stated, and should be used during takeoff and landing. Therefore, proposed paragraph (c) is adopted without change.

A commenter recommends retaining the present 60/60 load distribution between the safety belt and harness in paragraph (g). The proposal to use a 60/40 distribution is based on SAE Aerospace standards and also accounts for 100 percent of the load. The application of 120 percent of the load is unnecessary and unrealistic in the light of this amendment. Therefore, the 60/40 distribution in paragraph (g) is adopted as proposed.

One commenter proposes that § 27.785 should be changed to specifically refer to paragraph (b) instead of the entire section. The FAA concurs, and § 27.561(b) is cited in paragraphs (a), (f), (f)(2), (g), and (k) for proper application of the standard.

Three other commenters propose to remove paragraph (f)(1) which refers to the pilot effort forces, since design conditions or loads applied by virtue of amended § 27.561(b) and new § 27.562 are considered sufficient seat design standards. The FAA does not agree because paragraph (f)(1) provides the minimum aft load design standard for the crew seat; therefore, paragraph (f)(1) is adopted as proposed.

A commenter wants to remove proposed paragraphs (i), (j), and (k) based on a recommended change to § 27.785(b) to remove reference to HIC. Since paragraph (b) is not changed, paragraphs (i) and (j) are necessary to complement the dynamic test standards and are, therefore, retained.

In addition to a recommendation to remove paragraph (k), two commenters state that proposed paragraph (k) is unclear regarding whether or not berths and litters making an angle greater than 15° with the rotorcraft longitudinal axis may be approved. The FAA chose 15° or less as the angle for which a padded headboard, etc., is required. Safety belts or straps without a padded headboard, etc., are acceptable for the remaining design conditions. That is, beyond a 15° angle the litter or berth must have the proper number and distribution of safety belts or straps to carry the specified static design loads for all directions. Berths and letters oriented at any angle with the rotorcraft longitudinal axis may be approved in accordance with the standards adopted. Paragraph (k) is clarified by dividing one sentence into three sentences that address litter orientation and the appropriate design requirements.

Proposal 6. The notice proposed a revision to § 29.561 that is equivalent to that proposed for § 27.561 except for the underfloor fuel tank standard in paragraph (d) which is unique to the part 29 standards. For general comments and editorial changes related to § 29.561, see Proposal 2.

In addition to the general comments, a comment was received specifically for § 29.561(b) and (c). The commenter recommends adoption of lower inertial load factors in paragraph (b) such as the factors adopted in Amdt. 25-64 for transport airplanes. These airplane inertial factors are 9.0g forward, 6.5g downward, 1.5g rearward, and so forth. The commenter also proposes to combine (vectorially) these inertial load factors but would limit the resultant to 9.0g in any direction. The commenter proposes an additional 1.33 factor for the forces that are imposed on the attachments of certain interior items of mass. If these comments are not adopted by the FAA, the commenter recommends combining (vectorially) whatever design inertial load factors are adopted rather than applying each factor separately.

The FAA notes that § 29.561 currently requires application of the load factor separately but the designer may choose to combine these factors vectorially into a resultant factor for structural substantiation. The static design inertial factors for transport airplanes proposed in Notice No. 86-11 consider the emergency landing impact characteristics for transport airplanes and are not appropriate for typical normal and transport category rotorcraft impact characteristics. The additional factor, 1.33, used in conjunction with the lower load factors for the attachments of certain interior items of mass is not necessary with adoption of the higher inertial factors proposed in the notice; i.e., the adopted criteria exceed that of the proposed change. In addition, the suggestion to combine (vectorially) the inertial factors but not to exceed 9.0g is, therefore, not adopted.

This same commenter also recommends a new paragraph (e) specifically to address an alternate approach in achieving an equivalent or greater level of occupant protection in relation to that contained in the commenter's proposed paragraph (b) change. The commenter proposes the following changes to paragraph (b): (1) to use the transport airplane inertial factors in Notice No. 86-11; (2) to combine vectorially two inertial factors not to exceed 9g when combined; and (3) to refer to the dynamic tests prescribed in § 29.562. That is, these three factors would replace the dynamic tests as a primary means of compliance. Section 21.21(b)(1) already provides a means to accept any alternative to a specific standard provided an equivalent level of safety is maintained. The FAA considers the commenter's proposed paragraph (e) unnecessary and, therefore, it is not adopted.

Two commenters recommend that static design factors for exterior items of mass in paragraph (c) be the same as those in paragraph (b) for interior items. Collapse of a partition or significant collapse of or penetration into the occupied cabin space has not been identified as a significant problem in survivable rotorcraft accidents according to the information in Table 26, Report No. DOT/FAA/CT-85/11. Thus, items of mass external to the crew or passenger cabin may be designed to factors less than those for internal items. This recommendation is not adopted. Another commenter states a partition (or bulkhead, etc.) separating the exterior items of mass from the transport rotorcraft cabin should be substantiated for the loads imposed by the items of mass attached to the partition. The FAA agrees that items of mass such as those described in the standard directly attached to a partition should not become detached. The standards provide for this substantiation.

One commenter recommends specific higher inertial factors for paragraph (c), that is, 12g forward, 6g sideward, 12g downward, while retaining 1.5g upward to reduce hazardous movement of high mass items that are described in their proposals. Adopting higher inertial load factors than those proposed is beyond the scope of the notice; therefore, the inertial factors are adopted as proposed.

Proposal 7. The notice proposed to add to § 29.562 a new dynamic test standard for occupant seats in transport rotorcraft that is identical § 27.562. The emergency landing impact conditions for transport rotorcraft are equivalent to normal category rotorcraft conditions. See the comments and FAA response in Proposal 3. Section 29.562 is adopted with the same changes as noted in Proposal 3.

Proposal 8. The notice proposed to amend §§ 29.783 (d) and (g) by removing the general reference to § 29.561(b)(3). The design factors in that section have been significantly increased but those factors are not necessary for door designs. Therefore, the specific factors in present § 29.561(b)(3) are added to paragraph (d), and paragraph (g) refers to paragraph (d) for the design factors. The factors in the standards are used to evaluate surrounding fuselage structural deformations and impose design features, where necessary, to minimize the probability of jamming external doors and integral stair doors as a result of a minor crash landing and thereby facilitate passenger egress.

One commenter contends that doors and exits should be subject to the same design load factors as the occupant restraint system. The FAA does not agree because experience has shown the design standards presently in use have been satisfactory and should be retained for door designs.

Two other commenters question why cargo doors, other than those used as emergency exits, must meet the requirements of § 29.783(d). Typical rotorcraft doors, whether cargo or exit, are usually qualified as passenger exits and, therefore, must comply. However, the FAA agrees that "cargo or service doors not suitable for use as an exit in an emergency" may be excluded from compliance with the standard. Section 29.783(d), as adopted, adds a clause excluding certain cargo and service doors. This clause for cargo and service doors was extracted, in part, from the transport airplane door standard of § 25.783(g).

Another commenter proposes a 9g static load factor, in any direction, for §§ 29.783 (d) and (g). As noted before, the present design load factors, such as 4g forward, etc., have provided an adequate level of safety since a significant adverse service history on doors does not exist. Therefore, the amendment is adopted with changes as discussed.

Proposal 9. The proposals for §§ 27.785 and 29.785 are identical. For comments and the FAA response related to proposed § 29.785, see Proposal 4. The occupant seat, safety belt, shoulder harness, berth or litter standards for transport and normal rotorcraft are standards not affected by the size of the rotorcraft. No one objected to the application of common standards. Therefore, § 29.785 is adopted with the same changes as discussed in Proposal 4.

Proposal 10. The notice proposed to amend § 29.809 by revising paragraph (e) to add reference to § 29.783(d) for the appropriate ultimate inertial load factors for exits as well as doors of transport rotorcraft. The current design factors for exits are maintained by the amendment. See the comments on Proposal 8 for further information.

One commenter recommends that paragraph (e) remain unchanged. The FAA disagrees because without the reference to § 29.783(d), "minor crash landing" factors would not be defined, thus creating the potential for nonstandard application.

A commenter states that the load factors proposed in paragraph (e) are inconsistent with those proposed for occupants in § 29.561(b)(3) which are much higher. The commenter recommends use of the emergency landing impact load factors in paragraph (e). Service history has shown that the load factors proposed in paragraph (e), such as 4g forward, provide an adequate level of safety to minimize the probability of jamming the emergency exits as a result of fuselage deformation. Therefore, the standard is adopted as proposed.

Economic Evaluation Summary

The FAA proposed to amend parts 27 and 29 of the FAR to require the installation of shoulder harnesses and seats incorporating energy attenuation features on all newly certificated rotorcraft. The amendments to improve occupant protection standards are the result of several specific proposals presented at the Rotorcraft Regulatory Review Conference in 1979, the recommendations of the NTSB, and the FAA aircraft crash dynamics program.

The FAA finds the amendments to §§ 27.561(c), 27.785(k), 29.561(c), 29.783, 29.785(k), and 29.809 will cause manufacturers to incur negligible testing costs in demonstrating compliance with these new standards. The FAA finds the remaining amendments will have a cost impact on manufacturers as well as operators.

For the purpose of the evaluation, those elements of amended §§ 27.561, 27.785, and new 27.562 having a cost impact have been examined as if they were a single amendment. The close interrelation of these amendments precludes clear separation. The amendments to §§ 29.561, 29.785 and new 29.562 having a cost impact have been evaluated in the same manner.

This evaluation indicates that adoption of the standards is expected to be cost beneficial. The final rule regarding shoulder harness and energy attenuating seats—the occupant restraint system—is expected to reduce fatalities and injuries sustained in otherwise survivable crashes from between 30 to 65 percent. The average annual monetary benefits of this final rule are estimated to be $770,600 while the average annual costs are estimated to be $411,900. The average annual net benefits of the final rule are expected to be $358,700 and the present value of these net benefits over 10 years is estimated to be $2.20 million.

International Trade Impact Analysis

The FAA has determined that this rule is not likely to result in a competitive trade advantage or disadvantage for U.S. manufacturers in domestic or foreign markets. Foreign manufacturers

are expected to comply with the certification standards of their largest export customer, the United States. The FAA believes that to remain competitive in overseas markets, foreign vendors will export a similarly equipped rotorcraft to both the United States and third world countries. Foreign and U.S. manufacturers are expected to pass the new certification costs on to consumers in their domestic and foreign markets.

Regulatory Flexibility Determination

The FAA has determined that these amendments will not have a significant impact, positive or negative, on a substantial number of small entities. According to FAA criteria, a small helicopter manufacturer is one that is independently owned and operated and has fewer than 75 employees. Using these criteria, only one U.S. manufacturer is considered small. Therefore, it is not possible for this rule to impact a substanital number of small entities.

Federalism Implications

The regulations adopted herein do not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that these amendments are not major under Executive Order 12291. In addition, the FAA certifies that these amendments do not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. These amendments are considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the amendments, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects 14 CFR Parts 27 and 29:

Air transportation, Aircraft, Aviation Safety, Safety, Rotorcraft.

Adoption of the Amendment

Accordingly, parts 27 and 29 of the Federal Aviation Regulations (14 CFR parts 27 and 29) are amended as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By amending § 27.561 by revising paragraphs (b) (introductory text), (b)(3), and (c) to read as follows:

§ 27.561 General.

* * * * *

(b) The structure must be designed to give each occupant every reasonable chance of escaping serious injury in a crash landing when—

* * * * *

(3) Each occupant and each item of mass inside the cabin that could injure an occupant is restrained when subjected to the following ultimate inertial load factors relative to the surrounding structure:

(i) Upward—4g.
(ii) Forward—16g.
(iii) Sideward—8g.
(iv) Downward—20g, after intended displacement of the seat device.

(c) The supporting structure must be designed to restrain, under any ultimate inertial load up to those specified in this paragraph, any item of mass above and/or behind the crew and passenger compartment that could injure an occupant if it came loose in an emergency landing. Items of mass to be considered include, but are not limited to, rotors, transmissions, and engines. The items of mass must be restrained for the following ultimate inertial load factors:

(1) Upward—1.5g.
(2) Forward—8g.
(3) Sideward—2g.
(4) Downward—4g.

3. By adding a new § 27.562 to read as follows:

§ 27.562 Emergency landing dynamic conditions.

(a) The rotorcraft, although it may be damaged in an emergency crash landing, must be designed to reasonably protect each occupant when—

(1) The occupant properly uses the seats, safety belts, and shoulder harnesses provided in the design; and

(2) The occupant is exposed to the loads resulting from the conditions prescribed in this section.

(b) Each seat type design or other seating device approved for crew or passenger occupancy during takeoff and landing must successfully complete dynamic tests or be demonstrated by rational analysis based on dynamic tests of a similar type seat in accordance with the following criteria. The tests must be conducted with an occupant, simulated by a 170-pound anthropomorphic test dummy (ATD), as defined by 49 CFR 572, subpart B, or its equivalent, sitting in the normal upright position.

(1) A change in downward velocity of not less than 30 feet per second when the seat or other seating device is oriented in its nominal position with respect to the rotorcraft's reference system, the rotorcraft's longitudinal axis is canted upward 60° with respect to the impact velocity vector, and the rotorcraft's lateral axis is perpendicular to a vertical plane containing the impact velocity vector and the rotorcraft's longitudinal axis. Peak floor deceleration must occur in not more than 0.031 seconds after impact and must reach a minimum of 30g's.

(2) A change in forward velocity of not less than 42 feet per second when the seat or other seating device is oriented in its nominal position with respect to the rotorcraft's reference system, the rotorcraft's longitudinal axis is yawed 10° either right or left of the impact velocity vector (whichever would cause the greatest load on the shoulder harness), the rotorcraft's lateral axis is contained in a horizontal plane containing the impact velocity vector, and the rotorcraft's vertical axis is perpendicular to a horizontal plane containing the impact velocity vector. Peak floor deceleration must occur in not more than 0.071 seconds after impact and must reach a minimum of 18.4g's.

(3) Where floor rails or floor or sidewall attachment devices are used to attach the seating devices to the airframe structure for the conditions of this section, the rails or devices must be misaligned with respect to each other by at least 10° vertically (i.e., pitch out of parallel) and by at least a 10° lateral roll, with the directions optional, to account for possible floor warp.

(c) Compliance with the following must be shown:

(1) The seating device system must remain intact although it may experience separation intended as part of its design.

(2) The attachment between the seating device and the airframe structure must remain intact, although the structure may have exceeded its limit load.

(3) The ATD's shoulder harness strap or straps must remain on or in the immediate vicinity of the ATD's shoulder during the impact.

(4) The safety belt must remain on the ATD's pelvis during the impact.

(5) The ATD's head either does not contact any portion of the crew or passenger compartment, or if contact is made, the head impact does not exceed a head injury criteria (HIC) of 1,000 as determined by this equation.

$$HIC = (t_2 - t_1)\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a(t)dt\right]^{2.5}$$

Where: a(t) is the resultant acceleration at the center of gravity of the head form expressed as a multiple of g (the acceleration of gravity) and $t_2 - t_1$ is the time duration, in seconds, of major head impact, not to exceed 0.05 seconds.

(6) Loads in individual upper torso harness straps must not exceed 1,750 pounds. If dual straps are used for retaining the upper torso, the total harness strap loads must not exceed 2,000 pounds.

(7) The maximum compressive load measured between the pelvis and the lumbar column of the ATD must not exceed 1,500 pounds.

(d) An alternate approach that achieves an equivalent or greater level of occupant protection, as required by this section, must be substantiated on a rational basis.

4. By amending § 27.785 by revising paragraphs (a), (b), (c), (f), and (g) and by adding new paragraphs (i), (j), and (k) to read as follows:

§ 27.785 Seats, berths, safety belts, and harnesses.

(a) Each seat, safety belt, harness, and adjacent part of the rotorcraft at each station designated for occupancy during takeoff and landing must be free of potentially injurious objects, sharp edges, protuberances, and hard surfaces and must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the static inertial load factors specified in § 27.561(b) and dynamic conditions specified in § 27.562.

(b) Each occupant must be protected from serious head injury by a safety belt plus a shoulder harness that will prevent the head from contacting any injurious object except as provided for in § 27.562(c)(5). A shoulder harness (upper torso restraint), in combination with the safety belt, constitutes a torso restraint system as described in TSO-C114.

(c) Each occupant's seat must have a combined safety belt and shoulder harness with a single-point release. Each pilot's combined safety belt and shoulder harness must allow each pilot when seated with safety belt and shoulder harness fastened to perform all functions necessary for flight operations. There must be a means to secure belts and harnesses, when not in use, to prevent interference with the operation of the rotorcraft and with rapid egress in an emergency.

* * * * *

(f) Each seat and its supporting structure must be designed for an occupant weight of at least 170 pounds considering the maximum load factors, inertial forces, and reactions between occupant, seat, and safety belt or harness corresponding with the applicable flight and ground load conditions, including the emergency landing conditions of § 27.561(b). In addition—

(1) Each pilot seat must be designed for the reactions resulting from the application of the pilot forces prescribed in § 27.397; and

(2) The inertial forces prescribed in § 27.561(b) must be multiplied by a factor of 1.33 in determining the strength of the attachment of—

(i) Each seat to the structure; and

(ii) Each safety belt or harness to the seat or structure.

(g) When the safety belt and shoulder harness are combined, the rated strength of the safety belt and shoulder harness may not be less than that corresponding to the inertial forces specified in § 27.561(b), considering the occupant weight of at least 170 pounds, considering the dimensional characteristics of the restraint system installation, and using a distribution of at least a 60-percent load to the safety belt and at least a 40-percent load to the shoulder harness. If the safety belt is capable of being used without the shoulder harness, the inertial forces specified must be met by the safety belt alone.

* * * * *

(i) Each seating device system includes the device such as the seat, the cushions, the occupant restraint system, and attachment devices.

(j) Each seating device system may use design features such as crushing or separation of certain parts of the seats to reduce occupant loads for the emergency landing dynamic conditions of § 27.562; otherwise, the system must remain intact and must not interfere with rapid evacuation of the rotorcraft.

(k) For the purposes of this section, a litter is defined as a device designed to carry a nonambulatory person, primarily in a recumbent position, into and on the rotorcraft. Each berth or litter must be designed to withstand the load reaction of an occupant weight of at least 170 pounds when the occupant is subjected to the forward inertial factors specified in § 27.561(b). A berth or litter installed within 15° or less of the longitudinal axis of the rotorcraft must be provided with a padded end-board, cloth diaphram, or equivalent means that can withstand the forward load reaction. A berth or litter oriented greater than 15° with the longitudinal axis of the rotorcraft must be equipped with appropriate restraints, such as straps or safety belts, to withstand the forward load reaction. In addition—

(1) The berth or litter must have a restraint system and must not have corners or other protuberances likely to cause serious injury to a person occupying it during emergency landing conditions; and

(2) The berth or litter attachment and the occupant restraint system attachments to the structure must be designed to withstand the critical loads resulting from flight and ground load conditions and from the conditions prescribed in § 27.561(b).

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

5. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

6. By amending § 29.561 by revising paragraphs (b) (introductory text), (b)(3), (c), and (d) to read as follows:

§ 29.561 General.

* * * * *

(b) The structure must be designed to give each occupant every reasonable chance of escaping serious injury in a crash landing when—

* * * * *

(3) Each occupant and each item of mass inside the cabin that could injure an occupant is restrained when subjected to the following ultimate inertial load factors relative to the surrounding structure:

(i) Upward—4g.
(ii) Forward—16g.
(iii) Sideward—8g.

(iv) Downward—20g, after the intended displacement of the seat device.

(c) The supporting structure must be designed to restrain under any ultimate

§ 29.562(c)(5). A shoulder harness (upper torso restraint), in combination with the safety belt, constitutes a torso restraint system as described in TSO-C114.

(c) Each occupant's seat must have a combined safety belt and shoulder harness with a single-point release. Each pilot's combined safety belt and shoulder harness must allow each pilot when seated with safety belt and shoulder harness fastened to perform all functions necessary for flight operations. There must be a means to secure belts and harnesses, when not in use, to prevent interference with the operation of the rotorcraft and with rapid egress in an emergency.

* * * * *

(f) Each seat and its supporting structure must be designed for an occupant weight of at least 170 pounds considering the maximum load factors, inertial forces, and reactions between occupant, seat, and safety belt or harness corresponding with the applicable flight and ground load conditions, including the emergency landing conditions of § 29.561(b). In addition—

(1) Each pilot seat must be designed for the reactions resulting from the application of the pilot forces prescribed in § 29.397; and

(2) The inertial forces prescribed in § 29.561(b) must be multiplied by a factor of 1.33 in determining the strength of the attachment of—

(i) Each seat to the structure; and

(ii) Each safety belt or harness to the seat or structure.

(g) When the safety belt and shoulder harness are combined, the rated strength of the safety belt and shoulder harness may not be less than that corresponding to the inertial forces specified in § 29.561(b), considering the occupant weight of at least 170 pounds, considering the dimensional characteristics of the restraint system installation, and using a distribution of at least a 60-percent load to the safety belt and at least a 40-percent load to the shoulder harness. If the safety belt is capable of being used without the shoulder harness, the inertial forces specified must be met by the safety belt alone.

* * * * *

(i) Each seating device system includes the device such as the seat, the cushions, the occupant restraint system, and attachment devices.

(j) Each seating device system may use design features such as crushing or separation of certain parts of the seats to reduce occupant loads for the emergency landing dynamic conditions of § 29.562; otherwise, the system must remain intact and must not interfere with rapid evacuation of the rotorcraft.

(k) For the purposes of this section, a litter is defined as a device designed to carry a nonambulatory person, primarily in a recumbent position, into and on the rotorcraft. Each berth or litter must be designed to withstand the load reaction of an occupant weight of at least 170 pounds when the occupant is subjected to the forward inertial factors specified in § 29.561(b). A berth or litter installed within 15° or less of the longitudinal axis of the rotorcraft must be provided with a padded end-board, cloth diaphram, or equivalent means that can withstand the forward load reaction. A berth or litter oriented greater than 15° with the longitudinal axis of the rotorcraft must be equipped with appropriate restraints, such as straps or safety belts, to withstand the forward load reaction. In addition—

(1) The berth or litter must have a restraint system and must not have corners or other protuberances likely to cause serious injury to a person occupying it during emergency landing conditions; and

(2) The berth or litter attachment and the occupant restraint system attachments to the structure must be designed to withstand the critical loads resulting from flight and ground load conditions and from the conditions prescribed in § 29.561(b).

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(iv) Downward—20g, after the intended displacement of the seat device.

(c) The supporting structure must be designed to restrain under any ultimate inertial load factor up to those specified in this paragraph, any item of mass above and/or behind the crew and passenger compartment that could injure an occupant if it came loose in an emergency landing. Items of mass to be considered include, but are not limited to, rotors, transmission, and engines. The items of mass must be restrained for the following ultimate inertial load factors:

(1) Upward—1.5g.
(2) Forward—8g.
(3) Sideward—2g.
(4) Downward—4g.

(d) Any fuselage structure in the area of internal fuel tanks below the passenger floor level must be designed to resist the following ultimate inertial factors and loads, and to protect the fuel tanks from rupture, if rupture is likely when those loads are applied to that area:

(1) Upward—1.5g.
(2) Forward—4.0g.
(3) Sideward—2.0g.
(4) Downward—4.0g.

7. By adding a new § 29.562 to read as follows:

§ 29.562 Emergency landing dynamic conditions.

(a) The rotorcraft, although it may be damaged in a crash landing, must be designed to reasonably protect each occupant when—

(1) The occupant properly uses the seats, safety belts, and shoulder harnesses provided in the design; and

(2) The occupant is exposed to loads equivalent to those resulting from the conditions prescribed in this section.

(b) Each seat type design or other seating device approved for crew or passenger occupancy during takeoff and landing must successfully complete dynamic tests or be demonstrated by rational analysis based on dynamic tests of a similar type seat in accordance with the following criteria. The tests must be conducted with an occupant simulated by a 170-pound anthropomorphic test dummy (ATD), as defined by 49 CFR 572, Subpart B, or its equivalent, sitting in the normal upright position.

(i) A change in downward velocity of not less than 30 feet per second when the seat or other seating device is oriented in its nominal position with respect to the rotorcraft's reference system, the rotorcraft's longitudinal axis is canted upward 60° with respect to the impact velocity vector, and the rotorcraft's lateral axis is perpendicular to a vertical plane containing the impact velocity vector and the rotorcraft's longitudinal axis. Peak floor deceleration must occur in not more than 0.031 seconds after impact and must reach a minimum of 30g's.

(2) A change in forward velocity of not less than 42 feet per second when the seat or other seating device is oriented in its nominal position with respect to the rotorcraft's reference system, the rotorcraft's longitudinal axis is yawed 10° either right or left of the impact velocity vector (whichever would cause the greatest load on the shoulder harness), the rotorcraft's lateral axis is contained in a horizontal plane containing the impact velocity vector, and the rotorcraft's vertical axis is perpendicular to a horizontal plane containing the impact velocity vector. Peak floor deceleration must occur in not more than 0.071 seconds after impact and must reach a minimum of 18.4g's.

(3) Where floor rails or floor or sidewall floor attachment devices are used to attach the seating devices to the airframe structure for the conditions of this section, the rails or devices must be misaligned with respect to each other by at least 10° vertically (i.e., pitch out of parallel) and by at least a 10° lateral roll, with the directions optional, to account for possible floor warp.

(c) Compliance with the following must be shown:

(1) The seating device system must remain intact although it may experience separation intended as part of its design.

(2) The attachment between the seating device and the airframe structure must remain intact although the structure may have exceeded its limit load.

(3) The ATD's shoulder harness strap or straps must remain on or in the immediate vicinity of the ATD's shoulder during the impact.

(4) The safety belt must remain on the ATD's pelvis during the impact.

(5) The ATD's head either does not contact any portion of the crew or passenger compartment or, if contact is made, the head impact does not exceed a head injury criteria (HIC) of 1,000 as determined by this equation.

$$HIC = (t_2-t_1)\left[\frac{1}{(t_2-t_1)}\int_{t_1}^{t_2} a(t)dt\right]^{2.5}$$

Where: a(t) is the resultant acceleration at the center of gravity of the head form expressed as a multiple of g (the acceleration of gravity) and $t_2 - t_1$ is the time duration, in seconds, of major head impact, not to exceed 0.05 seconds.

(6) Loads in individual shoulder harness straps must not exceed 1,750 pounds. If dual straps are used for retaining the upper torso, the total harness strap loads must not exceed 2,000 pounds.

(7) The maximum compressive load measured between the pelvis and the lumbar column of the ATD must not exceed 1,500 pounds.

(d) An alternate approach that achieves an equivalent or greater level of occupant protection, as required by this section, must be substantiated on a rational basis.

8. By amending § 29.783 by revising paragraphs (d) and (g)(1) to read as follows:

§ 29.783 Doors.

* * * * *

(d) There must be reasonable provisions to prevent the jamming of any external doors in a minor crash as a result of fuselage deformation under the following ultimate inertial forces except for cargo or service doors not suitable for use as an exit in an emergency:

(1) Upward—1.5g.
(2) Forward—4.0g.
(3) Sideward—2.0g.
(4) Downward—4.0g.

* * * * *

(g) * * *

(1) The door, integral stair, and operating mechanism have been subjected to the inertial forces specified in paragraph (d) of this section, acting separately relative to the surrounding structure.

* * * * *

9. By amending § 29.785 by revising paragraphs (a), (b), (c), (f), and (g) and by adding new paragraphs (i), (j), and (k) to read as follows:

§ 29.785 Seats, berths, safety belts, and harnesses.

(a) Each seat, safety belt, harness, and adjacent part of the rotorcraft at each station designated for occupancy during takeoff and landing must be free of potentially injurious objects, sharp edges, protuberances, and hard surfaces and must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertial factors specified in § 29.561(b) and dynamic conditions specified in § 29.562.

(b) Each occupant must be protected from serious head injury by a safety belt plus a shoulder harness that will prevent the head from contacting any injurious object, except as provided for in

§ 29.562(c)(5). A shoulder harness (upper torso restraint), in combination with the safety belt, constitutes a torso restraint system as described in TSO–C114.

(c) Each occupant's seat must have a combined safety belt and shoulder harness with a single-point release. Each pilot's combined safety belt and shoulder harness must allow each pilot when seated with safety belt and shoulder harness fastened to perform all functions necessary for flight operations. There must be a means to secure belt and harness when not in use to prevent interference with the operation of the rotorcraft and with rapid egress in an emergency.

* * * * *

(f) Each seat and its supporting structure must be designed for an occupant weight of at least 170 pounds, considering the maximum load factors, inertial forces, and reactions between the occupant, seat, and safety belt or harness corresponding with the applicable flight and ground-load conditions, including the emergency landing conditions of § 29.561(b). In addition—

(1) Each pilot seat must be designed for the reactions resulting from the application of the pilot forces prescribed in § 29.397; and

(2) The inertial forces prescribed in § 29.561(b) must be multiplied by a factor of 1.33 in determining the strength of the attachment of—

(i) Each seat to the structure; and

(ii) Each safety belt or harness to the seat or structure.

(g) When the safety belt and shoulder harness are combined, the rated strength of the safety belt and shoulder harness may not be less than that corresponding to the inertial forces specified in § 29.561(b), considering the occupant weight of at least 170 pounds, considering the dimensional characteristics of the restraint system installation, and using a distribution of at least a 60-percent load to the safety belt and at least a 40-percent load to the shoulder harness. If the safety belt is capable of being used without the shoulder harness, the inertial forces specified must be met by the safety belt alone.

* * * * *

(i) Each seating device system includes the device such as the seat, the cushions, the occupant restraint system and attachment devices.

(j) Each seating device system may use design features such as crushing or separation of certain parts of the seat in the design to reduce occupant loads for the emergency landing dynamic conditions of § 29.562; otherwise, the system must remain intact and must not interfere with rapid evacuation of the rotorcraft.

(k) For purposes of this section, a litter is defined as a device designed to carry a nonambulatory person, primarily in a recumbent position, into and on the rotorcraft. Each berth or litter must be designed to withstand the load reaction of an occupant weight of at least 170 pounds when the occupant is subjected to the forward inertial factors specified in § 29.561(b). A berth or litter installed within 15° or less of the longitudinal axis of the rotorcraft must be provided with a padded end-board, cloth diaphragm, or equivalent means that can withstand the forward load reaction. A berth or litter oriented greater than 15° with the longitudinal axis of the rotorcraft must be equipped with appropriate restraints, such as straps or safety belts, to withstand the forward reaction. In addition—

(1) The berth or litter must have a restraint system and must not have corners or other protuberances likely to cause serious injury to a person occupying it during emergency landing conditions; and

(2) The berth or litter attachment and the occupant restraint system attachments to the structure must be designed to withstand the critical loads resulting from flight and ground load conditions and from the conditions prescribed in § 29.561(b).

10. By amending § 29.809 by revising paragraph (e) to read as follows:

§ 29.809 Emergency exit arrangement.

* * * * *

(e) There must be means to minimize the probability of the jamming of any emergency exit in a minor crash landing as a result of fuselage deformation under the ultimate inertial forces in § 29.783(d).

* * * * *

Issued in Washington, DC, on November 3, 1989.

James B. Busey,
Administrator.

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Part IV

Office of Personnel Management

Federal Personnel Manual Letter 792-19, Establishing a Drug-Free Federal Workplace; Notice

OFFICE OF PERSONNEL MANAGEMENT

Federal Personnel Manual Letter 792-19, Establishing a Drug-Free Federal Workplace; Notice

the 10 written comments discussed below. In recognition of the important role that may be played by interested members of the public even in providing their comments on advisory personnel workplace program and a model Employee Assistance Program was attached to FPM Letter 792-16.

FPM Letter 792-17 was issued on March 9, 1987, as a brief supplement to

contractors. The FPM system sets forth guidance for the management and supervision of Federal employees, not employees of Federal contractors.

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that have the *most direct* impact on public health, safety, or national security.

Another said that it was ridiculous to

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OFFICE OF PERSONNEL MANAGEMENT

Federal Personnel Manual Letter 792-19, Establishing a Drug-Free Federal Workplace

AGENCY: Office of Personnel Management.

ACTION: Response to comments; final publication; notice.

SUMMARY: The Office of Personnel Management publishes notice of the final version of Federal Personnel Manual Letter 792-19, Establishing a Drug-Free Federal Workplace prior to its issuance.

EFFECTIVE DATE: December 13, 1989.

FOR FURTHER INFORMATION CONTACT: Carrol Kinsey, (202) 632-5087.

SUPPLEMENTARY INFORMATION: This final Federal Personnel Manual Letter was developed in accordance with section 6(a)(1) of Executive Order 12564, A Drug-Free Federal Workplace, issued on September 15, 1986. On November 28, 1986, OPM issued Federal Personnel Manual (FPM) Letter 792-16, Establishing a Drug-Free Federal Workplace, to Executive branch agencies covered under the jurisdiction of Executive Order 12564. On March 9, 1987, OPM issued FPM Letter 792-17, amending three provisions of FPM Letter 792-16. On December 30, 1988, OPM issued FPM Letter 792-18, notifying agencies of actions they should take to bring their Drug-Free Workplace plans into compliance with section 628 of the Treasury, Postal, and General Government Appropriations Act of 1989, Public Law No. 100-440.

FPM Letters generally are advisory guidance for supervisors and personnel specialists to use as management tools and ordinarily would not be published under formal rulemaking procedures. In this FPM Letter, policies for Federal agencies and employees required by law or Government-wide regulation are stated in terms of "must," "shall," or "will." Policies which are not required by law or Government-wide regulation, but which are highly recommended, are stated in terms of "should." Policy guidance which is set forth for the agency's consideration is stated in terms of "may," "can," or "could."

The publication of the draft FPM Letter 792-19 in the Federal Register on April 6, 1989, did not mean that OPM was embarking upon a formal rulemaking. It afforded interested parties the opportunity to comment on the draft FPM Letter before its issuance in final form.

In response to that notice and opportunity for comment, OPM received the 10 written comments discussed below. In recognition of the important role that may be played by interested members of the public even in providing their comments on advisory personnel guidance, OPM has considered the comments as indicated below and has made corresponding changes to the draft FPM Letter.

In preparing draft FPM Letter 792-19, OPM consolidated all of the existing FPM Letters on the subject of a Drug-Free Federal Workplace in one issuance. FPM Letter 792-19 is a compilation and update of FPM Letters 792-16, 792-17, and 792-18. It incorporates the text of the preceding FPM Letters and any amendments made necessary by subsequent legislation. This compilation is deemed necessary as a service to Federal agency officials and other interested parties and as an opportunity to update the original FPM Letter issued on November 28, 1986.

FPM Letter 792-16 followed both the language of Executive Order 12564 and pre-existing law and regulation. The first section of the Letter discussed its purpose and stated that the use of illegal drugs by Federal employees, whether on or off duty, cannot be tolerated and that the Federal government, as the nation's largest employer, must be in the forefront of the national effort to eliminate illegal drugs from the American workplace.

That FPM Letter went on to set forth agency responsibilities in drafting and implementing drug-free Federal workplace plans. Each agency head was required, pursuant to the Executive Order, to develop a plan for achieving the objective of a drug-free workplace, which contains a policy statement, an Employee Assistance Program, supervisory training, provision for employee self-referral, and provisions for identifying illegal drug users (including drug testing). The head of each agency was also required, pursuant to the Executive Order, to test employees in sensitive positions for the use of illegal drugs. The FPM Letter set forth recommendations regarding how agencies may carry out their drug testing programs and drug testing procedures in general. In addition, the Letter addressed the Executive Order mandate that agencies are to maintain statistical records on the number of employees and applicants tested and the number of confirmed positive test results, while removing personally identifying information from such records. The Letter also described the role of the Employee Assistance Program in a drug-free workplace program.

A sample employee acknowledgement of notice of an agency's drug-free workplace program and a model Employee Assistance Program was attached to FPM Letter 792-16.

FPM Letter 792-17 was issued on March 9, 1987, as a brief supplement to FPM Letter 792-16. The language contained in FPM Letter 792-17 that amended FPM Letter 792-16 has been incorporated into the basic text of the portion of FPM Letter 792-19 that was taken from FPM Letter 792-16.

FPM Letter 792-18 was issued on December 30, 1988, as a notice to Federal agencies of the need to take action to bring their Drug-Free Workplace plans into compliance with a soon-to-be-effective provision of the Treasury, Postal, and General Government Appropriations Act or 1989, Public Law No. 100-440. The guidance contained therein has been incorporated into the FPM Letter for use by agencies that may be established in the future.

FPM Letter 792-19 also corrects typographical errors contained in FPM Letters 792-16, 792-17, and 792-18.

Provisions that have been rendered obsolete, inappropriate, or ineffective, by either the passage of time, subsequent legislative enactments, or revised OPM policy, have also been amended or deleted, as appropriate.

Finally, provisions of the National Drug Control Strategy issued by the President and the National Drug Control Policy Office on September 5, 1989, that set new requirements for Federal agencies in implementing the Drug-Free Federal Workplace program are incorporated in the final version of FPM Letter 792-19.

FPM Letter 792-19 supersedes and replaces FPM Letters 792-16, 792-17, and 792-18. Publication of the draft FPM Letter, receipt and consideration of comments, and publication of the final version of the FPM Letter complies with a court order entered in *NTEU* v. *Reagan*, Civ. No. 86-4058 (E.D. La.).

Response to Comments

Written comments in response to the Opportunity for Comment published April 6, 1989, were received from 10 individuals, organizations and Federal agencies. All written comments were reviewed and taken into consideration in the preparation of the final FPM Letter. This section summarizes major comments and the response of the Office of Personnel Management to them. Similar comments are considered together. Typographical, grammatical, and technical corrections have also been made to the publication. In addition, several telephone inquiries were made concerning the application of the FPM Letter to employees of Federal contractors. The FPM system sets forth guidance for the management and supervision of Federal employees, not employees of Federal contractors.

A. General Concerns

1. Several commenters, including two employee unions, expressed their general disagreement with the policy underlying the drug-testing portion of the Drug-Free Federal Workplace program. One described it as a "witch hunt." Another opined that the drug testing program contained too much room for abuse and that it will be used to ruin outspoken employees. Another urged the re-examination of the motives behind drug testing. These commenters challenge the basic policy underlying the inclusion of drug testing as one of the elements of the Drug-Free Federal Workplace program set out in Executive Order 12564. The FPM Letter simply provides guidance to the agencies on the implementation of that policy. Section 6(a)(1) of the Executive Order required Director of OPM to issue the government-wide guidance embodied in the FPM Letter. This FPM Letter will be issued in conformity with that mandate.

2. One commenter stated that the FPM Letter goes beyond the scope of the Executive Order. OPM disagrees and believes that the FPM Letter does not exceed the limits of the Executive Order, except to the extent necessary to provide agencies with sufficiently detailed guidance to take appropriate personnel management actions consistent with Executive Order policies and to meet the requirements of intervening statutory enactments and Presidential directives.

3. One commenter, a Federal employee union, asked whether or not the publication of the FPM Letter in the Federal Register was a rulemaking under the terms of 5 U.S.C. 553. As noted in the supplementary information accompanying this publication, an FPM Letter is not a formal rule. It is interpretative guidance prepared by OPM to assist agency managers and personnelists in implementation of a program. While this, then, is not a formal rulemaking, it was published in draft form for comment, and those comments have been considered before publishing the final version of the FPM Letter, in accordance with the court's order in *NTEU* v. Reagan, Civ. No. 86-4058 (E.D. La.).

B. Random Testing

1. Several commenters objected to the random testing component of the program on constitutional grounds and asserted that it violates the 4th Amendment to the Constitution. One commenter opposed it on the broader ground that it invades employee privacy. Another commenter stated that it was premature for the government to consider random drug testing of employees given the uncertain constitutionality of the practice and requested reconsideration or delay of the issuance of the FPM Letter until the question of the constitutionality of random drug testing was resolved. There have been numerous constitutional challenges to the random drug testing portion of the program in Federal courts across the country. Several of those courts have held that random drug testing of certain employees in specific types of sensitive positions is not a violation of the 4th Amendment to the Constitution (*e.g., National Federation of Federal Employees* v. *Cheney*, No. 88-5060 (D.C. Cir., August 29, 1989; *American Federation of Government Employees* v. *Skinner*, No. 87-5417 (D.C. Cir., September 8, 1989) and others have held the converse (*e.g., Connelly* v. *Newman*, No. 88-5085 DLJ (N.D. Cal., June 15, 1989); *National Treasury Employees Union* v. *Watkins*, No. 88-1006 JRP (D.D.C., June 16, 1989). Given the fact that the courts have decided the question of the constitutionality of particular agency programs established under the Executive Order in individual legal challenges, it cannot be said that those agencies with plans that pass constitutional muster should not go forward. The guidance afforded by the FPM Letter provides important assistance to those agencies whose plans are held to be constitutional. For those plans that have not been challenged, three is a presumption of constitutionality, and OPM's guidance will assist them as well.

2. Several commenters challenged the definition of employees in sensitive positions and the testing designated position (TDP) selection process.

One commenter suggested that the definition of an "employee in a sensitive position" and the criteria for selecting TDPs are grossly overbroad and vague. The definition of "employee in a sensitive position" that appears in the FPM Letter at section 3a(1) is exactly the same as the definition of that term set out in section 7(d) of Executive Order 12564. OPM believes that using that definition to determine the group of positions that might be subject to random testing and then using the TDP selection process outlined in section 3a(2)(ii) guides agencies to craft a narrow group of TDPs that comprise both those positions falling within the Executive Order definition of employees in sensitive positions *and*, from that group of positions, identify the positions that have the *most direct* impact on public health, safety, or national security.

Another said that it was ridiculous to target law enforcement positions for random testing and that heavy equipment and motor vehicle operators were more likely to present safety hazards. The definition of employees in sensitive positions is not limited to law enforcement positions nor does it target those positions. Those positions are simply one group of positions that may be randomly tested if the agency head determines, through the TDP selection process, that they have a direct relation to public health, safety, or national security. In addition, under both the definition of employees in sensitive positions and the TDP selection process, heavy equipment and motor vehicle operators may well be included in an agency's TDPs.

Another opined that agency heads must consider the necessity for the random testing of employees holding sensitive positions in the agency given the level of drug use, the utility of other detection means, and then publish the basis for their decision to use random testing. In the cases in which random testing has been upheld as constitutional, it has been argued that both the level of drug use in the agency and the utility of other detection means should be considered before an agency may properly embark on random urinalysis. In those cases, the courts have held that establishing a baseline of drug use or examining the utility of alternative detection means were not prerequisites for drug testing. *See, e.g., National Federation of Federal Employees v. Cheney*, No. 88-5060 (D.C. Cir. August 29, 1989). Similarly, OPM does not believe that agency heads must consider the level of drug use or the utility of alternative detection means before instituting a drug testing program. While these are important factors that agency heads will certainly need to consider as they attempt to meet create a Drug-Free Workplace in their agencies, those considerations should not govern whether or not drug testing is begun. On the other hand, agency heads who have established Drug-Free Federal Workplace plans under Executive Order 12564 have included a discussion of the necessity for random testing their TDPs and the basis for their selection of those positions for random testing in their plans.

Another urged deletion of section 3a(1)(ii) of the FPM Letter because mere access to classified information is not sufficient to justify drug testing. This commenter urged that the type of

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information and the degree of access should be examined before designating the position as a TDP. Those factors are certainly appropriate in determining whether or not to include particular positions as TDPs. Sufficient latitude is afforded in the definition of "employee in a sensitive position" set out at section 3a(1)(ii) of the FPM Letter (and section 7(d)(2) of Executive Order 12564) and the TDP selection process outlined at section 3a(2)(ii) of the FPM Letter to allow agency heads to consider those factors. In addition, as section 3a(1)(ii) of the FPM Letter simply restates, *verbatim*, the definition set out at section 7(d)(2) of the Executive Order, OPM sees no need to delete it. The same commenter urged the rewriting of section 3a(4) of the FPM Letter to standardize the TDP selection process to ensure non-discriminatory selection. Section 3a(3) of the FPM Letter already requires the neutral application of the TDP selection process and expressly urges agencies to ensure that "the selection process does not result in arbitrary, capricious, or discriminatory selections." Thus, OPM believes that the concerns of this commenter have already been addressed.

3. One commenter urged that section 3a, 3a(4), & 3a(5) of the FPM Letter be amended to return to the characterization of testing contemplated thereunder as "random" rather than "comprehensive." The term "comprehensive" was used in the proposed version of the FPM Letter to accommodate those few agencies that decide, due to the nature of their agency mission and the extremely sensitive nature of the positions held by their TDPs, to test *all* of the employees holding those positions rather than a randomly selected portion of those TDPs. Comprehensive testing includes random testing.

C. Reasonable Suspicion Testing

1. One commenter stated that a reasonable suspicion of illegal drug use should exist before any testing is undertaken by a Federal agency of its employees. While OPM believes that a strong reasonable suspicion testing program is an important part of any effective Drug-Free Workplace program, the public safety, health, or national security risk present for employees holding TDPs is strong enough to warrant suspicionless, random testing of employees holding those positions. Thus, reasonable suspicion will not be required for all testing.

2. One commenter stated that there should be no testing based upon a reasonable suspicion of illegal drug use. Testing should be based on probable cause that an employee is impaired while on duty. The commenter stated that even if reasonable suspicion testing is upheld, the definition in the FPM Letter invites abuse. This commenter believed that it provides that a reasonably articulable belief or a pattern of misconduct can be used to punish employees without cause. To the contrary, OPM asserts that testing based upon a reasonable suspicion of illegal drug use is an accepted practice among many municipal governments for testing public employees holding sensitive positions. Probable cause, the standard at criminal law for instituting a search, is not required before the institution of an administrative search, such as a drug test. The definition used in the FPM Letter was developed through an examination of the definition of reasonable suspicion for administrative searches approved by the Federal courts over the years. It has withstood judicial scrutiny in several cases and should not be subject to the strict limitations of probable cause because the search at issue is undertaken for administrative, rather than criminal prosecution, purposes.

Another commenter urged OPM to amend section 3c of the FPM Letter to limit testing based upon a reasonable suspicion of illegal drug use either to reasonable suspicion of illegal drug use while on duty or reasonable suspicion that an employee's performance is affected by illegal drug use while on duty. This commenter stated that off duty drug use that doesn't affect job performance should not be the basis for government action. To the contrary, OPM believes that off duty drug use can be a proper basis for reasonable suspicion testing. Indeed, there are some positions within the Federal service, as noted by the Supreme Court in *National Treasury Employees Union v. Von Raab*, 109 S. Ct. 1384, 1393 (1989), which are incompatible with illegal drug use—on- or off-duty.

3. One commenter sought the deletion of section 3c(2)(iv) of the FPM Letter and asserted that agency management should not be required to make a decision on whether to direct a reasonable suspicion test based on information provided by credible and reliable sources. The commenter questioned that ability of the management official to make an objective determination of the reliability and credibility of a source. Management officials are frequently called upon to make determinations about the credibility and reliability of the sources of information they receive. They will be required to do no more than that in determining whether reasonable suspicion of illegal drug use exists. In addition, under the plans developed by the agencies, a written record will be made of the circumstances leading to a reasonable suspicion determination and higher level concurrence will be required before an employee is directed to take a reasonable suspicion drug test.

D. Accident/Unsafe Practice Testing

1. One commenter suggested that section 3d of the FPM Letter on specific condition testing should be limited to those persons whose actions may have contributed to the accident or unsafe practice that is the basis for the test. The same commenter also suggested that some proof of improper conduct be required before an employee could be subject to testing. By the very terms of section 3d of the FPM Letter, specific condition (now accident or unsafe practice) testing is triggered by "an examination authorized by the agency regarding an accident or unsafe practice." OPM believes that testing directed under those conditions will ensure that only those persons involved in the accident or unsafe practice will be tested for illegal drug use.

2. One commenter registered a strong objection to safety reasons for accident and unsafe practice testing. This commenter noted that shipyards are inherently unsafe which would lead to more unwarranted tests because of the more dangerous work environment. Dangerous work environments are one of the most persuasive reasons for accident and unsafe practice testing. In order to protect Federal workers, their co-workers, and members of the public from injury and to help determine the cause of on-the-job mishaps, OPM believes that accident and unsafe practice testing is necessary.

3. The same commenter opined that employees who do not use illegal drugs will be more liable for accident or unsafe practice testing because users would be more likely not to report accidents in order to avoid testing. Reporting accidents is a responsibility that all Federal employees must meet. Co-workers and the public suffer if accidents are not reported. There are long-standing safety and accident reporting procedures in place to ensure timely reporting of accidents in the workplace. The drug testing program is unlikely to impede the proper reporting of workplace mishaps.

4. One commenter urged the amendment of section 4c of the FPM Letter to provide that the notice to employees that they are being directed to a drug test based upon an accident or unsafe practice should also include the circumstances leading to the decision to test. OPM has added a final sentence to that section of the FPM Letter that adds that provision. The same commenter asked that we change the title of section 3d to "Accident/Unsafe Practice" to avoid confusion with section 4c. OPM has done so.

E. Follow-Up Testing During Rehabilitation

1. One commenter suggested that section 3e of the FPM Letter be amended to add, before the last sentence of that section: "Positive results obtained during counseling or rehabilitation can only be used to support discipline or an adverse action if the employee, at the time of the test, has been provided with a reasonable opportunity to have been rehabilitated." Rather than make the suggested change in this FPM Letter, OPM will discuss these issues in a later FPM issuance discussed below in the discussion of comments entitled L. Rehabilitation Act/Reasonable Accommodation.

F. Applicant Testing

1. One commenter stated that there is no justification for testing applicants for any positions. This commenter asserted that Background Investigations are required only for sensitive positions and that non-sensitive positions should not be subject to applicant testing. Section 3(d) of Executive Order 12564 authorizes agency heads to conduct applicant testing. Section 3f of the FPM Letter restates that authority and provides guidance to agency heads on how to implement an applicant testing program. As noted in that section, agency mission is a factor that agency heads should consider in determining the scope of applicant testing.

2. Another commenter urged that the third sentence of section 3f(2) as it appeared in FPM Letter 792–16 concerning applicants providing medical information be restored. OPM has restored the provision.

3. The same commenter stated that section 3f(4) of the FPM Letter should require agencies to deny Federal employment to those applicants who test positive for illegal drugs. That commenter also urged the inclusion of additional standards and guidance if discretion is left to the agencies. Section 1(c) of the Executive Order states that "[p]ersons who use illegal drugs are not suitable for Federal employment." Given that strongly stated standard, no additional standards that OPM might devise for inclusion in the FPM Letter are necessary. As noted previously, this FPM Letter provides guidance to the agencies on how to implement Executive Order 12564 but does not state any additional requirements that do not already appear in that Order or in existing statute or regulation. Thus, no new requirement that agencies must deny employment to applicants who test positive for illegal drugs will be included in the FPM Letter.

G. Testing Procedures

1. Two commenters urged that additional protection should be included in the FPM Letter against false positives. One of them noted the example of employees that work with chemicals that they may inhale and cause their drug tests to turn up positive. The HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs provide the scientific and technical procedures that must be followed. Those guidelines require a Medical Review Officer (MRO) to determine the validity of alternative explanations for positive test results. Those procedures provide the necessary protection for Federal employees against positive test results that are not due to illegal drug use.

2. One commenter stated that the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs does not allow the employee to provide a new sample as a defense against erroneous test results. This commenter stated that the HHS Guidelines only allow a retest of a portion of the original sample that could be flawed. This commenter stated that this demonstrated an outrageous indifference to logic, merit principles, and due process. (Another commenter also noted that the procedure denied employee rights to due process.) The commenter stated that allowing the testing of a different sample would guarantee the protection of employee rights. The FPM Letter notes that agencies are required to follow the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs when conducting drug testing programs. OPM did not promulgate those guidelines. HHS is responsible for their issuance and their amendment, if appropriate. OPM supports the position taken in the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs that later testing of new samples would undermine the accuracy and validity of the testing process.

3. Another commenter stated that the procedure set out in section 4g(2) of the FPM Letter for providing a specimen under observation is embarrassing and degrading and it should only be done when there is reasonable evidence that an employee will alter or tamper with the test sample. The HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs and the FPM Letter make it clear that direct observation will occur only if there is reason to believe that an employee or applicant may alter or substitute the specimen. The FPM Letter also includes a list of examples of circumstances that may lead to that reason to believe that the employee or applicant may alter or substitute the specimen. OPM believes that the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs require a reasonable basis for direct observation and that the FPM Letter has incorporated those requirements.

4. Another commenter urged the use of the term "verified positive test result" rather than "confirmed positive test result" throughout the FPM Letter in order to avoid confusion with the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. OPM has made the necessary changes.

H. Notices to Employees

1. One commenter urged that the FPM Letter include a requirement that, as a part of the process whereby notice of drug testing is given to employees, each agency must turn over the names of all bargaining unit employees holding TDPs to the union that represents them. Although this is a procedural issue that could arise, the interpretation and application of 5 U.S.C. 7114(b)(4), which addresses an agency's obligation to provide information to an exclusive representative, are outside the purview of this guidance. Consequently, this issue will not be addressed here.

I. Compliance With HHS Mandatory Guidelines

1. Two commenters noted that section 4c of the FPM Letter should be amended to note that adoption and compliance with the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs is mandatory, not permissive. OPM has made the necessary change to note that agency compliance with those guidelines is mandatory.

J. Confidentiality/Recordkeeping/ Patient Records and Test Results

1. One commenter urged that section 4f(1) of the FPM Letter be amended to reflect the requirement of 42 U.S.C. 290ee–3, to-wit: "(1) Records of the identity * * * drug abuse prevention program conducted, regulated, or directly or indirectly assisted by a Federal agency must be kept confidential * * *." OPM has made the necessary amendments to that section.

2. The same commenter urged that section 4f of the FPM Letter be amended to clarify the restrictions on the release

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of drug test results to third party adjudicators. OPM believes that there is no need to do anything further than restate the limitations on release of drug test results as they appeared in section 503 of the Supplemental Appropriations Act of 1987. That has been done.

3. The same commenter urged the amendment of the third line of section 4f(2)(ii) of the FPM Letter to add "patient" before "identifying." OPM has made the suggested change.

4. The same commenter suggested the amendment of the second sentence of section 4f(6) of the FPM Letter to add "prior written" before "employee consent" and replace "empowered to recommend or take action" with "having authority to take adverse personnel action against such employee." The second change should also be made in section 4f(7). OPM has made the suggested changes.

5. The same commenter suggested the deletion of section 4g of the FPM Letter to diminish any confusion that might be caused by paraphrasing the HHS Mandatory Guidelines on Federal Workplace Drug Testing Progams. OPM believes that no confusion exists between section 4g of the FPM Letter and the HHS Mandatory Guidelines on Federal Workplace Drug Testing Programs and believes that it is important to reiterate the protections included in them in the FPM Letter.

6. The same commenter noted that 42 CFR 2.32 requires written consent be obtained with a prescribed written statement and that the sample set out in Attachment 3 to the FPM Letter does not follow it. The commenter also suggested that the following be added to the sample consent form: "The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient." That provision has been added to the sample consent form.

7. The same commenter suggested that section 11 of Attachment 6 to the FPM Letter be changed from "Confidentiality of Client Records" to "Confidentiality of Alcohol and Drug Abuse Patient Records." Section 11 has been changed as suggested.

K. Discipline

1. One commenter objected to using a voluntary admission of a drug problem as a finding of illegal drug use and removal for the second offense as they violate nexus and reasonable accommodation requirements. OPM does not believe that either of the challenged provisions violate those requirements. Neither of the provisions eliminates the need for a nexus between adverse actions taken against employees for misconduct and the efficiency of the service. That requirement is statutory in nature and is not affected by this FPM Letter. A voluntary admission of illegal drug use is simply one type of evidence that an employee uses illegal drugs. Executive Order 12564 requires the *initiation* of removal action for a second verified positive test result. Nexus must still be established in order for an adverse action based on misconduct to be sustained on appeal. Similarly, neither provision restricts the requirement that agencies must, in appropriate cases, provide reasonable accommodation of an employee's handicap.

2. Another commenter stated section 4d of the FPM Letter should state a strong policy in favor of agencies at least initiating action against employees who refuse testing. The provision has been changed to urge agencies to at least initiate action under those circumstances.

3. The same commenter suggested that section 5b of the FPM Letter be changed to "Mandatory Initiation of Removal Action." This change has been made.

4. The same commenter stated that section 5d of the FPM Letter should be deleted as it is not useful to list the available disciplinary actions. OPM believes that it is helpful to list the types of actions that may be taken based upon illegal drug use by an employee.

L. Rehabilitation Act/Reasonable Accommodation

1. Two commenters recommended that OPM take this opportunity to revise and clarify procedural guidance with regard to the agency obligation to accommodate employees identified as drug addicts and alcoholics. They urged institution of a flexible reasonable accommodation policy based on risk assessment. OPM is in the process of developing new guidance on the issue of reasonable accommodation. That new guidance will address the concerns expressed by these commenters.

M. Employee Assistance Programs

1. One commenter stated that some of the EAP consortia listed by city in the appendix to the FPM Letter are region-wide and that it would be more helpful to list them by region. OPM has prepared an updated listing of EAP consortia and has substituted it for the list set out in the proposed version of this FPM Letter.

2. The same commenter urged OPM not to use the names of the treatment providers, but to use titles and phone numbers and provide an updated list. The new list has been substituted for the one that appeared previously.

Provisions From The National Drug Control Strategy

On September 5, 1989, President Bush transmitted the 1989 National Drug Control Strategy to Congress. That strategy was prepared by the Office of National Drug Control Policy and transmitted to the Congress in accordance with section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504). The National Strategy contained two provisions directing that Federal agencies take certain action toward implementation of Executive Order 12564. On page 104 in Appendix B of the National Strategy, the agencies are given a schedule for implementation and guidance on reviewing their testing designated positions as the courts rule on legal challenges to the program. Those directives have been incorporated into new sections of the FPM Letter at section 2d and section 3a(6), respectively.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

FPM Letter 792-19

Office of Personnel Management

Federal Personnel Manual System

FPM Letter 792-19

[Published in advance of incorporation in FPM Supplement 792-2; RETAIN UNTIL SUPERSEDED]

SUBJECT: Establishing a Drug-Free Federal Workplace

Washington, DC 20415.

Heads of Departments and Independent Establishments:

1. PURPOSE

a. The use of illegal drugs by a significant proportion of the national workforce has major adverse effects on the welfare of all Americans, and results in billions of dollars of lost productivity each year. There is no reason to believe that there is a greater incidence of illegal drug use in the Federal workforce than in the private workforce. However, as the Nation's largest employer, the Federal government and its two million civilian employees must be in the forefront of our national effort to eliminate illegal drugs from the American workplace.

b. The use of illegal drugs by Federal employees, whether on or off the job, cannot be tolerated. Employees who use illegal drugs have three to four times more accidents while at work. Federal workers have a right to a safe and secure workplace, and all American citizens, who daily depend on the work of the Federal government for their health, safety, and security, have a right to a reliable and productive civil service. Federal agencies must take action for the protection of individual drug users, their co=workers, and the society at large. In recognition of this, President Reagan, in Executive Order 12564, set forth the policy of the United States Government to eliminate drug use from the Federal workplace.

c. Agencies will establish a comprehensive drug prevention program which is humane, responsible, and effective. In recognition that employees who use drugs are, themselves, primarily responsible for changing their behavior, the program will include drug education and training, employee counseling and assistance, and voluntary drug testing. However, where appropriate, there will be mandatory drug testing and disciplinary action.

d. This will be a balanced program which emphasizes offering a helping hand to employees who are using illegal drugs. At the same time, it must be clear to all that continued illegal drug use by employees will not be tolerated and may result in disciplinary action up to and including removal.

e. Under the Executive Order, OPM is directed to issue government-wide guidance to agencies on the implementation of the terms of the Order.

2. AGENCY RESPONSIBILITIES

a. The head of each Executive agency shall develop a plan for achieving the objective of a drug-free workplace with due consideration of the rights of the government, and the employee. Agencies should make every reasonable effort to ensure workforce understanding of, and employee organization cooperation with, their drug prevention programs. Communications should emphasize the importance of the drug prevention program for agency mission and the community at large. Further, agencies should ensure that their drug prevention programs complement agency programs to deal with alcohol abuse and related employee problems.

b. Each agency plan shall include:

(1) A statement of policy setting forth the agency's expectations regarding drug use and the action to be anticipated in response to identified drug use;

(2) Employee Assistance Programs (EAP's) with high level direction, emphasizing education, counseling, referral to rehabilitation, and coordination with available community resources;

(3) Supervisory training to assist in identifying and addressing illegal drug use by agency employees (agencies may wish to include material on alcohol abuse in this training);

(4) Provision for self-referral as well as supervisory referrals to counseling or rehabilitation with maximum respect for individual confidentiality consistent with safety and security requirements; and

(5) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis in accordance with E.O. 12564 and the guidance contained below.

c. Agencies should consult with the Attorney General regarding their drug testing programs, as provided by Section 6(b) of the Order.

d. Each Federal agency will expedite the implementation of a Drug-Free Workplace plan. Those agencies with certified plans will fully implement them, consistent with the holdings in recent court decisions, by January 5, 1990, as required in the National Drug Control Strategy. This implementation is to include Employee Assistance Programs or other appropriate mechanisms, training for supervisors, rehabilitation for drug users, and drug testing. Agencies without currently certified plans will complete certification by January 5, 1990, and fully implement the plans by April 5, 1990.

3. AGENCY DRUG TESTING PROGRAMS

a. Comprehensive Testing for Employees in Sensitive Positions. In accordance with section 3(a) of Executive Order 12564, the head of each Executive agency shall establish a program to test for the use of illegal drugs by employees in sensitive positions.

(1) For purposes of this program, the term "employee(s) in a sensitive position" refers to:

i. An employee in a position that an agency head designates Special Sensitive, Critical-Sensitive, or Noncritical-Sensitive under Chapter 731 of the Federal Personnel Manual or an employee in a position that an agency head designates as sensitive in accordance with Executive Order No. 10450, as amended;

ii. An employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of Executive Order No. 12356;

iii. Individuals serving under Presidential appointments;

iv. Law enforcement officers as defined in 5 U.S.C. § 8321(20); and

v. Other positions that the agency head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

(2) The head of each agency has discretion to determine which sensitive positions for which comprehensive testing is authorized ought to be subject to such testing. This determination should be based on the nature of the agency's mission, its employees' duties, the efficient use of agency resources, and the danger that could result from the failure of an employee to discharge his or her duties adequately. Thus, who will actually be tested is a function of a two step analysis by the agency head.

i. First, the criteria set forth in Section 7(d) of Executive Order 12564 must be applied to all employees in the agency to determine which employees fall into the "pool" of employees potentially subject to drug testing; this is the pool of "employees in sensitive positions" as defined in the Executive Order. While the definition of the pool of "employees in sensitive positions" is the same from agency to agency, the testing of all employees in that pool may be appropriate for some agencies and not for others depending upon the duties of the positions and the missions of the agencies. If an agency head decides not to test all employees in the pool, then a further determination must be made as outlined below.

ii. Second, a determination must then be made from this pool as to which positions will actually be tested. For the sake of clarity within this guidance, this second group of positions is referred to as Testing Designated Positions (TDPs). Thus, an agency head may determine not to designate all sensitive positions as TDPs, but may limit testing to certain positions. For instance, this may include positions where national security considerations are present, as well as positions where there is a clear impact on public health or safety (e.g., air traffic controllers; operators of motor vehicles; medical, nursing, and related health care personnel) or positions relating to illegal drug control (e.g., law enforcement officers such as customs agents and drug enforcement agents). Other positions should be reviewed with particular care when one or more of the following are present as regular, recurring duties: operation or maintenance of any transportation, motor vehicle, aircraft, or heavy or other large mechanical or electrical equipment; work with explosive, toxic, radioactive, or other dangerous

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materials; work with fluids or gases under heat or pressure; work by employees uniquely positioned to exploit highly sensitive computer or financial data for financial gain.

(3) When selecting TDPs, agencies should ensure that the selection process does not result in arbitrary, capricious, or discriminatory selections. Agencies must be able to justify their selection of TDPs as a neutral application of the selection criteria set forth in section 3(a)(2)(ii), above. Agencies are absolutely prohibited from selecting positions for drug testing on the basis of a desire to test particular individual employees.

(4) Individuals in TDPs may be selected for comprehensive testing in a variety of ways. For example, their names or social security numbers may be selected randomly by computer, they may be selected according to their birth dates, or they may be selected by the first letter in their surnames.

(5) Comprehensive testing may include unscheduled testing and random sampling of the employees within the group of TDPs. As an alternative to this method of selection, the head of an agency may, at his or her discretion, designate that all employees in TDPs shall be tested.

(6) In carrying out their responsibilities under Section 3 of Executive Order 12564, agency heads should review their testing designated positions periodically as significant new decisions on drug testing are issued by the courts.

b. Voluntary Testing. The head of each Executive agency shall establish a program for voluntary employee drug testing that allows employees to volunteer to participate in the drug testing program. An agency should afford an opportunity for any employee to step forward and be tested at a time determined appropriate by the agency.

c. Reasonable Suspicion Testing. In addition to the testing outlined in subsections (a) and (b) of this section, the head of each Executive agency is authorized to test an employee when there is a reasonable suspicion that any employee uses illegal drugs. For the purposes of this program "reasonable suspicion" is an articulable belief that an employee uses illegal drugs drawn from specific and particularized facts and reasonable inferences from those facts.

(1) Prompt supervisory training to assist in identifying and addressing illegal drug use by agency employees should be provided to supervisors as each agency develops and implements its agency program. Such training will make supervisors more sensitive to employee behavior and help supervisors recognize those facts that give rise to a reasonable suspicion.

(2) "Reasonable suspicion" that an employee uses illegal drugs may be based upon, among other things:

i. observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influences of a drug;

ii. a pattern of abnormal conduct or erratic behavior;

iii. arrest or conviction for a drug related offense; or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;

iv. information provided either by reliable and credible sources or independently corroborated; or

v. newly discovered evidence that the employee has tampered with a previous drug test.

(3) Where testing is conducted based on reasonable suspicion, each agency should promptly detail in writing the circumstances which formed the basis of its determination that reasonable suspicion exists to warrant the testing. Such documentation should be retained in the adverse action file compiled by the agency.

d. Accident/Unsafe Practice Testing. The head of each agency is also authorized to test an employee for illegal drug use in an examination authorized by the agency regarding an accident or unsafe practice.

e. Follow-up Testing. The head of each agency may also require agency-administered follow-up drug testing during or after counseling or rehabilitation for illegal drug use through an Employee Assistance Program. While follow up testing may be undertaken as a part of counseling or rehabilitation under the Employee Assistance Program, only the results of agency-administered follow-up testing may be used, if verified positive results are obtained, to support an adverse action taken under section 5(d)(2) of the Executive Order. To insure its integrity, such agency-administered follow-up testing ought to be unannounced.

f. Applicant Testing. The head of each Executive agency is authorized, but not required, to test any applicant for illegal drug use. Agency heads who choose to test applicants for illegal drug use have a variety of options. For example, depending on the mission of the agency, an agency may wish to test all applicants for employment. On the other hand, an agency may determine that it will limit applicant testing to applicants for TDPs. Where an applicant must submit to a physical examination as a condition of employment, an agency may wish to require a drug test as part of the physical examination procedures.

(1) Agencies should include notice of drug testing on vacancy announcements for those positions where drug testing is required. A sample notice provision for vacancy announcements or other information about the position would read as follows: "All applicants for this position will be required to submit to a urinalysis for illegal drug use prior to appointment in the Federal service."

(2) Where applicants are given preemployment physical examinations, drug testing may be performed as part of the physical examination procedures. Where no physical examinations are required, applicants should be contacted and directed to report to a designated contractor or agency facility for their drug test. Before a drug test is conducted, all applicants may be advised of the opportunity to submit medical documentation that may support a legitimate use of a specific drug. Aside from the general notice of the drug-testing requirement in vacancy announcements, applicants should receive as little notice as possible of the actual date and time of their drug test. A urine specimen should be taken no more than forty-eight hours after the applicant is contacted to set up the drug testing.

(3) In remote locations, applicants should be directed to report to the nearest contractor or agency facility. Agencies ought to provide for reimbursement to applicants for reasonable expenses incurred in travel to the drug testing facility. In extremely remote areas, the contractor may be required to travel periodically to the region to perform drug-testing of applicants.

(4) All applicants with verified positive test results should be refused employment.

g. Hardship Exemption. Agencies may choose to exempt certain positions from the drug testing program on the basis of hardship due to the remote location of the duty station of the positions, the unavailability of on-site testing personnel, or the lack of an appropriate site for test administration. Agencies should, however, use reasonable means to overcome such hardships.

4. DRUG TESTING PROCEDURES

a. 60 Day General Notice to All Employees.

(1) Agencies which have not yet implemented a drug testing program shall ensure that at least sixty days elapse between a general one-time notice to all employees that a drug testing program is being implemented and the beginning of actual drug testing.

Such notice should indicate the purpose of the drug testing program, the availability of counseling and rehabilitation assistance through the agency's Employee Assistance Program, when testing will commence, the general categories of employees to be tested, and the general parameters of testing. Agencies may decide to include with their notice a description of their drug program or a copy of the internal personnel rules establishing their program.

(2) Any agency may take action as described in parts 3c and 3d. of this letter without reference to the 60 day notice requirement.

b. Special Notice to Covered Employees. Agencies should ensure a specific notice is given, in writing, to each employee in a TDP no later than thirty days before testing commences. We recommend that agencies obtain a written acknowledgment of receipt of the notice. A sample acknowledgment for agency consideration is provided as attachment 1 to this letter. The notice should contain the following information:

(1) The reasons for the urinalysis test, consistent with agency policy formulated in accordance with sections 1 and 3a. of this letter.

(2) Notice of the oppportunity for an employee to identify himself voluntarily as a user of illegal drugs willing to undertake counseling and, as necessary, rehabilitation, in which case disciplinary action is not required.

(3) Assurance that the quality of testing procedures is tightly controlled, that the test used to confirm use of illegal drugs is highly reliable, and that test results will be handled with maximum respect for individual confidentiality, consistent with safety and security.

(4) Notice of the opportunity and procedures for submitting supplemental medical documentation that may support a legitimate use for a specific drug.

(5) The circumstances under which testing may occur, consistent with the policy set forth in section 3 of this letter.

(6) The consequences of a verified positive result or refusal to be tested, including disciplinary action.

(7) The availability of drug abuse counseling and referral services, including the name and telephone number of the local Employee Assistance Program counselor.

c. Notice to Employees Tested Under Specific Conditions. Employees being tested under conditions outlined in section 3c, 3d, and 3e will receive notice that includes information contained in section 4b., paragraphs (1), (3), (4), (6), and (7). Employees being tested under conditions outlined in section 3c will also receive notice of the circumstances leading to the decision to test them for illegal drug use.

d. Agency Response to Persons—Refusing to Participate in a Required Drug Test.

(1) To maintain the integrity of the testing and enforcement program, agencies should initiate disciplinary action for employees who refuse to be tested. Such action may include, but is not necessarily limited to, removal of such employees as failing to meet a condition of employment and/or refusing to comply with the requirements of the agency's drug-free workplace program.

(2) Applicants who are not current employees and who refuse to be tested must be refused that employment.

e. Technical Guidelines for Drug Testing. The Secretary of Health and Human Services, as directed by Executive Order No. 12564, issued Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing Programs. 53 FR 11970, April 11, 1988. Agencies must conduct their drug testing programs in accordance with those scientific and technical guidelines.

f. Confidentiality of EAP Treatment Records and Drug Test Results. Agency drug testing programs under E.O. 12564 shall contain procedures to protect the confidentiality of 1) medical and rehabilitation records and 2) drug test results. These two classes of information are contained in different systems of records and are subject to different confidentiality requirements. However, both EAP treatment records and drug test results may be utilized in the program. Thus, both are discussed below.

(1) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with performance of a drug abuse prevention program conducted, regulated, or indirectly assisted by a Federal agency must be kept confidential and may be disclosed only under limited circumstances and for specific purposes. Agencies may wish to refer to regulations issued by the Department of Health and Human Services (42 C.F.R. 2. 1, et seq. (1987)) on maintaining the confidentiality of treatment records.

(2) Drug abuse treatment records may be disclosed without the consent of the patient only:

i. to medical personnel to the extent necessary to meet a genuine medical emergency;

ii. to qualified personnel for conducting scientific research, management audits, financial audits, or program evaluation, with all patient identifying information removed from the data; or

iii. if authorized by an appropriate court order granted after application showing good cause.

(3) Any other disclosure may be made only with the written consent of the patient, and only under circumstances set out below. Such consensual disclosure may be made to the patient's employer for verification of treatment or a general evaluation of treatment progress.

(4) Agency drug testing programs should include confidentiality protections consistent with the above requirements. These protections should extend to drug testing results made a part of treatment and rehabilitation records.

(5) Accordingly, drug abuse treatment or rehabilitation records may not be otherwise disclosed by agencies without the consent of the employee involved. A sample consent for release of patient information during and after treatment or rehabilitation and a sample release memorandum are included in attachments 2 and 3, respectively. Any disclosure without such consent is strictly prohibited.

(6) As noted above, agencies will also obtain confirmed positive drug test results that are not part of treatment and rehabilitation records. As part of the drug testing procedure and in conformity with section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, confirmed positive test results may only be released without prior written employee consent to the agency's medical review official (as defined in the HHS Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing Programs), the administrator of the agency Employee Assistance Program (EAP), to the management official(s) having authority to take adverse personnel action against such employee and pursuant to the order of a court of component jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

(7) Under the HHS Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing, after examination and verification by the medical review official, confirmed positive test results will be forwarded to the EAP program administrator and to the management official(s) having authority to take adverse personnel action against such employee. Drug test results should be protected under the

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provisions of the Privacy Act, 5 U.S.C. 552a, et seq., and should not be released in violation of that Act.

g. Privacy in Drug Testing. Agency drug testing procedures under E.O. 12564 must allow individual privacy unless the agency has reason to believe that a particular individual may alter or substitute the specimen to be provided. Agencies should refer to the HHS Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing Programs for the specific procedures to be followed in conducting drug tests.

(1) The sample shall be provided in a rest room stall or similar enclosure so that the employee is not being viewed while providing the sample. However, this requirement does not restrict the ability of the employer to control the test area and to take other actions to ensure that the employee does not substitute or tamper with the sample. For example, the employer may: (a) control the test area to ensure that samples have not been hidden for substitution; (b) prohibit the carrying of bags, luggage, briefcases, or other containers into the test area; (c) prohibit the wearing of coats and/or jackets in the test area; (d) station a testing official in the rest room outside the stall where visual observation is not possible, but where the official can monitor the setting for tampering; (e) examine the sample after it is provided for abnormalities in color, temperature, or other evidence that tampering may have occurred. Agencies should refer to the HHS Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing Programs for more specific information on sample collection.

(2) Generally, an employee or applicant may be required to provide a sample under observation only if there is reason to believe that the employee or applicant may alter or substitute the urine specimen. For example, employers may wish to require observation when facts and circumstances suggest that the person to be tested: (a) is an illegal drug user; (b) is under the influence of drugs at the time of the test; (c) has previously been confirmed by the agency to be an illegal drug user; (d) is seen to have equipment or implements used to tamper with urine samples; (e) has recently been determined to have tampered with a sample.

5. AGENCY ACTION UPON FINDING THAT AN EMPLOYEE USES ILLEGAL DRUGS

a. Drug Use Determination. The determination that an employee has used illegal drugs may be made on the basis of direct observation, a criminal conviction, verified positive results of the agency's drug testing program, the employee's own admission, or other appropriate determinations.

b. Mandatory Initiation of Removal from Sensitive Positions. While removal of an employee confirmed to have used illegal drugs is authorized under the Executive Order, initiation of an action to remove the employee from the Federal service is required after a second determination that the employee uses illegal drugs. Sections 5(b) and 5(d), respectively, of Executive Order 12564. If occupying a sensitive position, the employee must not be allowed to remain on duty status in that position. Section 5(c) of Executive Order 12564. Removal of an employee occupying a sensitive position who is determined to use illegal drugs may be necessary if there are no non-sensitive positions to which the employee may be transferred in the agency, unless the agency head determines that maintaining the employee in the sensitive position would not pose a danger to public health or safety or the national security.

c. Mandatory EAP Referral. Upon reaching a finding that an employee uses illegal drugs, agencies will refer the employee to an Employee Assistance Program and give the employee an opportunity to undertake counseling and rehabilitation activities. Section 5(a) of Executive Order 12564. While agencies should provide reasonable support and assistance to employees who demonstrate a desire to become drug-free, the ultimate responsibility to be drug-free rests with the individual employee.

d. Discretionary Disciplinary Actions. Upon the first confirmed determination that an employee uses illegal drugs, there is a range of disciplinary actions available to an agency, from a written reprimand to removal. Except for employees who voluntarily identify themselves as users of illegal drugs, obtain appropriate counseling and rehabilitation, and thereafter refrain from illegal drug use, agencies are required to initiate some form of disciplinary action against employees who are found to use illegal drugs. Section 5(b) of Executive Order 12564. Agencies have discretion in deciding what disciplinary measures to initiate, consistent with the requirements of the Civil Service Reform Act and other appropriate factors. Among the disciplinary measures available to agencies are the following:

(1) Reprimanding the employee in writing.

(2) Placing the employee in an enforced leave status, consistent with the procedural requirements of 5 C.F.R. §§ 752.203 or 752.404 as appropriate.

(3) Suspending the employee for fourteen days or less consistent with the procedural requirements in 5 C.F.R. § 752.203.

(4) Suspending the employee for 15 days or more consistent with the procedural requirements in 5 C.F.R. § 752.404.

(5) Suspending the employee, consistent with the procedural requirements in 5 C.F.R. § 752.404, until such time as he or she successfully completes counseling or rehabilitation or until the agency determines that action other than suspension is more appropriate to the individual situation.

(6) Reducing the employee in grade consistent with the procedural requirements in 5 C.F.R. § 752.404.

(7) Removing the employee from Federal service, consistent with the procedural requirements of 5 C.F.R. § 752.404, for: verified illicit use of an illegal drug; refusal to take a drug test authorized by E.O. 12564; refusal to obtain or successfully complete counseling or rehabilitation as required by the Executive Order; or once having completed counseling or rehabilitation, failing to refrain from illegal drug use.

(8) Initiating action to remove the employee from Federal service is mandatory upon a second verified finding of illegal drug use. Section 5(c) of Executive Order 12564.

e. Preponderance of Evidence Requirement. Agencies are reminded that any action, including removal, taken against an employee under title 5 United States Code, Chapter 75, must be supported by a preponderance of the evidence. Care should be taken in the conduct of tests and the handling of testing samples to ensure that requirements of evidentiary proof may be met.

6. STATISTICAL REPORTING

Agencies shall keep statistical records on: (1) the number of employees tested and the number of employees with verified positive tests; and (2) the number of applicants tested and the number of applicants with verified positive tests. Personally identifying information in these statistical records is strictly prohibited. The HHS Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing Programs contain additional requirements for statistical reporting.

7. EMPLOYEE COUNSELING AND ASSISTANCE

a. Program Requirement. Federal agencies are required by Public Law 92-255, as amended; Public Law 99-570; and by 5 C.F.R. Part 792 to establish programs for appropriate prevention, treatment and rehabilitation of Federal civilian employees with drug abuse problems. Agencies are authorized to establish Employee Assistance Programs to meet this mandate.

b. EAP Requirement. Executive Order 12564 identifies Employee Assistance Programs as an essential element to an agency's plan to achieve a drug-free workforce, and explicitly states that agencies shall refer all employees found to be using illegal drugs to their Employee Assistance Program for assessment counseling, and referral for treatment or rehabilitation as appropriate.

c. EAP Role. Employee Assistance Programs play an important role in identifying and resolving employee substance abuse by: demonstrating the agency's commitment to eliminating illegal drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug use; providing educational materials to managers, supervisors and employees on drug abuse issues; assisting supervisors in confronting employees who have performance and/or conduct problems which may be based, in whole or in part, on substance abuse; assessing employee-client problems and making referrals to appropriate treatment and rehabilitation facilities; and following up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program.

d. EAP Elements. In keeping with Executive Order 12564, agencies should ensure that:

(1) EAP's are available to all employees, including those located outside of the Washington metropolitan area and major regional cities. Agencies are encouraged to explore a variety of means for meeting this requirement, including private contractors and cooperative arrangements with other Federal agencies, State and local governments, and non-profit organizations.

(2) At sites where it is not feasible to establish a continuing EAP, agencies should arrange for employee access on a "needs" basis to comparable local resources or, through travel or private telephone calls, to services of established EAP's in other locations.

(3) EAP's, whether in-house or operated through contract, are adequately staffed with fully qualified individuals who can:

i. Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been verified positive, and monitor the employees' progress through treatment and rehabilitation;

ii. Provide needed education and training to all levels of the organization on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the employee assistance program with the drug testing program, and related treatment, rehabilitation, and confidentiality issues;

iii. Ensure that the confidentiality of test results and related medical and rehabilitation records are maintained in accordance with the specific requirements contained in Public Laws 92-255 and 93-282, with regulations published in 42 C.F.R., part 2, and with guidance contained in section 4 of this letter.

(4) Adequate treatment resources have been identified in the community in order to facilitate referral of drug abuse clients.

(5) All employees in the agency are informed about the EAP and its services.

(6) The Employee Assistance Program plays an appropriate role in the development and implementation of the agency's Drug-Free Workplace program. EAP's should not be involved in the collection of urine samples or the initial reporting of the results of drug tests, but rather be a critical component in the agency's efforts to counsel and rehabilitate drug-abusing employees, as well as in educating the workforce on drug abuse and its symptoms.

e. Further EAP Assistance.

(1) Attachment 4 provides a list of consortia throughout the United States. Agencies wishing to join an existing consortium should contact the individual listed regarding that possibility.

(2) Attachment 5 provides the names and addresses of agencies and organizations which can be contacted regarding treatment facilities and education materials throughout the U.S.

(3) The Model Employee Assistance Program provided as attachment 6 addresses those functions OPM considers essential for an EAP to provide in support of the President's drug-free workplace initiative. The model is intended to be of use to agencies in developing new EAP's and in assessing the adequacy of existing programs. OPM's Employee Health Services Branch (Tel. (FTS/202) 632-5558) is available for technical assistance on these provisions.

8. COMPLIANCE WITH SECTION 628 OF THE TREASURY, POSTAL, AND GENERAL GOVERNMENT APPROPRIATIONS ACT OF 1989

a. Background Information. On September 22, 1988, President Reagan signed into law the Treasury, Postal, and General Government Appropriations Act of 1989, Public Law No. 100-440. Section 628 sets forth drug-free workplace requirements for Federal departments, agencies, and instrumentalities. Section 8131(c) of the Defense Appropriations Act (Pub. L. No. 100-463), which was signed into law on October 1, 1988, extended the effective date of section 628 until January 16, 1989.

b. Basic provision. Section 628 provides that:

No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend such funds unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act), by the officers and employees of such department, agency, or instrumentality.

c. Relationship to Executive Order 12564. Executive Order (E.O.) 12564, dated September 15, 1986, required agencies to adopt drug-free workplace plans prohibiting the "use" of controlled substances contained in Schedules I and II, as defined in 21 U.S.C. 802(6) and listed in part B, subchapter 13 of that title. In order to comply with section 628, agencies may modify their drug-free workplace plans to cover (i) "possession, or distribution," in addition to "use," and (ii) controlled substances contained in Schedules III through V, in addition to Schedules I and II.

d. Limitation. The inclusion of all controlled substances among the scope of drugs covered under a drug-free workplace plan does not license agencies to test for drugs other than Schedules I and II controlled substances now authorized (such as marijuana, opiates, cocaine, phencyclidine, and amphetamines).

e. Agency Responsibilities:

(1) Agencies which were covered by section 628 are required to comply with its provisions by January 16, 1989. All agencies which are covered by E.O. 12564 are included within the scope of section 628; however, the scope of

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section 628 is broader than E.O. 12564. If agency personnel are not sure whether or not an agency is covered by section 628, they should consult with their agency General Counsel.

(2) If an agency or instrumentality is in the Executive Branch, and is not covered by E.O. 12564, but it is now required to produce and administer a written policy to satisfy the provisions of section 628, the agency or instrumentality may wish to develop its policy in conformity with E.O. 12564, the Department of Health and Human Services (HHS) Mandatory Scientific and Technical Guidelines for Federal Employee Drug Testing Programs, and this FPM Letter. Although an agency is not required by section 628 to follow the above mentioned guidelines and the Executive Order, it is recommended that agencies do so in order to help their written policies be legally sustained.

(3) Agencies which wish to implement section 628 by amending their existing drug-free workplace plans may do so by adopting the appendix to this FPM Letter as an appendix to their plan. Agencies are not required to submit this amendment to HHS for certification or approval.

(4) Agencies which have already submitted their drug-free workplace plans to HHS for certification are not required to re-submit plans to HHS which have been amended to incorporate the provisions of section 628.

f. Agency Compliance. Agencies or instrumentalities failing to comply with section 628 by January 16, 1989, may be in violation of the Anti-deficiency Act. Agencies or instrumentalities which anticipate problems with compliance should immediately consult with their General Counsel.

Constance Berry Newman,
Director.

Appendix

1. The (agency name) hereby adopts the following amendments to the Drug-Free Workplace plan referenced and attached.

a. The following language is adopted as a free standing paragraph at the end of the section in the plan entitled "policy" or "statement of policy":

It is (agency name) policy that its workplace be free from the illegal use, possession, or distribution of controlled substances, (as specified in Schedules I through V, as defined in 21 U.S.C. 802(6) and listed in Part B, Subchapter 13 of that Title) by the officers and employees of (agency name). The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that the (agency name) workplace be safe, healthful, productive, and secure.

b. In any references to grounds for "reasonable suspicion testing", the term "trafficking" shall also mean "distribution".

c. In addition to all grounds contained in this plan, there shall be grounds for reasonable testing of an employee if the employee is the focus of a criminal investigation into the illegal use, possession, or distribution of controlled substances.

d. Where authorities and guidance are cited in the plan as references, the following authority and guidance are added:

(i). Authority: Section 628 of the Treasury, Postal Service, and General Government Appropriations Act of 1989, Pub. L. 100-440, as amended.

(ii). Guidance: Office of Personnel Management (OPM) Federal Personnel Manual (FPM) Letter 792-18, December 30, 1988, setting forth guidelines to agencies, departments, and instrumentalities in establishing a drug-free workplace pursuant to Pub. L. 100-440.

2. This amendment is effective upon the signature of the agency head or the senior management official authorized to sign for the agency head.

_____
Date

_____
Agency Head or Senior Management Official

Attachment 1 to FPM Letter 792-19

Sample

[Agency Name]

Acknowledgement of Notice to Employees Whose Position is Designated Sensitive for Drug Testing Purposes

I acknowledge receiving notice of the establishment of [agency name]'s employee drug testing program. I understand that I may be selected for screening by urinalysis testing for the presence of controlled substances. I understand that a verified positive result of that testing or refusal to submit to testing may result in disciplinary action up to and including dismissal from the Federal service.

I have read the notice announcing the establishment of an employee drug testing program.

_____
Printed or Typed Name

_____
Signature of Employee

_____
Date

Attachment 2 to FPM Letter 792-19

Sample

Consent For Release of Patient Information During or After Treatment or Rehabilitation

I, _____ (Employee/Patient name), hereby consent to the disclosure of information concerning my progress in terminating illegal drug use. I authorize the _____ (Treatment/Rehabilitation Facility) to disclose that information to _____ (Name), director of the Employee Assistance Program at _____ (Name of Agency) and to _____ (Name of supervisor), my supervisor and to the agency Medical Review Official for drug use monitoring under Executive Order 12564, which provides for a drug-free Federal workplace.

I understand that this consent is subject to revocation at any time, except to the extent that action has been taken in reliance thereon, and that it will expire without express revocation upon _____ (date, event, condition).

This consent to disclose the above-described treatment records was freely given, without reservation, for the purpose set out above.

_____
(Signature of employee/patient)

_____
(Date on which consent is signed)

Clause for Use if Employee is a Minor or Legally Incompetent

I, _____ (Name), the [parent/legal guardian or personal legal representative] of the above named employee/patient, hereby consent to the aforementioned release of information on his/her behalf.

_____
[Signature]

_____
(Date)

Attachment 3 to FPM Letter 792-19

Sample

Release Memorandum

Subject: Release of Patient Information
From: [Program making the disclosure.]
To: [Name or title of the person or organization to which the disclosure is to be made.]

In accordance with the attached "Consent for Release of Patient Information," we have released information to you on [Patient's name].

This information has been disclosed to you from records whose confidentiality is protected by Federal law. *See* 42 U.S.C. § 290ee-3. Federal regulations, at 42 CFR part 2, prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by those regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

(Note: This memorandum is substantially the same as the one appearing in Appendix D of FPM Supplement 792-2.)

Attachment 4 to FPM Letter 792-19

OPERATING EAP CONSORTIA CONTACTS

Geographic location	Lead agency	Point of contact	FTS/Area code
Anchorage, AK	FAA	James Oliver	(907) 271-5875
Atlanta, GA	PHS	Regina Bronson	242-0406 (404) 331-0406
Boston, MA	OPM	Jody Hubert	835-6533
Upstate NY	HHS	Robert Pollio	264-2586
Chicago, IL	PHS	Frances Wence	886-4215
Cincinnati, OH	PHS	Frances Wence	886-4215
Dallas, TX	PHS	Roselie K. Phillips	729-3577
Denver, CO	PHS	Dr. R. Lortscher	776-0078
Kansas City, MO	CASU	John McClay	867-3501
Long Island, NY	HHS	Robert Pollio	264-2586
State of Michigan	PHS	Frances Wence	886-4215
State of New Jersey	HHS	Robert Pollio	264-2586
New York City, NY	HHS	Robert Pollio	264-2586
Philadelphia, PA	HHS	Brenda Wells	596-4757
Seattle, WA	Army Corp of Engineers	John Barett, Jr.	(206) 764-3566
Puerto Rico/Virgin Isl	HHS	Robert Pollio	264-2586
Washington, DC	PHS	Peter Mazzella	443-4357

Attachment 5 to FPM Letter 792-19

Treatment Facilities Directories

1. *National Directory of Drug Abuse and Alcoholism Treatment and Prevention Program*, Stock No. 017024-01252-1, Cost: $16.00. Available from: Superintendent of Documents, Government Printing Office, Washington, DC 20402, Tele: (202) 783-3238
2. *Washington Metropolitan Area Directory of Alcohol/Drug Treatment Resources*, OPM WPS-01, September 1984, No Cost. Available from: Office of Personnel Management, Employee Health Services Branch (PSOG), 1900 E. Street, N.W. Room 7H39, Washington, DC 20415, Tele: (202) 632-5556
3. *Coping Catalog* (listing resources available in the Washington Metropolitan Area for alcohol, drugs and other addictions problems) Updated catalog expected to be available December 1988. Cost to be determined. Available from: The Washington Area Council on Alcohol and Drug Abuse, 1221 Massachusetts Ave., N.W., Washington, DC 20005, Tele: (202) 783-1300

Attachment 6 to FPM Letter 792-19

Model Employee Assistance Program in Support of a Drug-Free Workplace

1. *Purpose.* To implement fully an effective Employee Assistance Program (EAP) within (agency) which provides short term counseling and referral services to employees with drug problems. This is in keeping with the President's policy, set forth in Executive Order 12564, to eliminate drug use from the Federal workplace and to offer an opportunity for rehabilitation to users of illegal drugs. This model is intended to supplement ongoing employee assistance programs which, in addition to drug abuse, address alcohol abuse and other employee problems.

2. *Background.* Public Law 92-255, as amended, requires Federal agencies to develop and maintain appropriate prevention, treatment and rehabilitation programs and services for drug abuse among Federal employees. Regulations implementing this requirement are contained in Title 5, Code of Federal Regulations (CFR) Part 792. Guidance is further provided in Subchapters 5 and 6 of Federal Personnel Manual (FPM) Chapter 792, and FPM Supplement 792-2. Executive Order 12564 of September 15, 1986, established further requirements for agencies and employees in order to obtain a drug-free Federal Workplace. On October 27, 1986, the President signed into law the Omnibus Drug Enforcement, Education, and Control Act of 1986, P.L. 99-570. That law reiterates Congressional concern about the prevention of illegal drug use and the treatment of Federal employees who use drugs.

3. *Objective.* The objective of the EAP is to assist employees with drug problems to find treatment, to follow up with them during recovery and rehabilitation, and to help them remain drug free.

4. *Policy.*

A. As an employer, the (agency) is concerned with the wellbeing of its employees, the maintenance of the workforce productivity, and the preservation of a safe and secure workplace. The use of illegal drugs by (agency) employees, whether on or off the job, is inconsistent with these goals and will not be tolerated.

B. The (agency) stands ready to assist employees in becoming drug free.

C. Employees who are users of illegal drugs are encouraged to seek counseling and other appropriate assistance voluntarily, including that available through the (agency's) Employee Assistance Program.

D. The confidential nature of client records will be safeguarded and only disclosed in accordance with the confidentiality provisions of Title 42 CFR, Part 2.

E. To the extent feasible, program services will be provided to family members dealing with the drug problem of an employee, or to an employee dealing with the drug problem of a family member.

5. *Program Responsibilities.*

A. *Agency Employee Assistance Program Administrator.* The Employee Assistance Program Administrator has the lead role in ensuring that the (agency's) EAP program meets the requirements of E.O. 12564, and is responsible for the development, implementation and review of the agency EAP. In addition to supervising the headquarters EAP Coordinator and counselor(s), the Administrator will provide advice and assistance in establishing field office EAP's. The EAP Administrator will advise agency components on the submission of annual statistical reports and will prepare consolidated reports on the agency's EAP activity for submission to the Office of Personnel Management on a fiscal year basis.

B. *Employee Assistance Program Coordinators.*

(1) The Employee Assistance Program Coordinator has responsibility for implementing and operating the EAP within an agency component, such as the Headquarters office or a field installation. More than one coordinator may be deemed necessary, depending on the size of the assigned component. Where the EAP services are contracted out, the coordinator has responsibility for monitoring the contractor performance and verifying services rendered within (agency). The person(s) selected for such assignments will be allocated sufficient official time to:

(a) Implement effectively the agency employee assistance policy and program as well as to assist in the development and implementation of the agency drug testing program as it relates to the counseling and rehabilitation of drug-abusing employees;

(b) Determine appropriate supervisory training and other activities needed to educate and inform the workforce about drugs and symptoms of drug abuse;

(c) Develop and maintain counseling capability (through personnel, medical, or other counseling resource, including contracting out);

(d) Establish liaison with community education, treatment and rehabilitation facilities; and,

(e) evaluate the program and report to management on results and effectiveness.

C. *Employee Assistance Counselors.* (1) In some instances, the EAP Coordinator may have the necessary skills, time and motivation to function as the Employee Assistance Counselor. The Employee Assistance Counselor serves as the initial point of contact for employees who ask or are

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referred for counseling, and will be allotted sufficient official time to implement the program effectively. At a minimum, persons designated as Employee Assistance Counselors should be, or provisions should be made for them to be:

(a) Familiar with the provisions of Executive Order 12564, "Drug-Free Federal Workplace" and Federal Personnel Manual Letter 792–19, "Establishing a Drug-Free Federal Workplace".

(b) Trained in:

—counseling employees in the occupational setting,

—identification of drug abuse, and,

—administering the Employee Assistance Program.

(c) Able to communicate effectively with employees, supervisors and managers concerning drug use and its symptoms and consequences.

(d) Knowledgeable about community resources for treatment and rehabilitation of drug users, including information on fees and payment schedules.

(e) Able to discuss drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program.

(f) Able to distinguish the occasional user from the addicted user and to suggest the appropriate treatment based on that information (e.g., after hours attendance at Narcotics Anonymous meetings to significant medical assistance).

(g) Able to provide training and education on drug abuse to employees, supervisors, union representatives, etc.

(2) In offices where counseling staff is not available within the agency, reasonable efforts should be made to provide employees with access to a qualified counselor outside of the agency. This may include authorizing official time for the employee to visit or be visited by a counselor personally, or other steps which may be appropriate.

(3) For employees referred as a result of drug-testing, counselors should document the treatment plan prescribed. Signature on this document by both the counselor and client will ensure mutual understanding of the treatment plan and the consequences of failure to remain drug free.

(4) In order for the counselor to be viewed as the source of assistance and understanding for employees, the person(s) performing these functions should not be involved in the actual drug testing of employees.

D. *Employee's Role.* All employees are encouraged to enhance their drug awareness through educational opportunities afforded by the EAP or the community at large. Employees who are illegal drug users are encouraged to seek counseling assistance voluntarily. Employees found to be users of illegal drugs are required to accept referral to the EAP and are urged to cooperate with medical treatment and/or rehabilitation programs that are indicated.

E. *Medical Personnel.*

(1) Employee health units provide emergency diagnoses and first treatment of injury or illness of employees during duty hours. Where indicated, the employee should be further referred to a private physician or community health service. If such cases ultimately are determined to have stemmed from abuse of drugs, medical personnel should discuss the facts of the situation with the supervisor and the employee and refer the employee for counseling. A close working relationship with the EAP Counselor(s) is essential for program success. The Health Unit staff is available for consultation with and assistance to personnel assigned EAP responsibilities.

(2) Where such facilities do not exist, these services are provided whenever possible through existing occupational health facilities and/or community physicians or clinics.

6. *Training and Education.*

A. *Supervisory training.* Employee counselors will conduct or otherwise provide training sessions for agency supervisors on the handling of problems of substance abuse. Appropriate topics include:

(1) Drug awareness and symptoms of drug use.

(2) Recommended methods for dealing with the suspected or identified drug user.

(3) Supervisory responsibilities under E.O. 12564.

(4) Confrontation and referral techniques.

(5) Explanation of the (agency) employee assistance program and its relationship with the (agency) drug testing program.

(6) General principles of rehabilitation including techniques for supervisors to assist employees in returning to the worksite, given specific (agency) needs and requirements.

(7) Personnel management issues (e.g., relationship of this program to performance appraisal and disciplinary programs; leave usage; and, supervisory notes and documentation).

B. *Employee education.* The Employee Assistance Coordinator will ensure that employee seminars on topics dealing with drug use are provided periodically. Managers and supervisors shall encourage employee attendance at these seminars and provide other appropriate support. On a continuing basis, educational materials and information on drug abuse will be available to individual employees.

7. *Publicity of EAP to employees.*

A. This policy and program will be made known to all (agency) employees. All new employees will be informed of the services available under this program as they enter on duty.

B. The names and locations of Employee Assistance Counselor(s) should be listed in telephone directories and displayed on employee bulletin boards.

C. Periodic employee memoranda and other appropriate publications should be used to keep employees informed of EAP services.

8. *Short-term Counseling and Referral.*

A. Referrals to the Employee Assistance Program are for the purposes of identifying the problem, referring the employee to the appropriate treatment resource in the community and following up with the employee during recovery and rehabilitation.

B. *Voluntary referrals,* or self referrals, are to be encouraged throughout EAP materials.

C. In the case of a *management referral* as a result of a verified positive drug screen, the employee assistance staff will interview and/or consult with supervisors and management officials, as requested, and provide them with guidance to how to refer the drug abusing employee to the assistance program. Once the referral is made, and the employee agrees to the appointment with the counselor, the counselor will require the employee to sign a consent for release of information to the supervisor before assistance will be provided. This consent will cover the release of information pertaining to the employee's compliance with the agreed upon treatment plan and the employee's progress during and at the end of treatment. Upon obtaining the signed consent, the counselor will assess the problem(s), review the employee's health insurance coverage and refer the individual to an appropriate treatment resource in the Community. The counselor will monitor the employee's treatment and keep the supervisor advised as to the progress being made. The counselor will periodically follow-up with the employee and his or her supervisor after any treatment which occurs and offer support and assistance as needed.

9. *Community Resources.* The EAP will develop a working relationship with community assistance resources. Program coordinators and counselors will determine which community agencies or individuals best meet employee and management needs. Contact should be established with specialized resources such as the following:

A. State drug authorities for help in identifying treatment resources for drug abusing employees;

B. Narcotics Anonymous for information on where and when meetings are held;

C. Hospital and clinic treatment facilities in order to establish a working relationship between the counselor and the receiving treatment source; and,

D. Drug abuse councils to keep abreast of the latest development regarding drug abuse.

10. *Program Interrelationships.*

A. *Relationship With Drug Testing Program.* As called upon, the EAP staff will work with the drug testing program staff in the development and implementation of the drug testing program. However, EAP staff are not to be involved in the collection of urine samples or the initial reporting of drug test results. EAP efforts are to focus on counseling and rehabilitating drug-abusing employees, as well as on educating the workforce regarding drug abuse and its symptoms.

B. *Relationship of the Supervisor.* Supervisors have explicit expectations of their employees in terms of job performance and behavior. When supervisors are advised of verified employee drug use, they are required to refer the employee to an Employee Assistance Program and to initiate an appropriate personnel action. In those situations involving illegal drugs, except as provided in section 5(b) of Executive Order 12564, disciplinary action is required to be initiated against employees who are found to use illegal drugs. Supervisors should work with the Employee Assistance Counselor to monitor the employee's progress during treatment and rehabilitation and take appropriate personnel action should the employee fail to remain drug free.

C. *Relationship With Labor Organizations.* The support and active participation of labor organizations is a key element in the success of an employee assistance program. Therefore, where there are units of exclusive recognition, management should:

(1) Communicate to labor organizations a strong commitment to providing assistance to employees.

(2) Consult or negotiate, as appropriate, concerning the implementation of the EAP.

(3) Include union representatives in appropriate training and orientation programs to ensure a mutual understanding of program policy, referral procedures, and other program elements.

11. *Recordkeeping and Reporting.*

A. *Counseling Records.* Records on employees who have been referred for counseling will be maintained in a secure and confidential manner. Information on any drug abuse client will be released only to the management official empowered to recommend or take action, in accordance with the employee's consent to release, and for the reasons identified in section 8C above. Any information obtained by a supervisor from the counselor must be maintained, as with all employee records, in a strictly confidential manner. In addition, to the extent that counseling records include employee treatment records, they shall be maintained in accordance with Public Law 93–579 (Privacy Act), Public Law 93–282 and 42 CFR Part 2 (Confidentiality of Alcohol and Drug Abuse Patient Records). Consequently, access to these records will be strictly limited. All appropriate steps, including necessary physical safeguards, will be taken to ensure against unauthorized disclosure.

B. *Reports to OPM.* The EAP Administrator will compile sufficient statistical and programmatic data to provide the basis for evaluating the extent of drug abuse problems and effectiveness of the assistance program. The EAP Administrator will also submit agency-wide reports to the Office of Personnel Management that contain data required by OPM to meet the statutory reporting requirements contained in Public Law 99–570.

12. *Program Evaluation.* The EAP Administrator and Coordinators will regularly evaluate their program to determine the effectiveness and efficiency of services. These evaluations will include: services to employees with drug abuse problems, referral procedures and effectiveness, supervisory training, employee orientation, reporting systems, availability and accessibility of EAP, records systems, outreach activities, staffing and qualifications procedures. Written evidence of program evaluations, identified deficiencies and correction plans will be available for review by the EAP Administrator. Documented modifications in the program's assessment and intervention services should be made based upon the findings of such evaluations.

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H.J. Res. 280 / Public Law 101–140 Increasing the statutory limit on the public debt (Nov. 8, 1989; 103 Stat. 830; 6 pages) Price: $1.00

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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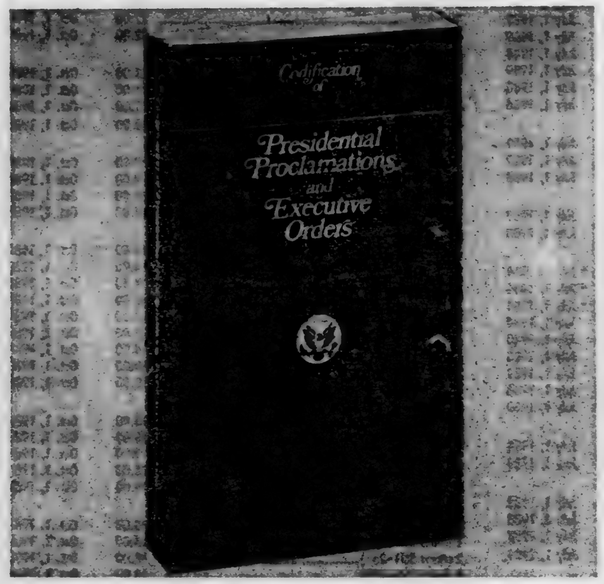

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WHEN: December 7, at 9:00 a.m.
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Title 3—

The President

Proclamation 6064 of November 9, 1989

National Women Veterans Recognition Week, 1989

By the President of the United States of America

A Proclamation

For more than 50 years, our Nation has benefitted from the service of women in every branch of our Armed Forces. Women have served with distinction in every overseas combat theater of every conflict since World War I. Some have been wounded in the line of duty, and others have given their lives for our country, but all have been a vital element in the success of America's Armed Forces. Bringing their talent, skill, and vision to a variety of occupations, they have made a lasting mark upon the military history of the United States.

The contributions and the sacrifices of the women who have served in our Armed Forces merit the respect and admiration of the people of the United States. Thus, it is most fitting that we set aside a special time to honor our women veterans.

In grateful recognition of the women who have served in the Armed Forces of the United States, the Congress, by House Joint Resolution 35, has designated the week beginning November 5, 1989, as "National Women Veterans Recognition Week" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning November 5, 1989, as National Women Veterans Recognition Week. I call upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF SPECIAL COUNSEL

5 CFR Chs. II and VIII

Implementation of the Whistleblower Protection Act

AGENCY: Office of Special Counsel.

ACTION: Interim regulations; request for comments.

SUMMARY: The Whistleblower Protection Act of 1989, Pub. L. No. 101–12, 103 Stat. 16, effective July 9, 1989, establishes the Office of Special Counsel (formerly the Office of the Special Counsel of the U.S. Merit Systems Protection Board) as an independent agency. Accordingly, the Office of Special Counsel (OSC) publishes these regulations to implement provisions of the new law. The OSC is also republishing certain regulations.

EFFECTIVE DATE: Interim regulations effective November 14, 1989, except for §§ 1800.1, 1800.2, 1830.1, and 1830.3. These sections will be made effective only after review and approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act. Upon approval by the Office of Management and Budget a document will be published in the Federal Register announcing the effective date of these sections.

COMMENT DATE: Comments received on or before December 14, 1989, will be considered.

ADDRESSES: Comments should be directed to Henry Darnell Lewis, Office of Special Counsel, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005. Comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday, except federal holidays. Any comments on sections 1800.1, 1800.2, 1830.1, and 1830.3 should additionally be filed with the Office of Management and Budget (See "Paperwork Reduction Act" below).

FOR FURTHER INFORMATION CONTACT: Henry Darnell Lewis, (202) or FTS 653–8982.

SUPPLEMENTARY INFORMATION:

Executive Order 12291, Federal Regulation

The Special Counsel has determined that these are not major rules as defined in section 1(b) of Executive Order 12291, Federal Regulation.

Determination to Issue an Interim Regulation

A determination has been made under the authority of the Special Counsel to issue these regulations as an interim rule. This action is necessary to implement the Whistleblower Protection Act of 1989, Pub. L. No. 101–12. However, public comments received in response to this interim rule will be considered in formulating a final rule. Written comments on these interim regulations may be submitted by any person.

Paperwork Reduction Act

Sections 1800.1, 1800.2, 1830.1, and 1830.3 of this regulation contain information collection requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The public reporting burden per response is estimated to be one hour. This average estimated time per response includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As required by the Paperwork Reduction Act, the Office of Special Counsel is submitting to the Office of Management and Budget a request that it approve these information collection requirements. Organizations or individuals desiring to submit comments for consideration by OMB on these information collection requirements should address them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph Lackey.

Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the Office of Special Counsel is not required to prepare an initial or final regulatory analysis of these regulations pursuant to the Regulatory Flexibility Act, 5 U.S.C. 603–604, because these regulations will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

Dated: November 7, 1989.

Mary F. Wieseman,
Special Counsel.

1. For the reasons set out in the preamble, chapter II of title 5 of the Code of Federal Regulations is amended as set forth below, and chapter VIII of title 5, Code of Federal Regulations, is hereby established and parts 1800, 1810, 1820, 1830, and 1840 are added to the newly established chapter VIII to read as follows:

CHAPTER VIII—OFFICE OF SPECIAL COUNSEL

PART 1800—FILING OF COMPLAINTS AND ALLEGATIONS

Sec.
1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.
1800.2 Filing disclosures of information.
1800.3 Advisory opinions.

Authority: 5 U.S.C. 1212(e).

§ 1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.

(a) Complaints of prohibited personnel practices or other prohibited activities within the investigative authority of the Special Counsel (including complaints of political activities prohibited by 5 U.S.C. 7321–7324) should be submitted to the Office of Special Counsel, Complaints Examining Unit, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

(b) Complaints, allegations, and information may be submitted in any written form, but should include:

(1) The name and mailing address of the complainant, unless the matter is submitted anonymously;

(2) The department or agency, location, and organizational unit complained of;

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological

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order, together with any documentary evidence the complainant may have;

(4) In the case of any allegation of a prohibited personnel practice, the personnel action that has been taken or is proposed or threatened to be taken, and the date of the action, proposal, or threat;

(5) In the case of action taken because of an individual's disclosure of information, the information believed to evidence violation of law, rule, or regulation, gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety and when, to whom, and how or in what form it was disclosed; and

(6) A statement as to whether the complainant consents to the disclosure of his or her identify to the agency by the Special Counsel for the purpose of further investigation.

§ 1800.2 Filing disclosures of information.

(a) Employees, former employees, or applicants for employment having information evidencing violations of law, rule, or regulation or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety should be submitted to the Office of Special Counsel, Disclosure Unit, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

(b) Information may be submitted in any written form, but should include:

(1) The name and mailing address of the individual making the disclosure, unless the matter is submitted anonymously;

(2) The department or agency, location and organizational unit complained of;

(3) A statement as to whether the complainant consents to the disclosure of his or her identify to the agency by the Special Counsel in connection with referral to the appropriate agency.

§ 1800.3 Advisory opinions.

The Special Counsel is authorized to issue advisory opinions only concerning Chapter 15 of Title 5, United States Code (dealing with political activity of State or local officers and employees) and Subchapter III of Chapter 73 of Title 5, United States Code (dealing with political activity of Federal officers and employees). Requesters may telephone the Office of Special Counsel toll free at 1–800–872–9855, or (202)/FTS 653–7143 in the Washington, DC, area, or make such requests in writing to the Office of Special Counsel, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

PART 1810—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

§ 1810.1 Investigative policy in discrimination complaints.

The Special Counsel is authorized to investigate allegations of discrimination prohibited by law, as defined in 5 U.S.C. 2302(b)(1). Since procedures for investigating discrimination complaints have already been established in the agencies and the Equal Employment Opportunity Commission, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than initiating an independent investigation.

PART 1820—PUBLIC INFORMATION

Sec.

1820.1 Public list.
1820.2 Procedures for obtaining records under the Freedom of Information Act.
1820.3 Categories of requesters under the Freedom of Information Act.
1820.4 Free or partially free search time and partially free copying.
1820.5 Waiver or reduction of fees.
1820.6 Fees to be charged.
1820.7 Payments and collections.
1820.8 Appeals.
1820.9 Disclosures by authorized officials.

Authority: 5 U.S.C. 552(a)(3), 552(a)(4), 1212(g), 1219.

§ 1820.1 Public list.

(a) Pursuant to 5 U.S.C. 1219, the Special Counsel maintains and makes available to the public a list of:

(1) Noncriminal allegations under 5 U.S.C. 1213; and

(2) Special Counsel findings of violations of law, rule, or regulation, together with reports and certifications by heads of agencies.

(b) The list is available to the public between 8:30 a.m. and 5 p.m. weekdays (except legal holidays) in the Office of Special Counsel, 1120 Vermont Avenue NW., Washington, DC 20005.

§ 1820.2 Procedures for obtaining records under the Freedom of Information Act.

Requests for records shall be made in writing. Requests should be addressed to the Office of Special Counsel, 1120 Vermont Avenue NW., Suite 1100, Washington, DC 20005. Requests must be clearly and prominently marked "Freedom of Information Act Request" on both the envelope and the letter.

§ 1820.3 Categories of requesters under the Freedom of Information Act.

There are four categories of requesters:

(a) *Commercial use requesters.* These requesters seek information for themselves or on behalf of someone else for a use or purpose that furthers commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. A requester will not be presumed to be a "commercial use requester" merely by submitting a request on corporate letterhead without further explanation of the use to which he plans to put the requested information. Similarly, a request submitted on the letterhead of a nonprofit organization without further explanation will not be presumed to be for a noncommercial purpose. The Office of Special Counsel will seek clarification from the requester where there is a reasonable doubt as to the intended use of the information.

(b) *Educational and noncommercial scientific institution requesters.* (1) An "educational institution" requester is associated with a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of vocational or professional education, that operates a program or programs of scholarly research, and seeks the information for a scholarly or scientific research goal of the institution, rather than for an individual goal.

(2) A "noncommercial scientific institution" requester is associated with an institution that is not operated on a "commercial" basis (as that term is defined by paragraph (a) of this section), and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(c) *News media requesters.* These requesters actively gather news for entities that are organized and operated to publish or broadcast news to the public. Freelance journalists may be news media requesters if they can demonstrate a solid basis for expecting publication through a news organization (such as by producing a publication contract or citing their past publication records), even though not actually employed by it. "News" means information about current events or information that would be of current interest to the public. News media "entities" include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public.

(d) All other requesters.

§ 1820.4 Free or partially free search time and partially free copying.

(a) *Free search time and partially free copying.* Educational and noncommercial scientific institution requesters and news media requesters who are requesting records for noncommercial use are entitled to free copying for the first 100 pages and free search time.

(b) *Partially free search time and partially free copying.* Requesters who are not commercial use requesters, educational or noncommercial scientific institution requesters, or news media requesters are "all other requesters", and are entitled to two hours of free search time and free copying for the first 100 pages. Requests from record subjects for records about themselves filed in a system of records will continue to be treated under the fee provisions of the Privacy Act, which permits the assessment of fees only for copying.

§ 1820.5 Waiver or reduction of fees.

(a) The Associate Special Counsel for Investigation, the Deputy Associate Special Counsel for Prosecution, the Associate Special Counsel for Prosecution, the Deputy Special Counsel, and the Special Counsel may authorize waiver or reduction of fees that could otherwise be assessed if disclosure of the information requested:

(1) Is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and

(2) Is not primarily in the commercial interest of the requester.

(b) Satisfaction of paragraph (a)(1) of this section will be determined by all of the following:

(1) Whether the subject of the requested records concerns "the operations or activities of the Government." The requested records concern identifiable operations of activities of the Government, and the connection between the records and the operations or activities is direct and clear, not remote or attenuated;

(2) Whether disclosure is "likely to contribute" to an understanding of Government operations or activities. An analysis of the substantive content of the releasable portions of the requested records reveals meaningfully informative information on the operations or activities of the Government that is not already in the public domain in duplicative or substantially identical form;

(3) Whether disclosure will contribute to "public understanding." Considering the identity of the requester and his qualifications to make use of the information, disclosure will contribute to the understanding of the public at large, and not to the individual understanding of the requester or a narrow segment of interested persons; and

(4) Whether the disclosure is likely to contribute "significantly" to public understanding of Government operations or activities. By an objective standard, the disclosure is likely to enhance the general public's understanding of the subject matter in question more than minimally.

(c) Satisfaction of paragraph (a)(2) of this section will be determined by both of the following:

(1) Whether the requester has a commercial interest to be furthered by the disclosure. The requester does not seek to further a commercial, trade, or profit interest, as those terms are commonly understood; and

(2) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, compared to the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." If the requester has a commercial interest, that interest is not greater than the public interest to be served by disclosure of the requested records.

§ 1820.6 Fees to be charged.

(a) Requests for records are subject to the following fees:

(1) *Commercial use requesters.* For search, review, and copying: Photocopies per page, $0.25. Manual record search, $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee. Search fees may be assessed even if the records in question are not located or if the records located are determined to be exempt from disclosure.

(2) *Educational and noncommercial scientific institution requesters, news media requesters.* For copying only: Photocopies per page, $0.25, excluding the first 100 pages.

(3) *All other requesters.* For search and copying only: Photocopies per page (excluding the first 100 pages), $0.25. Manual record search (excluding the first two hours), $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

(b) *Method of search.* (1) Any "search", which includes all time spent looking for material that is responsive to a request, will be done in the most efficient and least expensive manner in order to minimize costs for both the agency and the requester.

(2) For researches made by computer, costs will be assessed when the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent equals the equivalent dollar amount of two hours of salary of the person performing the search.

(c) *Review charges.* Only commercial use requesters will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. These charges will be assessed only for initial review (i.e., the review undertaken when first analyzing the applicability of a specific exemption to a particular record or portion of record), and not for review at the administrative appeal level of an exemption already applied. However, charges will be assessed for a second review of records of portions of records withheld in full under an exemption which is subsequently determined not to apply in order to determine the applicability of other exemptions not previously considered. Review charges shall not include costs incurred in resolving issues of law or policy that may be raised in the course of processing a request.

(d) *Copying.* A "page" of copying refers to a paper copy of standard size, normally 8½'x11' or 11x14'. However, copies may also take the form of microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(e) *Nonassessment of fees.* No fees will be assessed to any requester, including commercial use requesters, if the cost of routine collection and processing of the fee would be equal to or greater than the fee itself. To make this determination, the OSC will consider the administrative costs of receiving and recording a requester's remittance and processing the fee for deposit.

(f) *Other charges.* Complying with requests for special services, such as certification of records as true copies and sending records by special methods (e.g., express mail) is entirely at the discretion of the Office. Since neither the Freedom of Information Act nor its fee structure covers these kinds of services, the OSC will assess fees to recover the full costs of providing these services should the Office elect to provide them.

(g) *Aggregating requests.* If the Office of Special Counsel reasonably believes that a requester or a group of requesters acting in concert is filing a series of requests for the purpose of evading the assessment of fees, the OSC may aggregate the requests and assess fees accordingly. One element to be considered in determining reasonable belief is the time period within which

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the requests are filed. Multiple requests of this type filed within a 30-day period may be presumed to have been made to avoid fees. In no case will the Office aggregate requests on unrelated subjects from one requester.

(h) *Advance notice of fees.* If it is likely that fees will exceed $25, the requester will first be notified of the estimated amount, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. The notice will offer the requester the opportunity to confer with personnel of the Office of the Special Counsel with the object of reformulating the request to meet his or her needs at a lower cost.

§ 1820.7 Payments and collections.

(a) *Payments.* Payment of fees shall be made by check or money order payable to the United States Treasury.

(b) *Advance payments.* A requester is not required to make an advance payment unless:

(1) The OSC estimates or determines that the requester may be required to pay fees in excess of $250, in which case the requester will be notified of the estimated cost. The requester must then furnish satisfactory assurance of full payment if the requester has a history of prompt payment of Freedom of Information Act fees. If the requester has no history of payment, then the requester may be required to furnish an advance payment up to the full estimated cost; or

(2) The requester has previously failed to pay a fee assessed in a timely fashion (i.e. within 30 days of the date of billing), in which case the requester may be required to—

(i) Pay the full amount owed plus any applicable interest as provided in paragraph (d) of this section, or prove payment of the alleged amount in arrears, and

(ii) Make an advance payment of the full amount of the estimated cost before a new or pending request will be processed.

(c) *Effect of nonpayment.* When the OSC acts under either paragraph (b)(2)(i) or (b)(2)(ii) of this section, the administrative time limits prescribed in 5 U.S.C. 552(a)(6) of the Freedom of Information Act will begin only after the fee payments described above have been received.

(d) *Interest charges.* Interest may be charged to any requester who fails to pay fees assessed within 30 days of the date of billing. Interest will be assessed on the 31st day following the day on which the bill for fees was sent, and will be calculated at the rate prescribed in 31 U.S.C. 3717. Receipt of fees, even if not processed, will stay the accrual of interest.

(e) *Collections.* If the OSC deems it appropriate in order to encourage repayment of fees assessed in accordance with these regulations, the OSC will use the procedures authorized by the Debt Collection Act of 1982 (Public Law No. 97–365), including disclosure to consumer reporting agencies and use of collection agencies.

§ 1820.8 Appeals.

Any denial, in whole or in part, of a request for records of the Office of Special Counsel shall advise the requester of his right to appeal the denial to the Special Counsel or the Special Counsel's designee. The requester shall submit his appeal in writing within 30 days of the denial. The appeal shall be addressed to the Special Counsel at 1120 Vermont Avenue NW., Suite 1100, Washington, DC 20005. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

§ 1820.9 Disclosure by authorized officials.

No employee or former employee of the Office of Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as part of the performance of his official duties or because of his official status without the prior approval of the Special Counsel or the Special Counsel's duly authorized designee.

PART 1830—PRIVACY

Sec.

1830.1 Access to records and identification.
1830.2 Medical records.
1830.3 Requests for amendment of records.
1830.4 Appeals.
1830.5 Exemptions.

Authority: 5 U.S.C. 552a(f), 1212(g).

§ 1830.1 Access to records and identification.

(a) Individuals may request access to records pertaining to them that are maintained as described in the Privacy Act, 5 U.S.C. 552a, by addressing an inquiry to the Office of Special Counsel either by mail or by appearing in person at the Office of Special Counsel at 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request." Requests for copies of records shall be subject to duplication fees set forth in § 1820.6 of this chapter.

(b) Individuals making a request in person shall be required to present satisfactory proof of identity, preferably a document bearing the individual's photograph. Requests by mail or submitted other than in person should contain sufficient information to enable the Office of Special Counsel to determine that the requester and the subject of the record are one and the same. To assist in this process, individuals should submit their names and addresses, dates and places of birth, social security number, and any other known identifying information such as an agency file number or identification number and a description of the circumstances under which the records were compiled.

§ 1830.2 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

§ 1830.3 Requests for amendment of records.

Individuals may request amendment of records pertaining to them that are subject to this part. Requests should be addressed, in writing, to the Special Counsel at 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005, and be clearly and prominently marked "Privacy Act Request." Requests for amendment should include identification of records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requests for amendment shall be acknowledged not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

§ 1830.4 Appeals.

When a request for access or amendment has been denied, in whole or in part, the requester shall be advised of his right to appeal to the Special Counsel or the Special Counsel's designee. The requester shall submit his appeal in writing within 30 days of the denial. A final determination on the appeal shall be issued within 30 days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional 30 working days.

§ 1830.5 Exemptions.

The Office of Special Counsel will claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of Special Counsel may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

PART 1840—SUBPOENAS

Sec.

1840.1 Service of subpoenas by mail.

Authority: 5 U.S.C. 1212(e).

§ 1840.1 Service of Subpoenas by mail.

In addition to all other methods of authorized service, an Office of Special Counsel subpoena may be served by mailing a copy to the person at his or her residence or place of business by certified or registered mail.

PART 1262—[REDESIGNATED AS PART 1850]

2. Part 1262 of subchapter B, chapter II of Title 5, Code of Federal Regulations, is redesignated as Part 1850 and added to chapter VIII of title 5, Code of Federal Regulations.

4. The title of the newly designated Part 1850 is amended to change the words "OFFICE OF THE SPECIAL COUNSEL." to "OFFICE OF SPECIAL COUNSEL."

§ 1850.170 [Amended]

5. Section 1850.170(c) of the newly designated Part 1850 is amended to change "Managing Director for Operations" to "Director for Management," and to add "N.W." after "Avenue."

SUBCHAPTER B—[REMOVED]

6. Subchapter B (consisting of parts 1250, 1251, 1252, 1253, 1254, 1255, 1260 and 1261) of chapter II of title 5, Code of Federal Regulations, is hereby removed.

[FR Doc. 89–26707 Filed 11–13–89; 8:45 am]
BILLING CODE 7400–02–M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Form FmHA 1980–27 "Contract of Guarantee" (Line of Credit)

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends Form FmHA 1980–27, "Contract of Guarantee (Line of Credit)," for clarification. A change was made in section (1)(b) of the form to add the word "delinquent" preceding the word "taxes" so that the form would agree with present regulations. The change of significance is made under "When Guarantee Terminates". The intended effect of this action is to clarify that the loan outstanding balance may float between $0 and the loan ceiling amount during the advance period (up to 3 years) rather than the present method which requires the lender to maintain a balance at all times in order to keep the guarantee in effect. The other changes are made to eliminate confusion between a Line of Credit Agreement and a Promissory note. The use of either of these two debt instruments are acceptable for a line of credit, provided they meet all requirements of the regulations.

EFFECTIVE DATE: November 14, 1989.

FOR FURTHER INFORMATION CONTACT: Paul D. Hardin, Loan Officer, USDA FmHA, Farmer Programs Loan Making Division, Guaranteed Branch, Room 5439–S, 14th Street and Independence Avenue SW, Washington, DC 20250, Telephone: (202) 382–1657.

SUPPLEMENTARY INFORMATION: The agency published a proposed rule on June 6, 1989, 54 FR 24177, with a comment period of 30 days from the date of publication. The comment period ended on July 6, 1989, with no comments being received regarding the proposed changes. Therefore, the agency adopts the proposed rule.

This action has been reviewed under USDA procedures established in Department of Regulation 1512–1 which implements Executive Order 12291, and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant adverse increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Program Affected

The program which this form affects is listed in the Catalog of Federal Domestic Assistance under No. 10.406, Farm Operating Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program". It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 19–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1980

Loan programs—Agriculture, Loan progams—Business and industry—Rural development assistance, Loan programs—Housing and community development.

Therefore, chapter XVIII, part 1980, title 7, of the Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—General

2. Appendix D of subpart A of part 1980 is revised to read as follows:

BILLING CODE 3410–07–M

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Appendix A

USDA-FmHA
Form FmHA 1980-27
(Rev. 10-89)

Type of Loan ☐OL ☐EL or ☐EE
Case No.
State
County
Date of Line of Credit Agreement/Note
Line of Credit Ceiling $

CONTRACT OF GUARANTEE
(Line of Credit)

Lender	Lender's IRS Tax No.
Lender's Address	
Borrower's Name and Address	

The guaranteed portion of this line of credit is _____% of the principal balance owed at any one time on advances made within an approved line of credit by the above-named Lender to the above-named Borrower.

In consideration of making advance(s) by the Lender within the line of credit ceiling pursuant to the Line of Credit Agreement, the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.), the Emergency Livestock Credit Act of 1974 (P.L. 93-357), as amended, or the Emergency Agricultural Credit Adjustment Act of 1978 (P.L. 95-334) agrees that in accordance with and subject to the conditions and requirements in this agreement, it will pay to the Lender who holds the line of agreement(s) (and note(s), if any exist) for said advance(s) (or assumption agreement) covered by this contract the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:
   a. Principal and interest indebtedness as evidenced by said line of credit agreement(s) (and note(s), if any exist) or by assumption agreement(s), and
   b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for delinquent taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral; or
2. The guaranteed principal advances to or assumed by the Borrower under said line of credit agreement(s) (and note(s), if any exist) or assumption agreement(s) and any interest due thereon.

If an Operating Loan Line of Credit is involved, advances under that line of credit must be made within three years from the date of this Contract. Advances made after that date will not be covered by this Contract. If FmHA conducts the liquidation of the line of credit, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Contract of Guarantee. If Lender conducts the liquidation of the line of credit, accruing interest shall be covered by this Contract of Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

CONDITIONS OF GUARANTEE

1. Line of Credit Servicing

   Lender will be responsible for servicing the entire line of credit, and Lender will remain mortgagee and/or secured party of record. The Lender agrees that, if liquidation of the account becomes imminent, the Lender will consider the Borrower of an Operating Loan Line of Credit for an Interest Rate Buydown under Exhibit C of Subpart B of 7 CFR, Part 1980, and request a determination of the Borrower's eligibility by FmHA. The Lender may not initiate foreclosure action on the line of credit until 60 days after a determination has been made with respect to the eligibility of the Borrower to participate in the Interest Rate Buydown Program.
2. Priorities

   The entire line of credit will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the line of credit. The unguaranteed portion of the line of credit will not be paid first nor given any preference or priority over the guaranteed portion.
3. Full Faith and Credit

   The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. If the line of credit agreement or note to which this Contract of Guarantee is attached provides for the payment of interest on interest, this Contract of Guarantee is void. In addition, the Contract of Guarantee will be unenforceable by the Leader to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

4. Protective Advances

   Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Contract of Guarantee.
5. Custody of Unguaranteed Portion

   The Lender may retain or sell the unguaranteed portion of the line of credit only through participation. Participation, as used in this instrument, means the sale of an interest in the line of credit in which the Lender retains the line of credit agreement (and note, if one exists), collateral securing the line of credit, and all responsibility for servicing and liquidation of the line of credit.
6. When Guarantee terminates

   This Contract of Guarantee will terminate automatically (a) upon full payment of the guaranteed line of credit occurring after the advance period has expired; or (b) upon full payment of any loss obligation under this Contract; or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice, provided the Contract is returned to FmHA to be cancelled.
7. Settlement

   The amount due under this instrument will be determined and paid as provided in the applicable Subpart of Part 1980 of Title 7 CFR in effect on the date of this instrument.
8. Notices

   All notices and actions will be initiated through the FmHA County Supervisor for _____(County) _____ (State) with mailing address at the date of this instrument:

_____

_____

_____

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

_____ By: _____
(Date)

Title: _____

Assumption Agreement by _____ dated _____, 19___

Assumption Agreement by _____ dated _____, 19___

Dated: 9-18-89

Certified to be a true copy of the original

RICHARD A. GARTMAN
Certifying Officer
Farmers Home Administration

NEAL SOX JOHNSON
Acting Administrator
Farmers Home Administration

[FR Doc. 89-26560 Filed 11-13-89; 8:45 am]
BILLING CODE 3410-07-C

VOL 54 ISS 218 NO 14 1989 UMI

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 245

[Atty. Gen. Order No. 1375–89]

Immigration and Naturalization Service and the Executive Office for Immigration Review; Fee Review

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the fee schedule of the Immigration and Naturalizaiton Service (INS) and the Executive Office for Immigration Review (EOIR). These changes are necessary to place the financial burden of providing special services and benefits, which do not accrue to the public at large, on the recipients of these special services and benefits. Charges have been adjusted to more nearly reflect the current cost of providing the services and benefits, taking into account public policy and other pertinent facts.

EFFECTIVE DATE: December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–4705.

Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Falls Church, VA. 22041, Telephone: (703) 756–6470.

SUPPLEMENTARY INFORMATION: The INS and EOIR published a proposed rule on June 13, 1989, at 54 FR 25125, to amend the schedule of fees charged by the INS and EOIR for processing and adjudication of applications, petitions, motions, and requests submitted by the public by charging a fee for certain special services and benefits which are currently adjudicated free of charge. These changes are necessary to place the financial burden of providing these special services and benefits, which do not accrue to the general public at large, on the recipients of those special services and benefits. Charges reflect the current recovery cost of providing these special services and benefits, taking into account public policy and other pertinent facts.

No comments were received. Accordingly, fee changes are adopted as proposed. In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule would not have a significant economic impact on a substantial number of small entities.

This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

This rule contains information collection requirements which have been submitted and approved by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act. OMB control numbers are listed in 8 CFR 299.5.

List of Subjects in 8 CFR Parts 103 and 245

Administrative practice and procedures, Archives and records, Authority delegation, Fees, Forms.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 522(a); 8 U.S.C. 1101, 1103, 1201, 1301–1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C 9701; E.O. 12356, 3 CFR 1982 Comp., p. 166, 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by adding the following in numerical order:

§ 103.7 [Amended]

* * * * *

Form I–485A. For filing application by Cuban refugee for permanent residence—$60.00.

* * * * *

Form N–400. For filing application to file petition for naturalization—$60.00.

Form N–402. For filing application to file naturalization petition on behalf of child—$50.00.

* * * * *

PART 245—[AMENDED]

3. The authority citation for part 245 of title 8 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255 and 1257.

§ 245.2 [Amended]

4. In § 245.2, paragraph (a)(3)(iv) is amended by removing the second sentence, which reads "There is no fee required in the application for the benefits of this Act."

Dated: November 3, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89–26609 Filed 11–13–89; 8:45 am]

BILLING CODE 4410–21–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

RIN 1515–AA61

Customs Regulations Amendments To Conform With Harmonized System of Tariff Classification; Extension of Time for Comments; Notice of Public Meetings

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Extension of time for comments; Notice of public meetings.

SUMMARY: In a document published in the **Federal Register** on December 21, 1988 (53 FR 51244), Customs issued interim regulations effective on January 1, 1989, that amended the Customs Regulations to correspond to the use of the Harmonized Tariff Schedule of the United States (HTSUS). The interim regulations changed all Tariff Schedules of the U.S. (TSUS) references as needed throughout the Customs Regulations to HTSUS references and modified other sections as needed to accommodate the new tariff schedule's adoption. One of the amended sections of the Customs Regulations was § 141.89(a), which concerns invoice requirements. The interim regulations solicited public comments on the correctness of the changes. The comment period expired on March 21, 1989. After the interim regulations went into effect, guidelines were drafted by the National Import Specialist Division of Customs to assist the trade and Customs field personnel to apply uniformly criteria for accurate and complete invoices for various specific HTSUS item numbers. After reviewing the comments received in response to the interim regulations and the draft guidelines, Customs believes it would be beneficial to obtain further information from the importing community relating to the invoice requirements under 19 CFR 141.89(a) and the draft guidelines. This document reopens the comment period of the interim regulations solely regarding the invoice requirements and announces open meetings that will be held in New York on the invoice requirements.

DATES: Open meetings relating to invoice requirements will be held November 27 (for paper), December 1 (for chemicals), December 4 (for footwear), December 5 (for wearing apparel), December 6 (for business machines and parts), December 7 (for toys), and December 8, 1989 (for all other commodities). All meetings will start at 9:30 a.m. Comments will be accepted regarding the invoice requirements on or before February 7, 1990.

ADDRESSES: All meetings will be held at U.S. Customs, 6 World Trade Center, New York, Room 770 on the specified day. Written comments should be brought to the meetings or submitted to the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Richard Dunkel, Quality Assurance Branch, (202–377–0239).

SUPPLEMENTARY INFORMATION:

Background

Classification of imported merchandise for rates of duty and statistical purposes is determined by reference to the Harmonized Tariff Schedule of the United States (HTSUS) which went into effect on January 1, 1989. In a document published in the **Federal Register** (53 FR 51244) on December 21, 1988, Customs issued interim regulations that were effective on January 1, 1989, that amended the Customs Regulations to correspond to the HTSUS. The interim regulations changed all Tariff Schedules of the United States (TSUS) references to HTSUS throughout the Customs Regulations and modified other sections as needed to accommodate the new tariff schedule's adoption. One of the amended sections of the Customs Regulations is § 141.89(a), which concerns invoice requirements. The interim regulations solicited public comments on the correctness of the changes. Another document related to the interim regulations was published in the **Federal Register** (54 FR 6881) on February 15, 1989; this document set forth technical corrections to the authority citations provided in the interim regulations. Comments were originally to have been received on the interim regulations on or before February 21, 1989. However, a request was received from the public to extend the comment period; and Customs, in view of the complexity of the issues involved with the interim regulations, extended the comment period until March 21, 1989, by a notice published in the **Federal Register** (54 FR 9429) on March 7, 1989.

After the interim regulations went into effect, the National Import Specialist Division drafted guidelines intended to assist the trade and Customs field personnel to uniformly apply criteria for accurate and complete invoices for various specific HTSUS item numbers. After reviewing the comments received in response to the interim regulations and the draft guidelines on invoice requirements, Customs believes it would be beneficial to obtain further information from the importing community relating to the invoice requirements.

Announcement of Open Meetings

To this end, Customs will be holding open meetings at U.S. Customs, 6 World Trade Center, New York in Room 770 to discuss invoice requirements with the importing community. As the invoice requirements in interim § 141.89(a), Customs Regulations, and the draft guidelines require different information to be submitted on invoices, depending on the specific HTSUS item number under which the merchandise for which the invoice is being submitted is classified, different open meetings will be held for different commodities. The schedule of meetings is as follows:

Meeting on invoice requirements for paper: November 27

Meeting on invoice requirements for chemicals: December 1

Meeting on invoice requirements for footwear: December 4

Meeting on invoice requirements for wearing apparel: December 5

Meeting on invoice requirements for business machines and parts: December 6

Meeting on invoice requirements for toys: December 7

Meeting on invoice requirements for all other commodities: December 8

All meetings will be held at 9:30 a.m. on the scheduled day. Representatives from the National Import Specialists Divisions will be present at these meetings.

Comments

From these open meetings, Customs hopes to develop ideas on how to refine the invoice requirements in § 141.89(a) and/or the guidelines. At the meetings, questions will be accepted and written comments may be submitted. Customs will consider any written comments submitted at the meetings on the subject of invoice requirements as well as comments submitted on the subject to the address listed in the "ADDRESS" section at the beginning of this document. The comment period has been extended 60 days from the last scheduled meeting to allow sufficient time for attendees who develop new ideas at the meetings to submit their comments.

If comments have already been submitted, there is no need to resubmit comments. Previously submitted comments will be reconsidered with any new comments received in response to this notice. It is emphasized that the comment period is only being reopened regarding the subject of invoice requirements.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)) between 9:00 a.m. and 4:30 p.m. on normal business days at the Regulations and Disclosure Law Branch, Room 2119, 1301 Constitution Avenue, NW., Washington, DC.

Interim Regulations

Until such time as Customs publishes another document in the **Federal Register** stating otherwise, the interim regulations published in the **Federal Register** are still in effect.

Dated: November 8, 1989.

Carol B. Hallett,

Commissioner of Customs.

[FR Doc. 89–26753 Filed 11–9–89; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436, 440, 442, 446, and 452

[Docket No. 89N–0129]

Antibiotic Drugs; Updatings and Technical Changes

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by updating and making noncontroversial technical changes in accepted standards of antibiotic and antibiotic-containing drugs for human use. These amendments will result in more accurate and usable regulations.

DATES: Effective December 14, 1989; comments, notice of participation, and requests for a hearing by December 14, 1989; data, information, and analyses to justify a hearing by January 16, 1990.

ADDRESS: Written comments to the Dockets Management Branch (HFA–

combination antibiotic/antifungal products on the basis that the products lack substantial evidence of effectiveness.

copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be

21 CFR Part 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under

$$n = 5.545 \left[\frac{t_s}{W_h} \right]$$

where:

(4) *Identity.* Proceed as directed in § 436.311 of this chapter, preparing the sample solution as follows: From an aliquot of suspension prepared in

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1989; data, information, and analyses to justify a hearing by January 16, 1990.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations by updating and making noncontroversial technical changes in certain antibiotic drug regulations that provide for accepted standards of antibiotic and antibiotic-containing drugs intended for human use.

1. In 21 CFR 436.216, the system suitability test procedures in paragraphs (c) (1) and (2) are revised and paragraph (c)(5) is added to provide testing procedures most often required on high-performance liquid chromatographic assays.

2. In 21 CFR 440.103b(b)(4), the preparation of the sample solution for the identity test of amoxicillin trihydrate is revised to reflect the same concentration as that of the standard preparation.

3. In 21 CFR 442.19(b)(1)(iv), the formulas for calculating micrograms of cefuroxine per milligram and the ratio of isomer A to total isomer content of cefuroxime are revised to state the correct formulas.

4. In 21 CFR 442.106b(a)(1), the description of cefadroxil monohydrate tablets is revised to provide for a film-coated tablet. The sole manufacturer has submitted adequate data to support this revision.

5. In 21 CFR 442.119(b)(1)(iii), the formula for calculating the milligrams of cefuroxime per tablet is revised to state the correct formula.

6. In 21 CFR 442.212b(a)(1), the description of cefoperazone sodium injection is revised to provide for a 20-milligram-per-milliliter dosage strength. The sole manufacturer has submitted adequate data to support this revision.

7. 21 CFR 446.115c, 446.116b, 446.116d, 446.165c, 446.165e, 446.180a, 446.180b, 446.181a, and 446.181b are removed, including the editorial notes following each of these sections.

In Drug Efficacy Study Implementation (DESI) notices published in the **Federal Register** of August 8, 1985 (50 FR 32112) and February 19, 1988 (53 FR 5044), FDA withdrew approval of the new drug applications for certain fixed-combination antibiotic/antifungal products on the basis that the products lack substantial evidence of effectiveness.

Therefore, the monographs (regulations) providing accepted standards are removed for the following products: Declostatin Oral Suspension containing demeclocycline and nystatin; Declostatin Tablets containing demeclocycline hydrochloride and nystatin; Declostatin Capsules containing demeclocycline hydrochloride and nystatin; Terrastatin Capsules containing oxytetracycline and nystatin; Terrastatin for oral suspension containing oxytetracycline and nystatin; Tetrex–F Oral Suspension containing tetracycline phosphate complex and nystatin; Mysteclin "F" syrup containing tetracycline and nystatin; Tetrex-F for Oral Suspension, Achrostatin V for Oral Suspension, and Tetrastatin for Oral Suspension containing tetracycline and nystatin; Comycin Half-Strength Capsules, Comycin Capsules, and Tetrex-F Capsules containing tetracycline phosphate complex and nystatin; and Achrostatin V Capsules, Tetrastatin Capsules, Mysteclin-V Capsules, Mysteclin "F" Capsules, and Mysteclin "F" 125 Capsules containing tetracyline hydrochloride and nystatin.

8. In 21 CFR 452.510b(a)(2), the packaging standard for erythromycin topical solution pledgets is revised to provide for a 60-pledget containing jar. The sole manufacturer has submitted adequate data to support this revision.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objectives

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. This final rule, therefore, becomes effective December 14, 1989. However, interested persons may, on or before December 14, 1989, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before December 14, 1989, a written notice of participation and request for hearing, and (2) on or before January 16, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 440

Antibiotics.

21 CFR Part 442

Antibiotics.

21 CFR Part 446

Antibiotics.

21 CFR Part 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 436, 440, 442, 446, and 452 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. The authority citation for 21 CFR Part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 436.216 is amended by revising paragraphs (c) (1) and (2) and by adding paragraph (c)(5) to read as follows:

§ 436.216 High-performance liquid chromatographic assay.

* * * * *

(c) * * *

(1) *Trailing factor or asymmetry factor.* Calculate either the trailing factor (*T*), from distances measured along the horizontal line at 5 percent of the peak height above the baseline or the asymmetry factor (A_s) measured at a point 10 percent of the peak height from the baseline; whichever is required in the appropriate monograph, as follows:

$$T = \frac{W_{0.05}}{2f}$$

where:
$W_{0.05}$ = Width of peak at 5 percent height; and
f = Horizontal distance from point of ascent to a point coincident with maximum peak height.

$$A_s = \frac{a+b}{2a}$$

where:
a = Horizontal distance from point of ascent to point of maximum peak height; and
b = Horizontal distance from the point of maximum peak height to point of descent.

(2) *Efficiency of the column.* Calculate the number of theoretical plates (n) of the column as follows:

$$n = 5.545 \left[\frac{t_R}{W_h} \right]^2$$

where:
n = Efficiency, as number of theoretical plates for column;
t_R = Retention time of solute; and
W_h = Peak width at half-height.
Calculate the absolute efficiency of the column, (reduced plate height) (h_r) if required in the monograph, as follows:

$$h_r = \frac{(L)\ (10{,}000)}{(n)\ (d_p)}$$

where:
L = Length of column in centimeters;
n = Number of theoretical plates; and
d_p = Average diameter of the particles in column packing in micrometers.

* * * * *

(5) *Capacity factor.* Calculate the capacity factor (k), if required in the monograph as follows:

$$k = \frac{t_r - t_m}{t_m}$$

where:
t_r = Retention time of solute; and
t_m = Retention time of solvent or unretained substance, calculated as follows:

$$t_m = \frac{(3.1416)(D^2)(L)\ (0.75)}{4F}$$

where:
D = Column diameter in centimeters;
L = Column length in centimeters;
0.75 = Average total column porosity; and
F = Flow rate in milliliters per minute.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR Part 440 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

4. Section 440.103b is amended by revising paragraph (b)(4) to read as follows:

§ 440.103b Amoxicillin trihydrate for oral suspension.

* * * * *

(b) * * *

(4) *Identity.* Proceed as directed in § 436.311 of this chapter, preparing the sample solution as follows: From an aliquot of suspension prepared in accordance with the label, make either a 6.25:1 dilution for the 25-milligrams-per-milliliter dosage; or a 12.5:1 dilution for the 50-milligrams-per-milliliter dosage, with 0.1*N* hydrochloric acid. The slight dilution of the acid does not have a significant effect on the test.

PART 442—CEPHA ANTIBIOTIC DRUGS

5. The authority citation for 21 CFR Part 442 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 442.19 is amended by revising paragraph (b)(1)(iv) to read as follows:

§ 442.19 Cefuroxime axetil.

* * * * *

(b) * * *

(1) * * *

(iv) *Calculations*—(A) Calculate the micrograms of cefuroxime per milligram of sample as follows:

Micrograms of cefuroxime per milligram =

$$\frac{R_u \times P_s \times 100}{R_s \times C_u \times (100-m)}$$

where:
R_u = Sum of the peak height of the cefuroxime axetil sample isomer A and isomer B peaks/Peak height of the internal standard;
R_s = Sum of the peak heights of the cefuroxime axetil working standard isomer A and isomer B peaks/Peak height of the internal standard;
P_s = Cefuroxime activity in the cefuroxime axetil working standard solution in micrograms per milliliter;
C_u = Milligrams of sample per milliliter of sample solution; and
m = Percent moisture content of the sample.

(B) Calculate the ratio of isomer A to total isomer content as follows:

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$$\text{Ratio of isomer A to isomer content} = \frac{\text{Peak height of isomer A peak}}{\text{Peak height of isomer A peak + Peak height of isomer B peak}}$$

Marshals Service to reflect the new substantive law governing the Witness Protection Program, section 1210 of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), 18 U.S.C. 3521 *et seq.*, and issuance of

and their families, including the psychological well-being and social adjustment of such persons, pursuant to 18 U.S.C. 3521, *et seq.*, and issuance of

identified at 30 CFR 904.12, 904.15, and 904.16.

II. Submission of Proposed Amendment

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$$\text{Ratio of isomer A to isomer content} = \frac{\text{Peak height of isomer A peak}}{\text{Peak height of isomer A peak} + \text{Peak height of isomer B peak}}$$

* * * * *

7. Section 442.106b is amended by revising the first sentence in paragraph (a)(1) to read as follows:

§ 442.106b Cefadroxil monohydrate tablets.

(a) * * *

(1) * * * Cefadroxil monohydrate tablets are composed of cefadroxil monohydrate and one or more suitable and harmless binders and lubricants, and with or without coloring and film-coating substances. * * *

* * * * *

8. Section 442.119 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 442.119 Cefuroxime axetil tablets.

* * * * *

(b) * * *

(1) * * *

(iii) *Calculations.* Calculate the cefuroxime content as follows:

$$\text{Milligrams of cefuroxime per tablet} = \frac{R_u \times P_s \times d}{R_s \times n}$$

where:

R_u = Sum of the peak heights of the cefuroxime axetil sample isomer A and isomer B peaks/Peak height of the internal standard;

R_s = Sum of the peak heights of the cefuroxime axetil working standard isomer A and isomer B peaks/Peak height of the internal standard;

P_s = Potency of the cefuroxime axetil working standard in milligrams of cefuroxime activity milliliter;

d = Dilution factor of the sample; and

n = Number of tablets in the sample assayed.

* * * * *

9. Section 442.212b is amended by revising the second sentence in paragraph (a)(1) to read as follows:

§ 442.212b Cefoperazone sodium injection.

(a) * * *

(1) * * * Each milliliter contains cefoperazone sodium equivalent to either 20 milligrams or 40 milligrams of cefoperazone per milliliter. * * *

* * * * *

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

10. The authority citation for 21 CFR part 446 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

§ 446.115c [Removed]

11. Section 446.115c *Demeclocycline-nystatin for oral suspension* is removed.

§ 446.116b [Removed]

12. Section 446.116b *Demeclocycline hydrochloride-nystatin tablets* is removed.

§ 446.116d [Removed]

13. Section 446.116d *Demeclocycline hydrochloride-nystatin capsules* is removed.

§ 446.165c [Removed]

14. Section 446.165c *Oxytetracycline-nystatin capsules* is removed.

§ 446.165e [Removed]

15. Section 446.165e *Oxytetracycline-nystatin for oral suspension* is removed.

§ 446.180a [Removed]

16. Section 446.180a *Tetracycline-nystatin oral suspension; tetracycline phosphate complex-nystatin oral suspension (tetracycline phosphate complex-nystatin oral drops)* is removed.

§ 446.180b [Removed]

17. Section 446.180b *Tetracycline-nystatin for oral suspension* is removed.

§ 446.181a [Removed]

18. Section 446.181a *Tetracycline hydrochloride-nystatin tablets* is removed.

§ 446.181b [Removed]

19. Section 446.181b *Tetracycline hydrochloride-nystatin capsules; tetracycline phosphate complex-nystatin capsules* is removed.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

20. The authority citation for 21 CFR part 452 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

21. Section 452.510b is amended by revising paragraph (a)(2) to read as follows:

§ 452.510b Erythromycin topical solution.

(a) * * *

(2) *Packaging.* In addition to the requirements of § 432.1 of this chapter, it may either be dispensed on individually packaged pledgets, each individual pledget containing 0.8 milliliter or erythromycin topical solution, or in a jar containing 60 pledgets. The jar contains 0.8 milliliter of erythromycin topical solution per pledget. Although the pledgets in the jar are not individually packaged, the drug is uniformly distributed throughout the pledgets. The erythromycin topical solution used on the pledgets contains 20 milligrams of erythromycin per milliliter.

* * * * *

Dated: October 31, 1989.

Sammie R. Young,

Deputy Director Office of Compliance Center for Drug Evaluation and Research.

[FR Doc. 89-26580 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

United States Marshals Service

[Order No. 1376-89]

28 CFR Part 0

Witness Protection Program

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Order amends the existing delegation of authority to the Director of the United States Marshals Service regarding the administration of the Federal Witness Protection Program. The Order technically corrects the existing delegation to the Director of the Marshals Service to reflect the new substantive law governing the Witness Protection Program, section 1210 of the Comprehensive Crime Control Act of 1984, Public Law 98-473, the Witness Security Act of 1984, 18 U.S.C. 3521, *et seq.*

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Gerald M. Auerbach, General Counsel, United States Marshals Service, Arlington, Virginia; telephone No. (202) 307-9054.

SUPPLEMENTARY INFORMATION: The Attorney General has previously delegated his authority regarding administration and operation of the Federal Witness Protection Program to the Director of the United States Marshals Service. 28 CFR 0.111(c). This amendment will technically correct 28 CFR 0.111(c) to reflect the new substantive law governing the Witness Protection Program, section 1210 of the Comprehensive Crime Control Act of 1984, Public Law 98-473, 18 U.S.C. 3521, *et seq.*, and explicitly delegates to the Director of the U.S. Marshals Service the Attorney General's authority under the statute to issue regulations governing the administration of the Program, including but not limited to regulations regarding the sums of subsistence payments and basic living expenses for protected witnesses and their families.

This Order is not a rule within the meaning of Executive Order 12291, section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

By virtue of the authority vested in me, including 28 U.S.C. 509, 510, 5 U.S.C. 301, and 18 U.S.C. 3521 *et seq.*, part 0, of title 28 of the Code of Federal Regulations is hereby amended as follows:

1. The authority citation for Part 0 is revised to read as follows:

Authority: 5 U.S.C. 301, 2303, 3101; 6 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3521, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 1989b, 2001-2017p; Pub. L. No. 91-513, sec. 501; EO 11919; EO 11287; EO 11300.

2. Section 0.111 is amended by revising paragraph (c) to read as follows:

§ 0.111 General functions.

* * * * *

(c) Provisions for the health, safety, and welfare of Government witnesses and their families, including the psychological well-being and social adjustment of such persons, pursuant to 18 U.S.C. 3521, *et seq.*, and issuance of necessary regulations for this purpose on behalf of the Attorney General.

* * * * *

Dated: November 7, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-26694 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; Approval of amendment.

SUMMARY: OSM is announcing the approval under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), of an amendment to the Arkansas permanent regulatory program (hereinafter, the Arkansas program). The amendment consists of revisions to Arkansas' regulations pertaining to restrictions on financial interests of State employees, fish and wildlife information, individual civil penalties, and the measurement of revegetation success on prime farmland. Arkansas is modifying its approved program to maintain consistency with SMCRA and the Federal regulations.

EFFECTIVE DATE: November 14, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1980, the Secretary of the Interior approved the Arkansas program. The November 21, 1980, **Federal Register** (45 FR 77003) gives general background information regarding the Arkansas program, including information on the Secretary's findings and the disposition of comments on the program, as well as a detailed explanation of the conditions of its approval. Subsequent actions concerning the Arkansas program are identified at 30 CFR 904.12, 904.15, and 904.16.

II. Submission of Proposed Amendment

By letter dated December 22, 1988 (Administrative Record No. AR-346), Arkansas submitted to OSM proposed revisions to the following provisions of Arkansas' regulations: Arkansas Surface Coal Mining and Reclamation Code (ASCMRC) 705.11(a), 705.13(a), and 705.15, restrictions on financial interests of State employees; ASCMRC 780.16(b)(3)(i), and (b)(3)(ii), and (c), 784.21, 816.97(b), and 817.97, fish and wildlife information; ASCMRC 846.1, .5, .12, .14, and .18, individual civil penalties; and ASCMRC 1000(50), measurement of revegetation success on prime farmland.

Arkansas submitted its proposed amendment in response to (1) a letter dated October 21, 1988, that OSM sent to Arkansas in accordance with 30 CFR 732.17(c) (Administrative Record No. AR-344), and (2) required program amendments at 30 CFR 904.16 (a) and (b).

On January 13, 1989, OSM published a notice in the **Federal Register** announcing its receipt of the proposed amendment to the Arkansas program and inviting public comment on the adequacy of the amendment (54 FR 1398). The comment period closed on February 13, 1989.

After reviewing the proposed amendment and all comments it had received during the comment period, OSM notified Arkansas by letter dated March 15, 1989 (Administrative Record No. AR-354) of provisions (ASCMRC 816.116(b)(3)(ii)) in the amendment that appeared to be inconsistent with the Federal regulations. Arkansas took two actions in response to this notification. First, by letter dated April 12, 1989 (Administrative Record No. AR-355), Arkansas informed OSM that it was withdrawing the proposed revision at ASCMRC 816.116(b)(3)(ii) that pertained to revegetation success criteria for bond release as these criteria related to the replacement of trees and shrubs as a normal husbandry practice. Second, by letter dated April 24, 1989 (Administrative Record No. AR-356), Arkansas submitted to OSM a revision to the proposed amendment which would delete ASCMRC 1000(50) so as to remove the suspension of ASCMRC 823.11(c). (ASCMRC 823.11(c) establishes actual crop production on reclaimed prime farmlands as the measure for determining whether or not revegetation has been successful.)

To allow the public an opportunity to comment on this twofold response, on May 24, 1989, OSM published a notice in

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the Federal Register (54 FR 22452) that reopened and extended the comment period. The extended comment period closed on June 8, 1989. In this same Federal Register notice, OSM announced Arkansas' withdrawal of the proposed revision at ASCMRC 816.116(b)(3)(ii).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment submitted by Arkansas on December 22, 1988, and subsequently revised on April 12 and 24, 1989. The Director may require further changes in the future as a result of Federal regulatory revisions, court decisions, and continuing OSM oversight of the Arkansas program.

1. Substantive Revisions to Arkansas' Regulations that Are Substantially Identical to the Counterpart Federal Regulations

Arkansas proposes revisions to the following regulations that are substantive in nature and contain language substantially identical to the corresponding Federal regulations: ASCMRC 705.11(a), 705.13(a), and 705.15 (respectively, counterpart Federal regulations 30 CFR 705.11(a), 705.13(a), and 705.15), restrictions on financial interests of State employees; ASCMRC 780.16(b)(3)(i), (b)(3)(ii), and (c), 784.21, 816.97(b), and 817.97 (30 CFR 780.16(b)(3)(i), (b)(3)(ii) and (c); 784.21; 816.97(b); and 817.97), fish and wildlife information; and ASCMRC 846.1, .5, .12, .14, and .16 (30 CFR 846.1, .5, .12, .14, and .16), individual civil penalties. The Director, therefore, finds that these proposed revisions to Arkansas' regulations are no less effective than the corresponding Federal regulations.

2. ASCMRC 1000(50), Prime Farmland Restoration

In approving Arkansas' program amendment dated May 1, 1987 (finding No. 5, 53 FR 9685), the Director at 30 CFR 904.16(b) required that Arkansas revise its regulations at ASCMRC 1000(50) to remove the suspension of ASCMRC 823.11(c). Arkansas has complied with this requirement in this amendment. The Director now finds that ASCMRC 823.11(c) is no less effective than the corresponding Federal rule at 30 CFR 823.15(b). Therefore, the Director is removing the required program amendment at 30 CFR 904.16(b).

IV. Summary and Disposition of Comments.

Public Comments

The Director both solicited public comment and provided opportunity for a public hearing on the proposed amendment. No comments were received. Because no one requested an opportunity to testify at a public hearing, no hearing was held.

Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), the Director also solicited comments from various State and Federal agencies with an actual or a potential interest in the Arkansas program. The University of Arkansas Cooperative Extension Service (ACES) and the U.S. Fish and Wildlife Service (USFWS) responded with comments.

ACES commented on proposed Arkansas regulation ASCMRC 816.97(h) which requires that, "where cropland is to be the postmining land use, and where appropriate for wildlife—and crop-management practices, the operator shall intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and diversify habitat types for birds and other animals." ACES was concerned that the regulation is vague and subjective and could be interpreted and implemented by Arkansas in such a manner as to place unrealistic and uneconomical constraints on commercial and private agricultural operations. It further commented that trees, shrubs, grasses, and other wildlife habitat should be located around field edges and in non cropland areas but should not be located in otherwise economically operable fields. In response, the Director notes that the phrase in the proposed regulation "where appropriate for wildlife—*and* crop-management" (emphasis added) requires operators to reclaim cropland to uses appropriate for *both* wildlife *and* crop management. If, as ACES suspects could happen, Arkansas were to implement its program inconsistent with this regulation, and not take account of the wildlife and crop-management phrase, Arkansas's implementation would become a matter for OSM review in its oversight of the Arkansas program. In addition the Director notes that the language of the Arkansas proposed rule is identical to the language of the counterpart Federal regulation at 30 CFR 816.97(h). On these bases, the Director is not requiring Arkansas to revise its proposed regulation.

USFWS commented on proposed Arkansas regulation ASCMRC 816.97(e)(i) which requires that power lines and transmission facilities be designed and constructed so as to minimize electrocution hazards to raptors. USFWS suggested that Arkansas include in the regulation a reference to the publication entitled "Suggested Practices for Raptor Protection on Powerlines—the State of the Art in 1981" or to some other current state-of-the-art guidelines. OSM did not require Arkansas to revise the language of its proposed regulation because Arkansas' language is identical to the language of the Federal counterpart regulation at 30 CFR 816.97(e)(i). However, OSM acknowledges that the document recommended by USFWS is a state-of-the-art guideline for protection of raptors from electrocution. OSM also recommends this document for use.

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment submitted to OSM by Arkansas on December 22, 1988. Arkansas must promulgate the regulations the amendment addresses in a form identical, with the exception of typographical errors, to the form in which they were submitted December 22, 1988, and revised April 12 and 24, 1989. However, the Director reserves the right to require further changes to these regulations in the future as a result of Federal regulatory revisions, court decisions, and OSM's continuing oversight of the Arkansas program. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency between State and Federal standards is required by SMCRA.

The Director is, as explained in finding No. 2, removing the requirement at 30 CFR 904.16(b) that this amendment satisfies. To implement this decision, the Director is amending the Federal regulations at 30 CFR 904 which codify all decisions concerning the Arkansas program.

In addition to making this decision on the proposed amendment, the Director is also taking this opportunity to remove 30 CFR 904.12(b) and 904.16(a). Both relate to ASCMRC 816.116(b)(3)(ii), a provision which Arkansas originally submitted in this amendment but subsequently withdrew. The reasons for the Director taking these actions are discussed below.

OSM's regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) were subject to a District Court's ruling (*In Re: Permanent Surface Mining Regulation Litigation II*, No. 79–1144 D.D.C. 1985, (PSMRL II)) that the administrative record of OSM did not show that the replacing of trees and shrubs was a normal husbandry practice. On November 20, 1986, in response to the PSMRL II, OSM suspended its regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) insofar as they authorized the counting of trees and shrubs that have been in place less than the full period of responsibility in determining the success of revegetation (51 FR 40952). And on March 28, 1988, the Director at 30 CFR 904.12(b) OSM disapproved the counterpart Arkansas regulation, ASCMRC 816.116(b)(3)(ii), and required at 30 CFR 904.16(a) that Arkansas amend its regulation to be consistent with the court's decision (53 FR 9982).

Then, in the September 7, 1988, Federal Register (53 FR 34636), OSM issued revised Federal regulations on revegetation in response to PSMRL II and lifted the suspension on 30 CFR 816.116(b)(3)(ii). The revised Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require that, at the time of final bond release, at least 80 percent of all trees and shrubs used to determine revegetation success be in place for at least 60 percent of the applicable minimum period of responsibility (53 FR 34636). This action rendered moot the prior disapproval of the Arkansas program at 30 CFR 904.12(b) and the required program amendment at 30 CFR 904.16(a). Therefore, the Director is revising the Federal regulations to remove the disapproval and requirement.

In taking this action, the Director notes that he has, by letter dated July 25, 1988, already notified Arkansas in accordance with 30 CFR 732.17(d) that Arkansas must amend its regulation at ASCMRC 816.116(b)(3)(ii) to be consistent with OSM's revised regulation at 30 CFR 816.116(b)(3)(ii), which requires that at least 80 percent of the trees and shrubs counted to determine revegetation success be in place for at least 60 percent of the 5-year period of revegetation responsibility.

VI. Procedural Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, the action this notice describes is exempt both from regulatory review by OMB and from the requirement to prepare a regulatory impact analysis.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities, nor will it impose any new requirements; rather, the rule will ensure that existing requirements established by SMCRA and its implementing Federal regulations will be met by the State of Arkansas.

3. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 904

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 2, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T, of the Code of Federal Regulations, is amended as set forth below:

PART 904—ARKANSAS

1. The authority citation for part 904 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 904.12 [Amended]

2. Section 904.12 is amended by removing and reserving paragraph (b).

3. Section 904.15 is amended by adding a new paragraph (f) as follows:

§ 904.15 Approval of amendments to State regulatory program.

* * * * *

(f) The amendment to the following sections of the Arkansas Surface Mining and Reclamation Code, as submitted to OSM on December 22, 1988 and revised on April 12 and 24, 1989, is approved effective November 14, 1989: 705.11(a); 705.13(a); 705.15; 780.16(b)(3)(i), and (b)(3)(ii), and (c); 784.21; 816.97(b); 817.97; 846.1, .5, .12, .14, and .16; and 1000(50).

The revisions affect the program areas regarding restriction on financial interests of employees, required fish and wildlife resource information for surface and underground mining applications, performance standards for protection of endangered and threatened species, individual civil penalties, and revegetation success standards for reclaimed prime farmlands.

§ 904.16 [Removed]

4. Section 904.16 is removed.

[FR Doc. 89–25423 Filed 11–13–89; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3680-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is announcing its decision to deny the petition submitted by Fisher Guide, formerly Fisher Body Division of General Motors Corporation, Flint, Michigan, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. This rulemaking finalizes the proposed denial for Fisher Guide's petitioned wastes published on December 16, 1988 (see 53 FR 50560). The effect of this action is that these wastes must continue to be handled as hazardous in accordance with 40 CFR parts 260 through 268, and the permitting standards of 40 CFR part 270.

EFFECTIVE DATE: November 15, 1989.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., (Room M2427), Washington, DC 20460, and is available for viewing

from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–FGDF–FFFFF." The public may copy

constituents of concern are not present at significant levels or, if present at significant levels, are in an essentially immobile form. Additionally, Fisher Guide claims that these wastes are not

and 6 were calculated properly using the 9,000 cubic yard waste volume. (The compliance-point concentrations for the lagoon sludges presented in Table 4 were calculated properly using the 900

worst-case to expect that, should the waste be delisted, the entire contents of the drying beds (9,000 cubic yards) might be disposed of at one time. Therefore, the Agency believes that the use of a

area (see 50 FR 7886, February 26, 1985). The Agency supports the use of these generic assumptions because the waste, if delisted, would no longer be regulated

drying beds in 1981 and 1982. Specifically, as described in the proposed rule, Fisher Guide did not provide descriptions of procedures

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from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–FGDF–FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Robert Kayser, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4206.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine (1) that the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of This Rulemaking

Fisher Guide, formerly Fisher Body Division of General Motors Corporation (Fisher Guide), located in Flint, Michigan, petitioned the Agency to exclude from hazardous waste control electroplating sludges contained in its settling lagoon system and drying beds. After evaluating the petition, EPA proposed, on December 16, 1988, to deny Fisher Guide's petition to exclude its wastes from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see FR 50550).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny Fisher Guide's petition.

II. Disposition of Delisting Petition

A. General Motors/Fisher Guide, Flint, Michigan

1. Proposed Exclusion

Fisher Guide petitioned the Agency for an exclusion of its wastewater treatment sludges in its settling lagoon system and drying beds, presently listed as EPA Hazardous Waste No. F006. Fisher Guide based its petition for these wastes (900 and 9,000 cubic yards of sludge in the lagoons and drying beds, respectively) on the claim that the metal constituents of concern are not present at significant levels or, if present at significant levels, are in an essentially immobile form. Additionally, Fisher Guide claims that these wastes are not hazardous on any other basis (*i.e.*, there are no additional constituents or factors that could cause the wastes to be hazardous). The Agency evaluated the information and analytical data provided by Fisher Guide in support of its petition and determined that the hazardous constituents found in the petitioned wastes could pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model to predict the potential mobility of the hazardous constituents found in the petitioned wastes. Based on these evaluations, the Agency determined that Fisher Guide failed to substantiate its claim that the hazardous constituents of concern will not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 53 FR 50550, December 16, 1988, for a more detailed explanation of why EPA proposed to deny Fisher Guide's petition.

2. Agency Response to Public Comments

The Agency received comments on the proposed rule from two interested parties. One commenter supported the Agency's proposed decision to deny the petition, both on the grounds articulated by EPA and for a number of other reasons. The second commenter opposed the Agency's proposed denial decision. The comments submitted related to the following areas: (1) Use of the VHS model to evaluate the petitioned wastes, (2) evaluation of samples that were not representative of the petitioned wastes, and (3) use of standard Extraction Procedure (EP) data rather than Oily Waste Extraction Procedure (OWEP) data. The specific comments made by the two interested parties regarding the Agency's proposed decision to deny the petition, and the Agency's responses to them, are discussed below.

Agency's Use of the VHS Model. The Agency wishes to note, at this time, that the proposed rule published on December 16, 1988 contained a typographical error in the discussion of the Agency's use of the VHS model to evaluate the drying bed sludges. Specifically, on 53 FR 50555 (middle column, first full paragraph), the estimated waste volume for the drying bed sludges should have read 9,000 cubic yards (as stated twice previously in 53 FR 50554), not 900 cubic yards. The compliance-point concentrations for the drying bed sludges presented in Tables 5 and 6 were calculated properly using the 9,000 cubic yard waste volume. (The compliance-point concentrations for the lagoon sludges presented in Table 4 were calculated properly using the 900 cubic yard waste volume.)

The first commenter supported the Agency's proposed decision to deny Fisher Guide's petitioned wastes; however, the commenter expressed general concerns over EPA's use of the VHS model to evaluate delisting petitions, including: (1) Failure on the part of the Agency to evaluate total constituent levels of metals in the waste, (2) failure on the part of the Agency to consider all disposal scenarios, (3) criticism of the VHS model in understating the risks of large-quantity waste generators, (4) criticism of the VHS model in not considering other contaminant sources, and (5) unjustified use of the VHS model to evaluate delisting petitions for wastes stored in surface impoundments. Because the Agency already had sufficient bases to deny Fisher Guide's petition for these wastes, as detailed in the proposed rule, and the concerns raised by the commenter do not change the proposed decision, the Agency did not assess whether the additional bases for denial, suggested by the commenter, should be included as part of the rationale for denying the petition. Furthermore, the issues raised by the commenter regarding the effectiveness of the VHS model do not affect EPA's decision to deny this petition. Therefore, the Agency did not address these comments in today's rule.

The second commenter also presented concerns regarding the use of the VHS model, including (1) the model's assumption that wastes are disposed of on an annual basis, (2) that the dimensions of the VHS model disposal unit are biased against the disposal of large waste volumes, and (3) the model does not consider site-specific factors.

Annual Disposal of Wastes—The commenter suggested that many of the assumptions used in the VHS model are not "reasonable", but absolute worst-case. Specifically, with regard to Fisher Guide's petition, the commenter argued that the petitioned wastes were disposed of every other week, not annually as assumed in the VHS model. The commenter suggested that the model should account for on-going disposal practices, even though, in Fisher Guide's case, the lagoons and drying beds no longer receive hazardous waste.

With regard to the evaluation of Fisher Guide's drying bed sludges, the Agency believes that it is a reasonable

worst-case to expect that, should the waste be delisted, the entire contents of the drying beds (9,000 cubic yards) might be disposed of at one time. Therefore, the Agency believes that the use of a disposal volume of 9,000 cubic yards for the drying bed sludges in the VHS model evaluation presented in the proposed rule is justified. Likewise, because Fisher Guide stated in its petition that sludges are removed from the lagoons at a rate of 900 cubic yards once a year, the Agency believes that the use of a disposal volume of 900 cubic yards for waste contained in the lagoons is also justified.

Bias Against Large Waste Volumes—The commenter further claimed that the VHS model presents a bias against large-volume hazardous waste generators because the VHS model does not provide credit for trench-widening in the y-direction.[1] The commenter believes this factor gives "less realistic dilution".

As discussed in the **Federal Register** on November 27, 1985 (50 FR 48896), the VHS model incorporates a sliding-scale that allows the Agency to take into account the decreased impact that smaller waste volumes would have on ground water quality. The VHS model predicts a maximum dilution factor of about 32 for waste volumes equal to (or less than) 475 cubic yards. As waste volume increases, the dilution factor decreases, until a minimum value of approximately 0.3 is predicted for waste volumes above 8,000 cubic yards. This variation in the dilution factor (corresponding to waste volume) is a function of the assumptions made in the disposal unit dimensions for the VHS model (see 50 FR 48896, November 27, 1985). The Agency continues to believe that it is reasonable to assume that a large amount of waste has a greater potential to impact an underlying aquifer than a smaller volume, as predicted by the VHS model.

The Agency disagrees with the commenter that credit should be given for trench-widening. The dimensions of the VHS model disposal unit (the trench which the commenter refers to) represent the dimensions of a "generic" disposal unit based on information obtained regarding typical disposal unit area (see 50 FR 7886, February 26, 1985). The Agency supports the use of these generic assumptions because the waste, if delisted, would no longer be regulated under subtitle C and thus could be disposed of in a management setting with any trench arrangement.

Site-specific Considerations—The commenter also argued for the consideration of site-specific conditions and their impact on an on-site disposal alternative. The commenter stated that, because Fisher Guide proposes to construct an on-site monofill to contain the sludges, an on-site monofill would be a more appropriate disposal alternative. The commenter stated that favorable, on-site soil conditions, combined with the proposed design of the monofill, suggest that water extract data, in addition to "other model modifications," would likely be more representative in the proposed disposal alternative. The commenter claims that the acidic conditions simulated by the EP leachate test would not be representative of a monofill.

As discussed in the proposed rule (see 53 FR 50550), the Agency believes that the use of site-specific conditions (such as soil conditions and unit design) would be inappropriate and inconsistent with the intent of delisting evaluations. Delisting decisions are waste-specific, not disposal-site specific. They are formulated by evaluating the hazard of a petitioned waste in a non-subtitle C management setting. Delisting evaluations which considered the specific conditions at the site of disposal, for example, could not predict future storage or disposal conditions that may be pertinent when the waste is removed from the present disposal site, a situation which could occur once the waste is excluded from Subtitle C regulation. If delisted, the sludge may, in a reasonable worst-case scenario, be placed in a municipal landfill and exposed to acidic leachate. Therefore, the Agency believes that the use of the acidic EP leachate test is appropriate to simulate this disposal scenario. Use of a non-acidic extraction medium (*i.e.*, distilled water as suggested by Fisher Guide) would not properly account for this potential disposal option.

Evaluation of "Unrepresentative" Samples. The first commenter noted that the Agency did not point out that samples collected in 1981 and 1982, although used by Fisher Guide in their petition and evaluated by the Agency, were not collected using standard delisting guidance.

The Agency recognizes that Fisher Guide did not follow standard delisting guidance in collecting samples from its drying beds in 1981 and 1982. Specifically, as described in the proposed rule, Fisher Guide did not provide descriptions of procedures followed during the collection of drying bed sludge samples in 1981. Without such descriptions, the Agency was unable to assess whether the 1981 samples are representative of the waste contained throughout the drying beds. As also described in the proposed rule, Fisher Guide provided, in 1982, only six composites (one composite for each half of the three drying beds) to characterize the composition of its drying bed sludges. For a waste contained in an on-site waste management unit, the Agency normally requires petitioner's to submit at least four composite samples, one sample representing the waste contained in each quadrant, not one sample representing the waste contained in half of the unit. Nevertheless, even though the 1981 and 1982 samples were collected using procedures different than those recommended for delisting purposes, the Agency chose to use the 1981 and 1982 data to support the denial of Fisher Guide's petition because these samples, to some extent, are representative of a portion of each lagoon or drying bed. For these reasons, the Agency believes that its evaluation of the 1981/1982 samples to support the conclusion that the petitioned wastes contain significant levels of leachable lead and nickel was appropriate. The Agency also wishes to stress that the 1984 drying bed sludge samples (as well as the 1981/1982 samples) failed the VHS model evaluation due to high leachable levels of nickel and lead.

Agency's Use of Standard EP Data. The first commenter also stated that it does not consider standard EP data to be "valid", in lieu of OWEP data, in predicting reasonable worst-case leaching of contaminants. The Agency interprets this comment to mean that the commenter is concerned about the Agency's suggestion that EP data are sufficient to estimate the mobility of constituents from an oily waste.

The Agency wishes to clarify the statement to which the commenter refers. The statement in the preamble to the proposed rule (see 53 FR 50550) reads "* * * the Agency believes that the modeling evaluation for Fisher Guide's petitioned wastes using EP data is valid, because OWEP concentrations are typically higher than EP leachate concentrations". The Agency did not mean to suggest that data obtained using standard EP procedures were sufficient or would form a valid basis for delisting Fisher Guide's waste. Rather,

[1] The VHS model is based upon the premise that the petitioned waste is disposed of in a 40-foot wide, 8-foot deep trench. The orientation of the trench is such that the x-direction is perpendicular to the direction of ground-water flow; the y-direction is parallel to the direction of ground-water flow; and the z-direction is into the underlying aquifer. The VHS model assumes a "fixed" reasonable worst-case value for the dimension of the trench in the y-direction (*i.e.*, 40 feet) and, as the commenter notes, "does not provide credit for trench-widening".

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the Agency recognized in the proposed rule that Fisher Guide should have analyzed its petitioned wastes using the OWEP (because the oil and grease content of its wastes exceeded one percent), but believed that the use of EP data was sufficient to indicate that leachable levels of certain metals were of concern and that, therefore, delisting was inappropriate.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Fisher Guide's petitioned wastes should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Fisher Guide, formerly Fisher Body Division of General Motors Corporation, located in Flint, Michigan, for its electroplating wastewater treatment sludges, classified as F006 wastes, which are contained in the petitioner's lagoons and drying beds. The effect of this rule is that these petitioned wastes must continue to be handled as hazardous wastes in accordance with 40 CFR parts 260 through 268, and parts 270, 271, and 124.

III. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule does not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage these wastes as hazardous during the Agency's review of its petition. This rule, therefore, should be effective immediately for this petitioner. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. § 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The denial of this petition does not impose an economic burden on this facility because prior to submitting and during the review of the petition, this facility should have continued to handle its wastes as hazardous. The denial of this petition means that Fisher Guide must continue managing these wastes as hazardous in a manner in which it has been doing, economically and otherwise. There is no additional economic impact, therefore, due to today's rule. This rule is not a major regulation, therefore no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment does not have a significant adverse economic impact on small entities because its effect will not change the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921)

Dated: October 31, 1989.

Robert H. Wayland,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 89–26667 Filed 11–13–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–6972]

Changes in Flood Elevation Determinations; Indiana et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Adminstrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in thisnotice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

1. The authority citaton for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and Name of Newspaper Where Notice Was Published	Chief Executive Officer of Community	Effective Date of Modification	Community No.
Indiana: Lake	Town of Schererville	Oct. 19, 1989 and Oct. 26, 1989. *The Post Tribune*	The Honorable Herman Parker, Town Manager, Town of Schererville, Town Hall, 1640 Wilson Street, Schererville, Indiana 46375.	Oct. 3, 1989	180142
Kansas: Sedgwick	Unincorporated Areas	Oct. 25, 1989 and Nov. 1, 1989. *Daily Reporter*	The Honorable Paul W. Hancock, Chairman, Board of County Commissioners, Sedgwick County, 525 North Main, 3rd Floor, Wichita, Kansas 67203.	Oct. 12, 1989	200321
Kansas: Sedgwick	City of Wichita	Nov. 2, 1989 and Nov. 9, 1989. *Daily Reporter*	The Honorable Sheldon Kamen, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	Oct. 18, 1989	200238
Louisiana: Cameron	Unincorporated areas	Oct. 26, 1989 and Nov. 2, 1989. *Cameron Pilot*	The Honorable Ernest Carol Trahan, President, Cameron Parish Police Jury, P.O. Box 366, Cameron, Louisiana 70631.	Oct. 13, 1989	225194E
Louisiana: Cameron	Unincorporated areas	Nov. 2, 1989 and Nov. 9, 1989. *Cameron Pilot*	The Honorable Ernest Carol Trahan, President, Cameron Parish Police Jury, P.O. Box 366, Cameron, Louisiana 70631.	Oct. 20, 1989	225194E
Louisiana: Unincorporated areas.	Lafourche Parish	Sept. 28, 1989 and Oct. 5, 1989. *The Daily Comet*	The Honorable Vernon F. Gallano, President of the Lafourche Parish Council, P.O. Drawer 5548, Thibodaux, Louisiana 70302.	Sept. 8, 1989	225202C

Issued: November 2, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89–26666 Filed 11–13–89; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

Changes in Flood Elevation Determinations; Georgia et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the Office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Public Law 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain

qualified for participating in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies

contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
ARKANSAS	
Bella Vista (Unincorporated Areas)	
Maps available for inspection at the Bella Vista Property Owners Association, Inc., Bella Vista Way, Bella Vista, Arkansas.	
Beaver Lake	*1,125
Big Creek	*1,125
Big Creek Tributary 1	*1,125
Big Creek Tributary 2	*1,125
Big Creek Tributary 3	*1,125
Big Creek Tributary 4	*1,125
Big Creek Tributary 5	*1,125
Big Creek Tributary

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qualified for participating in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains.

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Georgia	De Kalb (Docket No. FEMA-6961).	Unincorporated Areas.	July 13, 1989, July 20, 1989, *Decatur-De Kalb News-Era.*	The Honorable Manuel J. Maloof, Chief Executive Officer, De Kalb County, 556 North McDonough, Decatur, Georgia 30030.	July 3, 1989	130065
Michigan	Berrien (Docket No. FEMA-6963).	Township of Coloma.	July 19, 1989, July 26, 1989, *Tri-City Record.*	The Honorable Rodney Krieger, Supervisor, Township of Coloma, 4919 Paw Paw Lake Road, Coloma, Michigan 49038.	July 10, 1989	260034
Michigan	Berrien (Docket No. FEMA-6963).	Township of Watervliet.	July 19, 1989, July 26, 1989, *Tri-City Record.*	The Honorable Merle Bujack, Supervisor, Township of Watervliet, P.O. Box 384, Watervliet, Michigan 49098.	July 10, 1989	260048

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: November 2, 1989.

[FR Doc. 89-26068 Filed 11-3-89; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations; Arkansas et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map [FIRM] showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472; (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
ARKANSAS	
Mountain Home (city), Baxter County (FEMA Docket No. 6969)	
Dodd Creek:	
Approximately 80 feet downstream of downstream corporate limits	*718
Approximately 750 feet upstream of Bucher Drive	*756
Dodd Creek Tributary: Approximately 1,800 feet downstream of Pine	*754
Maps available for inspection at the City Hall, 720 S. Hickory, Mountain Home, Arkansas.	
CALIFORNIA	
Trinity County (unincorporated areas) (FEMA Docket No. 6950)	
Weaver Creek:	
1,300 feet downstream of Mill Street	*1,933
1,050 feet downstream of Mill Street	*1,937
600 feet downstream of Mill Street	*1,945
Just upstream of Mill Street	*1,950
Middle Weaver Creek:	
Just upstream of Mill Street	*1,960
850 feet upstream of Mill Street	*1,966
1,700 feet upstream of Mill Street	*1,979
Just downstream of Bremer Street	*1,991
Just upstream of confluence with Ten Cent Gulch	*2,005
Ten Cent Gulch:	
Just upstream of Highway 299	*2,011
Just upstream of Highway 3	*2,027
850 feet upstream of Highway 3 at a private crossing	*2,040
1,212 feet upstream of Highway 3 at a private crossing	*2,047
2,200 feet upstream of Highway 3	*2,072
Maps are available for review at the Trinity County Courthouse, Board of Supervisors' Office, 101 Court Street, Weaverville, California.	
COLORADO	
Colorado Springs (city), El Paso County (FEMA Docket No. 6959)	
Sand Creek:	
At Powers Boulevard	*6,119
Approximately 870 feet upstream of Powers Boulevard	*6,128
Approximately 1,975 feet upstream of Powers Boulevard	*6,158
Approximately 2,850 feet upstream of Powers Boulevard	*6,169
Maps are available for review at 101 West Costilla, Colorado Springs, Colorado.	
NEW JERSEY	
East Brunswick (township), Middlesex County (FEMA Docket No. 6969)	
Cedar Brook:	
Approximately .4 mile downstream of the corporate limits	*32
Approximately .4 mile upstream of the corporate limits	*35
Maps available for inspection at the Department of Planning and Community Development, 1 Jean Walling Civic Center, East Brunswick, New Jersey.	
Fieldsboro (borough), Burlington County (FEMA Docket No. 6955)	
Delaware River:	
Upstream corporate limits	*14
Downstream corporate limits	*14
Maps available for inspection at the Borough Building, 16 Washington Street, Fieldsboro, New Jersey.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
PENNSYLVANIA	
Conewango (township), Warren County (FEMA Docket No. 6967)	
Jackson Run:	
Approximately 1,600 feet upstream of U.S. Route 62 Bridge	*1,207
Approximately 200 feet downstream of Abandoned Bridge	*1,214
Maps available for inspection at the Township Building, 4 Fireman Road, Warren, Pennsylvania.	
Earl (township), Berks County (FEMA Docket No. 6958)	
Mantawny Creek:	
Approximately 100 feet upstream of downstream corporate limits	*249
Approximately 640 feet upstream of upstream corporate limits	*273
Maps available for inspection at the Township Building, Earl, Pennsylvania.	
Miller (township), Huntingdon County (FEMA Docket No. 6959)	
Standing Stone Creek:	
At downstream corporate limits	*662
Approximately .43 mile upstream of LR 31112	*687
Maps available for inspection at the home of the Township Secretary, Patricia McNeal, R.D. 2, Huntingdon, Pennsylvania.	
Mount Pleasant (township), Columbia County (FEMA Docket No. 6959)	
Little Fishing Creek:	
Approximately 50 feet upstream of Township Route 519	*547
At upstream corporate limits	*560
Maps available for inspection at the residence of the Township Secretary, Mr. Boyd C. Laycock, Jr., R.D. 4, Bloomsburg, Pennsylvania.	
Ruscombmanor (township), Berks County (FEMA Docket No. 6958)	
Unnamed Tributary to Little Manatawny Creek:	
At downstream corporate limits	*484
Approximately 0.3 mile upstream of Olney Road	*525
Maps available for inspection at the residence of the township secretary, Rose Ellen Mull, R.D. 3, Oley Road, Fleetwood, Pennsylvania.	
TEXAS	
Fort Bend County (unincorporated area) (FEMA Docket No. 6959)	
Cloddine Ditch:	
At upstream side of the corporate limits	*91
Approximately 3.15 miles upstream of Harlem Road	*94
Maps available for inspection at the Fort Bend County Courthouse, 401 Jackson, Richmond, Texas.	
WASHINGTON	
Benton County (unincorporated Areas) (FEMA Docket No. 6963)	
Zintel Canyon:	
Approximately 400 feet northeast of the intersection of East 19th Avenue and Washington Street	*276
Approximately 1,200 feet west of the intersection of East 23rd Street and South Gum Street	*368
At the intersection of East 27th Avenue and South Myrtle Street	*306
At the intersection of East 19th Avenue and South Oak Street	*306

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Maps available for inspection at the Benton County Planning Department, 620 Market Street, Prosser, Washington.	
Grays Harbor County (unincorporated Areas) (FEMA Docket No. 6969)	
Pacific Ocean at Copalis Beach:	
Approximately 2,000 feet north of mouth of Connor Creek at Chabot Island	*15
Pacific shoreline 1,000 feet west of Chabot Island	*18
Approximately 1,000 feet west of intersection of State Highway 109 and Pacific Boulevard	#2
Maps are available for review at Grays Harbor County Planning Department, 100 West Broadway Street, Montesano, Washington.	

Issued: November 2, 1989.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

[FR Doc. 89-26069 Filed 11-13-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-330; RM-6210, RM-6304, RM-6472]

Radio Broadcasting Services; Gadsden, Holly Pond, and Attalla, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document allots Channel 238A to Holly Pond, Alabama, and Channel 275A to Attalla, Alabama, at the request of American Communications and Marketing, Inc. ("ACMI") and Steven L. Graddick, respectively. The communities of Holly Pond and Attalla receive a first local broadcast service. Coordinates are, for Channel 238A at Holly Pond, 34-09-03 and 86-36-39, and for Channel 275A at Attalla, 34-01-06 and 86-05-30. In addition, this document dismisses the petition for rulemaking filed by Ron Hale for the allotment of Channel 238A to Gadsden, Alabama. See 53 FR 27179, July 19, 1988. With this action, the proceeding is terminated.

DATES: Effective December 21, 1989. The window period for filing applications will open on December 22, 1989, and close on January 22, 1990.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530.

Questions related to the window application filing process should be addressed to the Audio Service Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 88-330, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of Allotments, is amended under Alabama by adding Holly Pond, Channel 238A and Attalla, Channel 275A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26639 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-65, RM-6198, 6342, 6343, 6344]

Radio Broadcasting Services; East Hemet, Indio, Rancho California, Sun City, and Temecula, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes Channel 225A at East Hemet, California, in response to a petition filed by Claridge Broadcasting Corp., allots Channel 225A to Sun City, California, at the request of G. Dale Cowle, and allots Channel 233A to Temecula, California, at the request of Jim Jarsen. Coordinates used for Channel 225A at Sun City are 33-37-29 and 117-13-48, with a site restriction of 9.6 kilometers (5.8 miles) south of the community to avoid short-spacings to Station KWDJ, Channel 224A, Riverside, California, and Station KODJ, Channel 226B, Los Angeles, California. Coordinates used for Channel 233A at Temecula are 33-29-36 and 117-08-54. In addition, this document denies a petition requesting the substitution of Channel 225B for Channel 224A at Indio, California, and the modification of the license for Station KCMJ-FM accordingly, as requested by Claridge Broadcasting Corp., and denies a petition to allot Channel 225A to Rancho California, California, at the request of Jones and Associates. See 53 FR 5597, February 25, 1988. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau, (202) 632-6302.

EFFECTIVE DATES: December 21, 1989 the window period for filing applications for Channel 225A at Sun City, California, will open on December 22, 1989 and close on January 22, 1990. The window period for filing applications for Channel 233A at Temecula, California, will open on December 22, 1989, and close on January 22, 1990.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-65, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available during business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended for California as follows: under East Hemet, remove Channel 225A; under Sun City, add Channel 225A; and under Temecula, add Channel 233A.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26640 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-21; RM-6568; RM-6731]

Radio Broadcasting Services; Grove City, Pennsylvania, Hubbard, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Stephen M. Kramer, allots Channel 270A to Hubbard, Ohio, as the community's first local FM service. Channel 270A can be allotted to Hubbard in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.2 kilometers (5.1 miles) southeast to avoid a short-spacing to Station WVCC, Channel 269A, Linesville, Pennsylvania. The coordinates for this allotment are North Latitude 41-06-17 and West Longitude 80-29-58. Canadian concurrence has been received since Hubbard is located within 320 kilometers (200 miles) of the U.S.-Canadian border. This action also denies the request of Gary P. Hummel, Robert A. Hogue and Michael Trofimo to allot Channel 270A to Grove City, Pennsylvania, as the community's second local FM service. With this action, this proceeding is terminated.

DATES: Effective December 21, 1989. The window period for filing applications will open on December 22, 1989, and close on January 22, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-21, adopted October 31, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Hubbard, Ohio, Channel 270A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26641 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-34; RM-6086, RM-6335]

Radio Broadcasting Services; Llano and Kerrville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 284C2 for Channel 285A at Llano, Texas, and modifies the license of Station KLKM(FM) to specify operation on the higher class adjacent channel, at the request of Maxagrid Broadcasting Corporation, as that community's first wide coverage area FM station. See 53 FR 5286, February 23, 1988. In addition, this action substitutes Channel 232C2 for Channel 232A at Kerrville, Texas, and modifies the license of Station KRVL(FM) to specify operation on the higher class co-channel, at the request of Griffin Broadcasting Corporation, as that community's first wide coverage area FM service. A site restriction of 9.3 kilometers (5.8 miles) north of Llano is required for Channel 284C2. The coordinates are 30-50-01 and 98-41-16. Channel 232C2 can be allotted to Kerrville with a site restriction of 23.2 kilometers (14.4 miles) northwest of the city, at coordinates 30-11-55 and 99-18-19. Concurrence of the Mexican government has been received for the allotments. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-34, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Texas, by adding Channel 284C2 and removing Channel 285A at Llano; and adding Channel 232C2 and removing Channel 232A at Kerrville.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26642 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-29; RM-6548]

Radio Broadcasting Services; Refugio, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 291C2 for Channel 292A at Refugio, Texas, and modifies the license of Station KZTX(FM) at Refugio to specify operation on the higher powered frequency, as that community's first wide coverage area FM service, at the request of Sound Leasing, Inc. See 54 FR 8221, February 27, 1989. The channel substitution can be accomplished in compliance with the Commission's minimum separation requirements, at the city reference coordinates, which are 28-18-18 and 97-16-30. The Mexican government has concurred in the channel substitution. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-29, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Texas, by removing Channel 292A and adding Channel 291C2 at Refugio.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26643 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1181

[Ex Parte No. MC-111; Sub-No. 1]

Transfer Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: In this final rule proceeding published in the Federal Register on February 18, 1988 at 53 FR 4852, the Commission adopted rules revising its regulations at 49 CFR part 1181 governing applications under 49 U.S.C. 10321 and 10926 to transfer operating rights of motor property and passenger carriers, water carriers, holders of Certificates of Registration, household goods freight forwarders and property brokers. In § 1181.6(a)(2) the word "corporation" was inadvertently left out. This notice corrects that omission.

DATES: Effective on November 14, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, (202) 275-7429. (TDD for Hearing Impaired: (202) 275-1721.)

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1181

Administrative practice and procedure; Brokers; Freight forwarders; Maritime carriers; Motor carriers.

PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

1. The authority citation for part 1181 continues to read as follows:

Authority: 5 U.S.C. 553, and 49 U.S.C. 10321 and 10926.

2. Section 1181.6, paragraph (a)(2) is revised to read as follows:

of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1)

resulted in the continued high concentrations of paralytic shellfish poison (PSP) found to be present in surf clams from this area. These adverse environmental conditions preclude the

procedures of that Order was not possible.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and

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Authority: 5 U.S.C. 553, and 49 U.S.C. 10321 and 10926.

2. Section 1161.6, paragraph (a)(2) is revised to read as follows:

§ 1161.6 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

(a) * * *

(2) A change in the legal name of a corporation or partnership or change in the trade name or assumed name of any entity;

* * * * *

Noreta R. McGee,

Secretary.

[FR Doc. 89-26689 Filed 11-13-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category. Closure of this segment of the fishery is necessary because the annual quota allocated to vessels fishing in the area north of 36°N. latitude has been attained. The intent of this action is to prevent overharvest of the overall U.S. quota established for this fishery.

EFFECTIVE DATE: The closure is effective 0001 hours local time November 15, 1989, through December 31, 1989.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508-281-9324.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.22(f)(1) of 50 CFR part 285 provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the category of gear subject to the quotas. On February 19, 1989, the portion of the Incidental Catch category alloted to longline vessels fishing south of 36°N. latitude was closed. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for catch vessels fishing in the area north of 36°00' N. latitude will be attained by the effective date. Fishing for, and retention of, any Atlantic bluefin tuna harvested under § 285.22(f)(1) must cease at 0001 local time on November 15, 1989.

Other Matters

Notice of this action will be mailed to all Atlantic bluefin tuna dealers and owners of vessels permitted in this category. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: November 7, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-26615 Filed 11-13-89; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 652

[Docket No. 90890-9190]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule, extension of effective date.

SUMMARY: An emergency rule amending regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery is in effect through November 9, 1989. The Secretary of Commerce (Secretary) extends this rule through February 7, 1989. This extension is necessary to continue the closure of a portion of the New England Area known as Georges Bank, defined as the fishing grounds east of 69° W. longitude, to fishing for surf clams. This area is closed for an additional 90 days because of adverse environmental conditions that have resulted in the continued high concentrations of paralytic shellfish poison (PSP) found to be present in surf clams from this area. These adverse environmental conditions preclude the harvest of healthful food products from this affected environment.

EFFECTIVE DATES: The effectiveness of § 652.23(a)(4) is extended through February 7, 1990.

FOR FURTHER INFORMATION CONTACT: John G. Terrill, NMFS, Northeast Region One Blackburn Drive, Gloucester, MA 01930-2298, telephone 508-281-0252.

SUPPLEMENTARY INFORMATION: Under the emergency action authority of section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency interim rule effective from August 11 through November 9, 1989 (54 FR 33700, August 16, 1989) closing that portion of the New England Area located east of 69° W. longitude to fishing for surf clams. The emergency interim rule stated that an extension of the closure, if warranted, was possible for an additional 90 days. The Mid-Atlantic Fishery Management Council, at its October 1989 meeting, reviewed the conditions warranting, and the effect of, the emergency interim rule and recommended that it be extended for an additional period of time. Therefore, the Secretary extends for 90 days the effective dates of this emergency interim rule under section 305(e)(3)(B) of the Magnuson Act. The reasons for this action, which were discussed in the preamble to the original promulgation of the emergency interim rule, are still valid as determined by recent sampling of surf clams harvested from the affected area. Testing of these samples detected PSP levels of 190 micrograms/100 grams (μg/100g), which exceed the maximum safe level of 80 μg/100g. Ingestion of PSP toxin is known to cause severe illness or death in humans. For this reason, the PSP levels reported indicate a severe adverse environmental condition that warrants the continued closure of the Georges Bank Area. During the extension of this closure, NMFS will continue to monitor PSP levels in surf clams; should safe levels be attained, the closed area will be reopened prior to February 7, 1990, by notice in the **Federal Register**.

The emergency interim rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule was reported to the Office of Management and Budget with an explanation of why following the

procedures of that Order was not possible.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: November 8, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-26756 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-22-M

VOL 54 ISS 218 NO 14 1989 UMI

Proposed Rules

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[FV-89-107 PR]

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1990-91 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 1990-91 marketing year, which begins on June 1, 1990. This action is taken under the marketing order for spearmint oil produced in the Far West in order to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the spearmint oil market. This action was unanimously recommended by the Spearmint Oil Administrative Committee (Committee), which is responsible for local administration of the order.

DATES: Comments must be received by December 14, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The Far West spearmint oil industry is characterized by primarily small producers whose farming operations generally involve more than one commodity and whose income from farming operations is not exclusively dependent on the production of spearmint oil. The production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered under the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order normally accounts for more than 75 percent of U.S. production of spearmint oil annually.

The Committee reports that there are approximately 9 handlers and 253 producers of spearmint oil under the marketing order for spearmint oil produced in the Far West. Of the 253 producers, 180 producers hold "Class 1" (Scotch) oil allotment base, and 136 producers hold "Class 3" (Native) oil allotment base. As of June 1, 1989, producers' allotment bases ranged from 667 to 181,902 pounds for Scotch oil and from 290 to 124,346 pounds for Native oil. The average total allotment base held is 10,413 pounds and 13,539 pounds for Scotch and Native oils, respectively.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose average gross annual receipts are less than $3,500,000. The majority of Far West spearmint oil producers and handlers may be classified as small entities.

This proposed rule would establish salable quantities of 678,800 pounds and 806,498 pounds, respectively, for Scotch and Native spearmint oils produced in the Far West and allotment percentages of 40 percent and 43 percent, respectively, for Scotch and Native spearmint oils produced in the Far West. This action would limit the amount of spearmint oil that may be purchased from or handled for producers by handlers, during the 1990-91 marketing year, which begins on June 1, 1990. Such salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980. The amounts recommended for sale are based on average sales levels over the past nine years and are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market needs which may develop for Native spearmint oil can be more than satisfied by an increase in the salable quantities which producers can fill with current reserve stocks. For Scotch oil, current reserve stocks are depleted. However, both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 1990-91 season may transfer such excess spearmint oil to a producer with a deficiency in spearmint oil production, or such excess spearmint oil may be placed into reserve stocks.

This proposed regulation, if adopted, would be similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this proposed action are expected to be offset by the benefits derived from improved returns.

The salable quantities and allotment percentages were unanimously recommended by the Committee at its September 20, 1989, meeting.

The proposed salable quantity and allotment percentage for each class of spearmint oil for the 1990-91 marketing year, which begins on June 1, 1990, is based upon recommendations of the Committee and the following data and estimates:

(1) "Class 1" (Scotch) Spearmint Oil.

(A) Estimated carryin on June 1, 1990—94,745 pounds.

(B) Estimated trade demand (domestic and export) for the 1990-91 marketing year, based on an average of producer sales for the past nine marketing years, beginning with the 1979-80 marketing year through the 1987-88 marketing year—769,708 pounds.

(C) Recommended desirable carryout on May 31, 1991—0 pounds.

(D) Salable quantity required from 1990 regulated production—674,963 pounds.

(E) Total allotment bases for Scotch oil—1,697,000 pounds.

(F) Computed allotment percentage—39.8 percent.

(G) Recommended allotment percentage—40 percent.

(H) The Committee's recommended salable quantity—678,800 pounds.

(2) "Class 3" (Native) Spearmint Oil.

(A) Estimated carryin on June 1, 1990—0 pounds.

(B) Estimated trade demand (domestic and export) for the 1990-91 marketing year, based on an average of producer sales for the past nine marketing years, beginning with the 1979-80 marketing year through the 1987-88 marketing year—867,882 pounds.

(C) Recommended desirable carryout on May 31, 1991—0 pounds.

(D) Salable quantity required from 1990 regulated production—867,882 pounds.

(E) Total allotment bases for Native oil—1,875,577 pounds.

(F) Computed allotment percentage—46.3 percent.

(G) Recommended allotment percentage—43 percent.*

*Over the past nine years, there have been five years during which annual sales have been below average and available data indicates that decreased sales for Far West Native spearmint oil would be likely for the 1990-91 marketing year. The amount below average has ranged from 10,974 pounds in 1984 to 150,630 pounds in 1982. The average is 84,451 pounds. Therefore the Committee reduced the computed percentage of 46.3 percent by 3.3 percent (which represents 61,894 pounds of oil) to allow for the possibility of a below average year in 1990-91. This results in a recommended allotment percentage of 43 percent and a salable quantity of 806,498 for Native spearmint oil.

(H) The Committee's recommended salable quantity—806,498 pounds.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The establishment of these salable quantities and allotment percentages would allow for anticipated market needs based on historical sales and provides spearmint oil producers with information on the amount of oil which should be produced for next season.

Based on available information, the Administrator of the AMS has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 985

Far West, Marketing agreements and orders, and Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is proposed to be amended as follows:

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. A new § 985.210 under subpart—Salable Quantities and Allotment Percentages is added to read as follows:

Subpart—Salable Quantities and Allotment Percentages

§ 985.210 Salable quantities and allotment percentages—1990-91 marketing year.

The salable quantity and allotment percent for each class of spearmint oil during the marketing year which begins on June 1, 1990, shall be as follows:

(a) "Class 1" (Scotch) oil—a salable quantity of 678,800 pounds and an allotment percentage of 40 percent.

(b) "Class 3" (Native) oil—a salable quantity of 806,498 pounds and an allotment percentage of 43 percent.

Dated: November 7, 1989.

William J. Doyle,
Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26984 Filed 11-13-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 989

[Docket No. FV-89-097PR]

Raisins Produced From Grapes Grown in CA; Defining "Unstemmed" and "Stemmed" Raisins for the Purpose of Determining Whether Off-Grade Raisins May Be Returned to Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on revising the administrative rules and regulations established under the federal marketing order regulating raisins produced in California. This action would define the terms "unstemmed" and "stemmed" raisins for the purpose of determining whether or not individual lots of off-grade raisins received by raisin handlers may be returned to producers. This action was unanimously recommended by the Raisin Administrative Committee (Committee), which is responsible for local administration of the marketing order.

DATE: Comments must be received by December 14, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 382-1754.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 1512-1 and

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has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 23 handlers of raisins who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose average gross annual receipts are less than $3,500,000. A majority of producers and a minority of handlers of California raisins may be classified as small entities.

Section 989.24(b) of the order defines off-grade raisins to mean raisins which do not meet the incoming minimum grade and condition standards for natural condition raisins. Pursuant to § 989.58(e)(1) of the order, when incoming natural condition raisins are certified as off-grade, they may be: (1) Received by the raisin handler for disposal in eligible non-normal outlets; (2) received by the handler for reconditioning; or (3) returned unstemmed to the raisin producer.

Off-grade raisins which are disposed of in eligible non-normal outlets may be used in livestock feed or distillation. Producers receive a lower price for such raisins since the raisins may not be sold in normal market channels.

Off-grade raisins which are reconditioned by raisin handlers to meet incoming standards have the added cost of the reconditioning process. Thus, producers receive a lower price for such raisins than if the raisins had initially passed the incoming standards.

Finally, off-grade raisins which are received by the handler may also be returned unstemmed to the raisin producer and the return of such raisins must comply with the requirements specified in § 989.158(c)(7) of the regulations. Unstemmed raisins may not be sold in normal market outlets since they have not had their stems removed. If off-grade raisins were returned to producers stemmed, the raisins would resemble processed raisins and such raisins migh be sold in normal market channels. This would be very undesirable since these raisins would still fail to meet the minimum standards. Therefore, only unstemmed off-grade raisins may be returned to producers. Producers may then recondition the raisins on their own premises or take the raisins to a packer or dehydrator for reconditioning. If the raisins were successfully reconditioned to meet the minimum standards, producers would then be able to receive a more competitive price for such reconditioned raisins.

In past season, the term "unstemmed" has described raisins which have not had their large stems removed in the reconditioning process. Large stems are the branch or main stem of a grape bunch. Thus, only off-grade raisins with large stems intact may currently be returned to producers. Over the years, however, the process of stemming raisins has changed and now refers to running the raisins through equipment which removes not only the raisins' large stems but smaller capstems as well. Capstems are the small woody stems exceeding one-eighth inch in length which attach the raisins to the branches of the bunch. Therefore, the Committee has recommended that "unstemmed" and "stemmed" be clearly defined in the rules and regulations of the order for the purpose of determining which lots of off-grade raisins received by raisin handlers may be returned to producers. Accordingly, the Committee has recommended that "unstemmed" raisins should mean lots of raisins which contain more than 150 capstems per pound. "Stemmed" raisins should mean lots of raisins that contain less than 150 capstems per pound.

The Committee considers it necessary to establish this tolerance level for the number of capstem remaining on stemmed raisins to help distinguished stemmed raisins that may still be off-grade from raisins that have been fully processed. This action would help ensure that off-grade stemmed raisins do not enter normal market channels. Raisins that have been stemmed may still not meet the minimum standards for natural condition raisins. These off-grade stemmed raisins are almost indistinguishable from fully processed raisins, which have had even more capstems removed through processing. The tolerance level for the number of capstems per pound for U.S. Department of Agriculture (USDA) Grade C raisins, the lowest USDA grade of processed raisins, is 35 (7 CFR 52.1846). The Committee has determined that a tolerance level of 150 capstems per pound for stemmed raisins would be sufficient to distinguish such stemmed raisins from fully processed raisins. Off-grade raisins with less than 150 capstems may not be returned to producers. Instead, these raisins must be reconditioned by the handler or disposed of in eligible non-normal outlets, pursuant to § 989.58(e)(1).

Based on the above information, the Administrator of the AMS has determined that issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR part 989 is proposed to be amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. Section 989.158 is amended by adding paragraph (c)(7)(i) to read as follows:

§ 989.158 Natural condition raisins.

* * * * *

(c) * * *

(7) *Return of off-grade raisins to tenderer.*

* * * * *

(i) *Unstemmed and stemmed raisins.* For the purpose of determining whether or not off-grade raisins may be returned to the person tendering such raisins, "unstemmed" raisins shall be defined as lots of raisins which contain more than 150 capstems per pound. "Stemmed" raisins means lots of raisins that contain less than 150 capstems per pound.

* * * * *

Dated: November 7, 1989.

William J. Doyle,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89–26685 Filed 11–13–89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Transshipment and Transportation of Tuna Caught Outside the Exclusive Economic Zone

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed interpretative rule; extension of time for comments.

SUMMARY: On August 31, 1989, the Customs Service published a proposed interpretative rule in the **Federal Register** (54 FR 36038), wherein certain parties were seeking reconsideration of interpretations relating to the transshipment and transportation of tuna.

Requests have been received for an extension of the comment period in order to allow interested parties additional time in which to review and present their respective comments on the complex issues raised by the proposed interpretative rule dealing with the transshipment and transportation of tuna. In view of the public interest generated, Customs is extending the comment period for 30 days.

DATE: Comments must be received on or before December 14, 1989.

ADDRESS: Written comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Glen E. Vereb, Carrier Rulings Branch, Office of Regulations and Rulings (202–566–5706).

Dated: November 8, 1989.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 89–26638 Filed 11–13–89; 8:45 am]

BILLING CODE 4820-02-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6973]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations proscribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; or itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
California	City of Lake Elsinore, Riverside County.	San Jacinto River	Approximately 850 feet downstream of Lakeshore Drive.	*1,267	*1,267
			Just downstream of Lakeshore Drive	*1,269	*1,271
			Approximately 200 feet upstream of Lakeshore Drive	*1,272	*1,272
			Approximately 350 feet downstream of Interstate Highway 15.	*1,274	*1,274

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 200 feet upstream of Interstate Highway 15.	*1,277	*1,275
			Approximately 9,400 feet upstream of Interstate Highway 15.	*1,309	*1,308
Maps are available for review at City Hall, 130 South Main Street, Lake Elsinore, California.					
Send comments to the Honorable James Winkler, Mayor, City of Lake Elsinore, 130 South Main Street, Lake Elsinore, California 92330.					
Pennsylvania	Lehighton, Borough, Carbon County.	Mahoning Creek	Approximately 25' upstream of East Penn Street bridge.	*469	*470
		Mahoning Creek	At upstream corporate limits	*485	*482
Maps are available for inspection at the Municipal Building, Constitution Avenue, Lehighton, Pennsylvania.					
Send comments to the Honorable Edward John Daichmeister, Manager of the Borough of Lehighton, Carbon County, Municipal Building, P.O. Box 29, Lehighton, Pennsylvania 18235.					
Pennsylvania	Muhlenberg, Township, Berks County.	Laurel Run	Approximately 1,120 feet upstream of the confluence with Schuylkill River.	*235	*234
			At the extreme upstream corporate limits	*523	*526
Maps available for inspection at the Municipal Building, Office of Code Enforcement Officer, 555 Raymond Street, Hyde Park, Reading, Pennsylvania.					
Send comments to the Honorable Stephen Geras, President of the Township of Muhlenberg Board of Supervisors, Berks County, 555 Raymond Street, Hyde Park Reading, Pennsylvania 19605.					
Pennsylvania	Walker Township, Centre County.	Nittany Creek	At downstream corporate limits	None	*925
			Approximately 420 feet upstream of State Route 64	None	*1,036
Maps available for inspection at the Walker Township Building, R.D. 2, Box 427V, Belfont, Pennsylvania.					
Send comments to the Honorable Barry Kerstetter, Chairman of the Township of Walker Board of Supervisors, Centre County, R.D. 2, Belfont, Pennsylvania 16823.					
Puerto Rico	(Commonwealth) Rio Piedras Basin.	Canal Puerto Nuevo	At confluence of Cano de Martin Peña	**2.8	**2.0
			Approximately 1,600 meters above Avenida John F. Kennedy.	**3.4	**3.0
		Cano de Martin Peña	At confluence with Canal Puerto Nuevo	**2.8	**2.0
			At downstream side of Puerto Rico Route 1 bridge	None	*2.0
**Elevation in Meters (Mean Sea Level).					
Maps available for inspection at the Minillas Governmental Center, North Building, De Diego Avenue, Stop 22, San Juan, Puerto Rico.					
Send comments to Ms. Patria G. Custodio, Chairperson of the Puerto Rico Planning Board, Minillas Governmental Center, North Building, De Diego Avenue, Stop 22, P.O. Box 41119, San Juan, Puerto Rico 00940-9985.					
South Dakota	Brown County, Unincorporated Areas.	Maple River	Approximately 1,075 feet downstream of Interstate Highway 281.	None	*1,362
			Just upstream of Interstate Highway 281	*1,363	*1,363
			Approximately 2,950 feet downstream of Main Street	*1,367	*1,366
			Approximately 350 feet downstream of County Road No. 5.	*1,371	*1,369
			Approximately 1,450 feet upstream of County Road No. 5.	*1,372	*1,371
Maps are available for review at the County Auditor's Office, 25 Market Street, Aberdeen, South Dakota.					
Send comments to the Honorable Tom Oster, Chairman, Brown County Board of Commissioners, 803 16th Avenue NE., Aberdeen, South Dakota 57401.					
South Dakota	Town of Frederick, Brown County.	Maple River	Approximately 2,950 feet downstream of Main Street	*1,367	*1,366
			Approximately 2,000 feet downstream of Main Street	*1,368	*1,367
			Approximately 750 feet downstream of Main Street	*1,369	*1,368
			Just downstream of County Road No. 5	*1,371	*1,369
Maps are available for review at the Office of Finance, Town of Frederick, Municipal Office Building, Frederick, South Dakota.					
Send comments to the Honorable Robert Smith, Mayor, Town of Frederick, Office of Finance, P.O. Box 546, Frederick, South Dakota 57441.					
Texas	Abilene City, Taylor and Jones Counties.	Cat Claw Creek	At downstream side of Southwest Drive	*1,752	*1,751
			At downstream side of Catclaw Drive/divergence of Cat Claw Creek Diversion Channel.	*1,766	*1,765
		Cat Claw Creek Diversion Channel.	At confluence with Cat Claw Creek	None	*1,752
			At divergence from Cat Claw Creek	None	*1,766
		Elm Creek	Approximately 130 feet upstream of Curry Lane	None	*1,768
			At upstream corporate limits	None	*1,782
		Tributary No. 1 to Elm Creek.	At confluence with Elm Creek	None	*1,766
			Approximately 1.1 miles upstream of Church Street	None	*1,790
		Tributary No. 2 to Elm Creek.	At confluence with Elm Creek	None	*1,776

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			At upstream corporate limits	None	*1,782
Maps are available for inspection at the Department of Public Works, 555 Walnut, Abilene, Texas.					
Send comments to the Honorable Dale Ferguson, Mayor of the City of Abilene, Taylor and Jones Counties, P.O. Box 60, Abilene, Texas 79604.					
Texas	Benbrook, City, Tarrant County	Timber Creek	At confluence with Clear Fork Trinity River	*616	*615
			At upstream side of Bryant Street	#3	*697
		South Timber Creek	At upstream side of Mildred Street	#3	*727
			Approximately 100 feet downstream of Interstate Route 377.	#3	*737
		Timber Creek Diversion	At confluence with Benbrook Lake Spillway Channel	None	*675
			At Cozby West Storm Drain outlet	None	*694
Maps available for inspection at the Department of Community Development, 911 Winscott Road, Benbrook, Texas.					
Send comments to the Honorable Jerry Dunn, Mayor of the City of Benbrook, Tarrant County, 911 Winscott Road, Benbrook, Texas 76126.					
Texas	Mansfield, City, Tarrant and Johnson Counties.	Hogpen Branch	Approximately 50 feet downstream of Walnut Creek Drive.	*587	*586
			Approximately 1,950 feet upstream of Walnut Creek Drive.	*595	*594
Maps available for inspection at the City Hall, 1305 E. Broad Street, Mansfield, Texas.					
Send comments to the Honorable Gary Dalton, Mayor of the City of Mansfield, Tarrant and Johnson Counties, City Hall, 1305 E. Broad Street, Mansfield, Texas 76063.					
Virginia	Stuart, Town, Patrick County	South Mayo River	At the confluence of Campbell Branch	*1,182	*1,175
			Approximately 550 feet upstream of State Route 8 bridge.	*1,195	*1,194
		Campbell Branch	At the confluence with South Mayo River	*1,162	*1,175
			Downstream side of Masonite Building Culvert	*1,182	*1,180
Maps available for inspection at the Town Office, Blue Ridge Street, Stuart, Virginia.					
Send comments to the Honorable Noel Kornett, Mayor of the Town of Stuart, Patrick County, P.O. Box 422, Stuart, Virginia 24171.					

Issued: November 2, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-26670 Filed 11-13-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-477, RM-6962]

Radio broadcasting Services; Arkansas City, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by John C. McVey, proposing the allotment of FM Channel 300A to Arkansas City, Kansas, as that community's second FM broadcast service. The coordinates for Channel 300A are 37-03-30 and 97-02-12.

DATES: Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comment with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John C. McVey, Rural Route 5, Box 206, Arkansas City, Kansas 67005.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89-477, adopted October 11, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26644 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-476; RM-6969]

Radio Broadcasting Services; El Dorado, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Gary J. Violet, requesting the substitution of FM

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Channel 256C1 for Channel 256C2 at El Dorado, Kansas, and modification of his construction permit for Channel 256C2 to specify Channel 256C1. The coordinates for Channel 256C1 are 37–57–00 and 96–59–00.

DATES: Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Leonard S. Joyce, Blair, Joyce & Silva, 1825 K Street, NW., Washington, DC 20006 (counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89–476, adopted October 11, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26645 Filed 11–13–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–475; RM–6925]

Radio Broadcasting Services; Mount Vernon, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Linda Adams, d/b/a/ Missouri FM, requesting the substitution of Channel 294C3 for Channel 294A at Mount Vernon, Missouri, and modification of her construction permit to specify Channel 294C3. The coordinates for Channel 294C3 are 37–09–16 and 93–36–58.

DATES: Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Alan C. Campbell, Dow, Lohnes & Albertson, 1255 23rd Street, NW., Suite 500, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89–475, adopted October 11, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26646 Filed 11–13–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–474; RM–6930]

Radio Broadcasting Services; Brookings, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Dakota Broadcasting, Inc. seeking the substitution of Channel 229C1 for Channel 229C2 at Brookings, South Dakota, and the modification of its license for Station KGKG accordingly. Channel 229C1 can be alloted to Brookings in compliance with the Commission's minimum distance separation requirements with a site restriction of 26.8 kilometers (16.6 miles) west to avoid a short-spacing to station KVDB–FM, Channel 230C2, Sioux Center, Iowa, and to unoccupied but applied for Channel 230A at Granite Falls, Minnesota. The coordinates for this allotment are North Latitude 44–22–44 and West Longtude 97–06–54.

DATES: Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ross A. Johnson, Vice-President, Dakota Broadcasting Inc., 51 Broadway, P.O. Box 8310, Fargo, North Dakota 58109–8310 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89–474, adopted October 12, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800,

2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26647 Filed 11–13–89; 8:45 am]

BILLING CODE 6712–01–M

VOL 54 ISS 218 NO 14 1989 UMI

Notices

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Rosebud Sioux Tribe Indian reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Rosebud Sioux Tribe Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Rosebud Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal maketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the Tribe utilizing such lands. These donations by the CCC may commence upon November 1, 1989, and shall be made available through May 14, 1990, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC, on November 6, 1989.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 89-26676 Filed 11-13-89; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Quality Adjustments to the 1990 and Subsequent Crop Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Request for public comment.

SUMMARY: Public comment is requested regarding adjustments to price support loan and purchase rates for the 1990 and subsequent crops of wheat, rye, barley, corn, oats, sorghum, and soybeans. Section 3 of the United States Grain Standards Act Amendments requires the Secretary of Agriculture to conduct a study of the schedules of premiums and discounts applied to loans in order to determine how such adjustments can encourge the production, marketing, and exporting of high quality, clean grain. A finding of that study was that increased public input would be appropriate to full address this issue. Accordingly, this request for public comment is being made in addition to requests contained within individual commodity proposed determinations for the 1990-crop programs.

Section 403 of the Agricultural Act of 1949 provides that loan adjustments, insofar as practicable, shall be made so that the average support rate for such commodity will, on the basis of the anticipated incidence of adjustments, be equal to the determined level of support.

DATES: Comments must be received on or before January 16, 1990 in order to be assured of consideration.

ADDRESS: Bruce R. Weber, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2515, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3740, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447-7923.

SUPPLEMENTARY INFORMATION: The titles and numbers of the federal assistance programs, as found in the Catalogue of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Commodity Loans and purchases	10.051
Feed Grains Production Stabilization	10.055
Wheat production Stabilization	10.056
Grain Reserve	10.057

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations. It has been determined that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 34, 1983).

General

Public comment is requested regarding the adjustment of price support loan and purchase levels, and CCC policies and procedures which may result in achieving high-quality grain production and the marketing of such production. Currently, price support rate adjustments for various quality factors are established to reflect national average market adjustments for the coming market year. The resulting adjustments may not correspond to actual market adjustments at the time the price support loans are dispensed or settled because (1) adjustments are set in advance of the crop and do not reflect shorter-term market changes, and (2) adjustments are provided on a national average basis and, therefore, may not reflect local market values.

The establishment of annual, national-average adjustments is administratively less burdensome than providing weekly or monthly regional market adjustments and serves the goal of providing uniform benefits to program participants. The disadvantage of this approach is that inconsistencies with actual market adjustments for quality may occur which result in marketing distortions.

Comments are invited regarding all specific price support rate premium and discount adjustments, the need for establishing such adjustments more frequently than annually, and the need for local market rather than national-average adjustments.

Respondents to this request for comments are asked to provide any supporting market information or research data.

Price Support Loan and Purchase Adjustment Policies and Levels

a. *Frequency of Rate Adjustments:* Loan and purchase rate adjustments for grade and other quality factors are currently established prior to a crop marketing year and remain fixed for the entire year. Fixed annual adjustments provide for more equitable program benefits and ease of program administration but they may not reflect changes in market prices.

Comments are requested regarding whether the CCC should establish loan and purchase rate adjustments more frequently than annually and if so, how frequently and for which quality factors.

b. *National/Regional Factor Adjustments:* CCC has traditionally announced loan and purchase rate adjustments on a national-average basis although market values of quality factors may vary regionally. Comments are requested as to whether CCC should establish loan and purchase rate adjustments for separate regional (State or multi-State) market areas or continue with national-level adjustments, and, if so, for which quality factors.

c. *Price Support-Level vs Market-Level Adjustments:* CCC currently adjusts price support rates by the entire amount of a market adjustment. This may not accurately reflect market conditions if the market price level to which adjustements for quality apply vary significantly from the price support rate for the commodity. Comments are requested as to whether quality adjustments to a loan and purchase rate should be applied in a proportional manner or, as currently, whether the absolute value of a market adjustment for quality should be used.

d. *Weed Control Discounts:* CCC currently provides fixed weed control discounts to assure that producers comply with weed control requirements of local jurisdictions. Comments are requested as to whether such discounts should (1) continue to be established at fixed levels, and if so, what levels would be appropriate; (2) be set on a cast-by-case basis; or (3) be discarded since weed content is separately discounted through the application of grade or other factor discounts.

e. *Deduct Foreign Material and Dockager from Loan Quantity:* Comments are invited as to whether loans should be provided on a net-weight basis, that is, on the quantity from which the weight of foreign material and dockage has been subtracted. CCC currently calculates grain price support rates based on the total gross commodity weight which includes the weight to any foreign material and dockage which may be present. Soybean price support proceeds are currently adjusted for foreign material exceeding 1 percent which is the foreign material limit for U.S. Grade 1. Since the foreign material or dockage of some grains may have feed value, comments are specifically requested as to what value, if any, should be assigned to foreign material or dockage which is in the grain pledges as collateral for a price support loan or acquired by CCC pursuant to a price support purchase agreement.

Comments are also invited regarding the current schedules of discounts for foreign material contained in grain.

f. *Moisture Discounts:* Comments, and supporting data, are invited as to whether grain moisture discounts should be assessed based on moisture content as a percentage of weight. Currently, moisture discounts are assessed based on the percentage moisture per unit of volume. For example, 1989-crop hard red spring wheat is discounted 4 cents per bushel for 14.1 percent mosture regardless of test weight. The 4 cent discount could result from 8.2 pounds of moisture in wheat of test weight 58 pounds or 7.1 pounds of moisture in wheat of test weight of 50 pounds. Although moisture discounts based on volume seem somewhat inequitable, their common commercial use may support their continuation.

Comments are further requested regarding the maximum permitted levels of moisture for program crops to be eligible for price support loans. The maximum moisture percentage levels for 1989-crop warehouse price-support loans are 13.5 for wheat, 15.5 for corn, 14.0 percent for sorghum, oats, soybeans, and rye, and 14.5 for barley. These levels are also applied to farm-stored loan settlements.

Comments and supporting data are invited regarding (1) appropriate moisture discounts for moisture levels, and (2) moisture discounts by wheat class for moisture in excess of 13.5 percent.

g. *Special Grade Discounts:* Current grading standards provide that inspected commodities may be designated as blighted, garlicky, ergoty, smutty, light smutty, infested, and treated if minimum tolerances are reached. For these special grades, CCC currently provides fixed discounts. Since the amount of damage may vary within these special grades, a fixed discount does not seem appropriate.

Comments are requested with respect to whether fixed or variable discounts are appropriate for these special grade conditions or whether such special grade designations should be discounted as if sample grade.

h. *Wheat Protein Adustments:* CCC price support rate adjustments for wheat protein can vary considerably with actual market values for protein due to the variable production of protein from crop to crop.

Comments are requested regarding wheat protein premiums for the 1990 and subseqent wheat crops and whether any such premiums should be applied to U.S. grades No. 1 and 2 only. For the 1989 wheat crop, protein premiums apply to only U.S. Grade No. 3 and better. Comments are specifically requested as to whether (1) CCC should eliminate protein premiums entirely due to the variation in value of protein, or (2) CCC should implement premiums based on current, local market protein premiums. The following schedule of premiums was applicable to the 1989 crop of wheat:

	Percent protein	Cents/bu
1. For Hard Red Winter Wheat:	0.0–10.9	0.0
	11.0–11.9	2.0
	12.0 & more	5.0
2. For Hard Red Spring Wheat:	0.0–11.9	0.0
	12.0–13.9	2.0
	14.0 & more	5.0

i. *Class Price Support Rates:* Comments are requested regarding the establishment of price support rates for different classes of wheat, corn, barley, sorghum, and soybeans and whether such class rates would be in addition to, or in place of, any existing adjustments.

With respect to barley, comments are requested as to whether class rates should be based on defined classes or on the class and subclass groupings to which Federal Grain Inspection Service standards apply.

With respect to wheat, comments are requested as to whether protein premiums should be continued if rates were established for separate wheat

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classes, and if so, the appropriate levels of such protein premiums.

Also, comments are specifically requested as to appropriate class premiums and discounts for different grades of Hard Amber, Amber, and Durum wheats.

j. *Sample Grade Discounts:* Comments are requested regarding discounting sample grade commodities which have been delivered to CCC under the price-support programs. The 1989 crops are discounted by 30 percent of their respective rates in addition to the discounts for the factors which caused the commodity to be graded as sample grade.

k. *Premiums and Discounts for Loan Eligible Grades:* Comments are requested regarding grade premiums and discounts for all grades of commodities and whether loan discounts should be expanded to more grades or restricted to fewer grades than are currently applicable to program crops. For example, CCC has received comments that lower grades of wheat, which are marketed as feed wheat in some localities, should not be eligible for price support loans or, alternatively, that such wheat should be heavily discounted, perhaps to its value as feed. For the 1989 programs, grade premiums and discounts are applied to the following grades for program crops:

	Wheat	Corn	Sorghum	Barley	Oats	Soybeans	Rye
Grades eligible to receive price support	1-5	1-3	1-4	1-5	1-3	1-4	1-2
Premium applied	1	1			1-2		1
Discount applied	3-5	3-5		3-5			

l. *Test Weight Discounts:* Comments are requested regarding the levels of test weight discounts and the appropriateness of the threshold weight levels used for applying test-weight discounts. For the 1989 price-support programs, the following test weights (pounds per bushel) are the levels at which discount schedules are imposed: Hard Red Spring wheat, 49.9; other wheat classes, 50.9; corn, 53.5; sorghum, 54.5; barley, 35.5; oats, 35.5; soybeans, 53.5; and rye, 53.9.

m. *Other Adjustment Factors:* Comments are requested on the need for establishing loan and purchase rate adjustments for any intrinsic quality factor not specifically mentioned in this request for comment. For example, adjustments for shatterability of corn, or protein in soybeans, are currently not provided. Such adjustments could be adopted if (1) factors can be accurately and consistently measured, (2) consensus market valuations of such factors exist, and (3) market distortions are reduced.

n. *Reserve Quality Adjustments:* Comments are requested regarding appropriate settlement adjustments to farmer-owned reserve loan rates and storage rates to assume the maintenance of quality of such commodities.

Authority: 7 U.S.C. 1421 and 1423 and 15 U.S.C. 714b and 714c.

Signed at Washington, DC, on November 17, 1988.

John A. Stevenson,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-26697 Filed 11-13-89; 8:45 am]
BILLING CODE 3410-05-M

Forest Service

Resource Management and Development Plan, Mt. Magazine State Park

AGENCY: Forest Service, USDA, and Arkansas Department of Parks and Tourism.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service and the Arkansas Department of Parks and Tourism will jointly prepare an environmental impact statement for a proposal to permit the development and management of a State Park on Mt. Magazine, Magazine Ranger District, Ozark-St. Francis National Forests, Logan County, Arkansas. The purpose of this environmental analysis is to prepare a site specific plan to development and management of the top of Mt. Magazine.

The agencies invite written comments and suggestions on the scope of the analysis. In addition, the agencies give notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by December 29, 1989.

ADDRESSES: Submit written comments and suggestions concerning the scope of analysis to Richard W. Davies, Director, Arkansas State Parks, One Capitol Mall, Little Rock, Arkansas 72201.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement (EIS) to either Bill Paxton, Resource Management Specialist, Arkansas State Parks, One Capitol Mall, Little Rock, Arkansas 72201, telephone (501) 682-1633, or Rob Kopack, Recreation Officer, Magazine Ranger District, P.O. Box 511, Paris, Arkansas 72855, telephone (501) 963-3076.

SUPPLEMENTARY INFORMATION: The Mt. Magazine Recreation Development Level Final Environmental Statement was completed by the Forest Service in April 1980. The development level direction in this plan included campground facilities, picnic grounds, trails, lodge, visitor information center, restaurant, and other facilities.

The Ozark-St. Francis National Forest Land and Resource Management Plan was completed in July 1986.

The management direction in the plan provided for State Park development on Mt. Magazine. The Forest Service issued a Special Use Permit, in April 1989, to Arkansas Department of Parks and Tourism to authorize the use of 2,200 acres for development of a state park on top of Magazine Mountain. The development of the State Park is subject to the approval of site specific development and management plans by the Forest Service.

In preparing the EIS, the Forest Service and Arkansas Department of Parks and Tourism will identify and consider a range of alternatives including a non-development alternative, other development alternatives, various design capacities, and various design criteria. These alternatives will analyze various management designs and policies on the unique resources and recreational use of the mountain.

Lynn C. Neff, Forest Supervisor, Ozark-St. Francis National Forests, Russellville, Arkansas is the responsible federal official.

Public participation will be important at several points during the analysis.

The first point is the scoping process. (40 CFR 1501.7). The Forest Service and Arkansas Department of Parks and Tourism will be seeking information, comments, and assistance from Federal, State, and local agencies and individuals and organizations who may be interested or affected by the proposed action. This input will be used to prepare the draft environmental impact statement. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed alternatives (i.e., direct, indirect, cumulative effects).
6. Determining potential cooperating agencies and task assignments.

The Fish and Wildlife Service, Department of Interior, will be invited to participate as a cooperating agency to evaluate impacts on the habitats of Federally listed threatened and endangered species and species which are currently categorized in the Fish and Wildlife Service categories 1 and 2 that may exist within or near the affected area.

The Arkansas Natural Heritage Commission and the Arkansas Game and Fish Commission will be invited to participate as cooperating agencies to provide assessments of impact for species of concern to the state that may exist within or near the affected area.

The Arkansas Historic Preservation Program will also be invited to participate as a cooperating agency in the analysis.

Public comments have been, and will continue to be, solicited in a variety of ways including request for written comments, information mailings, public notices, and public meetings.

The Forest Supervisor and Director of State Parks will hold scoping meetings in Little Rock and Paris, Arkansas. A public meeting will be held in Little Rock, Arkansas at Arkansas Game and Fish Commission auditorium, No. 2 Natural Resources Drive on December 5, 1989 at 6:30 p.m. A meeting will be held at Paris, Arkansas at Paris High School auditorium, 604 N. 10th Street on December 12, 1989 at 6:30 p.m.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by February 1991. At that time EPA will publish a notice of availability of the draft EIA in the **Federal Register**. The comment period for this draft EIS will be 45 days from the date the EPA's Notice of Availability appears in the **Federal Register**. It is very important that those interested in this proposal participate at this time. To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation on the environmental review of this proposal so that it is meaningful and alerts the agency to the reviewer' positions and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533, 1978, and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, *Wisconsin Heritage, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338, (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service and Arkansas State Parks and Tourism at a time when they can meaningfully consider them and respond to them in the final EIS. After the comment period ends on the draft EIS, the comments will be analyzed and considered in preparing the final EIS, scheduled to be completed by June 1991. In the final EIS, the agencies are required to respond to the comments received (40 CFR 1503.4).

The responsible officials will consider the comments, responses, and environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible officials will document the decision and reasons for the decision in the Record of Decision.

The Forest Supervisor's decision will be subject to appeal under 36 CFR part 217.

Dated: November 1, 1989.

Lynn C. Neff,
Forest Supervisor.

[FR Doc. 89-26632 Filed 11-13-89; 8:45 am]
BILLING CODE 3410-11-M

Loon Mountain Ski Area Expansion; White Mountain National Forest, Grafton County, New Hampshire

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of the Supplement to the Draft EIS.

SUMMARY: The Forest Service has prepared a Supplement to the Draft EIS (EPA No. 890025) for Loon Mountain Recreation Corporation's proposed expansion of their special use permit on the Pemigewassett Ranger District, White Mountain National Forest, Grafton County, New Hampshire. This Supplement is in response to comments received on the Draft Environmental Impact Statement (EIS), which was issued February 10, 1989 (54 FR 6448).

DATE: The Supplement is available for public comment. There is a 45-day comment period. Written comments must be received by December 29, 1989.

ADDRESS: Submit written comments to Michael B. Hathaway, Forest Supervisor, White Mountain National Forest, Laconia, New Hampshire 03247.

Review of Comments To Draft EIS: The public may inspect comments received on this proposed ski area expansion in the Forest Supervisor's Office in Laconia, NH, weekdays between the hours of 8:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dain Maddox, EIS Coordinator, White Mountain National Forest, P.O. Box 638, Laconia, NH 03247, phone (414) 291-3305.

SUPPLEMENTARY INFORMATION: The Draft EIS was issued February 10, 1989 (FR 54, page 6448). The Supplement to the Draft EIS was prepared in response to agency end public comments concerning the following: the agreement between Loon Mountain Recreation Corporation and the Town of Lincoln regarding water withdrawals from Loon Pond; the status of Lincoln's sewage treatment facilities; "emergency pumping" from the East Branch of the Pemigewasset River into Loon Pond and Loon Pond Reservoir; potential impacts from increased traffic; and additional mitigation information.

Our objective in issuing this Supplement is to inform the public about these events and give them an opportunity to make additional comments in response to this information. These comments, together with comments previously submitted in response to the Draft EIS, will be assessed and considered in the Final EIS.

The Draft EIS included three alternatives (No Action, Limited Development and Proposed Action) and 17 possible mitigation measures. Other alternatives and mitigation measures may be considered as a result of this Supplement.

Two public meetings are scheduled during the 45-day comment period:

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December 6, 1989, 7–10 pm
New Hampshire Fish and Game Building
Hazen Drive
Concord, NH

December 7, 1989, 7–10 pm
Linwood School
Lincoln, NH

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of supplement to the draft environmental impact statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage or supplement to the draft, but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the supplement to the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the supplement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Final EIS is scheduled to be completed by April 1990. The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding their proposal. The responsible official will document the decisions and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Dated: November 2, 1989.
Michael B. Hatheway,
Forest Supervisor.
[FR Doc. 89–26307 Filed 11–13–89; 8:45 am]
BILLING CODE 3410-11-M

The Winding Stair Tourism and Recreation Advisory Council

AGENCY: Forest Service, USDA.
ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the first meeting of The Winding Stair Tourism and Recreation Advisory Council. The meeting will be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: December 4, 1989, 7 p.m.

ADDRESS: The meeting location is Bob Lee Kidd Civic Center, Highway 271 North, Poteau, Oklahoma. Send written statements to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902.

FOR FURTHER INFORMATION CONTACT: Robert LaVal, (501) 321–5317.

SUPPLEMENTARY INFORMATION: The Winding Stair Tourism and Recreation Advisory Council was created by the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–13). The Council, comprised of 16 members, appointed by the Secretary of Agriculture, will meet periodically. The purpose of this Council is advisory in nature. The Act designates the Secretary to appoint a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the Ouachita National Forest Land and Resource Management Plan amendment as required under subsections 15 (b) and (c). Subsection 15(b) provides for the promotion of tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the National Recreation Area, the National Scenic and Wildlife Area, and the National Scenic Area are designated.

Glen Sullivan, Director of the Oklahoma Tourism and Recreation Department, will chair the meeting. Representatives of the Forest Service will attend from the Department of Agriculture including the designated officer of the Federal Government, District Ranger Ivan S. Cupp. The agenda for this meeting will be to: elect officers, discuss the duties of the Council, plan the future meeting schedule, and carry out the business of the Council.

Dated: November 1, 1989.
John M. Curran,
Forest Supervisor.
[FR Doc. 89–26603 Filed 11–13–89; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held December 13, 1989, 9:30 a.m., in the Herbert C. Hoover Building, Room 1617F, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Joint Factory Communications and Computer Subcommittee Report.
4. CCL item review and meeting schedule.
5. COCOM progress report.
6. Certification and foreign availability review.
7. Discussion of ECCN 1091A (Numercial control equipment).
8. Discussion of ECCN 1532A (Measuring equipment, precision linear/angular).
9. New business.

Executive Sesson

10. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, OTPA/BXA, Room 4069A, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: November 7, 1989.
Betty Anne Ferrell,
Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.
[FR Doc. 89–26561 Filed 11–13–89; 8:45 am]
BILLING CODE 3510-DT-M

International Trade Administration

[A–614–502]

Low Fuming Brazing Copper Rod and Wire From New Zealand; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 14, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping order on low fuming brazing copper rod and wire from New Zealand. The review covers on manufacturer/exporter of low fuming brazing copper rod and wire from New Zealand to the United States and the period December 1, 1986 through November 30, 1987.

We gave interested parties an opportunity to comment on our preliminary results of review. We received no comments, and our final results are unchanged from those presented in our preliminary results of review.

EFFECTIVE DATE: November 14, 1989.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4195/2923.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 33258) the preliminary results of its administrative review on low fuming brazing copper rod and wire from New Zealand. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of the Review

The United States had developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* ("HTS") as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Shipments covered by this review are low fuming brazing copper rod and wire principally of copper and zinc alloy ("brass") of varied dimensions in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated. During the review period such merchandise was classifiable under item numbers 612.6205, 612.7220 and 653.1500 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 7407.21.50, 7408.11.60, 7408.19.00, 7408.21.00, 7408.22.50, 7408.29.50, 8311.10.00, 8311.20.00, 8311.30.60, and 8311.90.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers one manufacturer/exporter of this merchandise to the United States, McKechnie Bros. (N.Z.) Ltd. ("McKechnie"), and the period December 1, 1986 through November 30, 1987.

Final Results of Review

We invited interested parties to comment on the preliminary results of review. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review. As a result of our review, we determine that the following margin exists for the review period:

Manufacturer/ Exporter	Time period	Margin (percent)
KcKechnie	12/01/86–11/30/87	1.68

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties shall be required for McKechnie based on the above margin. For any entries from a new exporter not covered in this or prior administrative reviews who is unrelated to any reviewed firm, a cash deposit of 1.68 percent shall be required. These deposit requirements are effective for all shipments of low fuming brazing copper rod and wire entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's Regulations published in the **Federal Register** on March 26, 1980 (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: November 2, 1989.
Eric I. Garfinkel,
Assistant Secretary for Import Administration.
[FR Doc. 89–26557 Filed 11–13–89; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 90776–9176]

Marine Recreational Fisheries Action Plan

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of a draft Marine Recreational Fisheries Action Plan and request for comments.

SUMMARY: In recognition of the growing protein food. According to a 1985 Gallup Poll, recreational fishing is the second most popular outdoor recreational activity in America, and as such, contributes nearly $30 billion to the economic, social, and aesthetic benefits indefinitely.

The purpose of this document is to identify ways for NMFS to help improve stewardship of marine fisheries

fishing. Enhancing and maintaining these stocks requires the enhancement and maintenance of water quality and the habitats on which the stocks depend and control of the harvest/catch.

research and related investigations which provide the basis for conservation and management of marine resources.

5. *Marine Fishery Resources are a National Asset, Which, Through Wise*

collection, management, development, and law enforcement efforts. Angling ethics, resource conservation, and aquatic education should be promoted and practiced through effective

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ACTION: Notice of a draft Marine Recreational Fisheries Action Plan and request for comments.

SUMMARY: In recognition of the growing importance of marine recreational fisheries (MRF), NMFS adopted an MRF policy and implementation strategy in 1981. NMFS recently prepared a draft MRF Action Plan to focus on current MRF issues. To allow the public a chance to review NMFS' marine recreational fisheries policy and proposed activities, the draft MRF Action Plan is being published to restate NMFS' MRF policy, establish program goals and objectives, and identify specific actions that, depending upon support and availability of funds, may be used to update and improve implementation of the MRF policy. Comments are being requested from the public.

DATE: Comments from the public are invited through December 29, 1989.

ADDRESS: Additional copies of NMFS' draft MRF Action Plan can be obtained from Richard B. Stone, NMFS, Fishery Management Specialist, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone or Alan Dean Parsons, 301–427–2347.

SUPPLEMENTARY INFORMATION: In 1981 NMFS adopted a marine recreational fisheries policy. This policy was not implemented consistently throughout the nation as each region, as well as headquarters, proceeded to implement the policy at its own discretion based on the differing perspectives, needs, and priorities of the various geographic areas. NMFS has reformulated its implementation strategy in the form of a draft MRF Action Plan. It is intended to achieve more consistent attention to national priorities while maintaining sufficient flexibility to tailor regional programs to local needs. The purposes of the plan are to restate and update NMFS' MRF policy, establish program goals and objectives, and identify specific actions to be taken to the extent that support and funding are available that could improve the implementation of the policy.

To allow the public an opportunity for review and comment, the draft MRF Action Plan is as follows:.

National Marine Fisheries Service Marine Recreational Fisheries Action Plan

I. Introduction

Marine recreational fishing (MRF) continues to grow in popularity, not only as a highly regarded form of recreation but also as a means of obtaining high protein food. According to a 1985 Gallup Poll, recreational fishing is the second most popular outdoor recreational activity in America, and as such, contributes nearly $30 billion to the Nation's economy. Since 1980, the value of marine recreational fishing has grown from $7.5 billion to $13.5 billion (including multiplier impacts) in 1985. The number of saltwater fishermen has increased from about 5 million in 1955 to 17 million in 1985, but has not increased substantially since then.

In recognition of the growing importance of MRF, National Marine Fisheries Service (NMFS) adopted a marine recreational fisheries policy and implementation strategy in 1981. Each Region, as well as headquarters, proceeded to implement the policy at its own discretion based on the differing perspectives, needs, and priorities of the various geographic areas. Thus, the policy was not implemented consistently or with the same degree of intensity throughout the Nation.

Recently, the NMFS, in partnership with other Federal agencies, state, and tribal governments, and representatives from private constituency groups and industry, participated in the development of a National Recreational Fisheries Policy. Actions to implement the goals and objectives of the NMFS Action Plan are consistent with those set forth by the National Policy.

The MRF industry and constituency have matured over the last several years, becoming better organized nationally, more involved in fishery issues, and increasingly committed to making fisheries conservation their primary concern. As a result, it is timely for NMFS to reformulate its implementation strategy to achieve more consistent attention to national priorties while maintaining sufficient flexibility to tailor regional programs to local needs. This approach is essential for effective interaction with MRF interests and for consistent treatment of priority MRF issues and problems.

Perhaps of greatest concern is the need for healthy fisheries resources. The primary role of Federal and state fishery managers and the Regional Fishery Management Councils is to provide stewardship of the Nation's fisheries resources. NMFS and the constituency have mutually stressed that a stronger conservation ethic, endorsed by the public as well as the government, is necessary to protect fishery resources and the habitats upon which they are dependent. Fisheries and their habitats must be recognized as national assets that, if effectively conserved and managed, can generate enormous economic, social, and aesthetic benefits indefinitely.

The purpose of this document is to identify ways for NMFS to help improve stewardship of marine fisheries resources overall, and to better serve MRF constituencies. However, it is recognized that development of an MRF Action Plan will not by itself necessarily result in progress. A strong commitment to pursue aggressively plan implementation for the long-term as well as the short-term is essential. There must be identifiable and measurable activities to provide accountability and to allow constituent and program partners (states, commissions, councils, etc.) to monitor and participate in program activities. Accordingly, this action plan restates NMFS' MRF policy, provides guiding principles for policy implementation, establishes NMFS' MRF program goals and objectives, and identifies specific actions to update and improve implementation of the MRF policy.

II. Restatement of Policy and Guiding Principles

A. *Policy Statement.* The following policy was adopted by NMFS in 1981 after an extensive review of NMFS MRF activities by a marine recreational fisheries task group.

"NMFS, through its various programs, will protect, conserve, enhance, manage and develop fishery resources of importance to the nation in order to increase the nation's food supply; promote increased opportunities for both commercial and marine recreational fishermen consistent with the concept of optimum yield; and promote activities which will assist the commercial and marine recreational fishing industries to thrive and expand."

B. *Guiding Principles.* The following guiding principles advance fundamental beliefs and strategies that further clarify NMFS' marine recreational fisheries policy and that guide policy implementation efforts.

1. *Marine Recreational Fisheries Program must Address All Three Components of Recreational Fisheries: the Resource, Users, and Industry.* First, with respect to the resources, MRF refers to one or more stocks of fish which can be treated as a unit for purposes of conservation, management, utilization, or development and which can be identified on the basis of geographical, scientific, technical, economic, or method-of-harvest characteristics. The term "fish" includes finfish, molluska, crustaceans, and all forms of living marine animals which form the resource base for recreational fishing. Enhancing and maintaining these stocks requires the enhancement and maintenance of water quality and the habitats on which the stocks depend and control of the harvest/catch.

Second, with respect to the users, MRF refers to individuals engaging in marine recreational fishing activity. Fishing is considered recreational when pleasure, amusement, relaxation or home consumption are the principal motivators. The program must result in an improved understanding of fishermen's needs and the impact of management decisions upon them.

Third, MRF refers to the MRF industry. Interest and participation in marine recreational fishing creates a demand for a wide variety of goods and services that enable fishermen to participate in recreational fishing activities. The private businesses which provide these goods and services are collectively referred to as the MRF industry. These businesses employ thousands of Americans, account for sizeable capital expenditures, and contribute substantially to the Nation's gross national product and overall economic well being. The program should consider how management decisions affect the industry.

2. *Marine Recreational Fisheries Contribute Significant Social and Economic Benefits to the Nation.* Marine recreational fishing is an increasingly popular outdoor recreational activity that contributes substantially to the social and economic well being of the Nation. Millions of individuals and families participate annually in marine recreational fishing as a relaxing, healthful, wholesome source of recreation and as a way of obtaining high quality protein food. Collectively, the MRF industry translates this recreation activity into a multi-billion dollar contribution to the Nation's economy.

3. *Robust Marine Fishery Resources are Requisites for Viable Marine Recreational Fisheries.* Marine fisheries are dependent on the maintenance, restoration, and enhancement of marine fish populations and their habitats. NMFS' principal function is to serve as steward of those resources and habitats. Conservation and enhancement of marine fishery resources shall be accomplished through scientific management intended to achieve optimum yield from each fishery.

4. *Accurate and Timely Information is Crucial to the Conservation, Management, and Development of Marine Recreational Fisheries.* NMFS has an important role in conducting, sponsoring, and otherwise encouraging scientific, statistical, and socioeconomic research and related investigations which provide the basis for conservation and management of marine resources.

5. *Marine Fishery Resources are a National Asset, Which, Through Wise Management, Can be Enhanced and Improved for Future Generations.* NMFS is committed to the mission of rebuilding and conserving marine fishery resources while allowing equitable sharing of those resources among recreational, commercial, and non-consumptive users, such as SCUBA divers, observation boats, etc. NMFS recognizes the biological necessity of regulating total catch within the limits of optimum yield. Accomplishing this management mission requires effective, cooperative partnerships with other Federal agencies, the states, Regional Fishery Management Councils, Interstate Commissions, and public and private sector interests. NMFS also recognizes the need to pursue aggressively international agreements for the conservation of highly migratory oceanic species of fish and to secure access for U.S. fishermen to fishery resources in international waters.

6. *Multiple Uses of Marine Fishery Resources are Recognized and Encouraged.* NMFS recognizes the national benefits resulting from multiple use of marine fishery resources by recreational, commercial, and subsistence fishermen as well as by non-consumptive users. NMFS also supports existing jurisdictional relationships between state and Federal Government resource stewards and the public as appropriate forums for rendering fishery allocation decisions affecting competing resource users.

7. *Authorities, Roles, and Responsibilities of Government and Private Entities in the Conservation and Development of Marine Recreational Fisheries are Recognized.* NMFS will engage in those activities that are the responsibility of Federal Government and will encourage and assist other Federal, state, and local government agencies, the academic community, private interests, and the public to cooperate and participate in its programs. NMFS will encourage other entities to assume responsibility for MRF programs and services more appropriately theirs, recognizing unified and cooperative partnerships as a goal.

8. *Conserving and Developing Marine Recreational Fisheries is a Shared Responsibility.* As major users and beneficiaries of marine fishery resources, fishermen and the industry must accept their stewardship roles and responsibilities and do their part in funding, promoting, and supporting essential marine fisheries research, data collection, management, development, and law enforcement efforts. Angling ethics, resource conservation, and aquatic education should be promoted and practiced through effective government/private partnerships.

III. Action Plan

The action plan consists of five major sections, each with goals, objectives, and action steps. Consistent and aggressive implementation should enhance NMFS' resource stewardship capabilities. The primary thrust of the Action Plan is best expressed by the first goal. NMFS will focus its major effort on the conservation of fisheries and their habitat, in recognition of the significant benefits the marine resources provide to the nation. Only with the resource on a sound footing can the recreational program be fully successful.

A. Conservation of Resources

Goal: Conserve, restore, and enhance fishery resources and the habitat on which they depend, recognizing that, if properly conserved and managed, fishery resources can provide substantial economic, social, and aesthetic benefits to the Nation.

A conservation approach needs to be emphasized in resource management as a means to restore and maintain healthy fisheries. NMFS must assert a leadership role in accomplishing this goal, and must secure participation, cooperation, and support of the MRF constituency.

A.1 OBJECTIVE: Develop a stronger linkage between information on the status and condition of stocks and management decisions affecting recreational fisheries.

A.1a—Each Research Center should review, evaluate, and, if needed, upgrade its stock assessment capabilities to ensure that assessments for species of recreational importance or potential importance are provided.

A.1b—Distribute stock assessments, expressed in layman's terms, for key species of recreational importance, or potential importance, to increase general understanding of the status of various stocks.

A.2 OBJECTIVE: Improve fishery management procedures for MRF.

When management is necessary, encourage the use of fishery management techniques; such as bag limits, size limits, gear limitations, and other measures to control fishing mortality, that are easily monitored, while permitting continued access to the fishery. Improve MRF input and

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participation in the fishery management planning process.

A.3 OBJECTIVE: Promote conservation practices among fishermen.

Implement a national angling ethics program, in cooperation with the tackle industry, state fishery management agencies, and the MRF community, emphasizing tag and release, catch and release, expanded use of non-traditional species, regulatory compliance, and other related issues.

A.4 OBJECTIVE: Expand MRF information and education (I&E) programs.

A.4a—Establish and maintain Information and Education programs on NMFS research and management activities.

A.4b—Develop closer working ties with outdoor writer associations and media to improve flow of information to fishermen.

A.4c—Establish working relationships with tournament directors and fishing clubs, to increase their awareness of NMFS resource and management programs, and to promote resource conservation and angling ethics.

A.4d—Develop or distribute primers and educational materials on seafood quality, safety issues, conservation, the proper care and handling of catch, use of non-traditional species, and other topics of interest.

A.5 OBJECTIVE: To achieve more effective public adherence to fishery regulations.

A.5a—Expand I&E efforts, including brochures on regulations, creation of "Fishery Conservation Hotline", and greater interaction with conservation editors.

A.5b—Increase State/Federal cooperative enforcement seeking cross deputization and other appropriate means.

A.5c—Encourage and assist the states and Federal Government to resolve incompatible or conflicting regulations on species of recreational interest.

A.6 OBJECTIVE: Review current conservation engineering efforts, and expand where appropriate.

A.6a—Accelerate commercial gear research, development, and modification efforts to reduce bycatch and habitat destruction.

A.6b—Document applications of artificial reef technology for enhancement of recreational fisheries.

A.6c—Increase involvement in artificial reef research planning, management, and development.

Conservation of Habitat

Goal: Conserve and restore habitats critical to the well-being of recreationally important species and supporting ecosystems.

B.1 OBJECTIVE: Identify critical habitat problems which adversely affect species of importance to MRF.

B.1a—Review actions affecting species of importance to MRF and with EPA, the states, and local governments, work to establish priorities, and recommend corrective actions for habitat protection and resotration in each Region.

B.1b—Work with other government agencies (Federal, state and local) to implement the National Estuarine Program, and other coastal initiatives.

B.2 OBJECTIVE: Increase public awareness of the impacts on fishery resources created by habitat alteration.

B.2a—Prepare regional documentaries describing fishery and habitat relationships, unique aspects on habitat, and status and trends on the protection of critical habitats.

B.2b—Evaluate plans and provide guidance to other agencies, under authority of the Fish and Wildlife Coordination Act and other statutes, on policies significantly affecting fishery habitats of importance to MRF.

C. Research, Data Collection, Data Management, and Information Analysis

Goal: To improve NMFS's research, data acquisition, data management, analysis, and dissemination capabilities needed to provide the scientific and management basis for conservation of marine recreational fishery resources.

Socioeconomic and biological data important to the management of MRF are often missing or sparse, and some existing data do not receive adequate consideration in management decisions. To address this, several steps must be taken.

First, NMFS must work with fishery managers to identify data needs and implement research and statistical programs to fill these needs.

Second, NMFS must make available to fishery managers, all existing biological and socioeconomic data and ensure its appropriate use.

Third, NMFS must educate and inform marine recreational fishermen and the MRF industry about the objectives of data collection efforts and how this information is being used by resource managers.

Current research and data collection programs should be monitored and reviewed as to their ability to support fishery management and development decisions, including stock assessments, user allocations, quota monitoring, fishery evaluation, and regulatory impact analyses. Timeliness, accuracy, precision, and comparability of data must be carefully assessed and improved when possible.

C.1 OBJECTIVE: Improve planning and coordination of NMFS' research, data collection, and analysis components.

C.1a—Establish a National MRF steering committee, composed of fishery managers from the state, Councils, Commissions, Federal, and private sectors, to identify management questions requiring data or information. Work with Federal and state data collectors and recommend actions needed to provide more comprehensive, precise, and timely MRF data for use by state and Federal resource managers.

C.1b—Conduct annual research program reviews within each Fishery Center to evaluate ongoing research and recommend program adjustments (e.g., shifts in research emphasis, enhancements, initiatives).

C.1c—Conduct regular NMFS/Sea Grant retreats at regional/national level to identify and evaluate cooperative research projects.

C.1d—Cooperate with Sea Grant to develop specific strategies for working with Marine Advisory Services in MRF communication/education efforts.

C.1e—Establish program coordination with state Wallop-Breaux (W–B) coordinators providing technical assistance, as outlined int he NMFS/USFWS Memorandum of Understanding.

C.1f—Enhance an ongoing communication effort to advise managers and MRF constituents of research findings.

C.1g—Develop a socioeconomic research plan in each Region to support fishery management programs making sure to address MRF issues.

C.1h—Coordinate inclusion of the Marine Recreational Fisheries Statistics Survey (MRFSS) data base into fishery management plans.

C.1i—Coordinate with other Federal, state, private, and academic institutions involved with MRF research, data collection, and analysis.

C.2 OBJECTIVE: Improve the effectiveness of MRF data collection, data management, analysis, and dissemination.

C.2a—Use state/Federal Cooperative Agreements to integrate, whenever feasible, state and Federal MRF sampling programs under agreed upon standards to create a consistant nationwide data collection program and to eliminate duplication.

C.2b—Determine the appropriate MRFSS sample size nationwide and conduct rare event (e.g., billfish) species surveys as appropriate to improve data used in Federal fishery management decisions.

C.2c—Improve the application of socioeconomic information to support regional research plans developed under *C.1g.*

C.2d—Publish and distribute validations of MRF data collection methodologies and data bases to ensure applicability, accessibility, and familiarity.

C.2e—Conduct regular seminars and use other forums to inform fishery managers, constituents, the general public, industry, and others of the results, proper use, and limitations of economic and statistical data collection and analysis programs.

C.2f—Improve NMFS' analytical capability to interpret and evaluate MRF statistical data and ensure appropriate and timely use of data.

C.2g—Regionally, produce and distribute annual summaries, trends, and forecasts of species important to MRF in a timely fashion.

D. Industry Services

Goal: Expand NMFS' ability to effectively and appropriately interact with and enhance the MRF industry.

The MRF industry is an integral and significant part of the total U.S. fishing industry. It encompasses a broad range of individual businesses that provide a variety of goods and services to marine recreational fishermen both domestic and foreign. NMFS needs to assist the industry within the scope and authority of NMFS' programs.

D.1. OBJECTIVE: Increase understanding of the nature and operation of the MRF industry.

D.1a—Develop industry profiles including information on various business sectors, size, composition, and operation of charter/headboat fleets, cost and return analysis, entry and exit of businesses/vessels, and other aspects.

D.1b—Coordinate with state and other governmental agencies and industries to encourage recreational fisheries tourism.

D.1c—Develop capability to interpret and evaluate MRF industry information, including monitoring industry response to management decisions.

D.2 OBJECTIVE: Assist the industry to undertake appropriate research and development activities.

D.2a—Help the MRF industry gain access to funding sources (e.g., S–K, MARFIN, Sea Grant, etc.) for research and development projects.

D.2b—Identify and reduce trade barriers affecting the MRF's competitive position of U.S. tackle manufacturers.

D.2c—Establish outreach activities to ensure industry access to vital fisheries research and statistical information.

E. Administrative Program Direction.

Goal: Provide positive support for marine recreational fisheries through effective implementation of the MRF action plan.

Previous sections followed program lines, providing goals, objectives, and actions needed to more fully implement the MRF policy. However, achievement of these goals and objectives will require a strong, long-term commitment by NMFS. This commitment must be reflected in planning and budget documents and performance plans. This section provides for these internal actions needed to ensure successful MRF policy and program implementation.

E.1 OBJECTIVE: Establish effective program planning and coordination mechanisms.

E.1a—The Washington Office and each Region will develop a detailed strategy document identifying activities, resources, and time tables needed to implement the Action Plan.

E.1b—Each Region will utilize a MRF Steering Committee to involve MRF interests in program planning.

E.1c—Use forums within regional fisheries commissions, and other state, regional, and national organizations to communicate and coordinate MRF program matters.

E.2 OBJECTIVE: Provide sufficient staffing and support to carry out the Action Plan.

E.2a—Provide staff support commensurate in size with the importance (catch, effort, socioeconomic impact) of MRF in the Regions, growth potential, and the extent of problems.

E.2b—Launch and maintain an aggressive public affairs program that includes frequent field meetings with MRF clubs, charter/headboat associations, state and interstate coordination bodies (e.g., Marine Fisheries Commissions, W–B coordinators, outdoor writers associations, etc.) and attendance at regional and national symposia.

E.3 OBJECTIVE: Establish effective mechanisms to monitor and evaluate MRF program accomplishments.

E.3a—Washington Office and Regions will use tracking or control systems to monitor and report program progress and make program adjustments.

E.3b—The Recreational and Interjurisdictional Fisheries Division will monitor the Action Plan implementation progress and report periodically to an appropriate management level.

E.3c—Conduct a national MRF program review annually in conjunction with MRF Coordinators meeting.

Dated: November 7, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-26614 Filed 11-13-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 6, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–6791. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also

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see FR 49345, published on December 17, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 6, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the period which began on January 1, 1989, and extends through December 31, 1989.

Effective on November 7, 1989, the directive of December 2, 1988, is being amended further to adjust the limits for the following categories, as provided under the terms of the bilateral agreement of November 16, 1982, as amended and extended:

Category	Adjusted 12-month limit [1]
Sublevels in Group I	
313	65,303,245 square meters.
670–L [2]	37,420,914 kilograms.
Sublevels in Group II	
237	493,763 dozen.
239	2,898,545 kilograms.
331	511,745 dozen pairs.
336	97,900 dozen.
340	1,172,534 dozen.
342	203,562 dozen.
345	101,753 dozen.
352	952,130 dozen.
359–H [3]	2,162,394 kilograms.
433	13,801 dozen.
443	50,833 numbers.
447/448	19,350 dozen.
631	4,432,636 dozen pairs.
632	4,886,155 dozen pairs.
633/634/635	1,634,779 dozen of which not more than 1,061,425 dozen shall be in Categories 633/634 and not more than 809,879 dozen in Category 635.
636	366,000 dozen.
640	2,926,383 dozen of which not more than 1,693,825 dozen shall be in Category 640–Y.[4]
641	758,257 dozen of which not more than 256,000 dozen shall be in Category 641–Y.[5]
642	761,461 dozen.
645/646	4,116,017 dozen.
649	709,096 dozen.
651	458,010 dozen.
652	1,574,846 dozen.
659–S [6]	750,396 kilograms.
659–C [7]	518,529 kilograms.
659–S [8]	2,109,835 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 670–L, only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030, and 4202.92.9020.

[3] In Category 359–H, only HTS numbers 6505.90.1530 and 6505.90.2060.

[4] In Category 640–Y, only HTS numbers 6205.30.2010, 6205.30.2020, 6505.30.2050 and 6205.30.2060.

[5] In Category 641–Y, only HTS numbers 6204.23.0050, 6205.29.2030, 6206.40.3010 and 6206.40.3025.

[6] In Category 659–S, only HTS numbers 6114.30.2010 and 6114.30.2020.

[7] In Category 659–C, only HTS numbers 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1920, 6104.69.1000, 6104.69.3014, 6114.30.40, 6114.30.3050, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] In Category 659–S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 89–26650 Filed 11–13–89; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 6, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Broad Program Appraisal (BPA) will meet on 15 Dec 89 from 8:00 a.m. to 5:00 p.m. at the Pentagon, Washington, DC 20330–5430.

The purpose of this meeting is to review the technology area plans for the programs in the Air Force S&T base. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For futher information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–26631 Filed 11–13–89; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Notice of Desire to Enter into Cooperative Research & Development Agreements on Fluidic Listening Device

The U.S. Army's Harry Diamond Laboratories (HDL) is seeking potential candidates to enter into Cooperative Research and Development Agreements (CRDA's) under the authority provided in the Federal Technology Transfer Act of 1986 (Pub. L. 99–502). The technical area for collaboration between HDL and outside parties is the following:

Further research and development of a fluidically-based acoustic listening device is desired. This area will build upon a prototype model already in existence that was developed at HDL, and which has applications in the civilian sector for security and surveillance systems. The current system combines acoustic and fluidic technologies to amplify sound waves in the audible range (0–4 kHz). Fluidic technology is a fundamentally different method of signal amplification in that it employs fluid dynamic principals to sense, amplify, and manipulate the incoming acoustic signals into audible pressure signals. The acoustic sensor system achieves a total amplification of generally 60–70 decibels. Because the system is fluidically-based, it does not require signal processing electronics (with associated batteries) and therefore can be highly mobile. The system in its present configuration has a range of about 250 meters for conversational speech depending upon the terrain, humidity, and other environmental operating constraints.

In comparison to an electronically-based system, the fluidic detection system has the advantage of a negligible noise floor. As a result, the sensitivity of the fluidic system is superior to currently available electronic acoustic amplification systems. Moreover, the fluidic detection system could be further developed for civilian purposes by linkage of fluidics with recent advances in signal processing techniques.

To be considered, please respond with 30 days from the date of this announcement.

For more information on this CRDA opportunity, contact Mr. George Gillespie in HDL's Office of Research and Technology Applications on 301–394–1551, or write to:, Harry Diamond Laboratories, 2800 Powder Mill Rd., SLCHD–PO–P (Attn: George Gillespie), Adelphi, MD 20783–1197.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 89–26606 Filed 11–13–89; 8:45 am]

BILLING CODE 3710–08–M

Intent To Grant an Exclusive Patent License to Univax Corp.

The Department of the Army announces its intention to grant an exclusive license to Univax Corporation, having a place of business at 12111 Parklawn Drive, Rockville, MD 20652, under U.S. Patent No. 4,285,936 entitled "Method for Producing a Vaccine Against Bacterial Infections Caused By Pseudomonas Aeruginosa."

The proposed exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and the Department of Commerce's regulations at 37 CFR 474.7. The proposed license may be granted unless, within 60 days from the date of this notice, the Depatment of the Army receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest. All comments and materials must be submitted to the Intellectual Property Counsel of the Army, Patents, Copyrights, and Trademarks Division, Office of The Judge Advocate General, Department of the Army, 5611 Columbia Pike, Room 332–A, Falls Church, VA 22041–5013.

For further information concerning this notice, contact: Earl T. Reichert, Patents, Copyrights, and Trademarks Division, Office of The Judge Advocate General, Department of the Army, 5611 Columbia Pike, Room 332–A, Falls Church, VA 22041–5013, Telephone No. (202) 756–2623.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 89–26605 Filed 11–13–89; 8:45 am]

BILLING CODE 3710–08–M

DEFENSE LOGISTICS AGENCY

Meeting; Department of Defense Clothing and Textile Board

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of postponement of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Deputy Director for Acquisition Management, Defense Logistics Agency, announces that the meeting of the Department of Defense Clothing and Textiles (DoD C&T) Board scheduled for 24 October 1989 was postponed. The revised meeting date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Paula Metcalf, Quality Assurance Specialist, Product Quality Management Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (202) 274–7141.

MG Charles E. Henry,

USA, Deputy Director, Acquisition Management.

[FR Doc. 89–26606 Filed 11–13–89; 8:45 am]

BILLING CODE 3820–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To Prepare an Environmental Impact Statement for Proposed Construction and Operation of a Relocatable Over the Horizon Radar System on Amchitka Island, AK

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1506), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the construction and operation of a Relocatable Over the Horizon Radar (ROTHR) system on Amchitka Island, Alaska. The ROTHR will provide wide area surveillance for early detection and tracking of aircraft and ships in the Northwest Pacific.

The proposed action includes construction of an additional radar transmitter and receiver antenna. The operational work force will increase from 235 to 375 people. The EIS will address potential environmental impacts associated with the project, including the potential for wetlands impacts. The EIS will also address additions to electrical, water and sewage systems; fuel storage and distribution facilities; operation, maintenance and storage structures; hazardous material storage facilities; housing; roads; and waterfront pier facilities.

Alternatives to be considered in the EIS include satellite systems, aircraft surveillance systems, and alternate locations in Alaska for ROTHR facilities. Alternate locations in Alaska to be considered include Adak, Shemya and Attu Islands, and the central coast of Alaska.

The U.S. Army Corps of Engineers has agreed to act as a cooperating agency pursuant to 40 CFR 1501.6. The Corps will review a Navy permit application for the proposed action pursuant to authorization found in section 404 of the Clean Water Act.

An unaffiliated consulting firm has been retained to prepare Draft and Final Environmental Impact Statements. Publication of the DEIS is planned for March 1990.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this action. The Navy will hold a public scoping meeting on November 30, 1989, beginning at 7:30 pm, in the Federal Building at 222 West 7th Street, Anchorage, Alaska. This meeting will be advertised in the Anchorage area newspapers.

A formal presentation will precede request for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meetings. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than December 31, 1989 to Commanding Officer (Attn: Code 09EP2, telephone (206) 476–5775), Engineering Field Activity Northwest, Naval Facilities Engineering Command, 3505 NW Anderson Hill Road, Silverdale, Washington 98383–9130.

Dated: November 8, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–26626 Filed 11–13–89; 8:45 am]

BILLING CODE 3810–AE–M

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DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Appeal Before the Education Appeal Board; Intent To Compromise a Claim, St. Paul Public Schools

AGENCY: Department of Education.

ACTION: Notice of intent to compromise a claim.

SUMMARY: The Department intends to compromise a claim against the St. Paul Public Schools, Independent School District No. 625 (St. Paul), St. Paul, Minnesota, now pending before the Education Appeal Board, Docket No. 37(301)88 (20 U.S.C. 1234a(f) (1982)).

DATE: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before December 28, 1989.

ADDRESS: Comments should be addressed to Ann Marie Reilly, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4091, FOB-6), Washington, DC 20202.

SUPPLEMENTARY INFORMATION: On October 21, 1988, the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) issued a final audit determination against the St. Paul Public Schools, Independent School District No. 625 (St. Paul), St. Paul, Minnesota. The Assistant Secretary determined, based upon the U.S. Department of Education's (Department) Office of Inspector General's May 5, 1988 audit report (Audit Control Number 05-80300), that St. Paul had received $27,902.55 in overpayment of fiscal year 1987 formula grant funds under the then part A of the Indian Education Act (part A; 20 U.S.C. 241aa-241ff (1982)). The Assistant Secretary determined that the overpayment resulted from St. Paul improperly counting the following children to generate funds under part A for use in school year 1987-1988: 1) Children not enrolled in St. Paul schools on the date St. Paul conducted its part A count; 2) children enrolled in private schools; and 3) one child whose student certification form remained unsigned and undated. In addition, the Assistant Secretary determined St. Paul had improperly included in its count a three percent add-on for children who might enroll after the date St. Paul conducted its count.

On November 21, 1988, St. Paul filed an appeal with the Education Appeal Board (EAB). The EAB accepted that appeal on December 21, 1988, and the appeal is currently pending before the EAB (Docket No. 37(301)88). St. Paul refunded the amount represented by the three percent add-on ($3,434.16) and provided acceptable documentation concerning the one child whose student certification form remained unsigned and undated ($143.09). Therefore, the amount remaining in dispute under this appeal is $24,325.30.

Under section 452(f) of the General Education Provisions Act, (20 U.S.C. 1234a(f) (1982)), the Secretary has the authority to compromise a claim of $50,000 or less if the Secretary determines that collection of all or a part of the claim would not be practical or in the public interest, and that the practices that resulted in the claim have been corrected or will not recur. The Secretary proposes to compromise the remaining $24,325.30 claim for $10,000, in light of the percentage of the claim to be repaid, the existing litigation risks, and the costs that would be incurred by the Department in defending this relatively small claim, the Secretary does not believe it would be practical or in the public interest to continue the appeal. Moreover, the Department is satisfied that the practices that resulted in the claim have been corrected and will not recur.

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Ann Marie Reilly at the address given at the beginning of this notice.

(20 U.S.C. 1234a(f) (1982))

(Catalog of Federal Domestic Assistance No. 84.060)

Dated: November 3, 1989.

Gail D. Niederhofer,

Acting Deputy Under Secretary for Management.

[FR Doc. 89-26622 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No: 84.042]

Student Support Services Program

ACTION: Notice to extend the deadline for receipt of applications.

SUMMARY: On September 15, 1989 the Secretary of Education published in the Federal Register (54 FR 38324) a notice inviting applications for new awards for the Student Support Services Program. This document extends the date for receipt of applications from November 17, 1989 until December 12, 1989. The Secretary takes this action to allow the public additional time to prepare the applications.

For Applications or Information Contact: Mrs. May J. Weaver, Chief, Special Services Branch, Division of Student Services, U.S. Department of Education (Room 3060, ROB-3), 400 Maryland Avenue, SW., Washington, DC 20202-5249. Telephone: (202) 732-4804.

Authority: 20 U.S.C. 1070d, 1070d-1b.

Dated: November 1, 1989.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 89-26623 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

Executive Committee of the National Assessment Governing Board

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: Monday, November 20, 1989.

Time: 11:00 a.m. (e.s.t.)

Place: National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC, 20005-4013, Telephone: (202) 357-6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), title III-C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), (20 USC 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet via teleconference on November 20, 1989 from 11:00 a.m. (e.s.t.) until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The proposed agenda includes preparation of the agenda for the December meeting of the Board; discussion of staff papers; review of draft NAGB policies; Board nominations for 1990; and other matters pertaining to the Committee's charge.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC, from 8:30 a.m. to 5:00 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89-26624 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF JUSTICE

Nondiscrimination in Federally-Assisted Programs; Enforcement Coordination

ACTION: An agreement between the United States Environmental Protection Agency and the United States Department of Education to delegate certain civil rights compliance responsibilities for educational institutions.

A. Purpose

Section 1-207 of Executive Order 12250 authorizes the Attorney General to initiate cooperative programs among Federal agencies responsible for enforcing title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, as amended, section 504 of the Rehabilitation Act of 1973, as amended, and similar provisions of Federal law prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or religion in programs or activities receiving Federal financial assistance.

This agreement will promote consistent and coordinated enforcement of covered nondiscrimination provisions, as required in the Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs (28 CFR 42.401-42.415), increase the efficiency of compliance activity, and reduce burdens on recipients, beneficiaries, and Federal agencies by consolidating compliance responsibilities, by eliminating duplication in civil rights reviews and data requirements, and by promoting consistent application of enforcement standards.

B. Delegation

By this agreement, the Environmental Protection Agency (EPA) designates the Department of Education (ED) as the agency responsible for specific civil rights compliance duties, as enumerated below, with respect to educational institutions. Responsibility for the following covered nondiscrimination provisions is delegated:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4);
2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 to 1686); and
3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

This agreement specifies the duties to be performed by each agency. It does not alter the requirements of the joint Department of Justice/Equal Employment Opportunity Commission (EEOC) regulation concerning procedures for handling complaints of employment discrimination filed against recipients of Federal financial assistance. 28 CFR 42.601-42.613, 29 CFR 1691.1-1697.13, 48 FR 3570 (January 25, 1983). Complaints covered by that regulation filed with a delegating agency against a recipient of Federal financial assistance solely alleging employment discrimination against an individual are to be referred directly to the EEOC by the delegating agency.

C. Duties of the Department of Education

The EPA assigns the following compliance duties to ED with respect to educational institutions. Specifically, ED shall:

1. Maintain current files on all activities undertaken pursuant to this agreement and on the compliance status of applicants and recipients with respect to their programs or activities receiving Federal financial assistance resulting from preapproval and postapproval reviews, complaint investigations, and actions to resolve noncompliance. A summary of these activities and the compliance status of applicants and recipients shall be reported at least at the end of every fiscal year to the EPA.

2. Develop and use information for the routine, periodic monitoring of compliance by educational institutions with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

3. Perform, upon request of the EPA, preapproval reviews for which supplemental information or field reviews are necessary to determine compliance.

4. Conduct an effective program of postapproval reviews of recipients with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

5. Receive complaints alleging that recipients subject to this agreement have discriminated in violation of covered nondiscrimination provisions in their programs or activities receiving Federal financial assistance, attempt to obtain information necessary to make complaints complete, and investigate complete complaints.

6. Issue written letters of findings of compliance or of noncompliance that (a) advise the recipient and, where appropriate, the complainant of the results of the post-approval review or complaint investigation; (b) provide recommendations, where appropriate, for achieving voluntary compliance; and (c) offer, where appropriate, the opportunity to engage in negotiations for achieving voluntary compliance. The governor of the state in which the applicant or recipient is located will be notified, if the letter of findings of noncompliance is made pursuant to a statute requiring that the governor be given an opportunity to secure compliance by voluntary means. ED shall promptly provide copies of its letters of findings to the EPA and to the Assistant Attorney General for Civil Rights.

7. Conduct, after a letter of findings of noncompliance, negotiations seeking voluntary compliance with the requirements of covered nondiscrimination provisions.

8. If compliance cannot be voluntarily achieved and ED does not fund the applicant or recipient, refer the matter to the EPA for its own independent action and notify the Assistant Attorney General for Civil Rights of the referral. If compliance cannot be achieved and both ED and the EPA fund the applicant or recipient, initiate formal enforcement action. When ED initiates formal enforcement action by providing the applicant or recipient with an

opportunity for an administrative hearing, provide the EPA with an opportunity to participate as a party in a joint administrative hearing. When ED initiates formal enforcement action by

compliance determination and:

(a) If the EPA wishes to initiate formal enforcement action by providing the applicant or recipient with an opportunity for a administrative hearing,

National Council on Vocational Education; Public Meeting

AGENCY: National Council on Vocational Education, Education.

Washington, DC 20202-7580, (202) 732-1884.

Records are kept of all Council proceedings, and are available for

anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-26705 Filed 11-13-89; 8:45 am]

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opportunity for an administrative hearing, provide the EPA with an opportunity to participate as a party in a joint administrative hearing. When ED initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the EPA of the referral.

9. Notify the EPA and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and of any action taken against the applicant or recipient.

D. Duties of the Environmental Protection Agency

The EPA shall:

1. Issue and provide to ED all regulations, guidelines, reports, orders, policies, and other documents that are needed for recipients to comply with covered nondiscrimination provisions and for ED to administer its responsibilities under this program.

2. Provide ED with information, technical assistance and training necessary for it to perform the duties delegated under this agreement. This information shall include, but is not limited to, a list of recipients receiving Federal financial assistance from the EPA, the types of assistance provided, compliance information solely in the EPA's possession or control, and data on program eligibility and/or actual participants in assisted programs or activities.

3. Perform preapproval reviews of applicants for assistance, as required by 28 CFR 42.407(b), that do not require supplemental information or field reviews. The reviews may require information to be supplied by ED. If the EPA requests ED to undertake an on-site review because it has shown it has reason to believe discrimination is occurring in a program or activity that is either receiving Federal financial assistance or that is the subject of an application, the EPA shall supply information necessary for ED to undertake such a review.

4. Refer all complaints alleging discrimination under covered nondiscrimination provisions filed with the EPA against a recipient subject to this delegation and determine, if possible, whether the program involved received Federal financial assistance from the delegating agency.

5. Where ED has notified the applicant or recipient in writing that compliance cannot be achieved by voluntary means and ED has referred the matter to the EPA, make the final compliance determination and:

(a) If the EPA wishes to initiate formal enforcement action by providing the applicant or recipient with an opportunity for a administrative hearing, notify ED if the EPA will either join as a party in the administrative hearing conducted by ED or will conduct its own administrative hearing.

(b) When the EPA initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify ED of the referral.

(c) If the EPA conducts its own hearing, notify ED and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and of any action taken against the applicant or recipient. The EPA may request ED to act as counsel in its administrative hearing.

(d) If the EPA neither initiates steps to deny or terminate Federal financial assistance nor refers the matter to the Department of Justice, notify ED and the Assistant Attorney General for Civil Rights in writing, within 15 days after notification from ED, that voluntary compliance cannot be achieved.

E. Redelegation

Duties delegated herein to ED may be redelegated. ED shall notify the EPA of any such redelegation prior to its effective date.

F. Approval

This agreement shall be signed by the Assistant Attorney General for Civil Rights. It shall be signed by both parties and become effective 30 days from publication in the **Federal Register**.

G. Termination

This agreement may be terminated by either agency 60 days after notice to the agency and to the Assistant Attorney General for Civil Rights.

Dated: June 27, 1989.

William K. Reilly,

Administrator

U.S. Environmental Protection Agency.

Dated: August 24, 1989.

Lauro F. Cavazos,

Secretary of the Department of Education.

Dated: October 20, 1989.

James P. Turner,

Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice.

[FR Doc. 89-26621 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

National Council on Vocational Education; Public Meeting

AGENCY: National Council on Vocational Education, Education.

ACTION: Notice of public meeting of the Council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming Subcommittee meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE AND TIME: December 2, 1989, 1:30 p.m. to 4 p.m.

ADDRESS: Hotel Royal Plaza, Walt Disney World Village, Lake Buena Vista, Florida. *Room:* Lake Room.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education was established under section 104 of the Vocational Education Amendments of 1968, Public Law 90-576.

The Council was established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

AGENDA: The proposed agenda will include: Discussions with the new Assistant Secretary of Vocational and Adult Education, discussions of the reauthorization of the Carl D. Perkins Act, the National Awareness Campaign, Occupational Competencies and Council Member Reports.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 330 C Street SW., MES—Suite 4060, Washington, DC 20202-7580, (202) 732-1884.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9 a.m. to 4:30 p.m.

Signed at Washington, DC, November 7, 1989.

Joyce Winterton,

Executive Director.

[FR Doc. 89-26601 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATE: Comments must be filed on or before December 14, 1989. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, EIA's Office of Statistical Standards (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Fossil Energy
2. FE-746R
3. 1901-0294
4. Import and Export of Natural Gas
5. Extension
6. On occasion/Application
7. Required to obtain or retain a benefit
8. Businesses or other for-profit
9. 90 respondents
10. 90 responses annually
11. The estimated average hours per response for each of the respondents is 150 burden hours.
12. The estimated total reporting hours are 13,500.
13. The FE-746R collects data from importers and exporters of natural gas, including contract, market analyses, price and volume information. The data are derived from company internal documents and are used to conduct analyses, support decisions, monitor compliance with authorizations, and ensure that authorizations continue to remain in the public interest.

Authority: Sec. 5(a), 5(b), 13(b) and 52, Public Law No. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC, November 7, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-26705 Filed 11-13-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP89-161-010]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Motion to Place Tariff Sheets Into Effect on November 1, 1989

November 7, 1989.

Take notice that on October 31, 1989, ANR Pipeline Company (ANR) tendered for filing certain revised tariff sheets, with its "Motion to Place Substitute Tariff Sheets Into Effect on November 1, 1989".

ANR states that this filing reflects a decrease in cost of service, as compared to that upon which the rates of ANR which were previously filed and suspended to November 1, 1989 were based, and reduced levels of sales contract demand determinants, to reflect Commission orders in the interim, and also reflects continuation of a "saturated" method of heat content measurement.

ANR notes that the subject filing is made at this time in order to comply with the Commission's "three year rule", but that the Commission has not yet acted upon rehearing sought of the suspension order herein. Accordingly, ANR states that it reserves the right to amend the subject filing and any part hereof in light of the Commission's action on rehearing, and to take other action as seems required.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26690 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TM90-3-21-000]

Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that on October 31, 1989, Columbia Gas Transmission Corporation (Columbia Transmission) tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

One hundred and forty-first Revised Sheet No. 16
Twenty-ninth Revised Sheet No. 16A2

The foregoing revised tariff sheets bear an issue date of October 31, 1989 and a proposed effective date of December 1, 1989.

The revised filing is being made pursuant to the Commission's Order issued July 29, 1989 in these proceedings and section 28.6 of the General Terms and Conditions of Columbia's FERC Gas Tariff Original Volume No. 1. In this regard, One hundred and forty-first Revised Sheet No. 16 and Twenty-ninth Revised Sheet No. 16A2 set forth the volumetric surcharge, adjusted to reflect the Annual Reconciliation of the interest portion of the volumetric surcharge. As reflected on the referenced tariff sheets, the adjusted volumetric surcharge is 4.80¢ per MMBtu. The interest charge adjustment resulting from the Annual Reconciliation is 0.30¢. The upward adjustment reflects the higher FERC published interest rates commencing with the 4th quarter of 1988. Columbia further requests that the Commission permit the tariff sheets to become effective December 1, 1989, and requests all necessary waivers to permit such effective date.

Copies of the filing were served by the company upon each of its wholesale customers, interested state commissions and to each of the parties set forth on the Official Service List in the consolidated proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Transmission's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26591 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-24-000]

Equitrans, Inc., Proposed Change in FERC Gas Tariff

November 7, 1989.

Take notice that Equitrans, Inc. (Equitrans) on October 31, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective December 1, 1989.

Thirteenth Revised Sheet No. 10
Twelfth Revised Sheet No. 14
Sixth Revised Sheet No. 34
Alternate Thirteenth Revised Sheet No. 10
Alternate Twelfth Revised Sheet No. 14
Alternate Sixth Revised Sheet No. 34

Equitrans hereby submits its regularly scheduled Quarterly Purchased Gas Adjustment filing in accordance with § 154.308 and 154.304 of the Commission's regulations and section 19 of Equitrans' FERC Gas Tariff, Original Volume No. 1.

On October 11, 1989, Equitrans filed with the Commission in Docket No. RP90-10-000 a request for authority to track the recovery of firm transportation charges assessed to it by Texas Eastern Transmission Corporation ("TETCO") under Rate Schedule FT-1. Pending the outcome of the filing Equitrans hereby submits primary tariff sheets Thirteenth Revised Sheet No. 10, Twelfth Revised Sheet No. 14, Sixth Revised Sheet No. 34 to reflect these firm transportation charges in its Quarterly PGA. Equitrans is also filing alternate tariff sheets and workpapers to reflect the exclusion of firm transportation charges in the event the waiver is denied.

Equitrans states that a copy of its filing has been served upon its purchasers, interested state commissions, and upon each party on the service list of Docket No. CP86-676-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 14, 1989. All such motions or protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26592 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-25-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 31, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Fifth Revised Sheet No. 3-A
Fifty-Second Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is December 1, 1989.

Panhandle states that these revised tariff sheets filed herewith reflect the following adjustments respecting Panhandle's D1 and D2 demand rates: (1) An increase of $1.88 for D1 and (2) a decrease of (0.24¢) for D2 pursuant to Section 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with section 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to sections 18.1 and 18.4 (Purchased Gas Demand Rate Adjustments by Pipeline Suppliers) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional rates effective December 1, 1989.

Panhandle states that it should be noted that by order dated June 30, 1989, issued in Docket No. RP88-185-000, the Commission accepted for filing section 25 (Seasonal Sales Program) of Panhandle's FERC Gas Tariff, Original Volume 1. Pursuant to section 25.31 thereof, sections 18.2, 18.3, 18.5, 18.6, 18.7 and 18.8 are suspended until reestablished in accordance with section 25.32. Accordingly, Panhandle is reflecting as a current adjustment only the changes in its D1 and D2 demand rates mentioned above.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26593 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-177-070, CP88-136-015, RP88-67-029]

Texas Eastern Transmission Corp.; Filing

November 7, 1989.

Take notice that on October 31, 1989, Texas Eastern Transmission Corporation (Texas Eastern) filed Service Agreements under Rate Schedules CD-1, CD-2, FT-1 and I between Texas Eastern, as Seller, and the customers listed in Appendix A (attached to the filing) as Buyers.

Texas Eastern states that this filing is in compliance with § 154.62 of the Commission's regulations (18 CFR 154.62 (1989)) and relates to the Joint Offer of Settlement approved by the Commission on September 29, 1988, which contemplated renomination by the Buyers of the level of firm sales and firm transportation. Texas Eastern states that on July 31, 1989, the Commission accepted Texas Eastern's tariff sheets filed on May 22, 1989, establishing new Rate Schedules CD-1 and CD-2 and revising Rate Schedule FT-1 effective August 1, 1989. Texas Eastern states that the service agreements are being filed to reflect the commencement of service under the new Rate Schedules CD-1 and CD-2 and the revised Rate Schedule FT-1, as well as to reflect renominated levels of firm sales and firm transportation service.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26594 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-6-002]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that on October 31, 1989, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2-A:

Original Volume No. 1

Seventh Revised Sheet No. 1
Second Revised Sheet No. 1A
First Revised Sheet No. 76A
Second Revised Sheet No. 126
First Revised Sheet No. 139A

Original Volume No. 2-A

Second Revised Sheet No. 1
Second Revised Sheet No. 60
First Revised Sheet No. 64
Second Revised Sheet No. 107
Second Revised Sheet No. 108
Original Sheet No. 109
First Revised Sheet No. 143
Original Sheet No. 144
Original Sheet No. 145
Original Sheet No. 146
Original Sheet No. 147
Original Sheet No. 148
Original Sheet No. 149
Original Sheet No. 149A
Original Sheet No. 149B
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Original Sheet No. 149E
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Original Sheet No. 149G
Original Sheet No. 149H
Original Sheet No. 149I
Original Sheet No. 149J
Original Sheet No. 149K

The revised tariff sheets are being filed to reflect the updating and transfer of all language relating to Order 497 appearing in Texas Gas's FERC Gas Tariff, Original Volume No. 1 to Original Volume No. 2-A, which is Texas Gas's current transportation tariff.

Additionally, Sheet No. 64 of Original Volume No. 2-A is being filed to correct a typographical error.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26595 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-25-001]

Transwestern Pipeline Co.; Correction to Filing

November 7, 1989.

Take notice that on October 31, 1989, Transwestern Pipeline Company (Transwestern) filed Substitute 3rd Revised Sheet No. 89 to its FERC Gas Tariff, Second Revised Volume No. 1.

Transwestern states that on October 30, 1989, Transwestern filed its TCR Interest Adjustment filing, Docket No. RP90-25, wherein, tariff sheets were submitted with a proposed effective date of December 1, 1989. Since the date of the aforementioned filing, Transwestern discovered a typographical error on 3rd Revised Sheet No. 89, which reflected an incorrect effective date of December 31, 1989. In the instant filing, Substitute 3rd Revised Sheet No. 89 reflects the intended effective date of December 1, 1989, which is the only change to the tariff sheet. Transwestern requests the above-referenced tariff sheet be substituted for 3rd Revised Sheet No. 89 filed on October 30, 1989.

BEST COPY AVAILABLE

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26596 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-457-023]

Williston Basin Interstate Pipeline Co.; Compliance Filing

November 7, 1989.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Opinion and Order No. 195-B (Order 195-B) on October 31, 1989, authorizing Tennessee Gas Pipeline Company (Tennessee) to import up to 125,000 Mcf per day of Canadian natural gas for a period of two years beginning on October 31, 1990,[4] and up to 125,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

II. Decision

On December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-132-000, as amended on August 31, 1987, in Docket No. CP87-132-001, under section 7(c) of the Natural Gas

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Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26596 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that Trunkline Gas Company (Trunkline) on October 31, 1989, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Third Revised Sheet No. 3-A

The proposed effective date of this revised tariff sheet is December 1, 1989.

Trunkline states that this revised tariff sheet filed herewith reflects a commodity rate decrease of (2.02 cent) per Dt in the projected purchased gas cost component.

Trunkline states that the above-referenced tariff sheet is being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to section 18 (Purchased Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to reflect the change in Trunkline's jurisdictional rates effective December 1, 1989.

Trunkline states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26598 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT85-28-002]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that Valero Interstate Transmission Company ("Vitco"), on October 27, 1989 tendered for filing the following tariff sheets, as required by Order No. 497, containing changes in operating personnel shared with its "affiliated marketers" and the mailing address of Vitco personnel responsible for receiving requests for transportation service:

FERC Gas Tariff, Original Volume No. 1

1st Revised Sheet No. 29.10
3rd Revised Sheet No. 51
4th Revised Sheet No. 54

Vitco states that the purpose of this filing is to update Vitco's tariff pursuant to the requirements of Order No. 497.

The proposed effective date for the above filing is December 1, 1989. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by December 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26599 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-487-023]

Williston Basin Interstate Pipeline Co.; Compliance Filing

November 7, 1989.

Take notice that on October 31, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, ND 58501, tendered for filing certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that revised tariff sheets were filed under protest and in compliance with the Office of Pipeline and Producer Regulations (OPPR), October 16, 1989 Letter Order directing Williston Basin to file revised tariff sheets and working papers reflecting the full storage rate base reduction of $6,860,435 for the period May 2, 1986 to the present. Williston Basin filed the instant tariff sheets under protest and states that it is appealing the instant Letter Order to the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26599 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[ERA Docket No. 87-28-NG]

Tennessee Gas Pipeline Co.; Final Order Granting Authorization To Import Natural Gas and Record of Decision in Compliance With National Environmental Policy Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of final order granting authorization to import natural gas from Canada and record of decision.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Opinion and Order No. 195-B (Order 195-B) on October 31, 1989, authorizing Tennessee Gas Pipeline Company (Tennessee) to import at Niagara Falls, New York, up to 125,000 Mcf per day of Canadian natural gas from KannGaz Producers Ltd. (KannGaz) through October 31, 2002. The gas is intended for system supply.

In conjunction with that order, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality (40 CFR part 1505) and the DOE's guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA).

A copy of Order 195-B issued in ERA Docket No. 87-28-NG,[1] is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Carol Borgstrom, Director of Fuels Programs, Office of NEPA Project Assistance, U.S. Department of Energy, Forrestal Building, Room 3G-080, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-4600.

John Boyd, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-070, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-4523.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Council on Environmental Quality regulations implementing the procedural provisions of NEPA,[2] and the DOE's guidelines [3] for compliance with NEPA, FE is issuing this Record of Decision on the Application filed by Tennessee on February 23, 1989, to remove the NEPA related conditions stated in Ordering Paragraphs B and D of DOE/ERA Opinion and Order No. 195 (Order 195) to the extent applicable to import up to 79,700 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990,[4] and up to 125,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

II. Decision

On October 31, 1989, FE issued Order 195-B, under section 3 of the NGA granting Tennessee authority to import up to 79,700 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990, and up to 125,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

The DOE participated as a cooperating agency during the preparation of and has adopted as DOE/EIS-0140 the Ocean State Power Project Final Environmental Impact Statement (FEIS) issued by the Federal Energy Regulatory Commission (FERC) on July 8, 1988.[5] FE used that FEIS as well as an independent review in assessing the environmental effects of granting the import.

III. Project Description

Tennessee proposes to construct and operate facilities on its Niagara Spur and on its 200 mainline in order to transport Canadian natural as to the proposed Ocean State Power (Ocean State) and Ocean State Power II (Ocean State II) electric generating plant units in Burrillville, Rhode Island and to take delivery of Canadian gas for system supply.[6]

On December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-132-000, as amended on August 31, 1987, in Docket No. CP87-132-001, under section 7(c) of the Natural Gas Act (NGA), requesting authorization to provide a firm, long-term transportation service of 50,000 decatherms per day for Ocean State and to construct and operate compression and pipeline facilities in order to perform that service.

Additionally, on December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-131-000, as amended on August 5, 1987, in Docket No. CP87-131-001 under section 7(c) of the NGA, requesting authorization to construct and operate compression facilities to increase the capacity of the Niagara Spur in order to take delivery of authorized Canadian imports for Tennessee's system supply. The compression would be added in two phases to accommodate the building of the volumes.

In Phase I, Tennessee proposed to operate on a permanent basis two idle compressors: The 3,500 horsepower (hp) compressor at Station 233, Livingston County, New York, along the 200 mainline and the 1,000 hp compressor at station 230-B, East Aurora, New York, at the interconnection of the Spur and the 200 mainline. Phase I was authorized by the FERC on June 30, 1987.[7]

In Phase II, which would start on November 1, 1989, Tennessee proposes to install check measurement and odorization facilities at the Niagara River; construct and operate an additional 1,200 hp compressor unit at Station 230-B; and construct and operate a 4,500 hp compressor station at Lockport, Niagara County, New York.[8]

IV. Background

On October 9, 1987, ERA issued DOE/ERA Opinion and Order 195 (Order 195) [9] authorizing Tennessee to import

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[1] On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the Economic Regulatory Administration to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

[2] 42 U.S.C. 4321, *et seq.*

[3] 52 FR 47662, December 15, 1987.

[4] Tennessee certified that a copy of this modification request was served upon each party designated on the official service list for this docket pursuant to 19 CFR 590.107.

[5] FERC/EIS-0050.

[6] On November 19, 1986, Ocean State filed an application with the ERA, under section 3 of the NGA, for authorization to import up to 100,000 Mcf per day of Canadian natural gas over a 20-year term beginning on the date of the first delivery. The imported gas would fuel Ocean State's new power plant which it plans to build in Burrillville, Rhode Island. The plant will be comprised of two 250 megawatt combined cycle electrical generating units to be constructed sequentially.

On June 13, 1988, the ERA issued DOE/ERA Opinion and Order No. 243 (Order 243) in ERA Docket No. 86-62-NG (1 ERA Para. 70,778) conditionally authorizing Ocean State to import up to 100,000 Mcf per day of Canadian gas over a 20-year period. On September 14, 1988, after DOE's completion of its NEPA review, the ERA issued DOE/ERA Opinion and Order No. 243-A (1 ERA Para. 70,810), authorizing Ocean State to import up to 100,000 Mcf per day over a period of 20 years plus 180 days, beginning on the date of first delivery. On April 21, 1989, Ocean State and Ocean State II filed a joint application with FE to amend order 243-A. According to the joint application, at the time Order 243-A was issued, Ocean State planned to construct, own, and operate both combined units. Ocean State currently plans to develop only the first unit, Unit 1, which will utilize 50,000 Mcf of gas per day. To facilitate financing of the project, Ocean State II was formed to develop the second unit, Unit 2.

On September 22, 1989, FE issued DOE/ERA Opinion and Order No. 334 (Order 334) which amended Paragraph A of Order 243-A by authorizing Ocean State to import up to 50,000 Mcf per day of Canadian gas over a 20-year period plus 180 days beginning on the date of first delivery. Additionally, on September 22, 1989, FE issued DOE/ERA Opinion and Order 335 (Order 335) which authorized Ocean State II to import up to a total of 50,000 Mcf of Canadian gas over a 20-year period beginning on the date of first delivery.

[7] 43 FERC Para. 61,574.

[8] 45 FERC Para. 61,010.

[9] 1 ERA Para. 70,738. Order 195 was issued subsequent to publication by the ERA of a Notice of Application in the Federal Register (52 FR 23808, July 1987) and an unprotested proceeding in which 11 interventions were granted.

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from Canada up to 5,000 Mcf of natural gas per day during the period November 1, 1987, through October 31, 1988. Order 195 conditionally authorized Tennessee to import up to 29,000 Mcf of Canadian gas per day during the period November 1, 1988, through October 31, 1989, up to 79,700 Mcf of Canadian gas per day during the period November 1, 1989, through October 31, 1990, up to 125,000 Mcf per day thereafter through October 31, 2002. The gas would be purchased from KannGaz Producers Ltd. (KannGaz) for Tennessee's system supply and would be delivered to Tennessee through an existing interconnection with TransCanada PipeLines Limited (TransCanada) near Niagara Falls, New York. The first year import volumes could be imported by Tennessee through existing pipeline facilities. The ERA conditioned authorization for imports above 5,000 Mcf per day on the issuance of a final ERA opinion and order after review by the DOE of FERC's environmental analysis and completion of the DOE's NEPA responsibilities in connection with the new facilities required for the transportation of the additional authorized volumes.

In DOE/ERA Opinion and Order No. 195–A issued on July 15, 1988, in ERA Docket No. 87–28–NG, the ERA authorized Tennessee to import from Canada up to 5,000 Mcf of natural gas per day during the period November 1, 1987, through October 31, 1988, and up to 29,900 Mcf per day during the period November 1, 1988, through October 31, 1989. Order 195–A reiterated Tennessee's conditional authorization to import up to 79,700 Mcf of Canadian gas per day during the period November 1, 1989, through October 31, 1990 and up to 125,000 Mcf per day thereafter through October 31, 2002.

The first and second-year import volumes could be imported by Tennessee through existing pipeline facilities. The ERA conditional authorization for imports above 29,900 Mcf per day as granted in Order 195–A, stated in ordering paragraph C that all other terms and conditions of Order 195 remained in effect, requiring the issuance of a final ERA opinion and order after review by the DOE of the FEIS being prepared by the FERC, assessing the impacts of the additional facilities proposed by Tennessee. These facilities would increase the pressure on Tennessee's Niagara Spur pipeline and northern No. 200 mainline to enable it to receive the remaining import volumes from KannGaz and move them from the Niagara Spur through the mainline. Subsequently, the review was completed, the FEIS was adopted by the DOE, and a final authorization approving the import was issued to Tennessee in Order 195–B.

V. Governmental Responsibilities

For tennessee's proposed project, the issuance of several major permits and authorizations are required. On May 22, 1987, Tennessee filed an application with the ERA in Docket No. 87–28–NG for authorization under section 3 of the NGA to import gas from Canada to be used for system supply. The FERC has the responsibility under sections 3 and 7 of the NGA, respectively, to approve the place of entry of imports whenever the import involves the construction of new domestic facilities and to certificate the pipeline facilities supplying the gas. Tennessee filed an application with the FERC on December 18, 1988, to construct and operate compression facilities to increase the capacity of the Niagara Spur pipeline to take delivery of these imports.[10]

VI. Description of Alternatives

FE has two alternative courses of action in processing Tennessee's application to import natural gas. It may grant the application (with or without conditions) or deny the application (no action). If the application is granted, Tennessee may proceed with the project as proposed, subject to any conditions imposed by FE and the FERC. If FE denied the application for importing gas to the Northeast U.S., Tennessee would need to look elsewhere for an alternative supply of gas to meet the expected future requirements of its customers in the region. Tennessee may be required to construct additional pipeline facilities in other locations to transport gas supplies from other sources. Failure to offset the projected supply deficiencies if alternative sources are not available could have an adverse impact on the economy of the Northeast, as well as diminish the quality of life.

It is significant that regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York would still take place because they are necessary to provide previously approved Canadian gas imports to the Ocean State and Ocean State II electric generating facility units that will be built in Rhode Island. On September 14, 1988, the ERA authorized the Ocean State imports.[11] Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply.[12] The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.[13]

If FE granted the application, Tennessee could proceed to import the Canadian gas subject to the construction of the facilities approved by the FERC to transport said gas.

VII. Basis for Decision

The principal criteria in choosing whether to approve or disapprove a gas import is the requirement, under section 3 of the NGA, that an application to import gas must be approved unless, after opportunity for hearing, it is determined that the import is not consistent with the public interest. In addition, the environmental implications of granting or denying the import application must be considered pursuant to NEPA.

1. General Conclusions Orders 195, 195–A and 195–B

FE is guided in making its determination by the DOE's natural gas import policy guidelines.[14] Under this policy, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In the case of long-term arrangements such as this, need for the gas supply and security of supply are also important considerations.

FE concluded that the proposed import, which will be made under a market-responsive gas purchase contract containing a low take-or-pay obligation, price adjustment and periodic review provisions, meets the DOE guidelines concerning competitiveness, need for the supply, and security of supply, and is consistent with the public interest. In addition, it was determined that the import

[10] FERC Docket No. CP87–131–000, as amended on August 5, 1987, in Docket No. CP87–131–001 and Docket No. CP87–132–000, as amended on August 31, 1987, in Docket No. CP87–132–001.

[11] 1 ERA Para. 70,810.

[12] 45 FERC Para. 61,010, rehearing granted in part and denied in part, 45 FERC Para. 61,324, November 29, 1988.

[13] The environmental effects associated with the Niagara Spur facilities expansion were discussed in the ERA's Record of Decision for the Ocean State project (53 FR 36463, September 20, 1988).

[14] 49 FR 6684, February 22, 1984.

authorization would have limited environmental impacts and would be environmentally acceptable.

2. Environmental Determination

The FERC was the lead Federal agency in conducting an examination of the environmental effects of Tennessee's additional Niagara Spur facilities and in preparing the FEIS. Since both projects involve common facilities, the Ocean State FEIS addressed the environmental impacts of the transmission facilities proposed by Tennessee, as well as the new powerplant and ancillary facilities proposed by Ocean State. However, this Record of Decision deals solely with Tennessee's facilities. The DOE participated as a cooperating agency during the preparation of the FEIS, and utilized the FEIS (which was adopted as a DOE EIS) as well as an independent evaluation in assessing the environmental effects of granting or denying Tennessee's import authorization.

As stated in the FEIS "• • • generally, construction of pipeline loops parallel with, and adjacent to, existing pipelines is environmentally preferable. Parallel construction takes advantage of available cleared right-of-way during construction of the loop. This prevents the establishment of new pipeline corridors and minimizes the amount of required clearing. Preferable alternatives to paralleling an existing pipeline route must have significant environmental advantages over a parallel route, must be practicable to construct from an economic and engineering standpoint, and should pose no long-term operation or maintenance problems." [15]

The proposed modification to Tennessee's pipeline and its associated compressor facilities will be performed at various locations along the pipeline route. As the following discusson demonstrates, the compressor station changes proposed are the environmentally preferable construction alternative because they involve the least amount of environmental change to the affected areas.

The FEIS evaluated the following proposals by Tennessee for facilities to expand capacity on its Niagara Spur pipeline and No. 200 mainline to enable it to accommodate the scheduled buildup of contract volumes to be imported from KannGaz: (1) Expand measurement and odorization facilities at the Lewiston Meter Station at the Niagara River in Niagara County, New York; (2) convert from temporary to permanent operation the 3,500-hp gas compressor at Station 233 on Tennessee's mainline in Livingston County, New York; (3) convert from temporary to permanent operation the 1,000-hp gas compressor at Station 230B on Tennessee's mainline in East Aurora, New York, at the interconnection of the Niagara Spur and the mainline and add 1,200 hp of compression; and (4) construct a new 4,500-hp gas compressor station 230C at Lockport, in Niagara County, New York.

The impacts from modifying the Lewiston Meter Station are anticipated to be minimal. No additional buildings would be erected, and work would be confined to Tennesee's existing property. Aquatic and terrestrial ecological impacts are not anticipated, since no additional structures are proposed by Tennessee.

Compressor Station 233 would have only minimal impacts from construction and operation. No additional land is required for increasing the horsepower and there would be no effect on the cultural resources.

Compressor Station 230B is located in a rural residential area. Improvements to the station would be contained within land which is zoned industrial and is already owned by Tennesee. The station is bordered on one side by a park, but a 60-foot hill between the park and the site will shield the park from the compressor station. A trailer park also abuts the site. Access to the compressor station is along the road next to the trailer park. Traffic noise is expected to impact the park as equipment is moved in and out. There would be no effect on cultural resources.

Proposed Compressor Station 230C would be a new use for a currently cultivated parcel of land. It will be located near a residential and industrial area. Although construction traffic is expected to add to the traffic commuting to the nearby General Motors plant, the impacts are expected to be minimal.

Upgrading of existing compressor stations and construction of new compressor facilities are not expected to affect the aquatic environment since no streams are affected. None of the compressor stations would be considered a major source of air pollution and the impact on ambient air quality would not be significant.

The construction and permanent operation of the gas compression facilities would result in increases in ambient sound levels at these locations. Aside from some temporary noise due to construction, the permanent operation of the compressors may result in an annoyance to nearby residents. Tennessee has agreed to a FERC staff recommendation that its proposed compressor additions would not produce a day-night sound level (L_{dn}) of 555 decibels on the A-weighted scale (dBA) at the nearest noise-sensitive receptor, such as a residence or hospital. This can be achieved by installing mufflers, barriers, and other noise-suppression devices on the compressors.

The FEIS concluded that no significant environmental impacts would occur as a result of the proposed upgrades to Tennessee's existing gas compressor stations and construction of the new gas compressor station.

VIII. Considerations in Implementing the Decision

In the FEIS, the FERC staff specified only one mitigation measure which it considered appropriate for the construction and operation of the compressor stations. The FERC staff determined that if the compressors are designed to minimize noise levels, minimal environmental impacts would occur from the proposed compressor station additions. We note that the certificate authorizing Tennessee to construct and operate the facilities to transport gas for Ocean State and its system supply volumes was granted on the condition that Tennessee, among other things, implement the mitigation measure identified as No. 18, on page 5–32 of the Ocean State FEIS, which called for the proposed compressor station additions to be designed such that operational compressor noise shall not exceed L_{dn} of 55 dBA at any existing noise-sensitive areas nearby.[16] After construction is completed, Tennessee is required to submit to the FERC sound level surveys to verify that these performance goals have been achieved. Tennessee has agreed to the noise emission limitations.

IX. No-Action Alternative

As stated in Paragraph VI, Description of Alternatives, regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York, would still take place because they are necessary to provide previously approved Canadian gas imports to Ocean State and Ocean State II. On September 14, 1988, the ERA authorized the Ocean State imports.

Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its

[15] Page 3–133, DOE/EIS–0140.

[16] *See supra* note 8.

mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply. The environmental impacts associated with Tennessee's proposed imports and

(Tennessee) to import at Niagara Falls, New York, up to 25,000 Mcf per day of Canadian natural gas from TransCanada Pipelines Limited (TransCanada) through October 31,

per day during the period November 1, 1990, through October 31, 2002.

II. Decision

On October 31, 1989, FE issued Order

On December 16, 1988, Tennessee filed an application in FERC Docket No. CP87–132–000, as amended on August 31, 1987, in Docket No. CP87–132–001, under section 7(c) of the Natural Gas

1990, and up to 25,000 Mcf per day thereafter through October 31, 2002. The gas would be purchased from TransCanada for Tennessee's systems supply and would be delivered to

to the Northeast U.S., Tennessee would need to look elsewhere for an alternative supply of gas to meet the expected future requirements of its customers in the region. Tennessee may

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mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply. The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.

X. Conclusion

The decision whether to authorize Tennessee to import the conditioned volumes of natural gas has been evaluated against the potential environmental impacts. Implementing the specific mitigation measure identified in the FEIS would minimize the social, economic, and environmental effects and promote the positive effects of the requested import project. These additional import volumes significantly would enhance Tennessee's ability to meet the future supply requirements of its customers. The proposed facilities represent the environmentally preferable construction alternative. The FEIS identifies no significant environmental impacts resulting from the Tennessee construction proposals. Authorizing the increased volumes would have no environmental impact since the facilities would be built regardless of DOE's decision. Accordingly, FE has decided to grant Tennessee authority to import the full scheduled contract volumes of Canadian gas under its arrangement with KannGaz and determined that this decision is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, on October 31, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-25703 Filed 11-13-89; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-53-NG]

Tennessee Gas Pipeline Co.; Final Order Granting Authorization To Import Natural Gas and Record of Decision In Compliance With National Environmental Policy Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of final order granting authorization to import natural gas from Canada and record of decision.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Opinion and Order No. 254-A (Order 254-A) on October 31, 1989, authorizing Tennessee Gas Pipeline Company (Tennessee) to import at Niagara Falls, New York, up to 25,000 Mcf per day of Canadian natural gas from TransCanada Pipelines Limited (TransCanada) through October 31, 2002. The gas is intended for system supply.

In conjunction with that order, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality (40 CFR part 1505) and the DOE's guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA).

A copy of Order 254-A issued in ERA Docket No. 87-53-NG [1] is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Carol Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, Forrestal Building, Room 3G-060, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4600

John Boyd, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4523.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Council on Environmental Quality regulations implementing the procedural provisions of the NEPA [2] and the DOE's guidelines [3] for compliance with NEPA, FE is issuing this Record of Decision on the Application filed by Tennessee on April 4, 1989, to remove the NEPA related conditions stated in Ordering Paragraphs B and F of DOE/ERA Opinion and Order No. 254 (Order 254) to the extent applicable to import up to 20,300 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990,[4] and up to 25,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

II. Decision

On October 31, 1989, FE issued Order 254-A, under section 3 of the NGA granting Tennessee authority to import up to 20,300 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990, and up to 25,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

The DOE participated as a cooperating agency during the preparation of and has adopted as DOE/EIS-0140 the Ocean State Power Project Final Environmental Impact Statement (FEIS) issued by the Federal Energy Regulatory Commission (FERC) on July 8, 1988 [5] FE used that FEIS as well as an independent review in assessing the environmental effects of granting the import.

III. Project Description

Tennessee proposes to construct and operate facilities on its Niagara Spur and on its 200 mainline in order to transport Canadian natural gas to the proposed Ocean State Power (Ocean State) and Ocean State Power II (Ocean State II) electric generating plant units in Burrillville, Rhode Island and to take delivery of Canadian gas for system supply.[6]

[1] On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the Economic Regulatory Administration to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

[2] 42 U.S.C. 4321, *et seq.*

[3] 52 FR 47662, December 15, 1987.

[4] Tennessee certified that a copy of this modification request was served upon each party designated on the official service list for this docket pursuant to 19 CFR 590.107.

[5] FERC/EIS-0060.

[6] On November 19, 1986, Ocean State filed an application with the ERA, under section 3 of the NGA, for authorization to import up to 100,000 Mcf per day of Canadian natural gas over a 20-year term beginning on the date of the first delivery. The imported gas would fuel Ocean State's new power plant which it plans to build in Burrillville, Rhode Island. The plant will be comprised of two 250 megawatt combined cycle electrical generating units to be constructed sequentially.

On June 13, 1988, the ERA issued DOE/ERA Opinion and Order No. 243 (Order 243) in ERA Docket No. 86-62-NG (1 ERA Para. 70,778) conditionally authorizing Ocean State to import up to 100,000 Mcf per day of Canadian gas over a 20-year period. On September 14, 1988, after DOE's completion of its NEPA review, the ERA issued DOE/ERA Opinion and Order No. 243-A (1 ERA Para. 70,810), authorizing Ocean State to import up to 100,000 Mcf per day over a period of 20 years, plus 180 days, beginning on the date of first delivery. On April 21, 1989, Ocean State and Ocean State II filed a joint application with FE to amend Order 243-A. According to the joint application, at the time Order 243-A was issued, Ocean State planned to construct, own, and operate both combined units. Ocean State currently plans to develop only the first unit, Unit 1, which will utilize 50,000 Mcf of gas per day. To facilitate financing of the project, Ocean State II was formed to develop the second unit, Unit 2.

On September 22, 1989, FE issued DOE/ERA Opinion and Order No. 334 (Order 334) which amended Paragraph A of Order 243-A by authorizing Ocean State to import up to 50,000 Mcf per day of Canadian gas over a 20-year period plus

Continued

On December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-132-000, as amended on August 31, 1987, in Docket No. CP87-132-001, under section 7(c) of the Natural Gas Act (NGA), requesting authorization to provide a firm, long-term transportation service of 50,000 decatherms per day for Ocean State and to construct and operate compression and pipeline facilities in order to perform that service.

Additionally, on December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-131-000, as amended on August 5, 1987, in Docket No. CP87-131-001 under section 7(c) of the NGA, requesting authorization to construct and operate compression facilities to increase the capacity of the Niagara Spur in order to take delivery of authorized Canadian imports for Tennessee's system supply. The compression would be added in two phases to accommodate the building of the volumes.

In Phase I, Tennessee proposed to operate on a permanent basis two idle compressors: the 3,500 horsepower (hp) compressor at Station 233, Livingston County, New York, along the 200 mainline and the 1,000 hp compressor at station 230-B, East Aurora, New York, at the interconnection of the Spur and the 200 mainline. Phase I was authorized by the FERC on June 30, 1987.[7]

In Phase II, which would start on November 1, 1989, Tennessee proposes to install check measurement and odorization facilities at the Niagara River; constuct and operate an additional 1,200 hp compressor unit at Station 230-B; and construct and operate a 4,500 hp compresor station at Lockport, Niagara County, New York. [8]

IV. Background

In DOE/ERA Opinion and Order No. 254 issued on July 15, 1988, in ERA Docket No. 87-53-NG, the (ERA) Economic Regulatory Administration (ERA) authorized Tennessee to import from Canada up to 5,000 Mcf of natural gas per day during the period November 1, 1987, through October 31, 1988, and up to 10,100 Mcf per day during the period November 1, 1988, through October 31, 1989. Order 254 conditionally authorized Tennessee to import up to 20,300 Mcf of Canadian gas per day during the period November 1, 1989, through October 31, 1990, and up to 25,000 Mcf per day thereafter through October 31, 2002. The gas would be purchased from TransCanada for Tennessee's systems supply and would be delivered to Tennessee at the international boundary near Niagara Falls, New York.

The first- and second-year import volumes could be imported by Tennessee through existing pipeline facilities. The ERA conditioned authorization for imports have 10,100 Mcf per day on the issuance of a final ERA opinion and order after review by the DOE of the FEIS being prepared by the FERC, assessing the impacts of the additional facilities proposed by Tennessee. These facilities would increase the pressure on Tennessee's Niagara Spur pipeline and northern No. 200 mainline to enable it to receive the remaining import volumes from TransCanada and move them from the Niagara Spur through the mainline. Subsequently, the review was completed, the FEIS was adopted by the DOE, and a final authorization approving the import was issued to Tennessee in Order 254-A.

V. Governmental Responsibilities

For Tennessee's proposed project, the issuance of several major permits and authorizations are required. On September 29, 1987, Tennessee filed an application with the ERA in Docket No. 87-53-NG for authorization under section 3 of the NGA to import gas from Canada to be used for system supply. The FERC has the responsibility under sections 3 and 7 of the NGA, respectively, to approve the place of entry for imports whenever the import involves the construction of new domestic facilities and to certificate the pipeline facilities supplying the gas. Tennessee filed an application with the FERC on December 18, 1986, to construct and operate compression facilities to increase the capacity of the Niagara Spur pipeline to take delivery of these imports.[9]

VI. Description of Alternatives

FE has two alternative courses of action in processing Tennessee's application to import natural gas. It may grant the application (with or without conditions) or deny the application (no action). If the application is granted, Tennessee may proceed with the project as proposed, subject to any conditions imposed by FE and the FERC. If FE denied the application for importing gas to the Northeast U.S., Tennessee would need to look elsewhere for an alternative supply of gas to meet the expected future requirements of its customers in the region. Tennessee may be required to construct additional pipeline facilities in other locations to transport gas supplies from other sources. Failure to offset the projected supply deficiencies if alternative sources are not available could have an adverse impact on the economy of the Northeast, as well as diminish the quality of life.

It is significant that regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York would still take place because they are necessary to provide previously approved Canadian gas imports to the Ocean State and Ocean State II electric generating facility units that will be built in Rhode Island. On September 14, 1988, the ERA authorized the Ocean State imports.[10] Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply.[11] The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.[12]

If FE granted the application, Tennessee could proceed to import the Canadian gas subject to the construction of the facilities approved by the FERC to transport said gas.

VII. Basis for Decision

The principal criteria in choosing whether to approve or disapprove a gas import is the requirement, under section 3 of the NGA, that an application to import gas must be approved unless, after opportunity for hearing, it is determined that the import is not consistent with the public interest. In addition, the environmental implications of granting or denying the import

180 days beginning on the date of first delivery. Additionally, on September 22, 1989, FE issued DOE/ERA Opinion and Order 335 (Order 335) which authorized Ocean State II to import up to a total of 50,000 Mcf of Canadian gas over a 20-year period beginning on the date of first delivery.

[7] 43 FERC Para. 61,574.

[8] 45 FERC Para. 61,010.

[9] FERC Docket No. CP87-131-000, as amended on August 5, 1987, in Docket No. CP87-131-001 and Docket No. CP87-132-000, as amended on August 31, 1987, in Docket No. CP87-132-001.

[10] 1 ERA Para. 70,810.

[11] 45 FERC Para. 61,010, rehearing granted in part and denied in part, 45 FERC Para. 61,324, November 29, 1988.

[12] The environmental effects associated with the Niagara Spur facilities expansion were discussed in the ERA's Record of Decision for the Ocean State project (53 FR 36423, September 20, 1988).

application must be considered pursuant to NEPA.

1. General Conclusions Orders 254 and 254-A

no long-term operation or maintenance problems." [14]

The proposed modifications to Tennessee's pipeline and its associated compressor facilities will be performed

in and out. There would be no effect on cultural resources.

Proposed Compressor Station 230C would be a new use for a currently cultivated parcel of land. It will be

areas nearby.[15] After construction is completed, Tennessee is required to submit to the FERC sound level surveys to verify that these performance goals have been achieved. Tennessee has agreed to the noise emission limitations

determined that this decision is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, on October 31, 1989.

procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount of refunds approved in this Decision was $31,066, representing $26,018 in principal plus $5,048 in

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application must be considered pursuant to NEPA.

1. General Conclusions Orders 254 and 254–A

FE is guided in making its determination by the DOE's natural gas import policy guidelines.[13] Under this policy, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In the case of long-term arrangements such as this, need for the gas supply and security of supply are also important considerations.

FE concluded that the proposed import, which will be made under a market-responsive gas purchase contract containing a low take-or-pay obligation, price adjustment and periodic review provisions, meets the DOE guidelines concerning competitiveness, need for the supply, and security of supply, and is consistent with the public interest. In addition, it was determined that the import authorization would have limited environmental impacts and would be environmentally acceptable.

2. Environmental Determination

The FERC was the lead Federal agency in conducting an examination of the environmental effects of Tennessee's additional Niagara Spur facilities and in preparing the FEIS. Since both projects involve common facilities, the Ocean State FEIS addressed the environmental impacts of the transmission facilities proposed by Tennessee, as well as the new powerplant and ancillary facilities proposed by Ocean State. However, this Record of Decision deals solely with Tennessee's facilities. The DOE participated as a cooperating agency during the preparation of the FEIS, and utilized the FEIS (which was adopted as a DOE EIS) as well as an independent evaluation in assessing the environmental effects of granting or denying Tennessee's import authorization.

As stated in the FEIS "* * * generally, construction of pipeline loops parallel with, and adjacent to, existing pipelines is environmentally preferable. Parallel construction takes advantage of available cleared right-of-way during construction of the loop. This prevents the establishment of new pipeline corridors and minimizes the amount of required clearing. Preferable alternatives to paralleling an existing pipeline route must have significant environmental advantages over a parallel route, must be practicable to construct from an economic and engineering standpoint and should pose no long-term operation or maintenance problems." [14]

The proposed modifications to Tennessee's pipeline and its associated compressor facilities will be performed at various locations along the pipeline route. As the following discussion demonstrates, the compressor station changes proposed are the environmentally preferable construction alternative because they involve the least amount of environmental change to the affected areas.

The FEIS evaluated the following proposals by Tennessee for facilities to expand capacity on its Niagara Spur Pipeline and No. 200 mainline to enable it to accommodate the scheduled buildup of contract volumes to be imported from TransCanada: (1) Expand measurement and odorization facilities at the Lewiston Meter Station at the Niagara River in Niagara County, New York; (2) convert from temporary to permanent operation the 3,500-horsepower (hp) gas compressor at Station 233 on Tennessee's mainline in Livingston County, New York; (3) convert from temporary to permanent operation the 1,000-hp gas compressor at Station 230B on Tennessee's mainline in East Aurora, New York, at the interconnection of the Niagara Spur and the mainline and add 1,200 hp of compression; and (4) construct a new 4,500-hp gas compressor station 230C at Lockport, in Niagara County, New York.

The impacts from modifying the Lewiston Meter Station are anticipated to be minimal. No additional buildings would be erected, and work would be confined to Tennessee's existing property. Aquatic and terrestrial ecological impacts are not anticipated, since no additional structures are proposed by Tennessee.

Compressor Station 233 would have only minimal impacts from construction and operation. No additional land is required for increasing the horsepower and there would be no effect on the cultural resources.

Compressor Station 230B is located in a rural residential area. Improvements to the station would be contained within land which is zoned industrial and is already owned by Tennessee. The station is bordered on one side by a park, but a 60-foot hill between the park and the site will shield the park from the compressor station. A trailer park also abuts the site. Access to the compressor station is along the road next to the trailer park. Traffic noise is expected to impact the park as equipment is moved in and out. There would be no effect on cultural resources.

Proposed Compressor Station 230C would be a new use for a currently cultivated parcel of land. It will be located near a residential and industrial area. Although construction traffic is expected to add to the traffic commuting to the nearby General Motors plant, the impacts are expected to be minimal.

Upgrading of existing compressor stations and construction of new compressor facilities are not expected to affect the aquatic environment since no streams are affected. None of the compressor stations would be considered a major source of air pollution and the impact on ambient air quality would not be significant.

The construction and permanent operation of the gas compression facilities would result in increases in ambient sound levels at these locations. Aside from some temporary noise due to construction, the permanent operation of the compressors may result in an annoyance to nearby residents. Tennessee has agreed to a FERC staff recommendation that its proposed compressor additions would not produce a day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at the nearest noise-sensitive receptor, such as a residence or hospital. This can be achieved by installing mufflers, barriers, and other noise-suppression devices on the compressors.

The FEIS concluded that no significant environmental impacts would occur as a result of the proposed upgrades to Tennessee's existing gas compressor stations and construction of the new gas compressor station.

VIII. Considerations in Implementing the Decision

In the FEIS, the FERC staff only one mitigation measure which it considered appropriate for the construction and operation of the compressor stations. The FERC staff determined that if the compressors are designed to minimize noise levels, minimal environmental impacts would occur from the proposed compressor station additions. We note that the certificate authorizing Tennessee to construct and operate the facilities to transport gas for Ocean State and its system supply volumes was granted on the condition that Tennessee, among other things, implement the mitigation measure identified as No. 18, on page 5–32 of the Ocean State FEIS, which called for the proposed compressor station additions to be designed such that operational compressor noise shall not exceed L_{dn} of 55 dBA at any existing noise-sensitive areas nearby.[15] After construction is completed, Tennessee is required to submit to the FERC sound level surveys to verify that these performance goals have been achieved. Tennessee has agreed to the noise emission limitations.

IX. No-Action Alternative

As previously noted in paragraph VI above, regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York, would still take place because they are necessary to provide previously approved Canadian gas imports to Ocean State and Ocean State II. On September 14, 1988, the ERA authorized the Ocean State imports. Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply. The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.

X. Conclusion

The decision whether to authorize Tennessee to import the conditioned volumes of natural gas has been evaluated against the potential environmental impacts. Implementing the specific mitigation measure identified in the FEIS would minimize the social, economic, and environmental effects and promote the positive effects of the requested import project. These additional import volumes significantly would enhance Tennessee's ability to meet the future supply requirements of its customers. The proposed facilities represent the environmentally preferable construction alternative. The FEIS identifies no significant environmental impacts resulting from the Tennessee construction proposals. Authorizing the increased volumes would have no environmental impact since the facilities would be built regardless of DOE's action. Accordingly, FE has decided to grant Tennessee authority to import the full scheduled contract volumes of Canadian gas under its arrangement with TransCanada and determined that this decision is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, on October 31, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–26704 Filed 11–13–89; 8:45 am]

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[13] 49 FR 6684, February 22, 1984.

[14] Page 3–198, DOE/EIS–1040.

[15] *See supra* note 8.

Office of Hearings and Appeals

Issuance of Decisions and Orders, Office of Hearings and Appeals, Week of October 2 through October 6, 1989

During the week of October 2 through October 6, 1989 the decisions and orders summarized below were issued with respect to applications for refund filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

REFUND APPLICATIONS

Atlantic Richfield Company/City of Dixon Water Department, et al., 10/3/89 RF304–1584 et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding. Because each of the applicants was a public utility, each was presumed injured by the alleged overcharges. In addition, each of the applicants documented its volume of ARCO purchases and requested a refund of $5,000 or less. The refunds granted in this Decision totalled $3,966, including $981 in interest.

Catskill Central School District, 10/3/89 RA272–13

The DOE issued a Supplemental Order adjusting the refund amount granted to Catskill Central School District in *E.E. Guthrie, et al.*, 19 DOE ¶ , Case Nos. RF272–55012, *et al.*, (August 2, 1989). To correct our error, we granted Catskill Central School District a supplemental refund of $34.

Crown Central Petroleum Corporation/ R.L. Jordan Oil Company of SC, The Sommers Company, 10/3/89 RF313–222, RF313–282

The DOE issued a Decision and Order considering applications filed by two purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount of refunds approved in this Decision was $31,086, representing $26,018 in principal plus $5,048 in accrued interst.

Delta Woodside Industries, Mount Vernon Mills, Inc., Graniteville Co., 10/5/89 RF272–9816, RD272–9816, RF272–9900, RD272–9900, RF272–11241, RD272–11241

Three manufacturers of textile products filed applications for refund as end-users of refined petroleum products in the Subpart V crude oil refund proceeding. A group of state governments filed objections to the claims, and related motions for discovery. After considering the claims and the objections, OHA determined that the states had failed to produce any convincing evidence to show that the three textile makers had been able to pass on the crude oil overcharges to their customers, and granted the refund applications. The purported economic "evidence" submitted by the states consisted of theoretical generalizations that were not linked to any aspect of the applicants' actual business operations. As in previous decisions, OHA rejected the states' contention that industry-wide data, or a record of profitable operations during the controls period, constituted sufficient evidence to rebut the presumption that end-users such as the three textile firms were injured by crude oil overcharges. The refunds approved totalled $96,619. The states' motions for discovery were denied.

Exxon Corporation/Boston Gas Company, 10/2/89 RF307–185

The DOE issued a Decision and Order concerning an Application for Refund filed by Boston Gas Company in the Exxon Corporation special refund proceeding. Boston Gas, a public utility, purchased products directly from Exxon, and was found to be eligible to receive a refund equal to its full allocable share. Boston Gas will also be required to pass through the entire refund to its customers. The sum of the refund granted in this Decision is $59,825 ($48,777 principal plus $11,048 interest).

Exxon Corporation/Cove Exxon et al., 10/3/89 RF307–1430 et al.

The DOE issued a Decision and Order concerning 45 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants was a retailer of Exxon products whose allocable share is less than $5,000. All of the applicants disagreed with the gallonage information recorded on their Exxon

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volume sheets, and submitted alternative gallonage figures which they requested that the OHA accept either in lieu of or in combination with Exxon's figures. The OHA agreed to accept the applicants' figures because they were taken directly from the firm's actual Exxon invoices or monthly sales records from the consent order period. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $52,204 ($42,564 principal plus $9,640 interest).

Exxon Corporation/Earl Hawley Oil Co., 10-3-89 RF307-10061

The DOE issued a Supplemental Decision and Order in the Exxon Corporation special refund proceeding regarding Earl Hawley Oil Co. (Hawley). In *Exxon Corp./Jones Exxon*, Case Nos. RF307-7200 *et al.* (September 8, 1989), Hawley, Case No. RF307-7253, was granted a refund of $2,504 ($2,056 principal plus $488 interest) based on its purchases of Exxon refined petroleum products. However, the DOE determined that because the claimant in this case, Wayne Oil Co., Inc., did not purchase Hawley until after the end of the consent order period, it was not the rightful recipient of this refund. Accordingly, the refund granted to this claimant was rescinded.

Exxon Corporation/Euliss Oil Co., Inc., et al., 10/5/89 RF307-1185 et al.

The DOE issued a Decision and Order concerning 12 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants was a reseller of Exxon products whose allocable share is greater than $5,000. Instead of making an injury showing to receive its full allocable share, each applicant elected to limit its claim to $5,000 or 40 percent of its allocable share, whichever is greater. The sum of the refunds granted in this Decision is $67,112 ($54,717 principal plus $12,395 interest).

Exxon Corporation/John Anderson et al., 10/5/89 RF307-7914 et al.

The DOE issued a Decision and Order concerning 45 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either an end-user or a reseller whose allocable share is less than $5,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $46,674 ($36,054 principal and $6,620 interest).

Exxon Corporation/Putnam Oil Co., McCleary Oil Co., 10/5/89 RF307-4351, RF307-4378

The DOE issued a Decision and Order concerning two Applications for Refund filed by Putnam Oil Co. and McCleary Oil Co. in the Exxon Corporation special refund proceeding. Each applicant's allocable share exceeded $5,000. Since neither applicant elected to make a showing of injury, each applicant was eligible to receive the larger of $5,000 or 40 percent of its allocable share up to $50,000. For Putnam 40 percent was greater, and for McCleary $5,000 was greater. The sum of the refunds granted in this Decision is $15,437, representing $12,586 in principal and $2,851 in interest.

Exxon Corporation/Ripple Oil Company, Inc., 10/6/89 RF307-10065

The DOE issued a Supplemental Decision and Order to Ripple Oil Company, Inc. in the Exxon proceeding to correct an interest calculation in an earlier decision. In the original Decision and Order, Ripple was granted a refund of $6,509 ($5,000 principal plus $1,509 interest). The DOE determined that the correct amount of the refund was $6,174 ($5,000 principal plus $1,174 interest).

Gabor Trucking, Inc., W.C. McQuaide, Inc., 10/6/89 RF272-7289, RD272-7289, RF272-7696, RD272-7696

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to two applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 7, 1981. A range of twenty-eight states and two territories of the United States (the States) filed identical, consolidated pleadings objecting to and commenting on the applications. The only evidence submitted by the States was several newspaper articles indicating that Interstate Commerce Commission policies permitted trucking firms to increase their rates and consequently pass on any overcharges. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicants should receive a refund. In addition, Motions for Discovery filed by the States were denied. The sum of the refunds granted in this Decision is $15,533.

Gulf Oil Corporation/Byrom Oil Company, Inc., 10/03/89 RF300-5324

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding. The application was approved using a presumption of injury. The total refund granted in this Decision is $6,255.

Gulf Oil Corporation/Comm & Mt. Hood Gulf, Gulf Service Center, Inc., Commonwealth Gulf, 10/2/89 RF300-8256, RF300-8257, RF300-8258

The DOE issued a Decision and Order concerning three Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Because the firms were under common ownership during the consent order period, and because their combined allocable share exceeds $5,000, it is appropriate to consolidate these Applications when applying the presumptions of injury. The total refund granted in this Decision, inclusive of interest, is $6,719.

Gulf Oil Corporation/Consolidated Edison Co. of N.Y., Inc., 10/2/89 RF300-8955

The DOE issued a Decision and Order concerning one Application for Refund submitted by the Consolidated Edison Co. of N.Y., Inc. (Con-Ed) in the Gulf Oil Corporation special refund proceeding. The application was approved using a presumption of injury. As an end user of Gulf products, Con-Ed was granted a refund based on its full allocable share. Under the procedures established in *Gulf Oil Corporation*, 16 DOE ¶ 85,381 (1987) for regulated utilities, Con-Ed also certified that it would notify the appropriate regulatory body of any refund received, and pass through any refund received to its customers. The amount of the refund granted in this Decision, including accrued interest, is $72,970.

Gulf Oil Corporation/Damascus Gulf Service Station, et al., 10/5/89 RF300 418 et al.

The DOE issued a Decision and Order concerning six Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. The applications were approved using a presumption of injury. The sum of the refunds granted is $19,974.

Gulf Oil Corporation/Don's I-10 Gulf, et al., 10/3/89 RF300-4, et al.

The DOE issued a Decision and Order concerning nine Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $13,231.

Gulf Oil Corporation/Felisko's Gulf Service, et al., 10/5/89 RF300-8868, et al.

The DOE issued a Decision and Order concerning 53 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $105,516.

Gulf Oil Corporation/Five County Farmers Association, 10/5/89 RF300-7594

The DOE issued a Decision and Order concerning an Application for Refund submitted by Five County Farmers Association in the Gulf Oil Corporation special refund proceeding. Five County was granted a refund based on its full allocable share. Under the procedures established in *Gulf Oil Corporation*, 16 DOE ¶ 85,381 (1987) for agricultural cooperatives. The refund granted in the Decision is $1,262.

Gulf Oil Corporation/Frank's Gulf, et al., 10/5/89 RF300-9112, et al.

The DOE issued a Decision and Order concerning 30 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $85,612.

Gulf Oil Corporation/Hylton's Drive in Grocery, et al., 10/2/89 RF300-10049, et al.

The DOE issued a Decision and Order concerning 50 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using the small claims presumption of injury. The sum of the refunds granted in this Decision, including accrued inteerest, is $113,451.

Gulf Oil Corporation/John's Gulf, et al., 10/2/89 RF300-8800 et al.

The DOE issued a Decision and Order concerning 33 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $59,144

Gulf Oil Corporation/L.P. Service Co., et al., 10/5/89 RF300-10503, et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $40,603.

Gulf Oil Corporation/Schultz Oil Company, Inc. 10/5/89 RF300-5230

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding. The application was approved using a presumption of injury. The total refund granted in this Decision is $6,719.

Gulf Oil Corporation/Steele's Riverview Gulf, et al., 10/5/89 RF300-9166, et al.

The DOE issued a Decision and Order concerning 18 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $37,923.

Nabisco Brands, Inc., 10/3/89 RF272-11245, RD272-11245

Nabisco Brands, Inc., a manufacturer of retail packaged foods, filed an application for refund as an end-user of refined petroleum products in the Subpart V crude oil refund proceeding. A group of state governments filed a statement of objections to Nabisco's claim, and a related motion for discovery. After considering the claim and the objections, OHA determined that the states had failed to produce any convincing evidence to show that Nabisco had been able to pass on the crude oil overcharges to its customers, and granted the refund application. The purported economic "evidence" submitted by the states consisted of theoretical generalizations that were not linked to any aspect of the applicant's actual business operations. As in previous decisions, OHA rejected the states' contention that industry-wide data, or a record of profitable operations during the controls period, constituted sufficient evidence to rebut the presumption that end-users such as Nabisco were injured by crude oil overcharges. The refund approved was $263,122. The states' motion for discovery was denied.

OKC Corporation/Kansas, 10/3/89 RQ13-531

The DOE issued a Decision and Order granting the second-stage refund application filed by the State of Kansas in the OKC Corporation special refund proceeding. Kansas requested a total of $1,090,157 ($406,693 in principal plus $683,464 in interest) for three programs. For the first, the State wished to spend $1,080,157 to purchase 67 new vans for Kansas agencies which provide transportation for the elderly. The State also wished to spend $5,000 to train personnel providing this service and $5,000 to distribute transportation-related conservation materials to Kansas citizens. The DOE found that these programs would provide timely restitution to injured Kansas and approved the State's request.

Polo Pinto Oil and Gas/Kentucky, Standard Oil Co. (Indiana)/Kentucky, Perry Gas Processors, Inc./Kentucky, Pennzoil Co./Kentucky, National Helium Corp./Kentucky, Coline Gasoline Corp./Kentucky, Standard Oil Co. (Indiana)/Kentucky, 10/2/89 RQ5-522, RQ21-523, RQ183-524, RQ10-525, RQ3-526, RQ2-527, RQ251-528

The Office of Hearings and Appeals issued a Decision and Order approving the second-stage refund application filed by the Commonwealth of Kentucky in the Palo Pinto Oil and Gas, Standard Oil Co. (Indiana), Perry Gas Processors, Inc., Pennzoil Co., National Helium Corp. and Coline Gasoline Corp. special refund proceedings. Kentucky requested permission to deposit its $325,994 ($210,700 in principal plus $115,294 in interest) in second-stage funds into its Energy Assistance Trust Fund. The money and any interest earned on it would be used to finance Kentucky's Low Income Home Energy Assistance Program. The OHA found that, when considered as part of the Commonwealth's overall oil overcharge restitution program, Kentucky's plan is sufficiently balanced to warrant approval. While the OHA was previously concerned that the Energy Trust Fund would not provide injured consumers with timely restitution, Kentucky now plans to expend its second-stage refunds within one fiscal year after the money is received.

Puna Sugar Company, Ltd., 10/6/89 RF272-7589, RD272-7589

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Puna Sugar Company, Ltd. (Puna) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight States and two territories of the United States (the States) filed consolidated pleadings objecting to and commenting on the application. The only evidence submitted by the States was an affidavit by an economist stating that virtually every industry was able to pass through some costs to its customers. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury

and that the applicant should receive a refund. In addition, a Motion for Discovery filed by the States was denied. The refund granted in this Decision is $21,467. Puna will be eligible

Shell Oil Company/Gulf States Asphalt Company, Inc., 10/5/89 RF315-2289

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund forums on residential energy conservation. The new Energy Efficient Home Construction Program, with its allocation of $250,000, will inform Illinois' home builders about energy

Name	Case No.
The American Tobacco Company.	RF307-8221.
Wolfcale Oil Co.	RF315-3002.

and product chemistry and toxicity and environmental fate data submitted by pesticide product registrants to set tolerances and tolerance exemptions.

Burden Statement: The public

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Water

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and that the applicant should receive a refund. In addition, a Motion for Discovery filed by the States was denied. The refund granted in this Decision is $21,467. Puna will be eligible for additional refunds as additional crude oil overcharge funds become available.

Shell Oil Company/Colony Shell Servicenter Ltd. et al., 10–5–89 RF315–1983 et al.

The DOE issued a Decision and Order granting 185 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the Applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted in the Decision was 611,035,780 gallons of refined product and the sum of the refunds granted is $164,930 ($136,098 principal plus $28,832 interest).

Shell Oil Company/Donald R. Loomis et al., 10/5/89 RF315–2014 et al.

The DOE issued a Decision and Order granting 71 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the Applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The total gallonage covered in the Decision was 290,535,398 gallons of refined product and the sum of the refunds granted was $78,417 ($65,661 principal plus $12,756 interest).

Shell Oil Company/Fraga Shell et al., 10/6/89 RF315–3006 et al.

The DOE issued a Decision and Order granting 158 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the Applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted is $136,882 ($114,613 principal plus $22,269 interest).

Shell Oil Company/Gulf States Asphalt Company, Inc., 10/5/89 RF315–2289

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding. The Applicant purchased directly from Shell and was an end-user of Shell products. The Applicant used an estimation method for total gallonage based on 1979–1980 figures. Accordingly, the Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The refund granted was $4,979 ($4,169 principal plus $810 interest).

Shell Oil Co./Safeway Shell Tire/Auto, 10/5/89 RF315–7365

The Department of Energy issued a Supplemental Order rescinding a refund of $752 that had been granted to Safeway Shell Tire/Auto in the Shell Oil Company special refund proceeding on August 24, 1989. We determined that this refund duplicated an earlier refund which had been granted to Safeway for the same gallons. We therefore directed that the refund check not be issued.

Shell Oil Company/Thums Long Beach Co., 10/5/89 RF315–2957

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding. The Applicant purchased directly from Shell and was an end-user of Shell products. Although Thums was owned in part by Shell, the small size of Shell's interest in the company, and the small amount of the refund at stake, were not deemed sufficient to warrant rejecting the application. Accordingly, the Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The total gallonage covered in the Decision was 903,923 gallons of refined product and the refund was $244 ($204 principal plus $40 interest).

Standard Oil Co. (Indiana)/Illinois 10/6/89 RM251–159

In its Motion for Modification, the State of Illinois requested to use its remaining $1,420,849 in *Amoco II* principal for the enlargement of three restitutionary programs previously approved in *Standard Oil Co. (Indiana)/Illinois*, 17 DOE ¶ 85,462 (1988) and the creation of two new programs. Under this proposal, Illinois will enlarge the Low Income Energy Program by $200,000, the Rural Energy Management Program by $75,000, and the Commercial Energy Information Program by $114,000. The new Energy Information Transfer Program will be allocated $703,582, for the purpose of conducting numerous forums on residential energy conservation. The new Energy Efficient Home Construction Program, with its allocation of $250,000, will inform Illinois' home builders about energy efficient practices, which may then be implemented in the State's structures. Illinois' proposal was approved in full because it should provide restitution to the State's consumers of motor gasoline and middle distillates.

The Royal Jordanian Airline Corporation, 10/5/89 RF272–7920

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to The Royal Jordanian Airline Corporation (Royal Jordanian) based on its purchase of refined petroleum products during the period August 19, 1973 through January 27, 1981. Royal Jordanian used the products to fuel its aircraft. Its claim was determined by consulting aircraft flight consumption records and accounting records. Royal Jordanian was an end-user of the products it claimed and was therefore presumed by the DOE to have been injured. The sum of the refund granted in this Decision is $1,079. Royal Jordanian will be eligible for additional refunds as additional crude oil overcharge funds become available.

Total Petroleum, Inc./Woodland Oil Co. et al., 10/5/89 RF310–212 et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by purchasers of motor gasoline and/or No. 2 oils from Total Petroleum, Inc. The applicants sought a portion of the settlement fund obtained by the DOE through a consent order entered into with Total. Each applicant was a reseller whose allocable share exceeded $5,000, and each elected to accept 40% of its allocable share or $5,000, whichever was greater, in return for an exemption from the demonstration of injury requirement established in *Total Petroleum, Inc.*, 17 DOE ¶ 85,542 (1988). Applying the criteria established in that Decision, the DOE granted refunds in this proceeding which total $40,026 ($33,280 principal and $6,746 interest).

Dismissals

The following submissions were dismissed:

Name	Case No.
Crockett Oil Co	RF310–282.
Crossroads Oil Company	RF307–218.
Lincoln Oil Co., Inc	RF313–301.
Maly-Hitch ARCO	RF304–3643.
Newport Hills ARCO	RF304–4061.
Piedmont Aviation Services, Inc.	RF315–6039.

Name	Case No.
The American Tobacco Company.	RF307–8221.
Wolfcale Oil Co	RF315–3002.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 2, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89–26630 Filed 11–13–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3679–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Tolerance Petitions (including new inert ingredients) (EPA ICR # 0597.04; OMB # 2070–0024). This ICR requests reinstatement of a previously approved collection.

Abstract: The Federal Food, Drug, and Cosmetic Act authorizes EPA to regulate the amount of pesticides that enter the diet of humans and animals by establishing tolerances (and tolerance exemptions) for pesticide residues (and new inert ingredients) found in or on raw agricultural commodities and in processed foods. EPA uses the residue and product chemistry and toxicity and environmental fate data submitted by pesticide product registrants to set tolerances and tolerance exemptions.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1,523 hours per response for registrants petitioning for an active ingredient tolerance, and 763 hours per response for registrants petitioning for an inert ingredient tolerance. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide registrants

Estimated No. of respondents: 626

Estimated total annual burden on respondents: 925,914 hours

Frequency of collection: On occasion

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project (2070–0057), Washington, DC 20503, (Telephone (202) 395–3084).

Dated: November 6, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–26677 Filed 11–13–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3679–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before December 13, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Pesticide Formulator/Packager Questionnaire (EPA ICR # 1215.01). This is a new collection.

Abstract: EPA is collecting data from Pesticide Formulator/Packagers on wastewater generation, characteristics and treatment. EPA will also collect financial and economic data. The data will be used to develop an affluent guidelines regulation.

Burden Statement: The estimated public reporting burden for this collection of information is 55 hours per respondent. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide Formulators/Packagers

Estimated No. of Respondents: 618

Estimated Total Annual Burden on Respondents: 34,196 hours

Frequency of Collection: One time

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460

and

Time Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 6, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–26678 Filed 11–13–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3680–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the

information collection and its expected cost and burden.

DATE: Comments must be submitted on or before December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Pesticide Formulator/Packager Questionnaire (EPA ICR # 1215.01). This is a new collection.

Abstract: EPA is collecting data from Pesticide Formulator/Packagers on wastewater generation, characteristics and treatment. EPA will also collect financial and economic data. The data will be used to develop an affluent guidelines regulation.

Burden Statement: The estimated public reporting burden for this collection of information is 55 hours per respondent. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide Formulators/Packagers

Estimated No. of Respondents: 618

Estimated Total Annual Burden on Respondents: 34,196 hours

Frequency of Collection: One time

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460

and

Time Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 6, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–26679 Filed 11–13–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3679–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Pesticide Formulator/Packager Questionnaire (EPA ICR # 1215.01). This is a new collection.

Abstract: EPA is collecting data from Pesticide Formulator/Packagers on wastewater generation, characteristics and treatment. EPA will also collect financial and economic data. The data will be used to develop an affluent guidelines regulation.

Burden Statement: The estimated public reporting burden for this collection of information is 55 hours per respondent. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide Formulators/Packagers

Estimated No. of Respondents: 618

Estimated Total Annual Burden on Respondents: 34,196 hours

Frequency of Collection: One time

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460

and

Time Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 6, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–26680 Filed 11–13–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3679–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Pesticide Formulator/Packager Questionnaire (EPA ICR # 1215.01). This is a new collection.

Abstract: EPA is collecting data from Pesticide Formulator/Packagers on wastewater generation, characteristics and treatment. EPA will also collect financial and economic data. The data will be used to develop an affluent guidelines regulation.

Burden Statement: The estimated public reporting burden for this collection of information is 55 hours per respondent. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide Formulators/Packagers

Estimated No. of Respondents: 618

Estimated Total Annual Burden on Respondents: 34,196 hours

Frequency of Collection: One time

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460

and

Time Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 6, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–26681 Filed 11–13–89; 8:45 am]

BILLING CODE 6560–50–M

Frequency of Response: On occasion.

Estimated Annual Burden: 40 responses; 160 hours total annual burden; 4 hours average burden per respondent.

Needs and Uses: The stolen vehicle

SUMMARY: In Public Law 100–504, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of

Subsistence	$44.13
Other Expenses	29.41
Total	$1,053.54

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information collection and its expected cost and burden.

DATE: Comments must be submitted on or before December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Pesticides Environment and Applicator Certification Cooperative Agreement: Output Projections-Accomplishments (EPA ICR # 1547.01; OMB # 2030–0020). This ICR requests reinstatement for part of a previously approved collection under a new clearance number.

Abstract: Under sections 23(a) and 26(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA requires governmental entities (states, territories, and Indian tribes) to which it has delegated primary enforcement authority and with which it has cooperative agreements in place to keep records and report to the Agency periodically on their pesticide enforcement activities—including projected and completed inspections, enforcement actions, and applicator certification activities. The Agency uses this information to monitor and evaluate delegated program performance as part of its overall pesticide enforcement program and to review and set funding levels for cooperative agreements.

Burden Statement: The public reporting burden for this collection of information is estimated to average 6.3 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States, territories, and Indian tribes with EPA cooperative grants

Estimated No. of Respondents: 64

Estimated Total Annual Burden on Respondents: 2013 hours

Frequency of Collection: Quarterly/Semi-annually

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project (2070–0057) Washington, DC 20503, (Telephone (202) 395–3084).

Dated: November 6, 1989.

Paul Lapsley,

Director Information and Regulatory Systems Division.

[FR Doc. 89-26679 Filed 11–13–89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3680–4]

Relative Risk Reduction Strategies Committee Environmental Risk Subcommittee Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of a public meeting of the Environmental Risk Subcommittee of the Relative Risk Reduction Strategies Committee (RRRSC). The Subcommittee will meet on November 30, 1989 (8:30 a.m. to 5 p.m.) and December 1, 1989 (9:30 a.m. to 1 p.m.) at the Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, Virginia 22091, (703) 620–9000.

PURPOSE: The purpose of this meeting is to discuss environmental and welfare-related risk reduction strategies based, in part, on an evaluation of EPA's 1987 report "Unfinished Business". For further information concerning this project, please refer to the notices contained in 54 FR 35386, August 25, 1989, and 54 Federal Register 38282, September 15, 1989.

FOR FURTHER INFORMATION: Members of the public wishing further information concerning the Subcommittee or the meeting should contact Mr. Robert Flaak, Designated Federal Official, U.S. Environmental Protection Agency (A–101F), 401 F Street SW, Washington, DC, (202) 382–2552, (FTS) 382–2552, FAX (202) 475–9693. Seating at the meeting is on a first come basis.

Dated: November 7, 1989.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 89-26681 Filed 11–13–89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3680–3]

Science Advisory Board Drinking Water Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a one-day meeting of the Drinking Water Committee of the Science Advisory Board will be held December 8, 1989 at Room 13 North, North Conference Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The meeting will be held from 8:30 a.m. to 5 p.m. on December 8, 1989.

The purpose of this meeting is to review a draft document concerning the kinetics of decomposition of chlorine and chloramines in saliva prepared for the Office of Drinking Water as part of their development of regulations for disinfectants and disinfection by-products. The meeting will be open to the public. Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, Washington, DC 20460 or contact him on 202–382–2552 by November 27, 1989. The Science Advisory Board expects that the public statements presented at this meeting will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: November 3, 1989.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 89-26680 Filed 11–13–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 3, 1989.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501–3520).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632–7513.

OMB Number: None.

Title: Section 90.19(f)(7)—Stolen Vehicle Recovery System Requirements.

Action: New collection.

Respondents: Businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 40 responses; 160 hours total annual burden; 4 hours average burden per respondent.

Needs and Uses: The stolen vehicle recovery system consists of a radio-receiver-transmitter installed in a hidden location in a motor vehicle to assist in its discovery if stolen. To ensure that interference to channel 7 television is avoided, licensees will be required to submit a plan to control any interference to television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-26648 Filed 11–13–89; 8:45 am]

BILLING CODE 6712-01-M

DA 89–1432 [CC Docket 88–2, Phase I]

FCC Announces Second Meeting of the ONA Joint Conference

Released: November 7, 1989.

The Federal/State Joint Conference on Open Network Architecture (ONA) will convene its second meeting at 10:30 on Tuesday, November 14, 1989, at the Boston Copley Place Marriott, 110 Huntington Avenue, Boston, Massachusetts. The meeting will be open to the public, although participation is limited to Conference members and FCC Commissioners.

The Joint Conference serves as an ongoing forum for state/federal cooperation to facilitate the development and implementation of ONA. The creation of a Joint Conference was initially announced in the Federal Communication Commission's BOC ONA Order (4 FCC Rcd 1 (1989)). Three FCC Commissioners and thirteen state commissioners serve as Conference members.

For further information contact Steven Gorosh, Policy and Program Planning Division, Common Carrier Bureau, at (202) 632–4047, or Sarah Lawrence, Office of Public Affairs, at (202) 632–5050.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-26649 Filed 11–13–89; 8:45 am]

BILLING CODE 6712-01-M

Quarterly Report on the Travel Reimbursement Program

AGENCY: Federal Communications Commission.

ACTION: Publishing of Quarterly Report on Travel Reimbursement Program.

SUMMARY: In Public Law 100–504, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by each event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee of Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. In addition the Federal Register must publish each quarterly report in the Federal Register.

DATE: This report is for the period from August 1, 1989 through September 30, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph T. Hall, Office of the Managing Director, (202) 632–7194.

SUPPLEMENTARY INFORMATION: The report for the quarter ending September 30, 1989 is as follows:

Federal Communications Commission, Travel Reimbursement Program, July 1, 1989–September 30, 1989, Summary Report

Total Number of Sponsored Events	7
Total Number of Sponsoring Organizations	7
Total Number of Commissioners/Employees Attending	8

Total Amount of Reimbursement Expected:

Transportation	$3,226.00
Subsistence	1,235.83
Other Expenses	305.02
Total	$4,766.65

Individual Event Reports Attached.

Amount of Reimbursement Shown May Be Estimated.

Federal Communications Commission, Travel Reimbursement Program, Individual Event Report

Sponsoring Organization: American Bar Association, 750 North Lake Shore Drive, Chicago, IL 60611

Date of Event: Augut 6, 1989

Description of the Event: To participate in a forum concerning the current status of Dial-A-Porn, sponsored by the ABA.

Commissioners Attending: None

Other Employees Attending: Sue Ann Preskill—Trial Attorney—Office of General Counsel

Amount of Reimbursement:

Transportation	$660.00
Subsistence	344.13
Other Expenses	29.41
Total	$1,053.54

Federal Communications Commission, Travel Reimbursement Program, Individual Event Report

Sponsoring Organization: Associated Public-Safety Communications Officers, Inc., P.O. Box 669, New Smyrna Beach, FL 32070

Date of the Event: August 7, 1989

Description of the Event: To participate in Associated Public-Safety Communications Officers, Inc. annual meeting

Commissioners Attending: None

Other Employees Attending: Ralph Haller—Bureau Chief, Beverly Baker—Deputy Bureau Chief, Private Radio Bureau

Amount of Reimbursement:

Transportation	$1,124.00
Subsistence	218.00
Other Expenses	110.06
Total	$1,452.06

Federal Communications Commission, Travel Reimbursement Program, Individual Event Report

Sponsoring Organization: Allied Broadcast Equipment, 3712 National Road West, Richmond, IN 47375

Date of the Event: September 7–8, 1989

Description of the Event: To address the annual sales meeting of broadcast equipment sales engineers

Commissioners Attending: None

Other Employees Attending: John W. Reiser—Electronics Engineer—Engineering Policy Branch, Mass Media Bureau

Amount of Reimbursement:

Transportation	$204.00
Subsistence	19.50
Other Expenses	5.55
Total	$229.05

Federal Communications Commission, Travel Reimbursement Program, Individual Event Report

Sponsoring Organization: Columbia Institute, 8 E Street SE., Washington, DC 20003

Date of the Event: September 11, 1989

Description of the Event: To speak at the Conference of High Technology and Future of the American Economy

Commissioners Attending: Alfred C. Sikes—Chairman

Other Employees Attending: None

Amount of Reimbursement:

Transportation	$350.00
Subsistence	85.00
Other Expenses	20.00
Total	$455.00

Federal Communications Commission; Travel Reimbursement Program; Individual Event Report

Sponsoring Organization: National Association of Broadcasters, 1771 N. Street

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-26650 Filed 11–13–89; 8:45 am]

BILLING CODE 6712-01-M

Management Agency, Washington, DC 20472 (202) 646–3614.

Notice: Notice is hereby given that, in a letter dated October 30, 1989, the President declared a major disaster

FEDERAL RESERVE SYSTEM

The Saitama Bank, Ltd., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *F.N.B. Corporation,* Hermitage, Pennsylvania; to expand the activities of

Matters To Be Discussed: The Committee will discuss priority setting, interagency coordination, intramural and extramural programs, and map out its agenda for future meetings.

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Federal Communications Commission; Travel Reimbursement Program; Individual Event Report

Sponsoring Organization: National Association of Broadcasters, 1771 N. Street NW., Washington, DC 20036
Date of the Event: August 28, 1989
Description of the Event: To participate in the Engineering Seminar on AM Directional Antenna Systems.
Commissioners Attending: None
Other Employees Attending: John D. Sadler—Communications Industry Specialist, AM Branch, Mass Media Bureau

Amount of Reimbursement:

Transportation	$302.00
Subsistence	144.00
Other Expenses	40.00
Total	$666.00

Federal Communications Commission; Travel Reimbursement Program; Individual Event Report

Sponsoring Organization: Great Lakes Cable Expo, 50 West Broad Street, Columbus, OH 43215
Date of the Event: September 20, 1989
Description of the Event: To participate at the Illinois Cable Television Association's "Great Lakes Cable Expo".
Commissioners Attending: Andrew C. Barrett—Commissioner
Other Employees Attending: None

Amount of Reimbursement:

Transportation	$318.00
Subsistence	123.00
Other Expenses	50.00
Total	$491.00

Federal Communications Commission; Travel Reimbursement Program; Individual Event Report

Sponsoring Organization: United States Telephone Association, 900 19th Street NW., Suite 800, Washington, DC 20006–2105
Date of the Event: September 26–27, 1989
Description of the Event: To participate in USTA's seminar on Integrated Services Digital Network (ISDN).
Commissioners Attending: None
Other Employees Attending: Charles M. Oliver—Attorney-Advisor, Policy and Program Planning Division, Common Carrier Bureau

Amount of Reimbursement:

Transportation	$248.00
Subsistence	102.00
Other Expenses	50.00
Total	$400.00

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89–26650 Filed 11–13–89; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–846–DR]

Kentucky; Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA–846–DR), dated October 30, 1989, and related determinations.

DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice: The notice of a major disaster for the Commonwealth of Kentucky, dated October 30, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 30, 1989:

Knox County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,
Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.
[FR Doc. 89–26671 Filed 11–13–89; 8:45 am]
BILLING CODE 6718–02–M

[FEMA–846–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–846–DR), dated October 30, 1989, and related determinations.

DATED: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice: Notice is hereby given that, in a letter dated October 30, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky, resulting from severe storms, flooding, and mudslides on October 16–18, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288, as amended by Public Law 100–707. I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288, as amended by PL 100–707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Adamcik of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

The counties of Clay, Floyd, Jackson, Knott, Leslie, Letcher, Magoffin, Owsley, Perry, and Pike for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Robert H. Morris,
Acting Director, Federal Emergency Management Agency.
[FR Doc. 89–26672 Filed 11–13–89; 8:45 am]
BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

The Saitama Bank, Ltd., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Saitama Bank, Ltd.*, Saitama, Japan; to engage *de novo* through its subsidiary, Saitama Bank Trust Company of New York, New York, New York, in trust company functions pursuant to § 225.25(b)(3); and financial advisory activities pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *F.N.B. Corporation*, Hermitage, Pennsylvania; to expand the activities of its wholly-owned subsidiary, Mortgage Service Corporation, Pittsburgh, Pennsylvania, to include the origination and servicing of all types of consumer and commercial loans and to engage in providing loan marketing and advisory services pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *MNC Financial, Inc.*, Baltimore, Maryland; to engage *de novo* in the making of equity and debt investments in low income housing construction or rehabilitation projects designed primarily to promote community welfare pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Maryland, District of Columbia, Virginia, West Virginia, Delaware, and Pennsylvania.

Board of Governors of the Federal Reserve System, November 8, 1989.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 89–26626 Filed 11–13–89; 8:45 am]
BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

CDC Advisory Committee for Injury Prevention and Control; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following Committee meeting:

Name: CDC Advisory Committee on Injury Prevention and Control, HHS.
Time and Date: 8:30 a.m.–5:00 p.m.—November 29, 1989, 8:30 a.m.–12:00 noon—November 30, 1989.
Place: Holiday Inn Decatur Conference Plaza, 130 Clairmont Avenue, Decatur, Georgia 30030.
Status: Open to the public, limited only by space available.
Purpose: The Committee will make recommendations on policy, strategy, objectives, and priorities including the balance and mix of intramural and extramural research; advise on the development of a national plan for injury prevention and control and the development of new technologies and their application; and review progress toward injury prevention and control.

Matters To Be Discussed: The Committee will discuss priority setting, interagency coordination, intramural and extramural programs, and map out its agenda for future meetings.

Agenda items are subject to change as priorities dicate.

Contact Person for More Information: Mark Rosenberg, M.D., Director, Division of Injury Epidemiology and Control, Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE, Mailstop F–36, Atlanta, Georgia 30333, telephone: FTS: 236–4690; Commercial: 404/488–4690.

Dated: November 7, 1989.
Elvin Hilyer,
Associate Director for Policy Coordination, Centers for Disease Control.
[FR Doc. 89–26633 Filed 11–13–89; 8:45 am]
BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 89M–0425]

Allergan Medical Optics; Premarket Approval of Models AC–21 Non-Ultraviolet-Absorbing and AC–21B Ultraviolet-Absorbing Anterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Allergan Medical Optics, Santa Ana, CA, for premarket approval, under the Medical Device Amendments of 1976 (the amendments), of the Models AC–21 Non-Ultraviolet-Absorbing and AC–21B Ultraviolet-Absorbing Anterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 29, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 14, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301–427–1212.

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SUPPLEMENTARY INFORMATION: On July 6, 1987, Allergan Medical Optics, Santa Ana, CA 92799–5155, submitted to CDRH an application for premarket approval of the Models AC–21 Non-Ultraviolet-Absorbing and AC–21B Ultraviolet-Absorbing Anterior Chamber Intraocular Lenses. The devices are indicated for the visual correction of aphakia in patients 60 years of age and older where a cataractous lens has been removed by primary intracapsular cataract extraction (ICCE), or primary extracapsular cataract extraction (ECCE), where there is a structural reason that the anterior chamber lens is the preferred one, or other primary ECCE provided that this be performed only after the physician has compared the published results of the anterior chamber lens with posterior chamber lenses; or in a secondary implant procedure. The devices are available in a range of powers from 4 diopters (D) through 34 D in 0.5–D increments.

On April 21, 1988, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 29, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 13, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 6, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89–26651 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89M–0362]

IOLAB® Intraocular; Premarket Approval of KRATZ™ Models 7243 and 7283, KRATZ™ Lightweight Models 8203 and 8233, KRATZ/JOHNSON Lightweight Model 8663 and Wide Loop Lightweight Model 8403 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by IOLAB® Intraocular, Claremont, CA, for premarket approval, under the Medical Device Amendments of 1976, of KRATZ™ Models 7243 and 7283, KRATZ™ Lightweight Models 8203 and 8233, KRATZ/JOHNSON Lightweight Model 8663 and WIDE LOOP Lightweight Model 8403 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 21, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 14, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301–427–1212.

SUPPLEMENTARY INFORMATION: On August 18, 1988, IOLAB® Intraocular, Claremont, CA 91711, submitted to CDRH an application for premarket approval of KRATZ™ Models 7243 and 7283, KRATZ™ Lightweight Models 8203 and 8233, KRATZ/JOHNSON Lightweight Model 8663 and WIDE LOOP Lightweight Model 8403 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses. The devices are intended to be used for primary implantation for the visual correction of aphakia in patients 60 years of age and older where a cataractous lens has been removed by extracapsular extraction methods. These lenses are intended to be placed in the ciliary sulcus or capsular bag. The devices are available in a range of powers from 4 diopters (D) through 34 D in 0.5 D increments.

On January 26, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 21, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 14, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 6, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89–26653 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89M–0427]

Lombart Lenses Ltd.; Premarket Approval of LL–55™ (Methafilcon A) Soft Hydrophilic Contact Lenses and LL–55 Toric™ (Methafilcon A) Soft Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Lombart Lenses Ltd., Norfolk, VA, for premarket approval, under the Medical Device Amendments of 1976, of the spherical LL–55™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the LL–55™ TORIC™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with Kontur Kontact Lens Co., Inc., Richmond, CA, which has authorized Lombart Lenses Ltd. to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lens. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of September 28, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 14, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1060.

SUPPLEMENTARY INFORMATION: On July 19, 1989, Lombart Lenses Ltd., Norfolk, VA 23507, submitted to CDRH an application for premarket approval of the spherical LL–55™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the LL–55 TORIC™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The spherical lenses are indicated for daily wear from 1 to 7 days between removals for cleaning and disinfection as recommended by the eye-care practitioner. The lenses are indicated for the correction of visual acuity in aphakic and not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The lenses are indicated in a power range of −20.00 D to +20.00 for daily wear and −20.00 D to +10.00 D for extended wear. The toric lenses are indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic and have astigmatism up to 5.00 D and can obtain satisfactory visual acuity with the lenses. These lenses range in spherical powers from −20.00 D to +12.00 D. These lenses are to be disinfected using either a chemical or hydrogen peroxide lens care system. The application includes authorization from Kontur Kontact Lenses Co., Inc., Richmond, CA 94804, to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lens.

On September 28, 1989, CDRH approved the application by letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above. The labeling of the spherical LL–55™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the LL–55 TORIC™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request

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either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 14, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26054 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0436]

Ocular Technologies, Inc.; Premarket Approval of OTI-05 (Polymacon) Soft Contact Lenses and LATHE-40 (Polymacon) Soft Contact Lenses (Clear)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Ocular Technologies, Inc., Raleigh, NC, for premarket approval, under the Medical Device Amendments of 1976, of the clear spherical OTI-05 (polymacon) Soft Contact Lenses and LATHE-40 (polymacon) Soft Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with CTL, Inc., Sunnyvale, CA, which has authorized Ocular Technologies, Inc., to incorporate information contained in its approved premarket approval application and related supplements for the clear CustomEyes™-38 (polymacon) Hydrophilic Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of September 5, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 13, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On May 25, 1989, Ocular Technologies, Inc., Raleigh, NC 27609, submitted to CDRH an application for premarket approval of the spherical OTI-05 (polymacon) Soft Contact Lenses and LATHE-40 (polymacon) Soft Contact Lenses. The lenses are indicated for daily wear use for the correction of visual acuity in aphakic and not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The lenses are indicated in a power range of −9.00 D to +15.00 D and are to be disinfected using either a heat or chemical disinfection system. The application includes authorization from CTL, Inc., Sunnyvale, CA 94086, to incorporate information contained in its approved premarket approval application and related supplements for the clear CustomEyes™-38 (polymacon) Hydrophilic Contact Lenses.

On September 5, 1989, CDRH approved the application by letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the clear spherical OTI-05 (polymacon) Soft Contact Lenses and LATHE-40 (polymacon) Soft Contact Lenses for daily wear states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 13, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the

Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26052 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Establishment of Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972. [Pub. L. 92-463, 86 Stat. 770-776] and section 222 of the Public Health Service Act, as amended [42 U.S. Code 217a), the Acting Director, National Institutes of Health, announces the reestablishment by the Secretary, Department of Health and Human Services, on October 12, 1989. of the Acquired Immunodeficiency Syndrome Program Advisory Committee.

The Acquired Immunodeficiency Syndrome Program Advisory Committee advises the Secretary, the Assistant Secretary for Health, the Director, NIH, the NIH AIDS Coordinator, and the NIH AIDS Executive Committee on long- and short-term planning to meet research needs in AIDS. Specifically, the committee shall identify opportunities to further research in AIDS; recommend areas in which research should be stimulated; and suggest conferences, workshops or other activities NIH should support to facilitate exchange of information.

Unless renewed by appropriate action prior to expiration, the Acquired Immunodeficiency Syndrome Program Advisory shall terminate two years from the reestablishment date.

Dated: November 6, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 89-26617 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

Notice of Meeting of the Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on December 11-12, 1989, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9 a.m. to 4 p.m. on December 11, and from 9 a.m. to 12:30 p.m. on December 12 in Building 31, C Wing, Conference Room 10. The meeting will be open to the public. The purpose of the meeting is to discuss recent developments relating to HIV infection in clinical trials, epidemiology, and central nervous system manifestations.

Anthony S. Fauci, M.D., Associate Director for Office of AIDS Research, National Institutes of Health, Shannon Building, Room 201, Bethesda, Maryland 20892, (301) 496-0357, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Dated: November 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-26616 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given to amend the notice of the Cancer Clinical Investigation Review Committee which was published in the **Federal Register** (54 FR 38451) on September 18, 1989.

The Committee was originally scheduled to meet on November 30-December 1, 1989, from 8:30 a.m. to adjournment at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814. The meeting will now meet on December 12, 1989, at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814 commencing at 9 a.m. The meeting will be open from 8:30 a.m. to 9 a.m. and closed from 9 a.m. to 6 p.m.

Dated: November 6, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-26619 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of President's Cancer Panel

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, December 11, 1989, at The National Institutes of Health, Building 31, Conference Room 6, Bethesda, MD 20892.

This meeting will be open to the public on December 11 from 9 a.m. to 12 noon. Attendance will be limited to space available. Agenda items will include reports by the Chairman, President's Cancer Panel, members of the Executive Committee and staff of the National Cancer Institute, and others representing the Department of Health and Human Services.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A29, National Institutes of Health, Bethesda, Maryland 20892 (301/496-1148) will provide a roster of the Panel members, and substantive program information upon request.

Dated: November 6, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-26620 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Center For Health Services Research and Health Care Technology Assessment; Assessment of Cardiac Rehabilitation Program Services for PTCA and Cardiac Valve Surgery Patients

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is performing an assessment of the safety, clinical effectiveness, and indications for use of cardiac rehabilitation program services for Percutaneous Transluminal Coronary Angioplasty (PTCA) and cardiac valve surgery patients. A previous assessment, cardiac rehabilitation services, was published by OHTA in 1987. A notice of that assessment appeared in the August 15, 1985 **Federal Register** Vol. 50 No. 158:32911 (50 FR 32911). Cardiac rehabilitation services are intended to identify patients at increased risk for further cardiac events as well as to restore their functional status.

Specifically, we are interested in knowing whether there are significant advantages of cardiac rehabilitation program services for PTCA and cardiac valve surgery patients. If it proves to be safe and clinically effective, what are specific indications for its use and how many courses of therapy are reasonable and necessary?

The PHS assessment process consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist HCFA in establishing a Medicare coverage policy. The information being sought is a review

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and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as to the clinical acceptability and the effectiveness of this technology and extent of use, is also being sought. Proprietary information is not being requested. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than January 19, 1990, or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 306(d). Indicate whether disclosure is acceptable.

Written material should be submitted to: Diane L. Adams, M.D., M.P.H., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18–40, Rockville, MD 20857 (301) 443–4990.

Dated: October 20, 1989.

Donald Goldstone,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 89–26664 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–17–M

National Center For Health Services Research and Health Care Technology Assessment; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of the safety and effectiveness of positron emission tomography (PET) as a diagnostic and management tool for use in patients with coronary artery disease, focal or partial epilepsy, and brain tumors.

This assessment will be concerned with the uses of PET in (a) diagnosis and evaluation of the severity of coronary artery disease, (b) assessment of myocardial viability, (c) localization of seizure focus for surgical excision, and (d) differentiation of radiation necrosis from recurrent tumor in the brain. This assessment seeks to answer the following questions: (1) Does PET provide information of value to a clinician that is not otherwise available? (2) What is the extent of any incremental benefit obtained from the use of PET when the information obtained is comparable to that available from other diagnostic modalities? (3) How does the sensitivity and specificity of PET compare with other diagnostic modalities currently in use? (4) What is the extent of interobserver and intraobserver error associated with the clinical condition being assessed? (5) Where does PET fit in the overall scheme of diagnostic testing? Should it be used in lieu of, or in additon to, other diagnostic modalities? (6) What patient selection criteria should be applied?

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety, clinical effectiveness, and appropriate uses of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use are also being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than January 31, 1990 or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 306(d). Indicate whether disclosure is acceptable.

Written material should be submitted to: S. Steven Hotta, M.D., Ph.D., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18–40, Rockville, MD 20857 (301) 443–4990.

Dated: October 20, 1989.

Donald Goldstone,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 89–26661 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–17–M

Assessment of Medical Technology: Regional Hyperthermia Alone and in Conjunction With Chemotherapy for the Treatment of Tumors

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is performing an assessment of the safety, clinical effectiveness, and indictions for use of regional hyperthermia alone and in conjunction with chemotherapy for the treatment of tumors. A previous assessment, local hyperthermia for treatment of superficial and subcutaneous malignancies, was published by OHTA in 1984. A notice of that assessment appeared in the March 13, 1984, **Federal Register**, Vol. 49, No. 50:9476. That assessment recommended that (a) local hyperthermia should be covered under Medicare when used in conjunction with radiation therapy for the treatment of primary or metastatic cutaneous or subcutaneous superficial malignancies; (b) local hyperthermia *not* be covered under Medicare when used alone or in connection with chemotherapy. The Health Care Financing Administration (HCFA) adopted that PHS recommendation. They have now requested that OHTA evaluate the use of Regional Hyperthemia Alone and in Conjunction with Chemotherapy for the Treatment of Tumors.

Hyperthermia involves the production of local or regional heat in neoplasms without directly raising the temperature of uninvolved areas.

This assessment seeks to answer the following questions: (a) What are the beneficial effects of heat, vasodilation, enhanced pharmacologic activity, and the direct effect of heat on the tumor; (b) What complications are associated with regional hyperthermia and with chemotherapy for the treatment of tumor; (c) What evidence to date show that regional hyperthermia may have an impact upon cancer survival rates; (d) What stage of the malanoma seems to show the best improvement of survival rates following heated perfusion? (e) What other treatment is available beside amputation for diffuse melanoma involving the upper and lower extremities?

The PHS assessment process consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist HCFA in establishing a Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as to the clinical acceptability and the effectiveness of this technology and extent of use, is also being sought. Any person or group wishing to provide OHTA with informaton relevant to this assessment should do so in writing no later than February 19, 1990, or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 306(d). Indicate whether disclosure is acceptable.

Written material should be submitted to:

Diane L. Adams, M.D., M.P.H.,

Office of Health Technology Assessment, 5600 Fishers Lane, Room 18–40, Rockville, MD 20857, (301) 443–4990.

Dated: November 3, 1989.

Donald Goldstone,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research, and Health Care Technology Assessment.

[FR Doc. 89–26660 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Oral Comments Concerning Draft Natural Resource Damage Assessment Plan and Restoration Strategy for the Exxon Valdez Tanker Accident

AGENCY: Department of the Interior.

ACTION: Draft Natural Resource Damage Assessment Plan and Restoration Strategy for the *Exxon Valdez* Oil Spill; provision for oral comments.

SUMMARY: This Notice announces the opportunity for those who have submitted written comments on the Draft Natural Resource Damage Assessment Plan and Restoration Strategy to present elaborative oral comments in the near future. The draft plan was made available to the public on August 18, 1989, by notice published in the **Federal Register** on August 15, 1989, 54 FR 33618, that required all comments to be submitted by September 30, 1989. The written comment period was later extended to October 30, 1989, 54 FR 39586, September 27, 1989.

SUPPLEMENTARY INFORMATION: The March 24, 1989, grounding of the tanker Exxon Valdez in Alaska's Prince William Sound caused the largest oil spill in U.S. history. Approximately 11 million gallons of North Slope crude moved through the southwestern portion of the Sound and along the coast of the western Gulf of Alaska, causing extensive harm to natural resources.

The draft plan described the process by which that harm will be evaluated so that compensation can be sought from those potentially responsible for the spill. The State of Alaska and three federal agencies (the Departments of Agriculture and the Interior and NOAA) are the responsible trustees to protect and assess injuries to natural resources as provided by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act (CWA). The Environmental Protection Agency (EPA) is a consultant to the Trustee Council.

The Trustee Council has determined that it would be beneficial to provide the opportunity for those who provided written comments to present oral comments elaborating on their written comments. Such times and places are yet to be determined. All those who provided written comments will be sent a notice outlining the procedure for submitting a statement of oral comments. Oral comments shall be limited to elaborating upon written comments, which the party submitted on the Draft Assessment Plan. Oral comments should be technical in nature and for clarification of written comments. It is expected that the sessions will be conducted during November or early December and will take place in Alaska and Washington, DC. Parties wishing to comment need only appear at one of the meetings.

In addition, when appropriate, restoration alternatives will be made available for public comment by the Trustee Council.

David A. Watts,

Acting Associate Solictor, Conservation and Wildlife.

[FR Doc. 89–26832 Filed 11–9–89; 3:33 pm]

BILLING CODE 4310–10–M

Bureau of Land Management

Temporary Emergency Closure of the Barstow to Las Vegas Motorcycle Race Course, Barstow and Needles Resource Areas, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure on public lands in eastern San Bernardino County, California.

SUMMARY: Notice is hereby given that a temporary emergency closure of public lands on the Barstow to Las Vegas Motorcycle Race Course and the two pit areas. The course is closed to all uses except the permitted race vehicles, pit crews and authorized race officials. The closure includes, but is not limited to the following activities: driving, walking, standing, camping, spectating, protesting, and vandalism. This closure begins where the course enters public lands from Fort Irwin at the southwest corner of Section 5, Township 13 north, Range 6 east. The course travels to the northeast to the boundary of the state of Nevada in the southeast quarter of Section 7, Township 17 north, Range 15 east. The course length is approximately 100 miles. Pit 1 is located about 4 miles west of Highway 127 between the Boulder corridor and Silver Lake, covering an area of 75 feet wide by ¾ of a mile long. Pit 2 is located in Bull Spring Wash 2 miles south of Turquoise Mountain, covering an area of 75 feet by 1 mile. Pit 3 is located ½ mile south of the Boulder corridor on the California side of the Nevada boundary, covering an area about 75 feet by 1 mile.

Order: Effective November 23 through 26, 1989, the following temporary emergency closure restrictions will be in effect for the Barstow to Las Vegas Motorcycle Race Course and the three pit areas. All human activity, except

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those associated with the normal operation of the permitted event will be excluded from the race course and the pit areas. Human activities include but are not limited to the following activities: driving, walking, standing, camping, spectating, protesting, and vandalism. Exceptions to the exclusions would include permitted racing, pit crews and their camps, authorized races officials conducting check point operations, rescue, assistance, security, and follow-up safety sweep of the course.

Authority for the temporary closure and interim use restrictions is contained in title 43 CFR 8364. Violation of these restrictions is punishable by a fine not to exceed $1,000 and/or 12 months in jail.

SUPPLEMENTARY INFORMATION: The purpose of the temporary closure and use restrictions is to provide protection for the desert tortoise and its habitat from unauthorized activities. The only area open to spectators is the start line, located within Fort Irwin. The remainder of the course will have restricted access. The desert tortoise has been listed on an emergency basis as an endangered species by the U.S. Fish and Wildlife Service. The race course uses existing routes of travel to cross tortoise habitat. Unauthorized activities on or adjacent to the race course and the pit areas would put the race participants and the desert tortoise at risk.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, (714) 351–6386, or Alden Sievers, Area Manager, Bureau of Land Management, 150 Coolwater Ln., Barstow, California 92311, (619) 256–3591.

Dated: November 7, 1989.

H.W. Riecken,

Acting District Manager.

[FR Doc. 89–26634 Filed 11–13–89; 8:45 am]

BILLING CODE 4310–40–M

[NM–010–4130–12–GPO–0003]

Availability for the Molycorp Guadalupe Mountain Tailings Disposal Facility Final Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management, Albuquerque District, announces the availability of the Molycorp Guadalupe Mountain Tailings Disposal Facility FEIS for public review and comment. This document analyzes whether the proposed tailings facility will result in any unnecessary or undue degradation of the public lands near Questa, New Mexico, in BLM's the Taos Resource Area.

DATE: Comments on the Final EIS can be submitted for a period of 30 days following EPA's Federal Register Notice of the EIS availability.

ADDRESS: Comments should be sent to Robert Dale, District Manager, Bureau of Land Management, Albuquerque District Office, 435 Montano NE., Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Kent Hamilton, Bureau of Land Management, Albuquerque, District Office, 435 Montano NE., Albuquerque, New Mexico 87107, telephone commercial (505) 761–4546, FTS 474–4546.

SUPPLEMENTARY INFORMATION: Molycorp Inc., has applied for approval of a "Plan of Operations" for a 1,230 acre tailings disposal facility to be on millsite claims located on Guadalupe Mountain near Questa, New Mexico, pursuant to 30 U.S.C. section 42 (1976). In the case of an action authorized under the mining laws, the only required determination is whether the proposal will result in any unnecessary or undue degradation of the public lands; there is no provision for a discussion of alternatives.

The Final EIS was prepared by ENSR Consulting and Engineering a third party contractor for the Bureau of Land Management.

A copy of the Final EIS will be sent to all individuals, government agencies and groups who have expressed an interest in the project. In addition, review copies may be examined at the following locations:

Bureau of Land Management, Taos Resource Area Office, Plaza Montevideo, Cruz Alto Road, Taos, New Mexico 87571–1045.

Bureau of Land Management, New Mexico State Office, South Federal Place, Joseph M. Montoya Federal Building, Sante Fe, New Mexico 87504–1449.

Dated: November 6, 1989.

Katy J. Eaton,

Acting State Director.

[FR Doc. 89–26635 Filed 11–13–89; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–020–41–5410–ZAQH; AZA–24106]

Receipt of Conveyance of Mineral Interest Application

Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Barnabas Hugh Wasson has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 10 N., R. 5 W.,

Sec. 10, NW¼, N½SW¼, SW¼SW¼.

Containing 280 acres.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface ownership, for the lands described above, where there are no known mineral values or in those instances where the reservation of ownership of the mineral interest in the United States interferes with or precludes appropriate non-mineral development of the lands and such development would be a more beneficial use of the lands than its mineral development.

Additional information concerning this application may be obtained from the Area Manager, Lower Gila Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the Federal Register, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the Federal Register specifying the date and time of opening, either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, October 27, 1989, whichever occurs first.

Dated: October 30, 1989.

Charles Frost,

Associate District Manager.

[FR Doc. 89–26611 Filed 11–13–89; 8:45 am]

BILLING CODE 4310–32–M

[NV–930–09–4212–11; N–25810]

Termination of Recreation and Public Purpose Classification and Order Providing for Opening of Land; Nevada

November 2, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates Recreation and Public Purpose (R&PP) Classification N–25810 in its entirety. The land will be opened to the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: Termination is effective with the publication of this document. The land will be open to entry at 10 a.m. on December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, BLM, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–328–6326.

SUPPLEMENTARY INFORMATION: Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of Bureau of Land Management Manual 1203 dated April 14, 1967, Recreation and Public Purpose Classification N–25810 is hereby terminated in its entirety:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E., sec. 15, SW¼SW¼SW¼.

The area described contains 10 acres in Clark County.

The classification made pursuant to the Act of June 14, 1926, as amended, segregated the public land from all other forms of appropriation under the public land laws, including location under the United States mining laws and the mineral leasing laws. The land was leased to Clark County for a solid waste transfer station. The site was never developed and the lease expired November 12, 1985. There are no other applications pending. The classification is no longer considered appropriate.

At 10:00 a.m. on December 14, 1989, the land will be open to the operation of the public land laws and the mineral leasing laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10:00 a.m. on December 14, 1989 will be considered as simultaneously filed. All other applications received will be considered in order of filing.

At 10:00 a.m. on December 14, 1989, the land will also be open to the operations of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Fred Wolf,

Associate State Director, Nevada.

[FR Doc. 89–26606 Filed 11–13–89; 8:45 am]

BILLING CODE 4310–HC–M

Realty Action; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of Notice COC–49757.

SUMMARY: The legal descriptions for three of the public land parcels classified for Recreation and Public Purposes lease in the notice published on May 19, 1989 (54 FR 21677) should read as follows:

Sixth P.M., Colorado

T. 18 S., R. 72 W.,
Section 21; that portion of the S½SW¼NW¼ and the N½NW¼SW¼ between the thread of the Arkansas River and U.S. Highway 50 containing two acres known as the Bootlegger parcel.

T. 49 N., R. 10 E.,
Section 28; that portion of lots 7, 8, and 9 between the thread of the Arkansas River and U.S. Highway 50 containing approximately 8 acres and known as the Riccon site.

T. 48 N., R. 12 E.,
Section 21; that portion of lot 8 and the SW¼SW¼ between the thread of the Arkansas River and U.S. Highway 50.
Section 28; that portion of the NW¼NW¼ between the thread of the Arkansas River and U.S. Highway 50.
Section 29; that portion of the NE¼NE¼ between the thread of the Arkansas River and U.S. Highway 50. This site contains approximately 30 acres known as the Lone Pine site.

Dennie R. Spanka,

District Manager.

[FR Doc. 89–26607 Filed 11–13–89; 8:45 am]

BILLING CODE 4310–JB–M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On September 8, 1989, a notice was published in the Federal Register (54 FR 37382) that an application had been filed with the Fish and Wildlife Service by Fish & Wildlife Service, Alaska Office of Fish & Wildlife Research (PRT–690038) for a permit to amend their current marine mammal permit, PRT 690038, to include testing of the Bio-Electrical Impedance (BIA) as a means of measuring the fat and fat free body mass of polar bears (*Ursus maritimus*).

Notice is hereby given that on October 23, 1989 as authorized by the Marine Mammal Protection Act of 1972 (16 USC 1361–1407) the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Office of Management Authority, 4401 North Fairfax Drive, Arlington, VA 22203.

Dated: November 8, 1989.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 89–26665 Filed 11–13–89; 8:45 am]

BILLING CODE 4510–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nomination for the following properties being considered for listing in the National Register were received by the National Park Service before November 4, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 29, 1989.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Pulaski County

Herschell—Spillman Carousel, War Memorial Park midway, Little Rock, 89002065

FLORIDA

Columbia County

Fort White Public School Historic District, E. Dorch at N. Bryant St., Fort White, 89002061

St. Lucie County

St. Lucie Village Historic District, 2305—3305 N. Indian River Dr., St. Lucie Village, 89002062

Sarasota County

Armada Road Multi-Family District (Venice MPS), Roughly bounded by Granada Ave., Harbor Dr. S., Armada Rd. S., and Park Blvd. S., Venice, 89002049

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Wayne National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of determination of valid existing rights within the Wayne National Forest.

SUMMARY: This notice announces the decision of the Director, Office of Surface Mining Reclamation and Enforcement (OSM), that Belville Mining Company (Belville) has not established valid existing rights (VER) for five properties in the Wayne National Forest in Ohio.

EFFECTIVE DATE: November 14, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43227, Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On January 21, 1981, OSM published in the Federal Register (46 FR 5915) a notice of its decision that surface coal mining operations could not be conducted on certain lands within the Wayne National Forest unless valid existing rights could be established. The decision was based on the unsuitability criteria for mining in the Wayne National Forest, which were published on January 4, 1981 (46 FR 1420). The unsuitability criteria prohibit surface coal mining operations on lands within the boundaries of the Wayne National Forest unless valid existing rights can be established.

On August 15, 1988, Belville submitted to OSM a request for a determination of VER for five properties in the Wayne National Forest. By letter dated September 14, 1988, OSM informed Belville that it had not established VER for the five properties in question. By letter dated October 14, 1988, Belville asked OSM to reconsider its prior

the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the

preserve residence for naturalization purposes.

(5) 4,000 estimated annual respondents at .25 hours per response.

(6) 1,000 estimated annual public

the United States. Summary statistics are published in a comprehensive annual and used for other law enforcement planning.

(5) 1,371 respondents, 12 responses per

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Sarasota County

Armada Road Multi-Family District (Venice MPS), Roughly bounded by Granada Ave., Harbor Dr. S., Armada Rd. S., and Park Blvd. S., Venice, 89002049

Edgewood Historic District (Venice MPS), Roughly bounded by School St., Myrtle Ave., Venice-By-Way, and Groveland Ave., Venice, 89002048

Venezia Park Historic District (Venice MPS), Roughly bounded by Palermo St., Sorrento St., S. Harbor Dr., and Salerno St., Venice, 89002047

MASSACHUSETTS

Essex County

Adventure (schooner), State Fish Pier, Gloucester Inner Harbor, Gloucester, 89002054

Suffolk County

Sheffield Center Historic District, Roughly US 7/Main St. from Miller Ave. to Salisbury Rd., Sheffield, 89002060

MISSISSIPPI

Harrison County

Dantzler, G.B., House, 1238 E. Beach Blvd., Gulfport, 89002051

Hinds County

Lewis, Ervin, House, 5461 Old Byram Rd., Byram, 89002052

Lauderdale County

Standard Drug Company 601 25th Ave., Meridian, 89002050

Lowndes County

Ervin, William E., House, Armstrong Rd./Rt. 4, SE of Columbus, Columbus vicinity, 89002053

NEW HAMPSHIRE

Belknap County

First Baptist Church of Gilmanton, Province Rd./NH 107, .25 mi. N of Stage Rd., Gilmanton, 89002059

Carroll County

Moultonborough Town House, NH 25, .3 mi. SW of NH 109, Moultonborough, 89002057

Union Hotel, Main St. at Chapel St., Wakefield, 89002055

Hillsborough County

Killicut—Way House, 2 Old House Ln., Nashua, 89002056

McClure—Hilton House, 16 Tinker Rd., Merrimack, 89002058

OREGON

Marion County

Collins, George, House, 1340 Chemeketa St. NE., Salem, 89002063

WISCONSIN

Dane County

Monona Mound (47DA275), Address Restricted, Monona vicinity, 89002064

[FR Doc. 89-26690 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Wayne National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of reopening of record and invitation for interested parties to participate.

SUMMARY: On August 30, 1989, the Office of Surface Mining Reclamation and Enforcement (OSM) issued a notice that it had decided to initiate reconsideration of its December 23, 1988, determination that Belville Mining Company (Belville) has valid existing rights (VER) to surface mine coal on five tracts within the Wayne National Forest in Ohio. The notice announced closing dates for public participation of September 14 for materials pertinent to the "McMullen tract" and September 29 for materials pertinent to all other issues. By this notice, OSM is informing interested parties that they may continue to submit relevant information and that OSM will consider all relevant information received up to the time a decision is made concerning the VER requests.

DATES: OSM will consider relevant materials submitted on the Belville matter until November 29, 1989.

ADDRESSES: Hand deliver written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, 1100 L Street, NW., Washington, DC or mail written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240. Documents included in the administrative record are available for public review at this address.

FOR FURTHER INFORMATION CONTACT: Brent Wahlquist, Assistant Director-Program Policy, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; or telephone (202) 343-4264 (FTS or commercial).

SUPPLEMENTARY INFORMATION: By letter dated December 23, 1988, OSM notified Belville that, pursuant to section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Belville had VER to conduct surface mining activities on five properties involving 5,440 acres of Federal land within the Wayne National Forest in Ohio. This decision reversed a December 3, 1986, determination by OSM that Belville's earlier submissions were insufficient to establish VER for the five properties in question. By letter dated August 15, 1988, Belville had asked OSM to reconsider its prior determination.

During the course of a review of recent OSM actions concerning VER, OSM has concluded that the adminstrative record of the past Belville VER determination was inadequate to determine whether the decision was correctly made. Accordingly, in a **Federal Register** notice published on August 30, 1989, OSM reopened the matter and suspended its December 23, 1988, determination (54 FR 35945). The August 30, 1989, notice indicated that OSM would accept materials on issues related to the "McMullen tract" until September 14, 1989, and materials on all other issues until September 29, 1989.

As discussed in the August 30, 1989, notice of reopening, the effect of the decision to reopen the record is to stay the December 23, 1988, determination during the period of further consideration. Such a stay is necessary to preserve the status quo by precluding surface disturbance in the Wayne National Forest, pending full agency consideration of the VER question. By this notice, OSM is extending the period during which interested parties may submit written materials. relevant to the issues at hand until a decision is made. This action will allow development of an administrative record capable of supporting a final determination as to whether Belville has VER.

Dated: November 7, 1989.

W. Hord Tipton,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 89-26659 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

November 7, 1989.

The Office of Management and Budget (OMB) has been sent the following proposals for the collection of information for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information: (1) The title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often

the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether section 3504(h) of Public Law 96-511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633-4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Application of Waiver of Grounds of Excludability.
(2) I-601. Adjudications Division (COADN), Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The information given on this form will be used to determine an applicant's eligibility for a waiver of excludability from the United States under section 212 (g), (h), or (i) of the Immigration and Nationality Act.
(5) 3,000 respondents at .5 hours per response.
(6) 1,500 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Application to Preserve Residence for Naturalization.
(2) I-470. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The information will be used to determine whether an alien who intends to be absent from the United States for a period of one or more years is eligible to preserve residence for naturalization purposes.
(5) 4,000 estimated annual respondents at .25 hours per response.
(6) 1,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Waiver of Rights, Privileges, Exemptions and Immunities.
(2) I-508. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The information is used by the Immigration and Naturalization Service to determine eligibility of an alien applicant to retain status of an alien lawfully admitted to the United States for permanent residence.
(5) 1,800 estimated annual responses at .083 hours per response.
(6) 150 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Application to File Declaration of Intention.
(2) I-300. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Section 334(f) of the Immigration and Nationality Act provides for the issuance of a declaration of intention to become a citizen of the United States. The information gathered on this form will assist the INS in determining if an applicant is eligible for the issuance of such a declaration.
(5) 4,000 estimated annual responses at .5 hours per response.
(6) 2,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Affidavit of Support.
(2) I-134. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This information will be used in determining that the applicant for benefits will not become a public charge if admitted into the United States.
(5) 44,000 estimated annual responses at .332 hours per response.
(6) 14,608 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Age, Sex, and Race of Persons Arrested.
(2) DO 62 (Used for persons age 18 and over), DO 62a (used for persons under age 18). Federal Bureau of Investigation.
(3) Monthly.
(4) State or local governments. Form is needed to collect information regarding the number(s) of persons arrested by law enforcement agencies throughout the United States. Summary statistics are published in a comprehensive annual and used for other law enforcement planning.
(5) 1,371 respondents, 12 responses per respondent per year totals 16,452 estimated annual responses at .5 hours per response.
(6) 8,226 estimated annual public burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 89-26589 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree Pursuant of the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *General Switch Corporation* was lodged with the United States District Court for the Southern District of New York on November 2, 1989. The Consent Decree addresses the United States' claims against the General Switch Corporation ("General Switch") under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601, *et seq.*, regarding the abatement of a release or substantial threat of release of perchloroethylene from the General Switch facility in Middletown, New York.

The Consent Decree requires General Switch to (1) excavate and aerate three hot spots of soil contaminated with PCE located on its Middletown property, (2) pump and treat groundwater from an interceptor well until PCE levels remain stable at a concentration of less than 5 parts per billion ("ppb"), (3) connect any facilities with downgradient wells which have PCE levels of 5 ppb or above to the municipal water supply, (4) pay EPA's oversight costs for the remedial actions, and (5) pay $55,000 in settlement of past removal oversight costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Order. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *General Switch Corporation*, D.J. Ref. #90-11-3-221.

The proposed Consent Decree may be examined at the office of the United

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States Attorney, Southern District of New York, One St. Andrew's Plaza, New York, New York 10007, and at the Office of Regional Council, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, room 1647 (D), Ninth Street and Pennsylvania Ave., NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please refer to the referenced case name and D.J. Ref. number and enclose a check in the amount of $7.30 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-26693 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Cercla in United States v. Deere & Co., Inc.

In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9622(i) ("CERCLA"), and Departmental policy at 28 CFR 50.7, notice is hereby given that on October 17, 1989, a proposed consent decree in *United States* v. *Deere & Company, Inc.*, Civil Action No. C89-1036 was lodged with the United States District Court for the Northern District of Iowa, Eastern Division.

The complaint in this enforcement action was filed on October 17, 1989, against Deere & Company, Inc. ("Deere") under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, seeking injunctive relief and reimbursement of costs incurred by the United States in responding to the release or threat of release of hazardous substances from the Site, which consists of a portion of the John Deere Dubuque Works located near Dubuque, Iowa. The proposed consent decree requires Deere to finance and perform certain remedial action, maintenance and monitoring activities at the Site.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Deere & Company, Inc.*, Department of Justice #90-11-2-322.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Iowa, Eastern Division, 425 2nd Street, SE., The Center, Suite 950, Cedar Rapids, Iowa 52401, and the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed consent decree may also be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1748, U.S. Department of Justice, 9th and Pennsylvania Avenue, NW., Washington, DC 20530. When requesting a copy, please refer to *United States v. Deere & Company, Inc.*, DOJ #90-11-2-322, and enclose a check in the amount of $1.50 payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-26610 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

[Civil No. 89-4522]

United States v. Pacific Dunlop Holdings Inc., et al. (E.D. Penn.)

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (s) and (b), the United States publishes below the comments it received on the Competitive Impact Statement and proposed Final Judgment in the captioned case, filed in the United States District Court for the Eastern District of Pennsylvania, together with the response of the United States to these comments.

Copies of the public comments and response are available on request for inspection and copying in Room 3229, Antitrust Division, Department of Justice, Washington, DC, and for inspection at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania in Philadelphia.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. Pacific Dunlop Holdings Inc.; Becton, Dickinson and Company; and Edmont, Inc., Defendants.

Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment.

Richard S. Rosenberg

Mary Ann Ryan

Attorneys, Antitrust Division, U.S. Department of Justice, Middle Atlantic Office, The Curtis Center, Suite 650, 7th and Walnut Streets, Philadelphia, Pennsylvania 19106, Tel.: (215) 597-7401.

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United States District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, *v.* Pacific Dunlop Holdings Inc.; Becton, Dickinson and Company; and Edmont, Inc., Defendants.

Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-16(g) (the "APPA"), the United States hereby files its Response to Public Comments and an amended proposed Final Judgment against Pacific Dunlop Holdings Inc. ("PDH"); Becton, Dickinson and Company ("Becton, Dickinson"); and Edmont, Inc. ("Edmont"), and moves for entry of the proposed Final Judgment as amended.

I

Introduction

This action began on June 16, 1989, when the United States filed a complaint alleging that the proposed acquisition of Edmont by PDH would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleged that the effect of the acquisition would be substantially to lessen competition in the sale in the United States of dipped unsupported nitrile industrial gloves, liquid proof dipped supported latex industrial gloves, liquid proof dipped supported nitrile industrial gloves, liquid proof dipped supported neoprene industrial gloves, and liquid proof dipped supported PVC industrial gloves. Both companies sell all five of those types of industrial gloves in the United States. The Complaint seeks, among other relief, to enjoin the transaction to prevent its anticompetitive effects in the five relevant markets.

On June 16, 1989, the United States and defendants filed a Stipulation in which they consented to the entry of a proposed Final Judgment designed to eliminate the anticompetitive effects of the acquisition. In accordance with the provisions of the APPA, the United States also filed a Competitive Impact Statement explaining the basis for the Complaint and for the United States' conclusion that entry of the proposed Final Judgment would be in the public interest. As a result of public comments received by the United States, the parties have agreed to amend the proposed Final Judgment as discussed on page 17, *infra*. The proposed Final Judgment, as amended, would eliminate the anticompetitive effects alleged in the Complaint with respect to the five relevant markets by requiring PDH to sell: (1) Its subsidiary Ansell Granet Inc. ("Ansell Granet"), which manufactures liquid proof dipped supported gloves; and (2) Edmont's manufacturing facility located in Canton, Ohio ("Canton facility"), which manufactures unsupported nitrile gloves.

The United States and the defendants stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the Government withdraws its consent. Entry of the proposed Final Judgment, as amended, would terminate this action, except that the Court would retain jurisdiction to construe, modify, and enforce the Final Judgment and to punish violations of the Judgment.

II

Compliance With the APPA

Upon publication of this Response in the **Federal Register**, the procedures required by the APPA will have been completed, and the Court may enter the proposed Final Judgment, as amended.

A. Stipulation, Proposed Final Judgment, and Competitive Impact Statement

The United States has caused the proposed Final Judgment, the Stipulation between the parties for entry of the proposed Final Judgment, and the Competitive Impact Statement, in the form prescribed by 15 U.S.C. 16(b), to be published in the **Federal Register**, 54 FR 26,854, June 26, 1989.[1] It also has furnished copies of these documents to all persons who have requested them.

B. Newspaper Notices

The United States has caused newspaper notices of the proposed Final Judgment and the Competitive Impact Statement to be published in The Washington Post and the Philadelphia Inquirer in accordance with the procedures set forth in 15 U.S.C. 16(c).[2]

C. Statements Regarding Communications

As required by 15 U.S.C. 16(g), on June 23, 1989, PDH filed with the Court a description of communications, by or on its behalf, with officers and employees of the United States concerning the proposed Final Judgment. On the same date, Edmont and Becton, Dickinson jointly filed with the Court a description of communications, by or on their behalf, with officers and employees of the United States concerning the proposed Final Judgment.

D. Waiting Period, Comments, and Publication of Comments and Response

The 60-day period provided by 15 U.S.C. 16(d) for the submission of public comments expired on August 25, 1989. The United States received comments within the waiting period from the United Rubber, Cork, Linoleum & Plastic Workers of America ("URW") on August 23, 1989; LRC-Surety Products, Inc. ("LRC") on August 24, 1989; Comasec, Inc. ("Comasec") on August 24, 1989; JOMAC Inc. ("JOMAC") on July 17, 1989; and Latex Glove Company, Inc. ("Latex Glove") on July 10, 1989.[3] The United States also received comments from Playtex Family Products Corp. ("Playtex") on September 15, 1989.[4] In accordance with the APPA, the United States has evaluated the comments, and responds to them below. As required by 15 U.S.C. 16(b), the comments are being filed with this Response, and the comments and the Response will be published in the **Federal Register**. Counsel for the United States will inform the Court when publication has occurred.

E. Standards for Review of Consent Decrees

Under the APPA, the primary responsibility for enforcing the antitrust laws and protecting the public interest in competitive markets rests with the Department of Justice. *United States* v. *Waste Management, Inc.*, 1985-2 Trade Cas. (CCH) ¶ 66,651 at page 63,045 (D.D.C. 1985). In carrying out its responsibilities, the Department has broad discretion in prosecuting alleged antitrust violations and determining appropriate relief for the settlement of cases. *United States* v. *Mid-America Dairymen, Inc.*, 1977-1 Trade Cas.

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[1] Copies of the **Federal Register** Notices are attached to this Response as Exhibit A.

[2] Copies of the affidavits of publication are attached to this Response as Exhibit B.

[3] Copies of the comments are attached to the Response as Exhibits C through G.

[4] A copy of the Playtex comments is attached to the Response as Exhibit H. Although its comments were submitted after the expiration of the comment period, the United States will publish those comments and respond to them.

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(CCH) ¶ 61,508 at page 71,980 (W.D. Mo. 1977), citing *Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683, 689 (1961) and *Swift & Co.* v. *United States*, 276 U.S. 311, 331–32 (1928). Before entering a proposed consent decree, the Court must determine that the decree is in the public interest, 15 U.S.C. 16(e),[8] but that test is limited to ensuring that the Government has met its public interest responsibilities, that is, determining that the proposed Final Judgment falls within the range of the Government's antitrust enforcement discretion. The Ninth Circuit Court of Appeals has explained these respective obligations as follows:

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General * * *. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." * * * More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

United States v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.) (citations omitted), *cert. denied*, 454 U.S. 1083 (1981).

Indeed, the courts repeatedly have held that the purpose of their review of proposed antitrust consent decrees is not to determine whether this "is the best possible settlement that could have been obtained if, say, the Government had bargained a little harder," *United States* v. *G. Heileman Brewing Co.*, 563 F. Supp 642, 647 (D. Del. 1983), quoting *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975), or whether this is the remedy "the court might have imposed had the matter been litigated." *United States* v. *Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985). Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making the public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances. The Court must also give appropriate recognition * * * to the fact that every consent judgment normally embodies a compromise, and that the parties each give up something which they might have won had they proceeded to trial.

United States v. *Mid-America Dairymen, Inc., supra*, ¶ 61,508 at page 71,980.

In this case, the United States carefully considered the matters that are now being raised in the comments when it formulated its position with respect to this transaction, and the parties have agreed to amend the proposed Final Judgment after consideration of the comments received. We concluded, for the reasons discussed below and in the Competitive Impact Statement, that the public would be best served by the remedial action set forth in the proposed Final Judgment, as amended. If the Court finds that the United States' action represented a reasonable exercise of its antitrust enforcement responsibility and prosecutorial discretion, it may enter the proposed Final Judgment, as amended, as soon as compliance with the APPA is completed by publication of the comments and Response in the **Federal Register**.[9]

F. The Competitive Analysis of the United States

The Department believes that if the proposed Final Judgment, as amended, is entered, the transaction will no longer violate section 7 of the Clayton Act. The proposed Final Judgment, as amended, will ensure the preservation of competition in each relevant market by means of divestitures of manufacturing assets to new, or currently small, competitors in those markets. Thus, the United States concludes that entry of the proposed Final Judgment, as amended, is in the public interest.

1. The Products are Specific Types of Industrial Gloves

Industrial gloves are designed to protect hands from cuts and abrasions and environmental, chemical, and biological agents and/or to protect products from hand-borne contamination. They are manufactured using a variety of processes and materials. They may be as simple as cotton or leather gloves, or may be dipped unsupported gloves,[7] dipped supported gloves,[8] or impregnated gloves,[9] using either natural or synthetic materials. Dipped unsupported gloves are liquid proof, dipped supported gloves may or may not be liquid proof, depending on how they are made, and cotton, leather, and impregnated gloves are not liquid proof.

Industrial gloves have varying degrees of suitability for different uses depending on the manufacturing process and materials employed. Only liquid proof dipped supported and dipped unsupported gloves offer substantial protection for use with chemical agents. As between liquid proof supported and unsupported gloves dipped in the same material, the former offer superior protection from cuts and abrasions, while the latter have superior tactile and dexterity properties. Within the unsupported and liquid proof supported categories, each type of coating material offers protection against certain chemicals or other toxic or corrosive substances superior to other types. When different types of gloves are equally acceptable for a specific use, one type typically is sufficiently less costly to make its use obvious, and a small but significant and nontransitory increase in its price is not likely to cause a significant number of customers to switch to an alternative type of glove.

Consequently, at least among liquid proof supported and unsupported gloves, each type of glove constitutes a separate product market. The five product markets alleged in the Complaint are unsupported gloves dipped in nitrile and liquid proof supported gloves dipped in latex, nitrile, neoprene, or PVC.

2. The Geographic Market for Industrial Gloves is Nationwide

The geographic market for the various types of industrial gloves is the United States because firms that produce and sell those products compete with each other for sales throughout the country.

[8] This determination can be properly made on the basis of the Competitive Impact Statement, the comments and this Response. The procedures of 15 U.S.C. 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the Court in resolving those issues. *See* H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9, *reprinted in* 1974 U.S. Code Cong. & Admin. News 6535, 6538.

[9] The United States respectfully requests that the Court enter the proposed Final Judgment, as amended, promptly. Congress expected federal courts to adopt "the least complicated and least time-consuming means possible" to determine if entry of a proposed final judgment would be in the public interest. *See* S. Rep. No. 93–298, 93d Cong. 1st Sess. 6 (1973), *reprinted in* 1974 U.S. Code Cong. & Admin. News. 6539; H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8, *reprinted* in 1974 U.S. Code Cong. & Admin. News 6539.

[7] Dipped unsupported gloves are made by dipping a "former," a porcelain or metal form shaped like a hand, into a coating material such as latex, nitrile, or neoprene. The result is a liquid proof, chemical resistant glove made only of the coating material.

[8] Dipped supported gloves are made by cutting and sewing a lining material, typically cotton, into the shape of a hand, placing it on a former, then dipping it into a coating material such as PVC, nitrile, latex, or neoprene.

[9] Impregnated gloves are made by impregnating a fabric with PVC, nitrile, etc., then cutting and sewing the resulting material into the shape of a hand as a cotton or leather glove would be made.

3. The Effect of the Transaction

PDH and Edmont sell numerous types of industrial gloves to distributors throughout the United States. They are direct competitors in many of those product markets. In the five product markets identified in the Complaint there are few alternative sources. In all of those five markets, the HHI,[10] measured by dollar sales, exceeded 2700 before the acquisition and increased by more than 380 as a result of the acquisition. The high level of concentration in those markets, combined with the difficulty of entry into those markets, led the Department to conclude that the acquisition would eliminate significant competition in those five markets, increasing the likelihood that prices would rise in those markets.

4. The Proposed Final Judgment, As Amended

Under the terms of the proposed Final Judgment, as amended, PDH is required to divest certain assets relating to the production of industrial gloves in the five product markets in which the acquisition poses a threat to competition. PDH would be required to divest a manufacturing facility in Canton, Ohio, one of two Edmont plants used for the production of unsupported nitrile gloves, and to divest Ansell Granet, which produces all of PDH's dipped supported gloves.

PDH currently manufactures unsupported nitrile gloves at a single plant in Redditch, England, while Edmont manufactures such gloves at its Canton plant and at a plant in Juarez, Mexico. For several reasons the divestiture of the Canton plant is preferable to divestiture of the Redditch plant. Capacity to produce nitrile gloves at Canton is somewhat greater than PDH's capacity at Redditch, and although the English plant is newer, it does not appear to have any competitive advantage relative to the Canton plant in the United States. Edmont has sold in this country substantially more unsupported nitrile gloves manufactured at Canton than PDH has sold manufactured at Redditch. Moreover, the ability of PDH to compete in the United States with gloves produced in England is subject to fluctuating foreign exchange rates and greater transportation costs, problems that have affected its sales efforts, and it is likely that PDH will concentrate sales of gloves manufactured at the Redditch plant in the growing European market. Divestiture of the Canton plant to a suitable new competitor should adequately replace the competition currently provided by PDH, which currently is a small player in the market. Divestiture to a suitable existing, small manufacturer could effectively increase competition by creating an additional strong competitor in a market currently dominated by two companies.

Divestiture of Ansell Granet will effectively eliminate the anticompetitive effects of the acquisition in the various dipped supported industrial glove markets. PDH only recently entered the dipped supported glove markets in 1988, through the acquisition of the Granet Division of the WGM Safety Corp, and PDH competes in the dipped supported markets solely through this facility. Thus, divestiture of Granet to a suitable new competetitor will completely replace PDH in these markets.

G. Response to Comments

With the exception of the comments received from the URW, all of the comments received were from industrial glove manufacturers in competition with PDH and Edmont. The comments primarily fall into three categories: (1) That the proposed divestitures of the Canton Facility and Ansell Granet will not provide adequate relief for the antitrust violations charged in the Complaint; (2) that the product markets charged in the Complaint do not reflect the actual product markets, and thus understate the anticompetitive effects of the acquisition; and (3) that even if the product markets charged in the Complaint are appropriate, the acquisition will enable PDH to wield market power unreasonably in several product markets.[11] Of significance, however, is that not a single purchaser of industrial gloves, including the large, sophisticated industrial glove distributors who comprise the bulk of the customers for gloves, has expressed any concern to the Court or the Department of Justice that the proposed Final Judgment would not adequately protect its interests.

Under the circumstances, the single issue presented here is whether the proposed Final Judgment, as amended, represents a reasonable exercise of the Department of Justice's antitrust enforcement discretion. For the reasons discussed below, the United States has concluded that the proposed Final Judgment, as amended, is an appropriate resolution of this litigation, that it reflects a careful study of the market and is reasonably calculated to prevent the anticompetitive effects alleged in the Complaint, and that its entry therefore is in the public interest.

1. The Viability of the Proposed Divestitures

The Final Judgment provides that the Canton and Ansell Granet operations will be sold to a purchaser or purchasers who can operate them as "viable ongoing businesses engaged in the production of industrial gloves." The Government reserves the right to satisfy itself that the purchase or purchases are for the purpose of competing effectively in the industrial glove market and that the purchaser or purchasers have the managerial, operational, and financial capability to compete effectively in the industrial glove market in the United States. The goal of the proposed Final Judgment, as amended, is to restore the competition in the relevant markets that the acquisition eliminates. The proposed divestitures will accomplish that goal completely. Specifically, the purchaser or purchasers of these facilities will fully supplant PDH in each of these markets.

a. The Canton Facility. LRC, Comasec, and JOMAC question whether the purchaser of the Canton facility can effectively compete in the market for unsupported nitrile gloves. The divestiture of the Canton facility to a qualified purchaser will, however, restore, if not improve, the competitive situation that existed before the merger.

As noted by LRC, PDH has not been a major player in the unsupported nitrile market with its Redditch plant. The new operator of the Canton facility will be able to compete in the U.S. market at least as effectively as PDH could compete from Redditch. Production costs at the Canton facility are competitive in the U.S. market. The Canton facility has the capacity to manufacture 600,000 dozen gloves, slightly more than the Redditch plant.[12]

[10] "HHI" means the Herfindahl-Hirshman Index, a measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 900 + 900 + 400 + 400 = 2,600$). The HHI takes into account the relative size and distribution of the firms in the market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

[11] Although the public comments all concern the proposed Final Judgment as originally published, they are applicable equally to the proposed Final Judgment, as amended.

[12] Canton's capacity is well over 25 percent of the estimated United States market for unsupported nitrile gloves.

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Canton's 1988 U.S. sales were around $7,700,000, compared to Redditch's sales of $1,289,000. Additionally, fluctuations in currency rates can render exports to the United States from Redditch unprofitable, and growing demand in Europe makes it likely that most of the production of the Redditch facility will be directed toward the Common Market in the future.

LRC, Comasec, and JOMAC argue that the production facility at Canton is obsolete and otherwise unable to compete in the United States market. Experience refutes that concern, however. Although most of the Canton equipment is between ten and fifteen years old, it is functional, currently operating, and well maintained. Only in the past few years has Edmont produced nitrile gloves in Mexico. Prior to that time it maintained its dominant position in the market by manufacturing its gloves at Canton. Even while manufacturing gloves in Mexico, Edmont continues to manufacture substantial quantities of nitrile gloves at Canton—approximately 50 percent of the gloves it sold in the United States in 1988.[13]

Comasec states that the Canton facility has been plagued by labor problems in recent years. The Canton workforce is highly skilled and trained, however, and there is no reason to believe that it would be any less motivated to work for the new purchaser than it has been for Edmont. Although one cannot predict the future course of labor relations at Canton, the parties entered into a four-year collective bargaining agreement in July 1989. Both the new purchaser and the union are bound by the terms of the agreement. The United States is unaware of any current labor problems.

Latex Glove states a concern that the proposed Final Judgment would preclude the purchaser of Canton from manufacturing green unsupported nitrile gloves. Upon further investigation, the United States has determined that the ability to produce green gloves is vital to the ability to successfully compete for the sale of nitrile gloves. Consequently, the parties are filing an amended proposed Final Judgment which deletes from section IV.I the right of Pacific Dunlop to preclude the purchaser or purchasers from manufacturing or selling a green nitrile glove for seven years.

Comasec and JOMAC question the ability of the purchaser to compete without acquiring a distribution system. PDH and other companies in the industry have competed in the market primarily through the use of independent marketing representatives, a marketing system similarly available to the purchaser of Canton if it does not have its own distribution system. Moreover, PDH is required to provide the purchaser with the names of Edmont customers, primarily independent distributors, who purchased gloves made at Canton, and to notify those customers that they bought Canton gloves. We would expect those customers who have been satisfied with Canton gloves to be willing to continue to purchase gloves of comparable quality manufactured there.[14]

LRC correctly notes that the proposed Final Judgment requires only that the purchaser manufacture industrial gloves, not nitrile gloves, but it would make no economic sense for the purchaser not to produce nitrile gloves. The unsupported nitrile market is reportedly growing at eight percent a year, and Edmont has been utilizing about 95 percent of the capacity of the Canton plant to serve that market.[15] In any case, it would make no economic sense to convert Canton's nitrile production to latex, since nitrile gloves are more profitable, and the vast majority of latex gloves are manufactured outside the United States to take advantage of proximity to raw materials and cheaper labor.[16]

Finally, JOMAC notes that PDH may try to increase its Juarez production of nitrile gloves, thus increasing the supply of such gloves in the U.S. market. That development would not be harmful to competition, however. Indeed, it would be beneficial.

b. *Ansell Granet.* Comasec, LRC, and JOMAC also question the ability of the Purchaser of Ansell Granet to compete in the markets for dipped supported gloves. As with unsupported nitrile gloves, however, this divestiture of Ansell Granet completely removes the competitive overlap between PDH and Edmont in the affected markets. It was only through this facility that PDH competed in dipped unsupported gloves. We believe that a purchaser will be at least as competitive in those markets as PDH was prior to the acquisition.

Ansell Granet manufactures a full line of dipped supported and impregnated gloves for industry. Within this category, Ansell Granet supplies about five percent of the United States market. Products manufactured include general purpose and chemically resistant gloves. Ansell Granet has the capability of producing short runs, special colors, and other non-standard product variations. The Ansell Granet organization is vertically integrated and is capable of doing most of the steps needed for the finished product on its premises. Ansell Granet is a well-established company and should be able to continue to compete in the markets for dipped supported gloves.[17]

2. The Relevant Product Markets

LRC and Playtex comment that unsupported nitrile industrial gloves do not comprise a separate relevant product market, as set forth in the Complaint. Rather, they contend that the relevant market is comprised of all liquid proof unsupported industrial gloves, including those made of latex and neoprene. LRC claims that in such a market the merger would be unlawful, and that the proposed Final Judgment does not adequately redress such a violation.

The short answer to this contention is that consideration of markets other than those that are the subject of the Complaint is beyond the purview of these proceedings. The APPA provides, in pertinent part:

Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

(1) The competitive impact of such judgment, including *termination of alleged violations*, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the *violations set forth in the complaint* including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

(15 U.S.C. 16(e)) (emphasis added.) In *United States* v. *BNS, Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988), the court stated: "[T]he APPA does not authorize a district court to base its public interest determination on antitrust concerns in markets other than those alleged in the government's complaint." [18] *Accord, United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. (CCH) ¶ 66,651, at p. 63,045 (D.D.C. 1985). Clearly there is no basis in the Act for the court to review the decision of the Government to allege, or not to allege, antitrust violations in any given market, as LRC and Playtex would have this Court do.

But further, for the reasons outlined above at section F.1., unsupported nitrile gloves and unsupported latex gloves are clearly in separate product markets. While it is true that unsupported nitrile, latex and neoprene gloves have some overlapping uses, there is little, if any, price sensitivity in demand for the three products, and the Government's investigation has determined that a small but significant change in the relative prices of the three products would not affect consumers' choices of them.

In determining which type of glove to purchase, a consumer's initial concern is the resistant qualities that a particular glove material has to the type of chemical agent with which the consumer works; manufacturers thus include chemical resistance tables in their catalogues. For many chemicals, either latex, nitrile, or neoprene is clearly superior. Where the differences are not so clear, cost is usually the determining factor.

LRC acknowledges that nitrile is substantially more expensive than latex, but asserts that it also is twice as durable, and thus that its value to a customes is virtually identical when nitrile costs twice what latex costs. LRC's assertion that nitrile wears twice as long as latex, offsetting its greater cost, is too simplistic, however. The relative durability of those materials can vary substantially depending upon the chemical agent involved. Safety is the primary concern of users of these gloves, and the cost of gloves usually is small compared to other costs. Thus, customers purchase nitrile gloves when they are convinced those gloves are clearly superior to latex. Otherwise they purchase latex gloves, since latex is substantially cheaper.

3. Ability to Exert Market Power

LRC and Playtex assert that even assuming that separate industrial glove product markets exist, the acquisition will enable PDH to increase its market power in those individual markets. They contend that PDH will be able to force customers to purchase its full line of products to the exclusion of other glove manufacturers. More specifically, LRC claims that the acquisition will enable PDH to engage in unlawful marketing practices. Our investigation did not produce evidence that would lead to such a conclusion, but in any case, if PDH were to violate the law at some future time there are adequate means for redress of such a violation, short of prohibiting what is now a lawful merger.

PDH's acquisition of Edmont does in fact combine leading positions in two distinct markets—latex and nitrile—but that fact does not itself make the acquisition anticompetitive. There is every reason to expect that buyers will continue to purchase both types of gloves on terms that are most advantageous to them, and hence, to consumers. As noted by LRC, currently there is diversity in the buying patterns of distributors, even though Edmont has been in a position to fill most, if not all, of their needs. This condition reflects the desire of distributors to maintain relationships with multiple manufacturers, and their willingness to purchase gloves from other sources when those gloves are competitive in price and of sufficient quality.

In sum, there is no significant evidence that PDH's acquisition of Edmont will give it any greater ability to engage in predatory practices than Edmont alone possessed, if any. Most telling is the absence of complaints from buyers on this point, and further, if PDH does attempt to engage in predatory practices, appropriate relief can be sought at that time.

4. Alternative Remedies Are Not Necessary

LRC takes the view that nothing less than a permanent injunction prohibiting PDH's acquisition of Edmont would provide an adequate remedy for the violation alleged in the Complaint. In effect, it argues that *no* settlement of this litigation should be permitted. Acceptance of that argument would represent an extraordinary restriction on the prosecutorial discretion of the United States. It would require this Court and the Department of Justice to undertake the substantial costs, risks, and delays of litigating to final conclusion a case of substantial complexity, despite the Department's considered judgment that an adequate remedy can be obtained without imposing such costs on the taxpayers.

We are unaware of any instance in which a court has rejected a proposed consent decree in its entirety in the course of a public interest review. Such a conclusion should not be reached absent a compelling demonstration of the inadequacy of other forms of relief, and no such demonstration has been made here.

LRC further suggests that short of an outright injunction barring the acquisition, there are alternatives that should be included in the Final Judgment. Comasec also offers suggested modifications. Both believe PDH should not be permitted to market certain brand name products. Three of the five products identified by LRC, Ansell Conform (unsupported latex), Ansell 224 (unsupported neoprene-latex blend), and Edmont True-Touch (disposable vinyl), and both products identified by Comasec, Edmont Neotek (unsupported neoprene) and Edmont Puretek (unsupported latex), are not in product markets that are identified in the Complaint. There is no basis for requiring PDH to divest products not in product markets charged in the Complaint.

The two remaining products that LRC identifies, Edmont's Sol-vex and PDH's Challenger, are both unsupported nitrile glove products. Requiring the divestiture of one of them is not necessary to preserve competition. Most nitrile glove purchases are made by relatively large, sophisticated distributors, who are likely to be willing to purchase a new product of satisfactory quality and price. The proposed Final Judgment, as amended, will ensure that the purchaser

[13] Canton also produces unsupported latex and unsupported neoprene gloves. The purchaser of the facility will acquire the ability to produce those products as well as unsupported nitrile gloves.

[14] The URW expresses concern that PDH is not required by the proposed Final Judgment to provide to the purchaser of the Canton facility the exact nitrile formulation used by PDH at Canton. There are several provisions in the Judgment that protect the purchaser in that regard, however. Section IV H requires PDH to provide the purchaser with a nitrile formula sufficient to produce gloves of a quality, and at a level of efficiency, "substantially equivalent" to the gloves currently made at Canton. Section IV C requires PDH to provide all proprietary information necessary to manufacture nitrile gloves "to standards of quality at least equal to currently manufactured product." IV C also requires PDH to provide the purchaser with a perpetual license to use all patents currently used in the production of gloves at Canton, and to provide technical assistance to the purchaser, if requested. These provisions assure that the gloves produced at Canton will be competitive in quality with gloves produced elsewhere.

[15] Indeed, PDH requested that the proposed Final Judgment include a provision requiring the new owner of the Canton facility to enter into a contract to sell unsupported nitrile gloves to PDH for a period of time. The United States rejected that Proposal; such supply agreements are difficult to administer by means of a judicial decree, and it is vastly preferable for the new purchaser to be free to negotiate its own terms with customers.

[16] Most of the United States production of latex industrial gloves is comprised of premium latex gloves, a stagnant market.

[17] It is true, as Comasec points out, that PDH will be able to manufacture similar products in Edmont's facilities, but in that event the competitive situation will be no worse than it was when those facilities were operated by Edmont.

[18] In *BNS*, the court did state that it is appropriate to take into account in its public interest consideration the effect of the transaction in other areas of the economy, to the extent those effects resulted from the antitrust violation in the markets alleged. For example, said the court, in a case alleging a violation in a grain market the court could consider "the resulting increase in the price of bread." That analogy is not applicable here, however. Unsupported nitrile gloves are not an input for unsupported latex gloves. In this case LRC and Playtex simply urge that the Court reject the product market alleged by the Government, an issue that is not properly the subject of the public interest determination under the APPA.

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of the Canton plant can produce unsupported nitrile gloves comparable in quality to Edmont, the industry leader. The purchaser will be producing gloves at a facility at which Edmont currently produces a substantial quantity of the gloves it sells. Consequently, PDH's maintenance of both the Sol-vex and Challenger brand names does not appear to give it an unfair market advantage.

LRC also suggests that Edmont's unsupported nitrile plant in Juarez, Mexico should be divested rather than the Canton facility. Such a divestiture is unnecessary to correct the competitive problem caused by the acquisition in the unsupported nitrile glove market. As noted above, the new operator of Edmont's Canton facility will occupy a position in that market at least as significant, and probably more so, as that formerly held by PDH. There is no need for it to replace Edmont as a competitor.

Comasec suggests that the proposed Final Judgment be amended to prohibit PDH from competing against the purchaser or purchasers of Ansell Granet and the Canton facility for at least two years, and to restrain it from increasing production of unsupported nitrile gloves at Edmont's Juarez plant or its own plant in Redditch. Such a non-competition requirement would be unworkable as well as undesirable. It would be impossible to prevent competition between PDH and the purchasers of the divested assets without simultaneously inhibiting PDH's ability to compete with other competitors, and such a restraint would deprive customers of the benefits of competition. Comasec's suggestion that PDH be restrained from increasing production of unsupported nitrile gloves at the Juarez and Redditch plants, would also be harmful to competition, and is not necessary to enable the purchaser of the Canton plant to establish itself in the nitrile market.[19]

5. Determinative Documents

LRC notes that the Government identified no determinative documents in the Competitive Impact Statement filed with the Court and published in the **Federal Register**. There were no documents relied upon by the United States that directly caused it to enter into the proposed Final Judgment, as amended.

III

Conclusion

For the reasons set forth in the Competitive Impact Statement and this Response, the Court should find, after publication of this Response in the **Federal Register**, that the proposed Final Judgment, as amended, represents a reasonable exercise of the Department of Justice's antitrust enforcement discretion, is in the Public interest, and should be entered.

Respectfully submitted,

Richard S. Rosenberg

Mary Ann Ryan

Attorneys, Antitrust Division, U.S. Department of Justice, Middle Atlantic Office, The Curtis Center, Suite 650, 7th and Walnut Streets, Philadelphia, Pennsylvania 19106, Tel.: (215) 597-7401.

Exhibits A and B

EXHIBIT A previously was published in the **Federal Register** (54 FR 26854, June 26, 1989) and is not republished herein. EXHIBIT B, copies of affidavits of publication of newspaper notices of the proposed Final Judgment and Competitive Impact Statement, are also omitted from publication herein; these may be requested for inspection and copying at Room 3233, Antitrust Division, Department of Justice, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania in Philadelphia.

Exhibit C

August 23, 1989.

John J. Hughes,
Chief, Middle Atlantic Office, Antitrust Division/Department of Justice, The Curtis Center, Suite 650, Seventh & Walnut Streets, Philodelphia, Pennsylvania 19106

Re: United States of America, Plaintiff v. Pacific Dunlop Holdings Inc., Becton, Dickinson and Company; and Edmont, Inc., Defendants

Final Judgment

Dear Mr. Hughes: This letter is in response to the Notice on this subject which appeared in the Federal Register/ Volume 54, No. 121/Monday, June 26, 1989.

The United Rubber, Cork, Linoleum & Plastic Workers of America (URW) is an international labor union headquartered in Akron, Ohio. The URW is affiliated with the AFL-CIO, the Canadian Labour Congress and the International Federation of Chemical, Energy and General Workers Unions. We represent approximately 120,000 workers in the United States and Canada.

URW Local Union No. 688 represents the hourly employees at Edmont's Canton, Ohio plant, one of the facilities to be divested under terms of the Final Judgment. These employees stand to be directly impacted by whatever final decision is made in this antitrust proceeding and their interests should be fully considered in the making of that decision.

Upon careful reading of the Complaint, the Final Judgment and the Competitive Impact Statement, we feel there are some issues that have not been adequately addressed. As a labor union, our primary concern is that our members have good secure jobs with decent pay and benefits. We are opposed to anything that threatens our members' livelihoods.

As you know, the Final Judgment calls for a number of safeguards in order to try to ensure that the divestiture of the Canton facility will not have an adverse impact and that the facility will be given a chance to continue as a viable operation. We appreciate the efforts of the Court and the Justice Department in that direction.

If the Canton facility should be unable to remain a viable operation and be forced to close, the result would be to decrease competition in the market—the direct opposite of the result intended and desired.

We are also concerned about what happens if sale of the Canton facility is not made within a year. The Judgment is not clear on this point.

During efforts to sell the Canton plant, the Judgment requires Pacific Dunlop to operate the plant as a going business and to use all reasonable efforts to maintain the Canton plant as a viable and active competitor. We would submit that the motivation and thus the effort referred to in the preceding sentence might very well mean different things to an owner with a future to work toward and an owner who is marking time while trying to sell the business. Future competitiveness and thus the future of the employees could easily be affected.

The Judgment also requires Pacific Dunlop to supply a purchaser of the Canton facility a nitrile formulation that will enable the production of gloves of a quality, manufacturing efficiency and yield substantially equivalent to that currently achieved at the Canton facility. It would seem to be in the interest of Pacific Dunlop to ensure that "substantially equivalent" means not quite as good as what the Canton facility currently achieves. That could be detrimental to the purchaser and the employees.

In the interest of both the well-being of the employees at the Canton facility and maintaining competition in the nitrile glove industry, we believe these questions need more thorough examination and we would urge the Antitrust Division to withdraw its consent pending a resolution to the questions we have raised in these comments.

Thank you for your thoughtful consideration.

Sincerely,

Steve Clem,
Director, Research & International Affairs.

Exhibit D

Hand Delivered

John J. Hughes,
Esquire, Chief—Middle Atlantic Office, Antitrust Division, The Curtis Center, Suite 650, 7th & Walnut Streets, Philadelphia, Pennsylvania 19106

Re: United States of America v. Pacific Dunlop Holdings, Inc., Becton Dickinson and Company, and Edmont, Inc. (E.D. Pa. Civil No. 89-4522)

Dear Mr. Hughes: We represent LRC-Surety Products, Inc., a competitor of PDH and Edmont in liquidproof unsupported industrial gloves. In response to the notice in the June 26, 1989 issued of the **Federal Register** (54 FR 26854), this letter explains our view that the proposed settlement of this case is not in the public interest because

(1) It does not provide adequate relief from the antitrust violations charged in the complaint—the proposed divestitures are unlikely to be achieved, and even if affected, they would be competitively meaningless;

(2) It ignores the market for unsupported industrial gloves as a whole, including unsupported latex gloves, which PDH will dominate if the settlement proceeds; and

(3) It permits PDH to enhance its current market power in latex and to extend it into other related markets.

The proposed acquisition will result in a substantial reduction of competition in the U.S. Superficially, such a reduction in competition in the U.S. might seem to benefit those few suppliers who are left (though it clearly disserves the consumer, as the complaint recognizes). Indeed, you may already have observed that the major distributors, who themselves have acquired competitors in recent years, welcome further concentration at the supply level. Why then should LRC-Surety complain about a concentration-increasing merger of its to largest competitors?

The answer is that LRC-Surety's business interest in this matter coincides with consumer interests. The geographic market involved here is worldwide. If the settlement is approved, the world's largest seller of unsupported latex gloves will join the world's largest seller of unsupported nitrile gloves. The acquisition will bring together the worldwide number one and number two in industrial gloves in a combination that will outstrip its next nearest competitor by nearly three-to-one in worldwide gross sales. PDH will control an agglomeration of industry-leading trademarks, state-of-the-art production facilities, technical expertise and pervasive distribution networks that will dominate industrial gloves in virtually every country where those gloves are sold.

Being among the few survivors in a global market so completely dominated by PDH is not an attractive prospect for LRC-Surety, and it thus opposes the merger as fervently as would any sophisticated, cost-conscious consumer. At all events, irrespective of our admitted business interest in the matter, I trust that our comments will be judged on their merts.

We think the proposed settlement fails the APPA's public interest test in at least three ways.

1. The "relief" proposed in the settlement will not prevent, or even reduce, the merger's illegal impact.

The complaint correctly charges that the proposed merger will eliminate actual and potential competition in U.S. markets for industrial gloves, in clear violation of Section 7. But the settlement will do nothing to cure the illegalities the complaint identifies; nor will it stem the elimination of competition in unsupported latex gloves, or in unsupported gloves as a whole, which the government has completely overlooked (*see* pp. 6-8 below). The proposed divestitures won't even touch the problem of enhanced market power that will enable PDH to raise or lower prices at will in the relevant markets without regard to competitive pressures.

A. It is no cure for the anticompetitive consequences in unsupported nitrile gloves when PDH gets to keep Edmont's state-of-the-art manufacturing plant in Juarez, Mexico, and its dominate Sol-Vex brand, and has only to divest a 60-year old, thoroughly obsolete plant in Canton, Ohio.

The settlement merely requires PDH to do something it would have done anyway. Before it transferred its main nitrile production from Ohio to Mexico, Edmont was posting a wholesale price of $10.00 per dozen for its Sol-Vex nitrile glove. Since the move the wholesale price has dropped to $8.70 per dozen. Based on its own production costs at its competing facility in Carrollton, Ohio, LRC-Surety estimates Edmont's Canton cost at close to $8.00. But we estimate Edmont's cost in Mexico at about $5.00 per dozen, which permits an $8.70 wholesale price. It defies belief that PDH would continue to operate the Canton plant after the merger, irrespective of the proposed settlement.

No one can compete out of obsolete facilities with that kind of costs disparity. No rational competitor would want the Canton facility, and no new entrant would take it even temporarily to get a "foothold," since the high barriers to entry go far beyond production economics (Compl. ¶ 18). Without an established distributor network and the trademarks excluded from the settlement, even a facility as cost-efficient as Juarez is at best of marginal value to a potential competitive entrant.

Thus, it is unrealistic to expect, as predicted in the Competitive Impact Statement, that the settlement will result in divestiture of the Canton facility or, if divested, that it will be to a purchaser who "will *compete effectively* in the United States market for *unsupported nitrile gloves*, and will supplant the loss of PDH in this market" (CIS at 8) (emphasis added). The proposed Final Judgment itself says only that the divestiture shall be to a purchaser who can operate the plant "as [a] *viable*, ongoing business engaged in the production of *industrial* gloves" (Judgment, ¶ IV, E). There is no requirement that the plant continue to produce nitrile gloves or any other kind of unsupported gloves or that the purchaser be able to compete *effectively* as to those products.

Edmont's move to Mexico further belies the government's promise to preserve effective competition. No one can "compete effectively" out of the obsolete facility in Canton, not even Edmont as shown by its move to Mexico. Nor will there be any "loss of PDH in this market" (CIS at 8). To the contrary, PDH will forcefully be in the market, with all its financial muscle, its distributor relationships, its technical and marketing infrastructure, but now joined with Edmont to build upon, facilitate and enhance the market power of both parties.

B. The divestiture of Ansell Granet does not eliminate the problems of PDH's enhanced market power and

[19] LRC further suggests that the proposed divestitures be required as a precondition to the acquisition. This cannot be done since the acquisition has already occurred. The proposed Final Judgment, as amended, requires PDH to maintain the businesses it has agreed to divest separately from its other operations, and PDH has agreed to be bound by the proposed Final Judgment, as amended, pending its entry by the Court.

acquisition of dominance in new markets.

The Granet supported glove operation, acquired by PDH in 1987, is almost as big a white elephant as Edmont's Canton facility. Granet's Latex is generally cheaper but also less durable than nitrile. At the point where the price of nitrile falls or latex rises so that the ratio is less than 2 to 1, the products are virtually interchangeable. Latex is generally cheaper but also less durable than nitrile. At the point where the price of nitrile falls or latex rises so that the ratio is less than 2 to 1, the products are virtually interchangeable. unsupported nitrile, Edmont's market share in dollars is currently 40%, PDH's 4.4%. The resulting combined HHI would be 1971, an increase of 371 points.

The APPA requires the government to consider alternatives to the proposed settlement, but there is no indication this was seriously done. Injunctive relief as called for in the complaint in the which the United States considered determinative" in coming up with its settlement proposal. Here the government has disclosed no support for the settlement. But surely defendants Holdings, Inc. as a violation of section 7 of the Clayton Act, 15 U.S.C. Paragraph 18. To eliminate the competitive threat posed by the acquisition, the

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acquisition of dominance in new markets.

The Granet supported glove operation, acquired by PDH in 1987, is almost as big a white elephant as Edmont's Canton plant. Even before the PDH acquisition, Granet was a small player in supported industrial gloves, accounting at most for about 5 percent in the U.S. against Edmont's nearly 40 percent. After PDH brought Granet, the word in the industry was that Granet began to lose what market share it had. There is a real question whether PDH devoted any significant resources to Granet once the Edmont merger became a possibility. (For example, PDH apparently never acquired the building in which the Granet plant is housed, ostensibly for environmental reasons; it is still owned by Granet's prior owner, Wilson Granet Miller, Inc.).

Granet has such a small place in the industrial glove industry that it offers little incentive to anyone else to "fully replace it," despite the promise in the Competitive Impact Statement (at 9). Meanwhile, PDH's acquisition of Edmont would now make it the dominant force in supported, as well as unsupported, industrial gloves. It no longer needs Granet and, had there been no government intervention, PDH would probably have terminated its operations or folded them into Edmont.

The Granet divestiture proposal gives a cynical message to antitrust counselors—if your client wants to become the dominant market force through an acquisition, advise it to acquire a "dog" first; then have your client agree to divest the "dog" to clear the way for the really anticompetitive merger.

2. The settlement ignores unsupported latex gloves and misses altogether the merger's effect on the market for liquidproof unsupported industrial gloves.

PDH and Edmont somehow have succeeded in arguing gerrymandered markets. In unsupported gloves, the complaint charges defendants only with foreclosure of an alleged market limited to nitrile gloves. To be sure, Edmont has the dominant nitrile brands, and adding in PDH's smaller but still significant competing products, the combination is indeed illegally preemptive.

But as a matter of economic reality, the product market is broader than just unsupported nitrile. It includes gloves made from latex (natural rubber), where PDH is dominant. Latex and nitrile unsupported gloves compete directly, and can be produced on the same equipment in the same plants. There is cross-elasticity both at the production level and at the consumption level. Latex is generally cheaper but also less durable than nitrile. At the point where the price of nitrile falls or latex rises so that the ratio is less than 2 to 1, the products are virtually interchangeable.

Just ask the consumers—the food processors, electronics manufacturers, chemical producers and other businesses who buy these gloves in massive quantities. Look at Edmont's own advertising and promotion. Its explicit market strategy is to offer its industry-leading Sol-Vex nitrile gloves as a replacement for latex. And it's working. End-users have increasingly switched from latex to nitrile (or occasionally back again) for the same glove applications, based on a single calculus of product life versus comparative costs. To ignore latex in this proposed settlement is to ignore the teachings of the *Cellophane* case, the wellspring of the law of market definition.

If the settlement proceeds, the dominant latex producer, PDH, will join forces with Edmont to acquire overwhelming dominance in the U.S. market for liquidproof unsupported industrial gloves. The settlement would result in an increase in the Herfindahl-Hirschman Index by at least 900 points, to 1850. The next closest competitor, Pioneer would be at 225. (LRC-Surety, number four in the market, is at 36). The Department's Merger Guidelines should not be ignored (Guidelines, § 3.11(c) at II–135).

3. The settlement enables PDH to extend its dominance in latex gloves into related markets.

Even if unsupported latex gloves are treated as a separate market from unsupported nitrile gloves (as the government has apparently done), the settlement still furthers a disturbingly anticompetitive combination. It enables PDH, dominant in unsupported latex, to extend its power into unsupported nitrile, as well as into the four lines of supported gloves identified in the complaint. It opens the way for conduct such as "full line forcing," by which PDH can use its illegal dominance in unsupported lines to achieve similar dominance in supported lines. *See Smith-Kline v. Eli Lilly & Co.*, 575 F.2d 1056 (3d Cir.), *cert. denied*, 459 U.S. 838 (1978).

There is no doubting that such dominance will occur as to both unsupported latex and nitrile, even viewed separately. Measured in dollars, PDH's market share of unsupported latex is currently 38.4%, Edmont's 8.9%. The HHI for PDH following the proposed settlement would be 2237, an increase of over 760 points. In unsupported nitrile, Edmont's market share in dollars is currently 40%, PDH's 4.4%. The resulting combined HHI would be 1971, an increase of 371 points.

Thus, even accepting the government's approach to market definition, the increase in concentration in *both* latex and nitrile is improper under the Merger Guidelines. The increase in latex, ignored by the government, is even *worse* than in nitrile, which the government has attacked as illegal.

The proposed settlement enables PDH to extend its dominance into areas, such as unsupported nitrile where it has not previously played a major role. Distributors of liquidproof unsupported industrial gloves maintain stocks of both latex and nitrile products. As long as PDH and Edmont compete with each other, distributors and consumers benefit from competitive pricing and product choice. Suppliers such as LRC-Surety can still find a market niche with the distributors for their products.

But if PDH acquires Edmont, it can offer the leading brands in both latex and nitrile. And Edmont brings market power in supported gloves—nitrile, PVC, neoprene and latex—as stated in the complaint. PDH can then offer discounts based on tied-together product lines, the classic "if you want our best price on x, you've got to buy y and z as well" condemned in *Smith-Kline*.

The dangers of this bundling and leveraging, *i.e.* "full line forcing," are increased by the structure of the industrial glove industry. As the government has correctly observed (Complaint, ¶ 18), industrial glove producers must have substantial distributor relationships to compete effectively in the U.S. Distributors link the supplier and the consuming public. Edmont in particular has built a large, disciplined distributorship network that reaches every corner of the nation.

To date, no supplier (including PDH and Edmont) has had the ability to produce every line of industrial gloves. This has encouraged diversity in the buying patterns of distributors, even the most disciplined Edmont distributors, and enhanced competition. But now, the proposed settlement will allow PDH to add Edmont's dominance in nitrile to its own market power in latex, as well as to acquire dominance in at least four distinct markets for supported gloves. Such power enhancement has a simple description in antitrust law—monopolization and attempt to monopolize. Section 7 of the Clayton Act was enacted to prevent it.

* * * * *

The APPA requires the government to consider alternatives to the proposed settlement, but there is no indication this was seriously done. Injunctive relief as called for in the complaint is the appropriate remedy to protect the public interest. Yet even short of an outright injunction barring the acquisition, there are several alternative requirements not mentioned by the government that would have a real pro-competitive impact.

—*Divestiture of the Mexican Plant.* This underpins Edmont's supremacy in nitrile unsupported gloves. PDH is one of the few producers in the world whose current operations and whose plants in the Far East would allow it to replace the loss of the Juarez plant. Meanwhile, the Juarez plant (unlike the Canton plant) would be of real interest to existing producers currently attempting to compete in the market for liquidproof unsupported industrial gloves.

—*Divestiture of Dominant Brands.* PDH should not be permitted to retain Edmont *and* Ansell products with a high level of brand name recognition, *e.g.*, Ansell Conform unsupported latex, Ansell 224 unsupported neoprene-latex blend, and Edmont True Touch unsupported PVC. Divestiture of Edmont's Sol-Vex brand of liquidproof unsupported nitrile gloves should also be required. PDH already has the Challenger brand, an identical nitrile glove, which competes with Sol-Vex by undercelling it. Divesting the Sol-Vex brand and keeping Challenger in the market will preserve that price competition.

—*Requiring Completion of Divestitures as Precondition to Acquisition.* The proposed Canton and granet divestitures will not undo the competitive injury that will result from the acquisition, as explained above. But if the government decides to retain those divestitures as the only requirements of settlement, it should at least make sure that they actually occur. As a practical matter, it is doubtful that PDH (or a Trustee) will find a purchaser who can compete effectively in any of the relevant markets. In the past, in situations where the ability to achieve effective divestiture has been suspect, the Justice Department has required that the "fix" be effected *before* the acquisition was consummated. That approach is imperative here if the decree is to effect, at a minimum, even the negligible relief currently proposed.

* * * * *

Section 2(b) of the APPA requires the disclosure of "materials and documents which the United States considered determinative" in coming up with its settlement proposal. Here the government has disclosed no support for the settlement. But surely defendants must have provided at least some documents—such as arguments in correspondence, market share data, and the like—that persuaded the government to settle for less than what its complaint would require. The "determinative" documents requirement is to be taken seriously. *U.S. v. Central Contracting Co., Inc.*, 1982 Trade Cases (CCH) ¶ 64, 833 (E.D. Va. 1982). It appears to have been overlooked here.

* * * * *

The complaint shows that the government recognizes at least some, if not all, of the threats to competition presented by the proposed merger. But the proposed settlement fails to do what proper antitrust enforcement should do. It ignores the real economics of the industry. It prescribes economically meaningless gestures in place of enforcement. The settlement should be completely rethought and renegotiated.

We appreciate the opportunity to comment and would welcome the opportunity to provide further information about the industry and the anticompetitive implications of the proposed merger.

Respectfully yours,
Arthur H. Kahn.

Exhibit E

August 21, 1989.
John J. Hughes,
Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, The Curtis Center, Suite 650, 7th & Walnut Streets, Philadelphia, PA 19106

Reference: United States of America V. Pacific Dunlop Holdings Inc.; Becton, Dickinson and Company; and Edmont, Inc. (E.D. Pa. No. 89–4522, Filed June 16, 1989)

Dear Mr. Hughes: We submit this letter pursuant to 15 U.S.C. Paragraph 16(d) as a formal written comment on the proposed consent judgment relating to the above-reference matter. Comasec, Inc. produces dipped supported gloves at its plant in Enfield, Connecticut and has considerable familiarity with the sale and manufacture of various types of industrial gloves in the United States. Comasec International, S.A., its parent company, is the second largest producer of synthetic industrial gloves in the world.

In this action, the United States government challenges the proposed acquisition of the United States assets of Edmont, Inc. by Pacific Dunlop Holdings, Inc. as a violation of section 7 of the Clayton Act, 15 U.S.C. Paragraph 18. To eliminate the competitive threat posed by the acquisition, the government proposes to require PDH to divest itself of its Ansell Granet, Inc. plant in North Carolina and of Edmont's manufacturing facility in Canton, Ohio. The competitive Impact Statement explains that an acceptable purchaser of the Ansell Granet plant will fully replace PDH as a competitor in the market for liquid dipped supported gloves and that an acceptable purchaser of the Canton facility will replace PDH as a competitor in the market for unsupported nitrile gloves.

Unfortunately, the consent judgment submitted in this matter will fail to accomplish both of the government's objectives.

PDH acquired the Granet plant in North Carolina through its subsidiary Ansell, Inc. several years ago. Utilizing the information thus obtained relating to customer identity, buying trends and prices, PDH markets Granet products through the Ansell distribution network, no longer through an independent sales force. Divestiture of this plant does not eliminate PDA after the Edmont acquisition from the liquid-proof dipped supported glove market as the government surmises, because PDH will continue selling the products formerly known as Granet to former Granet customers and compensate for any shortfall in production by increasing output at the newly acquired Edmont facilities in Ohio, North Carolina, Louisiana and Canada. This all the more so since major products in the dipped supported gloves market tend to overlap significantly across the various manufacturer ranges.

There is not so much proprietary technology or patent protection in making the products per se, as in achieving low cost position, constant high quality and market recognition of a specific item within a widely produced type.

In order to "fully replace" PDH as a competitor in this market, the prospective purchaser must be given the Ansell Granet customer lists accompanied by a non-compete agreement from PDH of at least two years in duration. Even then, the purchaser would have to reconstruct the Granet marketing network and re-establish its name recognition in order to compete effectively.

The Edmont facility in Canton, Ohio suffers similar disabilities and further has been plagued with labor problems in recent years. PDH production requirements will remain largely

unaffected by the proposed divestiture since any shortfall will be met by increased output at the Edmont plants in Juarez, Mexico and Bristol, UK K., both

short of achieving any real change in the premise that "PDH" would have substantial control of the market for unsupported nitrile gloves or for liquid

Dear Mr. Rosenberg: Thank you very much for sending me a copy of the proposed final judgment from the subject case. Our company may be

Thank you again for your consideration and assistance. We look forward to hearing from you soon.

Sincerely,

not possess. This is important because of the means of distribution used in the industrial glove market. Virtually all industrial gloves are sold by producers

Date and Time: December 7, 1989 at 2:00 p.m.

Place: Hyatt Regency Phoenix at Civic Plaza, 122 North Second Street, Phoenix,

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unaffected by the proposed divestiture since any shortfall will be met by increased output at the Edmont plants in Juarez, Mexico and Bristol, UK K., both of which are currently operating below capacity. To preserve the present level of competition in the unsupported nitrile glove market PDH must be required to enter into a non-compete agreement with the prospective purchaser coupled with a limitation on production increases at the Juarez and Bristol plants for a minimum two-year period. Additionally, PDH must refrain from marketing other gloves currently produced in Canton, including the unsupported neoprene and natural rubber gloves known respectively as Neotek and Puretek. Although these product lines comprise a relatively minor part of the unsupported industrial glove market, their unavailability from PDH/Edmont should facilitate transfer of current customers of Canton to the purchaser of the facility.

Unless modified as suggested above, the divestiture ordered by the judgment offers prospective purchasers two older production facilities with no market share, no brand name recognition, no sales organization and no established management team. Without the benefit of the intangibles required to make the operations competitive, purchasers would merely be accommodating PDH by taking unnecessary equipment off its hands. It would be cheaper and simpler to organize an independent company for entry into these segments of the industrial glove market.

We trust these comments will assist you in evaluating the future efficacy of the proposed consent judgment and the impact of its entry upon the public. Thank you for your consideration.

Very truly yours,
COMASEC, INC.
Francis T. Berend,
Its President.

Exhibit F

July 14, 1989.
Mr. John J. Hughes,
Chief, Middle Atlantic Office, Anti-trust Division, Curtis Center-Suite 650, 7th and Walnut Streets, Philadelphia, PA 19106

Dear Chief Hughes: I am writing in reference to Civil Action 89-4522, United States of America vs. Pacific Dunlop Holding, Inc.; Becton Dickinson and Company; and Edmont, Inc.

I realize that much time and effort has gone into the evaluation of the proposed transaction between Pacific Dunlop Holding and Becton, Dickinson. I believe that the proposed final judgement falls short of achieving any real change in the premise that "PDH" would have substantial control of the market for unsupported nitrile gloves or for liquid proof supported gloves.

The divestiture of Edmont's manufacturing facility in Canton, Ohio would probably result in "PDH" transferring the production to Juarez, Mexico thus providing "PDH" with an adequate supply of unsupported nitrile gloves and enable it to dominate the U.S. market and maintain an unfavorable advantage over any and all competitiors.

A potential purchaser of the Canton facility would certainly be at a disadvantage. They would be "johnny come lately" in the market and have to develop a new marketing team and compete with the giant that certainly has a running start.

I believe investigation will indicate that Edmont is already in the process of transferring much of it's production from the Canton facility to Juarez, Mexico. This would lead me to believe that the Canton facility is by it's very nature antiquated and noncompetitive.

The divestiture of Ansell Granet, Inc. would, in my opinion, result in the transfer of the production at the Snow Hill facility to other Edmont facilities in the United States, Canada, and Mexico. Ansell has through it's operation of Granet obviously obtained access to all Granet's marketing information and this is certainly the big plus when it comes to a company that has more than adequate production facilities. The divestiture of old, and possibly obsolete, facilities or equipment serves no practical purpose unless there is a procedure to prevent "DHL" from calling on or selling any of the accounts that were part of Ansell Granet's, Inc. marketing program.

I do not have access to Edmont's production information, the above comments are intended to prompt further investigation and possibly a better answer to the question at hand.

Respectfully,
W.J. Grundy,
Chairman, Jomac Products, Inc.

Exhibit G

July 5, 1989.
U.S. Department of Justice,
Antitrust Division, Middle Atlantic Office, The Curtis Center, Suite 650, Independence Square West, Philadelphia, PA 19106
Attention: Mr. Richard S. Rosenberg, Attorney
Reference: 60-2361-0001, *United States v. Pacific Dunlop*

Dear Mr. Rosenberg: Thank you very much for sending me a copy of the proposed final judgment from the subject case. Our company may be interested in acquiring the Canton facility and Ansell Granet and have expressed that interest directly to Pacific Dunlop. However, in reviewing the terms of the final judgment there are several questions which come to mind.

Under sections IV.B and IV.C, we understand that the divestiture of the Canton facility excludes nitrile formulations. However, section C states that the purchaser of the Canton facility will be provided with proprietary information to manufacture each type of industrial glove product produced at Canton since 1987. To our knowledge, this would include nitrile industrial gloves for which a nitrile formulation would be required. Please explain this apparent discrepancy.

We have taken note of Section H which provides that Pacific Dunlop will supply the purchaser with a nitrile formulation to make gloves of a quality, manufacturing efficiency, and yield substantially equivalent to those manufactured by Edmont at Canton but it is our belief that those three criteria would in fact require that the gloves be made using the nitrile formulation currently used by Edmont at the Canton facility.

Section I includes a prohibition from the manufacture or sale of a green nitrile glove for seven years following the date of divestiture. The world market for nitrile gloves has basically standardized on a green color and gloves of any other color account for a minimal percentage of both the American market and world market for nitrile gloves. All other American producers of nitrile gloves including our company use the green color. There acre, since our company has been manufacturing green nitrile gloves, we could not consider the acquisition of the Canton facility without removal of the prohibition from selling a green nitrile glove for seven years. Although we have not yet seen financial statements relating to the Edmont Canton facility or Ansell Granet, we are concerned about our ability to obtain sufficient financing to acquire these assets as well as supply sufficient working capital to maintain and expand these businesses on an ongoing basis. Therefore, with reference to section VII, we would appreciate knowing under what conditions the United States, as plaintiff, would consent to defendants financing any part of a proposed purchase.

Thank you again for your consideration and assistance. We look forward to hearing from you soon.

Sincerely,
Richard A. Rivkin,
President.

Exhibit H

September 12, 1989.

Via Federal Express

James Rill,
Esq., Assistant Attorney General, Antitrust Division, Department of Justice, 10th Street & Pennsylvania Avenue, NW., Washington, D.C. 20530.

Re: *Pacific Dunlop Holdings, Inc., et al.*

Dear Mr. Rill: I am Executive Vice President of Playtex Family Products Corporation ("Playtex"), and am writing to express our concerns over the proposed acquistion of the United States assets of Edmont Inc. ("Edmont") by Pacific Dunlop Holdings Inc. We recently were informed of the proposed settlement reached by the parties to the acquisition and the Department of Justice, and we wanted to bring to your attention our views.

Playtex is a small producer of unsupported neoprene latex gloves, with 1988 sales of approximately $2.5 million. The gloves manufactured by Playtex are used interchangeably with other unsupported gloves, including unsupported nitrile gloves and unsupported latex gloves, and with some supported neoprene gloves. For example, photo processors use both unsupported neoprene latex gloves and unsupported nitrile gloves. The same is true of various electronics manufacturers, such as makers of computer micro-chips, and other manufacturers whose processes include handling acids. Manufacturers of fiber optic cable, who use neoprene latex gloves, could also use other gloves which are cut resistant, such as nitrile gloves in response to a price difference among various types of cut resistant gloves. We believe Edmont is the dominant producer in the U.S. market for unsupported gloves while Pacific Dunlop's subsidiary, Ansell Granet, is the third largest producer. The proposed combination, even allowing for the divestitures proposed by the settlement agreement, will be the dominant firm in the manufacture and sale of unsupported gloves.

The proposed combination will also result in a dominant producer of industrial gloves, which includes both supported and unsupported gloves. Ansell will possess a full line of industrial gloves, which it currently does not possess. This is important because of the means of distribution used in the industrial glove market. Virtually all industrial gloves are sold by producers to distributors, who make the actual sales to end users. We believe that approximately 85% of industrial gloves are sold through such distributors. One hundred percent of Playtex's industrial glove production is sold through distributors. Such distributors are interested in carrying a full line of industrial gloves, and the proposed combination of Edmont and Pacific Dunlop will allow Edmont and Pacific Dunlop to offer a full line of products to such distributors. This could easily result in small producers with limited product lines, such as Playtex, being squeezed out of the only access to the market.

The pricing plan already adopted by Edmont suggests that such foreclosure is a distinct possibility. Edmont offers discounts for larger orders. For example, under its "Alpha" pricing plan, distributors are rewarded with larger discounts for the purchase of $40,000 of a combination of industrial gloves and rain suits. By offering discounts for large orders covering all types of industrial gloves, Edmont will be able to use its market power to prevent producers with limited lines and limited sales of industrial gloves, such as Playtex, from sales to distributors, effectively foreclosing such producers from reaching the consumers of industrial gloves.

In sum, we believe that further investigation is required before the proposed settlement is approved. We believe that your Department should investigate further the implications of Ansell possessing a full line of products in light of the only existing means of distribution in this industry.

Very truly yours,
Ronald B. Gordon.

[FR Doc. 89-26616 Filed 11-13-89; 8:45 am]
BILLING CODE 4410-01-M

Immigration and Naturalization Service

[INS No. 1345-89]

Immigration and Naturalization Service User Fee Advisory Committee; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee Holding Meeting: Immigration and Naturalization Service User Fee Advisory Committee.

Date and Time: December 7, 1989 at 2:00 p.m.

Place: Hyatt Regency Phoenix at Civic Plaza, 122 North Second Street, Phoenix, Arizona 85004.

Status: Open. Fourth meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act of 1952, as amended. [8 U.S.C. 1356(k)] and the Federal Advisory Committee Act [5 U.S.C. App. 2].

Agenda:

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of relevant written statements submitted in advance by members of the public.
6. Scheduling of next meeting.

Public Participation: The meeting is open to the public, but advance notice of attendance is requested to assure adequate seating. Persons planning to attend should notify the Contact Person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the Contact Person for consideration by this Advisory Committee. Only written statements received at least five (5) days prior to the meeting by the Contact Person will be considered for discussion at the meeting.

Contact Person: Sharon L. Isenberg, Program Analyst, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 7123, Chester Arthur Bldg., 425 I Street NW., Washington, DC 20536, Telephone (202) 633-2685.

Dated: October 26, 1989.
Richard E. Norton,
Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 89-26582 Filed 11-13-89; 8:45 am]
BILLING CODE 4410-10-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-78]

NASA Advisory Council (NAC), History Advisory Committee (HAC); Meeting

AGENCY: National Aeronautics and Space Administration.

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ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee.

DATES: November 20, 1989, 9:00 a.m. to 4 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7002, Federal Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code XH, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8300).

SUPPLEMENTARY INFORMATION: The History Advisory Committee was established to provide advice and guidance to the NASA history program, which maintains a non-record historical reference file and publishes works in the history of aeronautics and space science and technology. The Committee, chaired by Dr. Arthur Norberg, consists of 8 members. The meeting will be open to the public up to the seating capacity of the room, which is approximately 20 persons, including Committee members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

Type of Meeting: Open.

Agenda:

November 20, 1989

9 a.m.—Introductory Remarks.
9:15 a.m.—Program Review.
10 a.m.—Update on Five Year Plan.
1:00 p.m.—Program Planning.
4:00 p.m.—Adjourn.

Dated: November 7, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-26700 Filed 11-13-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

International Exhibitions Federal Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held on November 29, 1989, from 9:30 a.m.-4:00 p.m. at the U.S. Information Agency, Arts International, Arts America Program, 301 Fourth Street SW., Fifth Floor, Washington, DC 20547.

This meeting will be open to the public on a space available basis. The topics for discussion will include guidelines, solicitation of proposals for the San Paulo Bienal and the Venice Biennale, and procedures for evaluation.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Dated: November 11, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-26706 Filed 11-13-89; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-445]

Texas Utilities Electric Co., et al.[1]; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from a portion of the requirements of Appendix J of 10 CFR part 50 to the Texas Utilities Electric Company, et al. (the applicant). The exemption would apply to the facility operating license for the Comanche Peak Steam Electric Station, Unit 1, located on the applicant's site in Somervell County, Texas.

[1] The current owners of the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric), Tex-La Electric Cooperative of Texas, Inc. (Tex-La), and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendment No. 9 to Construction Permit CPPR-126 for Comanche Peak, Unit 1 on August 25, 1988 to take place in 10 installments as set forth in the agreement attached to the application for amendment dated March 4, 1988. At the completion thereof, TMPA will no longer retain any ownership interest in Comanche Peak, Unit 1. Transfer of ownership from Tex-La to TU Electric was previously authorized by Amendment No. 11 to Construction Permit CPPR-126 for Comanche Peak, Unit 1 on August 29, 1989 as set forth in the agreement attached to the application for Amendment dated May 4, 1988. At the completion thereof, Tex-La will no longer retain any ownership interest in Comanche Peak, Unit 1.

Environmental Assessment

Identification of the proposed action: The proposed action would allow an exemption from the requirements of 10 CFR part 50, Appendix J, section III.D.2(b)(ii) for the operation of Comanche Peak, Unit 1 in response to the applicant's request dated January 20, 1988.

The need for the proposed action: Section III.D.2(b)(ii) of appendix J states that "Air locks open during periods when containment integrity is not required by the plant's Technical Specifications shall be tested at the end of such periods at not less than P_a." In its request, the applicant requested that the Comanche Peak Unit 1 Technical Specifications be written to instead require an overall air lock leakage test at P_a to be performed only upon completion of maintenance which has been performed on the air lock that could affect the air lock sealing capability. Otherwise, if an air lock is opened during periods when containment integrity is not required and no such maintenance has been performed, a door seal leak rate test (a less time-consuming test) must be performed. This requested exemption is consistent with the staff's position on the acceptable testing frequency necessary to demonstrate air lock sealing capability intended in appendix J. The staff's current position is shown in the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (NUREG-0452, Revision 4). Until Commission rulemaking changes the current requirement in appendix J, an exemption to the present regulation must be granted before the applicant can adopt the requested Technical Specification. The proposed exemption is needed because, based on experience at various plants, the staff found that literal compliance with section III.D.2(b)(ii) of Appendix J is not necessary to assure containment leaktightness. The requested exemption is consistent with the staff's technical position and has been granted to many plants. Literal compliance with the regulation would lead to increased costs and occupational exposure.

Environmental impacts of the proposed action: The proposed exemption to 10 CFR part 50, Appendix J, section III.D.2(b)(ii) will assure air lock sealing capability and containment integrity; therefore, this exemption will not increase the probability of accidents and post-accident radiological releases, nor otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR part 20. The proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. The Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the proposed action: The principal alternative would be for the Commission to deny the requested exemption. This would result in increased costs and occupational exposure and would not reduce the environmental impacts of plant operation.

Alternative use of resources: This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG-0775), dated September 1981.

Agencies and persons consulted: The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this exemption for Comanche Peak, Unit 1. The NRC did not consult other agencies or persons in preparing this assessment.

Finding of No Significant Impact

The Commission has determined that preparation of an environmental impact statement for this proposed action is not necessary. Based on the foregoing environmental assessment, the Commission concludes that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for exemption dated January 20, 1988. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room at the Somervell County Public Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043. The staff's evaluation of the request will be published in the Safety Evaluation Report related to the operation of the Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG-0797), Supplement No. 22, and will be available for inspection at the locations listed above.

Dated at Rockville, Maryland, this 9th day of November, 1989.

For the Nuclear Regulatory Commission.

Christopher I. Grimes

Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26673 Filed 11-13-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-445]

Texas Utilities Electric Co., et al.[1]; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR 50.33(k) and 10 CFR 50.75 to Texas Utilities Electric Company, et al. (the applicant). The exemption would apply to the facility operating license for the Comanche Peak Steam Electric Station, Unit 1 (the facility) located on the applicant's site in Somervell County, Texas.

Environmental Assessment

Identification of proposed action: The proposed action would allow a temporary exemption from the requirements of 10 CFR 50.33(k)(1) and 10 CFR 50.75 for the operation of Comanche Peak, Unit 1, in response to the applicant's request dated July 28, 1989. The applicant has requested that it be allowed to file its decommissioning funding report within the same time frame as is specified in 10 CFR 50.33(k)(2), that is, on or before July 26, 1990.

Need for proposed action: 10 CFR 50.33(k)(1) requires that each application for an operating license for a production or utilization facility include information in the form of a report, as described in 10 CFR 50.75, indicating how reasonable assurance will be provided that funds will be available to decommission the facility. 10 CFR 50.75 establishes requirements for indicating how reasonable assurance will be provided that funds will be available for decommissioning. 10 CFR 50.33(k)(2) specifies that each holder of an operating license is required to submit information in the form of a report indicating how reasonable assurance will be provided that funds will be available to decommission the facility on or before July 26, 1990. By letter dated July 28, 1989, the applicant requested a temporary exemption from the requirements of 10 CFR 50.33(k)(1) and 10 CFR 50.75 for Comanche Peak, Unit 1 and proposed to delay submittal of its decommissioning funding report until July 26, 1990. The proposed exemption is needed because there has been insufficient time for the applicant to complete all of the actions necessary to submit its decommissioning funding report as an operating license application document. The funding report and required certification are complex and require careful and deliberate financial planning. The applicant is evaluating the funding options to determine which is more appropriate. Once this decision is made, the applicant must effectuate its decision by financial instrument. If the applicant chooses to use an external sinking fund, it will need to execute one or more trust agreements. Exactly how the trust and external sinking fund would be structured would in turn depend on Internal Revenue Service and Texas Public Utility Commission requirements. The exemption is being sought to provide the time the applicant believes is necessary to perform proper planning and provide the Commission with an accurate and informed report.

Environmental impacts of the proposed action: There are no environmental impacts associated with the proposed action. The proposed exemption from 10 CFR 50.33(k)(1) and 10 CFR 50.75 will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant cumulative radiation exposure. Accordingly, the Commission concludes that the proposed exemption would result in no significant radiological environmental impact. Additionally, it does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant environmental impacts associated with the exemption.

Alternative to the proposed action: The Commission has concluded that there are no measurable environmental impacts associated with the proposed

[1] The current owners of the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric), Tex-La Electric Cooperative of Texas, Inc. (Tex-La), and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendment No. 9 to Construction Permit CPPR-126 for Comanche Peak, Unit 1 on August 25, 1988 to take place in 10 installments as set forth in the agreement attached to the application for amendment dated March 4, 1988. At the completion thereof, TMPA will no longer retain any ownership interest in Comanche Peak, Unit 1. Transfer of ownership from Tex-La to TU Electric was previously authorized by Amendment No. 11 to Construction Permit CPPR-126 for Comanche Peak, Unit 1 on August 29, 1989 as set forth in the agreement attached to the application for Amendment dated May 4, 1988. At the completion thereof, Tex-La will no longer retain any ownership interest in Comanche Peak, Unit 1.

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action. The principal alternative would be for the Commission to deny the requested exemption. This would not reduce the environmental impacts of plant operation.

Alternative use of resources: This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0775), dated September 1981.

Agencies and persons consulted: The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this exemption for Comanche Peak, Unit 1. The NRC did not consult other agencies or persons in preparing this assessment.

Finding of No Significant Impact

The Commission has determined that preparation of an environmental impact statement for the proposed exemption is not necessary. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for exemption dated July 28, 1989. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room at the Somervell County Public Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043. The staff's evaluation of the request will be published in the Safety Evaluation Report related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0797), Supplement No. 22, and will be available for inspection to the locations listed above.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89–26674 Filed 11–13–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–445]

Texas Utilities Electric Co., et al.[1]; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR 70.24 to Texas Utilities Electric Company, et al. (the applicant). The exemption would apply to the facility operating license for the Comanche Peak Steam Electric Station, Unit 1 (the facility) located on the applicant's site in Somervell County, Texas.

Environmental Assessment

Identification of proposed action: The proposed action would allow an exemption from the requirements of 10 CFR 70.24 for the operation of Comanche Peak, Unit 1 in response to the applicant's request dated June 30, 1989.

The need for the proposed action: The exemption from 10 CFR 70.24 would allow irradiated or unirradiated fuel assemblies to be handled and stored in the Comanche Peak fuel handling building without having a monitoring system which will energize clearly audible alarms if accidental criticality occurs. This exemption will be deemed acceptable provided that no more than two fuel assemblies are outside an approved shipping container, storage rack, or fuel transfer tube at any time and a minimum 12-inch, edge-to-edge distance is maintained between such assemblies. The proposed exemption is needed to permit fueling and refueling operations at Comanche Peak without the criticality monitoring systems specified by 10 CFR 70.24(a).

Environmental impacts of the proposed action: There are no environmental impacts of the proposed action. Criticality will be precluded by the restriction that no more than two fuel assemblies shall be authorized to be outside of an approved shipping container, storage rack, or the fuel transfer tube at any time and a minimum 12-inch, edge-to-edge distance is maintained between such assemblies. Because these measures provide assurance that criticality will not occur during receipt, inspection, or storage of fuel, this is an acceptable alternative to a monitoring system. Since the proposed exemption does not otherwise affect radiological plant effluents nor cause any significant occupational exposures, the Commission concludes that there are no radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR part 20. The proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the proposed action: The Commission has concluded that there are no measurable environmental impacts associated with the proposed exemption. The principal alternative would be for the Commission to deny the requested exemption. This would not reduce the environmental impacts of the plant operation.

Alternative use of resources: This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0775), dated September 1981.

Agencies and persons consulted: The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this exemption for Comanche Peak, Unit 1. The NRC did not consult other agencies or persons in preparing this assessment.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for exemption dated June 30, 1989. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room at the Somervell County Public Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043. The Commission's evaluation of the request will be published in the Safety Evaluation Report related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0797), Supplement No. 22, and will be available for inspection at the locations listed above.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89–26675 Filed 11–13–89; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP)

At the direction of the President, the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) is initiating a special review to consider requests from the Governments of Bolivia, Colombia, Ecuador and Peru to Add Products to the List of Articles Eligible for Duty-Free Treatment Under the GSP. Notice is hereby given that, in order to be considered in the special review, all petitions requesting the additions to the list of articles eligible for duty-free treatment under the Generalized System of Preferences (GSP) must be received at the Office of the U.S. Trade Representative no later than 5 p.m. on Monday, January 15, 1990. The GSP provides the duty-free importation of qualifying articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V of the Trade Act of 1974, as amended, and has been implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive Orders and Presidential Proclamations.

Special GSP Review for Countries in the Andean Region

The governments of Bolivia, Colombia, Ecuador and Peru may submit petitions requesting the President (1) to designate additional articles as eligible for GSP; (2) to waive the competitive need limits with respect to specific GSP eligible articles; and (3) to otherwise expand GSP coverage. Requests to expand GSP product coverage from parties other than the governments noted above, and requests for other modifications of the GSP program will not be accepted at this time. Such requests can be submitted in the 1990 GSP annual review, with a tentative submission deadline of June 1, 1990.

Submission of Petitions and Requests

Petitions and requests to expand GSP treatment should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. Petitions which are hand-carried should be delivered to room 517. All such submissions must conform with regulations codified in 15 CFR part 2007. In addition to these requirements, the petition should identify the product of interest in the Harmonized Tariff System (HTS) nomenclature. The petition should also identify the former TSUS headings for the products of interest and provide the petition history for those TSUS tariff headings. Trade data for the last three years should be provided in the HTS category. Where the conversion to the new nomenclature makes this difficult, HTS estimates can be provided, along with the relevant TSUS data. The methods used to arrive at HTS estimates should also be described.

Information submitted will be subject to public inspection by appointment only with the staff of the USTR Reading room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. The telephone number for the USTR Reading room is (202) 395–6186. Petitions and requests must be submitted in twenty copies in English. If the petition or request contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential").

Prospective petitioners and requestors are strongly advised to review the GSP regulations published in the **Federal Register** on Tuesday, February 11, 1986 (51 FR 5035). Prospective petitioners and requestors are reminded that submissions which do not provide all information required by § 2007.1 will not be accepted for review except upon a detailed showing in the submission that the petitioner or requestor made a good faith effort to obtain the information required. This requirement will be strictly enforced. Petitions with respect to competitive need waivers must meet the informational requirements for product addition requests in § 2007.1(c). A model petition format is available from the GSP Information Center [(202) 395–6971] and USTR Reading room in the publication *A Guide to the U.S. Generalized System of Preferences.* Prospective petitioners are requested to use this model petition format so as to ensure that all informational requirements are met. Furthermore, interested parties submitting petitions that request modifications with respect to specific articles should list on the first page of the petition the following information: (1) the requested action; (2) the classification of the article(s) of interest in HTS nomenclature; and (3), if applicable, the beneficiary country(s) of interest. Questions about the preparation of petitions and requests should be directed to the staff of the GSP Information Center.

Notice of petitions and requests accepted for review will be published in the **Federal Register** on or about Thursday, March 1, 1990. The notice will also provide updated information concerning the opportunity for interested parties to comment on requests accepted for review through public hearings and written submissions. The tentative schedule for public hearing and comment is as follows:

Deadline for Bolivia, Colombia, Ecuador and Peru to submit petitions: January 15, 1990

Deadline for submitting pre-hearing briefs: April 12, 1990

Public Hearings: April 26, 1990

Deadline for submitting post hearing briefs: May 10, 1990

Deadline for submitting rebuttal briefs: May 31, 1990

Deadline for public comment on ITC advice: June 21, 1990

Any modifications to the GSP resulting from the GSP special review will be announced on or about July 13, 1990 and will take effect on or about August 1, 1990.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 89–26691 Filed 11–13–89; 8:45 am]

BILLING CODE 3190–01–M

PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS

Meeting

The Presidential Commission on Catastrophic Nuclear Accidents, pursuant to its authority under subsection 170(l), of Public Law 100–408, the Price-Anderson Amendments Act of 1988, will hold a meeting on November

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[1] The current owners of the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric), Tex-La Electric Cooperative of Texas, Inc. (Tex-La), and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendment No. 9 to Construction Permit CPPR–126 for Comanche Peak, Unit 1 on August 25, 1988 to take place in 10 installments as set forth in the agreement attached to the application for amendment dated March 4, 1988. At the completion thereof, TMPA will no longer retain any ownership interest in Comanche Peak, Unit 1. Transfer of ownership from Tex-La to TU Electric was previously authorized by Amendment No. 11 to Contruction Permit CPPR–126 for Comanche Peak, Unit 1 on August 25, 1989 as set forth in the agreement attached to the application for Amendment dated May 4, 1988. At the completion thereof, Tex-La will no longer retain any ownership interest in Comanche Peak, Unit 1.

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30, 1989, from 10 a.m.–5 p.m. and on December 1, 1989, from 8:30 a.m.–11 a.m., at the Quality Hotel Capitol Hill, 415 New Jersey Ave., NW., Washington, DC 20001. The Commission was created to conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident and to submit a final report to Congress no later than August 20, 1990.

At this meeting, representatives of the insurance industry will discuss the industry response to Hurricane Hugo and the San Francisco earthquake, and Dennis Kwiatkowski, Assistant Associate Director of the Office of Natural and Technological Hazards from the Federal Management Agency, will speak on the various funds and methods of responding to natural and man-made disasters as well as FEMA's response to the recent disasters. (Mr. Kwiatkowski was scheduled to speak at the last meeting, but had to postpone because of schedule conflicts). In addition, Jack B. Weinstein, Judge of the U.S. District Court of the Eastern District of New York, will discuss the Agent Orange litigation. There may be additional speakers.

The Commission will also conduct working sessions to begin work on its report to Congress.

At its last meeting, the Commission set dates for meetings in 1989 and 1990. These dates include December 21, January 11–12, February 7–8, March 15–16, April 19–20, May 10–11, and June 4. Agendas and detailed information about these meetings will be available through the Commission office.

The public is permitted to attend all of these meetings, and there will be time during each meeting for brief statements. Transcripts or minutes of these meetings will be available at the Commission office, 600 E St., NW., room 660.

For further information, contact Jerome Saltzman at 600 E St., NW., room 660, Washington, DC 20004, (202) 272–5695. Members of the public planning to attend the Commission meeting should contact Mr. Saltzman at (202) 272–5695 at least two days before the meeting date.

Dated: November 8, 1989.

Jerome Saltzman,

Executive Director, Presidential Commission on Catastrophic Nuclear Accidents.

[FR Doc. 89–26701 Filed 11–13–89; 8:45 am]

BILLING CODE 6820–DF–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27423; File No. SR-PSE-89-25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc.; Relating to the Conducting of a Pilot Program of the Pacific Options Exchange Trading System ("POETS")

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 6, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange intends to conduct a pilot program of its Pacific Options Exchange Trading System ("POETS"). The system is comprised of an options order routing system ("ORS"), an automatic and semi-automatic execution system ("Auto-Ex"), an on-line book system ("Auto-Book"), and an automatic market quote update system ("Auto-Quote"). The pilot is scheduled to begin in December 1989, and continue for six months. POETS will be implemented in one equity options class in December and will be expanded to all equity options classes at two trading posts by January 22, 1990. POETS is expected to be floorwide by the end of the pilot program. This statement of the terms of substance of the proposed rule change will describe the operation of the various components of the POETS System.

Order Routing System

The options order routing system ("ORS") will be available to all members of the Exchange. ORS will provide the Exchange with a means of accepting, editing and routing orders that are submitted electronically for execution at market prices or placement in the Public Limit Order Book, as well as cancellation of orders previously submitted. Member firm access to ORS will be controlled through the process of connecting member firms to the system by communication links. Eligible orders will be submitted through ORS from member firm offices. Exchange floor brokers will have access to ORS, as will Exchange staff. Member firms, floor brokers, and Exchange staff will receive on-line reports of order execution and cancellation confirmations through ORS.

Orders entered through ORS may be sent to one of three destinations: automatic execution system ("Auto-Ex"), on-line book ("Auto-Book"), or a member firm's default destination. All market orders and executable limit orders that are received by ORS will be directed to Auto-Ex. All non-executable limit orders will be directed to Auto-Book. The default destination is a firm specified point to which orders that are unable to be routed to Auto-book or Auto-Ex are sent. In connection with Auto-Ex, orders can be re-routed from full Auto-Ex to semi-Auto-Ex if the options class eligibility criteria have been changed.

Automatic Execution Description

Firms placed on ORS will automatically be on Auto-Ex for purposes of routing small public customer market and marketable orders for automatic execution. Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate in the pilot will be given access to Auto-Ex from terminals at their booths on the floor. Auto-Ex will be piloted in classes of options on individual equity issues as determined by the Options Floor Trading Committee ("OFTC"). The Auto-Ex function will operate in two modes, full Auto-Ex and semi-Auto-Ex. The semi-Auto-Ex function provides for Order Book staff and crowd intervention.

Full Auto-Ex

When full Auto-Ex receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system. A buy order will pay the offer; a sell order will sell the bid. A participating market maker will be designated as contra-broker on the trade.

Auto-Ex will preserve limit order book priority in all options. Orders will be executed against the book when the prevailing market bid or offer is equal to the best bid or offer on the Exchange's book.

Participating market makers will be assigned by Auto-Ex on a rotating basis, with the first market maker selected at random from the list of signed on market makers. Participating market makers are obligated to trade at the displayed market quote at the time an order enters the system for Auto-Ex.

Except for the provisions of Exchange Rule VI, sections 5 and 6, applicable to

position and exercise limits, Exchange rules shall not apply to the extent that they are inconsistent with the terms of the pilot, including but not limited to Rule VI, section 49 (Priority of Bids and Offers), Rule VI, section 47 (Manner of Bidding and Offering), and Rule VI, section 73 (Market Maker Defined). Position and exercise limits will remain in effect for Auto-Ex transactions, pursuant to Rule VI, sections 5 and 6. Transactions executed through Auto-Ex will count towards a market makers fulfillment of the in person requirement of Rule VI, section 5.

Once a trade is executed, all participants are immediately informed of the execution. A fill report is generated to the firm at the firm's point of entry into the system (i.e., either its branch office or floor booth). A market maker is informed of the trade through a scrolling screen above the trading crowd. This display includes the time of execution, executed price, and other trade confirmation information. A market maker will also have access to trade information through the on-line system. Each market maker and member firm may only view their own Auto-Ex trades. Trade reports will be distributed to firms and market makers the following business day, summarizing trade information for the previous day.

Eligible Auto-Ex orders must be market or marketable limit orders for the number of contracts approved by the OFTC. The Exchange, at the OFTC's discretion, may determine to restrict eligible orders, including but not limited to, limiting orders to market order and to lowering or increasing contract limits. The Exchange will have discretion to place on the system such series in the eligible classes of options as the OFTC determines are appropriate. Information concerning eligible series will be made available by the Exchange on a daily basis.

Each day the system is available, Exchange supervisory personnel will start the system after quotes in the eligible series have been updated following opening rotation. If market maker participation is insufficient, the system will not be started. The determination of sufficient participation will be by the OFTC. If the system is or becomes unavailable for any reason, eligible orders will be handled manually.

Eligibility criteria for participation as a contra-broker to Auto-Ex trades during the pilot program will be limited to individual market makers and joint accounts. Market makers must be in the trading crowd when signed onto the system. A market maker must be logged off the system when leaving the trading crowd, except if it is for a short time. Any market maker logging onto the system during an expiration month must log onto the system in that options class whenever he is in the trading crowd until the next expiration. Moreover, if any time there is inadequate participation in a particular options class, the OFTC may require market makers who are members of the trading crowd, as defined in Exchange Options Floor Procedure Advice B–13, Commentary .01, to log onto the Auto-Ex absent reasonable justification for non-participation. Should a member not meet its obligations pursuant to eligibility requirements, disciplinary action may be taken pursuant to Exchange Rule VI, section 30 and Exchange Rule XX.

The Exchange may suspend book participation in Auto-Ex for an option class upon a declaration of unusual market conditions. Such a declaration may be made in an options class whenever the Exchange's Chairman (or his respective nominees) concur in determining that the conditions in that options class are such that it is no longer possible for Exchange operations personnel to conduct normal trading operations and to handle the manual integration of booked and Auto-Ex orders. Such concurrence is also required to restore book participation in Auto-Ex.

Semi-Auto-Ex

The same issue eligibility requirements for full Auto-Ex will be applicable for semi-Auto-Ex. When the semi-Auto-Ex function is used, an order entered by ORS will be sent to Book staff. Upon receipt, Book staff will call for a market in the particular options class and series. If a market maker betters the market, the Book staff can execute the trade with the market maker or allocate the trade among market makers. If no one in the crowd updates the displayed market quote, Book staff can execute the trade against the screen market using the rotation list. Semi-Auto-Ex will then operate in the same manner as full Auto-Ex. If the crowd updates the market and the correct best Book quote is at or better than the market, Book staff can trade the Auto-Ex order and the booked order that makes up the best quote against each other. All orders in the semi-Auto-Ex files can be cancelled in the same manner as in full Auto-Ex.

Pursuant to Article VI, section 6 of the PSE Constitution, the Exchange shall not be liable for any damages sustained by a member or member firm resulting from the use of the Auto-Ex system in the conduct of their business.

Automatic Market Quote Update

Auto-Quote allows market quotes to be generated systematically, using programmed theoretical models and variable criteria which are entered through the Auto-Quote function by Book staff. Market quotes are entered into the trading system, and are used to update the disseminated market screens. Market quote updates also generate records that are sent to OPRA for dissemination to the public.

Auto-Quote will be used by Book staff at the direction of members in the trading crowd. Auto-Quote generation will be initiated at the issue level, per option type, and quotes will be generated and updated at the series level.

The initial implementation of Auto-Quote will include only one variation of the Cox/Ross/Rubinstein model to be used for puts, and the Black-Scholes models for calls. As the pilot progresses, other models, and additional variations on each model, will be reviewed.

On-Line Book System

The new system will eliminate the use of the physical file of orders. Processing of Book orders is currently performed using a physical inventory of orders and a manual tracking system. Auto-Book will provide an on-line Book function that provides Book staff with the ability to enter, update, inquire, delete, cancel and execute Book orders, as well as providing member firms the ability to enter, cancel, update and inquire against their own Book orders.

Book staff will access Auto-Book for a specific series. Open buy orders are displayed first, followed by open sell orders. Auto-Book will also automatically display the total number of contracts per limit price for open Book orders in a specific option series.

The eligibility requirements will remain the same whereby only customer limit orders and cabinet orders may be submitted to the Book.

A member firm may enter its orders to the Book through ORS, Book staff, or the Member Book function. The Member Book function allows a member firm to enter an order from its booth as the order is received.

Auto-Book also allows members to inquire against their own book activity/transactions using the Member Book function. In addition, this Member Book function may also be utilized to cancel orders through the on-line system and confirm outstanding good until cancelled ("GTC") orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

and provisions of the Securities Exchange Act of 1934, and in particular section 6(b)(5) thereof, in that the proposed rule change offers the potential for improving the accuracy,

number in the caption above and should be submitted by December 5, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective March 31, 1989, First City National Bank

and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89–26567 Filed 11–13–89; 8:45 am]

Office of the Secretary

[Dept. Circ.—Public Debt Series—No. 32–89]

8½% Treasury Bonds of 2019

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to conduct a pilot program to test its Pacific Options Exchange Trading System ("POETS"). The Exchange will review POETS to determine the system's effects and capabilities, as well as the benefits to public customers, market makers, floor brokers and member firms. The Exchange expects that the implementation of the options order routing system ("ORS"), the automatic and semi-automatic execution system "(Auto-Ex") the on-line book system ("Auto-Book") and the automatic market quote update system ("Auto-Quote") will have a profound effect on the trading of listed options on the Exchange and will provide substantial benefits to the investing public.

In connection with the Auto-Ex system, the Exchange intends to allow for the automatic execution of small customer market and marketable limit orders in classes of options on individual equity securities. The Options Floor Trading Committee ("OFTC") will be responsible for reviewing the pilot to determine order and market maker eligibility as well as the pilot program effectiveness. The Auto-Ex pilot will commence with providing execution for small customer orders of five contracts just-out-of the money, just-in-the-money and at-the-money option series. Book priority will be in effect at all times. Auto-Ex will also be open only to individual market makers. Groups will not be allowed to participate. However, a market maker may have Auto-Ex trades clear into his joint account. Auto-Ex, along with Auto-Book, is expected to reduce the amount of paper that trading crowds and Exchange order books have to deal with.

The Exchange believes that the rule change is consistent with the purposes and provisions of the Securities Exchange Act of 1934, and in particular section 6(b)(5) thereof, in that the proposed rule change offers the potential for improving the accuracy, reporting and handling of small public customer orders, booked orders and market quotes.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 5, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: November 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26702 Filed 11-13-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89-095]

Towing Safety Advisory Committee; Meeting of Subcommittee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Special Subcommittee on Marine Vapor Control of the Towing Safety Advisory Committee (TSAC). The subcommittee meeting will be held on November 30, 1989 in the Bienville Room #838 at the Airport Sheraton Hotel, 2150 Veterans Memorial Blvd., New Orleans, LA. The meeting is scheduled to begin at 10 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Opening remarks.
3. Review of Notice of Proposed Rulemaking (NPRM) or Marine Vapor Control Systems published on October 6, 1989 (54 FR 41368).
4. Adjournment.

Members of the public may present oral or written statements at the meeting.

FOR FURTHER INFORMATION CONTACT: LCDR Robert H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 2nd Street SW., Washington, DC 20593-0001, (202) 267-1217 or Mr. Gene Hammel, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard Headquarters (G-MP-2), 2100 2nd St. SW., Washington, DC 20593-0001, (202) 267-1408.

Dated: November 7, 1989.

M. J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-26602 Filed 11-13-89; 8:45 am]

BILLING CODE 4910-14-M

[1] 17 CFR 200.30-3(a)(12) (1989).

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective March 31, 1989, First City National Bank of Houston, Houston, Texas, changed its name to First City, Texas-Houston, N.A.

By Order of the Maritime Administrator.

Dated: November 7, 1989.

James E. Saad,

Secretary.

[FR Doc. 89-26655 Filed 11-13-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

November 6, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510-0004.
Form Number: TFS 285-A.
Type of Review: Extension.
Title: Schedule of Excess Risks.
Description: Listing of Excess Risks written or assumed by Treasury certified companies showing compliance with Treasury regulations to assist Treasury in determining solvency of certified companies for benefit of writing Federal surety bonds.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 340.
Estimated Burden Hours Per Response: 20 hours.
Frequency of Response: On occasion and Quarterly.
Estimated Total Reporting Burden: 24,800 hours.
Clearance Officer: Rita Franklin (301) 436-5300, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-26557 Filed 11-13-89; 8:45 am]

BILLING CODE 4810-35-M

Public Information Collection Requirements Submitted to OMB for Review

November 6, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2409, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505-0058.
Form Number: None.
Type of Review: Extension.
Title: Survey of Corporate Tax Payments
Description: The 550 surveyed corporations represent over 35 percent of total corporate tax payments. The survey allows the earliest possible inclusion of this data into revenue models used in developing the President's Annual Budget. The survey is also used in analyzing the revenue effects of certain tax legislation.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 550.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 225 hours.
Clearance Officer: Dale A. Morgan (202) 566-2693, Departmental Offices, Room 2409, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-26558 Filed 11-13-89; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Dept. Cir.—Public Debt Series—No. 32-89]

8½% Treasury Bonds of 2019

Washington, November 2, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated 8½% Treasury Bonds of 2019 (CUSIP No. 912810 ED 6), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. Additional amounts of the Bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The Bonds will be issued November 15, 1989, and are offered as an additional amount of 8½% Treasury Bonds of 2019 (CUSIP No. 912810 ED 6) dated August 15, 1989. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from August 15, 1989, to November 15, 1989. Interest on the Bonds offered as an additional issue is payable on a semiannual basis on February 15, 1990, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 2019, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form, and in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal

prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting

If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be

7.4. Attachment A is incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

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2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Bonds offered in this circular.

3. Sale Procedure

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1 p.m., Eastern Standard time, Thursday, November 9, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 8, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan association; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organization in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 8.81% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from August 15, 1989, to November 15, 1989, in the amount of $20,31250 per $1,000 of Bonds allotted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form is used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Secretary's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a bond to be separated into the components described in section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to obtain the separate components for this offering is $320,000. Par amounts than the minimum amount must be in multiples of that amount.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

CUSIP Nunbers and Designations for the Principal Component and Interest Components of 8⅛% Treasury Bonds of August 15, 2019, CUSIP No. 912810 ED 6

The Principal Component is designated 8⅛% Treasury Principal (TPRN) 2019 due August 15, 2019, CUSIP No. 912803 AR 4.

INTEREST COMPONENTS

Designation	CUSIP No. 912820	Designation	CUSIP No. 912820
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
Feb. 15, 1990	BF 8	Feb. 15, 2005	CM 0
Aug. 15, 1990	BG 4	Aug. 15, 2005	CN 8
Feb. 15, 1991	BH 2	Feb. 15, 2006	CP 3
Aug. 15, 1991	BJ 8	Aug. 15, 2006	CQ 1
Feb. 15, 1992	BK 5	Feb. 15, 2007	CR 9
Aug. 15, 1992	BL 3	Aug. 15, 2007	CS 7
Feb. 15, 1993	BM 1	Feb. 15, 2008	CT 5
Aug. 15, 1993	BN 9	Aug. 15, 2008	CU 2
Feb. 15, 1994	BP 4	Feb. 15, 2009	CV 0
Aug. 15, 1994	BQ 2	Aug. 15, 2009	CW 8
Feb. 15, 1995	BR 0	Feb. 15, 2010	CX 6
Aug. 15, 1995	BS 8	Aug. 15, 2010	CY 4
Feb. 15, 1996	BT 6	Feb. 15, 2011	CZ 1
Aug. 15, 1996	BU 3	Aug. 15, 2011	DA 5
Feb. 15, 1997	BV 1	Feb. 15, 2012	DB 3
Aug. 15, 1997	BW 9	Aug. 15, 2012	DC 1
Feb. 15, 1998	BX 7	Feb. 15, 2013	DD 9
Aug. 15, 1998	BY 5	Aug. 15, 2013	DE 7
Feb. 15, 1999	BZ 2	Feb. 15, 2014	DF 4
Aug. 15, 1999	CA 6	Aug. 15, 2014	DG 2
Feb. 15, 2000	CB 4	Feb. 15, 2015	DH 0
Aug. 15, 2000	CC 2	Aug. 15, 2015	JT 8
Feb. 15, 2001	CD 0	Feb. 15, 2016	KG 4
Aug. 15, 2001	CE 8	Aug. 15, 2016	KJ 8
Feb. 15, 2002	CF 5	Feb. 15, 2017	KL 3
Aug. 15, 2002	CG 3	Aug. 15, 2017	KN 9
Feb. 15, 2003	CH 1	Feb. 15, 2018	KQ 2
Aug. 15, 2003	CJ 7	Aug. 15, 2018	KS 8
Feb. 15, 2004	CK 4	Feb. 15, 2019	KU 3
Aug. 15, 2004	CL 2	Aug. 15, 2019	KW 9

[FR Doc. 89–26834 Filed 11–9–89; 2:30 pm]

BILLING CODE 4810–40–M

[Dept. Cir.—Public Debt Series—No. 31–89]

Treasury Notes of November 15, 1999, Series D–1999

Washington, November 2, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of November 15, 1999, Series D–1999 (CUSIP No. 912827 YE 6), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be

determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may be issued at the average price to Government accounts and to Federal Reserve Banks as agents for foreign and international monetary authorities.

1.2. The Notes will be issued in bearer form only, and interest will be payable only by mail upon presentation of interest coupons. The Notes will not be issued in registered form. The Notes will not be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes. The Notes will be subject to estate taxes. The Notes will be issued without the privilege of exchange for registered Notes. The Notes will be issued without the privilege of conversion to registered Notes. The Notes will be issued without the privilege of reconversion into the same kind of Notes previously converted from registered Notes. The Notes will be issued without the privilege of exchange for Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

2. Description of Notes

2.1. The Notes will be dated November 15, 1989, and will bear interest from that date, payable on May 15, 1990, and semiannually thereafter on November 15 and May 15 each year until the principal becomes payable. They will mature November 15, 1999, and will not be subject to call for redemption prior to maturity.

2.2. The Notes will be issued in denominations of $1,000, $5,000, $10,000, $100,000, $1,000,000, and $5,000,000. Book-entry Notes will be available to depository institutions holding Treasury Department book-entry accounts and to others as described in Treasury Department Circular, Public Debt Series, No. 2–86 (31 CFR part 357). Definitive Notes will be available to others.

2.3. The Notes will be subject to the general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedure

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1 p.m., Eastern Standard time, Tuesday, November 14, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 13, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan association; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organization in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 8.81% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made or completed at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form is used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Secretary's STRIPS Programs (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to obtain the separate components for this offering is $320,000. Par amounts than the minimum amount must be in multiples of that amount.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachment A is incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

CUSIP Numbers and Designations for the Principal Component and Interest Components of 8¼% Treasury Notes of November 15, 1999, CUSIP No. 912827 YE 6

The Principal Component is designated 8¼% Treasury Principal (TPRN) 1999 due November 15, 1999, CUSIP No. 912803 AS 2.

INTEREST COMPONENTS

Designation	CUSIP No. 912820	Designation	CUSIP No. 912820
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
May 15, 1990	BF 8	May 15, 1995	CM 0
Nov. 15, 1990	BG 4	Nov. 15, 1995	CN 8
May 15, 1991	BH 2	May 15, 1996	CP 3
Nov. 15, 1991	BJ 8	Nov. 15, 1996	CQ 1
May 15, 1992	BK 5	May 15, 1997	CR 9
Nov. 15, 1992	BL 3	Nov. 15, 1997	CS 7
May 15, 1993	BM 1	May 15, 1998	CT 5
Nov. 15, 1993	BN 9	Nov. 15, 1998	CU 2
May 15, 1994	BP 4	May 15, 1999	CV 0
Nov. 15, 1994	BQ 2	Nov. 15, 1999	CW 8

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determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated November 15, 1989, and will accrue interest from that date, payable on a semiannual basis on May 15, 1990, and each subsequent 6 months on November 15, and May 15 through the date that the principal becomes payable. They will mature November 15, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239 1500, prior to 1 p.m., Eastern Standard time, Wednesday, November 8, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 7, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determination of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes alloted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder."

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes alloted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Programs (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes: Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstruction transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of November 15, 1999, Series D–1999, CUSIP No. 912827 YE 6

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series D–1999 due November 15, 1999, CUSIP No. 912820 AU 1.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
May 15, 1990	EQ 9	May 15, 1995	FA 3
Nov. 15, 1990	ER 7	Nov. 15, 1995	FB 1
May 15, 1991	ES 5	May 15, 1996	FC 9
Nov. 15, 1991	ET 3	Nov. 15, 1996	FD 7
May 15, 1992	EU 0	May 15, 1997	FE 5
Nov. 15, 1992	EV 8	Nov. 15, 1997	FF 2
May 15, 1993	EW 6	May 15, 1998	FG 0
Nov. 15, 1993	EX 4	Nov. 15, 1998	FH 8
May 15, 1994	EY 2	May 15, 1999	FJ 4
Nov. 15, 1994	EZ 9	Nov. 15, 1999	FK 1

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ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

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[Dept. Circ.—Public Debt Series—No. 30-89]

Treasury Notes of November 15, 1992, Series U-1992

Washington, November 2, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of November 15, 1992, Series U-1992 (CUSIP No. 912827 YD 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate of the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated November 15, 1989, and will accrue interest from that date, payable on a semiannual basis on May 15, 1990, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5 The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1 p.m., Eastern Standard time, Tuesday, November 7, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 6, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3 A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forefeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration or the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-26036 Filed 11-9-89; 2:30 pm]

BILLING CODE 4810-40-M

VOL 54 ISS 218 NO 14 1989 UMI

Sunshine Act Meetings

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:28 p.m. on Tuesday, November 7, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Request of Putnam Fiduciary Trust Company (formerly Marsh & McLennan Trust Company), Boston, Massachusetts, for rescission of certain conditions imposed in granting Federal deposit insurance and trust powers.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. FL-89-0016
American Diversified Savings Bank, Costa Mesa, California
Case No. FL-89-0021
American Diversified Savings Bank, Costa Mesa, California
Case No. FL-89-0024
Southwest Savings and Loan, Abilene, Texas
Matters relating to the possible closing of certain insured banks.
Matters relating to the Corporation's corporate activities.
Administrative enforcement proceedings.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director M. Danny Wall (Director of the Office of Thrift Supervision), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: November 8, 1989.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.
[FR Doc. 89-26784 Filed 11-9-89; 11:09 am]
BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

Notice

November 6, 1989.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), 5 U.S.C. 552B:

DATE AND TIME: November 15, 1989, 10:00 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note:—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretay, Telephone (202) 357-8400.

This is list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Power Agenda, 985th Meeting—November 15, 1989, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 2971-004, Allegheny Electric Cooperative
Project No. 7914-005, Allegheny Hydropower, Inc.
Project No. 8908-002, Borough of Brownsville, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewable Resources, Inc.
Project No. 4675-004, Borough of Charleroi, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewable Resources, Inc.
Project No. 4474-005, Borough of Cheswick, Pennsylvania, and Allegheny Valley North Council of Governments
Project No. 7660-002, Borough of Point Marion, Pennsylvania, and Noah Corporation
Project No. 7307-002, City of Grafton, West Virginia
Project No. 6939-007, City of Jackson, Ohio
Project Nos. 6901-003 and 6902-006, City of New Martinsville, West Virginia
Project No. 3218-002, City of Orrville, Ohio
Project No. 4017-004, City of Pittsburg, Pennsylvania
Project No. 10086-001, City of Point Pleasant, West Virginia and WV Hydro, Inc.
Project No. 9999-002, City of St. Mary's West Virginia, and WV Hydro, Inc.
Project Nos. 7566-002 and 7909-003, Allegheny County, Pennsylvania
Project No. 9042-002, Gallia Hydro Partners
Project Nos. 7389-008, 8890-002 and 8054-004, Noah Corporation
Project Nos. 3460-005 and 7041-003, Potter Township, Pennsylvania
Project No. 6996-002, Upper Mississippi Water Company, Inc.
Project No. 10332-001, WV Hydro, Inc.
CAP-2.
Project No. 9732-002, Brookside Hydroelectric Company, Inc.
Project No. 9277-002, Riverside Dam, Inc.
Project No. 10080-001, Lower Falls Hydro Company, Inc.
CAP-3.
Docket No. UL89-33-001, Madison Electric Works
CAP-4.
Docket No. UL89-36-001, Spartanburg Water System
CAP-5.
Docket No. UL89-24-001, City of Albany
CAP-6.
Omitted
CAP-7.
Project No. 9840-001, Appomattox River Water Authority
CAP-8.
Project No. 8863-003, Northeast Hydrodevelopment Corporation
CAP-9.
Project No. 4632-004, Clifton Power Corporation
CAP-10.
Omitted
CAP-11.
Project No. 3109-001, Eugene Water & Electric Board
CAP-12.
Project No. 2079-07, Placer County Water Agency
CAP-13.
Project No. 2299-009, Turlock and Modesto Irrigation District
CAP-14.
Docket No. ER89-355-001, CP National Corporation
CAP-15.
Docket No. ER89-522-001, Vermont Electric Power Company, Northeast Utilities Service Company and New England Power Company
CAP-16.
Docket Nos. ER80-573-005, ER84-604-011 and ER85-477-004, Southwestern Public Service Company
CAP-17.
Docket No. ER88-456-001, Central Vermont Public Service Corporation
CAP-18.
Docket Nos. ER84-560-014, 015, 016, 017, 018, 019, 020 and 021, Union Electric Company
CAP-19.
Docket Nos. ER86-107-005, ER87-327-002 and ER88-397-001, Pacific Gas Electric Company Docket No. EL89-34-000, Northern California Power Agency v. Pacific Gas & Electric Company
CAP-20.
Docket No. EL89-43-000, Boston Edison Company v. Town of Concord, Massachusetts
CAP-21.
Docket No. EL88-22-000, Western Area Power Administration v. Pacific Gas & Electric Company, The Northern California Power Agency, and the Cities of Alameda, Healdsburg, Ukiah, Santa Clara, Lodi, and Lompoc, California
CAP-22.
Docket No. EL89-27-000, City of Watertown, New York, v. Niagara Mohawk Power Corporation
CAP-23.
Docket No. ER82-545-002, Texas Utilities Electric Company
Docket No. EL89-15-000, Texas Utilities Electric Company v. Central Power & Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

Consent Miscellaneous Agenda

CAM-1.
Docket No. FA85-34-001, Stingray Pipeline Company
CAM-2.
Docket No. RM89-16-000, Final Regulations Implementing the Natural Gas Wellhead Decontrol Act of 1989
CAM-3.
Docket No. GP89-51-000, Michigan Department of Natural Resources
CAM-4.
Docket No. GP90-1-000, Illinois Department of Mines and Minerals
CAM-5.
Omitted
CAM-6.
Omitted
CAM-7.
Omitted
CAM-8.
Docket No. GP88-28-000, Rocky Mountain Natural Gas Company v. Jack J. Grynberg, individually, as general partner for the Greater Green River Basin Drilling Program: 72-3
CAM-9.
Docket No. GP89-38-000, Corinne B. Grace, Complainant v. El Paso Natural Gas Company, Respondent

Consent Gas Agenda

CAG-1.
Docket Nos. RP9-14-000 and RP89-49-000, National Fuel Gas Supply Corporation
CAG-2.
Docket Nos. RP90-12-000, 001 and 002, Colorado Interstate Gas Company
CAG-3.
Docket No. RP90-11-000, Seagull Interstate Corporation
CAG-4.
Docket No. RP90-1-000, Algonquin Gas Transmission Company
CAG-5.
Docket Nos. RP82-55-041, 045 and 046, Transcontinental Gas Pipe Line Corporation
CAG-6.
Docket No. RP89-136-004, Northern Natural Gas Company
CAG-7.
Docket Nos. TQ90-148-000, 001 and RP89-161-003, ANR Pipeline Company
CAG-8.
Docket Nos. RP89-199-000 and RP90-13-000, Algonquin Gas Transmission Company
CAG-9.
Docket No. TQ90-2-4-000, Granite State Gas Transmission, Inc.
CAG-10.
Docket Nos. RP89-140-005 and RP89-195-002, Williams Natural Gas Company
CAG-11.
Omitted
CAG-12.
Docket Nos. RP89-116-000 and RP88-207-000, Columbia Gas Transmission Corporation
CAG-13.
Docket No. TA89-1-63-000, Carnegie Natural Gas Company
CAG-14.
Omitted
CAG-15.
Docket No. RP89-119-001, Texas Gas Transmission Corporation
CAG-16.
Docket No. RP89-200-004, Pacific Gas Transmission Company
CAG-17.
Docket Nos. RP89-223-001, RP89-75-002 and RP89-213-003, Black Marlin Pipeline Company
CAG-18.
Docket Nos. TQ90-1-16-002 and TM90-1-16-002, National Fuel Gas Supply Corporation
CAG-19.
Docket Nos. RP89-008 and RP89-133-005, Colorado Interstate Gas Company
CAG-20.
Docket No. RP88-28-002, Northern Illinois Gas Company v. Natural Gas Pipeline Company of America
CAG-21.
Docket No. RP85-193-006, North Penn Gas Company
CAG-22.
Docket Nos. RP89-134-003, RP89-9-006 and RP88-241-007, Panhandle Eastern Pipe Line Company
CAG-23.
Docket Nos. CP89-470-002 and CP88-522-007, Tennessee Gas Pipeline Company
CAG-24.
Docket Nos. RP88-10-006 and RP88-211-006, CNG Transmission Corporation
CAG-25.
Docket No. RP89-190-001, Northwest Pipeline Corporation
CAG-26.
Docket No. RP89-73-005, Pelican Interstate Gas System
CAG-27.
Docket No. RP87-73-005, Algonquin Gas Transmission Company
CAG-28.
Docket No. RP86-45-019 and RP86-46-004, Arkla Energy Resources, a Division of Arkla, Inc.
CAG-29.
Docket No. RP89-113-000, Tennessee Gas Pipeline Company
CAG-30.
Docket No. RP85-177-009, Texas Eastern Transmission Corporation
CAG-31.
Omitted
CAG-32.
Docket Nos. RP87-62-000 and RP86-148-000, Pacific Gas Transmission Company
CAG-33.
Docket Nos. RP88-131-000 and 003, Carnegie Natural Gas Company
CAG-34.
Docket Nos. RP88-115-007, CP89-31-000, CP88-818-000, CP89-59-000 and CP89-59-001, Texas Gas Transmission Corporation
CAG-35.
Docket No. RP88-69-000, Stingray Pipeline Company
CAG-36.
Docket Nos. ST85-956-003, ST85-1572-001, ST86-6-001, ST86-1010-000, ST86-1064-000, ST86-1647-000, ST86-1792-000, ST86-2087-000, ST86-2505-000, ST86-430-000, ST87-568-000, ST87-589-000, ST87-1126-000, ST87-1525-000, ST87-1528-000, ST87-1527-000, ST87-1974-000, ST87-2389-000, ST87-3708-000, ST87-3709-000, ST87-3710-000, ST87-3711-000, ST87-3874-000, ST87-4257-000, ST88-585-000, ST88-1440-000 and ST88-1441-000, Acadian Gas Pipeline System
Docket Nos. ST88-5599-001, ST88-5761-001, ST88-5762-001, ST88-5763-001, ST88-5764-001, ST88-5765-001, ST88-5766-001, ST88-5767-001, ST88-5768-001, ST88-5769-001 and ST88-5770-001, Gulf South Pipeline Company
CAG-37.
Docket No. ST88-5804-001, Acacia Natural Gas Corporation
CAG-38.
Docket No. ST85-957-000, Mississippi Fuel Company
CAG-39.
Docket Nos. RI89-1063-001, Pogo Producing Company
CAG-40.
Docket No. CI89-465-000, Union Pacific Fuels, Inc.
CAG-41.
Docket Nos. CP87-57-007, CP87-166-008 and CP88-424-004, Florida Gas Transmission Company
CAG-42.
Docket No. CP89-1121-001, Mississippi River Transmission Corporation
CAG-43.
Docket No. CP87-451-021, Northeast U.S. Pipeline Projects
Docket Nos. CP86-329-001 and CP86-330-001, Erie Pipeline System
Docket Nos. CP86-523-000, 001, 002, 003, CP86-524-000 and CP86-198-000, Iroquis Gas Transmission System

Docket Nos. CP86-168-000 and CP86-169-000, Champlain Pipeline Company
Docket Nos. CP86-173-000, CP86-174-000 and CP86-176-000, Tennessee Gas Pipeline Company
Docket No. CP88-175-000, Northeastern Natural Gas Company
Docket No. CP89-1571-000, Niagara Mohawk Power Corporation
CAG-61.
Docket No. CP79-407-018, ANR Pipeline Company
CAG-62.
Docket No. RP88-198-000, *et al.*, Transwestern Pipeline Company
Docket No. RP89-121-000, West Texas Gathering Company
Docket No. RP89-140-000, *et al.*, Williams

entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Ratifications
2. Petitions and Complaints
3. Inv. No. 701-TA-299 (F) and 731-TA-431 (F) (Aluminum Sulfate from Venezuela)—briefing and vote.
4. Any items left over from previous agenda

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 205-1806.

Dated: November 9, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-26785 Filed 11-9-89; 11:09 am]
BILLING CODE 7020-02-M

subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

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Docket Nos. CP88-166-000 and CP88-169-000, Champlain Pipeline Company
Docket Nos. CP88-173-000, CP88-174-000 and CP88-176-000, Tennessee Gas Pipeline Company
Docket No. CP88-175-000, Northeastern Gas Transmission Company
Docket Nos. CP88-182-000 and 001, PennEast Gas Service Company, CNG Transmission Corporation and Eastern Transmission Corporation
Docket Nos. CP88-189-000, CP88-192-000 and 001, Algonquin Gas Transmission Company
Docket Nos. CP88-190-000 and CP88-191-000, Greater Northeast Pipeline Corporation
Docket No. CP88-193-000, Eastern American States Transmission Company
CAG-44.
Docket No. CP87-236-001, Ozark Gas Transmission System
CAG-45.
Docket Nos. CP88-490-003 and CP88-548-003, Panhandle Eastern Pipe Line Company
CAG-46.
Docket No. CP89-3-003, Panhandle Eastern Pipe Line Company
CAG-47.
Docket Nos. CP88-574-001 and CP88-779-001, CNG Transmission Corporation
CAG-48.
Docket No. CP87-376-001, Viking Gas Transmission Company (formerly Midwestern Gas Transmission Company)
CAG-49.
Docket No. CP75-104-053, High Island Offshore System
Docket No. CP76-118-015, U-T Offshore System
CAG-50.
Docket No. CP89-2199-000, United Gas Pipe Line Company
CAG-51.
Docket No. CP90-61-000, United Gas Pipe Line Company
CAG-52.
Docket No. CP90-166-000, United Gas Pipe Line Company
CAG-53.
Docket No. CP90-169-000, Colorado Interstate Gas Company
CAG-54.
Docket No. CP89-333-000, Tennessee Gas Pipeline Company
CAG-55.
Docket No. CP89-1068-000, Kansas Pipeline Company, L.P.
CAG-56.
Docket No. CP87-106-000, Viking Gas Transmission Company (formerly Midwestern Gas Transmission Company)
CAG-57.
Docket No. CP89-869-000, United Gas Pipe Line Company
CAG-58.
Docket Nos. CP89-1991-000 and CP89-2001-000, Mississippi River Transmission Corporation
CAG-59.
Docket No. CP90-1-000, Pacific Gas Transmission Company
CAG-60.
Docket No. CP89-1571-000, Niagara Mohawk Power Corporation
CAG-61.
Docket No. CP79-467-018, ANR Pipeline Company
CAG-62.
Omitted
CAG-63.
Docket No. CP88-332-004, El Paso Natural Gas Company
CAG-64.
Docket No. CP88-267-000, Atlantic Richfield Company and Intalco Aluminum Corporation (Ferndale Pipeline System)
CAG-65.
Docket Nos. CP83-254-332 and CP83-335-252, Williston Basin Interstate Pipeline Company
CAG-66.
Docket No. RP86-239-000, Trunkline Gas Company
Docket No. RP86-27-000, United Gas Pipeline Company
Docket No. RP89-43-000, Valero Interstate Transmission Company
Docket No. RP90-31-000, Alabama-Tennessee Natural Gas Company
Docket No. RP89-45-000, *et al.*, ANR Pipeline Company
Docket No. RP89-135-000, Arkla Energy Resources
Docket No. RP89-96-000, *et al.*, Colorado Interstate Gas Company
Docket No. RP88-124-000, CNG Transmission Corporation
Docket No. RP86-207-000, *et al.*, Columbia Gas Transmission Corporation
Docket No. RP90-32-000, East Tennessee Natural Gas Company
Docket No. RP90-33-000, Mississippi River Transmission Corporation
Docket No. RP90-34-000, National Fuel Gas Supply Corporation
Docket No. RP86-94-000, *et al.*, Natural Gas Pipeline Company
Docket No. RP89-136-000, Northern Natural Gas Company
Docket No. RP89-137-000, Northwest Pipeline Corporation
Docket No. RP88-184-000, *et al.*, El Paso Natural Gas Company
Docket No. RP90-35-000, Florida Gas Transmission
Docket No. RP90-36-000, K-N Energy, Inc.
Docket No. RP90-37-000, Kentucky-West Virginia Gas Company
Docket No. RP90-38-000, Mid-Louisiana Gas Company
Docket No. RP88-241-000, *et al.*, Panhandle Eastern Pipe Line Company
Docket No. RP89-120-000, Questar Pipeline Company
Docket No. RP89-141-000, United Gas Pipe Line Company, Operator of the Sea Robin Pipeline Company
Docket No. RP86-63-000, Southern Natural Gas Company
Docket No. RP88-191-000, *et al.*, Tennessee Gas Pipeline Company
Docket No. RP90-39-000, Texas Eastern Transmission Corporation
Docket No. RP89-119-000, *et al.*, Texas Gas Transmission Corporation
Docket No. RP88-68-000, *et al.*, Transcontinental Gas Pipe Line Corporation
Docket No. RP88-198-000, *et al.*, Transwestern Pipeline Company
Docket No. RP89-121-000, West Texas Gathering Company
Docket No. RP89-140-000, *et al.*, Williams Natural Gas Company
Docket No. RP89-118-000, Williston Basin Interstate Pipeline Company

I. Licensed Project Matters

P-1.
Project Nos. 8142-005, 006, 007 and 014, Henwood Associates, Inc. Order on rehearing of May 2, 1989, order.
P-2.
Project No. 7257-006, Joseph Martin Keating. Order regarding water quality certification.

II. ER-1. Reserved

Miscellaneous Agenda

M-1.
Docket No. RM87-33-001, Hydroelectric Relicensing Regulations Under the Federal Power Act. Order on rehearing.
M-2.
Docket No. RM89-7-000, Regulations Governing Submittal of Proposed Hydropower License Conditions and Other Matters. Notice of proposed rulemaking concerning revisions to the Commission's procedural rules for hydropower proceedings.
M-3.
Docket No. RM87-34-000, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Final Rule.
M-4.
Reserved

I. Pipeline Rate Matters

RP-1.
Reserved

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.
Docket No. CP89-2114-000, United Gas Pipe Line Company. Order regarding United's restructuring proposals.
CP-2.
Docket No. CP89-1499-000, Pan National Gas Sales, Inc.
Docket No. CP87-418-000, Trunkline LNG Company. Order on application for certificate to provide LNG terminal service and request for authorization to make sales of regasified LNG.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26876 Filed 11-9-89; 3:54 pm]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 20, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 9, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-26874 Filed 11-9-89; 3:30 pm]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

USITC SE-89-39

TIME AND DATE: Monday, Nov. 20, 1989 at 2:00 p.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. No. 701-TA-299 (F) and 731-TA-431 (F) (Aluminum Sulfate from Venezuela)—briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Dated: November 9, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-26875 Filed 11-9-89; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-89-40]

TIME AND DATE: Wednesday, Nov. 29, 1989 at 10:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes

3. Ratifications
4. Petitions and Complaints
5. Inv. No. 701-TA-299 (F) and 731-TA-431 (F) (Aluminum Sulfate from Venezuela)—briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Dated: November 9, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-26877 Filed 11-9-89; 3:38 pm]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 13, 20, 27, and December 4, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 13

Wednesday, November 15

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 20—Tentative

Tuesday, November 21

9:00 a.m.
Briefing on Implementation of the U.S. Environmental Protection Agency's HLW Disposal Standards (Public Meeting)

Wednesday, November 22

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 27—Tentative

Thursday, November 30

2:00 p.m.
Briefing on DOE Views on Advanced Light Water Reactor Design and Certification (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 4—Tentative

Monday, December 4

2:00 p.m.
Briefing on Contract for Upgrading Operations Center's Emergency Telecommunications Center (Public Meeting)

Friday, December 8

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: November 9, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89-26857 Filed 11-9-89; 2:26 pm]

BILLING CODE 7590-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote To Close Meeting

At its meeting on November 6, 1989, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for December 4, 1989, in Phoenix, Arizona. The members will discuss preparations for the rate case filing.

The meeting is expected to be attended by the following persons: Governors Alvarado, del Junco, Griesemer, Hall, Mackie, Nevin, Pace, Ryan, and Setrakian; Postmaster General Frank, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Cox.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act, [5 U.S.C. 552b(b)], because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the

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United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of title 5, United States Code; section 410(c)(4) of title 39, United States Code; and section 7.3(c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 89-26858 Filed 11-9-89; 2:33 am]

BILLING CODE 7710-12-M

RESOLUTION TRUST CORPORATION

Change in Date of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the previously announced meeting of the Board of Directors of the Resolution Trust Corporation scheduled to be held on Tuesday, November 14, 1989 at 3:00 p.m. (open session) has been *RESCHEDULED* for Thursday, November 16, 1989 at 3:00 p.m.

No earlier notice of this change in the date of the meeting was practicable.

Dated: November 8, 1989.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 89-26785 Filed 11-9-89; 11:09 am]

BILLING CODE 6714-01-M

Corrections

Federal Register

Vol. 54, No. 218

Tuesday, November 14, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71 and 78

[Docket No. 89-006]

RIN 0579-AA27

Swine Identification

Correction

In proposed rule document 89-24648 beginning on page 43065 in the issue of Friday, October 20, 1989, make the following correction:

§ 71.4 [Corrected]

On page 43068, in the third column, in the 11th line, (item 7(b)) "71.7" should read "71.4".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 146

[FRL-3631-5]

Underground Injection Control Program; Water-Brine Interface Mechanical Integrity Test for Class III Salt Solution Mining Injection Wells

Correction

In rule document 89-19465 beginning on page 34169 in the issue of Friday, August 18, 1989, make the following correction:

On page 34171, in the second column, in the sixth line, "0.5" should read "0.05".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6750

[CO-930-09-4214-10; C-46833]

Withdrawal of National Forest System Land for Protection of Recreational Values; Colorado

Correction

In rule document 89-24934 appearing on page 43178 in the issue of Monday, October 23, 1989, make the following correction:

On page 43178, in the second column, under *White River National Forest*, under "T.5 S., R. 82 W.", the sixth line should read "NW¼, and E½SW¼,".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

RIN 3150-AC81

Fitness-for-Duty Programs

Correction

In the correction to rule document 89-12806 appearing on page 29139 in the issue of Tuesday, July 11, 1989, a portion of the text was inaccurate and should have appeared as follows:

§ 26.73 [Corrected]

In the third column, in item 2, in the last line, "December 4, 1989" should read "January 3, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Correction

In notice document 89-26021 appearing on page 46677 in the issue of Monday, November 6, 1989, make the following correction:

On page 46677, in the second column, in the 13th line, "any" should read "and".

BILLING CODE 1505-01-D

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federal register

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Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171 et al.

Transportation Regulations; Compatibility With Regulations of the International Atomic Energy Agency; Notice of Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177, and 178

[Docket No. HM-169A; Notice No. 89-8]

RIN 2137-AB50

Transportation Regulations; Compatibility With Regulations of the International Atomic Energy Agency

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of proposed rule (NPRM).

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) concerning radioactive material to make them compatible with those of the International Atomic Energy Agency (IAEA) and thus with those of most major nuclear nations of the world. Although several substantive changes are proposed to provide a more uniform degree of safety for various types of shipments, the basic standards for packaging radioactive material remain unchanged. The intended effect of this rulemaking is to increase the level of safety and facilitate international commerce as it relates to the transportation of radioactive materials. On June 8, 1988, the U.S. Nuclear Regulatory Commission (USNRC) published a corresponding proposed rule change (53 FR 21550) to its transportation regulations found in 10 CFR part 71.

DATES: Comments must be received on or before February 9, 1990.

ADDRESSES: Address comments to Dockets Unit, Office of Hazardous Materials Transportation, (DHM-30), U.S. Department of Transportation, Washington, DC 20590. Comments should be submitted, when possible, in five copies and should identify the docket. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Docket Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael E. Wangler, Chief, Radioactive Materials Branch, Technical Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4545.

SUPPLEMENTARY INFORMATION:

I. Background

In 1958, at the request of the Economic and Social Council of the United Nations, the IAEA undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the IAEA in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964, and further effort in 1966, a version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6" was published in 1967. The IAEA regulations have since been adopted generally by most nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Nuclear Regulatory Commission (USNRC) (formerly the Atomic Energy Commission (AEC)) has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. In October 1968 the Hazardous Materials Regulation Board of DOT published amendments which were also in substantial conformance with the 1967 IAEA standards (Docket HM-2, 33 FR 14918).

In February 1969, recognizing that the international standards should be revised from time to time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited its member states to submit comments and suggested changes to the regulations. Other goals of this IAEA procedure were to remove any ambiguities and to simplify the presentation of the text of the regulations.

Within the U.S., comments and suggested revisions to the IAEA regulations were collected by DOT from the AEC, the American National Standards Institute (ANSI), the Atomic Industrial Forum and others. As a result of that effort, a compilation of approximately 40 comments was forwarded by DOT to the IAEA in July 1969. Some of those suggested changes were intended to more closely align U.S. regulations with the IAEA regulations.

In 1970 the IAEA convened a panel of experts to review the regulations and consider the comments which had been submitted by member states. As a result of this review panel's efforts and additional revisions, the Director General of the IAEA (Director General) transmitted a third revision draft to all IAEA member states and to interested international organizations.

In January 1971, the Office of Hazardous Materials of the DOT published a public notice (36 FR 1280) in the form of a "Request for Public Advice on Revisions of International Regulations." Interested persons thereby were informed of the issuance and availability of this third revised draft, identified as IAEA Document No. PL-383, entitled "Regulations for the Safe Transport of Radioactive Materials, Third Revised Draft, November 1970".

In cooperation with the AEC, the DOT solicited comments on this third draft. Copies were distributed to all AEC operating contractors, as well as the Atomic Industrial Forum and ANSI Subcommittee N14 (Transportation of Fissile and Radioactive Materials) for redistribution to their members and other interested persons. Formal U.S. comments on the third draft were forwarded by DOT to the IAEA through the Department of State.

A final Review Panel of experts was convened by the IAEA in October 1971, to finalize the revisions. As a result of that Panel, the IAEA subsequently issued its "Safety Series No. 6, Regulations for the Safe Transport of Radioactive Materials 1973 Revised Edition," in late 1973. Subsequent to the issuance of the 1973 Edition of IAEA Safety Series No. 6, the IAEA convened another Review Panel in December 1974. The purpose of this Panel was to consider any minor inconsistencies, omissions or errors that were revealed in the course of national and international applications to the IAEA's 1973 Revised Standards, and to recommend, among other things, any changes in details that should be made in the regulations under the established procedures of the IAEA Board of Governors.

As a result of the 1974 Review Panel work, the IAEA developed a list of minor drafting changes to the 1973 Revised Edition of Safety Series No. 6, which became effective in May 1975, as well as a list of substantive proposed changes under the "90-day" amendment procedure. These latter changes were adopted in 1977 by the IAEA.

At its first meeting in October 1978, IAEA's Standing Advisory Group for the Safe Transport of Radioactive Materials (SAGSTRAM), established by the Director General in October 1977, reviewed and recommended a small number of additional amendments, some

of which slightly modified the changes issued by the IAEA in 1977. The recommendations of SAGSTRAM were subsequently published by the Director General as the "1973 Revised Edition, As Amended."

On March 10, 1983, RSPA published Docket HM-169 (48 FR 10218), which revised the HMR relating to the transportation of radioactive materials. That revision, in combination with a parallel revision of 10 CFR part 71 administered by the USNRC, brought United States domestic transport safety regulations at the Federal level in accord with relevant portions of the IAEA design and performance requirements to the extent considered feasible. This action made U.S. regulations compatible with the domestic regulations of most of the international community.

At the time of the 1971 Review Panel, a decision was made that periodic review of Safety Series No. 6 should be carried out at intervals of about 10 years to assure that the requirements were kept current. As a result, a review was initiated in 1979 to fulfill this commitment for periodic evaluation.

As in the past, the IAEA solicited comments and proposals for changes from member states and international organizations. Based on more than 200 pages of comments, the IAEA convened a Review Panel for the comprehensive review of Safety Series No. 6 considering changes in transport conditions and methods used for shipping radioactive materials. The Review Panel was again composed of the major countries involved in radioactive material transportation. The Review Panel was asked to strike a balance between keeping the regulations reasonably the same for continuity and ease of application and making necessary changes as a result of experience gained in their application. Two additional panel meetings produced a draft document that was issued in 1985 by the IAEA as the "1985 Edition" of Safety Series No. 6. Minor changes to the 1985 edition were made in 1986. Docket HM-169 was written to incorporate, to the extent possible, some of the changes anticipated in the 1985 version of Safety Series No. 6.

At its Fifth Meeting in 1986 SAGSTRAM recommended that Safety Series No. 6 undergo revision every ten years for major changes, and that minor changes and changes of detail be made at two-year intervals to ensure that it remains current with technology and needs. Minor changes are promulgated by the Director General without specific member state acceptance; changes of detail are subject to the "90 day" rule in which members states are given the opportunity to submit their acceptance or rejection of individual changes of detail. These recommendations were accepted by the Director General.

To initiate the revision process, the IAEA in 1986 again solicited comments and proposals for changes to the regulations and to its supporting documents. A Technical Committee was convened in 1987 to review the member state submittals, to determine which submittals warranted consideration and to assign each submittal to the appropriate category of change. Given the recommendations of this Technical Committee, the Director General promulgated the minor changes and submitted the changes of detail under the "90 day" rule. The changes were accepted by the member states and were published as "Supplement 1988" to the 1985 edition of Safety Series No. 6.

This notice proposes to revise the HMR, as it relates to the transportation of radioactive materials, so that it is in essential conformance with the 1985 edition of Safety Series No. 6 and the Supplement 1988. These revisions to the HMR are necessary to allow for the international transportation of radioactive materials to and from the United States.

II. Discussion of Changes

While this notice proposes an extensive revision of that portion of the regulations dealing with the transportation of radioactive materials, the majority of the changes are not substantive in nature. Many changes involve revision of section and paragraph numbers and their references and the use of the International System of Units (SI units) for radiological measurements where appropriate. In addition, a few sections are proposed to be rewritten to provide clarity without changing their subject matter. Although not all of subpart I of part 173 of 49 CFR, entitled "Radioactive Materials", has been proposed to be changed, it has been reprinted in its entirety for ease of understanding. Substantive changes are discussed in the following paragraphs.

Radiation Protection

On January 27, 1987, the Environmental Protection Agency (EPA) published a document titled, "Radiation Protection Guidance to Federal Agencies for Occupational Exposure: Recommendations Approved by the President." This document updated radiation guidance to Federal agencies. The recommendations are provided to Federal agencies to enable them to revise or develop detailed standards and regulations in those areas for which they have regulatory or administrative jurisdiction. As the lead Federal agency in this area, the EPA will monitor Federal agency compliance with the recommendations, will provide clarification and interpretation, as appropriate, to reflect new information, and will promote the necessary coordination to achieve an effective Federal program of worker protection.

Among its recommendations, the EPA specifies that no exposure should occur unless an overall benefit will be derived from the activity causing the exposure; that radiation dose should be maintained as low as it is reasonably achievable (ALARA); that the annual effective dose equivalent be limited to 50 milliSieverts (5 rems) to the whole body, 150 milliSieverts (15 rems) to lens of the eye, and 500 milliSieverts (50 rems) to any other organ, tissue or extremity of the body; that occupation exposure for individuals under the age of 18 not exceed 1/10 of values recommended for radiation workers; and that the dose equivalent to an unborn child as a result of the occupational exposure of a woman who has declared herself to be pregnant should not exceed 5 milliSieverts (500 millirems) during the entire gestation period. Since this proposal only summarizes EPA's recommendations, the full text should be obtained from EPA for study.

RSPA proposes to incorporate the EPA recommendations into the HMR. The HMR would incorporate the EPA document by reference, would require that an ALARA program be established, and would limit radiation exposures to those specified in the EPA recommendations. The HMR would also provide for a three-tier approach for developing a radiation protection program to monitor the dose to any worker exposed to radiation for meeting the recommendations of the EPA guidance. For annual effective dose equivalents not exceeding 5 milliSieverts (500 millirems), a shipper or carrier would not be required to provide any detailed monitoring program for the workers. However, the shipper or carrier would be responsible for periodically evaluating operations to ensure that no activity would cause an annual dose to exceed 5 milliSieverts (500 millirems). For operations which will cause an annual dose of between 5 milliSieverts (500 millirems) and 15 milliSieverts (1.5 rems), the shipper or carrier would be required to perform periodic assessments of radiation exposure levels for each worker in this range to determine if controls to limit exposure should be implemented or if

constant personnel exposure monitoring is required. For operations which will cause an annual dose of between 15 milliSieverts (1.5 rems) and 50

inherently radioactive but is superficially contaminated. Not every conceivable type of radioactive material that is removed from a facility during

A new type of package, called the "industrial package", is being proposed for the handling of low specific activity material (LSA) and surface

type needed to transport radioactive materials. The A_1 and A_2 values are the maximum quantities of a particular radionuclide permitted in Type A

Classification of Fissile Material

As a result of the evolution of the fissile material criteria, IAEA recognized

definition would delete reference to §173.455;

—The definition of low-specific-activity (LSA) material would be

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constant personnel exposure monitoring is required. For operations which will cause an annual dose of between 15 milliSieverts (1.5 rems) and 50 milliSieverts (5 rems), a radiation exposure monitoring program for each individual would be implemented. Programs would be able to satisfy this latter requirement through the issuance and monitoring of individual personnel exposure devices on a monthly or quarterly basis.

The promulgation of a radiation protection program will bring the HMR in line with other Federal agencies which control the radiation exposure of occupationally exposed individuals. For example, under the Atomic Energy Act of 1954, as amended, the USNRC limits the radiation exposure of individuals who are employed by its licensees. Similarly, the Department of Energy under this same Act conducts a radiation protection program for its employees meeting the requirements of the Federal guidance.

General Design Requirements for All Packages

As proposed, certain packagings used for the transportation of radioactive materials would be required to have greater integrity. Excepted packages are currently required to meet the requirements only for a strong, tight package. Under the proposal, all packages of radioactive materials, including excepted packages, would be required to meet general design requirements prescribed in § 173.410. These packages would be required to be designed for ease of handling and proper restraint during shipment. They would be required to be free of protuberances and easily decontaminated. They would be required to be capable of withstanding the effects of vibration during transport. They also would be required to meet reduced pressure and temperature requirements. Minimum design requirements for excepted packages will increase the overall integrity of the packages.

Low Specific Activity Material and Surface Contaminated Objects

The IAEA has been working to update its requirements for shipment of low specific activity material (LSA) to provide for the transportation of irradiated and contaminated parts and equipment from decommissioned nuclear plants. The IAEA adopted a new designation for radioactive material called surface contaminated object (SCO). Unlike LSA, which requires a uniform distribution of radioactive material within the material, SCO is not inherently radioactive but is superficially contaminated. Not every conceivable type of radioactive material that is removed from a facility during the decommissioning process will be covered by this proposal. New materials can be added to the SCO definition as needed. RSPA and USNRC concur with the IAEA in recognizing the need to issue regulations for the transportation of this specific type of material.

New LSA and SCO regulations consist of the following:

1. An expansion of the LSA definition to include new types of material;
2. A new definition of "surface contaminated object" (SCO) which is treated in a manner similar to LSA material; and
3. An increase of specific activity limits for nondispersible, nonrespirable forms of LSA material while at the same time limiting the quantity of LSA material which can be shipped in other than a Type B package. The package quantity limit is intended to limit external radiation levels produced as a result of shielding loss in a transportation accident.

In the past, overlapping statutory authority between the USNRC and DOT for regulating the transportation of radioactive material has created some confusion about which agency had regulatory authority for packages containing LSA. To clarify regulatory authority in this area, the current proposal establishes RSPA regulatory authority for packages containing LSA and SCO materials in amounts not exceeding 2 times the A_1 value ($2A_1$) for the specific nuclide being transported. Above that level the USNRC will assume regulatory responsibility.

Although the proposed regulations establish $2A_1$ as the level of contained radioactive material above which the USNRC regulations become applicable, the corresponding IAEA standard is expressed as an external radiation level at 3 meters from the unshielded material or object of 10 milliSievert/hr (1 rem/hr). The value A_1 for any specified radionuclide is the quantity of that radionuclide as a point source which produces a radiation level of 10 milliSieverts/hr (1 rem/hr) at a distance of 3 meters. Considering that LSA and SCO materials are bulk sources with considerable self-shielding, the value $2A_1$ was chosen by RSPA and the USNRC as a close approximation of the IAEA standard of 10 milliSieverts/hr (1 rem/hr) at 3 meters. This approach will make U.S. regulations inconsistent with those of IAEA, but little impact in international transportation should be experienced.

A new type of package, called the "industrial package", is being proposed for the handling of low specific activity material (LSA) and surface contaminated objects (SCO). Three categories of industrial packages (IP) IP-1, IP-2 and IP-3 are being proposed; each would have to meet differing packaging requirements. These packages would replace the modified Type A package, that is currently required for nonexclusive use shipments, and the strong, tight package, that is currently permitted for exclusive use shipments. For nonexclusive use shipments, the packaging requirements for LSA would not be substantially changed. The proposed provision would allow a shipper to determine the acceptable industrial package as based on the type of LSA or SCO to be shipped. In most cases, existing LSA packages could continue to be used. Certain lower hazard LSA and SCO could be shipped in a package equivalent to an excepted package. For exclusive use shipments, the industrial package would be required to meet minimum design requirements that are currently required for all packaging except for excepted packages. However, based on the type of LSA or SCO to be shipped, the shipper would have some flexibility in the design of the package.

This proposal is intended to produce an overall increase in the integrity of the packaging used for LSA and SCO. It will also ensure that industrial packages produced in the U.S. can be used in international commerce with a minimum of delay in shipment.

Expansion of Radionuclide List and Changes in Radionuclide Limits

Based on numerous proposals for additions to the table of radionuclides, in which limits are listed for the quantity of radioactive material in a single package, IAEA concluded that its table needed to include all radionuclides which have the potential for transportation. As a result, the table in § 173.435, which provides A_1 and A_2 values, has been expanded from 284 entries to 378 entries. Because there now should be few instances where unlisted radionuclides would be transported, the rules for calculating values for unlisted radionuclides would be simplified. The determination of limits for unlisted radionuclides, except for very conservative values, would be made subject to RSPA approval.

The preamble to the 1983 revision of the HMR (48 FR 10218) noted that the IAEA had replaced its concept of transport groups with a system of A_1 and A_2 values determining the package type needed to transport radioactive materials. The A_1 and A_2 values are the maximum quantities of a particular radionuclide permitted in Type A packages in special form and normal form, respectively. Type A packages are those which provide adequate containment, shielding, and criticality control under normal conditions of transport and minor accidents, but are not designed to survive severe transportation accidents. Accident-resistant packages are identified as Type B. Radioactive material in special form is either a nondispersible solid or an encapsulated source to minimize the dispersibility and, therefore, the radiological hazard of the radioactive material. This system of limiting the radioactive content of Type A packages to A_1 and A_2 values depending on the dispersibility of the contents is the regulatory scheme for limiting the potential radiological hazard of a serious transportation accident involving packages of radioactive material.

The IAEA has since modified the system for determining A_1 and A_2 values. Although this system is based on achieving essentially the same limitations on potential accident radiological hazards as its predecessor system, the new system has the following advantages:

1. It states more clearly the radiation protection criteria employed;
2. It incorporates the data and conclusions on metabolic pathways provided during the years 1977–1981 by the International Commission on Radiological Protection (ICRP)
3. It includes dosimetric routes through human organs not previously considered; and
4. It harmonizes IAEA regulations with ICRP recommendations on radiological safety in Publications ICRP26 and ICRP-30.

The effect of IAEA's adoption of this new system for calculating A_1 and A_2 values, and the subsequent incorporation of the new values in the HMR, is that most current A_1 and A_2 values would be amended. Of the 284 radionuclide entries in section 173.435, A_2 values would be raised in 129 cases and lowered in 95 cases. Of the A_1 values, 144 would be raised and 73 lowered.

The new IAEA system for calculating A_1 and A_2 values is described in Appendix I, "The Q System for the Calculation of A and A Values," of IAEA Safety Series No. 7, "Explanatory Material for the IAEA Regulations for the Safe Transport of Radioactive Material (1985 Edition)."

Classification of Fissile Material

As a result of the evolution of the fissile material criteria, IAEA recognized that the current three fissile classes could be combined and simplified into a single system. The effect of the simplification of the IAEA system now being proposed for U.S. regulations is:

1. Elimination of the three fissile class designations;
2. Establishment of a single set of criteria for all packages of fissile materials;
3. Use of the transport index as the primary control of accumulations of packages in transport under nearly all conditions.

Review by Section

Section 172.203(d) would be revised to add references to SI units; References to Fissile Class III would be replaced with "Fissile Material, Controlled Shipments"; and for LSA and SCO shipments appropriate group notations would be required on shipping papers.

Section 172.310 would be amended to require the trefoil symbol, as specified in Appendix B to part 172, to be marked on packages of radioactive material.

Section 172.403 would be amended to add reference to SI unit.

Paragraph (c)(17) of Appendix B to part 172 would be amended to note size requirements for the trefoil symbol on package markings labels and placards.

A new § 173.402, "SI units", would be added to phase in the use of the International System of Units (SI) for radiological measurements; that is, levels currently expressed in the customary units of rems and curies could be expressed in SI equivalents of Sieverts and Becquerels or customary units. The proposed revisions to the HMR use SI units followed by the customary units in parentheses. In many cases the limits in customary units have been extended to 3 significant figures so they represent a functional equivalent to the limits expressed in SI units. Limits on length, pressure, weight, and temperature are also expressed in SI units with functionally equivalent values in customary units following in parentheses. The objective of this approach is to maintain consistency with international regulations while allowing U.S. shippers to use the units with which they are most familiar. These changes would be made throughout the HMR.

Section 173.403 "Definitions", would be amended as follows:

—Contamination would be defined;

—Fissile material would be defined as the listed radionuclides, and the definition would delete reference to §173.455;

—The definition of low-specific-activity (LSA) material would be extensively changed to correspond to that of IAEA. The one remaining significant difference would be the addition of a provision in the HMR for transportation of contaminated earth in a closed vehicle in unpackaged form. Extensive removal of contaminated earth has been found necessary in decommissioning facilities in the United States;

—A new definition for industrial packages (IP) providing for three classifications, IP-1, IP-2, and IP-3, to be used for the transport of LSA and SCO in quantities not to exceed $2A_1$;

—The grandfather clause for special form radioactive material encapsulation would be updated; and

—A new definition of Surface Contaminated Object (SCO) would be added to correspond to the parallel definition in IAEA regulations. SCO would be treated in the regulations similarly to LSA materials, with industrial packaging required for most applications.

A new §173.404, "U.S. Competent Authority", wich specifies the address of the U.S. Competent Authority for the transport of radioactive materials, would be added for ease of reference.

A new §173.405, "General Radiation Protection Principles", would be added to implement a requirement for the establishment of radiation protection programs as follows:

—Radiation exposures of transport workers would be subject to the recommendations specified in EPA's "Radiation Protection Guidance to Federal Agencies for Occupational Exposure";

—Radiation exposures would be maintained as low as is reasonably achievable (ALARA);

—Transport workers who are exposed to radiation would have to be given appropriate training concerning the hazards of radiation. On July 26, 1989, RSPA published in the Federal Register (54 FR 31144) an NPRM, entitled "Training for Hazardous Materials Transportation", under Docket HM-126F which proposed new training requirements for those persons involved in the transportation of hazardous materials. If and when this proposal and HM-126F become final rules, RSPA will make the necessary editorial changes to assure regulatory consistency;

—The annual effective dose equivalent of transport workers exposed to radiation would be limited to 50 milliSieverts (5 rems), which additional

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limits of 150 milliSieverts (15 rems) for exposure of the lens of the eye and 500 milliSieverts (50 rems) for exposure of any other organ, tissue, or extremity of the body;

—Effective dose equivalent to an unborn child would be restricted to 5 milliSieverts (500 millirems); and

—Radiation exposures would be subject to a graded approach for actions to be used to control radiation. This approach would be determined by the magnitude and likelihood of exposure.

Section 173.410, "General design requirements", would be amended as follows:

—A package would have to be capable of withstanding the effects of acceleration, vibration or vibration resonance during transport;

—The materials of the packaging and any components would have to be chemically and physically compatible;

—All values through which the package contents could escape would have to be protected; and

—A package intended for air transport would have to be designed to withstand reduced temperature and pressure during transport;

—A package would be required to have a minimum dimension of 10 cm. (4 inches).

A new §173.411, "Additional design requirements for industrial packages", would be added to specify the requirements for IP–1, IP–2, and IP–3 packages. The IP–1 would have to meet the general design requirements for all packages designed for the transportation of radioactive material. An IP–2 would have to meet the requirements for an IP–1, as well as being subjected to free drop and compression tests specified for a Type A package. An IP–3 would have to meet the requirements for a Type A package for non-liquids.

Section 173.412, "Additional design requirements for Type A packages", would be amended to permit all packages containing liquids to use a double containment system. This would eliminate the current small package prohibition of this practice as well as requiring that expansion of liquids during temperature changes considered during design. This section would also be amended to include a closure requirement on containment systems that are separate unit of the packaging.

A new §173.414, "Authorized industrial packages", would be added to permit the use of IM 101 and IM 102 portable tanks and freight containers as industrial packages.

Section 173.415, "Authorized Type A packages", would be amended to eliminate the reference to DOT Specification 55 packaging, which has not been authorized since July 1, 1985. This section would also be amended to permit the use of Type A packaging that also meets the requirements of the USNRC for fissile materials packaging.

Section 173.416, "Authorized Type B packages", would be amended to eliminate the reference to the DOT Specification 55 packaging. This would also eliminate the use of DOT Specification 55 packaging as an inner container for DOT Specification 20WC and 21WC overpacks.

Section 173.417, "Authorized packaging—fissile materials", would be amended to eliminate references to different fissile classes and to remove a direct reference to authorized packaging for 500 grams of Uranium 235 and 320 grams of plutonium through a cross-reference to the USNRC regulations. In addition, § 173.417(a)(8) and (b)(5) specify the authorized packagings for Type A and Type B, respectively, quantities of fissile radioactive material. Section 173.417(b)(5)(iii) limits the amount of uranium hexafluoride in a package to the amount specified in "Table 6—Authorized Quantities Of Uranium Hexafluoride (UF_6) As Fissile Class II" (Table 6). In Table 6, however, only DOT specifications 20PF–1 and 20PF–2 are authorized to contain a Type B quantity of uranium hexafluoride. Therefore, § 173.417(b)(5) would be revised to authorize only the DOT specifications 20PF–1 and 20PF–2 for the transportation of Type B quantities of uranium hexafluoride.

Section 173.421–1, "Excepted packages for limited quantities of radioactive material" would be amended to require compliance with the design requirements of § 173.410.

Section 173.421–1, "Additional requirements for excepted packages", would be amended to incorporate new proper shipping names and new UN identification numbers for excepted packages.

Section 173.422, "Excepted packages for instruments and articles," would be amended to require that the instrument or article be marked with the word "radioactive".

Section 173.423, "Table of activity limits—excepted quantities and articles", would be amended to remove the direct reference to tritiated water.

Section 173.425, "Transport requirements for low specific activity material (LSA) and surface contaminated objects (SCO)", would be amended to limit the activity in any LSA or SCO package to $2A_1$, and to specify the appropriate industrial package for LSA and SCO transport in a new Table 8, "Industrial package integrity requirements for LSA material and SCO."

Section 173.433, "Requirements for determination of A_1 and A_2 values for radionuclides", would be completely amended to incorporate a less complex method for calculating the A_1 and A_2 values.

Section 173.435, "Table for A_1 and A_2 values for radionuclides", would be amended to incorporate new A values as specified in the IAEA regulations.

Section 173.447, "Storage incident to transportation—general requirements", would be amended to delete references to fissile classes.

Section 173.448, "General transportation requirements", would be amended to delete references to fissile classes.

Section 173.453, "Fissile materials—exceptions", would be amended by deleting the exception for thermal reactor irradiated uranium and for thorium or uranium with not more than 0.72% fissile material.

Section 173.455, "Classification of fissile materials packages", would be deleted entirely because of the elimination of fissile classes.

Section 173.457, "Transportation of fissile material, controlled shipment-requirements", would redefine fissile class III shipments in terms of a new fissile material, controlled shipment.

Section 173.459, "Mixing of fissile materials packages", would be amended to delete references to fissile classes and express shipment controls in terms of fissile material, controlled shipments.

Section 173.461, "Demonstration of compliance with tests", would be amended to clarify that surrogate materials would be used in packaging to demonstrate compliance with the performance requirements for the package.

Section 173.469, "Tests for special form radioactive material", would be amended to add an alternative method to qualify special form radioactive material under the specific impact and temperature tests prescribed in the specified standard of the ISO.

A new § 173.470, "Test for LSA–III material", would be added to specify a leak test to examine the solid nature of the material for qualification of the material as LSA–III.

Section 173.471, "Requirements for U.S. Nuclear Regulatory Commission Approved packages", would be amended to require that the applicant submit a description, to RSPA, of the quality assurance program in effect during the design, manufacture, testing, documentation, use, maintenance, and inspection of the package as required by the IAEA.

Section 173.472, "Requirements for exporting DOT Specification Type B and fissile packages", would be amended to require that the applicant submit a description, to RSPA, of the quality assurance program in effect during the design, manufacture, testing, documentation, use, maintenance, and inspection of the package as required by the IAEA.

Section 173.476, "Approval of special form radioactive materials", would be amended to require that the applicant provide evidence of the quality assurance program in effect during the design, manufacture, testing, documentation, use, maintenance, and inspection of the package as required by the IAEA.

Section 173.477, "Approval for export shipments", would be amended to delete references to fissile classes. Additionally, a new subparagraph specifying the contents of an application for shipment approval under special arrangement would be addressed.

Section 173.478, "Notification to competent authorities for export shipments", would be amended to delete references to fissile classes and would require additional information to be submitted to other national competent authorities for special arrangement shipments. Specifically, a notification of a special arrangement shipment will be required to include the name of the radionuclide, a description of the physical and chemical form, and the activity of the material.

In the modal requirements, parts 174 through 177, those sections involving radioactive material transportation would be updated to reflect the proposed changes in parts 171 through 173. Some of these proposed changes include the addition of metric and SI units and changes in regulatory references. In addition, those proposed changes to part 177, entitled "Carriage by Public Highway", will also be incorporated into a future rulemaking being developed by RSPA which will propose to recodify part 177.

II. Administrative Notices

A. Executive Order 12291

The RSPA has determined that this proposed rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A preliminary regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

C. Impact on Small Entities

Based on limited information concerning size and nature of entities likely to be affected, I certify that the proposed regulation will not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

D. Paperwork Reduction Act

Information collection requirements contained in this proposal, which are additional to those already approved, are being submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511).

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 174

Hazardous materials transportation, Rail carriers, Radioactive materials.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171 through 178 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1806; 49 CFR part 1.

2. In § 171.7, paragraph (d)(10), (d)(16)(ii) and (d)(24) would be revised and paragraphs (c)(36) and (d)(34) would be added, to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(36) USEPA: United States Envorinmental Protection Agency, Washington, DC 20460.

* * * * *

(d) * * *

(10) IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1985 Edition" including "Supplement 1986".

* * * * *

(16) * * *

(ii) USDOE, ORO–651 is titled, "Uranium Hexaflouride Handling Procedures and Container Descriptions," Revision 5, 1987 edition.

* * * * *

(24) International Organization for Standardization (ISO):

(i) "ISO 82–1974(e) Steel-Tensile Testing," First Edition 1974–06–01.

(ii) ISO/TR4826–1979(E), "Sealed radioactive sources—Leak test methods."

(iii) ISO 2919–1980(E), "Sealed radioactive sources—Classification."

(iv) ISO 1496/1–1978, "Series 1 Freight Containers—Specifications and Testing—Part 1: General Cargo Containers."

* * * * *

(34) U.S. Environmental Protection Agency, "Radiation Protection Guidance to Federal Agencies for Occupational Exposure: Recommendations Approved by the President", published in the Federal Register January 27, 1987 (52 FR 2822).

* * * * *

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3. In § 171.12, paragraph (e) introductory text and paragraph (e)(4) would be revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(e) Radioactive materials being imported into or exported from the United States, or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation when packaged, marked, labeled and otherwise prepared for shipment in accordance with IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1985 Edition" including "Supplement 1988", if:

* * * * *

(4) The country of origin for the shipment has adopted the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1985 Edition", including "Supplement 1988"; and

* * * * *

172.101 Hazardous Materials Table

(1) +/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard Class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (C) Other requirements
	ADD										
	Radioactive material, excepted package—articles manufactured from natural or depleted uranium or natural thorium.	Radioactive material.	UN 2910	None	173.421-1 173.424	173.421-1 173.424			1,2	1,2	
	Radioactive material, excepted package—empty packaging.	do	UN 2910	Empty	173.421 173.421-1 173.427	173.421-1 173.427			1,2	1,2	
	Radioactive material, excepted package—instrument or articles.	do	UN 2910	None	173.421-1 173.422	173.421-1 173.422			1,2	1,2	
	Radioactive material, excepted package—limited quantity, n.o.s.	do	UN 2910	None	173.421 173.421-1	173.421 173.421-1			1,2	1,2	
	Radioactive material, surface contaminated object (SCO).	do	UN 2913	Radioactive	173.421 173.422 173.424	173.425			1,2	1,2	
	Uranium hexafluoride fissile excepted or non-fissile.	do	UN 2978	Radioactive and corrosive.	173.421	173.420 173.425			1,2	1,2	
	REMOVE										
	Radioactive material, articles, manufactured from natural or depleted uranium or natural thorium.	do	UN 2909	None	173.421-1	173.421-1	No limit	No limit	1,2	1,2	

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATION REGULATIONS

4. The authority citation for part 172 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1, unless otherwise noted.

5. The following entries in the Hazardous Materials Table in § 172.101, would be added or removed, as indicated:

(1) +/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard Class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (C) Other requirements
	Radioactive material, empty packages.	do	UN 2908	Empty	173.421-1 173.427	173.421-1 173.427			1,2	1,2	
	Radioactive material, instruments and articles.	do	UN 2911	None	173.421-1 173.422	173.421-1 173.422			1,2	1,2	
	Radioactive material, limited quantity, n.o.s.	do	UN 2910	None	173.421 173.421-1	173.421 173.421-1			1,2	1,2	
	Uranium hexafluoride, low specific activity.	do	UN 2978	Radioactive and corrosive.	173.421-2	173.420 173.425			1,2	1,2	

6. In § 172.203, paragraphs (d)(1)(iii) and (d)(1)(vi) would be revised and paragraphs (d)(1)(ix) and (d)(1)(x) would be added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(d) * * *

(1) * * *

(iii) The activity contained in each package of the shipment in terms of the appropriate SI units (e.g. Becquerel, Terrabecquerel, etc.) or in terms of the appropriate SI units and customary units (e.g. Curies, millicuries, etc.). Abbreviations are authorized. For the shipment of a package containing a highway route controlled quantity of radioactive materials see § 173.403 of this subchapter) the words "Highway route controlled quantity" must be entered in association with the basic description.

* * * * *

(vi) For a shipment of fissile radioactive materials:

(A) The words "Fissile Excepted" if the package is excepted pursuant to § 173.453 of this subchapter, or

(B) If not exempt, the words "Fissile Materials;" and

(C) For a fissile material, controlled shipment, the additional notation: "Warning—Fissile Material, Controlled Shipment. Do not Load More Than * * * Packages per Vehicle." (Asterisks to be replaced by appropriate number.) "In loading and Storage Areas, Keep at Least 6 Meters (20 Feet) from Other Packages Bearing Radioactive Labels."

(D) If a fissile material, controlled shipment is to be transported by water, the supplementary notation must also include the following statement: "For shipment by water, only one fissile material, controlled shipment is permitted in each hold."

* * * * *

(ix) For a shipment of low specific activity material or surface contaminated objects, the appropriate group notation of LSA–I, LSA–II, LSA–III, SCO–I, or SCO–II.

(x) For a shipment consigned as exclusive use, the statement "Exclusive Use Shipment".

* * * * *

7. Section 172.310 would be revised to read as follows:

§ 172.310 Radioactive materials.

In addition to any other markings required by this subpart, each package containing radioactive materials must be marked as follows:

(a) Each package of radioactive materials in excess of 50 kilograms (110 pounds) must have its gross weight plainly and durably marked on the outside of the package.

(b) Each package of radioactive materials which conforms to the requirements for Type A or Type B packaging (§ 173.403 of this subchapter) must be plainly and durably marked on the outside of the package in letters at least 13 mm (0.5 inch) high, with the words "TYPE A" or "TYPE B" as appropriate. A packaging which is not in compliance with these requirements may not be so marked.

(c) Each package of radioactive materials destined for export shipment must also be marked "USA" in conjunction with the specification marking, or other package certificate identification. (See §§ 173.471, 173.472, and 173.473 of this subchapter.)

(d) Each package of radioactive materials which conforms to the requirements for Type B, Type B(U) or Type B(M) packaging must be plainly and durably marked on the outside of the package with a radiation symbol that conforms to the requirements of paragraph 1.(c)(17) of Appendix B to Part 172.

§ 172.400 [Amended]

8. In § 172.400, paragraph (b)(10) would be removed and reserved.

9. In § 172.403, paragraphs (b), (c) and (g)(2) would be revised to read as follows:

§ 172.403 Radioactive material.

* * * * *

(b) The proper label to affix to a package of radioactive material is based on the radiation level at the surface of the package and the transport index (§ 173.403 of this subchapter). The proper category of label must be determined in accordance with paragraph (c) of this section. The label to be applied must be the highest category required for any of the two determining conditions for the package. Radioactive White-I is the lowest category and Radioactive Yellow-III is the highest. For example: a package with a transport index of 0.8 and a maximum surface radiation level of 0.6 milliSievert (60 millirems) per hour must bear a Radioactive Yellow-III label.

(c) Category of Label to be Applied to Radioactive Materials Packages:

Transport index	Maximum radiation level at any point on external surface	Label category [1]
0 [2]	Not more than 0.005 mSv/h (0.5 mrem/h).	WHITE-I.

Transport index	Maximum radiation level at any point on external surface	Label category [1]
More than 0 but not more than 1.	More than 0.005 mSv/h (0.5 mrem/h) but not more than 0.5 mSv/h (50 mrem/h).	YELLOW-II.
More than 1 but not more than 10.	More than 0.005 mSv/h (50 mrem/h) but not more than 2 mSv/h (200 mrem/h).	YELLOW-III.
More than 10	More than 2 mSv/h (200 mrem/h) but not more than 10 mSv/h (1,000 mrem/h).	YELLOW-III (Must be shipped under exclusive use provisions).

[1] Any package containing a "highway route controlled quantity" (§ 173.403 of this subchapter) must be labeled as Radioactive Yellow-III.
[2] If the measured TI is not greater than 0.05, the value quoted may be zero.

* * * * *

(g) * * *

(2) "Activity". Activity units must be expressed in appropriate SI units (e.g., Becquerels (Bq), Terabecquerels (TBq), etc.) or in appropriate SI units (e.g., Becquerels (Bq), Terabecquerels (TBq), etc.) and appropriate customary units (Curies (Ci), milliCuries (mCi), microCuries (uCi), etc.). Abbreviations are authorized. For fissile material, the weight in grams or kilograms of the fissile radionuclide may be inserted instead of activity units.

* * * * *

10. In § 172.407, paragraph (k) would be added to read as follows:

§ 172.407 Label specifications.

* * * * *

(k) The trefoil symbol on the RADIOACTIVE WHITE–I, RADIOACTIVE YELLOW–II, and RADIOACTIVE YELLOW–III labels must meet the appropriate specifications in paragraph 1. (c)(17) of Appendix B to part 172.

§ 172.504 [Amended]

11. In Table 1 of § 172.504, the entry "RADIOACTIVE [4, 5] AND CORROSIVE.[6] " in the second column would be revised to read "RADIOACTIVE [4] AND CORROSIVE.[6] " and the fifth footnote would be revised to read as follows:

[5] For exclusive use shipments (see § 173.403) of low specific activity radioactive materials and surface contaminated objects transported in accordance with § 173.425(g).

12. In § 172.507, paragraph (a) would be revised to read as follows:

§ 172.507 Special placarding provisions: Highway.

(a) Each motor vehicle used to transport a package of highway route controlled quantity radioactive materials (see § 173.403 of this subchapter) must have the required RADIOACTIVE warning placard placed on a square background as described in § 172.527.

* * * * *

13. In appendix B to part 172, paragraph 1.(c)(17) would be revised to read as follows:

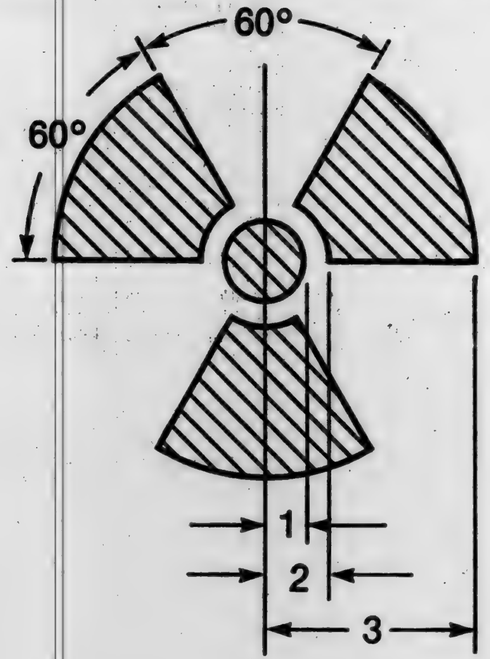
Appendix B–Dimensional Specification for Placards

1. * * *

(c) * * *

(17) *RADIOACTIVE placard.* The word "RADIOACTIVE" must be centered on the placard horizontal center line in letters 50.8 mm. (2 in.) with an 8.7 mm. (11/32-in.) stroke. The lower edge of the yellow triangle must be 28.6 mm. (1⅛ in.) above the placard horizontal center line. The lower edge of the symbol must be 31.7 mm. (1.25 in.) above the placard horizontal center line. The symbol must be made as shown with the following dimensions:

BILLING CODE 4910-60-M



1 = Radius of Circle—
Minimum Dimensions
4 mm (0.16 inch) for marking
5 mm (0.2 inch) for labels
12.5 mm (0.5 inch) for placards

2 = 2 Radii

3 = 5 Radii

BILLING CODE 4910-60-C

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The lower white area must have a 3.2 mm. (⅛-inch) black solid line border extended from the edge of the yellow area to indicate the outer 12.7 mm. (½ in.) white placard border. The hazard class must be shown in numerals measuring at least 41.0 mm. (1.62 in.) in height. The placard color must be yellow, black, and white.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

14. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

15. Subpart I of part 173 would be revised to read as follows:

Subpart I—Radioactive Materials

173.401 Scope.
173.402 SI units.
173.403 Definitions.
173.404 U.S. Competent Authority.
173.405 General radiation protection principles.
173.410 General design requirements.
173.411 Additional design requirements for industrial packages.
173.412 Additional design requirements for Type A packages.
173.413 Requirements for Type B packages.
173.414 Authorized industrial packages.
173.415 Authorized Type A packages.
173.416 Authorized Type B packages.
173.417 Authorized fissile materials packages.
173.418 Authorized packages—pyrophoric radioactive materials.
173.419 Authorized packages—oxidizing radioactive materials.
173.420 Uranium hexafluoride (fissile, fissile excepted and non-fissile).
173.421 Excepted packages for limited quantities of radioactive materials.
173.421–1 Additional requirements for excepted packages containing radioactive materials.
173.421–2 Requirements for multiple hazard limited quantity radioactive materials.
173.422 Excepted packages for instruments and articles.
173.423 Table of activity limits—excepted quantities and articles.
173.424 Excepted packages for articles containing natural uranium or thorium.
173.425 Transport requirements for low specific activity (LSA) radioactive materials and surface contaminated objects (SCO).
173.427 Empty radioactive materials packaging.
173.431 Activity limits for Type A and Type B packages.
173.433 Requirements for determinations of A_1 and A_2 values for radionuclides.
173.434 Activity-mass relationships for uranium and natural thorium.
173.435 Table of A_1 and A_2 values for radionuclides.
173.441 Radiation level limitations.
173.442 Thermal limitations.
173.443 Contamination control.
173.444 Labeling requirements.
173.446 Placarding requirements.
173.447 Storage incident to transportation—general requirements.
173.448 General transportation requirements.
173.451 Fissile materials—general requirements.
173.453 Fissile materials—exceptions.
173.457 Transportation of fissile material, controlled shipments—specific requirements.
173.459 Mixing of fissile material packages.
173.461 Demonstration of compliance with tests.
173.462 Preparation of specimens for testing.
173.463 Packaging and shielding—testing for integrity.
173.465 Type A packaging tests.
173.466 Additional tests for Type A packagings designed for liquids and gases.
173.467 Tests for demonstrating the ability of Type B and fissile materials packagings to withstand accident conditions in transportation.
173.468 Test for LSA–III material.
173.469 Tests for special form radioactive materials.
173.470 Tests for LSA material.
173.471 Requirements for U.S. Nuclear Regulatory Commission approved packages.
173.472 Requirements for exporting DOT Specification Type B and fissile packages.
173.473 Requirements for foreign-made packages.
173.474 Quality control for construction of packaging.
173.475 Quality control requirements prior to each shipment of radioactive materials.
173.476 Approval of special form radioactive materials.
173.477 Approval for export shipments.
173.478 Notification to competent authorities for export shipments.

Subpart I—Radioactive Materials

§ 173.401 Scope

(a) This subpart sets forth requirements for the packaging and transportation of radioactive materials by carriers and shippers subject to this subchapter. The requirements prescribed in this subpart are in addition to, not in lieu of, other requirements set forth in this subchapter and in 10 CFR Part 71 for the packaging and transportation of radioactive materials.

(b) This subpart does not apply to:

(1) Radioactive materials produced, used, transported, or stored within an establishment other than during the course of transportation.

(2) Radioactive materials contained in a medical device, such as a heart pacemaker, which is implanted in a human being or live animal.

(3) Radioactive materials that have been injected into, ingested by or are otherwise placed into, and are still in human beings or live animals.

§ 173.402 SI units.

To ensure compatibility with international transportation standards, all limits in this Subpart are given in terms of dual units. The International System of Units (SI) (metric) units are given first and are followed by U.S. standard or customary units in parentheses. The SI units are intended to serve as the standard. The U.S. customary units may not be exact equivalents, but are rounded, where appropriate, to a convenient value that provides a functionally equivalent limit.

§ 173.403 Definitions.

In this subpart:

A_1 means the maximum activity of special form radioactive material permitted in a Type A package.

A_2 means the maximum activity of radioactive material, other than special form, permitted in a Type A package. These values are either listed in § 173.435 or may be derived in accordance with the procedure prescribed in § 173.433.

Closed transport vehicle means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive materials. The enclosure may be either temporary or permanent, and in the case of packaged materials may be of the "see-through" type, and must limit access from top, sides, and ends.

Containment system means the assembly of components of the packaging intended to retain the radioactive contents during transportation. "Contamination" means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (10^{-5} microcuries/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (10^{-6} microcuries/cm²) for all other alpha emitters. Low toxicity alpha emitters are (1) natural uranium, depleted uranium, natural thorium uranium-235, uranium-138, thorium-232, thorium-228 and thorium-230, when contained in ores, or physical or chemical concentrates or (2) alpha emitters with a half-life of less than days.

Conveyance means:

(1) For transport by public highway or rail: any transport vehicle or large freight container;

(2) For transport by water: any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and

(3) For transport by aircraft: any aircraft.

Design means the description of a special form radioactive material, a package, or a packaging, that enables those items to be fully identified. The description may include specifications, engineering drawings, reports showing compliance with regulatory requirements, and other relevant documentation.

Exclusive use (also referred to in other regulations as "sole use" or "full load") means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions in writing for maintenance of exclusive use shipment controls and include them with the shipping paper information provided to the carrier by the consignor.

Fissile material means plutonium-238, plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium which has been irradiated in thermal reactors only are not included in this definition. Certain exclusions are provided in § 173.453.

Fissile material, controlled shipment means any shipment that contains one or more packages that have been assigned nuclear criticality control transport indices greater than 10.

Freight container means a reusable container having a volume of 1.81 cubic meters (64 cubic feet) or more, designed and constructed to permit its being lifted with its contents intact and intended primarily for containment of packages in unit form during transportation. A "small freight container" is one which has either one outer dimension less than 1.5 meters (4.9 feet) or an internal volume of not more than 3.0 cubic meters (106 cubic feet). All other freight containers are designated as "large freight containers."

Highway route controlled quantity means a quantity within a single package which exceeds:

(1) 3,000 times the A_1 value of the radionuclides as specified in § 173.435 for special form radioactive material;

(2) 3,000 times the A_2 value of the radionuclides as specified in § 173.435 for normal form radioactive material; or

(3) 1,000 TBq (27,000 Ci), whichever is least.

Limited quantity of radioactive material means a quantity of radioactive material not exceeding the materials package limits specified in § 173.423 and conforming with requirements specified in § 173.421.

Low specific activity material (LSA) means radioactive material with limited specific activity that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material must not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(1) LSA-I

(i) Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

(ii) Solid unirradiated natural uranium or depleted uranium or natural thorium or their solid or liquid compounds or mixtures; or

(iii) Radioactive material, other than fissile material, for which the A_2 value is unlimited; or

(iv) Contaminated soil in a closed transport vehicle for which the estimated average specific activity does not exceed $10^{-4} A_2/g$.

(2) LSA-II

(i) Water with tritium concentration up to 0.8 TBq/l (20 Ci/l); or

(ii) Other material in which the radioactive material is distributed throughout and the estimated average specific activity does not exceed $10^{-4} A_2/g$ for solids and gases, and $10^{-5} A_2/g$ for liquids.

(3) LSA-III Solids (e.g., consolidated wastes, activated materials) in which:

(i) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

(ii) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insouble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching when placed in water for seven days as determined by the tests prescribed in § 173.470 would not exceed 0.1 A_2; and

(iii) The estimated averge specific activity of the solid does not exceed $2 \times 10^{-3} A_2/g$.

(iv) The solid will be of such a nature that if the entire contents of a package were subjected to the test specified in § 173.466 of this subchapter, the activity in the water would not exceed 0.1 A_2.

Multilateral approval means approval of the package or shipment by the relevant competent authority of the country of origin and of each country through or into which the shipment is to be transported. This definition does not mean to imply approval from any country over which radioactive materials are carried in aircraft, if there is no scheduled stop in that country.

Natural thorium means thorium with the naturally occurring distribution of thorium isotpes (essentially 100 percent by weight thorium-232).

Non-fixed radioactive contamination means radioactive contamination that can be readily removed from a surface by wiping with an absorbent material. Non-fixed (removable) radioactive contamination is not significant if it does not exeed the limits specified in § 173.443.

Normal form radioactive material means radioactive material which has not been demonstrated to qualify as "special form radioactive material."

Package means, for radioactive materials, the packaging together with its radioactive contents as presented for transport.

(1) *Excepted package* means a packaging together with its excepted radioactive materials as specified in §§ 173.421–173.423.

(2) *Industrial package* means a packaging together with its low specific activity (LSA) material or surface contaminated object (SCO) contents limited to $2A_1$ that meets the requirements of §§ 173.410 and 173.411. An industrial package is classified (see § 173.411) as either:

(i) *Industrial package Type 1 (IP–1);*

(ii) *Industrial package Type 2 (IP–2);* or

(iii) *Industrial package Type 3 (IP–3).*

(3) *Type A package* means a packaging together with its radioactive contents limited to A_1 or A_2, as appropriate that meets the requirements of §§ 173.410 and 173.412 and is designed to retain the integrity of containment and shielding required by this part under normal conditions of transport as demonstrated by the tests set forth in § 173.465 or § 173.466, as appropriate.

(4) *Type B package* means a Type B packaging together with its radioactive contents that is designed to retain the integrity of containment and shielding required by this part when subjected to the normal conditions of transport and

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hypothetical accident test conditions set forth in 10 CFR part 71.

(i) *Type B(U) package* means a Type B packaging, together with its radioactive contents, that for international shipments requires unilateral approval only of the package design and of any stowage provisions that may be necessary for heat dissipation.

(ii) *Type B(M) package* means a Type B packaging, together with its radioactive contents, that for international shipments requires multilateral approval of the package design, and may require approval of the conditions of shipment. Type B(M) packages are those Type B package designs which have a maximum normal operating pressure of more than 700 kilopascals per square centimeter (100 pounds per square inch) gauge or a relief device which would allow the release of radioactive material to the environment under the hypothetical accident conditions specified in 10 CFR part 71.

Packaging means, for radioactive materials, the assembly of components necessary to ensure compliance with the packaging requirements of this subpart. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, service equipment for filling, emptying, venting and pressure relief, and devices for cooling or absorbing mechanical shocks. The conveyance, tie-down system, and auxiliary equipment may sometimes be designated as part of the packaging.

Radiation level means the radiation dose-equivalent rate expressed in millisievert(s) per hour or mSv/h (millirem(s) per hour or mrem/h). Neutron flux densities may be converted into radiation levels according to Table 1:

TABLE 1.—NEUTRON FLUENCE RATES TO BE REGARDED AS EQUIVALENT TO A RADIATION LEVEL OF 0.01 MSV/H (1 MREM/H) [b]

Energy of Neutron	Flux density equivalent to 0.01 mSv/h (1 mrem/h) (Neutrons per square centimeter per second) (n/cm²/s)
Thermal	268.0
5 keV	226.0
20 keV	112.0
100 keV	32.0
500 keV	12.0
1 MeV	7.2
5 MeV	7.2
10 MeV	6.8

[b] Flux densities equivalent for energies between those listed above may be obtained by linear interpolation.

Radioactive instrument and article means any manufactured instrument and article such as an instrument, clock, electronic tube or apparatus, or similar instrument and article having radioactive material in gaseous or non-dispersible solid form as a component part.

Radioactive contents means the radioactive material, together with any contaminated liquids or gases, within the package.

Radioactive material means any material having a specific activity greater than 70 Bq (0.002 microcurie per gram) (see definition of "specific activity").

Special form radioactive material means radioactive material which satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

(3) It satisfies the test requirements of § 173.469. Special form encapsulations designed in accordance with the requirements of § 173.389(g) in effect on June 30, 1983, and constructed prior to July 1, 1985 and special form encapsulations designed in accordance with the requirements of § 173.403 in effect on June 30, 1983, and constructed prior to July 1, 1991, may continue to be used. Any other special form encapsulation must meet the requirements of this paragraph.

Specific activity of a radionuclide, means the activity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the activity per unit mass of the material.

Surface Contaminated Object (SCO) means a solid object which is not itself radioactive but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(1) SCO-I: A solid object on which:

(i) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 Bq/cm^2 (10^{-4} microcurie/cm^2) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm^2 (10^{-5} microcurie/cm^2) for alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4×10^4 Bq/cm^2 (1.0 microcurie/cm^2) for beta and gamma and low toxicity alpha emitters, or 4×10^3 Bq/cm^2-(0.1 microcurie/cm^2) for alpha emitters; and

(iii) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4×10^4 Bq/cm^2 (1 microcurie/cm^2) for beta and gamma and low toxicity alpha emitters, or 4×10^3 Bq/cm^2 (0.1 microcurie/cm^2) for all other alpha emitters.

(2) SCO-II: A solid object on which the limits for SCO-I are exceeded and on which:

(i) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 400 Bq/cm^2 (10^{-2} microcurie/cm^2) for beta and gamma and low toxicity alpha emitters or 40 Bq/cm^2 (10^{-3} microcurie/cm^2) for all other alpha emitters;

(ii) The fixed contamination on the surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 8×10^5 Bq/cm^2 (20 microcurie/cm^2) for beta and gamma and low toxicity alpha emitters, or 8×10^4 Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters; and

(iii) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 8×10^5 Bq/cm^2 (20 microcuries/cm^2) for beta and gamma and low toxicity alpha emitters, or 8×10^4 Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters.

Transport index means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:

(1) For nonfissile material packages, the number determined by multiplying the maximum radiation level in millisievert(s) per hour at one meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 feet)); or

(2) For fissile material packages, the number determined by multiplying the maximum radiation level in millisievert per hour at one meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 feet)), or, for criticality control purposes, the number obtained by dividing 50 by the allowable number of packages which may be transported together, whichever is larger.

Unilateral approval means approval of the package solely by the competent authority of the country of origin.

Unirradiated thorium means thorium containing not more than 10^{-7} grams uranium-233 per gram of thorium-232.

Unirradiated uranium means uranium containing not more than 10^{-6} grams plutonium per gram of uranium-235 and a fission product activity of not more than 9 MBq (0.20 millicuries) of fission products per gram of uranium-235.

Uranium—natural, depleted or enriched:

(1) *Natural uranium* means uranium with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder essentially uranium-238).

(2) *Depleted uranium* means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(3) Enriched uranium means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

§ 173.404 U.S. competent authority.

The U.S. Competent Authority responsible for administering the requirements of Sections II and VII of the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," and Subpart I is the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation (OHMT), 400 Seventh Street, SW., Washington, DC 20590.

§ 173.405 General radiation protection principles.

Persons involved in the offering and accepting of packages containing radioactive materials for transportation shall maintain a radiation protection program in accordance with this section.

(a) The radiation exposure of transport workers must be in accordance with the recommendations specified in the Environmental Protection Agency's "Radiation Protection Guidance to Federal Agencies for Occupational Exposure (January 1987)."

(b) Radiation exposures from the handling, storage and transport of radioactive material must be kept as low as is reasonably achievable (ALARA). The term "as low as is reasonably achievable" means as low as is reasonably achievable taking into account the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations.

(c) Transport workers must be given appropriate training concerning the radiation hazards involved and the precautions to be observed.

(d) The nature and extent of the measures to be employed in controlling radiation exposures must be related to the magnitude and likelihood of the exposures. As a minimum, for individual occupationally-exposed workers:

(1) If the dose received is not likely to exceed 5 millisievert (500 millirem) per year, neither special work patterns nor detailed monitoring or assessment of radiation doses are required;

(2) If the dose received is likely to be between 5 mSv (500 mrem) and 15 mSv (1500 mrem) per year, periodic assessments of radiation exposure levels must be conducted;

(3) If the dose received is likely to be between 15 mSv (1500 mrem) and 50 mSv (5000 mrem) per year, individual radiation exposure monitoring programs and special health supervision are required.

(e) The radiation exposures to members of the general public must not exceed radiation levels that, if an individual were continuously present in the area, could result in exposures to that individual of:

(1) 0.02 mSv (2 mrem) in any hour;

(2) 1.0 mSv (100 mrem) in any week; or

(3) 5.0 mSv (50 mrem) in any twelve-month period.

§ 173.410 General design requirements.

In addition to the requirements of § 173.24, each package used for the shipment of radioactive materials must be designed so that:

(a) The package can be easily handled and properly secured in or on a conveyance during transport;

(b) Each lifting attachment that is a structural part of the package must be designed with a minimum safety factor of three against yielding when used to lift the package in the intended manner, and it must be designed so that failure of any lifting device under excessive load would not impair the ability of the package to meet other requirements of this subpart. Any other structural part of the package which could be used to lift the package must be capable of being rendered inoperable for lifting the package during transport or must be designed with strength equivalent to that required for lifting attachments.

(c) The external surface, as far as practicable, will be free from protruding features and will be easily decontaminated;

(d) The outer layer of packaging will avoid, as far as practicable, pockets or crevices where water might collect;

(e) Each feature that is added to the package at the time of transport, and that is not a part of the package, will not reduce the safety of the package;

(f) The package will be capable of withstanding the effects of any acceleration, vibration or vibration resonance that may arise under normal conditions of transport without any deterioration in the effectiveness of the closing devices on the various receptacles or in the integrity of the package as a whole and without loosening or unintentionally releasing the nuts, bolts, or other securing devices even after repeated use;

(g) The materials of the packaging and any components or structure will be physically and chemically compatible with each other and with the package contents. The behavior of the packaging and the package contents under irradiation will be taken into account;

(h) All valves through which the package contents could escape will be protected against unauthorized operations; and

(i) The smallest external dimension of the package is not less than 10 centimeters (4 inches);

(j) For transport by air:

(1) The temperature of the accessible surfaces of the package will not exceed 50 °C (122 °F) at an ambient temperature of 38 °C (100 °F) with no account taken for insolation;

(2) The integrity of containment will not be impaired if the package is exposed to ambient temperatures ranging from −40 °C (−40 °F) to +55 °C (131 °F); and

(3) Packages containing liquid contents will be capable of withstanding without leakage an internal pressure that produces a pressure differential of not less than 95 kPa (13.8 lb/in²).

§ 173.411 Additional design requirements for industrial packages.

(a) An industrial package Type 1 (IP-1) must meet the general design requirements prescribed in § 173.410.

(b) In addition to meeting the requirements for an IP-1, an industrial package Type 2 (IP-2) when subjected to the tests specified in § 173.465(c) and § 173.465(d) or evaluated against these tests by any of the methods authorized by any of the methods authorized by § 173.461(a), must prevent:

(1) Loss or dispersal of the radioactive contents; and

(2) Significant increase in the radiation levels recorded or calculated

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at the external surfaces for the condition before the test.

(c) In addition to meeting the requirements for an IP–1, an industrial package Type 3 (IP–3) must meet the requirements specified in § 173.412(a) through § 173.412(i).

§ 173.412 Additional design requirements for Type A packages.

In addition to meeting the general design requirements prescribed in § 173.410, each Type A packaging must be designed so that:

(a) The outside of the packaging incorporates a feature, such as a seal, that is not readily breakable, and that, while intact, is evidence that the package has not been opened. In the case of packages shipped in exclusive use closed transport vehicles, the cargo compartment, instead of the individual packages, may be sealed;

(b) Containment and shielding is maintained during transportation and storage in a temperature range of −40 °C (−40 °F) to 70 °C (158 °F). Special attention will be given to liquid contents and to the potential degradation of the packaging materials within the temperature range.

(c) The packaging must include a containment system securely closed by a positive fastening device that cannot be opened unintentionally or by pressure that may arise within the package during normal transport. Special form radioactive material, as demonstrated in accordance with § 173.469 may be considered as a component of the containment system. If the containment system forms a separate unit of the package, it must be securely closed by a positive fastening device that is independent of any other part of the package;

(d) For each component of the containment system account is taken, where applicable, of radiolytic decomposition of materials and the generation of gas by chemical reaction and radiolysis;

(e) The containment system will retain its radioactive contents under the reduction of ambient pressure to 25 kPa (3.6 pounds per square inch);

(f) Each valve other than a pressure relief device, is provided with an enclosure to retain any leakage;

(g) Any radiation shield that encloses a component of the packaging specified as part of the containment system will prevent the unintentional escape of that component from the shield;

(h) Failure of any tie-down attachment on the packaging under both normal and accident conditions will not impair the ability of the package to meet other requirements of this subpart;

(i) When evaluated against the performance requirements of this section and the tests specified in § 173.465 or using any of the methods authorized by § 173.461(a), the packaging will prevent:

(1) Loss or dispersal of the radioactive contents; and

(2) Any significant increase in the radiation levels recorded or calculated at the external surfaces for the condition before the test;

(j) Each packaging designed for liquids will:

(1) Be designed to provide for ullage to accommodate variations in temperature of the contents, dynamic effects and filling dynamics;

(2) Meet the conditions prescribed in paragraph (i) of this section when subjected to the tests specified in § 173.466 or evaluated against these tests by any of the methods authorized by § 173.461(a); and

(3) Either—

(i) Have sufficient suitable absorbent material to absorb twice the volume of the liquid contents. The absorbent material shall be compatible with the package contents and suitably positioned to contact the liquid in the event of leakage; or

(ii) Have a containment system composed of primary inner and secondary outer containment components designed to assure retention of the liquid contents within the secondary outer components in the event that the primary inner components leak; and

(k) Each package designed for gases, other than tritium not exceeding 40 TBq (1000Ci) or noble gases not exceeding the A_2 value appropriate for the noble gas, will be able to prevent loss or dispersal of contents when the package is subjected to the tests prescribed in § 173.466 or evaluated against these tests by any of the methods authorized by § 173.461(a).

§ 173.413 Requirements for Type B packages.

Each Type B(U) or Type B(M) package must be designed and constructed to meet the applicable requirements in 10 CFR part 71.

§ 173.414 Authorized industrial packages.

The following packages are authorized for shipment of low specific activity (LSA) material and surface contaminated objects (SCO) not exceeding $2A_2$:

(a) Any package that meets the requirements of § 173.411 and is used as prescribed in Table 8 of § 173.425.

(b) Specification IM 101 or IM 102 portable tanks (§§ 178.270, 178.271, 178.272 of this subchapter) being used as IP–2 or IP–3 provided that they:

(1) Satisfy the requirements for IP–2 or IP–3, respectively, specified in § 173.411;

(2) Are capable of withstanding a test pressure of 265 kPa (37.1 pounds per square inch) gauge;

(3) Are designed so that any added shielding is capable of withstanding the static and dynamic stresses resulting from normal handling and normal conditions of transport; and

(4) Are designed so that loss of shielding will not result in a significant increase in the radiation levels recorded at the external surfaces.

(c) Freight containers being used as IP–2 or IP–3 provided that:

(1) They satisfy the requirements for IP–2 or IP–3, respectively, specified in § 173.411;

(2) They are designed to conform to the requirements of ISO 1496/1–1978, "Series 1 Freight Containers—Specifications and Testing—Part 1: General Cargo Containers";

(3) They are designed so that loss of shielding will not result in a significant increase in the radiation levels recorded at the external surfaces if they are subjected to the tests specified in ISO 1496/1–1978; and

(4) For international transportation, each freight container must have a safety approval plate in conformance with 49 CFR 451.21 through 451.25.

(d) Each shipper of an industrial package must maintain on file for at least one year after the latest shipment, and shall provide to DOT on request, a complete documentation of tests and an engineering evaluation or comparative data showing that the construction methods, packaging design, and materials of construction comply with that specification.

§ 173.415 Authorized Type A packages.

The following packages are authorized for shipment if they do not contain quantities exceeding A_1 or A_2 as appropriate:

(a) U.S. Department of Transportation (DOT) Specification 7A (§ 178.350 of this subchapter) Type A general packaging. Each shipper of a Specification 7A package must maintain on file for at least one year after the latest shipment, and shall provide to DOT on request, a complete documentation of tests and an engineering evaluation or comparative data showing that the construction methods, packaging design, and materials of construction comply with that specification. Use of Specification 7A packagings designed in accordance with the requirements of § 178.350 in effect on June 30, 1983, is not authorized after July 1, 1992.

(b) Any other Type A packaging that also meets the applicable standards for fissile materials in 10 CFR Part 71 and is used in accordance with § 173.471.

(c) Any Type B, B(U) or B(M) packaging pursuant to § 173.416.

(d) Any foreign-made packaging that bears the marking "Type A" and was used for the import of radioactive materials. Such packagings may be subsequently used for domestic and export shipments of radioactive materials provided the shipper obtains the applicable documentation of tests and engineering evaluations and maintains the documentation on file in accordance with paragraph (a) of this section. These packagings must conform with requirements of the country of origin (as indicated by the packaging marking) and the IAEA regulations applicable to Type A packagings.

§ 173.416 Authorized Type B packages.

Each of the following packages is authorized for shipment of quantities exceeding A_1 or A_2, as appropriate:

(a) Any Type B, Type B(U) or Type B(M) packaging that meets the applicable requirements of 10 CFR Part 71 and that has been approved by the U.S. Nuclear Regulatory Commission may be shipped pursuant to § 173.471.

(b) Any Type B(U) or B(M) packaging that meets the applicable requirements of the regulations of the International Atomic Energy Agency (IAEA) in its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6" and for which the foreign competent authority certificate has been revalidated by DOT pursuant to § 173.473. This packaging is authorized only for export and import shipments.

(c) DOT Specification 6M (§ 178.104 of this subchapter) metal packaging, only for solid or gaseous radioactive materials that will not undergo pressure-generating decomposition at temperatures up to 121°C (250°F) and that do not generate more than 10 watts of radioactive decay heat.

(d) For contents in other than special form; DOT Specification 20WC (§ 178.194 of this subchapter), wooden protective jacket, when used with a single, snug-fitting inner DOT Specification 2R (§ 178.34 of this subchapter). For liquid contents, the inner packaging must conform to § 173.412 (i) and (j).

(e) For contents in special form only; DOT Specification 20WC (§ 178.194 of this subchapter), wooden protective jacket, with a single snug-fitting inner Type A packaging that has a metal outer wall and conforms to § 178.350 of this subchapter. Radioactive decay heat may not exceed 100 watts.

(f) For contents in special form only; DOT Specification 21WC (§ 178.195 of this subchapter), wooden protective overpack, with a single inner DOT Specification 2R (§178.34 of this subchapter). Contents must be loaded within the inner packaging in such a manner as to prevent loose movement during transportation. The inner packaging must be securely positioned and centered within the overpack so that there will be no significant displacement of the inner packaging if subjected to the 9 meter (30 feet) drop test described in 10 CFR part 71.

§ 173.417 Authorized fissile materials packages.

(a) Except as provided in § 173.453, fissile materials containing not more than A_1 or A_2 as appropriate, must be packaged in one of the following packagings:

(1) DOT Specification 6L (§ 178.103 of this subchapter), metal packaging, for materials prescribed in paragraph (b)(1) of this section.

(2) DOT Specification 6M (§ 178.104 of this subchapter), metal packaging, for materials prescribed in paragraph (b)(2) of this section.

(3) Any packaging listed in § 173.415, limited to the radioactive materials specified in 10 CFR Part 71, Subpart C.

(4) Any other Type A or Type B, Type B(U), or Type B(M) packaging for fissile radioactive materials that also meets the applicable standards for fissile materials in the regulations of 10 CFR Part 71.

(5) Any other Type A or Type B, Type B(U), or Type B(M) packaging that also meets the applicable requirements for fissile material packaging in Section V of the International Atomic Energy Agency "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," and for which the foreign competent authority certificate has been revalidated by the U.S. Competent Authority, in accordance with § 173.473. These packages are authorized only for export and import shipments.

(6) A DOT Specification 6J (§ 178.100 of this subchapter) or 17H (§ 178.118 of this subchapter) 55-gallon steel drum, subject to the following conditions:

(i) The quantity may not exceed 350 grams of uranium-235 in any non-pyrophoric form, enriched to any degree in the uranium-235 isotope.

(ii) Each drum must have a minimum 18 gauge body and bottom head and 16 gauge removable top head with one or more corrugations in the cover near the periphery.

(iii) Closure must conform to § 178.103–5(a) of this subchapter.

(iv) At least four equally spaced 12 millimeter (0.5 inch) diameter vent holes must be provided on the sides of the drum near the top, each covered with weatherproof tape; or equivalent device.

(v) Appropriate primary, inner containment of the contents and sufficient packaging material, such as plastic or metal jars or cans, must be provided such that Specification 7A (§ 178.350 of this subchapter) provisions are satisfied by the inner packaging.

(vi) Each inner container must be capable of venting if subjected to the thermal test described in 10 CFR Part 71.

(vii) Liquid contents must be packaged in accordance with § 173.412 (i) and (j) of this subpart.

(viii) The maximum weight of contents, including internal packaging, may not exceed 91 kilograms (200 pounds) with fissile material content limited as shown in Table 2:

TABLE 2.—FISSILE MATERIAL CONTENT AND TRANSPORT INDEX FOR SPECIFICATION 6J OR 17H PACKAGES

Maximum quantity of U-235 per package (grams)	Minimum transport index per package	Maximum number of packages per transport vehicle
350	1.8	72
300	1.0	129
250	0.5	256
200	0.3	500
150	0.1	500
100	0.1	500
50	(1)	(2)

[1] Transport index is limited by the external radiation levels.
[2] Maximum number is limited by the total transport index.

(7) Any metal cylinder that meets the performance requirements of § 173.415 and § 178.350 of this subchapter for Specification 7A Type A packaging may be used for the transport of residual "heels" of enriched solid uranium hexafluoride without a protective overpack in accordance with Table 3:

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TABLE 3.—ALLOWABLE CONTENT OF URANIUM HEXAFLUORIDE (UF_6) "HEELS" IN A SPECIFICATION 7A CYLINDER

Maximum cylinder diameter		Cylinder volume		Maximum Uranium-235 enrichment (weight percent)	Maximum "Heel" weight per cylinder			
					UF_6		Uranium-235	
Centimeters	Inches	Liters	Cubic Feet		kg	(lb)	kg	(lb)
12.7	5	8.8	0.311	100.0	0.045	0.1	0.031	0.07
20.3	8	39.0	1.359	12.5	0.227	0.5	.019	0.04
30.5	12	68.0	2.410	5.0	0.454	1.0	.015	0.03
76.0	30	725.0	35.64	5.0	11.3	25.0	.383	0.84
122.0	48	3,084.0	[1] 108.9	4.5	22.7	50.0	.690	1.52
122.0	48	4,041.0	[2] 142.7	4.5	22.7	50.0	.690	1.52

[1] 10 ton.
[2] 14 ton.

(8) DOT Specification 20PF-1, 20PF-2, or 20PF-3 (§ 178.120 of this subchapter), or Specification 21PF-1, 21PF-1A, 21PF-1B, or 21PF-2 (§ 178.121 of this subchapter) phenolic-foam insulated overpack with snug fitting inner metal cylinders, meeting all requirements of §§ 173.24, 173.410, and 173.412, and the following:

(i) Handling procedures and packaging criteria must be in accordance with DOE Report ORO-651 or ANSI N14.1.

(ii) DOT Specification 21PF-1 overpacks in use or under construction before April 1, 1989, must be modified to DOT Specification 21PF-1A before April 1, 1991. Use of unmodified DOT 21PF-1 overpacks is prohibited after March 31, 1991. All new construction to DOT Specifciation 21PF-1 beginning after March 31, 1989, must meet DOT Specification 21PF-1B.

(iii) Quantities of uranium hexafluoride are authorized as shown in Table 6, with each package assigned a minimum transport index as also shown.

(b) Fissile radioactive materials with radioactive content exceeding A_1 or A_2 must be packaged in one of the following packagings:

(1) DOT Specification 6L (§ 178.103 of this subchapter), metal packaging. These packages may contain only uranium-235, plutonium-239 or plutonium-241, as metal, oxide, or compounds that do not decompose at temperatures up to 149 °C (300 °F). Radioactive decay heat output may not exceed 5 watts. Radioactive materials in normal form must be packaged in one or more tightly sealed metal or polyethylene bottles within a DOT Specification 2R (§ 178.34 of this subchapter) containment vessel. Authorized contents are limited in accordance with Table 4:

TABLE 4.—AUTHORIZED CONTENTS IN KILOGRAMS (KG) AND CONDITIONS FOR SPECIFICATION 6L PACKAGES

Uranium-235		Plutonium [1]		Fissile transport index	Maximum number of packages per transport vehicle
H/X≤−3 [2]	3 H/X≤−10	H/X≤−10	10 H/X≤−20		
14	[3] 3.6	2.5	2.4	1.3 1.6	60 50

[1] Plutonium solutions are not authorized.
[2] H/X is the ratio of hydrogen to fissile atoms in the inner containment with all sources of hydrogen in the containment considered.
[3] Volume not to exceed 3.8 liters.

(2) DOT Specification 6M (§ 178.104 of this subchapter), metal packaging. These packages may contain only solid radioactive materials that will not decompose at temperatures up to 121°C (250°F). Radioactive decay heat output may not exceed 10 watts. Radioactive materials in other than special form must be packaged in one or more tightly sealed metal cans or polyethylene bottles within a DOT Specification 2R (§ 178.34 of this subchapter) containment vessel.

(i) Packages are limited to the following amounts of fissile radioactive materials: 1.6 kilograms of uranium-235; 0.9 kilograms of plutonium (except that due to the 10-watt thermal decay heat limitation, the limit for plutonium-238 is 0.02 kilograms); and 0.5 kilograms of uranium-233. The maximum ratio of hydrogen to fissile material must not exceed three, including all of the sources of hydrogen within the DOT Specification 2R containment vessel.

(ii) Maximum quantities of fissile material and other restrictions are given in Table 5. The minimum transport index to be assigned and the allowable number of similar packages per conveyance and per transport vehicle are shown in Table 5. Where a maximum ratio of hydrogen to fissile material is specified in Table 5, only the hydrogen interspersed with the fissile material need be considered. For a uranium-233 shipment, the maximum inside diameter of the inner containment vessel must not exceed 12.1 centimeters (4.75 inches). Where necessary, a tight fitting steel insert must be used to reduce a larger diameter inner containment vessel specified in § 178.104–3(b) of this subchapter to the 12.1 centimeter (4.75 inch) limit.

TABLE 5.—AUTHORIZED CONTENTS FOR SPECIFICATION 6M PACKAGES [1]

Uranium-233 [2]			Uranium-235 [4, 7]			Plutonium [2, 5, 6]				
Metal or alloy	Compounds		Metal or alloy	Compounds		Metal or alloy	Compounds		Minimum transport index	Maximum no. of pkgs. per transport vehicle
H/X=0 [8]	H/X=0	H/X≤3	H/X=0	H/X=0	H/X≤3	H/X=0	H/X=0	H/X≤3		
3.8	4.4	2.9	7.2	7.8	5.3	3.1	4.1	3.4	0.1	1,250
[3] 4.2	5.2	3.5	8.7	9.6	6.4	3.4	4.5	4.1	0.2	625
[3] 5.2	6.8	4.5	11.2	13.9	8.3	4.2		4.5	0.5	250
			13.5	16.0	10.1	4.6			1.0	125
				25.0	16.1				5.0	25
				32.0	19.5				10.0	12

[1] Quantity in kilograms.
[2] Minimum percentage of plutonium-240 is 5 weight percent.
[3] 4.5 kilogram limitation of plutonium due to watt decay hat limitation.
[4] For a mixture of uranium-235 and plutonium an equal amount of uranium-235 may be substituted by any portion of plutonium authorized.
[5] Maximum inside diameter of Specification 2R containment vessel not to exceed 12.1 centimeters (4.75 inch) (see par. (b)(2)(ii) of this section).
[6] Granulated or powdered metal with any particle less than 6.4 millimeter (0.25 inch) in the smallest dimension is not authorized.
[7] Maximum permitted uranium-235 enrichment is 93.5 percent.
[8] H/X is the ratio of hydrogen to fissile atoms in the inner containment.

(3) Type B, or Type B(U) or B(M) packaging that meets the standards for packaging of fissile materials in 10 CFR part 71, and is approved by the U.S. Nuclear Regulatory Commission and used in accordance with § 173.471.

(4) Type B(U) or B(M) packaging that meets the applicable requirements for fissile radioactive materials in Section V of the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6" and for which the foreign competent authority certificate has been revalidated by the U.S. Competent Authority in accordance with § 173.473. These packagings are authorized only for import and export shipments.

(5) DOT Specifications 20PF–1 and 20PF–2 (§ 178.120 of this subchapter) phenolic-foam insulated overpack with snug fitting inner metal cylinders, meeting all requirements of §§ 173.24, 173.410, and 173.412, and the following:

(i) Handling procedures and packaging criteria must be in accordance with DOE Report ORO–651 or ANSI N14.1.

(ii) Quantities of uranium hexafluoride are authorized as shown in Table 6, with each package assigned a minimum transport index as also shown:

TABLE 6.—AUTHORIZED QUANTITIES OF URANIUM HEXAFLUORIDE (UF_6)

Protective overpact specification number	Maximum inner cylinder diameter		Maximum weight of UF_6 contents		Maximum ^{235}U enrichment (Weight/ percent)	Minimum transport index
	Centimeters	Inches	Kilograms	Pounds		
20PF–1	12.7	5	25	55	100.0	0.1
20PF–2	20.3	8	116	225	12.5	0.4
20PF–3	30.5	12	209	460	5.0	1.1
21PF–1 [4, 5]	76.0	[3] 30	2,250	4,950	5.0	5.0
	76.0	[3] 30	2,282	5,020	5.0	5.0
21PF–2 [4]	76.0	[3] 30	2,282	5,020	5.0	5.0
	76.0	[3] 30	2,250	4,950	5.0	5.0

[1] For 76 cm (30 in) cylinders, the maximum H/U atomic ratio is 0.068.
[2] Model 30A inner cylinder (Reference ORO-651).
[3] Model 30B inner cylinder (Reference ORO-651).
[4] 21PF–1 series includes the 21PF–1, 21PF–1A, and 21PF–1B. Allowable quantities are identical for all three overpacks. See the limitations on usage in paragraph (b)(5) of this section.

§ 173.419 Authorized packages—pyrophoric radioactive materials.

(a) Packages containing pyrophoric radioactive materials, as referenced in § 172.101 of this subchapter, may be transported in quantities not exceeding A_2 per package only in DOT Specification 7A packages provided that they are constructed of materials that will not react with, nor be decomposed by, the contents. Contents of the package must be:

(1) Packed as solid, nonfissile form unless excepted by § 172.453;

(2) Sealed in corrosion resistant receptacles with positive closures; friction or slip-fit covers or stoppers are not authorized;

(3) Freed of water and contaminants that would increase the reactivity of the material; and

(4) Inerted to prevent self-ignition during transport by either:

(i) Mixing with large volumes of inerting materials, such as graphite, dry sand, or other suitable inerting material, or blended into a matrix of hardened concrete; or

(ii) Filling the innermost receptacle with an appropriate inert gas or liquid.

§ 173.419 Authorized packages—oxidizing radioactive materials.

(a) Packages containing oxidizing radioactive materials, as referenced in § 172.101 of this subchapter, may be transported in quantities not exceeding A_2 per package only in a DOT Specification 7A package provided that:

(1) The contents are:

(i) Packed in inside packagings of glass, metal or compatible plastic; and

(ii) Cushioned with a material that will not react with the contents;

(2) The outside packaging is made of wood, metal, or plastic; (b) The package must be capable of meeting the

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applicable test requirements of § 173.465 without leakage of contents; and

(c) For shipment by air, the maximum quantity in any package may not exceed

conform with the American National Standard N14.1–1987.

(c) Each repair to a packaging for uranium hexafluoride must be

§ 173.421, § 173.422, § 173.424, § 173.427 or § 173.421–2 is not subject to the requirements of this subchapter, except for:

radioactive material under provisions of paragraphs (a) or (b) of this section is excepted from requirements of § 173.421–1(a), § 172.203(d), and

shipping paper and certification, marking and labeling requirements of this subchapter and requirements of this subpart if:

hour), or, for exclusive use domestic shipments, 0.02 mSv (2 mrem/hour);

(f) The nonfixed (removable) radioactive surface contamination on

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applicable test requirements of § 173.465 without leakage of contents; and

(c) For shipment by air, the maximum quantity in any package may not exceed 11.3 kilograms (25 pounds).

§ 173.420 Uranium hexafluoride (fissile, fissile excepted and non-fissile).

(a) In addition to any other applicable requirements of this subchapter, uranium hexafluoride, fissile or low specific activity, must be offered for transportation as follows:

(1) Before initial filling and during periodic inspection and test, packagings must be cleaned in accordance with American National Standard N14.1.

(2) Packagings must be designed, fabricated, inspected, tested and marked in accordance with—

(i) American National Standard N14.1 (1987, 1982 or 1971 edition) in effect at the time the packaging was manufactured;

(ii) Specifications for Class DOT–106A multi-unit tank car tanks (§§ 179.300 and 179.301 of this subchapter); or

(iii) Section VIII, Division I of the ASME Code, provided the packaging—

(A) Was manufactured on or before June 30, 1987;

(B) Conforms to the edition of the ASME code in effect at the time the packaging was manufactured;

(C) Is used within its original design limitations; and

(D) Has shell and head thicknesses that have not decreased below the minimum value specified in the following table:

Packaging model	Minimum thickness millimeters (inches)
1S, 2S	1.58 (0.062)
5A, 5B, 5A	3.17 (0.125)
12A, 12B	4.76 (0.187)
30B	7.93 (0.312)
48A, F, X, and Y	12.70 (0.500)
48T, O, OM, OM Allied, Hx, H, and G	6.35 (0.250)

(3) Uranium hexafluoride must be in solid form.

(4) The volume of solid uranium hexafluoride, except solid depleted uranium hexafluoride, at 20 °C (68 °F.) must not exceed 61% of the certified volumetric capacity of the packaging. The volume of solid depleted uranium hexafluoride at 20 °C (68 °F.) must not exceed 62% of the certified volumetric capacity of the packaging.

(5) The pressure in the package at 20 °C (68 °F.) must be less than 101.3 kPa (14.8 psia).

(b) Packagings of uranium hexafluoride must be periodically inspected, tested, marked and otherwise conform with the American National Standard N14.1–1987.

(c) Each repair to a packaging for uranium hexafluoride must be performed in accordance with American National Standard N14.1–1987.

§ 173.421 Excepted packages for limited quantities of radioactive materials.

Packages that are used to transport radioactive materials whose activity per package does not exceed the limits specified in § 173.423 are excepted from the specification packaging, shipping paper and certification, marking, and labeling requirements of this subchapter and requirements of this subpart if:

(a) The package meets the general design requirements of § 173.410;

(b) The radiation level at any point on the external surface of the package does not exceed 0.005 mSv/hour (0.5 mrem/hour);

(c) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 173.443(a);

(d) The outside of the inner packaging or, if there is no inner packaging, the outside of the packaging itself bears the marking "Radioactive";

(e) Except as provided in § 173.424, the package does not contain more than 15 grams of uranium-235; and

(f) The material is otherwise prepared for shipment as specified in accordance with § 173.421–1.

§ 173.421–1 Additional requirements for excepted packages containing radioactive materials.

(a) Excepted packages prepared for shipment under the provisions of § 173.421, § 173.422, § 173.424, or § 173.427 must be certified as being acceptable for transportation by having a notice enclosed in or on the package, included with the packing list, or otherwise forwarded with the package. This notice must include the name of the consignor or consignee and the statement "This package conforms to the conditions and limitations specified in 49 CFR § 173.421 for radioactive material, excepted package-limited quantity of material, UN2910; 49 CFR § 173.422 for radioactive material, excepted package—instruments or articles, UN2910; 49 CFR § 173.424 for radioactive material, excepted package—articles manufactured from natural or depleted uranium or natural thorium, UN2910; or 49 CFR § 173.427 for radioactive material, excepted package—empty packaging, UN2910," as appropriate.

(b) An excepted package prepared for shipment under the provisions of § 173.421, § 173.422, § 173.424, § 173.427 or § 173.421–2 is not subject to the requirements of this subchapter, except for:

(1) Sections 171.15, 171.16, 174.750, 176.710 and 177.861 of this subchapter, pertaining to the reporting of incidents and decontamination, when transported by a mode other than air; or

(2) Sections 171.15, 171.16, 175.45, and 175.700(b) of this subchapter pertaining to the reporting of incidents and decontamination when transported by aircraft. After May 2, 1991, it is also necessary to comply with §§ 173.443(f) and 175.700(c) of this subchapter when transported by aircraft.

§ 173.421–2 Requirements for multiple hazard limited quantity radioactive materials.

(a) Except as provided in paragraph (b) of this section or in § 173.4 of this subchapter, when a limited quantity radioactive material meets the definition of another hazard class, it must be:

(1) Classed for the additional hazard;

(2) Packaged to conform with requirements specified in § 173.421 (a) through (e) or § 173.422 (a) through (g), as appropriate; and

(3) Offered for transportation in accordance with requirements applicable to the hazard for which it is classed.

(b) When a limited quantity radioactive material meets the definition of an ORM–A, B, or C, or is a combustible liquid in a packaging having a rated capacity of 110 gallons or less, it must be:

(1) Classed radioactive material if:

(i) The material is not a hazardous waste or hazardous substance; and

(ii) The material is offered for transportation in a mode to which requirements of this subchapter pertaining to the specific material and hazard class do not apply;

(2) Classed combustible liquid or ORM–A, B, or C, as appropriate, if:

(i) The material is a hazardous waste or hazardous substance; or

(ii) The material is offered for transportation in a mode to which requirements of this subchapter pertaining to the specific material and hazard class do apply;

(3) Packaged to conform with requirements specified in § 173.421 (a) through (e) or § 173.422 (a) through (g), as appropriate; and

(4) Offered for transportation in accordance with requirements applicable to the hazard for which it is classed.

(c) A limited quantity radioactive material which is classed other than radioactive material under provisions of paragraphs (a) or (b) of this section is excepted from requirements of § 173.421–1(a), § 172.203(d), and § 172.204(c)(4) of this subchapter if the entry "Limited quantity radioactive material" appears on the shipping paper in association with the basic description.

(d) After May 2, 1991, a limited quantity radioactive material classed other than radioactive material may not be offered for transportation aboard a passenger-carrying aircraft unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

§ 173.422 Excepted packages for radioactive instruments and articles.

Packages that contain radioactive instruments and articles are excepted from the specification packaging, shipping paper and certification, marking and labeling requirements of this subchapter and requirements of this subpart, if:

(a) The package meets the general design requirements of § 173.410;

(b) The activity of the instrument or article does not exceed the relevant limit listed in Table 7 in § 173.423;

(c) The total activity per package does not exceed the relevant limit listed in Table 7 in § 173.423;

(d) The radiation level at 10 cm (4 in) from any point on the external surface of any unpackaged instrument or article does not exceed 0.1 mSv/hour (10 mrem/hour);

(e) The radiation level at any point on the external surface of a package bearing the article or instrument does not exceed 0.005 mSv/hour (0.5 mrem/hour), or, for exclusive use domestic shipments, 0.02 mSv (2 mrem/hour);

(f) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 173.443(a);

(g) Except as provided in § 173.424, the package does not contain more than 15 grams of uranium-235; and

(h) Each instrument or article (excepted radioluminescent time-pieces or devices) bears the marking "Radioactive".

(i) The package is otherwise prepared for shipment as specified in § 173.421–1.

§ 173.423 Table of activity limits—excepted quantities and articles.

The limits applicable to instruments, articles, and limited quantities subject to exceptions under §§ 173.421 and 173.422 are shown in Table 7:

TABLE 7.—ACTIVITY LIMITS FOR LIMITED QUANTITIES, INSTRUMENTS, AND ARTICLES

Nature of contents	Instrument and articles		Materials package limits [1]
	Limits for each instrument or article [1]	Package limits [1]	
Solids:			
Special form	$10^{-3}A_1$	A_1	$10^{-3}A_1$
Other form	$10^{-2}A_2$	A_2	$10^{-2}A_2$
Liquids	$10^{-2}A_2$	$10^{-1}A_2$	$10^{-2}A_2$
Gases:			
Tritium	$2 \times 10^{-2}A_2$	$2 \times 10^{-1}A_2$	$2 \times 10^{-2}A_2$
Special form	$10^{-3}A_1$	$10^{-2}A_1$	$10^{-3}A_1$
Other form	$10^{-2}A_2$	$10^{-1}A_2$	$10^{-2}A_2$

[1] For mixtures of radionuclides see § 173.443(b).

§ 173.424 Excepted packages for articles containing natural uranium or thorium.

Packagings that contain manufactured articles in which the sole radioactive material content is natural or unirradiated depleted uranium, or natural thorium are excepted from the specification packaging, shipping paper and certification, and marking and labeling requirements of this subchapter and requirements of this subpart if:

(a) The package meets the general design requirements of § 173.410;

(b) The outer surface of the uranium or thorium is enclosed in an inactive sheath made of metal or other durable protective material;

(c) The conditions specified in § 173.421 (b), (c), and (d) are met; and

(d) The article is otherwise prepared for shipment as specified in § 173.421–1.

§ 173.425 Transport requirements for low specific activity (LSA) radioactive materials and surface contaminated objects (SCO).

In addition to other applicable requirements specified in this subchapter, low specific activity (LSA) materials and surface contaminated objects (SCO) must be transported in accordance with the following conditions:

(a) The quantity of LSA material or SCO in a single package or object or collection of objects must not exceed 2 A_2;

(b) LSA material and SCO that are or contain fissile material must meet the applicable requirements of § 173.451;

(c) Packages must meet the contamination control limits specified in § 173.443;

(d) External radiation levels must comply with § 173.441; and

(e) Except as specified in paragraph (g) of this section, LSA material and SCO must be packaged, as a minimum, in accordance with the package integrity levels specified in Table 8.

(f) For packaged LSA material and SCO consigned as exclusive use:

(1) Shipments must be loaded by consignor and unloaded by consignee from the conveyance or freight container in which originally loaded.

(2) There must be no loose radioactive material in the conveyance.

(3) Shipment must be braced so as to prevent shifting of lading under conditions normally incident to transportation.

(4) Specific instructions for maintenance of exclusive use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

(g) Unpackaged (bulk) shipments of LSA–I and SCO–I materials must be transported only in exclusive use closed transport vehicles and must comply with the following conditions:

(1) Bulk liquids must be transported in the following:

(i) Specification 103CW, 111A60W7 (§§ 179.200, 179.201, 179.202 of this subchapter) tank cars. Bottom openings in tanks are prohibited.

(ii) Specification MC 310, MC 311, MC 312, or MC 331 (§ 178.343 or § 178.337 of this subchapter) cargo tanks. The requirements of § 173.412(j) do not apply to these cargo tanks. Bottom fittings and

valves are not authorized. Trailer-on-flat-car service is not authorized.

(2) Shipments must be loaded by the consignor, and unloaded by the consignee from the conveyance or freight container in which originally loaded.

(3) Except for shipments of unconcentrated uranium or thorium ores, the transport vehicle must be placarded with the placards prescribed in Subpart F of Part 172 of this subchapter, as appropriate.

(4) There must be no leakage of radioactive materials from the vehicle.

(5) Specific instructions for maintenance of exclusive use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

(6) Transportation by aircraft is prohibited.

(h) The quantity of LSA and SCO material in any single conveyance must not exceed the limits specified in Table 9.

(i) Except for transportation by aircraft, LSA and SCO that conform with the provisions specified in 10 CFR 20.306 are excepted from all requirements of this subchapter pertaining to radioactive materials when offered for transportation for disposal or recovery. A material which meets the definition of another hazard class is subject to the provisions of this subchapter relating to that hazard class.

TABLE 8.—INDUSTRIAL PACKAGE INTEGRITY REQUIREMENTS FOR LSA MATERIAL AND SCO

Contents	Industrial package type [1]	
	Exclusive use shipment	Other than exclusive use shipment
LSA-I [2]:		
Solid	IP-1	IP-1
Liquid	IP-1	IP-2
LSA-II:		
Solid	IP-2	IP-2
Liquid and gas	IP-2	IP-3
LSA-III	IP-2	IP-3
SCO-I [2]	IP-1	IP-1
SCO-II	IP-2	IP-2

[1] See § 173.403

[2] Under the conditions specified in paragraph (g) of this Section, LSA-I material and SCO-I may be transported unpackaged.

TABLE 9.—CONVEYANCE ACTIVITY LIMITS FOR LSA MATERIAL AND SCO

Nature of material	Activity limit for conveyance [1]
LSA-I	No limit.
LSA-II and LSA-III: Non-flammable solids.	No limit.
LSA-II and LSA-III: Flammable solids, and all liquids and gases.	100 A_2
SCO	100 A_2

[1] The concentration limit for tritium in liquid form, specified in § 173.435, does not apply.

§ 173.427 Empty radioactive materials packaging.

A packaging which previously contained radioactive materials and has been emptied of contents as far as practical, is excepted from the shipping paper and certification, marking and labeling requirements of this subchapter, and from requirements of this subpart, provided that:

(a) The packaging complies with the requirements of § 173.421 (b), (c), and (e) of this subpart;

(b) The packaging is in unimpaired condition and is securely closed so that there will be no leakage of radioactive material under conditions normally incident to transportation;

(c) Internal contamination does not exceed 100 times the limits in § 173.443(a);

(d) Any labels previously applied in conformance with subpart E of part 172 of this subchapter are removed, obliterated or covered and the "Empty" label prescribed in § 172.450 is affixed to the packaging; and

(e) The packaging is prepared for shipment as specified in § 173.421–1.

§ 173.431 Activity limits for Type A and Type B packages.

(a) A Type A package shall not contain a quantity of radioactive materials greater than A_2 for special form radioactive material or A_2 for normal form radioactive material as listed in § 173.435, or, for radioactive materials not listed in § 173.435, as determined in accordance with § 173.433.

(b) The limits on activity contained in a Type B, Type B(U), or Type B(M) package are those prescribed in §§ 173.416 and 173.417 or in the applicable approval certificate under § 173.471 or § 173.473.

§ 173.433 Requirements for determination of A_1 and A_2 values for radionuclides.

(a) Values of A_1 and A_2 for individual radionuclides that are the bases for many activity limits elsewhere in this subchapter are given in the table in § 173.435.

(b) For individual radionuclides whose identities are known, but which are not listed in the table in § 173.435, the determination of the values of A_1 and A_2 requires approval from the U.S. Competent Authority except that the values of A_1 and A_2 in Table 10 may be used without obtaining approval from the U.S. Competent Authority.

(c) In calculating A_1 and A_2 for a radionuclide not listed in the table in § 173.435, a single radioactive decay chain in which the radionuclides are present in their naturally-occurring proportions and in which no daughter nuclide has a half life either longer than 10 days or longer than that of the parent nuclide will be considered as a single radionuclide, and the activity to be taken into account and the A_1 or A_2 value to be applied will be those corresponding to the parent nuclide of that chain. Otherwise, the parent and daughter nuclides will be considered as a mixture of different nuclides.

(d) For mixtures of radionuclides whose identities and respective activities are known, the following conditions will apply:

(1) For special form radioactive material:

$$\sum_i \frac{B(i)}{A_1(i)} \text{ less than or equal to } 1$$

(2) For other forms of radioactive materials:

(i) Either

$$\sum_i \frac{B(i)}{A_2(i)} \text{ less than or equal to } 1$$

where B(i) is the activity of radionuclide i and A_1 and A_2 values for radionuclide i, respectively; or

(ii)

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity of nuclide i in the mixture and $A_2(i)$ is the appropriate A_2 value for nuclide i.

(e) When the identity of each nuclide is known but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest A_1 or A_2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in paragraph (d) of this section. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A_1 or A_2 values for the alpha emitters or beta/gamma emitters, respectively.

TABLE 10.—GENERAL VALUES FOR A_1 and A_2

Contents	A_1		A_2	
	(TBq)	(Ci)	(TBq)	(Ci)
Only beta or gamma emitting nuclides are known to be present	0.2	5	0.02	0.5
Alpha emitting nuclides are known to be present or no relevant data are available	0.10	2.70	2×10^{-4}	5.41×10^{-4}

§ 173.434 Activity-Mass Relationships for Uranium and Natural Thorium.

Thorium and uranium enrichment [1] (Wt. percent ^{235}U present	Specific activity			
	TBq/gram	Grams/TBq	Ci/gram	Grams/Ci
0.45 (depleted)	1.9×10^{-8}	5.4×10^{7}	5.0×10^{-7}	2.0×10^{6}
0.72 (natural)	2.6×10^{-8}	3.8×10^{7}	7.1×10^{-7}	1.4×10^{6}
1.0	2.8×10^{-8}	3.6×10^{7}	7.6×10^{-7}	1.3×10^{6}
1.5	3.7×10^{-8}	2.7×10^{7}	1.0×10^{-6}	1.0×10^{6}
5.0	1.0×10^{-7}	1.0×10^{7}	2.7×10^{-6}	3.7×10^{5}
10.0	1.8×10^{-7}	5.6×10^{6}	4.8×10^{-6}	2.1×10^{5}
20.0	3.7×10^{-7}	2.7×10^{6}	1.0×10^{-5}	1.0×10^{5}
35.0	7.4×10^{-7}	1.4×10^{6}	2.0×10^{-5}	5.0×10^{4}
50.0	9.3×10^{-7}	1.1×10^{6}	2.5×10^{-5}	4.0×10^{4}
90.0	2.1×10^{-6}	4.7×10^{5}	5.8×10^{-5}	1.7×10^{4}
93.0	2.8×10^{-6}	3.9×10^{5}	7.0×10^{-5}	1.4×10^{4}
95.0	3.4×10^{-6}	3.0×10^{5}	9.1×10^{-5}	1.1×10^{4}
Natural Thorium	8.1×10^{-9}	1.2×10^{8}	2.2×10^{-7}	4.5×10^{6}

[1] The figures for uranium include representative values for the activity of uranium-234 which is concentrated during the enrichment process. The activity for thorium includes the equilibrium concentration of thorium-228.

§ 173.435 Table for A_1 and A_2 Values for Radionuclides.

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{225}Ac [1]	Actinium (89)	0.6	16.2	1×10^{-3}	0.270	2.1×10^{3}	5.8×10^{4}
^{227}Ac		40	1080	2×10^{-3}	5.4×10^{-4}	2.7	7.2×10^{1}
^{228}Ac		0.6	16.2	0.4	10.8	8.3×10^{4}	2.2×10^{6}
^{105}Ag	Silver (47)	2	54	2	54	1.1×10^{6}	3.0×10^{4}
^{108m}Ag		0.6	16.2	0.6	16.2	9.7×10^{-1}	2.6×10^{1}
^{110m}Ag		0.4	10.8	0.4	10.8	1.8×10^{3}	4.9×10^{3}
^{111}Ag		0.6	16.2	0.5	13.5	5.8×10^{3}	1.6×10^{5}
^{26}Al	Aluminum (13)	0.4	10.8	0.4	10.8	7.0×10^{-4}	1.9×10^{-2}
^{241}Am	Americium (95)	2	54	2×10^{-4}	5.4×10^{-3}	1.3×10^{-1}	3.4
^{242m}Am		2	54	2×10^{-4}	5.4×10^{-3}	3.6×10^{-1}	9.7
^{243}Am		2	54	2×10^{-4}	5.4×10^{-3}	7.4×10^{-3}	2.0×10^{-1}
^{37}Ar	Argon (18)	40	1080	40	1080	3.7×10^{5}	1.0×10^{7}
^{39}Ar		20	541	20	540	1.3	3.4×10^{1}
^{41}Ar		0.6	16.2	0.6	16.2	1.6×10^{6}	4.2×10^{7}
^{42}Ar [1]		0.2	5.4	0.2	5.4	9.6	2.6×10^{2}
^{73}As	Arsenic (33)	0.2	5.4	0.2	5.4	6.2×10^{4}	1.7×10^{6}
^{73}As		40	1080	40	1080	8.2×10^{2}	2.2×10^{4}
^{74}As		1	27	0.5	13.5	3.7×10^{3}	9.9×10^{4}
^{76}As		0.2	5.4	0.2	5.4	5.8×10^{4}	1.6×10^{6}
^{77}As		20	540	0.5	13.5	3.9×10^{4}	1.0×10^{6}
^{211}At	Astatine (85)	30	810	2	54	7.6×10^{4}	2.1×10^{6}
^{198}Au	Gold (79)	6	162	6	162	3.4×10^{4}	9.2×10^{5}
^{194}Au		1	27	1	27.0	1.5×10^{4}	4.1×10^{5}
^{195}Au		10	270	10	270	1.4×10^{3}	3.7×10^{4}
^{196}Au		2	54	2	54	4.0×10^{3}	1.1×10^{5}
^{198}Au		3	81	0.5	13.5	9.0×10^{3}	2.4×10^{5}
^{199}Au		10	270	0.9	24.3	7.7×10^{4}	2.1×10^{6}
^{131}Ba	Barium (56)	2	54	2	54.0	3.1×10^{3}	8.4×10^{4}
^{133m}Ba		10	270	0.9	24.3	2.2×10^{3}	6.1×10^{4}
^{133}Ba		3	81	3	81	9.4×10^{1}	2.6×10^{3}
^{140}Ba [1]		0.4	10.8	0.4	10.8	2.7×10^{3}	7.3×10^{4}
^{7}Be	Beryllium (4)	20	540	20	540	1.3×10^{4}	3.5×10^{5}
^{10}Be		20	540	0.5	13.5	8.4×10^{-3}	2.2×10^{-1}
^{206}Bi	Bismuth (83)	0.6	16.2	0.6	16.2	1.5×10^{4}	4.2×10^{5}
^{207}Bi		0.2	5.1	0.2	5.1	3.8×10^{3}	1.0×10^{5}

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{210}Bi		0.7	18.9	0.7	18.9	1.9	5.2×10^{1}

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{148}Gd		3	81	3×10^{-4}	8.1×10^{-3}	6.7	2.8×10^{1}

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{207}Bi		0.7	18.9	0.7	18.9	1.9	5.2×10^{1}
^{210m}Bi[2]		0.3	8.1	3×10^{-2}	0.81	2.1×10^{-6}	5.7×10^{-4}
^{210}Bi		0.6	16.2	0.5	13.5	4.6×10^{3}	1.2×10^{5}
^{212}Bi[1]		0.3	8.1	0.3	8.1	5.4×10^{5}	1.5×10^{7}
^{247}Bk	Berkelium (97)	2	54.0	2×10^{-4}	5.4×10^{-6}	3.8×10^{-6}	1.0
^{249}Bk		40	1080	6×10^{-2}	2.16	6.1×10^{1}	1.8×10^{3}
^{76}Br	Bromine (35)	0.3	8.1	0.3	8.1	9.4×10^{4}	2.5×10^{6}
^{77}Br		3	81.0	3	81	2.6×10^{4}	7.1×10^{5}
^{80}Br		0.4	108	0.4	10.8	4.0×10^{4}	1.1×10^{6}
^{11}C	Carbon (6)	1	270	0.5	13.5	3.1×10^{7}	8.4×10^{8}
^{14}C		40	1080	2	54.0	1.7×10^{-1}	4.5
^{41}Ca	Calcium (20)	40	1080	40	1080	3.1×10^{-3}	8.5×10^{-5}
^{45}Ca		40	1080	0.9	24.3	6.6×10^{2}	1.8×10^{4}
^{47}Ca		0.9	24.3	0.5	13.5	2.3×10^{4}	6.1×10^{5}
^{109}Cd	Cadmium (48)	40	1080	1	27.0	9.6×10^{1}	2.6×10^{3}
^{115m}Cd		20	540	9×10^{-2}	2.43	8.3×10^{2}	2.2×10^{4}
^{115m}Cd		0.3	8.1	0.3	8.1	9.4×10^{3}	2.6×10^{5}
^{115}Cd		4	108	0.5	13.5	1.9×10^{4}	5.1×10^{5}
^{139}Ce	Cerium (58)	6	162	6	162	2.5×10^{2}	6.8×10^{3}
^{141}Ce		10	270	0.5	13.5	1.1×10^{3}	2.8×10^{4}
^{143}Ce		0.6	16.2	0.5	13.5	2.5×10^{4}	6.6×10^{5}
^{144}Ce[3]		0.2	5.4	0.2	5.4	1.2×10^{3}	3.2×10^{4}
^{244}Cf	Californium (98)	30	81	3×10^{-3}	8.1×10^{-5}	5.8×10^{1}	1.6×10^{3}
^{246}Cf		2	54	2×10^{-4}	5.4×10^{-6}	1.5×10^{-1}	4.1
^{248}Cf		5	135	5×10^{-4}	1.35×10^{-5}	4.0	1.1×10^{2}
^{251}Cf		2	54.0	2×10^{-4}	5.4×10^{-6}	5.8×10^{-3}	1.6
^{252}Cf		0.1	2.70	1×10^{-5}	2.70×10^{-6}	2.0×10^{-1}	5.4×10^{2}
^{253}Cf		40	1080	6×10^{-5}	1.62	1.1×10^{3}	2.9×10^{4}
^{254}Cf		3×10^{-3}	8.1×10^{-5}	6×10^{-4}	1.62×10^{-5}	3.1×10^{2}	8.5×10^{3}
^{36}Cl	Chlorine (17)	20	540	0.5	13.5	1.2×10^{1}	3.3×10^{2}
^{38}Cl		0.2	5.4	0.2	5.4	4.9×10^{4}	1.3×10^{6}
^{240}Cm	Curium (96)	40	1080	2×10^{-3}	0.54	7.5×10^{3}	2.0×10^{5}
^{241}Cm		2	54	0.9	24.3	6.1×10^{2}	1.7×10^{4}
^{243}Cm		40	1080	1×10^{-3}	0.270	1.2×10^{3}	3.3×10^{3}
^{244}Cm		3	81	3×10^{-4}	8.1×10^{-6}	1.9	5.2×10^{1}
^{245}Cm		4	108	4×10^{-4}	1.08×10^{-5}	3.0	8.1×10^{1}
^{246}Cm		2	54	2×10^{-4}	5.4×10^{-6}	6.4×10^{-3}	1.7×10^{-1}
^{248}Cm		2	54	2×10^{-4}	5.4×10^{-6}	1.1×10^{-3}	3.1×10^{-1}
^{247}Cm		2	54	2×10^{-4}	5.4×10^{-6}	3.4×10^{-6}	9.3×10^{-6}
^{250}Cm		4×10^{-3}	1.06	5×10^{-5}	1.35×10^{-6}	1.6×10^{-4}	4.2×10^{-3}
^{55}Co	Cobalt (27)	0.5	13.5	0.5	13.5	1.1×10^{3}	3.1×10^{4}
^{56}Co		0.3	8.1	0.3	8.1	1.1×10^{3}	3.0×10^{4}
^{57}Co		8	216	8	216	3.1×10^{2}	8.4×10^{3}
^{60m}Co	Cobalt (27)	40	1080	40	1080	2.2×10^{4}	5.9×10^{5}
^{58}Co		1	27.0	1	27.0	1.2×10^{3}	3.2×10^{4}
^{60}Co		0.4	10.8	0.4	10.8	4.2×10^{1}	1.1×10^{3}
^{51}Cr	Chromium (24)	30	81	30	81	3.4×10^{3}	9.2×10^{4}
^{129}Cs	Cesium (55)	4	108	4	108	2.8×10^{3}	7.6×10^{4}
^{131}Cs		40	1080	40	1080	3.8×10^{3}	1.0×10^{5}
^{134}Cs		1	27.0	1	27.0	5.7×10^{2}	1.5×10^{4}
^{134m}Cs		40	1080	9	243	3.0×10^{4}	8.0×10^{5}
^{135}Cs		0.6	16.2	0.5	13.5	4.8×10^{1}	1.3×10^{3}
^{136}Cs		40	1080	0.9	24.3	4.3×10^{-3}	1.2×10^{-1}
^{137}Cs		0.5	13.5	0.5	13.5	2.7×10^{2}	7.3×10^{3}
^{137}Cs[1]		2	54.0	0.5	13.5	3.2	8.7×10^{1}
^{64}Cu	Copper (29)	5	135	0.9	24.3	1.4×10^{3}	3.9×10^{4}
^{67}KCu		9	243	0.9	24.3	2.8×10^{4}	7.6×10^{5}
^{159}KDy	Dysprosium (66)	20	540	20	540	2.1×10^{3}	5.7×10^{4}
^{165}Dy		0.6	16.2	0.5	13.5	3.0×10^{5}	8.2×10^{6}
^{166}Dy[3]		0.3	8.1	0.3	8.1	8.6×10^{3}	2.3×10^{5}
^{169m}Er	Erbium (68)	40	1080	0.9	24.3	3.1×10^{3}	8.3×10^{4}
^{171}Er		0.6	16.2	0.5	13.5	9.0×10^{4}	2.4×10^{6}
^{147}Eu	Europium (63)	2	54	2	54	1.4×10^{3}	3.7×10^{4}
^{148}Eu		0.5	13.5	0.5	13.5	6.0×10^{3}	1.6×10^{5}
^{149}Eu		20	540	20	540	3.5×10^{3}	9.4×10^{4}
^{150}Eu		0.7	18.9	0.7	18.9	6.1×10^{4}	1.7×10^{6}
^{152m}Eu		0.6	16.2	0.5	13.5	8.2×10^{4}	2.2×10^{6}
^{152}Eu		0.9	24.3	0.9	24.3	6.5	1.8×10^{2}
^{154}Eu		0.6	21.6	0.5	13.5	9.8	2.6×10^{2}
^{155}Eu		20	540	2	54	1.8×10^{1}	4.9×10^{2}
^{156}Eu		0.6	16.2	0.5	13.5	2.0×10^{3}	5.5×10^{4}
^{18}F	Fluorine (9)	1	27.0	0.5	13.5	3.5×10^{4}	9.5×10^{5}
^{52}Fe[1]	Iron (26)	0.2	5.4	0.2	5.40	2.7×10^{3}	7.3×10^{4}
^{55}Fe		40	1080	40	1080	8.8×10^{1}	2.4×10^{3}
^{59}Fe		0.8	21.6	0.8	21.6	1.8×10^{3}	3.0×10^{4}
^{60}Fe		40	1080	0.2	5.4	7.4×10^{-4}	2.0×10^{-2}
^{67}Ga	Gallium (31)	6	162	6	162	2.2×10^{4}	6.0×10^{5}
^{68}Ga		0.3	8.1	0.3	8.1	1.5×10^{6}	4.0×10^{7}
^{72}Ga		0.4	10.8	0.4	10.8	1.1×10^{5}	3.1×10^{6}
^{146}Gd[1]	Gadolinium (64)	0.4	10.8	0.4	10.8	6.9×10^{3}	1.9×10^{5}

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{146}Gd		3	81	3×10^{-4}	8.1×10^{-6}	6.7	2.9×10^{1}
^{153}Gd		10	270	5	135	1.3×10^{3}	3.5×10^{4}
^{159}Gd		4	108	0.5	13.5	3.9×10^{4}	1.1×10^{6}
^{68}Ge[1]	Germanium (32)	0.3	8.1	0.3	8.1	2.6×10^{2}	7.1×10^{3}
^{71}Ge		40	1080	40	1080	5.8×10^{3}	1.6×10^{5}
^{77}Ge		0.3	8.1	0.3	8.1	1.3×10^{4}	3.6×10^{5}
^{3}H	Hydrogen (1)	[18]					
^{172}Hf[1][2]	Hafnium (72)	0.5	13.5	0.3	8.1	4.1×10^{2}	1.1×10^{4}
^{175}Hf		3	81	3	81	3.9×10^{2}	1.1×10^{4}
^{181}Hf		2	54	0.9	24.3	6.2×10^{2}	1.7×10^{4}
^{182}Hf		4	108	3×10^{-3}	0.81	8.1×10^{-6}	2.2×10^{-4}
^{194}Hg[1]	Mercury (80)	1	27.0	1	27.0	1.3×10^{-1}	3.5
^{195m}Hg		5	135	5	135	1.5×10^{4}	4.0×10^{5}
^{197m}Hg		10	270	0.9	24.3	2.5×10^{4}	6.7×10^{5}
^{197}Hg		10	270	10	270	9.2×10^{3}	2.5×10^{5}
^{203}Hg		4	108	0.9	24.3	5.1×10^{3}	1.4×10^{5}
^{166}Ho	Holmium (67)	40	1080	40	1080	2.7	7.3×10^{1}
^{166m}Ho		0.6	16.2	0.3	8.1	6.6×10	1.8
^{166}Ho		0.3	8.1	0.3	8.1	2.6×10^{4}	7.0×10^{5}
^{123}I	Iodine (53)	6	162	6	162	7.1×10^{4}	1.9×10^{6}
^{124}I		0.9	24.3	0.9	24.3	9.3×10^{3}	2.5×10^{5}
^{125}I		20	540	2	54	6.4×10^{2}	1.7×10^{4}
^{126}I		2	54	0.9	24.3	2.9×10^{3}	8.0×10^{4}
^{129}I		[5]	[5]	[5]	[5]	6.5×10^{-6}	1.8×10^{-4}
^{131}I		3	81	0.5	13.5	4.6×10^{3}	1.2×10^{5}
^{132}I		0.4	10.8	0.4	10.8	3.8×10^{4}	1.0×10^{7}
^{133}I		0.6	16.2	0.5	13.5	4.2×10^{4}	1.1×10^{6}
^{134}I		0.3	8.1	0.3	8.1	9.9×10^{4}	2.7×10^{7}
^{135}I		0.6	16.2	0.5	13.5	1.3×10^{4}	3.5×10^{5}
^{111}In	Indium (49)	2	54	2	54	1.5×10^{4}	4.2×10^{5}
^{113m}In		4	108	4	108	6.2×10^{4}	1.7×10^{7}
^{114m}In[1]		0.3	8.1	0.3	8.1	8.6×10^{2}	2.3×10^{4}
^{115m}In		6	162	0.9	24.3	2.2×10^{3}	6.1×10^{5}
^{189}Ir	Iridium (77)	10	270	10	270	1.9×10^{3}	5.2×10^{4}
^{190}Ir		0.7	18.9	0.7	18.9	2.3×10^{3}	6.2×10^{4}
^{192}Ir		1	27.0	0.5	13.5	3.4×10^{3}	9.2×10^{3}
^{193m}Ir		10	270	10	270	2.4×10^{3}	6.4×10^{4}
^{194}Ir		0.2	5.4	0.2	5.4	3.1×10^{4}	8.4×10^{5}
^{40}K	Potassium (19)	0.6	16.2	0.6	16.2	2.4×10^{-7}	6.4×10^{-6}
^{42}K		0.2	5.4	0.2	5.4	2.2×10^{4}	6.0×10^{5}
^{43}K		1.0	27.0	0.5	13.5	1.2×10^{4}	3.3×10^{5}
^{81}Kr	Krypton (36)	40	1080	40	1080	7.8×10^{-4}	2.1×10^{-2}
^{85m}Kr		6	162	6	162	3.0×10^{3}	8.2×10^{4}
^{85}Kr		20	540	10	270	1.5×10^{1}	3.9×10^{2}
^{87}Kr		0.2	5.4	0.2	5.4	1.0×10^{4}	2.8×10^{5}
^{137}La	Lanthanum (57)	40	1080	2	54	1.6×10^{-3}	4.4×10^{-2}
^{140}La		0.4	10.8	0.4	10.8	2.1×10^{4}	5.5×10^{5}
LSA	Low Specific Activity Material Definition (See § 173.403).						
^{173}Lu	Lutetium (71)	0.5	13.5	0.5	13.5	4.2×10^{3}	1.1×10^{5}
^{174}Lu		8	216	8	216	5.8×10^{1}	1.5×10^{3}
^{174m}Lu		20	540	8	216	2.0×10^{3}	5.3×10^{4}
^{176}Lu		8	216	4	108	2.3×10^{1}	6.2×10^{2}
^{177}Lu		30	810	0.9	24.3	4.1×10^{3}	1.1×10^{5}
MFP	Mixed Fission Products (use formula for mixture or Table 9).						
^{28}Mg[1]	Magnesium (12)	0.2	5.4	0.2	5.4	2.0×10^{3}	5.4×10^{4}
^{52}Mn	Manganese (25)	0.3	8.1	0.3	8.1	1.8×10^{4}	4.4×10^{5}
^{53}Mn		[1]	[1]	[1]	[1]	6.8×10^{-6}	1.8×10^{-4}
^{54}Mn		1	27.0	1	27.0	2.9×10^{2}	7.7×10^{3}
^{56}Mn		0.2	5.4	0.2	5.4	8.0×10^{4}	2.2×10^{7}
^{93}Mo	Molybdenum (42)	40	1080	7	189	4.1×10^{-5}	1.1
^{99}Mo		0.6	16.2	0.5	13.5	1.8×10^{4}	4.6×10^{5}
^{13}N	Nitrogen (7)	0.6	16.2	0.5	13.5	5.4×10^{3}	1.5×10^{5}
^{22}Na	Sodium (1)	0.5	13.5	0.5	13.5	2.3×10^{2}	6.3×10^{3}
^{24}Na		0.2	5.4	0.2	5.4	3.2×10^{4}	8.7×10^{5}
^{92m}Nb	Niobium (41)	0.7	18.9	0.7	18.9	5.2×10^{3}	1.4×10^{5}
^{93m}Nb		40	1080	6	162	8.8	2.4×10^{2}
^{94}Nb		0.6	16.2	0.6	16.2	6.9×10^{-3}	1.9×10^{-1}
^{95}Nb		1	27.0	1	27.0	1.5×10^{3}	3.9×10^{4}
^{97}Nb		0.6	16.2	0.5	13.5	9.9×10^{4}	2.7×10^{7}
^{147}Nd	Neodymium (60)	4	108	0.5	13.5	3.0×10^{3}	8.1×10^{4}
^{149}Nd		0.6	16.2	0.5	13.5	4.5×10^{5}	1.2×10^{7}
^{59}Ni	Nickel (28)	40	1080	40	1080	3.0×10^{-2}	8.0×10^{-1}
^{63}Ni		40	1080	30	810	2.1	5.7×10^{1}
^{65}Ni		0.3	8.1	0.3	8.1	7.0×10^{5}	1.9×10^{7}
^{237}Np	Neptunium (93)	40	1080	40	1080	5.2×10^{-4}	1.4×10^{-2}
^{239}Np		7	189	1×10^{-3}	2.07×10^{-6}	4.7×10^{-4}	1.3×10^{-2}

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Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{237}Np		2	54	2×10^{-4}	13.5	2.6×10^{-5}	7.1×10^{-4}
^{239}Np		6	162	0.5	13.5	8.6×10^{3}	2.3×10^{5}
^{190}Os	Osmium (76)	1	27.0	1	27.0	$2/9\times10^{4}$	$Z7.5\times10^{5}$
^{191m}Os		40	1080	40	1080	4.8×10^{4}	1.3×10^{6}
^{191}Os		10	270	0.9	24.3	1.8×10^{3}	4.4×10^{4}
^{193}Os		0.6	16.2	0.5	13.5	2.0×10^{4}	5.3×10^{5}
^{194}Os [5]		0.2	5.4	0.2	5.4	1.1×10^{3}	3.1×10^{3}
^{32}P	Phosphorus (15)	0.3	8.1	0.3	8.1	1.1×10^{4}	2.9×10^{5}
^{33}P		40	1080	0.9	24.3	5.8×10^{3}	1.6×10^{5}
^{230}Pa	Protactinium (91)	2	54	0.1	2.70	1.2×10^{3}	3.3×10^{4}
^{231}Pa		0.6	16.2	$6\times10-^{3}$	1.62×10^{-3}	1.7×10^{-5}	4.7×10^{-5}
^{233}Pa		5	135	0.9	24.3	7.7×10^{3}	2.1×10^{4}
^{201}Pb	Lead (82)	1	27.0	1	27.0	6.2×10^{4}	1.7×10^{6}
^{203}Pb		40	1080	2	54	1.2×10^{-4}	3.4×10^{-3}
^{209}Pb		3	81	3	81	1.1×10^{4}	3.0×10^{5}
^{209}Pb		[3]	[3]	[3]	[3]	4.5×10^{-6}	1.2×10^{-4}
^{210}Pb [1]		0.6	16.2	$9\times10-3$	0.243	2.8	7.6×10^{1}
^{212}Pb [1]		0.3	8.1	0.3	8.1	5.1×10^{4}	1.4×10^{6}
^{109}Pd	Palladium (46)	40	1080	40	1080	2.8×10^{3}	7.5×10^{4}
^{107}Pd		[3]	[3]	[3]	[3]	1.9×10^{-5}	5.1×10^{-4}
^{109}Pd		0.6	16.2	0.5	13.5	7.9×10^{4}	2.1×10^{6}
^{148}Pm	Promethium (61)	3	81	3	81	1.3×10^{3}	3.4×10^{4}
^{144}Pm		0.6	16.2	0.6	16.2	9.2×10^{1}	2.5×10^{3}
^{146}Pm		30	810	7	189	5.2	1.4×10^{2}
^{147}Pm		40	1080	0.9	24.3	3.4×10^{1}	9.3×10^{2}
^{148m}Pm		0.5	13.5	0.5	13.5	7.9×10^{2}	2.1×10^{4}
^{149}Pm		0.6	16.2	0.5	13.5	1.5×10^{4}	4.0×10^{5}
^{151}Pm		3	81	0.5	13.5	2.7×10^{4}	7.3×10^{5}
^{208}Po	Polonium (84)	40	1080	$2\times10-G510^{-3}$	0.54	2.2×10^{1}	5.9×10^{2}
^{209}KPo		40	1080	2×10^{-3}	0.54	6.2×10^{-1}	1.7×10^{1}
^{210}Po		40	1080	2×10^{-3}	0.54	1.7×10^{3}	4.5×10^{3}
^{142}Pr	Praseodymium (59)	0.2	5.4	0.2	5.4	4.3×10^{4}	1.2×10^{6}
^{143}Pr		4	108	0.5	13.5	2.5×10^{3}	6.7×10^{4}
^{188}Pt [1]	Platinum (78)	0.6	16.2	0.6	16.2	2.5×10^{3}	6.8×10^{4}
^{191}Pt		3	81	3	81	8.7×10^{3}	2.4×10^{5}
^{193m}Pt		40	1080	9	243	5.8×10^{3}	1.6×10^{5}
^{193}Pt		40	1080	40	1080	1.4	3.7×10^{1}
^{195m}Pt		10	270	2	54	6.2×10^{3}	1.7×10^{5}
^{197m}Pt		10	270	0.9	24.3	3.7×10^{5}	1.0×10^{7}
^{197}Pt		20	540	0.5	13.5	3.2×10^{4}	8.7×10^{5}
^{238}Pu	Plutonium (94)	7	189	7×10^{-4}	1.89×10^{-2}	2.0×10^{1}	5.3×10^{2}
^{239}Pu		20	540	20	540	4.5×10^{3}	1.2×10^{5}
^{239}Pu		2	54	2×10^{-4}	5.4×10^{-3}	6.3×10^{-1}	1.7×10^{1}
^{240}Pu		2	54	2×10^{-4}	5.4×10^{-3}	2.3×10^{-3}	6.2×10^{-2}
^{242}Pu		2	54	2×10^{-4}	5.4×10^{-3}	8.4×10^{-3}	2.3×10^{-1}
^{241}Pu		40	1080	1×10^{-2}	0.270	3.8×10^{3}	1.0×10^{5}
^{242}Pu		2	54	2×10^{-4}	5.4×10^{-3}	1.5×10^{-4}	3.9×10^{-3}
^{244}Pu [3]		0.3	8.1	2×10^{-4}	5.4×10^{-3}	6.7×10^{-7}	1.9×10^{-5}
^{223}Ra [3]	Radium (88)	0.6	16.2	3×10^{-3}	0.81	1.9×10^{3}	5.1×10^{4}
^{224}Ra [3]		0.3	8.1	6×10^{-3}	1.62	6.9×10^{3}	1.6×10^{5}
^{225}Ra [3]		0.6	16.2	2×10^{-3}	0.54	1.4×10^{3}	3.9×10^{4}
^{226}Ra [3]		0.3	8.1	2×10^{-3}	0.54	3.7×10^{-2}	1.0
^{228}Ra [3]		0.6	16.2	4×10^{-3}	1.08	1.0×10^{1}	2.7×10^{2}
^{81}Rb	Rubidium (37)	2	54	0.9	24.3	3.1×10^{3}	8.4×10^{4}
^{83}Rb		2	54	2	54	6.8×10^{2}	1.8×10^{4}
^{84}Rb		1	27.0	0.9	24.3	1.8×10^{3}	4.7×10^{4}
^{86}Rb		0.3	8.1	0.3	8.1	3.0×10^{2}	8.1×10^{3}
^{87}Rb		[3]	[3]	[3]	[3]	3.2×10^{-9}	8.6×10^{-8}
Rb (natural)		[3]	[3]	[3]	[3]	6.7×10^{-6}	1.8×10^{-4}
^{183}Re	Rhenium (75)	5	135	5	135	3.8×10^{2}	1.0×10^{4}
^{184m}Re		3	81	3	81	1.6×10^{2}	4.3×10^{3}
^{184}Re		1	27.0	1	27.0	6.9×10^{2}	1.9×10^{4}
^{184}Re		4	108	0.5	13.5	6.9×10^{3}	1.9×10^{5}
^{187}Re		[3]	[3]	[3]	[3]	1.4×10^{-9}	3.8×10^{-8}
^{188}Re		0.2	5.4	0.2	5.4	3.6×10^{4}	9.8×10^{5}
^{189}Re		4	108	0.5	13.5	2.5×10^{4}	6.8×10^{5}
Re (natural)		[3]	[3]	[3]	[3]		
^{99}Rh	Rhodium (45)	2	54	2	54	3.1×10^{3}	8.2×10^{4}
^{101}Rh		4	108	4	108	4.1×10^{1}	1.1×10^{3}
^{102m}Rh		2	54	0.9	24.3	2.3×10^{2}	6.2×10^{3}
^{103}Rh		0.5	13.5	0.5	13.5	4.5×10^{1}	1.2×10^{3}
^{105m}Rh		40	1080	40	1080	1.2×10^{4}	3.3×10^{5}
^{105}Rh		10	270	0.9	24.3	3.1×10^{4}	8.4×10^{5}
^{222}Rn [3]	Radon (86)	0.2	5.4	4×10^{-3}	0.108	5.7×10^{3}	1.5×10^{5}
^{97}Ru	Ruthenium (44)	4	108	4	108	1.7×10^{4}	4.6×10^{5}
^{103}Ru		2	54	0.9	24.3	1.2×10^{3}	3.2×10^{4}
^{105}Ru		0.6	16.2	0.5	13.5	2.5×10^{4}	6.7×10^{5}
^{106}Ru		0.2	5.4	0.2	5.4	1.2×10^{3}	3.3×10^{4}
^{35}S	Sulfur (16)	40	1080	2	54	1.6×10^{3}	4.3×10^{4}
^{122}Sb	Antimony (51)	0.3	8.1	0.3	8.1	1.5×10^{4}	4.0×10^{5}

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^{124}Sb		0.6	16.2	0.5	13.5	6.5×10^{2}	1.7×10^{4}
^{125}Sb		2	54	0.9	24.3	3.9×10^{1}	1.0×10^{3}
^{126}Sb		0.4	10.8	0.4	10.8	3.1×10^{2}	8.4×10^{3}
^{44}Sc	Scandium (21)	0.5	13.5	0.5	13.5	6.7×10^{4}	1.8×10^{7}
^{46}Sc		0.5	13.5	0.5	13.5	1.3×10^{3}	3.4×10^{4}
^{47}Sc		9	243	0.9	24.3	3.1×10^{4}	8.3×10^{5}
^{48}Sc		0.3	8.1	0.3	8.1	5.5×10^{4}	1.5×10^{6}
SCO	Surface Contaminated Object Definition (See § 173.403).						
^{75}Se	Selenium (34)	3	81	3	81	5.4×10^{2}	1.5×10^{4}
^{79}Se		40	1080	2	54	2.6×10^{-3}	7.0×10^{-2}
^{31}Si	Silicon (14)	0.6	16.2	0.5	13.5	1.4×10^{6}	3.9×10^{7}
^{32}Si		40	1080	0.2	5.4	3.9	1.1×10^{2}
^{145}Sm	Samarium (62)	20	540	20	540	9.8×10^{1}	2.6×10^{3}
^{147}Sm		[3]	[3]	[3]	[3]	8.5×10^{-10}	2.3×10^{-8}
^{151}Sm		40	1080	4	108	9.7×10^{-1}	2.6×10^{1}
^{153}Sm		4	108	0.5	13.5	1.6×10^{4}	4.4×10^{5}
^{113}Sn [6]	Tin (50)	4	108	4	108	3.7×10^{2}	1.0×10^{4}
^{117m}Sn		6	162	2	54	3.0×10^{2}	8.2×10^{3}
^{119m}Sn		40	1080	40	108	1.4×10^{3}	3.7×10^{4}
^{121m}Sn		40	1080	0.9	24.3	2.0×10^{2}	5.4×10^{3}
^{123}Sn		0.6	16.2	0.5	13.5	3.0×10^{2}	8.2×10^{3}
^{125}Sn		0.2	5.4	0.2	5.4	4.0×10^{3}	1.1×10^{5}
^{126}Sn [6]		0.3	8.1	0.3	8.1	1.1×10^{1}	2.8×10^{2}
^{89}Sr [6]	Strontium (38)	0.2	5.4	0.2	5.4	2.3×10^{3}	6.2×10^{4}
^{90}Sr		5	135	5	135	1.2×10^{2}	3.3×10^{3}
^{85}Sr		2	54	2	54	8.9×10^{2}	2.4×10^{4}
^{87m}Sr		3	81	3	81	4.8×10^{3}	1.3×10^{5}
^{99}Sr		0.6	16.2	0.5	13.5	1.1×10^{3}	2.9×10^{4}
^{90}Sr [6]		0.2	5.4	0.1	2.7	5.1×10^{2}	1.4×10^{4}
^{91}Sr		0.3	8.1	0.3	8.1	1.3×10^{4}	3.6×10^{5}
^{89}Sr [6]		0.2	5.4	0.2	5.4	4.7×10^{3}	1.3×10^{5}
T [see footnote]	Tritium (1)	40	1080	40	1080	3.6×10^{2}	9.7×10^{3}
^{178}Ta	Tantalum (73)	1	27.0	1	27	4.2×10^{4}	1.1×10^{6}
^{179}Ta		30	810	20	810	4.1×10^{1}	1.1×10^{3}
^{182}Ta		0.8	21.6	0.5	13.5	2.3×10^{3}	6.2×10^{4}
^{157}Tb	Terbium (65)	40	1080	10	270	5.8×10^{-1}	1.5×10^{1}
^{158}Tb		1	27.0	0.7	18.9	5.8×10^{-1}	1.5
^{160}Tb		0.9	24.3	0.5	13.5	4.2×10^{2}	1.1×10^{4}
^{95m}Tc	Technetium (43)	2	54	2	54	8.3×10^{2}	2.3×10^{4}
^{96m}Tc [6]		0.4	10.8	0.4	10.8	1.4×10^{4}	3.8×10^{5}
^{96}Tc		0.4	10.8	0.4	10.8	1.2×10^{4}	3.2×10^{5}
^{97m}Tc		40	1080	40	1080	5.8×10^{2}	1.5×10^{4}
^{97}Tc		[3]	[3]	[3]	[3]	5.2×10^{-5}	1.4×10^{3}
^{98}Tc		0.7	18.9	0.7	18.9	3.2×10^{-5}	8.7×10^{-4}
^{99m}Tc		8	216	8	216	1.9×10^{3}	5.3×10^{4}
^{99}Tc		40	1080	0.9	24.3	6.3×10^{-4}	1.7×10^{-2}
^{116}Te [6]	Tellurium (52)	0.2	5.4	0.2	5.4	6.8×10^{3}	1.8×10^{5}
^{121m}Te		5	135	5	135	2.6×10^{2}	7.0×10^{3}
^{121}Te		2	54	2	54	2.4×10^{3}	6.4×10^{4}
^{123m}Te		7	189	7	189	3.3×10^{3}	8.9×10^{4}
^{125m}Te		30	810	9	243	6.7×10^{3}	1.8×10^{5}
^{127m}Te		20	540	0.5	13.5	3.5×10^{2}	9.4×10^{3}
^{127}Te [6]		20	540	0.5	13.5	9.8×10^{4}	2.6×10^{6}
^{129m}Te [6]		0.8	16.2	0.5	13.5	1.1×10^{3}	3.0×10^{4}
^{129}Te		0.8	16.2	0.5	13.5	7.7×10^{5}	2.1×10^{7}
^{131m}Te		0.7	18.9	0.5	13.5	3.0×10^{3}	8.0×10^{4}
^{132}Te [6]		0.4	10.8	0.4	10.8	1.1×10^{3}	3.0×10^{4}
^{227}Th	Thorium (90)	9	243	1×10^{-3}	0.270	1.1×10^{3}	3.0×10^{4}
^{228}Th [6]		0.3	8.1	4×10^{-4}	1.08×10^{-2}	3.0×10^{1}	8.2×10^{2}
^{229}Th		0.3	8.1	3×10^{-3}	8.1×10^{-4}	7.9×10^{-3}	2.1×10^{-1}
^{230}Th		2	54	2×10^{-4}	5.4×10^{-3}	7.6×10^{-3}	2.1×10^{-1}
^{232}Th		40	1080	0.9	24.3	2.0×10^{-7}	5.3×10^{-6}
^{228}Th		[3]	[3]	[3]	[3]	4.0×10^{-2}	1.1×10^{-1}
^{234}Th [6]		0.2	5.4	0.2	5.4	8.6×10^{3}	2.3×10^{5}
Th (natural)		[3]	[3]	[3]	[3]	8.1×10^{-9}	2.2×10^{-7}
^{46}Ti [6]	Titanium (22)	0.5	13.5	0.2	5.4	6.3	1.7×10^{2}
^{200}Tl	Thallium (81)	0.8	21.6	0.8	21.6	2.2×10^{4}	6.0×10^{5}
^{201}Tl		10	270	10	270	7.9×10^{3}	2.1×10^{5}
^{202}Tl		2	54	2	54	2.0×10^{3}	5.3×10^{4}
^{204}Tl		4	108	0.5	13.5	1.7×10^{1}	4.8×10^{2}
^{167}Tm	Thulium (69)	7	189	7	189	3.1×10^{3}	8.5×10^{4}
^{168}Tm		0.8	21.6	0.8	21.6	3.1×10^{3}	8.3×10^{4}
^{170}Tm		4	108	0.5	13.5	2.2×10^{3}	6.0×10^{4}
^{171}Tm		40	1080	10	270	4.0×10^{1}	1.1×10^{3}
^{230}U	Uranium (92)	40	1080	1×10^{-3}	0.270	1.0×10^{3}	2.8×10^{44}
^{231}U		3	81	3×10^{-4}	8.1×10^{-3}	8.3×10^{-1}	2.2×10^{1}
^{232}U		10	270	1×10^{-3}	2.7×10^{-2}	3.6×10^{-4}	9.7×10^{-3}
^{233}U		10	270	1×10^{-3}	2.70×10^{-2}	2.3×10^{-4}	6.2×10^{-3}

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{234}U		[3]	[3]	[3]	[3]	8.0×10^{-3}	2.2×10^{-4}
^{235}U		[3]	[3]	[3]	[3]	2.1×10^{-6}	5.7×10^{-5}
^{236}U		[3]	[3]	[3]	[3]	2.4×10^{-6}	6.5×10^{-5}
^{238}U		[3]	[3]	[3]	[3]	1.2×10^{-8}	3.3×10^{-7}
U (natural)		[3]	[3]	[3]	[3]	2.6×10^{-8}	7.1×10^{-7}
U (enriched to 20% or less)		[3]	[3]	[3]	[3]	1.9×10^{-8}	5.1×10^{-7}
U (enriched to 20% or more)		[3]	[3]	[3]	[3]	1.3×10^{-7}	3.5×10^{-6}
U (depleted)		[3]	[3]	[3]	[3]	1.2×10^{-8}	3.3×10^{-7}
^{90}Y	Yttrium (39)	0.2	5.4	0.2	5.4	8.4×10^{2}	2.3×10^{4}
^{91}Y		0.6	16.2	0.5	13.5	1.6×10^{3}	4.3×10^{4}
^{169}Yb	Ytterbium (70)	3	81	0.9	24.3	9.1×10^{3}	2.5×10^{5}
^{175}Yb		30	810	9	243	6.7×10^{4}	1.8×10^{6}
^{65}Zn	Zinc (30)	2	54	2	54	1.6×10^{2}	4.3×10^{3}
^{69m}Zn		40	1080	0.9	24.3	1.2×10^{3}	3.2×10^{4}
^{69}Zn		40	1080	0.9	24.3	3.1×10^{5}	8.4×10^{6}
^{88}Zr	Zirconium (40)	0.6	16.2	0.5	13.5	1.0×10^{3}	2.7×10^{4}
^{93}Zr		40	1080	0.9	24.3	1.1×10^{2}	2.9×10^{3}
^{95}Zr		0.8	21.6	0.5	13.5	2.4×10^{3}	6.5×10^{4}
^{97}Zr [6]		0.4	10.8	0.4	10.8	1.4×10^{4}	3.8×10^{5}

to transport, affect the integrity of the package; and

(b) The temperature of the accessible external surfaces of the loaded package will not exceed 50°C (122°F) in still air and in the shade.

(c) Packages must be capable of withstanding the tests specified in § 173.465 without loss or dispersal of radioactive contents and without significant increase in the external surface radioactive contamination as specified in paragraph (a) of this section.

(d) Paragraphs (b) and (c) of this section do not apply to any closed transport vehicle.

(e) Packages must be stored so as to ensure adequate heat dissipation and so that the sum of the transport indexes in any individual group of packages does not exceed 50. Groups of these packages must be stored so as to

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Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
^{238}U		(4)	(4)	(4)	(4)	8.0×10^{-8}	2.2×10^{-6}
^{235}U		10	270	1×10^{-3}	2.7×10^{-3}	2.4×10^{-4}	6.5×10^{-6}
^{238}U		(3)	(3)	(3)	(3)	1.2×10^{-8}	3.4×10^{-7}
U (natural)		(4)	(4)	(4)	(4)	2.6×10^{-8}	7.1×10^{-7}
U (enriched to 5 percent or less)		(3)	(3)	(3)	(3)	(3)	(3)
U (enriched more than 5 percent)		10	270	1×10^{-3}	2.70×10^{-3}	(3)	(3)
U (depleted)		(3)	(3)	(3)	(3)	(3)	(3)
^{48}V	Vanadium (23)	0.3	8.1	0.3	8.1	6.3×10^{3}	1.7×10^{5}
^{49}V		40	1080	40	1080	3.0×10^{3}	8.1×10^{5}
$^{178}W^{10}$	Tungsten (74)	1	27.0	1	27.0	1.3×10^{3}	3.4×10^{4}
^{181}W		30	810	30	810	2.2×10^{2}	6.0×10^{3}
^{185}W		40	1080	0.9	24.3	3.5×10^{2}	9.4×10^{3}
^{187}W		2	54	0.5	13.5	2.6×10^{4}	7.0×10^{5}
$^{188}W^{10}$		0.2	5.4	0.2	5.4	3.7×10^{3}	1.0×10^{5}
$^{133}Xe^{10}$	Xenon (54)	0.2	5.4	0.2	5.4	4.8×10^{4}	1.3×10^{6}
^{135}Xe		0.2	5.4	0.2	5.4	4.4×10^{4}	1.2×10^{6}
^{187}Xe		4	108	4	108	1.0×10^{3}	2.8×10^{4}
^{131m}Xe		40	1080	40	1080	3.1×10^{2}	8.4×10^{3}
^{133}Xe		20	540	20	540	6.9×10^{2}	1.9×10^{4}
^{135}Xe		4	108	4	108	9.5×10^{3}	2.6×10^{5}
^{87}Y	Yttrium (39)	2	54	2	54	1.7×10^{4}	4.5×10^{5}
^{88}Y		0.4	10.8	0.4	10.8	5.2×10^{3}	1.4×10^{5}
^{90}Y		0.2	5.4	0.2	5.4	2.0×10^{4}	5.4×10^{5}
^{91m}Y		2	54	2	54	1.5×10^{3}	4.2×10^{4}
^{91}Y		0.3	8.1	0.3	8.1	9.1×10^{3}	2.5×10^{5}
^{92}Y		0.2	5.4	0.2	5.4	3.6×10^{4}	9.6×10^{5}
^{93}Y		0.2	5.4	0.2	5.4	1.2×10^{4}	3.3×10^{5}
^{169}Yb	Ytterbium (70)	3	81	3	81	8.9×10^{2}	2.4×10^{4}
^{175}Yb		30	810	0.9	24.3	6.6×10^{2}	1.8×10^{4}
^{65}Zn	Zinc (30)	2	54	2	54	3.0×10^{3}	8.2×10^{5}
$^{69m}Zn^{10}$		2	54	0.5	13.5	1.2×10^{3}	3.3×10^{4}
^{69}Zn		4	108	0.5	13.5	1.8×10^{2}	4.9×10^{3}
^{93}Zr	Zirconium (40)	3	81	3	81	6.6×10^{2}	1.8×10^{4}
^{95}Zr		40	1080	0.2	5.4	9.3×10^{-5}	2.5×10^{-6}
^{97}Zr		1	27.0	0.9	24.3	7.9×10^{3}	2.1×10^{5}
^{97}Tr		0.3	8.1	0.3	8.1	7.0×10^{4}	1.9×10^{6}

[1] A_1 and/or A_2 value limited by daughter product decay.
[2] Unlimited.
[3] See T—Tritium.
[4] A_1 and A_2 are unlimited for radiation control purposes only. For nuclear criticality safety this material is subject to the control placed on fissile material.
[5] See § 173.434.

§ 173.441 Radiation level limitations.

(a) Except as provided in paragraph (b) of this section, each package of radioactive materials offered for transportation must be designed and prepared for shipment so that under conditions normally incident to transportation the radiation level does not exceed 2 mSv/hour (200 mrem/hour) at any point on the external surface of the package, and the transport index does not exceed 10.

(b) A package which exceeds the radiation level limits specified in paragraph (a) of this section must be transported by exclusive use shipment only, and the radiation levels for such shipment must not exceed the following during transportation:

(1) 2 mSv/h (200 mrem/h) on the external surface of the package unless the following conditions are met, in which case the limit is 10 mSv/h (1000 mrem/h):

(i) The shipment is made in a closed transport vehicle;

(ii) The package is secured within the vehicle so that its position remains fixed during transportation; and

(iii) There are no loading or unloading operations between the beginning and end of the transportation;

(2) 2 mSv/h (200 mrem/h) at any point on the outer surfaces of the vehicle, including the top and underside of the vehicle; or in the case of a flat-bed style vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load or enclosure if used, and on the lower external surface of the vehicle; and

(3) 0.1 mSv/h (10 mrem/h) at any point 2 meters (6.6 feet) from the outer lateral surfaces of the vehicle (excluding the top and underside of the vehicle); or in the case of a flat-bed style vehicle, at any point 2 meters (6.6 feet) from the vertical planes projected by the outer edges of the vehicle (excluding the top and underside of the vehicle); and

(4) 0.02 mSv/h (2 mrem/h) in any normally occupied space, except that this provision does not apply to private carriers if exposed personnel under their control wear radiation dosimetry devices in conformance with § 173.405(d)(3) of this subpart.

(c) For shipments made under the provisions of paragraph (b) of this section, the shipper shall provide specific written instructions for maintenance of the exclusive use shipment controls to the carrier. The instructions must be included with the shipping paper information.

(d) Packages exceeding the radiation level or transport index prescribed in paragraph (a) of this section must not be transported by aircraft.

(e) The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will unnecessarily delay delivery or unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

§ 173.442 Thermal limitations.

A package of radioactive material must be designed, constructed, and loaded so that:

(a) The heat generated within the package by the radioactive contents will not, during conditions normally incident to transport, affect the integrity of the package; and

(b) The temperature of the accessible external surfaces of the loaded package will not, assuming still air in the shade at an ambient temperature of 38 °C (100 °F), exceed either:

(1) 50 °C (122 °F) in other than an exclusive use shipment; or

(2) 85 °C (185 °F) in an exclusive use shipment.

§ 173.443 Contamination control.

(a) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for transport must be kept as low as reasonably achievable. The level of non-fixed radioactive contamination may not exceed the limits set forth in Table 11 and must be determined by either:

(1) Wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the non-fixed contamination levels. The amount of radioactivity measured on any single wiping material when averaged over the surface wiped may not exceed the limits set forth in Table 11 at any time during transport.

(2) Using other methods of assessment of equal or greater efficiency, in which case the efficiency of the method used must be taken into account and the non-fixed contamination on the external surfaces of the package must not exceed ten times the limits set forth in Table 11.

(b) Except as provided in paragraph (d) of this section, in the case of packages transported as exclusive use shipments by rail or public highway only, the removable (non-fixed) radioactive contamination on any package at any time during transport must not exceed ten times the levels prescribed in paragraph (a) of this section. The levels at the beginning of transport must not exceed the levels prescribed in paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, each transport vehicle used for transporting radioactive materials as an exclusive use shipment that utilizes the provisions of paragraph (b) of this section must be surveyed with appropriate radiation detection instruments after each use. A vehicle must not be returned to service until the radiation dose rate at each accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less, and there is no significant removable (non-fixed) radioactive surface contamination as specified in paragraph (a) of this section.

(d) Paragraphs (b) and (c) of this section do not apply to any closed transport vehicle used solely for the transportation by public highway rail of radioactive material packages with contamination levels that do not exceed 10 times the levels prescribed in paragraph (a) of this section if:

(1) A survey of the interior surfaces of the empty vehicle shows that the radiation dose rate at any point does not exceed 0.1 mSv per hour (10 mrem per hour) at the surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from the surface;

(2) Each vehicle is stenciled with the words "For Radioactive Materials Use Only" in letters at least 76 millimeters (3 inches) high in a conspicuous place on both sides of the exterior of the vehicle; and

(3) Each vehicle is kept closed except for loading or unloading.

TABLE 11.—NON-FIXED EXTERNAL RADIOACTIVE CONTAMINATION-WIPE LIMITS

Contaminant	Maximum permissible limits Bq/cm²	uCi/cm²	dpm/cm²
Beta and gama emitters and low toxicity alpha emitters	0.4	10^{-5}	22
All other alpha emitting radionuclides	0.04	10^{-6}	2.2

§ 173.444 Labeling requirements.

Each package of radioactive materials, unless excepted by § 173.421, § 173.422, § 173.424, or § 173.427, must be labeled as prescribed in Subpart E of part 172 of this subchapter.

§ 173.445 Placarding requirements.

Placarding requirements are prescribed in subpart F of part 172 of this subchapter.

§ 173.447 Storage incident to transportation—general requirements.

The following requirements apply to temporary storage during the course of transportation but not to Nuclear Regulatory Commission or Agreement State-licensed facilities or U.S. Government-owned or contracted facilities.

(a) The number of packages bearing Radioactive Yellow II or Radioactive Yellow III labels stored in any one storage area, such as a transit area, terminal building, storeroom, waterfront pier or assembly yard, must be limited so that the sum of the transport indexes in any individual group of packages does not exceed 50. Groups of these packages must be stored so as to maintain a spacing of at least 6 meters (20 feet) from other groups of packages containing radioactive materials.

(b) Mixing of different kinds of radioactive materials packages that include fissile materials packages is authorized only in accordance with § 173.459 of this subchapter.

§ 173.448 General transportation requirements.

(a) Each shipment of radioactive materials must be secured to prevent shifting during normal transportation conditions.

(b) Except as provided in §§ 174.81, 176.83 and 177.848 of this subchapter, or as otherwise required by the competent authority in the applicable certificate, a package of radioactive materials may be carried among packaged general cargo without special stowage provisions, if:

(1) The heat output in watts does not exceed 0.1 times the minimum package dimension in centimeters; or

(2) The average surface heat flux of the package does not exceed 15 watts per square meter and the immediately surrounding cargo is not in sacks or bags or otherwise in a form that would seriously impede air circulation for heat removal.

(c) Packages bearing labels prescribed in § 172.403 of this subchapter may not be carried in compartments occupied by passengers, except in those compartments exclusively reserved for couriers accompanying those packages.

(d) Mixing of different kinds of packages that include fissile packages, is authorized only in accordance with § 173.459.

(e) No person may offer for transportation aboard a passenger-carrying aircraft any single package with a transport index greater than 3.0 or an overpack with a transport index greater than 3.0.

(f) No person may offer for transportation aboard a passenger-carrying aircraft any radioactive material unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

(g) If an overpack is used to consolidate individual packages of radioactive materials, the packages must comply with the packaging, marking, and labeling requirements of this subchapter, and the following:

(1) The overpack must be labeled as prescribed in § 172.403 of this subchapter except as follows:

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(i) The "contents" entry on the label may state "mixed" unless each inside package contains the same radionuclide(s).

(ii) The "activity" entry on the label must be determined by adding together the number of Becquerels (curies) of the radioactive materials packages contained therein.

(iii) For a non-rigid overpack, the required label together with required package markings must be affixed to the overpack by means of a securely attached, durable tag. The transport index must be determined by adding together the transport indexes of the radioactive materials packages contained therein.

(iv) For a rigid overpack, the transport index must be determined by:

(A) Adding together the transport indexes of the radioactive materials packages contained in the overpack; or

(B) Except for fissile radioactive materials, direct measurements as prescribed in § 173.403 for transport index, taken by the person initially offering the packages contained within the overpack for shipment.

(2) The overpack must be marked as prescribed in subpart D of part 172 of this subchapter and § 173.25(a).

(3) The transport index of the overpack must not exceed 3.0 for passenger-carrying aircraft shipments, or 10.0 for cargo-aircraft only shipments.

§ 173.451 Fissile materials—general requirements.

(a) Except as provided in § 173.453, each package containing fissile radioactive materials must comply with §§ 173.457 and 173.459.

§ 173.453 Fissile materials—exceptions.

The requirements of §§ 173.451 through 173.459 do not apply to:

(a) A package containing 15 grams or less of fissile radionuclides. If the material is transported in bulk, the quantity limitation applies to the conveyance;

(b) A package containing homogeneous solutions or mixtures where:

(1) The minimum ratio of the number of hydrogen atoms to the number of atoms of fissile radionuclides (H/X) is 5200;

(2) The maximum concentration of fissile radionuclides is 5 grams per liter; and

(3) The maximum mass of fissile radionuclides in the package is 500 grams, except that for a mixture in which the total mass of plutonium and uranium-233 does not exceed 1% of the mass of uranium-235, the limit is 800 grams. If the material is transported in bulk, the quantity limitations apply to the conveyance;

(c) A package containing uranium enriched in uranium-235 to a maximum of 1% by mass, and mixed with a total plutonium and uranium-233 content of up to 1% of the mass of uranium-235, if the fissile radionuclides are distributed homogeneously throughout the package contents, and do not form a lattice arrangement within the package;

(d) A package containing not more than 5 grams of fissile radionuclides in any 10 liter volume, provided that the material is contained in packages that will maintain the limitation on fissile radionuclide distribution during normal conditions of transport;

(e) A package containing one kilogram or less of plutonium of which 20% or less by mass may consist of plutonium-239, plutonium-241, or any combination of those radionuclides;

(f) A package containing liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2% by mass, with total plutonium and uranium-233 content not exceeding 0.1% of the mass of uranium-235 with a nitrogen-to-uranium atomic ratio (N/U) of 2.

§ 173.457 Transportation of fissile material, controlled shipments—specific requirements.

Shipments of fissile material packages that have been assigned to TI of greater than 10 for criticality control purposes in accordance with 10 CFR § 71.59 must meet the requirements of this section and § 173.441(b) of this subpart.

(a) For fissile material, controlled shipments the shipper or carrier, as appropriate, shall incorporate transportation controls which:

(1) Provide nuclear criticality safety;

(2) Protect against loading, storing, or transporting that shipment with any other fissile material; and

(3) Include in the shipping papers the description required by § 172.203(d) of this subchapter.

(b) Fissile material, controlled shipments must be transported:

(1) In conveyance assigned to the exclusive use of the shipper with a specific restriction for the exclusive use to be provided in the appropriate arrangements between shipper and carrier and with instructions to that effect issued with the shipping papers;

(2) Except for shipments by aircraft, in a conveyance with an escort having the capability, equipment, authority, and instructions to provide administrative controls necessary to assure compliance with this section;

(3) In a conveyance containing no other packages of any radioactive material required to bear one of the labels prescribed in § 172.403 of this subchapter. Specific arrangements must be made between the shipper and the carrier, with instructions to that effect issued with the shipping papers; or

(4) Except as provided in § 176.704(e) of this subchapter, the shipment is not transported by vessel.

§ 173.459 Mixing of fissile material packages.

(a) Mixing of fissile material packages with other types of radioactive materials is authorized only if the transport index of any single package does not exceed 10 and the total transport index in any conveyance or storage location does not exceed 50.

(b) Fissile packages may be shipped with an external radiation level greater than 0.1 mSv/hr (10 mrem per hour) at 1 meter (3.3 feet), and combined with other packages of the same or different designs in a fissile material, controlled shipment, under the conditions prescribed in § 173.457, if:

(1) Each package in the shipment has been assigned a transport index for criticality control purposes in accordance with the 10 CFR § 71.59;

(2) The nuclear criticality control transport index does not exceed 10 for any single package;

(3) The total nuclear criticality control transport index does not exceed 100 for all packages in the shipment; and

(4) Except as provided in § 176.704(e) of this subchapter, the shipment is not transported by vessel.

(c) A fissile material, controlled shipment of packages may be combined with other packages of the same or different design when each package has been assigned a nuclear criticality control transport index in accordance with 10 CFR 71.59, and may be combined with other fissile packages into a fissile material, controlled shipment under the conditions prescribed in § 173.457, if:

(1) The nuclear criticality control transport index which has been assigned in the package approval does not exceed 50 for any single package;

(2) The total nuclear criticality control transport index for all packages in the shipment does not exceed 100;

(3) Except as provided in § 176.704(e) of this subchapter, the shipment is not transported by vessel.

§ 173.461 Demonstration of compliance with tests.

(a) Compliance with the test requirements in §§ 173.463 through 173.469 must be shown by any of the methods prescribed in this paragraph, or by a combination of these methods appropriate for the particular feature being evaluated:

(1) Performance of tests with specimens representing LSA–III special form radioactive material (solid radioactive material or capsules), or with prototypes or samples of the packaging in which case the contents of the specimen or packaging for the test must simulate as closely as practicable the expected range of physical properties of the radioactive contents and the specimen or packaging to be tested must be prepared as normally presented for transport. The use of non-radioactive substitute contents is encouraged provided that the results of the testing take into account the radioactive characteristics of the contents for which the package is being tested;

(2) Reference to a previous, satisfactory demonstration of compliance of a sufficiently similar nature;

(3) Performance of tests with models of appropriate scale incorporating those features that are significant with respect to the item under investigation, when engineering experience has shown results of those tests to be suitable for design purposes. When a scale model is used, the need for adjusting certain test parameters, such as the penetrator diameter or the compressive load, must be taken into account; or

(4) Calculations or reasoned argument, when the calculation procedures and parameters are generally agreed to be reliable and conservative.

(b) With respect to the initial conditions for the tests under §§ 173.463 through 173.469, except for the water immersion tests, compliance must be based upon the assumption that the package is in equilibrium at an ambient temperature of 38 °C (100 °F).

§ 173.462 Preparation of specimens for testing.

(a) Each specimen (i.e., sample, prototype or scale model) must be examined before testing to identify and record faults or damage, including:

(1) Divergence from the specifications or drawings;

(2) Defects in construction;

(3) Corrosion or other deterioration; and

(4) Distortion of features.

(b) Any deviation found under paragraph (a) of this section from the specified design must be corrected or appropriately taken into account in the subsequent evaluation.

(c) The containment system of the packaging must be clearly specified.

(d) The external features of the specimen must be clearly identified so that reference may be made to any part of it.

§ 173.463 Packaging and shielding—testing for integrity.

After each of the applicable tests specified in §§ 173.465 and 173.466, the integrity of the packaging, or of the packaging and its shielding, whichever is applicable, must be retained to the extent required by § 173.412(i) for the packaging being tested.

§ 173.465 Type A packaging tests.

(a) The packaging with contents must be capable of withstanding the water spray, free drop, compression and penetration tests prescribed in this section. One prototype may be used for all tests if the requirements of paragraph (b) of this section are met.

(b) *Water spray test.* The water spray test must precede each test or test sequence prescribed in this section. The water spray test must simulate exposure to rainfall of approximately 5 centimeters (2 inches) per hour for at least one hour. The time interval between the end of the water spray test and the beginning of the next test must be such that the water has soaked in to the maximum extent without appreciable drying of the exterior of the specimen. In the absence of evidence to the contrary, this interval may be assumed to be two hours if the water spray is applied from four different directions simultaneously. However, no time interval may elapse if the water spray is applied from each of the four directions consecutively.

(c) *Free drop test.* The specimen must drop onto the target so as to suffer maximum damage to the safety features being tested, and:

(1) The height of the drop measured from the lowest point of the specimen to the upper surface of the target must not be less than the distance specified in Table 12, for the applicable package mass. The target must be as specified in § 173.465(c)(5).

TABLE 12.—FREE DROP DISTANCE FOR TESTING PACKAGES TO NORMAL CONDITIONS OF TRANSPORT

Packaging mass	Free drop distance	
Kilograms (Pounds)	Meters	(Feet)
Mass 5000 (11,000)	1.2	(4)
5000 (11,000) Mass 10,000 (22,000)	0.9	(3)
10,000 (22,000) Mass 15,000 (33,000)	0.6	(2)
15,000 (33,000) Mass	0.3	(1)

(2) For packages containing fissile material, the free drop test specified in subparagraph (1) of this paragraph must be preceded by a free drop from height of 0.3 meter (1 foot) on each corner or in the case of cylindrical packages, onto each of the quarters of each rim.

(3) For fiberboard or wood rectangular packages with a mass of 50 kilograms (110 pounds) or less, a separate specimen shall be subjected to a free drop onto each corner from a height of 0.3 meter (1 foot).

(4) For cylindrical fiberboard packages with a mass of 100 kilograms (220 pounds) or less, a separate specimen must be subjected to a free drop onto each of the quarters of each rim from a height of 0.3 meter (1 foot).

(5) The target for the free drop test must be a flat, horizontal surface of such mass and rigidity that any increase in its resistance to displacement or deformation upon impact by the specimen would not significantly increase the damage to the specimen.

(d) *Stacking test.* (1) The specimen must be subjected for a period of at least 24 hours to a compressive load equivalent to the greater of the following:

(i) Five times the mass of the actual package; or

(ii) The equivalent of 13 kilopascals (1.9 pounds per square inch) multiplied by the vertically projected area of the package.

(2) The compressive load must be applied uniformly to two opposite sides of the specimen, one of which must be the base on which the package would normally rest:

(e) *Penetration test.* For the penetration test the specimen must be placed on a rigid, flat, horizontal surface that will not move significantly while the test is being performed.

(1) A bar of 3.2 centimeters (1.3 inches) in diameter with a hemispherical end and a mass of 6 kilograms (13.2 pounds) must be dropped and directed to fall with its longitudinal axis vertical, onto the center of the weakest part of the specimen, so that, if it penetrates far enough, it will hit the containment system. The bar must not be significantly deformed by the test; and

(2) The height of the drop of the bar measured from its lower end to the intended point of impact on the upper surface of the specimen must be 1 meter (3.3 feet) or greater.

§ 173.466 Additional tests for Type A packagings designed for liquids and gases.

(a) In addition to the tests prescribed in § 173.465, Type A packagings designed for liquids and gases must be

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capable of withstanding the following tests:

(1) *Free drop test.* The packaging specimen must drop onto the target so as to suffer the maximum damage to its containment. The height of the drop measured from the lowest part of the packaging specimen to the upper surface of the target must be 9 meters (30 feet) or greater. The target must be as specified in § 173.465(c)(5).

(2) *Penetration test.* The specimen must be subjected to the test specified in § 173.465(e) except that the height of the drop must be 1.7 meters (5.5 feet).

§ 173.467 Tests for demonstrating the ability of Type B and fissile materials packagings to withstand accident conditions in transportation.

Each Type B packaging or packaging for fissile material must meet the test requirements prescribed in 10 CFR part 71 for ability to withstand accident conditions in transportation.

§ 173.468 Test for LSA–III material.

(a) LSA–III radioactive material must meet the test requirement of paragraph (b) of this section. Each solid specimen to be tested must be representative of the actual solid LSA–III material that will be transported. Any differences between the material to be transported and the test material must be taken into account in determining whether the test requirements have been met.

(b) *Test method.* (1) The specimen representing no less than the entire contents of the package must be immersed for 7 days in water at ambient temperature;

(2) The volume of water to be used in the test must be sufficient to ensure that at the end of the test period the free volume of the unabsorbed and unreacted water remaining will be at least 10 percent of the volume of the specimen itself;

(3) The water must have an initial pH of 6–8 and a maximum conductivity of 10 micromho/cm at 20 °C (68 °F); and

(4) The total activity of the free volume of water must be measured following the 7 day immersion test and must not exceed 0.1 A_2.

§ 173.469 Tests for special form radioactive materials.

(a) Special form radioactive materials must meet the test requirements of paragraph (b) of this section. Each solid radioactive material or capsule specimen to be tested must be manufactured or fabricated so that it is representative of the actual solid material or capsule that will be transported with the proposed radioactive content duplicated closely as practicable. Any differences between the material to be transported and the test material such as the use of non-radioactive contents must be taken into account in determining whether the test requirements have been met. In addition:

(1) A different specimen may be used for each of the tests;

(2) The specimen must not break or shatter when subjected to the impact, percussion, or bending tests;

(3) The specimen must not melt or disperse when subjected to the heat test;

(4) After each test, leaktightness or indispersibility of the specimen must be determined by a method no less sensitive than the leaching assessment prescribed in paragraph (c) of this section. For a capsule resistant to corrosion by water, and which has an internal void volume greater than 0.1 milliliter, an alternative to the leaching assessment is a demonstration of leaktightness of 10^{-4} torr-l/s (1.3×10^{-4} atm-cm³/s) based on air at 25 °C (77 °F) and one atmosphere differential pressure for solid radioactive content, or 10^{-6} torr-l/s (1.3×10^{-6} atm-cm³/s) for liquid or gaseous radioactive content; and

(5) A specimen that comprises or simulates radioactive material contained in a sealed capsule need not be subjected to the leaktightness procedure specified in this section provided it is alternatively subjected to any of the tests prescribed in ISO/TR4826–1979(E), "Sealed radioactive sources Leak test methods."

(b) *Test methods*—(1) *Impact Test.* The specimen must fall onto the target from a height of 9 meters (30 feet) or greater. The target must be as specified in § 173.465(c)(5);

(2) *Percussion Test.* (i) The specimen must be placed on a sheet of lead that is supported by a smooth solid surface, and struck by the flat face of a steel billet so as to produce an impact equivalent to that resulting from a free drop of 1.4 kilograms (3 pounds) through 1 meter (3.3 feet);

(ii) The flat face of the billet must be 25 millimeters (1 inch) in diameter with the edges rounded off to a radius of 3 millimeters±0.3 millimeters (.12 inch±0.012 inch);

(iii) The lead must be hardness number 3.5 to 4.5 on the Vickers scale and thickness 25 millimeters (1 inch) or greater, and must cover an area greater than that covered by the specimen;

(iv) A fresh surface of lead must be used for each impact; and

(v) The billet must strike the specimen so as to cause maximum damage.

(3) *Bending test.* (i) This test applies only to long, slender sources with a length of 10 centimeters (4 inches) or greater and a length to width ratio of 10 or greater;

(ii) The specimen must be rigidly clamped in a horizontal position so that one half of its length protrudes from the face of the clamp;

(iii) The orientation of the specimen must be such that the specimen will suffer maximum damage when its free end is struck by the flat face of a steel billet;

(iv) The billet must strike the specimen so as to produce an impact equivalent to that resulting from a free vertical drop of 1.4 kilograms (3 pounds) through 1 meter (3.3 feet); and

(v) The flat face of the billet must be 25 millimeters (1 inch) in diameter with the edges rounded off to a radius of 3 millimeters±0.3 millimeters (.12 inch±0.012 inch).

(4) *Heat test.* The specimen must be heated in air to a temperature of not less than 800 °C (1472 °F), held at the temperature for a period of 10 minutes, and then allowed to cool.

(c) *Leaching assessment methods.* (1) For indispersible solid material—

(i) The specimen must be immersed for seven days in water at ambient temperature. The water must have a pH of 6–8 and a maximum conductivity of 10 micromho per centimeter at 20° (68 °F);

(ii) The water with specimen must then be heated to a temperature of 50°C±5° (122 °F±9°) and maintained at this temperature for four hours;

(iii) The activity of the water must then be determined;

(iv) The specimen must then be stored for at least seven days in still air of relative humidity not less than 90 percent at 30 °C (86 °F);

(v) The specimen must then be immersed in water under the same conditions as in paragraph (c)(1)(i) of this section, and the water with specimen must be heated to 50 °C±5° (122 °F±9°) and maintained at that temperature for four hours;

(vi) The activity of the water must then be determined. The activities determined in paragraph (c)(1)(iii) and this paragraph, § 173.469(c)(1)(vi), must not exceed 2 kilobecquerels (0.05 microcurie).

(2) For encapsulated material—

(i) The specimen must be immersed in water at ambient temperature. The water must have a pH of 6–8 and a maximum conductivity of 10 micromho per centimeter.

(ii) The water and specimen must be heated to a temperature of 50 °C±5° (122 °F±9°) and maintained at this temperature for four hours;

(iii) The activity of the water must then be determined;

(iv) The specimen must then be stored for at least seven days in still air at a temperature of 30 °C (86 °F) or greater;

(v) The process in (i), (ii), and (iii) must be repeated; and

(vi) The activity determined in paragraph (c)(2)(iii) must not exceed 2 kilobecquerels (0.05 microcurie).

(d) A specimen that comprises or simulates radioactive material contained in a sealed capsule need not be subjected to—

(1) The impact test and the percussion test of this section provided that the specimen is alternatively subjected to the Class 4 impact test prescribed in ISO 2919–1980(e), "Sealed Radioactive Sources Classification;" and

(2) The heat test of this section, provided the specimen is alternatively subjected to the Class 6 temperature test specified in the International Organization for Standardization document ISO 2919–1980(e), "Sealed Radioactive Sources Classification."

§ 173.471 Requirements for U.S. Nuclear Regulatory Commission approved packages.

In addition to the applicable requirements of the U.S. Nuclear Regulatory Commission (USNRC) and other requirements of this subchapter, any shipper of a Type B, Type B(U), Type B(M), or fissile material package that has been approved by the USNRC in accordance with 10 CFR part 71 shall also comply with the following requirements:

(a) The shipper shall be registered with the USNRC as a party to the packaging approval, and make the shipment in compliance with the terms of the packaging approval;

(b) The outside of each package must be durably and legibly marked with the package identification marking indicated in the USNRC packaging approval;

(c) Each shipping paper related to the shipment of the package must bear the package identification marking indicated in the USNRC packaging approval;

(d) Before the first export shipment of the package, the shipper shall obtain a U.S. Competent Authority Certificate for that package design or if one has already been issued, the shipper shall register with the U.S. Competent Authority as a user of the certificate. Upon registration the shipper will be furnished with a copy of the certificate. The shipper shall then submit a copy of the U.S. Competent Authority Certificate applying to that package design to the national competent authority of each country into or through which the package will be transported, unless a copy has already been furnished;

(e) Each request for a U.S. Competent Authority Certificate as required by the IAEA regulations must be submitted in writing to the address set forth in § 173.404 of this subpart. The request must be in triplicate and include copies of the applicable USNRC packaging approval, USNRC Quality Assurance Program approval and a reproducible 22 cm x 30 cm (8.5" x 11") drawing showing the make-up of the package. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date; and

(f) Import and export shipments may be made in accordance with § 171.12 of this subchapter.

§ 173.472 Requirements for exporting DOT Specification Type B and fissile packages.

(a) Any shipper who exports a DOT Specification Type B or fissile material package authorized by § 173.416 or § 173.417 shall comply with paragraphs (b) through (f) of this section.

(b) The shipper shall register with the U.S. Competent Authority as a user of the appropriate U.S. Competent Authority Certificate and the shipment must be made in accordance with the certificate;

(c) The outside of each package must be durably and legibly marked with the package identification marking indicated in the U.S. Competent Authority Certificate;

(d) Each shipping paper related to the shipment of the package must bear the package identification marking indicated in the U.S. Competent Authority Certificate;

(e) Before the first export shipment of the package, the shipper shall obtain a U.S. Competent Authority Certificate for that package design or if one has already been issued, the shipper shall register with the U.S. Competent Authority as a user of the certificate. Upon registration the shipper will be furnished with a copy of the certificate. The shipper shall then submit a copy of the U.S. Competent Authority Certificate applying to that package design to the national competent authority of each country into or through which the package will be transported, unless a copy has already been furnished;

(f) Each request for a U.S. Competent Authority Certificate as required by the IAEA regulations must be submitted in writing to the address set forth in § 173.404 of this subpart. The request must be submitted in triplicate and must include a description of the quality assurance program required by §§ 173.474 and 173.475 and a reproducible 22 cm x 30 cm (8.5" x 11") drawing showing the make-up of the package. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date; and

(g) Import and export shipments may be made in accordance with § 171.12 of this subchapter.

§ 173.473 Requirements for foreign-made packages.

In addition to other applicable requirements of this subchapter, each shipper of a foreign-made Type B, Type B(U), Type B(M), or fissile material package for which a competent authority certificate is required by the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," shall also comply with the following requirements.

(a) Prior to the first shipment of such a package of radioactive materials into or from the U.S., the shipper shall:

(1) Have the foreign competent authority certificate revalidated by the U.S. Competent Authority, unless this has been done previously. Each request for revalidation must be submitted in writing to the address set forth in § 173.404 of this subpart. The request must be in triplicate, contain all the information required by Section VII of the IAEA regulations, and include a copy in English of the foreign competent authority certificate. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date;

(2) Register in writing with the U.S. Competent Authority as a user of the package covered by the foreign competent authority certificate and its U.S. revalidation. If the shipper is requesting the revalidation, registration is automatic; and

(3) Supply to the carrier, upon request, the applicable competent authority certificates. However, the competent authority certificates are not required to accompany the packages to which they apply.

(b) The outside of each package must be durably and legibly marked with the same competent authority identification marking indicated on the competent authority certificate and revalidation;

(c) Each shipping paper for a shipment of radioactive materials must bear a notation of the package identification

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marking indicated on the competent authority certificate or revalidation;

(d) All requirements of the foreign competent authority certificate and the U.S. Competent Authority revalidation must be fulfilled; and

(e) Import and export shipments may be made in accordance with § 171.12 of this subchapter.

§ 173.474 Quality control for construction of packaging.

(a) Prior to the first use of any packaging for the shipment of radioactive material, the shipper shall determine that:

(1) The packaging meets the quality of design and construction requirements as specified in this subchapter; and

(2) The effectiveness of the shielding, containment, and, when required, the heat transfer characteristics of the package, are within the limits specified for the package design.

§ 173.475 Quality control requirements prior to each shipment of radioactive materials.

Before each shipment of any radioactive materials package, the shipper shall ensure by examination or appropriate tests, that:

(a) The packaging is proper for the contents to be shipped;

(b) The packaging is in unimpaired physical condition, except for superficial marks;

(c) Each closure device of the packaging, including any required gasket, is properly installed, secured, and free of defects;

(d) For fissile material, each moderator and neutron absorber, if required, is present and in proper condition;

(e) Each special instruction for filling, closing, and preparation of the packaging for shipment has been followed

(f) Each closure, valve, or other opening of the containment system through which the radioactive content might escape is properly closed and sealed;

(g) Each packaging containing liquid in excess of an A_2 quantity and intended for air shipment has been tested to show that it will not leak under an ambient atmospheric pressure of not more than 25 kPa, absolute (3.6 psia). The test must be conducted on the entire containment system, or on any receptacle or vessel within the containment system, to determine compliance with this requirement;

(h) The internal pressure of the containment system will not exceed the design pressure during transportation; and

(i) External radiation and contamination levels are within the allowable limits specified in this subchapter.

§ 173.476 Approval of special form radioactive materials.

(a) Each shipper of special form radioactive materials shall maintain on file for at least one year after the latest shipment, and provide to the RSPA on request, a complete safety analysis, including documentation of any tests, demonstrating that the special form material meets the requirements of § 173.469. An IAEA Certificate of Competent Authority issued for the special form material may be used to satisfy this requirement.

(b) Prior to the first export shipment of a special form radioactive material from the United States, each shipper shall obtain a Competent Authority Certificate for the specific material. For special form material manufactured outside the United States, and IAEA Certificate of Competent Authority from the country of origin may be used to meet this requirement.

(c) Each request for a U.S. Competent Authority Certificate as required by the IAEA regulations must be submitted in writing to the address set forth in § 173.404 of this subpart. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date. Each petition for a U.S. Competent Authority Certificate must be in triplicate and must include the following information:

(1) A detailed description of the material or if a capsule, a detailed description of the contents. Particular reference must be made to both physical and chemical states;

(2) If appropriate, a detailed statement of the capsule design and dimensions, including complete engineering drawings and schedules of material, and methods of construction;

(3) A statement of the tests that have been made and their results; or evidence based on calculative methods to show that the material is able to pass the tests; or other evidence that the special form radioactive material complies with § 173.469; and

(4) Evidence of a quality assurance program.

(d) Paragraphs (a) and (b) of this section do not apply in those cases where A_1 equals A_2 and the material is not required to be described on the shipping papers as "Radioactive Material, Special Form, n.o.s."

§ 173.477 Approval for export shipments.

(a) Each export shipment of a package for which an IAEA certificate of competent authority has been issued or revalidated in accordance with § 173.471, § 173.472, or § 173.473 must have multilateral approval if the shipment includes:

(1) A vented Type B(M) package;

(2) A Type B(M) packaging containing radioactive materials with an activity greater than 3×10^3A_1, or 3×10^3A_2, as appropriate, or 1000 TBq (27,000 curies), whichever is less;

(3) A shipment of packages containing fissile materials if the sum of the transport indices of the individual packages exceeds 50; or

(4) Transportation by special arrangement.

(b) Each application for shipment approval not under special arrangement must contain:

(1) The period of time for which the approval is sought;

(2) A description of the contents, the expected modes of transportation, the type of conveyance to be used, and the proposed route; and

(3) An explanation of how the special precautions and special administrative and operational controls referred to in the package design certificates are to be put into effect.

(c) Each application for shipment approval under special arrangement must contain:

(1) A statement of the reasons why the shipment cannot be made in accordance with the applicable requirements; and

(2) A statement of any special precautions or special administrative or operational controls that will be used during the transport to ensure that the overall safety is at least equivalent to that provided by the applicable requirements.

(d) The packaging and shipment approvals may be combined into a single approval issued in accordance with § 173.471, § 173.472 or § 173.473.

(e) Approval by competent authorities is not required for packagings designed for materials covered by §§ 173.421 through 173.427 or for Type A packagings designed for non-fissile radioactive materials.

§ 173.478 Notification to competent authorities for export shipments.

(a) Before the first export shipment of any packaging containing fissile materials packages exceeding 15 grams or radioactive materials exceeding A_1 or A_2, the shipper shall ensure that copies of each applicable competent authority certificate issued in accordance with

§ 173.471, § 173.472, or § 173.473 have been submitted to the competent authority of each country through which or into which it is to be transported. The shipper is not required to await an acknowledgment from the competent authority prior to shipping the radioactive material, nor is the competent authority required to acknowledge receipt of the certificate.

(b) For each of the shipments described in this paragraph, the shipper shall notify the competent authority of each country through which or into which the shipment is to be transported. This notification must be received by each competent authority at least 7 days before the shipment starts for the following:

(1) Type B(U) packagings containing radioactive materials with an activity greater than 3×10^3A_1, 3×10^3A_2, as appropriate, or 1000 TBq (27,000 Curies), whichever is the least;

(2) Type B(M) packages; or

(3) Transportation by special arrangements.

(c) The shipper notification must include:

(1) Sufficient information to enable the packaging to be identified, including all applicable certificate numbers and identification marks;

(2) Information as to the date of shipment, the expected date of arrival, and the proposed routing.

(3) The name of the radioactive material or nuclide;

(4) A description of the physical and chemical form of the radioactive material; and

(5) The maximum activity of the radioactive material, except that for fissile material, the mass of fissile material may be used instead of activity.

(d) The shipper is not required to send a separate notification if the required information has been included in the application for shipment approval.

PART 174—CARRIAGE BY RAIL

16. The authority citation for part 174 would change to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e), 1.53, App. A to part 1.

17. Sections 174.700 and 174.715 would be revised to read as follows:

§ 174.700 Special handling requirements for radioactive materials.

(a) Each rail shipment of low specific activity materials or surface contaminated objects as defined in § 173.403 of this subchapter must be loaded so as to avoid spillage and scattering of loose material. Loading restrictions are prescribed in § 173.425 of this subchapter.

(b) The number of packages of radioactive materials that may be transported by rail or stored at any single location is limited to that number which does not make a total transport index number (as defined in § 173.403 of this subchapter, and determined by adding together the transport index numbers on the labels of the individual packages) of more than 50. This provision does not apply to exclusive use shipments as described in §§ 173.403, 173.425, 173.441, and 173.457.

(c) Each package of radioactive material bearing RADIOACTIVE YELLOW–II or RADIOACTIVE YELLOW–III labels may not be placed closer than 0.9 meter (3 feet) to an area (or dividing partition between areas) which may be continuously occupied by any passenger, rail employee, or shipment of one or more animals, nor closer than 4.5 meters (15 feet) to any package containing undeveloped film (if so marked). If more than one package of radioactive materials is present, the distance must be computed from the table below on the basis of the total transport index number (determined by adding together the transport index numbers on the labels of the individual packages) of packages in the rail car or storage area:

Total transport index	Minimum separation distance to nearest undeveloped film		Minimum distance to area of persons, or minimum distance from dividing partition of a combination car	
	(m)	(ft)	(m)	(ft)
None	0	0	0	0
0.1 to 10.0	4.6	15	0.9	3
10.1 to 20.0	6.7	22	1.2	4
20.1 to 30.0	7.7	29	1.5	5
30.1 to 40.0	10	33	1.8	6
40.1 to 50.0	10.9	36	2.1	7

Note: The distance in the table must be measured from the nearest point on the nearest packages of radioactive materials.

(d) Each fissile material, controlled shipment must be transported in accordance with one of the methods prescribed in § 173.457 of this subchapter. The transport controls must be adequate to assure that no fissile material, controlled shipment is transported in the same transport vehicle with any other fissile radioactive material shipment. In loading and storage areas each fissile material, controlled shipment must be segregated by a distance of at least 6 meters (20 feet) from other packages required to bear one of the "radioactive" labels described in Part 172 of this subchapter.

(e) A person may not remain unnecessarily in, on or near a transport vehicle containing radioactive materials.

(f) In the case of packages shipped under the exclusive use provisions of § 173.441(b) for packages with external radiation levels in excess of 2 mSv per hour (200 mrem per hour) at the package surface—

(1) The transport vehicle must meet the requirements for a closed transport vehicle (§ 173.403 of this subchapter);

(2) Each package must be secured so that its position within the transport vehicle remains fixed under conditions normally incident to transportation; and

(3) The radiation level shall not exceed 0.02 mSv per hour (2 mrem per hour) in any normally occupied position in the transport vehicle or adjacent rail car.

§ 174.715 Cleanliness of transport vehicles after use.

(a) Each transport vehicle used for transporting radioactive materials as exclusive use, as defined in § 173.403 of this subchapter, must be surveyed with appropriate radiation detection instruments after each use. A transport vehicle may not be returned to service until the radiation dose rate at any accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less, and there is no significant removable radioactive surface contamination, as defined in § 173.443 of this subchapter.

(b) This section does not apply to any transport vehicle used solely for transporting radioactive materials if a survey of the interior surface shows that

the radiation dose rate does not exceed 0.1 mSv per hour (10 mrem per hour) at the interior surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from any interior surface. The transport

present or suspected, the package and/or materials it has touched must be segregated as far as practicable from personnel contact until appropriate radiological advice or assistance is

by an ancillary cooling system or packages subject to operational controls during transport; or

(2) Liquid pyrophoric radioactive

TABLE III.—TI LIMITS FOR FREIGHT CONTAINERS AND CONVEYANCES

Type of freight container or conveyance	Limit on total sum of transport indexes in a single freight container or aboard a conveyance	
	Non-exclusive use shipments	Exclusive use shipments
Freight containers	50	No limit
Vessels	50	No limit
Cargo aircraft	50	50
Passenger aircraft	50	Not permitted
Cargo vehicles	50	No limit
Passenger vehicles	50	Not permitted

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the radiation dose rate does not exceed 0.1 mSv per hour (10 mrem per hour) at the interior surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from any interior surface. The transport vehicle must be stenciled with the words "FOR RADIOACTIVE MATERIALS USE ONLY" in lettering at least 0.076 meter (3 inches) high in a conspicuous place on both sides of the exterior of the transport vehicle, and it must be kept closed at all times other than during loading and unloading.

18. In § 174.750, paragraph (a) would be revised to read as follows:

§ 174.750 Incidents involving leakage.

(a) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this subchapter, the carrier shall also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Transport vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at every accessible surface is less than 0.005 mSv per hour (0.5 mrem per hour) and there is no significant removable radioactive surface contamination (see § 173.443 of this subchapter).

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

19. The authority citation for part 175 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1807, 1808; 49 App. U.S.C. 1472(h)(1); 49 CFR part 1.

20. In § 175.700, paragraph (b) would be revised to read as follows:

§ 175.700 Special limitations and requirements for radioactive materials.

* * * * *

(b) In addition to the reporting requirements of § 175.45, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Aircraft in which radioactive materials have been spilled may not again be placed in service or routinely occupied until the radiation dose rate at every accessible surface is less than 0.005 mSv per hour (0.5 mrem per hour) and there is no significant removable radioactive surface contamination as determined in accordance with § 173.443 of this subchapter. When contamination is present or suspected, the package and/or materials it has touched must be segregated as far as practicable from personnel contact until appropriate radiological advice or assistance is obtained. The Regional Office of the U.S. Department of Energy or appropriate State or local radiological authorities can provide advice or assistance, and should be notified in cases of obvious leakage, or if it appears likely that the inside container may have been damaged. For personnel safety, the carrier must take care to avoid possible inhalation, ingestion, or contact by any person with radioactive materials that may have leaked or spilled from its package. Any loose radioactive materials and associated packaging materials must be left in a segregated area pending disposal instructions from responsible radiological authorities.

* * * * *

21. In § 175.702, paragraphs (a) and (b)(2)(i), (b)(2)(ii) and (b)(2)(iii) would be revised to read as follows:

§ 175.702 Requirements for carriage of packages containing radioactive materials in a cargo aircraft only.

(a) As used in this section, the term "group of packages" means packages that are separated from each other in an aircraft by a distance of 6 meters (20 feet) or less.

(b) * * *

(2) * * *

(i) The separation distance between the surfaces of the radioactive materials packages and the surfaces bounding the space occupied by any person or animal is at least 9 meters (30 feet);

(ii) The transport index for any group of packages does not exceed 50.0; and

(iii) Each group of packages is separated from every other group in the aircraft by not less than 6 meters (20 feet), measured from the outer surface of each group; and

* * * * *

22. In § 175.703, the introductory text of paragraph (c) and paragraph (d) would be revised to read as follows:

§ 175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.

* * * * *

(c) No person may carry in an aircraft any package containing fissile radioactive materials (as defined in § 173.455(a)(3) of this subchapter), except—

* * * * *

(d) No person may offer or accept for transportation, or transport, by air—

(1) Vented Type B(M) packages, packages which require external cooling by an ancillary cooling system or packages subject to operational controls during transport; or

(2) Liquid pyrophoric radioactive materials.

* * * * *

PART 176—CARRIAGE BY VESSEL

23. The authority citation for part 176 would be revised to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, App. A to part 1.

24. In § 176.700, paragraph (a) would be removed and reserved and paragraph (c) would be revised to read as follows:

§ 176.700 General stowage requirements.

(a) [reserved]

* * * * *

(c) Each fissile material, controlled shipment must be stowed in a separate hold, compartment, or defined deck area and be separated by a distance of at least six meters (20 feet) from all other Radioactive Yellow II or Yellow III labeled packages.

* * * * *

25. Section 176.704 would be revised to read as follows:

§ 176.704 Requirements relating to transport indexes.

(a) The sum of the transport indexes for all packages of radioactive materials on board a vessel may not exceed the limits specified in Table III.

(b) The limitations specified in Table III do not apply to consignments of LSA–I materials if the packages are marked "RADIOACTIVE LSA–I" and no fissile radioactive materials are included in the shipment.

(c) For packages in freight containers, the radiation level must not exceed 2 mSv per hour (200 mrem per hour) at any point on the surface and 0.1 mSv per hour (10 mrem per hour) at two meters (6.6 feet) from the outside surface of the freight container.

(d) Each group of fissile packages must be separated from other radioactive material by a distance of at least six meters (20 feet) at all times.

(e) The limitations specified in paragraphs (a) through (d) of this section do not apply when the entire vessel is reserved or chartered for use by a single shipper under exclusive use conditions if:

(1) The number of fissile packages of radioactive materials aboard the vessel does not exceed the amount authorized in § 173.451 through § 173.459 of this subchapter; and

(2) The entire shipment operation is approved by the Director, Office of Hazardous Materials Transportation in advance.

TABLE III.—TI LIMITS FOR FREIGHT CONTAINERS AND CONVEYANCES

Type of freight container or conveyance	Limit on total sum of transport indexes in a single freight container or aboard a conveyance			
	Not under exclusive use		Under exclusive use	
	Non-fissile material	Fissile material	Non-fissile material	Fissile material [a]
Freight container—Small	50	50	N/A	N/A
Freight container—Large	50	50	No limit	100 [b]
Seagoing vessel [c]				
1. Hold, compartment or defined deck area:				
Packages, overpacks, small freight containers	50	50	No limit	100 [d]
Large freight containers	200 [e]	50	No limit	100 [b]
2. Total vessel:				
Packages, etc.	200 [e]	200 [e]	No limit [f]	200 [d]
Large freight containers	No limit [e]	No limit [g]	No limit	No limit [g]

[a] Provided that transport is direct from the consignor to the consignee without any intermediate in-transit storage, where the total TI exceeds 50.

[b] In cases in which the total TI is greater than 50, the consignment must be so handled and stowed so that it is always separated from any other package, overpack, portable tank or freight container carrying radioactive material by at least 6 meters (20 feet).

[c] For seagoing vessels the requirements given in 1 and 2 must both be fulfilled.

[d] Provided that the packages, overpacks, portable tanks or freight containers, as applicable, are stowed so that the total sum of TI's in any individual group does not exceed 50, and that each group is handled and stowed so that the groups are separated from each other by at least 6 meters (20 feet).

[e] Packages or overpacks carried in or on a transport vehicle which are offered for transport under the provisions of § 173.441(b), may be transported by vessel provided that they are not removed from the vehicle at anytime while on board the vessel.

26. In § 176.708, TABLE III would be redesignated as TABLE IV and paragraph (a) would be revised to read as follows:

§ 176.708 Segregation distance table.

(a) Table IV applies to the stowage of packages of radioactive materials on board a vessel with regard to transport index numbers which are shown on the labels of individual packages.

(b) Radioactive Yellow II or Yellow III labeled packages may not be stowed any closer to living accommodations, regularly occupied working spaces, spaces that may be continually occupied by any person (except those spaces exclusively reserved for couriers specifically authorized to accompany such packages), or undeveloped film than the distances specified to Table IV.

(c) Where only one consignment of a radioactive substance is to be loaded on board a vessel under exclusive use conditions, the appropriate segregation distance may be established by demonstrating that the direct measurement of the radiation level at regularly occupied working spaces and living quarters is less than 7.5 microSieverts per hour (0.75 mrem per hour).

(d) More than one consignment may be loaded on board a vessel with the appropriate segregation distance established by demonstrating that direct measurement of the radiation level at regularly occupied working spaces and living quarters is less than 7.5 microSieverts per hour (0.75 mrem per hour), provided that:

(1) The vessel has been chartered for the exclusive use of a competent person specialized in the carriage of radioactive material; and

(2) Stowage arrangements have been predetermined for the entire voyage, including any radioactive substances to be loaded at ports of call enroute.

(e) The radiation level shall be measured by a responsible person skilled in the use of monitoring instruments.

* * * * *

27. Section 176.715 is revised to read as follows:

§ 176.715 Contamination control.

Each hold, compartment, or deck area used for the transportation of low specific activity radioactive materials under exclusive use conditions shall be surveyed with appropriate radiation detection instruments after each use. Such holds, compartments, and deck areas may not be used again until the radiation dose rate at every accessible surface is less than 5 microSieverts per hour (0.5 mrem per hour), and the removable (non-fixed) radioactive surface contamination is not greater than the limits prescribed in § 173.443 of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

28. The authority citation for part 177 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 40 CFR part 1.

§ 177.825 Amended

29. In paragraphs (b), (c) and (d) of § 177.825, the reference to "§ 173.403(1)" would be revised to read "§ 173.403".

30. Section 177.842 would be revised to read as follows:

§ 177.842 Radioactive material.

(a) The number of packages of radioactive materials in any transport vehicle or storage location must be limited so that the total transport index number does not exceed 50. The total transport index of group of packages and overpacks is determined by adding together the transport index number on the labels on the individual packages and overpacks in the group. This provision does not apply to exclusive use shipments described in §§ 173.441(b), 173.457, and 173.425 of this subchapter. (b) Packages of radioactive material bearing "radioactive yellow-II" or "radioactive yellow-III" labels must not be placed in a transport vehicle, storage location or in any other place closer than the distances shown in the following table to any area which may be continuously occupied by any passenger, employee, or animal, nor closer than the distances shown in the table to any package containing undeveloped film (if so marked), and must conform to the following conditions:

(1) If more than one of these packages is present, the distance shall be computed from the following table on the basis of the total transport index number determined by adding together the transport index number on the labels on the individual packages and overpacks in the vehicle or storeroom.

(2) Where more than one group of packages is present in any single storage location, a single group may not have a total transport index greater than 50. Each group of packages must be handled and stowed not closer than 6 meters (20 feet) (measured edge to edge) to any other group.

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Total transport index	Minimum separation distance in meters (feet) to nearest undeveloped film in various times of transit					Minimum distance in meters (feet) to area of persons, or minimum distances in meters (feet) from dividing partition of cargo compartments
	Up to 2 hours	2-4 hours	4-8 hours	8-12 hours	Over 12 hours	
None	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)	0.0 (0)
0.1 to 1.0	0.3 (1)	0.6 (2)	0.9 (3)	1.2 (4)	1.5 (5)	0.3 (1)
1.1 to 5.0	0.9 (3)	1.2 (4)	1.8 (6)	2.4 (8)	3.4 (11)	0.6 (2)
5.1 to 10.0	1.2 (4)	1.8 (6)	2.7 (9)	3.4 (11)	4.8 (15)	0.9 (3)
10.1 to 20.0	1.5 (5)	2.4 (8)	3.7 (12)	4.9 (16)	6.7 (22)	1.2 (4)
20.1 to 30.0	2.1 (7)	3.0 (10)	4.6 (15)	6.1 (20)	8.8 (29)	1.5 (5)
30.1 to 40.0	2.4 (8)	3.4 (11)	5.2 (17)	6.7 (22)	10.1 (33)	1.8 (6)
40.1 to 50.0	2.7 (9)	3.7 (12)	5.8 (19)	7.3 (24)	11.0 (36)	2.1 (7)

Note 1: The distance in the table must be measured from the nearest point on the nearest packages of radioactive materials.

(c) Shipments of low specific activity materials and surface contaminated objects, as defined in § 173.403 of this subchapter, must be loaded so as to avoid spillage and scattering of loose materials. Loading restrictions are set forth in § 173.425 of this subchapter.

(d) Packages must be so blocked and braced that they cannot change position during conditions normally incident to transportation.

(e) Persons should not remain unnecessarily in a vehicle containing radioactive materials.

(f) Each fissile material, controlled shipment (as defined in § 173.403 of this subchapter) must be transported in accordance with one of the methods prescribed in § 173.457 of this subchapter. The transport controls must be adequate to assure that no fissile material, controlled shipment is transported in the same transport vehicle with any other fissile radioactive material shipment. In loading and storage areas each fissile material, controlled shipment must be segregated by a distance of at least 6 meters (20 feet) from any other package required to bear one of the "Radioactive" labels described in § 172.403 of this subchapter.

(g) For shipments transported under exclusive use conditions the radiation dose rate must not exceed 0.02 mSv per hour (2 mrem per hour) in any position normally occupied in the motor vehicle. For shipments transported as exclusive use under the provisions of § 173.441(b) for packages with external radiation levels in excess of 2 mSv (200 mrem per hour) at the package surface, the motor vehicle must meet the requirements of a closed transport vehicle (§ 173.403 of this subchapter). The total transport index for packages containing fissile material may not exceed 100.

31. In § 177.843, paragraphs (a) and (b) would be revised to read as follows:

§ 177.843 Contamination of vehicles.

(a) Each motor vehicle used for transporting radioactive materials under exclusive use conditions in accordance with § 173.425(c) or § 173.443(c) shall be surveyed with radiation detection instruments after each use. A vehicle may not be returned to service until the radiation dose rate at every accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less and the removable (non-fixed) radioactive surface contamination is not greater than the level prescribed in § 173.443(a).

(b) This section does not apply to any vehicle used solely for transporting radioactive material if a survey of the interior surface shows that the radiation dose rate does not exceed 0.1 mSv per hour (10 mrem per hour) at the interior surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from any interior surface. These vehicles must be stenciled with the words "For Radioactive Materials Use Only" in lettering at least 0.075 meter (3 inches) high in a conspicuous place, on both sides of the exterior of the vehicle. These vehicles must be kept closed at all times other than loading and unloading.

• • • • •

32. In § 177.861, paragraph (a) would be revised and Notes 1 and 2 would be removed to read as follows:

§ 177.861 Accidents: radioactive materials.

(a) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this subchapter, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at every accessible surface is less than 0.005 mSv per hour (0.5 mrem per hour) and there is no significant removable radioactive surface contamination (see § 173.443 of this subchapter).

• • • • •

PART 178—SHIPPING CONTAINER SPECIFICATIONS

33. The authority citation for part 178 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808, 1808; 49 CFR part 1.

34. Section 178.350–2 would be revised to read as follows:

§ 178.350–2 Specific requirements.

Each packaging must be so designed and constructed that it meets the requirements of § 173.412 of this subchapter for Type A packaging.

Issued in Washington, DC on October 30, 1989, under authority delegated in 49 CFR part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-25841 Filed 11-13-89; 9:45 am]

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federal register

Tuesday
November 14, 1989

Part III

Environmental Protection Agency

Daminozide: Receipt of Request to Cancel and Cancellation Order and Termination of Special Review of Food Uses; Notices

BEST COPY AVAILABLE

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/40C; FRL 3660-4]

IV. Current Action

The current action is based on the voluntary cancellation request that was received by EPA and which EPA intends

requires that a pesticide be able to accomplish its intended purpose without causing "unreasonable adverse effects on the environment," (7 U.S.C. 136a (c)(5)), that is, without causing "any

limited in nature, EPA believed that taken together, the weight of evidence required cancellation.

In September 1985, EPA drafted a

transcript of all public meetings held by EPA for the purpose of gathering information on daminozide; memoranda describing each meeting on daminozide

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 11, 1988, after discussions with Uniroyal, EPA received a request

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/40C; FRL 3660-4]

Daminozide; Termination of Special Review of Food Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; termination of special review.

SUMMARY: This Notice announces the termination of the Special Review of the food uses of daminozide (trade names Alar® and Kylar®). On October 11, 1988, the sole registrant of daminozide, Uniroyal Chemical Company Inc., requested a voluntary cancellation of its registrations for the food uses of daminozide. Also in this Federal Register, EPA is issuing a cancellation order, that will be effective November 17, 1989 thereby prohibiting the sale, distribution, or the use of daminozide for food uses as of that date. Since there will be no food use registrations, the food use portion of the Special Review of daminozide will be terminated.

FOR FURTHER INFORMATION CONTACT: By Mail: Lisa Engstrom, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M Street SW, Washington, DC. 20460.

Office location and telephone number: Special Review Branch, Room 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703) 557-7400.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA is terminating the special review of the food uses of daminozide. This action follows the voluntary cancellation of daminozide food-use registrations by the sole daminozide registrant, Uniroyal Chemical Company. As announced elsewhere in this Federal Register, EPA intends to approve the cancellation of these registrations, effective November 17, 1989. Since the Special Review process evaluates the continued registration of pesticide products, and the registration status of daminozide for food uses will be resolved by the cancellation, it is appropriate to terminate the Special Review for the food uses of daminozide.

II. Legal Background

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). The standards for registration of a pesticide which are set forth in section 3 of FIFRA requires that a pesticide be able to accomplish its intended purpose without causing "unreasonable adverse effects on the environment," (7 U.S.C. 136a (c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of the pesticide." (FIFRA Section 2 (bb)). If at any time, EPA determines that a pesticide no longer meets this standard for registration, then the Administrator may cancel this registration under section 6 of FIFRA.

Special Review is EPA's process for determining whether the use of a pesticide poses unreasonable effects to man or the environment; i.e., if continuation of the current registration is appropriate. If a pesticide meets or exceeds the risk criteria set forth in 40 CFR part 154, then a Special Review is initiated and information on the risks and benefits of the pesticide product use or uses in question is gathered and evaluated. At the time of the initiation of the Special Review of daminozide, the Special Review process was governed by 40 CFR part 162. If the use or uses in question are determined to pose unreasonable adverse effects to human health or the environment, then the registration of the product may be cancelled or modified as appropriate.

III. Regulatory History

Daminozide is the commonly accepted name for butanedioic acid mono (2,2-dimethylhydrazide). It was first registered as a pesticide under FIFRA in 1963 by Uniroyal Chemical Company under the trade name Alar. Daminozide was first registered for food use in 1968 as a plant growth regulator on apples, and was later registered on other food crops. For food uses, daminozide affects vegetative and reproductive growth, such as flower bud initiation, fruit set and maturity, preharvest fruit drop and storage life. Currently, for non-food uses, daminozide is registered for use on cut chrysanthemums and bedding plants: hydrangeas, marigolds, petunias, zinnias, asters, azaleas, poinsettias and gardenias.

On July 18, 1984, EPA issued a Notice of Special Review of all uses of daminozide products (49 FR 29186) based on the Agency's finding that pesticide products containing daminozide met the 40 CFR 162.11(a)(3)(ii)(A) risk criterion for oncogenicity (now 40 CFR 154.7(a)(2)(ii)). After reviewing the relevant data, EPA decided to proceed with a cancellation action based on cancer risk concerns. Although the studies available at that time were limited in nature, EPA believed that taken together, the weight of evidence required cancellation.

In September 1985, EPA drafted a combined Final Determination and Draft Cancellation Notice. As required by FIFRA, these documents were submitted to the FIFRA Scientific Advisory Panel (SAP) and the United States Department of Agriculture (USDA). The SAP believed the studies insufficient to support a quantitative risk assessment for either daminozide, or its breakdown product, unsymmetrical dimethylhydrazide (UDMH). Although EPA is not bound by the SAP's recommendation, EPA decided to delay completion of the Speical Review and take interim steps short of cancellation. These included requiring Uniroyal to conduct a battery of more complete testing on which to base a risk assessment and measures to reduce exposure.

On May 24, 1989, EPA issued its preliminary determination to cancel all food use registrations of daminozide and retain non-food use registrations unmodified (51 FR 22558). EPA's decision was based on its conclusion that the carcinogenic risk from dietary exposure to daminozide exceeded the benefits of the food uses of daminozide, and thus cancellation was appropriate. For the non-food uses, it was determined that the benefits of the use of daminozide on ornamental and bedding plants outweighed the risks incurred during the application of daminozide.

On July 2, 1988, Uniroyal entered into an agreement with EPA that provided that Uniroyal would voluntarily halt domestic sales of daminozide for food use until the completion of the Special Review process, including any administrative hearings. The agreement also provided that Uniroyal would recall existing stocks of daminozide food use products and reimburse product holders who participate in the recall effort. Recalled product would be repackaged and relabeled as the non-food product.

On October 11, 1988, EPA received Uniroyal's request for voluntary cancellation of all food use registrations of daminozide. As indicated above, EPA intends to approve Uniroyal's request, making the cancellation effective November 17, 1989. The cancellation order (see companion notice in this issue of the Federal Register) prohibits continued sale, distribution and use of daminozide for food uses as of November 17, 1989.

IV. Current Action

The current action is based on the voluntary cancellation request that was received by EPA and which EPA intends to approve. As Uniroyal is the sole registrant for daminozide, and the company's food use registrations will be cancelled, there will no longer be any remaining food use registrations for daminozide. As there are no registrations, there is no need for the continued evaluation of the registrability of daminozide for food uses. Also, in light of the Agency's belief that continued use of daminozide on food crops is inappropriate, there is no need to provide for use of existing stocks. Other reasons support this conclusion: All sales were halted by the company as of June 2, 1989; the company has been actively recalling all outstanding product and has committed to do so until November 30, 1989 for growers and December 31, 1989 for distributors; and no objections were received to EPA's proposed decision in the Preliminary Determination not to grant the use of existing stocks.

As part of the terms of the cancellation, the registrant will complete and submit results of the remaining outstanding carcinogenicity studies. With these data, EPA will conduct a final risk assessment for workers. EPA will also conduct a final dietary risk assessment based on these data. After evaluation of these studies, EPA will decide whether any further regulatory action to mitigate risks to workers applying non-food use daminozide is warranted.

Accordingly, this notice is being issued to publicly announce EPA's decision to terminate the Special Review of food-use products containing daminozide. The decision is effective upon the date of cancellation of the food-use registrations.

V. Availability of Public Docket

The Agency has established a public docket (OPP-30000/40A) for the daminozide Special Review. The docket is located in Rm. 246 at the office location address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. This docket will include this Notice; any other Notices pertinent to the Daminozide Special Review and the Agency's decision regarding the termination of the Special Review of the food uses of daminozide; documents which are not marked as Confidential Business Information and copies of written comments or other materials submitted to EPA at any time during the Special Review process by any person outside the government; a transcript of all public meetings held by EPA for the purpose of gathering information on daminozide; memoranda describing each meeting on daminozide during the Special Review process between EPA personnel and any person outside the government; and a current index of materials in the public docket.

Dated: November 3, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 89-26663 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

Office of Pesticides and Toxic Substances

[OPP-30000/40B; FRL 3660-3]

Daminozide; Receipt of Request to Cancel; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt; cancellation order.

SUMMARY: This Notice, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, announces EPA's receipt of a request from Uniroyal Chemical Company (Uniroyal) to cancel all registrations of daminozide products for use on food crops. Uniroyal's request includes provisions for a recall and reimbursement program, handling of recalled/unsold stocks, information collection to monitor the cancellation and recall, and submission of study reports. Also included in this Notice is the EPA Cancellation Order, incorporating the commitments in Uniroyal's request, that will cancel all food-use registrations of daminozide, effective November 17, 1989. As of that date, all distribution or sale, and use of daminozide products for food uses shall be prohibited.

DATE: The cancellation shall be effective November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, 703-557-1800.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 11, 1988, after discussions with Uniroyal, EPA received a request from Uniroyal Chemical Company, 74 Amity Road, Bethany, Connecticut 06525, for the voluntary cancellation of all of its registrations of daminozide products for use on food crops: Alar (EPA Registration No. 400-68); Kylar (400-103; Alar for Grapes 400-120); and Alar 85 (400-79) as an end use product. Uniroyal, the sole registrant of daminozide in the United States, will maintain its B-Nine SP (400-110) and B-Nine (400-68) registrations as end use products, and its Alar Technical (400-117) and Alar 85 (400-79) registrations as manufacturing use products. All of the retained registrations are for products that are to be labeled for non-food uses only. The Uniroyal request also includes provisions for a recall/reimbursement program for existing stocks of the cancelled products, specific handling or recalled/unsold stocks, information collection to monitor the cancellation and recall, and submission of toxicology study reports. As detailed below, EPA intends to approve Uniroyal's request and by the attached Order will cancel the subject registrations and prohibit any sale or distribution of these products, effective November 17, 1989. In addition, because EPA has determined that continued use of daminozide on food crops would result in unreasonable adverse effects on human health the Order also prohibits further sale, distribution or use of existing stocks of daminozide food-use products as of the effective date of cancellation.

Elsewhere in this Federal Register, EPA is also announcing the termination of its Special Review of daminozide for use on food crops; the Special Review of daminozide non-food uses will be continued to completion.

II. Provisions of Uniroyal's Request

As part of the October 11, 1988 request for voluntary cancellation of its registrations for daminozide food-use products, Uniroyal included several provisions that, if adopted, would mitigate the impact of cancellation on third parties and provide EPA with valuable information. Specifically, Uniroyal offered to extend the recall/reimbursement program initiated as part of a June 2, 1988 Agreement with EPA, which temporarily halted Uniroyal's sales of daminozide food-use products. The program would be extended until November 30, 1988, for growers and December 31, 1988, for distributors. Uniroyal would notify all distributors,

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grower organizations, and trade associations on its daminozide mailing list of the extended acceptance dates.

Uniroyal's request also contained detailed information regarding how Uniroyal would handle recalled/unsold stocks of its daminozide products. Particular attention was given to the possible shipment to foreign countries, and the mechanisms by which EPA, foreign purchasers, and importing countries would receive prior notice of such shipments. To the extent that any recalled/unsold stocks are exported, Uniroyal would stipulate that all stocks are to be repackaged into products for non-food uses before being resold.

In addition, Uniroyal would complete and submit final reports on studies involving unsymmetrical dimethylhydrazine (UDMH), a metabolite and degradate of daminozide. Two of those reports, the two-year bioassay in Fischer 344 rats and the two-year "low dose" bioassay in CD–1 mice, have been recently submitted to EPA. Uniroyal has committed to completing the two-year "high dose" bioassay in CD–1 mice and providing the final report by January 1990.

Finally, Uniroyal offered to collect and provide EPA with the following information that would allow EPA to monitor the cancellation and recall of daminozide food-use products, and the sale, distribution, and use of B-Nine and B-Nine SP products:

1. Two quarterly reports, due December 31, 1989 and March 31, 1990, detailing the amount of daminozide product recalled and the amount relabeled as B-Nine and B-Nine SP (oral reports would be provided monthly with any significant changes from prior quarterly report to be provided in writing);

2. Historical domestic sales records for B-Nine and B-Nine SP products for 1985–1989;

3. Quarterly reports, beginning December 31, 1989 and continuing through September 30, 1991, detailing production and export of daminozide products, and domestic sales of B-Nine and B-Nine SP products.

Uniroyal's offer to submit this information represents a continuation of reporting provisions included in the June 2, 1989 Agreement with EPA, as clarified in EPA's July 25, 1989 letter to Uniroyal. As provided in the June 2, 1989 Agreement, the information would be submitted pursuant to section 3(c)(2)(B) of FIFRA.

III. Existing Stocks Determination

In its October 11, 1989 request, Uniroyal did not seek a provision that would allow the sale, distribution, or use of existing stocks of food-use daminozide products. Any such provision would therefore have to be the result of an EPA initiative. For the reasons summarized below, EPA does not believe that such an action would be appropriate. Accordingly, the Agency has determined that no further distribution, sale, or use of existing stocks of daminozide products labeled for the canceled food uses will be permitted as of November 17, 1989. In addition to daminozide products in channels of trade, this existing stocks prohibition is applicable to daminozide products in the hands of growers and other end users.

EPA has consistently maintained that use of daminozide should be phased out as quickly as possible in order to prevent unacceptably high residues in food crops. This position was expressed in the Agency's "Preliminary Determination to Cancel Certain Daminozide Product Registrations" (Preliminary Determination) published in the Federal Register of May 24, 1989 (54 FR 22558), and more recently in the "Revocation and Amendment of Tolerances and Food Additive Regulations" published in the Federal Register of September 7, 1989 (54 FR 37278). Because daminozide is a systemic pesticide, it remains in plants for a considerable time after application and may result in residues in subsequent harvests. Much of daminozide use is on fruit that is stored (e.g., apples) and on crops that are processed (e.g., sour cherries). These foods may remain in the market system for long periods of time. In both of these instances, allowing use of existing stocks would effectively extend potential exposure well beyond the final use season—an option that the Agency believes will result in unreasonable adverse effects on human health.

In its Preliminary Determination, the Agency proposed cancellation of all registrations for food-uses of daminozide, with prohibition of further sale, distribution, or use of existing stocks. At the time the comment period on the Preliminary Determination closed (August 22, 1989), not a single response objecting to the proposed existing stocks provision had been received by EPA.

Any impact of EPA's decision not to allow sale, distribution, or use of existing stocks is mitigated by Uniroyal's commitment to continue the recall/reimbursement program begun in June. Users and other third-party holders, who have not already done so, will be able to return their existing stocks to Uniroyal for reimbursement of their invoice or purchase price. EPA believes that many holders either have already taken advantage of Uniroyal's program or, for other reasons, do not have strong incentives to press for use of existing stocks of canceled daminozide.

IV. Conclusion

EPA has received and intends to approve Uniroyal's request to cancel all of its registrations of daminozide products for use on food crops, effective November 17, 1989. The cancellation of these registrations shall be governed by the following Order that incorporates Uniroyal's offer to continue its recall/reimbursement program, handle recalled/unsold stocks in a specified manner, submit toxicological studies, and provide other information to EPA. Further sale, distribution, or use of existing stocks of these products shall be prohibited as of the effective date of cancellation.

V. Cancellation Order

On October 11, 1989, Uniroyal Chemical Company, the sole registrant of daminozide in the United States, requested pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, the cancellation of its registrations of daminozide products for use on food crops (EPA Reg. Nos. 400–99, 400–103, and 400–430). I intend to approve Uniroyal's request and by this Order will cancel the above registrations and prohibit any distribution or sale of the subject pesticide products, effective November 17, 1989. Uniroyal also sought to amend its other daminozide registrations (EPA Reg. Nos. 400–79 and 400–117) to delete food uses from their labels. I also approve the amendments to these registrations and hereby prohibit the distribution or sale of these products for food uses, effective November 17, 1989.

I further find that sale, distribution, or use of existing stocks of any daminozide food-use products after the cancellation date is not appropriate because the continued use of these pesticides would result in unreasonable adverse effects on the environment. Accordingly, as of November 17, 1989 no person may distribute or sell, or use any stocks of daminozide pesticide products for food uses, including existing stocks in the hands of users.

As part of its cancellation request, Uniroyal offered to continue a recall/reimbursement program initiated in June 1989; to commit to specific handling of recalled/unsold stocks; to collect and provide information that would allow EPA to monitor the cancellation and recall; and to complete and submit final reports on three toxicological studies. The details of these provisions, which are described in Unit II of this Notice and set forth in detail in Uniroyal's October 11 request, are hereby incorporated in and made a part of this Order by reference. I accept Uniroyal's offer and by incorporating its provisions in this Order make them terms and conditions of a cancellation order issued under FIFRA. Except as referenced herein, the terms and conditions of the June 2, 1989 Agreement between EPA and Uniroyal will be superceded by this Order as of its effective date.

Finally, holders of any cancelled daminozide products that will not be returned to Uniroyal or used/recycled for some other legal purpose are advised that disposal of these products may be subject to Federal, State and local laws and regulations.

This Cancellation Order shall become effective on November 17, 1989.

Dated: November 3, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 89–26682 Filed 11–13–89; 8:45 am]

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Part IV

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Permit Required Confined Spaces; Notice of Additional Hearing Site

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-019]

RIN 1218-AA51

Permit Required Confined Spaces

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; notice of additional hearing site.

SUMMARY: On October 10, 1989, OSHA published a notice of informal public hearing in the Federal Register [54 FR 41461], concerning the notice of proposed rulemaking (NPRM) which the Agency issued on June 5, 1989 [54 FR 24080] on permit required confined spaces.

The locations announced for the hearings were Washington, DC and Houston, Texas. The selection of those sites was based primarily on geographical considerations. The Service Employees International Union [Ex. 14–89], the American Federation of Labor-Congress of Industrial Organizations (Ex. 14–115), the American Federation of State, County and Municipal Employees (Ex. 14–151) and the United Steelworkers of America (Ex. 14–159) requested that OSHA hold a hearing in Chicago to facilitate the public participation of individuals in the Chicago area. OSHA has agreed to this suggestion and is hereby announcing that a hearing will take place in Chicago at the time and place indicated below. The other hearings will take place on the dates and at the locations announced in the October 10 notice. OSHA is particularly interested in receiving testimony, accompanied by documentary evidence, relating to the issues raised in the NPRM (54 FR at 24086) and in the October 10 hearing notice (54 FR 41461).

In order to allow interested parties adequate opportunity to decide to participate in the Chicago hearing, OSHA is allowing additional time for the submission of notices of intention to appear, testimony and documentary evidence for that hearing.

DATES: The deadlines for notices of intention to appear (October 25, 1989) and for the submission of testimony and documentary evidence regarding the Washington, DC hearing (November 1, 1989) and the Houston, Texas hearing (November 17, 1989) have already, effectively passed. Notices of intention to appear at the Chicago, Illinois hearing must be postmarked on or before January 5, 1990. Statements and any documentary evidence to be presented at that hearing must be postmarked by January 12, 1990.

See Supplementary Information for the dates and times of the hearings.

ADDRESSES: Four copies of the notice of intention to appear at the hearings, statements and documentary evidence should be submitted to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket S–019, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–8615. A notice of intention to appear also may be transmitted by facsimile to (202) 523–5046 or, for FTS, to 8–523–5046, provided the original and 4 copies of the notice are sent to the above address thereafter.

Notices of intention to appear at the public hearings, as well as any other information gathered by the Agency during this rulemaking, will be available for inspection and copying at the OSHA Technical Data Center Docket Office, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–7894.

See Supplementary Information for the addresses of the hearings.

FOR FURTHER INFORMATION CONTACT: Hearing: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8615. For additional information on how to submit notices of intention to appear, see supplementary information, below.

Proposal and Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8151.

SUPPLEMENTARY INFORMATION:

HEARINGS

Date hearing begins	Location
1. Nov. 14, 1989	The Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.
2. Dec. 5, 1989	Doubletree Hotel at Post Oak, 2001 Post Oak Boulevard, Houston, Texas 77056
3. Jan. 30, 1990	The Indiana Room Auditorium, Ameoo Building, 209 East Randolph Blvd., Chicago, Illinois 60603 84103.

Notice of Intention to Appear

All persons desiring to participate in the Chicago, Illinois hearing must file, in quadruplicate, a notice of intention to appear, addressed to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket S–019, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523–8615.

The notices of intention to appear, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issue(s) that will be addressed;

(5) A statement of the position that will be taken with respect to each issue addressed;

(6) Whether the party intends to submit documentary evidence, and if so a brief summary of that evidence; and

(7) The hearing site, in this instance Chicago, Illinois where the party wishes to testify.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of his or her testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10-minute presentation. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearing is open to the public, and that interested persons are welcome to attend. However, only persons who have filed a proper notice of intention to appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceeding.

Authority and Signature

This document was prepared under the direction of Gerald F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911.

Signed at Washington, DC, on this 9th day of November, 1989.

Gerald F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 89–26908 Filed 11–9–89; 4:56 pm]

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federal register

Tuesday
November 14, 1989

Part V

The President

Proclamation 6065—Washington Centennial Day, 1989

Proclamation 6066—Geography Awareness Week, 1989

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Presidential Documents

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Presidential Documents

Title 3—

The President

Proclamation 6065 of November 9, 1989

Washington Centennial Day, 1989

By the President of the United States of America

A Proclamation

On November 11, 1889, Elisha P. Ferry, the first Governor of Washington State, received a telegram from President Benjamin Harrison announcing that Washington had become the 42nd State in the Union. A story in the *Tacoma Daily News* the following day reflected the pride and joy felt by the people of the new State:

> Occupying, as it does, the very richest section of the whole country, with its wealth of inland shores lined with timber enough to supply the world, with its rich veins of valuable ores, with its valuable agricultural lands and its unparalleled scenery for beauty and grandeur, combined with its unequalled climate, it starts out on its life of statehood with not only the eyes of this land, but the whole world upon it.

The area now known as Washington State had been inhabited by Native Americans for thousands of years. However, it was not until Captain Cook explored the region in 1778 and returned with tales of its land, timber, and fur that it became known to the rest of the world. More explorers followed Cook's path, and, in 1804, the young United States of America sent out an expedition led by Lewis and Clark to explore the area. In subsequent years, missionaries and pioneers journeyed across the continent to settle in the fertile territory charted by Lewis and Clark, beginning a process of growth and discovery that has continued to this day.

In 1889, Washington State was home to 350,000 people—fewer people than currently live in Seattle, now its largest city. During the past 100 years, the State has grown to a population of more than 4 million. Today's residents, like the pioneers before them, have been able stewards of the State's vast forests, clear waters, grand mountains, and abundant wildlife.

Since achieving statehood in 1889, Washington has also witnessed tremendous economic development. Washington State has become a leader in aviation, computer software, shipbuilding, trade, forestry, agriculture, and the production of energy. The Puget Sound area flourishes as a gateway to the Pacific. Eastern Washington boasts rich soil that has made the State famous worldwide for its apples and many other crops.

In recognition of the importance of Washington's contributions to the United States and in commemoration of its Centennial, the Congress, by Senate Joint Resolution 209, has designated November 11, 1989, as "Washington Centennial Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 11, 1989, as Washington Centennial Day.

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IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-26936
Filed 11-13-89; 11:36 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6066 of November 9, 1989

Geography Awareness Week, 1989

By the President of the United States of America

A Proclamation

Geographic conditions around the world have had a great influence upon both the history of mankind and the course of current events. Geography has been an important factor in the social, political, and economic development of virtually every nation. Thus, the study of geography—the study of a people, their environment, their cultural heritage, and their natural resources—is essential not only to our understanding of the past but also to our ability to participate in an increasingly interdependent world.

While public awareness of geography is important to our Nation's political and economic leadership in the world, far too many Americans have little knowledge of the subject. According to one recent poll, Americans ranked among the bottom third on an international test of geographical knowledge. Scores for Americans between the ages of 18 and 24 were particularly poor. Statistics have indicated that a large number of American students cannot locate the United States on a map of the world, and many adults cannot name more than one-fourth of the NATO member nations. Some cannot name any.

This lack of fundamental geographic knowledge, including knowledge of foreign languages and cultures, places the United States at a serious disadvantage in matters of international commerce and politics. We cannot develop or maintain effective foreign policies, trade strategies, and business practices if the physical characteristics and political boundaries of various regions of the world are unfamiliar to us. Likewise, our efforts to promote international understanding and cooperation depend, in large part, upon our ability to understand the language, customs, and physical circumstances of other peoples. Because geographic conditions can have a profound effect upon each nation's development and role in the world, it is vital that we study them carefully.

During Geography Awareness Week, we recognize the importance of encouraging every American citizen to develop a thorough understanding of elementary geography. Fortunately, we have already begun to address the need for improvements in America's educational system, including renewed emphasis on the basics. By imparting to our Nation's schoolchildren a greater understanding of geography, and by ensuring that we set a positive example for them through our own efforts to study the world around us, we can give them one of the most important tools they will need to function in the global community.

To focus attention on the importance of the study and mastery of geography, the Congress, by Senate Joint Resolution 120, has designated the week beginning November 12, 1989, as "Geography Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning November 12, 1989, as Geography Awareness Week. I urge all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

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IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-26939
Filed 11-13-89; 11:40 am]
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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 19/Pub. L. 101-141

To designate November 8, 1989, as "Montana Centennial Day". (Nov. 6, 1989; 103 Stat. 836; 1 page) Price: $1.00

H.J. Res. 241/Pub. L. 101-142

Designating October 25, 1989, as "National Arab-American Day". (Nov. 8, 1989; 103 Stat. 837; 1 page) Price: $1.00

H.J. Res. 131/Pub. L. 101-143

To designate May 25, 1989, as "National Tap Dance Day". (Nov. 8, 1989; 103 Stat. 838; 1 page) Price: $1.00

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Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

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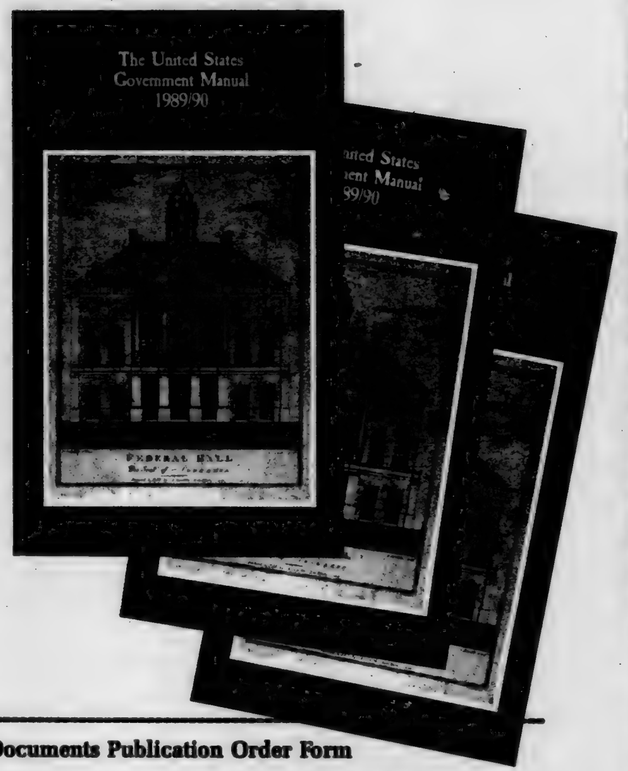

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Presidential Documents

Title 3—

The President

Executive Order 12696 of November 12, 1989

President's Drug Advisory Council

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), an advisory committee to assist in the development, dissemination, explanation, and promotion of national drug control policy, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Drug Advisory Council in the Federal Government. The Council shall be composed of not more than 30 members appointed by the President from among citizens in private life.

(b) The President shall designate a Chairman from among the members of the Council.

Sec. 2. *Functions.* (a) The Council shall recommend to and advise the President and the Director of National Drug Control Policy on developing methods and means to explain national drug control policies to the American people.

(b) The Council shall recommend to and advise the President and the Director of National Drug Control Policy on promotional efforts to encourage the private sector to implement national drug control policies.

(c) The Council shall study the feasibility of establishing a national support organization to help coordinate private sector initiatives to implement national drug control policies, and, in consultation with the President and the Director of National Drug Control Policy, shall provide advice to assist in the establishment of such support organization.

(d) The Council shall meet with and solicit the advice of various members of the media and communications field, and, in consultation with the President and the Director of National Drug Control Policy, shall provide advice in coordinating efforts of the private sector to inform the public of the dangers of illegal drug use.

(e) The Council shall devise means to solicit the views and advice of the American people regarding the development and implementation of national drug control policy. In consultation with the President and the Director of National Drug Control Policy, the Council shall utilize forums and seminars in various regions of the country to assist in this function.

(f) The Chairman of the Council shall report to the President and the Director of National Drug Control Policy, whenever requested.

Sec. 3. *Administration.* (a) Members of the Council shall serve without compensation.

(b) Members of the Council may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707).

(c) The Office of National Drug Control Policy shall provide administrative staff support to the Council, to assist in its day-to-day operations.

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(d) To the extent permitted by law, the heads of executive departments and agencies shall provide the Chairman of the Council, upon request, with such information as the Chairman may require for the purposes of carrying out the Council's functions.

Sec. 4. *General Provisions.* (a) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Director of National Drug Control Policy, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Council shall terminate 24 months from the date of this order, unless sooner extended.

George Bush

THE WHITE HOUSE,
November 13, 1989.

[FR Doc. 89-27028
Filed 11-13-89; 4:23 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks on signing Executive Order 12698 and a White House announcement on the appointment of the Chairman and members of the Council, both dated Nov. 13, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 46).

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1956

Debt Settlement; Community and Business Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations governing the debt settlement of Community Program Loans. This action is necessary to comply with section 303, title III, of the "Disaster Assistance Act of 1989" (Pub. L. 101-82). The intended effect of this action is to allow Indian tribes and tribal corporations to make application for the reduction of the unpaid principal balances on loans to the current fair market value of the land purchased with the proceeds of FmHA loans.

DATES: Effective date: November 15, 1989. Written comments must be received on or before December 15, 1989.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Harry B. Puffenberger, Senior Loan Officer, Program Management Branch, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6314, South Agriculture Building, Washington, DC 20250; telephone (202) 382-1504.

SUPPLEMENTARY INFORMATION:

Classification

This section has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor. The proposed action is not likely to result in any of the following: (a) An annual effect on the economy of $100 million or more, (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, of (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact

This document has been reviewed in accordance with 7 CFR part 1940, subpart C, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91-190) an Environmental Impact Statement is not required.

Intergovernmental Review

This action affects the following FmHA program as listed in the Catalog of Federal Domestic Assistance:

No. 10.421, Indian Tribes and Tribal Corporation Loans.

Indian tribes and tribal corporations are exempt from the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Discussion of Interim Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, FmHA is making this action effective immediately upon publication in the Federal Register without prior public comment. The purpose of this rule is to allow Indian tribes and tribal corporations to make application for the reduction of the unpaid principal balances on loans to the current fair market value of the land purchased with the proceeds of FmHA loans.

The Department is well aware of the great financial stress which has been incurred by Indian tribes and tribal corporations because of the decrease in the value of their land. FmHA believes it is essential that the assistance, resulting in reducing the principal amount of these loans to current fair market value of the land purchased with loan proceeds, be made as soon as possible to lessen the impact of loss in economic benefit and to not have these borrowers incur further financial distress.

This interim rule is a response to an existing situation of decreasing land values, and while the Department is reluctant to bypass prior public comment, it is certain that failure to implement a mandated program at once will result in additional, significant economic harm to these borrowers.

Public comments will be accepted for 30 days and later revisions will be made to this interim rule if justified on the basis of comments received. This procedure will make assistance available now. The usual course of a proposed rule, comment period, comment analysis, and a final rule incorporating changes would inevitably mean a 60 to 90 day delay in making available assistance where it is most needed. Those seeking to comment and make suggestions for improvement should be advised that final action will occur as promptly as possible after the 30 day comment period.

List of Subjects in 7 CFR Part 1956

Accounting, Loan programs—Agricultural, Rural areas.

Accordingly, FmHA amends ch. XVIII, title 7, Code of Federal Regulations, as follows:

PART 1956—DEBT SETTLEMENT

1. The authority citation for part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

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Subpart C—Debt Settlement—Community and Business Programs

2. Section 1956.105 is amended by adding new paragraphs (j) and (k) to read as follows:

§ 1956.105 Definitions.

* * * * *

(j) *Independent Qualified Fee Appraiser.* An individual who is a designated member of the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, or an equivalent organization, requiring appraisal education, testing, and experience.

(k) *Indian Tribal Land Acquisition loans.* Loans which have been made under the Indian Land Acquisition Act to Indian tribes or tribal corporations recognized by the Secretary of the Interior, for the purchase of land within tribal reservations and Alaskan Communities. (25 U.S.C. 488)

3. Section 1956.137 is added to read as follows:

§ 1956.137 Adjustment of unpaid Principal—Indian Tribal Land Acquisition loans.

This section pertains exclusively to the reduction of unpaid principal on Indian Tribal Land Acquisition loans. (Pub. L. 101–82.)

(a) *Application by borrower.* Upon application by the borrower, the FmHA Administrator may adjust the unpaid principal balance only, on any loan or loans, to the current fair market value of the land purchased with the proceeds of the loans. A separate application will be made for each loan. To be eligible, each application must meet the following conditions:

(1) The current fair market value of the land has declined by at least 25 percent since the land was purchased by the borrower with FmHA loan funds. Current fair market value shall be determined through an appraisal by an independent qualified fee appraiser, as defined in § 1956.105(j) of this subpart and selected by mutual agreement between the borrower and FmHA. The borrower will submit its selection of an appraiser, together with the appraiser's qualifications, in writing, to FmHA for acceptance or rejection. The cost of the appraisal shall be paid by the borrower.

(2) The land has been held by the borrower for at least 5 years.

(3) The Secretary of Interior or designee finds, and states in writing to FmHA, that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

(b) *Review of application decision.* If an application is rejected, the borrower may request a review of this decision under subpart B of part 1900 of this chapter.

(c) *Future applications.* A borrower that had a loan adjusted under this section shall not submit an application for another adjustment on the same loan for a period of 5 years from the date the last reduction became effective.

(d) *Processing.* All requests for principal adjustment will be forwarded to the National Office with the following information:

(1) Form FmHA 1956–1. Complete only parts I, II, VI, and VIII. Part VI, Debtors Offer and Certification, will be made in a separate attachment and contain the adjusted unpaid principal amount for which FmHA approval is requested. In part VI of the form, type "see attached."

(2) Letter from the Secretary of Interior or Designee. Reference to this letter should be made in part VIII of Form FmHA 1956–1.

(3) For first time requests, the State Director's determination of the appraised value of the land when the loan (or loans) was made and the current fair market value appraisal as determined by an independent qualified fee appraiser.

(4) For subsequent requests, the current and previous fair market value appraisal as determined by an independent qualified fee appraiser.

(5) Draft of Form FmHA 451–33, "Reamortization Request," if applicable. Upon concurrence by the National Office, the adjusted unpaid principal and outstanding accrued interest may be reamortized at the original note rate for the balance of the existing term of the note and in accordance with the other applicable provisions of subpart E of part 1951 of this chapter. The approved original of Form FmHA 1956–1 will be sent to the Finance Office together with a copy of Form FmHA 451–33 signed by the State Director.

4. Section 1956.150 is revised to read as follows:

§ 1956.150 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0124. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Dated: October 13, 1989.

Michael C. Wilkinson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–26752 Filed 11–14–89; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 89–282]

Equity-Risk Investments

Date: October 6, 1989.

AGENCY: Office of Thrift Supervison, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision ("Office") is hereby amending its equity-risk investment regulation, 12 CFR 563.9–8, by delaying the sunset date of that regulation from October 13, 1989 until July 13, 1990.

EFFECTIVE DATE: October 13, 1989.

FOR FURTHER INFORMATION CONTACT: Mary J. Hoyle, Regulatory Paralegal, (202) 906–7135, Regulations and Legislation Division, Office of General Counsel, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On April 12, 1989, the Federal Home Loan Bank Board ("Board"), delayed the sunset of its equity-risk investment regulation from April 16, 1989 until October 13, 1989. See Board Res. No. 89–1319, 54 FR 15400 (April 18, 1989). This regulation, briefly, requires savings associations to obtain prior approval of their Principal Supervisory Agents (now District Directors), before making investments in equity securities, real estate, service corporations and operating subsidiaries above certain thresholds. These thresholds are tied to the regulatory and tangible capital levels of the savings association.

On August 9, 1989, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Pub. L. 101–73, 103 Stat. 183, was enacted. Section 222 of FIRREA amended the Federal Deposit Insurance Act by adding a new section 28

addressing certain activities of savings associations. New section 28(c)(1), 12 U.S.C. 1838(c)(1), restricts the abilities of state-chartered savings associations to directly acquire or retain equity investments of a type or in an amount not permissible for a Federal savings association. Section 28(c)(2), 12 U.S.C. 1838(c)(2), provides a limited exception for investments by savings associations in service corporations. Section 28(c)(3) provides that the Federal Deposit Insurance Corporation ("FDIC") is to require savings associations to divert equity investments not permissible under those paragraphs (c)(1) and (c)(2) "as quickly as can be prudently done, and in any event not later than July 1, 1994." Section 28(i), 12 U.S.C. 1838(i), explictly provides that "This section may not be construed as limiting * * * (2) any authority of the Director of the Office of Thrift Supervision * * * to impose more stringent restrictions." Section 301 of FIRREA amended the Home Owner's Loan Act of 1933 ("HOLA") by amending section 5 by adding a new paragraph (t) requiring the Office to establish, by regulation, uniform capital standards for savings associations. Paragraph 5(t)(1)(D) requires such regulations to be promulgated by no later than November 7, 1989 and effective not later than December 7, 1989. Paragraph 5(t)(5) of the HOLA requires those regulations to provide for the separate capitalization of certain subsidiaries of savings associations.

In delaying the sunset date of its equity-risk investment regulation in April, the Board noted the legislation then pending in Congress and stated "Any final legislation is likely to have a significant effect on investments covered by the current equity-risk investment regulation." 54 FR at 15401. As discussed above, the FIRREA does contain a number of provisons that will have such an effect, demonstrating Congress's concerns with the potential risks of such investments. The Office therefore believes that it is prudent once more to delay the sunset of this regulation. It is therefore delaying until July 13, 1990 the sunset of 12 CFR 563.9–8. This will ensure that any equity-risk investments, including investments permitted for Federal savings associations such as service corporations and subsidiaries, which are still permissible for state-chartered savings associations, receive careful scrutiny while the Office and the FDIC each review their separate, but related, new statutory responsibilities in this critical area.

The Office notes that when the Board requested public comment in December, 1988 upon the extension eventually adopted in April, 1989, it only received four comments, all favorable, on the issue. See 54 FR at 15400. The need for uninterrupted effective supervision of these investments constitutes good cause for dispensing with the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553. Because no substantive changes are being made to this regulation, which has been in effect since 1987, no delay in effective date is necessary to allow savings associations to become familiar with its provisions or to make adjustments in their conduct. Therefore, the Office finds that good cause exists for dispensing with the delayed effective date provisions of the Administrative Procedure Act.

Executive Order 12291

This final rule does not constitute a "major rule" and therefore, does not require the preparation of a final regulatory impact analysis.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required by the Administrative Procedure Act or any other statute, the provisions of the Regulatory Flexibility Act do not apply.

List of Subjects in 12 CFR Part 563

Advertising, Bank deposit insurance, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends part 563, subchapter D, chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 563—OPERATIONS

1. The authority citation for 12 CFR part 563 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 892, as amended (42 U.S.C. 4106).

§ 563.9–8 [Amended]

2. Paragraph (h) of § 563.9–8 is amended by removing the date "October 13, 1989" and adding in lieu thereof the date "July 13, 1990".

M. Danny Wall,

Director, Office of Thrift Supervision.

[FR Doc. 89–26728 Filed 11–14–89; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–CE–29–AD; Amdt. 39–6367]

Airworthiness Directives; Boeing of Canada Ltd. deHavilland Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Boeing of Canada Ltd., deHavilland Model DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes, which requires visual inspections of the elevator quadrant for distortion and the quadrant mounting support bracket for cracks. This action is prompted by a recent report of a cracked elevator quadrant mounting support bracket. This condition, if not corrected, could lead to loss of elevator control and loss of the airplane.

DATES: *Effective Date:* December 14, 1989. Comments for inclusion in the Rules Docket must be received on or before January 2, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: This AD is not predicated on manufacturer's data. Other information on Boeing of Canada Ltd., deHavilland Model DHC–6 airplanes is available from the manufacturer, Boeing of Canada, Ltd., deHavilland Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Information pertaining to the issuance of this AD may be examined at the Rules Docket at the address below. Send comments on the AD in triplicate to the FAA, Central Region, Attention: Rules Docket No. 89–CE–29–AD, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Socias, Airframe Branch,

Aerospace Engineer, FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791–6220.

effectiveness of the AD and determinig whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–448, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

Issued in Kansas City, Missouri, on October 25, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

Correction Document. There is no benefit to clarity to formally correct the other places the limit was not stated accurately.

The final rule document published

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

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Aerospace Engineer, FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone [516) 791–6220.

SUPPLEMENTARY INFORMATION: The FAA has received a report that a deHavilland Model DHC–6 airplane experienced an inflight loss of elevator control shortly after departure. An investigation has revealed that the airplane had been exposed to strong ground gusts which may have contributed to failure of the elevator quadrant mounting support bracket. As a result of this incident, Transport Canada, who has responsibility for and authority to maintain the continuing airworthiness of these airplanes in Canada, is in the process of drafting an Airworthiness Directive which proposes initial and recurring visual inspections of the elevator quadrant and the elevator quadrant mounting bracket. The FAA has evaluated this situation and the current actions of Transport Canada, and concurs that these actions are appropriate to prevent undetected damage from progressing to the point of failure.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring initial and recurrent visual inspections of the elevator quadrant and mounting bracket on Boeing of Canada, Ltd., deHavilland Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered and this rule may be amended in light of the comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determinig whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report summarizing each FAA-public contact concerned with the substance of this AD, will be filed in the Rules Docket.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained by contacting the Rules Docket under the capition "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulaitons as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) [Revised Pub. L. 97–449, January 12, 1983]; and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD: to § 39.13

Boeing of Canada Ltd, DeHavilland: Applies to Models DHC–6–1, DCH–6–100, DHC–6–200, and DHC–6–300 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD, unless previously accomplished.

To prevent loss of elevator control, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 200 hours TIS, accomplish the following:

Note 1: When a parked Model DHC–6 airplane has been subjected to wind gusts of 35 mph or greater (including helicopter or jet blasts), new damage may occur to the elevator control system.

(1) Visually inspect the elevator quadrant, Part Number (P/N) C6CFM 1136–27, for distortion by viewing the quadrant from the foreward or aft direction to detect warping or buckling, and by looking for score marks on the quadrant topside face due to constant rubbing against the side of the cable guard.

(2) If the elevator quadrant is found distorted, prior to further flight replace it with a serviceable part and reinspect the quadrant at 200 hours TIS intervals thereafter.

(3) Visually the elevator quadrant mounting support bracket, P/N C6CFM 1142–27, for cracks using a strong light and minimum four power magnifying glass.

Note 2: Pay particular attention to the outer and inner surfaces of the two lugs of the bracket.

(4) If the elevator quadrant support bracket is found cracked, prior to further flight replace it with a serviceable part.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternatte means of compliance or adjustment of the intitial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, New England Region, Valley Stream, New York 11581.

Note 3: The request should be forwarded through an FAA Maintenance Inspector who may add comments and then send it to to the Manager, New York Aircraft Certification Office.

All persons affected by this directive may examine the information pertaining to the issuance of this AD at the FAA, Central Region, Office of the Assistance Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 25, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–26767 Filed 11–14–89; 8:45 am]

BILLING CODE 4910–13

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218–AB26

Air Contaminants; Corrections

AGENCY: Occupational Safety and Health Administration; Labor.

ACTION: Final rule; corrections.

SUMMARY: This notice makes corrections to the preamble and final rule on Air Contaminants issued by OSHA which appeared in the **Federal Register** on January 19, 1989, at 54 FR 2331.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 523–8148.

SUPPLEMENTARY INFORMATION: OSHA published its final rule on Air Contaminants on January 19, 1989, at 54 FR 2331–2983. That rule amended 29 CFR 1910.1000 and its tables. On July 5, 1989, at 54 FR 28054–28061 OSHA published corrections to the preamble and the rule.

Certain additional errors have come to OSHA's attention. This document corrects those errors.

There are a number of errors in the printing of the exposure limit for iron oxide throughout both the proposal and final **Federal Register** documents. The preexisting limit in 29 CFR 1910.1000, Table Z–1 (1988 ed.) is "Iron oxide fume * * * 10 mg/m³". OSHA proposed to lower that limit to "5 mg/m³ for iron oxide dust and fume, measured as total particulate (Fe)." See 53 FR 21075 in the Proposal of June 7, 1988.

OSHA's final decision for iron oxide was to retain the former limit (29 CFR 1910.1000, Table Z–1 (1988)) of "Iron oxide fume * * * 10 mg/m³". OSHA stated "Accordingly, OSHA finds it appropriate to retain the Agency's former PEL for iron oxide * * *" (54 FR 2514, January 19, 1989). OSHA is correcting Table Z–4 accordingly in this Correction Document. There is no benefit to clarity to formally correct the other places the limit was not stated accurately.

The final rule document published Thursday, January 19, 1989, at 54 FR 2332–2983, Federal Register Document No. 89–941, is corrected as follows:

Preamble

The following corrections are made to the Preamble:

1. On page 2689, Table C 15–1, the entry for "Beryllium & compounds" is corrected by revising the entry in the Former PEL column to read "See Table Z–2", by revising the entry in the Proposed PEL column to read "No Change" and revising the entry in the Final Rule PEL column to read "See Table Z–2".

Regulatory Text

The following correction is made to the authority citation for 29 CFR part 1910:

2. On page 2920, second column, the second and third paragraphs of the authority citation are corrected to read:

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z–1–A, which have identical limits listed in the Transitional Limits columns of Table Z–1–A, Table Z–2 or Table Z–3. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z–1–A, Table Z–2 and Table Z–3 also issued under 5 U.S.C. 553. Section 1910.1000, the Transitional Limits columns of Table Z–1–A, Table Z–2 and Table Z–3 not issued under 29 CFR part 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

The following corrections are made to 29 CFR 1910.1000:

§ 1910.1000 [Amended]

3. On page 2940, Table Z–1–A, the entry in the Substance column, "Iron oxide dust and fume (as Fe) total particulate" is corrected to read "Iron oxide fume".

4. On page 2948, Table Z–1–A, the entry for "Petroleum distillates (Naphtha)" is corrected by removing the CAS Number.

5. On page 2951, Table Z–1–A, the entry for "Silica, amorphous, precipitated and gel" is corrected by inserting the CAS No. of "112926–00–8".

Signed at Washington, DC, this 3rd day of November 1989.

Gerard F. Scannell,

Assistant Secretary.

[FR Doc. 89–26786 Filed 11–4–89; 8:45 am]

BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning December 1, 1989. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after December 1, 1989, and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: December 1, 1989.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Senior Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202–778–8824 (202–778–8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The recent amendments to title IV made by the Pension Protection Act ("PPA"), a part of the Omnibus Budget Reconciliation Act of 1987, increase the amount of plan benefits for which an employer is responsible upon plan termination. These new termination rules apply to plan terminations with respect to which the 60-day advance notice to affected parties (the notice of intent to terminate) is issued after December 17, 1987. (For more detail, see the PBGC's Notice of Revised Termination Rules, 53 FR 1905 (January 22, 1988).) However, the PPA does not change the title IV valuation rules.

Under amended ERISA section 4041(c), all plans wishing to terminate in

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a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Plans that terminate on or after January 1, 1988 (the effective date of the Single-Employer Pension Plan Amendments Act of 1986) and issued notices of intent to terminate prior to December 16, 1987, or against which the PBGC instituted involuntary termination proceedings before that date, shall continue to be responsibile for benefit commitments under the plan and to value guaranteed benefits and/or benefit commitments.

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since October 1, 1989 (54 FR 38225 (September 15, 1989)). This amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after December 1, 1989, which set reflects a decrease of ¼ percent in the immediate interest rate of 7¼ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after December 1, 1989, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362, as amended by secs. 9312–13, Pub. L. 100–203, 101 Stat. 1330.

2. Rate Set 81 of Appendix B is revised and Rate Set 82 of Appendix B is added to read as follows: The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities k_1, k_2, k_3, n_1, and n_2, are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
81	10–1–89	12–1–89	7.50	1.0675	1.0550	1.0400	7	8
82	12–1–89		7.25	1.0650	1.0525	1.0400	7	8

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89–26782 Filed 11–14–89; 8:45 am]
BILLING CODE 7708–01–M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of December 1989.

EFFECTIVE DATE: December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street W., Washington, DC 20006; 202–778–8820 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (See 5 U.S.C. 553 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. section 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_K are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_{16}
December 1989	.0625	.09	.0775	.075	.0725	.07	.07	.07	.07	.07	.065	.065	.065	.065	.065	.05875

Issued at Washington, DC, on this 7th day of November 1989.

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89–26781 Filed 11–14–89; 8:45 am]
BILLING CODE 7708–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Codification Correction

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule; codification correction.

SUMMARY: This final rule corrects erroneous amendatory language that appeared at 53 FR 34290, September 6, 1988, regarding the CHAMPUS per diem based payment method for mental health services in psychiatric hospitals and units.

ADDRESSES: Office of the Assistant Secretary of Defense for Health Affairs (Health Program Management), Room 1B657, Pentagon, Washington, DC. 20301–1200.

FOR FURTHER INFORMATION CONTACT: Lt. Commander Arthur Miller, telephone (202) 695–3331.

SUPPLEMENTARY INFORMATION: In preparing a codification of 32 CFR 199.14, Provider reimbursement methods, an error was discovered in the amendatory language in a final rule published September 6, 1988 53 FR 34265. That final rule established a new method of paying for mental health care in psychiatric hospitals and units. Most of the substance of that rule took the form of a new paragraph (a)(2) in § 199.14. The amendatory language that prefaced the new paragraph (a)(2) included a direction to redesignate what was believed to be a pre-existing paragraph (a)(2) as paragraph (a)(3) and to amend the introductory text of the newly designated paragraph (a)(3). It has now been determined that the provision that was believed to have been designated as paragraph (a)(2) prior to that final rule had actually been designated as paragraph (a)(1)(iv)(D)(*3*). Thus, the amendatory language that referred to what was believed to be a pre-existing paragraph (a)(2) was erroneous. This final rule is a codification correction to correct the erroneous amendatory language. The actual regulatory provisions inserted into § 199.14 by the September 6 final rule remain unchanged. Only the amendatory language which appeared as amendment number 4 in the September 6, 1988, final rule is revised, as follows:

"4. Section 199.14 is amended by adding a new paragraph (a)(2), by redesignating paragraph (a)(1)(iv)(D)(*3*) as paragraph (a)(3) and by revising the introductory text of the newly designated paragraph (a)(3) as follows:"

Dated: November 9, 1989.

Linda Bynum,
OSD Federal Register Alternate Liaison Officer, Department of Defense.

[FR Doc. 89–26778 Filed 11–14–89; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 61024–9224]

RIN 0651–AA30

Revision of Patent Application Filing Practices

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is amending the rules of practice in patent cases, part 1 of title 37, Code of Federal Regulations, to clarify requirements in the filing of patent applications and to provide for procedures to cure certain defects in the filing of applications.

EFFECTIVE DATE: January 16, 1990.

FOR FURTHER INFORMATION CONTACT: J. Michael Thesz by telephone at (703) 557–8364 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Proposed rulemaking requesting comments was published on November 30, 1988 in the Federal Register at 53 FR 48402–48421

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and on December 13, 1988 in the "Official Gazette" at 1097 O.G. 16–35 regarding adjusting patent and trademark fee amounts and including proposed changes to the rules involved in this rulemaking. The period for receiving comments on the rules involved in this rulemaking was extended by a notice published on February 15, 1989 in the **Federal Register** at 54 FR 6936. The final rules adjusting patent and trademark fee amounts were published on February 15, 1989 in the **Federal Register** at 54 FR 6893–6910 and on March 7, 1989 in the "Official Gazette" at 1100 O.G. 7–25.

Comments on the rules involved in this rulemaking were received from two patent law associations and from three individuals. The comments received relating to particular sections and replies thereto are listed below.

Comments Related to § 1.53

Comment

One comment suggested that it would be helpful to new practitioners, in particular, if § 1.53 was amended to specify that continuation and divisional applications may be filed under § 1.53.

Reply

The suggestion in the comment has been adopted. Language has been added to paragraph (b) of § 1.53 to specify what types of applications may be filed under §§ 1.53, 1.60 and 1.62. Also, the information about filing continuation and divisional applications from paragraph (a) of § 1.60 has been placed in paragraph (b) of that section to clarify that the information applies only to applications filed under § 1.60.

Comment

One comment stated support for the proposed petition for correcting a failure to name the inventors of an application on filing but suggested that the rule should be "liberalized to indicate that the inventors do not need to be named at the time the application is filed, but may be named later when filing the declaration or oath." Another comment expressed no opposition for requiring a petition and fee for late submission of the names of the inventors but argued that a filing date should be granted regardless thereof since 35 U.S.C. 111 provides for a filing date upon submission of a specification and drawing.

Reply

This suggested modification to the rule has not been adopted. The suggested modification was not proposed for comment.

Further, United States patent practice has long required naming all the inventors on filing. The petition procedure of the rule as amended provides adequate relief where the inventors are not named on filing through administrative oversight, for example. It is not appropriate, however, to adopt a procedure where applications could routinely be filed without naming the inventors since this would delay the processing of the applications and since the name of the inventor is often required to provide a unique identifier for an application. The name of the inventor is not only used by attorneys to identify an application but is used to locate an application within the Office, for example, when the serial number is unknown. To delay the date when the inventors are named would unduly add to the administrative burden of the Office.

Comment

One comment stated that the proposed requirement for satisfactorily explaining the delay in supplying the inventors' names was improper since 35 U.S.C. 111 uses the language "within such period and under such conditions" as may be prescribed by the Commissioner. The comment stated that "satisfactorily" implies other and unknown standards, which are not specified conditions although requiring the petitioner to explain the delay is a condition.

Reply

The comment has been adopted in that the language of the final rule does not use "satisfactorily". The final rule requires that the petition set forth the reasons the delay in supplying the names of the inventors should be excused. It is appropriate to require reasons since there may be reasons when such a petition would not be granted, e.g., where the sole reason given that the names of the inventors were not supplied was to purposely delay the processing of the application.

Comments Related to § 1.60

Comment

One comment questioned whether under § 1.60 there is need for a petition satisfactorily explaining the delays in filing the true copy of the application or a statement that it is a true copy or whether these items should be permitted to be filed without explanation as in the case of an oath submitted after the filing date of an application under § 1.53.

Reply

The filing of an oath later than the filing date of an application, with the payment of a surcharge, under § 1.53 is expressly permitted by 35 U.S.C. 111. No such provision exists for applications filed under § 1.60. Further, it is not appropriate to encourage, in any way, the delay in processing and examining applications filed under § 1.60. The requirement for a petition with a satisfactory explanation of the delay, e.g., that the copy was omitted through inadvertence rather than for purposes of delaying the application, is considered to be appropriate.

Comment Related to §§ 1.60 and 1.62

Comment

One comment supported the provisions of proposed §§ 1.60 and 1.62 for excusing (1) the failure to file a true copy of the prior application or the statement that the papers are a true copy (in § 1.60) or (2) the error of filing a copy of the prior application or a new specification (in § 1.62). The comment, however, stated a belief that applicants should have the option of proceeding under either of these proposed rules or under § 1.53 to obtain as the filing date the original date of receipt of the continuing application papers, if desired.

Reply

It is already possible for an applicant to petition under 37 CFR 1.182 to have an application filed under §§ 1.60 and 1.62 converted to an application under § 1.53. These different types of applications have different requirements, are reviewed by different personnel within the Office, and are processed in different manners. Conversion from a § 1.60 or 1.62 application to a § 1.53 application involves an administrative burden to the Office. Sections 1.60 and 1.62 as amended provide specific procedures so that applicants can correct the mentioned errors. These procedures should provide the remedy desired by applicants in all but very unusual situations. It is not necessary or appropriate to try to address these very unusual situations in this rulemaking.

Comments Related to § 1.62

Comment

One comment suggested that § 1.62(e) should refer to an amendment to the prior application as it exists "at the time of filing of the application under this section" rather than the time of filing the prior application.

Reply

The language suggested in the comment has been adopted.

Comment

One comment questioned whether a petition and fee or denial of filing date were necessary where a copy of a specification from the prior application or a new specification is improperly filed with an application under § 1.62. The comment suggested that a clerk could simply disregard the copy or the specification and place it somewhere in the file with some sort of notation that it is not accepted.

Reply

Changes to the prior application when filing under § 1.62 must be made by amendment to the prior application as it exists at the time of filing the § 1.62 application since the papers from the prior application including the specification are used to constitute the file wrapper continuing application under 37 CFR 1.62. Experience has shown that, when a copy of a specification or a new specification is filed with a § 1.62 application, a different type of application may have actually been desired. For example, a continuing application under § 1.60 may have been desired with the prior application not being expressly abandoned as occurs under § 1.62(g). Also, in the case of a continuation-in-part application, presumably the new disclosure would be contained in the specification erroneously filed with the § 1.62 application. Thus, it is not appropriate to just disregard the copy or the new specification filed with the § 1.62 application. To do so in the first example would result in an unwanted express abandonment. To do so in the second example would disregard the new invention disclosed in the erroneously filed specification. This would raise the possibility of a statutory bar under 35 U.S.C. 102(b) arising if, for example, the new invention was placed on sale in expectation that a filing date would be accorded to the application including the new disclosure. The course of action adopted is to stop the processing of the application as soon as the error is detected, to notify applicant of the error and to give applicant an opportunity to correct the error in whatever way was intended through the filing of a petition and fee.

Comment

One comment questioned whether an amendment, and not a petition, cancelling an improperly submitted copy of a specification filed with a request for a § 1.62 application would be appropriate to obtain a filing date as of the original date of filing the continuing application papers.

Reply

Paragraph (j) of § 1.62 does provide for correction of the filing error, e.g., by amendment cancelling the copy of the prior application, without the filing of a petition and fee provided the correction is made before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application. In such a case, the filing date will be the date of receipt of the correction. However, if the date of deposit is necessary or desired as the filing date, a petition and fee are required. This is appropriate in view of the extra Office handling and processing which is necessitated by applicant's error on filing.

Comment

One comment stated that proposed paragraphs (e) and (j) of § 1.62, when read together, seemed to indicate that a filing date would be granted as of the date the filing error was corrected and not as of the date of deposit of the application. It was suggested that paragraph (e) should expressly state that once the specification is cancelled, the application will be accorded a filing date as of the date of filing of the request for the § 1.62 application.

Reply

The suggestion in the comment has been adopted. Language has been added to § 1.62(e) to state that a filing date "as of the date of deposit of the request for an application under this section" may be granted if an appropriate petition is filed.

Discussion of specific rules

Section 1.17, paragraph (i)(1), is amended to include reference to the petitions set forth in §§ 1.53, 1.60 and 1.62 by this rulemaking.

Section 1.21, as amended, adds a new paragraph (n) setting forth the fee for handling incomplete or improper applications under §§ 1.53(c), 1.60 and 1.62.

Section 1.53, paragraph (b), is amended to establish a procedure whereby the failure to name all the inventors on filing an application, which results in a filing date not being accorded to the application, can be excused upon the filing of a petition which sets forth reasons sufficient to show that the delay in supplying the names should be excused. If the petition is granted, the application would be accorded a filing date as of the date the original papers were deposited. No specific provision allowing this relief was previously in the rules. Paragraph (b) is also amended to specify that a continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) may be filed under §§ 1.53, 1.60 and 1.62, that a continuation-in-part application may be filed under §§ 1.53 or 1.62 and that the requirements for obtaining a filing date set forth in paragraph (b) apply to applications filed under § 1.53. Paragraph (c), as amended, sets forth the procedure which the Office uses to notify an applicant that the names of the inventors have been omitted and refers to the handling fee set in § 1.21(n), rather than including the fee amount in the rule. This practice is consistent with the other rules which refer to fees.

Section 1.55, paragraph (a), is amended to clarify the language of the rule by adding "an" before "interference".

Section 1.60 is amended to remove and reserve paragraph (a) and to amend paragraph (b) to include the information presently in paragraph (a) so as to clarify that the information applies only to applications filed under this section. Paragraph (b) is also amended to require that an applicant, who desires to file an application under the rule, indicate that the application is being filed pursuant to the rule. Applications which are not specifically designated as being filed under § 1.60 are considered as having been filed under § 1.53, which does not require an originally executed declaration before a filing date is given. The amendment also establishes a procedure whereby the failure to file a true copy of the prior application or the statement that the papers are a true copy, which results in a filing date not being accorded the application, can be excused upon the filing of a petition satisfactorily explaining the delay in filing these items. If the petition is granted, the application would be accorded a filing date as of the date of deposit of the request for a § 1.60 application. No specific provision allowing this relief was previously in the rules. Paragraph (c) is added to set forth the procedure which the Office uses to notify an applicant that an application filed under paragraph (b) is incomplete and the handling fee which is deducted from the amount refunded if an application is not completed after notice to do so has been given.

Section 1.62, paragraph (e), is amended to specifically state that changes to the prior application must be made by an amendment to the prior application filed in the application under

§ 1.62. An application which includes a copy of the prior application or a new specification is improper under the rule and is not accorded the date of deposit as the filing date unless a petition is

productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export

(n) For handling an incomplete or improper application under § 1.53(c), § 1.60 or § 1.62	$20.00

application under the conditions specified in 35 U.S.C. 119 and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is

application introduced new matter therein. Such statement must be by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to

a petition with the fee set forth in § 1.17(i)(1) is filed with instructions to cancel the copy or specification.

* * * * *

(j) If any application filed under this

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§ 1.62. An application which includes a copy of the prior application or a new specification is improper under the rule and is not accorded the date of deposit as the filing date unless a petition is filed and granted. This specific statement will hopefully eliminate errors by applicants. The paragraph establishes a procedure whereby such an error can be excused upon the filing of a petition with instructions to cancel the copy or specification. If the petition is granted, the application will be accorded a filing date as of the date of deposit of the request for a § 1.62 application. Paragraph (j) sets forth the procedure which the Office uses to notify the applicant that an application filed under the section is improper and the handling fee which is deducted from the amount refunded if an application is not corrected after notice to do so has been given.

Section 1.96 is amended to indicate that a copy of the microfiche appendix with computer program listings in an application is a part of the file wrapper and contents available for purchase after a patent based on the application is granted or the application is otherwise made publicly available.

Other Considerations

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. This rule involves information collection requirements subject to the Paperwork Reduction Act and approved by the Office of Management and Budget under Control No. 0651–0011.

The Office has determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354).

The Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons given in the preamble and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 41, and Public Law 97–247, the Office is amending title 37 of the Code of Federal Regulations as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.17 is amended by revising paragraph (i)(1) to read as follows:

§1.17 Patent application processing fees.

* * * * *

(i)(1) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph:	$120.00
§ 1.12—for access to an assignment record.	
§ 1.14—for access to an application.	
§ 1.53—to accord a filing date.	
§ 1.55—for entry of late priority papers.	
§ 1.60—to accord a filing date.	
§ 1.62—to accord a filing date.	
§ 1.103—to suspend action in application.	
§ 1.177—for divisional reissues to issue separately.	
§ 1.312—for amendment after payment of issue fee.	
§ 1.313—to withdraw an application from issue.	
§ 1.314—to defer issuance of a patent.	
§ 1.334—for patent to issue to assignee, assignment recorded late.	
§ 1.666(b)—for access to interference settlement agreement.	

* * * * *

3. Section 1.21 is amended by adding paragraph (n) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(n) For handling an incomplete or improper application under § 1.53(c), § 1.60 or § 1.62	$20.00

4. Section 1.53 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

* * * * *

(b) The filing date of an application for patent filed under this section is the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41. No new matter may be introduced into an application after its filing date (§ 1.118). If all the names of the actual inventor or inventors are not supplied when the specification and any required drawing are filed, the application will not be given a filing date earlier than the date upon which the names are supplied unless a petition with the fee set forth in § 1.17(i)(1) is filed which sets forth the reasons the delay in supplying the names should be excused. A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) may be filed pursuant to this section, § 1.60 or § 1.62. A continuation-in-part application may be filed pursuant to this section or § 1.62.

(c) If any application is filed without the specification, drawing or name, or names, of the actual inventor or inventors required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification, drawing, name, or names, of the actual inventor, or inventors, in order to obtain a filing date as of the date of filing of such submission. A copy of the "Notice of Incomplete Application" form notifying the applicant should accompany any response thereto submitted to the Office. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n).

* * * * *

5. Section 1.55 is amended by revising paragraph (a) to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119 and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of an interference (§ 1.630); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i)(1).

* * * * *

6. Section 1.60 is amended by removing and reserving paragraph (a) and revising paragraph (b) and adding new paragraph (c) to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

(a) [Reserved]

(b) An applicant may omit signing of the oath or declaration in a continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) if (1) the prior application was a complete application as set forth in § 1.51(a), (2) applicant indicates that the application is being filed pursuant to this section and files a true copy of the prior complete application as filed including the specification (including claims), drawings, oath or declaration showing the signature or an indication it was signed, and any amendments referred to in the oath or declaration filed to complete the prior application, (3) the inventors named in the continuation or divisional application are the same or less than all the inventors named in the prior application, and (4) the application is filed before the patenting or abandonment of or termination of proceedings on the prior application. The copy of the prior application must be accompanied by a statement that the application papers filed are a true copy of the prior application and that no amendments referred to in the oath or declaration filed to complete the prior application introduced new matter therein. Such statement must be by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date. If the continuation or divisional application is filed by less than all the inventors named in the prior application, a statement must accompany the application when filed requesting deletion of the names of the person or persons who are not inventors of the invention being claimed in the continuation or divisional application. If a true copy of the prior application as filed is not filed with the application or if the statement that the application papers are a true copy is omitted, the application will not be given a filing date earlier than the date upon which the copy and statement are filed, unless a petition with the fee set forth in § 1.17(i)(1) is filed which satisfactorily explains the delay in filing these items.

(c) If an application filed pursuant to paragraph (b) of this section is incomplete, applicant will be notified and given a time period within which to complete the application in order to obtain a filing date as of the date of filing the omitted item provided the omitted item is filed before the patenting or abandonment of or termination of proceedings on the prior application. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n).

7. Section 1.62 is amended by revising paragraph (e) and by adding a new paragraph (j) to read as follows:

§ 1.62 File wrapper continuing procedure.

* * * * *

(e) An application filed under this section will utilize the file wrapper and contents of the prior application to constitute the new continuation, continuation-in-part, or divisional application but will be assigned a new application serial number. Changes to the prior application must be made in the form of an amendment to the prior application as it exists at the time of filing the application under this section. No copy of the prior application or new specification is required. The filing of such a copy or specification will be considered improper, and a filing date as of the date of deposit of the request for an application under this section will not be granted to the application unless a petition with the fee set forth in § 1.17(i)(1) is filed with instructions to cancel the copy or specification.

* * * * *

(j) If any application filed under this section is found to be improper, the applicant will be notified and given a time period within which to correct the filing error in order to obtain a filing date as of the date the filing error is corrected provided the correction is made before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application. If the filing error is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n).

8. Section 1.96 is amended by revising paragraph (b)(1) to read as follows:

§ 1.96 Submission of computer program listings.

* * * * *

(b) * * *

(1) *Availability of appendix.* Such computer program listings on microfiche will be available to the public for inspection, and microfiche copies thereof will be available for purchase with the file wrapper and contents, after a patent based on such application is granted or the application is otherwise made publicly available.

Dated: November 6, 1989.

* * * * *

Jeffrey M. Samuels,

Acting Commissioner of Patents and Trademarks.

[FR Doc 89–26779 Filed 11–14–89; 8:45 am]

BILLING CODE 3510–16–M

POSTAL SERVICE

39 CFR Part 233

Procedure for Forfeitures Under Drug and Money Laundering Laws

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: At the present time, postal regulations establishing procedures for administrative forfeitures are limited to forfeitures under the Protection of Children Against Sexual Exploitation Act of 1977 and the Child Protection Act of 1984. To implement more recent authority, the Postal Service is publishing this final rule prescribing procedures for postal administrative forfeitures under the Controlled Substances Act and the money laundering statutes. In the case of

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property seized for forfeiture due to a violation of the Controlled Substances Act in which the controlled substance was in personal use quantities, procedures are included to allow an owner or interested party to apply to have the property returned promptly. The rule also provides procedures for the expedited release, in certain cases, of conveyances seized for drug-related offenses and held for judicial forfeiture.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Fred I. Rosenberg, (202) 268-5477.

SUPPLEMENTARY INFORMATION: On November 18, 1988, the President signed into law the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690). In three respects, the Act makes necessary an expansion of the Postal Service's regulations concerning forfeitures: (1) Section 6253 of the Act authorizes an agreement between the Postal Service and the Attorney General allowing the Postal Service to conduct administrative forfeitures of property subject to forfeiture under the Controlled Substances Act, 21 U.S.C. 881; (2) section 6079 of the Act mandates expedited forfeiture proceedings for certain property administratively seized for forfeiture under the Controlled Substances Act; and, (3) provisions of the Act, now codified as 18 U.S.C. 981, authorize the Postal Service to conduct administrative forfeitures of property involved in violations of 31 U.S.C. 5313(a), 5324 and 18 U.S.C. 1956, 1957 concerning money laundering offenses.

On June 27, 1989, the Attorney General signed a Memorandum of Understanding allowing the Postal Service to enforce the provisions of the Controlled Substances Act with respect to postal-related violations and to conduct administrative forfeitures.

Because the existing forfeiture procedures (39 CFR 233.7) adopted for use in enforcement of the Child Protection statutes have worked well, the Postal Service is, by this rule, extending those procedures to administrative forfeitures of property subject to forfeiture under the Controlled Substances Act, 21 U.S.C. 881, and the money laundering statutes, 18 U.S.C. 1956, 1957 and 31 U.S.C. 5313(a), 5324.

The rule also adopts new §§ 233.8 through 233.10 providing for expedited forfeiture proceedings for certain property seized for forfeiture under the Controlled Substances Act, where the offense involves personal use quantities of a controlled substance, and for expedited release of conveyances seized for drug-related violations and held for judicial forfeiture.

Section 6079 of the Anti-Drug Abuse Act of 1988 requires that the Attorney General, the Secretary of the Treasury, and the Secretary of Transportation adopt expedited procedures for the forfeiture of property under 21 U.S.C. 881 where the violation which gives rise to the forfeiture involves only personal use quantities of controlled substances. Section 6080 requires the Attorney General to establish procedures for the expedited release of conveyances seized for drug-related violations and held for judicial forfeiture. Although the statute does not specifically direct the Postal Service to adopt these expedited forfeiture procedures, since the Postal Service's authority to conduct forfeitures of property under the Controlled Substances Act results from a delegation of authority from the Attorney General, who is required to adopt such procedures, we believe it is consistent with the intent of Congress that the Postal Service adopt expedited forfeiture procedures similar to those adopted by the Attorney General, thereby achieving uniformity of the forfeiture procedures followed by all agencies enforcing the Controlled Substances Act. These procedures apply only in cases involving forfeitures under the Controlled Substances Act. They do not apply to forfeitures under any other statute authorizing forfeitures by the Postal Service.

On April 10, 1989, the Department of Justice published a notice of proposed rulemaking to adopt expedited forfeiture procedures (54 FR 14246). On the same date the United States Coast Guard and the United States Customs Service published separate notices of proposed rulemaking to carry out their respective responsibilities under section 6079 of the Anti-Drug Abuse Act of 1988 (54 FR 14254 and 54 FR 14242).

After considering the comments received in response to the proposed rulemaking and having consulted with the U.S. Customs Service and the U.S. Coast Guard in order to achieve consistent and compatible regulations to carry out the requirements of the Anti-Drug Abuse Act, the Department of Justice published on September 11, 1989, its final rule implementing section 6079 (54 FR 37605).

Having carefully considered the rule adopted by the Department of Justice, the Postal Service hereby adopts a final rule regarding expedited forfeiture procedures for certain property forfeited under the Controlled Substances Act. The final rule adopts the substance of the rule adopted by the Department of Justice, except for those parts that would not apply to postal-related violations of the Controlled Substances Act within the scope of the investigative authority delegated by the Attorney General.

Because the public has already commented upon the Department of Justice rule, the substance of which is being adopted by the Postal Service, no useful purpose would appear to be served by delaying adoption of the rule for further comment. Accordingly, 39 CFR is hereby amended as follows:

List of Subjects in 39 CFR Part 233

Crime, Forfeiture, Postal Service.

PART 233—[AMENDED]

1. The authority citation for part 233 is revised to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401-3422; 18 U.S.C. 981, 1956, 1957, 2254; 21 U.S.C. 881.

2. In § 233.7, the heading is removed and "Forfeiture Authority and Procedures" is inserted in its place; in paragraph (a), remove "18 U.S.C. 2254" and insert "18 U.S.C. 981, 2254, and 21 U.S.C. 881" in its place; in paragraph (c), remove "section 2254" and insert "under the statutes identified in paragraph (a) of this section" in its place; in paragraph (d), remove "18 U.S.C. 2254" and insert "under the statutes identified in paragraph (a) of this section" in its place; and revise paragraph (b) to read as follows:

§ 233.7 Forfeiture authority and procedures.

* * * * *

(b) *Administrative forfeiture authority.* The Chief Postal Inspector is authorized to conduct administrative forfeitures under the statutes identified in paragraph (a) of this section, following, where applicable, the procedures provided by the customs laws of the United States (19 U.S.C. 1600 *et seq.*), and to pay valid liens and mortgages against property that has been so forfeited.

* * * * *

3. Add §§ 233.8, 233.9, and 233.10 as follows:

§ 233.8 Expedited forfeiture proceedings for property seized for administrative forfeiture involving controlled substances in personal use quantities.

(a) *Definitions.* As used in this section, the following terms have the meanings specified:

(1) *Appraised Value* means the estimated domestic price at the time of seizure at which such or similar property is freely offered for sale.

(2) *Controlled Substance* has the meaning given in 21 U.S.C. 802.

(3) *Legal and Factual Basis of the Seizure* means a statement of the applicable law under which the property is seized, and a written statement of the circumstances of the seizure sufficiently precise to enable an owner or other interested party to identify the date, place, and use or acquisition which makes the property subject to forfeiture.

(4) *Owner* means one having a legal and possessory interest in the property seized for forfeiture. Even though one may hold primary and direct title to the property seized, such person may not have sufficient actual beneficial interest in the property to support a petition as owner if the facts indicate that another person had dominion and control over the property.

(5) *Personal Use Quantities* means possession of a controlled substance in circumstances where there is not other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing, or exporting of any controlled substance. Evidence of personal use quantities does not include sweepings or other evidence of possession of quantities of a controlled substance for other than personal use.

(i) Such other evidence includes:

(A) Evidence, such as drug scales, drug distribution paraphernalia, drug records, drug packaging material, method of drug packaging, drug "cutting" agents and other equipment, that indicates an intent to process, package or distribute a controlled substance;

(B) Information from reliable sources indicating possession of a controlled substance with intent to distribute;

(C) The arrest and/or conviction record of the person or persons in actual or constructive possession of the controlled substance for offenses under Federal, State or local law that indicates an intent to distribute a controlled substance;

(D) Relationship of the controlled substance to large amounts of cash or any amount of prerecorded government funds;

(E) Possession of the controlled substance under circumstances that indicate the substance is a sample intended for distribution in anticipation of a transaction involving large quantities, or is part of a larger delivery; or

(F) Statements by the possessor, or otherwise attributable to the possessor, including statements of conspirators, that indicate possession with intent to distribute.

(ii) Possession of a controlled substance is presumed to be for personal use when there are no indicia of illicit drug trafficking or distribution such as, but not limited to, the factors listed in § 233.8(a)(5)(i), and the amounts do not exceed the following quantities:

(A) One gram of a mixture of substance containing a detectable amount of heroin;

(B) One gram of a mixture or substance containing a detectable amount of:

(*1*) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivations of ecgonine or their salts have been removed;

(*2*) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(*3*) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(*4*) Any compound, mixture or preparation which contains any quantity of any of the substances referred to in § 233.8(a)(5) (ii)(B)(*1*)-(*3*);

(*5*) ½oth gram of a mixture or substance described in § 233.8(a)(5)(ii) which contains cocaine base;

(*6*) ½oth gram of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(*7*) 500 micrograms of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(*8*) One ounce of a mixture of substance containing a detectable amount of marihuana;

(*9*) One gram of methamphetamine, its salts, isomers, and salts of its isomers, or one gram of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomer.

(iii) The possession of a narcotic, a depressant, a stimulant, a hallucinogen or cannabis-controlled substance will be considered in excess of personal use quantities if the dosage unit amount possessed provides the same or greater equivalent efficacy as described in § 233.8(a)(5)(ii).

(6) *Property* means property subject to forfeiture under Title 21, U.S.C., Sections 881(a)(4), (6), and (7).

(7) *Statutory Rights or Defenses to the Forfeiture* means all legal and equitable rights and remedies available to a claimant of property seized for forfeiture.

(8) *Sworn to* as used in § 233.8(b)(4)(ii) refers to the oath as provided by 28 U.S.C. 1746.

(b) *Petition for expedited release in an administrative forfeiture action.* (1) Where property is seized for administrative forfeiture involving controlled substances in personal use quantities, the owner may petition the Postal Inspection Service for expedited release of the property.

(2) The owner filing the petition for expedited release must establish the following:

(i) The owner has a valid, good faith interest in the seized property as owner or otherwise;

(ii) The owner reasonably attempted to ascertain the use of the property in a normal and customary manner; and

(iii) The owner did not know or consent to the illegal use of the property, or in the event that the owner knew or should have known of the illegal use, the owner did what reasonably could be expected to prevent the violation.

(3) In addition to those factors listed in § 233.8(b)(2), if an owner can demonstrate that he has other statutory rights or defenses that would cause him to prevail on the issue of forfeiture, such factors must also be considered in ruling on the petition for expedited release.

(4) A petition for expedited release must be:

(i) Filed in a timely manner to be considered; in order to be filed in a timely manner, the petition must be received by the Postal Inspection Service within 20 days from the date of the first publication of the notice of seizure.

(ii) Executed and sworn to by the owner and both the envelope and the request must be clearly marked "PETITION FOR EXPEDITED RELEASE";

(iii) Filed in accordance with the notice of seizure; and

(iv) Addressed to the Chief Postal Inspector, Postal Inspection Service.

(5) The petition must include the following:

(i) A complete description of the property, including identification numbers, if any, and the date and place of seizure;

(ii) The petitioner's interest in the property, which must be supported by title documentation, bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and

(iii) A statement of the facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify expedited release of the seized property.

(c) *Ruling on petition for expedited release in an administrative forfeiture action involving personal use quantities of a controlled substance.* (1) Upon receipt of a petition for expedited release filed pursuant to § 233.8(b), the Postal Inspection Service must

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determine first whether a final administrative determination of the case, without regard to the provisions of this section, can be made within 21 days of the seizure. If such a final administrative determination is made within 21 days, no further action need be taken under this section.

(2) If no such final administrative determination is made within 21 days of the seizure, the following procedure applies:

(i) The Postal Inspection Service, within 20 days after the receipt of the petition for expedited release, determines whether the petition filed by the owner has established the factors listed in § 233.8(b)(2); and

(ii) If the Postal Inspection Service determines that those factors have been established, it terminates the administrative proceedings and returns the property to the owner except where it is evidence of a violation of law; or

(iii) If the Postal Inspection Service determines that those factors have not been established, it proceeds with the administrative forfeiture.

(d) *Posting of substitute res.* (1) Where property is seized for administrative forfeiture involving controlled substances in personal use quantities, the owner may obtain release of the property by posting a substitute res with the Postal Service. The property will be released to the owner upon the payment of an amount equal to the appraised value of the property if it is not evidence of a violation of law or has design or other characteristics that particularly suit it for use in illegal activities. This payment must be in the form of a traveler's check, a money order, a cashier's check or an irrevocable letter of credit made payable to the Postal Service. A bond in the form of a cashier's check will be considered as paid once the check has been accepted for payment by the financial institution which issued the check.

(2) If a substitute res is posted and the property is administratively forfeited, the Postal Inspection Service will forfeit the substitute res in lieu of the property.

§ 233.9 Expedited release of conveyances being forfeited in a judicial forfeiture proceeding for a drug-related offense.

(a) *Petition for expedited release of conveyance.* Where a conveyance has been seized and is being forfeited in a judicial proceeding for a drug-related offense, the owner may petition the United States Attorney for an expedited release of the conveyance in accordance with the regulations of the Department of Justice (21 CFR part 1316).

(b) *Petition filed in timely manner.* A petition for expedited release must be filed in a timely manner in order to be considered by the United States Attorney. To be considered as filed in a timely manner, in accordance with 21 CFR part 1316, the petition must be received by the appropriate United States Attorney within 20 days from the date of the first publication of the notice of the action and arrest of the property, or within 30 days after filing of the claim, whichever occurs later.

(c) *Obtaining release of the property by filing a substitute res bond.* Where a conveyance is being forfeited in a judicial proceeding for a drug-related offense, the owner may obtain release of the property by filing a substitute res bond with the Postal Inspection Service. The conveyance will be released to the owner upon the payment of a bond in the amount of the appraised value of the conveyance if it is not evidence of a violation of law or has design or other characteristics that particularly suit it for use in illegal activities. This bond must be in the form of a traveler's check, a money order, a cashier's check or an irrevocable letter of credit made payable to the United States Postal Service. A bond in the form of a cashier's check will be considered as paid once the check has been accepted for payment by the financial institution which issued the check.

(d) *Forfeiture of the bond.* If a substitute res bond is filed and the conveyance is judicially forfeited, the court will forfeit the bond in lieu of the property.

§ 233.10 Notice provisions.

(a) *Special notice provision.* At the time of seizure of property defined in § 233.8(b) for violations involving the possession of personal use quantities of a controlled substance, written notice will be provided to the possessor of the property regarding applicable statutes and Federal regulations including the procedures established for the filing of a petition for expedited release and for the posting of a substitute res bond.

(b) *Standard notice provision.* The standard notice to the owner as required by 19 U.S.C. 1607 will be made at the earliest practicable opportunity after determining ownership of the seized property and must include the legal and factual basis of the seizure.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-26775 Filed 11-14-89; 8:45 am]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A-32, Supp. 1]

First Duty Station Allowances for Relocated Presidential Transition Team Personnel Subsequently Appointed to Government Service

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temp. Reg. A-32 to November 9, 1990. This regulation implements authority to pay limited first duty station relocation allowances to eligible members of the Presidential transition team who relocate prior to selection for, or appointment to, certain federal government positions.

DATES: *Effective date:* November 10, 1989. *Expiration date:* November 9, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Ch. 101

Government employees, Travel, Travel allowances, Travel and transportation expenses.

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); and EO 11609, July 22, 1971.

In title 41, chapter 101 of the Code of Federal Regulations, supplement 1 to FPMR Temp. Reg. A-32 is added to the appendix at the end of subchapter A to read as follows:

October 31, 1989.

Federal Property Management Regulations, Temporary Regulation A-32, Supplement 1

TO: Heads of Federal agencies.

SUBJECT: First duty station allowances for relocated Presidential Transition Team personnel subsequently appointed to Government service

1. Purpose. This supplement extends the expiration date of FPMR Temp. Reg. A-32.

2. Effective date. This supplement is effective November 10, 1989.

3. Expiration date. This supplement expires November 9, 1990, unless sooner canceled or revised.

4. Explanation of changes. The expiration date in paragraph 3 of FPMR Temp. Reg. A-32 is extended to November 9, 1990.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-26788 Filed 11-14-89; 8:45 am]

BILLING CODE 6820-34-M

41 CFR Parts 301-1, 301-3, 301-4, and 301-7

[FTR Amdt. 3]

Federal Travel Regulation

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation to add new provisions concerning the redemption of frequent traveler benefits for upgrades to premium-class air accommodations and to clarify the intent of the Government's policy concerning the use of premium-class air accommodations, such as business class.

EFFECTIVE DATE: This final rule is effective for travel (including travel incident to a change of official station) performed on or after November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Richard Sturdy, Travel Management Division (FBT), Washington DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 301-1, 301-3, 301-4, and 301-7

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR parts 301-1, 301-3, 301-4, and 301-7 are amended as follows:

PART 301-1—APPLICABILITY AND GENERAL RULES

1. The authority citation for part 301-1 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 301-1.6 is amended by revising paragraph (b) and adding new paragraph (f) to read as follows:

§ 301-1.6 Instructions/guidelines for travelers.

* * * * *

(b) *Promotional materials received in connection with official travel from common carriers, rental car companies, or other commercial source.* Employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official business (Comp. Gen. Decision B-199650, July 15, 1981). All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, and credits toward future free or reduced costs of services or goods) received by employees in connection with official travel or incident to the purchase of a ticket for official travel, or other services such as car rentals, are due the Government and may not be retained by the employee. When an employee receives promotional material from any commercial source incident to official travel, the employee shall accept the material on behalf of the Federal Government and relinquish it to an appropriately designated agency official. The governing regulations regarding agency disposition of promotional material received by Federal employees are prescribed by the Administrator of General Services in 41 CFR 101-25.103. (See paragraph (f) of this section for redemption of frequent traveler benefits.)

* * * * *

(f) *Frequent traveler programs.* (1) Frequent traveler benefits earned in connection with official travel, such as mileage credits, points, etc., may be used only for official travel. Employees may not retain and use such benefits for personal travel. Since the Comptroller General has ruled that a frequent traveler benefit is the property of the Government if any part of it is earned through official travel, employees should maintain separate frequent traveler accounts for official and personal travel.

(2) Agencies should encourage employees who travel frequently to participate in various frequent traveler programs offered by airlines, hotels, and car rental vendors. Employees may be reimbursed for the cost to enter certain frequent traveler programs when enering the program is expected to result in a savings to the Government. Reimbursement for the cost to enter the program may not exceed the expected amount of the savings.

(3) To the maximum extent practicable, overall travel costs should be reduced by using benefits earned through frequent traveler programs to obtain free airline tickets, rooms, and rental vehicles. (See § 301-3.3(d)(3)(ii)(F) for upgrades to premium-class accommodations.)

(4) Use of mandatory or preferred vendors, such as contract air and rail carriers, lowest cost car rental companies, etc., shall be observed fully without regard to whether such vendors offer frequent traveler programs. No deviations from mandatory or preferred use requirements will be permitted solely for the purpose of accumulating frequent traveler benefits.

PART 301-3—USE OF COMMERCIAL TRANSPORTATION

3. The authority citation for part 301-3 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

4. Section 301-3.3 is amended by revising paragraphs (a) and (d) to read as follows:

§ 301-3.3 Travel policy and class of service authorized.

(a) *General policy.* It is the general policy of the Government that less-than-premium-class accommodations should be used for all modes of passenger transportation. However, common carrier accommodations shall be as specifically provided in paragraphs (b), (c), and (d) of this section and shall apply to both domestic and international travel of civilian employees while on official business for the Government.

* * * * * *

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(d) *Airline accommodations*—(1) *Policy.* It is the policy of the Government that employees who use commercial air carriers for domestic and international travel on official business shall use coach-class or equivalent accommodations. Premium-class air accommodations (such as business or first-class or equivalent accommodations) may be used only as permitted in paragraph (d)(3) of this section. (See § 301–3.6(b) for use of U.S. flag air carriers.)

(2) *Authorization and approval of the use of premium-class air accommodations*—(i) *Authorization or approval.* Heads of agencies may authorize or approve the use of premium-class air accommodations under criteria provided herein. As used in this paragraph (d), "agency head" means the Secretary, Attorney General, Administrator, Governor, Chairman, or the chief official by any other title, of an executive agency (as defined in 5 U.S.C. 105), an agency in the legislative branch of the Government, or the government of the District of Columbia. For ease of administration, heads of agencies may delegate, with provisions for limited redelegation, authority to authorize or approve premium-class air travel under this paragraph (d) provided that appropriate guidelines in the form of regulations or other written instructions are furnished to the designee. The delegation or redelegation of authority to authorize or approve premium-class air travel shall be held to as high an administrative level as practical to ensure adequate consideration and review of the circumstances requiring the need for premium-class air accommodations.

(ii) *Requirements.* Authorization for the use of premium-class air accommodations shall be made in advance of the actual travel unless extenuating circumstances or emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the employee shall obtain written approval from the agency head, or his/her deputy, or other designee at the earliest possible time.

(iii) *Employee responsibility and documentation.* The employee shall certify on the travel voucher the reasons for the use of premium-class air accommodations. Specific authorization or approval shall be attached to, or stated on, the travel voucher and retained for the record. In the absence of specific authorization or approval, the employee shall be responsible for all additional costs resulting from the use of premium-class air accommodations. The additional costs shall be the difference between the premium-class accommodations used and the authorized coach-class or equivalent accommodations.

(3) *Use of premium-class air accommodations.* Circumstances justifying the use of premium-class air accommodations are limited to those listed in paragraphs (d)(3) (i) and (ii) of this section.

(i) *Employee certification required.* Premium-class accommodations may be used when regularly scheduled flights between the authorized origin and destination points (including connection points) provide only premium-class accommodations, and the employee certifies this circumstance on the travel voucher.

(ii) *Agency authority or approval required.* The agency head (as defined in paragraph (d)(2)(i) of this section) or his/her designee may authorize or approve the use of premium-class accommodations when:

(A) Space is not available in coach-class or equivalent accommodations on any scheduled flight in time to accomplish the purpose of the official travel, which is so urgent that it cannot be postponed;

(B) Premium-class accommodations are necessary because the employee is so handicapped or otherwise physically impaired that other accommodations cannot be used, and this condition is substantiated by competent medical authority;

(C) Premium-class accommodations are required for security purposes or because exceptional circumstances, as determined by the agency head (or his/her designee), make their use essential to the successful performance of any agency mission;

(D) Less-than-premium-class accommodations on foreign carriers do not provide adequate sanitation or health standards;

(E) The use of premium-class accommodations would result in an overall savings to the Government based on economic considerations, such as the avoidance of additional subsistence costs, overtime, or lost productive time that would be incurred while awaiting availability of less-than-premium-class accommodations; or

(F) Premium-class accommodations are obtained through the redemption of frequent traveler benefits.

PART 301–4—REIMBURSEMENT FOR USE OF PRIVATELY OWNED CONVEYANCES

5. The authority citation for part 301–4 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–4.3 [Amended]

6. Section 301–4.3(a)(1) is amended by removing the term "first-class" everywhere it appears and adding in its place "premium-class".

PART 301–7—PER DIEM ALLOWANCES

7. The authority citation for part 301–7 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–7.6 [Amended]

8. Section 301–7.6(c)(6) is amended by removing the term "first-class" everywhere it appears and adding in its place "premium-class".

Dated: September 15, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–26695 Filed 11–14–89; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AB37

Migratory Bird Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule modifies two existing depredation orders (50 CFR 21.43 and 21.44) to prohibit killing of the tricolored blackbird (list as "tri-colored red-winged blackbird" in 50 CFR 21.43) throughout its range, and seven species (western meadowlark [listed as "meadowlark" in 50 CFR 21.44]; American, lesser, and Lawrence's goldfinch [listed collectively as "goldfinches" in 50 CFR 21.44]; acorn woodpecker; Lewis' woodpecker; and northern flicker [listed as "flickers" in 50 CFR 212.44]) in California, for depredation control purposes without first obtaining a Federal permit. This action is necessary because these species are no longer serious agricultural pests, and some have been declining in numbers such that their continued existence may be in jeopardy without additional protection. This modification will provide the additional protection necessary for these birds and still permit control when and where necessary for protection of California's agriculture.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Vernon D. Cunningham, U.S. Fish and Wildlife Service, Region 1, 500 NE. Multnomah, Suite 1692, Portland, Oregon 97232, (503/231–6167 or FTS 429–6167).

SUPPLEMENTARY INFORMATION: On August 26, 1988, the U.S. Fish and Wildlife Service published for public comment in the **Federal Register** (53 FR 32634) a proposal to modify 50 CFR 21.43 and 21.44. Only three comments were received. One commenter strongly supported the proposed rule without change. The other commenters requested that a provision be made in 50 CFR 21.43 to allow the inadvertent or accidental take of tricolored blackbirds while carrying out bird control for other species. However, such a provision is not possible as it would make enforcement of the depredation order unachievable and result in little further protection of the species. Additionally, depredation permits can be obtained before starting control procedures if tricolored blackbirds are in the area and there is no way to separate them from the targeted species. All commenters supported the proposed rule change affecting the seven species listed in 50 CFR 21.44.

Tricolored blackbird populations throughout much of California's Central Valley have declined by over 90% during the past 50 years and probably have suffered similar losses throughout much of the remainder of their restricted range. Because of this dramatic range-wide decline, the U.S. Fish and Wildlife Service has included the species as a Category 2 "candidate" in its Review of Vertebrate Wildlife considered for possible addition to the List of Endangered and Threatened Species (47 FR 58459, December 30, 1982; 50 FR 37958, September 18, 1985; 54 FR 554, January 6, 1989). While depredations on rice and other agricultural grain crops still occur, frightening devices are most often used to obtain relief. Tricolored blackbird damage at cattle feedlots is minimal compared to that of less insectivorous species such as starlings, brown-headed cowbirds, and red-winged blackbirds. While lethal control of blackbirds, starlings, and cowbirds is done at feedlots, tricolored blackbirds usually flock separately and can usually be avoided. Therefore, this action, revision of 50 CFR 21.43 to delete any reference to the tricolored blackbird, will not significantly impact agricultural interests.

This rule also revises 50 CFR 21.43 to correct common names for two other blackbird species. Yellow-headed, red-winged blackbirds and bicolored red-winged blackbirds are now correctly referrred to as yellow-headed blackbirds and red-winged blackbirds, respectively.

As previously written, 50 CFR 21.44 related to a June 5, 1937, order by the Secretary of Agriculture and was based upon importance to crop depredation during the period 1929–36. However, California agriculture and bird populations have changed considerably since that time. Western meadowlarks, American, Lesser, and Lawrence's goldfinches, acorn woodpeckers, Lewis' woodpeckers, and northern flickers are no longer considered to be significant agricultural pests according to the California Department of Food and Agriculture. Damage is infrequent and can usually be controlled by non-lethal methods. The western meadowlark has occasionally damaged sprouting grain fields, large-seeded truck crops, and grapes. Goldfinches have occasionally damaged commercial flower and vegetable seed fields. Scaring devices, barriers, and other non-lethal control methods generally provide satisfactory control. The acorn woodpecker, Lewis' woodpecker, and northern flicker occasionally damage almonds and apples and do structural damage to wooden buildings and poles. Repellents, netting, and metal barriers are effective non-lethal means which usually provide adequate protection if applied properly. In addition, Lewis' woodpecker populations have been decreasing and the species could become federally listed as endangered or threatened in the foreseeable future without this additional protection.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

A Determination of Effects approved by the Assistant Secretary, Fish and Wildlife and Parks, on May 20, 1988, concluded that this modification of the depredation order is not a "major" rule. These regulations contain no information collection requirements which require approval by the Office of Management and Budget, and will not have a significant economic effect on a substantial number of small entities.

National Environmental Policy Act Consideration

In accordance with NEPA requirements, an Environmental Assessment to "Modify Existing Depredation Orders to Protect Certain Bird Species in California" was prepared in December 1987, and a Finding of No Significant Impact was signed on May 19, 1988.

Endangered Species Act Consideration

This rule will not affect the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species.

Authorship

The primary author is Vernon D. Cunningham, working under the direction of Richard D. Bauer, Migratory Bird Coordinator, 500 NE. Multnomah, Suite 1692, Portland, Oregon 97232 (503/231–6167 or FTS 429–6167).

List of Subjects in 50 CFR Part 21

Exports, Imports, Reporting and recordkeeping requirements, Wildlife.

Regulations Promulgation

Accordingly, subpart D of part 21, subchapter B of chapter I, title 50 of the code of Federal Regulations is amended as set forth below:

PART 21—[AMENDED]

1. The authority citation for part 21 continues to read as follows:

Authority: Migratory Bird Treaty Act, Sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); Sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

2. The introductory paragraph of § 21.43 is revised to read as follows:

§ 21.43 Depredation order for blackbirds, cowbirds, grackles, crows, and magpies.

A Federal permit shall not be required to control yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: *Provided:*

* * * * *

3. The introductory paragraph of § 21.44 is revised to read as follows:

§ 21.44 Depredation order for designated species of depredating birds in California

In any county in California in which horned larks, golden-crowned, white-crowned and other crowned sparrows, and house finches are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his/her general supervision such of the above migratory birds as may be necessary to safeguard any agricultural or

horticultural crop in the country: *Provided:*

* * * * *

Dated: August 21, 1989.

Proposed Rules

Federal Register
Vol. 54, No. 219
Wednesday, November 15, 1989

horticultural crop in the country:
Provided:
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Dated: August 21, 1989.
Richard N. Smith,
Acting Director, Fish and Wildlife Service.
[FR Doc. 89-26762 Filed 11-14-89; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 54, No. 219
Wednesday, November 15, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

[Docket No. AO-160-A65-R01, etc.; DA-89-028]

Milk in the Middle Atlantic and Certain Other Marketing Areas; Tentative Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing S. rvice, USDA.

ACTION: Proposed rules.

7 CFR part	Marketing area	AO Nos.
1004	Middle Atlantic	AO-160-A65-R01.
1001	New England	AO-14-A62-R01.
1002	New York-New Jersey.	AO-71-A77-R01.
1005	Carolina	AO-388-A1-R01.
1006	Upper Florida	AO-356-A27.
1007	Georgia	AO-366-A30.
1011	Tennessee Valley	AO-251-A33.
1012	Tampa Bay	AO-347-A30.
1013	Southeastern Florida.	AO-396-A37.
1030	Chicago Regional.	AO-361-A26.
1032	Southern Illinois-Eastern Missouri.	AO-313-A37.
1033	Ohio Valley	AO-166-A58.
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A53.
1040	Southern Michigan.	AO-225-A40.
1046	Louisville-Lexington-Evansville.	AO-123-A59.
1049	Indiana	AO-319-A36.
1050	Central Illinois	AO-355-A25.
1064	Greater Kansas	AO-23-A58.
1065	Nebraska-Western Iowa.	AO-86-A45.
1068	Upper Midwest	AO-178-A42.
1076	Eastern South Dakota.	AO-260-A28.
1079	Iowa	AO-295-A39.
1093	Alabama-West Florida.	AO-366-A8.
1094	New Orleans-Mississippi.	AO-103-A50.
1096	Greater Louisiana.	AO-257-A37.
1097	Memphis, Tennessee.	AO-219-A44.
1098	Nashville, Tennessee.	AO-184-A53.
1099	Paducah, Kentucky.	AO-183-A43.
1106	Southwest Plains.	AO-210-A49.
1108	Central Arkansas.	AO-243-A40.
1120	Lubbock-Plainview, Texas.	AO-328-A27.
1124	Pacific Northwest.	AO-368-A17.
1126	Texas	AO-231-A57.
1131	Central Arizona	AO-271-A27.
1132	Texas Panhandle.	AO-262-A37.
1134	Western Colorado.	AO-301-A20.
1135	Southwestern Idaho-Eastern Oregon.	AO-380-A7.
1137	Eastern Colorado.	AO-326-A24(corr.).
1138	Rio Grande Valley.	AO-335-A33(corr.).
1139	Great Basin	AO-309-A26(corr.).

SUMMARY: This tentative decision proposes certain changes in those orders that currently provide tentative and final price announcements for Class II milk based on industry proposals considered at a public hearing held August 22, 1989. The current method of announcing a tentative Class II milk price for each month on or before the 15th of the preceding month, with a final Class II milk price for the month being determined and announced on the fifth day of the following month, would be changed. Instead, the Class II milk price announced by the 15th of each month would be the final or effective Class II milk price for the following month. The Class II milk price would not be retroactively revised. The objective of the current pricing arrangement whereby the Class II milk price would be not less than the Minnesota-Wisconsin (M-W) manufacturing grade milk price, or Class III milk price in most Federal orders, would be maintained in principle. Therefore, to the extent that the announced Class II price for a given month is less than the Class III price for that same month, the difference would be included in computing the second succeeding month's Class II milk price.

The Secretary of Agriculture will determine whether producers favor issuance of the amended orders on an interim basis.

DATE: Comments are due on or before December 15, 1989.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administration action is governed by the provisions of Sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendment(s) would reduce the regulatory burden of handlers while minimizing the economic impact on producers.

Prior document in this proceeding:

Notice of Hearing: Issued August 10, 1989; published August 16, 1989 (54 FR 33709).

Recommended Decision: Issued October 31, 1989; published November 8, 1989 (54 FR 46904).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this tentative decision with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and Certain Other Marketing Areas. This notice is issued pursuant to

the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of

principle. Therefore, to the extent that the announced Class II price without adjustment for any prior month is less than the Class III price (or the basic formula price in some orders such as the

1989 (93 months), there have been 22 months when the final Class II price was increased after the month was over due to this feature of the current order provisions. One of the exhibits

announced Class II price and the Class III price for the month would be included in computing the Class II price at the next opportunity. This modification was intended to minimize any impact upon producer returns that

The brief further states that there is nothing in the factors that the Secretary must consider in fixing a price for each classification that allows an increase in a price in a month "* * * just because the producers would have received a

the same advantages as noted by the PFD spokesman.

The proposal submitted by the MIF/IICA, with the modification proposed by NMPF and Agri-Mark, et al., offers a reasonable approach to deal with the

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the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this tentative decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC, 20250, by the 30th day after publication of this decision in the Federal Register. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This proceeding reopened the hearings previously held on proposed amendments to the New England, New York-New Jersey, and Middle Atlantic orders. Similarly, an earlier hearing on a proposed new order for the Carolina marketing area also was reopened in this proceeding. This tentative decision does not include specific findings for those orders. Findings pertaining to Class II prices, if appropriate, will be made in the recommended decisions to be issued for those orders.

The proposed amendmnents set forth below are based on the record of a public hearing held at Alexandria, Virginia, on August 22, 1989, pursuant to a notice of hearing issued August 10, 1989 (54 FR 33709).

The material issue on the record of the hearing relates to:

1. Changing the manner in which the Class II milk price is determined and announced in most Federal milk orders.
2. The need for expedited action to implement the proposed changes as soon as possible.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

1. Changing the Manner in Which the Class II Milk Price is Determined and Announced in Most Federal Milk Orders

The orders involved in this proceeding that now provide for tentative and final Class II price announcements should be amended to provide that the Class II price will be announced on or before the 15th day of the preceding month. Once announced, the Class II price would not be revised. Nevertheless, the objective of the current pricing arrangement, whereby the Class II price would not be less than the Class III price for the month, should be maintained in principle. Therefore, to the extent that the announced Class II price without adjustment for any prior month is less than the Class III price (or the basic formula price in some orders such as the two-class Florida orders) for the month, such difference would be included in computing subsequent months' Class II price

For example, the Class II price for January would be announced on December 15th. On February 5, the January Class III price would be announced. If the January Class II price was less than the Class III price for January, that difference would be included in computing the Class II price for March, which would be announced on February 15. Thus, handlers would pay essentially a Class II price that would be floored by the Class III price. However, if the Class II price is less than the Class III price (or the basic formula price in some orders), the adjustment to reflect this difference would not be returned to producers until they receive payment for milk produced in the second succeeding month. This provision, as adopted herein, reflects the proposal by the Milk Industry Foundation (MIF) and the International Ice Cream Association (IICA), with a modification proposed by the National Milk Producers Federation (NMPF), and by Agri-Mark Inc., Eastern Milk Producers Cooperative Association Inc., and Dairylea Cooperative, Inc. (Agri-Mark, et al.), which are dairy farmer cooperatives.

MIF is a national trade association representing 1,000 dairy processing plants nationwide and accounts for about 80 percent of the fluid milk and related products produced in the United States. IICA is a trade association that represents 210 member companies who distribute about 85 percent of the ice cream and related frozen desserts consumed in the United States. The NMPF is an organization representing most of the dairy farmer cooperatives in the United States.

Handlers who utilize milk in Class II uses, such as cottage cheese, ice cream and yogurt, want to know in advance what the cost of the raw milk will be. It was for this purpose that the orders were amended in 1961 to provide for determination and announcement of a tentative Class II price on the 15th day of the preceding month. However, if the Class III price, which is announced some 50 days later on the fifth day of the following month, is higher than the tentative Class II price, then the Class III price also becomes the final Class II price. In such cases, the final Class II price is not known until after the month is over. From October 1961 through June 1989 (92 months), there have been 22 months when the final Class II price was increased after the month was over due to this feature of the current order provisions. One of the exhibits introduced at the hearing indicates that the increased value of Class II milk due to changes from the tentative Class II prices to the final Class II prices from March 1984 through March 1989 amounted to more than 23.5 million dollars. It is this retroactive price adjustment aspect of the current Class II pricing provisions that handlers proposed to change through this proceeding.

The increases from the tentative Class II prices to the final Class II prices on the 22 occasions noted above have varied from two cents per hundredweight to 74 cents per hundredweight. The reason handlers find these changes to be a burden is because by the time they know how much the increase is, they have already received the milk, made the products, and perhaps priced and sold most of the products to their customers. These factors were cited by all witnesses supporting the MIF/IICA proposal for final forward pricing. Obviously, handlers would much prefer to know their raw product cost before they establish selling prices for the products they make from the milk. The record indicates that handlers believe that they cannot do an effective job of determining product prices to their customers under the current Class II pricing provisions. Moreover, they are unable to recover after-the-fact increases in the prices for Class II milk.

Under the MIF/IICA proposal, when the Class III price for the month is higher than the Class II price announced on the 15th of the preceding month, the difference would be added in future months in increments not to exceed 25 cents per hundredweight for each prior month. This proposed "catch-up" feature is intended to not cause a reduction in producer returns, while at the same time avoiding large month-to-month price increases at times when milk prices are rapidly increasing. The witness testifying on behalf of the MIF/IICA said that it would be desirable to avoid large increases in the Class II prices from month to month. This view was also supproted in testimony by witnesses representing the Borden Company, MorningStar Foods, Inc., Marigold Foods, Inc., the Kroger Co., and Dean Foods, Co.

On the other hand, NMPF and Agri-Mark, et al., separately proposed a modification of the "catch-up" so that the entire difference between the announced Class II price and the Class III price for the month would be included in computing the Class II price at the next opportunity. This modification was intended to minimize any impact upon producer returns that might result from elimination of the final Class II price announcement. With this change, there would be minimal delay in returning to producers the full value of their milk at the prescribed Class II price level. Both the NMPF and Agri-Mark, et al., supported adoption of the MIF/IICA proposal if it was modified as they suggested.

An alternative mechanism for determining the Class II price was proposed by the Milk Foundation of Indiana (MFI). As proposed, the Class II price each month would be the Minnesota-Wisconsin (M-W) price for the second preceding month plus the appropriate differential, such as 10 cents, plus or minus the average difference between the M-W price for the second preceding month and the current month in each of the preceding three years. According to the proponent's spokesman, this method of determining the Class II price would result in less price volatility over time, and would reduce the seasonal distortion of advance pricing. Under this proposal there would be no "catch-up" adjustments.

The proponent's witness supported elimination of retroactive Class II pricing but expressed his view that the MFI proposal represented an effort to retain the current targeted level of price differential, place all class prices on the same price base, lessen the contra-seasonal aspect of advance pricing, and to provide meaningful advance notice of the Class II price. He stated that the proposal would result in a class price that lags below the M-W price if the M-W price increases more sharply in the current year than it increased in the three previous years. He also noted that the resulting price would stay above the M-W price in years where the rate of change is approximately the same or less than in previous years and that the reverse would be true in those months when the M-W price moves are downward. He explained that over the long run this method would yield a return to producers for Class II milk that would average 10 cents over the Class III price.

MFI filed a brief in support of its proposed advanced pricing method. In its brief, MFI urged that any method of computing the Class II price that results from this proceeding should focus on advance notice of a final price and not violate the premise of classified pricing.

The brief further states that there is nothing in the factors that the Secretary must consider in fixing a price for each classification that allows an increase in a price in a month "* * * just because the producers would have received a higher return had their milk gone into a different class use in the previous month than it actual[ly] did." Accordingly, the brief urges the Secretary to adopt proposal No. 2 rather than proposal No. 1 because proposal No. 2 would adhere to those principles and would provide more stable prices than any of the other proposals.

Another alternative approach was suggested by a witness who testified on behalf of Prairie Farms Dairy, Inc. (PFD). While indicating support for elimination of retroactive pricing for Class II milk, he proposed a modified approach that would combine certain aspects of proposals Nos. 1 and 2. Under his proposed modification, the Class II price would be determined using a portion of proposal No. 2, and the adjustment feature of proposal No. 1 would be used to adjust the Class II price in subsequent months if the Class III price for the current month exceeded the Class II price. He stated that this modified approach would have several advantages over either proposal No. 1 or proposal No. 2. In his view, such a provision would eliminate retroactive Class II pricing, be simple and easy to understand, permit announcing all class prices on a single date each month, and have little, if any, effect on returns to producers.

Under PFD'S proposed modification, the Class II price each month would be the M–W price for the second preceding month plus 10 cents. If such price was less than the Class III price for the second preceding month, the difference in increments of 25 cents would be added to the Class II price in subsequent months until the difference was made up. PFD'S representative also testified that perhaps the Class II price should be the Class III price plus as much as 50 cents.

Central Milk Producers Cooperative (CMPC), a federation of 14 cooperatives, whose members collectively price milk to fluid milk buyers regulated under the Chicago Regional milk order, submitted a brief in support of proposals 1 and 2 as proposed to be modified by PFD. In particular, the CMPC brief indicates support for pricing Class II milk at the M–W price for the second preceding month plus 50 cents, plus a single catch-up adjustment if the announced Class II price was less than the Class III price for the month. The brief cites some of the same advantages as noted by the PFD spokesman.

The proposal submitted by the MIF/IICA, with the modification proposed by NMPF and Agri-Mark, et al., offers a reasonable approach to deal with the retroactive pricing problem in the current Class II pricing provisions. First, it does not change the basic method of determining the Class II price level. When the tentative Class II price provisions were adopted, the decision to do so clearly indicated an objective of the proponents to maintain a Class II price level at ten cents above the Class III price.

An analysis of the prices that would have been in effect had the provisions adopted herein been in effect from 1963 through 1988 indicates almost no difference, on an annual basis, from the prices obtained under the current provisions, ranging from a minus five cents per hundredweight in 1988 to no difference in 1983. Due to the "catch-up" feature of the new procedure, there is greater variation when prices under the proposed and current provisions are compared on a monthly basis. However, the basic Class II price level essentially will be maintained while at the same time the problems of retroactive pricing now faced by handlers will be alleviated.

Elimination of the retroactive pricing aspect of the current Class II pricing provisions was recognized as a desirable goal by all participants at the hearing, although one dairy farmer cooperative did oppose the two particular proposals that are under consideration in this proceeding. The National Farmers Organization (NFO), a multi-commodity collective bargaining organization for farmers that operates bargaining and marketing programs for dairy farmers pooled in approximately 21 Federal milk orders, opposed both the MIF/IICA and the MFI proposals. NFO preferred that no changes be made in the current method of Class II milk pricing. An NFO representative expressed the view that the MIF/IICA proposal created extreme fluctuations in the Class II price. He also maintained that the MFI proposed price, by rolling forward for three years the price declines over the last several years, results in a price for Class II milk that was unacceptably low. Simply stated, NFO opposed both proposals on the basis that neither one would yield an acceptable Class II price.

Each of the proposals and proposed modifications of the proposals was analyzed. The current Class II pricing provisions of the orders were intended to yield a Class II price that, over time,

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would approximate the M–W price plus 10 cents, or in some orders, plus 15 cents or 25 cents. It was with this goal in mind that the proposals under consideration in this proceeding were evaluated. The pricing procedure proposed by the MIF/IICA, as proposed to be modified by the NMPF, comes the closest over the period from January 1988 through July 1988, to having provided the same prices as those that were the final Class II prices. Moreover, it is clear that this approach has widespread support within the industry. Certain handler representatives in fact indicated that they had no objection to the modification proposed by the NMPF, even though its application could result in some larger month-to-month price increases than otherwise would have resulted from the MIF/IICA's unmodified proposal.

With the exception of NFO, no other producer representatives expressed opposition to this approach. Even NFO's concern should be somewhat addressed in that producers will receive the full value for their Class II milk with less delay under the provision adopted herein than under any of the other proposals.

Some of the testimony indicated that it is desirable to minimize the size of the month-to-month changes in the prices for Class II milk. From a handler's standpoint, this probably is true. Nevertheless, we see no basis in this record for favoring one proposed method of establishing prices over another just because one has less price variations than another. More particularly, there is no basis here to conclude that there should be more concern in this regard for changes in the Class II price than there is with regard to changes in the Class I and/or Class III prices. Those prices change by whatever amount the Minnesota-Wisconsin price changes from month to month.

Under the provisions adopted herein, if the announced Class II price for a month (before adjustments) is less than the Class III price for that month, the difference (in all but one possible case) would be included in computing the Class II price for the second succeeding month. This reflects a long-standing Class II pricing intent that the value for Class II milk should not be less than the value for Class III milk, the one possible exception would be where the announced Class II price had been lower than the Class III price for the first month that an order to incorporate these proposed amendments would be in effect. In that case, the "catch-up" feature of the provisions adopted herein would not become effective until the second month after its implementation.

The Pacific Northwest order provides that the Class III price will be M–W price, or a butter-powder formula price, whichever is lower. Accordingly, a companion provision provides that if the butter-powder formula price is the Class III price, then the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent that the Class II price would not be less than the Class III price. The order language adopted herein will preserve that price relationship between the Class II and Class III prices.

In one of the briefs filed, a question was raised over whether the factors that must be considered by the Secretary in fixing minimum class prices under an order included pricing to reflect the milk's value has it been used differently in a preceding month. We think this question misses the mark in its focus on pricing milk as if it had been used in another class. What is intended here is that the pricing method still places the same value on Class II milk as before, but it may delay passing some of that value to producers until a subsequent month. What will happen is that the value of the Class II milk each month will be based on the price announced on the 15th day of the preceding month. In addition, the pooled value may include an additional amount to reflect the fact the price announced on the 15th of an even earlier month failed to provide the intended Class II price level. It is true that the dollars involved might not come out exactly the same because there are some variations in the volumes of Class II milk from month to month. Nevertheless, such variations are expected to be small, and the value differences even smaller. We believe that the provisions adopted herein achieve the intent to eliminate retroactive Class II milk pricing, while at the same time preserving the basic concept of pricing Class II milk that now is reflected in the orders.

NFO's brief restated its objections to adoption of either of the proposals included in the hearing notice. NFO also opposed any expedited action in this proceeding, and urged again that no action be taken until the proposal that it submitted for consideration, and possibly others, have been included in a supplemental hearing notice and all such proposals have been heard. The brief further states that price timing, price level, and price are inextricably interwoven and that the Secretary cannot have a full record to establish "price timing" without testimony about the price level. NFO's brief also asked that official notice be taken of the Federal Court proceeding, including the Judge's decision, in *NFO* v. *Lyng*, No. 86–1718 (D.C.D.C.).

Prior to the announcement of the hearing held in this proceeding, NFO and others submitted additional proposals that they wanted to have included in the Notice. NFO and Farmers Union Milk Marketing Cooperative, for example, proposed that the Class II milk price be established at a price level $.00 to $1.00 over the second preceding month's M-W price. Several other proposals were received, including some proposals to change the uses of milk that would be identified as Class II utilization.

In response, we would point out that although these other proposals, including those submitted by NFO, were not included in the notice for this proceeding, they remain under consideration for possible inclusion in a hearing notice if it is determined that another hearing should be held on a broader range of Class II issues. This being the case, we see no reason why it would be helpful to take Official Notice of a court proceeding that has no immediate bearing on the issues before the Secretary in this proceeding. Accordingly, the request for Official Notice is denied.

2. The Need for Expedited Action to Implement the Proposed Changes as Soon as Possible

At the hearing, and in subsequent requests, the proponents and other interested parties requested that the proposed amendments be implemented as soon as possible to avoid a recurrence of the Class II milk pricing situation that occurred in the fall months of 1988. Since the hearing was held, the M-W price has increased by larger amounts than predicted by the formula that the orders provide for determining the tentative Class II milk prices. As a result, the final Class II milk prices for September and October 1989 were 52 cents per hundredweight and 49 cents per hundredweight, respectively, higher than the announced tentative Class II prices. Official notice is hereby taken of the tentative Class II prices and the final Class II prices announced by the market administrators of the affected orders for the months of September and October 1989.

The procedure adopted herein accommodates the wishes of interested parties involved in this proceeding on the issue of expeditious handling. The possibility of further price increases as described above warrants the issuance of a tentative decision. This procedure will implement the proposed changes in the Class II price procedure on an interim basis at the earliest possible date and also give interested parties an opportunity to file exceptions to the tentative final decision and, thereby, assist in the Department's rulemaking process.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The interim marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the interim marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The interim marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Interim Marketing Agreement and Interim Order Amending the Orders

Annexed hereto and made a part hereof are two documents, an Interim Marketing Agreement regulating the handling of milk and an Interim Order amending the orders regulating the handling of milk in the aforesaid marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire tentative decision and the two documents annexed hereto, be published in the Federal Register.

Determination of Producer Approval and Representative Period

August 1989 (except July 1989 for the Chicago Regional and Upper Midwest marketing areas) is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid marketing areas, except the Eastern Ohio-Western Pennsylvania, Louisville-Lexington-Evansville, Alabama-West Florida, and Nashville, Tennessee, marketing areas is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

Referendum Order to Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agents

It is hereby directed that referendums be conducted and completed on or before the 15th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300–900.311), to determine whether the issuance of the orders as amended and as hereby proposed to be amended by an interim order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania, Louisville-Lexington-Evansville, Alabama-West Florida, and Nashville, Tennessee, marketing areas are approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

The representative period for the conduct of such referendums is hereby determined to be August 1989.

The agents of the Secretary to conduct such referendums are hereby designated to be C. Mack Endsley (Eastern Ohio-Western Pennsylvania), Arnold M. Stallings (Louisville-Lexington-Evansville, and Nashville, Tennessee), and Dormal Newberry (Alabama-West Florida).

List of Subjects in 7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1065, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1080, 1094, 1095, 1097, 1098, 1106, 1108, 1126, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC on November 8, 1989.

Jo Ann R. Smith,

Assistant Secretary for Marketing and Inspection Services.

Interim Order Amending the Orders, Regulating the Handling of Milk in Certain Specified Marketing Areas

This interim order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at the hearing and the record hereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of

feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas; and the minimum prices specified in the orders as hereby amended are

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula

section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the

Class II price for the following month computed pursuant to § 1030.50(b).

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI

§ 1033.51 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the

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feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas; and the minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

1. The authority citation for CFR Parts 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139 continues to read as follows:

Authority: Secs 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

2. In § 1006.50(b), the introductory text is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

3. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1006.50(b).

PART 1007—MILK IN THE GEORGIA MARKETING AREA

4. In § 1007.50(b), the introductory text is revised to read as follows:

§ 1007.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1007.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraph (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

5. Section 1007.53 is revised to read as follows:

§ 1007.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1007.50(b).

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

6. In § 1011.50(b), the introductory text is revised to read as follows:

§ 1011.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1011.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraph (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

7. Section 1011.53 is revised to read as follows:

§ 1011.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1011.50(b).

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

8. In § 1012.50(b), the introductory text is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

9. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1012.50(b).

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

10. In § 1013.50(b), the introductory text is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the Class II price for the second preceding month was less than the Class III price for the second preceding month.

* * * * *

11. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1013.50(b).

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

12. In § 1030.50(b), the introductory text is revised to read as follows:

§ 1030.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1030.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraph (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

13. Section 1030.53 is revised to read as follows:

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1030.50(b).

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

14. In § 1032.50(b), the introductory text is revised to read as follows:

§ 1032.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1032.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

15. Section 1032.53 is revised to read as follows:

§ 1032.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1032.50(b).

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

16. In § 1033.27, paragraphs (k)(1) and (k)(3) are revised to read as follows:

§ 1033.27 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class III price for the preceding month;

(iii) The butterfat differential for the preceding month;

* * * * *

(3) The 15th day of each month, the Class II price for the following month computed pursuant to § 1033.51(b).

* * * * *

17. In § 1033.51(b), the introductory text is revised to read as follows:

§ 1033.51 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

18. In § 1036.50(b), the introductory text is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

19. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1036.50(b).

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

20. In § 1040.50(b), the introductory text is revised to read as follows:

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§ 1040.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month

* * * * *

21. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class II price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1040.50(b).

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

22. In § 1046.50(b), the introductory text is revised to read as follows:

§ 1046.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1046.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

23. Section 1046.53 is revised to read as follows:

§ 1046.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1046.50(b).

PART 1049—MILK IN THE INDIANA MARKETING AREA

24. In § 1049.50(b), the introductory text is revised to read as follows:

§ 1049.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1049.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

25. Section 1049.53 is revised to read as follows:

§ 1049.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1049.50(b).

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

26. In § 1050.50(b), the introductory text is revised to read as follows:

§ 1050.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II forumla price computed pursuant to § 1050.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

27. Section 1050.53 is revised to read as follows:

§ 1050.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1050.50(b).

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

28. In § 1064.50(b), the introductory text is revised to read as follows:

§ 1064.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1064.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

29. Section 1064.53 is revised to read as follows:

§ 1064.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1064.50(b).

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

30. In § 1065.50(b), the introductory text is revised to read as follows:

§ 1065.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1065.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

31. Section 1065.53 is revised to read as follows:

§ 1065.53 Announcement of class prices.

The market adminstrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1065.50(b).

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

32. In § 1068.50(b), the introductory text is revised to read as follows:

§ 1068.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1068.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

33. Section 1068.53 is revised to read as follows:

§ 1068.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1068.50(b).

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

34. In § 1076.50(b), the introductory text is revised to read as follows:

§ 1076.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1076.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

35. Section 1076.53 is revised to read as follows:

§ 1076.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1076.50(b).

PART 1079—MILK IN THE IOWA MARKETING AREA

36. In § 1079.50(b), the introductory text is revised to read as follows:

§ 1079.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1079.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

37. Section 1079.53 is revised to read as follows:

§ 1079.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1079.50(b).

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

38. In § 1093.50(b), the introductory text is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1093.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

39. Section 1093.53 is revised to read as follows:

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1093.50(b).

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

40. In § 1094.50(b), the introductory text is revised to read as follows:

§ 1094.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1094.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

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41. Section 1094.53 is revised to read as follows:

§ 1094.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1094.50(b).

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

42. In 1096.50(b), the introductory text is revised to read as follows:

§ 1096.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1096.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

43. Section 1096.53 is revised to read as follows:

§ 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1096.50(b).

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

44. In § 1097.50(b), the introductory text is revised to read as follows:

§ 1097.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II Formula price computed pursuant to § 1097.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

45. Section 1097.53 is revised to read as follows:

§ 1097.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1097.50(b).

PART 1098—MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

46. In § 1098.50(b), the introductory text is revised to read as follows:

§ 1098.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1098.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

47. Section 1098.53 is revised to read as follows:

§ 1098.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1098.50(b).

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

48. In § 1099.50(b), the introductory text is revised to read as follows:

§ 1099.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1099.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

49. Section 1099.53 is revised to read as follows:

§ 1099.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1099.50(b).

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

50. In § 1106.50(b), the introductory text is revised to read as follows:

§ 1106.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1106.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

51. Section 1106.53 is revised to read as follows:

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1106.50(b).

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

52. In § 1108.50(b), the introductory text is revised to read as follows:

§ 1108.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1108.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

53. Section 1108.53 is revised to read as follows:

§ 1108.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1108.50(b).

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEXAS MARKETING AREA

54. In § 1120.50(b), the introductory text is revised to read as follows:

§ 1120.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1120.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

55. Section 1120.53 is revised to read as follows:

§ 1120.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1120.50(b).

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

56. In § 1124.50(b), the introductory text is revised to read as follows:

§ 1124.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

57. Section 1124.53 is revised to read as follows:

§ 1124.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1124.50(b).

PART 1126—MILK IN THE TEXAS MARKETING AREA

58. In § 1126.50(b), the introductory text is revised to read as follows:

§ 1126.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1126.51(a) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

59. Section 1126.53 is revised to read as follows:

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1126.50(b).

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

60. In § 1131.50(b), the introductory text is revised to read as follows:

§ 1131.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1131.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

61. Section 1131.53 is revised to read as follows:

§ 1131.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1131.50(b).

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

62. In § 1132.50(b), the introductory text is revised to read as follows:

§ 1132.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The

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Class II price shall be the basic Class II formula price computed pursuant to § 1132.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

63. Section 1132.53 is revised to read as follows:

§ 1132.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1132.50(b).

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

64. In § 1134.50(b), the introductory text is revised to read as follows:

§ 1134.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

65. Section 1134.53 is revised to read as follows:

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1134.50(b).

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

66. In § 1135.50(b), the introductory text is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

67. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1135.50(b).

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

68. In § 1137.50(b), the introductory text is revised to read as follows:

§ 1137.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

69. Section 1137.53 is revised to read as follows:

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1137.50(b).

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

70. In § 1138.50(b), the introductory text is revised to read as follows:

§ 1138.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1138.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III for the second preceding month.

* * * * *

71. Section 1138.53 is revised to read as follows:

§ 1138.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1138.50(b).

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

72. In § 1139.50(b), the introductory text is revised to read as follows:

§ 1139.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III for the second preceding month.

* * * * *

73. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class and component prices.

The market administrator shall announce on or before:

(a) The 5th day of each month, the Class I price for the following month;

(b) The 15th of each month, the Class II price for the following month computed pursuant to § 1139.50(b); and

(c) The 5th day after the end of each month, the Class III price and the prices for butterfat, milk protein and skim milk computed pursuant to § 1139.50 (d), (e) and (f) for each month.

PARTS 1001, 1002, 1004 and 1005

There are no proposed provisions applicable to 7 CFR parts 1001, 1002, 1004 and 1005 at this time.

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ ___.[1] ___ to _____, all inclusive, of the order regulating the handling of milk in the (name of order) marketing area (7 CFR part ___.[2] _____) which is annexed hereto; and

II. The following provisions:

§ ___.[2] ___ Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he handled during the month of _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ ___.[2] ___ Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with § 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

(Signature)

(Seal)

By (Name) (Title)

(Address)
Attest
Date

[FR Doc. 89-26751 Filed 11-14-89; 8:45 am]

BILLING CODE 5410-02-M

[1] First and last sections of order.
[2] Appropriate part number.
[3] Next consecutive section number.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket No. HM-198A, Notice No. 89-6]

Elevated Temperature Materials; Extension of Comment Period

AGENCY: Research and Special programs Administration (RSPA), DOT.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On September 21, 1989, RSPA published a notice of proposed rulemaking (NPRM) in the Federal Register, which invited public comment on a proposal to regulate materials which pose a hazard in transportation due to their elevated temperatures (Docket HM-198A, Notice No. 89-6, 54 FR 38930). RSPA has received several requests from petitioners seeking an extension of the comment period in order to have more time to evaluate the proposals contained in the NPRM. RSPA concurs with the requests and is extending the comment period by 90 days.

DATES: The closing date for filing comments is extended from November 20, 1989, to February 20, 1990.

ADDRESS: Address comments to Dockets Unit (DHM-30), Office of Hazardous Materials Transportation, RSPA, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 am to 5:00 pm Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: Beth Romo, Standards Division, (202) 366-4488, or James K. O'Steen, Technical Division, (202) 366-4545, Office of Hazardous Materials Transportation, 400 Seventh St SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On September 21, 1989, RSPA pbulished a notice of proposed rulemaking in the Federal Register (Docket HM-198A, Notice No. 89-6, 54 FR 38930). The NPRM invited public comment on a proposal to regulate materials which pose a harzard due to their elevated temperatures while transported. RSPA has received petitions from Shell Oil Company, the Aluminum Recyclers Association, the Asphalt Insitute, and the Aluminum Association citing the potential impact of the proposal on a number of diverse organizations and industries, many of whom manufacture and ship materials currently not subject to the Hazardous Materials Regulations. The petitioners requested additional time to evaluate the proposal contained in the NPRM. RSPA agrees additional time should be allowed and is granting an extension of 90 days for submitting comments.

Issued in Washington, DC on November 8, 1989, under authority delegated in 49 CFR part 106, Appendix A.

Alan I. Roberts,

Director, Office of hazardous Materials Transportaton.

[FR Doc. 89-26722 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-60-M

BEST COPY AVAILABLE

Notices

Federal Register
Vol. 54, No. 219
Wednesday, November 15, 1989

1989 certifying that the Phase 2 maps are being developed in a nonpartisan manner. If such a letter is not received by this date, the Bureau of the Census will not begin entering the voting district

[A-588-021]

International Trade Administration

Cell-Site Transceivers and Related Subassemblies From Japan; Final

subassemblies which are part of the radio frequency (RF) equipment in the base station of a cellular radio communications system. This single-package equipment functions as a

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 10, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg. Washington, DC 20250, (202) 447–2118.

Revision

- Food and Nutrition Service
  Child Nutrition Program Operations Study
  None
  One-time data collection
  State or local governments; Non-profit institutions; 2,471 responses; 1,240 hours; not applicable under 3504(h)
  John Endahl (703) 756–3115
- Economic Research Service
  Agricultural Land Values & Markets Survey
  None
  Quarterly; Annually
  Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 21,360 responses; 3,965 hours; not applicable under 3504(b)
  Roger Hexem (202) 786–1422

Extension

- Food Nutrition Service
  Coupon Account and Destruction Report
  None
  Monthly
  State or local governments 78,888 responses; 22,971 hours; not applicable under 3504(h)
  David Walters 703 756–3385

Reinstatement

- Farmers Home Administration
  7 CFR 1951–E, Servicing of Community Program Loans and Grants 1951–33, 1951–15
  On occasion
  State or local governments; Non-profit institutions; 180 responses; 120 hours; not applicable under 3504(h)
  Jack Holston (202) 382–9736

New Collection

- Food and Nutrition Service
  Food Distribution Commodity Acceptability Report FNS–663
  Semi-Annually; Annually
  State or local governments; 758 responses; 15,898 hours; not applicable under 3504(h)
  Dale Wingo (703) 756–3544
- Food and Nutrition Service
  Storage and Distribution Costs—Temporary Emergency Food Assistance Program
  FNS–666
  Quarterly
  State or local governments; 275 responses; 963 hours; not applicable under 3504(h)
  Chris Lipsey (703) 756–3048

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 89–26850 Filed 11–14–89; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

1990 Census Public Law 94–171 Program

This notice provides information for the officers or public bodies having initial responsibility for legislative apportionment or districting of each state.

In order to ensure full compliance with the requirements of Public Law 94–171 (13 United States Code 141(c)), the Bureau of the Census is requesting certification from governors and legislative leaders in all states participating in Phase 2 of the 1990 Census Public Law 94–171 Program that the Phase 2 Census Block Maps are being developed in a nonpartisan manner. Moreover, the Bureau of the Census plans to distribute population counts and completed maps by April 1, 1991 to state officials in a nonpartisan manner.

Requests for certification have been sent to the governor and leaders of the majority and minority parties in the House and Senate of each state, as well as the individual(s) designated by state officials as the liaison responsible for working with the Bureau of the Census on this program. Copies of such letters are available on request from the Director, Bureau of the Census, Washington, DC 20233.

Under the provisions of Public Law 94–171, the Bureau of the Census must provide each state with 1990 census population counts for legislative redistricting. In addition to counts by standard geographic areas (counties, minor civil or census county divisions, incorporated places, census tracts, census blocks nationwide, and so forth), the Census Bureau will provide population counts by voting district in participating states by aggregating data for census blocks within those voting districts that meet the criteria issued by the Census Bureau for this program.

The Bureau of the Census is requesting that the above-referenced state officials send a single, jointly signed letter to the Director of the Bureau of the Census by November 30, 1989 certifying that the Phase 2 maps are being developed in a nonpartisan manner. If such a letter is not received by this date, the Bureau of the Census will not begin entering the voting district designations for any maps returned and thus cannot ensure timely reporting of population counts for such precincts. Any questions or issues relating to this requirement should be directed to Marshall Turner, Chief, 1990 Census Redistricting Data Office at 301–763–3856.

A similar letter jointly signed by the same individuals must be forwarded along with the final submission of maps. If such a letter is not provided, the state will not receive population counts on April 1, 1991 for the voting districts designated on any maps completed and sent to the Bureau of the Census. Instead, the Bureau of the Census will provide population data to the state by the standard geographic units and census blocks.

The Bureau of the Census urges state officials to cooperate fully in marking the Phase 2 maps in a nonpartisan manner. If any of the above-referenced state officials are denied access to the Phase 2 maps, the Bureau of the Census will, where necessary, provide copies of the unmarked maps upon written request by such leader. Any request for copies of maps must be received by November 30, 1989. Such additional maps will be provided for information purposes, as the Bureau of the Census can accept only one set of precinct designations.

The Bureau of the Census will also disseminate both the population counts and the completed state block maps by April 1, 1991 in a nonpartisan manner. As indicated above, however, counts will not be reported by voting districts if the Phase 2 maps were not returned on time or were not accompanied by the certifying letters referenced above. Participation by a state in the Public Law 94–171 Program is voluntary, and a state may choose to limit its participation to only selected counties. General questions concerning the program should be addressed to the Director, Bureau of the Census, Washington, DC 20233.

Dated: November 8, 1989.

C.L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 89–26818 Filed 11–14–89; 8:45 am]

BILLING CODE 3510–07–M

[A-588-021]

International Trade Administration

Cell-Site Transceivers and Related Subassemblies From Japan; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation of antidumping duty order.

SUMMARY: On July 11, 1989, the Department of Commerce published the preliminary results of its administrative review and intent to revoke of the antidumping order on cell-site transceivers and related subassemblies from Japan. The review covers one manufacturer/exporter of Japanese cell-site transceivers and related subassemblies to the United States and the period January 1, 1988 through July 28, 1988. There were no known shipments of this merchandise to the United States and there were no known unliquidated entries.

We gave interested parties an opportunity to comment on our preliminary results of review and intent to revoke. We received no comments, and our final results are unchanged from those presented in our preliminary results of review. These final results cover up to the date of our tentative determination to revoke the antidumping duty order on cell-site transceivers and related subassemblies from Japan.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4195/2923.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 29077) the preliminary results of its administrative review and intent to revoke on cell-site transceivers and related subassemblies from Japan. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are cell-site transceivers and related subassemblies which are part of the radio frequency (RF) equipment in the base station of a cellular radio communications system. This single-package equipment functions as a locating receiver and provides simultaneous two-way voice and data communications between the base station and the subscriber's mobile telephone by using different frequencies to transmit and receive. Subassemblies are an assemblage of parts dedicated for use in cell-site transceivers as defined above. During the review period such merchandise was classifiable under "Tariff Schedules of the United States Annotated" item numbers 685.2810 and 685.2820. Such merchandise is currently classified under HTS item numbers 8525.20.15, 8525.20.20, and 8525.20.30. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of this merchandise to the U.S., Kokusai Electric Company, Ltd. ("Kokusai"), and the period January 1, 1988 through July 28, 1988. There were no known shipments by Kokusai of this merchandise to the United States during the period and there are no known unliquidated entries.

Final Results of Review and Revocation of the Antidumping Order

We invited interested parties to comment on the preliminary results of review and intent to revoke. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

In accordance with § 353.54 of our 1988 Regulations we are revoking the antidumping duty order. The revocation applies to all unliquidated entries of this merchandise of Japanese origin entered, or withdrawn from warehouse for consumption after July 28, 1988, the date of our tentative determination to revoke the order.

This administrative review, revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54) (1988).

Dated: November 6, 1989.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89–26819 Filed 11–14–89; 8:45 am]

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[A-201-601]

Preliminary Determination of Sales at Less Than Fair Value; Certain Steel Pails From Mexico

AGENCY: Import Administration, International Trade, Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain steel pails from Mexico (hereinafter steel pails) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of steel pails from Mexico as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by January 22, 1990.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–4136 and 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that steel pails from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (54 FR 26825, June 26, 1989), the following events have occurred:

On July 17, 1989, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Mexico of steel pails (54 FR 31090, July 26, 1989).

On July 14, 1989, the Department presented its questionnaire to Envases de Plastico, S.A. de C.V. (Envases). This company accounted for virtually all of the exports of the subject merchandise from Mexico to the United States during the period of investigation. We received responses on July 31 and August 28, 1989.

The Department issued deficiency letters to Envases on August 14 and September 11, 1989. We received the supplements[1] responses on August 28 and September 25, 1989, including revised computer tapes on the latter date. Additional revised computer tapes were submitted on October 6, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Prior to January 1, 1989, certain steel pails were classified under item 640.3020 of the "Tariff Schedules of the United States Annotated" (TSUSA). This merchandise is currently classifiable under HTS subheadings 7310.21.00 and 7310.29.00.

The scope of this investigation includes certain steel pails from Mexico which are cylindrical containers of steel, with a volume (capacity) of 1 through 7 gallons, an outside diameter of 11¼ inches or greater, and a wall thickness of 29–22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

The preceding description contains a minor clarification of the scope as published in our notice of initiation.

Period of Investigation

The period of investigation is January 1, 1989 through June 30, 1989.

Such or Similar Comparisons

We have determined that all of the steel pails covered by the investigation constitute one such or similar category.

Product comparisons were made on the basis of the following criteria, listed in order of importance: volume (capacity), steel gauge, type of opening, interior lining, fittings and lithography.

Where there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. We made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act.

Envases contends that in addition to the above criteria, the Department should match U.S. sales with home market sales of comparable quantities, as provided for in § 353.55 of the Department's regulations published in the **Federal Register** on March 26, 1989 (54 FR 12742) (to be codified at 19 CFR 353.55). To that end, Envases argues that the Department should only make its product comparisons within groups consisting of sales to large volume customers and sales to small volume customers, as defined by Envases. Product matching within sales volume categories would take precedence over matches for physical characteristics.

For purposes of the preliminary determination, we have not taken into account the customer sales volume categories identified by Envases because the categorization of its customers in the sales listing appears inconsistent with Envases' narrative explanation of its pricing policies with respect to large and small volume customers. In addition, Envases has not demonstrated that any price differential between large and small volume customers is wholly or partly due to any differences in quantities sold to these customers.

For these reasons, we have made product comparisons based solely on the physical characteristics of the products. However, we will examine the issue of sales volume categories further at verification and will consider it for purposes of the final determination.

Fair Value Comparisons

To determine whether sales of steel pails from Mexico to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

As provided for in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, where the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated purchase price based on CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates, brokerage and handling, foreign inland freight, and U.S. inland freight, in accordance with section 772(d)(2) of the Act.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we used exporter's sales price (ESP) to represent the United States price, as provided for in section 772(c) of the Act. We calculated ESP based on CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates, commissions, foreign inland freight, brokerage and handling, U.S. inland freight, credit expenses, and indirect U.S. selling expenses.

We recalculated the indirect selling expenses reported by Envases on ESP sales to allocate them on the basis of U.S. sales value, rather than sales volume. We based the unit price in this recalculation on the gross price net of rebates.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on home market sales. We calculated foreign market value based on the packed, delivered prices to unrelated customers in Mexico. We made deductions, where appropriate, for inland freight and rebates. We deducted home market packing costs and added U.S. packing costs.

On comparisons involving purchase price sales, we added U.S. commissions to the foreign market value and subtracted home market indirect selling expenses up to the amount of the commission paid on U.S. sales, in accordance with § 353.56(b)(1) of the Department's regulations. We made a circumstance of sale adjustment for differences in credit terms.

On comparisons involving ESP sales, we deducted credit expenses. We also deducted indirect selling expenses, in accordance with § 353.56(b)(2) of the Department's regulations.

Where appropriate, we made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

Because Envases' claimed credit expenses reported in the sales listing did not consistently equal an amount based on the formula reported in the questionnaire response, we recalculated the imputed credit expense. Our recalculation used the formula contained in the questionnaire response, basing unit price on the gross price to the unrelated customer.

Similarly, Envases' claimed inventory carrying expenses did not consistently equal an amount based on the formula reported in the questionniare response. We recalculated this expense according to the formula contained in the questionnaire response, basing unit price on the gross price to the unrelated customer.

We recalculated the indirect selling expenses reported by Envases on home market sales to allocate them on the basis of sales value, rather than sales volume. We based the unit price in this recalculation on the gross price net of rebates.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the period of investigation. In place of the official certified rates, we used the average monthly exchange rates in the controlled market published by the International Monetary Fund as best information available.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of steel pails, as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of steel pails exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Envases de Plastico, S.A. de C.V.	67.71
All others	67.71

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the latter of 120 days after the date of this determination, or 45 days after the Department makes its final determination, if affirmative.

Public Comment

In accordance with § 353.38 of the Commerce Department's regulations, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than December 29, 1989, and rebuttal briefs no later than January 5, 1990. In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at 10:00 a.m. on January 9, 1990, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099 within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with § 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Dated: November 7, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–26820 Filed 11–14–89; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

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ACTION: Modification No. 1 to Permit No. 675 (P440).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (2) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and § 220.24 of the Regulations Governing Endangered Species (50 CFR parts 217–222), Scientific Research Permit No. 675 issued to Department of Health & Human Services, Section of Genetics, Building 560, room 21–105, National Cancer Institute, Frederick, Maryland 21701–1013 on August 4, 1989 (54 FR 35220) is modified as follows:

Section A.1. is revised to read:

1. Up to 400 humpback whales (*Megaptera novaeangliae*) may be taken by harassment, including photoidentification and the collection of skin biopsies in the territorial waters of the United States, including the coastal waters of the continental U.S., Alaska, Hawaii, the Mariana Islands, and the Antarctic continent for a 5-year period.

This modification is effective upon publication in the **Federal Register**.

Documents submitted in connection with the above application are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910;
Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;
Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;
Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;
Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702;
Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415; and
Administrator, Western Pacific Program Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, room 106, Honolulu, Hawaii 96822–2396.

Dated: November 7, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–26761 Filed 11–14–89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in India

November 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending a limit and restraint period.

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6494. For information on embargoes and quota re-openings, call (202) 377–3715.

For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice published in the **Federal Register** on September 8, 1989 (54 FR 37354) announced the establishment of a limit for man-made fiber trousers, breeches and shorts in Categories 647/648 for the ninety-day consultation period which began on July 31, 1989 and extends through October 28, 1989.

Inasmuch as consultations have not yet been held with the Government of India on a mutually satisfactory solution and the consultation period expires on October 28, 1989, the United States has decided to establish a prorated limit for Categories 647/648 for the period July 31, 1989 through December 31, 1989.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of India, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 37354, published on September 8, 1989.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 5, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of man-made fiber textile products in Categories 647/648, produced or manufactured in India and exported during the ninety-day period which began on July 31, 1989 and extends through October 28, 1989.

Effective on November 17, 1989, you are directed to amend the September 5, 1989 directive to extend the restraint period for Categories 647/648 through December 31, 1989 at an increased level of 150,625 dozen.[1]

Import charges already made to Categories 647/648 for the ninety-day period shall be retained. Additional charges will be made as data become available.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26825 Filed 11–14–89; 8:45 am]

BILLING CODE 3510-DR-M

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Macau

November 9, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6495. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements has decided to establish a limit for cotton and man-made fiber textile products in Category 239 in Group I.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 51297, published on December 21, 1988.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 16, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 17, 1989, the directive of December 16, 1988 is amended further to establish a limit of 93,387 kilograms [1] for cotton and man-made fiber textile products in Category 239, Category 239 shall remain subject to the Group I limit.

Imports already charged to Group I for Category 239 shall be applied to the limit established in this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26826 Filed 11–14–89; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after June 30, 1989.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 8, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6496. For information on embargoes and quota reopenings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for shift and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49901, published on December 12, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 8, 1989

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of December 6, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 8, 1989, the directive of December 6, 1988 is amended to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Malaysia:

Category	Adjusted 12-month limit [1]
Fabric Group 218, 219, 220, 225–227, 313–315, 317, 326 and 613/614/615/617, as a group.	60,174,251 square meters.
Group II 201, 222–224, 229, 239, 330, 332, 349, 350, 352–354, 359–362, 369–O [2], 400–434, 436, 438—O [2], 439, 440, 443, 444, 447, 448, 459, 464–469, 600–603, 606, 607, 611, 618–622, 624–630, 632, 633, 643, 644, 649, 650, 652–654, 659, 665–670, 831–834, 836, 838, 839, 840, and 843–859, as a group.	27,858,271 square meters equivalent.
Other Specific Limits	
237	235,013 dozen.
333/334/335/835	151,796 dozen of which not more than 70,225 dozen shall be in Category 333, not more than 70,225 dozen shall be in Category 334, not more than 70,225 dozen shall be in Category 335 and not more than 70,225 dozen shall be in Category 835.
336/636	272,687 dozen.
338/339	676,056 dozen.
340/640	817,475 dozen.
341/641	1,132,863 dozen of which not more than 364,096 dozen shall be in Category 341.
342/642/842	258,820 dozen.
345	97,033 dozen.
347/348	271,609 dozen.
351/651	175,955 dozen.
445/446	31,385 dozen.
634/635	528,740 dozen of which not more than 207,866 dozen shall be in Category 635.
638/639	294,832 dozen.
645/646	203,610 dozen.

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Category	Adjusted 12-month limit [1]
647/648	1,136,463 dozen of which not more than 782,969 dozen shall be in Category 647-K [4] and not more than 782,969 dozen shall be in Category 648-K [5].

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.
[2] In Category 369-O, all HTS numbers except 6307.10.2005 in Category 369-S.
[3] In Category 438-O, only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.3020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.0072, 6114.10.0020 and 6117.90.0024.
[4] In Category 647-K, only HTS numbers 6103.23.0040, 6103.29.1020, 6103.43.1520, 6103.43.1540, 6103.49.1020, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060, 6113.00.0045, 6103.23.0045, 6103.29.1030, 6103.43.1550, 6103.43.1570 and 6103.49.1060.
[5] In Category 648-K, only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2010, 6104.69.2020, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0050 and 6117.90.0046.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26827 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

November 8, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6735. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain levels in Group I are being adjusted, variously, for swing, carryover, carryforward and carryforward used. The adjusted level for Category 634 includes a correction to a previous adjustment (see 54 FR 28831, published on July 10, 1989).

A description of the textile and apparel categories in terms of HTS numbers in available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49343, published on December 7, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 8, 1989

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 9, 1989, the directive of December 2, 1988 is being amended to adjust the limits for the following categories, under the terms of the current bilateral textiles agreement between the Governments of the United States and the Philippines:

Category	12-month limit [1]
Levels in Group I	
237	613,123 dozen.
239	6,484,333 kilograms.
335	150,797 dozen.
338/339	1,582,029 dozen.
340/640	796,941 dozen of which not more than 372,388 dozen shall be in Categories 340-Y/640-Y. [2]
347/348	1,382,026 dozen.
369-S [3]	193,347 kilograms.
445/446	29,657 dozen.
604	784,468 kilograms.
631	2,547,069 dozen pairs.
634	272,992 dozen.
635	293,428 dozen.
636/639	1,146,072 dozen.
643	422,359 numbers.
647/648	687,646 dozen.
659-H [4]	721,672 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.
[2] In Categories 340-Y/640-Y, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060 in Category 340-Y; and 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060 in Category 640-Y.
[3] In Category 369-S, only HTS number 6307.10.2005.
[4] In Category 659-H, only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26828 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

November 9, 1989

AGENCY: Committee for the Implementation of Textile Agreement (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6735. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (U.S.C. 1854).

A copy of the current bilateral agreement between the Governments of the United States and the Philippines is available from the Textiles Division, Bureau of Economic and Business

Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S. C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Agreement of March 4, 1987, as amended, between the Governments of the United States and the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in the Philippines and exported during the period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following levels of restraint:

Category	12-month restraint limit
Group I	
237	1,191,061 dozen.
239	6,391,091 kilograms.
331	893,262 dozen pairs.
333/334	165,930 dozen of which not more than 23,820 dozen shall be in Category.
335	108,004 dozen.
336	393,035 dozen.
338/339	1,310,118 dozen.
340/640	704,152 dozen of which not more than 387,288 dozen shall be in shirts made with two or more colors in the warp and/or filling in Categories 340-Y/640-Y. [1]
341/641	623,188 dozen.
342/642	327,595 dozen.
345	101,236 dozen.
347/348	1,191,016 dozen.
351/651	357,305 dozen.
352/652	1,429,219 dozen.
369-S [2]	513,225 kilograms.
431	156,091 dozen pairs.
433	4,137 dozen.
443	24,409 numbers.
445/446	25,364 dozen.
447	8,121 dozen.
604	1,200,214 kilograms.
631	2,917,989 dozen pairs.
633	21,905 dozen.
634	261,898 dozen.
635	260,063 dozen.
636	1,024,274 dozen.
638/639	1,345,848 dozen
643	523,216 numbers.
645/646	578,813 dozen.
647/648	716,849 dozen.
649	4,933,062 dozen.
650	61,814 dozen.
659-H [3]	648,282 kilograms.
Group II	
200, 201, 218-229, 300-326, 330, 332, 349, 350, 353, 354, 359, 360-363, 369-O, [4] 400, 410, 414, 432, 434-442, 444, 448, 459, 464-469, 500-503, 505-529, 630, 632, 644, 653, 654, 659-O, [5] 665-670 and 831-859, as a group.	84,161,164 square meters equivalent.

[1] In Categories 340-Y/640-Y, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060 in Category 340-Y; and 6205.30.2010,6205.30.2020, 6205.30.2050 and 6205.30.2060 in Category 640-Y.
[2] In Category 369-S, only HTS number 6307.10.2005.
[3] In Category 659-H, only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.9060.
[4] In Category 369-O, all HTS numbers except 6307.10.2005 in Category 369-S.
[5] In Category 659-O, all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.8060 in Category 659-H.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and the Philippines.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementaton of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking rovisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementaton of Textile Agreements.

[FR Doc 89-26829 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Socialist Republic of Romania

November 9, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Socialist Republic of Romania agreed to increase the current limit for Categories 433/434 to conform with the Harmonized System.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50439, published on December 15, 1988.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports

numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register**

Category	12-Month restraint limit
635	224,911 dozen.
638	807,221 dozen.
639	2,975,894 dozen.
640	1,146,072 dozen.
643	422,359 numbers.
645/646	687,646 dozen.
647/648	721,672 kilograms.
649	1,136,463 dozen of which not more than 782,969 dozen shall be in Category 647-K [1] and not more than 782,969 dozen shall be in Category 648-K [2].
650	1,146,072 dozen.
659-H [3]	422,359 numbers.
Group II	
200, 201, 218-229, 300-326, 330, 332, 349, 350, 353, 354, 359, 360-363, 369-O, [4] 400, 410, 414, 432, 434-442, 444, 448, 459, 464-469, 500-503, 505-529, 630, 632, 644, 653, 654, 659-O, [5] 665-670 and 831-859, as a group.	687,646 dozen.

[1] In Category 647-K, only HTS numbers 6103.23.0040, 6103.29.1020, 6103.43.1520, 6103.43.1540, 6103.49.1020, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060, 6113.00.0045, 6103.23.0045, 6103.29.1030, 6103.43.1550, 6103.43.1570 and 6103.49.1060.
[2] In Category 648-K, only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2010, 6104.69.2020, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0050 and 6117.90.0046.
[3] In Category 659-H, only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.9060.
[4] In Category 369-O, all HTS numbers except 6307.10.2005 in Category 369-S.
[5] In Category 659-O, all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.8060 in Category 659-H.

Category	12-Month restraint limit
434	6,000 dozen.
436	3,049 dozen.
438	10,000 dozen.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of

6110.90.0054, 6201.93.2020, 6202.93.2620, 6211.33.0050 and 6211.43.0080 in Category 659-V.

Washington DC 20402-9325 (202/783-3238). Refer to stock number 003-009-00567-1. The cost of the form is not yet available.

Goods qualifying for re-entry into the

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Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Romania and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 17, 1989, the directive of December 12, 1988 is being amended to increase to 6,741 dozen [1] the limit for wool textile products in Categories 433/434.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisons of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 89-26830 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

November 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6580. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A copy of the current bilateral textile agreement between the Governments of the United States and Singapore is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 31, and June 5, 1986, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following levels of restraint:

Category	12-Month restraint limit
Levels in Group I	
239	362,582 kilograms.
331	350,958 dozen pairs.
334	57,567 dozen.
335	173,163 dozen.
338/339	897,930 dozen of which not more than 524,758 dozen shall be Category 338 and not more than 563,465 dozen shall be in Category 339.
340	628,417 dozen.
341	158,016 dozen.
342	97,241 dozen.
347/348	810,366 dozen of which not more than 506,479 dozen shall be in Category 347 and not more than 393,926 dozen shall be in Category 348.
435	6,325 dozen.
604	724,941 kilograms
631	384,652 dozen pairs.
634	219,782 dozen.
635	224,911 dozen.
638	807,221 dozen.
639	2,975,894 dozen.
640	133,972 dozen.
641	216,524 dozen.
645/646	123,606 dozen.
647	443,456 dozen.
648	1,420,107 dozen.
Group II	
200-229, 237, 300/301, 313-330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359-369, 400-434, 436, 438, 439, 440-444, 445/446, 447, 448 459-469, 600-603, 606, 607, 611-630, 632, 636, 642-644, 649, 650, 659-S,[1] 659-V,[2] 659-O [3] and 665-670, as a group.	38,461,859 square meters equivalent.
Sublevels within Group II	
200	251,996 kilograms.
201	259,196 kilograms.
218	1,672,255 square meters.
219	1,672,255 square meters.
220	1,672,255 square meters.
222	169,251 kilograms.
223	119,366 kilograms.
224	1,672,255 square meters.
225	1,672,255 square meters.
226	1,672,255 square meters.
227	1,672,255 square meters.
229	122,592 kilograms.
237	197,600 dozen.
300/301	197,214 kilograms.
313	1,672,255 square meters.
314	1,672,255 square meters.
315	1,672,255 square meters.
317	1,672,255 square meters.
326	1,672,255 square meters.
330	1,176,471 dozen.
332	434,783 dozen pairs.
333/633	41,500 dozen.
336	70,000 dozen.
345	54,948 dozen.
349	416,667 dozen.
350	39,216 dozen.
351/651	38,462 dozen.
352/652	148,148 dozen.
353/354/653/654	48,426 dozen.
359	197,214 kilograms.
360	1,818,182 numbers.
361	322,581 numbers.
362	289,855 numbers.
363	4,000,000 numbers.
369	197,214 kilograms.
400	34,019 kilograms.
410	125,419 square meters.
414	45,359 kilograms.
431	71,429 dozen pairs.
432	53,571 dozen pairs.
433	4,167 dozen.
434	6,000 dozen.
436	3,049 dozen.
438	10,000 dozen.
439	20,012 kilograms.
440	6,250 dozen.
442	10,000 dozen.
443	33,336 numbers.
444	33,336 numbers.
445/446	20,000 dozen.
447	8,333 dozen.
448	8,333 dozen.
459	34,019 kilograms.
464	52,338 kilograms.
465	139,355 square meters.
469	34,019 kilograms.
600	259,196 kilograms.
603	266,819 kilograms.
606	83,226 kilograms.
607	259,196 kilograms.
611	1,672,255 square meters.
613	1,672,255 square meters.
614	1,672,255 square meters.
615	1,672,255 square meters.
617	1,672,255 square meters.
618	1,672,255 square meters.
619	1,672,255 square meters.
620	1,672,255 square meters.
621	116,306 kilograms.
622	1,672,255 square meters.
624	1,672,255 square meters.
625	1,672,255 square meters.
626	1,672,255 square meters.
627	1,672,255 square meters.
628	1,672,255 square meters.
629	1,672,255 square meters.
630	1,176,471 dozen.
632	434,783 dozen pairs.
636	140,000 dozen.
642	197,370 dozen.
643	444,444 numbers.
644	444,444 numbers.
649	416,667 dozen.
650	39,216 dozen.
659-S	145,150 kilograms.
659-V	145,150 kilograms.
659-O	145,150 kilograms.
665	1,858,081 square meters.
666	116,306 kilograms.
669	116,306 kilograms.
670	453,592 kilograms.

[1] In Category 659-S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[2] In Category 659-V, only HTS number 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0060.

[3] In Category 659-O, all HTS numbers except 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 in Category 659-S; and 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0060 in Category 659-V.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factor for Categories 332/652 is 11.3 square meters equivalent per dozen.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended, between the Governments of the United States and Singapore.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26831 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of the Availability and Requirement of the Special Access/Special Regime Export Declaration (Revised Form ITA-370P)

November 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that the current CBI Export Declaration "Special Access" (ITA-370P) has been revised to include coverage of the "Special Regime Program." Effective January 1, 1990, the newly revised form must be completed before parts are exported for assembly. The old form may not be used for parts exported on or after January 1, 1990.

Beginning November 9, 1989, orders for the revised Form ITA-370P (Special Access/Special Regime Export Declaration) may be placed with the Superintendent of Documents, Government Printing Office, Washington DC 20402-9325 (202/783-3238). Refer to stock number 003-009-00567-1. The cost of the form is not yet available.

Goods qualifying for re-entry into the United States under the Special Access and Special Regime Programs which are exported from the United States on the after January 1, 1990 must be accompanied by the newly revised Special Access/Special Regime Export Declaration. The old form may not be used for parts exported on or after January 1, 1990.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26833 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Health Professions Accessions Forms ATC Forms 1322,1402,1437. OMB Control Number 0701-0078.

Type of Request: Revision of a currently approved collection.

Average Burden Hours/Minutes Per Response: 3 hours.

Frequency of Response: On occasion.

Number of Respondents: 3,552

Annual Burden Hours: 10,656

Annual Responses: 3,552

Needs and Uses: "Personnel recruiting, military personnel, Air Force personnel, military officers." These forms are used by field recruiters in the processing of Health Professions applicants applying for a commission in the Air Force.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe. Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer,

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Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison. Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: November 8, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc.89-26839 Filed 11-14-89; 8:45 am]

BILLING CODE 3810-01-M

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on 27 November 1989 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b(c)(1) of title 5, United States Code, this meeting will be closed to the public.

Dated: November 9, 1989.

Linda M. Bynum,

OSD Federal Register Liaison, Department of Defense.

[FR Doc. 89-26840 Filed 11-14-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 3, 1989.

The USAF Scientific Advisory Board Division Advisory Group (DAG) for Space Systems Division (AFSC) will meet on 11-13 December 1989 from 7:30 a.m. to 6:00 p.m. at Kirtland AFB, NM.

The purpose of this meeting is to review and discuss the Advanced Spaceborne Computer Module concept. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-26787 Filed 11-14-89; 8:45 am]

BILLING CODE 3910-01-M

Privacy Act of 1974; Systems of Records Notices

AGENCY: Department of the Air Force, DOD.

ACTION: Alteration of four and deletion of two systems of records for public comment.

SUMMARY: The Department of the Air Force proposes to alter four and delete two systems of records to its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The deletions and record systems notices for the four altered systems are set forth below.

DATES: The deletions will be effective on November 15, 1989. The altered systems will be effective December 15, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Linda G. Adams, SAF/AADA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491; Autovon 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22090, May 29, 1985 (Compilation, changes follow)
50 FR 47087, Nov. 14, 1985
51 FR 11807, Apr. 7, 1986
51 FR 11803, Apr. 7, 1986
51 FR 17508, May 13, 1986
51 FR 23573, Jun. 30, 1986
51 FR 44668, Dec. 11, 1986
51 FR 44672, Dec. 11, 1986
51 FR 44670, Dec. 11, 1986
51 FR 44665, Dec. 11, 1986
52 FR 4645, Feb. 13, 1987
52 FR 11849, Apr. 13, 1987
52 FR 23334, Jun. 19, 1987
52 FR 16431, May 5, 1987
52 FR 22837, Jun. 16, 1987
53 FR 15868, May 4, 1988
53 FR 27894, Jul. 25, 1988
54 FR 10034, Mar. 9, 1989
54 FR 43450, Oct. 25, 1989

The proposed deletions are not within the purview of the provisions of 5 U.S.C. 552a(r), which requires the submission of a new or altered system report. The altered systems reports, as required by 5 U.S.C. § 552a(r) of the Privacy Act were submitted on November 3, 1989, to the Committee on Governmental Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985). The specific changes to the altered systems of records are set forth below, followed by the system notices, as amended, published in their entirety.

Dated: November 8, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletions

FO12 ARPC A

System name:

FO12 ARPC A—Fee Case File, (50 FR 22347, May 29, 1985).

Reason: This system is no longer needed. There are no plans to reinstate the system in the future.

FO30 AFSC A

System name:

FO30 AFSC A—AFSC Discrimination Complaint File (53 FR 24354, June 28, 1988).

Reason: This is not a system of records. All complaints are filed by case number and are not cross-referenced by name/Social Security Number. There are no plans to reinstate the system in the future.

F030 AF MP A

SYSTEM NAME:

F030 AF MP A—Personnel Data System (PDS) (51 FR 18927, May 23, 1986).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Change all the sub-items of item 6 to alphas. At end of entry, add "(aa) Aviator Continuation Pay: This file is used to identify where the officer is participating in the Continuation Pay Program. Update to this file is provided by HQ AFMPC/DPMAT, the Air Force Accounting and Finance Center, and directly from changes to the Master Personnel File. Identification data on an individual record includes amount of continuation pay, ADSC, and bonus eligibility data.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In the first column of page 18932, line 38, delete "* * * 8012 * * *" and replace with "* * * 8013 * * *". At the end of entry, add "and E.O. 9397."

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CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR Part 806b, or may be obtained from the system manager."

* * * * *

F030 AF MP A

SYSTEM NAME:

F030 AF MP A—Personnel Data System (PDS).

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Air Reserve Personnel Center, Denver, CO 80280. Headquarters of major commands and separate operating agencies and Consolidated Based Personnel Offices (CBPOs), Central Civilian Personnel Offices (CCPOs), and consolidated reserve personnel offices, and activity or squadron orderly rooms. Official mailing addresses are published as an appendix to the Department of Air Force's compilation of systems or records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel. Air Force Reserve and Air National Guard personnel. Air Force Academy cadets. Air Force Civilian employees. Certain surviving dependents of deceased members of the U.S. Air Force and predecessor organizations; potential Air Force enlistees; candidates for commission enrolled in college level Air Force Reserve Officer Training Corps Programs; Deceased members of the Air Force and predecessor organizations; separated members of the U.S. Air Force, the Air National Guard (ANG) and Air Force Reserve (USAFR); ANG and USAFR Technicians; Prospective, pending, current, and former Air Force civilian employees, except Air National Guard Technicians—current and former civilian employees from other Governmental agencies that are serviced at CCPOs may be included at the option of servicing CCPO; DoD contractors and foreign military personnel on liaison or support duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal digital record maintained at each PDS operating level is the master personnel record, which contains the following categories of information:

1. Accession data pertaining to an individual's entry into the Air Force (place of enlistment, source of commission, home of record, date of enlistment, place from which ordered to EAD).

2. Education and training data, describing the level and type of education and training, civilian or military (academic education level, major academic specialty, professional specialty courses completed, professional military education received).

3. Utilization data used in assigning and reassigning the individual, determining skill qualifications, awarding Air Force Specialty Codes, determining duty location and job assignment, screening/selecting individual for overseas assignment, performing strength accounting processes, etc. (Primary Air Force Specialty Code, Duty and Control Air Force Specialty Code, personnel accounting symbol, duty location, up to 24 previous duty assignments, aeronautical rating, data departed last duty station, short tour return date, reserve section, current/last duty station, short tour return date, reserve section, current/last overseas tour).

4. Evaluation Data on members of the Air Force during their career (Officer Effectiveness Report dates and rating, Airman Performance Report dates and ratings, result of various qualification tests, an "Unfavorable Information" indicator, and Drug and Alcohol Abuse data).

5. Promotion Data including promotion history, current grade and/or selection for promotion (current grade, date of rank and effective date; up to 10 previous grades, dates of rank and effective dates projected temporary grade, key "service dates").

6. Compensation data although PDS does not deal directly with paying Air Force members, military pay is largely predicated on personnel data maintained in PDS and provided to the Air Force Accounting and Finance Center (AFAFC) as described in ROUTINE USES below (pay date, Aviation Service Code, sex, grade, proficiency pay status).

7. Sustentation data—information dealing with programs provided or actions taken to improve the life, personal growth and morale of Air Force members (awards and decorations, marital status, number of dependents, religious denomination of member and spouse, race relations education).

8. Separation and retirements data, which identifies an individual's eligibility for and the reason for separation (date of separation, mandatory retirement date, projected or actual separation program designator and character of discharge). At the central processing site (AFMPC), other subsidiary files or processes are operated which are integral parts of PDS: (a) Procurement Management Information System (PROMIS) is an automated system designed to enable the USAF to exercise effective management and control of the procurement personnel required to meet the total scheduled manpower requirements necessary to accomplish the Air Force mission. The system provides the recruiter with job requirement data such as necessary test scores, Air Force Specialty Code, sex, date of enlistment; and the recruiter enters personal data on the applicant—SSN, name, date of birth, etc.—to reserve the job for him or her. (b) Career Airman Reenlistment Reservation System (CAREERS) is a selective reenlistment process that manages and controls the numbers by skill of first-term airmen that can enter the career force to meet established objectives for accomplishing the Air Force mission. A centralized data bank contains the actual number, by quarter, for each Air Force Specialty Code (AFSC) that can be allowed to reenlist during that period. The individual requests reenlistment by stating his eligibility (AFSC), grade, active military service time, etc. If a vacancy exists, a reservation—by name, SSN, etc.—will be made and issued to the CBPO processing the reenlistment. (c) Airman Accessions provides the process to capture a new enlistee's initial personal data (entire personnel record) to establish a personal data record and gain it to the Master Personnel File of the Air Force. The initial record data is captured through the established interface with the Processing and Classification Enlistees System (PACE) at Basic Military Training, Lackland Air Force Base, for non-prior service; for prior service enlistees the basic data (name, SSN, DOE, grade, etc.) is input directly by USAF Recruiting Service and updated and completed by the initial gaining CBPO). (d) Officer Accessions is the process whereby each of the various Air Force sources of commissioning (AF Academy, AFROTC, Officer Training

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School, etc.) project their graduates in advance allowing management to select by skill, academic speciality, etc.—which and how many will be called to active duty when, by entering into the record an initial assignment and projected entry onto Active Duty date. On that date the individual's record is accessed to the active Master Personnel File of the Air Force. (e) Technical Training Management Information System (TRAMIS) is a system dealing with the Technical Training activities controlled by Air Training Command. The purpose of the system is to integrate the training program, quota control and student accounting into the personnel data system. TRAMIS consists of numerous files which constitute "quota banks" of available training spaces, in specific courses, projected for future use based on estimated training requirements. Files include such data as: Course Identification Numbers, Class Start and Graduation Dates, Length of Training, Weapon System Indentification, Training Priority Designators, Responsible Training Centers, Trainee Names, SSN (and other pertinent personnel data) on individuals scheduled to attend classes. (f) Training Pipeline Management Information System (TRAPMIS) is an automated quota allocating system which deals with specialized combat aircrew training and aircrew survival training. Its files constitute a "quota bank" against which training requirements are matched and satisfied and through which trainees are scheduled in "pipeline" fashion to accommodate the individual's scheduled geographical movement from school to school to end assignment. Files contain data concerning the courses monitored as well as names, SSNs and other pertinent personnel data on members being trained. (g) Air Force Institute of Technology (AFIT) Quota Bank File reflects program quotas by academic specialty for each fiscal year (current plus two futures fiscal years, plus the past fiscal year programs for historical purposes). Also, this file reflects the total number of quotas for each academic specialty. Officer assignment transactions process against the AFIT Quota Bank file to reflect the fill of AFIT Quotas. Examples of data maintained are: Academic Specialty, Program Level, Fiscal Year, Name of Incumbent selected, projected, filing AFIT Quota.

(h) Job File is derived from the Authorized Record and is accessible by Position Number. Resource managers can use the Job File to validate authorizations by Position Number for assignment action and also to make job offers to individual officers. Internal suspension within the Job File occurs based upon Resource Managers update transactions. Data in the file includes: Position Number, Duty AFSC, Functional Account Code, Program Element, Location, and name of incumbent. (i) Casualty subsystem is composed of transactions which may be input at Headquarters Air Force and/or CBPOs to report death or serious illness of members from all components. A special file is maintained in the system to record information on individuals who have died. Basic identification data and unique data such as country of occurrence, date of incident, casualty group, aircraft involved in the incident and military status are recorded and maintained in this file. (j) Awards/Decorations are recorded and maintained on all component personnel in the headquarters Air Force master files. All approved decorations are input at CBPOs whereas disapproved decorations are input at MAJCOM/HAF. A decorations statistical file is built at AFMPC which reflects an aggregation of approvals/disapprovals by category of decoration. This file does not contain any individually identifiable data. All individually identifiable data on decorations is maintained in the Master Personnel File. Such information as the type of decoration, awarding authority, special order number and data of award are identified in an individual's record. Several occurrences for all decorations are stored; however only specific data on the last decoration of a particular type is maintained. (k) Point Credit Accounting and Reporting System (PCARS) is an Air National Guard/Air Force Reserve Unique supported by PDS. Its basic purpose is to maintain and account for retirement/retention points accrued as a result of participating in Drills/Training. The system stores basic personal identification data which is associated with a calendar of points, earned by participation in the Reserve program. Each year an individual's record is closed and point totals are accumulated in history, and a point earning statement is provided the individual and various records custodians. (l) Human Reliability/Personnel Reliability File is maintained at Headquarters Air Force in support of Air Force Regulation 35-99. It is not part of the Master Personnel Files but a free standing file which is updated by transactions from CBPOs. The file was established to specifically identify individuals who have become permanently disqualified under the provisions of the above regulations. A record is maintained on each disqualified individual which includes basic identification data, service component, Personnel/Human reliability status and date, and reason for disqualification. (m) Variable Incentive Pay (VIP) File for medical officers contains about 125 character records on all Air Force physicians and is specifically used to identify whether the individual is participating in the Continuation Pay or Variable Incentive Pay programs. Update to this file is provided by the Surgeon (AFMPC), the Air Force Accounting and Finance Center and directly from changes to the Master Personnel File. Besides basic identification data an individual's record, includes source of appointment, graduate medical location status, amount of VIP or Continuation Pay and the dates of authorization and the dates and reason for separation. (n) Weighted Airman Promotion System: (*1*) The Test Scoring and Reporting Subsystem (TSRS) provides for identifying at the CBPO individuals eligible for testing; providing output to the Base Test Control Officer and the CBPO to control, monitor, and operate WAPS testing functions; editing and scoring WAPS test answer cards at AFMPC; providing output for maintaining historical and analytical files at AFMPC and the Human Resources Laboratory (HRL) and includes the central identification of AFMPC of individuals eligible for testing. (*2*) The Personnel Data Reporting Subsystem (PDRS) provides for identifying promotion eligibles at AFMPC; verifying these eligibles and selected promotion data; merging test and weighted promotion data at AFMPC to effect promotion scoring, assigning the promotion objective and aligning selectees in promotion priority sequence; maintaining projections on promotion selectees at AFMPC, MAJCOM, and the CBPO, updating these projections monthly; creating output products to monitor the flow of data in the system; maintaining promotion historical and analytical files and reports at AFMPC. (*3*) Basically, identification data along with time in grade, test scores, decoration information, time in service, and airman performance report history is used to support this program. (o) Retired Personnel Data System (RPDS) is made up of four files—Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officer and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, the Temporary Disability Retired List, Age 59 rosters for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Active Duty or Reserves. Data includes: Name, SSN, grade data, service data, education data, retirement data and address. (p) Separated Officer File contains historical information on officers who leave the Air Force via separation, retirement, or death. Copies are sent to Human Resources Lab and Washington offices for research purposes. The data comprises the Master Personnel Record in its entirety and is captured 30 to 60 days after separation from the Air Force. (q) Airman Gain/Loss File includes data extracted from the Airman Master file when accession and separation (gains and losses) occur. This file, like the Separated Officer File, is used for historical reports regarding strength changes. Data includes name, SSN, and other data that reflects strength, i.e., promotions, reassignment data, specialty codes, etc. (r) Officer and Airman Separation Subsystem is used to process, track, approve, disapprove and project separations from the Air Force and transfers between components of the Air Force. This subsystem uses the Active, Guard, and Reserve MPFs. Data includes that specifically related to separations, e.g., Date of Separation, Separation Program Designator, waivers, etc. (s) The Retirements Subsystem is used to process and track applications for and approval/disapproval and projections of retirements. This subsystem uses the Master Files for Active Duty and Reserve officers and airmen. Data specifically related to retirements includes application data, date of separation, waiver codes, disapproval reason codes, Separation Program Designator, Title 10 U.S.C. section, etc. (t) Retired Orders Log is a computer produced retirement orders routine. Orders are automatically produced when approval, verification of service dates, and physical clearance have been entered in system. The orders log contains data found in administrative orders for retirement, including name, SSN, grade, order number, effective dates, etc. The log is used to control assignment of order number, and as a cross-reference between orders, revocations and amendments. (u) General Officer Subsystem of PDS contains data extracted from the Master Personnel File and language qualification data and assignment history data maintained by the Assistant for General Office Matters. A record is maintained on each general officer and general officer selectee. The general office files are updated monthly and are used to produce products used in the selection/identification of general officers for applicable assignments. (v) Officer Structure Simulation Model (OSSM) provides officer force descriptions in various formats for existing, predictive or manipulated structures. It functions as a planning tool against which policy options can be applied so as to determine the impact of such policy decisions. The (OSSM) input records contain individual identification data from the Master Personnel Record, but all output is statistical. (w) Widow's File is maintained on magnetic tape and updated by the office of primary responsibility. When required, address labels and listings are produced by employing selected PDS utility programs. The address labels are used to forward the Retired Newsletter to widows of active duty and retired personnel. The listings are used for management control of the program. Contained in the file are the name, address, and SSN of the widow. Additionally, the deceased sponsor's name, SSN, date of death, and status at time of death are maintained. (x) Historical Files are files with a retention period of 365 days or more. They consist of copies of acting master files, and are used primarily for aggregation and analysis of statistical data, althugh individual records may be accessed to meet ad hoc requirements. (y) Miscellaneous files, records, and processes are a number of work files, inactive files with a less-than-365 day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making decisions about people. (z) Civiliam employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluations of potential; civilian historical files covering job experience, training and transactions; civilian awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand-alone files, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item (y) above. (aa) Aviator Continuation Pay is used to identify where the officer is participating in the Continuation Pay Program. Update to this file is provided by HQ AFMPC/DPMAT, the Air Force Accounting and Finance Center, and directly from changes to the Master Personnel File. Identification data on an individual record includes amount of continuation pay, ADSC, and bonus eligibility date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 265, policies and regulations: Participation of reserve officers in preparation and administration; 269, Ready reserve: Placement in; transfer from; 275, Personnel records; 278, Dissemination of information; 279, Training Reports; Chapter 31, Enlistments; 564, Warrant officers: Effect of second failure of promotion; 593, Commissioned Officers: Appointment, how made; term; 651, Members: Required service; 671, Members not to be assigned outside U.S. before completing training; 673, Ready reserve; Chapter 47, Uniform Code of Military Justice, Sections 835, Art, 35. Service of Charges; 837, Art. 37. Unlawfully influencing action of court; 885, Art. 85. Desertion; 886, Art 86. Absence without leave; 887, Art. 87. Missing movement; 972, Enlisted members: Required to make up time lost; 1005, Commissioned officers: Retention until completion of required service; 1163, Reserve components: Members; limitations on separation; 1164, Warrant officers; separation for age; 1160, Regular warrant officers: elimination for unfitness or unsatisfactory performance; Chapter 61, Retirement—Physical disability; Chapter 63, Retirement for Age, Sect 1263—Age 62: Warrant officers; Chapter 65, Retirement for Length of Service; 1293, Twenty years or more: Warrant officers; 1305, Thirty years or more: Regular warrant officers; Chapter 67, Retired pay; 1331, Computation of years of service in determining entitlement to retired pay; 1332, Age and service requirements; 1333, Computation of years of service in computing retired pay; Chapter 79, Correction of Military Records; Chapter 165, Accountability and responsibility,

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Section 2771, Final settlement of accounts: Deceased members; 8013, Secretary of the Air Force: Powers and duties; delegation by; Chapter 805, The Air Staff, Sections 8032, General duties; and Section 8033, Reserve components of Air Force; policies and regulations for government of: Functions of National Guard Bureau with respect to Air National Guard; Chapter 831, Strength, Section 8224, Air National Guard of the United States; Chapter 833, Enlistments; 835, Appointments in the Regular Air Force, 8284, Commissioned officers; Appointment, how made; 8285, Commissioned officers: Original appointment; qualifications; 8296, Promotion lists: Promotion-list officer defined; determination of place upon transfer or promotion; 8297, Selection boards; 8303, commissioned officers; Effect of failure of promotion to captain, major, or lieutenant colonel; Chapter 837, Appointments as Reserved Officers; 8360, Commissioned officers; Promotion service; 8362, Commissioned officers; Selection boards; 8363, Commissioned officer; Selection boards; general procedures; 8366, Commissioned Officers: Promotion to captain, major, or lieutenant colonel; 8376, Commissioned officers; Promotion when serving in temporary grade higher than reserve grade; Chapter 839, Temporary Appointments, 8442, Commissioned officers; regular and reserve components: Appointment in higher grade; 8447, Appointments in commissioned grade: How made; how terminated; Chapter 841, Active Duty, 8496, Air National Guard of United States: Commissioned officers duty in National Guard Bureau; Chapter 853, Rights and benefits, Section 8691, Flying officer rating: qualifications; Chapter 857, Decorations and Awards; Chapter 859, Separation, 8786, Officer considered for removal: Voluntary retirement or honorable discharge; severance benefits; 8796, Officers considered for removal: Retirement or discharge; Separation or Transfer to Retired Reserve, 8846, Deferred Officers; 8848, 28 years: Reserve first lieutenants, captains, majors, and lieutenant colonels; 8851, Thirty years or five years in grade: Reserve colonels and brigadier generals; 8852, Thirty-five years or five years in grade: Reserve major generals; 8853, Computation of years of service; Chapter 865, Retirement for Age; 8883, Age 60; regular commissioned officers below major general; 8884, Age 60: Regular major generals whose retirement has been deferred; 8885, Age 62: Regular major generals; 8886, Regular major generals whose retirement has been deferred; Chapter 867, Retirement for Length of Service; 8911, Twenty years or more; regular or reserve commissioned officers; 8913, Twenty years or more: Deferred officers not recommended for promotion; 8914, Twenty to thirty years: Regular enlisted members; 8915, Twenty-five years: Female majors except those designated under section 8067(a)–(d) or (g)–(i) of this title; 8916, twenty-eight years: Promotion list lieutenant colonels; 8918, Thirty years or more: Regular enlisted members; 8917, thirty years or more: Regular commissioned officers; 8921, Thirty years or five years in grade: Promotion-list colonels; 8922; Thirty years or five years in grade: Regular brigadier generals; 8923, Thirty-five years or five years in grade: Regular major generals; 8924, Forty years or more: Air Force Officers; Chapter 901, Training generally, 9301, Members of Air Force: Detail as students, observers and investigators at education institutions, industrial plants, and hospitals; and 9302, Enlisted members of Air Force: Schools; Chapter 903, United States Air Force Academy; 9342, Cadet: Appointment; numbers, territorial distribution; 9344, Selection of persons from Canada and American Republics; 9345, Selection of Filipinos; Chapter 1, Organizations, 102, General policy; and 104, units; Location; organization; command; Chapter 3, Personnel, 307, Federal recognition of officers; Examination, certification of eligibility; Chapter 7, Services, supplies, etc., 709, Caretakers and clerks; Chapter 3, Basic Pay, 308, Special pay: Reenlistment bonus; 313, Special pay: Medical officers who execute active duty agreements; Chapter 7, Allowances, 407, Travel and transportation allowances: Dislocation allowance; Chapter 10; Air Force Manual 30–3, Vol I–V, Mechanized Personnel Procedures, Air Force Manual 30–3, Vol 1–V, Mechanized Personnel Procedures, Air Force Manual 30–130, Base Level Military Personnel System, and Air Force Manual 300–4, Standard Data Elements and Codes; and Executive Order 9397.

PURPOSE(S):

The Air Force operates a centralized personnel management system in an environment that is widely dispersed geographically and encompasses a population that is diverse in terms of qualifications, experience, military status and needs. There are three major centers of Air Force personnel management: Washington, DC, where most major policy and long-range planning/programming decision are made; the Air Force Manpower and Personnel Center at Randolph Air Force Base, TX, which performs most personnel operations-type functions for the active duty components of the force; and the Air Reserve Personnel Center at Denver, CO, which performs certain operational functions for the Reserve components of the force. Offices at Major Command Headquarters, State Adjutant Generals, and Air Force bases perform operational tasks pertaining to the population for which they are responsible. The structure of the Air Force and its personnel management system, the composition of the force, and the Air Force's stated objective of treating people as individuals, i.e., giving due consideration to their desires, needs and goals, demand a dynamic data system that is capable of supporting the varying needs of the personnel managers at each echelon and operating locations. It is to this purpose that the data in the Personnel Data System is collected, maintained, and used. A. Uses within the Air Force personnel community, HQ USAF, Washington, DC: Deputy Chief of Staff, Personnel and his immediate staff; Director of Personnel Plans; Director of Personnel Programs; Assistant for General Officer Matters; Assistant for Colonel Assignments; Reserve Personnel Division; Air National Guard Personnel Division; and the Surgeon General, the Chief of AF Chaplains and the Staff Judge Advocate, each of which perform certain personnel functions within their area of responsibility. Data from the central data base at the AFMPC is furnished Washington area agencies by retrieval from the computer at Randolph via remote access devices and by provisions of recurring products containing required management information, including computer tape files which are used as input to unique systems with which PDS interfaces. Although most of the data is used by policy makers to develop long-term plans and programs and track progress toward established goals, some individual data is provided/retrieved to support actions taken on certain categories of persons managed by offices in the headquarters, e.g. General Officers, Colonels, Air National Guard personnel, etc. Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX. Personnel managers at AFMPC use the data in PDS to make decisions on individual actions to be taken in areas such as personnel procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, casualty and personal affairs, separation and retirement. Air Reserve Personnel Center (ARPC), Denver, CO. Personnel managers at ARPC perform

many of the same functions for the Reserve components of the Air Force as the managers at AFMPC perform for the active duty force. As with the Washington area, ARPC obtains data from the central data base at AFMPC by retrieval through remote terminals and recurring output products containing information necessary to their management processes. Major Command Headquarters personnel operations are supported by the standard content of PDS records provided them by AFMPC. In addition, there is provided in the PDS record an "add-on area" which the commands are authorized to use for the storage of data which will assist them in fulfilling unique personnel management requirements generated by their mission, structure, geographical location, etc. The standard functions performed fall generally under the same classifications as those in AFMPC, e.g., assignment, classification, separation, etc. Nonstandard usages include provisions of unique aircrew data, production of speciality-tailored name listing, control of theatre oriented training, etc. Some commands use PDS data—both standard and add-on as input to unique command systems, which are separately described in the Federal Register. Consolidated Base Personnel Offices (CBPO) which represent the base-level aspect for PDS, are the prime point of system-to-people interface. Supplied with a standard data base and system, CBPOs provide personnel management support to commanders and supervisors on a daily basis. Acting on receipt of data from higher headquarters, primarily by means of transactions processed through PDS, they notify people of selection for reassignment, promotion, approval/disapproval of requests for separation and retirement, and similar personnel actions. When certain events occur to an individual at the local level, e.g., volunteer for overseas duty, reduction in grade, change in marital status, application for retirement, etc., the CBPO enters transactions into the vertical system to transmit the requisite information to other management levels and update the automated records resident at those levels. CBPOs too are allotted an "add-on" area in the computer record which they use to support local management unique requirements such as local training scheduling, unique locator listing urinalysis testing scheduling, etc.

B. Uses External to the Air Force Personnel Community: 1. Headquarters USAF/AFMPC Interfaces:

Automated interfaces exist between the PDS central site files and the following systems of other functions: a. The Flight Records Data System (FRDS) maintained by the Air Force Inspection and Safety Center (AFISC) at Norton Air Force Base, CA. (1) Certain personnel identification data on rated officers is transferred monthly to the FRDS. This data flow creates the basic identifying data in the FRDS, insures compatibility with the PDS, and precludes duplicative data collection and input generation by the AFISC. (2) Update of the personnel data to the FRDS generates return flow of flying hour data which is used at AFMPC for rated resource distribution management. b. The Master Military Pay Account (MMPA), is the Joint Uniform Military Pay System (JUMPS) centralized pay file maintained by the Air Force Accounting and Finance Center (AFAFC) at Denver, CO. The PDS transfers certain pay related data as changes occur to update the MMPA, e.g., promotions, accessions, separations/retirements, name, SSN, grade, These data provided criteria for the AFAFC to determine specific pay entitlements. c. The AFAFC maintains a separate pay system for Air National Guard and Air Force Reserve personnel called the Air Reserve Pay and Allowances System (ARPAS). (1) PDS outputs certain pay related data to ARPAS as changes occur, e.g., retirements/separations, promotions, name, SSN, grade. These data form the criteria for the AFAFC to determine specific Reserve pay entitlements. (2) ARPAS outputs data which affect accumulated point credits for Air National Guard/Reserve participation to AFMPC for update of the Point Credit Accounting and Reporting System (PCARS), a component of PDS. PCARS also receives monthly input from HQ Air University which updates point credits as a result of completing an extension Courses Institute correspondence program. d. AFAFC procies data on Variable Incentive Pay (VIP) for Medical Officers is used to update a special control file within PDS and produce necessary reports for management of the VIP program. e. Air Training Command operates a system called PACE (Processing and Classification of Enlistees) at Lackland Air Force Base, TX. From the system data is fed to AFMPC to initially established the PDS record on an Air Force enlistee. f. On a monthly basis, copies of the PDS master Personnel File are provided to the Human Resources Laboratory at Brooks Air Force Base, TX, where they are used as a statistical data base for research purposes. g. On a quarterly basis, AFMPC provides the USAF School of Aerospace Medicine with data concerning name, SSN, and changes in base and command of assignment of flying personnel. The data reflects significant medical problems in the flying population. h. A complete printout of PDS data pertaining to an individual is included in his Master Personnel Record when it is forwarded to National Personnel Records Center. i. PDS data is provided to the Congingency Planning Support Capability (CPSC) at six major command headquarters: Tactical Air Command, Strategic Air Command, Military Airlift Command, Air Force Communications Command, United States Air Forces, Europe, and Pacific Air Forces. A record identifiable by individual's name and SSN provides contingency and/or manning assistance temporary duty (TDY) being performed by the individual. Record is destroyed upon completion of the TDY. Statistical records (gross statistics by skill and unit) are also generated for CPSC from PDS providing force availability estimates. CPSC is described separately in the Federal Register.

2. Base Level CBPO Interfaces: Certain interfaces have been established at base level to pass data from one functional system to another. The particular mode of interface depends on the needs of the receiving function and the capabilities of the system to produce the necessary data: a. The Flight Management Data System (FMDS) receives an automated flow of selected personal data on flying personnel as changes occur. This data consists primarily of assignment data and service dates which the base flight manager uses to determine appropriate category of aviation duty which is reflected by designation of an Aviation Service Code. The FMDS outputs aviation service data as changes occur to the BLMPS. These data subsequently flow to the PDS central site files at AFMPC so it is available for resource management decisions. b. The Medical Administration Management System (MAMS), currently being developed and tested, will receive flow of selected assignment data as changes occur for personnel assigned to medical activities. MAMS will use these data to align assigned personnel with various cost accounting work centers within the medical activity and thus be able to track manpower expenditure by subactivities. c. The Automated Vehicle Operator Record (AVOR) is being developed to support motor vehicle operator management. Approximately 115 characters of vehicle operator data will be incorporated into the BLMPS data base during FY70 for both military and civilian personnel authorized to

operate government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers. d. Monthly, a magnetic tape

President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when

listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulation and modeling

in the Washington, DC, area, at Major Command and at ARPC permit the transfer of volume products to and for the use of personnel managers at those locations.

weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating

greater than 999 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, then the

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operate government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers. d. Monthly, a magnetic tape is extracted from BLMPS containing selected assignment data on all assigned personnel. This tape is transferred to the basic Accounting and Finance Office for input into the Accounting Operations System. This system uses these data to derive aggregate base manpower cost data. e. A procedure is designed into BLMPS to output selected background data in pre-defined printed format for personnel being administered military justice. This output is initiated upon notification by the base legal office. The data is forwarded to the major command where it is input into the Automated Military Justice Analysis and Management System (AMJAMS). f. The BLMPS output (on an event-oriented basis) pay-affecting transactions such as certain promotions, accessions, and assignments/reassignments, to AFAFC, where the data is entered into the JUMPS. C. Uses External to the Air Force, the Office of the Secretary of Defense (OSD): 1. Individual information is provided to offices in OSD on a recurring basis to support top-level management requirements within the Department of Defense. Examples are the DoD Recruiter File to the Assistant Secretary for Manpower and Reserve Affairs (M&RA), a magnetic tape extract of military personnel record (RCS: DD–M (SA) 1221) to M&RA, input to the Reserve Component Common Personnel Data System to M&RA and the Post Career Data File to M&RA. 2. To Other Defense Agencies: PDS supports other components of DoD by provision of individual data in support of programs operated by those agencies. Examples are the Selected Officer List to Defense Intelligence Agency for use in monitoring a classified training program and the Defense System Management School (DSMS) Track Record System to DSMS for use in evaluating the performance of graduates of that institution. An Extract file on Air National Guard Technicians is provided the National Guard Computer Center. 3. Other Government/Quasi-Government Agencies: Information used in analyzing officer/airman retention is provided RAND Corporation. Data on prior service personnel with military service obligations is forwarded to the National Security Agency. Lists of officers selected for promotion and/or appointment in the Regular Air Force are sent to the Office of the President and/or appointment in the Regular Air Force are sent to the Office of the President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when such data is required in the performance of official duties. Selected personnel data is provided foreign governments, U.S. governmental agencies, and other Uniformed Services on USAF personnel assigned or attached to them for duty. Examples: the government of Canada, Federal Aviation Administration, U.S. Army, Navy, etc. 4. Litigation 5. Miscellaneous. Lists of individuals selected for promotion or appointment, who are being reassigned, who die, or who are retiring are provided to unofficial publications such as the Air Force Times, along with other information of interest to the general Air Force public. Information from PDS support a world-wide locator system which responds to queries as to the location of individuals in the Air Force. Locator information pertinent to personnel on active duty may be furnished to a recognized welfare agency such as the American Red Cross or the Air Force Aid Society. For civilian personnel—to provide automated system support to Air Force officials at all levels from that part of the Office of Personnel Management required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reductions in force, complaints resolution, labor mangement relations, and the suspensions and processing of personnel actions; to provide for transmission of such records between employing activities within the Department of Defense—to provide individual records and reports to OPM; to provide information required by OPM for the transfer between federal activities; to provide reports of military reserve status to other armed services for contingency planning—to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs—to provide minority group designator codes to the Office of Personnel Management's automated data file—to provide the Office of the Assistant Secretary of Defense Manpower and Reserve Affairs with data to access the effectiveness of the program for employment of women in executive level positions—to obtain listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulation and modeling exercises—to obtain employee duty locations and other employee data for personnel program management purposes—to obtain employee duty locations and other information releasable under OPM rules and the Freedom of Information Act to respond to request from Air Force offices, other Federal agencies and the public—to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities—to provide records to OPM for files reconciliation and maintenance purposes—and to provide information to employee unions as required by negotiated contracts.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The "Blanket Routines Uses" that appear at the beginning of the Department of the Air Force's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer magnetic tapes, disks or computer paper printouts or microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN). The primary individual record identifier in PDS is SSN. Some files are sequenced and retrieved by other identifiers; for instance, the assignment action record is identified by an assignment action number. Additionally, at each echelon there exists computer programs to permit extraction of data from the system by constructing an inquiry containing parameters against which to match and select records. As an example, an inquiry can be written to select all Captains who are F–15 pilots, married, stationed at Randolph AFB, who possess a master's degree in Business Administration; then display name, SSN, number of dependents and duty location. This is the added capability of selecting an individual's record or certain pre-formatted information by SSN on an immediate basis using a teletype or cathode ray tube display device. High-speed line printers located in the Washington, DC, area, at Major Command and at ARPC permit the transfer of volume products to and for the use of personnel managers at those locations.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties where authorized, and properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes, vaults and locked cabinets, or rooms. Records are protected by guards. Records are controlled by personnel screening visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Preceding retention statement applies to Analog output products of the Personnel Data System. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Files with a retention period of 364 days or less are automatically released at the end of their specified retention period. "Permanent history" files are retained for 10 years. Files 365 or more days old are defined as "historical files" and are not automatically released. Retention periods for categories of PDS files are as follows: If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, then the retention will be not greater than 10 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, which is also used for processing of weekly runs, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, then the retention will not be greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of quarterly runs, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of semi-annual run, then the retention will be not greater than 180 days. If cycle in which a program or series of programs creating output is monthly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which has program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, then the retention will be not greater than 90 days. If cycle in which program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of semi-annual run, then the retention will be not greater than 180 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, then the retention will be not greater than 180 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If created magnetic tape file will be used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If the program or series of programs creating output is a one time run, and the file will be used for processing as required, then the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is compile card image or SOLT tapes, and the created magnetic tape file will be used for processing as required run, then the retention will be not greater than 90 days maximum. If cycle in which a program or series of programs creating output is as required runs, and the created magnetic tape file will be used for processing as required, the retention will be lowest possible commensurate to job completion. If the program or series of programs creating output is test files, and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 30 days. If the program or series of programs creating output is print/punch backup and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 10 days. In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are tranferred to the action file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by degaussing-master personnel files for active employees are transferred to the separated employee

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history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action—Standard Form 50—is disposed of as directed by OPM—work files are records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning—work sheets pertaining to qualification and retention registers are disposed of as directed by OPM—transitory files such as pending files, and recovery files are destroyed after use by degaussing—files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Manpower and Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion—the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force. Subordinate System Managers are: a. Director of Personnel Data Systems, Assistant Deputy Chief of Staff for Personnel for Military Personnel, Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX 78150. He/she is responsible for overall PDS design, maintenance and operation, and is designated the Automated Data Processing System Manager for all Air force personnel data system. b. The Director of Personnel Data Systems at each Major Command headquarters for systems operated at that level. c. The Chief, CBPO, at Air Force installations for systems operated at that level. d. The Civilian Personnel Officer at Air Force installations for civilian systems operated at that level. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the system manager of the operating level with which they are concerned. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records. Persons submitting such a request, either personally or in writing, must provide SSN, name, and military status (active, ANG/USAFR, retired, etc.) ANG members not on extended active duty may submit such requests to the appropriate State Adjutant General or the Chief of the servicing ANG CBPO. USAFR personnel not on extended active duty may submit such requests to ARPC, Denver, CO 80280, or, if unit assigned, to the Chief of the serving CBPO or Consolidated Reserve Personnel Office.

Personal visits to obtain notification may be made to the Military Records Review Room, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150; The Military Records Room, Air Reserve Personnel Center, Denver, CO 80280; The Office of the Director, National Personnel Records Center (NPRC), 111 Winnebago St., St. Louis, MO 63118; the Office of the Director of Personnel Data Systems at the appropriate major command headquarters; or the office of the Chief of his servicing CBPO. Identification will be based on presentation of DD Form 2AF, Military Identification Card. Air Force civilian employees must provide SSN, full name, previous names, if any, last due and location of Air Force civilian employment, if not currently employed by the Air Force—current employees should submit such requests to the CCPO—former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed. Authorizations for a person other than the data subject to have access to an individual's records must be based on a notarized statement signed by the data subject.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the system manager of the operating level with which they are concerned. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35, 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, police and investigating officers, the bureau of motor vehicles, a state or local government and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NAME:

Status of Ineffective Recruiter (51 FR 44332, December 9, 1986)

CHANGES:

* * * * *

SYSTEM LOCATION:

In lines 2 through 4, delete "* * * 78150. Official mailing * * * systems notices" and replace with "* * * 78150–5001 and HQ United States Air Force Recruiting Service (USAFRS), Randolph Air Force Base, TX 78150–5421."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line one, insert "* * * and officer * * *," after "* * * ATC enlisted * * *."

* * * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

At the end of entry, delete "* * * (Recruiting Service)."

* * * * * *

PURPOSE(S):

Delete current entry and replace with "DCS/P and USAFRS use data to monitor relief actions."

* * * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Change ZIP Code at end of entry to "* * * 78150–5001."

* * * * * *

CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35, 32 CFR Part 806b, or may be obtained from the system manager."

* * * * * *

F035 ATC I

SYSTEM NAME:

Status of Ineffective Recruiter.

SYSTEM LOCATION:

Headquarters Air Training Command (ATC) Deputy Chief of Staff for Personnel (DCS/P), Randolph Air Force Base, TX 78150–5001 and Headquarters United States Air Force Recruiting Service (USAFRS), Randolph Air Force Base, TX 78150–5421.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty ATC enlisted and officer recruiter personnel relieved from duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military record containing active case data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: Recruiting campaigns, and Air Training Command Regulation 33–2, "Recruiting Procedures for the United States Air Force."

PURPOSE(S):

DCS/P and USAFRS use data to monitor relief actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked building.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cutoff, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–5001.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–5001.

CONTESTING RECORD PROCEDURE:

The Air Force's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35, 32 CFR Part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from source documents, such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 MPC E

SYSTEM NAME:

Disability/Non-disability Retirements Records (51 FR 44332, December 9, 1986).

CHANGES:

* * * * * *

SYSTEM LOCATION:

Replace entire entry with "Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001."

* * * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line 3, insert "* * * microcomputer case files * * *," after "* * * routine correspondence files, case files, * * *."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

At the end of the entry, add "and E.O. 9397."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Replace current entry with "Maintained in visible file binders/cabinets and microcomputers."

* * * * * *

SAFEGUARDS:

At the end of entry, add "computer records are controlled by computer system software."

* * * * * *

RETENTION AND DISPOSAL:

In lines 1 and 2, delete "* * * two years after end of year * * *," and replace with "* * * one year after end of calendar * * *." In line 3, after "* * * case is finalized: * * *," insert "* * * microcomputer case files are maintained in a retired file indefinitely: * * *." In lines 5 and 6, delete "* * * TDRL punch * * * into computer system," and replace with "* * * TDRL correspondence files are destroyed when member is entered into the HQ Air Force computer system."

SYSTEM MANAGER(S) AND ADDRESS:

Replace current entry with "Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150–5001."

* * * * * *

CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35, 32 CFR Part 806b, or may be obtained from the system manager."

* * * * * *

F035 MPC E

SYSTEM NAME:

Disability/Non-disability Retirements Records.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, microcomputer case files, disability retain folders, and Temporary Disability Retirement List (TDRL) data files.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, disability retain folders, TDRL punch card data files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 36, Mandatory retirement of officers; Chapter 59, Separation; Chapter 61, Retirement or Separation for Physical Disability; Chapter 63, Retirement for Age; Chapter 867, Retirement for Length of Service; as implemented by Air Force Regulation 35–4, Physical Evaluation for Retention, Retirement and Separation, and 35–7, Service Retirements; and E.O. 9397.

PURPOSE(S):

To provide information on retirement cases and to allow appropriate case processing.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Air Force's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Maintained in visible file binders/cabinets and in microcomputers.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building. Computer records are controlled by computer system manager.

RETENTION AND DISPOSAL:

Correspondence files are retained for one year after end of calendar year case was closed or inquiry responded to; disability retain files are retained for 90 days after case is finalized; microcomputer case files are maintained in a retired file indefinitely; case files are retired to Master Personnel Records Group when service and/or disability retirement action has been completed; TDRL correspondence files are destroyed when member is entered into the Headquarters Air Force (HAF) computer system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150–6001.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquires to the Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150–6001.

CONTESTING RECORD PROCEDURE:

The Air Force's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35, 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Correspondence and forms generated in Retirements Division (HQ AFMPC/MPCAR), military hospitals, HQ USAF Surgeon General (HQ USAF/SG), HQ AFMPC Surgeon (SG) Consolidated Base Personnel Offices and Major Air Commands, by the members themselves, and by the general public or retirement-related matters.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F190 AF PA B

SYSTEM NAME:

Hometown News Release Background Data File (51 FR 41382, November 14, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entire entry and replace with "Army and Air Force Hometown News Service, Headquarters Air Force Service and Information News Center, Kelly Air Force Base, TX 78241–5000. Subsystems of the main system may be located at the Public Affairs Office at the Army/Air Force Base, Army/Air National Guard or Army/Air Force Reserve or similar installation to which an individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line 1, in each occurrence of "* * * Air * * *," replace with "* * * Army/Air * * *."

CATEGORIES OF RECORDS IN THE SYSTEM:

In line 1 after "* * * name * * *," insert "* * * Social Security Number * * *." In line 4, delete "* * * a USAF Home Town News Release Form * * *," and replace with "* * * an Information for Hometown News Release Form, DD Form 2266 * * *."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entire entry and replace with "10 U.S.C. §§ 8013 and 8034, and E.O. 9397."

* * * * *

RETENTION AND DISPOSAL:

In line 1, delete "* * * Home Town * * *," and replace with "* * * Print Media Division, Army and Air Force Hometown News Service files until 60 days * * *."

SYSTEM MANAGER(S) AND ADDRESS:

Replace entire entry with "Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241–5000."

NOTIFICATION PROCEDURE:

In line 1, delete "* * * Commander, AFSINC * * *," and replace with "* * * Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241–5000."

RECORD ACCESS PROCEDURE:

In lines 1 and 2, delete "* * * the Commander * * * News Center * * *," and replace with "* * * Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241–5000."

* * * * *

F190 AF PA B

SYSTEM NAME:

Hometown News Release Background Data File.

SYSTEM LOCATION:

Army and Air Force Hometown News Service, Headquarters Air Force Service and Information News Center, Kelly Air Force Base, TX 78241–5000. Subsystems of the main system may be located at the Public Affairs Office at the Army/Air Force Base, Army/Air National Guard or Army/Air Force Reserve or similar installation to which an individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army/Air Force actice duty military personnel, Army/Air Force Reserve Army/Air National Guard personnel recently selected for promotion, reassigned, awarded a medal or decoration, or who otherwise participated in a newsworthy event.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information including, but not necessarily limited to name, Social Security Number, current grade, marital status, local address, name and address of parents or guardians, educational background and military history, photographs. Information is usually, but not necessarily, contained in an Information for Hometown News Release Form, DD form 2266, or similar form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013 and 8034, and E.O. 9397.

PURPOSE(S):

Preparation of news releases for distribution to newspapers and broadcast stations throughout the United States.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Air Force's compilation of systems of records apply to this system. Information from this system of records may be disclosed to the media as part of a news release.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Maintained in file folders and visible file binders/cabinets.

Retrieved by name and Social Security Number within date of release.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in the Print Media Division, Army and Air Force Hometown News Service files until 60 days after monthly cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating or buring. Local files may be retained for one year and are then destroyed by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241–5000.

NOTIFICATION PROCEDURE:

Individual seeking to determine whether this system of records contains information about themselves should address written requests to the Print Media Division, Army and Air Force Hometown News Service, Kell Air Force Base, TX 78241–5000. Inquirers about a subsystem should be addressed to the Public Affairs Officer at the base or installation of the individual's assignment. Offiical mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Print Medica Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241–5000 or the installation Public Affairs Officer. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Air Force's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35, 32 CFR Part 806b, or maybe obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–26841 Filed 11–14–89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

National Board for the Promotion of Rifle Practice Budget Committee; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: National Board for the Promotion of Rifle Practice Budget Committee

Date of Meeting: 12 December 1989

Place: Ramada Renaissance Hotel Washington Dulles International Airport 13869–71 Park Center Road Herndon, Virginia 22071

Time: 0930–1130

Proposed Agenda:

1. Federal Register Notice of the Meeting
2. Roll Call
3. Approval of previous Board minutes
4. FY 1989 Budget
5. FY 1990 Budget
   a. HASC Dollar Implication
   b. Gramm-Rudman-Hollings
6. FY 1992–FY 1997 MACOM POM Submission

This meeting is open to the public.

Persons desiring to attend the meeting should contact the undersigned or Ms. Rita G. Cooper at (202) 272–0810 prior to 21 November 1989 to arrange admission.

Dennis W. Galoci,

Assistant Executive Officer, NBPRP.

[FR Doc. 89–26851 Filed 11–14–89; 8:45 am]

BILLING CODE 3710-08-M

National Board for the Promotion of Rifle Practice; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: National Board for the Promotion of Rifle Practice.

Date of Meeting: 12 December 1989.

Place: Ramada Renaissance Hotel, Washington Dulles International Airport, 13869–71 Park Center Road, Herndon, Virginia 22071.

Time: 1345–1600.

Proposed Agenda

1. Open Prayer and Pledge of Allegiance to the Flag
2. Federal Register Notice of the Meeting
3. Roll Call
4. Proposed New Awards
5. Memorandum of Understanding with the Adjutant General, State of Ohio (re: Camp Perry Usage)
6. Status of Revised Regulations
7. Status of Air Rifle Program
8. Program Review
9. 1989–90 Camp Perry Update
10. Special Programs
11. Ammunition Status
12. Office, Director of Civilian Marksmanship ADP Update
13. Proposed 1990 National Matches Calendar
14. M1 Sales Update
15. International Distinguished Criteria, Change to AR 672–5–1, Military Awards.

This meeting is open to the public.

Persons desiring to attend the meeting should contact the undersigned or Ms. Rita G. Cooper at (202) 272–0810 prior to 21 November 1989 to arrange admission.

Dennis W. Galoci,

Assistant Executive Officer, NBPRP.

[FR Doc. 89–26817 Filed 11–14–89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA 84.060A]

Invitation for Applications for New Awards Under the Indian Education Act of 1988, Subpart 1; Formula Grant Program for Fiscal Year 1990

Purpose: Provides grants to local educational agencies (LEAs) and certain Indian tribes and organizations that received funds under this program in fiscal year 1988, and, if sufficient funds become available, as determined under the Act, to schools operated by the Bureau of Indian Affairs (BIA). Supplementary projects that meet the special educational and culturally

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related academic needs of Indian children enrolled in the applicant schools are supported.

Deadline for Transmittal of Applications: February 16, 1990.

Deadline for Intergovernmental Review: April 17, 1990.

Applications Available: November 27, 1989.

Available Funds: The appropriation for this program for fiscal year 1990 is $51,541,000. Pursuant to the Gramm-Rudman-Hollings deficit reduction law, $48,809,327 is available for grants, of which $46,583,400 will be allocated only to those LEAs and tribal schools that received funds under this program in fiscal year 1988. The remaining $2,225,927 will be allocated to BIA-operated schools. These amounts are subject to change pending further action by the Congress. The following estimates are based on the appropriation for fiscal year 1989.

Estimated Range of Awards: $913 to $1,236,847.

Estimated Average Size of Awards: $42,345.

Estimated Number of Awards 1,183.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 to 36 months.

Applicable Regulations: (a) The regulations for this program in 34 CFR Parts 250 and 251; and (b) the Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 78, 79, 80, 81 and 85.

For Applications or Information Contact: Julia Lesceux, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335, Telephone: (202) 732-5146.

Program Authority: 25 U.S.C. 2601-6335, 2651.

Dated: November 8, 1989.

Daniel F. Bonner,

Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 89-26760 Filed 11-14-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ID-2429-000 et al.]

Electric rate, Small Power Production, and Interlocking Directorate Filings; William N. D'Onofrio, et al.

November 6, 1989.

Take notice that the following filings have been made with the Commission:

1. William N. D'Onofrio

[Docket No. ID-2429-000]

Take notice that on October 27, 1989, William N. D'Onofrio (Applicant) tendered for filing an Information Report in this docket pursuant to 18 CFR 45.9(c) promulgated under section 305(b) of the Federal Power Act.

The following are public utilities with which the Applicant holds or will hold positions of officer or director:

Indiana Michigan Power Company, Vice President & Director
Indiana-Kentucky Electric Corporation Director

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER89-50-000]

Take notice that on October 6, 1989, Boston Edison Company (Edison) tendered for filing for information purposes pursuant to Appendix Act, Article II of the 1987 Settlement Agreement between Edison and the Town of Belmont the 1988 true up to actual for the Substation 329 Agreement (FPC Rate No. 148).

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Minnesota Power & Light Company

[Docket No. ER90-56-000]

Take notice that Minnesota Power & Light Company (Minnesota Power), 30 West Superior Street, Duluth, Minnesota 55802, on November 2, 1989, tendered for filing a proposed initial Distribution Wheeling Service Agreement (Agreement) between Minnesota Power and United Power Association (UPA). Under this Agreement, Minnesota Power provides UPA with distribution wheeling service for UPA's sale of electric power and energy to members of the Arrowhead Municipal Power Agency. An effective date of January 1, 1990 was requested.

Copies of the proposed Agreement and statements projecting services and revenues for the twelve months immediately following the proposed effective date therefrom were served on UPA and on the Minnesota Public Utilities Commission.

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Consumer Power Company

[Docket No. ER90-55-000]

Take notice Consumers Power Company (Consumers) on November 2, 1989, tendered for filing on behalf of it and the Detroit Edison Company (Edison) Addendum V to the Operating Agreement dated March 1, 1966 among Consumers, Edison and Indiana Michigan Power Company (Indiana Company). The Commission has designated the Operating Agreement as Consumers' Rate Schedule FPC No. 12.

Addendum V deals with service provided by Consumers and Edison (jointly the "Michigan Companies" to Indiana Company. Addendum V changes rates for emergency service (Service Schedule A), interchange power (Service Schedule C) and short-term power (Service Schedule D) replacing the current fixed rates with flexible rates having a cost-based upper limit when the Michigan Companies generate the power being sold. It also provides for rates applicable to power being supplied from third parties. A floor is set for emergency energy pricing in lieu with the floor accepted for filing in Docket Nos. ER88-504 and ER89-310. Also, a cost-based floor is established for economy energy sales by the Michigan Companies. Addendum V also deletes provisions for the return of equivalent energy currently applicable to emergency energy provided by the Michigan Companies and revises third party short-term power refund provisions applicable to the Michigan Companies.

The proposed effective date of Addendum V is January 1, 1990.

Comment Date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Thomas R. McCaffrey

[Docket No. ID-2428-000]

Take notice that on October 27, 1989, Thomas R. McCaffrey (Applicant) tendered for filing an Informational Report in this docket pursuant to 18 CFR 45.9(c) promulgated under section 305(b) of the Federal Power Act.

The following are public utilities with which the Applicant holds or will hold positions of officer or director:

Columbus Southern Power Company, President & Director
Ohio Valley Electric Corporation, Director

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. John M. Deutch

[Docket No. ID-2430-000]

Take notice that on November 2, 1989, John Deutch, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Consumers Power Company

Director, Citicorp
Director, Perkin-Elmer Corporation

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26730 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-165-000 et al.]

Natural gas certificate filings; United Gas Pipe Line Co., et al.

November 6, 1989.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP90-165-000]

Take notice that on October 31, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-165-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport on an interruptible basis under its blanket certificate Docket No. CP88-6-000, 51,500 MMBtu for Mobil Natural Gas, Inc., a marketer, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that service commenced October 5, 1989, under § 284.223(a) of the Commission Regulations, as reported in Docket No. ST90-00171 and estimates the volumes transported to be 51,500 MMBtu per day on peak day and average day, and 18,797,500 MMBtu on an annual basis.

United also indicates that no new facilities are to be constructed.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipe Line Company

[Docket No. CP90-171-000]

Take notice that on October 30, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-171-000 an application pursuant to §§ 157.205 of the Commission's Regulations under the Natural Gas Act, (18 CFR 157.205) for authorization to transport natural gas on behalf of Exxon Corp. (Exxon), under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 115,000 MMBtu per day for Exxon. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 115,000 MMBtu, 115,000 MMBtu and 41,975,000 MMBtu respectively.

ANR advises that service under § 284.223(a) commenced October 1, 1989, as reported in Docket No. ST90-218.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP90-172-000]

Take notice that on October 30, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP90-172-000, a request pursuant to Northern's blanket authority granted on September 1, 1982 in Docket No. CP82-401-000 and § 157.212 of the Commission's Regulations, for authority to operate and maintain for sales service, two existing delivery points and appurtenant facilities for the community of Rosemount, Minnesota and for Farmland Industries at Beatrice, Nebraska, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to operate and maintain for sales service two existing delivery points for Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples). The volumes delivered to the delivery points will be served from the existing firm entitlements of Rosemount, Minnesota and Fairbury, Nebraska.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP90-166-000]

Take notice that on October 30, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed a request with the Commission in Docket No. CP90-166-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to provide interruptible transportation service on behalf of Kogas, Inc. (Kogas), a natural gas marketer, under United's blanket certificate issued in Docket No. CP86-6, all as more fully set forth in the request which is open to public inspection.

United states that it proposes to transport, pursuant to their March 17, 1989, agreement, 103,000 MMBtu equivalent of natural gas on peak and average days, and 37,595,000 MMBtu annually for Kogas' behalf. United states that it commenced service for Kogas on June 14, 1989, under the automatic 120-day authorization provisions of § 284.223(a) of the Regulations as reported in Docket No. ST89-4777. United also states that it would receive Kogas' gas at an existing interconnection in West Cameron Block 538, offshore Louisiana, and deliver gas for Kogas' account at an existing interconnection in West Cameron Block 537, offshore Louisiana.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. ANR Pipe Line Company

[Docket No. CP90-146-000]

Take notice that on October 27, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed a request with the Commission in Docket No. CP90-146-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for MidCon Marketing Corp. (MidCon), a natural gas marketer, under the blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

ANR proposes to transport on an interruptible basis for MidCon up to 10,000 dekatherms of natural gas on

peak and average days and 3,650,000 dekatherms annually. ANR states that it would receive the gas at ANR's existing receipt points in Illinois, Kansas, Louisiana, offshore Louisiana,

of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Marathon Oil Company (Marathon), under Questar's blanket

receipt on its system in offshore Louisiana and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at an existing point of delivery in Louisiana.

the Commission and open to public inspection.

CIG proposes to transport on an interruptible basis up to 30,000 Mcf of natural gas on a peak day, 15,000 Mcf on

Applicant states that, on September 29, 1989, in Docket No. RP89-35-005, the Commission accepted for filing, subject to refund and modifications, interim rates and permanent terms and

comment on individual transactions and specific Commission scrutiny of firm sales and transportation transfers where appropriate. Applicant proposes to employ prior notice and protest

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peak and average days and 3,650,000 dekatherms annually. ANR states that it would receive the gas at ANR's existing receipt points in Illinois, Kansas, Louisiana, offshore Louisiana, Oklahoma, Texas, and offshore Texas, and deliver MidCon's gas at existing interconnections in Illinois. ANR states that service commenced September 28, 1989, under the automatic 120-day authorization provisions of § 284.223(a) of the Regulations, as reported in Docket No. ST90–126.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

Take notice that on October 31, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas, filed in Docket No. CP90–205–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284. 223) for authorization to transport gas for Chevron USA, Inc. (Chevron), a producer of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport on an interruptible basis up to 300,000 dekatherm (dt) of natural gas per day on behalf of Chevron pursuant to a transportation agreement dated September 21, 1989, between Tennessee and Chevron. Tennessee would receive gas at various existing points of receipt on its system in offshore Texas, offshore Louisiana, Louisiana, Texas and Alabama and redeliver for volumes, at various existing delivery points in Tennessee, Pennsylvania, New York, Connecticut, Ohio, Mississippi and Louisiana.

Tennessee further states that the estimated average daily and annual quantities would be 300,000 dt and 109,500,000 dt, respectively. Service under Section 284.223(a) commenced on October 1, 1989, as reported in Docket No. ST90–254–000, it is stated.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Questar Pipeline Company

[Docket No. CP90–185–000]

Take notice that on October 31, 1989, Questar Pipe Line Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP90–185–000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Marathon Oil Company (Marathon), under Questar's blanket transportation certificate which was accepted by Questar's blanket transportation certificate which was accepted by Questar on September 20, 1988, in Docket No. CP88–650–000, all as more fully set forth in the request is on file with the Commission and open to public inspection.

Questar states that pursuant to a transportation agreement dated August 30, 1989, under its Rate Schedule T–2 it proposes to transport for Marathon up to 2,700 MMBtu equivalent of gas per peak day and estimated quantities of 1,200 MMBtu and 438,000 MMBtu equivalent of gas per average day and annually, respectively. Questar indicates that it will receive the gas from Marathon at various points on Questar's pipeline system in the State of Wyoming and deliver the gas for the account of Marathon to Colorado Interstate Gas Company and Northwest Pipeline Corporation, in the State of Wyoming, for subsequent transportation.

Questar states that it commenced the transportation of gas for Marathon pursuant to § 284.223(a) of the Commission's Regulations on September 1, 1989, as reported to the Commission in Docket No. ST89–4781–000 on September 21, 1989.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Tennessee Gas Pipeline Company

[Docket No. CP90–162–000]

Take notice that on October 30, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90–162–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas for Arco Natural Gas Marketing, Inc. (Arco), a marketer of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport on a firm basis up to 20,000 dekaterm (dt) of natural gas per day on behalf of Arco pursuant to a transportation agreement dated October 1, 1989, between Tennessee and Arco. Tennessee would receive gas at various existing points of receipt on its system in offshore Louisiana and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at an existing point of delivery in Louisiana.

Tennessee further states that the estimated average daily and annual quantities would be 20,000 dt and 7,300,000 dt, respectively. Service under § 284.223(a) commenced on October 1, 1989, as reported in Docket No. ST90–251–000, it is stated.

8. ANR Pipe Line Company

[Docket No. CP90–150–000]

Take notice that on October 27, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–150–000 an application pursuant to §§ 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Northwestern Mutual Life Insurance Co. (Northwestern), under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 11,200 MMBtu per day for Northwestern. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 11,200 MMBtu, 11,200 MMBtu and 4,088,000 MMBtu respectively.

ANR advises that service under § 284.223(a) commenced September 12, 1989, as reported in Docket No. ST90–136.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Colorado Interstate Gas Company

[Docket No. CP90–169–000]

Take notice that on October 30, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90–169–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Exxon Corporation (Exxon), a producer, under CIG's blanket certificate issued in Docket No. CP86–589–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG proposes to transport on an interruptible basis up to 30,000 Mcf of natural gas on a peak day, 15,000 Mcf on an average day and 5,475,000 Mcf on an annual basis for Exxon. CIG states that it would perform the transportation service for Exxon under CIG's Rate Schedule TI–1. CIG indicates that it would transport the gas from receipt points in Wyoming, to a delivery point located in Sherman County, Texas.

It is explained that the service commenced August 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90–245. CIG indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Midwestern Gas Transmission

[Docket No. CP90–174–000]

Take notice that on October 30, 1989, Midwestern Gas Transmission Company (Applicant), 1010 Milam Street, Houston, Texas 77252, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), and § 284.221 of the Commission's Regulations thereunder for authorization to provide transportation service for others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant also requests pregranted abandonment authority of firm sales obligations that are converted to firm transportation and appropriate certificate and abandonment authority to allow firm sales and transportation customers to transfer contract demand to other firm sales and transportation customers under prior notice procedures.

Applicant states that it is requesting a blanket certificate of public convenience and necessity to enable it to provide self-implementing transportation service for others and for pre-granted abandonment of such self-implementing transportation services in accord with § 284.221(d) of the Commission's Regulations. Applicant states that its request conforms to Article III of the Stipulation and Agreement filed in Docket No. RP88–35 on August 29, 1989, which the Presiding Administrative Law Judge certified to the Commission on October 24, 1989. Applicant states that it will comply with the conditions set forth in § 284.221(c) of the Commission's Regulations.

Applicant states that, on September 29, 1989, in Docket No. RP89–35–005, the Commission accepted for filing, subject to refund and modifications, interim rates and permanent terms and conditions of service under which Applicant would provide Part 284 firm and interruptible transportation service as set forth in Appendices A and B to the Docket No. RP89–35 stipulation. It is indicated that Appendix C of the stipulation sets forth final settlement rates for all services.

Applicant requests the Commission to suspend temporarily the operation of § 284.10 of the Commission's Regulations with respect to Applicant's Rate Schedule CD–1 customers in accord with Article IV of the Docket No. RP89–35 Stipulation. Applicant states that under Article IV Midwestern's firm sales customers are given the right, during the term of the stipulation, to convert firm sales entitlements to firm transportation as Applicant is permitted to convert under any gas inventory charge adopted by Tennessee Gas Pipeline Company (Tennessee), interim or permanent. It is indicated that if a gas inventory charge tariff that provides for the conversion of firm sales entitlements to firm transportation service has not become effective for Tennessee on or before April 1, 1991, then the suspension of conversion rights under § 284.10 would terminate.

Applicant also requests the Commission, pursuant to section 7(b) of the NGA, to grant it the authority to abandon now and in the future firm sales service that Applicant's customers elect to convert to firm transportation pursuant to § 284.10 of the Commission's Regulations or other authorizations. Applicant avers that grant of this authority will give it the flexibility to realign its services without the expense and delay of filing individual applications to abandon services which are no longer desired by its customers. Applicant states further that the requested pregranted abandonment authority is identical to authority granted by the Commission in other cases.

Applicant further requests certificate and abandonment authority under sections 7(b) and 7(c) of the NGA to allow firm sales customers to transfer their contract demands to other customers. Applicant has included *proforma* tariff sheets to establish a new Article XXIII to its General Terms and Conditions which allows firm sales and transportation customers to have their firm sales and firm transportation rights reassigned to others temporarily or permanently. Applicant states that in order to allow opportunity for public comment on individual transactions and specific Commission scrutiny of firm sales and transportation transfers where appropriate, Applicant proposes to employ prior notice and protest procedures modeled after the procedures in § 157.205 of the regulations. Applicant states that its proposed program to allow transfers of firm sales and firm transportation service rights is responsive to Commission policy and the desires of Applicant's customers.

Comment date: November 27, 1989, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of

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the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26731 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-1-000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

(November 8, 1989).

Take notice that on November 1, 1989 Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Nineteenth Revised Sheet No. 4

The tariff sheet is proposed to become effective January 1, 1990. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers.

Alabama-Tennessee states that the instant filing represents its annual purchased gas cost adjustment pursuant to § 154.305 of the Commission's regulations and contains the Assessment of Past Performance required by Section 154.306.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 29, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26732 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA90-1-000]

Amoco Gas Co.; Petition for Adjustment

November 8, 1989.

Take notice that on October 23, 1989, Amoco Gas Company (Amoco Gas) filed, pursuant to § 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition requesting an adjustment from §§ 284.123(b)(1)(ii) and 284.224(e)(2)(ii) of the Commission's regulations to permit Amoco Gas to use its tariff on file with the Railroad Commission of Texas (Railroad Commission) as the applicable rate for interruptible transportation under its blanket certificate.

Amoco Gas has on file with the Railroad Commission effective rates for intrastate transportation services. Amoco Gas, however, has only one city gate sale, and the rate for that sale has not been the subject of a cost-of-service hearing before the Railroad Commission. Amoco Gas proposes to request the Railroad Commission to make a determination that the rate that it has on file with the Railroad Commission is cost-based and fair and equitable, and it will make this filing not later than thirty (30) days after the date that the Commission grants the requested adjustment. If the rate approved by the Railroad Commission is less than the rate requested herein, Amoco Gas will refund any amounts collected in excess of the maximum rate that the Railroad Commission approves. Amoco Gas states that the Commission should grant the requested adjustment to prevent the special hardship and inequity associated with being subject to dual rate jurisdiction of both the Railroad Commission and this Commission.

The procedures applicable to the conduct of this adjustment proceeding are found in subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of subpart K. All motions must be filed within 15 days after publication of this notice in the **Federal Register**. The petition is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26733 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-2-000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

(November 8, 1989).

Take notice that on November 1, 1989, East Tennessee Natural Gas Company (East Tennessee) hereby files ten copies of the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1990.

Fifty-Fourth Revised Sheet No. 4

East Tennessee states that the purpose of this revision is to institute the Annual PGA pursuant to §§ 22.2 and 22.3 of the General Terms and Conditions of East Tennessee's Tariff.

East Tennessee states that the current Purchased Gas Cost Rate Adjustments reflected on Fifty-Fourth Revised Sheet No. 4 consists of $.3592 per dekatherm adjustment applicable to the gas rate and to Rate Schedule SWS, $.62 per dekatherm applicable to the D_1 component of the demand rates and a $.0029 per dekatherm adjustment to the D_2 component.

East Tennessee states that the revisions also reflect a $(.0082) per dekatherm surcharge adjustment to the gas rates and $(.40) per dekatherm surcharge adjustment to the demand D_1 rate and $(.0003) per dekatherm surcharge to the demand D_2 rate for amortizing the Unrecovered Gas Cost Account.

East Tennessee states that the current adjustment to its demand rates (D_1 and D_2 reflect the demand charges from Tennessee Gas Pipeline company effective January 1, 1990. East Tennessee states that current adjustments to its gas rate reflect increases in the gas rate of Tennessee and other various nonpipeline-suppliers.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 29, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26734 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES90-6-000]

El Paso Electric Co.; Application

November 7, 1989.

Take notice that on November 2, 1989, El Paso Electric Company ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), seeking authority pursuant to section 204 of the Federal Power Act, to assume liability for borrowings of up to $10 million of indebtedness to be incurring by Big Bend Resources Trust, an independent Trust established for the principal purpose of providing financing for the Applicant's fuel oil requirements through May 31, 1991.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 24, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26735 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA90-1-59-000 and TM90-2-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

November 8, 1989.

Take notice that on November 1, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume 1 Tariff) and Original Volume No. 2 (Volume 2 Tariff), the following tariff sheets:

Third Revised Volume No. 1

Fifty-Fourth Revised Sheet No. 4a
Seventy-Fifth Revised Sheet No. 4b
Forty-Third Revised Sheet No. 4b.1
Ninth Revised Sheet No. 4g
Tenth Revised Sheet No. 4g.1
Eleventh Revised Sheet No. 4g.2

Original Volume No. 2

Eighty-Third Revised Sheet No. 1c
Thirteenth Revised Sheet No. 884
Thirteenth Revised Sheet No. 891

Such revised tariff sheets are required in order that Northern may place into effect the proposed rates on January 1, 1990 to:

(1) Reflect Northern's cost of purchased gas to be experienced during the 1st Quarter, 1990, pursuant to Paragraph 18 of Northern's Volume 1 Tariff, and Paragraph 1 of Northern's Volume 2 Tariff.

(2) Reflect a surcharge to amortize the underrecovered commodity cost of purchased gas account for the twelve months ended August 31, 1989, and a surcharge to amortize the recovered demand cost of purchased gas account for the eleven months ended August 31, 1989, both pursuant to Paragraph 18 of Northern's Volume 1 Tariff and Paragraph 1 of Northern's Volume 2 Tariff and also to reflect certain revenue tracking adjustments.

(3) Track the change in the cost of transportation of gas through the Alaska Natural Gas Transportation System (ANGTS) pursuant to Paragraph 21 of Northern's Volume 1 Tariff and Paragraph 4 of Northern's Volume 2 Tariff. In addition, this filing reflects a positive surcharge to amortize the underrecovered cost of transportation of gas through ANGTS for the twelve months ended September 30, 1989.

In the filing, Northern has established a ceiling PGA rate of $2.9120 per MMBtu which reflects an increase of $0.5779 per MMBtu from the approved 4th Quarter 1989 ceiling PGA rate of $2.3341 per MMBtu.

Northern states that since the projection of 1st Quarter, 1990 gas purchased costs may not reflect the level of gas purchased costs it actually will experience on January 1, 1990, it may not bill the commodity rates established in its filing on January 1, 1990. Instead, Northern states that it will utilize its flexible PGA tariff mechanism, if necessary, to reflect in the commodity rates on January 1, 1990, the estimated actual cost of purchased gas being experienced at that time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 29, 1989 for TA90-1-59-000 and November 15, 1989 for TM90-2-59-000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26750 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-40-001]

Raton Gas Transmission Co.; Annual PGA Filing

November 8, 1989.

Take notice that Raton Gas Transmission Company (Raton) on October 19, 1989, tendered for filing to its FERC Gas Tariff Original Volume No. 1, Substitute Fourteenth Revised Sheet No. 4.

Raton states that the changes in the filing have resulted in an increase in commodity rate of 0.43 cents which represents the change in Colorado Interstate Gas Company rate in its July 1989 rate from the April 1989 rate which was erroneously utilized in our previous

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filing and a decrease of 0.27 cents in the Surcharge rate.

Raton also states that there were no refunds received or paid during the period involved.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26736 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-141-003]

Sea Robin Pipeline Co.; Compliance Filing

November 8, 1989.

Taken notice that on November 3, 1989, Sea Robin Pipeline Company (Sea Robin) submitted for filing a revised tariff sheet and certain workpapers in response to the Commission's October 5, 1989 Order in this proceeding. The revised tariff sheet tendered for filing is part of Sea Robin's Original Volume No. 1 of its FERC Gas Tariff.

To be Effective April 1, 1989

Second Substitute Original Sheet No. 4-D

Sea Robin states that this tariff sheet reflects Sea Robin's compliance with the text of the October 5 Order which requires Sea Robin to delete the payments made by United Gas Pipe Line Company (United) to Sonat Exploration Company, an affiliate of Southern Natural Company (Southern), from the costs allocated to United. Further, this tariff sheet is being filed without prejudice to Sea Robin's right to request rehearing of the October 5 Order, and is filed subject to the Commission's action on such a rehearing request. The filing is also made subject to Sea Robin's right to seek judicial review of any such Commission orders in this proceeding.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in such accordance with sections 285.214 and 385.211 of the Commission's regulations. All such protests should be filed on or before November 16, 1989.

Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and area available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26737 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-140-000]

Trailblazer Pipeline Co.; Application

November 7, 1989.

Take notice that on October 27, 1989, Trailblazer Pipeline Company (Trailblazer), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-140-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trailblazer states that on March 23, 1989, it filed an offer of settlement in Docket Nos. RP84-94-000, *et al.* The settlement covered Trailblazer's general rate proceeding in Docket No. RP84-94-000 and a consolidated filing by Trailblazer in Docket No. RP85-66-000 relating to the level of the rate for interruptible service under its Rate Schedule I, it is indicated. In addition to a comprehensive settlement of Trailblazer's rate proceedings, the settlement provided for initiation of open-access transportation, it is stated. Trailblazer states that the settlement in Docket No. RP-94-000, *et al.* was approved by the Commission in the order issued on October 6, 1989 (October 6, order). Trailblazer states that the open-access transportation would be governed by the open-access tariff sheets approved with modifications in the October 6, order and submitted by Trailblazer on October 11, 1989, in Docket No. RP90-9-000. Also, in Docket No. RP90-9-000, Trailblazer filed to commence performing transportation under section 311 of the Natural Gas Policy Act of 1978, it is indicated. Trailblazer states that it would comply with the conditions in § 284.221(c) of the Commission's Regulations, which paragraph refers to subpart A of part 284 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. if a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trailblazer to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26738 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-120-000]

Viking Gas Transmission Co.; Application

November 7, 1989.

Take notice that on October 24, 1989, Viking Gas Transmission Company (Viking), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-120-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Viking to transport natural gas for Natural Gas Clearinghouse (NGC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Viking proposes to transport up to a maximum daily quantity of 363,542 dt equivalent of natural gas on an interruptible basis for NGC. Viking indicates that it would transport the gas from a point of interconnection with TransCanada Pipelines Ltd., near Emerson, Manitoba, to a point of interconnection with ANR Pipeline Company (ANR) near Marshfield, Wisconsin.

Viking states that the proposed transportation service for NGC will replace the service applied for by Midwestern Gas Transmission Company in Docket No. CP88-665-000.

Viking states that the rate to be paid by NGC will be equal to the rate set forth in Viking's Rate Schedule IT-2.

Viking states that the proposed transportation service will enable NGC to meet its existing market requirements and any anticipated market growth, as well as providing access to additional markets for NGC's Canadian and domestic suppliers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Viking to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26739 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 224-200057-003]

Tampa Port Authority/Tampa Bay International Terminal Agreement; Erratum

The Federal Register notice published on November 3, 1989, (Vol. 54, No. 212, FR 46460), incorrectly identified Tampa Port Authority/Tampa Bay International Terminal Agreement as Agreement No. 224-200057-002, whereas, it should have been noticed as Agreement No. 224-200057-003.

By Order of the Federal Maritime Commission.

Dated: November 8, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89-26742 Filed 11-14-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200303

Title: Jacksonville Port Authority Terminal Agreement:

Parties:

Jacksonville Port Authority (JPA)
C.N. Lloyd Brasileiro Steamship Line (Lloyd)

Synopsis: The Agreement provides that JPA will grant Lloyd certain tariff discounts for wharfage charges and charges for receiving and delivering containers and chassis. Lloyd guarantees 30 vessel calls per year at the Port of Jacksonville.

Agreement No.: 224-010074-004

Title: Port of Oakland (Terminal Agreement)

Parties:

Port of Oakland (Port)
International Transportation Service, Inc. (ITS)

Synopsis: The Agreement permits Hanjin Shipping to move its operations to the ITS managed Outer Harbor Berth 25-26 facility due to emergency conditions caused by the October 17th earthquake.

Agreement No.: 224-010631-003

Title: Port of Oakland Terminal Agreement

Parties:

Port of Oakland (Port)
Hanjin Shipping Co. (Hanjin)

Synopsis: The Agreement provides for Hanjin's Transfer of operations from the 7th Street Marine Terminal to the Port's Outer Harbor Berth 25-26 facility due to emergency conditions covered by the October 17th earthquake.

By Order of the Federal Maritime Commission.

Dated: November 8, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89-26740 Filed 11-14-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties

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may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-010286-022
Title: South Europe/U.S.A. Pool Agreement.
Parties:
Compania Trasatlantica Espanola, S.A.
Costa Container Line, A Division of Contship Containerlines Limited
Evergreen Marine Corporation, (Taiwan) Ltd.
Farrell Lines, Inc.
"Italia" di Navigazione, S.P.A.
Jugolinija
Lykes Bros. Steamship Co., Inc.
A.P. Moller-Maersk Line
Nedlloyd Lijnen B.V.
P & O Containers (TFL) Ltd.
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The modification proposes to extend by two months, from January 31, 1991 to March 31, 1991, the date that a member may withdraw from the Pool Agreement or any Pool Section without penalty.

Agreement No.: 202-010629-012
Title: Eurocorde Discussion Agreement
Parties:
North Europe-USA Rate Agreement
USA-North Europe Rate Agreement
Evergreen Marine Corp. (Taiwan), Ltd.
American Transport Lines, Ltd.
Mediterranean Shipping Co.
Orient Overseas Container Line (UK) Ltd.
South Atlantic Cargo Shipping, NV
Lykes Bros. Steamship Co., Inc.
Polish Ocean Lines
Independent Container Line Limited
Topgallant Lines, Inc.

Synopsis: The Proposed modification would extend the expiration date of the caucus authority of the independent carrier parties from December 31, 1989 to June 30, 1990.

Agreement No.: 217-010655-002
Title: V.A.G. Transport/Hoegh-Ugland Auto Liners Space Charter Agreement.
Parties:
V.A.G. Transport GmbH ("V.A.G. Transport")
Hoegh-Ugland Auto Liners A/S ("Hoegh-Ugland")

Synopsis: The proposed amendment would permit V.A.G. Transport to charter space to, as well as from, Hoegh-Ugland. It would also establish a ninety day notice period for termination of the Agreement by either party.

Agreement No.: 207-011257
Title: Wallenius/NOSAC Far East Joint Service Agreement.
Parties:
Wallenius rederierna AB
Norwegian Specialized Autocarriers—NOSAC

Synopsis: The proposed agreement would permit the parties to operate a joint cargo service, utilizing roll-on roll-off vessels, to be known as the Wallnos Far East Service in the trade from United States ports, including U.S. commonwealths, territories and possessions, to ports and islands in the Far East and Pacific Ocean east of Pakistan, and inland points via all such ports. The Agreement does not apply to forest products.

By Order of the Federal Maritime Commission.

Dated: November 8, 1989.

Ronald D. Murphy,
Assistant Secretary.

[FR Doc. 89-26741 Filed 11-14-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Dai-Ichi Kangyo Bank, Ltd.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(a)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States and the world.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 6, 1989.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Dai-Ichi Kangyo Bank, Ltd.*, Tokyo, Japan; to acquire at least 60 percent of the voting shares of The CIT Group Holdings, Inc., New York, New York, and thereby engage in commercial finance, leasing, factoring, sales finance, credit servicing, community development, the sale of credit or credit related life, accident and health, and property and casualty insurance, and activities incidental thereto, that are permissible for bank holding companies under § 225.25(b)(1), (5), (6) and (8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-26763 Filed 11-14-89; 8:45 am]
BILLING CODE 6210-01-M

Keystone Financial, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 7, 1989.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Keystone Financial, Inc.*, Harrisburg, Pennsylvania; to engage *de novo* through its subsidiary Keystone Financial Leasing Corporation, Harrisburg, Pennsylvania, in leasing personal or real property or acting as agent, broker, or adviser in leasing such property, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Corporation of Picayune*, Picayune, Mississippi; to engage *de novo* through its subsidiary Community Fianance, Inc. (Company), Picayune, Mississippi, in insurance activities related to extension of credit, through Company, its proposed new subsidiary. Specifically, Applicant proposes to sell, as agent, the following credit products: (1) Credit life; (2) accident and health; (3) household goods credit property; (4) creditor protection single interest auto and, (5) low value dwelling, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Magna Group, Inc.*, Belleville, Illinois; to engage *de novo* in the sale and issuance of traveler's checks in central and southern Illinois, pursuant to § 225.25(b)(12) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-26764 Filed 11-14-89; 8:45 am]
BILLING CODE 6210-01-M

David B. Lilly, Jr.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 1, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mr. David B. Lilly, Jr.*, Middleburg, Virginia; to acquire 17.92 percent of the voting shares of Harvest Bancorp, Inc., Hamilton, Virginia, and thereby indirectly acquire The Farmers & Merchants National Bank of Hamilton, Hamilton, Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Armando Ramon Vicente*, Miami, Florida; to acquire an additional 23.9 percent (totalling 24.6 percent) of the voting shares of Bank M, Miami, Florida.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *William J. Hank*, Sterling, Illinois; to acquire an additional 17.7 percent (totalling 36.27 percent) of the voting shares of First Sterling Bancorp, Inc., Sterling, Illinois, and thereby indirectly acquire First National Bank of Sterling, Sterling, Illinois.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Don R. Boyd*, Slater, Missouri; to acquire an additional 11.6 percent (totalling 28.4 percent) of the voting shares of Slater Bancshares, Inc., Slater, Missouri, parent of State Bank of Slater, Slater, Missouri.

2. *Sam W. Gilliam*, Slater, Missouri; to acquire an additional 10.8 percent (totalling 33.7 percent) of the voting shares of Slater Bancshares, Inc., Slater, Missouri, parent of State Bank of Slater, Slater, Missouri.

3. *Lawrence E. Hart*, Atchison, Kansas; to acquire an additional 9.03 percent (totalling 24.06 percent) of the voting shares of Valley Bancshares, Inc., Atchison, Kansas, and thereby indirectly acquire The Valley Bank, Atchison, Kansas.

4. *Martin T. Hart*, Denver, Colorado; to acquire an additional 9.03 percent (totalling 24.06 percent) of the voting shares of Valley Bancshares, Inc., Atchison, Kansas, and thereby indirectly acquire The Valley Bank, Atchison, Kansas.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Laura I. Stewart*, Alamogordo, New Mexico; to acquire 8.17 percent of the voting shares of First Alamogordo Bancorp, Inc., Alamogordo, New Mexico, and thereby indirectly acquire First National Bank in Alamogordo, Alamogordo, New Mexico, and First National Bank of Ruidoso, Ruidoso, New Mexico.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-26765 Filed 11-14-89; 8:45 am]
BILLING CODE 6210-01-M

Mercantile Bankshares Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-26766 Filed 11-14-89; 8:45 am]

Durham, NC 27704, has filed an application requesting approval for the export of the biological product OncoTICE™ BCG, to The Netherlands. The product OncoTICE™ BCG is

20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should

person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802

the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an

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inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 6, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mercantile Bankshares Corporation*, Baltimore, Maryland; to acquire 100 percent of the voting shares of Baltimore Trust Company, Selbyville, Delaware.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bancshares in Newton, Inc. ESOP*, Newton, Illinois; to become a bank holding company by acquiring at least 68.9 percent of the voting shares of First National Bancshares in Newton, Inc., Newton, Illinois, and thereby indirectly acquire First National Bank in Newton, Newton, Illinois. The target bank engages only in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

2. *Union Planters Corporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares of First Financial Services, Inc. Brownsville, Tennessee, and thereby indirectly acquire First State Bank, Brownsville, Tennessee. The target bank engages only in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

3. *Union Planters Corporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares of Security Bancshares, Inc., Paris, Tennessee, and thereby indirectly acquire Security Bank and Trust Company, Paris, Tennessee. The target bank engages only in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26766 Filed 11-14-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0476]

Drug Export; OncoTICE™ BCG

AGENCY: Food and Drug Administration, NNS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Organon Teknika Corp. has filed an application requesting approval for the export of the biological product OncoTICE™ BCG, to The Netherlands.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Organon Teknika Corp., 100 Akzo Ave., Durham, NC 27704, has filed an application requesting approval for the export of the biological product OncoTICE™ BCG, to The Netherlands. The product OncoTICE™ BCG is intended for use as an adjunct in the treatment of primary carcinoma in situ and in prophylaxis of recurrent transitional cell carcinoma in situ. The completed application was received and filed in the Center for Biologics Evaluation and Research on October 2, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be sen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 27, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: October 23, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-26854 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0477]

Drug Export; Ortho™ HIV-1 Recombinant ELISA Test System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc. has filed an application requesting approval for the export of the biological product ORTHO™ HIV-1 Recombinant ELISA Test System to Belgium.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD

20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8161.

SUPPLEMENTARY INFORMATION: The Drug Export Amendment Act of 1986 (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **FEDERAL REGISTER** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems, Inc., Raritan, NJ 08869, has filed an application requesting approval for the export of the biological product ORTHO™ HIV-1 Recombinant ELISA Test System to Belgium ORTHO™ HIV-1 Recombinant ELISA Test System is a qualitative immunoenzyme assay for the detection of antibody to Human Immunodeficiency Virus Type 1 (HIV-1) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on September 27, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 27, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: October 31, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-26855 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0479]

Drug Export; AK-Tate 1%® Ophthalmic Suspension (Prednisolone Acetate 1%) 5 ML and 10 ML Bottles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Norbrook America, Inc., has filed an application requesting approval for the export of the human drug Ak-Tate 1%® ophthalmic suspension (Prednisolone Acetate 1%) 5 milliliter (mL) and 10 mL bottles to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Mary F. Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Norbrook America, Inc., 20510 Earlgate St., Walnut, CA 91789, has filed an application requesting approval for the export of the drug Ak-Tate 1%® ophthalmic suspension (Prednisolone Acetate 1%) 5 milliliter (mL) and 10 mL bottles, to Canada. The product is indicated for the treatment of steroid responsive inflammatory conditions of the palpegral and bulbar conjunctiva, cornea, and anterior segment of the globe, such as allergic conjunctivities, acne rosacea, superficial punctate keratitis, herpes zoster keratitis, iritis, cyclitis, selected infective conjunctivitis when the inherent hazard of steroid use is accepted to obtain an advisable diminution in edema and inflammation, corneal injury from chemical or thermal burns, or penetration of foreign bodies. The application was received and filed in the Center for Drug Evaluation and Research on October 23, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by Nobember 27, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: November 2, 1989.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89-26856 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

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[Docket No. 89M-0455]

T Cell Sciences, Inc.; Premarket Approval of Cellfree® Interleukin-2 Receptor Bead Assay Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by T Cell Sciences, Inc., Cambridge, MA, for premarket approval, under the Medical Device Amendments of 1976, of the Cellfree® Interleukin-2 Receptor Bead Assay Kit. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 6, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On June 21, 1988, T Cell Sciences, Inc., Cambridge, MA 02139, submitted to CDRH an application for premarket approval of the Cellfree® Interleukin-2 Receptor Bead Assay Kit. The Cellfree® Interleukin Bead Assay Kit is a device for assay of soluble human Interleukin-2 receptor (IL-2R). It is an enzyme immunometric assay for the quantitative measurement of IL-2R levels in human serum. The Cellfeee® Interleukin-2 Receptor Bead Assay Kit is indicated for use as an aid in evaluating and monitoring response to treatment in hairy cell leukemia patients in whom elevated levels of serum IL-2R have been confirmed.

On November 21, 1988 the Hematology and Pathology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 6, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRD based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug,and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FSA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), (520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 3, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-26709 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-0-M

[Docket No. 89M-0356]

Newlensco; Premarket Approval of Classic Series™ Models MP-1010, MP-1011, MP-1110, MP-1111, MP-1210, and MP-1410 Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Newlensco, Monrovia, CA, for premarket approval under the Medical Device Amendments of 1976 of the Classic Series™ MP-1010, MP-1011, MP-1110, MP-1111, MP-1210, and MP-1410 Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 17, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 15, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On April 20, 1988, Newlensco, Monrovia, CA 91016, submitted to CDRH an application for premarket approval of the Classic Series™ Models MP-1010, MP-1011, MP-1110, MP-1111, MP-1210, and MP-1410 Posterior Chamber Intraocular Lenses. The devices are indicated for use in the visual correction of aphakia in patients 60 years of age or older, who are undergoing a primary lens implantation, in either the ciliary sulcus or capsular bag, following an extracapsular cataract extraction. The devices are available in a range of powers from 13 diopters (D) through 30 D in 0.5 increments.

On October 19, 1988, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 17, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 21 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360 e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26710 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0419]

DGR Inc.; Premarket Approval of Models PA11-0, PA11-1, PA11-2, PA11-4, PL11-0, PL11-1, PL11-2, and PL11-4, Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by DGR, Inc., St. Petersburg, FL, for premarket approval under the Medical Device Amendments of 1976 (the amendments), of the Models PA11-0, PA11-1, PA11-2, PA11-4, PL11-0, PL11-1, PL11-2, and PL11-4, Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 22, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On October 7, 1988, DGR, Inc., St. Petersburg, FL 33716, submitted to CDRH an application for premarket approval of the Models PA11-0, PA11-1, PA11-2, PA11-4, PL11-0, PL11-1, PL11-2, and PL11-4, Posterior Chamber Intraocular Lenses. The devices are indicated for primary implantation for the visual correction of aphakia in patients 60 years of age or older where a cataractous lens has been removed by extracapsular cataract extraction methods. The devices are available in a range of powers from 12 diopters (D) through 30 D in 0.5-D increments.

On April 13, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 22, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the

Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360 e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26711 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0418]

Oncor, Inc.; Premarket Approval of Oncor B/T Gene Rearrangement Test

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Oncor, Inc., Gaithersburg, MD, for premarket approval under the Medical Device Amendments of 1976 (the amendments), of the Oncor B/T Gene Rearrangement Test. The Oncor B/T Gene Rearrangement Test is a B- and T-cell gene rearrangement test. It detects clonal populations of lymphoid cells in

application for premarket approval of the Oncor B/T Gene Rearrangement Test. The Oncor B/T Gene Rearrangement Test is a B- and T-cell gene rearrangement test. It detects clonal populations of lymphoid cells in detection of Philadelphia translocation gene deoxyribonucleic acid (DNA) in human leukemia cells. The OSI® TransProbe-1™ kit is an in vitro diagnostic DNA probe device to detect the presence of the bcr-210 Philadelphia

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device

material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the

Contact Lens (Spherical and Toric). FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 3, 1989, of the approval of the application.

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Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26711 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0457]

Oncogene Science, Inc.; Premarket Approval of OSI® TransProbe-1™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Oncogene Science, Inc., Manhasset, NY, for premarket approval, under the Medical Device Amendments of 1976, of the OSI® TransProbe-1™. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 3, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On June 21, 1988, Oncogene Science, Inc., Manhasset, NY 11030, submitted to CDRH an application for premarket approval of the OSI® TransProbe-1™. The OSI® TransProbe-1™ is a device for detection of Philadelphia translocation gene deoxyribonucleic acid (DNA) in human leukemia cells. The OSI® TransProbe-1™ kit is an in vitro diagnostic DNA probe device to detect the presence of the bcr 210 Philadelphia (Ph^1) translocation in bone marrow or peripheral blood cells as an aid in the diagnosis of chronic myelogenous leukemia (CML).

On November 21, 1988, the Hematology and Pathology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 3, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register.

If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26712 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0456]

Oncor, Inc.; Premarket Approval of Oncor B/T Gene Rearrangement Test

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Oncor, Inc., Gaithersburg, MD, for premarket approval, under the Medical Device Amendments of 1976, of the Oncor B/T Gene Rearrangement Test. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 10, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 15, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fisheries Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On March 1, 1988, Oncor, Inc., Gaithersburg, MD 20877, submitted to CDRH an application for premarket approval of the Oncor B/T Gene Rearrangement Test. The Oncor B/T Gene Rearrangement Test is a B- and T-cell gene rearrangement test. It detects clonal populations of lymphoid cells in mixed cell populations from tissues and body fluids to aid in the differential diagnosis of lymphocytic leukemia and lymphoid malignancies from other neoplasms. The test also provides information about the B-cell and T-cell lineage of the neoplasm which can aid in the selection of appropriate therapy. In addition, the test identifies rearranged genes (specific tumor markets), so that a physician can qualitatively examine a clonal population during relapse to determine if the same population is present as an aid in evaluation of therapeutic effectiveness.

On November 22, 1988, the Hematology and Pathology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 10, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is availble from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett, (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of reivew to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 3, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-26771 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0684]

N&N Contact Lens International, Inc.; Premarket Approval of Softouch (Ocufilcon C) Soft (Hydrophilic) Contact Lenses and Softouch Toric (Ocufilcon C) Soft (Hydrophilic) Contact Lenses

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by N&N Contact Lens International, Inc., Lynnwood, WA, for premarket approval, under the Medical Device Amendments of 1976, of the SOFTOUCH (ocufilcon C) Soft (Hydrophilic) Contact Lenses and SOFTOUCH TORIC (ocufilcon C) Soft (Hydrophilic) Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with Optical Plastics Research, Inc., Concord, CA, which has authorized N&N Contact Lens International, Inc., to incorporate information contained in its approved premarket approval application for the O.P.R.-55 (ocufilcon C) Hydrophilic Contact Lens (Spherical and Toric). FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 3, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 15, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On July 25, 1989, N&N Contact Lens International, Inc., Lynnwood, WA, 98046, submitted to CDRH an application for premarket approval of the SOFTOUCH (ocufilcon C) Soft (Hydrophilic) Contact Lenses and SOFTOUCH TORIC (ocufilcon C) Soft (Hydrophilic) Contact Lenses for daily wear. The SOFTOUCH (ocufilcon C) Soft (Hydrophilic) Contact Lenses are indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that have hyperopia (farsightedness) and myopia (nearsightedness). The lenses may be worn by persons who may exhibit astigmatism of 1.25 diopters (D) or less that does not interfere with visual acuity. The lenses range in spherical powers from −20.00 D to +20.00 D. The SOFTOUCH TORIC (ocufilcon C) Soft (Hydrophilic) Contact Lenses are indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that have hyperopia, myopia, and exhibit astigmatism of 7.00 D or less. These lenses range in spherical powers from −20.00 D to +20.00 D and cylindrical powers from plano to 7.00 D. The lenses are to be disinfected using a chemical lens care system. The application includes authorization from Optical Plastics Research, Inc., Concord, CA 94520, to incorporate information contained in its approved premarket approval application for the O.P.R.-55 (ocufilcon C) Hydrophilic Contact Lens (Spherical and Toric).

On October 3, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectivenss data on which CDRH based its approval is on file in the Dockets

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Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above. The labeling of the SOFTOUCH (ocufilcon C) Soft (Hydrophilic) Contact Lenses and SOFTOUCH TORIC (ocufilcon C) Soft (Hydrophilic) Contact Lenses states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) 21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89–26772 Filed 11–14–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89M–0449]

Labthermics Technologies, Inc.; Premarket Approval of the Sonotherm® 1000 Ultrasound Hyperthermia System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Labthermics Technologies, Inc., Champaign, IL, for premarket approval, under the Medical Device Amendments of 1976, of the Sonotherm® 1000 Ultrasound Hyperthermia System. After reviewing the recommendation of the Radiologic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 29, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Adrianne Galdi, Center for Devices and Radiological Health (HFZ–430), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1050.

SUPPLEMENTARY INFORMATION: On August 8, 1988, Labthermics Technologies, Inc., 701 Devonshire Dr., Champaign, IL 61820, submitted to CDRH an application for premarket approval of the Sonotherm® 1000 Ultrasound Hyperthermia System. The device is an external ultrasound hyperthermia device. The Sonotherm® 1000 Ultrasound Hyperthermia System is indicated for combined use with radiotherapy in the palliative management of certain solid superficial or up to 8 centimeters deep malignant tumors (i.e., epidermal (squamous cell, nonsquamous cell, large cell, infiltrating ductal, transitional cell, and adenocarcinoma), sarcoma, or schwannoma) that are either candidates for an initial course of radiotherapy or are recurrent or progressive despite conventional therapy.

On July 10, 1989, the Radiologic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 29, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Adrianne Galdi (HFZ–430), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the

Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89–26713 Filed 11–14–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89M–0458]

Surgidev Corp.; Premarket Approval of the Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses Models BUV20–20A0, BUV20–20A4, UV20–20A4, BUV20–24A4, and LRUV20–24A4

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Surgidev Corp., Goleta, CA, for premarket approval under the Medical Device Amendments of 1976 (the amendments), of the Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses Models BUV20–20A0, BUV20–20A4, UV20–20A4, BUV20–24A4, and LRUV20–24A4. After reviewing the recommendations of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of October 17, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1212.

SUPPLEMENTARY INFORMATION: On September 29, 1988, Surgidev Corp., Goleta, CA 93117, submitted to CDRH an application for premarket approval of the Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses Models BUV20–20A0, BUV20–20A4, UV20–20A4, BUV20–24A4, and LRUV20–24A4. The devices are indicated for use in the visual correction of aphakia in patients over 60 years of age or older in whom a cataractours lens has been removed by extracapsular extraction. The lenses are intended to be placed in either the ciliary sulcus or capsular bag. The devices are available in a range of powers from 4 diopters (D) through 34 D in 0.5–D increments.

On April 13, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 17, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 3, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89–26714 Filed 11–14–89; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced.

Psychopharmacologic Drugs Advisory Committee

Date, Time, and Place

December 1, 1989, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of Meeting and Contact Person

Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD–120), Food and Drug

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Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General Function of the Committee

The committee reviews and evaluates available data concerning the safety and effectiveness of currently marketed and investigational human drug products for use in the practice of psychiatry and related fields.

Agenda—Open Public Hearing

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person.

Open Committee Discussion

The committee will discuss data relevant to a claim for the safety and effectiveness of clomipramine in the treatment of obsessive compulsive disorder.

Microbiology Devices Panel

Date, Time, and Place

December 8, 1989, 1 p.m., Conference Rm. L, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of Meeting and Contact Person

This meeting will take place in the form of a telephone conference call. A speaker phone will be provided in the conference room to allow public participation in the meeting. Open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 3 p.m.; Joseph L. Hackett, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20910, 301–427–1096.

General Function of the Committee

The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open Public Hearing

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 8, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open Committee Discussion

The committee will discuss a premarket approval application for a device to detect Hepatitis B e and Hepatitis B e antibody (anti-HBe).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) and open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. I), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 7, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–26773 Filed 11–14–89; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Newark District Office, chaired by Matthew H. Lewis, District Director. The topic to be discussed is food labeling.

DATE: Thursday, November 16, 1989, 10 a.m. to 12 m.

ADDRESS: Cook College, Rutger's—The State University, Rm. 114, Thompson Hall, New Brunswick, NJ 08903.

FOR FURTHER INFORMATION CONTACT: Joan G. Lytle, Consumer Affairs Officer, Food and Drug Administration, 61 Main St., West Orange, NJ 07052, 201–645–6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 7, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–26774 Filed 11–14–89; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 53, No. 45, pg. 7403, dated March 9, 1988) is amended to reflect the addition of responsibility for the Office of Inspector General (OIG) audit resolution functions to the Management Planning and Analysis Staff (MPAS), Office of Budget and Administration (OBA), in the Office of the Associate Administrator for Management.

The specific amendment to Part F. is described below:

• Section FH.20.A.4, Management Planning and Analysis Staff (FHA–1) is amended by deleting the functional statement in its entirety and replacing it with the following functional statement:

4. Management Planning and Analysis Staff (FHA–1)

Assists and advises the Director, Office of Budget and Administration (OBA) and other OBA managers in management analysis activities. Provides Agency-wide services, policy, planning, and control programs including: workplanning, management analysis, quality/productivity improvement, Privacy Act responsibilities, the internal control program, Office of Inspector General (OIG) audit resolution functions, advisory and assistance services certification, contracting out of commercial and industrial activities, the administrative issuances system, and memoranda of understanding and interagency agreements. Develops HCFA Policy in these areas and assures the implementation of these policies throughout HCFA. Conducts special studies and analyses concerning Agency-wide and cross-cutting OBA issues and other broad based administrative issues.

Dated: November 3, 1989.

Robert A. Streimer,

Acting Associate Administrator for Management.

[FR Doc. 89–26823 Filed 11–14–89; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–00–5440–10–ZB6B]

Proposed Right-of-Way and Land Exchange for Proposed Eagle Mountain Mine Waste Disposal Facility

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) and the County of Riverside will prepare a joint Federal-County Environmental Impact Report/Statement (EIR/EIS) for a proposed right-of-way and land exchange for Mine Reclamation Corporation's (MRC) proposed waste disposal facility at the Eagle Mountain Mine.

MRC has proposed to utilize Kaiser Steel Resources, Inc.'s (KSR) Eagle Mountain Mine site in Riverside County, California, and an associated railroad spur for a Class III waste disposal facility. The site would also be used for the storage of recyclable materials, rail and equipment maintenance, landfill gas recovery and utilization, flare/energy recovery, leachate processing, wastewater treatment, the continuance and/or expansion of the existing residential and commercial land uses, and the expansion of the Return-to-Custody facility (California Department of Corrections).

DATES: For Scoping Meetings and Comments: Public scoping meetings will be held on the following dates: 7 p.m. on Wednesday, December 6, 1989, at Lake Tamarisk Recreation Center, 26251 Parkview Dr., Desert Center, CA 92239 (619–227–3203); 7 p.m. Thursday, December 7, 1989, at City Hall Palm Desert, 73510 Fred Waring Dr., Palm Desert, CA 92260 (619–346–0611); and 9:00 a.m. Monday, December 11, 1989, at Southern California Association of Governments, 818 W. 7th St., 12th Floor, Conference Room, Los Angeles, CA 90017 (213–236–1800).

Comments are being requested to help identify significant issues or concerns related to the proposed action, to determine the scope of the issues (including alternatives) that need to be analyzed, and to identify and eliminate from detailed study the issues which are not significant. All comments recommending that the EIR/EIS address specific environmental issues should contain supporting documentation and rational. Written comments must be filed on or before December 20, 1989, reference BLM CA–25504, and should be addressed to Marianne Wetzel, BLM, Palm Springs-South Coast Resource Area, 400 S. Farrell Dr., Suite B–205, Palm Springs, CA 92262.

SUPPLEMENTARY INFORMATION: The project site is the Eagle Mountain inactive, open iron mine located in the Eagle Mountains in eastern Riverside County. The site is owned by KSR and occupies approximately 9,800 acres. The site is located approximately 10 miles north of Desert Center, approximately 170 miles east of Los Angles, and approximately 50 miles west of the Arizona border.

MRC has leased approximately 8,300 acres of the Eagle Mountain Mine and the 52-mile private railroad from KSR for a period of 100 years. MRC proposes to use approximately 5,300 acres of the leased area as a regional site for retrievable storage and disposal of nonharzardous municipal solid waste generated in Southern California. Of the 5,300 acres, about 2,250 acres would be for the landfill itself. Before refuse is delivered to the project site, it will be processed through transfer stations which will be located as near as practicable to the sources of refuse production. At the transfer stations, which will not be owned or operated by MRC, refuse will be screened for harzardous substances, sorted for recyclables, compacted, and loaded into closed shipping containers. MRC plans to have the landfill operating in 1991.

Initially, MRC expects to receive 4,000 tons of waste per day. This waste volume is expected to increases to a maximum of 20,000 tons per day, with 16,000 tons per day being transported by rail and a maximum of 4,000 tons per day being transported by road. The waste would be place in the existing, open mining pits at Eagle Mountain Mine. The estimated capacity of the proposed landfill is in excess of 500 million tons and have a minimum life of 100 years.

The project would be developed to meet stringent state and federal regulations for municipal solid waste landfills. The entire area underlying the refuse would be lined with on-site clay-like materials. At no time would refuse be placed upon or against unlined native material. Other pollution control systems to be constructed would include: ground water monitoring wells,

leachate collection and treatment systems, drainage systems, and landfill gas control and recovery systems.

A portion of the proposed project area including a portion of the railroad was

EFFECTIVE DATE: February 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1720.

Saturday, November 18, from 9:30 a.m. to 12 noon, at the Jefferson High School in Shennandoah Junction, West Virginia, located approximately 5 miles north of Charles Town off Route 9. The purpose

Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of new commission

Mixture Exempts From Commission Jurisdiction Zeta's Carbonated Candy/Bubble Gum Product.

Notice is hereby given that the U.S. International Trade Commission has

[Investigation No. 731–TA–301; Preliminary]

Plastic Tubing Corrugators From Canada

AGENCY: United States International

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leachate collection and treatment systems, drainage systems, and landfill gas control and recovery systems.

A portion of the proposed project area including a portion of the railroad was authorized by the BLM for mining use only by KSR. Therefore, owing to the change of use, KSR is applying for the conversion of a legislatively approved railroad right-or-way to a right-of-way grant pursuant to the Federal Land Policy and Management Act, for rail and road access to the site. Approximately 33 miles of the rail system which runs from Ferrum to the mine site is located on public land.

An exchange of land between the BLM and KSR would also be necessary to place the entire landfill site under private ownership and thereby, would allow KSR to lease the land to MRC for the landfill use. In the exchange, BLM would be acquiring lands which would benefit their biological, cultural, scenic, and other resource management programs. The exchange would involve approximately 2,800 acres of public land, much of which is under unpatented mining claims and mill site claims to KSR.

Potential issues include, but are not limited to, air quality, social and economic impacts, ground and surface water quality, desert tortoise, bighorn sheep, cultural or historical resources, and recreation and wilderness values.

FOR ADDITIONAL INFORMATION CONTACT: Marianne Wetzel, Palm Springs-South Coast Resource Area, 400 S. Farrell Drive, Suite B-205, Palm Springs, California 92262.

Dated: November 8, 1989.

Ron Yokota,

Acting District Manager, California Desert District.

[FR Doc. 89-26790 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-40-M

[ID-943-90-4214-11; I-2037]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that a withdrawal of 39.31 acres for the Cunningham Bar Recreation Area in the Salmon National Forest continue for an additional 20 years. The land is now being used as a recreation site. The land would remain closed to surface entry and mining. The land has been and will remain closed to mineral leasing by an overlapping withdrawal.

EFFECTIVE DATE: February 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

The U.S. Forest Service proposes that the existing land withdrawal made by Public Land Order No. 4624, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 23 N., R. 14 E.
sec. 1, lots 3, 7, and that portion of lot 4 east of the centerline of Wheat Creek.

The area described contains 39.31 acres in Idaho County.

The withdrawal is essential for protection of substantial capital improvements on the Recreation Site. The withdrawal closed the described land to surface entry and mining but not to mineral leasing. However, the land has been and will remain closed to mineral leasing by an overlapping withdrawal. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: November 3, 1989.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 89-26789 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Capital Region; Public Workshop

Notice is here by given in accordance with the Federal Advisory Committee Act that a public workshop will be hosted by the National Park Service, Saturday, November 18, from 9:30 a.m. to 12 noon, at the Jefferson High School in Shennandoah Junction, West Virginia, located approximately 5 miles north of Charles Town off Route 9. The purpose of the meeting is to present alternatives on the special park boundary study as authorized by Congress. This workshop is a follow-up to the March 11, 1989 workshop held to gather ideas on the special park boundary study.

This study of lands adjacent to the park is to consist of three (3) parts; the first is to focus on protection alternatives for the largely undeveloped lands comprising School House Ridge just west of the National Park; the second is to focus on protection alternatives for largely undeveloped lands in the down river view of the Potomac from Jefferson Rock located in the Harpers Ferry National Historical Park; and the third is to focus on the remaining largely undeveloped lands containing outstanding cultural or scenic lands that are integral to the telling of the park's story or maintaining its setting.

The number of acres involved are approximately 1200 acres in Jefferson County, West Virginia; 100 acres in Washington County, Maryland and; 100 acres in Loudoun County, Virginia.

The study excludes developed lands in and around the towns of Harpers Ferry and Boliver, West Virginia and Sandy Hook, Maryland.

There will be a fourteen (14) day comment period following the workshop. Comments may be sent to the following address: Superintendent Donald Campbell, Harpers Ferry National Historical Park, Harpers Ferry, West Virginia 25425.

FOR FURTHER INFORMATION CONTACT: Resource Manager Bill Hebb at (304) 535-6371 Ext. 6224.

Dated: November 6, 1989.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 89-26803 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-70-M

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and Preserve and the Chairperson of the Wrangell-St. Elias National Park Subsistence Resource Commission announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of new commission members and guests.

(2) Review of minutes from last meeting.

(3) Old business:

a. Draft recommendations for Subsistence Hunting Plan.

b. Resident zone considerations.

(4) New business—hunting concerns.

(5) Notice of upcoming chairmen's meeting.

DATE: The meeting will begin in Northway on December 4, 1989 at 1:00 p.m. and conclude at 4:00 p.m. The meeting will continue in Glennallen on December 5, 1989 at 9:30 a.m. and conclude that afternoon.

ADDRESS: The meeting will be held at the Village Community Hall in Northway, Alaska and at the Wrangell-St. Elias National Park and Preserve administrative office in Glennallen, Alaska.

FOR FURTHER INFORMATION CONTACT: Richard Martin, Superintendent, Wrangell-St. Elias National Park and Preserve, Box 29, Glennallen, Alaska 99588.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

David B. Anzea,

Acting Regional Director.

[FR Doc. 89-26804 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-292]

Certain Methods of Making Carbonated Candy Products; Zeta Carbonated Candy/Bubble Gum Product

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: In the matter of certain methods of making carbonated candy products; Notice of Commission Decision not to review an Initial Determination Rejecting as a matter of Law respondent Zeta's Defense That Complainants' Failure to Produce a Carbonated Candy/Bubble Gum Mixture Exempts From Commission Jurisdiction Zeta's Carbonated Candy/Bubble Gum Product.

Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 15) issued by the presiding administrative law judge (ALJ) rejecting as a matter of law respondents' defense that the Commission lacks jurisdiction over respondent's allegedly infringing product because complainant does not use its patented process to produce the identical product.

ADDRESS: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Frances Marshall, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E. Street, SW., Washington, DC 20436, telephone 202-252-1089.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On July 31, 1989, complainants moved the ALJ for a partial summary determination that the Commission as a matter of law has jurisdiction to prevent the important and sale by respondents of a product containing both carbonated candy and bubble gum. Respondents had asserted that complainants' failure to produce a product containing both carbonated candy and bubble bum should exempt respondents' carbonated candy and bubble gum mixture from the Commission's jurisdiction. On August 18, 1989, the ALJ issued an ID granting complainants' motion to the extent that he rejected as a matter of law respondents' defense that the Commission lacks jurisdiction over the mixed carbonated candy product.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.53 of the Commission's Interim Rules of Practice and Procedure ((53 FR 33070) (Aug. 29, 1988)).

By Order of the Commission.

Issued: November 8, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-26800 Filed 11-14-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-301; Preliminary]

Plastic Tubing Corrugators From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-301 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of plastic tubing corrugators,[1] provided for in subheadings 8477.30.00 and 8477.40.00 of the Harmonized Tariff Schedule of the United States (previously reported under items 678.3535 and 678.3545 of the former Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Canada. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by December 22, 1989.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 53 FR 33039 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Larry E. Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-

[1] For purposes of this investigation, "plastic tubing corrugators" (PTCs) refers to all machines and apparatus therefor (including mold sets, dies, and perforators) designed to manufacture continuous lengths of corrugated plastic tubing. Such goods are described for tariff classification purposes as blow-molding machines (HTS subheading 8477.30.00) and vacuum-molding machines and other thermoforming machines (HTS subheading 8477.40.00), all the foregoing for working rubber or plastics or for the manufacture of products from these materials.

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1610. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on November 7, 1989, by Cullom Machine Tool & Die, Inc., Cleveland, TN.

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their respresentatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certifcate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and Business Proprietary Information Service List

Pursuant to section 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 28, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–252–1185) not later than November 27 to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before December 1, 1989, a written brief containing information and arguments pertinent to the subject matter of the invsetigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of § 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7, as amended).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended) may comment on such information in their written brief, and may also file additional written comments on such information no later than December 6, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: November 9, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–26799 Filed 11–14–89; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731–TA–446 and 447; Preliminary]

Polychloroprene From France and the Federal Republic of Germany

Determinations

On the basis of the Record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from France and the Federal Republic of Germany of polychloroprene,[2] provided for in subheadings 4002.41.00 and 4002.49.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 446.15 of the Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 22, 1989, a petition was filed with the Commission and the Department of Commerce by E. I. du Pont de Nemours & Company, Inc., Wilmington, DE, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of polychloroprene from France and the Federal Republic of Germany. Accordingly, effective September 22, 1989, the Commission instituted preliminary antidumping investigations Nos. 731–TA–446 and 447 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 29, 1989 (54 FR 40218). The conference was held in Washington, DC, on October 13, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 8, 1989. The views of the Commission are contained in USITC Publication 2233 (November 1989), entitled "Polychloroprene from France and the Federal Republic of Germany: Determinations of the Commission in Investigations Nos. 731–TA–446 and 447 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By Order of the Commission.

Issued: November 7, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–26802 Filed 11–14–89; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731–TA–448, 449, and 450; Preliminary]

Sweaters Wholly or in Chief Weight of Manmade Fibers From Hong Kong, the Republic of Korea, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Hong Kong, the Republic of Korea ("Korea"), and Taiwan of sweaters wholly or in chief weight of manmade fibers ("sweaters of manmade fibers"),[2] provided for in subheadings 6103.23.00, 6103.29.10, 6103.29.20, 6104.23.00, 6104.29.10, 6104.29.20, 6110.30.10, 6110.30.20, 6110.30.30, and 6110.90.00 of the Harmonized Tariff Schedule of the United States (previously reported under items 381.24, 381.25, 381.35, 381.86, 381.85, 381.89, 381.90, 381.99, 384.16, 384.27, 384.54, 384.77, 384.80, 384.96, and 791.74 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 22, 1989, a petition was filed with the Commission and the Department of Commerce by counsel for the National Knitwear and Sportswear Association, New York, NY, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of sweaters of manmade fibers from Hong Kong, Korea, and Taiwan. Accordingly, effective September, 22, 1989, the Commission instituted preliminary antidumping investigations Nos. 731–TA–448, 449, and 450 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 2, 1989 (54 FR 40532). The conference was held in Washington, DC, on October 12, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on November 6, 1989. The views of the Commission are contained in USITC Publication 2234 (November 1989), entitled "Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan: Determinations of the Commission in Investigations Nos. 731–TA–448, 449, and 450 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By Order of the Commission.

Issued: November 8, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–26801 Filed 11–14–89; 8:45 am]

BILLING CODE 7020-02-M

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[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Polychloroprene (also known as neoprene), a polymer of chloroprene (2-chloro-1,3-butadiene), is a synthetic elastomer available in two different forms: dry polymers and aqueous latex grade polymers.

[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] For purposes of these investigations, sweaters of manmade fibers are defined as knitted or crocheted garments wholly or in chief weight of manmade fibers, designed to cover the upper parts of the body and in a variety of forms, including jackets, vests, cardigans with button or zipper fronts, and pullovers, the foregoing usually having ribbing around the neck, bottom, and/or cuffs (if any). The term encompasses garments of various lengths but most typically ending at the waist. The phrase "in chief weight of manmade fibers" includes sweaters containing 50 percent or more by weight of manmade fibers and sweaters where the manmade fibers predominate by weight over each other single textile material. Sweaters of manmade fibers, as defined here, do not include sweaters 23 percent or more by weight of wool or sweaters for infants 24 months of age or younger. Sweaters of manmade fibers include all sweaters regardless of the number of stitches per centimeter, but with regard to sweaters having more than nine stitches per two linear centimeters horizontally, only those with a knit-on rib at the bottom are included.

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 2)]

Intrastate Rail Rate Authority; Arkansas

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Interstate Commerce Commission recertifies the State of Arkansas for a 5-year period.

DATES: The recertification will be effective on December 15, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services. (202) 275–1721.)

Decided: November 6, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26824 Filed 11–14–89; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION [1]

[Finance Docket No. 31544]

Jaxport Terminal Railway Co.—Lease and Operation Exemption—Terminal Railroad Facilities in Jacksonville, Duval County, FL; Correction

Jaxport Terminal Railway Company (JTR), a noncarrier, has filed a notice of exemption to lease and operate 8.72 miles of rail line owned by the Municipal Docks Railroad (MDR), a unit of the Jacksonville Port Authority. The line is located between Norfolk Southern milepost 5–C and CSX Transportation, Inc., milepost 832.08, and extends eastward from the F&J junction to the Talleyrand Docks and Terminal. The transaction was to be

[1] The notice served October 30, 1989, and published October 31, 1989 (54 FR 45811) contained an incorrect consummation date.

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consummated on the effective date of this notice, October 4, 1989.[8]

Any comments must be filed with the Commission and served on Frank J. Pergolizzi, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Applicant must retain its interest in and maintain the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. and Oper. of R. Lines Under 49 U.S.C. 10901*, 4 I.C.C.2d 305 (1988).[9]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d), may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 7, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26066 Filed 11-14-89; 8:45 am]

BILLING CODE 7035-01-M

[8] ITR states that even though the lease became effective on July 24, 1989, common carrier operations would not begin until the notice became effective. It notes that it has performed terminal railroad operations on the property during the interim period, solely as contract agent of MDR, in MDR's name and pursuant to MDR's filed tariffs.

[9] ITR certifies that it has identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old and older that will be transferred as result of this transaction.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS #1222-89]

Resident Alien Card I-551; New Version

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice to Employers, Recruiters and Referrers for a Fee (hereinafter collectively referred to as "employer").

SUMMARY: This notice is to inform employers that a new version of the Resident Alien Card I-551 will be issued. This notice, as well as other public information material, is being published in order to advise employers of the new document which will assist them in complying with the provisions of Public Law 99-603, the Immigration Reform and Control Act of 1986 (IRCA).

SUPPLEMENTARY INFORMATION: On November 6, 1986 the President signed into law IRCA, Public Law 99-603, which amended the Immigration and Nationality Act by adding provisions relating to the control of aliens in the United States. These provisions make it unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States, aliens knowing that they are not authorized to work in the United States. Employers must hire only American citizens and aliens who are authorized to work in the United States. These provisions also provide for an employment verification system designed to prevent the employment of unauthorized aliens. The verification system requires employers to verify the employment eligibility of anyone, including American citizens, hired after November 6, 1986 by completing and retaining the Employment Eligibility Verification Form (Form I-9). In addition, under this law, employers may not discriminate against any individual (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or, in the case of a citizen or intending citizen, because of his or her citizenship status. The Office of Special Counsel, United States Department of Justice, enforces the anti-discrimination provision of the Act. IRCA caused the Service to add part 274a to title 8, Code of Federal Regulations, by redesignating part 109 with amendments as part 274a, subpart B, by: (1) Defining terms to clarify the regulations; (2) adding new sections to establish procedures for the verification of employment eligibility for workers in the United States; (3) delineating new sections to establish enforcement and process procedures for violations; (4) redesignating part 109 (Employment Authorization) as subpart B of part 274a to consolidate into one part what would otherwise be dispersed regulations.

The INS developed a Handbook for Employers (M-274) in order to assist them in the understanding and implementation of the legal requirements of IRCA. (Any employers that have not received the Handbook for Employers should contact the nearest INS office). This Notice serves as an addendum to the Handbook for Employers as it informs employers of a revised employment authorization document that INS will be issuing to aliens. A description of the document and the class of aliens to whom it is issued is described below.

I. Revision to Resident Alien Card (Also known as the Alien Registration Receipt Card or "green card")

Effective August 1, 1989, INS began issuing a revised Resident Alien Card, Form I-551, to new permanent resident (lawful immigrant) aliens. The I-551 is a List A document (page 11 of Handbook for Employers) because it establishes both identity and employment eligibility. Employers cannot specify which documents they will accept from an employee for employment eligibility verification. They must accept any document or combination of documents listed on page 11 of the Handbook for Employers. The face of the new card will be embossed with lines slightly raised above the laminate. The laminate contains an optical variable ink pattern which reads "I-551" when the card is tilted at an angle. The back of the I-551 will have a pink-to-blue rainbow effect shading on the top portion, with the bottom portion being white. The card will also contain an expiration date, making the card valid for 10 years from the data of issue; the applicant will then be required to obtain a new card, but because employment authorization is unlimited for I-551 holders, there will be no need to update the I-9.

Please Note: Resident Alien Cards Previously issued by the INS will continue to be honored.

FOR FURTHER INFORMATION CONTACT: Kathryn E. Sheehan, Deputy Assistant Commissioner, Employer and Labor Relations, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-2471, Room Number: 7025.

Dated: September 27, 1989.

James H. Montgomery,

Acting Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 89-26715 Filed 11-14-89; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-20,111 Beaver Falls, PA; TA-W-20,112 Ambridge, PA; TA-W-20,113 Koppel, PA]

Babcock and Wilcox Co.; Negative Determination on Reconsideration

Pursuant to a remand in *United Steelworkers of America, Local 1062* v. *Secretary of Labor* (USCIT 88-06-00436) in which comments were considered in support of petitioners' request for

certification, it is recommended that you affirm the Department's negative determination on the subject petition for workers of Babcock & Wilcox Company (B&W) at the above listed locations.

Counsel for the workers requested that certain witnesses and company officials be interviewed and that data from the American Institute of Steel and Iron (AISI) for the years 1980-1987 be analysed. Information obtained through the interviews of witnesses did not elicit additional substantive data not previously known. Further, the Department earlier on reconsideration met in Beaver Falls with union and company officials. Also, AISI data relevant to the period investigated was already included in the Department's tables.

Counsel claims that B&W implemented a policy of competitive pricing to maintain their market share. But, price, in itself, is not a criterion for certification. In order for a worker group to be certified eligible to apply for trade adjustment assistance, it must meet all three of the Group Eligibility Requirements of the Trade Act—a significant decrease in employment, an absolute decrease in sales or production and an increase in imports "contributing importantly" to worker separations.

Investigation findings show that only the Ambridge and Koppel facilities operated in 1987 and that production consisted only of oil country goods. Further, only worker separations in 1987 can be considered for certification since the 4-month work stoppage occurred on September 13, 1986, one year and a day prior to the date of the petition. Section 223(b)(1) of the Act does not allow for the certification of workers who were laid off prior to one year of the date of the petition. U.S. imports of oil country goods declined absolutely and relative to domestic shipments in 1987 compared to 1986.

Counsel claims that the Department treats the work stoppage and McDermott's decision to close the Beaver Falls Works as if these events were unrelated to foreign competition.

The findings, however, show that there is no causal relationship between imports and the company's decision to close. U.S. imports of oil country goods declined in 1987 compared to 1986. Further, in the period before the work stoppage, the Department's survey showed that none of the respondents increased their imports of tubular steel products while decreasing their purchases from B&W in 1986 compared to 1985. In the period after the work stoppage, the survey found some customers who increased their import purchases while decreasing their purchases from B&W. However, all of these respondents attributed their reduced purchases from B&W to (1) the work stoppage or (2) the announced closing of the facility. Many of the respondents indicated that they needed a reliable source of supply and would have continued purchasing from B&W had they remained open for business.

Counsel for the workers requested the Department's certification of a petition dated May 8, 1989 (TA-W-22,958) which was issued on August 18, 1989 for workers at B&W's Beaver Falls Works be included in the record and serve as a basis for the certification of the instant petition. TA-W-22,958 would not form a basis for a certification of a prior negative determination issued in a different time period; with a different mix of products; different production, sales and employment data; different purchasing patterns of customers; and different import data.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of Babcock & Wilcox, Beaver Falls, Ambridge and Koppel, Pennsylvania.

Signed at Washington, DC, this 6th day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26805 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 712 et al.]

Digicon Geophysical Corp.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-21, 712, Houston, TX; TA-W-21, 712A, All Other Locations in Texas; TA-W-21, 712B, All Locations in Colorado; TA-W-21, 712C, All Locations in Oklahoma.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 12, 1989 applicable to all workers of Digicon Geophysical Corporation.

Based on new information from the company, additional workers were separated from other locations in Texas and in the States of Colorado and Oklahoma. The amended notice applicable to TA-W-21, 712 is hereby issued as follows:

All workers of Digicon Geophysical Corporation, Houston, Texas and in other locations of Texas and in the States of Colorado and Oklahoma who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26807 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations.

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,347; Miami Extruders, Miami, FL

TA-W-23,328; Savory Equipment, Inc., Lakewood, NJ

TA-W-23,283; Alsten Co., Inc., Jersey City, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,284; Calgon Corp., Hawthorne, NJ

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The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,354; Bonney Forge Corp., Allentown, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,352; V-M Industries, Inc., Newark, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,304; Texas Eastern Corp., Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,385; FMC Corporation Petroleum Equipment Div., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,311; Dresser Rand Co., Midland Repair Center, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,287; Drilling Mud Disposal, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,325; Planters Lifesavers Co., Canajoharie, NY

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-23,294; Knapp Shoe (Barber Div), Lewiston, ME

A certification was issued covering all workers separated on or after August 9, 1988.

TA-W-23,288; Electro-Design, Inc., Ferndale, MI

A certification was issued covering all workers separated on or after August 8, 1988.

TA-W-23,300; Sharidge, Inc., Ira, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,237; Malouf Co., Willspoint, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,238; Malouf Co., Canton, TX

A certification was issued covering all workers separated on or after July 26, 1988.

TA-W-23,351; Unisys Reconditioning Center, Mendota Heights, MN

A certification was issued covering all workers separated on or after November 1, 1988.

TA-W-23,255; Enfield Apparel Co., Enfield, IL

A certification was issued covering all workers separated on or after January 1, 1989 and before May 3, 1989.

TA-W-23,255; Enfield Apparel Co., Enfield, IL

A certification was issued covering all workers separated on or after January 1, 1989 and before May 3, 1989.

TA-W-23,408; AT & T, Inc., Material Management System Div., Arlington, VA

A certification was issued covering all workers separated on or after September 8, 1989 and before December 31, 1989.

TA-W-21,863; Helmerich & Payne Drilling Co., Pearl, MS

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-21,497; W.L. Kreider's Sons Manufacturing Co., Inc., Palmyra, PA

A certification was issued covering all workers separated on or after October 12, 1988.

TA-W-21,925; Petromark Resources Co., Midland, TX

A certification was issued covering all workers separated on or after November 8, 1988.

TA-W-21,788; B & B Oil Well Service Co., Heidelberg, MS

A certification was issued covering all workers separated on or after January 1, 1989 and before March 1, 1989.

TA-W-21,510; Ceja Corp., Tulsa, OK

A certification was issued covering all workers separated on or after October 14, 1987.

TA-W-21,529; Reed Oil Co., Chanute, KS

A certification was issued covering all workers separated on or after October 17, 1987.

TA-W-21,473; Pride Oil Well Service, Kilgore District, Kilgore, TX

A certification was issued covering all workers separated on or after January 1, 1988 and before August 31, 1987.

TA-W-21,400; Don Knapp Oil Production, Oxford, KS

A certification was issued covering all workers separated on or after October 7, 1987.

TA-W-21,748; Oilwell Servicing Co., Denver City, TX

A certification was issued covering all workers separated on or after January 1, 1988 and before March 31, 1988.

TA-W-21,585; Rig Supplies, Inc., Billings, MT

A certification was issued covering all workers separated on or after October 1, 1985 and before September 1, 1988.

TA-W-21,556; Cantex Drilling Co., Andrews, TX

A certification was issued covering all workers separated on or after January 1, 1987.

TA-W-21,520; JHJ Drilling Co., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 31, 1988.

TA-W-21,488; Trident Oilfield Service and Construction Co., Olney, IL

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1987.

TA-W-21,402; C.D. Turner Oil Operator, Big Spring, TX

A certification was issued covering all workers separated on or after October 6, 1987.

TA-W-21,427; Geo N. Mitchell Drilling Co., Inc., Carmi, IL

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,446; M-I Drilling Fluids Co., (Formerly Dresser Magcobar), Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,508; CRC Wireline, Inc., Odessa, TX and Operating at Various Locations in The Following States:

TA-W-21,508A LA
TA-W-21,508B MS
TA-W-21,508C NM
TA-W-21,508D OK
TA-W-21,508E TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,268; Great Lakes Enterprizes, Inc., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,310; Seismic Prospecting of Denver, Englewood, CO

A certification was issued covering all workers separated on or after June 30, 1987.

TA-W-21,622; Exeter Drilling Co., Denver, CO

A certification was issued covering all workers separated on or after January 1, 1986 and before March 31, 1987

TA-W-21,251; Adcor Drilling, Inc., (Formerly Nicor Drilling, Inc), williston, ND & Operations at Various Locations in The Following States

TA-W-21,251A CO
TA-W-21,251B LA
TA-W-21,251C MT
TA-W-21,251D ND
TA-W-21,251E OK
TA-W-21,251F TX
TA-W-21,251G UT
TA-W-21,251H WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,628; Glenn Drilling Co., Owensboro, KY

A certification was issued covering all workers separated on or after October 1, 1985 and before December 21, 1988.

TA-W-21,198; L & H Shirt Co., Cochran, GA

A certification was issued covering all workers separated on or after September 12, 1987.

TA-W-21,051; American Tubular Systems, Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,113; Louis Clark, Inc., Philadelphia, PA

A certification was issued covering all workers separated on or after November 12, 1988.

TA-W-21,179; Exploration Employment Service, Inc., Livingston, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,226; Signal Oilfield Service, Sidney, MT

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,201; Magnatex Corp., Midland, TX

A certification was issued covering all workers separated on or after September 14, 1987.

TA-W-21,187; Gibson Drilling Co., Kilgore, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,112; London Knitting Mills, Philadelphia, PA

A certification was issued covering all workers separated on or after September 12, 1987.

TA-W-21,110; King Drilling Co., Tullos, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,122; Moore Petroleum Services, Laredo, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before January 1, 1987.

TA-W-21,199; Lambert Construction Co., Odessa, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before November 1, 1988.

TA-W-21,247; Vandrill, Inc., Edmond, OK

A certification was issued covering all workers engaged in the production of canvas/rubber footwear separated on or after October 1, 1985 and before December 31, 1987.

TA-W-21,221; Rock Island Drilling Corp., Midland, TX

A certification was issued covering all workers separated on or after January 1, 1987.

TA-W-21,193; High Sky Drilling, Inc., Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,248; Van's Well Service, Inc., Forsan, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,208; Milpark Drilling Fluids, Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,116; MRM Knitting Co., Abilene, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before September 30, 1987.

TA-W-21,128; Ostrom Well Service, Plainville, KS

A certification was issued covering all workers separated on or after October 1, 1985

TA-W-21,127; Patterson Drilling Co., Snyder, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,165; Cenex, Billings, MT

A certification was issued covering all workers separated on or after September 21, 1987.

TA-W-21,200; Lon O. Miller, Inc., Grafton, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,129; R. Say Enterprise, Wheat Ridge, CO

A certification was issued covering all workers separated on or after January 1, 1986 and before January 1, 1987.

TA-W-21,130; Republic Drilling Co., Wichita, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,131; Riley Drilling Co., Big Springs, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,131A Riley Drilling Co. at Various Locations in Texas

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,143; Superior Brands, Inc., Curwensville, PA

A certification was issued covering all workers separated on or after September 1, 1988.

TA-W-21,144; TMBR Sharp Drilling, Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,225; SAW Drilling, Victoria, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,265; Elite Wireline, Inc., Skiatook, OK

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,346; General Motors Corp., Saginaw Div., Athens, AL

A certification was issued covering all workers separated on or after October 4, 1987.

TA-W-21,487; Tower Drilling Co., Northglenn, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,249; Wolverine World Wide, Inc., Big Rapids, MI

A certification was issued covering all workers separated on or after September 22, 1987.

TA-W-21,296; Perdue Oilfield Service, Beattyville, KY

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,318; Whiteside Casing Crew, Inc., Laredo, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

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TA-W-21,305; Rebel Rentals, Inc., Youngsville, LA
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,345; General Motors Corp., Fisher Guide Div., Elyria, OH
A certification was issued covering all workers separated on or after October 4, 1987.

TA-W-21,327; Big Chief Drilling, Oklahoma City, OK
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,338; E&S Drilling Co., Odessa, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,368; M.R. Drilling Co., Monahans, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,475; Saidem Drilling Co., Midland, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,396; Amazon Technologies, Inc., Longmount, CO
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,306; Red Fork Drilling Co., Seminole, OK
A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1987.

TA-W-21,304; RAM Drilling Co., Browns, IL
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,189; Hembree Well Service, Ness City, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,190; Hembree Well Service, Garden City, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,191; Hembree Well Service, Ellis, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,192; Hembree Well Service, Great Bend, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,264; E.Z. Construction, Keene, ND
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,558; Dia-Log Co., Natchez, MS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,559; Dia-Log Co., Kilgore, TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,560; Dia-Log Co., Hammond, LA
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,584; Revlin Drilling, Inc., Russell, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,021; Consolidated Oil Well Service, Inc., Chanute, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,289; John L. Cox, Oklahoma City, OK
A certification was issued covering all workers separated on or after December 1, 1987.

TA-W-22,229; Hazle Garment Inc., Hazleton, PA
A certification was issued covering all workers separated on or after November 21, 1987 and before December 31, 1988.

TA-W-22,055; Penn American Energy Corp., Titusville, PA
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,136; F&N Drilling Co., Tyler, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,912; Noble Drilling Corp., New Orleans, LA
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,913; Noble Drilling Corp., Williston, ND
A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-22,242; Lucky's Well Service, St. Elmo, IL
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,802; Broughton Offshore LTD, Layfette, LA
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,776; Aldebaran Drilling Co., Pratt, KS
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-22,237; Klev-Bro Shoe Manufacturing Co., Derry, NH
A certification was issued covering all workers separated on or after November 1, 1988.

TA-W-21,783; Arapahoe Drilling Co., Inc., Farmington, NM
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,526; Mellon Drilling Co., San Angelo, TX
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,666; Sipple Oil Co., Beattyville, KY
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,847; Geophysics International Corp., Dallas, TX
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,738; Morning Star Drilling, Inc., Abilene, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,432; Health-Tex, Inc., Guin, AL
A certification was issued covering all workers separated on or after October 10, 1987.

TA-W-22,056; Pfeifer Well Service, Inc., Hill City, KS
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-20,490; Universal Resources Corp., Denver, CO
A certification was issued covering all workers separated on or after October 7, 1987.

TA-W-22,075; Sunstrand Heat Transfer, Inc., Dowagiac, MI
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,782; Aqua/Enviro Field Services, Inc., Bradford, PA
A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-22,082; Tioga Swabbing Service, Inc., Tioga, ND
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,858; H&N Oil Well Cementing Co., Inc., El Dorado, AZ
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,744; Gearhart Industries, Inc., Homer City Station, Homer City, PA
A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1989.

TA-W-21,934; Quarles Drilling Corp., Tulsa, OK & at Various Locations in The Following States
TA-W-21,934A OK
TA-W-21,934B MS
TA-W-21,934C TX
TA-W-21,934D NM
TA-W-21,934E WY
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,835; Explo, Inc., El Dorado, AZ
A certification was issued covering all workers separated on or after November 3, 1987.

TA-W-22,175; Questa Petroleum Co., Pittsburgh, PA
A certification was issued covering all workers separated on or after November 18, 1987.

TA-W-22,339; Zenith Drilling Corp., Wichita, KS
A certification was issued covering all workers separated on or after December 10, 1987.

TA-W-21,743; Nowsco Service, Houston, TX
A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1988.

TA-W-22,081; Thompson Oil and Gas Co., Pleasantville, PA
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,125; El Paso Natural Gas Co., (Farmington & San Juan Div.) Farmington & Kirkland, NM
A certification was issued covering all workers separated on or after November 17, 1987.

TA-W-22,027; Eliasof Bros., Inc., Bronx, NY
A certification was issued covering all workers separated on or after September 7, 1987 and before August 31, 1988.

TA-W-22,325; Lexington Products, Lexington, MS
A certification was issued covering all workers separated on or after December 13, 1987.

TA-W-22,330; Reynolds Energy, Inc., San Angelo, TX
A certification was issued covering all workers separated on or after November 30, 1987.

TA-W-22,240; Levelor Lorentzen, Inc., Warehouse, Parsippany, NJ
A certification was issued covering all workers separated on or after November 10, 1987 and before January 31, 1989.

TA-W-22,250; Pickens Footwear Co., Jasper, GA
A certification was issued covering all workers engaged in the production of canvas/rubber footwear separated on or after November 17, 1987 and before January 2, 1989.

TA-W-22,225; Gold Seal Rubber Co., Readville, MA
A certification was issued covering all workers engaged in the production of canvas/rubber footwear separated on or after January 1, 1988.

TA-W-21,708; Convest Energy Corp., Houston, TX
A certification was issued covering all workers separated on or after November 18, 1987.

TA-W-21,751; Regas Drilling Co., Columbia, MS
A certification was issued covering all workers separated on or after January 1, 1986 and before December 31, 1986.

TA-W-22,039; General Atlantic Energy, Denver, CO
A certification was issued covering all workers separated on or after August 6, 1986.

TA-W-22,084; Selin Sportswear, Inc., Brooklyn, NY
A certification was issued covering all workers separated on or after September 7, 1987 and before September 30, 1988.

TA-W-21,763; Don Poole Spudder Service, Inc., Norris City, IL
A certification was issued covering all workers separated on or after October 1, 1985 and before January 31, 1986.

TA-W-21,302; Pool Well Servicing Co., Keene, ND
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,609; Cornish Wireline Service, Inc., Chanute, KS
A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,378; Pernie Bailey Drilling Co., Port Barre, LA & Operating At Various Locations in the Following States
TA-W-21,378A LA
TA-W-21,378B TX
A certification was issued covering all workers separated on or after October 1, 1985 and before April 19, 1987.

TA-W-21,362; Resource Investments Corp., Denver, CO
A certification was issued covering all workers separated on or after October 4, 1987.

TA-W-21,362A; Energy Management Corp., Denver, CO
A certification was issued covering all workers separated on or after October 4, 1987.

I hereby certify that the aforementioned determinations wre issued during the month of October 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 7, 1989.
Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-26806 Filed 11-14-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-21,534, etc.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Sedco Forex Resources, et al.

In the matter of Sedco Forex Resources, Incorporated (A Subsidiary of Schlumberger Technology Corporation) Headquarters Dallas, Texas and all Mobile Marine and Land Based Units and Land Offices Operating Out of or in the Following States: TA-W-21,534A, Alaska, TA-W-21,534B, California, TA-W-21,534C, Louisiana, TA-W-21,534D, Texas (excluding Dallas).

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 9, 1989 applicable to all workers of Sedco Forex/Schlumberger, Dallas, Texas.

The certification is being amended to reflect the correct worker groups. New information from the company indicates that the identification of the worker group as Sedco Forex/Schlumberger, Continental United States, Dallas, Texas does not reflect the appropriate worker groups. At the time of the Department's certification Sedco Forex had only mobile marine units. However, the retroactive provisions extended the impact date back to October 1, 1985 when a different organizational structure existed—one which included

land-based units and supportive land offices. Accordingly, the amended notice applicable to TA-W-21,534 is hereby issued as follows:

SUMMARY: This notice provides supplementary information to the notice announcing completion of the Apprenticeship 2000 short-term research

Associates, PB89 236905/AS, Report No. 99-8-4696-75-019-04; (b) Explore Vocational Education, Counseling, and Information Processes, Meridian

each month, or for a period of 8 hours every two months.

2. Petitioner states that requiring at least 4 hours of refresher training each

techniques and procedures as outlined in the petition.

3. In support of this request, petitioner states that the system would be

its outer edges is always toward the middle of the drum. This pulling force will now allow the rope to extend past the flange should the rope become slack;

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land-based units and supportive land offices. Accordingly, the amended notice applicable to TA-W-21,534 is hereby issued as follows:

All workers of Sedco Forex Resources, Inc., Dallas, Texas and all mobile marine and land based units and land offices operating out of or in Alaska, California, Louisiana and Texas (excluding Dallas) who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 2d day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26852 Filed 11-4-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,837, Tioga, ND and TA-W-22,837A, Sidney, MT]

Wiedmer Brothers Well Service; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on June 30, 1989, applicable to all workers of Wiedmer Brothers Well Service, Tioga, North Dakota. The certification was published in the Federal Register on July 19, 1989 (54 FR 30291).

Based on new information from the company, additional workers were separated from Wiedmer Brothers Well Service located in Sidney, Montana. The amended notice applicable to TA-W-22,837 is hereby issued as follows:

All workers of Wiedmer Brothers Well Service, Tioga, North Dakota and Sidney, Montana who became totally or partially separated from employment on or after August 1, 1988 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26808 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

Apprenticeship 2000—Short Term Research Projects; Supplementary Information

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides supplementary information to the notice announcing completion of the Apprenticeship 2000 short-term research reports, originally published in the Federal Register on September 21, 1989 (54 FR 38913). The additional information is needed to obtain price quotes and to order complete copies of the reports.

ADDRESS: To obtain price quotes and to order complete copies of the reports (available on paper and microfiche), write to the National Technical Information Service (NTIS), Springfield, VA 22151; telephone (703) 487-4650.

FOR FURTHER INFORMATION CONTACT: James D. Van Erden, Director, Bureau of Apprenticeship and Training, Office of Job Training Programs, Employment and Training Administration, Department of Labor, Room N-4649, 200 Constitution Ave. NW., Washington, DC 20210, telephone: (202) 535-0540.

SUPPLEMENTARY INFORMATION: The following information is an addition to the section entitled "Synopsis of Short-Term Research Projects" which appeared in the Federal Register at 54 FR 38913 (September 21, 1989). This additional information relates to the Apprenticeship 2000 short-term research projects, and contains the necessary information to request an order through the National Technical Information Service (NTIS). Listed below are: the subject matter; the research projects; the researchers names; the corresponding accession and report numbers.

1. Issues Relating to Expansion of Apprenticeship to New Industries and Occupations: (a) Expanding the Use of Apprenticeship, Dr. Robert Glover, PB89 236798/AS, Report No. 99-8-4694-75-023-04; (b) Issues Relating to Expansion of Apprenticeship to New Industries and Occupations, Stan Markuson, PB89 236780/AS, Report No. 87-75-04-034; (c) Barriers and Opportunities for Expanding Apprenticeship, Fedrau and Associates, PB89 236913/AS, Report No. 99-8-4696-75-021; and (d) Models for Expanding Apprenticeship into Non-Traditional Areas, Fedrau and Associates, PB89 236897/AS, Report No. 99-8-4696-75-020-04.

2. Review Issues and Barriers Relating to Women in Apprenticeship, The Enhancement Group, Inc., PB89 236772/AS, Report No. 99-8-4561-75-014-04.

3. A Review of Financial and Non-Financial Incentives for Apprenticeship Programs, Dr. Robert Glitter, PB89 236889, Report No. 99-8-4695-022-04.

4. Vocational Education, Counseling, and Information Processes: (a) Linking the Secondary Vocational Education System with Apprenticeship, Fedrau and Associates, PB89 236905/AS, Report No. 99-8-4696-75-019-04; (b) Explore Vocational Education, Counseling, and Information Processes, Meridian Corporation, PB89 236863/AS, Report No. 99-8-4697-75-017-04; (c) Report on Study of Existing and Potential Linkages Between Apprenticeship and Cooperative Education, National Child Labor Committee, PB89 236806/AS, Report No. 99-8-2412-75-012-04; and (d) The Status of and Recommendations for Improved Counselling, Guidance, and Information Processes, National Center for Researching Vocational Education, PB89 236855/AS, Report No. 99-8-30387-75-013-04.

5. Issues related to the EEO Apprenticeship Regulations, The Enhancement Group, PB89 236830/AS, Report No. 99-8-4561-75-015-04.

6. Analysis of State Roles and Responsibilities, Meridian Corp., PB89 236871/AS, Report No. 99-8-4697-75-018-04.

7. A Study on Ratios, James P. Mitchell, PB89 236822/AS, Report No. 99-8-4723-75-030-04.

8. Teaching and Learning on the Job, A Framework for Assessing Workplaces as Learning Environments, Drs. Stephen and Mary Hamilton, PB89 236814/AS, Report No. 99-8-4731-75-036-04.

Signed at Washington, DC, this 7th day of November 1989.

Roberts T. Jones,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 89-26809 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-22-M]

ASARCO, Inc.; Petition for Modification of Application of Mandatory Safety Standard

ASARCO, Incorporated, Box 440, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 49.8(b) (training for mine rescue teams) to its Coeur Mine (I.D. No. 10-00479) located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that upon completion of the initial training, all term members are required to receive at least 40 hours of refresher training annually. This training is required to be given at least 4 hours each month, or for a period of 8 hours every two months.

2. Petitioner states that requiring at least 4 hours of refresher training each month or 8 hours every two months would result in a diminution of safety for the underground personnel because most of the experienced mine rescue personnel would resign.

3. In support of this request, petitioner states that—

(a) Most of the rescue team personnel are veterans; and

(b) Adequacy of training cannot be measured in hours spent in training. Performance and knowledge are the only valid criteria.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26813 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-21-M]

Bunker Hill Mining (U.S.) Inc.; Petition for Modification of Application of Mandatory Safety Standard

Bunker Hill Mining (U.S.) Inc., P.O. Box 29, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.19011 (drum flanges) to its No. 1 Hoist at the Bunker Hill Mine (I.D. 10-00083) located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that flanges on drums extend radially a minimum of 4 inches or three rope diameters beyond the last wrap, whichever is the lesser.

2. As an alternate method, petitioner proposes to use an idler pulley to maintain sufficient fleet angle to prevent the rope from winding off the drum.

3. In support of this request, petitioner states that—

(a) The idler wheel only has 5 feet of travel distance from side to side and the drum diameter is 8 feet in width;

(b) While the hoist is running and the rope is wrapping on the drum, the angle of fleet pull as the rope when it reaches its outer edges is always toward the middle of the drum. This pulling force will now allow the rope to extend past the flange should the rope become slack; and

(c) A hoistman states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26815 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-162-C]

Blue Diamond Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Blue Diamond Coal Company, P.O. Box 87, Leatherwood, Kentucky 41758 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Turkey No. 4 Mine (I.D. No. 15-16478) located in Perry County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. As an alternate method, petitioner proposes to install a 2000-volt power system for the longwall with specific techniques and procedures as outlined in the petition.

3. In support of this request, petitioner states that the system would be installed and maintained in a permissible nature and all the fault and monitor components would be more sensitive to detection than the 995-volt power system.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26812 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-163-C]

Dominion Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Dominion No. 11 Mine (I.D. No. 44-03763) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a return aircourse be examined in its entirety on a weekly basis.

2. Due to a rock fall, a certain area of the return aircourse is inaccessible. Composition of the material is not conducive to the placement of supplemental roof support for safe travel over the rock fall.

3. As an alternate method, petitioner proposes that—

(a) The examiner would enter the aircourse to conduct the weekly examination to a safe distance from the rock fall;

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(b) From this location, the examiner would conduct visual observations only to the opposite side of the rock fall;

(c) Upon completion of the visual observation, the examiner would travel the belt line entry, which is parallel to the return aircourse, to a safe distance on the opposite side of the rock fall; and

(d) The examiner would then re-enter the return aircourse and continue the examination as required.

4. In support of this request, petitioner states that adequate clearance is available above the rock fall for visible observations and examinations from either direction; airflow has not been adversely affected due to the rock fall; and two separate and distinct escapeways are available.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26814 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-157-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, P.O. Box 373, St. Louis, Missouri 63166 has filed a petition to modify the application of 30 CFR 75.1403-9(a) (shelter holes) to its Sunnyhill No. 9 South Mine (I.D. No. 33-01068) located in Perry County, Ohio. The petition is fined under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that shelter holes be provided on track haulage roads at intervals of not more than 105 feet unless otherwise approved by the Coal Mine Safety District Manager.

2. As an alternate method, petitioner requests that shelter hole intervals be extended to 500 feet.

3. In support of this request, petitioner states that—

(a) Shelter holes would be designated and maintained in accordance with 30 CFR 75.1403-9(b);

(b) Vehicle operators would be instructed to reduce vehicle speed, sound warning devices alerting persons working in the track entry; and

(c) Clearance on the walkway side of the track entry would be at least 24 inches from the farthest projection of normal traffic, except where the installation of roof support prohibits such clearance. Pedestrians would have the right of way in these instances.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26811 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-158-C]

Twentymile Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Twentymile Coal Company, P.O. Box 748, Oak Creek, Colorado 80467 has filed a petition to modify the application of 30 CFR 75.300-4 (inspection, examinations, and records) to its Foidel Creek Mine (I.D. No. 05-03836) located in Routt County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all main fans be inspected daily to ensure the electrical and mechanical reliability of the fans. That the fan pressure recording gauges be examined daily, the charts for the guages be changed after completing one revolution and results of the inspections be recorded in an approved daily fan inspection book.

2. Petitioner requests a modification of the standard to permit the use of continuous remote monitoring of fans in lieu of daily inspections for two fans located in the mine and for any other fans installed under similar circumstances in the future.

3. As an alternate method, petitioner proposes that—

(a) A computerized mine monitoring system would be used to remotely monitor and record the fan motor amperage, fan bearing temperatures and fan water gauge;

(b) Connection between the remote sensors and the central processing unit (CPU) would be made by direct connection with the mine monitoring trunk line or by radio modem;

(c) The information recorded by the CPU would be printed daily for review by a person trained and designated by management to interpret this information. Sufficient information would be printed to allow trends to be established. The person reviewing the printout would date and sign it daily;

(d) The printouts would be retained for one year;

(e) An automatic signal device designed to give an alarm would be placed so it would be seen or heard by a responsible person who is always on duty when persons are working undergorund. The alarm would activate should the fan slow, stop or should the fan bearings overheat. The alarm would also activate should the system lose communications with the sensors for a time period exceeding 15 minutes; and

(f) In case of failure of any one of the required sensors, or failure of the system daily inspections of the fan would be conducted in accordance with 30 CFR 75.300-4(a).

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26813 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-160-C]

Western Fuels-Utah, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Western Fuels-Utah, Inc., P.O. Box 1067, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Deserado Mine (I.D. No. 05-03505) located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner requests a modification of the standard to permit the coursing of air ventilating electrical installations to the beltline where a return is not available for immediate use with specific equipment and procedures as outlined in the petition.

3. In support of this request, petitioner states that—

(a) The velocity of air on the beltline would be at least 50 feet per minute and not exceed 300 feet per minute; and

(b) The beltline, where installations would be vented to, would be set up to direct the belt air to the nearest return in the direction of the airflow. Any installations that are close to a surface portal would be vented so the air is directed to the outside.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26810 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Open Meeting

Background

The Lower Mississippi Delta Development Commission was created by Pub. L. 100-460, signed on October 1, 1988. The purpose of the Commission is to identify and study the economic development, infrastructure, employment, transportation, resource development, education, health care, housing, and recreation needs of the Lower Mississippi Delta region by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, and others in developing a 10-year plan that makes recommendations and establishes priorities to alleviate the needs identified. The Commission will make its final report to Congress, the President, and the Governors of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee no later than May 14, 1990.

This notice announces the Mississippi public hearing.

Public Hearing

Time: 5:30 p.m., November 28, 1989
Place: Mississippi Valley State University, Highway 82 West, Itta Bena, Mississippi 38941
Status: Open meeting
Contact: Gwen Harmon, Telephone (901) 753-1400.

Wilbur F. Hawkins,

Executive Director.

[FR Doc. 89-26780 Filed 11-14-89; 8:45 am]

BILLING CODE 6820-BN-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-79]

NASA Advisory Council, Space Station Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administrataion announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS).

DATES: December 6, 1989, 8:30 a.m. to 6 p.m., December 7, 1989, 8:30 a.m. to 5:30 p.m., and December 8, 1989, 8:30 a.m. to 1 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Rhome, Code E, National Aeronautics and Space Administration, Washington, DC 30546 (202/453-1425).

SUPPLEMENTARY INFORMATION: The Space Station Science and Applications Advisory Subcommittee reports to the Space Science and Applications Advisory Committee (SSAAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on the new capabilities to be made available by the Space Station program and how these may be most effectively utilized. It also advises the NASA Office of Space Station (OSS) on how th Space Station program may most effectively support potential science and applications users. The Subcommittee will meet to discuss space station reconfiguration activity, rephased staton support to science, communication and information systems issues, and science operations and experiment support. The group is chaired by Dr. Robert J. Bayuzick and is composed of 20 members. The meeting will be open to the public up to the capacity of the room (approximately 50 people including the members of the Subcommittee).

Type of Meeting: Open.

Agenda:

Wednesday, December 6
8:30 a.m.—Opening Remarks.
8:45 a.m.—Action Item Review and Status.

Space Station Reconfiguration Review

9 a.m.—Reports: Space Station Status, Office of Space Science and Applications Impacts, International Impacts, Life Sciences, Communications, Earth Sciences, Solar System Exploration, Microgravity Sciences, Astrophysics, and Space Physics.
6 p.m.—Adjourn.

Thursday, December 7

Communications and Information Systems

8:30 a.m.—Telescience: Tutorial, Testing Concepts and Office of Space

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Science and Applications (OSSA) Plans for Incorporating into Space Station Freedom (SSF) Operations.

10 a.m.—Data Flows, Capacity Analysis, Tracking and Data Relay Satellite System (TDRSS) Reliability, Redundancy, and International Interoperability.

10:30 a.m.—Offices of Space Station/Space Operations/Space Science and Applications Joint Planning.

11 a.m.—Information Systems Strategic Plan (ISSP) Status.

Science Operations and Experiment Support

1 p.m.—Spacelab Lessons learned and SSF Operations Concepts/Designs.

2:30 p.m.—Consolidated Operations and Utilization Plan (COUP) Guidelines and Space Station User Mission Information Tracking System (SUMITS) Data Base.

3:30 p.m.—Joint Science Utilization Study (JSUS) and Follow-on Activities.

4:30 p.m.—Rack and Interface Commonality.

5:30 p.m.—Adjourn.

Friday, December 8

SSSAAS Summer Workshop

8:30 a.m.—Response to the 1989 Summer Workshop

Recommendations: Life Sciences, Materials and Fluid Sciences, and Observing Sciences.

10:30 a.m.—Planning the 1990 Summer Workshop.

12:30 p.m.—Review of Action Items and Closing Remarks.

1 p.m.—Adjourn.

Dated: November 8, 1989.

John Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-26776 Filed 11-14-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee For Cross-Disciplinary Activities; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Cross-Disciplinary Activities, CISE Directorate.

Date and Time: November 30–December 1, 1989; 8:30 a.m.–5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 540, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Mrs. Barbara H. Palmer, Administrative Officer, CISE Office of Cross Disciplinary Activities, room 304, National Science Foundation, Washington, DC 20550. (202) 357-7348.

Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: to provide regular advice, recommendations, and oversight to the Office in guiding its policy decisions with regard to the programs within its purview.

Agenda:

November 30, 1989, 8:30–12 noon.
Review and discussion of current OCDA activities.
12–1:30 p.m. Lunch.
1:30 p.m.–5 p.m. Discussions with Assistant Director and Director.
Review of OCDA budget and plans.
December 1, 1989 8:30 p.m.–12 noon.
Review of cross-directorate activities.
Advisory Committee review of OCDA Plans.
12:00–1:30 Lunch
1:30 p.m.–3:30 p.m.
Advisory Committee open discussion of OCDA activities and plans.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26724 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Archaeology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology.

Date and Time: November 30 and December 1, 1989, 9 a.m.–5p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 523, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. John E. Yellen, Program Director, Anthropology Program, room 320, National Science Foundation, Washington, DC 20550. Telephone (202) 357-7804.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Archaeology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26723 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Technology Centers; Meeting

The National Science Foundation announces the following meeting:

Name: Science and Technology Research Centers Panel of the Advisory Committee for Science and Technology Centers.

Date and Time: November 28–29, 1989—8:30 a.m. to 5 p.m. each day.

Place: Rooms 642–643, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: William C. Harris, Director, Office of Science and Technology Centers Development, (202) 357-9808, room 533, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for Science and Technology Research Centers.

Agenda: Review and evaluation of Science and Technology Research Centers Proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26725 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Technology Centers; Meeting

The National Science Foundation announces the following meeting:

Name: Science and Technology Research Centers Panel of the Advisory Committee for Science & Technology Centers.

Date and Time: November 28–30, 1989—8:30 a.m. to 5 p.m. each day.

Place: Room 533, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: William C. Harris, Director, Office of Science & Technology Centers Development (202) 357-9808, room 533, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for Science and Technology Research Centers.

Agenda: Review and evaluation of Science & Technology Research Centers Proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 89-26726 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Technology Centers; Meeting

The National Science Foundation announces the following meeting:

Name: Science and Technology Research Centers Panel of the Advisory Committee for Science & Technology Centers.

Date and Time: November 30–December 1, 1989, 8:30 a.m. to 5 p.m. each day.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: William C. Harris, Director, Office of Science & Technology Centers Development (202) 357-9808, room 533, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for Science and Technology Research Centers.

Agenda: Review and evaluation of Science & Technology Research Centers Proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26727 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; San Onofre Nuclear Generating Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF-10 and No. NPF-15 issued to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees) for operation of San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise the following Technical Specifications (TS) to increase the interval for the 18-month surveillance tests to at least once per refueling interval, which is defined as 24 months, in support of the nominal 24-month fuel cycle:

a. TS 3/4.1.3.3, "Position Indicator Channel—Shutdown."
b. TS 3/4.3.1, "Reactor Protective Instrumentation."
c. TS 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation."

The Need for the Proposed Action

The proposed amendments are required to prevent unnecessary plant shutdowns to perform a surveillance test which cannot be performed during plant operation.

Environmental Impacts of the Proposed Action

For each of the proposed amendments, the licensees provided analyses to demonstrate the reliability of the systems. The staff reviewed the licensees' analyses and agrees that reliability of the systems would not be significantly degraded by extension of the surveillance intervals. Therefore, the staff has approved the proposed 24-month surveillance interval for these proposed changes.

As a result, the proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendments do not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendments do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notices of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action were published in the **Federal Register** on February 24, 1989 (54 FR 8034, 54 FR 8036, and 54 FR 8037). No request for hearing or petition for leave to intervene was filed following these notices.

Alternatives to the Proposed Action

Since the Commission has concluded that there are no significant environmental impacts that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the rquested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981 and its Errata dated June 1981.

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Agencies and Persons Consulted

The NRC staff has reviewed the licensees' request that supports the proposed amendments. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for amendments dated April 28 and December 19, 1988, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26706 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a working group meeting at the Center for Nuclear Waste Regulatory Analyses on Thurday, November 30, 1989, 8:30 a.m.—12:00 Noon. The meeting will be held in the auditorium of the Administration Building, Sourth West Research Institute, 6220 Culebra Road, San Antonio, TX.

The purpose of the meeting will be to review and discuss the projects currently underway at the Center and those planned in the future. This meeting will be open to the public.

Procedures for the conduct of and participation in ACNW meetings wre published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permittted only during those portions of the meeting when a transcript is being kept, and questons may be asked only by members of the Committee, its consultants, and Staff. The Office of the ACRS is providing Staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Dated: November 8, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89-26794 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 23, 1989 through November 3, 1989. The last biweekly notice was published on November 1, 1989 (54 FR 46138).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 15, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, Maricopa County, Arizona

Date of amendment request: October 10, 1989

Description of amendment request: The proposed amendments would modify the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41, NPF-51 and NPF-74 of PVNGS Units 1, 2 and 3 respectively), Section 3.3.2, "Engineered Safety Features Actuation System (ESFAS) Instrumentation." One of the requirements of this specification is that the turbine-driven Auxiliary Feedwater Pump (AFW) pump must be periodically tested for ESFAS response time. The proposed amendments would exclude this pump from ESFAS response time testing until Mode 3 conditions are

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reached. This exclusion is similar to that which is already provided under Limiting Condition for Operation (LCO) 3.7.1.2 which allows for entry into Mode 3 to perform the operability test on the turbine-driven AFW pump.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendments against these standards and has provided the following discussions:

Standard 1–Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification change will not result in a significant increase in the probability or consequences of any accidents previously evaluated. The change involves the addition of an exemption from Specification 4.0.4 for ESFAS response time testing of the turbine-driven AFW pump. This would allow for entry into Mode 3 prior to performing the response time testing. In Mode 3, the proper plant conditions exist for performing the testing of this pump. The proposed change does not impact the probability of occurrence of any initiating event for previously analyzed accidents. Additionally, the proposed change will provide consistency between the different Technical Specifications. LCO 3.7.1.2 currently provides a 4.0.4 exemption which allows the unit to enter Mode 3 prior to establishing operability of this pump. Therefore, this change will not affect the current operability requirements for the turbine-driven AFW pump.

Standard 2–Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not create the possibility of a new or different kind of accident from any accident previously analyzed. No physical modifications are being made to the existing plant equipment. The turbine-driven AFW pump cannot be properly tested until the appropriate conditions are reached in the secondary plant. This occurs in Mode 3. This testing limitation is already incorporated into LCO 3.7.1.2 but was not incorporated into LCO 3.3.2. Therefore, this change will provide consistency between the LCOs and incorporate a previously recognized testing limitation.

Standard 3–Involve a significant reduction in a margin of safety.

The proposed change will not involve a significant reduction in a margin of safety. The change extends an allowance that is already provided for in the Technical Specifications. Per LCO 3.7.1.2, operability of the turbine-driven AFW pump must be established prior to Mode 2 entry. This same operability requirement should be applied to the ESFAS response time testing requirements of LCO 3.3.2.

The staff has reviewed the licensees' no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Commonwealth Edison Company, Docket Nos. 50–237 and 249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendment request: September 29, 1989

Description of amendment request: Commonwealth Edison Company (CECo) has proposed changes to the Dresden Units 2 and 3 Technical Specifications (TS) to reflect modifications to the Standby Liquid Control System (SLCS) and the addition of a Recirculation Pump Trip (RPT), which have previously been implemented to comply with the requirements of the Anticipated Transient Without Scram (ATWS) Rule (10 CFR 50.62).

The proposed TS changes related to the SLCS would: (1) replace the boron concentration curve (Figure 3.4.1) with a minimum allowable volume of 3605 gallons and a minimum concentration of 14 weight percent to satiafy the requirement of equivalent capacity of 86 gpm at 13 weight percent; (2) change the SLCS pump flow rate from 39 to 40 gpm for each pump so a total of 80 gpm would be provided when both pumps are running; (3) add a tank suction operability test to demonstrate the suction lines are not plugged; (4) increase the system pressure relief setpoint to reflect increased pump discharge pressure during two pump operation; (5) increase the sodium pentaborate solution saturation temperature from 50° F to 62° F to reflect the weight percent increase in sodium pentaborate and (6) modify the Bases section of the TS to support the above changes.

The proposed TS changes related to the RPT system would: (1) add Section 3.2.H "Recirculation Pump Trip Initiation" which outlines the Limiting Conditions for Operation requirements for this trip function; (2) add Table 3.2.7 "Instrumentation that Initiates Recirculation Pump Trip" which contains operability requirements and trip levels for the RPT system; (3) add Table 4.2.5 " Minimum Test and Calibration Frequency for the Recirculation Pump Trip System" which contains the calibration frequency for the RPT instrumentation; and (4) modify the Bases section of the TS to support the above changes.

These changes are consistent with the modifications made by CECo to satisfy the requirements of the ATWS Rule which have been previously approved by the NRC staff.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not; (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application as follows:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. The proposed SBLC related changes clarify the design basis and maintain the total amount of boron injection previously required by the TS thereby maintaining the previous shutdown reactivity capability. The proposed changes are needed to reflect implementation of 10 CFR 50.62 and have no impact on systems or equipment that could potentially initiate or increase the probability of an accident.

b. The RPT functions are diverse from the reactor protection system. Failure of these functions will, in no way, impact the ability of the reactor protection system to safely shut down the reactor. Analyses of anticipated transients and accident conditions have incorporated the RPT on high pressure. The low-low reactor water level RPT does not affect LOCA analyses which conservatively assume the pumps trip immediately (independent of ATWS RPT), while the ATWS trip has an associated nine second delay. Therefore, the probability or consequences of previously evaluated accidents is unchanged by the proposed amendment.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

a. The SBLC related changes involve a system whose only function is to provide a backup shutdown capability. The changes do-not affect any systems or equipment which could initiate an accident.

b. The primary purpose of the RPT function is to provide a means to quickly reduce reactor power in the event the reactor protection system fails during an anticipated transient. Since this system acts as a backup to RPS and functions independently from it, no new accident scenario exists. As a result, the proposed amendment does not create a new or different kind of potential accident scenario.

(3) Involve a significant reduction in the margin of safety because:

a. The overall shutdown reactivity capability [i.e., total boron injection) of the SBLC system is not reduced by these changes. The proposed amendment reflects modifications which have increased the SBLC system injection rate, thereby increasing the margin of safety for ATWS.

b. The margin of safety is assured by operating within the Limiting Conditions for Operation defined in the TS. Cycle specific reload analyses for various pressurization transients, as well as accidents conditions, are performed to establish these operating limits. The RPT on high reactor pressure has been included as input to these analyses. The RPT on low-low reactor water level does not affect LOCA analyses since it is conservatively assumed that pumps trip immediately (independent of ATWS RPT), whereas the ATWS trip has an associated nine second delay.

The NRC staff has reviewed the licensee's no significant hazards considerations determinations and since neither the SBLC or RPT related changes involve a reduction in safety margins the staff finds it acceptable. Accordingly, the Commission proposes to determine that the change does not involve any significant hazards consideration.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 21, 1988

Description of amendment request: This proposed license amendment would modify the Palisades Plant Technical Specifications (TS) to remove the organization charts following the guidance provided in the Commission's Generic Letter 88–06. The proposed amendment would also make various administrative changes to Section 6.0 of the TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.91(a). The Commission's staff has reviewed the licensee's evaluation and agrees with it. The licensee concluded that:

(1) The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because those requirements necessary for safe operation relative to organization management functions and position qualifications have been retained in the TS. The changes do not eliminate or alter the functions previously reviewed and do not affect plant operation and design.

(2) The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed change is administrative in nature. No physical alterations to the plant or changes affecting plant operation and design are included. The changes create no new accident mode.

(3) The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because, as stated in (1) above, requirements necessary for safe plant operation have been retained in the TS. Further, the changes are consistent with the requirements established in previous organization evaluations. An established licensee quality assurance program provisions provide additional controls to assure safe operation.

Similar changes have previously been reviewed on a generic basis and were found acceptable, as documented in Generic Letter 88–06. The changes proposed by the licensee are consistent with the guidance contained in GL 88–06. The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on this review, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John Thoma, Acting.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 28, 1987, as supplemented October 30, 1989.

Description of amendment request: The request proposes eighteen changes to the Technical Specifications (TS) for the Catawba Nuclear Station, Units 1 and 2. Those changes are: (1) revisions to page numbers to reflect previously issued Technical Specification amendments (supplemented by October 30, 1989, submittal); (2) the addition of the word "doghouse" to item 4.d in Table 3.3–3 to clarify the number of Engineered Safety Features Actuation System (ESFAS) channels located in each doghouse structure; (3) a clarification to item 6.e. in Table 3.3–3 to identify the ESFAS channels required for trip; (4) changes to TS 3.4.4 to maintain consistency with the applicability of the TS 3.4.4 Limiting Condition for Operation (LCO) and with other TS LCOs; (5) a change to TS 3.7.1.5 to replace the word "demonstrate" with the word "verify" given the applicability of this LCO to the passive Standby Nuclear Service Water Pond; (6) the addition of the word "path" to TS 4.7.1.2.12 to clarify the associated Surveillance Requirements; (7) changes to TS 4.7.12 to indicate the groundwater monitor wells encircle both the Unit 1 and Unit 2 Reactor and Auxiliary Buildings; (8) the addition of a footnote to TS 4.8.1.1.2a to clarify "STAGGERED TEST BASIS'; (9) the deletion of the word "minimum" from TS 4.8.1.1.2g, item 12, to clarify the requirements of the time delay; (10) an update to Figures 5.1–1, 5.1–3, and 5.1–4 to more accurately reflect the site configuration; (11) changes to TS 6.2.2.f to reflect the current shift rotation and work hours at Catawba; (12) changes to TS 6.2.3.1 and

6.2.3.4 to indicate the new title of the individual in charge of the Nuclear Safety Review Board (NSRB); (13) a change to TS 6.4.1 to identify the new

3. They do not involve a reduction in a margin of safety. As stated above, these changes do not affect the capability of the Catawba facility to preclude

to a position greater than or equal to 222 steps" instead of "All shutdown rods shall be fully withdrawn."

In the Action statement, the phrase

analyses will remain valid with these changes.

The change in rod insertion limits and use of either rod material will not increase the consequences of an accident previously

standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a

and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B.

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6.2.3.4 to indicate the new title of the individual in charge of the Nuclear Safety Review Board (NSRB); (13) a change to TS 6.4.1 to identify the new position of Manager, Station Training Services; (14) a change to TS 6.4.1 to identify that the Catawba Safety Review Board is not directly involved in the Operating Experience Program; (15) a change to TS 6.4.1 to correct a printing error; (16) changes to TS 6.5.1.6, 6.5.1.8, and 6.5.1.9 to change the title of the individual in charge of NSRB; (17) changes to TS 6.5.2.10a., b., and c. to identify the new organization and title for an Executive Vice President; and (18) changes to TS 6.9.1, 6.9.1.8, 6.9.1.9, and 6.9.2 to reflect the revision to 10 CFR 50.4 regarding communications with the NRC.

All the changes identified above with the exception of Changes (4) and (6) are covered by this notice. Change (4) regarding changes to the TS 3.4.4 Action Statements and Change (6) regarding the addition of the word "path" to TS 4.7.1.2.2 are being handled separately.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes covered by this notice are administrative in nature and do not involve a significant hazards consideration because:

1. They do not involve a significant increase in the probability or consequences of an accident previously evaluated because these changes are administrative in nature. As such, these changes do not involve any hardware changes to the Catawba facility and do not affect the capability of the Catawba facility to preclude, mitigate, or withstand the effects of those postulated events analyzed or evaluated as part of the Catawba licensing basis.

2. They do not create the possibility of a new or different kind of accident. These administrative changes do not involve any facility design or operational changes, and therefore no new failure modes, operational configurations, or equipment vulnerabilities are introduced.

3. They do not involve a reduction in a margin of safety. As stated above, these changes do not affect the capability of the Catawba facility to preclude, mitigate, or withstand the effects of any previously analyzed event considered in the licensing basis for Catawba. Therefore, current margins of safety remain unchanged.

On this basis, the Commission has determined that the requested changes covered by this notice meet the three standards and, therefore, proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: August 25, 1989

Description of amendment request: The proposed amendments to the Technical Specification (TS) would revise the rod insertion limits to show the fully withdrawn position as 222 steps instead of 228 steps. The purpose of the change in the insertion limit is to allow a periodic change, within the range of 222 to 231 steps withdrawn, of the parked full out position of the control rods which will minimize the effects of control rod wear caused by fretting against upper internal control rod guide surfaces. TS 3.1.3.4, "Rod Drop Time," will also be revised to assure that control rod drop time measurements are made from the physical fully withdrawn position (231 steps withdrawn). In addition, a revision to TS 5.3.2 is being proposed that will indicate that control rods may utilize an absorber material of either hafnium or silver-indium-cadmium. The specific TS changes are as follows:

1. In TS 3.1.3.4 for control rod drop time, the word "physical" is inserted into the Limiting Condition for Operation (LCO) such that it states "The individual shutdown and control rod drop time from the physical fully withdrawn position..."

2. In TS 3.1.3.5 for shutdown rod insertion limits, the LCO is restated as "All shutdown rods shall be withdrawn to a position greater than or equal to 222 steps" instead of "All shutdown rods shall be fully withdrawn."

In the Action statement, the phrase "not fully withdrawn" is replaced by "inserted to a position less than 222 steps," and the phrase "Fully withdraw the rod, or" is replaced by "withdraw the rod to a position greater than or equal to 222 steps, or."

3. In TS 4.1.3.5, the Surveillance Requirement for Shutdown Rod Insertion Limit, the phrase "Each shutdown rod shall be determined to be fully withdrawn:" is replaced by "Each shutdown rod shall be determined to be withdrawn to a position greater than or equal to 222 steps:."

4. TS Figure 3.1-3, "Rod Bank Insertion Limits Versus Thermal Power," is replaced with a Figure that is identical except that it shows the fully withdrawn position as 222 instead of 228.

5. In TS 4.10.1.1, the phrase "each control rod either partially or fully withdrawn" is changed to "each control rod not fully inserted."

6. In the bases for TS 3/4.2.2 and 3/4.2.3, part "b" is replaced with "Control rod banks are sequenced with a constant tip-to-tip distance between banks as defined by Figure 3.1-3."

7. In TS 5.3.2, the description of the absorber composition is revised by inserting the phrase "and/or 80% silver, 15% indium, and 5% cadmium."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendment, the licensee has determined the following:

1. The change in rod insertion limits and use of either rod material will not increase the probability of an accident previously evaluated in the FSAR. ...evaluations...above have determined that the rod drop time and other associated parameters assumed in the safety analyses have not changed. Additionally, there are no new failure modes introduced that would increase the probability of any reactivity anomaly occurring. Therefore, all current safety analyses will remain valid with these changes.

The change in rod insertion limits and use of either rod material will not increase the consequences of an accident previously evaluated in the FSAR. It has been determined that all safety related design criteria have been met assuming these changes. These changes will have minimal impact on core behavior and will not require any setpoint changes nor will the operability of the units be affected. Future reload safety evaluations will review the ARO position to assure continued conformance with the design parameters.

2. The change in rod insertion limits and use of either rod material will not create the possibility of a new or different kind of accident from any accident previously evaluated in the FSAR. No new failure mechanisms or new limiting single failures have been identified as a result of these changes.

3. The change in rod insertion limits and the use of either rod material will not decrease the margin of safety in the bases to any Technical Specification. Since it has been determined that all accident analysis acceptance criteria and design and performance requirements continue to be met, there is no reduction to any previously defined margin of safety in the Technical Specifications.

The Commission's staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: September 28, 1989

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.1.1.3, "Moderator Temperature Coefficient," to allow operation of Unit 2 with a slightly positive moderator temperature coefficient (MTC) below 100% power. The current TS requires a negative value for Unit 2 MTC at all power levels.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendments, the licensee has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change allows operation of Unit 2 with a slightly positive MTC below 100% power. An identical change has been approved by the NRC for Unit 1. The change does not affect equipment involved in the initiation of previously evaluated accidents; hence, the probability of such accidents is not increased. The consequences of previously evaluated accidents have either been re-evaluated or re-analyzed with the assumption of a positive MTC. The consequences were either bounded by previous analyses or increased by an insignificant amount. In all cases, the results were within the applicable design and safety criteria and the conclusions reached in the FSAR remain valid.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not introduce any new equipment into the plant or require any existing equipment to be operated in a different manner from which it was designed to operate. Since the change does not introduce a new failure mode, a new or different kind of accident is not made possible.

3. The proposed change does not involve a significant reduction in a margin of safety. The change does not affect any safety limit or limiting safety system settings. An evaluation has been performed to determine the effect of a positive MTC on the FSAR transient and accident consequences. The applicable design and safety criteria continue to be met, the conclusions reached in the FSAR remain valid, and safety margins are not significantly reduced.

The Commission's staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of amendment request: August 22, 1989

Description of amendment request: The amendment would correct two pages of the Unit 2 Technical Specifications (TS) to incorporate changes that were previously approved by Amendment 100 to the TS but which were not properly incorporated in the TS pages issued with Amendment 100.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The changes requested by the licensee in the August 22, 1989 submittal are administrative in nature, merely conforming the pages to changes that previously were reviewed by the Commission's staff and approved by Amendment 100 to the Unit 2 license. Thus, the requested changes would not involve a significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any accident previously evaluated, and would not involve a significant reduction in a margin of safety.

On this basis, the Commission has determined that the requested amendment meets the three standards and, therefore, proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

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Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: October 11, 1989, supplemented October 25, 1989

Description of amendment request: This amendment would revise Technical Specification 6.0 as follows:

a. Organization charts on pages 6-3, 6-4 and 6-5 are deleted.

b. Section 6.2: Deleted organization charts; delineated corporate responsibility for overall plant nuclear safety to President—GPUN; and delineated responsibility for onsite activities necessary for safe operation and maintenance of the plant to Vice President & Director, Oyster Creek.

c. Section 6.3: Deleted plant specific titles and referenced ANSI/ANS 3.1 of 1978 to specify minimum qualifications for comparable positions. Incorporated the qualifications for the shift technical advisor into Section 6.3.3.

d. Section 6.4: Revised to reflect revised 10 CFR Part 55 and substituted a comparable title responsible for training of the licensed operators and Fire Brigade.

e. Sections 6.5.1 and 6.5.2.1: Revised to reflect deletion of the organization charts.

f. Section 6.5.3.1: Revised to reflect an organizational change and substituted a comparable title.

g. Section 6.5.3.2: Substituted a comparable title for the GPUN title of Vice President—Technical Functions.

h. Section 6.5.4: Substituted comparable titles for GPUN titles.

i. Section 6.9.3: Revised location to which reports are sent.

j. Section 6.13.1: Substituted a comparable title for the GPUN title.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), GPU Nuclear Corporation performed an analysis of the requested amendment and concluded that:

a. The proposed change is similar to example (i) of the "Amendments Not Likely to Involve Significant Hazards Consideration" from the Federal Register Vol. 48, No. 67 at 14870 on April 6, 1983.

b. The proposed change is considered an administrative change. The Technical Specification Change Request does not involve significant hazards consideration as stated below.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts, and position titles from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. In accordance with 10 CFR 50.34 (b)(6)(i) the applicant's organizational structure is required to be included in the Updated Final Safety Analysis Report. Chapter 13 of the Updated Final Safety Analysis Report provides a description of the organization and detailed organization charts.

As required by 10 CFR 50.71 (e) GPUN submits annual updates to the Updated FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54 (a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is GPUN's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in a margin of safety because GPUN, through its Quality Assurance program committed, to maintain qualified personnel in positions of responsibility. Therefore, removal of the organization charts and plant specific personnel qualifications from the Technical Specifications will not affect the margin of safety.

The staff has reviewed the proposed amendment and agrees with the licensee's determination that it does not involve a significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: January 27, 1988 and supplemented December 21, 1988.

Description of amendments request: The proposed amendment would allow the logic for the reactor coolant pump breaker position [RCPBP] trip above permissive P-8 to be changed from one out of four breakers open to two out of four breakers open. The purpose of the change is to remove a potential source of single failure unit trips and provide a reduction in challenges to the reactor protection system [RPS].

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). The licensee has determined and the staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The one out of four RCPBP trip above P-8 is not required for safety but is instead provided as a redundant anticipatory trip for impending loss of reactor coolant flow and is intended to enhance the overall reliability of the RPS. No credit is taken for this trip in the safety analysis for either Unit 1 or Unit 2. The design protection for the single loop loss of flow event is the low flow reactor trip. The updated FSAR analysis is for the single loop loss of flow event that assumes that the reactor is tripped by the low flow reactor trip and shows that the DNBR remains above applicable limits during the event. Since no credit is taken for the RCPBP trip, the proposed change to this trip will not impact the safety analysis for the Cook Nuclear Plant and will, therefore, not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or

As noted in Criterion 1, the one out of four RCPBP trip above P-8 is not required for safety but is provided as a redundant anticipatory trip to enhance the overall reliability of the RPS. In addition, Westinghouse has concluded that the change does not degrade the performance of the reactor protection system or its conformance to system functional requirements and that the diversity and redundancy of the system is maintained for the single loop loss of flow event. The licensee concludes and the staff agrees that the proposed change will not create the possibility of a new or different kind of accident than any previously evaluated.

3. Involve a significant reduction in a margin of safety. The proposed

modification to the RCPBP trip affects only the coincidence logic of the reactor protection system and does not degrade either its performance or conformance to system functional requirements. In addition, Westinghouse has concluded that the diversity and redundancy of the reactor protection system is maintained for the single loop loss of flow event. We, therefore, conclude that the proposed change will not significantly decrease a margin of safety.

The Commission has provided guidance concerning the determination of no significant hazards consideration by providing certain examples (48 FR 14869) of amendments considered not likely to involve significant hazards consideration. The sixth of these examples refers to changes which may result in some increase to the probability or consequences of a previously analyzed accident, but the results of which are within limits established as acceptable. Based on the licensees arguments, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting.

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: February 25, 1988

Description of amendments request: The licensee proposes to delete Specification 6.4.2, which requires compliance with Section 27 of the 1976 edition of the NFPA code. The NFPA code specifies that fire brigade training be conducted on a monthly basis, whereas guidance provided by the NRC specifies that fire brigade training need only be conducted on a quarterly basis. This change would also be consistent with the most recent version of the Westinghouse Standard TS.

Basis for proposed no significant hazards consideration determination: According to 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed deletion of the Specification 6.4.2 from TS is intended to alleviate the inconsistency between TS requirements for fire brigade training and the requirements of Standard TS (STS) and the current fire brigade training program. An increase in the probability or consequence of an accident previously evaluated due to the decreased frequency of fire brigade training, if it existed, would be insignificant. Fire brigade training conducted on a quarterly basis is consistent with NRC guidance and STS and will produce a similar level of skill and knowledge as would result from monthly training.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated, or

The change introduces no new operating conditions or changes on the fire brigade function. The current plant fire brigade training will continue to be conducted on a quarterly basis. Therefore, the possibility of a new or different kind of accident from any previously evaluated does not exist.

(3) involve a significant reduction in a margin of safety.

As discussed for criterion (1), fire brigade training conducted on a quarterly basis is consistent with NRC guidance and STS and, therefore, should be sufficient to ensure effective fire moderation response. If a reduction in a margin of safety did exist as a result of this change it would not be significant.

The staff has reviewed the licensee's no significant hazards consideration analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting.

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: March 14, 1989

Description of amendments request: Technical Specification (TS) 6.12.2 requires that locked doors be provided to prevent unauthorized entry into high radiation areas in which the intensity of radiation is greater than 1000 mrem/hr. The licensee is proposing to allow the posting of a designated individual to serve as a substitute for a locked door in those instances in which providing a locked door is not possible or not practical due to area size or configuration.

Basis for proposed no significant hazards consideration determination: According to 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated,

(2) create the possibility of a new or different kind of accident from any accident previously evaluated, or

(3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the criteria of 10 CFR 50.92, and has determined the following:

Criterion 1

Changing the access control requirements for high radiation areas does not impact previously analyzed accidents. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed change does not involve a change in plant configuration or operation and will not place the plant in an unanalyzed condition; therefore, the change will not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3

Posting a designated individual is equivalent to or better than the alternative (flashing lights) allowed by the Westinghouse Standard TS and the TS of some other nuclear plants. Based on this and on the belief that the designated individual will provide adequate protection against unauthorized entry, the change will not involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the determination of no significant hazards consideration by providing certain examples (48 FR 14869) of amendments considered not likely to involve significant hazards consideration. Example six in the above guidance is an example of a proposed change that is less likely to involve a significant hazards consideration. Specifically, the proposed change will not result in an increase in the probability or consequences of a previously analyzed accident or reduce a safety margin, since posting a designated individual will provide adequate protection against unauthorized entry for those instances for which providing a locked enclosure is not possible or not practical. Therefore, this change does not involve

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a significant hazards consideration as defined in 10 CFR 50.92.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting.

Indiana Michigan Power Company, Dockets Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: August 25, 1989

Description of amendments request: The proposed amendment would revise Section 6.0 (Administrative Controls) of the TS to reflect changes to the responsibilities of the Plant Nuclear Safety Review Committee (PNSRC) and the Nuclear Safety and Design Review Committee (NSDRC). The amendment will reflect title changes and improve the overall consistency and clarity of the existing TS. TS 6.1.2 is being added which places an additional restriction on the Cook Nuclear Plants by requiring the Shift Supervisor or a designated individual during his absence to be responsible for the control room command function.

Proposed changes to TS 6.2.2.b and Table 6.2.1 are being made in order to comply with the requirements of 10 CFR 50.54(m). The proposed TS will require at least one licensed Senior Operator to be in the control room when the facility is in Modes 1,2,3 and 4, and will meet the minimum licensed operator staffing requirement that three Senior Operators be on site.

A footnote has been added to TS 6.2.2.d and 6.2.2.f. This change would allow up to two hours for the unexpected absence of an individual qualified in radiation protection procedures and the unexpected absence of the minimum composition of fire brigade members.

The proposed changes to TS 6.3.1, 6.4.1, 6.5.2.3, 6.5.2.9, 6.5.2.10.a, 6.5.2.10.b, and 6.5.2.10.c involve necessary title changes (e.g., "Plant Health Physics Supervisor" to "Plant Radiation Protection Manager").

The proposed changes to TS 6.5.1.2, 6.5.1.3, 6.5.1.5 affect the qualifications, structure, and quorum of the PNSRC. The proposed change to TS 6.5.1.2 is to add the minimum qualifications that the PNSRC members and alternate members must meet. Members and alternate will meet or exceed the minimum qualifications of ANSI N18.1–1971, Section 4.4. This change would establish the PNSRC as a more independent advisory organization to the Plant Manager, instead of requiring the Plant Manager's direct involvement in the work activities of the PNSRC. This change requires that TS 6.5.1.3 be revised since the PNSRC Chairman would no longer appoint the alternate members. Proposed changes to TS 6.5.1.5 clarify the requirements for a quorum of the PNSRC.

The proposed changes to TS 6.5.1.6.a, b, c clarify the subject areas that the PNSRC will review. Specifically, the PNSRC will only perform reviews of subjects that could affect plant nuclear safety or involve an unreviewed safety question.

The proposed change to TS 6.5.1.7.c will require the Vice President—Nuclear Operations to be notified, in addition to the NSDRC, of any disagreements between the PNSRC and the Plant Manager.

A proposed change to TS 6.5.2.7.a would eliminate the review by the NSDRC of the safety evaluations of lower-tier plant procedures.

A proposed change to TS 6.5.2.8.h, i, and j (TS 6.5.2.8.g and h on the proposed revised pages) clarifies the NSDRC audit requirements on fire protection.

The proposed TS 6.5.3, "Technical Review and Control," has been added to the administrative controls section to ensure that activities affecting nuclear safety will continue to be adequately controlled and that technical reviews will be performed once these activities are removed from the PNSRC responsibilities.

Proposed changes to TS 6.6.1 and TS 6.7.1 clarify the actions to be taken for reportable events and the proposed change to Specification 6.8.2 specifies that temporary changes shall be reviewed prior to implementation.

An additional requirement to include documentation of all challenges to the PORV's is proposed to be added to the monthly reactor operating report (TS 6.9.1.10).

The proposed amendment would also make some minor editorial changes that do not change the intent or meaning of the TS.

Basis for proposed no significant hazards consideration determination: According to 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,
2. create the possibility of a new or different kind of accident from any accident previously evaluated, or
3. involve an significant reduction in a margin of safety

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

Criterion 1

The changes requested in this letter affect only the Administrative Controls section of the TS. We believe the revised Administrative Controls will enhance the safe operation of the Cook Nuclear Plants. Therefore, we believe these changes will not involve a significant increase in the probability or consequences of a previously evaluated accident.

Criterion 2

These changes are purely administrative in nature. Plant systems, components, and operation will not be altered by these changes. Therefore, we believe this change will not create the possibility of a new or different kind of accident than has previously been evaluated.

Criterion 3

Since these changes are administrative in nature, they will not impact the ability of the plant systems and components to perform their safety function. Therefore, we believe these changes will not involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the determination of significant hazards consideration by providing certain examples (48 FR 14869) of amendments considered not likely to involve a significant hazards consideration. The first example is that of a purely administrative change to the TS: for example, a change to achieve consistency throughout the TS; correction of an error; or a change in nomenclature. We believe that the changes requested in this letter are of the type specified in this example. Since these changes are administrative in nature, they do not reduce a margin of safety, do not increase the probability or consequences of a previously evaluated accident, and do not introduce the possibility of a new accident.

Therefore, we believe these changes do not involve a significant hazards consideration as defined by 10 CFR 50.92.

The staff has reviewed the licensee's no significant hazards consideration analyses and concurs with their conclusions. As such the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John O. Thoma, Acting.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 31, 1989

Description of amendment request: The amendment would extend the duration of the Cooper Nuclear Station Operating License (DPR–46) from 40 years from the date of issuance of the Construction Permit, June 4, 1968, to 40 years from the date of issue of the Operating License, January 18, 1974. Specifically, this change would extend the expiration date of DPR–46 from June 4, 2008 to January 18, 2014.

This extension is consistent with the regulations regarding issuance of operating licenses and with actions taken by the Commission in numerous operating license applications and amendments since 1982.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

1. *The requested amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated* because the license change does not involve any changes to the physical plant or plant operating procedures.

The Cooper Nuclear Station was designed and constructed on the basis of a forty year operating life. The accidents analyzed in the Updated Safety Analysis Report and evaluated in the Safety Evaluation Report were postulated on the basis of a forty year operating life. The information and analyses presented in the Environmental Report and evaluated in the Environmental Impact Statement were not dependent on any specific period of operation. Surveillance, inspection, testing and maintenance programs are in place to sustain the condition of the plant throughout its service life.

In conclusion, the effects of forty years of plant operation have been considered in the existing design, analysis and operation of the plant and, therefore, the probability or consequences of previously evaluated accidents has not been significantly increased.

2. *The requested amendment will not create the possibility of a new or different kind of accident from any previously evaluated* since the license change does not affect the design or operation of the plant. Programs are in place to maintain the plant throughout its service life. For the same reasons as outlined in item 1 above, the possibility of a new or different kind of accident is not created.

3. *The requested amendment will not involve a significant reduction in a margin of safety* since the license change involves only a change in the expiration date of the license. The measures outlined in items 1 and 2 above, together with continued operation in accordance with the Technical Specifications assure that an adequate margin of safety is preserved on a continuous basis. An extension of the Operating License term does not result in a significant reduction in a margin of safety.

For the reasons stated above the Station Operations Review Committee and the Safety Review and Audit Board have determined that the requested license amendment does not involve a significant hazards consideration. It consists of a purely administrative change in the term of the license which is permitted by the regulations of the Commission.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Frederick J. Hebdon

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: October 11, 1989

Description of amendment request: The proposed amendments would change the Technical Specifications (TSs) for Limerick, Units 1 and 2, to specify the number of suppression chamber to drywell vacuum breaker pairs which are required to be operable as three rather than four pairs.

There are four pairs of vacuum breaker valves provided to equalize the pressure between the suppression chamber and the drywell after reactor blowdown and drywell spray actuation, while preventing bypass of the suppression pool during periods of blowdown. Previous analysis indicated that three of the four pairs were required to provide adequate vacuum relief capability to protect the structural integrity of the containment for all postulated events. The fourth pair provided redundancy in the event that a single active failure prevented one valve in any of the three required valve pairs from opening. Reanalysis has determined that two pairs, rather than three pairs, of vacuum breaker valves are adequate to protect the structural integrity of the containment. Therefore, the licensee proposes to revise TS Limiting Condition for Operation (LCO) 3.6.4.1 to require a minimum of three pairs of operable vacuum breakers.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The vacuum breaker valves perform their active safety function *after* an accident has occurred. Their failure to open prior to an accident cannot cause an accident to occur, nor does the operability of the vacuum breakers have any effect on the operability of other safety related equipment. The operability of the vacuum breakers can affect the consequences of an accident, since damage to the containment could occur if they did not perform their safety function. We have determined that the safety function of protecting containment integrity can be accomplished with only two flow paths operable. A redundant vacuum breaker flow path would be available in the event a single active failure disables one of the three required operable flow paths. Hence, reducing the number of flow paths required to be operable from four to three would not result in any threat to containment integrity following an accident, and therefore would not increase the consequences of an accident.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

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Aside from precluding the possibility of bypass leakage, the only function the vacuum breaker valves perform is to equalize the pressure between the suppression chamber and the drywell. This function serves to protect the integrity of the containment post-LOCA and can be affected by reducing the required number of operable vacuum breaker flow paths from four to three, as is evaluated in the response to the first standard above. However, no other accident or malfunction can be created by this change. There is no change to the TS requirement that *all* the vacuum breaker valves be in the closed position during reactor operation.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The function of the vacuum breakers is to protect the structural integrity of the containment during a drywell depressurization event. The drywell design negative pressure is -5 psig. So long as the vacuum breakers are able to maintain the drywell pressure above this value, drywell integrity is preserved, and the containment function of preventing release of radioactivity is maintained. A computer analysis using flow test data for the actual vacuum breaker valves in the actual configuration used in the plant indicates that in the event of an inadvertent drywell spray actuation, the peak negative pressure in the drywell is -4.821 psig with three operable vacuum breaker flowpaths. Repeating the analysis, but reducing the number of operable vacuum breaker flow paths from three to two, results in a calculated peak drywell negative pressure of -4.845 psig. Since the increase in the magnitude of negative containment pressure when going from three operable flow paths to two is small, and is still within the -5 psig design value, the decrease in margin of safety resulting from this change is not considered to be significant. Similarly, relative to the diaphragm slab design differential pressure of 20 psid, the increase in the peak differential pressure from 4.26 psid to 5.77 psid when going from the three flow path case to the two flow path case is not considered to be significant. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92(c). Based on that conclusion, the staff proposes to determine that the proposed license amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 31, 1989

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Table 3.7-1, "Process Pipeline Penetration Primary Containment," to promote consistency with the Standard TS, to clarify the requirements, and to accurately reflect the as-built condition of the plant. The proposed changes can be divided into four categories—general, addition of valves, addition of isolation signals, and changes to the valve closure times.

The first category, General, includes such proposed changes as changing the title of the table to "Primary Containment Isolation Valves;" rearranging the table entries by penetration number; deleting the columns showing the valve type, power, group, and location; adding the valve numbers; re...aming some columns to more accurately reflect the information they present; changing the isolation signal RM (Remote Manual) to R (Remote); deleting Penetration 36 since it is no longer used; changing isolation signal D to "Line break—main steam (high steam flow)," signal E to "Line break—main steam (tunnel high temperature)," and signal G to "Reactor vessel low-low-low water level or high drywell pressure;" adding isolation signals H (containment high radiation), M (low condenser vacuum), and X (reactor vessel low water level or high drywell pressure when both shutdown cooling suction valves are not fully closed and reactor pressure is below 75 psig); adding notes, clarifying remarks, and other editorial changes.

The second category, Valves, would upgrade the table to reflect the as-built condition of the plant by adding sixty-two valves and related information. These valves were either a part of the original plant design but inadvertently omitted in the original TS or were added as a result of post-TMI modifications in accordance with NUREG-0578 and NUREG-0737.

The third category, Isolation Valve Signals, would upgrade the table by reflecting the isolation signals applicable to certain valves which are part of the existing plant design, but either were omitted from the initial issuance of the TS or were added as a post-TMI modification.

The fourth category, Valve Closure Times, would reflect the changes made to the stroke times for the Reactor Core Isolation Cooling and the High Pressure Coolant Injection steam line isolation valves to meet the requirements of the environmental qualification program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information, which is divided into the same categories described previously.

Changes related to the first category, General:

(1) will not significantly increase the probability or consequences of an accident previously evaluated because the changes clarify the table, provide better nomenclature, and eliminate typographical errors. These changes are purely administrative in nature and do not involve changes to procedures or facility modifications and cannot increase the probability of an accident previously evaluated.

(2) will not create the possibility of a new or different kind of accident previously evaluated because the proposed general changes are administrative in nature and improve the description and function of the containment penetration table and associated notes.

(3) will not involve a significant reduction in the margin of safety because the changes are purely administrative. Valves that have been added to the table which have always been part of the FitzPatrick's original design were reviewed by the NRC in the original Final Safety Analysis Report (FSAR) submittal. These valves have always been tested and treated as containment isolation valves.

Changes related to the second category, Valves:

(1) will not significantly increase the probability or consequences of an accident previously evaluated because the added containment isolation valves will improve each system's capability to reliably isolate in the event of a postulated accident, thereby increasing the reliability of containment integrity.

The vent and purge system is an essential system and is not used in the beginning of a design bases Loss of Coolant Accident (LOCA). The system is normally isolated and remains isolated until the operator has determined this need for its use.

Design features of the containment isolation valves, such as redundant flowpaths, will assure that the vent and purge system can perform both its containment isolation function and post-accident function assuming any postulated single-failure.

The logic for operation of the vent and purge bypass valves is fail-safe. This logic is powered from both AC and DC sources such that no single-failure can prevent purging or cause loss of containment integrity from either the drywell or the torus. This provides a fail-safe purge path from the containment under postulated accident conditions.

The added Reactor Building Closed Loop Cooling Water (RBCLCW) containment isolation valves improve system containment isolation dependability. The RBCLCW system is an essential system in the Emergency Service Water mode. The valves are designed to fail-open to assure operation of RBCLCW and Essential Service Water (ESW) Systems. The system's safety function is unchanged by this modification.

The added containment isolation valves in the hydrogen monitoring system will improve containment isolation dependability. The modification also provided an alternate flowpath to assure continuous hydrogen monitoring capability. The containment isolation valves meet the redundancy and single-failure requirements for containment isolation.

(2) will not create the possibility of a new or different kind of accident previously evaluated.

The added dedicated hydrogen vent and purge containment isolation valves will improve the systems' capability to reliably isolate in the event of a postulated accident. Spurious actuation of these containment isolation valves will not result in a plant transient, nor will it affect the plant's safe shutdown capability.

The added RBCLCW containment isolation valves will improve system containment isolation dependability. Spurious isolation of these valves and the coincident loss of drywell cooling is precluded by design features such as fail-opening of the valves on loss of instrument air or nitrogen. This will allow continuous operation of the RBCLCW and ESW systems. No new failure modes are created, nor is the safety function of the RBCLCW and ESW systems changed by the addition of these containment isolation valves.

The added containment hydrogen monitoring system lines and corresponding containment isolation valves improve hydrogen monitoring capability and containment isolation. Spurious actuation of these containment isolation valves will result in the partial loss of hydrogen/oxygen indication. This will not result in a plant transient nor affect the plant's safe shutdown capability.

The added containment isolation valves are arranged in series, two valves located outside of containment for each of two redundant sample lines. Both valves on each line are powered from the same source. This arrangement assures that the failure of one power source will not disable both sample lines. Spurious opening of these valves is precluded by design features such as as fail-close by spring force. No different failure modes are created, nor is the safety function of the hydrogen monitoring system changed by the addition of these containment isolation valves.

(3) will not involve a significant reduction in the margin of safety.

The modification to the dedicated hydrogen vent and purge system does not reduce the margin of safety because: 1) the modification improves upon redundancy and single-failure requirements for containment isolation; and 2) the logic to the individual override controls is fail-safe for the vent/purge valves.

The added RBCLCW containment isolation valves will improve safety by increasing containment isolation dependability. The RBCLCW piping is the first barrier for containing postulated radioactive releases. Prior to the installation of these new containment isolation valves, this was the primary barrier for containment isolation. The safety function of the RBCLCW system is not changed by the addition of these containment isolation valves. Design features such as fail-opening of the valves will assure system operation during and after an accident.

The added containment hydrogen monitor system lines and corresponding isolation valves do not reduce the margin of safety because: 1) containment isolation meets single-failure requirements through fail-safe logic; and 2) hydrogen monitoring has redundant flowpaths.

The modification increases safety because of the added ability to sense high drywell radiation and isolate the primary containment after a postulated accident. The addition of signal "H" (containment high radiation) increases the redundancy and diversity of physical parameters sensed to isolate the containment in the event of an accident. This provides additional assurance that releases during an accident are minimized.

The changes related to the fourth category, Valve Closure Times:

(1) will not involve a significant increase in the probability or consequences of an accident previously evaluated because the decreased stroke time is still within the design capabilities of the valves and valve operators. Decreased valve closure time will not significantly affect the design or operational characteristics of these systems.

(2) will not create the possibility of a new or different kind of accident because no new failure modes are introduced that will affect the operation of Reactor Core Isolation Cooling and High Pressure Coolant Injection systems.

(3) will not involve a significant reduction in the margin of safety. These changes will increase safety by ensuring that area installed equipment will operate in environmentally qualified conditions that are postulated in the event of an accident.

Changes related to the third category, Isolation Signals:

(1) will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Isolation codes "M", "R", and "X" are not new isolation signals for the containment isolation valves, since they are part of the plant's original design. They were reviewed by the NRC in the original FSAR submittal. These isolation signal codes have always been tested and treated as part of the plant's protection system.

The addition of signal "H" (Containment high radiation) to the vent and purge containment isolation valves improves the capability of the system to isolate in the event of high radiation in the drywell. This new isolation signal increases the redundancy and diversity of physical parameters sensed to isolate the containment in the event of an accident.

(2) will not create the possibility of a new or different kind of accident.

Signals "M", "R", and "X" are added to Table 3.7-1 to complete the list for certain containment penetrations in order to make the Technical Specifications reflect the original plant design. The addition of these signals are purely administrative in nature and were incorporated in the original FSAR submittal.

The addition of isolation "H" improves diversity of physical parameters sensed to isolate the containment in the event of an accident. The trip setpoint for this signal is set such that it will not spuriously isolate the vent and purge system when the valves are being used.

(3) will not involve a significant reduction in the margin of safety.

These changes have always been part of the original design of the plant as reviewed by the NRC and documented in the design basis of the FSAR. The changes are administrative in nature and correct the list of signal codes to reflect the plant's original design.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 31, 1989, as supplemented July 18, 1989.

Description of amendment request: By letter dated May 31, 1989, the licensee proposed a Technical Specification (TS) amendment which would, among other changes, incorporate certain

modifications to the Low Pressure Coolant Injection (LPCI) System surveillance test requirements. These changes would reflect the Recirculation System loop selection logic modification in application of a seven day operating period prior to imposition of further limitations.

(c) that the proposal would not involve a significant reduction in a

Description and determined that a significant hazard does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1 in accordance with these changes would:

Description of amendment request: The proposed changes would revise the North Anna Power Station, Units 1 and 2 (NA-1&2) Technical Specifications (TS) which govern flood protection control.

probability or consequences of an accident previously evaluated. This change will provide additional controls, not currently in place, to reduce the probability of flooding and provide more restrictive surveillance

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of amendment request:

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modifications to the Low Pressure Coolant Injection (LPCI) System surveillance test requirements. These changes would reflect the Recirculation System loop selection logic modification installed during the Reload 1/Cycle 2 refueling outage. This proposal was published in the Federal Register on July 26, 1989 (54 FR 31116). By letter dated July 18, 1989, the licensee has amended the May 31, 1989 submittal to further clarify Section 3.5.A.

Limiting Condition for Operation (LCO) 3.5.A.3.a addresses the situation when one of the Residual Heat Removal (RHR) pumps is made or found to be inoperable, while LCO 3.5.A.3.b addresses the situation when one of the LPCI subsystems is made or found to be inoperable. (Both LCOs permit continued plant operation for seven days.) Since the loss of any one of the four RHR pumps would render the corresponding LPCI inoperable, both LCOs address identical situations.

To eliminate this duplication, the licensee has proposed elimination of LCO 3.5.A.3.a. As a result, LCO 3.5.A.3.b would be renumbered to become 3.5.A.3.a and relocated to the previous page and LCO 3.5.A.3.c would become 3.5.A.3.b.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The staff has reviewed the licensee's submittal and concludes:

(a) that the proposal would not involve a significant increase in the probability or consequences of an accident previously evaluated since the proposal does not actually result in a change to the present TS requirements. The LCO to be deleted is a duplication of another LCO which would be applicable under the same conditions and with the same consequences, since loss of one RHR pump would render the respective LPCI system inoperable.

(b) that the proposal would not create the possibility of a new or different kind of accident previously evaluated since the proposal results in no technical change to the requirements. Both LCOs apply to the same conditions and result in application of a seven day operating period prior to imposition of further limitations.

(c) that the proposal would not involve a significant reduction in a margin of safety since the proposal does not result in a change to the requirements. The effect is to eliminate duplication and to clarify the requirements.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: October 9, 1989

Description of amendment request: The proposed amendment would change the title of the Assistant Plant Manager-Operations in Technical Specification (TS) 6.2.2, Facility Staff, to Manager-Plant Operations. The proposed amendment would further change TS 6.2.2 by allowing a previously held Senior Reactor Operator (SRO) license for the Davis-Besse Nuclear Power Station (DBNPS) or for another pressurized water reactor to serve as acceptable qualifications for the Manager-Plant Operations. TS 6.3 would also be revised to reflect this change.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazard exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazard consideration, as stated below:

Toledo Edison has reviewed the proposed changes as discussed in the Technical Description and determined that a significant hazard does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1 in accordance with these changes would:

Not involve a significant increase in the probability or consequences of an accident previously evaluated because the accident conditions and assumptions are not affected by the proposed Technical Specification changes. The proposed changes do not involve a test, experiment or a modification to a system. Licensed operators will continue to operate the plant under the supervision of the Operations Superintendent who is required to hold a current DBNPS SRO license. The proposed changes are administrative in nature and do not increase the probability or consequences of an accident previously evaluated.

Not create the possibility of a new or different kind of accident from any accident previously evaluated because the accident conditions and assumptions are not affected by the proposed Technical Specification changes. The proposed changes do not involve a test, experiment or a modification to a system and do not affect any plant equipment or operational procedures which could create the possibility of a different accident. The proposed changes are administrative in nature and involve no accident scenario. Licensed operators will continue to operate the plant under the supervision of the Operations Superintendent who is required to hold a current DBNPS SRO license. On matters related to nuclear safety, all accidents are bounded by previous analysis and no new accidents are involved.

Not involve a significant reduction in a margin of safety because the proposed Technical Specification changes do not affect any operating practices or limits nor does it affect any equipment or system important to safety. Licensed operators will continue to operate the plant under the supervision of the Operations Superintendent who is required to hold a current DBNPS SRO license. The proposed changes are administrative in nature and will not reduce the margin of safety.

The NRC staff has reviewed and agrees with the licensee's evaluation. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazard consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: October 13, 1989.

Description of amendment request: The proposed changes would revise the North Anna Power Station, Units 1 and 2 (NA-1&2) Technical Specifications (TS) which govern flood protection control. The change was necessitated by the licensee's reanalysis of potential flooding conditions. This reanalysis required the addition of a flood control dyke around the west end of the NA-2 Turbine and Service Buildings in order to provide protection of safety related equipment and facilities. In order to accommodate drainage of normal accumulation from within the dyke-enclosed area, a drain pipe is provided through the dyke. During potential flooding conditions, this drain pipe must be isolated to prohibit reverse flow of water into the enclosure and inflow into the Turbine and Service Buildings.

Specifically, the proposed changes would modify TS Action Statement 3-7.6 by requiring isolation of the dyke drain pipe valve within four hours if the water level at the main reservoir spillway reaches a level of 252 feet Mean Sea Level (MSL). Also, Surveillance Requirement 4.7.6 would be revised to reduce the trigger level for escalating surveillance of the Main Reservoir Water Level from 255 feet to 251 feet MSL. Finally, the surveillance interval would be decreased from once every 24 hours to once every 8 hours when the reservoir level is below 251 feet MSL and at least once every 2 hours whenever the reservoir level is equal to or greater than 251 feet MSL.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in accordance with the criteria above and has made the following determination that the proposed changes do not involve a significant hazards consideration as defined in 10 CFR 50.92 because the changes would not:

(1) result in a significant increase in the probability or consequences of an accident previously evaluated. This change will provide additional controls, not currently in place, to reduce the probability of flooding and provide more restrictive surveillance requirements for identifying potential flooding conditions.

(2) create the possibility of a new or different kind of accident. This change reflects plant modifications that are being implemented to protect the safety related equipment during postulated worst case flooding conditions. The installation of the dyke and the proposed TS change and surveillance requirements for potential flooding conditions will enhance protection of safety related equipment, during currently analyzed accidents, and will not introduce any new, or unanalyzed accidents.

(3) result in a significant reduction in the margins of safety. The changes provide for additional limitations and controls, more restrictive than those currently existing in the NA-1&2 TS, to be placed on the operation of NA-1&2.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with the above conclusion. Therefore, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of amendment request: September 21, 1989

Description of amendment request: The proposed amendment would preclude the potential of a forced plant shutdown as a result of loss of the Containment Building Compressed Air System. The licensee proposes that a back-up air supply be connected to the Containment Building Compressed Air System. The back-up air supply would be a cross-connection between the Plant Instrument Air System and the Containment Air System. The cross-connect would enter the containment building thru an existing containment penetration, X-68.

Date of publication of individual notice in Federal Register: October 26, 1989 (54 FR 43634).

Expiration date of individual notice: November 27, 1989

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has

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prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: November 30, 1988, as supplemented on May 5, 1989 and October 11, 1989.

Brief description of amendment: The amendment changes certain requirements on the storage of diesel fuel oil inventory onsite. The increased minimum inventory and associated surveillance required will ensure that sufficient fuel is available to operate one diesel generator as its rated design capacity for seven days following a design basis accident.

Date of issuance: October 26, 1989

Effective date: October 26, 1989

Amendment No. 124

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5161)

The May 5, 1989 letter provided the associated surveillance requirements and did not change the initial determination of no significant hazards consideration as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company, et al., Docket Nos. 50-245 and 50-336, Millstone Nuclear Power Station, Unit Nos. 1 and 2, New London County, Connecticut

Date of application for amendments: April 25, 1989, as supplemented June 26, 1989

Brief description of amendments: The amendments revise the Technical Specifications (TS) Sections 6.12, "High Radiation Area," for Haddam Neck and Millstone Unit 2 plants and TS Section 6.13, "High Radiation Area," for Millstone Unit 1 plant by (1) defining the dose rate as measured at 45 cm (18 inches) from the source, (2) increasing the Radiation Work Permit requirements for entry into locked High Radiation areas with dose rates greater than the 1000 mR/h by requiring maximum stay time limits or continuous surveillance, (3) allowing an alternative to enclosing and locking large areas with dose rates greater than 1000 mR/h and in which an enclosure cannot be reasonably constructed and (4) defining locked High Radiation areas as those with dose rates greater than 1000 mR/h at 18 inches from the radiation source.

Date of Issuance: October 24, 1989

Effective date: October 24, 1989

Amendment Nos.: 124, 35, 144

Facility Operating License No. DPR-61, DPR-21 and DPR-65. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31104). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 24, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457; Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: April 21, 1989

Brief description of amendment: The amendment revises the Technical Specifications to remove requirements on the reactor coolant resistance temperature detector (RTD) bypass system, and to replace them with requirements on fast-response thermowell-mounted RTDs.

Date of issuance: October 23, 1989

Effective date: October 23, 1989

Amendment No. 145

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23311). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: September 22, 1989

Brief description of amendment: The amendment revises the Technical Specifications to remove containment isolation valve SI-91 from Table 3.6-1. The bypass line on which S1-91 is installed is no longer needed since its function has been obviated by Amendment No. 71. Both the bypass line and valve SI-91 will be eliminated.

Date of issuance: November 2, 1989

Effective date: November 2, 1989

Amendment No. 146

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 2, 1989 (54 FR 40549). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 2, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: October 24, 1988

Brief description of amendment: The amendment provides for expansion of the Departure from Nucleate Boiling and Linear Heat Rate related Axial Shape Index limits for the Limiting Conditions for Operation and the LHR-related Limiting Safety System Setpoints. The licensee requested these changes to give the plant greater flexibility at low and intermediate power levels.

Date of Issuance: October 23, 1989

Effective Date: October 23, 1989

Amendment No.: 42

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (54 FR 48145). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 14, 1989

Brief description of amendment: The amendment revised the Technical Specifications to allow the control element assembly drop time acceptance to be based on the average drop time rather than the slowest drop time of any control element assembly. The amendment replaces the licensees proposed amendment submitted by letter dated May 27, 1988 and as noticed in the **Federal Register** on July 13, 1988 (53 FR 26528).

Date of issuance: October 31, 1989

Effective date: October 31, 1989

Amendment No.: 58

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37047). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: July 31, 1989

Brief description of amendment: This change to the Technical Specifications revises the listed distribution voltage of the primary side of the Emergency Station Services Transformer from 27.6KV to 23KV. This reflects a previous plant modification.

Date of issuance: November 1, 1989

Effective date: November 1, 1989

Amendment No.: 36

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37048). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 2, 1989

Brief description of amendment: The amendment would delete Table 3.7.1, "Primary Containment Isolation," from the Technical Specifications to permit the Updated Safety Analysis Report (USAR) to serve as the primary reference for identification of primary containment isolation valves and their associated closure time limits, normal position, and group assignment.

Date of issuance: October 19, 1989

Effective date: October 19, 1989

Amendment No.: 71

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37049). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: May 26 and August 7, 1989

Brief description of amendment: Administrative changes to the Technical Specifications to achieve consistency, remove outdated material, make minor text changes and correct errors.

Date of issuance: October 30, 1989

Effective date: October 30, 1989

Amendment No. 33

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29408). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: May 15, 1989

Brief description of amendment: This amendment modified the pressure temperature limits for the reactor vessel consistent with the guidance in Generic Letter 88-11, "NRC Position On Radiation Embrittlement of Reactor Vessel Materials and Its Effect on Plant Operations".

Date of issuance: October 25, 1989

Effective date: October 25, 1989

Amendment No.: 153

Facility Operating License No. DPR-44: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31116). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 19, 1989

Brief description of amendment: The amendment changes the frequency of the resistance to ground surveillance requirement for the Intake Deicing Heaters from once per operating cycle to once per year. Minor administrative changes to Specifications 3.11.E and 4.11.E. are also reflected.

Date of issuance: October 16, 1989

Effective date: October 16, 1989

Amendment No.: 141

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27238). The

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Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 19, 1989

Brief description of amendment: The amendment reflects installation of a second diesel driven fire pump and the resulting changes to the existing electric and diesel fire pumps.

Date of issuance: October 23, 1989

Effective date: October 23, 1989

Amendment No.: 142

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27238). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: May 18, 1989 and supplemented on August 21, 1989 (NLR-N89160) (LCR 89-12, Rev. 1)

Brief description of amendment: The amendment request replaced the values of the Technical Specifications cycle specific parameter limits with a reference to a Core Operating Limits Report.

Date of issuance: October 20, 1989

Effective date: As of its date of issuance and shall be implemented within sixty days of its date of issuance.

Amendment No. 34

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27240) and (54 FR 38577) September 19, 1989. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 20, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: June 10, 1988, as revised January 11, 1989.

Brief description of amendment: The amendment revised several sections of the technical specifications concerning radioactive effluents.

Date of issuance: October 26, 1989

Effective date: 30 days after date of issuance.

Amendment No.: 114

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 24, 1989 (54 FR 16436). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 25, 1989 (TS 89-04)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The changes revise Section 4.6.3.2 and Table 3.8-2 to add a surveillance requirement for a channel functional test of the bypass circuitry for the thermal overload devices of the turbine-driven auxiliary feedwater (AFW) pump trip and throttle valve. These valves, 1-FCV-1-51 and 2-FCV-1-51, will be identified in Table 3.8-2 as being bypassed under accident conditions. The overload devices for these valves are normally in force during plant operation and bypassed under accident conditions. The changes also identify valves 1-FCV-70-207 and 2-FCV-70-207 in Table 3.8-2 as common to both units.

Date of issuance: November 1, 1989

Effective date: November 1, 1989

Amendment Nos.: 128, 115

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32178). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: August 23, 1989

Brief description of amendment: The amendment removed the provision of Specification 4.0.2 that limited the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval. The amendment conforms to the guidance given in Generic Letter 89-14, issued August 21, 1989.

Date of issuance: October 27, 1989

Effective date: October 27, 1989

Amendment No. 140

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37054). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: August 2, 1989

Brief description of amendment: The amendment revised Technical Specification Figures 5.1-1, 5.1-2, 5.1-3 and 5.1-4 regarding the exclusion area, low population zone, site boundary for gaseous effluents, and site boundary for liquid effluents. The figures are clarified and updated to show the additional area closed to public use by the Reform Wildlife Management Agreement dated April 10, 1989.

Date of issuance: November 1, 1989

Effective date: November 1, 1989

Amendment No.: 48

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37054). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Wisconsin Electric Power Company, Docket No. 50-301, Point Beach Nuclear Plant, Unit No. 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendment: August 8, 1989 as modified August 31, 1989

Brief description of amendment: The amendment altered Technical Specification Table 15.3.1-2, Point Beach Nuclear Plant, Unit No. 2 Reactor Vessel Surveillance Capsule Removal Schedule. The amendment delayed the removal of the "P" capsule until the fall of 1996 and accelerated the removal of the "S" capsule to the fall of 1990.

Date of issuance: October 24, 1989

Effective date: October 24, 1989

Amendment No.: 128

Facility Operating License No. 1DPR-27. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38769). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 24, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: June 12, 1989

Brief description of amendment: The amendment redefined the measure of fuel oil supply for the emergency diesel generators' (DG) day tanks from a quantity of time, to a quantity of volume. The amendment also clarified the bases of the required storage capacity.

Date of issuance: October 25, 1989

Effective date: October 25, 1989

Amendment No.: 83

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32721). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 1989

Brief description of amendment: The amendment revised technical specification Surveillance Requirement 4.9.6.1 to require the Refueling Machine to be demonstrated operable within 100 hours prior to the movement of fuel assemblies within the Reactor Vessel. The amendment also revised Surveillance Requirement 4.9.6.2 to require the Auxiliary Hoist to be demonstrated operable within 100 hours prior to the movement of drive rods within the Reactor Vessel. Previously, the Technical Specifications required that both the Refueling Machine and the Auxiliary Hoist be proven operable 100 hours prior to lifting the Reactor Vessel Head.

Date of Issuance: November 1, 1989

Effective date: November 1, 1989

Amendment No.: 34

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37056). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: August 31, 1989

Brief description of amendment: This amendment will incorporate into the Technical Specifications of Yankee Nuclear Power Station (YNPS) new operability and surveillance requirements for equipment installed to meet the criteria of Item II.F.1-1 of NUREG-0737, for the monitoring of noble gas in plant effluent, and to include the Main Steam Line Monitors.

Date of issuance: October 23, 1989

Effective date: October 23, 1989

Amendment No.: 126

Facility Operating License No. DPR-3: Amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38770). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: July 24, 1989

Brief description of amendment: The amendment consists of two changes: (1) The proposed amendment modifes Table 3.2.-1 of Technical Specification 3.2.4 to substitute a limit on the operating loop average temperature for the current limit on cold leg temperature. The temperature limit will allow greater operational flexibility during part-load operation and will maintain DNB margins to be bounded by full power condition. (2) The amendment removes the word "Exxon" from the last paragraph of Technical Specification Base 3/4.2.4.

Date of issuance: October 27, 1989

Effective date: October 27, 1989

Amendment No.: 127

Facility Operating License No. DPR-3: Amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register:** August 23, 1989 (54 FR 35113). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

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NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By December 15, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of application for amendment: October 16, 1989

Brief description of amendment: The amendment revises the Technical Specifications to update the diesel generator fuel oil surveillance requirements to current standards.

Date of issuance: October 30, 1989

Effective date: October 30, 1989

Amendment No. 22

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination if no significant hazards consideration are contained in a Safety Evaluation dated October 30, 1989.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

NRC Project Director: John F. Stolz

Dated at Rockville, Maryland, this 8th day of November, 1989.

For the Nuclear Regulatory Commission

Gary M. Holahan,

Acting Director, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 89-26658 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-D

Staff Assessment of Proposed Amended Agreement Between the Nuclear Regulatory Commission and the State of Utah

AGENCY: U. S. Nuclear Regulatory Commission.

ACTION: Notice of Proposed Amended Agreement with the State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment the NRC staff assessment of a proposed amended agreement received from the Governor of the State of Utah for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. Comments are requested on the public health and safety aspects of the proposal.

A staff assessment of the State's proposed amended program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the proposed amended agreement, program narrative, including the referenced appendices, applicable State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 2120 L Street, NW, Washington, DC. Exemptions from the Commission's regulatory authority, which would implement this proposed amended agreement, have been published in the Federal Register and codified as part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATE: Comments must be received on or before December 15, 1989.

ADDRESSES: Submit comments to: the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Comments may also be delivered to 11555 Rockville Pike, Rockville, Maryland from 7:45 a.m. to 4:15 p.m. Monday through Friday. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, State, Local and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301-492-0328.

SUPPLEMENTARY INFORMATION: Assessment of proposed amended Utah Program to regulate certain radioactive materials pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to amend its agreement with the NRC whereby the NRC would relinquish and the State would assume regulatory authority for land disposal of source, byproduct and special nuclear material received from other persons pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be

published four times in the Federal Register.

I. Background

A. Section 274 of the Atomic Energy

uranium and thorium mill tailings (byproduct material as defined in section 11e.(2) of the Act). The State does not wish to assume authority over

assessment of the State environmental program. In addition, the Department issued to Envirocare of Utah, Inc., a license to receive, store, and dispose, by

applicable to waste generators, that is equivalent to that contained in 10 CFR part 61.

(b) Land Disposal of waste received

Prior Evaluation of Uses of Radioactive Materials

13. Prior Evaluation of Hazards and Uses, Exceptions

In evaluating a proposal for disposal of radioactive material, the Utah Bureau of Radiation Control will make the findings required by URC-R447-25-11,

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published four times in the Federal Register.

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulatory authority over agreement materials [1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. On March 29, 1984, the Governor of Utah signed an agreement with the NRC for the assumption of regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material and special nuclear material in quantities not sufficient to form a critical mass. In a letter dated July 17, 1989, Governor Norman H. Bangerter of the State of Utah requested that the Commission enter into an amended agreement with the State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, under which the State would also assume responsibility for regulating the land disposal of these materials received from other persons. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed amendment to the agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A.

The specific authority requested is for permanent disposal of low-level waste containing the material for which Utah has assumed regulatory authority under the 1984 agreement but not containing uranium and thorium mill tailings (byproduct material as defined in section 11e.(2) of the Act). The State does not wish to assume authority over uranium recovery activities. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in this area. The proposed amendment to the agreement covers the following areas:

1. Amending Article I of the Agreement of March 29, 1984 to add land disposal of source, byproduct and special nuclear material received from other persons to the list of materials covered by the agreement.

2. Amending Article II of the Agreement of March 29, 1984 to delete land disposal of source, byproduct and special nuclear material received from other persons from the list of materials and activities over which the Commission continues to retain regulatory authority and responsibility.

3. Specifies the effective date of the amended agreement.

C. Utah Code Annotated (UCA) 26–1–27 through 26–1–29 authorizes the State Department of Health to issue licenses to, and perform inspections of (see, also, UCA 26–23–6), users of radioactive materials under the 1984 agreement and otherwise carry out a total radiation control program. Utah Radiation Control Rules URC–10 through URC–80 adopted November 8, 1982 under authority of 26–1–27 through 26–1–29 Utah Code Annotated 1953, as amended, provide standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. These regulations have been determined to be compatible with the Commission's regulations. Utah Radiation Control Rules R447–10 through R447–70 were amended and recodified in July 1989. Regulations R447–25 were adopted in July 1988 for licensing requirements for land disposal of radioactive waste.

D. On March 29, 1984, under enabling legislation in UCA 26–1–29, Utah assumed regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material and special nuclear material in quantities not sufficient to form a critical mass. The program audits conducted since that time have resulted in an NRC finding that the Utah radiation control program is compatible with that of the NRC and is adequate to protect public health and safety. In addition to Utah's agreement program, Utah is involved in several environmental radiation issues including monitoring indoor radon, monitoring uranium mill tailings, particularly at the Vitro uranium mill, and monitoring and assessment of the State environmental program. In addition, the Department issued to Envirocare of Utah, Inc., a license to receive, store, and dispose, by shallow land burial, naturally occurring radioactive material (NORM) waste with a radium-226 concentration not to exceed 2,000 picocuries per gram. NORM material is not regulated by the Nuclear Regulatory Commission.

E. The State's proposed programs for low-level radioactive waste disposal are assessed under Criteria numbers 9, "Radioactive Waste Disposal" and 20 "Qualification of Regulatory and Inspection Personnel." Additional criteria relating to prior evaluation of uses of radioactive materials, inspection and administration,[2] are addressed as appropriate to supplement information found in the staff assessment of the original Utah proposed agreement published in the Federal Register on December 30, 1983 (48 FR 57674–57684).

II. NRC Staff Assessment of the Proposed Amendment to Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.[3]

Objectives

9. Radioactive Waste Disposal

(a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR part 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form,

[1] A. Byproduct materials as defined in 11e.(1)
B. Byproduct materials as defined in 11e(2)
C. Source materials; and
D. Special nuclear materials in quantities not sufficient to form a critical mass

[2] Criteria 13, "Prior Evaluation of Hazards and Uses Exceptions," 14, "Evaluation Criteria," 16, "Inspection, Purpose, Frequency," and 27, "Coverage, Amendments Reciprocity."

[3] NRC Statement of Policy published in the Federal Register January 23, 1981 (46 FR 7540–7546). A correction was published July 16, 1981 (46 FR 36969) and a revision of Criterion 9 published in the Federal Register July 21, 1983 (48 FR 33376).

applicable to waste generators, that is equivalent to that contained in 10 CFR part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (section 151(a)(2), Pub. L. 97–425).

The Utah regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are essentially uniform with those of 10 CFR part 20. Waste transfer and manifest system requirements for transfer of waste for ultimate disposal at a land disposal facility are included in the Utah regulations. The waste disposal requirements include a waste classification scheme and provisions for waste form equivalent to that in 10 CFR part 61.

The Utah regulations provide for land disposal of low-level radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and supporting sections set out in 10 CFR part 61. The Utah regulations include provisions for financial arrangements for decontamination, closure and stabilization. Under the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425), the financial arrangements for long term monitoring and maintenance at specific sites in Utah will be subject to Commission review and approval prior to Utah relieving the site operator of licensed responsibility.

References: URC–R447–15–310, URC–R447–15–302, URC–R447–15–303, URC–R447–304, URC–R447–15–305, URC–R447–15–306, URC–R447–15–307, URC–R447–15–308, URC–R447–15–309, URC–R447–15–311, URC–R447–25; Section 151(a)(2), Public Law 97–425.

Prior Evaluation of Uses of Radioactive Materials

13. Prior Evaluation of Hazards and Uses, Exceptions

In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the disposal of radioactive materials, the Utah Bureau of Radiation Control will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC–447–25, Utah Program Statement, section III.D "Procedures for Review of a Low-Level Radioactive Waste Disposal License Application."

14. Evaluation Criteria

In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal for disposal of radioactive material, the Utah Bureau of Radiation Control will make the findings required by URC–R447–25–11, including, among others, findings that the issuance of the license will not constitute an unreasonable risk to the health and safety of the public and that the applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: URC–R447–25, *see*, especially, R447–25–11, Utah Program Statement, Section III.D. "Procedures for Review of a Low-Level Radioactive Waste Disposal License Application."

Inspection

16. Purpose, Frequency

The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah low-level waste disposal licensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent as inspections of similar licensees by NRC. Generally, inspections will be unannounced.

References: Utah Program Statement, section III.E "Compliance Program for a Low-Level Radioactive Waste Disposal Facility."

Personnel

20. Qualifications of Regulatory and Inspection Personnel

The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be

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evaluated and inspected. This requires competency to evaluate various potential radiological hazards associated with the many uses of radioactive material and includes

will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those

Dane L. Finerfrock: Environmental Health Manager, Environmental Monitoring and Mill Tailings Management Section. Responsible for

Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.
OSHA, *Fundamentals of Occupational Injury Investigation.*

Radioactive Waste. A 16-hour course ending July 16, 1980.
U.S. Department of Health, Education and Welfare, *Basic Course for Investigators: Diagnostic X-Ray*

Conference of Radiation Control Program Directors, *Radiation Instruments.* A 24-hour course ending September 1983.
U.S. Nuclear Regulatory Commission,

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evaluated and inspected. This requires competency to evaluate various potential radiological hazards associated with the many uses of radioactive material and includes concentrations of radioactive materials in air and water, conditions of shielding, the making of radiation measurements, knowledge of radiation instruments—their selection, use, and calibration—laboratory design, contamination control, other general principles and practices of radiation protection, and use of management controls in assuring adherence to safety procedures. In order to evaluate some complex cases, the State regulatory staff may need to be supplemented by consultants or other State agencies with expertise in geology, hydrology, water quality, radiobiology, and engineering disciplines.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. For example, the person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection. It is desirable that such a person have a bachelor's degree or equivalent in the physical or life sciences, and specific training in radiation protection.

It is recognized that there will also be persons performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These persons should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or as its command, not only for routine functions, but also for emergency cases.

Licensing and Regulation of Permanent Disposal of Low-Level Radioactive Waste—(a) Number of Personnel. There are approximately 230 specific licenses in the State of Utah. The Bureau of Radiation Control has responsibility for the low-level waste (LLW) management regulatory program as a joint function of Radioactive Materials and Machine Licensing Section and Environmental Monitoring and Mill Tailings Management Section. The assessment of the regulatory framework is included under Criterion 9, "Radioactive Waste Disposal." The Bureau of Radiation Control has identified seven staff members who will provide supervision, technical support and administrative assistance during the various phases of regulating a licensed low-level waste disposal facility. These personnel and summaries of their duties are:

Larry F. Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs.

Mark S. Day: Environmental Health Engineer. Responsible for the Utah's inactive uranium mill tailings remedial action project.

Dane L. Finerfrock: Environmental Health Manager, Environmental Monitoring and Mill Tailings Management Section. Responsible for radon-in-residences monitoring, statewide environmental radiation monitoring, licensing and inspection of low-level radioactive waste disposal facilities, and inactive uranium mill tailings remedial action programs.

Blaine N. Howard: Health Physicist. Responsible for licensing and inspection in materials program.

John D. Hultquist: Environmental Health Scientist. Responsible for inspection of low-level waste disposal facilities, environmental monitoring and inactive uranium mill tailings remedial action project.

Craig W. Jones: Environmental Health Manager, Radioactive Materials and Machine Licensing Section. Responsible for the Agreement State program including licensing and inspection of low-level disposal facilities.

Raymond G. Nelson: Environmental Health Scientist. Responsible for regulation of low-level waste disposal facilities, environmental monitoring and inactive uranium mill tailings remedial action project.

Cindy Wignall: Environmental Health Technician. Responsible for supporting both sections as a technical assistant in meeting the Bureau's goals.

In addition, Utah has identified staff with expertise in various disciplines within the Department and other State agencies for support during the pre-operational and licensing stage. Expertise in disciplines not provided by Utah personnel either on staff or covered by agreements with other State agencies will be provided by contracts with the State.

(b) *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of low-level radioactive waste disposal facilities is shown below.

Larry F. Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards.* October 1972.

NIOSH Course 582, *Sampling and Evaluating Airbourne Asbestos Dust.* April 10–12, 1973.

Utah State Division of Health, *Visible Emission Evaluation Course.* June 19, 1973.

American Industrial Hygiene Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.

OSHA, *Fundamentals of Occupational Injury Investigation.* Short course ending April 1, 1977.

U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course.* A 64-hour course ending January 27, 1978.

U.S. Environmental Protection Agency, *Grants Administration Seminar.* A 16-hour course ending May 16, 1980.

Safety International Training Center, *Hydrogen Sulfide and Equipment for Instructors.* A 12-hour course ending June 19, 1979.

Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment.* A 20-hour course ending March 29, 1980.

U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides.* A 40-hour course held in January 1984.

U.S. Nuclear Regulatory Commission, *Industrial Radiography.* A 40-hour course held May 1985.

Harvard School of Public Health, *Biological Effects of Ionizing Radiation.* A 40-hour course held in March 1989.

Mark S. Day—B.S. Civil and Environmental Engineering, Utah State University.

Center for Professional Advancement, *Hydraulic Conveying.* A 1-week course in 1974.

University of California, *Resolution of Construction Claims.* A 1-week course in 1983.

Management Consultants Incorporated, *Federal Procurement of Construction Projects.* A 1-week course in 1985.

Air Force Institute of Technology, *Contingency Engineering.* A 2-week course in 1986.

Air Force Institute of Technology, *Hazardous Waste Management.* A 2-week course in 1986.

Dane L. Finerfrock—B.S. Meteorology, B.S. Biology, University of Utah.

Oak Ridge Associated Universities, *Health Physics and Radiation Protection.* A 10-week course ending April 1981.

U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course.* A 64-hour course ending August 8, 1980.

U.S. Nuclear Regulatory Commission, *Safety Aspects of Industrial Radiography.* A 40-hour course held on August 17, 1980.

Western Interstate Energy Board, *Workshop on Low-Level Radioactive Waste.* A 16-hour course ending July 16, 1980.

U.S. Department of Health, Education and Welfare, *Basic Course for Investigators: Diagnostic X-Ray Surveillance.* A 80-hour course ending March 14, 1980.

U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures.* A 80-hour course ending in September, 1979.

U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials.* A 40-hour course ending on November 16, 1984.

U.S. Nuclear Regulatory Commission, *License Inspection Procedures.* A 40-hour course ending on June 18, 1985.

U.S. Environmental Protection Agency, *Reducing Radon in Structures.* A 24-hour course ending in March 1989.

Blaine N. Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.

Bureau of Radiological Health, *Medical X-Ray Protection.* Held October 30-November 10, 1972.

U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course.* A 64-hour course held in 1978.

National Legislative Conference, *States Role in Radioactive Material Management.* Held December 9–11, 1974.

U.S. Environmental Protection Agency, *Drinking Water Regulations and Radioanalytical Workshop.* Held January 10–12, 1978.

X-Ray Workshop, Richfield, Utah. March 14–15, 1979.

Actinides in Man and Animals Workshop, Snowbird, Utah. October 15–17, 1979.

U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides.* A 40-hour course ending September 12, 1980.

NWTS Annual Information Meeting, Columbus, Ohio. December 8–10, 1980.

Waste Management 1981—American Nuclear Society, Tucson, Arizona. February 23–27, 1981.

U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures.* A 80-hour course ending in September 1982.

U.S. Nuclear Regulatory Commission, *Inspection Procedures.* A 40-hour course ending on July 30, 1982.

U.S. Nuclear Regulatory Commission, *Radon Monitoring.* A 40-hour course ending in November 1982.

Conference of Radiation Control Program Directors, *Radiation Instruments.* A 24-hour course ending September 1983.

U.S. Nuclear Regulatory Commission, *Gas and Oil Well Logging.* A 40-hour course ending in November 1988.

U.S. Nuclear Regulatory Commission, *Safety Aspects of Industrial Radiography.* A 40-hour course ending September 1989.

John D. Hultquist—B.S. Environmental Science/Biology, University of Tennessee.

U.S. Environmental Protection Agency, *Basic Risk and Decision Making.* A 16-hour course ending in March 1988.

Utah Division of Comprehensive Emergency Management, *Fundamental Course for Radiological Monitors.* An 8-hour course ending March 1989.

U.S. Environmental Protection Agency, *Reducing Radon in Structures.* A 24-hour course ending in March 1988.

U.S. Environmental Protection Agency, *RCRA Ground Water Monitoring.* A 24-hour course ending in April 1989.

Oak Ridge Associated Universities, *Health Physics and Radiation Protection.* A 5-week course ending August 1989.

U.S. Department of Energy, *First Responders WIPP Training.* An 8-hour course ending August 1989.

U.S. Environmental Protection Agency, *Hazardous Material Response for First Responders.* A 40-hour course ending in September 1989.

Craig W. Jones—B.S. Biology, M.S.P.H. (Industrial Hygiene), University of Utah.

U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course.* A 64-hour course ending August 8, 1980.

Department of Health and Human Services, *Radiopharmaceutical Quality Assurance.* A 16-hour course ending November 1984.

U.S. Nuclear Regulatory Commission, *Inspection Procedures.* A 40-hour course ending in February 1985.

U.S. Environmental Protection Agency, *Air Surveillance for Hazardous Materials.* A 40-hour course ending in April 1985.

U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides.* A 40-hour course ending June 1985.

Oak Ridge Associated Universities, *Health Physics and Radiation Protection.* A 5-week course ending

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August 1985.
U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures.* A 40-hour course ending in September 1985.
U.S. Nuclear Regulatory Commission, *Radiation Protection Engineering.* A 40-hour course ending in November 1986.
U.S. Nuclear Regulatory Commission, *Gas and Oil Well Logging.* A 40-hour course ending in November 1987.
U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials.* A 40-hour course ending in August 1988.
Raymond G. Nelson—Completed 2 years towards B.S. in Geophysics, University of Utah.
U.S. Environmental Protection Agency, *Basic Risk and Decision Making.* A 16-hour course ending in September 1988.
Utah Division of Comprehensive Emergency Management, *Fundamental Course for Radiological Monitors.* An 8-hour course ending March 1989.
U.S. Environmental Protection Agency, *Reducing Radon in Structures.* A 24-hour course ending in March 1989.
U.S. Environmental Protection Agency, *RCRA Ground Water Monitoring.* A 24-hour course ending in April 1989.
U.S. Nuclear Regulatory Commission, *Inspection Procedures.* A 40-hour course ending in June 1989.
U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials.* A 40-hour course ending in August 1989.
U.S. Department of Energy, *First Responders WIPP Training.* An 8-hour course ending in August 1989.
U.S. Environmental Protection Agency, *Hazardous Material Response for First Responders.* A 40-hour course ending in September 1989.

Reference: Utah Program Statement, section II.D "Low-Level Radioactive Waste Management," section IV "Staffing, Supervision, and Equipment for a Low-Level Waste Program," and Appendix E.

Administration

27. Coverage, Amendments, Reciprocity

The proposed amendment to the Utah agreement provides for the assumption of regulatory authority over land disposal of source, byproduct and special nuclear material received from other persons.

Reference: Proposed Amendment to Agreement, section I.

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states:

> The Commission shall enter into an agreement under subsection b of this section with any State if—
> (1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and
> (2) the Commission finds that the State program is in accordance with the requirements of subsection O. and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

The staff has concluded that the State of Utah meets the requirements of section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed amendment to the Utah agreement. Since the State is not seeking authority over uranium milling activities, subsection O. is not applicable to the proposed amendment to the Utah amended agreement.

Dated at Rockville, Maryland, this 7th day of November 1989.

For the U.S. Nuclear Regulatory Commission.

Carlton Kammerer,

Director, State, Local and Indian Tribe Programs, Office of Governmental and Public Affairs.

Appendix A

Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of March 29, 1984) with the State of Utah under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on April 1, 1984, and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and Section 161 of the Act with respect to byproduct materials as defined in section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Utah is authorized under Utah Code Annotated 26-1-29 to enter into this amendment to the Agreement of March 29, 1984, between the Commission and the State of Utah; and

Whereas, The Governor of the State of Utah has requested this amendment in accordance with section 274 of the Act by certifying on *(date to be inserted)* that the State of Utah has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the land disposal within the State of source, byproduct and special nuclear material received from other persons and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on *(date to be inserted)*, that the program for regulation of materials covered by this amendment is in accordance with the requirements of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that the State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, this amendment to the Agreement of March 29, 1989, is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended.

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of March 29, 1984, is amended by deleting "and" at the end of paragraph B., by adding ";and," after the words "critical mass" in paragraph C., and by inserting the following new paragraph immediately after paragraph C.:

D. The land disposal of source, byproduct and special nuclear material received from other persons.

Section 2. Article II of the Agreement of March 29, 1984, is amended by deleting paragraph E. and by redesignating paragraph F. as paragraph E.

This amendment shall become effective on *(date to be inserted)*, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII of the Agreement of March 29, 1984.

Done at Salt Lake City, Utah, in triplicate, this_____ day of_____, 1989.

For the United States Nuclear Regulatory Commission.

Kenneth M. Carr,

Chairman

For the State of Utah.

Norman H. Bangerter,

Governor

[FR Doc. 89-26795 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

THE PRESIDENT'S EDUCATION POLICY ADVISORY COMMITTEE

Meeting and Establishment

AGENCY: The President's Education Policy Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: The President's Education Policy Advisory Committee was formed under Executive Order 12687 and signed by the President of the United States on August 15, 1989.

DATE: The first meeting will be held on November 21, 1989.

ADDRESS: The meeting is currently scheduled for 1:00–4:00 in Room 2010 of the New Executive Office Building, 17th and Pennsylvania Avenues, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Rae Nelson at the White House Office of Policy Development. The phone number is (202) 456–7777. For clearance purposes, please notify Rae Nelson no less than twenty-four hours of the meeting. Please provide over the phone, your social security number, date of birth, and name as read on your driver's license. When entering the building, you will be required to show picture identification.

SUPPLEMENTARY INFORMATION: The agenda will include follow-up to the President's Education Summit with Governors that was held in Charlottesville, Virginia. An item of importance will the Committee's future areas of concentration and organization. Miscellaneous items that are brought to the table will also be topics of discussion.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 89-27033 Filed 11-14-89; 8:45 am]

BILLING CODE 3127-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27421; File No. SR-DTC-87-15]

Self-Regulatory Organizations; Depository Trust Co.; Order Granting Permanent Approval of Tax Exempt Dividend Service

November 2, 1989.

The Depository Trust Company ("DTC"), on October 19, 1989, filed a proposed rule change with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The proposal would allow DTC to operate its Tax Exempt Dividend Service ("TEDS") on a permanent basis. Notice of the proposal was published in the **Federal Register** on November 18, 1987.[1] No comments were received. This order approves the proposal.

I. Description

The proposed rule change will allow the permanent operation of TEDS. TEDS enables DTC participants to receive, on behalf of certain tax exempt beneficial owners whose securities are held at DTC, 100% of their Canadian dividend and similar payments on payable date through DTC's dividends payment system (subject to foreign exchange conversion rate limitations). Currently, TEDS is operating as a pilot program.[2]

Holders of certain Canadian securities are subject to a 15% withholding tax on Canadian dividends, interest and other distributions. The Canadian laws require that the Canadian payor withhold taxes equal to 15% of the distribution for payment to Revenue Canada. Certain entities however, including certain U.S. entities, are entitled to an exemption from the tax and may receive from Canadian payors 100% of the distribution. Traditionally, exempted holders were required to register securities in their name or the name of a "special" (exempt) nominee to avoid automatic withholding by the payor. Recently, however, Canadian authorities established procedures permitting Canadian payors to observe the exemption on certain payments to the nominees of United States securities depositories.

TEDS is designed to enable DTC to receive from Canadian issuers and pass through to its participants on payable date the full amount (subject to foreign exchange conversion rate limitations) due on Canadian securities owned by certain tax-exempt investors. To receive a full payment on securities not subject to withholding, a participant must certify to DTC that a certain quantity of its position qualifies for the exemption. DTC will establish a separate position for the participant to record the securities that are exempt from withholding. Canadian payors will send 100% of payments attributable to securities registered in the name of the depository's nominee to DTC's Canadian TEDS agent. The agent, on certification from DTC, will pay DTC 100% of the amount attributable to the exempt securities and 85% of the amount (100% minus 15% for the Canadian withholding tax) for those securities that are not exempt. DTC will credit the appropriate 100% and 85% payments to the participant through DTC's dividend settlement system.

II. DTC's Rationale

DTC states that the main purpose of TEDS is to eliminate a disincentive to the immobilization of Canadian securities at DTC. DTC believes that the proposal will effect the purposes of Section 17A(e) of the Act to encourage immobilization of securities certificates in the processing of securities settlements.

III. Discussion

The Commission believes that DTC's proposal is consistent with Section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions while ensuring the safeguarding of funds and securities in DTC's possession or control. The proposal will further encourage the goal of immobilization of securities certificates.

Before the 1980 Canada-USA Income Tax Convention and DTC's introduction of TEDS, beneficial owners of securities on deposit at DTC who were exempt from the Canadian withholding tax received payments minus the withheld amount and had to submit claims to the Canadian government for a refund. The inevitable delay between withholding and refunds, along with the inconvenience and expense of claiming a refund, prompted some DTC participants to consider withdrawing securities from DTC for re-registration in physical certificate form in their own or special nominee name in order to avoid the withholding tax. The Commission believes that TEDS will discourage DTC participants from removing Canadian securities from DTC to avoid the withholding tax.

The Commission had delayed approval of the proposed rule change on

[1] See Securities Exchange Act Release No. 25109 (November 9, 1987), 52 FR 44257.

[2] See Securities Exchange Act Release No. 24746 (July 27, 1987), 52 FR 28686.

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a permanent basis, in part, because DTC's rules require that DTC-eligible securities must use a transfer agent located in the United States. Insofar as Canadian issuers do not employ U.S. transfer agents, such a requirement would preclude Canadian issues from becoming DTC-eligible. DTC recently amended its rules to delete this as a requirement for DTC-eligible securities.[3] Accordingly, the Commission believes that the TEDS program should be approved on a permanent basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that DTC's proposal (File No. SR–DTC–87–15) is consistent with section 17A of the Act and the rules and regulations thereunder in that it promotes the prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities related thereto.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that DTC's proposed rule change (File No. SR–DTC–87–15) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26743 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27428; [File No. SR–DTC–89–20]

Self-Regulatory Organizations; Depository Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change Concerning the Distribution of Security Position Listings to Resolution and Indenture Trustees

November 7, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commissioner") a proposed rule change. The proposal would clarify DTC's authority to provide security position listings ("SPLs") to resolution and indenture trustees for debt obligations on deposit at DTC. The Commission is publishing this notice to solicit comment on the proposal from interested persons.

Under Rule 2, section 1 of DTC's rules, DTC is authorized to provide to the issuer of any security on deposit at DTC the name of DTC participants holding that issuer's securities and the amount of such securities held. Under the proposal, DTC would clarify that it may use this authority to provide, upon request, SPLs to resolution and indenture trustees for debt obligations on deposit at DTC. DTC believes the proposal would facilitate trustee communication with bondholders. DTC further believes the proposal promotes the prompt and accurate clearance and settlement of securities transactions and, therefore, is consistent with the Act.

The foregoing change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written comments should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing (SR–DTC–89–20) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office. All submissions should refer to file number SR–DTC–89–20 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26744 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01–M

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[3] See Securities Exchange Act Release No. 27405 (October 30, 1989), 54 FR 46662.

[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240.19b–4 (1989).

[Release No. 34–27431; [File No. SR–DTC–89–18]]

Self-Regulatory Organizations; Depository Trust Company; Filing of a Proposed Rule Change Relating to Invitations to Cover Short Positions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing herewith a proposed rule change related to procedures for invitations to cover short positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose for the proposed rule change is to improve DTC's Invitations to Cover Short Positions program so that DTC, at the request of a Participant that has a short position in a certain security, invites tenders at a range of prices to cover the short position from Participants that have a long position in the same security.

The proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will increase effficiency in eliminating certain short positions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The comment letters received from Participants have requested the proposed rule change in order to make DTC's Invitations to Cover Short Positions program more effective.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order, approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invtied to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–89–18 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26745 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27430; File No. SR–MCC–89–13]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Clearing Corporation Relating to Trade Recording Fees for Portfolios of Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, the Midwest Clearing Corporation, ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MCC proposes to modify its fee schedule for the trade recording of transactions in portfolios of securities made during the Midwest Stock Exchange's Secondary Trading Session (See SR–MSE–89–02) as follows: $.20 for the trade recording of transactions in portfolios of securities, regardless of the trade size or number of shares in each trade.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

The purpose of the proposed rule change is to impose a fee of $.20 for the trade recording of pre-compared transactions in individual securities comprising a portfolio of securities executed during the Midwest Stock Exchange's Secondary Trading Session. The $.20 fee is imposed regardless of the trade size range. (Currently, the trade recording fee ranges from $.20 to $1.83 depending on the size or range of the trade.)

The proposed fee schedule is consistent with section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. Any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in

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accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number SR-MCC-89-13 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26740 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27422; File No. SR-NYSE-89-30]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Rate Establishment Affecting Financial Operation Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 25, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is setting rates for hardware and additional access to the Exchange Stock Portfolio ("ESP") trading system.[1]

The ESP trading facility and equipment fees are as follows:

Hardware	Equipment [2]	Installation	Maintenance
Full system configuration	$13,600	$1,000	[3] $2,800
Consultation maintenance			[3] 215

[1] For firms receiving equipment within New York State, the appropriate New York State Sales Tax of 8.25% will be applied.
[2] Annual.
[3] Per hour.

Access fee [1]	Annual fee
First display station	[2] $12,000
Additional display stations (2-4)	[2] 3,000

[1] A maximum of three additional display stations may be connected to the first display station, amounting to a total of four display stations for an annual access fee of $21,000 ($12,000 plus $9,000.) Consequently, if a fifth display station is required, the $12,000 fee allocated to the first display station must be remitted again.
[2] The proposed access fee of $12,000 for the first display station was approved by the Commission in Securities Exchange Act Release No. 27382. See File No. SR-NYSE-89-05.
[3] Per station.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization, included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to generate revenues which will cover the cost of the equipment plus an additional 20% which will be used to purchase one additional piece of back-up equipment for every five purchased by users. Additional access revenues will help defray the costs of the associated manpower, and the system and utilities expenses of the ESP System.

The statutory basis for the proposed rule change is section 6(b)(4) of the Act which requires that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in the furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants of Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-89-30 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[1] ESP trading is the trading of standardized baskets of stock which results in a transfer to the buyer of ownership of each of the component basket stocks. ESP trading is available for executing a standard basket of the stocks comprising the Standard and Poor's ("S&P") 500 Portfolio Index. See File No. SR-NYSE-88-05, approved by the Commission in Securities Exchange Act Release No. 27382 (October 28, 1989).

Dated: November 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26748 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27433; File No. SR-PHLX-89-32]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Execution of Stop and Stop-Limit Orders

On May 30, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide: (1) A better description of the circumstances under which an options stop or stop-limit order is elected; (2) that options stop and stop-limit orders elected by an opening quote or sale should be executed as part of an opening trade during an opening rotation; and (3) that options stop and stop-limit orders elected by a quote change can be executed without the prior approval of a floor official in extraordinary circumstances, provided subsequent written approval signed by the specialist and floor official is submitted to the Surveillance Department ("Surveillance") on the day of the trade.

The proposed rule change was published for comment in Securities Exchange Act Release No. 26966 (June 23, 1989), 54 FR 28142.[3] No comments were received on the proposed rule change.

PHLX Rule 1066 and Options Floor Procedure Advice A-5 ("Advice") define and describe how stop orders and stop-limit orders shall be executed on the Exchange.[4] The proposed rule change clarifies and modifies certain aspects of these regulations. First, the proposal amends the Advice to clarify that stop and stop-limit orders may be made eligible for executions by a trade.[5] Specifically, the proposed change to the Advice states that stop and stop-limit orders to buy become eligible for execution when the option trades at or above the stop price or when the bid price for the option is at or above the stop price; stop and stop-limit orders to sell become eligible for execution when the option trades at or below the stop price or when the offer price for the option is at or below the stop price.

Second, the Exchange proposes to amend the Advice to provide direction for the handling of stop and stop-limit orders made eligible for execution on the opening. Currently, the absence of an Exchange rule has resulted in inconsistencies among the various pits of the Exchange with respect to the handling of stop and stop-limit orders made eligible on the opening. In order to address this problem, the PHLX proposes that stop and stop-limit orders made eligible for execution by an opening sale or quote shall be executed as the opening trade or included with the opening trade. The Exchange believes this proposal will promote uniformity and the prompt execution of option orders by providing that eligible stop and stop-limit orders are to be executed without having to wait until the end of opening rotations.

Third, the PHLX proposes to permit stop and stop-limit orders elected by quotation to be executed without the prior approval of a floor official, provided certain conditions are satisfied. At present, all stop and stop-limit orders elected by quotation must be approved by a floor official prior to execution. The Exchange notes that this requirement can cause functional problems in instances where the market is active and a floor official is not within the immediate area. Specifically, under such circumstances, the specialist faces a dilemma: either to stay at his post and facilitate the execution of the numerous orders there (and thereby not seek a floor official to approve execution of the stop order) or to leave his post to seek out a floor official and disrupt the activity at his post. To address this problem, the PHLX proposes that, in instances where circumstances make it impractical for a specialist to obtain the prior approval of a floor official to execute either a stop or stop-limit order elected by quotation, such orders may be executed provided that the orders are promptly approved by a floor official following execution.[6] In each instance where retroactive approval is granted, however, such approval must be received by the Exchange promptly thereafter with written documentation signed by the specialist and floor official. In addition, this documentation must be submitted to Surveillance on the day of the trade.

The Commission agrees with the PHLX that the proposed rule will supply PHLX members with more detailed information about the proper execution of stop and stop-limit orders. The Commission also believes that clarifying the participation of stop and stop-limit orders will result in prompt execution of these orders, thereby contributing to a more fair and orderly market and the protection of investors.

The PHLX's proposal to permit specialists to notify a floor official after executing a stop or stop-limit order elected by a quotation is a departure from its current practice of requiring prior floor official approval. Floor officials are relied upon in these instances to prevent executions that are questionable in terms of the specialist's market making responsibilities or which may constitute overreaching by the specialist. The prophylactic function of floor officials is important to the fair operation of the stop order process in both options and equities.[7] At the same time, however, it may be difficult for the specialist to seek out a floor official during periods of heavy volume. This is particularly true for the options market, where stop orders can be elected by quotations based, in part, on the movement of the underlying stock.

The PHLX proposal strikes a reasonable balance between the occasional unavailability of a floor official during hectic conditions and the important prophylactic role of the floor official in preapproving stop order elections. The proposal requires that every stop and stop-limit order executed after election by quotation subsequently be approved by a floor official and that this approval be delivered to Surveillance on the day of the transaction. The Commission believes

[1] 15 U.S.C. 78s(b)(1) (1982).
[2] 17 CFR 240.19b-4 (1989).
[3] The Exchange previously filed with the Commission a proposed rule change relating to the execution of stop and stop-limit orders. See Securities Exchange Act Release No. 24441 (May 11, 1987), 52 FR 18767 (File No. SR-PHLX-87-10). The current proposal replaces the 1987 filing and addresses the Commission's concerns with the previous filing.
[4] A stop order is a contingency order to buy or sell. A stop-limit order is a contingency order to buy or sell a stated number of options contracts at a limited price when the market for a particular option contract reaches a specified price. See PHLX Rule 1066(c)(1).
[5] As currently written, the Advice refers to stop and stop-limit orders made eligible for execution by a quote change, but does not contain language pertaining to stop and stop-limit orders made eligible for execution by a trade. PHLX Rule 1066(c)(1) and (2), however, state that stop and stop-limit orders are executable once a specified price is reached.
[6] The PHLX amended its proposal to provide that PHLX Rule 1066 contain similar provisions. See letter from William W. Uchimoto, General Counsel, PHLX, to Mark McNair, Division of Market Regulation, SEC, dated August 8, 1989.
[7] See, e.g., Securities Exchange Act Release No. 24021 (January 21, 1987), 52 FR 3370.

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this will permit the floor official and Surveillance to take whatever action is necessary should either determine the execution to be improper or that the specialist could and should have received floor official approval before the stop-order election. Accordingly, the Commission finds it acceptable for the PHLX to permit floor official approval after execution of a stop or a stop-limit order, subject to the limitations of the proposed rule.

For the above reasons, the Commission finds that the proposed amendment relating to the execution of stop and stop-limit orders is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [8] and the rules and regulations thereunder because the change will promote fair and orderly markets and protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–PHLX–89–32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: November 8, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26759 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in Over-the-Counter Issues and to Withdraw Unlisted Trading Privileges in Over-the-Counter Issues

November 9, 1989.

On October 14, 1989, the Midwest Stock Exchange, Inc. ("MSE") submitted an application for unlisted trading privileges ("UTP") pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under Section 12(b) of the Act:

File No.	Symbol	Issuer
7–5428	CHPS	Chips & Technologies $.01 Par Value.
7–5429	MENT	Mentor Graphics Corp. No Par Value.
7–5430	STJM	St. Jude Medical, Inc. $.10 Par Value.

The MSE also file a notice on Form 26 withdrawing UTP on the following OTC issues:

File No.	Symbol	Issuer
7–5431	ADBE	Adobe Systems, Inc. $.10 Par Value.
7–5432	COMS	3 Com Systems $.10 Par Value.
7–5433	CMCSA	Comcast Corp. $1.00 Par Value.

In the case of Adobe Systems, Inc., 3 Com Systems and Comcast Corp., replacement issues are being requested as a result of extremely low volume.

Comments

Interested persons are invited to submit on or before November 30, 1989, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension of UTP in OTC securities, the Commission must consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26645 Filed 11–14–89; 8:45 am]

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[8] 15 U.S.C. 78f (1982).

[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 CFR 200.30–3(a)(12) (1989).

[Release No. 34–27427; File No. SR–NYSE–89–33]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Specialist Job Description

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 19, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of revisions to a section of the Specialist Job Description to require (1) quarterly contacts by specialist units, at least one of which is an in-person meeting, with a senior official, of the rank of Corporate Secretary or higher, of each of the specialist units' listed companies, and (2) semi-annual contact off the Floor by specialist units with the 15 largest NYSE member organizations, any other member organizations that are significant customers of the specialist unit, as well as any other member organization that requests such contact.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In September 1989, the Commission approved NYSE new Rule 106 which set forth specialists' communications

responsibilities.[1] The proposed rule change revises the Specialist Job Description to make it consistent with Rule 106, thereby enhancing the specialists' communication function by requiring that the specialist maintain frequent and personal contact with the listed companies and member firm customers that he or she serves. These contacts are expected to help foster an understanding of the specialist function, the operations of the Exchange market, and the markets that are maintained in the listed companies' stocks. In addition, the purpose of the semi-annual contacts between specialist units and the Exchange member organizations is to discuss the service, operational and competitive requirements of the member firms.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by promoting a better understanding of the needs of Exchange-listed companies and its member organizations and foster communications between the specialist, the listed company and the NYSE member firm.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes an interpretation with respect to the meaning and enforcement of Exchange Rule 106 and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–89–33 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26642 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27428; File No. SR–NYSE–89–32]

Self-Regulatory Organizations; Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Revisions to its Specialist Performance Evaluation Questionnaire

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 19, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has submitted a rule filing proposing the adoption of a new Specialist Performance Evaluation Questionnaire ("SPEQ"), which is administered pursuant to Exchange Rule 103A, in order to enhance the process whereby NYSE Floor brokers evaluate quarterly the performance of specialist units with which they do business.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to introduce a new SPEQ. The Exchange views the SPEQ process as dynamic and evolutionary in nature, and has, from time to time in the past, introduced revised instruments to ensure the continued viability of its specialist performance evaluation program. The proposed introduction of the SPEQ being filed herein reflects the Exchange's on-going commitment to continually assess its specialist performance evaluation program and develop enhancements as appropriate.

The current SPEQ consists of 28 questions grouped under five functional categories: Dealer Function, Agency Function, Maintaining the Auction Market, Communication Function and Administrative Function. Each of the five functions is weighted equally. The revised SPEQ, developed by the NYSE Market Performance Committee's Subcommittee on Performance Measures and Procedures, in conjunction with consultants from Opinion Research Corporation ("ORC"), consists of 21 questions grouped under the Dealer Function, Service Function,

[1] Rule 106 requires that a representative of each specialist unit contact quarterly one or more senior officials, of the rank of Corporate Secretary or higher, of the issuers of each of their specialty stocks. It also requires that specialist units semi-annually contact, off the floor, representatives of each of the 15 largest NYSE member organizations, representatives of any other NYSE member organization that is a significant customer of the specialist, and representatives of any other member organization which requests such contact. Finally, Rule 106 requires that specialist units semi-annually report contacts made with their listed companies and member firms to the Exchanges. *See* Securities Exchange Act Release No. 27292 (September 28, 1989), 54 FR 41151.

Competitiveness Function, Communications Function and Administrative Function.

Our new section, the Service Function,

different from a unit that was ranked as high as 20, or as low as 30. Specialist units would not receive an absolute score, such as the median score, as they

his participation requirement, and would be subject to a fine pursuant to Rule 476A. A member education program will be conducted before the new SPEQ is

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5

firm's current nominee cease relations with the firm.

II. Self-Regulatory Organization's Statement of the Purpose of, and

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

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Competitiveness Function, Communications Function and Administrative Function.

Our new section, the Service Function, encompasses certain questions contained in the Agency and the Maintenance of the Auction Market Sections of the current SPEQ, while emphasizing the specialist's service function. The new Competitiveness Function Section contains questions emphasizing, with respect to the specialist's dealer and agency roles, the need to act in a manner which ensures that pricing and service on the NYSE are truly competitive with other market centers.

Revised Rating Scale and Scoring Methodology

On the current SPEQ, each question is graded on a five-point scale. The current scale is anchored with subjective terms describing a unit's performance, *i.e.*, a grade of 1 is equal to "poor," 2 is "needs improvemernt," 3 is "adequate," 4 is "good," and 5 is "very good." An overall median score is derived for each unit, as well as a median score reflecting the unit's performance relative to other units. Only a unit's objective median scores have been considered for purposes of Rule 103A (*see* discussion below).

The questions on the new SPEQ will be graded on a scale ranging from 0% to 100%. The 0% to 100% scale will reflect the percentage of time a specialist unit engages in a described behavior. For example, a score of 30% would indicate that a specialist unit engaged in a described behavior 30% of the time. A grade of 100% will be defined as "always" and a grade of 0% will be defined as "never." Some of the questions will be worded negatively, in which case a grade of 0% would be the best possible score, while other questions will be worded positively, in which case a grade of 100% would be the best possible score. It is expected that this new question and rating format will result in a more careful reading of each question by the rating broker, and should provide a greater dispersion of data than is derived from the current SPEQ.

The new SPEQ process will use a relative scoring methodology that would provide each unit with an overall rank, as well as a range of ranks. The range would identify the units whose grades are essentially the same, as opposed to those that are statistically significantly different. For example, a unit that ranked 25th overall would receive a rank of 25, and might receive a range of ranks from 20 to 30, indicating that its score was not satistically significantly different from a unit that was ranked as high as 20, or as low as 30. Specialist units would not receive an absolute score, such as the median score, as they do under the current process.

Rule 103A

Rule 103A was designed to ensure that a high level of market quality and performance in Exchange-listed securities is achieved and maintained. It is expected that Rule 103A actions to improve a specialist's performance would be based on poor performance relative to other units. A unit might be subject to a performance improvement action if it was ranked among the bottom units in terms of a percentage to be determined by the Exchange and if the unit's range of ranks indicated that the unit was statistically significantly lower than the top ranked units. If, for example, in a universe of 50 units, a unit ranked 48th overall, with a range of ranks from 46 to 50 and specified percentage of 10%, might be subject to a Rule 103A action, whereas a unit ranked 48th with a range of ranks from 40 to 50 would not be.

The Exchange proposes to set actual standards for Rule 103A actions based on SPEQ scores received after two quarters of experience with the new questionnaire. Thus, during this interim period, Rule 103A would not contain standards relating to the SPEQ regarding the initiation of a performance improvement action, although the rule would remain fully operative as to the standards of performance specified therein. With regard to SPEQ scores during this interim period, the Exchange expects that its Market Performance Committee will impose a freeze on the ability of a specialist unit to apply to be allocated the stock of any company which becomes newly listed on the Exchange if that unit is identified as a true bottom performer based on its relative range of ranks.

Mandatory Participation

The Excahnge proposes to make broker participation in the new SPEQ mandatory. In a separate filing, the Exchange will propose to amend Rule 476A to provide for summary fines for failure to participate. ORC will administer the SPEQ, and will implement a methodology for filtering out "biased" questionnaires. A biased questionnaire might, for example, be one in which a broker gives all the units perfect high or low scores, or gives the same rating to each question for a given specialist unit, or gives the same pattern of ratings for all the units he rates. A broker whose questionnaire is filtered out would not be deemed to have met his participation requirement, and would be subject to a fine pursuant to Rule 476A. A member education program will be conducted before the new SPEQ is implemented.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act which requires that an Exchange have rules designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The revisions to the SPEQ are consistent with these objectives in that they enhance the Exchange's continuing efforts to improve specialist performance and the NYSE markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-89-32 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26843 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27429; File No. SR-PSE-89-29]

Self-Regulatory Organizations, Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Membership Lease Agreements and Lease Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has submitted a rule filing proposing to amend the membership rules, contained in Rule IX of the Rules of the Board of Governors, pertaining to revised Membership Lease Agreements. Section 9(c) of Rule IX is amended with respect to the deletion of reference to XYZ Agreements, which have been renamed as "Membership Lease Agreements." There are two proposed subsections of Rule IX, sections 9(d) and 9(e). Proposed section 9(d) covers the effect of a Lessor receiving a suspension or bar, and proposed section 9(e) concerns the ability of a member firm to select a new nominee for a leased seat, should the firm's current nominee cease relations with the firm.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The amendments to the lease agreements are designed to simplify and streamline the existing XYZ Agreements, and to include two additional provisions not currently covered in the Membership Rules. Rule IX, section 9(c) is amended to replace the existing references to "XYZ Agreements" with references to "Membership Lease Agreements." The new provision at section 9(d) requires that a member must be in good standing in order to lease a seat to another. It further sets forth the procedures to be followed if a seat is currently leased and the Lessor is not in good standing due to a suspension or bar and the lease must be terminated. The new provision at section 9(e) will allow a member firm to replace a nominee as Lessee of a seat, should the firm's current nominee cease to be associated with the firm.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act which requires that an Exchange have rules designed to promote just and equitable principles of trade, and to protect investors and the public interest. In addition, the proposed rule change is designed to comply with section 6(b)(6) of the Act which provides that Exchange members and persons associated with its members shall be appropriately disciplined for violation of the provisions of the Act, and the rules of the Exchange, by limitation of certain activities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The draft Membership Lease Agreements were distributed to all PSE members and member organizations for comments. No comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-89-29 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26844 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

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Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

November 8, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Mitsubishi Bank, Ltd., American Depositary Shares (File No. 7-5481).

Reading & Bates Corp., Common Stock, $.05 Par Value (File No. 7-5482).

Franklin Multi Income Trust, Shares of Beneficial Interest, $.01 Par Value (File No. 7-5483).

Putnam Investment Grade Municipal Trust, Common Shares of Beneficial Interest, No Par Value (File No. 7-5484).

Hibernia Corporation, Class A Voting Common Stock, No Par Value (File No. 7-5485).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 1, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26846 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17206; File No. 812-7403]

Banner Life Insurance Co., et al.

November 8, 1989.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Banner Life Insurance Company ("Banner Life"); Banner Life Variable Annuity Account ("Variable Account"); and Banner Financial Services Group, Inc. ("Banner Financial").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

Summary of Application: Applicants seek an order to permit the assessment from the Variable Account of a charge of up to 1.25% for mortality and expense risks.

Filing Date: The application was filed on September 28, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on December 4, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Banner Life Insurance Company, 1701 Research Boulevard, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Michael V. Wible, Staff Attorney, at (202) 272-2026, or Clifford E. Kirsch, Acting Assistant Director, at (202) 272-2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. The Variable Account was established by Banner Life as a separate account in connection with the proposed issuance of flexible premium variable annuity contracts ("Contracts"). The Variable Account is registered with the Commission under the 1940 Act as a unit investment trust.

2. The Variable Account will invest in shares of the Scudder Variable Life Investment Fund ("Fund"). The Fund is an open-end, diversified management investment company with a number of series, or portfolios. The Variable Account has a number of subaccounts, each of which invest solely in a specific corresponding portfolio of the Fund.

3. A contingent deferred sales charge of up to 6.5% of total Premiums paid is imposed on certain full surrenders or partial withdrawals of Account Value to cover expenses relating to the sale of the Contracts, including commissions to registered representatives and other promotional expenses.

4. Banner Life will deduct an administrative charge of $30 per Contract Year. This charge will be deducted from the Contract Value at the end of each Contract Year prior to the Maturity Date to compensate Banner Life for the administrative services provided to Contract Owners. Banner Life guarantees that this charge will never exceed $40 per year. Banner Life does not anticipate any profit from this charge.

5. Banner Life imposes a daily charge to compensate it for bearing certain mortality and expense risks under the Contracts. This charge currently is equal to an effective annual rate of 1.15% of the value of the net assets in the Variable Account. This rate may be increased in the future, but is guaranteed never to exceed 1.25%. Of that amount, approximately one-third is attributable to mortality risks, and approximately two-thirds is attributable to expense risks. The mortality risk borne by Banner Life arises from its obligation to make monthly annuity payments regardless of how long all annuitants may live. The expense risk is that the deductions for administration costs under the Contracts may be insufficient to cover the actual future costs incurred by Banner Life.

6. Applicants do not concede the applicability of sections 26(a)(2)(c) and 27(c)(2) of the Act to the mortality and expense risk charge. However, in order to avoid any possibility that questions may be raised as to the potential applicability of those provisions to the charge, Applicants request exemption from those provisions to the extent necessary to permit the assessment of the charge for mortality and expense risks against the assets of the Variable Account.

7. Banner Life argues that the mortality and expense risk charge is a reasonable charge to compensate Banner Life for the risk that annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts and for the risk that administrative expenses will be greater than amounts derived from the administrative charges.

8. Banner Life represents that a charge of up to 1.25% for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. This representation is based upon Banner Life's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Banner Life will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

9. Applicants acknowledge that the surrender charge may be insufficient to cover all the costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed by the Commission as being offset by distribution expenses not reimbursed by the sales charge.

10. Banner Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract Owner. The basis for such conclusion is set forth in a memorandum which will be maintained by Banner Life at its administrative offices and will be available to the Commission.

11. Banner Life also represents that the Variable Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26847 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17202; 812-6934]

Greenwich Capital Acceptance, Inc.; Notice of Application

November 3, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Greenwich Capital Acceptance, Inc. ("Applicant") (as depositor of Greenwich CMO Trusts II-VI [1] and similar trusts that will issue mortgage-backed bonds (the "Trust")).

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks a conditional exemptive order to permit it to establish Trusts which will issue and sell one or more series of bonds collateralized by certain mortgage certificates and which may elect status as a "real estate mortgage investment conduit" under the Internal Revenue Code of 1986, as amended ("REMIC" status). The requested order would also permit Applicant to sell residual interests in the Trusts.

Filing Dates: The application was filed on December 4, 1987, and amended on January 9, July 21, October 27, and November 3, 1989.

Hearing and Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. or November 27, 1989, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 5th Street, NW., Washington, DC 20549. Applicant, 600 Steamboat Road, Greenwich, Connecticut 06830.

FOR FURTHER INFORMATION CONTACT: Regina Hamilton, Staff Attorney, at (202) 272-3024, or Karen L. Skidmore, Branch Chief, at (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee. One may obtain a copy by going to the SEC's Public Reference Branch or by telephoning the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, a Delaware corporation incorporated on April 23, 1987, is a direct wholly-owned limited purpose financing subsidiary of Greenwich Capital Markets, Inc., a primary dealer in United States government securities and a registered broker-dealer with the SEC. [2] Applicant was organized to acquire, own, hold, transfer, assign, pledge and otherwise deal in Mortgage Certificates,[3] and to establish business entities to issue and sell instruments representing indebtedness secured by Mortgage Certificates. The Trusts have been or will be formed to issue and sell one or more series (each, a "Series") of bonds ("Bonds"); to own and pledge Mortgage Certificates; and to engage in activities connected with the accomplishment of these purposes and the conservation of the Trusts' assets and their distribution. Although Applicant may establish other entities to issue debt instruments, the order requested by the application would grant relief only in connection with the issuance and sale of Bonds described in the application. Applicant will not issue any Bonds or sell any residual interests in itself.

2. Each Trust will be established under a separate deposit trust agreement ("Trust Agreement") between Applicant, acting as depositor, and a bank or trust company, acting as an owner trustee ("Owner Trustee"). Under the terms of each Trust Agreement, Applicant will convey trust property to the Trust in return for

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[1] Applicant represents that Greenwich CMO Trust I has issued securities on the basis of the exception provided under section 3(c)(5)(C) of the 1940 Act, and is therefore not a party to or a subject of the application.

[2] Greenwich Capital Markets, Inc. intends to serve, subject to regulatory approval by the Board of Governors of the Federal Reserve System, as an underwriter. Applicant represents that Greenwich Capital Markets, Inc. is not an investment company within the meaning of the 1940 Act.

[3] The "Mortgage Certificates" principally collateralizing the Bonds will consist of: (a) "fully-modified pass-through" mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"); (b) Mortgage Participation Certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"); and (c) Guaranteed Mortgage Pass-Through Certificates issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates"). All or a portion of the Mortgage Certificates securing a Series of Bonds may be "partial pool" Mortgage Certificates. Applicant will neither issue nor own stripped mortgage-backed securities as described in the application.

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certificates or other instruments evidencing beneficial ownership of such Trust ("Trust Certificates"). The Owner Trustee will enter into a management agreement under which a manager (which may be an affiliate of Applicant or an unrelated third party) will provide certain administrative services to the Owner Trustee in connection with the Bonds.

3. Each Trust may issue one or more Series under the terms of an indenture, as supplemented by one or more Series supplements ("Indenture"). An independent trustee (the "Bond Trustee"), or an independent custodian on behalf of the Bond Trustee, will hold the Bond Collateral (defined below) pledged to it to secure each Series of Bonds, subject to the terms of the Indenture.

4. If a Trust elects REMIC status, one class ("Class") of the Bonds of the Series issued by such Trust may be designated as the "residual interest" in the REMIC and will be referred to as the "Residual Bonds"; all other Classes of Bonds of such Series will be designated as the "regular interests" in the REMIC and will be referred to as "Regular Bonds." All Bonds of a Series for which no REMIC election is made will also be included in the term "Regular Bonds" (the Residual Bonds, together with the Trust Certificates, the "Residual Interests"). Residual Bonds will be entitled to the excess cash flow [4] remaining after payment of the principal of and interest on all Regular Bonds of such Series, together with any remaining value in the Bond Collateral after payment in full of the Regular Bonds of such Series.

5. Each Series of Bonds will consist of one of more Classes of Bonds, including one or more Classes of Compound Interest Bonds, Non-Compound Interest Bonds, Zero Coupon Bonds, Fixed Interest Rate Bonds, Variable Interest Rate Bonds, and Residual Bonds.[5] Each Class of Bonds may bear a separate interest rate and stated maturity as indicated in the related prospectus for such Bonds. Principal payments may be allocated to more than one Class of Bonds, but such allocation will be consistent with the retirement of each Class not later than its stated maturity date.

6. Each Series of Bonds will be secured separately by assignments to the Bond Trustee of any combination of Mortgage Certificates, and may also be secured by a collection account ("Collection Account"), debt service reserve fund, reserve funds, and certain types of investments specified in the Indenture for such Series (the foregoing, together with Mortgage Certificates, "Bond Collateral"). Amounts in the Collection Account for each Series will be invested by the Bond Trustee in certain investments permitted under the Indenture, including, among other investments, obligations of, or guaranteed by the United States or any agency of the United States backed by the full faith and credit of the United States; federal funds; certificates of deposit, guaranteed investment contracts issued by an eligible bank, corporation or other eligible entity; time deposits and banker's acceptances sold by eligible commercial banks; other demand or time deposits or certificates of deposit; and certain repurchase agreements of United States government securities. Such investments will mature on or prior to the next date on which the funds invested are required or may be anticipated to be required to be applied for the benefit of Bondholders, and will thus be available to make required payments on the Bonds. An irrevocable letter of credit may be provided to fund expenses or reserves in order to enhance the initial rating by the independent nationally recognized statistical rating agency rating the Bonds (the "Rating Agency").

7. The cash flow from the Mortgage Certificates securing each Series of Bonds, together with any cash available from debt service reserve funds or reserve funds, will have scheduled cash flows sufficient, when taken together with any reinvestment income thereon from the Collection Account at an assumed reinvestment rate specified in the Indenture, to make timely payments of principal and interest on the Bonds in accordance with their terms. The initial collateral value of the Mortgage Certificates securing a Series of Bonds will be at least equal to the unpaid principal balance of such Bonds on their issue date. Once a Trust has issued all of the Series of Bonds to be issued by such Trust, Applicant may sell to a limited number of sophisticated institutional or other investors, all or a portion of Trust Certificates representing the beneficial ownership of the Trust.

8. For each Series of Bonds: (a) Each Trust will hold no substantial assets other than the Mortgage Certificates; (b) the Mortgage Certificates will have a collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) at the time of issuance of a Series, and after each payment date, distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest due on the Bonds and to retire each Class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be assigned by the Owner Trustee to the Bond Trustee and will be subject to the lien of the related Indenture.

9. A Series of Bonds may provide for mandatory redemptions to the extent that principal payments on the Mortgage Certificates cannot be reinvested at a rate that will provide sufficient income, in addition to scheduled payments on such Mortgage Certificates, to pay required amounts of principal of and interest on such Bonds. Other Series may provide for optional redemptions by the holders of such Bonds or for mandatory redemption by the Issuer, under circumstances described in the prospectus. Except in the event of a default on the Bonds, and then only in limited circumstances, Regular Bondholders will not be entitled to compel the liquidation of the Mortgage Certificates in order to redeem the Bonds prior to maturity.

10. None of the Trusts, Applicant, the Owner Trustee, the owners of the Residual Interests ("Residual Interest Owners"), or the Bond Trustee for a Series will be able to impair the security afforded to the Bondholders of such Series by the Mortgage Certificates. Without the consent of each Bondholder to be affected, none of the above will be able to: (a) Change the stated maturity on any Bonds of such Series (or the manner of determining the rate of interest on any Variable Interest Rate Bonds); (b) reduce the principal amount or the rate of interest on any Bonds; (c) change the priority of payment on any Class of any Series of bonds; (d) impair or affect adversely the Mortgage Certificates securing a Series of Bonds; (e) permit the creation of a lien ranking prior to or on a parity with the lien of the related Indenture; or (f) otherwise deprive the Bondholders of such Series of the security afforded by the lien of the related Indenture.

11. The sale of the Residual Interests will not alter the payment of cash flows under the related Indenture, including the amounts to be deposited in the Collection Account or any reserve fund. The interests of the Regular Bondholders will now be comprised or impaired by the ability of the Applicant to sell Residual Interests, and there will not be a conflict of interest between the Regular Bondholders and the Residual Interest Owners, because: (a) The Mortgage Certificates which initially will be deposited into each Trust to secure the Bonds of each Series will not be sepeculative in nature because they are guaranteed as to timely payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds of each Series will only be issued provided a Rating Agency has rated such Regular Bondholders in one of the two highest rating categories, which by definition means that the capacity of the Trust to repay principal and interest on the Regular Bondholders is extremely strong; (c) the relevant Indenture under which the Bonds will be issued will subject the Bond Collateral, all income and distributions thereon and all proceeds from a conversion, voluntary or involuntary, of any such collateral to a first priority perfected security interest in the name of the Bond Trustee on behalf of the Bondholders; [6] and (d) the Residual Interest Owners will be entitled to receive current distributions representing the residual payments on the Bond Collateral from each Trust in accordance with the terms of the applicable Trust Agreement. Furthermore, if the Trust does not elect REMIC status with respect to a Series of Bonds, the owners the Trust Certificates ("Owners of Trust Certificates") of such Series of the Trust will be liable for the expenses, taxes and other liabilities of such Trust (other than the principal and interest on the Bonds) to the extent not previously paid from the Bond Collateral.

12. The choice of the form of issuer for the Bonds and the identity of the owners of the equity interests in the issuer (including the Residual Interest Owners) will not alter in any respect the payments made to the Bondholders, which are payments governed by an Indenture which will meet the requirements of the Trust Indenture Act of 1939, as amended. Moreover, the aggregate interests of the Residual Interest Owners and the expected returns to be earned by such Residual Interest Owners will be far less than the payments made to Regular Bondholders. Applicant does not intend to deposit, in respect of any Series of Bonds, Mortgage Certificates with a collateral value that exceeds 120% of the gross proceeds of the Bonds of such Series.

13. Except to the extend permitted by the limited right to substitute Mortgage Certificates, it will not be possible for the Residual Interest Owners to alter the composition of the Mortgage Certificates initially deposited into a Trust, and in no event will such right to substitute Mortgage Certificates result in a diminution in the value or quality of the Mortgage Certificates. Although it is possible that any substituted Mortgage Certificates may result in a different prepayment experience than the Mortgage Certificates constituting the original Bond Collateral, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Certificates will be determined by market conditions beyond the control of the Residual Interest Owners, which market conditions are likely to affect all Mortgage Certificates with similar payment terms and maturities in a similar fashion; (b) the interests of the Residual Interest Owners are not likely to be greatly different from those of the Regular Bondholders with respect to Mortgage Certificates prepayment experience; and (c) to the extent that it may be possible for the Owners of the Trust Certificates to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, this situation is no different for the Bondholders than the traditional collateralized mortgage obligation structure.

Applicant's Legal Conclusions

The requested amended order is necessary and appropriate in the public interest, because: (a) The Applicant as depositor and the Trusts are not the types of entities, and their activities are not the type of activities, to which the provisions of the 1940 Act were intended to be applied; (b) the proposed businesses of Applicant as depositor and the Trusts are intended to serve a recognized and critical public need; (c) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act of 1933, as amended (the "1933 Act"), and thereafter by the Bond Trustee representing their interests under the Indenture; and (d) the disclosures to the Residual Interest Owners and the limitation of such Residual Interest Owners to no more than 100 sophisticated institutional or non-institutional investors provide adequate safeguards to assure such Residual Interest Owners do not require the protection of the 1940 Act.

Applicant's Condition

Applicant agrees that if an order is granted, it will be expressly conditioned on the following:

A. Conditions Relating to the Bond Collateral

1. Each Series of Regular Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration, either pursuant to section 4(2) of the 1933 Act or because such Series of Regular Bonds will come to rest outside the United States, provided that such Regular Bonds are offered and sold outside the United States to non-United States persons in reliance upon an opinion of United States counsel that registration is not required. No single offering of the Regular Bonds sold within and outside the United States would be made without registration of all such Bonds under the 1933 Act without first obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings. In all cases, Applicant will adopt agreements and procedures reasonably designed to prevent such Regular Bonds from being offered or sold in the United States or to United States persons (except as United States counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to United States investors in United States offerings.

2. The Regular Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the

[4] Excess cash flow is the amount remaining in the Collection Account (defined below) for a Series of Bonds after all required distributions and payments under the Indenture are made on a payment date for such Series and which is available for distribution to the owners of Residual Interests pursuant to the terms of the Indenture.

[5] A Compound Interest Bond is one on which interest is not paid currently but instead is accrued and added to the principal amount of the Bond and is not due or payable until the first payment date specified for such Bond. A Non-Compound Interest Bond is one on which all interest due is paid periodically throughout the life of the Bond. A Zero Coupon Bond is one on which interest will accrue but not be payable until the Bond is paid in full on or prior to its stated maturity. A Fixed Interest Rate Bond is one on which the rate of interest will never adjust. A variable Rate Bond is one on which the interest rate may vary from period to period.

[6] Each Indenture will further specifically provide that no amounts may be released from the lien of the Indenture to be remitted to the Trust (and any Residual Interest Owner) until: (i) The Bond Trustee has made the required payment of principal and interest on the Bonds; (ii) to the extent required by such Indenture, deposits have been made to certain reserve funds; (iii) the Bond Trustee has received all fees currently owed to it; and (iv) the firm of independent accountants has reviewed the fees owed to it under such Indenture. Once amounts have been released from the lien of the Indenture, the Trust Agreement for each Trust provides that the Owner Trustee will have a lien superior to that of the Owners of the Trust Certificates on the remaining cash flow from the Trust property.

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Securities Exchange Act of 1934, as amended. In addition, the Mortgage Certificates underlying the Bonds will be limited to GNMA Certificates, FNMA Certificates, or FHLMC Certificates.

3. If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged to secure a Series of Bonds, the substitute Mortgage Certificates must: (a) Be of equal or better quality than the Mortgage Certificates replaced; (b) have similar payment terms and cash flow as the Mortgage Certificates replaced; (c) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (d) meet the conditions set forth in conditions (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged to the Bond Trustee as security for a Series of Bonds. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

4. All Bond Collateral securing a Series of Bonds will be held by the Bond Trustee, or on behalf of the Bond Trustee by an independent custodian. The custodian of the Bond Trustee may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act) of any Applicant, any Trust, or the Owner Trustee. The Bond Trustee will be provided with a first priority perfected security or lien interest in and to all Bond Collateral.

5. Each Series of Regular Bonds will be rated in one of the two highest bond rating categories by at least one Rating Agency that is not affiliated with any of the Trusts or the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. So long as applicable law requires, no less often than annually, an independent public accountant will audit the books and records of each Trust. In addition, as long as any Bonds are outstanding, such accountant will report at least annually on whether the anticipated payments of principal and interest on the Bond Collateral of each Series of Bonds issued by such Trust, continue to be adequate to pay the principal of and interest on the Bonds in accordance with their terms. Upon completion, copies of each of the accountant's reports will be provided to the Bond Trustee.

7. The Bond Collateral securing any Series of Bonds will not be sold or otherwise transferred prior to the release of the Bond Collateral from the lien of the Indenture.

B. Conditions Relating to REMIC Election

8. The election by any Trust either to be treated or cause the arrangement by which the Bond Collateral secures the Bonds to be treated as a REMIC will have no effect on the level of expenses that will be incurred by such Trust. Any such Trust will provide for the timely payment of all fees and expenses to be incurred in connection with the administration of the Trust in a manner satisfactory to each Rating Agency that initially rates the Bonds. Payment of such fees and expenses will be provided for by one or more of the methods set forth in the application.

9. Each Trust will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which method or methods are selected by such Trust to provide for the payment of such fees and expenses.

C. Conditions Relating to Variable Interest Rate Regular Bonds

10. Each Class of Variable Interest Rate Regular Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period, as specified in the related prospectus, but which will always be subject to an overall maximum interest rate.

11. At the time of the deposit of the Bond Collateral and during the life of the Bonds of each Series, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates, plus reinvestment income thereon, and funds, if any, pledged to secure such Series of Bonds will be sufficient to make all payments of principal and interest on the Bonds of such Series then outstanding, assuming the maximum aggregate interest rate for each specified period applicable to Variable Interest Rate Regular Bonds.[7]

[7] In the case of a Series of Bonds that contains a Class or Classes of Variable Interest Rate Regular Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to such Variable Interest Rate Regular Bonds. Procedures that have been identified to date for achieving this result include the use of: (i) Interest rate caps for the Variable Interest Rate Regular Bonds; (ii) "inverse" Variable Interest Rate Regular Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" Variable Interest Rate Regular Bonds); (iii) variable rate collateral to secure the Bonds; (iv) interest rate swap agreements (under which a Trust would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Regular Bonds in the Variable Interest Rate Class, in exchange for receiving corresponding periodic payments from the counterparty at a variable rate of interest based on the same principal amount); (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the Variable Interest Rate Regular Bonds); and (vi) structuring the transaction so that the weighted average interest rate on the entire Series of Regular Bonds is equal to or less than the weighted average pass-through rate on the Mortgage Certificates securing such Series. It is expected that other mechanisms may be identified in the future. Applicant will give the SEC notice by letter of any such additional mechanisms before they are used, in order to give the SEC an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representations set forth above and will be adequate to meet the standards required for a rating of the Regular Bonds in one of the two highest bond rating categories of the Rating Agency, and no Regular Bonds will be issued for which this is not the case. Whatever method is used for a particular Series, the collateral structure for each Series of Bonds will be reviewed independently by the agency or agencies rating the Bonds (as well as by the independent accountants for the Trust issuing such Series of Bonds) in order to ensure, for the appropriate rating, that the Bond Collateral is sufficient to meet all scheduled payments, as stated above.

Further, the Mortgage Certificates will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment in full of the Bonds.

D. Conditions Relating to the Sale of Residual Interests

12. Applicant will obtain from Greenwich Capital Markets, Inc. its consent to the condition that notwithstanding the sale of Residual Interests, all of the outstanding stock of Applicant (the depositor of each Trust) will continue to be owned by Greenwich Capital Markets, Inc. If the sale of Residual Interests of any Trust results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of any Trust, the exemptive relief afforded by an order granted pursuant to the application would not apply to subsequent Bond offerings by any such Trust.

13. Residual Interests will be offered and sold to no more than 100 mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts or other institutions that customarily engage in the purchase of mortgages and other types of mortgage collateral ("Eligible Institutions") and non-institutional "accredited investors" (as defined under Rule 501(a) under the 1933 Act). Eligible Institutions will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Residual Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 35, will purchase at least $200,000 of such Residual Interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing Residual Interests and will have direct, personal and significant experience in making investments in mortgage-related securities and because of such knowledge and experience, will be able to understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and residual interests therein. Mutual funds will continue to be required to satisfy themselves that purchases of Residual Interests comply with the provisions of section 12(d)(1) of the 1940 Act.

14. Each sale of Residual Interests will qualify as a transaction not involving any public offering within the meaning of section 4(2) of the 1933 Act.

15. The Trust Agreement relating to each Trust will prohibit the transfer of any Residual Interest of such Trust if there would be more than 100 Owners of such Residual Interests at any time.

16. Each sale of a Residual Interest will require the ultimate purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Residual Interests in its own name (or for accounts as to which it exercises sole investment discretion) and not as nominee for undisclosed investors. Each purchaser of a Residual Interest will be required to agree that it will not resell its Residual Interest except to other Eligible Institutions or non-institutional accredited investors in a private placement, and subject to the same representations and undertakings as bind it.

17. No Residual Interest Owner will be affiliated with the Bond Trustee, and no holders of a controlling (as that term is defined in Rule 405 under the 1933 Act) equity interest in the Trust will be affiliated with either the custodian of the Bond Collateral or each Rating Agency rating the Bonds.

E. Special Condition

18. Applicant will secure from each Trust its consent that if the requested order is granted, it agrees to all representations and conditions in the application regarding such Trusts. The Trust Agreement for each Trust will contain appropriate covenants regarding the Trust's compliance with such representations and conditions.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26948 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17203; File No. 812-7396]

The Minnesota Mutual Life Insurance Co., et al.

November 8, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for order under the Investment Company Act of 1940 ("Act").

Applicants: The Minnesota Mutual Life Insurance Company ("Minnesota Mutual"), Minnesota Mutual Variable Life Account (the "Account") and MIMLIC Sales Corporation ("MIMLIC Sales").

Relevant 1940 Act Sections: Order requested under section 6(c) exemption Applicants from section 27(f) of the 1940 Act and Rules 27f-1 and 6e-2(b)(13)(viii)(C) thereunder.

Summary of Application: Applicants seek an order to the extent necessary to permit notices of withdrawal rights ("free look" rights) under certain scheduled premium variable life insurance policies to contain information comparable to that required by Form N-27f-2 but not in the exact format required by that Form and to permit those free look notices to be hand-delivered to contract owners rather than delivered by way of first class mail.

Filing Date: The Application was filed on October 26, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on November 30, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC 450 5th Street, NW., Washington, DC 20549. Applicants, 400 North Robert Street, St. Paul, Minnesota 55101.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Ulness, Attorney, (202) 272-3027 or Clifford E. Kirsch, Acting Assistant Director at (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations

1. Minnesota Mutual is a mutual life insurance company organized under the laws of Minnesota in 1880. The Account is a separate account of Minnesota Mutual established by Minnesota Mutual's board of trustees on October 21, 1985, to facilitate issuance of certain scheduled premium variable life insurance policies (the "Policies"). On February 28, 1986, the Account was registered under the Act as a unit investment trust. MIMLIC Sales, an indirect wholly-owned subsidiary of Minnesota Mutual, is the principal underwriter for the Account. MIMLIC Sales is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

2. Applicants request relief from section 27(f) of the Act and Rules 27f-1 and 6e-2(b)(13)(viii)(C) thereunder to the extent necessary to permit personal delivery to Policy owners of free look right notices which contain information comparable to that required by Form N-27f-2, but which are not styled in the rigid format apparently required by that Form. The order requested would permit only relief that is already granted by rule to insurance company separate accounts issuing flexible premium variable life insurance policies and their investment advisers, principal underwriters and depositors. Identical relief has been proposed to be granted by rule to all issuers of scheduled premium variable life insurance policies.

3. The Account is regulated by the Commission as if it were an issuer of periodic payment plan certificates. Accordingly, the Account, Minnesota Mutual as the Account's depositor, and MIMLIC Sales as principal underwriter of the Policies, are deemed to be subject to the provisions of section 27 of the Act.

4. Section 27(f) of the Act, in relevant part, provides in effect that if sales load deductions under a period payment plan are to be made from any payment in an

Applicant's Conditions

Applicants have consented to imposition of the following express

("Applicant Funds") and Dean Witter Reynolds Inc. ("DWR") (DWR and Applicant Funds are collectively referred to as "Applicants").

management investment companies. DWR is a registered broker-dealer and, through its InterCapital Division, provides services to Applicant Funds. It

to comply with rule 11a-3 under the 1940 Act "when and if adopted."

5. The Commission's release adopting rule 11a-3 under the 1940 Act

forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds in order not to be in violation of rule 11a-3.[1] In addition,

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4. Section 27(f) of the Act, in relevant part, provides in effect that if sales load deductions under a period payment plan are to be made from any payment in an amount greater than 9% of that payment, then each holder of such a certificate must be sent a notice of the charges to be deducted from payments and of his right to withdraw from the plan within 45 days of the mailing of that notice, surrender his certificate and receive his account value plus a return of any amounts deducted from payments prior to investment. Section 27(f) also authorizes the Commission to adopt rules specifying the method, form and contents of the required notice.

5. Rule 27f–1 under the Act sets forth specifications regarding the method of the notice required by section 27(f) and designates Form N–27F–1 as the appropriate form for notices informing periodic payment plan certificate holders of withdrawal rights.

6. Because the Policies are deemed to be periodic payment plans and because more than a 9% sales load ordinarily is deducted from the first year's scheduled premiums under the Policies, Applicants may be deemed to be subject to section 27(f) of the Act and accordingly, absent exemptive relief would be required to comply with the requirements of section 27(f) and Rule 27f–1 thereunder.

7. Rule 6e–2(b))13)(viii) exempts Applicants from section 27(f) and Rule 27f–1 thereunder, provided, among other things, that purchasers of the Policies are given the right to return the Policy and receive a refund of all payments made for the contract for a period lasting until the later of 45 days from the date of execution of the application for insurance, 10 days after receipt of the Policy and 10 days after receipt of the notice of free look rights and that the notice of free look rights is sent to each purchaser of a Policy on Form N–27I–2 by first class mail.

8. There is outstanding a proposal to amend Rule 6e–2(b)(13)(viii)(C) to afford persons issuing and selling scheduled premium variable life insurance policies the same degree of free look notice format and delivery flexibility as presently afforded by Rule 6e–3(T)(b)(13)(viii)(C) in connection with flexible premium policies.

9. Applicants request an order pursuant to Section 6(c) 9f the Act providing exemptive relief necessary to permit them to design and deliver free look notices as if the outstanding proposal to amend Rule 6e–2(b)(13)(viii)(C) had been adopted or as presently afforded by Rule 6e–3(T)(b)(13)(viii)(C).

Applicant's Conditions

Applicants have consented to imposition of the following express conditions on any order granting the relief required in this application.

(a) Applicants will comply with the terms of Rule 6e–2(b)(13)((viii)(C) as that provision has been proposed to be amended in Investment Company Act Release No. 14421 (Mar. 15, 1985).

(b) In the event that the requirements of proposed Rule 6e–2(b)(13)(viii)(C) are changed in the final adoption of any conforming amendments to Rule 6e–2, then, as of the effective date of the amended rule, Applicants either will comply with that provision of Rule 6e–2 as finally adopted or seek additional exemptive relief.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26849 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17205; 812–7411]

Dean Witter American Value Fund, et al.; Application and Temporary Order

November 6, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application and Temporary Order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Dean Witter American Value Fund, Dean Witter California Tax-Free Income Fund, Dean Witter Convertible Securities Trust, Dean Witter Developing Growth Securities Trust, Dean Witter Dividend Growth Securities, Inc., Dean Witter Government Securities Plus, Dean Witter High Yield Securities Inc., Dean Witter Intermediate Income Securities, Dean Witter Managed Assets Trust, Dean Witter Natural Resource Development Securities, Inc., Dean Witter New York Tax-Free Income Fund, Dean Witter Option Income Trust, Dean Witter Strategist Fund, Dean Witter Tax Exempt Securities Trust, Dean Witter U.S. Government Securities Trust, Dean Witter Utilities Fund, Dean Witter World Wide Income Trust, Dean Witter World Wide Investment Trust, Dean Witter Value-Added Market Series, Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust and Dean Witter/Sears U.S. Government Money Market Trust ("Applicant Funds") and Dean Witter Reynolds Inc. ("DWR") (DWR and Applicant Funds are collectively referred to as "Applicants").

Relevant 1940 Act Section: Order requested pursuant to section 11(a) of the 1940 Act.

Summary of Application: Applicants (1) have requested an order pursuant to section 11(a) of the 1940 Act, permitting Applicants and any other registered, open-end management investment company as to which DWR may subsequently serve as investment adviser (collectively, with Applicant Funds, the "DWR Funds") to make certain offers of exchange, until April 23, 1990, without complying with the provisions of paragraph (b)(5) of rule 11a–3 under the 1940 Act; and (2) have requested that such order be made effective on a temporary basis for thirty days upon the approval, by the SEC, of the issuance of this notice of application.

Filing Dates: The application was filed on October 13, 1989 and amended on October 30, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 30, 1989, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Stuart Horwich, Staff Attorney (202) 272–3035 or Karen L. Skidmore, Branch Chief, (202) 272–3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Applicant Funds are registered under the 1940 Act as open-end,

management investment companies. DWR is a registered broker-dealer and, through its InterCapital Division, provides services to Applicant Funds. It is an investment adviser registered under the Investment Advisers Act of 1940. DWR is the principal underwriter for shares of Applicant Funds other than Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust and Dean Witter/Sears U.S. Government Money Market Trust. Those funds are self-distributed.

2. Certain of the DWR Funds may impose a contingent deferred sales charge ("CDSL") on shares redeemed within six years of purchase (the "CDSL Funds"). The rate of the applicable CDSL declines over time, with a 5% CDSL applicable for redemptions within the first year of purchase, and 1% for shares redeemed during the sixth year. DWR receives the proceeds of the CDSL and also receives payments pursuant to plans of distribution adopted by the CDSL Funds pursuant to rule 12b–1 under the 1940 Act ("12b–1 plans"). The DWR Funds received orders of the Commission granting certain exemptions with respect to the imposition of the CDSL.

3. Shares of other DWR Funds are sold with a front-end sales load (the "FESL Funds"). In addition, shares of other DWR Funds are sold without a sales load; however, those which are money market funds (the "Money Market Funds") have adopted 12b–1 plans under which they may bear distribution expenses in amounts up to a maximum of .15% per annum of their respective average net assets. Currently, DWR collects a 12b–1 fee of .10% per annum from the Money Market Funds.

4. In 1984, the Commission issued an order pursuant to section 11(a) of the 1940 Act, permitting exchanges of shares between the CDSL Funds and the Money Market Funds (the "Prior Order"). As described in the application that requested the Prior Order, when shares of a CDSL Fund are exchanged for shares of one of the Money Market Funds, and during the period the Money Market Fund shares so acquired are held, there is a tolling of the holding period used in determining the CDSL to be applied upon redemption of those shares. The Prior Order was amended upon an application in 1987 to expand the types of permitted offers of exchange so as to enable exchanges of shares between the CDSL Funds and the FESL Funds. Under a condition agreed to in obtaining the 1987 amendment to the Prior Order, the DWR Funds agreed to comply with rule 11a–3 under the 1940 Act "when and if adopted."

5. The Commission's release adopting rule 11a–3 under the 1940 Act (Investment Company Act Release No. 17097) (August 3, 1989) provided that holders of orders pursuant to section 11(a) of the 1940 Act that were conditioned specifically upon compliance with rule 11a–3, if and when adopted, had until 60 days after the date of the rule's publication in the **Federal Register** (*i.e.*, until October 23, 1989) to conform fees and sales loads to the requirements set forth in the rule. Accordingly, absent some type of exemptive relief, the DWR Funds were required to comply with all provisions of rule 11a–3 by October 23, 1989. Other holders of orders pursuant to section 11(a) that were not so conditioned need not conform their fees and sales loads to rule 11a–3 until October 23, 1990.

6. In connection with offers of exchange between the CDSL Funds and the Money Market Funds, paragraph (b)(5) of rule 11a–3 requires that the holding used to determine the CDSL percentage rate applicable upon a redemption of shares include any period of time during which the shares (or the shares exchanged to acquire the redeemed shares) were held as Money Market Fund shares, unless, upon a redemption of shares which result in a CDSL being imposed, a credit is given in an amount equal to the Money Fund 12b–1 fees attributable to such shares (or attributable to Money Market Fund shares previously exchanged to acquire the redeemed shares) (the "12b–1 Credit"). Applicant Funds wish to continue to toll the holding period used in determining the applicable CDSL when shares of the CDSL Fund are exchanged for shares of a Money Market Fund. However, to do so under the terms of paragraph (b)(5) of rule 11a–3, it is necessary to provide the 12b–1 Credit because the Money Market Funds bear distribution expenses pursuant to 12b–1 plans. The decision to provide the credit rather than to cease tolling is based on the view of Applicants that use of the 12b–1 Credit is fairer to shareholders of CDSL Funds who have not exchanged shares than is "tacking" of holding periods which paragraph (b)(5) or rule 11a–3 otherwise requires.

7. Applicants assert that implementation of the 12b–1 Credit requires Applicant Funds' transfer agent to develop a variety of new systems. Those systems could not be written, tested and implemented prior to the October 23, 1989 effective date of rule 11a–3. Thus, absent additional time to comply, Applicant Funds would be forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds in order not to be in violation of rule 11a–3.[1] In addition, any newly organized DWR Funds which are CDSL Funds, and DWR Funds which are now FESL Funds but which become CDSL Funds, would not be able to offer exchanges for shares of Money Market Funds until the systems necessary to provide the 12b–1 Credit are implemented. A suspension of exchange privileges between the CDSL Funds and the Money Market Funds would be disadvantageous to shareholders of the DWR Funds.

8. Based upon the foregoing, Applicants (1) seek an order of the Commission, pursuant to section 11(a) of the 1940 Act, permitting the DWR Funds and DWR to make certain offers of exchange, until April 23, 1990, without complying with the provisions of paragraph (b)(5) of rule 11a–3 under the 1940 Act; and (2) have requested that an order be issued pursuant to section 11(a) on a temporary basis effective upon the Commission's approval of the issuance of this notice. In making the application, Applicants acknowledge, understand and agree that any order granting the application on a temporary basis shall be without prejudice to, and shall not limit the Commission's right in any manner with respect to, further consideration by the Commission of and action upon the application.

Applicants' Justification For Requested Order

1. Applicants assert that extensive systems modifications are needed to implement the 12b–1 Credit. In essence, the transfer agent systems used for the DWR Funds must be enhanced to permit a calculation of, and to retain information regarding, 12b–1 fees of the Money Market Funds attributable to the account of each investor who exchanges a CDSL Fund's shares for shares of a Money Market Fund. The systems must track this information as to each investor's account through subsequent exchanges, if any, and apply the 12b–1 Credit in the event that a CDSL is determined to be applicable upon redemption of the shares.

2. This systems changes involved in implementing the 12b–1 Credit require modification of over 60 separate

[1] Applicants subsequently received a fourteen-day extension of time in which to comply with paragraph (b)(5) of Rule 11a–3. See Investment Company Rel. No. 17190 (Oct. 23, 1989). This extension was solely for the purpose of preserving the *status quo* allowing Applicants sufficient time to amend their previously filed application without harming shareholders by disrupting fund operations.

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computer programs. This means that numerous programs must each be written and tested. Although the Applicant Funds' transfer agent has committed to make available substantial personnel resources to design and to implement the new systems, it is nevertheless estimated that the scope of required systems modifications is so extensive that it may take a number of months before the systems are operational.

3. Applicants note that by postponing the date by which the DWR Funds become subject to paragraph (b)(5) of rule 11a–3, investors exchanging shares of the CDSL Funds for shares of the Money Market Funds on or after October 23, 1989, but before April 23, 1990, will not be eligible for the 12b–1 Credit. To provide such a credit would require the development of extensive systems to enable retroactive computation of the 12b–1 Credit. Applicants do not believe it cost-effective to their shareholders to develop such systems. In the estimate of DWR, the cost to Applicant Funds of developing these systems could exceed the aggregate benefits that shareholders could reasonably be expected to receive.

4. Applicants submit that the requested order under section 11(a) is appropriate and in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. They submit that the granting of the requested temporary order is appropriate and justified because, although Applicants began the process of developing the necessary systems modifications required to comply with paragraph (b)(5) of rule 11a–3 promptly upon the publication of the rule, implementation of those modifications by October 23, 1989 was not possible. Absent the requested temporary order being issued prior to that date and the granting of the other requested order, Applicants will be forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds; a result which Applicants believe would be disadvantageous to shareholders of the DWR Funds.

Applicants' Undertakings

Applicants have agreed that the following may be imposed as conditions to the requested order:

1. Except to the extent as may otherwise be permitted under the terms of the requested order, the DWR Funds will have complied and will continue to comply with all requirements of rule 11a–3 as of October 23, 1989.

2. Applicants will monitor and supervise the efforts of their transfer agent in developing the required systems modification in an effort to enable implementation of those modifications, if possible, on or before April 23, 1990.

3. The Money Market Funds will not increase the current levels of their 12b–1 payments during the period they are relying upon the order.

4. Each DWR Fund relying upon the requested order will supplement its prospectus, pursuant to rule 497 under the Securities Act of 1933, to disclose that: (a) Due to the time required to implement the systems modifications necessary to comply with rule 11a–3, the Commission has been requested to issue an order permitting the DWR Funds and DWR to continue to make offers of exchange between CDSL Funds and Money Market Funds, until April 23, 1990, without complying with one provision of the rule; and (b) shares exchanged into the Money Market Funds prior to implementation of the systems modifications will not be eligible to receive the 12b–1 Credit.

5. Each DWR Fund relying upon the requested order will disclose in writing to its shareholders the information set forth in condition 4 above, which disclosure will be made no later than in its next regularly scheduled mailing to shareholders.

6. Applicants will submit to the Division of Investment Management monthly progress reports on the status of the development and implementation of the new systems necessary to permit the DWR Funds to comply with the provisions of paragraph (b)(5) of rule 11a–3.

7. Neither DWR nor the DWR Funds, prior to the implementation of the new systems, will distribute or publish any advertisement or other printed material which discusses the availability of exchange privileges between CDSL Funds and Money Market Funds without disclosing the information set forth in condition 4 above.

8. Except in the cases of requested exchanges of shares not subject to any CDSL and requested exchanges of shares which will be eligible for the 12b–1 Credit, registered representatives of DWR, and shareholder service personnel of DWR and of the transfer agent of the DWR Funds, will be instructed to inform shareholders who request by telephone or in person an exchange of shares of a CDSL Fund for shares of a Money Market Funds during the 30-day period preceding April 23, 1990, that the shares so acquired will not be eligible for the 12b–1 Credit, but would be eligible if the exchange were effected after April 23, 1990, and Applicants will make a good faith effort to insure that shareholders are informed of the foregoing.

Temporary Order

Based on the foregoing, the Commission has considered the matter and pursuant to section 11(a) of the 1940 Act, has approved for a period of the lesser of 30 days or until such time as the Commission takes final action on the application, Applicants' request to continue making offers of exchange offers that do not comply with paragraph (b)(5) of rule 11a–3. This temporary order is conditioned on Applicants' complying with all of the undertakings described above.

Accordingly, It is ordered, pursuant to section 11(a) of the 1940 Act and subject to the conditions set forth in the application, that the DWR Funds and DWR are hereby permitted to make offers of exchange between CDSL Funds and Money Market Funds without complying with paragraph (b)(5) of rule 11a–3 under the 1940 Act for the lesser of 30 days or until the Commission takes final action on the application.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26749 Filed 11–14–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Continuing Fitness Determination of Air Southeast, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of commuter air carrier continuing fitness determination—Order 89–11–12, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Air Southeast, Inc., continues to be fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 22, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: November 7, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89–26718 Filed 11–14–89; 8:45 am]

BILLING CODE 4910–62–M

Fitness Determination; California Air Shuttle

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of commuter air carrier fitness determination—Order 89–11–11, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Minson Aviation, Inc. d/b/a California Air Shuttle (formerly Qwest Commuter Corp.) continues to be fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, Room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 22, 1989.

FOR FURTHER INFORMATION CONTACT: Mrs. Janet A. Davis, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: November 7, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89–26719 Filed 11–14–89; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–89–43]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 5, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 7, 1989.

Deborah Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25482.

Petitioner: Acme School of Aeronautics.

Regulations Affected: 14 CFR 141.65.

Description of Relief Sought: To extend Exemption No. 4919 that allows petitioner to exercise examining authority for the flight instructor and airline transport pilot written tests. Exemption No. 4919 will expire on March 31, 1990.

Docket No.: 25983.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.613 and 121.625.

Description of Relief Sought: To relieve the petitioner to the extent that §§ 121.613 and 121.625 are interpreted to hold that weather reports or forecast, or any combination thereof, which contains conditional statements (e.g., "occasionally," "intermittently," "briefly," or "have a chance of") that weather may be below authorized minimums at the estimated time of arrival at the primary or alternate airport do not satisfy the appropriate dispatch requirements of those sections.

Docket No.: 26040.

Petitioner: United States Parachute Association.

Sections of the FAR Affected: 14 CFR 135.1(c) and 135.251.

Description of Relief Sought: To allow petitioner's members to delay in meeting the requirement to submit an anti-drug testing program until July 1, 1991. Implementation of the plan would be no later than November 1, 1991.

Docket No.: 12638.

Petitioner: Air Transport Association of America.

Regulations Affected: 14 CFR 121.99 and 121.351(a).

Description of Relief Sought/Disposition: To extend Exemption No. 2081, as amended, that allows part 121 operators, subject to certain conditions and limitations, to dispatch aircraft over certain ocean areas with one of the two required high-frequency radios inoperative at the time of departure.

Grant, October 30, 1989, Exemption No. 2081L

Docket No.: 22441.

Petitioner: United Airlines.

Sections of the FAR Affected: 14 CFR 121.433(c)(1)(iii), 121.441(a)(1), and 121.441(b)(1) and part 121, Appendix F.

Description of Relief Sought/Disposition: To amend Exemption No. 3451, as amended, that allows petitioner to conduct an FAA-monitored training program under which petitioner's pilots in command, seconds in command, and flight engineers meet the annual ground and flight recurrent training requirement and the annual proficiency check requirements, subject to certain conditions and limitations. The amendment would delete three data collection and reporting provisions prescribed in Condition Nos. 12.b.(2), 12.b.(3), and 12.b.(4).

Grant, October 31, 1989, Exemption No. 3451E

Docket No.: 25307.

Petitioner: Precision Airlines.

Regulations Affected: 14 CFR 135.429(a), 135.435, and 135.443.

Description of Relief Sought/Disposition: To extend Exemption No. 4867 that allows petitioner to use its German-built Dornier DO–228–201 and

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DC-228-202 aircraft, certain components, parts, and accessories repaired, overhauled, or otherwise maintained, and inspected by persons outside the United States who do not hold U.S. airman certificates, or have yet to obtain U.S. Foreign Repair Station Certification.

Partial grant, Octoaber 31, 1989, Exemption No. 4887B

Docket No.: 25092.

Petitioner: British Aerospace, Inc.

Sections of the FAR Affected: 14 CFR 67.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(e) (1) and (2); Appendix A of part 61; and Appendix H of part 121.

Description of Relief Sought/ Disposition: To allow petitioner and those persons who contract for petitioner's services to use FAA-approved Phase II simulators to meet certain experience, training, and checking requirements of part 61.

Partial grant, November 3, 1989, Exemption No. 5110

[FR Doc. 89-26768 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the Executive Committee meeting to be held December 4, 1989, in the Loews L'Enfant Plaza Hotel, Ballroom Salon A, 480 L'Enfant Plaza, SW., Washington, DC 20024, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks and introductions; (2) approval of the minutes of meeting held September 24, RTCA Paper No. 387-89/ EC-1036; (3) Executive Director's Report; (4) Special Committee Activities Report for September-October 1989; (5) approval Special Committee Reports: SC-135 Report, "Environmental Conditions and Test Procedures for Airborne Equipment"; (6) consideration of Proposals to Establish New Special Committees: Proposed revision of SC-167 Terms of Reference; (7) report on EUROCAE Working Group Activities and Planning for Future Work; (8) comments and reports by International Associates present; (9) other business; and (10) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at anytime.

Issued in Washington, DC, on November 6, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-26769 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 163—Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the tenth meeting of RTCA Special Committee 163 on Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication on December 13-15, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of the ninth meeting, RTCA Paper No. 222-89/ SC163-89; (3) brief overview of the problem; (4) presentation—Analysis of Simultaneous Transmission Probability—Dr. Breitler; (5) review the proposed final draft of the MOPS, RTCA Paper No. 224-889/SC163-90; (6) assignment of tasks; (7) other business; and (8) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 2, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-26770 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Adams and Hancock Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for construction of Illinois Route 336 as a four-lane highway. The proposed project will extend from the current northern terminus of Illinois Route 336 [Federal-Aid Primary Route 407 (FAP 407)] near the City of Quincy in Adams County, Illinois, northerly to a point on Illinois Route 94 near the City of Carthage, Hancock County, Illinois. The proposed project would be designated Federal Aid Primary Route 407 (FAP 407).

FOR FURTHER INFORMATION CONTACT:

Mr. F.M. Johnson, District Engineer, Federal Highway Administration, 320 West Washington, 7th Floor, Springfield, Illinois 62701, Phone (217) 492-4600.

Mr. J.W. McCree, District Engineer, Illinois Department of Transportation, District 8, 126 East Ash Street, Springfield, Illinois 62704-4766, Phone (217) 782-7301.

SUPPLEMENTARY INFORMATION: The Proposed Action is to construct Illinois Route 336 as a divided, multi-lane highway facility within Adams and Hancock Counties, Illinois. This project will begin at the existing northern terminus of Illinois Route 336 (FAP 407) near the City of Quincy in Adams County, and run northerly to a point on IL Route 94 (FAP 518) near the City of Carthage, Illinois, in Hancock County, a distance of approximately 32 miles. The proposed improvement may bypass several small communities.

The need for Illinois Route 336 is based on the transportation demands, enhancement of economic development, and improved traffic circulation among communities in the project area.

It is anticipated that the project will be constructed as a limited access expressway. Interchanges or intersections will be provided at all State routes and other major high-volume roadways. Several alignment alternatives will be evaluated for the proposed project including the no-action alternative.

A formal scoping process will be undertaken as a part of this project. The process will include meetings, informal coordination, and review sessions as appropriate. The first Scoping Meeting with interested government agencies is scheduled for Tuesday, November 21, 1989. Further details and a scoping information packet may be obtained from one of the contact persons listed above.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 8, 1989.

F.M. Johnson,

District Engineer, Federal Highway Administration, Springfield, Illinois 62701.

[FR Doc. 89-26793 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Macon, County, IL, et al.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for reconstruction of U.S. Route 51 to a four-lane highway. The proposed project will extend from the current southern terminus of the Decatur Bypass near the Village of Elwin in Macon County, Illinois, southerly to a point on U.S. Route 51 immediately south of the City of Pana, Christian County, Illinois. The proposed project would be designated Federal Aid Primary Route 412 (FAP 412).

FOR FURTHER INFORMATION CONTACT:

Mr. P. L. Olson, District Engineer, Federal Highway Administration, 320 West Washington, 7th Floor, Springfield, Illinois 62701, Phone (217) 492-4600.

Mr. J. D. Benson, District Engineer, Illinois Department of Transportation, District 5, Route 133 West, P.O. Box 610, Paris, Illinois 61944, Phone (217) 465-4161.

Mr J. W. McCree, District Engineer, Illinois Department of Transportation, District 6, 126 East Ash Street, Springfield, Illinois 62704-4766, Phone (217) 782-7301.

SUPPLEMENTARY INFORMATION: The Proposed Action is to reconstruct U.S. Route 51 to a divided, multi-lane highway within Macon, Shelby, and Christian Counties, Illinois. This highway will begin at the existing southern terminus of the Decatur Bypass near the Village of Elwin in Macon County, and run southerly to a point immediately south of the City of Pana in Christian County, a distance of approximately 35 miles. The proposed improvement will bypass or go through several small communities.

The need for upgrading U.S. Route 51 is based on the transportation demands, safety considerations, enhancement of economic development, and improved traffic circulation among communities in the project area.

The proposed facility is to be constructed as a partial access controlled highway. Interchanges or intersections will be provided at all State routes and other major high-volume roadways. Several alignment alternatives will be evaluated for the proposed project, including utilizing the existing roadway and the no-action alternative.

A formal scoping process will be undertaken as part of this project. The process will include meetings, informal coordination, and review sessions as appropriate. The first Scoping Meeting with interested agencies is scheduled for Tuesday, November 21, 1989. Further details and a scoping information packet may be obtained from one of the contact persons listed above.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 7, 1989.

P. L. Olson,

District Engineer, Federal Highway Administration.

[FR Doc. 89-26792 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[RS-Ap-No. 2909]

CSX Transportation; Public Hearing

The CSX Transportation has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the signal systems from Barboursville to Peach Creek, West Virginia and from FD Cabin to Man, West Virginia. This proceeding is identified as FRA Block Signal Application Number 2909.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on February 1, 1990, in the City Council Chambers (Room 17) of the City Hall located at 800 Fifth Avenue in Huntington, West Virginia.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on November 6, 1989.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 89-26720 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-06-M

[RS-Ap-No. 2865]

New Jersey Transit Rail Operations and Consolidated Rail Corp.; Public Hearing

The New Jersey Transit Rail Operations and Consolidated Rail Corporation have petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed modification of HX Interlocking at East Rutherford, New Jersey. This proceeding is identified as FRA Block Signal Application Number 2865.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in

this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is

the brake pedal and the steering wheel. Volvo believes that the brake pedal had been pulled up to install the device. Pulling on the brake pedal may dislocate the brake pressure rod from the vacuum

not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous

Application No.	Applicant	Renewal of exemption
6096-X	Union Carbide Industrial	

Application No.	Applicant	Renewal of exemption
7926-X	Alaska Marine Hwy System,	

Application No.	Applicant	Renewal of exemption
9664-X	Parker-Bennett Corporation,	

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this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on January 10, 1990, in the Second Floor Hearing Room of the Military Park Building located at 60 Park Place in Newark, New Jersey.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on November 3, 1989.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 89-26721 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition; Paige Hair

This notice sets forth the reasons for the denial of a petition submitted to the NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Ms. Paige Hair submitted a petition dated June 23, 1989, requesting the National Highway Traffic Safety Administration to investigate the braking system on 1988 Volvo 240 DL vehicles. Ms. Hair submitted information that the brakes on her vehicle repeatedly failed to release, resulting in the brakes dragging and severely overheating. However, no evidence was submitted with the petition to indicate a pattern of brakes failing to release with these vehicles.

The vehicle manufacturer believes in the case of Ms. Hair's vehicle, the brakes were dragging because the braking system had been damaged from improper installation of an after market anti-theft device. The device hooks onto the brake pedal and the steering wheel. Volvo believes that the brake pedal had been pulled up to install the device. Pulling on the brake pedal may dislocate the brake pressure rod from the vacuum booster and deflect the brake pedal support bracket.

A review of the braking complaints in the agency's files and in the manufacturer's files submitted in response to evaluation of this petition reveals a very low number of complaints of brakes seizing or dragging. No defect trend that would be associated with brakes failing to release is evident. It was concluded that there was not a reasonable possibility that an order concerning the notification and remedy of a safety-related defect in relation to the alleged brake failure would be issued at the conclusion of an investigation. Since no evidence of a safety-related defect trend was discovered, further commitment of resources to determine whether such a trend may exist does not appear to be warranted.

Therefore, the petition is denied.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 8, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-26754 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

T2summary: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffice "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before November 29, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3302-X	Air Products and Chemicals, Inc., Allentown, PA	3302
3996-X	Stauffer Chemical Company, Shelton, CT [1]	3996
4600-X	Great Lakes Chemical Corporation, El Dorado, AR	4600
4850-X	Halliburton Company, Duncan, OK	4850
5861-X	HTL/Kin-Tech Division of Pacific Scientific Co., Duarte, CA	5861
5951-X	Jones Chemicals, Incorporated, LeRoy, NY	5951
6045-X	Viskase Corporation, Chicago, IL	6045
6309-X	Freeman Chemical Corporation, Port Washington, WI	6309
6602-X	Great Lakes Chemical Corporation, El Dorado, AR	6602
6602-X	Jones Chemicals, Incorporated, LeRoy, NY	6602
6602-X	Ethyl Corporation, Baton Rouge, LA	6602
6691-X	Linde Gases of New England, Inc., West Hartford, CT	6691
6691-X	Linde Gases of The Southeast, Inc., Wilmington, NC	6691
6691-X	Linde Gases of Florida, Tampa, FL	6691
6691-X	Linde Gases of The Midwest, Inc., Hillside, IL	6691
6691-X	Linde Gases of The West, San Ramon, CA	6691
6691-X	Linde Gases of the South, Inc., Houston, TX	6691
6691-X	Linde Gases of The Great Lakes, Inc., Cleveland, OH	5691
6691-X	Linde Puerto Rico, Inc., Gurabo, PR	6691

Application No.	Applicant	Renewal of exemption
7928-X	Alaska Marine Hwy System, State of Alaska, Juneau, AL	7928
7929-X	Trojan Corporation, Spanish Fork, UT	7929
7929-X	Austin Powder Company, Cleveland, OH	7929
7947-X	Westinghouse Electric Corporation, Pittsburgh, PA	7946
8096-X	Amtrol Inc., West Warwick, RI [2]	8096
8166-X	Scott Specialty Gases, Inc., Plumsteadville, PA	8156
8162-X	Structural Composites Industries, Pomona, CA	8162
8213-X	Trailmaster Tanks, Incorporated, Fort Worth, TX	8213
8239-X	Texas Instruments, Inc., Dallas, TX	8329
8354-X	VIG Verwingte Tanklager and Transportmittel GmbH, Hamburg, West Germany	8354
8390-X	Ashland Oil Inc., Columbus, OH	8390
8565-X	AT Plastics, Inc., Brampton, Ont., Canada	8465
8516-X	Atlas Powder International, Limited, Pearlington, MS	8516
8556-X	L'Air Liquide, Paris, France	8556
8770-X	Eastman Kodak Company, Rochester, NY	8770
8811-X	Aquaion Company, Wilmington, DE	8811
8811-X	Hoechst Celanese Corporation, Somerville, NJ	8811
8843-X	GOEX, Inc., Clebume, TX	8843
8843-X	Owen Oil Tools, Inc., Fort Worth, TX	8843
8944-X	Union Carbide Corporation, Danbury, CT [4]	8944
8978-X	Battery Engineering, Inc., Boston, MA	8978
9043-X	Ozelle Harrington Trucking Company, Benson, AZ	9043
9070-X	Warner Brothers, Inc., Sunderland, MA	9070
9072-X	Thiokol Corporation/Space Operations, Brigham City, UT	9072
9116-X	Hoover Group, Inc., Beatrice, NE [5]	9116
9134-X	RTZ Chemicals/ISC Division, Bristol, England	9134
9176-X	Minnesota Valley Engineering, Inc., New Prague, MN	9176
9211-X	Waterman Steamship Corporation, New Orleans, LA	9211
9281-X	Western Atlas International, Inc., Houston, TX	9281
9364-X	Platte Chemical Company, Greeley, CO	9364
9525-X	Cyanamid Canada, Inc., East Willowdale, Canada	9525
9525-X	American Cyanamid Company, Wayne, NJ	9525
9596-X	L'Air Liquide, Sassenage, France	9596
9723-X	BD Technology, Inc., Arcadia, CA	9723
9723-X	GSX Chemical Services, Inc., Columbia, SC	9723
9785-X	Atlantic Container Line, South Plainfield, NJ	9785
9785-X	Compagnie Generale Maritime, Paris, France	9785
9791-X	Pressed Steel Tank Company, Inc., Milwaukee, WI	9791
9877-X	Systron Donner, Concord, CA [6]	9877

Application No.	Applicant	Renewal of exemption
9954-X	Pelton-Bennett Corporation, Indianapolis, IN	9954
9959-X	Aeamare Corporation of America, Garnet, IN	9959
10142-X	Tuscarora Plastics, Inc., Reston, VA [7]	10142
10165-X	U.S. Olympic Festival '90, Saint Paul, MN	10165

[1] To renew and authorize an alternate non-DOT specification metal drum for shipment of phosphoric anhydride, classed as a corrosive material.

[2] To authorize an optional pressure vessel design for shipment of certain non-flammable gases.

[3] To authorize certain liquified gases; authorize additional type tubing and alloy in construction and modify certain test criteria for non-DOT specification steel cylinders similar to DOT spec. 3E.

[4] To authorize certain modifications for acoustic emission testing of cylinders for shipment of non-flammable gases and to modify reporting criteria.

[5] To authorize an alternative use of a modified top closure on a polyethylene portable tank for shipment of certain corrosive materials, flammable liquids or oxidizers.

[6] To renew and increase maximum volume of cylinder from 10 cubic inches to 80.

[7] To authorize shipment of those flammable liquids and corrosive liquids authorized to be shipped in a DOT Specification 12A or 12B fiberboard box.

Application No.	Applicant	Parties to exemption
4453-P	Lilly Explosives Company, Inc., Pemberton, WV	4453
4453-P	Gibson Explosives Products, Inc., Duffield, VA	4453
4884-P	Linde Gases of The Northwest, Portland, OR	4884
5643-P	Linde Gases of The Northwest, Portland, OR	5643
6349-P	Linde Gases of The Northwest, Portland, OR	6349
6418-P	Nyasa Coop Supply, Nyasa, OR	6418
6691-P	Linde Gases of The Northwest, Portland, OR	6691
6765-P	Linde Gases of The Northwest, Portland, OR	6765
6874-P	Mine Chemical Services, Inc., Winnemucca, NV	6874
7052-P	Starburst Electronics Inc., Calgary, Alberta, Canada	7052
7052-P	FME Corporation, dba Friden Alcatel, Hayward, CA	7052
7052-P	K Power Electronics (division of Kent Electronics), Houston, TX	7052
7052-P	Aneum Enterprises, Inc., Boca Raton, FL	7052
7274-P	Linde Gases of The Northwest, Portland, OR	7274
7607-P	Science Applications International Corporation, McLean, VA	7607
7635-P	Linde Gases of The Northwest, Portland, OR	7635
8156-P	Linde Gases of The Northwest, Portland, OR	8156
8228-P	Central Intelligence Agency, Washington, DC	8228
8236-P	Mazda Motor of America, Inc., Irvine, CA	8236
8445-P	Eldredge, Inc., West Chester, PA	8445
8556-P	Linde Gases of The Northwest, Portland, OR	8556
8723-P	Econexpress, Wheaton, IL	8723

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Application No.	Applicant	Parties to exemption
8882-P	Linde Gases of The Northwest, Portland, OR	8882
8986-P	Wedge Wireline, Inc., Arlington, TX	8986
9034-P	Linde Gases of The Northwest, Portland, OR	9034
9047-P	Linde Gases of The Northwest, Portland, OR	9047
9414-P	Linde Gases of The Northwest, Portland, OR	9414
9507-P	Linde Gases of The Northwest, Portland, OR	9507
9689-P	American Cyanamid Company, Wayne, NJ	9689
9694-P	Thatcher Company, Salt Lake City, UT	9694
9750-P	Econexpress, Wheaton, IL	9750
9785-P	ABC Containerline N.V., Antwerp 2030 Belgium	9785
9946-P	Linde Gases of The Northwest, Portland, OR	9946
10001-P	Linde Puerto Rico, Inc., Gurabo, Puerto Rico	10001
10001-P	Unigas Welding Supplies, Mercedita, PR	10001
10001-P	Linde Gases of The Southern California, Inc., Santa Ana, CA	10001
10001-P	Linde Gases of Florida, Tampa, FL	10001
10001-P	Linde Gases of The South, Inc., Houston, TX	10001
10001-P	Linde Gases of The West, San Ramon, CA	10001
10022-P	Linde Puerto Rico, Inc., Gurabo, Puerto Rico	10022
10022-P	Unigas Welding Supplies, Mercedita, PR	10022

Application No.	Applicant	Parties to exemption
10022-P	Linde Gases of Florida, Tampa, FL	10022
10022-P	Linde Gases of New England, West Hartford, CT	10022
10022-P	Linde Gases of The South, Inc., Houston, TX	10022
10022-P	Linde Gases of The Northwest, Portland, OR	10022

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 8, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-26756 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-60-M

Office of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Speical Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 15, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch: Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10264-N	Reagent Chemical & Research, Inc., Port Naches, TX.	49 CFR 179.200-18	To authorize use of lead frangible discs on nonpressure tank cars to be used in transporting aqueous hydrochloric acid, classed as corrosive material. (mode 2)
10265-N	Linco-Electromatic, Inc., Midland, TX	49 CFR 173.119, 173.304, 173.315	To manufacture, mark, and sell a non-DOT Specification pressure vehicle (a mechanical displacement meter prover mounted on a truck or trailer) for transportation of various hydrocarbon products classed as combustible liquids, flammable liquids and flammable gases. (mode 1)
10266-N	Mobil Pipe Line Company, Dallas, TX	49 CFR 173.119	To authorize transportation of flammable liquids in meter provers having nominal water capacity from between 110 not to exceed 700 gallons. (mode 1)
10267-N	Belick Enterprises, Inc., Schaumburg, IL	49 CFR 173.266, 178.212-1	To authorize shipment of nitric acid, 67-71%, classed as oxidizer in non-DOT Specification paper faced expended polystyrene board box similar to the DOT Specification 12R container except for having a nominal board thickness of .21 inch. (mode 1)
10268-N	Biefa-Feiser GmbH, Attendor, Germany.	49 CFR 173.346	To authorize manufacture, marking and sale of non-DOT Specification 55 gallon aluminum drums for shipment of allyl isothiocyanate classed as a poison B. (modes 2, 3)
10269-N	E.I. du Pont de Nemours and Company, Wilmington, DE.	49 CFR 172.2(a), 173.24(c)(1)	To authorize shipment of haz. materials (other than class A or B explosives or radioactive materials) in a package (other than compressed gas cylinder or a package of more than 450 liters capacity) marked with the UN packaging symbol & appropriate markings required by Annex I of the IMDG code. (modes 1, 2, 3)
10270-N	High Island Offshore System, Sabine Pass, TX.	49 CFR 172.200, 175.30	To authorize shipping certification for methane and helium gas sample cylinders to be executed from a main production platform rather than from each of 95 offshore platforms. (mode 4)
10271-N	McOCO, Inc., Houston, TX	49 CFR 172.101, 173.54, 175.30	To authorize transport of certain class A, B, and C explosives by cargo air which are forbidden for shipment by air or exceed authorized quantity limitation prescribed for air shipment. (mode 4)
10272-N	Olin Chemicals, Charleston, TN	49 CFR 173.315	To authorize shipment of a 50% strength aqueous solution of hypochlorous acid, classed as a nonflammable gas in a lined DOT Specification MC 331 insulated cargo tank of not over 4500 gallons capacity with minimum design pressure of 500 psig. (mode 1)
10273-N	Georgia-Pacific Corporation, Schenectady, NY.	49 CFR 173.154, 173.217, 173.245b, 173.365.	To manufacture, mark and sell non-DOT Specification nonreusable fiberboard bulk box with a polyethylene film liner for shipment of certain flammable, corrosive poison B or oxidizer solids. (mode 1)

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10274-N	Chemtech Industries, Inc., St. Louis, MO.	49 CFR 173.299	To authorize shipment of etching acid, liquid, n.o.s., classed as a corrosive material in 5000 gallon capacity, lined, MC-312 cargo tanks. (mode 1)
10275-N	Degussa Corporation, Ridgefield Park, NJ.	49 CFR 173.266(e)	To authorize hydrogen peroxide solution not exceeding 52 percent contained in DOT Specification 57 portable tanks to be offered for shipment with other materials in the same truck by common carrier and/or private carriers. (mode 1)
10276-N	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252(a)(4)	To authorize shipment of bromine, classed as a corrosive material in DOT Specification MC-310 or MC-312 cargo tanks with a polyvinylidene flouride lining. (mode 1)
10277-N	Amtrol Inc., West Warwick, RI	49 CFR 175.30, 178.51, Part 173 Subpart G.	To manufacture, mark and sell non-DOT Specification cylinder for shipment of those commodities presently authorized in DOT Specification 39 cylinders. (mode 1, 2, 4)
10278-N	Taymar Limited, Stockport, Cheshire, England.	49 CFR 173.304(d), 178.33	To authorize shipment of non-DOT Specification non-refillable metal containers for shipment of Butane or liquified petroleum gas, classed as flammable gas. (mode 1, 3)
10279-N	Rescon Industries, Randolph, MA	49 CFR 173.306(g)(1), part 172, subparts D, E.	To manufacture, mark, and sell non-DOT specifications steel water pump system tanks for shipment of air compressed or nitrogen, classed as nonflammable gas. (mode 1, 2, 3)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 8, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-26755 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Privacy Act of 1974; New System of Records

AGENCY: Fiscal Service, Bureau of the Public Debt, Treasury.

ACTION: Notice of new system of records: Treasury/BPD.004—Controlled Access Security

SUMMARY: The purpose of this document is to give notice under the provisions of the Privacy Act of 1974, as amended, that the Bureau of the Public Debt proposes to add a new system of records: Treasury/BPD.004—Controlled Access Security System. The Bureau's systems of records were last published on March 1, 1988, at 53 FR 6252. The new system will contain the name, card number, access level, and other information about Bureau employees and other persons who are authorized to enter the Bureau's Parkersburg, West Virginia facility.

DATE: Comments must be received no later than December 15, 1989. The new system of records will become effective January 16, 1990 unless comments dictate otherwise.

ADDRESS: Send any comments to D. Louise Bennett, Disclosure Officer, Bureau of the Public Debt, E Street Building, Room 515, Washington, DC 20239-0001. Copies of all written comments will be available for public inspection and copying at the Department of the Treasury Library, Room 5030, Main Treasury Building, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: D. Louise Bennett, Disclosure Officer (202) 376-4307.

SUPPLEMENTARY INFORMATION: The Bureau of the Public Debt has decided to install a Controlled Access Security System at its facility in Parkersburg, West Virginia. This system will upgrade the security of its building and its computer facility. This system controls entrance to designated areas.

Persons covered by the system are Bureau of the Public Debt employees requiring access to designated areas; contractor and service company employees; and official visitors to the Bureau of the Public Debt. Information will be maintained on magnetic media and paper and will consist of the name; card number; work shift; access level; time, date, and location of each use of the access card at a proximity card reader. The system will not infringe upon any individual's privacy rights because of the security protections and the disclosure restrictions imposed by the Privacy Act.

A new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Office of Management and Budget (OMB) and Congress pursuant to Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Treasury/BPD.004

SYSTEM NAME:

Controlled Access Security System.

SYSTEM LOCATION:

Bureau of the Public Debt, Parkersburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of the Public Debt employees, employees of contractors and service companies, and official visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

A record is created for each access to designated areas and contains the individual's name; card number; work shift; access level; time, date, and location of each use of the access card at a proximity card reader.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. Sec. 321; 41 CFR 101-20.103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system may be disclosed as a routine use: (1) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license; (2) to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) to a court, magistrate, or administrative

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tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena; (4) to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, arbitrators and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and paper records.

RETRIEVABILITY:

Information on individuals can be retrieved by name or card number.

SAFEGUARDS:

Both the central system and the peripheral system will have limited accessibility. Paper records and magnetic disks are maintained in locked file cabinets with access limited to those personnel whose official duties require access, such as the systems manager, Bureau security officials, and employee relations specialists. Access to terminals is limited through the use of passwords to those personnel whose official duties require access, as for paper records.

RETENTION AND DISPOSAL:

The retention period is for three years; then the records are destroyed.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Administration, Savings Bond Operations Office, 200 Third Street, Parkersburg, West Virginia 26106-1328.

NOTIFICATION PROCEDURE:

Address inquiries and initial requests for correction of records to: Director, Division of Administration, Savings Bond Operations Office, Parkersburg, West Virginia 26106-1328.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

Requests for Access to Records: (1) A request for access to records should be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request should be submitted to the following: Director, Division of Administration, Savings Bond Operations Office, Parkersburg, West Virginia 26106-1328. (3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR part 1, subpart C. (4) Requests for records concerning a deceased or incapacitated individual should be accompanied either by evidence of the requester's appointment as legal representative of the estate or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

Requests for Correction of Records: (1) A request by an individual for correction of records should be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The initial request should be submitted to the following: Director, Division of Administration, Savings Bond Operations Office, Parkersburg, West Virginia 26106-1328. (3) The request for correction should specify: (a) The dates of records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor. (4) The request must include any available evidence in support of the request.

Appeals from an Initial Denial of a Request for Correction of Records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) An appeal must, to be handled under the Privacy Act procedures, be addressed to the following: Commissioner, Bureau of the Public Debt, Washington, DC 20239-0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction. (3) An appeal must also specify: (a) The records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that the initial denial of the request for correction was received. (4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" and "Record Access Procedures."

RECORD SOURCE CATEGORIES:

The individual concerned, his/her supervisor, or an official of the individual's firm or agency.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: November 6, 1989.

Linda Combs,

Assistant Secretary of the Treasury (Management).

[FR Doc. 89-26821 Filed 11-14-89; 8:45 am]

BILLING CODE 4810-35

Internal Revenue Service

Privacy Act of 1974; Proposed New System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, the Internal Revenue Service gives notice of a new system of records entitled the Expert Witness Library—Treasury/IRS 90.018. The Expert Witness Library is being established to assist in locating and hiring experts for use in future trials. The Library is also intended to provide IRS attorneys with commentary on the effectiveness of experts used in prior cases by evaluating: (1) Performance on cross-examination; (2) written reports submitted; and (3) assistance given during trial preparation. Information in the records will enhance the IRS's ability to select appropriate and effective expert witnesses for litigation.

DATES: Comments must be received no later than December 15, 1989. The new system of records will become effective January 16, 1990.

ADDRESS: Comments should be sent to Tax Shelter Branch, Tax Litigation Division, Internal Revenue Service, Room 4507, 1111 Constitution Ave., NW., Washington, DC 20224; Attn: Chief, Tax Shelter Branch.

FOR FURTHER INFORMATION CONTACT: Marsha Keyes, Attorney, Tax Litigation Division, (202) 566-4174, Internal Revenue Service, Office of Chief Counsel, Room 4507, 1111 Constitution Ave., NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

ESTABLISHMENT OF NEW SYSTEM OF RECORDS

The Expert Witness Library is being established to assist IRS attorneys in locating and hiring expert witnesses for litigation. It will also enhance the IRS's ability to effectively litigate cases by aiding in the selection of expert witnesses. The Expert Witness Library contains the names of individuals who have acted as expert witnesses for the government and against the government in various tax cases. The records are maintained by individuals' names and areas of expertise.

Treasury/IRS 90.018

SYSTEM NAME:

Expert Witness Library—Treasury/IRS

SYSTEM LOCATION:

Assistant Chief Counsel (Tax Litigation), National Office, Attn: Tax Shelter Branch, 1111 Constitution Ave., NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential expert witnesses for tax litigation in a variety of areas of expertise.

CATEGORIES OF RECORDS IN SYSTEM:

Names, addresses, and phone numbers of expert witnesses who have been used either by IRS or taxpayers in litigation. The library also contains evaluations of the performance of each expert, copies of transcripts where experts have testified and copies of the experts' reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. (2) To disclose information to the Department of Justice in connection with requests for legal advice. (3) To disclose information to a federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of or retention of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to the proceeding. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by name and subject matter expertise.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Furthermore, access to the paper files is controlled by a designated attorney in the Tax Shelter Branch. Access to the expert witness library indices on magnetic media are controlled by the Tax Shelter Branch. The Tax Shelter Branch is locked during nonworking hours. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Background checks are made on employees. The safeguards will not be less than provided by the Physical Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

The records will be periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Tax Litigation), National Office, Tax Shelter Branch, 1111 Constitution Ave., NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to Assistant Chief Counsel (Tax Litigation), National Office, Attn: Tax Shelter Branch.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Tax Litigation), National Office, Attn: Tax Shelter Branch.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Attorneys working for the IRS and expert witnesses themselves.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Date: November 8, 1989.

Linda M. Combs,

Assistant Secretary of the Treasury (Management).

[FR Doc. 89-26822 Filed 11-14-89; 8:45 am]

BILLING CODE 4830-01-M

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Sunshine Act Meetings

Federal Register
Vol. 54, No. 219
Wednesday, November 15, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

ACTION: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 21, 1989, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: This meeting will be closed to the public pursuant to exemptive provisions of the Government in the Sunshine Act. The matters to be considered at the meeting are:

Closed Session*

1. Compensation Guidelines for Chief Executive Officers of Farm Credit Institutions and the Federal Farm Credit Banks Funding Corporation;

2. Chief Executive Officers' Compensation Requests from Farm Credit Institutions; and

3. Salary Scale Requests from Farm Credit Institutions.

*Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (6), (8) and (9).

Dated: November 13, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89-27005 Filed 11-13-89; 3:22 pm]

BILLING CODE 6705-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 9, 1989.

TIME AND DATE: 10:00 a.m., Thursday, November 16, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Beaver Creek Coal Company,* Docket No. WEST 88-145-R. (Issues include whether the operator is entitled to declaratory relief and to attorney's fees and costs.)

2. *Dennis Wagner v. Pittston Coal Group, et al.,* Docket No. VA 88-21-D. (Issues include whether MSHA and its agents are "persons" under section 105(c) of the Mine Act and are subject to the discriminatory prohibitions of section 105(c).)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.50(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay, 1-800-877-8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-26930 Filed 11-13-89; 12:35 pm]

BILLING CODE 6735-01-M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Tuesday, November 21, 1989.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Ex Parte No. 346 (Sub-No. 24)
Rail General Exemption Authority—Miscellaneous Manufactured Commodities;
Ex Parte No. 230 (Sub-No. 7)
Improvement of TOFC/COFC Regulation (Pickup and Delivery); and
No. W-1465
Viking Starship, Inc., Common Carrier Application

CONTACT PERSON FOR MORE INFORMATION: A Dennis Watson, Office of Government and Public Affairs, Telephone: (202) 275-7252.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26946 Filed 11-13-89; 2:15 pm]

BILLING CODE 7035-01-M

NATIONAL TRANSPORTATION BOARD

AGENDA

TIME AND DATE: 9:30 a.m. Tuesday, November 21, 1989.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first six items are open to the public. The last item is closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Collision Between Swedish Auto Carrier FIGARO and French Tankship CAMARGUE, Galveston Bay Entrance, November 10, 1988.
2. Recommendation to DOT: Uniform Postaccident Drug and Alcohol Testing Regulations Among DOT Modal Administrations.
3. Recommendation to Association American Railroads: Freight Car Truck Side Frames Modified Using Friction Bearings to Roller Bearings.
4. Withdrawal of Recommendation to the Association of American Railroads: Freight Car Truck Side Frames Modified Using Friction Bearings to Roller Bearings.
5. Board Policy: Calendaring of Notation Items.
6. Acting Chairman Kolstad's and Member Burnett's Letters to the Federal Aviation Administration dated October 27, 1989.
7. Opinion and Order: Administrator v. Rothbart and Vorhees, Docket SE-9043 and 9060; disposition of Administrator's appeal.

NEWS MEDIA PLEASE CONTACT BETTY SCOTT (202) 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: November 9, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89-26972 Filed 11-13-89; 2:16 pm]

BILLING CODE 7533-01-M

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Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511
Rental Rehabilitation Grants; Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511

[Docket No. R-89-1441; FR-2558-F-02]

RIN 2506-AA88

Rental Rehabilitation Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule implements sections 150(b) and 150(f) of the Housing and Community Development Act of 1987 (the 1987 Act). Section 150(b) amends the United States Housing Act of 1937 (the 1937 Act) to make eligible for immediate rental rehabilitation grant assistance, publicly owned real property that will be privately owned upon completion of rehabilitation. Section 150(f) was intended to clarify when non-profit corporations are considered eligible to own rental rehabilitation grant-assisted projects. With respect to publicly owned properties made eligible by section 150(b), the rule establishes a reasonable deadline for project completion, including transfer to private ownership (two years and 90 days after commitment). The rule further specifically requires grantees to reimburse their grant accounts if the rehabilitation is not completed or the project is not privately owned by the end of the specified period. With respect to section 150(f), the rule clarifies HUD's criteria for when a non-profit corporation is considered privately controlled and hence eligible to own rental rehabilitation grant-assisted projects.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Rehabilitation Management Division, Room 7174, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000, telephone (202) 755-5970. (This is not a toll-free number.)

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will not become effective until HUD's separate notice is published announcing a specific effective date.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in §§ 511.10(g)(3)(i)(A) and 511.10(c)(4) of this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 15, 1989.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**, at the same time that the rule's effective date is published.

Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided below. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

In accordance with 5 CFR 1320.21, data on the information collection requirements contained in this rule is provided as follows.

Proposal. Written agreement to include precommitment rehabilitation costs in the project costs. (24 CFR 511.10(g)(3)(i)(A)). Written agreement to maintain property in private ownership for not less than 10 years. (§ 511.10(c)(4)).

Description of the Need for the Information and Its Proposed Use. The former agreement is needed to provide documentary evidence of the precommitment costs that are eligible rehabilitation costs and to help establish that necessary environmental reviews were timely completed. The latter agreement provides a legally enforceable agreement to ensure that the property remains in private ownership for the duration of the lien or ten years, whichever is greater.

Form Number: None.

Respondents: State and local governments and nonprofit institutions.

The following table discloses the Department's estimated burden for each of these collections of information.

Description	Number of respondents	Frequency of response	Hours per response	Burden hours
Written agreement to include precommitment rehabilitation costs in the project costs. (§ 511.10(g)(3)(i)(A))	600	8.8	1	5280
Written agreement to maintain property in private ownership for not less than 10 years. (§511.10(c)(4))	600	8.8	0.5	2640

Discussion of the Rule

On June 21, 1989, the Department published a proposed rule (54 FR 26164) to revise 24 CFR part 511 to implement sections 150(b) and 150(f) of the Housing and Community Development Act of 1987.

During the 60 day comment period, the Department received one comment letter. The comment and the Department's response are discussed below.

The proposed rule included four subjects for change in the Rental Rehabilitation regulations in 24 CFR part 511. One, it implemented section 150(b) of the 1987 Act to make eligible for rental rehabilitation assistance, publicly owned projects that will be privately owned upon completion of the rehabilitation, and it established time frames within which the rehabilitation and transfer to private ownership must occur (§ 511.10(c)(1)). Two, it implemented section 150(f) to clarify when non-profit organizations are considered privately controlled and eligible to own projects assisted with rental rehabilitation grant amounts (§ 511.10(c)(2)). Three, it spelled out the conditions under which certain project costs incurred prior to a project being

committed in HUD's Cash and Management Information (C/MI) System could later be reimbursed with rental rehabilitation grant amounts (§ 511.10(g)(3)). Four, it required projects assisted with rental rehabilitation grant amounts to remain in privately owned, primarily residential rental use for a period of ten years after completion under a legally enforceable agreement (§ 511.10(c)(4)).

No comments were received on the provisions of the proposed rule relating to non-profit organizations participating in the Rental Rehabilitation Program, the eligibility of precommitment expenses, or the period projects must remain in privately owned, primarily residential rental use. These provisions are substantially unchanged from the proposed rule. However, one clarifying change that should be noted is that the authority in new § 511.10(g)(3) of the final rule, which permits grantees to reimburse owners for "precommitment costs" under certain circumstances is limited to privately owned projects.

The Department received comments from one grantee, New York City (the City), which had been instrumental in the enactment of section 150(b) and which will be utilizing the authority of section 150(b) to rehabilitate publicly owned projects that will be privately owned upon completion of the rehabilitation. The City criticized several provisions of § 511.10(c)(1) of the proposed rule relating to this authority. The Department has revised this final rule to accommodate several of the City's concerns.

As to projects that are publicly owned when the rental rehabilitation assistance commences, the proposed rule set a two-year period for the rehabilitation work to be completed and a 60-day period for documenting the transfer of the property to private ownership. It required the grantee to submit a schedule for each project before it could be set up in HUD's Cash and Management Information (C/MI) System and receive rental rehabilitation assistance. The schedule was subject to the approval of the appropriate HUD field office under review standards specified in the proposed rule, and was to be used as a basis for the field office to monitor the progress of the project. The proposed rule would have permitted rehabilitation of publicly owned projects using rental rehabilitation grant amounts from any available fiscal year grant if the grant amounts were uncommitted as of the effective date of this rule. It would not have covered publicly owned projects if grant amounts had been committed to the project in the C/MI System before the effective date of this rule, since HUD had permitted such commitments only under special waiver for New York City's "in rem" projects. Under the proposed rule, these projects were to continue to be dealt with under the terms of existing rules and the waiver, i.e., they were required to be completed using other funds and transferred to private ownership before the "committed" funds could be drawn down.

The City made several points addressing all of the elements above. In general, the City believed that § 511.10(c)(1) of the proposed rule would work to discriminate against a particular class of project and specifically, a particular grantee, New York City, by setting up seemingly arbitrary and unnecessary barriers to carrying out Congressional intent.

The City took exception with the proposed rule's requirement to submit a schedule, subject to the field office's approval under the standards in the proposed rule, to establish the actual period reasonably needed to complete the rehabilitation and to transfer the property to private ownership. The City contended that this additional submission and approval requirement is unnecessary, excessively time consuming, and burdensome.

The primary concern to HUD is that grantees complete their projects in a reasonable period of time, so that Rental Rehabilitation funds are not unnecessarily tied up by projects that are subject to delays, whatever the reason, when there are other projects that are ready to proceed. The schedule requirement was merely intended to provide some HUD oversight of the rehabilitation period for projects of a type which have already proven to be difficult to complete. However, in light of the City's views and the desire by HUD not to further burden the City's rehabilitation process with paperwork, the final rule does not require a schedule to be submitted to the field office. Grantees will simply be held to the timeframe required by the regulation, and the field office will use standard monitoring practices to monitor rehabilitation progress.

The City also objected to the proposed rule's two-year period and sixty-day period allowed to complete the rehabilitation and transfer to private ownership, maintaining that this is inconsistent with the existing program regulations which allow a period of four years to expend all funds on a project. The City believed that it is always in the grantee's interest to choose projects that can be completed in a timely manner and that the two-year and sixty day period seemed arbitrary and discriminatory against New York City.

The City's argument that existing regulations allow a period of up to four years to expend project funds is misleading. Section 511.33(c) of the existing regulations allows four years for all funds from a particular grant year to be expended (five years in the case of states). Although the existing regulation does not expressly specify the time allowed to complete individual projects, a two-year timeframe is implicit. Section 511.33(c) requires that the funds from each rental rehabilitation grant year must be fully committed to projects within two years of grant obligation and must be fully expended within four years of obligation. The funds become subject to deobligation under § 511.33(c) and reallocation under § 511.33(b) if they are not so committed and expended. Technically, under the existing rules, a grantee could take up to four years to complete a project if it commits the funds the first day the grant was available. However, the regulation is clearly implying that two years is the maximum time to complete a project once it is committed, since the regulation provides two additional years beyond the commitment deadline to expend the funds. The Department, in its oversight of the program, has consistently used two years as a reasonable guideline for the time needed to complete the rehabilitation on a specific project.

The Rental Rehabilitation Program was conceived as a way for properties to receive a modest amount of rehabilitation; and a commitment to a project is meant to occur only after the grantee has determined that the project can be completed in a timely manner and the rehabilitation can began within the 90- day period specified in the definition of "commitment" in § 511.2. In HUD's experience, a project that was ready to proceed when committed, and which would need more than two years to be brought up to standard condition, would be unusual, if not extraordinary. HUD has consistently managed the program from the beginning with a two-year project completion period in mind, and the Department is considering requiring that period for all projects in the pending rulemaking to make the rental rehabilitation interim rule a final rule. The Department, therefore, is not willing to alter significantly its decision to impose a completion and transfer period of approximately two years.

The City further objected to the 60-day period apparently allowed by the

proposed rule to transfer the property to private ownership, maintaining that it has long been acknowledged that there would be a time lag between the

HUD recognizes that the City, in some cases, plans to transfer ownership of its publicly owned "in rem" projects to tenant cooperatives eligible for the

Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs, which generally supports

7:30 am to 5:30 pm weekdays in the Office of General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section

PART 511—RENTAL REHABILITATION GRANT PROGRAM

1. The authority citation for part 511 continues to read as follows:

grant amounts may be used to assist publicly owned projects under the following conditions:

(A)(*1*) For a publicly owned project

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proposed rule to transfer the property to private ownership, maintaining that it has long been acknowledged that there would be a time lag between the rehabilitation and sale of the property and that HUD should continue to work with New York City in a spirit of cooperation to implement the program. The City argues that an additional twelve-month period should be allowed to complete the transfer, and further, that a project should be considered complete when the final draw is made and a Project Completion Report is submitted to HUD, not after the transfer is made.

Although the proposed rule was unartfully drafted to refer to separate rehabilitation and transfer periods, there is really no statutory basis for having two periods in this process. Section 150(b) of the 1987 Act refers to "real property that will be privately *owned upon the completion of rehabilitation*" (emphasis added). The transfer to an eligible private owner is an integral part of completing the project, not a separate, long-deferrable, step. Furthermore, the completion period for publicly owned projects should be consistent with that for all other projects. However, in addition to the basic two-year period used as a guideline for completion, HUD's Cash and Management Information (C/MI) System already allows a period of 90 days from a project's final draw for a grantee to submit a Project Completion Report. A project, administratively, is not considered complete by HUD until that Report is received. In this final fule, the Department has revised § 511.10(c)(1)(ii)(A)(*1*) with respect to projects where the commitment occurs on or after the effective date of this final rule to provide a single two-year and ninety-day period within which the final draw must be made and the Project Completion Report must be submitted. Since the Project Completion Report is the vehicle by which the grantee confirms the transfer of the property to private ownership and identifies the owner, the final rule, in effect, extends the overall period for completion and transfer to private ownership by 30 days compared to the proposed rule. Furthermore, a project will be considered complete when the final draw has been made, the full, legally effective transfer to an eligible private owner has occurred (including the long-term agreements with the new owner required by § 511.10(c)(4)), and a Project Completion Report has been submitted to HUD. This is consistent with the intended program requirements for all projects.

HUD recognizes that the City, in some cases, plans to transfer ownership of its publicly owned "in rem" projects to tenant cooperatives eligible for the Rental Rehabilitation Program assistance, rather than to investor-owners. However, whatever the form of private ownership, there is no reason the rehabilitation work and the preparation for transfer to cooperative ownership cannot proceed concurrently. Given the complexities of cooperative ownership, the City could expedite the transfer process by beginning it at the initial commitment of the project, or even prior to formal commitment. The probable tenant-owners could be identified from the beginning and the necessary training and paperwork could be going forward at the same time as the rehabilitation work. A two-year and 90-day period should be sufficient to complete the entire process.

The two-year and 90-day period is a maximum period in which to complete rehabilitation and transfer the project to an eligible private owner. If the rehabilitation were completed in less than two years from the commitment, the transfer and submission of the Project Completion Report would have to occur within 90 days after the final draw. On the other hand, if the final draw occurred more than two years after the commitment, the transfer to an eligible private owner must still occur within the two-year and 90-day period, which means that if the grantee had not already transferred the project, it would have less than 90 days to complete the transfer.

It should also be mentioned that the periods already allowed for use of rental rehabilitation grant amounts for each fiscal year—two years to be committed and four years to be expended—remain in effect. Grant funds not drawn down after four years from obligation continue to be subject to deobligation by HUD in accordance with § 511.33(c). (Under § 511.33(c) HUD, on a case-by-case basis, may approve up to a one year extension any of the specified time period.)

The City further stated that the proposed rule would not implement section 150(b) "retroactively," as was the intent of Congress, because it would not apply to projects that, under special procedures earlier adopted by HUD to accommodate the City, are already committed in the Cash and Management Information (C/MI) System, but for which funds cannot be drawn down until transfer to private ownership under current regulations. The City referred to a letter to Secretary Kemp, dated March 20, 1989, from members of the House Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs, which generally supports the argument that section 150(b) should be applied retroactively. The proposed rule would have applied retroactively to funds from all previous fiscal years that were not yet committed. It is not clear that the intent of this letter was to support the notion that all funds for projects already committed under different rules should be immediately available for drawdown.

Nevertheless, in drafting the final rule the Department has given the most liberal interpretation to the Congressional intent. The final rule (§ 511.10(c)(1)(A)(*2*) allows the drawdown of funds for projects where the commitment had occurred before the effective date of this final rule and that where publicly owned when the commitment occurred. The two-year and 90-day deadline for fully drawing down funds and transferring the project to private ownership does not apply to these projects. The grantee, however, must complete the rehabilitation and transfer the property to an eligible private owner within the period remaining under § 511.33(c) for the expenditure of the rental rehabilitation fiscal year grant amounts, and must submit the Project Completion Report, which identifies the private owner, within 90 days of the final draw.

It should be noted that the requirement to submit a Project Completion Report, identifying the private owner to which the project has been fully and finally legally transferred, within 90 days of the final draw applies to every project, whether or not grant amounts were committed to the project before the effective date of this rule. Should New York City or any other grantee fail to submit a Project Completion Report within 90 days of a final draw, or if the project were publicly owned and the Report failed to include the identity of a legally operational and in-place private owner, the grantee will be suspended and prevented from making further project set-ups in the Cash and Management Information (C/MI) System.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours

7:30 am to 5:30 pm weekdays in the Office of General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because statutorily eligible grantees and State recipients are relatively larger cities, urban counties, or States.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies in this rule would not have Federalism implications and, thus, are not subject to review under the Order. The rule carries out the statutory amendments concerning the eligibility of publicly owned projects that will be privately owned upon completion of the rehabilitation and of non-profit organizations to own rental rehabilitation grant assisted projects.

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus is not subject to review under the Order.

This rule was listed as sequence number 1084 in the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54FR 44702, 44727) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR part 511.

Administrative practice and procedure, Grant programs-housing and community development, Low and moderate income housing, Rental rehabilitation grants, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 511 is amended as follows:

PART 511—RENTAL REHABILITATION GRANT PROGRAM

1. The authority citation for part 511 continues to read as follows:

Authority: Sec. 17, United States Housing Act of 1937 (42 U.S.C. 1437o); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 511.2, the definition of "commit to a specific local project" is revised to read as follows:

§ 511.2 Definitions.

* * * * *

Commit to a specific local project, or *commitment,* means:

(a) With respect to a project that is privately owned when the commitment is made, legally binding agreement between a grantee (or in the case of State distributing rental rehabilitation grant amounts to units of local government, a State recipient) and the private owner under which the grantee or State recipient agrees to provide rental rehabilitation grant amounts to the owner for an identifiable rehabilitation project that can reasonably be expected to start rehabilitation within 90 days of the agreement and in which the owner agrees to start rehabilitation within that period; or

(b) With respect to a project that is publicly owned when the commitment is made, the Pre-Rehabilitation Report under the C/MI System for an identifiable rehabilitation project that will start rehabilitation within 90 days of receipt of the Pre-Rehabilitation Report.

Under both paragraph (a) and (b) of this definition, the date HUD receives an acceptable Pre-Rehabilitation Report is deemed to be the date of commitment.

* * * * *

3. In § 511.10, paragraph (c) is revised to read as follows:

§ 511.10 Program requirements.

* * * * *

(c) Eligible and ineligible projects—

(1) *Privately owned real property*—(i) *General.* Rental rehabilitation grant amounts shall only be used to rehabilitate projects that are in private ownership at the time the commitment is made to a specific local project, as defined in § 511.2, or projects that are publicly owned at commitment but will be in private ownership upon submission of the Project Completion Report under the C/MI System established by § 511.74, in accordance with §511.10(c)(1)(ii).

(ii) *Publicly owned project at the time of commitment.* Rental rehabilitation grant amounts may be used to assist publicly owned projects under the following conditions:

(A)(*1*) For a publicly owned project where the commitment to a specific local project occurs on or after [*Insert the effective date of this rule.*], the grantee—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that it will commence rehabilitation within 90 days of the date of the submission of the Pre-Rehabilitation Report under the C/MI System and that rehabilitation will be completed and the project transferred to an eligible private owner within the time period specified in this paragraph. The period for rehabilitation and transfer to private ownership shall not exceed two years and 90 days from the date of commitment, or the time remaining for expenditure of the rental rehabilitation fiscal year grant amounts proposed to be used for the project in accordance with §511.33(c), whichever is shorter. The Project Completion Report under the C/MI System identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw, but not later than two years and 90 days after the date of commitment.

(*2*) For a publicly owned project where the commitment to a specific local project occurred before [*Insert the effective date of this rule.*], the grantee—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that the rehabilitation will be completed and the project transferred to an eligible private owner within the time remaining for expenditure of the rental rehabilitation fiscal year grant amounts proposed to be used for the project in accordance with § 511.33(c) before drawing. The Project Completion Report identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw.

(B) If the grantee fails to complete the rehabilitation, transfer the property to an eligible private owner (which includes obtaining the agreements from the new owner, required by this part, including § 511.10(c)(4)), and submit the Project Completion Report within the allowable period, then HUD will suspend the grantee's authority to set up any new projects in the C/MI System and may require the grantee to repay to

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its grant account in the C/MI System all rental rehabilitation grant amounts drawn down with respect to the project. If payment is not received, HUD may proceed to deobligate up to the full amount of the grantee's remaining uncommitted rental rehabilitation grant amounts, whether or not such grant amounts otherwise are available for deobligation under § 511.33(c). The suspension of set-up authority in this paragraph shall terminate when the grantee has transferred the property to private ownership, as required by this part, and has submitted a Project Completion Report under the C/MI System identifying the private owner, or repays its grant account as required by this paragraph, or HUD lifts the suspension at its discretion.

(C) After the grantee has repaid the grant amounts to its grant account as provided in § 511.10(c)(1)(ii)(B), the grant amounts may be committed and expended by the grantee for new projects within the periods originally allowed for these grant amounts, or deobligated by HUD under § 511.33 or § 511.82 to the same extent as any other grant amounts subject to this part. Grant amounts drawn down for ineligible projects and not repaid to its grant account as prescribed by HUD shall thereafter be treated as a Federal claim against the grantee subject to collection as described in § 511.82(c)(4). HUD may also condition future rental rehabilitation grants, or disapprove said grants, under § 511.21(c) or § 511.82(c) as a result of the grantee's poor performance with respect to projects under this § 511.10(c)(1)(ii).

(2) *Private, non-profit organizations.* Non-profit organizations that are privately controlled are eligible to receive rental rehabilitation grant amounts and own projects under the same terms and conditions as any other private project owner under this part. For purposes of this requirement, non-profit organizations must have governing bodies which are controlled 51 percent or more by private individuals who are acting in a private capacity. For purposes of this provision, an individual is deemed to be acting in a private capacity if he or she is not legally bound to act on behalf of a public body (including the grantee), and is not being paid by a public body (including the grantee) while performing functions in connection with the non-profit organization.

(3) *Primarily residential rental use.* Rental rehabilitation grants shall only be used to rehabilitate projects to be used for "primarily residential rental" uses, as defined in this paragraph and paragraph (c)(4) of this section. For purposes of this part, a project is used for primarily residential rental purposes if at least 51 percent of the rentable floor space of the project is used for residential rental purposes after rehabilitation, except that in the case of a two-unit building, at least 50 percent of the rentable floor space after rehabilitation must be used for residential rental purposes. "Primarily residential rental" use also includes cooperative or mutual housing that has a resale structure that enables the cooperative to maintain rents affordable to lower income families.

(4) *Continued private, primarily residential rental use.* All projects must remain in eligible private ownership and in primarily residential, rental use for a period of ten years after completion of the rehabilitation (defined as including transfer of the project to private ownership, if applicable, and submission of an acceptable Project Completion Report under the C/MI System), unless the project is sold to another eligible private owner who agrees to continue to manage the property in accordance with Rental Rehabilitation Program requirements for the remainder of the ten-year period, or a hardship exception is approved by the grantee for reasons that occur after completion of the rehabilitation. Each grantee shall execute an agreement with the owner to this effect on or before the date when rental rehabilitation grant amounts are committed to the project. For projects that are publicly owned when the commitment is made, the agreement shall be executed as part of the transfer to private ownership. The grantee shall ensure that the agreement is legally enforceable and that it contains remedies adequate to enforce its provisions. A remedy will be deemed adequate for purposes of this paragraph if it requires the entire amount of the rental rehabilitation grant assistance for the project to be a secondary lien secured by the property, repayable by the owner or any subsequent transferee upon a prohibited sale or use in an amount equal to the entire amount of such assistance, less 10 percent for each full year after completion of the project up to the time the prohibited sale or use occurs, except in the case of projects of 25 units or more, for which the entire grant amount shall be repaid if the project is sold or used in violation of this section during the ten year period. Such lien may not be subordinate to a lien in favor of the grantee, State recipient or any person with whom the owner has business or family ties, except as may be necessary to secure Federally tax exempt financing for the project.

(5) *Substandard conditions.* Before rehabilitation, a project must have one or more substandard conditions. For purposes of this paragraph, substandard conditions are those housing conditions that do not meet applicable State or local housing codes or do not meet the Section 8 Housing Quality Standards for Existing Housing contained in 24 CFR 882.109. After rehabilitation, each unit in the project meets the Section 8 Housing Quality Standards for Existing Housing contained in 24 CFR 882.109.

(6) *Ineligible Projects.* Projects assisted, or for which a commitment for assistance has been entered into, under the United States Housing Act of 1937 (except projects assisted under the Rental Rehabilitation Program or the Section 8 Existing Housing Program under 24 CFR part 882, subparts A and B, or the Housing Voucher Program under 24 CFR part 887), or projects assisted under section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, section 202 of the Housing Act of 1959, or section 312 of the Housing Act of 1964, are not eligible to receive rental rehabilitation grant amounts under this part.

* * * * *

4. In § 511.10, a new paragraph (g)(3) is added, to read as follows:

§ 511.10 Program requirements.

* * * * *

(g) *Eligible rehabilitation costs.* * * *

(3)(i) Rehabilitation eligible under § 511.10(g)(1) is limited to work done after the commitment to the project (as defined in § 511.2) is made and the project is set up in the C/MI System under § 511.74, except to the extent that such costs also meet all of the following conditions:

(A) Prior to undertaking any rehabilitation before the project is committed in the C/MI System (hereafter called "precommitment rehabilitation"), the private owner and grantee have agreed in writing to include such rehabilitation costs in the project cost, if and when the project is approved for assistance under this part;

(B) The precommitment rehabilitation costs were incurred by the owner after the date of the Appropriation Act which made available the grant amounts for the project in question;

(C) The precommitment costs meet all other requirements of this part, including compliance with other Federal requirements cited in § 511.11, where applicable. In particular, HUD approval of the grantee's certification of completion of environmental

responsibilities, where required, must occur prior to execution of the written agreement to include the costs.

(ii) Other project-related costs eligible under § 511.10(g)(2) are also limited to those costs incurred after the commitment to the project is made by the grantee and the project is set up in the C/MI System under § 511.74, except to the extent such costs also meet both of the following conditions:

(A) Prior to undertaking any rehabilitation before the project is committed in the C/MI System (hereafter called "precommitment rehabilitation"), the private owner and grantee have agreed in writing to include such rehabilitation costs in the project cost, if and when the project is approved for assistance under this part;

(B) The costs also meet the conditions stated in paragraphs (B) and (C) of § 511.10(g)(3)(i).

* * * * *

Dated: October 30, 1989.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 89-26706 Filed 11-14-89; 8:45 am]

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71
Establishment and Alteration of Airport Radar Service Areas; California; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus, were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

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The Air Line Pilots Association

consideration all aspects of air traffic in the terminal area. This configuration is consistent with the fundamental safety objectives of the ARSA program.

2. Costs associated with the revision of charts, notification of the public, and pilot education.

3. Operating costs for

provides pilots with the best opportunity to learn both how an ARSA works and how it would affect their local operations. The expenses associated

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWA-7]

Establishment and Alteration of Airport Radar Service Areas; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at John Wayne Airport/Orange County, Santa Ana, CA, and will adjust the lateral limits of the El Toro Marine Corps Air Station (MCAS) ARSA to accommodate the adjoining Santa Ana ARSA. John Wayne Airport/Orange County is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and Limited Approach Control Facility. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of a midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Betty Harrison, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9255.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus, were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far, the FAA has designated 125 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On February 21, 1989, the FAA proposed to designate an ARSA at John Wayne Airport/Orange County, Santa Ana, CA, and adjust the lateral limits of the El Toro Marine Corps Air Station (MCAS) ARSA to accommodate the adjoining Santa Ana ARSA (54 FR 7506). Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held an informal airspace meeting for this proposed ARSA. Section 71.501 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E dated january 3, 1989.

Discussion of Comments

The FAA received 15 comments pertaining to the ARSA proposal. All comments were fully considered before developing the final design contained in this rule. The FAA believes that the final ARSA design best meets ATC and user requirements and promotes the safe and efficient use of airspace.

Some comments received were not relevant to this rulemaking action and, therefore, will not be discussed. The subject areas included are controller staffing, procedures, pilot education and ATC equipment.

Two commenters requested that the southern portion of the ARSA be raised from 2,500 feet mean sea level (MSL) to 3,500 feet MSL. One of the two commenters stated that this will enable him to conduct aerial photographic flights without entering the ARSA. The other commenter offered no reason for his request.

The FAA finds that this portion of airspace is necessary to provide a greater degree of safety for aircraft operating to and from the John Wayne Airport/Orange County. Since most departures are to the south, the ARSA has been designated to enhance safety between departing aircraft and aircraft traversing along the beach area. When departing to the north, the same concept is applied for arrivals.

The Air Line Pilots Association (ALPA) wrote in support of the Santa Ana ARSA. ALPA suggested that, since the upper altitude of the ARSA varies from 4,400 feet MSL to 5,400 feet, the aeronautical chart be color coded or highlighted to emphasize the difference.

A communication box will appear on the appropriate visual flight rules (VFR) terminal area chart that will inform pilots that the ceiling of the Santa Ana ARSA is not uniform.

One commenter requested that the FAA install a very high frequency omnidirectional radio range (VOR) at the south end of the John Wayne Airport/Orange County to provide a better definition of the Musel Five Standard Instrument Departure (SID) procedure as well as the ARSA.

The Musel Five Departure is a radar vector SID. This procedure is conducted in a radar environment with instructions from air traffic control.

The Santa Ana ARSA is defined using the center of the airport which is referred to as the airport reference point (ARP). In defining the ARSA, the FAA utilizes prominent geographical landmarks to assist pilots in the visual identification of the ARSA boundaries. The FAA believes that these landmarks along with airport visual references provide pilots with sufficient information to navigate within and around the ARSA.

Two commenters requested that the FAA establish a corridor around the John Wayne Airport/Orange County instead of establishing a circular design ARSA.

In designing an ARSA, the FAA's primary concern is to provide the highest degree of safety while preserving the most efficient use of the available terminal airspace. While corridors do provide a degree of safety to aircraft arriving and departing terminal areas, they do not provide adequate airspace to effectively vector and sequence the vast numbers of aircraft served in terminal areas today.

The remainder of the commenters wrote in opposition to the Santa Ana ARSA citing that the ARSA is too restrictive and complicated, and represents a degradation of safety.

The FAA finds that the ARSA program has surpassed expectations in most locations by reducing the potential for midair collisions without unnecessarily penalizing or unduly delaying aircraft in ARSA airspace.

The airspace configuration established by this action has taken into consideration all aspects of air traffic in the terminal area. This configuration is consistent with the fundamental safety objectives of the ARSA program.

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA which provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, federal, state and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order, therefore a full regulatory analysis, which includes the identification and evaluation of cost-reducing alternatives to the rule, has not been prepared. Instead, the agency has prepared a more concise document, termed a regulatory evaluation, that analyzes this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a final regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Pub. L. 96-354), and an international trade impact assessment. If more detailed economic information is desired than is contained in this summary, the reader is referred to the full regulatory evaluation contained in the docket.

a. Introduction

This rule is intended to enhance aviation safety by establishing an ARSA at John Wayne Airport/Orange County, Santa Ana, CA. The major findings of the Regulatory Evaluation prepared for this rule are summarized below.

b. Costs

Costs that could result from the establishment of this and other ARSA sites fall into the following categories:

1. Additional controller staffing and training, and ATC equipment costs.
2. Costs associated with the revision of charts, notification of the public, and pilot education.
3. Operating costs for circumnavigating or flying over the ARSA.
4. Potential delay costs resulting from operations within an ARSA.
5. The need for some operators to purchase radio transceivers.
6. Miscellaneous costs.

It has been the FAA's experience that these potential costs do not materialize to any appreciable degree. When they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a small minority of ARSA sites. The reasons for these conclusions are presented below.

Participation in Stage II (Radar Advisory and Sequencing for VFR aircraft) at John Wayne Airprot/Orange County is already quite high and is expected to be even higher with the implementation of this rule. However, the separation standards permitted in ARSA's will allow controllers to absorb the increase in participating traffic by handling all traffic more efficiently. Thus, the FAA believes that the ARSA program can be implemented without requiring additional controller personnel above present authorized staffing levels.

The FAA does not expect to incur any appreciable implementation costs due to additional air traffic controller training, ATC equipment, or operation procedures. The air traffic controllers now on board at John Wayne Airport/Orange County will require some additional training as a result of this rule. However, this training will be conducted during regularly scheduled briefing sessions routinely held at all facilities. In addition, John Wayne Airport/Orange County already operates the necessary radar equipment needed to bring the ARSA on line. Finally, the FAA will modify its terminal radar procedures in the ARSA program in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during regular chart publications at 6-month intervals. The effective dates for newly established ARSA's are scheduled to coincide with these publication intervals.

Much of the need to notify the public and educate pilots about ARSA operations will be met as a part of this rulemaking proceeding. The informal public meeting that is held at each location where an ARSA is proposed provides pilots with the best opportunity to learn both how an ARSA works and how it would affect their local operations. The expenses associated with these public meetings are considered costs of the rulemaking process. However, any public information costs following the establishment of a new ARSA are strictly attributable to the ARSA program. The FAA will distribute a "Letter to Airmen" to all pilots residing within 50 miles of each ARSA site, explaining the operation and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately $450 for each ARSA site to be established. This one-time cost is incurred upon the initial establishment of an ARSA.

Various district offices of the FAA will distribute information on ARSA's at aviation safety seminars conducted with the establishment of additional ARSA sites. These seminars are provided regularly by the FAA to discuss a variety of aviation safety issues. Therefore, such seminars will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the subsequent user meetings that are held at each site following implementation of an ARSA. These meetings allow users to provide feedback to the FAA on local ARSA operations. They are held at public or other facilities that are provided free of charge or at a nominal cost. Because these meetings are conducted by local FAA personnel, no travel, per diem, or overtime costs are incurred by regional or headquarters personnel.

The FAA anticipates that some pilots who now transit the terminal area without establishing radio communications or participating in radar services may choose to deviate from their regular flight path in order to circumnavigate the mandatory participation airspace of an ARSA. Pilots could incur some minor delay costs because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical mile rings. Although this may not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment,

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which will be offset somewhat by the descent.

The FAA recognizes the potential for delays to develop at some locations following the establishment of an ARSA. Radar facilities will be handling additional traffic as a result of the mandatory participation requirement. This may result in minor delays to aircraft operations, though the FAA does not expect such delays to be appreciable. The greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards should keep delay problems to a minimum. Those delays that do occur will be transitional in nature and will diminish as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the efficiencies permitted by ARSA's. This has been the experience at the three locations where ARSA's have been in effect for the longest period of time. It also is the recurring trend at the more recently designated ARSA locations.

The FAA does not expect that any operator will find it necessary to install radio transceivers as a result of establishing the John Wayne Airport/Orange County ARSA. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas. This potential cost has been minimized by the FAA throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center, where the floor of the ARSA is at ground level. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

The establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse effects on local fixed-base and airport operators. Similarly, the FAA has eliminated potential adverse effects on flight-training practice areas and activities such as soaring, ballooning, parachuting, ultralight operations, and banner towing. The FAA has developed special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect any such adverse impact to occur at the ARSA site in this rule.

c. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable and attributable to simplification and standardization of ARSA configurations and procedures. Once experience is gained in ARSA operations, the air traffic controllers will obtain greater flexibility in handling traffic within an ARSA. This experience will enable controllers to move traffic more efficiently and safely. It also could offset the delay that some sites experience after the initial establishment of an ARSA. The John Wayne Airport/Orange County ARSA is expected eventually to provide time savings to all area traffic, instrument flight rules (IFR) and VFR, as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports. Rather, benefits will result from the improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the ARSA experiences at Austin and Columbus, the FAA estimates that near midair collisions may be reduced by 35 to 40 percent. Furthermore, the FAA estimates that the national implementation of the ARSA program may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, due to the prevention of a minor, nonfatal accident between general aviation aircraft, to $300 million or more, due to the prevention of a midair collision between large air carriers involving numerous fatalities. Establishment of an ARSA at the site in this final rule will contribute to these improvements in safety.

d. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this rule is difficult for several reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to attribute the standardization benefits, and the safety benefits, to individual candidate ARSA sites. The FAA expects any adjustment problems that may be experienced at the John Wayne Airport/Orange County ARSA will be only temporary and will result in a general improvement in efficiency in terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition, establishment of this ARSA site will contribute to a reduction in near and actual midair collisions. For these reasons, the FAA expects that the establishment of this ARSA site will produce long-term benefits that will far exceed their costs.

International Trade Impact Analysis

This final rule will affect terminal airspace operating procedures at selected airports within the United States. It will affect neither the sale of foreign aviation products or services in the United States, nor the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that could be affected by implementation of the ARSA program include fixed-base operators, flight schools, agricultural operators, and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. The FAA intends to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites, to avoid any adverse impact on their operations and to simplify the coordination of ATC responsibilities between primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement, between ATC and the affected airports, establishing special operating procedures. In this manner, the FAA expects to eliminate any adverse impact on the operations of small satellite airports that could result from the ARSA program. Similarly, the FAA expects to eliminate potentially adverse effects on existing flight-training practice areas, and on soaring, ballooning, parachuting, ultralight operations, and banner-towing activities. The FAA will develop special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. The FAA has used such arrangements extensively in implementing the ARSA's that have been established to date.

Because the FAA expects any initial delay problems to be transitory, and because the airports affected by the ARSA program represent only a small proportion of public-use airports in operation within the United States, no small entities that use aircraft in their business will be adversely affected.

For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Rule

This action designates an ARSA at John Wayne Airport/Orange County, Santa Ana, CA, and will adjust the lateral limits of the El Toro MCAS ARSA to accommodate the adjoining Santa Ana ARSA. John Wayne Airport/Orange County is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and Limited Approach Control Facility. Establishment of this ARSA will require that pilots maintain two-way radio communication with ATC while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Santa Ana, CA [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the John Wayne Airport/Orange County (lat. 33°40'32" N., long. 117°52'02" W.) excluding that airspace east of a line between the points where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS (lat. 33°40'34" N., long. 117°43'49" W.); and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the John Wayne Airport/Orange County, west of a line from the point where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS, to the point where the 10-mile arc of John Wayne Airport/Orange County intercepts the 10-mile arc of El Toro MCAS clockwise to the 175° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 1,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 175° bearing clockwise from the 201° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 3,500 feet MSL to and including 5,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 201° bearing from the airport to the shoreline, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from the John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet MSL to and including 5,400 feet MSL from the shoreline to the San Diego Freeway (I-405), excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the San Diego Freeway clockwise to the 360° bearing from the John Wayne Airport/Orange County, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 2,000 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 360° bearing from the John Wayne Airport/Orange County clockwise to a line from the point where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS to the point where the 10-mile arc of John Wayne Airport/Orange County intercepts the 10-mile arc of El Toro MCAS. This airport radar service area is effective during the specific days and hours of operation of the Orange County Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

El Toro MCAS, CA [Revised]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the El Toro MCAS (lat. 33°40'34"N., long. 117°43'49" W.) excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County (lat. 33°40'32" N., long. 117°52'02" W.); and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the El Toro MCAS from a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of John Wayne Airport/Orange County clockwise to the 005° bearing from the El Toro MCAS, and that airspace from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the El Toro MCAS between the 104° bearing from the El Toro MCAS clockwise to a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of the John Wayne Airport/Orange County. This airport radar service area is effective during the specific days and hours of operation of the El Toro Tower as established in advance by a Notice of Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on November 8, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-26791 Filed 11-14-89; 8:45 am]

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H.R. 24/Pub. L. 101–147
Child Nutrition and WIC Reauthorization Act of 1989. (Nov. 10, 1989; 103 Stat. 877; 43 pages) Price: $1.25

H.R. 3012/Pub. L. 101–148
Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes. (Nov. 10, 1989; 103 Stat. 920; 9 pages) Price: $1.00

H.R. 2916/Pub. L. 101–144
Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1990. (Nov. 9, 1989; 103 Stat. 839; 36 pages) Price: $1.25

S.J. Res. 131/Pub. L. 101–145
To designate November 1989 as "National Diabetes Month". (Nov. 9, 1989; 103 Stat. 875; 1 page) Price: $1.00

S.J. Res. 209/Pub. L. 101–146
To designate November 11, 1989 as "Washington Centennial Day". (Nov. 9, 1989; 103 Stat. 876; 1 page) Price: $1.00

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